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PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, SECOND SESSION

SENATE—*Thursday, October 12, 1978*

(Legislative day of Wednesday, October 11, 1978)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT MORGAN, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

From the rising of the sun unto the going down of the same the Lord's name is to be praised.

The Lord is high above all nations, and his glory above the heavens.—Psalms 113: 3, 4.

We thank Thee, O God, for Thy mercies which are new every morning.

Grant us, O Lord, a vision of our land, fair as she might be; a land of justice, where none shall prey on others; a land of plenty, where vice and poverty shall cease to fester; a land where people have rewarding work and time for play; a land of brotherhood, where success shall be founded on service, and honor be given to worth alone; a land of peace, where order need not rest on force, but on the love of all for their land, the great mother of our common life. Guide by Thy higher wisdom the President and all others in authority.

Give us grace and wisdom to complete the work in which we are now engaged. Renew us in our weariness and reinforce us when fatigued. Use us in hastening the day of Thy kingdom, through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 12, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT MORGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MORGAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF LEADERSHIP

Mr. ROBERT C. BYRD. Mr. President, does any Senator wish me to yield part of my time to him—the Senator from South Carolina, the Senator from Wisconsin?

I yield back my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

Mr. STEVENS. Mr. President, we have no requests for time, unless the Senator from Wisconsin wishes time.

Mr. PROXMIRE. No. I have an order. I thank the Senator.

Mr. STEVENS. I yield back the minority leader's time.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 5 minutes.

CAMBODIA, HISTORY, AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it is indeed a sad fact of human history that men, time and time again, have attempted to destroy, in whole or in part, a racial, national, ethnic, or religious group. In the 20th century alone, we have witnessed the genocide of European Jews by Hitler, the Kurds by the Iraqis, the Armenians by the Turks, the Ukrainians by Stalin, and the Langi and Acholi Tribes by Idi Amin.The most recent addition—in fact, occurring right now—is the genocide in Cambodia under the new government of Democratic Kampuchea.

But, Mr. President, this is no ordinary genocide. There are no concentration camps and gas chambers disguised as showers. This is genocide without technology.

According to a former Khmer Rouge supporter, Jean Lacouture, in the March 31, 1977, New York Review of Books:

> Ordinary genocide (if one can ever call it ordinary) usually has been carried out against a foreign population or an internal minority. The new masters of Phnom Penh have invented something original, auto-genocide. After Auschwitz and the Gulag, we might have thought this century had produced the ultimate in horror, but we are now seeing the suicide of a people in the name of revolution; worse: in the name of socialism.

Mr. President, Francois Ponchaud, a Jesuit priest who lived and worked in Cambodia for 10 years, states in his book, "Cambodia—Year Zero", that—

> The Khmer revolution is irrefutably the bloodiest of our century.

And regrettably, Mr. President, the facts bear him out.

Since the Khmer Rouge assumed power, all traces of Buddhism and the monarchy have been erased. The concept of family totally obliterated. Staggering numbers—anywhere from 1 to 2 million people senselessly murdered.

And why, Mr. President, why? For what conceivable reason?

To create a new race of men, I am told.

And at what price? The destruction "of an art of living compounded of freedom, tolerance, and respect for life," responds Father Ponchaud.

Mr. President, the facts are obvious. Genocide, a loathsome blot on human history, seems destined to continue. Uganda yesterday, Cambodia today, who knows where tomorrow.

For the last 29 years, the U.S. Senate has failed to ratify the Genocide Convention. Only this body stands in the way of ratification. The President has pleaded for this convention, as has every previous President since President Truman. The House of Representatives has no voice in this. This is simply a responsibility of this body, the U.S. Senate. But we have not acted on this treaty, as I say, for nearly 30 years. This treaty

outlaws genocide, and its ratification would clearly proclaim to the world community this country's moral outrage at such atrocities.

For 29 years, Mr. President. Must we wait any longer?

As millions continue to suffer, our conscience demands that ratification of the Genocide Convention be a top priority for the 96th Congress.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, on my time, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. ABOUREZK. Mr. President, will the leader withhold that? I would like a couple of minutes.

Mr. ROBERT C. BYRD. I yield 2 minutes to the Senator from South Dakota.

BUDGET FOR THE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ABOUREZK. Mr. President, first, I thank the majority leader for giving me time to speak.

Second, I wish to say that there was much discussion last night about the extension of the Indian Committee. The Senate has, by virtually a 2-to-1 margin, extended the life of the Senate Select Committee on Indian Affairs for 2 years. I am very grateful to the Senate for doing that, and I know the Indian people of this country are as well.

The other part of it is that because of the original plan putting the Indian Committee in the Human Resources Committee, as a Subcommittee of Human Resources, the budget for the Indian Committee was to be shut off on December 31 of this year, whereupon the Human Resources Committee would operate the subcommittee, and they increased their budget correspondingly.

Now there is a request before the Senate Rules Committee that would authorize the expenditure of that money by the Select Committee on Indian Affairs beyond the 31st of December of this year, to enable the Indian Committee to continue functioning as the Senate indicated it wanted it to do.

I regret to say that the distinguished Senator from Nevada (Mr. CANNON) has a hold on the authorization of the budget for the Indian Committee, which, in effect, will make the Indian Committee expire, in spite of the will of the Senate, on December 31 of this year.

Further, there would be no Indian Committee. It would be there just in form only. There would be no substance to it, because there would be no staffs, no clerks, no nobody. Under the rule, it would not even go into the Human Resources Committee, so it would not even be an Indian Affairs Subcommittee, by virtue of the fact that Senator CANNON will not allow the budget to be authorized for the committee.

I just want to advise the Senate that that is the case. I do not know what to do about it. Senator CANNON will not release his hold. I do not know what to do except to tell you all, all of you, Senator HOLLINGS.

I thank the distinguished leader, and I yield back the remainder of my time.

Mr. ROBERT C. BYRD. I thank the Senator.

CARSON CITY SILVER DOLLARS

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate proceed to the consideration of Calendar Order No. 1217, H.R. 9937.

The ACTING PRESIDENT pro tempore. Is there objection to the motion of the Senator from West Virginia?

Mr. STEVENS. Mr. President, I do not have any objection, on the basis that is not going to be a vehicle for Regulation Q amendments that have not been cleared. It is my understanding Senator HOLLINGS will have an amendment.

We have no objection.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 9937) to amend the Bank Holding Company Act Amendments of 1970.

The Senate proceeded to the consideration of the bill.

Mr. PROXMIRE. Mr. President, the bill simply was unanimously approved by our committee and it simply provides for an opportunity for GSA to dispose of $24 million worth of Carson City coins at a gain to the Federal Government of $24 million. It has passed the House of Representatives. It is a bill which I think will pass easily.

I have discussed an amendment the Senator from South Carolina is anxious to put on the bill. I understand there is no objection to his doing that.

So I am happy to accept his amendment as he discussed it.

Mr. HOLLINGS. I thank my distinguished colleague.

UP AMENDMENT NO. 2058

Mr. President, I call up my amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS, for himself and Messrs. BAKER, DURKIN, THURMOND, STONE, HUDDLESTON, HANSEN, Mrs. ALLEN, Messrs. ANDERSON, BIDEN, BUMPERS, ROBERT C. BYRD, CASE, CHAFEE, CHURCH, CURTIS, DOLE, EAGLETON, EASTLAND, FORD, GARN, HATCH, HATHAWAY, HEINZ, HELMS, HODGES, LAXALT, LEAHY, MCCLURE, MCINTYRE, MUSKIE, NUNN, PELL, RANDOLPH, RIEGLE, SASSER, SCOTT, SPARKMAN, STAFFORD, STENNIS, STEVENS, TALMADGE, TOWER, WALLOP, WEICKER, WILLIAMS, and YOUNG) proposes an unprinted amendment numbered 2058.

At the end of the bill, add the following new section:

SEC. . Section 127(b) of the Trade Act of 1974 (19 U.S.C. 2137) is amended by inserting immediately following "section 203 of this Act": ", section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), insofar as such section relates to textiles and textile products,".

Mr. STEVENS. Mr. President, may I inquire of the Senator from South Carolina, is this identical to the amendment that was adopted on the Export-Import Bank bill in the Chamber?

Mr. HOLLINGS. It was by a vote of 56 to 21, on Friday, September 29, 1978.

Mr. President, I ask unanimous consent that the arguments pro and con related in the RECORD of Friday, September 29, 1978, at page 32578 not be included but be related to this particular presentation at this time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HOLLINGS. That is the same.

Mr. STEVENS. All right.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from South Carolina.

Mr. HOLLINGS. I move the adoption of the amendment.

The amendment was agreed to.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I am strongly in support of the amendment offered by the junior Senator from South Carolina and of which I am a cosponsor. This amendment amends section 127 (b) of the Trade Act of 1974 (19 U.S.C. 2137) to prohibit the reduction or elimination in trade negotiations of duties or import restrictions on certain imported textiles and textile products.

As I am sure that my colleagues are aware, this amendment that we are considering today is the same amendment that was overwhelmingly approved 52 to 21 by the Senate on September 29. It now appears because of certain problems, that there is a danger that the Export-Import Bank bill may become stalled permanently in the Senate. Therefore, because of the vital importance of this amendment to the health of the textile industry, we are offering this amendment.

I cannot stress enough the need for this amendment to protect the textile and apparel industries from the growing onslaught of imports. In my home State of South Carolina, 188,000 people depend on the textile and apparel industries for their livelihood. This is over 50 percent of our manufacturing jobs. Nationwide, nearly 2.3 million people work in the fiber, textile, and apparel industries. If we cut tariffs by 50 percent as the President proposes, we will cut off the paychecks of 500,000 of these workers. We cannot permit this to happen.

It is the high and rising volume of textile imports, with the resulting trade deficit, that is one of the major causes of inflation. The textile apparel trade

deficit, which in 1977 was $3.4 billion, is estimated to be over $5 billion this year. We simply cannot bring inflation under control and stop the erosion of the dollar if the United States continues to follow, in Geneva, trade policies of tariff reduction.

Mr. President, I urge my colleagues to join me in supporting this amendment. We cannot continue to lose American textile and apparel jobs to imports, while giving no benefit to the American consumer. We must have a trade policy that works to reduce the trade deficit and strengthen the U.S. dollar. We should adopt this amendment today.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1303) explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE LEGISLATION

As reported by the committee, House Resolution 9937 authorizes the Administrator of the General Services Administration to conduct future sales of the Carson City silver dollars under such terms and conditions, and at such prices, as he deems proper.

HISTORY OF THE LEGISLATION

H.R. 9937 was introduced in the House of Representatives on November 3, 1977. Hearings were held by the Subcommittee on Coinage and Historic Preservation on April 3, 1978. The resolution was reported by the Committee on Banking, Finance and Urban Affairs on September 18, 1978, and passed by the House on September 26, 1978.

In the Senate, the resolution was referred to the Committee on Banking, Housing, and Urban Affairs. The committee agreed, by poll, to report the legislation without amendment on October 9, 1978.

EXPLANATION OF THE LEGISLATION

The legislation amends section 205 of Public Law 91–607 which authorized the public sale of approximately 3 million Carson City silver dollars by the General Services Administration under procedures established by the Joint Commission on the Coinage. Since 1970, when the legislation was enacted, approximately 2 million coins have been sold with receipts of $55.3 million. These receipts are deposited into the general fund of the Treasury and help reduce the national debt.

The General Services Administration advised the committee that the original sales procedures are too cumbersome for disposing of the remaining inventory of approximately 1 million coins with a potential sales value of $24 million. Since the life of the Joint Commission on the Coinage has expired, however, administrative revisions are not possible. Accordingly, the GSA recommended legislation authorizing its Administrator to conduct future sales in a less cumbersome manner than the currently authorized procedures. It would also permit a flexible approach to the marketing of these coins by permitting changes in the method of sale as marketing conditions may require, thus enabling the Government to maximize proceeds. With more flexible procedures, GSA estimates it can sell the remaining inventory in about 6 months for approximately $24 million.

COST OF THIS LEGISLATION

Enactment of this legislation will result in no new or additional costs to the Federal Government.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, shall it pass?

So the bill (H.R. 9937), as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 1185, 1197, 1201, 1204, and 1209, with the understanding that not more than 3 minutes will be consumed and that no amendments may be in order from the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEPOSITS TO MINORITY-OWNED COMMERCIAL BANKS

The ACTING PRESIDENT pro tempore. The first Calendar No. 1185 will be stated by title:

The assistant legislative clerk read as follows:

A resolution (S. Res. 411) expressing the sense of the Senate that further efforts be made by Federal departments and agencies to channel additional deposits to minority-owned commercial banks, was considered and agreed to.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution which was reported from the Committee on Banking, Housing, and Urban Affairs, with amendments to the preamble.

Mr. PROXMIRE. Mr. President, the purpose of this resolution is to encourage Federal departments and agencies to channel additional deposits of funds under their control or administration into minority-owned commercial banks and savings and loan associations, under the auspices of the minority bank deposit program administered by the Treasury Department.

The minority bank deposit program is intended to assist the development of financial institutions which are established with the active participation of minority individuals. It recognizes the vital function these institutions perform in their communities. Currently, the program includes financial institutions which are under the ownership or majority control of blacks, Hispanic Americans, Indians and women. The program encourages the deposit of Federal moneys with the institutions in order to provide them with additional sources of funds, over and above their regular deposit base, which is generally not adequate to meet the full financial needs of the communities they serve.

The minority bank deposit program was begun in 1970. For several years, the level of Federal deposits in minority banks remained relatively static. Early in 1977, the Carter administration expressed a commitment to increasing the level of Federal deposits in minority banks, and the following figures indicate that this effort has met with some success.

Quarterly figures reflecting increasing Federal deposits in minority banks

Quarter ended:	Amount
June 30, 1972	$84.0
June 30, 1973	86.6
June 30, 1974	74.0
June 30, 1975	72.3
June 30, 1976	89.2
June 30, 1977	99.8
June 30, 1978	[1] 145.0

1. All figures in millions.
2. Figures for quarter ending date listed.

[1] Approximate.

Source: U.S. Department of Treasury.

In reporting this resolution, the Committee on Banking, Housing, and Urban Affairs expressed the view that this trend should continue and that the volume of Federal deposits in these financial institutions should be further increased. It appears that some of the cash management procedures which the Treasury Department requires Federal departments and agencies to observe, including competitive bidding, may have an adverse impact on the ability of minority financial institutions to attract Federal deposits. While not wishing in any way to discourage efficient cash management practices, the committee believed it was important not to lose sight of the basic goals of the minority bank deposit program.

Senate Resolution 411 is intended to provide a further stimulus to the ongoing efforts to channel additional Federal deposits into minority financial institutions. It states that in determining where these deposits are placed, Federal agencies and departments must give consideration to the role which minority institutions play in their respective communities and how that role can be fostered through the receipt of additional financial resources from the Federal Government, consistent with the application of good cash management policies.

At the present time, only commercial banks are recognized for participation in the minority bank deposit program. However, the resolution expressly refers to minority savings and loan associations as well. Now that these institutions have been made eligible to act as tax and loan account depositaries, under Public Law 95–147, there is every reason to include them in other programs as well. Indeed, the administration already has efforts underway to bring minority-owned savings and loan associations into the minority bank deposit program.

Furthermore, although it is not specifically stated in the resolution, there should be no bar to including minority-owned credit unions as well, since the Treasury Department already has the authority to do this. The inclusion of these additional institutions in the pro-

gram will make it still more imperative that the goals of this resolution be met and that the volume of Federal deposits in minority financial institutions be steadily increased.

● Mr. LUGAR. Mr. President, I am pleased to support passage of Senate Resolution 411, which I introduced on March 8, 1978, along with Senators BROOKE, MCINTYRE, PROXMIRE, RIEGLE, SCHMITT, and TOWER as original cosponsors. The purpose of this resolution is to express the sense of the Senate that further efforts be made by Federal departments and agencies to channel additional deposits to minority-owned commercial banks.

In 1970, the Treasury Department initiated a minority bank deposit program in order to assist and encourage the development of commercial banks which are established with the active participation of mincrity individuals. This program encourages the deposit of Federal moneys with these institutions in order to provide them with additional sources of funds. The minority bank deposit program recognizes the financial needs of the institutions involved, which serve a vital function in their communities by making credit available and accessible at a reasonable cost to all credit-worthy persons, including blacks, Hispanic-Americans, and other minorities.

Treasury Department figures demonstrate a relatively consistent increase in total minority bank deposits from June 30, 1972, to the present:

Quarterly figures reflecting increasing Federal deposits in minority banks

Quarter ended:	*Amount*
June 30, 1972	$84.0
June 30, 1973	86.6
June 30, 1974	74.0
June 30, 1975	72.3
June 30, 1976	89.2
June 30, 1977	99.8
June 30, 1978	[1] 145.0

1. All figures in millions.
2. Figures for quarter ending date listed.

[1] Approximate.

Source: U.S. Department of Treasury.

Treasury Department policy requires the 24 Federal departments and agencies that deposit Federal funds in commercial bank accounts to observe a variety of cash management procedures. Several departments and agencies have implemented cash management procedures whereby commercial banks must engage in competitive bidding for Federal Government deposits. If used exclusively, this process, which is intended to achieve more efficient cash management, could ignore as a factor the important role played by minority banks.

Senate Resolution 411 encourages all Federal departments and agencies to make every effort to channel additional deposits under their control or administration into minority financial institutions. The resolution states that in determining where Federal deposits are placed, agencies and departments must give consideration to the role these institutions play in their respective communities and how that role can be fostered through the receipt of additional financial resources, consistent with the application of good cash management policies.

The current minority bank deposit program includes financial institutions which are under the ownership or majority control of blacks, Hispanic-Americans, Indians, and women. Although only commercial banks now are recognized for participation in the program, the resolution expressly refers to savings and loan associations as well. In the past, savings and loan associations have been precluded from participating in the direct deposit program because of their inability to maintain demand deposits. In Public Law 95–147, the Congress made savings and loan associations eligible for the first time to act as Treasury tax and loan account depositories.

This change in Federal law indicates that Congress supports generally the concept of equal participation in Federal deposit programs by savings and loan associations. The resolution, as reported by the committee, recognizes that the Treasury already has the authority to include minority savings and loan associations in the minority bank deposit program.

I urge adoption of Senate Resolution 411.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1261), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXPLANATION OF THE RESOLUTION

In 1970, the Treasury Department initiated a minority bank deposit program in order to assist and encourage the development of commercial banks which are established with the active participation of minority individuals. This program encourages the deposit of Federal moneys with these institutions in order to provide them with additional sources of funds. The minority bank deposit program recognizes the financial needs of the institutions involved, which serve a vital function in their communities by making credit available and accessible at a reasonable cost to all creditworthy persons, including blacks, Hispanic-Americans, and other minorities.

The Federal sector of the administration's program, as administered and coordinated by the Treasury Department, is national in scope, with participants from every area of the country. A common denominator among the institutions involved, however, is their need for additional financial resources. This characteristic makes it difficult for them to meet the full financial needs of the communities they serve.

The committee believes that the trend toward a larger volume of deposits in financial institutions in the minority bank deposit program should continue unabated, and, in fact, be increased. Treasury Department policy requires the 24 Federal departments and agencies that deposit Federal funds in commercial bank accounts to observe a variety of cash management procedures. Several departments and agencies have implemented cash management procedures whereby commercial banks must engage in competitive bidding for Federal Government deposits. If used exclusively, this process, which is intended to achieve more efficient cash management, could ignore as a factor the important role played by minority banks.

The resolution encourages all Federal agencies to make every effort to channel additional deposits under their control or administration into minority financial institutions. The resolution states that in determining where Federal deposits are placed, agencies and departments must give consideration to the role these institutions play in their respective communities and how that role can be fostered through the receipt of additional financial resources, consistent with the application of good cash management policies.

The current minority bank deposit program includes financial institutions which are under the ownership or majority control of blacks, Hispanic-Americans, Indians, and women. Although only commercial banks now are recognized for participation in the program, the resolution expressly refers to savings and loan associations as well. In the past, savings and loan associations have been precluded from participating in the direct deposit program because of their inability to maintain demand deposits. In Public Law 95–147, the Congress made savings and loan associations eligible for the first time to act as Treasury tax and loan account depositories. This change in Federal law indicates that Congress supports generally the concept of equal participation in Federal deposit programs by savings and loan associations. The resolution, as reported by the committee, recognizes that the Treasury already has the authority to include minority savings and loan associations in the minority bank deposit program.

The amendments to the preamble were agreed to.

The preamble, as amended, was agreed to.

The resolution, with its preamble, as amended, reads as follows:

Whereas certain commercial banks and savings and loan associations are owned or controlled by minority Americans;

Whereas, these private financial institutions, by assuring the availability of and accessibility to credit at a reasonable cost to all credit-worthy persons, including blacks, Hispanic-Amercians, and other minorities, have contributed in a significant way to the economic health and development of the communities which they serve;

Whereas in an attempt to assist and encourage these institutions, moneys of the Federal Government have been deposited with them, pursuant to the minority bank deposit program initiated in 1971, in order to provide a stable source of funds;

Whereas Federal departments and agencies have available to them pursuant to Treasury Department policy a variety of cash management procedures;

Whereas several Federal departments and agencies have implemented cash management procedures whereby financial institutions must engage in competitive bidding for Federal Government deposits, thereby ignoring as a factor the important role played by minority banks and savings and loans associations; and

Whereas the President of the United States has urged all Federal departments and agencies, within the constraints of good cash management, to make efforts to channel a larger volume of deposits into minority-owned commercial banks and savings and loan associations: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) All Federal departments and agencies should make every possible effort to channel additional funds under their control or administered through their department or agencies into these financial institutions.

(2) In determining which deposits shall be channeled into these financial institutions Federal agencies and departments shall consider the vital role these institutions play in their communities consistent with the application of good cash management policies.

The title was amended so as to read:

A resolution expressing the sense of the Senate that further efforts be made by Federal departments and agencies to channel additional deposits in minority-owned commercial banks and savings and loan associations.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REQUEST WITHDRAWN FOR CERTAIN CALENDAR ORDER

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request temporarily with respect to Calendar Orders No. 1197, 1202, 1204, and 1209.

ENERGY TAX ACT OF 1978— CONFERENCE REPORT

Mr. LONG. Mr. President, I send to the desk a privileged matter and ask for its consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. ABOUREZK. Mr. President, is this what is known as the energy tax legislation?

Mr. LONG. Yes; it is.

Mr. ABOUREZK. Mr. President, I would like to have the clerk read that conference report.

The ACTING PRESIDENT pro tempore. The clerk will read the conference report.

The assistant legislative clerk proceeded to read the conference report.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, that cannot be done while reading the conference report.

The ACTING PRESIDENT pro tempore. The clerk will proceed.

Mr. ABOUREZK. Mr. President, I submit we have to have a quorum here before we can transact any business.

Mr. ROBERT C. BYRD. Mr. President, I ask for the regular order.

The ACTING PRESIDENT pro tempore. The regular order is for the continued reading of the conference report.

The clerk will read.

The assistant legislative clerk continued the reading of the conference report.

Mr. ABOUREZK. Mr. President, a point of order——

Mr. LONG. Mr. President, the Senator is out of order. There is a paper being read by the clerk.

Mr. ABOUREZK. Mr. President, the papers are not here. It is out of order to even proceed with the consideration of the conference report.

The ACTING PRESIDENT pro tempore. The Chair cannot hear the Parliamentarian.

The regular order, I am advised, is that the clerk continue reading the report. The clerk will continue.

The assistant legislative clerk continued the reading of the conference report.

Mr. ABOUREZK. I suggest the absence of a quorum, Mr. President.

Mr. LONG. The Senator cannot do that, because the clerk is reading a paper.

The PRESIDING OFFICER. The Chair is advised that the regular order is to continue the reading of the conference report. The clerk will continue.

The assistant legislative clerk continued the reading of the conference report.

Mr. ROBERT C. BYRD. Mr. President, I ask that the clerk read louder. He may sit down and read. I want to hear what he is saying.

The legislative clerk resumed and concluded the reading of the conference report.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The second assistant legislative clerk resumed and concluded the call of the roll and the following Senators answered to their names:

[Quorum No. 17 Leg.]

Abourezk	Griffin	Sarbanes
Byrd, Robert C.	Hansen	Stevens
Cannon	Hatch	Williams
Durkin	Melcher	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

Mr. ABOUREZK. I ask unanimous consent——

Mr. ROBERT C. BYRD. I ask that the Sergeant at Arms be instructed to request the attendance of absent Senators.

Mr. ABOUREZK. I was trying to get recognition.

Mr. ROBERT C. BYRD. The Chair already announced that a quorum is not present.

The PRESIDING OFFICER. A quorum call is in progress. The clerk will call the names of absent Senators.

Mr. ROBERT C. BYRD. Mr. President. I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The PRESIDING OFFICER. The motion to have the Sergeant at Arms request the presence of absent Senators is a motion that is in order.

The question is on agreeing to the motion.

The motion was agreed to.

The second assistant legislative clerk proceeded to call the names of absent Senators.

Mr. ROBERT C. BYRD. Mr. Pesident, I move that the Sergeant at Arms be instructed to compel the attendance of Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CLARK), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Hawaii (Mr. INOUYE), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Jersey (Mr. CASE), the Senator from New Mexico (Mr. DOMENICI), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Virginia (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

Mr. CHURCH. Mr. President, am I recorded?

The PRESIDING OFFICER. The Senator from Idaho is recorded.

Mr. CHURCH. I thank the Chair.

The result was announced—yeas 78, nays 3, as follows:

[Rollcall Vote No. 481 Leg.]

YEAS—78

Abourezk	Glenn	Moynihan
Anderson	Griffin	Muskie
Bartlett	Hansen	Nelson
Bayh	Hart	Nunn
Bellmon	Hatch	Pearson
Bentsen	Hatfield, Mark O.	Pell
Brooke	Hatfield, Paul G.	Percy
Bumpers	Hayakawa	Proxmire
Burdick	Heinz	Randolph
Byrd, Harry F., Jr.	Hodges	Ribicoff
Byrd, Robert C.	Hollings	Riegle
Cannon	Humphrey	Roth
Chafee	Jackson	Sarbanes
Chiles	Javits	Sasser
Church	Johnston	Schmitt
Cranston	Kennedy	Schweiker
Culver	Laxalt	Sparkman
Curtis	Leahy	Stafford
Danforth	Long	Stennis
DeConcini	Lugar	Stevens
Dole	Magnuson	Stone
Durkin	McGovern	Talmadge
Eagleton	Melcher	Thurmond
Eastland	Metzenbaum	Wallop
Ford	Morgan	Williams
Garn		Young
		Zorinsky

NAYS—3

Goldwater	Huddleston	Weicker

NOT VOTING—19

Allen	Haskell	McIntyre
Baker	Hathaway	Packwood
Biden	Helms	Scott
Case	Inouye	Stevenson
Clark	Mathias	Tower
Domenici	Matsunaga	
Gravel	McClure	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

ENERGY TAX ACT OF 1978—CONFERENCE REPORT

Mr. ABOUREZK. Mr. President, may I be recognized?

The PRESIDING OFFICER (Mr. MELCHER). Is there objection to considering the conference report?

Mr. ABOUREZK. May I be recognized? I seek recognition. I seek recognition.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object.

Mr. ROBERT C. BYRD. I move to proceed to consideration, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to the consideration of the conference report.

Mr. GOLDWATER. Parliamentary inquiry, Mr. President. What is the regular order?

The PRESIDING OFFICER. The Senator from Arizona asks what is the regular order. The regular order is a rollcall vote on the motion to proceed to the immediate consideration of the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CLARK), the Senator from Colorada (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Jersey (Mr. CASE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Virginia (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The result was announced—yeas 77, nays 8, as follows:

[Rollcall Vote No. 482 Leg.]

YEAS—77

Abourezk	Gravel	Moynihan
Allen	Hart	Muskie
Anderson	Hatch	Nelson
Bayh	Hatfield, Mark O.	Nunn
Bentsen	Hatfield, Paul G.	Pearson
Brooke	Hayakawa	Pell
Bumpers	Heinz	Percy
Burdick	Helms	Proxmire
Byrd, Harry F., Jr.	Hodges	Randolph
Byrd, Robert C.	Hollings	Riegle
Cannon	Huddleston	Roth
Chafee	Humphrey	Sarbanes
Chiles	Inouye	Sasser
Church	Jackson	Schweiker
Cranston	Javits	Sparkman
Culver	Johnston	Stafford
Curtis	Kennedy	Stennis
Danforth	Laxalt	Stevens
DeConcini	Leahy	Stevenson
Dole	Long	Stone
Durkin	Lugar	Talmadge
Eagleton	Magnuson	Thurmond
Eastland	McGovern	Weicker
Ford	Melcher	Williams
Garn	Morgan	Young
Glenn		Zorinsky

NAYS—8

Bartlett	Griffin	Schmitt
Bellmon	Hansen	Wallop
Goldwater	Metzenbaum	

NOT VOTING—15

Baker	Haskell	McIntyre
Biden	Hathaway	Packwood
Case	Mathias	Ribicoff
Clark	Matsunaga	Scott
Domenici	McClure	Tower

So the motion to proceed to the consideration of the conference report was agreed to.

Mr. ROBERT C. BYRD and Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, is the energy tax conference report now before the Senate?

The PRESIDING OFFICER. The Senator is correct.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I do not lose the floor by sending a cloture motion to the desk.

Mr. ABOUREZK. Mr. President, I object. I seek recognition.

The PRESIDING OFFICER. The cloture motion is privileged.

The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

Mr. ABOUREZK. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ABOUREZK. Mr. President, I seek recognition.

Mr. ROBERT C. BYRD. Mr. President——

The PRESIDING OFFICER. Objection is heard. The Chair will read the cloture petition.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the conference report on H.R. 5263, the Bicycle Parts Tariff Bill (Energy Tax).

Robert C. Byrd, Robert Morgan, Russell B. Long, Robert Dole, John A. Durkin, John Glenn, Harrison A. Williams, Jr., Charles H. Percy, James B. Pearson, Alan Cranston, Wendell H. Ford, Richard (Dick) Stone, Mike Gravel, Jennings Randolph, Daniel Patrick Moynihan, Henry M. Jackson, Frank Church, Warren G. Magnuson.

Mr. ABOUREZK. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from West Virginia still has the floor.

SUGAR STABILIZATION ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate proceed to the consideration of Calendar Order No. 1199, H.R. 7108.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, I seek recognition at this time.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I do not know what calendar order number that was, but I would respectfully request that the majority leader, when he calls up these numbers, kindly inform the Senate what is the issue that is involved.

I am not yielding at this point but I would hope that the majority leader in the future, at least in the next 3 or 4 days, would kindly inform the Senate as to what is in these calendar orders he is calling up. There is no way that in this rush of last minute business we are going to be able to find out.

Mr. LONG. Will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, that is the reason——

Mr. ABOUREZK. I do not yield, Mr. President.

There is one other issue that I want to talk about at this point.

We just voted on the energy tax bill that the distinguished Senator from Louisiana called up. That is another point that kind of sticks in my craw and I want to discuss it for a few minutes, if I might.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Pastore rule on germaneness be invoked.

Mr. ABOUREZK. Mr. President, I ask for order.

The PRESIDING OFFICER (Mr. FORD). The question is on the motion to proceed. The motion is debatable. Under the Pastore rule, debate must be confined to the matter that is pending before the Senate.

Mr. ABOUREZK. Mr. President, there is no way we can know what the matter is because the distinguished majority leader did not tell us when he called it up. I do not even know the calendar order number.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. ABOUREZK. Without losing my right to the floor.

Mr. ROBERT C. BYRD. The Senator

makes a very reasonable request and I should have stated for the information of the Senate what the title of the bill is. It is the sugar stabilization bill.

Mr. ABOUREZK. Well, Mr. President, with regard to sugar and sugar stabilization [laughter] one thing that the McGovern Committee on Nutrition and Human Needs talked about was the caloric content of sugar. If I had the report on the dietary aspects of sugar and the stabilization of sugar, I would be more than happy to read the entire report. There is a great deal of information in there on the question of sugar.

Without losing my right to the floor, may I propound a parliamentary inquiry, Mr. President?

The PRESIDING OFFICER. Without objection, the Senator may state the inquiry.

Mr. ABOUREZK. Mr. President, the energy tax legislation is now before the Senate; is that correct?

The PRESIDING OFFICER. Currently before the Senate is a motion to proceed on calendar order No. 1199.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Mr. CURTIS. Mr. President, will the Senator yield for a question only?

Mr. ABOUREZK. Without losing my right to the floor.

The PRESIDING OFFICER. The Senator may yield for a question.

Mr. CURTIS. Does the Senator realize the interest of the sugar beet farmers in this legislation?

The PRESIDING OFFICER. Will the Senator withhold?

Will the Senate come to order? Those Senators who are discussing and care to have a conversation will retire to the cloakroom. I think the colloquy on the floor is important.

Mr. ABOUREZK. Will the Senator repeat his question?

Mr. CURTIS. Does the Senator realize the great interest of the sugar beet farmers in getting this legislation passed at this session?

Mr. ABOUREZK. I do not realize it, but I would be happy to be told about it.

Mr. CURTIS. I ask unanimous consent that he might yield to me for 2 minutes without losing the floor.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. And without making it a second speech on my part.

The PRESIDING OFFICER. Is there objection?

The Senator may proceed.

Mr. CURTIS. This bill would establish supports through a complicated system that would benefit both cane producers and sugar beet producers. The situation is chaotic. This would give to sugar beet producers an average price of about $29 a ton. Without it, it would be much lower than that. The Department of Agriculture is arguing for a formula that will give sugar beet farmers about $25.96 a ton.

They need that $29 a ton. If it is not passed now, irreparable damage will be done to sugar beet growers all over the country, including those in South Dakota. I urge the distinguished Senator to use all of his great influence in getting quick passage of this bill. We are in disagreement with the House. Yet it is very important that this legislation be completed.

I thank the Senator for yielding.

Mr. ABOUREZK. I express my deep gratitude to the Senator from Nebraska for explaining the bill. It is fortunate that he did so, because nobody else has bothered to bring up an explanation in this regard.

Mr. LONG. Will the Senator yield for a question at that point?

Mr. ABOUREZK. Without losing my right to the floor, under the same conditions, Mr. President.

The PRESIDING OFFICER. Without objection.

Mr. HEINZ. Reserving the right to object.

Mr. LONG. It does not require consent to yield for a question.

The PRESIDING OFFICER. The Senator may yield for a question.

Mr. LONG. Is not the Senator aware of the fact that the Senator from Louisiana is waiting his turn to make a speech explaining the sugar bill and explaining how important it is to the sugar beet farmers as well as to the sugar cane farmers that we pass this Sugar Act?

Mr. ABOUREZK. I was not aware of that. I am very happy to hear that the Senator from Louisiana is prepared to explain it. I should be very happy to let him do it.

Mr. HEINZ. Before the Senator concludes, will he yield to me without losing his right——

Mr. ABOUREZK. Yes.

Mr. HEINZ. And for the purpose of making a point of order?

Mr. ABOUREZK. No.

To object to the motion to proceed?

Mr. HEINZ. Yes.

Mr. ABOUREZK. Yes, I yield for that purpose.

Mr. HEINZ. Mr. President, I make a point of order against the motion to proceed to consideration of H.R. 7108, based on the fact that it violates the 3-day rule, the report not having been available until Monday afternoon.

Mr. LONG. Mr. President, is this not Thursday?

The PRESIDING OFFICER. The Senator raised the issue as it relates to the sugar legislation?

Mr. HEINZ. I raise it in regard to H.R. 7108, on which there is a motion pending, to proceed to consideration of H.R. 7108.

The PRESIDING OFFICER. It is the opinion of the Chair that it would be proper to proceed 72 hours after the report was available to the Senators.

Mr. HANSEN. Will the President repeat his observation? I did not hear it.

The PRESIDING OFFICER. The Chair indicates that it would be proper to proceed with consideration 72 hours after the report was available to the Senators.

Mr. HEINZ. Mr. President, I stipulate that the report was not available to the Senators, it has not been available to the Senators, for 72 hours. Therefore, I press my point of order.

Mr. LONG. Mr. President, if I may speak to the point, the Senator has no power to stipulate for anybody except himself. I do not stipulate that at all. I do not stipulate that the report was not available the required period of time.

Mr. ROBERT C. BYRD. Mr. President, without the Senator losing his right to the floor, it is my understanding that that report was printed and made available to Senators, in accordance with the rule, 72 hours before the motion has been made. We are checking to see if that mathematical calculation is accurate. I hope that——

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will come to order. We have a question that needs to be resolved. The Chair will endeavor to do that.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the committee report was made available at 9 a.m. on Monday, October 9, which was 74 hours ago.

The PRESIDING OFFICER. The Senator is correct. The law states, however, that——

Mr. ROBERT C. BYRD. I know what the law states.

The PRESIDING OFFICER. For the edification of the other Senators, it shall not be considered unless the report submitted on that measure has been available to Members of the Senate for at least 3 calendar days, excluding Saturdays, Sundays, and legal holidays. Monday was a legal holiday.

Mr. ROBERT C. BYRD. Now, Mr. President, I am going to—is the Chair ruling that because Monday was a legal holiday, notwithstanding the fact that the Senate was in session and doing business, the point of order will stand?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. All right.

Now, I am going to appeal that ruling, for this reason, Mr. President.

The PRESIDING OFFICER. The Chair welcomes the appeal because it is a case of first impression.

Mr. ROBERT C. BYRD. The Chair is doing a magnificent job in the chair, I will say.

In addition thereto, the Chair is interpreting the rule as it reads. I find no fault with the Chair, but I think it is about time that we interpret the rule in the context of reality.

That rule was written at a time when the Senate did not meet on Saturdays very often, did not meet on Sundays except on extreme occasions, and did not meet on legal holidays.

Now, the purpose of the rule—which I am disliking more and more every day—is to allow Senators 3 days in which the Senate is in session to study a report on a matter that has been made available.

Now, the Senate was in session Satur-

day. The Senate was in session Monday. It was not a pro forma session; it was a full day's session in which the Senate transacted business.

That committee report was available and Senators had access to it.

Now, it is unreasonable—it is unreasonable—to say that if the Senate is in session on a legal holiday, or on a Saturday, all day long, not a pro forma session, that that day that the Senate is in session should not be counted as 1 of the 3 days in which the printed committee report is available to Senators.

Therefore, Mr. President, I appeal the ruling of the Chair on the basis of reason, and on the basis of pragmatism, and on the basis that the Senate was in session; 72 hours have expired in which Senators had full access to the printed committee report.

We are up to the end of a session and it is unreasonable to read that rule and interpret it in a way that makes it impossible for the Senate to work its will before another 24 hours have passed.

Mr. LONG. Will the Senator withhold?

Mr. ROBERT C. BYRD. Yes.

Mr. LONG. Also, the Senator is aware of the fact that the Senate was in session on Monday. That was Columbus Day.

Mr. ROBERT C. BYRD. Yes.

Mr. LONG. It was no holiday for the U.S. Senate, legal or otherwise, because the Senate went in that morning at 9:45 a.m. and it stayed in session until 11:13 p.m. that night.

Now, every Senator here had that report available to him. It was right here all day.

Mr. ROBERT C. BYRD. That is right.

Mr. LONG. And the Senators were here. Anybody that wanted to read it could read the report.

Mr. ROBERT C. BYRD. That is right.

Mr. LONG. To say the report has not been available 3 days when it was filed a week ago——

Mr. ROBERT C. BYRD. Yes.

Mr. LONG. Since it was filed a week ago, now to say that the report has not been available is ridiculous. It has been available for the whole 3 days, and some hours beyond that.

Of course, if Senators just do not want to vote on the Sugar Act, here is an excuse not to do so. But, as a practical matter, Monday was no holiday as far as the Senate was concerned.

At about midnight Monday night, I told the staff to take the rest of the day off.

Mr. ROBERT C. BYRD. Now, I bet the staff ignored the Senator's suggestion.

The PRESIDING OFFICER. Would the Senator from West Virginia do the Chair a favor?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Since there is a prior precedent holding that Saturday does not count even if the Senate is in session on that day, I ask the Senator to expand his motion to Saturdays, Sundays, and holidays, when the Senate is in session. Otherwise we would have a split precedent.

Mr. ROBERT C. BYRD. Yes.

Mr. ABOUREZK addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I appeal the ruling of the Chair, the ruling being based on the literal reading of the Senate rule, the practicality of which has long ago expired, that rule stating that a committee report must be printed and available to Senators for 3 calendar days, excluding Saturdays, Sundays, and legal holidays.

I appeal that rule with respect to those three types of days so that we do not have a split decision; when the Senate is in session, not pro forma, but actually in session on a Saturday or on a Sunday or on a legal holiday, that that day is to count as 1 of the 3 calendar days.

Mr. WEICKER. Mr. President, I would like to be heard on the point of order.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I rise to strongly oppose that which the majority leader seeks to achieve here this morning. I do so because it is the epitome of something that has been going on with increasing repetition by all elements of our society, specifically, that we are going to become a government of men, rather than a government of laws; an amazing statement coming from a Member of this body that we will interpret the rules in the light of reality.

There are procedures to go ahead and change the rules of this body.

I think probably on the basis of what the majority leader has set forth, there is good reason to change this rule. I am not arguing that.

But, when it does not suit the purpose of the majority leader and his schedule, to then abandon the rulemaking process, the constitutional process, sets a very dangerous precedent.

What is at issue here is not the sugar bill. What is at issue here is not whether or not there is some time left, or little time left, between now and the schedule set by the majority leader. What is not at issue here are the other pieces of legislation stacked up behind which await our decision.

What is involved is whether or not the rules of this body will be achieved in the normal way, or when it suits any individual's purpose he will then so adjust the rules to his views.

It is almost like a statement of one of our recently departed personages on the Washington scene, who made the statement that, "As long as I say it is legal, it can't be illegal."

As far as I am concerned, why have any rules at all if, indeed, this is the process by which we are going to change them?

Again, I remind my colleagues that in the light of the facts of today, it well might be that this rule should be changed, but it should not be changed in this manner.

We have a Rules Committee. In the past, such rule changes as rule XXII involved considerable debate, compromise, and back-and-forth, not a spur of the moment performance like this to suit the tactics of the majority leader.

I cannot even believe Members of the majority side would adhere to the principle espoused here.

It well might be that they have the votes to go ahead and uphold an appeal. But those rules are there to protect you as well as to protect the minority. What bothers me most, Mr. President, as I say, is a disregard for the constitutional process or for the process which involves the making of our own rules within this body.

To make a statement on the floor that we are going to temper the rules according to the reality, then why is it not the right of anybody in this country, on the street, to go ahead and do whatever they want, to go ahead and do it according to whatever reality is to them?

We talk about law and order. I have never seen such a flagrant disregard of it. Sure, it is not in terms that are normally projected.

It is not somebody stabbing another person in the inner-city or mugging somebody. What you are talking about is a breaking of basic concepts of law—in this case, to suit our reality. I have no more sympathy for the breaking of law in the name of reality in this Chamber than I do down Pennsylvania Avenue, than I do on the streets of Hartford, Conn.

If everybody is just going to go out and do their own thing, then let us abandon May 1 as Law Day and substitute for it "Do Your Own Thing Day," because that is what the majority leader is doing right now—doing his own thing.

If that kind of example is set in the Senate of the United States, among the most educated of men and women, the most advantaged of men and women, then ask me why a better example should be set by those without education and without advantage.

I think the request of the majority leader in this particular instance is a disgrace to everything this body stands for and this Nation stands for.

Mr. DURKIN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. DURKIN. Will the Senator yield?

Mr. HEINZ. I yield, without losing my right to the floor.

Mr. DURKIN. I thank the Senator.

This is the silly season, and we have heard enough pious nonsense, and we have everyone polishing their halo when the press gallery is full.

The American public is fed up with the asinine rules of the U.S. Senate that do not let us get our job done.

Houdini used to tie himself in knots, draw a crowd, and escape. We draw a crowd, tie ourselves in knots, and then say, "Don't expect anything from the U.S. Senate, because we're tied in knots."

The request of the majority leader is a very reasonable request. If we cannot temper rules with reason, we might as well close this place up. We might as well make this part of the Smithsonian Institute and let the tourists walk through, because this place is over as a functioning legislative body. Many people in this country are totally fed up with it.

Mr. WEICKER. Mr. President, will the Senator yield for a question?

Mr. DURKIN. I will yield in just a second.

The American public is totally fed up with the nonsense that goes on here under the guise of rules. Every cab driver in America is upset that we cannot pass an energy package. We cannot pass appropriations bills.

When the rule was written, we were in session 3 or 4 months a year. It was a gentleman's pursuit. Now we are full-time elected bureaucrats due to the change in the circumstances. That rule was made so that when we were out of town, when we were not in session on a Saturday, when we were not in session on a holiday, we could not pull a fast one.

We were in session Saturday. We were in session Monday, even though it was a holiday. I am not sure it was a holiday in my State. Our Governor has his own set of holidays.

The request of the majority leader is very reasonable, and it is not any abdication of the rule of law, with due respect to my friend from Connecticut.

Mr. WEICKER. Mr. President, will the Senator yield for a question?

Mr. DURKIN. I yield.

Mr. HEINZ. I yield.

Mr. WEICKER. Will the Senator respond to the following question: Would he please tell me which rules are asinine? That is the essence of the argument here. And who is to determine which rules are asinine? Is it the Durkin version or is it the Byrd version or is it the version as established by the rules, by the U.S. Senate? Will the Senator please tell me which rules are asinine?

Mr. DURKIN. I will be glad to send the Senator from Connecticut a memo on which rules I think are asinine. If I discussed all the rules I think are asinine, we will not adjourn Saturday night, the last Saturday in December.

Mr. WEICKER. Is adjournment important or are the laws and the rules of this Nation important?

Mr. DURKIN. We have heard enough of this pious nonsense—the rules, the rules, the rules. We cannot get anything done. The American public expects us to modify the rules, to get the agenda of the country done.

Mr. WEICKER. Well, that is what some of our disadvantaged people in this country have said from time to time; and when they say the rules are no good, they get thrown in the slammer.

I suggest to the Senator that we have to have some procedure in this Nation. That is all we are arguing for. We are not arguing the merits of this particular situation.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HEINZ. I yield, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may withdraw the appeal.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, will the Senator allow me the floor? I have withdrawn the appeal.

Mr. HEINZ. I have no objection to the Senator's withdrawing the appeal.

Mr. ROBERT C. BYRD. Mr. President, I am not going to challenge this point of order. Therefore, the point of order stands. May I be recognized?

The PRESIDING OFFICER. The motion to proceed falls, and the Senator from West Virginia is recognized.

PUBLIC ASSISTANCE AMENDMENTS OF 1977

Mr. ROBERT C. BYRD. Mr. President, I move to proceed to the consideration of Calendar No. 527, H.R. 7200, an act to amend the Social Security Act to make needed improvements in the programs of supplemental security income benefits.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 7200) to amend the Social Security Act to make needed improvements in the programs of supplemental security income benefits, aid to families with dependent children, child welfare services, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment in the nature of a substitute.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. If I am recognized for a couple of minutes, so that I can explain——

The PRESIDING OFFICER. The Senate will come to order. The Senator deserves to be heard. Staff and Senators will take their seats.

Mr. ROBERT C. BYRD. Mr. President, I think that the liberal interpretation of the rule which requires a committee report to be available to Senators for 3 days, excluding Saturday, Sundays, and legal holidays, when the Senate is in session, is an unreasonable rule; but, literally, it has to be interpreted for what it says. Consequently, I will not be a party to changing the rule by the appeals procedure. It can be done. I have been arguing against this business of changing the rules by sleight of hand methods, myself; so I want to be held to my own rule.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Not yet.

Mr. HEINZ. I yielded to the Senator two or three times.

Mr. ROBERT C. BYRD. The Senator from West Virginia will yield to the Senator, but I would like to take my place at the mourners' bench. I want to have my soul fully cleansed, without interruption. [Laughter.]

Mr. President, I did not like the procedure that was used, which is going to be challenged at some point—the procedure that was used to change the rules of the Senate by a self-executing amendment to a bill which is still on the calendar, and which will probably never be called up, and which will die. I did not like that. I do not think that is the way the Senate should change its rules. I do not think the Senate should change its rules by the appeal procedure, either.

Let me say this: This is not the last we have heard of this 3-day rule. It is an unreasonable rule which makes the Senate, although it is in session on a Saturday or a Sunday or on a legal holiday, add an additional day—or if it is in session all 3 days, to add 3 additional days—before a matter can be called up. It is unreasonable. At the end of the session, it can mean the death of a very important bill or resolution.

So, at the beginning of the next session, we will proceed to see if we can change that rule.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. HEINZ. First, I wish to commend the Senator from West Virginia, our majority leader, on recognizing what his appeal meant to the Senate, because he is quite right. I have heard him on many occasions argue that you cannot do indirectly what you cannot do directly. Indeed he made an eloquent speech as late as last night, rather late.

Mr. ROBERT C. BYRD. I went back and read that speech.

Mr. HEINZ. Rather late.

Mr. ROBERT C. BYRD. I went back and read that eloquent speech a few minutes ago and decided I should come in and kneel at the mourners' bench and beg the Senate to forgive me, and I do, for this act that I committed or was about to commit of going against my own eloquent, and persuasive speech.

Mr. HEINZ. If the Senator will permit me to continue, this indeed would be a very difficult thing for him to do.

Mr. ROBERT C. BYRD. I found it impossible.

Mr. HEINZ. Naturally. And I would only add if the Senator had not gone back and read his speech I would read it to the Senate because I thought it was such a good speech, and I thought my colleagues would want to know just how eloquent the majority leader is.

Let me say more seriously to the majority leader that I had two purposes in invoking the 3-day rule. The first purpose was to bring to the attention of the Senate that while the report was logged someplace at 9 a.m. we were unable to get it until late Monday afternoon. We tried. We could not obtain it. We could not obtain it until Monday afternoon.

So let me assure the Senator that in fact we were not dealing with a legal technicality. It was not my intention to deal with a legal technicality when I invoked the 3-day rule. I was trying to deal with substance. That does not mean that I agree with the Senator's idea that we should waive Christmas, Easter, Memorial Day, and July Fourth, if the Senate is in session on such religious holidays, as the rules change the Senator has in mind would imply.

Second, and I say this particularly to my colleagues, my intention is not, on the bill that was called up, H.R. 7108, to obstruct passage of the Sugar Act. There may be others who want to do that. I am not one of them. But I do not like a part of that bill which was added in

committee; namely, the extension of the countervailing duty waiver authority which currently under the 1974 treaty is supposed to expire on January 3. I think it should expire on January 3; otherwise, we will lose a very real bargaining chip at the Multilateral Trade Negotiations which were supposed to be concluded several months ago, and I am told by Mr. Strauss will be concluded no later than December 15.

So I see no reason to extend the countervailing duty waiver authority to the President.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator——

Mr. HEINZ. I appreciate the Senator's yielding.

Mr. ROBERT C. BYRD. To discuss the points of order, not the merits of the bill. I am very contrite and I make this honest confession in tears, and I trust that I may receive absolution.

Mr. DANFORTH addressed the Chair.

Mr. ROBERT C. BYRD. I thank the Chair, and I hope we can get on now with the matter.

Mr. DANFORTH. Will the majority leader yield for one question?

Mr. ROBERT C. BYRD. I yield.

Mr. DANFORTH. I am curious as to why H.R. 7200 was called up at this point in the session. If we are attempting to dispose of important business in the last 3 days and allow the Senate to work its will, as the majority leader continually insists we do, I am just curious as to whether the majority leader has considered what is in H.R. 7200, because as I can inform the Senator if he does not know, precisely the same issue, exactly the same issue on fiscal relief that we disposed of in the Senate last Friday is in H.R. 7200, exactly the same provision.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, I will answer the Senator.

Mr. DANFORTH. The Senate worked its will on the fiscal relief provisions of H.R. 7200 which is I am sure why it is coming up again. It is just an end run around what we did last Friday by rollcall vote in the Senate. Now it appears that we are going to just climb up that same mountain again.

I do not think I have been an obstructionist in my brief term in the Senate. I have not gone and asked for needless rollcalls or suggested the absence of a quorum or gotten Senators to run back and forth over the floor of the Senate to do this or that. But it seems to me that when you fight a battle and you win a battle, then to see exactly the same thing come up less than a week later, precisely the same issue, exactly the same charts with respect to how the money is divided up among the States, to have exactly the same issue come up less than a week later when we are supposed to be hurrying along making progress on Humphrey-Hawkins, I frankly do not understand it at all, and I would appreciate an explanation.

Mr. ROBERT C. BYRD. I yield to the manager of the bill.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, it is the intention of the chairman of the committee to move to strike everything after the enacting clause on H.R. 7200 and proceed to act on revenue measures, including the Sugar Act, as an amendment. That is what I have in mind. Of course, this is a revenue bill, and it would be subject to amendment. If Senators want, we can debate the same point the Senator had in mind. But H.R. 7200 is a revenue bill and has been out there on the calendar a very, very long time. It has long since exceeded the 3-day rule.

Mr. DANFORTH. I shall ask a question at this point then. Would this not, whether or not we strike everything from after the enacting clause, put H.R. 7200 in conference and resurrect the possibility of coming back with this fiscal relief question? I mean right now it is in conference. Right now it is not brought up in the tax bill and it is not in the tax bill in either the House version or the Senate version.

Mr. LONG. It absolutely would not. When we strike all after the enacting clause, we strike down not only the Senate committee language but we strike down the House language. The House language has no fiscal relief provision in it, so the provision that the Senator is worried about would not be in conference. The only provision that would be in conference from the House side would be those provisions that the House sent to us, some of which we have already put on the tax cut bill and sent back over to the conference on that bill anyway.

As a matter of fact, the best thing in H.R. 7200 as it came to us was added to the tax bill on which we go to conference this afternoon. I do not think the Senator will find much of anything in what the House put in H.R. 7200 that would be further subject to conference about which he would be upset. All the Senate language would be gone.

Mr. DANFORTH. My understanding is that the fiscal relief provisions that were in the Senate version of H.R. 7200 are not in the House version.

Mr. LONG. They are not there.

Mr. DANFORTH. It is the chairman's intention to move to strike everything after the enacting clause in H.R. 7200?

Mr. LONG. My amendment in the nature of a substitute would take away, so far as I know, everything to which the Senator has objected. You may have objection to something in the bill the House sent us, but much of H.R. 7200 as passed by the House has already been added, if not to other bills, then to the big tax bill on which the Senator is a conferee this afternoon. That will be considered in that conference anyway, so all we would have left would be whatever House language remains from H.R. 7200 as it came to us from the House bill.

In other words, what the Senator fears would not be the case.

Has the motion to proceed been agreed to, Mr. President?

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to the consideration of the bill.

The motion was agreed to.

UP AMENDMENT NO. 2059

(Purpose: To implement the International Sugar Agreement, to establish a domestic sugar program, and for other purposes)

Mr. LONG. Mr. President, I send to the desk an amendment in the nature of a substitute.

The PRESIDING OFFICER. The clerk will report.

Mr. LONG. I ask that this be substituted for the committee amendment. There is a committee amendment.

The PRESIDING OFFICER. In the nature of a substitute. This amendment is in order.

Mr. LONG. The committee amendment is in the nature of a substitute.

Now I wish to make a unanimous consent request. I am offering this in the nature of a substitute for the committee amendment. I want to protect the rights of Senators, and that being the case, I ask unanimous consent that the amendment in the nature of a substitute be substituted for the committee amendment and be considered as original text for the purposes of further amendment.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. With respect to the nature of that unanimous-consent request, does that allow amendments in the third degree or does it shut them off by virtue of——

The PRESIDING OFFICER. It allows amendments in two more degrees.

Mr. ABOUREZK. As though it were an original measure?

The PRESIDING OFFICER. The Senator is correct.

Mr. ABOUREZK. I thank the Chair.

Mr. President, one further parliamentary inquiry, and I still reserve the right to object, is a nongermane amendment in order to this substitute?

The PRESIDING OFFICER. There would be no germaneness requirement at this time.

Mr. ABOUREZK. Nongermane amendments are in order?

The PRESIDING OFFICER. The Senator is correct.

Mr. ABOUREZK. May I just ask the distinguished Senator from Louisiana if he would be interested in amending his unanimous-consent request to prevent nongermane amendments from being added?

Mr. LONG. Senator, it is likely to be objected to. I would like to limit consideration to germane amendments, but I am not going to ask it at this point because someone might want to object that his rights would not be protected.

Mr. ABOUREZK. Would the distinguished Senator make the request?

Mr. LONG. Mr. President, I ask unanimous consent that further amendments to the bill be germane.

Mr. HEINZ. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ABOUREZK. Then I object to his request.

The PRESIDING OFFICER. Objection is heard to the Senator's last unanimous-consent request.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 2059: strike out all after the enacting clause and insert in lieu thereof new language.

Mr. HEINZ. Mr. President, we would like to hear the amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania is asking that the entire amendment be read?

Mr. HEINZ. I have not heard a motion to dispense with further reading. What is the regular order?

The PRESIDING OFFICER. The regular order would be to read the amendment.

Mr. LONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue reading.

Mr. ABOUREZK. Mr. President, may the clerk be seated while he is reading?

Mr. LONG. I object.

Mr. ABOUREZK. May the clerk remain standing? I ask unanimous consent that the clerk remain standing.

Mr. LONG. I object.

The PRESIDING OFFICER. The clerk will stand on his head and read.

[Laughter.]

The clerk will read the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. ABOUREZK. Mr. President, could we have order, Mr. President, so we can hear it?

The PRESIDING OFFICER. If the Senator wants to come closer he is welcome.

Mr. ABOUREZK. May we then not have order, Mr. President, may we have disorder?

The PRESIDING OFFICER. If the Senator will get to his seat and use his microphone, which is the procedure of the Senate, he will be in order. The clerk may proceed.

The assistant legislative clerk resumed the reading of the amendment.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, reserving the right to object, I wish to ask that the chairman of the Finance Committee——

The PRESIDING OFFICER. Will the Senator use his microphone.

Mr. HEINZ. I simply wish to ask the chairman of the Finance Committee what is contained in the amendment he has offered. I do not see any reason to proceed with reading it, but I would like to know what is in the amendment.

Mr. LONG. Senator——

The PRESIDING OFFICER. Is there objection to the request that further reading of the amendment be dispensed with?

Mr. HEINZ. I am reserving my right to object.

The PRESIDING OFFICER. The Senator cannot have an explanation with a reservation of his right to object.

Mr. LONG. Mr. President, I ask unanimous consent that I might explain to the Senator, subject to his right to reserve.

Mr. HEINZ. I do not object.

The PRESIDING OFFICER. Without objection, the further reading of the amendment is dispensed with.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Sugar Stabilization Act of 1978".

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of Congress—

(1) to maintain a viable domestic sugar producing industry capable of continuing to provide the larger part of the sugar consumed in the United States;

(2) to protect the welfare of consumers and producers by providing such supplies of sugar as will be consumed at fair prices in the United States and in the world market;

(3) to achieve these prices and supply objectives through cooperation with sugar producing and consuming countries under the export quota system of the International Sugar Agreement and the operation of a complementary import management program for the United States market; and

(4) to promote the export trade of the United States with sugar producing countries of the world.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) The term "person" means an individual, partnership, corporation, association, or other legal entity.

(2) The term "sugars" means any grade or type of saccharine product derived from sugar cane or sugar beets and containing sucrose, dextrose, or levulose.

(3) The term "sugar" means raw sugar or direct-consumption sugar.

(4) The term "raw sugar" means any sugars, whether or not principally of crystalline structure, which are to be further refined or improved in quality to produce any sugars principally of crystalline structure or liquid sugar.

(5) The term "direct-consumption sugar" means any sugars principally of crystalline structure and any liquid sugar which are not to be further refined or improved in quality.

(6) The term "liquid sugar" means any sugars (exclusive of syrup of cane juice produced from sugar cane grown in the United States) which are principally not of crystalline structure and which contain, or which are to be used for the production of any sugars principally not of crystalline structure which contain, soluble nonsugar solids (excluding any foreign substances that may have been added or developed in the product) equal to 6 percent or less of the total soluble solids.

(7) Sugars in dry amorphous form shall be considered to be principally of crystalline structure.

(8) The term "raw value" of any quantity of sugars means its equivalent in terms of ordinary commercial raw sugar testing 96 sugar degrees by the polariscope, determined in accordance with regulations issued by the Secretary. The principal grades and types of sugar and liquid sugar shall be translated into terms of raw value in the following manner:

(A) for direct-consumption sugar, derived from sugar beets and testing 92 or more sugar degrees by the polariscope, by multiplying the number of pounds thereof by 1.07;

(B) for sugar, derived from sugar cane and testing 92 sugar degrees by the polariscope, by multiplying the number of pounds thereof by 0.93;

(C) for sugar, derived from sugar cane and testing more than 92 sugar degrees by the polariscope, by multiplying the number of pounds thereof by the figure obtained by adding to 0.93 the result of multiplying 0.0175 by the number of degrees and fractions of a degree of polarization above 92 degrees;

(D) for sugar and liquid sugar, testing less than ninety-two sugar degrees by the polariscope, by dividing the number of pounds of the total sugar content thereof by 0.972; and

(E) the Secretary may establish rates for translating sugar and liquid sugar into terms of raw value for—

(i) any grade or type of sugar or liquid sugar not provided in the foregoing, and

(ii) any special grade or type of sugar or liquid sugar for which he determines that the raw value cannot be measured adequately under the provisions of subparagraphs (A) through (D).

(9) The term "quantitative restriction" means the total amount of sugar or liquid sugar, or that quantity of sugar-containing products, which may be entered from all foreign countries in the aggregate during any applicable period.

(10) The term "to enter" means to enter, or withdraw from warehouse, for consumption in the United States; the term "entered" means entered, or withdrawn from warehouse, for consumption in the United States; and the term "entry" means the entry, or withdrawal from warehouse, for consumption in the United States.

(11) The term "International Sugar Agreement" or "Agreement" means the International Sugar Agreement, 1977, signed at New York on December 9, 1977, and to which the Senate has given its advice and consent.

(12) The term "Secretary" means the Secretary of Agriculture.

(13) The term "sugar supply year" means the 12-month period beginning October 1 of any year and ending on September 30 of the following year, designated by the calendar year in which it commences.

(14) The term "United States", when used in a geographical context, means the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(15) The term "price range for free trade sugar" means the range between the price at which all export quota restrictions must be suspended and the price at which special stocks of sugar must first be made available for sale and delivery to the free market, in accordance with the provisions of article 44 of the International Sugar Agreement.

(16) The term "daily price for imported raw sugar" means the average of the daily prices for sugar in pounds, raw value, in bulk, landed and delivered at New York, including the cost of insurance, freight, loading, unloading, and applicable import duties and fees.

(17) The term "total sugar content" means the sum of the sucrose and the reducing or invert sugars in any grade or type of sugar or liquid sugar.

(18) The term "semiannual period" means the period beginning on October 1 and ending March 31 of any sugar supply year or on April 1 and ending on September 30 of any sugar supply year, as appropriate.

TITLE I—INTERNATIONAL SUGAR AGREEMENT

IMPLEMENTATION

SEC. 101. In order to carry out and enforce the International Sugar Agreement, the President may—

(1) limit the entry of any sugar from any country, territory, or area which is not a member of the International Sugar Organization;

(2) prohibit the entry of any quantity of sugar which is not accompanied by a valid certificate of contribution to the stock financing fund and other documentation as may be required under the Agreement;

(3) require the keeping of such records, statistics, and other information, and the

submission of such reports, relating to the entry, distribution, prices, and consumption of sugar and alternative sweeteners as he may from time to time prescribe;

(4) take such other action and issue such rules as he may consider necessary or appropriate to implement the rights and obligations of the United States under the Agreement; and

(5) delegate his authority under this title to such officer or officers of the United States as he may designate.

PENALTY

SEC. 102. (a) No person may—

(1) fail to make any report or keep any record required under section 101,

(2) make a false report or record required under such section, or

(3) knowingly violate any rule issued under such section.

(b) Violation of the provisions of subsection (a) shall be punishable by a fine of not more than $1,000 for each such violation.

REPORT

SEC. 103. The President shall submit to the Congress an annual report on the operation of the International Sugar Agreement. Such report shall contain full information on the operation of the Agreement, including full information with respect to the general level of prices of sugar and the relationship of the Agreement to any domestic program of the United States for sugar. The report shall also include a summary of the actions the United States and the International Sugar Organization have taken to protect the interests of United States consumers and producers.

EFFECTIVE DATE

SEC. 104. The provisions of this title shall take effect on the date the Agreement enters into effect for the United States.

TITLE II—DOMESTIC SUGAR PROGRAM

DOMESTIC MARKET PRICE OBJECTIVE

SEC. 201. (a) The market price objective for raw sugar during sugar supply year 1978 shall be equal to one cent less than the median of the price range for free trade sugar under the International Sugar Agreement. During the semiannual period beginning October 1, 1979, and each semiannual period thereafter, the market price objective in effect for such period (hereafter referred to as the "current period") shall be equal to the market price objective in effect during the immediately preceding semiannual period increased or decreased to maintain the same ratio between the market price objective for the current period and the simple average of—

(1) the parity price index (1967=100), and

(2) the wholesale price index (1967=100)

for the 3 calendar months immediately preceding the current period as the ratio that existed between—

(A) the market price objective for the sugar supply year 1978, and

(B) the simple average of such indices for the 12 calendar months immediately preceding July, 1978.

The market price objective, adjusted as necessary under the preceding sentence, shall be announced within 30 days after the beginning of each semiannual period.

(b) For purposes of subsection (a)—

(1) the term "parity index (1967=100)" means the Index of Prices Paid by Farmers for Commodities and Services, Including Interest, Taxes, and Farm Wages Rates, as published by the Department of Agriculture.

(2) The term "wholesale price index" means the wholesale price index for all commodities as determined monthly by the Department of Labor.

IMPORT FEE

SEC. 202. (a) If the Secretary determines that the simple average of the daily price for imported raw sugar during a semiannual period of any sugar supply year will be less than the market price objective in effect for such period under section 201, then the Secretary shall impose on each pound of sugar entered during such period a fee in an amount determined under this section. The Secretary shall announce his determination under the preceding sentence at the same time he announces his determination with respect to the market price objective under section 201. Notwithstanding the preceding sentence, the Secretary shall impose such fee for sugar supply year 1978 within 30 market days after the date of enactment of this Act.

(b) The amount of the fee imposed under subsection (a) during any semiannual period of a sugar supply year shall be equal to the amount (not in excess of 20 cents per pound) which the Secretary determines will, when added to the simple average of the daily price for imported raw sugar during such period, achieves the market price objective in effect for such period under section 201. The amount determined under the preceding sentence for the second semiannual period of any sugar supply year shall be—

(1) increased by the amount by which the simple average of the daily price for imported raw sugar plus import fee over the preceding semiannual period is less than the market price objective in effect for such period, or

(2) decreased by the amount by which such simple average plus import fee exceeds such objective.

(c) The fee imposed under subsection (a) shall be imposed on a per pound, raw value, basis. Such fee shall be considered to be a duty imposed under the Tariff Act of 1930 except for purposes of title V of the Trade Act of 1974.

QUANTITATIVE RESTRICTION ON IMPORTED SUGAR

SEC. 203. (a) If, at any time during a semiannual period of a sugar supply year, the Secretary determines that the market price objective in effect under section 201 will not be achieved by the import fee imposed under section 202 during that period, then the Secretary shall impose a quantitative restriction on the total amount of sugar which, may be entered during such period. The amount of sugar permitted entry under the quantitative restriction imposes under the preceding sentence shall be the amount the Secretary determines is necessary to achieve, in conjunction with the import fees imposed under section 202 during such period, the market price objective in effect during such period. For purposes of this subsection, if the Secretary makes his determination during the second semiannual period of a sugar supply year, then the amount of sugar permitted entry during such period shall be the amount the Secretary determines is necessary to achieve, in conjunction with such fees, the simple average of the market price objectives in effect for that period and the preceding semiannual period.

(b) If a quantitative restriction is in effect under this section, the Secretary shall review, from time to time, the effect of such restriction and make such adjustments in the restriction as may be required to achieve the revelant market price objective.

(c) A quantitative restriction imposed under subsection (a) shall be administered as a global quantitative restriction imposed in terms of raw values.

PROHIBITION OF IMPORTATION OF DIRECT-CONSUMPTION SUGAR

SEC. 204. (a) Except as provided in subsection (c), no direct-consumption sugar may be entered into the United States.

(b) Notwithstanding any other provision of this Act, if the Secretary determines that a lack of raw sugar refining capacity within the United States has created an imminent shortage of direct-consumption sugar for consumers in the United States, then he may impose a quantitative restriction permitting the entry of such quantity of direct-consumption sugar as is necessary to meet such imminent shortage. Determinations made under this section shall be made in accordance with section 553 of title 5, United States Code.

(c) The limitation imposed under subsection (a) may not be suspended under section 307 unless the President finds and proclaims that a national economic or other emergency exists with respect to sugar or liquid sugar which requires such a suspension.

ADJUSTMENTS TO QUANTITATIVE RESTRICTIONS AND FEES

SEC. 205. If the Secretary determines that the simple average of the daily price for imported raw sugar over any 20 consecutive market day period exceeds by more than 20 percent the market price objective in effect under section 201, then he shall suspend any quantitative restriction in effect under section 203 and any import fee in effect under section 202, or make such adjustments to such restriction or fee, or both, as may be required to achieve the market price objective. If the Secretary determines that the simple average of the daily price of raw sugar imports for 20 consecutive market days is less than the market price objective in effect under section 201, then he shall reimpose such quantitative restriction, import fee, or both, or such portion thereof, as may be required to achieve such price objective.

SUGAR-CONTAINING PRODUCTS

SEC. 206. (a) If the Secretary determines that the prospective entry of any sugar-containing product or mixture or of beet sugar molasses will substantially interfere with the attainment of the objectives of this Act, he may limit the quantity of such product, mixture, or molasses to be entered from any country or area to a quantity which he determines will not so interfere. Notwithstanding the preceding sentence, the quantity to be entered from any country or area during any sugar supply year may not be reduced below the average of the quantities of such product, mixture, or molasses entered each calendar year during such 3 consecutive year period as he may select for which reliable data on the entry of such product, mixture, or molasses are available.

(b) If the Secretary determines that the prospective entry of any sugar-containing product or mixture or beet sugar molasses will substantially interfere with the attainment of the objectives of this Act and there are no reliable data available on the entry of such product, mixture, or molasses for 3 consecutive years, then he may impose a quantitative restriction on the entry of such product, mixture, or molasses during a sugar supply year from any country or area in an amount equal to a quantity which the Secretary determines will not substantially interfere with the attainment of the objectives of the Act. In the case of a sugar-containing product or mixture, such quantity from any one country or area may not be less than a quantity containing 100 short tons, raw value, of sugar or liquid sugar.

(c) In determining whether the prospective entry of a quantity of a sugar-containing product or mixture will or will not substantially interfere with the attainment of the objectives of this Act, the Secretary shall take into consideration the total sugar content of the product or mixture in relation to other ingredients or to the sugar content of other products or mixtures used for similar purposes, the costs of the mixture in relation to the costs of its ingredients for use in the United States, the present or prospective volume of imports relative to past imports, the type of packaging, whether

it will be marketed to the ultimate consumer in the identical form in which it is imported, the extent to which it is to be further subjected to processing or mixing with similar or other ingredients, and other pertinent information which will assist him in making such determination. Determinations made under this section shall be made in accordance with section 553 of title 5, United States Code.

(d) Notwithstanding subsections (a), (b), and (c), the total quantity of sweetened chocolate, candy, and confectionery (provided for in items 156.30 and 157.10 of part 10, schedule 1, of the Tariff Schedules of the United States) which may be entered shall be subject to a quantitative restriction in an amount determined under this subsection. The quantity of such articles which may be entered during any calendar year shall be determined by the Secretary in the fourth quarter of the preceding calendar year. Such quantity shall be equivalent to the larger of—

(1) the average annual quantity of such articles entered during the 3 calendar years immediately preceding the year in which such quantity is determined, or—

(2) a quantity equal to 5 percent of the amount of sweetened chocolate, candy, and confectionery of the same description of United States manufacture sold in the United States during the most recent calendar year for which data are available.

Notwithstanding paragarph (9) of section 3, the total quantity to be entered under this subsection may be allocated to countries on such basis as the Secretary determines to be fair and reasonable, taking into consideration the quantity of sweetened chocolate, candy, and confectionery imported into the United States from such countries in past years. For purposes of this subsection, the Secretary shall use statistical data of the United States Department of Commerce as to the quantity of sweetened chocolate, candy, and confectionery of United States manufacture sold in the United States.

PROHIBITED ACTS

SEC. 207. No person may—

(a) enter into the Virgin Islands for consumption therein any sugar or liquid sugar produced from sugar cane or sugar beets grown outside the United States in excess of 100 pounds during any calendar year; or

(b) export to any foreign country any sugar or liquid sugar produced from sugar beets or sugar cane grown in the United States or entered, except as provided in section 208.

EXPORTATION OF SUGAR

SEC. 208. (a) Sugar entered under a bond, established under rules promulgated by the Secretary, for the purpose of subsequently exporting an equivalent quantity of sugar as such, or in manufactured articles, shall not be considered to be sugar entering the United States for purposes of section 203.

(b) Sugar exported under the provisions of sections 309 and 313 of the Tariff Act of 1930 (19 U.S.C. 1309 and 1313) shall be considered to be sugar entered under subsection (a).

EXCEPTIONS

SEC. 209. The provisions of this title shall not apply to—

(1) the first 10 short tons, raw value, of direct consumption sugar or liquid sugar entered from any foreign country in any sugar supply year;

(2) the first 10 short tons, raw value, of liquid sugar entered from any foreign country in any sugar supply year for religious, sacramental, educational, or experimental purposes;

(3) liquid sugar entered from foreign countries in individual sealed containers of such capacity as the Secretary may determine, not in excess of four liters each;

(4) any sugar or liquid sugar entered for the production (by distillation or other means) of alcohol or for livestock feed or the production of livestock feed, not including any such alcohol or resulting byproducts for human food consumption; or

(5) any sugar or liquid sugar entered for the production of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar as a sweetener in human food consumption.

TITLE III—GENERAL PROVISIONS

FARM LABOR PROVISIONS

SEC. 301. (a) Beginning with sugar supply year 1978, every producer of sugar beets and sugarcane for sugar shall pay to each person employed on the farm in the production, cultivation, and harvesting of sugar beets and sugarcane wages as follows:

(1) When employed on a time basis, the rates per hour shall be not less than the following:

Sugar supply year:	*All areas except Hawaii and Puerto Rico* [1]
1978	$3.00
1979	3.20
1980	3.40
1981	3.60
1982	3.80

[1] Hawaii and Puerto Rico: As required by labor union agreement or Federal or local law.

Rates for field equipment operators shall be not less than 10 percent more than the above rates.

(2) When employed on a piecework basis, the rates shall be not less than the rates for the 1978 crop as published in the Federal Register of January 10, 1978 (42 F.R. 1476), increased for each sugar supply year beginning with sugar supply year 1979, in the same proportion as the hourly rates are increased in the above table.

(b) Any producer who fails to pay the wages provided for in subsection (a) of this section shall be liable to the employee or employees affected in the amount of their unpaid wages and in an additional equal amount as liquidated damages. An action to recover such liability may be maintained against any producer in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought. The court in such action shall, in addition to any judgment awarded to any plaintiff, allow a reasonable attorney's fee to be paid by the defendant, and costs of such action. The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary in an action under section 303 in which restraint is sought of any further delay in the payment of unpaid wages owing to such employee under subsection (a) of this section by a producer liable therefor under the provisions of this subsection.

(c)(1) The Secretary is authorized to supervise the payment of the unpaid wages owing to any employee or employees under this section, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid wages and an additional amount as liquidated damages. Any hearing on a claim for unpaid wages shall be conducted by an attorney designated by the General Counsel of the Department of Agriculture from among the attorneys employed in the Office of the General Counsel of that Department, and the decision of such attorney shall be issued promptly thereafter, to the extent possible within 30 days after the conclusion of the hearing. Within 30 days after the issuance of such decision, any person who is adversely affected by such decision may obtain a review of such decision by filing a petition with the judicial officer appointed by the Secretary pursuant to section 450d of title 5, United States Code. Any person who is adversely affected by a decision of the judicial officer hereunder may obtain judicial review of such decision by filing a complaint, within 30 days after such decision, with the United States district court for the district in which such person resides. Upon the filing of the complaint, the court shall have jurisdiction to affirm, set aside, or modify the decision of the judicial officer, and the findings of the judicial officer as to the facts, if supported by substantial evidence, shall be final and conclusive.

(2) The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid wages and an equal amount as liquidated damages. The right provided by subsection (b) to bring an action by or on behalf of any employee and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary in an action under this subsection in which a recovery is sought of unpaid wages under subsection (a) or liquidated damages provided by this subsection owing to such employee by a producer under the provisions of subsection (b), unless such action is dismissed without prejudice on motion of the Secretary. Any sums thus recovered by the Secretary on behalf of an employee pursuant to this subsection shall be held in a speical deposit account and shall be paid, on order of the Secretary, to the employee or employees affected. Any such sums not paid to an employee because of inability to do so within a period of 3 years shall be covered into the Treasury of the United States as miscellaneous receipts.

(d) Actions for unpaid wages and liquidated damages under this section shall be forever barred unless commenced within 2 years after the cause of action accrued.

(e) All producers of sugar beets and sugarcane are hereby prohibited from discharging or in any other manner discriminating against any employee engaged in the production, cultivation, and harvesting of sugar beets or sugarcane on the farm because such employee has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under this section. Any person knowingly violating this subsection shall, upon conviction, be punished by a fine of not more than $1,000 for each such violation.

(f) All producers of sugar beets and sugarcane are hereby prohibited from charging, or permitting to be charged, directly or indirectly, persons employed on the farm in the production, cultivation, or harvesting of sugar beets and sugarcane, any amount in excess of the reasonable cost for the furnishing to any such person of goods or services customarily furnished to employees engaged in the production, cultivation, or harvesting of sugar beets or sugarcane in the area. Any person knowingly violating this subsection shall, upon conviction, be punished by a fine of not more than $1,000 for each such violation.

(g) The Secretary shall issue such regulations as he deems necessary to assure that the producer shall furnish each person employed on the farm in the production cultivation, and harvesting of sugar beets and sugarcane workmen's compensation insurance during the time so employed. Such insurance coverage shall be deemed adequate if it meets the requirements of the law in States in

which such insurance is mandatory, or if it meets such standards as are established by law in States in which such insurance is not mandatory.

(h) Investigations of possible violations of provisions of this section shall be conducted by the Office of the Inspector General of the Department of Agriculture.

REGULATIONS AND DETERMINATIONS

SEC. 302. (a) The Secretary may make such rules as may be necessary to carry out the provisions of this Act. Knowing violation of any rule issued by the Secretary under this section is punishable by a fine or not more than $1,000 for each violation.

(b) Each determination by the Secretary under sections 201, 202, and 203 shall be promptly published in the Federal Register accompanied by a statement of the bases and considerations upon which such determination was made.

JURISDICTION OF COURTS

SEC. 303. The district courts of the United States shall have jurisdiction over any action to restrain any person from violating the provisions of this Act or of any order or rule made or issued pursuant to this Act and jurisdiction to review any rule issued or determination made under this Act in accordance with chapter 7 of title 5, United States Code. Upon the request of the Attorney General, each United States attorney shall institute proceedings to enforce this Act. The penalties provided for in this Act shall be in addition to, and not exclusive of, any other remedies or penalties under law or in equity.

CIVIL PENALTY

SEC. 304. No person may knowingly bring, attempt to bring, or aid the bringing of, sugar, liquid sugar, or sugar-containing products into the United States without the payment of any import fee imposed under section 202 or in excess of any quantitative restriction imposed under section 203. Violation of the preceding sentence is punishable by a monetary penalty in an amount equal to 3 times the market value, at the time of the commission of such violation, of that quantity of sugar, liquid sugar, or sugar-containing product on which no import fee is paid or by which any quantitative restriction is exceeded. Such penalty shall be recoverable in a civil action brought by the United States.

FURNISHING INFORMATION TO SECRETARY

SEC. 305. All persons engaged in the manufacturing, marketing, transportation, or industrial use of sugar and alternative sweeteners and having information which the Secretary deems necessary to enable him to administer the provisions of this Act, shall, upon the request of the Secretary, furnish him with such information. No person may willfully fail or refuse to furnish such information or willfully furnish false information to the Secretary. Violation of the preceding sentence is punishable by a fine of not more than $2,000 for each such violation. All information required to be furnished to the Secretary under this section shall be kept confidential by all officers and employees of the Department of Agriculture.

INVESTMENT BY OFFICIALS PROHIBITED

SEC. 306. No person acting in any official capacity in the administration of this Act may invest or speculate in sugar or liquid sugar, contracts relating thereto, or the stock or membership interests of any association or corporation engaged in the production or manufacturing of sugar or liquid sugar. Violation of this section shall be punishable by a fine of not more than $10,000, imprisonment for not more than 2 years, or both.

SUSPENSION

SEC. 307. If the President finds and proclaims that a national economic or other emergency exists with respect to sugar or liquid sugar, he shall by proclamation suspend the operation of the provisions of title II until such time as he finds and proclaims that the facts which occasioned such suspension no longer exist. The Secretary shall make such investigations and reports to the President as may be necessary to aid him in carrying out the provisions of this section.

SURVEYS AND INVESTIGATIONS

SEC. 308. (a) If the Secretary determines such action is necessary to effectuate the purposes of this Act, he may from time to time conduct such surveys and investigations as he deems necessary regarding the manufacturing, marketing, transportation, or industrial use of sugars and alternative sweeteners. In carrying out the provisions of this subsection, information shall not be made public with respect to the separate operations of any person or company from whom such information has been derived.

(b) The Secretary may conduct surveys, investigations, and research relating to the conditions and factors affecting the methods of accomplishing most efficiently the purposes of this Act. Notwithstanding any other provision of law, the Secretary may make public information he collects under this subsection as he deems necessary to carry out this Act.

(c) The Secretary shall, whenever the New York Coffee and Sugar Exchange is prevented for any reason from quoting daily spot prices for raw sugar, determine and announce the average daily price for imported raw sugar.

TERMINATION

SEC. 309. The provisions of titles I, II, and III of this Act shall terminate at the close September 30, 1983.

TITLE IV—COUNTERVAILING DUTY WAIVER EXTENSION

SEC. 401. Subsection (d) of section 303 of the Traffic Act of 1930 (19 U.S.C. 1303) is amended by adding at the end thereof the following new paragraph:

"(4)(A) The 4-year period specified in paragraph (2) shall be extended until the date provided in subparagraph (B) if, upon the recommendation of the Special Representative for Trade Negotiations, the President determines, and notifies both Houses of Congress of his determination, on or before January 2, 1979, that—

"(i) negotiations on an agreement or agreements establishing internationally agreed rules and procedures governing the use of agricultural and industrial subsidies have been concluded,

"(ii) the Multilateral Trade Negotiations as a whole, and agreements providing for the reduction or elimination of barriers to, or other distortions of, international trade, in particular, have been substantially concluded,

"(iii) failure to extend such 4-year period would be likely to jeopardize seriously the successful conclusion of such agreements, including the agreement or agreements on subsidies, and

"(iv) the agreement or agreements on subsidies establish—

"(I) new substantive rules on the use of internal and export subsidies which adequately protect United States agricultural and industrial trading interests insofar as they are adversely affected by such subsidies, and

"(II) more effective provisions on notification, consultation, and dispute settlement providing for timely resolution of disputes involving the use of subsidies in international trade.

"(B) The date to which the 4-year period shall be extended under subparagraph (A) is the earliest of the following:

"(i) the date on which either House of Congress defeats on a vote of final passage, in accordance with the provisions of section 151 of the Trade Act of 1974, implementing legislation with respect to a multilateral agreement or agreements governing the use of subsidies,

"(ii) the date of enactment of such implementing legislation, or

"(iii) September 1, 1979.

"(C) If the 4-year period specified in paragraph (2) is extended under subparagraph (A), any determination made under this subsection by the Secretary of the Treasury which is in effect on January 2, 1979, shall remain in effect until the earliest of the following:

"(i) the date to which the 4-year period is extended under subparagraph (A), notwithstanding any provision to the contrary in any such determination,

"(ii) the date such determination is revoked under paragraph (3), or

"(iii) the date if adoption of a resolution of disapproval of such determination under subsection (e)(2).".

The PRESIDING OFFICER. The Senator from Louisiana,

Mr. ABOUREZK addressed the Chair.

Mr. LONG. Mr. President, let me explain again what this amendment is. This is the Sugar Stabilization Act as reported by the committee with one change. Rather than insisting on a price of 17 cents, this amendment sets a price target of 16 cents. The reason for that change is that all of the discussion with members of the committee resulted in the prevailing view that we will not be able to prevail with the 17-cent price. It could not possibly become law because of the strong feelings of the President against a price that high. To be practical about the matter and to be realistic we will have to accept the lower price, even though we think the price should be 17 cents.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. Will the Senator suspend so we might have order?

Mr. LONG. Mr. President, I would like to broaden the parliamentary rights of Senators like the Senator from Pennsylvania so that they could offer amendments in both the first and second degree to the committee amendment. In order to do that, Mr. President, and in fairness, I think we should accept a unanimous-consent request that they may offer amendments in the first and second degree to an amendment I have offered here.

I discussed this and explained what I had in mind to the Senator from South Dakota (Mr. ABOUREZK), and he says he is not going to object.

I am going to ask again, because in all fairness it ought to be that way, because if consent is not given then one can offer an admendment to the House bill, he can offer an amendment to the committee substitute, but he is not in position to offer an amendment to the amendment, the substitute I have sent to the desk. That being the case, when the Senate votes on the substitute, which would no longer be subject to amendment, it wipes out any amendment to the committee substitute, and then when it votes on adding that to the bill it then wipes out all other amendments. That, frankly, would not be fair to other Senators.

The only reason why I would do it that way would be that I was left no choice. So, knowing of no one who wants to deny any Senator that opportunity and that flexibility, I now ask unanimous consent that the amendment which I have sent to the desk be regarded as original text—in other words, that the committee amendment be agreed to, and that the amendment to the committee amendment be agreed to, and that the amendment before us now be regarded as original text for the purpose of further amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I ask to be recognized.

Mr. GOLDWATER. Mr. President, I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from South Dakota has the floor.

Mr. ABOUREZK. I am happy to yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. For example, can an amendment be offered to cover a hospital bill that has already been discussed?

The PRESIDING OFFICER. Will the Senator repeat his inquiry?

Mr. GOLDWATER. Could an amendment on health or hospitals be offered to this bill?

The PRESIDING OFFICER. The answer is yes. There is no requirement of germaneness at this point.

The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Is this request propounded by the Senator from Louisiana in the same form as the previous one he made? In other words, that we can amend it in two further degrees?

The PRESIDING OFFICER. The Senator is correct.

Mr. ABOUREZK. Second, I want to state that the reason why I objected before, as I have indicated to Senator LONG, is that I had no idea what was in the amendment he was offering. We had no printed copy to look at.

I have nothing against this legislation, nor do I think the other Senators who were objecting did. But at this late hour in the session, it would be helpful to all of us to know what is being called up, so that something we might be opposed to does not get slipped in.

So I would appreciate very much if the distinguished Senator from Louisiana might tell us what is in the amendment.

The PRESIDING OFFICER. Is there objection to the request?

Mr. DANFORTH. Reserving the right to object, what was the request?

The PRESIDING OFFICER. That this amendment be considered as original text of the bill so it can be amended in two degrees.

Mr. DANFORTH. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. It is my understanding that the committee text, the Senate Finance Committee version of H.R. 7200 has been stricken in its entirety. Is that correct?

The PRESIDING OFFICER. If this motion is agreed to, the Senator is correct.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. What is the motion?

The PRESIDING OFFICER. I have said "without objection" twice, but the question now——

Mr. METZENBAUM. Reserving the right to object, then.

The PRESIDING OFFICER. Does the Senator want to listen?

Mr. METZENBAUM. I am listening.

The PRESIDING OFFICER. The statement of the Chair has been that the unanimous-consent agreement makes it original text, and allows you to amend it in two degress, and there is no question of germaneness.

Mr. HEINZ. Mr. President——

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HEINZ and Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. I thank the Chair.

Mr. President, as I stated a moment ago, I am deeply concerned about the part of this bill which would grant to the President an authority he does not now have. That is the section of the bill that would extend the President's authority to waive a countervailing duty after January 1, 1979.

Mr. President, I do not believe, since there are many Senators here who want to talk about the Sugar Act, that it should be a part of this bill. I think the issue of whether or not the President should have any extension of his authority to waive countervailing duties should be decided at some other time, in some other way. I hope that the chairman of the Finance Committee would accept an amendment simply to strike that title from the bill, because otherwise I, for one, would be very reluctant to let this bill pass. I would do everything, I think, I possibly could and know how to do, to prevent its passage if the provision in the bill extending the President's countervailing duty waiver authority is included in it.

I do not wish to hold up the debate on the Sugar Act. There are many, many Senators who have amendments, who have ideas about the Sugar Act, and I think those ideas should be debated on their merits. I know how important it is to the Senators from Louisiana and how important it is to many Senators from agricultural States that this legislation involving the Sugar Act be taken up.

But it is equally important to my State and to a number of other States that the laws of this country against unfair trading practices be enforced. We have had a situation in industry after industry where the President of the United States has said, "I am going to enforce the Antidumping Act of 1921," or "I am going to enforce the countervailing duties section of the Tariff Act of 1930," but in fact, in all the cases that have come before the President—and there have been many—the President has in almost every instance waived the imposition of countervailing duties.

What are countervailing duties? Countervailing duties are those duties imposed when it has been determined that a foreign government is subsidizing a product exported from the foreign country and imported into the United States. It is one of the most fundamental laws against unfair trade. It has been on the books for quite some time.

It was the intent of Congress when we adopted the Trade Act of 1974 that the President's waiver authority not be extended past January 3 of next year. There is no justification for further extension of that authority, and I would hope, in order that we might proceed with discussion on the Sugar Act, that the chairman of the Finance Committee could agree simply to drop that provision.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. HEINZ. I yield without losing my right to the floor.

The PRESIDING OFFICER (Mr. HUDDLESTON). Without objection, it is so ordered. The Senator from Maine.

Mr. MUSKIE. Mr. President, I share the Senator's concern over the provisions that have been added to this bill. They have been added to the bill as a sweetener, I take it, to avoid a possible Presidential veto of the sugar bill. It is strange that a sugar bill should need additional sweeteners, but that, as I understand, is the purpose.

The President would like an extension of his waiver authority over countervailing duties, but it seems to me that is an issue that ought to be handled separately from the sugar bill. And there is legislation that has been introduced. The administration has asked that it be added to this bill, and we ought to have an opportunity to fully understand the implications of an extension of the waiver of the President's authority over countervailing duties.

For example, I understand there are eight countervailing duty cases pending with respect to the textile industry which are being considered on their merits. They are expected to be decided in November.

If this waiver provision were not in the law, and if these cases are decided favorably to the complainants in November, the waivers would terminate in January 1979, under the present law. But if the extension sought by this bill were written into law, the relief could not be granted until September 1, 1979.

With implications of that kind, it seems to me that this proposed waiver extension ought to be given considerable hearings and we ought to understand the implications for American industry.

Countervailing duties are applied when an American industry, as I understand it, has been injured by government subsidized foreign imports. That is unfair competition by any standard in my judg-

ment. Subsidies are applied by foreign governments in the interest of stimulating trade in their products. It seems to me that the countervailing duty is a protection which was written into law to protect American industry against that kind of unfair competition. We ought not to extend authority to waive that kind of protection casually and as a rider to a bill of this kind simply as a sweetener to make it more difficult for the President to veto the bill.

I share the Senator's concern about that provision and I wanted to state it at this point in the Senator's discussion of the issue. I ask the Senator whether or not his understanding of the issue is the same as mine.

Mr. HEINZ. I thank the Senator for his statement.

Yes, my understanding and what the Senator says are exactly the same. The Senator is entirely correct. The Senator correctly identifies the purpose of countervailing duties as being Government subsidies of exports into this country as imports. The fact is they injure American workers and industries. They make it impossible for our industries to modernize. It puts workers on unemployment because they lose their jobs. I know that in virtually every State we have had injury upon injury because of subsidized foreign imports into this country. I commend the Senator from Maine on his statement. I could not agree with him more.

This is not the time to bring up such a complex issue in the closing days of the Senate. This is why I insisted on making sure that Senators had the opportunity to see the report. I think if they even saw the report on this they would understand this is a complex issue, not one which can be dealt with at the same time as the Sugar Act, which in itself is very complex. It is not this Senator's desire to hold up discussion on the Sugar Act. I hope we will find a way to dispose of title IV of H.R. 7108, which is really the text we are dealing with.

Mr. DOLE. Will the Senator yield?

Mr. HEINZ. I yield without losing my right to the floor or a second speech rule being applied.

Mr. DOLE. I agree with the Senator from Maine. There is no doubt about it, that it was added to this bill as a sweetener or to give a little more leverage. There was a great deal of pressure from the administration for the extension of countervailing duty waiver authority, probably more interest in that than in the sugar bill itself.

It seemed to some of us from the sugar beet and cane producing areas a pretty good vehicle for the waiver authority if there was going to be one, that it would be in the sugar legislation.

I see my distinguished colleague, who is the chairman of the Subcommittee on International Trade, who probably can discuss it in greater length, standing up now.

But that was the purpose. I do not think there was any secret about it. It has clearly been identified by the Senator from Maine.

Some of us who supported that have the same reservations because we have the same problem in rural areas that we are having in industrial areas in Pittsburgh, in the steel industry. We have the same problems with reference to some agricultural commodities.

Finally, I would hope we would be able to resolve it because the legislation is important by itself. Both the sugar legislation and the waiver authority legislation are important. I would hope, as one who has great interest in both pieces of legislation, that we might be able to separate the two to deal with the sugar legislation and may be at some appropriate time deal with the waiver authority.

Mr. RIBICOFF. Will the Senator yield?

Mr. HEINZ. I am happy to yield without losing my right to the floor.

Mr. RIBICOFF. I was the sponsor of the countervailing duty extension proposal. It was not my intention to place it on the sugar bill. I do not think it belongs on the sugar bill. It should stand on its own merits. This is a very complex issue, not simplistic, affecting the interests of all trade and the complete success or failure of the GATT negotiation, which is supposed to conclude by December 15.

Personally, I have no objection to have the countervailing proposals go off the Sugar Act. As a matter of fact, it was placed on the Sugar Act so that the Sugar Act would hold it hostage.

I think, personally that the matter is of sufficient importance that this Chamber should debate and discuss whether it is in the best interests of our Nation to extend the countervailing duty provisions.

I wonder whether the Senator from Pennsylvania would have any objection to placing the countervailing duty provision on some other bill, some minor bill, some title, and I am sure the chairman of the Finance Committee can find one, under a time agreement where the Senate can debate it sufficiently and then make up its mind whether the extension of countervailing duty is good or bad for this Nation. Then it will not be tied to the sugar bill. The sugar bill can stand on its own and the countervailing duty provision can stand on its own.

I personally think that is the proper solution. That is the solution we should have had in the first place.

If we are going to have a move here not to even bring it up, then, of course, I do not have the slightest idea what the intentions of the chairman of the Finance Committee would be.

Mr. HEINZ. Let me say to my friend from Connecticut, I do not think it would be wise, and I do not think I could agree, to bring this up under a time agreement.

The fact is that I am totally opposed to title IV. I cannot accept it. I am not going to agree to a time agreement on it.

Further, it is an issue that we do not need to resolve.

The Senator from Connecticut, I know, knows that the administration will have completed negotiations on the multilateral trade negotiations by December 15. This is what he has been told; this is what I have been told. I have no reason to disbelieve that.

Second, the fact is that the expiration of present authority to waive countervailing duties has been anticipated now for 4 years. What justification can there be for extending the waiver authority for another 8 months on top of that when we know that the negotiations are going to be completed? This Senator sees no justification for it.

Mr. RIBICOFF. Will the Senator yield at that point?

Mr. HEINZ. I will be happy to yield without losing my right to the floor.

Mr. RIBICOFF. The justification is this: while an agreement will be concluded by December 15, it is estimated it will take the following timetable before the agreement can go into effect, because the agreement is not self-executing. When the agreement goes into effect the President has to send the Trade Act to the Congress. Let me give the Senator the timetable.

The House will have 60 working days, about 4½ months, to consider this bill. The Senate will then have 30 working days to consider the bill, about 2½ months. The President has 90 working days to send the implementing bill to Congress, which will take him into March.

So if we extend the waiver for anything less than 7 months, it is impossible to take up the trade bill.

The Congress is going to have to decide whether the trade bill is good or bad for this country.

It will have to vote the bill up or down. So when you talk about extending it for 2 months or cutting it off on January 3, it will be impossible to do business or try to work out a subsidy agreement to the countervailing duty agreement which is in the process of negotiation now. If we bind ourselves with the elimination of the countervailing duty, then we will not be able to work out an elimination or modification of the subsidization that now prevails, patently, throughout the rest of the world.

There can be a difference of opinion whether this is good or bad, but one would have to argue that out in the trade bill. I can understand that we can argue whether the countervailing duty provision should be extended, but to let it die by December 15, we would be taking the responsibility in this body of killing the trade negotiation and we will not have another one for another decade—another 10 years, and we are going to have the responsibility of deciding this in the last 2 days of the session.

I think this is a great responsibility for this body to take upon its own shoulders without understanding the implications and the consequences for the entire trade negotiations and our entire trade posture in the world.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennslyvania has the floor.

Mr. HEINZ. Mr. President, I think we are all clear on the facts. The facts are that the President has this countervailing duty waiver authority until January 3, 1979. Since we all know that the President and Ambassador Strauss, and the Senator from Connecticut has indicated as much, will have completed the negotiations by December 15 and every-

thing that is going to be negotiated will have been negotiated by December 15, I do not think I have to tell anybody that, in fact, if we adjourned at this very minute, sine die, it would not change one iota what the President is going to accomplish between now and December 15. There is no necessity for us to extend the countervailing duty waiver authority, and that is a fact.

The administration may want us to for some other reason. I suspect the reason is so that they can continue to waive countervailing duties as they have been doing. That is the reason the administration wants to do this. It is that simple: They want to allow subsidized foreign imports to keep coming into this country. That is the issue, pure and simple. It has very little to do with the multilateral trade negotiations, regardless of what anybody says.

Before we go any farther in this debate, I just want to be sure that we are all clear on what we are talking about. The term "countervailing duties" has a certain abstract neutral quality about it that disguises the true nature of the beast. What we are talking about is subsidies that foreign governments pay to their industries.

I yield to the Senator from Kansas for a unanimous-consent request without losing my right to the floor.

Mr. DOLE. Mr. President, as a member of the Budget Committee, I ask unanimous consent that the following Budget Committee staff members, who may be needed in reference to tax aspects of the sugar legislation, be granted the privilege of the floor during consideration of this legislation: Bob Boyd, Bob Fulton, George Merrill, Charlie McQuillan, Bill Stringer, and Barry Kinsey.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, these are subsidies which in turn allow those industries to export to the United States below fair value. The continuation of these subsidies, as well as other nontariff barriers, threatens to wreck the international free trading system. So there will be no illusions about the creativity of the European governments in creating them, I would like to provide some details of this practice as set out in the August 1978 issue of Dun's Review. The article is entitled "Europe's Subsidy Spree" and is subtitled "Largely to save jobs, West European governments are pouring huge sums into aid for a growing roster of industries. The United States is demanding that these subsidies be cut back."

It continues as follows:

The startling growth of government subsidies to industry in Western Europe, which is making it increasingly tough for American companies to compete, has become a major issue between the U.S. and the European Economic Community. The Americans finally wrung some concessions on subsidies out of the EEC in recent trade negotiations. But it remains to be seen whether or not they will be effetcive.

Of course, many basic industries in Europe have been state-owned for years. But government involvement has spread pervasively in the past two years—through loans, grants, equity purchases and a host of other aids. In large part, these are job-saving measures, growing out of deep European concern over high and rising unemployment. There are currently 5.8 million jobless (5.5% of the work force) in the EEC alone, and most forecasts suggest that without more vigorous economic growth, joblessness will keep rising well into the 1980s.

Compounding the unemployment problem, European industry is heavily burdened with overcapacity, and plant and equipment generally is less efficient than that in the U.S. and Japan. Left alone, many companies would collapse and consign still more workers to the unemployment lines. But government leaders are under strong political pressure to preserve jobs. And most of them take the view that whatever the marketplace logic, permitting companies employing thousands of workers to fold is simply not justifiable. Hence, while they are helping to streamline outdated plant and slim down work forces to some extent, instances where they are just shoring up sick industries keep multiplying.

Subsidization is most obvious in three sectors with massive overcapacity in steel and shipbuilding, control of many formerly private companies is passing into state hands, with most of the remaining firms relying heavily on subsidies to stay in business. And scores of textile and fiber manufacturers, hit by recession and cheap competition from the Far East, are surviving only with government help.

But aid is also pouring into a growing roster of other industries, including pulp and paper, heavy engineering, chemicals, plastics, machine tools, building materials, electronics and even food. Alongside government assistance to hundreds of small and medium-sized firms, major rescue operations are under way in almost every West European country.

SPENDING PROGRAMS

In France the government last year took a one-third share in Dassaulit, maker of the Mirage jet fighter, and Dassaulit will probably be merged with state-owned aircraft group Aerospatiale. This spring, the government launched a three-year development program in four industries—drugs, mechanical engineering, farm andfoodproducts—to be jointly funded by government and private capital, and it has pledged nearly $1 billion in aid for the pulp and paper industry, despite the refusal of the industry to cooperate in a restructuring program. The government plans to spend nearly $1 billion this year on undisguised job preservation.

Despite huge losses and debts Italy's giant state holding company, Instituto per la Ricostruizione Industriale (IRI), which has long dominated industry, continues to absorb even more private-sector companies in distress. The government has made new loans to IRI's huge food and confectionary subsidiary, which is deep in the red. Also being bolstered by loans is the mainly privately owned chemicals maker Moniedison SpA, which lost money heavily last year; and the company was dissuaded from laying off 6,000 textile workers by the government, which simply transferred the workers to its own payroll.

In the Netherlands the Dutch government last year handed out subsidies to 38 heavy-engineering companies. 25 textile firms, thirteen building materials and furniture manufacturers and more. It also purchased a controlling interest in the money-losing local subsidiary of AB Volvo, Sweden's leading carmaker. This year, as part of what it admits is the biggest rescue operation since World War II, the government is taking a stake in VMF Stork, the troubled heavy-engineering group, and in a division of a leading shipbuilding firm.

Germany despite its ideological commitment to marketplace disciplines, has always had a sizable public sector, and it is now beefing up government involvement through massive loans. It has earmarked $30 million to help revamp the steel industry in the Saar—plus $100 million more to subsidize nonsteel firms in the area. In the coal industry, on top of $2 billion already spent, it is planning to shell out $290 million a year through 1982 to guarantee investment and jobs. And Germany has a particularly generous program of job subsidization throughout industry.

Britain also is spending heavily on job-saving and on boosting weak but "strategic" industrial sectors. Hundreds of companies are receiving bonuses if they refrain from firing workers or take on new ones. Last year the government nationalized the entire shipbuilding and ship-repair industry. It is also keeping afloat the state-owned British Steel Corp., which lost $1.6 billion last year and is $9.7 billion in debt—and is currently a target of U.S. dumping charges. Meanwhile, the ill-starred, state-controlled British Leyland Corp., which lost $85 million last year, has received further state loans and equity capital. Its struggling competitor, Chrysler UK, is also being propped up by state funds in a job-saving move.

Denmark, despite high unemployment, has been alone among the Common Market nations in refusing to bolster ailing companies—partly because its industry is fairly efficient and flexible, partly because it simply cannot afford big handouts. As a result, it is urging the EEC Commission, and also its Scandinavian trading partners, to crack down on subsidization.

Mr. JOHNSTON. Will the Senator yield?

Mr. HEINZ. Mr. President, I would yield without losing my right to the floor, or without being subject to the implication of the second speech.

Mr. METZENBAUM. Mr. President, reserving the right to object, the Senator from Louisiana rises because——

Mr. JOHNSTON. To speak on behalf of the amendment of the Senator.

Mr. METZENBAUM. Not to offer an amendment?

Mr. JOHNSTON. No.

Mr. METZENBAUM. I have no objection.

Mr. HEINZ. I am not yielding for the purpose of offering an amendment.

The PRESIDING OFFICER. The Chair hears no objection. The Senator yields without losing his right to the floor.

Mr. JOHNSTON. I thank the distinguished Senator from Pennsylvania for yielding.

Mr. President, I rise in support of the amendment of my senior colleague from Louisiana.

This is a matter of critical importance to the sugar cane industry in my State, as well as the sugar industry nationwide. What this amendment would do, Mr. President, is establish a support level of 16 cents for sugar.

Now, quite frankly, Mr. President, this amendment in its orginal form, really the form that I support, and I believe the form that is necessary for the survival of the sugar industry, would require 17 cents and not 16 cents. The 16-cent level, I think, was arrived at by political necessity, by reason of the fact that 17 cents may be difficult to pass on the floor of this Senate.

But, Mr. President, it costs 17 cents a pound in my State to grow and process a pound of sugar.

The sugar industry is going out of business every day in my State. This is going to be the last year for most of it unless we can get some kind of protection.

Sugar farmers in my State now are getting 13½ cents or 14 cents a pound and have to pay 17 cents a pound to raise the sugar. They are simply not going to be able to make it. They are trying to hold on in hopes that the Congress will respond to what is a very great need.

Mr. President, at the present time, we are importing 44 percent of our sugar. It costs us $1 billion a year in balance of payments. Unless this bill passes, that 44 percent and that $1 billion will rise, will escalate dramatically.

The time for us to act is now. I hope we do not get involved with a lot of last-minute legislative problems and lose the chance to save the domestic sugar industry.

Sometimes, Mr. President, in the quiet of this Chamber, in the eye of this hurricane, we lose sight of the fact of how our actions affect people, farmers, sugar farmers, sugar workers. In this case, 140,000 workers, whose jobs are on the line, who are going to lose their jobs, if we do not act.

Mr. President, it is not too much to say that this may be the last year we have to act.

This bill provides for a parity level of only 57.1 percent. That is much lower than the parity level on most other goods.

Mr. President, 4,000 farmers in 18 rural south Louisianian parishes grow sugar cane. This is not a question of a few large conglomerates, but it is a question of 4,000 farmers in my State alone.

We have 28 sugar cane mills to process the cane and, in 1975, 14 of these mills were cooperatively owned. The sugar industry in Louisiana alone employs 25,000 workers in farming and in processing operations.

If the Louisiana sugar cane industry were to fail and these jobs lost, the taxpayer would have to foot a bill of up to $116.4 million in unemployment compensation.

Louisiana would also lose revenues if these sugar mills and farms went out of business. In 1976, sugarcane production alone was worth almost $100 million according to the Department of Agriculture. This is a considerable tax base to lose.

Nationwide, these costs would be much higher. Nearly 14,000 farm families in 18 States grow sugar beets and more than 5,300 farmers have an interest in planting and harvesting sugarcane in Florida, Louisiana, Texas, and Hawaii. About 4 percent of our corn crop is also used in sweetener production. To these jobs, you can add the more than 140,000 employees who work on sugar-producing farms, in sugarbeet processing plants, cane sugar mills, wet milling plants and in sugar distribution. I think you can draw your own conclusions about how severe the impact on employment would be nationwide—and the resultant costs to the taxpayer—if the sugar industry were to fail. Some who oppose this amendment seem to have forgotten the impact of this bill not only on farmers and on other people, but also on the economy of this country.

Mr. President, this amendment is not inflationary. The adjustment clause, in fact, follows inflation; it does not create it. The clause is simply a method, similar to methods employed by Congress for other purposes, to keep up with inflation caused in other sectors.

Mr. President, Secretary Bergland made the point very well about the rise in sugar prices. My colleagues will recall that while the cost of products into which sugar is put has risen 48 percent since 1973, the price of sugar has risen only 6 percent, or less than the price of inflation, during that same 5-year period.

Many large industrial sugar users justified price increases in 1974 when the price of sugar soared to 60 cents per pound. We have yet to witness any corresponding price decrease by major users, even though the price of sugar dropped by more than 50 cents per pound between 1974 and 1977. In fact, Secretary Bergland made this point on March 12, 1977, when he was interviewed by the National Journal:

> My point is when sugar prices were 65 cents, prices of these manufactured goods went up. Now sugar is nine cents—has there been any corresponding drop in cake mixes or soda pop or candy? No, of course not. And I'm going to say consumers have not gotten the benefit of the change in prices.

To put this in perspective, we should remember that a single 2-ounce candy bar today costs more than three times as much as the price a sugar farmer would receive, without import restrictions, for a full pound of sugar.

Finally, there is the problem of reliability. In 1977, 50 percent of our sugar imports came from the Dominican Republic, Brazil, and the Philippines. Given the social and political turmoil in the Dominican Republic and the Philippines, we have to wonder how dependable these supplies will be in the future.

Mr. President, the sugarcane industry is in deep trouble. Sugar farmers, under the corn program authorized in the 1977 farm bill, receive only 52.5 percent of parity, considerably less than received by other crops: milk, 80 percent; peanuts, 67 percent; corn, cotton, and wheat, 57 percent.

Many of these farmers told us they cannot make a living at these higher price objectives last winter, so it is easy to understand why sugar farmers are in deep trouble.

Mr. President, we are not going to make anyone rich with a price objective of 16 cents a pound or 57.1 percent of parity. But we might help hold down our balance-of-trade deficit, now running $1 billion a year in sugar alone and save 25,000 jobs in my State alone and 140,000 jobs nationwide.

Mr. President, we must act in this session of Congress. We must act on this amendment. If we do not, we risk losing the whole sugar industry; and once it is gone, it will not come back.

I hope my colleagues will support the amendment of the senior Senator from Louisiana.

Mr. INOUYE. Mr. President, in recent weeks two articles dealing with the pending sugar legislation have appeared in the Washington Post. I find it disappointing that neither of them touch upon some of the more critical issues surrounding the sugar industry in the United States.

We can argue the issue of comparative advantage and free trade all we want, but it does not solve the problem on the more human scale. For example, 29,400 people in Hawaii depend on the sugar industry for their jobs. Earnings from sugar and acreage in sugar exceeds by far that of any other agricultural crop in my State. Yet both earnings and acreage have been declining in recent years with the 1977 crop bringing in revenues of $144 million from 225,000 acres compared to $62.5 million in receipts from pineapple grown on 47,000 acres. Unfortunately, we cannot grow pineapple on sugar land. Neither can we look to vegetables, papaya, or other fruit crops as an alternative to sugar.

Alternative forms of employment for these people are very limited. Extensive studies have been conducted into alternative uses of land that is now in sugar. Hawaiian agriculture is hampered by shipping and marketing problems due to our isolated location, in addition to natural problems ranging from bugs and birds to winds and heavy rains, the cost of importing machinery and fertilizer, and the high cost of labor. Alternative agricultural production for our own island needs is limited because Hawaii is a pocket market and local farmers cannot economically compete with large-scale mainland growers for other markets. Moreover, it would require less than 3,500 additional acres of land to grow all the vegetables and fruits that are consumed in Hawaii.

We know how hard it is to find alternatives to sugar. For example, after the Kohala Sugar Co. went out of business in 1975, the State of Hawaii organized the Kohala Task Force to find substitute economic activities for the Kohala area. The State invested more than $6 million into new enterprises. The largest of these, a feed grain and feedlot operation, has gone bankrupt. A plastics firm has also failed; a hay-growing enterprise is running into great difficulties. Little has been achieved in providing employment for the Kohala area.

It is a misconception to think that only large corporations grow sugar in Hawaii. They grow the lion's share of our 225,000 acres in sugar but 500 small, independent growers are also involved. These growers are extremely hard working and a vital part of Hawaii's agricultural community. Most finance their crops on borrowed capital, expecting to repay their loans from returns when their crop is harvested 2 or more years after planting. Most will not be able to repay their loans for their 1978 crop and face the prospect of financing another crop without any assurance of being able to repay either loan when their next crop is harvested. They will not be around for another crop year without a Sugar Act which establishes the minimum price of sugar at a level above their average cost of production.

Extremely high expenditures for unemployment compensation, welfare. and food stamps seem to be the only short-term alternatives. Hawaii's welfare costs have risen 91 percent in the last 4

years, and are now running at $128 million a year. If even half of those supported by the sugar industry were forced to go on welfare, the State's cost would increase at least 50 percent, to nearly $200 million. This would represent almost one-fourth of the total State general fund budget. Some of this additional cost would be on the American taxpayer. Would this not be a greater burden than the consumer bears in supporting the price of sugar?

While the price of sugar at the present time is supported at 14.65 cents per pound, an increased price to 15 cents per pound as the administration has promised still would not reflect the average cost of sugar produced in Hawaii. For example, the Agriculture Department's figures do not reflect the high transportation differential of 0.46 cents per pound by which the Department is currently reducing the loan price to the Hawaii industry. Neither does it reflect the fact that the Western States market with its surplus of domestic source sugar is below the support price.

To compound problems, Hawaii's sugarcane growers are paying the highest agricultural labor rates in the world, must meet United States and Hawaii standards for working conditions and benefits, must comply with U.S. environmental requirements, and ship incoming supplies and outgoing sugar in American ships. Hawaii's sugar producers have been able to stay in business because they are efficient. In fact, our sugar producers achieve the highest yields per acre of any place in the world. It is this high level of productivity and extremely efficient farming system that makes the Hawaiian sugar grower among the most cost effective producers in the United States. Is this then an industry that the American Government should encourage to go out of business? I think not.

Hawaii produces about 1 million tons of raw sugar per year, nearly one-fifth of all sugar produced in the United States. The United States consumes about 11 million tons of sugar a year of which, on the average, 50 percent is imported. The demise of Hawaii's sugar industry, or that of the Nation at large, would have a strong negative economic impact. The financial responsibility of Government to soften the negative social and economic impact resulting from the collapse of America's sugar industry would be enormous. The equally important issue of America's continuing balance-of-trade deficit must also be addressed. We are already the world's largest importer of sugar.

The consumer will bear additional costs, both direct and indirect, monetary and nonmonetary, if the domestic sugar industry folds—as it will without a Government program. The U.S. Government would then have little if any influence over the price of sugar.

There is nothing unique about Government regulation and support of a domestic sugar industry. In fact, Government regulation over production, trade, and prices has been the most universal and continuous feature of the economic development of the sugar industry in the past three centuries.

Market inflexibilities, both on the production and demand side, have required Government interference in the sugar industry. Both the sugar beet and cane industries are dependent upon large, capital-intensive processing plants. Thus, the expansion of the world sugar production in response to price increases is severely constrained in the short run by the high costs associated with establishing and maintaining excess or "standby" cane or beet processing capacity and/or long leadtime required to plan, finance and construct processing facilities. As a result of this high ratio of fixed costs to total costs in sugar production, it is economically rational to continue to produce in the short run when price is below total cost, as long as variable costs are covered. It is this inelasticity in supply and demand that has caused governments to become involved in the market mechanisms of the sugar industry.

The narrowness of the international market—the so-called free world market—in which sugar is traded, has also made it almost mandatory for governments to step in to protect their domestic sugar industries from extreme price cyclicality. Slightly more than 28 percent of world sugar production is traded internationally. However, only 40 percent of this amount is traded on the free market, the rest being traded under preferential agreements.

The United States alone imports approximately 50 percent of the sugar traded on the free market. The limited amount of sugar available on the residual free market reduces the effectiveness of market mechanisms in bringing about necessary adjustments of production in response to changes in demand, and subjects the American consumer to extreme fluctuations in the price of sugar. For that reason, the American Government must step in with an adjusting mechanism to protect producer and consumer from excessive competitive market behavior.

One should also recognize that the sugar industry does not operate in a competitive international market system. Most producing countries have government subsidized sugar industries. For example, the sugar industry in the Philippines, facing cost of production higher than world market prices, is supported by the Philippine Government with a domestic price much higher than that achieved on long-term contracts on the world market. This difference provides the additional income needed to maintain a viable sugar industry in the Philippines. Interestingly, the United States is the largest importer of this subsidized sugar from the Philippines.

The world's largest grower of sugar, Brazil, also has a strongly subsidized sugar industry. The Brazilian Government recognizes the need to export large quantities of sugar to the United States at internationally competitive prices in order to obtain dollars desperately needed to continue Brazil's rate of economic development. They, therefore, continue to subsidize their domestic sugar industry. Those who oppose the sugar bill seek to force our sugar producers to compete against subsidized producers in a noncompetitive system. This is completely unrealistic and sets the stage for economic suicide for the American sugar producers.

The sugar industry is not the only agricultural producer that receives "unique treatment" from the American Government. Virtually every agricultural commodity in the United States receives some form of price support, tariff or quota protection. Unlike most other agricultural products, sugar is imported in very large quantities and is, therefore, at the mercy of international prices. This fact alone is a strong argument in supporting of insulating the domestic sugar industry from the international market. The argument that the sugar industry is requesting special or preferential treatment is completely invalid, however, as many products including beef, dairy products and even peanuts are subject to import quotas.

For example, the Department of Agriculture has proposed to set the support price for milk at 80 percent of parity as of October 1, 1978. As a result of the increase to the $9.87 per hundredweight support price, the Commodity Credit Corporation purchase prices were raised 5.25 cents per pound for butter, 2.75 cents per pound for cheese, and 2.75 cents per pound for nonfat dry milk. In the marketing chain, the increase in the support price is equal to about 3.8 cents per gallon of fluid milk. Based on data provided by the Department of Agriculture, it appears that the retail value of dairy products sold commercially in marketing year 1978–79 will be $26.0 billion, $2.1 billion more than consumers spent this marketing year. About half of the projected increase in retail prices for milk and dairy products is due to the increase in support. Yet no one screams "consumer rip-off" on that.

The price of peanuts is supported by the Department of Agriculture through the use of a national poundage quota and a national acreage allotment. By limiting the national acreage allotment to the statutory minimum and thereby limiting production of additional peanuts for export, the Department of Agriculture is helping to stabilize export markets and world prices for American peanut farmers and also the price to the American consumer.

American beef producers are also protected from the international market through the use of tariffs and quotas. In fact, almost every agricultural commodity grown in the United States is supported through tariffs, quotas, and parity prices.

Interestingly, the Department of Agriculture has gone out of its way to calculate the cost to the consumer of a 1-cent increase in the price of sugar but is unable to provide substantial information on the cost the consumer incurs from the Department's support of most other agricultural commodities. The argument against supporting sugar can be used with equal validity on the other crops.

In summary, it should be mentioned that while Hawaii is just a small State with a small population, it carries a responsibility equal to that of the other

States of this great Nation. Hawaii's taxpayers support such projects as rescuing New York City from bankruptcy. We support the price of agricultural products not grown in Hawaii. Our people understand that this is part of the responsibility of being a citizen of the United States. Now the people of Hawaii ask support for their sugar industry—an industry that is essential to their livelihood.

If our approach is to be realistic and if a viable domestic sugar industry is in the national interest, which I unquestionably believe it is, then a Sugar Act must be adopted which will assure the producers and processors of domestic sugar a reasonable price for their product in the future. It is no less deserving than other farm products of such protection, and I assure you the need is no less acute.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. HEINZ. Yes, I yield.

The PRESIDING OFFICER. Does the Senator yield the floor to the Senator?

UP AMENDMENT NO. 2060

(Purpose: Adding as Title V hospital cost containment)

Mr. ABOUREZK. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an unprinted amendment numbered 2060.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of UP amendment No. 2059, add the following new title:

"TITLE V—TRANSITIONAL HOSPITAL COST CONTAINMENT PROVISION

"PART A—PURPOSE OF THE PROGRAM

"SEC. 501. It is the purpose of the transitional hospital cost containment program established by this title to constrain the rate of increase in total hospital inpatient costs, beginning January 1, 1979, and continuing until the adoption of the permanent reforms referred to in Part D, by limiting the amount of revenue which may be received by the hospitals that are subject to the provisions of this title from Government programs, private insurers, and individuals who pay directly for hospital care.

"PART B—ESTABLISHMENT OF HOSPITAL COST CONTAINMENT PROGRAM

"IMPOSITION OF LIMIT ON HOSPITAL REVENUE INCREASES

"SEC. 511. (a) The average reimbursement payable per admission to a hospital by any cost payer, and the average inpatient charges per admission of a hospital for any accounting year any part of which occurs after December 31, 1978, may not (except as provided in subsection (b), or in section 514, 515, 517, 518, 519, 524, or 531) exceed such average reimbursement payable per admission or such average inpatient charges per admission, respectively, for the hospital's base accounting year adjusted by a percentage equal to the product of the following factors—

"(1) one hundred plus the percentage by which the hospital's costs for inpatient hospital services (as calculated for purposes of title XVIII of the Social Security Act) would have increased in the period after the close of the hospital's base accounting year and prior to January 1, 1979, if such costs had increased (during that period) at the average annual rate of increase in the hospital's costs for inpatient hospital services (as calculated for purposes of title XVIII of the Social Security Act) during the two-year period ending with the close of such base accounting year, except that such percentage as applied for purposes of this section shall not be more than 15 per centum nor less than 6 per centum.

"(2) one hundred plus the percentage by which such average reimbursement payable per admission or average inpatient charges per admission would have increased in the period after December 31, 1978 (or after the close of the hospital's base accounting year, if later), and prior to the first day of the accounting year for which the limit is being imposed if such average reimbursement payable per admission or average inpatient charges per admission had increased (during such period) at an annual rate equal to the inpatient hospital revenue increase limit determined and promulgated under section 512 (b), and

"(3) one hundred plus the percentage by which such average reimbursement payable per admission on average impatient changes per admission would increase (or decrease) in the hospital's accounting year (except for any part thereof occurring before January 1, 1979) for which the limit is being imposed if such average reimbursement payable per admission or average inpatient charges per admission increase (or decrease) during such accounting year at an annual rate equal to the adjusted inpatient hospital revenue increase limit applicable to the hospital under section 512(a).

"(b) For an accounting year which ends after December 31, 1978, but before December 31, 1979, the ceiling established under subsection (a) for average inpatient charges per admission of a hospital and for average reimbursement payable per admission to that hospital by each cost payer shall be applied only to that percentage of the inpatient charges or reimbursement paid, respectively, as the number of days in that accounting year occurring after December 31, 1978, is of the total number of days in that accounting year.

"(c) For purposes of subsection (a), in the case of the admission of an individual whose inpatient hospital services are paid for in part by more than one cost payer, the admission shall be attributed to the cost payer which pays for any such services excluding any amounts paid as a deductible by a cost payer.

"DETERMINATION OF ADJUSTED INPATIENT HOSPITAL REVENUE INCREASE LIMIT

"SEC. 512.(a) The 'adjusted inpatient hospital revenue increase limit' which is applicable to any hospital for purposes of section 511(a)(3) with respect to any accounting year shall (subject to sections 524 and 531) be equal to the inpatient hospital revenue increase limit determined and promulgated under subsection (b) of this section for the twelve-month period in which such accounting year ends, modified by the application of the 'volume load formula' which is promulgated under section 513 and applied to that hospital.

"(b)(1) Between October 1 and December 31 of each calendar year beginning with 1978, the Secretary shall promulgate a figure which (subject to paragraph (2)) shall be the 'inpatient hospital revenue increase limit' applicable to accounting years ending in the twelve-month period beginning January 1 of the next year. Such figure shall be, except as provided in section 531, the sum of—

"(A) the rate of increase in the implicit price deflator of the gross national product as calculated by the Bureau of Economic Analysis of the Department of Commerce and published in the Survey of Current Business (hereinafter in this title referred to as the 'GNP deflator') for the twelve-month period ending September 30 of such year over the GNP deflator for the previous twelve-month period and

"(B) one-third of the difference between—

"(i) the average annual rate of increase in total expenditures of hospitals (or distinct parts thereof) which satisfy the requirements of section 521(a) which is found by the Secretary to have occurred during the two previous calendar years, and

"(ii) the average annual rate of increase in the GNP deflator for the two previous calendar years.

"(2) If the Secretary finds that for any twelve-month period for which a figure is promulgated under paragraph (1) the GNP deflator with respect to such period has exceeded or is expected to exceed by more than 1 percentage point the GNP deflator which was used in making the determination under paragraph (1) (or in making a prior adjustment under this paragraph), the Secretary shall increase (or further increase) the GNP deflator so used by the amount of such excess; except that no adjustment made under this paragraph shall be effective with respect to any accounting year ending prior to the calendar quarter preceding the calendar quarter in which such adjustment is made.

"PROMULGATION OF VOLUME LOAD FORMULA

"SEC. 513. (a) The volume load formula shall be promulgated by the Secretary within thirty days after the date of enactment of this Act. It shall be defined for any accounting year for which an adjusted inpatient hospital revenue increase limit is determinated as the average of—

"(1) the per centum change in the number of admissions since the base year, and

"(2) the per centum change in the number of patient days since the base year.

"(b) The volume load formula shall be applied to generate an adjusted inpatient hospital revenue increase limit for each hospital applicable to the average inpatient charges per admission of the hospital and to the average reimbursement payable per admission to the hospital by each cost payer, and for a hospital whose volume load (in the accounting year to which the adjusted inpatient hospital revenue increase limit applies)—

"(1) increases by less than 2 per centum or declines by less than 10 per centum of the total volume load in the hospital's base accounting year, the maximum total inpatient charges and the maximum reimbursements payable by cost payers permitted for that accounting year shall equal the maximum total inpatient charges and the maximum reimbursements payable by cost payers permitted by the inpatient hospital revenue increase limit if there were no change in volume load,

"(2) increases by 2 per centum or more but by less than 15 per centum of the total volume load in the hospital's base accounting year, the maximum total inpatient charges and the maximum reimbursements payable by cost payers permitted for that accounting year shall equal the sum of (A) the amount specified under clause (1), and (B) one-half of the amount specified under clause (1) multiplied by the increase in volume load above the 2 per centum limit,

"(3) declines by 10 per centum or move but by less than 15 per centum of the total volume load in the hospital's base account-

ing year, the maximum total inpatient charges and the maximum reimbursements payable by cost payers permitted for that accounting year shall equal the difference between (A) the amount specified under clause (1), and (B) one-half of the amount specified under clause (1) multiplied by the decline in volume load below the 10 per centum limit,

"(4) increases by 15 per centum or more of the total volume load in the hospital's base accounting year, the maximum total inpatient charges and the maximum reimbursements payable by cost payers permitted for that accounting year shall equal the greatest maximum total inpatient charges and the maximum reimbursements payable by cost payers permitted under clause (2), or

"(5) decreases by 15 per centum or more of the total volume load in the hospital's base accounting year, the maximum total inpatient charges and the maximum reimbursements payable by cost payers permitted for that accounting year shall equal the difference between (A) the smallest maximum total inpatient charges and the smallest maximum reimbursements payable by cost payers permitted under clause (3), and (B) the amount specified under clause (1) multiplied by the decline in volume load below the 15 per centum limit.

"BASE ACCOUNTING YEAR AND MODIFICATION OF CHARGES AND REIMBURSEMENTS FOR THAT YEAR

"SEC. 514. (a) For purposes of this title, a hospital's 'base accounting year' is its accounting year which ended in 1977, or, if later, the second accounting year during all of which the hospital has been a hospital as defined in section 121.

"(b) For purposes of calculating under section 511(a) the average inpatient charges per admission of a hospital and the average reimbursement payable per admission to the hospital by each cost payer for the base accounting year, the inpatient charges of the hospital (and the reimbursement payable to the hospital by a cost payer) for the base accounting year shall (except as provided in subsection (c)) be reduced by an amount equal to any inpatient charges (in the case of a cost payer, inpatient charges attributable to that cost payer) for such base accounting year for elements of inpatient hospital services which cease to be furnished in an accounting year which is subject to this title, multiplied by the portion of that accounting year (or part thereof) subject to this title during which such services are not furnished.

"(c) Subsection (b) shall not apply with respect to inpatient hospital services which have been found to be not appropriate pursuant to section 1523(a)(6) of the Public Health Service Act by the State health planning and development agency designated under section 1521 of such Act for the State in which the hospital is located.

"ESTABLISHMENT OF EXCEPTIONS

"SEC. 515. (a) Upon request by a hospital, the Secretary may grant exceptions from the limits established under this title to such hospital to the extent that such hospital provides evidence satisfactory to the Secretary—

"(1) of the extent to which costs for inpatient hospital services (as calculated for purposes of title XVIII of the Social Security Act) for such hospital in an accounting year exceed such costs in the base accounting year as the result of—

"(A) changes in volume load in the range specified in clause (4) or (5) of section 113, or

"(B) changes in capacity or in the character of inpatient hospital services available in the hospital or renovation or replacement of physical plant which changes, renovation, or replacement increase costs for inpatient hospital services per admission by more than the per centum specified in section 112(b)(1)(B) over costs for inpatient hospital services per admission in the previous accounting year; and

"(2) that the current ratio of assets to liabilities (determined in accordance with the last sentence of this subsection) is less than two; and

"(3) that the changes in volume load, capacity, or character of inpatient hospital services, or the renovation or replacement generating the excess costs described in paragraph (1) have been found, pursuant to section 1523 of the Public Health Service Act, to be needed or appropriate by the State health planning and development agency designated under section 1521 of such Act for the State in which such hospital is located.

For purposes of paragraph (2), the term 'current ratio of assets liabilities', with respect to any hospital means the sum of the cash, notes and accounts receivable (less reserves for bad debts), marketable securities, and inventories held by such hospital divided by the sum of all liabilities of that hospital falling due in an accounting year for which the exception is requested under this section.

"(b) Upon request by a hospital, the Secretary may grant exceptions from the limits established under this title to such hospital to the extent that such hospital provides evidence satisfactory to the Secretary that—

"(1) there has been a change in the inpatient hospital services for such hospital for which reimbursement is payable by a cost payer, or the basis on which the reimbursement payable by a cost payer is calculated has changed, or

"(2) the percentage of inpatient charges attributable to any cost payer has changed for such hospital, and such change has reduced the total revenue of such hospital by at least the per centum specified in section 512(b)(1)(B) of the costs for inpatient hospital services (as calculated for purposes of title XVIII of the Social Security Act).

"(c) The Secretary shall either approve any request for an exception made by a hospital under subsection (a) or (b), or deny such request, within a period not to exceed ninety days after the hospital has filed in a manner and form prescribed by the Secretary the evidence required by such subsection. (If such hospital has not received written notice within fifteen days that such request has not been filed in such manner and form, such request shall be deemed to have been filed in the prescribed manner and form.) Any such request not denied within such ninety-day period shall be deemed approved.

"(d) Any hospital granted an exception under subsection (a) shall make itself available for an operational review by the Secretary. As a result of such review, the Secretary may make recommendations to such hospital for improvements to increase such hospital's efficiency and economy. The Secretary may discontinue, after notice and an opportunity for a hearing on the record, any such exception for failure of the hospital to implement any such recommendation.

"(e)(1) If the Secretary grants an exception with respect to any accounting year to a hospital on the grounds set forth in subsection (a)(1)(A), the upper or lower 15 per centum limitation specified in clauses (2) and (3), respectively, of section 513(b) shall be permanently changed for that hospital to the upper or lower per centum limitation determined by the Secretary.

"(2) If the Secretary grants an exception with respect to any accounting year to a hospital on the grounds set forth in subsection (a)(1)(B), such hospital shall be allowed increased total revenue for purposes of this title for such accounting year and all subsequent accounting years (and the limit on the allowable rate of increase under section 511 for charges imposed by the hospital and reimbursement from its cost payers shall be adjusted upward accordingly) in an amount no greater than the amount the Secretary estimates, at the time he grants the exception, is necessary to maintain the current ratio of its assets to liabilities (determined in accordance with the last sentence of subsection (a)) at the level specified in subsection (a)(2).

"(3) If the Secretary grants an exception with respect to any accounting year to a hospital on the grounds set forth in subsection (b)(1), such hospital shall be allowed increased total revenue for purposes of this title for such accounting year and all subsequent accounting years (and the limit on the allowable rate of increase under section 511 for charges imposed by the hospital and reimbursement from its cost payers shall be adjusted upward accordingly) in an amount equal to the amount the Secretary estimates, at the time he grants the exception, is necessary to offset the loss in revenue caused by the changes for which the exception was granted.

"(4) If the Secretary grants an exception with respect to any accounting year to a hospital on the grounds set forth in subsection (b)(2), such hospital shall be allowed increased total revenue for purposes of this title for such accounting year (and the limit on the allowable rate of increase under section 111 for charges imposed by the hospital and reimbursement from its cost payers shall be adjusted upward accordingly) in an amount equal to the amount the Secretary estimates, at the time he grants the exception, is necessary to offset the loss in revenue caused by the changes for which the exception was granted.

"(f)(1) Any hospital, or any entity described in section 1842(f)(1) of the Social Security Act, which is dissatisfied with a determination of the Secretary made under this section may obtain a hearing before the Provider Reimbursement Review Board established under section 1878 of the Social Security Act, if the amount in controversy is $10,000 or more and the request for such hearing is filed within one hundred and eighty days after receipt of the Secretary's determination.

"(2) The Secretary (notwithstanding section 1878(h) of the Social Security Act) shall appoint five additional members to the Provider Reimbursement Review Board, following the specifications for expertise applicable to the existing five members. Such five additional members shall constitute the Board for purposes of reviewing appeals under this title. The other provisions of subsections (c), (d), (e), (f), (h), and (i) of section 1878 of the Social Security Act shall apply, except that the Board as so constituted shall be considered as reviewing decisions of the Secretary rather than of a fiscal intermediary.

"(g) Upon request by a hospital, the State health planning and development agency designated under section 1521 of the Public Health Service Act for the State in which the hospital is located shall make a finding as to the appropriateness of specific institutional health services for purposes of subsection (a)(3) or section 514(c) of this title, after requesting the recommendations of the appropriate health systems agency. The finding of a State health planning and development agency under this subsection shall not be subject to further review.

"ENFORCEMENT

"SEC. 516. (a) Notwithstanding any provision of title XVIII of the Social Security Act, reimbursement for inpatient hospital services under the program established by that title shall not be payable, on an interim basis or in final settlement, to the extent that it exceeds the applicable limits established under this title or under the program for a State whose hospitals have been ex-

cluded under section 517 or 519 from the application of this title.

"(b) Notwithstanding any provision of title V or XIX of such Act, payment shall not be required to be made by any State under either such title with respect to any amount paid for inpatient hospital services in excess of the applicable limits established under this title; nor shall payment be made to any State under either such title with respect to any amount paid for inpatient hospital services in excess of such limits.

"(c) Notwithstanding any other provision of law, the imposition by any hospital of inpatient charges in excess of the applicable limit established under this title, or any payment by any cost payer (as defined in section 522(e)(2)) for inpatient hospital services in excess of such limit, shall subject such hospital or cost payer—

"(1) to the Federal excise tax imposed by section 4991 of the Internal Revenue Code of 1954 (as added by section 528 of this Act), and

"(2) to exclusion, at the discretion of the Secretary, from participation in any or all of the programs established by title V, XVIII, or XIX of the Social Security Act.

"(d) Any hospital shall be exempt from the penalties set forth in subsection (c) if it holds in escrow an amount equal to its inpatient charges in excess of the applicable limit established under this title multiplied by the percentage of such charges not attributable to cost payers until such time as future inpatient hospital charges fall below the applicable limits established under this title, in an amount equal to the amount in escrow; but any such hospital which fails to do so shall be subject to such penalties.

"EXEMPTION FOR HOSPITALS IN CERTAIN STATES

"SEC. 517. At the request of the Governor (or other chief executive) of any State the Secretary may exclude from the application of this title except for sections 525 and 526 all hospitals (as defined in section 521(c)) physically located in such State if—

"(a) the Secretary finds that such State has in operation as of the date of such request a program capable of containing hospital costs for inpatient hospital services in the State which covers at least 90 per centum of the hospitals in the State which would otherwise be covered under the program established by this title;

"(b) the Secretary finds that the State program applies at least to all revenues for inpatient hospital services of hospitals covered by the program and has applied for at least one year prior to the date of such request to at least half of those revenues (excluding revenues received under title XVIII of the Social Security Act);

"(c) the Governor (or chief executive) certifies, and the Secretary determines, that the aggregate rate of increase in revenues over the previous accounting year for inpatient hospital services for all hospitals in the State will not (1) exceed 110 per centum of the inpatient hospital revenue increase limit determined pursuant to paragraphs (b)(1) and (b)(2) of section 512, except that, at the option of the State, the above limit shall increase by the amount of increases in revenues attributable to increases in regular wages (as defined in section 524(b)(1)) which are exempt under section 524, nor (2) be less than the increase in the GNP deflator applicable to that fiscal period; and

"(d) the Governor (or chief executive) has submitted, and had approved by the Secretary, a plan for recovering any excess of total revenue which (notwithstanding paragraph (c)) may occur.

"EXEMPTION FOR HOSPITALS ENGAGED IN CERTAIN EXPERIMENTS OR DEMONSTRATIONS

"SEC. 518. A hospital or group of hospitals (as defined in section 521(c)) may be excluded from the application of this title except for sections 525 and 526 if the Secretary determines that (1) such exclusion is necessary to facilitate or continue an experiment or demonstration entered into under section 402 of the Social Security Amendments of 1967, section 222 of the Social Security Amendments of 1972, or section 1526 of the Public Health Service Act, and (2) such experiment or such demonstration is not inconsistent with the provisions of this title.

"EXEMPTION FOR STATES WITH COST CONTAINMENT PROGRAMS

"SEC. 519. (a) Any State may submit to the Secretary a plan for a hospital cost containment program for approval. The Secretary shall approve such a program and exempt from the application of this title except for sections 525 and 526 all hospitals (as defined in section 521(c)) physically located in such State if the Secretary determines that such program—

"(1) designates an identifiable unit of State government which has the authority to supervise the administration of the program;

"(2) provides for a methodology to assure that the aggregate rate of increase in revenues for inpatient hospital services over the previous year for all hospitals in the State will not exceed 110 per centum of the inpatient hospital revenue increase limit determined pursuant to paragraphs (b)(1) and (b)(2) of section 512 nor be less than the increase in the GNP deflator applicable to that fiscal period. Such methodology may include alternative methods for classifying hospitals, for establishing prospective rates of payment, and for implementing on a gradual, selective, or other basis the establishment of a prospective payment system, in order to stimulate hospitals through positive (or negative) financial incentives to use their facilities and personnel more efficiently without adversely affecting the quality of services;

"(3) includes a methodology for the recovery of any excess of total revenues which (notwithstanding paragraph (2)) may occur;

"(4) provides for sanctions and enforcement procedures adequate to insure compliance with the program;

"(5) provides for uniform definition of all costs;

"(6) provides for the evaluation of standards of institutional performance;

"(7) provides that the limit specified in paragraph (2) shall increase by the amount of increases in regular wages (as defined in section 524(b)(1)); and

"(8) provides for compliance with such other criteria as the Secretary deems necessary to accomplish the purposes of this title and which are not inconsistent with the provisions of this title.

"(b) The Secretary may make grants to any State which has an approved program pursuant to subsection (a) to assist such State in the implementation of its program. For the purposes of this subsection, there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1979, and such sums shall remain available until expended.

"(c) The Secretary shall promulgate regulations to implement this section within one hundred and eighty days of the date of enactment of this Act.

"REVOCATION OF EXEMPTIONS UNDER SECTIONS 517, 518, AND 519

"SEC. 520. (a) The Secretary shall review annually any program, experiment, or demonstration that has received an exemption pursuant to section 517, 518, or 519 to determine whether such program, experiment, or demonstration is in compliance with such section and the regulations promulgated thereunder. The Secretary may revoke, after notice and an opportunity for a hearing on the record, any such exemption if he determines that such exemption is no longer justified because the conditions for such exemption are no longer being met.

"(b) Upon revocation of an exemption awarded under section 517, 518, or 519 each hospital that would be otherwise be subject to this title will be subject to the limits established under this title for each full accounting year as defined by section 522(a)(1) any part of which was not subject to the program, experiment, or demonstration established under section 517, 518, or 519.

"PART C—DEFINITIONS AND MISCELLANEOUS PROVISIONS

"DEFINITION OF HOSPITAL AND APPLICABILITY OF TITLE

"SEC. 521. (a) For purposes of this title (subject to subsections (b), (c), and (d) of this section), the term "hospital", with respect to any accounting year, means an institution (including a distinct part of an institution if the distinct part participates in the program established under title XVIII of the Social Security Act) which—

"(1) satisfies clauses (1) and (7) of section 1861(e) of the Social Security Act, and

"(2) had an average duration of stay of thirty days or less in the preceding accounting year.

"(b) A hospital shall not be subject to this title except for the purposes of sections 525 and 526 for an accounting year if it—

"(1) has met the conditions specified in subsection (a) (under present and previous ownership) for less than two years before such accounting year;

"(2) derives more than 75 per centum of its inpatient care revenues, disregarding revenues received under title XVIII of the Social Security Act, from one or more health maintenance organizations (as defined in section 1301(a) of the Public Health Service Act) during such accounting year;

"(3) has had, in the three accounting years preceding such accounting year, average annual admissions of two thousand or less; or

"(4) has had in the three accounting years preceding such accounting year, average admissions that are greater than two thousand and less than four thousand; is a sole community provider, as defined by the Secretary; and, is not physically located within a standard metropolitan statistical area.

"(c) For the purposes of sections 517, 518, and 519, the term 'hospital', with respect to any accounting year, means an institution (including a distinct part of an institution if the distinct part participates in the program established under title XVIII of the Social Security Act) which meets the requirements of paragraphs (1) and (2) of subsection (a) except that a hospital shall not be subject to the provisions of such sections if it meets the requirements of paragraph (2) of subsection (b).

"(d) A hospital shall not be subject to any provisions of this title if it is a Federal hospital.

"OTHER DEFINITIONS

"SEC. 522. For purposes of this title—

"Accounting Year

"(a)(1) The term 'accounting year' means, except as provided in paragraph (2)—

"(A) in the case of a hospital participating in the program established by title XVII of the Social Security Act, a period of twelve consecutive full calendar months including the same months as the last full reporting period allowed for reimbursement purposes under such title; and

"(B) in the case of a hospital not participating in the program established by title XVIII of the Social Security Act, a calendar year, or, if requested by the hospital, such other period of twelve consecutive full calendar months as the Secretary may designate.

"(2) The Secretary may establish an 'accounting year' of less than twelve months,

and make appropriate adjustments in the application of this title to that period, for an entity whose 'accounting year' under paragraph (1) is changed from one twelve month period to another or for other reasons that the Secretary deems appropriate.

"Inpatient Hospital Services

"(b) The term 'inpatient hospital services' has the meaning given it by section 1861(b) of the Social Security Act including in addition the services otherwise excluded by paragraph (5) thereof.

"Inpatient Charges

"(c) The term 'inpatient charges' means (1) charges (as defined in section 405.452 (d) (4) of title 30 of the Code of Federal Regulations as in effect on the date of enactment of this Act) for inpatient hospital services or (2) except for purposes of subsection (e), the hospitals costs for inpatient hospital services (as calculated for purposes of title XVIII of the Social Security Act), if such costs are greater than the charges as defined in clause (1).

"Admission

"(d) The term 'admission' means the formal acceptance of an inpatient by a hospital, excluding newborn children (unless retained after discharge of the mother) and excluding transfers within inpatient units of the same institution.

"Cost Payer

"(e) The term 'cost payer' means—

"(1) a program established under title V, XVIII, or XIX of the Social Security Act, and

"(2) any organization which (A) meets the definition in section 1842(f)(1) of the Social Security Act, and (B) reimburses a hospital subject to this title for inpatient hospital services on a basis related to the hospital's costs in furnishing those services or on any other basis other than inpatient charges.

"(f) The term 'reimbursement payable by a cost payer' means the sums of—

"(1) the amounts payable by the cost payer to a hospital for inpatient hospital services, and

"(2) the amounts payable by an individual to the hospital for inpatient hospital services if the individual's expenses for such services are payable in part by the cost payer, to the extent that those amounts are calculated as a portion of the costs or other basis on which the amounts payable by the cost payer are determined.

"Secretary

"(g) The term 'Secretary' means the Secretary of Health, Education, and Welfare, unless otherwise indicated.

"State

"(h) The term 'State' includes Puerto Rico, Guam, the District of Columbia, and the Virgin Islands.

"DETERMINATION OF INPATIENT REIMBURSEMENT

"SEC. 523. For purposes of section 511, inpatient reimbursement under a program established under title V, XVIII, or XIX of the Social Security Act shall be determined without regard to adjustments resulting from the application of section 405.460(g), 405.455 (d), 405.415(f), or 405–415(d)(3) of title 20 of the Code of Federal Regulations.

"EXEMPTION OF NONSUPERVISORY PERSONNEL WAGE INCREASES FROM REVENUE LIMIT

"SEC. 524. (a) The Secretary shall modify the inpatient hospital revenue increase limit (for purposes of section 511(a)(2)) and the adjusted inpatient hospital revenue increase limit (for purposes of section 511(a)(3)) otherwise established for any hospital which is subject to the provisions of this title except for those hospitals exempted pursuant to section 517, 518 or 519 for any accounting year beginning before April 1980, as prescribed in subsection (b).

"(b) Such modified limits for any accounting year shall be calculated by adding together—

"(1) the average percentage increase in regular wages (as that term is used for purposes of the Fair Labor Standards Act of 1938) per employee per hour granted to employees other than doctors of medicine or osteopathy and supervisors (as defined in section 2(12) of the National Labor Relations Act) during that accounting year multiplied by the percentage of total costs for inpatient hospital services (as calculated for purposes of title XVIII of the Social Security Act) attributable to such wages in the preceding accounting year; and

"(2) the adjusted inpatient hospital revenue increase limit otherwise applicable to the hospital for that accounting year under this title multiplied by the percentage of such costs attributable to all other expenses in the preceding accounting year; and

"(3) 100 percent plus the average percentage increase in regular wages (as defined in clause (1)) per employee per hour granted to employees specified in clause (1), multiplied by the product of (A) the percentage of total costs for inpatient hospital services (as calculated under clause (1)) attributable to such wages in the preceding accounting year, and (B) the fractional increase in the average number of such employees in the accounting year for which the modified limit is calculated over the average number of such employees in the preceding accounting year; provided, that the total percentage determined under this clause may not exceed the difference between the percentage which would be obtained under clause (1) if the adjusted inpatient hospital revenue increase limit were used instead of the average percentage increase in regular wages per employee per hour, and the percentage actually calculated under clause (1).

"(c) The modified inpatient hospital revenue increase limit and adjusted inpatient hospital revenue increase limit established under subsection (b) for any hospital with respect to any accounting year shall constitute such hospital's inpatient hospital revenue increase limit under section 511(a)(2) or, as appropriate, the adjusted inpatient hospital revenue increase limit under section 511(a)(3), for such accounting year for all purposes of this title.

"DISCLOSURE OF FISCAL INFORMATION

"SEC. 525. (a) Every hospital shall submit to the health systems agency designated under section 1515 of the Public Health Service Act for the health service area in which it is located by March 1 and September 1 of each year, a report, in a form prescribed by the Secretary, the rates charged for each of the thirty most frequently used hospital services, as specified by the Secretary, including the average semiprivate and private room rates.

"(b) Each such hospital shall submit annually to such health systems agency, within ninety days of the close of each such hospital's accounting year, a report, in a form prescribed by the Secretary, which contains information, as specified by the Secretary, describing the ownership, management, and financial status of each such hospital including:

"(1) a balance sheet as of the end of such accounting year, setting forth assets and liabilities at such date, including all capital, surplus, reserve, and depreciation;

"(2) a statement of operations for such accounting year, setting forth all operating and nonoperating revenues and expenses including the percent increase in wages for nonsupervisory personnel during such accounting year (including a comparison with all previous accounting years subsequent to the date of enactment of this Act);

"(3) the name and address of any person—

"(A) who has (directly or indirectly) an ownership, lease, or rental interest of 5 per centum or more in such hospital, or who is the owner (directly or indirectly) of an interest of 5 per centum or more in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by such hospital or any of the property or assets thereof, or

"(B) who is an officer or director of the hospital if it is organized as a corporation; and

"(4) the name and address of any individual, corporation, partnership, or other legal entity with whom the hospital has had, during the previous twelve months, business transactions in an aggregate amount in excess of $5,000 if a person described in paragraph (3) or a person who exercises discretionary authority or discretionary control respecting the financial management of the hospital (A) is such an individual or (B) has (directly or indirectly) an ownership interest of 5 per centum or more in such corporation, partnership, or other legal entity; and

"(5) the names and annual compensation including salary and benefit increases of the hospital's principal operating personnel, as defined by the Secretary.

"(c) Every hospital shall submit annually to such health systems agency all costs reports submitted to each cost payer, as defined in section 522(e) of this Act, and its overall plan and budget described in section 1861(z) of the Social Security Act (if it participates in the program established by title XVIII of that Act).

"(d) If a hospital fails to fully comply with the requirements of subparagraphs (a), (b), and (c) and any regulation promulgated thereunder, the Secretary shall notify the hospital and any payment due to such hospital pursuant to titles XVIII, XIX and XX of the Social Security Act or any other program supported in whole or in part by funds supplied by the United States shall be reduced by 10 per centum effective with the date of such notice and such reduction shall continue in effect until the hospital fully complies with the requirements of subparagraphs (a), (b), and (c) or any regulation promulgated thereunder: *Provided*, That if the Secretary finds that the hospital has fully complied with such requirements within ninety days of notification by the Secretary of a violation, the Secretary may, in his discretion, waive all or part of the reduction in payments prescribed herein.

"(e) Each such health systems agency shall make available to the public for inspection and copying (at the reasonable expenses of the public) the information supplied to the health systems agency pursuant to this section in readily understandable language and in a manner designed to facilitate comparisons among the hospitals in the health systems agency's health service area.

"IMPROPER CHANGES IN ADMISSION PRACTICES

"SEC. 526. Upon written complaint by any person that one or more hospitals has changed its admission practices in a manner that would tend to reduce the proportion of inpatients of such hospital or hospitals for whom reimbursement is less than the anticipated inpatient charges applicable to such inpatients, the Secretary shall investigate the complaint. The Secretary may impose, after notice and an opportunity for a hearing on the record, the sanction set forth in section 516(c)(2) if he determines that such complaint is justified.

"REVIEW OF CERTAIN DETERMINATIONS

"SEC. 527. Any determinations made on behalf of the Secretary under this title with respect to the application of its provisions to individual hospitals (other than determinations made under section 515 or 526) shall be subject to the provisions of section 1878 of the Social Security Act in the same man-

ner as determinations with respect to the amount of reimbursement due a provider of services under title XVIII of such Act.

"EXCISE TAX ON EXCESSIVE PAYMENTS FOR INPATIENT HOSPITAL SERVICES

"SEC. 528. (a) Subtitle D of the Internal Revenue Code of 1954 (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"'CHAPTER 45—TAX ON CERTAIN EXCESSIVE PAYMENTS FOR INPATIENT HOSPITAL SERVICES

"'Sec. 4991. Imposition of tax.

"'SEC. 4991. IMPOSITION OF TAX.

"'(a) IN GENERAL.—(1) There is hereby imposed, with respect to the receipt by any hospital of any payment made by any cost payer for inpatient hospital services in excess of the applicable limit established by, and with respect to any payment made by any cost payer as defined in section 522(e)(2) of such Act for inpatient hospital services in excess of such limit, a tax equal to 150 percent of the amount of such excess. The tax imposed by this paragraph shall be paid both by the hospital and by the cost payer.

"'(2) There is hereby imposed, with respect to the inpatient charges of any hospital in excess of the applicable limits established by multiplied by the percentage of such charges not attributable to cost payers, a tax equal to 150 percent of the amount of such excess. The tax imposed by this paragraph shall be paid by the hospital.

"'(b) EXCEPTION.—The tax imposed by subsection (a)(2) shall not apply with respect to any hospital so long as it is determined by the Secretary of Health, Education, and Welfare to be taking the corrective action described in section 516(d)(2) of the

"'(c) DEFINITIONS.—Terms used in subsections (a) and (b) have the meanings given them by

"'(d) ADMINISTRATION.—Under and to the extent provided by regulations of the Secretary, the appropriate provisions of subtitle F (relating to procedure and administration) shall be made applicable with respect to the tax imposed by subsection (a) of this section.'.

"(b) The table of chapters for subtitle D of such Code is amended by adding at the end thereof the following new item:

"'Chapter 45. Tax on certain excessive payments for inpatient hospital services.'.

"EFFECT OF ACT ON PAYMENTS BELOW THE ESTABLISHED LIMITS

"SEC. 529. This Act shall not require any Federal or State program or any person to pay a hospital more than that program or person would have been required to pay had this Act not been enacted.

"CITIZEN'S CIVIL ACTIONS

"SEC. 530. (a) Except as provided in paragraph (b) of this section, any person may commence a civil action for injunctive relief, including interim equitable relief, on his own behalf, whenever such action constitutes a case or controversy—

"(1) against any person (including the Secretary) who is alleged to be in violation of sections 525, 526, 528, or 529 of this title or any regulation promulgated thereunder; or

"(2) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty pursuant to sections 525, 526, 528, or 529 of this title or any regulation promulgated thereunder.

The district courts of the United States shall have jurisdiction over actions brought under this section, without regard to the amount of controversy, or of the citizenship of the parties.

"(b) No civil action may be commenced—

"(1) under paragraph (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the alleged violation to the Secretary and to any alleged violator in such manner as the Secretary may by regulation require; or

"(B) if the Attorney General or the Secretary has commenced and is diligently pursuing judicial proceedings or administrative action with respect to such alleged violation; or

"(2) under paragraph (a)(2) of this section, prior to sixty days after the plaintiff has given notice to the Secretary of such alleged failure to perform an act or duty.

"(c) In any action under this section, the Attorney General or the Secretary may intervene as a matter of right. The decision and rulings of the court, in any judicial proceeding commenced under this section, shall not be a bar to the institution of any judicial proceeding or administrative action by the Secretary against a party to such judicial proceeding. No factual finding by such court shall be determinative as to any fact in any subsequent judicial proceeding or administrative action brought by the Secretary, unless the Secretary is a party to the proceeding under this section.

"(d) The court, in issuing any final order in any action brought pursuant to subsection (a), may award costs of litigation (including a reasonable attorney's fee, based on the prevailing rates for such services, and expert witness fees) to any party, whenever the court determines that such an award is appropriate.

"(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or at common law to seek enforcement of any regulation or order or to seek any other relief.

"(f) Nothing in this section shall require the disclosure of any trade secret information or any other confidential information except as provided by the Federal Rules of Civil Procedure.

"SEC. 531. (a) Within one year of the date of enactment of this Act, the Secretary shall—

"(1) after consultation with the Bureau of Labor Statistics of the Department of Labor, the Bureau of Economic Analysis of the Department of Commerce, and other appropriate public and private organizations, promulgate a figure that more accurately reflects the rate of increase in the prices of the inputs necessary for the production and delivery of hospital services. Such figure shall replace the figure promulgated pursuant to section 112 as the new inpatient hospital revenue increase limit; and

"(2) make any changes in the exceptions process established by section 15 as deemed necessary or appropriate by the Secretary as a result of the promulgation of the new inpatient hospital revenue increase limit pursuant to paragraph (1) of this section. The Secretary shall make such changes in order to insure that—

"(A) only hospitals that are experiencing financial crises, as defined by the Secretary, and that have not incurred expenses in excess of those found to be necessary pursuant to section 1861(v)(1)(A) of the Social Security Act are allowed to receive exceptions; and

"(B) exceptions will only be granted to hospitals that qualify under clause (A) and that have—

"(i) experienced an unforeseeable or unavoidable rise in the price of malpractice insurance, other liability insurance, energy or such other items as the Secretary deems appropriate which result in hospital expenditures in excess of the figure promulgated pursuant to paragraph (1) of this subsection;

"(ii) experienced a change in patient mix resulting from expanded institutional capacity provided such expansion has been either found by a State health planning and development agency designated under section 1521 of the Public Health Service Act to be in conformity with applicable standards, criteria, and plans under an agreement pursuant to section 1122 of the Social Security Act or approved by such agency under a certificate-of-need program which is satisfactory to the Secretary under section 1523(a)(4) of the Public Health Service Act;

"(iii) experienced unusual increased expenses, as defined by the Secretary, associated with the closing, modifying, or changing usage of all or part of its facilities by eliminating excess bed capacity; discontinuing an underutilized service for which there are adequate alternative sources; or, substituting for the underutilized service some other service which is needed in the area and which is consistent with the findings of an appropriate health planning agency; or

"(iv) experienced such other change in condition that the Secretary deems an appropriate justification for an exception:

Provided, That such reasons for hospitals qualifying for exceptions as set forth in clauses (i) through (iv) have been found pursuant to section 1523 of the Public Health Service Act to be needed or appropriate by the State health planning and development agency designated under section 1521 of such Act for the State in which the hospital requesting the exception is located.

"(b) The changes in the inpatient hospital revenue increase limit and the exceptions process prescribed by subsection (a) shall apply to hospitals for their accounting years commencing after such changes are in effect.

"(c) Any changes made pursuant to sections (a)(1) and (a)(2) shall become effective after sixty days of continous session of the Congress after the Secretary has submitted such changes to the Congress together with a detailed statement of the reasons underlying such changes, unless either House passes a resolution during such sixty-day period stating in substance that it does not favor such changes.

"SEC. 532. The Secretary, after consultation with appropriate public and private organizations, shall establish within one year of the date of enactment of this Act the following:

"(a) an accounting and uniform functional cost reporting system (including uniform procedures for allocation of costs) for determining operating and capital costs of hospitals providing services;

"(b) a system which will classify hospitals according to size, geographical location, and other criteria which will reflect efficiency and services provided;

"(c) a system that more accurately measures the changes in hospital cost associated with changes in hospital volume;

"(d) a system that monitors, on a current basis, shifts in case mix including shifts of cases with higher than average costs per admission;

"(e) a system that measures the output of hospitals which includes a way to identify hospitals that provide better than average care than hospitals of similar characteristics; and

"(f) a system that would reimburse hospitals of similar characteristics differently based on the system established pursuant to subsection (e).

"SEC. 533. (a) The Secretary shall arrange for the conduct of a study or studies of methods for controlling the cost of and/or revenue received for hospital outpatient services, long term care services, and ambulatory care services.

"(b) The study or studies required by subsection (a) shall be completed within one year of the date of enactment of this Act. Within thirty days of the date of completion of such study or studies, such study or studies and the report of reports thereon shall be submitted to Congress. Such report or reports shall include recommendations, if any, for legislative and administrative action.

"SEC. 534. The Secretary shall monitor, on a current basis, the economic impact of all

the provisions of this title including 517, 518, 519, and 525. He shall report annually to the Congress the results of such monitoring including the percentage of increase in the cost of energy, malpractice, and other liability insurance, and the wages for nonsupervisory personnel.

"SEC. 535. In carrying out the purposes of this title the Secretary or a State is authorized to enter into contracts with State or national cooperative information centers established under section 304 or 306 of the Public Health Service Act.".

"PART D—REPORT ON PERMANENT REFORM IN THE DELIVERY AND FINANCING OF HEALTH CARE

"SEC. 536. The Secretary of Health, Education, and Welfare shall submit to the Congress, no later than March 1, 1979, a report setting forth his recommendations for permanent reforms in the delivery and financing of health care which will increase the efficiency, effectiveness, and quality of health care in the United States and which will replace the transitional provisions of Parts A through C.

Mr. ABOUREZK. I will make a very brief explanation.

This is an amendment I am offering on behalf of Mr. KENNEDY, who is unable to be here at this point. I am trying to get him to the floor to describe his amendment.

Unless the Senator from Georgia wants to—I will not yield for the purpose of a tabling motion, but I will yield for debate, if he wants to talk about it.

Mr. TALMADGE. If the Senator will yield, I will offer a substitute.

Mr. ABOUREZK. I would like to wait until Senator KENNEDY gets here. So, Mr. President, I suggest the absence of a quorum.

Mr. CHURCH addressed the Chair.

Mr. ABOUREZK. I withhold that.

Mr. CHURCH. Just to save the Senate time, I wonder if the Senator from South Dakota will yield to me so that I may make a speech in favor of the pending bill.

Mr. TALMADGE. I will seek recognition in my own right as soon as the Senator from South Dakota has completed his remarks.

Mr. ABOUREZK. I will suggest the absence of a quorum until Senator KENNEDY gets here, unless the Senator from Georgia will agree that Senator CHURCH can make a statement to fill that time.

Mr. TALMADGE. All I want to do is to offer a substitute.

Mr. ABOUREZK. I do not yield for that purpose.

Mr. TALMADGE. I have no objection to Senator CHURCH speaking.

Mr. ABOUREZK. On the condition that I do not lose my right to the floor, as soon as he is finished.

Mr. TALMADGE. Mr. President, I ask unanimous consent that as soon as the speech is made. I have an opportunity to offer a substitute.

Mr. ABOUREZK. I object. I do not yield for that purpose.

The PRESIDING OFFICER. Objection is heard.

Mr. ABOUREZK. Senator KENNEDY is here.

Mr. TALMADGE. Mr. President, I seek recognition in my own right.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. KENNEDY. I object.

Mr. ABOUREZK. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will resume the call of the roll.

The second assistant legislative clerk resumed the call of the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KENNEDY. Mr. President, I welcome the opportunity to have the chance to lay out to the Senate today our cost containment legislation which was reported from the Human Resources Committee some 14 months ago, and we appreciate the chance in the final hours to be able to get a determination by the Senate on what has been recommended by the administration and which can save the American taxpayers billions and billions of dollars a year, if implemented.

Last year, Americans spent over $160 billion for health care—three times the amount we spent 10 years ago. At that current rate of increase health spending will grow to more than $230 billion in 3 short years. Health care has become so expensive that Americans are now working more than 1 full month of every year just to pay for their health care—2 weeks' wages for hospital care alone.

Mr. President, during the past 25 years, national health expenditures have increased not only in aggregate terms and on a per capita basis, but also as a percentage of the gross national product (GNP). In 1950, national health expenditures amounted to $12 billion, or 4.5 percent of the GNP. Preliminary estimates for fiscal year 1977 indicate that total health expenditures amounted to $160 billion, or 8.6 percent of the GNP. Expenditures for hospital care are the largest component of national health expenditures, reaching an estimated $65.6 billion in fiscal year 1977 for about 40 percent of total health care expenditures.

Expenditures for hospital care have risen annually at double-digit rates for a decade. During fiscal year 1965, the year prior to enactment of medicare and medicaid, expenditures for hospital care amounted to nearly $13.2 billion. Within 5 years the annual outlay had almost doubled to $25.9 billion, and by fiscal year 1976 expenditures had more than quintupled to $65.6 billion. The average annual increase from 1965 to 1976 was 13.9 percent; adjusted to reflect constant prices in the general economy, the average annual increase was still 8.6 percent. If this rate of increase continues, total spending on hospital care alone could be $220 billion by 1986.

TABLE 1.—*Expenditures for hospital care, selected fiscal years, 1950–77*

Fiscal year	Total expenditures (billions)	Annual percentage increase
1950	$3.7	----------
1955	5.7	9.0
1960	8.5	8.4
1965	13.2	9.1
1970	25.9	14.5
1971	29.1	12.3
1972	32.7	12.4
1973	36.2	10.7
1974	41.0	13.3
1975	48.2	17.6
1976	55.4	14.9
1977	65.0	18.1

Public opinion polls indicate that rising health care costs are among the top three domestic concerns of the American people—even ranking ahead of rising energy costs. This concern reflects a fundamental fact—rising health costs add significantly to burdens on the taxpayer, on the wage earner, and on those consumers who lack adequate health insurance protection.

Each day American taxpayers pay $58 million for all hospital care provided under medicare and medicaid.

Private health insurance premiums have jumped 20 to 30 percent in the last year, cutting into most workers' take home pay. Indeed, Americans today must work 1 full month of every year just to pay for their health care. It takes about 2 weeks' wages to cover hospital costs alone. Higher health insurance premiums paid for fully or in part by employers drain off money that could be provided to workers in the form of higher wage increases or pension benefits.

For the 18 million individuals in this country without any health insurance, the 19 million additional individuals with very inadequate insurance policies, and the 115 million people without major medical insurance coverage, rising health care costs—especially spiraling hospital costs—pose the direct threat of financial ruin, and a lifetime of indebtedness.

Rising health care costs have olso hampered the ability of Federal and State governments to meet other pressing social problems. For example, between 1966 and 1978, the HEW health budget increased from $3 billion to $44.5 billion. Of this increase, $37.3 billion has gone to pay for benefits under medicare and medicaid, with only $4.2 billion left over for expansion of other governmental health activities beyond their 1966 level. The rapid increase in hospital costs have also made it necessary for many States to make serious cuts in ambulatory care services under medicaid.

TABLE 2.—*Total health expenditures between 1975 and 1980*

[In billions]

Fiscal year	Percentage of GNP	Amount	Estimated amount
1975	8.4	$122.2	----------
1976	8.6	139.3	----------
1977	8.7	----------	$159.7
1978	8.9	----------	181.1
1979	9.0	----------	204.5
1980	9.1	----------	228.8

TABLE 3.—*Expenditures for hospital care between 1975 and 1980*

[In billions]

Fiscal year	Amount	Estimated amount
1975	$48.2	
1976	55.4	
1977		$65.6
1978		74.4
1979		85.7
1980		97.4

Specifically we are focusing on hospital care because the cost of this hospital care—which accounts for 40 cents of every dollar Americans spend on health care—has escalated even faster. Last year the Nation's total hospital bill jumped to $65.6 billion or more than $1,000 per family. Next year, without any control, the figure is predicted to increase dramatically to almost $75 billion.

The costs of a hospital stay has risen 2½ times faster than the Consumer Price Index and doctor's fees have been going up at similar rates.

Even the American Hospital Association acknowledges that it is not just the costs of supplies and equipment that is causing costs to go up. Hospitals continue to add expensive new facilities, personnel, and technology.

We can no longer just sit back and watch health costs continue to escalate at past rates. For too long we have allowed hospitals to be reimbursed at whatever level they wanted. Their budgets have been open ended and they have had no economic incentive to hold down costs. Ironically, our reimbursement system tends to encourage hospitals to add expensive new facilities, personnel and technologies, but few are asking, "Do we really need all this new personnel, laboratory tests and X-rays?" Even though we spent nearly three times as much for laboratory tests in 1975 than we did in 1971 there is no evidence that all these extra tests affected the health of the American people.

We have encouraged more hospital beds than are needed, and today the consumer is bearing the burden of paying for the costs of greatly underutilized facilities, services and equipment. A recent study by the prestigious Institute of Medicine documented that this Nation as a whole has at least 100,000 more hospital beds than it needs. These beds which should be closed or used for other purposes are costing all of us well over $2 billion per year.

This open ended reimbursement has also encouraged the massive proliferation of expensive equipment in both hospitals and doctors' offices. The 1,000 CAT scanners now installed or on order have the capacity to scan over 3 million patients a year, and most often this expensive procedure has little efficacy and could have been avoided by a careful physical examination by a doctor. Today well over 500 hospitals now maintain expensive open heart surgery facilities, yet in less than one quarter of these institutions were 200 procedures performed annually. In most cases less than 100 cases were performed annually, and this goes on in the face of the guidelines of the American College of Thoracic surgeons which state clearly that 200 procedures are needed to justify operation of a facility and maintain quality.

Tragically, we are pouring so much money into hospitals right now for extra beds, for unneeded tests, for unnecessary surgery that we have not had money to spend on basic preventive health care. It is more humane, and it would be a lot less expensive to prevent illness than to put someone into a hospital to cure them. Vital programs such as immunizing children have been overlooked for too long. Tragically, nearly 9 cents of every Federal dollar goes to the hospital industry while far less than 1 penny is spent on preventive care. We need to redefine our priorities.

Over 16 months ago I introduced S. 1391, the Hospital Cost Containment Act of 1977 which was ordered reported by the Committee on Human Resources on August 2, 1977. As chairman of the Subcommittee on Health and Scientific Research I held 5 days of hearings on this bill and other approaches to containing hospital costs. Testimony was received from over 100 witnesses and many call for immediate action; however, today, more than a year later, in part due to the lobbying efforts of the hospital industry and the AMA, we still have not enacted a bill that would constrain the rate of increases in hospital costs.

S. 1391 was carefully written and, Mr. President, I would now like to offer printed amendment No. 3477 which has been cosponsored by Senators WILLIAMS, CRANSTON, NELSON, JAVITS, HATHAWAY, and PELL. The amendment contains title I of the cost containment bill (S. 1391) reported by the Human Resources Committee over a year ago. The amendment would save almost $60 billion over the next 5 years—150 times more than would be saved by H.R. 5285 in its present form.

Mr. President, Americans have repeatedly expressed the view that inflation is the No. 1 problem they face, and health care costs are significantly contributing to this spiraling inflation. Although I believe that only national health insurance will effectively control health care costs, a national health insurance proposal would require some lead time prior to implementation. During this period as well cost increases could be reduced.

Because hospital outlays today account for over 40 percent of all health care expenditures, and Federal, State, and local governments pay 45 percent of short-term general hospital costs, I believe that by starting to limit hospital costs, we will be responding to the American people's immediate wish to control these health care expenditures. Last year medicare and medicaid payments for hospitals jumped $4 billion alone.

Mr. President, this bill was designed to be implemented quickly and simply without creating a new bureaucracy. It specifically provided for phasing in a system that would classify hospitals according to size, geographical location and other criteria which would reflect efficiency and services provided. A cornerstone of the bill was the development of an inflation index specific to the hospital industry that would accurately reflect the rate of increases in prices of the inputs necessary for the production and delivery of hospital services.

Again, Mr. President, today, well over a year since that bill was reported, in part due to the lobbying efforts of the hospital industry and the AMA, we still have not enacted a bill that would constrain the rate of increases in hospital costs. Tragically, while the American people are telling us that they are troubled by inflation we have watched the cost of hospital care continue to escalate at the alarming rate of $1 million per hour, $25 million a day, $168 million a week, and almost three-quarters of a billion dollars a month.

Some have argued that now is not the time for enactment of legislation that would create new bureaucracies, S. 1391 does not create any new bureaucracy, and, according to HEW, will be administered at the Federal level with few new employees. The Federal Government will not, contrary to the charges of many, tell a hospital how to run its business. The hospital cost containment program will not dictate specific ways in which hospitals must live within their revenue limit but will only set the overall budget levels and let the trustees, health professionals and administrators involved decide how to best allocate their resources. The bill would leave considerable flexibility to identify those economies appropriate for the local situation.

Some have charged that the quality of care would be affected if hospital's expenditures were limited. There is no evidence of this. In regard to hospitalization, "more" is not necessarily "better" but is all to often merely excessive and unnecessary. Many cost reductions can, if managed appropriately, actually increase the quality of care and help hospitals better serve the needs of their patients and of society. Eliminating unnecessary beds, unnecessary laboratory tests. Underutilization of duplicative costs of equipment and services and implementing preadmission testing can all go to saving hospitals considerable dollars.

I urge my colleagues to join me in passage of this amendment. Without passage and by supporting the provisions in H.R. 5285 as drafted, we will be doing virtually nothing to reduce inflation in the hospital sector.

It has the support of the labor unions. I have letters here from the AFL–CIO, from the American Federation of State, County and Municipal Employees, and UAW is behind this legislation.

The mental health associations are behind this legislation. The health planning associations are behind this legislation. The community mental health centers are behind this legislation. The Health Insurance Association of America and Blue Cross and Blue Shield support this legislation.

Washington Business Group on Health supports the issue of cost containment.

The only people opposed are the hospitals and the doctors—the most privileged groups in our society. They ask to be exempt from the simple budget procedures that every other business has. That

shoe stores have, that gas stations have, that the auto industry has, and that schools have.

The bill does not dictate specific ways in which hospitals must live within their revenue limits but, as with schools and other businesses, only sets the overall budget levels and lets the trustees, the health professionals, and the administrators involved decide how best to allocate their resources. This would leave considerable flexibility for hospitals to identify those economies appropriate for their local situation.

The reductions in cost escalation laid out in this bill are reasonable. Several States which have enacted their own cost containment programs have succeeded in reducing costs to 9 or 10 percent. These programs include hospitals of all types and are spread throughout the country. During the economic stabilization program—1971–74—hospitals managed, without loss of quality, to reduce rates of cost increases to the same level that we are requesting.

The Province of Quebec and Canada held hospital revenue increases to 3 percent in 1976 and less than 1 percent in 1977. Their restraints have been successfully imposed without serious patient complaints regarding quality of care or services.

Up until now Congress has taken the easy route and cut authorizations for programs that lack the lobbying strength of the hospital industry. Health maintenance organizations were cut by $240 million, health planning by $915 million, and health services research by $40 million. We have cut back the tools to bring the system under control. We have picked on the weak, while the special interests run wild.

In conclusion, I hope my distinguished colleagues will join me in passing a meaningful cost containment bill.

Together we must all reassess our priorities and determine the best way to allocate our health care dollars so that all Americans can obtain decent health care. This means focusing on preventive health care, insuring that children are immunized and that people are educated about their health. This cannot be done when less than 1 cent of every Federal dollar is spent on prevention and this cannot be done when cost containment bills are so watered down that they have no meaning and produce no results.

As chairman of the Subcommittee on Health, I have long advocated sweeping reform in the way we finance and deliver health care in America, and I remain firm in that commitment. I believe national health insurance is the only viable solution to the health care crisis in America, but even if it were signed into law tomorrow it would take substantial leadtime to implement. In the meantime we can no longer afford the 32 percent increase in hospital care of the past 2 years. A transitional cost containment, does not create a new bureaucracy and will result in significant savings. The Congressional Budget Office estimates that the amendment I offer would save almost $60 billion over the next 5 years, $2.8 billion in the first year alone.

We have to act. We can no longer continue to squander billions of dollars on unnecessary drugs, unnecessary surgery and unnecessary technology while hundreds of thousands of children are not being immunized and millions of Americans cannot get basic health care.

Americans are telling us that they no longer want to sit back and watch health care costs escalate at the rate of: $1 million an hour, $24 million a day, $160 million a week, almost three-quarters of a billion dollars a month.

I urge adoption of this amendment.

The figures speak for themselves. We are talking about saving $60 billion over the next 5 years compared to a trivial $373 million in H.R. 5285 that is before us.

Mr. President, I think this legislation is important. I think it is probably the most important single piece of legislation that this body will consider, in order to save the taxpayers money, not 3 years from now, not 5 years from now, but beginning right now, to save billions of dollars. It seems to me to be highly desirable to do so.

Mr. President, I ask unanimous consent to be able to have printed in the RECORD a group of charts that vividly demonstrate those points.

The PRESIDING OFFICER. Without objection, it is so ordered.

[Charts mentioned above are not reproducible in the RECORD.]

The PRESIDING OFFICER. The Senator from Georgia.

UP AMENDMENT NO. 2061

Mr. TALMADGE. Mr. President, I offer a substitute for the amendment to the amendment and ask for its immediate consideration. The substitute is the verbatim text of H.R. 5285, as reported by the Committee on Finance.

The bill, which has been pending in the Senate for more than 2 months, makes important and urgently needed changes in the medicare and medicaid programs.

In particular, important reforms to moderate payments for hospital care are incorporated.

I urge Senators to support the committee-approved text as an appropriate substitute for sweeping and arbitrary controls.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. TALMADGE) proposes an unprinted amendment numbered 2061, as a substitute amendment for unprinted amendment No. 2060.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Medicare-Medicaid Administrative and Reimbursement Reform Act".

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HOSPITAL REIMBURSEMENT REFORM

Sec. 2. Criteria for determining reasonable cost of hospital services.
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PRACTITIONER REIMBURSEMENT REFORMS

Sec. 5. Agreement by physicians to accept assignments.
Sec. 6. Certain surgical procedures performed on an ambulatory basis.
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Sec. 10. Hospital providers of long-term care services.
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Sec. 21. Resources of medicaid applicant to include assets disposed of at substantially less than fair market value.
Sec. 22. Rate of return on net equity for for-profit hospitals.
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Sec. 24. Payment for laboratory services under medicaid.
Sec. 25. Status of professional standards review organizations.
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Sec. 29. Coordinated audits under the Social Security Act.
Sec. 30. Encouragement of philanthropic support for health care.
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Sec. 32. Coverage under medicare of certain dentists' services.
Sec. 33. Coverage under medicare of optometrists' services with respect to aphakia.
Sec. 34. Study of criteria employed for classifying a facility as a skilled nursing facility.
Sec. 35. Authority for certain States to buy-in coverage under Part B of medicare for certain medicaid recipients.

CRITERIA FOR DETERMINING REASONABLE COST OF HOSPITAL SERVICES

SEC. 2. (a)(1) The first sentence of section 1861(v)(1)(A) of the Social Security Act is amended by striking out "The" and inserting "Subject to subsection (bb), the".

(2) Section 1861(v) of such Act is further amended by adding at the end thereof the following new paragraph:

"(8) For additional requirements applicable to determination of reasonable cost for services provided by hospitals, see subsection (bb).".

(b) Section 1861 of such Act is amended by adding after subsection (aa) the following new subsection:

"Criteria for Determining Reasonable Cost of Hospital Services

"(bb)(1) In order more fairly and effectively to determine reasonable costs incurred in providing hospital services, the Secretary shall, not later than April 1, 1979, after consulting with appropriate national organizations, establish a system of hospital classification under which hospitals furnishing services initially will be classified—

"(A) by size, with each of the following groups of hospitals being classified in separate categories: (i) those having more than 5, but fewer than 25, beds, (ii) those having more than 24, but fewer than 50 beds, (III) those having more than 49, but fewer than 100, beds, (iv) those having more than 99, but fewer than 200, beds, (v) those having more than 24, but fewer than 50, beds, (iii) those having more than 299, but fewer than 400, beds, (vii) those having more than 399, but fewer than 500, beds, and (viii) those having more than 499 beds;

"(B) by type of hospital, with (i) short-term general hospitals being in a separate category, (ii) hospitals which are primary affiliates of accredited medical schools being in one separate category (without regard to bed size), and (iii) psychiatric, geriatric, maternity, pediatric, or other specialty hospitals being in the same or separate categories, as the Secretary may determine appropriate, in light of any differences in specialty which significantly affect the routine costs of the different types of hospitals;

"(C) as rural or urban; and

"(D) according to such other criteria as the Secretary finds appropriate, including modification of bedsize categories;

but the system of hospital classification shall not differentiate between hospitals on the basis of ownership.

"(2) The term 'routine operating costs' used in this subsection does not include—

"(A) capital and related costs,

"(B) direct personnel and supply costs of hospital education and training programs,

"(C) costs of interns, residents, and non-administrative physicians,

"(D) energy costs,

"(E) malpractice insurance expense, or

"(F) ancillary service costs.

"(3)(A) During the calendar quarter beginning on January 1 of each year, beginning with 1979, the Secretary shall determine, for the hospitals in each category of the system established under pargaraph (1), an average per diem routine operating cost amount which shall (except as otherwise provided in this subsection) be used in determining payments to hospitals.

"(B) The determination shall be based upon the amount of the hospitals' routine operating costs for the most recent accounting year ending prior to October 1 of the calendar year preceding the calendar year in which the determination is made. If, for any accounting year which starts on or after July 1, 1979, a hospital's actual routine operating costs are in excess of the amount allowed for purposes of determining payment to the hospital pursuant to this subsection and subsection (v), only one-half of such excess shall be taken into account in making any determination which the Secretary shall make under this pargraph.

"(C) In making a determination, the routine operating costs of hospitals in each category shall be divided into personnel and nonpersonnel components.

"(D)(i) The personnel and nonpersonnel components of routine operating costs for hospitals in each category (other than for those excluded under clause (ii)) shall be divided by the total number of days of routine care provided by such hospitals to determine the average per diem routine operating cost for such category.

"(ii) In making the calculations required by subparagraph (A) the Secretary shall exclude any newly opened hospital (as defined in the second sentence of paragraph (4)(F)), and any hospital which he determines experiencing signifiant cost differentials resulting from failue of the hospital fully to meet the standards and conditions of participation as a provider of services.

"(E) There shall be determined for each hospital in each category a per diem target rate for routine operating costs. Such target rate shall equal the average per diem routine operating cost amount for the category in which the hospital is expected to be classified during the subsequent accounting year, except that the personnel component shall be adjusted using a wage index based upon general wage levels for reasonably comparable work in the areas in which the hospitals are located. If the Secretary finds that, in an area where a hospital in any category is located for the most recent twelve-month period for which data with respect to such wage levels are available, the wage level for such hospital is significantly higher than such general wage level in that area (relative to the relationship within the same hospital group between hospital wages and such general wages in other areas), then such general wage level in the area shall be deemed equal to the wage level for such hospital, only with respect to the hospital's first accounting year on or after July 1, 1979.

"(4)(A)(i) The term 'adjusted per diem target rate for routine operating costs' means the per diem target rate for routine operating costs plus the percentage increase in costs determined under the succeeding provisions of this subparagraph.

"(ii) In determining the adjusted per diem target rate, the Secretary shall add an annual projected percentage increase in the cost of the mix of goods and services (including personnel and nonpersonnel costs) comprising routine operating costs, based on an index composed of appropriately weighted indicators of changes in the economy in wages and prices which are representative of services and goods included in routine operating costs. Where actual changes in such weighted index are significantly different (at least one-half of 1 percentage point) from those projected, the Secretary shall issue corrected target rates on a quarterly basis. At the end of the hospital's accounting year, the target rate shall be adjusted to reflect the actual changes in such weighted index. Adjustments shall also be made to take account of changes in the hospital's classification.

"(B) For purposes of payment the amount of routine operating cost incurred by a hospital shall be deemed to be equal—

"(i) in the case of a hospital which has actual routine operating costs equal to or greater than that hospital's adjusted per diem target rate for routine operating costs, to the greater of—

"(I) the hospital's actual routine operating costs, but not exceeding—

"(a) in the case of the first accounting year of any hospital which begins on or after July 1, 1979, and prior to July 1, 1980, an amount equal to the aggregate of (1) 100 percent of the hospital's adjusted per diem target rate for routine operating costs, plus (2) 15 percent of the amount described in clause (1), and

"(b) in the case of any accounting year after the accounting year described in clause (a), an amount equal to the aggregate of (1) 100 percent of the hospital's adjusted per diem target rate for routine operating costs for such year, plus (2) a dollar amount equal to the dollar amount determined under clause (a)(2) for the category of such hospital, or

"(II) the amounts determined for the hospital under division (I) if it had been classified in the bed-size category which contains hospitals closest in bed-size to such hospital's bed-size (with a hospital which has a bed-size that falls halfway between two such categories being considered in the category which contains hospitals with the greater number of beds), but not exceeding the hospital's actual routine operating costs; and

"(ii) in the case of a hospital which has actual routine operating costs which are less than that hospital's adjusted pier diem target rate for routine operating costs, to (I) the amount of the hospital's actual routine operating costs, plus (II) the smaller of (a) 5 percent of the hospital's adjusted per diem target rate for routine operating costs, or (b) 50 percent of the amount by which the hospital's adjusted per diem target rate for routine operating costs exceeds the hospital's actual routine operating costs.

"(C) Any hospital (other than a newly opened hospital) excluded by the Secretary under paragraph (3)(D)(ii), shall be reimbursed for routine operating costs on the basis of the lesser of (i) actual costs or (ii) the reimbursement determined under this subsection.

"(D) On or before April 1 of the year in which the Secretary determines the amount of the average per diem operating cost for each hospital category and the adjusted per diem target rate for each hospital, the Secretary shall publish the determinations, and he shall notify the hospital administrator and the administrative governing body of each hospital with respect to all aspects of the determination which affect the hospital.

"(E) If a hospital is determined by the Secretary to be—

"(i) located in an underserved area where hospital services are not otherwise available,

"(ii) certified as being currently necessary by an appropriate planning agency, and

"(iii) underutilized,

the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to the underutilized capacity.

"(F) If a newly opened hospital is determined by the Secretary to have greater routine operating costs as a result of the cost patterns associated with newly opened hospitals, the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to such patterns. For purposes of this subparagraph a 'newly opened hospital' means a hospital which has not satisfied the requirements of paragraphs (1) and (7) of subsection (e) of this section (under present or previous ownership) for at least twenty-four months prior to the start of such hospital's accounting year.

"(G) If a hospital is determined by the Secretary to have greater routine operating costs as a result of changes in service on account of consolidation, sharing, or addition of services, where such consolidation, sharing, or addition has been approved by the appropriate State Health Planning and Development Agency or Agencies, the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to such changes in service.

"(H) If a hospital satisfactorily demonstrates to the Secretary that, in the aggregate, its patients require a substantially greater intensity of care than generally is provided by the other hospitals in the same category, resulting in unusually greater routine operating costs, then the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to the greater intensity of care required. To the extent that a hospital can demonstrate that it experiences routine operating costs in excess of such costs for hospitals having a

reasonably similar mix of patients on account of consistently shorter lengths-of-stay in such hospital, which result from the greater intensity of care provided by such hospital, the excess routine operating costs shall be considered attributable to the greater intensity of care required.

"(I) The Secretary may further increase the adjusted per diem target rate applicable in Alaska and Hawaii to reflect the higher prices prevailing in such States.

"(J) Where the Secretary finds that a hospital has manipulated its patient mix, or patient flow, or provides less than the normal range and extent of patient services, or that an unusually large proportion of routine nursing service is provided by private-duty nurses, the routine operating costs of that hospital shall be deemed equal to the lesser of (i) the amount determined without regard to this subsection, or (ii) the amount determined under subparagraph (B).

"(5) Where any provisions of this subsection are inconsistent with section 1861(v), this subsection supersedes section 1861(v).

"(6)(A) Notwithstanding any other provision of this Act, in the case of any State which has established a reimbursement system for hospitals, hospital reimbursement in that State under this title and under the State plan approved under title XIX shall, with respect to the services covered by such system, be based on that State system, if the Secretary finds that—

"(i) the State has mandated the reimbursement system and it at least applies to the same hospitals in the State, and to the same costs, as the Federal reimbursement reform program established by this subsection;

"(ii) every hospital in the State with which there is such a provider agreement conforms to the accounting and uniform reporting requirements of section 1121 of this Act, and furnishes any appropriate reports that the Secretary may require; and

"(iii) such State demonstrates to his satisfaction that the total amount payable, with respect to inpatient hospital costs, in the State under this title and under the State plan approved under title XIX will be equal to or less than the amount which would otherwise be payable for such costs under this title and such State plan.

If the Secretary finds that any of the above conditions in a State which previously met them have not been met for a two-year period, the Secretary shall, after due notice, reimburse hospitals in that State according to the provisions of this Act (other than this paragraph) unless he finds that unusual, justifiable and nonrecurring circumstances led to the failure to comply.

"(B) If the Secretary finds that, during any two-year period during which hospital reimbursement under this title and under the State plan approved under title XIX was based on a State system as provided in subparagraph (A), the amount payable by the Federal Government under such titles for inpatient hospital costs in such State was in excess of the amount which would have been payable for such costs in such State if reimbursement had not been based on the State system (as estimated by the Secretary), the adjusted per diem target rate for routine operating costs (as determined under the preceding paragraphs of this subsection) for hospitals in such State shall be reduced (by not more than 1 percent in any year) until the Federal Government has recouped an amount equal to such excess payment amount.

"(C)(i) The Secretary shall pay to any State in which hospital reimbursement under this title is based on a State system as provided in subparagraph (A), an amount which bears the same ratio to the total cost of administering the State system (including the cost of initially putting the system into operation) as the amount paid by the Federal Government under this title in such State for inpatient hospital costs bears to the total amount of inpatient hospital costs in such State which are subject to the State system.

"(ii) Payments under clause (i) shall be made from funds in the Federal Hospital Insurance Trust Fund.

"(iii) An amount which bears the same ratio to the total cost of administering the State system (including the cost of initially putting the system into operation) as the amount paid under the State plan approved under title XIX in such State for inpatient hospital costs bears to the total amount of inpatient hospital costs in such State which are subject to the State system, shall, for purposes of title XIX, be considered to be an amount expended for the administration of such State plan.".

(c) Part A of title XI of the Social Security Act is amended by adding after section 1126 the following new section:

"HEALTH FACILITIES COSTS COMMISSION

"SEC. 1127. (a) There is established a commission to be known as the Health Facilities Costs Commission (hereinafter in this section referred to as the 'Commission').

"(b)(1) The Commission shall be composed of eleven members appointed by the Secretary—

"(A) three of whom are individuals who are representatives of hospital administrators,

"(B) two of whom are practicing physicians in hospitals, and

"(C) six of whom are consumers of health care, and each of whom, as a result of training, experience, or attainments, is exceptionally well qualified to assist in serving and carrying out the functions of the Commission. One of the members of the Commission shall, at the time of appointment, be designated as Chairman of the Commission. The Secretary shall first appoint members to the Commission not later than January 1, 1979.

"(2) No individual who is a full-time employee or officer of the United States may be appointed as a member of the Commission.

"(3) The Chairman of the Commission shall designate a member of the Commission to act as Vice Chairman of the Commission.

"(4) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

"(5) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as that herein provided for the appointment of the member first appointed to the vacant position.

"(6) Members of the Commission shall be appointed for a term of four years, except that the Secretary shall provide for such shorter terms of some of the members first appointed so as to stagger the date of expiration of members' terms of office.

"(7) No individual may be appointed to serve more than two terms as a member of the Commission.

"(8) Each member of the Commission shall be entitled to per diem compensation at rates fixed by the Secretary, but not more than the current per diem equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission, and all members of the Commission shall be allowed, while away from their homes or regular places of business in the performance of service for the Commission, travel expenses (including per diem in lieu of subsistence) in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"(9) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission; but meetings of the Commission shall be held not less frequently than once in each calendar month which begins after a majority of the authorized membership of the Commission has first been appointed.

"(c) It shall be the duty and function of the Commission to conduct a continuing study, investigation, and review of the reimbursement of hospitals for care provided by them to individuals covered under title XVIII or under State plans approved under title XIX, with particular attention to the criteria established by section 1861(bb) (hereinafter in this section referred to as the 'reimbursement reform program') with a view to devising and recommending, from time to time but not less frequently than once each calendar year (beginning with the calendar year 1979), to the Secretary and the Congress measures—

"(A) for the improvement of the reimbursement reform program, and

"(B) for the possible application (i) of the reimbursement reform program to providers of service other than hospitals, and (ii) of classification and comparison techniques similar to those applied to adjusted routine costs of hospitals under section 1861(5b) to other costs of hospitals and other providers of services.

"(d) The Secretary shall provide such technical, secretarial, clerical, and other assistance as the Commission may need.

"(e) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, any such department or agency shall furnish any such data or informatoin to the Commission.

"(f) There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

"(g) Section 14 of the Federal Advisory Committee Act shall not apply to the Commission.".

(d)(1) Section 1866(a)(1) of the Social Security Act is amended—

(A) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and"; and

(B) by inserting after subparagraph (D) the following new subparagraph:

"(E) not to increase amounts due from any individual, organization, or agency in order to offset reductions made under section 1861 (bb) in the amount paid, or expected to be paid, under this title.".

(2) Section 1902(a)(27) of the Social Security Act is amended by striking out "and" at the end of clause (A) and by inserting before the semicolon at the end of clause (B) the following: ", and (C) not to increase amounts due from any individual, organization, or agency in order to offset reductions made pursuant to the requirements contanied in section 1902(a)(13)(D) in the amount paid, or expected to be paid under the State plan".

(e) Section 1902(a)(13)(D) of the Social Security Act is amended to read as follows:

"(D) for payment of the reasonable cost of inpatient hospital services provided under the plan, applying the methods specified in section 1861(v) and section 1861(bb), which are consistent with section 1122; and".

PAYMENTS TO PROMOTE CLOSING AND CONVERSION OF UNDERUTILIZED FACILITIES

SEC. 3. (a) Part A of title XI of the Social Security Act is amended by adding after section 1127 (as added by section 2 of this Act) the following new section:

"PAYMENTS TO PROMOTE CLOSING AND CONVERSION OF UNDERUTILIZED FACILITIES

"SEC. 1128. (a)(1)(A) Before the end of the third full month following the month in

which this section is enacted, the Secretary shall establish a Hospital Transitional Allowance Board (hereinafter in this section referred to as the 'Board'). The Board shall have five members, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, who are knowledgeable about hospital planning and hospital operations.

"(B) Members of the Board shall be appointed for three-year terms, except some initial members shall be appointed for shorter terms to permit staggered terms of office.

"(C) Members of the Board shall be entitled to per diem compensation at rates fixed by the Secretary, but not more than the current per diem equivalent at the time the service involved is rendered for grade GS-18 under section 5332 of title 5, United States Code.

"(D) The Secretary shall provide such technical, secretarial, clerical, and other assistance as the Board may need.

"(2) The Board shall receive and act upon applications by hospitals, certified for participation (other than as 'emergency hospitals') under titles XVIII and XIX, for transitional allowances.

"(b) For purposes of this section—

"(1) The term 'transitional allowance' means an amount which—

"(A) shall, solely by reason of this section, be included in a hospital's reasonable cost for purposes of calculating payments under the programs authorized by titles V, XVIII, and XIX of this Act; and

"(B) in accordance with this section, is established by the Secretary for a hospital in recognition of a reimbursement detriment (as defined in paragraph (3)) experienced because of a qualified facility conversion (as defined in paragraph (2)).

"(2) The term 'qualified facility conversion' means closing, modifying, or changing the usage of an underutilized hospital facility which is expected to benefit the programs authorized under title V, title XVIII and title XIX by (A) eliminating excess bed capacity, (B) discontinuing an underutilized service for which there are adequate alternative sources, or (C) substituting for the underutilized service some other service which is needed in the area and which is consistent with the findings of an appropriate health planning agency.

"(3) A hospital which has carried out a qualified facility conversion and which continues in operation will be regarded as having experienced a 'reimbursement detriment'—

"(A) to the extent that, solely because of the conversion, there is a reduction in that portion of the hospital's costs attributable to capital assets which are taken into account in determining reasonable cost for purposes of determining amount of payment to the hospital under title V, title XVIII, or a State plan approved under title XIX;

"(B) if the conversion results, on an interim basis, in increased operating costs, to the extent that operating costs exceed amounts ordinarily reimbursable under title V, title XVIII and the State plan approved under title XIX; or

"(C) in the case of complete closure of a private nonprofit hospital, or local governmental hospital, other than for replacement of the hospital, to the extent of actual debt obligations previously recognized as reasonable for reimbursement, where the debt remains outstanding, less any salvage value.

"(c)(1) Any hospital may file an application with the Board (in a form and including data and information as the Board, with the approval of the Secretary, may require) for a transitional allowance with respect to any qualified conversion which was formally initiated after December 31, 1978. The Board, with the approval of the Secretary, may also establish procedures, consistent with this section, by means of which a finding of a reimbursement detriment may be made prior to the actual conversion.

"(2) The Board shall consider any application filed by a hospital, and if the Board finds that—

"(A) the facility conversion is a qualified facility conversion, and

"(B) the hospital is experiencing or will experience a reimbursement detriment because it carried out the qualified facility conversion,

the Board shall transmit to the Secretary its recommendation that the Secretary establish a transitional allowance for the hospital in amounts reasonably related to prior or prospective use of the facility under title V, title XVIII and the State plan approved under title XIX, for a period, not to exceed twenty years as specified by the Board, and, if the Board finds that the criteria in subparagraphs (A) and (B) are not met, it shall advise the Secretary not to establish a transitional allowance for that hospital. For an approved closure under subsection (b)(3)(C) the Board may recommend or the Secretary may approve, a lump-sum payment in lieu of periodic allowances, where such payment would constitute a more efficient and economic alternative.

"(3)(A) The Board shall notify a hospital of its findings and recommendations.

"(B) A hospital dissatisfied with a recommendation may obtain an informal or formal hearing, at the discretion of the Secretary by filing (in the form and within a time period established by the Secretary) a request for a hearing.

"(4)(A) Within thirty days after receiving a recommendation from the Board respecting a transitional allowance or, if later, within thirty days after a hearing, the Secretary shall make a final determination whether, and if so in what amount and for what period of time, a transitional allowance will be granted to a hospital. A final determination of the Secretary shall not be subject to judicial review.

"(B) The Secretary shall notify a hospital and any other appropriate parties of the determination.

"(C) Any transitional allowance shall take effect on a date prescribed by the Secretary, but not earlier than the date of completion of the qualified facility conversion. A transitional allowance shall be included as an allowable cost item in determining the reasonable cost incurred by the hospital in providing services for which payment is authorized under this Act, except that the transitional allowance shall not be considered in applying limits to costs recognized as reasonable pursuant to the third sentence of section 1861(v)(1) and section 1861(bb) of this Act, or in determining the amount to be paid to a provider pursuant to section 1814(b), section 1933(a)(2), section 1910(1)(3), and section 506(f)(3) of this Act.

"(d) In determining the reasonable cost incurred by a hospital with respect to which payment is authorized under a State plan approved under title V or title XIX, any transitional allowance shall be included as an allowable cost item.

"(e)(1) The Secretary is authorized to establish transitional allowances only as provided in paragraphs (2) and (3).

"(2) Prior to January 1, 1982, the Secretary is authorized to establish a transitional allowance for not more than fifty hospitals.

"(3) On and after January 1, 1982, the Secretary is authorized to establish a transitional allowance for any hospital which qualifies for such an allowance under the provisions of this section.

"(4) On or before January 1, 1981, the Secretary shall report to the Congress evaluating the effectiveness of the program established under this section fncluding appropriate recommendations.".

(b) The amendments made by subsection (a) shall apply only to services furnished by a hospital during any accounting year beginning on or after October 1, 1978.

FEDERAL PARTICIPATION IN HOSPITAL CAPITAL EXPENDITURES

SEC. 4. (a) Section 1122(c) of the Social Security Act is amended to read as follows:

"(c) The reasonable expenses incurred in carrying out the activities referred to in subsection (b) by the designated planning agencies (disregarding any expenses for which the agency is authorized to be reimbursed from other sources) shall be payable from—

"(1) funds in the Federal Hospital Insurance Trust Fund,

"(2) funds in the Federal Supplementary Medical Insurance Trust Fund, and

"(3) funds appropriated to carry out the health care provisions of the several titles of this Act,

in such amounts as the Secretary finds result in a proper allocation. The Secretary finds result in a proper allocation. The Secretary shall transfer money between the funds as may be appropriate to settle accounts between them. The Secretary shall pay the designated planning agencies without requiring contribution of funds by any State or political subdivision thereof.".

(b) Section 1122(d) of such Act is amended to read as follows:

"(d)(1) Except as provided in paragraph (2), if the Secretary determines that—

"(A) the designated planning agency had not approved the proposed expenditure; and

"(B) the designated planning agency had granted to the person proposing the capital expenditure an opportunity for a fair hearing with respect to the findings;

then, in determining Federal payments under titles V, XVIII, and XIX for services furnished in the health care facility for which the capital expenditure is made, the Secretary shall not include any amount attributable to depreciation, interest on borrowed funds, a return on equity capital (in the case of proprietary facilities), other expenses related to the capital expenditure, or for direct operating costs, to the extent that they can be directly associated with the capital expenditure, unless the designated planning agency for the States determines, in accordance with an agreement entered into under subsection (b) or under a certificate of need program which is applicable to such expenditure and which meets the requirements of title XV of the Public Health Service Act, that such capital expenditures are needed and meet criteria adopted by such agency. In the case of a proposed capital expenditure in a standard metropolitan statistical area which encompasses more than one jurisdiction, that expenditure shall require approval of the designated planning agency of each jurisdiction, which shall jointly review the proposal. Where the designated planning agencies do not unanimously agree, the proposed expenditures shall be deemed disapproved. Where the designated planning agencies do not act to approve or disapprove the proposed expenditure within one hundred and eighty days after the submission of the request for approval, the proposed expenditure shall be deemed approved. Any deemed approval or disapproval shall be subject to review and reversal by the Secretary following a request, submitted to him within sixty days of the deemed approval or disapproval, for a review and reconsideration based upon the record. With respect to any organization which is reimbursed on a per capita, fixed fee, or negotiated rate basis, in determining the Federal payments to be made under titles V, XVIII and XIX, the Secretary shall exclude an amount reasonably equivalent to the amount which would otherwise be excluded under this subsection if payment were made on other than a per capita, fixed fee, or negotiated rate basis.

"(2) If the Secretary, after submitting the matters involved to the advisory council established under subsection (i), determines that an exclusion of expenses related to any capital expenditure would discourage the operation or expansion of any health care facility or health maintenance organization which has demonstrated to his satisfaction proof of its capability to provide comprehensive health care services (including institutional services) effectively and economically, or would be inconsistent with effective organization and delivery of health services, or the effective administration of title V, XVIII, or XIX), he shall not exclude the expenses pursuant to paragraph (1).".

(c) Section 1122(g) of the Social Security Act is amended to read as follows:

"(g) For purposes of this section, a 'capital expenditure' is an expenditure which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance and which (1) exceeds $150,000, (2) changes the bed capacity of the facility, or (3) substantially changes the services of the facility, including conversion of existing beds to higher cost usage. The cost of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of the plant and equipment shall be included in determining whether the expenditure exceeds $150,000. For purposes of this section, 'capital expenditure' does not include an expenditure for the purpose of acquiring (either by purchase or under lease or comparable arrangement) an existing health care facility, the utilized services and bed capacity of which are not increased as a result of the acquisition.".

(d) Section 1861(z) of the Social Security Act is amended to read as follows:

"Institutional Planning

"(z) An overall plan and budget of a hospital, skilled nursing facility, or home health agency shall—

"(1) provide for an annual operating budget which includes all anticipated income and expenses related to items which would, under generally accepted accounting principles, be considered income and expense items (except that nothing in this paragraph shall require that there be prepared in connection with any budget an item-by-item identification of the components of each type of anticipated expenditure or income);

"(2) provide for a capital expenditures plan for at least a five-year period (including the year to which the operating budget applies) which identifies in detail the sources of financing and the objectives of each anticipated expenditure in excess of $150,000 related to the acquisition of land, improvement of land, buildings, or equipment, and the replacement, modernization, or expansion of the buildings and equipment, and which would, under generally accepted accounting principles, be considered capital items, and such capital expenditures plan shall be a matter of public record and available in readily accessible form and fashion;

"(3) provide for annual review and updating; and

"(4) be prepared, under the direction of the governing body of the institution or agency, by a committee consisting of representatives of the governing body, administrative staff, and medical staff (if any) of the institution or agency.".

(e) The amendments made by this section shall become effective on January 1, 1979, and shall be effective with respect to determinations made by the Secretary on and after such date.

AGREEMENTS WITH PHYSICIANS TO ACCEPT ASSIGNMENTS

SEC. 5. (a) Title XVIII of the Social Security Act is amended by adding the following new section:

"AGREEMENTS WITH PHYSICIANS TO ACCEPT ASSIGNMENTS

"SEC. 1868. (a) For purposes of this section the term 'participating physician' means a doctor of medicine or osteopathy who has in effect an agreement with the Secretary by which he agrees to accept an assignment of claim (as provided for in section 1842(b)(3)(B)(ii)) for each physicians' service (other than those excluded from coverage by section 1862) performed by him in the United States for an individual enrolled under part B. The assignment shall be in a form prescribed by the Secretary. The agreement may be terminated by either party upon 30-days' notice to the other, filed in a manner prescribed by the Secretary.

"(b) To expedite processing of claims from participating physicians, the Secretary shall establish procedures and develop appropriate forms under which—

"(1) each physican will submit his claims on one of alternative simplified approved bases including multiple listing of patients, and the Secretary shall act to assure that these claims are processed expeditiously, and

"(2) the physician shall obtain from each patient enrolled under part B (except in cases where the Secretary finds it impractical for the patient to furnish it) and shall make available at the Secretary's request, a signed statement by which the patient (A) agrees to make an assignment with respect to all services furnished by the physician and (B) authorizes the release of any medical information needed to review claims submitted by the physician.

"(c)(1) Participating physicians shall be paid administrative cost-savings allowances (as determined under paragraph (2)) in addition to the reasonable charges that are payable.

"(2) The administrative cost-savings allowance shall be $1 for each claim the participating physician submits in accordance with the simplified billing procedure referred to in subsection (b) and these payments shall be treated as an administrative expense to the medical insurance program, except that—

"(A) not more than $1 shall be payable to a physician for claims for services furnished to any particular patients within any 7-day period;

"(B) no administrative cost-savings allowance shall be payable for services performed for a hospital inpatient or outpatient unless:

"(i) the services are surgical services, anesthesia services, or services performed by a physician who, as an attending or consulting physician, personally examined the patient and whose office or regular place of practice is located outside a hospital, and

"(ii) the physician ordinarily bills directly (and not through such hospital) for his services; and

"(C) no administrative cost-savings allowance shall be payable for services which consist solely of laboratory or X-ray services which are for hospital inpatients or outpatients or are performed outside the office of the participating physician.".

(b) The amendments made by subsection (a) shall become effective on July 1, 1979.

CERTAIN SURGICAL PROCEDURES PERFORMED ON AN AMBULATORY BASIS

SEC. 6. Part B of title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"SPECIAL PROVISONS RELATING TO CERTAIN SURGICAL PROCEDURES PERFORMED ON AN AMBULATORY BASIS

"SEC. 1845. (a) The Secretary shall, in consultation with the National Professional Standards Review Council and appropriate medical organizations, specify those surgical procedures which can be safely and appropriately performed either in a hospital on an inpatient basis or on an ambulatory basis—

"(1) in a physician's office; or

"(2) in an ambulatory surgical center or hospital.

"(b)(1) If a physician performs in his office a surgical procedure specified by the Secretary pursuant to subsection (a)(1) on an individual insured for benefits under this part, he shall, notwithstanding any other provision of this part, be entitled to have payment made under this part equal to—

"(A) 100 percent of the reasonable charge for the services involved with the performance of such procedure (including all pre- and post-operative physicians' services performed in connection therewith), plus

"(B) the amount established by the Secretary pursuant to paragraph (2),

but only if the physician agrees with such individual to be paid on the basis of an assignment under the terms of which the reasonable charge for such services is the full charge therefor.

"(2) The Secretary shall establish with respect to each surgical procedure specified pursuant to subsection (a)(1), an amount established with a view to according recognition to the special costs, in excess of usual overhead, which physicians incur which are attributable to securing, maintaining, and staffing the facilities and ancillary services appropriate for the performance of such procedure in the physician's office, and to assuring that the performance of such procedure in the physician's office will involve substantially less total cost than would be involved if the procedure were performed on an inpatient basis in a hospital. The amount so established with respect to any surgical procedure periodically shall be reviewed and revised and may be adjusted, when appropriate, by the Secretary to take account of varying conditions in different areas.

"(c)(1) Payment under this part may be made to an ambulatory surgical center for ambulatory facility services furnished in connection with any surgical procedure, specified by the Secretary pursuant to subsection (a)(2), which is performed on an individual insured for benefits under this part in an ambulatory surgical center, which meets such health, safety, and other standards as the Secretary shall by regulations prescribe, if such surgical center agrees to accept, in full payment of all services furnished by it in connection with such procedure, the amount established for such procedure pursuant to paragraph (2).

"(2) The Secretary shall establish with respect to each surgical procedure specified pursuant to subsection (a)(2), a reimbursement amount which is payable to an ambulatory surgical center for its services furnished in connection with such procedure. The amount established for any such surgical procedure shall be established with a view to according recognition to the costs incurred by such centers generally in providing the services involved in connection with such procedure, and to assuring that the performance of such procedure in such a center involves less cost than would be involved if such procedure were performed on an inpatient basis in a hospital. The amount so established with respect to any surgical procedure shall periodically be reviewed and revised and may be adjusted by the Secretary, when appropriate, to take account of varying conditions in different areas.

"(3) If the physician, performing a surgical procedure (specified by the Secretary under subsection (a)(2)), in a hospital on an outpatient basis or in an ambulatory surgical center with respect to which payment is authorized under the preceding provisions of this subsection or a physician performing physicians' services in such center or hospital directly related to such surgical procedure, agrees to accept as full payment for all serv-

ices performed by him in connection with such procedure (including pre- and post-operative services) an amount equal to 100 percent of the reasonable charge for such services, he shall be paid under this part for such services an amount equal to 100 percent of the reasonable charge for such services.

"(d)(1) The Secretary is authorized by regulations to provide that in case a surgical procedure specified by the Secretary pursuant to subsection (a)(2) is performed on an individual insured for benefits under this part in an ambulatory surgical center which meets such health, safety, and other standards as the Secretary shall by regulations prescribe, there shall be paid with respect to the services furnished by such center and with respect to all related services (including physicians' services, laboratory, X-ray, and diagnostic services) a single all-inclusive fee established pursuant to paragraph (2), if all parties furnishing all such services agree to accept such fee (to be divided among the parties involved in such manner as they shall have previously agreed upon) as full payment for the services furnished.

"(2) In implementing this subsection, the Secretary shall establish with respect to each surgical procedure specified pursuant to subsection (a)(2) the amount of the all-inclusive fee for such procedure, taking into account such factors as may be appropriate. The amount so established with respect to any surgical procedure shall periodically be reviewed and revised and may be adjusted, when appropriate, to take account of varying conditions in different areas.

"(e) The provisions of section 1833 (a) and (b) shall not be applicable to expenses attributable to services to which subsection (b) is applicable, to ambulatory facility services (furnished by an ambulatory surgical center) to which the provisions of subsection (c) (1) and (2) are applicable, to physicians' services to which the provisions of subsection (c)(3) are applicable, or to services to which the provisions of subsection (d) are applicable.".

CRITERIA FOR DETERMINING REASONABLE CHARGE FOR PHYSICIANS' SERVICES

SEC. 7. (a) Section 1842(b) of the Social Security Act is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6);

(2) by striking out so much of paragraph (3) as follows the first sentence; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4)(A) In determining the reasonable charge for services for purposes of paragraph (3) (including the services of any hospital-associated physicians), there shall be taken into consideration the customary charges for similar services generally made by the physician or other person furnishing such services, as well as the prevailing charges in the locality for similar services.

"(B)(i) Except as otherwise provided in clause (iii), no charge may be determined to be reasonable in the case of bills submitted or requests for payment made under this part after December 31, 1970, if it exceeds the higher of (I) the prevailing charge recognized by the carrier and found acceptable by the Secretary for similar services in the same locality in administering this part on December 31, 1970, or (II) the prevailing charge level that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 75 percent of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing prior to the start of the fiscal year in which the bill is submitted or the request for payment is made.

"(ii) In the case of physician services, the prevailing charge level determined for purposes of clause (i)(II) for any fiscal year beginning after June 30, 1973, may not (except as otherwise provided in clause (iii)) exceed (in the aggregate) the level determined under such clause for the fiscal year ending June 30, 1973, except to the extent that the Secretary finds, on the basis of appropriate economic index data, that such higher level is justified by economic changes. Moreover, for any twelve-month period beginning on July 1 of any year (beginning with 1979), no prevailing charge level for physicians' services shall be increased to the extent that it would exceed by more than one-third the statewide prevailing charge level (as determined under subparagraph (E)) for that service.

"(iii) Notwithstanding the provisions of clauses (i) and (ii) of this subparagraph, the prevailing charge level in the case of a physician service in a particular locality determined pursuant to such clauses for the fiscal year beginning July 1, 1975, shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, in the case of a similar physician service in the same locality by reason of the application of economic index data, be raised to such prevailing charge level for the fiscal year ending June 30, 1975.

"(C) In the case of medical services, supplies, and equipment (including equipment servicing) that, in the judgment of the Secretary, do not generally vary significantly in quality from one supplier to another, the charges incurred after December 31, 1972, determined to be reasonable may not exceed the lowest charge levels at which such services, supplies, and equipment are widely and consistently available in a locality except to the extent and under circumstances specified by the Secretary. With respect to power-operated wheelchairs for which payment may be made in accordance with section 1861(s)(6), charges determined to be reasonable may not exceed the lowest charge at which power-operated wheelchairs are available in the locality.

"(D) The requirement in paragraph (3)(B) that a bill be submitted or request for payment be made by the close of the following calendar year shall not apply if (i) failure to submit the bill or request the payment by the close of such year is due to the error or misrepresentation of an officer, employee, fiscal intermediary, carrier, or agent of the Department of Health, Education, and Welfare performing functions under this title and acting within the scope of his or its authority, and (ii) the bill is submitted or the payment is requested promptly after such error or misrepresentation is eliminated or corrected.

"(E) The Secretary shall determine separate statewide prevailing charge levels for each State that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 50 percent of the customary charges made for similar services in the State during the last preceding calendar year elapsing prior to the start of the fiscal year in which the bill is submitted or the request for payment is made. In States with more than one carrier, the statewide prevailing charge level shall be the weighted average of the fiftieth percentiles of the customary charges of each carrier.

"(F) Notwithstanding any other provision of this paragraph, any charge for any particular service or procedure performed by a doctor of medicine or osteopathy shall be regarded as a reasonable charge if—

"(i) the service or procedure is performed in an area which the Secretary has designated as a physician shortage area,

"(ii) the physician has a regular practice in the physician shortage area,

"(iii) the charge does not exceed the prevailing charge level as determined under subparagraph (B), and

"(iv) the charge does not exceed the amount generally charged by such physician for similar services.".

(b) Sections 506(f)(1) and 1903(i)(1) of the Social Security Act are each amended by striking out "the fourth and fifth sentences of section 1842(b)(3)" and inserting in lieu thereof in each instance "subparagraphs (B)(ii), (B)(iii), (C), and (F) of section 1842(b)(4)".

(c) The amendments made by this section shall become effective on July 1, 1979.

PAYMENTS FOR CERTAIN ANTIGENS UNDER PART B OF MEDICARE

SEC. 8. (a) Section 1861(s)(2) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (E),

(2) by inserting "and" at the end of clause (F), and

(3) by adding after clause (F) the following new clause:

"(G) antigens (subject to reasonable quantity limitations determined by the Secretary) prepared by an allergist for a particular patient, including antigens he prepares which are forwarded to another qualified person for administration to the patient by or under the supervision of another physician;".

(b) The amendments made by subsection (a) shall apply to items furnished after the month of enactment of this Act.

PAYMENT UNDER MEDICARE OF CERTAIN PHYSICIANS' FEES ON ACCOUNT OF SERVICES FURNISHED TO A DECEASED INDIVIDUAL

SEC. 9. (a) Section 1870(f) of the Social Security Act is amended by striking out the matter following clause (2) thereof and inserting in lieu thereof the following: "payment for such services shall be made (but only in such amount and subject to such conditions as would have been applicable if the individual who received the services had not died) to—

"(A) the physician or other person who provided such services, but only on the condition that such physician or person agrees that the reasonable charge is the full charge for the services, or

"(B) the spouse or other legally designated representative of such individual, but only if (i) the condition specified in subparagraph (A) is not met, and (ii) such spouse or representative requests (in such form and manner as the Secretary shall by regulations prescribe) that payment be made under this subparagraph.".

(b) The amendment made by subsection (a) shall apply only to payments made after the month of enactment of this Act.

HOSPITAL PROVIDERS OF LONG-TERM CARE SERVICES

SEC. 10. (a) Section 1861 of the Social Security Act is amended by adding after subsection (bb) (as added by section 2 of this Act) the following:

"Hospital Providers of Extended Care Services

"(cc)(1)(A) Any hospital (other than a hospital which has in effect a waiver of the requirement imposed by subsection (e)(5)) which has an agreement under section 1866 may (subject to paragraph (2)) enter into an agreement with the Secretary under which its inpatient hospital facilities may be used for the furnishing of services of the type which, if furnished by a skilled nursing facility, would constitute posthospital extended care services.

"(B)(i) Notwithstanding any other provision of this title, payment to any hospital for services furnished under an agreement entered into under this subsection shall be based upon the reasonable cost of the services as determined under this subparagraph.

"(ii) The reasonable cost of the services shall consist of the reasonable cost of routine services and ancillary services. The reasonable cost of routine services furnished during any calendar year by a hospital under an agreement under this subsection shall equal the product of the number of patient-days during the year for which the services were furnished and the average reasonable cost

per patient-day. The average reasonable cost per patient-day shall be established as the average rate per patient-day paid for routine services during the previous calendar year under the State plan (of the State in which the hospital is located) approved under title XIX to skilled nursing facilities located in such State and which meet the requirements specified in section 1902(a)(28). The reasonable cost of ancillary services shall be determined in the same manner as the reasonable cost of ancillary services provided as inpatient hospital services.

"(2) The Secretary shall not enter into an agreement under this subsection with any hospital unless—

"(A) the hospital is located in a rural area and has less than 50 beds, and

"(B) the hospital has been granted a certificate of need for the provision of long-term care services from the agency of the State (which has been designated as the State health planning and development agency under an agreement pursuant to section 1521 of the Public Health Service Act) in which the hospital is located.

"(3) An agreement with a hospital entered into under this section shall, except as otherwise provided under regulations of the Secretary, be of the same duration and subject to termination on the same conditions as are agreements with skilled nursing facilities under section 1866, and shall, where not inconsistent with any provision of this subsection, impose the same duties, responsibilities, conditions, and limitations, as those imposed under such agreements entered into under section 1866; except that no such agreement with any hospital shall be in effect for any period during which the hospital does not have in effect an agreement under section 1866, or during which there is in effect for the hospital a waiver of the requirement imposed by subsection (e)(5). A hospital with respect to which an agreement has been terminated shall not be eligible to undertake a new agreement until a two-year period has elapsed from the termination date.

"(4) Any agreement with a hospital under this subsection shall provide that payment for services will be made only for services for which payment would be made as post hospital extended care services if those services had been furnished by a skilled nursing facility under an agreement entered into under section 1866, and any individual who is furnished services for which payment may be made under an agreement shall, for purposes of this title (other than this subsection), be deemed to have received posthospital extended care services in like manner and to the same extent as if the services furnished to him had been posthospital extended care services furnished by a skilled nursing facility under an agreement under section 1866.

"(5) During a period for which a hospital has in effect an agreement under this subsection, in order to allocate routine costs between hospital and long-term care services for purposes of determining payment for inpatient hospital services (including the application of reimbursement limits specified in section 1861 (bb)), the total reimbursement received for routine services from all classes of long-term care patients, including title XVIII, the State plan approved under title XIX, and private pay patients, shall be subtracted from the hospital's total routine costs before calculations are made to determine title XVIII reimbursement for routine hospital services.

"(6) During any period during which an agreement is in effect with a hospital under this subsection, the hospital shall, for services furnished by it under the agreement, be considered to satisfy the requirements, otherwise required of a skilled nursing facility for purposes of the following provisions: sections 1814(a)(2)(C), 1814(a)(6), 1814(a)(7), 1814(h), 1861(a)(2), 18611, 1861(j) (except 1861(j)(12)), and 1861(n); and the Secretary shall specify any other provisions of this Act under which the hospital may be considered as a skilled nursing facility.

"(7) Within three years after the date of enactment of this subsection, the Secretary shall provide a report to the Congress containing an evaluation of the program established under this subsection concerning—

"(A) the effect of the agreements on availability and effective and economical provision of long-term care services;

"(B) whether the program should be continued; and

"(C) whether eligibility should be extended to other hospitals, regardless of bed size or geographic location, where there is a shortage of long-term care beds.".

(b) Title XIX of such Act is amended by adding at the end thereof the following new section:

"HOSPITAL PROVIDERS OF SKILLED NURSING AND INTERMEDIATE CARE SERVICES

"SEC. 1913. (a) Notwithstanding any other provision of this title, payment may be made, in accordance with this section, under an approved State plan for skilled nursing services and intermediate care services furnished by a hospital which has in effect an agreement under section 1861(cc).

"(b)(1) Payment to any such hospital, for any skilled nursing or intermediate care services furnished, shall be at a rate equal to the average rate per patient-day paid for routine services during the previous calendar year under the State plan to skilled nursing and intermediate care facilities located in the State in which the hospital is located. The reasonable cost of ancillary services shall be determined in the same manner as the reasonable cost of ancillary services provided for inpatient hospital services.

"(2) With respect to any period for which a hospital has in effect an agreement under section 1861(cc), in order to allocate routine costs between hospital and long-term care services, the total reimbursement for routine services received from all classes of long-term care patients, including title XVIII, the State plan, and private pay patients, shall be subtracted from the hospital total routine costs before calculations are made to determine reimbursement for routine hospital services under the State plan.".

(c) The amendments made by this section shall become effective on the date on which final regulations, promulgated by the Secretary to implement the amendments, are issued; and those regulations shall be issued not later than the first day of the sixth month following the month in which this Act is enacted.

REIMBURSEMENT RATES UNDER MEDICAID FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

SEC. 11. (a) Section 1902(a)(13)(E) of the Social Security Act is amended by inserting "(and which may, at the option of the State, include reasonable allowances for the facilities in the form of incentive payments related to efficient performance)" after "cost related basis".

(b) The amendment made by subsection (a) shall become effective on October 1, 1978.

MEDICAID CERTIFICATION AND APPROVAL OF SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

SEC. 12. (a) (Section 1910 of the Social Security Act is amended to read as follows:

"CERTIFICATION AND APPROVAL OF SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

"SEC. 1910. (a) The Secretary shall make an agreement with any State which is willing and able to do so whereby the State health agency or other appropriate State or local agencies (whichever are utilized by the Secretary pursuant to section 1864(a)) will be utilized to recommend to him whether an institution in the State qualifies as a skilled nursing facility (for purposes of section 1902(a)(28)) or an intermediate care facility (for purposes of section 1905(c)).

"(b) The Secretary shall advise the State agency administering the medical assistance plan of his approval or disapproval of any institution certified to him as a qualified skilled nursing or intermediate care facility for purposes of section 1902(a)(28) or section 1905(c) and specify for each institution the period (not to exceed twelve months) for which approval is granted, except that the Secretary may extend that term for up to two months, provided the health and safety of patients will not be jeopardized, if he finds that an extension is necessary to prevent irreparable harm to the facility or hardship to the facility's patients or if he finds it impracticable within the twelve-month period to determine whether the facility is complying with the provisions of this title and applicable regulations. The State agency may, upon approval of the Secretary, enter into an agreement with any skilled nursing or intermediate care facility for the specified approval period.

"(c) The Secretary may cancel approval of any skilled nursing or intermediate care facility at any time if he finds that a facility fails to meet the requirements contained in section 1902(a)(28) or section 1905(c), or if he finds grounds for termination of his agreement with the facility pursuant to section 1866(b). In that event the Secretary shall notify the State agency and the skilled nursing or intermediate care facility that approval of eligibility of the facility to participate in the programs established by this title and title XVIII shall be terminated at a time specified by the Secretary. The approval of eligibility of any such facility to participate in the programs may not be reinstated unless the Secretary finds that the reason for termination has been removed and there is reasonable assurance that it will not recur.

"(d) Effective July 1, 1979, no payment may be made to any State under this title for skilled nursing or intermediate care facility services furnished by any facility—

"(1) which does not have in effect an agreement with the State agency pursuant to subsection (b), or

"(2) with respect to which approval of eligibility to participate in the programs established by this title or title XVIII has been terminated by the Secretary and has not been reinstated, except that payment may be made for up to thirty days for skilled nursing or intermediate care facility services furnished to any eligible individual who was admitted to the facility prior to the effective date of the termination.

"(e) Any skilled nursing facility or intermediate care facility which is dissatisfied with any determination by the Secretary that it no longer qualifies as a skilled nursing facility or intermediate care facility for purposes of this title shall be entitled to a hearing by the Secretary to the same extent as is provided in section 205(b) and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g). Any agreement between such facility and the State agency shall remain in effect until the period for filing a request for a hearing has expired or, if a request has been filed, until a decision has been made by the Secretary; except that the agreement shall not be extended if the Secretary makes a written determination, specifying the reasons therefor, that the continuation of provider status constitutes an immediate and serious threat to the health and safety of patients, and the Secretary certifies that the facility has been notified of its deficiencies and has failed to correct them.".

(b) Section 1869(c) of the Social Security Act is amended by adding at the end thereof the following sentence: "If the Secretary's determination terminates a provider with an existing agreement pursuant to section 1866

(b)(2), or if such determination consists of a refusal to renew an existing provider agreement, the provider's agreement shall remain in effect until the period for filing a request for a hearing has expired or, if a request has been filed, until a final decision has been made by the Secretary; except that the agreement shall not be extended if the Secretary makes a written determination, specifying the reasons therefor, that the continuation of provider status constitutes an immediate and serious threat to the health and safety of patients and if the Secretary certifies that the provider has been notified of such deficiencies and has failed to correct them.".

(c) The amendments made by the preceding provisions of this section shall become effective on the date on which final regulations, promulgated by the Secretary to implement the amendments, are issued; and those regulations shall be issued not later than the first day of the sixth month following the month in which this Act is enacted.

(d) Title XIX of the Social Security Act is amended by adding after section 1910 thereof the following new section:

"CERTIFICATION AND APPROVAL OF RURAL HEALTH CLINICS

"SEC. 1910A. (a) Whenever the Secretary certifies a facility in a State to be a qualified rural health clinic under title XVIII, such facility shall be deemed to meet the standards for certification as a rural health clinic for purposes of providing rural health clinic services under this title.

"(b) The Secretary shall notify the State agency administering the medical assistance plan of his approval or disapproval of any facility in that State which has applied for certification by him as a qualified rural health clinic.".

(e) Section 1866(c)(2) of the Social Security Act is amended by striking out "1910(a)" and inserting in lieu thereof "1910".

VISITS AWAY FROM INSTITUTION BY PATIENTS OF SKILLED NURSING OR INTERMEDIATE CARE FACILITY

SEC. 13. (a) Section 1903 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(r) In the administration of this title, the fact that an individual who is an inpatient of a skilled nursing or intermediate care facility leaves to make visits outside the facility shall not conclusively indicate that he does not need services which the facility is designed to provide; however, the frequency and length of such visits shall be considered, together with other evidence, in determining whether the individual is in need of the facility's services.".

(b) The amendment made by subsection (a) shall become effective on October 1, 1978.

NOTIFICATION TO STATE OFFICIALS

SEC. 14. Part A of title XI of the Social Security Act is amended by adding after section 1128 (as added by section 3 of this Act) the following new section:

"NOTIFICATION TO STATE OFFICIALS

"SEC. 1129. If the Secretary notifies a State of any audit, quality control performance report, deficiency, or any reduction, termination, or increase in Federal matching, under the State plan for any program for which Federal payments are made under this Act, simultaneous notification shall also be made to the Governor of the State and the respective chairmen of the legislative and appropriation committees of that State's legislature having jurisdiction over the program affected.".

REPEAL OF SECTION 1867

SEC. 15. Section 1867 of the Social Security Act is repealed.

PROCEDURES FOR DETERMINING REASONABLE COST AND REASONABLE CHARGE

SEC. 16. (a) Part A of title XI of the Social Security Act is amended by adding after section 1129 (as added by section 14 of this Act) the following new section:

"EXCLUSION OF CERTAIN ITEMS IN DETERMINING REASONABLE COST AND REASONABLE CHARGE

"SEC. 1130. (a) Except as otherwise provided in subsection (b), in determining the amount of any payment under title XVIII, under a program established under title V, or under a State plan approved under title XIX of this Act, when the payment is based upon the reasonable cost or reasonable charge, no element comprising any part of the cost or charge shall be considered to be reasonable if, and to the extent that, such element is—

"(1) a commission, finder's fee, or for a similar arrangement, or

"(2) an amount payable for any facility (or part or activity thereof) under any rental or lease arrangement which is, directly or indirectly, determined, wholly or in part as a percentage, fraction, or portion of the charge or cost attributed to any health service (other than the element) or any health service including, but not limited to, the element.

"(b) The Secretary shall by regulations establish exceptions to the provisions of subsection (a) with respect to any element of cost or charge which consists of payments based on a percentage arrangement, if such element is otherwise reasonable and the percentage arrangement—

"(1) is a customary commercial business practice, or

"(2) provides incentives for the efficient and economical operation of the health service.".

(b) Section 506 of such Act is amended by adding at the end thereof the following new subsection:

"(h) For additional exclusions from reasonable cost and reasonable charge see section 1130.".

(c) Section 1842(b)(4) of such Act (as amended by section 7 of this Act) is further amended by adding at the end thereof the following new subparagraph:

"(G) For additional exclusions from reasonable cost and reasonable charge see section 1130.".

(d) Section 1861(v) of such Act is amended by adding after paragraph (8) (as added by section 2 of this Act) the following new paragraph:

"(9) For additional exclusions from reasonable cost and reasonable charge see section 1130.".

(e) Section 1903 of such Act is amended by adding after subsection (r) (as added by section 13 of this Act) the following new subsection:

"(s) For additional exclusions from reasonable cost and reasonable charge see section 1130.".

AMBULANCE SERVICE

SEC. 17. (a) Section 1861(s)(7) of the Social Security Act is amended by inserting after "ambulance service" the following: "(including ambulance service to the nearest hospital which is (A) adequately equipped, and (B) has medical personnel qualified to deal with, and available for the treatment of, the individual's illness, injury, or condition)".

(b) The amendment made by subsection (a) shall apply to services furnished on and after the first day of the first month which begins more than 180 days after the date of the enactment of this Act, or, if earlier, the effective date of regulations promulgated by the Secretary to implement such amendment.

GRANTS TO REGIONAL PEDIATRIC PULMONARY CENTERS

SEC. 18. (a) Section 511 of the Social Security Act is amended—

(1) by inserting "(a)" after "SEC. 511.", and

(2) by adding at the end thereof the following new subsection:

"(b)(1) From the sums available under paragraph (2) the Secretary is authorized to make grants to public or nonprofit private regional pediatric pulmonary centers, which are a part of (or are affiliated with) an institution of higher learning, to assist them in carrying out a program for the training and instruction (through demonstrations and otherwise) of health care personnel in the prevention, diagnosis, and treatment of respiratory diseases in children and young adults, and in providing (through such program) needed health care services to children and young adults suffering from such diseases.

"(2) For the purpose of making grants under this subsection, there are authorized to be appropriated, for the fiscal year ending September 30, 1979, and each of the next four succeeding fiscal years, such sums (not in excess of $5,000,000 for any fiscal year) as may be necessary. Sums authorized to be appropriated for any fiscal year under this subsection for making grants for the purposes referred to in paragraph (1) shall be in addition to any sums authorized to be appropriated for such fiscal year for similar purposes under other provisions of this title.".

(b) Section 502(2) of such Act is amended by inserting "(a)" after "511".

WAIVER OF HUMAN EXPERIMENTATION PROVISION FOR MEDICINE AND MEDICAID

SEC. 19. Any requirements of title II of Public Law 93-348 otherwise held applicable are hereby waived with respect to coverage, or copayments, deductibles, or other limitations on payment for services (whether of general application or in effect only on a trial or demonstration basis) under programs established under titles XVIII and XIX of the Social Security Act.

DISCLOSURE OF AGGREGATE PAYMENTS TO PHYSICIANS

SEC. 20. Section 1106 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f) The Secretary shall not make available, nor shall the State title XIX agency be required to make available to the public, information relating to the amounts that have been paid to individual doctors of medicine or osteopathy by or on behalf of beneficiaries of the health programs established by title XVIII or XIX, as the case may be, except as may be necessary to carry out the purposes of those titles or as may be specifically required by the provisions of other Federal law.".

RESOURCES OF MEDICAID APPLICANT TO INCLUDE CERTAIN ASSETS PREVIOUSLY DISPOSED OF FOR SUBSTANTIALLY LESS THAN MARKET VALUE

SEC. 21. (a) Section 1904 of the Social Security Act is amended by adding at the end thereof the following sentence: "The Secretary shall not find that a State has failed to comply with the requirements of this title solely because it denies medical assistance to an individual who would be ineligible for such assistance if, in determining whether he is eligible for benefits under title XVI of this Act, or, in the case of an individual who is not included under section 1902(a)(13)(B), in determining whether he is eligible for medical assistance under the State plan, there was included in his resources any asset owned by him within the preceding twelve months to the extent that he gave or sold that asset to any person for substantially less than its fair market value for the purpose of establishing eligibility for medical assistance under

the State plan (and any such transaction shall be presumed to have been for such purpose unless such individual furnishes convincing evidence to establish that the transaction was for some other purpose).".

(b) Section 1902(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (39);

(2) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(41) contain provisions reasonably directed at the denial of eligibility for medical assistance under the State plan to an individual who would be ineligible for such assistance except for the transfer of assets, for substantially less than fair market value; except that such denial shall be made only to the extent authorized under the last sentence of section 1904 or under other provisions of this title.".

(c)(1) The amendment made by subsection (a) shall become effective on October 1, 1978.

(2)(A) The amendment made by subsection (b) shall, except as otherwise is provided in subparagraph (B) become effective on July 1, 1979.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature which begins after the date of enactment of this Act.

RATE OF RETURN ON NET EQUITY FOR FOR-PROFIT HOSPITALS

SEC. 22. Section 1861(v)(1)(B) of the Social Security Act is amended—

(1) in the first sentence thereof, by inserting "a hospital or" immediately after "Such regulations in the case of";

(2) in the second sentence thereof, by striking out "one and one-half times" and inserting in lieu thereof "the percentages, specified in the next sentence, of"; and

(3) by inserting after the last sentence thereof the following new sentence: "For hospital and skilled nursing facility accounting years beginning before July 1, 1979, the percentage referred to in the previous sentence is 150 percent and for subsequent accounting years, the percentage is—

"(i) 150 percent with respect to a skilled nursing facility;

"(ii) 150 percent with respect to a hospital which, during such accounting year, had actual routine operating costs which were greater than the maximum allowable routine operating costs of such hospital as determined under section 1861(bb)(4)(B)(i);

"(iii) 250 percent with respect to a hospital which, during such accounting year had actual routine operating costs which were less than the hospital's adjusted per diem target rate for routine operating costs as determined under section 1861(bb)(4); and

"(iv) 200 percent with respect to other hospitals.".

DEDUCTIBLE NOT APPLICABLE TO EXPENSES FOR CERTAIN INDEPENDENT LABORATORY TESTS

SEC. 23. (a) The first sentence of section 1833(b) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (1), and

(2) by inserting immediately before the period the following: ", and (3) such total amount shall not include expenses incurred for diagnostic tests with respect to which the provisions of subsection (a)(1)(D) are applicable".

(b) The amendments made by subsection (a) shall be applicable with respect to services provided on and after the first day of the first calendar month which begins more than 60 days after the date of enactment of this Act.

PAYMENT FOR LABORATORY SERVICES UNDER MEDICAID

SEC. 24. (a)(1) Secton 1902(a)(23) of the Social Security Act is amended by inserting "(A)" before "has entered into" and by inserting before the semicolon at the end the following: ", or (B) during the three-year period beginning on the date of enactment of the Medicaire-Medicaid Administrative and Reimbursement Reform Act, has made arrangements through a competitive bidding process or otherwise for the purpose of laboratory services referred to in section 1905(a)(3), if the Secretary has found that (i) adequate services will be available under such arrangements, (ii) such laboratory services will be provided only through laboratories (I) which meet the requirements of section 1861(e)(9), paragraphs (10) and (11) of section 1861(s), and such additional requirements as the Secretary may require, and (II) no more than 75 per centum of whose charges for such services are for services provided to individuals who are entitled to benefits under this title or under part A or part B of title XVIII, and (iii) charges for services provided under such arrangements are made at the lowest rate charged (determined without regard to administrative costs which are related solely to the method of reimbursement for such services) for comparable services by the provider of such services, or, if charged for on a unit price basis, such charges result in aggregate expenditures not in excess of expenditures that would be made if charges were at the lowest rate charged for comparable services by the provider of such services".

(2) The Secretary shall evaluate arrangements made for the purchase of laboratory services under section 1902(a)(23)(B) of the Social Security Act and shall transmit that evaluation to the Congress, together with recommendations as to whether such section 1902(a)(23)(B) should be extended or modified, no later than twenty-four months after the date of enactment of this Act.

(b) Section 1902(a)(28) of such Act is amended by inserting before the semicolon the following: ", and provide that any laboratory services (other than such services provided in a physician's office) paid for under such plan must be provided by a laboratory which during the three-year period beginning on the date of enactment of the Medicare-Medicaid Administrative and Reimbursement Reform Act meets the requirements of section 1861(e)(9), paragraphs (10) and (11) of section 1861(s) or, in the case of a rural health clinic, subsection 1861(aa)(2)(G)".

(c) Section 1902(a)(30) of such Act is amended by inserting before the semicolon the following: "; and, in the case of laboratory services referred to in section 1905(a)(3), such payments do not exceed the lowest amount charged (determined without regard to administrative costs which are related solely to the method of reimbursement for such services) to any person or entity for such services by that provider of laboratory services".

(d)(1) The amendments made by subsections (b) and (c) shall (except as otherwise provided in paragraph (2)) apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on and after the first day of the first calendar quarter that begins more than 30 days after the date of enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by paragraph (b) or (c), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

STATUS OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 25. Section 1166 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(e) No Professional Standards Review Organization and no Statewide Professional Standards Review Council shall be considered to be or have been an 'agency' or 'authority of the Government of the United States' for the purpose of disclosure of information developed or collected, at any time, in carrying out functions under this Act.".

REMOVAL OF THREE-DAY HOSPITALIZATION REQUIREMENT AND ONE HUNDRED-VISIT LIMITATION FOR HOME HEALTH SERVICES

SEC. 26. (a) Section 1811 of the Social Security Act is amended by striking out "post-hospital".

(b) Section 1812(a)(3) of such Act is amended to read as follows:

"(3) home health services.".

(c) Section 1812(d) of such Act is repealed.

(d) Section 1812(e) of such Act is amended—

(1) by striking out "(c), and (d)" and inserting in lieu thereof "and (c)"; and

(2) by striking out "post-hospital extended care services, and post-hospital home health services" and insering in lieu thereof "and post-hospital extended care services".

(e) Section 1814(a)(2)(D) of such Act is amended—

(1) by striking out "post-hospital"; and

(2) by striking out "for any of the conditions with respect to which he was receiving inpatient hospital services (or services which would constitute inpatient hospital services if the institution met the requirements of paragraphs (6) and (9) of section 1861(e)) or post-hospital extended care services".

(f) Section 1814(i) of such Act is amended—

(1) by striking out "Posthospital" in the heading thereof; and

(2) by striking out "posthospital" in paragraph (1).

(g) Section 1832(a)(2)(A) of such Act is amended by striking out "for up to 100 visits during a calendar year".

(h) Section 1834 of such Act is repealed.

(i) Section 1861(n) of such Act is repealed.

(j) Section 226(c) of such Act is amended by striking out "post-hospital home health services" and inserting in lieu thereof "home health services".

(k) Section 7(d)(1) of the Railroad Retirement Act is amended by striking out "posthospital home health services" and inserting in lieu thereof "home health services".

(l) The amendments made by this section shall be effective with respect to services provided on or after July 1, 1979.

PAYMENT FOR DURABLE MEDICAL EQUIPMENT

SEC. 27. Section 1833(f)(3) of the Social Security Act is amended to read as follows:

"(3) For purposes of determining the amount payable with respect to durable

medical equipment furnished an individual as described in section 1861(s)(6), the Secretary shall, to the extent feasible, calculate at least annually the reasonable charge on a prospective basis and shall take into account, in addition to the customary and prevailing charges for such equipment, the acquisition costs of such equipment, appropriate overhead (taking into consideration the level of delivery services and other necessary services actually provided by the supplier), and a reasonable margin of profit.

DEVELOPMENT OF UNIFORM CLAIMS FORMS FOR USE UNDER HEALTH CARE PROGRAMS

SEC. 28. (a) Part A of title XI of the Social Security Act is amended by inserting, immediately after section 1131 thereof, the following new section:

"DEVELOPMENT OF UNIFORM CLAIMS FORMS FOR USE UNDER HEALTH CARE PROGRAMS

"SEC. 1132. (a) Within the 2-year period commencing on the date of the enactment of this section, the Secretary shall to the maximum extent feasible develop and require to be employed, in the administration of the health insurance for the aged and disabled program established by title XVIII and the medical assistance programs approved under title XIX, uniform claims forms which shall be utilized in making payment for health services under such programs. Such claims forms may vary in form and content, but only to the extent clearly required.

"(b) The Secretary shall require forms developed pursuant to subsection (a) to be utilized in the administration of health care programs (other than those referred to in subsection (a)) but over which he has administrative responsibility, if he determines that such use is in the interest of effective administration of such programs.

"(c) The Secretary, in carrying out the provisions of subsection (a) shall consult with those charged with the administration of Federal programs (other than those referred to in subsections (a) and (b)) and with other organizations and persons that pay for health care, and with the concerned providers of health care services, with the objective of having a broad representation of such programs and plans to facilitate and encourage maximum use by other programs of such uniform claims forms.".

(b) The Secretary shall make a report to the Congress, within 21 months after the enactment of this Act, covering the following points:

(1) his assessment of what his actions will be in carrying out the provisions of section 1132 of the Social Security Act,

(2) the success or lack of success in encouraging third party payors generally to adopt the uniform claims forms required under such section, and

(3) his recommendations as to what action, legislative or otherwise, needs to be taken in order to maximize the use of such uniform claims forms.

COORDINATED AUDITS UNDER THE SOCIAL SECURITY ACT

SEC. 29. (a) Title XI of the Social Security Act is amended by inserting after section 1132 (as added by section 28 of this Act) the following new section:

"COORDINATED AUDITS

"SEC. 1133. If an entity provides services reimbursable on a cost-related basis under title V or XIX, as well as services reimbursable on such a basis under title XVIII, the Secretary shall require, as a condition for payment to any State under title V or XIX with respect to administrative costs incurred in the performance of audits of the books, accounts, and records of that entity, that these audits be coordinated through common audit procedures with audits performed with respect to the entity for purposes of title XVIII. The Secretary shall apportion to the program established under title V or XIX that part of the cost of coordinated audits which is attributable to each such program and which would not have otherwise been incurred in an audit of the program established under title XVIII. Where the Secretary finds that a State has declined to participate in such a common audit with respect to title V or XIX, he shall reduce the payments otherwise due such State under such title by an amount which he estimates to be the amount that represents the duplication of costs resulting from such State's failure to participate in the common audit.".

(b)(1) Section 1902(a) of the Social Security Act (as amended by section 21(b) of this Act) is further amended—

(A) by striking out "and" at the end of paragraph (40);

(B) by striking out the period at the end of paragraph (41) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (41) the following new paragraph:

"(42) provide (A) that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan (B) that such audits, for such entities also providing services under part A of title XVIII, will be coordinated and conducted jointly (to such extent and in such manner as the Secretary shall prescribe) with audits conducted for purposes of such title, and (C) for payment of the portion of the costs of each such common audit of such an entity equal to the portion of the cost of the common audit which is attributable to the program established under this title and which would not have otherwise been incurred in an audit of the program established under title XVIII.".

(2)(A) The amendments made by paragraph (1) shall (except as otherwise is provided in subparagraph (B)) apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on and after the first day of the first calendar quarter which begins more than 30 days after the date of enactment of this Act.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature which begins after the date of enactment of this Act.

(c)(1) Section 505(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (14);

(B) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (15) the following new paragraph:

"(16) provides (A) that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan, (B) that such audits, for such entities also providing services under part A of title XVIII, will be coordinated and conducted jointly (to such extent and in such manner as the Secretary shall prescribe) with audits conducted for purposes of such part, and (C) for payment of the portion of costs of each such common audit of such an entity equal to the portion of the cost of the common audit which is attributable to the program established under this title and which would not have otherwise been incurred in an audit of the program established under title XVIII.".

(2) The amendments made by paragraph (1) shall apply to services provided, under a State plan approved under title V of the Social Security Act, on and after the first day of the first calendar quarter which begins more than 30 days after the date of enactment of this Act.

(d) The Secretary shall report to Congress, not later than March 31, 1980, on actions the Secretary has taken (1) to coordinate the conduct of institutional audits and inspections which are required under the programs funded under title V, XVIII, or XIX of the Social Security Act and (2) to coordinate such audits and inspections with those conducted by other cost payers, and he shall include in such report recommendations for such legislation as he deems appropriate to assure the maximum feasible coordination of such institutional audits and inspections.

DEVELOPMENT OF PHILANTHROPIC SUPPORT FOR HEALTH CARE

SEC. 30. Title XI of the Social Security Act is amended by inserting after section 1133 (as added by section 29 of this Act) the following new section:

"ENCOURAGEMENT OF PHILANTHROPIC SUPPORT FOR HEALTH CARE

"SEC. 1134. (a) It is the policy of the Congress that philanthropic support for health care be encouraged and expanded, especially in support of experimental and innovative efforts to improve the health care delivery system and access to health care services.

"(b)(1) For purposes of determining, under title XVIII or XIX, the reasonable costs of any service furnished by a provider of health services—

"(A) except as provided in paragraph (2), unrestricted grants, gifts, and endowments and income therefrom, shall not be deducted from the operating costs of such provider, and

"(B) grants, gifts, and endowment income designated by a donor for paying specific operating costs of such provider shall be deducted from the particular operating costs or group of costs involved.

"(2) Income from endowments and investments may be used to reduce interest expense, if such income is from an unrestricted gift or grant and is commingled with other funds, except that in no event shall any such interest expense be reduced below zero by any such income.".

PARTICIPATION UNDER MEDICAID BY SKILLED NURSING FACILITIES PARTICIPATING UNDER MEDICARE AND VICE VERSA

SEC. 31. (a)(1) Section 1903 of the Social Security Act is amended by adding after subsection (s) thereof (as added by section 16 of this Act) the following new subsection:

"(t) Notwithstanding any other provision of this section no payment shall be made to a State with respect to expenditures incurred by it for services in a skilled nursing facility unless such facility has an agreement with the Secretary in effect under section 1866 and such facility has in effect and conforms to a policy (which it shall amply publicize) of not discriminating for admission and treatment purposes against any patient because he is insured for benefits under part A of title XVIII.".

(2) The amendment made by paragraph (1) shall be effective with respect to services furnished after June 30, 1979.

(b)(1) Section 1866(c) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3) No agreement under this section with a skilled nursing facility shall, after the date

of enactment of this paragraph, be entered into, extended, or renewed, if the State in which such facility is located has a State plan—

"(A) which is approved under title XIX, and

"(B) which covers skilled nursing facility services, unless such facility has in effect an agreement, with the State agency administering or supervising the administration of such State plan, under which the skilled nursing services furnished by such facility will be available (on a nondiscriminatory basis) to individuals covered for medical assistance under such State plan.".

COVERAGE UNDER MEDICARE OF CERTAIN DENTISTS' SERVICES

SEC. 32. (a) Clause (2) of the first sentence of section 1861(r) of the Social Security Act is amended to read as follows: "(2) a doctor of dentistry or of dental or oral surgery who is legally authorized to practice dentistry by the State in which he performs such function, but only with respect to (A) a function (i) which he is legally authorized to perform as such by the State in which he performs such function, and (ii) which, if performed by an individual described in clause (1), would constitute physicians' services, or (B) the certification required by section 1814(a)(2)(E) of this Act,".

(b) The amendment made by subsection (a) shall be effective with respect to service provided on or after October 1, 1978.

COVERAGE UNDER MEDICARE OF OPTOMETRISTS' SERVICES WITH RESPECT TO APHAKIA

SEC. 33. (a) The first sentence of section 1861(r) of the Social Security Act is amended, in clause (4) thereof, by—

(1) inserting "(i)" immediately after "with respect to", and

(2) inserting immediately after "lenses," the following: ", and (ii) any function with respect to aphakia which he is legally authorized to perform as such by the State in which he performs such function,".

(b) The amendments made by subsection (a) shall be effective with respect to services provided on or after October 1, 1978.

STUDY OF CRITERIA EMPLOYED FOR CLASSIFYING A FACILITY AS A SKILLED NURSING FACILITY

SEC. 34. (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall conduct a special study, investigation, and review of the criteria presently employed in determining whether a facility is a "skilled nursing facility" as that term is used in paragraph (2) of section 1861(a) of the Social Security Act (relating to definition of "spell of illness"), with a view to determining, and recommending to the Congress, such modifications in such criteria as he may consider appropriate.

(b) The Secretary shall not later than December 31, 1979, submit to the Congress a full and complete report on such study, investigation, and review, together with his recommendations for any modification in the criteria referred to in subsection (a).

AUTHORITY FOR CERTAIN STATES TO BUY-IN COVERAGE UNDER PART B OF MEDICARE FOR CERTAIN MEDICAID RECIPIENTS

SEC. 35. Section 1843 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(i) Any State, which prior to the date of enactment of this subsection—

"(A) has not entered into an agreement under the preceding provisions of this section, may enter into such an agreement at any time within the twelve-month period which begins with the month following the month in which this subsection is enacted, and any such agreement shall conform to the modifications prescribed by the Secretary (as referred to in the third sentence of subsection (b)) and may, at the option of the State, contain any provision authorized under subsections (g) and (h) with respect to modifications of agreements with States entered into under the preceding provisions of this section; or

"(B) has entered into an agreement under the preceding provisions of this section which has not been modified pursuant to the authority contained in subsection (g) or (h), may within the twelve-month period which begins with the month following the month in which this subsection is enacted modify such agreement in like manner as if the date referred to in subsection (g)(1) and (h)(1) were the day following the close of such twelve-month period.".

Mr. LONG. Mr. President, it is perfectly fine with me to fight the battle of hospital cost containment in the remaining days of this session; but, Mr. President, not in this bill. We have some other revenue bills now at the desk. We have several on which reports were filed on Monday. The point was made here this morning that we cannot call those bills up today because Monday was a holiday, even though we were in session for more than 12 hours on that date. But Monday was a legal holiday, and we are not permitted to call up a measure under unanimous consent because Monday was a holiday. The 3 days have passed, but Monday was a legal holiday, and we are stuck with that.

But starting tomorrow we will be able to call up all those bills on which committee reports were presented on Monday. We will have plenty of bills on which to fight the hospital cost containment battle. We can have the Kennedy amendment, the Nelson amendment, the Talmadge amendment. But we have all the controversial matters we can stand on this bill. We have the President's request to continue the waiver of countervailing duties, so the trade talks can proceed at Geneva. The sugar bill itself is controversial. I do not know of any filibuster or extended debate in prospect, but that is not an easy bill to pass. So we have all the controversy we can say grace over on this right now, Mr. President, without getting into hospital cost containment.

I will offer the Senator from Massachusetts a firm commitment that if I am able to bypass the fight over hospital cost containment on this bill, I will be happy to call up another revenue bill and he can offer his hospital cost containment proposal, Senator TALMADGE can offer his amendment on that, and Senator NELSON can offer his substitute amendment for both of them, as far as I am concerned.

But, in behalf of my constituents, I am trying to pass the Sugar Act, which incidentally should have been passed a long time ago. That being the case, because I have no other choice, to move the Sugar Act I move to table the other amendment, and I ask unanimous consent that that not carry with it all the other amendments to the Kennedy amendment.

Mr. KENNEDY. Mr. President, will the Senator withhold that motion, and yield to me?

Mr. LONG. Mr. President, I ask unanimous consent that I might yield to the Senator from Massachusetts reserving my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I would not call this extraordinary action. We reported this bill 14 months ago, and here we are in the final hours, trying to get a vote on what has been a major proposal of the administration, which proposal was referred to both the Committee on Human Resources and the Finance Committee.

We have sent our proposal to the Finance Committee over 14 months ago, and the Finance Committee did not have the courtesy of even reporting it out with any kind of recommendation. That is what we have waited for, and now this is the only opportunity to try to get a vote on this vital proposal.

Mr. TALMADGE. Will the Senator yield?

Mr. KENNEDY. I want to give assurances to the chairman of the Finance Committee that if there is going to be a time agreement—and I am prepared, obviously, to let the votes fall where they may and preserve everyone's right—I am willing to permit an hour of debate on either the Talmadge amendment or my amendment or the Nelson amendment, and then, if we are able to get an agreement for a vote on it, I would certainly join with my other colleagues in seeing that we remove it as an amendment.

Mr. TALMADGE. Will the Senator yield?

Mr. LONG. What? What?

Mr. KENNEDY. Barring that particular opportunity, I would rather be able to get a vote even if it is going to be on a tabling motion because we are talking about billions of dollars to the taxpayers.

We have made a finding in the Human Resources Committee, and we are entitled to get some consideration on this floor, Senator.

Mr. TALMADGE. Will the Senator yield?

Mr. LONG. Mr. President, I believe I have the floor.

Mr. TALMADGE. Will the Senator yield to me?

Mr. LONG. Hold on just a minute, and let me just say a word or two.

The Senate Finance Committee has been willing to consider the points of view of all Senators on hospital cost containment, and the Senate Finance Committee has recommended its views on hospital cost containment in H.R. 5285, which has been on the calendar since August 11; and I understand it is the Senator from Massachusetts (Mr. KENNEDY) who has a hold on that, to keep it from being called up, at least for the first couple of weeks; maybe not now, but for the first couple of weeks he had a hold on it, I guess because he wanted to offer his amendment.

Mr. TALMADGE has been trying to get that bill before the Senate so the Senate could vote on that subject matter, and I would hope the leadership would cooperate with us in laying that bill down after the conclusion of the Sugar Act. But, Mr. President, we have all the controversy on the Sugar Act we can say grace over the way it is now. So I would plead with Senators, please do not put so much controversy on it that we cannot

do business at all. Let us vote on the Sugar Act. We are willing to carry a rider on that to take the administration's countervailing duties matter as an amendment, and that has got us in for an extended debate on that issue.

Mr. TALMADGE. Will the Senator yield briefly to me, without losing his right to the floor?

Mr. LONG. Yes, if I may.

The PRESIDING OFFICER (Mr. INOUYE). Without objection, it is so ordered.

Mr. TALMADGE. The distinguished Senator from Massachusetts and I had a conversation early this year, in which I assured the Senator from Massachusetts we would have an opportunity to vote on hospital cost containment.

The Committee on Finance has been working on this measure now for some 4 or 5 years. The President of the United States during his campaign for the Presidency endorsed a bill that I had pending before the Committee on Finance, S. 3205. He endorsed it by number during his Presidential campaign.

I agree with the distinguished Senator from Massachusetts that this has a very high priority on the part of the administration. It is one I have been interested in now for many, many years. The Senator from Massachusetts has been interested in it for a long time. The Senator from Wisconsin has been interested in it for a long time. For some 2 months I have urged the leadership to take up the Senate Finance Committee bill with a time limitation. I am perfectly agreeable to a time limitation. We can discuss this issue and let the majority vote of the Senate prevail, whether it be the proposal of the Committee on Human Resources, the proposal of the Senate Committee on Finance, or whether it be the substitute to be offered by the distinguished Senator from Wisconsin. I think the Senate ought to have an opportunity to vote its will on this matter before we adjourn sine die. I thank the distinguished chairman of the Finance Committee for yielding.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. I am willing to do anything within reason to let the Senator from Massachusetts and the Senator from Wisconsin have a vote on their amendments. I am trying to move ahead.

Mr. President, I ask unanimous consent that when H.R. 5285 is called up, Calendar No. 1031, that all amendments to the bill be germane and that there be a time limitation on all amendments, to be equally divided between the sponsor and the manager of the bill, of 2 hours.

The PRESIDING OFFICER. Is there objection?

SEVERAL SENATORS. Mr. President.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I would like to have a little opportunity to see if this request has been cleared with Members on both sides. I am very interested in getting an agreement which would provide for taking up a vehicle that would allow the Senate to work its will on the hospital cost containment and at the same time free this bill which, as the distinguished manager says, is vitally needed to be acted upon free from the other encumbrances which are hourly occurring.

If the Senator will allow me to attempt to work something out, I wish he would withdraw his request for a brief time.

Mr. LONG. I withdraw the request, yes.

Mr. BUMPERS. Will the distinguished majority leader yield for a question?

Mr. ROBERT C. BYRD. The Senator from Louisiana has the floor.

Mr. LONG. I yield.

Mr. BUMPERS. The bill the Senator referred to on the calendar, what is the substitute bill?

Mr. TALMADGE. Hospital cost containment, medicare and medicaid, reported by the Senate Finance Committee.

Mr. LONG. In order to overcome the 3-day rule objection, we had to call up a welfare-social security type bill and strike all after the enacting clause and substitute the Sugar Act, in order to get to the Sugar Act.

The Sugar Act has an amendment to it that has to do with the trade negotiations. The Sugar Act involves trade, and so does the countervailing duty involve trade. So we put that before the Senate. That has a lot of controversy.

The Senator from Massachusetts brought up the hospital cost containment issue and offered it on this bill.

My answer to that is that we have a bill on the calendar which deals with hospital cost containment, which is the so-called Talmadge amendment, the approach recommended by the chairman of the Subcommittee on Finance.

It is my proposal that we act on the Sugar Act and after we get through with that then act on the bill that has to do with hospital cost containment.

Mr. BUMPERS. I thank the Senator.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. KENNEDY. Will the Senator entertain a brief quorum call without losing his right to the floor?

Mr. LONG. Mr. President, I ask unanimous consent that we might have a quorum call without prejudicing my rights to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum under the same conditions.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistance legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. YOUNG may proceed for not to exceed 5 minutes, without prejudicing Mr. LONG's right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUGAR STABILIZATION ACT OF 1978

Mr. YOUNG. Mr. President, I very strongly support the Sugar Stabilization Act of 1978, as reported by the Senate Finance Committee, and I oppose the amendments.

I want to commend the distinguished chairman of the Finance Committee (Mr. LONG), the ranking Republican (Mr. CURTIS), and all the members on that committee, for reporting a good bill and a balanced bill, one which will be helpful to both producers and consumers.

The sugar producers of this Nation are indeed fortunate to have two Senators as sympathetic to their problem and as understanding of the sugar industry as are these two Senators.

Mr. President, during the period starting in 1975 in which we had no Sugar Act all of the foreign countries which exported sugar to us raised their prices. This continued until recently.

This resulted in the average retail price of refined sugar in this country going from 15.10 cents a pound in 1973 to a high of 37.24 cents a pound in 1975. Thus, the consumer was paying three times as much for sugar as had been the case when we had an effective Sugar Act.

I ask unanimous consent that a table containing figures on the price paid sugar beet producers and the average retail price paid for refined sugar from 1968 through 1977 obtained from the Department of Agriculture be printed in the RECORD as a part of my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

[In cents]

	Amount sugarbeet producers were paid per pound on refined basis	U.S. average retail price for refined sugar (per pound)
1968	6.3	12.18
1969	6.6	12.40
1970	6.9	12.97
1971	7.2	13.61
1972	7.6	13.91
1973	13.1	15.10
1974	19.2	32.34
1975	10.9	37.24
1976	8.8	23.96
1977 [1]	10.7	[1] 21.62

[1] 1st 10 mo.

USDA figures (Economics, Statistics, and Cooperatives Service).

Sugar Act expired in 1974. Payments made to farmers under the Sugar Act were called Compliance Payments. They were direct payments of .8 cents per pound to farmers in return for their compliance with the minimum wage provisions of the Sugar Act.

Mr. YOUNG. During this period, household consumers and industrial consumers, such as bottlers and others, complained bitterly about these high

sugar prices. We would not have had these high prices if we had continued the Sugar Act, which provided producers with assurance that there would be a future in the business of sugar production.

Mr. President, our domestic sugar producers, both beet and cane, have the capability to fill a much larger share of our sugar requirements, thus keeping the consumers of this country from being at the mercy of foreign countries which always raise their prices when we are in short supply.

It makes no sense at all to be importing such a high percentage of our domestic requirements for sugar when we can produce it very efficiently in this country. This is particularly true at this time with our very critical problem with our balance of payments with the rest of the world.

It would be utter folly to adopt a policy which would result in our being even more dependent for sugar on the whim of the dictators of sugar-producing countries—dictators who set the price at all the traffic will bear.

Mr. President, it was with regret, as well as dismay, that I learned of the opposition of the Carter administration to the market price objective for sugar producers as contained in this bill.

The bill establishes a U.S. market price objective for raw sugar of 17 cents a pound to the producer. The Department of Agriculture apparently feels this will be too expensive from the consumer's standpoint.

Failure to pass an adequate sugar bill and thus provide the assurances our sugar producers need will result in our consumers becoming even more dependent on foreign countries to fill virtually all of our sugar needs.

The situation with respect to coffee is a good example. The price of coffee rose sky high when shortages occurred. Unfortunately, we are not able to produce coffee in this country or we would be able to stabilize prices through domestic production.

In the long run, I am convinced it will be much more expensive to our consumers to have to rely on the whims of foreign governments for such a basic commodity as sugar.

As I mentioned previously, the retail price of refined sugar jumped from 15.10 cents to a high of 37.24 cents a pound during the period in which we had no sugar program.

In the case of most agricultural commodities, foreign countries, in order to assure their producers of a fair price, establish high domestic prices, prices two or three times the price we are able to get in those countries.

Wheat is a good example. The price of a bushel of wheat in some European countries is as high as $8 a bushel, while our export price is only about $3.50 a bushel.

As I have indicated, this legislation is in the best interests of both the producer and the consumer. Sugar is a high cost of production commodity and when prices are low, many of our best farmers go broke.

If the Sugar Act is not approved, we can look forward to sharply reduced production in this country, which will contribute to an even greater imbalance in our balance of payments with the rest of the world.

The consumer is understandably unhappy when prices are exorbitantly high. This bill will stabilize prices and at the same time provide producers with the assurances of a fair price which they need if they are to remain in business. It assures the consumer of an adequate supply of sugar, and at a reasonable price.

Mr. President, as I indicated at the opening of my remarks, this legislation is strongly supported by sugar beet growers, their growers association and their refining cooperatives in North Dakota. I ask unanimous consent that a part of the telegrams and mailgrams which I have received from them in support of this legislation be printed in the RECORD as a part of my remarks.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

WAHPETON, N. DAK.

Senator MILTON R. YOUNG,
U.S. Senate,
Washington, D.C.:

Request and urgently need your support in passing responsible and adequate domestic sugar legislation, Wahpeton Area growers (300) along with the rest of consumers need this. Thank you.

Minn-Dak Farmer Cooperative; Wahpeton; James Link, President; Gerald W. Shannon, General Manager.

CAVALIER, N. DAK.

Senator MILTON YOUNG:

We would appreciate any work you can do for passage of a meaningful sugar act.

DUANE MORRISON.

CASSELTON, N. DAK.

Senator MILTON YOUNG,
Washington, D.C.

DEAR SIR: As a young man starting farming I would appreciate any help you can do to secure passage of a meaningful sugar act.

RALPH KIEFFER.

FARGO, N. DAK.

Senator MILTON YOUNG,
Washington, D.C.:

We urgently request all the help you can give us in the passage of the Sugar Stabilization Act if the domestic industry collapses the American people will be at the mercy of foreign cartels, sugar prices will again sky rocket in our inbalance of trade will get much worst than it already is.

Gratefully,

GEORGE SINNER,
President, Red River Valley Sugar Beet Growers Association, Fargo.

MANVEL, N. DAK.

Senator MILTON YOUNG:

We will appreciate any work you can do to secure passage of a meaningful sugar act.

JIM HUTTON.

BATHGATE, N. DAK.

Senator YOUNG:

Will appreciate any work you can do to secure passage of a meaningful sugar act.

CHARLES MORRISON.

BATHGATE, N. DAK.

Senator YOUNG:

Thanks for your efforts to secure passage of a satisfactory sugar act. May you be successful.

RUSSELL MORRISON.

CASTLETON, N. DAK.

Senator MILTON YOUNG:

Will appreciate any work you can do to secure passage of meaningful sugar act.

WILLIAM SINZ.

GRAFTON, N. DAK.

Senator MILTON R. YOUNG:

We will appreciate any work you can do to secure passage of a meaningful sugar act.

ROGER MOE,
Director, Drayton Factory District.

MINTO, N. DAK.

Senator MILTON R. YOUNG,
Capitol One, D.C.:

We would appreciate any work you can do to secure passage of a meaningful sugar act.

FRANK NARLOCH,
President, East Grand Forks Factory District, Sugar Beet Growers Assn.

AMENIA, N. DAK.

Senator MILTON YOUNG:

We will appreciate any work you can do to secure passage of a meaningful sugar act.

AL and DENNY POYZER.

HILLSBORO, N. DAK.

Senator MILTON YOUNG,
Capitol One, D.C.:

We would appreciate anything you can do to get passage of a meaningful sugar act so U.S. sugar beet farmers can stay in business. Thank you.

KEITH FREELAND.

HILLSBORO, N. DAK.

Senator MILTON YOUNG:

We beet growers will appreciate any work you can do to help for the passage of a meaningful sugar act.

ARTHUR GROVE.

GRAFTON, N. DAK.

Senator MILTON R. YOUNG:

I would appreciate anything you can do that would secure the passage of a meaningful act S.A.

JACK DESAUTEL.

GRAFTON, N. DAK.

Senator MILTON R. YOUNG:

Consumers also deserve protection from the harsh realities of the world sugar market therefore we would appreciate all you can do to secure passage of a meaningful sugar act.

MANVEL GREEN.

MOORHEAD, MONT.

Senator MILTON R. YOUNG,
U.S. Senate,
Washington, D.C.:

We urge your support of the sugar stabilization act which will be presented to the Senate next week. This bill is vital for the Red River Valley economy and the continued viability of America's domestic sugar industry.

Mr. and Mrs. DAVID WACHAL.

Mr. YOUNG. Mr. President, the sugar beet producers in North Dakota would indeed be in deep trouble if the Sugar Act were not extended. In years past, the sugar beet refiners were unwilling to invest in sugar beet refineries because of the uncertainty of prices in the future, or uncertainty whether the Sugar Act would be continued. To continue in the sugar beet business, farmers themselves bought these sugar beet refineries—built more and borrowed most of the money to do so. They are deeply in debt now. Unless we get another Sugar Act much the same as is being proposed here, the sugar beet producers for the most part will have to go out of business. That will make us again dependent on foreign

sugar. Whenever we are in short supply, they have raised the price very sharply.

After the Sugar Beet Act expired, the sugar price to consumers went up to around 37 cents a pound. It is now down to around 15 to 14 cents a pound. It is in the best interest of the consumers to have a sugar act to assure an adequate supply of sugar so that we are not dependent on foreign countries like we are for coffee and oil. It means a more stable price and it means an important industry is stabilized. It means that our balance of payments problem with the rest of the world would be relieved to a considerable extent.

Mr. BARTLETT. Will the Senator yield for 1 minute?

Mr. YOUNG. Yes, I yield.

KOREAN TROOP WITHDRAWAL

Mr. BARTLETT. Mr. President, during the 1976 Presidential campaign, President Carter pledged his commitment to the withdrawal of U.S. ground troops from South Korea. From the earliest days of his administration, he has acted vigorously, yet arbitrarily to implement that policy. Korea and Japan were informed of President Carter's intent soon after his inauguration by Vice President MONDALE. Needless to say, the reactions of Seoul and Tokyo were less than enthusiastic, especially because of the absence of prior consultations.

Since that time there has been considerable discussion of the merits of an arbitrary troop withdrawal plan. Our own defense planners, representatives of our allies in the Asian Pacific and members of the academic community have viewed the wisdom of such a move as highly questionable.

The Korean Peninsula is one of the most critical and potentially volatile areas of international relations today. In Korea, the interests of the three largest industrial powers and the most populous nation in the world intersect. In view of the violent and unstable history of the Korean Peninsula, the maintenance of peace in the area is a vital and primary concern in our foreign policy.

For 25 years, peace on the Korean Peninsula has been the product of the visible presence of American military forces, now there in the form of 40,000 troops from the 8th Army. Our presence impacts directly on the political and military policies of South Korea and Japan, including the needs of both nations to rearm and perhaps to acquire nuclear weapons. Further, the delicate state of Sino-Soviet affairs, and the possibility of full-scale hostilities erupting over any sudden military imbalance are matters much too important to be altered by implementing any poorly conceived withdrawal plan.

Given the complexity of the issue, the controversy involved and the strong dissent expressed from so many arenas, I am very much relieved that President Carter has moderated his plans for a withdrawal of our troops from Korea for the time being. Troop reductions should not be made without a thorough military and political evaluation of our role in the Western Pacific. All parties involved should be contacted.

Mr. President, I have followed closely the issue of our military presence in Korea in hearings before the Armed Services Committee and in revelant studies, such as the excellent report issued by my colleagues Senators JOHN GLENN and the late Hubert Humphrey. We must continue to examine the consequences of any troop withdrawals.

I need not remind any of my colleagues of the turmoil and violence Korea has suffered even after a tenuous peace agreement was achieved 25 years ago. The on again-off again negotiations for reunification have produced nothing conciliatory. Indeed, they have been suspended since 1973. At that time South Korea desired reunification through a gradual lessening of tensions and confidence building. North Korea has rejected the slower functional approach and has concentrated on military issues such as force reduction. In this arena, President Carter may have discarded a valuable bargaining chip in future negotiations by his unilateral move to reduce U.S. forces.

Meanwhile, the saber-rattling rhetoric of Kim Il Sung and the image he seeks to cultivate as an international revolutionary has done nothing to ease tensions or contribute to renewed negotiations. Thus, for the foreseeable future, the military complexion of Korea will be the chief means of insuring peace and the status quo.

The military balance on the Korean Peninsula has changed remarkably since the Korean war. Of course, the presence of the air and ground forces of the United States has played a dominant role in deterring North Korea's ambition for forceful reunification. However, the most important new military development in Korea has been the establishment of a professional military force for the Republic of Korea.

In 1950, North Korea had a military force of 135,000 men, 150 tanks, 600 artillery pieces, and 180 aircraft. South Korea had a smaller force of 95,000 men with no tanks or antitank weapons, only 90 artillery pieces, and a mere 32 aircraft. North Korea had 210 fighter-bombers; South Korea had none.

At the outbreak of the Korean war, North Korea's forces were configured for the offensive; South Korea's were organized for the defensive. The same is true todav. However, the armed forces of the Republic of Korea (ROK) are now, with few exceptions, the qualitative and quantitative equals of the military forces of the People's Democratic Republic of Korea (PDRK). Total active forces for South Korea total 595,000 compared with 495,000 for North Korea, and the quality of ROK aircraft and equipment is at least the equal of that used by North Korea.

South Korea also has a superior amphibious warfare capability built around a thoroughly professional Marine Corps. South Korean military forces are now into their second force modernization program since 1970, a modernization begun when the United States withdrew one American division because of the Vietnam war. Furthermore, the Republic of Korea was able to send two divisions of its own to Vietnam, the White Horse and Capitol Divisions. For that reason, many of the Korean military units contain soldiers and officers with combat experience. Also, many Korean soldiers have gained experience with American units as KATUSA—Korean Auxiliary to the United States Army. South Korea has done much to prepare to defend itself, and, recognizing the normal risks of war, should, with the current help of American forces, be able to repel an attack from the present North Korean Armed Forces.

However, there remains a significant number of military advantages that North Korea possesses over the South and to which the American presence in Korea addresses itself. In the last 7 years, the Peoples Republic of Korea has massed a considerable offensive capability and possess significant numerical advantages in numbers of tanks, artillery pieces, mortars, surface to air missiles—SAM's — submarines, combat aircraft, helicopters, and cargo planes. Furthermore, the great proportion of North Korea's military hardware and manpower are poised at or near the Demilitarized Zone (DMZ) in a distinctly offensive posture aimed at the South. American forces, particularly in the form of highly mobile armor units, would greatly assist in delivering concentrated fire at the point of any offensive thrust by the North on short notice.

More importantly though, the United States provides a vital intelligence gathering and analysis capability which insures the earliest possible warning in the instance of enemy attack.

This is particularly important for two reasons. Since 1974, the allied defensive posture has been a forward defense designed to prevent the capture of Seoul in the event of enemy attack. Because Seoul, the commercial and governmental center of South Korea, is only 30 miles from the DMZ and 9 minutes flying time from the nearest North Korean air base, detection and warning time are of the utmost concern. Further, with the increased use of unconventional warfare by the North Koreans, security problems are more acute.

Given sufficient warning of an American troop withdrawal, and given the opportunity to purchase needed equipment and ammunition, South Korea can maintain the military balance on the Korean Peninsula if neither China nor the Soviet Union intervene. While American forces in Korea help to deter a full scale attack from North Korea, and would be available for the defense of the South, their primary contribution to the stability of Northeast Asia is no longer to add to the South Korean forces sufficient strength to repulse an attack from the North. Indeed, although the Second Infantry Division, the major U.S. Army combat unit stationed in Korea, is a potent force, its 30,000 men would be only a small fraction of the Allied forces involved in any land war in Korea. The potential contribution of American airpower would be far more important in the early days of battle.

American ground forces in Korea serve mainly as a symbol of America's military commitment to the defense of South Korea, providing nearly absolute deterrence and insuring that careful plan-

ning, clever strategems such as the infamous tunnels under the demilitarized zone, and the best fortunes of war will not combine to produce a victory for Communist North Korea. Furthermore, the existence of American ground forces in action increases the likelihood that any North Korean gains would be of short duration. Also, American involvement raises the possibility that the price to North Korea for its aggression may well be the destruction or invasion of its homeland. Strategies with limited objectives, such as the seizure of Seoul to be followed by immediate negotiations, lose their attractiveness when there is great doubt whether even that limited objective could be obtained.

The presence of American forces in South Korea also serves to limit the ability of Pyongyang to exploit the Sino-Soviet split. With both the People's Republic of China and the Union of Soviet Socialist Republics desirous of keeping North Korea neutral at worst and hostile to the other great power at best, each has employed a combination of rewards and threats to maintain a North Korea which does not endanger their interests. Yet North Korea has not been able to exploit successfully the Sino-Soviet conflict in its efforts to gain support for the military reunification of Korea. A militarily strong South Korea reinforced by the American presence prevents Pyongyang from becoming an unencumbered ally of either China or the Soviet Union against the other. Neither Communist nation alone is likely to support North Korea in a military adventure which might weaken it against the other Communist giant.

North Korea could not win any long term gains against the South unless it had the direct support of either the Soviets or Chinese. It is clear that neither the Chinese nor the Russians are desirous of a direct confrontation with the American military. Both Communist nations perceive the risks of a nuclear exchange in return for the relatively limited gains of unified Korea as unacceptable.

What then would be the effect of an American troop withdrawal on South Korea itself? Perhaps the most immediate effect would be an effort to test the credibility of any remaining American commitments. American aircraft alone do not signal America's commitment, but rather indicate America's desire to replace commitment with flexibility. Korea and Japan would receive little encouragement from American aircraft sitting on the runway ready to fight or flee at the earliest indication of trouble. The next time there is a major incident along the demilitarized zone, the whole world would be looking on. Anything less than a major show of force by the United States would be interpreted as further decay in Korean-American relations.

Reductions in the American military presence in Korea would require continued modernization of Korean forces, an expensive task. Estimates in excess of $5.2 billion and stretching into the early 1980's are generally forecast.

In the event of an American withdrawal, South Korea may assume that the reintroduction of American troops in peace or war is unlikely to occur or to be timely.

For this reason, South Korea may seek new allies in the region even though none is as conducive to stability in Northeast Asia as is the United States. The Republic of China—Taiwan—has an interest in the security of South Korea and even offered troops during the Korean war. An alliance with Taiwan, however, might encourage an active alliance between Red China and North Korea. Japan would seem to be a likely candidate for an alliance with Korea were it not for the traditional anti-Japanese feeling in Korea. Also, the essential pacifism of the present Constitution and the apathy of the Japanese people would serve to inhibit such an alliance. Any arrangement would send serious shock waves through Japan and the rest of Asia.

Nevertheless, the Government of Japan has become more vocal in its efforts to persuade the United States to retain its ground forces in Korea. Last year, Prime Minister Fukuda is reported to have told President Carter that American forces in Korea provide the shield for the defense of Japan, and Japanese defense officials have become more explicit in their recommendations for the defense of Korea and Japan. Although Japan's military activity is limited by its Constitution, Tokyo has made minor increases in its defense expenditures and has continued to provide diplomatic and logistical support to South Korea and American forces there. Japan is concerned not only for the security of Korea but also that Korea remain politically and economically stable; 40 percent of all Korean imports come from Japan. There is over $700 million worth of Japanese investment in Korea and there was a $3.7 billion trade volume between the two nations last year. Obviously, Japan will want to preserve these close economic links.

Further, the Governments of Thailand, the Philippines, Singapore, and Australia have expressed serious concern over American troop wtihdrawal from Korea, and its implications for their own security. Consultation with these nations is vital if our relations are to remain cordial.

President Carter's proposed troop withdrawals on an arbitrary schedule cannot be justified on the basis of changes in the military and geopoiitical balance in Northeast Asia. Motivations for the disengagement of American forces such as dissatisfaction with Seoul's disappointing human rights record, and scandals in the United States involving Korean nationals may be valid but do not warrant the risks involved. Certainly, if South Korea was to become a model, Western-style democracy, pressure for an American pullout would be greatly reduced, but not eliminated.

To those who see a dollar savings for the U.S. Defense Department in troop withdrawal, cost estimates tell a different story:

A sum of $400 to $800 million in relocation of American troops;

A sum of $800 million lost in equipment that the 2d Division will leave behind;

A sum of $1 billion to realize the administration's intent to reequip the 2d Division as a mechanized infantry division; and

A sum of $1.4 billion in foreign military sales credits to assist Korea in its force improvement plan (FIP).

There will be no savings to the United States. Indeed there will be a considerable expenditure over and above the cost of maintaining troops there.

In the wake of the fall of Vietnam, Laos, Cambodia, and Angola, and in view of the increased Soviet adventurism in the Third World, an impending American withdrawal from Korea causes concern among many allies and friends that the United States will abandon her responsibilities as a great power in order to avoid the turmoil which is so characteristic of the world today.

Many nations of the globe see America's retrenchment as a destabilizing event and are looking elsewhere for political and military support. Anticipating difficulties in obtaining military support and equipment from the United States, many nations friendly to the United States are diversifying their sources of weaponry and are manufacturing modern arms for their own use and for export. Among industrially advanced nations faced with serious military threats—nations such as Korea, Israel, Taiwan, and South Africa—there is tremendous pressure for the development of nuclear weapons. A similar sense of isolation is gradually emerging in Japan and would be accelerated by a premature American withdrawal from Korea.

An American troop withdrawal from Korea may in time be desirable. Indeed, the South Koreans themselves favor such eventual action. I quote President Park speaking in the fall of 1975:

> In five years, Korea will be able to repulse the North Korean Communists without the participation of the U.S. forces if the Communists invade Korea without the assistance of Communist China or the Soviet Union.

Given the Republic of Korea's thriving economy, whose GNP has tripled in the last decade, and her population resources, which currently provide 2.8 million reserve military personnel, it is reasonable to assume that with sufficient preparation, the Republic of Korea will be able to provide for her own defense, in the general time frame proposed by President Park. To this desirable end, though I doubt if it can be achieved by 1980, we should be committed.

Mr. President, in the meantime, the perception that the United States is a dependable ally and a responsible world power would be reinforced if any American troop reductions in Korea are executed in a manner and at a time which guarantees stability in Northeast Asia. A hasty withdrawal would increase the chances of war in Korea and Northeast Asia, and could result in reduced political freedoms and increased nuclear proliferation throughout much of the Third World.

NUCLEAR TESTING AND THE CTB

Mr. BARTLETT. Mr. President, recently, the Acting Assistant Secretary of Energy for Defense programs, Dr. Don-

ald M. Kerr, testified before the House Armed Services Committee that continued nuclear weapons testing was of great importance to the United States. He concluded that:

A total cessation of testing in the long run would inevitably result in a steady decline of our confidence in the reliability of our nuclear deterrent and risk a steadily growing asymmetry between U.S. and Soviet military forces.

Kerr's testimony, which represented the coordinated professional judgment of technical experts throughout the Government, was not unusual. It is consistent with what I was told by our test ban negotiators in Geneva and is consistent with views expressed to me by a wide variety of technical experts. It is also consistent with testimony previously received by Senate committees.

With the exception of a few long-time CTB activists, witnesses before Senate committees have recognized that retaining confidence in the reliability of our nuclear weapons over time would require continued testing. For example, last year in written response to a question from Senator PELL concerning the importance of testing to maintaining the reliability of the stockpile, the State Department provided the following comment prepared by and coordinated with Dr. Kerr's predecessor, Alfred D. Starbird:

Assuming compliance, . . . over a period of time, each side would inevitably have somewhat degraded confidence in the reliability of its nuclear weapons.

Starbird also noted:

Under a moratorium or CTB, safeguards cannot preclude but can delay this degradation of the stockpile.

This view was consistent with testimony from our chief CTB negotiator, ACDA Director Paul Warnke, who said:

There is no question of the fact that there would be some deterioration of confidence in the stockpile, but again that deterioration would apply to both sides.

Generally, most advocates of a CTB do not reject the notion that a CTB would result in a lowered confidence in our nuclear weapons stockpile. Indeed, they believe that it is desirable because they think that the Soviet Union will also loose confidence in its nuclear weapons and that this will result in a more stable nuclear balance and the beginning of nuclear disarmament.

Of course, there is a risk. If our verification procedures and technologies are inadequate, the Soviet Union could conduct secret tests which would assure the reliability of their weapons even as we lose confidence in ours. Also, there is reason to believe that Soviet nuclear weapons are less sensitive to changes in design and materials and would therefore be less likely to require testing to correct problems.

If the Soviet Union were skillful in its deception practices and if the United States did not insist upon a verifiable CTB, Moscow might even be able to develop new tactical, and some strategic, warheads. Although it is frequently assumed that the United States has a major technological lead in warhead design, the evidence for that assumption is limited to conjecture about why Soviet warheads are so large.

In fact, we do not know that their warheads are any less sophisticated than ours because we have not had the benefit of information from atmospheric testing since 1963. What we learned then was that the Soviet Union had introduced major innovations into warhead designs and was experimenting with weapons effects about which we had limited knowledge. Given the large payloads of Soviet missiles, Russian warheads do not need to be as small as American warheads to place the same number of reentry vehicles on a missile. And size tells us very little about the capability and effects of a particular warhead. In short, small size warheads are a sign of sophistication only when you have very small missiles, as is the case for the United States.

Concerning this risk that the Soviet Union might be able to obtain advantage as the United States lost confidence in more and more of its nuclear weapons, the Director of the Defense Nuclear Agency testified this year that he believed "it would be possible for the Soviet Union to maintain stockpile reliability under a CTB" and that an unverifiable CTB "would be asymmetrical in favor of the Soviets." It is for that reason that I believe we should make verification the key principle in our negotiation of a comprehensive test ban treaty. Our negotiating position should also take into account advantages which the Soviet Union might obtain during a test ban.

Given a long history of testimony to the effect that a complete cessation of testing would result over time in a loss of confidence in our existing nuclear weapons and given the danger that the Soviet Union might gain an advantage from this development, I was surprised to learn that Dr. Kerr's statement to that effect caused a heated controversy within the adminisration and is reported to have drawn the concern of the Soviet negotiators in Moscow. Indeed, even as he spoke, Dr. Kerr's assertion that testing would be required to maintain the long-term reliability of the stockpile was challenged in a letter to the President written by Richard Garwin, signed by Garwin, Noris Bradbury, and J. Carson Mark, endorsed by Hans Bethe and the Federation of American Scientists, and placed in the CONGRESSIONAL RECORD by my colleague, the senior Senator from Massachusetts (Mr. KENNEDY).

The Garwin letter has apparently caused quite a debate in scientific and arms control circles. The letter asserts that nuclear testing is not necessary to maintain confidence in the reliability of our existing nuclear weapons because we can discover any problems through inspection and can overcome those problems without testing by:

"(1) Remanufacture to precisely the original specifications.

(2) Remanufacture with minor modifications in surface treatment, protective coatings, and the like, after thorough review by experienced and knowledgeable individuals.

(3) Replace the nuclear explosive by one which has previously been tested and accepted for stockpile."

Although it is true that many problems can be discovered by inspection and that some problems can be corrected without testing, the assertion that testing is not necessary at all conflicts with testimony before the Congress and with the view of the vast majority of scientific and arms control experts with whom I have spoken.

Clearly, many examples exist of problems discovered only during nuclear detonations and confidence that corrective measures will work has frequently required testing. In fact, even developing the experienced personnel who are competent to judge whether or not a particular change in material or design can be made without testing requires testing.

Furthermore, efforts at remanufacturing weapons exactly as they were first built may not prove as easy as the Garwin letter suggests. Many materials and processes used in weapons now part of our nuclear stockpile are no longer available, and more may become unavailable or too expensive to obtain. The recent controversy over the OSHA regulation of beryllium production illustrates the problem. The Secretary of Energy wrote to the Secretary of Health, Education, and Welfare expressing concern over the impact a decline in production of beryllium would have on our nuclear weapons stockpile if new OSHA restrictions were to cause producers to leave that industry. Similar problems with other strategic materials and processes can be anticipated. Thus, even in cases where problems with nuclear weapons theoretically could be fixed by exact remanufacture of the weapons, in practice even that is often not possible.

Although the question of the need for nuclear testing to maintain the reliability of our nuclear weapons is only one of the issues surounding a comprehensive test ban, it is an important one. For that reason, I wrote to the current directors of our Nation's two nuclear design laboratories and one former director to see if they agreed with the conclusions of the Garwin letter. They did not.

Mr. President, to aid my colleagues in dealing with the complex issues which will surround any comprehensive test ban, I ask unanimous consent that the original Garwin letter be reprinted in the CONGRESSIONAL RECORD following my remarks along with the replies by Dr. Harold Agnew, director of the Los Alamos Scientific Laboratory, Dr. Roger Batzel, director of the Lawrence Livermore Laboratory, and Dr. Michael May, former director of the Lawrence Livermore Laboratory. Also, I ask unanimous consent that an article from the Washington Post on OSHA regulation of beryllium be printed. Thank you.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AUGUST 15, 1978.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As individuals long involved in the conception, design, manufacture, test, and maintenance of many of the United States' nuclear and thermonuclear weapons, we want you to know of our judgment on a question which has assumed considerable prominence in connection with the

Comprehensive Test Ban Treaty ("CTBT"). That is the question of the degree of assurance in the continued operability of our stockpiled nuclear weapons in the absence of any possibility of testing with significant nuclear yield (for instance, with testing limited to laboratory-type experiments.)

As you know, the assurance of continued operability of stockpiled nuclear weapons has in the past been achieved almost exclusively by non-nuclear testing—by meticulous inspection and disassembly of the components of the nuclear weapons, including their firing and fuzing equipment. Problems encountered in this inspection are normally validated by additional sampling and solved by the remanufacture of the affected components. This program is, of course, supplemented by the instrumented firing of the entire nuclear weapon with inert material replacing the fissile materials, and the entire program thus far described would be unaffected by the requirements of a CTBT. It has been exceedingly rare for a weapon to be taken from stockpile and fired "for assurance."

It has also been rare to the point of nonexistence for a problem revealed by the sampling and inspection program to require a nuclear test for its resolution. There are three acceptable approaches to the correction of deficiencies without requiring nuclear testing:

(1) Remanufacture to precisely the original specifications.

(2) Remanufacture with minor modifications in surface treatment, protective coatings, and the like, after thorough review by experienced and knowledgeable individuals.

(3) Replace the nuclear explosive by one which has previously been tested and accepted for stockpile.

A fourth option, to replace the troubled nuclear system by one not already proof-tested may result in improved performance, lesser use of special nuclear materials, or the like, virtues which have more to do with improvement of the stockpile than with confirming its operability.

We believe that the key question to be answered by those responsible for making and maintaining nuclear weapons is

"Can the continued operability of our stockpile of nuclear weapons be assured without future nuclear testing? That is, without attempting or allowing improvement in performance, reductions in maintenance cost, and the like, are there non-nuclear inspection and correction programs which will prevent the degradation of the reliability of stockpiled weapons?"

Our answer is "yes," and we now discuss the reasons why knowledgeable people may have answered "no" to seemingly similar questions.

First, we confined ourselves essentially to the question. "If the stockpile is not required to improve, can it be kept from degrading?" Others may have had in mind the normal work of the weapons laboratories, by which nuclear weapons are continuously made somewhat more efficient, less costly in terms of nuclear materials, adapted to new packaging requirements, and safer to handle—for instance by the substitution of insensitive explosion. We have participated in such programs and find them both interesting and useful. Were these "improvement programs" carried out long enough without nuclear testing, the weapons thus affected would indeed have uncertain performance; the solution under a CTBT would be to forego such programs in order not to sacrifice stockpile reliability to a desire for minor improvement in performance.

Second, it is true that certain deficiencies have in the past been corrected by the replacement of the affected nuclear system by another one, following a test certifying the replacement model as ready for stockpile. This corrective measure would not be available under a CTBT. But the examples normally cited need not have been corrected in this way; for instance one Polaris warhead problem could readily have been solved by remanufacture with an acceptable change of surface treatment on the component which had caused the problem. The change of nuclear system was not absolutely necessary for the correction of the problem observed.

Finally, it is sometimes claimed that remanufacture may become impossible because of increasingly severe restrictions by EPA or OSHA to protect the environment of the worker. We note that additional protective measures which might be an intolerable cost burden in the manufacture of cardboard or of lightbulbs or of aircraft brakes are easily affordable in connection with the nuclear stockpile. Thus if the worker's environment acceptable until now for the use of asbestos, spray adhesives, or beryllium should be forbidden by OSHA regulations, those few workers needed to continue operations with such material could wear plastic film suits (supplied with external air) commonly used for isolation against germs and against certain pharmaceuticals. It would be wise also to stockpile in appropriate storage facilities certain commercial materials used in weapons manufacture which might in the future disappear from the commercial scene.

It has been suggested that under a CTBT a President or Congress or the Department of Energy might not provide funds for stockpile maintenance inspection and correction, or that a President might not provide a requested exemption from OSHA or EPA requirements. We see no reason to assume that the national security bureaucracy will not continue to serve the national interest, and we would welcome a statement in conjunction with a CTBT that non-nuclear testing, inspection, and remanufacture where necessary will be fully supported in order to ensure the continued operability of stockpiled nuclear weapons.

We believe that the Department of Energy, throught its contractors and laboratories, can through the measures described provide continuing assurance for as long as may be desired of the operability of the nuclear weapons stockpile. We are making this statement available to others in the Executive and the Congress.

Sincerely Yours,

J. CARSON MARK,
NORRIS E. BRADBURY,
RICHARD L. GARWIN.

UNIVERSITY OF CALIFORNIA,
LOS ALAMOS SCIENTIFIC LABORATORY,
Los Alamos, N. Mex., September 22, 1978.

Senator DEWEY F. BARTLETT,
U.S. Senate,
Committee on Armed Services,
Washington, D.C.

DEAR SENATOR BARTLETT: Reference your letter of September 1, 1978. I appreciate the opportunity to comment on the Garwin *et al.* letter. In my opinion our present nuclear weapon stockpile can be maintained for an indefinite period with adequate certainty of its reliability only if we are allowed to test up to a few kt. If we are not allowed to test to this level, I can foresee problems arising which may seriously affect our strategic deterrent. In addition, without a test program we will certainly lose the knowledgeable experienced individuals who are able to recognize or cope with those problems.

We have been able to avoid most stockpile problems not only through a continuing nonnuclear surveillance program but through our present nuclear testing program. These tests have specific relevance to our stockpile since many of them have nuclear components identical to those existing in stockpiled systems.

Coupled with the need to test up to a few kt is the indisputable fact that we will not be able to determine if any other nation is honoring a zero-threshold treaty. I believe that eventually, if the Soviets make their land mass accessible to us, we may be able to monitor a treaty down to about 5 kt, but I question our ability to do so now. Any CTB will be in effect a threshold treaty. I don't believe we should set the threshold below a level which we can have reasonable assurance of monitoring, particularly when that level would be sufficient for essential U.S. tests.

In theory, we should be able to rebuild, given enough resources anything which has been built in the past. This is the basis of the Garwin letter. Unfortunately, theory and actual practice are not always compatible. Recent events have confirmed my opinion that if problems do occur in the stockpile, we will not be able to rebuild exactly certain vital components, and without nuclear testing serious questions will arise for which we may no longer have the expertise to answer. In my opinion, the implications are too serious to trust to wishful thinking. Present strategic systems and those about to enter the stockpile are quite different from those in which Bradbury and Mark were actually involved, and Garwin, competent as he is, has never been directly involved in putting any nuclear weapon into the stockpile.

I presume the objective of a CTB is to encourage other nations to sign the NPT. It would appear to me that if the major powers were to point out that over the years we have gone from unlimited testing in the atmosphere, to complete containment, to a 150-kt limitation, and now we are prepared to lower the threshold to a few kt it should indicate progressive restraint on our part. It could be especially effective if it were pointed out that a 5-kt threshold would preclude the introduction of any new strategic warheads but would insure the reliability of existing stockpiles. Maintaining the credibility of the strategic nuclear deterrent of both the East and West should be of concern to all nations. If any asymmetry should develop, it could be extremely destabilizing to world order.

In the meantime. I would hope that we would continue our efforts to bring into being a meaningful SALT agreement and a reduction in conventional arms. Until progress is made in these areas I would not support any type of CTB. Thanks again for contacting me on this vital matter.

Sincerely,

H. M. AGNEW,
Director.

LAWRENCE LIVERMORE LABORATORY,
September 25, 1978.

HON. DEWEY F. BARTLETT,
U.S. Senate, Committee on Armed Services,
Washington, D.C.

DEAR SENATOR BARTLETT: I would like to comment on the question of the reliability of the United States nuclear weapon stockpile under a comprehensive ban on nuclear weapon testing. As you are aware, a letter from Drs. Garwin, Bradbury, and Mark, dated August 15, 1978, claimed that the operability of the nuclear weapon stockpile can be maintained for as long as may be desired. In this letter I wish to summarize the reasons why I cannot subscribe to this view.

First, the nuclear weapon stockpile is not static. Changes have been made, are being made, and will be made. We expect all nuclear weapons will need to be replaced or remanufactured within a few decades of their original manufacture. More and more of our stockpiled weapons are approaching this retirement age. No amount of good intentions or executive decisions will prevent chemical corrosion, the unavailability of exact replacement materials, or new perceptions of

the safety of manufacturing processes. Additionally, budgetary considerations and probable new safety or systems requirements will provide an irresistable motivation for future changes in our weapons or their replacements, even under a CTBT.

Second, recognition of stockpile problems and their fixes can be made reliably only by experienced scientists and engineers. Experienced personnel will not be long available under a CTBT because some will leave weapons work for other fields, or some will leave because of the absence of the experimental confirmation necessary for scientific professionalism, or others will stay and lose their expertise through lack of the hard reality of experimental verification. Drs. Bradbury and Mark must certainly recall our experience with the test moratorium of 1958–61. During that time some of the best people left weapons work.

Also during that period, a number of new weapons were put into stockpile, owing to new system requirements such as Minuteman and Polaris. There were some design errors which were discovered, some by nuclear testing, some by non-nuclear testing. Some of these errors required nuclear tests for correction. The Garwin letter claims, as an example, that a change in surface treatment would have allowed remanufacture of a class of malfunctioning warheads. Being closer to the problems than they were, I can assure you that after a concerted study no solution to the problem was known to us other than the major design change we made, which necessitated and received nuclear test verification.

Third, the fact that nuclear testing of stockpile weapons has only infrequently shown problems in the stockpile does not mean that nuclear testing is unimportant for maintenance of stockpile reliability. Testing of other than stockpile weapons has led us to recognition and fixes of stockpile problems. The whole body of nuclear testing provides us with the expertise required to recognize, prevent, and fix stockpile problems and to assert with confidence that the current stockpile is highly reliable.

Although not discussed by Garwin et al., it is essential to bear in mind that we cannot assume that stockpile degradation will be symmetrical in respect to US and Soviet weapons. We just do not know how Soviet weapons are made, by what means they can maintain their weapon scientists, or what their remanufacturing problems are.

It is for these reasons that I believe the continued credibility of the US nuclear weapon deterrent cannot be assured for long without nuclear testing.

Sincerely,

ROGER E. BATZEL,
Director.

LAWRENCE LIVERMORE LABORATORY,
September 26, 1978.

Hon. DEWEY F. BARTETT,
U.S. Senate, Committee on Armed Services, Washington, D.C.

DEAR SENATOR BARTLETT: Thank you for your letter of September 15, 1978, concerning the letter by Dr. Norris Bradbury and others to the President, which Senator Kennedy placed in the CONGRESSIONAL RECORD for August 17, 1978.

Reviewing the arguments and counter-arguments in the matter, it seems to me that the essential differences are only in part matters of technical opinion. They also involve judgments about how the job of maintaining deterrent nuclear forces can be carried out today, in practice rather than theory.

As the letter writers recognize, deployed U.S. nuclear weapons have been and are now in a process of change. The reasons for the changes range from something as major as the development of a new missile system and the consequent need for changes in dimensions and yields, to something as apparently minor as the deterioration of some material on the outside of the weapon. The changes are sometimes verified with a nuclear test, sometimes not. The judgment as to whether a test is needed or not is informed by the ongoing nuclear test series.

I do not believe that these changes can stop if and when a Comprehensive Test Ban is signed. New systems will continue to be required, materials will continue to deteriorate. There are now in the process of development weapons aimed at fulfilling requirements that may arise after a CTB is in force. These weapons are not in final form, nor can they be. Certain changes will have to be made as the requirements become more clearly defined. The process cannot be frozen at a time of our choosing. Nuclear weapons are not isolated items, but part of the hardware of deterrent systems. Neither natural processes, nor the strategic situation, with all the technological and political factors that contribute to it, can remain static out of deference to the CTB.

To comtemplate relying on "remanufacture", "remanufacture with minor modifications", or "replac(ing) the nuclear explosive by one which has previously been tested" under these circumstances, seems to me risky in the extreme. It involves a misjudgment of the human and technical processes by which we arrive at new or modified nuclear weapon systems, and a misunderstanding of our capabilities and limitations.

Modifications will occur. Some are minor, some not so minor. There are differences of opinion about which modifications need to be tested and which do not. Resolving these differences through boards of experts, informed only by calculations and non-nuclear testing, is an unreliable procedure. One need not be a "nuclear testing buff" as Senator Kennedy puts it, to realize that, in every technical field, experiments have been needed to check on even what seemed to be most conservative assumptions—and, often enough, the assumptions have been found wrong. There are several instances in the nuclear weapon field and countless ones in other fields.

In sum, it is unrealistic, both from the strategic and the technological point of view, to assume that we can proceed with no change whatsoever in deployed weapons. Given that there will be some changes, it is equally unrealistic to assume that we will be able infallibly to draw the line between those that do and those that do not need to be verified by nuclear tests in the future, when we have not been able to do so in the past. The situation envisaged by Dr. Bradbury and others thus does not represent the real situation in which we find ourselves today.

I hope this letter is of help in your evaluation. I have sent these comments also to Congressman Kemp in answer to his request.

Sincerely yours,

MICHAEL M. MAY.

[From the Washington Post, Sept. 14, 1978]

SCHLESINGER FAULTS BERYLLIUM RULE, CITES NATIONAL SECURITY

(By Bill Richards)

Energy Secretary James R. Schlesinger has told federal occupational health officials that national security could be endangered if a proposed regulation is enacted cutting worker exposure to a suspected cancer-causing metal.

Officials said Schlesinger's warning was the first time the rationale of national security had been used to oppose costly production changes required of industry for worker safety.

In a two-page letter to Labor Secretary Ray Marshall, Schlesinger said a study by the Energy Department concluded recently that the cost of meeting a proposed exposure standard for beryllium may drive the only two non-communist producers of the metal out of business and cut off the U.S. supply.

"The loss of beryllium production capability," Schlesinger wrote in the Aug. 30 letter, "would seriously impact our ability to develop and produce weapons for the nuclear stockpile and, consequently, adversely affect our national security."

The Labor Department's Occupational Safety and Health Administration has proposed cutting worker exposure to the metal from two micrograms to one microgram in a cubic meter of air. The metal has been cited by federal health experts as responsible for causing fatal respiratory disease and cancer in workers.)

A copy of Schlesinger's letter and other related documents were obtained by The Washington Post. The documents indicate that top Health, Education, and Welfare Department officials, acting under political pressure, agreed recently to delay enactment of the tougher exposure standard and instead to institute a full review of the medical effects of beryllium.

The decision was made by Secretary Joseph A. Califano Jr., according to HEW documents, despite assurances earlier from the department's senior medical officer that enough medical evidence already existed to determine the cancer danger of the metal to workers.

Federal health officials, who asked not to be named, said laboratory studies on the metal have provided unusually strong evidence of the metal's danger as a human poison and carcinogen. The metal has been shown to cause cancer, they said, in nine species of laboratory animals. Evidence in two species is currently required by federal officials for a determination that a substance is a potential carcinogen.

In his letter to Marshall, Schlesinger said: "It is improbable that industry would invest millions of dollars in an attempt to reduce the beryllium exposure with no assurance that their facilities can be brought into compliance with the proposed standard."

Such a standard, Schlesinger added, "places a heavy burden upon the free world's two primary beryllium producers, who might cease production of high purity beryllium metal and beryllium oxide" if the standard is put into effect.

The two firms producing the ultralight metal are Kawecki-Berylco Industries Inc., of Reading, Pa., and the Brush Wellman Co., of Cleveland. Both have opposed the regulation since it was proposed two years ago. A 1975 federal study estimated that about 30,000 workers are exposed to beryllium dust and fumes on the job.

Beryllium is a critical component in the aerospace and nuclear industries and is used in items such as nuclear reactors, rocket motor parts, missile guidance systems and heat shields. According to industry officials, virtually all the pure beryllium that is produced is purchased for government use.

Concern over the toxicity of the metal is not new. In 1968, according to a HEW memo, officials became concerned over private researchers' warnings that the fallout from rocket firings could expose civilian populations near takeoff sites to beryllium. After a Massachusetts researcher threatened to make her fears public, a senior HEW official wrote, "This could be a bombshell if her views would ever get into print."

Other HEW documents obtained by The Washington Post indicate that intense political pressure this year caused the agency to back down from its strong stand for an immediate new beryllium standard.

In a letter in March, Dr. Julius B. Richmond, assistant HEW secretary for health, noted concern from political and industrial officials over the beryllium studies used by federal regulators. Richmond said he would

go along with a review of the studies if necessary and estimated it would take two weeks.

"However," the HEW official wrote, in a letter to OSHA Director Eula Bingham, "our basic conclusions concerning the carcinogenicity of beryllium were reached before the above mentioned studies were completed. I would expect, therefore, that the standard-setting process can proceed."

Despite Richmond's assurances, HEW Secretary Califano came under pressure from several senators to delay the standard setting. In an Aug. 21 letter from Califano to Sen. John Glenn (D-Ohio), the HEW secretary noted the interest for an independent review of beryllium by Glenn—whose state is the home of one of the two beryllium producers—and promised it would be undertaken by Richmond.

A spokesman for Califano said yesterday that the HEW Secretary acted after Richmond apparently changed his mind and decided a new study of the metal was necessary. The spokesman said Califano discussed the beryllium situation with Richmond but that Richmond apparently did not tell his boss of his earlier letter to Bingham saying the new study was not necessary.

Califano's review, according to HEW documents and federal officials, is considerably broader than the one first suggested. Federal officials estimated it could delay implementation of the beryllium standard for up to a year. The standard was scheduled to go into effect during the past summer, officials said.

Califano was asked about the beryllium controversy during a union health and safety conference here this week. He told delegates to the conference he was not aware of the conflict over the exposure standard for the metal.

Schlesinger's letter has raised additional questions. Energy Department officials said yesterday it would cost about $150 million to convert the nation's two beryllium producers' facilities to attempt to meet the proposed standard.

However, according to Dr. F. Charles Gilbert, deputy director of DOE's Office of Military applications, only a small portion of the two firms' total beryllium production is the type purchased by the government.

Gilbert said about 2 percent of Kawecki-Berylco's beryllium production is "pure beryllium," the kind used by the government for defense and aerospace programs. About 10 percent of Brush Wellman's output is pure beryllium, he said.

An official of Kawecki-Berylco estimated yesterday it would cost his company about $12 million to try to meet the new standard for its pure beryllium production facility. Brush Wellman officials said they were unable to estimate the cost of trying to convert their pure beryllium facility.

Officials of both firms said, however, they did not believe they could meet the proposed standard with current technology no matter how much money they spent. H. G. Piper, president of Brush Wellman, said in a telephone interview his company would continue its nongovernment beryllium production even if it meant violating the new standard.

"We already violate the standard they have now," he said.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, Mr. LONG has left the floor, I seek recognition.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, we are continuing to put forth an effort to reach a time agreement on the hospital cost containment vehicle. For that reason, that we may continue, I ask unanimous consent that my right to the floor be preserved while I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Wisconsin without losing my right to the floor.

Mr. NELSON. Mr. President, I ask unanimous consent that Larry Gage, formerly of my staff, now with HEW, who has been working with me on my amendment, be granted privilege of the floor during the course of the consideration of the hospital cost containment legislation and the votes thereon.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 5285

Mr. ROBERT C. BYRD. Mr. President, with the understanding that the bill now before the Senate will be laid aside in the event I can get a time agreement, and that the Senate would proceed to the consideration then of H.R. 5285, Calendar Order No. 1031, which is an act to amend the Tariff Schedules of the United States with respect to the tariff treatment accorded to film, strips, sheets, and plates of certain plastics or rubber, thus allowing Senators to call up their amendments with respect to hospital cost containment, I would proceed to propound such a unanimous consent request.

Mr. HEINZ. Reserving the right to object, is that everything?

Mr. ROBERT C. BYRD. I have not propounded any request yet, but I will be glad to yield to the distinguished Senator.

Mr. HEINZ. I was just wondering what else there may be to the Senator's unanimous-consent request.

Mr. ROBERT C. BYRD. I will be glad to state that request. The request would be as follows: That at such time as the bill, H.R. 5285, is called up and made the pending business—and it would be understood if the agreement is entered into I would move to proceed immediately to that bill—at such time as that bill is called up and made the pending business before the Senate, there be a time limitation on it as follows: 1 hour to be equally divided between Senator TALMADGE and Senator KENNEDY; that there be a time limitation on an amendment by Senator KENNEDY of 40 minutes, to be equally divided, that will be in the usual form; that there be a time limitation on an amendment by Senator NELSON of 40 minutes, to be equally divided, in accordance with the usual form; and that there be a time limitation on any other amendments of 20 minutes, to be equally divided, and that the agreement be in the usual form.

Mr. ABOUREZK. Reserving the right to object, Mr. President, I want to ask a question.

The Senator is going to call up H.R. 5285 for the purpose of putting a substitute on that dealing with hospital cost containment?

Mr. ROBERT C. BYRD. There would be hospital cost containment amendments offered. Mr. KENNEDY would offer one. Mr. NELSON would offer one.

Mr. ABOUREZK. Would Senator TALMADGE's original bill be offered as an amendment?

Mr. ROBERT C. BYRD. It would be a vehicle.

Mr. ABOUREZK. Well, Mr. President, may I just say, there is a section of the Talmadge bill that deals with exempting from Freedom of Information Act.

What I am trying to protect, the jurisdiction of my subcommittee in Judiciary, which has jurisdiction over Freedom of Information, that bill never came through, through my subcommittee, and what I would like to do is protect myself for a point of order.

So I would like to be able to have the agreement in the form that I can raise a point of order that would lie to be decided by the Chair, of course, if I could do that.

Mr. ROBERT C. BYRD. Does the Senator from Georgia wish to respond?

Mr. ABOUREZK. I do not want to get third-degreed out.

Mr. ROBERT C. BYRD. Mr. President, while the Senator is conferring, I would add to that agreement that any debate on any debatable motion, point of order, or appeal, if such point of order is submitted to the Senate for its discussion, be limited to 10 minutes, to be equally divided in accordance with the usual form.

Mr. ABOUREZK. I am still reserving my right to object.

Mr. ROBERT C. BYRD. Yes.

And that Senator BAKER have 20 minutes on an amendment by Senator BAKER, equally divided in accordance with the usual form; on an amendment by Senator MORGAN there be a time limitation of 40 minutes, to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

Mr. ABOUREZK. I am still reserving my right to object. I want to include in the agreement, if it is possible that the leader would do that. If we offer the Talmadge bill as an amendment, I am precluded from raising a point of order.

That is what I am talking about. It is a vehicle. But if he offers it as an amendment to the vehicle, I am precluded from raising a point of order on the grounds of jurisdiction.

Mr. ROBERT C. BYRD. It is in the bill.

Mr. ABOUREZK. I know. I want to take it out of the bill. I just want it to be considered as original text for the purpose of raising a point of order on the jurisdictional question of that section, if we include that, or a motion to strike, either one.

Mr. ROBERT C. BYRD. Mr. President, that will be included in the request.

Several Senators addressed the Chair.

Mr. BAKER. Reserving the right to object, I have a request from the Senator from North Carolina to be included in such a request, if such a request is made.

Mr. HELMS. A time stipulated for other amendments, 20 minutes, 10 to a side, would be fine.

Mr. BAKER. All right.

In addition to that, did I understand the majority leader to say his unanimous-consent request included to provide amendments be in the usual form?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Except those specified?

Mr. ROBERT C. BYRD. Yes, except those specified.

Several Senators addressed the Chair.

Mr. BUMPERS. Reserving the right to object——

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, the unanimous-consent agreement does not cover germaneness.

Mr. TALMADGE. Yes it does.

Mr. ROBERT C. BYRD. Yes, it does.

Mr. BUMPERS. Then I would like to be included. The Senator did not name my amendment. I would like for my amendment to be specifically——

Mr. ROBERT C. BYRD. The Senator's amendment would be germane, but I thought I mentioned the Senator specifically.

In any event, I mention the Senator's name now.

Mr. BUMPERS. Twenty minutes, 10 on a side.

Mr. ROBERT C. BYRD. Equally divided.

Several Senators addressed the Chair.

Mr. HEINZ. Reserving the right to object, my understanding of the unanimous-consent request is that upon the disposition of the hospital cost containment, that we would return to the pending business, which is the Sugar Act.

Mr. ROBERT C. BYRD. Yes.

Mr. HEINZ. With that understanding, I shall not object.

Mr. ROBERT C. BYRD. All right.

The PRESIDING OFFICER. How much time is set aside for the Senator from North Carolina?

Mr. DOLE. Twenty minutes, 10 on a side.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Reserving the right to object, we have sort of done this piecemeal. Can the Chair state now the amendments that will be specified by name in the unanimous-consent?

The PRESIDING OFFICER. Senator KENNEDY, 40 minutes; Senator NELSON, 40 minutes; Senator BAKER, 20 minutes; Senator MORGAN, 40 minutes; Senator BUMPERS, 20 minutes; Senator HELMS, 20 minutes; all other amendments, 20 minutes; debatable motions, appeals, et cetera, 10 minutes.

Mr. BAKER. And the request is in the usual form?

The PRESIDING OFFICER. In the usual form.

Mr. SCHWEIKER. Any Senator has a 20-minute prerogative, that does not have to be specified in there?

Mr. BAKER. No.

The PRESIDING OFFICER. Any amendment will get 20 minutes, equally divided.

Mr. SCHWEIKER. I have several amendments, and I am protected.

The PRESIDING OFFICER. The Senator is correct.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. I yield to the Senator from Utah.

Mr. HATCH. I have four amendments to this bill.

Mr. ROBERT C. BYRD. Are they germane? If not, they would be included in the——

Mr. HATCH. I am not sure.

Mr. BAKER. Include them.

Mr. ROBERT C. BYRD. It is all right with me to include them, but I do not know what we may be getting on amendments that are not explained here. I am not saying this just with reference to the Senator.

Mr. METZENBAUM. I have an amendment that is germane.

Mr. BAKER. Twenty minutes on four amendments?

Mr. HATCH. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HATCH. Are we going to continue on the nongermane hospital containment amendment?

Mr. TALMADGE. No, it will be germane.

Mr. HATCH. How will it be germane?

Mr. TALMADGE. Relating to hospital cost containment. That is the bill that will be pending before the Senate.

Mr. HATCH. That will be the pending bill?

Mr. TALMADGE. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senator's amendments be included—he has four—with a time limitation of 20 minutes, equally divided.

Mr. HATCH. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Mr. President, reserving the right to object——

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, with the understanding that I retain my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the concern has been expressed that an amendment dealing with the Illinois Brick matter might be one of the amendments that is specified which can come in——

Mr. KENNEDY. I can assure the leader that that will not be an amendment to this bill. My legislation is on the calendar, and it has been there for several months, and it will not be an amendment to this bill.

Mr. ROBERT C. BYRD. I thank the Senator. I did not have the Senator in mind, but other Senators have gotten amendments in simply by naming the author of the amendment.

I ask unanimous consent—I hope I do not step on anybody's toes—I ask unanimous consent, as a part of this agreement, that no amendments dealing with the Illinois Brick matter be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, did we get the entire request agreed to?

The PRESIDING OFFICER. Yes. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, will the Senators withdraw their amendments to the pending sugar bill?

Mr. TALMADGE. I withdraw my amendment.

Mr. KENNEDY. I withdraw the amendment.

Mr. ROBERT C. BYRD. Mr. President, are the amendments withdrawn?

The PRESIDING OFFICER. The Senator is correct.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 7200, an act to amend the Social Security Act to make needed improvements in the programs of supplemental security income benefits, aid to families with dependent children, child welfare services, and for other purposes.

Robert C. Byrd, Abraham Ribicoff, Spark M. Matsunaga, Daniel K. Inouye, Russell B. Long, Milton J. Young, Robert Dole, Howard H. Baker, Jr., Ted Stevens, Richard (Dick) Stone, Carl T. Curtis, Dale Bumpers, Jim Sasser, Robert Morgan, Herman E. Talmadge, and Gaylord Nelson.

MEDICARE-MEDICAID ADMINISTRATIVE AND REIMBURSEMENT REFORM ACT

Mr. ROBERT C. BYRD. Mr. President, I now move that the Senate proceed to the consideration of Calendar No. 1031, H.R. 5285, the bill on which we have just reached a time agreement.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5285) to amend the Tariff Schedules of the United States with respect to the tariff treatment accorded to film, strips, sheets, and plates of certain plastic and rubber.

The motion was agreed to, and the Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Medicare-Medicaid Administrative and Reimbursement Reform Act".

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PRACTITIONER REIMBURSEMENT REFORMS

Sec. 5. Agreement by physicians to accept assignments.
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Sec. 21. Resources of medicaid applicant to include assets disposed of at substantially less than fair market value.
Sec. 22. Rate of return on net equity for for-profit hospitals.
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Sec. 34. Study of criteria employed for classifying a facility as a skilled nursing facility.
Sec. 35. Authority for certain States to buy-in coverage under Part B of medicare for certain medicaid recipients.

CRITERIA FOR DETERMINING REASONABLE COST OF HOSPITAL SERVICES

SEC. 2. (a)(1) The first sentence of section 1861(v)(1)(A) of the Social Security Act is amended by striking out "The" and inserting "Subject to subsection (bb), the".

(2) Section 1861(v) of such Act is further amended by adding at the end thereof the following new paragraph:

"(8) For additional requirements applicable to determination of reasonable cost for services provided by hospitals, see subsection (bb).".

(b) Section 1861 of such Act is amended by adding after subsection (aa) the following new subsection:

"Criteria for Determining Reasonable Cost of Hospital Services

"(bb)(1) In order more fairly and effectively to determine reasonable costs incurred in providing hospital services, the Secretary shall, not later than April 1, 1979, after consulting with appropriate national organizations, establish a system of hospital classification under which hospitals furnishing services initially will be classified—

"(A) by size, with each of the following groups of hospitals being classified in separate categories: (i) those having more than 5, but fewer than 25, beds, (ii) those having more than 24, but fewer than 50, beds, (iii) those having more than 49, but fewer than 100, beds, (iv) those having more than 99, but fewer than 200, beds, (v) those having more than 199, but fewer than 300, beds, (vi) those having more than 299, but fewer than 400, beds, (vii) those having more than 399, but fewer than 500, beds, and (viii) those having more than 499 beds;

"(B) by type of hospital, with (i) short-term general hospitals being in a separate category, (ii) hospitals which are primary affiliates of accredited medical schools being in one separate category (without regard to bed size), and (iii) psychiatric, geriatric, maternity, pediatric, or other specialty hospitals being in the same or separate categories, as the Secretary may determine appropriate, in light of any differences in specialty which significantly affect the routine costs of the different types of hospitals;

"(C) as rural or urban; and

"(D) according to such other criteria as the Secretary finds appropriate, including modification of bedsize categories;

but the system of hospital classification shall not differentiate between hospitals on the basis of ownership.

"(2) The term 'routine operating costs' used in this subsection does not include—

"(A) capital and related costs,

"(B) direct personnel and supply costs of hospital education and training programs,

"(C) costs of interns, residents, and non-administrative physicians,

"(D) energy costs,

"(E) malpractice insurance expense, or

"(F) ancillary service costs.

"(3)(A) During the calendar quarter beginning on January 1 of each year, beginning with 1979, the Secretary shall determine, for the hospitals in each category of the system established under paragraph (1), an average per diem routine operating cost amount which shall (except as otherwise provided in this subsection) be used in determining payments to hospitals.

"(B) The determination shall be based upon the amount of the hospitals' routine operating costs for the most recent accounting year ending prior to October 1 of the calendar year preceding the calendar year in which the determination is made. If, for any accounting year which starts on or after July 1, 1979, a hospital's actual routine operating costs are in excess of the amount allowed for purposes of determining payment to the hospital pursuant to this subsection and subsection (v), only one-half of such excess shall be taken into account in making any determination which the Secretary shall make under this paragraph.

"(C) In making a determination, the routine operating costs of hospitals in each category shall be divided into personnel and nonpersonnel components.

"(D)(i) The personnel and nonpersonnel components of routine operating costs for hospitals in each category (other than for those excluded under clause (ii)) shall be divided by the total number of days of routine care provided by such hospitals to determine the average per diem routine operating cost for such category.

"(ii) In making the calculations required by subparagraph (A) the Secretary shall exclude any newly opened hospital (as defined in the second sentence of paragraph (4)(F)), and any hospital which he determines is experiencing significant cost differentials resulting from failure of the hospital fully to meet the standards and conditions of participation as a provider of services.

"(E) There shall be determined for each hospital in each category a per diem target rate for routine operating costs. Such target rate shall equal the average per diem routine operating cost amount for the category in which the hospital is expected to be classified during the subsequent accounting year, except that the personnel component shall be adjusted using a wage index based upon general wage levels for reasonably comparable work in the areas in which the hospitals are located. If the Secretary finds that, in an area where a hospital in any category is located for the most recent twelve-month period for which data with respect to such wage levels are available, the wage level for such hospital is significantly higher than such general wage level in that area (relative to the relationship within the same hospital group between hospital wages and such general wages in other areas), then such general wage level in the area shall be deemed equal to the wage level for such hospital, only with respect to the hospital's first accounting year on or after July 1, 1979.

"(4)(A)(i) The term 'adjusted per diem target rate for routine operating costs' means the per diem target rate for routine operating costs plus the percentage increase in costs determined under the succeeding provisions of this subparagraph.

"(ii) In determining the adjusted per diem target rate, the Secretary shall add an annual projected percentage increase in the cost of the mix of goods and services (including personnel and nonpersonnel costs) comprising routine operating costs, based on an index composed of appropriately weighted indicators of changes in the economy in wages and prices which are representative of services and goods included in routine operating costs. Where actual changes in such weighted index are significantly different (at least one-half of 1 percentage point) from those projected, the Secretary shall issue corrected target rates on a quarterly basis. At the end of the hospital's accounting year, the target rate shall be adjusted to reflect the actual changes in such weighted index. Adjustments shall also be made to take account of changes in the hospital's classification.

"(B) For purposes of payment the amount of routine operating cost incurred by a hospital shall be deemed to be equal—

"(i) in the case of a hospital which has actual routine operating costs equal to or greater than that hospital's adjusted per diem target rate for routine operating costs, to the greater of—

"(I) the hospital's actual routine operating costs, but not exceeding—

"(a) in the case of the first accounting year of any hospital which begins on or

after July 1, 1979, and prior to July 1, 1980, an amount equal to the aggregate of (1) 100 percent of the hospital's adjusted per diem target rate for routine operating costs, plus (2) 15 percent of the amount described in clause (1), and

"(b) in the case of any accounting year after the accounting year described in clause (a), an amount equal to the aggregate of (1) 100 percent of the hospitals' adjusted per diem target rate for routine operating costs for such year, plus (2) a dollar amount equal to the dollar amount determined under clause (a)(2) for the category of such hospital, or

"(II) the amounts determined for the hospital under division (I) if it had been classified in the bed-size category which contains hospitals closest in bed-size to such hospital's bed-size (with a hospital which has a bed-size that falls halfway between two such categories being considered in the category which contains hospitals with the greater number of beds), but not exceeding the hospital's actual routine operating costs; and

"(ii) in the case of a hospital which has actual routine operating costs which are less than that hospital's adjusted per diem target rate for routine operating costs, to (I) the amount of the hospital's actual routine operating costs, plus (II) the smaller of (a) 5 percent of the hospital's adjusted per diem target rate for routine operating costs, or (b) 50 percent of the amount by which the hospital's adjusted per diem target rate for routine operating costs exceeds the hospitals' actual routine operating costs.

"(C) Any hospital (other than a newly opened hospital) excluded by the Secretary under paragraph (3)(D)(ii), shall be reimbursed for routine operating costs on the basis of the lesser of (i) actual costs or (ii) the reimbursement determined under this subsection.

"(D) On or before April 1 of the year in which the Secretary determines the amount of the average per diem operating cost for each hospital category and the adjusted per diem target rate for each hospital, the Secretary shall publish the determinations, and he shall notify the hospital administrator and the administrative governing body of each hospital with respect to all aspects of the determination which affect the hospital.

"(E) If a hospital is determined by the Secretary to be—

"(i) located in an underserved area where hospital services are not otherwise available,

"(ii) certified as being currently necessary by an appropriate planning agency, and

"(iii) underutilized,

the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to the underutilized capacity.

"(F) If a newly opened hospital is determined by the Secretary to have greater routine operating costs as a result of the cost patterns associated with newly opened hospitals, the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to such patterns. For purposes of this subparagraph a 'newly opened hospital' means a hospital which has not satisfied the requirements of paragraphs (1) and (7) of subsection (e) of this section (under present or previous ownership) for at least twenty-four months prior to the start of such hospital's accounting year.

"(G) If a hospital is determined by the Secretary to have greater routine operating costs as a result of changes in service on account of consolidation, sharing, or addition of services, where such consolidation, sharing, or addition has been approved by the appropriate State Health Planning and Development Agency or Agencies, the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to such changes in service.

"(H) If a hospital satisfactorily demonstrates to the Secretary that, in the aggregate, its patients require a substantially greater intensity of care than generally is provided by the other hospitals in the same category, resulting in unusually greater routine operating costs, then the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to the greater intensity of care required. To the extent that a hospital can demonstrate that it experiences routine operating costs in excess of such costs for hospitals having a reasonably similar mix of patients on account of consistently shorter lengths-of-stay in such hospital, which result from the greater intensity of care provided by such hospital, the excess routine operating costs shall be considered attributable to the greater intensity of care required.

"(I) The Secretary may further increase the adjusted per diem target rate applicable in Alaska and Hawaii to reflect the higher prices prevailing in such States.

"(J) Where the Secretary finds that a hospital has manipulated its patient mix, or patient flow, or provides less than the normal range and extent of patient services, or that an unusually large proportion of routine nursing service is provided by private-duty nurses, the routine operating costs of that hospital shall be deemed equal to the lesser of (i) the amount determined without regard to this subsection, or (ii) the amount determined under subparagraph (B).

"(5) Where any provisions of this subsection are inconsistent with section 1861(v), this subsection supersedes section 1861(v).

"(6)(A) Notwithstanding any other provision of this Act, in the case of any State which has established a reimbursement system for hospitals, hospital reimbursement in that State under this title and under the State plan approved under title XIX shall, with respect to the services covered by such system, be based on that State system, if the Secretary finds that—

"(i) the State has mandated the reimbursement system and it at least applies to the same hospitals in the State, and to the same costs, as the Federal reimbursement reform program established by this subsection;

"(ii) every hospital in the State with which there is such a provider agreement conforms to the accounting and uniform reporting requirements of section 1121 of this Act, and furnishes any appropriate reports that the Secretary may require; and

"(iii) such State demonstrates to his satisfaction that the total amount payable, with respect to inpatient hospital costs, in the State under this title and under the State plan approved under title XIX will be equal to or less than the amount which would otherwise be payable for such costs under this title and such State plan.

If the Secretary finds that any of the above conditions in a State which previously met them have not been met for a two-year period, the Secretary shall, after due notice, reimburse hospitals in that State according to the provisions of this Act (other than this paragraph) unless he finds that unusual, justifiable and nonrecurring circumstances led to the failure to comply.

"(B) If the Secretary finds that, during any two-year period during which hospital reimbursement under this title and under the State plan approved under title XIX was based on a State system as provided in subparagraph (A), the amount payable by the Federal Government under such titles for inpatient hospital costs in such State was in excess of the amount which would have been payable for such costs in such State if reimbursement had not been based on the State system (as estimated by the Secretary), the adjusted per diem target rate for routine operating costs (as determined under the preceding paragraphs of this subsection) for hospitals in such State shall be reduced (by not more than 1 percent in any year) until the Federal Government has recouped an amount equal to such excess payment amount.

"(C)(i) The Secretary shall pay to any State in which hospital reimbursement under this title is based on a State system as provided in subparagraph (A), an amount which bears the same ratio to the total cost of administering the State system (including the cost of initially putting the system into operation) as the amount paid by the Federal Government under this title in such State for inpatient hospital costs bears to the total amount of inpatient hospital costs in such State which are subject to the State system.

"(ii) Payments under clause (i) shall be made from funds in the Federal Hospital Insurance Trust Fund.

"(iii) An amount which bears the same ratio to the total cost of administering the State system (including the cost of initially putting the system into operation) as the amount paid under the State plan approved under title XIX in such State for inpatient hospital costs bears to the total amount of inpatient hospital costs in such State which are subject to the State system, shall, for purposes of title XIX, be considered to be an amount expended for the administration of such State plan.".

(c) Part A of title XI of the Social Security Act is amended by adding after section 1126 the following new section:

"HEALTH FACILITIES COSTS COMMISSION

"SEC. 1127. (a) There is established a commission to be known as the Health Facilities Costs Commission (hereinafter in this section referred to as the 'Commission').

"(b)(1) The Commission shall be composed of eleven members appointed by the Secretary—

"(A) three of whom are individuals who are representatives of hospital administrators,

"(B) two of whom are practicing physicians in hospitals, and

"(C) six of whom are consumers of health care, and each of whom, as a result of training, experience, or attainments, is exceptionally well qualified to assist in serving and carrying out the functions of the Commission. One of the members of the Commission shall, at the time of appointment, be designated as Chairman of the Commission. The Secretary shall first appoint members to the Commission not later than January 1, 1979.

"(2) No individual who is a full-time employee or officer of the United States may be appointed as a member of the Commission.

"(3) The Chairman of the Commission shall designate a member of the Commission to act as Vice Chairman of the Commission.

"(4) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

"(5) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as that herein provided for the appointment of the member first appointed to the vacant position.

"(6) Members of the Commission shall be appointed for a term of four years, except that the Secretary shall provide for such shorter terms for some of the members first appointed so as to stagger the date of expiration of members' terms of office.

"(7) No individual may be appointed to serve more than two terms as a member of the Commission.

"(8) Each member of the Commission shall be entitled to per diem compensation at rates fixed by the Secretary, but not more than the current per diem equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which the

member is engaged in the actual performance of duties vested in the Commission, and all members of the Commission shall be allowed, while away from their homes or regular places of business in the performance of service for the Commission, travel expenses (including per diem in lieu of subsistence) in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"(9) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission; but meetings of the Commission shall be held not less frequently than once in each calendar month which begins after a majority of the authorized membership of the Commission has first been appointed.

"(c) It shall be the duty and function of the Commission to conduct a continuing study, investigation, and review of the reimbursement of hospitals for care provided by them to individuals covered under title XVIII or under State plans approved under title XIX, with particular attention to the criteria established by section 1861(bb) (hereinafter in this section referred to as the 'reimbursement reform program') with a view to devising and recommending, from time to time but not less frequently than once each calendar year (beginning with the calendar year 1979), to the Secretary and the Congress measures—

"(A) for the improvement of the reimbursement reform program, and

"(B) for the possible application (i) of the reimbursement reform program to providers of service other than hospitals, and (ii) of classification and comparison techniques similar to those applied to adjusted routine costs of hospitals under section 1861(bb) to other costs of hospitals and other providers of services.

"(d) The Secretary shall provide such technical, secretarial, clerical, and other assistance as the Commission may need.

"(e) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, any such department or agency shall furnish any such data or information to the Commission.

"(f) There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

"(g) Section 14 of the Federal Advisory Committee Act shall not apply to the Commission.".

(d)(1) Section 1866(a)(1) of the Social Security Act is amended—

(A) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and"; and

(B) by inserting after subparagraph (D) the following new subparagraph:

"(E) not to increase amounts due from any individual, organization, or agency in order to offset reductions made under section 1861(bb) in the amount paid, or expected to be paid, under this title.".

(2) Section 1902(a)(27) of the Social Security Act is amended by striking out "and" at the end of clause (A) and by inserting before the semicolon at the end of clause (B) the following: ", and (C) not to increase amounts due from any individual, organization, or agency in order to offset reductions made pursuant to the requirements contained in section 1902(a)(13)(D) in the amount paid, or expected to be paid under the State plan".

(e) Section 1902(a)(13)(D) of the Social Security Act is amended to read as follows:

"(D) for payment of the reasonable cost of inpatient hospital services provided under the plan, applying the methods specified in section 1861(v) and section 1861(bb), which are consistent with section 1122; and".

PAYMENTS TO PROMOTE CLOSING AND CONVERSION OF UNDERUTILIZED FACILITIES

SEC. 3. (a) Part A of title XI of the Social Security Act is amended by adding after section 1127 (as added by section 2 of this Act) the following new section:

"PAYMENTS TO PROMOTE CLOSING AND CONVERSION OF UNDERUTILIZED FACILITIES

"SEC. 1128. (a)(1)(A) Before the end of the third full month following the month in which this section is enacted, the Secretary shall establish a Hospital Transitional Allowance Board (hereinafter in this section referred to as the 'Board'). The Board shall have five members, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, who are knowledgeable about hospital planning and hospital operations.

"(B) Members of the Board shall be appointed for three-year terms, except some initial members shall be appointed for shorter terms to permit staggered terms of office.

"(C) Members of the Board shall be entitled to per diem compensation at rates fixed by the Secretary, but not more than the current per diem equivalent at the time the service involved is rendered for grade GS-18 under section 5332 of title 5, United States Code.

"(D) The Secretary shall provide such technical, secretarial, clerical, and other assistance as the Board may need.

"(2) The Board shall receive and act upon applications by hospitals, certified for participation (other than as 'emergency hospitals') under titles XVIII and XIX, for transitional allowances.

"(b) For purposes of this section—

"(1) The term 'transitional allowance' means an amount which—

"(A) shall, solely by reason of this section, be included in a hospital's reasonable cost for purposes of calculating payments under the programs authorized by titles V, XVIII, and XIX of this Act; and

"(B) in accordance with this section, is established by the Secretary for a hospital in recognition of a reimbursement detriment (as defined in paragraph (3)) experienced because of a qualified facility conversion (as defined in paragraph (2)).

"(2) The term 'qualified facility conversion' means closing, modifying, or changing the usage of an underutilized hospital facility which is expected to benefit the programs authorized under title V, title XVIII and title XIX by (A) eliminating excess bed capacity, (B) discontinuing an underutilized service for which there are adequate alternative sources, or (C) substituting for the underutilized service some other service which is needed in the area and which is consistent with the findings of an appropriate health planning agency.

"(3) A hospital which has carried out a qualified facility conversion and which continues in operation will be regarded as having experienced a 'reimbursement detriment'—

"(A) to the extent that, solely because of the conversion, there is a reduction in that portion of the hospital's costs attributable to capital assets which are taken into account in determining reasonable cost for purposes of determining amount of payment to the hospital under title V, title XVIII, or a State plan approved under title XIX;

"(B) if the conversion results, on an interim basis, in increased operating costs, to the extent that operating costs exceed amounts ordinarily reimbursable under title V, title XVIII and the State plan approved under title XIX; or

"(C) in the case of complete closure of a private nonprofit hospital, or local governmental hospital, other than for replacement of the hospital, to the extent of actual debt obligations previously recognized as reasonable for reimbursement, where the debt remains outstanding, less any salvage value.

"(c)(1) Any hospital may file an application with the Board (in a form and including data and information as the Board, with the approval of the Secretary, may require) for a transitional allowance with respect to any qualified conversion which was formally initiated after December 31, 1978. The Board, with the approval of the Secretary, may also establish procedures, consistent with this section, by means of which a finding of a reimbursement detriment may be made prior to the actual conversion.

"(2) The Board shall consider any application filed by a hospital, and if the Board finds that—

"(A) the facility conversion is a qualified facility conversion, and

"(B) the hospital is experiencing or will experience a reimbursement detriment because it carried out the qualified facility conversion,

the Board shall transmit to the Secretary its recommendation that the Secretary establish a transitional allowance for the hospital in amounts reasonably related to prior or prospective use of the facility under title V, title XVIII and the State plan approved under title XIX, for a period, not to exceed twenty years as specified by the Board, and, if the Board finds that the criteria in subparagraphs (A) and (B) are not met, it shall advise the Secretary not to establish a transitional allowance for that hospital. For an approved closure under subsection (b)(3)(C) the Board may recommend or the Secretary may approve, a lump-sum payment in lieu of periodic allowances, where such payment would constitute a more efficient and economic alternative.

"(3)(A) The Board shall notify a hospital of its findings and recommendations.

"(B) A hospital dissatisfied with a recommendation may obtain an informal or formal hearing, at the discretion of the Secretary by filing (in the form and within a time period established by the Secretary) a request for a hearing.

"(4)(A) Within thirty days after receiving a recommendation from the Board respecting a transitional allowance or, if later, within thirty days after a hearing, the Secretary shall make a final determination whether, and if so in what amount and for what period of time, a transitional allowance will be granted to a hospital. A final determination of the Secretary shall not be subject to judicial review.

"(B) The Secretary shall notify a hospital and any other appropriate parties of the determination.

"(C) Any transitional allowance shall take effect on a date prescribed by the Secretary, but not earlier than the date of completion of the qualified facility conversion. A transitional allowance shall be included as an allowable cost item in determining the reasonable cost incurred by the hospital in providing services for which payment is authorized under this Act, except that the transitional allowance shall not be considered in applying limits to costs recognized as reasonable pursuant to the third sentence of section 1861(v)(1) and section 1861(bb) of this Act, or in determining the amount to be paid to a provider pursuant to section 1814(b), section 1933(a)(2), section 1910(1)(3), and section 506(f)(3) of this Act.

"(d) In determining the reasonable cost incurred by a hospital with respect to which payment is authorized under a State plan approved under title V or title XIX, any transitional allowance shall be included as an allowable cost item.

"(e)(1) The Secretary is authorized to establish transitional allowances only as provided in paragraphs (2) and (3).

"(2) Prior to January 1, 1982, the Secre-

tary is authorized to establish a transitional allowance for not more than fifty hospitals.

"(3) On and after January 1, 1982, the Secretary is authorized to establish a transitional allowance for any hospital which qualifies for such an allowance under the provisions of this section.

"(4) On or before January 1, 1981, the Secretary shall report to the Congress evaluating the effectiveness of the program established under this section including appropriate recommendations.".

(b) The amendments made by subsection (a) shall apply only to services furnished by a hospital during any accounting year beginning or on after October 1, 1978.

FEDERAL PARTICIPATION IN HOSPITAL CAPITAL EXPENDITURES

SEC. 4. (a) Section 1122(c) of the Social Security Act is amended to read as follows:

"(c) The reasonable expenses incurred in carrying out the activities referred to in subsection (b) by the designated planning agencies (disregarding any expenses for which the agency is authorized to be reimbursed from other sources) shall be payable from—

"(1) funds in the Federal Hospital Insurance Trust Fund,

"(2) funds in the Federal Supplementary Medical Insurance Trust Fund, and

"(3) funds appropriated to carry out the health care provisions of the several titles of this Act,

in such amounts as the Secretary finds result in a proper allocation. The Secretary shall transfer money between the funds as may be appropriate to settle accounts between them. The Secretary shall pay the designated planning agencies without requiring contribution of funds by any State or political subdivision thereof.".

(b) Section 1122(d) of such Act is amended to read as follows:

"(d)(1) Except as provided in paragraph (2), if the Secretary determines that—

"(A) the designated planning agency had not approved the proposed expenditure; and

"(B) the designated planning agency had granted to the person proposing the capital expenditure an opportunity for a fair hearing with respect to the findings;

then, in determining Federal payments under titles V, XVIII, and XIX for services furnished in the health care facility for which the capital expenditure is made, the Secretary shall not include any amount attributable to depreciation, interest on borrowed funds, a return on equity capital (in the case of proprietary facilities), other expenses related to the capital expenditure, or for direct operating costs, to the extent that they can be directly associated with the capital expenditure, unless the designated planning agency for the States determines, in accordance with an agreement entered into under subsection (b) or under a certificate of need program which is applicable to such expenditure and which meets the requirements of title XV of the Public Health Service Act, that such capital expenditures are needed and meet criteria adopted by such agency. In the case of a proposed capital expenditure in a standard metropolitan statistical area which encompasses more than one jurisdiction, that expenditure shall require approval of the designated planning agency of each jurisdiction, which shall jointly review the proposal. Where the designated planning agencies do not unanimously agree, the proposed expenditures shall be deemed disapproved. Where the designated planning agencies do not act to approve or disapprove the proposed expenditure within one hundred and eighty days after the submission of the request for aproval, the proposed expenditure shall be deemed approved. Any deemed approval or disapproval shall be subject to review and reversal by the Secretary following a request, submitted to him within sixty days of the deemed approval or disapproval, for a review and reconsideration based upon the record. With respect to any organization which is reimbursed on a per capita, fixed fee, or negotiated rate basis, in determining the Federal payments to be made under titles V, XVIII and XIX, the Secretary shall exclude an amount reasonably equivalent to the amount which would otherwise be excluded under this subsection if payment were made on other than a per capita, fixed fee, or negotiated rate basis.

"(2) If the Secretary, after submitting the matters involved to the advisory council established under subsection (1), determines that an exclusion of expenses related to any capital expenditure would discourage the operation or expansion of any health care facility or health maintenance organization which has demonstrated to his satisfaction proof of its capability to provide comprehensive health care services (including institutional services) effectively and economically, or would be inconsistent with effective organization and delivery of health services, or the effective administration of title V, XVIII, or XIX), he shall not exclude the expenses pursuant to paragraph (1).".

(c) Section 1122(g) of the Social Security Act is amended to read as follows:

"(g) For purposes of this section, a 'capital expenditure' is an expenditure which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance and which (1) exceeds $150,000, (2) changes the bed capacity of the facility, or (3) substantially changes the services of the facility, including conversion of existing beds to higher cost usage. The cost of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of the plant and equipment shall be included in determining whether the expenditure exceeds $150,000. For purposes of this section, 'capital expenditure' does not include an expenditure for the purpose of acquiring (either by purchase or under lease or comparable arrangement) an existing health care facility, the utilized services and bed capacity of which are not increased as a result of the acquisition.".

(d) Section 1861(z) of the Social Security Act is amended to read as follows:

"Institutional Planning

"(z) An overall plan and budget of a hospital, skilled nursing facility, or home health agency shall—

"(1) provide for an annual operating budget which includes all anticipated income and expenses related to items which would, under generally accepted accounting principles, be considered income and expense items (except that nothing in this paragraph shall require that there be prepared in connection with any budget an item-by-item identification of the components of each type of anticipated expenditure or income);

"(2) provide for a capital expenditures plan for at least a five-year period (including the year to which the operating budget applies) which identifies in detail the sources of financing and the objectives of each anticipated expenditure in excess of $150,000 related to the acquisition of land, improvement of land, buildings, or equipment, and the replacement, modernization, or expansion of the buildings and equipment, and which would, under generally accepted accounting principles, be considered capital items, and such capital expenditures plan shall be a matter of public record and available in readily accessible form and fashion;

"(3) provide for annual review and updating; and

"(4) be prepared, under the direction of the governing body of the institution or agency, by a committee consisting of representatives of the governing body, administrative staff, and medical staff (if any) of of the institution or agency.".

(e) The amendments made by this section shall become effective on January 1, 1979, and shall be effective with respect to determinations made by the Secretary on and after such date.

AGREEMENTS WITH PHYSICIANS TO ACCEPT ASSIGNMENTS

SEC. 5. (a) Title XVIII of the Social Security Act is amended by adding the following new section:

"AGREEMENTS WITH PHYSICIANS TO ACCEPT ASSIGNMENTS

"SEC. 1868. (a) For purposes of this section the term 'participating physician' means a doctor of medicine or osteopathy who has in effect an agreement with the Secretary by which he agrees to accept an assignment of claim (as provided for in section 1842 (b)(3)(B)(ii)) for each physicians' service (other than those excluded from coverage by section 1862) performed by him in the United States for an individual enrolled under part B. The assignment shall be in a form prescribed by the Secretary. The agreement may be terminated by either party upon 30-days' notice to the other, filed in a manner prescribed by the Secretary.

"(b) To expedite processing of claims from participating physicians, the Secretary shall establish procedures and develop appropriate forms under which—

"(1) each physician will submit his claims on one of alternative simplified approved bases including multiple listing of patients, and the Secretary shall act to assure that these claims are processed expeditiously, and

"(2) the physician shall obtain from each patient enrolled under part B (except in cases where the Secretary finds it impractical for the patient to furnish it) and shall make available at the Secretary's request, a signed statement by which the patient (A) agrees to make an assignment with respect to all services furnished by the physician and (B) authorizes the release of any medical information needed to review claims submitted by the physician.

"(c)(1) Participating physicians shall be paid administrative cost-savings allowances (as determined under paragraph (2)) in addition to the reasonable charges that are payable.

"(2) The administrative cost-savings allowance shall be $1 for each claim the participating physician submits in accordance with the simplified billing procedure referred to in subsection (b) and these payments shall be treated as an administrative expense to the medical insurance program, except that—

"(A) not more than $1 shall be payable to a physician for claims for services furnished to any particular patient within any 7-day period;

"(B) no administrative cost-savings allowance shall be payable for services performed for a hospital inpatient or outpatient unless:

"(i) the services are surgical services, anesthesia services, or services performed by a physician who, as an attending or consulting physician, personally examined the patient and whose office or regular place of practice is located outside a hospital, and

"(ii) the physician ordinarily bills directly (and not through such hospital) for his services; and

(C) no administrative cost-savings allowance shall be payable for services which consist solely of laboratory or X-ray services which are for hospital inpatients or outpatients or are performed outside the office of the participating physician.".

(b) The amendment made by subsection (a) shall become effective on July 1, 1979.

CERTAIN SURGICAL PROCEDURES PERFORMED ON AN AMBULATORY BASIS

SEC. 6. Part B of title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"SPECIAL PROVISIONS RELATING TO CERTAIN SURGICAL PROCEDURES PERFORMED ON AN AMBULATORY BASIS

"SEC. 1845. (a) The Secretary shall, in consultation with the National Professional Standards Review Council and appropriate medical organizations, specify those surgical procedures which can be safely and appropriately performed either in a hospital on an inpatient basis or on an ambulatory basis—

"(1) in a physician's office; or

"(2) in an ambulatory surgical center or hospital.

"(b)(1) If a physician performs in his office a surgical procedure specified by the Secretary pursuant to subsection (a)(1) on an individual insured for benefits under this part, he shall, notwithstanding any other provision of this part, be entitled to have payment made under this part equal to—

"(A) 100 percent of the reasonable charge for the services involved with the performance of such procedure (including all pre- and post-operative physicians' services performed in connection therewith), plus

"(B) the amount established by the Secretary pursuant to paragraph (2),

but only if the physician agrees with such individual to be paid on the basis of an assignment under the terms of which the reasonable charge for such services is the full charge therefor.

"(2) The Secretary shall establish with respect to each surgical procedure specified pursuant to subsection (a)(1), an amount established with a view to according recognition to the special costs, in excess of usual overhead, which physicians incur which are attributable to securing, maintaining, and staffing the facilities and ancillary services appropriate for the performance of such procedure in the physician's office, and to assuring that the performance of such procedure in the physician's office will involve substantially less total cost than would be involved if the procedure were performed on an inpatient basis in a hospital. The amount so established with respect to any surgical procedure periodically shall be reviewed and revised and may be adjusted, when appropriate, by the Secretary to take account of varying conditions in different areas.

"(c)(1) Payment under this part may be made to an ambulatory surgical center for ambulatory facility services furnished in connection with any surgical procedure, specified by the Secretary pursuant to subsection (a)(2), which is performed on an individual insured for benefits under this part in an ambulatory surgical center, which meets such health, safety, and other standards as the Secretary shall by regulations prescribe, if such surgical center agrees to accept, in full payment of all services furnished by it in connection with such procedure, the amount established for such procedure pursuant to paragraph (2).

"(2) The Secretary shall establish with respect to each surgical procedure specified pursuant to subsection (a)(2), a reimbursement amount which is payable to an ambulatory surgical center for its services furnished in connection with such procedure. The amount established for any such surgical procedure shall be established with a view to according recognition to the costs incurred by such centers generally in providing the services involved in connection with such procedure, and to assuring that the performance of such procedure in such a center involves less cost than would be involved if such procedure were performed on an inpatient basis in a hospital. The amount so established with respect to any surgical procedure shall periodically be reviewed and revised and may be adjusted by the Secretary, when appropriate, to take account of varying conditions in different areas.

"(3) If the physician, performing a surgical procedure (specified by the Secretary under subsection (a)(2)), in a hospital on an outpatient basis or in an ambulatory surgical center with respect to which payment is authorized under the preceding provisions of this subsection, or a physician performing physicians' services in such center or hospital directly related to such surgical procedure, agrees to accept as full payment for all services performed by him in connection with such procedure (including pre- and post-operative services) an amount equal to 100 percent of the reasonable charge for such services, he shall be paid under this part for such services an amount equal to 100 percent of the reasonable charge for such services.

"(d)(1) The Secretary is authorized by regulations to provide that in case a surgical procedure specified by the Secretary pursuant to subsection (a)(2) is performed on an individual insured for benefits under this part in an ambulatory surgical center which meets such health, safety, and other standards as the Secretary shall by regulations prescribe, there shall be paid with respect to the services furnished by such center and with respect to all related services (including physicians' services, laboratory, X-ray, and diagnostic services) a single all-inclusive fee established pursuant to paragraph (2), if all parties furnishing all such services agree to accept such fee (to be divided among the parties involved in such manner as they shall have previously agreed upon) as full payment for the services furnished.

"(2) In implementing this subsection, the Secretary shall establish with respect to each surgical procedure specified pursuant to subsection (a)(2) the amount of the all-inclusive fee for such procedure, taking into account such factors as may be appropriate. The amount so established with respect to any surgical procedure shall periodically be reviewed and revised and may be adjusted, when appropriate, to take account of varying conditions in different areas.

"(e) The provisions of section 1833(a) and (b) shall not be applicable to expense attributable to services to which subsection (b) is applicable, to ambulatory facility services (furnished by an ambulatory surgical center) to which the provisions of subsection (c)(1) and (2) are applicable, to physicians' services to which the provisions of subsection (c)(3) are applicable, or to services to which the provisions of subsection (d) are applicable.".

CRITERIA FOR DETERMINING REASONABLE CHARGE FOR PHYSICIANS' SERVICES

SEC. 7. (a) Section 1842(b) of the Social Security Act is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6);

(2) by striking out so much of paragraph (3) as follows the first sentence; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4)(A) In determining the reasonable charge for services for purposes of paragraph (3) (including the services of any hospital-associated physicians), there shall be taken into consideration the customary charges for similar services generally made by the physician or other person furnishing such services, as well as the prevailing charges in the locality for similar services.

"(B)(i) Except as otherwise provided in clause (iii), no charge may be determined to be reasonable in the case of bills submitted or requests for payment made under this part after December 31, 1970, if it exceeds the higher of (I) the prevailing charge recognized by the carrier and found acceptable by the Secretary for similar services in the same locality in administering this part on December 31, 1970, or (II) the prevailing charge level that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 75 percent of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing prior to the start of the fiscal year in which the bill is submitted or the request for payment is made.

"(ii) In the case of physician services, the prevailing charge level determined for purposes of clause (i)(II) for any fiscal year beginning after June 30, 1973, may not (except as otherwise provided in clause (iii)) exceed (in the aggregate) the level determined under such clause for the fiscal year ending June 30, 1973, except to the extent that the Secretary finds, on the basis of appropriate economic index data, that such higher level is justified by economic changes. Moreover, for any twelve-month period beginning on July 1 of any year (beginning with 1979), no prevailing charge level for physicians' services shall be increased to the extent that it would exceed by more than one-third the statewide prevailing charge level (as determined under subparagraph (E)) for that service.

"(iii) Notwithstanding the provisions of clauses (i) and (ii) of this subparagraph, the prevailing charge level in the case of a physician service in a particular locality determined pursuant to such clauses for the fiscal year beginning July 1, 1975, shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, in the case of a similar physician service in the same locality by reason of the application of economic index data, be raised to such prevailing charge level for the fiscal year ending June 30, 1975.

"(C) In the case of medical services, supplies, and equipment (including equipment servicing) that, in the judgment of the Secretary, do not generally vary significantly in quality from one supplier to another, the charges incurred after December 31, 1972 determined to be reasonable may not exceed the lowest charge levels at which such services, supplies, and equipment are widely and consistently available in a locality except to the extent and under circumstances specified by the Secretary. With respect to power-operated wheelchairs for which payment may be made in accordance with section 1861(s)(6), charges determined to be reasonable may not exceed the lowest charge at which power-operated wheelchairs are available in the locality.

"(D) The requirement in paragraph (3)(B) that a bill be submitted or request for payment be made by the close of the following calendar year shall not apply if (i) failure to submit the bill or request the payment by the close of such year is due to the error or misrepresentation of an officer, employee fiscal intermediary, carrier, or agent of the Department of Health, Education, and Welfare performing functions under this title and acting within the scope of his or its authority, and (ii) the bill is submitted or the payment is requested promptly after such error or misrepresentation is eliminated or corrected.

"(E) The Secretary shall determine separate statewide prevailing charge levels for each State that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 50 percent of the customary charges made for similar services in the State during the last preceding calendar year elapsing prior to the start of the fiscal year in which the bill is submitted or the request for payment is made. In States with more than one carrier, the statewide prevailing charge level shall be the weighted average of the fiftieth percentiles of the customary charges of each carrier.

"(F) Notwithstanding any other provision of this paragraph, any charge for any particular service or procedure performed by a doctor of medicine or osteopathy shall be regarded as a reasonable charge if—

"(i) the service or procedure is performed in an area which the Secretary has designated as a physician shortage area,

"(ii) the physician has a regular practice in the physician shortage area,

"(iii) the charge does not exceed the prevailing charge level as determined under subparagraph (B), and

"(iv) the charge does not exceed the amount generally charged by such physician for similar services.".

(b) Sections 506(f)(1) and 1903(i)(1) of the Social Security Act are each amended by striking out "the fourth and fifth sentences of section 1842(b)(3)" and inserting in lieu thereof in each instance "subparagraphs (B)(ii), (B)(iii), (C), and (F) of section 1842(b)(4)".

(c) The amendments made by this section shall become effective on July 1, 1979.

PAYMENT FOR CERTAIN ANTIGENS UNDER PART B OF MEDICARE

SEC. 8. (a) Section 1861(s)(2) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (E),

(2) by inserting "and" at the end of clause (F), and

(3) by adding after clause (F) the following new clause:

"(G) antigens (subject to reasonable quantity limitations determined by the Secretary) prepared by an allergist for a particular patient, including antigens he prepares which are forwarded to another qualified person for administration to the patient by or under the supervision of another physician;".

(b) The amendments made by subsection (a) shall apply to items furnished after the month of enactment of this Act.

PAYMENT UNDER MEDICARE OF CERTAIN PHYSICIANS' FEES ON ACCOUNT OF SERVICES FURNISHED TO A DECEASED INDIVIDUAL

SEC. 9. (a) Section 1870(f) of the Social Security Act is amended by striking out the matter following clause (2) thereof and inserting in lieu thereof the following: "payment for such services shall be made (but only in such amount and subject to such conditions as would have been applicable if the individual who received the services had not died) to—

"(A) the physician or other person who provided such services, but only on the condition that such physician or person agrees that the reasonable charge is the full charge for the services, or

"(B) the spouse or other legally designated representative of such individual, but only if (i) the condition specified in subparagraph (A) is not met, and (ii) such spouse or representative requests (in such form and manner as the Secretary shall by regulations prescribe) that payment be made under this subparagraph.".

(b) The amendment made by subsection (a) shall apply only to payments made after the month of enactment of this Act.

HOSPITAL PROVISIONS OF LONG-TERM CARE SERVICES

SEC. 10. (a) Section 1861 of the Social Security Act is amended by adding after subsection (bb) (as added by section 2 of this Act) the following:

"HOSPITAL PROVIDERS OF EXTENDED CARE SERVICES

"(cc)(1)(A) Any hospital (other than a hospital which has in effect a waiver of the requirement imposed by subsection (e)(5)) which has an agreement under section 1866 may (subject to paragraph (2)) enter into an agreement with the Secretary under which its inpatient hospital facilities may be used for the furnishing of services of the type which, if furnished by a skilled nursing facility, would constitute posthospital extended care services.

"(B)(i) Notwithstanding any other provision of this title, payment to any hospital for services furnished under an agreement entered into under this subsection shall be based upon the reasonable cost of the services as determined under this subparagraph.

"(ii) The reasonable cost of the services shall consist of the reasonable cost of routine services and ancillary services. The reasonable cost of routine services furnished during any calendar year by a hospital under an agreement under this subsection shall equal the product of the number of patient-days during the year for which the services were furnished and the average reasonable cost per patient-day. The average reasonable cost per patient-day shall be established as the average rate per patient-day paid for routine services during the previous calendar year under the State plan (of the State in which the hospital is located) approved under title XIX to skilled nursing facilities located in such State and which meet the requirements specified in section 1902(a)(28). The reasonable cost of ancillary services shall be determined in the same manner as the reasonable cost of ancillary services provided as inpatient hospital services.

"(2) The Secretary shall not enter into an agreement under this subsection with any hospital unless—

"(A) the hospital is located in a rural area and has less than 50 beds, and

"(B) the hospital has been granted a certificate of need for the provision of long-term care services from the agency of the State (which has been designated as the State health planning and development agency under an agreement pursuant to section 1521 of the Public Health Service Act) in which the hospital is located.

"(3) An agreement with a hospital entered into under this section shall, except as otherwise provided under regulations of the Secretary, be of the same duration and subject to termination on the same conditions as are agreements with skilled nursing facilities under section 1866, and shall, where not inconsistent with any provision of this subsection, impose the same duties, responsibilities, conditions, and limitations, as those imposed under such agreements entered into under section 1866; except that no such agreement with any hospital shall be in effect for any period during which the hospital does not have in effect an agreement under section 1866, or during which there is in effect for the hospital a waiver of the requirement imposed by subsection (e)(5). A hospital with respect to which an agreement has been terminated shall not be eligible to undertake a new agreement until a two-year period has elapsed from the termination date.

"(4) Any agreement with a hospital under this subsection shall provide that payment for services will be made only for services for which payment would be made as posthospital extended care services if those services had been furnished by a skilled nuring facility under an agreement entered into under section 1866, and any individual who is furnished services for which payment may be made under an agreement shall, for purposes of this title (other than this subsection), be deemed to have received posthospital extended care services in like manner and to the same extent as if the services furnished to him had been posthospital extended care services furnished by a skilled nursing facility under an agreement under section 1866.

"(5) During a period for which a hospital has in effect an agreement under this subsection, in order to allocate routine costs between hospital and long-term care services for purposes of determining payment for inpatient hospital services (including the application of reimbursement limits specified in section 1861 (bb)), the total reimbursement received for routine services from all classes of long-term care patients, including title XVIII, the State plan approved under title XIX, and private pay patients, shall be subtracted from the hospital's total routine costs before calculations are made to determine title XVIII reimbursement for routine hospital services.

"(6) During any period during which an agreement is in effect with a hospital under this subsection, the hospital shall, for services furnished by it under the agreement, be considered to satisfy the requirements, otherwise required, of a skilled nursing facility for purposes of the following provisions: sections 1814(a)(2)(C), 1814(a)(6), 1814(a)(7), 1814(h), 1861(a)(2), 1861(i), 1861(j) (except 1861(j)(12)), and 1861(n); and the Secretary shall specify any other provisions of this Act under which the hospital may be considered as a skilled nursing facility.

"(7) Within three years after the date of enactment of this subsection, the Secretary shall provide a report to the Congress containing an evaluation of the program established under this subsection concerning—

"(A) the effect of the agreements on availability and effective and economical provision of long-term care services;

"(B) whether the program should be continued; and

"(C) whether eligibility should be extended to other hospitals, regardless of bed size or geographic location, where there is a shortage of long-term care beds.".

(b) Title XIX of such Act is amended by adding at the end thereof the following new section:

"HOSPITAL PROVIDERS OF SKILLED NURSING AND INTERMEDIATE CARE SERVICES

"SEC. 1913. (a) Notwithstanding any other provision of this title, payment may be made, in accordance with this section, under an approved State plan for skilled nursing services and intermediate care services furnished by a hospital which has in effect an agreement under section 1861(cc).

"(b)(1) Payment to any such hospital, for any skilled nursing or intermediate care services furnished, shall be at a rate equal to the average rate per patient-day paid for routine services during the previous calendar year under the State plan to skilled nursing and intermediate care facilities located in the State in which the hospital is located. The reasonable cost of ancillary services shall be determined in the same manner as the reasonable cost of ancillary services provided for inpatient hospital services.

"(2) With respect to any period for which a hospital has in effect an agreement under section 1861(cc), in order to allocate routine costs between hospital and long-term care services, the total reimbursement for routine services received from all classes of long-term care patients, including title XVIII, the State plan, and private pay patients, shall be subtracted from the hospital total routine costs before calculations are made to determine reimbursement for routine hospital services under the State plan.".

(c) The amendments made by this section shall become effective on the date on which final regulations, promulgated by the Secretary to implement the amendments, are issued; and those regulations shall be issued not later than the first day of the sixth month following the month in which this Act is enacted.

REIMBURSEMENT RATES UNDER MEDICAID FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

SEC. 11. (a) Section 1902(a)(13)(E) of the Social Security Act is amended by in-

serting "(and which may, at the option of the State, include reasonable allowances for the facilities in the form of incentive payments related to efficient performance)" after "cost related basis".

(b) The amendment made by subsection (a) shall become effective on October 1, 1978.

MEDICAID CERTIFICATION AND APPROVAL OF SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

SEC. 12. (a) Section 1910 of the Social Security Act is amended to read as follows:

"CERTIFICATION AND APPROVAL OF SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

"SEC. 1910. (a) The Secretary shall make an agreement with any State which is willing and able to do so whereby the State health agency or other appropriate State or local agencies (whichever are utilized by the Secretary pursuant to section 1864(a)) will be utilized to recommend to him whether an institution in the State qualifies as a skilled nursing facility (for purposes of section 1902(a)(28)) or an intermediate care facility (for purposes of section 1905(c)).

"(b) The Secretary shall advise the State agency administering the medical assistance plan of his approval or disapproval of any institution certified to him as a qualified skilled nursing or intermediate care facility for purposes of section 1902(a)(28) or section 1905(c) and specify for each institution the period (not to exceed twelve months) for which approval is granted, except that the Secretary may extend that term for up to two months, provided the health and safety of patients will not be jeopardized, if he finds that an extension is necessary to prevent irreparable harm to the facility or hardship to the facility's patients or if he finds it impracticable within the twelve-month period to determine whether the facility is complying with the provisions of this title and applicable regulations. The State agency may, upon approval of the Secretary, enter into an agreement with any skilled nursing or intermediate care facility for the specified approval period.

"(c) The Secretary may cancel approval of any skilled nursing or intermediate care facility at any time if he finds that a facility fails to meet the requirements contained in section 1902(a)(28) or section 1905(c), or if he finds grounds for termination of his agreement with the facility pursuant to section 1866(b). In that event the Secreary shall notify the State agency and the skilled nursing or intermediate care facility that approval of eligibility of the facility to participate in the programs established by this title and title XVIII shall be terminated at a time specified by the Secretary. The approval of eligibility of any such facility to participate in the programs may not be reinstated unless the Secretary finds that the reason for termination has been removed and there is reasonable assurance that it will not recur.

"(d) Effective July 1, 1979, no payment may be made to any State under this title for skilled nursing or intermediate care facility services furnished by any facility—

"(1) which does not have in effect an agreement with the State agency pursuant to subsection (b), or

"(2) with respect to which approval of eligibility to participate in the programs established by this title or title XVIII has been terminated by the Secretary and has not been reinstated, except that payment may be made for up to thirty days for skilled nursing or intermediate care facility services furnished to any eligible individual who was admitted to the facility prior to the effective date of the termination.

"(e) Any skilled nursing facility or intermediate care facility which is dissatisfied with any determination by the Secretary that it no longer qualifies as a skilled nursing facility or intermediate care facility for purposes of this title shall be entitled to a hearing by the Secretary to the same extent as is provided in section 205(b) and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g). Any agreement between such facility and the State agency shall remain in effect until the period for filing a request for a hearing has expired or, if a request has been filed, until a decision has been made by the Secretary; except that the agreement shall not be extended if the Secretary makes a written determination, specifying the reasons therefor, that the continuation of provider status constitutes an immediate and serious threat to the health and safety of patients, and the Secretary certifies that the facility has been notified of its deficiencies and has failed to correct them.".

(b) Section 1869(c) of the Social Security Act is amended by adding at the end thereof the following sentence: "If the Secretary's determination terminates a provider with an existing agreement pursuant to section 1866(b)(2), or if such determination consists of a refusal to renew an existing provider agreement, the provider's agreement shall remain in effect until the period for filing a request for a hearing has expired or, if a request has been filed, until a final decision has been made by the Secretary; except that the agreement shall not be extended if the Secretary makes a written determination, specifying the reasons therefor, that the continuation of provider status constitutes an immediate and serious threat to the health and safety of patients and if the Secretary certifies that the provider has been notified of such deficiencies and has failed to correct them.".

(c) The amendments made by the preceding provisions of this section shall become effective on the date on which final regulations, promulgated by the Secretary to implement the amendments, are issued; and those regulations shall be issued not later than the first day of the sixth month following the month in which this Act is enacted.

(d) Title XIX of the Social Security Act is amended by adding after section 1910 thereof the following new section:

"CERTIFICATION AND APPROVAL OF RURAL HEALTH CLINICS

"SEC. 1910A. (a) Whenever the Secretary certifies a facility in a State to be a qualified rural health clinic under title XVIII, such facility shall be deemed to meet the standards for certification as a rural health clinic for purposes of providing rural health clinic services under this title.

"(b) The Secretary shall notify the State agency administering the medical assistance plan of his approval or disapproval of any facility in that State which has applied for certification by him as a qualified rural health clinic.".

(e) Section 1856(c)(2) of the Social Security Act is amended by striking out "1910(a)" and inserting in lieu thereof "1910".

VISITS AWAY FROM INSTITUTION BY PATIENTS OF SKILLED NURSING OR INTERMEDIATE CARE FACILITY

SEC. 13. (a) Section 1903 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(r) In the administration of this title, the fact that an individual who is an inpatient of a skilled nursing or intermediate care facility leaves to make visits outside the facility shall not conclusively indicate that he does not need services which the facility is designed to provide; however, the frequency and length of such visits shall be considered, together with other evidence, in determining whether the individual is in need of the facility's services.".

(b) The amendment made by subsection (a) shall become effective on October 1, 1978.

NOTIFICATION TO STATE OFFICIALS

SEC. 14. Part A of title XI of the Social Security Act is amended by adding after section 1128 (as added by section 3 of this Act) the following new section:

"NOTIFICATION TO STATE OFFICIALS

"SEC. 1129. If the Secretary notifies a State of any audit, quality control performance report, deficiency, or any reduction, termination, or increase in Federal matching, under the State plan for any program for which Federal payments are made under this Act, simultaneous notification shall also be made to the Governor of the State and the respective chairmen of the legislative and appropriation committees of that State's legislature having jurisdiction over the program affected.".

REPEAL OF SECTION 1867

SEC. 15. Section 1867 of the Social Security Act is repealed.

PROCEDURES FOR DETERMINING REASONABLE COST AND REASONABLE CHARGE

SEC. 16. (a) Part A of title XI of the Social Security Act is amended by adding after section 1129 (as added by section 14 of this Act) the following new section:

"EXCLUSION OF CERTAIN ITEMS IN DETERMINING REASONABLE COST AND REASONABLE CHARGE

"SEC. 1130. (a) Except as otherwise provided in subsection (b), in determining the amount of any payment under title XVIII, under a program established under title V, or under a State plan approved under title XIX of this Act, when the payment is based upon the reasonable cost or reasonable charge, no element comprising any part of the cost or charge shall be considered to be reasonable if, and to the extent that, such element is—

"(1) a commission, finder's fee, or for a similar arrangement, or

"(2) an amount payable for any facility (or part or activity thereof) under any rental or lease arrangement which is, directly or indirectly, determined, wholly or in part as a percentage, fraction, or portion of the charge or cost attributed to any health service (other than the element) or any health service including, but not limited to, the element.

"(b) The Secretary shall by regulations establish exceptions to the provisions of subsection (a) with respect to any element of cost or charge which consists of payments based on a percentage arrangement, if such element is otherwise reasonable and the percentage arrangement—

"(1) is a customary commercial business practice, or

"(2) provides incentives for the efficient and economical operation of the health service.".

(b) Section 506 of such Act is amended by adding at the end thereof the following new subsection:

"(h) For additional exclusions from reasonable cost and reasonable charge see section 1130.".

(c) Section 1842(b)(4) of such Act (as amended by section 7 of this Act) is further amended by adding at the end thereof the following new subparagraph:

"(G) For additional exclusions from reasonable cost and reasonable charge see section 1130.".

(d) Section 1861(v) of such Act is amended by adding after paragraph (8) (as added by section 2 of this Act) the following new paragraph:

"(9) For additional exclusions from reasonable cost and reasonable charge see section 1130.".

(e) Section 1903 of such Act is amended by adding after subsection (r) (as added by section 13 of this Act) the following new subsection:

"(s) For additional exclusions from reasonable cost and reasonable charge see section 1130.".

AMBULANCE SERVICE

SEC. 17. (a) Section 1861(s)(7) of the Social Security Act is amended by inserting after "ambulance service" the following: "(Including ambulance service to the nearest hospital which is (A) adequately equipped, and (B) has medical personnel qualified to deal with, and available for the treatment of, the individual's illness, injury, or condition)".

(b) The amendment made by subsection (a) shall apply to services furnished on and after the first day of the first month which begins more than 180 days after the date of the enactment of this Act, or, if earlier, the effective date of regulations promulgated by the Secretary to implement such amendment.

GRANTS TO REGIONAL PEDIATRIC PULMONARY CENTERS

SEC. 18. (a) Section 511 of the Social Security Act is amended—

(1) by inserting "(a)" after "SEC. 511.", and

(2) by adding at the end thereof the following new subsection:

"(b)(1) From the sums available under paragraph (2) the Secretary is authorized to make grants to public or nonprofit private regional pediatric pulmonary centers, which are a part of (or are affiliated with) an institution of higher learning, to assist them in carrying out a program for the training and instruction (through demonstrations and otherwise) of health care personnel in the prevention, diagnosis, and treatment of respiratory diseases in children and young adults, and in providing (through such program) needed health care services to children and young adults suffering from such diseases.

"(2) For the purpose of making grants under this subsection, there are authorized to be appropriated, for the fiscal year ending September 30, 1979, and each of the next four succeeding fiscal years, such sums (not in excess of $5,000,000 for any fiscal year) as may be necessary. Sums authorized to be appropriated for any fiscal year under this subsection for making grants for the purposes referred to in paragraph (1) shall be in addition to any sums authorized to be appropriated for such fiscal year for similar purposes under other provisions of this title.".

(b) Section 502(2) of such Act is amended by inserting "(a)" after "511".

WAIVER OF HUMAN EXPERIMENTATION PROVISION FOR MEDICARE AND MEDICAID

SEC. 19. Any requirements of title II of Public Law 93-348 otherwise held applicable are hereby waived with respect to coverage, or copayments, deductibles, or other limitations on payment for services (whether of general application or in effect only on a trial or demonstration basis) under programs established under title XVIII and XIX of the Social Security Act.

DISCLOSURE OF AGGREGATE PAYMENTS TO PHYSICIANS

SEC. 20. Section 1106 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f) The Secretary shall not make available, nor shall the State title XIX agency be required to make available to the public, information relating to the amounts that have been paid to individual doctors of medicine or osteopathy by or on behalf of beneficiaries of the health programs established by title XVIII or XIX, as the case may be, except as may be necessary to carry out the purposes of those titles or as may be specifically required by the provisions of other Federal law.".

RESOURCES OF MEDICAID APPLICANT TO INCLUDE CERTAIN ASSETS PREVIOUSLY DISPOSED OF FOR SUBSTANTIALLY LESS THAN MARKET VALUE

SEC. 21. (a) Section 1904 of the Social Security Act is amended by adding at the end thereof the following sentence: "The Secretary shall not find that a State has failed to comply with the requirements of this title solely because it denies medical assistance to an individual who would be ineligible for such assistance if, in determining whether he is eligible for benefits under title XVI of this Act, or, in the case of an individual who is not included under section 1902(a)(13)(B), in determining whether he is eligible for medical assistance under the State plan, there was included in his recources any asset owned by him within the preceding twelve months to the extent that he gave or sold that asset to any person for substantially less than its fair market value for the purpose of establishing eligibility for medical assistance under the State plan (and any such transaction shall be presumed to have been for such purpose unless such individual furnishes convincing evidence to establish that the transaction was for some other purpose).".

(b) Section 1902(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (39);

(2) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(41) contain provisions reasonably directed at the denial of eligibility for medical assistance under the State plan to an individual who would be ineligible for such assistance except for the transfer of assets, for substantially less than fair market value; except that such denial shall be made only to the extent authorized under the last sentence of section 1904 or under other provisions of this title.".

(c)(1) The amendment made by subsection (a) shall become effective on October 1, 1978.

(2)(A) The amendment made by subsection (b) shall, except as otherwise is provided in subparagraph (B), become effective on July 1, 1979.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary determines requires State Legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature which begins after the date of enactment of this Act.

RATE OF RETURN ON NET EQUITY FOR FOR-PROFIT HOSPITALS

SEC. 22. Section 1861(v)(1)(B) of the Social Security Act is amended—

(1) in the first sentence thereof, by inserting "a hospital or" immediately after "Such regulations in the case of";

(2) in the second sentence thereof, by striking out "one and one-half times" and inserting in lieu thereof "the percentages, specified in the next sentence, of"; and

(3) by inserting after the last sentence thereof the following new sentence: "For hospital and skilled nursing facility accounting years beginning before July 1, 1979, the percentage referred to in the previous sentence is 150 percent and for subsequent accounting years, the percentage is—

"(i) 150 percent with respect to a skilled nursing facility;

"(ii) 150 percent with respect to a hospital which, during such accounting year, had actual routine operating costs which were greater than the maximum allowable routine operating costs of such hospital as determined under section 1861(bb)(4)(B)(i);

"(iii) 250 percent with respect to a hospital which, during such accounting year had actual routine operating costs which were less than the hospital's adjusted per diem target rate for routine operating costs as determined under section 1861 (bb)(4); and

"(iv) 200 percent with respect to other hospitals.".

DEDUCTIBLE NOT APPLICABLE TO EXPENSES FOR CERTAIN INDEPENDENT LABORATORY TESTS

SEC. 23. (a) The first sentence of section 1833(b) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (1), and

(2) by inserting immediately before the period the following: ", and (3) such amount shall not include expenses incurred for diagnostic tests with respect to which the provisions of subsection (a)(1)(D) are applicable".

(b) The amendments made by subsection (a) shall be applicable with respect to services provided on and after the first day of the first calendar month which begins more than 60 days after the date of enactment of this Act.

PAYMENT FOR LABORATORY SERVICES UNDER MEDICAID

SEC. 24. (a)(1) Section 1902(a)(23) of the Social Security Act is amended by inserting "(A)" before "has entered into" and by inserting before the semicolon at the end the following: ", or (B) during the three-year period beginning on the date of enactment of the Medicare-Medicaid Administrative and Reimbursement Reform Act, has made arrangements through a competitive bidding process or otherwise for the purchase of laboratory services referred to in section 1905(a)(3), if the Secretary has found that (i) adequate services will be available under such arrangements, (ii) such laboratory services will be provided only through laboratories (I) which meet the requirements of section 1861(e)(9), paragraphs (10) and (11) of section 1861 (s), and such additional requirements as the Secretary may require, and (II) no more than 75 per centum of whose charges for such services are for services provided to individuals who are entitled to benefits under this title or under part A or parf B of title XVIII, and (iii) charges for services provided under such arrangements are made at the lowest rate charged (determined without regard to administrative costs which are related solely to the method of reimbursement for such services) for comparable services by the provider of such services, or, if charged for on a unit price basis, such charges result in aggregate expenditures not in excess of expenditure that would be made if charges were at the lowest rate charged for comparable services by the provider of such services".

(2) The Secretary shall evaluate arrangements made for the purchase of laboratory services under section 1902(a)(23)(B) of the Social Security Act, and shall transmit that evaluation to the Congress, together with recomendations as to whether such section 1902(a)(23)(B) should be extended or modified, no later than twenty-four months after the date of enactment of this Act.

(b) Section 1902(a)(28) of such Act is amended by inserting before the semicolon the following: ", and provide that any labo-

ratory services (other than such services provided in a physician's office) paid for under such plan must be provided by a laboratory which during the three-year period beginning on the date of enactment of the Medicare-Medicaid Administrative and Reimbursement Reform Act meets the requirements of section 1861(e)(9), paragraphs (10) and (11) of section 1861(s) or, in the case of a rural health clinic, subsection 1861(aa)(2)(G)".

(c) Section 1902(a)(30) of such Act as amended by inserting before the semicolon the following: "; and, in the case of laboratory services referred to in section 1905(a)(3), such payments do not exceed the lowest amount charged (determined without regard to administrative costs which are related solely to the method of reimbursement for such services) to any person or entity for such services by that provider of laboratory services".

(d)(1) The amendments made by subsections (b) and (c) shall (except as otherwise provided in paragraph (2)) apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on and after the first day of the first calendar quarter that begins more than 30 days after the date of enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by paragraph (b) or (c), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

STATUS OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 25. Section 1166 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(e) No Professional Standards Review Organization and no Statewide Professional Standards Review Council shall be considered to be or have been an 'agency' or 'authority of the Government of the United States' for the purpose of disclosure of information developed or collected, at any time, in carrying out functions under this Act.".

REMOVAL OF THREE-DAY HOSPITALIZATION REQUIREMENT AND ONE HUNDRED-VISIT LIMITATION FOR HOME HEALTH SERVICES

SEC. 26. (a) Section 1811 of the Social Security Act is amended by striking out "post-hospital".

(b) Section 1812(a)(3) of such Act is amended to read as follows:

"(3) home health services.".

(c) Section 1812(d) of such Act is repealed.

(d) Section 1812(e) of such Act is amended—

(1) by striking out "(c), and (d)" and inserting in lieu thereof "and (c)"; and

(2) by striking out "post-hospital extended care services, and post-hospital home health services" and inserting in lieu thereof "and post-hospital extended care services".

(e) Section 1814(a)(2)(D) of such Act is amended—

(1) by striking out "post-hospital"; and

(2) by striking out "for any of the conditions with respect to which he was receiving inpatient hospital services (or services which would constitute inpatient hospital services if the institution met the requirements of paragraphs (6) and (9) of section 1861(e)) or post-hospital extended care services".

(f) Section 1814(i) of such Act is amended—

(1) by striking out "Posthospital" in the heading thereof; and

(2) by striking out "posthospital" in paragraph (1).

(g) Section 1832(a)(2)(A) of such Act is amended by striking out "for up to 100 visits during a calendar year".

(h) Section 1834 of such Act is repealed.

(i) Section 1861(n) of such Act is repealed.

(j) Section 226(c) of such Act is amended by striking out "post-hospital home health services" and inserting in lieu thereof "home health services".

(k) Section 7(d)(1) of the Railroad Retirement Act is amended by striking out "post-hospital home health services" and inserting in lieu thereof "home health services".

(l) The amendments made by this section shall be effective with respect to services provided on or after July 1, 1979.

PAYMENT FOR DURABLE MEDICAL EQUIPMENT

SEC. 27. Section 1833(f)(3) of the Social Security Act is amended to read as follows:

"(3) For purposes of determining the amount payable with respect to durable medical equipment furnished an individual as described in section 1861(s)(6), the Secretary shall, to the extent feasible, calculate at least annually the reasonable charge on a prospective basis and shall take into account, in addition to the customary and prevailing charges for such equipment, the acquisition costs of such equipment, appropriate overhead (taking into consideration the level of delivery services and other necessary services actually provided by the supplier), and a reasonable margin of profit.".

DEVELOPMENT OF UNIFORM CLAIMS FORMS FOR USE UNDER HEALTH CARE PROGRAMS

SEC. 28. (a) Part A of title XI of the Social Security Act is amended by inserting, immediately after section 1131 thereof, the following new section:

"DEVELOPMENT OF UNIFORM CLAIMS FORMS FOR USE UNDER HEALTH CARE PROGRAMS

"SEC. 1132. (a) Within the 2-year period commencing on the date of the enactment of this section, the Secretary shall to the maximum extent feasible develop and require to be employed, in the administration of the health insurance for the aged and disabled program established by title XVIII and the medical assistance programs approved under title XIX, uniform claims forms which shall be utilized in making payment for health services under such programs. Such claims form may vary in form and content, but only to the extent clearly required.

"(b) The Secretary shall require forms developed pursuant to subsection (a) to be utilized in the administration of health care programs (other than those referred to in subsection (a)) but over which he has administrative responsibility, if he determines that such use is in the interest of effective administration of such programs.

"(c) The Secretary, in carrying out the provisions of subsection (a) shall consult with those charged with the administration of Federal programs (other than those referred to in subsections (a) and (b)) and with other organizations and persons that pay for health care, and with the concerned providers of health care services, with the objective of having a broad representation of such programs and plans to facilitate and encourage maximum use by other programs of such uniform claims forms.".

(b) The Secretary shall make a report to the Congress, within 21 months after the enactment of this Act, covering the following points:

(1) his assessment of what his actions will be in carrying out the provisions of section 1132 of the Social Security Act,

(2) the success or lack of success in encouraging third party payors generally to adopt the uniform claims forms required under such section, and

(3) his recommendations as to what action, legislative or otherwise, needs to be taken in order to maximize the use of such uniform claims forms.

COORDINATED AUDITS UNDER THE SOCIAL SECURITY ACT

SEC. 29. (a) Title XI of the Social Security Act is amended by inserting after section 1132 (as added by section 28 of this Act) the following new section:

"COORDINATED AUDITS

"SEC. 1133. If an entity provides services reimbursable on a cost-related basis under title V or XIX, as well as services reimbursable on such a basis under title XVIII, the Secretary shall require, as a condition for payment to any State under title V or XIX with respect to administrative costs incurred in the performance of audits of the books, accounts, and records of that entity, that these audits be coordinated through common audit procedures with audits performed with respect to the entity for purposes of title XVIII. The Secretary shall apportion to the program established under title V or XIX that part of the cost of coordinated audits which is attributable to each such program and which would not have otherwise been incurred in an audit of the program established under title XVIII. Where the Secretary finds that a State has declined to participate in such a common audit with respect to title V or XIX, he shall reduce the payments otherwise due such State under such title by an amount which he estimates to be the amount that represents the duplication of costs resulting from such State's failure to participate in the common audit.".

(b)(1) Section 1902(a) of the Social Security Act (as amended by section 21(b) of this Act) is further amended—

(A) by striking out "and" at the end of paragraph (40);

(B) by striking out the period at the end of paragraph (41) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (41) the following new paragraph:

"(42) provide (A) that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan, (B) that such audits, for such entities also providing services under part A of title XVIII, will be coordinated and conducted jointly (to such extent and in such manner as the Secretary shall prescribe) with audits conducted for purposes of such title, and (C) for payment of the portion of the costs of each such common audit of such an entity equal to the portion of the cost of the common audit which is attributable to the program established under this title and which would not have otherwise been incurred in an audit of the program established under title XVIII.".

(2)(A) The amendments made by paragraph (1) shall (except as otherwise is provided in subparagraph (B)) apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on and after the first day of the first calendar quarter which begins more than 30 days after the date of enactment of this Act.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsec-

tion (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature which begins after the date of enactment of this Act.

(c)(1) Section 505(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (14);

(B) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (15) the following new paragraph:

"(16) provides (A) that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan, (B) that such audits, for such entities also providing services under part A of title XVIII, will be coordinated and conducted jointly (to such extent and in such manner as the Secretary shall prescribe) with audits conducted for purposes of such part, and (C) for payment of the portion of costs of each such common audit of such an entity equal to the portion of the cost of the common audit which is attributable to the program established under this title and which would not have otherwise been incurred in an audit of the program established under title XVIII.".

(2) The amendments made by paragraph (1) shall apply to services provided, under a State plan approved under title V of the Social Security Act, on and after the first day of the first calendar quarter which begins more than 30 days after the date of enactment of this Act.

(d) The Secretary shall report to Congress, not later than March 31, 1980, on actions the Secretary has taken (1) to coordinate the conduct of institutional audits and inspections which are required under the programs funded under title V, XVIII, or XIX of the Social Security Act and (2) to coordinate such audits and inspections with those conducted by other cost payers, and he shall include in such report recommendations for such legislation as he deems appropriate to assure the maximum feasible coordination of such institutional audits and inspections.

DEVELOPMENT OF PHILANTHROPIC SUPPORT FOR HEALTH CARE

SEC. 30. Title XI of the Social Security Act is amended by inserting after section 1133 (as added by section 29 of this Act) the following new section:

"ENCOURAGEMENT OF PHILANTHROPIC SUPPORT FOR HEALTH CARE

"SEC. 1134. (a) It is the policy of the Congress that philanthropic support for health care be encouragd and expanded, especially in support of experimental and innovative efforts to improve the health care delivery system and access to health care services.

"(b)(1) For purposes of determining, under title XVIII or XIX, the reasonable costs of any service furnished by a provider of health services—

"(A) except as provided in paragraph (2), unrestricted grants, gifts, and endowments and income therefrom, shall not be deducted from the operating costs of such provider, and

"(B) grants, gifts, and endowment income designated by a donor for paying specific operating costs of such provider shall be deducted from the particular operating costs or group of costs involved.

"(2) Income from endowments and investments may be used to reduce interest expense, if such income is from an unrestricted gift or grant and is commingled with other funds, except that in no event shall any such interest expense be reduced below zero by any such income.".

PARTICIPATION UNDER MEDICAID BY SKILLED NURSING FACILITIES PARTICIPATING UNDER MEDICARE AND VICE VERSA

SEC. 31. (a)(1) Section 1903 of the Social Security Act is amended by adding after subsection (s) thereof (as added by section 16 of this Act) the following new subsection:

"(t) Notwithstanding any other provision of this section no payment shall be made to a State with respect to expenditures incurred by it for services in a skilled nursing facility unless such facility has an agreement with the Secretary in effect under section 1866 and such facility has in effect and conforms to a policy (which it shall amply publicize) of not discriminating for admission and treatment purposes against any patient because he is insured for benefits under part A of title XVIII.".

(2) The amendment made by paragraph (1) shall be effective with respect to services furnished after June 30, 1979.

(b)(1) Section 1866(c) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3) No agreement under this section with a skilled nursing facility shall, after the date of enactment of this paragraph, be entered into, extended, or renewed, if the State in which such facility is located has a State plan—

"(A) which is approved under title XIX, and

"(B) which covers skilled nursing facility services, unless such facility has in effect an agreement, with the State agency administering or supervising the administration of such State plan, under which the skilled nursing services furnished by such facility will be available (on a nondiscriminatory basis) to individuals covered for medical assistance under such State plan.".

COVERAGE UNDER MEDICARE OF CERTAIN DENTISTS' SERVICES

SEC. 32. (a) Clause (2) of the first sentence of section 1861(r) of the Social Security Act is amended to read as follows: "(2) a doctor of dentistry or of dental or oral surgery who is legally authorized to practice dentistry by the State in which he performs such function, but only with respect to (A) a function (i) which he is legally authorized to perform as such by the State in which he performs such function, and (ii) which, if performed by an individual described in clause (1), would constitute physicians' services, or (B) the certification required by section 1814(a)(2)(E) of this Act,".

(b) The amendment made by subsection (a) shall be effective with respect to service provided on or after October 1, 1978.

COVERAGE UNDER MEDICARE OF OPTOMETRISTS' SERVICES WITH RESPECT TO APHAKIA

SEC. 33. (a) The first sentence of section 1861(r) of the Social Security Act is amended, in clause (4) thereof, by—

(1) inserting "(i)" immediately after "with respect to", and

(2) inserting immediately after "lenses," the following: ", and (ii) any function with respect to aphakia which he is legally authorized to perform as such by the State in which he performs such function,".

(b) The amendments made by subsection (a) shall be effective with respect to services provided on or after October 1, 1978.

STUDY OF CRITERIA EMPLOYED FOR CLASSIFYING A FACILITY AS A SKILLED NURSING FACILITY

SEC. 34. (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall conduct a special study, investigation, and review of the criteria presently employed in determining whether a facility is a "skilled nursing facility" as that term is used in paragraph (2) of section 1861(a) of the Social Security Act (relating to definition of "spell of illness"), with a view to determining, and recommending to the Congress, such modifications in such criteria as he may consider appropriate.

(b) The Secretary shall not later than December 31, 1979, submit to the Congress a full and complete report on such study, investigation, and review, together with his recommendations for any modification in the criteria referred to in subsection (a).

AUTHORITY FOR CERTAIN STATES TO BUY-IN COVERAGE UNDER PART B OF MEDICARE FOR CERTAIN MEDICAID RECIPIENTS

SEC. 35. Section 1843 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(i) Any State, which prior to the date of enactment of this subsection—

"(A) has not entered into an agreement under the preceding provisions of this section, may enter into such an agreement at any time within the twelve-month period which begins with the month following the month in which this subsection is enacted, and any such agreement shall conform to the modifications prescribed by the Secretary (as referred to in the third sentence of subsection (b)) and may, at the option of the State, contain any provision authorized under subsections (g) and (h) with respect to modifications of agreements with States entered into under the preceding provisions of this section; or

"(B) has entered into an agreement under the preceding provisions of this section which has not been modified pursuant to the authority contained in subsection (g) or (h), may within the twelve-month period which begins with the month following the month in which this subsection is enacted modify such agreement in like manner as if the date referred to in subsection (g)(1) and (h)(1) were the day following the close of such twelve-month period.".

Mr. TALMADGE. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Senators will take their seats. The Senate will be in order.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the committee amendment be agreed to and that the bill as thus amended be considered as original text for the purpose of further amendment.

Mr. ABOUREZK. Mr. President, reserving the right to object, a parliamentary inquiry. Does that vitiate in any way the agreement that we had originally about the point of order?

Mr. TALMADGE. None whatever.

The PRESIDING OFFICER. It would, unless the right was retained.

Mr. ABOUREZK. Then, I ask the distinguished chairman to include that in the request, if he will.

Mr. TALMADGE. If the Senator desires to make a point of order about any amendment, Mr. President, I would be willing to have the Senator have that right preserved.

Mr. ROBERT C. BYRD. Mr. President, that was the intent—to protect the Senator on his point of order, in the request that was entered.

Mr. ABOUREZK. According to the Parliamentarian, the new agreement would vitiate it.

Mr. ROBERT C. BYRD. It was my intent that the Senator be fully protected, and I want that included in the request.

The PRESIDING OFFICER. With that intent, without objection.

Mr. METZENBAUM. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. It is too late. We are protecting this Senator.

Mr. METZENBAUM. I could not understand what the unanimous-consent request was, and I ask the Chair to restate it.

The PRESIDING OFFICER. To agree to the committee amendment in the nature of a substitute, as original text.

Mr. TALMADGE. Mr. President, H.R. 5285, as amended by the Finance Committee, represents a major step forward in making vital reimbursement and administrative changes in the medicare and medicaid programs.

Those two programs will cost the Nation's taxpayers $50 billion in fiscal 1979.

That enormous expenditures is up from $44 billion in this fiscal year and up from $37 billion in fiscal 1977.

The numbers, alone, clearly indicate that change is necessary.

The committee amendment makes orderly modifications in various aspects of physician reimbursement, long-term care, and general provisions of medicare and medicaid.

Benefit improvements such as dropping the limitation on home health services under medicare and waiving deductible and coinsurance requirements for ambulatory surgery are also included.

Clearly, however, the most significant provision of the committee bill is section 2—reform of hospital reimbursement under medicare and medicaid.

The essence of that reform involves abandoning the present system which has been characterized as: "The more you spend—the more you get paid."

In place of that open-ended approach, the committee bill provides for a system whereby the reasonableness of a given hospital's costs would be determined by comparing those costs with the average costs in similar hospitals.

It is a system of classification and comparison.

It is a system which provides incentive payments as a reward for efficient hospital operation and which reduces payments in the case of inefficient operation.

It is a system which, by means of a health care facilities costs commission, has a mechanism for ongoing refinement and improvement as the "state of the art" of hospital costs comparison develops.

It is a system which provides for orderly extension of reasonable limitations—along with rewards and penalties—to all hospital costs, not just routine costs, as soon as appropriate and equitable methods of comparing those nonroutine costs are developed.

Now let us talk about what section 2 is not.

The committee bill is not a system for controlling all hospital costs.

It is a bill to change the way medicare and medicaid reimburse hospitals.

The committee bill is not the Government in its role as regulator—it is the Government in its role as a purchaser of hospital care, the Government as a prudent buyer.

For example, when the Federal Government purchases automobiles, it tries to buy those cars at the lowest cost it can negotiate.

That is not the same thing as placing price controls on the entire automobile industry.

Regardless of what may be done about overall hospital costs containment, the Government, in its direct expenditure of taxpayer dollars, has an obligation to spend those dollars as reasonably and as efficiently as is possible.

That is what the committee bill seeks to do.

The committee bill is not designed to limit all hospital revenues.

This is not a bill to indiscriminately cut and gut hospital operations.

This is a bill, Mr. President, which seeks to do no more—and no less—than to reform Government payment methods to hospitals with a system designed to encourage moderation by rewarding efficiency and not pay for inefficiency.

This bill reflects years of effort.

Its genesis was in S. 3205 of the last Congress and the successor bill in this Congress, S. 1470.

I take pride in the fact that so many of my colleagues joined with me in introducing those proposals.

It is also appropriate to point out that both S. 3205 and S. 1470 were bipartisan proposals.

In particular, the many hours of knowledgeable and dedicated effort of Senator BOB DOLE, ranking minority member of the Subcommittee on Health, are noteworthy.

Senator DOLE worked long and hard during the drafting process and, following introduction, the extensive hearings which followed.

The bill before us reflects his conscientious effort and concern.

I ask unanimous consent that the summary of H.R. 5285 included in the RECORD be printed.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

I. SUMMARY OF THE BILL

As reported, the provisions of S. 1470, the Medicare-Medicaid Administrative and Reimbursement Reform Act as amended by the committee and added as an amendment to H.R. 5285 address three major areas: hospital reimbursement, practitioner reimbursement, and long-term care. The summary presented below briefly outlines the bill as reported.

HOSPITAL REIMBURSEMENT REFORMS

1. The bill establishes a new method of reimbursement for routine operating costs for hospitals under the medicare and medicaid programs. The new mechanism, to be effective July 1, 1979, would provide for incentive reimbursement—rewarding hospitals whose routine operating costs are below average, and penalizing hospitals whose routine operating costs are substantially above average.

Comparisons among institutions would be facilitated by:

Classifying hospitals in groups, by bed size, location, type of hospital, or other categories found to be appropriate;

Applying the reimbursement system to routine operating costs (for example, routine nursing, administrative, maintenance, supply, and food costs), and excluding elements of routine costs such as costs of capital, costs of education and training programs, malpractice insurance, etc. Such excluded costs would continue to be reimbursed as under current law.

A target rate for routine operating costs would be determined for each hospital by:

Calculating the average per diem routine operating cost for the hospitals in each classification group; and

Adjusting the personnel cost component of the group average to reflect the difference in wages in effect in each hospital's area.

Hospitals whose actual routine operating costs fell below their target rate would receive one-half of the difference between their costs and their target rate, with the bonus payment limited to 5 percent of the target rate. In the first year, hospitals whose actual costs exceeded their target rate, but were no more than 115 percent of that rate, would be paid their actual costs. Those with costs above 115 percent of their payment rate would have their reimbursement limited to 115 percent of the target rate. Beginning with the second year, the reimbursement limit would be reduced below the 115 percent level.

Provision is made for a hospital to demonstrate that its unusually high routine costs are caused by (1) underutilization of beds or facilities, but only where such beds or facilities are necessary to meet the needs of an underserved area, (2) an unusual patient mix which results in a greater intensity of routine care, (3) changes in services due to approved consolidations or sharing of services with another hospital, and (4) start-up costs associated with a new hospital. To the extent that such additional costs could be justified, they would be excluded from the reimbursement criteria provided for in the bill.

If the Secretary is satisfied that a State hospital reimbursement control system would result in aggregate medicare and medicaid payments to the State's hospitals for routine and nonroutine costs which are no greater than would otherwise be payable by medicare and medicaid under the system established by the bill, then payments to hospitals in that State could, at the State's request, be based on the State system. A State with an approved reimbursement control program would be reimbursed for the medicare program's proportionate share of the cost of operating the State program. The State's medicaid program would pay its proportionate share of costs which would be matchable with Federal funds as an administrative expense. In addition, medicare and medicaid would pay their proportionate share of startup costs of approved State reimbursement control programs.

The bill requires the Secretary to appoint an 11-member Health Facilities Costs Commission. The Commission would monitor and study all aspects of the cost reimbursement program and propose such changes and refinements as it found appropriate. The Commission would be directed to develop possible legislative recommendations to refine the method of reimbursing hospitals for routine costs and for the possible application of similar limitations to other hospital costs and to the costs of other providers of services, such as skilled nursing facilities, ICFs, home health agencies, and renal dialysis facilities.

To the extent not specifically otherwise provided for under the bill hospital reimbursement would be made by medicare and medicaid subject to and under the provisions of present law.

2. The bill provides for including in payments to short-term hosiptals, reimbursement for increased operating costs and, in the case of nonprofit institutions, for increased capital costs associated with the closing down or conversion to approved use of underutilized bed capacity or services. This would include costs which might not be

otherwise reimbursable because of payment "ceilings", severance pay, "mothballing" and related expenses. In addition, nonprofit hospitals could continue to receive capital allowances in the form of depreciation or interest on debt in connection with the terminated beds. In the case of complete closing down of a hospital, payments would continue toward repayment of any debt, to the extent previously recognized by the program and actually outstanding. Appropriate safeguards are included to forestall abuse or speculation.

3. The bill includes several changes in the current law limitations on medicare and medicaid payments related to certain hospital capital expenditures. These changes link reimbursement to the health planning law by requiring that the designated planning agency approve capital expenditures in excess of $150,000 as a condition of medicare and medicaid reimbursement for capital and direct operating costs associated with those expenditures. A special procedure is established for proposed capital expenditures in metropolitan areas which include more than one State or jurisdiction. All States or jurisdictions in the area must approve the expenditure, or it would be considered disapproved for purposes of reimbursement subject to review by the Secretary. Section 1122(g) of the Social Security Act is amended to clarify that notice, approval and reimbursement penalty requirements contained in that section with respect to approval of health care facility capital expenditures do not apply to simple changes of ownership (either by purchase, or under lease or comparable arrangement) of existing and operational facilities which create no new beds or services.

PRACTITIONER REIMBURSEMENT REFORMS

1. The bill establishes the concept of "participating" physicians. A "participating" physician is an M.D. or D.O. who voluntarily agrees to accept the medicare reasonable charge determination on an assignment basis, as the full billing amount for all services to all his medicare patients. Agreements would be cancellable on the basis of 30 days' notice. "Nonparticipating" physicians could continue to elect to use the assignment method of billing on a claim-by-claim basis as under present law.

In the case of a participating physician, the Secretary would establish appropriate procedures and forms whereby such physician may submit his claims on a simplified basis. These claims would be given priority handling by the medicare carrier.

An "administrative cost-saving allowance" of $1 per eligible patient would be payable to a participating physician covering all services provided and billed for with respect to an eligible patient which were included in a multiple billing listing.

No administrative allowance would be payable in the case of claims solely for laboratory tests and X-rays undertaken outside of the office of the billing physician.

2. The bill permits medicare reimbursement to be made to free-standing ambulatory surgical centers and physicians performing surgery in their offices for the use of surgical facilities needed to perform a listed group of surgical procedures. Such procedures include those which are often provided on an inpatient basis but can, consistent with sound medical practice, be performed on an ambulatory basis. In the physician's office, the rate would encompass reimbursement for the facility and physician, and for related services including pre- and post-operative visits and routine laboratory and other diagnostic tests usually associated with the procedure. In the case of an ambulatory surgical center, the overhead allowance may be paid directly to the center and the professional fee directly to the physician(s).

The physician performing surgery in his office would be fully compensated for his overhead costs through this rate if he accepts an assignment; there would be no deductible and coinsurance.

Similarly, deductible and coinsurance amounts would be waived for the physician's fee when the physician accepts assignment for hospital outpatient surgery.

3. The bill modifies existing medicare criteria for determining reasonable charges for physician services.

Medicare presently allows a new doctor to establish his customary charge at not greater than the 50th percentile of prevailing charges in the locality. The bill would permit new physicians in under-served localities to be reimbursed at the 75th percentile (rather than the 50th) as a means of encouraging doctors to move into low-fee, physician shortage areas to have the fees they generally are charging recognized as reasonable, up to the 75th percentile.

Medicare utilizes more than 200 different "localities" throughout the country for purposes of determining part B "reasonable" charges. One State has 28 different localities. This has led to irrational disparities in areas of the same State in the prevailing charges for the same service. Additionally, under present law, all prevailing charges are annually adjusted upward by a fixed percentage to reflect changes in the costs of practice and wage levels. The effect of present law is to further widen the dollar gap between prevailing charges in different localities.

The bill requires calculation of statewide median charges (in any State with more than one locality) in addition to the locality prevailing charges. To the extent that any prevailing charge in a locality was more than one-third higher than the statewide median charge for a given service, it would not be automatically increased each year. This provision would not reduce any prevailing charges currently in effect—it would operate, to the extent given charges exceed the statewide median by more than one-third—to preclude raising them.

4. The bill amends present law to provide for direct payment to allergists for preparation of a reasonable supply of antigens which would be dispensed or administered by or under the supervision of another physician.

5. The bill includes a technical change that would permit payment by medicare for care directly to the spouse or other legal representative of a deceased medicare beneficiary on the basis of a nonreceipted bill. Under present law, medicare can only pay where the physician accepts an assignment or where the family has actually paid the bill. Thus, in some cases where a physician refuses an assignment, families have encountered difficulty in raising sufficient cash to pay the bill in order to be eligible for payment by medicare.

LONG-TERM CARE REFORMS

1. The bill includes a provision to encourage better use of underutilized beds of small rural hospitals by providing for a simplified cost reimbursement formula which avoids the current requirement for separate patient placement within the facility and separate cost finding.

2. The bill allows States the option, when computing reimbursement rates under medicaid to a skilled nursing facility or intermediate care facility, to include reasonable allowances for the facility in the form of incentive payments related to efficient performance.

3. The bill includes a provision which would make the Secretary of HEW the final certifying officer for skilled nursing and intermediate care facilities under medicaid.

4. The bill prohibits the Secretary from imposing numerical limits on the number of home visits which might be made by skilled nursing home or intermediate care patients under medicaid.

GENERAL PROVISIONS

1 The bill provides that if the Secretary notifies a State of any audits, quality control performance reports, deficiencies, or changes in Federal matching payments under the Social Security Act, simultaneous notification would also be made to the Governor of the State and the respective chairmen of the legislative and appropriation committees of that State's legislature having jurisdiction over the program affected.

2. The bill terminates the Health Insurance Benefits Advisory Council (HIBAC).

3. The bill includes a provision under which reimbursement to contractors, employees or related organizations, consultants, or subcontractors would not be recognized where compensation or payments (in whole or part, in cash or kind) were based upon percentage arrangements that are not normal business practices. The percentage prohibition would flow both ways either from the supplier or service agency back to the provider or organization or from the original provider or organization to the supplier or service agency. However, the amendment would not preclude certain percentage arrangements which are found to be customary commercial business practices or which promote good and economical management practices.

4. The bill permits payment for ambulance services to a more distant hospital when the nearest hospital does not have staff qualified to undertake the required care.

5. The bill authorizes up to $5 million annually for grants to public and nonprofit private regional pediatric pulmonary centers which are part of (or affiliated with) institutions of higher learning. These grants would assist institutions in the training of health care personnel in the prevention, diagnosis, and treatment of respiratory diseases and providing needed services for children and young adults suffering from such diseases.

6. The bill provides that the requirements of the human experimentation statute would not apply to financial and administrative arrangements such as deductible and copayment requirements.

7. The bill includes a provision that prohibits the routine release of information relating to the amounts paid to physicians on behalf of medicare patients.

8. The bill adds a provision that requires States to deny medicaid benefits for up to a year in certain cases for aged, blind and disabled individuals who, within the preceding year, dispose of their assets for substantially less than fair market value; there would be a rebuttable presumption that such disposal was undertaken for the purpose of qualifying for medicaid.

9. The bill changes the allowed rate of return on 'for-profit hospitals' net equity, which under present law is equal to 1½ times the current rate of return on Social Security trust funds. The new rate of return multiplier would be: 2½ times for hospitals entitled to an incentive payment under the incentive reimbursement system in sec. 2 of the bill; 2 times for hospitals that are reimbursed only their reasonable costs; and 1½ times for hospitals with costs in excess of their routine cost limits.

10. The bill waives the $60 deductible in applying special laboratory billing procedures under medicare.

11. The bill allows a State to purchase laboratory services for its medicaid population through competitive bidding arrangements for a three-year experimental period.

12. The bill clarifies that Professional Standards Review Organizations (PSRO's) are not to be considered Federal agencies for purposes of any public disclosure of information developed or compiled in undertaking functions required under the Social Security Act.

13. The bill removes the requirement in

existing law that limits medicare home health benefits to 100 visits under part A and 100 visits under part B. In addition, the bill removes the requirement that a beneficiary has to be an inpatient in a hospital for at least three days before he can qualify for part A home health benefits.

14. The bill establishes a new reimbursement methodology for medical equipment whereby reasonable charges for durable medical equipment would be calculated on a prospective basis and would take into account, in addition to the customary and prevailing charges, the acquisition costs of the equipment, appropriate overhead (considering the level of delivery services and other necessary services provided by the supplier), and a reasonable margin of profit.

15. The bill requires HEW to adopt, to the extent feasible, standardized claims forms for medicare and medicaid.

16. The bill provides for medicare to share its audit findings with the medicaid and the maternal and child health programs where these programs reimburse the same entity on the basis of its reasonable costs.

17. The bill would exclude certain charitable donations for the purpose of determining the reasonable costs for reimbursement under medicare and medicaid.

18. The bill requires skilled nursing facilities (SNFs) to participate in both medicare and medicaid as a condition to participate in either program.

19. The bill extends the coverage of dental services under medicare to include any services which may be performed by a doctor of dental surgery or of dental medicine legally authorized to perform such services if they would be covered when performed by a physician.

20. The bill authorizes medicare part B reimbursement to optometrists for services related to aphakia which are within the scope of licensed optometric practice, and which are covered under present law when provided by a physician.

21. Under present law, medicare beneficiaries who exhaust their eligibility for days of hospital or SNF benefits can renew their eligibility by remaining outside a skilled nursing care institution for 60 consecutive days.

The bill directs the Secretary to review present criteria for classifying skilled nursing care institutions to ensure that the criteria for renewing benefit eligibility are not too restrictive. The Secretary would report his findings and conclusions to the Congress within 9 months, together with any legislative recommendations he may wish to propose.

22. The bill provides an additional 1-year period for States to enter "buy-in" agreements under medicare on behalf of their medicaid population.

Mr. TALMADGE. Mr. President, I withhold the remainder of my time.

Mr. CURTIS and Mr. ABOUREZK addressed the Chair.

Mr. CURTIS. Mr. President, I make the following statement about the character of the Talmadge amendment and why the Talmadge amendment should be supported.

THE CHARACTER OF THE TALMADGE AMENDMENT

The Talmadge amendment would incorporate the substance of H.R. 5285, the medicare/medicaid cost containment measure reported by the Committee on Finance. This measure establishes a classification, comparison, and reward and penalty system in the medicare and medicaid programs as a replacement for the present system of reimbursement on the basis of reasonable cost. Target rates would be set by groups of hospitals, at their average per diem cost, and penalties would be levied against hospitals who have costs in excess of 115 percent of the target rate. Similarly, bonuses would be paid to hospitals who have costs less than the target rate.

WHY THE TALMADGE AMENDMENT SHOULD BE SUPPORTED

First. Government has a legitimate interest in controlling the costs of medicare and medicaid. The present system, where reimbursement is made on the basis of reasonable cost, has no incentive whatever with respect to cost control.

Second. The classification, comparison, and incentive system established by the Talmadge bill is fair and equitable. It groups hospitals by several criteria, and provides for suitable adjustments and exceptions according to their characteristics.

Third. It begins only with routine costs—food, wages, and the like. It appropriately does not include ancillary costs—drugs, laboratory work, supplies—which cannot at this point be measured or compared adequately.

Fourth. Similarly, it appropriately does not cover all payers—only medicare and medicaid. Cost control mechanisms of this type should cover only Government programs, not the private sector.

Fifth. It resists any move to impose flat revenue caps, as the Kennedy and Nelson proposals would do. See summary pages on each of these proposals for a listing of their defects.

Mr. NELSON. Mr. President, the hospital cost containment amendment which I and 14 other Members are proposing today represents a compromise between S. 1391, the Human Resources Committee's hospital cost containment proposal, and the Finance Committee-reported approach contained in H.R. 5285, the bill before us today. As such, I believe it will present the Senate with a meaningful, effective, and realistic opportunity to reduce current inflationary pressures, help balance Federal and State budgets, and save taxpayers, American business, and private patients literally billions of dollars over the course of the next few years.

In summary, this compromise amendment addresses one of the most significant inflationary factors in the economy today: Hospital costs. If adopted, it will significantly reduce the rate of increase in those costs, in a way which is equitable to the hospital industry.

This is true because our proposed compromise takes into account the efforts of that industry to control the current intolerable rate of hospital cost inflation voluntarily, but it also guarantees that this rate will be reduced, and that real savings will be realized for the American economy, by enacting a standby program to go into effect if the voluntary effort fails.

In the most general terms, this amendment could not be simpler. The hospital industry itself has proposed a voluntary effort to reduce the hospital cost inflation rate by 2 percentage points in 1978 and by 2 additional percentage points in 1979. The American Hospital Association panel survey has estimated a 1977 rate for all hospitals of 15.6 percent. At that rate, hospitals would have to achieve a rate of 11.6 percent by the end of 1979.

The key provision in this compromise simply acknowledges the voluntary effort, and writes it into the law, with certain minor changes.

The compromise also authorizes a set of mandatory hospital cost controls—but those controls would only apply to any particular hospital when:

The national voluntary effort fails; and

The State in which the hospital is located also fails to meet the national goals, and the State does not have an adequate cost containment program of its own, and

The hospital itself has more than 4,000 annual admissions, is not a new hospital, a mental hospital, or an HMO hospital, and is not exempt under the other exceptions set out in the amendment.

As you can see, Mr. President, this is an extremely careful, cautious approach, which recognizes voluntarism in the private sector. The Government only steps in with mandatory controls as a last resort in cases where all other efforts have failed to curb unacceptable inflation.

And yet despite this caution. HEW has estimated that this compromise will save $30 to $35 billion [1] over the next 5 years—over $11.5 billion for the Federal Government, $1.5 billion for State and local governments, and the rest for health insurance companies, businesses, employees, and other private payers.

In other words, the extent of the inflationary problem in this sector is so huge that what we do or fail to do about it here today, on the Senate floor, could have enormous repercussions throughout our economy for many years to come.

Before I discuss the cost containment provisions of H.R. 5285 and this compromise in greater detail, I would like briefly to outline the nature and scope of this problem, and provide some background for this current proposal.

The American people are frustrated and alarmed by the effects of uncontrollable inflation on their lives. When Louis Harris recently asked Americans to identify their most serious concerns, the message was clear:

Controlling inflation was their first priority, 69 percent.

Curbing Federal spending was their second priority, 31 percent.

Controlling health care costs was their fourth priority, 28 percent.

Reducing unemployment barely beat out controlling health care costs as the third priority.

Quite simply, this compromise gives Congress an opportunity to address all three of those major and traumatic concerns, Mr. President, by giving us an opportunity to bring rational, manageable controls to the rate of inflation in hospital costs.

One hundred and sixty-three billion dollars was spent for health care in

[1] This is the DHEW estimate. Within the last few days, however, the Congressional Budget Office has estimated savings of $23 billion, based on new economic assumptions.

America in fiscal year 1977—equal to $737 for every man, woman, and child in the country, according to the Health Care Financing Administration. Health care now absorbs some 8.8 percent of the gross national product (GNP), and predictions are for it to represent 10 percent of GNP by 1983.

Hospital costs alone account for 40 percent of all health care expenditures. Hospital costs have risen from a total of $12.6 billion in 1967 to $68.4 billion in 1977—making them clearly the most inflationary part of the Nation's health care budget.

The average cost of a stay in a hospital and the average daily rate over the last few years gives some indication of the magnitude of this problem. Consider the following facts:

	Average daily hospital rate	Average cost of a hospital stay
1946	NA	$85
1968	$55	469 (8.4 days)
1978	200	1,543 (7.7 days)
1983 (estimate)	373	2,872 (7.7 days)

In other words, over the past 10 years, total hospital expenses have quadrupled, with the increase averaging over 15 percent per year. That is almost 2.4 times more than the average rate of increase in the Consumer Price Index (CPI) over that same period of time. That is more than 3½ times the rate of increase for clothing, and more than twice the rate of increase for food prices. Quite simply, there is no longer any question that such costs present a major and constant threat to our efforts to control inflation.

In 1977, our total nationwide hospital bill increased by 15.6 percent over the previous year, according to the American Hospital Association. This followed increases of 20 percent in the five quarters from 1976 to 1977, 18.8 percent from 1975 to 1976, and 17.9 percent from 1974 to 1975.

Because of these tremendous inflationary rates of increase in hospital costs, President Carter proposed last year to put a temporary cap of one and one-half times the overall rate of inflation (as measured by the GNP deflaton on the annual rate of increase in hospital costs. At an inflation rate of 6.6 percent thus far in 1978, that cap would permit hospitals to increase their revenues by nearly 10 percent this year—a rate many economic analysts would consider far too high, but one considerably less than the current rate of inflation in this sector.

The inescapable fact is—if hospital costs had only been going up at a rate one and one-half times the overall rate of inflation during the last 3 years—rather than two and one-half times that rate—that reduction would have pulled down the overall average of three-tenths of a percent. In other words, the Consumer Price Index for the entire period would have averaged 5.8 percent rather than 6.1 percent.

And if we had held the rate of hospital cost inflation to just one and one-half times the overall rate over the last decade, Americans would be spending $14 billion less on hospital care this year than we will actually spend.

Since early 1977, the hospital rate of increase does appear to have declined somewhat. But it would be difficult, at best, to attribute that decline to any "voluntary effort" pure and simple.

For one thing, the decline started nearly a year before the so-called voluntary effort was even introduced by the industry—at about the time the administration first introduced its mandatory bill.

For another, virtually all of the total nationwide decline in hospital prices has been due to real and dramatic declines in States with mandatory rather than voluntary cost containment programs on the books.

In 1977, HEW now estimates that total inpatient hospital expenses rose by 14.2 percent in the Nation as a whole.[2]

However, the sole reason that rate was so low, relative to previous years, was that the nine States with mandatory programs on the books experienced an average increase of only 12 percent in 1977. Those States are:

(In percent)

	1975	1977
Colorado (1977)	22.9	15.1
Connecticut (1974)	16.8	11.4
Maryland (1973)	19.8	11.8
Massachusetts (1976)	17.7	13.7
New Jersey (1971)	18.3	11.8
New York (1969)	19.9	6.2
Rhode Island (1971)	20.5	11.1
Washington (1973)	21.7	15.2
Wisconsin (1975)	16.6	12.4
(Year Begun)		

On the other hand, the three States with statutory voluntary programs in 1977 averaged an increase of 15.6 percent in 1977. And the 39 States (including the District of Columbia) with no program at all averaged 15.8 percent that year.

Those who would base their vote on this bill in the hope that the "voluntary" effort will succeed by itself, without the threat of standby controls, take a long odds gamble at great risk to our economy. Only standby controls will assure success in an effort we cannot afford to lose.

Even the prediction that hospital cost inflation is on its way down this year received a damaging blow earlier this month, when the newest Consumer Price Index showed that health care costs alone went up 0.9 percent in the month of August—and that the hospital room and board component of that index jumped by 1.5 percent last month, or an annual rate of 18 percent.

The only committee to take action on the administration bill has been the Human Resources Committee, which reported out S. 1391 last year. The Congressional Budget Office has estimated savings through that bill of nearly $60 billion over the next 5 years, making it clearly the single most potent anti-inflation bill that will come before Congress this session (or indeed, for many sessions to come).

And yet no other committee of Congress has approved cost containment legislation even remotely similar to the administration bill. It has been stalled for months in the House Ways and Means Committee. It has essentially been gutted by the House Commerce Committee. And it has never been seriously considered in the Committee on Finance.

Section 2 of H.R. 5285 represents the Finance Committee's only effort this year to address the issue of rising hospital costs. But while the committee's adoption of this section indicates a belief that there is a serious hospital inflation problem, the solution proposed is simply inadequate to assure a resolution of the hospital cost inflation problem.

The Finance Committee proposal basically sets up a new mechanism for paying hospitals their routine (that is, "hoteltype") costs under medicare and medicaid. Currently, a hospital simply tells the governmental programs what its costs have been, and the Government pays its appropriate share of those costs—without really questioning the hospital's accounts. Under this Finance Committee bill, hospitals of similar size, type, and location will have their routine costs compared and averaged. Hospitals whose routine costs are far in excess of others in their categories would have some upward limits placed on their medicare and medicaid reimbursement—in general, they could receive no more than 115 percent of the per diem average for their class of hospital, regardless of their actual costs.

The Finance Committee bill has several serious deficiencies, however, which drastically limit any potential savings for the Government programs—and which guarantee even less real savings for the economy as a whole. As a result, there will be virtually no savings, even to the Government, under the Finance Committee bill for the first 2 years of its operation, and less than $500 million over the next 5 years—or over 100 times less than the savings under the Human Resources Committee bill.

For example, the Finance bill is limited only to hoteltype routine costs—with no effort whatsoever to control ancillary costs such as X-rays, laboratory fees, operating rooms, and so forth. Yet such costs represent a large percentage of the hospital budget—45 percent for ancilaries, as compared with 55 percent for routine costs. And with various routine costs such as energy costs, teaching costs, and malpractice insurance also excluded under the Finance bill, it would apply to no more than 40 percent of all hospital costs.

In addition, by limiting its effect only to medicare and medicaid, and not affecting insurance companies, Blue Cross/Blue Shield, private patients, and other payers, it is virtually guaranteed that no real savings will be felt at all for the economy as a whole. Clever hospital administrators and accountants will simply find ways to shift their excess costs from

[2] Note: While this differs from the AHA panel survey estimate of 15.6 percent, it measures a different and more detailed set of AHA cost data than that panel survey, and the rates of increase in States relative to one another are not necessarily affected by the different national rate.

the Federal programs to private payers—a phenomenon which has already been observed and recorded in New York State, where controls on medicaid and Blue Cross simply resulted in room rate charges twice as high for all other payers, including the private patient who can afford it the least.

Section 2 of the Finance Committee bill does contain language ostensibly prohibiting hospitals from shifting these excess costs to other payers—however, there is no effective way of enforcing that provision without actually controling in some way the payments of insurance companies and private patients. So it is unlikely that such language would have any practical effect on hospital practices.

In fact, HEW believes section 2 provides very little more statutory authority than the Department already has over medicare and medicaid—authority which the Department has not yet exercised precisely because of the fear of increased charges to all other payers.

On the one hand, then, we have the administration's cost containment proposal, which would entail mandatory controls on all hospital costs and all payers—and which would save upwards of $55 to $60 billion over the next 5 years.

On the other, we have the Finance Committee bill before us today, which makes certain modest changes in governmental reimbursement policy affecting only routine hospital costs—and which saves less than $500 million over the same period of time.

By way of compromise, this proposal would strike a middle road between these two:

It would accept the Finance Committee routine cost reimbursement proposal (with a few technical modifications to increase its cost savings), and that proposal limitations would thus go into effect as planned with regard to routine costs under medicare and medicaid.

It would statutorily recognize the need to contain ancillary costs and to control costs for all other payers, but would accept the hospitals' own voluntary effort to control those costs at the same time. It would simply seek to insure the success of that voluntary effort, by having in place statutory authority for standby mandatory controls to keep hospital cost inflation down if the voluntary effort fails.

Let us be clear on that last point before we go on to explain this compromise in greater detail: I consider the voluntary effort—not the standby controls—to be the key element of this compromise. But I believe that maintaining the threat of standby controls is also essential if that voluntary effort is to succeed.

I would now like to take a little time, Mr. President, to set out in somewhat greater detail exactly what this compromise does and how it would function.

As we stated previously, the vast majority of hospitals are currently paid by medicare, medicaid, and most third-party payers solely on the basis of their self-reported costs. When hospitals report that their costs have increased—whether due to price increases in the food they serve or the fact that they have purchased a new CAT Scanner—those increased costs are simply paid, with few or no questions, by medicare, medicaid, and private insurers.

It is absolutely essential to bear in mind, in discussing this amendment, that it does not represent price controls—because "pricing" policy has little or nothing to do with the way hospitals are paid. Hospitals simply do not "sell" their product on the open market like private industry, and the so-called "charges" that appear on most hospital bills are, in many cases, little more than informational accounting techniques. For anyone other than the uninsured private patient, those charges have little to do with either the way hospitals are paid or how much they are paid.

Again, medicare, medicaid, and Blue Cross/Blue Shield by and large simply pay the hospital that portion of the hospital's overall aggregate, annual costs attributable to their own beneficiaries.

To give you an example: Hospital A reports total costs for a particular year of $1 million and 40 percent of its patient charges for that year were covered by medicare, 30 percent by Blue Cross, 20 percent by medicaid, 15 percent by other insurance companies, and 5 percent were private patients with no insurance. Rather than submitting itemized bills, such as a patient sees, to each of those payers for each patient, the payer looks instead at the relevant costs and percentages. Medicare thus pays the hospital 40 percent of its $1 million annual costs—or $400,000;[3] Blue Cross pays $300,000 to the hospital; other insurers pay their share; and only the private patients end up paying on the basis of individual "charges" which appear on the bill. The other payers are in essence paying the hospital's budget.

Now, in fact the payment scheme is more complicated than that—negotiations do take place between each payer and a hospital over such matters as allowable costs and number of patients covered—but that is the basic system as it exists today.

Against that background, then, the very limited reforms contained in section 2 of H.R. 5285 would simply attempt to set some upward limits on what medicare and medicaid will pay hospitals for certain types of routine costs, amounting to only 40 percent of all hospital costs. In addition to that limitation, medicare pays only 30.4 percent of all hospital costs. The Federal medicaid share is only 5.7 percent, and State medicaid payments account for only 4.7 percent of hospital costs, for a total governmental share of just 40.8 percent. Blue Cross/Blue Shield and private insurers, on the other hand, now pay 53.9 percent of all hospital costs, while private patients account for the remaining 5.3 percent. Thus, less than 20 percent of all hospital costs would be covered under the Finance Committee bill, as it is currently written. Given the scope of the current inflationary problem in the hospital sector, the section 2 approach simply does not go far enough to meet the urgent need to reverse the inflationary trends.

This compromise amendment is designed to have a wider, more meaningful anti-inflationary effect than the Finance Committee bill—while avoiding the imposition of immediate, mandatory controls contained in the Human Resources Committee bill.

The way this amendment would work is as follows:

The modifications to the current medicare and medicaid cost reimbursement system already contained in the Finance bill would be preserved, with certain minor modifications designed to improve their effectiveness. Thus, hospitals would be classified according to size, type, and location, and commencing next July 1, the amount each hospital could receive from the Federal Government for its per diem routine costs would be limited to no more than 115 percent of the average per diem cost of all the hospitals in its class.

Three significant modifications are made by the compromise amendment in the basic Finance Committee approach to routine costs under medicare and medicaid:

First, this proposal would tighten up the technique used to determine the average costs of each class of hospital from year to year. While no hospital will receive more than 115 percent of that average in any given year, the Finance Committee provision permits half of each hospital's actual costs are in excess of that level to be counted in determining the following year's average. Since this would have the effect of permitting unreasonable costs to unnecessarily inflate the average in subsequent years, my amendment would disregard all—rather than half—of such excess costs in determining the new average.

Second, since the Finance Committee bill permits any hospital to be reimbursed for all its routine costs up to 115 percent limit, there is inadequate incentive to relatively low-cost hospitals to keep their costs down. While hospitals actually below the average can keep as a bonus half of the difference between their actual costs and the average (up to 5 percent of the average costs), that may not be adequate incentive for many hospitals, even if it is amended as I recommend to require half of the bonus to be passed on to hospital employees.

A hospital with costs at 80 percent of the average, for instance, can earn a 5 percent incentive bonus under the Finance measure if they keep their costs at 80 percent—but there would be no penalty to them if they increased their costs all the way to 115 percent of the average, an increase of nearly 50 percent in costs. My amendment simply guarantees that such inflationary increases will not occur, by limiting annual routine cost increases, even within the Finance Committee limits, to 1½ times the rate of increase in a "market basket" of goods and services normally purchased by hospitals.

[3] Medicare patients do pay a "first-day deductible" out of their own pockets for hospital care. That deductible came to $40 in 1968. By 1973, it had climbed to $72, and only last week, a new increase was announced from $144 to $160. By 1983, without any cost containment effort, it is estimated that the deductible will climb to $276 for the elderly patient.

The administration estimates that these two amendments would add $300 million and $1.6 billion in savings respectively over the next 5 years to the current Finance Committee approach to routine costs.

Third, the compromise proposal provides a basis for expanding the Finance Committee approach to govern medicare and medicaid reimbursement for ancillary costs, as well as routine costs, as soon as the Hospital Cost Commission created by H.R. 5285 recommends to the Secretary that we have adequate data to do so. This amendment will at least guarantee that all costs can, at some time in the future, be controlled under medicare and medicaid.

But even with these modifications, there remains the very serious problem of what to do at this time about ancillary costs and about all other payers. For that reason, this amendment also contains provision to address those concerns.

To summarize those provisions, as I pointed out earlier, this amendment would statutorily recognize the hospital industry's own voluntary effort to control hospital costs. If that effort succeeds, then no further governmental action will be required. If at any point it does not succeed, however, this amendment provides for standby, mandatory controls, which would then go into effect.

Here's how the amendment would put the voluntary effort into statute:

Total community hospital expenses nationwide increased by about 15.6 percent in 1977 (according to the American Hospital Association panel survey) to $53 billion. The voluntary goal is to lower that rate of increase by 2 percent in 1978 (thus limiting the rate of increase to 13.5 percent if 15.6 percent is finally determined to be the 1977 rate); and by a cumulative total of 4 percent in 1979 through 1982 (thus holding the rate of increase to 11.6 percent through those years, again based on the 15.6 percent base).

However, hospitals would not be required to reduce their aggregate rates of inflation below one and one-half times the rate of inflation in the general economy, as measured by the GNP price deflator.

For example, if the rate of inflation were to rise to 8 percent, hospitals would be allowed to increase by 12 percent, even if the "goal" for this year becomes 11.6 percent.

At the current rate of inflation of about 7.2 percent, one and one-half times that rate would be 10.8 percent, so the rate of increase allowed would still be 11.6 percent, based on the AHA figure.

It is important to bear in mind that the voluntary goals are measured nationwide, on the aggregate, not hospital-by-hospital. Therefore, some hospitals could have significantly higher rates of increase than others, and yet the national goal could still be met.

If the nationwide voluntary effort fails to meet its goal in any particular year, the standby program contained in the compromise amendment would then go into effect.

However, even in that event, any particular hospital could still be exempt from the controls if:

Hospitals in its State in the aggregate have met the national goals; or

The State has in place an effective cost containment program of its own which the Secretary determines to be capable of meeting the national goal; or

The hospital itself has fewer than 4,000 admissions, is primarily an HMO, psychiatric or tuberculosis hospital, is less than 3 years old.

In addition, even if a hospital is subject to controls, its maximum allowable rate would be adjusted upward if a hospital could demonstrate, as under the Talmadge bill, that its unusually high routine costs were caused by: First, underutilization of beds or facilities, when the hospital is in an underserved area; second, an unusual patient mix that results in a greater intensity of routine care; third, changes in services due to approved consolidations or sharing of services with another hospital; and fourth, start-up costs associated with a new hospital.

HEW would also have discretion to develop other exceptions, especially after the new Health Facilities Cost Commission created by the Talmadge bill analyzed needs for exceptions.

Finally, wage increases granted by hospitals to nonsupervisory employees would be disregarded by hospitals in determining whether, on the State or national aggregate, they have met the voluntary goals. This provision—which does not extend to fringe benefits, overtime, or shift differentials—is necessary because, while hospital costs have been increasing at up to 18 percent annually, low wage nonsupervisory employees' wages are rising at only 4 to 7 percent annually, according to the Bureau of Labor Statistics. After removing the effects of inflation, real wages of such hospital workers have risen only 20 cents per hour since 1970, as calculated from data from the BLS:

1977 average hourly hospital wage	$4.68
In 1970 dollars, $4.68 equals	2.99
1970 average hospital wage	−2.79
Real wage gain since 1970	0.20

Therefore, it is essential that this program remain neutral on the issue of nonsupervisory wages—neither giving hospital workers a blank check to demand inflationary increases nor permitting hospitals to use the threat of controls to deny employees' legitimate requests. The amendment is neither prolabor nor antilabor—it simply leaves both parties in the same collective bargaining position they would be in the absence of controls.

MANDATORY STANDBY PROGRAM

If, after considering all of the elements set out above, a hospital becomes subject to mandatory controls, those controls would work as follows:

The Secretary of HEW, acting through the local medicare fiscal intermediary, would set a maximum allowable revenue limit for each hospital made up of the following components:

First. The percentage increases allowed using the routine cost ceiling already determined for that hospital under section 2 of H.R. 5285 would be extended to routine costs paid by all payors.

Second. All other costs—the ancillary costs—would then be divided into two components: Labor costs and nonlabor costs. The rate of increase in each of those components would be compared with the overall rate of increase for each component in the economy.

First. In the case of labor costs, the rate of increase in general wages in the hospital's geographic area in the most recent 2-year period would be applied to the hospital's overall labor costs.

Second. In the case of nonlabor costs, the rate of increase in a "market basket" of goods and services normally purchased by hospitals would be multiplied by the hospital's total nonlabor, nonroutine costs. Such a market basket would be based on the hospital-related components of the CPI and Wage Price Index, and might include such items as food, fuel, insurance, drugs, and other supplies, such as linen, stationery, uniforms, spare parts, and so forth.

Third. Those three allowable rates of increase in the three separate components of the hospital's budget would be added together to produce the overall rate of increase allowed the hospital.

Fourth. That limit would then be corrected by subtracting the amount by which the hospital's current rate of increase exceeds the voluntary goal—in order to guard against a hospital unnecessarily increasing its costs in anticipation of mandatory controls.

Fifth. And once again, as in computing increases under the voluntary goals, wage increases for nonsupervisory workers would not be counted in determining the allowable increase.

The final result will be an individually permissible rate of increase for each hospital covered under the controls.

Despite the complaints of the hospital industry, that overall permissible rate of increase would in no way resemble a "flat cap," as under the original administration bill. Rather, there will be a different limit for each and every hospital, which will be applied on a peradmission basis to all payers.

Indeed, there could be wide variation in the limit from hospital to hospital—with an efficient, low-cost hospital entitled to a significantly higher limit than a wasteful, high-cost hospital. There is appended to this statement a specific example of how these limits might be applied to an individual hospital.

In conclusion, Mr. President, I would simply like once again to remind my colleagues that one of the most important areas in which Congress by its own decision can have an important direct impact on inflation and Federal spending is in health care costs. In fact, so far as this session of Congress is concerned, the most important decision we will make respecting spending and inflation will be in the area of hospital cost containment.

If we adopt the administration-Human Resources Committee bill, we will save $55 billion in hospital costs during the next 5 years which includes $19 billion in Federal expenditures and $2.3 billion in State government expenditures. I shall vote for the administration proposal. If it fails, I will offer the compromise proposal.

If we adopt my compromise proposal,

we will save between $30 and $34 billion through fiscal year 1983—an average of over $6 billion a year. Of this amount there would be $11.6 billion savings in Federal tax expenditures, and a $1.5 to $2 billion savings in State tax expenditures.

These are significant, indeed, dramatic figures. One would think that all Members of Congress would jump at the chance to strike such a telling blow against inflation and spending. Thus it is ironic that with all the ostentatious rhetoric about inflation and balanced budgets that we hear daily on the floor of both Houses of Congress, many of my colleagues have been strangely silent on this issue. They are willing to tilt at windmills but do not ask them to tilt with any problems in the real world.

I remain optimistic, however, that given this opportunity to evaluate the debate on this issue, a majority will recognize the importance of this legislation to the country and support it. Because when all is said and done, the vote in the Senate on this issue will separate the doers from the talkers on the issues of Federal spending and inflation.

A large number of concerned health care and public interest groups are strongly supporting this compromise amendment, a list of which I have appended to my statement.

I ask unanimous consent that this list, as well as letters and other materials provided by those groups, be included in the RECORD at the conclusion of my remarks. I also ask that the text of this compromise amendment, as modified, background material on the causes and effects of the amendment on an individual hospital be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ILLUSTRATION OF THE EFFECT OF THE NELSON AMENDMENT ON AN INDIVIDUAL HOSPITAL

Community Hospital is a hypothetical 300 bed acute care hospital that averages about 12,000 admissions a year. This illustration assumes passage of Section 2 of the Talmadge bill, with the Nelson amendment, in October of 1978.

HEW MONITORS THE VOLUNTARY EFFORT

Prior to January 1, 1979, Community hospital would report its expenses for each calendar quarter of 1976, 1977, and the first three quarters of 1978. They would continue to file quarterly reports for each succeeding quarter within 60 days of the close of the quarter. These reports would also indicate the amount of increase in expense arising for increases in the average hourly wage rates for nonsupervisory employees.

For purposes of this example, assume that Community hospital reports the following data:

	Million
1976 spending	$20
1977 spending	23
1978 spending	26

In addition, they report that $1 million of the increase in both 1977 and 1978 resulted from increased wage rates.

In March of 1979, the Health Care Financing Administration would add the expenses of Community Hospital with the expenses of all other reporting hospitals, disregarding the amounts arising from increased wage rates for nonsupervisory employees. For purposes of this example, assume that the increase nationally and in the State are as follows:

	State	*Nation*
1977	16%	16%
1978	13%	13%

Since the voluntary goal is a 2 percent reduction in 1978, and the hospitals nationally dropped from 16% to 13% (a 3% reduction), the voluntary goal was met and no further controls are triggered anywhere in the nation.

HEW IMPLEMENTS THE TALMADGE REFORMS

At the same time (during March of 1979) the Secretary of HEW would announce the Medicare and Medicaid routine operating cost target rates for each hospital as computed under the Talmadge bill. Assume that for hospitals with 300 beds in Community Hospital's area, the target based on average costs among similar hospitals is $100 per day starting January 1, 1980. Community Hospital enters that accounting year knowing that routine operating expenses in excess of $115 per day will be disallowed by Medicare and Medicaid, and that expenses of less than $100 per day will earn the hospital bonus payments.

THE VOLUNTARY EFFORT FAILS

All hospitals would continue to report quarterly data during 1979 in order to allow for continued monitoring of the voluntary goals. In March, 1980, HEW would again add all reported expenses from Community Hospital and all other reporting hospitals (excluding expenses arising from increased wage rates). Assume that the increase during 1979 was 13 percent nationally and 13 percent in Community Hospital's State.* Since the national voluntary goal is a rate of increase of 12 percent, the Secretary of HEW would announce that the voluntary goal has been exceeded both nationally and in Community Hospital's State. Standby controls would be effective January 1, 1980. Pursuant to the Stone modification to the Nelson amendment, a determination would also be made as to whether the individual hospital meets the national goal.

At the same time, the Secretary would announce two sets of data necessary to implement the standby controls:

The rate of increase in wages of service workers in each hospital's locality for the most recent two year period for which data are available;

The rate of increase in a "market basket index reflecting non labor purchases of hospitals. This index would be derived from appropriate components of the CPI and WPI weighted to reflect hospital purchases).

For purposes of this illustration, assume that wages increased by 9 percent in Community Hospitals area and that the price index increased by 8 percent.

STANDBY LIMITS IMPLEMENTED

The Medicare Intermediary for Community Hospital would review its estimate of 1980 costs to assure against payments in excess of the limits. Assume that they estimate:

Twelve thousand admissions;

Routine costs comprise one-third of costs and non-routine, non labor costs and non-routine labor costs each comprise one-third;

Routine operating costs were $100 per day in the previous year;

That a pay raise will increase the average hourly wage rate for nonsupervisory employees by 12 percent and such wages will constitute 40 percent of Community Hospitals costs.

Based on these estimates, the intermediary would compute the standby limit on reimbursement per inpatient admission according to the following steps.

One. Percent by which routine costs can increase over the prior accounting year without being disallowed:

$$\frac{\$115-\$100}{\$100}=.15$$

Two. Reduced by excess over 1½ times the "market basket" index used in setting target rates under the Talmadge bill. (assume 8%)

$.15-.03=.12$ (8% times $1.5=12\%$. 15% computed under step one is in excess of 12% by 3%)

Three. Multiply by portion of costs representing routine operating costs:

$$.12\times\tfrac{1}{3}=.04$$

Four. Add the product of the increase in area wages (9%) times the portion of non-routine labor costs (one-third)

$$.04+(.09\times\tfrac{1}{3})=.07$$

Five. Add the product of the increase in the "market basket" index of non-labor hospital prices (8%) times the portion those costs constitute of total costs (one-third).

$$.07+(.08\tfrac{1}{3})=.0966$$

Six. Subtract the product of the percentage by which Community Hospital was in excess of the voluntary goal for 1979 (assume that they experienced a 13% increase) times the portion of hospital expense which does not arise from regular wages of nonsupervisory employees (60%)

$$.0966-(.13-.12)(.6)=.0906$$

Seven. Multiply by the portion of costs represented by costs other than the regular wages of nonsupervisory employees:

$$.0906\times.6=.05436$$

Eight. Add the product of the rate increase in the regular wages of nonsupervisory employees times the proportion of total costs arising from such wages (40%)

$$.05436+(.12\times.4)=.10236$$

The intermediary would inform the hospital that Medicare payment per admission in 1980 cannot exceed such payments in 1979 by more than 10.236%. In addition, the intermediary would notify the State Medicaid agency, all other third party payors paying on the basis of costs, and the hospital in computing its charges, that such amounts cannot exceed the limits. If they do exceed the limits, they would be subject to an excise tax.

IMPACT OF RISING HOSPITAL COSTS

Medical costs have become a heavy burden on the average American family and hospitalization can easily be a financial catastrophe.

The median family income was $15,000 in 1976. The average health care expenditure per family was over $2,200—almost 15 percent of the median family income.

Most of this is paid indirectly so that it is not experienced as health care outlays—yet the financial drain is just as real.

A quarter of the social security tax goes for Medicare and this is supplemented by general revenues. Medicaid, veterans' health benefits, public hospitals, etc. are financed from Federal, State and local tax dollars. Thus 40 percent of total health care payments take place through the tax system.

Most private health insurance—which pays another 40 percent of the health bill and 50 percent of hospital costs—is obtained as a fringe benefit of employment, and many employees pay only a small part of the actual cost directly. But premium payments by employers drain off funds that might otherwise go to workers in the form of higher wages and pensions. The employer costs are also passed on to employees (as consumers) in

*Taking into account the State's increased population.

the prices for the goods and services produced.

Those who have to buy their health insurance individually suffer more—premiums have jumped even faster than group rates.

Some 18 million Americans have no health insurance coverage at all. Another 19 million—most with incomes between $5,000 and $10,000 have only skimpy inadequate insurance. For these groups, any major hospitalization is bound to be a financial disaster.

Medicare beneficiaries who paid $40 for their inpatient deductible (that is, their first day's hospital stay—when the program began, now pay $144. Their other medical costs have also jumped enormously. Consequently, despite Medicare, the aged pay more out-of-pocket today for medical expenses in real dollars (constant) than in 1965.

WHAT ARE THE EFFECTS OF HOSPITAL COST INFLATION

CONSUMERS

Consumers feel the direct effects in two ways: through increased health insurance premiums and through increased out-of-pocket payments for health care.

Over the past ten years, hospital expenses have quadrupled.

The cost of the average hospital stay is:

1968	$469
1978	1,543
1983 (estimated, if no cost containment)	2,872

Private insurance premiums for hospital care will more than double between 1975 and 1980.

Due to hospital care inflation, the Medicare deductible rose by 16 percent from $124 to $144 this year;

On January 1, the deductible will increase again, to $160.

LABOR/INDUSTRY AND COLLECTIVE BARGAINING

Increased cost of fringe benefits—

In 1970, employers paid the full cost of health insurance for workers in 40 percent of group plans. (See Ford example.)

Fringe benefits can become a significant issue in collective bargaining—i.e. Mine Workers Strike.

Increased payroll taxes for Medicare place a burden on business, especially small businesses which may have fewer employees who exceed the wage base for social security.

RISING HEALTH COSTS OF HIGHEST CONCERN TO AMERICANS

Given 21 national problems to choose from, highest priority was given to:

Getting inflation under control (69 percent—first priority).

Controlling Federal Government spending (31 percent—second priority).

Keeping health costs under control[1] (28 percent—fourth priority).

Hospital cost containment dramatically meets each of these concerns.

[1] Creating new jobs for the unemployed ranked third (30 percent).

SOURCE.—Harris survey, September 21, 1978.

HOSPITAL COST CONTAINMENT REDUCES HEAVY TOLL OF RISING HOSPITAL COSTS

[In billions

	Total 1978–83		
	Without hospital cost containment	With hospital cost containment	Savings
Hospital costs hit families in many ways:			
Insurance premiums	$98.0	$88.9	$9.1
Personal income and payroll taxes	156.4	141.8	14.6
Direct out-of-pocket payments	40.7	36.9	3.8
Hospital costs hit employers in many ways and reduced wages for workers:			
Payroll taxes	46.9	42.5	4.4
Hospital costs hit employers in many ways and reduced wages for workers:			
Corporate income taxes	38.6	35.0	3.6
Employee insurance premiums	166.9	151.4	15.5
Hospital costs hit State and local governments and cause increased taxes:			
Medicaid payments	27.1	24.6	2.5
State and local hospital budgets	65.7	59.6	6.1

Note: Assumes administration proposal.

HOSPITAL WASTE

MANDATORY STATE COST CONTAINMENT PROGRAMS SLOW INFLATION IN HOSPITAL COSTS WITHOUT SACRIFICING QUALITY

Annual rates of increase in hospital costs

(In percent)

	1975	1977
Colorado (1977)	22.9	15.1
Connecticut (1974)	16.8	11.4
Maryland (1973)	19.8	11.8
Massachusetts (1976)	17.7	13.7
New Jersey (1971)	18.3	11.8
New York (1969)	19.9	6.2
Rhode Island (1971)	20.5	11.1
Washington (1973)	21.7	15.2
Wisconsin (1975)	16.6	12.4

(Year begun.)

EXAMPLES OF UNNEEDED HOSPITAL SERVICES, FACILITIES, AND EXPENDITURES (FY 1977)

130,000 unnecessary beds, $2 billion.

100,000 patients improperly placed in acute care hospitals, $2.6 billion.

Weekend admissions with no medical care, $2 billion.

Hospital stays longer than on west coast, $3 billion.

2.4 million excess surgeries, $4 billion.[1]

Excessive high technology—i.e., CT-Scanners, $200 million.

Inefficient energy use, $500 million.

Profits and surplus earned by hospitals, $2 billion.

[1] Congressional estimate.

OCTOBER 4, 1978.

Hon. ROBERT C. BYRD,
U.S. Senate.
Washington, D.C.

DEAR SENATOR BYRD: A broad coalition of groups concerned with the escalation of hospital costs has joined to urge the Senate to enact meaningful hospital cost containment legislation. We are writing to urge your support and to enlist your help in ensuring that the Senate is provided an opportunity to vote on this critical anti-inflation measure.

This coalition is comprised of representatives of almost every sector of the economy that underwrites the excessive rate of inflation in the hospital sector, a rate twice the overall rate of inflation in our economy. From labor, the aged, and disabled, to commercial health insurers, States, counties, and cities—all pay far more than is required for the care that they purchase.

In addition, knowledgeable health care providers, such as the American Nurses Association, the National Association of Community Health Centers, the National Council of Community Mental Health Centers, the Group Health Association of America, and individual Health Maintenance Organizations, have also joined this unprecedented coalition. Public health interest groups, which have watched uncontrollable Medicare and Medicaid expenditures erode the resources available for discretionary health programs, have lent their support as well.

All have joined to urge you and your colleagues to consider the merits of a proposal that can make a critical difference to the diverse constituencies we represent. No other proposal pending in Congress speaks so directly to the desires of the American people. As shown by the September 21 Harris Survey, three of the four issues of greatest concern to Americans—controlling inflation, Federal spending, and health costs—are all addressed by meaningful hospital cost containment legislation.

The need is clear and the opportunity available. Your efforts on behalf of our coalition and the American people will be greatly appreciated.

Sincerely yours,

Aetna Life and Casualty;
Alliance of American Insurers;
American Association of Retired Persons;
American Health Planning Association;
American Nurses Association;
American Public Health Association;
American Speech and Hearing Association;
Association of State and Territorial Health Officers;
Connecticut General Life Insurance Company;
Epilepsy Foundation of America;
Family Health Program;
Group Health Association of America;
Health Insurance Association of America;
Kaiser Foundation Health Plan;
Kemper Insurance Company;
National Association of Casualty and Surety;
National Association of Community Health Centers;
National Association of Counties;
National Association of Life Underwriters;
National Caucus on the Black Aged;
National Coalition of Hispanic Mental Health and Human Services Organizations;
National Conference of State Legislatures;
National Council of Community Mental Health Centers;
National Council of Senior Citizens;
National Governors Association;
National Indian Council on Aging;
National League of Cities;
National Mental Health Association;
Prudential Insurance of America;
United Auto Workers; and
U.S. Conference of Mayors.

August 29, 1978.

DEAR SENATOR: The problem of inflation is very much on the minds of all Americans, and has been cited a great deal recently during Senate consideration of spending programs. And while there is room for discussion about the consequences for inflation of different bills, there is no doubt that the Senate has a unique opportunity to make valuable inroads against inflation and to curb federal spending through the enactment of hospital cost containment legislation.

While double digit inflation is rightly viewed as a threat to our economic well-

being, hospital costs rose a remarkable 15.6 percent last year, following in the wake of even larger increases in 1975 and 1976. Not only have hospital costs risen at a far faster rate than the overall cost-of-living, hospitals costs are also rising more rapidly than other medical costs. Since 1950 hospital costs have risen from 30 percent of the total of all medical costs to 40 percent of the total.

The consequences of the rise in hospital costs is felt by every American. Most feel it directly in the soaring premiums for hospital insurance. Others, who lack such insurance or who are burdened with co-payment requirements, feel the burden of hospital costs even more directly. And, because of the high proportion of hospital costs covered by Medicare and Medicaid, the soaring cost of hospital care has had a direct bearing on federal spending, and, as a result, on federal income and payroll taxes. Moreover, state and local governments also feel the burden of hospital costs through their health benefit and public hospital programs.

The enactment of hospital cost containment legislation provides an opportunity to address this specific issue and the broader problem of inflation very directly. The UAW favors compulsory hospital cost containment legislation such as that approved by the Human Resources Committee. If that is not to be enacted we certainly believe that the plan proposed by Senator Nelson, for voluntary cost containment by the hospitals and standby mandatory controls, if the voluntary program does not work, should be enacted. Both the bill approved by the Human Resources Committee and the Nelson Amendment represent major improvements over the far less reaching proposal approved by the Finance Committee as an amendment to H.R. 5285.

The bill reported from the Finance Committee holds the prospect of saving less than a billion dollars in the costs of Medicare and Medicaid over a five year period. The savings from the Human Resources Committee bill and the Nelson Amendment, on the other hand, are measured in the tens of billions of dollars and obviously are far preferable to the narrow proposal approved in the Finance Committee.

An argument is made by some that it is unfair to control hospital costs at a time when there is broad sentiment against general wage and price controls. But that argument ignores the fact that hospital costs have risen far faster than the overall rate of inflation and pose a special burden because of the essential nature of medical care. Moreover, the Nelson Amendment would not result in federal controls unless and until the hospitals failed to achieve their own voluntary control program.

As a matter of equity, as a matter of sound economics, and as an essential blow against inflation, the UAW urges you to support hospital cost containment when it comes before the Senate following the current recess. Thank you.

Sincerely,

HOWARD G. PASTER,
Legislative Director.

NATIONAL COUNCIL
OF SENIOR CITIZENS, INC.,
Washington, D.C., August 22, 1978.

DEAR SENATOR: It is our understanding that the Senate is to take up legislation to contain the costs of hospital care this week.

In previous statements, testimony and letters, the National Council of Senior Citizens has strongly endorsed the concept of hospital cost containment and urged passage of legislation along the lines of the original Administration bill.

The Senate Human Resources Committee bill is the strongest, and has the most potential to restrain the inflationary escalation of hospital costs. By placing a cap on total hospital revenues, the Kennedy bill will have the effect of requiring hospitals to plan and budget, as do other businesses.

The alternative legislation, the Talmadge bill, which emerged from the Senate Finance Committee, is unfortunately lacking in several respects: It restricts its cost containment design to Medicare and Medicaid payers and it applies only to routine services which are the so-called hotel-type services. The result is a savings of only $500 million over the next five years.

In stark contrast, the Kennedy bill will save the public $56 billion over the next five years. To repeat, the difference between the Talmadge and Kennedy approaches is 1,112 per cent. If the Congress, and in particular the Senate, is going to curtail inflation, there is no better vehicle on the horizon than the Administration-backed Kennedy hospital cost containment bill.

NCSC would also like to call your attention to three other items associated with the cost containment legislation. The most important of these is the amendment Senator Nelson intends introducing, if the Kennedy bill fails to be adopted. Senator Nelson would amend the Talmadge bill to include hospital services other than simply routine services and expand the application of the cost containment approach to include all payers, not just Medicare and Medicaid.

The Nelson Amendment is, in effect, a compromise proposition. Although NCSC cannot in good conscience support the Talmadge bill in its present form, we would nevertheless support the Nelson compromise if the Kennedy bill were not adopted.

The second item of concern is a provision in the Talmadge bill which would, in effect, allow states to introduce various cost-sharing schemes in Medicaid and allow the federal government to do the same in the Medicare program. Though current law permits this experimentation with reimbursement schemes, the practice has not been widespread. In fact, when the State of Georgia recently attempted to initiate a co-payment procedure in Medicaid, it was successfully challenged in the courts. NCSC strongly opposes cost-sharing and, in order to protect Medicare and Medicaid patients from further erosion of their already modest benefits, opposes Section 19 of the Talmadge bill.

The third item of interest to NCSC, and which we strongly support, and which we have learned has come under attack by the nursing home industry, is Section 31 of the Talmadge bill, which requires skilled nursing facilities to participate in both Medicare and Medicaid as a condition of participation in either program. The disparity between states and within states of skilled nursing facilities, electing to participate in only Medicare or only Medicaid, has significantly reduced the number of skilled nursing facilities available in some areas to both Medicare and Medicaid beneficiaries. The financial incentives are sufficient to avoid the possibility of significant withdrawal from both populations; the effect of Section 31 can only be to enlarge the options for both populations, Medicare and Medicaid recipients.

We would be pleased to discuss our position on the above provisions, or any others that are of concern, at your convenience.

Sincerely,

WILLIAM R. HUTTON,
Executive Director.

AMERICAN NURSES' ASSOCIATION, INC.,
Kansas City, Mo., September 1, 1978

Hon. JAMES ABOUREZK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ABOUREZK: The American Nurses' Association would like to seek your support for the Nelson Amendment to S. 1470 (Talmadge) Medicare/Medicaid Reimbursement Reform Act.

We are in full support of the voluntary approach to hospital cost containment and hope that it will be successful without the need for further action. The Nelson Amendment affords an opportunity for the voluntary effort and would impose controls only if that effort fails.

The Nelson measure retains many of the key features of S. 1470, including the provision for classification of hospitals into groups with similar characteristics. This recognizes the concerns about maintaining quality patient care if there had been imposition of controls on all hospitals with very dissimilar needs, resources and track records on cost inflation as in other bills. The lack of such discrimination was one of our objections to S. 1391.

We also support the Amendment in that, if controls have to be implemented, it affects all payors, all costs, not just "routine costs" as called for in S. 1470. We endorse the Nelson wage pass-through for increases in salaries of non-supervisory employees who have only recently begun achieving parity with similar workers in other sectors of the economy.

Experience has shown there has been difficulty with interpretation of the term "supervisory" by hospitals. and we hope care will be taken that this process be fairly implemented to include all staff who do not carry major responsibility for making policy or for hiring and firing employees.

Finally, we think it eminently fair, as provided in the Nelson Amendment, that bonuses be paid to hospitals which operate economically and that such bonuses be shared with employees who help make such savings possible. We think the amendment does allow hospitals the chance to curb the escalation of their costs without government controls. while providing a reasonable recourse to alternative action if needed. Nurses, like all other groups included, will be affected by this legislation. We are concerned about maintaining quality health care and the welfare of hospital employees.

We recognize this Amendment as a reasonable compromise and we urge you to support it.

Sincerely,

BARBARA NICHOLS,
President.

NATIONAL RETIRED TEACHERS ASSOCIATION, AND THE AMERICAN ASSOCIATION OF RETIRED PERSONS,
August 21, 1978.

Hon. JAMES ABOUREZK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ABOUREZK: The National Retired Teachers Association and the American Association of Retired Persons, urge you to vote in favor of Senator Nelson's amendment to H.R. 5285, the Medicare/Medicaid reimbursement reform legislation recently reported out by the Senate Finance Committee.

Senator Nelson's proposal is a compromise that expands upon Senator Talmadge's bill for revising Medicare/Medicaid reimbursement of routine costs. It broadens the Talmadge bill by recognizing the hospital industry's present voluntary attempt to bring down their costs over the next two years. Standby controls would go into effect only if the hospita's fail to meet their own proposed goals. Small hospitals and hospitals in states that have effective cost containment programs would be exempted from these standby controls.

Our 12 million member Associations believe Senator Nelson's proposal would be more effective than Senator Talmadge's bill because first, it would control *all cost* (including ancillary costs), whereas the Talmadge approach would control only 16 percent of hospital costs; and second. the Nelson program would apply to *all payors* and not be restricted to just the Medicare/Medicaid programs which apply to only 40 percent of all hospital bills. The comparative effectiveness

of these two proposals is dramatically illustrated by the cost savings each would yield. The Nelson compromise would save between $30 and $35 billion over the next five years, while the Talmadge plan would only save less than $500 million over the same time period.

The cost savings which the Nelson proposal would yield could be used to provide long overdue benefit improvements in the Medicare/Medicaid programs as well as a beginning for national health insurance. The fiscal 1979 budget estimates for Medicare/Medicaid alone are up by $5.2 billion over 1978—with no increase in services. This inflationary spiral will not permit any expansion of government health benefits and, in fact, it could prompt a cut in benefits unless taxes are increased to cover this cost escalation.

Increasing numbers of older persons, even with Medicare protection, are being priced out of the health care market. In 1965, Medicare beneficiaries paid $40 for their in-patient deductible, they now pay $144. Medical expenses have similarly soared. As a result, in constant dollar terms the elderly pay more out-of-pocket today for medical expenses than they did in 1965.

Acceptance of the Nelson amendment is critical not only for the millions of elderly people in this country for whom rising health care costs have become an unbearable burden, but for all Americans who pay for this intolerable inflation in many ways, including increased health insurance premiums, increased prices and increased taxes. Almost everyone agrees that inflation is our number one domestic threat. The Senate now has a chance to cast a vote for an effective weapon to fight inflation—a meaningful hospital cost containment program.

Sincerely,

PETER W. HUGHES,
Legislative Counsel.

AFL–CIO, CLC,
Washington, D.C., August 22, 1978.

Hon. JAMES ABOUREZK,
Senate Office Building,
Washington, D.C.

DEAR SENATOR ABOUREZK: As the nation's largest union of hospital workers, SEIU fully supports the concept of hospital cost containment embodied in S. 1391 as ordered reported by the Senate Human Resources Committee in August 1977. This bill, sponsored by Senator Kennedy would save $30 billion over the next five years while at the same time assuring equitable treatment for low-wage hospital workers.

Currently opponents of meaningful hospital cost containment legislation are seeking to obtain passage of H.R. 5285, a tariff bill, to which a substantially weaker hospital cost containment program has been attached. This program, by comparison, would save less than $1½ billion in hospital costs over the next five years.

We ask that you reject this unfair, ineffective approach by supporting either the Kennedy legislation or an amendment to H.R. 5285 offered by Senator Gaylord Nelson (Amendment No. 3478). Senator Nelson's amendment would save over $30 billion in hospital costs over the next five years, and it includes a pass-through for the wages of non-supervisory hospital workers.

The choices are clear. Hospital workers are not responsible for health care inflation. The average non-supervisory hospital worker earns almost $1.00 an hour less than the average manufacturing employee. We believe that a hospital cost containment legislation should properly focus on the real causes of hospital inflation—mismanagement, poor planning, wasteful duplication of services and expensive technology.

We strongly urge you to support the Kennedy bill or the Nelson amendment to H.R. 5285 which seek to secure fair treatment for non-supervisory hospital workers as well as a meaningful hospital cost containment program.

Sincerely,

GEORGE HARDY,
International President.

AFSCME,
Washington, D.C., August 22, 1978.

DEAR SENATOR: With over one million members, several hundred thousand of whom work in public general hospitals, the American Federation of State, County and Municipal Employees supports effective and equitable cost controls in the hosiptal industry. The rapid increase in hospital costs must be controlled by a program which curbs excessive and wasteful spending while not repressing the wages of low-paid nonsupervisory hospital workers.

You will shortly be considering on the Senate floor H.R. 5285, the Medicare-Medicaid Administrative and Reimbursement Reform Act, sponsored by Senator Talmadge. At that time Senator Kennedy will offer as an amendment (No. 3477) the hospital cost control bill approved by the Human Resources Committee last year. Senator Nelson also will offer an amendment (No. 3478) as a compromise between the Human Resources Committee bill and H.R. 5285.

AFSME strongly opposes the Talmadge bill and urges you to do the same. The bill's cost savings are minimal. Covering only 16 percent of all hospital costs (routine costs under only Medicare and Medicaid), it would save less than $400 million in the next five years by grouping hospitals into categories (e.g., urban, rural, large, small) and disallowing some of the costs in hospitals that have significantly higher costs than the average for their category.

The Talmadge bill also is inequitable. It allows unlimited funding for such important items as capital expenditures, equipment, lab tests, malpractice insurance and energy. However, it imposes harsh government controls on nonsupervisory hospital workers when, historically, their wages have been declining as a percentage of total hospital costs and the rate of increase in their wages has lagged behind the rate of increase for the hospital industry as a whole. The area-wide indexing mechanism in the bill would freeze some hospital workers' wages, while possibly causing a wage rollback for others. It would not reimburse for the amount of wages above an undefined "general wage level" for comparable work in hospital and non-hospital jobs in the area regardless of whether the work is done by organized workers or even covered by minimum wage laws.

Finally, the Talmadge bill could hurt poor people and senior citizens. Reduced reimbursements could cause hospitals to reject Medicare/Medicaid patients or send them to already financially strapped and overburdened public hospitals where Medicare and Medicaid constitute a high percentage of their total inpatient revenues. Increased pressures on state and local governments to meet this demand could result.

Senator Kennedy's amendment, by contrast, imposes immediate, mandatory federal controls on all hospital revenues. It establishes a uniform cost increase limit on all hospitals that would save around $60 billion over the next five years, about $29 billion of which would be in Medicare and Medicaid. The amendment also prevents any artificial depression of nonsupervisory worker wages. It establishes a government policy of neutrality through a wage pass-through mechanism that allows wages to be determined by free collective bargaining in unionized hospitals.

The Nelson amendment also achieves substantial savings: about $30 billion over the next five years, of which about $11.5 billion would be in Medicare/Medicaid payments. The amendment retains the Talmadge bill's provisions for revising Medicare/Medicaid routine cost reimbursements with several cost-saving modifications. It endorses the hospital industry's present voluntary control effort by establishing the goal of a 2 percent reduction in the rate of increase in hospital costs for each of the next two years. Standby, mandatory controls that generally extend the mechanisms in the Talmadge bill to all costs and all revenues would go into effect if the voluntary effort failed. Like the Kennedy amendment, the Nelson amendment would protect nonsupervisory hospital workers.

The Kennedy amendment clearly is the most effective cost control proposal. The voluntary control program, which raises questions about the anti-trust implications of industrial price-fixing, and the lower cost savings of the Nelson amendment make it acceptable only as a compromise if the Kennedy amendment fails.

We urge you to support the Kennedy amendment, and, if it fails, to vote for the Nelson amendment as long as the worker protections are retained in both proposals. We strongly urge you to oppose any effort to weaken or strike the nonsupervisory employee wage provisions and to oppose any hospital cost containment proposal that does not contain them.

Hospital cost containment is essential, but equity demands that it not be achieved at the expense of low-wage hospital workers who have not been responsible for the main increases in the industry anyway. The provisions in the Kennedy and Nelson amendments simply protect from unfair pressure and controls some of the lowest paid workers in the American economy.

Sincerely,

WILLIAM B. WELSH,
Executive Director for Governmental Affairs.

NATIONAL GOVERNORS' ASSOCIATION.

DEAR SENATOR: The nation's Governors share with you a concern for the inflation which plagues our economy and which, in effect, imposes an additional tax on the income of our citizens. Inflation in the medical care sector has outstripped that in most other areas of the economy. Several states have found it advisable to take a strong stand against further excessive medical care cost inflation and, in September 1977, the National Governors' Association called for national hospital cost containment strategy.

In the near future, you will have the opportunity to vote for a cooperative state and federal cost containment program. When the medicare and medicaid reform bill (HR 5285) reaches the Senate floor, Senators Nelson and Kennedy will propose amendments which would expand the capacity of this bill to contain all hospital costs. Senator Nelson's amendment will establish voluntary goals for the hospital industry and will create standby federal controls on hospitals in states which are unable to meet the voluntary goals.

The National Governors' Association believes that a cost containment program must cover all hospital revenues. The present bill (HR 5285) would focus only on routine costs reimbursed under medicare and medicaid; the amendments proposed by Senator Nelson and Senator Kennedy would significantly expand the coverage of a national hospital cost containment program.

I urge you to support the amendment proposed by Senator Nelson and Senator Kennedy.

Sincerely,

GOV. J. JOSEPH GARRAHY,
Chairman, Subcommittee on Health Policy.

U.S. CONFERENCE OF MAYORS,
Washington, D.C., September 6, 1978.

DEAR SENATOR: On behalf of the U.S. Conference of Mayors, we seek your support of Senator Talmadge's Medicare-Medicaid Reform bill as amended in committee (S. 5285). We also seek your support of any hospital-cost containment amendments to strengthen the bill which may be offered when it is considered by the Senate.

Cost containment has been a major health issue for the U.S. Conference of Mayors and its affiliate, the U.S. Conference of City Health Officers. U.S. Conference of Mayors' policy calls for hospital-cost containment.

Mayors are concerned with rising hospital cost, since some cities administer and support general hospitals. Mayors must ensure that all persons in need of health care are able to obtain that care and, at the same time, we must keep an eye on how much of the municipal budget is directed to supporting local hospitals. If prices continue to rise, people in cities simply will not be able to afford hospital care.

As President of the U.S. Conference of Mayors, I strongly urge you to vote in favor of S. 5285 and any additional cost containment amendments which are proposed.

Thank you for your thoughtful consideration.

Sincerely,

WILLIAM H. MCNICHOLS, Jr.,
President.

CONSUMERS FEDERATION OF AMERICA,
Washington, D.C., September 7, 1978.

Re: H.R. 5285.

DEAR SENATOR: As you consider H.R. 5285, which includes provisions authored by Senator Herman Talmadge relating to hospital cost controls, we urge your vigorous support for the amendment submitted by Senator Edward M. Kennedy. This amendment is Title I of the Hospital Cost Containment Act of 1977 which was reported by the Committee on Human Resources and which CFA has enthusiastically endorsed.

At a moment when consumers are confronted with near double-digit inflation and hospital costs continue to increase at twice the rate of other goods and services, the Kennedy amendment would have consumers approximately $60 billion over the next five years. That savings compares sharply with the Talmadge proposal which would save only $500 million over the same period—none of which would be realized during the first two years.

With the adoption of the Kennedy amendment and its limitations on revenues, hospitals will at long last have an economic incentive to hold down costs. Without cost containment the average rate of increase in hospital costs has been 16% since 1973—nearly three times the rate of inflation in the general economy. Clearly, no meaningful fight against health care inflation can be waged without significantly controlling hospital costs.

We are decidedly less enthusiastic about the proposed compromise of Senator Gaylord Nelson, a co-sponsor of the Kennedy amendment. If the Nelson amendment is ultimately considered, we view it as a much weakened alternative to the Kennedy measure, but one which would be supported if (and only if) the Kennedy measure fails. The Nelson compromise should be supported for the following reasons:

1. It would save over $6 billion a year. By encouraging hospitals to continue their voluntary efforts to control hospital costs, total savings through fiscal year 1983 would be $34 billion.

2. It would provide the hospital industry with a much needed incentive to succeed in its voluntary effort. Under the Nelson proposal no mandatory controls would go into effect unless the national voluntary effort fails to meet its objectives. This approach recognizes that even the most well intentioned voluntary efforts are easily thwarted and lack incentive when standby controls are absent. The Nelson amendment would serve to supply the hospital industry with the necessary incentive to keep its promise.

3. Standby controls would involve limitations applicable to all costs and all payors. If the voluntary effort fails, the standby controls which would go into effect under the Nelson amendment would more equitably go beyond the routine ("bed and board" type) hospital costs which are the only ones covered by the Talmadge approach and which account for only 40% of all hospital costs. Furthermore, the voluntary controls would extend beyond Medicare/Medicaid payors who are the only ones covered by the Talmadge approach and who comprise only 40% of all payors. In addition, there is no guarantee under the Talmadge bill that hospitals will not raise the fees for other services such as laboratory fees or shift expenses to non-Medicare/Medicaid payors in order to meet these limitations.

4. Exemptions are provided for states whose hospitals have achieved the national voluntary goal. Regardless of whether or not the national effort succeeds, these states would not be subject to the standby controls. It would be noted that Wisconsin and Washington have already met the proposed goals of the legislation.

5. The need for equipment and other essential items necessary for high quality health care would not be jeopardized. Since the Nelson proposal permits a cost increase rate that is 1½ times the overall rate of inflation in any given year, hospital administrators should be more than able to accommodate the special needs of the population they serve.

6. Hospital employees would not sacrifice potential wage increases. Since neither the voluntary nor mandatory controls take into account wage increases for non-supervisory hospital employees, the Nelson proposal in no way compromises the economic well-being of hospital workers.

For all of these reasons, we urge your support for this compromise if it is introduced. However, successful passage of the Kennedy amendment would eliminate its necessity and present tangible evidence to the American consumer of your sincerity in controlling health care inflation.

Sincerely,

KATHLEEN F. O'REILLY,
Executive Director.
KATHLEEN D. SHEEKEY,
Legislative Director.

NATIONAL CONFERENCE
OF STATE LEGISLATURES,
August 30, 1978.

Hon. JAMES ABOUREZK,
Senate Office Building,
Washington, D.C.

DEAR SENATOR ABOUREZK: While the National Conference of State Legislatures believes that administrative and reimbursement reform in Medicare and Medicaid, as suggested in HR 5285, are critical, we also believe that containing the rate of increase in hospital costs ought to be an immediate national priority. For this reason, our organization fully supports Senator Nelson's amendment to HR 5285 to establish a national, voluntary hospital cost containment program to be followed by a mandatory control program in the event the voluntary effort fails. We would suggest that if mandatory controls are necessary, they should be implemented on a state-by-state basis according to each state's performance with respect to the voluntary goals. Moreover, we further support Senator Nelson's effort to extend the reimbursement methodology to be utilized under the mandatory program to all payors, so that it not be limited to Medicare and Medicaid.

We believe that the provisions in Senator Nelson's amendment provide adequate assurances that States which are operating effective cost containment programs would be able to continue to administer their own systems if the mandatory program takes effect. It is our conviction that state cost containment programs have been operating very effectively and should not be pre-empted by federal law.

Finally, we would suggest that an appropriate role of the federal government ought to be one of providing financial incentives to encourage many other States to experiment with alternative hospital cost containment programs.

As you know, the NCSL is the official representative of the nation's 7,600 state legislators.

Thank you very much for your assistance.

Sincerely,

JASON BOE,
President, NCSL.

● Mr. CHURCH. Mr. President, I would like to add my support for a number of provisions of the Medicare-Medicaid Administrative and Reimbursement Reform Act, now before the Senate.

First, section 26 of H.R. 5285 makes two improvements in medicare home health benefits. The bill would repeal the requirement for a prior stay of 3 days in a hospital to be eligible for home health services under medicare part A and remove all limitations on the number of home health visits allowed under both part A and part B. These two changes in home health eligibility criteria will make important differences to many older Americans.

Hearings before the Senate Committee on Aging have shown that once older Americans have used up the 100 visits now allowed by law per benefit period under part A and 100 visits per year under part B there is no way to continue with essential nursing care in the home. The committee has also received considerable evidence of physicians making expensive placements in an acute-care hospital solely as a way of establishing eligibility for medicare home health visits under part A.

During the last Congress, I introduced a proposal to increase the visit ceilings under parts A and B from 100 to 200 visits per benefit period as a way of recognizing this problem. The bill I introduced then, S. 2713, also sought to address the inequities in the prior hospitalization requirement under part A by deleting the requirement under present law that post-hospital benefits be limited to treatment of conditions which initially required hospitalization.

My bill also sought to increase the value of the home health benefit by striking the requirement that a patient be in need of skilled nursing care as a prerequisite for other home health services, such as home health aide or physical therapy services, and by adding a homemaker as a covered service. I believe these additional changes still need to be made to make medicare home health benefits fully responsive to the needs of older Americans, but the provisions in section 26 are also important and I urge their enactment.

Second, section 10 would allow small hospitals with 50 beds or fewer to use

empty acute-care beds for long-term care needs without requiring the hospital to establish a separate section for this purpose. I cosponsored similar legislation earlier, and I am glad to see its inclusion in this bill. This flexibility in medicare reimbursement is greatly needed in rural areas.

Third, several provisions in H.R. 5285 are designed to reduce the paperwork burden faced both by older Americans participating in medicare and medicaid and by providers of health services. Committee on Aging hearings and research indicate that many older Americans do not claim either medicaid or medicare benefits, because of complicated and frustrating procedures. For low-income older Americans, confusion between the two programs often means that medical expenses are not properly submitted for payment and, therefore, not properly reimbursed. In medicare, the "paperwork" problem weighs most heavily on a beneficiary when a physician chooses not to accept assignment of benefits under part B. This is a burden on the medicare beneficiary in two ways: First, he must pay the difference between the physician's charge and the amount determined as the reasonable charge under the medicare program, and second, he is also faced with the task of keeping track of bills, sorting out those which are medicare-eligible and those which must be paid through other insurance, filing claims properly, and then waiting long periods for payment. Only about 50 percent of physicians providing service to medicare beneficiaries now accept assignment, filing themselves for reimbursement in full from medicare.

Section 5 of H.R. 5285 seeks to encourage more physicians to accept assignment on medicare claims through administrative improvements in the billing and payment process. Many physicians have cited problems with this process as their primary reason for not fully participating in medicare. I hope that these improvements will increase the assignment rate and believe more persons will benefit from this approach.

Section 28, which would require the adoption of a uniform claims form for medicare and medicaid, also seeks to lessen the paperwork burden now imposed on many health providers.

We still have a long way to go to make medicare fully responsive to the needs of older Americans. Further improvements in administration, home health, and adequate coverage for dental care, eye care, mental health services, and essential out-of-hospital prescription drugs are still badly needed.

Last year I introduced S. 1479, which would extend medicare coverage to include essential out-of-hospital prescription drugs, and I hope that this legislation, as well as the additional home health measures I have suggested, will receive congressional attention early next year.

Nevertheless, the medicare modifications contained in H.R. 5285 are important and I urge my colleagues to support them.●

Mr. MUSKIE. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator HATHAWAY.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HATHAWAY

The Senate is about to consider H.R. 5285, the Medicare-Medicaid Administrative and Reimbursement Reform Act. This bill would vastly improve the administration of these federal health programs for elderly, poor, and disabled individuals. It provides incentives for hospials which keep costs down and disincentives for inefficient hospitals. Further in determining allowable hospitals costs, the bill classifies hospitals with those of similar size, type and location. It also exempts from computation of routine costs variable expenses such as those related to energy, capital construction, education and training programs, and malpractice insurance. In addition, exceptions are provided for institutions with high routine costs due to underutilization of beds in underserved areas, unusual patient mix, changes in services, and start up of a new hospital. I cosponsored this bill because its approach represents a great step forward in making the medicare reimbursement system more equitable, particularly with respect to hospitals in less populated rural areas.

I am also pleased that the bill includes a number of amendments which I offered in the Finance Committee. These include, among others, measures to eliminate the restriction on the number of home health visits reimbursable under Medicare and the three day prior hospitalization requirement for Part A home health care; and to provide for a common audit of Medicare, Medicaid and Maternal and Child Health Programs at an estimated cost savings of $30 million.

Although I am pleased with the Medicare reform bill as a beginning, it does not go far enough to curb skyrocketing hospital costs. The projected savings from this bill are $400–$500 million over the next five years. While this is by no means a small sum, the savings could in fact be far greater.

Given the facts that inflation is our number 1 domestic problem and health care costs contribute substantially to inflation. I believe we must take advantage of the opportunity to save billions of dollars now. That is why I have joined my colleagues in supporting hospital cost containment measures.

The Kennedy proposal is the legislation which was approved by the Senate Human Resources Committee on which I also serve. It would save an estimated $60 billion over 5 years, including about $20 billion in Federal Medicare and Medicaid money and $2.3 billion in state money. The measure includes an amendment which I offered in Committee to exempt all hospitals with fewer than 2,000 admissions annually and those hospitals which are the sole community provider with fewer than 4,000 annual admissions. It also provides for a mandatory pass through of non-supervisory personnel wage increases.

The Nelson amendment is a compromise that would save more than $30 billion over 5 years, including $11.6 billion in Medicare and Medicaid costs, and $1.5 billion in state money. It would recognize in statute, with some changes, the voluntary effort which was designed by, and has been implemented by, the hospital industry itself since 1977. Under the amendment, mandatory cost controls would not go into effect unless the voluntary goals were not achieved on the national average.

If the voluntary effort succeeds, there would be a savings of $31.3 billion. If the national goal under the voluntary effort is not achieved by July 1, 1979 or thereafter, however, Federal mandatory controls would be triggered based on the approach in H.R. 5285. In that event, states with programs meeting or exceeding the national mandatory goals would be exempt from the Federal controls, and would be allowed to measure their hospitals' performance on a state aggregate.

In this regard, I might mention that I intend to offer an amendment to the Nelson proposal to exempt for one year, those states which have already enacted state cost control programs, but have not yet had a full year of operation to demonstrate that their programs work.

Under the Nelson amendment, hospitals with fewer than 4,000 admissions annually would be exempt from both the voluntary and mandatory goals. Although that amounts to more than half of the nation's hospitals, it represents less than 10 percent of total hospital costs. In addition, there are specific exceptions allowed on a hospital-by-hospital basis.

No arbitrary or single "cap" would be imposed on hospitals. The formula in H.R. 5285, on which the compromise is based, allows higher increases to low-cost hospitals, and lower increases to high-cost hospitals. Therefore, efficient hospitals would be rewarded while inefficient ones would not be.

I believe that it is both necessary and possible to curb hospital costs. As we all know, the hospital industry itself recognizes this fact and has achieved reductions in the years that Congress has been considering cost containment legislation. It is important to continue this trend, but, to guarantee that it will work, it is also vital to have in place, at a minimum, stand-by methods to ensure that costs are in fact contained.

UP AMENDMENT NO. 2062

(Purpose: To make clear that the provisions of section 16 do not apply to hospital-based physicians.)

Mr. CURTIS. Mr. President, I have an amendment in the nature of a clarification and it is my understanding the chairman will accept it. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. CURTIS) proposes unprinted amendment numbered 2062:

On page 59, line 11, strike out the quotation marks and final period.

On page 59, between lines 11 and 12, insert the following:

"(c) The provisions of this section shall not apply to payments made to a hospital-based physician for services performed for patients of that hospital.".

Mr. CURTIS. Mr. President, it is my understanding that the distinguished chairman in charge of the bill is willing to accept the amendment.

Mr. TALMADGE. I have no objection to the amendment.

Mr. CURTIS. I yield back the remainder of my time.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded solely for the purpose of a unanimous-consent request that a staff member be admitted to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I ask

unanimous consent that Jane Yanulis, of my staff, be accorded the privilege of the floor during the debate and votes on this particular hospital cost containment bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time is this quorum call?

Mr. DURKIN. Same as before, Mr. President.

The PRESIDING OFFICER. Is there objection to a quorum call?

Mr. TALMADGE. I am sorry. I did not hear the question of the Chair.

The PRESIDING OFFICER. Is there objection to a quorum call being called without the time being charge?

Mr. METZENBAUM. Objection.

Mr. TALMADGE. Whose time is it being charged on?

The PRESIDING OFFICER. No one's time.

Who yields time to the quorum call?

Mr. ABOUREZK. Mr. President, has the quorum started again?

The PRESIDING OFFICER. No.

Mr. ABOUREZK. Mr. President, I will ask unanimous consent, while they are discussing this amendment. I have a motion to strike contained in an amendment and it will be accepted by the committee. Can we just take that up by unanimous consent and just temporarily set the other aside while we are doing this?

The PRESIDING OFFICER. The Senator may offer his amendment.

Who yields time?

UP AMENDMENT NO. 2063

Mr. ABOUREZK. Mr. President, I ask the clerk to state my amendment.

The PRESIDING OFFICER. Without objection, the amendment is in order.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUEZK) proposes an unprinted amendment numbered 2063:

On page 70, line 1, strike from the word "Status" through line 11, ending with the word "Act".

Mr. TALMADGE. Mr. President, I have no objection to the amendment.

Mr. ABOUREZK. Mr. President, I just want to explain it.

It would have been the subject that would have been the point of order.

This merely takes up the exemption from the Freedom of Information Act for a PSRO's and the committee has accepted it, and vote.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. ABOUREZK. I yield back the remainder of my time.

Mr. TALMADGE. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Without objection, the amendment is agreed to.

Mr. DOLE addressed the Chair.

Mr. TALMADGE. I yield to the Senator from Kansas briefly.

Mr. DOLE. Mr. President, this was an amendment the Senator from Kansas offered for the distinguished Senator from Pennsylvania, Senator SCHWEIKER. I do not have any particular interest in the amendment. I assume that this has been discussed with the distinguished manager of the bill. So we have no objection.

Mr. TALMADGE. I thank the Senator. The point of order is in order, and I am willing to strike that part of it, and I understand the Senator from Pennsylvania will get something, and hopefully it will be agreeable to the Senator from South Dakota.

UP AMENDMENT NO. 2062

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Nebraska.

Mr. TALMADGE. I yield back the remainder of my time.

Mr. ABOUREZK. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Nebraska.

Without objection, the amendment——

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

UP AMENDMENT NO. 2063

Mr. ABOUREZK. The Chair has not acted on my amendment to strike?

The PRESIDING OFFICER. We have.

Mr. ABOUREZK. I move to reconsider the vote by which my amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 2062

The PRESIDING OFFICER. Now the question is on agreeing to the amendment of the Senator from Nebraska.

Without objection, the Curtis amendment is——

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. METZENBAUM. Who has time?

The PRESIDING OFFICER. The managers of the bill have time.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I ask that while we are discussing this, that the amendment be temporarily laid aside. So that the rest of us can make our opening statement.

I make the request that the Curtis amendment be temporarily laid aside.

The PRESIDING OFFICER. Senators may make their opening statements any time.

Mr. DOLE. Will the Senator yield me time?

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. TALMADGE. I made my statement.

Mr. DOLE. Will the Senator yield me time?

Mr. TALMADGE. Yes; how much time does the Senator desire?

Mr. DOLE. Five minutes.

Mr. TALMADGE. I yield 5 minutes to the distinguished ranking minority member of the subcommittee

MEDICARE/MEDICAID ADMINISTRATIVE/REFORM REIMBURSEMENT ACT

Mr. DOLE. Mr. President, for more than a year now, four committees of Congress have been considering proposals which either mandate economic controls on hospital revenues or deal with fundamental changes in the medicare and medicaid reimbursement system.

COST OF HEALTH CARE

The myriad of statistics dealing with the rapid rise in health care expenditures—particularly the Federal share of those expenditures — hardly needs repeating. As a member of the Budget Committee, I have been exposed to the concerns of those who fear that, without some form of health cost containment, other national priorities will be downplayed if we are to retain any semblance of fiscal solvency. We are all familiar with the figures which indicate that total health care spending comprised 4.5 percent of the GNP in 1950, while today it amounts to approximately 8.6 percent. Projected fiscal year 1979 spending for the medicare and medicaid programs alone accounts for approximately $47 billion. It is generally acknowledged that the medicare and medicaid programs themselves have contributed markedly to the rapid increase in total health care expenditures, as the average rate of increase has gone from 7.5 percent between 1950 and 1965, to 14 percent in the 12-year period following enactment of these programs.

RISING HOSPITAL COSTS

Hospital expenditures specifically are growing faster than almost all other health care expenditures. The rapid growth in the cost of hospital care has focused increasing attention on hospitals and the present methods currently used to reimburse hospitals. Cost-based reimbursement in particular has been the subject of wide criticism. There is little in the way of pressure of hospitals so paid to contain their costs, and any increases are simply passed along to the third parties that reimburse on a cost basis. At present, the Federal Government pays approximately 44.5 percent of the hospital costs in this country. The present "reasonable cost" procedures under the medicare program are not only inherently inflationary because of ineffective limits on what costs will be recognized as reasonable—but also because they contain neither incentives for efficient performance nor true disincentives to inefficient operation.

REIMBURSEMENT REFORMS

Current Governmental efforts to control hospital costs are threefold: Supply control, utilization controls, and reimbursement reforms. The objective of the bill which is pending before us today, Mr. President, is to make a fundamental change in the method of reimbursement for hospital services under the medicare and medicaid programs. Our proposal would reimburse for hospital services in a fundamentally different way. Similar hospitals would be grouped together and

each group's average daily routine costs calculated. The reimbursement rate for the hospitals in each group would then be based on the group's average costs. Hospitals with per day costs below the average would be rewarded. Those that performed significantly worse than average would not be fully reimbursed. These reimbursement restrictions and incentives apply to medicare and medicaid payments only.

The advantage of this method for determining reasonable costs of hospital services under our proposal is its flexibility. Under the proposal, similar hospitals would be compared with one another, not with an absolute standard. As a result, there is less danger that limits on the revenue of hospitals in unusual circumstances would be too stringent. This flexibility would also provide us the opportunity to recognize the efficient and separate out the inefficient, an accomplishment that the administration proposal cannot duplicate.

There are those, Mr. President, who have criticized our efforts as an ineffective approach to cost containment. But again, Mr. President, I must remind my colleagues that this legislation provides for a long-term, more rational system of reimbursement. It is not a cost containment proposal such as those being proposed by other Members of the Congress.

Our legislation attempts to make the Federal Government a prudent buyer of services. It is not our intention to overhaul and control the entire hospital industry.

Certainly there are improvements which could be made in the system we have proposed. For example, at the present time, the legislation attempts only to address the routine costs of hospitals rather than the more expensive ancillary costs. I am hopeful that as the state of the art develops, and we are better able to examine, compare, and contrast ancillary costs, we will also be able to provide some incentives and disincentives to the efficient and inefficient hospitals in relation to these costs.

ANTICIPATED SAVINGS

By moderating routine hospital costs alone, our bill would reduce projected Federal and State expenditures by more than one-half billion dollars during the first 5 years of the program. But these savings are on routine costs alone. They do not take into account anticipated changes in hospital management resulting from a system of incentive reimbursement. Also, we anticipate that by the second or third year, assuming advances in the state of the art, hospital cost comparisons for some or all of the ancillary costs as well will be possible.

When and if ancillary costs are incorporated, the Congressional Budget Office estimates annual medicare and medicaid savings should, after the first few years, reach billions of dollars annually.

This effort, along with the voluntary effort of hospitals to control their costs, will certainly help moderate the average costs of hospitals as they are recalculated each year. We can anticipate that over time, Mr. President, the savings in medicare and medicaid expenditures under this proposal will increase.

In my view, the proposal we are presenting to the Senate today represents a responsible alternative to the administration proposal. If there are savings to be realized from increased efficiency in Federal health program administration, then the provisions of H.R. 5285 are designed to bring them about while maintaining a realistic view of changes which providers are not able to make.

OTHER PROVISIONS IN THE BILL

Attention should also be given to the other important proposals contained in the legislation. I would like to make particular note of a number of these.

Section 7, which deals with the criteria for determining reasonable charge for physician services, contains a particular incentive designed to encourage new physicians to locate their practices in areas designated by the Secretary's physician shortage areas.

In my own State of Kansas, there are many areas in which physicians are badly needed, but for which recruitment efforts have been hampered in part by the discriminating nature of current medicare reimbursement practices. The bill would now permit physicians in localities designated as these shortage areas to establish their customary charges at the 75th percentile of prevailing charges as a means of encouraging them to locate in these areas. It would also permit those physicians presently practicing in these areas to move up to the 75th percentile on the basis of their actual fee levels.

LONG-TERM CARE SERVICES

Another provision which will be particularly important to rural areas will permit medicare and medicaid reimbursement to small rural hospitals that use the facilities' beds interchangeably as either acute or long-term care beds, depending on need.

As the committee report points out—

Many rural hospitals are the only source of acute care in their communities, and, as such, are a necessary and vital resource to the people they serve.

Additionally, there is, in many instances, a shortage of long-term care beds available to individuals in these rural communities, forcing them to look to their hospitals for these services.

Present law makes utilization of acute care beds for long-term care purposes difficult in many instances. It is the intent of our provision to ease these restrictions for hospitals of less than 50 beds, located in rural areas, which have been granted a certificate of need for the provision of long-term care services.

HOME HEALTH CARE SERVICES

The potential of home health care services in assisting individuals to avoid unnecessary hospitalization are far-ranging. Without question, the person who has the opportunity to stay at home in a more positive environment, and retain as much independence as possible is better off.

Unfortunately, under present law, there are restrictions that require hospitalization for 3 days prior to an individual being eligible for home care benefits. In addition to limiting the number of home health care visits per spell of illness under part A of medicare to 100 visits after this hospitalization, the number of home visits available under part B of medicare is limited without the requirement of prior hospitalization, to 100 days also.

The bill removes these restrictions on the number of visits and prior hospitalization requirements. We are hopeful that this will make the benefit available to more individuals for more extended periods of time, thereby avoiding in many instances, inappropriate hospitalization.

There are many other provisions in the bill which I believe will be equally important and helpful to those citizens in our country who are presently participants in the medicare and medicaid programs.

I certainly wish to commend my distinguished colleague, Senator TALMADGE, and the members of the staff and others who have helped put together what I consider to be a rational approach to reimbursement reform; because of its flexibility, and because of its incentives.

VOLUNTARY EFFORT

Finally, Mr. President, I believe special mention must be made regarding the efforts of the American Hospital Association, the American Medical Association, and the Federation of American Hospitals, to initiate a voluntary effort to control hospital cost increases. The sponsors of this volunteer program have stated that the program intended to achieve a "significant reduction in the rate of increase in health care costs." Specifically, it is their intention to reduce the rate of increase in hospital expenditures by 2 percentage points a year over this year and the next. I believe this effort should be given the very strong support of Congress.

Additionally, I believe the States that have attempted to devise and operate their own health care cost containment systems, should be complimented on their efforts and encouraged to proceed. Without question, the best system to hold down health care costs will be one in which the Federal Government plays the least role. This legislation, which we will consider today, provides the Federal Government an opportunity to clean up its own house, to reform the Government-financed programs, medicare and medicaid. We do not intend to solve all the problems or provide all the answers. The citizens of this country have a right to look to our efforts to improve and make more efficient the utilization of their tax dollars.

I believe our efforts to reform medicare and medicaid will accomplish this purpose. And during the first few years, save billions of dolars.

Mr. President, I yield back the remainder of my time.

Mr. TALMADGE. Mr. President, I ask unanimous consent that Ellen Akst of the Human Resources Committee, may have the privileges of the floor during the debate and votes on the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I send an amendment to the desk on behalf of myself and the Senator from Wisconsin.

The PRESIDING OFFICER (Mr. HODGES). There is an amendment pending, an amendment of the Senator from Nebraska.

Mr. CURTIS. Mr. President, may I inquire if the distinguished Senator from Ohio has any objection? If not, we can have a vote without any further discussion.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. I move the adoption of my amendment.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. TALMADGE. I yield back my time.

Mr. CURTIS. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment was agreed to.

Mr. TALMADGE. I move to reconsider the vote by which the amendment was agreed to.

Mr. CURTIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 2064

The PRESIDING OFFICER. The Senator from Massachusetts has sent an amendment to the desk which the clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself, Mr. NELSON, Mr. WILLIAMS, Mr. PELL, Mr. CRANSTON and Mr. HATHAWAY) proposes an unprinted amendment numbered 2064.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the ending clause and substitute the following:

"REPORT ON PERMANENT REFORM IN THE DELIVERY AND FINANCING OF HEALTH CARE

"SEC. 1. The Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as the 'Secretary') shall submit to the Congress, no later than March 1, 1979, a report setting forth his recommendation for permanent reforms in the delivery and financing of health care which will increase the efficiency, effectiveness, and quality of health care in the United States and which will replace the transitional provisions of .

"TITLE I—TRANSITIONAL HOSPITAL COST CONSTRAINT PROVISIONS

"PART A—PURPOSE OF THE PROGRAM

"SEC. 101. It is the purpose of the transitional hospital cost containment program established by this title to constrain the rate of increase in total hospital inpatient costs, beginning January 1, 1979, and continuing until the adoption of the permanent reforms referred to in section , by limiting the amount of revenue which may be received by the hospitals that are subject to the provisions of this title from Government programs, private insurers, and individuals who pay directly for hospital care.

"PART B—ESTABLISHMENT OF HOSPITAL COST CONTAINMENT PROGRAM

"IMPOSITION OF LIMIT ON HOSPITAL REVENUE INCREASES

"SEC. 111. (a) The average reimbursement payable per admission to a hospital by any cost payer, and the average inpatient charges per admission of a hospital for any accounting year any part of which occurs after December 31, 1978, may not (except as provided in subsection (b), or in section 114, 115, 117, 118, 119, 124, or 131) exceed such average reimbursement payable per admission or such average inpatient charges per admission, respectively, for the hospital's base accounting year adjusted by a percentage equal to the product of the following factors—

"(1) one hundred plus the percentage by which the hospital's costs for inpatient hospital services (as calculated for purposes of title XVIII of the Social Security Act) would have increased in the period after the close of the hospital's base accounting year and prior to January 1, 1979, if such costs had increased (during that period) at the average annual rate of increase in the hospital's costs for inpatient hospital services (as calculated for purposes of title XVIII of the Social Security Act) during the two-year period ending with the close of such base accounting year, except that such percentage as applied for purposes of this section shall not be more than 15 per centum nor less than 6 per centum.

"(2) one hundred plus the percentage by which such average reimbursement payable per admission or average inpatient charges per admission would have increased in the period after December 31, 1978 (or after the close of the hospital's base accounting year, if later), and prior to the first day of the accounting year for which the limit is being imposed if such average reimbursement payable per admission or average inpatient charges per admission had increased (during such period) at an annual rate equal to the inpatient hospital revenue increase limit determined and promulgated under section 112(b), and

"(3) one hundred plus the percentage by which such average reimbursement payable per admission on average inpatient charges per admission would increase (or decrease) in the hospital's accounting year (except for any part thereof occurring before January 1, 1979) for which the limit is being imposed if such average reimbursement payable per admission or average inpatient charges per admission increase (or decrease) during such accounting year at an annual rate equal to the adjusted inpatient hospital revenue increase limit applicable to the hospital under section 112(a).

"(b) For an accounting year which ends after December 31, 1978, but before December 31, 1979, the ceiling established under subsection (a) for average inpatient charges per admission of a hospital and for average reimbursement payable per admission to that hospital by each cost payer shall be applied only to that percentage of the inpatient charges or reimbursement paid, respectively, as the number of days in that accounting year occurring after December 31, 1978, is of the total number of days in that accounting year.

"(c) For purposes of subsection (a), in the case of the admission of an individual whose inpatient hospital services are paid for in part by more than one cost payer, the admission shall be attributed to the cost payer which pays for any such services excluding any amounts paid as a deductible by a cost payer.

"DETERMINATION OF ADJUSTED INPATIENT HOSPITAL REVENUE INCREASE LIMIT

"SEC. 112. (a) The 'adjusted inpatient hospital revenue increase limit' which is applicable to any hospital for purposes of section 111(a)(3) with respect to any accounting year shall (subject to sections 124 and 131) be equal to the inpatient hospital revenue increase limit determined and promulgated under subsection (b) of this section for the twelve-month period in which such accounting year ends, modified by the application of the 'volume load formula' which is promulgated under section 113 and applied to that hospital.

"(b)(1) Between October 1 and December 31 of each calendar year beginning with 1978, the Secretary shall promulgate a figure which (subject to paragraph (2)) shall be the 'inpatient hospital revenue increase limit' applicable to accounting years ending in the twelve-month period beginning January 1 of the next year. Such figure shall be, except as provided in section 131, the sum of—

"(A) the rate of increase in the implicit price deflator of the gross national product as calculated by the Bureau of Economic Analysis of the Department of Commerce and published in the Survey of Current Business (hereinafter in this title referred to as the 'GNP deflator') for the twelve-month period ending September 30 of such year over the GNP deflator for the previous twelve-month period and

"(B) one-third of the difference between—

"(i) the average annual rate of increase in total expenditures of hospitals (or distinct parts thereof) which satisfy the requirements of section 121(a) which is found by the Secretary to have occurred during the two previous calendar years, and

"(ii) the average annual rate of increase in the GNP deflator for the two previous calendar years.

"(2) If the Secretary finds that for any twelve-month period for which a figure is promulgated under paragraph (1) the GNP deflator with respect to such period has exceeded or is expected to exceed by more than 1 percentage point the GNP deflator which was used in making the determination under paragraph (1) (or in making prior adjustment under this paragraph), the Secretary shall increase (or further increase) the GNP deflator so used by the amount of such excess; except that no adjustment made under this paragraph shall be effective with respect to any accounting year ending prior to the calendar quarter preceding the calendar quarter in which such adjustment is made.

"PROMULGATION OF VOLUME LOAD FORMULA

"SEC. 113. (a) The volume load formula shall be promulgated by the Secretary within thirty days after the date of enactment of this Act. It shall be defined for any accounting year for which an adjusted inpatient hospital revenue increase limit is determined as the average of—

"(1) the per centum change in the number of admissions since the base year, and

"(2) the per centum change in the number of patient days since the base year.

"(b) The volume load formula shall be applied to generate an adjusted inpatient hospital revenue increase limit for each hospital applicable to the average inpatient charges per admission of the hospital and to the average reimbursement payable per admission to the hospital by each cost payer, and for a hospital whose volume load (in the accounting year to which the adjusted inpatient hospital revenue increase limit applies)—

"(1) increases by less than 2 per centum or declines by less than 10 per centum of the total volume load in the hospital's base accounting year, the maximum total inpatient charges and the maximum reimbursements payable by cost payers permitted for that accounting year shall equal the maximum total patient charges and the maximum reimbursements payable by cost payers permitted by the inpatient hospital revenue increase limit if there were no charge in volume load.

"(2) increases by 2 per centum or more but by less than 15 per centum of the total volume load in the hospital's base accounting year, the maximum total inpatient charges and the maximum reimbursements payable by cost payers permitted for that accounting year shall equal the sum of (A) the amount specified under clause (1), and (B) one-half of the amount specified under clause (1) multiplied by the increase in volume load above the 2 per centum limit,

"(3) declines by 10 per centum or more but by less than 15 per centum of the total volume load in the hospital's base accounting year, the maximum total inpatient charges and the maximum reimbursements payable by cost payers permitted for that accounting year shall equal the difference between (A) the amount specified under clause (1), and (B) one-half of the amount specified under clause (1) multiplied by the decline in volume load below the 10 per centum limit,

"(4) increases by 15 per centum or more of the total volume load in the hospital's base accounting year, the maximum total inpatient charges and the maximum reimbursements payable by cost payers permitted for that accounting year shall equal the greatest maximum total inpatient charges and the maximum reimbursements payable by cost payers permitted under clause (2), or

"(5) decreases by 15 per centum or more of the total volume load in the hospital's base accounting year, the maximum total inpatient charges and the maximum reimbursements payable by cost payers permitted for that accounting year shall equal the difference between (A) the smallest maximum total inpatient charges and the smallest maximum reimbursements payable by cost payers permitted under clause (3), and (B) the amount specified under clause (1) multiplied by the decline in volume load below the 15 per centum limit.

"BASE ACCOUNTING YEAR AND MODIFICATION OF CHARGES AND REIMBURSEMENT FOR THAT YEAR

"SEC. 114. (a) For purposes of this title, a hospital's 'base accounting year' is its accounting year which ended in 1977, or, if later, the second accounting year during all of which the hospital has been a hospital as defined in section 121.

"(b) For purposes of calculating under section 111(a) the average inpatient charges per admission of a hospital and the average reimbursement payable per admission to the hospital by each cost payer for the base accounting year, the inpatient charges of the hospital (and the reimbursement payable to the hospital by a cost payer) for the base accounting year shall (except as provided in subsection (c)) be reduced by an amount equal to any inpatient charges (in the case if a cost payer, inpatient charges attributable to that cost payer) for such base accounting year for elements of inpatient hospital services which cease to be furnished in an accounting year which is subject to this title, multiplied by the portion of that accounting year (or part thereof) subject to this title during which such services are not furnished.

"(c) Subsection (b) shall not apply with respect to inpatient hospital services which have been found to be not appropriate pursuant to section 1523(a)(6) of the Public Health Service Act by the State health planning and development agency designated under section 1521 of such Act for the State in which the hospital is located.

"ESTABLISHMENT OF EXCEPTIONS

"SEC. 115. (a) Upon request by a hospital, the Secretary may grant exceptions from the limits established under this title to such hospital to the extent that such hospital provides evidence satisfactory to the Secretary—

"(1) of the extent to which costs for inpatient hospital services (as calculated for purposes of title XVIII of the Social Security Act) for such hospital in an accounting year exceed such costs in the base accounting year as the result of—

"(A) changes in volume load in the range specified in clause (4) or (5) of section 113, or

"(B) changes in capacity or in the character of inpatient hospital services available in the hospital, or renovation or replacement of physical plant which changes, renovation, or replacement increase costs for inpatient hospital services per admission by more than the per centum specified in section 112(b)(1)(B) over costs for inpatient hospital services per admission in the previous accounting year; and

"(2) that the current ratio of assets to liabilities (determined in accordance with the last sentence of this subsection) is less than two; and

"(3) that the changes in volume load, capacity, or character of inpatient hospital services, or the renovation or replacement generating the excess costs described in paragraph (1) have been found, pursuant to section 1523 of the Public Health Service Act, to be needed or appropriate by the State health planning and development agency designated under section 1521 of such Act for the State in which such hospital is located.

For purposes of paragraph (2), the term current ratio of assets to liabilities', with respect to any hospital means the sum of the cash, notes and accounts receivable (less reserves for bad debts), marketable securities, and inventories held by such hospital divided by the sum of all liabilities of that hospital falling due in an accounting year for which the exception is requested under this section.

"(b) Upon request by a hospital, the Secretary may grant exceptions from the limits established under this title to such hospital to the extent that such hospital provides evidence satisfactory to the Secretary that—

"(1) there has been a change in the inpatient hospital services for such hospital for which reimbursement is payable by a cost payer, or the basis on which the reimbursement payable by a cost payer is calculated has changed, or

"(2) the percentage of inpatient charges attributable to any cost payer has changed for such hospital, and such change has reduced the total revenue of such hospital by at least the per centum specified in section 112(b)(1)(B) of the costs for inpatient hospital services (as calculated for purposes of title XVIII of the Social Security Act).

"(c) The Secretary shall either approve any request for an exception made by a hospital under subsection (a) or (b), or deny such request, within a period not to exceed ninety days after the hospital has filed in a manner and form prescribed by the Secretary the evidence required by such subsection. (If such hospital has not received written notice within fifteen days that such request has not been filed in such manner and form, such request shall be deemed to have been filed in the prescribed manner and form.) Any such request not denied within such ninety-day period shall be deemed approved.

"(d) Any hospital granted an exception under subsection (a) shall make itself available for an operational review by the Secretary. As a result of such review, the Secretary may make recommendations to such hospital for improvements to increase such hospital's efficiency and economy. The Secretary may discontinue, after notice and an opportunity for a hearing on the record, any such exception for failure of the hospital to implement any such recommendation.

"(e)(1) If the Secretary grants an exception with respect to any accounting year to a hospital on the grounds set forth in subsection (a)(1)(A), the upper or lower 15 per centum limitation specified in clauses (2) and (3), respectively, of section 113(b) shall be permanently changed for that hospital to the upper or lower per centum limitation determined by the Secretary.

"(2) If the Secretary grants an exception with respect to any accounting year to a hospital on the grounds set forth in subsection (a)(1)(B), such hospital shall be allowed increased total revenue for purposes of this title for such accounting year and all subsequent accounting years (and the limit on the allowable rate of increase under section 111 for charges imposed by the hospital and reimbursement from its cost payers shall be adjusted upward accordingly) in an amount no greater than the amount the Secretary estimates, at the time he grants the exception, is necessary to maintain the current ratio of its assets to liabilities (determined in accordance with the last sentence of subsection (a)) at the level specified in subsection (a)(2).

"(3) If the Secretary grants an exception with respect to any accounting year to a hospital on the grounds set forth in subsection (b)(1), such hospital shall be allowed increased total revenue for purposes of this title for such accounting year and all subsequent accounting years (and the limit on the allowable rate of increase under section 111 for charges imposed by the hospital and reimbursement from its cost payers shall be adjusted upward accordingly) in an amount equal to the amount the Secretary estimates, at the time he grants the exception, is necessary to offset the loss in revenue caused by the changes for which the exception was granted.

"(4) If the Secretary grants an exception with respect to any accounting year to a hospital on the grounds set forth in subsection (b)(2), such hospital shall be allowed increased total revenue for purposes of this title for such accounting year (and the limit on the allowable rate of increase under section 111 for charges imposed by the hospital and reimbursement from its cost payers shall be adjusted upward accordingly) in an amount equal to the amount the Secretary estimates, at the time he grants the exception, is necessary to offset the loss in revenue caused by the changes for which the exception was granted.

"(f)(1) Any hospital, or any entity described in section 1842(f)(1) of the Social Security Act, which is dissatisfied with a determination of the Secretary made under this section may obtain a hearing before the Provider Reimbursement Review Board established under section 1878 of the Social Security Act, if the amount in controversy is $10,000 or more and the request for such hearing is filed within one hundred and eighty days after receipt of the Secretary's determination.

"(2) The Secretary (notwithstanding section 1878(h) of the Social Security Act) shall appoint five additional members to the Provider Reimbursement Review Board, following the specifications for expertise applicable to the existing five members. Such five additional members shall constitute the Board for purposes of reviewing appeals under this title. The other provisions of subsections (c), (d), (e), (f), (h), and (i) of section 1878 of the Social Security Act shall apply, except that the Board as so constituted shall be considered as reviewing decisions of the Secretary rather than of a fiscal intermediary.

"(g) Upon request by a hospital, the State health planning and development agency designated under section 1521 of the Public Health Service Act for the State in which the hospital is located shall make a finding as to the appropriateness of specific institutional health services for purposes of subsection (a)(3) or section 114(c) of this title, after requesting the recommendations of the

appropriate health systems agency. The finding of a State health planning and development agency under this subsection shall not be subject to further review.

"ENFORCEMENT

"SEC. 116. (a) Notwithstanding any provision of title XVIII of the Social Security Act, reimbursement for inpatient hospital services under the program established by that title shall not be payable, on an interim basis or in final settlement, to the extent that it exceeds the applicable limits established under this title or under the program for a State whose hospitals have been excluded under section 117 or 119 from the application of this title.

"(b) Notwithstanding any provision of title V or XIX of such Act, payment shall not be required to be made by any State under either such title with respect to any amount paid for inpatient hospital services in excess of the applicable limits established under this title; nor shall payment be made to any State under either such title with respect to any amount paid for inpatient hospital services in excess of such limits.

"(c) Notwithstanding any other provision of law, the imposition by any hospital of inpatient charges in excess of the applicable limit established under this title, or any payment by any cost payer (as defined in section 122(e)(2)) for inpatient hospital services in excess of such limit, shall subject such hospital or cost payer—

"(1) to the Federal excise tax imposed by section 4991 of the Internal Revenue Code of 1954 (as added by section 128 of this Act), and

"(2) to exclusion, at the discretion of the Secretary, from participation in any or all of the programs established by title V, XVIII, or XIX of the Social Security Act.

"(d) Any hospital shall be exempt from the penalties set forth in subsection (c) if it holds in escrow an amount equal to its inpatient charges in excess of the applicable limit established under this title multiplied by the percentage of such charges not attributable to cost payers until such time as future inpatient hospital charges fall below the applicable limits established under this title, in an amount equal to the amount in escrow; but any such hospital which fails to do so shall be subject to such penalties.

"EXEMPTIONS FOR HOSPITALS IN CERTAIN STATES

"SEC. 117. At the request of the Governor (or other chief executive) of any State the Secretary may exclude from the application of this title except for sections 125 and 126 all hospitals (as defined in section 121(c)) physically located in such State if—

"(a) the Secretary finds that such State has in operation as of the date of such request a program capable of containing hospital costs for inpatient hospital services in the State which covers at least 90 per centum of the hospitals in the State which would otherwise be covered under the program established by this title;

"(b) the Secretary finds that the State program applies at least to all revenues for inpatient hospital services of hospitals covered by the program and has applied for at least one year prior to the date of such request to at least half of those revenues (excluding revenues received under title XVIII of the Social Security Act);

"(c) the Governor (or chief executive) certifies, and the Secretary determines, that the aggregate rate of increase in revenues over the previous accounting year for inpatient hospital services for all hospitals in the State will not (1) exceed 110 per centum of the inpatient hospital revenue increase limit determined pursuant to paragraphs (b)(1) and (b)(2) of section 112, except that, at the option of the State, the above limit shall increase by the amount of increases in revenues attributable to increases in regular wages (as defined in section 124(b)(1)) which are exempt under section 124, nor (2) be less than the increase in the GNP deflator applicable to that fiscal period; and

"(d) the Governor (or chief executive) has submitted, and had approved by the Secretary, a plan for recovering any excess of total revenue which (notwithstanding paragraph (c)) may occur.

"EXEMPTION FOR HOSPITALS ENGAGED IN CERTAIN EXPERIMENTS OR DEMONSTRATIONS

"SEC. 118. A hospital or group of hospitals (as defined in section 121(c)) may be excluded from the application of this title except for sections 125 and 126 if the Secretary determines that (1) such exclusion is necessary to facilitate or continue an experiment or demonstration entered into under section 402 of the Social Security Amendments of 1967, section 222 of the Social Security Amendments of 1972, or section 1526 of the Public Health Service Act, and (2) such experiment or such demonstration is not inconsistent with the provisions of this title.

"EXEMPTION FOR STATES WITH COST CONTAINMENT PROGRAMS

"SEC. 119. (a) Any State may submit to the Secretary a plan for a hospital cost containment program for approval. The Secretary shall approve such a program and exempt from the application of this title except for sections 125 and 126 all hospitals (as defined in section 121(c)) physically located in such State if the Secretary determines that such program—

"(1) designates an identifiable unit of State government which has the authority to supervise the administration of the program;

"(2) provides for a methodology to assure that the aggregate rate of increase in revenues for inpatient hospital services over the previous year for all hospitals in the State will not exceed 110 per centum of the inpatient hospital revenue increase limit determined pursuant to paragraphs (b)(1) and (b)(2) of section 112 nor be less than the increase in the GNP deflator applicable to that fiscal period. Such methodology may include alternative methods for classifying hospitals, for establishing prospective rates of payment, and for implementing on a gradual, selective, or other basis the establishment of a prospective payment system, in order to stimulate hospitals through positive (or negative) financial incentives to use their facilities and personnel more efficiently without adversely affecting the quality of services;

"(3) includes a methodology for the recovery of any excess of total revenues which (notwithstanding paragraph (2)) may occur;

"(4) provides for sanctions and enforcement procedures adequate to insure compliance with the program;

"(5) provides for uniform definition of all costs;

"(6) provides for the evaluation of standards of institutional performance;

"(7) provides that the limit specified in paragraph (2) shall increase by the amount of increases in regular wages (as defined in section 124(b)(1)); and

"(8) provides for compliance with such other criteria as the Secretary deems necessary to accomplish the purposes of this title and which are not inconsistent with the provisions of this title.

"(b) The Secretary may make grants to any State which has an approved program pursuant to subsection (a) to assist such State in the implementation of its program. For the purposes of this subsection, there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1979, and such sums shall remain available until expended.

"(c) The Secretary shall promulgate regulations to implement this section within one hundred and eighty days of the date of enactment of this Act.

"REVOCATION OF EXEMPTIONS UNDER SECTIONS 117, 118, AND 119

"SEC. 120. (a) The Secretary shall review annually any program, experiment, or demonstration that has received an exemption pursuant to section 117, 118, or 119 to determine whether such program, experiment, or demonstration is in compliance with such section and the regulations promulgated thereunder. The Secretary may revoke, after notice and an opportunity for a hearing on the record, any such exemption if he determines that such exemption is no longer justified because the conditions for such exemption are no longer being met.

"(b) Upon revocation of an exemption awarded under section 117, 118, or 119 each hospital that would otherwise be subject to this title will be subject to the limits established under this title for each full accounting year as defined by section 122(a)(1) any part of which was not subject to the program, experiment, or demonstration established under section 117, 118, or 119.

"PART C—DEFINITIONS AND MISCELLANEOUS PROVISIONS

"DEFINITION OF HOSPITAL AND APPLICABILITY OF TITLE

"SEC. 121. (a) For purposes of this title (subject to subsections (b), (c), and (d) of this section), the term "hospital", with respect to any accounting year, means an institution (including a distinct part of an institution if the distinct part participates in the program established under title XVIII of the Social Security Act) which—

"(1) satisfies clauses (1) and (7) of section 1861 (e) of the Social Security Act, and

"(2) had an average duration of stay of thirty days or less in the preceding accounting year.

"(b) A hospital shall not be subject to this title except for the purposes of sections 125 and 126 for an accounting year if it—

"(1) has met the conditions specified in subsection (a) (under present and previous ownership) for less than two years before such accounting year;

"(2) derives more than 75 per centum of its inpatient care revenues, disregarding revenues received under title XVIII of the Social Security Act, from one or more health maintenance organizations (as defined in section 1301(a) of the Public Health Service Act) during such accounting year;

"(3) has had, in the three accounting years preceding such accounting year, average annual admissions of two thousand or less; or

"(4) has had in the three accounting years preceding such accounting year, average admissions that are greater than two thousand and less than four thousand; is a sole community provider, as defined by the Secretary; and, is not physically located within a standard metropolitan statistical area.

"(c) For the purposes of sections 117, 118, and 119, the term 'hospital', with respect to any accounting year, means an institution (including a distinct part of an institution if the distinct part participates in the program established under title XVIII of the Social Security Act) which meets the requirements of paragraphs (1) and (2) of subsection (a) except that a hospital shall not be subject to the provisions of such sections if it meets the requirements of paragraph (2) of subsection (b).

"(d) A hospital shall not be subject to any provisions of this title if it is a Federal hospital.

"OTHER DEFINITIONS

"SEC. 122. For purposes of this title—

"Accounting Year

"(a)(1) The term 'accounting year' means, except as provided in paragraph (2)—

"(A) in the case of a hospital participating in the program established by title XVIII of the Social Security Act, a period of twelve consecutive full calendar months including

the same months as the last full reporting period allowed for reimbursement purposes under such title; and

"(B) in the case of a hospital not participating in the program established by title XVIII of the Social Security Act, a calendar year, or, if requested by the hospital, such other period of twelve consecutive full calendar months as the Secretary may designate.

"(2) The Secretary may establish an 'accounting year' of less than twelve months, and make appropriate adjustments in the application of this title to that period, for an entity whose 'accounting year' under paragraph (1) is changed from one twelve month period to another or for other reasons that the Secretary deems appropriate.

"Inpatient Hospital Services

"(b) The term 'inpatient hospital services' has the meaning given it by section 1861(b) of the Social Security Act including in addition the services otherwise excluded by paragraph (5) thereof.

"Inpatient Charges

"(c) The term 'inpatient charges' means (1) charges (as defined in section 405.452(d)(4) of title 20 of the Code of Federal Regulations as in effect on the date of enactment of this Act) for inpatient hospital services or (2) except for purposes of subsection (e), the hospitals costs for inpatient hospital services (as calculated for purposes of title XVIII of the Social Security Act), if such costs are greater than the charges as defined in clause (1).

"Admission

"(d) The term 'admission' means the formal acceptance of an inpatient by a hospital, excluding newborn children (unless retained after discharge of the mother) and excluding transfers within inpatient units of the same institution.

"Cost Payer

"(e) The term 'cost payer' means—

"(1) a program established under title V, XVIII, or XIX of the Social Security Act, and

"(2) any organization which (A) meets the definition in section 1842(f)(1) of the Social Security Act, and (B) reimburses a hospital subject to this title for inpatient hospital services on a basis related to the hospital's costs in furnishing those services or on any other basis other than inpatient charges.

"(f) The term 'reimbursement payable by a cost payer' means the sum of—

"(1) the amounts payable by the cost payer to a hospital for inpatient hospital services, and

"(2) the amounts payable by an individual to the hospital for inpatient hospital services if the individual's expenses for such services are payable in part by the cost payer, to the extent that those amounts are calculated as a portion of the costs or other basis on which the amounts payable by the cost payer are determined.

"State

"(g) The term 'State' includes Puerto Rico, Guam, the District of Columbia, and the Virgin Islands.

"DETERMINATION OF INPATIENT REIMBURSEMENT

"SEC. 123. For purposes of section 111, inpatient reimbursement under a program established under title V, XVIII, or XIX of the Social Security Act shall be determined without regard to adjustments resulting from the application of section 405.460(g), 405.455(d), 405.415(f), or 405.415(d)(3) of title 20 of the Code of Federal Regulations.

"EXEMPTION OF NONSUPERVISORY PERSONNEL WAGE INCREASES FROM REVENUE LIMIT

"SEC. 124. (a) The Secretary shall modify the inpatient hospital revenue increase limit (for purposes of section 111(a)(2)) and the adjusted inpatient hospital revenue increase limit (for purposes of section 111(a)(3)) otherwise established for any hospital which is subject to the provisions of this title except for those hospitals exempted pursuant to section 117, 118 or 119 for any accounting year beginning before April 1980, as prescribed in subsection (b).

"(b) Such modified limits for any accounting year shall be calculated by adding together—

"(1) the average percentage increase in regular wages (as that term is used for purposes of the Fair Labor Standards Act of 1938) per employee per hour granted to employees other than doctors of medicine or osteopathy and supervisors (as defined in section 2(12) of the National Labor Relations Act) during that accounting year multiplied by the percentage of total costs for inpatient hospital services (as calculated for purposes of title XVIII of the Social Security Act) attributable to such wages in the preceding accounting year; and

"(2) the adjusted inpatient hospital revenue increase limit otherwise applicable to the hospital for that accounting year under this title multiplied by the percentage of such costs attributable to all other expenses in the preceding accounting year; and

"(3) 100 percent plus the average percentage increase in regular wages (as defined in clause (1)) per employee per hour granted to employees specified in clause (1), multiplied by the product of (A) the percentage of total costs for inpatient hospital services (as calculated under clause (1)) attributable to such wages in the preceding accounting year, and (B) the fractional increase in the average number of such employees in the accounting year for which the modified limit is calculated over the average number of such employees in the preceding accounting year; provided, that the total percentage determined under this clause may not exceed the difference between the percentage which would be obtained under clause (1) if the adjusted inpatient hospital revenue increase limit were used instead of the average percentage increase in regular wages per employee per hour, and the percentage actually calculated under clause (1).

"(c) The modified inpatient hospital revenue increase limit and adjusted inpatient hospital revenue increase limit established under subsection (b) for any hospital with respect to any accounting year shall constitute such hospital's inpatient hospital revenue increase limit under section 111(a)(2) or, as appropriate, the adjusted inpatient hospital revenue increase limit under section 111(a)(3), for such accounting year for all purposes of this title.

"DISCLOSURE OF FISCAL INFORMATION

"SEC. 125. (a) Every hospital shall submit to the health systems agency designated under section 1515 of the Public Health Service Act for the health service area in which it is located by March 1 and September 1 of each year, a report, in a form prescribed by the Secretary, the rates charged for each of the thirty most frequently used hospital services, as specified by the Secretary, including the average semiprivate and private room rates.

"(b) Each such hospital shall submit annually to such health systems agency, within ninety days of the close of each such hospital's accounting year, a report, in a form prescribed by the Secretary, which contains information, as specified by the Secretary, describing the ownership, management, and financial status of each such hospital including:

"(1) a balance sheet as of the end of such accounting year, setting forth assets and liabilities at such date, including all capital, surplus, reserve, and depreciation;

"(2) a statement of operations for such accounting year, setting forth all operating and nonoperating revenues and expenses including the percent increase in wages for nonsupervisory personnel during such accounting year (including a comparison with all previous accounting years subsequent to the date of enactment of this Act);

"(3) the name and address of any person—

"(A) who has (directly or indirectly) an ownership, lease, or rental interest of 5 per centum or more in such hospital, or who is the owner (directly or indirectly) of an interest of 5 per centum or more in any mortgage, deed or trust, note, or other obligation secured (in whole or in part) by such hospital or any of the property or assets thereof, or

"(B) who is an officer or director of the hospital if it is organized as a corporation; and

"(4) the name and address of any individual, corporation, partnership, or other legal entity with whom the hospital has had, during the previous twelve months, business transactions in an aggregate amount in excess of $5,000 if a person described in paragraph (3) or a person who exercises discretionary authority or discretionary control respecting the financial management of the hospital (A) is such an individual or (B) has (directly or indirectly) an ownership interest of 5 per centum or more in such corporation, partnership, or other legal entity; and

"(5) the names and annual compensation including salary and benefit increases of the hospital's principal operating personnel, as defined by the Secretary.

"(c) Every hospital shall submit annually to such health systems agency all costs reports submitted to each cost payer, as defined in section 122(e) of this Act, and its overall plan and budget described in section 1861(z) of the Social Security Act (if it participates in the program established by title XVIII of that Act).

"(d) If a hospital fails to fully comply with the requirements of subparagraphs (a), (b), and (c) and any regulation promulgated thereunder, the Secretary shall notify the hospital and any payment due to such hospital pursuant to titles XVIII, XIX, and XX of the Social Security Act or any other program supported in whole or in part by funds supplied by the United States shall be reduced by 10 per centum effective with the date of such notice and such reduction shall continue in effect until the hospital fully complies with the requirements of subparagraphs (a), (b), and (c) or any regulation promulgated thereunder: *Provided*, That if the Secretary finds that the hospital has fully complied with such requirements within ninety days of notification by the Secretary of a violation, the Secretary may, in his discretion, waive all or part of the reduction in payments prescribed herein.

"(e) Each such health systems agency shall make available to the public for inspection and copying (at the reasonable expenses of the public) the information supplied to the health systems agency pursuant to this section in readily understandable language and in a manner designed to facilitate comparisons among the hospitals in the health systems agency's health service area.

"IMPROPER CHANGES IN ADMISSION PRACTICES

"SEC. 126. Upon written complaint by any person that one or more hospitals has changed its admission practices in a manner that would tend to reduce the proportion of inpatients of such hospital or hospitals for whom reimbursement is less than the anticipated inpatient charges applicable to such inpatients, the Secretary shall investigate the complaint. The Secretary may impose, after notice and an opportunity for a hearing on the record, the sanction set forth in section 116(c)(2) if he determines that such complaint is justified.

"REVIEW OF CERTAIN DETERMINATIONS

"SEC. 127. Any determinations made on behalf of the Secretary under this title with

respect to the application of its provisions to individual hospitals (other than determinations made under section 115 or 126) shall be subject to the provisions of section 1878 of the Social Security Act in the same manner as determinations with respect to the amount of reimbursement due a provider of services under title XVIII of such Act.

"EXCISE TAX ON EXCESSIVE PAYMENTS FOR INPATIENT HOSPITAL SERVICES

"SEC. 128. (a) Subtitle D of the Internal Revenue Code of 1954 (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

" 'CHAPTER 45—TAX ON CERTAIN EXCESSIVE PAYMENTS FOR INPATIENT HOSPITAL SERVICES

" 'SEC. 4991. IMPOSITION OF TAX.

" '(a) IN GENERAL.—(1) There is hereby imposed, with respect to the receipt by any hospital of any payment made by any cost payer for inpatient hospital services in excess of the applicable limit established by

, and with respect to any payment made by any cost payer as defined in section 122(e)(2) of such Act for inpatient hospital services in excess of such limit, a tax equal to 150 percent of the amount of such excess. The tax imposed by this paragraph shall be paid both by the hospital and by the cost payer.

" '(2) There is hereby imposed, with respect to the inpatient charges of any hospital in excess of the applicable limits established by

multiplied by the percentage of such charges not attributable to cost payers, a tax equal to 150 percent of the amount of such excess. The tax imposed by this paragraph shall be paid by the hospital.

" '(b) EXCEPTION.—The tax imposed by subsection (a)(2) shall not apply with respect to any hospital so long as it is determined by the Secretary of Health, Education, and Welfare to be taking the corrective action described in section 116(d)(2) of the

" 'DEFINITIONS.—Terms used in subsections (a) and (b) have the meanings given them by

" '(d) ADMINISTRATION.—Under and to the extent provided by regulations of the Secretary, the appropriate provisions of subtitle F (relating to procedure and administration) shall be made applicable with respect to the tax imposed by subsection (a) of this section.'.

"(b) The table of chapters for subtitle D of such Code is amended by adding at the end thereof the following new item:

" 'Chapter 45. Tax on certain excessive payments for inpatient hospital services.'.

"EFFECT OF ACT ON PAYMENTS BELOW THE ESTABLISHED LIMITS

"SEC. 129. This Act shall not require any Federal or State program or any person to pay a hospital more than that program or person would have been required to pay had this Act not been enacted.

"CITIZEN'S CIVIL ACTIONS

"SEC. 130. (a) Except as provided in paragraph (b) of this section, any person may commence a civil action for injunctive relief, including interim equitable relief, on his own behalf, whenever such action constitutes a case or controversy—

"(1) against any person (including the Secretary) who is alleged to be in violation of sections 125, 126, 128, or 129 of this title or any regulation promulgated thereunder; or

"(2) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty pursuant to sections 125, 126, 128, or 129 of this title or any regulation promulgated thereunder.

The district courts of the United States shall have jurisdiction over actions brought under this section, without regard to the amount of controversy, or of the citizenship of the parties.

"(b) No civil action may be commenced—

"(1) under paragraph (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the alleged violation to the Secretary and to any alleged violator in such manner as the Secretary may by regulation require; or

"(B) if the Attorney General or the Secretary has commenced and is diligently pursuing judicial proceedings or administrative action with respect to such alleged violation; or

"(2) under paragraph (a)(2) of this section, prior to sixty days after the plaintiff has given notice to the Secretary of such alleged failure to perform an act or duty.

"(c) In any action under this section, the Attorney General or the Secretary may intervene as a matter of right. The decision and rulings of the court, in any judicial proceeding commenced under this section, shall not be a bar to the institution of any judicial proceeding or administrative action by the Secretary against a party to such judicial proceeding. No factual finding by such court shall be determinative as to any fact in any subsequent judicial proceeding or administrative action brought by the Secretary, unless the Secretary is a party to the proceeding under this section.

"(d) The court, in issuing any final order in any action brought pursuant to subsection (a), may award costs of litigation (including a reasonable attorney's fee, based on the prevailing rates for such services, and expert witness fees) to any party, whenever the court determines that such an award is appropriate.

"(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or at common law to seek enforcement of any regulation or order or to seek any other relief.

"(f) Nothing in this section shall require the disclosure of any trade secret information or any other confidential information except as provided by the Federal Rules of Civil Procedure.

SEC. 131. (a) Within one year of the date of enactment of this Act, the Secretary shall—

"(1) after consultation with the Bureau of Labor Statistics of the Department of Labor, the Bureau of Economic Analysis of the Department of Commerce, and other appropriate public and private organizations, promulgate a figure that more accurately reflects the rate of increase in the prices of the inputs necessary for the production and delivery of hospital services. Such figure shall replace the figure promulgated pursuant to section 112 as the new inpatient hospital revenue increase limit; and

"(2) make any changes in the exceptions process established by section 115 as deemed necessary or appropriate by the Secretary as a result of the promulgation of the new inpatient hospital revenue increase limit pursuant to paragraph (1) of this section. The Secretary shall make such changes in order to insure that—

"(A) only hospitals that are experiencing financial crises, as defined by the Secretary, and that have not incurred expenses in excess of those found to be necessary pursuant to section 1861(v)(1)(A) of the Social Security Act are allowed to receive exceptions; and

"(B) exceptions will only be granted to hospitals that qualify under clause (A) and that have—

"(i) experienced an unforeseeable or unavoidable rise in the price of malpractice insurance, other liability insurance, energy or such other items as the Secretary deems appropriate which result in hospital expenditures in excess of the figure promulgated pursuant to paragraph (1) of this subsection;

"(ii) experienced a change in patient mix resulting from expanded institutional capacity provided such expansion has been either found by a State health planning and development agency designated under section 1521 of the Public Health Service Act to be in conformity with applicable standards, criteria, and plans under an agreement pursuant to section 1122 of the Social Security Act or approved by such agency under a certificate-of-need program which is satisfactory to the Secretary under section 1523(a)(4) of the Public Health Service Act;

"(iii) experienced unusual increased expenses, as defined by the Secretary, associated with the closing, modifying, or changing usage of all or part of its facilities by eliminating excess bed capacity; discontinuing an underutilized service for which there are adequate alternative sources; or, substituting for the underutilized service some other service which is needed in the area and which is consistent with the findings of an appropriate health planning agency; or

"(iv) experienced such other change in condition that the Secretary deems an appropriate justification for an exception:

Provided, That such reasons for hospitals qualifying for exceptions as set forth in clauses (i) through (iv) have been found pursuant to section 1523 of the Public Health Service Act to be needed or appropriate by the State health planning and development agency designated under section 1521 of such Act for the State in which the hospital requesting the exception is located.

"(b) The changes in the inpatient hospital revenue increase limit and the exceptions process prescribed by subsection (a) shall apply to hospitals for their accounting years commencing after such changes are in effect.

"(c) Any changes made pursuant to sections (a)(1) and (a)(2) shall become effective after sixty days of continuous session of the Congress after the Secretary has submitted such changes to the Congress together with a detailed statement of the reasons underlying such changes, unless either House passes a resolution during such sixty-day period stating in substance that it does not favor such changes.

"SEC. 132. The Secretary, after consultation with appropriate public and private organizations, shall establish within one year of the date of enactment of this Act the following:

"(a) an accounting and uniform functional cost reporting system (including uniform procedures for allocation of costs) for determining operating and capital costs of hospitals providing services;

"(b) a system which will classify hospitals according to size, geographical location, and other criteria which will reflect efficiency and services provided;

"(c) a system that more accurately measures the changes in hospital cost associated with changes in hospital volume;

"(d) a system that monitors, on a current basis, shifts in case mix including shifts of cases with higher than average costs per admission;

"(e) a system that measures the output of hospitals which includes a way to identify hospitals that provide better than average care than hospitals of similar characteristics; and

"(f) a system that would reimburse hospitals of similar characteristics differently based on the system established pursuant to subsection (e).

"SEC. 133. (a) The Secretary shall arrange for the conduct of a study or studies of

methods for controlling the cost of and/or revenue received for hospital outpatient services, long term care services, and ambulatory care services.

"(b) The study or studies required by subsection (a) shall be conducted within one year of the date of enactment of this Act. Within thirty days of the date of completion of such study or studies, such study or studies and the report or reports thereon shall be submitted to Congress. Such report or reports shall include recommendations, if any, for legislative and administrative action.

"SEC. 134. The Secretary shall monitor, on a current basis, the economic impact of all the provisions of this title including sections 117, 118, 119, and 124. He shall report annually to the Congress the results of such monitoring including the percentage of increase in the cost of energy, malpractice, and other liability insurance, and the wages for nonsupervisory personnel.

"SEC. 135. In carrying out the purposes of this title the Secretary or a State is authorized to enter into contracts with State or national cooperative information centers established under section 304 or 306 of the Public Health Service Act.".

The table of contents on page 3 is amended by striking item 2 and substituting:

"Sec. 2. Report on permanent reform in the delivery and financing of health care.

"TITLE I—TRANSACTION HOSPITAL COST CONSTRAINT PROVISIONS

"PART A—PURPOSE OF THE PROGRAM

"PART B—ESTABLISHMENT OF HOSPITAL COST CONTAINMENT PROGRAM

"PART C—DEFINITIONS AND MISCELLANEOUS PROVISIONS".

The PRESIDING OFFICER. Will the Senator indicate to the Chair whether this is the amendment on which there is a 40-minute time limitation?

Mr. KENNEDY. Forty minutes, 20 minutes to each side, as I understand it.

I yield such time as I might need, Mr. President.

Mr. President, this amendment that I offer is basically the Human Resources Committee legislation that was reported favorably from that committee some 14 months ago. It is essentially the administration's proposal.

The earlier budget estimates, as indicated by the charts back here, would show that there would be a saving of some $60 billion by 1983.

Effectively this particular legislation provides a cap on the expenditures for hospital costs, a cap which is reflected by an index related to the gross national product, and then an additional health index.

This legislation, Mr. President, is very similar to the type of legislation that was passed in my own State of Massachusetts, and which has been implemented there for about a year and a half, and has seen a reduction in the growth of hospital costs in my own State of Massachusetts from 17.7 percent to some 10.5 percent.

We have seen some nine different States that have different forms of cost containment, with Colorado reducing their hospitalization cost increases from 22.9 percent in 1975 to 15.1 percent in 1977; in Connecticut, from 16.8 percent to 11.4 percent.

The fact of the matter is, Mr. President, the nine States that have incorporated a mandatory program have seen a reduction of expenditures on hospital costs from 15.8 percent to 12 percent. And, Mr. President, I believe that the 12 percent will continue to go down. Most of those States have passed their laws recently, and the full impact of their program has not been realized.

Under the proposal of the Senate Finance Committee, according to the older budget figures, the savings would be some $400 million by 1983. By the amendment which will be introduced by the Senator from Wisconsin, and in which I will join with him as a cosponsor if this amendment is not successful, we will save some $34 billion—$11.6 billion on medicare and medicaid alone.

And under the proposal of the administration and the Human Resources Committee, some $19 billion will be saved by 1983 in medicare and medicaid alone.

Mr. NELSON. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I yield to the Senator from Wisconsin.

Mr. NELSON. Or I can withhold it if——

Mr. KENNEDY. No; I will be glad.

Mr. NELSON. The Senator is aware, as is everyone else here, of all the conversation and all the activity and proposals to reduce spending. We are passing resolutions with all kinds of rhetoric, saying, "Let's cut Federal spending." I think it is fascinating to note the tremendous Federal savings in the Kennedy-administration bill, which—the Senator will correct me if I am wrong—I believe, in the 5-year period, the Federal savings in expenditures for hospital care is about $23 billion; is that not correct?

Mr. KENNEDY. The Senator has stated it accurately and compellingly. That is what we are attempting to implement, Mr. President. It gives the maximum flexibility to the local hospital to find the ways and means by which this can be done.

Mr. President, I yield to no one in the diversity of the types of hospitals that we have in my own State of Massachusetts. We have some of the great teaching hospitals, like Massachusetts General Hospital. We have some of the great medical schools, which are tied in to a number of other teaching hospitals. We have small county hospitals, and a number of other types of hospitals, but nonetheless there has been a limit, and I daresay that has been applied all the way across the board.

Under a more detailed type of approach in terms of national health insurance and other types of programs, we would need a more refund mechanism in terms of classification, but what we are effectively talking about is an interim but important measure to be used initially to cap what is probably the top No. 1 or No. 2 inflator in our economy. As I pointed out earlier the Consumer Price Index has advanced at one half the rate of the hospital semiprivate room.

With this bill, we will be getting a handle effectively on about 40 percent of the principal inflators in our economy, and, as illustrated by the experience of these States, in an effective way that will save billions and billions of dollars.

Mr. President, I think this really is effectively a test of whether this body is interested in the rhetoric of the arguments on inflation, or really the substance of them. The Senator from Wisconsin has pointed out very well the savings to be achieved in the public sector. What will be saved even more is in the private sector, from the out-of-pocket expenses and from the health care premiums that have been increased, and from the payments that will be made by local communities, local agencies, and local and State governments.

The savings there, Mr. President, will of course be in terms of savings to local communities and State governments.

It seems to me, Mr. President, when this body is concerned about and interested in doing something about the rate of inflation, we would here come to grips with this problem in a very important way, and a way which we believe will counter more than the cost of health care being provided by these services.

I reserve the remainder of my time. I am prepared to get an early vote on this matter.

I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I feel it my duty to say a word about this measure, since I am the ranking minority member of the committee which reported it.

At the time it was reported, 14 months ago, Mr. President, already the cost of hospitalization represented the big pressure point in respect of medical care costs, which have twice the inflationary effect of any other group of costs of appreciable character. In the Consumer Price Index, the rate of inflation in these costs is generally held at 12 to 14 percent, as against an overall rate of inflation of 6 to 7 percent.

I shall be, like the Senator from Wisconsin, supporting the work of the committee which is contained in this amendment, and also supporting Senator NELSON's amendment, which represents a modernization of our position brought up to date. One particular point that I would like to make is especially addressed, Mr. President, to those who have deep concern about what is called national health insurance, which will come along as a major issue in the next 2 years.

I believe that though there are many who have deep feelings about national health insurance, its desirability, the terms, the degree to which private enterprise sholuld be involved, the possible changes in the relationship between the doctor and the patient, I can tell those on the side of the national health plan, which I like to call it, that it is absolutely essential to have a measure like this as a threshold if the national health plan is to be manageable; and I can tell those who are against it, because it applies equally to both, that there is no single element which will drive the American people, their constituents, more to demand national health insurance than the failure to adopt a measure of this kind, whether it is this one or the Nelson amendment.

Mr. President, the American consumer of medical care is getting des-

perate, and he is right, absolutely right, when you realize the piece of the individual's budget which is attributable to these costs, and the inadequacy of practically every form of insurance, including Blue Cross and Blue Shield, and, yes, even medicare, because there is really no check, no roof on the charges of the providers, and hence I am like everybody else when I see what I have expended and what I have to pay. The individual is constantly at hazard, and constantly paying through the nose.

I deeply believe, therefore, Mr. President, that whether you are for or against national health insurance, those on both sides should vote, when we have the opportunity, as we have it today, for a measure for hospital cost containment.

Now, finally, all of us have had a lot of experience with hospitals. I have been on this health subcommittee for a long time, and for years have been the ranking minority member of the committee.

Mr. President, the degree to which water can be squeezed out of hospital costs is, for all practical purposes, limited.

The proliferation of equipment, the inefficiency of bookkeeping, the use of computers, the duplication of facilities in given areas which could easily be consolidated, the degree of personal services which can easily be streamlined with the use of modern facilities and modern management techniques, all show that it is a sense of urgency which has been absent.

We have all done a lot of talking, as Senator NELSON just said in his discussion with Senator KENNEDY, but we have not done anything to bring about the desired result.

It is for those reasons, Mr. President, that I hope the Senate will take this opportunity today to vote for an effective hospital cost containment measure. I trust if this amendment fails, they will support the Nelson amendment.

Mr. KENNEDY. Mr. President, I yield myself an additional 3 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Finally, what we are talking about, Mr. President, is the impact of inflation upon people.

For our elderly people, the first day deductible for elderly people was in 1970 $43, projected for 1983 it will be $276. This is for the medicare deductible for hospitalization. We are not talking about the needs of people who may think they are sick. This is when they are sick and they have to go to the hispital. The inflator that we provide under social security does not live up to that. The elderly people are paying more and more and, as a matter of fact, are paying more out of their budgets, than they were paying prior to the enactment of medicare.

Without effective cost containment that will escalate at a dramatic rate, as our other figures show, far exceeding the inflation rate.

That is one fact.

Mr. President, we are talking about local savings for State and local governments. In 1968, $4 billion on hospital care; 1978, $11.9 billion; 1983, without cost containment, $23 billion, double what we are doing now in 1978. We are talking about the impact on the local community, the property tax, the taxes that are going to exist in the State, essentially for health care. They are going to double in the period of the next 4 years.

Make no mistake about it , the kind of increases that are documented by State and local governments and by medicare also apply to the middle class, to companies and corporations. They are paying more and more in terms of premiums. The blue collar worker is working longer and longer hours in order to afford the premiums. That is going to continue, Mr. President, to take an increasing amount out of the paychecks of workers, of middle class people, unless we are going to be effective in getting cost containment.

We have a program which has been tried, which is effective, and which I think will provide the average consumer of this country significant savings in taxes. I hope it will be accepted.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TALMADGE. In due course, I will move to table the amendment.

Mr. KENNEDY. I reserve the remainder of my time, Mr. President.

Mr. TALMADGE. Mr. President, the Senator from Massachusetts and his distinguished colleagues on the Committee on Human Resources are to be commended.

They have made a significant contribution to our search for a sensible, realistic solution to the problem of soaring hospital costs.

While we may disagree about the remedy and its timing, we see a common problem.

The proposed amendment would establish a limit on the percentage by which a hospital may increase its revenues from year to year.

In the first year, the formula in the bill would permit an increase of about 10 percent.

Apart from the arbitrary nature of the formula—which has nothing to do with a hospital's legitimate financial needs—this flat cap approach has several major defects.

A flat cap by its very nature tends to penalize those who have been efficient in the past and reward those who have been inefficient.

Hospitals with bloated costs will be allowed a larger increase than identical hospitals that have kept their costs down.

For example, a $300-a-day hospital could increase its revenue by $30 while an identical hospital run at $200 a day would be allowed additional revenues of only $20.

For some hospitals, the allowable increase will be more than they need; for others it will fall tragically short.

As I stated to Secretary Califano in response to his reference to obese hospitals, placing all hospitals, fat and lean, under a 9-percent cap is akin to placing them all on a 1,200 calorie a day diet.

Some hospitals may be "obese and profligate" but others are clearly underfinanced, more a threat to health and safety than the pocketbook.

For them, a hospital cost containment measure geared to reduce spending by $60 billion in the first 5 years may require a gutting of essential services.

Nobody knows how much of the reduced spending would be accomplished by reducing waste—and how much would be at the expense of necessary patient care.

The amendment also provides for the Secretary of HEW to change the statutory formula for calculating revenue limits.

Thus, it would make him czar of cost control for every hospital in the United States of America.

Thus, after the first year, the amendment gives HEW a blank check to change the program as it sees fit, subject to congressional veto.

There are serious concerns about the so-called mandatory wage pass-through feature of the bill.

Like the three members of the Human Resources Committee who presented their minority views on the proposed amendment, I am concerned that the program would exempt a major part of hospital budgets from controls.

Wages of nonsupervisory workers account for 40 to 45 percent of a hospital's costs.

While you were safe a decade ago in generalizing about hospital workers being underpaid, this is no longer true.

In 1977 the wage levels of nonsupervisory hospital workers caught up with—and passed—the wage levels paid for comparable work outside the hospital.

In one major city, pot scrubbers working for hospitals are paid about half again as much as the clerk typists working in medicare regional offices.

It does not make sense to exempt such workers from a hospital cost containment program regardless of whether their wages are substandard.

Mr. President, we are talking here about a permanent program that will cut total hospital revenues by $60 billion in just 5 years.

While clearly—and perhaps brutally—effective as a cost control device, it entails risks for the sick and disabled and their families that few Americans would wish to take.

I yield 4 minutes to the distinguished Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, as the ranking Republican on the Subcommittee on Health and Scientific Research, I must rise to oppose the amendment of my distinguished colleague from Massachusetts. The amendment represents in large part the administration's approach to hospital cost containment. It is also the bill reported by the Human Resources Committee more than 1 year ago.

There is no question about the need to do something about the skyrocketing costs of health care in this country. In my view, however, the basic issue facing the Congress right now is not whether to do something about this problem, but how.

For the better part of the spring and

summer of 1977, Senator KENNEDY and I, along with the other members of the Human Resources Committee, spent many long hours analyzing the administration's approach to this problem in great detail. This was before the major medical and hospital interest of this country responded to cost containment pressures by organizing a "voluntary effort" to lower hospital costs through their own initiative. Even then, before the voluntary effort, I voted against approval of the bill by the Human Resources Committee. I had then and I still have grave doubts about the fairness and workability of federalized hospital cost containment. In addition, I was, and still am, opposed to the "mandatory wage pass-through" contained in the bill—a provision which removes the costs of nonsupervisory workers wages, which account for as much as 40 percent of hospitals' budgets, from hospital costs containment limits.

With this wage passthrough, we are attempting to solve one problem while creating another. We say we are going to put ceilings and caps on hospital costs, but 40 percent of the costs, which are nonsupervisory workers' wages, will be exempt. We are creating, in this bill, a mechanism to escalate a highly inflationary segment of hospital costs, because there will be no restraints on pages. In negotiating sessions, the labor negotiators will say, "Look, we don't have to worry about it; you can give it to us because wages are not under the controls." It is like having wage and price controls on just only wages or just prices. It is rather ludicrous to say there is going to be hospital cost containment when 40 percent of hospital costs will not be under the controls. It is rather ridiculous to implement an economic control system when you are only controlling wages or only controlling prices. It does not make any sense to have only half of the economic input under control and the other half not under control.

We are going to try to cure one malady by creating another. I think that is an illogical approach. I think that is an unreasonable approach. When we put that provision in the human resources bill, I announced my opposition to it. I voted against the bill. That is exactly the bill that is here before us today.

Mr. President, events since the Human Resources Committee reported out its bill—the proposal the Senator from Massachusetts now offers—have only heightened my concern about this approach. I believe that we must move away from an ever-increasing Federal bureaucracy as the approach to national problems, particularly in health care. Instead, we must move toward private sector and competitive solutions to the extent they are possible in the health care industry.

The voluntary effort has been an exciting and promising alternative approach to this difficult issue. Estimates of reduced hospital costs under the voluntary effort have been impressive. Its goal is to decrease by 2 percentage points the rate of increase of non-Federal, community hospital expenditures this year as well as next. For the first 5 months of 1978, hospital expenditures rose by only 12.7 percent under the voluntary effort—a decline of 3.3 percentage points, compared to the same period in 1977.

Imposing a flat cap, as this amendment proposes, on all hospital expenditures will clearly have a detrimental effect on our most promising way to contain hospital costs because it will cause hospitals to abandon the voluntary approach, surrender to Federal controls, and increase their costs up to the Federal limit. So how can this be called an anti-inflation amendment?

In my own State of Pennsylvania, the voluntary effort is well underway, with the vast majority of eligible hospitals now participating in the locally organized program for the containment of hospital costs. I think their efforts, as well as the efforts of hospitals in other States, should be encouraged, not preempted.

Mr. President, with this innovative voluntary approach, utilizing private sector initiative, so fully under way, I do not believe that there is a need to move precipitously into another Federal regulatory program to contain hospital costs. The 9-percent cap proposed by the administration would be a nightmare to administer and it would be a nightmare to be subject to it. It might also lead to ever-increasing Government regulation of our health care system, an issue which the National health insurance discussions we anticipate in the near future will address in due course.

I think this is a dangerous, unnecessary, and inequitable approach.

Again, and in conclusion, I do not know how we can put cost controls on half the system and not on the other half. I know of no other system where we put wage controls in effect and not price controls, or price controls and not wage controls. I doubt it will work here and I oppose this amendment.

Mr. TALMADGE. Mr. President, I yield 3 minutes to the distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, the Kennedy amendment incorporates the provisions of title I of the administration cost containment bill reported by the Senate Committee on Human Resources. It places an absolute cap on inpatient hospital revenue, from all payers, of 1½ times the GNP deflator.

The reasons why the Kennedy amendment should be opposed are many:

First. Such a lid would be inequitable and unworkable, and would have a deleterious effect upon the provision of high quality health services.

Second. Hospitals are in the position of being unable to control the costs of the things that they buy; the items in the hospital market basket are escalating in costs for reasons other than those under the hospital's control. It is ironic to have Government attempting to mandate a ceiling under which hospitals must live when it is the actions of Government, not the hospitals, which are fueling inflation.

Third. The voluntary effort, a formal program begun by three major groups (the American Medical Association, the American Hospital Association, and the Federation of American Hospitals), already has been very successful in moderating the rise in hospital costs. It should be given a further chance to work.

Fourth. The kind of arbitrary ceiling in the Kennedy bill would become a floor—that is, "fat" hospitals would tend to get "fatter," and lean hospitals might go under. It would tend to reward hospitals which already are inefficient.

Fifth. It would inject Government even more pervasively, with attendant complex, bureaucratic controls, into our health care delivery system.

Sixth. Under the bill, limits would become even more stringent over time—there would be a "ratcheting down" effect which would impose even a more difficult test upon hospitals.

Seventh. The GNP deflator is not appropriate as an index of hospital inflation. Sixty percent of hospitals' costs are for labor, and labor costs clearly have risen faster than the inflation rate; AHA measures show hospital inflation far outstrips the GNP deflator.

Eighth. Hospitals that are without fault might be forced into bankruptcy—bankruptcy is not a basis for exception.

Ninth. Hospitals would be required to consume their resources to avoid insolvency.

Tenth. The cost of hospital care varies considerably among hospitals and areas, which the legislation fails to recognize.

Mr. President, all persons of good will would like to see hospital costs not only kept down, but actually reduced. The question is, how do you do it if everything the hospital buys, all the utility business, all the bandages, all the wages and everything else, go up? How are you going to put a cap on and say that hospitals cannot go beyond that cap?

Well, you can cause the hospital to go bankrupt. You can have them reduce their services. In case that cap only applies to Government patients, you can force them to charge other patients more. This, I believe, applies to all of them. It is totally an unworkable remedy.

Furthermore, suppose a hospital is charging $140 a day. Maybe it is a fat hospital, overloaded with extra costs that could be reduced. They would get to raise their rates by $14. There might be another hospital that is only charging $80. Maybe that $80 charge ought to be raised by $15 for them to meet their bills and upgrade their services. But they would be limited to $8. The rich get richer and the poor get poorer. The fat hospitals get fatter, the lean hospitals get leaner.

It is not a workable remedy, it is not equitable. It says to the hospitals, those who have raised their rates, who have not been successful in holding down costs, you can raise them a lot more. To the efficient hospital, to the conscientious administrator—and that is most of them, maybe all of them—who has tried and tried to hold down his costs and has been successful, any raise that he can make to meet the additional costs that fall upon him is limited.

It should be the reverse. It should be that the hospitals costs are way down. They could have a greater raise to meet present day costs than the hospital

whose costs are already up there. It is unsound, it is unworkable, it is unfair.

It may cause some hospitals to close. It is not an effective arrangement that exempts labor. As the distinguished Senator from Pennsylvania said, you cannot have price control without wage control, you cannot have wage control without price control.

Furthermore, this is a departure in that it involves contracts where the Government is not a party. Therefore, it is price control and does not belong in either committee that claims jurisdiction.

Mr. TALMADGE. Mr. President, I yield 3 minutes to the distinguished ranking minority member of the subcommittee, the Senator from Kansas (Mr. DOLE).

Mr. DOLE. I will defer to the Senator from New Hampshire.

Mr. KENNEDY. I yield 3 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. DURKIN. Mr. President, I thank the Senators from Georgia, Kansas, and Massachusetts.

I rise in support of the proposition of the Senator from Massachusetts. I have had a considerable amount of experience with the whole problem of cost containment with respect to medical care, growing out of 5 years as insurance commissioner, 5 years of trying to hold down Blue Cross and Blue Shield rates in the States of New Hampshire and Vermont.

Mr. President, we are never going to get a comprehensive health insurance program in this country until we start controlling the costs that the people incur with respect to hospitalization.

In going around the State of New Hampshire, rarely do we speak to a group in which there is not at least one person at each table who was faced with economic bankruptcy because of the illness of someone in that family.

This is true whether they be categorized as conservative, liberal, moderate, independent, registered, unregistered.

The people today fear the bill more than they fear the diagnosis. They fear the medical bill more than they fear the surgeon's scalpel.

We are the only industrialized country in the free world that does not have a comprehensive health insurance program. It is something we owe to our citizens. It is something we owe not just to the senior citizens. It is something we owe to citizens of all ages, because when the illness strikes, and the family fortune, no matter how small or how large it may be, is depleted, it just does not bring economic disaster to the senior citizen, it brings economic disaster to that whole family.

I know why some of the groups are opposing this amendment. They know if we do not get this amendment, do not get legislation of this type, we are not going to be able to afford a comprehensive health insurance program.

This is a modest first step. There are going to be problems working it out. HEW is going to have a few problems working this out. But it is nowhere near the problem that every family in America faces, rich or poor.

So, Mr. President, I urge that the Senate look favorably upon this proposal of the Senator from Massachusetts. I think if we could pass this, we would go a long way to improving the record of the Senate and the 95th Congress.

Mr. DOLE. Will the Senator from Georgia yield?

Mr. TALMADGE. Yes. I yield the Senator 3 minutes.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I appreciate the Senator's yielding. I appreciate the concern everyone has expressed.

Mr. President, for more than a year now, four committees of Congress have been considering a proposal to mandate economic countrol of hospital revenues. Since the Carter administration introduced its hospital cost containment bill last year, a number of my distinguished colleagues in both the Senate and House have devoted considerable efforts to developing a workable solution to the incredibly complicated issues articulated by that legislation. The amendment that Senator KENNEDY proposes today places a cap on annual increases in the inpatient revenues of our Nation's community hospitals. It advances this proposal as a temporary short-term measure intended only to get a handle on the immediate critical problem of inflationary hospital costs. I strongly oppose any Federal controls that would go into effect if this proposal were accepted. I believe that such economic controls are arbitrary, compounded by the fact that the proposal focuses unfairly on only one segment of the health industry in the economy at large.

Earlier this year, the American Hosital Association, the American Medical Association, and the Federation of American Hospitals, on behalf of the Nation's hospitals and physicians, initiated a voluntary effort to control hospital cost increases. The sponsors of this voluntary program have stated that the program is intended to achieve a "significant reduction in the rate of increase in hospital care costs." Specifically, the program aims to reduce the rate of increase in hospital expenditures by 2 percentage points a year over this year and the next, to assure that no net increase in hospital beds occur during 1978, and reduce new capital investments during the coming year. The program is to be administered in large part at the State level. I believe this voluntary program should be given every opportunity to meet its objectives.

RESPONSIBLE ALTERNATIVE

I believe that the distinguished Senator from Massachusetts and his colleagues on the Human Resources Health Subcommittee have made a valiant effort to address the very difficult problems that confront us, I, too, have a deep concern for the impact which health care costs have had on all Americans. I also recognize that the delivery system itself is not completely responsible for generating those inflationary pressures. Rising labor and supply costs; the need to constantly operate equipment and facilities; skyrocketing malpractice premiums; and compliance with a proliferation of new regulations have all played a part in the dilemma we have managed to reach today.

Those are conditions which apparently have gone unnoticed by the proposal to arbitrarily impose a cap on hospital reimbursement increases. Without assuring that corresponding limits would be placed on price hikes and improved services which the hospital must purchase, however, it is unrealistic and inequitable to expect our health care institutions to bear the entire burden of alleviating the rising health care cost problem.

I think the most sensible and thoughtful approach toward moderating health care costs to the Government is represented by H.R. 5285, which contains our medicare and medicaid reimbursement reforms which were originally sponsored by Senator TALMADGE and a number of other Senators including myself. As my distinguished colleague, Senator TALMADGE has said, "this legislation provides a long-term basic structural answer to the problem of rising hospital costs, whereas the administration is calling for a short-term interim cap on revenues to be in place until only a long-term solution can be established."

I fully support Senator TALMADGE'S concerns about the effectiveness of the administrations' cap on revenues. First, an undifferentiated, across-the-board revenue limit may become a floor. Second, it may serve to penalize these hospitals who have tried to economize while rewarding those who have been inefficient. Third, if hospitals have to switch from current control mechanisms on reimbursement, to a temporary revenue cap for several years, and then on to another permanent reimbursement control mechanism, any savings resulting from the cap may be swallowed up in the chaos of adjusting to the imposition of these controls.

Mr. President, I do not believe in mandating economic controls over hospital revenues. I do believe it is necessary to reform the current mechanisms for reimbursing hospitals in order to insure the reasonableness of hospital costs. I also believe the private sector is making a bona fide effort to keep down the rate of hospital cost increases. I therefore oppose the amendment pending before us sponsored by Senator KENNEDY.

We have before us the efforts of the chairman of our Subcommittee on Finance, and we have before us an amendment by the distinguished Senator from Massachusetts.

Certainly, I think everyone has the same objective and the same goal. I think everybody has the same concern. But I am not certain we yet understand how to achieve it, whether it is from the voluntary effort that is being developed and tried now by some of the hospitals or some other methods.

It is easy to stand up and say that we are going to save $60 billion. I understand that since that chart was made, there is another estimate by the Budget Office that now indicates the savings have dropped to $33 billion. I do not

quarrel with the figures, but I quarrel with what we are attempting to do.

There is not anyone in this Chamber I know of who is not concerned about controlling hospital costs, if it can be done fairly and with a great deal of equity and reward to the good hospitals, and perhaps not result in breaking the bad hospitals.

It is certainly not fair, as the distinguished Senator from Pennsylvania pointed out, to pass through certain costs and not pass through anything else as this amendment suggests. That is not cost containment.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts has 1 minute remaining.

Mr. KENNEDY. Mr. President, the best response to the arguments of the Senator from Kansas is that nine States now have mandatory programs and they are saving their local governments, State governments, tens of millions of dollars.

Under our particular proposal, if the State meets the requirements, they are completely free from this program.

Those States that have the voluntary program, have gone down from 15.8 percent to only 15.6 percent; while those that have had the mandatory program have gone down to about 12 percent.

So the fact of the matter is, Mr. President, that this concept is, in fact, working successfully in the States. But with our program we will save the taxpayers under medicare and medicaid, and we think the workers, the farm workers, the businessmen, and the elderly people, billions of dollars.

Mr. President, I guess the time has expired.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that John McLaren of my staff be granted privileges of the floor during consideration of this bill and votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, I believe all the time of the Senator from Massachusetts has expired. I am willing to yield back the remainder of my time.

Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having expired or been yielded back, the question is on agreeing to the motion to lay on the table the amendment of the Senator from Massachusetts. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Iowa (Mr. CLARK), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY) and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. GRIFFIN), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. SCOTT), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. GRIFFIN), the Senator from Idaho (Mr. MCCLURE) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The PRESIDING OFFICER (Mr. GLENN). Have all the Senators in the Chamber voted?

The result was announced—yeas 69, nays 18, as follows:

[Rollcall Vote No. 483 Leg.]

YEAS—69

Allen	Hansen	Moynihan
Baker	Hart	Nunn
Bartlett	Hatch	Packwood
Bayh	Hatfield, Mark O.	Pearson
Bellmon	Hatfield, Paul G.	Percy
Bentsen	Hayakawa	Proxmire
Biden	Heinz	Riegle
Brooke	Helms	Roth
Bumpers	Hodges	Sarbanes
Burdick	Hollings	Sasser
Cannon	Huddleston	Schmitt
Chafee	Inouye	Schweiker
Chiles	Jackson	Sparkman
Church	Johnston	Stafford
Curtis	Laxalt	Stennis
Danforth	Leahy	Stevens
DeConcini	Long	Stevenson
Dole	Lugar	Stone
Eagleton	Magnuson	Talmadge
Eastland	Matsunaga	Thurmond
Ford	Melcher	Wallop
Garn	Morgan	Young
Glenn	Moynihan	Zorinsky
Goldwater	Nunn	

NAYS—18

Abourezk	Durkin	Muskie
Anderson	Humphrey	Nelson
Byrd, Robert C.	Javits	Pell
Case	Kennedy	Randolph
Cranston	McGovern	Ribicoff
Culver	Metzenbaum	Williams

NOT VOTING—13

Byrd, Harry F., Jr.	Griffin	McIntyre
Clark	Haskell	Scott
Domenici	Hathaway	Tower
Gravel	Mathias	Weicker
	McClure	

So the motion to table Mr. KENNEDY's amendment (No. 3477), as modified, was agreed to.

Mr. TALMADGE. Mr. President, on the bill I yield 2 minutes to the distinguished Senator from California for a privileged matter.

PRIVILEGE OF THE FLOOR—CONFERENCE REPORT ON H.R. 10173

Mr. CRANSTON. I thank the Senator very, very much.

I ask unanimous consent that John Pressly, Garner Shriver, and Mary Sears, be accorded the privilege of the floor during consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS' AND SURVIVORS' PENSION IMPROVEMENT ACT OF 1978—CONFERENCE REPORT

Mr. CRANSTON. Mr. President, I submit a report of the committee of conference on H.R. 10173 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10173) to amend title 38, United States Code, to improve the pension programs for veterans, and survivors of veterans, of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. CRANSTON. Mr. President, this matter has been cleared on both sides. It is a fine bill.

Mr. President, I rise to urge my colleagues to support the conference report on H.R. 10173, the proposed "Veterans' and Survivors' Pension Improvement Act of 1978." This measure reflects the best efforts of the Senate and House conferees charged with the responsibility of resolving the differences between H.R. 10173, as passed by the House on June 28, 1978, and the Senate amendment to H.R. 10173, agreed to by the Senate on July 31, 1978. The conferees met on September 29, 1978, and October 3, 1978, and I strongly believe that the product of our work is an equitable and reasonable resolution of the differences between the two versions.

Mr. President, our committee established as a major priority in the 95th Congress the enactment of meaningful pension-reform legislation. The conference agreement represents the achievement of this goal and is the culmination of a sustained 5-year effort to reform and restructure the need-based VA pension program.

BACKGROUND

Mr. President, with the cosponsorship of all the members of the Committee on Veterans' Affairs, and the Senator from New Jersey (Mr. WILLIAMS), on December 15, 1977, I introduced S. 2384, a bill intended to correct very serious inequities and deficiencies in the Veterans' Administration need-based pension program for wartime veterans who are totally and permanently disabled from nonservice-connected causes or age 65 or over and the survivors of wartime veterans. Mr. President, there are about 2.6 million persons receiving VA pension benefits under the current program—1 million veterans and 1.6 million surviving spouses and children. In fiscal year 1978, the VA budget for this program was $3.4 billion according to CBO.

The Senate Committee on Veterans'

Affairs unanimously reported S. 2384 with an amendment in the nature of a substitute on July 17, 1978, and on July 31, the Senate passed—by a vote of 85 to 0—S. 2384, the provisions of which were then substituted into H.R. 10173, the pension-reform measure previously passed by the House.

BASIC PURPOSE OF PENSION-REFORM LEGISLATION

Mr. President, The conference agreement generally achieves the purposes set forth in our committee report on S. 2384 (S. Rept. 95-1016), and thus will provide for a new, more equitable, and adequate pension program that will:

First, assure an income standard sufficiently above the Department of Labor's poverty guidelines so that all eligible veterans and survivors receive a pension commensurate with their need;

Second, prevent eligible veterans and survivors from having to turn to welfare;

Third, guarantee regular annual increases in pension benefits based on the increase in the Consumer Price Index;

Fourth, guarantee that annual increases in pension benefits occur at the same rate and at the same time as cost-of-living increases in social security benefit rates—so that no person in the pension program will suffer a reduction in pension solely attributable to a cost-of-living increase in benefits paid under the social security or any other Federal retirement program; and

Fifth, ensure that our needy World War I veterans are not forgotten.

MEETING WITH PRESIDENT

Mr. President, on September 15, 1978, members of the Senate and House Veterans' Affairs Committees met with the President to exchange views on the necessity for pension reform. Although the President was not in full accord with either the House or the Senate versions, he agreed with us that it is very important to correct the inadequacies and deficiencies of the VA pension program. He asked us to act responsibly with respect to the difficulties that could be created by a very costly bill—in terms of short-range and long-range costs—and assured us that he supports the VA pension program and, generally, the objectives I have just set forth.

MAJOR DIFFERENCES BETWEEN HOUSE AND SENATE VERSIONS AND CONFERENCE RESOLUTION

Mr. President, although the House and the Senate were in agreement on two key concepts—the change to an annual income-standard approach and automatic annual cost-of-living increases—there were a number of substantive and technical differences between the two versions. I would like to outline briefly the major issues and summarize the resolutions reached under the conference agreement:

First, the House bill provided for a maximum annual rate of $4,000 for a veteran without dependents; under the Senate amendment, that rate would be $3,240. The conferees agreed on a rate of $3,550, with proportionate increases in the rates for veterans who have one dependent and for those who are in need of regular aid and attendance or who are permanently housebound.

Second, the House bill provided for automatic eligibility for the higher "housebound" rate—$4,804—for any veteran attaining the age of 80. The Senate amendment provided for a 25-percent increase in the rate payable to veterans—principally World War I veterans—who were never made eligible for GI bill benefits such as educational assistance or home-loan guaranties. The conference provides for an $800 increase in the income standard for those veterans—World War I and the Mexican border period veterans—who were never made eligible for GI bill benefits.

Third, the Senate amendment, but not the House bill, provided for a partial exclusion of the current-work income of the family of a veteran or surviving spouse. The conference agreement—most regrettably, I believe—does not contain this provision.

Fourth, with respect to grandfather provisions, the House bill generally provided for the continuation of pension benefits at the same rate as the pensioner is receiving prior to the effective date of the bill for any current-law pensioner who does not apply for benefits under the new program. The Senate amendment provided that such pensioners would continue under the current program so long as they remain eligible. The conference agreement provides for grandfathering along the lines of the House bill, and continues the current-law requirements with respect to basic eligibility and net worth limitations. Also, grandfathered pensioners would continue to be subject to annual income limitations—increased by 7.1 percent as of January 1, 1978—and indexed thereafter in accordance with social security cost-of-living increases.

Fifth, the Senate amendment would have restructured the parents' dependency and indemnity compensation program—a need-based program for the surviving parents of veterans whose deaths were service connected—along the lines of the restructured pension program. The House bill did not contain a comparable provision; but the conferees noted that on September 18, 1978, the House passed H.R. 11887, a bill to provide a cost-of-living increase of approximately 6 percent in that program. The conference agreement provides for a cost-of-living increase of 7.1 percent—the most recent Congressional Budget Office estimate of the appropriate increase—effective January 1, 1979, and automatic annual adjustments in that program thereafter in accordance with social security cost-of-living increases.

I would like to note that the Senate amendment, as amended on the floor by the Senator from Oklahoma (Mr. BELLMON)—unprinted amendment No. 1541—contained a provision to require a report by OMB on VA-Social Security coordination with respect to the income security programs of those agencies. In lieu of this provision, the conferees agreed to request the Comptroller General, in consultation with OMB, to prepare the report along the lines of the Senate amendment. Also, the conference agreement does not contain the amendment—unprinted amendment No. 1539—added by the Senator from New York (Mr. JAVITS) eliminating the State-local matching requirement for the repayment of VA educational loans in connection with the program of accelerated payment of educational assistance benefits. The House conferees were adamant in their opposition to this amendment, which they asserted would have been subject to a point of order in the other body as a part of this bill. The Senate conferees did their utmost to convince the House on this point, but in vain.

COST IMPACT OF CONFERENCE REPORT

Mr. President, before turning to a description of the provisions of the conference report, I would like to note that on October 6, 1978, the committee received from the Congressional Budget Office an estimate of the costs of the conference agreement on H.R. 10173. The CBO estimate indicates that the increased outlays required for the last three-quarters of 1979 and the 4 following years would be: $465,800,000 in fiscal year 1979; $947,000,000 in fiscal year 1980; $1,268,000,000 in fiscal year 1981; $1,648,100,000 in fiscal year 1982; and $2,041,400,000 in fiscal year 1983.

Mr. President, those costs do not indicate the net increased Federal outlays required for each fiscal year, taking into account offsetting outlay reductions in function 600 for AFDC and SSI benefits and in function 550 for medicaid expenditures; and they are based on the assumption that, in the absence of pension restructuring legislation along the lines of the committee bill, Congress would not enact any cost-of-living increases in the current pension program. That assumption is, however, in my view, not realistic in light of continuing inflation and consistent congressional actions in the last decade granting cost-of-living increases. Rather, it is much more realistic to measure the costs of the conference agreement against the "current policy" costs of the present program, that is, against the estimated costs of the present program including future cost-of-living increases which could be expected in the absence of the enactment of pension reform. The CBO estimate of the 5-year outlay costs of the conference agreement in those terms, by fiscal years, is as follows:

[In millions]

1979	$258.2
1980	416.3
1981	431.3
1982	492.7
1983	561.6

The Federal costs of the legislation would, as I have noted, be further reduced by offsetting savings in functions 550 and 600, estimated by CBO as approximately $122,000,000 in fiscal year 1979 and rising to $572,000,000 in fiscal year 1983.

In addition, I would also note, Mr. President, that the Office of Management and Budget has prepared a long-range cost estimate of the costs of the current program, compared to the estimated long-range costs of the conference agreement; this comparison indicates that sizable cost savings—in the vicinity of $200 million—would be achieved by 1990 if the conference agreement is approved and those savings would rise thereafter

to approximately $500 million annually by fiscal year 2000.

DISCUSSION OF CONFERENCE REPORT

Mr. President, the conference agreement has 5 titles: I—Pension for Veterans and Survivors; II—Dependency and Indemnity Compensation for Surviving Parents; III—Miscellaneous Provisions and Conforming Amendments, and IV—Effective Dates.

TITLE I: PENSION FOR VETERANS AND SURVIVORS

Mr. President, the provisions of title I would:

First, establish a restructured program of pension benefits, generally payable monthly to needy wartime veterans who are permanently and totally disabled by reason of non-service-connected disability, or who are age 65 or over, with the following annual rates, reduced by the amount of the annual countable income of the veteran and that of the veteran's spouse and dependent children, if any:

Veteran without dependent spouse or child	$ 3,550
Veteran with one dependent (spouse or child)	4,651
Veteran in need of regular aid and attendance without dependents	5,680
Veteran in need of regular aid and attendance with one dependent	6,781
Veteran permanently housebound without dependents	4,340
Veteran permanently housebound with one dependent	5,441
Two veterans married to one another	4,651
Increase for each additional dependent child	600

Second, provide for an increase of $800 in the maximum annual rate—income standard—in pension payable to veterans of a period of war if veterans of that period of war—such as World War I—were not made eligible for VA educational assistance or home loan benefits similar to those provided under chapters 34 and 37 of title 38, United States Code, or prior corresponding provisions of law.

Third, establish a restructured program of pension benefits payable monthly to needy surviving spouses of wartime veterans. The applicable annual rates, reduced by the amount of the surviving spouse's annual countable income, and by the income of dependent children, if any, are as follows:

Surviving spouse without dependent child	$2,379
Surviving spouse with one dependent child	3,116
Surviving spouse in need of regular aid and attendance without dependent child	3,806
Surviving spouse in need of regular aid and attendance with one dependent child	4,543
Surviving spouse permanently housebound without dependent child	2,908
Surviving spouse permanently housebound with one dependent child	3,645
Increase for each additional dependent child	600

Fourth, restructure the program of pension benefits payable monthly to each of the needy surviving children of wartime veterans. Such children would be eligible if there is no surviving spouse, if the surviving spouse is ineligible for pension by reason of income or remarriage, or if such children are not in the custody of the surviving spouse. The maximum annual rate, reduced by the child's annual countable income and by the incomes of any persons with whom the child is residing who are legally responsible for the child's support, would be $600.

Fifth, require that all income from whatever source derived be counted for purposes of determining eligibility and the amount of pension payable for a veteran or surviving spouse, subject to nine exclusions. They are:

First. Donations from public or private relief or welfare organizations.

Second. Amounts equal to amounts paid by a surviving spouse or child for the veteran's just debts and the unreimbursed expenses of the veteran's last illness and burial.

Third. Amounts equal to amounts paid for the last illness and burial expenses of a veteran's spouse or child.

Fourth. Fire insurance policy proceeds.

Fifth. Profit from the sale of real or personal property other than in the course of a business.

Sixth. Amounts in joint accounts acquired by reason of the death of the other coowner.

Seventh. Current-work income of a dependent or surviving child, up to the amount of income required before the child must file a Federal income tax return under section 6012 of the Internal Revenue Code of 1954—currently $2,950; and amounts of the child's current-work income equal to amounts paid by the child for postsecondary educational or vocational rehabilitation training expenses.

Eighth. Amounts equal to amounts paid by a veteran or surviving spouse pursuing a course of education or vocational rehabilitation or training for educational expenses, including tuition, fees, books, materials, and, in the case of such a veteran or surviving spouse in need of regular aid and attendance, related unusual transportation expenses.

Ninth. Amounts equal to the amount exceeding 5 percent of the basic maximum annual rate—including increases for dependent children—for unreimbursed medical expenses paid by the veteran, the veteran's spouse, the surviving spouse, or by or on behalf of the surviving children.

Further, the conference report would:

Sixth, require that the payment of pension be denied or discontinued when the net worth of a veteran, including the net worth of a veteran's spouse, is such that some portion thereof could reasonably be expected to be used for the support of the veteran. Similar provisions would require the denial or discontinuance of pension if the net worth of a surviving spouse, including the net worth of dependents, or of a surviving child, including the net worth of any persons with whom the child is residing who are legally responsible for the child's support, is excessive.

Seventh, require income and net worth reports to be filed annually with the VA by any person applying for or receiving pension; and require prompt notifications to the VA by such persons of changes in income and net worth and in the dependency status of family members.

TITLE II: DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING PARENTS

Mr. President, the provisions of title II would:

First, provide for a cost-of-living increase of 7.1 percent in the maximum monthly rates and annual income limitations under the parents' DIC program, and cost-of-living adjustments in the less-than-maximum rates.

Second, provide for annual automatic adjustments in parents' DIC benefits, to take place at the same time and by the same percentage as social security cost-of-living increases.

TITLE III: MISCELLANEOUS PROVISIONS AND CONFORMING AMENDMENTS

Mr. President, the provisions of title III would:

First, provide that a reduction in or discontinuance of pension or parents' DIC benefits resulting from a change in income would be effective at the end of the month in which the change occurs.

Second, require the VA to increase pension rates annually by the same percentage and at the same time as social security cost-of-living increases.

Third, provide that any person who is receiving pension on the effective date of the new program who elects benefits under the restructured program within 9 calendar months after such effective date shall be paid benefits retroactive to the effective date to the extent they exceed benefits already paid.

Fourth, provide generally that current pensioners who do not elect pension under the restructured program shall continue to receive pension benefits at the same rate as they are receiving on December 31, 1978, and prevent terminations of such persons so long as their incomes do not rise at a rate higher than the Consumer Price Index.

Fifth, require a comprehensive study by the VA of the issues involved in payment of pension benefits to persons residing outside the 50 States and the District of Columbia, including analyses of relevant aspects of the economies of the countries or U.S. territories, possessions, or commonwealths where such persons reside, estimates of present and future costs of pension benefits to such persons, and recommendations to the Congress on the desirability of modifying the pension program for such persons.

Sixth, provide that the maximum pension payable to a veteran who has no spouse or child shall not exceed $60 per month after, first, 2 full calendar months of VA domiciliary care; second, 3 full calendar months of VA hospital or nursing home care; or third, the month of readmission for such care if the readmission occurs within 6 months after a period of care lasting 2 full calendar months or more.

TITLE IV: EFFECTIVE DATES

Mr. President, title IV provides for an effective date of January 1, 1979, for the title 38 amendments concerning the pension and parents' DIC programs. Other

provisions of the conference report would be effective upon enactment.

Mr. President, as I previously noted, CBO has prepared a cost estimate, and the Office of Management and Budget has prepared a cost estimate of the long-range costs—for the years between 1980 and the year 2000—of the conference report. I ask unanimous consent that the CBO cost estimate be printed in the RECORD at this point followed by the OMB estimate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., October 6, 1978.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 10173, the Veterans' and Survivors' Pension Improvement Act of 1978, as agreed upon in Conference.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE
OCTOBER 6, 1978.

1. Bill number: H.R. 10173.

2. Bill title: The Veterans' and Survivors' Pension Improvement Act of 1978.

3. Bill status: As agreed upon in Conference, October 3, 1978.

4. Bill purpose: The bill would establish a new non-service-connected pension program for the veterans and survivors of the Mexican Border Period, World War I, World War II, the Korean Conflict, and the Vietnam Era. The new program, which would take effect on January 1, 1979, would operate concurrently with the existing program. Those individuals who are receiving benefits under the existing program on the effective date of the bill would have the option of selecting whichever program offered them the higher benefit. The pension payable to a beneficiary electing to remain under the current program would not be adjusted for changes in income unless the income of the beneficiary exceeded the income limits for the current program. These income limits, however, would be adjusted annually for inflation in the same manner as rates under the reform program. Election of the reformed program, however, would be irrevocable, and all new cases would only be eligible for the reformed pension.

The maximum benefit levels set by H.R. 10173 would be $3,550 annually for a veteran with no dependents and $4,651 for a veteran with one dependent. A surviving spouse would be paid at rates that are two-thirds those for veterans ($2,379 annually for a surviving spouse without dependents, and $3,116 for a surviving spouse with a child). The benefit level for all pensioners would be increased by $600 a year for each dependent after the first. All rates under the reformed pension program would be adjusted annually for increases in the cost of living using the same percentage by which social security benefits are raised. Such increases would be effective at the same time as social security increases.

The treatment of non-pension income under the reformed program would be based on the family-income concept, whereby the incomes of all beneficiaries in the family are treated the same. Under current law, for example, social security survivors' benefits paid to dependent children of surviving spouses or to children alone are not counted against their pension payment, on the theory that this money is considered a trust for the child's education. The reformed pension, however, would treat the income of children in the same fashion as the income of other family members to the extent that such income is reasonably available to the veteran or surviving spouse.

Many of the exclusions of non-pension income permitted under current law would not be allowed in the reformed program. The exclusion of 10 percent of retirement or annuity income would no longer be permitted. The current provisions dealing with the income of a veteran's spouse would also be discontinued.

Whereas the current pension program uses a formula rate structure to determine the payment level, the reformed program would employ the single-variable method now utilized by the Supplemental Security Income program. The pension payment would be calculated by subtracting countable income from the maximum benefit level.

H.R. 10173 would also increase the benefits payable to parents under the dependency and indemnity compensation program by 7.1 percent. In future years these benefits would be indexed by the same increases as apply to reform pension rates.

5. Cost estimate:

[By fiscal years; in millions of dollars]

	1979	1980	1981	1982	1983
Benefit costs:					
Outlays	465.8	947.0	1,268.0	1,648.1	2,041.4
Savings:					
SSI	−56.9	−102.6	−153.2	−208.9	−270.7
AFDC	−15.2	−22.7	−31.0	−40.0	−50.0
Medicaid	−50.3	−90.9	−137.6	−190.8	−251.5
Net outlays	343.4	730.8	946.2	1,208.4	1,469.2
Required budget authority	523.4	966.8	1,294.2	1,678.9	2,072.9
Savings:					
SSI	−56.9	−102.6	−153.2	−208.9	−270.7
AFDC	−15.2	−22.7	−31.0	−40.0	−50.0
Medicaid	−50.3	−90.9	−137.6	−190.8	−251.5
Net required budget authority	401.0	750.6	972.4	1,239.2	1,500.7

The costs of this bill fall within budget function 700. The offsetting savings in the AFDC and SSI programs apply to function 600 and the offsetting savings in Medicaid to function 550.

6. Basis for estimate:

Cost model for VA benefit costs: The gross program costs of this bill were estimated through the use of a microsimulation model. The data base for this computer model is a one percent sample of all veteran and surviving spouse cases receiving pension under the currently active VA pension program. The sample, which includes the records of nearly 20,000 cases, was extracted from the master file of pension cases in March, 1977. Each record contains, in addition to statistical data such as age, number of dependents, and period of military service, detailed data on the amounts and sources of income received by the case.

To compute the cost of pension program alternatives, the model operates on each of the 20,000 records individually. A case is first aged and mortality assumptions are applied. The non-pension income reported by the case is then updated, using specific economic indicators for each source of income. If the case is a current pension recipient, the model determines which pension program would return the highest payment amount. The case is then assigned to the most advantageous program and recycled through the procedures until all five years of the simulation have been completed. Once the model "switches" a case from the existing pension to reform pension, the model assumes the case to be ineligible under the old program in future years.

When the entire data base has been analyzed to estimate how current beneficiaries would behave given the choice of new or old pension benefits, the process is reinitiated to select new cases. An estimated number of new cases that could be expected to accede to the current program is used to represent the number of potential applicants to the reformed system. This number of cases, once it has been reduced to correspond to the sample size, is randomly selected from the data base of current recipients. These "new" cases are then analyzed in the same manner as current beneficiaries, with the exception that they are assumed to be eligible for the reformed pension only. Counts are kept of the movement and disposition of cases at every stage of the model operation by period of service, type of beneficiary, and year. These counts are then inflated to the full population size to calculate the cost of the proposal.

Other factors: It is not practical to show the cost of H.R. 10173 on a section-by-section basis, because a change in one section will affect the number of individuals who switch to the new program and, thereby, change the cost of other sections. A few sections which could not be handled by the microsimulation model, however, are discussed below.

Payments to Institutionalized Pensioners: H.R. 10173 would increase from $50 to $60 the maximum pension payable to a veteran with no dependents who is being furnished hospital, nursing home, or domiciliary care by the VA. This section also provides that full pension benefits could be paid for as long as six months in the case of hospital and nursing home patients if it is shown that the extension of full benefits would facilitate the veteran's ability to return to the community. Based on information from VA that there were 7,430 such institutionalized pensioners in June 1977, the estimated cost of this provision is shown below:

[By fiscal years; in millions of dollars]

	1979	1980	1981	1982	1983
Outlays	1	1.1	1.2	1.3	1.4
Required budget authority	1	1.1	1.2	1.3	1.4

Counting Childrens' Income: In keeping with the family-income concept on which the reformed pension is based, H.R. 10173 provides that all income of dependent children and children alone (those children not in the custody of an eligible surviving spouse) would be considered in determining their pension benefit level. Although no

data are currently available on the incomes of pension children, as they are not required to submit an annual income questionnaire, it is expected that the vast majority of children alone and dependent children of widows receive social security benefits in amounts sufficient to render the cases ineligible under the reformed program. Those children cases presently receiving pension would, therefore, remain under the existing pension program and have no impact on the cost of the new program. There would, however, be substantially fewer new children cases under the reformed program than would be expected under the current program. The amount of the resulting savings cannot be determined with any precision given the data available.

DIC Parents Program: H.R. 10173 would index the benefits for Dependency and Indemnity Compensation for increases in the cost of living. Based on an April, 1977 income distribution of these beneficiaries, the estimated cost of this provision would be as follows:

[By fiscal years; in millions of dollars]

	1979	1980	1981	1982	1983
Outlays	4.0	11.0	15.8	20.2	24.4
Required budget authority	4.5	11.4	16.2	20.5	24.8

"Grandparenting" Current Recipients: In addition, H.R. 10173 would allow individuals who are receiving benefits under the current program on the effective date of the bill to remain under the provisions of current law or to elect to receive the new program as they see fit. Election of the reformed program can be made at any time, but once made, the switch is irrevocable. A similar election provision was contained in P.L. 86–211, which established the present pension program in 1960. A study made by the VA in 1966, six years after the enactment of the program, found that there were still over 100,000 cases who were losing money through failure to elect the new program. Unfortunately, there is insufficient data to determine what percentage this represents of the total number of pensioners who were initially expected to benefit from switching to the new program. Based on what little information is available from this study, it can be expected that some number of persons will choose not to elect the reformed program even though it would provide them with higher benefits.

The experience of P.L. 86–211 will not correspond directly to what would be expected to occur following the enactment of H.R. 10173, however. Under the provisions of the earlier law, there were several reasons for some pensioners to refuse election. In some cases a pensioner could have lost money in the long run by switching to P.L. 86–211 pension, even though the benefits were higher at the time of election, because of changes in the sources of the veteran's income. For this reason the veterans' service organizations did not support P.L. 86–211 and did not encourage the pensioners in their membership to elect it.

Situations of this sort should not occur in the reformed pension program. If an individual is ever better off under reformed pension, that individual should always be better off under that program. Therefore, although the rate of switching to the reformed program will not be 100 percent of those who would benefit, it should be higher than the rate experienced after enactment of P.L. 86–211. This estimate assumes that every pensioner who would benefit by $1 or more from electing the reformed pension program will make the switch. Because past experience suggests that this may happen for reasons which cannot be predicted, it is possible that the costs of H.R. 10173 could be lower than estimated for the first five years.

Budget Authority: Although this bill would result in additional future federal liabilities through an extension of an existing entitlement, the bill would require subsequent appropriation action to provide the necessary budget authority. These figures shown in the cost estimate above as "Required Budget Authority" represent that amount of budget authority needed to cover the estimated outlays that would result from enactment of H.R. 10173.

The outlays shown in this estimate are lower than the budget authority, because pension benefits paid in any given month are the results of beneficiary entitlement in the prior month. The obligations created in each September, therefore, would not outlay until October, which would be in the next fiscal year.

VA costs assuming inflation in the current program: Although veterans benefits are not indexed for inflation, the non-service-connected pension program has received legislated cost-of-living increases every year except one since 1971. Given this precedent, it may be of value to examine the cost of H.R. 10173 over the cost of the current program with annual cost-of-living adjustments. These costs are shown below for informational purposes only. They do not reflect the budgetary impact of H.R. 10173.

[By fiscal years; in millions of dollars]

	1979	1980	1981	1982	1983
Gross outlays assuming inflation in the current program [1]	258.2	416.3	431.3	492.7	561.6

[1] These are gross outlay estimates only. The offsets shown on p. 3 do not correspond to these figures.

7. Estimate comparison: A VA cost estimate of the conference version of H.R. 10173 was not available in time for inclusion here.

8. Previous CBO estimate: CBO has provided numerous cost estimates of pension reform proposals to both Veterans Affairs Committees. The same methodology, however, was employed for all such estimates. Any variances would be attributable to changes in provisions or economic assumptions.

9. Estimate prepared by: K. W. Shepherd (225–7766).

10. Estimate approved by:

C. A. NUCKOLS
(for James L. Blum,
Assistant Director
for Budget Analysis).

ESTIMATES OF THE LONG-RANGE COSTS OF THE VETERANS PENSION REFORM (CONFERENCE REPORT), EARLIER YEARS REFLECT INTERPOLATION BETWEEN RESULTS OF THE SHORT-TERM AND LONG-RANGE SIMULATION MODELS—COST OF PARENTS' DIC IS OMITTED

[In millions of dollars]

	Short term (fiscal years)					Cumulative short term	Long range (selected years)					Cumulative long range
	1979 [1]	1980	1981	1982	1983	(1979–83)	1980	1985	1990	1995	2000	(1979–2000)
Total costs:												
Reform (conference report)	2,960	4,150	4,260	4,370	4,480	20,220	4,150	4,700	4,900	5,500	6,500	110,410
Current practice	2,590	3,615	3,802	3,989	4,176	18,172	3,615	4,550	5,161	5,825	6,030	109,204
Current law	2,440	3,155	3,052	2,949	2,846	14,442	3,155	2,640	1,825	1,440	1,105	44,745
Incremental costs (minus indicates savings):												
Reform over current practice [2]	370	535	458	381	304	2,048	535	150	−178	−328	470	1,190
Reform over current law	520	995	1,208	1,421	1,634	5,778	995	2,060	3,075	4,060	5,395	65,665

[1] Three-fourths year.
[2] Reform is expected to show savings over current practice in about 1987.

Source: Office of Management and Budget.

CONCLUSION

Mr. CRANSTON. Mr. President, in closing I want to express my deep gratitude to the chairman of the Subcommittee on Compensation, Pension, and Insurance of the House Committee on Veterans' Affairs (Mr. MONTGOMERY) and the chairman of the full Committee (Mr. ROBERTS), as well as the ranking minority members of the Subcommittee on Compensation, Pension, and Insurance (Mr. WYLIE) and of the full Committee (Mr. HAMMERSCHMIDT), all of whom ably participated in the conference, for their cooperative spirit and open-mindedness in fashioning the conference report, which deals with difficult and complex matters of great significance for VA pensioners. I am also very grateful to my distinguished colleagues, the ranking minority member of the Senate Committee on Veterans' Affairs, the Senator from Vermont (Mr. STAFFORD), and, for their continuing contributions, the chairman of the Subcommittee on Compensation and Pension, the Senator from Georgia (Mr. TALMADGE); the Senator from West Virginia (Mr. RANDOLPH); the Senator from Florida (Mr. STONE); the Senator from New Hampshire (Mr. DURKIN); the Senator from Hawaii (Mr. MATSUNAGA); the Senator from South Carolina (Mr. THURMOND); and the Senator from Wyoming (Mr. HANSEN).

In addition, I would also like to congratulate several members of the House Committee staff whose expertise and extraordinary diligence were invaluable in the development of this measure—Mack Fleming, Lou Townsend, Arnold Moon, John Holden, and Charles Parkinson—as well as the members of our committee staff who participated in this effort—Mary Sears, Ed Scott, Jon Steinberg, Garner Shriver, Gary Crawford, John Pressley, Harold Carter, Molly Milligan, Terri Morgan, Janice Orr, Ingrid Post Ann Garman, and Mikki Day. We also are very much indebted to our legislative counsels, Bob Cover of the House and Hugh Evans of the Senate; to Nina Shepherd of CBO; and to Judith Selvidge of OMB's Special Studies division; Guy McMichael, the VA's General Coun-

sel; J. C. Peckarsky, Director, VA Compensation and Pension Service; and other VA staff for their technical assistance.

I believe that this conference report is fully deserving of the Senate's support, and I urge its adoption.

I yield to the distinguished ranking minority member of the Committee on Veterans' Affairs, my colleague from Vermont, Bob STAFFORD, who worked so ably and hard, for any comments he chooses to make.

Mr. STAFFORD. Mr. President, I certainly appreciate the words of the distinguished Senator from California.

Mr. President, it has been a real pleasure to work with the distinguished Senator from California, and the other members of our committee, on this important matter.

Mr. President, the Veterans' and Survivors' Pension Improvement Act was considered and passed by the Senate on July 31, 1978. The improved program of veterans' pension benefits is a result of several years' study and effort on the part of many people to correct the inequities and deficiencies in the Veterans' Administration's pension program. Members of the Senate Committee on Veterans' Affairs are of the strong belief that the bill passed by the Senate was well-conceived and carefully structured to improve the pension benefits for those veterans and their survivors in need of income support.

The House of Representatives passed H.R. 10173 on June 28, 1978. There were many differences between the Senate and House versions of pension reform legislation, making necessary a conference to resolve the differences. It should be stated, however, that both House and Senate Committees on Veterans' Affairs have been in substantial agreement with reference to the major purposes of the legislation. Each committee produced a bill that would end the problem experienced by many veterans who receive VA pensions in the matter of a reduction in pension attributable to a social security cost-of-living increase. A reduction in pension attributable to adjustments in social security and other Federal retirement benefits has been the cause of a great deal of criticism and correspondence.

Both Senate and House versions would provide for increases in pension to levels where no disabled or elderly wartime veteran would have to go on welfare. Both Senate and House bills provided for annual automatic cost-of-living increases in their pension with such increase based on the Consumer Price Index. Consequently, those who most need the help against inflation would receive cost-of-living increase protection. Both bills provided substantial increases to the basic rates for the veteran's or surviving spouse's dependents and to the rates of severely disabled.

There remained, however, several major points of difference, and the conferees, on the part of both bodies, have compromised these differences and present the amended bill for Senate and House approval. The conferees spent considerable time on two occasions, and the conference was preceded by an informal meeting with the President in an effort of arriving at a fair and adequate pension program which the Nation's wartime veterans deserve, which both Senate and House will agree upon, and which the President will sign into law.

We do not contend that the end-product is as good or superior to the Senate-passed pension bill. We do believe the bill before us at this time is the best that could come from the conference between Senate and House. In this statement I intend to mention some of the important results of the Senate-House conference.

Both Senate and House bills attempted to meet the needs of older veterans—the veterans of World War I. It should be noted that veterans of World War I did not receive readjustment benefits generally available to veterans of later periods of war. The Senate bill's language relative to educational assistance benefits and home loan guaranty benefits to identify those eligible was retained in the amended bill now before us, and the bill provides for an increase of $800 in the income standards for these older veterans. In other words, the bill provides for an $800 annual add-on to the basic income standard for those veterans who are not eligible for educational and housing benefits.

The conference proposes a new income standard of $3,550 for the veteran who has no dependents. This represents a compromise between the positions of the two bodies. The basic principle continues, as previously stated, to be sure that pension rates should be determined by reference to a national minimum standard of need so that beneficiaries will have sufficient assured income to permit them to live in dignity.

It is appropriate to again acknowledge the special obligation our Nation owes to those veterans who served our country during time of war. An effective pension program should provide assurance that no veteran who served on active duty in wartime who is unable to support himself by reason of permanent and total nonservice-connected disability or age will be relegated to poverty levels of subsistence or to welfare programs to meet basic subsistence needs. We are of the view that the $3,550 provided for the veteran with no dependents, is a reasonable, responsible and adequate amount for the basic income standard. At $3,550 the percentage increase over the maximum annual benefit in the current pension program is a 50-percent increase. Of course, the income standards for other veterans—those with dependents and those who are housebound or in need of aid-and-attendance, and the income standard for survivors would be set at levels corresponding proportionately to the income standard for the veteran with no dependents.

There are other provisions of interest and importance in the veteran's reformed pension program. The statement of the conference report fully explains the provisions of H.R. 10173, as amended and as recommended for Senate approval. I urge adoption of the results of the conference, so that the veteran's pension reform legislation can proceed to the President and final passage of this needed legislation.

Mr. CRANSTON. Mr. President, I yield to Senator THURMOND, who also has done fine work on this measure, and who is a fine member of the committee.

Mr. THURMOND. Mr. President, I am pleased to support the Veterans' and Survivors' Pension Improvement Act (H.R. 10173), as amended. This measure will provide relief to the more than 1 million veterans and survivors currently receiving nonservice-connected veterans' pension benefits.

One of the most important provisions of this bill provides that a veteran's pension benefit will not be reduced solely due to a cost-of-living increase in social security. Also, those survivors receiving disability and indemnity (DIC) benefits will receive similar cost-of-living increases as well. This provision, I hope, will eliminate instances where a veteran and his family receive less social security and pension benefits after a social security cost-of-living increase than they did before the social security increase became effective. The bill further provides a new program of DIC for eligible surviving parents of a veteran who died of a service-connected disability.

Mr. President, an additional provision provides an $800 annual add-on benefit to the basic income standard for those veterans who are not eligible for educational and housing benefits. These veterans are primarily of the World War I era and have supported this Nation during some of its darkest periods.

Mr. President, as senior Republican member of the Senate Committee on Veterans' Affairs, I was extremely pleased to be a cosponsor of this bill and to labor in behalf of the veteran. It is often said that nothing is too good for the veteran during a time of war, but during a time of peace, veterans' benefits and entitlements should be reduced. I do not share that sentiment; rather, I believe that this Nation has a commitment to the men and women who served their country in a time of peril, especially those who lost their lives while rendering such service.

Mr. President, I fully support H.R. 10173, as amended, and urge my colleagues to do likewise.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the conference report on H.R. 10173 be printed as a Senate report, along with the Cordon rule, which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I thank the Senator very much for yielding.

MEDICARE-MEDICAID ADMINISTRATIVE AND REIMBURSEMENT REFORM ACT

The Senate resumed consideration of the bill (H.R. 5285).

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 3478

Mr. NELSON. Mr. President, I call up amendment No. 3478.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON), for himself, Mr. KENNEDY, Mr. JAVITS, Mr. ANDERSON, Mr. CRANSTON, Mr. EAGLETON, Mr. HASKELL, Mr. HATHAWAY, Mr. MOYNIHAN, Mr. PELL, Mr. RIBICOFF, Mr. RIEGLE, and Mr. WILLIAMS, proposes an amendment numbered 3478.

Mr. NELSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, may I say to the Members who are present that this amendment is the voluntary hospital cost containment amendment. This amendment simply implements by statute the voluntary program that has been put in place by the American Hospital Association. It simply provides that there will be standby controls that would go into effect on July 1, 1979, if the voluntary effort failed.

Mr. President, the distinguished Senator from Nevada wished to make a brief statement. I yield to him without losing my right to the floor.

Mr. CANNON. If I might engage in a short colloquy with the distinguished Senator from Wisconsin, for purposes of legislative history, I would like to clarify the meaning behind your amendment as modified by the amendment of the Senator from Florida, Mr. STONE.

The State of Nevada is one of the fastest growing States in the Nation. Last year, Nevada experienced the second largest population gain in the United States since 1970, according to the U.S. Census Bureau. Second only to Alaska, Nevada registered an increase of 29.6 percent. All evidence suggests that this growth is continuing. That is why the Stone amendment is so important, so as not to penalize Nevada hospitals whose increased expenses are largely a consequence of a burgeoning population.

A hidden factor in the demography of Nevada relates to our No. 1 industry: Tourism. This transient population exceeds 20 million persons each year and is evergrowing. Major construction of hotel and gaming facilities in Reno, Las Vegas, and Lake Tahoe is increasing expenses and burdens for hospitals in those areas.

I ask the Senator from Wisconsin if it is his understanding that this transient population will be considered by the Secretary of HEW in developing a formula reflecting increases in population, as would be established by the Stone amendment?

Mr. NELSON. I would understand the Stone amendment as giving the Secretary of HEW the authority to establish a formula to permit the maximum allowable rate of increases in total hospital expenses to reflect increases in population, higher rates of utilization of inpatient hospital services by individuals 65 years of age and older "and such other factors as he deems feasible and appropriate."

I would certainly consider the transient population described by the Senator from Nevada as an appropriate factor for the Secretary to include in offsetting the effects of increasing populations.

The hospitals of Nevada, and any other State for that matter, must provide care for those temporary residents known as tourists. The costs and responsibilities owed to these visitors is no less important than the service provided to permanent residents of a State. Because this reality generates a greater flow of money in a popular tourist State such as Nevada, hospitals serving that State should not be penalized for increasing business over which they have no control.

This is my reading of the Stone modification that is part of my amendment instituting standby hospital cost controls. I hope that it has reassured the Senator.

Mr. CANNON. I thank the Senator from Wisconsin for his explanation.

AMENDMENT NO. 3478 (AS MODIFIED)

(Purpose: Nelson modification to his amendment)

Mr. NELSON. Mr. President I send to the desk a modification of amendment No. 3478.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON) proposes a modified version of amendment numbered 3478.

The PRESIDING OFFICER. Is there objection to the modification being accepted? The Chair hears none, and it is so ordered.

The amendment, as modified, is as follows:

Page 3, line 3, is amended by striking out "Section 2(a)(1)" and by inserting in lieu thereof "(a)(2)" and by inserting before such line the following:

"SEC. 2. (a)(1) The amendments to the Social Security Act included in this section provide a more equitable basis for reimbursing hospitals for routine operating costs under titles XVIII and XIX, establish a Health Facilities Cost Commission to develop a more equitable basis for reimbursing hospitals for all costs covered by titles XVIII and XIX, set voluntary goals for hospital cost containment and impose standby increase limits on total inpatient reimbursement in the event that the voluntary goals are not met. The amendments to the Internal Revenue Code included in this section extend the standby increase limits to all payers by imposing excise taxes on hospital charges and reimbursements in excess of such limits.".

SEC. 2. Page 3, line 6, is amended by striking out "(2)" and inserting in lieu thereof "(3)".

SEC. 3. Page 3, line 5, is amended by striking out "subsection (bb)" and inserting in lieu thereof "subsections (bb), (cc), (dd), and (ee)".

SEC. 4. Page 3, line 10, is amended by striking out "subsection (bb)" and inserting in lieu thereof "subsections (bb), (cc), (dd), and (ee)".

SEC. 5. Page 6, line 6, is amended by striking out the word "and" and by inserting after such line the following: "and, the word "not."

SEC. 6. Page 9, line 22, is amended by striking out the word "and" and by inserting after such line the following: "and, under either division I or division II, not exceeding (on a per diem basis) the hospital's actual routine operating costs in its immediately preceding accounting year (or, with respect to the first accounting starting on or after July 1, 1979, an amount that the Secretary estimates would equal the hospital's routine operating costs in such preceding accounting year had routine operating costs in such preceding year represented the same proportion of the hospital's total routine cost as the Secretary finds in the subject year) increased by a rate equal to 150 percent of the rate of increase in the index established pursuant to subparagraph (4)(A) in the same period, subject to modification for the rate of increase in the regular wages granted to nonsupervisory employees under paragraph (dd)(5) of this section, and".

SEC. 7. Page 10, line 7, is amended by adding after the word "costs" the following: "but not exceeding (on a per diem basis) the hospital's routine operating costs in its immediately preceding accounting year (or, with respect to the first accounting year starting on or after July 1, 1979, an amount that the Secretary estimates would equal the hospital's routine operating costs in such preceding accounting year had routine operating costs in such preceding year represented the same proportion of the hospital's total routine costs as the Secretary finds in the subject year) increased by a rate equal to 150 percent of the rate of increase in the index established pursuant to subparagraph (4)(A) in the same period, subject to modification for the rate of increase in the regular wages granted to nonsupervisory employees under paragraph (dd)(5) of this section,".

SEC. 8. Page 10, line 4, is amended by striking out the word "or" and inserting after "(b)" the following: "200 percent of the amount due in incentive payments to employees of the hospital under a plan established prior to the start of the hospital's accounting year and designed to encourage efficiency and economy, or (c)".

SEC. 9. Page 18, line 10, is amended by redesigning subsection "(c)" as paragraph "(c)(1)".

SEC. 10. Page 18, line 15, is amended by striking out the words "criteria established by section 1861(bb)" and inserting in lieu thereof the words "implementation of subsections 1861 (bb) through (ee)".

SEC. 11. Page 18, line 20, is amended by striking out the words "and the Congress".

SEC. 12. Page 19 is amended by inserting after line 4 the following new paragraph:

"(c)(2) The Secretary may adopt for purposes of reimbursement under title XVIII and XIX of the Social Security Act measures recommended by the Commission and put such measures into effect in lieu of section 1861 (v), (bb), or (dd) of title XVIII of the Social Security Act starting at least sixty days after the Secretary notifies the Congress of his intent to adopt such measures.".

SEC. 13. Page 20, line 18, is amended by striking out "(bb)" and inserting in lieu thereof "(bb), (cc), (dd), and (ee)".

SEC. 14. Page 20 is amended by inserting after line 19 the following new sections (f) and (g):

"(f) Title XVIII of the Act as amended by subsection (b) of this section is further amended by adding after subsection (bb) as added to such title by such subsection (b) the following new subsections:

"'Voluntary Goals for Hospital Cost Containment

"'(cc)(1) If the Secretary finds, after consultation with the Health Facilities Cost Commission, that hospitals in the United States have failed to voluntarily reduce the rate of increase in their total expenses (other than expenses arising from increases in the average hourly regular wage rate for nonsupervisory employees) consistent with the goals established in subparagraph (2)(A) of this subsection, the standby increase limits on total inpatient reimbursement per admission provided in subsection (dd) shall go into effect. However, the hospitals located in a State shall be exempt from such limits if the Secretary finds that the hospitals in that particular State have held the rate of increase in expenses (other than expenses arising from increases in the average hourly regular wage rate for nonsupervisory employees) to a level at or below the adjusted maximum allowable rate specified under subparagraph (2)(B) of this subsection for hospital expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) in the United States. For purposes of the preceding sentence the term "State" includes the District of Columbia and the Commonwealth of Puerto Rico and the term "United States" means all the States and all the possessions of the United States. Notwithstanding the foregoing provisions of this paragraph, a hospital shall be exempt from such limits if the Secretary finds that such hospital has held the rate of increase in its expenses (other than expenses arising from increases in the average hourly regular wage rate for nonsupervisory employees) to a level at or below the maximum allowable rate specified under paragraph (2) of this subsection for hospital expenses (other than increases arising from increases in the average hourly wage rates for nonsupervisory employees) in the United States.'".

"'(2) The maximum allowable rate of increase in total hospital expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) in the United States for calendar year—

"'(i) 1978, is equal to 2 percentage points less than the rate of increase in such hospital expenses for 1977, and

"'(ii) 1979, 1980, 1981, and 1982 is equal to 4 percentage points less than the rate of increase in such hospital expenses for 1977,

except that such maximum allowable rate of increase for a calendar year may not be less than one and one-half times the rate of increase in the implicit price deflator of the gross national product as calculated by the Bureau of Economic Analysis of the Department of Commerce and published in the Survey of Current Business for such calendar year.

"'(B) The goals established in subparagraph (A) of this paragraph shall be adjusted by a formula established by the Secretary to take into account the estimated impact of increases in population on the total expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) of hospitals located in a particular state. The formula established by the Secretary pursuant to the preceding sentence shall be such that it will increase the maximum allowable rate of increase in total hospital expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) to the extent necessary to compensate for anticipated increases in hospital utilization experience in a particular state from hospital utilization experience in the United States arising from increases in population. For this purpose, the Secretary shall assume that increases in population in a particular state and in the United States in a calendar year will be based upon the changes estimated by the Bureau of the Census in the last twelve-month period for which the Bureau of the Census has issued estimates of the populations of individual states. In determining the effect of such increases in population on hospital utilization, the Secretary shall take into account the higher rates of utilization of inpatient hospital services by individuals 65 years of age and over and such other factors as he deems feasible and appropriate.

"'(3) Each hospital shall provide the Secretary—

"'(i) not later than December 31, 1978, with such data with respect to the hospital's expenses for each calendar quarter of 1976 and 1977 and for the first three calendar quarters of 1978 as the Secretary determines to be necessary to compute and monitor the maximum allowable rates of increases in hospital expenses for calendar years under paragraph (2), and

"'(ii) not later than 60 days after the end of each calendar quarter which ends after September 30, 1978, with such data with respect to the hospital's expenses during the calendar quarter as the Secretary determines to be necessary to monitor hospitals' compliance with the maximum allowable rate of increase in hospital expenses under paragraph (2).

The Secretary may prescribe the form and manner in which these data must be provided.

"'(B) In determining reasonable costs for purposes of this Act—

"'(i) data on hospital expenses reported under paragraph (1) for any period shall be used instead of the hospital cost data otherwise reported for purposes of this Act to the extent that this would result in lower reimbursement to the hospital, and

"'(ii) in the case of a hospital failing to provide in full the information required under paragraph (A) for any period, the hospital's expenses (other than expenses arising from increases in average hourly wage rates for nonsupervisory employees) for any accounting year (ending after December 31, 1977) may not be taken into account to the extent such expenses exceed such expenses in the hospital's immediately preceding accounting year by a percentage greater than the maximum allowable rate of increase in total hospital expenses specified under paragraph (2) for the latest calendar year any part of which is included in the accounting year in question.

"'(4)(A) The Secretary shall monitor the data received under subparagraph (3)(A) and shall report at least quarterly to the appropriate committees of Congress on progress in meeting the maximum allowable rate of increase in hospital expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) for each year.

"'(B) Not later than 90 days after the first day of each calendar year after 1978, the Secretary shall determine (on the basis of data received from hospitals that have provided data under subparagraph (A) in a form and manner acceptable to the Secretary for all calendar quarters of 1976, 1977, 1978, and, in the specified time, for all subsequent calendar quarters) and announce whether or not the rate of increase in total hospital expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) for the preceding calendar year has exceeded the maximum allowable rate of increase in such hospital expenses for the year, as specified under paragraph (2).

"'(5) For purposes of this subsection:

"'(A) The term "rate of increase in total hospital expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees)" means, for a calendar year, the percentage by which the total hospital expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) for the calendar year exceed such hospital expenses for the previous calendar year.

"'(B) The term "total hospital expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees)" means, for a calendar year, the total expenses, excluding expenses arising from increases in the average hourly wage rates for nonsupervisory employees (as defined in clauses (dd)(5)(D)(iii) of this section), of hospitals (as defined in subparagraph (C)) in the calendar year, as such expenses are defined by the Secretary.

"'(C) The term "hospital" means a hospital (other than a psychiatric hospital or tuberculosis hospital, as defined in subsections (f) and (g), respectively, of this section or a hospital that derived more than 75 percent of its inpatient care revenues on a capitation basis, disregarding revenues received under this title, from one or more health maintenance organizations as defined in section 1301(a) of the Public Health Services Act) which has an agreement in effect under section 1866 of title XVIII of the Social Security Act during all calendar quarters elapsing after calendar year 1975 and which has had 4,000 or more admissions during all full accounting years elapsing after calendar year 1977.

"'Standby Increase Limits on Total Inpatient Reimbursement

"'(dd)(1) If the Secretary finds, after consultation with the Health Facilities Cost Commission, that hospitals have failed in calendar year 1978 or any subsequent calendar year to voluntarily reduce the rate of increase in their expenses consistent with the goals established in paragraph (2) of subsection (cc)), average inpatient costs otherwise reimbursable per inpatient admission shall, in the case of a hospital (other than a psychiatric hospital or a tuberculosis hospital, as defined in subsections (f) and (g), respectively, of this section or a hospital that derived more than 75 percent of its inpatient care revenues on a capitation basis, disregarding revenues received under this title, from one or more health maintenance organizations, as defined in section 1301(a) of the Public Health Service Act) with 4,000 or more admissions in its last preceding full accounting year, be deemed unreasonable and shall not be reimbursable for purposes of this title or for purposes of title XIX of this Act in hospital accounting years any part of which occur after such calendar year and also after June 30, 1979, to the extent that such costs exceed average costs per inpatient admission reimbursable under such titles in the hospital's immediately preceding accounting year by the sum of the following percentages as adjusted by paragraphs (3), (4), and (5) of this subsection:

"'(A) The highest rate by which routine operating costs could have increased in the subject accounting year without being subject to disallowance under subsection (bb) multiplied by the ratio of routine operating costs to total inpatient costs in such prior accounting year;

"'(B) The rate by which general wage levels in the hospital's geographic area increased during the latest 2-year period for which data are available multiplied by the ratio of the labor costs are not included in routine operating costs to total inpatient hospital costs in the prior accounting year; and

"'(C) The rate of increase the Secretary

finds appropriate (based on such index composed of weighted components of available national indicators of price changes in the general economy as the Secretary finds appropriate for the purpose) multiplied by the ratio of nonlabor inpatient costs not included in routine operating costs to total inpatient costs in the prior accounting year.

"'(2)(A) For purposes of paragraph (1) of this subsection, the Secretary shall deem the proportions of total inpatient costs represented by routine operating costs and the labor and nonlabor components of all other costs in accounting years starting prior to July 1, 1979, to be equal to the proportions of total inpatient costs represented by such components of costs—

"'(i) as he finds in the succeeding accounting year of a hospital, where such succeeding accounting year starts on or after July 1, 1979, or

"'(ii) as he estimates for all hospitals in the same category as a hospital for purposes of paragraph (3) of subsection (bb) of this section on the basis of available data, where the succeeding accounting year starts prior to July 1, 1979.

"'(B) Where less than the full accounting year of a hospital occurs in a period subject to paragraph (1) of this subsection, the Secretary shall impose any disallowance of reimbursement otherwise required under such paragraph (1) only in the proportion that the number of days in such accounting year occurring in such period bears to the total number of days in that accounting year.

"'(C) Where less than the full accounting year of a hospital occurs after July 1, 1979, the Secretary shall, for purposes of subparagraph (1)(A), deem the highest rate by which routine operating costs could have increased in such accounting year without being subject to disallowance under subsection (bb) to be such rate as it would be determined if such accounting year began on July 1, 1979, except that the Secretary shall determine the percentage increase in costs under subparagraph (bb)(4)(A) in a manner appropriate to the actual accounting year of the hospital.

"'(3) The sum of the percentages determined under paragraph (1) of this subsection shall be reduced by the product of—

"'(A) the number of percentage points (or fraction thereof) by which the increase in a particular hospital's total expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) in a calendar year specified in paragraph (1), as reported for purposes of subsection (cc), exceeded the maximum allowable rate of increase in total hospital expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) in the United States set forth in paragraph (2) of such subsection, and

"'(B) the percentage of such hospital's total expenses that do not arise from the regular wages of nonsupervisory employees.

"'(4) The sum of the percentages determined under paragraph (1) of this subsection and reduced where required under paragraph (3) of this subsection shall be adjusted in accordance with a formula established by the Secretary to take into account the estimated impact of changes in the total number of inpatient admissions experienced by a hospital in a subject accounting year, as compared to the total number of admissions such hospital experienced in its immediately preceding accounting year. Such formula shall be designed to adjust the percentage limitation on increases in average inpatient costs otherwise reimbursable per inpatient admission applicable to a hospital under this section for any substantial increase or decrease in total inpatient cost per admission that the Secretary estimates (based on data available to him) would generally result from increases or decreases in total admissions taking into account the size of the hospital, its occupancy rate, and such other factors as the Secretary deems appropriate.

"'(5)(A) The Secretary shall modify, for each hospital, in accordance with subparagraph (2) of this paragraph, the increase limits otherwise established under this subsection and the limitation (to 150 percent of the rate of increase in the economic index established pursuant to subparagraph (4)(A) of subsection (bb) of this section), otherwise established under subparagraphs (4)(B)(i) and (4)(B)(ii) of subsection (bb) of this section) to allow the hospital a passthrough of any increase in the rate of regular wages granted in the accompanying year to its nonsupervisory employees.

"'(B) The hospital shall promptly provide the data necessary for the required calculation, in accordance with regulations of the Secretary. A hospital that fails to supply the data required shall be presumed to have granted no increase in the rate of regular wages to its nonsupervisory employees in any accounting year for which it has failed to supply the required data.

"'(C) Such modified limits for an accounting year shall be calculated as follows:

"'The modified limit applicable to a hospital's accounting year is equal to the sum of—

"'(i) the product of

"'(I) the percentage by which the average hourly regular wage for nonsupervisory employees for the accounting year exceeds the average hourly regular wage rate for nonsupervisory employees for the preceding accounting year, and

"'(II) the percentage of costs for inpatient hospital services attributable to regular wages paid to nonsupervisory employees in the preceding accounting year; and

"'(ii) the increase limit, otherwise applicable to the hospital for that accounting year, multiplied by the percentage of costs attributable to all expenses other than regular wages paid to nonsupervisory employees in the preceding accounting year.

"'(D) For purposes of this subsection:

"'(i) The term "regular wages" means wages paid to an employee at the regular rate at which he is employed (within the meaning of section 7 of the Fair Labor Standards Act of 1938), but does not include overtime wages or shift differentials.

"'(ii) The term "nonsupervisory employee" means an individual who is employed by a hospital and who is not a supervisor or a physician, as determined under regulations prescribed by the Secretary.

"'(iii) The term "average hourly regular wage rate for nonsupervisory employees" means, with respect to a hospital for an accounting year—

"'(I) the total amount of regular wages incurred by the hospital during the accounting year for work of the hospital's nonsupervisory employees, divided by—

"'(II) the total number of nonsupervisory employee hours of work for which such regular wages were paid.

"'(6) The Secretary shall issue such regulations as he deems necessary and appropriate in applying the provisions of this section including:

"'(A) such exceptions and exemptions as he determines are warranted,

"'(B) such definitions of the terms used in this subsection as he finds necessary to carry out its intent, and

"'(C) such safeguards against attempts to avoid the intent of these provisions as he finds appropriate.

"'Exemptions

"'(ee)(1) At the request of the Governor (or other chief executive) of any State, the Secretary may exclude from the application of subsection (dd) of this section hospitals physically located in such State, if—

"'(A) the Secretary finds that such State has in operation as of the date of such a request a program capable of containing hospital costs for inpatient hospital services in the State which covers at least 90 percent of the hospitals in the State, which would otherwise be covered under subsection (dd) of this section;

"'(B) the Secretary finds that the State program applies at least to all revenues for inpatient hospital services of hospitals covered by the program, and has applied for at least one year prior to the date of such request to at least half of those revenues (excluding revenues received under this title);

"'(C) the Governor (or chief executive) certifies, and the Secretary determines that the aggregate rate of increase in revenues over the previous accounting year for inpatient hospital services for all hospitals in the State will not exceed (i) the increase that the Secretary estimates would be permitted if subsection 1861(dd) (including the passthrough of any increase in the rate of regular wages paid to nonsupervisory employees) applied to the hospitals in the State, nor (ii) be less than the increase in the GNP deflator applicable to that fiscal period; and

"'(D) the Governor (or chief executive) has submitted, and had approved by the Secretary, a plan for recovering any excess of total revenue which (notwithstanding (C)) may occur.

"'(2) A hospital or group of hospitals may be excluded from the application of subsection 1861(dd) if the Secretary determines that—

"'(A) such exclusion is necessary to facilitate or continue an experiment or demonstration entered into under section 402 of the Social Security Amendments of 1967, section 222 of the Social Security Amendments of 1972, or section 1526 of the Public Health Service Act, and

"'(B) such experiment or such demonstration is not inconsistent with the purposes of such subsection 1861(dd).

"'(3)(A) Any State may submit to the Secretary a plan for a hospital cost containment program for approval. The Secretary shall approve such a program and exemption from the application of subsection 1861(dd) hospitals physicially located in such State if the Secretary determines that such program—

"'(i) designates an identifiable unit of State government which has the authority to supervise the administration of the program;

"'(ii) provides for a methodology to assure that the aggregate rate of increase in revenues for inpatient hospital services over the previous year for all hospitals in the State will not exceed the increase that the Secretary estimates would be permitted if subsection 1861(dd) (including the passthrough of any increase in the rate of regular wages paid to nonsupervisory employees) applied to hospitals in the State nor be less than the increase in GNP deflator applicable to that fiscal period. Such methodology may include alternative methods for classifying hospitals, for estabilshing prospective rates of payment, and for implementing on a gradual, selective, or other basis the establishment of a prospective payment system, in order to stimulate hospitals through positive (or negative) financial incentives to use their facilities and personnel more efficiently without adversely affecting the quality of services;

"'(iii) includes a methodology for the recovery of any excess of total revenues which (notwithstanding clause (ii)) may occur;

"'(iv) provides for sanctions and enforcement procedures adequate to insure compliance with the program;

"'(v) provides for uniform definition of all costs;

"'(vi) provides for the evaluation of standards of institutional performance;

"'(vii) provides protection against inhibition of increases in the rate of regular wages

granted to nonsupervisory employees comparable in effect to the protection against such inhibition provided under paragraph (5) of subsection (dd) of this section;

"'(viii) provides for compliance with such other criteria as the Secretary deems necessary to accomplish the purposes of subsection (dd).

"'(B) The Secretary may make grants to any State which has an approved program pursuant to subparagraph (A) to assist such State in the implementation of its program. For the purposes of this subsection, there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1979, and such sums shall remain available until expended.

"'(C) The Secretary shall promulgate regulations to implement this subsection prior to May 1, 1979.

"'(4)(A) The Secretary shall review annually any program, experiment, or demonstration that has received an exemption pursuant to this subsection to determine whether such program, experiment, or demonstration is in compliance with such subsection and the regulations promulgated thereunder. The Secretary may revoke, after notice and an opportunity for a hearing on the record, any such exemption if he determines that such exemption is no longer justified because the conditions for such exemption are no longer being met.

"'(B) Upon revocation of an exemption awarded under this subsection each hospital that would otherwise be subject to subsection (dd) will be subject to the limits established under such subsection.

"'(5) Where the Secretary has granted an exemption under this subseciton he shall reimburse the State, District, or Commonwealth operating the qualifying hospital cost or revenue containment program for the portion of the administrative expenses of such qualifying program that he deems equitable considering the proportions of hospital costs reimbursable under this title and shall treat as administrative expenses incurred in the operation of a plan established under title XIX of this Act the portion of the administrative expenses of such qualifying program that he deems equitable considering the proportion of hospital costs reimbursable under a plan established under title XIX of this Act.

"'(g) Chapter 36 of the Internal Revenue Code of 1954 (relating to certain other excise taxes) is amended by adding at the end thereof the following new subchapter:

"'"Subchapter F—Taxes on Certain Excess Reimbursement and Charges for Inpatient Hospital Services

"'"SEC. 495. IMPOSITION OF TAXES.

"'"(a) TAXES ON EXCESS REIMBURSEMENT.—

"'"(1) TAX ON HOSPITAL.—If a covered hospital has excess reimbursement with respect to a private cost payer for an accounting year, there is hereby imposed on the covered hospital a tax equal to 150 percent of the amount of excess reimbursement from the private cost payer to the covered hospital for the accounting year.

"'"(2) TAX ON PRIVATE COST PAYER.—If a covered hospital has excess reimbursement with respect to a private cost payer for an accounting year, there is hereby imposed on the private cost payer a tax equal to 150 percent of the amount of excess reimbursement from the private cost payer to the covered hospital for the accounting year.

"'"(b) TAX ON EXCESS HOSPITAL CHARGES.—If a covered hospital has excess charges for an accounting year, there is hereby imposed on the covered hospital a tax equal to 150 percent of the amount of excess charges of the covered hospital for the accounting year.

"'"(c) PAYMENT OF TAXES.—

"'"(1) TAX ON EXCESS REIMBURSEMENT.—Any tax imposed by paragraph (1) or (2) of subsection (a), with respect to excess reimbursement payable to a covered hospital by a private cost payer in an accounting year, shall be paid not later than 30 days after the date of the Secretary of Health, Education, and Welfare notifies the Secretary—

"'"(A) of the excess reimbursement, and

"'"(B) of the amount of taxes which are due from the covered hospital and the private cost payer under paragraph (1) or (2), respectively, of subsection (a).

"'"(2) TAX ON EXCESS CHARGES.—

"'"(A) IN GENERAL.—Any tax imposed by subsection (b) with respect to any covered hospital for any accounting year shall be paid not later than 30 days after the date the Secretary of Health, Education, and Welfare notifies the Secretary—

"'"(i) of the excess charges, and

"'"(ii) of the amount of taxes that are due from the covered hospital under subsection (b).

"'"(B) DEFERRAL.—If the Secretary of Health, Education, and Welfare certifies to the Secretary that a covered hospital has established an approved escrow account and certifies the amount deposited into the account, then an equal amount of any tax imposed on the covered hospital by subsection (b) shall be deferred. Such deferral shall continue so long as such amount remains in such account.

"'"(C) ABATEMENT.—If the Secretary of Health, Education, and Welfare certifies to the Secretary that a covered hospital has withdrawn an amount from an approved escrow account of the hospital in accordance with the terms of the account, then an equal amount of any tax imposed on the covered hospital by subsection (b) shall be abated.

"'"(D) WITHDRAWALS FROM APPROVED ESCROW ACCOUNT.—Amounts deposited into an approved escrow account shall be treated as withdrawn from the account in the order in which they were deposited into the account.

"'"(d) DEFINITIONS.—For purposes of this section—

"'"(1) COVERED HOSPITAL.—The term 'covered hospital' means, for an accounting year of a hospital, a hospital which is subject, under subsection 1861(dd) of the Social Security Act, to a limit on its increases in reimbursement for the accounting year.

"'"(2) PRIVATE COST PAYER.—The term 'private cost payer' means any organization which (A) meets the definition contained in section 1842(f)(1) of the Social Security Act, and (B) reimburses a covered hospital for inpatient hospital services on a basis related to the hospital's costs in furnishing those services or on any other basis other than charges imposed by such hospital. An organization shall not be considered to be a cost payer with respect to its payment to a hospital of another payer's coinsurance or deductible amounts.

"'"(3) EXCESS REIMBURSEMENT.—A covered hospital has excess reimbursement with respect to a private cost payer for an accounting year if the Secretary of Health, Education, and Welfare determines that reimbursement per inpatient admission to the covered hospital for inpatient hospital services covered by the private cost payer for the hospital's accounting year exceeds such reimbursement in the hospital's immediately preceding accounting year by a percentage greater than the increase in reimbursement per admission permitted for purposes of title XVIII of the Social Security Act under limitations imposed by subsection 1861(dd) of the Social Security Act.

"'"(4) EXCESS CHARGES.—A covered hospital has excess charges for an accounting year if the Secretary of Health, Education, and Welfare determines that average inpatient charges per admission made by the hospital in the hospital's accounting year, exceeds such charges in the hospital's immediately preceding accounting year by a percentage greater than the average in reimbursement per admission permitted for purposes of title XVIII of the Social Security Act under the limitations imposed by section 1861(dd) of the Social Security Act.

"'"(5) AMOUNT OF EXCESS REIMBURSEMENT.—The amount of excess reimbursement from a private cost payer to a covered hospital for an accounting year shall be determined by the Secretary of Health, Education, and Welfare and shall be equal to the amount by which such reimbursement per admission to the covered hospital for inpatient hospital services covered by the private cost payer for the hospital's accounting year, exceeds such reimbursement in the hospital's immediately preceding accounting year by a percentage greater than the increase in reimbursement per admission permitted for title XVIII of the Social Security Act under limitations imposed by section 1861(dd) of the Social Security Act.

"'"(6) AMOUNT OF EXCESS CHARGES.—The amount of excess charges of a covered hospital for an accounting year shall be determined by the Secretary of Health, Education, and Welfare and shall be equal in amount to the product of—

"'"(A) the amount by which the amount of average inpatient charges per admission for inpatient services made by the hospital in the hospital's accounting year, exceeds such charges in its immediately preceding accounting year by a percentage greater than the increase in average reimbursement per admission permitted for purposes of title XVIII of the Social Security Act under the limitations imposed by section 1861(dd) of the Social Security Act, and

"'"(B) the percentage of inpatient charges in the accounting year which are attributable to patients other than those for which the responsibility for payment has been assumed by a private cost payer (as defined in paragraph (2)) or a program established under title V. XVIII, or XIX of the Social Security Act.

"'"(7) APPROVED ESCROW ACCOUNT.—The term 'approved escrow account' means an escrow account—

"'"(A) which is established and maintained by a covered hospital in a manner approved by the Secretary of Health, Education, and Welfare, and

"'"(B) from which funds may be withdrawn by the hospital only in an amount which is not greater than an amount which, if added to inpatient charges in an accounting year, would not constitute excess charges."'".

Mr. NELSON. Mr. President, let me explain the modification. In response to a number of inquiries from Senators, including the distinguished Senator from Florida (Mr. STONE) and the distinguished Senator from Nevada (Mr. CANNON), I have agreed to make two modifications which, in my judgment, make good sense, in order to take into account, first, the effects on hospital costs of population increases in States which are experiencing rapid population growth or fluctuation—and which are primarily the so-called "sun belt" States—and second, to take into account the application of mandatory standby programs for hospitals which themselves can meet voluntary goals even if the State fails to meet such goals. That is to say, pursuant to this modification, individual hospitals which meet the voluntary controls in a State would be exempt from the standby controls, even though that particular State in which they are located has failed to meet the goals.

I think that is a good modification. What it means is that in the event the effort to reduce by a total of 4 percent

the rate of increase in hospital costs over the year 1977 should fail and trigger controls, not only would those States that meet the national voluntary target, not only those States that have a mandatory program, but, in fact, those hospitals that met the voluntary goal in States that failed to meet the target will be exempt from mandatory controls.

Mr. STONE. Mr. President, will the Senator yield for a series of questions?

Mr. NELSON. Yes.

The PRESIDING OFFICER. Before the Senator starts, may we have order in the Senate before someone calls for it, which we are going to have any minute now? May we have order? Conversations will cease so that we can hear the discussion on the floor. Please take discussions to the cloakroom.

I thank the Members.

Mr. STONE. It is my understanding that a number of Senators like myself are concerned about these two matters which gave rise to the proposed modifications that I asked to be made and which the Senator sent to the desk. One is taking care of the problems of hospitals in States where the population is rapidly growing and particularly growing with old people who, by their very nature, need more hospital and health care.

The second is taking care of a situation in which an individual hospital, an individual institution, is able to meet the voluntary goals, the goals of cost containment, even when enough other institutions in a State trigger the standby controls.

Is it not the case that by adopting these modifications, which the Senator was kind enough to assure me he thought he could accept, that these two problems are directly met and overcome?

Mr. NELSON. Yes. They were two very good suggestions. We had not thought of the question of rapidly expanding population. On the other question of any single hospital in any State that has not met the national standard, but which single hospital within that State has, we have agreed, and I have modified the amendment so that such hospitals are exempt, too, along with every hospital in any State that has 4,000 annual admissions or less.

Mr. STONE. I thank the distinguished Senator and manager of this amendment.

I ask if it is not also the case that having proposed these changes and shown them to the Senator and his staff, whether or not it is the case that we also showed them to the Secretary of Health, Education, and Welfare, and received from Secretary Califano approval of these amendments and assurances that HEW could administer with no increased burden both of these modifications?

Mr. NELSON. Yes. The Senator from Florida is correct.

Let me assure the Senator that Secretary Califano examined the amendments and agreed that they were good proposals and they are acceptable to the Secretary. They are not only acceptable to the proponent of this pending amendment, the Senator from Wisconsin, but I enthusiastically support them because I think they are very good ideas for additions to this.

Mr. STONE. I thank the Senator.

Mr. President, the first modification in the Nelson amendment would require HEW to adjust the States' voluntary hospital cost containment goals to allow for cost increases which result from substantial population growth and from the higher rates of hospital utilization by persons age 65 and older. HEW's guidelines recognize that persons over age 65 utilize hospital care at four times the rate of persons under age 65.

The original Nelson measure would have applied voluntary goals to all States without adjusting the maximum allowable rate of increase to reflect increasing or decreasing population, or changes in the "mix" of population—the relative percentage of persons over age 65 compared with the percentage under age 65—both of which have a significant effect on total hospital expenses.

It is possible that a particular State could meet the 2-percent requirement without any cost containment effort because of a decreasing population, or because of a level population but a decrease in the population over age 65. These conditions would naturally result in decreasing a State's hospital cost expenses.

Conversely, a State whose population is increasing and is experiencing a net gain in population age 65 or older, could be subject to the mandatory controls, in spite of substantial cost containment efforts.

This unfair situation would be remedied by the modified Nelson amendment. I am pleased that the administration does not oppose the Nelson amendment, as modified, and I thank Senator NELSON for modifying his amendment to allow for growth in population.

Mr. President, the second modification in the Nelson amendment would provide greater recognition for the voluntary cost control efforts being made by individual hospitals than does the original measure. It would exempt from the mandatory controls individual hospitals that are meeting the voluntary goal even if the State in which the hospital is located is not exempted from the controls.

The original Nelson measure would put hospital cost controls into effect if the voluntary goal is not met on a nationwide basis in 1978 or subsequent years. Individual States would be exempted from the controls if they met the voluntary national goal. The modified version would go further and provide a greater incentive for hospitals to reduce their costs.

With this modification to the Nelson measure, each hospital would be capable of avoiding mandatory controls by meeting the voluntary goal the hospital industry has set for itself. Efficiently managed hospitals would not come under mandatory cost controls as a result of being combined with grossly inefficient hospitals. But States would continue to be exempted if they met the voluntary national goal.

The modified Nelson amendment would not require any additional data-collection, personnel or other redtape to administer. The data which the HEW Secretary would require from each hospital in order to administer the State exemption provision of the original measure would be sufficient to administer exemptions for individual hospitals meeting the voluntary goal.

HEW estimates that this amendment would save hospital consumers an amount somewhere in between the amount saved by the voluntary effort and the amount saved by the original Nelson measure, assuming that the voluntary effort fails in 1979. The difference in the savings, however, would result from the application of the more stringent mandatory controls to hospitals which are meeting their commitments under the voluntary effort. I do not think that this is fair, especially if, with this legislation, we intend to recognize the success of the voluntary effort and impose controls on hospitals only in the event that this effort fails.

Mr. President, I want to thank Senator NELSON for modifying his proposal to allow individual hospitals which are meeting the voluntary cost containment goal to be exempted from mandatory cost controls.

I ask unanimous consent that a letter to me from the Secretary of HEW be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
October 6, 1978.

Hon. RICHARD STONE,
U.S. Senate,
Washington, D.C.

DEAR DICK: You have proposed two changes to the hospital cost containment amendment proposed by Senator Nelson.

An amendment to change the voluntary goals in those States with changing populations. This amendment provides that if the overall goal is not met on a national basis, then the goal which a State must meet in order to be exempted is adjusted to reflect changing population in a State.

An amendment to exempt individual hospitals which meet the voluntary goals. This amendment provides that controls are placed on a hospital only if:

The national goal was not met;

The State goal in that hospital's State was not met; and

The individual hospital also did not meet the goal.

We have no objection to these amendments.

Sincerely,

JOSEPH A. CALIFANO, Jr.

Mr. STONE. I, therefore, enthusiastically support this amendment.

Mr. WILLIAMS. Mr. President, I am pleased to join with Senators NELSON, KENNEDY, and others in cosponsoring Senate amendment 3478 to H R. 5285. the Medicare and Medicaid Administration and Reimbursement Reform Act.

For the last five decades, national health care expenditures have increased dramatically by every measure—in aggregate terms, on a per capita basis, and as a percentage of the gross national product. These increases have become the subject of considerable public debate in recent years, because an increasing share of these expenditures is borne by the Federal, State, and local government. There is also concern that this growth in

spending has not produced a proportionate improvement in the health of our Nation's citizens.

The largest share of national health expenditures—almost 40 percent of the private sector and 60 percent of the public sector costs—is used for hospital care. For this reason, congressional proposals to control expenditures have most recently concentrated on the hospital portion of the health care delivery system.

Last year, the Committee on Human Resources worked long and hard on hospital cost-containment legislation. During these deliberations, we established that the sustained growth in hospital expenditures since 1900 is attributable to a variety of factors. Among them are changes in the size and age distribution of our population, inflation in the prices of medical services and goods, and increases in the quality and character of services and goods provided, including changes in patient utilization patterns.

After a thorough review of the record, the committee agreed to use the approach in the administration's bill, S. 1391, to contain unnecessary increases in the cost of hospital services, This approach would provide immediate relief to health care consumers through the rationalization of hospital care financing policy. It would control spiraling inflation without reducing the amount or quality of hospital care for any American.

As ordered reported by the Senate Committee on Human Resources, S. 1391 would limit total inpatient hospital revenues to an annual growth reflecting increases in the general price index. The limits apply to payment from all third-party payors such as blue cross, medicare, medicaid, and private insurance companies, as well as self-pay patients. Exceptions to the limit are permitted for hospitals whose costs have escalated due to unusual circumstances.

Estimates by the Congressional Budget Office and the administration indicate that enactment of S. 1391 would result in $55 billion in total health care savings, including over $19 billion in Federal expenditures and $2.3 billion in State expenditures, over the next 5 years.

The Committee on Human Resources finished consideration of S. 1391 and ordered it reported August 2, 1977. After that, the Finance Committee began serious deliberations on the jointly referred hospital cost-containment legislation, but did not report it. Instead, the Finance Committee reported H.R. 5285, the Medicare and Medicaid Administration and Reimbursement Reform Act.

I am very disappointed in H.R. 5285 as reported by that committee. I believe that the concepts of hospital classification and prospective, incentive reimbursement for the long-term control of hospital costs are sound. However, the bill's narrow approach, limited to routine operating costs and medicare and medicaid payors, cannot control the rapid rate of inflation in hospital costs. In fact, it can be argued that the bill will ultimately result in even higher costs for many American consumers.

The proposed amendment we offer today has been developed as a compromise between the immediate, mandatory, and comprehensive, Federal controls contained in the Human Resources Committee's bill and the delayed, limited, medicare and medicaid controls in H.R. 5285. It is structured to curb the rate of increase in hospital costs for all Americans, not only those who participate in federally sponsored health care programs. This proposal is a good, well-thought-out compromise worthy of support by each Member of this body who is concerned about the rising costs of health care and the need to distribute our scarce health dollars more equitably and efficiently.

As introduced, the Senate amendment 3478 would:

First. Maintain the general structure of control in the Talmadge bill, H.R. 5285, making only minor revisions. The revisions would permit increased cost savings.

Second. Permit the hospital industry to bring overall hospital cost increases under control through voluntary efforts. The voluntary limits of increase, or goals, would apply to all hospitals. The rate of increase would be held to 2 percent less in 1978 than the rate by which such expenses increased in 1977. A 4-percent increase over 1977 expenses would be permitted in 1979 and 1980. To avoid unfairly penalizing hospitals for increases in inflation for which health care costs are not responsible, the goals would never be less than 1½ times the increase in the general inflation rate.

Third. Provide that if the national voluntary effort by the Nation's hospitals fails, mandatory controls would go into effect for the following year. These controls would place limitations on the rate of increase for all hospital costs and all payors of those costs. The allowable increase for all hospitals with more than 4,000 annual admissions would be derived through a calculation based on increases in routine operating costs allowable under the Talmadge bill, general wages in the hospital's area, and a "market basket" index of several goods and services purchased by hospitals. Increases beyond the established limits would not be paid by medicare and medicaid for either ancillary or routine costs. For private payors such as the insurance companies and blue cross, any excesses paid by such payors after the imposition of controls would be held in escrow until returned to payors in the form of reduced rates of hospital costs. Exemptions to the percentage limitations could be provided when warranted by changes in the number of admissions or increases in the wage rates of nonsupervisory hospital employees.

Senate amendment 3478 offers the Senate the opportunity to achieve substantial and immediate savings of between $30 and $35 billion in total health care savings, including $11.6 billion in Federal expenditures and $1.5 in State expenditures, over the next 5 years. It is an opportunity to remove what is, in effect, a most inequitable and inappropriate kind of tax, a hospital tax. I urge each of my colleagues to think carefully about this amendment and vote for its adoption.

● Mr. SCHMITT. Mr. President, I rise in opposition to the Nelson amendment. While its intentions are noble in attempting to offer relief to the American public from the stress of escalating hospital costs, the actual effect will be a drop in the availability and the quality of medical care in this country. A temporary relief in hospital care costs will result in a long-term burden on all Americans, particularly in those areas of the country where there are medically underserved, or unserved, populations.

This amendment, Mr. President, is the classic example of treating the symptom rather than the cause of a problem. Hospitals are as much the victim of inflation as is the consumer. The control of hospital costs requires legislation with long-term goals of reducing the sources of inflation while enabling hospitals to continually upgrade and expand their services so as to achieve highly competent and accessible health care services for all Americans. The goals of this amendment are short-term cash benefits resulting in debilitated medical services in the long run.

In New Mexico, a large Albuquerque hospital from 1975 to 1978 suffered an average annual inflation rate of approximately 40 percent for utilities alone while a small rural hospital's utilities increased by approximately 30 percent annually. Clamping a lid on hospital costs is no way to logically deal with these inflationary pressures. Rather, we should look for areas in which the Government can reduce operating expenses for hospitals and provide incentives to encourage hospitals to make every effort to voluntarily reduce those costs over which they have control.

Certainly we all recognize that there have been abuses in hospitals in various areas of the country, where inflation rates rose dramatically, but I think hospital administrators and medical personnel have become quite conscious of the need to implement cost containment programs. Certainly, in New Mexico hospitals have and are making every possible effort to reduce costs.

In the first 2 years of operation, the New Mexico Hospital Consortium, a cost containment group of 13 small hospitals, saved $535,750 after costs of operation were deducted. These constituted considerable savings due to the small size of these hospitals. Five larger New Mexico hospitals achieved total savings of $22 million through refinancing of long-term debt with industrial revenue bonds. The New Mexico Hospital Association has saved over $6 million during the past 6 years through the development of the joint employment insurance program covering seven city/county facilities.

Nationwide, the voluntary effort has reduced hospital expenditures by 2.9 percent during the first 6 months of 1978 as compared to the first 6 months of 1977.

Although New Mexico's length of hospital stay during 1977 of 5.7 days compares favorably with 7.7 days nationwide and places the cost per stay there in the lowest quartile, New Mexico has additional inflationary pressures resulting from the expansion of services to underserved rural areas and small communities, and the upgrading of old facilities in similar areas. A significant percentage

of hospital cost inflation in New Mexico and other States attempting to create adequate health services, is due to the expansion of services. New, and extremely necessary, facilities replacing inadequate hospitals and services have created a higher rate of inflation in some areas of New Mexico.

Our new facilities have been opened within the last year in Farmington, Clovis, Belen, and Carlsbad, N. Mex. which serve those communities and many outlying rural areas. They provide a variety of previously unavailable services. Lovelace Medical Center in Albuquerque has opened two clini s in rural areas of the State and plans additional clinics. Presybterian Medical Services operates several clinics in remote and financially poor areas of New Mexico. Extension and maintenance of these services may very well be curtailed or eliminated under this amendment.

Before the Government makes a move to clamp price controls on hospitals, it had better take a hard look at how it contributes to those costs. It is highly ironical, Mr. President, for the Government to penalize those institutions whose costs it directly contributes to. I am talking about the regulatory disaster our Federal agencies have created, Mr. President. I have recently held hearings on S. 2011, a regulatory reduction, reform, and congressional control act. During those hearings I heard from Mr. Alexander McMahon, president of the American Hospital Association, on the highly inflationary impact of duplicative and ineffective regulations that have been piled on the hospital industry. In New York State alone, Mr. President, the American Hospital Association estimates 25 percent of all hospital costs are spent on complying with Government regulations. That is almost $40 per day of additional cost for each patient's stay in New York State. Furthermore, the cost of new hospital regulations in New York State is estimated to increase by 4 percent each year.

Thus far, no other States have concluded comprehensive studies on regulatory cost, but this study, Mr. President, is a fairly accurate representation of regulatory cost we will find imposed on hospitals all over this Nation.

My bill, S. 2011, seeks to deal with this problem, reducing a source of inflation rather than a symptom. This is the method by which we must deal with the problem of increased health care costs, not by debilitating the ability of hospitals to provide modern improved techniques of medical care or to extend services to unserved areas.

Mr. President, I submit for the RECORD letters from Mr. Fred Mondragon, Mr. John Saint, Mr. Glenn Jones, and Mr. Richard Barr, and also background material on the voluntary effort in New Mexico and two news releases from Lovelace Medical Center and the Hospital Association of New York.

The material follows:

AUGUST 22, 1978.

Hon. HARRISON SCHMITT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCHMITT: I am writing to urge your vote against the Nelson Amendment to the Talmadge Bill which will very likely be introduced in the Senate this week.

We are concerned about the amendment for several reasons:

1. It will place an arbitrary cap on hospital revenues of 115%. This kind of approach does not recognize individual differences among hospitals and is counter-productive to improvements in patient care.

2. In our new hospital in Clovis, New Mexico, we are concerned that these limits imposed by the proposal would severely cripple the operation since the hospital will be adding significant new services to improve the health care of residents in Curry County.

3. In Espanola, New Mexico, we have had to increase our rates to upgrade the quality of care provided in that facility since it had fallen behind in equipment purchases. The amendment would not allow us to pay for this equipment.

4. The voluntary cost containment effort, jointly sponsored by the American Hospital Association, the American Medical Association, and the Federation of American Hospitals has made a significant impact by reducing the rate of increase in hospital costs from 15% to 12%.

5. The New Mexico hospital experience indicates a similar drop in the rate of increase in hospital costs from last year to this year.

6. The Nelson amendment gives unprecedented powers to the Secretary of HEW to impose arbitrary caps on hospital revenue without congressional approval.

In summary, the Nelson amendment to the Talmadge Bill (H.R. 5285) is a dangerous approach to cost containment and could hurt New Mexico hospitals. It is also unnecessary in view of the positive attempts of the voluntary cost containment efforts. We urge that you vote against this bill and encourage you to convince your fellow Senators to do likewise.

Sincerely,

FRED E. MONDRAGON,
Regional Administrator.

AUGUST 23, 1978.

Hon. HARRISON SCHMITT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCHMITT: Administrators all over the country are being urged to take pen in hand to write and urge lawmakers to defeat the latest proposal against hospitals in the continuing saga by the Administration against the "bad guys", to wit, the hospital industry.

This letter, of course, refers to the Talmadge Bill and Gaylord Nelson's attempt to restrict hospitals, but please perish the thought for the inclusion of restriction suppliers, utilities, unions and wages.

The problem of inflation is not only hospitals, as you well know, but it is obvious we are the whipping boys. Let Califano clean up his own inept bureaucrats to cut down fraud, overcharges and waste; then evaluate the system.

How can Las Vegas Hospital continue to operate when the New Mexico State Hospital with taxpayers' money offers registered nurses two dollars more an hour than we can pay, and that figure is just for starters. Take all federal and state health care institutions, deduct those costs, and see where we are.

Admittedly, there are hospitals whose administration operates out of ivory towers. Of course, in this situation they are just emulating the bureaucrats. So, stop penalizing those hospitals where economic conditions will not allow this sort of thing. Stop sending subordinates and spend a little time yourself where "the action is", then maybe you will see the true picture.

Las Vegas Hospital is the only fully staffed and equipped health facility within a radius of seventy miles, serving an estimated 30,000 people. How would you cope with some of the following problems?

We are holding down costs, as you will see from the enclosed sheet. We are constantly being harassed by red tape, and incidentally, are you aware that Califano "is going behind your back" i.e. pressure on the intermediary to harass the hospitals, and pressure on the P.S.R.O. to start denying claims for any reason.

During badly needed construction and reconstruction it was necessary to demolish an entire working area, yet Medicare regulations say we cannot take 18,000 in unrecovered depreciation as other businesses do.

Being the only hospital in a wide geographical area, we do offer all services; forty percent of our revenue coming from Medicare. Yet, because of the staffing problems, many nursing hours were denied. Medicare auditors contend this is because we have an O.B. Department. Do we deny mothers hospital care? Conclusion, raise all prices to cover.

I wonder, if you gentlemen are aware that all third party payors except Medicare and Medicaid pay at 100 percent billed charges. We at present are receiving 80 percent.

Is this the way to contain costs? With the desperately needed new equipment and repairs on equipment, as well as, a new roof, should I raise all prices to cover because Medicare limits the income to this hospital?

Are you aware that Medicare regulations do not allow benefits that other businesses get. Example, non-reimbursable expense for all bad debts. They do not allow for needed Hill-Burton charity writeoffs. So, do we look at raising our prices again to compensate?

Effective January, 1979, the government has mandated an increase in minimum wage. Tell me how to compensate for that without raising prices. The government has even mandated to the general public that they must be provided first rate medical care, so we raise our prices again to compensate.

We seem to be the only industry mandated by law to allow government auditors to enter our place of business, change cost figures, then give us fifteen days to pay. Yet frequently, it takes governmental entities, such as Medicare and Medicaid, 60 to 180 days to pay us for services rendered.

Raise your prices against to compensate. Sock it to the other third party payors. Sock it to the patients without insurance.

In an analysis I received from state welfare patients, and this has been going on for three years, payment has been delayed for up to two years and up to $40,000. Tell me, if you can, what the dollar value on these accounts are. Conclusion, raise your prices again to compensate.

We the hospital administrators need the help of Congress, but apparently they are not willing to give it. And, if they don't, costs can only keep rising and the pressure continues on the hospitals. Look at those hospitals with the ivory towers and look at those hospitals who are struggling to provide quality care.

In conclusion, if you cannot personally take enough time to look at the plight of the small isolated hospital, at least put someone on your staff who fully understands and can fairly state the problems faced by each of us.

Sincerely,

JOHN E. SAINT,
Administrator.

Payment	$27,026.47
Col/Pat (Patient Resp)	2,348.60
Non/Cov	42.00
Pd/Pat	0
Med/Adj (20%)	7,295.45
Oth/Pc	162.24
Ded/Co (Patient Resp)	2,306.60
Pat/Pd Units	130
Billed	36,832.78

Check amount has been reduced to $25,489.59.

Collected for medicare indebtedness, $1,536.88.

Las Vegas Hospital, P.O. Box 238, Las Vegas, N. Mex.

NM Blue Cross & Blue Shield, Inc., 12800 Indian School Road N.E., Albuquerque, New Mexico.

Please outline how to live with this without increase in prices?

COMPARATIVE STATISTICS FOR HOSPITAL EXECUTIVES—NATIONAL PANEL SURVEY DATA, APRIL 1978

	Data reported by your hospital (1)	Regional mean data reported by similar panel hospitals [1] (2)	Number of respondents (3)	National mean data reported by similar panel hospitals [1] (4)	Number of respondents (5)
Beds	51	69	19	72	153
Admissions	225	247	19	226	153
Inpatient days	912	1,145	19	1,343	153
Outpatient visits	$1,299	$1,101	14	$1,116	125
Net inpatient revenue	147,108	219,758	19	216,007	150
Net outpatient revenue	36,777	33,061	19	33,375	150
Total net revenue [2]	187,127	275,741	18	260,346	147
Payroll expenses	87,259	125,665	19	120,596	149
Employee benefits	12,491	17,195	19	16,561	149
Other expenses	82,841	98,316	19	95,398	147
Total expenses [3]	193,602	267,961	17	248,697	140
65-plus admissions	43	64	18	70	147
65-plus inpatient days	363	460	18	612	146
Expenses per adjusted patient day	$169.83	$210.31	17	$167.08	140
Expenses per adjusted admission	$688.36	$1,077.46	17	$1,019.58	140

[1] Your hospital's data, when reported, are included in these means for nonmetro, 50 to 99 beds: Mountain, (col. 2) and national, (col. 4).

[2] Note that "other revenue" is not included as a separate item.

[3] Note that depreciation expense and interest expense———.

AUGUST 22, 1978.

RE Nelson Amendment to the Talmadge Bill.

Hon. HARRISON J. SCHMITT,
U.S. Senate, Dirksen Office Building, Washintgon, D.C.

DEAR SENATOR SCHMITT: I am writing this letter to urge your support in opposing the Nelson Amendment to the Talmadge Bill and in support of any efforts which would reduce further regulation of hospitals.

I have taken the liberty to enclose newspaper clippings of the efforts of this particular hospital and the community over the last several years to obtain a means whereby a facility could be either built or the existing facility remodeled to satisfy current codes and regulations. These include the efforts of local State Legislators in securing a bill on the statutes which would allow creation of Hospital Tax Districts. Such was successful. They also include the authorization by local county officials authorizing such an election. They further include the report of an architect relative to his recommendations.

What the attached articles do not show is the fact that it has taken some 5 years of very detailed effort to contain operational costs; to secure adequate physicians for the community as well as paramedical professionals; and to secure the necessary legislation which would enable this and other communities in similar situations in this state to maintain facilities which would allow continued health care for the citizens they serve.

My concern and I am sure this concern is shared by other administrators or rural facilities, is that if the Nelson Amendment to the Talmadge Bill is successful the revenue controls will be so restrictive as to obviate any type of remodeling or rebuilding for existing facilities. Even though the local electorate may decide to tax themselves for their health care rather than depending upon the nebulous possibilities of revenue and rate approval through the Federal Government.

Again I urge your strongest opposition to the proposed Nelson Amendment or any such amendments which contain the same philosophy.

JUNE 24, 1977.

Sen. PETER V. DOMENICI,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOMENICI: The two basic arguments against the President's hospital revenue "cap" proposal are that hospitals suffer from inflation like all businesses and individuals, and hospital costs increase because of expended and improved technology and service.

To provide you with additional information, we compiled fiscal data comparing our 1976 and 1977 fiscal years, and our department heads identified services and procedures we now routinely offer our patients that were not offered ten years ago. Many items on the list have only been offered in the last five years.

I contend that "hospital inflation" defined as increased costs of what we purchase, rises at a rate significantly greater than "general inflation" or the gross national product deflator. Our fiscal study demonstrates a 14.6% "hospital inflation" increase in 1977 over 1976 for 70% of our expenses compared to the 6% GNP deflator for the same time period that is used in calculating the "9% cap".

In fiscal year 1977, Presbyterian Hospital inpatient days increased 2½% over 1976, and outpatient visits increased 24%. To provide this service, expenditures at Presbyterian Hospital for the fiscal year ended March 31, 1977, increased $4.9 million or 21% over the previous fiscal year. The major categories of expense are shown in the following table:

[In dollars; fiscal years]

	Operating expenses		Total increase	
	1977	1976	Amount	Percent
Salaries and benefits	15,015,794	12,285,790	2,730,004	22.2
Professional fees	1,633,032	1,386,853	246,179	17.8
Supplies and purchased services	8,481,939	6,819,837	1,662,102	24.4
Insurance	715,731	471,214	244,417	51.9
All other	345,531	477,718	(132,187)	(27.7)
Subtotal	26,191,927	21,441,412	4,750,515	22.2
Depreciation and interest	1,494,991	1,364,918	130,073	9.5
Total	27,686,918	22,806,330	4,880,588	21.4

Of the total increase, approximately 15% was due to inflation. The overall rate of inflation was determined by examining the changes in volume which had occurred in certain large expense areas in the two fiscal years. The areas examined are shown on the attached table and represent more than 70% of the total expenses excluding the fixed costs of depreciation and interest.

In the area of Supplies and Purchased Services, the sample items listed account for 37% of the total expenditures for this category. The Supply and Purchased Services sample items increased 16.8%, including inflation and volume, compared to 24.4% overall increase in this category. The sample increase was expected to be lower since it included the high volume items that are somtimes amenable to cost containment by aggressive purchasing.

It is interesting to note that the only decreases (unemployment taxes, IV solutions, food, and X-Ray film) were the result of an active ongoing cost containment program. The only changed purchasing practice in the four areas of savings affected IV solutions.

Because of Presbyterian's pioneering efforts in founding an offshore mutual insurance company, general liability insurance was held to a 50.2% increase compared to 100%+ increases nationally. Many of the other increases, excluding salaries, were mandated by law, regulation, or a sole supplier.

The services we offer today that were unavailable to our patients ten years ago include:

Coronary Care Unit.
Total hip & joint replacement.
Oxytocin Challenge Testing.
Dialysis.
Amniocentesis.
Fetal Heart Monitoring.
Cardiac Catheterization Laboratory.
EKG Telemetry.
Pressure Monitoring.
Ultrasound.
Nuclear Medicine.
Pulmonary Function Studies.
Cardiopulmonary Resuscitation Team.
Home Care Planning.
Patient Education Programs.
Patient Assistance & Counseling.
Hyperbaric Chamber.
Interaortic Balloon Pump.
Intensive Care Unit.
Retinal Surgery.
Therapeutic Drug Levels.
Laminar Flow.
Infection surveillance nurse.
Enterostomal Therapy.
Blood Gases.
Professional Standards Review Organization.
Open Heart Surgery.
Emergency Department full-time M.D. coverage.
Day Surgery Unit.
Ambulance Company.
Laparoscopy.
Micro-surgery.
Malpractice monitoring.
Blood Component Therapy.
Patient Representatives.
Newborn Intensive Care Unit.
Intravenous Therapy Team.

The hospital cost spiral is explainable. The real issues of how we allocate our national health resources and the cost benefit analysis of improving the quality of a life, or even extending it, are ignored in the President's proposal.

AUGUST 23, 1978.

HON. HARRISON SCHMITT,
U. S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR SCHMITT: Senator Nelson's proposed amendment has the inherent major deficiency of establishing price controls on a limited segment of the economy without taking into consideration the true reason for hospital costs and prices.

While I have no objection to incentive systems, the number of experiments with incentive systems within hospitals has been extremely limited and I consider it folly to propose legislation that would mandate cash incentive programs for employees in order to qualify a hospital to participate in an overall incentive program conducted by the federal government. This appears to be one of a number of "catchy" provisions of the Nelson proposal that are designed to illicit a positive emotional response, but have not been carefully thought out or have any documented basis of predictable success.

We are strong supporters of the Voluntary Effort of the AHA, AMA, and FAH. So far the results are extremely positive and encouraging. My concern as an administrator is that the obviously increasing rate of inflation in the overall economy will have its inevitable impact on hospitals and may negate the results so far of the Voluntary Effort and make it impossible to meet future Voluntary Effort goals.

It is especially ironic that during the past week this cost containment legislation has been heralded as necessary to combat inflation when in effect, the increase in hospital expenditures this calendar year has been significantly less than the overall increase in the CPI. The rhetoric that labels hospitals as "villains" in the inflation struggle is shallow when confronted by that fact. Frankly, I am concerned that we will be able to retain the exemplary record of the Voluntary Effort because we are now seeing the reality and pressure of increasing inflation in the economy.

I am enclosing for your information a letter prepared last June that remains pertinent to the current question of the Nelson Amendment. We are proud of our record in containing costs. We are committed to continuing our efforts regardless of legislation that may affect us. We only ask that the problem be viewed realistically and treated equitably.

Thank you for your consideration. Please let me know if we can provide additional information.

Cordially,

RICHARD R. BARR,
Administrator.

AUGUST 29, 1978.

A new plan that will save many hospitalized patients at Lovelace Medical Center, Albuquerque, New Mexico, approximately $48,000 a year has been instituted as part of a major cost containment drive recently begun by the Medical Center.

A special cost containment task force committee was established in June with a goal of saving at least a half a million dollars in operating costs for a two year period. To date the center can account for combined savings of $85,000 from various projects, according to Nick Brown, Chairman of the Task Force and Director of the Lovelace Pharmacy Department.

The rapidly rising costs of materials and supplies triggered the establishment of the cost containment program to prevent unnecessary cost increases and where possible to actually reduce operating costs. The $48,000 estimated yearly savings for patients will result from the introduction of a new prepackaged piggy back IV anti-biotic container which, when required by hospitalized patients, will result in a direct savings to those patients of $12 to $24 a day.

Additional suggestions from employees have resulted in considerable savings for the center even during the first two months of activity in this area. Included in these implemented suggestions are a new telephone system which saves the center $14,000 a year and installation of a new laundry facility at LMC's Ridgecrest Manor Nursing Home, resulting in a $12,000 a year savings.

In a recent report Brown paid tribute to employees whose many suggestions are resulting in additional savings ranging from $15 a month to $100 a month. "The total of all these efforts is, I think, an excellent example of how the Medical Center is striving to face the problems of rapidly escalating costs of supplies and materials," said Brown.

STATEMENT OF THE NEW MEXICO HOSPITAL ASSOCIATION WITH REGARD TO HEARINGS BEFORE THE ADMINISTRATIVE PRACTICE AND PROCEDURE SUBCOMMITTEE ON SENATOR HARRISON SCHMITT'S BILL, S. 2011, THE REGULATORY REDUCTION AND CONGRESSIONAL CONTROL ACT, SEPTEMBER 12, 1978

AUGUST 30, 1978.

Federal Regulations have added billions to the cost of health care in the United States since the passage of Medicare and Medicaid legislation followed by PL 92-603, PL 93-641, and others.

New Mexico, as a rural state with many small hospitals serving remote communities, has had a very difficult and costly experience in complying with mountains of federal regulations which often contribute nothing to increasing the quality of health care or the safety of the patient.

Most costly Federal Regulations to New Mexico's hospitals include:

Medicare and Medicaid Reimbursement and other Regulations.

Life Safety Codes (Facility Codes and Standards).

Hill-Burton Regulations.

Health Planning Regulations, including Section 1122, Social Security Act, and Certificate of Need, PL 93-641.

Utilization Review and Professional Standards Review Organizations.

Rehabilitation Regulations.

OSHA.

Wage-Price Control Regulations under the Economic Stabilization Program.

Workmen's Compensation Regulations.

Unemployment Compensation Regulations.

The New Mexico Hospital Association has long criticized Federal Regulatory authorities for:

Excessive reporting and inspection, which often results in duplication and conflicting requirements;

Creation of multiple centers of authority and accountability;

Lack of incentives to institutions and professionals to achieve effective delivery of health care;

Lack of time given to respond to Proposed Regulations, usually 30 days;

Lack of flexibility of Regulations for rural hospitals; and

Lack of consideration of cost to the hospital for implementation.

New Mexico's hospitals have not had the financial and manpower resources to make a formal cost study of these complex and costly regulatory issues. However, we would invite the Subcommittee's attention to and urge your contact with the following Hospital Associations who have researched these important regulatory cost issues.

1. The American Hospital Association, 840 North Lake Shore Drive, Chicago, Illinois 60611. The AHA has published on May 18, 1977, a booklet entitled "Hospital Regulation, Report of the Special Committee on the Regulatory Process," which is an in-depth study of the regulatory process and special problems with Health Care Regulations. Copies of this booklet have been furnished Senator Schmitt's office, and more are available through the AHA Washington Office.

2. The Michigan Hospital Association and the South Carolina Hospital Association have comprehensive reports recently published by Arthur Young & Company entitled "Hospital Costs Attributable to Government Regulations."

We believe the above studies would be especially valuable to your Subcommittee's deliberations on these expensive regulatory matters.

Finally, we fully support the concept of S. 2011 to establish a uniform procedure for Congressional review of Executive Branch rules which may have a harmful impact on the public, etc. This is legislation long needed and overdue.

Please contact us if we can be of further assistance to your Subcommittee on these important hearings.

Respectfully,

JAMES L. LACOMBE,
Executive Vice President.

From Manning, Selvage & Lee, Inc., 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20006. Contact: Jean Rainey (202) 393-6550.

For Hospital Association of New York State, Inc., 15 Computer Drive West, Albany, New York 12205. Contact: Andy Foster or Jim Chapman (518) 458-7940.

Twenty-five percent of hospital costs in New York are spent complying with government regulations. This adds almost $40 to the daily cost of each patient's stay, according to a report released today by the Hospital Association of New York State.

The two-year study, covering costs for 1976, reveals that hospitals in New York State spend more than $1.1 billion to satisfy regulations imposed by federal, state and local agencies. News briefings were held in 11 New York cities to announce the results of this study which includes detailed information from almost 150 hospitals in the state. According to spokesmen at these meetings, "We recognize the need for some regulation but the question is not whether there should be regulation of hospitals, but rather how much regulation is necessary."

This is the second report on regulation released by the Hospital Association of New York State which represents more than 300 hospitals and health care institutions in New York. In the earlier study, released in 1976, the Association identified 164 different agencies with authority over hospitals in the state. The president of the Association, George B. Allen, said, "When we identified the 164 different agencies, the next most obvious question to be answered was the one of cost. How much does it cost to complete the countless forms, questionnaires and other inquiries by government? How much time is taken from patient care to comply with regulations? All of the people involved in the study knew that the amount would be high, but I don't think anyone knew it would amount to more than a billion dollars."

Some of the highlights of the report include:

Twenty-five percent of hospital costs are attributable to meeting government regulatory requirements.

The annual cost to hospitals and the patients they serve is in excess of $1.1 billion.

About 115 million man-hours per year are needed to meet regulatory requirements.

The annual commitment of 115 million man-hours to regulatory matters is equivalent of more than 56,000 hospital employees

spending all of their time on regulatory matters. This is enough people to staff 75 hospitals, each with an average of 250 beds. Further, 56,000 hospital personnel could provide medical services to approximately 600,000 hospital patients.

The cost of new hospital regulations is estimated to be 4% more each year.

About $38.86 is spent each day for each patient in meeting regulatory requirements.

More than $125,000 per hour, 24 hours a day, 7 days a week is spent by hospitals in meeting the cost of regulations.

Three million dollars a day, 7 days a week, 52 weeks a year is spent on meeting the cost of regulation.

Each Registered Professional Nurse must spend the equivalent of more than one day each week involved in regulatory functions.

Allen added, "The billion dollars reported today is only part of the cost, no one that we know of has any idea of the total various government agencies spend. Conservatively, the billion dollar figure could be double. We will formally ask the State to ascertain the amounts they spend on the regulation of hospitals and we will ask the Legislature to establish a State Health Services Commission to attempt to bring some rationality into what is clearly a situation that has grown out of proportion."

BACKGROUND MATERIAL AND INFORMATION ON VOLUNTARY EFFORT, NEW MEXICO HOSPITAL COSTS, AND THE NELSON AMENDMENT

(Presented to Senator Pete Domenici and Senator Harrison Schmitt)

With national concern for hospital costs hospital cost containment legislation was introduced in 1977 at the urging of President Carter. Several attempts for passage of this legislation have failed. Once these efforts failed in the House, the Administration and supporters, specifically Senator Nelson, attempted to amend the Talmadge Bill, H.R. 5285, to include a Carter cost cap. This type of control would be very detrimental to New Mexico hospitals and patients served. Included in this document is information regarding voluntary cost containment efforts and specific increases in costs. Also included is information on the impact of the Nelson Amendment upon New Mexico hospitals and their ability to provide existing services, expand existing services, and provide added services to New Mexico's citizens and specifically in unserved and underserved areas of New Mexico.

EXAMPLES OF INCREASING COSTS OF GOODS AND SERVICES PURCHASED BY HOSPITALS

Costs of goods and services which are purchased in the current highly inflationary market have increased greatly for hospitals. In many instances the costs of these goods and services have increased at a greater rate than the already rapidly increasing Consumer Price Index. A recent analysis by Rate Controls, a hospital-industry publication, estimates that inflation to hospitals for the goods and services which they purchase will increase during 1978 by 8.4% to 8.9%. Thus, we can anticipate, if these projections are accurate, that the cost to hospitals for their goods and services will increase by this amount. Thus, any increases in intensity of services provided and/or addition of services will be above that amount. We anticipate that in many sections of New Mexico the increase would be significantly greater due to provision of services to otherwise underserved populations and areas.

Some specific examples within New Mexico of these increases are in the area of utilities. For two sample hospitals, a very large Albuquerque hospital and a 100 bed rural hospital, the utilities expense has increased dramatically without an increase or change in the size of the facility.

	Total utility expense	Percent increase	Percent annual increase
Albuquerque hospital:			
May 1975	$29,450	133	[1] 40
May 1978	68,650		
Fiscal year ending June 30:			
1975	365,000	91	[1] 30
1978	698,000		
Rural hospital (approximately 100 beds):			
June 1977	5,100		43
June 1978	7,300		

[1] Approximately.

In this rural hospital, which recently moved into a new facility, the most recent electricity bill received August 21, 1978 totalled $11,600 compared with a previous bill of $4,800. Their water and natural gas expense are expected to increase drastically. Such expenses, when included in a cap proposal, certainly cannot be significantly reduced regardless of numerous energy conservation efforts.

Other examples of the significant increases were sent to you recently in a letter from Richard Barr, Executive Vice President, Presbyterian Hospital Center. For your ease in reviewing this I am enclosing an additional copy. There are several other examples of significant increases in costs.

IMPROVEMENTS IN TECHNOLOGY

You also requested information on improvements in technology. One specific example is the recent opening of a replacement hospital for San Juan Regional Medical Center in Farmington. This new facility replaces a very old and inadequate structure. Costs of operation of this new facility will increase greatly due to combination of general inflation and new technology.

The facility which increased in size from 118 to 144 beds also had a significant increase in square footage per bed. The old facility had 533 square feet per bed compared to the new facility with 1,025. It is anticipated that upon completion of the remodeling of the old facility, which is adjacent to and connected with the replacement facility, that the approximate square footage per bed will increase to 1,200. This additional square footage resulted from a combination of more spacious and adequate inpatient capability, such as larger operating rooms and other facilities, plus significant expansion of outpatient services and capabilities to better meet the needs of individuals within the community. This facility at a total cost of $12 million including building and equipment will be of much greater service to the community.

In addition to the replacement of services several additional capabilities have been added to improve service to the community such as Ultrasound with a capital expenditure of $66,000 and an estimated first year operating cost of $60,000. Attached for your information is an excerpt from the San Juan Regional Medical Center "Vital Signs" regarding the new Ultrasound services. In addition, their facility is planning an alcohol treatment program which will provide 15 beds with a first year operating cost of approximately $275,000. As you are aware alcoholism is a significant problem in the Farmington area and this service is intended to meet that need. Obviously with a cap this service might not be possible. In the very near future neurosurgical services will be provided in the facility with a neurosurgeon arriving in November of 1978 and an additional neurosurgeon in the spring of 1979. These increased services which are necessary to meet the needs of numerous accident victims in the area will significantly add to the cost of providing total services to that community. Other additional medical staff are being added to the area to meet the needs of the growing community. In addition, speech pathology and audiology services have been added at a total capital expenditure of $38,000 with a first year operating expense of approximately $100,000.

Other improvements in technology in New Mexico include the replacement hospital in Clovis to be dedicated September 17 and a replacement facility in Belen opened in July. Other recent improvements have been a new facility opened in August, 1977, in Carlsbad. This replaced two existing facilities of which one was very old and outmoded. In addition to the mere physical structures several additional services or improved services are now being provided to the Carlsbad area. In addition to replacement facilities several hospitals are providing additional services as additional physicians are attracted to the area. These include primary care as well as secondary care physicians which will meet the needs of the community. Likewise, several new services have been or are being planned for New Mexico. Lovelace Medical Center recently opened satellite clinics in Roswell and plans additional clinics in other areas of New Mexico. With a cap such services could be curtailed or eliminated although greatly needed. Additionally, Presbyterian Medical Services which operates two hospitals in Taos and Cuba plus several clinics in remote and financially poor areas of Northern New Mexico and Southern Colorado could be severely limited by a cap. Several other hospitals are planning and/or providing new and/or expanded services which would be severely limited by a cap. Gerald Champion Hospital in Alamogordo is currently constructing added service space and replacement and/or remodeling of existing inadequate facilities.

WHAT NEW MEXICO HOSPITALS ARE DOING TO CONTAIN COSTS

While New Mexico hospitals are faced with significantly increasing costs for goods and services which are purchased on a very inflationary economy and while significant improvements in technology and thus greater benefit to patients are being provided New Mexico hospitals are continuing cost containment efforts. In addition to those efforts which were identified to your staff on our visit to Washington which related to Presbyterian Hospital Center efforts and Presbyterian Hospital Center-St. Joseph Hospital combined efforts we have included several other cost saving activities. For your information I am enclosing "The President Speaks" from a recent Lovelace Medical Center Intercom which points out the efforts of that facility and the need for voluntary cost containment. Also enclosed is a news release from Lovelace Medical Center which identifies some of the specific savings achieved by their voluntary cost containment committee.

Enclosed is a summary of savings totalling $535,750 for the first two years of operation of the New Mexico Hospital Consortium whose members include:

Cibola General Hospital, Grants.
Memorial Osteopathic Hospital, Roswell.
Rehoboth Christian Hospital, Gallup.
St. Joseph Hospital, Albuquerque.
University Heights Hospital, Albuquerque.
Dan C. Trigg Memorial Hospital, Tucumcari.
Gerald Champion Hospital, Alamogordo.
Mimbres Memorial Hospital, Deming.
San Juan Regional Medical Center, Farmington.
St. Ann's Hospital, Truth or Consequences.
Vista Sandia Hospital, Albuquerque.

Several other hospitals have made significant efforts at cost containment. Memorial Hospital, Las Cruces, significantly reduced the number of employees through attrition.

We indicated to you that significant sav-

ings also had been achieved through refinancing of long debt with industrial revenue bonds. Specific savings thus far are:

	Million
Presbyterian Hospital Center, Anna Kaseman Hospital Clovis High Plains Hospital	$4
St. Joseph Hospital	8
St. Vincent Hospital	10
Total	22

Other hospitals are in the process of refinancing which will result in additional savings.

The New Mexico Hospital Association through the development of the Joint Unemployment Insurance Program recently was expanded to cover seven city/county facilities and has over the past six years saved in excess of $6 million.

PROBLEMS WITH AND IMPACT OF NELSON AMENDMENT

During our discussion we mentioned certain technical defects in the Nelson Amendment which would have a detrimental impact upon New Mexico and other western states. Although the amendment appears to establish an upper limit of payment at 115% of the average per diem routine cost for hospitals in each classification group, it does not. The amendment provides that the computation of the group averages would exclude from consideration *all* costs in the previous year in excess of 115%. Under this methodology it is estimated that over 30% of all hospitals would be paid below their actual cost. Further, in the western region of the United States almost two-thirds of the hospitals would be reimbursed below their costs. The reason for this significant impact on the western states and specifically New Mexico is the short length of stay. New Mexico's length of stay during 1977 of 5.7 days compares favorably with 7.7 days for the United States. Using the Nelson Amendment computations New Mexico hospitals' costs per day would be considerably higher although the cost per stay is in the lowest quartile. Obviously the intent is to reward effective and efficient facilities. This amendment does not. It would penalize those facilities with short stays and low costs per stay. Likewise, the elimination from the computation of all costs above the 115% does not result in a real average. There may be legitimate reasons why facilities are above the 115% factor, especially on a per diem basis.

Another major area of concern is the requirement that one-half of any incentive payments must be returned to employees. While it obviously is important to have increases in productivity and other reductions in cost that may relate to employees, a number of cost containment activities are not affected by employees. Savings due to improved purchasing practices, refinancing of long-term debt, and energy conservation are not the result of better employee performance.

The 115 percent factor, i.e., payment only up to 115 percent of the average, will have an even greater impact when applied to ancillary services. As you are aware as technology advances more ancillary services are provided and again significantly impacts on New Mexico short stay hospitals.

IMPACT ON SERVICES

All of this, of course, has a tremendous impact not only on expansion of existing services but on the maintenance of existing services and the provision of new services. If a hospital has not previously provided a service or has only provided a limited service the facility's cost per day for ancillary services or for other services would be pushed significantly higher and the hospital would be prevented from the addition and/or expansion of that service although greatly needed. Also with an existing service additional costs which could not be controlled such as utilities expenses or supply costs could very easily damage the ability to continue the service although it was efficiently operated.

VOLUNTARY EFFORT PROGRESS

In consideration of the various methods of achieving effective cost containment while at the same time insuring quality patient care and access to that care by all citizens of the nation and specifically New Mexico, the Voluntary Effort, which is a cooperative effort of the American Hospital Association, American Medical Association, and the Federation of American Hospitals, was developed. The Voluntary Effort which depends on individual hospital participation is organized in each state. New Mexico established one of the first voluntary cost containment committees and asked that each hospital provide a cost containment resolution adopted by their board of directors, medical staff, and also signed by administration. We are pleased to report that we currently have received or have indications from all hospitals in New Mexico that their board has passed or soon will pass a resolution. We are very pleased with this progress but will continue our commitment to the Voluntary Effort here in New Mexico while recognizing the need for assurance of quality care and provision of access to that care for New Mexico citizens.

The progress thus far nationally has been very significant. As you are aware for the past several months the rate of inflation in hospitals has been lower than in the economy as a whole. During the first five months of 1978 the rate of increase in total hospital costs, as reported by the American Hospital Association Panel Survey, was 3.3 percentage points lower than the same period of 1977.

We also point to recent Consumer Price Index information, specifically for June, 1978. We have enclosed a copy of the Bureau of Labor Statistics report which shows that medical care, of which hospital care is a component, for the three months ending June, 1978, was fourth lowest out of seven items reported. While we continue to be concerned about overall inflation we are pleased that health care is not increasing at the rate other segments are. This is extremely significant when the cost of all goods and services of hospitals is increasing rapidly. It is significant that of the four basics—energy, food, housing, and health—only one segment, i.e., health care, is decreasing.

In New Mexico the progress also appears quite favorable. It is important to note that with the several new or replacement facilities coupled with the addition of new physicians and improving technology that the total expenditures for hospital care in New Mexico may increase at a higher rate than nationally. For the first six months of 1978 compared to the same period of 1977 the total revenue for a sample of 20 New Mexico hospitals, which provide a significant portion of hospital care in New Mexico, increased 10%. During this same period the total expense increased by 17%. We are quite pleased with this progress although we will continue our efforts. Several of these will include the provisions of services that are alternatives to inpatient care, ie., ambulatory surgery and home health care.

VOLUNTARY EFFORT VS. NELSON AMENDMENT

Please find enclosed a comparison of the estimated savings under various hospital cost containment plans. This document prepared by the Health Care Financing Administration estimates the Voluntary Effort will save $31.3 billion compared to the projected savings of the Nelson Amendment of $37 billion. Even if HEW estimates are considered valid, and we consider those to be understated, we question whether the bureaucracy created by the Nelson Amendment would result in more net savings than the Voluntary effort.

It is inconsistent for health care to be the only area of the economy for which the Administration or Congress is considering a regulatory approach. One of President Carter's key advisors, Robert Strauss, supports voluntary contracts by industry in other segments of the economy and warns against standby controls. A copy of his comments specifically related to the steel industry is enclosed. You will note that Mr. Strauss points to the impact on anticipatory increases of such standby controls. We fear such anticipatory increases could occur if standby controls are placed on hospitals. The Voluntary Effort is flexible in recognizing each individual institution's difference from others and its changing role within its community from year to year.

CONCLUSION

New Mexico hospitals through individual and combined efforts are effectively impacting on the increasing costs of hospital care. New Mexico with its low length of stay and a cost per stay which is in the lowest quartile will continue these efforts. The Voluntary Effort on the one hand recognizes the uniqueness of each individual hospital, the patients it serves, and their individual efforts. On the other hand the Nelson Amendment makes no recognition of individual hospitals' needs or the community needs and would stifle the provision of needed services to New Mexico citizens, especially in unserved and underserved areas. The Voluntary Effort is a more reasonable approach than the Nelson cost cap.

COMPARISON OF ESTIMATED SAVINGS UNDER VARIOUS HOSPITAL COST CONTAINMENT PLANS

	Hospital revenues under current law (billions)	Estimated savings: Administration bill, if effective Jan. 1, 1979 (billions)	Estimated savings: Senator Kennedy's bill, if effective Oct. 1, 1978 (billions)	Estimated savings: Senator Nelson's amendment: Voluntary program (billions)	Estimated savings: Senator Nelson's amendment: If voluntary program fails in 1979, standby program effective in 1980 (billions)	Estimated savings: Sec. 2 of Senator Talmadge's bill (millions)
1978	$54.5			−$0.4	−$0.4	
1979	63.0	−$2.2	−$2.8	−2.0	−1.7	
1980	72.7	−5.2	−6.4	−4.0	−3.6	−16
1981	83.5	−9.9	−10.7	−6.3	−7.3	−70
1982	95.2	−15.9	−16.5	−8.4	−10.4	−122
1983	107.6	−22.6	−23.2	−10.2	−13.6	−175
Total	476.5	−55.8	−59.6	−31.3	−37.0	−373
Total for medicare and Federal medicaid	178.9	−18.7	−29.0	−11.5	−12.8	−373

Note: Estimate of Senator Kennedy's bill done by the Congressional Budget Office, the estimate indicates a relatively higher savings under medicare and medicaid because the CBO projected higher current law growth rates for the Federal programs, resulting in greater savings upon application of the limit.

SUMMARY OF SAVINGS TO NEW MEXICO HOSPITALS IN THE 1ST 2 YR OF OPERATION OF THE NEW MEXICO HOSPITAL CONSORTIUM

[Purchasing program (4 examples out of 200 purchasing contracts)]

Example	Estimated savings	
	Per year	Over 2 yr
IV solutions	$132,000	$264,000
Needles and syringes	36,000	62,000
Disposable linen packs	8,880	17,760
Underpads	6,600	13,200
Total savings over 2 yr on examples given		356,960
Education program: Savings over 2 years		$50,000
Biomedical engineering:		
Savings in cost of service—2 years		60,000
Reduction in insurance premium—2 years		108,000
Total savings		168,000
Provider representative:		
Savings over 2 years resulting from a reduction in accounts receivable using a cost of cas of 12%		28,000
Physician recruitment: Savings of $1,500 per physician placement		3,000
Consultation: Medical Records Savings over 1.5 years		12,420
Construction and maintenance: Savings on one project		9,000
Long-range planning: Savings on one study		4,000
Total savings over 2 years		632,180
Less costs of NMHS operation		96,430
Net saving to participating New Mexico Hospitals (using only 4 examples of purchasing contracts)		535,750

● Mr. DANFORTH. I believe that one of the best qualities of the American people is their generosity; their spirit of volunteerism; their willingness to give of themselves, their time, and their money. I am afraid that our Government more often than not stifles or even kills that spirit of giving rather than fosters and supports.

If I gave $100 to my community hospital and instead of the $100 benefiting that hospital, the $100 replaced dollar for dollar the Government's medicare and medicaid bill to that hospital, I probably would stop giving. Fortunately, the Government has recognized the problem in this situation, and HEW has issued regulations which try to encourage gifts without creating a situation where the Government is being billed for specific items which are paid for by designated gifts.

I am pleased that section 30 of H.R. 5285, which was added by an amendment of Senator BOB DOLE, recognizes the importance of philanthropic support for health care and codifies the HEW regulations with respect to unrestricted gifts. I believe it is useful to have the rules regarding the important area of philanthropic support in the statute itself, not merely in regulations. In that regard, I would like Senator DOLE and Senator TALMADGE to clarify one point for me. Section 30 refers only to "unrestricted gifts," not restricted gifts, and does not define what "unrestricted gifts" are. Am I correct that section 30 is not intended to change existing regulations with respect to restricted and unrestricted gifts and intends the same definition to apply? More specifically, if an individual makes a donation to a hospital with the understanding that it will be spent as the hospital deems best, and the hospital then chooses to restrict the spending of the contribution to some specific purpose, my understanding is that HEW would regard those funds as "unrestricted." I take it those funds would also be termed "unrestricted" within the meaning of section 30. Is that correct?

Mr. TALMADGE. That is correct. The bill would not change existing policy with respect to philanthropic support.●

HOSPITAL COSTS ARE UNDER CONTROLS IN RHODE ISLAND

● Mr. PELL. Mr. President, the subject of hospital cost containment is of pressing importance to all of us, and of special interest to me because of the uniquely successful and commendable efforts being made in my State to combat this serious, inflationary problem.

In the State of Rhode Island for the last 4 years, we have seen a cooperative and successful effort at health cost containment and hospital utilization planning. Spearheaded by Rhode Island's Governor, the State's hospitals—all of them—Blue Cross/Blue Shield of Rhode Island, and the 94 percent of our doctors who are Blue Cross/Blue Shield participants, this unique mutual effort has kept health cost inflation significantly below the national average.

This effort is voluntary, and it is working because all of the partners want it to work. It shows what can be done when responsible hospitals, insurers, doctors, and State officials work together.

A fine article recently appeared in the Providence Evening Bulletin entitled, "R.I. Called Model for Nation on Hospital Costs," written by Bruce DeSilva, and I submit it for the RECORD at this time to bring it to the attention of my colleagues.

R.I. CALLED MODEL FOR NATION ON HOSPITAL COSTS

(By Bruce DeSilva)

PROVIDENCE.—Key U.S. senators, the Secretary of Health, Education and Welfare and President Carter are calling Rhode Island a model for national hospital cost containment.

Here's why:

Hospital costs in Rhode Island for the 12-month period which ended Saturday were $290 million, an increase of 10 percent over the previous 12 months.

During the same period, hospital costs nationally increased 14 to 15 percent. (The final figure has yet to be precisely tabulated.)

For the coming year, Rhode Island hopes to improve on its record: It was announced last week that room rates at most hospitals in the state will rise 9.7 percent.

For several years, Rhode Island's hospital rates have been climbing more slowly than those of any other state in the nation.

The success is due to a program called "prospective reimbursement."

What it means is that late in the summer of each year, officers of Blue Cross and Blue Shield of Rhode Island, representatives of the state budget office and officials of the state's 16 hospitals sit down around a negotiating table and haggle over money.

The sessions are grueling, with negotiators often emerging from the meetings with sweat-soaked shirts and short tempers.

But the result is an agreement on how much the hospital bill for Rhode Island will be for the coming year and how much of that bill will be allotted to each of the hospitals.

The program is voluntary. The hospitals could walk out on it anytime, and Blue Cross and the state medical assistance program would have to pay higher, unnegotiated rates.

But it is the hospitals who suggested the system in the first place, and all of the participants are under enormous pressures to make it work.

The system had its genesis in the late 1960s, when some General Assembly members became alarmed by hospital cost increases which at the time were about 20 percent a year.

Study commissions were appointed and several bills were introduced (but not passed) to control costs.

Meanwhile, Blue Cross was expressing similar concern, and hospitals were worrying that one of those cost control bills might eventually pass.

It was in this climate that Francis Fazzano, then director of business regulation and now a Superior Court justice, issued what amounted to an ultimatum to Blue Cross in 1971.

The Department of Business Regulation, Fazzano said, was no longer willing to allow hospital cost increases to be passed along to the consumer through Blue Cross rate increases.

From now on, Fazzano said, Blue Cross would have to justify the hospital costs it attempted to pass along in higher rates.

"That was the trigger," said John Murray, state budget officer. It forced all those groups who had been talking about hospital cost containment into action.

Rhode Island Hospital told Blue Cross it would be willing to negotiate, in advance, the amount of money it would spend in the coming year. Blue Cross agreed, other hospitals jumped on the band wagon, and the state budget office, with millions in state medical assistance payments to protect, opted in.

The young program was superseded by President Nixon's wage and price controls, but by 1974 it was working.

For fiscal 1975, when national hospital costs went up 19.5 percent, prospective reimbursement held Rhode Island's to 14.23. In fiscal 1975, the figures were 15.4 percent national and 12.48 Rhode Island. The following year they were 16.1 percent national and 10.98 percent Rhode Island.

President Carter's hospital cost containment program, which is having a hard time in Congress because it is regarded as too tough, calls for the national rate of increase to be reduced in stages until it reaches 12 percent in fiscal 1981.

President Carter and HEW Secretary Joseph Califano have both repeatedly cited Rhode Island's experience in supporting the legislation and in boosting even stiffer measures. Further, they have invited Rhode Islanders to Washington to discuss with bureaucrats and congressmen the state's experience.

The reduction to 12 percent isn't reasonable say opponents of the bill, now being debated in the Senate.

Yes it is, reply Senators Claiborne Pell and Edward F. Kennedy. Rhode Island already is doing even better, they have said in the course of debate.

"The national proposal," said Francis R. Dietz, administrator of Memorial Hospital in Pawtucket, "doesn't even set as a goal what we have already achieved here."

Why has the Rhode Island system worked?

First of all, said William D. Sweeney,

senior vice president of the Hospital Association of Rhode Is and, it works because the hospital officials here are as concerned about rising costs as anyone.

Secondly, said Paul Carvisiglia, director of the Health Planning Council (a nonprofit planning agency which provides opinions to the state on all new hospital programs), it works because there is an element of trust among the participants. In this small state, key men in the health system have long been accustomed to dealing with each other on a wide range of complicated issues, he said.

Thirdly, offered Murray, it works because the hospitals fear that the alternative to this voluntary program is a mandatory program that would be enacted by the state.

Each of the participants, in fact, has a major stake in the success of the program.

While for the hospitals it is the threat of a mandatory program, for Blue Cross it is the threat of a denial of rate hike applications by the Department of Business Regulation. And for the budget office it is the enormous pressures on the state budget and the political consequences of increased spending.

One of the key factors in the Rhode Island program is its flexibility, said Douglas J. McIntosh, Blue Cross president.

The mandatory cap on hospital spending in many of the national proposals is an across-the-board lid that applies universally and arbitrarily to all hospitals, he noted.

But in Rhode Island, he said, the negotiated cap figure is not applied equally to all hospitals.

Last year, for example, the overall negotiated cap was 10.42 percent. (The hospitals actually spent a bit less.)

But within that overall figure, some hospitals had individual caps as low as 8.9 percent, and But'er Hospital, which is in the midst of a major expansion program, was allowed to increase its spending by 18.6 percent.

Actually, all of Rhode Island's hospitals, particularly those affiliated with Brown University, have been expanding in the last few years. Teaching programs, research programs and sophisticated technology have been added.

"We've been bringing costs down at a time when our programs have increased dramatically," said Dietz. "The hospitals can be quite proud."●

Mr. NELSON. Mr. President, how much time does the Senator from Wisconsin have remaining?

The PRESIDING OFFICER. There are 13 minutes remaining.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. NELSON. I had agreed to yield to the distinguished Senator from Maine who, I understand, desired to propose an amendment.

Mr. MUSKIE. That is correct.

Mr. NELSON. Is there time allowed on each amendment to these amendments, may I ask the Chair, or is that the amount of time that the author of the amendment has?

The PRESIDING OFFICER. An amendment in the second degree will be in order when time has expired on the amendment in the first degree. There are 20 minutes of debate equally divided on each side.

Mr. NELSON. It is not in order at this time?

The PRESIDING OFFICER. Not without unanimous consent.

Mr. NELSON. I ask unanimous consent that the amendment to be proposed by the Senator from Maine be permitted to be taken up.

Mr. JAVITS. Mr. President, reserving the right to object. It may be necessary for a little more time because there are a number of us who would like to make statements.

Mr. NELSON. I understand the time will be charged to the Senator from Maine's amendment.

The PRESIDING OFFICER. If there is unanimous consent, 20 minutes to Senator MUSKIE, equally divided, those 20 minutes would not impinge on the Senator's amendment.

Mr. NELSON. I ask unanimous consent to that effect.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Mr. President, reserving the right to object, is the Muskie amendment an amendment to the Nelson amendment?

Mr. NELSON. Yes; it is simply an amendment to allow a State creating its own voluntary program prior to July 1, 1979, 1 year to prove their case.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. If I may put a question to the Senator from Wisconsin, is this amendment being offered by the Senator from Maine acceptable to the Senator from Wisconsin?

Mr. NELSON. Yes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wisconsin?

Mr. NELSON. And I think it is acceptable to the Secretary of HEW, as a matter of fact.

Mr. MAGNUSON. Will the Senator yield for a question?

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Maine is recognized.

Mr. MAGNUSON. Under the so-called Nelson amendment, it is my understanding that a State like my own State of Washington——

Mr. NELSON. Yes; the Senator from Washington raises a question about what the effect is if a State has in place its own mandatory program: Are such programs exempt under any provisions of this pending amendment, even though it was triggered for cost control? The answer is "Yes."

Mr. MAGNUSON. Such as that of the State of Washington.

Mr. NELSON. Such as that of the State of Washington.

Mr. MAGNUSON. I thank the Senator.

Mr. MUSKIE. Mr. President, I yield 2 minutes to the distinguished Senator from Michigan.

Mr. RIEGLE. I thank the Senator.

Mr. President, I would like to express my support for the amendment offered by the Senator from Wisconsin (Mr. NELSON).

The PRESIDING OFFICER. Excuse the Chair for interrupting. Does the Senator from Maine wish to offer an amendment?

UP AMENDMENT NO. 2065

Mr. MUSKIE. Yes; I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. MUSKIE) for himself and Mr. HATHAWAY, proposes an unprinted amendment numbered 2065.

Mr. MUSKIE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, line 21, insert the following: Strike out the word "subsection" and all that follows through "increase in the" on page 18, line 16, and insert in lieu thereof the following: "subsection (dd) of this section hospitals physically located in such State, if—

'(A) The Secretary finds that such State enacted prior to the enactment of this section a program capable of containing hospital costs for inpatient hospital services in the State which covers at least 90 per centum of the hospitals in the State, which would otherwise be covered under subsection (dd) of this section;

'(B) The Secretary finds that the State program applies at least to all revenues for inpatient hospital services of hospitals covered by the program;

'(C) One year after the effective implementation of the State program the Governor (or chief executive) certifies and the Secretary determines, that the aggregate rate of increase in revenues over the previous accounting year for inpatient hospital services for all hospitals in the State will not exceed (i) the increase that the Secretary estimates would be permitted if subsection 1861(dd) (including the passthrough of any increase in the * * *."

Mr. MUSKIE. I yield to the Senator from Michigan.

Mr. RIEGLE. Mr. President, I would like to express my support for the amendment offered by Mr. NELSON, which I believe forges a reasonable compromise between mandatory cost controls and the limited voluntary effort suggested by the Finance Committee. I believe the Nelson amendment should encourge effective, cooperative approaches to controlling hospital costs such as the innovative approach now underway in my home State of Michigan.

I would like to point out to my colleagues that the Nelson amendment does not, like Procrustes, treat all cost control approaches alike. Rather, it leaves ample leeway for innovative approaches to controlling hospital cost increases, provided they meet the ultimate test of success in the long run.

One of the most promising approaches to controlling hospital costs is, of course, prospective budget reviews. In the State of Michigan, a cooperative budget review mechanism involving providers as well as public and private payors has recently been developed and has begun to show promising results. It is my belief that this system, reinforced by a universal commitment on the part of health professionals to control cost increases, will enable Michigan to meet the voluntary goals.

I would like to point out, additionally, that the Nelson amendment we are considering today specifically exempts all new hospitals from the voluntary program. New hospitals would also be ex-

empt from the standby controls until they have had at least a 2-year chance to get underway and establish efficient procedures for providing essential health services to previously underserved areas.

More specifically, I would like to discuss with the sponsor of this amendment our understanding of the exemption processes provided for under his amendment. The Senator from Wisconsin has repeatedly explained that hospitals in a given State would be subject to the standby cost controls only if the national voluntary effort failed to meet its national goal, and if the average in that State also failed to meet the national goal. Even in such cases, however, the Secretary of HEW would be instructed to exempt State programs that have the capability of effectively controlling hospital cost increases.

These HEW-determined exemptions are designed, at least in part, to encourage the development of innovative and effective cost containment programs in the various States. In discussing the most promising cost containment mechanisms being considered, HEW representatives have repeatedly praised the type of prospective budget review mechanism recently implemented in Michigan. I would therefore anticipate that the Secretary would look favorably on this sort of cooperative approach—which involves State participation and, therefore, supervision without mandating complete State dominance of cost containment processes—in developing his policy on State exemptions. In addition, the Secretary would, of course, give considerable weight to the cost-containment accomplishments already achieved during the initial years of implementing such a statewide system.

Mr. NELSON. I thank the Senator from Michigan for his support of my amendment, and I would like to add that I wholeheartedly agree with his discussion of the implications of the amendment. This proposal includes a number of "escape valves" for effective cost containment programs, including the standby nature of controls if the national voluntary goal is met, the exemption for hospitals in States meeting the national goal, and the discretion given the Secretary of HEW to exempt additional programs that show promise of effectively reducing the rate of increase in hospital costs. In particular, I definitely agree that, in granting such exemptions, the Secretary would, of course, take into account both a State's experience in controlling costs in earlier years and the long-term potential of prospective budget review as a means of coping with inflationary pressures through cooperative means involving both public and private payors as well as health care providers.

Mr. RIEGLE. In order to clarify one additional matter concerning the interpretation of the exemption clauses of the amendment, I would like to ask the Senator if he agrees that a State could qualify for an exemption under section 1861 (ee) if the State uses differing methodologies for different payors?

Mr. NELSON. I thank the Senator for raising this issue. I can assure the Senator that a State could be approved for an exemption under section 1861(ee) even with several different methodologies within that State if all the other requirements for an exemption were met, and if the methodologies provide comparable results, taking into consideration the State's capability to move toward identical results in the near future. I understand that the Department of HEW concurs with this interpretation of my amendment, so I can assure the Senator that his understanding is correct.

Mr. RIEGLE. I appreciate the Senator from Wisconsin's assistance in clarifying this provision, and I wish to reemphasize my support for his amendment, which I hope may lend additional impetus to cooperative cost control efforts throughout the country.

Mr. MUSKIE. Mr. President, I will explain my amendment briefly. I have already discussed it with Senator NELSON. Before I discuss my amendment, I would like to say that I have had occasion to study all of these proposals for cost containment, and Senator NELSON'S to my mind, has been the best from the beginning; and I have been inclined to support it from the beginning. I think it is a happy combination stimulating voluntary action to bring costs down, and I do not really believe we can get independent effectiveness without voluntary participation, but also need mandatory programs to be enacted in the event voluntary programs do not work.

The purpose of this amendment, Mr. President, is to exempt from mandatory controls any State which enacted a hospital cost containment proposal prior to the enactment of the pending legislation. Federal mandatory controls would go into effect if a State which has enacted such a program did not, after 1 full year of operation, keep its hospital costs down to the level required by the Nelson amendment.

The effect on my State would be this: the last session of the legislature, last winter, enacted such a program. It takes 90 days under our constitution for legislation to take effect, and so the organizing for that effort has just begun, and so the program will go into effect next July. So it will take a year from next July to know the full effect of that program.

It seems to me that States in this situation ought to have that opportunity to prove out their programs. I have full confidence that the program will prove effective.

I think there is much to be said for stimulating effective State programs. I think it would reduce the bureaucratic load. I think it would, in many cases, if the programs are effective, do a better job. But in any case, as of now, when States have already enacted such programs, my achievement would simply give them that year to prove themselves effective.

I have discussed this proposal with the proponent of the Nelson amendment.

Mr. NELSON. Mr. President, let me say that I am happy to accept the amendment of the distinguished Senator from Maine. So far as I can determine, he addresses himself to the case in which a statute has been passed, but by July 1 there may not be enough experience for the Secretary to make a valid determination. This amendment, in that kind of a case, where a statute has already been passed, permits them to have 1 year to prove that their system will work. If not, of course, the Secretary can withdraw their exemption.

Mr. MUSKIE. I understand.

Mr. NELSON. I think it makes eminently good sense.

Mr. MUSKIE. I thank the Senator. Incidentally, this amendment is cosponsored by myself and my distinguished colleague from Maine (Mr. HATHAWAY).

Mr. NELSON. I yield back the remainder of my time.

Mr. MUSKIE. I yield back the remainder of my time.

Mr. NELSON. I move the adoption of the amendment.

Mr. MATSUNAGA. Mr. President, before the Senator does that, will the Senator from Wisconsin yield for a few questions?

Mr. NELSON. As soon as we adopt the amendment. I move the adoption of the amendment.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. MUSKIE. All remaining time is yielded back.

Mr. CHAFEE. Mr. President, will the Senator yield for a question?

Mr. NELSON. I yield.

Mr. CHAFEE. Mr. President, we are moving, now, on the adoption of the Muskie amendment?

The PRESIDING OFFICER. That is correct.

Mr. CHAFEE. We will soon have a time to inquire as to the Nelson amendment?

The PRESIDING OFFICER. That is correct.

Mr. CHAFEE. Why yield back all the time now on the Muskie amendment? We may need that later. Why not reserve the time?

The PRESIDING OFFICER. Time must be yielded back now before the question is put.

Mr. MUSKIE. I would have no objection to utilizing the remaining time on my amendment. I yield to the Senator from Rhode Island.

Mr. CHAFEE. May I direct a question to the Senator from Wisconsin on the Muskie amendment?

Mr. MUSKIE. I have no objection.

Mr. CHAFEE. I have a question for the Senator from Wisconsin.

Mr. NELSON. I wonder if the Senator will withhold. I did agree to respond to the Senator from Hawaii.

Mr. CHAFEE. Fine.

Mr. NELSON. We have not yielded back our time, I take it.

Mr. MATSUNAGA. I thank the Senator from Wisconsin for yielding.

The PRESIDING OFFICER. Time still remains on both sides.

Mr. MATSUNAGA. As I understand it, the Senator from Wisconsin had modified his amendment by accepting the Stone amendment; am I correct.

Mr. NELSON. That is correct. There were amendments proposed by Senator STONE and Senator CANNON, and I thought they were very good additions to the legislation, and they were incor-

porated in a modified amendment that I sent to the desk. So that is the amendment that is pending, and it does, as I am sure the Senator is familiar, permit any hospital in any State, if there is a trigger of the controls, even though that State is covered by the controls, if that hospital meets the national voluntary goal, that hospital is exempt; and it also contains a provision on rapid growth, to take into consideration the growing populations of different States.

Mr. MATSUNAGA. About the Senator from Wisconsin so modifying his amendment, in the event that the Senator's amendment, as modified, is agreed to and it becomes law, assuming that a hospital in the State of Hawaii does not meet the State standards but does provide, perhaps, a semblance of effective standards; who is to determine whether that one hospital is operating efficiently so as to qualify within the Stone amendment, as accepted by the Senator from Wisconsin?

Mr. NELSON. All hospitals now make an annual report on their costs. So if any hospital in Hawaii in its report is showing that it met the national goal, it is automatically exempt even though the State may not meet the national standard.

Mr. MATSUNAGA. The national goal being the ceiling of 15 percent, is it?

Mr. NELSON. Here is the way that works: The assumption is, though not finally determined, that starting in 1977 there should be a 2-percent reduction in the rate of increase, not in the expenditure in the first year, and 2 percent in 1979, a total of 4-percent reduction nationally in the average rate of increase in hospital costs, and that would hold through 1982. That is the American Hospital Association voluntary effort.

The assumption is that we are starting at 15.6 for 1977, and that a 2-percent reduction in 1978 would bring it to 13.6 and a 2-percent reduction in 1979 would bring it to 11.6. So if the Nation meets 11.6, this amendment never goes into effect at all. We all hope it does, and there are many hospitals which are doing very well.

We hope we never trigger it. But if, in fact, the national rate does not get down to the 11.6 rate of increase, which is at least 1½ times the national inflation rate, the controls would trigger. If they triggered then, only those States that did not meet the national goal of 11.6 would be covered by mandatory controls, with further exceptions.

No hospitals with 4,000 or less annual admissions would be covered in any event. That is half of the hospitals in America.

The next exemption is that even if a State did not meet the national goal of 11.6 but had in place an approved plan for controlling costs, and even though their costs were 12.6 or 13 or 14, whatever, if they had a plan in place to meet it and it was approved by the Secretary, they would be exempt, too, because they are going to get down to that level.

In the case of Hawaii, if they have a plan in place which is approved, or have one in place by July 1978, they would be exempt under any circumstance. If they meet the 11.6, they are exempt under any circumstance. And if they do not meet 11.6, any and all hospitals within Hawaii that do meet it would be exempt even though the State itself was not.

Mr. MATSUNAGA. So that the Senator's amendment, as modified, would not seek to impose a national standard as a whole but would take into consideration the differences as they exist from State to State.

Mr. NELSON. That is correct.

Mr. MATSUNAGA. I thank the Senator for his answers. I commend the Senator for accepting the modification.

The PRESIDING OFFICER (Mr. ABOUREZK). If the Senators will suspend, the time of the proponents has expired. There is 10 minutes remaining to the manager of the bill on this second-degree amendment.

Mr. NELSON. I would like to reserve that time and agree to yield to the distinguished Senator——

The PRESIDING OFFICER. The Senator does not have any time remaining.

Mr. MUSKIE. There is time of the manager on my amendment, is there not?

The PRESIDING OFFICER. But it is controlled by Senator TALMADGE.

Mr. NELSON. Does the Senator from Wisconsin have any time left?

The PRESIDING OFFICER. The Senator from Wisconsin has no time left on the second-degree amendment.

Mr. NELSON. Does the Senator from Maine have any time left?

The PRESIDING OFFICER. No.

Mr. NELSON. Then we should vote on the amendment.

The PRESIDING OFFICER. Let me clarify this. The Senator from Georgia has 10 minutes on the amendment which has not been used and that time is available if he wishes to yield. I recognize the Senator from Massachusetts.

Mr. KENNEDY. This is a very important matter. I just want to propose a unanimous-consent request, whether we can get an additional 15 minutes for the Senator from Wisconsin and an additional 5 minutes for the Senator from Georgia.

Mr. TALMADGE. Let us make it 10 additional minutes for the Senator from Wisconsin and I will not ask for any.

The PRESIDING OFFICER. Does the Senator from Georgia yield his time to the Senator from Wisconsin?

Mr. TALMADGE. Yes.

Mr. JAVITS. Will the Senator yield?

Mr. NELSON. I will yield whatever time the Senator desires.

Mr. KENNEDY. Will the Senator reserve 3 minutes for me?

Mr. NELSON. Yes. I yield 4 minutes to the Senator from New York, who has done a great amount of work on this amendment.

Mr. JAVITS. I yield 1 minute to the Senator from Rhode Island.

Mr. CHAFEE. I would like to ask a question of the Senator from Wisconsin. If we have a situation where the national average percentage of increase in 1977 was 15 percent, just assuming that, and a State's increase, because they had a program in effect, was only 10 percent, in 1978 the State does not have to go down to 8 percent? As long as they are below 13 percent they are not triggered into Federal controls?

Mr. NELSON. That is correct. They do not have to go below 8. They would be well below the national average. In fact, they could go up.

Mr. CHAFEE. They could go up. So the point is if a State is below the national average, they do not have to go below it in 1978 or 1979, they do not have to go to 2-percent below what they had in the previous year. All they have to gear themselves to is the national average rate of increase?

Mr. NELSON. That is correct. If the national goal is a reduction of 4 percentage points from 1977 to 1979, if that ends up at 11.6 and the State was at 10, it could go up to 11.6, if it wanted to. If it is at 11.6, it does not have to go down lower. Furthermore, if the rate of inflation went up, say to 8 percent, the national rates would go up because they are permitted to have a rate of increase of 1.5 times the rate of inflation. So if inflation went to 10 percent, they would be allowed to increase their rate to 15 percent.

Mr. CHAFEE. I thank the Senator very much.

Mr. JAVITS. Mr. President, I rise to express my support of the Nelson amendment.

Mr. President, It is the kind of compromise which we always seek. I would like to point out the salient differences between it and the approach which the manager of the basic bill has taken.

Let me pay a tribute to Senator TALMADGE. He has been wonderful on this issue. We may disagree on this particular matter, but I know of nobody who has had a sharper eye for how to cut down on medical care costs. So, if we differ, it is only in detail and not in the fundamental thrust at all.

Mr. TALMADGE. I thank my distinguished colleague.

Mr. JAVITS. The detail is that we are trying to reach all costs, whereas Senator Talmadge's amendment, as far as it goes, tries to reach medicaid and medicare costs. That it does well. Indeed, so well, that this amendment in terms of all costs is heavily built, almost completely built, upon the Talmadge amendment. So that is a fundamental point that Members should know about when they vote.

We are trying to reach in the Nelson amendment limitations on all costs with full precautions. Senator TALMADGE has had a limited objective.

As far as it went, it is fine.

Second, Mr. President, and this is very important, we want to allow the hospitals to have their voluntary shot. We are raising them two points in the second year; that is, 1979 and onward. But essentially, we want them to have their opportunity to decrease their costs themselves. If they do, they are free of controls and so on. We make it four points after 1979.

Last, Mr. President, we seek a pass-through of increases in the wage rates of "nonsupervisory employees."

Mr. President, there are tens, really hundreds, of thousands of employees involved that are known to have very low

wage scales. We just did not feel that we wanted to put the pressure of wage controls under this guise on them and felt that that was not necessary to effect the desired result.

Those are the differences and those are honestly and directly stated with the Muskie amendment and the Stone amendment. On the Hawaiian question, many States have individual problems. This is the solution and I hope very much the Senate will accept it.

Mr. President, for the past several years I, along with other Members of Congress, officials in the administration, and leaders from a diverse group of organizations in the private sector have grown increasingly alarmed at the tremendous rise in health care costs, much of which has taken place during the last 15 years. In 1963 the Nation's total health bill amounted to $32.4 billion; today that figure has climbed to $183 billion.

An increasingly significant proportion of these health care expenditures is devoted to hospital care. Consider, for example, these statistics recently issued by the Department of Health, Education, and Welfare:

The nation's hospital bill jumped from $3.8 billion in 1950 to $55.4 billion in 1976—a 15-fold increase—while the GNP increased only six-fold. This costs each person $254 or each family $890 a year and pushes the total annual medical bill per family to over $2200.

Since 1965, the rate of increase in hospital costs has accelerated to 15 percent per year—doubling every five years. It is estimated that, if left unchecked, this growth rate would lead to hospital expenditures of $220 billion by 1985.

Since 1965 the cost of an average hospital stay has jumped from less than $300 to over $1300.

Hospital costs are the largest and fastest growing portion of medical expenses. Today, hospital outlays account for 40 percent of all health care costs as compared to just over 30 percent in 1950.

These staggering statistics call for immediate remedial action. If we are ever to achieve equity in the delivery of medical care in this country, containing health care costs must receive our priority attention. Since hospital costs represent such a large proportion of overall health care expenses, I firmly believe that enacting a carefully designed program aimed at controlling hospital costs would be a wise first step which would move us closer to our goal of controlling all health care costs.

The administration introduced in April of last year the Hospital Cost Containment Act of 1977. This measure, if enacted, would have set an annual limit of approximately 9 percent on hospital cost increases. The Human Resources Committee, of which I am ranking minority member, reported a modified version of this bill in July of last year. Since that time, the legislation has become bottled up in other congressional committees. In the meantime, however, I am pleased to note that an effort has been undertaken by key organizations in the private sector—the American Medical Association, the American Hospital Association, and the Federation of American Hospitals—to fight voluntarily hospital cost inflation. This initiative, called by industry leaders the Voluntary Effort (VE), has my full support. The goal of the Voluntary Effort is to reduce hospital cost increases by 2 percent per year for the next 2 years and remain steady thereafter. In 1977, total hospital expenses increased 15.6 percent. In order to achieve the VE goal by the end of 1978, the rate of increase should be 13.6 percent. I have been pleased to learn that initial reports from representatives of the Voluntary Effort indicate that for the first 5 months of 1978 the increase in total hospital costs was 12.7 percent.

Despite the initial short-term success of VE, I have serious concerns about the long-term viability of such an effort. I am concerned that the industry on its own initiative will not be able to sustain the momentum necessary to turn this effort into a permanent reform. Therefore, while I believe that the voluntary effort should be given every reasonable opportunity to succeed, I also firmly believe that the Congress should take immediate steps to enact a program which could be activated in the event that the voluntary effort is not able permanently to control hospital costs.

This standby approach to hospital cost containment is embodied in the Nelson amendment. Unlike the administration's original cost containment proposal or the Human Resources Committee-passed bill, the Nelson proposal would trigger Federal controls only if the voluntary effort fails to meet its self-imposed targets. This approach, of course, allows the voluntary effort to succeed or fail on its own merits. However, standby authority must be viewed as an important element of an overall cost containment strategy. In the event VE fails, I believe the best interests of this country would not be well served if additional time were allowed to elapse while the Congress debated various cost containment strategies.

The cost containment provisions in H.R. 5285 (the Talmadge bill) are confined to setting medicare and medicaid limits on routine operating costs. While I cosponsored this measure and fully support passage of the bill, I believe it has two serious deficiencies which would be remedied upon adoption of the Nelson amendment. First, by limiting cost containment efforts only to medicare and medicaid, cost savings which would be realized through a more comprehensive cost containment program cannot be achieved.

Second—and more important—I fear that an unavoidable consequence of the Talmadge approach would be undesirable and unintended discrimination against this country's poor and aged. The proposed constraints on routine service costs contained in the bill acknowledge the need for holding down the currently unacceptable rate of hospital cost inflation. However, imposing such limitations only on medicare and medicaid virtually invites further discrimination by private hospitals against medicare and medicaid beneficiaries. In addition, these selective limitations bear disproportionately hard on those public hospitals which now serve large numbers of medicare and medicaid beneficiaries, thereby reducing the ability of these already financially strained institutions to provide quality care to the poor and elderly.

While I recognize and fully support the need to enact measures which will achieve cost savings in Federal programs, I do not believe we should blindly adopt such programs at the expense of the poor and aged. To do so, in my opinion, would be tantamount to abdicating the responsibility that the Federal Government has to these citizens. In pursuing cost containment programs, we must insure that no single segment of the population is unfairly burdened with the effects of such programs.

The Nelson amendment builds on the approach adopted in H.R. 5285, but in my opinion provides for a more complete cost containment strategy. First, it recognizes the hospital industry's voluntary goals for limiting the rate of increase in hospital expenses. Second, it remedies the deficiencies which I mentioned earlier by putting in place standby controls which would cover all inpatient costs for all payors if the voluntary goals are not met.

I believe this is an important, if not critical, amendment which warrants the support of every Member of Congress. In my judgment, this amendment represents a sound approach to hospital cost containment. I urge my colleagues to vote in favor of the Nelson amendment.

Mr. SASSER. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 10 seconds.

Mr. SASSER. Mr. President, after careful deliberation and consideration, I have concluded that the amendment offered by the distinguished Senator from Wisconsin is worthy of my support and I shall vote for it.

The approach of the Senator from Wisconsin encourages continuation of the voluntary industry effort to contain hospital costs, but it permits the imposition of cost controls if the voluntary effort is unsuccessful. My hope is that controls will not be necessary. With the exception of August's 1.3 percent increase in health costs, the voluntary effort has been relatively successful. The 1.3 percent increase disturbs me, however, and I hope that it does not portend a new cost increase trend.

If there is a new cost-increase trend, this amendment is designed to protect American consumers from drastically increasing hospital costs. There is no such protection now, and my constituents have long implored me to encourage passage of legislation to provide this safeguard.

I would like to share with my colleagues some of the views expressed to me by concerned Tennesseans.

A small businessman from Chattanooga wrote:

Very seldom do I write any of our government officials, but recently I saw where Washington refused to put a lid on hospital costs. This came as distressing news to me. How long is it going to be before the American public's interest is aroused, as far as reasonable medical cost relief is concerned?

Every facet is outrageously unreasonable, as far as cost is concerned. At a luncheon, the other day, while we were all grumbling about the ridiculous medical situation in this country, one of the fellows sitting at our table remarked that Socialized Medicine, as they have in England, could not be any worse than what we have here. It has just about reached the point, in this country, where it is out of the reach of a lot of folks.

An elderly gentleman from Memphis expressed his problem this way:

There has been a lot said the past few years about the extremely high cost of medical care, but very little, so far, has been done to ease the burden on most people, especially us elderly people on low fixed incomes.

A recent experience with this problem has prompted me to write this letter. My wife and I are in our seventies and are trying to survive on very limited income. My wife entered the hospital recently for the purpose of having a small cyst removed from her arm. The operation took approximately twenty minutes. She stayed one night in the hospital. The surgeon's bill was $370; the hospital bill was $440, and the anesthesiologist's bill was $156. Adding to these bills a few incidentals, and the total cost of this minor operation came to nearly $1,000.

Medicare paid $108 on the surgeon's bill; approximately $300 on the hospital bill and $56 on the anesthesiologist's bill, leaving over $500 for us to pay out of our pockets.

We feel that these charges are completely unreasonable and are working a tremendous financial hardship on thousands of elderly people on low fixed incomes, and that some kind of legislation should be enacted to give some relief to the many people like us.

We hope that you will use your office and position to do whatever you can to stop, or at least slow down, the continued spiraling cost of medical care.

Finally, a citizen from Gatlinburg, after discussing a recent visit to his doctor, stated:

For those of us in the middle (fixed income) brackets, health care is becoming so high priced that we no longer can afford it. We aren't too interested in socialized medicine, but surely would like to see a ceiling on costs—or else the easiest way out would be "hope to die". Thanks if you will give this your consideration.

Mr. President, I share the opinions of these three Tennesseans: Something must be done. Senator NELSON's approach is balanced and fair. I endorse it as the best way to reach the problem without upsetting the voluntary efforts of the medical industry.

I realize that this decision will be unpopular in some quarters. It is not a decision made lightly, but it is a decision which will benefit all the people of Tennessee.

The PRESIDING OFFICER. Will the Senator yield back his time?

Mr. SASSER. I yield back the remainder of my time.

Mr. NELSON. Mr. President, how much time does the Senator from Wisconsin have left?

The PRESIDING OFFICER. The Senator from Wisconsin has 4 minutes remaining.

Mr. NELSON. I yield to the Senator from Massachusetts whatever time he needs.

Mr. KENNEDY. Mr. President, I welcome the opportunity to join with the Senator from Wisconsin on this amendment. I think, from the earlier vote, that it is very clear that the sense of the Senate is to try to give the voluntary system an opportunity to function. I think the Senator from Wisconsin has effectively stated the views of the hospital association and they said that they could live by these guidelines, the 2-percent reduction in the first year, and the 2-percent reduction thereafter, "OK, we will develop an amendment that will say we will follow and see what you can do with the voluntary sector for these next 2 years before we implement the other provisions of the legislation."

It seems to me that this is where the Senate wants to go. This is really the last opportunity for the Senate to take meaningful action to save the American taxpayer, the elderly citizens as well as for workers, billions and billions of dollars over the next several years in this area of cost containment. In the voluntary effort, the bill establishes for 2 years the goals which the hospital sector itself said they could live up to. It really brings a blending of interests of the voluntary sector as well as a final judgment that if, after 2 years, that is not realized, not achieved, the other provisions will be implemented.

With the acceptance of this amendment, we can at least give assurance to the millions of taxpayers that we shall be saving them billions of dollars. This is the last opportunity to do it.

I certainly urge the Members to join in this amendment. It is a sound one from a cost point of view, it is a sound one from a quality of health point of view, it is a sound one from the view of saving the taxpayers money.

Mr. President, I should like at this point to have printed in the RECORD a list of about 30 organizations—life insurance companies, health planning organizations, HMO's, a number of different groups, business groups, worker groups—that support this program.

Mr. NELSON. Will the Senator yield?

Mr. KENNEDY. Yes.

Mr. NELSON. I wonder if the Senator is looking at this long list of 30-some organizations?

Mr. KENNEDY. The Senator is correct. It starts with the life insurance companies, the insurance companies themselves.

Mr. NELSON. I think it is a very important point to get into the Record. The U.S. Conference of Mayors support it, Aetna Life Insurance, the Lions of America, the American Association of Retired Persons, American Nurses Association, American Health Planning Association, American Association of State and Territorial Health Officers, Group Health Association of America—a whole, long list—National Association of Counties.

Mr. KENNEDY. Could the Senator, just in the brief time remaining, yield to me? As I understand it, just about every organization supports it. It seems to me that those involved in the whole health industry, whether it is the insurance companies, professional organizations, or those who represent other groups, support it. There are only two who do not, the hospital associations and the American Medical Association.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Aetna Life and Casualty.
Alliance of American Insurers.
American Association of Retired Persons.
American Health Planning Association.
American Nurses Association.
American Public Health Association.
American Speech and Hearing Association.
Association of State and Territorial Health Officers.
Connecticut General Life Insurance Company.
Epilepsy Foundation of America.
Family Health Program.
Group Health Association of America.
Health Insurance Association of America.
Kaiser Foundation Health Plan.
Kemper Insurance Company.
National Association of Casualty and Surety
National Association of Community Health Centers.
National Association of Counties.
National Association of Life Underwriters.
National Caucus on the Black Aged.
National Coalition of Hispanic Mental Health and Human Services Organizations.
National Conference of State Legislatures.
National Council of Community Mental Health Centers.
National Council of Senior Citizens.
National Governors Association.
National Indian Council on Aging.
National League of Cities.
National Mental Health Association.
Prudential Insurance of America.
United Auto Workers.
U.S. Conference of Mayors.

Mr. MUSKIE. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator HATHAWAY.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HATHAWAY

I am pleased to offer with my distinguished colleague from Maine an amendment to the Nelson amendment to H.R. 5285 to exempt from mandatory hospital cost controls those States which have enacted hospital cost containment legislation prior to the enactment of the Nelson proposal.

This amendment will give those states which have already enacted laws, but have not had their programs in effect for at least one year, a chance to demonstrate that their programs are effective in keeping costs down. I fully support the Nelson proposal because I believe we must act now to ensure that hospital costs are contained. However, I have been concerned that, as introduced, the Nelson measure failed to address the special situation posed by states which had been responsible enough to enact a state cost control law, but had not yet had a year of operation to show that costs were in fact kept down, as required by the Nelson amendment.

The amendment which we are offering recognizes the current state efforts to contain hospital costs by providing an exemption from mandatory controls for those states which have enacted cost control programs. The exemption would be for a period of one year from the date of implementation of those programs. If, at the end of that time, the Governor certifies and the Secretary of HEW determines that the state program is capable of keeping the increase in hospital revenues in line with the mandatory goals, the state would be eligible for continued exemption from mandatory cost controls.

Mr. NELSON. Let me say to the Senator from Massachusetts that we do have time on the bill if he needs some.

Mr. KENNEDY. No.

Mr. NELSON. I thought it was important to point out that almost every group in America involved in health endorses this. It has a very broad-based support across the country.

The PRESIDING OFFICER. The time of the Senator from Wisconsin has expired.

All time has expired on this amendment. The question is on agreeing to the amendment.

Mr. KENNEDY. Yeas and nays, Mr. President.

Mr. BUMPERS. Mr. President, has the Muskie amendment been adopted?

Mr. MATSUNAGA. This is the Muskie amendment, is it not, that time has expired on?

Mr. BUMPERS. I ask recognition, Mr. President.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Has the Muskie amendment been adopted?

The PRESIDING OFFICER. No, it has not. That is the question at this point.

The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The Chair reminds the Senator from Arkansas that the underlying Nelson amendment is still pending and the amendment would have to relate to that.

Mr. BUMPERS. The amendment is an amendment to the Nelson amendment, Mr. President. I ask for its immediate consideration.

Mr. TALMADGE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TALMADGE. As I understand the parliamentary situation, no amendment is in order to the Nelson amendment until all time has been yielded back by both sides.

The PRESIDING OFFICER. The Senator is correct. The amendment is not in order unless by unanimous consent.

Mr. TALMADGE. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. A moment ago, there was a unanimous-consent request that the Senator from Wisconsin have an additional 10 minutes and the Senator from Georgia yielded his remaining 10 minutes to the Senator from Wisconsin. Now all that time is used. Has all time expired and are amendments to the Nelson amendment in order?

The PRESIDING OFFICER. The Chair states to the Senator from Arkansas that the time has expired on the Muskie amendment. The Muskie amendment has been acted upon. There is time remaining on the Nelson amendment. In fact, the Senator from Wisconsin has 10 minutes remaining, the Senator from Georgia has 20 minutes remaining on the underlying Nelson amendment. It would require unanimous consent at this point for the amendment of the Senator from Arkansas to be considered.

Mr. TALMADGE. Mr. President, the committee opposes this amendment.

It is similar to an amendment which the Finance Committee rejected by a vote of 7 to 11.

The amendment would establish standby controls on hospital revenues.

The controls would apply to most hospitals in the event of failure of the so-called voluntary effort.

It is said that the Nelson amendment builds upon the system of hospital classification and comparison established under the committee bill.

The committee provision is used only for purposes of medicare and medicaid reimbursement.

Mr. President, the Nelson amendment differs significantly from the committee bill—apart from its potential application as a form of price control on most hospitals.

The committee bill would allow increases above ordinary limits where the wages of nonsupervisory personnel were less than those prevailing in the area for reasonably comparable work.

In contrast, the Nelson amendment allows a blank check for wages of nonsupervisory hospital personnel without regard to whether they are below average or above average relative to prevailing pay in an area.

Thus, a major part of hospital budgets would be uncontrolled.

While there are obvious exceptions, here and there, on a national basis, according to BLS, the wage levels of nonsupervisory hospital workers had, by 1977, caught up with and passed wage levels for comparable work outside of hospitals.

Again, there is no justification for a blanket wage passthrough.

The committee bill applies to all hospitals—small or large.

It differentiates by establishing separate groupings based upon size, type, and location of hospital.

Efficiency and inefficiency may be found within the hospitals in each grouping.

In contrast, the Nelson amendment exempts all hospitals with less than 4,000 admissions annually.

On the surface, this appears sensible.

These hospitals account for about 10 percent of all hospital revenues.

But there is a fatal flaw in this reasoning.

Apart from those areas which have only one small hospital, there are many areas of the country where the multiplicity of small, low-occupancy hospitals has an adverse impact on the larger hospitals.

They drain and divert patients from the larger hospitals contributing to occupancy and costs problems.

For example, Los Angeles and Orange Counties in California have been cited repeatedly as "over-bedded" and with too many hospitals.

Yet, many small hospitals in those counties would be exempt under the 4,000 admissions test in the Nelson amendment.

The committee bill requires annual recalculation of the average costs of care in all hospitals in each grouping.

Hospitals below the average receive incentive payments from medicare and medicaid.

Hospitals whose costs do not exceed the average by more than a specified amount are paid their actual costs.

Hospitals whose costs are above the limit are paid only at the limit.

In recalculating the average costs each year, under the committee bill one-half of hospital costs in excess of the limit are disregarded.

In contrast, under the Nelson amendment all costs in excess of the limit would be disregarded in calculating the average.

The effect of this is to severely ratchet down the average from 1 year to the next.

A conscious decision was made with respect to the committee bill not to exclude all excess costs but only one-half.

The reason was not only the severe downward effect but also a real sense of potential inequity.

We wanted to allow some reasonable latitude—particularly during the initial several years of the program—while the skills and state of the art of costs comparison advanced to the point of reasonable confidence in our ability to say "you're efficient and you're inefficient." The Nelson amendment does not allow that necessary latitude.

There are other differences between the basics of the committee bill and the Nelson amendment but I believe I have dealt with the major conceptual distinctions.

Mr. President, we do not need to vote for standby hospital price controls now.

The voluntary effort of the hospitals to moderate their increases in costs is conceded to be "on target" this year.

We can evaluate its effectiveness again next year.

We can act to establish overall hospital revenue limits next year—if necessary.

The amendment is potentially inflationary because, if enacted, it could well stimulate anticipatory charge and cost increases.

As it stands, it may well impair the quality of care and service in many outstanding hospitals doing a responsible job of watching their expenses.

At the same time, it may only marginally affect those hospitals with substantial room for improvement in managing their costs.

The Nelson amendment tries—but fails—to sort them out.

Mr. President, we will do what we have to do when we have to do it.

And, we do not have to do it now.

On behalf of the Committee on Finance, I urge the Senate to reject this amendment.

Mr. President, at the appropriate time, I shall make a motion to table, but I yield now such time as the distinguished ranking minority member of the subcommittee may desire.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. How much time remains?

The PRESIDING OFFICER. Thirteen minutes to the Senator from Georgia.

Mr. DOLE. Mr. President, there are four on this side who would like to speak. Are there any other requests for time?

Mr. TALMADGE. I think the Senator from Illinois desires time.

Mr. DOLE. He is one of the four.

If it is all right with the distinguished chairman, we can divide that 13 minutes.

Mr. TALMADGE. Two minutes each, and let me retain the remainder of the time.

Mr. DOLE. I yield 2 minutes to the Senator from Pennsylvania.

Mr. SCHWEIKER. I thank the Senator.

Mr. President, I would like to oppose the Nelson amendment. The Nelson amendment has some of the same faults the previous amendment had.

The most obvious one is that the wage passthrough feature is still in the bill. We still attempt to regulate prices, but not wages.

So we are still going to exempt from consideration 40 percent of the system to be placed under control, and we will still invite wage escalations, because one aspect will be controlled and one will not be.

A second problem relates to implementing the legislation. We are going to have to engage in a great number of statistical arguments about this hospital and that hospital.

As soon as we put an amendment in to exempt individual hospitals, I guarantee that every Senator's office is going to have dozens of hospitals coming into his office with a battery of lawyers to get exempted, and each Senator here is going to be arguing with or cajoling HEW about whether one of their hospitals back home is going to be covered or not.

So we are moving the problem right into the Senators' and Congressmen's offices, encouraging the Senators to be an advocate for their cause before HEW.

It is one thing to write exemptions for hospitals, but that determination would be made by HEW, and we know what redtape and bureaucracy that involves.

We will have every hospital camped on our doorstep to argue whether they did or did not meet that regulation 5 for an exemption. We will be the buffers and the administrators of the program.

Finally, there is another fault with this program. Whenever we move toward standby controls, history has shown that they are themselves inflationary. We learned that in the last wage and price standby controls. That is why we eliminated it.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. TALMADGE. I yield 2 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 2 minutes.

Mr. PERCY. Mr. President, we are here today to discuss the issue of hospital cost containment. I believe it is important that we realize that the true issue at hand here today is more complex than containing hospital costs. The issue at hand is really how to control this country's increasing inflation rates.

In 1976, expenditures for hospital care consumed 39.8 percent of the Nation's total health budget. It is important to recognize that inflation accounted for a larger proportion of the 1976 increase in hospital expenditures than did any other factor. Inflation represented $2.23 billion or 37.2 percent of the $6 billion increase in community hospital expenditures nationwide.

Currently, we have an inflation rate at 10.4 percent, a rate which is continuing to rise. In addition, inflation accounts for more than 9 percent of the annual increase in hospital costs. Yet, since 1970, the medical care index has risen less than food, fuel, and utilities.

With the implementation of medicare and medicaid, demand for services was augmented by the removal of financial barriers to care for the elderly and poor. There was a 26-percent increase in the number of admissions to hospitals between 1966 and 1976. As a result, we saw demand outstrip supply.

In 1969, 65.5 percent of the increase in hospital expenses per adjusted patient day could be attributed to increases in the quantities of goods, services and labor purchased. In 1975, less than 25 percent of the increased costs were due to greater quantities; the rest was due to increased prices of goods and services. And today, according to a recent analysis by Rate Controls, a hospital-industry publication, it is estimated that inflation to hospitals for the goods and services which they purchase will increase during 1978 by 8.4 to 8.9 percent. Thus, if these projections are accurate, the cost to hospitals for their goods and services will increase by this amount. With this in mind, I believe it is necessary that we examine the factors which contribute to the growth of hospital costs.

First, wage, salary, and fringe benefit costs are a major contributor to rising hospital costs. The health care industry employs five times as many people as the automobile industry; nationally it ranks third, after agriculture and construction, in terms of numbers of employees.

Sixty percent of the average hospital budget is payroll expenses. By contrast, wages account for an average of 28 percent of expenses in other U.S. industries. Thus hospital budgets are adversely affected by increases in payroll costs brought about by inflation, wage and benefit legislation, collective bargaining, and the need for additional and more highly trained staff.

Second, while technological innovations in health care have an undesired effect of increasing hospital costs, these same innovations in technology and services have also had a tremendous effect of healing or sustaining the lives of millions of Americans.

It is important to also note that 75 percent of today's drugs and 40 percent of today's laboratory procedures were unknown 10 years ago.

Third, the "increased demand" for health care services have contributed heavily to the increasing hospital costs. A HEW publication entitled, "The Size and Shape of the Medical Care Dollar" estimates that 46 percent of the increase in health care costs is due to overall inflation, and 15 percent to the result of population growth.

However, there are other factors which have contributed to the increased demand. As mentioned earlier, with the implementation of medicare and medicaid, the availability of hospital care services also increased. More people are able to afford hospital care, and many more Americans today have some form of hospitalization insurance, thus allowing greater access to hospital services. We also have a population which is living longer. Research indicates that with increasing age there is also an increase in usage of hospital services.

Fourth, Government regulation and intervention, sometimes known as redtape, are some of the most substantial contributors to increasing hospital costs. Eight Federal regulations alone add $22 to every hospital bill.

Fifth, professional liability is another factor which contributes to increasing hospital costs. Malpractice awards and trends boost insurance premiums and stimulate doctors to protect themselves by ordering more, and sometimes unnecessary tests, and, in some cases, longer treatment.

Specifically regarding Senator NELSON's amendment, it appears to establish an upper limit of payment of 115 percent of the average per diem routine cost for hospitals in each classification group. But it does not. The amendment provides that the computation of the group averages would exclude from consideration all costs in the previous year in excess of 115 percent. Under this methodology it is estimated that over 30 percent of all hospitals would be paid below their actual cost. While the intent of the Nelson amendment is to reward effective and efficient facilities, the pending amendment does not seem to work out that way. It would penalize those facilities with short stays and low costs per stay.

Furthermore, we must also be concerned about what impact the Nelson amendment would have on services. That is, what impact would this amendment have on maintaining existing services, and more importantly, on expanding services. We have a tremendous amount of medically underserved and unserved areas in this country, and we must give careful thought as to what impact the Nelson amendment would have if hospitals are not allowed to expand services into these areas.

Moreover, if the Secretary of HEW is given the authority to place "caps, or standby controls" on hospital costs, we must be prepared for a counterproductive effect; that is, that the hospital industry's response may very well be to raise prices right away, thus discouraging price decreases, and more importantly, discouraging any voluntary cost containment effort.

I think that was the point my distinguished colleague from Pennsylvania was very perceptively making.

The voluntary effort, on the one hand, recognizes the uniqueness of each individual hospital and the patients it serves. On the other hand, the Nelson amendment gives no recognition of individual hospital needs or the community needs, and would stifle the provision of needed services to citizens of this country, especially in unserved and underserved areas.

The objective of the voluntary effort is to achieve a 4 percent reduction in hospital cost expenditures over the last 2 years that the program is in effect. We must allow the voluntary effort sufficient time to prove its effectiveness before we impose Federal controls over the hospital industry that might well be counterproductive.

We are trying to repeal human nature. If we say it is like standby controls, what happens under standby controls? Labor wants to push wages up as fast as they can get them up, and as much as they can get, before wages are controlled. As to hospital costs, they cannot get caught. Therefore, they get their rates up as possibly as they can, and that will automatically bring on the very kind of controls that we feel would be inflationary and counterproductive in this effort.

The PRESIDING OFICER. The Senator's 2 minutes have expired.

Mr. TALMADGE. Mr. President, I yield 3 minutes to the distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, as the distinguished chairman, who is in charge of this bill, has pointed out, the Finance Committee went into this very carefully, and it was defeated rather decisively.

I concur in what has been said here by the Senators—Senator SCHWEIKER, Senator PERCY, and the chairman. Price controls have not been the answer to anything. Price controls without wage controls, and wage controls without price controls, are just inviting trouble. It will not be successful, as the distinguished Senator from Pennsylvania pointed out.

Also, I point out that this exemption for hospitals with not to exceed 4,000 admissions a year is not very much. That is about 11 admissions per day. So there is no great advantage to that.

Furthermore, Mr. President, this is not voluntary. It is voluntary—or else; and then it is no longer voluntary. It is the same as when you have the draft. You have a great many voluntary enlistments in the National Guard. It is voluntary because they volunteer—or else. So it has an element of coercion all the way through. It does not affect the big item of cost of hospitals—the wage cost.

It goes beyond the point we have a right to go. The committees having jurisdiction of this have jurisdiction over Government medical programs. We do not have jurisdiction to impose price control across the board for nongovernment medicine.

Mr. TALMADGE. Mr. President, I yield 3 minutes to the distinguished Senator from Kansas, the ranking minority member of the subcommittee.

Mr. DOLE. I thank the chairman.

Mr. President, I commend Senator NELSON for addressing a very serious problem.

The Senator from Wisconsin indicated that he would save $34 billion. I do not know how that figure was arrived at, but the most recent estimate is $23 billion. So I suggest that there is a difference in what can be saved, based on probable inflation——

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. DOLE. I do not have much time.

Mr. MUSKIE. I think it would be useful at this point to put that table in the RECORD.

I have shown this to Senator NELSON. These are the latest CBO figures, which are consistent with the ones the Senator from Kansas uses.

I ask unanimous consent to have this table printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ESTIMATE OF SAVINGS IN HOSPITAL COSTS FROM NELSON AMENDMENT (NO. 3478) TO H.R. 5285

[Effective date: Apr. 1, 1980; [1] in millions of dollars]

Fiscal years	Medicare	Federal medicaid	Total Federal	Other	Total industry
1980	(370)	(50)	420	640	1,060
1981	(1,330)	(170)	1,500	2,370	3,870
1982	(2,440)	(310)	2,750	4,520	7,270
1983	(3,810)	(500)	4,310	7,150	11,460
Total	(7,950)	(1,030)	8,980	14,680	23,660

[1] Assumes voluntary effort failing in 1979.

Estimate done by: Lawrence A. Wilson, Congressional Budget Office, Oct. 7, 1978.

Mr. DOLE. The point is, we do not know how much money will be "saved." We are not certain whether we have a good program or a bad program.

I note that everybody on the floor is trying to be exempt: "If you exempt Maine, you have my vote." "If you exempt Florida, you have my vote." "If you exempt Hawaii, you have my vote."

I am not certain what hospitals are left. Everybody talks about Federal mandatory controls. They are great, "if you don't include my State." That is the trouble with this approach.

I am not certain how you are going to have a test. There are no hospitals left.

I think every State is trying to devise some cost control program. Why not give them a chance? This is a Federal control program. If we find in the future that the hospitals do not comply with their voluntary programs, then perhaps we will have to do something.

I think the very weakness of this program has been demonstrated on the floor today by one amendment after another: "Take me out of the program, and I'll vote for it."

The Senator from Pennsylvania hit the nail on the head. If you are not exempt, how do you get exempt? You call your Senator, and he will get hold of somebody in HEW and will get you exempt. We will exempt this hospital in Topeka; we will exempt this hospital in Pittsburgh; we will exempt this hospital in Jackson, Miss.; and maybe, sooner or later, everybody will be exempt.

This is the wrong approach. Either it applies or it does not apply. Nobody is left. If we need four more votes, let us exempt Kansas and Pennsylvania. If we need six more votes, let us exempt Georgia. If we need eight more votes, let us exempt Mississippi. That is the weakness of the program.

Mr. President, earlier this year the American Hospital Association, the American Medical Association, and the Federation of American Hospitals initiated a voluntary effort to control hospital cost increases. The sponsors of this voluntary program have stated that the program is "intended to achieve a significant reduction in the rate of increase in health care costs." Specifically, the program aims to reduce the rate of increase in hospital expenditures by 2 percentage points a year for this year and the next, insure that no net increases in hospital beds occur during 1978, and reduce new capital investments during the coming year. The program is to be administered in large part at the State level.

Sponsors of the voluntary program believe that they can meet the objectives of their cost containment program; and, they believe it can be done without the threat of Federal intervention as outlined in the Nelson proposal. I believe that they must be given the opportunity to prove it. Therefore, I oppose the amendment as introduced by Senator NELSON.

ECONOMIC CONTROLS

The Nelson amendment purports to represent a compromise between the administration's "CAP" proposal and the Finance Committee's reimbursement reform proposal. But make no mistake about it, it is a form of a cap. The main difference is that it would only go into effect if the voluntary effort failed. It seems to this Senator, that the proposal for standby controls could serve to undercut the voluntary effort.

DISINCENTIVES TO VOLUNTARY EFFORT

For example, let us consider the hospital which has been efficient in the past. This hospital has little so-called fat to protect them if economic controls are put into place, based on their historical performance. This hospital may believe that their costs are so minimal that they will have little effect on whether or not the trigger is pulled. If they have been efficient in the past and the trigger is pulled because of the failure of the rest of the industry to hold down costs, they, too, will be faced with economic controls, so their efficient performance in the past will not protect them. On the other hand, they may also believe that if they increase their costs, they again will have little influence on the overall program, but would be protecting themselves by building up an increase in anticipation of a trigger being pulled. Their behavior may be mirrored by many other small hospitals and lead to the demise of voluntary effort.

WAGE AND PRICE CONTROLS

Mr. President, our experience with wage and price controls, such as the ones suggested, has shown that they are in-

effective in the long run and may actually result in increasing inflation. Similarly, attempting to bring hospital cost increases in line with an arbitrary goal based on the general inflation rate may have the same effect, because hospitals provide a unique set of services. The causes of cost increases in these services are tied not only to general inflationary trends, but also the changing quality and quantity of care provided.

Using a general rate of inflation, even with an attempt to look more carefully at those market basket items which a hospital utilizes in particular, there is still the imposition of an arbitrary numerical limit and the inherent inefficiency that may result.

QUALITY AND QUANTITY OF HEALTH CARE

Unfortunately, the imposition of an undifferentiated revenue ceiling which causes hospitals to seek out areas where hospitals can be controlled, may result in a loss of quality and quantity in health care. We cannot assure citizens that the fat in hospital expenditures, which Secretary Califano so gleefully described, will be the area where the hospitals choose to make their reductions. We may, in fact, see the elimination of vital services and a reduction in the quality of care.

Certainly, there may well be waste in unnecessary expenses. But it seems to me that we need to develop a system that sorts out the efficient from the inefficient hospitals and not settle for simple solutions in an area as complex as health care. It is argued that the incentives for patients and doctors also determine the behavior of hospital administrators. In fact, Harris argues that policymakers sometimes forget that "the hospital" is actually two separate "firms"—a medical staff that orders services and an administration that supplies them. Consequently, they also forget that the administration's control over hospital cost is limited. According to Harris, "the medical staff and administration are locked in a noncooperative oligopoly-type game * * *." Frequently, the only way to resolve conflicts over the control of hospital capacity is for the firm to get bigger and more complicated.

Our current regulatory policy toward hospitals is too one-sided. Attempts to control expenditures or restrict the supply of investment funds to hospital administrators without accompanying it at the level of the physician/patient relationship will lead to bitterness and bad medical care. Neither patients nor physicians have strong economic incentives to control hospital costs when 90 percent of such expenses are paid by insurors or the Government; most patients pay little, if anything, out of pocket for additional hospital services.

Both patients and doctors have good reasons to use more, and better, hospital services. Patients want to get well, and tend to trust their physicians' judgments about the best treatment. Physicians prescribe hospital services for a variety of reasons. One consideration is that in a fee-for-service system they are paid according to the number of services they deliver. Other factors which influence doctors to prescribe hospital services are: Their ethical responsibility to provide "the best possible care" for their patients, concern for the professional prestige attached to the use of high technology and specialization, and a wish to protect themselves from malpractice claims.

SHORT-TERM LIMIT VERSUS LONG-TERM REFORM

I, too, have a deep concern for the impact which escalating health care costs have had on all Americans. There is no doubt that serious budget pressures have come to bear on the medicare and medicaid programs, and on the population as a whole. But the Senator from Kansas believes that the best action we could take at this time is for the Federal Government to first address the problems of the reimbursement methods presently used by its own medicare and medicaid program. Improving the operating efficiencies of these programs while insuring that costs are not just shifted to non-Federal payors, will be a significant contribution to reducing escalating health care costs.

The Federal Government has contributed substantially to the shift from patient payment to third-party payment of hospital costs through the medicare and medicaid programs. Part A of medicare provides hospital insurance financed out of social security taxes for over 99 percent of those age 65 and older, approximately 25 million persons. Medicaid is a mix of Federal and State programs for the poor, each State has its own benefit levels and eligibility requirements. Medicare and medicaid systems reimburse hospitals for the portion of the hospitals' total cost attributable to their insured patients. Cost limits are established each year for the routine cost portion of hospital costs—essentially, the costs related to bed and board. Limits on ancillary services have not been established. Individual hospitals are assigned to one of various groups, depending on the hospital's size and the per capita income of the area where it is located. The cost limits of the hospitals in each group is set by a formula that establishes the limit high enough to permit the routine costs of well over 80 percent of the hospital to be covered in full.

I do believe it is necessary to reform our current mechanism for reimbursement. It is for this reason that I feel that the most sensible and reasonable approach toward hospital cost containment is represented by H.R. 5285, which contains the Finance Committee's provisions for medicare and medicaid reimbursement and administrative reform. This legislation, sponsored by the distinguished chairman of the Finance Health Subcommittee, Senator HERMAN TALMADGE, and a number of other Senators, including the Senator from Kansas, provides a long term structural answer to the problem of rising hospital costs. This effort, in addition to the continued efforts of the voluntary program, designed by the American Hospital Association, Federation of American Hospitals, and the American Medical Association, may not result in an immediate drastic reduction of health care costs but will, in the long run, help to alter hospitals' behavior while reforming the system. The end result will, without question, be cost savings.

ADDITIONAL EFFORTS TO CONTROL HEALTH CARE COSTS

Utilization review programs offer a second means of regulating health costs. The nationwide system of professional standards review organizations to review care provided to medicare and medicaid patients is beginning to show very positive results. The PSRO's which are community-based and operated by private physicians, are charged with insuring that payment is made only for services that are medically necessary; compatible with professionally recognized standards of care; and, in the case of inpatient hospital services, not as effectively provided on an outpatient basis or in a less expensive inpatient facility.

Clearly, PSRO implementation alone is not apt to cause significant changes in either hospital utilization or associated governmental expenditures, but it is an additional effort, Mr. President, one that we should give a chance.

STATE RATE CONTROL PROGRAMS

As of April 1978, 15 States have enacted legislation which requires the disclosure, review, or regulation of hospital rates or budgets. Additional States are considering such action. In some States these programs will be mandatory, in others, voluntary. There is a trend for individual States who are certainly more sensitive to their own population and needs to begin to consider more seriously efforts with respect to hospital costs. All of the plans that have been presented to us, Mr. President, suggest that the States have an opportunity to consider such action and, if successful, to be exempt from any Federal program. I believe that the best cost containment and cost control program will be the one which has the least Government interference.

I believe we can also count on the States to respond to the need for some action. State programs, coupled with reform in medicare and medicaid, coupled with the other activities in the area of hospital costs, certainly including the voluntary effort, will undoubtedly produce a positive result. A Federal triggered program is not necessary at this time, Mr. President, and is unwise to even suggest.

CONCLUSION

Mr. President, as I have indicated in the past, I do not believe we need to single out hospitals at this time for economic controls. I do believe, however, that reimbursement reform is in order and appropriate. I also believe that the private sector is making a real effort to keep down the rate of hospital increases and should be encouraged. I therefore, propose that we encourage these efforts—not by hovering and waiting for them to die—but by taking careful watch of and encouraging its progress.

If the voluntary effort should fail, if the States should fail to respond to

our plea, if reimbursement reform is unsuccessful, we could then move to consider other alternatives to moderate hospital costs. Let us not move precipitously, the health of the Nation should not be treated lightly.

I appreciate the efforts made by the distinguished Senator from Wisconsin.

Mr. NELSON addressed the Chair.

The PRESIDING OFFICER (Mr. HOLLINGS). The Senator from Wisconsin.

Mr. NELSON. Mr. President, I appreciate those delightful remarks by the distinguished Senator from Kansas, even though nothing he said was a fact. [Laughter.]

With respect to the question of the savings, it is correct that in the statement I released sometime ago, I used the figure $30 billion to $34 billion in savings. Those were the CBO and HEW estimates. As time went by, the CBO made another estimate, with additional facts in hand, and the estimate now is $23 billion.

Mr. CURTIS. Mr. President, will the Senator yield for a question?

Mr. NELSON. I yield.

Mr. CURTIS. How much of that saving was voluntary?

Mr. NELSON. I am advised by a staff member that CBO has factored out those elements based upon the voluntary effort alone.

Mr. President, the new figures by the CBO are $23 billion.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. MUSKIE. The table I put in the RECORD begins with fiscal year 1980, so it does not assume any savings attributable to the hospitals' voluntary efforts.

The fact is that the assumptions as to what hospital costs would be in 1980 through 1983 without any controls, voluntary or otherwise, were lower than was assumed in the earlier estimates. Now there are more recent figures, and it is on the basis of those recent figures that the latest table, with which Senator DOLE and I agree, was produced.

Mr. NELSON. I say to the Senator from Kansas that I corrected my remarks, before he made his remarks on the floor, to incorporate the latest CBO figures, which were received today.

However, that is an interesting point made by the Senator from Kansas: $23 billion will be saved by this measure. Of that, $8.980 billion are in Federal savings, Federal appropriations. In medicare, savings are $7.950 billion; Federal medicaid, $1.30 billion; and other savings, private sector and others, would be $14.680 billion.

This is a larger saving than has been made by any action of this Congress—perhaps any action of Congress so long as anybody can remember—in one proposal.

Furthermore, it is the most important contribution that we can make in the fight against inflation.

As I said once before, I hope the voluntary effort succeeds across the board, and maybe it will, and we will all cheer if it does.

One thing that will help improve the chances of the voluntary effort succeeding is for all the hospitals to know that if the national standard is not met then there will be mandatory controls and that those States that have a program of their own and those States that meet the national target will be exempt and the rest will come down.

For heaven's sake, who can argue that to control increases in cost at 1½ times the national rate of inflation is unreasonable? The fact of the matter is that for 10 years, the average over that 10-year period has been a rate of increase in cost at 2 to 2½ times the rate of the national increase in inflation.

What is so peculiar about hospital costs that they have to go up twice or 2½ times the rate of other costs in the whole economy? Why does it happen?

Well, they are all paid by third party payers. That is why. The Federal Government pays it. The insurors pay it. Someone else pays it but not the person who is going to the hospital, except indirectly in his taxes or in his insurance.

And about 5 percent of it is paid by that poor soul who does not have any insurance or is not covered by medicare or any other program.

So where is the discipline to require them to control costs? There is not any. When there is no discipline to control costs, of course, they will go up.

In those nine States that went ahead and put in a program, they are running at a 12-percent rate right now and they probably will be down below the national target in July.

If they can do it, why should not they all do it? And if they go ahead and do it on their own, this amendment does not affect them at all.

If we are going to save this country from being destroyed by inflation, there has to be something done about it. And all this amendment says is, go ahead and do it yourself, but if you do not, we are going to hold you to at least 1½ times the national inflation rate.

I do not think that is unreasonable. And it is a very imporant factor in expenditures in this country with hospital costs rising from the mid-1960's total of $12 billion to $68 billion last year. Someone has to stop it some place, and I am puzzled by the reaction of so many Members in this body and the other one who give marvelous speeches about how we have to stop spending, slow it down, stop inflation, but when you ask them to do something about it they all run for cover with excuses of one kind or another. Oh, we cannot do that, they say. We cannot do anything. To every proposal you make, someone has a marvelous excuse not to do anything. So the inflation and cost go on and on and on.

Mr. MATSUNAGA. Mr. President, will the Senator from Wisconsin yield for a question?

Mr. NELSON. I yield to the Senator from Hawaii.

Mr. MATSUNAGA. One of the greatest concerns I think of Members of this body is that cost control might bring the quality of hospital care down. Will the amendment, as modified, of the Senator from Wisconsin favor cost cuts over quality in hospital care?

Mr. NELSON. No; as a matter of fact, what we did in this amendment was adopt what the American Medical Association and the American Hospital Association said were the goals that they could get to. So we took what the doctors said and what the hospital administrators through their association said and we said: "All right, we will make that the target. If you meet it there are no controls."

So I am satisfied that the doctors and the hospital administrators would not set a target of more than 1½ times the inflation rate if they thought it was going to interfere with or in any way compromise or reduce the quality of medical care.

Mr. MATSUNAGA. So the answer is no, that the quality of hospital care under the Senator's amendment will not be reduced.

Mr. NELSON. That is correct.

In one of the finest clinics in America, and one of the largest ones, in the city of Marshfield, Wis., in a hospital with 155 doctors, there is magnificent medical care. If my memory is correct, they are down to a rate of about 9 percent, and there is no better care given in any other place or in any other hospital or in any other clinic that I know of in this country.

The PRESIDING OFFICER. The time of the proponents has expired.

Mr. MATSUNAGA. I thank the Senator from Wisconsin.

Mr. NELSON. I did not hear the Chair.

The PRESIDING OFFICER. The time of the proponents of the amendment has expired.

Mr. NELSON. Does the Chair mean to say I am going to sit here and never be able to respond to the Senator from Kansas?

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. TALMADGE. I yield.

Mr. CURTIS. Mr. President, no one can project costs 5 to 6 years in this inflationary period and say how much you are going to save.

Here is a guess that came out of HEW. It is dated August 1, 1978. Five-sixths of the savings under the Nelson proposal comes from the voluntary program. Five-sixths of it. I think probably the Nelson mandatory part will do more to spur prices, to get on while they can, than it will ever accomplish. This is the guess of the HEW.

I hope that inflation disappears, but there is no one who can guess on these things and so I do not submit it other than as a guess.

Mr. EAGLETON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, will the Senator yield to me?

Mr. TALMADGE. I yield to the Senator.

Mr. EAGLETON. Mr. President, in 1965, Mr. President, $41 bought a day's stay in the average American hospital. Today, just 13 years later, that amount buys a patient less than 6 hours of hospitalization. The rising cost of medical care commands increasing public attention, and it makes the general inflation of our economy look like small change.

The statistics on hospital costs have been often repeated, but I think they are worth going over again. Since 1950, the total amount of money we spend on health care has gone up fifteenfold, outpacing the general inflation rate 7 times over. The percentage of our gross national product comprised of health care expenditures has risen from barely 5 percent in 1960 to almost 9 percent today—no small increase considering the 13-digit dimensions of the GNP. Health care now consumes about 15 percent of the average family's budget. Forty percent of that health care expenditure pays for inpatient and outpatient care in hospitals.

But the story of runaway health costs is not just one of dry statistics. More importantly, Mr. President, it is the story of human suffering. Consider just a few of the case histories I have come across recently. Consider, for example, the case of a man in Oklahoma who died after being hospitalized for just 1 day. His wife received a bill for $6,587.78 for that 1 day's care.

Or how about the young man treated in a Maryland hospital after an automobile accident? He spent 3 days, running up a hospital bill of $31,507.46, plus physicians' fees of $1,865. More than $33,000 for just 3 days.

Another man—this one from my home State of Missouri—was hospitalized in Arizona for 1 day, and went home owing $1,560.

A woman in Georgia had premature twins. One baby was hospitalized for 1½ months, the other for more than 4 months. As you can imagine, the bill was staggering. More than $60,000 for a family which had no health insurance.

Despite these staggering increases, however, the health care cost spiral has had minimal direct impact on most consumers. This is because for most health care, private or Government insurance programs do pay the bill, a situation which is both good and bad. It is good, because with the cost of health care so high very few individuals can afford to pay the bills alone. But it is bad, because the third-party payment system provides little or no incentive for physicians, hospitals, or patients to control costs.

This is not to say that the health care industry is blithely unconcerned with the continuing spiral. Quite to the contrary, the industry in recent years has taken some commendable actions to lasso runaway costs. In response to the introduction of cost containment legislation, the Federation of American Hospitals, the American Hospital Association, and the American Medical Association announced a joint "voluntary effort" to curb increases in hospital costs. The goal of this voluntary effort is to reduce the rate of inflation of hospital costs by two percentage points in 1978, by four percentage points in 1979, and to hold cost inflation below the 1979 rate thereafter. The American Hospital Association estimated the 1977 inflation rate at 15.6 percent, which would mean targets for the voluntary effort of 13.6 percent in 1978 and 11.6 percent in 1979 and thereafter. Labor Department statisticians now believe that the total hospital cost inflation for 1978 may be less than 13 percent. so the industry effort appears to be ahead of schedule.

I am very pleased by this splendid progress, and I think the industry deserves to be commended for its effort. However, I am not prepared to leave well enough alone. While I realize that economic self-regulation and voluntary restraint almost always are better than Government-imposed controls, I also realize that it was not until the industry faced the very real spectre of compulsory cost containment that they made any real progress on curbing cost increases. Furthermore, it should be noted that the most dramatic decreases in hospital cost inflation have come in the nine States which already have some form of cost-containment law. In the remaining 41 States, hospital cost increases still average about 16 percent per year.

For this reason, I feel it is necessary that the Federal Government take some action to insure continued progress on the cost-containment front, and I think the most effective and reasonable such action is embodied in the Nelson amendment. Under the terms of this amendment, the hospital industry would be encouraged to continue its voluntary cost-containment program. This program would continue without Government interference as long as it meets with success. Should the hospital cost inflation rate rise back above the program's stated goals, compulsory cost containment would begin.

As a cosponsor of the Nelson amendment, I realize that it is not perfect—a statement I make with no disrespect for my distinguished colleague from Wisconsin. However, I feel that this amendment clearly is the best of the plans before us—particularly with the agreed-to modifications to exempt individual hospitals which meet the voluntary goals, even though the State in which the hospital is located may not meet such voluntary goals, and to allow adjustments to reflect rapid population growth. The amendment recognizes both the need for Government action to bring runaway costs under control, and the advantages of pursuing this goal through self-regulation and voluntary restraint. It promises a minimum of Federal interference. At the same time, it insures that total health care spending will be reduced by 34 billion, and that the Federal health care budget will be trimmed by $12 billion. It insures some savings for virtually all Americans and will without question reduce medical expenses for the elderly. The Nelson amendment clearly offers the best of both worlds, and I wholeheartedly support it.

Mr. DOLE. Mr. President, will the Senator yield me 1 minute?

Mr. TALMADGE. I yield 1 minute to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I shall just address the same question that the Senator from Hawaii raised, and that is the quality of care.

I do not know anything in the Nelson amendment that says that the quality of hospital care could not be reduced. It means you are going to have to have shift costs some place if you take away some of the revenues. I do not believe anyone can stand in the Chamber and say with assurance that if we pass this bill we can be satisfied we are not going to upset the quality of care.

I do not suggest that would be anyone's intention. But I suggest there is certainly no guarantee that I can find that would indicate that we can assure any Member of this body that that would not happen.

Mr. TALMADGE. Mr. President, I yield myself such time as I may have remaining.

In sum and substance, Mr. President, the Finance Committee bill tries to compare costs with similar hospitals, in their size, purpose, and effort throughout the United States. And we try to penalize those hospitals that are inefficient and reward those hospitals that are efficient.

We think that that will bring down the costs substantially of hospitals that have been fat and have been charging too much money, paying out too much, and costs have been too great.

The Nelson approach takes the bludgeon approach rather than the carrot-and-stick approach. The Finance Committee has been studying this thing for 5 long years. We have consulted and advised with virtually every expert in the field of hospital care and health delivery service in the whole United States of America.

When the President was running for President back during his campaign he specifically endorsed the bill that I had introduced that was then pending before the Finance Committee known as S. 3205.

He endorsed it by number. That is the committee bill that is pending before you now, and I urge you to approve it.

If it does not work we can come back later with stronger medicine, such as Senator NELSON proposes.

I think it will work; the people of this country think it will work. Our staff who have studied it for 5 years with every expert in the United States thinks it will work. We think it will do the job without having these arbitrary cost controls and labor passthrough, which is 45 percent of the cost of hospitals.

I move to table the Nelson amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I have 30 minutes just on the bill, and if I might be able to yield myself 2 minutes prior to the tabling motion.

The PRESIDING OFFICER. Does the Senator from Georgia withhold his tabling motion?

Mr. TALMADGE. I withhold it for 2 minutes.

Mr. KENNEDY. Mr. President, two or three quick points. There has been some mention made about the labor passthrough. The fact of the matter is that the labor index has been 7.2 percent, which is virtually half of what the Nelson amendment would provide. So I think it is appropriate that we look at that fact.

Second, I would say on the quality issue, my own State of Massachusetts has now had an increase of 10.5 percent. We

have some of the finest hospitals in the world, one of which is Massachusetts General Hospital, where people come from all over the world. Under the voluntary effort, it will be 12 percent.

Connecticut is less than that, New York is less than that, with Yale Medical Center and Cornell, two of the finest medical institutions in the world, providing some of the finest medical care in the world.

Finally, Mr. President, I think the tragedy is, with all the good efforts of the Finance Committee, it just is not going to save the taxpayer any money. I mean, that is the fact of the matter. You can call it cost containment, you can say it is going to cost a good deal, but with the figures of the Budget Committee, which all of us asked to cost these programs out, it just is not going to save the resources.

The Nelson amendment is built on the voluntary effort. It gives the States a chance to develop voluntary programs. It seems to me that it combines the best blend of voluntarism in order to permit that sector to work. But it also gives the assurance of saving billions of dollars.

Mr. TALMADGE. I yield 2 minutes on the bill to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. Without objection, the Senator from Pennsylvania is recognized.

Mr. SCHWEIKER. Mr. President, I would like to address the wage passthrough issue that has been discussed. We are not giving the States the right to decide for themselves; we are mandating that they have a wage passthrough. There is not the local option on the wage passthrough question. We are saying that any new State program has to have it even though the existing programs do not. It is interesting to note that proponents cite the existing programs as having the greatest record—those without the wage passthrough. They are the ones who do not have it. They are the ones they cite.

We are opening up a whole new can of worms by mandating that States are going to have to have a wage passthrough, so 41 other States have been mandated under this program. If they want local option they have to have a mandatory wage passthrough.

So let us put it all out on the table and let us see the discrimination against the new States when, in fact, the old States have a system that does not include a wage passthrough.

Mr. TALMADGE. Mr. President, I move to lay on the table the amendment of the Senator from Wisconsin.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Georgia to lay on the table the amendment of the Senator from Wisconsin. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CLARK), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. GRIFFIN), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. SCOTT), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho (Mr. MCCLURE) would vote "yea."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Michigan (Mr. GRIFFIN). If present and voting, the Senator from Texas would vote "yea" and the Senator from Michigan would vote "nay."

Mr. RIEGLE. Regular order.

Mr. NELSON. Regular order, Mr. President.

The PRESIDING OFFICER. The Senate is in order. Senators will please clear the well.

Mr. ROBERT C. BYRD. Mr. President, have all Senators voted? There is so much noise in here it is difficult to hear.

The PRESIDING OFFICER. Are there any Senators in the Chamber who have not yet voted?

The result was announced—yeas 42, nays 47, as follows:

[Rollcall Vote No. 484 Leg.]

YEAS—42

Allen	Hansen	Morgan
Baker	Hatch	Nunn
Bartlett	Hatfield, Mark O.	Packwood
Bentsen	Hayakawa	Pearson
Byrd, Harry F., Jr.	Heinz	Percy
Church	Helms	Roth
Curtis	Hollings	Schmitt
Danforth	Huddleston	Schweiker
DeConcini	Inouye	Stennis
Dole	Johnston	Stevens
Eastland	Laxalt	Talmadge
Ford	Long	Thurmond
Garn	Lugar	Wallop
Goldwater	Melcher	Young

NAYS—47

Abourezk	Eagleton	Moynihan
Anderson	Glenn	Muskie
Bayh	Gravel	Nelson
Bellmon	Hart	Pell
Biden	Hatfield, Paul G.	Proxmire
Brooke	Hodges	Randolph
Bumpers	Humphrey	Ribicoff
Burdick	Jackson	Riegle
Byrd, Robert C.	Javits	Sarbanes
Cannon	Kennedy	Sasser
Case	Leahy	Sparkman
Chafee	Magnuson	Stafford
Chiles	Matsunaga	Stevenson
Cranston	McGovern	Stone
Culver	Metzenbaum	Williams
Durkin		Zorinsky

NOT VOTING—11

Clark	Hathaway	Scott
Domenici	Mathias	Tower
Griffin	McClure	Weicker
Haskell	McIntyre	

So the motion to lay on the table amendment No. 3478, as modified, was rejected.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. TALMADGE. Mr. President, may we have order?

Mr. NELSON. If the Senator will accept the amendment——

Mr. DOLE. Mr. President, I have an amendment.

Mr. KENNEDY. Point of order, Mr. President. What is the business before the Senate?

The PRESIDING OFFICER. The Senator from Kansas is recognized.

UP AMENDMENT NO. 2066

(Purpose: To provide for a Congressional veto of the standby limit on total inpatient reimbursement)

Mr. DOLE. I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 2066:

On page 17, between lines 16 and 17, insert the following:

"(7)(A) The limitation on hospital reimbursement provided for under the preceding paragraphs of this subsection shall become effective 90 days after the Secretary makes the finding as required under paragraph (1) that hospitals have failed to voluntarily reduce the rate of increase in their expenses, and reports such finding to the Congress, unless, within such 90-day period, either House of Congress adopts a resolution of disapproval. If either House of Congress adopts such a resolution during such period, reimbursement shall be made without regard to the preceding paragraphs of this subsection.

"(B) For purposes of calculating the 90-day period under subparagraph (A) there shall not be included any period of more than 3 consecutive days during which both Houses of Congress are not in session.

"(C) For purposes of this paragraph a 'resolution of disapproval' means a concurrent resolution of the two Houses of Congress or a resolution of either House of Congress, stating that such House or Houses do not approve of the proposed implementation of standby limits on hospital reimbursement proposed by the Secretary for any specified period of time under this subsection.

Mr. KENNEDY. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Is the amendment which is before the Senate now the Talmadge amendment, as modified by the Nelson amendment?

The PRESIDING OFFICER. The Nelson amendment is pending and this is an amendment to the Nelson amendment, a perfecting amendment, by the Senator from Kansas. The time limitation is 20 minutes equally divided. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, this is a very simple amendment. It simply gives the House and the Senate the right to review the report of the Secretary of HEW——

Mr. NELSON. Mr. President, may we have order? I cannot hear the Senator.

The PRESIDING OFFICER. Will the Senate please be in order?

Mr. DOLE. This is the amendment I did not discuss with the distinguished Senator from Wisconsin, but it gives the House and the Senate the right to review the report of the Secretary of HEW with respect to the triggering of Federal mandatory revenue cap should the voluntary effort fail. Rather than attempting to inject the Congress into the technical end of HEW's findings, my amendment would place the Congress in a supervisory position.

Specifically, the amendment would give Congress 90 days in which to act. A resolution of disapproval could be introduced in either House and referred to the appropriate congressional committees. In view of the fact that we are dealing with an extremely controversial and complex matter, I think this congressional veto mechanism is essential to insure that the Department of HEW does not deviate from congressional intent.

Recent events regarding the issuance of guidelines in respect to the health planning legislation have shown again that HEW has not always been consistent in adhering to the policies mandated by the Congress. It is critical that the mechanism be provided to Congress to insure that HEW's actions are, indeed, in line with our intention. The congressional veto amendment will help provide assurance to the public and the Congress that HEW will not drift away from the major policy decision it will make with respect to this legislation.

We are breaking new ground, in the event this amendment should become law. I think it is very important that we give Congress some oversight over the implementation of the program. It is not a case of curbing the powers of a regulatory agency but, rather, making certain the decisions of Congress, as representatives of the people, are followed. It would seem to me this might enhance the chances for this amendment to finally survive. I would hope the distinguished author might be prepared to accept it.

Mr. NELSON. Mr. President, does the Senator have a copy of that amendment? As I understand from what the Senator said, either House, if a voluntary effort fails, either House, by its own action, could stop the implementation of the amendment which was refused tabling by a vote of 47 to 42?

Mr. DOLE. That is right.

Mr. NELSON. I think that is a very bad amendment, if one House has the right to decide to veto the legislation, if it is passed by both Houses and signed by the President.

Mr. KENNEDY. Will the Senator yield?

Mr. NELSON. Yes.

Mr. KENNEDY. Mr. President, I agree with the Senator from Wisconsin. It seems to me that the point still lies in favor of the fundamental parts of the Nelson amendment, and that is that the reason that the voluntary aspects will be successful, or it is the belief of those of us who support this that they will be successful, is because then if they are not successful we will have the implementing parts of the Nelson amendment which will bring the cost controls into effect.

If we effectively wipe out that aspect of the Nelson amendment, I think the chances of achieving what the Nelson amendment wants to achieve through the voluntary sector would be seriously undermined.

Second, I make the point that it seems to me the Nelson amendment has the advantage of using the voluntary system for 2 years to achieve a 12 percent cost figure. It seems to me that if the hospital association and the hospitals cannot reach what they themselves have set out as a goal which is easily reachable, that then the burden ought to be on them to come before the appropriate committees of the Congress to ask for a change in the law rather than the reverse situation which would result if the Dole amendment would be accepted.

I just want to underwrite what the Senator from Wisconsin has mentioned.

Mr. DOLE. Mr. President, in view of this discussion I will modify my amendment as far as it being an action of both Houses. I send the modification to the desk.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The amendment, as modified, is as follows:

On page 17, between lines 16 and 17, insert the following:

"(7) (A) The limitation on hospital reimbursement provided for under the preceding paragraphs of this subsection shall become effective 90 days after the Secretary makes the finding as required under paragraph (1) that hospitals have failed to voluntarily reduce the rate of increase in their expenses, and reports such finding to the Congress, unless, within such 90-day period, both Houses of Congress adopt such a resolution of disapproval. If both Houses of Congress adopt such a resolution during such period, reimbursement shall be made without regard to the preceding paragraphs of this subsection.

"(B) For purposes of calculating the 90-day period under subparagraph (A) there shall not be included any period of more than 3 consecutive days during which both Houses of Congress are not in session.

"(C) For purposes of this paragraph a 'resolution of disapproval' means a concurrent resolution of the two Houses of Congress, stating that such House or Houses do not approve of the proposed implementation of standby limits on hospital reimbursement proposed by the Secretary for any specified period of time under this subsection.

Mr. DOLE. That is a step backward from the original proposal that would require concurrent action by both houses.

It would seem to me if we are really concerned about cost containment in the Congress, we ought to have a chance to review it and a chance to review the Secretary's findings. This would be one way to make certain we review that responsibility we talk so much about. It is offered in the spirit of trying to make it work, not in any effort to undermine the efforts of the distinguished Senator from Wisconsin.

Mr. NELSON. Might I inquire? Either the original or the modified proposal, does it require action by both Houses and signature by the President?

Mr. DOLE. No, just both Houses of Congress.

Mr. NELSON. If the Senator would have it to be the action of both Houses and signed by the President, which would be the way this bill will get to the President, I do not see there would be much to quarrel about.

Mr. DOLE. Well, he has so much to do. [Laughter.]

There are just so many things this President can do, or any President, for that matter. We would limit this to congressional review. It is only offered in an effort to help the distinguished Senator from Wisconsin.

Mr. NELSON. He could get up a minute earlier some day and sign it.

[Laughter.]

Mr. DOLE. I do not want him getting up any earlier.

I yield to the Senator from New Jersey.

Mr. CASE. There is a precedent for this kind of amendment. In fact, it bears the name of the distinguished Senator from Wisconsin. The amendment that bears the name of Senator NELSON is one we are all familiar with.

Mr. NELSON. That is hardly fair debate. I wish the Senator would withdraw that.

Do I understand that the proposal is that if the voluntary effort fails as of July 1, 1979, and pursuant to the provisions of this amendment, the trigger would occur, am I to understand that the Senator from Kansas is saying that, by a concurrent resolution passed by both Houses, we may suspend the implementation of the bill?

Mr. DOLE. Right. And if we do not do anything within that 90 days and if they do not have a resolution of disapproval, the Secretary's findings are final.

Mr. KENNEDY. Mr. President, it seems that the only purpose and function of the amendment of the Senator from Kansas is to exclude the President of the United States. That is the only effective function and purpose. I do not understand.

I think the Senator from Wisconsin is right in saying that if we are going to require that it pass both Houses, why not also include the signature of the President of the United States? If we accept this, effectively, we are writing out the President from having any kind of involvement—the President who has responsibilities in terms of the general economy, general impact of inflation. This is an issue that is related to the whole battle on inflation where, under our constitutional powers, we set an important responsibility for the President. It seems to me that we ought at least to share that important responsibility in this amendment. If the Senate is going to exclude the President of the United States, I think it is a clear expression of this body that for, one reason or another, we do not think that his views—and that is essentially what this is saying—on the issue of inflation are sufficiently important to be given balance and consideration in an operational way in this process. It seems to me to be unwise.

If the Senator wants to add "with the signature of the President," I would certainly welcome the addition.

Mr. DOLE. Mr. President, let me point out that certainly it is not an effort to ignore the executive branch; in fact, it is the President's Secretary who makes the findings. It is an expression that we have every confidence in the executive branch, and the Secretary of HEW is the one who makes the findings. All we do—the Executive on one hand and Congress on the other hand—is review the Executive's findings.

Certainly, there is dialog between Secretary Califano and the President and

those who work for the President. So I think we have covered that base without any additional step requiring that we pass some law that is signed by the President. It seems to me we have addressed that concern in a very natural way.

Mr. KENNEDY. Mr. President, the point I make in responding to the Senator is that the function of the Secretary of HEW is primarily an operational, administrative function. The guidelines are sustained in the legislation. They establish, through the procedures of the Nelson amendment, what that percentage is going to be. Then that is the figure in which the percentages are judged. So it is basically a function of the Secretary of HEW to make a judgment based on the various aspects of the amendment.

Those are described. As the Senator from Wisconsin has pointed out, effectively, it is double the inflation rate.

It seems to me, Mr. President, that this is President Carter's major initiative in the area of health cost containment and an extremely important aspect of the initiative in the area of inflation. Effectively, we are talking about a modified program with the Nelson amendment, but one that has been embraced by the strong majority in the Senate. It is President Carter's initiative, it has been accepted by the majority of the Senate. The Senator makes an amendment effectively to exclude the President from being involved in a future activity which may, effectively, vitiate this legislation.

I think it is unwise policy and I think it is unnecessary. I would prefer it, if we were going to follow what I think is the sounder policy—that is, that the burden should be on those who want to alter after 2 years, through the process, which is the routine process, which exists in the Senate for altering legislation, rather than this special procedure.

Mr. CASE. Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I yield time.

Mr. KENNEDY. I yield 5 minutes on the bill.

Mr. CASE. I thank my colleagues.

Mr. President, I do not know why I got into this thing, except that this area of Presidential authority and congressional review is one that is of deep interest to me, has been over the years, ever since the first experience I had with it under the Reciprocal Trade Act, where the President was granted authority to effect trade subject to congressional veto.

That veto was not by law, which Congress and the President could make at any time, but by concurrent action of the two Houses of Congress.

Regulation of this sort traditionally, historically, is a matter for the legislature. We get in the habit of talking loosely about the President's program. Well, the President is a fine man and the Presidency is a great office, but he does not run this country. This is a country of law and laws are made by the legislature, with the President's right to veto and then a requirement of a two-thirds vote by each House to override.

Here we are, because of the complexity of the situation, like many other situations, granting discretionary authority to the executive branch to carry out legislative mandates.

That is fine, too. But there is absolutely nothing inconsistent with our system. In fact, it is thoroughly consistent with it for us, in a particular instance, to have the right, by joint action of both Houses, to review a legislative action taken under a grant of authority that we give.

I do not think that it is right to say that we are taking anything away from the President. The President, as the Senator from Kansas has noted, has had the initial input.

The President has acted when the Secretary proposes the regulation. Therefore, it would be a complete anachronism to require the President to agree that he was wrong in the first instance. If legislative review is to mean anything, it should be reviewed by concurrent action of both Houses and it is utterly consistent with our system of delegated authority in matters of this kind that we should require the Secretary's authority to be subject to congressional review.

Mr. BROOKE. Mr. President, will the Senator yield a minute?

Mr. KENNEDY. I yield.

Mr. BROOKE. Mr. President, I do not want to get into this Presidential debate. I do not think the amendment of the Senator from Kansas is as wild as it has been characterized, but I do think it is unnecessary. There is a time limitation involved here. There is a time that that has been established by the Nelson amendment for voluntary compliance. There is no doubt that Congress has the power of review, the authority of review. It can do it on its own. It does not have to be written into this law for Congress and the President to act if the hospitals do not work voluntarily. We can act ourselves.

I just do not feel it is necessary to write it into this legislation. That is what I do not understand: why the necessity to have it included in this amendment?

Mr. CASE. Will the Senator yield?

Mr. BROOKE. Yes; because I do not understand.

Mr. CASE. Of course, Congress and the President can act at any time. They can change any law, whether it was enacted earlier by concurrent resolution, as it always is, or not. But the point of this is that a review is effective by the two Houses of Congress without Presidential approval. It would be quite wrong to require such a review to have concurrence by the President, who has already, through his Secretary, made the initial determination.

Mr. BROOKE. Well, I still do not understand the necessity for having an amendment to the Nelson amendment that would require legislative review after this period of time. It is already there. We shall have legislative review. That is the point I am trying to make.

Mr. CASE. We shall have review by the legislature plus the President. This is review by the legislature only.

Mr. BROOKE. What is the objection to having the President? I do not think the Senator from Kansas even objects to the President's being included.

Mr. DOLE. It is just not necessary. It is his Secretary that makes the findings in the first place, and that triggers the mechanism. This amendment gives us 90 days for review, because we deal in an area that is highly controversial.

Mr. BROOKE. Is this not more cosmetic than it is substantive? I mean, what does it really add to the amendment? We know what the Nelson amendment does. Now, the Senator says that we will come back, have a legislative review, but exclude the President. What does it really add? That is the point.

Mr. DOLE. It alerts the Congress and gives us 90 days to do either nothing or review the findings of the Secretary of HEW.

We have had experiences in the past where some of the rules promulgated by HEW have not been all that effective.

We would like to find out, before we implement some vast new program that affects, really, the life and death of many patients, if it is really appropriate and necessary.

Maybe the findings will be perfect, but we need an opportunity to make sure. The amendment would only delay the implementation for 90 days. If we do not act, it goes into effect.

Mr. BROOKE. Is that not implied in the amendment?

Mr. NELSON. I did not hear the question.

Mr. BROOKE. Is it not implied there would be congressional review if, after the period has expired, that it has not worked and we want to have congressional review, we can have congressional review?

Mr. NELSON. After what period is the Senator talking about that has expired?

Mr. BROOKE. The 2 years.

Mr. NELSON. The bill itself automatically will expire in 1982, regardless, unless we do something about it; it just automatically expires.

Mr. BROOKE. Yes.

Mr. DOLE. We are talking about the time when the controls are triggered. There is presently no congressional review provided for specifically, without my amendment. My amendment says then we have 90 days to look at it. That is all we suggest.

Mr. BROOKE. But the Senator does not want the President included.

Mr. DOLE. Well, it is his Secretary of HEW.

Mr. BROOKE. And both houses?

Mr. DOLE. I have changed it to both.

I am prepared to yield back the time.

Mr. NELSON. If the Senator from Kansas will yield, I do not much care about the amendment but, on the other hand, I realize the Senator has a sincere purpose in mind here. I am concerned about his calculation of the 90 days.

I do not know whether there might be a recess period, or something. I wonder if the Senator would be agreeable to make it 45 days and not counting any period in excess of 3 days that was a recess.

If we are going to act, certainly act in that period.

Mr. DOLE. I have that 3-day provision in the amendment. Maybe we can make it 60 days as a compromise.

Mr. NELSON. I would agree to accept it if the Senator would make it 60 days.

Mr. DOLE. I modify the amendment.

Mr. NELSON. Now, I looked at the amendment, and I understand it is a concurrent resolution passed by both Houses, passed within 60 days from the time—the determination of the Secretary is made.

Mr. DOLE. Right, 60 days after the Secretary makes the finding as required under paragraph, first, that hospitals have failed to voluntarily reduce the rate of increase in their costs.

Also, to provide it shall not include any period more than 3 consecutive days in which both Houses of Congress are not in session.

We changed 90 to 60, one House to both Houses.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NELSON. Is there any other time?

Mr. KENNEDY. I think I have time.

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. NELSON. I will just take 2 minutes.

So that I have it clear from my rapid reading of this: The option under this amendment, how Congress can act, is dependent on a national trigger occurring under the bill that is pending.

Mr. DOLE. That is correct, under paragraph 1.

Mr. NELSON. All right.

And the Senator is agreeable to changing the days from 90 to 60?

Mr. DOLE. Right.

Mr. NELSON. And to leave the rest of the resolution as introduced applying to concurrent resolution of both Houses.

Mr. DOLE. Right.

I modified it very quickly, but that is the intent, both Houses, concurrent resolution, 60 days, upon the determination that the hospitals have exceeded the voluntary goal.

The PRESIDING OFFICER. The clerk has the modification. The amendment is so modified.

The amendment, as further modified, follows:

On page 17, between lines 16 and 17, insert the following:

"(7)(A) The limitation on hospital reimbursement provided for under the preceding paragraphs of this subsection shall become effective 60 days after the Secretary makes the finding as required under paragraph (1) that hospitals have failed to voluntarily reduce the rate of increase in their expenses, and reports such finding to the Congress, unless, within such 60-day period, both Houses of Congress adopts a resolution of disapproval. If both Houses of Congress adopts such a resolution during such period, reimbursement shall be made without regard to the preceding paragraphs of this subsection.

"(B) For purposes of calculating the 60-day period under subparagraph (A) there shall not be included any period of more than 3 consecutive days during which both Houses of Congress are not in session.

"(C) For purposes of this paragraph a 'resolution of disapproval' means a concurrent resolution of the two Houses of Congress or a resolution of both Houses of Congress, stating that such Houses do not approve of the proposed implementation of standby limits on hospital reimbursement proposed by the Secretary for any specified period of time under this subsection.

Mr. NELSON. Mr. President, I am prepared to accept the amendment.

Mr. TALMADGE. Mr. President, as I stated a moment ago, I am prepared to accept the Nelson amendment, as modified.

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from Kansas.

The amendment (UP 2066) as modified, was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the Nelson amendment, as amended.

Mr. CASE. Mr. President, I ask unanimous consent to have my name joined with Senator DOLE's on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin, as amended.

The amendment (No. 3478), as amended, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

UP AMENDMENT NO. 2067

(Purpose: To provide for a study of availability and need for skilled nursing facility services under medicare and medicaid)

Mr. NELSON. Mr. President, I have an amendment that I believe was agreed to on a study of the nursing homes problem.

Mr. TALMADGE. Will the Senator state what it is?

Mr. NELSON. Yes.

The Finance Committee approved an amendment to the medicare-medicaid law which would require skilled nursing home facilities to participate in both medicare and medicaid as a condition of their participation in either program. Current law does not require it. It was in my proposal in Finance.

We find there are some problems with that and that the HEW Secretary ought to study it instead of mandating that by statute at this time.

This would substitute a study in place of the mandatory language in my amendment in the Finance Committee.

Mr. TALMADGE. I have no objection to the amendment.

Mr. NELSON. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON) proposes an unprinted amendment numbered 2067.

Mr. NELSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 80, line 1, strike out all through page 81, line 8, and insert in lieu thereof the following:

STUDY OF AVAILABILITY AND NEED FOR SKILLED NURSING FACILITY SERVICES UNDER MEDICARE AND MEDICAID

SEC. 31. (a)(1) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall conduct a thorough study and investigation of the availability and need for skilled nursing facility services covered under part A of title XVIII of the Social Security Act and under State plans approved under title XIX of such Act.

(2) Such study shall include—

(A) an investigation of the desirability and feasibility of imposing a requirement that skilled nursing facilities (i) which furnish services to patients covered under State plans approved under title XIX of the Social Security Act also furnish such services to patients covered under part A of title XVIII of such Act, and (ii) which furnish services to patients covered under such title XVIII also to furnish such services to patients covered under such State plans,

(B) an evaluation of the impact of existing laws and regulations on skilled nursing facilities and individuals covered under such State plans and under part A of such title XVIII, and an evaluation of the extent to which existing laws and regulations encourage skilled nursing facilities to accept only title XVIII beneficiaries or title XIX recipients, and

(C) an investigation of possible changes in regulations and legislation which would result in encouraging a greater availability of skilled nursing services.

(3) In developing such study, the Secretary shall consult with professional organizations, health experts, private insurers, nursing home providers and consumers of skilled nursing facility services.

(b) Within 6 months after the date of enactment of this Act the Secretary shall complete such study and investigation and shall submit a full and complete report thereon, together with recommendations with respect to the matters covered by such study and investigation (including any recommendations for administrative or legislative changes), to the Committee on Finance of the Senate and to the Committee on Ways and Means and on Interstate and Foreign Commerce of the House of Representatives.

Mr. NELSON. Mr. President, that is the amendment just discussed with the distinguished Senator from Georgia.

Mr. President, the Finance Committee approved an amendment (section 31 of H.R. 5285) to the medicare-medicaid law, which would require skilled nursing facilities (SNF's) to participate in both medicare and medicaid as a condition of their participation in either program. Current law does not require such dual participation.

The amendment was adopted in response to a growing national problem: The unavailability of skilled nursing home beds for medicare and medicaid beneficiaries.

Unforeseen administrative difficulties and policy issues regarding the provision have been pointed out since the Finance Committee's action. Therefore, we are proposing changing the section, to require a thorough study by HEW of the

problem and a report to Congress in 6 months.

This modification is the product of discussions with the nursing home industry, interest groups representing senior citizens, and HEW.

The discussions have produced agreement on all sides that a problem exists, which needs addressing. The causes for the problem are complex, involving reimbursement levels, regulations, levels of care that are required, and other factors.

The important result of the committee-approved section and subsequent discussions is that all parties have focused on the problem, and have demonstrated a willingness to try and correct it in a variety of ways.

We believe an investigation into the many aspects of the problem is the necessary first step.

The reason behind the amendment is that, in the past 10 years, nursing homes have been dropping out of medicaid and medicare programs at an alarming rate, leaving large sections of the country without sufficient numbers of medicare or medicaid nursing home beds to accommodate the need. Thus, patients who have been paying into the Federal insurance programs are not receiving the benefits to which they are entitled. Several unfortunate results may occur: Patients remain in hospitals longer than necessary, at greater cost than necessary; or they are forced to move far from their homes in order to find a participating facility, often after a long wait before there is room for them; or, worst of all, if there is no medicare facility available, patients may enter a nursing home at their own expense (although they are entitled to medicare coverage) and use up their own financial resources, at which point they may become eligible for medicaid, the Federal-State health insurance program for low-income persons. Federal law, incidentally, stipulates that medicaid is to be the provider of last resort.

Thirteen States, including Wisconsin and New York, have laws or policies designed to bring nursing homes back into these programs. Wisconsin's law requires that nursing homes participate in medicare as a condition of participation in the State-Federal medicaid program, if the State determines that there is a need for such care in an area. HEW has ruled that such laws are constitutional. The Wisconsin law was in response to the fact that the entire Northern section of the State (47 out of 72 counties) has no medicare-participating nursing home.

Of approximately 20,000 nursing homes in the Nation, only 4,210 facilities participate in medicare and/or medicaid skilled care: 559 are medicare-only participants; 3,205 are medicaid-only participants; 10,337 participate in the less-skilled medicaid intermediate care facility (ICF) program. In 1969, nearly 5,000 nursing homes participated in skilled care programs. Between 1977 and 1978 alone, participation in the skilled care programs dropped by 251 facilities nationwide. In Wisconsin, which has approximately 400 nursing homes, about 60 participate in medicare, compared to 188 that participated in 1968. (Source: HEW, as of September 1, 1978.)

The problem varies from State to State: in some States, many homes that are eligible for medicare participate only in medicaid; in others, the reverse is true.

The reduction in nursing homes that participate in Federal insurance programs is coming at a time of growth in the Nation's aging population. Eleven percent of the total population, or 22.4 million people, presently are over 65 years of age. The number is estimated to reach 32 million by the year 2000.

WHAT THE MODIFICATION WOULD DO

The Secretary of HEW would be required to conduct a thorough study and investigation of the availability and need for skilled nursing facility services provided under medicare (title XVIII) and medicaid (title XIX).

It would include:

First. A study of the desirability and feasibility of requiring dual participation by skilled nursing homes in both medicare and medicaid programs;

Second. An evaluation of the impact of existing law and regulations on nursing homes and beneficiaries of medicare and medicaid services; and

Third. Recommendations for changes in regulations and legislation with respect to encouraging a greater availability of skilled nursing facility services.

In developing the study, HEW would be required to consult with professional organizations, health experts, private insurers, nursing home providers and consumers of SNF care.

The study and a report would be submitted in 6 months to the Senate Finance Committee and the Committee on Ways and Means and on Interstate and Foreign Commerce of the House of Representatives.

It is our understanding that the manager of the bill has agreed to the amendment. Senator SCHWEIKER and Senator TOWER are joining us in supporting this approach, and has agreed to withdraw his amendment (No. 3583) to delete the original section 31 from H.R. 5285.

Mr. President, I ask unanimous consent that the modification as an amendment to H.R. 5285 be printed in the RECORD following these remarks.

Mr. TALMADGE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment (UP No. 2067) was agreed to.

AMENDMENT NO. 3684

(Purpose: To revise payments for certain physicians' services)

Mr. METZENBAUM. Mr. President, I call up an amendment No. 3684, which is at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) for himself and Mr. DURKIN, Mr. JAVITS and Mr. KENNEDY, proposes an amendment numbered 3684.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate point in the bill, insert the following new section:

SEC. . (a)(1) Section 1861(q) of the Social Security Act is amended by adding "(1)" immediately after "(q)" and by adding, immediately before the period at the end thereof, the following: "; except that the term does not include any service that a physician may perform as an educator, an executive, or a researcher; or any professional patient care service unless the service (A) is personally performed by or personally directed by a physician for the benefit of the patient and (B) is of such nature that its performance by a physician is customary and appropriate".

(2) Section 1861(q) is amended by adding the following paragraphs at the end:

"(2) In the case of anesthesiology services, a procedure would be considered to be "personally performed" in its entirety by a physician where the physician performs the following activities:

"(A) preanesthetic evaluation of the patient;

"(B) prescription of the anesthesia plan;

"(C) personal particpation in the most demanding procedures in this plan, including those of induction and emergence and assuring that a qualified individual, who need not be his employee, performs any of the less demanding procedures which the physician does not personally perform;

"(D) following the course of anesthesia administration at frequent intervals;

"(E) remaining physically available for the immediate diagnosis and treatment of emergencies; and

"(F) providing indicated postanesthesia care:

Provided, however, That during the performance of the activities described in subparagraphs (C), (D), and (E), the physician is not responsible for the care of more than one other patient. Where a physician performs the activities described in subparagraphs (A), (B), (D), and (E) and another individual performs the activities described in subparagraph (C), the physician will be deemed to have personally directed the services if he was responsible for no more than four patients while performing the activities described in subparagraphs (D) and (E) and the reasonable charge for his personal direction shall not exceed one-half the amount that would have been payable if he had personally performed the procedure in its entirety.

"(3) Pathology services shall be considered 'physicians' services' to patients only where the physician personally performs acts or makes decisions with respect to a patient's diagnosis or treatment which require the exercise of medical judgment. These include operating room and clinical consultations, the required interpretation of the significance of any material or data derived from a human being, the aspiration or removal of marrow or other materials, and the administration of test materials or isotopes. Such professional services shall not include professional services such as: the performance of autopsies; and services performed in carrying out responsibilities for supervision, quality control, and for various other aspects of a clinical laboratory's operations that are customarily performed by nonphysician personnel.".

(3) Section 1861(b) of such Act is amended—

(A) by striking out "or" at the end of paragraph (6),

(B) by striking out the period at the end of paragraph (7) and inserting "; or", and

(C) by adding at the end the following paragraph:

"(8) a physician, if the services provided are not physicians' services (within the meaning of subsection (q)).".

(b)(1) Section 1861(s) of the Social Security Act is amended by adding at the end: "The term 'medical and other health services' shall not include services described in paragraphs (2)(A) and (3) if furnished to inpatients of a provider of services unless the Secretary finds that, because of the size of the hospital and the part-time nature of the services or for some other reason acceptable to him, it would be less efficient to have the services furnished by the hospital (or by others under arrangement with them made by the hospital) than to have them furnished by another party.".

(2) Section 1842(b)(4) of such Act, as added by section 7 of this Act, is amended by adding:

"(G) The charge for a physician's or other person's services and items which are related to the income or receipts of a hospital or hospital subdivision shall not be considered in determining his customary charge to the extent that the charge exceeds an amount equal to the salary which would reasonably have been paid for the service together with any additional costs that would have been incurred by the hospital to the physician performing it if it had been performed in an employment relationship with the hospital plus the cost of other expenses (including a reasonable allowance for traveltime and other reasonabe types of expense related to any differences in acceptable methods of organization for the provision of services) incurred by the physician, as the Secretary may determine to be appropriate.".

(c) Section 1861(v) of the Social Security Act is amended by adding:

"(8)(A) Where physicians' services are furnished under an arrangement (including an arrangement under which the physician performing the services is compensated on a basis related to the amount of the income or receipts of the hospital or any department or other subdivision) with a hospital or medical school, the amount included in any payment to the hospital under this title as the reasonable cost of the services (as furnished under the arrangement) shall not exceed an amount equal to the salary which would reasonably have been paid for the services (together with any additional costs that would have been incurred by the hospital) to the physician performing them if they had been performed in an employment relationship with the hospital (rather than under such arrangement) plus the cost of other expenses (including a reasonable allowance for traveltime and other reasonable types of expense related to any differences in acceptable methods of organization for the provision of the services) incurred by the physician, as the Secretary may determine to be appropriate.".

(d)(1) Section 1833(a)(1)(B) of the Social Security Act is amended by inserting "(except as provided in subsection (H))" immediately after "amounts paid shall".

(2) Section 1933(b)(2) of such Act is amended by inserting "(except as otherwise provided in subsection (b))" immediately after "amount paid shall".

(3) Section 1833 of such Act is amended by adding:

"(h) The provisions of subsection (a)(1)(B) and clause (2) of the first sentence of subsection (b) shall not apply to any physician unless he has entered into an agreement with the Secretary under which he agrees to be compensated for all such services on the basis of an assignment the terms of which are described in section 1842(b)(3)(B)(ii).".

Mr. METZENBAUM. Mr. President, this amendment, which Senators KENNEDY, JAVITS, and HATHAWAY join me in offering, eliminates the costly and wholly unnecessary "percentage arrangement" system that is now used widely to compensate hospital-based anesthesiologists, pathologists, and radiologists. It was originally offered in the committee by Senator TALMADGE.

These medical specialists hold a unique position in American medicine.

Unlike most doctors, hospital-based physicians do not hang out a shingle and offer their services to the public. Rather, they contract with hospitals to deliver specialized in-house services.

Unlike most other doctors, hospital-based physicians have contractual arrangements that provide them with assured practices and assured incomes.

And unlike most other doctors, hospital-based physicians have an effective monopoly over the services they provide. That is so, because the patient has no choice where these services are concerned.

A patient in this country may choose his or her own surgeon or heart specialist or general practitioner. But when a biopsy is done in a hospital, the patient does not choose his own pathologist. When a patient is anesthetized, he or she does not choose the doctor who administers the anesthesia. When X-rays are taken, the patient has nothing to say about who takes them and who reads them.

Anesthesiologists, radiologists, and pathologists are highly skilled and highly trained professionals.

I would not for one moment deny that these skilled people deserve generous compensation.

But, Mr. President, "percentage arrangements" can provide hospital-based physicians with incomes that are remarkable by any standards.

"Percentage arrangements" are really quite simple. Instead of salaries, specialists who are lucky enough to have such contracts receive as compensation a percentage of the gross charges or net collections of the hospital departments in which they serve.

These are extremely lucrative arrangements.

Mr. President, may I have order in the Chamber? Can we break up the coffee klatch in the rear?

The PRESIDING OFFICER. The Senate will be in order.

Mr. METZENBAUM. Mr. President, a 1977 Arthur Anderson study, performed for HEW, showed that physicians working on a "percentage arrangement" earned from 20 to 120 percent more than their counterparts who work on a straight salary basis.

The chart I have at the rear of the Chamber illustrates these differences. Here we can see just how much doctors with the same specialties, working the same number of hours, actually earn on salary and through percentage arrangements. These differences are not related to the number of patients seen or tests performed. They relate only to the business arrangements that exist between the doctors and the hospitals.

The Arthur Anderson study is not the only documentation we have about this problem. In 1976, for example, hearings before the Committee on Finance pointed to cases in which specialists were able to earn hundreds of thousands of dollars per year through percentage arrangements. And those hearings also brought out the fact that hospitals have had a very difficult time in persuading specialists to alter or abandon this system. No wonder.

These high incomes—and the high medicare and medicaid costs that follow from them—are possible because advances in medical technology have made the "percentage arrangement" obsolete as a method of compensating doctors. Nowadays, nonphysicians, house staff, and even machines are able to do work that once required the personal attention of a specialist. As a result, specialists who enjoy "percentage arrangements" are often paid for services that they have not personally performed.

This amendment will discourage "percentage arrangements" and their attendant costs to the Treasury by limiting reimbursement for hospital-based physicians to three categories—payment for services rendered personally, payment of salary for supervising others, and payment of salary for teaching. The amendment will bring fees into line with the realities of modern practice.

I want to emphasize, Mr. President, that nothing in this amendment will in any way affect the charges set by individual specialists for specific services.

In addition, I want to make it clear that I am not trying to make a judgment on the level of earnings doctors should have a right to expect. I must say, however, that income in the $100,000 to $200,000 range is quite respectable.

What I am saying with this amendment is that earnings must reflect a relationship between services rendered and fees charged. I see no justification for a system that allows payment for professional services performed by others who are not professionals—and that is precisely what the "percentage arrangement" system provides.

Mr. President, this amendment will save a very substantial amount of money for the American taxpayer.

According to figures prepared by the Department of Health, Education, and Welfare, the amendment will save $27 million in Federal medicare and medicaid expenditures in fiscal year 1979.

By the end of 1933, the total savings from this amendment will reach $214 million.

Monopoly power, whether it exists in iron and steel or in specialized health services, inevitably leads to higher prices for consumers.

There can be no doubt that the exclusive concessions granted to hospital-based physicians create a true monopoly situation.

This amendment will not end exclusive hospital concessions for pathologists, radiologists, and anesthesiologists.

But it will reduce the potential for abuse of monopoly power by eliminating one of the worst results of that power—the "percentage arrangement" system.

Mr. President, I believe that this amendment is a matter of commonsense.

It will not reduce the quantity or the

quality of medical care available to the public.

It will not treat anyone unfairly—spokesmen for the medical profession have already acknowledged that reform is needed in this area.

The College of American Pathologists has testified that—

> Compensation should be related to the pathologist's contribution in time, effort, training, experience, and the range of responsibility he assumes.

They went on to say that a pathologist's—

> Total compensation should be comparable to his peers' practicing pathology in the community and to other medical specialists of similar training and experience.

The American Hospital Association has stated:

> This arrangement, however, provides no incentive to the physician for effecting economies, and it brings about the rather incongruous situation in which any pertinent charge to patients, even one made solely to cover increased department operating expenses, accrues, to a considerable extent, to the financial benefit of the physician.

Mr. President, this amendment will save millions of taxpayer dollars. It will eliminate monopoly abuse and it will insure that doctors are paid for the services that they perform—no more and no less.

Mr. President, this amendment originally was offered by Senator TALMADGE. It has been supported by the American Radiologists Association, the American Anesthesiology Association, and by the administration. It is a step in the right direction, and I strongly urge the Members of the Senate to accept the amendment.

Mr. KENNEDY. Mr. President, will the Senator yield me 2 minutes?

Mr. METZENBAUM. I yield.

Mr. KENNEDY. Mr. President, I commend the Senator from Ohio. He has targeted in on a method of payment which has been extraordinarily expensive for the health care system, without giving any additional assurance of quality of health care.

He has described it exceeding well. Even though the specialists have absolutely nothing to do with the function in terms of skill or supervision or professional training, the way the system functions now, they still would get a certain percentage of the profits of a laboratory or in a particular division of a hospital. The Senator's amendment would alter reimbursement practices and still would provide adequate professional compensation.

I think this will save, as the Senator pointed out, millions of dollars; but it is an important amendment for other reasons as well.

I commend the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I thank the Senator from Massachusetts, who has given great leadership in the whole field of health care services.

Mr. TALMADGE. Mr. President, this provision was in the original bill that I offered as chairman of the Subcommittee on Health of the Finance Committee. There was some opposition among some members of our committee to that particular provision.

The members of the Finance Committee have never voted on this particular provision, and I am not prepared to make a statement endorsing it, though I personally shall vote for it.

I have sent for the distinguished Senator from Nebraska. I understand that he is on his way.

I yield all my time to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. DURKIN. Mr. President, will the distinguished floor manager yield me 1 minute to speak in favor of Senator METZENBAUM'S amendment?

Mr. TALMADGE. Yes, I will later, off the time on the bill.

Mr. DURKIN. I thank the Senator.

Mr. TALMADGE. But first the Senator from Nebraska.

Mr. CURTIS. Mr. President, the Talmadge bill has been worked out by the committee. There has been some give and take in writing the bill.

Sections 12 and 15 were appropriately omitted from the Talmadge bill and they should remain out of the bill.

Section 12 established a stringent redefinition of "physicians' services" which would exclude those services which the physician performs as an educator, an executive, or a researcher. In addition, patient care services would be excluded unless "personally performed by or personally directed by the physician" for the benefit of the patient, and unless the service is of such a nature that its performance by a physician is customary and appropriate.

A strict application of this language would have serious consequences for the proper recognition of, and payment for, all services of physicians under medicare.

One may easily foresee great difficulty encountered by regulation writers in attempting to reach equitable definitions of "personally performed" or "directly supervised."

More seriously, the language of section 12 would allow for an arbitrary redefinition of the practice of medicine. It ignores the fact that the physician, when acting as an educator, researcher, or administrator, continues to be a physician. Teaching and research have long been recognized as intrinsic parts of the practice of medicine. As medicine has become more organized and technologically sophisticated, the role of the physician as a physician-administrator, performing duties most effectively carried out by a physician, becomes more critical.

Section 12 also specifically redefines pathology services. This redefinition ignores the fact that there is actual medical judgment and the potential for medical judgment in every clinical pathology laboratory service.

Further, the classification of supervision and quality control as being customarily performed by others ignores the medical responsibility of the pathologist/director of the laboratory.

The language in section 12 is in direct contradiction to that already in section 1801 of the Social Security Act, which says that—

> Nothing in this (Medicare) title shall be construed to authorize any Federal officer or employee to exercise any supervision or control over the practice of medicine or the manner in which medical services are provided, or over the compensation of any officer, employee, or person providing health services.

Mr. President, in the minds of many of us the pathologist is the most important physician in the hospital. A well operated laboratory that brings in the right answers is the first requirement for enabling people to get well. It is not just handling test tubes and looking into the microscope. It is having the judgment of medical training and medical experience to evaluate everything that is done.

The pathologist did not create inflation in this country, other than their little part as citizens, perhaps.

But we are turning to them with an unusual remedy, a restriction, a definition, a treatment of their contracts in a way that we do not apply to any other physician, that we do not apply to any surgeon.

Mr. President, it is erroneous to say that certain things in a laboratory are routine and could be handled by another employee or a paramedic and, therefore, say that certain existing contracts and arrangements with pathologists must be out so far as medicaid and medicare is concerned. That is wrong.

In every act that the pathologist performs, every direction that he gives to the technicians and every return that he looks at, he is a physician, and he is applying his special knowledge and experience to things that to the outsider looks routine or could be performed merely by technicians.

If we leave this section in the bill it will be hampering the most important physician in the hospital. It will be interfering with his compensation contrary to the medicare law. It will be imposing upon his restrictions as to his type of contract that is not imposed on any other physician.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). The Senator from Georgia has the only time remaining. There is 1 minute remaining.

Mr. METZENBAUM. I yield back the remainder of my time.

Mr. DURKIN. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator has no time.

Mr. DURKIN. I understood the floor manager yielded 1 minute to me.

Mr. TALMADGE. Mr. President, I promised the distinguished Senator from New Hampshire that I would yield him 1 minute on this amendment.

Mr. DURKIN. I will probably do more good by passing.

I thank the Chair.

Mr. TALMADGE. Mr. President, I yield back my time and am ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio. (Putting the question.)

Mr. CURTIS. No.

Yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. CURTIS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on passage of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Iowa (Mr. CLARK), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY) and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. GRIFFIN), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. SCOTT), the Senator from Texas (Mr. TOWER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. GRIFFIN) would vote "yea."

The PRESIDING OFFICER. Is there any Senator in the Chamber who wishes to vote?

The result was announced—yeas 78, nays 10, as follows:

[Rollcall Vote No. 485 Leg.]

YEAS—78

Abourezk	Eagleton	Lugar
Anderson	Eastland	Magnuson
Bayh	Garn	Matsunaga
Bellmon	Glenn	McGovern
Bentsen	Gravel	Melcher
Biden	Hansen	Metzenbaum
Brooke	Hart	Morgan
Bumpers	Hatfield,	Moynihan
Burdick	Mark O.	Muskie
Byrd,	Hatfield,	Nelson
Harry F., Jr.	Paul G.	Nunn
Byrd, Robert C.	Hayakawa	Packwood
Cannon	Heinz	Pearson
Case	Hodges	Pell
Chafee	Hollings	Percy
Chiles	Huddleston	Proxmire
Church	Humphrey	Randolph
Cranston	Inouye	Ribicoff
Culver	Jackson	Riegle
Danforth	Javits	Roth
DeConcini	Kennedy	Sarbanes
Dole	Laxalt	Sasser
Durkin	Leahy	Schmitt
Schweiker	Stevenson	Wallop
Sparkman	Stone	Williams
Stafford	Talmadge	Young
Stennis	Thurmond	Zorinsky

NAYS—10

Baker	Goldwater	Long
Bartlett	Hatch	Stevens
Curtis	Helms	
Ford	Johnston	

NOT VOTING—12

Allen	Haskell	McIntyre
Clark	Hathaway	Scott
Domenici	Mathias	Tower
Griffin	McClure	Weicker

So the amendment (No. 3684) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 2068

(Purpose: To extend through October 1, 1979, the interim provisions of the Social Security Act (now in effect) with respect to payment for services of physicians rendered in a teaching hospital)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS), for himself and others, proposes an unprinted amendment numbered 2068: At the end of the bill, insert the following new section:

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following new section:

PAYMENT FOR SERVICES OF PHYSICIANS RENDERED IN A TEACHING HOSPITAL

SEC. . Section 15(d) of Public Law 93–233 (as amended by section 7(c) of Public Law 93–368, the first section of Public Law 94–368, and section 7 of Public Law 95–292) is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1979."

Mr. BUMPERS. Mr. President, I offer this amendment on behalf of myself, Mr. SPARKMAN, Mr. BROOKE, Mr. BENTSEN, Mr. TOWER, Mr. MATHIAS, Mr. STONE, Mr. FORD, Mr. SARBANES, Mr. GLENN, Mr. MCINTYRE, Mr. RANDOLPH, Mr. MAGNUSON, Mr. CHILES, Mr. LUGAR, Mr. HODGES, Mrs. ALLEN, Mr. HUDDLESTON, Mr. ANDERSON, Mr. CURTIS, Mr. SCHWEIKER, Mr. HAYAKAWA, Mr. MOYNIHAN, Mr. MORGAN, Mr. SCHMITT, and Mr. KENNEDY, also, Mr. ZORINSKY.

Mr. President, this is a very simple amendment. I think the floor manager is familiar with it.

Mr. DOLE is also a cosponsor. I apologize because he has been one of the strongest proponents of this amendment. I also add Mr. JAVITS as a cosponsor.

Mr. TALMADGE. Mr. President, I am thoroughly familiar with the amendment. The Senator's amendment would postpone the regulations of HEW for 1 year, until the committee can have ample time to study the situation further. I support the Senator's amendment. I strongly urge the Senate to agree to it.

Mr. BUMPERS. I thank the floor manager very much. I would also like to say that Mr. SCHWEIKER, of Pennsylvania, should be added as a cosponsor. I ask unanimous consent that anyone who wishes to become a cosponsor be allowed to do so before the record is closed this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I yield back the remainder of my time.

Mr. TALMADGE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 2069

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 2069.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

"SECTION . (a) That this section may be cited as the 'James B. Allen Taxpayer's Attorney Fee Tax Credit Act of 1978'.

"(b) In any action wherein the United States or the Internal Revenue Service, or any person acting as an agent or employee of either the United States or the Internal Revenue Service or of both, is a party and in which tax liability to the United States on the part of any person is at issue or in which a declaration, refund, payment, or any other matter pertaining to a tax of the United States is in dispute, the court may in its discretion, without regard to fiscal year, certify the amount of a reasonable attorney's fees and costs or the amount of a reasonable practitioner's fees and costs to any prevailing party other than the United States, the Internal Revenue Service, or any person acting as agent or employee of either the United States or the Internal Revenue Service or of both, and the amount so certified shall be creditable against any tax due the United States from such prevailing party in any taxable year beginning with or within any fiscal year beginning after September 30, 1980: *Provided, however,* That no portion of the amount creditable under this section may be carried forward from the first taxable year in which available and creditable to succeeding taxable years or carried forward from any taxable year succeeding the first taxable year in which available to a subsequent taxable

year, unless taxes due in the then-preceding taxable year (less all other tax credits available in that year, if any) were in an amount less than the amount creditable under this section in such preceding year.

"(c) As used in this section, the term 'prevailing party' means any person the court may in its discretion determine to have before that court prevailed substantially on the merits, notwithstanding the outcome or pendency of any appeal."

Mr. HELMS. Mr. President, there is a time limitation on this amendment is there not?

The PRESIDING OFFICER. Twenty minutes.

Mr. HELMS. Ten minutes to each side?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. It may not be necessary to take that much time, Mr. President. I thank the Chair.

JAMES B. ALLEN TAXPAYER ATTORNEY FEES AWARD ACT

Mr. President, on September 26, 1976, in the last days of the 94th Congress, our late and very respected colleague, and one of the best friends I ever had, Senator James B. Allen, of Alabama, and I offered an amendment to the Civil Rights Attorney's Fees Awards Act of 1976.

The Allen-Helms amendment, adopted by an overwhelming vote of 72 to 0, provided for payment of attorney fees to taxpayers who prevailed in litigation with the IRS. This provision was approved in the House of Representatives and became law as part of Public Law 94-559. The provision has been codified in the United States Code at 42 U.S.C. 1988.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senate will be in order.

Mr. HELMS. I thank the Chairman.

We are all familiar with the rapacious attitude of the Internal Revenue Service in its dealings with small taxpayers, and we are all familiar with the excessive legal fees which burden taxpayers in protracted litigation with the IRS. In short, Mr. President, it is a recognized fact that the IRS uses the threat of protracted litigation to extort tax payment often in cases where the merits of the controversy are heavily against the position of the Government. Thousands of taxpayers have simply coughed up the money rather than face armies of Federal attorneys from the IRS bent on embarrassing and frustrating the taxpayer, regardless of the likely ultimate outcome of a trial on the merits.

Time and again, we have seen the spectacle of the IRS embroiled in litigation involving matters already decided contrary to the position of the IRS by a multitude of courts. Repeatedly, we see the IRS needlessly appealing trial court decisions for the sole purpose of keeping in litigation a disputed tax in the hope that the taxpayer will eventually pay up rather than face more attorney fees and more costs.

So, Mr. President, the Allen-Helms amendment adopted by the Senate and ultimately by the 94th Congress was intended to cure these problems. Regrettably, the courts have given a highly technical and almost ludicrously narrow interpretation of the language of the amendment. Thus, in spite of the clear intent of the 94th Congress, the Tax Court, on May 16, 1977, in the case of Key Buick Co. against Commissioner, rendered the Allen-Helms provision virtually meaningless by holding that the law's provision for payment of attorney fees would apply only when the taxpayer was a named party defendant in an action brought by the United States as a party plaintiff. I am advised that in roughly 99 percent of all tax cases, because of a procedural anomaly, the United States or the Internal Revenue Service is not the plaintiff but is rather the technical party defendant, this notwithstanding the fact that in actuality the Government is in the traditional plaintiff role in seeking to impose a tax liability on the taxpayer who defends by asserting that the tax is not due. Because of this procedural anomaly, the provision adopted in the last Congress has been effectively vitiated by the Tax Court, and, in my judgment, action is therefore now required by Congress to insure that the purpose of the original provision is carried into effect without further delay.

On the other hand, Mr. President, and for completeness, I must state that a few other courts have given an interpretation to the Allen provision which more closely accords with the true intent of Congress. For example, in United States against Garrison Construction Co., the District Court for the Northern District of Alabama on September 13, 1977, held that vexatious conduct by the Government in filing its action against Garrison was sufficient to support an award of attorney fees to the taxpayer, even though there was no showing that the Government had acted in bad faith.

But, Mr. President, the problem still remains. The Garrison holding is of only slight benefit because in that case the Government was in the unusual position of being the actual party plaintiff. The courts have, thus, in practical effect, made the Allen-Helms provision available only to a very few taxpayers across this land who are involved in litigation with the Government when the Government acts as the technical as well as actual plaintiff.

To sum up, the amendment I am offering today, in honor of the late Jim Allen, would correct the deficiency of the original provision, at least as that deficiency has been determined to exist by the various courts. And I might state parenthetically, Mr. President, that I do not believe the Allen-Helms amendment was, in fact, deficient but that only an unusual and strained black-letter interpretation of the provision resulted in its effective emasculation. I find some irony in our liberal courts giving this statute a strict interpretation when the same courts are always ready to stretch the law to the limits in favor of violent criminals and always ready to paint with a broad brush the novel claims of various activist groups who deluge our court system with frivolous causes. But, irony aside, the courts have virtually destroyed this amendment to which I alluded earlier.

Now, Mr. President, I believe that taxpayers are fed up with being abused by the IRS. I believe taxpayers are fed up with being taken for the goat in virtually every litigated tax dispute with the Government. And taxpayers have a right to be, Mr. President. The individual taxpayer or the small businessman is no match for the IRS or for the vast resources of the tax division of the Department of Justice.

Using taxpayer funds, the Department of Justice is willing to support IRS intransigence and stubbornness by the expenditure of vast amounts for legal costs with the sole, true purpose of forcing settlement of disputed tax claims. Against this backdrop, Mr. President, the Congress ought again to adopt a provision, drafted so there can be no doubt about its intent, designed to help taxpayers facing the vast array of resources available to the Government.

But, Mr. President, this provision should apply, and the amendment I am offering would apply, only if the taxpayer's position were proven correct. The chief object of permitting the courts to make a discretionary award of fees and costs in tax cases to prevailing taxpayers is to encourage taxpayers to seek a vindication of their position when they are certain they are right and to discourage the Government from wasting millions in needlessly litigated disputes for the sole purpose or primary purpose of forcing settlement, notwithstanding the actual merits of the controversy.

Senator Allen recognized the need to undo the damage done by the courts in their interpretation of his provision. On May 26, 1977, he joined with Senator CRANSTON in introducing S. 1610, a bill designed to broaden the scope, or rather to correct the interpretation, of the original Allen provision. This bill itself has been the subject of much study and comment. Many changes in it have been recommended to guarantee that the courts do not again weasel out of application of a statute expressing congressional will. The Department of the Treasury has proposed various "compromises" during discussion and study of S. 1610. These so-called compromises have been studied by leading tax attorneys who, in all instances, have advised that the Treasury proposals are devoid of true meaning and represent a retreat from the gains already made for taxpayers in the adoption of the original Allen provision. The amendment I am offering has been drafted in light of public comment on S. 1610, and it is broadly drawn, Mr. President, to guarantee that taxpayers get the relief intended.

I have no doubt but that the Department of the Treasury, various undersecretaries of this and undersecretaries of that, are going to be beating their breasts against this amendment, asserting dire consequences, gnashing their teeth, and generally firing the heavy artillery to work against its enactment. But the issue boils down simply to this: Is the Congress willing to give some small measure of relief to prevailing taxpayers in litigation with the Government? Or are we going to side with the bureaucrats, side with the lawyers at the tax division who fear the embarrassment of costing the

Government an attorney fee in a case they lost? Let us make the lawyers and bureaucrats at Justice and Treasury face that possible embarrassment. Let us make them consider in any dispute with a taxpayer the possibility they may be responsible for the Government paying the taxpayer's costs and attorney fees. That prospect, Mr. President, will cause a needed rebirth of sobriety at the IRS and will be guaranteed to reduce the arrogance of its agents.

I thank Senators for their attention, and I welcome any questions which may be posed regarding the amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. TALMADGE. Mr. President, first, let me say this: I have read the amendment and I personally support it. It is nongermane to this bill. It has no relationship whatsoever to medicaid or medicare. I understood from the distinguished Senator from Ohio that he may be opposed to it, and also some other Senator may desire to come to the floor and make a statement. Does the Senator from Ohio desire some time?

Mr. METZENBAUM. Will the Senator yield 3 minutes?

Mr. TALMADGE. I yield 3 minutes to the Senator from Ohio.

Mr. METZENBAUM. Is this the same amendment that was up the other evening?

Mr. HELMS. Yes.

Mr. METZENBAUM. Did that amendment have a limitation of $10,000 as a maximum fee?

Mr. HELMS. No. It stipulates reasonable attorney fees.

Mr. METZENBAUM. Mr. President, it is difficult to speak against an amendment that is called the James B. Allen memorial amendment because I had tremendous respect for that Member of the Senate. I attended his funeral. Although I was not often on the same side with him, I thought he was one of the finest Members of the U.S. Senate. He battled for what he believed in.

In the same manner, I think he would feel it totally appropriate for me to rise and indicate my objection to this amendment which, as I see it, really has no logic nor reason why a party in a case before the Internal Revenue Service should be allocated fees.

We have many other instances in which we have matters with the Government. In very few of them are fees allocated. This is a special kind of a situation. I do not believe it appropriate that there be any amount allocated. In most instances, we pay our own way. We hire lawyers. I do not know why we should be going to the Government to ask them to pay for our lawyers. I know when the consumer protection legislation has come before this body there has been strong opposition from the Senator from North Carolina to that suggestion.

I believe that in this instance, it is a rather similar situation. I think that if one does not fly, the other does not make that much sense, either.

I, myself, believe that the consumer has a greater problem in finding a lawyer and being able to pay a lawyer than does a litigant in the average tax case. Therefore, I think this amendment should not be adopted and agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Will the Senator yield 1 minute?

Mr. HELMS. I am delighted to yield to my friend from Kansas.

Mr. DOLE. Mr. President, I just take 1 minute to say that this amendment is similar to an amendment that the distinguished Senator from Arizona had in for a long time. He originally introduced this 9 or 10 years ago. I know the Senator from Kansas joined as a cosponsor in an attempt to call it to the attention of the Senate. I think it does have widespread support. I do not know if the Senator wants additional cosponsors. I should not think so in this case. I certainly support the amendment.

Mr. HELMS. Mr. President, I ask unanimous consent that the distinguished Senator from Kansas (Mr. DOLE) be added as a cosponsor.

The PRESIDING OFFICER (Mr. PELL). Without objection, it is so ordered.

Mr. BUMPERS. Will the Senator yield?

Mr. HELMS. I yield on the time of the Senator from Georgia.

Mr. BUMPERS. Is this the amendment that deals with the attorneys' fees in IRS cases? I was a cosponsor of the original legislation introduced by Senator Allen on this subject. Am I not a cosponsor of this amendment?

Mr. HELMS. Not as yet, but I shall be glad to have the Senator as a cosoponsor.

Mr. BUMPERS. I heard the Senator from Ohio refer to this as the James B. Allen memorial amendment. Is this the same amendment that the Senator had difficulty getting before the Senate a couple of evenings ago?

Mr. HELMS. That is correct.

Mr. BUMPERS. The Senator from Alabama, Mr. Allen, and I were not often on the same side. The Senator from North Carolina and I are not often on the same side, either, but I think this amendment is meritorious. I think that for a very simple reason: I think that when the Government brings an action, whether civil or criminal, against a taxpayer who honestly believes that he has a cause, the taxpayer should be awarded attorney fees.

Mr. President, how much time does the Senator from North Carolina have?

The PRESIDING OFFICER. The Senator from North Carolina has 2 minutes.

Mr. HELMS. I have 2 minutes, and I am glad to yield them to the Senator.

Mr. BUMPERS. I want to say I have been up against the U.S. Treasury and the U.S. Printing Office in a few cases. I know the ability of the U.S. Government to break somebody even when the taxpayer has the most meritorious case in the world. It is unfair. It is inequitable. It is not in keeping with what the U.S. Government normally says is fair play.

Let me give you an example. I discovered the other day that the Wages and Hours Division can come in and make an assessment on you. If you disagree with it, you can make them take you to court to collect it. No matter how honest you may be in your conviction, they not only get the assessment, they get twice the amount of assessment plus attorneys' fees. After the first of the year, I intend to do my best to do something about that.

Mr. DURKIN. Will the Senator yield 30 seconds?

Mr. HELMS. If I have the time, I will. How much time do I have?

The PRESIDING OFFICER. One minute.

Mr. HELMS. I yield it to the Senator from New Hampshire.

Mr. DURKIN. I thank my friend from North Carolina.

Mr. President, he raised this the other night and I was blind to the parliamentary situation. I should like to cosponsor the Senator's amendment. I think it is long overdue. I still think we have to go one step further next year and, when a citizen gets advice from the IRS, the next level is to stop them from challenging the person's return who received the advice from the IRS. I shall tackle that problem next year.

I agree with the Senator from Arkansas. We have had a similar problem with the Wages and Hours Division at home. We are going to straighten that out next year, too.

Mr. TALMADGE. Does any Senator desire to speak on this amendment? If not I suggest we vote on it.

Mr. KENNEDY. Mr. President, will the Senator yield to me 3 minutes?

Mr. TALMADGE. I yield 3 minutes to the distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise to oppose this amendment at this time. I read the RECORD the other day of the exchange between the Senator from Ohio and the Senator from North Carolina. We have been trying in the Judiciary Committee to work out a combination of different rights—those that the Senator from North Carolina is concerned about, and also the opportunity, under rather strict requirements, for those who appear before regulatory agencies to be able to intervene if they meet certain requirements.

These has also been a concern about small business protection before various agencies. There is a series of this type of legislation which is before the Committee on the Judiciary. It seems to me that, whether it is a small business bill of rights for protection in a similar area, whether we are concerned about the taxpayer or about the public intervening, we ought to consider these issues together, rather than just taking them one at a time.

Beyond that, Mr. President, my own fundamental concern with this process is if we have people whether it is in the Justice Department or any other agency, who are going to abuse their power, I think that they ought to be fired. I think we ought to have notification and they ought to be fired. We ought to hold those with administrative responsibility responsible for various actions, rather than creating a situation which might make agencies hesitant about moving forward in meritorious cases.

If we have bureaucrats who harass the

public, we ought to get rid of them. But we run the risk of tampering with basic presumptions in a complicated area of law in adopting this amendment without more careful consideration.

I do think we ought to consider the range of different issues that could come up before us that the Senator from Ohio has mentioned. I hope that the Senate will vote no on this amendment.

The PRESIDING OFFICER. Has the Senator from Georgia yielded back his time?

Mr. TALMADGE. I am glad to yield back my time.

Mr. BUMPERS. Will the Senator from Georgia yield me 2 minutes? I hate to ask him.

Mr. TALMADGE. I yield the Senator 2 minutes.

Mr. BUMPERS. The Senator from Massachusetts makes a good point. It just overlooks one thing—the human personality. There are good Congressmen, there are good Senators; there are bad Congressmen, there are bad Senators. There are good prosecutors, there are bad prosecutors. There are a lot of prosecutors who run for election and they announce how many scalps they are able to hang up on the pole. That is the way they run for reelection. That is the way a lot of agencies operate, too. That is the reason your mail is so heavy on OSHA, Wages and Hours, and every other Government agency. They have the power to break people and they do break them. If you have never been on the receiving end of that, I promise you, you have missed a treat.

This is a very simple amendment.

During the next session of Congress, I am going to try to put a similar amendment on every one of them. The President has said he wants regulation writers to sign their names to the regulations they write. When you sign your name to something, that is when the accountability period starts. That is what is wrong with the bureaucracy. They hide in the labyrinth of HEW and every other agency around here and nobody knows who is accountable, because they cannot find them.

I tell you something else: Government agencies will think twice before bringing a case against a taxpayer. If they have a good case, they do not have to worry. If they have a criminal on the other end of the line, they can prosecute him and no danger is done. But when they have an innocent citizen who they are trying to break mentally, physically, and financially, as has happened to many people in this country, they are going to think twice if they have this thing hanging over their heads. I think it is the simplest form of justice we can offer to the American taxpayer, and I intend to do it a lot more next year.

Mr. HELMS. I ask unanimous consent that Senators RANDOLPH, THURMOND, DURKIN, BUMPERS, and BAYH be added as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

Did the Senator make this mandatory or just leave it up to the court?

Mr. HELMS. As the Senator knows, it will be determined——

Mr. KENNEDY. I did not know. I regret that I did not know. This has been proposed in different forms.

Does the Senator have any reason to object to amending this to also permit, under the same type of criteria, the awards of intervenor funds giving the same kind of discretion that raise public interest issues which would not otherwise have been raised in the course of a regulatory decision or consideration, and the same kind of criteria that has been spelled out by the Federal Trade Commission and which works extremely well?

Mr. HELMS. The Senator would not agree to this because we have thousands of lawyers being paid by the Federal Government—by the taxpaers—to represent precisely what the Senator is talking about.

Mr. KENNEDY. Well, the point about that is that I expected that answer, Mr. President.

We will find that this year there are about $250 million that will be paid to corporate interests that will appear before regulatory agencies and that will appear in the courts representing those interests, and there will probably be about $4 million to $5 million that will be paid from various public interest groups to intervene in those regulatory agencies.

I guess, either fortunately or unfortunately, we will have an opportunity to debate that at another time.

I am prepared to vote, Mr. President.

The PRESIDING OFFICER. Is all time yielded back?

Mr. TALMADGE. I yield back the time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (UP No. 2069) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The bill is open to further amendment.

UP AMENDMENT NO. 2070

(Purpose: Modify section 19 pertaining to the waiver of human experimentation provision for Medicare and Medicaid)

Mr. KENNEDY. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 2070.

The amendment is as follows:

At the end of Section 19 insert the following:

"Notwithstanding the first sentence hereof, the Secretary in reviewing any application for any experimental, pilot or demonstration project pursuant to the Social Security Act shall apply any appropriate requirements of title II of Public Law 93-348 and any regulations promulgated thereunder in making his decision on whether to approve such application."

Mr. KENNEDY. Mr. President, I have talked with the chairman. All this does is provide, when the Secretary approves an experiment under the Social Security Act, that is, a human experiment, he must take into consideration whether the human subjects are adequately protected.

I believe it is acceptable.

Mr. TALMADGE. Mr. President, I have discussed the amendment. I have no objection to it. I hope we can agree to it.

Mr. DOLE. Has that amendment been cleared with Senator CURTIS?

Mr. TALMADGE. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (UP No. 2070) was agreed to.

UP AMENDMENT NO. 2071

(Purpose: To provide that failure to comply with a court order for child support shall be grounds for discharge from Federal employment)

Mr. HATCH. Mr. President, I call up my amendment No. 3630 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 2071.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

FAILURE OF FEDERAL EMPLOYEE TO PROVIDE COURT ORDERED CHILD SUPPORT

SEC. 47. (a) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

Mr. KENNEDY. Mr. President, could we have a copy of those amendments?

Mr. TALMADGE. This is a printed amendment, No. 3630. It adds a provision that requires that failure to comply with a court order for child support shall be grounds for reprimand or discharge from Federal employment.

I certainly have no objection to it. I would urge the Senate to agree to it.

Mr. HATCH. That is basically what it stands for.

I have this and one other technical amendment which corrects the bill on that basis.

Mr. KENNEDY. I have no objection.

Mr. HATCH. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment (UP No. 2071) was agreed to.

Mr. HATCH. I move to reconsider the vote by which the amendment was agreed to.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 2072

(Purpose: To clarify the effective date of the reimbursement reform provisions)

Mr. HATCH. Mr. President, I call up my amendment No. 3632 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 2072.

The amendment is as follows:

On page 8, line 14, after "payment" insert ", for any accounting year beginning on or after July, 1979,".

Mr. HATCH. Mr. President, this amendment provides technical correction for effective date of the committee-approved bill. It is a corrected date. I think the committee is willing to accept it and it is purely technical.

Mr. TALMADGE. If the Senator will yield, as I understood the Senator to explain this to me, it merely authorizes the clerk or Secretary of the Senate to make technical corrections in the bill.

Now, he does not change any of the dates in the bill, does he?

Mr. HATCH. I do not believe so.

Mr. TALMADGE. I do not want any dates changed.

If the Senator will yield, it does change one date. It is a technical amendment, relating to a July 1 date, is that correct?

Mr. HATCH. That is correct.

Mr. TALMADGE. What is the other date change?

Mr. DOLE. That is all.

Mr. TALMADGE. I am perfectly agreeable.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. HATCH. Yes.

Mr. METZENBAUM. When would this administrative order otherwise be effective, and how much is involved dollarwise?

Mr. HATCH. Just putting in the June, 1979 date, that is all it does.

Mr. METZENBAUM. Instead of what? Is it making it retroactive?

Mr. HATCH. As I understand it, there is a date currently lacking in the bill. This corrects what is a technical error and does not really change the bill.

Mr. METZENBAUM. What is in the bill now?

Mr. HATCH. Nothing. It just puts the date in that should have been in at the beginning, as I understand it.

I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment (UP No. 2072) was agreed to.

Mr. HATCH. I move to reconsider the vote by which the amendment was agreed to.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALMADGE. Mr. President, if there are no further amendments to be offered, I suggest we proceed to third reading.

Mr. President, I have been informed that the Senator from California is on his way to offer an amendment, so I will ask the Chair not to press for third reading at this point.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, will the Senator yield me 2 minutes for the purpose of presenting an uncontested bill?

Mr. TALMADGE. I yield 2 minutes to the distinguished Senator from Nevada.

AMENDMENT OF MAGNUSON-MOSS WARRANTY—FEDERAL TRADE COMMISSION IMPROVEMENT ACT

Mr. CANNON. Mr. President, I send to the desk a bill and ask unanimous consent that it be considered as having been read the first and second times, and that the Senate proceed to its immediate consideration.

Mr. METZENBAUM. Mr. President, reserving the right to object, will the Senator from Nevada be good enough to tell us what this bill is?

Mr. CANNON. Mr. President, the measure I have introduced would extend the period of time from July 5, 1978, to June 30, 1979, for the filing date for a report on the Federal Trade Commission's rulemaking procedures as established in the Magnuson-Moss warranty—Federal Trade Commission Improvement Act. When Congress passed this act it was hoped that by now a sufficient number of rules would have been promulgated by the Federal Trade Commission under this act that a meaningful report could be completed. Unfortunately, only one rule so far has been promulgated and therefore I am requesting that the Senate pass this legislation in order to provide more time for a meaningful report to be completed.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3595) to amend section 202(d) of the Magnuson-Moss warranty—Federal Trade Commission Improvement Act to extend the deadline for filing a report of rulemaking procedures.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nevada? The Chair hears none, and it is so ordered.

The bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202(d) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act is amended by striking out "July 5, 1978", and inserting in lieu thereof "June 30, 1979".

Mr. CANNON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEDICARE-MEDICAID ADMINISTRATIVE AND REIMBURSEMENT REFORM ACT

The Senate continued with the consideration of the bill.

UP AMENDMENT NO. 2073

(Purpose: To delete the provision prohibiting the disclosure of aggregate payments to physicians)

Mr. KENNEDY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 2073.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike page 62, lines 10–22.

Mr. KENNEDY. Mr. President, this amendment just provides adequate protection for procedures with respect to the release of information dealing with fees. It sets out protection for the physician and provides protection for the public. I think it is acceptable to the committee.

Mr. DOLE. Is this the amendment that authorizes the release of figures——

Mr. KENNEDY. It deletes the provision in the bill which virtually prohibits information about doctors receiving Federal funds.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. TALMADGE. Mr. President, the problem in this area arose when HEW started releasing eroneous and inaccurate statistics about payments to physicians under medicare or medicaid. In many instances, it was discovered that the released figures showed sums that were paid to dead doctors. It was erroneous in many particulars.

So we put a provision in the bill that would prohibit HEW from releasing this information. We might have gone too far, because it is public money.

However, what we were trying to do was to avoid the embarrassment of doctors when HEW was releasing false information. We had Secretary Califano before our committee, and he assured our committee that never in the future would those errors be made again.

If the Senator will assure me that he will be happy to join me in helping to see

that HEW does release accurate and only accurate information, I am prepared to accept the amendment.

Mr. KENNEDY. I welcome the opportunity to work with the chairman of the committee, and I understand that the Secretary would welcome that opportunity. I think that is the best way to proceed.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. TALMADGE. I yield.

Mr. DOLE. Has the amendment been accepted? I do not think it has. I have not seen the amendment.

I am not here to plead for the physicians in America, but there was a lot of false information put out about doctors' fees under medicare. Ten or fifteen physicians in my State of Kansas had all sorts of headlines spread across the newspapers, and they are still trying to prove that they did not receive $99,000 from HEW, or $19,000, or $200,000.

It seems to me that it is a disservice to those we ask to participate in the program, the way the information is distributed. It costs HEW about $100,000, I understand, to make the distribution.

I would like to have a chance to look at the amendment.

Mr. KENNEDY. All it does is to eliminate section 20. It returns it to current law, with the assurance that we will work closely with the chairman of the Finance Committee's Health Committee and the Secretary of HEW to develop procedures to insure that those kinds of mistakes do not happen but, that knowledge about those public expendtiures is going to be known.

I think we can work it out. I am glad to work closely with the chairman of the Finance Committee's Health Subcommittee and Secretary of HEW and with the Senator from Kansas.

Mr. DOLE. Why not, in some way, modify section 20, rather than strike section 20? Now we are back to the same situation which allowed the release of information that caused embarrassment to many good physicians in this country.

It seems to me that we tried to address that problem objectively in the committee. There were a lot of disclosures about physicians receiving large payments under medicare, and it turned out that they did not receive the payments, as the distinguished chairman has pointed out.

I recall cases in the State of Kansas in which money never was received by the physician. All she had was the headline and some mild retraction by somebody at HEW.

It is the same old story. We turn it over to the bureaucracy, and it is all run by computers, and nobody cares about the person, whether it is a patient or a physician.

It is always good to stand up and say somebody is going to get money from the Government. I suppose it is always all right to expose some physician who got a lot of money from medicare and medicaid which she should not have received from medicare or medicaid; but if she gets that money, she is entitled to have the facts and not have some mistaken figure printed in the paper in Salina, Kans., or Boston, Mass., or anywhere else.

It seems to me that there might be some way to accommodate the distinguished Senator's objective, as well as to protect some of the physicians. I am not prepared to accept striking section 20 from the bill. Maybe we should vote on it. I believe every Senator in this body has had at least one physician contact him in the past year, suggesting that he should do something about HEW's disclosure when they give false information.

It seems to me that we put the physician in a position of having to prove she is not guilty of something, when the figures never should have been released in the first place, if they are erroneous. There are no safeguards. All the Senator does is strike out section 20. I do not see any safeguards.

Mr. KENNEDY. On the other side, we are talking about public funds, public money, and the public's right to know where the taxpayers' money is going. That is all we are talking about. Under the Finance Committee proposal, there is a virtual prohibition of the public questioning that kind of information.

The Senator from Kansas and I are concerned about the publication of bad information or misinformation. What we want to do is to develop a procedure for the protection of the public's interest and their right to know, and to protect the physicians. But the way the proposed legislation is drafted, it says that in this area of expenditure, the public has no right to know how the public's money is being expended. I do not think that is the right position.

If the Senator has a suggestion to deal with it, I would be glad to consider it. I think that what the chairman said about trying to work out a procedure is entirely satisfactory.

Perhaps we could set it aside, Mr. President, while we consider the amendment of the Senator from California. I ask unanimous consent to set the amendment aside.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from California.

UP AMENDMENT NO. 2074

(Purpose: To extend medicaid eligibility to certain low-income women)

Mr. CRANSTON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and Mr. MOYNIHAN, Mr. BAYH, Mr. CHURCH, Mr. HELMS, Mr. JAVITS, Mr. RIEGLE, Mr. STAFFORD, Mr. WILLIAMS, Mr. CLARK, and Mr. BROOKE proposes unprinted amendment numbered 2074.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

MEDICAID ELIGIBILITY OF PREGNANT WOMEN

SEC. . (a)(1) Section 1902(a)(10) is amended—

(A) by inserting "(i)" after "(A)" in subparagraph (A);

(B) by striking out "clause (A)" and inserting in lieu thereof "subparagraph (A)" each place it appears;

(C) by inserting after subparagraph (A) the following new clause:

"(ii) for making medical assistance available to any woman for a period of her pregnancy and for 60 days following the date of termination of her pregnancy—

"(I) who, on the basis of resources, either is eligible for aid under the State plan approved under part A of title IV or would be eligible for aid under such State plan if she had a dependent child (as defined in part A of title IV) living with her, and

"(II) whose income (including the income of the family of which she is a member) does not exceed the income standard for such a woman to be eligible for any medical assistance under the State plan;".

(2) Section 1902(f) is amended (A) by striking out "clause (10)(C)" and inserting in lieu thereof "paragraph (10)(C)" each place it appears, and (B) by striking out "clause (10)(A)" and inserting in lieu thereof "paragraph (10)(A)(i)" each place it appears.

(3) Sections 1903(a)(1), 1903(f)(4)(C), and 1905(a) are amended by striking out "section 1902(a)(10)(A)" and inserting in lieu thereof "section 1902(a)(10)(A)(i)" each place it appears.

(b)(1) Section 1905(a) is amended—

(A) by striking out "or" at the end of clause (vi);

(B) by inserting "or" at the end of clause (vii);

(C) by inserting below clause (vii) the following new clause:

"(viii) women during pregnancy and during the 60 days following the date of termination of pregnancy,".

(C) This section shall be effective July 1, 1979, except that no State shall be found to have failed to comply with the requirements added by this section for any period prior to the first calendar quarter which commences 30 days or more after the end of the next regular session of the State legislature which commences after the date of enactment of this Act.

Mr. CRANSTON. Mr. President, this amendment, supported by the administration, deals with medicaid coverage of low-income women who are pregnant for the first time.

I am gratified to be joined in cosponsoring this amendment by the following distinguished Senators: from New York (Mr. MOYNIHAN), from Indiana, (Mr. BAYH), from Idaho (Mr. CHURCH), from North Carolina (Mr. HELMS), from New York (Mr. JAVITS), from Michigan (Mr. RIEGLE), from Vermont (Mr. STAFFORD), from New Jersey (Mr. WILLIAMS), from Iowa (Mr. CLARK), and from Massachusetts (Mr. BROOKE).

Experience has shown that without assurance of third-party reimbursement, many low-income women will not seek prenatal care but rather will arrive at the hospital emergency room when the birth of the child is imminent. This practice, obviously, creates a greater risk for the mother as well as the child.

Under the proposed amendment, the expectant mother can seek early prenatal care, secure in the knowledge that the physician fees will be covered. The result will be a greater chance for a

healthy delivery and a greater chance for a healthy child.

I would like to point out, Mr. President, the specific benefits this proposal has in relation to the increased numbers of teenage pregnancies. These young women are particularly susceptible to bearing low-birth-weight infants. The report entitled "11 Million Teenagers" pointed out that low birth weight is not only a major cause of infant mortality, but also can lead to other childhood illnesses and neurological defects which may involve lifelong mental retardation—and quite possibly lifelong dependency on governmental support. That report went on to say that the death rate from complications of pregnancy is significantly higher for adolescents than it is for mothers in their twenties. Good prenatal care can help prevent these tragedies.

Our amendment will insure that these young women will get the all-important health care they need during their pregnancies.

As the chairman of the Subcommittee on Child and Human Development of the Human Resources Committee, these issues are of major concern to me.

Mr. President, last year, as chairman of the Subcommittee on Child and Human Development of the Senate Human Resources Committee, I chaired hearings on the issue of adoption reform. Several witnesses testified that the provision of birth-related costs to women with problem pregnancies would help stem the tide of black market adoptions, since women who have no other way of having their medical costs covered often resort to black marketeers. Babysellers, these women have found, are all too ready to provide prenatal, natal, and post partum medical coverage in exchange for the child. This situation is more tragic when viewed in the context of the teenage pregnancy epidemic. More than three-quarters of mothers who give birth at age 17 or younger have no health insurance at all. Only one-sixth are covered for prenatal care; fewer than one-fifth for payment of their hospital or doctor bill. These youngsters are ripe targets for black market exploitation.

The amendment we are proposing to the medicaid program is one I had suggested last year to the Secretary of Health, Education, and Welfare. That suggestion was to broaden medicaid coverage to low-income women pregnant for the first time whose income level would make them eligible for medicaid coverage if they had a dependent child. It seemed to me inconsistent to provide medicaid coverage to these women after their child was born but to refuse medicaid coverage to these women in the critical prenatal period when, to a major extent, the future health of the infant is determined.

Mr. President, this amendment would not be effective until the last quarter of fiscal year 1979 and in addition allows time for the State legislatures to take the necessary legislative action to comply with its provisions. Thus its fiscal impact will not be great in the current fiscal year—at the maximum a cost of about $17 million.

Mr. President, the following groups have indicated their support for this amendment:

The National Conference of Catholic Charities;

American Parents Committee of the Child Welfare League;

National Alliance Concerned with School Age Parents;

American Citizens Concerned for Life;

American Academy of Pediatrics;

Americal College of Obstetrics and Gynecology; and

Family Service Association of America.

I ask unanimous consent, Mr. President, that letters I have received from the National Conference of Catholic Charities and the American Academy of Pediatrics, as well as the exchange of letters between HEW Secretary Califano and me, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON HUMAN RESOURCES,
Washington, D.C., July 27, 1977.

Hon. JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare, Washington, D.C.

DEAR JOE: I am delighted that the Administration has moved forward so dramatically in developing its position on adoption and foster care reform, and have greatly enjoyed the opportunity to work with you and your staff to develop these initiatives. I was privileged to introduce as S. 1928 the legislation you transmitted to the Congress yesterday.

There is, however, one specific section of S. 961 as reported which is a matter of great concern to me and, I know, to you and which is not a part of the new S. 1928 or S. 961 as we propose to amend it (Amendment No. 579).

Section 103(a) of S. 961, as reported, provided that States could utilize funds allocated to them under the Act for the provision of pre-natal, natal, and post-partum services to women who are voluntarily planning to place their children for adoption and who are unable to assume such costs, but only to the extent that assistance under other Federal or State programs in the community is not readily available to provide adequately for such services.

The text of the S. 961 provision (clause (2)) is:

The provision of pre-natal, natal, and post-partum services to women who are voluntarily planning to place their children for adoption (after having been informed in writing that the acceptance of such services does not in any way constitute an obligation to proceed with adoption) and who are unable to assume such costs, in order to protect the health and welfare of both the woman and child; but only to the extent that assistance under other Federal or State programs in the community in question is not readily available to provide adequately for such services.

I strongly believe that the provision of such assistance to pregnant women is vitally important. Testimony before Senate committese over the past several years has indicated that a serious problem exists in this area. Young women who are pregnant and are unable to bear the cost of carrying their pregnancies to term are frequently forced either to deal with black market baby-sellers or to resort to abortion because of financial considerations.

Although S. 961 dealt only with those women who were voluntarily planning to place their children for adoption, I am convinced, as I know you are, that all pregnant women should be assured of financial assistance, where necessary, in order to complete their pregnancies. Hence, I joined with Senators Javits and Brooke in introducing (first in 1976 as S. 3593 and in 1977 as S. 370) the "National Health Insurance for Mothers and Children Act", under which all appropriate pre-natal and post-partum (up to 12 weeks after child birth) health care would be provided women.

While I continue to favor strongly this type of comprehensive maternal and child health approach, I would hope that the Administration would be willing to support, as a good beginning in the immediate future, an amendment to title XIX of the Social Security Act to establish a uniform federal standard under which these costs would be covered under Medicaid for any needy woman. This change could be accomplished as an FY 1979 initiative.

In view of your deep commitment to deal with this subject, I am very hopeful that you will be able to develop Administration support for legislation which would provide Medicaid coverage for every needy pregnant woman and newborn infant so that such women will be free to carry their pregnancies to term free of economic or any other forms of direct or indirect pressure or coercion.

I look forward to hearing your views on this matter.

Sincerely,

ALAN CRANSTON,
Chairman, Subcommittee on Child and Human Development.

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., August 18, 1977.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR ALAN: Thank you for your recent letter and for your support in developing our foster care and adoption reform proposal. I was especially pleased to note your introductory statement in the Congressional Record which highlighted the need for these reforms.

I share your concerns that all pregnant women have access to prenatal health care services.

We believe that the needs of pregnant adolescents and low-income women deserve particular attention. I have appointed a task force to examine problems faced by the teenage expectant mother and her child, and to recommend an action agenda which would serve the health, educational, and social support needs of both. I anticipate announcing a major legislative initiative in this area in the very near future.

In this connection, I share your deep concern that Medicaid and Aid to Families with Dependent Children in many States do not uniformly cover costs of prenatal and postpartum care for women otherwise eligible to participate in these programs. It is troubling that some pregnant women forego prenatal and postpartum health care as a result of benefit limitations in these programs.

I am actively considering legislative revisions that would remedy this problem and others facing the pregnant mother and her child.

Sincerely,

JOSEPH A. CALIFANO, JR.

COMMITTEE ON HUMAN RESOURCES,
Washington, D.C., November 1, 1977.

Hon. JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare, Washington, D.C.

DEAR JOE: Many thanks for your prompt response to my letter urging the development of a Federal response to the needs of expectant mothers wishing to carry their pregnancies to term. I'm delighted by your willingness and your own personal desire to move on this issue.

I was greatly pleased to learn about your

plans for a task force to deal with this problem. I'd be interested in knowing who is directing this effort, and about the make up of the task force.

I recently received a copy of the new report published by the Guttmacher Institute—"11 Million Teenagers"—which sets forth the findings of the Institute's study of the problems with which your task force will be dealing. I hope you will be referring to this study in your work.

I'm also pleased to know that you will be developing a major legislative initiative in this area. I had directed my staff to explore legislative remedies, including the possibility of mandating AFDC eligibility for lower income women bearing their first child—which of course would make them eligible for Medicaid as well—and Medicaid eligibility for those women needing assistance whose income levels might nevertheless be above the AFDC eligibility cutoff. I would like to suggest that our staffs work with each other on this, and ask that you share with us an outline of the kinds of approaches you have under review at this time, as well as an indication of your time-table and plans for making such an announcement.

I look forward to working with you on this, Joe, and again want to thank you for your efforts.

Cordially,

ALAN CRANSTON,
Chairman, Subcommittee on Child and Human Development.

NATIONAL CONFERENCE OF CATHOLIC CHARITIES,
Washington, D.C., October 4, 1978.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: We were sorry to learn that the Senate Finance Committee amendments to the Child Health Assessment Program did not include the administration's proposal to extend medicaid coverage to income eligible women who were pregnant for the first time. We were further sorry that your proposed amendment to H.R. 9434 which would have accomplished this was not adopted by the Finance Committee yesterday. We urge you to offer this amendment on the Floor of the Senate when H.R. 9434 is before the body.

As you know we have worked with you for five years in an effort both to encourage the adoptive placement of children with special needs and to provide encouragement for women, pregnant for the first time, to avoid the black market adoption mess and carry their children to term. We are encouraged that good parts of your adoption legislation have been passed. But this additional provision, which has the support of the administration, is an important part of the whole package.

The need has been demonstrated in hearing before your Subcommittee, and in testimony given to the full Human Resources Committee this year on the Administration's proposals to help meet the problems of teen-age pregnancy. The provision of such medicaid coverage would be an important step to provide an alternative to abortion for a woman who wished to carry her child to term, and also would enable her to avoid black market adoptions if she wished to relinquish her baby for adoption. It is well known that at present the inability of some women to pay for birth related costs turns them to black market agents willing to pay those costs. In addition it has also been well demonstrated that the provision of adequate prenatal care is essential to reduce problem pregnancies and to insure, as far as possible, a well-born infant.

For these reasons we urge you to raise the amendment on the Floor of the Senate and we support you in this effort. Once again it is a pleasure to have your leadership on so important a matter.

Sincerely,

REV. MSGR. LAWRENCE J. CORCORAN,
Executive Director.

AMERICAN ACADEMY OF PEDIATRICS,
Arlington, Va., October 5, 1978.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: In view of the recent amendments in the Senate Finance Committee to S. 9434 regarding the Child Health Assessment Act, the American Academy of Pediatrics strongly recommends and urges that the following groups receive purposeful attention under the CHAP program: women who are pregnant for the first time and children ages 7–21 years.

Attention must be focused on pregnant women who become eligible for Medicaid and the CHAP program only at the birth of their children. Exclusion of the "pre-eligible" pregnant women may be a cost-containment measure, but is untenable in light of the increased risk particularly to young mothers and the fetus-newborn. The infant's need for health care begins before birth; preventive care cannot begin with extra-uterine life. Currently, twenty-two states do not consider low-income women eligible for public assistance until after the birth of the child. This has acted as a deterrent to the receipt of adequate prenatal care and cash benefits necessary to obtain nutritional supplementation for many poor women, particularly adolescents not living in AFDC households. Young teenagers experience higher rates of obstetric complications during pregnancy and delivery, higher rates of premature delivery and are at greater risk of giving birth to low birth-weight infants than are women in any other age group. They require closer medical attention, yet 70% of girls under 15 get no prenatal care at all or delay care until the end of pregnancy. Low birth-weight infants are at high risk of sensory, neurological, developmental and physical disorders and the association between receipt of prenatal care and positive health outcomes for both mother and infant have been well documented.

The Academy would urge your support in mandating Medicaid coverage for women who are pregnant for the first time.

As proposed, children ages 7–21 years who are living in families financially eligible but excluded from Medicaid by reason of not meeting other welfare program criteria are to be included in CHAP at the option of individual states. Their exclusion from mandated services appears to be based on economic reasons, and cannot be defended on either a biological or social basis.

The fact that the recommended periodicity of examinations may be less frequent for children ages 7–21 by no means lessens the likelihood of their need for health care or their essential need for the continuty of care. The program's proposed exclusive focus on children 6 years and younger may in fact serve to fragment the provision of health care to young families. Inclusion of 7–21 year olds would increase the ease of program implementation, as record keeping and tracking are frequently done on a family basis, including all children in a family rather than attempting to reach individual children. The focus on children under 6 years would impose upon families the difficult task of maneuvering multiple separate health systems for their children, depending upon the age of each child.

The Academy would urge your support for an amendment to mandate Medicaid coverage to children to 21 years of age.

Finally, we would like to point out that the changes proposed in the Medicaid (EPSDT) program by the Administration and the House and Senate Committees do address useful improvements in such issues as eligibility and financing. However, it is our judgment that unless very definitive changes are made in the administration of the EPSDT component, the legislative improvements alone are insufficient. You and your colleagues rightfully and persistently ask why there is so much difficulty having private medical practitioners participate in Medicaid, including EPSDT. The Academy expresses its firm belief that without a significant voice in the formulation of policy, regulations, guidelines and ongoing advice to the respective state offices from those knowledgeable about child health and the delivery of ambulatory child health care, the Administration of EPSDT and the whole of Medicaid itself has a strictly financial orientation. As important as financial fraud and abuse issues are, they have never been issues in preventive care for children in this country. Our task is rather to seek poor children and have them become part of a sensible, high-quality, ongoing health care program.

We respectfully suggest you examine the number and roles of physicians, nurses and allied health personnel employed in the central and regional offices of the EPSDT and whole Medicaid programs. Without such talent in significant numbers and appropriate positions to direct the program, it is impossible to expect that the program offers to the states the direction and advice intended by Congress.

In closing, we would add that the Academy continues to consult and cooperate with the Administration in the general area of provider participation in Medicaid programs. We are interested in seeing practical, working relationships developed at all levels and in all aspects of that program. Nevertheless, the shortcomings in EPSDT and the effect of those shortcomings on our nation's children force us to speak out in favor of reform.

Sincerely yours,

ELIZABETH J. NOYES,
Chief, Department of Government Liaison.

Mr. CRANSTON. Mr. President, I urge adoption of the amendment.

Mr. MOYNIHAN. Mr. President, will the Senator from California yield?

Mr. CRANSTON. I yield.

Mr. MOYNIHAN. Mr. President, I thank and express my appreciation to the senior Senator from California for his initiative and enterprise in this matter over the last year. What is noteworthy by this amendment, principally in my mind, is that we have not already adopted it. It is eminently sensible, sane, and it is legislation we should be proud of and it is overdue.

I urge the adoption of this amendment.

Mr. TALMADGE. Mr. President, the committee is opposed to this amendment.

As a Senator, I realize the sensitivity of politicians to mothers and babies, but this is one motherhood bill the Senate should not vote for now.

It is an amendment which compounds costs and confusion.

For example, just 2 weeks ago the Senate approved a major new program as part of the "Adolescent Health Services and Pregnancy Prevention and Care Act of 1978," to provide care pirmarily to low-income pregnant teenagers.

We have the $400 million maternal and child health programs under title V of the Social Security Act.

We also have a series of other programs designed to provide assistance to low-income pregnant women.

No one—and I mean no one—has indicated to this Senator or to the Committee on Finance exactly how all of these overlapping and duplicative programs would be coordinated.

As an example of the overlapping, I ask unanimous consent that a short table comparing the major approaches to coverage of pregnant low-income women, prepared by the Congressional Research Service, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TALMADGE. Mr. President, estimates of the first full year costs of the proposed amendment range from $100 to $150 million.

A specific concern of the Finance Committee in its work on H.R. 9434 was the proposed cost.

During our markup, we were able to bring that cost down from an estimated $600 million to about $375 million in the first full year.

Those estimates come from HEW and are net of what they believe would be some $40 to $50 million of savings due to "improvements in program efficiency and services."

Mr. President, I think we would have to be very naive to accept a cost estimate which has been specifically reduced to reflect projected efficiency.

Commonsense would seem to dictate to us to take those efficiencies into account when and if they actually materialize—and not before.

I have my own reservations about the feasibility of the CHAP program without piling on more people and more cost and more programs to do the identical same thing.

It seems to me that the first order of business for the President, having passed his Reorganization Act, would be to collapse all of these programs, multiplicity of them, program based on program based on program to do the same thing, collapse them into one agency to make them effective, efficient, and less expensive.

I hope the amendment will be rejected.

EXHIBIT 1

SUGGESTED AMENDMENT TO THE CHAP BILL	MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICES—TITLE V OF THE SOCIAL SECURITY ACT	ADOLESCENT HEALTH SERVICES AND PREGNANCY PREVENTION AND CARE ACT OF 1978, PASSED AS AN AMENDMENT TO S. 2474
Would amend title XIX to provide Medicaid coverage to a low income pregnant woman who meets the income and resources requirements of her State for aid to families with dependent children (regardless of the marital and employment status of the woman or her spouse) and would also require States with medically needy programs to cover pregnant women who meet the State's medically needy standard. Would also provide for a two month period of Medicaid coverage following the termination of the pregnancy, and for one additional pregnancy-related check-up beyond the two month period if the fee for the check-up has been included in a single overall charge for all pregnancy care and services.	Authorizes formula grants to the States to enable each State to extend and improve (especially in rural areas and in areas suffering from severe economic distress)—(1) services for reducing infant mortality and otherwise promoting the health of mothers and children; and (2) services for locating children who are crippled or suffering from crippling conditions and providing for them medical, surgical, corrective, and other services and care, and facilities for diagnosis, hospitalization, and after care. Also authorizes supplemental allotments to States to provide for the continuation of services to groups that had previously received services through special grants funded through fiscal year 1974. Among these were Special Projects Grants for Maternity and Infant Care, which pay up to 75 percent of the cost of providing (1) necessary health care to prospective mothers (including, after childbirth, health care to mothers and infants) who have or are likely to have conditions associated with childbearing or are in circumstances which increase the hazards to the health of the mothers or infants (including those which may cause physical or mental defects in the infants), or (2) necessary health care to infants during their first year of life who have any conditions or are in circumstances which increase the hazards to their health, or (3) family planning services.	Authorizes grants to assist in the establishment of networks of community-based services to pregnant adolescents and adolescent parents, particularly those 17 years of age or under. Grantees will be agencies or organizations which will provide care services and other supplemental services. Care services will include pregnancy testing, maternity counseling and referral, family planning services, primary and preventive health services, nutrition information and counseling, referral for screening and treatment of venereal disease, educational and vocational services, and health services. Among applicants given priority will be those serving an area with high incidence of low income families and limited availability of pregnancy related services.

Mr. DOLE. Mr. President, I am not totally familiar with the amendment. I have listened with interest to the discussion by both the Senator from California and the Senator from Georgia.

I do know that the distinguished ranking minority member of the Finance Committee, Senator CURTIS, is opposed to the amendment, and we are trying to find Senator CURTIS right now.

It is also my understanding, although we did have 1 day of pro forma hearing on the CHAP program, there had been no hearings as far as this Senator knows in the Finance Committee on this particular program.

It might be a program the Senator from Kansas would want to support. I do not know. I have not had a chance to listen to any witnesses. The objective certainly cannot be quarreled with, but I would mention that the Senator from Georgia asked about the cost of the program, and it is my understanding we are talking about a program that would cost in excess the first full year——

Mr. TALMADGE. A sum of $100 to $150 million.

Mr. DOLE. One hundred million dollars.

Mr. CRANSTON. Mr. President, will the Senator yield? I believe that includes the State costs. The Federal costs would be $60 million.

This has also been covered in hearings on CHAP. The administration supported and discussed this concept and the specific approach.

Mr. DOLE. The Finance Committee?

Mr CRANSTON. Yes.

Mr. DOLE. I know we had a very brief hearing on the CHAP program, and I support that program. But I did not recall a hearing on the eligibility of pregnant women.

I am reluctant to proceed with consideration at this time. I would like to reserve the remainder of the time in opposition until we can locate Senator CURTIS.

Mr. TALMADGE. Mr. President, according to the Congressional Budget Office, the first year's cost is $149 million for the Federal Government alone.

Mr. President, I move to table the amendment.

The PRESIDING OFFICER. Until the time of the Senator from California has expired, a motion to table is not in order. The Senator from California has 4 minutes.

Mr. TALMADGE. Is the Senator ready to yield back the remainder of his time? I am prepared to yield back the remainder of my time.

Mr. CRANSTON. I would just like to say one thing. The people who would be covered under this amendment are not covered by the programs that presently exist. They have no access to them. This insures they will have coverage.

I am ready to yield back my time.

Mr. TALMADGE. I yield back the remainder of my time.

I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Georgia to table the amendment of the Senator from California. [Putting the question]

Mr. TALMADGE. Division, Mr. President.

The PRESIDING OFFICER. All those in favor of tabling the amendment will please stand.

Those opposed to tabling please stand.

The ayes have it.

The motion to lay on the table was agreed to.

Mr. TALMADGE. Mr. President, if there be no further amendments I ask for third reading.

Mr. KENNEDY. We set aside the amendment I offered, and I believe it has been modified.

UP AMENDMENT NO. 2073, AS MODIFIED

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Massachusetts, and he has a right to modify it.

The clerk will report.

Mr. KENNEDY. I ask unanimous consent that the reading of the amendment be dispensed with.

The amendment is as follows:

On line 19 insert after "XIX" the following: Until such time as regulations with respect to such release are issued.

Mr. KENNEDY. Effectively what we are doing is following the sentiment of the Finance Committee until there is a promulgation of regulations.

Mr. TALMADGE. I understand the Senator has cleared this amendment with Senator DOLE.

Mr. DOLE. Keep this prohibition in place until the guidelines are promulgated.

Mr. TALMADGE. I hope the Senate will agree to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Massachusetts.

The amendment, as modified, was agreed to.

Mr. DOLE. As I understand it, from the committee report, section 4(c) of the bill provides that the sale or lease of an existing and operational health care facility would not be classified as a capital expenditure subject to review under section 1122 of the act where no new beds or services are created in the transfer of ownership. Am I correct in my understanding?

Mr. TALMADGE. The Senator is correct. The Finance Committee adopted the original provision in 1972. Its purpose was to assure that medicare and medicaid funds were not used to support new facilities and expensive equipment which health planning agencies found to be unneeded. It was not the committee's purpose to make existing hospitals and nursing homes go through this review process when a sale or lease occurs unless, of course, there is a substantial change of service or new beds are opened.

Mr. DOLE. My concern, Senator, is for those hospitals and nursing homes who, because of the confusion in the law and regulations on this point, have unwittingly become liable for reimbursement penalties for failure to give timely notice to a planning agency of a simple sale or lease. I understand there are now as many as 300 cases of this type pending final determination by the Secretary. It does not seem fair to penalize these institutions for what amounts to a technical violation when they are providing necessary services in their communities.

Mr. TALMADGE. I understand the Senator's concern and I would hope that should section 4(c) of the bill be enacted, the Secretary would give some consideration to what was intended in those cases where only the failure to give notice of a change of ownership was involved.

Mr. DOLE. I thank the Senator.

Mr. CRANSTON. Mr. President, I would like to clarify with the distinguished Senator from Georgia (Mr. TALMADGE) language in H.R. 5285, as reported from the Senate Finance Committee, which provides for recognition of the unusually greater routine operating costs that accompany the provision of greater intensity of care.

California is privileged to be the home of the City of Hope National Medical Center, a truly unique health facility whose scope of operations stands in sharp contrast to operations of other community hospitals in providing health care.

Mr. President, City of Hope accepts only patients with one of the specific types of catastrophic disease which it treats. These diseases are cancer, severe blod diseases, heart diesase, metabolic disease, with a special emphasis on diabetes, and pulmonary diseases.

City of Hope attracts over 50 percent of its patients from outside of the Los Angeles standard metropolitan statistical area, where it is located. Many of the patients come from throughout the State of California, from States other than California, and from foreign nations.

Mr. President, all of these patients are referred to City of Hope whose medical staff is devoted exclusively to full-time care of City of Hope patients. The fact that patients are referred to City of Hope and from such a wide geographic area is testimony to the recognition which City of Hope and its medical staff have achieved throughout the medical community in the United States and in foreign countries.

Patients also come to City of Hope because the cost of their treatment is so high that they cannot afford care even at those other few institutions which are capable of providing it. City of Hope provides over twice as much unreimbursed care as community hospitals generally.

City of Hope, Mr. President, because of its unique situation, already operates under strong incentives to provide appropriate medical care at the lowest possible cost. Since City of Hope is already providing a very high proportion of unreimbursed care, and since less than one-half of its operating budget is presently funded from patient care, cost containment efforts are necessary in order to permit City of Hope to maximize the use of its own funds in pursuit of its mission.

INTENSITY OF CARE AND ADVERSE IMPACT ON NURSING COSTS

Mr. President, although the patient classification system utilized at City of Hope is designed to ensure the provision of the most appropriate level of nurse staffing, and thereby avoid unnecessary employee costs, the high degree of patient sickness requires a much higher number of hours per day of direct care by registered nurses than would be the case in a community hospital. This high patient sickness level has other impacts on the cost of nurse staffing as well.

Because of the seriousness of the diseases treated at City of Hope, nurses who are employed require substantial additional orientation and training before being assigned to a nursing unit. In a community hospital, new nurses generally receive several days and, rarely, as much as a week of orientation. At City of Hope, however, it is necessary, upon hiring even experienced nurses, to provide up to 3 weeks of special training.

In addition to the new or different techniques that must be mastered, nurses require special training in dealing with City of Hope patients and their families, who typically are suffering unusual, severe emotional, physical, and psychological stress. One indication of the seriousness of the patients' illnesses and the intensity of care required by these nurses is the need to provide to its nurses what City of Hope calls "stress time"; that is, a period of time to permit these nurses to adjust to the strains of dealing with the catastrophically ill. It is even necessary to provide special psychological and related counseling to the nursing staff in order to overcome the emotional effects of dealing with catastrophically ill patients.

In summary, Mr. President, City of Hope treats seriously ill patients, and does more for them than can be done at a community hospital. A highly experienced medical staff, well trained nurses, and sophisticated related services—such as dietary and social service—all pull together to meet the needs of these catastrophically ill patients. As a consequence, these efforts, in many ways innovative, generate higher costs than seemingly similar services at community hospitals.

Mr. President, I believe that the characteristics of City of Hope National Medical Center, which I have outlined, show that it is truly a unique institution, and one which cannot easily be compared to other hospitals because of its special patient population.

HEW has given the City of Hope National Medical Center an exception from the "section 223 reimbursement limits" because of its atypical nursing services, an exception, I am advised, given to specialty hospitals only.

It would seem logical, given the special nature of the care provided by City of Hope National Medical Center and the fact that HEW has already recog-

nized it as a specialty hospital, that City of Hope National Medical Center would meet the conditions of the proposed new section 1861(bb)(1)(H) providing that if a hospital satisfactorily demonstrates that, in the aggregate, its patients require a substantially greater intensity of care than generally is provided by other hospitals in the same category, resulting in unusually greater routine operating costs, then the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to the greater intensity of care required.

I would like to ask the distinguished Senator from Georgia (Mr. TALMADGE) if City of Hope National Medical Center does, as I'm confident it will, demonstrate to the Secretary that it meets those conditions, does it also have to meet the condition of the second sentence of subparagraph (H) that it have consistently shorter lengths-of-stay?

Mr. TALMADGE. I am glad the Senator from California (Mr. CRANSTON) raised the question. The two sentences of paragraph (H) are separate conditions, which may be applied independently. If the hospital the Senator refers to, City of Hope National Medical Center, is able to demonstrate satisfactorily to the Secretary that it meets the conditions of the first sentence of the subparagraph, it would not have to meet the conditions with respect to length-of-stay set forth in the second sentence.

Mr. CRANSTON. I thank the Senator from Georgia (Mr. TALMADGE).

Mr. President, I have one more provision I would like to discuss with the distinguished Senator from Georgia (Mr. TALMADGE). That provision is section 29 of the bill as reported.

This section would require the coordination of audits conducted under the Social Security Act's title XVIII—medicare, title XIX—medicaid, and title V—maternal and child health and crippled children's services. Mr. President, in my State of California, the medicaid agency has done an outstanding job of auditing the medicaid program, and has been discussing with HEW officials the possibility of the State conducting common audits for all three social security health care programs in certain circumstances. I would like to clarify with the distinguished Senator from Georgia (Mr. TALMADGE) that under the provisions of section 29, as reported, medicare can utilize the State's auditing ability in conducting common audits where it is determined that the State has the capacity to carry out that function.

Mr. TALMADGE. Yes, I assure the Senator from California (Mr. CRANSTON) that the provisions of section 29 in the reported bill would not preclude the use of the State auditing ability in conducting the common audit.

● Mr. CHURCH. Mr. President, I would like to take this opportunity to commend Senator TALMADGE and his Subcommittee on Health for their effective work in developing legislation to prevent fraud and abuse in medicaid and medicare. His subcommittee has done a superb job and deserves special praise. At this time I would like to address a question to the distinguished Senator from Georgia concerning an issue of special interest to me.

The medicare-medicaid antifraud and abuse amendments required disclosure of ownership, significant business transactions, and subcontractor relationships as a condition for participation in these programs. This provision was included in the law because congressional hearings and reports documented widespread kickbacks and other fraudulent practices.

It was our intent that this information facilitate the detection of fraudulent practices. In other words, it should provide adequate documentation for the identification of persons with significant ownership interest in more than one facility or in related companies providing goods and services.

My question is this: In developing this legislation was it not our intent that this information be collected on a regular basis with some means of validation and centralization of data?

Mr. TALMADGE. The Senator from Idaho is absolutely correct in his analysis. It was clearly the intent of this legislation to allow this kind of identification process to occur. We consider the disclosure requirements under this legislation to be of critical importance in detecting providers who engage in fraudulent and abusive practices. We expect these disclosure provisions to be implemented and administered in a way to permit regular collection of this information, to establish its authenticity, and to centralize the data. Quite clearly, this type of implementation will be necessary to detect any sophisticated fraud schemes. Access to this information is absolutely crucial. I think the taxpayers have a right to know who is carrying out programs financed, to a very large degree, by their tax dollars.

Mr. CHURCH. I thank the Senator very much.●

Mr. TALMADGE. If there be no further amendments, third reading.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 5285.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, I am prepared to yield back the remainder of my time if the Senator from Massachusetts is prepared to yield back his time.

Mr. KENNEDY. I am prepared to yield back my time.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass? The clerk will call the roll.

The second assistant legislative clerk called the roll.

(Mr. EAGLETON assumed the chair.)

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Iowa (Mr. CLARK), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. SCOTT), the Senator from Texas (Mr. TOWER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

On this vote, the Senator from Michigan (Mr. GRIFFIN) is paired with the Senator from Texas (Mr. Tower). If present and voting, the Senator from Michigan would vote "yea" and the Senator from Texas would vote "nay".

The result was announced—yeas 64, nays 22, as follows:

[Rollcall Vote No. 486 Leg.]

YEAS—64

Anderson	Hart	Muskie
Bayh	Hatfield, Paul G.	Nelson
Bellmon	Heinz	Nunn
Bentsen	Hodges	Pearson
Biden	Hollings	Pell
Brooke	Huddleston	Percy
Bumpers	Humphrey	Proxmire
Burdick	Inouye	Randolph
Byrd, Robert C.	Jackson	Ribicoff
Cannon	Javits	Riegle
Case	Johnston	Sarbanes
Chafee	Kennedy	Sasser
Chiles	Leahy	Sparkman
Church	Long	Stafford
Cranston	Magnuson	Stennis
Culver	Matsunaga	Stevenson
Danforth	McGovern	Stone
Durkin	Melcher	Talmadge
Eagleton	Metzenbaum	Thurmond
Eastland	Morgan	Williams
Glenn	Moynihan	Zorinsky
Gravel		

NAYS—22

Baker	Garn	Packwood
Bartlett	Goldwater	Roth
Byrd, Harry F., Jr.	Hansen	Schmitt
Curtis	Hatch	Schweiker
DeConcini	Hayakawa	Stevens
Dole	Helms	Wallop
Ford	Laxalt	Young
	Lugar	

NOT VOTING—14

Abourezk	Haskell	McClure
Allen	Hatfield, Mark O.	McIntyre
Clark	Hathaway	Scott
Domenici	Mathias	Tower
Griffin		Weicker

So the bill (H.R. 5285), as amended, was passed.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALMADGE. Mr. President, I move that the Senate insist on its

amendments to the bill, H.R. 5285, and ask for a conference with the House thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. LONG, Mr. TALMADGE, Mr. NELSON, Mr. DOLE, and Mr. PACKWOOD conferees on the part of the Senate.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair recognize the Senator from Mississippi to call up the conference report on H.R. 13635.

The PRESIDING OFFICER. The Senator from Mississippi.

May we have order in the Chamber?

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1979—CONFERENCE REPORT

Mr. STENNIS. Mr. President, I submit a report of the committee of conference on H.R. 13635 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13635) making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House of Representatives.)

Mr. STENNIS. Mr. President, if I may have the attention of the body, this is a matter that can be handled in a very brief and satisfactory way, so far as time is concerned.

There has been a question, by the way, about the pay for the civilian and uniformed people in the Department of Defense.

The White House has assured Senator MAGNUSON, the chairman of the full committee, that if this bill is down there within an hour or a little more they can have the matter fixed and the checks will go out on time.

Mr. President, as I was saying, the White House has sent word that they can meet the payday tomorrow, October 13, for most military as well as the civilian employees of the Department of Defense for the current pay period; if the fiscal year 1979 Defense Appropriations Act passes the Congress and is signed by the President tonight most of them will be paid tomorrow.

If we do not—this is not a threat—if we do not get some form of spending authority for the Department of Defense until tomorrow or Saturday of this week, military and civilian employees will not receive their full pay until early next week.

Mr. President, this matter is important and serious to many of the individuals concerned.

We had a unanimous-consent report, Mr. President, after 4 or 5 days of intensive negotiations. The conference report went to the House today with three major matters that were submitted in disagreement. The conference report was upheld on all three of these items.

There was no major change in this appropriation bill from the time it left the Senate floor when it was passed last Thursday.

Mr. President, on Tuesday, October 10, 1978, the conferees on the Department of Defense appropriations bill reached agreement on the differences between the two Houses after 4 days of meetings and almost 30 hours of deliberations.

The total amount of new budget authority in this bill is $117,255,621,000. This is $2 billion, or 1.7 percent, below the administration's budget request. It is $1.8 billion below the House bill and $832.6 million above the Senate bill.

Mr. President, since Congress passed the second Military Procurement Authorization Act for fiscal year 1979, the Appropriations Committees of the House and Senate have worked very hard to avoid the need for continuing resolution authority for the Department of Defense for fiscal year 1979. We have made every effort to complete action on this bill before adjournment. The House passed this conference report earlier today by voice vote.

I hope that the Senate can act on this conference report without any delay.

Mr. President, this was a very harmonious conference, conducted in the spirit of compromise. There were 91 amendments made by the Senate to the House bill including 342 individual line item or language differences. All in all, I think the conferees succeeded in putting together a very reasonable compromise that funds the items necessary for the security of our Nation. At the conclusion of my remarks, I am inserting a comparative summary, by appropriation, of the conference committee's action.

MAJOR ITEMS IN CONFERENCE

I would like now to point out some of the major items resolved by the conference committee. In the area of personnel, the conferees have provided funds for all of the military services to meet the strength levels authorized for fiscal year 1979. On the subject of travel allowances for junior enlisted personnel, the conferees agreed to provide $95 million for these allowances as recommended by the House. The conferees have also established the policy of setting a ceiling of 350,000 on the total number of military dependents in overseas areas. The conferees requested a detailed report from the Department of Defense early next year presenting the entire situation relating to the presence of a large dependent population overseas, especially in Europe. Both the House and Senate committees agreed that Congress must begin to examine the extent to which our military readiness and the safety of the dependent population are jeopardized by the presence of these dependents overseas.

The conferees restored $170 million of the $620 million Senate reduction for anticipated inflation in operation and maintenance accounts. The total amount provided for inflation in these accounts is approximately $1 billion, instead of the $1.5 billion request in the Department of Defense budget. In making this reduction, the conferees believe that the Department of Defense should work to offset the effects of inflation through better and more stringent management to the maximum extent possible.

In other matters relating to the operation and maintenance accounts, the conferees agreed to restore the $113 million Senate reduction to the appropriated fund support for military commissaries. For the third consecutive year, the conferees rejected the Defense Department's proposal to consolidate all Defense helicopter training under the Army.

The conference agreement provides $30.2 billion for procurement of new weapons and ammunition. For the Army, the major programs include $116.5 million for 66 AH–1S attack helicopters; $165 million for the Roland missile program; and $300.5 million for 110 XM–1 tanks.

For the Navy, some of the major programs include $110.4 million for 12 A–7E attack aircraft $688.8 million for 36 F–14 fighter aircraft; $198 million in advance procurement funds for the Trident submarine program; and $978.4 million for cost growth in Navy shipbuilding programs.

For the Air Force the conference agreement provides $792.7 million for 144 A–10 close air support aircraft; $1.3 billion for 145 F–16 fighter aircraft; $63.5 million for 8 C–130H cargo aircraft; $120.5 million for 12 TA–7D trainer aircraft for the Air National Guard; and $10.2 million in advance procurement funds for the TR–1 tactical reconnaissance aircraft program.

Mr. President, in examining this conference agreement I discovered that it continues the pattern of the last decade of allocating significantly greater amounts of funds for aircraft than for shipbuilding. This bill provides $12.2 billion for aircraft procurement, but only $3.8 billion for shipbuilding. It is difficult to say exactly what the proper balance should be but this is a matter I intend to look into next year.

The conferees agreed to fund three major programs in research and development that were in dispute. A new joint aircraft engine program was established for the Air Force and Navy, funded from the $15 million in this bill and $26 million in fiscal year 1978 funds. The Army's 120-millimeter tank gun coooperative development program for the XM–1 tank was funded at $35.6 million, and $42 million was provided over the budget request for new ship concepts and designs.

Under the general provisions, the conferees adopted language limiting Federal funds for abortions similar to the lan-

guage which was in effect for the Departments of Labor and Health, Education, and Welfare for fiscal year 1978. This language is also included in the continuing resolution for fiscal year 1979.

Mr. President, I will be glad to answer any questions concerning the items in this conference report. I want to especially thank all the members of the conference, both Senate and House, for their fine work. We were in conference for 4 long days on this matter, beginning just 2 hours after we passed this bill on the Senate floor last week. I believe we have wound up with a bill that every Senator can support without reservation.

Mr. President, I ask unanimous consent to have printed in the RECORD the material to which I have referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY, FISCAL YEAR 1979

	New budget authority					Conference compared with—			
	Enacted fiscal year 1978	Estimates fiscal year 1979	House, fiscal year 1979	Senate, fiscal year 1979	Conference fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate bill
TITLE I—MILITARY PERSONNEL									
Military personnel, Army	9,166,733,000	9,180,000,000	9,123,489,000	9,154,325,000	9,154,325,000	−12,408,000	−25,675,000	+30,826,000	
Military personnel, Navy	6,453,113,000	6,463,000,000	6,456,450,000	6,455,500,000	6,461,600,000	+8,487,000	−1,400,000	+5,150,000	+6,100,000
Military personnel, Marine Corps	2,022,200,000	2,016,500,000	2,015,900,000	2,004,275,000	2,014,975,000	−7,225,000	−1,525,000	−925,000	+10,700,000
Military personnel, Air Force	7,573,090,000	7,576,000,000	7,507,195,000	7,521,081,000	7,525,001,000	−48,089,000	−50,999,000	+17,806,000	+3,920,000
Reserve personnel, Army	555,600,000	532,600,000	546,650,000	541,000,000	547,350,000	−8,250,000	+14,750,000	+700,000	+5,550,000
Reserve personnel, Navy	216,700,000	719,000,000	226,825,000	246,800,000	227,025,000	+10,325,000	+48,025,000	+200,000	−19,775,000
Reserve personnel, Marine Corps	82,424,000	81,200,000	83,725,000	83,100,000	84,125,000	+1,701,000	+2,925,000	+400,000	+1,025,000
Reserve personnel, Air Force	178,800,000	183,600,000	186,325,000	185,250,000	186,850,000	+8,050,000	+3,250,000	+525,000	+1,600,000
National Guard personnel, Army	782,500,000	477,100,000	788,900,000	755,100,000	755,500,000	−27,000,000	+8,400,000	−33,400,000	+400,000
National Guard personnel, Air Force	239,600,000	252,200,000	256,477,000	253,877,000	256,477,000	+16,877,000	+4,277,000		+2,600,000
Total, title I, new budget (obligational) authority, Military personnel	27,270,760,000	27,211,200,000	27,191,946,000	27,201,108,000	27,213,228,000	−57,532,000	+2,028,000	+21,282,000	+12,120,000
TITLE II—RETIRED MILITARY PERSONNEL									
Retired pay, defense	9,179,600,000	10,148,938,000	10,139,838,000	10,079,838,000	10,139,838,000	+960,238,000	−9,100,000		+60,000,000
TITLE III—OPERATION AND MAINTENANCE									
Operation and maintenance, Army	8,475,000,000	9,2334,00,000	9,115,421,000	9,031,659,000	9,115,000,000	+640,000,000	−118,400,000	−421,000	+83,341,000
(Transfer from other accounts)	(100,000,000)					(−100,000,000)			
Operation and maintenance, Navy	11,059,731,000	11,843,000,000	11,691,754,000	11,573,156,000	11,691,000,000	+631,287,000	−152,000,000	−754,000	+117,844,000
Operation and maintenance, Marine Corps	654,326,000	744,100,000	733,475,000	731,400,000	733,000,000	+78,674,000	−11,100,000	−475,000	+1,600,000
Operation and maintenance, Air Force	8,544,384,000	9,415,200,000	9,243,892,000	9,186,267,000	9,243,000,000	+698,616,000	−172,200,000	−892,000	+56,733,000
Operation and maintenance, Defense agencies	2,974,019,000	3,094,000,000	3,034,350,000	3,019,495,000	3,034,000,000	+59,981,000	−60,000,000	−350,000	+14,505,000
Operation and maintenance, Army Reserve	393,096,000	420,800,000	416,900,000	410,200,000	416,900,000	+23,804,000	−3,900,000		+6,700,000
Operation and maintenance, Navy Reserve	319,290,000	379,300,000	386,500,000	365,200,000	382,900,000	+63,610,000	+3,600,000	−3,600,000	+17,700,000
Operation and maintenance, Marine Corps Reserve	16,613,000	20,000,000	19,900,000	19,600,000	19,900,000	+3,287,000	−100,000		+300,000
Operation and maintenance, Air Force Reserve	384,849,000	395,300,000	386,500,000	386,700,000	384,700,000	−149,000	−10,600,000	−1,800,000	−2,000,000
Operation and maintenance, Army National Guard	772,466,000	795,700,000	789,700,000	783,700,000	789,700,000	+17,234,000	−6,000,000		+6,000,000
Operation and maintenance, Air National Guard	849,107,000	938,600,000	932,700,000	932,000,000	932,700,000	+83,593,000	−5,900,000		+700,000
National Board for the Promotion of Rifle Practice, Army	365,000	352,000	365,000	365,000	365,000		+13,000		
Claims, defense	82,500,000	89,500,000	87,500,000	89,500,000	87,500,000	+5,000,000	−2,000,000		−2,000,000
Contingencies, defense	2,500,000	5,000,000	2,500,000	2,500,000	2,500,000		−2,500,000		
Court of Military Appeals, defense	1,375,000	1,948,000	1,648,000	1,750,000	1,750,000	+15,000	−198,000	+102,000	
Secretary of Defense readiness fund	100,000,000					−100,000,000			
Foreign currency fluctuations, Defense			500,000,000	500,000,000	500,000,000	+500,000,000	+500,000,000		
XIII Olympic Winter Games			2,000,000	2,000,000	2,000,000	+2,000,000	+2,000,000		
Total, title III, new budget (obligational) authority, Operation and maintenance	34,629,963,000	37,376,200,000	37,345,105,000	37,035,492,000	37,336,915,000	+2,706,952,000	−39,285,000	−8,190,000	+301,423,000
(Transfer from other accounts)	(100,000,000)					(−100,000,000)			
TITLE IV—PROCUREMENT									
Aircraft procurement, Army	657,100,000	1,017,800,000	917,401,000	971,708,000	949,709,000	+292,609,000	−68,091,000	+32,308,000	−21,999,000
Missile procurement, Army	536,883,000	773,200,000	738,100,000	734,000,000	736,900,000	+200,017,000	−36,300,000	−1,200,000	+2,900,000
Procurement of weapons and tracked combat vehicles, Army	1,421,200,000	1,636,600,000	1,528,400,000	1,511,100,000	1,511,100,000	+89,900,000	−125,500,000	−17,300,000	
Procurement of ammunition, Army	1,179,300,000	1,420,100,000	1,071,456,000	1,293,100,000	1,218,100,000	+38,800,000	−202,000,000	+146,644,000	−75,000,000
(Transfer from other accounts)	(57,500,000)		(59,400,000)	(30,000,000)	(30,000,000)	(−27,500,000)	(+30,000,000)	(−29,400,000)	
Other procurement, Army	1,403,325,000	1,789,200,000	1,591,000,000	1,623,800,000	1,642,250,000	+238,925,000	−146,950,000	+51,250,000	+18,450,000
(Transfer from other accounts)	(2,700,000)		(40,000,000)	(40,000,000)	(40,000,000)	(+37,300,000)	(+40,000,000)		
Other procurement, Army 1973/75 (liquidation of deficiency)	(21,000,000)					(−21,000,000)			
Aircraft procurement, Navy	3,552,900,000	4,078,800,000	4,381,100,000	4,287,200,000	4,358,700,000	+805,800,000	+279,900,000	−22,400,000	+71,500,000
Weapons procurement, Navy	2,240,600,000	2,047,500,000	1,983,800,000	1,988,500,000	1,955,600,000	−285,000,000	−91,900,000	−28,200,000	−32,900,000
(Transfer from other accounts)	(52,700,000)					(−52,700,000)			
Shipbuilding and conversion, Navy	5,760,500,000	4,712,400,000	5,688,000,000	3,760,600,000	3,759,600,000	−2,000,900,000	−952,800,000	−1,928,400,000	−1,000,000
(Transfer from other accounts)	(42,000,000)					(−42,000,000)			
Other procurement, Navy	2,176,410,000	2,708,600,000	2,617,150,000	2,642,450,000	2,641,600,000	+465,600,000	−67,000,000	+24,450,000	−850,000
(Transfer from other accounts)	(10,000,000)					(−10,000,000)			
Procurement, Marine Corps	440,400,000	371,900,000	349,000,000	356,000,000	356,000,000	−84,400,000	−15,900,000	+7,000,000	
(Transfer from other accounts)	(9,800,000)					(−9,800,000)			
Aircraft procurement, Air Force	5,833,000,000	6,897,700,000	6,966,507,000	6,569,307,000	6,893,307,000	+1,060,307,000	−4,393,000	−73,200,000	+324,000,000
(Transfer from other accounts)	(34,400,000)					(−34,400,000)			

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY, FISCAL YEAR 1979—Continued

	New budget authority					Conference compared with—			
	Enacted fiscal year 1978	Estimates fiscal year 1979	House, fiscal year 1979	Senate, fiscal year 1979	Conference fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate bill
Missile procurement, Air Force	1,763,200,000	1,676,800,000	1,595,700,000	1,551,800,000	1,579,800,000	−183,400,000	−97,000,000	−15,900,000	+28,000,000
(Transfer from other accounts)	(44,600,000)					(−44,600,000)			
Other procurement, Air Force	2,337,345,000	2,516,100,000	2,294,750,000	2,410,612,000	2,362,250,000	+24,905,000	−153,850,000	+67,500,000	−48,362,000
(Transfer from other accounts)	(4,800,000)		(37,000,000)		(37,000,000)	(+32,200,000)	(+37,000,000)		(+37,000,000)
Procurement, Defense agencies	327,826,000	280,900,000	266,800,000	272,200,000	273,800,000	−54,026,000	−7,100,000	+7,000,000	+1,600,000
Total, title IV, procurement: New budget (obligational) authority	29,629,989,000	31,927,600,000	31,989,164,000	29,972,377,000	30,238,716,000	+608,727,000	−1,688,884,000	−1,750,448,000	+266,339,000
(Transfer from other accounts)	(258,500,000)		(136,400,000)	(70,000,000)	(107,000,000)	(−151,500,000)	(+107,000,000)	(−29,400,000)	(+37,000,000)
(Liquidation of deficiency)	(21,000,000)					(−21,000,000)			
TITLE V—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION									
Research, development, test, and evaluation, Army	2,417,882,000	2,721,400,000	2,652,304,000	2,530,197,000	2,635,864,000	+217,982,000	−85,536,000	−16,440,000	+105,667,000
Research, development, test, and evaluation, Navy	3,991,791,000	4,490,500,000	4,463,860,000	4,450,060,000	4,468,871,000	+477,080,000	−21,629,000	+5,011,000	+18,811,000
(Transfer from other accounts)			(15,000,000)	(41,000,000)	(15,000,000)	(+15,000,000)	(+15,000,000)		(−26,000,000)
Research, development, test, and evaluation, Air Force	4,158,266,000	4,339,100,000	4,155,700,000	4,067,600,000	4,131,040,000	−27,226,000	−208,060,000	−24,660,000	+63,440,000
(Transfer from other accounts)			(8,800,000)					(−8,800,000)	
Research, development, test, and evaluation, Defense agencies	754,278,000	889,400,000	885,144,000	886,638,000	892,887,000	+138,609,000	+3,487,000	+7,743,000	+6,249,000
Director of Test and Evaluation, Defense	25,000,000	27,600,000	27,600,000	27,600,000	27,600,000	+2,600,000			
Total, title V, new budget (obligational) authority, research, development, test, and evaluation	11,347,217,000	12,468,000,000	12,184,608,000	11,962,095,000	12,156,262,000	+809,045,000	−311,738,000	−28,346,000	+194,167,000
(Transfer from other accounts)			(23,800,000)	(41,000,000)	(15,000,000)	(+15,000,000)	(+15,000,000)	(−8,800,000)	(−26,000,000)
TITLE VI—SPECIAL FOREIGN CURRENCY PROGRAM									
Special foreign currency program	2,480,000	14,362,000	13,092,000	14,362,000	14,362,000	+11,882,000		+1,270,000	
TITLE VII—WORKING CAPITAL FUNDS									
Army stock fund	100,000,000	74,000,000	74,000,000	74,000,000	74,000,000	−26,000,000			
Navy stock fund	30,000,000					−30,000,000			
Marine Corps stock fund	1,900,000					−1,900,000			
Air Force stock fund	34,600,000	26,800,000	26,800,000	26,800,000	36,800,000	−7,800,000			
Defense stock fund	4,300,000					−4,300,000			
Total, title VII, new budget (obligational) authority, Working capital funds	170,800,000	100,800,000	100,800,000	100,800,000	100,800,000	−70,000,000			
TITLE VIII—GENERAL PROVISIONS									
Additional transfer authority, sec. 834	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)		(−750,000,000)	(−750,000,000)	(−750,000,000)	(−750,000,000)
TITLE IX—RELATED AGENCIES									
Intelligence community staff	9,249,000	9,683,000	11,225,000	12,700,000	12,000,000	+2,751,000	+2,317,000	+775,000	−700,000
Payment to the CIA retirement and disability fund	35,100,000	43,500,000	43,500,000	43,500,000	43,500,000	+8,400,000			
Office of Federal Procurement Policy	1,000,000					−1,000,000			
Total, title IX, new budget (obligational) authority, related agencies	45,349,000	53,183,000	54,725,000	56,200,000	55,500,000	+10,151,000	+2,317,000	+775,000	−700,000
TITLE X—INTEROCEANIC CANAL STUDY COUNCIL									
Interoceanic Canal Study Council				700,000					−700,000
RECAPITULATION									
Title I—Military personnel	27,270,760,000	27,211,200,000	27,191,946,000	27,201,108,000	27,213,328,000	−57,532,000	+2,028,000	+21,282,000	+12,120,000
Title II—Retired military personnel	9,179,600,000	10,148,938,000	10,139,838,000	10,079,838,000	10,139,838,000	+960,238,000	−9,100,000		+60,000,000
Title III—Operation and maintenance	34,629,963,000	37,376,200,000	37,345,105,000	37,035,492,000	37,336,915,000	+2,706,952,000	−39,285,000	−8,190,000	+301,423,000
(Transfer from other accounts)	(100,000,000)					(−100,000,000)			
Title IV—Procurement	29,629,989,000	31,927,600,000	31,989,164,000	29,972,377,000	30,238,716,000	+608,727,000	−1,688,884,000	−1,750,448,000	+266,339,000
(Transfer from other accounts)	(258,500,000)		(136,400,000)	(70,000,000)	(107,000,000)	(−151,500,000)	(+107,000,000)	(−29,400,000)	(+37,000,000)
(Liquidation of deficiency)	(21,000,000)					(−21,000,000)			
Title V—Research, development, test, and evaluation	11,347,217,000	12,468,000,000	12,184,608,000	11,962,095,000	12,156,262,000	+809,045,000	−311,738,000	−28,346,000	+194,167,000
(Transfer from other accounts)			(23,800,000)	(41,000,000)	(15,000,000)	(+15,000,000)	(+15,000,000)	(−8,800,000)	(−26,000,000)
Title VI—Special foreign currency program	2,470,000	14,362,000	13,092,000	14,362,000	14,362,000	+11,882,000		+1,270,000	
Title VII—Working capital funds	170,800,000	100,800,000	100,800,000	100,800,000	100,800,000	−70,000,000			

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY, FISCAL YEAR 1979—Continued

	New budget authority					Conference compared with—			
	Enacted fiscal year 1978	Estimates fiscal year 1979	House, fiscal year 1979	Senate, fiscal year 1979	Conference fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate bill
Title VIII—General provisions (additional transfer authority, sec. 833)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)		(−750,000,000)	(−750,000,000)	(−750,000,000)	(−750,000,000)
Title IX—Related agencies	45,349,000	53,183,000	54,725,000	56,200,000	55,500,000	+10,151,000	+2,317,000	+775,000	−700,000
Title X—Interoceanic Canal Study Council				700,000					−700,000
Total, Department of Defense (NOA)	112,276,158,000	119,300,283,000	119,019,278,000	116,422,972,000	117,255,621,000	+4,979,463,000	−2,044,662,000	−1,763,657,000	+832,649,000
(Transfer from other accounts)	(358,500,000)		(160,200,000)	(111,000,000)	(122,000,000)	(−236,500,000)	(+122,000,000)	(−38,200,000)	(+11,000,000)
Total funding available	112,634,658,000	119,300,283,000	119,179,478,000	116,533,972,000	117,377,621,000	+4,742,963,000	−1,922,662,000	−1,801,857,000	+843,649,000
(Transfer authority)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)		(−750,000,000)	(−750,000,000)	(−750,000,000)	(−750,000,000)
(Liquidation of deficiency)	(21,000,000)					(−21,000,000)			
Distribution by organizational component:									
Army	27,861,450,000	30,342,252,000	29,354,096,000	29,415,054,000	29,547,063,000	+1,685,613,000	−795,189,000	+192,967,000	+132,009,000
(Transfer from other accounts)	(160,200,000)		(99,400,000)	(70,000,000)	(70,000,000)	(−90,200,000)	(+70,000,000)	(−29,400,000)	
(Liquidation of deficiency)	(21,000,000)					(−21,000,000)			
Navy	39,018,880,000	40,135,800,000	41,097,439,000	38,963,841,000	39,154,896,000	+136,016,000	−980,904,000	−1,942,543,000	+191,055,000
(Transfer from other accounts)	(114,500,000)		(15,000,000)	(41,000,000)	(15,000,000)	(−99,500,000)	(+15,000,000)		(−26,000,000)
Air Force	31,896,241,000	34,217,400,000	33,552,546,000	33,091,294,000	33,521,925,000	+1,625,684,000	−695,475,000	−30,621,000	+430,631,000
(Transfer from other accounts)	(83,800,000)		(45,800,000)		(37,000,000)	(−46,800,000)	(+37,000,000)	(−8,800,000)	(+37,000,000)
Defense agencies/OSD	4,274,638,000	4,402,710,000	4,820,634,000	4,816,045,000	4,836,399,000	+561,761,000	+433,689,000	+15,765,000	+20,354,000
Retired military personnel	9,179,600,000	10,148,938,000	10,139,838,000	10,079,838,000	10,139,838,000	+960,238,000	−9,100,000		+60,000,000
Related agencies	45,349,000	53,183,000	54,725,000	56,900,000	55,500,000	+10,151,000	+2,317,000	+775,000	−1,400,000
Total, Department of Defense (NOA)	112,276,158,000	119,300,283,000	119,019,278,000	116,422,972,000	117,255,621,000	+4,979,463,000	−2,044,662,000	−1,763,657,000	+832,649,000
(Transfer from other accounts)	(358,500,000)		(160,200,000)	(111,000,000)	(122,000,000)	(−236,500,000)	(+122,000,000)	(−38,200,000)	(+11,000,000)
Total funding available	112,634,658,000	119,300,283,000	119,179,478,000	116,533,972,000	117,377,621,000	+4,742,963,000	−1,922,662,000	−1,801,857,000	+843,649,000
(Transfer authority)	(750,000,000)	(75,000,000)	(750,000,000)	(750,000,000)		−(750,000,000)	(−750,000,000)	(−750,000,000)	(−750,000,000)
(Liquidation of deficiency)	(21,000,000)					(−21,000,000)			

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. May we have order in the Chamber?

Mr. STENNIS. Several Members have mentioned items to me that I tried to explain and I will try to explain further now, if there are any questions. I see the Senator from Montana. I am glad to yield to him, Mr. President, for a question.

Mr. MELCHER. I thank the distinguished Senator from Mississippi, the chairman of the Appropriations Subcommittee, for yielding to me.

The Senate in their appropriations, in working on the House bill, disagreed with the House language as it affected the Army and Air Force Veterinary Corps. The House, in their bill, reduced 63 man-years for veterinarians in the Army and 20 man-years for veterinarians in the Air Force. The House also directed the Defense Department to study the possibility of phasing out the Veterinary Corps in the Army and Air Force beginning in fiscal year 1980.

The Senate did not agree with that. It restored the House reduction. The Defense Department was notified by two Senators, myself and the Senator from Washington, the chairman of the Senate Appropriations Committee, that there was objection to the Defense Department implementing any reduction in the Veterinary Corps in the Air Force or in the Army, without some guidance from Congress and without a thorough discussion of what they were proposing.

The objections were independent. I did not know that Senator MAGNUSON was sending a letter to the Defense Department on this subject objecting, nor did he know that I was in contact with the Defense Department, objecting.

The outcome, at least from my part, was that some Assistant Secretary in the Defense Establishment told me that they would be glad to go over any program that they might envision for phasing out the Veterinary Corps in the Armed Forces.

I note that the conference report we have before us backed off on that as far as the Senate is concerned and has agreed to the House.

The fact is, and this is not a question—I thank the chairman for indulging me, but I am making statements rather than asking questions.

The fact is that we do not know here, in the Senate or in the House, who is going to perform the professional-type work in the field of food inspection in the Armed Forces or in public health aspects connected with the Armed Forces that veterinarians are now performing in the veterinary corps of the Army and the Air Force if they do not have the veterinarians do it.

There is no indication that anybody is going to do it who is capable of doing it, and furthermore, there is no indication that there is any cost saving except this figure that the House proposes, which I believe is around a $2-million saving.

To have a program that you are going to suddenly launch on our Armed Forces, that is going to jeopardize the quality of work that is done in a professional manner dealing with public health and food inspection, to save $2 million is an outlandish proposal.

I ask the distinguished Senator from Mississippi how we can be sure that, if this conference report passes, some ridiculous type of operation might not ensue, shifting the veterinarians out of there, putting other people in. If you put in people that are well enough trained in public health and food inspection, you are going to pay them just exactly as much as you are paying those veterinarians now. If that happens, the only result is that you have a mixed bag. You have the bulk of it done by veterinarians and a few others tagging along, somehow out of the veterinarian corps in the Air Force and the Army, and supposedly coordinating and correlating their work.

I ask the distinguished chairman how we can straighten out this mess.

Mr. STENNIS. Well, we want to get at this the best way we can. The Senator knows that in civilian life as elsewhere, the work of the veterinarian has shifted and changed to meet new conditions. These people have been very helpful and very valuable as they went over into their new assignments. There was no complaint about their service capability for anything for which they are trained. But the House's position was that the proof of need was not strong enough and did not cover the need for as many man-years, if I may use that term, as the Army and the Air Force had requested and had money in the bill for.

They directed also that the Defense Department study the possibility of phasing out the veterinary corps in the Army and Air Force, beginning in fiscal 1980. We contested the House position. We put the money back in the bill for the purpose originally requested by the Army and Air Force.

Now, the House conferees did not yield. They stood firm on the money issue and cited their hearings and their interpretation of the hearings. We also stood firm and finally settled on one point that I thought was quite important. We let the reduction stand for this year, but expressly state in the conference report that it was not related to any phaseout of the services of the veterinary corps.

I think that arrests greatly the inclination to go on and make reductions without Congress having more of a say in it.

We also propose to write the Department of Defense calling attention to the language of this report and suggesting that they proceed with caution in any plan that they are making. We want them to give us notice and give Congress time to express itself on this matter before any final decision is made.

This is as far as we could go at this time, I say to the Senator.

Mr. MELCHER. May I ask the distinguished Senator if there is any objection to the Department of Defense providing the Senator's subcommittee with information on the validity——

Mr. STENNIS. No, no objection. They cannot have any grounds for an objection to giving the information that the Senator refers to. It will have to be forthcoming. We do meet a changing situation, a changing condition.

The Senator from North Dakota is familiar with this matter. He is from a rural State, and I am, too.

I yield to him.

Mr. YOUNG. I would like to say to the Senator from Montana that the chairman of our committee and all the conferees fought as hard as we could with the House conferees to maintain the Senate position, which was the position of the Senator from Montana. The House, somehow, thinks there is not the requirement for veterinarians in the service that existed previously. I think we shall have to do a better job of persuading the conferees next year of the need of maintaining this type of service. But we could not have done more with the House conferees than we did. They were very obstinate on this issue.

Mr. MELCHER. May I inquire of both the distinguished Senators—the Senator from Mississippi and the Senator from North Dakota—whether they would be amenable to requesting a prompt explanation—in the form of a hearing, I would presume—say no later than February or March. And if the Defense Department did not bring up an adequate proposal on this, the distinguished chairman and the distinguished ranking minority member on the subcommittee would impress on the Department of Defense to correct this by asking in the first supplemental for the appropriate funds so they do not have to carry it out. I believe we are talking about $2,100,000.

Mr. STENNIS. That is right. I defer to the Senator and yield to the Senator from North Dakota.

Mr. YOUNG. If the Department of Defense can be persuaded to ask for the retention of veterinarians, they could reprogram the necessary funds. It would be a simple matter, as far as I am concerned, and I am sure the Senator from Mississippi would be agreeable to reprograming the money to take care of the Senator's desire.

Mr. MELCHER. Reprograming would be much simpler; however, it would involve the approval of the two distinguished Senators.

Mr. STENNIS. Oh, yes.

Mr. MELCHER. Now, can I be assured that the Senator from Mississippi and the Senator from North Dakota will ask the Defense Department for justification of whatever they propose along this line? I am entirely open myself to whatever they want to propose. Then, if the justification does not appear to be valid to the Senate, that they be encouraged to reprogram so as not to disrupt anything more than they might have done during the 3 or 4 months from now?

Mr. YOUNG. If the Defense Department cannot be persuaded, I think the supplemental approach that the Senator from Montana mentioned would probably be the best approach. We could have hearings and have witnesses knowledgeable on the need for veterinarians.

Mr. MELCHER. Is the Senator suggesting that hearings will be held and that if there were a justification made to the satisfaction of the subcommittee, the subcommitte would encourage the Department of Defense then to ask for it in a supplemental?

Mr. STENNIS. Yes, I am satisfied with the Senator's proposal.

Mr. MELCHER. I thank the two Senators.

Will the Senator yield to me for a short statement?

Mr. STENNIS. I yield without losing my right to the floor, Mr. President.

Mr. MELCHER. I thank the Senator.

I want to state emphatically that as far as I am concerned, if the Defense Department can come up with a better program to do the work that is done by veterinarians in the Armed Forces, it is fine with me. But we have not seen that program. We have not seen any justification for what they are proposing.

There lurks in the minds of some people in the Congress that veterinarians, trained for treating horses and other animals, are somewhat archaic in the modern Armed Forces.

We do not have a horse artillery any more. We do not have the cavalry riding horses any more. We have the cavalry, but they are not on horseback.

Well, that is not the point at all, that is not what I am contending.

The fact is that when the Armed Forces, as so many other groups throughout this country, were looking for the right type of people to perform professional work dealing with public health and dealing with food inspection, the logical profession up until now has been to look at the veterinarians because the training of veterinarians encompassed both fields.

So over the course of the years, as the horse cavalry was being phased out, veterinarians were retained, but retained under a different capacity, to work in the public health aspects of the military and to work in food inspection for the military.

They have performed that function, as far as I know, in a better, a more cost saving, manner than any other particular professional group could.

If the day has come now when it is no longer necessary to use veterinarians for the specific purposes in the Armed Forces, I am willing to look at it. But to buy a pig in a poke, to start the shift without knowing what is being advanced in lieu of that, I think is, indeed, foolish.

It is for that reason I asked the distinguished Senator from Mississippi to permit me to make these remarks. I am very grateful to both the chairman of the committee and the ranking member of the Appropriations Committee to have that assurance that the Defense Department will be asked to present the program promptly in the new year and that if they cannot make a case satisfactorily that they will be encouraged to ask for funds in a supplemental to make up the difference.

Mr. MAGNUSON. Will the Senator yield?

Mr. STENNIS. Let me commend the Senator from Montana for his very fine analysis of this problem and for his suggestions and observations.

I assure him again we are going to follow up on this matter.

I am glad to yield to the Senator from Washington, who is also interested in this matter.

Mr. MAGNUSON. Mr. President, I merely want to say that I join with the Senator from Mississippi and the Senator from North Dakota in doing what I can to help out in what the Senator from Montana is talking about.

Mr. STENNIS. I thank the Senator very much.

We are all impressed, I have been for years, with the quality of the professional veterinarians in the Department of Defense. They are of untold value even beyond their particular field.

Does the Senator from South Carolina wish me to yield?

Mr. THURMOND. Will the distinguished Senator yield?

Mr. STENNIS. Yes, I am glad to yield.

Mr. THURMOND. Mr. President, I want to associate myself with the remarks of the distinguished Senator from Montana. I think he has made a good point here. The veterinarians have served a very useful purpose in the services.

If the Defense Department can come forward and show where their work is no longer needed and convince the Armed Services Committee to that effect, and the Appropriations Committee, that is one thing. If they cannot, that is another thing.

I just want the distinguished Senator to know that there will be sentiment along the lines he has discussed and he has requested, and I think his request is reasonable.

Mr. President, while I am on my feet, I want to commend the distinguished Senator from Washington for his zeal in trying to get this bill acted on as soon as possible.

I have been disturbed for the last few days and I have received many calls about this matter.

I commend the distinguished Senator from Mississippi for all he has done, and the distinguished Senator from North Dakota for all he has done, to get this bill up quickly and get it acted upon.

I understand that if it can be acted on by 8 o'clock tonight, the checks can go out tomorrow on the regular schedule.

I just wanted to express my appreciation to the Senators.

Mr. STENNIS. I thank the Senator very much. I appreciate his support.

I would like the Chair to recognize the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. YOUNG. Mr. President, it is a difficult problem to exercise the utmost economy in a bill such as this and still maintain a strong national defense.

We are fortunate having as chairman of our Defense Subcommittee one of the most knowledgeable men in the Senate on military matters, the chairman of the Armed Services Committee. He has been strong for economy and he has been strong for national defense. He was able to sustain a reduction of $2 billion under the President s budget.

I think this bill provides sufficient funds for a strong national defense.

I also would like to give credit to the Defense Subcommittee staff members. They are Guy McConnell, Pete Bonner, Douglas Allen, David Lyles, Jerry Coleman, Jim Fellenbaum, Rick Pierce, Jane McMullan, and Judy Spahr.

There are very few, if any, in the Pentagon that have broader knowledge, better understanding, and better judgment of all phases of military matters than these staff members.

They have been a great help to all our committee members in consideration of this bill.

I also want to mention the input by many Members of the Senate. Sitting in front of me is Senator THURMOND who made a strong contribution, a very helpful contribution in making this a better bill.

Mr. STENNIS. Mr. President, I especially appreciate the remarks made by the Senator from North Dakota, who has given unlimited time all year to every phase and aspect of this bill, even to legislation that is attached to the bill. He is an invaluable man.

As he says, many Members of this body have contributed to the great number of questions and problems passed on in this massive bill.

We have 18 members on the Senate Armed Services Committee and they went through this issue twice. One bill was vetoed. Then floor work here on the authorization bill was done twice. Of course, many of the able and experienced Members of the House worked on this bill year around, and made a tremendous contribution to it.

This bill is the final product of the authorization bill also.

Now, most have come in a cooperative way and are helpful to us. Many have excellent judgment on many phases of this bill.

As I said the other day, Mr. President, I am told that this is the largest appropriation bill that has ever been passed by the Senate in the history of the Nation, in wartime or in peacetime. Of course, a lot of it is inflation. But everything has been considered.

There are over 3,500 line items, I am told, in this bill alone. I know in the conference, representing the difference between the House and the Senate, we had 29 large pages of conference notes.

We had 91 amendments to be considered and 342 line items that were in dispute with the other body. Every one of those was gone over. Some were considered not once but twice, even three, four, or five times during the 4 days of the conference.

Mr. President, this is not a complaint, but many of us who work on this appropriations bill have to consider too many amendments that are legislative in nature. These amendments are authorization issues more than appropriations issues. This is, after all, a money bill.

As the Senator from North Dakota said, we were able to reduce the budget request somewhat. We did not just take the budget and say, "Everything is all right. We want everybody to be happy." We go over these items and look for places to save. We look for places where there has been slippage and change in needs and a host of other things.

We are $2 billion under the President's original budget; $1 billion of that is represented largely by the Trident submarine, where there was a slippage in the contracts. It was decided to drop the production funds out for this year. It was not defeated, but merely deferred. It will be built just as quickly by coming in next year's bill as in this year's bill.

There are reductions and savings in other areas, but I do not think there is any appreciable amount of postponement of major programs in this bill. These reductions just represent savings we were able to find. This is nothing new. In other years, there have been similar reductions in this huge appropriation bill.

We would be glad to try to answer any further questions.

The House was satisfied with this conference report. There was some discussion, but I understand it was passed by a voice vote over there.

Everything in the bill has been considered thoroughly and explained and digested by the membership and covered by the press. I would be glad to have a yea-and-nay vote if anyone wants it. If no one desires it, I would be willing to waive it and let the bill go to the White House.

Mr. FORD. Mr. President, I would like to compliment the Senator from Mississippi, Chairman STENNIS, for his fine work on the fiscal year 1979 defense appropriation bill and to express my deepest appreciation for the help he gave me in my effort to save the Naval Reserve center in my hometown of Owensboro, Ky.

I heard way back in June that the center was scheduled to be closed, and I went around and around all summer with the Department of the Navy arguing that the center should remain open and trying to pin down specific reasons why the Navy was recommending closure. The only remotely concrete explanation ever offered regarded the material condition of the Owensboro facility and the cost necessary to upgrade it. This I cannot swallow, because the Navy sank a quarter of a million dollars into the center in 1975 and 1976, and gave a recent estimate that only $53,000 more is needed, a drop in the bucket compared to money previously spent.

Having gotten nowhere by letter or by phone, I turned to the fiscal year 1979 defense appropriation bill. Senator HUDDLESTON, a member of the Appropriations Committee, offered an amendment stating it is the committee's belief that the center should be kept in operation through fiscal year 1979 and directing the Naval Reserve to make available the required $53,000. The Senate took this to conference with the House this week but, although Senator STENNIS, chairman of the Senate conferees, fought long and hard for Owensboro, the House refused to accept our language.

It now seems that the Owensboro Naval Reserve center will be closed down forever.

I cannot believe that in this day of inflation and budgetary constraints the Navy feels it can go around spending money on projects and facilities and then abandoning them. I cannot believe that Navy planners have such a lack of foresight.

I also cannot understand their lack of perception when it comes to Naval Reserve strength levels. The closing of Owensboro will leave two-thirds of the State without a naval facility. What incentive is that for Kentuckians to join or stay in the Reserves?

The Navy has already closed similar facilities in Paducah, Danville, and Ashland, leaving only Lexington and Louisville. The Navy even terminated the Naval ROTC program at the University of Louisville.

Since I have been in the Senate there have been several votes on increasing the strength of the Naval Reserves. Every single time I have supported the amendment and sometimes the count was very close, with a margin of one or two votes. I think my votes made a difference.

But now I feel that if the Naval Reserve cannot support my State and my constituents, frankly I will not be able to support the Naval Reserve as enthusiastically as I once did.

I would like to compliment my senior colleague from Kentucky for the work he has done on this, the fine work on the fiscal year 1979 defense appropriation budget, and express my deep appreciation for the help he gave me personally and all the support in an effort to save the Naval Reserve Center in my hometown of Owensboro, Ky.

● Mr. PELL. Mr. President, military workers, including civilians will face a payless payday tomorrow unless the Congress passes the military spending bill tonight.

Such a payless payday would be bitterly ironic to all military workers, but specially to Navy workers in Rhode Island and throughout the country, because tomorrow is Navy Day—a celebration of the Navy's 203d birthday.

I deplore the needless delay which is causing thousands of defense workers and men and women in the services to suffer, because of the failure of Congress to act expeditiously.

Those men and women need to know they can rely upon their paychecks. They only get paid twice a month and they have bills to pay and families to feed. They are serving our country and we are serving them poorly.

In my own State, the Navy is our second largest employer and many of my constituents will celebrate Navy Day

without money. This is a very real hardship to families who depend upon the good faith of the Federal Government for economic survival.

I urge my colleagues on the House-Senate conference to resolve their differences quickly so that our men and women in uniform and our civilian workers can resume normal living.●

● Mr. HART. Mr. President, I would like to bring to the attention of my colleagues the severe problems that have resulted from the unconscionable delay in the enactment of the Defense appropriations bill. As many as 1,000 recently discharged service members have been stranded without travel pay or final separation pay. In addition, service members moving to new assignments have been forced to pay their own travel expenses. Paychecks are in jeopardy of being late.

Newspapers in my home State of Colorado have reported that the delay in the passage of this bill has forced some military personnel to become dependent on the charity of friends and organizations such as the Red Cross. One staff sergeant at Fort Carson has literally had her entire life disrupted as she is unable to receive her final separation pay from the Army. Her husband has quit his job and they have packed all their belongings in anticipation of moving to his new job in Alabama. Now they have been forced to live with friends until she receives the $800 in pay that is due her.

The inaction on this measure has caused much uncertainty in the lives of active duty members of our Armed Forces, and many have expressed to me their extreme dissatisfaction with their representatives in Congress. They tell me that their country has abandoned them, that those who represent them here have shown no sympathy for the financial problems they face when their pay is delayed, and I have heard them express a deep feeling of bitterness over their treatment by a Government they are sworn to defend.

Mr. President, it is unfortunate that the veto of the defense procurement bill has caused this delay and has caused such grief and anguish for the enlisted and officer members of our armed services. It has placed undue hardships on those Americans dependent on Federal funds for their livelihood.

It is an outrage to the men and women who are serving in our Nation's military service that not only have their paychecks and funds for travel been held up, but they have not even been told when they could expect them.

It is essential that the Senate take up this bill as expeditiously as we can to avoid any further delays. If we act on it tonight, we can ensure that most members of our armed services will be paid on time, with very few exceptions.

Following Senate passage, I hope President Carter will make signing this bill his most immediate priority. There can be no further delays in authorizing these funds.●

● Mr. INOUYE. Mr. President, I was unable to be present for the rollcall vote on the conference report on the Department of Defense appropriations bill for fiscal 1979 because I was involved in a conference on the foreign assistance appropriations bill. Had I been present I would have voted "aye".●

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. MAGNUSON. We still have a little time, and this is a very big bill. I think the Senate should have a rollcall vote on a bill of this magnitude, if we do it right now, and I think we can.

Mr. STENNIS. That is all right.

Does anyone have remarks on the bill?

Mr. President, I move the adoption of the conference report on H.R. 13635, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

TIME LIMITATION AGREEMENT—LABOR-HEW CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I expect to make provision for calling up the Labor-HEW conference report immediately after the disposition of this conference report. Therefore, I ask unanimous consent—and this has been cleared with the minority—that on the Labor-HEW appropriations conference report there be 40 minutes overall, equally divided between Mr. MAGNUSON and Mr. BROOKE; that upon the disposition of the now pending Defense appropriation conference report, the Chair proceed to recognize Mr. MAGNUSON to call up that report.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—H.R. 14279

Mr. ROBERT C. BYRD. Mr. President, this has been cleared. I ask unanimous consent that when the Senate proceeds to the consideration of H.R. 14279, debate be limited to 10 minutes on the bill, one-half hour on an amendment to be offered by Mr. PROXMIRE, 10 minutes on any other amendment, all time to be equally divided between and controlled by the majority and minority managers of the bill; that there be 10 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate for its consideration; provided, further, that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1979—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER (Mr. SPARKMAN). The question is on agreeing to the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Iowa (Mr. CLARK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Hawaii (Mr. INOUYE), the Senator from New Hamphire (Mr. MCINTYRE), the Senator from North Carolina (Mr. MORGAN), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE) and the Senator from North Carolina (Mr. MORGAN) would each vote "yea."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. SCOTT), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The PRESIDING OFFICER (Mr. CANNON). Is there any Senator in the Chamber who has not voted?

The result was announced—yeas 77, nays 3, as follows:

[Rollcall Vote No. 487 Leg.]

YEAS—77

Baker	Glenn	Nelson
Bartlett	Gravel	Nunn
Bayh	Hansen	Packwood
Bellmon	Hart	Pearson
Bentsen	Hatch	Pell
Biden	Hatfield, Paul G.	Percy
Brooke	Hayakawa	Randolph
Bumpers	Heinz	Riegle
Burdick	Helms	Roth
Byrd, Harry F., Jr.	Hodges	Sarbanes
Byrd, Robert C.	Hollings	Sasser
Cannon	Huddleston	Schmitt
Case	Humphrey	Schweiker
Chafee	Jackson	Sparkman
Chiles	Javits	Stafford
Church	Johnston	Stennis
Cranston	Kennedy	Stevens
Culver	Leahy	Stevenson
Curtis	Long	Stone
Danforth	Lugar	Talmadge
DeConcini	Magnuson	Thurmond
Dole	Matsunaga	Wallop
Durkin	Melcher	Williams
Eagleton	Metzenbaum	Young
Ford	Moynihan	Zorinsky
Garn	Muskie	

NAYS—3

Hatfield, Mark O.	McGovern
	Proxmire

NOT VOTING—20

Abourezk	Griffin	McIntyre
Allen	Haskell	Morgan
Anderson	Hathaway	Ribicoff
Clark	Inouye	Scott
Domenici	Laxalt	Tower
Eastland	Mathias	Weicker
Goldwater	McClure	

So the conference report was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $6,461,600,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 4 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $7,525,001,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $547,350,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 10 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $84,125,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $186,850,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $384,700,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment insert: $1,642,250,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 44 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $1,955,600,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 49 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *for the T-AGOS SURTASS ship program*, $69,000,000;

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 51 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $3,759,600,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 58 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $273,800,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 60 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $4,468,871,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 65 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $892,887,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 74 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted, insert:

(f) reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished; or (g) any service or supply which is not medically or psychologically necessary to prevent, diagnose, or treat a mental or physical illness, injury, or bodily malfunction as assessed or diagnosed by a physician, dentist, clinical psychologist, or certified nurse-midwife, as appropriate, except as authorized by section 1079(a)(4) of title 10, United States Code.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 76 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Sec. 853. None of the funds appropriated by this Act shall be obligated under the Competitive Rate Program of the Department of Defense for the transportation of household goods to or from Alaska or Hawaii.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 77 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken by said amendment, insert:

Sec. 854. (a) None of the funds appropriated by this Act or available in any working capital fund of the Department of Defense shall be available to pay the expenses attributable to lodging of any person on official business away from his designated post of duty, or in the case of an individual described under section 5703 of title 5, United States Code, his home or regular place of duty, when adequate government quarters are available, but are not occupied by such person.

(b) The limitation set forth in subsection (a) is not applicable to employees whose duties require official travel in excess of fifty percent of the total number of the basic administrative work weeks during the current fiscal year.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 84 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

Sec. 860. None of the funds appropriated by this Act may be used for the consolidation or realignment of advanced or undergraduate pilot training squadrons of the Navy as currently proposed by the Department of Defense.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 85 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken by said amendment, insert:

Sec. 861. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 89 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken by said amendment, insert:

Sec. 863. None of the funds appropriated by this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

Mr. STENNIS. Mr. President, this is important. May we have quiet?

Mr. President, I move that the Senate concur en bloc with the amendments of the House to the amendments of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Mississippi.

The motion was agreed to.

Mr. STENNIS. Mr. President, one other matter. I have been asked about the amount of money that is in the bill. The bill carries with it $117.3 billion in new budget authority and $100 million of transfers for the coming fiscal year.

The PRESIDING OFFICER. Pursuant to the previous order, the Senator from Washington is recognized.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. MAGNUSON. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from South Carolina may proceed for 3 minutes on another matter.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

INTERNATIONAL MARITIME SATELLITE TELECOMMUNICATIONS SERVICES

Mr. HOLLINGS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 11209.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 11209) to provide for the establishment, ownership, operation, and governmental oversight and regulation

of international maritime satellite telecommunications services, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. HOLLINGS. Mr. President, H.R. 11209 provides for the establishment, ownership, operation, and regulation of international maritime satellite telecommunications services. It designates COMSAT as the U.S. participant in the international maritime satellite organization (INMARSAT) which is likely to be created to develop and operate an international maritime satellite system.

H.R. 11209 as passed by the House and the Senate were different in several respects but both bodies have now reached a compromise agreement. The compromise agreement accomplishes the following objectives: First, declares the intent of Congress to be the U.S. participate through a private entity in INMARSAT to serve the maritime commercial and safety needs of the United States and foreign countries; second, designates the Communications Satellite Corporation (COMSAT) as the U.S. entity to provide maritime satellite communications as a participating carrier; third, authorizes COMSAT to be the sole owner and operator of any satellite Earth terminal stations in the United States unless the FCC decides that ownership by others as well proves to be in the public interest; fourth, requires COMSAT to serve as a participating common carrier subject to the Communications Act of 1934 and connect its facilities with other domestic and international carriers; fifth, requires COMSAT to connect its facilities with those of private communications systems unless the FCC finds that such interconnection will not serve the public interest; sixth, authorizes the President to issue instructions to COM SAT, with respect to its dealings with foreign entities and INMARSAT, or matters relating to foreign policy and the national interest; seventh, authorizes the Secretary of Commerce to undertake several responsibilities including coordination of the activities of Federal agencies with responsibilities in the field of telecommunications; and eighth, requires the Commission to initiate proceedings necessitated by the bill and to conduct certain studies. The navigation study is not intended to preclude consideration of any possible methods of providing navigation assistance, but rather to insure the most effective, coordinated, and efficient system.

This bill represents a bipartisan effort between the minority and majority Members, and between the House and the Senate, to reach an accommodation without need for a conference. It is a good effort to balance competition and monopoly in the public's interest. The bill is needed soon so that the United States can sign the operating agreement and assist in the formation of the INMARSAT organization.

Mr. STEVENS. Mr. President, will the Senator yield to me for just a moment?

Mr. HOLLINGS. I yield.

Mr. STEVENS. Mr. President, I strongly urge approval of the amendments to H.R. 11209, a bill to authorize U.S. participation through COMSAT in the International Maritime Satellite Organization. I have closely followed the progress of INMARSAT for years and participated in one of its preparatory conferences in London.

This legislation is vital to Alaska. Due to the remoteness of many areas of the State, all types of communications are critical to her. But maritime communications is particularly important. Alaska has more miles of coastline than the combined total of the continental United States. Thus, much of Alaska's industry is based on maritime activities. Better communications will greatly benefit such activities.

Mr. President, I am glad we could come to an agreement with the House on this bill. Two differences in particular were holding up agreement: first, whether private lines could be run from a user to an Earth station, and second, who is entitled to own an Earth station.

We agreed users could directly interconnect wtih Earth stations unless the FCC found such interconnection not to be in the public interest. In addition, we authorized anyone to petition the FCC for ownership of an Earth station. Since we necessarily gave COMSAT sole ownership of the space segment, its monopoly should not extend any further. Opening Earth station ownership to other parties succeeds in maintaining maximum competition in the provisions of maritime communications.

Mr. President, this bill will enable us to have a greater say in the early stages of INMARSAT's operational system and to represent to the world our commitment to sophisticated maritime communications.

INTERNATIONAL MARITIME SATELLITE ORGANIZATION

● Mr. SCHMITT. Mr. President, I am pleased to join with the distinguished chairman of the Communications Subcommittee in urging the Senate to pass H.R. 11209, which provides for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services.

Enactment of this legislation will provide for U.S. participation in the International Maritime Satellite Organization (INMARSAT) through the Communications Satellite Corporation (COMSAT). Serving as the designated entity of the United States, COMSAT will operate as a participating common carrier subject to the Communications Act of 1934, connecting its facilities with other domestic and international common carriers and private communications systems as authorized by the Federal Communications Commission.

The purpose and procedures established by this bill are similar to those contained in H.R. 11209, as it passed the Senate on August 7, 1978.

I believe this legislation will provide a mechanism for vastly improving maritime telecommunications services and urge its immediate passage.●

Mr. HOLLINGS. I move that the Senate insist upon its amendment.

The motion was agreed to.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS, 1979—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on H.R. 12929 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12929) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 6, 1978.)

The PRESIDING OFFICER. There is a 40-minute time limit on the conference report. Who yields time?

Mr. MAGNUSON. Mr. President, I yield myself such time as I may need.

Mr. President, we are now going to consider the conference report on H.R. 12929, the fiscal 1979 Labor-HEW appropriations bill.

I am proud to announce that we have a bill that is under the President's budget. The conference report states that this bill is $285 million below the budget. This does not even include the billion-dollar reduction for fraud and abuse.

We added money to some programs and cut money from others. We spent many hours in hearings, with over 600 witnesses; markup sessions lasted 33 hours. House and Senate floor action and conference took many days. The result is a bill that reflects the priorities of the Congress in the vital human service areas. We did all of this and kept the bill under the President's budget. When you look at this conference report, I believe you will join me in strongly recommending its adoption.

HEALTH

I would like to summarize a few major components in this bill. We were able to provide additional funds for the National Institutes of Health. These funds will be used to continue our efforts to conquer dread killers like cancer and heart disease. This bill will continue to provide assistance so that NIH can continue its highly successful research efforts. Special emphasis will be placed upon

research on how nutrition and diet affect people's health. NIH will also be expanding its basic research in the continuing effort to find cures for the many devastating diseases that afflict so many people—including genetic disorders.

EDUCATION

For education, the conferees are recommending that impact aid funding be cut $40 million below the President's budget request and the House level, while providing a modest increase over fiscal 1978. The conference report contains adequate funds to fully fund the so-called "A" students. An "A" student's parents live and work on Federal property, such as military bases. The impact aid program has been growing like topsy in recent years. It is time to control growth of the program and limit assistance to school districts where the presence of Federal activities truly affects their operations.

The major education initiative in this year's bill is the provision of funds to assist middle-income students with their postsecondary educations. Under the basic educational opportunity grants, or BOG's program, an additional 1.1 million students from middle-income families will receive grants. Other grant and loan programs in the Office of Education will add another $200 million for middle-income students. Due to the uncertain future of tuition tax credit legislation, the conferees were not able to fully fund the President's middle-income student assistance request under BOG's. The money provided for BOG's will allow for an orderly phase-in of middle-income student assistance, and will be a big step forward in helping these families to bear the rapidly-accelerating burden of college costs.

UNAUTHORIZED PROGRAMS

There are over $17 billion in programs which are not included in this bill. They are not in here because the authorizing legislation has not been adopted or has only recently been enacted. There is no money for CETA—the conference was finally completed this week, far too late for our consideration this year. Half of the health programs, the entire ACTION agency, all of the community services administration, and many other programs are also not included in this bill. These programs will be funded by a continuing resolution for the entire year or until we do a supplemental in 1979.

I hope that the authorizing committees will get their bills passed in a more timely fashion next year.

CONCLUSION

There are many, many other important items in this bill; each one provides assistance in a vital human service area. However, I will not take the time to explain each one in detail. The House and Senate reports accompanying the bill do an excellent job of explaining each program, and we have discussed many of them on the floor earlier this year.

Again, Mr. President, I emphasize that this is a big and complex bill—a bill requiring many, many hours of work. It is a bill which is under the President's budget. I hope that you will join me in supporting the adoption of the conference report on the 1979 Labor-HEW appropriations bill.

Mr. President, the Senator from Massachusetts and the rest of us think this is probably the most sensitive bill there is in Congress, dealing as it does with human needs. I think he did a yeoman job in helping get this total amount after a conference with the House.

I want to say to my friend from Oklahoma, who is a good budget watcher, that the bill is below the budget for one of the first times. We cut some and we added very little, but we spent many hours. We had 600 witnesses in sessions that lasted many, many hours, and then House and Senate floor action, and the conference took many days.

But I do not wish to burden the Senate with that further.

If the Senator from Massachusetts has anything to add, I am glad to yield to him.

Mr. BROOKE. Mr. President, I would agree with everything that has been said by my distinguished chairman.

I believe we have developed an acceptable conference report on the fiscal 1979 Labor-HEW appropriations bill and I am glad to recommend it to the Senate for adoption.

The bill that emerged from conference totals $56,054,029,000. This is $1.2 billion below the President's requests and almost $1 billion below the level provided by the House of Representatives.

That our bill is fiscally responsible should be readily apparent. I believe both the House and Senate were motivated to try to meet many of the Nation's social priorities within the lowest level of funding possible.

Our priorities are clear. We focus in particular on occupational health and mental health, on cancer and other biomedical research, on elementary, secondary, postsecondary and handicapped education, on bilingual education and on assistance to ease the path of those going through court-ordered or voluntary desegregation.

And for the first time we have begun a program to assist in the adoption of hard-to-place children.

Let me provide a few highlights from our bill.

LABOR

We provide $400,000 to continue the construction industry coordinating committees which are designed to lengthen the work year and reduce costs in the construction field.

We provide additional compliance staff and support personnel to deal with health and safety in the workplace.

We also accepted bill language that gives businessmen a chance to use consultation to avoid OSHA citations in certain circumstances.

HEALTH

The conferees agreed to a Senate increase of $20 million to continue the present level of operations at our Public Health Service hospitals which a recent HEW report said should be preserved and turned into community resources.

For the National Institutes of Health, we provide more for the fight against cancer, more for research into heart, lung and blood diseases, more for the battle against arthritis, diabetes, and other metabolic and digestive diseases, and more to strengthen the struggle against diseases of the eye.

With regard to the $31.3 million increase over the budget for the Neurological Institute, I urge HEW to provide sufficient funds to begin a significant implementation of the recommendations of the Commissions on Huntington's Disease and Epilepsy.

NIH is the finest biomedical research establishment on the face of the Earth and a first line of defense against the killing and crippling diseases which afflict mankind. We must maintain its operations at the most effective level possible, and I believe our bill does so.

In other areas of health, we provide additional funds for mental health research and training, two areas which the President's Commission on Mental Health said are in need of strengthening.

I was particularly pleased that the conferees restored most of the cut made in capitation grants for medical and other health professional schools. Present loan and grant programs still are not an adequate substitute for this special institutional assistance which must be continued.

I also was glad the conferees agreed to the Senate level of $7 million for traineeships to assist in the education of those who plan to work in the public health field.

The conferees also agreed to the Senate reduction of $265 million for medicaid to correct overestimating by the department. In addition, we cut the conference bill by a total of $1 billion to get control of fraud, abuse and waste in medicaid, public assistance, and other programs.

We did not intend this cut to be only a "goal" as some may contend. We wrote strong conference report language directing the Secretary of HEW to specify to Congress exactly how these savings will be achieved. If the administration fails to live up to this clear congressional directive, it will be held accountable for its failure. We mean business.

EDUCATION

We provide $3.4 billion for elementary and secondary education, most of it for title I compensatory education. This year the program of grants for disadvantaged schoolchildren will exceed $3 billion for the first time, enabling school districts to serve more than 5.8 million students. And we agreed to a level of $150 million for bilingual education, an increase of $15 million over last year. With the growth of Spanish-speaking and other bilingual groups, we need to develop bilingual programs and to train more bilingual instructors to meet their needs.

The bill provides $816 million for impact aid, a cut of $40 million from the

budget request. We restored the Senate's cut in payments for the so-called "A" children—mainly military dependents, whose presence impacts most heavily on local school districts—but retained the cut in payments for "B" children.

The conferees also provide increases in targeted aid and technical assistance to newly desegregating school districts, and increased by 20 percent the very effective magnet school program which has proven useful to districts undergoing both voluntary and court-ordered desegregation.

We provide increases for handicapped education preschool incentive grants to encourage more early identification of handicapped preschool children. We also strengthen manpower development to help reduce the shortage of trained handicapped education specialists.

The conferees agreed to a total of $3.9 for college student aid programs, two-thirds of which is for the basic opportunity grants (BOG's) program. BOG's was increased $460 million to a total of $2.6 billion. For the first time, the program is expanded to reach about 1 million needy middle-income students. Although there may be some overlap between BOG's and the pending tuition tax credit, BOG's will provide more significant assistance to the neediest middle-income families in 1979 than will the $150 tax credit. We also increased funding for the work study program to aid additional low income students.

I was pleased the conferees accepted the full Senate level of $14 million for educational research dissemination which serves to reduce waste and duplication in educational research.

The conferees also agreed to a Senate provision to fund a blue ribbon commission to study the social security system and recommend improvements. And I was pleased, too, that the conferees accepted the Senate's $5 million amendment to initiate a nationwide adoption information exchange system to assist in linking hard-to-place children with prospective adoptive parents.

As for the inevitable language amendments to the bill, the conferees:

Agreed to knock out proposed restrictions on affirmative action by the Departments of Labor and HEW.

Agreed with the Senate restriction against using Federal grant funds to pay the salaries of persons who lobby Congress.

Agreed to limit HEW's use of consultants.

And agreed not to interfere with implementation of the new standard for cotton dust.

The conferees drop language which would have restricted HEW from providing funds for the National Commission on the International Year of the Child, but require HEW to advise Congress how it plans to use any money it would spend.

However, the House and Senate remain in disagreement on the abortion amendment. The House, by a vote of 188 to 216, refused to substitute the 1978 compromise abortion language for the harsh amendment it has passed. This is most regrettable and could result in an impasse like last year's.

With respect to the conference report itself, I urge its adoption by the Senate.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. MAGNUSON. I ask unanimous consent that a summary table of the action on the bill, a very complicated measure. the second largest appropriations bill, be printed in the RECORD in full.

There being no objection, the summary table was ordered to be printed in the RECORD, as follows:

LABOR, HEALTH, EDUCATION, AND WELFARE—SUPPORTING DETAIL ACCOUNT TABLE, FISCAL YEAR 1979

	Actual, fiscal year 1977	Appropriations, fiscal year 1978	President's budget, fiscal year 1979	House bill (*** not auth)	Senate bill (*** not auth)	Conference amount	Conference compared to— Fiscal year 1978	Estimates 1979	House bill	Senate bill
TITLE I, DEPARTMENT OF LABOR										
EMPLOYMENT AND TRAINING ADMINISTRATION										
Program administration:										
Planning, evaluation and research	5,266,000	5,715,000	5,639,000	***	***	***	***	***	***	***
Comprehensive employment development	38,442,000	49,103,000	47,556,000	***	***	***	***	***	***	***
Trust funds	(2,409,000)	(2,428,000)	(2,333,000)	***	***	***	***	***	***	***
Apprenticeship services	12,989,000	13,856,000	14,067,000	***	***	***	***	***	***	***
U.S. employment service	708,000	708,000	803,000	***	***	***	***	***	***	***
Trust funds	(14,738,000)	(15,161,000)	(17,044,000)	***	***	***	***	***	***	***
Unemployment insurance service	1,341,000	1,621,000	1,620,000	***	***	***	***	***	***	***
Trust funds	(10,037,000)	(10,890,000)	(10,313,000)	***	***	***	***	***	***	***
Investigation and compliance	751,000	870,000	1,042,000	***	***	***	***	***	***	***
Trust funds	(1,139,000)	(1,131,000)	(1,368,000)	***	***	***	***	***	***	***
Executive direction and management	16,725,000	18,959,000	19,711,000	***	***	***	***	***	***	***
Trust funds	(3,911,000)	(4,024,000)	(4,180,000)	***	***	***	***	***	***	***
Subtotal, program administration	108,456,000	124,466,000	125,676,000	***	***	***	***	***	***	***
Federal funds	76,222,000	90,832,000	90,438,000	***	***	***	***	***	***	***
Trust funds	(32,234,000)	(33,634,000)	(35,238,000)	***	***	***	***	***	***	***
Employment and training assistance (CETA):										
General manpower training (title I)	1,880,000,000	1,880,000,000	2,025,700,000	***	***	***	***	***	***	***
National Projects (title III):										
Training	558,360,000	343,060,000	415,122,000	***	***	***	***	***	***	***
Program support	42,370,000	44,870,000	43,910,000	***	***	***	***	***	***	***
Subtotal	600,730,000	387,930,000	459,032,000	***	***	***	***	***	***	***
Special youth programs (titles III and VIII):										
Young Adult Conservation Corps	233,333,000	.....	216,900,000	***	***	***	***	***	***	***
Youth incentive entitlement pilot projects	115,000,000	.....	107,100,000	***	***	***	***	***	***	***
Youth employment and training programs	536,667,000	.....	499,796,000	***	***	***	***	***	***	***
Youth community conservation and improvement program	115,000,000	.....	107,100,000	***	***	***	**	***	***	***
Subtotal, special youth programs	1,000,000,000	.....	930,896,000	***	***	***	***	***	***	***

LABOR, HEALTH, EDUCATION, AND WELFARE—SUPPORTING DETAIL ACCOUNT TABLE, FISCAL YEAR 1979—Continued

	Actual, fiscal year 1977	Appropriations, fiscal year 1978	President's budget, fiscal year 1979	House bill (*** not auth)	Senate bill (*** not auth)	Conference amount	Conference compared to— Fiscal year 1978	Estimates 1979	House bill	Senate bill
Summer youth employment program	595,000,000	756,000,000	740,200,000	***	***	***	***	***	***	***
Job Corps (title IV)	247,100,000	417,000,000	296,000,000	***	***	***	***	***	***	***
Private sector initiative			200,000,000	***	***	***	***	***	***	***
Subtotal, Employment and Training Assistance	4,322,830,000	3,440,930,000	4,852,828,000	***	***	***	***	***	***	***
Temporary Employment Assistance (CETA II and V!)	8,387,000,000		5,955,286,000	***	***	***	***	***	***	***
Fiscal year 1977 CETA carryover		6,627,222,000		***	***	***	***	***	***	***
Community Services Employment for Older Americans	150,000,000	211,700,000	228,450,000	***	***	***	***	***	***	***
Federal unemployment benefits and allowances:										
Payments to former Federal personnel	440,000,000	560,000,000	660,000,000	660,000,000	660,000,000	660,000,000	+100,000,000			
Trade adjustment assistance	120,000,000	240,000,000	190,000,000	190,000,000	190,000,000	190,000,000	−50,000,000			
Unemployment assistance and payments under other Federal unemployment programs	300,000,000	400,000,000	100,000,000	100,000,000	100,000,000	100,000,000	−300,000,000			
Subtotal, FUBA	860,000,000	1,200,000,000	950,000,000	950,000,000	950,000,000	950,000,000	−250,000,000			
Grants to States for unemployment insurance and employment services:										
Unemployment Insurance Service	(697,000,000)	(771,100,000)	(804,655,000)	(813,055,000)	(813,055,000)	(813,055,000)	(+41,955,000)	(+8,400,000)		
Employment services:										
Federal funds	89,100,000	53,600,000	21,600,000	21,600,000	21,600,000	21,600,000	−32,000,000			
Trust funds	(475,900,000)	(583,500,000)	(646,400,000)	(646,400,000)	(646,400,000)	(646,400,000)	(+62,900,000)			
Subtotal, employment services	565,000,000	637,100,000	668,000,000	668,000,000	668,000,000	668,000,000	+30,900,000			
Contingency fund	(239,800,000)	(174,400,000)	(232,145,000)	(234,145,000)	(234,145,000)	(234,145,000)	(+59,745,000)	(+1,600,000)		
Subtotal, Grants to States	1,501,800,000	1,582,600,000	1,705,200,000	1,715,200,000	1,715,200,000	1,715,200,000	+132,600,000	+10,000,000		
Federal funds	89,100,000	53,600,000	21,600,000	21,600,000	21,600,000	21,600,000	−32,000,000			
Trust funds	(1,412,700,000)	(1,529,000,000)	(1,683,600,000)	(1,693,600,000)	(1,693,600,000)	(1,693,600,000)	(+164,600,000)	(+10,000,000)		
Advances to unemployment trust fund and other funds	5,000,000,000		200,000,000	200,000,000	200,000,000	200,000,000	+200,000,000			
Subtotal, employment and Training Administration	7,361,800,000	2,782,600,000	2,855,200,000	2,865,200,000	2,865,200,000	2,865,200,000	+82,600,000	+10,000,000		
Federal funds	5,949,100,000	1,253,600,000	1,171,600,000	1,171,600,000	1,171,600,000	1,171,600,000	−82,000,000			
Trust funds	(1,412,700,000)	(1,529,000,000)	(1,683,600,000)	(1,693,600,000)	(1,693,600,000)	(1,693,600,000)	(+164,600,000)	(+10,000,000)		
Unauthorized, not considered	(12,968,286,000)	(10,404,318,000)	(11,162,240,000)	***	***	***	***	***	***	***
Federal funds	(12,936,052,000)	(10,370,684,000)	(11,127,002,000)	***	***	***	***	***	***	***
Trust funds	(32,234,000)	(33,634,000)	(35,238,000)	***	***	***	***	***	***	***
LABOR-MANAGEMENT SERVICES ADMINISTRATION										
Salaries and expenses:										
Labor-management relations policy and service	3,208,000	3,260,000	3,910,000	3,310,000	3,910,000	3,710,000	+450,000	−200,000	+400,000	−200,000
Labor-management standards enforcement	14,430,000	14,939,000	16,418,000	16,418,000	16,418,000	16,418,000	+1,479,000			
Veterans reemployment rights	2,682,000	2,772,000	2,417,000	2,417,000	2,417,000	2,417,000	−355,000			
Federal labor-management relations	5,034,000	5,897,000	6,017,000	6,017,000	6,017,000	6,017,000	+120,000			
Employee benefits security	21,841,000	25,129,000	26,873,000	26,873,000	26,873,000	26,873,000	+1,744,000			
Executive direction, management and support	3,559,000	5,064,000	4,319,000	4,319,000	4,319,000	4,319,000	−745,000			
Subtotal, LMSA	50,754,000	57,061,000	59,954,000	59,354,000	59,554,000	59,754,000	+2,693,000	−200,000	+400,000	−200,000
EMPLOYMENT STANDARDS ADMINISTRATION										
Salaries and expenses:										
Improving and protecting wages	43,722,000	53,075,000	62,367,000	62,367,000	62,367,000	62,367,000	+9,292,000			
Elimination of discrimination in employment	15,472,000	17,111,000	15,064,000	15,064,000	15,064,000	15,064,000	−2,047,000			
Workers' compensation	27,516,000	36,237,000	29,529,000	29,529,000	29,529,000	29,529,000	−6,708,000			
Trust funds	(260,000)	(265,000)	(320,000)	(320,000)	(320,000)	(320,000)	(+55,000)			
Program development and administration	12,282,000	13,209,000	13,484,000	13,484,000	13,484,000	13,484,000	+275,000			
Subtotal, salaries and expenses	99,252,000	119,987,000	120,764,000	120,764,000	120,764,000	120,764,000	+867,000			
Federal funds	98,992,000	119,632,000	120,444,000	120,444,000	120,444,000	120,444,000	+812,000			
Trust funds	(260,000)	(265,000)	(320,000)	(320,000)	(320,000)	(320,000)	(+55,000)			
Special benefits:										
Federal Employees Compensation Act benefits	307,407,000	292,325,000	228,137,000	228,137,000	228,137,000	228,137,000	−64,188,000			
Disabled coal miners benefits	27,100,000	24,300,000					−24,300,000			
Longshore and harbor workers' benefits	2,442,000	2,735,000	3,063,000	3,063,000	3,063,000	3,063,000	+328,000			
Subtotal, special benefits	336,949,000	319,360,000	231,200,000	231,200,000	231,200,000	231,200,000	−88,160,000			

	Actual, fiscal year 1977	Appropriations, fiscal year 1978	President's budget, fiscal year 1979	House bill (*** not auth)	Senate bill (*** not auth)	Conference amount	Conference compared to— Fiscal year 1978	Estimates 1979	House bill	Senate bill
Black Lung Disability Trust Fund:										
Benefit payments		162,700,000	389,400,000	389,400,000	389,400,000	389,400,000	+226,700,000			
Employment Standards Administration, salaries and expenses		17,819,000	24,555,000	24,555,000	24,555,000	24,555,000	+6,736,000			
Departmental Management, salaries and expenses		1,170,000	8,310,000	8,310,000	8,310,000	8,310,000	+7,140,000			
Subtotal, Black Lung Disability Trust Fund		181,689,000	422,265,000	422,265,000	422,265,000	422,265,000	+240,576,000			
Subtotal, Employment Standards Administration	436,201,000	620,946,000	774,229,000	774,229,000	774,229,000	774,229,000	+153,283,000			
Federal funds	435,941,000	620,681,000	773,909,000	773,909,000	773,909,000	773,909,000	+153,228,000			
Trust funds	(260,000)	(265,000)	(320,000)	(320,000	(320,000)	(320,000)	(+55,000)			
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION										
Salaries and expenses:										
Safety and health standards	8,338,000	8,833,000	9,287,000	9,835,000	9,835,000	9,835,000	+1,002,000	+548,000		
Compliance:										
Federal Inspections	57,616,000	62,651,000	66,742,000	70,089,000	77,589,000	73,839,000	+11,188,000	+7,097,000	+3,750,000	−3,750,000
State programs	35,605,000	34,105,000	42,500,000	42,500,000	42,500,000	42,500,000	+8,395,000			
Education, consultation, and information	18,897,000	22,047,000	30,710,000	31,404,000	31,404,000	31,404,000	+9,357,000	+694,000		
Safety and health statistics	6,206,000	6,347,000	6,433,000	6,488,000	6,488,000	6,488,000	+141,000	+55,000		
Executive direction and administration	3,671,000	5,087,000	7,058,000	7,158,000	7,158,000	7,158,000	+2,071,000	+100,000		
Subtotal, OSHA	130,333,000	139,070,000	162,730,000	167,474,000	174,974,000	171,224,000	+32,154,000	+8,494,000	+3,750,000	−3,750,000
MINE SAFETY AND HEALTH ADMINISTRATION										
Salaries and expenses:										
Enforcement:										
(a) Coal	53,545,000	54,501,000	55,968,000	55,968,000	55,968,000	55,968,000	+1,467,000			
(b) Metal/nonmetal	17,395,000	22,358,000	27,492,000	27,492,000	27,492,000	27,492,000	+5,134,000			
(c) State grants		4,000,000	4,000,000	4,000,000	8,000,000	6,000,000	+2,000,000	+2,000,000	+2,000,000	−2,000,000
(d) Standards development		110,000	3,193,000	3,193,000	3,193,000	3,193,000	+3,083,000			
Assessments		4,135,000	6,207,000	6,207,000	6,207,000	6,207,000	+2,072,000			
Education and training	7,288,000	6,712,000	6,404,000	6,404,000	6,404,000	6,404,000	−308,000			
Technical support	14,428,000	16,452,000	17,531,000	17,531,000	17,531,000	17,531,000	+1,079,000			
Program administration	2,188,000	2,586,000	2,705,000	2,705,000	2,705,000	2,705,000	+119,000			
Subtotal, Mine Safety and Health Administration	94,844,000	110,854,000	123,500,000	123,500,000	127,500,000	125,500,000	+14,646,000	+2,000,000	+2,000,000	−2,000,000
BUREAU OF LABOR STATISTICS										
Salaries and expenses:										
Labor force statistics	27,878,000	33,668,000	36,471,000	36,471,000	36,471,000	36,471,000	+2,803,000			
Prices and cost of living	15,310,000	20,917,000	30,717,000	30,717,000	30,717,000	30,717,000	+9,800,000			
Wages and industrial relations	11,573,000	13,245,000	13,826,000	13,628,000	13,628,000	13,628,000	+383,000	−198,000		
Productivity and technology	2,789,000	3,225,000	3,185,000	3,185,000	3,185,000	3,185,000	−40,000			
Economic growth	694,000	798,000	780,000	780,000	780,000	780,000	−18,000			
Executive direction and staff services	10,157,000	11,250,000	9,971,000	9,971,000	9,971,000	9,971,000	−1,279,000			
Revision of the consumer price index	7,216,000	3,770,000					−3,770,000			
Subtotal, Bureau of Labor Statistics	75,617,000	86,873,000	94,950,000	94,752,000	94,752,000	94,752,000	+7,879,000	−198,000		
DEPARTMENTAL MANAGEMENT										
Salaries and expenses:										
Executive direction	8,439,000	10,766,000	11,080,000	9,580,000	9,580,000	9,580,000	−1,186,000	−1,500,000		
Legal services	19,616,000	24,055,000	27,606,000	27,606,000	27,606,000	27,606,000	+3,551,000			
Trust funds	(177,000)	(403,000)	(188,000)	(188,000)	(188,000)	(188,000)	(−215,000)			
International labor affairs	5,093,000	7,804,000	9,123,000	9,123,000	9,123,000	9,123,000	+1,319,000			
Administration and management	14,516,000	18,013,000	20,783,000	20,783,000	20,783,000	20,783,000	+2,770,000			
Trust funds	(820,000)	(1,108,000)	(1,211,000)	(1,211,000)	(1,211,000)	(1,211,000)	(+103,000)			
Adjudication	3,464,000	3,985,000	3,805,000	3,805,000	3,805,000	3,805,000	−180,000			
Trust funds	(315,000)	(1,221,000)	(418,000)	(418,000)	(418,000)	(418,000)	(−803,000)			
Promoting employment of the handicapped	1,446,000	1,505,000	1,616,000	1,616,000	1,616,000	1,616,000	+111,000			
Women's Bureau			2,525,000	2,525,000	2,525,000	2,525,000	+2,525,000			
Minimum Wage Study Commission		300,000	1,209,000	1,209,000	1,209,000	1,209,000	+909,000			
Subtotal, salaries and expenses	53,886,000	69,160,000	79,564,000	78,064,000	78,064,000	78,064,000	+8,904,000	−1,500,000		
Federal funds	52,574,000	66,428,000	77,747,000	76,247,000	76,247,000	76,247,000	+9,819,000	−1,500,000		
Trust funds	(1,312,000)	(2,732,000)	(1,817,000)	(1,817,000)	(1,817,000)	(1,817,000)	(−915,000)			
Special foreign currency program	70,000	70,000	200,000	70,000	70,000	70,000		−130,000		
Subtotal, departmental management	53,956,000	69,230,000	79,764,000	78,134,000	78,134,000	78,134,000	+8,904,000	−1,630,000		
Federal funds	52,644,000	66,498,000	77,947,000	76,317,000	76,317,000	76,317,000	+9,819,000	−1,630,000		
Trust funds	(1,312,000)	(2,732,000)	(1,817,000)	(1,817,000)	(1,817,000)	(1,817,000)	(−915,000)			

LABOR, HEALTH, EDUCATION, AND WELFARE—SUPPORTING DETAIL ACCOUNT TABLE, FISCAL YEAR 1979—Continued

	Actual, fiscal year 1977	Appropriations, fiscal year 1978	President's budget, fiscal year 1979	House bill (*** not auth)	Senate bill (*** not auth)	Conference amount	Conference compared to— Fiscal year 1978	Estimates 1979	House bill	Senate bill
Total, Labor Department	8,203,505,000	3,866,634,000	4,150,327,000	4,162,643,000	4,174,743,000	4,168,793,000	+302,159,000	+18,466,000	+6,150,000	−5,950,000
Federal funds	6,789,233,000	2,334,637,000	2,464,590,000	2,456,906,000	2,479,006,000	2,473,056,000	+138,419,000	+8,466,000	+6,150,000	−5,950,000
Trust funds	(1,414,272,000)	(1,531,997,000)	(1,685,737,000)	(1,695,737,000)	(1,695,737,000)	(1,695,737,000)	(+163,740,000)	(+10,000,000)		
Total, unauthorized, not considered	(12,568,286,000)	(10,404,318,000)	(11,162,240,000)	***	***	***	***	***	***	***
Federal funds	(12,936,052,000)	(10,370,684,000)	(11,127,002,000)	***	***	***	***	***	***	***
Trust funds	(32,234,000)	(33,634,000)	(35,238,000)	***	***	***	***	***	***	***
TITLE II—DEPARTMENT OF HEALTH, EDUCATION AND WELFARE										
HEALTH SERVICES ADMINISTRATION										
Community health services:										
Community health centers	230,148,000	15,000,000	15,000,000	15,000,000	18,000,000	16,500,000	+1,500,000	+1,500,000	+1,500,000	−1,500,000
Unauthorized, not considered		253,000,000	286,000,000	***	***	***	***	***	***	***
Comprehensive health grants to States:										
Basic grants	90,000,000	90,000,000	90,000,000	***	***	***	***	***	***	***
Advance for 1980			90,000,000	***	***	***	***	***	***	***
Hypertension	9,000,000	11,000,000	11,000,000	***	***	***	***	***	***	***
Advance for 1980			11,000,000	***	***	***	***	***	***	***
Subtotal	99,000,000	101,000,000	202,000,000	***	***	***	***	***	***	***
Maternal and child health:										
Grants to States	315,000,000	332,500,000	345,500,000	345,500,000	345,500,000	345,500,000	+13,000,000			
Advance for 1980			345,500,000	***	***	***	***	***	***	***
Sudden infant death information dissemination	1,716,000	2,802,000	2,802,000	***	***	***	***	***	***	***
Research and training	28,708,000	29,354,000	29,354,000	30,354,000	34,000,000	32,177,000	+2,823,000	+2,823,000	+1,823,000	−1,823,000
Subtotal, Maternal and child health	343,708,000	361,854,000	374,854,000	375,854,000	379,500,000	377,677,000	+15,823,000	+2,823,000	+1,823,000	−1,823,000
Unauthorized, not considered	(1,716,000)	(2,802,000)	(348,302,000)	***	***	***	***	***	***	***
Genetic information and counseling		4,000,000	4,000,000	***	***	***	***	***	***	***
Family planning	113,615,000	135,000,000	145,000,000	***	***	***	***	***	***	**
Migrant health	30,000,000	34,500,000	34,500,000	***	***	***	***	***	***	***
National Health Service Corps	24,451,000	42,565,000	57,000,000	57,000,000	57,000,000	57,000,000	+14,435,000			
Unauthorized, not considered			5,947,000	***	***	***	***	***	***	***
NHSC, private practice grants				1,000,000		1,000,000	+1,000,000	+1,000,000		−1,000,000
Hemophilia treatment centers	3,000,000	3,000,000	3,000,000	***	***	***	***	***	***	***
Home health services	3,000,000	6,000,000	6,000,000	***	***	***	***	***	***	***
Black Lung clinics					10,000,000	7,500,000	+7,500,000	+7,500,000	+7,500,000	−2,500,000
Program support	22,734,000	25,763,000	29,263,000	29,863,000	29,863,000	29,863,000	+4,100,000	+600,000		
Subtotal, community health	621,041,000	445,182,000	476,117,000	478,717,000	494,363,000	489,540,000	+44,358,000	+13,423,000	+10,823,000	−4,823,000
Unauthorized, not considered	(250,331,000)	(539,302,000)	(1,034,749,000)	***	***	***	***	***	***	***
Health care services and systems:										
Patient care and special health services:										
Hospitals and clinics	130,293,000	175,678,000	152,504,000	152,504,000	177,000,000	172,504,000	−3,174,000	+20,000,000	+20,000,000	−4,496,000
Federal employee health	629,000	624,000	686,000	686,000	686,000	686,000	+62,000			
Construction and modernization		15,000,000					−15,000,000			
Payment to Hawaii	1,200,000	1,400,000	1,400,000	1,400,000	2,000,000	1,600,000	+200,000	+200,000	+200,000	−400,000
Subtotal	132,122,000	192,702,000	154,590,000	154,590,000	179,686,000	174,790,000	−17,912,000	+20,200,000	+20,200,000	−4,896,000
Emergency medical services	40,125,000	33,700,000	33,700,000	33,700,000	33,700,000	33,700,000				
Unauthorized, not considered		8,925,000	8,925,000	***	***	***	***	***	***	***
Program support	5,873,000	6,246,000	6,759,000	7,059,000	7,059,000	7,059,000	+913,000	+300,000		
Subtotal, health care services and systems	178,120,000	232,648,000	195,049,000	195,349,000	220,445,000	215,549,000	−17,039,000	+20,500,000	+20,200,000	−4,896,000
Unauthorized, not considered		(8,925,000)	(8,925,00)	***	***	***	***	***	***	***
Program management	4,766,000	6,393,000	7,026,000	7,026,000	7,026,000	7,026,000	+633,000			
Subtotal, health services	803,927,000	684,223,000	678,192,000	681,092,000	721,934,000	712,115,000	+27,392,000	+33,923,000	+31,023,000	−9,719,000
Unauthorized, not considered	(250,331,000)	(548,227,000)	(1,043,674,000)	***	***	***	***	***	***	***
CENTER FOR DISEASE CONTROL										
Disease control:										
Project grants:										
Venereal disease	25,000,000	32,000,000	32,000,000	***	***	***	***	***	***	***
Immunization	17,000,000	31,200,000	35,000,000	***	***	***	***	***	***	***
Rat control	13,000,000	13,000,000	13,000,000	***	***	***	***	***	***	***
Lead-based paint poisoning prevention	8,500,000	10,250,000	10,250,000	***	***	***	***	***	***	***
Disease surveillance	53,107,000	56,042,000	59,711,000	60,211,000	65,000,000	64,000,000	+7,958,000	+4,289,000	+3,789,000	−1,000,000
Laboratory improvements	15,103,000	20,197,000	18,556,000	18,556,000	18,556,000	18,556,000	−1,241,000			
Health education	4,564,000	4,560,000	12,560,000	12,560,000	15,000,000	12,560,000	+7,960,000			−2,440,000
Occupational safety and health:										
Research::										
Grants	41,835,000	3,900,000	3,900,000	6,400,000	6,400,000	6,400,000	+2,500,000	+2,500,000		
Intramural program		40,497,000	41,114,000	41,114,000	41,114,000	41,114,000	+617,000			
Training	5,661,000	8,355,000	8,399,000	10,799,000	10,799,000	10,799,000	+2,444,000	+2,400,000		
Program support	3,273,000	3,513,000	3,681,000	3,681,000	3,681,000	3,681,000	+168,000			
Subtotal	50,769,000	56,265,000	57,094,000	61,994,000	61,994,000	61,994,000	+5,729,000	+4,900,000		

	Actual, fiscal year 1977	Appropriations, fiscal year 1978	President's budget, fiscal year 1979	House bill (*** not auth)	Senate bill (*** not auth)	Conference amount	Conference compared to— Fiscal year 1978	Estimates 1979	House bill	Senate bill
Buildings and facilities			1,912,000	1,912,000	1,912,000	1,912,000	+1,912,000			
Program management	3,037,000	3,366,000	3,427,000	3,427,000	3,427,000	3,427,000	+61,000			
Subtotal, preventive health	127,760,000	140,450,000	153,660,000	159,060,000	166,289,000	162,849,000	+22,399,000	+9,189,000	+3,789,000	−3,440,000
Unauthorized, not considered	(63,500,000)	(86,450,000)	(90,250,000)	***	***	***	***	***	***	***
NATIONAL INSTITUTES OF HEALTH										
National Cancer Institute	814,245,000	851,800,000	858,392,000	889,192,000	937,500,000	917,000,000	+65,200,000	+58,608,000	+27,808,000	−20,500,000
Unauthorized, not considered (sec. 472)		19,886,000	20,410,000	***	***	***	***	***	***	***
National Heart, Lung and Blood Institute	396,385,000	424,927,000	432,184,000	485,584,000	485,584,000	485,584,000	+60,657,000	+53,400,000		
Unauthorized, not considered (sec. 472)		22,705,000	22,152,000	***	***	***	***	***	***	***
National Institute of Dental Research	55,482,000	57,437,000	57,841,000	63,841,000	60,000,000	61,920,000	+4,483,000	+4,079,000	−1,921,000	+1,920,000
Unauthorized, not considered (sec. 472)		4,198,000	4,198,000	***	***	***	***	***	***	***
National Institute of Arthritis, Metabolism, and Digestive Diseases	219,394,000	243,269,000	249,369,000	287,269,000	287,269,000	287,269,000	+44,000,000	+38,500,000		
Unauthorized, not considered (sec. 472)		16,777,000	17,877,000	***	***	***	***	***	***	***
National Institute of Neurological and Communicative Disorders and Stroke	155,318,000	170,932,000	173,610,000	188,910,000	225,000,000	205,000,000	+34,068,000	+31,390,000	+16,090,000	−20,000,000
Unauthorized, not considered (sec. 472)		7,322,000	7,322,000	***	***	***	***	***	***	***
National Institute of Allergy and Infectious Diseases	140,826,000	154,943,000	159,798,000	183,198,000	183,198,000	183,198,000	+28,255,000	+23,400,000		
Unauthorized, not considered (sec. 472)		7,223,000	7,004,000	***	***	***	***	***	***	***
National Institute of General Medical Sciences	204,866,000	196,298,000	185,092,000	225,092,000	230,000,000	231,058,000	+34,760,000	+45,966,000	+5,966,000	+1,058,000
Unauthorized, not considered (sec. 472)		34,364,000	49,320,000	***	***	***	***	***	***	***
National Institute of Child Health and Human Development	145,409,000	91,124,000	108,855,000	119,005,000	109,605,000	114,305,000	+23,181,000	+5,450,000	−4,700,000	+4,700,000
Unauthorized, not considered (sec. 472, title X)		75,131,000	90,076,000	***	***	***	***	***	***	***
National Institute on Aging	29,949,000	34,863,000	35,926,000	54,526,000	49,500,000	54,526,000	+19,663,000	+18,600,000		+5,026,000
Unauthorized, not considered (sec. 472)		2,390,000	1,984,000	***	***	***	***	***	***	***
National Eye Institute	63,938,000	80,694,000	82,449,000	100,549,000	100,549,000	100,549,000	+19,855,000	+18,100,000		
Unauthorized, not considered (sec. 472		4,643,000	3,979,000	***	***	***	***	***	***	***
National Institute of Environmental Health Sciences	51,031,000	58,644,000	63,927,000	73,227,000	70,000,000	73,512,000	+14,868,000	+9,585,000	+285,000	+3,512,000
Unauthorized, not considered (sec. 472)		5,485,000	5,320,000	***	***	***	***	***	***	***
Research resources	137,451,000	144,531,000	148,499,000	152,899,000	153,899,000	153,649,000	+9,118,000	+5,150,000	+750,000	−250,000
Unauthorized, not considered (sec. 472)		515,000	550,000	***	***	***	***	***	***	***
John E. Fogarty International Center	7,969,000	8,459,000	8,489,000	8,789,000	8,989,000	8,989,000	+530,000	+500,000	+300,000	
Subtotal, biomedical research	2,422,263,000	2,517,921,000	2,564,431,000	2,832,681,000	2,901,693,000	2,877,159,000	+359,238,000	+312,728,000	+44,478,000	−24,534,000
Subtotal, unauthorized, not considered		(200,639,000)	(230,192,000)	***	***	***	***	***	***	**
National Library of Medicine	35,127,000	29,521,000	31,787,000	31,887,000	35,000,000	33,444,000	+3,923,000	+1,657,000	+1,557,000	−1,556,000
Unauthorized, not considered		(7,987,000)	(7,978,000)	***	***	***	***	***	***	***
Office of the Director	16,906,000	18,871,000	19,373,000	19,673,000	19,673,000	19,673,000	+802,000	+300,000		
Buildings and facilities	67,400,000	65,650,000	30,950,000	67,950,000	67,950,000	67,950,000	+2,300,000	+37,000,000		
Subtotal, National Institute of Health	2,541,696,000	2,631,963,000	2,646,541,000	2,952,191,000	3,024,316,000	2,998,226,000	+366,263,000	+351,685,000	+46,035,000	−26,090,000
Subtotal, unauthorized, not considered		(208,626,000)	(238,179,000)	***	***	***	***	***	***	***
ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION										
General mental health:										
Research	104,008,000	107,421,000	129,371,000	123,371,000	129,371,000	126,371,000	+18,950,000	−3,000,000	+3,000,000	−3,000,000
Unauthorized, not considered (Rape Center)		4,436,000	6,000,000	***	***	***	***	***	***	***
Training	85,400,000	68,263,000	68,263,000	69,263,000	79,263,000	74,263,000	+6,000,000	+6,000,000	+5,000,000	−5,000,000
Unauthorized, not considered (sec. 472)		16,137,000	18,691,000	***	***	***	***	***	***	***
Community programs:										
Community support	6,050,000	7,600,000	7,600,000	7,600,000	7,600,000	7,600,000				
Operations:										
First year	30,401,000	30,489,000		***	***	***	***	***	***	***
Continuation:										
Grants initiated under new law	23,453,000	64,628,000	104,694,000	104,694,000	104,694,000	104,694,000	+40,066,000			
Converted staffing grants	23,338,000	62,105,000	104,450,000	104,450,000	104,450,000	104,450,000	+42,345,000			
Conversion	19,657,000	19,372,000	24,366,000	***	***	***	***	***	***	***
Consultation and education	7,795,000	8,245,000	7,438,000	***	***	***	***	***	***	***
Financial distress	6,950,000	5,483,000	2,220,000	***	***	***	***	***	***	***
Continuations under old law:										
Staffing	98,955,000	58,115,000	23,596,000	23,596,000	23,596,000	23,596,000	−34,519,000			
Child mental health	20,825,000	20,599,000	17,319,000	17,319,000	17,319,000	17,319,000	−3,280,000			
Subtotal, community programs	172,621,000	213,047,000	257,659,000	257,659,000	257,659,000	257,659,000	+44,612,000			

LABOR, HEALTH, EDUCATION, AND WELFARE—SUPPORTING DETAIL ACCOUNT TABLE, FISCAL YEAR 1979—Continued

	Actual, fiscal year 1977	Appropriations, fiscal year 1978	President's budget, fiscal year 1979	House bill (*** not auth)	Senate bill (*** not auth)	Conference amount	Conference compared to— Fiscal year 1978	Estimates 1979	House bill	Senate bill
Program support	28,502,000	29,513,000	31,173,000	31,173,000	31,173,000	31,173,000	+1,660,000			
Subtotal, mental health	390,531,000	418,244,000	486,466,000	481,466,000	497,466,000	489,466,000	+71,222,000	+3,000,000	+8,000,000	−8,000,000
Subtotal, unauthorized, not considered	(64,803,000)	(84,167,000)	(58,715,000)	***	***	***	***	***	***	***
Drug abuse:										
Research	34,000,000	34,092,000	45,930,000	39,930,000	45,930,000	42,930,000	+8,838,000	−3,000,000	+3,000,000	−3,000,000
Training	10,000,000	9,379,000	9,379,000	9,379,000	9,379,000	9,379,000				
Unauthorized, not considered (sec. 472)		621,000	784,000	***	***	***	***	***	***	***
Community programs:										
Project grants and contracts	159,500,000	161,000,000	161,000,000	***	***	***	***	***	***	***
Grants to States	40,000,000	40,000,000	40,000,000	***	***	***	***	***	***	***
Program support	16,538,000	16,817,000	18,178,000	18,178,000	18,178,000	18,178,000	+1,361,000			
Subtotal, drug abuse	60,538,000	60,288,000	73,487,000	67,487,000	73,487,000	70,487,000	+10,199,000	−3,000,000	+3,000,000	−3,000,000
Unauthorized, not considered	(199,500,000)	(201,621,000)	(201,784,000)	***	***	***	***	***	***	***
Alcoholism:										
Research	14,808,000	16,182,000	21,197,000	22,197,000	22,197,000	22,197,000	+6,105,000	+1,000,000		
Training	7,200,000	5,052,000	5,052,000	5,052,000	5,052,000	5,052,000				
Unauthorized, not considered (sec. 472)		2,148,000	2,350,000	***	***	***	***	***	***	***
Community programs:										
Project grants and contracts	73,008,000	78,706,000	78,706,000	78,706,000	78,706,000	78,706,000				
Grants to States	56,800,000	56,800,000	56,800,000	56,800,000	56,800,000	56,800,000				
Program support	9,440,000	9,660,000	10,202,000	10,202,000	10,202,000	10,202,000	+542,000			
Subtotal, alcoholism	161,256,000	166,400,000	171,957,000	172,957,000	172,957,000	172,957,000	+6,557,000	+1,000,000		
Unauthorized, not considered		(2,148,000)	(2,350,000)	***	***	***	***	***	***	***
Buildings and facilities		350,000					−350,000			
Program management	7,124,000	7,632,000	8,112,000	8,112,000	8,112,000	8,112,000	+480,000			
Subtotal, alcohol, drug abuse, and mental health	619,449,000	652,914,000	740,022,000	730,022,000	752,022,000	741,022,000	+88,108,000	+1,000,000	+11,000,000	−11,000,000
Saint Elizabeths Hospital	69,258,000	74,171,000	75,824,000	75,824,000	75,824,000	75,824,000	+1,653,000			
Construction and renovation (SEH)		54,210,000					−54,210,000			
Subtotal, ADAMHA	688,707,000	781,295,000	815,846,000	805,846,000	827,846,000	816,846,000	+35,551,000	+1,000,000	+11,000,000	−11,000,000
Unauthorized, not considered	(264,303,000)	(287,936,000)	(262,849,000)	***	***	***	***	***	***	***
Health professions special educational assistance:										
Family medical residencies and training	39,000,000	45,000,000	45,000,000	45,000,000	45,000,000	45,000,000				
Primary care residencies and training	15,000,000	15,000,000	16,000,000	17,500,000	17,500,000	17,500,000	+2,500,000	+1,500,000		
Interdisciplinary training	20,200,000	4,000,000	1,781,000	4,281,000	10,000,000	7,141,000	+3,141,000	+5,360,000	+2,860,000	−2,859,000
Physicians/dental extenders	10,500,000	9,100,000	9,100,000	9,100,000	9,100,000	9,100,000				
Area Health education centers	14,000,000	17,000,000	18,000,000	18,000,000	20,000,000	20,000,000	+3,000,000	+2,000,000	+2,000,000	
Disadvantaged assistance	10,000,000	15,000,000	17,000,000	19,000,000	19,000,000	19,000,000	+4,000,000	+2,000,000		
Foreign medical graduates	1,000,000	2,000,000	1,000,000	1,000,000	1,000,000	1,000,000	−1,000,000			
Emergency medical training	6,000,000	6,000,000		6,000,000	3,000,000	6,000,000		+6,000,000		
National Advisory Committee on Graduate Medical Education	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000				
Supply and distribution reports	1,000,000	1,000'000	5,400,000	5,400,000		2,700,000	+1,700,000	−2,700,000	−2,700,000	+2,700,000
Subtotal, special programs	117,700,000	115,100,000	114,281,000	126,281,000	128,600,000	128,441,000	+13,341,000	+14,160,000	+2,160,000	−159,000
Health teaching facilities:										
Grants	26,000,000	8,500,000					−8,500,000			
Interest subsidies		2,000,000	3,000,000	3,000,000	3,000,000	3,000,000	+1,000,000			
Dental health education	8,000,000	6,000,000	4,000,000	4,000,000	4,000,000	4,000,000	−2,000,000			
Nursing institutional assistance:										
Capitation grants	40,000,000	30,000,000		***	***	***	***	***	***	***
Advanced nurse training	9,000,000	12,000,000		***	***	***	***	***	***	***
Nurse practitioner training	9,000,000	13,000,000	13,000,000	***	***	***	***	***	***	***
Special projects	15,000,000	15,000,000	7,500,000	***	***	***	***	***	***	***
Unauthorized, not considered	(73,000,000)	(70,000,000)	(20,500,000)	***	***	***	***	***	***	***
Nursing student assistance:										
Loans	22,500,000	22,500,000		***	***	***	***	***	***	***
Scholarships	6,500,000	9,000,000		***	***	***	***	***	***	***
Traineeships	13,000,000	13,000,000		***	***	***	***	***	***	***
Loan repayment	3,000,000	1,500,000		***	***	***	***	***	***	***
Fellowships	1,000,000	1,000,000		***	***	***	***	***	***	***
Subtotal, unauthorized, not considered	(46,000,000)	(47,000,000)		***	***	***	***	***	***	***
Nursing research	5,000,000	5,000,000		5,000,000	5,000,000	5,000,000		+5,000,000		
Subtotal, nursing programs	5,000,000	5,000,000		5,000,000	5,000,000	5,000,000		+5,000,000		
Unauthorized, not considered	(119,000,000)	(117,000,000)	(20,500,000)	***	***	***	***	***	***	***
Allied health	24,000,000	19,500,000	7,900,000	13,000,000	13,000,000	13,000,000	−6,500,000	+5,100,000		
Public health:										
Special projects and health administration	11,400,000	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000				
Public health traineeships	9,120,000	7,000,000	1,100,000	5,100,000	7,000,000	7,000,000		+5,900,000	+1,900,000	

	Actual, fiscal year 1977	Appropriations, fiscal year 1978	President's budget, fiscal year 1979	House bill (*** not auth)	Senate bill (*** not auth)	Conference amount	Conference compared to— Fiscal year 1978	Estimates 1979	House bill	Senate bill
Health administration graduate programs		3,000,000	1,500,000	3,000,000	3,000,000	3,000,000		+1,500,000		
Health administration traineeships		1,500,000	1,000,000	1,000,000	2,000,000	2,000,000	+500,000	+1,000,000	+1,000,000	
Subtotal, public health	20,520,000	16,500,000	8,500,000	14,100,000	17,000,000	17,000,000	+500,000	+8,400,000	+2,900,000	
Program support	18,304,000	19,478,000	19,908,000	19,908,000	19,908,000	19,908,000	+430,000			
Subtotal, health manpower	412,850,000	427,578,000	314,589,000	437,889,000	414,008,000	437,849,000	+10,271,000	+123,260,000	−40,000	+23,841,000
Unauthorized, not considered	(119,000,000)	(117,000,000)	(20,500,000)	***	***	***	***	***	***	***
Program management	11,535,000	12,847,000	13,241,000	13,241,000	13,241,000	13,241,000	+394,000			
Subtotal, health resources	444,148,000	454,558,000	339,712,000	463,012,000	439,131,000	462,972,000	+8,414,000	+123,260,000	−40,000	+23,841,000
Program management	11,535,000	12,847,000	13,241,000	13,241,000	13,241,000	13,241,000	+394,000			
Subtotal, health resources	444,148,000	454,558,000	339,712,000	463,012,000	439,131,000	462,972,000	+8,414,000	+123,260,000	−40,000	+23,841,000
Unauthorized, not considered	(247,000,000)	(260,000,000)	(172,800,000)	***	***	***	***	***	***	***
Payments of sales insufficiencies	4,000,000	2,592,000	2,412,000	2,412,000	2,412,000	2,312,000	−180,000			
Medical facilities guarantee and loan fund	31,000,000	41,000,000	42,000,000	42,000,000	42,000,000	42,000,000	+1,000,000			
Subtotal, Health Resources Administration	479,148,000	498,150,000	384,124,000	507,424,000	483,543,000	507,384,000	+9,234,000	+123,260,000	−40,000	+23,841,000
Unauthorized, not considered	(247,000,000)	(260,000,000)	(172,800,000)	***	***	***	***	***	***	***
ASSISTANT SECRETARY FOR HEALTH										
Program operations:										
Health statistics:										
National health surveys and analysis	18,679,000	23,165,000	23,432,000	***	***	***	***	***	***	***
Cooperative health statistics	9,674,000	11,913,000	16,759,000	***	***	***	***	***	***	***
Program support	2,689,000	2,878,000	3,246,000	3,246,000	3,246,000	3,246,000	+368,000			
Subtotal	2,689,000	2,878,000	3,246,000	3,246,000	3,246,000	3,246,000	+368,000			
Subtotal, unauthorized, not considered	(28,353,000)	(35,078,000)	(40,191,000)	***	***	***	***	***	***	***
Health services research:										
Research	24,039,000	26,161,000	23,812,000	***	***	***	***	***	***	***
Program support	6,732,000	7,073,000	7,248,000	7,248,000	7,248,000	7,248,000	+175,000			
Subtotal	6,732,000	7,073,000	7,248,000	7,248,000	7,248,000	7,248,000	+175,000			
Health maintenance organizations:										
Grants and contracts	18,100,000	14,650,000	10,060,000	10,060,000	10,060,000	10,060,000	−4,590,000			
Unauthorized, not considered (feasibility)		6,450,000	15,850,000	***	***	***	***	***	***	***
Program support	4,777,000	5,034,000	6,297,000	6,297,000	6,297,000	6,297,000	+1,263,000			
Subtotal	22,877,000	19,684,000	16,357,000	16,357,000	16,357,000	16,357,000	−3,327,000			
Unauthorized, not considered		(6,450,000)	(15,850,000)	***	***	***	***	***	***	***
Special health programs:										
Health information and promotion	199,000	1,716,000	1,415,000	1,415,000	6,000,000	1,415,000	−301,000			−4,585,000
Physical fitness and sports	800,000	815,000	818,000	1,018,000	1,018,000	1,018,000	+203,000	+200,000		
Health practices assessment	673,000	781,000	786,000	786,000		200,000	−581,000	−586,000	−586,000	+200,000
Special initiatives	858,000	895,000	900,000	900,000		200,000	−695,000	−700,000	−700,000	+200,000
Subtotal	2,530,000	4,207,000	3,919,000	4,119,000	7,018,000	2,833,000	−1,374,000	−1,086,000	−1,286,000	−4,185,000
Subtotal, Public Health Service operations	34,828,000	33,842,000	30,770,000	30,970,000	33,869,000	29,684,000	−4,158,000	−1,086,000	−1,286,000	−4,185,000
Unauthorized, not considered	(52,392,000)	(67,689,000)	(79,853,000)	***	***	***	***	***	***	***
Public Health Service management:										
Regional management	5,061,000	5,196,000	5,313,000	5,313,000	5,313,000	5,313,000	+117,000			
Program direction and support services	14,901,000	15,831,000	16,235,000	16,235,000	16,235,000	16,235,000	+404,000			
Less trust fund transfer	−90,000	−90,000					+90,000			
Subtotal, Public Health Service management	19,872,000	20,937,000	21,548,000	21,548,000	21,548,000	21,548,000	+611,000			
Subtotal, Assistant Secretary for Health	54,700,000	54,779,000	52,318,000	52,518,000	55,417,000	51,232,000	−3,547,000	−1,086,000	−1,286,000	−4,185,000
Unauthorized, not considered	(52,392,000)	(67,689,000)	(79,853,000)	***	***	***	***	***	***	***
Retirement pay and medical benefits for commissioned officers	52,352,000	56,948,000	65,083,000	65,083,000	65,083,000	65,083,000	+8,135,000			
Scientific activities overseas	1,500,000	11,387,000	11,387,000	11,387,000	11,387,000	11,387,000				
Total, health	4,749,810,000	4,859,195,000	4,807,151,000	5,234,601,000	5,355,715,000	5,325,122,000	+465,927,000	+517,971,000	+90,521,000	−30,593,000
Unauthorized, not considered	(877,526,000)	(1,458,928,000)	(1,887,605,000)	***	***	***	***	***	***	***
HEALTH CARE FINANCING										
Grants to States for medicaid:										
Medical vendor payments	9,696,965,000	10,124,000,000	10,929,000,000	10,841,000,000	10,576,000,000	10,576,000,000	+452,000,000	−353,000,000	−265,000,000	
State and local administration	496,228,000	575,000,000	674,000,000	674,000,000	674,000,000	674,000,000	+99,000,000			
Subtotal	10,193,193,000	10,699,000,000	11,603,000,000	11,515,000,000	11,250,000,000	11,250,000,000	+551,000,000	−353,000,000	−265,000,000	

LABOR, HEALTH, EDUCATION, AND WELFARE—SUPPORTING DETAIL ACCOUNT TABLE, FISCAL YEAR 1979—Continued

	Actual, fiscal year 1977	Appropriations, fiscal year 1978	President's budget, fiscal year 1979	House bill (*** not auth)	Senate bill (*** not auth)	Conference amount	Conference compared to— Fiscal year 1978	Estimates 1979	House bill	Senate bill
Payments to health care trust funds:										
Military service credit (HI)	141,000,000	143,000,000	141,000,000	141,000,000	141,000,000	141,000,000	−2,000,000			
Supplemental medical insurance	5,053,000,000	6,383,000,000	6,853,064,000	6,853,064,000	6,853,064,000	6,853,064,000	+470,064,000			
Hospital insurance for uninsured	803,000,000	687,941,000	733,849,000	733,849,000	733,849,000	733,849,000	+45,908,000			
Professional standards review organizations (PSRO activities for medicaid)	16,000,000	29,000,000	36,000,000	29,000,000	35,000,000	33,000,000	4,000,000	−3,000,000	+4,000,000	−2,000,000
Subtotal	6,013,000,000	7,242,941,000	7,763,913,000	7,756,913,000	7,762,913,000	7,760,913,000	+517,972,000	−3,000,000	+4,000,000	−2,000,000
Quality care management, research, and administration:										
Professional standards review organization	54,230,000	64,866,000	82,720,000	64,866,000	64,866,000	64,866,000		−17,854,000		
Less trust fund transfer	−35,934,000	−34,934,000	−39,923,000	−34,934,000	−34,934,000	−34,934,000		+4,989,000		
Subtotal, PSRO, Federal	18,296,000	29,932,000	42,797,000	29,932,000	29,932,000	29,932,000		−12,865,000		
Research, demonstration, and evaluation programs	10,367,000	27,120,000	31,833,000	27,500,000	32,500,000	32,500,000	+5,380,000	+667,000	+5,000,000	
Less trust fund transfer		−13,378,000	−18,091,000	−13,750,000	−13,750,000	−13,750,000	−372,000	+4,341,000		
Subtotal, research, Federal funds	10,367,000	13,742,000	13,742,000	13,750,000	18,750,000	18,750,000	+5,008,000	+5,008,000	+5,000,000	
Administrative costs	667,047,000	713,960,000	813,345,000	812,145,000	812,145,000	812,145,000	+98,185,000	−1,200,000		
Less trust fund transfer	−623,268,000	−664,890,000	−754,815,000	−754,215,000	−754,215,000	−754,215,000	−89,325,000	+600,000		
Subtotal, administrative costs, Federal	43,779,000	49,070,000	58,530,000	57,930,000	57,930,000	57,930,000	+8,860,000	−600,000		
Subtotal, quality care management, research, and administration:										
Federal funds	72,442,000	92,744,000	115,069,000	101,612,000	106,612,000	106,612,000	+13,868,000	−8,457,000	+5,000,000	
Trust funds	(659,202,000)	(713,202,000)	(812,829,000)	(802,899,000)	(802,899,000)	(802,899,000)	(+89,597,000)	(−9,930,000)		
Subtotal, Health Care Financing Administration: New budget (obligational) authority	16,278,635,000	18,034,635,000	19,481,982,000	19,373,525,000	19,119,525,000	19,117,525,000	+1,082,840,000	−364,457,000	−256,000,000	−2,000,000
EDUCATION DIVISION—OFFICE OF EDUCATION										
ELEMENTARY AND SECONDARY EDUCATION										
Grants for disadvantaged children (title I):										
Grants to local educational agencies	1,951,948,000	2,372,760,000	2,587,661,000	2,686,661,000	2,500,000,000	2,686,661,000	+313,901,000	+99,000,000		+186,661,000
State agency programs	297,172,000	322,500,000	344,500,000	344,500,000	344,500,000	344,500,000	+22,000,000			
State administration	23,630,000	27,450,000	30,515,000	31,515,000	29,639,000	31,515,000	+4,025,000	+1,000,000		+1,876,000
Evaluation and studies	12,250,000	12,250,000	16,144,000	16,144,000	15,706,000	15,706,000	+3,456,000	−438,000	−438,000	
Subtotal	2,285,000,000	2,735,000,000	2,978,820,000	3,078,820,000	2,889,845,000	3,078,382,000	+343,382,000	+99,562,000	−438,000	+188,537,000
Support and innovation grants:										
Basic grants	184,522,000	190,000,000	190,000,000	190,000,000	193,000,000	190,000,000				−3,000,000
Hold harmless	9,311,000	7,400,000	7,400,000	7,400,000	4,400,000	7,400,000				+3,000,000
Subtotal	193,833,000	197,400,000	197,400,000	197,400,000	197,400,000	197,400,000				
Bilingual education:										
Grants to school districts	74,300,000	81,000,000	81,000,000	89,000,000	85,000,000	89,000,000	+8,000,000	+8,000,000		+4,000,000
Training grants:										
Inservice training	11,425,000	12,975,000	12,975,000	13,350,000	12,975,000	13,350,000	+375,000	+375,000		+375,000
Other	18,275,000	24,000,000	28,000,000	29,625,000	28,000,000	29,625,000	+5,625,000	+1,625,000		+1,625,000
Subtotal	29,700,000	36,975,000	40,975,000	42,975,000	40,975,000	42,975,000	+6,000,000	+2,000,000		+2,000,000
Materials	7,000,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000				
Grants to State agencies	3,500,000	4,375,000	4,375,000	4,875,000	4,875,000	4,875,000	+500,000	+500,000		
Advisory council	100,000	150,000	150,000	150,000	150,000	150,000				
Information clearinghouse	167,000	500,000	1,000,000	1,000,000	500,000	1,000,000	+500,000			+500,000
Model replication and studies		2,000,000	12,500,000	2,000,000	2,000,000	2,000,000		−10,500,000		
Subtotal, bilingual education	115,167,000	135,000,000	150,000,000	150,000,000	143,500,000	150,000,000	+15,000,000			+6,500,000
Right to Read	26,000,000	27,000,000	27,000,000	27,000,000	27,000,000	27,000,000				
Follow Through	59,000,000	59,000,000	35,000,000	***	***	***	***	***	***	***
Drug abuse education	2,000,000	2,000,000	2,000,000	***	***	***	***	***	***	***
Environmental education	3,500,000	3,500,000	3,500,000	***	***	***	***	***	***	***
Educational broadcasting facilities	15,000,000	19,000,000	1,000,000	***	***	***	***	***	***	***
Ellender fellowships	750,000	750,000		750,000	1,000,000	1,000,000	+250,000	+1,000,000	+250,000	
Ethnic heritage studies	2,300,000	2,300,000		2,300,000	1,000,000	2,000,000	−300,000	+2,000,000	−300,000	+1,000,000
Subtotal, elementary and secondary education	2,623,050,000	3,097,450,000	3,353,220,000	3,456,270,000	3,259,745,000	3,455,782,000	+358,332,000	+102,562,000	−488,000	−196,037,000
Unauthorized, not considered	(79,500,000)	(83,500,000)	(41,500,000)	***	***	***	***	***	***	***

	Actual, fiscal year 1977	Appropriations, fiscal year 1978	President's budget, fiscal year 1979	House bill (*** not auth)	Senate bill (*** not auth)	Conference amount	Conference compared to— Fiscal year 1978	Estimates 1979	House bill	Senate bill
SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS										
Maintenance and operations:										
Payments for A children	289,000,000	300,000,000	337,000,000	337,000,000	300,000,000	317,000,000	+17,000,000	−20,000,000	−20,000,000	+17,000,000
Payments for B children	334,000,000	357,000,000	374,300,000	374,300,000	357,000,000	357,000,000	.....	−17,300,000	−17,300,000	.....
Special provisions	15,350,000	16,600,000	16,600,000	16,600,000	16,600,000	16,600,000	.....	.....	.....	.....
Payments to other Federal agencies	52,500,000	57,700,000	63,500,000	63,500,000	63,500,000	63,500,000	+5,800,000	.....	.....	.....
Hold harmless	72,150,000	38,700,000	20,000,000	20,000,000	20,000,000	20,000,000	−18,700,000	.....	.....	.....
Subtotal	763,000,000	770,000,000	811,400,000	811,400,000	757,100,000	774,100,000	+4,100,000	−37,300,000	−37,300,000	+17,000,000
Construction	25,000,000	30,000,000	33,000,000	33,000,000	30,000,000	30,000,000	.....	−3,000,000	−3,000,000	.....
Disaster assistance	7,033,000	5,000,000	12,000,000	12,000,000	12,000,000	12,000,000	+7,000,000	.....	.....	.....
Subtotal	795,033,000	805,000,000	856,400,000	856,400,000	799,100,000	816,100,000	+11,100,000	−40,300,000	−40,300,000	+17,000,000
EMERGENCY SCHOOL AID										
National competition projects:										
Bilingual education projects	8,600,000	8,600,000	8,600,000	8,600,000	8,600,000	8,600,000	.....	.....	.....	.....
Educational television	6,450,000	6,450,000	6,450,000	6,450,000	6,450,000	6,450,000	.....	.....	.....	.....
Special programs and projects	45,750,000	76,250,000	65,000,000	62,000,000	75,000,000	70,000,000	−6,250,000	+5,000,000	+8,000,000	−5,000,000
Evaluation	2,150,000	2,150,000	2,900,000	2,900,000	2,900,000	2,900,000	+750,000	.....	.....	.....
Magnet schools	7,500,000	20,000,000	20,000,000	20,000,000	30,000,000	25,000,000	+5,000,000	+5,000,000	+5,000,000	−5,000,000
State apportioned projects:										
Pilot programs	32,250,000	32,250,000	32,250,000	32,250,000	32,250,000	32,250,000	.....	.....	.....	.....
Grants to nonprofit organizations	17,200,000	17,200,000	17,200,000	17,200,000	17,200,000	17,200,000	.....	.....	.....	.....
General grants to school districts	137,600,000	137,600,000	137,600,000	137,600,000	137,600,000	137,600,000	.....	.....	.....	.....
Subtotal, ESA projects	257,500,000	300,500,000	290,000,000	287,000,000	310,000,000	300,000,000	−500,000	+10,000,000	+13,000,000	−10,000,000
Civil rights training and advisory services	34,700,000	34,700,000	42,700,000	40,000,000	42,700,000	41,350,000	+6,650,000	−1,350,000	+1,350,000	−1,350,000
Subtotal, emergency school aid	292,200,000	335,200,000	332,700,000	327,000,000	352,700,000	341,350,000	+6,150,000	+8,650,000	+14,350,000	+11,350,000
EDUCATION FOR THE HANDICAPPED										
State assistance:										
State grant program	245,000,000	502,800,000	804,000,000	804,000,000	804,000,000	804,000,000	+301,200,000	.....	.....	.....
Deaf-blind centers	16,000,000	16,000,000	16,000,000	16,000,000	16,000,000	16,000,000	.....	.....	.....	.....
Preschool incentive grants	12,500,000	15,000,000	15,000,000	15,000,000	20,000,000	17,500,000	+2,500,000	+2,500,000	+2,500,000	−2,500,000
Subtotal, State assistance	273,500,000	533,800,000	835,000,000	835,000,000	840,000,000	837,500,000	+303,700,000	+2,500,000	+2,500,000	−2,500,000
Special population programs:										
Severely handicapped projects	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000	.....	.....	.....	.....
Early childhood education	22,000,000	22,000,000	22,000,000	22,000,000	22,000,000	22,000,000	.....	.....	.....	.....
Subtotal, special population programs	27,000,000	27,000,000	27,000,000	27,000,000	27,000,000	27,000,000	.....	.....	.....	.....
Regional vocational, adult, and postsecondary programs	2,000,000	2,400,000	2,400,000	2,400,000	2,400,000	2,400,000	.....	.....	.....	.....
Innovation and development	11,000,000	20,000,000	20,000,000	20,000,000	20,000,000	20,000,000	.....	.....	.....	.....
Media and resource services:										
Media services and captioned films	19,000,000	19,000,000	19,000,000	19,000,000	19,000,000	19,000,000	.....	.....	.....	.....
Regional resource centers	9,750,000	9,750,000	9,750,000	9,750,000	9,750,000	9,750,000	.....	.....	.....	.....
Recruitment and information	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	.....	.....	.....	.....
Subtotal, media and resource services	29,750,000	29,750,000	29,750,000	29,750,000	29,750,000	29,750,000	.....	.....	.....	.....
Special education manpower development	45,375,000	45,375,000	55,375,000	55,375,000	60,000,000	57,687,000	+12,312,000	+2,312,000	+2,312,000	−2,313,000
Special studies	1,735,000	2,300,000	2,300,000	2,300,000	2,300,000	2,300,000	.....	.....	.....	.....
Subtotal, education for the handicapped	390,360,000	660,625,000	971,825,000	971,825,000	981,450,000	976,637,000	+316,012,000	+4,812,000	+4,812,000	−4,813,000
OCCUPATIONAL, VOCATIONAL, AND ADULT EDUCATION										
Vocational education:										
Grants to States for vocational education:										
Basic grants	412,719,000	430,266,000	430,266,000	449,266,000	500,266,000	474,766,000	+44,500,000	+44,500,000	+25,500,000	−25,500,000
Program improvement supportive services	103,180,000	107,567,000	107,567,000	112,317,000	112,317,000	112,317,000	+4,750,000	+4,750,000	.....	.....
Programs for students with speical needs	20,000,000	20,000,000	20,000,000	20,000,000	20,000,000	20,000,000	.....	.....	.....	.....
Consumer and homemaking education	40,994,000	40,994,000	33,994,000	40,994,000	46,000,000	43,497,000	+2,503,000	+9,503,000	+2,503,000	−2,503,000
State advisory councils	5,066,000	5,066,000	5,066,000	6,073,000	6,073,000	6,073,000	+1,007,000	+1,007,000	.....	.....
State planning	.....	.....	.....	5,000,000	.....	5,000,000	+5,000,000	+5,000,000	.....	+5,000,000
Subtotal, State grants	581,959,000	603,893,000	596,893,000	633,650,000	684,656,000	661,653,000	+57,760,000	+64,760,000	+28,003,000	−23,003,000
Programs of national significance	27,153,000	28,307,000	28,307,000	29,557,000	.....	10,000,000	−18,307,000	−18,307,000	−19,557,000	+10,000,000
Bilingual vocational training	2,800,000	2,800,000	2,800,000	2,800,000	2,800,000	2,800,000	.....	.....	.....	.....
Subtotal, vocational education 78–79	611,912,000	635,000,000	628,000,000	666,007,000	687,456,000	674,453,000	+39,453,000	+46,453,000	+8,446,000	−13,003,000
Adult education	90,750,000	90,750,000	90,750,000	100,000,000	100,000,000	100,000,000	+9,250,000	+9,250,000	.....	.....
Subtotal, occupational vocational, and adult education	702,662,000	725,750,000	718,750,000	766,007,000	787,456,000	774,453,000	+48,703,000	+55,703,000	+8,446,000	−13,003,000

LABOR, HEALTH, EDUCATION, AND WELFARE—SUPPORTING DETAIL ACCOUNT TABLE, FISCAL YEAR 1979—Continued

	Actual, fiscal year 1977	Appropriations, fiscal year 1978	President's budget, fiscal year 1979	House bill (*** not auth)	Senate bill (*** not auth)	Conference amount	Conference compared to— Fiscal year 1978	Estimates 1979	House bill	Senate bill
STUDENT ASSISTANCE										
Basic educational opportunity grants:										
Grants	1,673,000,000	2,140,000,000	3,130,600,000	3,363,600,000	2,140,600,000	2,600,000,000	+460,000,000	−530,600,000	−763,600,000	+459,400,000
Administration	19,200,000	20,000,000	26,900,000	26,900,000	26,900,000	26,900,000	+6,900,000			
Institutional allowances			9,500,000	9,500,000				−9,500,000	−9,500,000	
Subtotal	1,692,200,000	2,160,000,000	3,167,000,000	3,400,000,000	2,167,500,000	2,626,900,000	+466,900,000	−540,100,000	−773,100,000	+459,400,000
Supplemental educational opportunity grants	250,093,000	270,093,000	270,093,000	340,100,000	340,100,000	340,100,000	−70,007,000	+70,007,000		
Work-study	390,000,000	435,000,000	600,000,000	520,000,000	600,000,000	550,000,000	+115,000,000	−50,000,000	+30,000,000	−50,000,000
Direct loans:										
Federal capital contributions	310,500,000	310,500,000	286,000,000	310,500,000	310,500,000	310,500,000		+24,500,000		
Teacher cancellations	11,920,000	15,160,000	18,400,000	18,400,000	19,400,000	18,400,000	−3,240,000			
Subtotal	322,420,000	325,660,000	304,400,000	328,900,000	328,900,000	328,900,000	+3,240,000	+24,500,000		
Incentive grants for State scholarships	60,000,000	63,750,000	76,750,000	86,750,000	76,750,000	76,750,000	+13,000,000		−10,000,000	
Subtotal, student assistance	2,714,713,000	3,254,503,000	4,418,243,000	4,675,750,000	3,513,250,000	3,922,650,000	+668,147,000	−495,593,000	−753,100,000	+409,400,000
HIGHER AND CONTINUING EDUCATION										
Special programs for the disadvantaged (TRIO)	85,000,000	115,000,000	115,000,000	140,000,000	140,000,000	140,000,000	+25,000,000	+25,000,000		
Educational Information Centers		2,000,000		3,000,000	3,000,000	3,000,000	+1,000,000	+3,000,000		
Institutional assistance:										
Strengthening developing institutions	110,000,000	120,000,000	120,000,000	120,000,000	120,000,000	120,000,000				
Language training and area studies	17,650,000	18,000,000	18,000,000	20,000,000	20,000,000	20,000,000	+2,000,000	+2,000,000		
University community services	14,125,000	18,000,000		18,000,000	14,000,000	16,000,000	−2,000,000	+16,000,000	−2,000,000	+2,000,000
State postsecondary education commissions	3,500,000	3,500,000		3,500,000	3,500,000	3,500,000		+3,500,000		
Veterans cost of instruction	23,750,000	23,750,000	19,000,000	19,000,000	19,000,000	19,000,000	−4,750,000			
Cooperative education	12,250,000	15,000,000	4,000,000	10,000,000	20,000,000	15,000,000		+11,000,000	+5,000,000	−5,000,000
Construction—annual interest grants		4,000,000	29,000,000	29,000,000	29,000,000	29,000,000	+25,000,000			
Construction grants			50,000,000					−50,000,000		
Continuing education demonstration centers				500,000	500,000	500,000	+500,000	+500,000		
Subtotal, institutional assistance	181,275,000	202,250,000	240,000,000	220,000,000	226,000,000	223,000,000	+20,750,000	−17,000,000	+3,000,000	−3,000,000
Personal development:										
Graduate professional opportunities		3,250,000	8,000,000	8,000,000	8,000,000	8,000,000	+4,750,000			
Legal training for disadvantaged (CLEO)	750,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000				
Public service fellowships	4,000,000	4,000,000		4,000,000	4,000,000	4,000,000		+4,000,000		
Mining fellowships	4,500,000	4,500,000		4,500,000	4,500,000	4,500,000		+4,500,000		
Law school clinical experience		1,000,000		2,000,000		2,000,000	+1,000,000	+2,000,000		+2,000,000
Subtotal, personnel development	9,250,000	13,750,000	9,000,000	19,500,000	17,500,000	19,500,000	+5,750,000	+10,500,000		+2,000,000
Wayne Morse Chair on Law and politics		500,000					−500,000			
Hubert H. Humphrey Institute & Dirksen Center			7,500,000	7,500,000	7,500,000	7,500,000	+7,500,000			
Subtotal, higher and continuing education	275,525,000	333,500,000	371,500,000	390,000,000	394,000,000	393,000,000	+59,500,000	+21,500,000	+3,000,000	−1,000,000
LIBRARY RESOURCES										
Public libraries	60,237,000	60,237,000	60,237,000	65,000,000	70,000,000	67,500,000	+7,263,000	+7,263,000	+2,500,000	−2,500,000
School libraries and instructional resources	154,497,000	167,600,000	167,600,000	175,000,000	185,000,000	180,000,000	+12,400,000	+12,400,000	+5,000,000	−5,000,000
College library resources	9,975,000	9,975,000		9,975,000	9,975,000	9,975,000		+9,975,000		
Research libraries		5,000,000	5,000,000	5,000,000	7,000,000	6,000,000	+1,000,000	+1,000,000	+1,000,000	−1,000,000
Training and demonstration	3,000,000	3,000,000		3,000,000	3,000,000	3,000,000		+3,000,000		
Undergraduate instructional equipment	7,500,000	7,500,000					−7,500,000			
Subtotal, library resources	235,209,000	253,312,000	232,837,000	257,975,000	274,975,000	266,475,000	+13,163,000	+33,638,000	+8,500,000	−8,500,000
SPECIAL PROJECTS AND TRAINING										
Special projects:										
Metric education projects	2,090,000	2,090,000	2,090,000	1,840,000	1,840,000	1,840,000	−250,000	−250,000		
Gifted and talented children	2,560,000	2,560,000	2,560,000	2,560,000	5,000,000	3,780,000	+1,220,000	+1,220,000	+1,220,000	−1,220,000
Community schools	3,553,000	3,553,000	5,791,000	5,000,000	5,753,000	5,376,000	+1,823,000	−415,000	+376,000	−377,000
Career education	10,135,000	10,135,000	10,135,000	35,000,000	30,000,000	32,500,000	+22,365,000	+22,365,000	−2,500,000	+2,500,000
Consumer education	3,135,000	4,068,000	3,135,000	3,135,000	4,068,000	3,601,000	−467,000	+466,000	+466,000	−467,000
Women's educational equity	7,270,000	8,085,000	9,000,000	9,000,000	9,000,000	9,000,000	+915,000			
Arts in education program	1,750,000	2,000,000	2,000,000	2,500,000	3,000,000	3,000,000	+1,000,000	+1,000,000	+500,000	
Dissemination	10,000,000	10,000,000	10,000,000	11,000,000	14,000,000	14,000,000	+4,000,000	+4,000,000	+3,000,000	
Educational TV programing	7,000,000	5,000,000	5,000,000	5,000,000	7,000,000	6,000,000	+1,000,000	+1,000,000	+1,000,000	−1,000,000
Subtotal	47,493,000	47,491,000	49,711,000	75,035,000	79,661,000	79,097,000	+31,606,000	+29,386,000	+4,062,000	−564,000
Educational personnel training:										
Teacher Corps	37,500,000	37,500,000	37,500,000	37,500,000	37,500,000	37,500,000				
Teacher centers		8,250,000	10,250,000	15,000,000	10,250,000	12,625,000	+4,375,000	+2,375,000	−2,375,000	+2,375,000
Planning and evaluation	7,085,000	7,085,000	7,085,000	6,000,000	4,500,000	5,250,000	−1,835,000	−1,835,000	−750,000	+750,000
Information clearinghouse	333,000	333,000					−333,000			
Subtotal, special projects and training	92,411,000	100,659,000	104,546,000	133,535,000	131,911,000	134,472,000	+33,813,000	+29,926,000	+937,000	+2,561,000

	Actual, fiscal year 1977	Appropriations, fiscal year 1978	President's budget, fiscal year 1979	House bill (*** not auth)	Senate bill (*** not auth)	Conference amount	Conference compared to— Fiscal year 1978	Estimates 1979	House bill	Senate bill
Guaranteed student loan program:										
Interest subsidies	334,354,000	121,781,000	532,313,000	532,313,000	520,813,000	520,813,000	+399,032,000	−11,500,000	−11,500,000	
Unauthorized, not considered			(70,000,000)	***	***	***	***	***	***	***
Student Loan Insurance Fund	32,312,000	368,382,000	193,501,000	193,501,000	193,501,000	193,501,000	−174,881,000			
Authority to borrow (SLIF)		40,000,000	25,000,000	25,000,000	25,000,000	25,000,000	−15,000,000			
Subtotal, guaranteed student loan program	366,666,000	530,163,000	750,814,000	750,814,000	739,314,000	739,314,000	+209,151,000	−11,500,000	−11,500,000	
Unauthorized, not considered			(70,000,000)	***	***	***	***	***	***	***
Health profession graduate student loan insurance fund:										
Student loan insurance			1,500,000	1,500,000				−1,500,000	−1,500,000	
Authority to borrow			5,000,000	5,000,000		2,500,000	+2,500,000	−2,500,000	−2,500,000	+2,500,000
Total			6,500,000	6,500,000		2,500,000	+2,500,000	−4,000,000	−4,000,000	+2,500,000
Higher education facilities loan and insurance fund	1,847,000	1,847,000	2,204,000	2,204,000	2,204,000	2,204,000	+357,000			
Educational activities overseas: Special foreign currency program	2,000,000	2,000,000	2,000,000	2,000,000			−2,000,000	−2,000,000	−2,000,000	
Salaries and expenses:										
Advisory committees	2,341,000	2,321,000	2,312,000	2,321,000	2,321,000	2,321,000				
Program administration	101,543,000	117,937,000	124,845,000	124,509,000	124,509,000	124,509,000	+6,572,000	−336,000		
Subtotal, salaries and expenses	103,884,000	120,258,000	127,166,000	126,830,000	126,830,000	126,830,000	+6,572,000	−336,000		
Subtotal, Office of Education	8,595,560,000	10,220,267,000	12,248,705,000	12,723,110,000	11,362,935,000	11,951,767,000	+1,731,500,000	−296,938,000	−771,343,000	+588,832,000
Unauthorized, not considered	(79,500,000)	(83,500,000)	(111,500,000)	***	***	***	***	***	***	***
NATIONAL INSTITUTE OF EDUCATION										
Research and development	58,300,000	76,600,000	86,400,000	83,900,000	76,600,000	78,829,000	+2,229,000	−7,571,000	−5,071,000	+2,229,000
Program administration	12,085,000	13,371,000	13,600,000	13,600,000	13,471,000	13,471,000	+100,000	−129,000	−129,000	
Subtotal, National Institute of Education	70,385,000	89,971,000	100,000,000	97,500,000	90,071,000	92,300,000	+2,329,000	−7,700,000	−5,200,000	+2,229,000
ASSISTANT SECRETARY FOR EDUCATION										
Improvement of postsecondary education	11,500,000	12,000,000	14,500,000	13,000,000	13,000,000	13,000,000	+1,000,000	−1,500,000		
Lifelong learning			5,000,000					−5,000,000		
National Center for Educational Statistics	13,120,000	13,940,000	15,940,000	15,700,000	13,940,000	14,820,000	+880,000	−1,120,000	−880,000	+880,000
Salaries and expenses	9,062,000	10,303,000	10,817,000	10,663,000	10,663,000	10,663,000	+360,000	−154,000		
Subtotal, Assistant Secretary for Education	33,682,000	36,243,000	46,257,000	39,363,000	37,603,000	38,483,000	+2,240,000	−7,774,000	−880,000	+880,000
Total, Education Division	8,699,627,000	10,346,481,000	12,394,962,000	12,859,973,000	11,490,609,000	12,082,550,000	+1,736,069,000	−312,412,000	−777,423,000	+591,941,000
Unauthorized, not considered	(79,500,000)	(83,500,000)	(111,500,000)	***	***	***	***	***	***	***
SOCIAL SECURITY ADMINISTRATION										
Federal Funds										
Payments to the social security trust fund	716,902,000	741,203,000	760,744,000	760,774,000	760,774,000	760,774,000	+19,571,000			
Special benefits for disabled coal miners	961,965,000	967,623,000	1,016,608,000	1,016,608,000	1,016,608,000	1,016,608,000	+48,985,000			
Supplemental security income program:										
Benefit payments	4,635,539,000	4,491,223,000	4,821,618,000	4,821,618,000	4,821,618,000	4,821,618,000	+330,395,000			
Hold harmless	39,381,000	45,000,000	45,000,000	45,000,000	45,000,000	45,000,000				
Vocational rehabilitation services	45,981,000	82,978,000	86,148,000	86,148,000	86,148,000	86,148,000	+3,170,000			
Administration	525,538,000	538,999,000	568,968,000	568,968,000	568,968,000	568,968,000	+29,969,000			
Federal fiscal liability	33,900,000	91,800,000	36,120,000	36,120,000	36,120,000	36,120,000	−55,680,000			
Subtotal	5,280,339,000	5,250,000,000	5,557,854,000	5,557,854,000	5,557,854,000	5,557,854,000	+307,854,000			
Assistance payments programs:										
Maintenance assistance:										
AFDC benefit payments	5,577,145,000	5,628,150,000	6,064,000,000	5,908,000,000	5,908,000,000	5,908,000,000	+279,850,000	−156,000,000		
Adult categories	−3,940,000	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000				
Emergency assistance	30,954,000	33,000,000	34,000,000	34,000,000	34,000,000	34,000,000	+1,000,000			
State and local administration and training	617,633,000	638,000,000	670,000,000	670,000,000	670,000,000	670,000,000	+32,000,000			
Repatriation	878,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000				
Fiscal relief to States/localities										
Subtotal, maintenance	6,222,670,000	6,304,150,000	6,773,000,000	6,617,000,000	6,617,000,000	6,617,000,000	+312,850,000	−156,000,000		
Child support enforcement:										
Collections	−139,561,000	−210,000,000	−237,000,000	−237,000,000	−237,000,000	−237,000,000	−27,000,000			
State and local administration	185,509,000	230,000,000	250,000,000	250,000,000	250,000,000	250,000,000	+20,000,000			
Subtotal, child support	45,948,000	20,000,000	13,000,000	13,000,000	13,000,000	13,000,000	−7,000,000			
Research and evaluation	3,104,000	3,003,000	5,000,000	3,000,000	3,000,000	3,000,000	−3,000	−2,000,000		
Administrative expenses	21,665,000	27,259,000	32,056,000	30,000,000	30,000,000	30,000,000	+2,741,000	−2,056,000		
Subtotal, assistance payments	6,293,387,000	6,354,412,000	6,823,056,000	6,663,000,000	6,663,000,000	6,663,000,000	+308,588,000	−160,056,000		

LABOR, HEALTH, EDUCATION, AND WELFARE—SUPPORTING DETAIL ACCOUNT TABLE, FISCAL YEAR 1979—Continued

	Actual, fiscal year 1977	Appropriations, fiscal year 1978	President's budget, fiscal year 1979	House bill (*** not auth)	Senate bill (*** not auth)	Conference amount	Conference compared to— Fiscal year 1978	Estimates 1979	House bill	Senate bill
Refugee assistance:										
Cuban refugees	80,511,000	71,950,000	52,000,000	52,000,000	59,800,000	57,300,000	−14,650,000	+5,300,000	+5,300,000	−2,500,000
Indochinese refugees	51,489,000	124,000,000	95,500,000	95,500,000	100,500,000	98,000,000	−26,000,000	+2,500,000	+2,500,000	−2,500,000
Subtotal	132,000,000	195,950,000	147,500,000	147,500,000	160,300,000	155,300,000	−40,650,000	+7,800,000	+7,800,000	−5,000,000
Limitation on salaries and expenses, trust funds	(2,046,255,000)	(2,112,802,000)	(2,279,842,000)	(2,234,587,000)	(2,251,587,000)	(2,234,587,000)	(+121,785,000)	(−45,255,000)		(−17,000,000)
Subtotal, Social Security Administration:										
Federal funds	13,384,593,000	13,509,188,000	14,305,792,000	14,145,736,000	14,158,536,000	14,153,536,000	+644,348,000	−152,256,000	+7,800,000	−5,000,000
Trust fund limitation	(2,046,255,000)	(2,112,802,000)	(2,279,842,000)	(2,234,587,000)	(2,251,587,000)	(2,234,587,000)	(+121,785,000)	(−45,255,000)		(−17,000,000)
National Commission on Social Security					500,000	500,000	+500,000	+500,000	+500,000	
SPECIAL INSTITUTIONS										
American Printing House for the Blind	3,012,000	3,498,000	3,906,000	3,906,000	3,906,000	3,096,000	+408,000			
National Technical Institute for the Deaf: Academic program	12,675,000	14,630,000	16,625,000	16,625,000	16,625,000	16,625,000	+1,995,000			
Gallaudet College:										
Academic program	15,610,000	17,510,000	20,208,000	20,208,000	20,208,000	20,208,000	+2,698,000			
Model Secondary School for the Deaf	7,343,000	8,343,000	9,217,000	9,217,000	9,217,000	9,217,000	+874,000			
Kendall Demonstration Elementary School	3,270,000	3,907,000	4,303,000	4,303,000	4,303,000	4,303,000	+396,000			
Construction	15,575,000	16,216,000	11,105,000	11,105,000	11,105,000	11,105,000	−5,111,000			
Subtotal, Gallaudet College	41,798,000	45,976,000	44,833,000	44,833,000	44,833,000	44,833,000	−1,143,000			
Howard University:										
Academic program	63,487,000	73,087,000	81,287,000	81,287,000	81,287,000	81,287,000	+8,200,000			
Howard University Hospital	22,106,000	22,106,000	22,106,000	22,106,000	22,106,000	22,106,000				
Construction	2,500,000	3,925,000	10,000,000	10,000,000	10,000,000	10,000,000	+6,075,000			
Subtotal, Howard University	88,093,000	99,118,000	113,393,000	113,393,000	113,393,000	113,393,000	+14,275,000			
Subtotal, special institutions	145,578,000	163,222,000	178,757,000	178,757,000	178,757,000	178,757,000	+15,535,000			
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT										
Grants to States for Social and Child Welfare Services										
Grants to States for social services	2,259,726,000	2,188,620,000	2,450,000,000	2,450,000,000	2,450,000,000	2,450,000,000	+261,380,000			
Child day care services	155,709,000	200,000,000		***	***	***	***	***	***	***
States and local training	45,751,000	63,530,000	71,552,000	71,552,000	71,552,000	71,552,000	+8,022,000			
Child welfare services	56,500,000	56,500,000	56,500,000	56,500,000	56,500,000	56,500,000				
Subtotal	2,361,977,000	2,308,650,000	2,578,052,000	2,578,052,000	2,578,052,000	2, 78,052,000	+ 269,402,000			
Adoption reform					5,000,000	5,000,000	+5,000,000	+5,000,000	+5,000,000	
HUMAN DEVELOPMENT SERVICES										
Child development:										
Head Start	475,000,000	625,000,000	6 0,000,000	***	***	***	***	***	***	***
Research, demonstration, and evaluation	15,700,000	15,700,000	19,000,000	***	***	***	***	***	***	***
Child abuse	18,928,000	18,928,000	21,228,000	***	***	***	***	***	***	***
Runaway youth	8,000,000	11,000,000	11,000,000	***	***	***	***	***	***	***
Subtotal, child development	517,628,000	670,628,000	731,228,000	***	***	***	***	***	***	***
Aging programs:										
Community services (title III):										
State agency activities	17,000,000	19,000,000	19,000,000	***	***	***	***	***	***	***
Advance for 1980			19,000,000	***	***	***	***	***	***	***
Subtotal, community services	153,700,000	187,000,000	359,000,000	***	***	***	***	***	***	***
Nutrition (title VII)	203,525,000	250,000,000	287,000,000	***	***	***	***	***	***	***
Advance for 1980			287,000,000	***	***	***	***	***	***	***
Research, demonstration, and manpower (title IV):										
Research	8,500,000	8,500,000	8,500,000	***	***	***	***	***	***	***
Training	14,200,000	17,000,000	17,000,000	***	***	***	***	***	***	***
Multidisciplinary centers on gerontology	3,800,000	3,800,000	3,800,000	***	***	***	***	***	***	***
Subtotal, R,D and manpower	26,500,000	29,300,000	29,300,000	***	***	***	***	***	***	***
Federal Council on Aging	575,000	450,000	450,000	***	***	***	***	***	***	***
Multipurpose Senior Center (title V)	20,000,000	40,000,000	40,000,000	***	***	***	***	***	***	***
Advance for 1980			40,000,000	***	***	***	***	***	***	***
National clearinghouse		2,000,000	2,000,000	***	***	***	***	***	***	***
Subtotal, aging programs	404,300,000	508,750,000	1,044,750,000	***	***	***	***	***	***	***
Advance for 1980			(499,000,000)	***	***	***	***	***	***	***

	Actual, fiscal year 1977	Appropriations, fiscal year 1978	President's budget, fiscal year 1979	House bill (*** not auth)	Senate bill (*** not auth)	Conference amount	Conference compared to— Fiscal year 1978	Estimates 1979	House bill	Senate bill
Rehabilitation service and facilities:										
Basic State grants	740,309,000	760,472,000	785,457,000	***	***	***	***	***	***	***
Advance for 1980			785,000,000	***	***	***	***	***	***	***
Innovation and expansion	18,000,000	18,000,000	19,800,000	***	***	***	***	***	***	***
Service projects:										
Deaf-blind Center	2,100,000	2,500,000	2,500,000	***	***	***	***	***	***	***
Special projects	14,650,000	22,628,000	17,430,000	***	***	***	***	***	***	***
Training and facilities grants:										
Training services	5,000,000	5,000,000	5,000,000	***	***	***	***	***	***	***
Facility improvements	2,400,000	2,400,000	2,400,000	***	***	***	***	***	***	***
Evaluation	2,500,000	2,500,000	2,500,000	***	***	***	***	***	***	***
Subtotal, service projects	26,650,000	35,028,000	29,830,000	***	***	***	***	***	***	***
Research	29,000,000	31,500,000	31,500,000	***	***	***	***	***	***	***
Training	30,500,000	30,000,000	45,228,000	***	***	***	***	***	***	***
Subtotal	844,459,000	875,500,000	1,696,815,000	***	***	***	***	***	***	***
Advance for 1980			(785,000,000)	***	***	***	***	***	***	***
Grants for the developmentally disabled:										
State grants	30,058,000	33,058,000	49,880,000	***	***	***	***	***	***	***
Service grants	19,617,000	19,567,000	5,557,000	***	***	***	***	***	***	***
University affiliated facilities	5,250,000	6,500,000	6,500,000	***	***	***	***	***	***	***
Subtotal	54,925,000	59,125,000	61,937,000	***	***	***	***	***	***	***
Public service:										
Research	2,955,000	2,955,000	2,975,000	***	***	***	***	***	***	***
Child welfare training	8,150,000	8,150,000	9,000,000	***	***	***	***	***	***	***
Subtotal, public service	11,105,000	11,105,000	11,975,000	***	***	***	***	***	***	***
Special programs for Native Americans	33,000,000	33,000,000	33,800,000	***	***	***	***	***	***	***
White House Conference on Families		3,000,000		***	***	***	***	***	***	***
Salaries and expenses	62,619,000	65,951,000	68,445,000	***	***	***	***	***	***	***
Less: Trust fund transfer	−600,000	−600,000	−600,000	***	***	***	***	***	***	***
Subtotal, human development services, unauthorized not considered	1,927,436,000	2,226,459,000	3,648,350,000	***	***	***	***	***	***	***
Work incentives:										
Grants to States	356,995,000	351,995,000	351,995,000	371,724,000	371,724,000	371,724,000	+19,729,000	+19,729,000		
Program direction and evaluation	13,005,000	13,005,000	13,276,000	13,276,000	13,276,000	13,276,000	+271,000			
Subtotal	370,000,000	365,000,000	365,271,000	385,000,000	385,000,000	385,000,000	+20,000,000	+19,729,000		
Research and training activities overseas			3,490,000	3,000,000				−3,490,000	−3,000,000	
Subtotal, human development	2,731,977,000	2,673,650,000	2,946,813,000	2,966,052,000	2,968,052,000	2,968,052,000	+294,402,000	+21,239,000	+2,000,000	
Unauthorized, not considered	(2,083,145,000)	(2,426,459,000)	(3,648,350,000)	***	***	***	***	***	***	***
DEPARTMENTAL MANAGEMENT										
Office for Civil Rights	28,987,000	40,450,000	73,356,000	73,356,000	72,356,000	72,356,000	+31,906,000	−1,000,000	−1,000,000	
Less: Trust fund transfer	−919,000	−514,000	−1,200,000	−1,200,000	−1,200,000	−1,200,000	−686,000			
Subtotal, Office of Civil Rights Federal funds	28,068,000	39,936,000	72,156,000	72,156,000	71,156,000		+31,220,000	−1,000,000	−1,000,000	
General department management:										
Department direction	50,467,000	61,755,000	60,341,000	60,203,000	60,203,000	60,203,000	−1,552,000	−138,000		
Department operations	65,993,000	71,850,000	75,500,000	75,500,000	74,713,000	74,713,000	+2,863,000	−787,000	−787,000	
Less: Trust fund transfer	−5,767,000	−27,883,000	−6,890,000	−6,890,000	−6,890,000	−6,890,000	+20,993,000			
Subtotal, general department management	110,693,000	105,722,000	128,951,000	128,813,000	128,026,000	128,026,000	+22,304,000	−925,000	−787,000	
Office of the Inspector General	27,165,000	32,745,000	40,311,000	40,311,000	40,311,000	40,311,000	+7,566,000			
Less: Trust fund transfer	−3,429,000	−4,555,000	−4,705,000	−4,705,000	−4,705,000	−4,705,000	−150,000			
Subtotal, Inspector General, Federal funds	23,736,000	28,190,000	35,606,000	35,606,000	35,606,000	35,606,000	+7,416,000			
Policy research	19,949,000	29,949,000	27,000,000	25,000,000	27,000,000	25,000,000	4,949,000	−2,000,000		−2,000,000
Subtotal, departmental management	182,446,000	203,797,000	263,713,000	261,575,000	261,788,000	259,788,000	−55,991,000	−3,925,000	−1,787,000	−2,000,000
Sec. 201—Fraud, abuse and waste reduction				−1,000,000,000	−2,000,000,000	−1,000,000,000	−1,000,000,000	−1,000,000,000		+1,000,000,000
Total, Health, Education, and Welfare:										
Federal funds	46,172,666,000	49,790,218,000	54,379,170,000	54,020,219,000	51,533,482,000	53,085,830,000	+3,295,612,000	−1,293,340,000	−934,389,000	+1,552,348,000
Trust funds	(2,715,662,000)	(2,859,043,000)	(3,105,485,000)	(3,050,281,000)	(3,067,281,000)	(3,050,281,000)	(+191,235,000)	(−55,185,000)		(−17,000,000)
Total, unauthorized, not considered	(3,040,771,000)	(3,969,487,000)	(5,648,055,000)	***	***	***	***	***	***	***
Federal funds	(3,040,171,000)	(3,968,887,000)	(5,647,455,000)	***	***	***	***	***	***	***
Trust funds	(600,000)	(600,000)	(600,000)	***	***	***	***	***	***	***

LABOR, HEALTH, EDUCATION, AND WELFARE—SUPPORTING DETAIL ACCOUNT TABLE, FISCAL YEAR 1979—Continued

	Actual, fiscal year 1977	Appropriations, fiscal year 1978	President's budget, fiscal year 1979	House bill (*** not auth)	Senate bill (*** not auth)	Conference amount	Conference compared to— Fiscal year 1978	Estimates 1979	House bill	Senate bill
TITLE III—RELATED AGENCIES										
ACTION (domestic programs):										
Volunteers in Service to America (VISTA)	23,000,000	25,567,000	36,941,000	***	***	***	***	***	***	***
Service learning programs	5,500,000	5,500,000	605,000	***	***	***	***	***	***	***
Older Americans Volunteer programs:										
Foster Grandparents program	34,000,000	34,900,000	35,400,000	***	***	***	***	***	***	***
Senior Companion program	3,800,000	7,000,000	7,140,000	***	***	***	***	***	***	***
Retired Senior Volunteer program	19,000,000	20,100,000	20,100,000	***	***	***	***	***	***	***
Subtotal, older volunteers	56,800,000	62,000,000	62,640,000	***	***	***	***	***	***	***
Special Volunteer programs	2,500,000	2,500,000	10,693,000	***	***	***	***	***	***	***
Program support	21,310,000	22,810,000	24,807,000	***	***	***	***	***	***	***
Subtotal, ACTION	109,110,000	118,377,000	135,686,000	***	***	***	***	***	***	***
Community services administration:										
Community Action Operations:										
Local initiative	330,000,000	369,000,000	381,000,000	***	***	***	***	***	***	***
Senior opportunities and service	10,000,000	10,000,000	10,500,000	***	***	***	***	***	***	***
State economic opportunity offices	12,000,000	12,000,000	7,500,000	***	***	***	***	***	***	***
Community food and nutrition	27,500,000	30,000,000	22,000,000	***	***	***	***	***	***	***
Emergency energy conservation services	110,000,000	65,000,000	10,000,000	***	***	***	***	***	***	***
Crisis intervention program (energy)	200,000,000	200,000,000		***	***	***	***	***	***	***
National youth sports program	6,000,000	6,000,000	6,000,000	***	***	***	***	***	***	***
Summer youth recreation and transportation	17,000,000	17,000,000	17,000,000	***	***	***	***	***	***	***
Training and technical assistance		1,000,000	3,000,000	***	***	***	***	***	***	***
Migrant program	1,000,000	1,000,000	1,000,000	***	***	***	***	***	***	***
Subtotal, Community Action	713,500,000	711,000,000	458,000,000	***	***	***	***	***	***	***
Demonstrations:										
Rural housing	5,000,000	6,000,000	6,000,000	***	***	***	***	***	***	***
Other			12,400,000	***	***	***	***	***	***	***
Community economic development	48,170,000	48,170,000	25,800,000	***	***	***	***	***	***	***
Evaluation		1,000,000	3,100,000	***	***	***	***	***	***	***
Program administration	27,883,000	31,683,000	32,700,000	***	***	***	***	***	***	***
Subtotal, community services administration	794,553,000	797,853,000	538,000,000	***	***	***	***	***	***	***
Corporation for Public Broadcasting:										
Fiscal year 1978 (advanced in fiscal year 1977)	107,150,000			***	***	***	***	***	***	***
Fiscal year 1980 (advanced in fiscal year 1978)		164,050,000		***	***	***	***	***	***	***
Fiscal year 1981 (current request)			172,000,000	***	***	***	***	***	***	***
Subtotal, Corporation for Public Broadcasting										
Unauthorized, not considered	(107,150,000)	(164,050,000)	(172,000,000)	***	***	***	***	***	***	***
Federal Mediation and Conciliation Service	21,177,000	22,465,000	22,686,000	22,686,000	22,686,000	22,686,000	+221,000			
Federal Mine Safety and Health Review Commission		193,000	4,776,000	4,776,000	4,776,000	4,776,000	+4,583,000			
National Commission on Libraries and Information Science	4,008,000	598,000	683,000	648,000	683,000	648,000	+50,000	−35,000		−35,000
National Labor Relations Board	80,908,000	92,508,000	100,467,000	100,467,000	100,467,000	100,467,000	+7,959,000			
National Mediation Board	3,660,000	3,913,000	3,969,000	3,969,000	3,969,000	3,969,000	+56,000			
Occupational Safety and Health Review Commission	6,607,000	7,150,000	7,658,000	7,658,000	7,658,000	7,658,000	+508,000			
Railroad Retirement Board:										
Payment to Railroad Retirement trust funds	250,000,000	250,000,000	313,000,000	313,000,000	313,000,000	313,000,000	+63,000,000			
Regional Rail Transportation Protective Account	65,000,000	93,500,000	25,000,000	25,000,000	25,000,000	25,000,000	−68,500,000			
Limitation on salaries and expenses	(33,723,000)	(33,142,000)	(34,317,000)	(34,317,000)	(34,317,000)	(34,317,000)	(+1,175,000)			
Soldier's and Airmen's Home (trust fund appropriation):										
Operation and maintenance	16,099,000	16,356,000	16,939,000	16,939,000	16,939,000	16,939,000	+583,000			
Subtotal, related agencies	481,182,000	519,825,000	529,495,000	529,460,000	529,495,000	529,460,000	+9,635,000	−35,000		−35,000
Federal funds	447,459,000	486,683,000	495,178,000	495,178,000	495,143,000	495,143,000	+8,460,000	−35,000		−35,000
Trust funds	(33,723,000)	(33,142,000)	(34,317,000)	(34,317,000)	(34,317,000)	(34,317,000)	(+1,175,000)			
Unauthorized, not considered, Federal funds	(1,010,813,000)	(1,080,280,000)	(845,686,000)	***	***	***	***	***	***	***
SUMMARY										
Title I—Department of Labor:										
Federal funds	6,789,233,000	2,334,637,000	2,464,590,000	2,466,906,000	2,479,006,000	2,473,056,000	+138,419,000	+8,466,000	+6,150,000	−5,950,000
Trust funds	1,414,272,000	1,531,997,000	1,685,737,000	1,695,737,000	1,695,737,000	1,695,737,000	+163,740,000	+10,000,000		
Unauthorized, not considered:										
Federal funds	(12,936,052,000)	(10,370,684,000)	(11,127,002,000)	***	***	***	***	***	***	***
Trust funds	(32,234,000)	(33,634,000)	(35,238,000)	***	***	***	***	***	***	***

	Actual, fiscal year 1977	Appropriations, fiscal year 1978	President's budget, fiscal year 1979	House bill (*** not auth)	Senate bill (*** not auth)	Conference amount	Conference compared to— Fiscal year 1978	Estimates 1979	House bill	Senate bill
Title II—Department of Health, Education and Welfare:										
Federal funds	46,172,666,000	49,790,218,000	54,379,170,000	54,020,219,000	51,533,482,000	53,085,830,000	+3,295,612,000	−1,293,340,000	−934,389,000	+1,552,348,000
Trust funds	2,715,662,000	2,859,046,000	3,105,466,000	3,050,281,000	3,067,281,000	3,050,281,000	+191,235,000	−55,185,000		−17,000,000
Unauthorized, not considered:										
Federal funds	(3,040,171,000)	(3,968,887,000)	(5,647,455,000)	***	***	***	***	***	***	***
Trust funds	(600,000)	(600,000)	(600,000)				(−600,000)	(−600,000)		
Title III—Related agencies:										
Federal funds	447,459,000	486,683,000	495,178,000	495,143,000	495,178,000	495,143,000	+8,460,000	−35,000		−35,000
Trust funds	33,723,000	33,142,000	34,317,000	34,317,000	34,317,000	34,317,000	+1,175,000			
Unauthorized, not considered:										
Federal funds	(1,010,813,000)	(1,080,280,000)	(845.686,000)	***	***	***	***	***	***	***
Grand total, all titles:										
Federal funds	53,409,358,000	52,611,538,000	57,338,938,000	56,982,268,000	54,507,666,000	56,054,029,000	+3,442,491,000	−1,284,909,000	−928,239,000	+1,546,363 000
Trust funds	(4,163,657,000)	(4,424,185,000)	(4,825,520,000)	(4,780,335,000)	(4,797,335,000)	(4,780,335,000)	(+356,150,000)	(−45,185,000)		(−17,000,000)
Unauthorized, not considered:										
Federal funds	(16,987,036,000)	(15,419,851,000)	(17,620,143,000)	***	***	***	***	***	***	***
Trust funds	(32,834,000)	(34,234,000)	(35,838,000)	***	***	***	***	***	***	***
Less 2 percent reduction				−397,166,000					+397,166,000	
Grand total, all titles including 2 percent reduction:										
Federal funds	53,409,358,000	52,611,538,000	57,338,938,000	56,585,102,000	54,507,666,000	56,054,029,000	+3,442,491,000	−1,284,909,000	−531,073,000	+1,546,363 000
Trust funds	(4,163,657,000)	(4,424,185,000)	(4,825,520,000)	(4,780,335,000)	(4,797,335,000)	(4,780,335,000)	(+356,150,000)	(−45,185,000)		(−17,000,000)

The PRESIDING OFFICER. Is there further discussion?

Mr. BELLMON. Mr. President, will the Senator yield me 3 minutes?

Mr. MAGNUSON. Yes.

Mr. BELLMON. Mr. President, I congratulate the distinguished chairman of the Appropriations Committee, Senator MAGNUSON, and the distinguished ranking member of the subcommittee for the strong efforts which they made during work on the Labor/HEW appropriations bill to maintain budgetary discipline and help restrain inflationary pressures. I am well aware, and I think we are all aware, of the almost unbearable pressures and demands upon the chairman of the Appropriations Committee and upon Senator BROOKE by those who want increased appropriations for their favorite programs, and I think it is greatly to their credit that they have resisted those pressures. They brought back a bill that is adequate, but they have been able to stay inside the budget, and I congratulate them for this accomplishment.

There are two potential budgetary problems in this conference report, however, on which I feel the need to comment. First, this bill—and the budget—assume heroic savings, particularly in health programs. The budget assumes $0.7 billion in savings from hospital cost containment and $0.3 billion in savings from medicaid quality control. This bill, and the budget, assume an additional $1.0 billion in savings, to result from elimination of fraud and abuse in programs administered by the Departments of Labor and HEW.

I, for one, Mr. President, hope we can achieve these savings. We certainly must keep pressure on the administration to make every effort to achieve these savings. Bear in mind though, we have assumed the lion's share of these savings in entitlement programs. If we fall short of our expectations, Mr. President, we may find ourselves facing possible later requirements for additional appropriations, which would have to be provided, in amounts sufficient to satisfy these entitlements.

Second, I am disturbed Mr. President about the amounts involved in this conference agreement for basic education opportunity grants (BEOG's). In reports on both the first and second budget concurrent resolutions it was assumed that funds would be available for either an expanded BEOG's program or tuition tax credits, but not both. We had to include room for both because it is not technically possible to move an allowance, in the form of budget authority, from spending to the revenue side of the budget.

In the conference with the House on the second budget resolution, the Senate conferees secured the House's agreement to the following report language:

> The conferees believe enactment of both a tuition tax credit and a college tuition assistance spending program would be inefficient and duplicative. The Congress should choose between these two proposals.

It now seems certain, Mr. President, that we will have a tuition tax credit as the Senate has included it in the tax bill. Now this Labor-HEW conference agreement on Labor-HEW appropriations provides $500 million to extend the BEOG's program to families with incomes as high as $25,000. So, Mr. President, we are suddenly well on our way to providing middle income educational support through two new, fundamentally different approaches.

Indeed, Mr. President, we are actually adopting three approaches to aiding such families, because we are also taking the income ceiling off the guaranteed student loan program. I personally favor the loan approach to helping middle-income families pay their college costs. I am convinced that a carefully designed loan program is the only way we can realistically hope to provide help to the millions of students from middle-income families who will be in college in the years ahead.

I intend, therefore, to refine the student loan bank proposal, which I introduced as S. 3403 in August. I will introduce an improved version of that proposal when the Senate reconvenes in January.

I am aware, Mr. President that the distinguished chairman of the Appropriations Committee personally tried to get the conferees to delay the funding for the expanded BEOG's program until the spring supplemental. Having both an expanded BEOG's and a tuition tax credit bill this year is clearly inefficient—and inconsistent with our responsibility to make carefully considered choices among competing approaches to problems.

Mr. President, I do not intend to oppose this conference agreement because, on the whole, I feel that a responsible effort has been made to restrain Federal spending. However, because of optimistic assumptions regarding cost-savings from reductions in fraud and abuse and higher than expected expenditures for middle-income college assistance, it is essential that maximum efforts be made to maintain fiscal discipline and to resist pressures for nonessential increases in supplemental appropriations bills.

Mr. President, as one who is not a member of the subcommittee, but a member of the full committee, I believe I have some little knowledge of what the conferees went through, and I want to say, on behalf of the whole budget process, we think you have done an excellent job.

Mr. BROOKE. Mr. President, I thank the distinguished Senator from Oklahoma. As our chairman has said, the distinguished Senator from Oklahoma performs a great service for the Appropriations Committee. He also serves on the Budget Committee, where he is the ranking Republican member, and he is always there as the watchdog of the public Treasury. We have the greatest admiration and respect for him. He is very helpful to us in our deliberations, and we commend him for it, and

just wish to say we are happy to have him on our committee, as well as our chairman, who also is a member of the Senate Budget Committee as well. I believe the distinguished Senator from Florida (Mr. CHILES), who is now on the floor, also serves on the Budget Committee. We debate on many issues, but I have the greatest respect for LAWTON CHILES and the work that he performs on the Labor-HEW Appropriations Subcommittee and the full Appropriations Committee; and I say that with all the sincerity I can muster.

Mr. CHILES. I thank the distinguished Senator from Massachusetts.

Mr. BROOKE. Mr. President, I have some questions I would like to propound to the distinguished chairman, if he will permit.

Mr. President, we sent to the conference a bill, as the chairman has said, and the only matter of substance that was in disagreement was the substance of a matter pertaining——

Mr. MAGNUSON. Mr. President, will the Senator yield for a parliamentary matter?

Mr. BROOKE. Yes.

Mr. MAGNUSON. I think we ought to first move to put this matter before the Senate. I move that the Senate adopt the conference report. That will leave open the discussion.

Mr. BROOKE. All right.

Mr. MAGNUSON. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. BROOKE. Mr. President, reserving the right to object, and I do not want to object, I wanted to propound these questions before I agreed, if the chairman will permit me.

Mr. MAGNUSON. But in the meantime there are certain technical matters.

Mr. BROOKE. Technical, yes. I agree to them.

The PRESIDING OFFICER The question is on agreeing to the conference report.

The amendments in disagreement will not be in order until the adoption of the conference report, to which the Senator from Massachusetts indicated he had some reservation.

Mr. MAGNUSON. Mr. President, I will move that the Senate approve the numbered amendments in disagreement en bloc at a later time if Senator BROOKE would like.

The PRESIDING OFFICER. Until the conference report has been acted on, the Chair is advised that that motion would not be in order.

Mr. MAGNUSON. I move the adoption of the conference report.

The PRESIDING OFFICER. All right. The question is on agreeing to the motion to adopt the conference report. Is there objection? Without objection, the conference report is——

Mr. BROOKE. Reserving the right to object, Mr. President——

Mr. GLENN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts reserves the right to object.

Mr. BROOKE. Mr. President, if the chairman will yield, I think we can resolve this matter and then accept the conference report.

Mr. MAGNUSON. All right.

Mr. BROOKE. It is my understanding that——

Mr. MAGNUSON. Just a minute. The Senator from Massachusetts wants to discuss, so the RECORD is clear, not any of the amendments in disagreement that I have talked about here, en bloc, but amendment No. 103, which deals with the problem of abortion.

Mr. BROOKE. That is correct, Mr. President, it is my understanding that it is the intention of our distinguished chairman to send back to the House of Representatives the language which ultimately the House and the Senate agreed upon in the 1978 Labor-HEW appropriations bill; is that correct? Is that the chairman's intention?

Mr. MAGNUSON. That is correct, yes.

Mr. BROOKE. It is your intention to substitute the language that was contained on abortion in the 1978 Labor-HEW appropriations bill for the language that is contained in the Senate version of the 1979 Labor-HEW appropriations bill?

Mr. MAGNUSON. Correct. And I would add further, the language that is in the Defense appropriation bill, which the House agreed to, which we passed just a few minutes ago, and also the language that the House sent over in the so-called continuing resolution. They have voted for that language now twice, but not for the language that we sent over in the HEW bill.

Mr. BROOKE. Mr. President, that is what is most disturbing to me: the inconsistency and the apparent hypocrisy of the House in sending to the Senate, in two instances, one on the Defense appropriations bill and the other on the Labor-HEW continuing resolution, the same abortion language which we agreed upon, we being the House and the Senate, in 1978, and at the same time sending to the Senate for approval the so-called hard language which the House and Senate could not agree upon in 1978.

Now, my question to my distinguished chairman is this: If we were to substitute the language that was contained in the Defense appropriations bill, which we have just agreed to and passed——

Mr. MAGNUSON. The present law.

Mr. BROOKE. And the language that is contained in the pending resolution, the Labor-HEW continuing resolution—if we substitute that language in the 1979 Labor-HEW appropriation bill and send it back to the House, what are the options of the House at that time?

Mr. MAGNUSON. The option of the House is they can accept the language, one, and I suppose that the House rules could allow someone to change the language. They have already acted upon the Senate language, and they probably would want to change that. Option three is to insist on the Hyde language, or some modification of it. They would not be very consistent if they did that.

I want to say to my colleague from Massachusetts that if they decide to change the language which we send over, and the Senator has explained it very fully, which is now law in the defense appropriations bill and in the continuing resolution, it is the law now, I would probably suggest that then we pass the continuing resolution on HEW which contains the language that they sent over, which is the law now. It will be the language we would send back to them. It seems to me that is logical, fair, and consistent.

Mr. BROOKE. Mr. President, I have very deep concerns.

Mr. MAGNUSON. I cannot speak for the Senate or for the House, but I am hopeful that they will accept the language that the Senator from Massachusetts and I have accepted, reluctantly, may I say, to get bills through in the defense appropriation and in the continuing resolution, which we have not passed yet but which we will pass.

Mr. BROOKE. Mr. President, again I want to voice my very serious concerns about following the course of action outlined by my distinguished chairman, Senator MAGNUSON, and substitute last year's abortion language in the Senate bill for the "medically necessary" language which has been adopted by the Senate by an overwhelming vote—I think 55 to 30—and by overwhelming votes last year as well. We all recall the long months of negotiation and compromise which resulted in the language which the House has sent over to us in continuing resolutions but will not send to us in the 1979 Labor-HEW bill; we obviously have the House taking the position that that 1978 language is all right so far as women in the defense establishment or the wives or daughters of defense personnel are concerned, but that another law should apply to poor women who are dependent upon medicaid.

I say, Mr. President, that is unconscionable. I am concerned, deeply concerned, by this economic test being applied by the House of Representatives as indicated by the action they have taken. We have tried to be as fair as we could be with the House.

If we send this back with the substitute language, Mr. President, I want to ask a parliamentary inquiry, and I do not know that our Parliamentarian can rule on what the House could do.

The PRESIDING OFFICER. The Senator will state it.

Mr. BROOKE. I would like to know what the status of the Senate bill will be as we send it back to the House to deliberate on substituted language which we would put into the Senate bill, as we send it back to the House for their consideration.

The PRESIDING OFFICER. The Senate amendment could be agreed to, disagreed to, amended and/or a conference request thereon.

Mr. BROOKE. I thank the Chair.

I was told today that the House could only vote up or down on the Senate bill

sent back with a substitute. I take it that the opinion of the Parliamentarian and the Chair is that that is not true, that the House has several options: They can either agree to the new language, they can reject the new language, or they can amend the new language and/or request a conference.

The PRESIDING OFFICER. The Parliamentarian advises that that would be the case in the Senate. The Parliamentarian is not in a position to advise as to what position the House itself might take on that issue. But if that issue were to arise in the Senate, the Senate would have at least those three options.

Mr. BROOKE. I thank the Chair and I thank the Parliamentarian.

That is the danger, Mr. President, as I see it.

That the House could reject it, I can understand. That the House could accept it, I can understand. But that the House can amend it and make it an even stronger provision than that which we agreed upon last year, and that which is contained in the continuing resolution for Labor-HEW this year, and that which was passed already in the Defense appropriations bill, is a matter of grave concern, not only to me, Mr. President, but to the Senate that has overwhelmingly voted for more humane language.

In other words, I am saying to the Senate that if we send this back with substitute language, which is the language of last year, we could have the House coming back with even stronger language, closer to the Hyde language, so-called. That is the clear danger.

Therefore, I ask my distinguished chairman again, if that happens what would my chairman do?

Mr. MAGNUSON. That is a danger that a lot of people do not consider a danger. It is up to them. If we send back our original Senate language, they can do the same thing.

Mr. BROOKE. That is right.

Mr. MAGNUSON. They can go back to the language of last year, they can make it stronger, they can adopt the Hyde language. That is up to them. Let us face that when we get to it. Let us make this attempt to ask the House to be reasonable and a little bit consistent in that they adopted the language they put in the Defense bill, they adopted the language that we have in the continuing resolution, and they adopted the language which is the law now and which is what we agreed upon last year. I hope they will accept that.

If they do not, the Senator for Massachusetts and I will have to have another conference on what we do. But we have to get moving some way.

Mr. BROOKE. Will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. BROOKE. Why would it not be a better position for the Senate to send to the House the same language that the Senate had in its original bill which was so overwhelmingly supported by the Senate? In other words, why does the Senate not insist on its position and stand firm, send that back to the House, and let the House compromise with the Senate and come up with the abortion language they have included in the defense appropriation bill?

Mr. MAGNUSON. The only reason, I suppose, is a legislative tactical matter. I think we will just get the bill back again. I am hopeful we can finish this. I do not like continuing resolutions on HEW. The Senator from Massachusetts does not like them. I have seen too many continuing resolutions on HEW, even over this matter, where the department downtown interprets a continuing resolution just the way they want to interpret it. We have that same trouble on many, many other very important programs. This is not the only thing in HEW.

Mr. BROOKE. I quite agree with the chairman. But I believe the chairman understands the position of the Senator from Massachusetts.

Mr. MAGNUSON. I understand. Whatever we send back to the House they can change or accept and the Senator and I, and the rest of the Senate, will take a look at it.

I am hopeful that they will accept last year's language, because they have accepted it in the defense appropriation bill and in the continuing resolution.

If we had sent over from the Senate the same language as last year—we did not; it is a little different, not too much different but a little different—I am sure they would have accepted it. That is what I am trying to do, expedite things.

Mr. BROOKE. What assurance can the Senator——

Mr. MAGNUSON. I cannot give any assurance from the House.

Mr. BROOKE. No, not from the House. What assurance can the Senator give me as to what his position would be if the House sends back to the Senate the language that was contained in the House bill or any language that is stronger than the language contained in the continuing resolution?

Mr. MAGNUSON. I would have to take a look at it. I do not think they will do that.

My position now is that the better part of discretion in this whole matter is to try to get the House to accept this year's language in the law and if they come back with something entirely different, I am amenable to taking a look at it. I just do not want to go on here for another 8 or 9 months on this argument.

The Senator from Massachusetts knows how I feel about this personally. But once in a while—we cannot always have our own way all the time. Good legislation is a matter of compromise. People have some other opinions. I do not agree with them at all. The Senator from Massachusetts knows that I do not. But here we have quite a few thousand, thousands of HEW employees that will not get paid. I am trying to send over what I think is reasonable for them to accept.

If I were a Member of the House, I would not accept it.

Mr. BROOKE. Would accept it?

Mr. MAGNUSON. I might, but I would rather have stronger language than what we have in the Senate; that's why I would not support it. But I am not a Member of the House. They have their own opinions.

If the Senator from Massachusetts has a better plan than this, I shall be glad to listen to it.

I know the Senator and I can determine this. I do not know what other plan we can have. They rejected the Senate language. I am disappointed that they did. I do not like that. They put us in between the Hyde language, which I think—the Senator knows how strong I am against the Hyde language, but we did have some language last year that is the law now and they agreed to put that language in the Defense bill into the continuing resolution. To me, that is some indication that they probably would accept it on this bill.

Mr. BROOKE. If that indication were so clear, why did they not accept it on this bill, I ask, Mr. President? That is the point I am trying to make to the distinguished chairman, that they did not put it in this bill. They put it in the Defense bill but they would not put it in the HEW bill.

Mr. MAGNUSON. They actually did not vote on it because of a parliamentary point; it was on a motion to recede. No one discussed the language. The Senator and I know why some of them voted as some of them did. They are all running for reelection and they wanted to cast a vote, I guess, on this very controversial issue one way or another. But there comes a time when you have to quit arguing about these things and get something done, go someplace. Because HEW—to me, and the abortion problem is very important. But to me, after struggling with HEW, the health care of the country, all the things involved, education, they are a little bit more important. They have more priority.

I am merely suggesting—and if the Senator from Massachusetts does not want it, we can have the Senate express their opinion—that the better part is to get the bill done, and we live with this for a year.

They have agreed to it in the other two bills, and we send back to the House the language that I think—I hope—they will agree to. If they do not agree to it, the Senator and I have to sit down—not just he and I—and work with the Senate on what they will do about it. We have a fallback on the continuing resolution, which contains the language we are talking about.

Mr. BROOKE. Mr. President, I do not want to prolong this discussion.

Mr. MAGNUSON. The Senator and I have not that much time.

Mr. BROOKE. I shall ask unanimous consent for further time, then, on this, because I think it is that important.

Mr. BIDEN. Mr. President, what is that request again?

Mr. BROOKE. I have not made a request.

Mr. MAGNUSON. I shall yield to the Senator from Massachusetts whatever time I have.

Mr. BROOKE. All I want to say to the distinguished chairman is this: Everything the chairman said is correct. He knows as well as I do what we went through last year with some 20 votes and a conference which took 5½ months on this issue. Having gone through all that, it is not my intention, and I do not believe it is the chairman's intention, to let us retreat on this question of medicaid abortions.

We are not trying to move forward—which I would like to do and which I think the chairman would like to do. We were not satisfied with the language of last year's compromise. But certainly, we cannot afford to retreat any further than we did in 1978. We have not done it in the Defense appropriations bill and we have not done it in the continuing resolution. All I would like to get from the chairman is assurance that if the House sends back to us any language which, in anyway, represents a retreat from last year's position, we will then go back to the continuing resolution. That is what I put to the chairman most respectfully, because I think anything short of that, I just cannot agree with allowing this to be substituted.

Mr. MAGNUSON. The Senator from Massachusetts knows that that is what would be my intention. I think going back to last year's language is as far as I personally would like to go. But the Senator and I do not speak for the whole Senate.

Mr. BROOKE. But the Senate has spoken. The Senate wants to go the other way, by a vote of 55 to 30, to "medically necessary."

Mr. MAGNUSON. Now, wait a minute. The Senate might take another look at this because of the problem we have with the time element. Whether they want to continue to go that way, the Senator and I will have to ask them to vote again.

Mr. BROOKE. We are putting ourselves in a weaker position with the House.

Mr. MAGNUSON. I cannot guarantee just what we shall do. I think the Senate is now in a position where, first of all, they want to get out of here. Second, we have all kinds of things in this bill that are very important to me, very important.

Mr. BROOKE. To both of us, to all of us, to the country.

Mr. MAGNUSON. Legislation is a matter, sometimes, of compromise.

Mr. BROOKE. Can the chairman and I agree that so far as we are concerned, if the House retreats any farther——

Mr. MAGNUSON. How does the Senator define retreating? Retreating from his and my position?

Mr. BROOKE. No, retreating from the language which they put in the Defense bill and which they put in the continuing resolution and which is the law of the land today. That is what I mean by retreat.

Mr. MAGNUSON. If they retreat from that, I would surely stand up here and suggest that we pass a continuing resolution, which they have already approved, which includes the language we are talking about here tonight.

Mr. BROOKE. Then he and I would both stand firm on that. Is that correct?

Mr. MAGNUSON. Yes.

Mr. BROOKE. And hope the Senate would follow that leadership. With that assurance——

Mr. MAGNUSON. I do not think we should compromise any more on the language.

Mr. BROOKE. All right, that is what I want to be sure of.

Mr. MAGNUSON. I personally do not think that.

Mr. BROOKE. And I do not think that.

Mr. MAGNUSON. But in the last hours of the Senate, and I have been through a lot of them, it is a season where it is very hard to predict. People sometimes compromise some of their firm stands in an effort to get something done and close the session.

I will agree with the Senator that I would not go any further than last year's language.

Mr. BROOKE. That is the assurance I want from the Senator.

Mr. President, I am pleased——

Mr. MAGNUSON. I do not know if I will prevail or not.

Mr. BROOKE. Well, we will be here until January if we do not prevail, and beyond that.

But, anyway——

Mr. MAGNUSON. Well, I am not going to be here until January over this issue.

Mr. BROOKE. I hope the Senator will be home on Saturday afternoon, Mr. President.

Mr. MAGNUSON. I will stay a reasonable time, but I am not going to be around until January on this issue, I will say that.

Mr. BROOKE. The Senate may be around, Mr. President. But I think we all know what we are talking about.

Mr. MAGNUSON. We can have a continuing resolution.

Mr. BROOKE. That is right. Of course, we can.

Mr. MAGNUSON. But the only thing that bothers me on a continuing resolution, there are so many programs in HEW, education, health, all these things, labor, employment, we have them all. We are the repository of everything down there. When we pass a continuing resolution, we cannot quite spell out many things. So all the bureaucrats downtown interpret it just the way they want to.

But if we send them a bill, at least there is a report with some directions.

Mr. BROOKE. I quite agree.

Mr. MAGNUSON. And a continuing resolution has no report with it. No report at all. It does not tell them what to do.

Mr. BROOKE. We worked too hard all year.

Mr. MAGNUSON. Yes, on that, and we worked on unemployment, the disabled people. We worked on—name it, everything, health research, all these things. That is why I am holding out, trying to do the best I can that we should not have a continuing resolution.

Mr. BROOKE. All right.

Mr. MAGNUSON. But we may have to have one.

Mr. BROOKE. If the chairman will make his recommendation at this time, then I think there are several Senators who want to talk.

Mr. DURKIN. Will the Senator yield for just a moment?

Mr. BROOKE. The Senator from New Hampshire (Mr. DURKIN) wants to be heard.

Mr. MAGNUSON. May I do this first?

Mr. DURKIN. Yes.

● Mr. CRANSTON. Mr. President, I would like to clarify one aspect of the Labor-HEW Appropriations Act conference report with the distinguished chairman of the Committee on Appropriations (Mr. MAGNUSON) and the ranking minority member of the Labor-HEW Subcommittee (Mr. BROOKE).

The joint explanatory statement of the committee of conference on H.R. 12929 states:

The Conferees agree that the Office of Health Practices Assessment and the Office of Special Health Initiatives are to be phased out.

Mr. President, when the Senate was considering H.R. 12929, the Labor-HEW Appropriations Act for fiscal year 1979, both the distinguished Senator from Massachusetts (Mr. BROOKE) and I discussed the potential effect of the reduction in funds for the Office of Special Health Initiatives on the statutorily mandated positions of the Deputy Assistant Secretary for Population Affairs (DASPA) and staff of the Office of Population Affairs.

At that time Senator BROOKE stated:

Madam President, there is one very urgent matter and congressional directive which I must call to the attention of the Department of Health, Education, and Welfare, and I think it is best to do so at this time as we take up their appropriations bill.

The Family Planning Services and Population Research Act of 1970 established an Office of Population Affairs in HEW, to be headed by a Deputy Assistant Secretary for Population. This office was created to direct and coordinate all Government family planning research and service programs and related women's health and population issues and programs. No office, or program, established by Congress within HEW fills a more important need.

Yet the very clear and urgent congressional mandate establishing this office has been neglected, if not ignored, by HEW's failure to provide direction and staffing adequate to fulfill the functions defined by Congress.

Encouragingly, there is now a new Deputy Assistant Secretary of Population Affairs, Irvin Cushner, appointed last July 3. But HEW has demonstrated continued reluctance to adequately staff the office. The fiscal 1979 budget requested funds for eight positions, as part of a request for new health initiatives, to staff the office. However, these positions are not new, for they are already funded in the current year. Thus, the additional funds requested are not needed to support the eight positions and the Senate Appropriations Committee accordingly has not agreed to the request for the additional funds.

I wish to point out most emphatically, however, that the decision not to provide the additional funds does not signal any change in the congressional mandate establishing a strong Office of Population Affairs. For this office can and must be staffed with-

out additional funds. I would point out that the Assistant Secretary for Health alone has 200 positions presently available. The personnel needs of the Office of Population Affairs can easily be allocated from that large pool.

Clearly, funds adequate for staffing of the office have been provided in the fiscal 1979 bill, and clearly Congress intends that adequate staffing of the office be a top priority of the Department. I thus strongly urge departmental compliance with the congressional intent regarding the importance of this office.

Mr. President, at that time, I pointed out in my comments that—

The budget request always has included the funding for the position of the Deputy Assistant Secretary for Population Affairs and the staff of the Office of Population Affairs in the request for funding for the special initiatives program. To clarify that the Committee did not intend specifically to delete funding for these positions, the Committee pointed out, on page 82 of the Committee report, that "The Secretary shall draw from this large pool of positions (400 positions in the Office of the Assistant Secretary for Health) for any legislatively mandated positions as priorities permit."

I would like to clarify with the distinguished floor managers, my understanding, as the authorizing subcommittee chairman, that the statement made by Senator BROOKE and the language in the committee report to which I referred still is applicable.

Mr. MAGNUSON. The Senator from California is correct. The Senator from Massachusetts accurately described the intent of the committee, and that continues to be our intention.

Mr. BROOKE. I agree completely and thank my colleague from California for making this totally clear.

Mr. CRANSTON. I thank both my colleagues very much.●

● Mr. HATCH. Mr. President, those of us who oppose the Federal funding of abortions on demand for medicaid recipients, and I believe the majority of Senate Members feel this way, were greatly dismayed over how Secretary of HEW, Joseph Califano, interpreted this language, which undoubtedly will pass today. The potential for abuse is tremendous. I truly believe it is the intent of a majority of the Members of this body to have this language strictly interpreted and enforced and not have the language be an open door to allow any and all abortions. The best analysis I have seen respecting the inadequacies of the HEW regulations, was sent by 50 House Members to Secretary Califano on February 22, 1978. I would like this letter included in the record as part of the Senate's legislative history because it reflects the views of many of our Members as well:

FEBRUARY 22, 1978.

Hon. JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: As you know, on December 7, 1977, the U.S. Congress passed the following language on a Continuing Resolution, for the Department of Health, Education, and Welfare for the 1978 fiscal year. The purpose of this resolution is to limit HEW funding for abortions:

"None of the funds provided for in this paragraph shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.

"Nor are payments prohibited for drugs or devices to prevent the implantation of the fertilized ovum or for medical procedures necessary for the termination of an ectopic pregnancy.

"The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced. (Section 101 of Public Law 95-205)."

On January 26th, 1978, HEW issued regulations respecting the implementation of the above law.

In arriving at these regulations, your office had a series of basic policy regulations to decide. As Attorney General Bell correctly noted in his letter to you respecting the new regulations: ". . . for the most part, neither the language of the section nor its legislative history provides clear answers." The Attorney General further noted that you had broad discretion on deciding these basic policy issues.

In the opinion of the undersigned, you as Secretary of HEW used your broad discretion to resolve each of the basic questions of law in favor of the permissive position advocated by the Senate, as opposed to the far more restrictive position continually maintained in the House. But beyond this overly expansive rendering of the provisions of the new law, of equal or greater concern is the fact that the regulations do not provide for the enforcement of the provisions of the law (even liberally interpreted) in terms of: a) determining whether abortions are being performed for actual or fictitious serious physical health conditions, or b) for actual or fictitious incidents of rape or incest. Even assuming that HEW launches a major auditing effort to guarantee that federal funds are being expended only after signed certificates from physicians are received, there can be little hope that such an effort will reduce, by one, the number of fraudulent claims for reimbursement for abortions performed on healthy women; the same applies in cases of rape or incest reports. Finally, the regulations fail to provide for the needs of actual rape and incest victims after the abortion.

While, strictly speaking, the regulations do not in every instance fall outside the letter of the law, they most certainly violate the intent, purpose and spirit of the law; and in so doing they render meaningless the oft repeated commitment of the Carter administration to a strict limitation on the use of Federal funds for abortion.

Specific concerns with the regulations follow:

(A) The regulations are overly permissive in regard to each of the key provisions of the new law:

(1) "Medical procedures" are interpreted to include abortions. HEW could have interpreted medical procedures *not* to include abortion. To support such an interpretation, you could have cited the history of the use of the phrase "medical procedures" in a) last year's conference report, in b) this year's evolving floor language, and c) as the words were understood by the author of the final language that became law.

(2) Rape is interpreted as including statutory rape. The regulations could have limited rape to forced rape. To support such an interpretation HEW could have referred to Congressman George Mahon, Chairman of the House Appropriations Committee, when he said on the floor on December 7, that, "If I know anything about words, 'rape' means 'force,' . . ."

(3) Reporting requirements for rape and incest victims are lax and ineffective.

(a) Anyone can report the crime, even the secretary of an abortion clinic; and the report can be made after the abortion has been completed.

(b) The report can be made up to two months after the crime was allegedly committed. Here is a case where both the language in the law *and* the legislative history were *very* clear. Nevertheless, HEW adopted the weaker position. The law requires that incidents of rape and incest be "promptly reported." However, the regulations define the word "promptly" to mean a full 60 days. Inclusion of the word "promptly" was first proposed by Senator Helms who said that, "placing the word 'promptly' before the word 'reported' will eliminate the possibility that 2 or 3 months after the fact, a supposed victim could claim to have been raped when as a matter of fact she had not." The Senate initially defeated inclusion of the word because it was too strong, but later in an effort to come up with compromise language that the House would accept, they included it. But in including it, Senators Metzenbaum, Brooke and Magnuson said it did not mean what its original author, Helms, had said, but rather it meant months, even 90 days or more. When the House considered and debated the word 'promptly,' three leaders of the compromise forces, Chairman Mahon of the Appropriations Committee, Robert Michel, Minority Leader of the Labor/HEW Subcommittee and Representative Don Bonker all indicated that 'promptly' meant precisely that, promptly. Representative Michel referred to a 30-day range and Congressman Bonker said, "promptly does not mean it could be done 4 or 5 weeks later and reported and thus qualify for Medicaid abortion." In drating the regulations, HEW disregarded the common sense understanding of the word "promptly," disregarded the intent of the original author of the language, disregarded the intent of the compromise forces in the House who accepted and defined the language, and instead went along with the interpretation provided by by the pro-abortion leaders in the Senate.

(c) The report of the crime of rape or incest can even be made by mail, and need only include the victim's name, *not* address. Nowhere in the law or the legislative history is it indicated that the victim's address need *not* be reported. Inclusion of the victim's address was specifically referred to by Congressman Michel on the floor (12/6/77 *Cong. Rec.* 38395). Congressman Michel also said, "and then I would expect . . . some exchange or confirming of interrogation that would take place." (38394). Yet not even the *address* is required by HEW.

(B) The regulations fail to establish any procedures requiring accountability on the part of physicians who perform abortions on their patients. Thus, HEW will be unable to determine if the abortions that are allegedly performed for reasons of: a) danger to the life of the mother; b) physical health damage; or c) rape or incest, are actually being done for these reasons. (The potential for abuse in this area by physicians who perform abortions is not remote. Consider the following: In 1967 the state of California adopted an abortion statute that contained a mental health exception. In four years the number of legal abortions skyrocketed going from 700 a year to 116,749. Well over 90% of these abortions were done for reasons of mental health. The California General Assembly had attempted to avoid this abuse by defining mental health to mean "mental illness to the extent that the woman is dangerous to herself or to the person or property of others and is in need of supervision or restraint." In addition, the California statute

required three physicians certify that the abortion is necessary. Nevertheless, by 1971 well over 100,000 abortions were being performed, for this reason, annually in California. New York State didn't require the subterfuge of "mental health" in its statute. It reported only 2% done for this reason.) Consequently, rather than discouraging abuse in the area of abortion funding, the regulations invite abuse.

(1) It can reasonably be argued that the HEW regulations could have required that the health conditions that warrant an abortion must be a) pre-existing, or b) present when the abortion occurs. Then HEW could have indicated that its officials would randomly check medical records in order to:

(a) Ascertain if, in fact, doctors were abiding by the regulations; and if not,

(b) Take remedial action whenever abuse was detected.

Instead, HEW requires no medical documentation to support the need for an abortion and accepts as final the doctor's signature that the abortion was necessary. Furthermore, a high-ranking HEW official was quoted as saying, ". . . that checking up on 'fraud' would not include second guessing of doctors' medical decisions, by either state or federal officials". (*Washington Post* 1/27/78).

It is important to note here, that in an effort to justify this lack of accountability of physicians, the regulations misuse statements made by pro-life Congressmen. During the debate on the House floor, Congressmen Hyde of Illinois and Bauman of Maryland, expressed the concern that the exception of "severe and long-lasting physical health damage" would be abused. Congressman Hyde said, "The long and short of it is, whatever is serious, whatever is long-lasting, it is up to the doctor to decide. It can be a migraine headache or it could be varicose veins; it could be any condition that, in the doctor's medical judgement, is serious and would be long-lasting." (*Cong. Rec.* 12/6/77).

Congressman Bauman said: ". . . as to the mother's health exception it would be left to the doctor." (*Cong. Rec.* 12/7/77). HEW included these quotes in its regulations not in the context of accepting them as a warning, signaling the need to formulate regulations that would prevent abuse by holding physicians accountable, but rather as a justification for *not requiring* any concrete documentation of the need for the abortion at all.

(2) HEW could have required that the reporting of the crime of rape or incest include enough information so appropriate authorities could randomly investigate to see if the complaints of a crime were supported by any evidence. This would serve as a deterrent to anyone who would consider making a false complaint of being a victim of rape or incest. Instead, all that HEW requires is for the name of the individual to be sent by mail (by anyone) to a designated law enforcement agency or public health entity. What those institutions can do with only names is obvious, nothing.

(C) Finally, HEW showed an alarming lack of understanding in respect to the kinds of help the actual victims of rape and incest need; and what its responsibility to society in this area should be. In its exercise of tunnel vision to protect an individual from ever having to justify a claim of rape or incest in order to obtain a Medicaid abortion, HEW has effectively precluded the automatic involvement of responsible authorities, legal and social service, to intervene in an attempt to:

(1) Determine if, in fact, there has been the commission of a crime.

(2) If possible get the rapist off the street, so that other girls/women will not be victimized;

(3) Get the victim of an incestuous relationship out of the home; and

(4) Provide counseling where necessary for the victims of rape or incest.

HEW had the opportunity to come up with tight regulations that would have effectively limited federal funding to abortions that actually fit within the stipulations of the law as intended by Congress. By adopting stricter regulations HEW might have limited the number of federally funded abortions to 20,000 or less. In rejecting this possibility, HEW has opened the door to massive abuse.

Instead of implementing a compromise that would be observed and a statistical experience developed, the HEW regulations have nullified the House's efforts and fueled more controversy in the immediate future.

We respectfully urge you to re-draft these regulations more in keeping with the intent expressed by the amendment's author and the House.

Sincerely,

Tennyson Guyer, Larry McDonald, Frank Annunzio, Robert E. Badham, James A. Burke, Thomas N. Kindness, David C. Treen, Harold L. Volkmer, Robert A. Young, Delbert L. Latta, Joseph M. Gaydos, Trent Lott, Donald J. Mitchell, Romano L. Mazzoli, Tom Corcoran, Samuel L. Devine.

Marty Russo, David E. Bonior, Louis Frey, Jr., John G. Fary, James L. Oberstar, Robert K. Dornan, Richard Nolan, Gunn McKay, Henry J. Hyde, Edward J. Derwinski, Bruce F. Vento, Dale E. Kildee, Robert L. Livingston, Harold Runnels, Joseph M. McDade, G. William Whitehurst.

Billy Lee Evans, Bob Wilson, Robert E. Bauman, Joshua Eilberg, John H. Rousselot, Philip M. Crane, Leo Zeferetti, Henry J. Nowak, Robert S. Walker, Robert J. Cornell, Jim Leach, Richard Kelly, Alan Stangeland, Bill Chappell, Jr., Mickey Edwards, Thomas Luken.●

● Mr. ZORINSKY. Mr. President, my concern centers on one aspect of the Labor-HEW appropriation bill—the appropriation for school assistance in federally affected areas—commonly known as impact aid.

It is my understanding that the House allowance for payments under section 3 of Public Law 874 was the same as the administration's budget request—$711.3 million—and that request was intended to cover $337 million for children counted under section 3(a) of Public Law 874, the so-called "A" children, and $374.3 million for children counted under section 3(b) of Public Law 874, the "B" children. The Senate allowance reduced those amounts and the conference report compromises at $674 million—$317 million for "A" children and $357 million for "B" children.

I also understand the conferees intend that payments for "A" children be made fully to comply with the requirements of tier II of the payments schedule in section 5(c) of Public Law 874, and that the shortfall in funding the total of tier II is to be absorbed by ratably reducing payments for "B" children—including children of military personnel. Is my understanding of the situation correct?

Mr. MAGNUSON. Yes, that is correct.

Mr. ZORINSKY. I appreciate and support the chairman's effort to hold down spending—including unreasonable increases in impact aid. However, I am concerned that some heavily impacted school districts—like the Bellevue Public Schools in Nebraska—will be hurt unnecessarily and severely. These heavily impacted districts are so dependent upon impact aid that even what usually would be considered small reductions result in extreme difficulties for them—sometimes causing them to close for lack of funds. I had hoped that the conference report would permit full funding of the entitlements for heavily impacted districts, because of their unique problems in school finance. That apparently was not possible in this bill. My concerns about Bellevue are now heightened because if the allowance for payments for "A" and "B" children fall short of covering the level intended, then the Bellevue schools—and I am sure many other heavily impacted districts—will face budget reductions.

Reductions of greater than 5 percent are almost impossible to accomplish—especially when notice of the reductions is received well into the school year, as is the case now.

Could the chairman assure me that every effort will be made to determine as quickly as possible the actual amounts necessary to cover the payment levels intended and that if reductions of more than 5 percent of entitlements for heavily impacted school districts are then predictable, an effort to rectify the situation will be made in the first supplemental appropriation bill next year?

Mr. MAGNUSON. Yes, if such a serious situation develops. we could take another look at impact aid funding in the spring.

Mr. ZORINSKY. I would hope the distinguished chairman would give me his further assurance that it is his understanding of the committee intent that the Deparment of HEW grant the highest priority to funding of the "military B" entitlement, once "A" entitlements have been met.

Mr. MAGNUSON: The Office of Education must do everything possible to assure that school districts where there is a clear Federal impact will not be adversely affected. The committee will keep a close eye on this situation.

Mr. ZORINSKY. Mr. President, I thank the distinguished chairman of the Appropriations Committee for his assurances.

Mr. President, the Bellevue school district in Nebraska enrolls approximately 10,000 pupils; 60 percent are dependents of those employed at Offutt Air Force Base and Headquarters, Strategic Air Command. The 6,000 federally connected pupils are divided roughly equally between "A" pupils, whose parents live and work on base, and "B" pupils, whose parents either live or work on base. Of the "B" pupils, 85 percent are military "B" children.

Throughout all of Public Law 874 history, the Bellevue school district has been identified as one of a handful of severely impacted school districts.

Every major study of Public Law 874 has labeled the severely impacted districts such as Bellevue as prisoners of the Federal Government, and most such studies have recommended special funding provisions. Funding of such districts is so unique that attempting to provide

anything less than full entitlement has invariably resulted in a financial crisis for them.

Public Law 874 payments are based upon the premise that school districts obtain local tax revenue from two primary sources: First, the homes of the residents, and second, the commercial businesses and industry associated with those residents. Normally, a school district will obtain about one-half of its local tax funds from each of the two sources.

Military installations such as Offutt, however, are self-contained communities. These installations have their own restaurants, hospitals, banks, recreation facilities, and shops. The normal services associated with a large employer are simply not present in districts such as Bellevue. The payments for "A" students generally have been accepted by Congress as justified on the basis that no local tax base is available.

Obviously, the "B" military families pay taxes on their homes just as any other homeowner. Here the resemblance ceases. Few, if any, local taxes beyond those on the residence can be attributed to the military "B" family, which avails itself of the many tax exempt services provided on base.

Their place of employment is exempt from taxes. The Soldiers and Sailors Relief Act allows military families to maintain their legal residence in other States, so automobiles may be licensed as out-of-State. The latest figures indicate that one-third of the vehicles registered in Sarpy County, where the Bellevue district is located, are licensed as out-of-State. The annual county tax loss on out-of-State vehicle registrations is estimated at more than $1 million. State income taxes are paid to the State of legal residence for such families, and all sales and services on base are exempt from State and local sales taxes.

Offutt Air Force Base is one of the few Federal installations in the United States on which the Federal Government has exercised the principal of exclusive jurisdiction. Consequently, privately owned property located on base, such as utilities and leased equipment, is wholly exempt from local taxes.

Certainly, there is an intangible but very real benefit to the metropolitan area and to the State in having the Offutt military installation where it is. This intangible benefit, however, cannot be taxed by the school district. The local tax base per student, due to the Federal impaction, is next to the lowest of the 297 unified school districts in Nebraska; 19 percent of the district area is owned by the Federal Government, yet since the land was acquired prior to 1939, the district does not qualify for the special section 2 provisions of this law. The Bellevue district cannot be compensated for the continuing and substantial financial burdens imposed by Federal property ownership.

These unique circumstances justify funding the military "B" students at full entitlement. Indeed, the impact aid program was originally designed to meet the needs of districts like Bellevue. It is unfortunate and unfair that the Congress in continually expanding this program has strayed from both its original purpose and merits.●

● Mr. MATHIAS. Mr. President, I participated in the Joint House/Senate Conference Committee on Labor/HEW Appropriations for fiscal year 1979.

I have many interests in this bill. But recently the American people have become especially concerned about two major problems: The rapidly rising cost of health services and the depersonalization and dehumanization of the delivery of health services in our massive health care system. Solutions to these two major problems will rely on adequate funding levels for biomedical research and humanistic medicine.

One of the most seriously underfunded efforts of the National Institute of Health is in the vital field of digestive diseases. A recent report prepared by the Digestive Diseases Information Center describes the severity of the problem. According to the National Center of Health Statistics, digestive diseases are the leading cause of hospitalization in the general populace, the second major cause of disability and days lost from work, and the third leading cause of death. Digestive diseases rank second only to cardiovascular disease as a cause of visits to physicians.

It is for these reasons that I worked to help increase funding for the National Institute of Arthritis, Metabolism and Digestive Diseases. The Appropriations Conference report includes $287,869,000 for that Institute, an increase of $44 million over last year's appropriation.

Biomedical research not only pays for itself financially in a preventive medicine sense, but also in a social sense, in terms of lessened mortality among our people.

The problems of depersonalization and dehumanization permeate our health system. Humanistic medicine is designed to increase the quality of health care by increasing positive qualities of the relationships between and among health care providers and their clients.

The Institute for the Study of Humanistic Medicine and the Center for the Studies of the Person, under contract with the Bureau of Health Manpower, have during the past several years provided a firm conceptual basis upon which to achieve this goal.

Humanistic medicine is one of 21 separate categories funded under the interdisciplinary training program within the Health Resources Administration, which received a grand total of $7,140,500 for fiscal year 1979 from the Joint Conference Committee.

The national need for humanistic medicine training programs for health professional schools is clear. Health practitioners in this country receive the very best preparation in the science and technology of health, illness, and its treatment. This is as it should be. However, many practitioners graduate from our schools unable to use their scientific and technological knowledge and skills without offending, or in some cases violating, the sensibilities of their patients.

This is not as it should be, especially when training programs are available to assist practitioners in developing knowledge, appropriate attitudes, and specific skills to deliver health services in a way that respects the dignity of the patient. I am proud to acknowledge that the University of Maryland School of Medicine has already demonstrated leadership in developing such training programs.

The problem of depersonalization and dehumanization has received a great deal of attention in the media as well as from professionals. Congress has already recognized a need for such training and yet an appropriate funding mechanism has not been established. I will work to see that this approach to humanistic medicine not be neglected in the future.●

● Mr. PELL. Mr. President, the conference report now before us provides $2.6 billion in new moneys for the basic educational opportunity grant program. Under the family contribution schedule for that program, as amended by this legislation, there is a chance that there will not be sufficient funds to fully meet all entitlements under the basic grant program. I recognize the reasons behind agreeing to the $2.6 billion figure, since there is some uncertainty as to how much carryover funds remain in the program, and we do not yet know the fate of the higher education tax credit legislation. However, if the tax credits are not enacted, and if the carryover funds are not sufficient, with the additional funds included in this bill, to fully meet all basic grant entitlements, will the chairman consider the possibility of making a supplemental appropriation to fully meet these entitlements? And, if the chairman would entertain such a possibility, would he do so as early in the next session of Congress as possible?

Mr. MAGNUSON. We will be doing a supplemental early next year, probably in March or April. If all of these uncertainties have been cleared up, I think we could take another look at what would be needed to fund middle-income student assistance.

Mr. President, I understand that the parliamentary procedure is that I move that the Senate adopt the conference report.●

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The conference report was agreed to.

Mr. MAGNUSON. And that is subject to discussion.

Then, Mr. President, because these other matters are not involved——

The PRESIDING OFFICER. The chairman put that motion before those amendments were in order.

The question is on agreeing to the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 9 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: including 9,258 full-time permanent positions,

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: including 2,062 full-time permanent positions.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 16 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: , including 788 full-time permanent positions

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: , including and not to exceed 649 full-time permanent positions

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $231,058,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 25 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: , including 179 full-time permanent positions

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 29 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: , including 258 full-time permanent positions

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 31 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: , including 186 full-time permanent positions

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 32 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $73,512,000

Resolved, That the House recede from its disagreement to the amendment of the Seate numbered 33 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: , including 405 full-time permanent positions

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 38 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: , including 503 full-time permanent positions

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 39 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: including 4,780 full-time permanent positions and

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: , including 1,275 full-time permanent positions,

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 44 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $51,232,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 57 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *: Provided,* That the total amount paid with respect to entitlements under section 3(b) of that title shall not exceed the amount paid under that section in fiscal year 1978, and any reductions required thereby shall be derived by proportionately reducing the payments applied for by all local educational agencies under section 3(b).

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 72 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: That such funds may be expended notwithstanding the provisions of section 1208(a)(2) of the Higher Education Act: *Provided further,* That (1) Funds appropriated in this Act for Basic Educational Opportunity Grants under the Higher Education Act of 1965 shall be used to make basic grants consistent with the Schedule of Expected Family Contribution in effect as of October 1, 1978, except that (A) such schedule shall not have an assessment rate on parental discretionary income in excess of 10.5 per centum, (B) such schedule shall not reduce the maximum basic grant below $1,800, and (C) such schedule shall retain the provisions relating to independent students as were in effect for the academic year 1978–79.

(2) If funds contained in this Act available for basic educational opportunity grants are insufficient to satisfy fully all basic grant entitlements as determined by the Family Contribution Schedule as modified by paragraph (1), the amount paid wtih respect to each such entitlement shall be—

(A) the full amount in the case of any entitlement which exceeds $1,600;

(B) in the case of any entitlement which exceeds $1,200 but does not exceed $1,600, 90 per centum thereof;

(C) in the case of any entitlement which exceeds $1,000 but does not exceed $1,200, 75 per centum thereof;

(D) in the case of any entitlement which exceeds $800 but does not exceed $1,000, 70 per centum thereof;

(E) in the case of any entitlement which exceeds $600 but does not exceed $800, 65 per centum thereof; and

(F) in the case of any entitlement which does not exceed $600, 50 per centum thereof: *Provided further,*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 80 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $134,472,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 92 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *: Provided,* That $7,500,000 of the foregoing amount shall be apportioned for the purposes of the special projects authorized by section 2(c) of the Indochina Migration and Refugee Assistance Act of 1975, as amended, to be administered primarily by the private voluntary resettlement agencies

Resolved, That the House insist on its disagreement to the amendment of the Senate numbered 103 to the aforesaid bill.

The PRESIDING OFFICER. Now, the amendments the Senator——

Mr. MAGNUSON. Now, I ask unanimous consent that the Senate concur in several amendments, and I have them numbered here en bloc.

Mr. President, I ask unanimous consent that the Senate concur in the amendments of the House to the amendments of the Senate numbered 9, 15, 16, 23, 24, 25, 29, 31, 32, 33, 38, 39, 42, 44, 57, 72, 80, and 92, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Now, Mr. President, I ask unanimous consent that it be in order to move that the Senate recede from its amendment No. 103 and agree to the House bill with a further amendment.

That is what we are talking about, another amendment, and I send that amendment to the desk, and that is the same language in the continuing resolution.

Mr. BROOKE. All right.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment.

Mr. MAGNUSON. Now, that is open for further discussion.

Several Senators addressed the Chair.

Mr. GLENN. Mr. President, I had a short colloquy to engage in with the distinguished manager of the bill, if he would care to do that at this time.

Mr. BROOKE. Yes.

Mr. MAGNUSON. Is the Senator asking about a statement on the national research and vocational education in Ohio? The Senator from Massachusetts and I think we know a great deal about it.

It is a pilot operation that has been doing a great job for the country. The House appropriated some figure and we agreed on another figure, $10 million.

It is in the second year of a 5-year contract.

We strongly urged the Senate proceed to the House figure, but we did not get any place with some of the other Members. But everybody was conscious of it.

We are going to keep it alive, if we can. Still, a supplemental is coming up.

I suggest to the Senator from Ohio who has quite a long colloquy here, that we put this in the RECORD and my answers about the 1978 level of spending.

Mr. GLENN. Mr. President, I would agree with the distinguished floor manager.

Mr. President, when the Labor-HEW appropriations bill was considered by the Senate, I expressed my strong support for full funding of the National Center for Research in Vocational Education. The Center is funded under the programs of national significance. The House had appropriated $29.5 million for this line item while the Senate had provided no funds. The Senate-House conferees agreed on a figure of $10 million.

The Center is in the second year of its 5-year contract and is supported by

$5.5 million in Federal money in 1978–79. It is designed to provide comprehensive planning, improved evaluation of vocational education programs, and leadership development. Information on policy and planning is also provided by the Center to the Office of Education at HEW. By providing these coordinated services at the national level it has helped to eliminate duplication of effort among the 50 States. If the funding is terminated the Office of Education estimates that over $10 million of previous investments of Federal money would be lost. The Center employs approximately 360 people.

During Senate consideration of the appropriations bill, I strongly urged that the Senate recede to the House figure. The distinguished chairman of the Appropriations Committee, WARREN MAGNUSON, agreed that the work of the Center was indeed very valuable and important. I understand the Center has a very high priority in the Office of Education. I intend to work with the Commissioner of Education to insure that $5.5 million of the money appropriated for the programs of national significance go to the support of the congressionally mandated National Center for Research in Vocational Education.

Mr. MAGNUSON. Mr. President. I commend the Senator from Ohio for his continued interest in the National Center. I would hope that the Commissioner of Education will make continuance for the National Center for Research in Vocational Education a high priority. It is also my hope that the Center's funding is maintained close to its 1978 level of $5.5 million.

Mr. PROXMIRE. Mr. President, what is the parliamentary situation? Is the HEW conference report pending or has it passed?

Mr. BROOKE. It is pending.

The PRESIDING OFFICER. The amendment in disagreement is pending and there is a time limit of 40 minutes that will expire in about 4 minutes.

Mr. PROXMIRE. I thank the Senator.

Mr. DURKIN. Will the Senator yield for 3 seconds?

Mr. MAGNUSON. Yes; but I wonder if my colleagues would let us finish this one amendment. Then the Senator from Massachusetts and I will be glad to answer all the questions.

The important thing is to agree to this particular amendment that I submitted.

Will the Chair put the motion to agree to the amendment?

Mr. BROOKE. They did.

Mr. MAGNUSON. Was it approved?

Mr. BROOKE. Yes.

Mr. MAGNUSON. All right.

Then I will be glad to yield to the Senator from Missouri.

The PRESIDING OFFICER. The Senate has not acted on the amendment. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BROOKE. Mr. President, I am going to ask unanimous consent that we have an additional 15 minutes for this conference report. We entered into a very short time agreement. The Senator from Missouri wants to be heard. The Senator from New Hampshire wants to be heard. I promised Senator HELMS 5 minutes, he wants to be heard.

Mr. BIDEN. Mr. President, reserving the right to object, I wonder if our colleagues know that a number of us made plans based on this expiring at 20 minutes of. I wonder if my colleagues would do what the rest of us have done, read the first line and put the rest in the RECORD.

I object. I will not wait for Senator HELMS.

The PRESIDING OFFICER. Objection is heard.

Mr. EAGLETON addressed the Chair.

Mr. BROOKE. I hope the Senator will reconsider. We have some time remaining. The Senator from New Hampshire——

Mr. EAGLETON. Mr. President, I would like to address a question, if I could, to the distinguished chairman.

I wish to inquire as to the intent of the conferees with respect to section 201 of the bill. Section 201 explicitly states that the reduction is to be achieved solely by the reduction of fraud, abuse, and waste, and that the amendment may not be construed to change any authorizing statute. The joint explanatory statement of the committee of conference states that "the conferees intend that reductions totaling $1 billion be made in the individual accounts covering the programs cited by the Inspector General * * * as containing waste, fraud, and abuse."

As I understand it, Mr. President, the conferees expect to see expenditures from the individual accounts reduced by $1 billion, but this is to be accomplished only by a reduction in the fraud, abuse, and waste, and in no way authorizes the Secretary of HEW to reduce amounts that he is legally obligated to pay to grantees and beneficiaries by statute. I would appreciate the chairman's clarification on this point.

Mr. MAGNUSON. The Senator from Missouri's interpretation is correct. The conferees have set a goal for HEW in this regard. The bill does not authorize the Secretary of HEW to reduce expenditures from those accounts below the amount of the appropriation. All amounts legally owing under the covered statutes must be paid to the limit of the full appropriation. This in no way should affect the legitimate payments, entitlements, and scores of things we have in HEW.

Mr. EAGLETON. I thank the distinguished chairman.

Mr. MAGNUSON. I think they will find more than $1 billion when they get through.

Mr. BROOKE. Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. SASSER). All time has expired.

Mr. BROOKE. Mr. President, I ask unanimous consent that we may proceed for 5 additional minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BROOKE. Mr. President, I yield to the Senator from North Carolina.

Mr. HELMS. I thank the distinguished Senator from Massachusetts.

Mr. President, the language that the Senate is adopting is the present language in the law. My position on this language is clear. But what is also clear is that this language represents an agreement between the Senate and the House that Federal funding of abortions should be strictly limited to only those circumstances specified and that no loopholes should exist.

Regarding the provision concerning the procedures necessary for the victims of rape and incest, some of my colleagues may remember that I initially offered language to that section requiring that such rape or incest be "promptly reported." That additional requirement ultimately became part of the compromise which both the House and Senate have determined to accept.

My intent in offering this provision, which the Senate has accepted, is to prevent fraud and abuse and encourage women who have been victimized to seek proper and effective treatment. In order to accomplish this purpose, the interpretation of this provision must rest on the purpose for obtaining medical treatment following an attack of rape. This purpose is threefold:

First, to obtain medical treatment to prevent venereal disease and to treat other physical injuries;

Second, to obtain evidence that the crime of rape has been committed; and

Third, to obtain treatment to prevent the occurrence of pregnancy.

Mr. President, for these three objectives to be met, and I repeat again that this is the purpose of the "prompt reporting" language, the crime must be reported and medical treatment obtained within 48 hours of the attack. If we are serious about preventing fraud and abuse, if we are serious about preventing loopholes, then the term "prompt reporting" must be interpreted as meaning a matter of hours and not a matter of months. However, this does not preclude a different interpretation of what prompt reporting means in cases of incest. But, in the matter of an attack of rape, we must encourage this early treatment not just to prevent fraud and abuse, but in the best medical interests of the women involved.

Mr. President, I would suggest that to meet our goal that fraud and abuse of Federal funds be prevented under this language, abortions for which Federal reimbursement are sought must be identified as abortions and not camouflaged with other language. For example, one common method of abortion is a dilitation and curettage which is often referred to as a "D & C." Under this procedure the surgeon inserts an instrument, a curette, up into the uterus and then cuts the placenta and baby into pieces and scrapes them into a basin. However a dilitation and curettage is sometimes performed on a woman who is not pregnant. The administration of the language we are adopting today must have adequate oversight provisions to assure that no abortions are listed as a dilitation and curettage done for purposes other than to terminate a woman's pregnancy.

Mr. BROOKE. Mr. President, I yield to the Senator from Indiana.

Mr. BAYH. Mr. President, I listened to the comments of the chairman and the distinguished ranking minority member in discussing this bill, and I must say that they adequately have touched the critical point of it.

I would just like to say how much I think Congress owes to Senator MAGNUSON and Senator BROOKE for the persistence and the leadership they have provided in this very important piece of legislation.

In my judgment, the Health, Education, and Welfare appropriation bill, more than any other piece of legislation, symbolizes what the soul of America is all about. We can talk a good game, but when it comes to showing the country and the world how we spend our money, that is what we really feel is important.

This is an important bill, and to our chairman I say that we are deeply indebted to him for the tireless effort he has expended on this bill.

Mr. MAGNUSON. I thank the Senator.

Mr. BAYH. It is my understanding that the conferees did not agree to any specific level for the Huntington's and Epilepsy Commissions.

A great deal of interest was expressed in this during the conference, and I am wondering if the chairman agrees with my impression that $4 to $6 million can be used for this purpose in the Neurology Institute.

Mr. MAGNUSON. $4 to $6 million should be used for this. The Senate increase and the conference-agreed-to figure is well over the House allowance.

In allocating these funds, the Neurology Institute should very closely follow the strong Senate report language supporting the work of these two fine Commissions.

Mr. BAYH. Mr. President, during the conference on this bill, I, as a conferee, was part of an agreement to move $2.4 million from the Center for Disease Control appropriations and $4.6 million from Assistant Secretary of Health appropriation, which were in the Senate-passed bill for smoking and health activities, to the National Institute of Environmental Health Sciences and General Medical Sciences. Half of these funds went to NIGMS and the other half went to NIEHS.

The National Institute of Environmental Health Sciences has a continuing responsibility for investigating the interaction of cigarette smoke and other environmental and occupational hazards. It is now studying the toxicity of carbon monoxide, including the effects of this gas on the heart. An understanding of these relationships is essential to the further development of avenues which are less hazardous and in gaining a better understanding of the effects of cigarette smoke on the nonsmoker.

The National Institute of General Medical Sciences conducts a program of research into the effects on the body of drugs and poisons. An expansion of this program, with emphasis on the interaction between cigarette smoking and these agents, is important to gain a better understanding of the effects of cigarette smoking in connection with these agents.

Since the funds I have referred to were included in the Senate bill for smoking and health education programs, it is my understanding that it is the intent of the conferees that these additional amounts provided to NIEHS and NIGMS should be used for expanded activities concerned with cigarette smoking.

Mr. BROOKE. Mr. President, if no one else wishes to speak, I am ready to yield back the remainder of my time.

ORDER FOR CONSIDERATION OF H.R. 14279

Mr. ROBERT C. BYRD. Mr. President, there is a time agreement on H.R. 14279, which has been cleared on both sides. It is a bill to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions.

I ask unanimous consent that upon the disposition of the pending conference report, the Senate proceed to the House message on H.R. 14279, that it be considered as having been read twice, and that the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

LABOR-HEW CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. MAGNUSON. Mr. President, I hope we can get this matter over to the House as quickly as possible, because a lot of people are thinking about their pay.

Mr. President, I ask unanimous consent that the desk be authorized to make technical and clerical corrections in the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FLEXIBLE REGULATION OF INTEREST RATES

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 14279, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 14279) to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions.

The Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs.

UP AMENDMENT NO. 2076

Mr. PROXMIRE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 2076.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following: That this Act may be cited as the "Financial Institutions Supervisory Act Amendments of 1977".

TITLE I—SUPERVISORY AUTHORITY OVER DEPOSITARY INSTITUTIONS

SEC. 101. The Federal Reserve Act is amended redesignating sections 29 and 30 as sections 30 and 31, respectively, and by inserting after section 28 a new section as follows:

"SEC. 29. (a) Any member bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such member bank who violates any provision of section 22 or 23A of this Act, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Comptroller of the Currency in the case of a national bank, or the Board in the case of a State member bank, by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or other) for or toward causing, bringing about, participating in, counseling, aiding or abetting a violation.

"(b) In determining the amount of the penalty the comptroller of the Currency or the Board, as the case may be, shall take into account the appropriateness of the penalty with respect to the size of the financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(c) The member bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subsection (d). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(d) Any member bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Comptroller of the Currency or the Board, as the case may be. The Comptroller of the Currency or the Board, as the case may be, shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Comptroller of the Currency or the Board, as the case may be, shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(e) If any member bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Comptroller of the Currency or the Board, as the case may be, shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United

States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(f) The Comptroller of the Currency and the Board shall promulgate regulations establishing procedures necessary to implement this section.

"(g) All penalties collected under authority of this section shall be covered into the Treasury of the United States.".

SEC. 102. Section 19 of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

"(i)(1) Any member bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such member bank who violates any provision of this section, or any regulation or order issued by the Board pursuant thereto, shall forfeit and pay a civil money penalty of not more than $100 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(2) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(3) The member bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in paragraph (4). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(4) Any member bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Board. The Board shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Board shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(5) If any member bank or person fails to pay an assessment after it has become a final and unappealable order or after the court of appeals has entered final judgment in favor of the agency, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(6) The Board shall promulgate regulations establishing procedures necessary to implement this subsection.

"(7) All penalties collected under authority of this subsection shall be covered into the Treasury of the United States.".

SEC. 103. Section 22 of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

"(h)(1) No member bank shall make any loan or extension of credit in any manner to any of its own officers, or to any person who directly or indirectly or acting through or in concert with one or more person owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, or to any company controlled by such an officer or person, where the amount of such loan or extension of credit, when aggregated with the amount of all other loans or extensions of credit then outstanding by such bank to such officer or person and to all companies controlled by such officer or person, would exceed the limits on loans to a single borrower established by section 5200 of the Revised Statutes, as amended, in the case of a national banking association, or by the applicable State law in the case of a State member bank.

"(2) No member bank shall make any loan or extension of credit in any manner to any of its own officers or directors, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, or to any company controlled by such an officer, director, or person, where the amount of such loan or extension of credit, when aggregated with the amount of all other loans or extensions of credit then outstanding by such bank to such officer, director, or person and to all companies controlled by such officer, director, or person, would exceed $25,000, unless such loan or extension of credit is approved in advance by two-thirds of the entire board of directors with the interested party abstaining from participating directly or indirectly in the voting.

"(3) No member bank shall make any loan or extension of credit in any manner to any of its own officers or directors, or to any person who directly or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, or to any company controlled by such officer, director, or person, unless such loan or extension of credit is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"(4) For purposes of this subsection, an officer, director, or person shall be considered to have control of a company if said officer, director, or person, directly or indirectly or acting through or in concert with one or more other persons—

"(A) owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the company;

"(B) controls in any manner the election of a majority of the directors of the company; or

"(C) has the power to exercise a controlling influence over the management or policies of such company.

"(5) For the purposes of this subsection—

"(A) the term 'person' means an individual or company;

"(B) the term 'company' means any corporation, partnership, business trust, association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, any other form of business entity not specifically listed herein, or any other trust, but shall not include any insured bank or any corporation the majority of shares of which is owned by the United States or by any State;

"(C) the term 'extension of credit' has the same meaning assigned such term in the fourth paragraph of section 23A of this Act;

"(D) a person shall be deemed to be a 'director' of a member bank or a 'person who directly or indirectly or acting through or in concert with one or more persons owns, controls or has power to vote more than 10 per centum of any class of voting securities of a member bank' if such person has such relationship with any bank holding company of which such member is a subsidiary, as defined by the Bank Holding Company Act (12 U.S.C. 1841), or with any other subsidiary of such bank holding company; and

"(E) a person shall be deemed to be an 'officer' of a member bank if such person is an officer of any bank holding company of which such member bank is a subsidiary, as defined by the Bank Holding Company Act (12 U.S.C. 1841), or with any other subsidiary of such bank holding company.

"(6) The Board of Governors of the Federal Reserve System may prescribe such rules and regulations, including definitions of terms, as it deems necessary to effectuate the purposes and to prevent evasions of this subsection. The Board may further prescribe rules providing a reasonable period of time after the date of enactment of this subsection within which the amount of outstanding loans or extensions of credit made prior to such date of enactment shall be reduced so as to conform to the limitations of this subsection.".

SEC. 104. (a) Section 5 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844), is amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any other provision of this Act, the Board may, whenever it has reasonable cause to believe that the continuation by a bank holding company of any activity or of ownership or control of any of its nonbank subsidiaries, other than a nonbank subsidiary of a bank, constitutes a serious risk to the financial safety, soundness, or stability of a bank holding company subsidiary bank and is inconsistent with sound banking principles or with the purposes of this Act or with the Financial Institutions Supervisory Act of 1966, order the bank holding company or any such nonbank subsidiaries, after due notice and opportunity for hearing, and after considering the views of the bank's primary supervisor, which shall be the Comptroller of the Currency in the case of a national bank or the Federal Deposit Insurance Corporation and the appropriate State supervisory authority in the case of an insured nonmember bank, to terminate such activities or to terminate (within one hundred and twenty days or such longer period as the Board may direct in unusual circumstances) its ownership or control of any such subsidiary either by sale or by distribution of the shares of the subsidiary to the shareholders of the bank holding company. Such distribution shall be pro rata with respect to all of the shareholders of the distributing bank holding company, and the holding company shall not make any charge to its shareholders arising out of such a distribution.

"(2) The Board may in its discretion apply to the United States district court within the jurisdiction of which the principal office of the holding company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance therewith, but except as provided in section 9 of this Act, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.".

(b)(1) Section 408(h) of the National Housing Act (12 U.S.C. 1730a(h)) is amended by adding immediately after "under subsection (a)(2)(D)" in paragraphs (3)(A) and

(3)(B) of subsection (h) the phrase "or under subsection (h)(5)" and is amended by redesignating paragraph (h)(5) as (h)(6) and by adding a new paragraph (h)(5) to read as follows:

"(5)(A) Notwithstanding any other provision of this section, the Corporation may, whenever it has reasonable cause to believe that the continuation by a savings and loan holding company of any activity or of ownership or control of any of its noninsured subsidiaries constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary insured institution and is inconsistent with the sound operation of an insured savings and loan institution or with the purposes of this section or with the Financial Institutions Supervisory Act, order the savings and loan holding company or any of its subsidiaries, after due notice and opportunity for hearing, to terminate such activities or to terminate (within one hundred and twenty days or such longer period as the Corporation directs in unusual circumstances) its ownership or control of any such noninsured subsidiary either by sale or by distribution of the shares of the subsidiary to the shareholders of the savings and loan holding company. Such distribution shall be pro rata with respect to all of the shareholders of the distributing savings and loan holding company, and the holding company shall not make any charge to its shareholders arising out of such a distribution.".

"(B) The Corporation may in its discretion apply to the United States district court within the jurisdiction of which the principal office of the company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance therewith, but except as provided in subsection (k), no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section to review, modify, suspend, terminate, or set aside any such notice or order.".

(2) Section 406(f) of the National Housing Act (12 U.S.C. 1729(f)) is amended to read as follows:

"(f)(1) In order to prevent a default in an insured institution or in order to restore an insured institution in default to normal operation, the Corporation is authorized, in its discretion and upon such terms and conditions as it may determine, to make loans to, to purchase the assets of, or to make a contribution to, an insured institution or an insured institution in default.

"(2) Whenever an insured institution is in default or, in the judgment of the Corporation, is in danger of default, the Corporation may, in order to facilitate a merger or consolidation of such insured institution with another insured institution or the sale of the assets of such insured institution and the assumption of its liabilities by another insured institution and upon such terms and conditions as the Corporation may determine, purchase any such assets or assume any such liabilities or make loans to such other insured institution, or guarantee such other insured institution against loss by reason of its merging or consolidating with or assuming the liabilities and purchasing the assets of such insured institution in or in danger of default.

"(3) No contribution or guarantee shall be made pursuant to paragraphs (1) or (2) of this subsection (f) in an amount in excess of that which the Corporation finds to be reasonably necessary to save the cost of liquidating such insured institution in or in danger of default, but if the Corporation determines that the continued operation of such institution is essential to provide adequate savings or home financing services in its community, such limitation upon the amount of a contribution or guarantee shall not apply.".

SEC. 105. (a) Section 8 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1847), is amended by redesignating "SEC. 8." as "SEC. 8. (a)" and by adding a new subsection (b) to read as follows:

"(b)(1) Any company which violates or any individual who participates in a violation of any provision of this Act, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board by written notice. As used in the section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(2) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the company or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(3) The company or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in section 9. If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(4) If any company or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Board, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(5) The Board shall promulgate regulations establishing procedures necessary to implement this subsection.

"(6) All penalties collected under authority of this subsection shall be covered into the Treasury of the United States.".

(b) Section 5 of the Bank Holding Company Act is amended by adding the following new paragraph:

"(e) In the course of or in connection with an application, examination, investigation or other proceeding under this Act, the Board, or any member or designated representative thereof, including any person designated to conduct any hearing under this Act, shall have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum; and the Board is empowered to make rules and regulations to effectuate the purposes of this subsection. The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. Any party to proceedings under this Act may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted or where the witness resides or carries on business, for the enforcement of any subpena or subpena duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any service required under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board may by regulation or otherwise provide. Any court having jurisdiction of any proceeding instituted under this subsection may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper. Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience to the subpena of the Board, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year or both.".

(c) Section 408(j) of the National Housing Act (12 U.S.C. 1730a(j)), is amended by adding thereto a new paragraph (j)(4) to read as follows:

"(4)(A) Any company which violates or any individual who participates in a violation of any provision of this section, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in the section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the company or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The company or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any company or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the company is located, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Corporation shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any company or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In

such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

SEC. 106. (a)(1) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended to read as follows:

"(b)(1) If, in the opinion of the appropriate Federal banking agency, any insured bank, bank which has insured deposits, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such a bank is engaging or has engaged, or the agency has reasonable cause to believe that the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank is about to engage, in an unsafe or unsound practice in conducting the business of such bank, or is violating or has violated, or the agency has reasonable cause to believe that the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank is about to violate, a law, rule, or regulation, or any condition imposed in writing by the agency in connection with the granting of any application or other request by the bank or any written agreement entered into with the agency, the agency may issue and serve upon the bank or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the bank or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the agency at the request of any party so served. Unless the party or parties so served shall appear at the hearing personally or by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the agency shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the agency may issue and serve upon the bank or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the bank or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such bank to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after the service of such order upon the bank or other person concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.".

(2) Section 407(e) of the National Housing Act (12 U.S.C. 1730(e)) is amended to read as follows:

"(e)(1) If, in the opinion of the Corporation, any insured institution, institution which has insured accounts or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is engaging or has engaged, or the Corporation has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to engage, in an unsafe or unsound practice in conducting the business of such institution, or is violating or has violated, or the Corporation has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Corporation in connection with the granting of any application or other request by the institution or any written agreement entered into with the Corporation, including any agreement entered into under section 403 of this title, the Corporation may issue and serve upon the institution or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Corporation at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Corporation shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Corporation may issue and serve upon the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the institution or directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such institution to cease and desist from the same, and, further to take affirmative action to correct the conditions resulting from any such violation or practice.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after service of such order upon the institution or the party or parties so served (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Corporation or a reviewing court.

"(3) This subsection and subsections (f), (g), (h), (j), (k), (m)(3), (n), (o), (p), and (q) of this section shall apply to any savings and loan holding company, and to any subsidiary (other than an insured institution) of a savings and loan holding company, as those terms are defined in section 408 of this title, and to any affiliate service corporate of an insured institution in the same manner as they apply to insured institutions.".

(3) Section 5(d)(2) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(d)(2)), is amended to read as follows:

"(2)(A) If, in the opinion of the Board, any association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association is engaging or has engaged, or the Board has reasonable cause to believe that the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association is about to engage, in an unsafe or unsound practice in conducting the business of such association, or is violating or has violated or the Board has reasonable cause to believe that the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association is about to violate, a law, rule, or regulation, or charter, or any condition imposed in writing by the Board in connection with the granting of any application or other request by the association or any written agreement entered into with the Board, the Board may issue and serve upon the association or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the association or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such association. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Board at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Board shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Board may issue and serve upon the association or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such association an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the association or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such association to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

"(B) A cease-and-desist order shall become effective at the expiration of thirty days after service of such order upon the association or the party or parties so served (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.

"(C) This paragraph and paragraphs (3), (4), (5), (7), (8), (9), (10), (12) (A) and (B), (13), and (14) of this subsection (d) shall apply to any savings and loan holding company or to any subsidiary (other than an association) of a savings and loan holding company, as those terms are defined in section 408 of the National Housing Act (12 U.S.C. 1730a), as amended, and to any affiliate service corporation of an association in the same manner as they apply to an association.".

(4) Section 206(e) of the Federal Credit Union Act (12 U.S.C. 1786(e)(1)) is amended to read as follows:

"(e)(1) If, in the opinion of the Adminis-

trator, any insured credit union, credit union which has insured accounts, or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union is engaging or has engaged, or the Administrator has reasonable cause to believe that the credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union is about to engage, in an unsafe or unsound practice in conducting the business of such credit union, or is violating or has violated, or the Administrator has reasonable cause to believe that the credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Administrator in connection with the granting of any application or other request by the credit union or any written agreement entered into with the Administrator, the Administrator may issue and serve upon the credit union or such director, officer, committee member, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the credit union or the director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Administrator at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Administrator shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Administrator may issue and serve upon the credit union or the director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the credit union or its directors, officers, committee members, employees, agents, and other persons participating in the conduct of the affairs of such credit union to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after the service of such order upon the credit union or other person concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.".

(b) Section 8(b)(3) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818(b)(3)), is amended: (1) by inserting after "Bank Holding Company Act of 1956" a comma and the following: "and to any organization organized and operated under section 25A of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act,"; and (2) by adding at the end thereof the following new sentence: "Nothing in this subsection or in subsection (c) of this section shall authorize any Federal banking agency, other than the Board of Governors of the Federal Reserve System, to issue a notice of charges or cease-and-desist order against a bank holding company or any subsidiary thereof (other than a bank or subsidiary of that bank).".

(c)(1) Sections 8(c) (1) and (2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c) (1) and (2)) are amended to read as follows:

"(c)(1) Whenever the appropriate Federal banking agency shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank pursuant to paragraph (1) of subsection (b) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely to seriously weaken the condition of the bank or otherwise seriously prejudice the interests of its depositors prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (b) of this section, the agency may issue a temporary order requiring the bank or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the bank or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the agency shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the bank or such director, officer, employee, agent, or other person, until the effective date of such order.

"(2) Within ten days after the bank concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank has been served with a temporary cease-and-desist order, the bank or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the bank is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the bank or such director, officer, employee, agent, or other person under paragraph (1) of subsection (b) of this section, and such court shall have jurisdiction to issue such injunction.".

(2) Section 407(f) (1) and (2) of the National Housing Act (12 U.S.C. 1730(f) (1) and (2)) is amended to read as follows:

"(f)(1) Whenever the Corporation shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution or any institution any of the accounts of which are insured pursuant to paragraph (1) of subsection (e) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the institution, or is likely to seriously weaken the condition of the institution or otherwise seriously prejudice the interests of its insured members prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (c) of this section, the Corporation may issue a temporary order requiring the institution or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the institution and/or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Corporation shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the institution or such director, officer, employee, agent, or other person, until the effective date of any such order.

"(2) Within ten days after the institution concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution has been served with a temporary cease-and-desist order, the institution or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the principal office of the institution is located, or the United State District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the institution or such director, officer, employee, agent, or other person under paragraph (1) of subsection (e) of this section, and such court shall have jurisdiction to issue such injunction.".

(3) Section 5(d)(3) (A) and (B) of the Home Owners Loan Act, as amended (12 U.S.C. 1464(d)(3) (A) and (B)), is amended to read as follows:

"(3)(A) Whenever the Board shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association pursuant to paragraph (2) (A) of this subsection, or the continuation thereof, is likely to cause insolvency (as defined in paragraph (6)(A)(i) of this subsection) or substantial dissipation of assets or earnings of the association, or is likely to seriously weaken the condition of the association or otherwise seriously prejudice the interests of its savings account holders prior to the completion of the proceedings conducted pursuant to paragraph (2)(A) of this subsection the Board may issue a temporary order requiring the association or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the association or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution and, unless set aside, limited, or suspended by a court in proceedings authorized by subparagraph (B) of this paragraph, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Board shall dismiss the charges specified in such notice or if a cease-and-desist

order is issued against the association or such director, officer, employee, agent, or other person, until the effective date of such order.

"(B) Within ten days after the association concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association has been served with a temporary cease-and-desist order, the association or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the association is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the bank or such director, officer, employee, agent, or other person under paragraph (2)(A) of this subsection, and such court shall have jurisdiction to issue such injunction.".

(4) Sections 206(f) (1) and (2) of the Federal Credit Union Act (12 U.S.C. 1786(f) (1) and (2)) are amended to read as follows:

"(f)(1) Whenever the Administrator shall determine that the violation or threatened violation or the unsafe or unusual practice or practices, specified in the notice of charges served upon the credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union pursuant to paragraph (1) of subsection (e) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the credit union, or is likely to seriously weaken the condition of the credit union or otherwise seriously prejudice the interests of its insured members prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (e) of this section, the Administrator may issue a temporary order requiring the credit union of such director, officer, committee member, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the credit union or such director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Administration shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the credit union or such director, officer, committee member, employee, agent, or other person, until the effective date of such order.

"(2) Within ten days after the credit union concerned or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union has been served with a temporary cease-and-desist order, the credit union or such director, officer, committee member, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the credit union is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the credit union or such director, officer, committee member, employee, agent, or other person under paragraph (1) of subsection (e) of this section, and such court shall have jurisdiction to issue such injunction.".

(d)(1) Section 8(e) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818 (e)), is amended to read as follows:

"(e)(1) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the bank, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the agency determines that the bank has suffered or will probably suffer substantial financial loss or other damage or that the interests of its depositors could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is either one involving personal dishonesty on the part of such director or officer, or one which demonstrates a willful disregard for the safety or soundness of the bank, the agency may serve upon such director or officer a written notice of its intention to remove him from office.

"(2) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank, by conduct or practice with respect to another insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the appropriate Federal banking agency, any other person participating in the conduct of the affairs of an insured bank, by conduct or practice with respect to such bank or other insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful disregard for its safety and soundness, and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such insured bank, the agency may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the bank.

"(3) In respect to any director or officer of an insured bank or any other person referred to in paragraph (1) or (2) of this subsection, the appropriate Federal banking agency may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written notice to such effect served upon such director, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (f) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the agency shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the bank of which he is a director or officer or in the conduct of whose affairs he has participated.

"(4) A notice of intention to remove a director, officer, or other person from office or to prohibit his participation in the conduct of the affairs of an insured bank, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the agency at the request of (A) such director or officer or other person, and for good cause shown, or (B) the Attorney General of the United States. Unless such director, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the agency shall find that any of the grounds specified in such notice have been established, the agency may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the bank, as it may deem appropriate. In any action brought under this section by the Comptroller of the Currency in respect to any director, officer or other person with respect to a national banking association or a District bank, the findings and conclusions of the Administrative Law Judge shall be certified to the Board of Governors of the Federal Reserve System for the determination of whether any order shall issue. Any such order shall become effective at the expiration of thirty days after service upon such bank and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.".

(2) Section 407(g) (1) and (2) of the National Housing Act (12 U.S.C. 1730(g) (1) and (2)) is amended to read as follows:

"(g)(1) Whenever, in the opinion of the Corporation, any director or officer of an insured institution has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the institution or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the Corporation determines that the institution has suffered or will probably suffer substantial financial loss or other damage or that the interests of its insured members could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is either one involving personal dishonesty on the part of such director or officer, or one which demonstrates a willful disregard for the safety or soundness of the institution, the Corporation may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.

"(2) Whenever, in the opinion of the Corporation, any director or officer of an insured institution, by conduct or practice with respect to another insured institution or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the Corporation, any other person participating in the conduct of the affairs of an insured institution, by conduct or practice with re-

spect to such institution or other insure institution or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful disregard for its safety and soundness, and in addition, has evidenced his unfitness to participate in the conduct of affairs of such insured institution, the Corporation may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.".

(3) Section 5(d)(4) (A) and (B) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(d)(4) (A) and (B)) is amended to read as follows:

"(4)(A) Whenever, in the opinion of the Board, any director or officer of an association has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the association, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the Board determines that the association has suffered or will probably suffer substantial financial loss or other damage or that the interests of its savings account holders could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is either one involving personal dishonesty on the part of such director or officer, or one which demonstrates a willful disregard for the safety or soundness of the association, the Board may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the association.

"(B) Whenever, in the opinion of the Board, any director or officer of an association, by conduct or practice with respect to another savings and loan association or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the Board, any other person participating in the conduct of the affairs of an association, by conduct or practice with respect to such association or other savings and loan association or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful disregard for its safety and soundness, and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such association, the Board may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the association.".

(4) Section 206(g) (3) and (4) of the Federal Credit Union Act, as amended (12 U.S.C. 1786(g) (3) and (4)), is amended to read as follows:

"(3) In respect to any director, committee member, or officer of an insured credit union or any other person referred to in paragraph (1) or (2) of this subsection, the Administrator may, if he deems it necessary for the protection of the credit union or the interests of its members, by written notice to such effect served upon such director, committee member, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (i) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the Administrator shall dismiss the charges specified in such notice, or, if an order of removal and prohibition is issued against the director committee member, or office or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the credit union of which he is a director, committee member, or officer or in the conduct of whose affairs he has participated.

"(4) A notice of intention to remove a director, committee member, officer, or other person from office or to prohibit his participation in the conduct of the affairs of an insured credit union, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearings pursuant to the notice served under thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the Administrator at the request of (A) such director, committee member, or officer, or other person, and for good cause shown, or (B) the Attorney General of the United States. Unless such director, committee member, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the Administrator shall find that any of the grounds specified in such notice have been established, the Administrator may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the credit union, as it may deem appropriate. Any such order shall become effective at the expiration of thirty days after service upon such cridit union and the director, committee member, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is staved, modified, terminated, or set aside by action of the Admipistrator or a reviewing court.".

(e)(1) Section 8(i) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818 (i)), is amended by redesignating section 8(i) as 8(i)(1) and by adding at the end thereof a new paragraph as follows:

"(2)(A) Any insured bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such a bank who violates the terms of any order which has become final and was issued pursuant to subsection (b) or (c) of this section, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the appropriate Federal banking agency by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the appropriate Federal banking agency shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the insured bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The insured bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (iv). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any insured bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured bank is located, or the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the appropriate Federal banking agency. The agency shall promptly certify and file in such Court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any insured bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the agency shall refer the matter in the Attorney General, who shall recover the amount assured by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to below.

"(F) Each Federal banking agency shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this section shall be covered into the Treasury of the United States.".

(2) Section 407(k) of the National Housing Act (12 U.S.C. 1730(k)) is amended by adding a new paragraph so as to read as follows:

"(3)(A) Any insured institution or any institution any of the accounts of which are insured which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such an institution who violates the terms of any order which has become final and was issued pursuant to subsection (e) or (f) of this section shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting violation.

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resource and good faith of the insured institution or person charges the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The insured institution or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to sec-

tion 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any insured institution or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured institution is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706 (2)(E) of title 5, United States Code.

"(E) If any insured institution or person fails to pay an assessment after it has become a final and unappealable order or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

(3) Section 5(d)(8) of the Home Owners' Loan Act as amended (12 U.S.C. 1464(5)(d)(8)), is amended by redesignating "section 5(d)(8)" as "5(d)(8)(A)" and by adding the following new paragraph:

"(B)(i) Any association which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such an association who violate the terms of any order which has become final and was issued pursuant to paragraph (2) or (3) of this subsection, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board on written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or adding or abetting a violation.

"(ii) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the association bank or person charged, the gravity of the violation, the history of previous violations and such other matters as justice may require.

"(iii) The association or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (iv). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(iv) Any association or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the association is located, or the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Board. The agency shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(v) If any association or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(vi) The Board shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(vii) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

(4) Section 206(j) of the Federal Credit Union Act, as amended (12 U.S.C. 1786(j)), is amended by redesignating section 206(j) as 206(j)(1) and by adding a new paragraph as follows:

"(2)(A) Any insured credit union which violates or any officer, director, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union who violates the terms of any order which has become final and was issued pursuant to subsection (e) or (f) of this section, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Administrator by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty, the Administrator shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the insured credit union or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The insured credit union or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The Administrator's determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any insured credit union or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured credit union is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Administrator. The Administrator shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Administrator shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any insured credit union or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) The Administrator shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

SEC. 107. Section 18(j) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1828(j)), is amended by redesignating section 18(j) as "18(j)(1)" and by adding at the end thereof the following:

"(2) The provisions of section 22(h) of the Federal Reserve Act, as amended, relating to limits on loans and extensions of credit by a member bank to its officers or directors or to any individual who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank or to companies controlled by such an officer, director, or individual, and relating to board of directors' approval of and terms of such loan, shall be applicable to every nonmember insured bank in the same manner and to the same extent as if such nonmember insured bank were a State member bank.

"(3)(i) Any nonmember insured bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such nonmember insured bank who violates any provision of section 23A or 22(h) of the Federal Reserve Act, as amended, or any lawful regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(ii) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(iii) The nonmember insured bank or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (iv). If no hearing is requested as herein provided the assess-

ment shall constitute a final and unappealable order.

"(iv) Any nonmember insured bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Corporation shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(v) If any nonmember insured bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be open to review.

"(vi) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(vii) All penalties collected under the authority of this paragraph shall be covered into the Treasury of the United States.".

SEC. 108. Any amendment made by this title which provides for the imposition of civil penalties shall apply only to violations occurring or continuing after the date of its enactment.

SEC. 109. Section 22(g) of the Federal Reserve Act, as amended (12 U.S.C. 375a), is amended by inserting the figure "$60,000" in lieu of the figure "$30,000" in paragraph (2), and by inserting the figure "$20,000" in lieu of the figure "$10,000" in paragraph (3); and by inserting the figure "$10,000" in lieu of the figure "$5,000" in paragraph (4).

SEC. 110. (a)(1) Section 8(g) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)) is amended to read as follows:

"(g)(1) Whenever any director or officer of an insured bank, or other person participating in the conduct of the affairs of such bank, is charged in any information, indictment, or complaint authorized by a United States attorney with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the appropriate Federal banking agency may, if continued service or participation by the individual may pose a threat to the interests of the bank's depositors or may threaten to impair public confidence in the bank, by written notice served upon such director, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank. A copy of such notice shall also be served upon the bank. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the agency. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the agency may, if continued service or participation by the individual may pose a threat to the interests of the bank's depositors or may * * * to impair public confidence in the bank, issue and * * * such director, officer, or other person an order * * * him from office or prohibiting him from further * * * in any manner in the conduct of the affairs of * * * except with the consent of the appropriate agency. A copy of such order shall also be served upon such bank, whereupon such director of officer shall cease to be a director or officer of such bank. A finding of not guilty or other disposition of the charge shall not preclude the agency from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in bank affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the agency.

"(2) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a national bank less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of the national bank are suspended pursuant to this section, the Comptroller of the Currency shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended, cease to be directors of the bank and their respective successors take office.

"(3) Within thirty days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, officer, or other person concerned may request in writing an opportunity to appear before the agency to show that the continued service to or participation in the conduct of the affairs of the bank by such individual does not, or is not likely to, pose a threat to the interests of the bank's depositors or threaten to impair public confidence in the bank. Upon receipt of any such request, the appropriate Federal banking agency shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the agency or designated employees of the agency to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearing, the agency shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the bank will be continued, terminated, or otherwise modified, or whether the order removing said director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the bank will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the agency's decision if adverse to the director, officer or other person. The Federal banking agencies are authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

(2) Section 8(h)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)(1)) is amended by inserting after "Any hearing provided for in this section" the following "(other than the hearing provided for in subsection (g)(3) of this section)".

(3) Section 8(j) of the Federal Deposit Insurance Act (12 U.S.C. 1818(j)) is amended by striking out "(e)(5), (e)(7), (e)(8)" and inserting in lieu thereof "(e)(3), (e)(4)".

(4) Section 8(k) of the Federal Deposit Insurance Act (12 U.S.C. 1818(k)) is amended by striking out "paragraph (1) of subsection (g)" and inserting in lieu thereof "paragraph (1) or (3) of subsection (g)".

(5) Section 8(n) of the Federal Deposit Insurance Act (12 U.S.C. 1818(n)) is amended by adding at the end thereof the following new sentence: "Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements or other records in such person's power so to do, in obedience to the subpoena of the appropriate Federal banking agency, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year or both.".

(b)(1) Section 407(h) of the National Housing Act (12 U.S.C. 1730(h)) is amended to read as follows:

"(h)(1) Whenever any director or officer of an insured institution, or other persons participating in the conduct of the affairs of such institution, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Corporation may, if continued service or participation by the individual may pose a threat to the interests of the institution's depositors or may threaten to impair public confidence in the institution, by written notice served upon such director, officer, or other person suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the institution. A copy of such notice shall also be served upon the institution. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Corporation. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Corporation may, if continued service or participation by the individual may pose a threat to the interests of the institution's depositors or may threaten to impair public confidence in the institution, issue and serve upon such director, officer, or other person an order removing him from office or prohibiting him from further participation in an manner in the conduct of the affairs of the institution except with the consent of the Corporation. A copy of such order shall also be served upon such institution, whereupon such director or officer shall cease to be a director or officer of such institution. A finding of not guilty or other disposition of the charge shall not preclude the Corporation from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in institution affairs pursuant to paragraph (1), (2), or (3) of subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the Corporation.

"(2) Within thirty days from service of any notice, suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, officer, or other person concerned may request in writing an opportunity to appear before the Corporation to show that the continued service to or participation in the conduct of the affairs of the institution by such individual does

not, or is not likely to, pose a threat to the interests of the institution's depositors or threaten to impair public confidence in the institution. Upon receipt of any such request, the Corporation shall fix a time (not more than thirty days after receipt of such requests, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the Corporation or designated employees of the Corporation to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearing, the Corporation shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the institution will be continued, terminated or otherwise modified, or whether the order removing said director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the institution will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Corporation's decision, if adverse to the director, officer, or other person. The Corporation is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

(2) Section 407(j)(1) of such Act (12 U.S.C. 1730(j)(1)) is amended by inserting after "any hearing provided for in this section" the following: "(other than the hearing provided for in subsection (h)(3) of this section)".

(3) Section 407(j)(2) of such Act (12 U.S.C. 1730(j)(2)) is amended by inserting "(1)" after "subsection (h)".

(c)(1) Section 5(d)(5) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(5)) is amended to read as follows:

"(5)(A) Whenever any director or officer of an association, or other person participating in the conduct of the affairs of such association, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Board may, if continued service or participation by the individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association, by written notice served upon such director, officer, or other person suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the association. A copy of such notice shall also be served upon the association. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Board. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by the individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association, issue and serve upon such director, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the association except with the consent of the Board. A copy of such order shall also be served upon such association, whereupon such director or officer shall cease to be a director or officer of such association. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in association affairs, pursuant to subparagraph (A), (B), or (C) of paragraph (4). Any notice of suspension or order of removal issued under this subparagraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under subparagraph (C) hereof unless terminated by the Board.

(B) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of an association less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of an association are suspended pursuant to this section, the Board shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended, cease to be directors of the association and their respective successors take office.

"(C) Within thirty days from service of any notice of suspension or order of removal issued pursuant to subparagraph (A), the director, officer, or other person concerned may request in writing an opportunity to appear before the Board to show that the continued service to or participation in the conduct of the affairs of the association by such individual does not, or is not likely to, pose a threat to the interests of the association's depositors or threaten to impair public confidence in the association. Upon receipt of any such request, the Board shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the agency or designated employees of the Board to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearing, the Board shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the association will be continued, terminated or otherwise modified, or whether the order removing said director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the association will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Board's decision, if adverse to the director, officer, or other person. The Board is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

(2) Section 5(d)(7)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(7)(A)) is amended by inserting after "Any hearing provided for in this section" the following: "(other than the hearing provided for in paragraph (5)(C) of this section)".

(3) Section 5(d)(13)(A)(1) of such Act (12 U.S.C. 1464(d)(13)(A)(1)) is amended by inserting after "paragraph (5)(A)" the following: "or (C)".

(d)(1) Section 206(h) of the Federal Credit Union Act (12 U.S.C. 1786(h)) is amended to read as follows:

"(h)(1) Whenever any director, committee member, or officer of an insured credit union, or other person participating in the conduct of the affairs of such credit union, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Administrator may, if continued service or participation by the individual may pose a threat to the interests of the credit union's depositors or may threaten to impair public confidence in the credit union, by written notice served upon such director, committee member, officer, or other person suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. A copy of such notice shall also be served upon the credit union. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Administrator. In the event that a judgment of conviction with respect to such crime is entered against such director, committee member, officer or other person, and at such time as such judgment is not subject to further appellate review, the Administrator may, if continued service or participation by the individual may pose a threat to the interests of the credit union's depositors or may threaten to impair public confidence in the credit union, issue and serve upon such director, committee member, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Administrator. A copy of such order shall also be served upon such credit union, whereupon such director or officer shall cease to be a director, committee member, or officer of such credit union. A finding of not guilty or other disposition of the charge shall not preclude the Administrator from thereafter instituting proceedings to remove such director, committee member, officer, or other person from office or to prohibit further participation in the affairs of the credit union, pursuant to subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the Administrator.

"(2) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a Federal credit union less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a Federal credit union are suspended pursuant to this section, the Administrator shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the credit union and their respective successors have been elected by the members at an annual or special meeting and have taken office. Directors appointed temporarily by the Administrator shall, within thirty days following their appointment, call a special meeting for the election of new directors, unless during the thirty-day period (A) the regular annual meeting is scheduled, or (B) the suspensions giving rise to the appointment of temporary directors are terminated.

"(3) Within thirty days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, committee member, officer, or other person concerned may request in writing an opportunity to appear before the Administrator to show that the continued service to or participation in the conduct of the affairs of the credit union by such

individual does not, or is not likely to, pose a threat to the interests of the credit union's depositors or threaten to impair public confidence in the credit union. Upon receipt of any such request, the Administrator shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, committee member, officer, or other person) and place at which the director, committee-member, officer, or other person may appear, personally or through counsel, before the Administrator or his designee to submit written materials (or, at the discretion of the Administrator, oral testimony) and oral argument. Within sixty days of such hearing, the Administrator shall notify the director, committee member, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the credit union will be continued, terminated or otherwise modified, or whether the order removing said director, committee member, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the credit union will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Administrator's decision, if adverse to the director, committee member, officer, or other person. The Administrator is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

(2) Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended by inserting after "Any hearing provided for in this section" the following: "(other than the hearing provided for in subsection (h)(3) of this section)".

(3) Section 206(i)(2) of such Act (12 U.S.C. 1786(i)(2)) is amended by inserting "(1)" after "subsection (h)".

SEC. 111. (a) Section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended by inserting after the second sentence the following new sentence: "The Board is authorized upon application by a bank to extend, from time to time for not more than one year at a time, the two-year period referred to above for disposing of any shares acquired by a bank in the regular course of securing or collecting a debt previously contracted in good faith, if, in the Board's judgment, such an extension would not be detrimental to the public interest, but no such extensions shall in the aggregate exceed three years.".

(b) Section 2(a)(5)(D) of such Act (12 U.S.C. 1841(a)(5)(D)) is amended by adding at the end thereof the following new sentence: "The Board is authorized upon application by a company to extend, from time to time for not more than one year at a time, the two-year period referred to herein for disposing of any shares acquired by a company in the regular course of securing or collecting a debt previously contracted in good faith, if, in the Board's judgment, such an extension would not be detrimental to the public interest, but no such extension shall in the aggregate exceed three years.".

(c) Section 4(c)(2) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1843(c)(2)), is amended by striking out "shares acquired by a bank in satisfaction of a debt previously contracted in good faith, but such bank shall dispose of such shares within a period of two years" and inserting in lieu thereof the following: "shares acquired by a bank holding company or any of its subsidiaries in satisfaction of a debt previously contracted in good faith, but such shares shall be disposed of within a period of two years".

TITLE II—INTERLOCKING DIRECTORS

SEC. 201. This title may be cited as the "Depositary Institution Management Interlocks Act".

SEC. 202. As used in this title—

(1) the term "depositary institution" means a commercial bank, a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union;

(2) the term "depositary holding company" means a bank holding company as defined in section 2(a) of the Bank Holding Company Act of 1956, a company which would be a bank holding company as defined in section (2)(a) of the Bank Holding Company Act of 1956 but for the exemption contained in section 2(a)(5)(F) thereof, or a savings and loan holding company as defined in section 408(a)(1)(D) of the National Housing Act;

(3) the characterization of any corporation (including depositary institutions and depositary holding companies), as an "affiliate of," or as "affiliated" with any other corporation means that—

(A) one of the corporations is a depositary holding company and the other is a subsidiary then of, or both corporations are subsidiaries of the same depositary holding company, as the term "subsidiary" is defined in either section 2(d) of the Bank Holding Company Act of 1956 in the case of a bank holding company or section 408(a)(1)(H) of the National Housing Act in the case of a savings and loan holding company;

(B) more than 50 per centum of the voting stock of one corporation is beneficially owned in the aggregate by one or more persons who also beneficially own in the aggregate more than 50 per centum of the voting stock of the other corporation; or

(C) one of the corporations is a trust company all of the stock of which, except for directors qualifying shares, was owned by one or more mutual savings banks on the date of enactment of this Act, and the other corporation is a mutual savings bank;

(4) the term "management official" means an employee or officer with management functions, a director (including an advisory or honorary director), a trustee of a business organization under the control of trustees, or any person who has a representative or nominee serving in any such capacity: *Provided*, That if a corporator, trustee, director, or other officer of a State-chartered savings bank or cooperative bank is specifically authorized under the laws of the State in which said institution is located to serve as a trustee, director, or other officer of a State-chartered trust company which does not make real estate mortgage loans and does not accept savings deposits from natural persons, then, for the purposes of this title, such corporator, trustee, director, or other officer shall not be deemed to be a management official of such trust company: *And provided further*, That if a management official of a State-chartered trust company which does not make real estate mortgage loans and does not accept savings deposits from natural persons is specifically authorized under the laws of the State in which said institution is located to serve as a corporator, trustee, director, or other officer of a State-chartered savings bank or cooperative bank, then, for the purposes of this title, such management official shall not be deemed to be a management official of any such savings bank or cooperative bank; and

(5) the term "office" used with reference to a depositary institution means either a principal office or a branch.

SEC. 203. A management official of a depositary institution or a depositary holding company may not serve as a management official of any other depositary institution or depositary holding company not affiliated therewith if an office of one of the institutions or any depositary institution that is an affiliate of such institutions is located within either—

(1) the same standard metropolitan statistical area as defined by the Office of Management and Budget, or

(2) the same city, town, or village as that in which an office of the other institution or any depositary institution that is an affiliate of such other institution is located, or in any city, town, or village contiguous or adjacent thereto.

SEC. 204. If a depositary institution or a depositary holding company has total assets exceeding $1,000,000,000, a management official of such institution or any affiliate thereof may not serve as a management official of any other nonaffiliated depositary institution or depositary holding company having total assets exceeding $500,000,000 or as a management official of any affiliate of such other institution.

SEC. 205. The prohibitions contained in sections 202, 203, and 204 shall not apply in the case of any one or more of the following or any branch or subsidiary thereof:

(1) A depositary institution or depositary holding company which has been placed formally in liquidation, or which is in the hands of a receiver, conservator, or other official exercising a similar function.

(2) A corporation operating under section 25 or 25A of the Federal Reserve Act.

(3) A credit union being served by a management official of another credit union or a credit union being served by a management official of another depositary institution.

(4) A depositary institution or depositary holding company which does not do business within any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands except as an incident to its activities outside the United States.

SEC. 206. A person whose service in any given position as a management official was not prohibited by this title at the time of the beginning of such service is not prohibited by this title from continuing to serve in that position for a period of ten years after the date of enactment of this title. The Board of Governors of the Federal Reserve System may provide a reasonable period of time for compliance with this title, not exceeding fifteen months, after any change in circumstances, other than the coming into effect of this title which makes such service prohibited by this title.

SEC. 207. This title shall be administered and enforced by—

(1) the Comptroller of the Currency with respect to national banks and banks located in the District of Columbia,

(2) the Board of Governors of the Federal Reserve System with respect to State banks which are members of the Federal Reserve System, and bank holding companies,

(3) the Board of Directors of the Federal Deposit Insurance Corporation with respect to State banks which are not members of the Federal Reserve System but the deposits of which are insured by the Federal Deposit Insurance Corporation,

(4) the Federal Home Loan Bank Board with respect to Federal savings and loan associations and institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and savings and loan holding companies,

(5) the National Credit Union Administration with respect to Federal credit unions and institutions the accounts of which are insured by the National Credit Union Administration, and

(6) the Attorney General for all other institutions.

SEC. 208. The following provisions of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (Clayton Act, 38 Stat. 732, as amended), are repealed:

(a) The first three paragraphs of section 8 (15 U.S.C. 19).

(b) The words "bank or other" in the last paragraph of section 8 each time they appear.

SEC. 209. (a) Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) is amended by adding at the end thereof the following new paragraph:

"(5) For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term 'director' includes an advisory or honorary director, a trustee of a bank under the control of trustees, or any person who has representative or nominee serving in any such capacity.".

(b) Section 5(d) of the Homeowners' Loan Act (12 U.S.C. 1464(d)) is amended by adding at the end thereof the following new paragraph:

"(15) For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term 'director' includes an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity.".

(c) Section 407(q) of the National Housing Act is amended by adding at the end thereof the following:

"(4) For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term "director' includes an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity.".

SEC. 210. The Board of Governors of the Federal Reserve System may prescribe such rules and regulations, including authorization for a management official of a depositary institution, as are consistent with the purposes of this title and necessary to effectuate such purposes or to prevent evasion of this title.

TITLE III—FOREIGN BRANCHING

SEC. 301. (a) Section 3(o) of the Federal Deposit Insurance Act (12 U.S.C. 1813(o)) is amended—

(1) by inserting "domestic" immediately before "branch" the first place it appears; and

(2) by inserting before the period at the end thereof a semicolon and the following: "and the term 'foreign branch' means any office, place of business, or similar establishment located outside the United States, its territories, Puerto Rico, Guam, American Samoa, and the Virgin Islands".

(b) Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d) is amended—

(1) by inserting "(1)" after "(d)";

(2) by inserting "domestic" between "new" and "branch";

(3) by inserting "such" between "any" and "branch"; and

(4) by adding at the end thereof the following new paragraph:

"(2) No State nonmember insured bank shall establish or operate any foreign branch, except with the prior written consent of the Corporation and upon such conditions and pursuant to such regulations as the Corporation may prescribe from time to time.".

(c) Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end thereof the following new subsection:

"(l) When authorized by State law, a State nonmember insured bank may, but only with the prior written consent of the Corporation and upon such conditions and under such regulations as the Corporation may prescribe from time to time, acquire and hold, directly or indirectly, stock or other evidences of ownership in one or more banks or other entities organized under the law of a foreign country or a dependency or insular possession of the United States and not engaged, directly or indirectly, in any activity in the United States except as, in the judgment of the Board of Directors, shall be incidental to the international or foreign business of such foreign bank or entity; and, notwithstanding the provisions of subsection (j) of this section, such State nonmember insured bank may, as to such foreign bank or entity, engage in transactions that would otherwise be covered thereby, but only in the manner and within the limits prescribed by the Corporation by general or specific regulation or ruling.".

SEC. 302. The sixth sentence of section 7(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is amended to read as follows: "The correctness of said report of conditions shall be attested by the signatures of at least two directors or trustees of the reporting bank other than the officer making such declaration, with a declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct.".

SEC. 303. Section 8(n) of the Federal Deposit Insurance Act (12 U.S.C. 1818(n)) is amended—

(1) by inserting in the first sentence after "this section," the first place it appears therein the following: "or in connection with any claim for insured deposits or any examination or investigation under section 10(c),";

(2) by inserting "examination, or investigation or considering the claim for insured deposits," in the first sentence after "proceeding," the second place it appears therein;

(3) by striking out "proceedings" at the end of the first sentence thereof and inserting in lieu thereof "proceedings, claims, examinations, or investigations";

(4) by inserting "such agency or any" after "Any" at the beginning of the third sentence thereof; and

(5) by striking out "section" and inserting in lieu thereof "subsection" in the fourth sentence thereof.

SEC. 304. Section (8)(q) of the Federal Deposit Insurance Act (12 U.S.C. 1818(q)) is amended to read as follows:

"(q) Whenever the liabilities of an insured bank for deposits shall have been assumed by another insured bank or banks, whether by way of merger, consolidation, or other statutory assumption, or pursuant to contract (1) the insured status of the bank whose liabilities are so assumed shall terminate on the date of receipt by the Corporation of satisfactory evidence of such assumption; (2) the separate insurance of all deposits so assumed shall terminate at the end of six months from the date such assumption takes effect or, in the case of any time deposit, the earliet maturity date after the six-month period; and (3) the assuming or resulting bank shall give notice of such assumption to each of the depositors of the bank whose liabilities are so assumed within thirty days after such assumption takes effect. Where the deposits of an insured bank are assumed by a newly insured bank, the bank whose deposits are assumed shall not be required to pay any assessment upon the deposits which have been so assumed after the semiannual period in which the assumption takes effect.".

SEC. 305. (a) Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended by inserting "or other institution" in the first sentence after the words "any State nonmember bank" and by striking out the last two sentences of that subsection.

(b) Section 10 (c) and (d) of the Federal Deposit Insurance Act (12 U.S.C. 1820 (c) and (d) are amended to read as follows:

"(c) In connection with examinations of insured banks, State nonmember banks or other institutions making application to become insured banks, and affiliates thereof, or with other types of investigations to determine compliance with applicable law and regulations, the appropriate Federal banking agency, or its designated representatives, are authorized to administer oaths and affirmations, and to examine and to take and preserve testimony under oath as to any matter in respect to the affairs or ownership of any such bank or institution or affiliate thereof, and to exercise such other powers as are set forth in section 8(n) of this Act.

"(d) For purposes of this section, the term 'affiliate' shall have the same meaning as in section 23A of the Federal Reserve Act, except that the term 'member bank' in such section 23A and in section 2(b) of the Banking Act of 1933 shall be deemed to refer to an insured bank.".

SEC. 306. Section 18(c)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(1)(B)) is amended by inserting after the word "deposits" the following: "(including liabilities which would be 'deposits' except for the proviso in section 3(l)(5) of this Act)".

SEC. 307. Section 1114 of title 18, United States Code, is amended by inserting before "shall be punished" the following: "or any attorney, liquidator, examiner, claim agent, or other employee of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System, any Federal Reserve bank, or the National Credit Union Administrator engaged in or on account of the performance of his official duties.".

SEC. 308. Section 5 of the Bank Service Corporation Act (12 U.S.C. 1865) is amended to read as follows:

"SEC. 5. Whenever any bank which is regularly examined by a Federal supervisory agency, or any subsidiary or affiliate of such bank which is subject to examination by that agency, causes to be performed, by contract or otherwise, any bank services for itself, whether on or off its premises—

"(1) such performance shall be subject to regulation and examination by such agency to the same extent as if the services were being performed by the bank itself on its own premises, and

"(2) the bank shall notify such agency of the existence of a service relationship within 30 days after the making of such service contract or the performance of the service, whichever occurs first.".

TITLE IV—CONFLICTS OF INTEREST

SEC. 401. This title may be cited as the "Depository Institutions Conflict of Interest Act".

SEC. 402. Section 2 of the Federal Deposit Insurance Act (12 U.S.C. 1812) is amended by striking out the sixth sentence and inserting in lieu thereof the following: "The members of the Board of Directors shall be ineligible, during the time they are in office and for a period of two years thereafter, to hold any office, position, or employment in an insured bank, in a holding company of

an insured bank, or in an affiliate of a holding company of an insured bank, and may not, during such two-year period, voluntarily acquire any interest in such a bank, company, or affiliate, or exercise any voting rights attributable to the ownership of any security issued by such a bank, company, or affiliate, except that this restriction shall not apply to any individual who has served the full term for which he was appointed.".

SEC. 403. The first sentence of the second paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242) is amended by adding at the end thereof the following: "The members of the Board of Governors shall be ineligible, during the time they are in office and for a period of two years thereafter, to hold any office, position, or employment in a member bank, in a bank holding company or in an affiliate of a bank holding company, and may not, during such two-year period, voluntarily acquire any interest in such a bank, company, or affiliate, or exercise any voting rights attributable to the ownership of any security issued by such a bank, company, or affiliate, except that this restriction shall not apply to any individual who has served the full term for which he was appointed.".

SEC. 404. Section 17 of the Federal Home Loan Bank Act (12 U.S.C. 1437) is amended by adding at the end thereof the following:

"(c) The members of the board shall be ineligible during the time they are in office and for a period of two years thereafter to hold any office, position, or employment in an insured institution, in a holding company of an insured institution, or in an affiliate of a holding company of an insured institution, and may not, during such two-year period, voluntarily acquire any interest in such an institutition, company, or affiliate, or exercise any voting rights attributable to the ownership of any security issued by such an institution, company, or affiliate, except that this resolution shall not apply to any individual who has served the full term for which he was appointed. As used in this subsection, the term 'insured institution' has the same meaning as in section 401 of the National Housing Act.".

SEC. 405. (a) Section 5312 of title 5, United States Code is amended by adding at the end thereof the following:

"(14) Chairman, Board of Governors of the Federal Reserve System.".

(b) Section 5313(10) of such title is amended by striking out "Chairman" and inserting in lieu thereof "Members".

(c) Section 5313 of such title is amended by adding at the end thereof the following:

"(24) Chairman Board of Directors, Federal Deposit Insurance Corportaion.

"(25) Chairman of the Federal Home Loan Bank Board.

"(26) Comptroller of the Currency.".

(d) Section 5314 of title 5, United States Code, is amended by striking out items 19, 20, 30, and 43.

TITLE V—CREDIT UNION RESTRUCTURING

SEC. 501. Section 102 of the Federal Credit Union Act (12 U.S.C. 1752a) is amended to read as follows:

"CREATION OF ADMINISTRATION

"SEC. 102. (a) There is hereby established in the executive branch of the Government an independent agency to be known as the National Credit Union Administration. The Administration shall be under the management of a National Credit Union Administration Board.

"(b) The Board shall consist of three members, who are broadly representative of the public interest, appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the President shall designate the Chairman. Not more than two members of the Board shall be members of the same political party.

"(c) The term of office of each member of the Board shall be six years, except that the terms of the two members, other than the chairman, initially appointed shall expire one upon the expiration of two years after the date of appointment, and the other upon the expiration of four years after the date of appointment. Board members shall not be appointed to succeed themselves except the initial members appointed for less than a six-year term may be reappointed for a full six-year term and future members appointed to fill unexpired terms may be reappointed for a full six-year term. Any Board member may continue to serve as such after the expiration of said member's until a successor has qualified.

"(d) The management of the Administration shall be vested in the Board. The Board shall adopt such rules as it sees fit for the transaction of its business and shall keep permanent and complete records and minutes of its acts and proceedings. A majority of the Board shall constitute a quorum. Not later than April 1 of each calendar year, and at such other times as the Congress shall determine, the Board shall make a report to the President and to the Congress. Such a report shall summarize the operations of the Administration and set forth such information as is necessary for the Congress to review the financial program approved by the Board.

"(e) The Chairman of the Board shall be the spokesman for Board and shall represent the Board and the National Credit Union Administration in its official relations with other branches of the Government. The Chairman shall determine each Board member's area of responsibility and shall review such assignments biennially. It shall be the Chairman's responsibility to direct the implementation of the adopted policies and regulations of the Board.

"(f) The members of the Board shall be ineligible during the time they are in office or for two years thereafter to hold any office, position, or employment in any credit union or in any financial institution in which a credit union owns stock, except that this restriction shall not apply to any member who has served the full term for which he was appointed.

"(g) The financial transactions of the Administration shall be subject to audit on a calendar year basis by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where the accounts of the Administration are kept.".

SEC. 502. (a) Section 101 of the Federal Credit Union Act is amended—

(1) by striking out clause (2) and inserting in lieu thereof the following:

"(2) the term 'Chairman' means the Chairman of the National Credit Union Administration Board;";

(2) by inserting "Administration" after "Union" in clause (4).

(b) The Federal Credit Union Act is amended by striking out "Administrator" each place it appears and inserting in lieu thereof "Board", and by striking out the personal pronouns "he", "him", and "his" when referring to the Administrator and inserting in lieu thereof "it", "them", and "its" as appropriate wherever such words appear therein.

(c) Section 209 of the Federal Credit Union Act (12 U.S.C. 1789) is amended—

(1) by inserting in subsection (b)(1) the language "on a calendar year basis" immediately following "prepare annually";

(2) by inserting in subsection (b)(2) the language "on a calendar year basis" immediately following "set of accounts".

(d) Section 5108 of title 5, United States Code, is amended by adding the following new paragraph:

"(h) In addition to the number of positions authorized by subsection (a), the National Credit Union Administration is authorized without regard to any other provision to this section, to place two positions in the Administration at GS–18 and a total of fourteen positions in the Administration at GS–16 or GS–17.".

(e) Section 5313 of title 5, United States Code, is amended by adding the following new paragraph:

"(28) Chairman, National Credit Union Administration Board.".

(f) Section 5314 (92) of title 5, United States Code, is amended by striking out "Administrator of the National Credit Union Administration" and inserting in lieu thereof "Members, National Credit Union Administration Board (2)".

SEC. 503. (a) The Federal Credit Union Act (12 U.S.C. 1751–1790) is further amended by striking out "Administrator" and inserting in lieu thereof "Board" in the following sections:

(1) section 103 (12 U.S.C. 1753);
(2) section 104 (12 U.S.C. 1754);
(3) section 105 (12 U.S.C. 1755);
(4) section 106 (12 U.S.C. 1756);
(5) paragraphs (5), (8), (9), (10), (13), and (14) of section 107 (12 U.S.C. 1757);
(6) section 108 (12 U.S.C. 1758);
(7) section 109 (12 U.S.C. 1759);
(8) section 111 (12 U.S.C. 1761);
(9) section 112 (12 U.S.C. 1761a);
(10) section 113 (12 U.S.C. 1761b);
(11) section 115 (12 U.S.C. 1761d);
(12) paragraph (b)(2) of section 116 (12 U.S.C. 1762);
(13) the title of section 120 (12 U.S.C. 1766);
(14) section 120(a) (12 U.S.C. 1766);
(15) section 120(b)(1) (12 U.S.C. 1766);
(16) section 120(b)(2) (12 U.S.C. 1766);
(17) section 120(b)(3) (12 U.S.C. 1766);
(18) section 120(b)(4) (12 U.S.C. 1766);
(19) section 120(b)(5) (12 U.S.C. 1766);
(20) section 120(c) (12 U.S.C. 1766);
(21) section 120(d) (12 U.S.C. 1766);
(22) section 120(c) (12 U.S.C. 1766);
(23) section 120(f)(1) (12 U.S.C. 1766);
(24) section 120(f)(2)(A) (12 U.S.C. 1766);
(25) section 120(f)(2)(B) (12 U.S.C. 1766);
(26) section 120(g) (12 U.S.C. 1766);
(27) section 120(h) (12 U.S.C. 1766);
(28) section 120(i) (12 U.S.C. 1766);
(29) section 120(i)(3) (12 U.S.C. 1766);
(30) section 121 (12 U.S.C. 1767);
(31) section 125(b)(1) (12 U.S.C. 1771);
(32) section 125(b)(2) (12 U.S.C. 1771);
(33) section 127 (12 U.S.C. 1722a); and
(34) sections 201 to 210 (12 U.S.C. 1773–1775). (b) Such Act is further amended by striking out the personal pronouns "he", "him", and "his" when referring to the Administrator and inserting in lieu thereof "it", "they", and "its" as appropriate wherever such words appear therein.

SEC. 504. (a) Paragraph (4) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752) which begins with "The terms 'member account'" is redesignated paragraph "(5)" and the succeeding paragraphs numbered (5) through (8) are redesignated as paragraphs (6) through (9), respectively.

(b) Paragraph (5) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752), as redesignated by subsection (a) of this section, is amended—

(1) by striking "(when referring to the account of a member of credit union)";

(2) by striking "share, share certificate, or share deposit" each time it appears therein and inserting "share or share certificate" in lieu thereof;

(3) by striking "those" and inserting "share or share certificate" in lieu thereof; and

(4) by striking all language after "political subdivisions thereof" and inserting "enumerated in section 207 of this Act: *Provided*, That for purposes of insured State credit unions, reference in this paragraph to 'share' or 'share certificate' accounts includes, as determined by the Board, the equivalent of such accounts under State law;" in lieu thereof.

(c) Paragraph (9) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752), as redesignated by (a) of this section, is amended by—

(1) inserting ", including the trust territories," after "several territories"; and

(2) adding the following new sentence: "The term 'branch' also includes a suboffice, operated by a Federal credit union or by a credit union authorized by the Department of Defense, located on an American military installation in a foreign country or in the trust territories of the United States.".

SEC. 505. (a) Subsection (a) of section 201 of the Federal Credit Union Act (12 U.S.C. 1781) is amended by inserting ", including the trust territories," after "several territories".

(b) Paragraph (b)(7) of such section is amended by inserting "except for accounts authorized by State law for State credit unions" before the semicolon.

(c) Such section is further amended by striking all of subsection (d) and redesignating subsection (e) as (d).

SEC. 506. (a) Section 202 of the Federal Credit Union Act (12 U.S.C. 1782) is amended by striking out "his" in the fifth sentence of paragraph (a)(1) and inserting "such officer's" in lieu thereof.

(b) Subsection (h)(3) of such section is amended to read as follows:

"(3) The term 'member account' when applied to the premium charge for insurance of accounts shall not include amounts received from other federally insured credit unions in excess of the insured account limit set forth in section 207(c)(1).".

SEC. 507. Section 208 of the Federal Credit Union Act (12 U.S.C. 1788) is amended by striking out "SPECIAL ASSISTANCE TO AVOID LIQUIDATION" and inserting "SPECIAL ASSISTANCE FOR FEDERALLY INSURED CREDIT UNIONS" in lieu thereof.

SEC. 508. Section 105 of the Federal Credit Union Act (12 U.S.C. 1755) is amended to read as follows:

"FEES

"SEC. 105. (a) In accordance with rules prescribed by the Board, each Federal credit union shall pay to the Administration an annual operating fee which may be composed of one or more charges identified as to the function or functions for which assessed.

"(b) The fee assessed under this section shall be determined according to a schedule, or schedules, or other method determined by the Board to be appropriate, which gives due consideration to the expenses of the Administration in carrying out its responsibilities under this Act and to the ability of Federal credit unions to pay the fee. The Board shall, among other things, determine the periods for which the fee shall be assessed and the date or dates for the payment of the fee or increments thereof.

"(c) If the annual operating fee is composed of separate charges, no supervision charge shall be payable by a Federal credit union, and the Board may waive payment of any or all other charges comprising the fee, with respect to the year in which its charter is issued, or in which final distribution is made in its liquidation or the charter is canceled.

"(d) All operating fees shall be deposited with the Treasurer of the United States for the account of the Administration and may be expended by the Board to defray the expenses incurred in carrying out the provisions of this Act including the examination and supervision of Federal credit unions.".

SEC. 509. Section 106 of the Federal Credit Union Act (12 U.S.C. 1756) is amended to read as follows:

"REPORTS AND EXAMINATIONS

"SEC. 106. Federal credit unions shall be under the supervision of the Board, and shall make financial reports to it as and when it may require, but at least annually. Each Federal credit union shall be subject to examination by, and for this purpose shall make its books and records accessible to, any person designated by the Board.".

SEC. 510. The amendments made by this title take effect upon enactment, except that the functions of the Administrator of the National Credit Union Administration under the provisions of the Federal Credit Union Act, as in effect on the date preceding the date of enactment of this title, shall continue to be performed by him in accordance with such provisions until such time as all the members of the National Credit Union Administration Board, established under the amendments made by this title, take office. All rules, regulations, policies and procedures of the Administrator in effect on the date of enactment of this title shall remain in effect until amended, superseded, or repealed.

TITLE VI—FINANCIAL INSTITUTIONS

SEC. 601. Section 7 of the Act of September 21, 1966 (Public Law 89–597), is amended by striking out "December 15, 1978" and inserting in lieu thereof "December 15, 1980".

SEC. 602. Section 102 of Public Law 94–200 (12 U.S.C. 461 note) is amended by adding at the end thereof the following new subsection:

"(c) In any State where any provision of State or Federal law authorizes any savings and loan, building and loan, or homestead association (including any cooperative bank) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings banks, as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), to offer any third-party payment account, there shall be no differential in the maximum interest rate payable between (1) banks (other than savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation, and (2) savings and loan, building and loan, or homestead associations (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or mutual savings banks, as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), with respect to savings deposits or accounts from which automatic transfers to the institution itself or to a demand or other deposit account of the same depositor or accountholder at such institution may be made as a normal practice, pursuant to a prearranged agreement with the depositor or accountholder to make such transfers to cover checks, drafts, or similar instruments drawn by the depositor or accountholder on such institution. Notwithstanding any of the provisions of subsection (b) of this section, the maximum rate of interest payable on a savings deposit or account described in the preceding sentence shall be the rate which banks (other than mutual savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation may pay on such accounts.".

SEC. 603. Section 2(a) of Public Law 93–100 is amended by inserting "New York," after "Vermont,".

TITLE VII—CHARTERS FOR THRIFT INSTITUTIONS

SEC. 701. Section 2(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1462(d)) is amended to read as follows:

"(d) The term 'association' means a Federal savings and loan association or a Federal mutual savings bank chartered by the Board under section 5, and any reference in any other law to a Federal savings and loan association shall be deemed to be also a reference to a Federal mutual savings bank, unless the context indicates otherwise.".

SEC. 702. Section 5(a) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)) is amended to read as follows:

"SEC. 5. (a) In order to provide local mutual thrift institutions in which people may invest their funds and in order to provide for the financing of homes, the Board is authorized, under such rules and regulations as it may prescribe, to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as 'Federal Savings and Loan Associations', or 'Federal mutual savings banks' (but only in the case of institutions which, prior to conversion, were State mutual savings banks located in States which authorize the chartering of State mutual savings banks provided such conversion is not in contravention of State law), and to issue charters therefor, giving primary consideration to the best practices of local mutual thrift and home-financing institutions in the United States. An association which was formerly organized as a savings bank under State law may, to the extent authorized by the Board, continue to carry on any activities it was engaged in on December 31, 1977, and to retain or make any investments of a type it held on that date, except that its equity, corporate bond, and consumer loan investments may not exceed the average ratio of such investments to total assets for the five-year period immediately preceding the filing of an application for conversion and such an association shall only be permitted to establish branch offices and other facilities in accordance with the limitations imposed by State law controlling applications of a savings bank organized under such State law, except that such an association (1) shall be exempt from any numerical limitations of State law on the establishment of branch offices and other facilities, and (2) may, in any case, subject to the approval of the Board, establish branch offices and other facilities in its own Standard Metropolitan Statistical Area, its own county, or within thirty-five miles of its home office, but only in its State of domicile. An association which was formerly organized as a savings bank under State law shall be subject to the requirements of State law (including any regulations promulgated thereunder and any sanction for the violation of any such law or regulation) in effect at the time of conversion, in the State of its original charter—

"(A) pertaining to discrimination in the extension of home mortgage loans or adjustment in the terms of mortgage instruments based on neighborhood or geographical area, or

"(B) pertaining to requirements imposed under the Consumer Credit Protection Act, if the Board determines that State law and regulations impose more stringent requirements than Federal law and regulations.".

SEC. 703. Section 403(a) of the National Housing Act (12 U.S.C. 1726(a)) is amended by inserting after "Federal savings and loan associations" the following: "and Federal mutual savings banks".

SEC. 704. The first paragraph of section 5(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(i)) is amended by inserting "(including a savings bank)" after "member of a Federal Home Loan Bank".

SEC. 705. The Federal Deposit Insurance Act is amended by adding at the end thereof the following new section:

"CONVERSION OF MUTUAL SAVINGS BANKS

"SEC. 26. With respect to any state-chartered insured mutual savings bank which converts into a Federal savings bank or merges or consolidates into a Federal sav-

ings bank or a savings bank which is (or within sixty days after the merger or consolidation becomes) an insured institution within the meaning of section 401 of the National Housing Act, the Corporation shall indemnify the Federal Savings and Loan Insurance Corporation against any losses incurred by it which arise out of losses incurred by the converting bank prior to conversion as follows: 100 per centum of such losses incurred by the Federal Savings and Loan Insurance Corporation during the first two years after conversion, 75 per centum during the third year, 50 per centum during the fourth year, and 25 per centum during the fifth year. The Corporation and the Federal Savings and Loan Insurance Corporation shall, within six months after enactment hereof, mutually agree on what shall be treated as 'losses incurred by it which arise out of losses incurred by the converting bank prior to conversion' for purposes hereof and, failing such agreement, the General Accounting Office shall prescribe the meaning of those terms. Any conversion, merger, or consolidation covered by this section shall not be deemed a termination of insured status under section 8(a) of this Act.".

EFFECTIVE DATE

SEC. 706. This title takes effect upon the expiration of 6 months after the date of enactment of this Act.

TITLE VII— NSURANCE OF IRA AND KEOGH ACCOUNTS

SEC. 801. (a) Section 11(a) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1821(a)), is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of deposit insurance available for the account of any one depositor, time and savings deposits in an insured bank made pursuant to a pension or profit-sharing plan described in section 401(d) of the Internal Revenue Code of 1954, as amended, or made in the form of individual retirement accounts as described in section 408(a) of the Internal Revenue Code of 1954, as amended, shall be insured in the amount of $100,000 per account. As to any plan qualifying under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, the term 'per account' means the present vested and ascertainable interest of each beneficiary under the plan, excluding any remainder interest created by, or as a result of, the plan.".

(b) Section 405(d) of the National Housing Act, as amended (12 U.S.C. 1728(d)), is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any limitation in this title or in any other provision of law relating to the amount of deposit insurance available for any one account, funds invested in an insured institution pursuant to a pension or profit-sharing plan described in section 401(d) of the Internal Revenue Code of 1954, as amended, and funds invested in an insured institution in the form of individual retirement accounts as described in section 408(a) of the Internal Revenue Code of 1954, as amended, shall be insured in the amount of $100,000 per account. As to any plan qualifying under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, the term 'per account' means the present vested and ascertainable interest of each beneficiary under the plan, excluding any remainder interest created by, or as a result of, the plan.".

(c) Section 207(c) of the Federal Credit Union Act, as amended (12 U.S.C. 1787(c)), is amended by adding at the end thereof the following paragraph:

"(3) Notwithstanding any limitation in this title or in any other provision of law relating to the amount of insurance available for the account of any one depositor or member, funds invested in a credit union insured in accordance with this title pursuant to a pension or profit-sharing plan described in section 401(d) of the Internal Revenue Code of 1954, as amended, and funds invested in such an insured credit union in the form of individual retirement accounts as described in section 408(a) of the Internal Revenue Code of 1954 as amended, shall be insured in the amount of $100,000 per account. As to any plan qualifying under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, the term 'per account' means the present vested and ascertainable interest of each beneficiary under the plan, excluding any remainder interest created by, or as a result of, the plan.".

TITLE IX—CENTRAL LIQUIDITY FACILITY

SEC. 901. This title may be cited as the "National Credit Union Central Liquidity Facility Act".

SEC. 902. The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by adding at the end thereof the following new title:

"TITLE III—CENTRAL LIQUIDITY FACILITY

"SEC. 301. The Congress finds that the establishment of a National Credit Union Central Liquidity Facility is needed to improve general financial stability by meeting the liquidity needs of credit unions and thereby encourage savings, support consumer and mortgage lending, and provide basic financial resources to all segments of the economy.

"DEFINITIONS

"SEC. 302. As used in this title, the term—

"(1) 'liquidity needs' means the needs of credit unions primarily serving natural persons for—

"(A) short-term adjustment credit available to assist in meeting temporary requirements for funds or to cushion more persistent outflows of funds pending on orderly adjustment of credit union assets and liabilities;

"(B) seasonal credit available for longer periods to assist in meeting seasonal needs for funds arising from a combination of expected patterns of movement in share and deposit accounts and loans; and

"(C) protracted adjustment credit available in the event of unusual or emergency circumstances of a longer term nature resulting from national, regional, or local difficulties;

"(2) 'Central Liquidity Facility' or 'Facility' means the National Credit Union Central Liquidity Facility;

"(3) 'paid-in and unimpaired capital and surplus' means the balance of the paid-in share accounts and deposits as of a given date, less any loss that may have been incurred for which there is no reserve or which has not been charged against undivided earnings, plus the credit balance (or less the debit balance) of the undivided earnings account as of a given date, after all losses have been provided for and net earnings or net losses have been added thereto or deducted therefrom, but for the purpose of this paragraph, reserves shall not be considered as part of surplus; and

"(4) 'member' means a Regular or an Agent member of the Facility.

"ESTABLISHMENT OF THE NATIONAL CREDIT UNION ADMINISTRATION CENTRAL LIQUIDITY FACILITY

"SEC. 303. There is hereby created the National Credit Union Administration Central Liquidity Facility. The Central Liquidity Facility shall exist within the National Credit Union Administraton and be managed by the Administrator. The United States district courts shall have original jurisdiction over any case to which the Administrator on behalf of the Facility is a party, without regard to the amount in controversy.

"MEMBERSHIP

"SEC. 304. (a) A credit union primarily serving natural persons may be a Regular member of the Facility by subscribing to the capital stock of the Facility in an amount not less than one-half of 1 per centum of the credit union's paid-in and unimpaired capital and surplus.

"(b) A credit union or group of credit unions, primarily serving other credit unions, may be an Agent member of the Facility by—

"(1) obtaining the approval of the Administrator;

"(2) subscribing to the capital stock of the Facility in an amount not less than one-half of 1 per centum of the paid-in and unimpaired capital and surplus of all those credit unions which primarily serve natural persons and which are members of such credit union or of any credit union comprising such credit union group;

"(3) agreeing to comply with rules and regulations the Administrator shall prescribe with respect to, but not limited to, management quality, asset and liability safety and soundness, internal operating and control practices and procedures, and participation by natural persons in the affairs of such credit union or credit union group; and

"(4) agreeing to submit to the supervision of the Administrator which shall include, but not be limited to, reporting requirements and periodic unrestricted examinations.

"(c) Stock subscriptions provided for in subsections (a) and (b)(2) of this section shall be—

"(1) based on an arithmetic average of paid-in capital and surplus over the six months preceding application for membership; and

"(2) adjusted at the close of each calendar year in accordance with an arithmetic average of paid-in capital and surplus over a period determined by the Administrator.

"(d) An Agent member of the Facility shall perform for its member credit unions those functions required by the Administrator to carry out this title.

"(e)(1) A member of the Facility whose capital stock subscription constitutes less than 5 per centum of such stock outstanding, may withdraw from membership in the Facility six months after notifying the Administrator of its intention to do so.

"(2) A member of the Facility whose capital stock subscription constitutes 5 per centum or more of such stock outstanding, may withdraw from membership in the Facility twenty-four months after notifying the Administrator of its intention to do so.

"(3) The Administrator may terminate membership in the Facility if, after opportunity for a hearing the Administrator determines a member has failed to comply with any provision of this title or regulation issued pursuant thereto.

"CAPITAL STOCK

"SEC. 305. (a) As soon as practicable, the Administrator shall open books for subscriptions to the capital stock of the Facility. The minimum subscription shall be $50.

"(b) The capital stock of the Facility—

"(1) shall be divided into shares having a par value of $50 each;

"(2) shall be paid for with cash or with securities of the United States or any agency thereof in accordance with requirements the Administrator may impose;

"(3) shall share in dividend distributions without preference and at rates to be determined by the Administrator; and

"(4) shall not be transferred or hypothecated except as provided for herein.

"(c) When circumstances require that all or a portion of a member's stock be redeemed by the Facility, the Administrator shall pay an amount equal to what the member originally paid for the stock less any amount owed by the member to the Facility.

"(d) At least one-half of the payment for the subscription amount required for membership under section 304 of this title shall be transferred to the Facility. The remainder may be held by the member on call of

the Administrator and shall be invested in assets designated by the Administrator.

"(e) A credit union or credit union group that becomes a member of the Facility later than six months after the date the Administrator opens books for capital stock subscriptions, may not borrow or receive advances from the Facility without approval by the Administrator for a period of six months after becoming a member.

"EXTENSIONS OF CREDIT

"SEC. 306. (a)(1) A member may apply for an extension of credit from the Facility to meet its liquidity needs. The Administrator shall approve or deny any such application within five working days after receiving it.

"(2) The Administrator may advance funds to a member on terms and conditions prescribed by the Administrator.

"(b) The Secretary of the Treasury is authorized to lend to the Facility up to $500,000,000, in the event the Administrator certifies to the Secretary that the Facility does not have sufficient funds to meet liquidity needs of credit unions. Any such loan shall bear an interest rate not greater than one-eighth of 1 per centum above the current average market yield on outstanding obligations of the United States with remaining time to maturity comparable to the maturity of such loan. The authority of the Secretary to lend under this subsection shall be limited to such extent or in such amounts as are provided in advance in appropriation Acts.

"POWERS OF THE ADMINISTRATOR

"SEC. 307. The Administrator on behalf of the Facility shall have the authority to—

"(1) prescribe the manner in which the general business of the Facility shall be conducted;

"(2) prescribe rules and regulations to carry out this title;

"(3) determine the expenditures incurred by the Administration to carry out this title, and the expenditures incurred by the Facility to carry out titles I and II of this Act, and annually assess the Facility and the Administration accordingly;

"(4) borrow from—

"(A) any source with or without the guarantee of the United States as to principal and interest. The total face value of those obligations guaranteed by the United States shall not exceed twenty times the subscribed capital stock and surplus of the Facility;

"(B) the National Credit Union Share Insurance Fund up to $500,000 to defray initial organizational and operating expenses of the Facility at such rates and terms consistent with prevailing market conditions;

"(5) guarantee performance of the terms of any financial obligation of a member but only when such obligation bears a clear and conspicuous notice on its face that only the resources of the Facility underlie such guarantee;

"(6) purchase any asset from a member with the member's endorsement;

"(7) invest in obligations of the United States or any agency thereof;

"(8) make deposits in federally insured financial institutions and make investments in shares or deposits of credit unions;

"(9) sue and be sued, complain, and defend, in any State or Federal court;

"(10) adopt a seal;

"(11) pursue to final disposition by way of compromise or otherwise claims both for and against the United States (other than tort claims, claims involving administrative expenses, and claims in excess of $5,000 arising out of contracts for construction, repairs, and the purchase of supplies and materials) which are not in litigation and have not been referred to the Attorney General;

"(12) appoint officers and employees to assist in carrying out this title, who shall be appointed subject to the provisions of title 5, United States Code;

"(13) conduct business, carry on operations, have offices, and exercise the powers granted by this title in any State or territory;

"(14) lease, purchase, or otherwise acquire and own, hold, improve, use, or otherwise deal in and with property, real, personal, or mixed, or any interest therein, wherever situated; and

"(15) enter into contracts with any public or private organization, partnership, corporation, or individual, to the extent or in such amounts as are provided in advance in appropriation Acts.

"AUDIT OF FINANCIAL TRANSACTIONS

"SEC. 308. The Comptroller General of the United States shall audit the Central Liquidity Facility under such rules and regulations as the Comptroller General may prescribe.

"ANNUAL REPORT

"SEC. 309. The annual report required by section 102(e) shall include a full report of the activities of the Facility.".

SEC. 903. (a) Paragraph (6) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended by inserting "from the Central Liquidity Facility," after "prescribed,".

(b) Paragraph (7) of such section is amended by striking the word "and" preceding "(H)", and adding at the end thereof the following: "and (J) in the capital stock of the National Credit Union Central Liquidity Facility;".

(c) Paragraph (9) of such section is amended by inserting ", except as authorized by the Administrator in carrying out the provisions of title III," after "exceeding".

SEC. 904. Section 709 of title 18 United States Code, is amended by striking the fourth paragraph and inserting in lieu thereof the following new paragraph:

"Whoever, other than a bona fide organization or association of Federal or State credit unions or except as permitted by the laws of the United States, uses a firm or business name or transacts business using the words 'National Credit Union', 'National Credit Union Administration', 'National Credit Union Board', 'National Credit Union Share Insurance Fund', 'Share Insurance', or 'Central Liquidity Facility', or the letters 'NCUA', 'NCUSIF', or 'CLF', or any other combination or variation of those words or letters alone or with other words or letters, or any device or symbol or other means, reasonably calculated to convey the false impression that such name or business has some connection with, or authorization from, the National Credit Union Administration, the Government of the United States, or any agency thereof, which does not in fact exist, or falsely advertises or otherwise represents by any device whatsover that his or its business, product or service has been in any way endorsed, authorized, or approved by the National Credit Union Administration, the Government of the United States, or any agency thereof, or falsely advertises or otherwise represents by any device whatsoever that his or its deposit liabilities, obligations, certificates, shares, or accounts are insured under the Federal Credit Union Act or by the United States or any instrumentality thereof, or being an insured credit union as defined in that Act falsely advertises or otherwise represents by any device whatsoever the extent to which or the manner in which share holdings in such credit union are insured under such Act; or".

SEC. 905. Section 201 of the Government Corporation Control Act is amended—

(1) by striking out "and" before "(8)"; and

(2) by inserting before the period at the end thereof a comma and the following: "and (9) the National Credit Union Administration Central Liquidity Facility".

SEC. 906. This title shall take effect on October 1, 1979.

TITLE X—FEDERAL BANK EXAMINATION COUNCIL

SHORT TITLE

SEC. 1001. This title my be cited as the "Federal Bank Examination Council Act of 1978".

SEC. 1002. It is the purpose of this title to establish a Bank Examination Council which shall prescribe uniform principles and standards for the Federal examination of banks by the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System and make recommendations to promote uniformity in the supervision of these banks. The Council's actions shall be designed to promote consistency in such examinations and to insure progressive and vigilant supervision.

DEFINITIONS

SEC. 1003. As used in this title—

(1) the term "Federal bank regulatory agencies" means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation; and

(2) the term "Council" means the Bank Examination Council.

ESTABLISHMENT OF THE COUNCIL

SEC. 1004. (a) There is established the Bank Examination Council which shall consist of—

(1) the Comptroller of the Currency,

(2) the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation, and

(3) the Chairman of the Board of Governors of the Federal Reserve System.

The Chairman of the Federal Home Loan Bank Board and the Chairman of the National Credit Union Administration Board shall serve as advisory members.

(b) The members of the Council shall select the first chairman of the Council. Thereafter the chairmanship shall rotate among the members of the Council.

(c) The term of the Chairman of the Council shall be two years.

(d) The members and advisory members of the Council may, from time to time, designate other officers or employees of their respective agencies to carry out their duties on the Council.

(e) Each member and advisory member of the Council shall serve without additional compensation but shall be entitled to reasonable expenses incurred in carrying out his official duties as such a member or advisory member.

EXPENSES OF THE COUNCIL

SEC. 1005. One-third of the costs and expenses of the Council, including the salaries of its employees, shall be paid by each of the Federal bank regulatory agencies. Annual assessments for such shares shall be levied by the Council based upon its projected budget for the year, and additional assessments may be made during the year if necessary.

FUNCTIONS OF THE COUNCIL

SEC. 1006. (a) The Council shall establish uniform principles and standards and report forms for the examination of banks which shall be applied by the Federal bank regulatory agencies.

(b)(1) The Council shall make recommendations for uniformity in other supervisory matters, such as, but not limited to, classifying loans subject to country risk, identifying banks in need of special supervisory attention, and evaluating the soundness of large loans that are shared by two or more banks. In addition, the Council shall make recommendations regarding the adequacy of

supervisory tools for determining the impact of holding company operations on the banks within the holding company and shall consider the ability of supervisory agencies to discover possible fraud or questionable and illegal payments and practices which might occur in the operation of banks or their holding companies.

(2) When a recommendation of the Council is found unacceptable by one or more of the applicable Federal bank regulatory agencies, the agency or agencies shall submit to the Council, within a time period specified by the Council, a written statement of the reasons the recommendation is unacceptable.

(c) The Council shall develop uniform reporting systems for federally supervised banks, their holding companies, and nonbank subsidiaries of such institutions or holding companies. Such reporting systems shall be consistent with the requirements of section 12(i) of the Securities Exchange Act of 1934.

(d) The Council shall conduct schools for examiners and assistant examiners employed by the Federal banking regulatory agencies. Such schools shall be open to enrollment by employees of the Federal Home Loan Bank Board and the National Credit Union Administration Board and employees of State bank supervisory agencies under conditions specified by the Council.

(e) Nothing in this title shall be construed to limit or discourage Federal bank regulatory agency research and development of new bank supervisory methods and tools, nor to preclude the field testing of any innovation devised by any Federal bank regulatory agency.

(f) Not later than April 1 of each year, the Council shall prepare an annual report covering its activities during the preceding year.

STATE LIAISON

SEC. 1007. To encourage the application of uniform examination principles and standards by State and Federal supervisory agencies, the Council shall establish a liaison committee composed of five representatives of State agencies which supervise financial institutions which shall meet at least twice a year with the Council. Members of the liaison committee shall receive a reasonable allowance for necessary expenses incurred in attending meetings.

ADMINISTRATION

SEC. 1008. (a) The Chairman of the Council is authorized to carry out and to delegate the authority to carry out the internal administration of the Council, including the appointment and supervision of employees and the distribution of business among members, employees, and administrative units.

(b) In addition to any other authority conferred upon it by this title, in carrying out its functions under this title, the Council may utilize, with their consent and to the extent practical, the personnel, services, and facilities of the Federal bank regulatory and supervisory agencies and Federal Reserve banks, with or without reimbursement therefor.

(c) In addition, the Council may—

(1) subject to the provisions of title 5, United States Code, relating to the competitive service, classification, and General Schedule pay rates, appoint and fix the compensation of such officers and employees as are necessary to carry out the provisions of this title, and to prescribe the authority and duties of such officers and employees; and

(2) obtain the services of such experts and consultants as are necessary to carry out the provisions of this title.

ACCESS TO INFORMATION BY THE COUNCIL

SEC. 1009. For the purpose of carrying out this title, the Council shall have access to all books, accounts, records, reports, files, memorandums, papers, things, and property belonging to or in use by Federal bank regulatory agencies, including reports of examination of banks or their holding companies from whatever source, together with workpapers and correspondence files related to such reports, whether or not a part of the report, and all without any deletions.

TITLE XI—ELECTRONIC FUND TRANSFERS

SEC. 1101. The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end thereof the following new title:

"TITLE IX—ELECTRONIC FUND TRANSFERS

"§ 901. Short title

"This title may be cited as the 'Fair Fund Transfer Act'.

"§ 902. Findings and purpose

"(a) The Congress finds that the use of electronic systems to transfer funds provides the potential for substantial benefits to consumers. However, due to the unique characteristics of such systems, the application of existing consumer protection legislation is unclear, leaving the rights and liabilities of consumers, financial institutions, and intermediaries in electronic fund transfers undefined.

"(b) It is the purpose of this title to provide a basic framework establishing the rights, liabilities, and responsibilities of participants in electronic fund transfer systems. The primary objective of this title, however, is the provision of individual consumer rights.

"§ 903. Definitions

"As used in this title—

"(1) the term 'accepted card or other means of access' means a card, code, or other means of access to a consumer's account for the purpose of initiating electronic fund transfers when the person to whom such card or other means of access was issued has requested and received or has signed or has used, or authorized another to use, such card or other means of access for the purpose of transferring money between accounts or obtaining money, property, labor, or services;

"(2) the term 'account' means a demand deposit, savings deposit, or other asset account (other than an occasional or incidental credit balance in an open end credit plan as defined in section 103(i) of this Act), as described in regulations of the Board, established primarily for personal, family, or household purposes, but such term does not include an account held by a financial institution pursuant to a bona fide trust agreement;

"(3) the term 'Board' means the Board of Governors of the Federal Reserve System;

"(4) the term 'business day' means any day on which the office of the consumer's financial institution involved in an electronic fund transfer are open to the public for carrying on substantially all of its business functions;

"(5) the term 'consumer' means a natural person;

"(6) the term 'electronic fund transfer' means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, direct deposits or withdrawals of funds, and transfers initiated by telephone. Such term does not include—

"(A) any check guarantee or authorization service which does not directly result in a debit or credit to a consumer's account:

"(B) any transfer of funds other than those processed by automated clearinghouse, made by a financial institution on behalf of a consumer by means of a service that transfers funds held at either Federal Reserve banks or other depository institutions and which is not designed primarily to transfer funds on behalf of a consumer;

"(C) any transaction the primary purpose of which is the purchase or sale of securities or commodities through a broker-dealer registered with or regulated by the Securities and Exchange Commission;

"(D) any automatic transfer from a savings account to a demand deposit account pursuant to an agreement between a consumer and a financial institution for the purpose of covering an overdraft or maintaining an agreed upon minimum balance in the consumer's demand deposit account; or

"(E) any transfer of funds which is initiated by a telephone conversation between a consumer and an officer or employee of a financial institution which is not pursuant to a prearranged plan and under which periodic or recurring transfers are not contemplated,

as determined under regulations of the Board;

"(7) the term 'electronic terminal' means an electronic device, other than a telephone operated by a consumer, through which a consumer may initiate an electronic fund transfer. Such term includes, but is not limited to, point-of-sale terminals, automated teller machines, and cash dispensing machines;

"(8) the term 'financial institution' means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person who, directly or indirectly, holds an account belonging to a consumer;

"(9) the term 'preauthorized electronic fund transfer' means an electronic fund transfer authorized in advance to recur at substantially regular intervals;

"(10) the term 'State' means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing; and

"(11) the term 'unauthorized electronic fund transfer' means an electronic fund transfer from a consumer's account initiated by a person other than the consumer without actual authority to initiate such transfer and from which the consumer receives no benefit, but the term does not include any electronic fund transfer (A) initiated by a person other than the consumer who was furnished with the card, code, or other means of access to such consumer's account by such consumer, unless the consumer has notified the financial institution involved that transfers by such other person are no longer authorized, (B) initiated with fraudulent intent by the consumer or any person acting in concert with the consumer, or (C) which constitutes an error committed by a financial institution.

"§ 904. Regulations

"(a) The Board shall prescribe regulations to carry out the purposes of this title. In prescribing such regulations, the Board shall—

"(1) consult with the other agencies referred to in section 917 and take into account, and allow for, the continuing evolution of electronic banking services and the technology utilized in such services;

"(2) prepare an analysis of economic impact which considers the costs and benefits to financial institutions, consumers, and other users of electronic fund transfers, including the extent to which additional documentation, reports, records, or other paper work would be required, and the effects upon competition in the provision of electronic banking services among large and

small financial institutions and the availability of such services.

"(b) The Board shall issue model clauses for optional use by financial institutions to facilitate compliance with the disclosure requirements of section 905 and to aid consumers in understanding the rights and responsibilities of participants in electronic fund transfers by utilizing readily understandable language. Such model clauses shall be adopted after notice duly given in the Federal Register and opportunity for public comment in accordance with section 553 of title 5, United States Code. With respect to the disclosures required by section 905(a)(3) and (4), the Board shall take account of variations in the services and charges under different electronic fund transfer systems and, as appropriate, shall issue alternative model clauses for disclosure of these differing account terms.

"(c) Regulations prescribed hereunder may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of electronic fund transfers, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

"(d) In the event that electronic fund transfer services are made available to consumers by a person other than a financial institution holding a consumer's account, the Board shall by regulation assure that the disclosures, protections, responsibilities, and remedies created by this title are made applicable to such persons and services.

"§ 905. Terms and conditions of transfers

"(a) The terms and conditions of electronic fund transfers involving a consumer's account shall be disclosed at the time the consumer contracts for an electronic fund transfer service, in accordance with regulations of the Board. Such disclosures shall be in readily understandable language and shall include, to the extent applicable—

"(1) the consumer's liability for unauthorized electronic fund transfers and, at the financial institution's option, notice of the advisability of prompt reporting of any loss, theft, or unauthorized use of a card, code, or other means of access;

"(2) the telephone number and address of the person or office to be notified in the event the consumer believes that an unauthorized electronic fund transfer has been or may be effected;

"(3) the type and nature of electronic fund transfers which the consumer may initiate, including any limitations on the frequency or dollar amount of such transfers, except that the details of such limitations need not be disclosed if their confidentiality is necessary to maintain the security of an electronic fund transfer system, as determined by the Board;

"(4) any charges for electronic fund transfers or for the right to make such transfers;

"(5) the consumer's right to stop payment of a preauthorized electronic fund transfer and the procedure to initiate such a stop payment order;

"(6) the consumer's right to receive documentation of electronic fund transfers under section 906;

"(7) a summary, in a form prescribed by regulations of the Board, of the error resolution provisions of section 908 and the consumer's rights thereunder. The financial institution shall thereafter transmit such summary at least once per calendar year;

"(8) the financial institution's liability to the consumer under section 910; and

"(9) under what circumstances the financial institution will in the ordinary course of business disclose information concerning the consumer's account to third persons.

"(b) A financial institution shall notify a consumer in writing at least twenty-one days prior to the effective date of any change in any term or condition of the consumer's account required to be disclosed under subsection (a) if such change would result in greater cost or liability for such consumer or decreased access to the consumer's account. A financial institution may, however, implement a change in the terms or conditions of an account without prior notice when such change is immediately necessary to maintain or restore the security of an electronic fund transfer system or a consumer's account. Subject to subsection (a)(3), the Board shall require subsequent notification if such a change is made permanent.

"(c) For any account of a consumer made accessible to electronic fund transfers prior to the effective date of this title, the information required to be disclosed to the consumer under subsection (a) shall be disclosed not later than the earlier of—

"(1) the first periodic statement required by section 906(c) after the effective date of this title; or

"(2) thirty days after the effective date of this title.

"§ 906. Documentation of transfers; periodic statements

"(a) For each electronic fund transfer initiated by a consumer from an electronic terminal, the financial institution holding such consumer's account shall, directly or indirectly, at the time the transfer is initiated, make available to the consumer written documentation of such transfer. The documentation shall clearly set forth to the extent applicable—

"(1) the amount involved and date the transfer is initiated;

"(2) the type of transfer;

"(3) the identity of the consumer's account with the financial institution from which or to which funds are transferred;

"(4) the identity of any third party to whom or from whom funds are transferred; and

"(5) the location or identification of the electronic terminal involved.

"(b) For a consumer's account which is scheduled to be credited by a preauthorized electronic fund transfer from the same payor at least once in each successive sixty-day period, except where the payor provides positive notice of the transfer to the consumer, the financial institution shall elect to provide promptly either positive notice to the consumer when the credit is made as scheduled, or negative notice to the consumer when the credit is not made as scheduled, in accordance with regulations of the Board. The means of notice elected shall be disclosed to the consumer in accordance with section 905.

"(c) A financial institution shall provide each consumer with a periodic statement for each account of such consumer that may be accessed by means of an electronic fund transfer. Except as provided in subsection (d) and (e), such statement shall be provided at least monthly for each monthly or shorter cycle in which an electronic fund transfer affecting the account has occurred, or every three months, whichever is more frequent. The statement, which may include information regarding transactions other than electronic fund transfers, shall clearly set forth—

"(1) with regard to each electronic fund transfer during the period, the information described in subsection (a), which may be provided on an accompanying document;

"(2) the amount of any fee or charge assessed by the financial institution during the period for electronic fund transfers or for account maintenance;

"(3) the balances in the consumer's account at the beginning of the period and at the close of the period; and

"(4) the address and telephone number to be used by the financial institution for the purpose of receiving any statement inquiry or notice of account error from the consumer. Such address and telephone number shall be preceded by the caption 'Direct Inquiries To:' or other similar language indicating that the address and number are to be used for such inquiries or notices.

"(d) In the case of a consumer's passbook account which may not be assessed by electronic fund transfers other than preauthorized electronic fund transfers crediting the account,

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"§ Preauthorized transfers

"(a) A preauthorized electronic fund transfer from a consumer's account may be authorized by the consumer only in writing, and a copy of such authorization shall be provided to the consumer when made. A consumer may stop payment of a preauthorized electronic fund transfer by notifying the financial institution orally or in writing at any time up to three business days preceding the scheduled date of such transfer. The financial institution may require written confirmation to be provided to it within fourteen days of an oral notification if, when the oral notification is made, the consumer is advised of such requirement and the address to which such confirmation should be sent.

"(b) In the case of preauthorized transfers from a consumer's account t the same person which may vary in amount, the financial institution or designated payee shall, prior to each transfer, provide reasonable advance notice to the consumer, in accordance with regulations of the Board, of the amount to be transferred and the scheduled date of the transfer.

"§ 908. Error resolution

"(a) If a financial institution, within sixty days after having transmitted to a consumer documentation pursuant to section 906 (a), (c), or (d) or notification pursuant to section 906(b), receives oral or written notice in which the consumer—

"(1) sets forth or otherwise enables the financial institution to identify the name and account number of the consumer;

"(2) indicates the consumer's belief that the documentation, or, in the case of notification pursuant to section 906(b), the consumer's account, contains an error and the amount of such error; and

"(3) sets forth the reasons for the consumer's belief (where applicable) that an error has occurred, the financial institution shall investigate the alleged error, determine whether an error has occurred, and report or mail the results of such investigation and determination to the consumer within ten business days. The financial institution may require written confirmation to be provided to it within ten business days after such determination, correct the error, subject to section 909, including the crediting of interest where applicable.

"(c) If a financial institution receives notice of an error in the manner and within the time period specified in subsection (a), it may, in lieu of the requirements of subsections (a) and (b), within ten business days after receiving such notice provisionally recredit the consumer's account for the amount alleged to be in error, subject to section 909, including interest where applicable, pending the conclusion of its investigation and its determination of whether an error has occurred. Such investigation shall be concluded not later than forty-five days after receipt of notice of the error. During the pendency of the investigation, the consumer shall have full use of the funds provisionally recredited.

"(d) If the financial institution determines after its investigation pursuant to subsection (a) or (c) that an error did not occur, it shall deliver or mail to the consumer an explanation of its findings within 3 business days after the conclusion of its investigation, and upon request of the consumer promptly deliver or mail to the consumer reproductions of all documents which

the financial institution relied on to conclude that such error did not occur. The financial institution shall include notice of the right to request reproductions with the explanation of its findings.

"(e) If in any action under section 915, the court finds that—

"(1) the financial institution did not provisionally recredit a consumer's account within the ten-day period specified in subsection (c), and the financial institution (A) did not make a good faith investigation of the alleged error, or (B) did not have a reasonable basis for believing that the consumer's account was not in error; or

"(2) the financial institution knowingly and willfully concluded that the consumer's account was not in error when such conclusion could not reasonably have been drawn from the evidence available to the financial institution at the time of its investigation,

then the consumer shall be entitled to treble damages determined under section 915 (a)(1).

"(f) For the purpose of this section, an error consists of—

"(1) an unauthorized electronic fund transfer;

"(2) an incorrect electronic funds transfer from or to the consumer's account;

"(3) the omission from a periodic statement of an electronic fund transfer affecting the consumer's account which should have been included;

"(4) a computational error by the financial institution;

"(5) the consumer's receipt of an incorrect amount of money from an electronic terminal;

"(6) a consumer's request for additional information or clarification concerning an electronic fund transfer or any documentation required by this title; or

"(7) any other error described in regulations of the Board.

"§ 909. Consumer liability for unauthorized transfers

"(a) A consumer shall be liable for any unauthorized electronic fund transfer involving the account of such consumer only if the card or other means of access utilized for such transfer was an accepted card or other means of access and if the issuer of such card, code, or other means of access has provided a means whereby the user of such card, code, or other means of access can be identified as the person authorized to use it, such as by signature, photograph, or fingerprint or by electronic or mechanical confirmation. In no event, however, shall a consumer's liability for an unauthorized transfer exceed the lesser of—

"(1) $50; or

"(2) the amount of money or value of property or services obtained in such unauthorized electronic fund transfer prior to the time the financial institution is notified of, or otherwise becomes aware of, circumstances which lead to the reasonable belief that an unauthorized electronic fund transfer involving the consumer's account has been or may be effected. Notice under this paragraph is sufficient when such steps have been taken as may be reasonably required in the ordinary course of business to provide the financial institution with the pertinent information, whether or not any particular officer, employee, or agent of the financial institution does in fact receive such information.

Notwithstanding the foregoing, reimbursement need not be made to the consumer for losses the financial institution establishes would not have occurred but for the failure of the consumer to report within sixty days of transmittal of the statement (or in extenuating circumstances such as extended travel or hospitalization, within a reasonable time under the circumstances) any unauthorized electronic fund transfer or account error which appears on the periodic statement provided to the consumer under section 906.

"(b) In any action which involves a consumer's liability for an unauthorized electronic fund transfer, the burden of proof is upon the financial institution to show that the electronic fund transfer was authorized or, if the electronic fund transfer was unauthorized, then the burden of proof is upon the financial institution to establish that the conditions of liability set forth in subsection (a) have been met, and, if the transfer was initiated after the effective date of section 905, that the disclosures required to be made to the consumer under section 905(a) (1) and (2) were in fact made in accordance with such section.

"(c) In the event of a transaction which involves both an unauthorized electronic fund transfer and an extension of credit as defined in section 103(e) of this Act pursuant to an agreement between the consumer and the financial institution to extend such credit to the consumer in the event the consumer's account is overdrawn, the limitation on the consumer's liability for such transaction shall be determined solely in accordance with this section.

"(d) Nothing in this section imposes liability upon a consumer for an unauthorized electronic fund transfer in excess of his liability for such a transfer under other applicable law or under any agreement with the consumer's financial institution.

"(e) Except as provided in this section, a consumer incurs no liability from an unauthorized electronic fund transfer.

"§ 910. Liability of financial institutions

"(a) Subject to subsections (b) and (c), a finincial institution shall be liable to a consumer for all damages proximately caused by—

"(1) the financial institution's failure to make an electronic fund transfer, in accordance with the terms and conditions of an account, in the correct amount or in a timely manner when properly instructed to do so by the consumer, except where—

"(A) the consumer's account has insufficient funds;

"(B) the funds are subject to legal process or other encumbrance restricting such transfer;

"(C) such transfer would exceed an established credit limit;

"(D) an electronic terminal has insufficient cash to complete the transaction; or

"(E) as otherwise provided in regulations of the Board;

"(2) the financial institution's failure to make an electronic fund transfer due to insufficient funds when the financial institution failed to credit, in accordance with the terms and conditions of an account, a deposit of funds to the consumer's account which would have provided sufficient funds to make the transfer; and

"(3) the financial institution's failure to stop payment of a preauthorized transfer from a consumer's account when instructed to do so in accordance with the terms and conditions of the account.

"(b) A financial institution shall not be liable under subsection (a)(1) or (2) if the financial institution shows by a preponderance of the evidence that its action or failure to act resulted from—

"(1) an act of God or other circumstance beyond its control, that it exercised reasonable care to prevent such an occurrence, and that it exercised such diligence as the circumstances required; or

"(2) a technical malfunction which was known to the consumer at the time he attempted to initiate an electronic fund transfer or, in the case of a preauthorized transfer, at the time such transfer should have occurred.

"(c) In the case of a failure described in subsection (a) which was not intentional and which resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error, the financial institution shall be liable for actual damages proved.

"§ 911. Issuance of cards or other means of access

"(a) No person may issue to a consumer any card, code, or other means of access to such consumer's account for the purpose of initiating an electronic fund transfer other than—

"(1) in response to a request or application therefor; or

"(2) as a renewal of, or in substitution for, an accepted card, code, or other means of access, whether issued by the initial issuer or a successor.

"(b) Notwithstanding the provisions of subsection (a), a person may distribute to a consumer on an unsolicited basis a card, code, or other means of access for use in initiating an electronic fund transfer from such consumer's account, if—

"(1) such card, code, or other means of access is not validated;

"(2) such distribution is accompanied by a complete disclosure, in accordance with section 905, of the consumer's rights and liabilities which will apply if such card, code, or other means of access is validated;

"(3) such distribution is accompanied by a clear explanation, in accordance with regulations of the Board, that such card, code, or other means of access is not validated and how the consumer may dispose of such code, card, or other means of access if validation is not desired; and

"(4) such card, code, or other means of access is validated only in response to a request or application from the consumer, upon verification of the consumer's identity.

"(c) For the purpose of subsection (b), a card, code, or other means of access is validated when it may be used to initiate an electronic fund transfer.

"§ 912. Suspension of obligations

"If a system malfunction prevents the effectuation of an electronic funds transfer initiated by a consumer to another person, and such other person has agreed to accept payment by such means, the consumer's obligation to the other person shall be suspended until the malfunction is corrected and the electronic fund transfer may be completed, unless such other person has subsequently, by written request, demanded payment by means other than an electronic fund transfer.

"§ 913. Compulsory use of electronic fund transfers

"No person may—

"(1) condition the extension of credit to a consumer on such consumer's repayment by means of preauthorized electronic fund transfers; or

"(2) require a consumer to establish an account for receipt of electronic fund transfers with a particular financial institution as a condition of employment or receipt of a government benefit.

"§ 914. Waiver of rights

"No writing or other agreement between a consumer and any other person may contain any provision which constitutes a waiver of any right conferred or cause of action created by this title. Nothing in this section prohibits, however, any writing or other agreement which grants to a consumer a more extensive right or remedy or greater protection than contained in this title or a waiver given in settlement of a dispute or action.

"§ 915. Civil liability

"(a) Except as otherwise provided by this section and section 910, any person who fails to comply with any provision of this title

with respect to any consumer, except for an error resolved in accordance with section 908, is liable to such consumer in an amount equal to the sum of—

"(1) any actual damage sustained by such consumer as a result of such failure;

"(2) (A) in the case of an individual action, an amount not less than $100 nor greater than $1,000; or

"(B) in the case of a class action, such amount as the court may allow, except that (i) as to each member of the class no minimum recovery shall be applicable, and (ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same person shall not be more than the lesser of $500,000 or 1 per centum of the net worth of the defendant; and

"(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fees as determined by the court.

"(b) In determining the amount of liability in any action under subsection (a), the court shall consider, among other relevant factors—

"(1) in any individual action under subsection (a)(2)(A), the frequency and persistence of noncompliance, the nature of such noncompliance, and the extent to which the noncompliance was intentional; or

"(2) in any class action under subsection (a)(2)(B), the frequency and persistence of noncompliance, the nature of such noncompliance, the resources of the defendant, the number of persons adversely affected, and the extent to which the noncompliance was intentional.

"(c) Except as provided in section 910, a person may not be held liable in any action brought under this section for a violation of this title if the person shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

"(d) No provision of this section or section 916 imposing any liability shall apply to—

"(1) any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe therefor; or

"(2) any failure to make disclosure in proper form if a financial institution utilized an appropriate model clause issue by the Board,

notwithstanding that after such act, omission, or failure has occurred, such rule, regulation, approval, or model clause is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(e) A person has no liability under this section for any failure to comply with any requirement under this title if, prior to the institution of an action under this section, the person notifies the consumer concerned of the failure, complies with the requirements of this title, and makes an appropriate adjustment to the consumer's account and pays actual damages or, where applicable, damages in accordance with section 910.

"(f) On a finding by the court that an unsuccessful action under this section was brought in bad faith or for purposes of harassment, the court shall award to the defendant attorney's fees reasonable in relation to the work expended and costs.

"(g) Without regard to the amount in controversy, any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

"§ 916. Criminal liability

"(a) Whoever knowingly and willfully—

"(1) gives false or inaccurate information or fails to provide information which he is required to disclose by this title or any regulation issued thereunder; or

"(2) otherwise fails to comply with any provision of this title;

shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"(b) Whoever—

"(1) knowingly, in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument to obtain money, goods, services, or anything else of value which within any one-year period has a value aggregating $1,000 or more;

"(2) with unlawful or fraudulent intent, transports or attempts or conspires to transport in interstate or foreign commerce a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(3) with unlawful or fraudulent intent, uses any instrumentality of interstate or foreign commerce to sell or transport a counterfeit, fictitious, altered, forged, lost, stolen, or fradulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(4) knowingly receives, conceals, uses, or transports money, goods, services, or anything else of value (except tickets for interstate or foreign transportation) which (A) within any one-year period has a value aggregating $1,000 or more, (B) has moved in or is part of, or which constitutes interstate or foreign commerce, and (C) has been obtained with a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument; or

"(5) knowingly receives, conceals, uses, sells, or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation, which (A) within any one-year period have a value aggregating $500 or more, and (B) have been purchased or obtained with one or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument; or

"(6) in a transaction affecting interstate or foreign commerce, furnishes money, property, services, or anything else of value, which within any one-year period has a value aggregating $1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained—

shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(c) As used in this section, the term 'debit instrument' means a card, code, or other device, other than a check, draft, or similar paper instrument, by the use of which a person may initiate an electronic fund transfer.

"§ 917. Administrative enforcement

"(a) Compliance with the requirements imposed under this title shall be enforced under—

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), by the Board;

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

"(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions;

* * * * *

imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

"(c) Except to the extent that enforcement of the requirements imposed under this Act is specifically committed to some other Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this Act shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person subject to the jurisdiction of the Commission with the requirements imposed under this Act, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.".

§ 918. Reports to Congress

"(a) Not later than twelve months after the effective date of this title and at one-year intervals thereafter, the Board and the Attorney General shall, respectively, make reports to the Congress concerning the administration of their functions under this title, including such recommendations as the Board and the Attorney General, respectively, deem necessary or appropriate. In addition, each report of the Board shall include its assessment of the extent to which compliance with this title is being achieved, and a summary of the enforcement actions taken under section 917 of this title. In such report, the Board shall particularly address the effects of this title on the costs and benefits to financial institutions and consumers, on competition, on the introduction of new technology, on the operations of financial institutions, and on the adequacy of consumer protection. The report of the Attorney General shall also contain an analysis of the impact of this title on the operation, workload, and efficiency of the Federal courts.

"(b) In the exercise of its functions under this title, the Board may obtain upon request the views of any other Federal agency which, in the judgment of the Board, exercises regulatory or supervisory functions with respect to any class of persons subject to this title.

§ 919. Relation to State laws

"This title does not annul, alter, or affect the laws of any State relating to electronic fund transfers, except to the extent that those laws are inconsistent with the provisions of this title, and then only to the extent of the inconsistency. A State law is not inconsistent with this title if the protection such law affords any consumer is greater than the protection afforded by this title. The Board shall, upon its own motion or upon the request of any financial institution, State, or other interested party, submitted in accordance with procedures prescribed in regulations of the Board, determine whether

a State requirement is inconsistent or affords greater protection. If the Board determines that a State requirement is inconsistent, financial institutions shall incur no liability under the law of that State for a good faith failure to comply with that law, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason. This title does not extend the applicability of any such law to any class of persons or transactions to which it would not otherwise apply.

§ 920. Exemption for State regulation

"The Board shall by regulation exempt from the requirements of this title any class of electronic fund transfers within any State if the Board determines that under the law of that State that class of electronic fund transfers is subject to requirements substantially similar to those imposed by this title, and that there is adequate provision for enforcement.

"§ 921. Effective date

"This title takes effect upon the expiration of eighteen months from the date of its enactment, except that sections 909 and 911 take effect upon the expiration of ninety days after the date of enactment.".

TITLE XII—TRUTH IN LENDING SIMPLIFICATION

SHORT TITLE

SEC. 1201. This title may be cited as the "Truth in Lending Simplification and Reform Act".

DEFINITIONS

SEC. 1202. (a) Section 103(f) of the Truth in Lending Act is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "The term 'creditor' refers only to a person who both (1) regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required; and (2) is the person to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the foregoing, a person who regularly arranges for the extension of consumer credit, which is payable in more than four installments or for which the payment of a finance charge is or may be required, from persons who are not creditors is a creditor, and in the case of an open end credit plan involving a credit card the card issuer and any person who honors the credit card and offers a discount which is a finance charge are creditors."; and

(2) by redesignating the references to sections 127(a)(6), 127(a)(7), 127(a)(8), 127(b)(9), and 127(b)(11) in the next succeeding sentence as references to sections 127(a)(5), 127(a)(6), 127(a)(7), 127(b)(8), and 127(b)(10), respectively.

(b) The first sentence of section 103(g) of the Truth in Lending Act is amended to read as follows: "The term 'credit sale' refers to any sale in which the seller is a creditor.".

EXEMPTED TRANSACTIONS

SEC. 1203. (a) Section 103(h) of the Truth in Lending Act is amended by striking out "household, or agricultural" and inserting in lieu thereof "or household".

(b) Section 103 of the Truth in Lending Act is amended by redesignating subsection (s) as subsection (x), and by inserting a new subsection (s) as follows:

"(s) The term 'agricultural purposes' includes the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures those agricultural products, including but not limited to the acquisition of farmland, real property with a farm residence, and personal property and services used primarily in farming, and the term 'agricultural products' includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof.".

(c) Section 104 of the Truth in Lending Act is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Credit transactions involving extensions of credit primarily for business, commercial, or agricultural purposes, or to government or governmental agencies or instrumentalities, or to organizations.";

(2) by amending paragraph (3) to read as follows:

"(3) Credit transactions, other than those in which a security interest is or will be acquired in real property, or in personal property used or expected to be used as the principal dwelling of the consumer, in which the total amount financed exceeds $25,000."; and

(3) by striking out paragraph (5).

OPEN END CREDIT PLAN

SEC. 1204. Section 103(i) of the Truth in Lending Act is amended to read as follows:

"(i) The term 'open end credit plan' means a plan under which the creditor reasonably contemplates repeated transactions, which prescribes the terms of such transactions, and which provides for a finance charge which may be computed from time to time on the outstanding unpaid balance. A credit plan which is an open end credit plan within the meaning of the preceding sentence is an open end credit plan even if credit information is verified from time to time.".

MODEL FORMS

SEC. 1205. (a) Section 105 of the Truth in Lending Act is amended by inserting "(a)" before "The", and by adding at the end thereof the following:

"(b) The Board shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this title and to aid the borrower in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising such forms, the Board shall consider the use by creditors of data processing or similar automated equipment. Nothing in this title may be construed to require a creditor to use any such model form or clause prescribed by the Board under this section. A creditor shall be deemed to be in compliance with the disclosure provisions of this title with respect to other than numerical disclosures if the creditor (1) uses any appropriate model form or clause as published by the Board, or (2) uses any such model form or clause and changes it by (A) deleting any information which is not required by this title, or (B) rearranging the format, if in making such deletion or rearranging the format, the creditor does not affect the substance, clarity, or meaningful sequence of the disclosure.

"(c) Model disclosure forms and clauses shall be adopted by the Board after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

"(d) Any regulation of the Board, or any amendment or interpretation thereof, requiring any disclosure different from that previously required by this chapter, chapter 4, or chapter 5, or regulation of the Board promulgated thereunder shall have an effective date of that October 1 which follows by at least six months the date of promulgation, except that the Board may at its discretion take interim action by regulation, amendment, or interpretation to lengthen the period of time permitted for creditors to adjust their forms to accommodate new requirements or shorten the length of time for creditors to make such adjustments when it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive disclosure practices. Notwithstanding the foregoing, any creditor may comply with any such newly promulgated disclosure requirements prior to the effective date of the requirements.".

COMPONENTS OF FINANCE CHARGE

SEC. 1206. (a) Section 106(a) of the Truth in Lending Act is amended by striking out ", including any of the following types of charges which are applicable" and inserting in lieu thereof the following: ". The finance charge does not include charges of a type payable in a comparable cash transaction. Examples of charges which are included in the finance charge include any of the following types of charges which are applicable".

(b) Section 106(d) of the Truth in Lending Act is amended by striking out paragraphs (3) and (4).

ACCURACY OF ANNUAL PERCENTAGE RATE

SEC. 1207. (a) Subsection (c) of section 107 of the Truth in Lending Act is amended to read as follows:

"(c) The disclosure of an annual percentage rate is accurate for the purpose of this title if the rate disclosed is within a tolerance not greater than one-eighth of 1 per centum more or less than the actual rate or rounded to the nearest one-fourth of 1 per centum. The Board may allow a greater tolerance to simplify compliance where irregular payments are involved.".

(b) Subsection (e) of section 107 of the Truth in Lending Act is amended by striking out "(c) or".

(c) Subsection (f) of section 107 of the Truth in Lending Act is repealed.

ADMINISTRATIVE ENFORCEMENT; RESTITUTION

SEC. 1208.

(a) Section 108 of the Truth in Lending Act is amended by adding at the end thereof the following:

"(e)(1) In carrying out its enforcement activities under this section, each agency referred to in subsection (a) or (c), in cases where an annual percentage rate or finance charge was inaccurately disclosed, shall notify the creditor of such disclosure error and is authorized in accordance with the provisions of this subsection to require the creditor to make an adjustment to the account of the person to whom credit was extended, to assure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

"(2) Each agency shall require such an adjustment when it determines that such disclosure error resulted from (A) a clear and consistent pattern or practice of violations, (B) gross negligence, or (C) a willful violation which was intended to mislead the person to whom the credit was extended. In the case of other such disclosure errors, each agency may require such an adjustment.

"(3) Notwithstanding the above paragraph (2), no adjustment shall be ordered (A) if it would have a significantly adverse impact upon the safety or soundness of the creditor, but in any such case, the agency may require a partial adjustment in an amount which does not have such an impact, (B) if the amount of the adjustment would be less than $1, except that if more than one year has elapsed since the date of the violation, the agency may require that such amount be

paid into the Treasury of the United States, or (C) except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, in the case of an open-end credit plan, more than two years after the violation, or in the case of any other extension of credit, after the later of (i) the expiration of the life of the credit extension, or (ii) two years after the agreement to extend credit was consummated.

"(4)(A) Notwithstanding any other provision of this section, an adjustment under this subsection may be required by an agency referred to in subsection (a) or (c) only by an order issued in accordance with cease-and-desist procedures provided by the provision of law referred to in such subsections.

"(B) In the case of an agency which is not authorized to conduct cease-and-desist proceedings, such an order may be issued after an agency hearing on the record conducted at least thirty but not more than sixty days after notice of the alleged violation is served on the creditor. Such a hearing shall be deemed to be a hearing which is subject to the provisions of section 8(h) of the Federal Deposit Insurance Act and shall be subject to judicial review as provided therein.

"(5) Except as otherwise specifically provided in this subsection and notwithstanding any provision of law referred to in subsection (a) or (c), no agency referred to in subsection (a) or (c) may require a creditor to make dollar adjustments under this title, except with regard to the requirements of section 165.

"(6) A creditor shall not be subject to an order to make an adjustment, if within sixty days after discovering a disclosure error, whether pursuant to a final written examination report or through the creditor's own procedures, the creditor notifies the person concerned of the error and adjusts the account so as to assure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

"(7) The provisions of this subsection do not apply to any loan or extension of credit consummated prior to October 28, 1974.".

EFFECT ON OTHER LAWS

SEC. 1209. Section 111(a) of the Truth in Lending Act is amended to read as follows:

"(a)(1) This title does not annul, alter, or affect the laws of any State relating to the disclosure of information in connection with credit transactions, except to the extent that those laws are inconsistent with the provisions of this title, and then only to the extent of the inconsistency. The Board shall, upon its own motion or upon the request of any creditor, State, or other interested party, submitted in accordance with procedures prescribed in regulations of the Board, determine whether such inconsistencies exist. If the Board determines that a State-required disclosure is inconsistent, creditors located in that State may not make disclosures using the inconsistent term or form, and shall incur no liability under the law of that State for a good faith failure to use such term or form, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(2) The Board shall, upon its own motion or upon the request of any creditor, State, or other interested party, submitted in accordance with procedures prescribed in regulations of the Board, determine whether any disclosure required under the law of any State is substantially the same in meaning as a disclosure required under this title. If the Board determines that a State-required disclosure in substantially the same in meaning as a disclosure required by this title, then creditors located in that State may make such disclosure in compliance with such State law in lieu of the disclosure required by this title, except that the annual percentage rate and finance charge must always be disclosed as required by section 122.".

SEC. 1210. (a) Section 114 of the Truth in Lending Act is amended by striking out "not later than January 3 of each year after 1969" and inserting in lieu thereof "Each year".

(b) Section 18(f)(5) of the Federal Trade Commission Act (15 U.S.C. 58a(f)(5)) is amended by striking out "not later than March 15".

(c) Section 707 of the Equal Credit Opportunity Act is amended by striking out "Not later than February 1 of each year after 1976" and inserting in lieu thereof "Each year".

GENERAL DISCLOSURE REQUIREMENTS

SEC. 1211. Sections 121 and 122 of the Truth in Lending Act are amended to read as follows:

"§ 121. General requirement of disclosure

"(a) Subject to subsection (b), a creditor or lessor shall disclose to the person who is obligated on a consumer lease or a consumer credit transaction the information required under this title. In a transaction involving more than one obligor, a creditor or lessor, except in a transaction under section 125, need not disclose to more than one of them if the one given disclosure is a primary obligor.

"(b) If a transaction involves one creditor as defined in section 103(f), or one lessor as defined in section 181(3), that creditor or lessor shall make the disclosures. If a transaction involves more than one creditor or lessor, only one creditor or lessor shall be required to make the disclosures. The Board shall by regulation specify which creditor or lessor must make the disclosures.

"(c) The Board may provide by regulation that any portion of the information required to be disclosed by this title may be given in the form of estimates where the provider of such information is not in a position to know exact information.

"(d) The Board shall determine whether tolerances for numerical disclosures other than the annual percentage rate are necessary to facilitate compliance with this title, and if it determines that such tolerances are necessary to facilitate compliance, it shall by regulation permit disclosures within such tolerances.

"§ 122. Form of disclosure; additional information

"(a) Information required by this title shall be disclosed clearly and conspicuously, in accordance with regulations of the Board. The terms 'annual percentage rate' and 'finance charge' shall be disclosed more conspicuously than other terms, data, or information provided in connection with a transaction, except information relating to the identity of the creditor. Regulations of the Board need not require that disclosures pursuant to this title be made in the order set forth in this title and, except as otherwise provided, may permit the use of terminology different from that employed in this title if it conveys substantially the same meaning.

"(b) Any creditor may supply additional information or explanation with any disclosures required under chapter 4 and, except as provided in section 128(b)(1), under this chapter.".

RESCISSION

SEC. 1212. (a)(1) Subsection (a) of section 125 of the Truth in Lending Act is amended to read as follows:

"(a) Except as otherwise provided in this section, in the case of any consumer credit transaction (including opening or increasing the credit limit for an open end credit plan) in which a security interest, including any such interest arising by operation of law, is or will be retained or acquired in any property which is used as the principal dwelling of the person to whom credit is extended, the obligor shall have the right to rescind the transaction until midnight of the third business day following the consummation of the transaction or the delivery of the information and rescission forms required under this section together with a statement containing the material disclosures required under this title, whichever is later, by notifying the creditor, in accordance with regulations of the Board, of his intention to do so. The creditor shall clearly and conspicuously disclose, in accordance with regulations of the Board, to any obligor in a transaction subject to this section the rights of the obligor under this section. The creditor shall also provide, in accordance with regulations of the Board, appropriate forms for the obligor to exercise his right to rescind any transaction subject to this section.".

(2) Section 103 of such Act, as amended by section 203(b), is amended by adding at the end thereof the following:

"(v) The term 'material disclosures' means the disclosure, as required by this title, of the annual percentage rate, the method of determining the finance charge and the balance upon which a finance charge will be imposed, the amount of the finance charge, the amount to be financed, the total of payments, the number and amounts of payments, and the due dates or periods of payments scheduled to repay the indebtedness.".

(3) Subsection (b) of section 125 of the Truth in Lending Act is amended by striking out "ten" in the second and final sentences thereof, and inserting in lieu thereof "20".

(4) Subsection (b) of section 125 of the Truth in Lending Act is amended by adding at the end thereof the following new sentence: "The procedures prescribed by this subsection shall apply except when otherwise ordered by a court.".

(5) Subsection (c) of section 125 of the Truth in Lending Act is amended by inserting "information, forms, and" after "whom".

(6) Section 125 of the Truth in Lending Act is amended by striking out subsections (e) and (f) and inserting in lieu thereof the following:

"(e) This section does not apply to (1) a residential mortgage transaction as defined in section 103(u); (2) a transaction which constitutes a refinancing or consolidation (with no new advances) of the principal balance then due and any accrued and unpaid finance charges of an existing extension of credit by the same creditor secured by an interest in the same property; (3) a transaction in which an agency of a State is the creditor; or (4) advances under a preexisting open end credit plan if a security interest has already been retained or acquired and such advances are in accordance with a previously established credit limit for that plan.

"(f) An obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the sale of the property, whichever occurs earlier, notwithstanding the fact that the information and forms required under this section or any other disclosures required under this chapter have not been delivered to the obligor, except that if (1) any agency empowered to enforce the provisions of this title institutes a proceeding to enforce the provisions of this section within three years after the date of consummation of the transaction, (2) such agency finds a violation of section 125, and (3) the obligor's right to rescind is based in whole or in part on any matter involved in such proceeding, then the obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the earlier sale of the property, or upon the expiration of one year following the conclusion of the proceeding, or any judicial review or period for judicial review thereof, whichever is later.

"(g) In any action in which it is determined that a creditor has violated this section, in addition to rescission the court may award relief under section 130 for violations of this title not relating to the right to rescind.".

(b) Section 103 of the Truth in Lending Act is amended—

(1) redesignating subsection (t) as subsection (w); and

(2) by inserting after subsection (s) the following:

"(t) The term 'dwelling' means a residential structure or mobile home which contains one to four family housing units, or individual units of condominiums or cooperatives.

"(u) The term 'residential mortgage transaction' is one in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained against the consumer's dwelling to finance the acquisition or initial construction of that dwelling.".

OPEN END DISCLOSURES

SEC. 1213. (a) Section 127(a) of the Truth in Lending Act is amended—

(1) by adding at the end of paragraph (1) thereof the following new sentence: "If no such time period is provided, the creditor shall disclose that fact.";

(2) by striking out paragraph (5), and redesignating paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7), respectively; and

(3) by amending redesignated paragraphs (5) and (6) to read as follows:

"(5) Identification of other charges which may be imposed as part of the plan, and their method of computation, in accordance with regulations of the Board.

"(6) In cases where the credit is or will be secured, a statement that a security interest has been or will be taken in (A) the property purchased as part of the credit transaction, or (B) property not purchased as part of the credit transaction identified by item or type.".

(b) Section 127(b)(2) of such Act is amended to read as follows:

"(2) The amount and date of each extension of credit during the period, and a brief identification, on or accompanying the statement of each extension of credit in a form prescribed by the Board sufficient to enable the obligor either to identify the transaction or to relate it to copies of sales vouchers or similar instruments previously furnished, except that a creditor's failure to disclose such information in accordance with this paragraph shall not be deemed a failure to comply with this chapter or this title if (A) the creditor maintains procedures reasonably adapted to procure and provide such information, and (B) the creditor responds to and treats any inquiry for clarification or documentation as a billing error and an erroneously billed amount under section 161. In lieu of complying with the foregoing requirements, in the case of any transaction in which the creditor and seller are the same person, as defined by the Board, and that person's open end plan has fewer than 15,000 accounts, the creditor may elect to provide only the amount and date of each extension of credit during the period and the seller's name and location where the transaction took place if (A) a brief identification of the transaction has been previously furnished, and (B) the creditor responds to and treats any inquiry for clarification or documentation as a billing error and an erroneously billed amount under section 161.".

(c) Section 127(b) of the Truth in Lending Act is amended by striking out paragraph (7) and by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (7), (8), (9), and (10), respectively.

(d) Redesignated paragraph (7) of section 127(a) of the Truth in Lending Act is amended by striking out "each of two billing cycles per year, at semiannual intervals" and inserting in lieu thereof "one billing cycle per calendar year, at intervals of not less than six months or more than eighteen months".

(e) Subsection (c) of section 127 of the Truth in Lending Act is repealed.

(f) Section 143 of the Truth in Lending Act is amended by striking out "or the appropriate rate determined under section 127(a)(5)".

(g) Section 161(a) of the Truth in Lending Act is amended by redesignating the references to sections 127(b)(11) and 127(a)(8) as references to sections 127(b)(10) and 127(a)(7), respectively.

OTHER THAN OPEN END DISCLOSURES

SEC. 1214. (a) Subsection (a) of section 128 of the Truth in Lending Act is amended to read as follows:

"(a) For each consumer credit transaction other than under an open end consumer credit plan, the creditor shall disclose each of the following items, to the extent applicable:

"(1) The identity of the creditor required to make disclosure.

"(2) The 'amount financed', using that term, which shall be the amount of credit of which the consumer has actual use. This amount shall be computed as follows, but the computations need not be disclosed and shall not be disclosed with the disclosures conspicuously segregated in accordance with subsection (b)(1):

"(A) take the principal amount of the loan or the cash price less downpayment and trade-in;

"(B) add any charges which are not part of the finance charge or of the principal amount of the loan and which are financed by the consumer, including the cost of any items excluded from the finance charge pursuant to section 106;

"(C) subtract any charges which are part of the finance charge but which will be paid by the consumer at the time of the consummation of the transaction, or have been withheld from the proceeds of the credit; and

"(D) subtract any required deposit balance, in accordance with regulations of the Board.

"(3) The 'finance charge', not itemized, using that term.

"(4) The finance charge expressed as an 'annual percentage rate', using that term. This shall not be required if the amount financed does not exceed $75 and the finance charge does not exceed $5, or if the amount financed exceeds $75 and the finance charge does not exceed $7.50.

"(5) The sum of the amount financed, any required deposit balance, and the finance charge, which shall be termed the 'total of payments'.

"(6) The number, amount, and due dates or period of payments scheduled to repay the total of payments.

"(7) In a sale of property or services in which the seller is the creditor required to disclose pursuant to section 121(b), the 'total sale price', using that term, which shall be the total of the cash price of the property or services, additional charges, and the finance charge.

"(8) Descriptive explanations of the terms 'amount financed', 'finance charge', 'annual percentage rate', 'total of payments', and 'total sale price' as specified by the Board. The descriptive explanation of 'total sale price' shall include reference to the amount of the downpayment.

"(9) Where the credit is secured, a statement that a security interest has been taken in (A) the property which is purchased as part of the credit transaction, or (B) property not purchased as part of the credit transaction identified by item or type.

"(10) Any dollar charge or percentage amount which may be imposed by a creditor solely on account of a late payment, other than a deferral or extension charge.

"(11) A statement indicating whether or not the consumer is entitled to rebate or credit, or is subject to a penalty, if the obligation is refinanced or prepaid in full pursuant to acceleration or otherwise.

"(12) A statement that the consumer should refer to the appropriate contract document for any information it provides about nonpayment, default, the right to accelerate the maturity of the debt, and prepayment rebates and penalties.

"(13) In any residential mortgage transaction, a statement whether a subsequent purchaser or assignee of the consumer may assume the debt obligation on its original terms and conditions.".

(b) Section 128(b) of such Act is amended to read as follows:

"(b)(1) Except as otherwise provided in this chapter, the disclosures required under subsection (a) shall be made before the credit is extended. Except for the disclosures required by subsection (a)(1) of this section, all disclosures required under subsection (a) and any disclosure provided for in subsection (b), (c), or (d) of section 106 shall be conspicuously segregated from all other terms, data, or information provided in connection with a transaction, including any computations or itemization.

"(2) In the case of a residential mortgage transaction, as defined in section 103(u), which is also subject to the Real Estate Settlement Procedures Act, good faith estimates of the disclosures required under subsection (a) shall be made in accordance with regulations of the Board under section 121(c) before the credit is extended, or shall be delivered or placed in the mail not later than three business days after the creditor receives the consumer's written application, whichever is earlier. If the disclosure statement furnished within three days of the written application contains an annual percentage rate which is subsequently rendered inaccurate within the meaning of section 107(c), the creditor shall furnish another statement at the time of settlement or consummation.".

(c) Section 128(c) of the Truth in Lending Act is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "deferred payment price" and inserting in lieu thereof "total sale price"; and

(3) by adding at the end thereof the following new paragraph;

"(2) If a creditor receives a request for a loan by mail or telephone without personal solicitation and the terms of financing, including the annual percentage rate for representative amounts of credit, are set forth in the creditor's printed material distributed to the public, or in the contract of loan or other printed material delivered to the obligor, then the disclosures required under subsection (a) may be made at any time not later than the date the first payment is due.".

(d)(1) Section 129 of the Truth in Lending Act is repealed.

(2) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 129 and inserting in lieu thereof:

"129. [Repealed]".

(c)(1) Section 126 of the Truth in Lending Act is repealed.

(2) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 126 and inserting in lieu thereof:

"126. [Repealed].".

(f)(1) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 128 and inserting in lieu thereof:

"128. Consumer credit not under open end credit plans.".

(2) The caption of section 128 of such Act is amended by striking out "Sales" and inserting in lieu thereof "Consumer credit".

CIVIL LIABILITY

SEC. 215. (a) Section 130 of the Truth in Lending Act is amended—

(1) by striking out "in such action" in subsection (a)(2)(B) and inserting in lieu thereof "under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same creditor";

(2) in subsection (a)(3), by inserting "or in any action in which a person is determined to have a right of rescission under section 125" after "liability";

(3) by amending subsections (b), (c), and (d) to read as follows:

"(b) A creditor or assignee has no liability under this section or section 108 or section 112 for any failure to comply with any requirement imposed under this chapter or chapter 5, if within sixty days after discovering an error, whether pursuant to a final written examination report or notice issued under section 108(e)(1) or through the creditor's or assignee's own procedures, and prior to the institution of an action under this section or the receipt of written notice of the error from the obligor, the creditor or assignee notifies the person concerned of the error and makes whatever adjustments in the appropriate account are necessary to assure that the person will not be required to pay an amount in excess of the charge actually disclosed, or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

"(c) A creditor or assignee may not be held liable in any action brought under this section or section 125 for a violation of this title if the creditor or assignee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Examples of bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programing and printing errors, but an error of legal judgment with respect to a person's obligations under this title is not a bona fide error.

"(d) When there are multiple obligors in a consumer credit transaction or consumer lease, there shall be no more than one recovery of damages under subsection (a)(2) for a violation of this title.";

(4) by adding at the end of subsection (e) the following new sentence: "This subsection does not bar a person from asserting a violation of this title in an action to collect the debt which was brought more than one year from the date of the occurrence of the violation as a matter of defense by recoupment or set-off in such action, except as otherwise provided by State law.";

(5) by inserting ", section 108(b), section 108(c), section 108(e)," after "this section" in subsection (f);

(6) by adding the following new sentence at the end of subsection (g): "This subsection does not bar any remedy permitted by section 125."; and

(7) by amending subsection (h) to read as follows:

"(h) A person may not take any action to offset any amount for which a creditor or assignee is potentially liable to such person under subsection (a)(2) against any amount owing by such person, unless the amount of the creditor's or assignee's liability under this title has been determined by judgment of a court of competent jurisdiction in an action of which such person was a party. This subsection does not bar a consumer then in default on the obligation from asserting a violation of this title as an original action, or as a defense or counterclaim to an action to collect amounts owed by the consumer brought by a person liable under this title.".

(b) Section 130(a) of the Truth in Lending Act is amended—

(1) by inserting ", including any requirement under section 125," immediately after "this chapter"; and

(2) by adding at the end thereof the following: "In connection with the disclosures referred to in section 127, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125 or of section 127(a) or of paragraph (4), (5), (6), (7), (8), (9), or (10) of section 127(b) or for failing to comply with disclosure requirements under State law for any term which the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms referred to in section 127(a) or any of those paragraphs of section 127(b). In connection with the disclosures referred to in section 128, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125 or of paragraph (2), (3), (4), (5), (6), or (9) of section 128(a), or for failing to comply with disclosure requirements under State law for any term which the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms referred to in any of those paragraphs of section 128(a). With respect to any failure to make disclosures required under this chapter or chapter 4 or 5 of this title, liability shall be imposed only upon the creditor required to make disclosure, except as provided in section 131.".

LIABILITY OF ASSIGNEES

SEC. 1216. (a) Section 131 of the Truth in Lending Act is amended to read as follows:

"§ 131. Liability of assignees

"(a) Except as otherwise specifically provided in this title, any civil action for a violation of this title or proceeding under section 108 which may be brought against a creditor may be maintained against any assignee of that creditor only if the violation for which such action or proceeding is brought is apparent on the face of the disclosure statement, except where the assignment was involuntary. For the purpose of this section, violations apparent on the face of the disclosure statement include, but are not limited to (1) disclosure which can be determined to be incomplete or inaccurate from the face of the disclosure statement or other documents assigned, or (2) disclosures not made in the terminology required by this title.

"(b) Except as provided in section 125(c), in any action or proceeding by or against any subsequent assignee of the original creditor without knowledge to the contrary by the assignee when he acquires the obligation, written acknowledgement of receipt by a person to whom a statement is required to be given pursuant to this title shall be conclusive proof of the delivery thereof and, except as provided in subsection (a), of compliance with this chapter. This section does not affect the rights of the obligor in any action against the original creditor.

"(c) Any consumer who has the right to rescind a transaction under section 125 may rescind the transaction as against any assignee of the obligation, regardless of whether such assignee is a creditor under this title.".

(b) Section 115 of the Truth in Lending Act is repealed.

(c)(1) The table of sections of chapter 1 of the Truth in Lending Act is amended by striking out item 115 and inserting in lieu thereof:

"115. [Repealed].".

(2) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 131 and inserting in lieu thereof:

"131. Liability of assignees.".

LIABILITY OF CREDIT CARDHOLDER

SEC. 1217. Section 133(a) of the Truth in Lending Act is amended to read as follows:

"(a) A cardholder shall be liable for the unauthorized use of a credit card only if the card is an accepted credit card, the liability is not in excess of $50, the card issuer gives adequate notice to the cardholder of the potential liability, the card issuer has provided the cardholder with a description of a means by which the card issuer may be notified of loss or theft of the card, which description may be provided on the face or reverse side of the statement required by section 127(b) or on a separate notice accompanying such statement, the unauthorized use occurs before the card issuer has been notified that an unauthorized use of the credit card has occurred or may occur as the result of loss, theft, or otherwise, and the card issuer has provided a method whereby the user of such card can be identified as the person authorized to use it. For the purpose of this section, a card issuer has been notified when such steps as may be reasonably required in the ordinary course of business to provide the card issuer with the pertinent information have been taken, whether or not any particular officer, employee, or agent of the card issuer does in fact receive such information.".

DISSEMINATION OF ANNUAL PERCENTAGE RATES

SEC. 1218. (a) Chapter 2 of the Truth in Lending Act is amended by adding at the end thereof the following new section:

"§ 136. Dissemination of annual percentage rates

"(a) The Board shall collect, publish, and disseminate to the public, on a demonstration basis in a number of standard metropolitan statistical areas to be determined by the Board, the annual percentage rates charged for representative types of nonsale credit by creditors in such areas. For the purpose of this section, the Board is authorized to require creditors in such areas to furnish information necessary for the Board to collect, publish, and disseminate such information.

"(b) The Board is authorized to enter into contracts or other arrangements with appropriate persons, organizations, or State agencies to carry out its functions under subsection (a) and to furnish financial assistance in support thereof.".

(b) The analysis of such chapter is amended by adding at the end thereof the following new item:

"136. Dissemination of annual percentage rates.".

CREDIT ADVERTISING

SEC. 1219. (a) Section 143 of the Truth in Lending Act is amended to read as follows:

"§ 143. ADVERTISING OF OPEN END CREDIT PLANS

"No advertisement to aid, promote, or assist directly or indirectly the extension of consumer credit under an open end credit plan may set forth any of the specific terms of that plan unless it also clearly and conspicuously sets forth all of the following items:

"(1) Any minimum or fixed amount which could be imposed.

"(2) Where periodic rates may be used to compute the finance charge, the periodic rates expressed as annual percentage rates.

"(3) Any other term that the Board may by regulation require to be disclosed.".

(b) Section 144 of the Truth in Lending Act is amended by striking out paragraphs (1) through (4) of subsection (d) thereof, and inserting in lieu thereof the following:

"(1) the downpayment, if any,

"(2) the terms of repayment,

"(3) the rate of the finance charge expressed as an annual percentage rate.".

CORRECTION OF BILLING ERRORS

SEC. 1220. (a) Section 161(b) of the Truth in Lending Act is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following:

"(6) Failure to transmit the statement required under section 127(b) of this Act to the last address of the obligor which has been disclosed to the creditor, unless that address was furnished less than twenty days before the end of the billing cycle for which the statement is required.".

(b) Section 161(c) of such Act is amended by inserting after "account" the first time it is used a comma and the following: "which may include finance charges on amounts in dispute,".

CREDIT BALANCES

SEC. 1221. (a) Section 165 of the Truth in Lending Act is amended to read as follows:

"§ 165. Treatment of credit balances

"Whenever a credit balance in excess of $1 is created in connection with a consumer credit transaction through (1) transmittal of funds to a creditor in excess of the total balance due on an account; (2) rebates of unearned finance charges or insurance premiums; or (3) amounts otherwise owed to or held for the benefit of an obligator, the creditor shall—

"(A) credit the amount of the credit balance to the consumer's account;

"(B) refund any part of the amount of the remaining credit balance, upon request of the consumer; and

"(C) make a good faith effort to refund to the consumer by cash, check, or money order any part of the amount of the credit balance remaining in the account for more than six months, but no further action is required in any case where the consumer's current location is not known by the creditor and cannot be traced through the consumer's last known address or telephone number.".

(b) The table of sections of chapter 4 of the Truth in Lending Act is amended by striking out item 165 and inserting in lieu thereof:

"165. Treatment of credit balances.".

GOVERNMENT EXEMPTION

SEC. 1222. (a) Section 113 of the Truth in Lending Act is amended to read as follows:

"§ 113. Effect on governmental agencies

"(a) Any department or agency of the United States which administers a credit program in which it extends, insures, or guarantees consumer credit and in which it provides instruments to a creditor which contain any disclosures required by this title shall, prior to the issuance or continued use of such instruments, consult with the Board to assure that such instruments comply with this title

"(b) No civil or criminal penalty provided under this title for any violation thereof may be imposed upon the United States or any agency thereof, or upon any State or political subdivision thereof, or any agency of any State or political subdivision.

"(c) A creditor participating in a credit program administered, insured, or guaranteed by any department or agency of the United States shall not be held liable for a civil or criminal penalty under this title where the violation results from the use of an instrument required by any such department or agency.

"(d) A creditor participating in a credit program administered, insured, or guaranteed by any department or agency of the United States shall not be held liable for a civil or criminal penalty under the laws of any State (other than laws determined under section 111 to be inconsistent with this title) for any technical or procedural failure, such as a failure to use a specific form, to make information available at a specific place on an instrument, or to use a specific typeface, as required by State law, which is caused by the use of an instrument required to be used by such department or agency.".

(b) The table of sections of chapter 1 of the Truth in Lending Act is amended by striking out item 113 and inserting in lieu thereof:

"§ 146. Use of annual percentage rate in oral disclosures

SEC. 1223. (a) Section 146 of the Truth in Lending Act is amended to read as follows:

"§ 146. USE OF ANNUAL PERCENTAGE RATE IN ORAL DISCLOSURES

"In responding orally to any inquiry about the cost of credit, a creditor, regardless of the method used to compute finance charges, shall state rates only in terms of the annual percentage rate, except that in the case of an open end credit plan, the periodic rate also may be stated and, in the case of an other than open end credit plan where a major component of the finance charge consists of interest computed at a simple annual rate, the simple annual rate also may be stated. The Board may, by regulation, modify the requirements of this section or provide an exception from this section for a transaction or class of transactions for which the creditor cannot determine in advance the applicable annual percentage rate.".

(b) The table of sections of chapter 3 of the Truth in Lending Act is amended by striking out item 146 and inserting in lieu thereof:

"146. Use of annual percentage rate in oral disclosures.".

EFFECTIVE DATE

SEC. 1224. The amendments made by this title shall take effect upon the expiration of two years after the date of enactment of this title. All regulations, forms, and clauses required to be prescribed under the amendments made by this title shall be promulgated at least one year prior to such effective date. Notwithstanding the foregoing, any creditor may comply with the amendments made by this title, in accordance with the regulations, forms, and clauses prescribed by the Board, prior to such effective date.

TITLE XIII—MISCELLANEOUS

SEC. 1301. Section 302(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451(h)) is amended by adding at the end thereof the following: "The term 'residential mortgage' also includes a secured loan or advance of credit the proceeds of which are intended to finance the rehabilitation, renovation, modernization, refurbishment, or improvement of properties securing mortgages which the Corporation may purchase as 'residential mortgages' under the first sentence of this subsection. The maximum principal obligation of loans purchased by virtue of the preceding sentence shall not exceed the dollar limits prescribed by the Federal Home Loan Bank Board with respect to similar types of loans made by Federal savings and loan associations. A 'secured loan or advance of credit' is one in which a security interest is taken in the rehabilitated, renovated, modernized, refurbished, or improved property.".

SEC. 1302. In the first fiscal year after enactment of this Act in which the Secretary of the Treasury authorizes the sale of gold to the public, not less than ten percent by weight of the gold offered for sale in such fiscal year shall be offered in units containing not more than one troy ounce of gold. Notwithstanding any other provision of this Act, the number units of one ounce or less to be produced and sold in any fiscal year after the first fiscal year in which such units are offered for sale shall be adjusted to meet anticipated demand.

SEC. 1303. Paragraph (2) of section 3(c) of Public Law 94-222 (15 U.S.C. 1666f note) is amended to read as follows:

"(2) The amendment made by paragraph (1) shall cease to be effective on February 27, 1981.".

SEC. 1304. The last sentence of section 245 of the National Housing Act is amended—

(1) by inserting "(1)" before "limiting the amount of interest"; and

(2) by inserting before the period at the end thereof a comma and the following: "or (2) requiring a minimum amortization of principle or otherwise relating to the amortization of principle under the mortgage or loan".

SEC. 1305. Public Law 95-229 (92 Stat. 26) is amended:

(1) by striking out in the title "during 1777";

(2) by striking out in the first sentence of the first section the number "104,000" and inserting in lieu thereof "208,000"; and

(3) by striking out in the second sentence of the first section "December 31, 1978" and inserting in lieu thereof "December 31, 1979".

SEC. 1306. Public Law 95-128, Title VIII (12 U.S.C. Section 2902) is amended by adding a new subsection (4) to Section 803 as follows:

"(4) A financial institution whose business predominately consists of serving the needs of military personnel who are not located within a defined geographic area may define its "entire community" to include its entire deposit customer base without regard to geographic proximity."

TITLE XIV—STANDBY LETTERS OF CREDIT

SEC. 1401. The Federal Deposit Insurance Act is amended (1) by redesignating sections 22 and 23 as 23 and 24 respectively, and (2) by inserting immediately after section 21 the following new section 22:

"SEC. 22. (a) The purpose of this section is to regulate standby letters of credit, guarantees, surety agreements and certain acceptances issued by commercial banks.

"(b) This section shall apply to any insured bank, to any bank holding company as defined in the Bank Holding Company Act of 1956, as amended, and to any agency, branch, Federal agency, Federal branch, foreign bank, commercial lending company, State agency, or State branch as those terms are defined in section 1(b) of the International Banking Act of 1978.

"(c) Beginning July 1, 1979, no entity enumerated in (b) above shall (1) incur any liability arising from any irrevocable undertaking directly or indirectly to make or arrange a payment on a domestic borrowing in the event another entity or person fails to do so, or (2) incur any liability arising from the acceptance of a time draft (other than liabilities arising from the acceptance of time drafts of the kinds described in section 13 of the Federal Reserve Act) where the transaction is functionally equivalent to a domestic borrowing. The term 'domestic borrowing' means any borrowing of 270 days or less the proceeds of which are used to finance directly or indirectly the sale or lease of any personal property located or to be located within the United States, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

"(d) None of the prohibitions in this section shall apply to any liabilities (1) which

grow out of transactions involving the importation or exportation of goods, wares, merchandise, commodities, or services, (2) which may be incidental to or for the purpose of carrying out transactions in foreign countries or any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, or (3) which may be usual in connection with the transaction of the business of banking or other financial operations in the countries, colonies, dependencies, or possessions in which the entity enumerated in (b) above shall transact business and not inconsistent with other provisions of law."

TITLE XV—EXPORT-IMPORT BANK ACT AMENDMENTS OF 1978

SHORT TITLE

SEC. 1501. That this title may be cited as the "Export-Import Bank Act Amendments of 1978".

PRENOTIFICATION

SEC. 1502. Section 2(b)(3) of the Export-Import Bank Act of 1945 is amended—

(1) by striking out "No" in the first sentence and inserting in lieu thereof "Except as provided by the fourth sentence of this paragraph, no";

(2) by striking out "$60,000,000" in the first sentence and inserting in lieu thereof "$100,000,000"; and

(3) by adding at the end thereof the following: "If the Bank submits a statement to the Congress under this paragraph and either House of Congress is in an adjournment for a period which continues for at least 10 days after the date of submission of the statement, then any such loan or guarantee or combination thereof may, subject to the second sentence of this paragraph, be finally approved by the Board of Directors upon the termination of the 25-day period referred to in the first sentence of this paragraph or upon the termination of a 35-calendar-day period (which commences upon the date of submission of the statement), whichever occurs sooner".

FRACTIONAL CHARGES

SEC. 1503. Section 2(c)(1) of the Export-Import Bank Act of 1945 is amended by striking out "$20,000,000,000" and inserting in lieu thereof "$25,000,000,000".

DENIAL OF EXPORT APPLICATIONS

SEC. 1504. Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 is amended by striking out the remainder of the paragraph after "and employment in the United States," and inserting in lieu thereof "and shall give particular emphasis to the objective of strengthening the competitive position of United States exporters and thereby of expanding total United States exports. Only in cases where the President determines that such action would be in the national interest and where such action would clearly and importantly advance United States policy in such areas as international terrorism, nuclear proliferation, environmental protection and human rights, should the Export-Import Bank deny applications for credit for non-financial or non-commercial considerations".

AUTHORIZATION

SEC. 1505. Section 7(a) of the Export-Import Bank Act of 1945 is amended by striking out "$25,000,000 000" and inserting in lieu thereof "$40,000,000,000".

EXTENSION OF AUTHORITY

SEC. 1506. Section 8 of the Export-Import Bank Act of 1945 is amended by striking out "December 31, 1978" and inserting in lieu thereof "September 30, 1983".

ENERGY POLICY

SEC. 1507. (a) Section 2(b)(1) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

"(C) Consistent with the policy of section 501 of the Nuclear Non-Proliferation Act of 1978 and section 119 of the Foreign Assistance Act of 1961, the Board of Directors shall name an officer of the Bank whose duties shall include advising the President of the Bank on ways of promoting the export of goods and services to be used in the development, production, and distribution of non-nuclear renewable energy resources, disseminating information concerning export opportunities and the availability of Bank support for such activities, and acting as a liaison between the Bank and the Department of Commerce and other appropriate departments and agencies.".

(b) Section 9(b) of such Act is amended by adding at the end thereof the following: "In addition, the Bank shall include in the report a description of specific activities and programs undertaken by it to achieve the policy of section 501 of the Nuclear Non-Proliferation Act of 1978, and section 119 of the Foreign Assistance Act of 1961, as required by section 2(b)(1)(C) of this Act.".

EXPORT CREDIT COMPETITION

SEC. 1508. (a) The President is authorized and requested to begin negotiations at the ministerial level with other major exporting countries to end predatory export financing programs and other forms of export subsidies, including mixed credits, in third country markets as well as within the United States. The President shall report to the Congress prior to January 15, 1979, on progress toward meeting the goals of this section.

(b) The Export-Import Bank of the United States is authorized to provide guarantees, insurance, and extensions of credit at rates and terms and other conditions which are, in the opinion of the Board of Directors of the Bank, competitive with those provided by the government-supported export credit instrumentalities of other nations.

SEC. 1509. Section 2(b) of the Export-Import Bank Act of 1945 is amended by inserting at the end thereof the following new paragraph:

"(7) The Bank shall supplement but not compete with private capital and the programs of the Commodity Credit Corporation to insure that adequate financing will be made available to assist the export of agricultural commodities, except that, consistent with Section 2(b)(1)(A) of this Act, the Bank in assisting any such export transactions shall, in cooperation with the export financing instrumentalities of other governments, seek to minimize competition in government-supported export financing, and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce government subsidized export financing. In order to carry out the purposes of this subsection, the Bank shall consult with the Secretary of Agriculture and where the Secretary of Agriculture has recommended against Bank financing of the export of a particular agricultural commodity, shall take such recommendation into consideration in determining whether to provide credit or other assistance for any export sale of such commodity, and shall consider the importance of agricultural commodity exports to the United States export market and the nation's balance of trade in deciding whether or not to provide assistance under this subsection. The Bank shall include in the report to Congress under Section 9(a) of this Act a description of the measures undertaken by it pursuant to this subsection.".

SEC. 1510. Section 2(b)(1)(A) of the Export-Import Bank Act of 1945 is amended by striking the words "goods and related services" in the first sentence and inserting in lieu thereof "manufactured goods, agricultural products, and other goods and services".

SEC. 1511. The Bank shall implement such regulations and procedures as may be appropriate to insure that full consideration is given to the extent to which any guarantee, insurance, credit, or participation in any extension of credit is likely to have an adverse effect on industries, including agriculture, and employment in the United States, either by reducing demand for goods produced in the United States or by increasing imports to the United States. To carry out the purposes of this subsection, the Bank shall request, and the United States International Trade Commission shall furnish, a report assessing the impact of the Bank's activities on industries and employment in the United States. Such report shall include an assessment of previous guarantees, insurance, loans, or extensions of credit or participations therein and shall provide recommendations concerning general areas which may adversely affect domestic industries, including agriculture, and employment. A copy of such report shall be included in the Bank's report under section 9.".

SEC. 12(a)(1) Upon receipt of information that foreign sales to the U.S. are being offered involving foreign official export credits which exceed limits under existing standstills, minutes, or practices to which the U.S. and other major exporting countries have agreed, the Secretary of the Treasury shall immediately conduct an inquiry to determine whether "non-competitive financing" is being offered.

(2) If the Secretary determines that such foreign "non-competitive" financing is being offered, he shall request the immediate withdrawal of such financing by the foreign official export credit agency involved.

(3) If the offer is not withdrawn or if there is no immediate response to the withdrawal request, the Secretary of the Treasury shall notify the country offering such financing and all parties to the proposed transaction that the Eximbank may be authorized to provide competing U.S. sellers with financing to match that available through the foreign official export financing entity.

(b) The Secretary of the Treasury shall only issue such authorization to the Bank to provide guarantees, insurance and credits to competing U.S. sellers, if he determines that:

(1) The availability of foreign official non-competitive financing is likely to be a determining factor in the sale, and

(2) the foreign non-competitive financing has not been withdrawn on the date the Bank is authorized to provide competitive financing.

Mr. PROXMIRE. Mr. President, it will not take me long to explain the amendment.

I ask unanimous consent that the name of the Senator from Pennsylvania (Mr. HEINZ) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that certain staff members of the Committee on Banking, Housing, and Urban Affairs have the privilege of the floor during the consideration of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. This amendment contains 15 titles. Many of these titles have previously passed the Senate. All of the titles represent consensus legislation in the Senate.

Title I gives the Federal financial institutions regulatory agencies strengthened supervisory authority over depository institutions. This title was recommended by Chairman Burns jointly on behalf of the three bank regulators as a means of preventing problem bank situations from arising and for arriving at more timely solutions once such situa-

tions did arise. This was passed by the Senate overwhelmingly, without opposition.

Mr. President, the Banking Committee has done a lot of work in the past 3 years relating to the matter of regulation of the financial system and its condition. There are proposals which the committee is considering to streamline and simplify the existing structure in various ways by merging regulatory agencies. Title I may not be the complete answer to correcting the deficiencies in the regulatory process but it is an extremely important step in the right direction.

By authorizing cease-and-desist orders to be instituted against individuals and civil money penalties for violations of such orders, enforcement action can be tailored to the needs of particular cases and the orders should be self-enforcing. Title I will also tighten the restrictions on insider lending which have been the principal cause of bank failures over the course of the past 15 years.

While title I of this bill gives the agencies the power they need to assure a safe and sound banking system, title II will provide a healthier banking climate by prohibiting interlocking management and director relationships among competing financial institutions. That also has been passed by the Senate.

Interlocking relationships are prohibited among these institutions in standard metropolitan statistical areas (SMSA's) or in the same or adjacent city, town, or village. And, regardless of geographic area, all such interlocks between an institution with $1 billion in assets are prohibited with institutions whose assets exceed $500 million. Since title II is intended to proscribe anticompetitive interlocking relationship there are exceptions—for credit unions, for example—and the Federal Reserve is authorized to grant exceptions and to prevent evasions of the law by rule.

Title III of the legislation was recommended by the FDIC as "housekeeping" legislation. The Senate has passed that. There is one provision in this title which I should mention specifically because it is more than a housekeeping provision. The Federal Reserve must give its prior approval to the establishment of foreign banking operations by national banks and State member banks of the Federal Reserve. Title III would subject banks under the jurisdiction of the FDIC—that is, State nonmember banks—to such regulatory jurisdiction. This is needed because State nonmember banks have increased in size and because their overseas operations can affect the safety and soundness of their domestic operations.

Title IV of the legislation will prohibit revolving door employment practices by the heads of financial institutions regulatory agencies who take jobs with institutions they regulate before their terms of office are completed. This provision of the legislation seeks to encourage the heads of these regulatory bodies to complete their terms of office. We have passed that.

The salary levels of the Chairman of the Federal Reserve and the members of the Federal Reserve are elevated respectively to level I and level II. At the same time the salary levels of the chairman of the other bank regulatory agencies—the FDIC, the FHLBB, the Comptroller and the Administrator of the NCUA are increased to level II to maintain parity with the members of the Federal Reserve. These salary increases should encourage these officials to complete their terms of office.

Title V of the legislation will restructure the National Credit Union Administration by replacing the single Administrator with a three-person agency. That has been passed. Credit unions have experienced significant growth and importance. A three-man board will enable the regulatory structure to keep pace with the complexity of the industry, particularly in the light of the establishment in this legislation of a credit union liquidity facility for credit unions.

Title VI extends for 2 years the so-called regulation Q authority by which various financial regulatory agencies currently set interest rate ceilings on deposits and institutions under their respective jurisdictions. A 1-year extension of regulation Q is warranted at the present time in order to permit the Congress to assess the conclusions of the administration's interagency task force to study the impact of deposit rate ceilings on financial intermediaries, the individual saver and the mortgage market.

Title VI also provides that there shall be no differential in the maximum interest rate payable between commercial banks and thrifts on accounts from which a customer preauthorizes transfers from savings to checking or similar accounts pursuant to regulations of the Federal Reserve Board and the Federal Deposit Insurance Corporation effective November 1. This action is warranted due to the fact that the use of such preauthorized transfers by thrift institutions, coupled with their interest rate differential on savings accounts raises serious competitive problems between commercial banks and thrift institutions. However, as spelled out in the committee report accompanying S. 3499, the committee specifically intends that this provision applies solely to transfer accounts newly authorized by the Federal Reserve Board and FDIC regulations effective November 1, 1978, and not to any other accounts or services.

Title VI also repeals prohibition against NOW accounts in the State of New York. This action addresses the competitive concerns of Federal S. & L.'s where State-chartered thrift institutions have checking account powers. With the prospect of preauthorized transfers between savings and checking for all institutions in New York other than Federal S. & L.'s, competitive implications of NOW accounts in this State has been substantially reduced. Moreover, NOW accounts will provide an option to these institutions otherwise able to offer preauthorized transfers with the attendant administrative cost reductions associated with account consolidation.

Title VII provides authority for State-chartered mutual savings banks to convert and operate under a Federal charter. Currently, mutual savings banks operate as State-chartered financial institutions in 17 States without the option of being chartered and regulated by the Federal Government. In contrast, commercial banks, savings and loan associations, and credit unions have long had the choice of being chartered by either the Federal Government or by the State in which they are located. In effect, therefore, this title extends the dual banking system to all of the Nation's four major types of depository institutions. This title provides, however, that a savings bank may not convert its charter in contravention of State law. Converting savings banks would have to comply with State antidiscrimination and consumer protection laws in force at the time of conversion if they provide greater consumer protection.

Under the provisions of this title, converting savings banks would be required to continue to comply with the same geographical restrictions regarding branching that apply to State-chartered mutual savings banks but exempt from any numerical limitations of State law on the establishment of branch offices and other facilities and such banks may, in any case, subject to Federal Home Loan Bank Board approval, establish branch offices and other facilities in its own standard metropolitan statistical area, its own county, or within 35 miles of its home office, but only in the State of domicile.

Title VIII increases the deposit insurance limitation for IRA and Keogh accounts in federally insured institutions from $40,000 to $100,000. These accounts are designed to encourage a long-term accumulation of funds which will likely exceed the $40,000 limitation. This is particularly true of Keogh accounts, because the ceiling contribution a year is currently $7,500. An individual should not have to fear for the safety of funds being saved for retirement purposes.

Title IX establishes within the National Credit Union Administration a National Credit Union Central Liquidity Facility as a mixed ownership Government corporation. The facility will enable the Credit Union Administration to provide funds to meet the temporary liquidity needs of credit unions. Other financial institutions serving the economy can look to their Federal regulators when a liquidity crisis strikes. Commercial banks have the Federal Reserve and its discount window to tide them over short-term difficulties. Savings and loan associations have the Federal Home Loan Bank Board. Only the credit unions have no Federal liquidity backup.

Specific standards are set forth in the legislation governing the use of facility funds by credit unions. The facility is modest. The National Credit Union Administration estimates the size of the facility to be in the neighborhood of $300 million. Credit unions themselves will provide the capital for the facility which is given the authority to borrow based upon these capital contributions. The facility is backed up by a $500 million line of credit from the Treasury which must be appropriated in advance. Therefore, the facility is not designed to provide countercyclical funding such as that provided to savings and loan associ-

ations through the Federal Home Loan Bank Board. Rather, the facility is envisaged as a stabilizing factor for credit union portfolios which should enable credit unions to better serve their public interest purposes by keeping their loan commitments. An inordinate expansion of loan portfolios from the creation of the facility is not expected. Moreover, the facility will be subject to regulations of the National Credit Union Administration which will consider the particular needs of credit unions while insuring they operate in a safe and sound manner and that funds are not used to bail out failing, unsafe, or unsound institutions.

Title X. This title establishes a Bank Examinations Council requiring closer coordination by the bank regulatory agencies.

Title XI would add a new title to the Consumer Credit Protection Act called the "Fair Fund Transfer Act." This legislation would establish a consumer "bill of rights" for electronic banking services.

This title would provide important consumer safeguards which existing consumer protection laws do not provide. For example, consumers would be protected from a catastrophic loss if their EFT card is lost or stolen; account errors would have to be corrected promptly; and consumers would receive receipts and monthly statements for EFT transactions.

This legislation strikes a careful balance between providing essential customer safeguards and assuring that EFT services are not encumbered with unnecessary restrictions. The Banking Committee has spent a great deal of time on this title and many compromises have been made. This is a balanced, reasonable bill which will not only protect consumers but will also provide a boost to the development of EFT.

Title XII is the Truth in Lending Simplification and Reform Act which has already been passed by the Senate this session. This was a matter that the distinguished senior Senator from North Carolina (Mr. HELMS) strongly supported.

This is a consensus measure which is intended to simplify the growing complexity of truth in lending for the benefit of consumers and creditors alike.

For the creditor's benefit, the bill requires the Federal Reserve Board to issue model forms, the use of which would assure compliance with the act. In addition, the creditor's civil liability would be limited to only important disclosures which relate to the cost of credit.

The consumer would benefit from the act as well. In addition to getting simpler, clearer credit disclosures, consumers would in most cases get refunds for excess interest charges. In summary, this bill would reduce unnecessary paperwork and make the Truth in Lending Act an even more effective consumer protection law.

Title XIII amends the Federal Home Loan Mortgage Corporation Act to enable the Corporation to purchase loans in which the lender has an interest secured by the real property to be improved. Creation of a secondary market for such improvement loans will contribute significantly to maintenance of the Nation's housing stock, to neighborhood revitalization and to energy conservation efforts. Title XIII also provides that the Secretary of the Treasury shall be required whenever he offers gold sales to the public to offer not less than 10 percent of the gold offered for sale in that fiscal year in the form of units containing not more than one troy ounce of gold. This provision will give the public an opportunity to buy Treasury gold in small quantities but will not require issuance of medallions which could be mistaken for coins for legal tender and create an erroneous impression that the United States Government believes gold should have a monetary role. Title XIII extends for 2 years, until February 27, 1981, a provision in the Truth in Lending Act which provides that a merchant may offer a discount of up to 5 percent for cash purchases but may not impose a surcharge for credit card purchases. This extension will give the Congress additional time to study the practical effects of this provision.

Title XIII also amends section 245 of the National Housing Act which authorizes FHA to insure graduated payment mortgages. The amendment would simply provide that provisions of State law regarding minimum amortization of principal on a mortgage loan would not apply to FHA insured, graduated payment mortgages authorized pursuant to section 245. This provision, like the provision waiving State interest rate limitations which is currently in section 245, is necessary to permit financial institutions in certain States to offer FHA insured, graduated payment mortgages.

Title XIV controls the use of domestic standby letters of credit.

Finally title XV provides extension authority for the Export-Import Bank.

Mr. BROOKE. Mr. President, I would like to clarify, under this amendment, the right of a financial institution to pay the legal expenses of its officers and directors should it so choose. As the floor manager of the bill knows, there has been some controversy both in the Senate and in the House associated with the new supervisory authority which would be created in this legislation. Federal regulatory agencies will now have the authority to institute proceedings directly against major stockholders or officers of a financial institution. As a consequence, the personal liability of an institution's officers and directors is potentially expanded to a substantial degree.

As a consequence, an issue arises pertaining to the liability of these officers and directors to sustain the personal burden of legal fees which could result from defending their actions in an administrative or review proceeding. In this regard, concern has been expressed that the management of financial institutions have adequate safeguards to protect their legal rights in circumstances which may lead to penalties or cease and desist orders or even removal from office. Respondents should have a fair opportunity under normal circumstances to defend their decisions or actions when they find them at issue in supervisory disagreements.

It is my understanding that officers and directors who become involved in a disciplinary action could receive assistance from the financial institution involved for payment of their legal fees. An institution would not be required to come to the defense of officers or directors but would have the opportunity to do so if it feels they have acted in good faith in the affairs of the institution.

Therefore, I would like to know from the chairman of the Senate Banking Committee if this statement accurately characterizes congressional intent on the matter of legal fees contained in this amendment?

Mr. PROXMIRE. I assure the Senator from Massachusetts that, yes, it does.

COLLOQUY ON FEDERAL CHARTERS FOR MUTUAL SAVINGS BANKS

Mr. BROOKE. Mr. President, I would like to obtain some clarification concerning title II which would provide a Federal chartering alternative for the Nation's existing mutual savings banks. I would like clarification in three areas. First of all, I would like to know whether Federal mutual savings banks will be required by their chartering agency, the Federal Home Loan Bank Board, to maintain an investment orientation toward housing. My other two concerns involve interpretations of language already contained in the title. As I understand it, the limitation with respect to branching applications of Federal mutual savings banks would in no way apply to Federal savings and loan associations and I want to make certain that my impression is correct. Finally, I understand that the Board would determine whether or not State antidiscrimination and consumer protection laws are more strict than applicable Federal laws and regulations in these two areas and whether the State law would continue to apply to a converting mutual savings bank, and I want to make certain that this includes the responsibility for enforcement of such State laws. In other words, is it true that the Board would continue to have sole enforcement authority even though a State law might be stricter?

Mr. PROXMIRE. I appreciate the fact that my colleague has raised these questions, and I think we can provide very simple answers to all three of them.

With respect to the investment orientation of Federal mutual savings banks, title II itself provides a very clear intention that Federal savings banks must be oriented primarily toward home finance. In the first place, the amendment that is made by title II to section 5(a) of the Home Owners' Loan Act makes clear that savings bank charters would be made available "in order to provide local mutual thrift institutions in which people may invest their funds and in order to provide for the financing of homes." Moreover, title II while permitting converting savings banks to retain their nonmortgage investment powers and services places a substantial limitation on Federal mutual savings banks inasmuch as nonmortgage investments must generally be limited to what they were as a percentage of total assets at the time of conversion.

Now turning to the second matter

raised by my distinguished colleague on the branching question, the language of title II is absolutely clear that the restriction regarding branching by converted mutual savings banks that to some extent makes them subject to State branching law applies to converted mutual savings banks only and in no way to Federal savings and loan associations. We do not intend to interfere with the longstanding all-inclusive power of the Bank Board over the activities of Federal S. & L.'s including branching authority. The amendment just does not apply directly or indirectly to savings and loan associations.

Mr. BROOKE. I appreciate the clarification for that was my understanding as well.

Mr. PROXMIRE. With respect to the requirement involving application of requirements of State law in the area of discrimination, there should be no confusion that the Bank Board has sole authority to enforce such requirements. Of course, it is our intention that if the Board does enforce the requirements of State law, that the enforcement should be in accordance with the intention of that State law, but it would be wasteful and confusing to have a multiplicity of regulators.

Mr. BROOKE. One final point, I gather that it is only our intention to provide that State law in these areas could apply to State mutual savings banks wishing to convert to Federal charter, and that we do not intend to interfere with the Bank Board's plenary authority over Federal savings and loan associations, and in this area, Federal law alone would continue to govern.

Mr. PROXMIRE. The gentleman is absolutely correct. Federal law will continue to govern Federal savings and loan associations in all of these areas including branching, antidiscrimination and lending authority. I can assure the Senate that the amendments made by title II of the bill apply solely and exclusively to mutual savings banks that convert to Federal charter and should not in any way be interpreted as even suggesting that any of these provisions should be applied to any type of institutions which the Board now charters, insures or regulates. These amendments were adopted as a result of a compromise and they were necessary to assure that savings banks which desire to avail themselves of the right to Federal charter cannot escape compliance with State laws in any of these areas.

REGULATION Q EXTENSION LEGISLATION

● Mr. LUGAR. Mr. President. I support the Banking Committee legislation pending before us. I am pleased that the Senate is taking action to extend the authorization period for regulation Q, which is now scheduled to expire on December 15 of this year.

In particular, I want to comment on the Truth-in-Lending Simplification and electronic fund transfer provisions of the legislation before us. As my colleagues know, the Senate has already taken action on S. 2802, the Truth-in-Lending Simplification and Reform Act. As a member of the Senate Banking, Housing and Urban Affairs Committee, I was privileged to have had the opportunity to participate actively in the development of this legislation, and I support it strongly.

This important piece of legislation passed the Senate by voice vote on May 10, 1978. During the course of its discussion, the bill was strongly supported by my distinguished colleagues from Wisconsin (Mr. PROXMIRE), New Mexico (Mr. SCHMITT), Michigan (Mr. RIEGLE), Texas (Mr. TOWER) and Massachusetts (Mr. BROOKE), and was described by the distinguished majority leader as "a milestone in the efforts of the Congress to foster honest and full disclosure of credit terms in language which can be understood by the average American."

As detailed in the floor debates when it was passed, S. 2802 would provide significant changes in existing truth in lending requirements. As evidenced by the broad range of support for this measure, the bill removes needless technicalities while carefully preserving and even expanding the rights of consumers to complete and meaningful disclosure of consumer credit costs.

In general, the bill simplifies disclosure requirements; exempts agricultural credit; requires the Board of Governors of the Federal Reserve system to prepare model forms and clauses; expands the authority of administering agencies to enforce compliance with truth in lending; requires the use of simple, explanatory phrases which describe somewhat complex credit terms; and clarifies numerous technical questions which have arisen since truth in lending was enacted in 1968.

Mr. President, this legislation resulted from more than a year of study, examination and effort by members of the Senate Banking Committee and their staffs. On July 11, 12, and 13 of last year, wide-ranging hearings were held by the Subcommittee on Consumer Affairs of the Senate Banking Committee which produced a hearing record of almost 1,000 pages. Following those hearings, the Banking Committee met in a near-record six markup sessions and meticulously examined every aspect and implication of each section of this legislation. Literally hundreds of hours have been invested in producing a bill which reduces regulatory burdens while retaining consumer rights. Because of the rightful importance given to this issue by the distinguished chairman and ranking minority members of the committee and the leadership and commitment of the subcommittee's chairman and ranking minority member, few issues have received the detailed and painstaking analysis that gave rise to S. 2802.

It is because of the nature of that effort and the great need for legislation in this area, that I rise to support the pending bill which would attach in its entirety the verbatim provisions of S. 2802.

I recognize that our distinguished colleagues in the House have not produced comparable legislation. This failure to act is rooted in the fear by some that under the guise of "simplification" many of the hard-won protections afforded consumers under the Truth in Lending Act will be eroded. I can assure our colleagues in the House that this is a concern that we all share. But legislation does not provide protection by sheer complexity, and those who see virtue in the present mass of figures and calculations that shriek at the helpless consumer seeking to secure a simple loan seem to me to have missed the essential message of truth in lending: The consumer should understand the essential aspects of a credit transaction to be able to compare available credit terms. There can be no comparison when there is only confusion.

Mr. President, S. 2802 has been criticized on the floor of the House for threatening consumer rights in several respects. Because I believe these charges to be based upon fundamental misunderstandings as to the nature and effect of the final version of the bill passed by the Senate, I would like to respond specifically to these criticisms.

The omission of certain credit terms, regardless of how obscure or incomprehensible, has been decried as an infringement of the consumer's rights. S. 2802 simply does not deprive the consumer of even conceivably important information; rather, it is an attempt to distill the information presently provided into a far more useable form. Key credit terms must still be provided and now must be explained in terms the consumer can understand. Only the complex, internal calculations used to arrive at final credit figures are prudently no longer required to be presented. Disclosure must also still be made of the creation of certain devices for the protection of creditors—for example, security interests—but, rather than attempting to provide an incomplete and possible misleading truncated disclosure statement, the consumer must be alerted of this term and referred to the contract. As is now the case, the details of the nature and extent of these devices are revealed in the contract. The net effects of these changes are to improve the clarity of the information presented and to encourage the consumer to shop for credit by increasing his confidence in his own comprehension of credit terms.

S. 2802 has been attacked because of the belief that consumers would suffer from what has been perceived to be an easing of creditors' liabilities for noncompliance with the law. This again is untrue. What we have attempted to do is ease the burden on our courts that have been clogged with Truth-in-Lending suits filed at a rate of more than 2,000 per year. Many of these suits are for hypertechnical violations of the act, brought by attorneys who find a guaranteed minimum recovery and an attorney fees provision irresistable.

Our bill retains no fewer than 16 required disclosures; and, if any one is not provided, civil liability will result. What will no longer result in automatic liability is placing a comma in the wrong place or the failure of the creditor to dot his "i"s and cross his "t"s. Mr. President, I submit this is no erosion of present consumer protection, only the denial of one source of livelihood to those who for purely pecuniary reasons litigate these hypertechnical violations, and a step for

which our overworked courts will thank us.

It has been alleged that under S. 2802 restitution for truth in lending overcharges would not be required at all if the amount of restitution would be so great that the financial institution might be forced to close its doors. This is simply untrue. Although earlier versions of the bill might have been susceptible to this charge, under section 8 of the final version of the bill, partial restitution may be ordered in any amount that will not threaten the safety or soundness of the creditor.

Finally, S. 2802 has been criticized for eliminating the 3-day right of recission consumers presently enjoy with respect to second mortgages of their homes. Mr. President, I am at a loss as to how I should respond to this charge. I do not understand it. Nothing in our bill would achieve this result; indeed, we have expanded existing protection to include mortgages on mobile homes. I can only conclude that there has been a misunderstanding as to the impact of S. 2802 in this very important consumer right.

I am confident that once this proposal is placed before the House and the Members study its provisions, they will conclude that S. 2802 provides carefully considered and greatly needed relief while cautiously safeguarding important credit disclosure rights now enjoyed by consumers.

Similarly, I express my support for the provisions of this legislation which for the first time provides consumer protection for individuals engaging in electronic fund transfers. The Banking Committee has devoted considerable time and effort to drafting legislation in this important area. The purpose of the EFT provisions is to provide a basic framework establishing rights, remedies, and obligations of all parties to electronic fund transfers. The principal purposes, however, are to limit consumer liability, to provide consumers with full and meaningful disclosures and to introduce certainty into this developing area.

Arriving at an acceptable compromise bill on EFTS has proven to be a difficult endeavor. I am pleased that our good-faith efforts have resulted in a bill acceptable to all members of the Banking Committee.

I believe that the legislation we are presenting to the Senate today will provide not only a necessary framework of consumer protections, but also sufficient encouragement for the further development of advanced electronic funds transfer systems.

I commend to my colleagues the provisions in this bill on truth-in-lending reform and EFT. When taken together, these two important consumer measures will provide significant protections to consumers without imposing undue costs on those same consumers.

Mr. President, I am delighted that the legislation before us also contains a modified version of S. 2843, the Gold Medallion Act which I offered as an amendment during the committee markup.

S. 2843 provides that, if the Treasury Department makes sales from U.S. gold stocks, a portion to be sold in the form of one ounce and one-half ounce gold medallions. The bill is not intended to encourage the sale of U.S. gold. Rather, its purpose is to insure that, if such sales take place, American citizens will be able to purchase gold.

Currently, the Treasury sells gold in 400 ounce bars that cost over $80,000. Clearly, most Americans are unable to purchase this gold, and 90 percent of sales since 1975 have gone to foreign buyers. At the same time, Americans want to buy gold in affordable quantities, and are importing $500 million of gold coins—South African krugerrands, Mexican pesos, and Austrian gold kronin—each year.

The modified version of the Gold Medallion Act included in the legislation before the Senate provides that the Secretary of the Treasury would be required in the first fiscal year after the date of enactment in which he authorizes gold sales to the public, to offer not less than 10 percent of the gold offered for sale in that fiscal year in the form of units containing not more than one troy ounce of gold. The committee did not expressly require or prohibit the Treasury from issuing medallions under the provision.

This action by the committee recognizes the sizable market for gold pieces in the United States and anticipates that the items produced pursuant to this section would be manufactured to compete in the market. In addition, the flexibility of the language adopted recognizes that demand for such items may change and therefore grants the Secretary the authority to expand or reduce the number of such units produced to meet demand, but would not be reduced below 10 percent of total gold sales.

I urge my colleagues to support this important legislation.●

Mr. PROXMIRE. Mr. President, we have here a whole series of bills that the Senate has acted on, has passed unanimously in most cases. There are two other matters which have not passed the Senate but unanimously passed the committee, and there is no objection, so far as we can tell, anywhere in this Senate. We have two other strictly technical titles.

We are doing this because approximately half the work done by the Banking Committee has not been able to pass the House, for various reasons. We have good reason to feel that if we send it over in this form, under these circumstances, the House will give it very careful consideration and may enact it. It is our last chance to do so.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield to my friend from Massachusetts.

Mr. BROOKE. Mr. President, as the chairman knows, we have worked long and hard on this banking legislation which contains an extension of regulation Q along with other important matters.

Does our distinguished chairman agree with me that the legislation represents a package and that if the package is not acted upon by the House of Representatives, we shall not extend regulation Q as a separate matter, and this will mean that regulation Q will expire in December and Congress will have to address regulation Q next year?

This is an important question and I wanted to propound it to the distinguished chairman so that the Senate's position will be perfectly clear to the House of Representatives.

Mr. PROXMIRE. I very much appreciate the question by the ranking minority member of the Banking Committee, and I wholeheartedly agree with him. He is absolutely right. There will be no extension of regulation Q unless they act on this package. It is the one opportunity to do so. There is no reason in the world why they should not. And I affirm what the distinguished Senator has stated.

Mr. BROOKE. I thank my distinguished chairman, and I thank the Chair.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

Mr. HELMS. Mr. President, will the Senator withhold that?

Mr. PROXMIRE. I certainly do.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield to the Senator from North Carolina.

Mr. HELMS. Did the Senator discuss title XIII?

Mr. PROXMIRE. Yes, I discussed title XIII and pointed out that it included a provision that the distinguished Senator from North Carolina is the author of and responsible for.

It provides that the Secretary of the Treasury shall be required whenever he offers gold sales to the public to offer not less than 10 percent of the gold offered for sale in that fiscal year in the form of units containing not more than one troy ounce of gold.

The Senator from North Carolina has pleaded to make gold available to the American people not just the wealthy who can buy large sums, but the typical American who can buy maybe $100 worth or $200 worth.

The Senator has been the leader in this and he is dead right. I wholeheartedly agree with him.

Reluctantly, although the Treasury opposed it. They agreed that this was workable and they had no really substantial reason in my view to oppose it.

Mr. HELMS. Mr. President, I simply want to pay my highest respects to the distinguished chairman of the Banking Committee, Mr. PROXMIRE. and to thank him for the help he has given me in this matter.

Mr. President, I congratulate the efforts of the chairman, the members of the Banking Committee and others who have worked out this compromise which resulted in moving certain Banking Committee legislation this year.

As a result, the "regulation Q" bill to which the Senate Banking Committee added a version of my bill, the "Gold Medallion Act of 1978" will be acted upon.

On August 28, hearings were held on the Gold Medallion Act, S. 2843, which seemed to have cleared the way for further action. The General Services Administration has now fulfilled the promise made at the hearing that a marketing plan will be submitted. That plan along with the testimony and statements submitted for the record will be printed in the record of the hearing.

Just 2 weeks ago, the Senate Banking Committee approved a version of my bill as an amendment to the regulation "Q" bill.

At the hearing, Treasury officials reiterated the arguments outlined in a letter I received from Secretary Blumenthal. I respect the sincerity and integrity of the officials involved, though it appears that many members of the Senate found their arguments to be of less than adequate substance.

When I proposed the Gold Medallion Act of 1978, my purpose was to make U.S. gold available to those Americans who cannot afford to spend $90,000 for what is now the Treasury Department's smallest unit of sale, a 400-ounce gold bar. By stipulating that a certain amount of the gold that the Treasury auctions off each year be sold in the form of nonmonetary one-ounce and one-half ounce gold medallions, this bill would insure that the small American investor—someone with $100 or $200 in his pocket—can, if he so wishes, buy a small piece of gold without having to resort to purchasing a foreign piece, such as the South African krugerrand.

There is a growing demand for these items. More than 1.6 million ounces of gold in the form of bullion coins were imported last year. This same amount has been imported in the first 6 months of this year; that is to say, in one year the U.S. market for these pieces has doubled.

The bullion coins purchased by our citizens are used in many ways—as hedges against inflation, as jewelry, as numismatic items—but whatever their purpose of the buyers, the fact remains: Americans want the items. The Gold Medallion Act, then, would seem very reasonable. As Senator HAYAKAWA, testifying before the Senate Banking Committee, pointed out:

> The Treasury wants to sell gold (note its recently stepped-up gold sales), Americans want to buy gold, and the Gold Medallion Act would ensure that this mutually advantageous transaction could be made.

Unfortunately, the Treasury has been reluctant to sell its gold to Americans, preferring instead to dispose of it in bulk to large foreign interests. In his statement before the Senate Banking Committee, the Assistant Secretary of the Treasury, Mr. C. Fred Bergsten, listed the principal purchasers of gold from the U.S. auctions this year as being the Dresden Bank, the Swiss Bank Corp., the Union Bank of Switzerland, and the Bank of Oman, all foreign firms. In fact, approximately 90 percent of the U.S. gold since 1975 has been sold abroad.

The Treasury has objected to selling U.S. gold to Americans because, as a letter from Secretary of the Treasury Blumenthal to myself stated:

> The U.S. Government should not take any action to encourage U.S. citizens to invest in gold, nor to suggest that gold is a sound way for U.S. citizens to invest their earnings. Gold is a speculative commodity, subject to highly volatile swings in price. Those who might purchase the medallions could sustain substantial financial losses.

Thus the Treasury Department would rather U.S. gold fall into the hands of foreign interests—out of sight, out of mind—than those of Americans who have already demonstrated their desire to own gold.

This paternalistic attitude of "protecting U.S. citizens from making a bad investment," by preventing them from buying U.S. gold, does not befit the Government of a country supposedly dedicated to the ideals of individuality and freedom of choice. The Treasury, by selling gold in a form that only large foreign interests can buy, is subtly deriding the American taxpayer, implying that he or she has not the intelligence to make his or her own choices.

I strongly object to the Treasury's inference that American citizens are unable to determine what is best for them. The revised Gold Medallion Act is not meant to "encourage" anyone to invest in American gold; it would merely create that option. And there is reason to believe that that option would be much appreciated.

The Banking Committee adopted a measure which gives power to regulate the size and design to the Treasury with few restrictions.

But, it is important to reiterate those restrictions tonight. The distinguished Senator from Indiana (Mr. LUGAR) offered my bill in committee, as an amendment to the "regulation Q" legislation. The distinguished chairman then offered a substitute amendment which had been worked out with the cooperation of officials of the Treasury Department. Senator LUGAR then read language into the committee record which was then approved by the committee which said:

> In approving this section, the Committee recognizes the sizeable market for gold pieces in the United States and anticipates that the items produced pursuant to this section would be manufactured to compete in this market and would bear appropriate design, and weight and fineness markings so as to enhance their marketability. The Committee further recognizes that demand for such items may change and anticipates that production and sales in any year such units are produced, would be expanded or reduced to meet such demand, but in the first year, would not be reduced below 10 percent of total gold sales.

Subsequently, the committee drafted an additional paragraph for inclusion in the report. It said:

> The Secretary of Treasury would be required, in the first fiscal year after date of enactment of this Act in which he authorizes gold sales to the public, to offer not less than ten percent of the gold offered for sale in that fiscal year in the form of units containing not more than one troy ounce of gold. The provision would give the public an opportunity to buy Treasury gold in small quantities, but would not require issuance of "medallions" which could be mistaken for coins or legal tender and create an erroneous impression that the United States Government believes gold should have a monetary role.

I contend that the monetization fear is trivial. The dollar has no connection with gold, for if it did there would not be vast numbers of people in the world trying to get into gold and out of dollars. Let me make it clear that I do not advocate investment in gold or any other inflation hedge. I advocate getting rid of inflation.

No "hedge" can provide real protection from a depreciating and corrupting monetary system that no longer serves some of the prime functions of money: the dollar is no longer a store of value or a standard of value. It serves almost exclusively as a medium of exchange.

Well, if the Treasury wants to call a gold piece a "unit" or a "wafer" or a "thingamabob," who cares? The important thing is that it be designed, produced, and marketed in the manner that the American people want. The Banking Committee has in effect acted to give the Treasury authority to make that determination. I know that many in the Congress and in the public sector will watch carefully to see that the intent of Congress is carried out if, in fact, this is the language finally enacted.

I support the committee's action. Although I would have liked to see the bill contain more specific language as to the design, the specific weight and fineness, and other details included in the law, I am satisfied that those decisions will not be made in a vacuum. Obviously, if the Treasury Department puzzles over a gold piece that would be most "un-money like," it could offer for sale, say, a gold toothpick. If Treasury officials ask any person in this country who either sells or buys one of the 3 million ounces of gold being sold in this country this year in small units what he wants, I think they will come up with something better.

As the chairman pointed out in his remarks, the bill would require the production of gold pieces equal to at least 10 percent by weight of the gold sold in any year beginning October 1, 1979. Specifically, the language reads:

> Sec. X. "(a) Whenever the Secretary of the Treasury authorizes the sale of gold to the public, not less than ten percent by weight of the gold offered for sale each fiscal year pursuant to such authorization shall be offered in units containing not more than one troy ounce of gold.
>
> (b) Notwithstanding any other provision of this Act the number of units to be produced and sold in units of one ounce or less in fiscal years after fiscal year 1979 shall be adjusted to meet anticipated demand."

I hope now the House will agree speedily with the Senate language and this bill can be enacted. I certainly will be glad to work with the Treasury Department and the Bureau of the Mint and any other proper agency to see to it that the gold piece to be sold beginning October 1, 1979, will be marketable, and will compete with the other gold pieces now being sold in such record numbers.

I thank the Senator from Wisconsin and I thank the Chair.

Mr. PROXMIRE. I thank the Senator from North Carolina.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield to the Senator from New Mexico who also is a very able member of our committee.

Mr. SCHMITT. Mr. President, this measure which includes a number of items, as I understand it now, not only the regulation Q extension which is extremely important to savings and loan institutions, but also amendments to the Truth-in-Lending Act which I supported and we, as a matter of fact, have already passed once in the Chamber and it includes the question of EFT regulations.

I will support, although somewhat reluctantly in some ways, the passage of this particular legislation, not because I think I have changed my mind on whether this fledgling technology of electronics funds transfer needs regulation at this time. I do not think that ever was documented by proof. However, I also, in fairness, cannot deny that there cannot be a need some day in the future.

Mr. President, I rise to support somewhat reluctantly the Fair Fund Transfer Act with the adoption of the committee amendments.

The title would add a new provision to the Consumer Credit Protection Act intended to provide for consumer rights and obligations in electronic fund transfer systems and define more clearly the responsibilities of all participants in electronic fund transfers.

The Consumer Affairs Subcommittee on which I served as ranking minority member held hearings on the electronic fund transfer proposals introduced by Senator RIEGLE and by Senator TOWER and myself in February of this year. Because there was considerable disagreement in the committee on the final shape of this legislation, extensive markup sessions were held at the full Banking Committee level in March, April, and May of this year.

Although a number of our provisions were incorporated into the bill reported by the committee, we were not satisfied that the regulatory burden would not have an adverse effect on small institutions and their customers. Therefore, we filed additional views pointing out that in too hastily enacting EFT legislation, Congress will deny many Americans the convenience of modern payments services at a reasonable cost instead of protecting the consumer against future EFT problems.

I now feel that many of the problems we saw in the committee bill will be ameliorated by the committee amendments. These amendments would:

Permit quarterly statements for accounts whose only activity is EFT direct deposit.

Exclude from the definition of "EFT" automatic transfers from savings to checking and occasional telephone transfers.

Change from 14 days to 10 business days the time in which a consumer may be required to confirm in writing alleged account errors.

Establish consumer liability for failure to report the loss or theft of an EFT card.

Require the Federal Reserve Board to make modifications in its regulations to ease the compliance burden of small financial institutions.

Limit civil penalties to the amount which may be imposed on financial institutions under the Federal Deposit Insurance Act.

Of particular importance is the amendment which requires the Federal Reserve Board by regulation to modify the requirements imposed by the act on small financial institutions if the Board determines that such modifications are necessary to alleviate any undue compliance burden on those institutions and such modifications are consistent with the purpose and objectives of this title.

Accordingly, with these changes, I support the Senate passage of this legislation, with reservations.

My principal concern is that committees are reporting regulatory legislation similar to the Fair Fund Transfer Act without a meaningful study to determine the cost of compliance and the parties who will bear these costs. Economists are beginning to recognize and quantify costs generated by Government regulatory activities. They point out that the regulation of business activity generates a variety of impacts, direct and indirect, intended and unintended, desirable and undesirable.

Until recently the stress on governmental intervention was on benefits that are expected to flow or the social problems to be solved. More recently, techniques have been developed to determine the costs in terms of reduction in efficiency, paperwork, delays, and inflation. The Senate Banking Committee, as well as the other committees of Congress, should adhere more closely to the spirit of the Standing Rules of the Senate requiring evaluation of regulatory impact.

It is my hope that the Senate Banking Committee will exercise its oversight authority if this legislation should become law to bring it back for review if it should develop that it has an adverse impact upon the cost and availability of more convenient payment services for the American public.

What types of telephone conversation transfers would be excluded from coverage under the amendment?

Mr. PROXMIRE. The amendment excludes from coverage any transfer of funds which is initiated by a telephone conversation between a consumer and an officer or employee of a financial institution which is not pursuant to a prearranged plan and under which periodic or recurring transfers are not contemplated. The exclusion has two elements: that the transfer is not pursuant to a prearranged plan and that it is not contemplated that there be reoccurring transfers.

One example of a transaction excluded would be a situation where a customer discovers that he is running short of funds in his checking account and he calls the cashier of his bank to transfer funds to the checking account from his savings account.

Another example may be seen in the situation where the customer calls an employee in the bank to transfer funds out of town to a family member in an emergency situation.

The above situations would be precluded only if they are not pursuant to a formal prearranged agreement or plan under which the customer and the financial institution contemplates there will be future transfers.

There are a variety of telephone bill paying services which are intended to be covered by the provisions of the legislation and not to be excluded by this amendment.

This includes a prearranged bill payment service in a simple system where the customer calls a special number, gives identifying information and instructs a clerk to pay a designated bill. The Clerk transcribes the information and the bill is paid by check or draft.

Also included under the coverage of the bill would be a semi-automated system where the clerk sits in front of a computer terminal into which the customer's payment instructions may be entered.

Another type of semi-automated system might involve the customer leaving the information with a recorder. The information is later transcribed by a clerk.

In a fully automated system, customers with key touchtone telephones can directly contact the computer and feed the information into the system through the touchtone keys on the telephone.

It is intended that the above described bill paying systems be covered irrespective of the formality of the agreement entered into between the customer and the institution.

Mr. SCHMITT. I ask unanimous consent that the statement of Mr. TOWER on the Fair Funds Transfer Act be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR TOWER

I am pleased to support the Fair Funds Transfer Act with the adoption of the Committee Amendments.

These amendments address many of the problems we raised in our Additional Views to the Committee Report on S. 3499. The Committee Amendments would:

Permit quarterly statements for accounts whose only activity is EFT direct deposit.

Exclude from the definition of "EFT" automatic transfers from savings to checking and occasional telephone transfers.

Change from 14 days to 10 business days the time in which a consumer may be required to confirm in writing alleged account errors.

Establish consumer liability for failure to report the loss or theft of an EFT card.

Require the Federal Reserve Board to make modifications in its regulations to ease the compliance burden of small financial institutions.

Limit civil penalties to the amount which may be imposed on financial institutions under the Federal Deposit Insurance Act.

Of particular importance is the amendment which requires the Federal Reserve Board by regulation to modify the requirements imposed by the Act on small financial institutions if the Board determines that such modifications are necessary to alleviate any undue compliance burden on those institutions and such modifications are consistent with the purpose and objectives of this title.

Many small institutions do not have the volume to justify investment in sophisticated computer systems that interface with the automatic clearing houses. These small

institutions receive direct deposits from the automatic clearing houses in paper form and must manually post them. Most of them have not ventured into the field of automatic teller machines or customer-bank communication terminals. Their only involvement in the EFT area is through the receipt of direct deposits.

Many of the bill's disclosure and procedural requirements were designed with the automatic teller machines and customer terminals in mind. The purpose of this small business amendment is to require the Federal Reserve Board to make adjustments in keeping with the consumer protection objectives which will relieve small businesses and financial institutions of a regulatory burden which never was intended to be placed upon their operations. This should result in savings both to the consumers and the institutions. It should also provide sufficient flexibility for the Federal Reserve Board to accommodate unanticipated problems which would otherwise have to be adjusted by Congress in legislation.

As the author of S. 2470, the Fair Funds Transfer Act, which is one of the two bills introduced in this Congress to provide consumer protection in this area, I am pleased that we are now close to having legislation which should be of benefit to the consumer without placing an undue burden on the suppliers of electronic fund transfer services.

I appreciate very much the courtesy and generosity of the able Chairman of the Senate Banking Committee (Mr. PROXMIRE) and the distinguished Chairman of the Consumer Affairs Subcommittee (Mr. RIEGLE) in giving the opportunity to my staff to work with their staff in arriving at a perfected bill. I would also like to take this opportunity to recognize the efforts of the distinguished ranking minority member of the Consumer Affairs Subcommittee (Mr. SCHMITT) and his staff in bringing forth this legislation.

I recommend that this body support passage of the Fair Funds Transfer Act with the Committee Amendments.

● Mr. STEVENSON. Mr. President, this bill will amend and extend the Export-Import Bank Act of 1945. Title XV includes necessary provisions extending the Bank's authority, increasing its resources to offer adequate financing for U.S. exports, and modifying the congressional prenotification procedures to obviate unnecessary delays. All of these provisions were previously approved by the Banking Committee in connection with its consideration of S. 3077.

The title also includes provisions concerning export credit competition and solar energy that were approved by the Banking Committee in S. 3077. The title includes all amendments germane to the Bank which were adopted on the Senate floor last week; namely, those introduced by Senator CHAFEE, Senator HELMS, Senator HEINZ, and myself. It does not include controversial, nongermane amendments.

Finally, the title contains two provisions clarifying and strengthening the Bank's role in support of agricultural exports, which I developed with the distinguished Senator from Texas (Mr. TOWER).

The absent nongermane amendments tacked on to S. 3077 last week are: The amendment by Senator HOLLINGS on textiles, the amendment by Senator INOUYE on Foreign Service officers, the amendment by Senator ABOUREZK on the Select Committee on Indian Affairs, the amendment by Senator HEINZ expressing the sense of the Senate on the enforcement of wage and price guidelines, and my own amendment on locks and dam 26. The title also includes the Environment and Public Works Committee amendment to delete section 5 of S. 3077, which would have exempted the Bank from the requirements of the National Environmental Policy Act. The question of NEPA applicability is, therefore, left in abeyance. Section 4 of S. 3077, regarding country eligibility, has also been deleted and replaced by the amendment offered by the Senator from Rhode Island (Mr. CHAFEE).

Mr. President, this is the only way I know of, at this point in the session, to extend the Bank's charter. It gives the Bank the tools it needs to lead this Nation's export effort. It protects the interests of all Senators who had germane amendments adopted on the floor in connection with S. 3077, and, in the case of the Senator from Texas (Mr. TOWER), provides a compromise acceptable to all sides. It leaves untouched for the time being the debate over whether NEPA does or should apply to the Bank's activities which only have impacts outside the United States. And, it contains no provisions irrelevant to the Bank's operations.

Mr. President, I would have liked to resolve the environment issue this year. We will have that chance next year after the President issues his proposed Executive order on NEPA and the environment outside the United States. We will have time to study it closely, analyze its legal authority, and experience its impact.

Mr. President, I do not agree with all the amendments adopted on the Senate floor last week and I suspect our colleagues in the House may also have some differences. But, they are all well-intentioned and thoughtful amendments and I believe they should be in this amendment, because they express the will of the Senate.

Mr. President, the distinguished Senator from Texas (Mr. TOWER) introduced earlier this year an amendment to require the Bank to devote a certain ratio of its financing activities to the support of agricultural products. While I could not share the Senator from Texas' (Mr. TOWER) enthusiasm for a ratio, I do share his enthusiasm for promoting agricultural exports. Thus, I joined with him in working out a provision in this title which makes clear that primary responsibility for financing agricultural exports rests with the Commodity Credit Corporation. That is where it is now and where it should be. However, all commodities are not always eligible for the CCC program, and the CCC itself operates under more restrictive charter powers than the Bank as to length of repayment and insurance against political and credit risks of loss. In situations where CCC assistance is not available, and some form of Government assistance is needed to make the sale, it thus seems possible that without Eximbank support a sale of agricultural exports may be lost—most probably to competitors—in contravention of the national interest.

In such situations the Bank should provide the financing or other assistance needed, consistent with its general charter. The Secretary of Agriculture, however, should be consulted before any such transaction is approved, and the Bank should seriously consider any recommendations by the Secretary not to make the sale—for example, because the commodity is in short supply domestically. Because we do not want to wage a credit war, the Bank should participate in such transactions consistent with its general mandate of seeking to minimize, by international agreement, Government-subsidized export financing. It also should specifically report on its activities in this area to the Congress. That is what section 9 of this title provides.

Section 10 of this title is also new and and was suggested by the Senator from Texas (Mr. TOWER). It amends the Bank's charter to make clear that one of its functions is the promotion of the export of agricultural, as well as manufactured, products. Again, this is part of the Senator from Texas' desire to strengthen the Bank's role in agricultural exports, and I am pleased to include this provision in the clean title, although I personally believe it is not necessary.

Mr. President, with a trade deficit over $30 billion on an annual basis and an unstable dollar contributing to inflation, we need to pass the Eximbank bill this year. We need to act now to let the world know that we are serious about dealing with our trade deficit. I urge my colleagues to support this bill.●

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time on the bill.

The PRESIDING OFFICER. The question is on the engrossment of the Senate amendments and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. STEVENS. Is there any time to be yielded back on this side?

The PRESIDING OFFICER. Five minutes are yet to be yielded back.

Mr. STEVENS. I yield back the remainder of the time on this side.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill, as amended, was passed.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the text of H.R. 14279 as passed by the Senate be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objections, it is so ordered.

That this Act may be cited as the "Financial Institutions Supervisory Act Amendments of 1977".

TITLE I—SUPERVISORY AUTHORITY OVER DEPOSITARY INSTITUTIONS

SEC. 101. The Federal Reserve Act is amended by redesignating sections 29 and 30

as sections 30 and 31, respectively, and by inserting after section 28 a new section as follows:

"SEC. 29. (a) Any member bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such member bank who violates any provision of section 22 or 23A of this Act, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Comptroller of the Currency in the case of a national bank, or the Board in the case of a State member bank, by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(b) In determining the amount of the penalty the Comptroller of the Currency or the Board, as the case may be, shall take into account the appropriateness of the penalty with respect to the size of the financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(c) The member bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be received only as provided in subsection (d). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(d) Any member bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Comptroller of the Currency or the Board, as the case may be. The Comptroller of the Currency or the Board, as the case may be, shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Comptroller of the Currency or the Board, as the case may be, shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(e) If any member bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Comptroller of the Currency or the Board, as the case may be, shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(f) The Comptroller of the Currency and the Board shall promulgate regulations establishing procedures necessary to implement this section.

"(g) All penalties collected under authority of this section shall be covered into the Treasury of the United States.".

SEC. 102. Section 19 of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

"(i)(1) Any member bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such member bank who violates any provision of this section, or any regulation or order issued by the Board pursuant thereto, shall forfeit and pay a civil money penalty of not more than $100 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(2) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(3) The member bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in paragraph (4). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(4) Any member bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Board. The Board shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Board shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(5) If any member bank or person fails to pay an assessment after it has become a final and unappealable order or after the court of appeals has entered final judgment in favor of the agency, the Board shall refer the matter to the Attorney Genaral, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(6) The Board shall promulgate regulations establishing procedures necessary to implement this subsection.

"(7) All penalties collected under authority of this subsection shall be covered into the Treasury of the United States.".

SEC. 103. Section 22 of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

"(h)(1) No member bank shall make any loan or extension of credit in any manner to any of its own officers, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, or to any company controlled by such an officer or person, where the amount of such loan or extension of credit, when aggregated with the amount of all other loans or extensions of credit then outstanding by such bank to such officer or person and to all companies controlled by such officer or person, would exceed the limits on loans to a single borrower established by section 5200 of the Revised Statutes, as amended, in the case of a national banking association, or by the applicable State law in the case of a State member bank.

"(2) No member bank shall make any loan or extension of credit in any manner to any of its own officers or directors, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, or to any company controlled by such an officer, director, or person, where the amount of such loan or extension of credit, when aggregated with the amount of all other loans or extensions of credit then outstanding by such bank to such officer, director, or person and to all companies controlled by such officer, director, or person, would exceed $25,000, unless such loan or extension of credit is approved in advance by two-thirds of the entire board of directors with the interested party abstaining from participating directly or indirectly in the voting.

"(3) No member bank shall make any loan or extension of credit in any manner to any of its own officers or directors, or to any person who directly or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, or to any company controlled by such officer, director, or person, unless such loan or extension of credit is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"(4) For purposes of this subsection, an officer, director, or person shall be considered to have control of a company if said officer, director, or person, directly or indirectly or acting through or in concert with one or more other persons—

"(A) owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the company;

"(B) controls in any manner the election of a majority of the directors of the company; or

"(C) has the power to exercise a controlling influence over the management or policies of such company.

"(5) For the purposes of this subsection—

"(A) the term 'person' means an individual or company;

"(B) the term 'company' means any corporation, partnership, business trust, association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, any other form of business entity not specifically listed herein, or any other trust, but shall not include any insured bank or any corporation the majority of shares of which is owned by the United States or by any State;

"(C) the term 'extension of credit' has the same meaning assigned such term in the fourth paragraph of section 23A of this Act;

"(D) a person shall be deemed to be a 'director' of a member bank or a 'person who directly or indirectly or acting through or in concert with one or more persons owns, controls or has power to vote more than 10 per centum of any class of voting securities of a member bank' if such person has such relationship with any bank holding company of which such member is a subsidiary, as defined by the Bank Holding Company Act (12 U.S.C. 1841), or with any other subsidiary of such bank holding company; and

"(E) a person shall be deemed to be an 'officer' of a member bank if such person is an officer of any bank holding company of which such member bank is a subsidiary, as defined by the Bank Holding Company Act

(12 U.S.C. 1841), or with any other subsidiary of such bank holding company.

"(6) The Board of Governors of the Federal Reserve System may prescribe such rules and regulations, including definitions of terms, as it deems necessary to effectuate the purposes and to prevent evasions of this subsection. The Board may further prescribe rules providing a reasonable period of time after the date of enactment of this subsection within which the amount of outstanding loans or extensions of credit made prior to such date of enactment shall be reduced so as to conform to the limitations of this subsection.".

SEC. 104. (a) Section 5 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844), is amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any other provision of this Act, the Board may, whenever it has reasonable cause to believe that the continuation by a bank holding company of any activity or of ownership or control of any of its nonbank subsidies, other than a nonbank subsidiary of a bank, constitutes a serious risk to the financial safety, soundness, or stability of a bank holding company subsidiary bank and is inconsistent with sound banking principles or with the purposes of this Act or with the Financial Institutions Supervisory Act of 1966, order the bank holding company or any such nonbank subsidiaries, after due notice and opportunity for hearing, and after considering the views of the bank's primary supervisor, which shall be the Comptroller of the Currency in the case of a national bank or the Federal Deposit Insurance Corporation and the appropriate State supervisory authority in the case of an insured nonmember bank, to terminate such activities or to terminate (within one hundred and twenty days or such longer period as the Board may direct in unusual circumstances) its ownership or control of any such subsidiary either by sale or by distribution of the shares of the subsidiary to the shareholders of the bank holding company. Such distribution shall be pro rata with respect to all of the shareholders of the distributing bank holding company, and the holding company shall not make any charge to its shareholders arising out of such a distribution.

"(2) The Board may in its discretion apply to the United States district court within the jurisdiction of which the principal office of the holding company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance therewith, but except as provided in section 9 of this Act, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.".

(b)(1) Section 408(h) of the National Housing Act (12 U.S.C. 1730a(h)) is amended by adding immediately after "under subsection (a)(2)(D)" in paragraphs (3) (A) and (3)(B) of subsection (h) the phrase "or under subsection (h)(5)" and is amended by redesignating paragraph (h)(5) as (h)(6) and by adding a new paragraph (h)(5) to read as follows:

"(5)(A) Notwithstanding any other provision of this section, the Corporation may, whenever it has reasonable case to believe that the continuation by a savings and loan holding company of any activity or of ownership or control of any of its noninsured subsidiaries constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary insured institution and is inconsistent with the sound operation of an insured savings and loan institution or with the purposes of this section or with the Financial Institutions Supervisory Act, order the savings and loan holding company or any of its subsidiaries, after due notice and opporutnity for hearing, to terminate such activities or to terminate (within one hundred and twenty days or such longer period as the Corporation directs in unusual circumstances) its ownership or control of any such noninsured subsidiary either by sale or by distribution of the shares of the subsidiary to the shareholders of the savings and loan holding company. Such distribution shall be pro rata with respect to all of the shareholders of the distributing savings and loan holding company, and the holding company shall not make any change to its shareholders arising out of such a distribution.".

"(B) The Corporation may in its discretion apply to the United States district court within the jurisdiction of which the principal office of the company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance therewith, but except as provided in subsection (k), no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.".

(2) Section 406(f) of the National Housing Act (12 U.S.C. 1729)(f)) is amended to read as follows:

"(f)(1) In order to prevent a default in an insured institution or in order to restore an insured institution in default to normal operation, the Corporation is authorized, in its discretion and upon such terms and conditions as it may determine, to make loans to, to purchase the assets of, or to make a contribution to, an insured institution or an insured institution in default.

"(2) Whenever an insured institution is in default or, in the judgment of the Corporation, is in danger of default, the Corporation may, in order to facilitate a merger or consolidation of such insured institution with another insured institution or the sale of the assets of such insured institution and the assumption of its liabilities by another insured institution and upon such terms and conditions as the Corporation may determine, purchase any such assets or assume any such liabilities, or make loans to such insured institution, or guarantee such other insured institution against loss by reason of its merging or consolidating with or assuming the liabilities and purchasing the assets of such insured institution in or in danger of default.

"(3) No contribution or guarantee shall be made pursuant to paragraphs (1) or (2) of this subsection (f) in an amount in excess of that which the Corporation finds to be reasonably necessary to save the cost of liquidating such insured institution in or in danger of default, but if the Corporation determines that the continued operation of such institution is essential to provide adequate savings or home financing services in its community, such limitation upon the amount of a contribution or guarantee shall not apply.".

SEC. 105. (a) Section 8 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1847), is amended by redesignating "SEC. 8." as "SEC. 8. (a)" and by adding a new subsection (b) to read as follows:

"(b)(1) Any company which violates or any individual who participates in a violation of any provision of this Act, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board by written notice. As used in the section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(2) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the company or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(3) The company or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in section 9. If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(4) If any company or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Board, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(5) The Board shall promulgate regulations establishing procedures necessary to implement this subsection.

"(6) All penalties collected under authority of this subsection shall be covered into the Treasury of the United States.".

(b) Section 5 of the Bank Holding Company Act is amended by adding the following new paragraph:

"(e) In the course of or in connection with an application, examination, investigation or other proceeding under this Act, the Board, or any member or designated representative thereof, including any person designated to conduct any hearing under this Act, shall have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum; and the Board is empowered to make rules and regulations to effectuate the purposes of this subsection. The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. Any party to proceedings under this Act may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted or where the witness resides or carries on business, for the enforcement of any subpena or subpena duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any service required under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board may by regulation or otherwise provide. Any court having jurisdiction of any proceeding instituted under this subsection may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper. Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's

power so to do, in obedience to the subpena of the Board, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year or both.".

(c) Section 408(j) of the National Housing Act (12 U.S.C. 1730a(j)), is amended by adding thereto a new paragraph (j)(4) to read as follows:

"(4)(A) Any company which violates or any individual who participates in a violation of any provision of this section, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in the section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the company or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The company or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any company or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the company is located, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Corporation shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any company or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

SEC. 106. (a)(1) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended to read as follows:

"(b)(1) If, in the opinion of the appropriate Federal banking agency, any insured bank, bank which has insured deposits, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such a bank is engaging or has engaged, or the agency has reasonable cause to believe that the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank is about to engage, in an unsafe or unsound practice in conducting the business of such bank, or is violating or has violated, or the agency has reasonable cause to believe that the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank is about to violate, a law, rule, or regulation, or any condition imposed in writing by the agency in connection with the granting of any application or other request by the bank or any written agreement entered into with the agency, the agency may issue and serve upon the bank or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the bank or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the agency at the request of any party so served. Unless the party or parties so served shall appear at the hearing personally or by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the agency shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the agency may issue and serve upon the bank or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the bank or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such bank to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after the service of such order upon the bank or other person concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.".

(2) Section 407(e) of the National Housing Act (12 U.S.C. 1730(e)) is amended to read as follows:

"(e)(1) If, in the opinion of the Corporation, any insured institution, institution which has insured accounts or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is engaging or has engaged, or the Corporation has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to engage, in an unsafe or unsound practice in conducting the business of such institution, or is violating or has violated, or the Corporation has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Corporation in connection with the granting of any application or other request by the institution or any written agreement entered into with the Corporation, including any agreement entered into under section 403 of this title, the Corporation may issue and serve upon the institution or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Corporation at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Corporation shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Corporation may issue and serve upon the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the institution or directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such institution to cease and desist from the same, and, further to take affirmative action to correct the conditions resulting from any such violation or practice.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after service of such order upon the institution or the party or parties so served (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Corporation or a reviewing court.

"(3) This subsection and subsections (f), (g), (h), (j), (k), (m)(3), (n), (o), (p), and (q) of this section shall apply to any savings and loan holding company, and to any subsidiary (other than an insured institution) of a savings and loan holding company, as those terms are defined in section 408 of this title, and to any affiliate service corporation of an insured institution in the same manner as they apply to insured institutions.".

(3) Section 5(d)(2) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(d)(2)), is amended to read as follows:

"(2)(A) If, in the opinion of the Board, any association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association is engaging or has engaged, or the Board has reasonable cause to believe that the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association is about to engage, in an unsafe or unsound practice in conducting the business of such association, or is violating or has violated or the Board has reasonable cause to believe that the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association is about to violate, a law, rule, or regulation, or charter, or any condition imposed in writing by the Board in con-

nection with the granting of any application or other request by the association or any written agreement entered into with the Board, the Board may issue and serve upon the association or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the association or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such association. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Board at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Board shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Board may issue and serve upon the association or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such association an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the association or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such association to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

"(B) A cease-and-desist order shall become effective at the expiration of thirty days after service of such order upon the association or the party or parties so served (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.

"(C) This paragraph and paragraphs (3), (4), (5), (7), (8), (9), (10), (12) (A) and (B), (13), and (14) of this subsection (d) shall apply to any savings and loan holding company or to any subsidiary (other than an association) of a savings and loan holding company, as those terms are defined in section 408 of the National Housing Act (12 U.S.C. 1730a), as amended, and to any affiliate service corporation of an association in the same manner as they apply to an association.".

(4) Section 206(e) of the Federal Credit Union Act (12 U.S.C. 1786(e)(1)) is amended to read as follows:

"(e)(1) If, in the opinion of the Administrator, any insured credit union, credit union which has insured accounts, or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union is engaging or has engaged, or the Administrator has reasonable cause to believe that the credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union is about to engage, in an unsafe or unsound practice in conducting the business of such credit union, or is violating or has violated, or the Administrator has reasonable cause to believe that the credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Administrator in connection with the granting of any application or other request by the credit union or any written agreement entered into with the Administrator, the Administrator may issue and serve upon the credit union or such director, officer, committee member, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the credit union or the director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Administrator at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Administrator shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Administrator may issue and serve upon the credit union or the director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union an order to cease and desist from any such volation or practice. Such order may, by provisions which may be mandatory or otherwise, require the credit union or its directors, officers, committee members, employees, agents, and other persons participating in the conduct of the affairs of such credit union to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after the service of such order upon the credit union or other person concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.".

(b) Section 8(b)(3) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818(b)(3)), is amended: (1) by inserting after "Bank Holding Company Act of 1956" a comma and the following: "and to any organization organized and operated under section 25A of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act,"; and (2) by adding at the end thereof the following new sentence: "Nothing in this subsection or in subsection (c) of this section shall authorize any Federal banking agency, other than the Board of Governors of the Federal Reserve System, to issue a notice of charges or cease-and-desist order against a bank holding company or any subsidiary thereof (other than a bank or subsidiary of that bank).".

(c)(1) Sections 8(c)(1) and (2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c) (1) and (2)) are amended to read as follows:

"(c)(1) Whenever the appropriate Federal banking agency shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank pursuant to paragraph (1) of subsection (b) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely to seriously weaken the condition of the bank or otherwise seriously prejudice the interests of its depositors prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (b) of this section, the agency may issue a temporary order requiring the bank or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the bank or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the agency shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the bank or such director, officer, employee, agent, or other person, until the effective date of such order.

"(2) Within ten days after the bank concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank has been served with a temporary cease-and-desist order, the bank or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the bank is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the bank or such director, officer, employee, agent, or other person under paragraph (1) of subsection (b) of this section, and such court shall have jurisdiction to issue such injunction.".

(2) Section 407(f) (1) and (2)) is amended to read as follows:

"(f)(1) Whenever the Corporation shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution or any institution any of the accounts of which are insured pursuant to paragraph (1) of subsection (e) of this section of assets or earnings of the institution, or is likely to seriously weaken the condition of the institution or otherwise seriously prejudice the interests of its insured members prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (c) of this section, the Corporation may issue a temporary order requiring the institution or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the institution and/or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and

enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Corporation shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the institution or such director, officer, employee, agent, or other person, until the effective date of any such order.

"(2) Within ten days after the institution concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution has been served with a temporary cease-and-desist order, the institution or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the principal office of the institution is located, or the United States Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the institution or such director, officer, employee, agent, or other person under paragraph (1) of subsection (e) of this section, and such court shall have jurisdiction to issue such injunction.".

(3) Section 5(d)(3) (A) and (B) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(d)(3) (A) and (B)), is amended to read as follows:

"(3)(A) Whenever the Board shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association pursuant to paragraph (2)(A) of this subsection, or the continuation thereof, is likely to cause insolvency (as defined in paragraph (6)(A)(i) of this subsection) or substantial dissipation of assets or earnings of the association, or is likely to seriously weaken the condition of the association or otherwise seriously prejudice the interests of its savings account holders prior to the completion of the proceedings conducted pursuant to paragraph (2)(A) of this subsection the Board may issue a temporary order requiring the association of such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the association or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution and, unless set aside, limited, or suspended by a court in proceedings authorized by subparagraph (B) of this paragraph, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Board shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the association or such director, officer, employee, agent, or other person, until the effective date of such order.

"(B) Within ten days after the association concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association has been served with a temporary cease-and-desist order, the association or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the association is located or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the bank or such director, officer, employee, agent, or other person under paragraph (2)(A) of this subsection, and such court shall have jurisdiction to issue such injunction.".

(4) Sections 206(f) (1) and (2) of the Federal Credit Union Act (12 U.S.C. 1786(f) (1) and (2)) are amended to read as follows:

"(f)(1) Whenever the Administrator shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union pursuant to paragraph (1) of subsection (e) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the credit union, or is likely to seriously weaken the condition of the credit union or otherwise seriously prejudice the interests of its insured members prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (e) of this section, the Administrator may issue a temporary order requiring the credit union or such director, officer, committee member, employee, agents, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the credit union or such director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Administration shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the credit union or such director, officer, committee member, employee, agent, or other person, until the effective date of such order.

"(2) Within ten days after the credit union concerned or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union has been served with a temporary cease-and-desist order, the credit union or such director, officer, committee member, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the credit union is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the credit union or such director, officer, committee member, employee, agent, or other person under paragraph (1) of subsection (c) of this section, and such court shall have jurisdiction to issue such injunction.".

(d)(1) Section 8(e) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818 (e)), is amended to read as follows:

"(e)(1) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the bank, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the agency determines that the bank has suffered or will probably suffer substantial financial loss or other damage or that the interests of its depositors could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is either one involving personal dishonesty on the part of such director or officer, or one which demonstrates a willful disregard for the safety or soundness of the bank, the agency may serve upon such director or officer a written notice of its intention to remove him from office.

"(2) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank, by conduct or practice with respect to another insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the appropriate Federal banking agency, any other person participating in the conduct of the affairs of an insured bank, by conduct or practice with respect to such bank or other insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful disregard for its safety and soundness, and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such insured bank, the agency may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the bank.

"(3) In respect to any director or officer of an insured bank or any other person referred to in paragraph (1) or (2) of this subsection, the appropriate Federal banking agency may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written notice to such effect served upon such director, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (f) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the agency shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the bank of which he is a director or officer or in the conduct of whose affairs he has participated.

"(4) A notice of intention to remove a director, officer, or other person from office or to prohibit his participation in the conduct of the affairs of an insured bank, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days no later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the agency at the request of (A) such director or officer or other person, and for good cause shown, or (B) the Attorney General of the United States. Unless such director, officer, or other person shall appear at the hearing in person or by a duly authorized repre-

sentative, he shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent or if upon the record made at any such hearing the agency shall find that any of the grounds specified in such notice have been established, the agency may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the bank, as it may deem appropriate. In any action brought under this section by the Comptroller of the Currency in respect to any director, officer or other person with respect to a national banking association or a District bank, the findings and conclusions of the Administrative Law Judge shall be certified to the Board of Governors of the Federal Reserve System for the determination of whether any order shall issue. Any such order shall become effective at the expiration of thirty days after service upon such bank and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated or set aside by action of the agency or a reviewing court.".

(2) Section 407(g) (1) and (2) of the National Housing Act (12 (U.S.C. 1730(g) (1) and (2)) is amended to read as follows:

"(g)(1) Whenever, in the opinion of the Corporation, any director or officer of an insured institution has committed any violation of law, rule, or regulations or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the institution or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the Corporation determines that the institution has suffered or will probably suffer substantial financial loss or other damage or that the interests of its insured members could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is either one involving personal dishonesty on the part of such director or officer, or one which demonstrates a willful disregard for the safety or soundness of the institution, the Corporation may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.

"(2) Whenever, in the opinion of the Corporation, any director or officer of an insured institution, by conduct or practice with respect to another insured institution or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the Corporation, any other person participating in the conduct of the affairs of an insured institution, by conduct or practice with respect to such institution or other insured institution or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful disregard for its safety and soundness, and in addition, has evidenced his unfitness to participate in the conduct of affairs of such insured institution, the Corporation may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.".

(3) Section 5(d)(4) (A) and (B) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(d)(4) (A) and (B)) is amended to read as follows:

"(4)(A) Whenever, in the opinion of the Board, any director or officer of an association has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the association or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the Board determines that the association has suffered or will probably suffer substantial financial loss or other damage or that the interests of its savings account holders could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is either one involving personal dishonesty on the part of such director or officer, or one which demonstrates a willful disregard for the safety or soundness of the association, the Board may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the association.

"(B) Whenever, in the opinion of the Board, any director or officer of an association, by conduct or practice with respect to another savings and loan association or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the Board, any other person participating in the conduct of the affairs of an association, by conduct or practice with respect to such association or other savings and loan association or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty or a willful disregard for its safety and soundness, and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such association, the Board may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the association.".

(4) Section 206(g) (3) and (4) of the Federal Credit Union Act, as amended (12 U.S.C. 1786(g) (3) and (4)), is amended to read as follows:

"(3) In respect to any director, committee member, or officer of an insured credit union or any other person referred to in paragraph (1) or (2) of this subsection, the Administrator may, if he deems it necessary for the protection of the credit union or the interests of its members, by written notice to such effect served upon such director, committee member, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (1) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the Administrator shall dismiss the charges specified in such notice, or, if an order of removal and prohibition is issued against the director, committee member, or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the credit union of which he is a director, committee member, or officer or in the conduct of whose affairs he has participated.

"(4) A notice of intention to remove a director, committee member, officer, or other person from office or to prohibit his participation in the conduct of the affairs of an insured credit union shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the Administrator at the request of (A) such director, committee member, or officer or other person, and for good cause shown, or (B) the Attorney General of the United States. Unless such director, committee member, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the Administrator shall find that any of the grounds specified in such notice have been established, the Administrator may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the credit union, as it may deem appropriate. Any such order shall become effective at the expiration of thirty days after service upon such credit union and the director, committee member, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.".

(e)(1) Section 8(i) of the Federal Deposit Insurance Act, as amended(12 U.S.C. 1818(i)), is amended by redesignating section 8(i) as 8(i)(1) and by adding at the end thereof a new paragraph as follows:

"(2)(A) Any insured bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such a bank who violates the terms of any order which has become final and was issued pursuant to subsection (b) or (c) of this section, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the appropriate Federal banking agency by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bring about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the appropriate Federal banking agency shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the insured bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The insured bank or person assessed shall be afforded an opportunity for agency hearing, upon requests made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph

(iv). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any insured bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the appropriate Federal banking agency. The agency shall promptly certify and file in such Court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(v) If any insured bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the agency shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(vi) Each Federal banking agency shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(vii) All penalties collected under authority of this section shall be covered into the Treasury of the United States.".

(2) Section 407(k) of the National Housing Act (12 U.S.C. 1730(k)) is amended by adding a new paragraph (k)(3) to read as follows:

"(3)(A) Any insured institution or any institution any of the accounts of which are insured which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such an institution who violates the terms of any order which has become final and was issued pursuant to subsection (e) or (f) of this section shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the insured institution or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The insured institution or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any insured institution or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured institution is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any insured institution or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

(3) Section 5(d)(8) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(5)(d)(8)), is amended by redesignating "section 5(d)(8)" as "5(d)(8)(A)" and by adding the following new paragraph:

"(B)(i) Any association which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such an association who violates the terms of any order which has become final and was issued pursuant to paragraph (2) or (3) of this subsection, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or adding or abetting a violation.

"(ii) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the association bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(iii) The association or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (iv). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(iv) Any association or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the association is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Board. The agency shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(v) If any association or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(vi) The Board shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(vii) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

(4) Section 206(j) of the Federal Credit Union Act, as amended (12 U.S.C. 1786(j)), is amended by redesignating section 206(j) as 206(j)(1) and by adding a new paragraph as follows:

"(2)(A) Any insured credit union which violates or any officer, director, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union who violates the terms of any order which has become final and was issued pursuant to subsection (e) or (f) of this section, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Administrator by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty, the Administrator shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the insured credit union or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The insured credit union or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The Administrator's determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any insured credit union or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured credit union is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Administrator. The Administrator shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The finding of the Administrator shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any insured credit union or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Administrator, the Ad-

ministrator shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) The Administrator shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

SEC. 107. Section 18(j) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1828(j)), is amended by redesignating section 18(j) as "18(j)(1)" and by adding at the end thereof the following:

"(2) The provisions of section 22(h) of the Federal Reserve Act, as amended, relating to limits on loans and extensions of credit by a member bank to its officers or directors or to any individual who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank or to companies controlled by such an officer, director, or individual, and relating to board of directors' approval of and terms of such loan, shall be applicable to every nonmember insured bank in the same manner and to the same extent as if such nonmember insured bank were a State member bank.

"(3)(i) Any nonmember insured bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such nonmember insured bank who violates any provision of section 23A or 22(h) of the Federal Reserve Act, as amended, or any lawful regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, couseling, or aiding or abetting a violation.

"(ii) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice require.

"(iii) The nonmember insured bank or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (iv). If no hearing is requested as herein provided the assessment shall constitute a final and unappealable order.

"(iv) Any nonmember insured bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Corporation shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(v) If any nonmember insured bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(vi) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(vii) All penalties collected under the authority of this paragraph shall be covered into the Treasury of the United States.".

SEC. 108. Any amendment made by this title which provides for the imposition of civil penalties shall apply only to violations occurring or continuing after the date of its enactment.

SEC. 109. Section 22(g) of the Federal Reserve Act, as amended (12 U.S.C. 375a), is amended by inserting the figure "$60,000" in lieu of the figure "$30,000" in paragraph (2), and by inserting the figure "$20,000" in lieu of the figure "$10,000" in paragraph (3); and by inserting the figure "$10,000" in lieu of the figure "$5,000" in paragraph (4).

SEC. 110. (a)(1) Section 8(g) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)) is amended to read as follows:

"(g)(1) Whenever any director or officer of an insured bank, or other person participating in the conduct of the affairs of such bank, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the appropriate Federal banking agency may, if continued service or participation by the individual may pose a threat to the interests of the bank's depositors or may threaten to impair public confidence in the bank, by written notice served upon such director, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank. A copy of such notice shall also be served upon the bank. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the agency. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the agency may, if continued service or participation by the individual may pose a threat to the interests of the bank's depositors or may threaten to impair public confidence in the bank, issue and serve upon such director, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the bank except with the consent of the appropriate agency. A copy of such order shall also be served upon such bank, whereupon such director or officer shall cease to be a director or officer of such bank. A finding of not guilty or other disposition of the charge shall not preclude the agency from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in bank affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the agency.

"(2) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a national bank less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a national bank are suspended pursuant to this section, the Comptroller of the Currency shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended, cease to be directors of the bank and their respective successors take office.

"(3) Within thirty days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, officer, or other person concerned may request in writing an opportunity to appear before the agency to show that the continued service to or participation in the conduct of the affairs of the bank by such individual does not, or is not likely to, pose a threat to the interests of the bank's depositors or threaten to impair public confidence in the bank. Upon receipt of any such request, the appropriate Federal banking agency shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the agency or designated employees of the agency to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearing, the agency shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the bank will be continued, terminated, or otherwise modified, or whether the order removing said director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the bank will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the agency's decision, if adverse to the director, officer or other person. The Federal banking agencies are authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

(2) Section 8(h)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)(1)) is amended by inserting after "Any hearing provided for in this section" the following: "(other than the hearing provided for in subsection (g)(3) of this section)".

(3) Section 8(j) of the Federal Deposit Insurance Act (12 U.S.C. 1818(j)) is amended by striking out "(e)(5), (e)(7), (e)(8)" and inserting in lieu thereof "(e)(3), (e)(4)".

(4) Section 8(k) of the Federal Deposit Insurance Act (12 U.S.C. 1818(k)) is amended by striking out "paragraph (1) of subsection (g)" and inserting in lieu thereof "paragraph (1) or (3) of subsection (g)".

(5) Section 8(n) of the Federal Deposit Insurance Act (12 U.S.C. 1818(n)) is amended by adding at the end thereof the following new sentence: "Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience to the subpoena of the appropriate Federal banking agency, shall be guilty of a mis-

demeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year or both.".

(b)(1) Section 407(h) of the National Housing Act (12 U.S.C. 1730(h)) is amended to read as follows:

"(h)(1) Whenever any director or officer of an insured institution, or other persons participating in the conduct of the affairs of such institution, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Corporation may, if continued service or participation by the individual may pose a threat to the interests of the institutions' depositors or may threaten to impair public confidence in the institution, by written notice served upon such director, officer, or other person suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the institution. A copy of such notice shall also be served upon the institution. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Corporation. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Corporation may, if continued service or participation by the individual may pose a threat to the interests of the institution's depositors or may threaten to impair public confidence in the institution, issue and serve upon such director, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the institution except with the consent of the Corporation. A copy of such order shall also be served upon such institution, whereupon such director or officer shall cease to be a director or officer of such institution. A finding of not guilty or other disposition of the charge shall not preclude the Corporation from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in institution affairs, pursuant to paragraph (1), (2), or (3) of subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the Corporation.

"(2) Within thirty days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, officer, or other person concerned may request in writing an opportunity to appear before the Corporation to show that the continued service to or participation in the conduct of the affairs of the institution by such individual does not, or is not likely to, pose a threat to the interests of the institution's depositors or threaten to impair public confidence in the institution. Upon receipt of any such request, the Corporation shall fix a time (not more than thirty days after receipt of such requests, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the Corporation or designated employees of the Corporation to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearing, the Corporation shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the institution will be continued, terminated or otherwise modified, or whether the order removing said director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the institution will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Corporation's decision, if adverse to the director, officer, or other person. The Corporation is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

(2) Section 407(j)(1) of such Act (12 U.S.C. 1730(j)(1)) is amended by inserting after "any hearing provided for in this section" the following: "(other than the hearing provided for in subsection (h)(3) of this section)".

(3) Section 407(j)(2) of such Act (12 U.S.C. 1730(j)(2)) is amended by inserting "(1)" after "subsection (h)".

(c)(1) Section 5(d)(5) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(5)) is amended to read as follows:

"(5)(A) Whenever any director or officer of an association, or other person participating in the conduct of the affairs of such association, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Board, may, if continued service or participation by the individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association, by written notice served upon such director, officer, or other person suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the association. A copy of such notice shall also be served upon the association. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Board. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by the individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association, issue and serve upon such director, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the association except with the consent of the Board. A copy of such order shall also be served upon such association, whereupon such director or officer shall cease to be a director or officer of such association. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in association affairs, pursuant to subparagraph (A), (B), or (C) of paragraph (4). Any notice of suspension or order of removal issued under this subparagraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under subparagraph (C) hereof unless terminated by the Board.

"(B) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of an association less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of an association are suspended pursuant to this section, the Board shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the association and their respective successors take office.

"(C) Within thirty days from service of any notice of suspension or order of removal issued pursuant to subparagraph (A), the director, officer, or other person concerned may request in writing an opportunity to appear before the Board to show that the continued service to or participation in the conduct of the affairs of the association by such individual does not, or is not likely to, pose a threat to the interests of the association's depositors or threaten to impair public confidence in the association. Upon receipt of any such request, the Board shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the agency or designated employees of the Board to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearing, the Board shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the association will be continued, terminated or otherwise modified, or whether the order removing said director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the association will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Board's decision, if adverse to the director, officer, or other person. The Board is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

(2) Section 5(d)(7)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(7)(A)) is amended by inserting after "Any hearing provided for in this section" the following: "(other than the hearing provided for in paragraph (5)(C) of this section)".

(3) Section 5(d)(13)(A)(1) of such Act (12 U.S.C. 1464(d)(13)(A)(1)) is amended by inserting after "paragraph (5)(A)" the following: "or (C)".

(d)(1) Section 206(h) of the Federal Credit Union Act (12 U.S.C. 1786(h)) is amended to read as follows:

"(h)(1) Whenever any director, committee member, or officer of an insured credit union, or other person participating in the conduct of the affairs of such credit union, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Administrator may, if continued service or participation by the individual may pose a threat to the interests of the credit union's depositors or may threaten to impair public confidence in the credit union, by written notice served upon such director, committee member, officer, or other person suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. A copy of such notice shall also be served upon the credit union. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the

Administrator. In the event that a judgment of conviction with respect to such crime is entered against such director, committee member, officer or other person, and at such time as such judgment is not subject to further appellate review, the Administrator may, if continued service or participation by the individual may pose a threat to the interests of the credit union's depositors or may threaten to impair public confidence in the credit union, issue and serve upon such director, committee member, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Administrator. A copy of such order shall also be served upon such credit union, whereupon such director or officer shall cease to be a director, committee member, or officer of such credit union. A finding of not guilty or other disposition of the charge shall not preclude the Administrator from thereafter instituting proceedings to remove such director, committee member, officer, or other person from office or to prohibit further participation in the affairs of the credit union, pursuant to subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the Administrator.

"(2) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a Federal credit union less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a Federal credit union are suspended pursuant to this section, the Administrator shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the credit union and their respective successors have been elected by the members at an annual or special meeting and have taken office. Directors appointed temporarily by the Administrator shall, within thirty days following their appointment, call a special meeting for the election of new directors, unless during the thirty-day period (A) the regular annual meeting is scheduled, or (B) the suspensions giving rise to the appointment of temporary directors are terminated.

"(3) Within thirty days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, committee member, officer, or other person concerned may request in writing an opportunity to appear before the Administrator to show that the continued service to or participation in the conduct of the affairs of the credit union by such individual does not, or is not likely to, pose a threat to the interests of the credit union's depositors or threaten to impair public confidence in the credit union. Upon receipt of any such request, the Administrator shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, committee member, officer, or other person) and place at which the director, committee-member, officer, or other person may appear, personally or through counsel, before the Administrator or his designee to submit written materials (or, at the discretion of the Administrator, oral testimony) and oral argument. Within sixty days of such hearing, the Administrator shall notify the director, committee member, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the credit union will be continued, terminated or otherwise modified, or whether the order removing said director, committee member, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the credit union will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Administrator's decision, if adverse to the director, committee member, officer, or other person. The Administrator is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

(2) Section 206(1)(1) of the Federal Credit Union Act (12 U.S.C. 1786(1)(1)) is amended by inserting after "Any hearing provided for in this section" the following: "(other than the hearing provided for in subsection (h)(3) of this section)".

(3) Section 206(1)(2) of such Act (12 U.S.C. 1786(1)(2)) is amended by inserting "(1)" after "subsection (h)".

SEC. 111. (a) Section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended by inserting after the second sentence the following new sentence: "The Board is authorized upon application by a bank to extend, from time to time for not more than one year at a time, the two-year period referred to above for disposing of any shares acquired by a bank in the regular course of securing or collecting a debt previously contracted in good faith, if, in the Board's judgment, such an extension would not be detrimental to the public interest, but no such extensions shall in the aggregate exceed three years.".

(b) Section 2(a)(5)(D) of such Act (12 U.S.C. 1841(a)(5)(D)) is amended by adding at the end thereof the following new sentence: "The Board is authorized upon application by a company to extend, from time to time for not more than one year at a time, the two-year period referred to herein for disposing of any shares acquired by a company in the regular course of securing or collecting a debt previously contracted in good faith, if, in the Board's judgment, such an extension would not be detrimental to the public interest, but no such extension shall in the aggregate exceed three years.".

(c) Section 4(c)(2) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1843(c)(2)), is amended by striking out "shares acquired by a bank in satisfaction of a debt previously contracted in good faith, but such bank shall dispose of such shares within a period of two years" and inserting in lieu thereof the following: "shares acquired by a bank holding company or any of its subsidiaries in satisfaction of a debt previously contracted in good faith, but such shares shall be disposed of within a period of two years".

TITLE II—INTERLOCKING DIRECTORS

SEC. 201. This title may be cited as the "Depositary Institution Management Interlocks Act".

SEC. 202. As used in this title—

(1) the term "depositary institution" means a commercial bank, a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union;

(2) the term "depositary holding company" means a bank holding company as defined in section 2(a) of the Bank Holding Company Act of 1956, a company which would be a bank holding company as defined in section 2(a) of the Bank Holding Company Act of 1956 but for the exemption contained in section 2(a)(5)(F) thereof, or a savings and loan holding company as defined in section 408(a)(1)(D) of the National Housing Act;

(3) the characterization of any corporation (including depositary institutions and depositary holding companies), as an "affiliate of," or as "affiliated" with any other corporation means that—

(A) one of the corporations is a depositary holding company and the other is a subsidiary thereof, or both corporations are subsidiaries of the same depositary holding company, as the term "subsidiary" is defined in either section 2(d) of the Bank Holding Company Act of 1956 in the case of a bank holding company or section 408(a)(1)(II) of the National Housing Act in the case of a savings and loan holding company;

(B) more than 50 per centum of the voting stock of one corporation is beneficially owned in the aggregate by one or more persons who also beneficially own in the aggregate more than 50 per centum of the voting stock of the other corporation; or

(C) one of the corporations is a trust company all of the stock of which, except for directors qualifying shares, was owned by one or more mutual savings banks on the date of enactment of this Act, and the other corporation is a mutual savings bank;

(4) the term "management official" means an employee or officer with management functions, a director (including an advisory or honorary director), a trustee of a business organization under the control of trustees, or any person who has a representative or nominee serving in any such capacity: *Provided*, That if a corporator, trustee, director, or other officer of a State-chartered savings bank or cooperative bank is specifically authorized under the laws of the State in which said institution is located to serve as a trustee, director, or other officer of a State-chartered trust company which does not make real estate mortgage loans and does not accept savings deposits from natural persons, then, for the purposes of this title, such corporator, trustee, director, or other officer shall not be deemed to be a management official of such trust company: *And provided further*, That if a management official of a State-chartered trust company which does not make real estate mortgage loans and does not accept savings deposits from natural persons is specifically authorized under the laws of the State in which said institution is located to serve as a corporator, trustee, director, or other officer of a State-chartered savings bank or cooperative bank, then, for the purposes of this title, such management official shall not be deemed to be a management official of any such savings bank or cooperative bank; and

(5) the term "office" used with reference to a depository institution means either a principal office or a branch.

SEC. 203. A management official of a depositary institution or a depositary holding company may not serve as a management official of any other depositary institution or depositary holding company not affiliated therewith if an office of one of the institutions or any depositary institution that is an affiliate of such institutions is located within either—

(1) the same standard metropolitan statistical area as defined by the Office of Management and Budget, or

(2) the same city, town, or village as that in which an office of the other institution or any depositary institution that is an affiliate of such other institution is located, or in any city, town, or village contiguous or adjacent thereto.

SEC. 204. If a depositary institution or a depositary holding company has total assets exceeding $1,000,000,000, a management official of such institution or any affiliate thereof may not serve as a management of-

ficial of any other nonaffiliated depositary institution or depositary holding company having total assets exceeding $500,000,000 or as a management official of any affiliate of such other institution.

SEC. 205. The prohibitions contained in sections 202, 203, and 204 shall not apply in the case of any one or more of the following or any branch or subsidiary thereof:

(1) A depositary institution or depositary holding company which has been placed formally in liquidation, or which is in the hands of a receiver, conservator, or other official exercising a similar function.

(2) A corporation operating under section 25 or 25A of the Federal Reserve Act.

(3) A credit union being served by a management official of another credit union or a credit union being served by a management official of another depositary institution.

(4) A depositary institution or depositary holding company which does not do business within any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands except as an incident to its activities outside the United States.

SEC. 206. A person whose service in any given position as a management official was not prohibited by this title at the time of the beginning of such service is not prohibited by this title from continuing to serve in that position for a period of ten years after the date of enactment of this title. The Board of Governors of the Federal Reserve System may provide a reasonable period of time for compliance with this title, not exceeding fifteen months, after any change in circumstances, other than the coming into effect of this title which makes such service prohibited by this title.

SEC. 207. This title shall be administered and enforced by—

(1) the Comptroller of the Currency with respect to national banks and banks located in the District of Columbia,

(2) the Board of Governors of the Federal Reserve System with respect to State banks which are members of the Federal Reserve System, and bank holding companies,

(3) the Board of Directors of the Federal Deposit Insurance Corporation with respect to State banks which are not members of the Federal Reserve System but the deposits of which are insured by the Federal Deposit Insurance Corporation,

(4) the Federal Home Loan Bank Board with respect to Federal savings and loan associations and institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and savings and loan holding companies,

(5) the National Credit Union Administration with respect to Federal credit unions and institutions the accounts of which reinsured by the National Credit Union Administration, and

(6) the Attorney General for all other institutions.

SEC. 208. The following provisions of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (Clayton Act, 38 Stat. 732, as amended), are repealed:

(a) The first three paragraphs of section 8 (15 U.S.C. 19).

(b) The words "bank or other" in the last paragraph of section 8 each time they appear.

SEC. 209. (a) Section 8(c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c)) is amended by adding at the end thereof the following new paragraph:

"(5) For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term 'director' includes an advisory or honorary director, a trustee of a bank under the control of trustees, or any person who has a representative or nominee serving in any such capacity.".

(b) Section 5(d) of the Homeowners' Loan Act (12 U.S.C. 1464(d)) is amended by adding at the end thereof the following new paragraph:

"(15) For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term 'director' includes an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity.".

(c) Section 407(q) of the National Housing Act is amended by adding at the end thereof the following:

"(4) For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term 'director' includes an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nomineee serving in any such capacity.".

SEC. 210. The Board of Governors of the Federal Reserve System may prescribe such rules and regulations, including authorization for a management official of a depositary institution to serve as a management official of any other depository institution, as are consistent with the purposes of this title and necessary to effectuate such purposes or to prevent evasion of this title.

TITLE III—FOREIGN BRANCHING

SEC. 301. (a) Section 3(o) of the Federal Deposit Insurance Act (12 U.S.C. 1813(o)) is amended—

(1) by inserting "domestic" immediately before "branch" the first place it appears; and

(2) by inserting before the period at the end thereof a semicolon and the following: "and the term 'foreign branch' means any office, place of business, or similar establishment located outside the United States, its territories, Puerto Rico, Guam, American Samoa, and the Virgin Islands".

(b) Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended—

(1) by inserting "(1)" after "(d)";

(2) by inserting "domestic" between "new" and "branch";

(3) by inserting "such" between "any" and "branch"; and

(4) by adding at the end thereof the following new paragraph:

"(2) No State nonmember insured bank shall establish or operate any foreign branch, except with the prior written consent of the Corporation and upon such conditions and pursuant to such regulations as the Corporation may prescribe from time to time.".

(c) Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end thereof the following new subsection:

"(1) When authorized by State law, a State nonmember insured bank may, but only with the prior written consent of the Corporation and upon such conditions and under such regulations as the Corporation may prescribe from time to time, acquire and hold, directly or indirectly, stock or other evidences of ownership in one or more banks or other entities organized under the law of a foreign country or a dependency or insular possession of the United States and not engaged, directly or indirectly, in any activity in the United States except as, in the judgment of the Board of Directors, shall be incidental to the international or foreign business of such foreign bank or entity; and, notwithstanding the provisions of subsection (j) of this section, such State nonmember insured bank may, as to such foreign bank or entity, engage in transactions that would otherwise be covered thereby, but only in the manner and within the limits prescribed by the Corporation by general or specific regulation or ruling.".

SEC. 302. The sixth sentence of section 7 (a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is amended to read as follows: "The correctness of said report of conditions shall be attested by the signatures of at least two directors or trustees of the reporting bank other than the officer making such declaration, with a declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct.".

SEC. 303. Section 8(n) of the Federal Deposit Insurance Act (12 U.S.C. 1818(n)) is amended—

(1) by inserting in the first sentence after "this section," the first place it appears therein the following: "or in connection with any claim for insured deposits or any examination or investigation under section 10(c),";

(2) by inserting "examination, or investigation or considering the claim for insured deposits," in the first sentence after "proceeding," the second place it appears therein;

(3) by striking out "proceedings" at the end of the first sentence thereof and inserting in lieu thereof "proceedings, claims, examinations, or investigations";

(4) by inserting "such agency or any" after "Any" at the beginning of the third sentence thereof; and

(5) by striking out "section" and inserting in lieu thereof "subsection" in the fourth sentence thereof.

SEC. 304. Section (8)(q) of the Federal Deposit Insurance Act (12 U.S.C. 1818(q)) is amended to read as follows:

"(q) Whenever the liabilities of an insured bank for deposits shall have been assumed by another insured bank or banks, whether by way of merger, consolidation, or other statutory assumption, or pursuant to contract (1) the insured status of the bank whose liabilities are so assumed shall terminate on the date of receipt by the Corporation of satisfactory evidence of such assumption; (2) the separate insurance of all deposits so assumed shall terminate at the end of six months from the date such assumption takes effect or, in the case of any time deposit, the earliest maturity date after the six-month period; and (3) the assuming or resulting bank shall give notice of such assumption to each of the depositors of the bank whose liabilities are so assumed within thirty days after such assumption takes effect. Where the deposits of an insured bank are assumed by a newly insured bank, the bank whose deposits are assumed shall not be required to pay any assessment upon the deposits which have been so assumed after the semiannual period in which the assumption takes effect.".

SEC. 305. (a) Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended by inserting "or other institution" in the first sentence after the words "any State nonmember bank" and by striking out the last two sentences of that subsection.

(b) Section 10(c) and (d) of the Federal Deposit Insurance Act (12 U.S.C. 1820 (c) and (d)) are amended to read as follows:

"(c) In connection with examinations of insured banks, State nonmember banks or other institutions making application to become insured banks, and affiliates thereof, or with other types of investigations to determine compliance with applicable law and regulations, the appropriate Federal bank-

ing agency or its designated representatives, are authorized to administer oaths and affirmations, and to examine and to take and preserve testimony under oath as to any matter in respect to the affairs or ownership of any such bank or institution or affiliate thereof, and to exercise such other powers as are set forth in section 8(n) of this Act.

"(d) For purposes of this section, the term 'affiliate' shall have the same meaning as in section 23A of the Federal Reserve Act, except that the term 'member bank' in such section 23A and in section 2(b) of the Banking Act of 1933 shall be deemed to refer to an insured bank.".

SEC. 306. Section 18(c)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1828 (c)(1)(B)) is amended by inserting after the word "deposits" the following: "(including liabilities which would be 'deposits' except for the proviso in section 3(l)(5) of this Act)".

SEC. 307. Section 1114 of title 18, United States Code, is amended by inserting before "shall be punished" the following: "or any attorney, liquidator, examiner, claim agent, or other employee of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System, any Federal Reserve bank, or the National Credit Union Administrator engaged in or on account of the performance of his official duties.".

SEC. 308. Section 5 of the Bank Service Corporation Act (12 U.S.C. 1865) is amended to read as follows:

"SEC. 5. Whenever any bank which is regularly examined by a Federal supervisory agency, or any subsidiary or affiliate of such bank which is subject to examination by that agency, causes to be performed, by contract or otherwise, any bank services for itself, whether on or off its premises—

"(1) such performance shall be subject to regulation and examination by such agency to the same extent as if the services were being performed by the bank itself on its own premises, and

"(2) the bank shall notify such agency of the existence of a service relationship within 30 days after the making of such service contract or the performance of the service, whichever occurs first.".

TITLE IV—CONFLICTS OF INTEREST

SEC. 401. This title may be cited as the "Depository Institutions Conflict of Interest Act".

SEC. 402. Section 2 of the Federal Deposit Insurance Act (12 U.S.C. 1812) is amended by striking out the sixth sentence and inserting in lieu thereof the following: "The members of the Board of Directors shall be ineligible, during the time they are in office and for a period of two years thereafter, to hold any office, position, or employment in an insured bank, in a holding company of an insured bank, or in an affiliate of a holding company of an insured bank, and may not, during such two-year period, voluntarily acquire any interest in such a bank, company, or affiliate, or exercise any voting rights attributable to the ownership of any security issued by such a bank, company, or affiliate, except that this restriction shall not apply to any individual who has served the full term for which he was appointed.".

SEC. 403. The first sentence of the second paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242) is amended by adding at the end thereof the following: "The members of the Board of Governors shall be ineligible, during the time they are in office and for a period of two years thereafter, to hold any office, position, or employment in a member bank, in a bank holding company or in an affiliate of a bank holding company, and may not, during such two-year period, voluntarily acquire any interest in such a bank, company, or affiliate, or exercise any voting rights attributable to the ownership of any security issued by such a bank, company, or affiliate, except that this restriction shall not apply to any individual who has served the full term for which he was appointed.".

SEC. 404. Section 17 of the Federal Home Loan Bank Act (12 U.S.C. 1437) is amended by adding at the end thereof the following:

"(c) The members of the board shall be ineligible during the time they are in office and for a period of two years thereafter to hold any office, position, or employment in an insured institution, in a holding company of an insured institution, or in an affiliate of a holding company of an insured institution, and may not, during such two-year period, voluntarily acquire any interest in such an institution, company, or affiliate, or exercise any voting rights attributable to the ownership of any security issued by such an institution, company, or affiliate, except that this restriction shall not apply to any individual who has served the full term for which he was appointed. As used in this subsection the the term 'insured institution' has the same meaning as in section 401 of the National Housing Act.".

SEC. 405. (a) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(14) Chairman, Board of Governors of the Federal Reserve System.".

(b) Section 5313(10) of such title is amended by striking out "Chairman' and inserting in lieu thereof "Members".

(c) Section 5313 of such title is amended by adding at the end thereof the following:

"(24) Chairman, Board of Directors, Federal Deposit Insurance Corporation.

"(25) Chairman of the Federal Home Loan Bank Board.

"(26) Comptroller of the Currency.".

(d) Section 5314 of title 5, United States Code, is amended by striking out items 19, 20, 30, and 43.

TITLE V—CREDIT UNION RESTRUCTURING

SEC. 501. Section 102 of the Federal Credit Union Act (12 U.S.C. 1752a) is amended to read as follows:

"CREATION OF ADMINISTRATION

"SEC. 102. (a) There is hereby established in the executive branch of the Government an independent agency to be known as the National Credit Union Administration. The Administration shall be under the management of a National Credit Union Administration Board.

"(b) The Board shall consist of three members, who are broadly representative of the public interest, appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the President shall designate the Chairman. Not more than two members of the Board shall be members of the same political party.

"(c) The term of office of each member of the Board shall be six years, except that the terms of the two members, other than the chairman, initially appointed shall expire one upon the expiration of two years after the date of appointment, and the other upon the expiration of four years after the date of appointment. Board members shall not be appointed to succeed themselves except the initial members appointed for less than a six-year term may be reappointed for a full six-year term and future members appointed to fill unexpired terms may be reappointed for a full six-year term. Any Board member may continue to serve as such after the expiration of said member's term until a successor has qualified.

"(d) The management of the Administration shall be vested in the Board. The Board shall adopt such rules as it sees fit for the transaction of its business and shall keep permanent and complete records and minutes of its acts and proceedings. A majority of the Board shall constitute a quorum. Not later than April 1 of each calendar year, and at such other times as the Congress shall determine, the Board shall make a report to the President and to the Congress. Such a report shall summarize the operations of the Administration and set forth such information as is necessary for the Congress to review the financial program approved by the Board.

"(e) The Chairman of the Board shall be the spokesman for Board and shall represent the Board and the National Credit Union Administration in its official relations with other branches of the Government. The Chairman shall determine each Board member's area of responsibility and shall review such assignments biennially. It shall be the Chairman's responsibility to direct the implementation of the adopted policies and regulations of the Board.

"(f) The members of the Board shall be ineligible during the time they are in office or for two years thereafter to hold any office, position, or employment in any credit union or in any financial institution in which a credit union owns stock, except that this restriction shall not apply to any member who has served the full term for which he was appointed.

"(g) The financial transactions of the Administration shall be subject to audit on a calendar year basis by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where the accounts of the Administration are kept.".

SEC. 502. (a) Section 101 of the Federal Credit Union Act is amended—

(1) by striking out clause (2) and inserting in lieu thereof the following:

"(2) the term 'Chairman' means the Chairman of the National Credit Union Administration Board;";

(2) by inserting "Administration" after "Union" in clause (4).

(b) The Federal Credit Union Act is amended by striking out "Administrator" each place it appears and inserting in lieu thereof "Board", and by striking out the personal pronouns "he," "him", and "his" when referring to the Administrator and inserting in lieu thereof "it", "them", and "its" as appropriate wherever such words appear therein.

(c) Section 209 of the Federal Credit Union Act (12 U.S.C. 1789) is amended—

(1) by inserting in subsection (b)(1) the language "on a calendar year basis" immediately following "prepare annually";

(2) by inserting in subsection (b)(2) the language "on a calendar year basis" immediately following "set of accounts".

(d) Section 5108 of title 5, United States Code, is amended by adding the following new paragraph:

"(h) In addition to the number of positions authorized by subsection (a), the National Credit Union Administration is authorized without regard to any other provision to this section, to place two positions in the Administration at GS–18 and a total of fourteen positions in the Administration at GS–16 or GS–17.".

(e) Section 5313 of title 5, United States Code, is amended by adding the following new paragraph:

"(28) Chairman, National Credit Union Administration Board.".

(f) Section 5314(92) of title 5, United States Code, is amended by striking out "Administrator of the National Credit Union Administration" and inserting in lieu there-

of "Members, National Credit Union Administration Board (2)".

SEC. 503. (a) The Federal Credit Union Act (12 U.S.C. 1751–1790) is further amended by striking out "Administrator" and inserting in lieu thereof "Board" in the following sections:

(1) section 103 (12 U.S.C. 1753);
(2) section 104 (12 U.S.C. 1754);
(3) section 105 (12 U.S.C. 1755);
(4) section 106 (12 U.S.C. 1756);
(5) paragraphs (5), (8), (9), (10), (13), and (14) of section 107 (12 U.S.C. 1757);
(6) section 108 (12 U.S.C. 1758);
(7) section 109 (12 U.S.C. 1759);
(8) section 111 (12 U.S.C. 1761);
(9) section 112 (12 U.S.C. 1761a);
(10) section 113 (12 U.S.C. 1761b);
(11) section 115 (12 U.S.C. 1761d);
(12) paragraph (b)(2) of section 116 (12 U.S.C. 1762);
(13) the title of section 120 (12 U.S.C. 1766);
(14) section 120(a) (12 U.S.C. 1766);
(15) section 120(b)(1) (12 U.S.C. 1766);
(16) section 120(b)(2) (12 U.S.C. 1766);
(17) section 120(b)(3) (12 U.S.C. 1766);
(18) section 120(b)(4) (12 U.S.C. 1766);
(19) section 120(b)(5) (12 U.S.C. 1766);
(20) section 120(c) (12 U.S.C. 1766);
(21) section 120(e) (12 U.S.C. 1766);
(22) section 120(e) (12 U.S.C. 1766);
(23) section 120(f)(1) (12 U.S.C. 1766);
(24) section 120(f)(2)(A) (12 U.S.C. 1766);
(25) section 120(f)(2)(B) (12 U.S.C. 1766);
(26) section 120(g) (12 U.S.C. 1766);
(27) section 120(h) (12 U.S.C. 1766);
(28) section 120(i) (12 U.S.C. 1766);
(29) section 120(i)(3) (12 U.S.C. 1766);
(30) section 121 (12 U.S.C. 1767);
(31) section 125(b)(1) (12 U.S.C. 1771);
(32) section 125(b)(2) (12 U.S.C. 1771);
(33) section 127 (12 U.S.C. 1772a); and
(34) sections 201 to 210 (12 U.S.C. 1773–1775).

Such Act is further amended by striking out the personal pronouns "he", "him", and "his" when referring to the Administrator and inserting in lieu thereof "it", "they", and "its" as appropriate wherever such words appear therein.

SEC. 504. (a) Paragraph (4) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752) which begins with "The terms 'member account'" is redesignated paragraph "(5)" and the succeeding paragraphs numbered (5) through (8) are redesignated as paragraphs (6) through (9), respectively.

(b) Paragraph (5) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752), as redesignated by subsection (a) of this section, is amended—

(1) by striking "(when referring to the account of a member of credit union)";

(2) by striking "share, share certificate, or share deposit" each time it appears therein and inserting "share or share certificate" in lieu thereof;

(3) by striking "those" and inserting "share or share certificate" in lieu thereof; and

(4) by striking all language after "political subdivisions thereof" and inserting "enumerated in section 207 of this Act: *Provided*, That for purposes of insured State credit union, referrence in this paragraph to 'share' or 'share certificate' accounts includes, as determined by the Board, the equivalent of such accounts under State law;" in lieu thereof.

(c) Paragraph (9) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752), as redesignated by (a) of this section, is amended by—

(1) inserting ", including the trust territories," after "several territories"; and

(2) adding the following new sentence: "The term 'branch' also includes a suboffice, operated by a Federal credit union or by a credit union authorized by the Department of Defense, located on an American military installation in a foreign country or in the trust territories of the United States.".

SEC. 505. (a) Subsection (a) of section 201 of the Federal Credit Union Act (12 U.S.C. 1751) is amended by inserting ", including the trust territories," after "several territories".

(b) Paragraph (b)(7) of such section is amended by inserting "except for accounts authorized by State law for State credit unions" before the semicolon.

(c) Such section is further amended by striking all of subsection (d) and redesignating subsection (e) as (d).

SEC. 506. (a) Section 202 of the Federal Credit Union Act (12 U.S.C. 1782) is amended by striking out "his" in the fifth sentence of paragraph (a)(1) and inserting "such officer's" in lieu thereof.

(b) Subsection (h)(3) of such section is amended to read as follows

"(3) The term 'member account' when applied to the premium charge for insurance of accounts shall not include amounts received from other federally insured credit unions in excess of the insured account limit set forth in section 207(c)(1).".

SEC. 507. Section 208 of the Federal Credit Union Act (12 U.S.C. 1788) is amended by striking out "SPECIAL ASSISTANCE TO AVOID LIQUIDATION" and inserting "SPECIAL ASSISTANCE FOR FEDERALLY INSURED CREDIT UNIONS" in lieu thereof.

SEC. 508. Section 105 of the Federal Credit Union Act (12 U.S.C. 1755) is amended to read as follows:

"FEES

"SEC. 105. (a) In accordance with rules prescribed by the Board, each Federal credit union shall pay to the Administration an annual operating fee which may be composed of one or more charges identified as to the function or functions for which assessed.

"(b) The fee assessed under this section shall be determined according to a schedule, or schedules, or other method determined by the Board to be appropriate, which gives due consideration to the expenses of the Administration in carrying out its responsibilities under this Act and to the ability of Federal credit unions to pay the fee. The Board shall, among other things, determine the periods for which the fee shall be assessed and the date or dates for the payment of the fee or increments thereof.

"(c) If the annual operating fee is composed of separate charges, no supervision charge shall be payable by a Federal credit union, and the Board may waive payment of any or all other charges comprising the fee, with respect to the year in which its charter is issued, or in which final distribution is made in its liquidation or the charter is canceled.

"(d) All operating fees shall be deposited with the Treasurer of the United States for the account of the Administration and may be expended by the Board to defray the expenses incurred in carrying out the provisions of this Act including the examination and supervision of Federal credit unions.".

SEC. 509. Section 106 of the Federal Credit Union Act (12 U.S.C. 1756) is amended to read as follows:

"REPORTS AND EXAMINATIONS

"SEC 106. Federal credit unions shall be under the supervision of the Board, and shall make financial reports to it as and when it may require, but at least annually. Each Federal credit union shall be subject to examination by, and for this purpose shall make its books and records accessible to, any person designated by the Board.".

SEC. 510. The amendments made by this title take effect upon enactment, except that the functions of the Administrator of the National Credit Union Administration under the provisions of the Federal Credit Union Act, as in effect on the date preceding the date of enactment of this title, shall continue to be performed by him in accordance with such provisions until such time as all the members of the National Credit Union Administration Board, established under the amendments made by this title, take office. All rules, regulations, policies, and procedures of the Administrator in effect on the date of enactment of this title shall remain in effect until amended, superseded, or repealed.

TITLE VI—FINANCIAL INSTITUTIONS

SEC. 601. Section 7 of the Act of September 21, 1966 (Public Law 89–597), is amended by striking out "December 15, 1978" and inserting in lieu thereof "December 15, 1980".

SEC. 602. Section 602 of Public Law 94–200 (12 U.S.C. 461 note) is amended by adding at the end thereof the following new subsection:

"(c) In any State where any provision of State or Federal law authorizes any savings and loan, building and loan, or homestead association (including any cooperative bank) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank, as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), to offer any third-party payment account, there shall be no differential in the maximum interest rate payable between (1) banks (other than savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation, and (2) savings and loan, building and loan, or homestead associations (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or mutual savings banks, as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), with respect to savings deposits or accounts from which automatic transfers to the institution itself or to a demand or other deposit account of the same depositor or accountholder at such institution may be made as a normal practice, pursuant to a prearranged agreement with the depositor or accountholder to make such transfers to cover checks, drafts, or similar instruments drawn by the depositor or accountholder on such institution. Notwithstanding any of the provisions of subsection (b) of this section, the maximum rate of interest payable on a savings deposit or account described in the preceding sentence shall be the rate which banks (other than mutual savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation may pay on such accounts.".

SEC. 603. Section 2(a) of Public Law 93–100 is amended by inserting "New York," after "Vermont,".

TITLE VII—CHARTERS FOR THRIFT INSTITUTIONS

SEC. 701. Section 2(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1462(d)) is amended to read as follows:

"(d) The term 'association' means a Federal savings and loan association or a Federal mutual savings bank chartered by the Board under section 5, and any references in any other law to a Federal savings and loan association shall be deemed to be also a reference to a Federal mutual savings bank, unless the context indicates otherwise.".

SEC. 702. Section 5(a) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)) is amended to read as follows:

"SEC. 5. (a) In order to provide local mutual thrift institutions in which people may invest their funds and in order to provide for the financing of homes, the Board is authorized, under such rules and regulations as it may prescribe, to provide for the organization, incorporation, examination,

operation, and regulation of associations to be known as 'Federal Savings and Loan Associations', or 'Federal mutual savings banks' (but only in the case of institutions which, prior to conversion, were State mutual savings banks located in States which authorize the chartering of State mutual savings banks provided such conversion is not in contravention of State law), and to issue charters therefor, giving primary consideration to the best practices of local mutual thrift and home-financing institutions in the United States. An association which was formerly organized as a savings bank under State law may, to the extent authorized by the Board, continue to carry on any activities it was engaged in on December 31, 1977, and to retain or make any investments of a type it held on that date, except that its equity, corporate bond, and consumer loan investments may not exceed the average ratio of such investments to total assets for the five-year period immediately preceding the filing of an application for conversion and such an association shall only be permitted to establish branch offices and other facilities in accordance with the limitations imposed by State law controlling applications of a savings bank organized under such State law, except that such an association (1) shall be exempt from any numerical limitations of State law on the establishment of branch offices and other facilities, and (2) may, in any case, subject to the approval of the Board, establish branch offices and other facilities in its own Standard Metropolitan Statistical Area, its own county, or within thirty-five miles of its home office, but only in its State of domicile. An association which was formerly organized as a savings bank under State law shall be subject to the requirements of State law (including any regulations promulgated thereunder and any sanction for the violation of any such law or regulation) in effect at the time of conversion, in the State of its original charter—

"(A) pertaining to discrimination in the extension of home mortgage loans or adjustment in the terms of mortgage instruments based on neighborhood or geographical area, or

"(B) pertaining to requirements imposed under the Consumer Credit Protection Act,

if the Board determines that State law and regulations impose more stringent requirements than Federal law and regulations.".

SEC. 703. Section 403(a) of the National Housing Act (12 U.S.C. 1726(a)) is amended by inserting after "Federal savings and loan associations" the following: "and Federal mutual savings banks".

SEC. 704. The first paragraph of section 5(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(i)) is amended by inserting "(including a savings bank)" after "member of a Federal Home Loan Bank".

SEC. 705. The Federal Deposit Insurance Act is amended by adding at the end thereof the following new section:

"CONVERSION OF MUTUAL SAVINGS BANKS

"SEC. 26. With respect to any state-chartered insured mutual savings bank which converts into a Federal savings bank or merges or consolidates into a Federal savings bank or a savings bank which is (or within sixty days after the merger or consolidation becomes) an insured institution within the meaning of section 401 of the National Housing Act, the Corporation shall indemnify the Federal Savings and Loan Insurance Corporation against any losses incurred by it which arise out of losses incurred by the converting bank prior to conversion as follows: 100 per centum of such losses incurred by the Federal Savings and Loan Insurance Corporation during the first two years after conversion, 75 per centum during the third year, 50 per centum during the fourth year, and 25 per centum during the fifth year. The Corporation and the Federal Savings and Loan Insurance Corporation shall within six months after enactment hereof, mutually agree on what shall be treated as 'losses incurred by it which arise out of losses incurred by the converting bank prior to conversion' for purposes hereof and, failing such agreement, the General Accounting Office shall prescribe the meaning of those terms. Any conversion, merger, or consolidation covered by this section shall not be deemed a termination of insured status under section 8(a) of this Act.".

EFFECTIVE DATE

SEC. 706. This title takes effect upon the expiration of six months after the date of enactment of this Act.

TITLE VIII—INSURANCE OF IRA AND KEOUGH ACCOUNTS

SEC. 801. (a) Section 11(a) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1821(a)), is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of deposit insurance available for the account of any one depositor, time and savings deposits in an insured bank made pursuant to a pension or profit-sharing plan described in section 401(d) of the Internal Revenue Code of 1954, as amended, or made in the form of individual retirement accounts as described in section 408(a) of the Internal Revenue Code of 1954, as amended, shall be insured in the amount of $100,000 per account. As to any plan qualifying under section 401(d) or section 408 (a) of the Internal Revenue Code of 1954, the term 'per account' means the present vested and ascertainable interest of each beneficiary under the plan, excluding any remainder interest created by, or as a result of, the plan.".

(b) Section 405(d) of the National Housing Act, as amended (12 U.S.C. 1728(d)), is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any limitation in this title or in any other provision of law relating to the amount of deposit insurance available for any one account, funds invested in an insured institution pursuant to a pension or profit-sharing plan described in section 401(d) of the Internal Revenue Code of 1954, as amended, and funds invested in an insured institution in the form of individual retirement accounts as described in section 408(a) of the Internal Revenue Code of 1954, as amended, shall be insured in the amount of $100,000 per account. As to any plan qualifying under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, the term 'per account' means the present vested and ascertainable interest of each beneficiary under the plan, excluding any remainder interest created by, or as a result of, the plan.".

(c) Section 207(c) of the Federal Credit Union Act, as amended (12 U.S.C. 1787(c))), is amended by adding at the end thereof the following paragraph:

"(3) Notwithstanding any limitation in this title or in any other provision of law relating to the amount of insurance available for the account of any one depositor or member, funds invested in a credit union insured in accordance with this title pursuant to a pension or profit-sharing plan described in section 401(d) of the Internal Revenue Code of 1954, as amended, and funds invested in such an insured credit union in the form of individual retirement accounts as described in section 408(a) of the Internal Revenue Code of 1954, as amended, shall be insured in the amount of $100,000 per account. As to any plan qualifying under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, the term 'per account' means the present vested and ascertainable interest of each beneficiary under the plan, excluding any remainder interest created by, or as a result of, the plan.".

TITLE IX—CENTRAL LIQUIDITY FACILITY

SEC. 901. This title may be cited as the "National Credit Union Central Liquidity Facility Act".

SEC. 902. The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by adding at the end thereof the following new title:

"TITLE III—CENTRAL LIQUIDITY FACILITY

"FINDINGS

"SEC. 301. The Congress finds that the establishment of a National Credit Union Central Liquidity Facility is needed to improve general financial stability by meeting the liquidity needs of credit unions and thereby encourage savings, support consumer and mortgage lending, and provide basic financial resources to all segments of the economy.

"DEFINITIONS

"SEC. 302. As used in this title, the term—

"(1) 'liquidity needs' means the needs of credit unions primarily serving natural persons for—

"(A) short-term adjustment credit available to assist in meeting temporary requirements for funds or to cushion more persistent outflows of funds pending an orderly adjustment of credit union assets and liabilities;

"(B) seasonal credit available for longer periods to assist in meeting seasonal needs for funds arising from combination of expected patterns of movement in share and deposit accounts and loans; and

"(C) protracted adjustment credit available in the event of unusual or emergency circumstances of a longer term nature resulting from national, regional, or local difficulties;

"(2) 'Central Liquidity Facility' or 'Facility means the National Credit Union Central Liquidity Facility;

"(3) 'paid-in and unimpaired capital and surplus' means the balance of the paid-in share accounts and deposits as of a given date, less any loss that may have been incurred for which there is no reserve or which has not been charged against undivided earnings, plus the credit balance (or less the debit balance) of the undivided earnings account as of a given date, after all losses have been provided for and net earnings or net losses have been added thereto or deducted therefrom, but for the purpose of this paragraph, reserves shall not be considered as part of surplus; and

"(4) 'member' means a Regular or an Agent member of the Facility.

"ESTABLISHMENT OF THE NATIONAL CREDIT UNION ADMINISTRATION CENTRAL LIQUIDITY FACILITY

"SEC. 303. There is hereby created the National Credit Union Administration Central Liquidity Facility. The Central Liquidity Facility shall exist within the National Credit Union Administration and be managed by the Administrator. The United States district courts shall have original jurisdiction over any case to which the Administrator on behalf of the Facility is a party, without regard to the amount in controversy.

"MEMBERSHIP

"SEC. 304. (a) A credit union primarily serving natural persons may be a Regular member of the Facility by subscribing to the capital stock of the Facility in an amount not less than one-half of 1 per centum of the credit union's paid-in and unimpaired capital and surplus.

"(b) A credit union or group of credit unions, primarily serving other credit unions, may be an Agent member of the Facility by—

"(1) obtaining the approval of the Administrator;

"(2) subscribing to the capital stock of the Facility in an amount not less than one-half of 1 per centum of the paid-in and unimpaired capital and surplus of all those credit unions which primarily serve natural persons and which are members of such credit union or of any credit union comprising such credit union group;

"(3) agreeing to comply with rules and regulations the Administrator shall prescribe with respect to, but not limited to, management quality, asset and liability safety and soundness, internal operating and control practices and procedures, and participation by natural persons in the affairs of such credit union or credit union group; and

"(4) agreeing to submit to the supervision of the Administrator which shall include, but not be limited to, reporting requirements and periodic unrestricted examinations.

"(c) Stock subscriptions provided for in subsections (a) and (b)(2) of this section shall be—

"(1) based on an arithmetic average of paid-in capital and surplus over the six months preceding application for membership; and

"(2) adjusted at the close of each calendar year in accordance with an arithmetic average of paid-in capital and surplus over a period determined by the Administrator.

"(d) An Agent member of the Facility shall perform for its member credit unions those functions required by the Administrator to carry out this title.

"(e)(1) A member of the Facility whose capital stock subscription constitutes less than 5 per centum of such stock outstanding, may withdraw from membership in the Facility six months after notifying the Administrator of its intenton to do so.

"(2) A member of the Facility whose capital stock subscription constitutes 5 per centum or more of such stock outstanding, may withdraw from membership in the Facility twenty-four months after notifying the Administrator of its intention to do so.

"(3) The Administrator may terminate membership in the Facility if, after opportunity for a hearing the Administrator determines a member has failed to comply with any provision of this title or regulation issued pursuant thereto.

"CAPITAL STOCK

"SEC. 305. (a) As soon as practicable, the Administrator shall open books for subscriptions to the capital stock of the Facility. The minimum subscription shall be $50.

"(b) The capital stock of the Facility—

'(1) shall be divided into shares having a par value of $50 each;

"(2) shall be paid for with cash or with securities of the United States or any agency thereof in accordance with requirements the Administrator may impose;

"(3) shall share in dividend distributions without preference and at rates to be determined by the Administrator; and

"(4) shall not be transferred or hypothecated except as provided for herein.

"(c) When circumstances require that all or a portion of a member's stock be redeemed by the Facility, the Administrator shall pay an amount equal to what the member originally paid for the stock less any amount owed by the member to the Facility.

"(d) At least one-half of the payment for the subscription amount required for membership under section 304 of this title shall be transferred to the Facility. The remainder may be held by the member on call of the Administrator and shall be invested in assets designated by the Administrator.

"(e) A credit union or credit union group that becomes a member of the Facility later than six months after the date the Administrator opens books for capital stock subscriptions, may not borrow or receive advances from the Facility without approval by the Administrator for a period of six months after becoming a member.

"EXTENSIONS OF CREDIT

"SEC. 306. (a)(1) A member may apply for an extension of credit from the Facility to meet its liquidity needs. The Administrator shall approve or deny any such application within five working days after receiving it.

"(2) The Administrator may advance funds to a member on terms and conditions prescribed by the Administrator.

"(b) The Secretary of the Treasury is authorized to lend to the Facility up to $500,000,000, in the event the Administrator certifies to the Secretary that the Facility does not have sufficient funds to meet liquidity needs of credit unions. Any such loan shall bear an interest rate not greater than one-eighth of 1 per centum above the current average market yield on outstanding obligations of the United States with remaining time to maturity comparable to the maturity of such loan. The authority of the Secretary to lend under this subsection shall be limited to such extent or in such amounts as are provided in advance in appropriation Acts.

"POWERS OF THE ADMINISTRATOR

"SEC. 307. The Administrator on behalf of the Facility shall have the authority to—

"(1) prescribe the manner in which the general business of the Facilty shall be conducted;

"(2) prescribe rules and regulations to carry out this title;

"(3) determine the expenditures incurred by the Administration to carry out this title, and the expenditures incurred by the Facility to carry out titles I and II of this Act, and annually assess the Facility and the Administration accordingly;

"(4) borrow from—

"(A) any source with or without the guarantee of the United States as to principal and interest. The total face value of those obligations guaranteed by the United States shall not exceed twenty times the subscribed capital stock and surplus of the Facility; and

"(B) the National Credit Union Share Insurance Fund up to $500,000 to defray initial organizational and operating expenses of the Facility at such rates and terms consistent with prevailing market conditions;

"(5) guarantee performance of the terms of any financial obligation of a member but only when such obligation bears a clear and conspicuous notice on its face that only the resources of the Facility underlie such guarantee;

"(6) purchase any asset from a member with the member's endorsement;

"(7) invest in obligations of the United States or any agency thereof;

"(8) make deposits in federally insured financial institutions and make investments in shares or deposits of credit unions;

"(9) sue and be sued, complain, and defend, in any State or Federal court;

"(10) adopt a seal;

"(11) pursue to final disposition by way of compromise or otherwise claims both for and against the United States (other than tort claims, claims involving administrative expenses, and claims in excess of $5,000 arising out of contracts for construction, repairs, and the purchase of supplies and materials) which are not in litigation and have not been referred to the Attorney General;

"(12) appoint officers and employees to assist in carrying out this title, who shall be appointed subject to the provisions of title 5, United States Code;

"(13) conduct business, carry on operations, have offices, and exercise the powers granted by this title in any State or territory;

"(14) lease, purchase, or otherwise acquire and own, hold, improve, use, or otherwise deal in and with property, real, personal, or mixed, or any interest therein, wherever situated; and

"(15) enter into contracts with any public or private organization, partnership, corporation, or individual, to the extent or in such amounts as are provided in advance in appropriation Acts.

"AUDIT OF FINANCIAL TRANSACTIONS

"SEC. 308. The Comptroller General of the United States shall audit the Central Liquidity Facility under such rules and regulations as the Comptroller General may prescribe.

"ANNUAL REPORT

"SEC. 309. The annual report required by section 102(e) shall include a full report of the activities of the Facility.".

SEC. 903. (a) Paragraph (6) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended by inserting "from the Central Liquidity Facility," after "prescribed,".

(b) Paragraph (7) of such section is amended by striking the word "and" preceding "(H)", and adding at the end thereof the following: "and (J) in the capital stock of the National Credit Union Central Liquidity Facility;".

(c) Paragraph (9) of such section is amended by inserting ", except as authorized by the Administrator in carrying out the provisions of title III," after "exceeding".

SEC. 904. Section 709 of title 18, United States Code, is amended by striking the fourth paragraph and inserting in lieu thereof the following new paragraph:

"Whoever, other than a bona fide organization or association of Federal or State credit unions or except as permitted by the laws of the United States, uses as a firm or business name or transacts business using the words 'National Credit Union', 'National Credit Union Administration', 'National Credit Union Board', 'National Credit Union Share Insurance Fund', 'Share Insurance', or 'Central Liquidity Facility', or the letters 'NCUA', 'NCUSIF', or 'CLF', or any other combination or variation of those words or letters alone or with other words or letters, or any device or symbol or other means, reasonably calculated to convey the false impression that such name or business has some connection with, or authorization from, the National Credit Union Administration, the Government of the United States, or any agency thereof, which does not in fact exist, or falsely advertises or otherwise represents by any device whatsoever that his or its business, product or service has been in anyway endorsed, authorized, or approved by the National Credit Union Administration, the Government of the United States, or any agency thereof, or falsely advertises or otherwise represents by any device whatsoever that his or its deposit liabilities, obligations, certificates, shares, or accounts are insured under the Federal Credit Union Act or by the United States or any instrumentality thereof, or being an insured credit union as defined in that Act falsely advertises or otherwise represents by any device whatsoever the extent to which or the manner in which share holdings in such credit union are insured under such Act; or".

SEC. 905. Section 201 of the Government Corporation Control Act is amended—

(1) by striking out "and" before "(8)"; and

(2) by inserting before the period at the end thereof a comma and the following: "and (9) the National Credit Union Administration Central Liquidity Facility".

SEC. 906. This title shall take effect on October 1, 1979.

TITLE X—FEDERAL BANK EXAMINATION COUNCIL

SHORT TITLE

SEC. 1001. This title may be cited as the "Federal Bank Examination Council Act of 1978".

SEC. 1002. It is the purpose of this title to establish a Bank Examination Council which shall prescribe uniform principles and standards for the Federal examination of banks by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System and make recommendations to promote uniformity in the supervision of these banks. The Council's actions shall be designed to promote consistency in such examinations and to insure progressive and vigilant supervision.

DEFINITIONS

SEC. 1003. As used in this title—

(1) the term "Federal bank regulatory agencies" means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation; and

(2) the term "Council" means the Bank Examination Council.

ESTABLISHMENT OF THE COUNCIL

SEC. 1004. (a) There is established the Bank Examination Council which shall consist of—

(1) the Comptroller of the Currency,

(2) the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation, and

(3) the Chairman of the Board of Governors of the Federal Reserve System.

The Chairman of the Federal Home Loan Bank Board and the Chairman of the National Credit Union Administration Board shall serve as advisory members.

(b) The members of the Council shall select the first chairman of the Council. Thereafter the chairmanship shall rotate among the members of the Council.

(c) The term of the Chairman of the Council shall be two years.

(d) The members and advisory members of the Council may, from time to time, designate other officers or employees of their respective agencies to carry out their duties on the Council.

(e) Each member and advisory member of the Council shall serve without additional compensation but shall be entitled to reasonable expenses incurred in carrying out his official duties as such a member or advisory member.

EXPENSES OF THE COUNCIL

SEC. 1005. One-third of the costs and expenses of the Council, including the salaries of its employees, shall be paid by each of the Federal bank regulatory agencies. Annual assessments for such shares shall be levied by the Council based upon its projected budget for the year, and additional assessments may be made during the year if necessary.

FUNCTIONS OF THE COUNCIL

SEC. 1006. (a) The Council shall establish uniform principles and standards and report forms for the examination of banks which shall be applied by the Federal bank regulatory agencies.

(b)(1) The Council shall make recommendations for uniformity in other supervisory matters, such as, but not limited to, classifying loans subject to country risk, identifying banks in need of special supervisory attention, and evaluating the soundness of large loans that are shared by two or more banks. In addition, the Council shall make recommendations regarding the adequacy of supervisory tools for determining the impact of holding company operations on the banks within the holding company and shall consider the ability of supervisory agencies to discover possible fraud or questionable and illegal payments and practices which might occur in the operation of banks or their holding companies.

(2) When a recommendation of the Council is found unacceptable by one or more of the applicable Federal bank regulatory agencies, the agency or agencies shall submit to the Council, within a time period specified by the Council, a written statement of the reasons the recommendation is unacceptable.

(c) The Council shall develop uniform reporting systems for federally supervised banks, their holding companies, and nonbank subsidiaries of such institutions or holding companies. Such reporting systems shall be consistent with the requirements of section 12(i) of the Securities Exchange Act of 1934.

(d) The Council shall conduct schools for examiners and assistant examiners employed by the Federal banking regulatory agencies. Such schools shall be open to enrollment by employees of the Federal Home Loan Bank Board and the National Credit Union Administration Board and employees of State bank supervisory agencies under conditions specified by the Council.

(e) Nothing in this title shall be construed to limit or discourage Federal bank regulatory agency research and development of new bank supervisory methods and tools, nor to preclude the field testing of any innovation devised by any Federal bank regulatory agency.

(f) Not later than April 1 of each year, the Council shall prepare an annual report covering its activities during the preceding year.

STATE LIAISON

SEC. 1007. To encourage the application of uniform examination principles and standards by State and Federal supervisory agencies, the Council shall establish a liaison committee composed of five representatives of State agencies which supervise financial institutions which shall meet at least twice a year with the Council. Members of the liaison committee shall receive a reasonable allowance for necessary expenses incurred in attending meetings.

ADMINISTRATION

SEC. 1008. (a) The Chairman of the Council is authorized to carry out and to delegate the authority to carry out the internal administration of the Council, including the appointment and supervision of employees and the distribution of business among members, employees, and administrative units.

(b) In addition to any other authority conferred upon it by this title, in carrying out its functions under this title, the Council may utilize, with their consent and to the extent practical, the personnel, services, and facilities of the Federal bank regulatory and supervisory agencies and Federal Reserve banks, with or without reimbursement therefor.

(c) In addition, the Council may—

(1) subject to the provisions of title 5, United States Code, relating to the competitive service, classification, and General Schedule pay rates, appoint and fix the compensation of such officers and employees as are necessary to carry out the provisions of this title, and to prescribe the authority and duties of such officers and employees; and

(2) obtain the services of such experts and consultants as are necessary to carry out the provisions of this title.

ACCESS TO INFORMATION BY THE COUNCIL

SEC. 1009. For the purpose of carrying out this title, the Council shall have access to all books, accounts, records, reports, files, memorandums, papers, things, and property belonging to or in use by Federal bank regulatory agencies, including reports of examination of banks or their holding companies from whatever source, together with workpapers and correspondence files related to such reports, whether or not a part of the report, and all without any deletions.

TITLE XI—ELECTRONIC FUND TRANSFERS

SEC. 1101. The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end thereof the following new title:

"TITLE IX—ELECTRONIC FUND TRANSFERS

"§ 901. Short title

"This title may be cited as the 'Fair Fund Transfer Act'.

"§ 902. Findings and purpose

"(a) The Congress finds that the use of electronic systems to transfer funds provides the potential for substantial benefits to consumers. However, due to the unique characteristics of such systems, the application of existing consumer protection legislation is unclear, leaving the rights and liabilities of consumers, financial institutions, and intermediaries in electronic fund transfers undefined.

"(b) It is the purpose of this title to provide a basic framework establishing the rights, liabilities, and responsibilities of participants in electronic fund transfer systems. The primary objective of this title, however, is the provision of individual consumer rights.

"§ 903 Definitions

"As used in this title—

"(1) the term 'accepted card or other means of access' means a card, code, or other means of access to a consumer's account for the purpose of initiating electronic fund transfers when the person to whom such card or other means of access was issued has requested and received or has signed or has used, or authorized another to use, such card or other means of access for the purpose of transferring money between accounts or obtaining money, property, labor, or services;

"(2) the term 'account' means a demand deposit, savings deposit, or other asset account (other than an occasional or incidental credit balance in an open end credit plan as defined in section 103(i) of this Act), as described in regulations of the Board, established primarily for personal, family, or household purposes, but such term does not include an account held by a financial institution pursuant to a bona fide trust agreement;

"(3) the term 'Board' means the Board of Governors of the Federal Reserve System;

"(4) the term 'business day' means any day on which the offices of the consumer's financial institution involved in an electronic fund transfer are open to the public for carrying on substantially all of its business functions;

"(5) the term 'consumer' means a natural person;

"(6) the term 'electronic fund transfer' means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, direct deposits or withdrawals of funds, and transfers initiated by telephone. Such term does not include—

"(A) any check guarantee or authorization service which does not directly result in a debit or credit to a consumer's account;

"(B) any transfer of funds, other than those processed by automated clearinghouse, made by a financial institution on behalf of a consumer by means of a service that transfers funds held at either Federal Reserve banks or other depository institutions and which is not designed primarily to transfer funds on behalf of a consumer;

"(C) any transaction the primary purpose of which is the purchase or sale of securities or commodities through a broker-dealer registered with or regulated by the Securities and Exchange Commission;

"(D) any automatic transfer from a savings account to a demand deposit account pursuant to an agreement between a consumer and a financial institution for the purpose of covering an overdraft or maintaining an agreed upon minimum balance in the consumer's demand deposit account; or

"(E) any transfer of funds which is initiated by a telephone conversation between a consumer and an officer or employee of a financial institution which is not pursuant to a prearranged plan and under which periodic or recurring transfers are not contemplated,

as determined under regulations of the Board;

"(7) the term 'electronic terminal' means an electronic device, other than a telephone operated by a consumer, through which a consumer may initiate an electronic fund transfer. Such term includes, but is not limited to, point-of-sale terminals, automated teller machines, and cash dispensing machines;

"(8) the term 'financial institution' means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person who, directly or indirectly, holds an account belonging to a consumer;

"(9) the term 'preauthorized electronic fund transfer' means an electronic fund transfer authorized in advance to recur at substantially regular intervals;

"(10) the term 'State' means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing; and

"(11) the term 'unauthorized electronic fund transfer' means an electronic fund transfer from a consumer's account initiated by a person other than the consumer without actual authority to initiate such transfer and from which the consumer receives no benefit, but the term does not include any electronic fund transfer (A) initiated by a person other than the consumer who was furnished with the card, code, or other means of access to such consumer's account by such consumer, unless the consumer has notified the financial institution involved that transfers by such other person are no longer authorized, (B) initiated with fraudulent intent by the consumer or any person acting in concert with the consumer, or (C) which constitutes an error committed by a financial institution.

"§ 904. Regulations

"(a) The Board shall prescribe regulations to carry out the purposes of this title. In prescribing such regulations, the Board shall—

"(1) consult with the other agencies referred to in section 917 and take into account, and allow for, the continuing evolution of electronic banking services and the technology utilized in such services;

"(2) prepare an analysis of economic impact which considers the costs and benefits to financial institutions, consumers, and other users of electronic fund transfers, including the extent to which additional documentation, reports, records, or other paper work would be required, and the effects upon competition in the provision of electronic banking services among large and small financial institutions and the availability of such services to different classes of consumers, particularly low income consumers;

"(b) The Board shall issue model clauses for optional use by financial institutions to facilitate compliance with the disclosure requirements of section 905 and to aid consumers in understanding the rights and responsibilities of participants in electronic funds transfers by utilizing readily understandable language. Such model clauses shall be adopted after notice dully given in the Federal Register and opportunity for public comment in accordance with section 553 of title 5, United States Code. With respect to the disclosures required by section 905 (a) (3) and (4), the Board shall take account of variations in the services and charges under different electronic fund transfer systems and, as appropriate, shall issue alternative model clauses for disclosure of these differing account terms.

"(c) Regulations prescribed hereunder may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of electronic funds transfers, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate compliance therewith. The Board shall by regulation modify the requirements imposed by this title on small financial institutions if the Board determines that such modifications are necessary to alleviate any undue compliance burden on small financial institutions and such modifications are consistent with the purpose and objective of this title.

"(d) In the event that electronic fund transfer services are made available to consumers by a person other than a financial institution holding a consumer's account, the Board shall by regulation assure that the disclosures, protections, responsibilities, and remedies created by this title are made applicable to such persons and services.

"§ 905. Terms and conditions of transfers

"(a) The terms and conditions of electronic fund transfers involving a consumer's account shall be disclosed at the time the consumer contracts for an electronic fund transfer service, in accordance with regulations of the Board. Such disclosures shall be in readily understandable language and shall include, to the extent applicable—

"(1) the consumer's liability for unauthorized electronic fund transfers and, at the financial institution's option, notice of the advisability of prompt reporting of any loss, theft, or unauthorized use of a card, code, or other means of access;

"(2) the telephone number and address of the person or office to be notified in the event the consumer believes that an unauthorized electronic fund transfer has been or may be effected;

"(3) the type and nature of electronic fund transfers which the consumer may initiate, including any limitations on the frequency or dollar amount of such transfers, except that the details of such limitations need not be disclosed if their confidentiality is necessary to maintain the security of an electronic fund transfer system, as determined by the Board;

"(4) any charges for electronic fund transfers or for the right to make such transfers;

"(5) the consumer's right to stop payment of a preauthorized electronic fund transfer and the procedure to initiate such a stop payment order;

"(6) the consumer's right to receive documentation of electronic fund transfers under section 906;

"(7) a summary, in a form prescribed by regulations of the Board, of the error resolution provisions of section 908 and the consumer's rights thereunder. The financial institution shall thereafter transmit such summary at least once per calendar year;

"(8) the financial institution's liability to the consumer under section 910; and

"(9) under what circumstances the financial institution will in the ordinary course of business disclose information concerning the consumer's account to third persons.

"(b) A financial institution shall notify a consumer in writing at least twenty-one days prior to the effective date of any change in any term or condition of the consumer's account required to be disclosed under subsection (a) if such change would result in greater cost or liability for such consumer or decreased access to the consumer's account. A financial institution may, however, implement a change in the terms or conditions of an account without prior notice when such change is immediately necessary to maintain or restore the security of an electronic fund transfer system or a consumer's account. Subject to subsection (a) (3), the Board shall require subsequent notification if such a change is made permanent.

"(c) For any account of a consumer made accessible to electronic fund transfers prior to the effective date of this title, the information required to be disclosed to the consumer under subsection (a) shall be disclosed not later than the earlier of—

"(1) the first periodic statement required by section 906(c) after the effective date of this title; or

"(2) thirty days after the effective date of this title.

"§ 906. Documentation of transfers; periodic statements

"(a) For each electronic fund transfer initiated by a consumer from an electronic terminal, the financial institution holding such consumer's account shall, directly or indirectly, at the time the transfer is initiated, make available to the consumer written documentation of such transfer. The documentation shall clearly set forth to the extent applicable—

"(1) the amount involved and date the transfer is initiated;

"(2) the type of transfer;

"(3) the identity of the consumer's account with the financial institution from which or to which funds are transferred;

"(4) the identity of any third party to whom or from whom funds are transferred; and

"(5) the location or identification of the electronic terminal involved.

"(b) For a consumer's account which is scheduled to be credited by a preauthorized electronic fund transfer from the same payor at least once in each successive sixty-day period, except where the payor provides positive notice of the transfer to the consumer, the financial institution shall elect to provide promptly either positive notice to the consumer when the credit is made as scheduled, or negative notice to the consumer when the credit is not made as scheduled, in accordance with regulations of the Board. The means of notice elected shall be disclosed to the consumer in accordance with section 905.

"(c) A financial institution shall provide each consumer with a periodic statement for each account of such consumer that may be accessed by means of an electronic fund transfer. Except as provided in subsection (d) and (e), such statement shall be provided at least monthly for each monthly or shorter cycle in which an electronic fund transfer affecting the account has occurred, or every three months, whichever is more frequent. The statement, which may include information regarding transactions other than electronic fund transfers, shall clearly set forth—

"(1) with regard to each electronic fund transfer during the period, the information described in subsection (a), which may be provided on an accompanying document;

"(2) the amount of any fee or charge assessed by the financial institution during the period for electronic fund transfers or for account maintenance;

"(3) the balances in the consumer's account at the beginning of the period and at the close of the period; and

"(4) the address and telephone number

to be used by the financial institution for the purpose of receiving any statement inquiry or notice of account error from the consumer. Such address and telephone number shall be preceded by the caption 'Direct Inquiries To:' or other similar language indicating that the address and number are to be used for such inquiries or notices.

"(d) In the case of a consumer's passbook account which may not be accessed by electronic fund transfers other than preauthorized electronic fund transfers crediting the account, a financial institution may, in lieu of complying with the requirements of subsection (c), upon presentation of the passbook provided the consumer in writing with the amount and date of each such transfer involving the account since the passbook was last presented.

"(e) In the case of a consumer's account, other than a passbook account, which may not be accessed by electronic fund transfers other than preauthorized electronic fund transfers crediting the account, the financial institution may provide a periodic statement on a quarterly basis which otherwise complies with the requirements of subsection (c).

"(f) In any action involving a consumer, any documentation required by this section to be given to the consumer which indicates that an electronic fund transfer was made to another person shall be admissible as evidence of such transfer and shall constitute prima facie proof that such transfer was made.

"§ 907. Preauthorized transfers

"(a) A preauthorized electronic fund transfer from a consumer's account may be authorized by the consumer only in writing, and a copy of such authorization shall be provided to the consumer when made. A consumer may stop payment of a preauthorized electronic fund transfer by notifying the financial institution orally or in writing at any time up to three business days preceding the scheduled date of such transfer. The financial institution may require written confirmation to be provided to it within fourteen days of an oral notification if, when the oral notification is made, the consumer is advised of such requirement and the address to which such confirmation should be sent.

"(b) In the case of preauthorized transfers from a consumer's account to the same person which may vary in amount, the financial institution or designated payee shall, prior to each transfer, provide reasonable advance notice to the consumer, in accordance with regulations of the Board, of the amount to be transferred and the scheduled date of the transfer.

"§ 908. Error resolution

"(a) If a financial institution, within sixty days after having transmitted to a consumer documentation pursuant to section 906(a), (c), or (d) or notification pursuant to section 906(b), receives oral or written notice in which the consumer—

"(1) sets forth or otherwise enables the financial institution to identify the name and account number of the consumer;

"(2) indicates the consumer's belief that the documentation, or, in the case of notification pursuant to section 906(b), the consumer's account, contains an error and the amount of such error; and

"(3) sets forth the reasons for the consumer's belief (where applicable) that an error has occurred,

the financial institution shall investigate the alleged error, determine whether an error has occurred, and report or mail the results of such investigation and determination to the consumer within ten business days. The financial institution may require written confirmation to be provided to it within ten business days of an oral notification of error if, when the oral notification is made, the consumer is advised of such requirement and the address to which such confirmation should be sent. A financial institution which requires written confirmation in accordance with the previous sentence need not provisionally recredit a consumer's account in accordance with subsection (c), nor shall the financial institution be liable under subsection (e), if the written confirmation is not received within the ten day period referred to in the previous sentence.

"(b) If the financial institution determines that an error did occur, it shall promptly, but in no event more than one business day after such determination, correct the error, subject to section 909, including the crediting of interest where applicable.

"(c) If a financial institution receives notice of an error in the manner and within the time period specified in subsection (a), it may, in lieu of the requirements of subsections (a) and (b), within ten business days after receiving such notice provisionally recredit the consumer's account for the amount alleged to be in error, subject to section 909, including interest where applicable, pending the conclusion of its investigation and its determination of whether an error has occurred. Such investigation shall be concluded not later than forty-five days after receipt of notice of the error. During the pendency of the investigation, the consumer shall have full use of the funds provisionally recredited.

"(d) If the financial institution determines after its investigation pursuant to subsection (a) or (c) that an error did not occur, it shall deliver or mail to the consumer an explanation of its findings within 3 business days after the conclusion of its investigation, and upon request of the consumer promptly deliver or mail to the consumer reproductions of all documents which the financial institution relied on to conclude that such error did not occur. The financial institution shall include notice of the right to request reproductions with the explanation of its findings.

"(e) If in any action under section 915, the court finds that—

"(1) the financial institution did not provisionally recredit a consumer's account within the ten-day period specified in subsection (c), and the financial institution (A) did not make a good faith investigation of the alleged error, or (B) did not have a reasonable basis for believing that the consumer's account was not in error; or

"(2) the financial institution knowingly and willfully concluded that the consumer's account was not in error when such conclusion could not reasonably have been drawn from the evidence available to the financial institution at the time of its investigation,

then the consumer shall be entitled to treble damages determined under section 915 (a)(1).

"(f) For the purposes of this section, an error consists of—

"(1) an unauthorized electronic fund transfer;

"(2) an incorrect electronic fund transfer from or to the consumer's account;

"(3) the omission from a periodic statement of an electronic fund transfer affecting the consumer's account which should have been included;

"(4) a computational error by the financial institution;

"(5) the consumer's receipt of an incorrect amount of money from an electronic terminal;

"(6) a consumer's request for additional information or clarification concerning an electronic fund transfer or any documentation required by this title; or

"(7) any other error described in regulations of the Board.

"§ 909. Consumer liability for unauthorized transfers

"(a) A consumer shall be liable for any unauthorized electronic fund transfer involving the account of such consumer only if the card or other means of access utilized for such transfer was an accepted card or other means of access and if the issuer of such card, code, or other means of access has provided a means whereby the user of such card, code, or other means of access can be identified as the person authorized to use it, such as by signature, photcgraph, or fingerprint or by electronic or mechanical confirmation. In no event, however, shall a consumer's liability for an unauthorized transfer exceed the lesser of—

"(1) $50; or

"(2) the amount of money or value of property or services obtained in such unauthorized electronic fund transfer prior to the time the financial institution is notified of, or otherwise becomes aware of, circumstances which lead to the reasonable belief that an unauthorized electronic fund transfer involving the consumer's account has been or may be effected. Notice under this paragraph is sufficient when such steps have been taken as may be reasonably required in the ordinary course of business to provide the financial institution with the pertinent information, whether or not any particular officer, employee, or agent of the financial institution does in fact receive such information.

Notwithstanding the foregoing, reimbursement need not be made to the consumer for losses the financial institution establishes would not have occurred but for the failure of the consumer to report within sixty days of transmittal of the statement (or in extenuating circumstances such as extended travel or hospitalization, within a reasonable time under the circumstances) any unauthorized electronic fund transfer or account error which appears on the periodic statement provided to the consumer under section 906. In addition, reimbursement need not be made to the consumer for losses which the financial institution establishes would not have occurred but for the failure of the consumer to report any loss or theft of a card or other means of access within two business days after the consumer learns of the loss or theft (or in extenuating circumstances such as extended travel or hospitalization, within a longer period which is reasonable under the circumstances), but the consumer's liability under this subsection in any such case may not exceed a total of $500, or the amount of unauthorized electronic fund transfers which occur following the close of two business days (or such longer period) after the consumer learns of the loss or theft but prior to notice to the financial institution under this subsection, whichever is less.

"(b) In any action which involves a consumer's liability for an unauthorized electronic fund transfer, the burden of proof is upon the financial institution to show that the electronic fund transfer was authorized or, if the electronic fund transfer was unauthorized, then the burden of proof is upon the financial institution to establish that the conditions of liability set forth in subsection (a) have been met, and, if the transfer was initiated after the effective date of section 905, that the disclosures required to be made to the consumer under section 905(a) (1) and (2) were in fact made in accordance with such section.

"(c) In the event of a transaction which involves both an unauthorized electronic fund transfer and an extension of credit as defined in section 103(e) of ths Act pursuant to an agreement between the consumer and the financial institution to extend such credit to the consumer in the event the con-

sumer's account is overdrawn, the limitation, on the consumer's liability for such transaction shall be determined solely in accordance with this section.

"(d) Nothing in this section imposes liability upon a consumer for an unauthorized electronic fund transfer in excess of his liability for such a transfer under other applicable law or under any agreement with the consumer's financial institution.

"(e) Except as provided in this section, a consumer incurs no liability from an unauthorized electronic fund transfer.

"§ 910. Liability of financial institutions

"(a) Subject to subsections (b) and (c), a financial institution shall be liable to a consumer for all damages proximately caused by—

"(1) the financial institution's failure to make an electronic fund transfer, in accordance with the terms and conditions of an account, in the correct amount or in a timely manner when properly instructed to do so by the consumer, except where—

"(A) the consumer's account has insufficient funds;

"(B) the funds are subject to legal process or other encumbrance restricting such transfer;

"(C) such transfer would exceed an established credit limit;

"(D) an electronic terminal has insufficient cash to complete the transaction; or

"(E) as otherwise provided in regulations of the Board;

"(2) the financial institution's failure to make an electronic fund transfer due to insufficient funds when the financial institution failed to credit, in accordance with the terms and conditions of an account, a deposit of funds to the consumer's account which would have provided sufficient funds to make the transfer; and

"(3) the financial institution's failure to stop payment of a preauthorized transfer from a consumer's account when instructed to do so in accordance with the terms and conditions of the account.

"(b) A financial institution shall not be liable under subsection (a)(1) or (2) if the financial institution shows by a preponderance of the evidence that its action or failure to act resulted from—

"(1) an act of God or other circumstance beyond its control, that it exercised reasonable care to prevent such an occurrence, and that it exercised such diligence as the circumstances required; or

"(2) a technical malfunction which was known to the consumer at the time he attempted to initiate an electronic fund transfer or, in the case of a preauthorized transfer, at the time such transfer should have occurred.

"(c) In the case of a failure described in subsection (a) which was not intentional and which resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error, the financial institution shall be liable for actual damages proved.

"§ 911. Issuance of cards or other means of access

"(a) No person may issue to a consumer any card, code, or other means of access to such consumer's account for the purpose of initiating an electronic fund transfer other than—

"(1) in response to a request or application therefor; or

"(2) as a renewal of, or in substitution for, an accepted card, code, or other means of access, whether issued by the initial issuer or a successor.

"(b) Notwithstanding the provisions of subsection (a), a person may distribute to a consumer on an unsolicited basis a card, code, or other means of access for use in initiating an electronic fund transfer from such consumer's account, if—

"(1) such card, code, or other means of access is not validated;

"(2) such distribution is accompanied by a complete disclosure, in accordance with section 905, of the consumer's rights and liabilities which will apply if such card, code, or other means of access is validated;

"(3) such distribution is accompanied by a clear explanation, in accordance with regulations of the Board, that such card, code, or other means of access is not validated and how the consumer may dispose of such code, card, or other means of access if validation is not desired; and

"(4) such card, code, or other means of access is validated only in response to a request or application from the consumer, upon verification of the consumer's identity.

"(c) For the purpose of subsection (b), a card, code, or other means of access is validated when it may be used to initiate an electronic fund transfer.

"§ 912. Suspension of obligations

"If a system malfunction prevents the effectuation of an electronic fund transfer initiated by a consumer to another person, and such other person has agreed to accept payment by such means, the consumer's obligation to the other person shall be suspended until the malfunction is corrected and the electronic fund transfer may be completed, unless such other person has subsequently, by written request, demanded payment by means other than an electric fund transfer.

"§ 913. Compulsory use of electronic fund transfers

"No person may—

"(1) condition the extension of credit to a consumer on such consumer's repayment by means of preauthorized electronic fund transfers; or

"(2) require a consumer to establish an account for receipt of electronic transfers with a particular financial institution as a condition of employment or receipt of a government benefit.

"§ 914. Waiver of rights

"No writing or other agreement between a consumer and any other person may contain any provision which constitutes a waiver of any right conferred or cause of action created by this title. Nothing in this section prohibits, however, any writing or other agreement which grants to a consumer a more extensive right or remedy or greater protection than contained in this title or a waiver given in settlement of a dispute or action.

"§ 915. Civil liability

"(a) Except as otherwise provided by this section and section 910, any person who fails to comply with any provision of this title with respect to any consumer, except for an error resolved in accordance with section 908, is liable to such consumer in an amount equal to the sum of—

"(1) any actual damage sustained by such consumer as a result of such failure;

"(2)(A) in the case of an individual action, an amount not less than $100 nor greater than $1,000; or

"(B) in the case of a class action, such amount as the court may allow, except that (i) as to each member of the class no minimum recovery shall be applicable, and (ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same person shall not be more than the lesser of $500,000 or 1 per centum of the net worth of the defendant; and

"(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

"(b) In determining the amount of liability in any action under subsection (a), the court shall consider, among other relevant factors—

"(1) in any individual action under subsection (a)(2)(A), the frequency and persistence of noncompliance, the nature of such noncompliance, and the extent to which the noncompliance was intentional; or

"(2) in any class action under subsection (a)(2)(B), the frequency and persistence of noncompliance, the nature of such noncompliance, the resources of the defendant, the number of persons adversely affected, and the extent to which the noncompliance was intentional.

"(c) Except as provided in section 910, a person may not be held liable in any action brought under this section for a violation of this title if the person shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

"(d) No provision of this section or section 916 imposing any liability shall apply to—

"(1) any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe therefor; or

"(2) any failure to make disclosure in proper form if a financial institution utilized an appropriate model clause issue by the Board,

notwithstanding that after such act, omission, or failure has occurred, such rule, regulation, approval, or model clause is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(e) A person has no liability under this section for any failure to comply with any requirement under this title if, prior to the institution of an action under this section, the person notifies the consumer concerned of the failure, complies with the requirements of this title, and makes an appropriate adjustment to the consumer's account and pays actual damages or, where applicable, damages in accordance with section 910.

"(f) On a finding by the court that an unsuccessful action under this section was brought in bad faith or for purposes of harassment, the court shall award to the defendant attorney's fees reasonable in relation to the work expended and costs.

"(g) Without regard to the amount in controversy, any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

"§ 916. Criminal liability

"(a) Whoever knowingly and willfully—

"(1) gives false or inaccurate information or fails to provide information which he is required to disclose by this title or any regulation issued thereunder; or

"(2) otherwise fails to comply with any provision of this title;

shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"(b) Whoever—

"(1) knowingly, in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument to obtain money, goods, services, or anything

else of value which within any one-year period has a value aggregating $1,000 or more; or

"(2) with unlawful or fraudulent intent, transports or attempts or conspires to transport in interstate or foreign commerce a counterfeit, fictitious, altered, forged, lost, or fraudulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(3) with unlawful or fraudulent intent, uses any instrumentality of interstate or foreign commerce to sell or transport a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(4) knowingly receives, conceals, uses, or transports money, goods, services, or anything else of value (except tickets for interstate or foreign transportation) which (A) within any one-year period has a value aggregating $1,000 or more, (B) has moved in or is part of, which constitutes interstate or foreign commerce, and (C) has been obtained with a counterfeit, fictitious, altered forged, lost, stolen, or fraudulently obtained debit instrument; or

"(5) knowingly receives, conceals, uses, sells, or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation, which (A) within any one-year period have a value aggregating $500 or more, and (B) have been purchased or obtained with one or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument; or

"(6) in a transaction affecting interstate or foreign commerce, furnishes money, property, services, or anything else of value, which within any one-year period has a value aggregating $1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained—shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(c) As used in this section, the term 'debit instrument' means a card, code, or other device, other than a check, draft, or similar paper instrument, by the use of which a person may initiate an electronic fund transfer.

"§ 917. Administrative enforcement

"(a) Compliance with the requirements imposed under this title shall be enforced under—

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), by the Board;

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

"(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of these provisions;

"(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union;

"(4) the Federal Aviation Act of 1958, by the Civil Aeronautics Board with respect to any air carrier or foreign air carrier subject to that Act; and

"(5) the Securities Exchange Act of 1934, by the Securities and Exchange Commission with respect to any broker or dealer subject to that Act.".

"(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

"(c) Except to the extent that enforcement of the requirements imposed under this Act is specifically committed to some other Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this Act shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person subject to the jurisdiction of the Commission with the requirements imposed under this Act, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.".

"§ 918. Reports to Congress

"(a) Not later than twelve months after the effective date of this title and at one-year intervals thereafter, the Board and the Attorney General shall, respectively, make reports to the Congress concerning the administration of their functions under this title, including such recommendations as the Board and the Attorney General, respectively, deem necessary or appropriate. In addition, each report of the Board shall include its assessment of the extent to which compliance with this title is being achieved, and a summary of the enforcement actions taken under section 917 of this title. In such report, the Board shall particularly address the effects of this title on the costs and benefits to financial institutions and consumers, on competition, on the introduction of new technology, on the operations of financial institutions, and on the adequacy of consumer protection. The report of the Attorney General shall also contain an analysis of the impact of this title on the operation, workload, and efficiency of the Federal courts.

"(b) In the exercise of its functions under this title, the Board may obtain upon request the views of any other Federal agency which, in the judgment of the Board, exercises regulatory or supervisory functions with respect to any class of persons subject to this title.

"§ 919. Relation to State laws

"This title does not annul, alter, or affect the laws of any State relating to electronic fund transfers, except to the extent that those laws are inconsistent with the provisions of this title, and then only to the extent of the inconsistency. A State law is not inconsistent with this title if the protection such law affords any consumer is greater than the protection afforded by this title. The Board shall, upon its own motion or upon the request of any financial institution, State, or other interested party, submitted in accordance with procedures prescribed in regulations of the Board, determine whether a State requirement is inconsistent or affords greater protection. If the Board determines that a State requirement is inconsistent, financial institutions shall incur no liability under the law of that State for a good faith failure to comply with that law, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason. This title does not extend the applicability of any such law to any class of persons or transactions to which it would not otherwise apply.

"§ 920. Exemption for State regulation

"The Board shall by regulation exempt from the requirements of this title any class of electronic fund transfers within any State if the Board determines that under the law of that State that class of electronic fund transfers is subject to requirements substantially similar to those imposed by this title, and that there is adequate provision for enforcement.

"§ 921. Effective date

"This title takes effect upon the expiration of eighteen months from the date of its enactment, except that sections 909 and 911 take effect upon the expiration of ninety days after the date of enactment.".

TITLE XII—TRUTH IN LENDING SIMPLIFICATION

SHORT LIFE

SEC. 1201. This title may be cited as the "Truth in Lending Simplification and Reform Act".

DEFINITIONS

SEC. 1202. (a) Section 103(f) of the Truth in Lending Act is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "The term 'creditor' refers only to a person who both (1) regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required; and (2) is the person to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the foregoing, a person who regularly arranges for the extension of consumer credit, which is payable in more than four installments or for which the payment of a finance charge is or may be required, from persons who are not creditors is a creditor, and in the case of an open end credit plan involving a credit card the card issuer and any person who honors the credit card and offers a discount which is a finance charge are creditors."; and

(2) by redesignating the references to sections 127(a)(6), 127(a)(7), 127(a)(8), 127(b)(9), and 127(b)(11) in the next succeeding sentence as references to sections 127(a)(5), 127(a)(6), 127(a)(7), 127(b)(8), and 127(b)(10), respectively.

(b) The first sentence of section 103(g) of the Truth in Lending Act is amended to read as follows: "The term 'credit sale' refers to any sale in which the seller is a creditor.".

EXEMPTED TRANSACTIONS

SEC. 1203. (a) Section 103(h) of the Truth in Lending Act is amended by striking out "household, or agricultural" and inserting in lieu thereof "or household".

(b) Section 103 of the Truth in Lending Act is amended by redesignating subsection (s) as subsection (x), and by inserting a new subsection (s) as follows:

"(s) The term 'agricultural purposes' includes the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures those agricultural products, including but not limited to the acquisition of farmland, real property with a farm residence, and personal property and services used primarily in farming, and the term 'agricultural products' includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest

products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof.".

(c) Section 104 of the Truth in Lending Act is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Credit transactions involving extensions of credit primarily for business, commercial, or agricultural purposes, or to government or governmental agencies or instrumentalities, or to organizations.";

(2) by amending paragraph (3) to read as follows:

"(3) Credit transactions, other than those in which a security interest is or will be acquired in real property, or in personal property used or expected to be used as the principal dwelling of the consumer, in which the total amount financed exceeds $25,000."; and

(3) by striking out paragraph (5).

OPEN END CREDIT PLAN

SEC. 1204. Section 103(i) of the Truth in Lending Act is amended to read as follows:

"(i) The term 'open end credit plan' means a plan under which the creditor reasonably contemplates repeated transactions, which prescribes the terms of such transactions, and which provides for a finance charge which may be computed from time to time on the outstanding unpaid balance. A credit plan which is an open end credit plan within the meaning of the preceding sentence is an open end credit plan even if credit information is verified from time to time.".

MODEL FORMS

SEC. 1205. (a) Section 105 of the Truth in Lending Act is amended by inserting "(a)" before "The", and by adding at the end thereof the following:

"(b) The Board shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this title and to aid the borrower in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising such forms, the Board shall consider the use by creditors of data processing or similar automated equipment. Nothing in this title may be construed to require a creditor to use any such model form or clause prescribed by the Board under this section. A creditor shall be deemed to be in compliance with the disclosure provisions of this title with respect to other than numerical disclosures if the creditor (1) uses any appropriate model form or clause as published by the Board, or (2) uses any such model form or clause and changes it by (A) deleting any information which is not required by this title, or (B) rearranging the format, if in making such deletion or rearranging the format, the creditor does not affect the substance, clarity, or meaningful sequence of the disclosure.

"(c) Model disclosure forms and clauses shall be adopted by the Board after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

"(d) Any regulation of the Board, or any amendment or interpretation thereof, requiring any disclosure different from that previously required by this chapter, chapter 4, or chapter 5, or regulation of the Board promulgated thereunder shall have an effective date of that October 1 which follows by at least six months the date of promulgation, except that the Board may at its discretion take interim action by regulation, amendment, or interpretation to lengthen the period of time permitted for creditors to adjust their forms to accommodate new requirements or shorten the length of time for creditors to make such adjustments when it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive disclosure practices. Notwithstanding the foregoing, any creditor may comply with any such newly promulgated disclosure requirements prior to the effective date of the requirements.".

COMPONENTS OF FINANCE CHARGE

SEC. 1206. (a) Section 106(a) of the Truth in Lending Act is amended by striking out ", including any of the following types of charges which are applicable" and inserting in lieu thereof the following: ". The finance charge does not include charges of a type payable in a comparable cash transaction. Examples of charges which are included in the finance charge include any of the following types of charges which are applicable".

(b) Section 106(d) of the Truth in Lending Act is amended by striking out paragraphs (3) and (4).

ACCURACY OF ANNUAL PERCENTAGE RATE

SEC. 1207. (a) Subsection (c) of section 107 of the Truth in Lending Act is amended to read as follows:

"(c) The disclosure of an annual percentage rate is accurate for the purpose of this title if the rate disclosed is within a tolerance not greater than one-eighth of 1 per centum more or less than the actual rate or rounded to the nearest one-fourth of 1 per centum. The Board may allow a greater tolerance to simplify compliance where irregular payments are involved.".

(b) Subsection (e) of section 107 of the Truth in Lending Act is amended by striking out "(c) or".

(c) Subsection (f) of section 107 of the Truth in Lending Act is repealed.

ADMINISTRATIVE ENFORCEMENT; RESTITUTION

SEC. 208. (a) Section 108 of the Truth in Lending Act is amended by adding at the end thereof the following:

"(e)(1) In carrying out its enforcement activities under this section, each agency referred to in subsection (a) or (c), in cases where an annual percentage rate or finance charge was inaccurately disclosed, shall notify the creditor of such disclosure error and is authorized in accordance with the provisions of this subsection to require the creditor to make an adjustment to the account of the person to whom credit was extended, to assure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

"(2) Each agency shall require such an adjustment when it determines that such disclosure error resulted from (A) a clear and consistent pattern or practice of violations, (B) gross negligence, or (C) a willful violation which was intended to mislead the person to whom the credit was extended. In the case of other such disclosure errors, each agency may require such an adjustment.

"(3) Notwithstanding the above paragraph (2), no adjustment shall be ordered (A) if it would have a significantly adverse impact upon the safety or soundness of the creditor, but in any such case, the agency may require a partial adjustment in an amount which does not have such an impact (B) if the amount of the adjustment would be less than $1, except that if more than one year has elapsed since the date of the violation, the agency may require that such amount be paid into the Treasury of the United States, or (C) except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, in the case of an open-end credit plan, more than two years after the violation, or in the case of any other extension of credit, after the later of (i) the expiration of the life of the credit extension, or (ii) two years after the agreement to extend credit was consummated.

"(4)(A) Notwithstanding any other provision of this section, an adjustment under this subsection may be required by an agency referred to in subsection (a) or (c) only by an order issued in accordance with cease-and-desist procedures provided by the provision of law referred to in such subsections.

"(B) In the case of an agency which is not authorized to conduct cease-and-desist proceedings, such an order may be issued after an agency hearing on the record conducted at least thirty but not more than sixty days after notice of the alleged violation is served on the creditor. Such a hearing shall be deemed to be a hearing which is subject to the provisions of section 8(h) of the Federal Deposit Insurance Act and shall be subject to judicial review as provided therein.

"(5) Except as otherwise specifically provided in this subsection and notwithstanding any provision of law referred to in subsection (a) or (c), no agency referred to in subsection (a) or (c) may require a creditor to make dollar adjustments under this title, except with regard to the requirements of section 165.

"(6) A creditor shall not be subject to an order to make an adjustment, if within sixty days after discovering a disclosure error, whether pursuant to a final written examination report or through the creditor's own procedures, the creditor notifies the person concerned of the error and adjusts the account so as to assure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

"(7) The provisions of this subsection do not apply to any loan or extension of credit consummated prior to October 28, 1974.".

EFFECT ON OTHER LAWS

SEC. 1209. Section 111(a) of the Truth in Lending Act is amended to read as follows:

"(a)(1) This title does not annul, alter, or affect the laws of any State relating to the disclosure of information in connection with credit transactions, except to the extent that those laws are inconsistent with the provisions of this title, and then only to the extent of the inconsistency. The Board shall, upon its own motion or upon the request of any creditor, State, or other interested party, submitted in accordance with procedures prescribed in regulations of the Board, determine whether such inconsistencies exist. If the Board determines that a State-required disclosure is inconsistent, creditors located in that State may not make disclosures using the inconsistent term of form, and shall incur no liability under the law of that State for a good faith failure to use such term or form, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(2) The Board shall, upon its own motion or upon the request of any creditor, State, or other interested party, submitted in accordance with procedures prescribed in regulations of the Board, determine whether any disclosure required under the law of any State is substantially the same in meaning as a disclosure required under this title. If the Board determines that a State-required disclosure is substantially the same in meaning as a disclosure required by this title, then creditors located in that State may make such disclosure in compliance with such State law in lieu of the disclosure required by this title, except that the annual percentage rate and finance charge must always be disclosed as required by section 122.".

ANNUAL REPORTS

SEC. 1210. (a) Section 114 of the Truth in Lending Act is amended by striking out "not later than January 3 of each year after

1969" and inserting in lieu thereof "Each year".

(b) Section 18(f)(5) of the Federal Trade Commission Act (15 U.S.C. 58a(f)(5)) is amended by striking out "not later than March 15".

(c) Section 707 of the Equal Credit Opportunity Act is amended by striking out "Not later than February 1 of each year after 1976" and inserting in lieu thereof "Each year".

GENERAL DISCLOSURE

SEC. 1211. Sections 121 and 122 of the Truth in Lending Act are amended to read as follows:

"§ 121. General requirement of disclosure

"(a) Subject to subsection (b), a creditor or lessor shall disclose to the person who is obligated on a consumer lease or a consumer credit transaction the information required under this title. In a transaction involving more than one obligor, a creditor or lessor, except in a transaction under section 125, need not disclose to more than one of them if the one given disclosure is a primary obligor.

"(b) If a transaction involves one creditor as defined in section 103(f), or one lessor as defined in section 181(3), that creditor or lessor shall make the disclosures. If a transaction involves more than one creditor or lessor, only one creditor or lessor shall be required to make the disclosures. The Board shall by regulation specify which creditor or lessor must make the disclosures.

"(c) The Board may provide by regulation that any portion of the information required to be disclosed by this title may be given in the form of estimates where the provider of such information is not in a position to know exact information.

"(d) The Board shall determine whether tolerances for numerical disclosures other than the annual percentage rate are necessary to facilitate compliance with this title, and if it determines that such tolerances are necessary to facilitate compliance, it shall by regulation permit disclosures within such tolerances.

"§ 122. Form of disclosure; additional information

"(a) Information required by this title shall be disclosed clearly and conspicuously, in accordance with regulations of the Board. The terms 'annual percentage rate' and 'finance charge' shall be disclosed more conspicuously than other terms, data, or information provided in connection with a transaction, except information relating to the identity of the creditor. Regulations of the Board need not require that disclosures pursuant to this title be made in the order set forth in this title and, except as otherwise provided, may permit the use of terminology different from that employed in this title if it conveys substantially the same meaning.

"(b) Any creditor may supply additional information or explanation with any disclosures required under chapter 4 and, except as provided in section 128(b)(1), under this chapter.".

RESCISSION

SEC. 212. (a)(1) Subsection (a) of section 125 of the Truth in Lending Act is amended to read as follows:

"(a) Except as otherwise provided in this section, in the case of any consumer credit transaction (including opening or increasing the credit limit for an open end credit plan) in which a security interest, including any such interest arising by operation of law, is or will be retained or acquired in any property which is used as the principal dwelling of the person to which credit is extended, the obligor shall have the right to rescind the transaction until midnight of the third business day following the consummation of the transaction or the delivery of the information and rescission forms required under this section together with a statement containing the material disclosures required under this title, whichever is later, by notifying the creditor, in accordance with regulations of the Board, of his intention to do so. The creditor shall clearly and conspicuously disclose, in accordance with regulations of the Board, to any obligor in a transaction subject to this section the rights of the obligor under this section. The creditor shall also provide, in accordance with regulations of the Board, appropriate forms for the obligor to exercise his right to rescind any transaction subject to this section.".

(2) Section 103 of such Act, as amended by section 1203(b), is amended by adding at the end thereof the following:

"(v) The term 'material disclosures' means the disclosure, as required by this title, of the annual percentage rate, the method of determining the finance charge and the balance upon which a finance charge will be imposed, the amount of the finance charge, the amount to be financed, the total of payments, the number and amounts of payments, and the due dates or periods of payments scheduled to repay the indebtedness.".

(3) Subsection (b) of section 125 of the Truth in Lending Act is amended by striking out "ten" in the second and final sentences thereof, and inserting in lieu thereof "20".

(4) Subsection (b) of section 125 of the Truth in Lending Act is amended by adding at the end thereof the following new sentence: "The procedures prescribed by this subsection shall apply except when otherwise ordered by a court.".

(5) Subsection (c) of section 125 of the Truth in Lending Act is amended by inserting "information, forms, and" after "whom".

(6) Section 125 of the Truth in Lending Act is amended by striking out subsections (e) and (f) and inserting in lieu thereof the following:

"(e) This section does not apply to (1) a residential mortgage transaction as defined in section 103(u); (2) a transaction which constitutes a refinancing or consolidation (with no new advances) of the principal balance then due and any accrued and unpaid finance charges of an existing extension of credit by the same creditor secured by an interest in the same property; (3) a transaction in which an agency of a State is the creditor; or (4) advances under a preexisting open end credit plan if a security interest has already been retained or acquired and such advances are in accordance with a previously established credit limit for that plan.

"(f) An obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the sale of the property, whichever occurs earlier, notwithstanding the fact that the information and forms required under this section or any other disclosures required under this chapter have not been delivered to the obligor, except that if (1) any agency empowered to enforce the provisions of this title institutes a proceeding to enforce the provisions of this section within three years after the date of consummation of the transaction, (2) such agency finds a violation of section 125, and (3) the obligor's right to rescind is based in whole or in part on any matter involved in such proceeding, then the obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the earlier sale of the property, or upon the expiration of one year following the conclusion of the proceeding, or any judicial review or period for judicial review thereof, whichever is later.

"(g) In any action in which it is determined that a creditor has violated this section, in addition to rescission the court may award relief under section 130 for violations of this title not relating to the right to rescind.".

(b) Section 103 of the Truth in Lending Act is amended—

(1) by redesignating subsection (t) as subsection (w); and

(2) by inserting after subsection (s) the following:

"(t) The term 'dwelling' means a residential structure or mobile home which contains one to four family housing units, or individual units of condominiums or cooperatives.

"(u) The term 'residential mortgage transaction' is one in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained against the consumer's dwelling to finance the acquisition or initial construction of that dwelling.".

OPEN END DISCLOSURES

SEC. 1213. (a) Section 127(a) of the Truth in Lending Act is amended—

(1) by adding at the end of paragraph (1) thereof the following new sentence: "If no such time period is provided, the creditor shall disclose that fact.";

(2) by striking out paragraph (5), and redesignating paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7), respectively; and

(3) by amending redesignated paragraphs (5) and (6) to read as follows:

"(5) Identification of other charges which may be imposed as part of the plan, and their method of computation, in accordance with regulations of the Board.

"(6) In cases where the credit is or will be secured, a statement that a security interest has been or will be taken in (A) the property purchased as part of the credit transaction, or (B) property not purchased as part of the credit transaction identified by item or type.".

(b) Section 127(b)(2) of such Act is amended to read as follows:

"(2) The amount and date of each extension of credit during the period, and a brief identification, on or accompanying the statement of each extension of credit in a form prescribed by the Board sufficient to enable the obligor either to identify the transaction or to relate it to copies of sales vouchers or similar instruments previously furnished, except that a creditor's failure to disclose such information in accordance with this paragraph shall not be deemed a failure to comply with this chapter or this title if (A) the creditor maintains procedures reasonably adapted to procure and provide such information, and (B) the creditor responds to and treats any inquiry for clarification or documentation as a billing error and an erroneously billed amount under section 161. In lieu of complying with the foreging requirements, in the case of any transaction in which the creditor and seller are the same person, as defined by the Board, and that person's open end plan has fewer than 15,000 accounts, the creditor may elect to provide only the amount and date of each extension of credit during the period and the seller's name and location where the transaction took place if (A) a brief identification of the transaction has been previously furnished, and (B) the creditor responds to and treats any inquiry for clarification or documentation as a billing error and an erroneously billed amount under section 161.".

(c) Section 127(b) of the Truth in Lending Act is amended by striking out paragraph (7) and by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (7), (8), (9), and (10), respectively.

(d) Redesignated paragraph (7) of section 127(a) of the Truth in Lending Act is amended by striking out "each of two billing cycles per year, at semiannual intervals" and inserting in lieu thereof "one billing cycle per calendar year, at intervals of not less than six months or more than eighteen months".

(e) Subsection (c) of section 127 of the Truth in Lending Act is repealed.

(f) Section 143 of the Truth in Lending Act is amended by striking out "or the appropriate rate determined under section 127(a)(5)".

(g) Section 161(a) of the Truth in Lending Act is amended by redesignating the references to sections 127(b)(11) and 127(a)(8) as references to section 127(b)(10) and 127(a)(7), respectively.

OTHER THAN OPEN END DISCLOSURES

SEC. 214. (a) Subsection (a) of section 128 of the Truth in Lending Act is amended to read as follows:

"(a) For each consumer credit transaction other than under an open end consumer credit plan, the creditor shall disclose each of the following items, to the extent applicable:

"(1) The identity of the creditor required to make disclosure.

"(2) The 'amount financed' using that term, which shall be the amount of credit of which the consumer has actual use. This amount shall be computed as follows, but the computations need not be disclosed and shall not be disclosed with the disclosures conspicuously segregated in accordance with subsection (b)(1):

"(A) take the principal amount of the loan or the cash price less downpayment and trade-in;

"(B) add any changes which are not part of the finance charge or of the principal amount of the loan and which are financed by the consumer, including the cost of any items excluded from the finance charge pursuant to section 106;

"(C) subtract any charges which are part of the finance charge but which will be paid by the consumer at the time of the consummation of the transaction, or have been withheld from the proceeds of the credit; and

"(D) subtract any required deposit balance, in accordance with regulations of the Board.

"(3) The 'finance charge', not itemized, using that term.

"(4) The finance charge expressed as an 'annual percentage rate', using that term. This shall not be required if the amount financed does not exceed $75 and the finance charge does not exceed $5, or if the amount financed exceeds $75 and the finance charge does not exceed $7.50.

"(5) The sum of the amount financed, any required deposit balance, and the finance charge, which shall be termed the 'total of payments'.

"(6) The number, amount, and due dates or period of payments scheduled to repay the total of payments.

"(7) In a sale of property or services in which the seller is the creditor required to disclose pursuant to section 121(b), the 'total sale price', using that term, which shall be the total of the cash price of the property or services, additional charges, and the finance charge.

"(8) Descriptive explanations of the terms 'amount financed', 'finance charge', 'annual percentage rate', 'total of payments', and 'total sale price' as specified by the Board. The descriptive explanation of 'total sale price' shall include reference to the amount of the downpayment.

"(9) Where the credit is secured, a statement that a security interest has been taken in (A) the property which is purchased as part of the credit transaction, or (B) property not purchased as part of the credit transaction identified by item or type.

"(10) Any dollar charge or percentage amount which may be imposed by a creditor solely on account of a late payment, other than a deferral or extension charge.

"(11) A statement indicating whether or not the consumer is entitled to a rebate or credit, or is subject to a penalty, if the obligation is refinanced or prepaid in full pursuant to acceleration or otherwise.

"(12) A statement that the consumer should refer to the appropriate contract document for any information it provides about nonpayment, default, the right to accelerate the maturity of the debt, and prepayment rebates and penalties.

"(13) In any residential mortgage transaction, a statement whether a subsequent purchaser or assignee of the consumer may assume the debt obligation on its original terms and conditions.".

(b) Section 128(b) of such Act is amended to read as follows:

"(b)(1) Except as otherwise provided in this chapter, the disclosures required under subsection (a) shall be made before the credit is extended. Except for the disclosures required by subsection (a)(1) of this section, all disclosures required under subsection (a) and any disclosure provided for in subsection (b), (c), or (d) of section 106 shall be conspicuously segregated from all other terms, data, or information provided in connection with a transaction, including any computations or itemization.

"(2) In the case of a residential mortgage transaction, as defined in section 103(u), which is also subject to the Real Estate Settlement Procedures Act, good faith estimates of the disclosures required under subsection (a) shall be made in accordance with regulations of the Board under section 121(c) before the credit is extended, or shall be delivered or placed in the mail not later than three business days after the creditor receives the consumer's written application, whichever is earlier. If the disclosure statement furnished within three days of the written application contains an annual percentage rate which is subsequently rendered inaccurate within the meaning of section 107(c), the creditor shall furnish another statement at the time of settlement or consummation.".

(c) Section 128(c) of the Truth in Lending Act is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "deferred payment price" and inserting in lieu thereof "total sale price"; and

(3) by adding at the end thereof the following new paragraph:

"(2) If a creditor receives a request for a loan by mail or telephone without personal solicitation and the terms of financing, including the annual percentage rate for representative amounts of credit, are set forth in the creditor's printed material distributed to the public, or in the contract of loan or other printed material delivered to the obligor, then the disclosures required under subsection (a) may be made at any time not later than the date the first payment is due.".

(d)(1) Section 129 of the Truth in Lending Act is repealed.

(2) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 129 and inserting in lieu thereof:

"129. [Repealed].".

(c)(1) Section 126 of the Truth in Lending Act is repealed.

(2) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 126 and inserting in lieu thereof:

"126. [Repealed].".

(f)(1) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 128 and inserting in lieu thereof:

"128. Consumer credit not under open end credit plans.".

(2) The caption of section 128 of such Act is amended by striking out "Sales" and inserting in lieu thereof "Consumer credit".

CIVIL LIABILITY

SEC. 715. (a) Section 130 of the Truth in Lending Act is amended—

(1) by striking out "in such action" in subsection (a)(2)(B) and inserting in lieu thereof "under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same creditor";

(2) in subsection (a)(3), by inserting "or in any action in which a person is determined to have a right of rescission under section 125" after "liability";

(3) by amending subsections (b), (c), and (d) to read as follows:

"(b) A creditor or assignee has no liability under this section or section 108 or section 112 for any failure to comply with any requirement imposed under this chapter or chapter 5, if within sixty days after discovering an error, whether pursuant to a final written examination report or notice issued under section 108(e)(1) or through the creditor's or assignee's own procedures, and prior to the institution of an action under this section or the receipt of written notice of the error from the obligor, the creditor or assignee notifies the person concerned of the error and makes whatever adjustments in the appropriate account are necessary to assure that the person will not be required to pay an amount in excess of the charge actually disclosed, or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

"(c) A creditor or assignee may not be held liable in any action brought under this section or section 125 for a violation of this title if the creditor or assignee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Examples of bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programing, and printing errors, but an error of legal judgment with respect to a person's obligations under this title is not a bona fide error.

"(d) When there are multiple obligors in a consumer credit transaction or consumer lease, there shall be no more than one recovery of damages under subsection (a)(2) for a violation of this title.";

(4) by adding at the end of subsection (e) the following new sentence: "This subsection does not bar a person from asserting a violation of this title in an action to collect the debt which was brought more than one year from the date of the occurrence of the violation as a matter of defense by recoupment or set-off in such action, except as otherwise provided by State law.";

(5) by inserting ", section 108(b), section 108(c), section 108(e)," after "this section" in subsection (f);

(6) by adding the following new sentence at the end of subsection (g): "This subsection does not bar any remedy permitted by section 125."; and

(7) by amending subsection (h) to read as follows:

"(h) Any person may not take any action to offset any amount for which a creditor or assignee is potentially liable to such person under subsection (a)(2) against any amount owing by such person, unless the amount of the creditor's or assignee's liability under this title has been determined by judgment of a court of competent jurisdiction in an action of which such person was a party. This subsection does not bar a consumer then in default on the obligation from asserting a violation of this title as an original action, or as defense or counterclaim to an action to collect amounts owed by the consumer brought by a person liable under this title.".

(b) Section 130(a) of the Truth in Lending Act is amended—

(1) by inserting ", including any requirement under section 125," immediately after "this chapter"; and

(2) by adding at the end thereof the fol-

lowing: "In connection with the disclosures referred to in section 127, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125 or of section 127(a) or of paragraph (4), (5), (6), (7), (8), (9), or (10) of section 127(b) or for failing to comply with disclosure requirements under State law for any term which the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms referred to in section 127(a) or any of those paragraphs of section 127(b). In connection with the disclosures referred to in section 128, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125 or of paragraph (2), (3), (4), (5), (6), or (9) of section 128(a), or for failing to comply with disclosure requirements under State law for any term which the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms referred to in any of those paragraphs of section 128(a). With respect to any failure to make disclosures required under this chapter or chapter 4 or 5 of this title, liability shall be imposed only upon the creditor required to make disclosure, except as provided in section 131.".

LIABILITY OF ASSIGNEES

SEC. 1216. (a) Section 131 of the Truth in Lending Act is amended to read as follows:

"§ 131. Liability of assignees

"(a) Except as otherwise specifically provided in this title, any civil action for a violation of this title or proceeding under section 108 which may be brought against a creditor may be maintained against any assignee of that creditor only if the violation for which such action or proceeding is brought is apparent on the face of the disclosure statement, except where the assignment was involuntary. For the purpose of this section, violations apparent on the face of the disclosure statement include, but are not limited to (1) disclosure which can be determined to be incomplete or inaccurate from the face of the disclosure statement or other documents assigned, or (2) disclosures not made in the terminology required by this title.

"(b) Except as provided in section 125(c), in any action or proceeding by or against any subsequent assignee of the original creditor without knowledge to the contrary by the assignee when he acquires the obligation, written acknowledgement of receipt by a person to whom a statement is required to be given pursuant to this title shall be conclusive proof of the delivery thereof and, except as provided in subsection (a), of compliance with this chapter. This section does not affect the rights of the obligor in any action against the original creditor.

"(c) Any consumer who has the right to rescind a transaction under section 125 may rescind the transaction as against any assignee of the obligation, regardless of whether such assignee is a creditor under this title.".

(b) Section 115 of the Truth in Lending Act is repealed.

(c)(1) The table of sections of chapter 1 of the Truth in Lending Act is amended by striking out item 115 and inserting in lieu thereof:

"115. [Repealed].".

(2) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 131 and inserting in lieu thereof:

"131. Liability of assignees.".

LIABILITY OF CREDIT CARDHOLDER

SEC. 1217. Section 133(a) of the Truth in Lending Act is amended to read as follows:

"(a) A cardholder shall be liable for the unauthorized use of a credit card only if the card is an accepted credit card; the liability is not in excess of $50, the card issuer gives adequate notice to the cardholder of the potential liability, the card issuer has provided the cardholder with a description of a means by which the card issuer may be notified of loss or theft of the card, which description may be provided on the face or reverse side of the statement required by section 127(b) or on a separate notice accompanying such statement, the unauthorized use occurs before the card issuer has been notified that an unauthorized use of the credit card has occurred or may occur as the result of loss, theft, or otherwise, and the card issuer has provided a method whereby the user of such card can be identified as the person authorized to use it. For the purpose of this section, a card issuer has been notified when such steps as may be reasonably required in the ordinary course of business to provide the card issuer with the pertinent information have been taken, whether or not any particular officer, employee, or agent of the card issuer does in fact receive such information.".

DISSEMINATION OF ANNUAL PERCENTAGE RATES

SEC. 1218. (a) Chapter 2 of the Truth in Lending Act is amended by adding at the end thereof the following new section:

"§ 136. Dissemination of annual percentage rates

"(a) The Board shall collect, publish, and disseminate to the public, on a demonstration basis in a number of standard metropolitan statistical areas to be determined by the Board, the annual percentage rates charged for representative types of nonsale credit by creditors in such areas. For the purpose of this section, the Board is authorized to require creditors in such areas to furnish information necessary for the Board to collect, publish, and disseminate such information.

"(b) The Board is authorized to enter into contracts or other arrangements with appropriate persons, organizations, or State agencies to carry out its functions under subsection (a) and to furnish financial assistance in support thereof.".

(b) The analysis of such chapter is amended by adding at the end thereof the following new item:

"136. Dissemination of annual percentage rates.".

CREDIT ADVERTISING

SEC. 1219. (a) Section 143 of the Truth in Lending Act is amended to read as follows:

"§ 143. Advertising of open end credit plans

"No advertisement to aid, promote, or assist directly or indirectly the extension of consumer credit under an open end credit plan may set forth any of the specific terms of that plan unless it also clearly and conspicuously sets forth all of the following items:

"(1) Any minimum or fixed amount which could be imposed.

"(2) Where periodic rates may be used to compute the finance charge, the periodic rates expressed as annual percentage rates.

"(3) Any other term that the Board may by regulation require to be disclosed.".

(b) Section 144 of the Truth in Lending Act is amended by striking out paragraphs (1) through (4) of subsection (d) thereof, and inserting in lieu thereof the following:

"(1) the downpayment, if any,

"(2) the terms of repayment,

"(3) the rate of the finance charge expressed as an annual percentage rate.".

CORRECTION OF BILLING ERRORS

SEC. 1220. (a) Section 161(b) of the Truth in Lending Act is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following:

"(6) Failure to transmit the statement required under section 127(b) of this Act to the last address of the obligor which has been disclosed to the creditor, unless that address was furnished less than twenty days before the end of the billing cycle for which the statement is required.".

(b) Section 161(c) of such Act is amended by inserting after "account" the first time it is used a comma and the following: "which may include finance charges on amounts in dispute,".

CREDIT BALANCES

SEC. 721. (a) Section 165 of the Truth in Lending Act is amended to read as follows:

"§ 165. Treatment of credit balances

"Whenever a credit balance in excess of $1 is created in connection with a consumer credit transaction through (1) transmittal of funds to a creditor in excess of the total balance due on an account; (2) rebates of unearned finance charges or insurance premiums; or (3) amounts otherwise owed to or held for the benefit of an obligor, the creditor shall—

"(A) credit the amount of the credit balance to the consumer's account;

"(B) refund any part of the amount of the remaining credit balance, upon request of the consumer; and

"(C) make a good faith effort to refund to the consumer by cash, check, or money order any part of the amount of the credit balance remaining in the account for more than six months, but no further action is required in any case where the consumer's current location is not known by the creditor and cannot be traced through the consumer's last known address or telephone number.".

(b) The table of sections of chapter 4 of the Truth in Lending Act is amended by striking out item 165 and inserting in lieu thereof:

"165. Treatment of credit balances.".

GOVERNMENT EXEMPTION

SEC. 1222. (a) Section 113 of the Truth in Lending Act is amended to read as follows:

"§ 113. Effect on governmental agencies

"(a) Any department or agency of the United States which administers a credit programs in which it extends, insures, or guarantees consumer credit and in which it provides instruments to a creditor which contain any disclosures required by this title shall, prior to the issuance or continued use of such instruments, consult with the Board to assure that such instruments comply with this title.

"(b) No civil or criminal penalty provided under this title for any violation thereof may be imposed upon the United States or any agency thereof, or upon any State or political subdivision thereof, or any agency of any State or political subdivision.

"(c) A creditor participating in a credit program administered, insured, or guaranteed by any department or agency of the United States shall not be held liable for a civil or criminal penalty under this title where the violation results from the use of an instrument required by any such department or agency.

"(d) A creditor participating in a credit program administered, insured, or guaranteed by any department or agency of the United States shall not be held liable for a civil or criminal penalty under the laws of any State (other than laws determined under section 111 to be inconsistent with this title) for any technical or procedural failure, such as a failure to use a specific form, to make information available at a specific place on an instrument, or to use a specific typeface, as required by State law, which is caused by the use of an instrument required to be used by such department or agency.".

(b) The table of sections of chapter 1 of the Truth in Lending Act is amended by striking out item 113 and inserting in lieu thereof:

"113. Effect on governmental agencies.".

ORAL DISCLOSURES

SEC. 1223. (a) Section 146 of the Truth in Lending Act is amended to read as follows:

"§ 146. Use of annual percentage rate in oral disclosures

"In responding orally to any inquiry about the cost of credit, a creditor, regardless of the method used to compute finance charges, shall state rates only in terms of the annual percentage rate, except that in the case of an open end credit plan, the periodic rate also may be stated and, in the case of an other than open end credit plan where a major component of the finance charge consists of interest computed at a simple annual rate, the simple annual rate also may be stated. The Board may, by regulation, modify the requirements of this section or provide an exception from this section for a transaction or class of transactions for which the creditor cannot determine in advance the applicable annual percentage rate."

(b) The table of sections of chapter 3 of the Truth in Lending Act is amended by striking out item 146 and inserting in lieu thereof:

"146. Use of annual percentage rate in oral disclosures.".

EFFECTIVE DATE

SEC. 1224. The amendments made by this title shall take effect upon the expiration of two years after the date of enactment of this title. All regulations, forms, and clauses required to be prescribed under the amendments made by this title shall be promulgated at least one year prior to such effective date. Notwithstanding the foregoing, any creditor may comply with the amendments made by this title, in accordance with the regulations, forms, and clauses prescribed by the Board, prior to such effective date.

TITLE XIII—MISCELLANEOUS

SEC. 1301. Section 302(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451(h)) is amended by adding at the end thereof the following: "The term 'residential mortgage' also includes a secured loan or advance of credit the proceeds of which are intended to finance the rehabilitation, renovation, modernization, refurbishment, or improvement of properties securing mortgages which the Corporation may purchase as 'residential mortgages' under the first sentence of this subsection. The maximum principal obligation of loans purchased by virtue of the preceding sentence shall not exceed the dollar limits prescribed by the Federal Home Loan Bank Board with respect to similar types of loans made by Federal savings and loan associations. A 'secured loan or advance of credit' is one in which a security interest is taken in the rehabilitated, renovated, modernized, refurbished, or improved property.".

SEC. 1302. In the first fiscal year after enactment of this Act in which the Secretary of the Treasury authorizes the sale of gold to the public, not less than ten percent by weight of the gold offered for sale in such fiscal year shall be offered in units containing not more than one troy ounce of gold. Notwithstanding any other provision of this Act, the number units of one ounce or less to be produced and sold in any fiscal year after the first fiscal year in which such units are offered for sale shall be adjusted to meet anticipated demand.

SEC. 1303. Paragraph (2) of section 3(c) of Public Law 94-222 (15 U.S.C. 1666f note) is amended to read as follows:

"(2) The amendment made by paragraph (1) shall cease to be effective on February 27, 1981.".

SEC. 1304. The last sentence of section 245 of the National Housing Act is amended—

(1) by inserting "(1)" before "limiting the amount of interest"; and

(2) by inserting before the period at the end thereof a comma and the following: "or (2) requiring a minimum amortization of principle or otherwise relating to the amortization of principle under the mortgage or loan".

SEC. 1305. Public Law 95-229 (92 Stat. 26) is amended:

(1) by striking out in the title "during 1777";

(2) by striking out in the first sentence of the first section the number "104,000" and inserting in lieu thereof "208,000"; and

(3) by striking out in the second sentence of the first section "December 31, 1978" and inserting in lieu thereof "December 31, 1979".

SEC. 1306. Public Law 95-128, Title VIII (12 U.S.C. Section 2902) is amended by adding a new subsection (4) to Section 803 as follows:

"(4) A financial institution whose business predominately consists of serving the needs of military personnel who are not located within a defined geographic area may define its "entire community" to include its entire deposit customer base without regard to geographic proximity."

TITLE XIV—STANDBY LETTERS OF CREDIT

SEC. 1401. The Federal Deposit Insurance Act is amended (1) by redesignating sections 22 and 23 as 23 and 24 respectively, and (2) by inserting immediately after section 21 the following new section 22: "Sec. 22. (a) The purpose of this section is to regulate standby letters of credit, guarantees, surety agreements and certain acceptances issued by commercial banks.

(b) This section shall apply to any insured bank, to any bank holding company as defined in the Bank Holding Company Act of 1956, as amended, and to any agency, branch, Federal agency, Federal branch, foreign bank, commercial lending company, State agency, or State branch as those terms are defined in section 1(b) of the International Banking Act of 1978.

(c) Beginning July 1, 1979, no entity enumerated in (b) above shall (1) incur any liability arising from any irrevocable undertaking directly or indirectly to make or arrange a payment on a domestic borrowing in the event another entity or person fails to do so, or (2) incur any liability arising from the acceptance of a time draft (other than liabilities arising from the acceptance of time drafts of the kinds described in section 13 of the Federal Reserve Act) where the transaction is functionally equivalent to a domestic borrowing. The term 'domestic borrowing' means any borrowing of 270 days or less the proceeds of which are used to finance directly or indirectly the sale or lease of any personal property located or to be located within the United States, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

TITLE XV—EXPORT-IMPORT BANK ACT AMENDMENTS OF 1978

SHORT TITLE

SEC. 1501. That this Title may be cited as the "Export-Import Bank Act Amendments of 1978".

PRENOTIFICATION

SEC. 1502. Section 2(b)(3) of the Export-Import Bank Act of 1945 is amended—

(1) by striking out "No" in the first sentence and inserting in lieu thereof "Except as provided by the fourth sentence of this paragraph, no";

(2) by striking out "$60,000,000" in the first sentence and inserting in lieu thereof "$100,000,000"; and

(3) by adding at the end thereof the following: "If the Bank submits a statement to the Congress under this paragraph and either House of Congress is in an adjournment for a period which continues for at least 10 days after the date of submission of the statement, then any such loan or guarantee of combination thereof may, subject to the second sentence of this paragraph, be finally approved by the Board of Directors upon the termination of the 25-day period referred to in the first sentence of this paragraph or upon the termination of a 35-calendar-day period (which commences upon the date of submission of the statement), whichever occurs sooner".

FRACTIONAL CHARGES

SEC. 1503. Section 2(c)(1) of the Export-Import Bank Act of 1945 is amended by striking out "$20,000,000,000" and inserting in lieu thereof "$25,000,000,000".

DENIAL OF EXPORT APPLICATIONS

SEC. 1504. Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 is amended by striking out the remainder of the paragraph after "and employment in the United States," and inserting in lieu thereof "and shall give particular emphasis to the objective of strengthening the competitive position of United States exporters and thereby of expanding total United States exports. Only in cases where the President determines that such action would be in the national interest and where such action would clearly and importantly advance United States policy in such areas as international terrorism, nuclear proliferation, environmental protection and human rights, should the Export-Import Bank deny applications for credit for non-financial or non-commercial considerations".

AUTHORIZATION

SEC. 1505. Section 7(a) of the Export-Import Bank Act of 1945 is amended by striking out "$25,000,000,000" and inserting in lieu thereof "$40,000,000,000".

EXTENSION OF AUTHORITY

SEC. 1506. Section 8 of the Export-Import Bank Act of 1945 is amended by striking out "December 31, 1978" and inserting in lieu thereof "September 30, 1983".

ENERGY POLICY

SEC. 1507. (a) Section 2(b)(1) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

"(C) Consistent with the policy of section 501 of the Nuclear Non-Proliferation Act of 1978 and section 119 of the Foreign Assistance Act of 1961, the Board of Directors shall name an officer of the Bank whose duties shall include advising the President of the Bank on ways of promoting the export of goods and services to be used in the development, production, and distribution of nonnuclear renewable energy resources, disseminating information concerning export opportunities and the availability of Bank support for such activities, and acting as a liaison between the Bank and the Department of Commerce and other appropriate departments and agencies.".

(b) Section 9(b) of such Act is amended by adding at the end thereof the following: "In addition, the Bank shall include in the report a description of specific activities and programs undertaken by it to achieve the policy of section 501 of the Nuclear Non-Proliferation Act of 1978, and section 119 of the Foreign Assistance Act of 1961, as required by section 2(b)(1)(C) of this Act.".

EXPORT CREDIT COMPETITION

SEC. 1508. (a) The President is authorized and requested to begin negotiations at the ministerial level with other major exporting countries to end predatory export financing programs and other forms of export subsidies, including mixed credits, in third country markets as well as within the United States. The President shall report to the Congress prior to January 15, 1979, on progress toward meeting the goals of this section.

(b) The Export-Import Bank of the United States is authorized to provide guarantees, insurance, and extensions of credit at

rates and terms and other conditions which are, is the opinion of the Board of Directors of the Bank, competitive with those provided by the government-supported export credit instrumentalities of other nations.

SEC. 1509. Section 2(b) of the Export-Import Bank Act of 1945 is amended by inserting at the end thereof the following new paragraph:

"(7) The Bank shall supplement but not compete with private capital and the programs of the Commodity Credit Corporation to insure that adequate financing will be made available to assist the export of agricultural commodities, except that, consistent with Section 2(b)(1)(A) of this Act, the Bank in assisting any such export transactions shall, in cooperation with the export financing instrumentalities of other governments, seek to minimize competition in government-supported export financing, and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce government subsidized export financing. In order to carry out the purposes of this subsection, the Bank shall consult with the Secretary of Agriculture and where the Secretary of Agriculture has recommended against Bank financing of the export of a particular agricultural commodity, shall take such recommendation into consideration in determining whether to provide credit or other assistance for any export sale of such commodity, and shall consider the importance of agricultural commodity exports to the United States export market and the nation's balance of trade in deciding whether or not to provide assistance under this subsection. The Bank shall include in the report to Congress under Section 9(a) of this Act a description of the measures undertaken by it pursuant to this subsection.".

SEC. 1510. Section 2(b)(1)(A) of the Export-Import Bank Act of 1945 is amended by striking the words "goods and related services" in the first sentence and inserting in lieu thereof "manufactured goods, agricultural products, and other goods and services".

SEC. 1511. The Bank shall implement such regulations and procedures as may be appropriate to insure that full consideration is given to the extent to which any guarantee, insurance, credit, or participation in any extension of credit is likely to have an adverse effect on industries, including agriculture, and employment in the United States, either by reducing demand for goods produced in the United States or by increasing imports to the United States. To carry out the purposes of this subsection, the Bank shall request, and the United States International Trade Commission shall furnish, a report assessing the impact of the Bank's activities on industries and employment in the United States. Such report shall include an assessment of previous guarantees, insurance, loans, or extensions of credit or participations therein and shall provide recommendations concerning general areas which may adversely affect domestic industries, including agriculture, and employment. A copy of such report shall be included in the Bank's report under section 9.

SEC. 1512. (a)(1) Upon receipt of information that foreign sales to the United States are being offered involving foreign official export credits which exceed limits under existing standstills, minutes, or practices to which the United States and other major exporting countries have agreed, the Secretary of the Treasury shall immediately conduct an inquiry to determine whether "noncompetitive financing" is being offered.

(2) If the Secretary determines that such foreign "noncompetitive" financing is being offered, he shall request the immediate withdrawal of such financing by the foreign official export credit agency involved.

(3) If the offer is not withdrawn or if there is no immediate response to the withdrawal request, the Secretary of the Treasury shall notify the country offering such financing and all parties to the proposed transaction that the Eximbank may be authorized to provide competing United States sellers with financing to match that available through the foreign official export financing entity.

(b) The Secretary of the Treasury shall only issue such authorization to the Bank to provide guarantees, insurance and credits to competing U.S. sellers, if he determines that:

(1) The availability of foreign official noncompetitive financing is likely to be a determining factor in the sale, and

(2) The foreign noncompetitive financing has not been withdrawn on the date, the Bank is authorized to provide competitive financing.

(c) Upon receipt of authorization by the Secretary of the Treasury, the Export-Import Bank may provide financing to match that offered by the foreign official export credit entity, provided however that loans, guarantees and insurance provided under this authority shall conform to all provisions of the Export-Import Bank Act of 1945, as amended.

SEC. 1513. No environmental rule, regulation, or procedure shall become effective with regard to exports subject to the provisions of 22 U.S.C. 3201 et seq., the Nuclear Non-Proliferation Act of 1978, until such time as the President has reported to Congress on the progress achieved pursuant to Sec. 407 of the Act (42 U.S.C. 2153e) entitled "Protection of the Environment" which requires the President to seek to provide, in agreements required under the Act, for cooperation between the parties in protecting the environment from radioactive, chemical or thermal contaminations arising from peaceful nuclear activities.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME-LIMITATION AGREEMENT—S. 791

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 791, the omnibus parks bill, is called up and made the pending business, there be a 30-minute time limitation on the bill, to be equally divided between Mr. HANSEN and Mr. ABOUREZK, that there be 10 minutes on any amendment, debatable motion, appeal, or point of order, if such is submitted to the Senate, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, will the majority leader add that no amendment dealing with the Alaskan land matter be in order on this bill?

Mr. ROBERT C. BYRD. I include that.

Mr. BAYH. Mr. President, reserving the right to object.

Mr. PROXMIRE. Did the amendment not include the Alaskan land bill; is that correct?

Mr. STEVENS. That is correct.

Mr. ROBERT C. BYRD. That is correct.

Mr. BAYH. Mr. President, reserving the right to object, I inquire of the leader how this particular bill relates in the schedule. Will it be possible also to get a time limit agreement on the bill which is commonly known as the Pennsylvania Avenue bill?

Mr. ROBERT C. BYRD. There is already a time agreement on it.

Mr. STEVENS. We got that last night.

Mr. BAYH. May I ask the leader to include in the unanimous-consent request that no amendment dealing with the change in the name of the Indiana Dunes Park shall be in order?

Mr. ROBERT C. BYRD. I include that in my request.

Mr. HEINZ. Mr. President, reserving the right to object, four or five bills ago the majority leader indicated we would be back on the Sugar Act, and I have been waiting patiently for the last 4 or 5 hours, 6 or 7 hours, and I am perfectly prepared to wait all night but it would be extremely useful if the majority leader could indicate——

Mr. ROBERT C. BYRD. I hope the Senator is not saying that in a threatening manner.

Mr. HEINZ. No. I am just inquiring of the majority leader what he intended to do about the Sugar Act.

Mr. ROBERT C. BYRD. The Senator wants to get back on the Sugar Act tonight?

Mr. HEINZ. The Senator would like to know what the majority leader's plans are on it.

Mr. ROBERT C. BYRD. I have to say truthfully I did not have any definite plans in that regard. We may get back to it tonight and we may not.

I wish to do these park bills if we could.

Mr. HEINZ. I understand that. I really do need to know.

Mr. ABOUREZK. We did not intend to bring this up before the sugar bill. We intended to get the agreement now because everyone has cleared it.

Mr. THURMOND. Mr. President, reserving the right to object, and I shall not object, I want a time limit on this.

Mr. PROXMIRE. I yielded to the Senator from New Mexico and he yielded to the majority leader.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Several Senators addressed the Chair.

Mr. STEVENS. Let us get some time agreements.

That is what we are speaking of.

Mr. THURMOND. Mr. President, reserving the right to object, and I shall not object to the time limit provided in other bills if it is understood that no other bills will be included in this or be allowed as an amendment. For instance, I am strongly opposed at this late hour and date to bring up S. 1874.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will listen to me, I included in the request that no nongermane amendment be in order.

Mr. THURMOND. For instance, I want it understood that the Illinois Brick could not be offered here.

Mr. ROBERT C. BYRD. It is a nongermane amendment; is it not?

Mr. THURMOND. I do not object in view of that.

SUGAR LEGISLATION

Mr. HEINZ. Mr. President, reserving the right to object, the majority leader will recall around lunchtime today, at 1 or 1:30, when the majority leader pro-

pounded a unanimous-consent request that we take up hospital cost containment separately I asked him what his plans were with respect to the Sugar Act and at that point the majority leader assured me that he would take it up immediately after hospital cost containment was disposed of. That was about 3 hours ago.

Mr. ROBERT C. BYRD. Mr. President, I would like us to check the transcript on that. I am not disputing the Senator's word, but I do not recall assuring anyone that I would definitely go back to that bill. It is back on the calendar at the moment. I do not think I would assure anyone of that. However, I do not contest the Senator's word. I could have said it. But I just do not believe I did. I would like to see my transcript and if the transcript says I did that is what we will go to next. But I do not remember that.

Mr. CRANSTON. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Can we get the agreement on this? This has nothing to do with sugar.

Mr. MELCHER addressed the Chair.

Mr. HEINZ. What does?

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. PROXMIRE. While the transcript is being checked, will the Senator permit the Senator from New Mexico to finish 1 minute and then act on this?

Mr. ROBERT C. BYRD. In 1 minute 10 Senators can object on the floor on any question, if the Senator will let me proceed.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I have done everything I could for him to get his bill.

Mr. PROXMIRE. The Senator certainly has.

Mr. ROBERT C. BYRD. I certainly hope the majority leader may be allowed the flexibility.

Mr. CRANSTON. Mr. President, the request is not to bring up the bill tonight. The request is just to get unanimous-consent agreement to bring it up when the schedule permits. It is not necessarily coming up right now.

Mr. HEINZ. Well, maybe the majority leader can tell me what he does intend to take up next.

Mr. ROBERT C. BYRD. If I knew what I intended to take up next I would have no hesitancy to tell the able Senator, but I just do not know at the moment. I am not trying to trick the Senator or preclude him in any way. I just do not know. At this stage of the game it takes a magician really to stand here and predict what is going to come up next all the time. Sometimes I can do it, but I really cannot.

Mr. HEINZ. Further reserving the right to object, Mr. President, I admire the skill of the majority leader all the time. He operates with skill and I can only say that a magician's skill pales in comparison.

Mr. ROBERT C. BYRD. The Senator completely disarms me.

Mr. HEINZ. That would be the day.

[Laughter.]

Mr. ROBERT C. BYRD. I would also include in the request that Mr. MELCHER be allowed to bring up one nongermane amendment on which there will be a 15-minute time limitation, the time to be equally divided in accordance with the usual form, and I will ask Mr. MELCHER to state the contents of the amendment.

Mr. HEINZ. Mr. President, will the majority leader be willing to add that when we return to the sugar bill that it be in order for me to call up an amendment to the sugar bill? I do not imagine it will take long to dispose of it, but I would like to know whether he can do it tonight or tomorrow morning or tomorrow afternoon.

Mr. ROBERT C. BYRD. The Senator would certainly have that right to call up the amendment to the sugar bill because there is no agreement.

Mr. HEINZ. I understand, and I recognize I have that right. In fact, I have 60 amendments I could call up to the sugar bill, and I hope it would not be necessary for me to call up all 60 of those amendments to require votes of all those amendments. They are all germane amendments even if cloture is invoked on Saturday, and they would be germane amendments.

Mr. ROBERT C. BYRD. You know, we have a way of handling amendments under cloture.

Mr. HEINZ. We noticed.

Mr. ROBERT C. BYRD. It was developed last year, and I am sort of itching for the opportunity to try out that new mechanism. But I say in all seriousness——

Mr. ABOUREZK. The Vice President is gone. He is out of town.

Mr. ROBERT C. BYRD. Will the Senator let us proceed? It has certainly nothing to do with the sugar bill.

Mr. HEINZ. Mr. Leader, I would really like——

Mr. ROBERT C. BYRD. Let us have a little sweetness at this time.

Mr. HEINZ. That is exactly what the Senator from Pennsylvania is trying to do, to determine exactly when the sweetener in the Sugar Act is going to come up.

Mr. HELMS. He wants sugar in the morning and sugar in the evening, that is what he wants.

[Laughter.]

Mr. ROBERT C. BYRD. I dipped in the sugar bowl and all I got were lumps.

[Laughter.] I will play that fiddle tune for you.

[Laughter.]

Mr. HEINZ. Mr. President, can I suggest a quorum?

Mr. ROBERT C. BYRD. I really think we have imposed unduly. The Senator is just not going to get out of me something I cannot assure him of with certitude. If I could tell him what I intend to do I would do it.

Mr. President, I now renew my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. What was the request?

Mr. ROBERT C. BYRD. The same request.

Mr. SCHMITT. Mr. President, reserving the right to object, I believe the distinguished Senator from Montana has an amendment about which we never heard.

Mr. ABOUREZK. If I might say in the request is the consent agreement for the nongermane amendment by the Senator from Montana. That is all he was interested in.

Mr. SCHMITT. I understand. We never heard the title of the amendment.

Mr. ABOUREZK. I do not know the title of the amendment. It is an amendment he is going to offer.

Mr. SCHMITT. We understand that, but it is nice to know what we have agreed to being nongermane.

Mr. ROBERT C. BYRD. Mr. President, will someone find Senator MELCHER? He is just off the floor.

Mr. ABOUREZK. It is a limitation on land exchange between the Forest Service and the Burlington Northern Railroad, and it requires congressional approval if the exchange gets to be too big.

Mr. SCHMITT. Mr. President, I have no objection.

Mr. ROBERT C. BYRD. I have renewed the request, may I say to the distinguished Senator, if he is agreeable.

Mr. STEVENS. Mr. President, what is the pending business?

Mr. ROBERT C. BYRD. I have made the request on the parks bill.

Mr. STEVENS. It was my understanding that the Pennsylvania Avenue Development Corporation bill would come first. That was Senator HANSEN's request.

Mr. ABOUREZK. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators. I thank the Senator from Pennsylvania (Mr. HEINZ).

AIRCRAFT AND AIRPORT NOISE REDUCTION ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1196, S. 3279, the aircraft noise bill.

Mr. ABOUREZK. Mr. President, was that a unanimous-consent request?

Mr. ROBERT C. BYRD. Yes.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate proceed to the consideration of Calendar Order No. 1196, and I offer a cloture motion.

Mr. ABOUREZK. Mr. President, I wish to be recognized.

The PRESIDING OFFICER. Without objection, the clerk will report the cloture motion.

Mr. ABOUREZK. Mr. President, I seek recognition.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, without objection, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the mo-

tion to proceed to the consideration of S. 3279, the Aircraft and Airport Noise Reduction Act of 1978.

Wendell H. Ford, Alan Cranston, Warren G. Magnuson, John Melcher, James B. Pearson, Ted Stevens, Barry Goldwater, Robert Dole, Malcolm Wallop; Wendell R. Anderson, Clifford P. Hansen, John A. Durkin, Frank Church, Daniel K. Inouye, Spark M. Matsunaga, Edward Zorinsky, Paul G. Hatfield, Patrick J. Leahy.

Mr. ABOUREZK. Mr. President, I seek recognition.

Mr. ROBERT C. BYRD. I did not lose the floor.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

Mr. ROBERT C. BYRD. Mr. President, I do not yield for that purpose.

Mr. ABOUREZK. When a motion is made, does not the Senator making the motion lose his right to the floor?

The PRESIDING OFFICER. The Senator from West Virginia has the floor, and has a right to it.

Mr. ROBERT C. BYRD. May I say to the Senator from South Dakota, I did not lose the floor in offering a cloture motion.

Mr. President, I withdraw the motion to proceed to the consideration of S. 3279.

The PRESIDING OFFICER. The motion to proceed is withdrawn. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

PENNSYLVANIA AVENUE DEVELOPMENT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2566.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2566) entitled "An Act to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and borrowings from the United States Treasury for further implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes", do pass with the following amendment:

Page 5, after line 11, insert:

TITLE II

SEC. 201. (a) There is hereby established the Jackson Hole Scenic Area Commission (hereinafter referred to as the "Commission"). The Commission shall be composed of nine members, as follows: (A) the Secretary of the Interior or his representative; (B) the Secretary of Agriculture or his representative; (C) the Governor of Wyoming or his representative; (D) a member of the Teton County Board of County Commissioners to be chosen by the county commission; (E) the mayor or a member of the town council of the town of Jackson, to be selected by the town council; and (F) four civilian members-at-large selected from among the residents of Teton County by the county commissioners, to be representative of a broad spectrum of community interests, and at least one of whom shall own commercial agricultural or ranch land within Teton County and shall be actively engaged in agricultural or ranching operations for commercial purposes.

(b) The representative of the Teton County Board of County Commissioners shall act as Chairman until a Chairman is elected by vote of the Commission.

(c) Unless otherwise required by this title the Commission shall act by affirmative vote of the majority of its nine members. Voting by proxy shall not be allowed.

(d) The frequency, time, and place of meetings shall be determined by the Commission, all meetings shall be open to the public.

(e) The Commission shall have the power to appoint and fix compensation of such additional personnel and such temporary and intermittent services as may be necessary to accomplish the purposes of this title without regard to the provisions of the civil service laws and the Classification Act of 1949.

(f) The Commission shall have the power to hold hearings and administer oaths, and make such rules consistent with the provision of this title as are necessary for the operation of the Commission.

(g) Civilian Commission members shall receive not more than $100 per day plus reasonable travel and other expenses incurred in the course of Commission business, reimbursed at current Federal rates.

SEC. 202. (a) The Commission shall develop a proposed Jackson Hole Scenic Area Plan (hereinafter referred to as the "Plan") which shall consider all privately owned lands in Teton County, except those private lands situated within Grand Teton National Park, as generally indicated on map dated July 1978, which shall be on file and available for public inspection in the offices of the governmental agencies and entities which are members of the Commission. The Plan shall include:

(1) a description of the lands within the Area;

(2) an evaluation and identification of the values present in such lands, with particular attention to the identification of areas of important scenic, wildlife, ecologic, hydrologic, and agricultural concern;

(3) a determination of land uses incompatible with the values of the above areas of concern;

(4) identification, mapping, and designation of all lands, the acquisition of which, or of interest therein, should principally be the concern of: (i) the National Park Service and United States Fish and Wildlife Service as "Interior Department Interest Areas"; and (ii) the United States Forest Service as "Agriculture Department Interest Areas" (hereinafter referred to as "interest areas");

(5) designation of the remainder of the Area as "State and local interest Area" within which the acquisition of lands, or interest therein, should be the concern of State and local agencies which have authority to acquire or hold lands on behalf of the public;

(6) recommendations for the immediate emergency acquisition of lands, or interests in lands, on which a proposed land use action is incompatible with, and poses an immediate threat to, the values identified in the Plan;

(7) recommendations for the acquisition of lands, or lesser interests therein, within the various Interest Areas identified, mapped, and designated pursuant to this title, or for regulatory controls which should be adopted by State or local government with respect to the use of such lands; and

(8) recommendations for procedures for updating and amending the plan after its approved by the Congress, and for assuring coordinated administration of the Scenic Area.

(b) Prior to adoption of the proposed Plan, the Commission shall hold at least one public hearing within the County of Teton for the purpose of receiving public comment on the proposed Plan. Notice of the date, time and location of such hearing shall be published in a local newspaper of general circulation at least once a week for two consecutive weeks, and shall contain information as to where a copy of the proposed Plan may be inspected. The proposed Plan shall not be adopted until at least thirty days after the last hearing.

(c) The Commission shall, upon adoption of the proposed Plan by a two-thirds vote of the entire Commission, submit the proposed Plan concurrently to the Secretary of the Interior and the Secretary of Agriculture (hereinafter referred to as the "Secretaries") for their review and approval or rejection. If neither Secretary has informed the Commission of his disapproval within sixty days from the date of submittal, the Plan shall be deemed to have been approved. If either Secretary disapproves the proposed Plan, he shall advise the Commission of the reasons therefor, together with his recommendations for revisions. The Plan shall be resubmitted by the Commission within sixty days. This process shall be repeated until a Plan is approved by both Secretaries and by a two-thirds vote of the entire Commission.

(d) Without regard to any other provisions of this title, it shall be the duty of the Commission to submit the Plan, together with any recommendations for additional legislation, to the Congress not later than one year from the effective date of this Act.

SEC. 203. The Commission shall be dissolved—

(a) upon submission of the Plan to the Congress, or

(b) upon expiration of a one-year-period commencing on the effective date of this Act, whichever occurs first.

SEC. 204. There are authorized to be appropriated not to exceed $250,000 to defray the expenses of the Commission, including salaries and costs incident to preparation of the Plan.

SEC. 205. (a) Pursuant to the intent of this title, the Secretary of the Interior and the Secretary of Agriculture, as they may jointly agree, are authorized, after consultation with the Commission, to acquire lands, or interests in lands, within Jackson Hole which are manifestly of critical scenic or ecological importance in their relationship to Federally owned lands, and which are demonstrably threatened by a change in land use which is incompatible with the purposes of this title. Any lands or interests in lands so acquired shall be managed by the Secretary in a manner appropriate to conserve, protect, and enhance the scenic and natural resource values of such lands until such time as he believes it in the best interests of proper management to transfer such lands or interests therein to a qualified State or local agency which will manage such lands or interests therein in accordance with the purposes of this title.

(b) For the purpose of acquiring lands or interests in lands described in this section, there are authorized to be appropriated not to exceed $5,000,000. Acquisition may commence only after written notice of intention to do so, with detailed justification therefor, has been made by either Secretary to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and written concurrence has been received by such Secretary from both committees.

Mr. STEVENS. Mr. President, may I make a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. There is a time agreement on this bill. Can we be apprised as to what the time agreement is?

The PRESIDING OFFICER. There is no time agreement. The Chair will observe that one was attempted, but objected to.

Mr. STEVENS. There was no time agreement on the Pennsylvania Avenue Development Corporation? Yes, last night.

Mr. ROBERT C. BYRD. Mr. President, that was done yesterday. Perhaps it was objected to; I do not know.

The PRESIDING OFFICER. There is a time agreement, of 20 minutes to be equally divided between the Senator from Oregon (Mr. MARK O. HATFIELD) and the Senator from South Dakota (Mr. ABOUREZK). Who yields time?

Mr. ABOUREZK. Mr. President, we are just trying to get our act together. I ask unanimous consent that we can have a short quorum call, without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I would ask both cloakrooms to inform Senators that this may yet be a late evening, and rollcall votes may and very likely will occur. It is very important that as much work as can be done today be done today, in order that the Senate may be in a better position to adjourn sine die on Saturday evening at some point.

I suggest the absence of a quorum, under the same conditions.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 2077

(Purpose: Strike title II in its entirety)

Mr. ABOUREZK. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an unprinted amendment numbered 2077: Strike title II in its entirety.

Mr. ABOUREZK. Mr. President, this amendment would delete in its entirety title II, which involves the Jackson Hole Scenic Area proposal. It would add—I guess we are ready to go on that, are we? I move the adoption of the committee amendment, and yield back the remainder of our time.

The PRESIDING OFFICER. The amendment of the Senator from South Dakota, since it attempts to strike the entire House amendment, is not in order. The question is on agreeing to the House amendment.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time not be charged to either side. We have to wait for one other Senator.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. President, the Senator can achieve his purpose——

The PRESIDING OFFICER. A quorum call is in progress.

Mr. ROBERT C. BYRD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. The Senator from South Dakota can achieve his purpose by voting down the House amendment. Mr. President, I suggest the absence of a quorum without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIETNAM VETERANS WEEK

Mr. ROBERT C. BYRD. Mr. President, I hold in my hand a copy of House Joint Resolution 1147, a joint resolution authorizing and requesting the President to designate the 7-day period beginning on May 28, 1979, as "Vietnam Veterans' Week."

I understand there is no opposition to this. At the behest of the distinguished Senator from Pennsylvania (Mr. HEINZ) I ask unanimous consent that the Senate proceed for not more than 2 minutes to the consideration of House Joint Resolution 1147, that it be considered as having been read the first and second time, and that the Senate proceed to its immediate consideration.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, it is cleared on this side and we have no objection to proceeding to its consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 1147) authorizing and requesting the President to designate the 7-day period beginning on May 28, 1979, as "Vietnam Veterans Week."

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read twice by its title.

Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, I thank the majority leader for calling up this joint resolution authorizing and requesting the President to designate the week beginning May 28, 1979, as "Vietnam Veterans Week."

When I introduced a companion measure here in the Senate last July, the Senate Joint Resolution 151 received the cosponsorship of Senator ANDERSON, BAKER, CHILES, DECONCINI, DOMENICI, FORD, HASKELL, JOHNSTON, LUGAR, PERCY, SARBANES, SCHMITT, STEVENS, WALLOP, THURMOND, WILLIAMS, YOUNG, BURDICK, HART, RANDOLPH, RIBICOFF, MOYNIHAN, HATHAWAY, NELSON, ROTH, MATHIAS, MELCHER, and RIEGLE. As the only Vietnam-era veteran who has served to date in the Senate, I am proud that so many of my colleagues support me in this important initiative.

The week-long period would be a fitting and proper tribute to those men and women who dedicated their efforts, and in so many cases, their lives to the service of their country.

Since the end of the war in Southeast Asia, the Vietnam veterans have been quietly forgotten. Their readjustment has been a slow and most difficult one because they are struggling to be accepted into a society that would rather forget this period of our history. Whatever feelings one may have about the U.S. involvement in Southeast Asia, dedication rendered by those who served this country well must not be overlooked.

The Vietnam veteran, in many cases, is still faced with a high rate of unemployment and an unacceptable degree of underemployment. Many of those with special health care needs have been unable to avail themselves of adequate care. Additionally, the Vietnam veteran is encountering the hardship of an increase in the cost of education coupled with a decrease in funding available. And clouding those issues is the unfortunate negative image suffered by the Vietnam veteran because of his service in a controversial and unpopular conflict. It is that image that we must now seek to erase in order to afford Vietnam veterans the national respect they so richly deserve for the honorable service they rendered to this country.

"Vietnam Veterans Week" is a long overdue, yet appropriate way to express our gratitude to those who risked their lives to uphold the Government of the United States of America. I respectfully urge the Members to support this important resolution.

Mr. President, I would just like to say a special word of thanks to Senator THURMOND.

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

Mr. HEINZ. Mr. President, I would like to say a special word of thanks to Senator THURMOND who has had a tremendous interest in the problems of veterans, who also is ranking minority member on the Judiciary Committee and was so instrumental in clearing this resolution.

Also, I know, in the interest of passing

this legislation tonight, he temporarily set aside his interest in offering an amendment to it; namely, one urging the President to appoint an Assistant Secretary or a Deputy Assistant Secretary for Vietnam Veterans' Employment Affairs.

I also want to thank Senator EASTLAND and the members of the Judiciary Committee, and, most importantly, the members of the House Vietnam Veterans' Caucus, who were really instrumental in drafting this resolution.

Mr. RANDOLPH. Will the Senator yield?

Mr. HEINZ. I am happy to yield.

Mr. RANDOLPH. I commend the Senator from Pennsylvania (Mr. HEINZ). I will also say that the full membership, of the Veterans' Committee in the Senate, favor the passage of this legislation.

Mr. HEINZ. And the record certainly shows that the Senator from West Virginia (Mr. RANDOLPH) was an early and ardent supporter of this legislation.

Mr. THURMOND. Will the Senator yield?

Mr. HEINZ. I yield.

Mr. THURMOND. I commend the able Senator from Pennsylvania. I want to say I feel we have not done enough for the veterans of Vietnam. I think the Congress has done what it could, but I believe the executive branch needs to do more to try to find jobs for these Vietnam veterans.

I did start to amend this joint resolution to provide that the President would appoint a person to fill the position of the Deputy Assistant Secretary of Labor for Veterans Affairs. I thought it might delay or prevent this resolution from being adopted, so I did not offer it.

Again I commend the Senator from Pennsylvania.

Mr. HEINZ. The Senator from South Carolina has been too modest. He has been very accommodating. I am sure I express the sense of the House and Senate when I thank him for his sensitivity.

Mr. President, I yield back any time which remains.

The PRESIDING OFFICER. All time has been yielded back.

The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the joint resolution.

The joint resolution was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass?

The joint resolution—House Joint Resolution 1147—was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. HEINZ. Mr. President, I hope the majority leader will yield to me for the purpose of thanking him. I am all too ready, willing, and able to do so. I do so. He is a gentleman, a scholar, and also extremely eloquent.

Mr. ROBERT C. BYRD. Mr. President, the Senator's remarks are most welcome. One good turn deserves another.

The PRESIDING OFFICER. Without objection, the motion to lay on the table the motion to reconsider the vote by which the joint resolution was passed is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senate is not in order. Senators will take their seats or retire to the cloakroom.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, this is the second time today I find I have to go to the mourner's bench. With a humble and contrite heart, I confess to the distinguished Senator from Pennsylvania that his recollection is better than mine, and that I did say, indeed, in response to his question—that upon the disposition of the hospital cost containment matter we would return to the pending business—I answered with the one word, "Yes."

I hope the Senator will accept my humble apology. I assure him that as soon as the park bill is disposed of, we will resume the consideration of the Sugar Act. I hope the Senator will accept my humble apology.

Mr. HEINZ. Mr. President, if the Senator will yield, this Senator will say that no apology has been asked for and none should be given on the part of the majority leader. I am pleased to be able to return to that matter, and I thank the Senator.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. CHURCH. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

CERTAIN LAND CONVEYANCES—H.R. 7971

Mr. CHURCH. Mr. President, the distinguished Senator from Pennsylvania has kindly consented that after the disposition of the omnibus park bill he would be willing for the Senate to proceed to the consideration of H.R. 7971.

Mr. ROBERT C. BYRD. Can we get a time agreement on that?

Mr. CHURCH. I would suggest 5 minutes would be sufficient.

Mr. ROBERT C. BYRD. Will the Senator help me to get a time agreement on that so that I can keep my promise?

Mr. CHURCH. Yes, this bill has been cleared on both sides of the aisle, twice now—last night and again tonight—with the two amendments I will offer to it. So there is no objection that I know of.

I can take care of the two amendments within 5 minutes.

Mr. JAVITS. Mr. President, will the distinguished Senator advise me of the nature of this bill?

Mr. ROBERT C. BYRD. Mr. President, may I say to the distinguished Senator from New York this is Calendar Order No. 1205, on page 23 of the calendar, H.R. 7971, an act to validate the conveyance of certain land in the State of California by the Southern Pacific Transportation Co.

TIME-LIMITATION AGREEMENT—H.R. 7971

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a 10-minute time limitation on that bill, equally divided between Mr. CHURCH and the Senator from Oregon (Mr. MARK O. HATFIELD), a time limitation on any amendment thereto of 10 minutes, to be equally divided in accordance with the usual form, the same limitation with respect to any debatable motions, appeals, or points of order, and that the agreement be in the usual form.

Mr. CHURCH. I thank the Senator.

SUGAR

Mr. ROBERT C. BYRD. Mr. President, if it is agreeable with the distinguished Senator from Pennsylvania, we shall proceed with that bill first and then go back to the sugar bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, with the understanding that the time not be charged against either side.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. In order best to utilize the time of the Senate, if the distinguished Senator from South Dakota and the distinguished Senator from Oregon are agreeable, they are going to require a few more minutes.

Mr. ABOUREZK. We are ready.

Mr. ROBERT C. BYRD. I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. I yield briefly to the Senator from New Jersey (Mr. CASE).

PENNSYLVANIA AVENUE DEVELOPMENT

The Senate continued with the consideration of S. 2566.

UP AMENDMENT NO. 2078

Mr. ABOUREZK. Mr. President, on S. 2566, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an unprinted amendment numbered 2078.

Mr. ABOUREZK. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the House engrossed amendment, add the following new titles.

TITLE II

SAN ANTONIO MISSIONS NATIONAL HISTORICAL PARK

SEC. 201. (a) In order to provide for the preservation, restoration, and interpretation of the Spanish Missions of San Antonio, Texas, for the benefit and enjoyment of present and future generations of Americans, there is hereby established the San Antonio Missions National Historical Park (hereafter in this section referred to as the "park") consisting of Concepcion, San Jose, San Juan, and Espara Missions, together with areas and features historically associated therewith, as generally depicted on the drawing entitled "Boundary Map, San Antonio Missions National Historical Park", numbered 930-80,022-C and dated May 1978, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and in the offices of the superintendent of the park. After advising the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in writing, the Secretary may make minor revisions of the boundaries of the park when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(b) For the purposes of this section, the Secretary is authorized—

(1) to acquire by donation, purchase with donated or appropriated funds, or exchange, lands and interests therein constituting the following generally described areas in the historic missions district of the city of San Antonio, Texas—

(A) Mission San Jose y San Miguel de Aguayo;

(B) Mission Nuestra Senora de la Purisima Concepcion de Acuna;

(C) Mission San Francisco de la Espada;

(1) Espada Acequia, the section of approximately five miles along the west side of and parallel to the San Antonio River;

(E) Espada Dam and Aqueduct;

(F) Mission San Juan Capistrano;

(G) San Juan Acequia, on the east side of the San Antonio River; and

(II) such lands and interests therein which the Secretary determines are necessary or desirable to provide for public access to, and interpretation and protection of, the foregoing; and

(2) to enter cooperative agreements with the owners of any historic properties, including properties referred to in paragraph (1), in furtherance of the purposes of this section.

Each agreement under paragraph (2) shall provide among other things that the owner will hold and preserve the historic property in perpetuity and will not undertake or permit the alteration or removal of historic features or the erection of markers, structures, or buildings without the prior concurrence of the Secretary, and that the public shall have reasonable access to those portions of the property to which access is necessary in the judgment of the Secretary for the proper appreciation and interpretation of its historical and architectural value. Pursuant to such cooperative agreeemnts and notwithstanding any other provision of law to the contrary the Secretary may, directly or by contract, construct, reconstruct, rehabilitate, or develop such buildings, structures, and related facilities including roads, trails, and other interpretative facilities on real property not in Federal ownership and may maintain and operate programs in connection therewith as he deems appropriate. Any lands or interest therein owned by the Catholic Archdiocese of San Antonio, the State of Texas, or any political subdivision of such State, including the San Antonio River Authority, may be acquired by donation only.

(c) (1) With the exception of any property deemed necessary by the Secretary for visitor facilities or administration of the park, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the property for noncommercial residential purposes, for twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or his spouse, whichever is later. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

(2) A right of use and occupancy retained or enjoyed pursuant to this subsection may be terminated with respect to the entire property by the Secretary upon his determination that the property or any portion thereof had ceased to be used for noncommercial residential purposes and upon tender to the holder of a right an amount equal to the fair market value, as of the date of tender, of that portion of the right which remains unexpired on the date of termination.

(3) The term "improved property", as used in this subsection, shall mean a detached, noncommercial residential dwelling, the construction of which was begun before January 1, 1978 (hereinafter referred to as a * * * the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment or the dwelling for the sole purpose of noncommercial residential use, together with any structure accessory to the dwelling which are situated on the land so designated.

(d) The Secretary is authorized and directed to take prompt and appropriate action in accordance with the provisions of this section and any cooperative agreement hereunder to assure the protection and preservation of the historical and architectural values of the missions and the areas and features historically associated therewith within the boundaries of the park. The park shall be administered by the Secretary in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467).

(c) (1) There is hereby authorized to be established by the Secretary, a San Antonio Missions Advisory Commission. The Commission shall be composed of seven members, each appointed for a term of two years by the Secretary, as follows:

(A) one member to be appointed from recommendations made by the Governor of the State of Texas;

(B) one member to be appointed from recommendations made by the County Commissioners of Bexar County, Texas;

(C) one member to be appointed from recommendations made by the City Council of the City of San Antonio, Texas;

(D) one member to be appointed to represent non-Federal property owners whose property is operated and maintained in accordance with cooperative agreements with the Secretary pursuant to subsection (b) (2);

(E) one member from the membership of a local conservation or historical organization; and

(F) two members representing the general public.

The Secretary shall designate one member to be Chairman of the Commission and may fill any vacancy in the same manner in which the original appointment was made.

(2) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred by the Commission and may reimburse members for reasonable expenses incurred in carrying out their responsibilities under this section on vouchers signed by the Chairman.

(3) All appointments to the Commission shall be made by the Secretary within six months after the date of the enactment of this Act and the Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Advisory Commission on matters relating to the park and with respect to carrying out the provisions of this section.

(4) Unless extended by Act of Congress, this Commission shall terminate ten years after the date of its first meeting with the Secretary or his designee.

(f) (1) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, but not more than $10,000,000 for the acquisition of lands and interests in lands.

(2) For the development of essential public facilities there are authorized to be appropriated not more than $500,000. Within one year from the date of enactment of this Act, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a final master plan for the development of the park consistent with the objectives of this section, indicating (A) the facilities needed to accommodate the health, safety, and interpretive needs of the visiting public; (B) the location and estimated cost of all facilities; and (C) the pro'ected need for any additional facilities within the park.

TITLE III—TO ABOL'SH THE MAR-A-LAGO NATIONAL HISTORIC SITE

SEC. 301. That (a) the Act of October 21, 1972 (Public Law 92-527; 86 Stat. 1049) is hereby repealed; the Mar-A-Lago National Historic Site in Palm Beach, Florida, and the Mar-A-Lago National Historic Site Advisory Commission, as established by such Act, are hereby abolished.

(b) Within 120 days after the date of the enactment of this Act, the Secretary of the Interior shall take such action as may be necessary to transfer the real and personal property which, before the date of the enactment of this Act, comprised the Mar-A-Lago National Historic Site (including any improvements, repairs, and additions thereto) to the Marjorie Merriweather Post Foundation of the District of Columbia. Such action shall be consistent with the terms and conditions of the deed of conveyance from Marjorie M. Post to the United States (dated December 18, 1972).

TITLE IV

SEC. 401. The Secretary of the Interior shall prepare and transmit to the President of the United States, the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate a study of Historical Camden, consisting of approximately 90 acres of land in Camden, South Carolina, to determine the feasibility and desirability of establishing such area as a unit of the National Park System. The study shall be transmitted not later than two years following the date on which funds are appropriated for the study and shall include cost estimates for any necessary acquisition, development, operation and maintenance, as well as any alternatives for the administration and protection of the area.

Mr. ABOUREZK. Mr. President, this amendment would add to the Pennsylvania Avenue development bill several provisions follow:

To establish the San Antonio Missions National Historical Park in Texas.

To repeal the Mar-A-Lago National Historic Act.

Study of Historic Camden, S.C.

I move adoption of the amendment.

Mr. MOYNIHAN. Will the Senator yield?

Mr. ABOUREZK. Yes, I yield.

Mr. MOYNIHAN. Mr. President, I rise for a simple purpose. The Pennsylvania Avenue enterprise is one with which I have been involved for a very long while. I was a young member of the Kennedy administration when this began and did this job for President Kennedy. When he left for Texas on his last trip, his final word to us was to have the plans for Pennsylvania Avenue ready when he returned; but of course, he did not.

It is well-known that when Mrs. Kennedy left the White House, she gave President Johnson a short list of things she thought the President might wish to see finished in his name. High on that list was the Pennsylvania Avenue plan. So I rise to ask the Senator from South Dakota if the amendments—I have no reason to object to these amendments, but I hope they are not of a nature that will jeopardize the primary purpose of the legislation.

Mr. ABOUREZK. No, it enhances it.

Mr. MOYNIHAN. I am happy to hear that.

For those who are involved in urban planning and urban renewal, I only note that this is 17 years since the enterprise first began.

Mr. ABOUREZK. I thank the Senator from New York.

I yield 1 minute to the Senator from South Carolina.

Mr. MOYNIHAN. Mr. President, if the Senator will allow me just to continue my remarks to say that from the first, I should like to record, there has been one Member of the U.S. Congress who has been unfailingly faithful to this purpose. That is my distinguished friend from the State of Washington (Mr. JACKSON).

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I thank the distinguished Senator from South Dakota for the consideration he has given this important matter. Camden is one of the most historic places in the United States.

Mr. President, I rise in support of the amendment offered by the distinguished junior Senator from South Carolina and myself. This amendment authorizes the Secretary of Interior to conduct a feasibility and desirability study of the admission of "Historic Camden" into the National Park Service. The study is to be funded at $20,000.

Camden, established in 1732, is the oldest inland city in South Carolina. One of South Carolina's most famous American Revolutionary battles took place in Camden. "Historic Camden" is a 90-acre monument to this battle and historic city.

"Historic Camden" was opened in 1970 by the Camden Historical Commission. The commission has done an outstanding job of locating and rebuilding the Revolutionary period fortifications and of restoring General Cornwallis' headquarters in the Kershaw House. Over 25,000 persons visit this historic attraction annually.

Over the years, the Historical Commission has labored long and hard to secure funds for the development of "Historic Camden." Funds were successfully obtained from the Department of Interior, the Department of Housing and Urban Development, the Coastal Plains Regional Commission, the National Endowments for the Arts, and the General Assembly in South Carolina. In addition, funds have been obtained from the city of Camden, Kershaw County, and extensive private contributions. Today, the total cash investment exceeds over $1.2 million.

Mr. President, I urge my colleagues to join me in supporting this amendment. "Historic Camden" needs the resources and expertise of the National Park Service if the site is to continue to be properly developed and managed. We should approve this amendment today to insure that this landmark is preserved as a part of our national heritage.

THE FUTURE OF PENNSYLVANIA AVENUE

Mr. CHURCH. Mr. President, the authorization for the Pennsylvania Avenue Development Corporation will permit further implementation of the plan for the renewal and restoration of Pennsylvania Avenue. The shape and direction of the changes that will be effected along that historic street are and ought to be matters of great interest to this body.

Our Nation's Capital, the place where America's national destiny is daily shaped, visually reflects the character of the American people. Its great beauty rests essentially on the character of its buildings and its open vistas, resulting from the master plan of Pierre Charles L'Enfant, as submitted to this body in 1791. First and foremost, Pierre L'Enfant viewed the city as a total environment. Two of the overriding principles to emerge from his plan were: First, the dominance of the Capitol—the center of democracy and the will of the people, and second, the significance of the vista as emphasizing beauty, openness, and the freedom of the individual.

To preserve these features during the planning and development of the Nation's Capital, the limitation on building heights has been the most essential planning tool. In carrying out the principles of the L'Enfant plan, Washington's most unique characteristic—its horizontal quality—was zealously guarded by the Congress, the McMillan Senate Commission of 1901, and the official planning bodies charged with protecting Washington's beauty.

The recent decision of the District of Columbia Zoning Commission authorizing an increase in building heights along a five-block area on the north side of Pennsylvania Avenue from the long-adhered-to limitation of 130 feet to 160 feet gives cause for concern about its potential effect on Washington's inherent beauty and the historic character of the Pennsylvania Avenue National Historic Site.

No area of this city was more important to L'Enfant and none more integral to our national history than Pennsylvania Avenue. It is more than an architectural setting. It is a direct connection between the legislative and executive branches of Government. It is the center stage for countless dramas in almost 200 years of our national life. Thus, living history up to this very moment has forged the integrity of Pennsylvania Avenue along the route traveled by Presidents, visiting heads of state, and people from all walks of life.

The Pennsylvania Avenue Development Corporation is charged by the act of October 27, 1972 (Public Law 92–578) to carry out a development plan for Pennsylvania Avenue and environs and to further the purposes for which the Pennsylvania Avenue National Historic Site was officially designated in 1965 by the Secretary of the Interior with the concurrence of the President. The primary purposes of this corporation is to preserve the essential historic character of the national pathway where so much of our national history is reflected. Preservation of these historic values requires great sensitivity to the events of history and to the setting in which they occurred. As the plans of the Pennsylvania Avenue Development Corporation go forward, it is critically important that the basic principles of the L'Enfant plan be utilized as a guide in preserving the beauty and historic integrity of Pennsylvania Avenue. In all future planning, great care should be given to building heights within the Pennsylvania Avenue National Historic Site, with particular reflection upon the wisdom of adhering to a 130-foot limitation in building heights.

As the Pennsylvania Avenue Development Corporation proceeds with its planning, I believe it is of paramount importance for the Corporation to consult closely with the Senate and House committees concerned, particularly in the early planning stages, so that the interest of all the American people in protecting the inherent beauty and historical character of Washington may be expressed. Such consultation should include all facets of the future plans, and in particular those which would involve an increase in building heights above 130 feet or a rerouting of the historic avenue itself.

In addition to the necessary role of the Congress to provide a focal point for the national interest, the views of citizen organizations should be given the most careful consideration by the Pennsylvania Avenue Development Corporation as it moves forward with its plans.

Congress also has a duty to preserve and interpret the principles which guided L'Enfant and to make certain that in the eagerness to embrace the needed enhancement of Pennsylvania Avenue, we do not lose sight of its living history nor the most essential ingredients—its low profile and openness—which have contributed to Washington's beauty and stamped its unique character for 187 years.

Mr. HEINZ. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ABOUREZK. I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 2079

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 2079.

At the end of the House engrossed amendment insert the following new title:

TITLE V

SEC. 501. (a) In order to preserve and interpret for the benefit of present and future generations the site of the first military training camp established in the United States, the Secretary of the Interior is authorized to acquire by donation, purchase, or exchange, the real property described in subsection (b) for the establishment and administration of a national historic site.

(b) The real property referred to in subsection (a) is that real property in Beaver County, Pennsylvania, containing twenty-two acres more or less, in the northernmost part of Harmony Township, adjacent to Baden Borough, which is bordered by Duss Avenue, State Highway 65, and Logan Lane.

(c) The property acquired under this section shall be known as the "Legionville National Historic Site", and it shall be administered by the Secretary of the Interior, acting through the National Park Service, in accordance with the Act of August 25, 1916, entitled "An Act to establish a National Park Service, and for other purposes" (16 U.S.C. 1, 2–4) and the Act of August 21, 1935, entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes" (16 U.S.C. 461–467).

(d) The Secretary may not expend more than $500,000 from the Land and Water Conservation Fund for land acquisition nor more than $500,000 for the development of essential facilities: *Provided*, That no funds for the development of essential facilities shall be authorized prior to October 1, 1978.

(e) Within three years from the date of the enactment of this Act the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Interior and Insular Affairs of the House of Representatives a general management plan for the use and development of the site consistent with the purposes of this section, indicating—

(1) the lands and interests in lands adjacent or related to the site which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this section and the estimated cost hereof;

(2) the number of visitors and types of public use within the site which can be accommodated in accordance with the protection of its resources; and

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

Mr. HEINZ. Mr. President, this is a noncontroversial amendment that I have discussed with the majority and minority on this bill.

Mr. President, this amendment is of particular importance to Pennsylvania and is fully in line with intent of this legislation. The measure has previously passed the Senate but was not considered in the House.

The amendment would establish the Legionville National Historic Site in Beaver County, Pa. Legislation to establish this national park, S. 1104, was approved by this body nearly 1 year ago, on October 28, 1977.

Organizations and individuals who have endorsed this measure in Pennsylvania are dedicated in their efforts to the establishment of this national historic site and have worked long and hard for this designation. Nationally, the American Legion, which derives its name from this campsite, has endorsed this proposal for the Legionville National Historic Site. President Carter, in his visit to this area for the Aliquippa Town meeting, was also apprised of the historic value of this site, and thus gained a personal understanding of the rich heritage of Legionville, which has been recognized since 1918, when the Commonwealth of Pennsylvania and the Daughters of the American Revolution declared Legionville a historic site.

As my colleagues may remember, Legionville is significant to our national heritage, in that it was the first military training camp in the United States and the base for the first "Legion of the United States" under Gen. Anthony Wayne. It was here that the first regular army of the United States under the aggressive command of General Wayne trained for 2 years to become a crack fighting force. And it was from here that General Wayne and the first "Legion of the United States" set out to secure the Northwest Territories for settlement.

This expedition was the third attempt of our new struggling Nation to protect the settlers moving into the Ohio Valley from constant Indian attacks. The two previous expeditions had been badly beaten by the Indians, and these regions of the land which were to become the great States of Ohio, Illinois, Indiana, and Michigan remained unsafe for settlement. The protection of these brave American pioneers and the security of these territories became a grave concern of the first administration. To resolve this threatening situation, President Washington appointed Anthony Wayne as the commander of the first regular army of the United States and directed him to mold these troops into an effective fighting force.

Wayne set up camp on the site of an old Indian village and kept the army there for 2 years of intensive and uninterrupted military training. The camp immediately became known as Legionville, because of the presence of this first "Legion of the United States." These ragged soldiers were shaped into an effective fighting unit, the first regular army of the United States, and under the command of General Wayne encountered and defeated the Indians at the Battle of Fallen Timbers, bringing peace to this region and enabling passage to the West to again proceed.

As an important center of the military in our Nation's early history, Legionville attracted many famous individuals. Among those serving under General Wayne were William Henry Harrison, Wayne's aide-de-camp, and later President of the United States; Lt. William Clark, who served at Legionville before teaming with Meriweather Lewis for their famous expedition up the Missouri River to the Pacific; and Zebulon Pike, who served as one of our generals during the War of 1812 and for whom Pike's Peak is named.

Even before this military training camp, Legionville, in the middle 1700's was the site of one of the largest Indian settlements of that time. This settlement, known as Logstown by the Indians, was visited by George Washington during his scouting of the region's French forts in the early 1750's. Recently, this Indian site has undergone a renewed archeological interest with some evidence to merit support for a university conducted excavation.

Yet, in spite of this rich historical significance, Legionville is one of the few remaining major Indian and revolutionary-era sites still undeveloped and unrestored in the United States. With the support of my Pennsylvania colleague, Senator RICHARD SCHWEIKER, who cosponsored the Senate bill, I again ask approval of this measure as an amendment to this parks legislation.

Mr. ABOUREZK. Mr. President, we have discussed the amendment and it has been passed by the Senate. We accepted the amendment on our side.

Mr. MARK O. HATFIELD. We accept it on our side.

Mr. HEINZ. I move adoption of the amendment.

Mr. ABOUREZK. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HEINZ. I move to reconsider the vote by which the amendment was agreed to.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JACKSON HOLE SCENIC AREA

Mr. WALLOP. Mr. President, may I inquire of the distinguished manager of the bill if the amendment to remove the Jackson Hole Scenic Area bill is a pending matter?

Mr. ABOUREZK. No, we moved to delete title 2, but I found out that the procedural situation was that such a motion would not be in order. I have not deleted it, so it is not a pending matter.

Mr. WALLOP. Is such a motion to be made in that form appropriate?

Mr. ABOUREZK. Not on the Senate floor.

Mr. WALLOP. Am I to understand that the Jackson Hole Scenic area bill——

Mr. ABOUREZK. It would be in conference as a House-passed measure. However, I can say that the committee intends to disagree with the Jackson Hole amendment and attempt to delete it in conference.

I yield 4 minutes to the Senator from Wyoming on my time.

Mr. WALLOP. Mr. President, I understand the controversy that is connected with this and the difficulty it causes various people on the floor. How-

ever, I had intended to offer as a substitute to the proposed amendment from the distinguished floor manager of this bill a proposal that would have reduced the Jackson Hole Scenic area bill to nothing but a study it would have taken out all emergency acquisition authority and funds and therefore removed all question of possible condemnation, and would have allowed the $250,000 for the study to remain intact.

Mr. President, Jackson Hole in Wyoming is one of the most singular physical natural resource attractions that exists in the United States.

I have a number of statements that I ask unanimous consent to have printed in the RECORD at a point subsequent to my remarks. The first is a statement by the Governor of Wyoming in support of a Jackson Hole Scenic Area; the second is the testimony of the Teton County Board of Commissioners before the joint House-Senate field hearing on this legislation last June.

Third is a letter from the county of Teton signed by three county commissioners.

Fourth is a letter from the U.S. Department of the Interior signed by Robert L. Herbst, Assistant Secretary for Fish and Wildlife and Parks, on this matter in support of the House-passed version of this legislation but asking that Congress insure its funds cannot be used for condemnation.

Finally, I am inserting a petition signed by 51 major landowners in favor of this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF ED HERSCHLER

Mr. Chairman, my name is Dan Spangler. I am an assistant to the Governor's Planning Coordinator. I am appearing today on behalf of Governor Ed Herschler. Governor Herschler regrets that he is unable to attend this hearing due to a previous commitment.

The Jackson Hole Scenic Area Bill represents a praiseworthy and innovative concept. It is the culmination of long and hard work by residents of Teton County, who developed the concept and drafted the initial proposal. I applaud their initiative and heartily approve of a local government assuming this kind of leadership. Local action of this type is far superior to the usual case where we are reacting to edicts coming from the federal level.

A number of state agencies have had the opportunity to review and comment on this bill in its initial stages. This provided an opportunity to contribute ideas and suggestions from the state's perspective.

The State of Wyoming shares the concerns of Teton County and of the nation about the future of Jackson Hole. It is of great importance to preserve the magnificent scenery, abundant wildlife, and Western heritage of this area for local residents and for the millions of Americans who visit here each year. National demands for outdoor recreation will continue to grow rapidly.

From the view of state government, tourism is one of our economic mainstays and the Jackson Hole Area is a prime drawing card. However, this resource faces a threat of over-development. The pressures upon agricultural land owners to sell for housing and commercial purposes are tremendous. How can we preserve these natural wonders while at the same time allowing for healthy economic growth? Large scale expansion of the present Park boundaries is not the answer. This results in ejectment of private citizens from their homes and lands while further reducing the county's tax base. Alternatively, an overly-strict system of zoning and other land use controls would unfairly deprive land owners of property values without compensation.

The scenic area proposal represents a middle ground between these two extremes. Landowners can retain their property while scenic areas are protected with the landowner being compensated for the value of his development rights.

Unfortunately, it is not in the power of the State of Wyoming to implement such a program by itself. Wyoming has the second lowest population of the fifty states. With its limited resources, it cannot undertake a preservation program of this magnitude. The 4 million people who annually visit Jackson Hole are approximately ten times the number residing in the entire State of Wyoming. Thus, the approach of this legislation, to include all levels of government, is particularly appropriate.

You may be assured that the agencies of Wyoming State Government will accept their roles as outlined in the bill and will fulfill the responsibilities placed upon them by the scenic area plan.

Section 5(c) of the bill gives the Secretaries of Interior and Agriculture the authority to veto the proposed plan. In order to provide an additional element of state and local control to offset this federal authority, I propose that the Governor of the State of Wyoming also be accorded this veto power.

I endorse the use of scenic easements as the major tool for carrying out the program. The ranch lands of Teton County should remain in private ownership, to preserve the tax base and to retain productive uses.

Reliance upon easements enables the goals of the scenic area to be met, while the rights of property owners are protected.

Teton County has enacted a comprehensive land use plan which considers the environmental constraints on its land and sets density limits. However, we cannot fairly ask the relatively few landowners of Teton County to preserve, at their expense, a landscape and way of life for the entire nation to enjoy. That burden must be spread among the many who benefit.

The Jackson Hole Scenic Area Bill proposes an idea which has great potential for use in other significant national interest areas. I can conceive of no more appropriate place to initiate the concept than in Jackson Hole. Surrounded by federally owned land, enjoyed by vast numbers of Americans each year, there is no area whose preservation should be of greater concern to the nation.

The State of Wyoming would be pleased to be a participant in the Jackson Hole Scenic Area Plan. I appreciate your interest and concern in arranging these hearings and in permitting me to present these views.

STATEMENT OF THE BOARD OF COUNTY COMMISSIONERS OF TETON COUNTY, WYO.

Mr. Chairman and distinguished members of the Senate and House of Representatives, I am Max May, Chairman of the Board of County Commissioners of Teton County, Wyoming. On behalf of the Commissioners, I welcome you to Jackson Hole and thank you for being here today. The following statement represents the views of the Teton County Commissioners.

In the Rocky Mountain West, we hear a lot about boom towns and impacted communities. You may not think of Jackson Hole in that category, but many people are beginning to. For here, surrounded by nearly 18 million acres of national parks, forests and wildlife refuges, is a community impacted by its own beauty. Four million visitors come here each year. They come to the national parks and forests, but they find great enjoyment in seeing the privately-owned ranches of this valley, the haymeadows and wide open spaces which have been part of Jackson Hole since it was first settled. But change is coming rapidly; road side development, new shopping centers and subdivisions are beginning to crowd out those peaceful ranch lands and change the character of the entire area.

Teton County has long believed that the scenic and wildlife values on our private lands must be preserved, to complement the federal lands around us. We've done what we can to encourage that preservation. But we believe the Jackson Hole Scenic Area bill is the only certain, permanent way to do the job.

In recent years, county-wide surveys, questionnaires and elections have shown that Teton County residents place high priority on preserving Jackson Hole's scenic and environmental resources. With that support, we as a County Commission have taken the lead in seeking ways to accomplish that. In 1975 and 1976, we were represented on the Steering Committee which advised the National Park Service on its study of possible boundary expansion of Grand Teton National Park. Subsequently we appointed the Teton County Citizens Group, to examine alternatives to Park boundary expansion and to recommend other ways to preserve the special qualities of our private lands. We funded and encouraged the work of the Study Group. The result of its efforts is the Jackson Hole Scenic Area bill, a truly cooperative effort of County government, local residents, and local representatives of federal and state agencies. This Commission endorsed the bill and recommended it be introduced in Congress.

In proposing the legislation, several concerns have guided our thinking: Will the tax base of the County be preserved? Are property rights protected? Will local government and local citizens have a strong voice in the planning and administration of the Scenic Area? We believe this bill, with a few modifications which I will mention later, responds very well to those concerns.

Reliance on easements, rather than fee title acquisition, assures that the land will remain on the tax rolls and that the economic base of the County will be preserved. Easements also assure protection of private property rights. A landowner can sell some or all of his development rights and receive fair market value. He continues to own the land and use it productively; he can sell it or leave it to his heirs. In addition, the structure of the Scenic Area Commission guarantees a strong local voice in the planning and administration of the Scenic Area. The local government functions as a partner with the state and federal government.

As I mentioned, we do propose a few modifications in the bill, to clarify our intent and that of the community regarding these local concerns. We submit these recommendations in writing, but I will summarize them here. We ask that the amount of fee title acquisition permitted be reduced from five per cent of the county's privately-owned land to one per cent; this change emphasizes the continuation of private ownership and of traditional land uses, so important to the Scenic Area concept.

We request that the bill specify that all acquisition be at fair market value, established at the time of acquisition by a Board of Appraisers, consisting of one appraiser selected by the federal government, one selected by the County Commission, and a third selected jointly by both. We suggest clarification of the composition of the Scenic Area Commission and a requirement that the four at-large local members be selected by a county election. The bill should make clear that the Scenic Area Commission does not establish any monetary values on land. And we ask that the section allowing 2.5 percent of the appropriation to be used for development of public access or improvements be

deleted. These and other proposed changes merely "fine-tune" the proposal; none results in any major shift in the concept.

As federal officials, responsible for the pocketbooks and well-being of all the nation's taxpayers, you too have your concerns. For example, we've been asked why Teton County doesn't use its zoning powers to simply zone certain lands as agricultural or open space. Although our land use plan sets densities based on environmental constraints of land, we do not believe land can be legally or ethically regulated for the sole purpose of preserving aesthetic values, unless fair compensation is offered to landowners for this taking. Teton County, of course, does not have the resources to provide that compensation.

But is Jackson Hole really a national interest area, where spending federal dollars can be justified? The public investment in 18 million acres of land surrounding Jackson Hole, and the four million people who enjoy its beauty and recreational opportunities each year, are clear evidence that it is. The private lands cannot be isolated from the rest. Visitors enjoy both public and private lands, for different reasons. So do the big game and other wildlife that are so abundant here.

The price tag? Yes, $200 million dollars is a great deal of money, and we are aware that that sum may need to be modified. We continue to believe that it is an accurate maximum figure for protecting all of the scenic and wildlife values which the public now expects to find here. If preservation priorities are more limited, however, significant and worthwhile impacts can no doubt be made with fewer dollars.

You also ask, most correctly, what is Teton County doing for itself? On January 1 this year, we implemented a Comprehensive Land Use Plan, representing over four years of effort and over $115,000 of County funds. I submit for the record a copy of our Plan, which is enforced by our County Planning Commission and planning staff. In addition to regulating land use, densities, and standards for development, the Plan establishes a County Scenic Preserve, enabling the County to acquire fee title or easements on lands for the purpose of scenic preservation. The County's limited resources mean that almost all such preservation will necessarily be by gift, bequest or dedication of land.

A 208 Water Quality Study is also nearing completion here, in an attempt to preserve our pristine water quality. This is a joint effort of the Environmental Protection Agency, the National Park Service, U.S. Forest Service, Wyoming Game and Fish Department, United States Fish and Wildlife Service, and Teton County.

In addition, several months ago, we appointed and funded a Growth Study Committee. We were concerned about the apparent high rate of growth in Teton County, and directed this citizens' group to document growth figures as accurately as possible and prepare recommendations on growth management. The first phase of their task is nearly completed, and they will present testimony later today.

Thus we believe that Teton County *has* taken the lead in its own behalf. This County is willing and prepared to do its part to complement the Scenic Area bill. But with a population of less than 10,000 people, and the lowest assessed valuation of any county in Wyoming, Teton County cannot alone preserve those resources which the American public enjoys here.

If Jackson Hole does become a national Scenic Area, if you share the belief of many people that this entire valley is a national treasure, we urge the federal government and its agencies to consider additional steps to reinforce and complement that belief. A guarantee of grazing privileges on public lands at nominal fees would do much to encourage continuation of ranching here and thus help preserve the scenic and open lands so important to the goals of the Scenic Area. The Forest Service should limit timbering, oil and gas exploration and mining to areas in Jackson Hole where those activities would not detract from the purposes of a Scenic Area. If Jackson Hole really is a special place for all Americans, then its lands must be considered as one entity; all federal, state and local policies should be established with full recognition of the qualities and uses which the public values here.

In summary, we believe that the Jackson Hole Scenic Area bill is our only hope to preserve permanently the scenic and wildlife values on the privately-owned portion of this world-famous valley. It is a way for federal, state and local governments to join forces, to protect an area of supreme national interest, without sacrificing economic interests of the community or the general public. The bill is truly an innovative grass-roots effort.

Without this legislation, you may well return here in five years to find, not the ranch lands, not the hay meadows, not the open spaces, but sprawling suburbia in the midst of the largest complex of federal wilderness and recreational resources in the contiguous United States. If that happens, then despite the magnificence of Grand Teton National Park and all the other protected federal areas, both public and private lands will have been diminished. We will all have suffered an irretrievable loss.

Thank you again for the opportunity to present these views to you today, and for your interest in Jackson Hole.

STATE OF WYOMING,
COUNTY OF TETON,
Jackson, Wyo., July 25, 1978.

Hon. MALCOLM WALLOP,
U.S. Senate,
Dirksen Senate Office Bldg.,
Washington, D.C.

DEAR MALCOLM: We are very pleased that the omnibus parks bill recently passed by the House of Representatives includes legislation authorizing development of a Jackson Hole Scenic Area plan and a $5 million emergency acquisition fund. We hope the Senate parks bill will include similar provisions for Jackson Hole. Although some important issues remain unresolved in this modified legislation, we believe planning for the Scenic Area should proceed and authority for critical acquisitions should exist while these precedent-setting issues are fully discussed.

However, we are concerned about the ambiguity of condemnation authority in the House proposal. Since there is no mention of such authority, there are varying opinions about whether it exists in this proposal; we have heard strong views on both sides of the issue. Since there are probably as many opinions as people to give them, we think it is important that the matter be clarified. We therefore urge you to make clear in the legislative intent that this modified bill includes no condemnation authority or, if necessary, to insert a clause in the bill that acquisition authorized by this legislation may be only on a "willing buyer-willing seller" basis.

Frankly, we don't think condemnation would be a practical problem in the one-year period authorized by the legislation; such controversial action during this trial period would very likely jeopardize future acceptance of the entire Scenic Area concept. Moreover, the need to obtain approval for any acquisition from both House and Senate committees would be a further deterrent to controversial actions.

Nevertheless, there should be no uncertainty during the first year. While we realize that later legislation may need to include some limited condemnation authority, those limits have not been fully discussed or agreed upon. Until such time, we think the small amount of acquisition authorized in the present bill can be accomplished very satisfactorily on a willing buyer-willing seller basis.

We are extremely grateful for the support and assistance you have given to the Scenic Area proposal during the past year. We urge your continued leadership in working for a modified Jackson Hole bill this year.

Sincerely,

J. MAX MAY,
Chairman,
Teton County Board of Commissioners.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 5, 1978.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WALLOP: I would like to take opportunity to outline the Administration's commitment to the goals of your proposal to create a Jackson Hole Scenic Area. This letter is a followup to the telephone conversation which you had in early August with Deputy Assistant Secretary David Hales, who offered to confirm it in writing.

We believe that the Jackson Hole valley is a resource in which there is national interest and concern and for which some further form of protection is desirable. The National Park Service has been concerned with the changing nature of private ranchlands bordering Grand Teton National Park for several years, and in 1975 initiated a boundary study which recommended in its report that a Jackson Hole Scenic Area be established. The report noted that "The lands in Jackson Hole are of mutual concern to both public agencies and private interests because of their scenic qualities . . . If indiscriminate development is allowed to replace these traditional uses, the rural character of Teton County will be impaired and the region's pastoral setting will be degraded." The report recommended the establishment of a Jackson Hole Scenic Area rather than major boundary expansion.

We consider the question of the preservation of critical private lands in Jackson Hole an important priority which is of national concern as well as of state and local significance.

However, the Administration does not support Title X of H.R. 12536 as passed by the House of Representatives and awaiting action in the Senate. At a hearing on H.R. 12536 before the Senate Parks and Recreation Subcommittee recently, Deputy Assistant Secretary Hales testified that the Administration instead intends to develop our own proposal for legislation for Jackson Hole. We intend to begin working immediately with local people to develop a proposal which is mutually acceptable to the National Park Service and the Department of the Interior, the Department of Agriculture, the state of Wyoming, Teton County, and yourself. As Mr. Hales told the Subcommittee, the Administration would aim to have this proposal to Congress early in 1979, hopefully as early as March. It seems clear that expediency is required if we are to act effectively.

In closing, let me simply add my appreciation for your interest and work to preserve Jackson Hole, and my hope that we can continue to work together in this matter.

Sincerely,

ROBERT L. HERBST,
Assistant Secretary for
Fish and Wildlife and Parks.

My name is Buffy Hauge. I am one member of the large family that owns what has been known in this valley since 1929 as the Snake River Ranch.

I have the pleasure of presenting to you today a joint statement signed by fifty-some people who own land in Jackson Hole.

"We, the undersigned, representing the ownership of over 16,735 acres in Jackson Hole, strongly support the Scenic Area con-

cept. We feel this is the only realistic means of preserving the scenic foreground, wildlife habitat and ranching setting provided by the private lands in Jackson Hole and critically important to the surrounding federal holdings.

Although we do not all agree with all the provisions of the proposed Jackson Hole Scenic Area bill (S. 2162, H.R. 9135), we still strongly urge its adoption. With a few changes to make the bill better express what its authors clearly intended, we feel it will strike a fair balance between local and national interests in Jackson Hole.

We may also comment on the bill individually."

The 16,735 some acres these people represent constitute, by my rough count, about one third of the 50,000 some acres of undeveloped land in Jackson Hole, if you exclude from the gross private acreage lands within the Park, lands west of the Tetons, land in the Town of Jackson, developed land in Teton County and the riparian land whose ownership is still disputed by the Bureau of Land Management. The land the signers of this statement own lies in every major part of Jackson Hole except Spring Gulch. It includes places from Hog Island to Buffalo Valley, from the north fork of Fall Creek to the head of the Gros Ventre. Some of these people are cattle ranchers. Some have guest ranches. Some support their land through other work. Some of these people the current bill suits just fine and others are highly perturbed by the prospect of increasing the federal government's role in their lives but see no real alternative.

Mr. WALLOP. Mr. President, I make the following statement in support of the amendment I would have offered as a substitute.

Mr. President, I would like to take this opportunity to express my profound disappointment that the Energy and Natural Resources Committee has decided to move to delete title II, the Jackson Hole Scenic study area provision, from S. 2566.

My amendment would very simply restore a slightly modified title II Jackson Hole Scenic Area study provision to S. 2566. The House of Representatives has twice passed this study provision, first as title X of H.R. 12536, the omnibus parks bill, and recently as title II of this legislation. My amendment is the same as the House provision except for one change. The House provision provides $5 million for emergency acquisition of easements or lands in Teton County during the 1-year study period which it authorizes. My bill deletes the authorization for those emergency acquisition funds. There has been some concern in Teton County and here in Congress about providing these funds before the study is completed and Congress has a chance to see whether or not we want to create a Jackson Hole Scenic Area. Also there is some question as to whether or not these funds could be used to condemn lands during this study period. I have consulted with the residents and county commissioners of Teton County about this matter, and have concluded that it is probably best to delete the emergency acquisition authority and funding at this time. This of course makes any possibility of condemnation under this authority moot.

Mr. President, last September I introduced S. 2162, the Jackson Hole Scenic Area bill. The concept behind the legislation was conceived originally by the National Park Service, and developed by the landowners and local residents of Teton County, Wyo. who asked me to introduce the bill they developed. I strongly supported the legislation when I introduced it, and support it possibly even more strongly now. It sets forth a radically new and innovative concept for preserving private owned, nationally significant scenic lands through scenic easement acquisition. This approach to preservation was designed to protect the singular, esthetic values of the world-renowned Jackson Hole Valley, and to serve as a model for the future protection of other lands in America.

I support the concept of a Jackson Hole Scenic Area very strongly, and know many people in Teton County, the State of Wyoming, and across the country share my feelings on this subject. The chairman very graciously and at considerable inconvenience to himself agreed to chair a joint Senate-House field hearing this summer, which I attended and which I think was perhaps the finest discussion of any issue I have had the privilege of attending since I have been in the U.S. Senate. A number of valid questions were brought up at those hearings, questions about the extent of the need for this legislation, its cost, its effects on the land values and in Jackson Hole, and other important considerations. Because these questions should be answered before a scenic area is established, Representative RONCALIO of Wyoming introduced a modified version of the original Jackson Hole Scenic Area bill as part of the omnibus parks bill, on which it passed.

My amendment would, like the House provision, establish a nine-member Jackson Hole Scenic Area Commission, composed of Federal, State, and local representatives. This Commission would be directed to develop a proposed Jackson Hole Scenic Area plan which would evaluate the scenic, wildlife, and other natural qualities of the private lands in Jackson Hole and recommend ways to preserve them through State and local regulatory controls and Federal purchase of scenic easements, or development rights, and possibly a very small amount of land acquisition. Public hearings would be held, and the Secretaries of the Interior and Agriculture would review the proposed plan, which would be submitted to Congress within 1 year for review.

Mr. President, this legislation would complement existing efforts by the county to find ways to preserve the extraordinary scenic values in Jackson Hole. The county recently adopted a stringent land use plan which I am told is the most stringent regulatory effort in the northern Rockies. The county is conducting a growth control study which would incorporate growth control measures into the existing land use plan. The county developed this legislation, and I believe that a majority of the residents continue to firmly support it.

Mr. President, I want to emphasize once again that this provision authorizes only a study, which will be subject to public hearings, administration review, and which come back to and be reconsidered by Congress before any scenic area is established. I have talked at length to the members of the committee about this bill, and hope that with the changes I am proposing they will be able to accept it with the intention of reviewing it thoroughly next year.

Mr. President I would ask now to receive, if I may, some assurances from the distinguished chairman of the energy and Natural Resources Committee, that a matter of as major consequence as this to not only the State of Wyoming but to the Nation would have the committee's specific attention should such a bill be introduced in the next session of the Congress, assuming all of us are back, and the Lord be willing.

Mr. JACKSON. Mr. President, I gather the inquiry was directed to the junior Senator from Washington. Mr. President, I want to assure the distinguished junior Senator from Wyoming that when he introduces the legislation next year, as I understand his plan, we will consider the legislation very carefully.

It is not going to be shoved aside. I can give him that assurance, that there will be a hearing and the opportunity to consider the matter very carefully.

Mr. WALLOP. I thank my colleague from Washington.

I would only add that this is a bill which I was asked by local residents to introduce and which I personally support very strongly.

Since I introduced it, some local people have indicated opposition to it, and there have been some political circumstances which may or may not indicate feelings about it.

But after the elections, and if the community is still interested, it is the intention of the Senator from Wyoming to introduce this again. It is the intention of the Senator from Wyoming to push very hard that the bill be expedited, because, as the country well knows, there is not much time left before the remaining areas which need protection may well be developed. This legislation proposes one way in which those who own private land in Teton County can be compensated for the very rights which might otherwise be taken by acquisition by Grand Teton National Park if it chose to expand its boundaries, or by county zoning.

This is to avoid a taking, to provide the country with something of value, to provide the landowners with fair compensation, and to, hopefully, provide a way of doing it that all people will find fair and agreeable.

I hope I can count on the assurances of the committee in this regard.

The PRESIDING OFFICER. The time of the Senator from South Dakota has expired.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana seeks recognition.

Mr. ABOUREZK. Just 30 seconds.

The PRESIDING OFFICER. Without objection, for 30 seconds.

Mr. ABOUREZK. I could, like most managers of legislation, tell the Senator from Wyoming I will give it top priority

in the next Congress, but I do not think he would believe me.

I will say that I do know the distinguished chairman of the full committee does intend to give it top priority, and I am confident of that.

I thank the Senator for his interest and concern in this park area because I was up there and conducted the hearings with the Senator.

Mr. WALLOP. I thank my colleague.

I would only say that I thank him very deeply on behalf of myself and for committing future Congresses to behave.

Mr. ABOUREZK. I am happy to be able to do it.

The PRESIDING OFFICER. The Senator from Indiana.

UP AMENDMENT NO. 2080

(Purpose: To establish the Indiana Dunes National Lakeshore)

Mr. BAYH. Mr. President, I send to the desk an amendment on behalf of myself and my distinguished colleague (Mr. LUGAR) and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH), for himself and Mr. LUGAR, proposes an unprinted amendment numbered 2080.

Mr. BAYH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . INDIANA DUNES NATIONAL LAKESHORE

(a) the last sentence of the first section of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966, as amended (16 U.S.C. 460u), is amended by inserting immediately before "which map", the following: "including the areas identified on such map as 'Study Areas', except the area designated as 'II-A'."

(b) Section 4 of such Act as amended (16 U.S.C. 460 u-3), is amended to read as follows:

"SEC. 4. (a) The Secretary's authority to acquire property by condemnation shall be suspended with respect to all improved property located within the boundaries of the lakeshore during all times when an appropriate zoning agency shall have in force and applicable to such property a duly adopted, valid zoning ordinance approved by the Secretary in accordance with the provisions of section 4A of this Act.

"(b) The term 'improved property', whenever used in this Act, shall mean, in the case of improved property located within the areas identified as 'Study Areas', a detached, one family dwelling, construction of which was begun before July 1, 1977, in the case of improved property located within the boundaries delineated on a map identified as 'A Proposed Indiana Dunes National Lakeshore', dated September 1966, and bearing the number 'LNPNE-1008-ID', such a dwelling construction of which was begun before January 4, 1965, and in the case of any other improved property, located within the lakeshore, such a dwelling construction of which was begun before February 1, 1973; together with so much of the land on which the dwelling is situated, such land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on lands so designated. The amount of land so designated shall in every case be not more than three acres in area, and in making such designation the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed: *Provided*, That the Secretary may exclude from the land so designated any beach or waters, together with so much of the land adjoining such beach or waters, as he may deem necessary for public access thereto or public use thereof. All rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of such property in accordance with the purposes of this Act.

"(c) The Secretary shall be afforded the opportunity to purchase such improved property if the owner thereof desires to sell that property, before a sale to bona fide private party is consummated, except that such opportunity to so acquire shall terminate upon the expiration of the thirty-day period following the date of notification to the Secretary concerning an offer to purchase by such private party.

(c) Such Act is further amended by inserting immediately after section 4 thereof the following new section:

"SEC. 4A. (a) As soon as practicable after the enactment of this section, the Secretary shall issue regulations specifying standards for approval by him of zoning ordinances for the purposes of this Act. The Secretary may issue amended regulations specifying standards for approval by him of zoning ordinances whenever he shall consider such amended regulations to be desirable due to changed or unforeseen conditions. The Secretary shall approve any zoning ordinance and any amendment to any approved zoning ordinance submitted to him which conforms to the standards contained in the regulations in effect at the time of adoption of such ordinance or amendment by the zoning agency. Such approval shall not be withdrawn or revoked, by issuance of any amended regulations after the date of such approval, for so long as such ordinance or amendment remains in effect as approved.

"(b) The standards specified in such regulations and amended regulations for approval of any zoning ordinance or zoning ordinance amendment shall contribute to the effect of (1) prohibiting the commercial and industrial use, other than any commercial or industrial use which is permitted by the Secretary, of all property covered by the ordinance within the boundaries of the lakeshore; and (2) promoting the preservation and development, in accordance with the purposes of this Act, of the area covered by the ordinance within the lakeshore by means of acreage, frontage, and setback requirements and other provisions which may be required by such regulations to be included in a zoning ordinance consistent with the laws of the State of Indiana.

"(c) No zoning ordinance or amendment thereof shall be approved by the Secretary which (1) contains any provision which he may consider adverse to the preservation and development, in accordance with the purposes of this Act, of the area comprising the lakeshore; or (2) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under and any exception made to the application of such ordinance or amendment.

"(d) If any improved property, with respect to which the Secretary's authority to acquire by condemnation has been suspended according to the provisions of this Act is made the subject of a variance under or exception to such zoning ordinance, or is subjected to any use, which variance, exception, or use fails to conform to or is inconsistent with any applicable standard contained in regulations issued pursuant to this section and in effect at the time of passage of such ordinance, the Secretary may, in his discretion, terminate the suspension of his authority to acquire such improved property by condemnation.

"(e) The Secretary shall furnish to any party in interest requesting the same a certificate indicating, with respect to any property located within the lakeshore as to which the Secretary's authority to acquire such property by condemnation has been suspended in accordance with provisions of this Act, that such authority has been so suspended and the reasons therefor.".

(d) The first Sentence of section 5(a) of such Act, as amended (16 U.S.C. 460u-5), is amended to read as follows: "Except for owners of property within the area on the map referred to in the first section of this Act as area II-B, any owner or owners, having attained the age of majority, of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain the rights of use and occupancy of the improved property for noncommercial residential purposes for a term ending on his or her death or the death of his or her spouse, whichever occurs last, or for a term of twenty-five years, or such lesser term as the owner or owners may elect at the time of acquisition by the Secretary. In the case of owners of property within such area II-B, such owners shall have the same right or rights as that afforded other owners in the preceding sentence, if it is determined by the Secretary, on a case-by-case basis, and in consultation with State and local officials, that water pollution problems are not likely to occur as a result of the failure on the part of the Secretary to acquire such property. All rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of such property in accordance with the purposes of this Act.".

(e) Section 9 of such Act is amended by striking out "$60,812,100" and inserting in lieu thereof "89,812,100".

(f) Section 15 of such Act (16 U.S.C. 460u-14) is amended to read as follows:

"SEC. 15. (a) Within one year after the date of the enactment of this section, the Secretary shall submit, in writing, to the Committee on Interior and Insular Affairs and to the Committee on Appropriations of the United States Congress a detailed plan which shall indicate—

"(1) the lands which he has previously acquired by purchase, donation, exchange or transfer for administration for the purpose of the lakeshore, and

"(2) the annual acquisition program (including the level of funding) which he recommends for the ensuing five fiscal years.

"(b) It is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated by this Act, within six years after the date of enactment of this section.".

(g) Such Act is further amended by adding the following new section:

"SEC. 21. The Secretary, in consultation with the Secretary of Transportation, shall conduct a study of various modes of public access into and within the lakeshore, including roads, public transportation facilities, and nonmotorized access.

"(a) In carrying out the study, the Secretary shall utilize to the greatest extent practicable the resources and facilities of the organizations designated as clearinghouses under title IV of the Intergovernmental Cooperation Act of 1968 as implemented by Office of Management and Budget Circular A-95, and which have comprehensive planning responsibilities in the regions where the lakeshore is located. The Secretary

shall make provision for timely and substantive consultation with the Highway Department of the State of Indiana, local elected officials, and the general public in the formulation and the implementation of the study.

"(b) This study shall be completed and presented to the Congress no later than October 1, 1979.

"(c) The study shall address the adequacy of access facilities for members of the public who desire to visit and enjoy the lakeshore. Consideration shall be given to alternatives for alleviating the dependence solely on automobile transportation and resulting congestion, environmental impacts, and management difficulties. The study shall inventory the condition of roads in and out of the lakeshore, and the condition of the public transportation rolling stock. The study of public transportation facilities shall cover the distance from cities of thirty-five thousand population or more within fifty miles of the lakeshore. It shall further include the identification of routes, available facilities, and assets of transit operators within this area, and shall discuss their increase or decrease of passengers and their financial condition over the previous five-year period.

"(d) The study shall include proposals deemed necessary to assure equitable visitor access and public enjoyment by all segments of the population, including those who are physically or economically disadvantaged. It shall provide for retention of the natural, scenic, and historic values for which the lakeshore was established, and shall propose plans and alternatives for the protection and maintenance of these values as they relate to transportation improvements.

"(e) The study shall present alternative plans to improve, construct, and/or extend access roads, public transportation, and bicycle and pedestrian trails. It shall include accurate estimates of the costs of such alternatives, to be based upon statistical data available for similar expenditures, and shall discuss existing and/or proposed sources of funding for the implementation of the recommended plan alternatives.

"(f) There is hereby authorized to be appropriated not to exceed $250,000 for this study.".

Mr. BAYH. Mr. President, the amendment which I have sent to the desk on behalf of my colleague and myself would be a major step in the 60-year-old process of finishing the full, original plan of the Indiana Dunes Park.

About a half-century ago, the State of Indiana made the first effort and established a State park.

In 1966 the Congress of the United States established for the first time a national lake shore, some 500 acres.

We in the State of Indiana and the country are indebted to the late Paul Douglas and the distinguished junior Senator from Washington (Mr. JACKSON) without whose leadership we would not have had that park bill.

The first phase was followed in 1976 with a second phase of about 3,600 acres. The measure which we will recommend now to the Senate would annex two of the three study areas established in the 1976 legislation, approximately 700 acres.

It brings to the park the Beverly Shores Island, which is right in the middle of the park. The island has some homes and about 500 additional undeveloped acres. There is also a strip of land along Highway 12.

For those who have not had a chance to go to the dunes, it is a beautiful, rolling, scenic, God-provided area.

It is a parkland now, but Northwest Indiana is one of the most rapidly growing industrial areas in America. We want to finish filling out the park so we can have a total environment of a park and not have Kentucky Fried Chicken stands and McDonald's——

The PRESIDING OFFICER. The Chair would ask that the Senate be in order in the remainder of the session. It would be appreciated if Senators could be heard.

The Senator from Indiana.

Mr. BAYH. And Shakey Pizza Parlors in the middle of some of the most wonderful, beautiful creations of nature.

The additions we propose have been supported by the Park Service and by Interior. To be honest with my colleagues, this was completely the case until 9 o'clock the night before the hearings were held in August. Then a decision was made by OMB, and without any notice to any of us who were supporting the park, that instead of supporting expansion enthusiastically, the administration would delay the decision on it.

I suggest if we delay, it will cost more; and if we delay, every month that goes by—having been there, I know—we are having people move in and building the kind of commercial structures that are totally incompatible with a national park.

The PRESIDING OFFICER. The time of the Senator from Indiana has expired.

The Senator has 4 minutes on the amendment.

Mr. ABOUREZK. Does Senator LUGAR need some time?

Mr. BAYH. I think it is critical that Senator LUGAR have time.

Mr. JACKSON. Mr. President, I ask unanimous consent that the distinguished junior Senator from Indiana have 5 minutes, and that 5 minutes be allowed for the other side.

The PRESIDING OFFICER Without objection, it is so ordered.

The Senator from Indiana.

Mr. LUGAR. Mr. President, I deeply appreciate the courtesy of the distinguished Senator from Washington.

I join my colleague, the senior Senator from Indiana, in his eloquent plea for the acquisition of land that is very important to our State, and we believe important to the country.

The Indiana Dunes National Lakeshore Park is as beautiful as the senior Senator from Indiana has described it.

The importance of this amendment is that of simple justice and equity for the people of the Beverly Shores community, of 652 acres, in the midst of a national park. The problems for these people in terms of their local government, and of their property are immense. Many of them wish to think of how they are going to meet the future and have proper sales of property over the course of time—at least a proper life as they see it there.

They are in a quandary. Frankly, the senior Senator from Indiana and the junior Senator from Indiana have been in a quandary, too, with constituents in this condition.

We believe it is in the best interests of environmental affairs in northern Indiana and the enjoyment of the park by the people of the United States of America to complete the two aspects of the park that this amendment addresses. They are the problems of the residents of Beverly Shores and the strip of land along Highway 12.

I plead with my colleagues for a project which is extremely important to our State, and we believe it is extremely important to the development of this great national park. We believe this request for expansion of the park comes at a time when it will be least expensive, and the moment for action is timely.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. LUGAR. I yield.

Mr. PERCY. Mr. President, I join my distinguished colleagues from Indiana.

This is a moment when my predecessor, Paul Douglas, should be on the floor. Of all the people I have known throughout the course of my life who have loved the Indiana dunes, none loved them more than the senior Senator from Illinois, Paul Douglas. He spent a great deal of time in that area. He walked over every square foot of it.

I went to the dunes with my Boy Scout troop when I was a boy, as Boy Scout troops from Chicago do year in and year out.

This is one of the great wonders of the Midwest. Compared with other States, we have little in the way of natural resources. We have Lake Michigan and the Indiana dunes.

For the millions of people living within the metropolitan Chicago area, the Indiana dunes provide a retreat which is within easy driving distance. The people in Chicago do not have the mountains of Colorado or the Adirondacks, but we do have the Indiana dunes. This effort to add additional acres to the lakeshore is not only a sound investment but also it will protect the area from over development.

I commend my distinguished colleagues. I know I speak on behalf of Senator STEVENSON, who feels equally strongly about this measure, and I recommend the adoption of the amendment.

Mr. LUGAR. I appreciate the comment of the Senator from Illinois, as well as his tribute to former Senator Paul Douglas. Everybody who loves the dunes recognizes the value of the tribute the senior Senator from Illinois has paid.

Mr. President, I yield the floor.

Mr. JACKSON. Mr. President, I have been long interested in the Indiana dunes and worked with the late Paul Douglas, who devoted a great part of his life in public affairs to the cause of recreation and conservation. This was one of the areas of top interest to Senator Paul Douglas.

I have some serious reservations about this amendment, but I certainly will agree to let it go to conference.

I point out that the acquisition cost is $30 million to $35 million. The area we are talking about, Beverly Shores Island area, is a real problem in terms of park administration. They have some of the nicest homes in the area, and that is what we are really talking about.

The Park Service has opposed granting of the so-called zoning authority. The reason is that the zoning authority

had been deleted because it worked against the acquisition of the in holding, and there will not be any real public recreation unless the houses are acquired, so that there will be areas available for public use.

We are talking about a residential area here, Mr. President, and I have serious reservations about the authority being requested in this amendment in terms of zoning.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. JACKSON. I yield.

Mr. JOHNSTON. Can the Senator tell me what the cost per acre of Beverly Shores would be?

Mr. MARK O. HATFIELD. $35 million.

Mr. LUGAR. 652 acres.

Mr. JACKSON. 652 acres.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. BAYH. Apparently, we are looking at different cost figures. The Park Service advised us that it was $29 million, which still makes it a very expensive park per acre. But 500 of the 650 acres do not have any houses. Those 500 acres will be commercially developed, if we do not act.

Mr. JACKSON. These were the costs as of 1976, and we all know that real property values are going up, depending on the location of the area, at astronomical rates. But it is over $50,000 an acre.

As the one who authored the Indiana dunes matter in the Senate, I have a deep interest, and I want to do the right thing. But I do want to call the attention of the Senate to the amount of money involved.

This is what disturbs me: You are not going to acquire the inholdings; you are going to protect those inholdings; and those inholdings will stay there.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. JOHNSTON. If we are going to pay $50,000 an acre, do we get the homes right away? We pay $50,000 an acre, but do we get the homes right away?

Mr. JACKSON. We do not get fee title.

Mr. JOHNSTON. And we pay $50,000 for the right to get the property?

Mr. JACKSON. I think it is the Cape Cod formula, as I recall, is it not?

Mr. BAYH. I think the Senator from Louisiana knows the answer to that question, because he was the very able chairman of the subcommittee before, and we had a little difference of opinion on this.

This is exactly the same formula applied to several other parks. When you have a park with a lot of people living in the area and you want to provide recreation facilities, you have a problem.

I point out to the Senator from Washington that no other Member of this body has done more to get us where we are right now than has the Senator from Washington. What I am saying now is not in any way to be interpreted as a lack of gratitude, but the original park bill, which he and Paul Douglas and BIRCH BAYH and all of us were trying to get passed originally, had this particular property in it. We wanted that in there; and because we let it go this long, it has cost a lot more.

Mr. JACKSON. Mr. President, it is obvious that we have a real problem, and I want the Senate to understand.

I just checked with staff, and the provision in terms of acquisition would be either 25 years or life tenancy before there would be fee title. This does present a serious problem. However, in the interest of moving the overall legislation, the omnibus bill, I shall not ask for a rollcall vote on this.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. ABOUREZK. I yield myself 1 minute.

Mr. President, we had a hearing on this amendment, but we did not mark it up in the committee. It is an extremely controversial amendment, and the legislation itself is very controversial.

I think the committee needs and deserves more time to consider this thing before anything happens on it.

I yield back the remainder of my time.

Mr. BAYH. Mr. President, will the Senator yield me 1 minute?

Mr. ABOUREZK. I yield.

Mr. BAYH. I thank the Senator for the courtesy he has shown us, and I thank the Senator from Washington for the tremendous shot in the arm he gave to get the Indiana Dunes National Lakeshore off the ground originally.

I think the Senator knows that, absent a 9 p.m. decision by the Budget Bureau, the Park Service, and Interior both supported acquisition of these parcels. They are not against this proposal. They suggest it should be deferred, and we all know that when it is deferred the price goes up.

I appreciate the courtesy of my good friend from South Dakota.

Mr. ABOUREZK. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

The PRESIDING OFFICER. Are there further amendments to be proposed?

Mr. ABOUREZK. Wait just a minute.

UP AMENDMENT NO. 2081

Mr. CHILES. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) for himself and Mr. STONE proposes an unprinted amendment numbered 2081:

At the end of the House engrossed amendment, add the following new title:

TITLE

(a) (1) In recognition of the need for and desirability of protecting the St. Johns and Oklawaha River corridors in Florida as a unit or units of the National Park System, the Secretary of the Interior (hereinafter referred to as the "Secretary") in cooperation with the Secretary of Agriculture where national forest lands are involved, shall conduct a feasibility/suitability study to determine a suitable boundary for such unit or units of the System. Such study shall be conducted in consultation with appropriate units of local government concerned.

(2) A report of the study conducted pursuant to subsection (a) of this section shall be submitted by the Secretary to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than one year following the date on which funds are appropriated for the purpose of the study. Such report shall include a map or other description of the natural, scenic, and cultural features within the boundary, and the recommendation of the Secretary with respect to such further legislation as may be appropriate.

(b) (1) Authority for further construction of a high-level lock barge canal from the Saint Johns River across Florida to the Gulf of Mexico in accordance with Public Law 675, Seventy-seventh Congress (56 Stat. 703), is terminated on the effective date of this section.

(2) The Secretary of the Army, acting through the Chief of Engineers, is authorized to operate and maintain the existing facilities and their appurtenant lands of the Cross-Florida Barge Canal project as he determines to be necessary, pending further disposition by law of the project and its facilities and lands.

(3) The boundary of the Ocala National Forest, Florida, is hereby extended to include the lands north and west of the Oklawaha River as shown on the map dated July 1978, on file with the Chief of the Forest Service, Department of Agriculture, Washington, District of Columbia, and available to the public in the office of the appropriate regional forester, forest supervisor, and forest ranger.

(4) Within the boundary of the Ocala National Forest as extended by paragraph (3) of this subsection, lands or interests in lands and improvements owned by the United States and administered by the Corps of Engineers, Department of the Army, shall be transferred to the Secretary of Agriculture to be administered and made a part of the Ocala National Forest, Florida, when the Secretary of the Army deems such action to be appropriate, but not later than the end of the fiscal year ending September 30, 1980: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers, may operate and maintain the existing facilities of the Cross-Florida Barge Canal project within the extended boundaries of the Ocala Forest pending further disposition.

(5) The Secretary of Agriculture shall acquire lands and interests in lands held on the effective date of this section by the Canal Authority of the State of Florida within the boundary of the Ocala National Forest, as extended, with donated or appropriated funds, by purchase, gift, or exchange. For acquisition of lands or interests in lands held by the Canal Authority of the State of Florida, the Secretary of Agriculture shall pay not less than the purchase price paid by the Canal Authority plus interest compounded annually at the average rate at which the Authority borrowed funds for project acquisition purposes over the total period of financial commitment by the Authority.

(6) There are authorized to be appropriated beginning with the fiscal year ending September 30, 1980, such sums as may be necessary to carry out the provisions of this subsection.

(c) There is authorized to be appropriated such sum as may be necessary to carry out the provisions of subsection (a) of this section.

(d) The provisions of this section shall take effect on July 1, 1979.

Mr. CHILES. Mr. President, this amendment provides for the resolution of a long-standing situation in the State of Florida, namely, the disposition of the Cross Florida Barge Canal.

The Barge Canal project has a long and difficult history in Florida. Terminating the project is long overdue. The majority of Floridians agree that the canal should not be built and that its

adverse impact outweighs any possible remaining benefits.

The President in his environmental message of May 23, 1977, called for termination of the Barge Canal project.

The Governor and Florida cabinet have recommended against completion of the canal.

Further, the Army Corps of Engineers, after a thorough reexamination of the project, giving consideration to all environmental and economic factors, has concluded that completion is not warranted.

It is clear that the Barge Canal is not a viable undertaking on either environmental or economic grounds.

This amendment provides for a study of the St. Johns and Oklawaha River corridors in Florida to determine the need for protecting these lands as possible units of the National Park System.

Second, it terminates authority for further construction of the Cross Florida Barge Canal.

Third, it provides for the transfer of canal lands with the Ocala National Forest to the administration of the Department of Agriculture.

I would point out that the second and third sections of this amendment have been considered and reported by the committees of jurisdiction: The Environment and Public Works Committee and the Agriculture Committee. These two provisions have already passed the Senate as S. 3337. Thus the only subject not already acted upon by the Senate is the authorization for a study.

Mr. President, it is patently clear that construction of this canal would not be a prudent expenditure of taxpayers dollars and that it will not be built. If the canal lands are to be retained for public usage it is necessary that Congress decide the question and protect the lands until their final use can be determined.

On behalf of myself and Senator STONE we wish to move this amendment.

I point out that this amendment has already passed the Senate as S. 3337, passed unanimously in the Senate. Thus, the only subject not already passed upon by the Senate is the authorization for a study.

This plan calls for the deauthorization of the Cross Florida Barge Canal and a study.

We have discussed this with the staff, and I am prepared to yield back my time.

Mr. ABOUREZK. Mr. President, I say we have discussed the amendment. We accept it and we ask that it be adopted.

● Mr. STONE. Mr. President, I rise in support of this amendment which would deauthorize the Cross-Florida Barge Canal. The Senate has already passed this measure and it has the support of the administration and the Governor and cabinet of the State of Florida.●

Mr. JACKSON. Vote.

Mr. ABOUREZK. I yield back the remainder of my time.

The PRESIDING OFFICER. The quetion is on agreeing to the amendment of the Senator from Florida.

The amendment was agreed to.

(Mr. BUMPERS assumed the chair).

● Mr. HOLLINGS. I rise in support of the committee amendment which authorizes the Department of Interior to conduct a feasibility study to include historic Camden, S.C., within the National Park Service.

A major Revolutionary War site, historic Camden has long been maintained by an active group of volunteers, led by M. Hope Boykin, who now needs the resources and expertise of the Park Service to carry through the fine work that is currently being done and to complete the story of the war for independence which is being told at Kings Mountain, Cowpens, and Ninety Six.

I especially want to thank the distinguished chairman of the Parks Subcommittee, Mr. ABOUREZK, for accepting my amendment and recognizing the need for the Park Service to complete development of this historic Revolutionary War site.

I have received strong endorsements for this initiative from Dr. Charles Lee of the South Carolina Department of Archives and History, Mr. Austin Sheheen, Jr. of the Kershaw County Council and Mrs. Hope Boykin of the Camden Historical Commission.●

● Mr. BENTSEN. Mr. President, it is my pleasure to rise in support of the proposed San Antonio Missions National Historical Park. I have introduced legislation to establish this park, and I enthusiastically endorse its inclusion in this bill.

In the midst of what often seems to be a period of incomprehensible development and rapid historical change, the San Antonio Missions provide a marvelous example of the architectural designs of an important and colorful time in our Nation's past. The San Antonio Missions complex reveals to us the beginnings of civilization in the Southwestern region of our country, and in terms of our Nation's heritage the missions can be compared in importance to the long-recognized national shrines of our eastern seaboard.

The proposed part would include four missions in the southern part of San Antonio which are noted for their outstanding historical and architectural value. In addition to the missions, the park would include an associated irrigation system which provides an extraordinary example of 18th century engineering. Its handmade acequias, the great stone aqueduct, and the uniquely constructed concave dam continue to irrigate farm and ranch lands today just as they did in the 1700's.

The missions acted as a primary tool of civilization in the area, serving not only as religious institutions, but also as fortresses for missionaries and settlers. Through these missions Spain conveyed to the new world its religion, culture, and way of life—influences which remain to a significant degree in the Southwestern region of our Nation today.

Recognition of the national significance of the missions has been given through the designation of Mission Concepcion as a National Historic Landmark and Mission San Jose as a National Historic Site. The Espada Dam, Aqueduct and Acequia have also been designated National Historic Landmarks. In addition, the San Juan and Espada Missions are listed on the National Register of Historic Places.

However, these preliminary steps which we have taken to protect portions of these historical treasures are proving to be inadequate. Unfortunately, the historical integrity of the mission network as a whole is in jeopardy because of the failure to protect the system against physical deterioriation and the growth of commercial construction in the area. This park designation would halt this creeping destruction of one of our priceless national treasures. I have been privileged to live in a time when I could see and enjoy these historic missions. It would be a short-sighted folly for us now, through neglect and inaction, to allow the ravages of time and development to deny future generations of Americans the same rights and privileges which we have enjoyed.

I am not alone in this belief, Mr. President. Concern over the need for protection of the missions and support for the creation of the National Historical Park is very strong at the local level, as evidenced by the success of the field hearing conducted on this issue by the House National Parks Subcommittee.

Further, in its suitability-feasibility study completed in 1975, the National Park Service concluded that each of these historic structures—four missions and the dam, acequia, and aqueduct—has historical and architectural significance of exceptionally high order. When taken as a group, as proposed here, the study concluded that their significance is even more outstanding.

Mr. President, I have strongly supported this proposal since its inception. Many hours of careful work and study have gone into this proposal, particularly in drawing the boundary lines so as to have the least possible impact on residents of the area. Those residents who are inside the park boundaries will not be displaced, but will be permitted to remain in their homes.

In addition, the park has been structured so that no money will be spent to acquire lands or property owned by the church or by the State or any of its subdivisions. All such property which is to be transferred to the Federal Government will be acquired by donation only.

Mr. President, I hope that my colleagues will agree with me that this Nation's future generations deserve to inherit the legacy of our past embodied in these unique missions. They are continuing symbols of the work and dedication that built the Southwest, and in my opinion deserve the finest possible preservation, treatment, and interpretation, that a national park would provide.

The PRESIDING OFFICER. Are there further amendments to be proposed?

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the Senate concur in the amendment of the House to S. 2566 with amendments of the Senate as a substitute therefor and request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Chair appointed Mr. JACKSON, Mr. ABOUREZK,

Mr. METZENBAUM, Mr. CHURCH, Mr. JOHNSTON, Mr. BUMPERS, Mr. MATSUNAGA, Mr. ANDERSON, Mr. LAXALT, Mr. MCCLURE, Mr. WEICKER, and Mr. MARK O. HATFIELD as conferees on the part of the Senate.

Several Senators addressed the Chair.

Mr. ABOUREZK. May we have third reading first?

The PRESIDING OFFICER. Action has been completed on the bill.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HANSEN. Mr. President, if the majority leader will yield for an observation, I was present and I voted present on this last motion.

Mr. ROBERT C. BYRD. Mr. President, before I intercede, I wish to yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I thank the distinguished majority leader for yielding.

Mr. President, I rise only to observe that this legislation contains within it provisions for urban parks of the kind that makes it a landmark in the history of legislation in this Congress on that subject, and as a representative of the State of New York I express my thanks to all those involved. They are friends of our city and State, and we do very much appreciate it.

NATIONAL PARKS AND RECREATION ACT OF 1978

Mr. ABOUREZK. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 791.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 791) to authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho.

(The amendment of the House is printed in the RECORD of October 4, 1978, beginning at page 33571.)

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK and Mr. CHURCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. ABOUREZK. I have a committee amendment.

The PRESIDING OFFICER. The Senator from South Dakota.

UP AMENDMENT NO. 2082

Mr. ABOUREZK. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an unprinted amendment numbered 2082.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend the text as follows:

1. Delete Sec. 301(4) in its entirety.

2. Amend Sec. 301(12) by adding the following new sentence at the end thereof:

"Furthermore, not withstanding any other provision of law to the contrary, the Secretary may, if he determines that to do so will not have a substantial adverse affect on the preservation of the fossil and other resources within the remainder of the monument, convey approximately 60 acres acquired by the United States for purposes of the monument in exchange for non-Federal lands within the boundaries of the monument, and, effective upon such convevance, the boundaries of the monument are hereby revised to exclude the lands conveved."

3. Amend Sec. 309(a) by deleting "570" and inserting in lieu thereof, "450".

4. Amend Sec. 309(b) by inserting the following new proviso at the end thereof:

"Provided further, that the Secretary is directed to study the possible reconstruction of the historic remains of Ft. Union, and the Secretary is further directed to transmit to the Congress, within one year of the enactment of this bill, a recommendation on the reconstruction of the Fort based on historic documentation."

5. Delete Section 314(h) in its entirety and insert the following in its place:

"(h) The Congress recognizes that the Mineral King Valley area has outstanding potential for certain year-round recreational opportunities, but the development of permanent facilities for downhill skiing within the area would be inconsistent with the preservation and enhancement of its ecological values."

6. Amend Sec. 315(c) by deleting "$7,000,000" and by inserting in its place "$13,000,000".

7. Delete Sec. 322(b) in its entirety, and inserting in its place the following new subsection:

"(b) The authority of the Secretary to condemn undeveloped tracts within the Dune District as depicted on map entitled 'Fire Island National Seashore' numbered OGP-0004 dated May, 1978, is suspended so long as the owner or owners of the undeveloped property therein maintain the property in its natural state. Undeveloped property within the Dune District that is acquired by the Secretary shall remain in its natural state."

8. Delete Section 502 in its entirety and insert the following new section:

SEC. 502. (a) The Congress finds that—

(1) the Pinelands area in New Jersey, containing approximately 1,000,000 acres of pine-oak forest, extensive surface and ground water resources of high quality, and a wide diversity of rare plant and animal species, provides significant ecological, natural, cultural, recreational, educational, agricultural, and public health benefits;

(2) there is a national interest in protecting and preserving these benefits for the residents of and visitors to the area;

(3) a primary responsibility for protecting and enhancing these benefits resides with the State of New Jersey and the various local units of government having jurisdiction over the area;

(4) in view of the longstanding Federal practice of assisting the States in creating, protecting, preserving, and enhancing areas of significant regional and urban importance, and in view of the national significance of this resource, the Federal Government has an interest in assisting the State of New Jersey and its local units of government in fulfilling their responsibilities and in avoiding adverse Federally approved or assisted impacts before these responsibilities can be undertaken;

(5) the State of New Jersey and its local units of government have authority to prevent or minimize adverse uses of the land and water resources of the Pinelands area and can, to a great extent, protect the health, safety, and general welfare by the use of such authority; and

(6) there is a demonstrated need to protect, preserve and enhance the land and water resources of the Pinelands area through a new program which combines the capabilities and resources of the local, State and Federal governments and the private sector and provides an alternative to large-scale direct Federal acquisition and management in cases where such acquisition and management is inappropriate.

(b) The purposes of this section are—

(1) to protect, preserve and enhance the significant values of the land and water resources of the Pinelands area;

(2) to encourage and assist the State of New Jersey and its units of local government in the development of a comprehensive management plan for the Pinelands area in order to assure orderly public and private development in the area consistent with the findings of this section;

(3) to provide, during the development of this comprehensive plan, Federal financial assistance for the acquisition of lands in the Pinelands area that have critical ecological values which are in immediate danger of being adversely affected or destroved;

(4) to encourage and assist the State and its units of local government in developing a governmental mechanism to implement this comprehensive plan, and to provide Federal financial assistance for the acquisition of lands consistent with the comprehensive plan;

(5) to encourage adequate coordination of all government programs affecting the land and water resources of the Pinelands area.

(c) There is hereby established the Pinelands National Reserve which shall consist of the approximately 1,000,000-acre generally depicted on the map entitled "Pinelands National Reserve Boundary Map" numbered NPS/80,011 A and dated September 1978. Within the Pinelands National Reserve, there is hereby established the Federal Project Review Area, which shall consist of the approximately 486,000 acre area also depicted on the map. The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, and in the offices of the State of New Jersey planning entity established pursuant to subsection (d), and in locations throughout the Pinelands National Reserve as determined by the planning entity.

(d) Within thirty days after the date of enactment of this section, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall request the Governor of the State of New Jersey to establish, within ninety days of such request, a planning entity to develop a comprehensive management plan for the Pinelands National Reserve. In order to carry out the purposes of this section, such planning entity shall be composed of fifteen members to be appointed as follows: one member appointed by the Secretary; one member from each of the seven counties in the Pinelands National Reserve to be appointed by the respective governing bodies of each county; and seven members to be appointed by the Governor. The membership of the planning entity shall include residents of the Pinelands National Reserve who represent economic activities such as agriculture in the area, as well as residents of New Jersey who represent conservation interests. The Secretary shall provide technical assistance and grants to the State for the development of the plan or revisions thereof: *Provided*, That such grants shall not exceed 75 percent of the cost of developing the plan, shall be made only upon application of the Governor, on behalf of the planning entity, and shall be

subject to such other conditions as the Secretary may deem appropriate to assure State and local interim protection of the area.

(e) During the development of the management plan, the planning entity shall:

(1) consult with appropriate officials of any local government or State or Federal agency which has jurisdiction over lands and waters within the area;

(2) consult with the officials of any local government which has jurisdiction over lands and waters within areas delineated in accordance with subsection (f)(2)(B);

(3) consult with interested professional, scientific and citizen organizations;

(4) consult with a citizens advisory committee which may be established by the Governor; and

(5) conduct public hearings at places within the area, and at such other places as may be appropriate, for the purpose of providing interested persons with an opportunity to express their views with respect to matters covered by the management plan.

(f) The comprehensive management plan for the Pinelands National Reserve shall include, but need not be limited to—

(1) A resource assessment which:

(A) determines the amount and type of human development and activity which the ecosystem can sustain while still maintaining the overall ecological values described in this section with special reference to (i) ground and surface water supply and quality; (ii) natural hazards, including fire; (iii) endangered, unique and unusual plants and animals and biotic communities; (iv) ecological factors relating to the protection and enhancement of blueberry and cranberry production and other agricultural activity; (v) air quality; and (vi) other appropriate considerations affecting the ecological integrity of the area; and

(B) includes an assessment of scenic, aesthetic, cultural, open space, and outdoor recreation resources of the area together with a determination of overall policies required to maintain and enhance these resources.

(2) A map showing the detailed boundary of the Pinelands National Reserve, such map to delineate:

(A) major areas within the boundary which are of critical, ecological importance;

(B) major areas and resources adjacent to the boundary that have significance to the ecological integrity of the Pinelands National Reserve; and

(C) areas of scenic, open space, cultural and recreational significance.

(3) A land use capability map and a comprehensive statement of policies for land use management of the area which:

(A) consider and detail the application of a variety of land and water protection and management techniques, including but not limited to, zoning and regulation derived from State and local police powers, development and use standards and permit systems, acquisition of conservation easements and other interests in land, public access agreements with private landowners, purchase of land for resale or lease-back, fee acquisition of public recreation sites and ecologically sensitive areas and any other method of land and water protection and management which will help meet the goals and carry out the policies of the management plan;

(B) include a policy for the use of State and local police power responsibilities to the greatest extent practicable to regulate the use of land and water resources in a manner consistent with the purposes of this section; and

(C) recognize existing economic activities within the area and provide for the protection and enhancement of such activities as farming, forestry, proprietary recreational facilities, and those indigenous industries and commercial and residential developments which are consistent with the findings and purposes of this section.

(4) A coordination and consistency component which details the ways in which local, State and Federal programs and policies may best be coordinated to promote the goals and policies of the management plan, and which details how land, water, and structures managed by governmental or nongovernmental entities in the public interest within the area may be integrated into the management plan.

(5) A public use component including, among other items, a detailed program to educate the public concerning appropriate uses of the area.

(6) A financial component, together with a cash flow timetable, which:

(A) details the cost of implementing the management plan, including, but not limited to, payments in lieu of taxes, general administrative costs, and any anticipated extraordinary or continuing costs; and

(B) details the sources of revenue for covering such costs, including, but not limited to, grants, donations and loans from local, State, and Federal departments and agencies, and from the private sector.

(7) A program to provide for the maximum feasible local government and public participation in the management of the Pinelands National Reserve.

(8) A program for State and local governmental implementation of the comprehensive management plan in a manner that will insure the continued, uniform, consistent protection of this area in accord with the purposes of this section.

(9) In conjunction with existing State programs and plannning processes, a plan to implement the provisions of the Clean Water Act and the Safe Drinking Water Act which pertain to the surface and ground waters of the Pinelands National Reserve.

(g)(1) The State of New Jersey, through the planning entity, shall adopt and submit to the Secretary a comprehensive management plan within eighteen months after the date that funds are first provided for its preparation under subsection (d). In the event the State fails to submit the plan within such time period, the Secretary may obtain reimbursement or offset from the State of all Federal funds previously granted under this section. The Secretary shall, within 90 days after the date the plan is submitted to him, either approve or disapprove the plan. Should the Secretary fail to act on the proposed plan within 90 days, the plan shall be regarded as approved. Upon approval, the Secretary shall submit the plan to the Congress for a period of 90 days prior to implementation.

(2) In determining whether or not to approve the management plan, the Secretary shall consider whether:

(A) the planning entity has afforded adequate opportunity including public hearings, for public and governmental involvement in the preparation and review of the plan, and whether such review and comment thereon were considered in the plan or revision as presented to him;

(B) he has received adequate assurances from appropriate State officials that the recommended implementation program identified in the plan will be initiated within a reasonable time after the date of approval of the plan and such program will insure effective implementation of the State and local aspects of the plan;

(C) provision is made for the participation of a Federal representative in the implementation program;

(D) the plan requires the exercise of police power responsibilities to the greatest extent practicable to regulate the use of land and water resources in a manner consistent with the purposes of this section;

(E) the plan, if implemented, would adequately protect the significant natural, ecological, agricultural, scenic, cultural and recreational resources of the Pinelands National Reserve and, consistent with such protection, provide adequate and appropriate outdoor recreational opportunities and economic activities within the area;

(F) the plan provides for the Governor of the State of New Jersey to exercise effective and continuing oversight over its implementation; and

(G) after consultation with the Secretary of Defense, the national defense mission of the military installations within, contiguous or adjacent to the Pinelands National Reserve has been adequately provided for.

(3) If the Secretary disapproves the management plan or a revision thereof, he shall, within 60 days after the date of such disapproval, advise the planning entity in writing of the reasons therefor, together with his recommendations for revision. The State of New Jersey, through the planning entity shall, within 120 days after receipt by the planning entity of notification of such disapproval, revise and resubmit the plan to the Secretary who shall approve or disapprove a proposed revision within 60 days after the date it is submitted to him. Should the Secretary fail to act on a proposed revision within 60 days, the revision shall be considered as approved.

(4) The Secretary shall consider a plan revision in accordance with the procedure set forth in paragraph (2). Such revisions must be consistent with the purposes of this section.

(5) In the event that the planning entity fails to obtain approval of the plan by the Secretary within thirty-six months after the date funds are first provided under subsection (d) for development of the plan, the Secretary shall terminate all Federal assistance for and participation in the development of such plan, and may obtain reimbursement or offset from the State of New Jersey of all Federal funds previously granted under this section.

(6) The Secretary shall provide technical assistance for and monitor at periodic intervals the implementation of the approved management plan. A local jurisdiction or the State shall obtain the approval of the Secretary prior to any modification of the approved plan. The Secretary shall consider a plan revision in accordance with the procedure set forth in paragraph (2). Such revisions must be consistent with the purposes of this section. Any jurisdiction that implements changes to the approved management plan, or adopts or acquiesces in changes to laws, regulations, or policies adopted to implement such plan, without approval of the Secretary, may be liable for reimbursement or offset of all Federal funds previously granted to it under this section without regard to such additional terms and conditions or other requirements of law that may be applicable to such grants.

(h)(1)(A) During the development of the management plan, the Secretary is authorized to make grants to the State of New Jersey for the acquisition of lands and waters or interests therein within the Pinelands National Reserve that he determines, in consultation with the State planning entity, have critical ecological values which are in immediate danger of being adversely affected or destroyed.

(B) The grants authorized by subsection (h)(1)(A) together with the grants made under paragraph (4) of this subsection, shall (i) be made in a manner consistent with the requirements of the Land and Water Conservation Fund Act; (ii) not exceed 75 percent of the total cost of all property acquired by the State pursuant to this subsection; (iii) be supplemental to any other Federal financial assistance for any other program; and (iv) be subject to such addi-

tional terms and conditions as the Secretary may deem necessary to effectuate the purposes of this section.

(2) In the event the State elects not to make acquisitions as authorized under subsection (h)(1), the Secretary, during the development of the management plan, is authorized to acquire such lands, waters or interests therein by donation, purchase with donated or appropirated funds, exchange, or otherwise, and to administer such property under the laws generally applicable to units of the National Park System or National Wildlife Refuge System in a manner to carry out the purposes of this section.

(3) After his approval of the management plan, the Secretary (A) is authorized to convey property acquired pursuant to subsection (h)(2) to State or local authorities in accordance with the management plan, under such terms and conditions as he may deem appropriate, which shall include (i) a requirement that where the Secretary transfers land acquired with appropriated funds, the State or local government shall repay not less than 25 percent of the cost of such lands to the Secretary under such terms and conditions as he may deem appropriate, and (ii) a retention of a right of reversion of title to the United States, and (B) shall accept from the State those lands acquired pursuant to subsection (h)(1), which are identified in the management plan as being appropriate for Federal ownership and management: *Provided*, that the Secretary shall reimburse to the State such sums as are necessary to (i) cover 100 percent of the original cost of acquisition as to each parcel of land so transferred and (ii) assure that as to the remainder of lands acquired pursuant to subsection (h)(1) not transferred under this subsection, the total Federal land acquisition cost does not exceed 75 percent of the purchase price of such lands.

(4) Upon approval of the management plan, the Secretary is authorized to make grants for the acquisition within the Pinelands National Reserve of lands and waters or interests therein in a manner consistent with the management plan. All applications for such grants shall be made within ten years from the date of implementation of the management plan.

(i) During the development of the management plan for the Pinelands National Reserve, all applications for Federal assistance under programs covered by Part I of OMB Circular A-95 and direct Federal actions covered by Part II of OMB Circular A-95 within the Federal Project Review Area generally depicted on the map referred to in subsection (c) which involve the construction of housing, industrial parks, highways, or sewage or water treatment facilities shall be reviewed by the planning entity, upon receipt from the New Jersey State A-95 Clearinghouse (hereinafter referred to as the Clearinghouse). If the planning entity finds that such application or proposed action would have no adverse impact on the resources and ecological values of the Federal Project Review Area, the planning entity shall so notify the Clearinghouse. If the planning entity does not so find, Congress authorizes the planning entity to notify the Clearinghouse and other affected parties that such application or proposed action shall not proceed pending further review, and the planning entity shall forward such application or notice of proposed action to the Secretary. Any such application or proposed action which the Secretary determines would be significantly adverse to the purposes of this section shall not proceed while the management plan is being developed. The review process established under this subsection shall begin upon the appropriation of funds under subsection (k).

(j) Nothing in this section shall be construed to limit or prohibit any Federal action ordered by a court of competent jurisdiction or directed by a Federal agency as essential for the protection of public health or safety, for national security or defense, or for the maintenance of environmental values within the Pinelands National Reserve or the Federal Project Review Area.

(k) There is authorized to be appropriated not to exceed $26 million to carry out the provisions of this section. Not to exceed $3 million shall be available for planning: *Provided*, That any funds not used for planning shall be available for land acquisition; *Provided further*, that $23 million shall be made available for land acquisition, as authorized by this section. Such appropriations may be made from the general fund of the Treasury or from revenues due and payable to the United States under the Outer Continental Shelf Lands Act, as amended, which would otherwise be credited to miscellaneous receipts.

9. Amend Sec. 401(7) by deleting map reference "numbered 157-20,001-A and dated January 1978," and by inserting in lieu thereof "157-20,001-B and dated October 1978,".

10. Amend Sec. 505(e) by inserting "as appropriate" between "directed" and "to".

11. Amend Sec. 505(e) by adding the following new sentence at the end thereof:

"For the purposes of this section, native Hawaiians are defined as any lineal descendants of the race inhabiting the Hawaiian Islands prior to the year 1778."

12. Delete Sec. 512 in its entirety and insert the following new section:

CROW CREEK VILLAGE ARCHEOLOGICAL SITE

"SEC. 512(a) The Secretary shall prepare and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives within two years from the date of enactment, a feasibility/suitability study of the Crow Creek Village archeological site, Buffalo County, South Dakota, as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation and maintenance, as well as any feasible alternatives for the administration and protection of the area, including, but not limited to, Federal financial and technical assistance to the State of South Dakota, Buffalo County or other suitable entity.

(b) Notwithstanding any other provision of law, the Secretary of the Army is directed to take such actions as may be necessary to preserve and protect such site from any adverse impact on the site and to refrain from any activities which might cause such impact until two years from the date of submission of the study by the Secretary."

13. Delete Sec. 551 in its entirety and insert the following new section:

SUBTITLE B—TRAILS

"SEC. 551. The National Trails System Act (82 Stat. 919; 16 U.S.C. 1241), as amended, is further amended as follows:

(1) In section 2(a) after 'promote' insert 'the preservation of'; and after 'outdoor areas' insert 'and historic resources' ".

(2) In section 2(a) delete '(ii)' and the remainder of the sentence and insert '(ii) secondarily, within scenic areas and along historic travel routes of the Nation, which are often more remotely located'.

(3) In section 2(b) delete 'and scenic' and insert, 'scenic and historic'.

(4) In section 3 redesignate subsection '(c)' as '(d)', and insert a new subsection (c) as follows:

'(c) National historic trails, established as provided in section 5 of this Act, which will be extended trails which follow as closely as possible and practicable the original trails or routes of travel of national historical significance. Designation of such trails or routes shall be continuous, but the established or developed trail, and the acquisition thereof, need not be continuous on site. National historic trails shall have as their purpose the identification and protection of the historic route and its historic remnants and artifacts for public use and enjoyment. Only those selected land and water based components of an historic trail which are on federally owned lands and which meet the national historic trail criteria established in this Act, are established as initial Federal protection components of a national historic trail. The appropriate Secretary may subsequently certify other lands as protected segments of an historic trail upon application from State or local governmental agencies or private interests involved if such segments meet the national historic trail criteria established in this Act and such criteria supplementary thereto as the appropriate Secretary may prescribe, and are administered by such agencies or interests without expense to the United States.'

(5) In the new section 3(d) delete 'or national scienic' and insert ', national scienic or national historic'.

(6) Change the title of section 5 to read 'NATIONAL SCENIC AND NATIONAL HISTORIC TRAILS'.

(7) In section 5(a), insert in the first sentence after the word 'scenic' the words 'and national historic' and change the second sentence to read: 'There are hereby established the following National Scenic and National Historic Trails:'

(8) In section 5(a)(1), in the first sentence, after the word 'Appalachian', insert 'National Scenic' and in section 5(a)(2), in the first sentence, after 'Pacific Crest', insert 'National Scenic'.

(9) In section 5(a), delete paragraph (3) and insert in lieu the following new paragraphs:

'(3) The Oregon National Historic Trail, a route of approximately two thousand miles extending from near Independence, Missouri, to the vicinity of Portland, Oregon, following a route as depicted on maps identified as "Primary Route of the Oregon Trail 1841-1848", in the Department of the Interior's Oregon Trail study report dated April 1977, and which shall be on file and available for public inspection in the office of the Director of the National Park Service. The Trail shall be administered by the Secretary of the Interior.

'(4) The Mormon Pioneer National Historic Trail, a route of approximately one thousand three hundred miles extending from Nauvoo, Illinois, to Salt Lake City, Utah, following the primary historical route of the Mormon Trail as generally depicted on a map, identified as, "Mormon Trail Vicinity Map, figure 2" in the Department of the Interior Mormon Trail study report dated March 1977, and which shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.

'(5) The Continental Divide National Scenic Trail, a trail of approximately thirty-one hundred miles, extending from the Montana-Canada border to the New Mexico-Mexico border, following the approximate route depicted on the map, identified as "Proposed Continental Divide National Scenic Trail" in the Department of the Interior Continental Divide Trail study report dated March 1977 and which shall be on file and available for public inspection in the office of the Chief, Forest Service, Washington, D.C. The Continental Divide National Scenic Trail shall be administered by the Secretary of Agriculture in consultation with the Secretary of the Interior. Notwithstanding the provisions of section 7(c), the use of motorized vehicles on roads which will be designated segments of the Continental

Divide National Scenic Trail shall be permitted in accordance with regulations prescribed by the appropriate Secretary.

(6) The Lewis and Clark National Historic Trail, a trail of approximately three thousand seven hundred miles, extending from Wood River, Illinois, to the mouth of the Columbia River in Oregon, following the outbound and inbound routes of the Lewis and Clark Expedition depicted on maps identified as "Vicinity Map, Lewis and Clark Trail" study report dated April 1977. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.

(7) The Iditarod National Historic Trail, a route of approximately two thousand miles extending from Seward, Alaska, to Nome, Alaska, following the routes as depicted on maps identified as "Seward-Nome Trail", in the Department of the Interior's study report entitled. "The Iditarod Trail (Seward-Nome Route) and other Alaskan Gold Rush Trails" dated September 1977. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.

(10) In section 5(b) after national scenic wherever it appears insert or national historic; in the first sentence after the phrase Secretary of the Interior, insert through the agency most likely to administer such trail; delete the third sentence; and delete that portion of the fourth sentence which precedes the numerical listing, and insert in lieu the following: The studies listed in subsection (c) of this section shall be completed and submitted to the Congress, with recommendations as to the suitability of trail designation, not later than three complete fiscal years from the date of enactment of their addition to this subsection, or from the date of enactment of this sentence, whichever is later. Such studies, when submitted, shall be printed as a House or Senate document, and shall include, but not be limited to:

(11) In section 5(b)(3) after the semicolon add "and in the case of national historic trails the report shall include the recommendation of the Secretary of the Interior's National Park System Advisory Board as to the national historic significance based on the criteria developed under the Historic Sites Act of 1935 (49 Stat. 666; U.S.C. 461).

(12) In section 5(b)(8) delete the word 'and' at the end of the sentence; in section 5(b)(9) change the period at the end of the sentence to a semicolon; and at the end of section 5(b) add the following new paragraphs:

'(10) the anticipated impact of public outdoor recreation use on the preservation of a proposed national historic trail and its related historic and archeological features and settings, including the measures proposed to ensure evaluation and preservation of the values that contribute to their national historic significance; and

'(11) to qualify for designation as a national historic trail, a trail must meet all three of the following criteria:

'(A) It must be a trail or route established by historic use and must be historically significant as a result of that use. The route need not currently exist as a discernible trail to qualify, but its location must be sufficiently known to permit evaluation of public recreation and historical interest potential. A designated trail should generally accurately follow the historic route, but may deviate somewhat on occasion of necessity to avoid difficult routing through subsequent development, or to provide some route variation offering a more pleasurable recreational experience. Such deviations shall be so noted on site. Trail segments no longer possible to travel by trail due to subsequent development as motorized transportation routes may be designated and marked on site as segments which link to the historic trail.

'(B) It must be of national significance with respect to any of several broad facets of American history, such as trade and commerce, migration and settlement, or military campaigns. To qualify as nationally significant, historic use of the trail must have had a far-reaching effect on broad patterns of American culture. Trails significant in the history of native Americans may be included.

'(C) It must have significant potential for public recreational use or historical interest based on historic interpretation and appreciation. The potential for such use is generally greater along roadless segments developed as historic trails, and at historic sites associated with the trail. The presence of recreation potential not related to historic appreciation is not sufficient justification for designation under this category.'.

(13) In section 5(c), add the following at the end thereof:

'(20) Overmountain Victory Trail, extending from the vicinity of Elizabethton, Tennessee, to Kings Mountain National Military Park, South Carolina.'.

(14) In section 5 delete subsection (d), and insert a new section 5(d) to read as follows:

'(d) The Secretary charged with the administration of each respective trail shall, within one year of the date of the addition of any national scenic or national historic trail to the System, and within sixty days of the enactment of this sentence for the Appalachian and Pacific Crest National Scenic Trails, establish an advisory council for each such trail, each of which councils shall expire ten years from the date of its establishment. The appropriate Secretary shall consult with such council from time to time with respect to matters relating to the trail, including the selection of rights-of-way, standards for the erection and maintenance of markers along the trail, and the administration of the trail. The members of each advisory council, which shall not exceed thirty-five in number, shall serve for a term of two years and without compensation as such, but the Secretary may pay, upon vouchers signed by the chairman of the council, the expenses reasonably incurred by the council and its members in carrying out their responsibilities under this section. Members of each council shall be appointed by the appropriate Secretary as follows:

'(i) a member appointed to represent each Federal department or independent agency administering lands through which the trail route passes, and each appointee shall be the person designated by the head of such department or agency;

'(ii) a member appointed to represent each State through which the trail passes, and such appointments shall be made from recommendations of the Governors of such States;

'(iii) one or more members appointed to represent private organizations, including corporate and individual landowners and land users, which in the opinion of the Secretary have an established and recognized interest in the trail, and such appointments shall be made from recommendations of the heads of such organizations: *Provided*, That the Appalachian Trail Conference shall be represented by a sufficient number of persons to represent the various sections of the country through which the Appalachian Trail passes; and

'(iv) the Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.".

(15) In section 5 add two new subsections (e) and (f) as follows:

'(e) Within two complete fiscal years of the date of enactment of legislation designating a national scenic trail, except for the Continental Divide National Scenic Trail, as part of the system, and within two complete fiscal years of the date of enactment of this subsection for the Pacific Crest and Appalachian Trails, the responsible Secretary shall, after full consultation with affected Federal land managing agencies, the Governors of the affected States, the relevant advisory council established pursuant to section 5(d), and the Appalachian Trail Conference in the case of the Appalachian Trail, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan for the acquisition, management, development, and use of the trail, including but not limited to, the following items:

(1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved (along with high potential historic sites and high potential route segments in the case of national historic trails), details of anticipated cooperative agreements to be consummated with other entities, and an identified carrying capacity of the trail and a plan for its implementation;

'(2) an acquisition or protection plan, by fiscal year, for all lands to be acquired by fee title or lesser interest, along with detailed explanation of anticipated necessary cooperative agreements for any lands not to be acquired; and

'(3) general and site-specific development plans, including anticipated costs.".

(f) Within two complete fiscal years of the date of enactment of legislation designating a national historic trail or the Continental Divide National Scenic Trail as part of the system, the responsible Secretary shall, after full consultation with affected Federal land managing agencies, the Governors of the affected States, and the relevant Advisory Council established pursuant to section 5(d) of this Act, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan for the management, and use of the trail, including but not limited to. the following items:

'(1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved, details of any anticipated cooperative agreements to be consummated with State and local government agencies or private interests, and for national scenic or national recreational trails an identified carrying capacity of the trail and a plan for its implementation: and

'(2) the process to be followed by the appropriate Secretary to implement the marking requirements established in section 7(c) of this Act.".

(16) In section 6 in the first sentence delete 'or national scenic' and insert ', national scenic or national historic', and in the second sentence delete 'or scenic' and insert ', national scenic, or national historic'.

(17) In section 7(a) in the first sentence delete 'National Scenic Trails' and insert 'national scenic and national historic trails'; in two instances in subsection (b), and in the first sentence of subsection (c), after 'scenic', insert 'or national historic'; in subsection (c) in the second proviso, after 'recreation' delete 'or scenic' and insert ', national scenic, or national historic'; and in the fifth sentence after 'recreation' delete 'and scenic' and insert ', national scenic, and national historic'; in subsection (d) after 'recreation' delete 'or scenic' and insert ', national scenic, or national historic'; in subsection (e) after 'scenic' in both instances where it appears insert 'or national historic';

in subsection (h) in the first sentence after 'recreation' delete 'or scenic' and insert ', national scenic, or national historic', and in the second sentence after 'scenic' insert 'or national historic'; in subsection (i) after 'recreation' delete 'or scenic' and insert ', national scenic, or national historic'.

(18) In section 7(c) at the end of the fourth sentence insert the following: 'Where a national historic trail follows existing public roads, developed rights-of-way or waterways, and similar features of man's nonhistorically related development, approximating the original location of a historic route, such segments may be marked to facilitate retracement of the historic route, and where a national historic trail parallels an existing public road, such road may be marked to commemorate the historic route.'.

Other uses along the historic trails and the Continential Divide National Scenic Trail, which will not substantially interfere with the nature and purposes of the trail, and which, at the time of designation, are allowed by administrative regulations, including the use of motorized vehicles, shall be permitted by the Secretary charged with the administration of the trail.

(19) In section 7(e), in the first proviso, delete 'within two years'.

(20) In section 7(g), delete the second proviso entirely.

(21) At the end of subsection 7(g) add the following new sentence: 'For national historic trails, direct Federal acquisition for trail purposes shall be limited to those areas indicated by the study report or by the comprehensive plan as high potential route segments or high potential historic sites.'.

'No land or site located along a designated national historic trail or along the Continental Divide National Scenic Trail shall be subject to the provisions of section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)) unless such land or site is deemed to be of historical significance under appropriate historical site criteria such as those for the National Register of Historic Places.'.

(22) In section 8 in the first sentence of subsection (a) after 'establishing park, forest, and other recreation' insert 'and historic' and after 'administered by States, and recreation' insert 'and historic'; and at the end of the first sentence insert the following: 'The Secretary is also directed to encourage States to consider, in their comprehensive statewide historic preservation plans and proposals for financial assistance for State, local, and private projects submitted pursuant to the Act of October 15, 1966 (80 Stat. 915), as amended, needs and opportunities for establishing historic trails'.

(23) In section 10, strike '(a)(1)' and insert in lieu thereof '(a)'; strike 'the subsequent fiscal year' and insert in lieu thereof 'subsequent fiscal years'; strike the paragraph numbered '(2)' in its entirety; and add a new 'subsection (c)' as follows:

'(c) There is hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this Act relating to the trails designated by paragraphs 5(a), (3), (4), (5), (6), and (7): Provided, That no such funds are authorized to be appropriated prior to October 1, 1979: And provided further, That notwithstanding any other provisions of this Act or any other provisions of law, no funds may be expended for the acquisition of lands or interests in lands for the Continental Divide National Scenic Trail, the Oregon National Historic Trail, the Mormon Pioneer National Historic Trail, the Lewis and Clark National Historic Trail, and the Iditarod National Historic Trail'."

14. Delete Sec. 603 in its entirety and insert the following new section:

"SEC. 603 (a) the Act of June 27, 1960 (74 Stat. 220) as amended May 24, 1974 (88 Stat. 174, 176; 16 U.S.C. 469) is amended as follows:

(b) In section 7(b), delete the "and" following "1977;", change the period at the end of the sentence to a semicolon; and add the following words: $500,000 in fiscal year 1979; $1,000,000 in fiscal year 1980; $1,500,000 in fiscal year 1981; $1,500,000 in fiscal year 1982; and $1,500,000 in fiscal year 1983.".

(c) In section 7(c), delete the "and" following "1977;", change the period at the end of the sentence to a semicolon, and add the following words: "$3,000,000 in fiscal year 1979; $3,000,000 in fiscal year 1980; $3,500,000 in fiscal year 1981; $3,500,000 in fiscal year 1982; and $4,000,000 in fiscal year 1983.".

(d) Add the following new subsection "(d)" to section 7:

"(d) Beginning fiscal year 1979, sums appropriated for purposes of section 7 shall remain available until expended."

15. Delete Sec. 701 in its entirety and insert the following new language:

"SEC. 701. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(16) PERE MARQUETTE, MICHIGAN.—The segment downstream from the junction of the Middle and Little South Branches to its junction with United States Highway 31 as generally depicted on the boundary map entitled 'Proposed Boundary Location, Pere Marquette Wild and Scenic River,'; to be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public, the Secretary shall take such action as is provided for under subsection (b) with respect to the segment referred to in this paragraph within one year from the date of enactment of this paragraph. Any development or management plan prepared pursuant to subsection (b) shall include (a) provisions for the dissemination of information to river users and (b) such regulations relating to the recreational and other uses of the river as may be necessary in order to protect the area comprising such river (including lands contiguous or adjacent thereto) from damage or destruction by reason of over use and to protect its scenic, historic, esthetic and scientific values. Such regulations shall further contain procedures and means which shall be utilized in the enforcement of such development and management plan. For the purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated not more than $8,125,000 for the acquisition of lands or interests in lands and $402,000 for development."

16. Delete Sec. 753(b) in its entirety.

17. In Sec. 762, delete "permits, Federal assistance and other Federal actions".

18. Delete Sec. 908(a) and insert in lieu thereof the following new section:

"Sec. 908(a) There is authorized to be appropriated, to carry out the provisions of this Title, not to exceed $50,000,000 from the Land and Water Conservation Fund for acquisition of lands, waters, and interests therein and such sums as necessary for the development of essential facilities."

19. Amend that portion of Sec. 1005(a) following the third sentence as follows:

"Such criteria shall be based upon factors which the Secretary determines are related to deteriorated recreational facilities or systems, and physical and economic distress."

20. Amend Sec. 1005(c)(2) to read as follows:

"conditions of existing recreation areas and facilities;"

21. Amend Sec. 1009 to read as follows:

"MATCHING REQUIREMENTS

SEC. 1009. The non-Federal share of project costs assisted under this Title may be derived from general or special purpose State or local revenues. State categorical grants, special appropriations by State legislatures, donations of land, buildings, or building materials and/or in-kind construction, technical, and planning services. No monies from the Land and Water Conservation Fund (77 Stat. 49), as amended, or from any other Federal grant program other than general revenue sharing and the community development block grant programs shall be used to match Federal grants under this program. Reasonable local costs of action program development to meet the requirements of section 1007 (a) of this Title may be used as part of the local match only when local applicants have not received program development grants under the authority of section 1007(c) of this Title. The Secretary shall encourage States and private interests to contribute, to the maximum extent possible, to the non-Federal share of project costs.

22. At the end of Sec. 317(a) insert the following new sentence:

" 'Notwithstanding any other provision of this Act, the Secretary shall not acquire the Marin County Assessor's parcels numbered 199–181–01, 199–181–06, 199–181–08, 199–181–13, and 199–181–14, located in the Muir Beach portion of the recreation area.'."

23. Delete Sec. 729 in its entirety and insert in its place the following new section:

"DESIGNATION OF ALLEGHENY RIVER FOR STUDY

"SEC. 729. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

" '(67) Allegheny, Pennsylvania.—The main stem from Kinzua Dam downstream to East Brady.'."

24. Amend Sec. 732(70) to read as follows:

"(70) Myakka, Florida—The segment south of the southern boundary of the Myakka River State Park."

25. Insert the following proviso preceding the period at the end of the third sentence of Sec. 507(c)(2):

Provided, However, that the value of any lands acquired by the Secretary under the exception in this sentence shall be deducted from the amount of monies available for grants to the State under Subsection (n) of this section.

26. Delete the proviso in Sec. 507(o).

27. Add a new Title XIII to read as follows:

Section 1301. Within 90 days from enactment of this Act, the Secretary of Agriculture shall report to the Committee on Interior and Insular Affairs in the House of Representatives, and the Committee on Energy and Natural Resources of the Senate, the nature and extent of the progress of any proposal to exchange lands owned by the Burlington Northern Railroad on either the Beaverhead or Gallatin National Forests in the State of Montana for lands owned by the United States elsewhere in the State of Montana. Such report shall also discuss any study or appraisal work done by any agency of the Federal government concerning the feasibility, impact, or cost of any such an exchange between the Burlington Northern Railroad and the Federal government, including the sharing of cost of such study. The Department of Agriculture shall not proceed with the processing of any exchange of more than 6,400 acres until and unless authorized to do so by a Concurrent Resolution of the Congress."

Mr. ABOUREZK. Mr. President, I say only that the committee amendment contains language which changes and deletes other language from the bill to satisfy objections from various members of the committee and the Senate.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ABOUREZK. I yield.

Mr. JAVITS. Mr. President, I would like to address my remarks to several sections of this omnibus parks bill with which New Yorkers are very much concerned.

First, Mr. President, I am pleased to

see the urban and recreation recovery program which I cosponsored along with Senator METZENBAUM and many others of my colleagues included in this bill. It will make some $650 million available to cities for the development of recreational opportunities which are close to home. This provision is important for several reasons: First, auto travel to distant national parks is prohibitive in light of the energy crisis, and second, cities in the throes of fiscal difficulties cannot adequately meet the recreation needs of their residents. In fact a survey of the infrastructure of many parks built by cities years ago will show them to be in disgraceful disrepair. It is hard for a city to justify spending money on its parks when other city needs like police and fire protection and sanitation services can hardly be met.

Unfortunately, it is this type of urban blight which has caused too often more affluent residents to flee the cities and to relocate in the suburbs.

Special grants make cost-effective recreation projects more feasible. For example, we envisage that schools and other structures can be used for compatible recreation purposes. Abandoned buildings and lots could also be used to meet the needs of people for community centers and neighborhood parks. Under the provisions of this bill, linear parks like jogging and bike trails and rooftop basketball, racketball, and tennis courts can be established. Mr. President, I urge my colleagues to view this section as a judicious investment in our Nation's cities.

I am pleased to see that an additional $18 million is provided for Statue of Liberty National Monument. Many people from all across the United States and the world view the Statue of Liberty as the gateway to our country and this increased appropriation makes it possible for some very necessary repairs to be made to this great American symbol, a picture of which I have on the door of my office in Russell, I might add.

St. Paul's Church, Eastchester, in Mount Vernon, N.Y., is often recognized by leaders of the Nation's press as the birthplace of the first amendment. At this site, John Peter Zenger covered the corrupt elections in 1733. Zenger's coverage of that election led to his trial for seditious libel and treason and his ultimate acquittal. That case is often cited as a reason for protection of freedom of the press.

In 1642, Anne Hutchinson sought refuge from religious persecution in St. Paul's. And so, Mr. President, I am pleased that the committee has included this provision which Senator MOYNIHAN and I support in the bill.

Likewise, I support the sections dealing with the designation of the Upper and Middle Delaware as part of the Wild and Scenic Rivers System. The inclusion of these sections represent a compromise—a compromise that has been long in coming. It allows for national protection of those segments of the Delaware the inclusion of which are less controversial. In this way one of our Nation's most beautiful rivers may remain available to posterity. Many city dwellers within the New York metropolitan area are a short drive from this beautiful river and its protection has been urged by environmentalists throughout the country.

Basically, Mr. President, I am pleased with the compromise that we have reached concerning the Fire Island section of the omnibus bill. As with any compromise, both sides will to some extent be unhappy, but in light of all of the circumstances this is the best that we can do at this time.

My experience and perspective regarding the Fire Island controversy is substantial. As a New Yorker, I spent summers on Fire Island with my children. Further, I testified at the hearings in 1963 when the establishment of the national seashore was being deliberated. I worked and hoped then, as I am working and hoping now, so that the national seashore and the private property owners can peacefully coexist. My perspective is, therefore, gained from an intimate knowledge of the area and of the problems.

As you know, under the provisions of 78 Stat. 928, which established Fire Island National Seashore, the condemnation authority of the Secretary of the Interior remains suspended in certain communities provided that those communities have in effect zoning ordinances which meet the Secretary's approval. Unfortunately, however, the localities have granted, in a number of instances, zoning variances which the Secretary finds objectionable. Pursuant to these variances, the property owners have built structures or made improvements which, in the opinion of the Secretary and some environmentalists, are incompatible with the creation of the national seashore. Cognizant that the Secretary's major, if not only, weapon was the power of condemnation, I sought in 1975 to allow the Secretary to seek injunctive relief against those who engaged in these kinds of activities. I also supported an increased authorization for Fire Island in 1975. In fact, a $2,000,000 increase was approved.

H.R. 12536 allowed for two things: First, the establishment of a 40-foot wide dune district spanning the length of the island, and second, for the Secretary of the Department of Interior to condemn houses that had been destroyed to the extent of 50 percent or more in the event of a catastrophic storm. This catastrophic storm damage provision which would have jeopardized the right of property owners to rebuild their homes has been deleted from the measure that we are voting on today.

S. 791 does establish a dune district. However, the original language which would have allowed the Secretary to condemn dune district and other properties if exterior improvements were made has been deleted. The new language leaves developed properties within exempt communities in tact. These property owners will still be able to enjoy their homes provided they comply with the terms of the 1964 act and with the operative zoning ordinances.

Under the new dune district provision, the Secretary cannot acquire any property within its boundaries so long as the owner or owners of the undeveloped lots keep them in their natural state. For all intents and purposes, Mr. President, I call this the status quo provision. Houses that are there can remain, and lots that are empty remain vacant.

This provision is designed to prevent any new development on the dunes. My amendment now included with the committee amendments, Mr. President, reads as follows: "Undeveloped property within the dune district that is acquired by the Secretary shall remain in its natural state.

Congress' rejection of the original language contained in H.R. 12536 serves to reaffirm our commitment to what has been termed the Cape Cod Formula. Under this formula property owners living within national park boundaries are allowed peacefully to coexist with the National Park Service.

Man must learn to live more harmoniously with his environment, and Fire Island is just one such noble effort to bring national recreation projects closer to where the millions of our people live.

For the record, Mr. President, I want to state clearly that nothing that we do today should be interpreted to mean that Congress wants Fire Island returned to a natural state. The adoption of such a position would contravene the substantial legislative history which surrounded the establishment of the Fire Island National Seashore in 1964.

Lastly, I support the increased appropriation of this $5 million for Fire Island, and I urge my colleagues to view these sections of the bill as a step in the right direction in terms of providing increased recreation opportunities for urban America.

In sum, Mr. President, urban residents and particularly New Yorkers can be pleased with these sections of S. 791 which recognize that their needs for an improved quality of recreation had not, heretofore, been adequately addressed at the Federal level. And I would like to thank my distinguished colleagues and their staff members who have worked with my office for the assistance they have given in putting together a bill that will increase recreation opportunities for one of our country's most densely populated urban areas.

Does this amendment contain the agreed upon language relating to the Fire Island Park which reads at the end of section (g)(1) after the words "natural state" insert "Undeveloped property within the Dune District that is acquired by the Secretary shall remain in its natural state"?

Mr. ABOUREZK. Yes, it does.

Mr. JAVITS. Does it also contain the provision respecting St. Paul's Church in Westchester County?

Mr. ABOUREZK. Indeed, it does.

Mr. JAVITS. I join Senator MOYNIHAN, who just eloquently addressed the Senate, in thanking my colleagues on this committee, the manager of the bill, Senator ABOUREZK, the ranking minority member, Senator HANSEN, for the care and sensitivity with which they have provided for these matters, the Fire Island Seashore, being of really paramount importance to the millions who surround

this area, and the sensitivity which dictated the proper treatment of this historic landmark which is St. Paul's Church.

I thank them very much.

MR. ABOUREZK. I thank the Senator.

Mr. MATSUNAGA. Mr. President, will the Senator from South Dakota yield?

Mr. ABOUREZK. I am happy to yield.

Mr. MATSUNAGA. Mr. President, as I understand the amendment which the Senator from South Dakota is offering, the 204 acres which was originally included in the House measure as an expansion of the city of Refuge National Historic Park in Hawaii is omitted in the Senate bill?

Mr. ABOUREZK. It has been deleted.

Mr. MATSUNAGA. It has been deleted?

Mr. ABOUREZK. That is correct.

Mr. HAYAKAWA. Mr. President, I ask for order. I have great difficulty hearing the Senator from Hawaii.

The PRESIDING OFFICER. If we could have order in the Chamber, the Senator from California has made a very valid point. The Chair is having trouble himself hearing the Senator from Hawaii, and that is unusual.

The Senator from Hawaii may continue.

Mr. MATSUNAGA. I thank the good Senator, the Senator from California, and I am certainly delighted to know that he would like to listen to every word that the Senator from Hawaii would like to say in the Chamber.

Mr. President, I rise in strong support of the amendment offered by the Senator from South Dakota.

Mr. President, I rise in strong support of the amendment offered by the Senator from South Dakota (Mr. ABOUREZK). Included in his amendment is a proposal to establish the Kaloko-Honokohau National Historical Park in the State of Hawaii.

As a member of the Subcommitee on Parks and Recreation of the Committee on Energy and National Resources, I solicited views from Hawaii on this Kaloko-Honokohau Park proposal last summer in conjunction with the subcommittee's hearings on H.R. 12536, the National Parks and Recreation Act of 1978. Based on the responses I have received, I can safely conclude that the people of Hawaii are overwhelmingly in favor of the proposal. Over 600 letters from Hawaii indicated strong support for the establishment of this new Hawaii National Park and only 10 letters expressed opposition to the proposal. The Governor of the State of Hawaii, the Honorable George R. Ariyoshi, supports this proposal as does the entire Hawaii congressional delegation.

Mr. President, the enactment of the Kaloko-Honokohau National Historical Park proposal is a matter of great urgency to my State. The lands proposed for acquisition by the Department of the Interior for this new national park are currently zoned for residential and resort development. A resort and residential development proposal are currently pending approval in the planning office of the county in which the park is to be situated.

The entire land portion of the proposal is currently a National Historic Landmark and has been since 1967. In 1962, the area was given a rank of "high value" in a proposal submitted by the National Park Service to place the land on the National Register of Historic Landmarks. The historic and archeological sites on this property represent a civilization which flourished long before the discovery of America by Christopher Columbus in 1492. However, the property is currently up for scale as a prime location for hotel and condominium development. It would be a great national tragedy if this land were not preserved in perpetuity as a living tribute to one of the country's four recognized aboriginal civilizations.

The park site contains 234 known, significant native Hawaiian historic and archeological sites. These sites range from three intact native Hawaiian fishponds, native Hawaiian temple sites, house platforms, petroglyphs, various religious, recreational and subsistence artifiacts and structures, and most importantly, the area contains the burial sites of many prominent members of native Hawaiian royalty, including that of King Kamehameha I, the first Hawaiian king who united the Hawaiian Islands under a single rule and thereby established peace throughout Hawaii for the first time in the history of the islands. As a tribute to his great and lasting contributions toward peace and social welfare, the State of Hawaii has placed a bronze statue of King Kamehameha I in Statutory Hall in the U.S. Capitol. Because of the existence of the burial sites of native Hawaiian royalty alone, this land is considered sacred by the native Hawaiian community.

The basis for this new national park proposal is a report compiled by the Honokohau Study Advisory Commission which was provided to the Department of the Interior in 1974. The Commission itself was established through an Act of Congress enacted as Public Law 92–346, in 1971.

While the Honokohau Study Advisory Commission report entitled, "The Spirit of Kaloko, Honokohau," outlines a rather unique national park proposal with respect to the existing units of the national park system, it has been firmly established through testimony provided by the National Park Service to the Subcommittee on Parks and Recreation that this proposal is wholly consistent with existing National Park Service guidelines on cultural preservation. It is, therefore, the intent of the Kaloko-Honokohau National Historical Park proposal that the report of the Honokohau Study Advisory Commission be adhered to as closely as possible in the development and management of the park in order to carry out the cultural preservation intent of this proposal.

The intent of the Kaloko-Honokohau Park proposal is threefold. First, the proposal will restore, stabilize, and preserve the native Hawaiian historic sites which are located in the Kaloko-Honokohau area on the Island of Hawaii in the State of Hawaii, which prior to the arrival of Capt. James Cook in 1778, the first Caucasian to visit the Hawaiian Islands, was a thriving shoreline native Hawaiian fishing community. The area is adjacent to another native Hawaiian community of great historical significance, Kailua, in which the royal palace of King Kamehameha I was situated. It is, therefore, certain that the Hawaiian royalty frequented the Kaloko-Honokohau area during their travels to and from Kailua.

Today, the community of Kailua is a resort area which bears little resemblance to the community which it was only 25 years ago. Many of the native Hawaiian historic sites which are associated with the community of Kailua have been irreparably damaged or destroyed as the result of increasing urbanization and resort developments in the area. If this national park proposal is not implemented very soon, it is certain that many, if not all of the historic sites which are associated with the Kaloko-Honokohau area may be irreparably damaged or destroyed as has been the case in Kailua and in other areas of the State, with accelerated urban development throughout the Hawaiian islands since the turn of the century.

The second intent of the Kaloko-Honokohau National Park proposal is to restore, stabilize, and preserve as a living museum vitally important remnants of the declining culture of the native Hawaiians through the development and preservation of the historic and archeological sites in the area and the implementation of cultural programs in the park which would be designed to replicate significant traditional aspects of native Hawaiian culture.

To cite a section of the report of the Honokohau Study Advisory Commission:

> Currently, there is no physical facility in the State of Hawaii that has been set aside solely for the purposes of perpetuating Hawaiian culture and arts, particularly one that is managed by native Hawaiians. Kaloko-Honokohau could provide such a facility because it embodies an integrated life style which was, at one time, found in countless communities through the islands of Hawaii. What remains in this settlement area is not just a few token archeological representations of Hawaiian culture, but the historic site of an entire community that existed as an entity within the boundaries of the Ahupua'a (traditional native Hawaiian land unit) but tied as well to adjacent communities of similar structures. It is a stage upon which the Hawaiian way of life was first performed centuries ago.

Currently, the native Hawaiians in the State of Hawaii suffer the highest rate of unemployment, the shortest life expectancy, the highest rates of acute and chronic diseases, including alcoholism, the highest rate of juvenile delinquency and crime, and the lowest rates of scholastic and professional achievement of all the nonwhite ethnic groups in the state.

As in the case with the native Americans, much of this social and physical maladaptation to the modern world can be traced directly back to a deep sense of loss and alienation over their declining 1,000-year-old culture. Like the native Americans, the native Hawaiians lost culture. Their land was the embodiment of their daily lives, social structure, religion, and most importantly, their soul.

The final specific intent of this new national park proposal is to provide a living demonstration to the rest of the world of how one, closely knit group of people, the native Hawaiians, lived for over 1,000 years before the arrival of the first white man in the island in 1778, in such total harmony with their land and environment that there was always enough food, shelter, clothing, sources of energy, and leisure time to meet their total needs.

The ecological principles which were developed by the native Hawaiians over their 1,000-year existence prior to the arrival of the white man were embodied in their religious beliefs and cultural patterns to such an extent that warfare among the various communities and islands became a highly ritualized interaction in which few if any individuals were mortally wounded and life itself became a completely harmonious endeavor with the natural environment. In short, native Hawaiians adapted to, rather than dominated their natural environment.

It has been estimated that the population of full blooded native Hawaiians was in the vicinity of 300,000 at the time of Captain Cook's arrival in the islands. Today with all our modern conveniences and way of life, the population of full-blooded native Hawaiians in the State has been reduced to 10,000, with approximately 150,000 part-Hawaiians, among a total population in the State of 890,000.

The primary reasons for this population decline among the native Hawaiians are widely known in Hawaii. They are: The introduction of communicable disease strains for which the native Hawaiians had no natural or developed immunity, the erosion over the last 200 years of the fundamental religious and cultural beliefs of the native Hawaiians as the result of the introduction of competing economic forces and religious beliefs, primarily from North America, and the introduction of a Western concept of land use and agricultural practices which progressively removed the native Hawaiians from a subsistence, agrarian lifestyle and forced them toward an urbanized, development oriented economy.

There is no disagreement in Hawaii in the assessment that native Hawaiians have been cut off from their traditional culture by the introduction of Western society into the islands. While there is disagreement over the best solution or solutions which would be necessary to correct this situation, there is little doubt that the ecologically based social, economic, cultural, and religious principles which were perfected by the native Hawaiians could prove to be of substantial value to the rest of the world if human beings are to eventually coexist peacefully on our "island" in the universe, which we call the planet Earth.

Mr. President, the Kaloko-Honokohau National Park proposal would establish a truly unique living museum of native Hawaiian culture not only for native Hawaiians or for residents of the State of Hawaii, but for all the world. Once established, the Kaloko-Honokohau National Historical Park would become a priceless addition to our rich national heritage.

In view of the importance of accurately portraying the aspects of native Hawaiians culture which were associated with the Kaloko-Honokohau area, the park proposal strongly recommends that native Hawaiians be employed in every aspect of the park's development and management to the maximum extent which is consistent with National Park Service employment policies. In any event, it is the specific intent of this proposal that those individuals who are employed in the development and management of the Kaloko-Honokohau National Historical Park should be extremely knowledgeable of and sensitive to all aspects of traditional native Hawaiian culture.

It is the intention of this park proposal to allow the State of Hawaii, if it so desires, to retain its authority over the management of the offshore area of the park and the marine resources contained therein as well as the recreational, subsistence and commercial uses of the offshore area and the access to and from Honokohau small boat harbor, which is located south of and directly adjacent to the southern boundary of the proposed park.

However, in order to improve upon the overall management of the park, the proposal also encourages the State of Hawaii and the Department of the Interior upon the establishment of the park to enter into a cooperative management agreement to develop an overall compatible management program. I strongly believe that such a cooperative management agreement should be developed by the State of Hawaii and the Department of the Interior for the proposed national park.

In determining the precise boundaries between the offshore and onshore portions of the park, in the event the State of Hawaii wishes to retain its authority over the management of the offshore area, existing Federal laws such as the Coastal Zone Management Act and the land use laws of the State of Hawaii should be consulted for any precedent which may be contained therein and which, therefore, may be of assistance in the final determination of these boundaries.

A unique offsite land use control initiative is contained in this proposal which is designed to encourage but not require the establishment of compatible uses on the land and water areas which are directly adjacent to the park through the implementation of adequate controls on air and water quality and on the scenic and esthetic values of the surrounding land and water areas. In the implementation of any such controls, the proposal further suggests the use of the traditional native Hawaiian ahupua'a (native Hawaiian land unit) concept of land and water management.

In order to assist in the implementation of appropriate historical, archeological, cultural, and interpretive programs for the park, the proposal authorizes the establishment of the Na Hoa pili o Kaloko-Honokohau (Friends of Kaloko-Honokohau), a nine-member advisory commission which will assist in the development and management of the park. The criterion for the membership and functions of the advisory commission are specified in the park proposal and have been adapted from recommendations made by the Honokohau Study Advisory Commission in its report to the Department of the Interior on the establishment of the park. I anticipate that this Commission will provide meaningful and concerted guidance to both the National Park Service and the State of Hawaii toward the proper development and management of the park.

An important matter which is not specifically addressed by the proposal but to which specific reference is made in the Honokohau Study Advisory Commission report is the establishment of a Hawaiian Historical and Cultural Research Laboratory and a Library of Pacific Collections within the park. It is my belief that the establishment of both facilities in or affiliated with the park could greatly enhance existing cultural research facilities in Hawaii and knowledge of the culture of the Pacific island peoples if the facilities were properly implemented with the master plan for the park and were properly coordinated with existing and future cultural research efforts in this area by the State of Hawaii, the Bernice Pauahi Bishop Museum, and native Hawaiian foundations, trusts, and community organizations. It is, therefore, my hope that serious consideration will be given by the Department of the Interior and the State of Hawaii toward the establishment of these cultural research facilities within or affiliated with the park.

It is also my hope that as an initial step toward the establishment of these facilities or as an adjunct to the facilities, the Department of the Interior will establish live-in cultural and education centers within the park for all those who may be interested in acquiring an in-depth knowledge of traditional native Hawaiian life and culture. In establishing any live-in cultural and education centers within the park, appropriate curriculum should be designed with the assistance of the advisory commission for the park. Participation in these programs should be open to all interested parties and individuals. However, certain provisions should be made to insure reasonable access to these programs by all native Hawaiians as defined in this park proposal. Consistent with the establishment of these centers is the concurrent establishment of a similar or joint facility to serve as a meeting hall for various community groups which are pursuing native Hawaiian cultural and educational activities.

Finally, the area within the proposed boundaries of the park contains many historically significant foot trails used by the native Hawaiians as transportation routes between the mountains and the seashore and between adjacent villages along the coastline. A trail of paramount historical importance of which a portion will be contained within the

park is the Mamala hoe Trail, named after "Mamala hoe Kanawai" (the law of the splintered paddle), the first social welfare edict in the Hawaiian Islands; a prohibition on assaults on the elderly, the disabled, women, and the young, which was established by Kamehameha I during his reign as first king of the Hawaiian Islands.

The Mamala hoe Trail circumferences the entire island of Hawaii and is still very much visible in many portions of the island. It is my sincere hope that the establishment of the Kaloko-Honokohau National Historical Park and the preservation of the portion of the Mamala hoe Trail which is within the park will lead to the preservation of the entire trail and other historic trails located throughout the State.

The establishment of the Kaloko-Honokohau National Historical Park would be the first living recognition of this country's least understood and appreciated aboriginal civilizations, that of the native Hawaiian. The development of an early but highly effective form of aquaculture, ecologically based patterns of land use and social organization, a highly sophisticated method of celestial navigation which is little understood today but which enabled the Hawaiians to navigate over vast, unexplored expanses of the Pacific ocean without difficulty, a form of medical care which used herbal medications from plants indigenous to Hawaii and the South Pacific islands, whose effectiveness have been highly praised by modern day physicians, and other accomplishments by native Hawaiians clearly indicate that their civilization was much more advanced prior to the arrival of the white man in the islands than are many other similar cultures found today in the world's tropics.

Mr. President, the Kaloko-Honokohau area is to the native Hawaiian community what the Mount Vernon Estate in Virginia is to the Virginians. Anyone who has had the opportunity to visit Mount Vernon knows that the estate is situated in one of the most peaceful and scenic locations imaginable. In fact, George Washington himself once commented that—

No estate in United America is more pleasantly situated than Mount Vernon.

Few individuals, if any, would entertain serious thought to developing the Mount Vernon area into a major resort and residential area, complete with a golf course, in view of its priceless contribution toward our national heritage. However, such thoughts have been and are currently being seriously entertained for the Kaloko-Honokohau area in Hawaii, a percel of land which has an equivalent cultural value to Mount Vernon for the Native Hawaiian community, the State of Hawaii and, therefore, the Nation as a whole.

Mr. President, the addition of Kaloko-Honokohau National Historical Park as a unit of the national park system would be a truly priceless contribution to our national heritage for it would be a living recognition of a civilization which has existed for more than 1,000 years, more than twice the age of this country as it was settled by colonists from Europe, and more than five times the age of the United States of America. Furthermore, it would be a recognition of the importance of retaining as sacred the final resting place of Kamehameha I, who was in every sense, the George Washington of the Hawaiian Islands.

Mr. President, my colleague, the senior Senator from Hawaii (Mr. INOUYE), and I both strongly support this cultural preservation proposal and we strongly urge its adoption by the Senate. In concluding my remarks on this proposal, I would like to cite a section of the Honokohau Study Advisory Commission report which in eloquent simplicity succinctly describes the ancient Hawaiian settlement at Kaloko-Honokohau:

Along the Western coastline of the island of Hawaii lies the hot, rugged lava of Kaloko, Honokohau. This seemingly barren and harsh landscape does not appear to be suitable for human existence, and yet, long before written history, the Hawaiian people built a thriving settlement upon the A'A lava, which was to last well into the 19th century when the forces of western culture brought an end to the Hawaiian way of life.

Some people find it difficult to understand why the ancient Hawaiians chose to settle upon the inhospitable lava field of Kaloko, Honokohau. The reason was, perhaps, a spiritual one, for there was a spirit in Kaloko, Honokohau. The Hawaiians who first came to the area felt its presence in every rock and tree, in the gentle waters of the shallow bays, and in the tradewinds that swept across the prehistoric lava flow. They touched the spirit and felt its mana (power).

The spirit of Kaloko, Honokohau was its life, the life that flowed in its land and the water that washed upon its shore. Like the Hawaiians who found its presence elsewhere, the people of Kaloko, Honokohau let the spirit become a part of their existence. They lived in such perfect harmony with it that they became a singular, total, and inseparable environment.

Mr. ABOUREZK. Mr. President, I yield back the remainder of my time.

I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment was agreed to.

Mr. CHURCH. Mr. President, this bill contains provisions affecting the St. Joe River in the State of Idaho, the Sawtooth National Recreational Area in my State and also the establishment of four historic trails, the Mormon Pioneer Trail, the Oregon Trail, the Lewis and Clark Trail, and the Iditarod Trail in Alaska.

ST. JOE WILD AND SCENIC RIVER PROPOSAL

Mr. President, one of the sections of the legislation which we are now debating would add 66.5 miles of the upper stretches of the St. Joe River in northern Idaho to the National Wild and Scenic Rivers System.

When Congress approved the original wild and scenic rivers legislation in 1968, the entire St. Joe was included in the study section of the bill so that it would be reviewed by Federal and State agencies. Since then, the river has been thoroughly studied by those agencies and found to be a suitable addition to the wild and scenic rivers system. However, those studies and the proposed classification of the St. Joe kindled a local controversy of fierce intensity, which kept the citizens of the St. Joe Valley polarized for years.

Earlier this year, the proponents and opponents of Federal classification of the river decided it was time to end the fued. At my encouragement, they sat down together and worked out a compromise plan which resolved their differences. On May 9, I introduced along with Senator MCCLURE their agreement in the Senate as legislation. Subsequently, I chaired a field hearing of the Parks and Recreation Subcommittee on the St. Joe bill in Wallace, Idaho. Senator MCCLURE and I have modified our original bill to take into account the concerns of the local citizens who testified in Wallace or contacted us in writing after the hearing.

The modified version of this legislation would classify the section of the main stem of the St. Joe above its confluence with the North Fork of the river to Spruce Tree Campground as a recreational river and the section of the main stem from Spruce Tree Campground upstream to St. Joe Lake as a wild river.

In order to protect the superb water quality of the upper St. Joe basin, this legislation also prohibits dredge or placer mining in the basin above the point where the North Fork of the St. Joe runs into the main stem.

The proposal would also assure that normal logging or hard-rock mining can continue in this region. Specific language has been included to guarantee road and bridge maintenance and construction, activities which are essential to both timber harvest and mining operations.

In summary, Mr. President, this proposal strikes a reasonable balance. It would protect the wild, untamed stretches of the St. Joe from careless development, while at the same time protecting the basic industries which form the backbone of the economy in this area. With the passage of this legislation, the long-brewing controversy in the St. Joe Valley will be finally brought to a peaceful end.

Mr. President, I ask unanimous consent that a statement prepared by Senator MCCLURE on the St. Joe proposal appear at this point in the RECORD.

ST. JOE WILD AND SCENIC RIVER PROPOSAL

● Mr. MCCLURE. Mr. President, I am pleased to support the amendment establishing the St. Joe River in Idaho as a Wild and Scenic River. This amendment was first introduced as a bill, S. 3052 by Senator CHURCH and myself on May 9, 1978. Hearings were held on S. 3052 August 28 in Wallace, Idaho. As a result of the testimony given by local residents at those hearings, we revised the language of the bill to better reflect the concerns expressed. Before specifically addressing those changes, I would like to briefly note, for the record, the history of this legislation.

The original St. Joe proposal evolved from the work of five individuals representing divergent interests who are residents of northern Idaho. They came together out of a desire to end the long and often heated controversy over the

future of the St. Joe River and drafted a compromise establishing approximately the upper 66 miles of the St. Joe as a wild and scenic river. The goals they sought in their proposal, as stated in their April 25, 1978 statement, were to protect private property rights, including but not all mineral rights, timber harvesting, and generally to protect the undisturbed St. Joe River.

I endorsed these goals but the proposal had not received the broad public discussion that is necessary, therefore, Senator CHURCH and I insisted on public hearings in Wallace, Idaho.

Dredge mining has for years been a potential in the upper St. Joe and various efforts have been made to try and prevent it, such as the 1976 law passed by the Idaho Legislature. The St. Joe was placed in a study category for possible inclusion as a wild and scenic river to consider other forms of protection of its scenic splendor.

In recognizing the scenic values of the St. Joe River, we should also be as quick to recognize that the economy of the area is dependent on continued timber harvests in the St. Joe basin and particularly, in Shoshone County, on mining activities. The language finally drafted is designed to protect these uses as much as possible while prohibiting the dredge mining activities in the tributaries of the main stem. As a result of such a delicate balance between uses and protection of resources, the language has been carefully drafted to state what should be continued and what should be prohibited as a result of inclusion of portions of the St. Joe in the Wild and Scenic River System. My caution and attention to detail have been to make certain this language does exactly what people desire and understand it to do. The Senate, in accepting this language, is stating their intent that this amendment be implemented with the following interpretations.

The map titled "St. Joe River Corridor Map, 1978" is marked to show the exclusion of the North Fork of the St. Joe and its tributaries from this amendment to the Wild and Scenic River Act. The designation of the St. Joe as a wild and scenic river begins above the confluence of the North Fork with the main stem. The Wild and Scenic River Act allows the management flexibility in determining the width of the river corridor and thus none of the North Fork nor its tributaries need to be included within the river corridor.

This amendment clearly states that present and future construction of roads and bridges be allowed in the recreational section so as to assure the continued use of the forest resources outside the river corridor. These uses are mainly timber harvesting and some mining and should not be precluded as a result of classifying the St. Joe as a wild and scenic river.

The language prohibiting dredge or placer mining in the main stem and the tributaries in their entirety refers solely to the method of mining and not the actual ability to mine a placer deposit by any other method other than dredging. Underground hardrock mining is in no way affected by the dredge mining prohibition in the tributaries.

It should be made clear also that the dredge and placer mining prohibition is the only portion of the amendment that affects the tributaries of the main stem both inside and outside the river corridor by the language "in their entirety." The language stating "nothing shall be deemed to prohibit the removal of sand and gravel . . . within the river corridor" shows that the sand and gravel removal is totally separate from the placer mining prohibition and that the jurisdiction of this amendment, except for the dredge or placer mining prohibition, applies only within the river corridor.

The words "under the authority of" are intended to allow any private landowner who needs sand and gravel for road maintenance purposes within the corridor to use it with the permission and under the control of the Forest Service.

The definition of sand and gravel in this amendment includes crushed rock or rock to be crushed. The Forest Service, in conjunction with private landowners, maintains roads for logging and other uses, and utilizes rock quarries adjacent to the river for road construction and maintenance. This amendment in no way contemplates restricting that use.

The St. Joe Lodge, located in the wild section, is in keeping with the primitive setting and may remain as a recreational facility for the convenience of the user.

Once again I commend the efforts of those who brought together opposing viewpoints in this proposal, those who made their views known through testimony and letters and those who helped perfect the language agreed to today. As a result of this legislation, I am hopeful that we have adequately protected the beauty of the St. Joe as well as the economic base of the many Idahoans who reside in the region of the St. Joe basin.●

SAWTOOTH N.R.A. AUTHORIZATION CEILING INCREASE

Mr. CHURCH. Mr. President, one of the provisions of the legislation we are now considering would increase the authorization ceiling for the Sawtooth National Recreation Area in Idaho.

This provision is identical to legislation approved by the Senate in the waning hours of the second session of the 94th Congress in September 1976, and twice during this Congress. It would increase the authorization figure for the acquisition of lands and interests in lands within the Sawtooth NRA from $19.8 million to $47.8 million. This increase is necessary to continue the acquisition program within the NRA which is aimed at protecting the scenic values of this area.

Since the end of fiscal year 1977, the Forest Service has had no authority to expend Federal funds to purchase properties or scenic easements within the Sawtooth area. Consequently, a very tense situation has developed. A number of Idahoans have been in touch with me during the past 2 years expressing their dismay at not being able to secure payment from the Government for their properties. For over 2 years now, these people have been in a state of limbo. The Government has negotiated contracts with these landowners, but has never kept up its end of the bargain by actually paying the landowners for the properties or easements. I have done all I could possibly do to rectify this situation. With the assistance of Senator McCLURE, I have convinced the Senate on three separate occasions to approve the Sawtooth provision. I am hopeful that with the inclusion of this proposal in the pending legislation, we will finally see that this inequitable situation is ended.

HISTORIC TRAILS

Mr. President. I am also pleased to note that the legislation we are now considering contains a version of the National Historic Trails Act, of which I am the primary sponsor.

That legislation corrects an oversight in the National Trails System Act, by establishing a new category of National Historic Trails. The legislation would also designate four routes—the Mormon Pioneer Trail, the Oregon Trail, the Lewis and Clark Trail, and the Iditarod Trail—as the first historic trails.

Without the establishment of this new trails category, the heritage of our Nation's historic migration and transportation routes could be permanently lost. This legislation provides for the identification and marking of our historic trails. However, it also contains provisions which will allow transportation corridors and other similar developments to cross the trails. In order to reduce conflicts with local landowners, the bill contains no authority for the acquisition of trail segments in private ownership. Of course, provision is made for the Government to mark privately owned segments of the trails with the consent of the owner, or to accept donation of the trail segment.

Too often in our rush toward the future we forsake the heritage of our past. The passage of this legislation will assure that the colorful chapters of American history which were written along the Oregon, Lewis and Clark, Mormon Pioneer, and Iditarod Trails will be permanently recorded in our memories and marked on the ground.

Mr. President, I congratulate the manager of the bill for the fine work he has done, and I extend to him my appreciation for his cooperation.

Mr. ABOUREZK. I say the same to the Senator. And I thank him.

Mr. McGOVERN. Mr. President, will the Senator yield?

Mr. ABOUREZK. I yield to my senior colleague from South Dakota.

Mr. McGOVERN. Mr. President, I first of all commend my distinguished colleague from South Dakota for the constructive work he has done on this legislation that he now manages in the Chamber.

MISSOURI RIVER SECTION AND THE WILD AND SCENIC RIVERS SYSTEM

Mr. President, the legislation we have before us would add a section of the Missouri River to the Wild and Scenic Rivers System as a "recreational river." This portion of the Missouri is approximately 60 miles long and stretches from Gavins Point Dam downstream to Ponca State Park, Nebr. In this reach the river forms the border between South Dakota and Nebraska. More importantly, it is also one of the last vestiges of the "free flow-

ing" Missouri remaining much in the same condition as it must have been before passage of the Flood Control Act of 1944.

The Flood Control Act provided for construction of U.S. Army Corps of Engineers dams on the Missouri mainstem, including the Fort Peck, Garrison, Oahe, Big Bend, Fort Randall, and Gavins Point Dams.

These dams benefit our Nation and the Missouri River Basin region. They provide low-cost hydroelectricity to consumers in several States. They make possible a navigation industry which operates at least 9 months out of the year, moving freight in barges from the Mississippi River System, upstream to Sioux City, Iowa, and back.

Hundreds of millions of dollars in flood damage have been saved because of the dams. A water-based recreation industry is blooming. The dams have enhanced habitat for fish and migratory waterfowl. In fact, we have recently learned that traditional operation of Garrison and Oahe Dams provides whooping crane habitat in "water short" years and are thus helping this endangered species to live and come back from near extinction.

For all the good these dams and reservoirs have provided, the States in which they were constructed did lose something—river bottom land—nearly 500,000 acres worth in South Dakota alone.

This land was some of the most fertile in our State, yielding crops in the rich, moist soil in those years when the river did not wash out the seed or drown young plants in flood water. The old Missouri River bottom lands also provided unique "edge habitat" fostering an abundance of diverse wildlife.

We might be tempted to believe we cannot have it both ways—that we cannot have both the dams and reservoirs and the river bottom land. But we can.

There exists along the Missouri between the tailwaters of each dam and the start of the next reservoir below them unique pockets of river much like they might have been before the dams were constructed. Even more importantly, there exists a nearly 60-mile stretch of river between the tailwaters of Gavins Point Dam and Ponca State Park which looks very much like it did when the Lewis and Clark expedition worked their way upstream in search of the Northwest Passage. This is the segment of the Missouri we are concerned with in this amendment. Can you imagine the unique recreational opportunity this area might provide, especially at a time when we are considering making the Missouri part of the Lewis and Clark National Historic Trail?

This designation is not the work of people seeking to preserve a free flowing river from avaricous dambuilders. It is instead a suggestion advanced by the U.S. Army Corps of Engineers in their recent "umbrella study" of the Missouri River System in Montana, North Dakota, South Dakota, and Nebraska. Missouri River Division Engineer Gen. William Read recognized this opportunity and was enough excited by it to bring it to my attention last spring.

This suggestion did not come from the corps alone, however. It was the result of a cooperative study by the corps and the Department of the Interior's Heritage Conservation and Recreation Service. It too is the result of delicate negotiations among the South Dakota and Nebraska congressional delegations, the U.S. Fish and Wildlife Service, both States' game and fish departments, and landowners represented by the Missouri River bank stabilization association who live along the river and need bank stabilization work to protect their property from river erosion.

This is what makes this amendment so remarkable. It is the result of interstate cooperation, Federal and State cooperation, and cooperation by all people having diverse interests in the future of this stretch of the Missouri. On this basis alone the designation should be justified as an example of how cooperation among diverse interests can result in the advancement of water resource development.

It was with some surprise, then, that Senators EDWARD ZORINSKY, CARL CURTIS, and I learned that the U.S. Department of the Interior testified before the Senate Parks and Recreation Subcommittee on July 26 that it was the Carter administration's decision to oppose this designation at this time.

Despite all studies which preceded this cooperative agreement and despite the existence of such a unique arrangement, it was the administration's decision that an additional study costing $1 million was needed to look into the matter further. We were not appeased, or pleased, with this suggestion.

In alarm, Senators CURTIS, ZORINSKY, and I wrote subcommittee chairman JAMES ABOUREZK about this matter. I ask unanimous consent to have our letter to Senator ABOUREZK dated July 31, printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 31, 1978.

Hon. JAMES ABOUREZK,
Chairman, Parks and Recreation Subcommittee, Senate Energy and Natural Resources Committee, Washington, D.C.

DEAR MR. CHAIRMAN: We were extremely disappointed when the National Park Service, U.S. Department of the Interior testified before the Subcommittee on July 26 that it is the Administration's decision to oppose the designation of the Missouri River from Gavins Point Dam to Ponca State Park, Nebraska, as a "recreational river". While we understand the Administration's position is dictated by budgetary constraints rather than outright opposition to the designation, we believe an explanation of the consultations which have taken place in arriving at our decision to support this designation might be helpful to the Subcommittee in its deliberations. Frankly, we believe that if "cuts" are to be made in the Omnibus Parks Bill (H.R. 12536), the Missouri River is hardly the place to begin in light of circumstances we will elaborate upon.

As the Subcommittee is aware, the U.S. Army Corps of Engineers was authorized under Section 32 of the Water Resources Development Act of 1974 to construct multiple demonstration projects of bank stabilization. Along the Missouri River, in the reach involved in this designation, the U.S. Fish and Wildlife Service and the South Dakota and Nebraska Game, Fish and Parks Departments agreed to waive requirements for environmental impact statements for these demonstration projects because the six involved would have minimal or insignificant impacts upon the human environment in the area. They were also interested in analyzing the impacts of the innovative technology being applied by the Corps in this instance upon fish and wildlife resources in the area.

However, during the last several years, because of pressures from landowners along the river desiring additional bank stabilization, the Congress has authorized the Corps to construct another three projects and is considering authorization of two more besides, bringing the total to eleven.

Because this number exceeds that agreed to by the FWS and the States of South Dakota and Nebraska, strong consideration has been given to requiring environmental impact statements be prepared for the additional structures. Needless to say, this would impede, if not altogether stymie, bank stabilization in the area. There is general agreement among all concerned that there is an undeniable need and compelling evidence for this bank stabilization.

In August 1977, the Corps issued an "umbrella study" of the Missouri River in South Dakota, Nebraska, North Dakota and Montana which recommended "recreational river" status for the reach of the Missouri in question. This recommendation was based upon the results of a joint U.S. Army Corps of Engineers/Bureau of Outdoor Recreation (now the Heritage Conservation and Recreation Service) study of the recreational river designation.

This Corps' recommendation was seized upon by all the parties involved as a solution to the very knotty problem of how to implement needed bank stabilization while at the same time protecting wildlife values. It also presented a unique opportunity for recreation along the last vestige of the "natural" Missouri much as it was before it underwent massive development.

On April 11, Congresswoman Virginia Smith of Nebraska convened a meeting of all the interested parties. The following agencies, organizations and individuals were represented:

"U.S. Fish and Wildlife Service/Area Office, Pierre, S.D.

"U.S. Fish and Wildlife Service/Region 6 Office, Denver, Colorado.

"U.S. Fish and Wildlife Service/Washington, D.C.

"S.D. Department of Game, Fish and Parks.

"Missouri River Bank Stabilization Association.

"Siouxland Interstate Metropolitan Planning Council/Sioux City, Iowa.

"U.S. Army Corps of Engineers/Missouri River Division.

"U.S. Army Corps of Engineers/Omaha District.

"U.S. Army Corps of Engineers/Chief's Office, Div. of Civil Works.

"National Park Service.

"Office of Congressman Charles Thone, Nebraska.

"Office of Congresswoman Virginia Smith, Nebraska.

"Office of Senator Edward Zorinsky, Nebraska.

"Office of Congressman James Abdnor, South Dakota.

"Office of Senator James Abourezk, South Dakota.

"Office of Senator George McGovern, South Dakota."

During this meeting, the principle compromises inherent in the legislation as approved by the House Interior Committee and passed by the House of Representatives were hammered out. There were subsequent meetings to further iron-out the language to be used in the authorizing legislation. In any

case, the language, as passed by the House, is completely acceptable to all the parties involved.

It is our understanding the Subcommittee is concerned specifically with the following portions of the authorizing legislation:

"The Secretary of the Army (acting through the Chief of Engineers) shall condition the construction or maintenance of any streambank stabilization structure or of any recreational river feature at any site under subparagraph (A)(i) upon the availability to the United States of such land and interests in land in such ownership as he deems necessary to carry out construction and maintenance and to protect and enhance the river in accordance with the purpose of this Act . . ."

". . . Notwithstanding the authority to the contrary contained in subsection 6(A) of this Act, no land or interests in land may be acquired without the consent of the owner: *Provided*, That not to exceed 5 per centum of the acreage within the designated river boundaries may be acquired in less than fee title without the consent of the owner, in such instance of the Secretary's determination that activities are occurring, or threatening to occur, thereon which constitute serious damage or threat to the integrity of the river corridor, in accordance with the values for which this river was designated. . . ."

The Subcommittee is understandably concerned that this language could set precedent for future authorizations of this kind, however, we must cite the peculiar circumstances surrounding this particular designation and the lengthy consultation which evolved this language.

The language provides that in order for there to be any bank stabilization, the landowner who is to benefit from it must also make available land for protection of fish and wildlife values. This insures there will be no bank stabilization without protection of wildlife and recreational values. This is agreed to by all parties involved with the designation.

The "5 per centum" cited in the language does not include land made available under the aforementioned condition, nor does it include that which is already in public ownership (State and/or County). This provision is agreed upon by all involved.

Simply stated, as things presently stand, there is no way to protect wildlife values along the river without this designation. This legislation corrects that problem. It also permits needed bank stabilization. It also creates a unique recreational opportunity.

We sincerely feel the Subcommittee should weigh this evidence of unprecedented cooperation before accepting the Administration's viewpoint in this matter. Frankly, we do not believe those who recommended its deletion are familiar enough with it to have passed that judgment. This proposal is not "park barrel". It is the result of careful consultation and years of work to solve very real problems confronting landowners, Federal and State agencies, and the Congress. The Nebraska and South Dakota congressional delegations went to extreme lengths to see it included in this Omnibus Parks Bill because we believe the designation's time has come.

We are convinced the proposal to expend $1-million for another year's study of the designation will serve little purpose. This designation has already been thoroughly studied. The information the Administration hopes to glean from an additional report is most likely already available to it. If it is not, however, then the Subcommittee should take note that under this designation the first thing which will happen is that the Recreational River Advisory Group will be formed, as provided for in the legislation. This group is charged with assisting the Secretaries of Army and Interior in formulating a management plan for this stretch of the river. If it is the conclusion of the parties involved that an assessment is needed to determine the relationship between the bank stabilization structures and wildlife and recreational values, the study can be accomplished within the framework provided for in this legislation.

We are afraid that without passage of this legislation the attempt to arrive at an amicable compromise will be lost forever, that the parties involved in working so hard and long to formulate this agreement will be so thoroughly frustrated that they will return to their adversary relationship. Needed bank stabilization will be stymied. If it is not, then wildlife values could be forever lost because they cannot be protected. Even more importantly, perhaps, a unique opportunity to preserve the natural recreational values of the Missouri River could be lost as well just as the natural values of other portions of the river have been. We feel such a scenario would be tragic, especially when it could be averted by your affirmative action at this time.

We sincerely urge the Subcommittee to give this designation its most serious consideration based on the information contained in this letter. Though none of us serve either upon the Subcommittee or the full Committee, if we can in any way be of assistance to you in your deliberations, please do not hesitate to call upon us.

Sincerely,

GEORGE MCGOVERN,
CARL CURTIS,
EDWARD ZORINSKY.

Mr. McGOVERN. Mr. President, additionally, I ask unanimous consent that section 708 of the house report accompanying H.R. 12536 (Rept. No. 95–1165) which concerns this designation be printed in the RECORD.

There being no objection, the section was ordered to be printed in the RECORD, as follows:

[Report No. 95–1165]

SUPPLEMENTAL VIEWS

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 12536) to provide increases in appropriations ceilings, development ceilings, land acquisition, and boundary changes in certain Federal park and recreation areas, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, beginning on line 3, strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "National Parks and Recreation Act of 1978".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Definition.
Sec. 3. Authorization of appropriations.

Section 708. The addition of this segment of the Missouri River to the system is the result of a delicate negotiation between affected landowners; various governmental planning councils, groups and agencies; conservation interests; and members of Congress. The language provides that the Secretary of the Interior shall construct such recreation features and streambank stabilization features as he deems necessary and advisable, and shall maintain various streambank stabilization structures. No streambank stabilization structure or recreational feature is to be placed or maintained on private land without the owner and the United States first negotiating suitable arrangements for adequate protection of any land within that ownership within the river boundary in accordance with the purposes of the Wild and Scenic Rivers Act. Condemnation authority is limited to no more than 5 percent of the acreage within the designated river boundary, and that is limited to less-than-fee acquisition, and may be exercised only when an owner is damaging, or is threatening to jeopardize or damage, the integrity of the river corridor. This 5 percent acreage limitation excludes (1) those lands for which easements or fee acquisition have been or come to be negotiated associated with lands upon which interests or fee have been or are acquired for the construction of streambank stabilization structures and/or recreational facilities, and (2) those lands protected by any level of government ownership. The river is to be administered by the Secretary, under contract with the Secretary of the Army, through the Corps of Engineers.

The committee intends that the administration shall assign the necessary manpower and budgetary priority to acquisition and development required for accelerated establishment of these Wild and Scenic rivers. The committee is concerned that lack of administration sense of urgency would have a serious impact upon those private landowners affected. There is a further need for the administration to advise landowners in the affected areas immediately as to the details of land acquisition procedures and degree of estate, fee or easements to be acquired.

The committee also intends that the managing agencies develop their management plans with full public involvement as rapidly as possible. Significant attention should be paid to the problem of overuse that often occurs on designated rivers to the detriment of the resource such designation attempts to protect. Particular attention and urgency should be paid to the Pere Marquette River, Mich., to preserve one of the most famous scenic rivers in the midwest region.

Mr. MCGOVERN. Mr. President, these documents make some relevant points I believe are necessary in establishing the legislative history of this amendment so they can later be used to clarify "congressional intent" in this regard. I would also like to amplify points contained in the documents at this time.

First of all, this amendment authorizes the Secretary of the Interior to enter into a cooperative agreement with the Secretary of the Army concerning a management plan for this stretch of the Missouri. This is necessary because it is the Secretary of the Interior who is normally responsible for administration of the Wild and Scenic Rivers Act. Yet, in this instance, the river's routine management is and should be the responsibility of the Corps of Engineers.

The management plan is to provide for, but not be limited to, a program for construction and maintenance of bank stabilization work and recreational development. The Secretary of the Interior may additionally delegate day-to-day management responsibility for the recreational river development to the corps as part of the plan. He would have this right and I would assume he will so delegate it.

The House report also makes reference to a "five percentum condemnation authority" for carrying out the purposes of this designation. This figure is based upon the total acreage within the designated river boundary and limits condemnation to those instances where a landowner is damaging, or is threatening to jeopardize or damage, the integrity of

the river corridor. The 5 percent figure does not include those lands for which easements or fee acquisition have been, or come to be, negotiated in association with lands upon which interests or fee have been, or are, acquired for the construction or maintenance of streambank stabilization structures and/or any recreational facilities. It also does not include those lands currently protected by any level of public ownership.

What this understanding is indicative of is the unique characteristic of this designation. In order for a landowner to obtain needed bank stabilization work on his property, he and the United States must first negotiate a suitable arrangement to adequately protect any land within his ownership within the river boundary in accordance with the purposes of the Wild and Scenic Rivers Act.

In summary of this point, there is a "quid pro quo" under this arrangement. If a landowner wants to protect his property with bank stabilization and such a stabilization plan is authorized under the conditions of this amendment, then that streamback protection is conditioned upon his making an acceptable amount of acreage within the river corridor available for protection of wildlife habitat and other values for which this designation is intended. Both the landowner and wildlife benefit under this arrangement.

Mr. President, I am today urging adoption of this amendment because it is remarkable. In its way, it is a first. Senators ZORINSKY, CURTIS, ABOUREZK and I are excited about it. It is a unique cooperative arrangement among diverse interests seeking to meet a variety of needs while protecting a unique segment of the Missouri River. The potential for this to create a unique recreational experience is unquestionable. The segment's suitability for this designation is undeniable.

In closing, let me address the administration's proposal for an additional year's study. What was that study to accomplish? It was to look into the compatibility of the proposed corps bank stabilization structures and wildlife purposes. I believe the very fact that the Congress has funded several bank stabilization demonstration projects of this nature, the corps having built them and the Fish and Wildlife Service having analyzed their suitability for wildlife purposes in agreeing to this designation is study enough. However, if additional studies are believed to be needed, then they can be arranged for under terms of the cooperative agreement to put together a management plan and can be financed with moneys authorized for expenditure by this legislation.

Mr. HANSEN. Mr. President, I would like to express my appreciation to the distinguished senior Senator from Idaho for his sensitive concern for the two trails that cross Wyoming. He was very helpful, very keenly aware of the problem that could have resulted from the implementation of a concept that has validity in some parts of the country which would really bring great hardship upon those persons living in Wyoming through whose properties these two trails go.

I just want to thank him for his understanding, first, of the problem and his knowledge, his willingness, and his ability to help us work the problem out in a manner that I think preserves those important characteristics of the trails, which will provide for marking and information all along the way and yet will not impose upon ranchers and other property owners some of the more onerous burdens that could result, and for taking into account at the same time of the need for rights-of-way for power lines, for pipelines, and/or roads.

I thank my colleague from Idaho.

Mr. CHURCH. I am grateful to the distinguished senior Senator from Wyoming for those typically generous remarks, and I want him to know how much I appreciated his help in our effort to establish these trails.

Several Senators addressed the Chair.

Mr. CRANSTON. Mr. President, I rise in support of S. 791 the omnibus parks bill providing for increases in appropriation ceilings, development ceilings, land acquisition, and boundary changes in certain units of the national park system.

This bill contains an important provision establishing the Santa Monica Mountains National Recreation Area in Los Angeles and Ventura Counties. The Los Angeles metropolitan area with its 10 million people has less open space for public recreation uses than any other major city in the United States. Los Angeles and Ventura Counties need this park. Through the creation of the Santa Monica Mountains National Recreation Area, we will be acquiring new parklands which are within minutes of downtown Los Angeles and tying them together with some of the Nation's finest beaches and mountain scenery. Although the Congress has done much for California, it has not previously provided parklands for this area of the State. There are 17 congressional districts in the two counties—more districts than in most States. And there are no national parks in these 17 congressional districts.

I am pleased that this bill recognizes the great need to preserve the mountains and seashore and provide for southern California's park needs. I want to take this opportunity to express my deep appreciation to the chairman of the Senate Energy and Natural Resources Committee (Mr. JACKSON), the chairman of the Parks and Recreation Subcommittee (Mr. ABOUREZK) and the ranking minority member (Mr. HANSEN) for their support of the Santa Monica Mountains National Recreation Area. I also want to thank the distinguished majority leader (Mr. BYRD) for bringing this omnibus parks bill to the Senate floor before adjournment.

Mr. President, the Santa Monica Mountains provision in this bill designates the national recreation area, directs the Secretary of Interior to identify the areas within the boundaries to be acquired by the Federal Government, and authorizes a total funding of $125 million for the land acquisition program, with a maximum of $15 million available in fiscal year 1979, $40 million for fiscal year 1980, $45 million for fiscal year 1981, $10 million for fiscal year 1982, and $15 million for fiscal year 1983.

Although there are single-family dwellings in the mountains and along the seashore, it is not our intention for the Federal Government to acquire developed properties. The bill specifically provides that except where continued private ownership is clearly incompatible wtih the proposed park, no developed private land will be condemned and acquired.

In order to protect the buffer areas not acquired by the Federal Government, the legislation authorizes a $30 million, 100-percent grant program. The California State Legislature recently enacted legislation authorizing $14,900,000 under the Nejedly-Hart Bond Act for land acquisition in the Santa Monica Mountains provided that Federal funds are available to reimburse the State fully for such projects.

Mr. President, there is tremendous support for establishing a Santa Monica Mountains National Recreation Area. The State of California, the city of Los Angeles, the county of Los Angeles, and the county of Ventura all support a Santa Monica Mountains, National Recreation Area. So do Congressmen TONY BEILENSON, BARRY GOLDWATER, and BOB LAGOMARSINO, who sponsored a nearly identical bill which passed the House. Mr. President, I request unanimous consent that a more complete list of supporters of the national recreation area be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. CRANSTON. Mr. President, I would like to give special thanks to some of the many individuals who worked hard on this legislation. Among those who were so helpful to me and my staff are Susan Nelson, of the Friends of Santa Monica Mountains, Margot Feuer and Jill Swift, of the Santa Monica Mountains task force, Mary Ann Erickson, of the Sierra Club, Joseph Edmiston, of the Santa Monica Mountains Comprehensive Planning Commission, and Gail Osherinko, of Congressman BEILENSON'S staff.

Mr. President, we have a remarkable opportunity to set aside the last remaining major undeveloped recreational resource in the Los Angeles metropolitan area. I hope my colleagues here in the Senate will join me in supporting this bill.

Mr. President, I would like to add a few words about another very important provision of this bill, the addition of Mineral King to Sequoia National Park.

Mineral King is a 16,200-acre area contiguous to Sequoia National Park. The area is currently designated as a national game refuge and administered by the Forest Service as part of the Sequoia National Forest. Topographically and ecologically, Mineral King Valley belongs to the park which surrounds it on three sides. It was not included in the national park when the park was established in 1890 only because of the mining activity which occurred there in the 1870's and

1880's and the potential for mineral development in the future. Since mining ended over 80 years ago, this is no longer a valid reason for the area's exclusion from the park. Moreover, it does not make sense from a land management point of view to continue to have the Forest Service administer Mineral King. The only vehicular access to the valley is through the national park.

Because of the area's central location within the State of California and its superb scenic and natural resources, Mineral King is an ideal site for recreational development. I also recognize that Mineral King has high potential for downhill skiing.

As the sponsor of legislation to add Mineral King to Sequoia National Park, it was not my intention to preclude downhill skiing or the development of ski facilities in Mineral King Valley. In fact, I personally favor downhill skiing there.

There is a real need for additional ski areas close to southern California—both for people who cannot afford the time and expense to travel out of State, and for those presently forced to drive hundreds of miles to ski—and Mineral King can help fill this need.

I recognize that current national park policy is not to permit new downhill skiing facilities and associated structures in any unit of the national park system. However, ski developments do exist now in some national parks, including Yosemite National Park and Lassen National Park in my own State of California. Moreover, because of Mineral King's uniqueness, the Interior Department has agreed to treat Mineral King as an exception to its general policy and to give full and impartial consideration to skiing as a management option if the area is transferred to the Sequoia National Park.

Mr. President, I ask unanimous consent that a copy of the letter from Assistant Secretary of Interior Robert Herbst to Congressman JOHN KREBS outlining the Department's position and commitment to consider skiing be printed in the RECORD immediately following my remarks. I applaud the excellent work of Congressman KREBS on the Mineral King provisions in the measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. CRANSTON. Mr. President, under the bill I introduced the Secretary of Interior is directed to develop within 2 years a management plan for Mineral King that protects the wildlife and scenic and natural values of the area, and at the same time provides for additional outdoor recreational opportunities. This would be done with full public participation.

I do not believe we should predetermine the management plan either by mandating skiing, or by prohibiting skiing. I hope the Interior Department will consider and evaluate all management alternatives for Mineral King, including skiing which I favor.

I understand the committee block amendment offered to the bill this evening would preclude the development of permanent downhill ski facilities at Mineral King. I think this is extremely unfortunate.

If it were possible to offer an amendment on the Senate floor to delete this provision in the committee amendment without endangering passage of the omnibus parks bill which contains the creation of the Santa Monica Mountains National Recreation Area, I would offer such an amendment. But unfortunately any amendment could prevent enactment of the entire omnibus parks bill this year.

Finally, regarding this entire measure, I wish to express my deep appreciation for and admiration of the work of Congressman PHIL BURTON. This bill is a monument to his ability and perseverance.

EXHIBIT 1

SUPPORTERS OF SANTA MONICA MOUNTAINS NATIONAL PARK LEGISLATION

GOVERNMENT

1. State of California.
2. California Coastal Commission.
3. Santa Monica Mountains Comprehensive Planning Commission.
4. Mayor Tom Bradley, Los Angeles.
5. Los Angeles County Board of Supervisors.
6. Los Angeles City Council.
7. Los Angeles City Parks and Recreation Department.
8. Los Angeles County Department of Parks and Recreation.
9. City of Los Angeles Planning Commission.
10. Los Angeles County Mulholland Scenic Corridor Citizens' Advisory Committee.
11. Mayor Richard Stone, Beverley Hills.
12. Beverly Hills Recreation Department.
13. Santa Monica City Council.
14. City of Thousand Oaks.
15. Westlake Village Chamber of Commerce.
16. Horace Albright, former director, National Park Service.
17. United States Senator Alan Cranston.
18. California State Senator Alan Sieroty.
19. California State Assemblyman Howard Berman.
20. California State Assemblyman Meldon Levine.
21. California State Legislature.

CITIZEN ORGANIZATIONS

1. Friends of the Santa Monica Mountains.
2. Santa Monica Mountains Task Force, Sierra Club.
3. Sierra Club, Washington, D.C.
4. The Wilderness Society.
5. Environmental Law Institute.
6. National Parks and Conservation Association.
7. Nature Conservancy.
8. Conservation Foundation.
9. Los Angeles Audobon Society.
10. Women For.
11. League of Women Voters.
12. Friends of the Earth.
13. Scenic Shoreline Preservation Conference.
14. Ecology Center of Southern California.
15. California Conservation Project.
16. California Native Plant Society.
17. Environmental Coalition, Ventura, California.
18. Planning and Conservation League.
19. Izaak Walton League of America.
20. Equestrian Trails, Inc.
21. Candelaria American Indian Council.
22. Malibu Township Council, Inc.
23. East Los Angeles Community Services.
24. Topanga Association for Scenic Community.
25. Western Foundation of Vertebrate Zoology.
26. Recreation and Youth Service Planning Council.
27. Dejomont Club.
28. Westside Civic Federation.
29. California Association of Parks and Recreation.
30. EDAW, Inc.
31. Topanga Canyon Town Council.
32. Los Angeles County Democratic Central Committee.
33. Westside Civic Federation.
34. Association of Women in Architecture and City Advisory Committee.
35. Bel Air Skycrest Property Owners Association.
36. North Beverly Drive Property Owners Association.
37. Federation of Hillside and Canyon Homeowners.
38. Lake Sherwood Community Association.
39. Temescal Canyon Association.
40. South Brentwood Homeowners Association.
41. Upper Mandeville Canyon Association.
42. Glenview Residents Association of Topanga.
43. Lookout Mountain Property Owners Association.

EXHIBIT 2

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., February 27, 1978.

Hon. JOHN KREBS,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. KREBS: I enjoyed discussing Mineral King further with you, your staff and Senator Cranston's representative on January 31, 1978. As requested I would like to briefly describe the planning process that the National Park Service would use and the kinds of development that would be considered in the planning process upon enactment of your bill (H.R. 1771).

PLANNING PROCESS

Basic data about the area would be assembled from USDA Forest Service, State, National Park Service and other sources.

Public involvement would begin very early to obtain public views about visitor use and management and to get basic data.

Preliminary management objectives would be prepared and an assessment of alternative approaches to reach these objectives would be developed and reviewed by the public, State and Federal Agencies.

A draft plan and environmental documentation would be prepared and reviewed by the public and government agencies.

Then a final plan would be written and implemented.

DEVELOPMENT ALTERNATIVES

The alternatives prepared would reflect the input of the public, the feasible potential uses of the resource, and reasonableness. At this stage, I can state that the following kinds of development alternatives will be evaluated.

(1) Wilderness:

Under this approach, Mineral King would be managed as wilderness. All non-Federal property would be acquired and all man-made structures would be removed. Public access would be via the existing road at present standards with parking at Silver City or possibly further from Mineral King Valley within present park boundaries or even outside the park to the west.

(2) Present Use and Development Level:

Under this alternative, Mineral King would be managed for the kinds and levels of visitor use as exist at present. Improved maintenance, appropriate changes in resource management practices to ensure resource preservation, acquisition of present private holdings, and termination of incompatible leases would occur. Some development would occur to better facilitate public use levels and to mitigate adverse environmental impacts. Additional uses that are of the same general nature as those at present would be

accommodated. Such possible additional uses include increase in winter primitive snow touring and guided interpretive tours.

(3) Development to enable year-round use—moderate:

This alternative includes acquisition of private inholdings; upgrading the access road to a 25 mph standard; development of a 100 site campground to replace the present primitive camping facilities; development of 100 pillow overnight facility and parking to accommodate this increase in use. An administrative/maintenance/residential/utilities complex would be built. Other development such as stabilized or paved trails would be provided to absorb increased day use and mitigate its effects. As much new development as possible would occur on land presently disturbed by present man-made development. Winter use would be accommodated and would include cross-country skiing, snow touring and snow play.

An increase in present use by 40 to 60 percent would be anticipated under this alternative.

(4) Development to enable year-round use—downhill skiing:

This alternative is the same as Alternative 3 except that mechanized downhill skiing and increased overnight accommodations would be provided. During development of this alternative, various methods to provide skiing, including all private and all public ownership and operation, would be explored.

Only those mechanized skiing facilities that are compatible with the esthetic character of the valley would be considered. Extreme effort would be made to enable removal of the obviousness of the skiing facilities during nonwinter periods. Some sort of public conveyance would probably be required to accommodate increased public use. Provision for it would be included in this alternative. Under this alternative visitor use may increase 100–200 percent above present levels.

(5) Forest Service Plan B:

An assessment of this alternative, the most recent developed by the Forest Service, would be included in NPS planning documents.

Upon completion of the alternatives assessment and after discussion with the public and other government agencies, a draft proposal would be developed. This proposal may involve choosing various elements from the alternatives studied. When we do our planning, we will take a fresh look at public needs and at resource potential.

I can assure you that we will fairly look at reasonable alternatives for the valley and that we would be limited by the ability of the valley to absorb impacts of use while preserving its innate natural character.

Thank you for providing me the opportunity to discuss these planning matters with you.

Sincerely yours,

ROBERT L. HERBST,
Assistant Secretary for Fish and Wildlife and Parks.

Mr. METZENBAUM. Mr. President, I would like to commend the chairman of the Energy and Natural Resources Committee, Senator JACKSON, the chairman of the Committee's Parks Subcommittee, Senator ABOUREZK, and the ranking minority member, Senator HANSEN, for including the Urban Parks and Recreation Recovery Act of 1978 as an integral part of this omnibus park bill. Title 10 of S. 791 is identical in all respects, except for a cut in funding, to the bill I introduced on September 30, with the following 18 cosponsors, Senators ABOUREZK, HATFIELD, WEICKER, CRANSTON, WILLIAMS, JAVITS, CASE, RIBICOFF, KENNEDY, CHAFEE, CULVER, RIEGLE, HEINZ, MOYNIHAN, STONE, MATHIAS, SARBANES, and BAYH.

Since the introduction of our bill, Senator DECONCINI indicated to me his concern that some language in the bill appeared to discriminate against his section of the country. As the Senator knows, we have made every effort to make sure that this bill has equal applicability to every region of the country. In this spirit, I have agreed to certain modifications of the bill, which are reflected in the committee substitute. In addition, my good friend, Senator HANSEN expressed his concern that this bill not permit any land and water conservation funds to be used by the applicant for its share of the match. I totally share Senator HANSEN's concerns in this regard. The land and water conservation fund is already overtaxed, and this separate program cannot be permitted to add to its burden. In my opinion, the bill was rather clear on this matter, but nonetheless, in order to assure my good friend, Senator HANSEN, I have agreed to language which specifically prohibits the use of land and water conservation funds from being used in this program.

Mr. President, this measure has been more than 15 years in the making. In the early 1960's, the report of the Outdoor Recreation Resources Review Commission pointed out that Federal recreation policy had ignored the special needs of our urban areas. Over a decade later, the Congress, led by Senator JACKSON, recognized that this vacuum in Federal recreation policy still existed, and instructed the Department of Interior to undertake a major study of "the needs, problems, and opportunities associated with urban recreation in highly populated regions." Interior submitted that study to the Congress earlier this year.

The national urban recreation study reaffirmed that while the preservation of pristine natural areas is a proper national goal, it is equally important that we focus directly on the needs of 70 percent of our people who live day-in and day-out in a maze of concrete corridors. Survey after survey has demonstrated conclusively that urban residents desire and value the benefits of a fully functioning recreation system that provides close-to-home indoor and outdoor facilites and programs. The study emphasized that existing Federal programs simply have not, and cannot, adequately address these specialized needs. Federal assistance according to the study, "could be made much more positive by a unified approach which encourages Federal, State, and local cooperation in addressing critical urban recreation problems."

The study concluded that one of the most pressing problems confronting urban recreation is the rapidly deteriorating State of existing facilities. Financially strapped local governments have been forced to neglect badly needed short-term investments in recreation facilities, and as a result, these facilities are underused or unused.

This finding formed the basis of the administration's legislative proposal to direct funds to physically and economically distressed urban areas for the rehabilitation of recreation facilities. I commend the President for including this initiative within the administration's overall urban policy. I should point out that this measure, if enacted, will be the only new urban policy initiative of major significance to be passed by the Congress this session. During a time when the President is fighting hard to hold down overall expenditures, the administration's commitment to this bill certainly underscores its urgency.

The Subcommittee on Parks and Recreation of the Energy and Natural Resources Committee held 2 days of hearings on the President's proposal in June. Since that time, we have worked with the Department of Interior, a cross-section of the public interest community, and the majority and minority committee staff, in order to perfect this proposal. We believe we have succeeded in that goal.

Mr. President, 34 major organizations strongly support this effort. I would like to share with my colleagues the names of these organizations which support title 10 of S. 791:

National Governors' Conference.
League of Cities.
Conference of Mayors.
National Association of Counties.
National Urban League.
National Urban Coalition.
National Parks and Recreation Association.
National Parks and Conservation Association.
UAW.
AFSCME.
Steelworkers of America.
Sierra Club.
Environmental Policy Center.
Friends of the Earth.
Izzak Walton League.
Conservation Foundation.
National Wildlife Federation.
Wilderness Society.
Environmental Defense Fund.
Environmentalists for Full Employment.
League of Women Voters.
Consumer Federation of America.
National Board of Y.M.C.A.'s.
Girl Scouts of U.S.A.
Boys' Club of America.
Children's Foundation.
Center for Community Change.
Council on Economic Priorities.
Trust for Public Lands.
Lawyers' Committee for Civil Rights Under Law.
Clean Water Action Project.
Joint Center for Political Studies.
National Federation of Settlements and Neighborhood Centers.
National Association of State Outdoor Recreation Liaison.

Mr. President, at this point I ask unanimous consent that a summary of title 10, the Urban Parks and Recreation Recovery Act of 1978, be included in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE BILL

FUNDING

$170 million per year for FY 1979 thru FY 1983.

PROJECTS

Ninety percent of the funds are to be spent on rehabilitating existing indoor and outdoor recreation facilities. Up to ten percent of the

funds may be spent on "innovative" recreation projects which have national implications.

MATCHING REQUIREMENTS

The bill provides for a 70–30 Federal-Local match. However, every dollar the state contributes to the local share will be matched by the federal government. In no event can the federal share exceed 85%.

ELIGIBILITY

The Secretary of Interior is given total discretion in determining those criteria that are most appropriate for eligibility. The bill states that "such criteria shall be based upon factors which the Secretary determines are related to the existence of deteriorated recreational facilities or systems, and physical and economic distress." In addition, a discretionary fund of up to 15% is established for those urban areas that the Secretary determines are deserving of assistance but were not able to qualify under the criteria established by the Secretary.

PASSTHROUGHS

At the discretion of the local government, grants may be transferred to independent special purpose local governments, private non-profit organizations, and county or regional park authorities.

LOCAL COMMITMENTS TO SYSTEM RECOVERY

As a requirement for project approval, local governments must submit to the Secretary a recovery action program which demonstrates their commitment to overall improvements in their recreation system. The Secretary is authorized to provide up to 50% matching grants for the preparation of the recovery action program.

STATE ROLE

The bill directs the Secretary to encourage the States to become active, positive partners in this program. It is anticipated that States will play a major role in financing, administering, and coordinating the program.

COORDINATION

The Secretary is required to coordinate this program with other federal agencies involved with the total urban recovery effort. At the state level, the Secretary shall encourage coordination between state agencies and local applicants, and at the local level, the Secretary is required to assure community and neighborhoods participation in the program.

Mr. METZENBAUM. Mr. President, I think it should be very evident by now just how much support this measure has. The majority and minority members of the Energy and Natural Resources Committee, to whom I owe a great debt of gratitude, have agreed on this provision; 18 Members of the Senate have joined with me as cosponsors. The administration supports it. The House passed it, and 34 organizations support it. The full Senate now has the opportunity to endorse this measure, and thus complete the process of fully recognizing the specialized needs of urban recreation.

● Mr. KENNEDY. Mr. President, I want to begin by commending the distinguished Senator from South Dakota for all of his efforts as chairman of the Subcommittee on Parks and Recreation, and particularly on this bill which has required an unusual amount of time and patience. It is a vitally important piece of parks legislation, and I am pleased that we now have a chance to consider it before the end of this session.

One of the most far-reaching sections of this bill creates a comprehensive program for improving recreational opportunities in our urban areas. The program has been on the drawing board for more than 15 years, and we owe a great debt of gratitude to Senator METZENBAUM for his efforts to have this legislation included in the omnibus parks bill. The pressing need for a Federal urban recreational policy has long been recognized, and those of us who cosponsored the Urban Park and Recreation Recovery Act of 1978 were pleased to see this initiative included in the President's urban policy. Senator ABOUREZK's committee held hearings on the administration's proposal last spring, and since then have worked to perfect a bill which provides a unified approach to urban recreation by encouraging local, State and Federal cooperation. The bill provides the Federal funds needed to encourage States and localities to rehabilitate existing recreational facilities, and to develop new, innovative approaches to address critical urban recreation problems in our cities. Furthermore, the bill directs that these funds be targeted to distressed urban areas. Although the eligibility provisions of the bill are not as strict as I might have liked, the administration has given us assurances that Federal funds will go to those who are in greatest need.

Our past efforts to preserve and enhance this Nation's natural areas represent a strong commitment to providing adequate recreational opportunities for all Americans. We can do no less for the 70 percent of our people who live and work in America's cities. Our urban residents expect and deserve readily accessible recreational facilities, and this legislation is designed to meet that need.

The bill also includes projects of great importance to my own State of Massachusetts. It will correct a boundary problem which has plagued the Cape Cod National Seashore and authorizes increased funding for land acquisition. The bill authorizes funds for the acquisition of two tracts of land for inclusion in the Salem Maritime National Historic Site, and also authorizes inclusion of Dorchester Heights in the Boston Historic Park. This was the site of the first American victory of the Revolutionary War. In the early months of 1776, revolutionaries began to fortify the Heights, overlooking Boston Harbor, under the supervision of General George Washington. A few months later, the British were forced to evacuate Boston under the threat of cannons at the site, never to return to Massachusetts during the Revolution. Finally, I am extremely pleased that the committee included authorization for park service acquisition of the birthplaces of both John Adams and John Quincy Adams in Quincy, Mass. The local community has strongly endorsed the preservation of these two important homes.

I strongly urge my colleagues to support this legislation.●

Mr. GRAVEL. Mr. President, I would like to thank the Senator from Idaho and the other members of the committee for inclusion of the Iditarod Trail as a national historic trail in this legislation. In commemoration of the historic trail and to the vital role of dog mushing in Alaska's history, a 1,000-mile dogsled race has been held annually since 1973 between Anchorage and Nome. This race remains the supreme test of man and dog with travel conditions and stamina requirements varying little from those experienced by mushers 80 years ago. Designation of this trail will aid in the protection of the rich history of the Alaskan Gold Rush era and insure the continuation of the unique dog sled classic along the historic route.

Mr. ABOUREZK. Mr. President, are there any further amendments to be offered?

Mr. GRAVEL. I have another amendment.

The PRESIDING OFFICER. The Senator from Alaska.

UP AMENDMENT NO. 2083

Mr. GRAVEL. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an unprinted amendment numbered 2083:

Strike sections 316 and 705 and renumber subsequent sections accordingly.

Mr. GRAVEL. Mr. President, this project, and I am speaking of Tockes Island dam, was authorized under the Flood Control Act of 1962 (Public Law 87–874) for flood control, water supply and hydroelectric power development for the Delaware River Basin which includes portions of Delaware, Pennsylvania, New Jersey and New York. Public recreation was added as a project objective in 1965.

The first preconstruction and planning money was appropriated in fiscal 1964 and the first land acquisition money was voted in fiscal 1968.

The plan has been bogged down in controversy almost since its inception, primarily because of environmental objections but also involving questions of cost, need and practicality.

For those reasons no construction has ever been started despite a total outlay of more than $65 million in project costs through fiscal 1978.

Pressure for deauthorization has mounted in recent years. Three of the four Governors serving on the Delaware River Basin Commission, which was the project sponsoring agency, withdrew their support in mid-1965. Only the Governor of Pennsylvania continued his support of project construction.

That withdrawal, coupled with the results of a project review ordered by Congress at a cost of about $1.5 million, prompted the Corps of Engineers to formally recommend deauthorization in a report to Congress in September, 1975.

The recommendation called for abandonment of any construction plans, for transfer of lands already acquired to the Department of Interior for incorporation into the Delaware Gap Recreation Area, and for phase-out of the Corps involvement in the proposal over a 3-year period.

The proposal went from the Chief of Engineers to the Secretary of the Army June 7, 1976 and was transmitted to the Office of Management and Budget on July 2, 1976. No action has yet been taken on it there which is the point I want to stress.

Meanwhile, deauthorization legislation

was introduced in the Senate (S. 3106) and hearings were held on it July 23 and 26, 1976 by the Public Works Subcommittee on Water Resources. A decision was deferred at that time because of the wide variance of views on the project and the measure died with congressional adjournment that year. We had extensive hearings on this. The Public Works Subcommittee has not made a decision.

A new deauthorization bill (S. 868) was introduced by Senator Case of New Jersey and others on March 3, 1977, but no action has been taken on it.

Mr. President, this is quite a controversial issue in the States of Pennsylvania and New Jersey, I hope that the Senate will not make a decision, which they do in this legislation the wild and scenic rivers legislation, which actually preempts a decision that will obviously irritate a great many constituents in that area. I would hope the managers of the bill would accept my amendment which is to strike from the bill the creating of the wild and scenic rivers area.

Funds voted in fiscal 1977 and 1978 have been for purchase of land for which commitments had previously been made, and for relocation of Highway 209 as would be required by the transfer of the recreational land. In all, 16,800 acres have been acquired of the 25,000 intended for the project as originally conceived.

Mr. ABOUREZK. Mr. President, with great respect to the Senator from Alaska and the distinguished senior Senator from West Virginia (Mr. RANDOLPH), who has great concern about this particular section of the bill, the committee must vehemently oppose and resist this amendment for the reason that the designation does fall under the jurisdiction of the Energy Committee and the Parks and Recreation Subcommittee.

In addition to that there are four States involved in this particular designation, Pennsylvania, New York, New Jersey, and Delaware, and I will state that there is bipartisan support on the part of Senators from those States for this particular designation.

I will not ask for a rollcall vote, but I would urge the Senate to defeat the amendment.

I yield back the remainder of my time.

Mr. RANDOLPH addressed the Chair.

Mr. ABOUREZK. I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, this matter cannot be disposed of so lightly. In our committee this was, as the able chairman of the Subcommittee on Water Resources indicates, a controversial project, but that does not lessen its value. It was a project which was brought into being after very, very careful hearings.

We held hearings in the subcommittee in 1976 on this project, and the committee did not deauthorize this project. I ask the Senator from Alaska if this is correct?

Mr. GRAVEL. That is totally correct, and I have the hearings right in my hand, and they are extensive hearings.

Mr. RANDOLPH. I say further that at that hearing in 1976—and I would like attention, please, on this matter——

Mr. GRAVEL. Mr. President, could we have order, please?

The PRESIDING OFFICER. The Senate will be in order.

The Senator may proceed.

Mr. RANDOLPH. I want to say the record will show, and he would say if he were here, my friend, the chairman of the Human Resources Committee, Senator WILLIAMS, sent a letter against deauthorization, a letter from the Senator from New Jersey; is that not a fact?

Mr. GRAVEL. Yes, it is.

Mr. RANDOLPH. Yes, it is a fact. It is a fact and it is in the hearing record. Let us realize that this is an important water project. I know of no person within the labor movement of the States involved who has not endorsed this project. That does not mean it goes forward, but this is not the time to deauthorize the project or take an action that has the effect of deauthorization. The committee seemingly, lightly, wants to drop what we have done after careful hearings, and that was to authorize the project. We did not deauthorize the project; is that right?

Mr. GRAVEL. That is correct.

Mr. RANDOLPH. All right. The Governor of Pennsylvania has been an ardent advocate of this project; is that true?

Mr. GRAVEL. Yes, he has.

Mr. RANDOLPH. Is it not also true that the Governor of New Jersey has not indicated his opposition to this project?

Mr. GRAVEL. That is correct according to the testimony.

Mr. RANDOLPH. I think it is very important when a committee of the Senate works as diligently as we have worked in this matter that we not just discuss it as if it were something we could pass over. The committee will continue, of course, to look at the project. But this is not the time or the bill to act in a manner that would block the project that has been authorized by the Committee on Environment and Public Works, after complete hearings.

I am very earnest about this. It is not a matter that deserves, frankly, the very adamant opposition to the amendment that has been expressed here by my friend from South Dakota (Mr. ABOUREZK).

That is not the way to handle this project. There is no reason to cripple a project of this kind, which has had the support of the Environment and Public Works Committee after voluminous hearings.

I rise, not because of the jurisdictional matter; that does not disturb me too much. But I think there is something right and something wrong on a project of this kind. I have expressed to my colleagues the reasons why I hope they will support the amendment of the Senator from Alaska.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. HEINZ. Mr. President, I ask unanimous consent to proceed briefly on the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I understood we had an amendment to delete the designation "wild and scenic river" from the Middle Delaware; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HEINZ. The question is whether removing that deauthorization is going to prevent the designation as park land.

I would raise this question: I would ask whether or not leaving the designation in place—and I personally, as a matter of privilege, favor it—in fact deauthorizes the Tocks Island Dam.

The Senator is correct: this issue has been around and around the good Senator from West Virginia's committee and elsewhere. I have here a letter dated May 19, from the Secretary of the Interior.

The Secretary of the Interior was asked, question 4, page 2:

> Does designation of the Middle Delaware as a component of the Wild and Scenic River System preclude the construction of the dam at some time in the future?

The answer:

> Our proposed designation and transfer of land and acquisition authority from the Corps to the Secretary of the Interior is solely for the purposes of (1) preserving the natural resources of the area, (2) giving the Secretary sole, rather than divided responsibility for the area's administration, and (3) facilitating the acquisition of land at present, rather than future prices, to be managed as part of the NRA, but which would be available for use in the Tocks Island project, should it ultimately be built. It does not preclude the Congress from transferring land needed for the project back to the Corps should a subsequent reevaluation of the water resource needs of the country demonstrate the need for the dam. In this regard, the current studies being done by the Delaware River Basin Commission concerning water and flood control in the area, should be instructive as to the ultimate future of the project.

That is what the Secretary of the Interior said, in this letter of May 19.

I happen to be opposed to the building of the Tocks Island Dam. I happen to be in favor of deauthorizing. But I agree totally with the Senator from West Virginia that it should be deauthorized through his committee.

I do believe that by leaving this designation in here, we do not deauthorize Tocks Island. We do preserve the Middle Delaware as a wild, scenic, and valuable designation area. Therefore, I find myself in favor of leaving this in the bill, but making it very clear on the record that this does not deauthorize the Tocks Island project.

I would add only one further word: Mention has been made of the Governor of Pennsylvania. Governor Shapp is in the process of serving his last few months, and the gubernatorial candidates of both the Republican and Democratic parties have taken a position on deauthorization. I have their letters here. They both favor deauthorization.

But this is another issue that I think must be disposed of by the Public Works Committee; and I would like it clear for the record that regardless of what hap-

pens on this vote, and for my purposes I hope the wild and scenic designation does apply to the Middle Delaware, I want it understood that this does not deauthorize Tocks Island, although I would like to have it deauthorized.

Mr. GRAVEL. Mr. President, I think that question is something that will have to be litigated, if someone chooses to make that attempt. It may well be, if we fail here, that it will be litigated. But I think that is a matter for future consideration.

Mr. ABOUREZK. Mr. President, I yield 2 minutes on the bill to the Senator from New York.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. JAVITS. Mr. President, like Senator HEINZ, I oppose this amendment, and call the attention of the Senate to the fact that on September 13, four Senators, myself, the Senator from New Jersey (Mr. CASE), the Senator from Delaware (Mr. BIDEN), and the Senator from Pennsylvania (Mr. HEINZ) sent a letter to the chairman of the Parks and Recreation Subcommittee, saying:

We are in unanimous agreement that the Upper Delaware from Hancock, New York to Sparrow Bush, New York should be designated as a component of the Wild and Scenic River system. In this connection, we support the proposal Senator Moynihan introduced and many of us joined in sponsoring. We also are in unanimous agreement that the Middle Delaware, from a point just south of Port Jervis, New York to the southern tip of the Delaware Water Gap Recreation Area meets all the criteria for Wild and Scenic Rivers designation.

Mr. President, the process for deauthorization of the Tocks Island Dam I consider to be a sound one. This kind of area in our part of the country is scarce enough, and for those reasons I support Senator HEINZ. I hope the committee will oppose this amendment, and for myself, if there should be any question about it, I will ask for a rollcall vote.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. ABOUREZK. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. All time on the amendment has expired.

Mr. ABOUREZK. I yield myself 1 minute on the bill.

I would just like to say to the Members of the Senate that I think a lot of you realize how difficult it was to put this whole omnibus parks bill together. We had to negotiate with the House; we have done so for several months, and I would have to say if this amendment, which is not in fact the amendment of the Senator from Alaska, were passed tonight, it would upset the negotiations we have had for a number of months with the House, and would put this bill in jeopardy. I do not want to do that, and I hope no one else wants to do that.

I will not ask for a rollcall; I think we can voice vote it down, but I would urge that we soundly defeat this amendment.

Mr. RANDOLPH. Mr. President, I think the Senator was wrong; it will not have to be litigated.

I ask unanimous consent to proceed for 5 minutes.

Mr. ABOUREZK. I yield 5 minutes of my time.

Mr. RANDOLPH. We have five names of Senators, and they are good Senators. But I know the gentleman from New Jersey (Mr. THOMPSON) here will not be embarrassed; he is a Member of Congress and he does not want this project deauthorized.

I am sure that the Senator from New Jersey, the chairman of the Committee on Human Resources (Mr. WILLIAMS), does not want this project deauthorized. I am sure that the other Senator from Pennsylvania does not want this deauthorized. I cannot speak for him, but at least he has been in this corner.

Mr. ABOUREZK. Mr. President, will the Senator yield on that point?

Mr. RANDOLPH. Yes.

Mr. ABOUREZK. I remind my distinguished colleague and friend from West Virginia that Representative THOMPSON offered a similar amendment in the House. He was defeated by a 3-to-1 margin in the House on that particular amendment.

Mr. RANDOLPH. I am sorry the House used that bad judgment. I do not think the Senate will do that.

We are not asking for anything except to continue this subject matter within the Committee on Environment and Public Works. That is exactly what we are asking—nothing more and nothing less. I do not think this Senate wants to go around. That is what we are doing here. The effect of it is to go around, I say to my friend from New York, the work that has been done in the Senate Committee on Environment and Public Works, the long and voluminous hearings which have been held.

There is a way of doing business, and this is the wrong way.

Mr. HEINZ. Will the Senator yield briefly for an observation?

Mr. RANDOLPH. Very briefly.

Mr. HEINZ. It is my understanding there have been two past precedents where wild and scenic rivers have been designated, one being the New River, and I do not recall the other, but I think it was on the Snake River in Idaho, where it was expressly necessary for Congress to deauthorize the dams before the wild and scenic designation was able to proceed.

That, I understand, is the precedent. I think that supports the Senator's point of view, if I am correct.

Mr. RANDOLPH. Yes.

Mr. HEINZ. I thank the Senator for yielding.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment (putting the question).

The noes appear to have it.

Mr. RANDOLPH. Mr. President, I would like to have my colleagues stand on this matter, for and against.

The PRESIDING OFFICER. The Senator has a right to request a division.

A division is requested. Senators in favor of the amendment will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, the amendment is rejected.

Mr. RANDOLPH. I thank my able friend. This is a position in which we never should have been. I regret that the Senate has acted as it has, but I respect always the conviction of my colleagues in these matters.

UP AMENDMENT NO. 2084

Mr. HAYAKAWA. Mr. President, I move to amend the amendment of the Senator from South Dakota by adding the following:

In lieu of the matter designated as section 314 relating to Mineral King Valley, California, in the House engrossed amendment, insert the following:

The PRESIDING OFFICER. Will the Senator please send his amendment to the desk?

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an unprinted amendment numbered 2084.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

In lieu of the matter designated as section 314 relating to Mineral King Valley, California, in the House engrossed amendment, insert the following:

Section 314(a). The Secretary of the Interior and the Secretary of Agriculture shall, jointly, conduct a study of the area comprising the Mineral King Valley (and previously designated as the Sequoia National Game Refuge) with a view to determining the manner in which such area could best be used for the benefit of the public, including the potential of such area for purposes of skiing.

(b) Such report shall be submitted to the Congress within the twelve month period following the date of the enactment of this Act and shall contain the recommendations of the Secretary of the Interior and the Secretary of Agriculture with respect to the matter set forth in subsection (a).

(c) There is authorized to be appropriated such sum as may be necessary to carry out the provisions of this section.

Mr. HAYAKAWA. Mr. President, my amendment would simply delay any decision about the future designation or use of the Mineral King Valley for a year.

As many of my colleagues already know, the Forest Service has been working on a downhill ski proposal for the Mineral King Valley since 1965. At that time the Forest Service solicited proposals from private industry for development of a ski resort to be managed on the basis of a Federal permit.

The idea of developing the Mineral King Valley originated years before that. In 1964 the Sierra Club pushed for a wilderness area designation for the San Gorgonio area, which they wanted to preserve in its natural beauty. At that time they suggested Mineral King as

one of the alternative areas to be developed as a ski resort.

Mr. President, I remain convinced that if the Mineral King area is transferred into the jurisdiction of the National Park Service, the skiers of southern California will never see any downhill ski facilities in that location. For this reason I am proposing to substitute the language in the bill for an amendment that calls for a 1-year study of the Mineral King Valley. This study is to be conducted jointly by the Secretary of the Interior and the Secretary of Agriculture. At the end of a year's study, the two Secretaries shall report back to Congress their findings and their recommendations. I might add that this study is to pay special attention to studying the Mineral King Valley with respect to the feasibility of putting downhill ski facilities in the valley.

The issue of an access road has been a matter for some lengthy discussion during the negotiations concerning future uses of Mineral King. I would like to state for the record that at one time this issue was resolved, and that the funding questions were resolved. I have heard the argument that even if ski facilities were approved for the Mineral King Valley, that the development would never take place because of funding problems for the access road. I believe that if we resolve the issue of whether or not to develop Mineral King, that other problems will take care of themselves. I think that if the decision is made to go ahead and put downhill ski facilities in Mineral King, that the funding problems will once again be resolved.

Mr. President, there are thousands of skiers in the southern California area who would like to see downhill skiing in Mineral King. They have been led to believe that such development would take place for the past 13 years. I would hate to see all those efforts go down the drain in the last few hours of the 95th Congress.

Mr. President, a 1-year delay of any final decision on the Mineral King issue will certainly hurt no one. This issue has been controversial for many years, and I would like to see the resolution treat all sides in a fair manner.

For these reasons, Mr. President, I ask for the support of my colleagues on this amendment. I think that a 1-year delay would be acceptable to all parties, and it will give us the time to reevaluate the controversy.

Mr. HANSEN. Mr. President, I yield myself time from the bill.

Mr. President, I rise in support of the junior Senator from California.

It was my amendment, my idea, at least, and I am certain it may have been shared by others, that there really is no place for new skiing facilities within a national park. I think it flies in the face of a long, historical precedent. The basic legislation that created the Park Service spelled out certain objectives that were to be secured for the public for future generations, and included in that was that the pristine character and naturalness of areas should be protected.

I think there is great merit in what the junior Senator from California proposes.

If the area is to become part of a national park, I certainly agree with him, and I would hope that my colleagues might be persuaded, as to the good reason not have skiing in a national park. If it remains in the Forest Service for a year pending the outcome of the study, a course which I think makes good sense, I would hope that Senators would join in supporting the junior Senator from California and saying, "Let us take a look at this problem. It is a complicated one."

One of the interests out there has purchased a rather considerable amount of property. They have made a very significant investment in preparing plans and working up all of the necessary background information that would be prerequisite to a skiing area.

I think if we were to follow the course recommended by the junior Senator from California and put the thing in a study posture, we could certainly arrive at a more balanced, reasoned judgment than would result from the action that otherwise, absent his proposal, would result from our actions this evening. I support the junior Senator from California and I urge my colleagues to join with him in the amendment that he has before the body.

Mr. ABOUREZK. Mr. President, as manager of this bill, I strongly oppose the amendment of the junior Senator from California. Although I have never been to the area called Mineral King, I have seen it in photographs and I have had people describe it to me. It is one of the most pristine areas in the United States, to say nothing of California which has many such beautiful areas. It is an area which, under the Forest Service jurisdiction, had a permit extended to Walt Disney Corp. to develop plans for a ski area.

The National Park Service, the administration, and the environmental groups all around the country have fought for some years to try to prevent the use of the Mineral King area as a ski area. I know of no other national park where skiing is allowed except where existing ski areas are grandfathered in. If we did this, we would have development in Mineral King; we would have tremendous pressure for additional developments, and automobile traffic, the likes you have never seen before, even in the heart of Los Angeles. It would ruin the beauty of Mineral King which we are trying to protect. It is totally contradictory to the bill, to this legislation, to add Mineral King to the Sequoia National Park, an extremely beautiful area.

Mr. President, I urge the Senate to reject it. This amendment calls for a joint study between the Department of the Interior and the Department of Agriculture, a 1-year study to determine whether or not the area could be used for skiing or other purposes. This proposal is supported by the ski industry—and believe me, that is a big, powerful, well-financed industry.

They came in and testified during the hearings with their trade associations and their many supporters. They came in and tried to convince us that we ought to open it up for skiing. I just cannot say strongly enough that the Senate ought to reject this amendment and, if necessary, we shall have a rollcall vote. I would just as soon do it on a voice vote, but if necessary, we will do it that way.

I urge the Senate to reject the amendment.

Mr. HAYAKAWA. Mr. President, I ask the distinguished Senator from South Dakota: Does he wish to forbid absolutely downhill skiing in the Mineral King Valley area or does he wish it to be continued?

Mr. ABOUREZK. My desire, as well as that of many people is to prevent and forbid skiing in the Mineral King area once it is added to Sequoia National Park.

Mr. HAWAKAWA. Is the Senator acquainted with the wishes of the distinguished senior Senator from California in this respect, who has declared quite clearly that he wishes an exception made, despite its conversion to the Park Service, for continued skiing in the Mineral King Valley area?

Mr. ABOUREZK. I am.

Mr. HAYAKAWA. The Senator is aware of that?

Mr. ABOUREZK. Yes.

Mr. HAYAKAWA. I am curious as to the reasons, then, for the insistence on the transfer of lands to Mineral King Valley, previously designated the Sequoia National Game Refuge, at this time. Is the Senator aware that 20,000 skiers in the southern California area have asked for a year's delay in deciding this issue? I believe they made their plea in hearings on Mineral King held by the Committee on Energy and Natural Resources.

Mr. ABOUREZK. Yes, I am aware of the interest of a number of skiers. I do not know if it is 20,000. I know there were a number in the hearing who came and testified in favor of skiing.

Let me say to the Senator from California that each and every time we create or expand a national park, there is always some kind of local interest that is either for expanding the park or against expanding the park or for doing something like skiing or something else that happens to be a local economic interest. We always expect that. We have to deal with it, we have to cope with it, but we do not have to accept it unless the national interest might require it. I would say that the nationnal interest is totally opposed to allowing the skiiers in southern California to have this very beautiful area as their own for a skiing area.

I repeat that it would create problems of pollution that I think even the distinguished Senator from California would be vehemently opposed to if he would just try to foresee the problems that would be involved.

Mr. HAYAKAWA. Mr. President, I should like to tell the distinguished Senator from South Dakota that unlike him, I have seen the area that we are talking about. I am also aware that in the absence of adequate skiing facilities in designated areas, recreational facili-

ties are sought in undesignated areas in a way that tears up the landscape in unsystematic and terribly undesirable ways.

It all should be controlled.

The PRESIDING OFFICER. All time has expired.

Mr. HANSEN. I yield time on the bill to the Senator from California.

Mr. HAYAKAWA. May I suggest the absence of a quorum? The senior Senator from California is not present. I know he has a great interest in this matter and I should like to have him located.

Mr. ABOUREZK. Mr. President, time has expired on the debate.

The PRESIDING OFFICER. The Senator from Wyoming just yielded time to the Senator from California. If the Senator from California wishes to call a quorum, he may do so.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator will not call a quorum. We shall have the cloakroom try to locate the Senator. I believe he is on the telephone back here.

The PRESIDING OFFICER. Who yields time?

CONSIDERATION OF CERTAIN MEASURE ON THE CALENDAR—H.R. 7101

Mr. ROBERT C. BYRD. Mr. President, while the Senator from California is coming to the floor, I ask unanimous consent to proceed for 30 seconds on another matter.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there is a bill on the calendar which has been cleared for action by unanimous consent. The distinguished minority leader is on the floor. It is Calendar Order No. 1204. My calendar shows it is cleared for unanimous consent.

Mr. BAKER. If the distinguished Senator will yield, that item is also cleared on our side.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate proceed for not to exceed 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

The assistant legislative clerk read as follows:

A bill (H.R. 7101) to amend certain provisions of law relating to land claims by the United States in Riverside County, Calif., based upon the accretion or avulsion, and for other purposes.

The PRESIDING OFFICER. The Chair, in his capacity as the Senator from Arkansas, objects to bringing up this bill.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

CERTAIN LAND CONVEYANCES

Mr. ROBERT C. BYRD. While the Senator from California is coming to the floor, I ask unanimous consent that the Senate proceed for not to exceed 10 minutes on Calendar Order No. 1205. I assure the Senate that this will be the best use of the Senate's time.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, that item is also cleared on our side.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 7971) to validate the conveyance of certain land in the State of California by the Southern Pacific Transportation Company.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

There is a 10-minute time limitation.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 1, beginning with line 3, insert the following:

TITLE I—TO VALIDATE THE CONVEYANCE OF CERTAIN LAND IN THE STATE OF CALIFORNIA BY THE SOUTHERN PACIFIC TRANSPORTATION COMPANY

On page 1, line 7, strike "That, subject to section 3," and insert "Sec. 101. Subject to section 103,";

On page 2, line 15, strike "2" and insert "102";

On page 12, line 15, strike "3" and insert "103";

On page 13, beginning with line 9, insert the following:

TITLE II—TO CONFIRM A CONVEYANCE OF CERTAIN REAL PROPERTY BY THE SOUTHERN PACIFIC RAILROAD COMPANY TO M. L. WICKS

SEC. 201. The conveyance described in section 202(a) of this Act involving certain real property in Los Angeles County, California, is hereby confirmed in the successors in interest to M. L. Wicks, the grantee in such conveyance, with respect to all interests of the United States in the rights to the real property described in section 202(b) of this Act. Portions of the real property described in such section 202(b) formed part of the right-of-way granted to the Southern Pacific Railroad Company, a corporation, by the United States by the Act entitled "An Act to incorporate the Texas Pacific Railroad Company, and to and in the Construction of its Road, and for other purposes", approved March 3, 1871 (16 Stat. 573).

SEC. 202. (a) The conveyance confirmed by this Act was made by a deed dated May 4, 1887, by the Southern Pacific Railroad Company, a corporation, and D. O. Mills and Gerrity L. Lansing, trustees, to M. L. Wicks and recorded on May 9, 1887, in the office of the county recorder of Los Angeles County, in the Book of Official Records, Book 222 at page 172.

(b) The real property referred to in the first section of this Act is certain real property in the northwest quarter of the northeast quarter of section 15, township 7 north, range 12 west, San Bernardino Meridian, in Los Angeles County, California, more particularly described as follows:

Beginning at the intersection of the easterly line of Sierra Highway (formerly Antelope Avenue) 90 feet wide as shown on county surveyor's map numbered 8200 on file in the office of the surveyor of said county with the easterly prolongation of the northerly line of Jackman Street (formerly 8th Street); thence easterly along said prolongation to the westerly line of the right-of-way, 100 feet wide, as reserved in that certain deed dated May 4, 1887, from Southern Pacific Railroad Company, a corporation, and D. O. Mills and Gerrity L. Lansing, trustees to M. L. Wicks, recorded May 9, 1887, in Book 222 at page 172, official records of said county; thence northerly along said westerly right-of-way line 624.34 feet more or less to the southerly line of Avenue I (formerly Sierra Madre Road); thence westerly along said southerly line of Avenue I to the easterly line of said Sierra Highway; thence southerly along said easterly line of Sierra Highway to the point of beginning.

SEC. 203. (a) Nothing in this Act shall—

(1) diminish the right-of-way referred to in the first section of this Act to a width of less than 50 feet on each side of the center of the main tract or tracts established and maintained by the Southern Pacific Company on the date of enactment of this Act; or

(2) validate or confirm any right or title to, or interest in, the land referred to in the first section of this Act arising out of adverse possession, prescription, or abandonment, and not confirmed by conveyance made by the Southern Pacific Company before the date of the enactment of this Act.

(b) There is reserved to the United States all oil, coal, or other minerals in the land referred to in the first section of this Act, together with the right to prospect for, mine, and remove such oil, coal, or other minerals under such rules and regulations as the Secretary of the Interior may prescribe.

TITLE III—TO PROVIDE FOR THE CONVEYANCE OF CERTAIN PUBLIC LANDS IN MONTANA TO THE OCCUPANTS OF THE LAND

SEC. 301. The Secretary of the Interior is hereby authorized to convey to Francis T. Oleson and Zona I. Oleson, husband and wife; Dan Raymond and Elizabeth Louise Raymond, husband and wife; and Edward J. Bonderenko or their successors in interest, all right, title, and interest of the United States, except right, title, and interest in deposits of all minerals, in lands identified as tracts numbered 1, 2, and 3 in that part of the west half, southwest quarter of the northwest quarter, section 2, township 10 north, range 1 west, Montana principal meridian Lewis and Clark County, Montana, lying east of the "Erroneous Survey Line", lying north of the county road right-of-way as shown on Bureau of Reclamation drawing numbered 296-604-170, dated September 24, 1971, and as determined available for sale by the Secretary of the Interior. Such conveyance shall be made only upon applications by such aforementioned individuals therefor within six months after the date of this Act, and upon payment of the appraised fair market value of the last as of the date of sale plus the administrative costs, including costs of a land survey, of making the conveyance, as determined by the Secretary of the Interior within one year after notification by the Secretary of the Interior of the amount due. In determining the fair market value of the land, the Secretary of the Interior shall not include any values added to the land by Francis T. Oleson and Zona I. Oleson, husband and wife; Dan Raymond and Elizabeth Louise Raymond, husband and wife; and Edward J. Bonderenko or their successors in interest, or their heirs. Any conveyance made pursuant to this Act shall reserve to the United States all deposits of all minerals in the lands together with the right to mine and remove the same, under applicable laws and regulations established by the Secretary of the Interior.

SEC. 302. Acceptance of Francis T. Oleson and Zona I. Oleson, husband and wife; Dan Raymond and Elizabeth Louise Raymond, husband and wife; and Edward J. Bonderenko or their successors in interest of any conveyance made hereunder shall constitute a waiver and release by them of any and all claims against the United States arising out of the operation, maintenance, or construction of the Canyon Ferry Unit, Pick-Sloan Missouri Basin program, as now or hereafter authorized.

TITLE IV—TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONVEY ALL RIGHT, TITLE, AND INTEREST OF THE UNITED STATES IN AND TO A TRACT OF LAND LOCATED IN THE FAIRBANKS RECORDING DISTRICT, STATE OF ALASKA, TO THE FAIRBANKS NORTH STAR BOROUGH

SEC. 401. The Secretary of the Interior is authorized to convey all right, title, and interest of the United States in and to the following described real property, located in the Fairbanks Recording District, to the Fairbanks North Star Borough without payment of consideration:

THE WEST PORTION OF BLOCK 209

A tract of land situated in the northwest quarter section 15, township 1 south, range 1 west, F.B. and M., also known as United States Survey 849 of the Homestead Claim of Stacia Ricket described as follows:

Commencing at corner number 3, United States Survey Numbered 849, thence south 89 degrees 57 minutes 14 seconds east, a distance of 2,300 feet, more or less; along a southerly line of said survey numbered 849 which lies between corners numbered 2 and 3; thence south 89 degrees 57 minutes 09 seconds east, a distance of 30 feet, more or less; thence north 0 degree 56 minutes 34 seconds west, a distance of 10 feet, more or less; to the true point of beginning; thence north 0 degree 56 minutes 34 seconds west, a distance of 337 feet, more or less; thence south 89 degrees 52 minutes 43 seconds east, a distance of 518 feet, more or less; thence south 0 degree 07 minutes 17 seconds west, a distance of 337 feet, more or less; thence north 89 degrees 57 minutes 09 seconds west, a distance of 510 feet, more or less, to the true point of beginning, and containing 173,218 square feet, more or less.

TITLE V—PROVIDING FOR REINSTATEMENT AND VALIDATION OF UNITED STATES OIL AND GAS LEASES NUMBERED U–12871, U–12872, U–12874, U–12875, U–12876, U–12877, U–12878, U–12881, AND U–13666

SEC. 501. Notwithstanding any decision to the contrary heretofore made by the Secretary of the Interior of the United States or his authorized agents or representatives, subject to the requirements of section 502 of this Act:

(a) United States oil and gas leases numbered U–12871, U–12872, U–12874, U–12875, U–12876, U–12877, U–12878, and U–12881 shall be held not to have terminated by operation of law or otherwise on December 1, 1975, but shall be deemed to be in full force and effect for the term of said leases provided that rentals for subsequent years are paid or tendered within the time required by law and the terms of such leases.

(b) United States oil and gas lease numbered U–13666 shall be held not to have terminated by operation of law, or otherwise on April 1, 1976, and the term of said lease is hereby extended to a date twenty-four months after the effective date of this Act and so long thereafter as oil or gas is produced in paying quantities, provided that rentals for subsequent years are paid or tendered within the time required by law and the terms of such lease.

SEC. 502. Within thirty days after the effective date of this Act, the Secretary shall give notice to the last record holder of the oil and gas leases listed in the first section of this Act of the amount of unpaid rental then accrued under said leases or that would have accrued had the leases not terminated. Within thirty days after receipt of such written notice, the last record holder of such leases, their successors or assigns, shall tender payment of the amount of rental to the Secretary. If payment is not made within the required time, the provisions of this Act shall terminate and be of no force and effect with respect to those leases for which payment was not made.

TITLE VI—FOR THE RELIEF OF MARIAN LAW SHALE HOLLOWAY, ADELINE MARY GILL CHARLES, AND ELIZA SHALE CARSTENS

SEC. 601. (a) Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to pay, out of any money appropriated to the Department of the Interior, to Marian Law Shale Holloway, Adeline Mary Gill Charles, and Eliza Shale Carstens (or to their estates) such sums as he determines each is legally and equitably entitled to as compensation for losses (including reasonable attorney fees) resulting from his erroneous approval of purported conveyances of parts or all of lot 6, section 35, township 24 north, range 13 west, Willamette meridian, containing eighteen and seventy-five hundredths acres, more or less, according to the Government survey thereof, such property being a portion of the allotment of Hattie Smith, deceased, Quinault allottee numbered 420, and which is not subject to homestead entry. Such property is situated in Jefferson County, State of Washington on the Quinault Indian Reservation.

(b) The payment and acceptance of such compensation pursuant to this Act shall be in full satisfaction of all claims (1) of the said Marian Law Shale Holloway, Adeline Mary Gill Charles, and Eliza Shale Carstens, against the United States or any officer or employee thereof arising out of or in connection with the purported conveyances of such property or portions thereof approved by or on behalf of the Secretary of the Interior on February 19, 1951, September 3, 1953, and April 19, 1955, and (2) by Adeline Mary Gill Charles and Eliza Shale Carstens against Marian Law Shale Holloway arising out of or in connection with the purported conveyances of portions of such property approved by or on behalf of the Secretary of the Interior on September 3, 1953, and April 19, 1955.

(c) As a condition precedent to receiving payment of such compensation pursuant to this Act, the said Marian Law Shale Holloway, Adeline Mary Gill Charles, and Eliza Shale Carstens (or the executors of their estates) shall execute such releases and other documents as the Secretary of the Interior determines are necessary to fulfill the purposes of this Act and remove any cloud on the title of such property.

SEC. 602. No part of the amount appropriated by this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

TITLE VII—GOSPEL-HUMP AREA BOUNDARY CHANGES

SEC. 701. Section 4(a)(1) of the Act of February 24, 1978 (16 U.S.C. 1132, Public Law 95–237) is amended by striking the words "January 1978" and inserting in lieu thereof "September 1978".

TITLE VIII—KALMIOPSIS WILDERNESS MAP DESIGNATION

SEC. 801. Section 3 of the Endangered American Wilderness Act of 1978, Public Law 95–237 (92 Stat. 43) is amended by adding a new subsection (f) as follows:

"(f) The map referenced in paragraph (a) of this section, depicting the boundaries of the Kalmiopsis Wilderness Additions is superseded by a map entitled 'Kalmiopsis Wilderness Additions—Proposed' and dated October 1978, which is on file and available for public inspection in the office of the Chief of the Forest Service.".

TITLE IX—FRYINGPAN-ARKANSAS RECLAMATION PROJECT

SEC. 901. Subsection (a) of section 1 of the Act of August 16, 1962 (76 Stat. 389; 43 U.S.C. 616 et seq.), is amended by inserting after the words "Ruedi Dam and Reservoir, Colorado," the words "and as further modified and described in the description of the proposal contained in the final environmental statement for said project, dated April 16, 1975.".

SEC. 902. Subsection (e) of section 5 of such Act is amended by inserting after the word "therein" a comma and the words "including those laws of the State of Colorado relating to the establishment of minimum streamflows for the reasonable protection of the natural environment, to the extent that such laws are not inconsistent with the operating principles identified in subsection 3(a) of this Act".

SEC. 903. Subsection (a) of section 3 of such Act is amended by inserting after the word "Congress" a semicolon and the words "and shall be further operated pursuant to diversion rates established under the laws of the State of Colorado: *Provided*, That the rate of project diversions from the Hunter Creek watershed shall not exceed an aggregate of 270 cubic feet of water per second of time. Waters so diverted may be utilized for all authorized project purposes as set forth in section 1(a) of this Act. Such waters, exclusive of the amount diverted for Roaring Fork exchanges provided for in subparagraph 9(1)(c) and paragraph 11 of the above referenced operating principles shall become part of the project water supply as limited by subparagraph 9(1)(a) of the above referenced operating principles. No diversions shall be made from the Hunter Creek watershed which will reduce the remaining streamflows at the points of diversion to less than 4 cubic feet per second on No Name Creek, 5 cubic feet per second on Midway Creek, and 12 cubic feet per second on Hunter Creek".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to en bloc.

UP AMENDMENT 2085

Mr. CHURCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read as follows:

The Senator from Idaho (Mr. CHURCH) proposes unprinted amendment numbered 2085.

H.R. 7971

At the end of the bill add a new Title X as follows:

TITLE X—TO CONVEY CERTAIN GEOTHERMAL RESOURCES TO THE CITY OF BOISE, IDAHO

SEC. 1001(a). The Congress hereby authorizes and directs that the rights to the geothermal resources, including minerals present in the geothermal fluid, presently vested in the United States of America in real property designated as Tract 37 (contained in secs. 2 and 11) consisting of 4.13 acres, more or less; Tract 38 (contained in secs. 1, 2, 11 and 12) consisting of 449.16 acres more or

less; Tract 39 (contained in sec. 2) consisting of 14.64 acres, more or less; and Tract 40 (contained in sec. 11) consisting of 4.95 acres, more or less; all in T. 3N, R. 2E, B.M.; together with a parcel described as follows:

Commencing at the southwest corner of the Old Fort Boise Military Reservation, thence north seventy degrees zero minutes east one thousand four hundred forty-eight and two-tenths feet; thence north four degrees thirty-two minutes east six hundred and twenty-seven feet to the true point of beginning; thence the following courses and distances: South eighty-seven degrees eight minutes west six hundred ninety-six and five-tenths feet; thence north twenty-one degrees two minutes west five hundred and thirty-two feet; thence south sixty-nine degrees four minutes west twenty-one and nine-tenths feet; thence north twenty-two degrees forty minutes west eighty-six and three-tenths feet; thence north eighty-four degrees fifty minutes east nine hundred ninety-three and six-tenths feet; thence south four degrees thirty-two minutes west six hundred twenty-four and ninety-five one-hundredths feet to the point of beginning; consisting of 11.53 acres, more or less (contained in sec. 11, T. #N., R. 2E., B.M.); be transferred by the Secretary of the Interior in fee to the City of Boise upon payment by the City of Boise of the fair market value, as determined by the Secretary, of the rights conveyed.

SEC. 1001(b). Development of geothermal resources pursuant to this Act shall not be grounds for the Secretary of the Interior to assert the reversionary interest of the United States in the subject lands.

SEC. 1002. Development of the geothermal resources conveyed by this Act shall not unreasonably interfere with development of other mineral interests retained by the United States. The City of Boise shall permit the United States, its lessees and agents access for exploration of mineral resources not conveyed to the City.

Mr. CHURCH. Mr. President, this amendment transfers the geothermal resource rights on 485 acres of land from the United States to the city of Boise, Idaho. The city will use the geothermal resources for space heating residences and commercial buildings in the business district. The transfer would occur when the city pays the Federal Government the fair market value for the rights.

The amendment transfers only the geothermal resource rights. It does not transfer mineral rights or other rights to the city. The amendment has the full support and endorsement of the Department of the Interior and Energy, the State of Idaho, and the city of Boise. I ask unanimous consent that letters of support for the transfer be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., September 27, 1978.
Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: We have reviewed your draft bill, "To transfer rights to certain geothermal resources and related minerals to the City of Boise." We have no objection to the draft bill if it is amended to provide that the City of Boise is to pay the fair market value of the resources conveyed.

The proposed bill would direct the Secretary of the Interior to transfer in fee to the City of Boise rights to geothermal resources, including minerals present in the geothermal fluid, presently vested in the United States.

A review of information available to the U.S. Geological Survey reveals that the resources involved in the bill are of relatively low value and of limited extent. Although we have not determined the amount of royalty that would be paid to the Federal Government if the resources were leased pursuant to the Geothermal Steam Act, we believe that the amount would be nominal. We estimate that if the resources were offered for competitive bids, the bonus bids would be $5 per acre or less; there is a possibility that we would receive no bids at all. (A recent geothermal lease sale in Klamath Falls, Oregon, involving a similar resource, yielded no competitive bids.)

The Geothermal Steam Act, unlike the Federal Coal Leasing Amendments Act, contains no provision authorizing exemption from the competitive bidding requirement of the Act when a public entity seeks to develop a mineral resource. A Task Force within the Department is considering recommending amendment of the Geothermal Steam Act to include such a provision.

In view of the small royalty which would probably be received if the resources involved in the draft bill were offered for competitive bids and the apparent benefits to the public from the demonstration project which the Department of Energy proposes to establish with the City of Boise, we do not object to legislation to permit the Secretary of the Interior to convey to the City of Boise without competitive bidding rights to the geothermal resources in question.

As noted above, we believe that the City of Boise should be required to pay the fair market value of the interests conveyed by the United States. Such a provision is consistent with the requirement in the Federal Land Policy and Management Act of 1976 that the United States receive a fair return when public resources are leased or sold. We, therefore, recommend that the following phrase be added after "to the City of Boise" in section 3, "upon payment by the City of the fair market value, as determined by the Secretary, of the rights conveyed."

We have several additional comments on the draft bill. Some of the surface overlaying the geothermal resource has been patented under the Recreation and Public Purposes Act (43 U.S.C. 869 *et seq.*), with reversionary interests in the United States should the purposes for which the surface was conveyed be abandoned. We believe that it is advisable to state in the bill that the City of Boise is authorized, notwithstanding restrictions in the deeds, to develop the geothermal resources conveyed in the bill. We, therefore, recommend that section 3 of the bill be amended by adding a second sentence, to read as follows:

"Development of geothermal resources pursuant to this Act shall not be grounds for the Secretary of the Interior to assert the reversionary interest of the United States in the subject lands."

In addition, since only the geothermal and not the other mineral interests are being conveyed by the bill, we recommend that a section 4 be added to the bill, to read as follows:

"Development of the geothermal resources conveyed by this Act shall not unreasonably interfere with development of other mineral interests retained by the United States. The City of Boise shall permit the United States, its lessees and agents access for exploration of mineral resources not conveyed to the City."

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

GARY R. CATRON,
Assistant to the Secretary and Director of Congressional and Legislative Affairs.

DEPARTMENT OF ENERGY
Washington, D.C., October 10, 1978.
Senator FRANK CHURCH,
Chairman, Subcommittee on Energy Research and Development, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: In behalf of the Department of Energy (DOE), I am very pleased to have an opportunity to comment on the draft bill which you intend to introduce in the Senate, transferring the rights to certain geothermal resources and related minerals to the City of Boise.

For the past two years DOE and a predecessor agency, ERDA, have enthusiastically supported planning efforts of the City of Boise to develop and demonstrate the country's first modern, urban geothermal heating district. We therefore view the project as particularly important for demonstrating direct thermal application. We understand that Boise's commitments to its projected first-stage geothermal heating system now amount to 2 million square feet of space, and that the City is working to finance construction of the system from among a range of available funding sources. Savings which the project planners anticipate appear to be in the order of 25 percent of next year's fuel costs in Boise and the equivalent of 20,000 barrels of oil annually, even without taking newly proposed Federal incentives into account.

For these reasons we strongly support the draft bill which you intend to introduce. However, we defer to the views of the Department of the Interior with respect to technical and land management matters associated with the transfer, including the question of whether the City should pay the fair market value for the rights involved.

We also wish to offer for your consideration a number of minor changes in the bill's description of the property and resources involved. These changes are indicated in the enclosure.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

LYNN R. COLEMAN,
General Counsel.

Mr. CHURCH. Mr. President, favorable action on this amendment will allow the city of Boise to commence work on a nationally significant geothermal demonstration project, and will give us additional knowledge and confidence to develop direct geothermal heating for many of our cities.

Mr. President, having explained the amendment and it having been cleared on both sides of the aisle with the Budget Committee, I move its adoption.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. CHURCH. I yield back my time. I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 2086

(Purpose: To make minor additions to the Targhee National Forest, Idaho)

Mr. CHURCH. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH) proposes unprinted amendment numbered 2086:

At the end thereof, add the following new Title:

TITLE XI—TO ADD CERTAIN LANDS TO THE TARGHEE NATIONAL FOREST, IDAHO

SEC. 1101. The boundaries of the Targhee National Forest in Idaho are hereby modified to include within said national forest the following described lands: S½SW¼; W½ SE¼; and SE¼NE¼, all in Section 26, Township 13 North, Range 42 East, Boise Meridian, in Fremont County, Idaho.

Mr. CHURCH. Mr. President, this amendment would alter the boundaries of the Targhee National Forest by placing some 200 acres of private property—the so-called Welling property—inside the national forest. The amendment is necessary to enable the U.S. Forest Service to exchange the Welling property for other Targhee National Forest lands. Such an exchange is agreeable to all parties, and will allow the Forest Service to keep summer home developments in this region limited to already developed areas. A detailed explanation for the need for this amendment is as follows:

On September 26, 1975 David and Jean Welling purchased the following described property located in Fremont County, Idaho: S½SW¼; W½SE¼; and SE¼NE¼, all in section 26, township 13 north, range 42 east, Boise Meridian, subject to an easement granted to the United States of America, for water storage (Island Park Reservoir).

The Wellings later assigned portions of this property to 18 other people for the purpose of constructing cabins on the property.

The Harriman family conveyed to the State of Idaho certain properties in this region known as the Railroad Ranch consisting of a substantial acreage of land lying generally south of the Welling property, but separated by some U.S. forest land and some State of Idaho land.

The Railroad Ranch was conveyed to the State of Idaho to be maintained as a State park, with the State to use its best efforts to extend the boundaries of the park to include basically, the land between the Railroad Ranch and the Welling property.

The Welling Associates have platted and subdivided the Welling property, not inundated by reservoir water into 44 cabin sites, plus "commons" area, and submitted the proposed plat to the Planning Board and Board of Commissioners of Fremont County, Idaho, for approval.

Access to the Welling property, except via water on the Island Park Reservoir, is along a forest road leading from the Island Park Dam, along Thurber Ridge located on National forest land, and along a jeep road from Thurber Ridge down to the Welling property.

Both Fremont County and the Forest Service indicate that it is their policy not to deny access to private property and the Forest Service has agreed to give Fremont County an easement or use permit to maintain a road along the course set out above to give access to the Welling property. However, the Fremont County Planning Board and the Idaho Parks Department are opposed to opening a public roadway over Thurber Ridge.

The Forest Service has available about the same amount of land, in value, as the Welling property, located in the northeast corner of Bills Island, 1½ miles upstream from the Welling land in approximately the northwest corner of section 30, the southwest corner of section 19, township 13 north, range 42 east, Boise Meridian in Fremont County. The Forest Service and everyone else involved, feels that it would be in the best public interest to trade the national forest lands on Bills Islands for the Welling property. This would avoid the necessity for a road along Thurber Ridge and in fact, any development in an otherwise all publicly owned land area.

Upon investigation it was discovered that the Welling property was not within the Targhee National Forest boundary, although it abuts Targhee forest land in some parts, and could not be traded because it was not within the boundaries.

Therefore, legislation is necessary to put the Welling property with the Targhee National Forest boundary in order that a trade could be affected.

This legislation has the support of the local property owners, the Forest Service, the Fremont County Commissioners, the Fremont County Planning Board, the Idaho State Parks Department, and other agencies of the State of Idaho.

Mr. President, this amendment has been cleared on both sides of the aisle and with the Budget Committee. I move its adoption.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CHURCH. I yield back the remainder of my time on this amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

GOSPEL-HUMP BOUNDARY ADJUSTMENTS

Mr. CHURCH. Mr. President, title VII of H.R. 7971 as amended would amend that portion of the Endangered American Wilderness Act of 1978 dealing with the allocation of the Gospel-Hump area in Idaho. The title changes the map reference for the Gospel-Hump area from "January 1978" to "September 1978." The effect of the change would be to reference a new map which has been drawn to clarify the placement of some of the boundaries of the Gospel-Hump Wilderness Area and the "management" and "development" areas which are contiguous to the wilderness. The change is necessary in order to follow more precisely the intent of the agreement reached in 1977 by local Idaho residents over the future allocation of the lands lying within the Gospel-Hump roadless area on the Nezperce National Forest, which was the basis for the Gospel-Hump legislation. Under that agreement, all planned and engineered timber sales along the western boundary of the wilderness area (including the Halls Gulch, Florence Basin, and Milner sales); the Bullion Mine, mine shaft and surrounding lands needed for normal activity around the mine; and all private lands and patented mining claims in the Buffalo Hump mining region were to be excluded from the Gospel-Hump Wilderness Area. In addition, the proposed Rainy Day timber sale and access road system and all of the proposed Honker timber sale were to be located in "development" areas so that the timber in these two sales might be made immediately available for sale. The preliminary maps used by Congress during the debate of the Endangered American Wilderness Act did not accurately reflect those intentions, and hence the need for a new map to define the proper boundaries. According to the Forest Service, which assisted in the preparation and development of this new map, the boundaries now accurately reflect the original intent of the Gospel-Hump negotiators.

Mr. President, I ask unanimous consent that the original compromise agreement reached by the local citizens, and an exchange of letters with the Forest Service which further details the reasons for this map change be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPROMISE AGREEMENT

This compromise agreement, made and entered into on this 5th day of August, 1977, by and between the respective members of the Grangeville Chamber of Commerce, hereinafter called the Chamber, and the "Conservationists", individually,

Witnesseth:

Whereas, the Conservationists and the Chamber are vitally interested in the preservation, use, access, and classification of the so-called Gospel Hump Area of Idaho County, Idaho and;

Whereas, the Parties have previously met on four (4) additional occasions for purposes of attempting to informally identify and classify different portions of the Gospel Hump Area in terms of wilderness, and multipurpose developments, and;

Whereas, the Parties essentially compromised their differences for the betterment of the goals of both groups and to that end have produced certain exhibits which show and described the boundaries of the proposed wilderness and multipurpose resource classifications development within the Gospel Hump Area and the Parties now desire to reduce their agreements to writing, and to thereafter take such agreements to their various constituents and upon approval thereof, submit the same to their various legislators, including the Honorable Frank Church.

Now, therefore, it is hereby agreed as follows:

That the Parties unanimously agree, that the attached exhibit, which constitutes a map and boundary lines, indicates the exact boundaries of the various classifications proposed as a compromise for the Gospel Hump Area, which classifications shall include: Instant Wilderness and Multipurpose Resource Development. That the areas will be clearly marked upon the exhibit and each group will have sufficient copies of the same in order to circulate among their own constituents after the signing of this agreement.

That the Parties agree that, if, after they take the agreement to their constituents and approval thereof is granted by the constituents of each interest group, thereafter the Parties agree to stand in a united front to

urge Congress, by and through the Honorable Frank Church, to expedite the said classifications set forth on the map through the legislative process with all dispatch.

Further, the Parties agree that proposed studies of the fish and game resources in the Gospel Hump Area should be implemented and that both groups and their constituents will urge Congress to appropriate sufficient funds to carry out and fully complete such studies as are deemed necessary with all possible dispatch.

It is understood and agreed, that the classifications relating to, first Wilderness, and second Multipurpose Resource Development, are further described and defined in Exhibit A. attached hereto and hereby incorporated into this reference and entitled Gospel Hump Area.

Additional provisions.—

Regarding two (2) specific areas in the Gospel Hump Area, the following specialized accords shall be effective:

1. Buffalo Hump Area. "Deeded Lands Regarding Management Boundaries". It is agreed that the management boundaries as shown on the maps which are made a part hereof, and which are drawn around the deeded and patented mining claims are intended to be guidelines only and that the United States Forest Service should be directed to draw proper lines to insure proper management and accurate boundaries.

2. "West Boundary Line—Florence Area". It is understood and agreed that the lines shown on the maps attached and incorporated, which lines were drawn on 7/13/77, shall be subject to change if there exists certain timber sales which were not included and if there were active timber sales in that area which have been overlooked because of a lack of information by the signatories hereto.

In witness whereof, the Parties in their individual capacities have attached their signatures hereto and hereby agree to be bound by this political position.

COMMITTEE ON
ENERGY AND NATURAL RESOURCES,
Washington, D.C., August 8, 1978.

JOHN R. MCGUIRE,
Chief, U.S. Forest Service, Department of Agriculture, Washington, D.C.

DEAR CHIEF MCGUIRE: It has come to the attention of the Energy and Natural Resources Committee that there is presently some controversy concerning the boundaries of the Gospel-Hump Wilderness Area in Idaho and attendant multiple-use areas.

As you are aware, the Gospel-Hump area was added to the Endangered American Wilderness Act by Senators Church and McClure after that bill had been passed by the House of Representatives. Consequently, the record developed by this committee and the committee on conference on H.R. 3454 form all of the legislative history on the Gospel-Hump proposal.

The committee has been told that the preliminary maps transferred by your office to the Regional Forester's office in Missoula would include a portion of the proposed "Milner" timber sale within the Gospel-Hump Wilderness. We are also told that a part of the "Honker" timber sale, according to the preliminary maps, would be included in the multiple-use "management" area.

The intent of this committee with regard to the disposition of both the Honker and Milner sales has always been very clear. All of the Milner sale is to be excluded from the Gospel-Hump Wilderness area. In addition, all of the Honker sale is to be included in the area designated for immediate development and not in the management area. In order to clarify the intent of Congress with regard to both these sales, we are enclosing two maps which show where the correct boundary lines should be in the areas in question.

We hope these maps will clarify this matter.

Sincerely,

HENRY M. JACKSON,
Chairman.
FRANK CHURCH.

COMMITTEE ON ENERGY AND
NATURAL RESOURCES,
Washington, D.C., September 7, 1978.

JOHN MCGUIRE,
Chief, U.S. Forest Service, Department of Agriculture, Washington, D.C.

DEAR CHIEF MCGUIRE: I am considering introducing an amendment to P.L. 95–237 which would more specifically define the boundaries to the Gospel-Hump Wilderness, the Multiple Purpose Resource Areas and the Immediate Release areas identified in Section 4 of the Act.

It would be extremely helpful in drafting this amendment to have the U.S. Forest Service's immediate assistance in order to identify and clarify resource questions on the periphery of these three management areas as now defined.

Specifically, it is my intent to follow the original desires of the Gospel-Hump compromise negotiators which was to exclude all planned and engineered cutting units in the Florence Basin and Hall's Gulch Timber sales from the wilderness. In order to accomplish these changes site-specific information on these units is required so that no question will be raised about the exclusion of these areas. Additionally, I have learned that the Bullion Mine, which is presently active, lies within the designated Wilderness area. This boundary change also needs to be identified in the amendment so that the mine shaft itself is excluded together with normal activity surrounding that mine.

It is my understanding that a question also remains regarding the timber access road to the Rainy Day Sale. My intent here, would be to follow the lead of the compromise negotiators which was to place the land area which contains this road system in the immediate release area rather than in the multiple resource area. Your assistance in identifying an appropriate boundary would be appreciated in this instance as well.

Also, I would appreciate having the Forest Service's comments and recommendations on the boundary line which excludes the Buffalo Hump mining region from the Wilderness area. The intent of the lines as now drawn is to exclude all private lands and patented mining claims from the Wilderness. The present line accomplishes this, but alterations may be needed for better management of that area by the Forest Service.

A guide in your consideration of developing a proposal on which I can base my amendment is as follows:

1. A buffer area from cutting units, and/or their access roads should be established which is at least 100 yards from any designated Wilderness.

2. The lines as now drawn in the preliminary maps should be followed whenever possible in order that changes are kept to an absolute minimum.

3. The Forest Service should review the entire boundaries of the Gospel-Hump area and advise me of any conflicts recognized in the preliminary map.

Knowing that the detailed resource information related to this question is in the field I would appreciate your notifying your field staff of this request at the earliest possible time so that my field staff can coordinate this effort as soon as possible.

In the meantime, I have asked my staff to begin discussions on these matters with your field staff because of the limited time available for Congress to consider this amendment during this Session.

With best wishes,

Sincerely,

FRANK CHURCH.

FOREST SERVICE,
Washington, D.C., September 28, 1978.

Hon. FRANK CHURCH,
Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR SENATOR CHURCH: The August 8, 1978, letter signed by you and Chairman Henry M. Jackson confirmed the intent of the Committee on Energy and Natural Resources and of the Congress to exclude the proposed Milner timber sale from the Gospel-Hump Wilderness Development Area.

Your letter of September 7, 1978, requested drafting service for preparation of a map and an amendment to P.L. 95–237, the Endangered American Wilderness Act of 1978, which, together, would define more specifically the boundaries of the Gospel-Hump Wilderness Management Areas, and Development Areas designated by section 4(a) of the Act. Your letter also contained specific guidelines for preparation of the map and the draft amendment.

An enclosed map entitled "Gospel-Hump Planning Unit" and dated, "September 1978", has been prepared through the combined efforts of Larry LaRocca of your Moscow, Idaho, office and the staff of our Regional Office in Missoula. The map reflects the specific boundary specifications described in both the August 8 and September 7 letters. The boundaries on the map exclude from the Wilderness: (1) all planned timber harvest units in the proposed Milner, Florence Basin and Halls Gulch timber sales; (2) all private lands and patented mining c'aims in the Buffalo Hump mining region; and (3) the Bullion Mine, mine shaft and surrounding lands needed for normal activity around the mine. The proposed Rainy Day timber sale and access road system and the proposed Honker timber sale are within the Development Area. The Wilderness boundary is located so that a buffer zone of at least 100 yards exists between it and existing timber harvest units and access roads. The rest of the boundary, not affected by the above specifications, is the same as that shown on a "preliminary" set of quadrangle maps of the Gospel-Hump Planning Unit given to us by Fred Hutchison of your staff and Tom Williams of the Committee staff. Finally, the northern boundary of the planning units is extended to coincide with the south bank of the Clearwater River; the southern boundary of the planning units is intended to coincide with the north bank of the Salmon River. This is based on paragraph 2, page 27 of Senate Report 95–490 and on discussion with Messrs. Hutchison and Williams.

Also enclosed is a draft amendment to P.L. 95–235 which describes the boundary changes and guidelines stipulated in your letter of September 7 and that of August 8. We included in the draft language, as you had directed, specific description of the boundary changes. Alternatively, such language could be put in the Committee report rather than in the draft bill.

We appreciate the opportunity to participate with you and the Committee staff and trust that our combined efforts will resolve any confusion that may exist concerning the boundaries of the Gospel-Hump units designated by P.L. 85–237.

The enclosed map and draft legislative language have been prepared as a drafting service only, and should not be construed as an indication of the position of the Department of Agriculture on the draft legislation.

Sincerely,

JOHN R. MCGUIRE,
Chief.

[Enclosures not included.]

Mr. CHURCH. Mr. President, it had been my intention to offer one further amendment to H.R. 7971, which would

change the so-called "Omitted-lands" Act which Congress passed back in 1962. That law was enacted to give the Secretary of the Interior the authority to sell certain lands in the vicinity of the Snake River which were found to be "omitted" public lands, which had been left off various land surveys.

Since the passage of the 1962 act, the Secretary has sold a number of the parcels of land covered under the legislation, but numerous cases are still pending. Senator McCLURE and I had intended to offer an amendment to this bill to bring a fair and equitable end to this longstanding land controversy. However, after discussing this matter with Senator JACKSON, the chairman of the Energy and Natural Resources Committee, who opposed our proposed amendment, we have decided not to offer it.

Mr. JACKSON. Will the Senator yield.

Mr. CHURCH. I would be happy to yield to the distinguished chairman of the committee.

Mr. JACKSON. I appreciate the Senator withholding his amendment. The proposal which he was considering has not been the subject of committee hearings. In addition, the official views of the administration are not known. They might very well support the Senators' proposal, but I do not know that for certain. I think they should be heard through the normal hearing process, as should the Idahoans who are affected by this matter.

Mr. CHURCH. The Senator is correct, our proposal has not been the subject of hearings by the Senate Energy and Natural Resources Committee. Even though I think our proposal has much merit to it, I would not want to jeopardize this bill by adding it, only to have the bill and the amendment rejected by the House of Representatives or the legislation vetoed by the President.

Mr. JACKSON. If the Senator would yield further, I would suggest that the best way to handle this matter would be to hold a hearing on the whole subject after the 96th Congress convenes in January. In that regard, I would be happy to assist the senior Senator from Idaho in obtaining such a hearing.

Mr. CHURCH. With the assurances just made by the committee chairman, I will not pursue this matter further at this time, but will instead go the normal route and seek a hearing.

Mr. JACKSON. I thank the Senator.

Mr. CHURCH. Mr. President, I yield such time as the Senator from Arizona may require, within the limitation available.

UP AMENDMENT NO. 2087

(Purpose: To authorize the Secretary of the Interior to receive and distribute water within Tusayan, Arizona)

Mr. DECONCINI. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI), for himself and Mr. GOLDWATER, proposes an unprinted amendment numbered 2087.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

"The Act of February 26, 1916, 40 Stat. 1177 (16 U.S.C. 222) is amended by adding the following sentence:

'Under such terms and conditions as he deems advisable and consistent with the requirements of Section 483a of Title 31 hereof, the Secretary is authorized, without derogation of any of the water rights of the United States and notwithstanding any provision of law to the contrary, to sell by contract water located within Grand Canyon National Park for the use of customers within Tusayan, Arizona to a nonprofit entity authorized to receive and distribute water within Tusayan, Arizona by the laws of the State of Arizona, upon his determination that such sale is not detrimental to the protection of the resources of Grand Canyon National Park or its visitors and that appropriate measures to provide for such protection, including a right of immediate termination, are included in the transaction.'"

Mr. DECONCINI. Mr. President, the Secretary of Interior has determined that he lacks authority under the law to divert national park resources to uses outside the parks, except on an emergency basis.

This amendment would grant the Secretary that discretion in a single, narrow instance that could, in effect, avert an emergency and would provide the water that is crucially needed by an isolated community.

Tusayan, Ariz., is a small community adjacent to the Grand Canyon National Park. Service to park visitors is essentially its whole reason for being.

The geologic structure of the Canyon's south rim is such that there is practically no available underground or surface water supply. Water for utility services within the park is brought up from the Canyon itself. The main supply of water comes all the way across the Canyon from Roaring Spring, near the north rim.

The present water supply and facilities are adequate for both park needs and for the provision of surplus water to Tusayan. Providing that surplus to Tusayan, under suitable controls, will benefit both the community and the park. Again, Mr. President, this amendment does not mandate service to the community, it simply extends and clarifies the authority of the Secretary in this singular circumstance. It grants the Department full discretion in the provision of that service. The Department must, in any contract, fully recover the cost of such service. The contract may and should provide for conservation and reuse systems within Tusayan. Further, the Secretary is directed to limit the expansion of water demand in order to prevent deterioration or invasion of park resources, and secure the best possible relationship between planned activities within the park and land uses in Tusayan.

This amendment would in no way alter the primary duty of the Secretary and the Park Service to protect park resources and provide for the convenience of park visitors.

Mr. President, I yield back the remainder of my time and I move the adoption of the amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Arizona.

The amendment (UP No. 2087) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. HART. Mr. President, the Committee on Energy and Natural Resources added to this bill an amendment to resolve the concern of the solicitor of the Interior Department that the original congressional authorization of the Fryingpan-Arkansas water project in Colorado is ambiguous. The committee amendment is identical to the bill, S. 3501, which Senator HASKELL and I introduced on September 20, 1978. Since we both made statements explaining the legislation to the Senate then, I do not want to take the Senate's time to repeat those explanations. On behalf of Senator HASKELL and myself, however, I do want to take a few minutes to explain a recent development that provides a context in which the Fryingpan-Arkansas language should be understood.

The portion of the project which is covered by the solicitor's opinion has been the subject of controversy among the different Colorado parties whose interests are affected by the diversion. Over this past weekend, those parties have reached agreement on the settlement of all the points in dispute among them. Senator HASKELL, Congressman EVANS, the other members of the State's delegation, and I have been in close touch with the different groups as they have negotiated the agreement, and we applaud their success in resolving their disagreements.

This agreement was still being negotiated when Senator HASKELL and I introduced our bill, and when Congressman EVANS introduced an identical bill in the House. The bills were very carefully drafted, however, to be consistent with the proposal which the parties were discussing. After reaching their final agreement this past weekend, all parties support the Energy Committee amendment as legislation that is entirely consistent with their settlement. As sponsors of the bill from which the amendment now before the Senate was taken, Senator HASKELL and I also believe that the amendment is entirely consistent with the settlement, and should be so administered and construed.

While one party has not yet been able to officially sign the copy of the agreement which I have in my possession, I

point out to my colleagues that the attorney for that party has signed the agreement, indicating his approval as to form.

Mr. President, I ask that the agreement be printed in the RECORD.

The agreement follows:

AGREEMENT

This agreement, made and entered into this day of , 1978, by and between the State of Colorado, by and through the Department of Natural Resources and the Colorado Water Conservation Board; the Southeastern Colorado Water Conservancy District; the City of Aspen; and the Board of County Commissioners of the County of Pitkin.

Witnesseth:

Whereas, certain legal and administrative disputes have arisen between one or more parties hereto relating to the operation of the Fryingpan-Arkansas Project (hereinafter called the Project); and

Whereas, all parties hereto desire finally to resolve all basin and region wide problems resulting from the operation of the Fryingpan-Arkansas Project.

Now, therefore, for and in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

I. Parties to settlement:

A. State of Colorado (hereinafter State), by and through the Department of Natural Resources hereinafter Department), and the Colorado Water Conservation Board (hereinafter Board);

B. Southeastern Colorado Water Conservancy District (hereinafter southeast);

C. City of Aspen (hereinafter Aspen);

D. Board of County Commissioners of the County of Pitkin (hereinafter Pitkin County).

II. Covenants relating to the Hunter Creek Drainage Basin:

A. The Board agrees to file for supplemental minimum stream flow decrees pursuant to 37-92-102(3), CRS 1973, to bring its Hunter Creek drainage decrees up to the following total amounts:

1. Midway Creek from Fry-Ark point of diversion to confluence with Hunter Creek: 5 cfs.

2. No Name Creek from Fry-Ark point of diversion to confluence with Hunter Creek: 4 cfs.

3. Hunter Creek from Fry-Ark point of diversion to confluence with Midway Creek: 12 cfs.

4. Hunter Creek from confluence with Midway to confluence with No Name Creek: 17 cfs.

5. Hunter Creek from confluence with No Name Creek to confluence with Roaring Fork River: 30 cfs.

B. Pursuant to the provisions of paragraph 19 of the Operating Principles for the Fryingpan-Arkansas Project (House Document No. 130, March 15, 1961), hereinafter referred to as the Project, the STATE agrees to convene the Fryingpan-Arkansas Project Commission for the purpose of recommending to the Commission that the Commission forward recommendations to the Secretary of the Interior of the United States requesting that:

1. The Hunter Creek collection system of the Project be operated to the end that the Project will not deplete the streams at the following Project points of diversion below the following flows (or the natural flow, whichever is less):

a. Hunter Creek diversion structure: 12 cfs.

b. Midway Creek diversion structures: 5 cfs.

c. No Name Creek diversion structures: 4 cfs; and

2. At such times as diversions lawfully made under the Colorado priority system by decrees senior to the Project reduce the flow of Hunter Creek at its confluence with the Roaring Fork below 21 cfs, the Project will forego diversions from the Hunter Creek drainage to the extent necessary to maintain a flow of 21 cfs at such confluence; provided, however, that the Project shall not be required to forego Project diversions whenever 51 cfs is available at the stream gauging station as now located upstream from the headgate of the Red Mountain Ditch to satisfy such senior diversions.

C. Southeast will consent and stipulate to, and no party hereto will object to, the inclusion in the decree and judgment in Case No. W-829-76 (In the District Court in and for Water Division No. 5, State of Colorado) of the following bypass requirements in the Hunter Creek drainage (or the natural flow, whichever is less) at the following Project diversion points:

1. Hunter Creek diversion structure: 12 cfs.

2. Midway Creek diversion structures: 5 cfs.

3. No Name Creek diversion structures: 4 cfs.

D. The Department, to the extent as may be approved by the Colorado Wildlife Commission and the Board, will utilize such funds as may become available to purchase existing senior water rights, in cooperation with Pitkin County and Aspen, for conversion to minimum stream flows in an amount sufficient to fulfill the purposes of subsections A5 and B2 of this paragraph II. It is understood by the parties hereto that the State budget for fiscal year 1979 contains an appropriation of $250,000 for acquiring minimum flows for the Project. Said moneys were appropriated for the purpose of resolving conflicts relative to Hunter Creek minimum flows. In no event shall the stream flows set forth in subsection A5 of this paragraph II be a Project obligation, except to the extent set forth in section B2 of this paragraph II.

E. For the purpose of maintaining the instream flow decrees and water rights heretofore obtained, or obtained pursuant to section D of this paragraph II, to meet the requirement of subsection A5 and B2 of this paragraph II, the following principles, which in no way shall be interpreted to be a Project or Southeast obligation, will apply:

1. Recognizing that certain owners of senior water rights on Hunter Creek not party hereto may desire to lease or to sell those rights, the first priority for maintaining instream flows on lower Hunter Creek shall be the lease or purchase of said rights, to the extent of available funds, for conversion to minimum stream flows, provided that the exercise of such acquired rights shall be limited to the quantity of water diverted by such rights as established by the Board and as thereafter may be determined by the Courts.

2. The parties will work with the United States Forest Service for the purpose of utilizing, by lease or otherwise, appropriative water rights acquired by the Forest Service, for instream flow maintenance to the extent of the quantity of water diverted by such rights as established by the Board and as thereafter may be determined by the Courts.

3. The Board will join as co-applicant with Aspen in an application for change of water rights for the purpose of enabling the Board to utilize Aspen's Hunter Creek Flume and Pipeline water right (Structure No. 203, decreed in Civil Action No. 3082 in the District Court in and for Garfield County on August 25, 1936, and confirmed in Civil Action No. 3723 in the District Court in and for Garfield County on August 25, 1949, for 15.0 cfs from Hunter Creek with a priority date of June 10, 1886) for minimum stream flow maintenance pursuant to 37-92-102(3), CRS 1973, provided, however, that Aspen shall retain title to said water right, and the use by the Board of said right shall be by permissive license only; and provided further that Aspen reserves the absolute right to utilize any or all of said water right at any time for municipal purposes or other purpose which Aspen, in its sole discretion, determines to be necessary and advisable. All parties hereto consent, and will not object in any manner whatsoever, to the transfer by the Board and Aspen, pursuant to 37-92-102 (3), CRS 1973, of the 15 cfs of the Hunter Creek Flume and Pipeline water right to minimum stream flows from the headgate of said Hunter Creek Flume and Pipeline.

4. Recognizing that Aspen has constructed a water treatment plant on Red Mountain which has Hunter Creek as its source of supply and recognizing that Aspen needs to augment its diversions from Hunter Creek during the irrigation season, the parties agree that Aspen shall have the first right to purchase up to 1.77 cfs of any water rights on Hunter Creek now or hereafter made available for purchase, provided, however, that Aspen agrees to grant a permissive license to the Board to use any such water rights for minimum stream flow maintenance on the same terms and conditions set for in subsection E 3 of this paragraph II.

5. Recognizing that the Divison may desire to sell or exchange the water purchased by the Division pursuant to this agreement for use as minimum stream flows after said use for minimum flow in Hunter Creek has been made, and recognizing the Pitkin County had adopted growth management policies for Pitkin County, the parties agree that any such sale shall not be made to any person or entity for use within Pitkin County for new domestic or municipal purposes which would be inconsistent with the growth management policies of Pitkin County without the prior consent of Pitkin County. The Board shall file on the water rights purchased for minimum stream flow to insure the protection that the water rights will remain in the stream through the entire stream segment.

6. The United States Bureau of Reclamation shall be requested to install and maintain a continuous flow gauging station at the intake portal of the Hunter Creek to Chapman Gulch Tunnel and shall be requested to, at least monthly, provide a copy of daily gauging records from this station to all parties to this Agreement as requested by the parties.

F. The parties to this Agreement, as among themselves, shall honor the priority and quantity of any water rights converted to minimum stream flow use by the Board as a call at the decreed point or points of diversion on Hunter Creek.

G. Project diversion in the Hunter Creek drainage shall be operated in accordance with and pursuant to the following terms and conditions:

1. At the points of diversion, Project diversions from No Name, Midway and Hunter Creeks shall be subject to the minimum flow requirements set forth in section B of this paragraph II.

2. There shall be no additional physical features constructed in the Hunter Creek drainage basin other than the completion of the presently planned diversion structures and appurtenant facilities on Hunter, Midway and No Name Creeks and the Hunter Creek Tunnel; provided that this provision shall not be construed to apply to either maintenance, repair or necessary modification to said presently planned diversion structures to accomplish the purpose for which such features were designed.

3. Any water rights purchased by the Board for minimum stream flows pursuant to section D of this paragraph II and to be used for the purposes set forth in para-

graphs A 5 and B 2 shall be transferred to minimum stream flows in a quantity established by the Board, without objection by any party hereto, and as thereafter may be determined by the Courts.

H. Recognizing that paragraph 11 of the Operating Principles for the Fryingpan-Arkansas Project contemplates a 3,000 acre-foot exchange with the Twin Lakes Reservoir and Canal Company for the purpose of stream flow maintenance in the Roaring Fork River; recognizing further that the 3,000 acre-foot exchange, if effected, is a Project obligation to be provided by the first Project diversions from No Name and Midway Creeks, and recognizing further that the implementation of the exchange will provide for stream flow maintenance in the Roaring Fork River from the Twin Lakes Reservoir and Canal Company points of diversion to the extent permissible under the laws of the State of Colorado to the confluence of the Roaring Fork River and the Fryingpan River, it is agreed that the parties shall make every reasonable good faith effort to implement the exchange contemplated in the Operating Principles; provided, however, that until said exchange is implemented, the Project shall annually divert 3,000 acre-feet less than would otherwise have been diverted from the Hunter Creek drainage basin, which bypasses shall be in addition to water bypassed to meet downstream senior calls, Project minimum flow bypasses set forth in paragraph II B or water spilled due to limitations on physical capacity of Project diversion facilities.

Upon yearly implementation of the 3,000 acre-foot exchange, the Project shall not be required to cause the release of said 3,000 acre-feet by Twin Lakes until sufficient waters are in storage to accomplish the exchange, or prospective operation of the Project diversions and storage indicate that the water will be contemporaneously available with the Twin Lakes foregone diversions in the year of the diversion. Once in storage, bypasses by Twin Lakes shall be when in priority from water otherwise divertible released in a manner to comply with the Project Operating Principles. The operating agreement with the Twin Lakes Reservoir and Canal Company shall contain provisions which will prohibit the Twin Lakes Reservoir and Canal Company from seeking to exercise dominion and control over any of the 3,000 acre-feet which may be released in any year. Unless operation of the 3,000 acre-foot exchange to maintain stream flows at levels set forth in the Operating Principles requires, no credit against the 3,000 acre-foot exchange shall be permitted for water spilled past Twin Lakes Reservoir and Canal Company collection points due to limitations in physical capacity, calls for water by any of its West Slope shareholders or by senior water rights. The BOARD agrees to take all steps necessary to ensure that water released pursuant to the exchange is utilized for stream flow maintenance in the Roaring Fork River to the extent permitted by law, including filing on the water so released as transbasin water not subject to diversion by inbasin users from the point of bypass at the Twin Lakes system to the confluence of the Roaring Fork with the Fryingpan River.

III. Covenants relating to the Fryingpan River Drainage Basin:

A. The Operating Principles for the Fryingpan-Arkansas Project approved by Congress in the authorizing legislation (P.L. 87-950 (1961)) require that the Project be operated with bypass requirements in the Fryingpan drainage as set forth in paragraph 9 of the Operating Principles and individual stream bypass requirements were established in the Final Environmental Impact Statement as set forth below:

Structure:	Summer bypass (in cfs)
Chapman	3.0
South Fork	5.6
Fryingpan	10.4
Sawyer	1.0
Lily Pad	.6
Granite	1.6
Carter	1.6
North Fork	.9
Mormon	1.6
North Cunningham	.9
Middle Cunningham	.9
South Cunningham	.5
Ivanhoe	1.4
Total	30.0

Recognizing that the Fryingpan-Arkansas Project was authorized to be constructed, operated and maintained for the primary purposes of supplying irrigation, municipal, domestic, and industrial water, and the incidental purposes of the conservation and development of fish and wildlife and recreation, and further recognizing that said purposes should be mutually promoted to the maximum extent possible consistent with the Operating Principles, the parties agree that:

1. The Department and the Board shall request the Colorado Division of Wildlife to continue to perform such additional studies using the latest methodology as are necessary to determine the flow requirements for maintenance and preservation of aquatic habitat, related rate of fish production and recreational fishing needs. Said additional studies shall be performed as soon as reasonably possible on all streams and tributaries within the Fryingpan River drainage on which Project diversions will be located and may be undertaken jointly with the United States Forest Service and the United States Fish and Wildlife Service.

2. To the extent that the available waters may be surplus to the allocation set forth in subsection (1)(a) of paragraph 9 of the Operating Principles, as shall be determined by the Fryingpan-Arkansas Project Commission, such surplus shall be released through the Project collection system at the points and in the quantities recommended by the Colorado Division of Wildlife as a result of the studies described in the foregoing subsection A 1 of the paragraph III.

3. To the extent that engineering studies conducted by the Board, Pitkin County or Southeast, and operational experience by the Bureau of Reclamation indicate that the method of operation of Project diversions can be modified to promote or achieve minimum stream flow requirements without diminishing the authorized Project water diversions, the Fryingpan-Arkansas Project Commission, in accordance with its lawful authority, shall recommend appropriate changes in the Operating Principles. The parties hereto will support any change in the decrees for the Project as necessary to reflect the operational procedure as established by the Commission from time to time.

4. For the purpose of implementing this paragraph III A, the State shall convene the Fryingpan-Arkansas Commission from time to time as necessary, for the purpose of considering recommended changes in the Operating Principles consistent with the intent of the parties as expressed in this paragraph III A.

IV. Procedural matters relating to settlement:

A. The parties agree and stipulate to the inclusion of the terms of this Agreement in the decree in Case No. W-829-76 (In the District Court in and for Water Division No. 5, State of Colorado) and the additional proviso:

"Any provision of this decree to the contrary notwithstanding, the Southeastern Colorado Water Conservancy District or its successor in interest will not exercise the water rights for the Fryingpan-Arkansas Project set forth in this decree except to the extent and in a manner consistent with the Agreement set forth herein."

B. Recognizing that the United States Bureau of Reclamation has made after-the-fact permit applications to the Army Corps of Engineers pursuant to Section 404 of the Federal Water Pollution Control Act Amendments of 1972 to construct diversion dams on the Fryingpan River, Hunter Creek and various tributaries of these streams as set forth in applications CO-OYT-0071, CO-OYT-0072, and CO-OYT-0073; recognizing further that all parties to this Agreement have the right to comment on said applications, to request a public hearing, and to pursue all available legal rights relative to the 404 permit process; and recognizing further that the implementation of this Agreement will take time and is a continuing obligation but will preclude the need for comment, public hearing, or other legal recourse relative to the applications, the parties agree, upon the execution of this Agreement to indicate to the Corps of Engineers their approval of the issuance of the permits described in this paragraph.

C. In order to amicably resolve other matters at issue between and among the parties hereto, the parties hereto further agree that:

1. The parties to that certain legal action entitled "The Board of Couny Commissioners of the County of Pitkin, Colorado, v. Andrus, et al.," Case No. 77-1408, in the United States Court of Appeals for the Tenth Circuit, shall jointly petition the Court to enter an Order dismissing the appeal and remanding the cause to the District Court for the District of Colorado with directions to vacate its Judgment in Civil Action No. 75-M-1268, dated April 19, 1977, and to dismiss with prejudice Plaintiff's Amended Complaint by Stipulation pursuant to Fed. R. Civ. P. 41(a)(1).

2. Aspen and Pitkin County shall move to dismiss with prejudice their Protests in Case No. W-829-76 (In the District Court in and for Water Division No. 5, State of Colorado).

3. All parties hereto will join in requesting dismissal by the United States Forest Service of its Protest in Case No. W-829-76 (In the District Court in and for Water Division No. 5, State of Colorado).

4. Aspen and Pitkin County shall withdraw their Comments, if any, made and submitted to the Army Corps of Engineers on Permit Application numbers CO-OYT-0071, CO-OYT-0072, and CO-OYT-0073, and will dismiss with prejudice Civil Action No. 78-K-995 in the United States District Court for the District of Colorado; provided, however, that the parties hereto shall jointly submit a comment requesting the inclusion of the terms of this Agreement into all 404 permit application approvals for the Project. No new litigation will be initiated by Aspen or Pitkin County in connection with federal permits of any kind in connection with the Project as currently planned so long as such permits are consistent with the terms of this Agreement.

5. All parties hereto agree to support such changes in the Project authorizing legislation as may be required to carry out the intent of this Agreement.

6. The parties hereto shall permit the various described operations, changes, transfers, exchanges, and augmentation, consistent with the terms of this Agreement, to occur without objection.

This Agreement shall be in effect and binding upon execution by all parties, subject to ratification by the membership of the Colo-

rado Water Conservation Board, and shall constitute a contract between the signatory parties, and shall inure to the benefit of, and be binding upon, their successors and assigns, and shall be implemented as promptly as possible after such execution and ratification.

In witness whereof, the parties hereto have executed this Agreement at Denver, Colorado, the day and year first above written.●

Mr. CHURCH. Mr. President, I move the adoption of the bill.

Mr. ROBERT C. BYRD. Third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 7971) was passed.

The title was amended so as to read:

An act to validate certain land conveyances, and for other purposes.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL PARKS AND RECREATION ACT OF 1978

The Senate continued with the consideration of S. 791.

Mr. RANDOLPH addressed the Chair.

Mr. ROBERT C. BYRD. My senior colleague seeks recognition.

Mr. JACKSON. I would like to yield 3 minutes to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH addressed the Chair.

Mr. ABOUREZK. Are we back on S. 791?

The PRESIDING OFFICER. We are back on the omnibus parks bill.

The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, may I say that the distinguished senior Senator from California I indicated was one of the members I appointed to the ad hoc committee on the Humphrey-Hawkins bill. He is engaged in consultation with other Senators on that bill. He cannot come to the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia was recognized.

Mr. JACKSON. Well, Mr. President, I just talked to the Senator. He wants to defer his 3 minutes until after we act on this amendment.

The PRESIDING OFFICER. The Senator from California.

UP AMENDMENT NO. 2084

Mr. HAYAKAWA. Mr. President, since the senior Senator from California is not present and since the whole matter would not be in this act were it not for his insistence, and since I also understand that he wishes to see the continuance of ski development in that valley in California, and since I do not see any logical consistency in this position, I shall cease to object to the position being held here.

So, if any of my colleagues want to proceed with action on this amendment, I am happy to yield.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The Senator from Pennsylvania.

Who yields time?

The time on the amendment has expired.

Mr. HANSEN. Does the Senator from Pennsylvania wish to speak on——

Mr. HEINZ. I do not wish to speak on this amendment. At some point——

Mr. ABOUREZK. Can we act on this amendment?

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from California, unless somebody yields time to somebody.

Mr. BAKER. Mr. President, who has control of the time on the bill?

The PRESIDING OFFICER. The Senator from Wyoming has control of the time on the minority side, and the Senator from South Dakota has control of the time on the majority side.

Mr. HANSEN. And who wishes to speak?

The PRESIDING OFFICER. The Senator from Pennsylvania has sought to speak, but he does not wish to speak on the pending amendment, nor has time been yielded to him to speak on any subject.

Several Senators addressed the Chair.

Mr. HANSEN. Mr. President, how much time does the Senator from Pennsylvania——

Mr. HEINZ. The Senator from Pennsylvania wants 2 minutes.

Mr. HANSEN. I yield 2 minutes.

Mr. ABOUREZK. Mr. President, just a minutes, can we just act on the amendment and then give the Senator the time?

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. ABOUREZK. I move to reconsider the vote by which the amendment was rejected.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I thank all Senators.

If I could have the attention of the Senator from South Dakota for 1 minute, it is my understanding that in the bill before us, S. 791, there is a provision that designates a portion of the Allegheny River from Kinzua Dam downstream to East Brady for study for inclusion in the National Wild and Scenic Rivers System, is that correct?

Mr. ABOUREZK. That is correct.

Mr. HEINZ. I thank all members of the committee for their work on this issue.

This is a project which I have been deeply interested in while a Member of the House of Representatives and now in the Senate.

In February of last year, I introduced a bill to have this designation undertaken.

I believe that the Allegheny River, from Kinzua Dam down to East Brady River, much of which runs through the Allegheny National Forest, meets the criteria for Wild and Scenic River, and therefore, I thank the committee for designating this section of the Allegheny River for formal Wild and Scenic River study.

Mr. ABOUREZK. I yield 2 minutes of my time to the majority leader.

THE CALENDAR

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. President, I earlier asked unanimous consent to proceed to the consideration of Calendar Order 1204, which at that time had been cleared on both sides of the aisle, I thought.

The distinguished Senator who now presides over the Senate at that point in his capacity as a Senator objected to the consideration of the measure. That objection has now been removed.

I ask unanimous consent that the Senate proceed to the consideration, for not to exceed 1 minute, of Calendar Order No. 1204.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. LAND CLAIMS IN RIVERSIDE COUNTY, CALIF.

The bill (H.R. 7101) to amend certain provisions of law relating to land claims by the United States in Riverside County, Calif., based upon the accretion or avulsion, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL PARKS AND RECREATION ACT OF 1978

The Senate continued with the consideration of S. 791.

Mr. ABOUREZK. Third reading.

The PRESIDING OFFICER. Are there further amendments?

The question is, Does the Senate concur in the amendment of the House——

Mr. ABOUREZK. Mr. President, before we get to the final passage, I yield 3 minutes to the senior Senator from West Virginia.

Mr. RANDOLPH. Mr. President, we are grateful, and I use the word "we" to include the majority leader (Mr. ROBERT C. BYRD), Representatives HARLEY O. STAGGERS and NICK JOE RAHALL. We have had a very special continuing interest, as the able manager of this bill knows.

The pending measure, S. 791, addresses the protection of one of the most scenic and historically significant areas of our

Nation. It includes a provision to designate the New River Gorge area of West Virginia as a National River.

The protection of the New River and the Gorge is an endeavor that has been underway for over 6 years. There have been numerous proposals and recommendations, as well as extensive public discussions.

This year, as a result of these efforts, a proposal acceptable in large degree to many concerned citizens was developed. Senator BYRD and I introduced S. 2866, a bill to establish the New River Gorge National River. An identical measure was introduced in the House by Representatives RAHALL and STAGGERS. The House has incorporated this proposal into S. 791.

In our efforts to provide vitally needed protection for this area of our State, the national river was seen as the most viable solution. This designation not only prevents encroachment upon the river and the gorge but also provides an acceptable means of utilizing the river's valuable recreation sources. It is well-known that the new river offers some of the best fishing in the East along with the excitement of running the rapids with experienced rafting outfitters. These are sports enjoyed by West Virginians as well as visitors from throughout the Nation.

Another of our concerns was the coal already determined to exist in the New River area. As a result, several studies were undertaken to preserve not only the beauty of the area but also to provide an acceptable means of reaching one of the lifelines of West Virginia, its coal.

A report issued by the Department of Interior states that in a 58,000-acre area of the Gorge, there is at least 2.6 million tons of accessible low-sulfur, low-ash coking coal. With this in mind, boundaries were drawn that will allow for the underground mining of this coal from entries outside the proposed area without obstructing or damaging the Gorge and the New River.

The New River also boasts the longest arched suspension span in the world. This bridge crossing the second oldest known river has added to the attraction of the New River and has drawn tourists from all over the Nation.

The pending legislation also includes provisions for study and possible inclusion in the wild and scenic rivers system or national river, the Bluestone River, the Gauley River and its tributaries. The Greenbrier River and the segment of the New River from Fayetteville to Gauley Bridge will also be included for study.

Mr. President, West Virginians are happy to have such a river within our borders. It is a matter of intense interest to the people of our State, and we thank those who have brought the omnibus bill into being for giving us the opportunity to include this project in the measure now pending.

I commend the Senator from South Dakota, Mr. ABOUREZK, on his handling of the legislation. Through his cooperative spirit, his perseverance and his expertise, he has brought to passage a vital parks and recreation measure. We are particularly grateful for his assistance in moving forward with the New River Gorge National River. The able chairman of the Subcommittee on Parks and Recreation has resided and worked in West Virginia. We invite him to visit with us often and to enjoy the benefits of his work for the New River Gorge. The citizens of our Mountain State will welcome him enthusiastically.

Mr. DOLE. Mr. President, I should like to ask one question: Is there any State other than Kansas that did not end up with a park? [Laughter.]

The PRESIDING OFFICER. The Chair advises the Senator from Kansas that Arkansas did not make it, either.

Mr. ABOUREZK. Did we leave you out, BOB? [Laughter.]

Mr. DOLE. I have 2 more years. [Laughter.]

Mr. HANSEN. Mr. President, I believe the inquiry by the distinguished Senator from Kansas is sincere. It is my understanding that six States—five others—did not make it.

Mr. DOLE. I appreciate that. We would have a meeting later. [Laughter.]

The PRESIDING OFFICER. Does the Senator from Maryland wish to offer an amendment?

Mr. MATHIAS. I wish to offer two amendments.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

UP AMENDMENT NO. 2088

(Purpose: To expand the boundaries of the Hampton National Historic Site in the State of Maryland.)

Mr. MATHIAS. I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an unprinted amendment numbered 2088:

At the end of the bill add the following new section:

SEC. 311. (a) In order to preserve, as part of the Hampton National Historic Site, lands and buildings historically associated with Hampton Mansion, the exterior boundaries of such historic site are hereby revised to include the following described lands:

All that certain tract or parcel of land lying and being situated in Baltimore County, Maryland, and being more particularly described as follows:

Beginning at a point on the Northwest side of Hampton Lane (50 feet-wide), said corner being common to the lands now or formerly of Hampton Village, Inc. and the lands of Gertrude C. Ridgely, et al; thence, with the Northern right-of-way line of said Hampton Lane, the two following courses and distances:

North 69°19'40" East, 188.75 feet; and

Easterly by a line curving toward the right having a radius of 408.59 feet for a distance of 196 feet (the chord bearing of North 83°04'-12" East, 194.12 feet); thence, leaving said Hampton Road, North 14°20'20" East, 1,095.18 feet to the westernmost corner of Lot No. 1 as shown on Plat "D" of Hampton and filed for record in Plat Book G.L.B. No. 20, Folio 32; thence, running along the southerly line of the lots fronting on St. Francis Road (as shown on said Plat) on a line parallel to and 200 feet from said street, south 68°-25'30" West, 777.75 feet to a point on the easterly side of a 40 feet wide road; thence, with said road, North 21°34'30" West, 200.00 feet to a point on the southerly right-of-way line of St. Francis Road; thence, leaving said 40 feet wide road and with said St. Francis Road, South 68°25'30" West, 40.00 feet to a point on the westerly side of said 40 feet wide road; thence, leaving said St. Francis Road and with said 40 feet wide road, South 21°-34'30" East, 200.00 feet to a pipe; thence, leaving said 40 feet wide road, South 68°-25'30" West, 200.00 feet to a corner common to said Hampton Village, Inc. and the lands of subject owner; thence, with said Hampton Village, Inc., South 21°29'33" East, 835.03 feet to the point of beginning.

Containing 14.02 acres, more or less.

(b) The Secretary of the Interior (hereinafter referred to as the "Secretary") in furtherance of the purposes of this section, is authorized to acquire by donation, purchase, or exchange lands and interests in lands described in subsection (a) of this section.

(c) The Secretary shall administer lands acquired under the authority of this section as part of the Hampton National Historic Site in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented and the Act of August 21, 1935 (49 Stat. 666).

(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

Mr. MATHIAS. Mr. President, the amendment I am offering today, along with Senators SARBANES, HUMPHREY, and CASE, would expand the boundaries of the national historic site of one of the largest and finest Georgian homes in America. The Hampton National Historic Site would be enlarged by approximately 14 acres to include the original farmhouse and six outbuildings.

Currently, this historic site consists of Hampton Mansion and several outbuildings located on a 45-acre tract just north of the Baltimore Beltway in Towson, Md. North of the mansion grounds is Hampton Lane, where the 14-acre farm parcel is located. This land area, virtually hidden from view by the dense vegetation is set back, somewhat, from Hampton Lane. In fact, the average visitor is probably not even aware of the existence of the farm, let alone capable of associating it with the mansion. Most would not even understand its true significance, which, I think, needs some explaining.

The significance of the farm is, simply, that Hampton originally was not just the mansion and its immediate grounds; rather, it was a sprawling plantation, a large venture, encompassing both agriculture and industry and the farm was an integral part of the enterprise.

It is important to note that many of the outbuildings on the Hampton Farm share common features with the outbuildings of the mansion. Several of the structures exhibit the same cornice with cresent-shaped cutouts, and the stonework of the masonry buildings is of similar appearance. This apparent relationship is important when relating the history of the Hampton estate as a single entity. In addition, it seems likely that the nails, spikes, hinges, and other remaining hardware still visible in the outbuildings on both tracts of land were fabricated at the former carpenter/blacksmith shop from iron produced at the Northampton furnace and should be noted as an example of how self-sufficient Hampton was.

Henry and Ottalie Williams in their

book, "Great Houses of America" describe Hampton as "one of America's most imposing late-18th century mansions." So it is—and more.

Built by Charles Ridgely between 1783 and 1790, it stands today as one of the largest and finest Georgian houses in America. The mansion is furnished in the 1790–1830 period and contains many original Ridgely family pieces. The formal gardens, composed of six rectangular parterres in three terraces, are renowned for their sheer beauty.

Since 1948 Hampton has been the property of the American people as a national historic site. It is administered by the Society for the Preservation of Maryland Antiquities for the National Park Service. This arrangement has been eminently successful. Over the years it has provided the citizens of the Nation with a truly magnificent view of a late 18th century manor house.

And now—an exciting new development has taken place. The Hampton Farm is being offered for sale. We now have the opportunity to rejoin these two properties in one contiguous and grand Hampton National Historic Site. The acquisition of the Hampton farm and its rehabilitation would have a dynamic effect upon the mansion as it is currently interpreted. The operation of a revitalized farm complex would dramatically help to transform Hampton from a site of primarily geneological and architectural interest to what it really was—the centerpiece of a once vast estate, of which the farm was a major component.

The farm house, built in 1690, was originally known as Huntsman's Lodge and served as the home of Charles Ridgely while he built the mansion. The farm house has never been out of Ridgely hands.

I would like to describe for my colleagues the outbuildings which would be acquired pursuant to this amendment.

The overseer's house was the main building of the farm complex. It was built in stages, and its earliest section is believed to date from the early 18th century, or perhaps even the 1690's. The house is wood, with a stone foundation and wood shingle roof. The most recent addition dates from the 1940's, when the Ridgely family moved their place of residence from the mansion.

The shed/garage is situated very near to the overseer's house, and is a small wooden structure. As explained by Mr. John Ridgely III, the garage was built in two sections with the newer portion constructed from scrap lumber during his youth.

There are three slave quarters located on the property. All of them are two stories high, built on stone foundations with wood shingle roofs and brick chimneys. Two of the buildings have wooden cornices with crescent designs. Slave quarters I dates from about 1850 and was used as a tenant house. Slave quarters III has an improved interior with a bathroom and was also used as a tenant house.

The bake oven is structurally sound stone located between slave quarters I and II, and has excellent interpretive potential.

The stuccoed stone dairy, believed to have been built before 1843, is partially below ground and includes a stream. There is an outdoor fireplace on the site and a brick chimney.

The rectangular-shaped two-story long barn/grainery was built after 1843.

The corncrib is built on a stone foundation and has horizontal ventilated siding. One interesting feature of the structure is the doorway. The door itself has long iron hinges running almost the width of the door. It is believed that those hinges are the original ones and were produced at the Northampton furnace and the farm blacksmith shop. Above the main door is a transom door. Carved vertically at the door frame are Roman numerals (either VIII or VIIII). It should be noted that this feature was common in country buildings, and represented the builder's instruction mark. Such numbers provided guidance as to the proper construction of the structure's timbers and beams. They were usually found in the attic. Such a feature, a mark of rural artisanship, must be protected against any damage or deterioration. The corncrib, surrounded by dense vegetation, was built after 1843.

The mule barn is a two-story structure built prior to 1843. There are wooden planks over the dirt floor. The remnants of the stalls and troughs are still in place, including areas worn down by the animals stabled there. There is a crescent-shaped cornice on the barn, which is also present on the Hampton mansion greenhouse.

Hampton was originally purchased in 1745 by the Ridgely family. When iron ore deposits were found on the property, they expanded their holdings and established Northeast Ironworks. This foundry provided cannon and shot to the American forces during the Revolution.

From the profits of his successful ironworks, Charles Carnan Ridgely II built the Hampton mansion. The iron industry was well suited to a plantation economy. Wood for the furnace came from nearby woodlands. A farm needed to be operated in order to supply food and other necessities for the labor force. In all, 100 to 120 slaves worked in the ironworks business and housing had to be provided for them. There were carpenters, blacksmiths, wheelwrights, cartwrights, millers, and sawyers also involved in the ironworks. In essence, the iron plantation was one of the most self-sufficient economic units in the Nation in colonial times.

Hampton could be viewed as a prototype for iron and steel mills which developed later in the 19th and 20th centuries. Its farm was an important element in the early efforts toward industrialization.

As I have mentioned, the farm produced the food and other necessities for the slaves as well as the residents of the Mansion. In addition, the farm was profitable in itself. The estate produced prize-winning racehorses, cattle, sheep, and swine.

The farming activities predominated as the profitability of the ironworks began to decrease, and by the mid-19th century it was the profits generated by the agricultural activities which supported the elegant life at the mansion.

As my colleagues can see, the farm buildings were very important to the estate. And since those structures are still standing, we should do all we can to protect them.

The builder of the Hampton mansion, Charles Ridgely II was a public servant, in addition to being a businessman. He served the State of Maryland in a number of capacities, beginning as a representative to the General Assembly from 1790–95; as a Maryland State Senator from 1796–1800; and finally as Governor of the "Old Line State" from 1815 to 1818.

The Hampton mansion and grounds remained in the hands of the Ridgely family until 1948, when it was designated a national historic site.

Mr. President, on March 9, I wrote to the Director of the National Park Service requesting his views on the proposed Hampton expansion. On March 24, I received a reply from the Director of the Mid-Atlantic Region, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PHILADELPHIA, PA.
March 24, 1978.

Hon. CHARLES MCC. MATHIAS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: Your letter of March 9 to Director Whalen, concerning acquisition of 17 acres of land adjacent to Hampton National Historic Site was referred to me for a reply.

I have discussed this matter with Mr. Harrison, and feel the proposal has merit. However, its inclusion in the National Historic Site would, of course, require the support of the National Park Service and the Department of the Interior with accompanying specific legislative authorization.

This office has begun to prepare the necessary legislative support data so as to be ready should such data be requested by the Director, National Park Service.

Sincerely yours,
RICHARD L. STANTON,
Regional Director, Mid-Atlantic Region.

Mr. MATHIAS. Mr. President, we will not have this opportunity again. The Ridgely family farm, in all likelihood, will be divided among the heirs of Mr. D. Stewart Ridgely, a banker, sportsman, and last member of his family born at Hampton, who was killed in a traffic accident this past summer. I therefore urge the Energy and Natural Resources Committee to act now to accept this amendment.

Mr. ABOUREZK. Mr. President, we will accept the amendment.

Mr. SARBANES. Mr. President, I commend the manager of the bill and my colleague from Maryland for this amendment. It is a very important amendment. We thank the manager for his good judgment.

Mr. ROBERT C. BYRD. I commend both Senators and the manager. [Laughter.]

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SARBANES. Mr. President, I move

to reconsider the vote by which the amendment was agreed to.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATHIAS. Mr. President, on behalf of Senators SARBANES, HUMPHREY, and CASE, I am pleased to see that the subcommittee has included in this bill the Thomas Stone House, known as Habre de Venture, as a national historic site and has authorized its acquisition by the National Park Service.

The Thomas Stone House is now a registered historic landmark, one of the original homes of a signer of the Declaration of Independence. It is located in Charles County, Md.

In 1771, Thomas Stone built this plantation house near the busy riverport town of Port Tobacco, Md. He lived in it during his most politically active years, and on his death in 1787 was buried in the adjacent family graveyard.

A Georgian structure of brick and frame, Habre de Venture consists of five parts: A central house connected to two wings by two covered passageways, or "hyphens." The hyphens and wings extend southward to form a semicircle. laid in flemish bond with glazed headers. The main building is a 1½-story structure over an elevated basement. It has a dormered gambrel roof flanked by external end chimneys. The brick walls are laid in flemish bond with glazed headers. Center doors and full-length, one-story porches are located at the front and rear of the house.

A center hall, with stairs set against its west wall, divides the central unit into dining and living rooms. In 1928 the Baltimore Museum of Art removed the elaborate hand-carved paneling in the living room; it was subsequently replaced with a reproduction. The fireplace wall in the dining room protrudes into the room, and the flue curves back to the wall and up to the ceiling.

To the west of the central house is the kitchen wing, a low, two-story, gable-roofed structure with brick ends and frame sides. Its second story, added about 1820, contains two bedrooms. The connecting hyphen, originally gabled roofed, one story in height, and containing a breakfast room, was increased to 1½ stories by the addition of a gambrel roof with dormers to provide bathrooms for the second floor of the main house. The east wing, a gambrel-roofed, low, 1½-story frame structure that has one room on each floor, served as Stone's law office. A one-story gabled-roofed brick hyphen connects it to the main house.

Habre de Venture is one of the estimated 24 remaining homes of the 55 signers of the Declaration of Independence which is still standing.

Unfortunately, this beautiful Georgian mansion was severely damaged by fire on New Year's night 1977. Much of the central house was destroyed. Fortunately, however, the connecting hyphen of the house and both the kitchen wing and Stone's law office were spared.

This provision of the omnibus parks bill will permit the acquisition, restoration, refurbishing, and opening to the public of this grand Georgian mansion.

I particularly want to recognize the dedication and long hours of work which several preservation groups have put into this property since the fire damage.

On October 31, 1977, I convened a meeting in my office in an effort to secure the opening of Habre de Venture and its magnificent furnishings to the public. Representatives of the Maryland Historic Trust and the National Trust for Historic Preservation, as well as of Congressman ROBERT BAUMAN and the Maryland State Historic Preservation Office attended. As a result of that meeting, negotiations began between the Maryland Historical Trust and representatives of the owner of the property.

The inclusion of the Thomas Stone House in this parks bill represents the fruition of those talks.

I have been assured that those committed preservation organizations which met in my office will continue their efforts to preserve and restore this historic home and refurnish it.

The property has the potential of becoming a unique cooperative effort between private historic preservation groups and the National Park Service, perhaps ultimately as a working colonial farm.

Mr. President, I ask unanimous consent that a newspaper account from the La Plata, Md., Times-Crescent tracing the early history of this national landmark be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HABRE DE VENTURE: IT ALL BEGAN IN 1682

As early as 1682, the name "Habberdeventure" appears in the land records of Charles County.

In 1724, Robert Hanson purchased from John Lambeth "Haber de Adventure," which he left to his unmarried daughter, Mary, as "Habber Adventure."

A Mary Jenifer waived dower right to the property in 1768, and on December 13, 1770, "Daniel Jenifer, of Charles County, Gent., conveyed to Thomas Stone of the same county, Gent . . . all that tract . . . called Haber adventure and Hanson's Plains Enlarged . . . with all waters, water Courses, woods, underwoods, Houses, Buildings, rails, Hereditaments, Benifts (sic) advantages, Conveniences and Appurtenances . . . standing on the west side of the main road that leads from Port Tobacco to Piscataway."

Stone was newly wed to Margaret Brown youngest daughter of the elder Dr. Gustavus Brown, and used his bride's dowry to buy the place, which cost him 400 pounds.

The house, built there by Thomas Stone, remained in the family until 1936, when it was sold by Mrs. Michael Stone to Charles Steven Smith, from whom Mr. and Mrs. Peter Vischer acquired the property in 1945.

For decades, architects have visited Habre de Venture to view the three types of Maryland architecture exemplified: the Georgian brick house in the center, flanked on one wing by a clapboard-on-brick structure, once Thomas Stone's law office, and on the other by Flemish bond brick, with an end of clapboard-faced brick.

From the Great Room in the central portion, paneling and corner cupboards were removed in 1928 and sent to the Baltimore Museum of Art for a Colonial Room display, along with portraits of Thomas Stone, his wife, Margaret Jenifer Brown, and his father-in-law, Dr. Gustavus Brown.

The paneling was replaced with "a fairly exact" copy, lacking only the roses which had decorated the original cupboards, believed to represent the red of Lancaster and white of York.

The dining room of Habre de Venture was of particular interest, as it was of a lower level than the main portion, a low one-store structure, where according to a description published about forty years ago, "are to be found architectural distinctions which weave their way back to the medieval houses of England and recall the nostalgic efforts of the self-appointed exiles to reproduce their old homes in the heart of an American wilderness.

"Here is one of the very old brick structures of the State," continues the author of "Homes of the Cavaliers," with "the low arched ceiling and an extraordinary chimney treatment beginning at the floor with a large boxlike structure of brick, overlaid with plaster . . the flue curling back to the wall and up to the ceiling." The remarkable fireplace was dubbed "George Washington's nose".

Historical notes of the house do not speculate whether Stone may have merely enlarged an already existing structure.

Thomas Stone, youngest of the Maryland signers of the Declaration of Independence was appointed to the Continental Congress in 1774 and re-elected the next year.

When his wife visited him in Philadelphia, she was inoculated against the smallpox prevalent in the city, and from that point, historians say, her health declined. She died in June 1787.

Stone declined appointment to the Constitutional Convention and retired to Habre de Venture. He died in October, 1787, at Alexandria, Va., while waiting to set sail for England, a voyage prescribed by his physicians.

Thomas Stone is buried at Habre de Venture.

Mr. MATHIAS. Mr. President, I am advised by the manager of the bill that he will look favorably upon this provision in the House bill.

Mr. ABOUREZK. Yes. The Thomas Stone national historic site proposal is in this bill, and this bill will not go to conference. We are going to send it over and ask the House to accept our amendments, and that is it. It is in there; we accept it; we agree.

Mr. MATHIAS. I am gratified to have that assurance of the manager of the bill. It obviates the necessity for my second amendment.

● Mr. MARK O. HATFIELD. Mr. President, there are several Oregon items included in the legislation before the Senate, and I would like to draw attention to the one new addition to the park system in Oregon.

This bill encompasses the features of legislation I introduced in the 94th Congress and in this Congress to add the site of the salt cairn used by the Lewis and Clark Expedition to the Fort Clatsop National Memorial in Oregon.

This legislation is the result of many years of hard work and dedication of Dr. E. G. Chuinard, chairman of the Oregon Lewis and Clark Trail Heritage Foundation Committee. I know that each of us comes in contact with constituents from time to time who are selflessly dedicated to some cause for which they will gain nothing more than the satisfaction of having made a contribution to sound public policy. Dr. Chuinard is an outstanding example of this kind of person.

His efforts to move this bill and coordinate activities in support of it at the local level have been instrumental to getting it before this body. Dr. Chuinard knows of the importance of preserving a bit of history for the future and I am most grateful to him.●

Mr. ROBERT C. BYRD. Mr. President, I rise in support of S. 791 as amended by the House. Title XI of this bill contains a version of S. 2866 which I, and my colleague from West Virginia (Mr. RANDOLPH), have sponsored to create the New River Gorge National River.

Title XI will provide protection to one of the Nation's greatest scenic areas. This New River Gorge area has been under study by the Department of the Interior for several years. I am pleased to have obtained funds for these studies through the Senate Appropriations Subcommittee on the Interior which I have the honor to chair.

In fiscal year 1975, I was able to obtain funds for the Bureau of Outdoor Recreation to perform the study which is known as the New River Gorge study. It was this study that initiated the concept of balanced protection and nondetrimental use. This study did identify a major problem; namely, that of coal deposits in the gorge area and their value.

In fiscal year 1976, I was able to obtain $400,000 and appropriations committee report language authorizing a 1-year mineral appraisal by the U.S. Bureau of Mines and U.S. Geological Survey. This study indicated that by mining coal from entries well outside the boundaries of the New River Gorge, the acquisition cost for coal would not be prohibitive.

In May 1977 and again in October 1977, I prompted and encouraged the administration to come forward with a legislative recommendation based upon these studies by various agencies within the Department of the Interior. After negotiations with the Department and with OMB, the administration submitted draft legislation that is now embodied in title XI of S. 791. Title XI includes several minor changes that improve the original bill, S. 2866.

These changes clarify the restrictions on the condemnation power of the Secretary of the Interior; the definition of compatible commercial and business properties; the area outside the boundaries to be studied for possible future inclusion; the tributary rivers to be studied for possible inclusion in the Wild and Scenic Rivers System; and the release of water from Bluestone Lake. All of these changes were recommended without opposition at the joint House-Senate hearings on S. 2866 and H.R. 12001 on October 3, 1978.

It is now time to provide protection for this scenic area, one of the areas of greatest natural beauty anywhere in our Nation. With the increasing urbanization particularly in the Eastern United States, we must act to preserve natural areas such as the New River Gorge for future generations to enjoy.

I am most pleased to have cosponsored the administration's proposal to create the New River Gorge National River. I believe that title XI of this bill is an excellent balance between providing protection for the area for future enjoyment and recognizing and allowing to continue the present uses and activities in the area that are not detrimental.

This bill contains three features that should be noted. Land acquisition within communities in the gorge would occur only if they have undergone, or are about to undergo, changes in use incompatible with the purposes of the national river. Fee acquisition will be allowed only for visitor-use facilities, river access, historic interpretation, and preservation of the natural beauty of the gorge. Easements only would be acquired over other lands.

The new national river would make West Virginia the home of a fine new national recreation area. Visitors from other States would be welcomed to share with us the excitement and pleasures of one of America's oldest natural wonders—the New River Gorge.

I urge adoption of S. 791.

Mr. WILLIAMS. Mr. President, I strongly support the omnibus parks bill, S. 791, and the committee amendment now before us. I am particularly pleased with the inclusion of a provision which will help to protect a unique area in my State, the New Jersey Pinelands.

I certainly commend my good friends, the chairman of the Committee on Energy and Natural Resources, Senator JACKSON, the chairman of the subcommittee on Parks and Recreation, Senator ABOUREZK, and the ranking minority member of both the committee and the subcommittee, Senator HANSEN, for including a strong Pinelands provision in this bill. They and their staffs have been extremely helpful and cooperative in insuring Senate consideration of a Pinelands measure in this Congress.

This provision, which Senator CASE and I have developed, is the result of many months of discussions and meetings with officials of the Department of Interior, members of the New Jersey House delegation, New Jersey State and local officials, and conservation organizations. We are pleased that it has broad support among those concerned with protecting the significant natural resources of this vast area. I believe that it deserves the support of the entire Senate.

The New Jersey Pinelands contain thousands of acres of unbroken pine and oak forests, free-flowing streams, and rare wildlife and plant species. The unique ecology of the area is maintained by an enormous aquifer which lies just beneath the porous, sandy soil. A number of small communities, and economic activities such as cranberry and blueberry growing, forestry, and recreation has not disturbed significantly the natural processes of life in the pines.

But this will not always be so. The sprawling residential and commercial development of the surrounding region has started to make inroads into the Pinelands. Unless steps are taken soon to plan and protect the area, its pure water, its thriving agriculture, its recreational value, and its serene way of life will be gone forever.

The State of New Jersey and some of the local governments are already involved in efforts to save the Pinelands. A year ago, the Governor appointed a Pinelands Review Committee to review State actions in the area and to recommend means of protecting it. The State Department of Environmental Protection has developed new water quality standards for the central Pinelands, which will help to control undesirable development there. At the local level, Burlington County has launched a program to buy conservation easements on farms and other open space lands.

The provision in the committee amendment to S. 791 is designed to build on these and other State and local efforts to plan and protect the Pinelands. A number of Federal studies have recognized that the Pinelands are of national significance. In fact, the unique ecology of the area would qualify it for inclusion in the national park system. However, acquisition and management as a national park would be inappropriate for the Pinelands. Not only would this be far too expensive, but it would also needlessly eliminate the towns, the farms and the other diverse private activities that are an integral part of the life there.

The committee's Pinelands provision would provide a means for protecting this area which combines the resources and capabilities of the local, State, and Federal Governments and the private sector, and which utilizes the full range of land and water conservation techniques. It would designate approximately 1 million acres in New Jersey as the "Pinelands National Reserve." It would authorize up to $3 million for the Federal share of developing a plan for the Pinelands, and $23 million for the acquisition of critical land that is threatened by adverse development. The Federal share of planning and acquisition would be 75 percent, with the State providing the other 25 percent.

The comprehensive plan for conserving the Pinelands would detail the application of various means of managing land and compensating landowners and local governments, such as fee acquisition, conservation, easements, zoning, air and water quality standards, and payments in lieu of taxes. The plan would be submitted to the Secretary of Interior within 18 months, and after his approval, would be reviewed by Congress for a period of 90 days prior to implementation.

The success of this Pinelands preservation effort will depend to a great degree on the nature of the body charged with developing the plan. Under our provision, the planning agency would have 15 members, one appointed by the Secretary of Interior, seven appointed by the Governor, and one appointed by each of the governing bodies of the seven counties in the Pinelands. We have sought to assure a balance of local, State, and Federal concerns, with economic activities, such as agriculture, as well as conservation interests represented. In keeping with the goal of the legislation, we feel it is incumbent upon the governing bodies of the counties and the Governor to select individuals to serve on the planning agency who have demonstrated concern

for the preservation of the resources of the Pinelands. Because of the time constraints in the legislation and because of the urgency of protecting this unique area, it is crucial that the planning agency work harmoniously and efficiently in completing its task.

Mr. President, I believe that this provision will provide the best protection for the land, water, and wildlife of the Pinelands, while assuring that the interests of local governments and private landowners are protected. It will demonstrate to the Nation a new means of protecting areas which, like the Pinelands, are too large and too complex to be protected by the traditional means of Federal acquisition and management.

I urge my colleagues to support this provision, as well as the bill, S. 791.

Mr. CASE. Mr. President, I commend the distinguished chairman of the Committee on Energy and Natural Resources, Senator JACKSON, and the ranking Republican member of the committee, the distinguished Senator from Wyoming, Senator HANSEN, as well as the distinguished chairman of the Parks and Recreation Subcommittee, Senator ABOUREZK, for their work on this bill.

I strongly support the bill and particularly the sections dealing with Wild and Scenic River status for the Delaware River and the provision for protection to a unique area of my State, the New Jersey Pinelands.

The provision relating to the Pinelands is the result of extremely helpful cooperation by a large number of persons on a proposal that Senator WILLIAMS and I developed.

We are pleased by the broad support that this provision has received and we believe it deserves the support of the entire Senate.

This is a vital and significant proposal.

It is needed immediately to provide protection for a unique and beautiful area of my State known as the New Jersey Pinelands, an area that has been described as "among the most outstanding natural areas in the country.

The Pinelands, the largest undeveloped stretch of land on the eastern seaboard, is threatened by encroaching development. In one 50 square mile area of the Pinelands, for example, there have been enough approvals given for construction of new dwellings to double the population of the area in a span of 5 years. This development is taking place whenever and wherever land becomes available, without regard to planning for public services or the protection of natural resources.

While that problem is not unique to the Pinelands, it is intensified by the fragile nature of the area and increasing pressures caused by such things as the introduction of casino gambling at Atlantic City, which borders on the Pinelands.

The Pinelands are located in the southern half of New Jersey between the famous seaside resorts and the New Jersey Turnpike. It is a subdued, restful area with low shrubs and dwarfed pines and oaks growing in a highly porous soil that absorbs 90 percent of the rain that falls in the area.

The porous soil has created an aquifer that stores some 17.7 trillion gallons of water, an amount equal to 10 years of rainfall or the equivalent of a lake 2,000 square miles in area and 37 feet deep. Because of the porous soil and the shallow depth of the aquifer, this giant under ground reservoir could easily be polluted if intensive development took place in the area.

The Pinelands meets the criteria for a national park or a national recreation area but it is too expansive and too complex to be administered in the traditional manner which requires direct public acquisition and exclusive Federal management.

What is needed, and what our proposal provides, is a new approach that combines the capabilities and resources of the local, State and Federal governments and the private sector for protection of this area. We want to make sure the interests of all these sectors are represented in the development of a management plan for the area.

As I said, we believe our proposal is needed immediately to provide protection for New Jersey's Pinelands. But we also believe it is an important proposal for other parts of the Nation.

There are numerous areas in the country that, like the Pinelands, meet the criteria to be classified as national parks or national recreation areas but for various reasons are not suited to be administered in the traditional manner. At present we have no accepted policy for dealing with these areas.

Through the development of a management plan for the Pinelands, under the provisions of our proposal, we are seeking to demonstrate how various levels of government can work together and with the private sector to protect outstanding natural and cultural areas throughout the country for which traditional methods of protection are inappropriate.

We are seeking to demonstrate a means by which Federal interests in an expansive area of unique ecological value can be protected without the need for direct Federal ownership of the whole area.

We are seeking to demonstrate a means by which State interests can be protected without preempting local and private interests or being preempted by Federal interests.

We are seeking to demonstrate a means by which various local units of government can cooperate with each other and with the Federal and State governments to provide protection to an area that extends beyond local boundaries.

And we are seeking to demonstrate a means by which private interests, such as agriculture and recreation, can be carried on in harmony with the preservation of ecological, cultural, scenic and historic values.

We believe development of a management plan for New Jersey's Pinelands can be of significant value to the future development of a national policy for protecting areas for which there is no appropriate system of protection at this time.

To accomplish these purposes, our proposal calls for Congress to designate approximately 1 million acres in New Jersey as the "Pinelands Reserve" and to authorize $26 million as the Federal share of developing a management plan and acquiring land in the Pinelands. Of that amount $23 million would be used for acquisition of critical land areas that are in immediate danger of being developed in a manner that would be significantly adverse to the protection of the Pinelands. These Federal funds would be matched, on a basis of 75-percent Federal and 25-percent State, by State funds, as would the funds for development of the management plan.

A joint Federal-State-local agency, which will include representatives of private interests, will be established by the Governor of New Jersey to draw up a comprehensive plan for the area.

It is our intent and expectation that all those who serve on the planning agency will be dedicated to the protection of the values of the Pinelands.

During development of the plan, the agency would provide for maximum public and local participation, through public hearings and consultation with local officials and a citizens' advisory body.

The comprehensive plan will include a resource assessment which determines the amount of development and other activity that the ecosystem can sustain. It also will include a map showing areas of critical ecological importance and areas of scenic, open space, cultural and recreational significance and a separate map showing land use capability.

The plan also will include a comprehensive statement of policies for land use management which details the application of a variety of land and water management techniques such as zoning, development and use standards, conservation easements and other interests in land, land use regulations, public access agreements, and fee acquisition.

It must recognize existing economic activities within the area and provide for their protection and enhancement. In addition, there must be a plan for coordination and consistency of local, State and Federal programs and policies, a financial plan, a program for maximum local government and public participation in the management of the area, and a program for State and local implementation of the plan, including potential penalties for failure to implement the plan.

New Jersey will submit the complete management plan to the Secretary within 18 months, with the provision for extensions if the plan is found to be unacceptable when first submitted. All Federal assistance will be terminated and reimbursement of Federal funds may be sought if an acceptable plan is not approved within 3 years.

Once the plan is approved by the Secretary, it will be submitted to Congress for review.

We hope that our proposal will become a model for handling of areas similar to the Pinelands in the future.

Mr. ABOUREZK. Mr. President, I move to concur in the amendment of the House with an amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATHIAS. Mr. President, on the omnibus parks bill, which has just passed, I should like the record to show that I did not vote on that measure, because I have an interest and withheld my vote.

The PRESIDING OFFICER. The record will so indicate.

PUBLIC ASSISTANCE AMENDMENTS OF 1977

Mr. ROBERT C. BYRD. Mr. President, in order that I may keep my promise to the Senator from Pennsylvania and the Senator from Louisiana, I ask unanimous consent that the Senate resume the consideration of Calendar No. 527, H.R. 7200.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7200) to amend the Social Security Act to make needed improvement in the programs of supplemental security income benefits, aid to families with dependent children, child welfare services, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania will be recognized as soon as the Senate is in order. The Senate is not in order. Will Senators retire to the cloakroom or take their seats?

SUGAR ACT

Mr. HEINZ. Mr. President, we are now returning to consideration of the Sugar Act. We are now returning to the consideration, also, of that part of H.R. 7200——

The PRESIDING OFFICER. Will the Senator suspend until the Senate is in order? The Senate is not in order. Will Senators please retire to the cloakroom or take their seats? We will not resume consideration of this measure until the Senate is in order.

Mr. HEINZ. Mr. President, does the Senator from Louisiana seek recognition?

Mr. LONG. Mr. President, is the Sugar Act before us?

The PRESIDING OFFICER. The Senator is correct.

UP AMENDMENT NO. 2089

Mr. LONG. Mr. President, I am going to modify my amendment, in section 401 of the bill, to include this language.

Strike line 14 on page 29 and insert in lieu thereof "February 15, 1979." In other words, where "September 1" appears strike that on page 29.

The PRESIDING OFFICER (Mr. DECONCINI). Will the Senator please send the modification to the desk?

Mr. LONG. I will in a moment.

On page 29, line 14, where the figure "September 1" appears, strike "September 1" and insert in lieu thereof "February 15."

The modification is as follows:

On page 29, line 14, strike "September 1" and insert "February 15".

Mr. LONG. Mr. President, the reason I do this is to accommodate the Senator from Pennsylvania who has diligently guarded the floor today and made clear the fact that he is very much concerned about a provision that I really did not think was going to be very controversial when it was first agreed to in the committee. That was the provision that would extend the authority to waive countervailing duties until September 1, 1979.

In the spirit of compromise, the Senator was willing to agree that the date in the committee amendment be moved back from September 1 to February 15. If the matter can be resolved in this particular manner, Congress will be back in session next year and can consider the matter again in February.

I am sure the Senator from Pennsylvania will want to make clear his views about that matter. But I think that this will be a fair compromise. It will protect what he is very much concerned about. It will also let us continue the trade negotiations subject to a reasonable protection on both sides. It also will make it possible for us to move ahead with the Sugar Act.

Mr. President, let me say a word or two about the Sugar Act which is the principal thing that most of us seek to achieve with this bill.

In 1974 there were very high sugar prices, but thereafter a world sugar surplus developed very quickly and the stocks of sugar grew very rapidly. Foreign sugar fell to a very low price and large amounts of it have been imported.

Mr. President, as it stands today, it does not make any difference how efficient a sugar farmer is. Be he a beet farmer or be he a sugarcane farmer, he is losing money on every pound of sugarcane and sugar beet that he produces.

The domestic market price for sugar dropped to about 10 cents per pound in the latter half of 1977 and has remained low. According to the Department of Agriculture, the average cost of production in the United States for sugar is 15.2 cents per pound. Fourteen of the 90 or so sugar beet and sugarcane processors have been forced to close, because of these same pressures. If this situation is allowed to continue, the collapse of the U.S. sugar industry is inevitable, and it is not very far away.

The Sugar Stabilization Act which is now proposed and before the Senate would provide this country with a sugar policy designed to prevent the destruction of the U.S. sugar industry and to protect the interests of both consumers and producers of sugar. Our experience since the end of the sugar acts has demonstrated the need for such a program. The basics of the program are not difficult to understand.

Under the Sugar Stabilization Act, the President would be authorized to implement for the United States the International Sugar Agreement of 1977. While prices worldwide were declining rapidly in 1976 and 1977, the United States was taking a leading role in trying to negotiate an International Sugar Agreement for the benefit of all nations. That agreement is now before the Senate as a treaty for advice and consent. The International Sugar Agreement should bring some stability to the world sugar market trade. It will do this by regulating the quantity of sugar on the world market through export quotas and buffer stock requirements for exporting countries. The ISA, or International Sugar Agreement, aims to stabilize world market prices between 11 and 21 cents per pound with a free trade range; that is, without any quota or stocking requirements, between 15 and 19 cents per pound. The United States, as an importing country, would assist stabilization by limiting imports of sugar from countries which are not members of the International Sugar Agreement.

Mr. President, it was the view of the Finance Committee that the price of sugar should be about 17 cents a pound. I regret to say that in the State of Louisiana, which I have the honor to represent, even that price is low, because the average cost of production is about 17½ cents a pound in Louisiana. Notwithstanding that, we fear that there is no hope of persuading the President to sign a bill that would go to 17 cents a pound; hence the bill before us now provides for 16 cents a pound.

Mr. President, even at 15 cents per pound, 15 percent of the producers in Louisiana will be in dire distress, and that bothers me very much.

However, Mr. President, recognizing the realities of the situation, we would be better off with a 16-cent bill than with no bill at all. Knowing that we have had difficulty in persuading the President to see it our way, and confronted as of this moment with a strong feeling on behalf of the President's advisers that 16 cents is somewhat more than they should be willing to go along with, we feel that it would be better to have that than to have nothing.

At least, the great majority of sugar producers could survive at 16 cents.

It is only for that reason, Mr. President, that we do not recommend as high a figure as the committee really feels is justified under the circumstances.

I hope, Mr. President, that the Senate will see fit to at least endorse the 16 cents amendment proposed, as far as that would go.

The second title of the Sugar Stabilization Act provides for the maintenance of a sound U.S. sugar industry. A domestic market price objective for raw sugar of 17 cents per pound would be established for sugar sold between October 1978 and September 1979. Beginning in October 1979, this price objective would be adjusted each 6 months to take account of increased costs and inflation until the end of the program in September 1983. The price objective would be achieved by the addition of an import fee to the price of imported sugar. If the import fee does not maintain the domestic price at the price objective, then

quotas could be used to restrict imports and achieve the price objective. The act would also provide for fair wages and improved conditions for sugar fieldworkers.

The committee believes the price objective for the 1978 crop year, 17 cents per pound, is the minimum needed, with adjustments in future years, to maintain a domestic sugar producing industry at about its present level. The domestic industry will continue to decline at any lower price, jobs will be lost, Government welfare costs will increase, and the United States will become increasingly dependent on foreign imports to meet its sugar needs. Increased reliance on imports would lead to increasingly erratic prices to consumers due to the political instability and variable weather conditions which have always made world sugar prices more volatile than U.S. sugar prices. There would be periods of excessively high prices and a growing negative component to the U.S. trade balance, adding to inflation generally.

The benefits of stable and fair domestic sugar prices under the Sugar Stabilization Act would cost the consumer very little. The Consumer Price Index would increase annually at most by one-tenth of 1 percent under this act. This equates to maybe 5 cents per week for each person, or two-thirds of 1 cent per day. In return, consumers will be protected from 60 cents a pound sugar prices and sugar producers in 21 States will continue in business.

The 17-cent price level in the act is the median of the free trade price range under the ISA. Because it was decided upon internationally as an appropriate level for world prices, it seems only appropriate as a level for U.S. prices also. However, even the 17 cents per pound objective in the act is less than the cost of production of sugar in many areas. Some attrition will occur in the domestic industry at 17 cents. This price, expressed as a percent of parity for sugar, represents the lowest percentage set in any administration.

The adjustments to the initial price level provided in the bill are necessary to keep the U.S. market price at a level sufficient to cover the costs of production for U.S. producers. Between 1969 and 1977, the average rate of increase of the cost of production, excluding land costs, has been 8 percent. The adjustment factor in the act would permit prices to rise only in relation to increased costs of production and inflation. This adjustment is absolutely necessary if we are to avoid a continuing decline in the domestic industry.

Under the committee amendment, the Secretary of Agriculture would impose fees and, if necessary, quotas on imports to maintain the U.S. market price objective. The preferred method of achieving the U.S. price objective would be the import fee which, when added to the prices of imported sugar, would insure that the domestic price objective is reached. Quota authority is provided to the Secretary to serve as a backup means of achieving the U.S. price objective if the use of import fees alone cannot achieve this price. Fees were selected as the preferred mechanism for achieving the price objective because they are less disruptive to trade. The ability to use quotas as a backup adds a degree of certainty which is needed to insure that the domestic price objective is not undercut.

The farm labor provisions of the act provide for fair wages and improved conditions for sugar fieldworkers. Beginning with sugar supply year 1978, specified minimum wages must be paid to each person employed on a farm in the production, cultivation, and harvesting of sugar beets and sugarcane. The rates per hour are required to be not less than $3 for 1978, increased by an additional 20 cents each year thereafter. Remedies for workers are provided against employers who do not pay the wages provided for in the act. All producers of sugar beets and sugarcane would be prohibited from firing or in any other manner discriminating against any employee, because the employee has assisted or participated in any manner in an investigation, proceeding, or litigation under the labor provisions. Finally, producers of sugar beets and sugarcane could not charge workers more than the reasonable costs for goods or services they provide and must furnish workmen's compensation insurance to each worker employed while he is employed.

Mr. President, the domestic sugar program provided for in the committee amendment to H.R. 7108 which is now before the Senate is a responsible, reasoned program designed to benefit both consumers and producers of sugar. It should be enacted.

The committee amendment also provides for an extension of no more than 9 months of the Secretary of the Treasury's authority to waive the collection of certain countervailing duties. Under present law, the Secretary of the Treasury must collect countervailing duties in addition to regular duties on imports entering the United States if he finds that the imports are subsidized. The additional duty is equivalent to the amount of the subsidy.

In the Trade Act of 1974, Congress directed the President to seek new international rules on subsidy and countervailing duty practices in the multilateral trade negotiations. Our law does not require any finding that subsidized imports are injuring a domestic industry before a countervailing duty is imposed. The general agreement on tariffs and trade requires such an injury finding. Although we are exempt from that GATT requirement under a grandfather clause, our trading partners consider our law to be a violation of the "Spirit" of the GATT. To permit the President to avoid confrontations over the U.S. countervailing duty law while a subsidy code was being negotiated, Congress permitted countervailing duties to be waived; that is, not collected even though a subsidy exists, until January 3, 1979, under certain conditions.

On September 28 of this year, the President sent a message to the Congress asking that the countervailing duty waiver authority be extended until Congress completes its consideration of the results of the multilateral trade negotiations next summer. The President stated that prospects for reaching agreement by year's end on a subsidy/countervailing duty code which meets the basic U.S. objectives are good. He also stated that failure to extend the waiver authority until Congress can consider whether or not to implement that code will seriously jeopardize the ability of Bob Strauss, our special representative for trade negotiations, to negotiate such a code.

The Finance Committee has been overseeing the trade negotiations very closely since 1975. On the basis of this oversight, the committee agrees with the President's assessment of the problem. If the waiver authority is not extended for a limited period, the results of the negotiations, particularly for American agriculture, will be greatly reduced.

The committee has added a provision to its amendment to H.R. 7108 which would extend the authority of the Secretary of the Treasury to waive countervailing duties under certain conditions. Under the amendment, the waiver authority would be extended if, before January 3, 1979, the President determines and notifies Congress that negotiations have been concluded on a subsidies/countervailing duty code which adequately protects U.S. agricultural and industrial trading interests and provides for effective enforcement of substantive rules. The President must also report to Congress before January 3 that the MTN as a whole has been substantially concluded and that a failure to extend the waiver would seriously jeopardize the conclusion of the MTN. If these conditions are met, the waiver authority would be extended to the earliest of, first, September 1, 1979; second, the date on which either House of Congress defeats; or third, both Houses pass on a vote of final passage, the domestic implementing bill for the subsidy/countervailing duty code.

Under this provision of the act, existing waivers, which continue in effect, and any future waivers made during the period of the waiver authority extension would be subject to the existing conditions in the law for granting waivers. This means that before a new waiver could be granted the foreign governments supplying the subsidy in question would have to substantially reduce the effect of the subsidy practice on U.S. interests. In addition, all existing waivers and any future waivers would be subject to the existing congressional disapproval provisions under which either House of Congress may by majority vote disapprove a specific waiver. If a disapproval resolution is adopted, imports covered by that resolution become subject to countervailing duties immediately.

Mr. President, the provision of the committee amendment on extending the countervailing duty waiver authority will permit the special representative for trade negotiations a chance to secure the best possible agreement for the United States on international subsidy practices affecting U.S. industries. At the same time, the provision is drafted so that the Congress would maintain control to make sure that this extended au-

thority is not abused. If at any time Congress becomes convinced that a waiver which was granted under this authority was granted on inappropriate grounds, then Congress can disapprove that waiver.

The bill before the Senate now is an exceptionally important bill. It would provide a long needed domestic sugar program to the benefit of domestic sugar producers and consumers. It would permit the continuation and conclusion of international negotiations which offer the hope of bringing under control international subsidy practices injuring U.S. interests. It is a reasonable bill. It is a responsible bill. It is a bill worthy of Senate approval.

The committee amendment also provides for the extension for no more than 9 months of the Secretary of the Treasury's authority to waive the collection of certain countervailing duties, which has been previously discussed, I think, in considerable detail.

Mr. President, the amendment at the desk is my amendment. I have the right to modify it, and I do so modify it.

The PRESIDING OFFICER. It takes unanimous consent to modify the amendment.

Mr. LONG. Why does it take unanimous consent to modify it?

The PRESIDING OFFICER. Because by unanimous consent the Senator has agreed to it being considered as original text.

Mr. LONG. I ask unanimous consent to modify the date relating to the period for the countervailing duty waiver of the amendment.

Mr. HEINZ. Mr. President, reserving the right to object——

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The Senator does have the right to offer it as an amendment.

UP AMENDMENT NO. 2089

Mr. LONG. I offer it as an amendment, Mr. President.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 2089:

On page 29, line 14, strike "September 1" and insert "February 15".

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I do not know of any objection and I suggest we vote on it.

Mr. HEINZ. Mr. President, I would like to be heard briefly on the amendment.

Mr. LONG. All right.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I first want to thank the Senator from Louisiana, the chairman of the Committee on Finance. This represents a great deal of deliberation and agonizing on his part and on my part because, as I think my colleagues know, when we started out today on H.R. 7200 at about 11:30 this morning, I felt very strongly that we should not agree to the language of September 1, 1979. Had it been agreed to, that would give the administration some 35 weeks during which period subsidized imports would have flowed into this country as too often they have been allowed to do through the exercise of this waiver authority, displacing American workers in textiles, in steel, in garments, in industry after industry.

When we were discussing the amendment later in the day, I indicated that the French, the Dutch, the Germans, the British, the Danes, and many, many others were subsidizing their agricultural and industrial products and, frankly, Mr. President, I think that no matter whether you are for free trade or not—and I am for free trade—we must stand for fair trade.

One of the things that makes it very difficult for our people to understand is how, when we waive—as the President has done in virtually every instance except one I can think of—the countervailing duties which are supposed to offset the subsidies paid by foreign governments to their manufacturers so they can export at a low price to this country, I often wonder how we can explain that to our people who are trying to hold their jobs, stay off welfare, put their kids through college, have a decent home, try to give their families what every American family has a right to expect.

So often, as I know the Senator from Louisiana knows, it is the people who are trying to get into the work force or who are at the so-called entry level jobs, the least skilled jobs, who are hurt the most, and these are the people we want to bring into our society. We do not want them excluded. We do not want them to have to turn to AFDC or welfare. We do not want to have them to be forced to get on medicaid. They want health coverage, through the health insurance that the Senator may want to provide, and others, but we want these people to be full citizens. We do not want them to be knocked out of their jobs by these imports.

The Senator has offered to the Senate language to extend beyond the January 3 date the President's waiver authority for an additional 6 weeks to February 15.

I know the Senator and I have had our discussions and our differences today. But just speaking for this Senator, I have discussed this with other Senators, and we are prepared not only to accept but to support in the spirit of compromise the Senator's amendment.

Mr. LONG. Mr. President, the Senator from Pennsylvania is speaking for thousands of workers in his State, and I fully appreciate his problems.

Mr. President, may I say that I have discussed this matter with Ambassador Strauss, and I have explained to him the strong concern of the Senator from Pennsylvania and other Senators who are concerned about the problem, and he understands that this is the best we can do for him with his trade problem.

If this is not adequate, we can look at it next year, and we will have a full month in which we can consider whether a further extension might be necessary. Perhaps longer than that, when we come back in next year.

But, Mr. President, as a practical matter, in view of the strong feeling of the Senator—and I am sure there are others who feel the same way—and particularly a considerable number in the House of Representatives, if this Sugar Act is to become law, and even if this extension of the right to waive the countervailing is to become law, this amendment will be necessary. Otherwise, Mr. President, neither one of them is going to pass.

This matter has been discussed all day, and I am happy that the Senator is willing to join in what I think is a fair compromise and what he believes to be a fair compromise of the issue. If this is not adequate we can look into it again next year.

Mr. MATSUNAGA. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. MATSUNAGA. As I understand the amendment proposed by the Senator from Louisiana to H.R. 7200 it includes the entire text of H.R. 7108 as it was reported out by the Finance Committee on October 5; am I correct?

Mr. LONG. With one exception. It provides for a 16-cent market price for sugar rather than 17 cents. I would like to have 17, as I have explained, but I do not think it can be achieved.

Mr. MATSUNAGA. And it does include title III of the farm labor provisions?

Mr. LONG. Yes; and it also includes the countervailing duty provision, except that the date on that provision would be February 15, 1979.

Mr. MATSUNAGA. I thank the Senator for yielding.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I urge the Senate to approve the pending bill.

This bill is designed to protect American consumers from the wild gyrations of the world sugar market and to provide an opportunity for our domestic sweetener industry to survive. Additionally, passage of this important legislation will open the way for the Senate to consider the International Sugar Agreement, now pending before the Senate Foreign Relations Committee.

While the ISA represents an attempt by more than 70 sugar-producing and consuming countries to improve and eventually stabilize world sugar prices at acceptable levels, we must recognize that such commodity agreements have a very poor track record. A reliable domestic program is imperative as a backup to the ISA. We cannot reasonably require our own sugar growers to depend on so weak a reed as the ISA. We do not ask American farmers who grow other crops to risk their all on international agreements. Why should sugar be treated any differently?

Last fall, I pointed out these problems to administration officials and suggested that they propose a domestic program

to provide an adequate safety net, in case the ISA should fail. During hearings I held in February on the proposed ISA in Burley, Idaho, the heart of our sugar beet country, it became abundantly clear that the cane, beet, and corn farmers composing our domestic sweetener industry could endorse the ISA only if an acceptable domestic program were first enacted to replace the expiring de la Garza amendment, adopted last year.

The passage of time and lack of administration response made it apparent that Congress would have to act on its own initiative. In May, I introduced the Sugar Stabilization Act of 1978, and hearings were held in the Senate by the Finance Committee. Thirty-three other Senators joined in cosponsorship.

Mr. President, in the weeks that followed, we witnessed the organization of a determined defamation campaign against the bill. Those who would make the United States dependent on foreign sugar have attacked this bill as inflationary and labelled it a scheme to reward inefficiency. Large and profitable multinational corporations, which purchase about 75 percent of the sugar used in this country and turn it into soft drinks, cookies and candy bars, have fought tooth and nail against this legislation. The administration has taken up with them, refusing to go further than endorse a price level below everyone's estimate of the cost of production in this country, thus insuring the strangulation of our own sugar industry. Let us look at the facts.

This bill, as it now stands, sets a price objective of 16 cents per pound and would achieve this price in our marketplace by imposing fees on imported sugar and setting import quotas, if necessary. By contrast, the administration has never endorsed a price above 15 cents, and has insisted that any support level for the sugar growers be at least partially achieved in the form of payments to the growers or the processors. The administration's position not only entails an unnecessary subsidy, but also a support level so far below cost the domestic sugar production will be drastically curtailed. As a result, the Government's expenditure, in higher unemployment compensation, lost taxes, and increased Trade Act adjustment assistance, plus the subsidy, would far exceed the net cost of this bill. That is so because this bill contains no hidden subsidies to anyone. Instead, duty collection on imported sugar would increase by about $200 million in 1979. This means the taxpayer wins because funds will flow into the Treasury instead of payments flowing out.

Administration spokesmen are sticking to a sugar price of 15 cents per pound. Yet, in testimony before the International Trade Commission, these spokesmen said that this bill's original objective of 17 cents would cover the cost of production for only 70 percent of domestic growers. How then can a program of 16 cents be one which would reward inefficient producers, as the administration has charged? The truth is that U.S. sugar growers are being asked to go out of business so that the big industrial users can continue to purchase excess foreign sugar "dumped" on the world market at prices far below the cost of production.

Will this bill cause inflation? That, too, has been charged. If the full cost of 16 cents sugar were passed through by the industrial users, the result would be a maximum increase of less than one-fifth of 1 percent in the family food basket. And the food basket purchaser, it should be remembered, would not have to pay taxes to provide subsidy payments to sugar growers, unemployment compensation, et cetera, to alleviate the problems caused by forcing our own sugar growers to go broke. During 1974, sugar prices approached 70 cents per pound on the world market. This year, they have dropped to below 7 cents per pound. When sugar prices rose, candy bars shriveled and prices soared. Today, with "dump" sugar dirt cheap, the price of bottled soft drinks and confections have come down precious little, but profits have grown fat. Meanwhile, 7 of our beet-processing plants and 21 cane mills have closed their doors in the last 4 years. Unless we pass an adequate bill, now, the remainder of our domestic industry will die. Once the United States must depend on foreign sugar, how long will it be before we start paying through the nose, as we do today for foreign coffee and foreign oil? In fact, the current excess of world sugar supply is estimated by the USDA to disappear by 1980. Are American consumers ready for the return of sugar shortages in the early 1980's and the spiraling prices that may then occur, without any domestic industry left to protect them?

If the administration is looking for someone to blame for the high price of candy bars and Coca-Cola, it will not find the culprit in the beet fields of Idaho nor the cane fields of Florida.

Some have suggested that the proposed ISA is better for U.S. consumers than this domestic legislation. What this notion fails to recognize is that the 16-cent price objective of the bill is below the midpoint of the free trade range of the ISA. The ISA, it is hoped, will push world sugar prices into a range of between 15 cents and 19 cents per pound. The 16-cent price contained in this bill is below the median price sought by the ISA. How can 16 cents be inflationary, if produced by this bill, but acceptable if brought about by the ISA? Obviously, the administration cannot have it both ways.

Finally, Mr. President, it has been said that the so-called escalator clause in this bill will drive sugar prices out of sight in 5 years' time. The fact is that the price adjustment clause does not begin to operate until October 1979, and only applies to the last 4 years of the program. This provision would adjust the 1979 price only to the extent inflation makes such an adjustment necessary. It is preposterous to expect American sugar farmers to survive if their price is frozen for the next 5 years, while prices for tractors, fertilizer, fuel, and seed keep on going up yearly. We are not telling the bakers, the candymakers, or the soft drink manufacturers to freeze their prices for the next 5 years. This provision in the bill means the grower will follow, not lead, whatever inflation does occur.

Time is short in this session. The House of Representatives has passed a 15-cent bill with very stringent price adjustment provisions, below even USDA's cost of production figures. The Senate should act now to approve this bill so the best compromise obtainable in conference with the House can be sent to the President. I urge the Senate to protect American consumers from the recurrent sugar boom-and-bust cycle and to give our industry, which employs 100,000 of our people a chance to survive.

Mr. INOUYE. Mr. President, I rise in support of the pending measure.

Mr. President, in recent weeks two articles dealing with the pending sugar legislation have appeared in the Washington Post. I find it disappointing that neither of them touch upon some of the more critical issues surrounding the sugar industry in the United States.

We can argue the issue of comparative advantage and free trade all we want, but it does not solve the problem on the more human scale. For example 29,400 people in Hawaii depend on the sugar industry for their jobs. Earnings from sugar and acreage in sugar exceeds by far that of any other agricultural crop in my State. Yet both earnings and acreage have been declining in recent years with the 1977 crop bringing in revenues of $144 million from 225,000 acres compared to $62.5 million in receipts from pineapple grown on 47,000 acres. Unfortunately, we cannot grow pineapple on sugar land. Neither can we look to vegetables, papaya, or other fruit crops as an alternative to sugar.

Alternative forms of employment for these people are very limited. Extensive studies have been conducted into alternative uses of land that is now in sugar. Hawaiian agriculture is hampered by shipping and marketing problems due to our isolated location. in addition to natural problems ranging from bugs and birds to winds and heavy rains, the cost of importing machinery and fertilizer and the high cost of labor. Alternative agricultural production for our own island needs is limited because Hawaii is a pocket market and local farmers cannot economically compete with large-scale mainland growers for other markets. Moreover, it would require less than 3,500 additional acres of land to grow all the vegetables and fruits that are consumed in Hawaii.

We know how hard it is to find alternatives to sugar. For example, after the Kohala Sugar Co. went out of business in 1975, the State of Hawaii organized the Kohala Task Force to find substitute economic activities for the Kohala area. The State invested more than $6 million into new enterprises. The largest of these, a feed grain and feedlot operation, has gone bankrupt. A plastics firm had also failed; a hay-growing enterprise is running into great difficulties. Little has been achieved in providing employment for the Kohala area.

It is a misconception to think that only large corporations grow sugar in Hawaii. They grow the lions share of our

225,000 acres in sugar but 500 small, independent growers are also involved. These growers are extremely hard working and a vital part of Hawaii's agricultural community. Most finance their crops on borrowed capital, expecting to repay their loans from returns when their crop is harvested two or more years after planting. Most will not be able to repay their loans for their 1978 crop and face the prospect of financing another crop without any assurance of being able to repay either loan when their next crop is harvested. They will not be around for another crop year without a Sugar Act which establishes the minmum price of sugar at a level above their average cost of production.

Extremely high expenditures for unemployment compensation, welfare, and food stamps seem to be the only short-term alternatives. Hawaii's welfare costs have risen 91 percent in the last 4 years, and are now running at $128 million a year. If even half of those supported by the sugar industry were forced to go on welfare, the State's cost would increase at least 50 percent, to nearly $200 million. This would represent almost one-fourth of the total State general fund budget. Some of this additional cost would be on the American taxpayer. Would this not be a greater burden than the consumer bears in supporting the price of sugar?

While the price of sugar at the present time is supported at 14.65 cents per pound, an increased price to 15 cents per pound as the administration has promised still would not reflect the average cost of sugar produced in Hawaii. For example, the Agriculture Department's figures do not reflect the high transportation differential of 0.46 cents per pound by which the Department is currently reducing the loan price to the Hawaii industry. Neither does it reflect the fact that the Western States market with its surplus of domestic source sugar is below the support price.

To compound problems, Hawaii's sugarcane growers are paying the highest agricultural labor rates in the world, must meet United States and Hawaii standards for working conditions and benefits, must comply with U.S. environmental requirements, and ship incoming supplies and outgoing sugar in American ships. Hawaii's sugar producers have been able to stay in business because they are efficient. In fact, our sugar producers achieve the highest yields per acre of any place in the world. It is this high level of productivity and extremely efficient farming system that makes the Hawaiian sugar grower among the most cost effective producers in the United States. Is this then an industry that the American Government should encourage to go out of business? I think not.

Hawaii produces about 1 million tons of raw sugar per year, nearly one-fifth of all sugar produced in the United States. The United States consumes about 11 million tons of sugar a year of which, on the average, 50 percent is imported. The demise of Hawaii's sugar industry, or that of the Nation at large, would have a strong negative economic impact. The financial responsibility of Government to soften the negative social and economic impact resulting from the collapse of America's sugar industry would be enormous. The equally important issue of America's continuing balance of trade deficit must also be addressed. We are already the world's largest importer of sugar.

The consumer will bear additional costs, both direct and indirect, monetary and nonmonetary, if the domestic sugar industry folds—as it will without a Government program. The U.S. Government would then have little if any influence over the price of sugar.

There is nothing unique about Government regulation and support of a domestic sugar industry. In fact, Government regulation over production, trade and prices has been the most universal and continuous feature of the economic development of the sugar industry in the past three centuries.

Market inflexibilities, both on the production and demand side, have required Government interference in the sugar industry. Both the sugar beet and cane industries are dependent upon large, capital-intensive processing plants. Thus, the expansion of the world sugar production in response to price increases is severely constrained in the short run by the high costs associated with establishing and maintaining excess or standby cane or beet processing capacity and/or long leadtime required to plan, finance and construct processing facilities. As a result of this high ratio of fixed costs to total costs in sugar production, it is economically rational to continue to produce in the short run when price is below total cost, as long as variable costs are covered. It is this inelasticity in supply and demand that has caused governments to become involved in the market mechanisms of the sugar industry.

The narrowness of the international market—the so-called free world market—in which sugar is traded, has also made it almost mandatory for governments to step in to protect their domestic sugar industries from extreme price cyclicality. Slightly more than 28 percent of world sugar production is traded internationally. However, only 40 percent of this amount is traded on the free market, the rest being traded under preferential agreements. The United States alone imports approximately 50 percent of the sugar traded on the free market. The limited amount of sugar available on the residual free market reduces the effectiveness of market mechanisms in bringing about necessary adjustments of production in response to changes in demand, and subjects the American consumer to extreme fluctuations in the price of sugar. For that reason, the American Government must step in with an adjusting mechanism to protect producer and consumer from excessive competitive market behavior.

One should also recognize that the sugar industry does not operate in a competitive international market system. Most producing countries have government subsidized sugar industries. For example, the sugar industry in the Philippines, facing cost of production higher than world market prices, is supported by the Philippine Government with a domestic price much higher than that achieved on long-term contracts on the world market. This difference provides the additional income needed to maintain a viable sugar industry in the Philippines. Interestingly, the United States is the largest importer of this subsidized sugar from the Philippines.

The world's largest grower of sugar, Brazil, also has a strongly subsidized sugar industry. The Brazilian Government recognizes the need to export large quantities of sugar to the United States at internationally competitive prices in order to obtain dollars desperately needed to continue Brazil's rate of economic development. They, therefore, continue to subsidize their domestic sugar industry. Those who oppose the sugar bill seek to force our sugar producers to compete against subsidized producers in a noncompetitive system. This is completely unrealistic and sets the stage for economic suicide for the American sugar producers.

The sugar industry is not the only agricultural producer that receives "unique treatment" from the American Government. Virtually every agricultural commodity in the United States receives some form of price support, tariff or quota protection. Unlike most other agricultural products, sugar is imported in very large quantities and is, therefore, at the mercy of international prices. This fact alone is a strong argument in support of insulating the domestic sugar industry from the international market. The argument that the sugar industry is requesting special or preferential treatment is completely invalid, however, as many products including beef, dairy products and even peanuts are subject to import quotas.

For example, the Department of Agriculture has proposed to set the support price for milk at 80 percent of parity as of October 1, 1978. As a result of the increase to the $9.87 per hundred weight support price, the Commodity Credit Corporation purchase prices were raised 5.25 cents per pound for butter, 2.75 cents per pound for cheese and 2.75 cents per pound for nonfat dry milk. In the marketing chain, the increase in the support price is equal to about 3.8 cents per gallon of fluid milk. Based on data provided by the Department of Agriculture, it appears that the retail value of dairy products sold commercially in marketing year 1978–79 will be $26.0 billion, $2.1 billion more than consumers spent this marketing year. About half of the projected increase in retail prices for milk and dairy products is due to the increase in support. Yet no one screams "consumer ripoff" on that.

The price of peanuts is supported by the Department of Agriculture through the use of a national poundage quota and a national acreage allotment. By limiting the national acreage allotment to the statutory minimum and thereby limiting production of additional peanuts for export, the Department of Agriculture is helping to stabilize export markets and world prices for American peanut farmers and also the price to the American consumer.

American beef producers are also pro-

tected from the international market through the use of tariffs and quotas. In fact, almost every agricultural commodity grown in the United States is supported through tariffs, quotas and parity prices.

Interestingly, the Department of Agriculture has gone out of its way to calculate the cost to the consumer of a 1-cent increase in the price of sugar but is unable to provide substantial information on the cost the consumer incurs from the Department's support of most other agricultural commodities. The argument against supporting sugar can be used with equal validity on the other crops.

In summary, it should be mentioned that while Hawaii is just a small State with a small population, it carries a responsibility equal to that of the other States of this great Nation. Hawaii's taxpayers support such projects as rescuing New York City from bankruptcy. We support the price of agricultural products not grown in Hawaii. Our people understand that this is part of the responsibility of being a citizen of the United States. Now the people of Hawaii ask support for their sugar industry—an industry that is essential to their livelihood.

If our approach is to be realistic and if a viable domestic sugar industry is in the national interest, which I unquestionably believe it is, then a Sugar Act must be adopted which will assure the producers and processors of domestic sugar a reasonable price for their product in the future. It is no less deserving than other farm products of such protection, and I assure you the need is no less acute.

Mr. CURTIS. Mr. President, I support passage of H.R. 7200 with the substance of H.R. 7108, as amended by the Committee on Finance.

This piece of legislation will be the first comprehensive response Congress has made to the plight of our sugar industry since the lapse of the Sugar Act of 1974. H.R. 7108 incorporates a two-pronged approach to the problems confronting our sugar industry and, indirectly, the world's sugar producers. First, it implements the International Sugar Agreement; second, it establishes a national sugar program. By passing this bill, we will be providing implementing legislation for the International Sugar Agreement which our negotiators concluded late last year. That agreement attempts to ease the massive fluctuations in sugar prices and supplies that have such a shattering impact on many less-developed economies in the world. H.R. 7108, as amended, also implements a national sugar program for our country that complements the ISA, by establishing a mechanism to assure that our national sugar prices are not so low that producers cannot even cover their costs of production. Under the ISA, export quotas and buffer stocks will be used to maintain the world market price of sugar between 15 and 19 cents per pound. H.R. 7108, in light of U.S. costs of production, will begin to work inside this price range by establishing a U.S. price objective of 16 cents per pound. In order to reach this objective, fees and backup quotas will be used. Moreover, to avoid a static price that would become unrealistic in a short amount of time, the bill provides for adjustment of the price objective based on an index of prices paid by farmers.

Mr. President, the logic of the need for this legislation is simple and persuasive. This country is one of the largest consumers of sugar in the world. It is obviously a product that our consumers want and forms a substantial part of our diet; it is a vital commodity in our economy. We supply about one-half of our demand for sugar from our own fields, the balance coming from other countries. If our growers cannot make a living producing sugar, they will stop, and our processors will have to obtain increasing amounts of their raw sugar from world supplies. The ramifications of such a development are obvious. The scenario is quite possible if we do not act to promote a national price objective that is both fair to consumers yet provides a reasonable return for producers. Over the last 3 years, and often despite feeble Government price support programs, the market price for sugar has been well below the cost of producing it. If we do not act now, that price—due to low-cost imports—will continue to remain too low to justify planting sugar beets or harvesting sugarcane. We are informed by the U.S. Department of Agriculture that the average cost of production is about 15.2 cents per pound. If we were to set that as our price objective, then the average sugar producer would cover his costs, nothing more. No one operates on that type of marginal basis for long. The thrust of this legislation is to keep our sugar industry viable, not near death. Therefore, in establishing our price objective, we must allow some leeway. The initial price objective of 16 cents takes this into account yet will have only a minimal impact on the consumer. Congressional Budget Office estimates have indicated that the effect of such a price objective on the Consumer Price Index will be well below an average of less than one-tenth of 1 percent over the life of this bill. The bill also provides for a realistic adjustment of the price objective based on an index which considers the prices paid by farmers for commodities and services necessary for the operation of their farms.

Mr. President, I have studied and wrestled with the problems of the sugar industry during my 40 years as a Congressman and Senator. I believe H.R. 7108, as amended by the Committee on Finance, is a realistic and workable approach to a problem that involves both producers and consumers. I urge my colleagues to join me in support of the bill.

Several Senators addressed the Chair.

UP AMENDMENT NO. 2090

(Purpose: Insert a new title II)

Mr. METZENBAUM. Mr. President, I call up an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 2090.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all of pages 9 through 18 and insert a new title II, as follows:

TITLE II—IMPORT RESTRICTIONS ON SUGAR

SEC. 201. DEFINITIONS.

For purposes of this title—

(1) The phrase "average daily price for United States raw sugar imports" means the average of the daily market prices for sugar in pounds, raw value, in bulk, landed and delivered at Atlantic and Gulf ports, including the cost of insurance, freight, loading, unloading, and import duties.

(2) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States; and the term "entry" means the entry, or withdrawal from warehouse, for such consumption.

(3) The term "price objective" means the price set forth in section 202(a).

(4) The term "quota" means the total quantity of any sugar or sugar-containing product produced in all foreign countries, territories, or areas that may be entered, without regard to source, in any sugar supply year or supply year quarter.

(5) The term "raw value" has the same meaning as is given to such term in headnote 1 to subpart A of part 10 of schedule 1 of the TSUS.

(6) The term "sugar" means any sugar, sirup, and molasses provided for in items 155.20 and 155.30 of the TSUS.

(7) The term "sugar supply year" means the 12-month period beginning on October 1 of each calendar year with each such year being designated by the year in which the beginning date occurs.

(8) The term "supply year quarter" means any of the 3-month periods beginning on October 1, January 1, April 1, or July 1 of any sugar supply year.

SEC. 202. PRICE OBJECTIVE AND AVERAGE DAILY PRICES

(a) PRICE OBJECTIVE.—(1) The price objective for each sugar supply year beginning after September 30, 1978, is 15 cents per pound, raw value.

(b) AVERAGE DAILY PRICES.—(1) The Secretary shall determine on a continuing basis the average daily price for United States raw sugar imports and shall monitor the prices of sugar and sugar-containing products in the import trade of the United States.

(2) The Secretary shall publish the determinations made under paragraph (1) in the Federal Register on such periodic basis as he deems appropriate.

SEC. 203. SECRETARIAL RECOMMENDATIONS REGARDING SPECIAL IMPORT DUTIES AND BACK-UP QUOTAS.

(a) SPECIAL IMPORT DUTIES.—(1) Not later than 30 days before the beginning of each sugar supply year which commences after September 30, 1979, the Secretary shall—

(A) on the basis of best available information, estimate whether the average daily price for United States raw sugar imports during such sugar supply year will be below the price objective; and

(B) If the estimation under subparagraph (A) is in the affirmative, recommend to the President that he impose such special import duties on the entry of such sugar (including, but not limited to, refined sugar) and, if appropriate, such sugar-containing products as the Secretary determines to be necessary to assure that the average daily price for United States raw sugar imports will result

in the price objective for such sugar supply year being achieved.

(2) With respect to the 1978 sugar supply year, the Secretary shall make the estimation described in paragraph (1)(A) and, if applicable, the recommendations described in paragraph (1)(B) not later than 30 days after the date of the enactment of this Act.

(b) BACK-UP QUOTAS.—Whenever the Secretary has reason to believe that the special import duties imposed on the entry of any sugar or sugar-containing product on the basis of any recommendation made by him under subsection (a), and adjusted pursuant to subsection (c), are not resulting in the price objective for the sugar supply year being achieved, the Secretary shall recommend to the President, as a further adjustment under subsection (c), that he impose, in addition to such special import duties, such quotas, on a supply year quarter basis, on the articles concerned as the Secretary determines to be necessary to achieve such price objective. Any such quota in effect during the last supply year quarter of any sugar supply year may be recommended by the Secretary, at the time his recommendations for the next sugar supply year are made under subsection (a), for continuation during the first supply year quarter of such next year.

(c) REVIEW AND ADJUSTMENTS OF DUTIES AND QUOTAS.—The Secretary shall review, on a supply year quarter basis, the effect of all special import duties and quotas imposed as a result of recommendations made by him under subsections (a) and (b). On the basis of such review, the Secretary may recommend to the President such adjustments with respect to the amount of any such duty or quota, or with respect to sugar or sugar-containing products to which any such duty or quota should be extended or removed, as the Secretary determines to be necessary to achieve the price objective for the sugar supply year concerned. The Secretary shall submit a report to the President containing the results of each review conducted under this subsection, together with any adjustment recommendation the Secretary deems appropriate, not later than the 60th day after the beginning of the supply year quarter for which the review is made.

(d) PUBLICATION OF RECOMMENDATIONS AND REPORTS.—Each recommendation made by the Secretary to the President under subsection (a) or (b), and each report prepared under subsection (c), shall be promptly published by the Secretary in the Federal Register.

SEC. 204. IMPOSITION BY PRESIDENT OF SPECIAL IMPORT DUTIES AND BACK-UP QUOTAS.

(a) IN GENERAL.—Upon receiving any recommendation of the Secretary under section 203 (a), (b), or (c), the President shall promptly proclaim, under the authority of the headnotes to subpart A of part 10 of schedule 1 of the TSUS and subject to subsections (b) and (c), such special import duties or quotas, as the case may be, with respect to such sugar and sugar-containing products as the President deems necessary to achieve the price objective for the sugar supply year concerned.

(b) SPECIAL PROVISIONS RELATING TO PROCLAMATIONS.—(1) Any proclamation issued by the President on the basis of any recommendation made by the Secretary under section 203(a) regarding sugar with respect to the 1978 sugar supply year shall apply with respect to articles entered on or after the date of such proclamation.

(2) Except as provided in subsection (c)(3)—

(A) any special import duty imposed by the President on the basis of any recommendation made by the Secretary under section 203(a) with respect to any sugar supply year after September 30, 1979, shall be proclaimed by the President not less than 30 days before the beginning of the sugar supply year in which such special import duties apply; and

(B) any quota imposed by the President on the basis of any recommendation made by the Secretary under section 203(b), and any adjustment made by the President to any special import duty or quota on the basis of any recommendation made by the Secretary under section 203(c), shall be proclaimed by the President not less than 30 days before the beginning of the supply year quarter in which such quota or adjustment, as the case may be, first takes effect.

(c) SPECIAL RULES FOR SUGAR-CONTAINING PRODUCTS.—(1) If any recommendation is made by the Secretary under section 203 (a) or (c) with respect to the initial imposition of any special import duty on any sugar-containing product and the President has reason to believe that such product will adversely affect, or is adversely affecting, the achievement of the price objective during the sugar supply year concerned, the President may not impose any special import duty on the sugar content of such product before—

(A) requesting the United States International Trade Commission to undertake an investigation to determine whether, and to what extent, the entry of such product is adversely affecting the achievement of the price objective; and

(B) taking into consideration the results of such investigation.

The United States International Trade Commission shall submit to the President a report on any investigation requested by him under this subsection within 60 days after the date of such request.

(2) After the initial imposition of any special import duty on any sugar-containing product, no further investigation under paragraph (1) is required with respect to the adjustment of that duty pursuant to section 203(c), the imposition of a quota on the product concerned pursuant to section 203(b), or the adjustment of that quota pursuant to section 203(c).

(3) To the extent that the investigation requirements under paragraph (1) result in the President being unable to meet the applicable requirements under subsection (b)(2) regarding the proclamation of special import duties with respect to sugar-containing products for any sugar supply year or supply year quarter, as the case may be; the President may proclaim such duty within the applicable 30-day period referred to in subsection (b)(2) or on or after the beginning of the sugar supply year or supply year quarter concerned. Any such proclamation shall apply with respect to articles entered on or after the date of such proclamation.

(d) QUOTA AUCTION AUTHORITY.—If the President imposes any quota on any sugar or sugar-containing product as a result of any recommendation made by the Secretary under section 203 (b) or (c), the President may allocate articles entered under such quota by auction of the right of entry under such regulations as he shall prescribe. Any revenue received pursuant to any such auction shall be covered into the Treasury of the United States as miscellaneous receipts.

SEC. 205. PROHIBITED ACTS.

(a) CERTAIN IMPORTS AND EXPORTS.—No person may—

(1) bring or import into the Virgin Islands in any sugar supply year, for consumption of such Islands, any sugar in excess of one hundred pounds if such sugar was produced from sugarcane or sugar beets grown outside the United States; or

(2) export to any foreign country any sugar entered under any quota proclaimed under headnote 2 to subpart A of part 10 of schedule 1 of the TSUS.

(b) CIVIL PENALTY.—Any person who knowingly violates, knowingly attempts to violate, or knowingly participates or aids in the violation of subsection (a) shall forfeit to the United States the sum equal to three times the market value at the time of the commission of any such act, of that quantity of sugar involved in the violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

SEC. 206. EXEMPT ARTICLES OF SUGAR.

This title does not apply with respect to any sugar or sugar-containing product—

(1) of any aggregate value not exceeding $25 in any one shipment, if entered as samples for the taking of orders, for the personal use of the importer, or for research; or

(2) entered for the production of alcohol, including any polyhydric alcohol, other than any alcohol or resulting byproduct for human food consumption.

SEC. 207. CERTAIN EXPORTATIONS OF SUGAR.

Any sugar entered under an applicable bond, established pursuant to orders or regulations issued by the Secretary, for the express purpose of the subsequent exportation of an equivalent quantity of sugar as such, or in manufactured articles, shall not be charged against any quota proclaimed under headnote 2 to subpart A of part 10 of schedule 1 of the TSUS. Any exportation within the meaning of sections 309 and 313 of the Tariff Act of 1930 shall be treated as an exportation for the purposes of this section.

SEC. 208. SUSPENSION OF TITLE.

If the President finds that a national economic or other emergency exists with respect to sugar, the President may by proclamation suspend the operation of this title, and headnote 2(b) to subpart A of part 10 of schedule 1 of the TSUS to the extent that it applies with respect to this title, unil such time as the President finds and proclaims that such emergency no longer exists. The Secretary shall make such investigations, and prepare such reports as the President may require for purposes of carrying out this section.

SEC. 209. REGULATIONS.

The Secretary shall issue such rules and regulations as he determines to be necessary or appropriate to carry out his functions and duties under sections 201 through 208.

SEC. 210. AMENDMENTS TO TSUS.

The headnotes to subpart A of part 10 of schedule 1 of the TSUS are amended—

(1) by amending headnote 1 to read as follows:

"1. For the purposes of this subpart—

"(i) the term 'degree', as used in the 'Rates of Duty' columns of this subpart, means sugar degree as determined by polariscopic test;

"(ii) the term 'total sugars' means the sum of the sucrose and reducing or invert sugars contained in any grade or type of sugars, sirups, and molasses; and

"(iii) the term 'raw value' means the equivalent of such articles in terms of ordinary commercial raw sugar testing 95 degrees by the polariscope as determined in accordance with regulations issued by the Secretary of the Treasury. The principal grades and types of sugar shall be translated into terms of raw value in the following manner:

"(A) For sugar described in item 155.20, by multiplying the number of pounds thereof by the greater of 0.93, or 1.07 less 0.0175 for each degree of polarization under 100 degrees (and fractions of a degree in proportion).

"(B) For sugar described in item 155.30, by multiplying the number of pounds of the total sugars thereof by 1.07.

"(C) The Secretary of the Treasury shall establish methods for translating sugar into terms of raw value for any special grade or type of sugar for which he determines that the raw value cannot be measured adequately under the above provisions.";

(2) by amending headnote 2 by inserting

"(a)" immediately after "2.", and by adding at the end thereof the following:

"(b) In addition to the authority of the President under section 201 of the Trade Expansion Act of 1962 (19 U.S.C. 1821) to proclaim modifications of the rates of duty and quotas on imports of sugars, sirups, and molasses provided for in items 155.20 and 155.30, the President shall, subject to the conditions and requirements of (a)(i) and for purposes of carrying out, and subject to, title II of the International Sugar Stabilization Act of 1978, proclaim—

"(i) special import duties (not to exceed 15 cents per pound, raw value) on—

"(A) imports of any such sugars, sirups, and molasses, or

"(B) the content of any such sugars, sirups, and molasses in imported products containing such sugars, sirups, and molasses; and

"(ii) quotas on the sugar, sirup, and molasses content of imported products described in (i)(B). Any special import duty proclaimed under this subdivision on the entry of any article shall be in addition to any other duty imposed by law on such entry and may not be made the subject of any preferential concession under any law or international obligation of the United States."; and

(3) by amending headnote 3 by striking out "For purposes of this headnote," and all that follows thereafter.

Mr. METZENBAUM. Mr. President, we have heard discussion concerning this bill about the poor sugar beet and sugar cane growers in this country who need more money to stay in business. Everyone seems interested in those special interests. But who is looking out for the consumers of this country? They are the ones who will pay the astronomical cost that this bill legislates. The consumer is the one who will see the price of baked goods, sweets, soft drinks, and numerous other products that contain sugar rise because of this legislation.

The cost of this bill is simply too high. According to the Department of Agriculture, consumers will be forced to pay $5.2 billion for all sweeteners over the next 5 years because of this legislation. This bill would by itself raise the food Consumer Price Index by almost one full point, according to a study by the Congressional Budget Office. The finance bill will raise consumer food costs by $33 per family by 1983—just because the price of sugar has been artificially increased in this legislation.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate is in order.

Mr. METZENBAUM. The amendment I have introduced is designed to correct that imbalance.

The motion I am offering would substitute title II of the bill originally reported by the House Ways and Means Committee to replace the pricing section of the bill reported by the Finance Committee. This amendment does not touch any other section of the Finance Committee bill, such as the labor provisions or the ratification of the international sugar agreement.

This amendment has a very direct purpose: To provide the sugar growers of this country with adequate protection against years of tremendous loss, while at the same time protecting the interests of the American consumer. It has a total cost of only $500 million over 5 years, compared to $5.2 billion under the Finance bill. Let me point out, Mr. President, that the American consumer is already paying almost twice the world market price of sugar, which is about 7 cents a pound, because of the import duties that the U.S. Government has put on imported sugar. How much more are we going to ask consumers to pay to protect the sugar growers?

There is a major difference between the Senate Finance bill and the House Ways and Means bill, which I am introducing as a substitute for title II. The Senate Finance bill will raise the price of all sugar sold in this country, both foreign and domestic. That means consumers are expected to pay 17 cents a pound for sugar that is selling in other countries for only 7 cents a pound.

This bill would raise the price of imported sugar to new, higher arbitrary levels through more important duties and quotas. By contrast, the Ways and Means bill would hold the price at 15 cents—with no inflationary escalator clause—and then would provide the necessary help to sugar growers through the direct payment program that is authorized under existing law. That system is a much more efficient way to protect the sugar growers from rising costs. It ties the price of sugar supports to the costs of production. It says that the Federal Government will pay farmers the difference between the price objective of 15 cents a pound and the cost of production set by the Department of Agriculture, which was 15.3 cents in May 1978, and which will be increased in the future.

But still the sugar interests want more, and they expect the consumers to pick up the difference.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. METZENBAUM. At the conclusion of my remarks.

Mr. President, who are these poor sugar growers? In many cases they are giant conglomerates, not the small sugar farmer. Ninety percent of the domestic sugar cane is grown by the 30 largest producers. These 30 corporations alone would benefit by $2.5 billion under the Senate Finance bill. In fact, this bill would directly benefit only 16,000 farmers in the United States who grow sugar cane and sugar beets, as well as those corn farmers who take about 5 percent of the total corn production in this country and process it for the corn-based fructose sweetener substitutes. No matter which numbers you use, this bill would aid a very small number of people. Yet it would cost consumers $5.2 billion. It is a selective group. But it is even more selective when you look at the producer-refiners that dominate the industry.

Are these the small farmers that we are talking about? Are these the beet growers from the States that some of the Senators represent? Such giants as the U.S. Sugar Corp., which produces a full one-third of all the sugar in Florida; the Great Western Sugar Corp., owned by the H. L. Hunt heirs; and the huge Hawaiian and Floridian grower-processors, such as the Dole Corp. I am told that 14 firms own all of the sugar fields in Hawaii. This heavy concentration in the sugar business is evidenced by the direct payments that the Department of Agriculture has made this year under the existing price support programs. So far this year, the Department has made payments to only 63 firms, but the average payment has been over $1 million. Some processors received more than $20 million.

Mr. DOLE. Mr. President, will the Senator yield at that point?

Mr. METZENBAUM. As the conclusion of my remarks.

Mr. DOLE. I just wanted to agree with the Senator, because I have an amendment to eliminate direct payments.

Mr. METZENBAUM. I appreciate the Senator's comment.

Mr. President, this is a bill that creates tremendous damage to consumer interests. Even such bastions of conservative opinion as the Wall Street Journal and the Journal of Commerce have recently written editorials objecting to the high price level that this Finance Committee bill will provide to the sugar industry. Let me quote from the Journal of Commerce editorial of October 4:

> When one considers how much of American agriculture is not only able to hold its own in the domestic market, but sell vast quantities of products against competition in foreign markets, one wonders why sugar producers need so much aid and comfort from the Government. . . . What makes them such a special case at home?

That was from the Journal of Commerce from last week. And what does the Wall Street Journal have to say? In its editorial of October 6, the Journal stated:

> A drive in Congress this week to sharply increase sugar price supports reminds us of that age-old complaint from the agriculture lobby about the "middlemen." We think we may have figured out who the "middlemen" are.

The editorial asks whether the real middlemen are the grocery chains, or the truckdrivers, or the processors, and concludes that it really is none of those in the sugar business. As the editorial states:

> If you want to complain about the middlemen, the place to find them is in the United States Congress.

Mr. JOHNSTON. Mr. President, will the Senator yield for a brief question?

Mr. METZENBAUM. At the conclusion of my remarks.

Just this morning there was another editorial about rising food costs in the Washington Post. It points out that food prices rose at the unacceptably high rate of 24 percent annually from January through August. And most of this increase was due directly to the higher prices to the producers.

Mr. President, the fact is that the Members of Congress can do something to help keep the food costs down for consumers, but time and time again we are willing to give in to the special interests who always have their hands out for more.

It is no wonder the consumers in this country are cynical about our Govern-

ment. They will be so pleased to know that at 20 minutes to 12, we passed a bill that will cost them over $5 billion in the next 5 years. They will know we are looking out for their interests. They hear political leaders talk about cutting the rate of inflation on the campaign trail, but when they vote here in Congress, day in and day out, those same leaders are voting day in and day out to raise prices and fuel the flames of inflation.

As I said before, this sugar bill alone will increase the food Consumer Price Index by a full point, according to the Congressional Budget Office. It will add $33 a year to the average family's food bill by 1983.

Mr. President, we often act around the Congress as if one piece of legislation has no relationship to any other. But we all know that is not true. There is one common denominator—all of these pieces of legislation have a direct, immediate—and usually negative—impact on the pocketbooks of consumers.

The PRESIDING OFFICER. The Senator will suspend.

The Senate will be in order. Senators will please take their seats. The Senator is entitled to be heard.

The Senator from Ohio.

Mr. METZENBAUM. I thank the Chair.

That is the context in which we should share this sugar legislation. It is not just another effort to help the poor domestic sugar industry.

Every time we hear about a bill of this kind we have tears in our eyes about the poor industry. But the fact is it is the giants of the industry who will really gain the most from this, and it is the consumers who will pay throughout the entire country.

It is really another raid on the pocketbooks of the American public. The bill passed by the Senate Finance Committee would immediately set the price of American sugar at 16 cents per pound, compared to the present artificial price of 14.6 cents per pound. Then, thanks to the escalator clause, the price of sugar would continue to rise as the Wholesale Price Index increases. As that escalator goes into effect, the price of sugar would increase to an estimated price of 20 cents by 1983—regardless of what the actual costs of sugar production are.

What does it cost to produce a pound of sugar in the United States, and how much is it worth to the consumer?

I know that my friends here in the Senate will tell me about how it costs 17 cents, 18 cents, whatever the numbers may be in order to produce a pound of sugar. That is really the heart of the matter here.

Mr. KENNEDY. Mr. President, can we have order in the Senate?

The PRESIDING OFFICER. The Senator from Massachusetts is correct. The Senate will be in order. Noise will cease. Senators wishing to converse will please retire to the cloakrooms.

The Senate is not in order. The Senator from Ohio will not continue until the Senate is in order. If Senators wish to carry on their conversations, please leave the floor.

The Senator from Ohio.

Mr. METZENBAUM. If you listen to the sugar interests, they argue that no price is high enough. If we gave them 17 cents they would say that was not enough. If we gave them 18 cents they would say that was not enough. They argue that even the 17 cent price set by the finance bill would not be high enough. But other groups that do not have such a direct stake in higher prices come up with much lower figures. In May 1978, the Department of Agriculture set the cost of production at 15.3 cents a pound, and even that is a liberal price objective. That price assumes that every acre used for sugar production was purchased during the past 3 years at present high interest rates, but we know that is not true. That is also an average price—at least half of the growers are able to produce sugar for less than those costs. In fact, the price set by USDA in 1977 was only 13.5 cents. According to a recent study of the sugar production costs done by the University of Florida, even that price objective would have more than covered actual costs. That study estimates that the cost of production is closer to 11.5 cents per pound.

I do not know what the actual figures are, but it is only the growers who come in and tell us how much it costs, whereas all of the objective studies come in with far lower figures. That University of Florida analysis, which is actually based on figures presented by Mr. George Wedgworth, president of the Sugar Cane Growers Cooperative before the House Agriculture Committee, concludes that the cost of 16.12 cents proposed by the sugar cane cooperative would actually guarantee that a grower has a return on his working capital, a return on his equipment at market value, and a return on his land value the equivalent of either the current market value of the land or the typical cash rent for the land.

There is not any reason in the free enterprise system why we should be providing that kind of guarantee with a governmental support.

Mr. President, this finance bill flies in the face of our past agricultural policies. It is not the responsibility of the Federal Government to guarantee that any farmer that wants to plant sugarcane or sugar beets will get a profit. Congress has consistently adopted the policy that favors a rational, market-oriented approach for farmers. This does not guarantee that sugar producers will make a profit, but it does prevent them from taking substantial losses, as do existing farm programs for other major commodities. But this bill passed by the Senate Finance Committee goes far beyond that approach. By setting a price objective of 16 cents a pound and moving it up to 20 cents a pound, it is rewarding the less efficient sugar producers in the country. Instead of directing payments to those producers that have production costs that exceed 15.3 cents as proposed by the Ways and Means Committee in the House, the finance bill raises the price of all sweeteners so that everybody in the business is guaranteed a profit—never mind that it will cost consumers in this country an astronomical $5.2 billion.

Mr. President, the amendment I have offered as a substitute to title II of the Senate finance bill is a reasonable substitute. It provides adequate protection to the sugarcane and sugar beet growers. It is consistent with our past policies of protecting our farmers against loss, without guaranteeing a profit. And more importantly, it does all of this without creating a huge and unnecessary drain on the consumer. Mr. President, it is time that we start looking out for the consumer, instead of always helping out the special interests. The consumer needs protection, and it should begin here in the Congress. I urge my colleagues to join me in supporting this substitute motion.

We talk about that consumer day in and day out on the campaign trails, and when we leave these halls Saturday night, we will be going back to our home States and tell them what we have done for the consumer. We will tell them how we stood up and protected the consumer. We will forget to tell them about the sugar bill that will cost them over $5 billion in the next 5 years.

Let us put into action tonight the speeches we put out on the campaign trail. Let us actually do something for the consumers of this country rather than just make speeches about it.

Let us adopt the amendment I have offered which conforms with the House Ways and Means Committee amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MELCHER. Will the Senator yield?

Mr. METZENBAUM. Yes.

Mr. MELCHER. The Senator mentioned large operators. He is surely aware that the sugar beet producers in this country are indeed small operators on irrigated lands in several States, including Nebraska, the Dakotas, Minnesota, Colorado, Idaho, my State of Montana, the State of Washington, and others. The Senator is certainly aware of that.

Mr. METZENBAUM. I am aware of the fact that there are 16,000 sugar farmers who will be benefited by this bill. But approximately half of the total dollars in this bill will go to the big corporations, and they are not in any need of financial assistance.

Mr. MELCHER. Is the Senator aware that the editorial he cited this morning in the Washington Post, which dealt with a projected figure for farm income this year, is merely a projected figure, enunciated by the Department of Agriculture this early in a campaign year and may have to be adjusted when the year is completed and the figures can actually be computed?

Mr. METZENBAUM. All I can say is that a figure that is used in October of 1978 is more than a projection. I believe that it has some basis in reality, and I would guess that the Washington Post figure is pretty darn close to what the actual facts are.

Mr. MELCHER. Is the Senator aware

that a recent Federal Trade Commission study which has been published illustrates that the farm income received for food in the United States during 1974 through 1977, inclusive, showed that farmers increased their income from $56 billion to $57 billion, $1 billion during that 4 year period, but at the same time that the difference between what the farmer was paid and what the consumer paid for food products, was a $33 billion increase during those years, 1974 to 1977?

Mr. METZENBAUM. My good friend from Montana has made a very strong argument on why to vote against this bill. If all farmers in the whole country, in all areas, only had a billion dollar increase in 1 year, a billion dollar increase, this one piece of legislation will provide a billion dollar——

Mr. MELCHER. Four years.

Mr. METZENBAUM. What 4 years?

Mr. MELCHER. 1974 to 1977.

Mr. METZENBAUM. OK, that makes my argument even stronger.

Mr. MELCHER. While, the prices farmers and ranchers received for their products increased $1 billion during 4 years, at the same time, the processors had an increase of $33 billion that the consumers had to pay for food. Does that not demonstrate that the farmers and ranchers victimized themselves by inflated production? Costs are not the reason for higher food costs but that the processors added $33 billion take is the reason.

Mr. METZENBAUM. I hold no brief for the processors. There is nothing in this bill that I offer that does anything for the processors in contradistinction to the consumers.

Mr. MELCHER. Does that not illustrate to my friend from Ohio where the real impact on consumers is? It is after it leaves the farm or ranch that the processing costs result in a $33 billion increase consumers paid from 1974 to 1977 for food due from the added costs generated by food processors. That is an exact ratio of 33 to 1 and the producers have the 1. Consumers need to know that.

Mr. METZENBAUM. I shall be very happy to sit down with the senior Senator from Montana at a very early point in January of next year and see if we cannot, together, develop some antitrust legislation in order to move in on some of these large food corporations that are taking so much advantage of the farmer. If the Senator will join with me, I shall meet with him on January 3.

Mr. MELCHER. I thank the Senator.

Mr. LONG. Mr. President, I am sure the Senator has given us the best information he has. Let me submit just a few brief facts to show the other side of it.

Here is the study of the Congressional Budget Office. Their study indicates that—I shall put it in the RECORD—the estimated consumer cost of the sugar industry in this bill, which is necessary if there is going to be any industry, is not 1 percent of the cost of living, but is only 0.03 percent, or three one-hundredths of 1 percent of the cost of living for the first year.

By 1980, it will be 0.06, or six one-hundredths of 1 percent.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE ESTIMATE OF PROJECTED IMPACT ON CONSUMERS

	Fiscal years—				
	1979	1980	1981	1982	1983
CPI, total (percent)	0.03	0.06	0.08	0.11	0.13
Food budget	$6.12	$14.43	$19.92	$25.22	$30.80

Mr. LONG. Mr. President, this involves the jobs of over 100,000 workers; for example, in the State that I have the honor to represent, 15,000 farmworkers. Now, at the price the Senator would suggest—that is, Mr. METZENBAUM's amendment would give us a price of 53 percent of parity—I know that Louisiana would lose 15,000 jobs. Those are not high-income jobs, but they at least give these people the dignity of working for a minimum wage, which they certainly would not have otherwise. They keep them off the welfare rolls and give them an opportunity to improve themselves. Mr. President, 80 percent of those jobs would be gone if the Senator had his way.

Furthermore, Mr. President, I know the farmers in my State. Out of 1,100 farms in Louisiana, there are 45 that are between 1,000 and 5,000 acres. Forty-five of them. We have one that is between 5,000 and 10,000, and 2 which are over 10,000 acres. That is out of 1,100 farms. One can see that over 95 percent of the farms are farms beneath 1,000 acres. Most of them are small farms, less than 200 acres.

Mr. President, I move that the amendment be laid on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

● Mr. McINTYRE. Mr. President, I rise in opposition to H.R. 7108. The domestic sugar policy enunciated in this bill is an inflationary monstrosity. Coming as it does at a time when the average family is already far too aware of the cruel in-roads that food price inflation is inflicting—there simply is no excuse for adding what has been estimated as a $5–$6 billion cost to the Nation's consumers. To subject consumers to this sort of extortionate demand to help less than 1 percent of the Nation's farmers, together with a small group of corporations, is simply unconscionable.

There are also regional aspects of this legislation which would have a profound impact on the New England and North Atlantic States. Virtually all the sugar consumed in the Northeast is imported as raw cane sugar. It is then refined in Boston, Brooklyn, Philadelphia, and Baltimore. If this bill becomes law, it would impose restrictive quotas so as to create an artificial shortage to drive the price up to the desired level. This would mean that imports of raw sugar to the Northeast would be cut back drastically. There is not available, from domestic sources, sufficient raw cane sugar to meet the needs of our area. As a result, our people would become reliant upon refined beet sugar which is mostly produced in the Midwest and the Far West. Transportation costs for refined sugar are far greater than for raw cane sugar. Raw sugar is simply put in the hold of a boat; refined sugar must be shipped in bags and carries a much higher freight rate and of course many additional holding charges as well.

In addition to the impact upon the consumer generally, the Northeast would be uniquely discriminated against by this measure. This is an old game and one that New England is getting sick and tired of. It has been done to us on heating oil for many years, driving up the cost of our imports to enlarge the income of Southwestern producers. Now the supporters of H.R. 7108 are proposing to place a new burden upon the people of my region to help their constituents.

Mr. President, the people of New England have had quite enough of this. We are extremely resentful of being discriminated against—forced to assume indefensible economic burdens simply for the profit and well being of other regions of the country. It is not fair, it is not equitable, and it is most assuredly not a proper legislative goal.

On top of everything else, another result of this bill would be to cause substantial unemployment in the New England and Middle Atlantic States. Denied raw cane sugar, refineries would have to either drastically decrease volume or perhaps even close. Dockworkers would lose substantial employment since there would be no ships to unload. Additionally, a host of manufacturing firms—especially small businesses which produce ice cream, baked goods and a host of other products—would be forced to pay economic tribute to the sugar farmers of the South, Midwest, and Far West.

Mr. President, it is my hope that my distinguished colleagues will, in their wisdom, see fit to treat the New England and Middle Atlantic States fairly and not to discriminate against us. The administration's proposal of 15 cents per pound, combined with direct subsidy payments should the cost of production increase, more than meets the needs of sugar producers. Just as importantly, it does it in a way that is fair to all regions of the country.●

Mr. MUSKIE. Mr. President, I rise in opposition to the Sugar Stabilization Act of 1978 as proposed by the Finance Committee.

Although this bill does not violate the spending ceiling or revenue floor of the second budget resolution, it has a significant inflationary impact which cannot be ignored. Based on preliminary CBO estimates, in fiscal 1979 this bill will reduce outlays by about $0.2 billion, and reduce revenues by a slightly smaller amount. This means the bill will reduce the deficit by less than $50 million. But this reduction in the deficit comes at a great cost to the American consumer.

We have before us another case of the Senate legislating inflation. This bill will increase prices for sugar by over 40 percent in the next 5 years and will cost consumers over $3.5 billion in increased expenditures for sweeteners.

I have great sympathy for the plight of this Nation's farmers. Many of my constituents in Maine are hard working farmers who have struggled through lean years. However, they have not asked the Congress for a guaranteed profit that keeps all but the most inefficient farmers in business.

The U.S. Department of Agriculture estimates that the average costs of producing sugar are at least 5 percent less than the support price in this bill. Our farm programs were never designed to treat agriculture as a regulated industry where the Federal Government insured each producer a profit.

I am not opposed to the principle of farm income stabilization. It has long been a goal supported by Congress and the American people. However, I do strongly object to an attempt to unduly enhance the incomes of 14,000 growers and processors at an enormous cost to the consumers of this country.

This bill is estimated to add nearly a full point to the Consumer Price Index for food over the next 5 years. This disturbs me greatly. Food price inflation significantly affects the inflation psychology of the American consumer. Food items are purchased with greater frequency than almost any other items and this leads to an increased awareness of inflation and potentially inflationary responses.

During the debate on the recent tax bill much concern was expressed for those Americans with low incomes. The burden of this bill will fall most heavily on low income consumers who spend a larger portion of their disposable income on food and whose diets consist of more sugar and items containing sugar.

The distribution of benefits from this program only adds to the inequity. A small number of sugar processing firms receive substantial benefits from this program. Furthermore, the increased returns from this legislation will go primarily to the largest sugar growers. This is especially true among sugarcane growers where 1 percent of the growers will obtain over 50 percent of the benefits from the higher prices received for sugarcane.

As an alternative I would like to state my strong support for the amendment offered by Senator METZENBAUM. This amendment would revise the proposed sugar program to dramatically reduce its direct inflationary cost. In accepting the amendment the impact on consumer expenditures and food price inflation would be only one-tenth of that in the Finance Committee bill.

The Metzenbaum amendment would treat sugar producers no differently from wheat, feed grain, or cotton farmers. Profits would not be guaranteed but substantial losses to sugar producers would be prevented. This is consistent with the goals of American agricultural policies dating back to the 1930's.

Finally, acceptance of this amendment would reduce the risk of a Presidential veto, which would otherwise prevent the continuation of some form of income protection for domestic sugar producers.

The Senate is about to adjourn shortly. The defeat of this bill will provide one last opportunity to show the American people that the Congress will take the lead in fighting the battle on inflation.

Mr. President, in closing let me note that this bill as proposed by the Finance Committee is subject to a section 303 point of order under the Budget Act consistent with the Chair's ruling last week. In view of the Senate's vote on the appeal of that ruling, I now merely note this violation, and reserve my right to reopen the issue at an appropriate time.

A REASONABLE SUGAR POLICY

Mr. McGOVERN. Mr. President, I support the sugar legislation originally introduced by my distinguished colleague from Idaho (Mr. CHURCH) designed to establish a domestic market price for sugar at $0.17 per pound and to protect the domestic market through periodic adjustments in duties and fees on imported sugar. It also provides authority for the President to use import quotas if the domestic price is inadequately protected through fees.

In my opinion, an initial domestic market price objective of $.17 is justified. Provisions for escalation are also warranted if sugar growers in this country are to remain in business. Various studies on cost of production for sugar, depending on geographic sections of the country as well as whether the producer is a cane or beet farmer, range from $.15 per pound to slightly in excess of $.17 per pound. The figure contained in this bill is thus certainly not unwarranted.

Mr. President, there is substantial opposition to this legislation on behalf of some consumer groups. Let me remind the body that consumers for the past several years have had the advantage of sugar prices as low as $.09 per pound raw sugar equivalent. During this time, the world price has been severely depressed, beet and cane growers by the hundreds have gone out of business, and industrial users (by far the largest consumers of sugar sweeteners) have reaped millions of dollars in profits by using cheap sugar in products that remain at the same prices or even higher prices on grocery store shelves and at soft drink counters.

The time has come to strike a reasonable balance between the producer and consumer interests. Without in any way espousing a protectionist attitude, the time has also come to put some sanity into the sugar import situation. We need reasonable protection for domestic farmers rather than opening the United States to a world dumping ground for that portion of the world supply which cannot find a home elsewhere. Previously low sugar prices only provide a bonanza for the soft drink and sweetener industry who take the world residue at bargain basement prices and fail to pass the profits on the consumers.

Mr. President, in closing, I further want to make reference to the Dole amendment which I am cosponsoring which has the effect of outlawing cash payments. Sugar should not be protected from the Treasury. The fee system in the past has not only paid for the sugar program but also made money for the Government. It should be preserved.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table. The clerk will call the roll.

Mr. BAKER. Mr. President, I wonder before we do that if we might have a quorum call.

The PRESIDING OFFICER. A motion to lay on the table is not debatable.

Mr. CRANSTON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Regular order, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Delaware (Mr. BIDEN), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from New York (Mr. MOYNIHAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. BAKER. I announce that the Senator from New Jersey (Mr. CASE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. McCLURE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The PRESIDING OFFICER (Mr. STONE). Have all Senators in the Chamber recorded their vote?

The result was announced—yeas 47, nays 25, as follows:

[Rollcall Vote No. 488 Leg.]

YEAS—47

Anderson	DeConcini	Jackson
Bartlett	Dole	Johnston
Bellmon	Ford	Leahy
Bentsen	Garn	Long
Bumpers	Gravel	Magnuson
Burdick	Hansen	Matsunaga
Byrd, Harry F., Jr.	Hart	Melcher
Byrd, Robert C.	Hatch	Morgan
Cannon	Hatfield, Mark O.	Randolph
Chiles	Hatfield, Paul G.	Riegle
Church	Hayakawa	Schmitt
Clark	Helms	Stone
Cranston	Hodges	Thurmond
Culver	Huddleston	Wallop
Curtis	Inouye	Young
Danforth		Zorinsky

NAYS—25

Baker	Javits	Percy
Bayh	Kennedy	Proxmire
Brooke	Lugar	Roth
Chafee	Mathias	Sarbanes
Durkin	Metzenbaum	Sasser
Glenn	Muskie	Schweiker
Hathaway	Nelson	Williams
Heinz	Nunn	
Hollings	Pell	

NOT VOTING—28

Abourezk	Humphrey	Sparkman
Allen	Laxalt	Stafford
Biden	McClure	Stennis
Case	McGovern	Stevens
Domenici	McIntyre	Stevenson
Eagleton	Moynihan	Talmadge
Eastland	Packwood	Tower
Goldwater	Pearson	Weicker
Griffin	Ribicoff	
Haskell	Scott	

So the motion to lay on the table UP amendment No. 2090 was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 2091

Mr. CHURCH. Mr. President, on behalf of myself and Senators RANDOLPH, JAVITS, GLENN, and BAYH, I send an amendment to the desk.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH) proposes an unprinted amendment numbered 2091.

Mr. CHURCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . To authorize a contribution by the United States to the Tin Buffer Stock established under the Fifth International Tin Agreement, and for other purposes.

(a) Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President, on behalf of the United States, is authorized to contribute, with or without monetary compensation, up to five thousand long tons of tin metal to the Tin Buffer Stock established under the Fifth International Tin Agreement.

(b) Notwithstanding any other provision of law, the Administrator of General Services is authorized to transfer to the International Tin Council such amount of tin metal not exceeding five thousand long tons as may be directed by the President for the purpose set forth in section 1: Provided, That such amount has been determined to be excess pursuant to section 2 of the Strategic and Critical Materials Stock Piling Act and that the United States contribution to the Tin Buffer Stock shall not prevent unilateral disposals of tin by the United States from the national stockpile.

(c) Any proceeds accruing to the United States as a result of liquidation of the Tin Buffer Stock or prior refund of the United States contribution to the Tin Buffer Stock shall be treated in the same manner as proceeds from the disposition of materials determined to be excess pursuant to section 2 of the Strategic and Critical Stock Piling Act.

(d) Any amount of tin metal accruing to the United States as a result of liquidation of the Tin Buffer Stock or prior refund of the United States contribution to the Tin Buffer Stock shall be incorporated in the national stockpile and supplemental stockpile to the extent required to meet the objective for tin metal determined pursuant to section 2 of the Strategic and Critical Materials Stock Piling Act. Any tin metal not so incorporated shall be treated in the same manner as materials determined to be excess pursuant to section 2 of such Act.

(e) The President shall transmit to the Congress at the beginning of each fiscal year a written report detailing the activities of the Tin Buffer Stock, and such other pertinent information on its administration as will enable the Congress to evaluate the participation of the United States in the Fifth International Tin Agreement.

(f) The President shall transmit to the Congress, at least sixty days prior to any transfer or sale of tin metal by the United States as a participant in the Fifth International Tin Agreement, a report projecting the impact of such action on the economy of the United States and on the economic and political development of the major tin exporting nations.

(g)(1) The Administration of General Services is hereby authorized to dispose of, by negotiation or otherwise, approximately thirty thousand long tons of tin now held in the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h–1) and the supplemental stockpile established pursuant to section 104(b) of the Agricultural Trade Development and Assistance Act of 1954 (68 State. 456, as amended by 73 Stat. 607).

(2) The disposition authorized by subsection (a) may be made without regard to the requirements of section 3 of the Strategic and Critical Materials Stock Piling Act, except that the time and method of such disposition shall be fixed with due regard to the protection of the United States against avoidable loss and the protection of producers, processors, and consumers against avoidable disruption of their usual markets.

(h)(1) Any moneys received pursuant to the sales of tin from the national stockpile which are authorized by this section shall be covered into a special account which shall be established in the Treasury of the United States.

(2) Moneys covered into such account shall be available only for deposit, in accordance with legislation enacted after the enactment of this section, in a special fund in the Treasury established by such legislation as a depository for moneys derived from sales of excess materials under the Strategic and Critical Materials Stock Piling Act. If such legislation has not been enacted within 3 years after the enactment of this section, any moneys in the special account established pursuant to this subsection and any moneys thereafter received pursuant to sales of tin under this section shall be covered into the Treasury as miscellaneous receipts.

The PRESIDING OFFICER. The Senate will be in order. Will Senators kindly cease conversations?

Mr. CHURCH. Mr. President, this amendment to H.R. 7108 would authorize the President to contribute up to 5,000 long tons of tin metal from the national defense stockpile to the tin buffer stock established under the Fifth International Tin Agreement. In addition, the amendment authorizes the General Services Administrator to dispose of another 30,000 tons of surplus tin from the domestic strategic stockpile.

The United States joined the Fifth International Tin Agreement in 1976 in the belief that such an agreement can be of great benefit for both producer and consumer countries by providing an element of price and supply stability in a volatile world market. In May 1977, Secretary of State Vance pledged that the United States would make a voluntary contribution to the tin buffer stock, which is the central mechanism for stabilizing world tin prices. The administration has been seeking congressional approval for such a contribution ever since.

A U.S. contribution of 5,000 tons of tin to the international buffer stock will not only make good on our pledge under the agreement; it will also be an important step in curbing the high rate of inflation in this country. The United States is the world's largest consumer of tin and imports almost all of the tin it consumes. At the moment, large users of tin, such as the steel and canning industries, are paying premium prices for tin, because of a general shortage on the market, and because the international buffer stock is depleted. The tin contributed by the United States will be sold by the Tin Council on the open market, thus easing the shortage, and helping to bring down the price to below the target ceiling set in the international agreement. Disposal of an additional 30,000 tons of tin from the strategic stockpile could have an even greater beneficial effect on the price.

At present, the U.S. strategic stockpile has a surplus of some 165,000 tons of tin. Therefore, disposal of the volume of tin proposed in this amendment would in no way impinge upon the security function of the stockpile.

All revenues accruing to the Treasury from the tin disposal would be set aside in a special fund until such time as the Congress passes new stockpile management legislation. A comprehensive review of stockpile management policy has been underway in the Congress for some time and such legislation may well be expected to pass next year. Should new legislation not be enacted within 3 years, the tin revenues would revert back to the General Treasury.

H.R. 9486, recently passed by the House, contains a provision authorizing a contribution to the tin buffer stock, and disposal of an additional 30,000 tons from the stockpiles. The Senate Armed Services Committee has likewise endorsed a contribution to the International Agreement.

Senate adoption of this amendment will allow the U.S. Government at last to make good on an international pledge which was made well over a year ago, and to take steps which will substantially reduce the inflationary impact of the present high price of tin. I urge my colleagues to vote for this amendment.

Mr. LONG. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. LONG. Does not the administration strongly favor the amendment?

Mr. CHURCH. The administration does indeed favor the amendment; and I might add that tin prices have now reached an all-time high, so that the effect of keeping our pledge will be to bring those prices down, and it will be of great benefit to our consumers.

Mr. LONG. This will help reduce the cost of living. Is that correct?

Mr. CHURCH. Yes.

Mr. LONG. I will accept the amendment. I hope the Senate will agree to the amendment.

Mr. RANDOLPH. Mr. President, as a cosponsor of the amendment offered by the able Senator from Idaho (Mr. CHURCH), I speak in support of its approval.

The able chairman of the committee, Senator LONG has just spoken about the administration's support; and the Senator from Idaho has added comments about the prices of tin.

I speak in support of its approval. The strategic materials tin stockpile currently contains over 200,500 long tons of tin. Of that total, only 32,500 long tons are necessary to fulfill the stockpile goals pursuant to the strategic and Critical Materials Stockpiling Act. Thus there are 168,000 long tons of tin which could be made available for sale while still maintaining critical national stockpile emergency goals. This amendment proposes to dispose of 30,000 long tons of tin for domestic sale and 5,000 tons for the international tin buffer stock, from the stockpile.

I am concerned with our commitments to the international buffer stock as well as the domestic tin plate industry in our State of West Virginia. This industry, which is a part of the domestic steel industry, provides jobs for more than 5,000 workers in West Virginia. Their jobs and the price of tin plate used in food containers throughout our country is threatened by the price of tin imported into the United States. In January 1976, when the 95th Congress convened, the average selling price of tin on the Penang market was $3.01 per pound. That same pound of tin today is selling at $6.55 per pound. This is more than 100-percent increase in price in less than 2 years.

Total consumption of tin in the United States is approximately 61,000 tons per year. The tin plate canning industry uses approximately 18,500 tons of that total, West Virginia uses 4,000 tons to produce tin plate. During the past 2 years, the cost to purchase tin by this one industry in West Virginia has increased by $26,640,000 per year. This increase has been brought about by two factors: First, an inability of foreign tin producers to supply the world market; and second, the fluctuation of tin prices by commodity speculators throughout the world. I believe the release of tin from the stockpile will have a stabling impact on these escalating tin prices.

There is significant precedence for this action. In 1962, by House Concurrent Resolution 473, we released 50,000 tons of tin for domestic sale. Again in 1964, by House Concurrent Resolution 300, we released 98,000 tons of tin. The sale of that tin did help to overcome the shortfall in world supply and had a stabilizing impact on world prices. All of that 148,000 tons of tin has now been sold and prices are fluctuating again on world markets. It is time for the Congress to again authorize release of a relatively small amount of excess tin from the stockpile. I urge your approved of this amendment.

On Monday, September 25, by a vote of 308 to 75, the House passed H.R. 9846, authorizing the release of 35,000 tons of tin. For the same reasons as the other body voted overwhelming for release, we, too, should act to approve the pending amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

UP AMENDMENT NO. 2092

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk for myself and the distinguished Senators from Iowa, Senator CULVER and Senator CLARK, and the Senator from South Dakota, Senator MCGOVERN, and the Senator from Minnesota, Senator ANDERSON, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) for himself and Mr. CULVER, Mr. CLARK, Mr. MCGOVERN, Mr. ANDERSON, Mr. BAYH, and Mr. STONE, proposes an unprinted amendment numbered 2092.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

S. 7200

On page 18, immediately after section 209, insert the following: New section 210. Limitation of Price Support Payments under other law.

During such time as this title has force and effect, the Secretary of Agriculture may not make payments to, or on behalf of, producers and processors of sugarcane or sugar beets under section 301 of the Agricultural Act of 1949 (7 U.S.C. 1447) or any other provision of law that authorizes payments by the Secretary of Agriculture to achieve price support levels for such commodities.

Mr. DOLE. Mr. President, I offer as an amendment to the proposed amendment, a new section numbered 210. Section 210 will prohibit the use of price support payments to producers and processors of sugarcane or sugar beets while the provisions for fees and quotas found in title II of the bill are in force and have effect.

I believe we should use the market as much as possible in meeting our price objective under this act. There are others, however, who believe that we ought to use Government payments as the means by which the objective should be met. It seems to me that the choice, boiled down, is between the marketplace and Government subsidy.

The multimillion dollar subsidies and, therefore, borrowed money, will be spent if the administration has its way. In a letter dated October 1, Secretary Bergland has stated:

We will protect the returns to sugar producers and processors using existing authorities.

Unfortunately, the Secretary seems to have forgotten that the payments he would make come from the public funds that are collected by taxes or borrowing. The more payments are made, the more borrowings have to be used to supply those payments. The greater the deficit spending, the more we fuel inflation. It is not too hard to follow the pea in Mr. Bergland's shell game.

No subsidy comes free. We will learn it the hard way if we allow the administration to use payments as a method of keeping sugar processors and producers viable.

Another hazard we face by maintaining the payments program is that it would permit a continuing surge of low-priced sugar imports. We saw this happen in 1977 when the administration fell back on the payments authority it had under law to keep import prices low. When low priced sugar imports keep coming in, that means the direct payments will have to keep going out to cover our sugar farmers and processors.

We must act now to prevent a subsidy program that would keep government in the inflation business. The farmers do not want a subsidy program; most of all, the taxpayer can do without it. What we can accomplish, by adopting this amendment, is to insure that the farmer will get his price in the marketplace where it should be. To let the bill stand will only result in Government increasing the cost to the taxpayer.

In the current marketing year, corn prices could have been about 4 cents a bushel higher if the Carter administration had not mishandled the sugar program. This translates to a loss for corn growers of about $160 million in the past several months.

Mr. President, the administration handling of the sugar program to date has been ill-conceived and misdirected. My brief arguments here only highlight a few of the problems. I urge my colleagues to support my amendment which in effect will leave open only those avenues for action which are most equitable and most effective in our market economy.

Mr. President, as indicated, this amendment is offered by myself, the distinguished Senators from Iowa, Senator CULVER and Senator CLARK, along with Senator MCGOVERN of South Dakota and Senator ANDERSON of Minnesota.

Mr. President, the amendment would offer a new section which would prohibit the use of price support payments to producers and processors of sugarcane or sugar beets while the provisions for fees and quotas found in title II of the bill are in force and have effect.

I might suggest what this does is force the Secretary to use the program rather than direct payments that would cause the high prices the distinguished Senator from Ohio was discussing earlier.

Many of us believe we should use the marketplace as much as possible in meeting our price objectives under this act.

There are others, however, who believe that we should use Government payments as a means by which the objective should be met.

It seems to me that the choice boils

down to between the marketplace and Government subsidy.

The multimillion dollar subsidies and therefore borrowed money would be spent if the administration has its way.

I suggest that in a letter dated October 7 from Secretary Bergland, which was sent to many Senators, he said:

We will protect the returns to sugar producers and processors using existing authorities.

He went on to say he was talking about payments.

So, I just hope the amendment might be accepted.

Mr. President, I am willing to put in the RECORD a letter from the Secretary of Agriculture, along with a reply to that letter to the Secretary of Agriculture, along with telegrams in support and in opposition to this bill, and along with a clipping that indicates the sugar beet industry is on its knees.

Mr. President, I ask unanimous consent that those materials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
October 7, 1978.

HON. ROBERT DOLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOLE: Once again a critical juncture in the determination of a public policy for sugar has arrived. You soon will be asked to vote on a bill that will provide implementing authority for the International Sugar Agreement, provide a minimum domestic market price objective for sugar, and authorize minimum wage determinations for sugar field workers. The House passed H.R. 13750, a measure containing these authorities on October 6.

The bill before the Senate authorizes the President to carry out and enforce the provisions of the International Sugar Agreement, signed at New York City on December 9, 1977. There are no substantive differences in these provisions in the House and Senate bills. The United States was a leading force in negotiating the International Sugar Agreement, and must be a member for the agreement to be successful. In our view, a successful International Sugar Agreement is the key to greater stability in world sugar prices and to a viable world and domestic sugar industry. The Administration supports passage of these provisions.

The Senate bill also directs the Secretary of Agriculture to establish a domestic market price objective for sugar, authorizes either the President or Secretary of Agriculture to protect the domestic market price for sugar through the imposition and periodic adjustment in duties and fees on imported sugar, and provides authority for the President to use import quotas if the domestic market price is inadequately protected through duties and fees.

There is a major difference between the pricing provisions that are acceptable to the Administration and those in the Senate bill. A domestic market price objective for sugar in excess of 15 cents a pound, raw value, or any automatic escalator on the domestic market price threatens any sugar legislation this session. The President will sign a bill that permits the price of sugar in the United States to remain at 15 cents a pound until the world sugar price pushes it upward.

The Senate bill provides for an initial domestic market price objective for sugar of 17 cents a pound, raw value, and it is automatically escalated (indexed) every six months based upon changes in the average of the wholesale price index (WPI) and the index of prices paid by farmers for commodities and services, including interest, taxes and farm wage rates. With these pricing provisions, the domestic price of sugar to consumers would automatically rise, irrespective of the world or domestic supply and demand situation for sweeteners. The price of sugar to consumers would rise simply because the price of other goods and services rose.

This provision would guarantee continued upward pressure on consumer prices. It is highly inflationary. Americans will consume 160 to 164 billion pounds of sugar and other sweeteners over the next five years, an annual average of 32 to 33 billion pounds a year. The pricing provisions in the bill reported by the Committee on Finance would, according to our analyses, cost sweetener users and consumers in excess of $4 billion more over the five-year life of the bill than would be the case under a measure supported by the Administration.

Initially, the Administration proposed a domestic market price objective of 13.5 cents a pound. The sugar producing and processing industry, together with the corn sweetener processing industry and some of the sugar refiners, developed the bill that contains a domestic price objective of 17 cents a pound with an automatic market price escalator.

The House Agriculture Committee reduced the initial price objective to 16 cents a pound, but retained the automatic price escalator. When the measure was before the Trade Subcommittee of the House Ways and Means Committee, the Administration agreed to support a 14.5 cent price objective provided the automatic escalator were removed. The Ways and Means Committee eliminated the automatic escalator but approved a domestic price objective of 15 cents a pound. On October 2, the President notified the Speaker of the House that the pricing provisions in the Ways and Means Committee version were acceptable. Unfortunately, the full House on October 6 adopted an amendment that escalates the domestic market price based upon changes in production costs.

The provisions with respect to restrictions on imported sugar through a duty and fee system and, if necessary, import quotas, as passed by the House are supported by the Administration.

The Senate bill and the House passed measure also contain farm labor provisions. The Administration favors a floor amendment that would shift the authority for farm labor provisions to the Secretary of Labor instead of myself, and make them less specific.

We believe that labor matters are more appropriately handled by the Secretary of Labor. It is also our judgment that the labor provisions, including the minimum wage rates for 1978 through 1982, are too specific. None of us can know the future well enough to determine with precision what the minimum wage rates should be over the next five years. Instead, the bill should provide guidance to those who must make these determinations in the year of concern, and the labor standards should be generally consistent with those applied under other Federal laws.

In closing, let me reaffirm that the Administration feels strongly that we must meet our commitment to provide equitable income protection to domestic sugar growers. But, this can be done in a manner that is consistent with other economic goals and that will not exacerbate the primary economic problem confronting all of us today.

We will protect the returns to sugar producers and processors using existing authorities. I can assure you that the level of support to producers and processors will take into account changes in their production costs, including labor costs. It is unnecessary to increase the price of all sweeteners (both the domestic and foreign production) to all the people just to protect the returns of those who produce sugar. That can be accomplished much more efficiently through deficiency payments whenever the market price is below a fair price to producers and processors.

Sincerely,

BOB BERGLAND,
Secretary.

OCTOBER 11, 1978.

HON. ROBERT DOLE,
Senate Office Building,
Washington, D.C.:

Vote no on House-Senate conference sugar bill. Will unnecessarily raise sugar prices immediately. Inflationary cost to consumer $4.5 billion over life of bill:

Community Nutrition Institute.
International Longshoremen's Association.
Imperial Sugar Company.
The National Sugar Refining Company.
North American Sugar Industries, Inc.
Refined Syrups and Sugar, Inc.
Revere Sugar Corporation.
Savannah Foods and Industries.
The South Coast Corporation.
Southdown Sugars, Inc.
Supreme Sugar Company, Inc.
Sugar users group:
American Bakers Association.
Associated Retail Bakers of America.
Biscuit and Cracker Manufacturers' Association.
Chocolate Manufacturers Association of the U.S. of America.
Flavor and Extract Manufacturers' Association.
International Association of Ice Cream Manufacturers.
Milk Industry Foundation.
National Bakery Suppliers Association.
National Association of Fruits, Flavors and Syrups, Inc.
National Preservers' Association, Inc.
National Soft Drink Association.
Pickel Packers International, Inc.
Processed Apples Institute.
Retail Confectioners Institute International.

OCTOBER 11, 1978.

Senator ROBERT DOLE:

The National Corn Growers Association and its affiliated State Corn Growers Association remind you of the urgent stake your states corn growers have in approving sugar-sweetener legislations. We remain opposed to the use of treasury payments. Getting a fair price in the marketplace saves U.S. taxpayers, protects domestic producers, against unfair foreign dumping, and avoids subsidizing big industrial users.

With a large corn crop coming on, the importance of passing the sugar stabilization act becomes even more critical. Failure to pass favorable sugar-sweetener legislation has already cost American corn farmers 4 cents per bushel this year.

JOHN W. CURRY,
President, National Corn Growers Association.

BEGINNING OF THE END FOR SUGAR BEETS?

(By Karen Freiberg)

When farmers in southwest Kansas start digging their sugar beets two weeks from now, it could be the beginning of the end, says Bill Turrentine, a Garden City sugar beet grower.

The Colo-Kan Sugar Co., a cooperative refinery owned by sugar beet producers in southwest Kansas and southeast Colorado, has lost nearly $1.5 million during the past two years from sagging sugar prices, he said.

According to Turrentine, a member of the Colo-Kan board of directors, continued low sugar prices have put operation of the factory next year in jeopardy.

"If, and I say this conservatively, we continue to have the circumstances that we have now, it's going to put us in a precarious situation to stay in business," and Turrentine. "I don't want to flat out say we won't be in business, because I don't know."

Turrentine said the decision to continue operation of the refinery at Rocky Ford, Colo., would rest on the price of sugar.

The Rocky Ford factory is owned by growers in Stanton, Grant, Haskell, Kearny and Finney counties, who ship their beets 200 miles to the plant for processing. Producers in about five southeastern Colorado counties also ship beets there.

In 1974, a year when low world sugar production drove prices skyward, Kansas beet producers received an average of about $47.62 per ton of beets, according to the Kansas Crop Reporting Service. Raw sugar prices rose to a record high of 65.5 cents a pound.

Within a year Congress failed to renew the Sugar Act protecting domestic sugar producers from competition on the world market.

Raw sugar prices dropped during the next two years, dipping at times to under 10 cents a pound.

Raw sugar prices in New York are about 14 cents a pound, said Turrentine. New York raw prices are based on the world market price plus the cost of handling, freight and insurance from points of origin.

Cost of refining the raw sugar is an additional 4 to 5 cents per pound, said Turrentine.

He said raw prices "in excess of 17 cents a pound" will be necessary for the factory and the growers to survive.

Sugar beet growers are paid by the ton of beets they bring into the factory and the percent of sugar in the beets.

Last year the Colo-Kan Sugar Co. paid growers $15.11 per ton of beets at about 14.5 percent sugar. This year, said Turrentine, the price will be at least $17 and "maybe exceed $18 a ton.

"But when it costs $24 and $27 a ton to produce these things, you can see what it's going to do to the average grower," he added.

Growers are paid for their fall crop in three installments during the year. The first and largest payment, said Turrentine, comes right after the harvest. A second payment follows in April and if prices have been good and the cooperative has made money, a third payment is made in September.

How much a grower receives during the year depends on the price at which the cooperative can sell its refined sugar.

In 1976, the first year the Colo-Kan cooperative lost money, Turrentine said the initial payment to growers was too high.

"The best we could do with our computer was figure out what the possibility of the price structure would be during the year. But prices were so volatile we didn't even come close, and we overpaid. By the second payment we had overpaid to the tune of $700,000," he said.

By the end of the year, said Turrentine, the losses were prorated "back across the patronage reserves."

A similar situation occurred last year.

The operation of a cooperative calls for a percentage of profits to be distributed to the grower-members, or patrons, and a percentage is accumulated in an account called a patronage fund used to finance the assets of the company and is eventually redistributed among the patrons.

Beet growers in southwest Kansas are not the only ones wondering about their futures.

Sugar beets are grown in two districts in western Kansas. Farmers in the northwest district, which includes Sherman, Sheridan, Cheyenne and Wallace counties, contract production with Great Western Sugar Co., head-quartered in Denver, Colo.

Beet production in both districts has been dropping for several years. In 1975, 43,000 acres of beets were harvested in the state. By 1977 that figure had dropped to 24,000 acres. The Crop Reporting Service has forecast 26,000 acres will be harvested this year.

According to Don Lindschield, Great Western agricultural manager at the company's refining plant at Goodland, Kan., 22,773 acres have been contracted in Kansas and northwestern Colorado. That's about 1,700 acres more than were harvested last year.

Last year Great Western paid growers about $22 per ton for beets with a 14 percent sugar content, according to LaMar Henry, senior vice president for agriculture.

"That's an extremely depressed price situation," said Henry. "It's below cost of production to the grower and the company."

Lindschield said average sugar content for the upcoming crop "looks to be higher than last year's 14 percent." One percent of sugar means about a $2 price difference per ton of beets.

Sugar beets have been grown in western Kansas for 75 years. According to Turrentine, beets have been a "real good money making crop, subject to a few crop failures, up to the last three years.

He said there is a reluctance to allow a refinery to stop production in spite of a loss situation because "it has traditionally meant it will never start up again."

Two bills now before Congress would set U.S. raw prices at between 15 and 17 cents a pound based on certain control measures, including tariffs and import quotas.

Mr. DOLE. Mr. President, there is the story about a Kansas producer and the difficulty he has had, because of governmental interference and lack of price supports that even meets the costs of production.

I say, finally, as late as September, Secretary Bergland said the cost of producing sugar was about 16 cents per pound. That is the Secretary of Agriculture. That is the highest authority I know as far as American agriculture is concerned.

I say that in response to my friend from Ohio, Senator METZENBAUM, it is not a ripoff for the American farmer, the sugarbeet producer and the sugarcane producer, and in this case the corn producer, the whole sweetener industry. All they want is the right to make a profit. If they cannot make a profit in the marketplace I do not think many are looking for Government subsidies, and my amendment and the amendment offered by me on behalf of four other Senators would make certain that did not happen.

I, therefore, hope the amendment might be accepted.

Mr. President, Tuesday I received a letter from Secretary of Agriculture Bob Bergland commenting on the House-passed sugar bill (H.R. 13750) and commenting on the pending Senate version of this legislation.

The letter was not surprising.

Secretary Bergland indicates that President Carter will sign a bill with a price support level of 15 cents per pound, if there is no escalator provision for inflation of the cost of production to farmers. They maintain that such future increases can be "accomplished more efficiently through deficiency payments whenever the market price is below a fair price to producers and processors."

A 15-cent-per-pound price support level for sugar producers is not enough to cover present cost of production. Secretary Bergland stated:

We know it costs about 16 cents a pound to produce American sugar.

That was on September 14, 1978, before the Agricultural Council.

The price support level in the Senate bill is far more realistic at 16 cents per pound, and provides for a "viable" domestic sugar industry—which President Carter has said is his goal.

Mr. President, I urge my colleagues to accept the price support level of the Senate bill. It will assure that future price support levels will be adjusted if inflation continues and the level set by the bill can be discussed in conference between 16 cents in our bill and the 15 cents provided in the House bill.

As to the Secretary's comments that deficiency payments from the U.S. Treasury would be "more efficient," than receiving the price support level from the marketplace, this is traditional bureaucratic demagoguery.

If we are to choose whether farm supports are to come direct from the marketplace, or from the Treasury from collected taxes (and continual deficits plus interest) through payments administered by the Government bureaucracy, I can see no choice. Supporting the price in the market and bypassing the bureaucratic process is definitely more efficient and less costly to the taxpayer. Taxpayers would still pay the bill through more taxes or through increased Federal deficits and resulting inflation.

This is exactly what we saw when the administration arranged payments of over $200 million of unappropriated funds to sugar producers and processors for the 1977 crop. This was done in violation of express instructions by the Congress. It also violated a specific agreement between Senator LONG and Secretary Bergland. I maintain this procedure compounds inflationary pressures. These funds were borrowed. With current interest rates the cost of borrowed funds doubles in 7 years. It also increased demand for borrowed funds and thereby increases interest rates. This raises the consumer price index.

Mr. President, Secretary Bergland's letter does, however, serve to outline the administration's bidding procedure on sugar legislation. He indicates their initial proposal for domestic sugar prices was 13.5 cents per pound. He then indicates that when faced with a prospect of 17 cents per pound, they raised their ante to 14.5 cents per pound in the House Ways and Means Committee markup, providing the escalator provision contained therein was dropped. Now, in Secretary Bergland's letter, since the House approved 15 cents per pound last Friday, he indicates President Carter will support the 15-cent level if the escalator provision the House inserted on the floor is dropped. We have seen the administration up their bid from 13.5 cents per pound to 15 cents per pound. This is not their last offer.

Especially after the Secretary of Agri-

culture stated on September 14, 1978, that the average cost of production was 16 cents per pound. Mr. President, I urge my colleagues to maintain the provisions of the Senate bill.

Mr. President, I offered an amendment in the Finance Committee when we were marking up this bill. It would have prohibited the use of payments to producer and processors to subsidize farmers. It was not accepted as the chairman felt the administration would not use such deficiency payments to maintain the support level, but would use the import fees and quota provisions contained in the bill.

The letter I received from Secretary Bergland (and I assume other Senators received the same letter) admits their intent to use such payments to "protect the returns of those who produce sugar." I hope that Chairman LONG will now join me in support of this amendment to assure that the fees and quota provisions of our bill are the only means available to reach the price objective.

The Secretary's letter indicates:

It is unnecessary to increase the price of all sweeteners (both domestic and foreign production) to all the people just to protect the returns of those who produce sugar.

This is the Secretary's way of telling us that the administration is not concerned with the low prices corn farmers are facing. The administration would rather any domestic demand for sweeteners be filled by cheap, below cost of production, imported foreign sugar rather than from any other source, such as sweetener made from corn. We know this, from last year's action by the administration in not imposing fees or quotas, allowing over 6 million tons of sugar to enter the United States to be used by food and beverage manufacturers, which cost the corn farmers of this Nation $160 million by denying them access to this domestic market.

Secretary Bergland has indicated he feels farmers growing sugar beets and sugar cane should find other crops to grow on their land. He proposes to force this change through support levels below the cost of production due to imported sugar. Furthermore, he will deny corn producers throughout the Nation the increased price of all corn that would result from an increased demand for domestic corn sweeteners. Obviously, the administration is not concerned with sugar farmers or corn farmers.

Again, this attitude is not surprising. The thousands of grain farmers who came to Washington earlier this year know the administration's attitude and its lack of concern for the viable future of American agriculture.

Moreover, this administration's proposal will make us more and more dependent on imports—a major factor in our loss in the value of the dollar—and a great inflation contributor.

The Ways and Means Committee bill would require increased import costs over the 5-year period, amounting to $2,407 million, as compared to the Senate Finance Committee bill contained in H.R. 7108.

[In millions of dollars]

Year	Ways and Means	S. 2990	Balance-of payment loss
1978-79	870	722	148
1979-80	1,051	764	287
1980-81	1,306	870	436
1981-82	1,539	893	646
1982-83	1,724	834	890
Total	6,490	4,083	2,407

Not only would there be an increase in the unfavorable balance of trade, but also there would be a Treasury loss in import duties and fees with the ways and means bill, as compared with the H.R. 13750.

IMPORT FEES

[In millions of dollars]

Year	S. 2990	Ways and Means
1978-79	739	630
1979-80	725	479
1980-81	523	224
1981-82	465	62
1982-83	476	61
Total	2,928	1,456

The import duties lost would be $1,472 million.

On top of this loss of revenue the Ways and Means proposal permits payments under other legislation. This would probably permit payments in the area of $500 million depending on vague decisions by the Secretary of Agriculture.

Thus, the total adverse budget impact would be about $2 billion. This must come from borrowed funds or increased taxes.

The Treasury is running an extremely high budget deficit. This is reflected in the cost of borrowing, as follows:

(Week of September 22, 1978)

6 months U.S. Treasury bill (coupon equivalent yield)	8.65
1 year U.S. Treasury bill (coupon equivalent yield)	8.80
2 years U.S. Treasury note	8.74
9 years U.S. Treasury note 8 percent, August 15, 1986	8.52

It is oversimplistic to compare the economic effect of sugar payments on consumer costs with the effect of import fees. Payments come from borrowed money. Every additional expenditure item adds upward pressure to interest rates. The higher interest rates affect every item throughout the Consumer Price Index. The administration has not taken the interest cost factor into consideration in its analysis. At current rates, the borrowed money used to make sugar payments would double in less than 8 years.

The eminent economist, Eliot Janeway, in responding to questions from Representative FITHIAN stated:

The first relates to the problem of inflation; and, therefore, to its main source: Overborrowing as measured by the rising trend of interest rates, especially long-term rates, which the Federal Reserve Board cannot control. It is axiomatic that any measure which calls for more borrowing will fuel "the engines of inflation" and that any alternative expedient will cool them off. The administration's policy of direct payments to processors would admittedly be financed by more Government borrowing; and would, therefore, fuel inflation. QED.

The second relates to the real dimensions of the inflationary problem. The administration's approach considers inflation in a purely domestic frame of reference—as if containing it called for merely an exercise in wage and price restraint.

The evidence of the real world, however, reminds us every day that the problem is thoroughly international; and, consequently, that no purely domestic expedient will work. Certainly, the collapse of the dollar and the surge in the trade deficit are contributing to the disastrous spiral of higher interest rates which is accelerating inflation.

The administration proposal would step up sugar imports first by reducing the price, and second by reducing domestic production. Its international sugar policy is in conflict with its international oil policy. On oil, the administration is demanding an import fee—that is, a tariff—to cut imports and improve our trade deficit. But on sugar, it is demanding more imports—at the price of a higher trade deficit—on the far-fetched theory that this would combat inflation.

I urge each of you to read the complete Janeway letter which Representative FITHIAN inserted in the September 20 CONGRESSIONAL RECORD.

It is of great significance to all of us to recognize that—

First. In the case of steel, we have a reference price system for imports, which has reduced imports effectively, and increased U.S. jobs in the steel industry. In his September 28 press conference, President Carter took great pride in the effectiveness of this import control program. He did not offer Government payments to our steel producers.

Second. In the case of petroleum, the President has wanted Congress to authorize a very high import fee to reduce imports. Oil, not sugar, is a major factor affecting living and operating costs. No Government payments were offered to the domestic petroleum industry.

Third. In all other agricultural cases under section 22 including price supports, the Federal Government has arranged to support the price through import management. There is no satisfactory reason to justify a different policy for sugar. Farmers should receive their returns in the marketplace.

Why is there a different proposed policy for sugar? We cannot fathom the different economics.

For consumers, we refer again to the Janeway letter where we find the following item:

In 1947, the retail price of sugar was 9.7 cents a pound. I reckon that it took about 5 minutes to earn that much in 1947. In 1977, the retail price of sugar was up to 21.62 cents a pound; but adjusted for inflation, the "real" price was down to 11.9 cents. At 1977's cash wage level, only a few seconds over 2 minutes would have earned enough to buy a pound.

President Carter issued a statement on September 26, 1978, which stated:

The large trade deficits the United States has experienced in recent years have weakened the value of the dollar, intensified inflationary pressures in our own economy, and heightened instability in the world economy."

His sugar proposals would increase our

trade deficit and increase inflationary pressures.

On September 28, 1978, he stated at a press conference:

> We are cutting down the Federal deficit. We have a very tight constraint on spending. This is important in controlling inflation.

His sugar proposals increase budget deficits and increase inflationary pressures.

The Senate Finance Committee bill contained in H.R. 7108 makes good economic sense and should be passed.

I urge your support.

Mr. LONG. Mr. President, in view of the fact the amendment will be in conference between the Senate and the House of Representatives and if the higher price in the Senate bill could be agreed to it would be appropriate to agree to either have no payments or have a limitation. On the other hand, the payments might very much be necessary with the lower price in the House bill.

I think it would be appropriate that they be in conference. Therefore, Mr. President, I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

Mr. MATSUNAGA and Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I rise in strong support of H.R. 7200, as amended.

Recognizing that the agricultural segment of our country was in need of help, the first session of this 95th Congress passed the Food and Agriculture Act of 1977 which became Public Law 95–113 on September 29, 1977. Unfortunately, that act did not completely solve the farmer's problems and we can certainly expect them back on the Hill next year. Although the act has been of some help to sugar growers and producers, support under the act will expire at the end of this year, since it was made applicable only to the 1977 and 1978 crops of beet and cane sugar.

The Sugar Stabilization Act of 1978, now being debated, was introduced by the Senator from Idaho, Mr. CHURCH, on April 25 of this year with 33 cosponsors. The bill is designed to provide continued support for cane and beet sugar producers on a more realistic basis and also provide for the implementation of the International Sugar Agreement to which the United States became a signatory in December 1977.

Sugar is one of the world's most regulated commodities with approximately 85 percent of total world production coming under some type of domestic or foreign law or regulation; and sugar in the United States has been under regulation since the Revolutionary War. The first piece of general legislation enacted by the first U.S. Congress in 1789 included tariffs on sugar. The depression of 1929 drove home the point that tariffs alone could not be the sole tool to regulate U.S. sugar supplies and in 1934 the Jones-Costigan Act amended the Agricultural Adjustment Act to include sugar as a basic commodity under the general farm program. This amendment provided for a processing tax on refined sugar, for benefit payments to sugar beet and sugarcane growers under production adjustment contracts, and for quotas for domestic and foreign areas supplying the U.S. market. In 1936 the Supreme Court declared the benefit payments and taxes on sugar to be unconstitutional but quotas were not questioned and continued in effect. The Sugar Act of 1937, which embodied the basic principles of the Jones-Costigan Act, was signed into law on September 1 of that year and continued in effect until succeeeded by the Sugar Act of 1948 which was extended seven times with various amendments. The act was terminated on December 31, 1974. The Sugar Act of 1948 was without question the most successful agricultural program ever enacted into law. It was designed to achieve three major goals:

First. To assure consumers adequate supplies of sugar at a reasonable price.

Second. To maintain a viable domestic sugar industry.

Third. To promote the export trade of the United States.

It was also designed to be self-supporting. During the 30 years of its existence the Sugar Act of 1948, as amended from time to time, achieved these goals to a remarkable degree. In addition it contributed immensely to the development of a vigorous sugar industry within our national borders, resulted in the improvement of wages and working conditions of farm laborers and put more than $660 million into the U.S. Treasury after deducting all operating costs.

For 4 of the 5 years from 1970 through 1974 world shortages of sugar resulted in excessively high prices, which encouraged production throughout the world. Overproduction in turn led to falling prices. With this chain of events, domestic producers today are plagued by declining revenues and increased production costs due to inflation. While on the subject of inflation, let me state emphatically that sugar producers are not the cause of inflation, but rather, the victims of it—as are all of the agricultural segments of our economy.

Much has been said about the "inflationary effects" of the pending measure, and about how it would serve "special interest" groups. At a time when both the administration and the Congress are bent on a program to reduce the tax load on business, industry, and the worker, it is puzzling to this Senator that the administration would rather pay direct benefit payments to sugar producers out of the Federal Treasury, that is, out of the taxpayer's pocket rather than from revenues generated from tariffs and fees on foreign imports. Inflation is a thoroughly international problem and cannot be solved by domestic expedients alone. Direct payments have the effect of subsidizing processor imports at the taxpayers expense, while ignoring the fact that foreign governments provide support to their sugar producers.

The American consumer, if not spoiled by the abundance of "fast food"—fancy packaging and processing for convenience—certainly ignores the fact that this aspect of the food chain is what is responsible for the increasing cost of his food. It is in the processing, packaging, transportation, and marketing of food products where the major costs lie, but the farmer, the producer, is getting a smaller cut of the pie as prices continue to rise.

The administration has not insisted on direct payments to the grain producers but has rather pressed the grain farmers to take acreage out of production. In theory, sugar beet and cane growers in the Continental United States could shift to other crops, but this ignores the high capital investment in plants and equipment peculiar to their uses and needs which would be idle, and they could only switch to crops already in excess. My own State of Hawaii would not even enjoy this dubious luxury.

Since 1851 studies have been made and experiments conducted on alternative crops to sugar cane but none have been found. Depending upon the island of the group in question, crop land in sugar ranges from 83 percent to 96 percent of the total crop land. Lest some of my colleagues feel that this is strictly an agricultural problem, let me point out that the sugar industry in my State has a capital investment in plants and equipment of more than $1,250,000,000 at today's prices—and this figure is even higher in other areas of the mainland United States. These investments benefitted the steel producers and manufacturers of Pennsylvania, Ohio, Illinois and other industrial segments of our great country. The "special interest" group in this country to be benefitted by this sugar bill includes general industry, the industrial users, the refiners and the consumers as well as the growers and processors of sugar.

On May 11 of this year, I chaired a public hearing on S. 2990 held by the Finance Committee's Subcommittee on Tourism and Sugar and on October 3 the full committee ordered H.R. 7108 favorably reported with an amendment in the nature of a substitute. The substance of H.R. 7108, a bill to temporarily permit duty-free entry of certain papermaking machinery (Yankee Dryer Cylinders), was passed by the Senate on September 30, 1978, as an amendment to H.R. 8755.

The first part of the amendment to H.R. 7108 is the substance of S. 2990, the Sugar Stabilization Act of 1978, with amendments. The committee amendment authorizes the President to take such actions as are necessary or appropriate to implement the obligations and secure the rights to the United States under the International Sugar Agreement (ISA). The ISA has been submitted to the Senate as a treaty for advice and consent.

The committee amendment also establishes a domestic sugar program which will remain in effect for 5 years. Under the domestic sugar program, a U.S. market objective for raw sugar of 16 cents per pound is established. The market price objective is to be adjusted every 6 months beginning on October 1, 1979, to maintain for the semiannual period the

same ratio between the market price objective and an average of the parity index and the wholesale price index for the preceding calendar quarter as existed between the price objective for the 1978 sugar supply year and that average during the 12-month period before the date of enactment.

A mandatory fee on imported sugar will be the primary method for achieving the U.S. market price objective. The Secretary of Agriculture would be required to impose a fee on sugar imports when he determines that the average of daily import prices for sugar during a sugar supply year (October through September), or 6-month period thereof, will be less than the U.S. market price objective (16 cents per pound until October 1, 1979). The fee would be equal to an amount (not in excess of 20 cents per pound) which the Secretary determines will achieve the current U.S. market price objective when added to the daily price for raw sugar imports. Whenever the import fee will not achieve the U.S. market price objective for a sugar supply year, or 6-month period thereof, the Secretary would be required to establish a global quota on sugar imports which, together with the import fee, will achieve the market objective.

Under the committee amendment, imports of refined sugar are prohibited. Import restraints on sugar-containing products are also provided. The committee clarified a position of S. 2990 which exempts from the import fees and quotas sugar imported for the production of polyhydric alcohol. That exemption applies only with respect to polyhydric alcohols which are not substitutes for sugar as a sweetener in human food consumption. Finally, the committee amendment provides minimum wages and labor standards for sugar field workers identical to the provisions in H.R. 13570, as passed by the House of Representatives on October 6, 1978.

Under present law, the Secretary of the Treasury is required, upon complaint by a domestic industry, to impose countervailing duties, in addition to regular duties, on imports entering the United States if he finds that the imports receive a foreign subsidy. The additional duty, which is equivalent to the amount of the subsidy, is intended to offset the foreign subsidy practice. In the Trade Act of 1974, Congress directed the President to seek new international rules on subsidy practices in the Tokyo round of multilateral trade negotiations (MTN). To permit the President to avoid confrontations over the U.S. countervailing duty law while a subsidies code is being negotiated, Congress permitted countervailing duties to be waived, that is, not collected even though a subsidy exists, until January 3, 1979, under certain conditions.

The waiver authority has been exercised 19 times. In 1977, the value of imports subject to waivers was $607 million. Countervailing duties not collected on those imports totaled $47 million.

On September 28, 1978, the President sent a message to Congress asking that the countervailing duty waiver authority be extended until Congress completes its consideration of the results of the MTN. The President stated that "prospects for reaching agreement by year end on a subsidy/countervailing duty code which meets basic U.S. objectives are good." He also stated that failure to extend the waiver authority until Congress can consider whether or not to implement that code will "seriously jeopardize" the ability of the Special Representative for Trade Negotiations to negotiate such a code.

The second part of the committee amendment to H.R. 7108 would extend the authority of the Secretary of the Treasury to waive countervailing duties under the following conditions:

The waiver authority would be extended if, before January 3, 1979, the President determines, upon the recommendation of the Special Representative for Trade Negotiations, and notifies Congress of his determination, that:

Negotiations have been concluded establishing new international rules and procedures governing the use of internal and export subsidies which first, adequately protect U.S. agricultural and industrial trading interests, and second, provide for effective enforcement of the substantive rules;

The MTN as a whole has been substantially completed; and

Failure to extend the waiver will seriously jeopardize the completion of the MTN.

The waiver authority would be extended to the earliest of the following dates:

The date on which either House of Congress defeats on a vote of final passage the domestic implementing bill for the subsidy/countervailing code;

The date of enactment of such implementing bill; or

September 1, 1979.

Existing waivers, which would continue in effect, and any future waivers made during the period of the waiver authority extension would be subject to the existing conditions in the law for granting waivers. All waivers would be subject to the existing congressional override provisions under which either House of Congress by majority vote may disapprove a waiver. If an override resolution is adopted, imports covered by that resolution become subject to countervailing duties immediately.

Mr. President, the bill as reported by the Finance Committee contains the same basic elements as the bill cosponsored by 34 Senators and I urge its passage.

● Mr. CHURCH. Mr. President, it is essential that we understand the importance and the nature of the sugar beet industry in the United States. I therefore request unanimous consent that a short description of the sugar beet industry be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE U.S. SUGAR BEET INDUSTRY

Sugarbeets are produced on approximately 1.4 million acres each year by some 14,000 farms located in 17 states extending from Ohio and Michigan to California, and from the Canadian border to Texas and New Mexico. The sugar is extracted from the beets in 51 processing facilities positioned throughout the sugarbeet growing area.

Because of the agricultural nature of the beet sugar industry the processing plants, almost without exception, are located in smaller, rural communities. With some 250–350 workers each (members of the AFL/CIO), the beet plants, are commonly the largest local employer and the most important element in the area's economy. The total annual industry payroll exceeds $200 million and, even at the current sugar prices, the value of their output totals in excess of $900 million annually.

The growers share directly in the market proceeds of the sugar they produce on their farms as a result of a unique participating contract with the processors. The farm value of sugarbeet crops has averaged over $700 million per year since 1970, however the estimated value of the 1977 crop dropped to $573 million.

A comparison of the estimated 1977 crop value—$573 million—relates to USDA's estimated cost of production of $602,635,075 and illustrates why domestic sugarbeet production will be curtailed drastically if the situation continues.

A breakdown of cost component factors shows that America's 14,000 sugarbeet farmers—among the world's most efficient—pay wages totalling $152 million, incur annual machinery costs of over $60 million, spend nearly $24 million each year for repairs and maintenance of farm equipment and pay out over $120 million for fertilizer and other agricultural supplies to produce their beet crops. Property taxes alone on the nation's 1.4 million acres of sugarbeet farmland average nearly $13 million annually. This is, in effect, created wealth which circulates throughout the economy many times. It means jobs—in the fields, in the plants and within satellite industries.

These American farm families, along with their processor-partners, are involved in a billion dollar U.S. industry providing a basic commodity of which this country is a deficit producer. (Beet sugar meets some 35% of U.S. consumption demands, domestically produced cane sugar 20%. The rest is imported. Over the past five years sugar imports have contributed over $6 billion to this country's balance of payments deficit.)

The processing companies, confronted with drastically low prices on the one hand, have not escaped the impact of the inflation characterizing this nation's economy. Based on the weighted average costs compiled from 36 processing facilities, energy bills were 144 percent higher for the 1976 crop than they were for the 1974 crop; packaging and other materials were 102 percent higher; labor, including fringe benefits, was 24 percent higher and other fixed costs were up 17 percent.●

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

Mr. LONG. Mr. President, we have been acting on the sugar bill, as amended to a House bill that had no connection with sugar. We have done this to insure that we could have the opportunity to take up the bill today.

However, I am sure and I know all Senators agree that the more orderly procedure would be to act on this measure, as an amendment to the House-passed sugar bill, which is H.R. 13750.

That bill is now pending in the Finance Committee.

I, therefore, ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 13570 and the Senate proceed to its immediate consideration; that the amendment in the nature of a substitute, as amended, to H.R. 7200 approved by the Senate be adopted as an amendment in the nature of a substitute to H.R. 13750, and I ask unanimous consent that H.R. 7200 be indefinitely postponed.

Mr. JAVITS. Mr. President, reserving the right to object, and I do not expect to object, but we understood that there were going to be no welfare amendments dealt with because H.R. 7200 was being used as a vehicle for this. Does this change anything on that score?

Mr. LONG. If it is all the same with the Senator, I would be happy to have H.R. 7200 returned to the calendar.

Mr. JAVITS. I do not require any further assurance than that of the Senator that this does not result in any welfare amendments being carried along with the sugar bill.

Mr. LONG. No, just the opposite. There would be no welfare amendment. It would be strictly a sugar bill with the amendments agreed to here.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana?

Without objection, it is so ordered.

Third reading of the bill.

The legislative clerk proceeded to read the bill by title.

Mr. BROOKE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair will state to the Senator that no amendment is in order at this time. We had third reading of the bill, of each bill.

Mr. BROOKE. Beg pardon?

The PRESIDING OFFICER. We had third reading of each bill.

Mr. KENNEDY. I think my colleague, the Senator from Massachusetts, was on his feet at that time seeking recognition.

The PRESIDING OFFICER. Does the Senator request unanimous consent for the consideration of his amendment?

Mr. LONG. Mr. President, I have to object to this. If I knew what the amendment is the Senator will be glad to——

Mr. KENNEDY. I suggest the absence of a quorum, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator will withhold that. The Senator asked unanimous consent a moment ago. I think it took care of the entire matter. It was not objected to.

Mr. LONG. It was not.

Mr. BROOKE. There had been no third reading of the bill before I called up my amendment.

Mr. LONG. Mr. President, the bill went to third reading before I asked——

The PRESIDING OFFICER. The Senator is correct. The bill had been on third reading before the Senator from Louisiana asked unanimous consent.

Mr. LONG. The bill was on third reading which I understood was the appropriate proceeding. After third reading was agreed to, then I asked unanimous consent that we substitute this bill for the text of the Sugar Act in the committee.

The PRESIDING OFFICER. That is correct.

Mr. LONG. Which is the standard way of doing business.

The PRESIDING OFFICER. The substitute had already been agreed to for H.R. 13750.

Mr. CURTIS. Let us vote.

The PRESIDING OFFICER. No further amendment, therefore, is in order except by unanimous consent.

Mr. ROBERT C. BYRD. Vote.

The PRESIDING OFFICER. The question is on the adoption of the bill, as amended.

[Putting the question.]

Mr. CHAFEE. Mr. President, are we going to have the yeas and nays on this?

Mr. ROBERT C. BYRD. Not on this, but on final passage.

Mr. CHAFEE. Are we not on final passage?

Mr. ROBERT C. BYRD. Not yet.

The PRESIDING OFFICER. Third reading of H.R. 13750.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Is it in order now for the Senator from Massachusetts to offer his amendment?

The PRESIDING OFFICER. No further amendment is in order.

Mr. ABOUREZK. Then we are not at third reading.

The PRESIDING OFFICER. The substitute has already been adopted. Third reading is automatic.

Mr. ROBERT C. BYRD. Third reading of the bill.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. Mr. President, this is the last rollcall vote tonight.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Delaware (Mr. BIDEN), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New York (Mr. MOYNIHAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY), would vote "yea."

Mr. BAKER. I announce that the Senator from New Jersey (Mr. CASE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The PRESIDING OFFICER. Have all Senators in the Chamber recorded their votes?

The result was announced—yeas 50, nays 22, as follows:

[Rollcall Vote No. 489 Leg.]

YEAS—50

Anderson	DeConcini	Johnston
Bartlett	Dole	Leahy
Bayh	Ford	Long
Bellmon	Garn	Magnuson
Bentsen	Glenn	Matsunaga
Bumpers	Gravel	Melcher
Burdick	Hansen	Morgan
Byrd, Harry F., Jr.	Hart	Randolph
Byrd, Robert C.	Hatch	Riegle
Cannon	Hatfield, Mark O.	Sasser
Chiles	Hatfield, Paul G.	Schmitt
Church	Hayakawa	Stone
Clark	Hodges	Thurmond
Cranston	Huddleston	Wallop
Culver	Inouye	Williams
Curtis	Jackson	Young
Danforth		Zorinsky

NAYS—22

Abourezk	Hollings	Pell
Baker	Javits	Percy
Brooke	Kennedy	Proxmire
Chafee	Lugar	Roth
Durkin	Mathias	Sarbanes
Hathaway	Metzenbaum	Schweiker
Heinz	Muskie	
Helms	Nunn	

NOT VOTING—28

Allen	Laxalt	Sparkman
Biden	McClure	Stafford
Case	McGovern	Stennis
Domenici	McIntyre	Stevens
Eagleton	Moynihan	Stevenson
Eastland	Nelson	Talmadge
Goldwater	Packwood	Tower
Griffin	Pearson	Weicker
Haskell	Ribicoff	
Humphrey	Scott	

So the bill (H.R. 13750), as amended, was passed.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I have two routine requests.

First, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 13750.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I move that the Senate insist on its amendments, that it request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG, Mr. MATSUNAGA, Mr. BENTSEN, Mr. CURTIS, and Mr. DOLE conferees on the part of the Senate.

ADDITIONAL CLOTURE ENDORSEMENT

Mr. RANDOLPH. Mr. President, I ask unanimous consent that on the motion to invoke cloture on the motion to proceed to the consideration of S. 3279, I be permitted to be joined on that cloture motion.

The PRESIDING OFFICER. Without objection, the Senator will be permitted to sign the cloture motion.

EASTERN TELEPHONE SUPPLY AND MANUFACTURING, INC.

Mr. LONG. Mr. President, I am informed that H.R. 10161, previously passed by the House of Representatives and the Senate is at the desk. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LONG. Mr. President, I ask that the Chair lay before the Senate the message from the House of Representatives on H.R. 10161.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate numbered 1 to the bill (H.R. 10161) entitled "An Act for the relief of Eastern Telephone Supply and Manufacturing, Incorporated."

Resolved, That the House disagree to the amendment of the Senate numbered 2 to the aforesaid bill.

Resolved, That the House agree to the amendment of the Senate to the title of the bill.

Mr. LONG. Mr. President, this bill was passed by the Senate with amendments. The House sent the bill back to the Senate, accepting the Senate's bill with amendments, but disagreeing to the freight car amendment.

Unless the Senate now reconsiders and sends the bill back to the House without the freight car amendment, I am informed the bill cannot be passed, and that it will die.

I move that the Senate recede from its amendment No. 2, which is the amendment needed for freight cars.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Is there objection? Without objection, it is so ordered.

The Senator from West Virginia.

EDUCATION AMENDMENTS OF 1978—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 15 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15) to extend and amend expiring elementary and secondary education programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. ROBERT C. BYRD. Mr. President, the Senate just recently agreed to the conference report on the Elementary and Secondary Education Act Amendments of 1978.

This action represents a major legislative accomplishment of the 95th Congress. It renews the Federal commitment to support education and assures that students from every income level will have access to learning opportunities. That commitment is as old as the Republic itself, and I think it is appropriate at this time to examine more closely the historical development of education in America and the role of the Federal Government in its growth.

Mr. President, it has been said that education is the Nation's largest and perhaps most open enterprise. Almost all Americans become involved in it at one or more periods in their lives.

During the 1977–78 school year, education was the major occupation of approximately 63.8 million people. That total represents an estimated 60.4 million students enrolled in schools and colleges, 3.1 million teachers, and about 300,000 superintendents, principals, supervisors and other instructional staff members. In a Nation of approximately 219 million people, this means that almost 3 out of every 10 Americans is directly involved in the educational process.

Expenditures for public and private education from kindergarten through graduate school were approximately $144 billion for the 1977–78 school year. Total expenditures for the 1978–79 school year are expected to exceed $155 billion. Elementary and secondary schools will spend about $100 billion, while colleges and universities will spend $55 billion.

Adequate financing for education is a prerequisite for quality education. While State and local governments finance the greater portion of education costs, continually rising expenses have necessitated their seeking additional funding from traditional contributors. The major contributor to education has been the Federal Government. A participant in education since 1785, the Federal Government's role in providing support to education has expanded as the education system itself has grown larger and more diverse and complex.

In recent years, this role has grown substantially. Federal grants in fiscal year 1966 amounted to $5.2 billion. In 1976, they reached almost $19.1 billion. Grants to elementary and secondary education increased from $2 billion to about $4.8 billion during this 10-year period, while grants to higher education went from $2.3 billion to $9.6 billion. The largest increase, however, was in grants for vocational technical and continuing education, which rose from $923 million in 1966 to about $4.7 billion in 1976. This amounted to about a fivefold increase in one decade.

As evidenced by the preceding figures, the Federal Government has repeatedly demonstrated its willingness to appropriate funds for the support of education. This year has been no exception. The Congress reaffirmed the Federal commitment to support education with its consideration of a number of education bills: amendments to the Higher Act of 1965 and amendments to the Elementary and Secondary Education Act of 1965 (ESEA), among them.

The bills authorize continued funding for the general purposes of improving educational quality in the Nation's elementary and secondary schools and colleges and universities and strengthening programs which make educational opportunities available to students from low-income backgrounds. The funding contained in ESEA insures continued maintenance of essential State and local education programs for disadvantaged youths from low-income school districts. The Higher Education Act amendments will continue providing financial assistance to students whose own financial situation would deny them access to college.

While no one can argue that State and local governments could not continue education programs for financially-burdened students without Federal assistance, many have argued the question of exactly what the proper role of the Federal Government in education is and should be. Some argue that State and local governments can do an adequate job of public education without Federal assistance. Others maintain that the responsibilities of the States to support education are so varied and wide that some could never provide an adequate level of education without Federal assistance. Others insist that the national interest requires that the Federal Government support education in every State.

It is worthwhile at this point, Mr. President, to examine the role of Federal participation in education from an historical perspective. This approach, I believe, will lend a clearer, fuller understanding of what the proper role of the Federal Government in education is today and how that role is performed with respect to the provisions contained in the education legislation considered by the 95th Congress.

All of us recognize the importance and significance of education. It is fundamental to the continued health, security and well-being of our nation. Almost 200 years ago, one of our Founding Fathers, Thomas Jefferson, said of American education:

The Commonwealth requires the Education of her people as the safeguard of order and liberty. . . . Above all things, I hope the education of the common people will be attended to: convinced that on this good sense we may rely with the most security for the preservation of a due degree of liberty. . . .

The history of education in the United

States is one of continual adaptation to recognized social and economic needs; its development reflects changes in the prevailing social, political and economic conditions of the times.

This history also traces the Federal Government's role as a participant in American education's growth. The Federal commitment to education is as old as the Republic itself. Even before the adoption of the Constitution in 1789, the national Congress, operating under the Articles of Confederation, established a role for the Federal Government in education. Under the Survey Ordinance of 1785, which outlined the disposal of land in the Western Territory, one section of land in every township was set aside for the endowment of education; 2 years later, the Northwest Ordinance included a provision requiring land to be reserved for local schools. This document contained the first statement of policy by Congress with respect to education:

> Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Several years later, when the Constitution was adopted, no specific reference was made to the Federal Government's role in education. Since the 10th amendment to the Constitution provided that powers not delegated to the Federal Government were reserved to the States, public education, as it progressed, came generally under State jurisdiction. Federal involvement grew out of provisions contained in the General Welfare Clause. Article I, section 8 of the Constitution authorizes Congress to levy taxes and appropriate moneys to provide for the general welfare.

In colonial America, the primary purpose of education was to provide religious education. Children were taught rudimentary reading skills so that they could be instructed in the lessons of the Bible. In addition to their religious character, most schools were private.

Later in the 17th century, a number of States took steps to establish some kind of central control over schools and require parents to see that their children attend. They also sought to establish minimum standards for the curriculum: instructions in reading, religion, the capital laws, and preparation for a trade. These goals were achieved with varying degrees of success. Government participation during this time was minimal and limited mostly to the granting of charters and occasional subsidies to private academies and colleges.

Educational instruction underwent fundamental changes in the 18th century. Schools began introducing courses in literature and manners to prepare students for formal and social life. Vocational education also went through a period of growth during this period, and academies appeared which offered college-preparatory courses as well as training for business or trade.

Also during the 18th century, the growth of religious freedom and the spread of sectarian controversies altered State and Federal support for private institutions, and, in turn, affected the further development and character of both private and public institutions.

As a result of these movements, tax support to sectarian institutions was barred, and a prohibition against legal intervention in what were defined as private colleges was instituted. Having lost State and Federal support, private institutions were free to exercise greater control over enrollment and curriculum decisions. Their programs preserved the traditional college liberal arts model. Public schools, on the other hand, sought to please State legislatures and so offered courses of a pragmatic and professional nature.

Late in the 19th and early in the 20th centuries, education as we know it today made its greatest strides in development. Increasing urbanization and industrialization stimulated an increase in the number and types of institutions and in the number of students. By 1918, every state had compulsory education laws.

AID TO HIGHER EDUCATION

Much of the early history of Federal participation in education concerns Federal aid to higher education. It was the subject of most of the legislation and received a major portion of Federal funds allocated for educational purposes.

The most significant 19th century development in Federal assistance to higher education was passage of the Morrill Act in 1862, providing land grants to States and territories for the establishment of colleges specializing in agriculture and mechanical arts.

The bill, named for Representative, and later Senator, Justin S. Morrill of Vermont, was supported by those having an interest in agricultural education and who were dissatisfied with the limited kinds of college courses offered at that time. Classical studies were virtually the only subjects taught. Pure science was neglected, and applied science courses in agriculture and the mechanical arts were almost nonexistent.

The legislation specified the type of education which was to be offered by the land grant colleges. The interest from the sale of the land or scrip was to be devoted to:

> The endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanics arts.

States which accepted the funds did so with the knowledge that these requirements had to be met.

In 1890, the Second Morrill Act established a policy of annual appropriations to land grant colleges for:

> Instruction in agriculture, the mechanics arts, the English language, and the various branches of mathematical, physical, natural and economic science, with special reference to their application in the industries of life.

The Morrill Acts marked the beginning of the Federal Government's participation in decisions concerning the choice of school curricula. For three quarters of a century, from 1785 when legislation was enacted for the first time setting aside tracts of land for education until 1862, it had exercised little or no control over the teaching programs of the land grant colleges and universities. The legislation enacted in 1862 and 1890 represented the first instances of Federal support being given on a conditional basis in order to attain a specific national goal.

The years following World War II represent the most significant period of sustained congressional consideration of general Federal aid to education. Numerous programs were enacted during this period in response to the increasingly diverse and complex changes which occurred in the United States and the world after the war. However, most of the programs provided limited assistance to specially targeted groups or activities.

In 1944, the Servicemen's Readjustment Act—better known as the GI bill of rights—was enacted to take care of the educational needs of veterans who had interrupted their education or who could not continue postsecondary education due to military service. Almost eight million veterans received financial aid for tuition, books, supplies, counseling services and student living expenses. Similar programs were established in subsequent years to assist veterans of other wars.

Programs which assisted students in their pursuit of an education but were not strictly education-oriented were also initiated. Among them was the 1950 College Housing Act which authorized 40-year low-interest Government loans for public and private colleges and universities to provide student housing.

In 1957, the Soviet Union launched Sputnik I, resulting in widespread criticism of the American education system. There was growing concern that existing educational programs had an inadequate representation of courses in science, mathematics and foreign languages and that talented youth were being denied the opportunity of a college education because of insufficient funds. Many feared that the situation at that time was having a deleterious effect on the quality of American science and our ability to compete with the rest of the world in scientific achievement.

The American education system underwent an intense re-evaluation, resulting in passage of the National Defense Education Act of 1958. According to the Congressional Quarterly, it was "by far the largest Federal commitment to the national general education level." It provided an original authorization of $1 billion to set up a program to provide and improve the teaching of science, math and foreign languages at all school levels. This represented the first general Federal aid program to be enacted by Congress.

Higher education grew at a rapid pace during the 1960's and early 1970's. Increased Federal participation paralleled this growth. Major new initiatives were enacted to help finance the increasing costs of higher education and provide additional aid to students who could not afford to cover the expenses alone.

The sharp increase in college enrollments during this period created a shortage of classrooms and related facilities. To correct this problem, Congress enacted in 1963 the Higher Education Facilities Act, which authorized grants and

loans for construction, rehabilitation or improvement of needed academic and related facilities in under-graduate and graduate institutions.

The diversity and variety of educational programs were expanded to help students prepare themselves for careers in an increasingly complex and technical society. Programs in vocational education were established to help train students in their choice of a variety of vocational and technical careers. Federal assistance was provided under the Vocational Education Act of 1963 which authorized increased Federal funding for vocational education programs. Eligibility was broadened to include training in any occupation that did not require 4 years of college.

Congress expanded existing college assistance programs with passage of the 1965 Higher Education Act. The legislation authorized a 3-year, $2.5 billion program which included grants and loans to students; grants for libraries and library training programs; grants for developing institutions; fellowships for persons engaged in education careers; and funds to help pay for construction projects at public community colleges and technical institutes.

The Higher Education Act of 1965 has been amended a number of times since its enactment. Each time, the Congress has sought to update provisions in the legislation, making them more responsive to the changing needs and interests of recipients of aid under this act, as well as having them better reflect changes in the educational system itself. This periodic review also seeks to address familiar issues associated with aid to higher education, that is, enrollment growth, scholastic achievement, desegregation, access to higher education by women and other minorities, and financing in general.

This year, Congress again considered amendments to the Higher Education Act. Proposed changes reflect our concern with inflation and the rising costs of education and their impact on lower- and middle-income taxpayers. It is becoming increasingly difficult for these groups to pay for their children's educations without some type of assistance.

Proposed amendments to the act will ease the financial burden placed on lower- and middle-income taxpayers by the high cost of education. Students who otherwise would not be able to attend college due to insufficient financial means will have a better chance of obtaining Federal aid under the proposed funding increases in the bill.

AID TO ELEMENTARY AND SECONDARY EDUCATION

In its early stages of development, education below the college level remained for a long time a matter of church and family responsibility. The first elementary schools provided reading courses so children could be instructed in the lessons of the Bible.

Secondary education became the responsibility of private academies. Government participation was limited to granting charters and occasional subsidies.

As noted earlier, sectarian controversies and a growing spirit of religious freedom influenced the withdrawal of tax support for sectarian institutions as well as a prohibition against legal intervention in the affairs of private schools. After these events, limited State control of public institutions accelerated. Seeking the approval of State legislatures, public schools offered programs instructing students in the daily activities of the working world.

Federal participation in education below the college level during these years was limited, at best. In 1917, passage of the Smith-Hughes Act marked the beginning of a new policy of Federal participation in elementary and secondary education. The legislation provided funds to assist States in developing vocational education programs at public schools. The program was limited, however, to courses in home economics, agriculture, trade and industrial education, and teacher-training courses in these fields.

The years between 1940 and 1965 represent a significant period in the history of Federal participation in elementary and secondary education. Numerous programs were enacted by Congress to assist States in their education efforts. However, they were limited in that they provided assistance for particular programs for the purpose of attaining a specific goal.

The first of these was the Lanham Act of 1940. Amended in 1941, it was an emergency war act providing aid to communities financially burdened by increased school enrollments because of the presence of nearby military installation. Federal aid was provided for construction, maintenance, and operation of schools in these federally impacted areas. It was a forerunner to emergency school aid between 1946 and 1950 and impacted areas aid of 1950.

The National Defense Education Act of 1958 included Federal aid for elementary and secondary education for programs in science, mathematics and foreign languages. Students showing a talent for these subjects were given priority attention in this program, which was established to strengthen America's scientific abilities by drawing more students into programs of a scientific nature. This legislation represented the first step toward general Federal aid for elementary and secondary education. However, it was still limited in that it covered only those programs of a scientific nature, and students showing promise in careers as scientists were the primary recipients of aid.

Other examples of legislation which provided limited Federal aid for a specific purpose included the National School Lunch Act (1946) and the School Milk Program Act (1954).

During these same years, the concept of general Federal aid to education gained acceptance slowly. Numerous efforts were made to enact some type of general aid bill, but they were held up by intense debate.

In the 1960's, however, fundamental changes in the Congress and in the social fabric of the Nation were paving the way for passage of the first general aid bill for elementary and secondary education. The education needs of previously underserved children became more fully realized, and Congress focused increased attention on how best to accommodate the special needs and interests of disadvantaged students.

The additional services required by these groups and the best means of delivering them were addressed in the Elementary and Secondary Education Act of 1965. The purpose of the act was to improve the educational quality in the Nation's elementary and secondary schools with particular emphasis upon school districts serving a large number of children from low-income families. Grants were provided to help purchase instructional materials; to assist State educational agencies in fulfilling the educational needs of children in these low-income districts; and to improve and strengthen education-related activities.

The act has been amended several times to reflect changing social and economic conditions, as well as to include additional programs and services for children other than those from low-income families. The special educational needs of handicapped children and non-English speaking children have contributed to the increasing diversity and size of the programs authorized by this legislation.

ESEA was amended in 1966 to include programs and projects for the education of handicapped children. In 1967, bilingual education was added to the act.

Over the years, obsolete programs have been eliminated, others have been updated to reflect the increasing variety of students and student needs, others have been consolidated to avoid duplication and permit smoother, faster administration.

The Elementary and Secondary Education Act Amendments of 1978 will benefit over 6.5 million students from disadvantaged backgrounds. The current dissatisfaction and concern of many people with the achievement levels of students have been addressed in the legislation. Assistance is provided to States and local educational agencies for programs to help improve and strengthen the basic skills of reading, mathematics, and oral and written communications. The bilingual education program is improved and strengthened. Additional services are provided for Indian children.

The actions taken by the 95th Congress to amend the Higher Education Act and the Elementary and Secondary Education Act restates the role of Federal participation in education—to support State and local governments in their efforts to provide an adequate education for students of all ages; to protect the education rights of disadvantaged students and insure that their special needs are met; and to insure uniform, adequate education standards nationwide.

● Mr. PELL. Mr. President, the conference report on H.R. 15, the Education Amendments of 1978, to my mind represents one of the best pieces of legislation dealing with Federal assistance to elementary and secondary education ever brought before the Senate. It was the product of long and hard negotiation with our colleagues from the House Education and Labor Committee. The ensu-

ing compromise represents a balanced approach to Federal aid to elementary and secondary education.

The conference agreement extends existing programs, as amended, through fiscal year 1983. It seeks to reduce the amount of paperwork required of State and local education officials to the greatest extent possible. In addition, it assures children in nonpublic schools of full participation in federally assisted educational programs.

Title I of the conference agreement rewrites title I of the Elementary and Secondary Education Act, the major Federal program of aid to elementary and secondary education, to make its requirements simpler and clearer. New moneys appropriated for compensatory education programs will be equally split between the formula in existing law, which is based on the 1970 census and the presence of children receiving aid to families with dependent children, and a new formula based upon the 1975 Census Bureau survey of income and education. Reliance upon both of these indices of poverty will give the program a solid statistical base, while reflecting some changes in residence patterns of the poor which have occurred since 1970. The net result deals even-handedly with all areas of the country.

In addition, the conference agreement adopted two new programs sought by the administration—a program of matching funds for incentive grants for States to adopt their own compensatory education programs, and a program of $400 million in grants to urban and rural school districts enrolling an extremely high number or percentage of children from low-income families. No State will receive less than 0.25 percent of the funds available for the concentration grant program.

The bill adopts the administration's new basic skills program, with emphasis on grants from the Secretary for projects seeking to improve reading, writing, mathematics, and communications skills. As we are all to well aware, recent studies have shown an alarming decline in our students' basic skills capacity. This program seeks to reverse this decline.

In the area of paperwork reduction, the conference agreement authorizes the Secretary of Health, Education, and Welfare to serve as a coordinator of data and information requests from all Federal agencies to schools and colleges. He would have the power to deny duplicative and unnecessarily burdensome requests, subject to the review of the Office of Management and Budget. In other programs, annual reports are changed to biennial submissions, and applications are required only once every 3 years. This should substantially reduce the flow of paper between our Nation's schools and Washington, D.C.

The conference agreement extends the provisions of several successful categorical aid programs, such as metric education and arts in education. In addition, it expands the authorization for others, such as education of gifted and talented children and women's educational equity.

By far the most difficult issue for the conferees to resolve was impact aid. The House bill expanded the existing law, without changing its basic structure as a three-tier system of mandatory funding levels. The Senate amendment sought to strike the tier system completely, giving discretion in funding levels and categories of children to the appropriations process. The conferees met until the early morning hours in an attempt to compromise these substantial differences, but broke up in continued disagreement.

The final agreement, reached after a number of additional hours of discussion, represents, to my mind, the best compromise we could have achieved in sustaining the intent of the Senate. It provides a measure of flexibility for the appropriations process to determine relative funding levels, while assuring school districts currently receiving impact aid that they will not suffer catastrophic and immediate reductions in their impact aid payments. As the program progresses through the years, it is my hope that impact aid payments to various school districts become an accurate reflection of their actual need and the effects of Federal impact.

I would like to pay tribute to my fellow conferees for their long and untiring efforts in arriving at a successful conference agreement. I would also like to express my personal gratitude to Chairman CARL A. PERKINS of the House conferees, who chaired the conference with an experienced gavel. Without his persistence and good humor, the conference could have dissolved at several points.

Finally, I would like to thank the Government Printing Office for their outstanding service in preparing drafts of the bill and statement of managers during this frenzied period. In addition, I would like to express my appreciation to Blair Crownover of the office of the Senate Legislative Counsel and to Steve Cope of the office of the House Legislative Counsel, for the many long hours they put in in drafting and honing the final conference document.

I urge my colleagues to adopt this report.●

● Mr. JAVITS. Mr. President, after several days of conference, including one especially challenging session that stretched until 2:30 a.m., I am pleased to announce my support for the conference agreement on H.R. 15, the Elementary and Secondary Education Amendments of 1978. Before discussing the conference report, however, I would like to give credit to certain of my colleagues in both Houses whose expertise with this vast piece of legislation, and whose remarkable fortitude in the face of some radical differences between the two bills deserve special mention.

I offer my respect and congratulations to Senator PELL, the Education Subcommittee chairman, for his leadership in producing a conference report in which we can all take great pride.

On the House side, I wish to credit three Members in particular. Representative CARL PERKINS, chairman of the full Education and Labor Committee, masterfully chaired the conference committee with an experienced and disciplined hand. Representative AL QUIE, ranking minority member of the Education Subcommittee and the full committee, has clearly improved the quality of this legislation as well as numerous other education measures by his active and responsible participation. And Representative BILL FORD, long a vigorous and expert member of the Elementary, Secondary and Vocational Education Subcommittee, showed an impressive in-depth and wide-ranging knowledge of the various issues before us in conference.

This conference agreement on H.R. 15 contains programs necessary to provide educational opportunity for all. It successfully balances the various competing interests for additional funds with the reality of budget constraints. It adheres to categorical prescriptions for funds, providing money only for specified Federal purposes. The conference was not an easy one, for multitudes of differences between the House and Senate bills and a number of major discrepancies represented highly conflicting points of view. The resulting agreement as contained in the conference report carries my full and enthusiastic support.

Throughout the development of H.R. 15, I have stressed three primary goals: increased equity in the distribution of aid to urban and rural school districts, reduction of paperwork, and full participation in eligible programs by students in nonpublic schools. The conference agreement achieves all three goals.

In addition, the final legislation contains two expanded programs in which I have a unique personal interest: gifted and talented children, and adult education programs which includes a new authorization for adult immigrants.

Under ESEA title I, the single largest programs for Federal education funds, the conference agreement provides a new program authorizing $400 million in "concentration grants" for school districts with the highest numbers and concentrations of low-income children. All school districts in counties with over 5,000 or 20 percent poor children are entitled to receive funds in addition to their basic grant amount for providing remedial services to disadvantaged children. This will benefit the most needy urban and rural school districts in the Nation.

The title I formula is revised to permit a full count, rather than the two-thirds in current law, of children in families whose payments from AFDC raise their income above the poverty level.

And beginning in fiscal year 1980, 50 percent of the basic grant funds above the fiscal year 1979 appropriated level will be distributed according to new data derived from combining the population count according to the 1975 survey of income and education with a poverty level set at 50 percent of the national median income.

Unlike the 1974 bill, which was highly discriminatory to my State, this agreement represents a balanced approach throughout the Nation.

The impact aid program contained the largest discrepancy between the House and Senate bills. The Senate bill, in the interest of budgetary restraint and greater congressional funding flexibility,

deleted "tier two" entirely from the existing structure of mandated appropriations. The House version, in the interest of assuring funds to school districts serving many children whose parents live or work on nontaxable Federal property, mandated increased appropriations for all types of students in the impact program. After long hours of debate and discussion, a compromise was reached which fixes the appropriations for a portion, rather than all, of the second tier. The end result is greater leeway in the appropriations process than the Congress now enjoys under current law for determining spending levels, and fairer treatment of various classes of students. A hold harmless provision is included to avoid any abrupt radical reductions in any school district.

The conference report merges my proposals for building an expanded program for gifted and talented children with a similar proposal sponsored by Representative PURSELL in the House bill. Mr. PURSELL shares my firm commitment to establishing the best possible vehicle for improving services to these children, and H.R. 15 contains such a vehicle. This will build upon the success of the gifted program over the last four years in the "basket" of the Special Projects Act. A new program will provide State grants for statewide planning and local programs. Research and evaluation capabilities and a clearinghouse are also authorized. A set percentage of the funds must be used to identify and serve disadvantaged children who show special promise.

An expanded adult education delivery system and new program for adult immigrants, which I sponsored in the Senate version, are also included in the education amendments. The service delivery system will be opened up to permit not just educational institutions, but also businesses, labor unions, community organizations, and other local groups to operate programs in various locations and with flexible schedules suited to the needs of adults desiring basic educational courses.

The conferees retained a Senate amendment which places into the statute, for the first time, specific and detailed authority for the highly successful national assessment of educational progress (NAEP). As NAEP is an ongoing activity, this provision is intended to take effect immediately upon enactment of H.R. 15 into law, to prevent severe disruption or delay in the surveys. In recent years the assessment has given the Congress, the education community and concerned families a comprehensive view of what students across the country are actually learning. It is the intention of the conferees that by giving NAEP statutory authority we will assure continuation of a reliable and valuable research tool. I fully expect that the officials in HEW will act promptly to transfer NAEP activity to NIE and assure a smooth transition while maintaining the continuity which is vital to this study. H.R. 15 maintains the current practice of awarding this effort on a competitive basis to the best qualified provider of services. I believe this kind of competition is proper and necessary to secure the best possible quality and usefulness. However, any such competition carried out after enactment of H.R. 15 must conform with its new provisions.

H.R. 15 is a massive piece of legislation containing numerous programs not mentioned in my preceding remarks, yet it fulfills only partially the responsibility of the Federal Government to assure that all groups of students have an equal opportunity to receive an education of high quality.

Mr. President, the sheer size of this measure placed a tremendous burden on the expertise and dedication of many staff members. I should like to note the contribution of the Senate Human Resources Committee staff and the House Education and Labor Committee staff, who devoted many hours to the preparation of the documents for the conference report. I should also like to give well-deserved credit to the Office of Legislative Counsel and the staff of the Government Printing Office. They worked literally around the clock and 7 days a week to produce the necessary documents which record the agreement of the conferees. In particular, I would like to mention the dedicated and expert services of Mr. Blair Crownover of the Senate Legislative Counsel and Mr. Steve Cope of the House Legislative Counsel.●

Mr. BELLMON. Mr. President, I would like to take this opportunity to congratulate the Senate conferees on their work in what I know was a most difficult conference.

In all candor, and with some regret I must admit that an amendment I sponsored contributed to the difficulty of their task. My amendment, which would have eliminated the tier funding structure in impact aid, nearly deadlocked the conference. I am well aware that some of the Senate conferees strongly opposed this amendment on the floor of the Senate. I am also aware that the House conferees were adamant in their insistence that they could not accept this amendment. I admire and appreciate the way Senators PELL, JAVITS, EAGLETON, STAFFORD, and all of the other Senate conferees supported the Senate position; and I am extremely pleased with the compromise finally reached by the conferees.

If we are to achieve our common goal of balancing the Federal budget in the near future, we must be able to review competing priorities as we appropriate funds. The compromise achieved in conference makes significant progress toward this objective, as it applies to the impact aid program.

Once again, Mr. President, I want to congratulate the Senate conferees.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Louisiana.

DUTY ON WOOL

Mr. LONG. Mr. President, the other day the Senate approved as title VI of the big tax cut bill a series of welfare amendments. We have run into a problem in getting the proper consideration of these matters by the House conferees on the tax bill.

To ease this logjam, I believe that we should put these matters on another bill.

Mr. President, I therefore ask unanimous consent that the Committee on Finance be discharged from further consideration of H.R. 3946, a bill to suspend for a temporary period the rate of duty on wool; that the Senate proceed to its immediate consideration; that the only amendment that would be in order would be an amendment to be offered by the Senator from California (Mr. CRANSTON) incorporating the Senate-passed provisions of the tax bill, and that the amendment not be subject to further amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3946) to suspend for a temporary period the rate of duty on wool not finer than 46s.

UP AMENDMENT NO. 2903

Mr. CRANSTON. Mr. President, I send to the desk the amendment described by the Senator from Louisiana and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 2903.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

TITLE I—ADOPTION AND FOSTER CARE, AND CHILD WELFARE SERVICES

FEDERAL PAYMENTS FOR ADOPTION ASSISTANCE AND FOSTER CARE

SEC. -01. (a) Title IV of the Social Security Act is amended by adding at the end thereof the following new part:

"'PART E—FEDERAL PAYMENTS FOR ADOPTION ASSISTANCE AND FOSTER CARE

"STATE PLAN FOR ADOPTION ASSISTANCE AND FOSTER CARE

"SEC. 470. (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which provides—

"(1) that the State agency responsible for administering the program authorized by part B of this title shall administer the program authorized by this part;

"(2) that the plan shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

"(3) that the State shall assure that the programs at the local level assisted under this part will be coordinated with the programs at the State or local level assisted under parts A and B of this title, under title XX of this Act, or under any other appropriate provision of Federal law;

"(4) that the State will, in the adminis-

tration of its programs under this part, use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the programs, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

"(5) that the State agency referred to in paragraph (1) (hereinafter in this part referred to as the 'State agency') will make such reports, in such form and containing such information as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and certification of such reports;

"(6) that the State agency will monitor and conduct periodic evaluations of activities carried out under this part;

"(7) safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, C, or D of this title or under title I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity; and the safeguards so provided shall prohibit disclosure, to any committee or a legislature body (other than the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and any agency referred to in clause (D) with respect to an activity which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosure to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

"(8) that where any agency of the State has reason to believe that the home or institution in which a child resides whose care is being paid for in whole or in part with funds provided under this part or part B of this title is unsuitable for the child because of the neglect, abuse, or exploitation of such child, it shall bring such condition to the attention of the appropriate court or law enforcement agency;

"(9) that the standards referred to in section 2003(d)(1)(F) shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title;

"(10) for periodic review of the standards referred to in the preceding paragraph and amounts paid as foster care maintenance payments and adoption assistance payments to assure their continuing appropriateness;

"(11) that any individual who is denied a request for benefits available pursuant to this part or part B of this title (or whose request for benefits is not acted upon within a reasonable time) will be informed of the reasons for the denial or delay and, if he so requests, will be offered an opportunity to meet with a representative of the agency administering the plan to discuss the reasons for the denial or delay; and

"(12) that the State shall arrange for a periodic and independently conducted audit of the programs assisted under this part and part B of this title, which shall be conducted no less frequently than once every three years.

"(b) The Secretary shall approve any plan which complies with the provisions of subsection (a) of this section. However, in any case in which the Secretary finds, after reasonable notice and opportunity for a hearing, that a State plan which has been approved by the Secretary no longer complies with the provisions of subsection (a), or that in the administration of the plan there is a substantial failure to comply with the provisions of the plan, the Secretary shall notify the State that further payments will not be made to the State under this part, or that such payments will be made to the State but reduced by an amount which the Secretary determines appropriate, until the Secretary is satisfied that there is no longer any such failure to comply, and until he is so satisfied he shall make no further payments to the State, or shall reduce such payments by the amount specified in his notification to the State.

"FOSTER CARE MAINTENANCE PAYMENTS PROGRAM

"SEC. 471. (a) Each State with a plan approved under this part may make foster care maintenance payments (as defined in section 475(4)) under this part only with respect to a child who would meet the requirements of section 406(a) or of section 407 of this Act but for his removal from the home of a relative (specified in section 406(a)) if—

"(1) the removal from the home was (A) the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child;

"(2) such child's placement and care are the responsibility of (A) the State agency administering the State plan approved under section 470, or (B) any other public agency with whom the State agency administering or supervising the administration of the State plan approved under section 470 has made an agreement which is still in effect;

"(3) such child has been placed in a foster family home or child-care institution as a result of such determination;

"(4) such child—

"(A) received aid under the State plan approved under section 402 in or for the month in which court proceedings leading to the removal of such child from the home was initiated, or

"(B)(i) would have received such aid in or for such month if application had been made therefor, or (ii) had been living with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made; and "(5) there is a case plan (as defined in section 475(1) of the part) for such child (including periodic review of the necessity for the child's being in a foster family home or child-care institution).

"(b) Foster care maintenance payments may be made under this part only in behalf of a child described in subsection (a) of this section—

"(1) in the foster family home of any individual, whether the payments therefor are made to such individual or to a public or nonprofit private child-placement or child-care agency, or

"(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or nonprofit private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term 'foster care maintenance payment' (as defined in section 475(4)).

"(c) For the purposes of this part and part B of this title, (1) the term 'foster family home' means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing; and (2) the term 'child-care institution' means a nonprofit private child-care institution, or (subject to the succeeding sentence) a public child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing; but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent. A public institution which on the effective date of this part accommodates children and which, except for the provisions of this sentence would be a child-care institution (as defined in the preceding sentence), shall not, for purposes of this part, be considered to be a child-care institution (as so defined) with respect to any child who was in such institution on the date of enactment of this part.

"(d) For purposes of title XIX of this Act, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of this title.

"ADOPTION ASSISTANCE PROGRAM

"SEC. 472. (a)(1) Each State with a plan approved under this part may, directly or through another public or nonprofit private agency, make adoption assistance payments pursuant to an adoption assistance agreement in amounts determined under paragraph (3) of this subsection to parents who are eligible for such payments pursuant to paragraph (2) of this subsection and who, after the effective date of this section, adopt a child who—

"(A) would meet the requirements of section 406(a) or section 407 of this Act except for his removal from the home of a relative (specified in section 406(a)) as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child,

"(B)(i) received aid under the State plan approved under section 402 in or for the month in which court proceedings leading to the removal of such child from the home were initiated, or

"(ii)(I) would have received such aid in or for such month if application had been made therefor, or (II) had been living with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made, and

"(C) the State has determined, pursuant to subsection (c) of this section, is a child with special needs.

"(2) Parents may be eligible for adoption assistance payments under this part only if their income at the time of the adoption does not exceed 115 per centum of the median income of a family of four in the State, adjusted in accordance with regulations of the Secretary to take into account the size of the family after adoption. Notwithstanding the preceding sentence, parents whose income is above the limit specified therein may be eligible for assistance payments under this part if the State or local agency administering the program under this

section determines that there are special circumstances (as defined in regulations of the Secretary) in the family which warrant adoption assistance payments.

"(3) The amount of the adoption assistance payments shall be determined through agreement between the adoptive parent (or parents) and the State or local agency administering the program under this section, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

"(4) Notwithstanding the preceding two paragraphs, (A) no payment may be made to parents pursuant to this section with respect to any month in a calendar year following a calendar year in which the income of such parents exceeds the limits specified in paragraph (2), unless the State or local agency administering the program under this section has determined, pursuant to paragraph (2), that there are special circumstances in the family which warrant adoption assistance payments, (B) no payment may be made to parents with respect to any child who has attained the age of eighteen, and (C) no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

"(5) For the purposes of this part, individuals with whom a child (who the State determines, pursuant to subsection (c), is a child with special needs) is placed for adoption, pursuant to an interlocutory decree, shall be eligible for adoption assistance payments under this subsection, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

"(b) Any child—

"(1) who the State determines meets the requirements of subsection (a); and

"(2) who is placed for adoption or adopted following such determination

shall, with respect to any medical condition which was in existence at the time the child was adopted, retain such eligibility until the age of eighteen under such plan. However, a State may provide to such a child full eligibility for medical assistance under the State's plan approved under title XIX.

"(c) For purposes of this section, a child shall not be considered a child with special needs unless—

"(1) the State has determined that the child cannot or should not be returned to the home of his parents; and

"(2) the State has first determined (A) that there exists with respect to the child a specific factor or condition because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance, and (B) that, except, where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoptive assistance under this section.

"(d) Notwithstanding any other provision of this part, no adoption assistance payment under a State plan approved under this part shall be made pursuant to any adoption assistance agreement entered into after September 30, 1983.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 473. For the purpose of carrying out this part, other than section 476, there are authorized to be appropriated for each fiscal year (commencing with the fiscal year which begins October 1, 1978) such sums as may be necessary.

"PAYMENTS TO STATES; ALLOTMENTS TO STATES

"SEC. 474. (a) For each quarter beginning after September 30, 1978, each State which has a plan approved under this part (subject to the limitations imposed by subsection (b)) shall be entitled to a payment equal to the sum of—

"(1) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as foster care maintenance payments under section 471 for children in foster family homes or child-care institutions; plus

"(2) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as adoption assistance payments under section 472 pursuant to adoption assistance agreements entered into prior to October 1, 1983; plus

"(3) an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision, and

"(B) one-half of the remainder of such expenditures.

"(b)(1) Nothwithstanding the provisions of subsection (a)(1) and (a)(3), with respect to expenditures relating to foster care, the aggregate of the sums payable to any State thereunder, with respect to expenditures relating to foster care, for the calendar quarters in any fiscal year shall not exceed the State's allotment for such year.

"(2) For purposes of this subsection, a State's allotment for the fiscal year ending September 30, 1977, shall be equal to the amount of the Federal funds payable to such State under section 403 on account of expenditures for aid with respect to which Federal financial participation is authorized pursuant to section 408 (including administrative expenditures attributable to the provision of such aid). In the event that there is a dispute between any State and the Secretary as to the amount of such expenditures for such fiscal year, then, until the beginning of the fiscal year immediately following the fiscal year in which the dispute is finally resolved, the amount of the State's allotment for such fiscal year shall be deemed to be the amount of Federal funds which would have been payable under such section 403 if the amount of such expenditures were equal to the amount thereof claimed by the State.

"(3)(A) For the fiscal year 1979, the allotment of each State shall be equal to 120 per centum of its allotment for the preceding year or (if greater) the amount provided under subparagraph (B). For the fiscal years 1980, 1981, 1982, and 1983 the allotment of each State shall be equal to 110 per centum of the amount of its allotment for the preceding fiscal year, or (if greater) the amount provided under subparagraph (B). For the fiscal year 1984 and each fiscal year thereafter, the allotment of each State shall be equal to its allotment for the fiscal year 1983, or (if greater) the amount provided under subparagraph (B).

"(B) The amount of any State's allotment, for any fiscal year referred to in subparagraph (A), shall be the amount determined under such paragraph or (if greater) an amount which bears the same ratio to $100,000,000 as the under age twenty-one population of such State bears to the under age twenty-one population of the fifty States and the District of Columbia. The Secretary shall promulgate the amount of each State's allotment, for the fiscal year 1979, no later than thirty days after the date of enactment of this part, and for any succeding fiscal year, prior to the first day of the third month of the preceding fiscal year, on the basis of the most recent satisfactory data available from the Department of Commerce.

"(c) For the fiscal year 1979, and each fiscal year thereafter, sums available to a State from its allotment under subsection (b) for carrying out this part, which the State does not claim as reimbursement for expenditures in such year pursuant to subsecton (a) of this section, may be claimed by the State as reimbursement for expenditures in such year pursuant to part B of this title, in addition to such sums available pursuant to section 420 for carrying out that part.

"DEFINITIONS

"SEC. 475. As used in this part or part B of this title:

"(1) The term 'case plan' means a written document which includes at least the following information: a description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the judicial determination made with respect to the child in accordance with section 471(a)(1); a plan of services that will be provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his own home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

"(2) The term 'parents' means biological or adoptive parents or legal guardians, as determined by applicable State law.

"(3) The term 'adoption assistance agreement' means a written and consensual agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adopting parents of a minor which specifies, at a minimum, the amounts of the adoption assistance payments and any additional services and assistance which are to be provided as part of such agreement.

"(4) The term 'foster care maintenence payments' means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

"TECHNICAL ASSISTANCE; DATA COLLECTION AND EVALUATION

"SEC. 476. (a) The Secretary may provide technical assistance to the States to assist them to develop the programs authorized under this part and shall periodically (1) evaluate the programs authorized under this part and part B of this title and (2) collect and publish data pertaining to the incidence and characteristics of foster care and adoption in this country.

"(b) Each State shall submit statistical reports as the Secretary may require with respect to children for whom payments are made under this part containing information with respect to such children including legal status, demographic characteristics, location, and length of any stay in foster care.".

(b)(1) Effective with respect to expenditures made after September 30, 1978, section 408 of the Social Security Act is, subject to paragraph (2), repealed.

(2) The repeal made by paragraph (1) shall not be applicable in the case of any State for any quarter prior to the first quarter, which begins after September 30, 1978, in which such State has in effect a State plan approved under part E of the Social Security Act, or (if earlier), such repeal shall be effective with respect to expenditures made after September 30, 1979. During any period with respect to which the repeal made by paragraph (1) is not applicable in the case of a State, the aggregeate of the sums payable to the State, under the State's plan approved under part A of title IV of the Social Security Act, with respect to expenditures (including administrative expenditures) authorized or incurred by reason of the provisions of section 408 of such Act shall not exceed the amount of the allotment which such State would have had for such period under section 474(b) if such State had had an approved plan under part E of such title IV.

(c) For the first fiscal year with respect to which there is appropriated under section 420 of the Social Security Act a sum which is subject to the restriction authorized under section 428(a) of such Act, any administrative expenses incurred by a State, under its State plan approved under part E of such Act, for any of the purposes described in section 428(b)(1) of such Act shall be subject to Federal financial participation under such part E without regard to whether the inclusion of such expenditures could cause the total of such State's expenditures under such plan (insofar as it relates to foster care) to exceed the amount of the State's allotment, imposed by section 474(b) of such Act, for such fiscal year.

(d) The amendments made by this section shall be effective on and after October 1, 1977.

CHILD WELFARE SERVICES GRANTS

SEC. 102. (a) Section 423 of the Social Security Act (including the caption thereto) is amended to read as follows:

"FEDERAL SHARE

"SEC. 423. The 'Federal share' for any State shall, effective on and after October 1, 1978, be 75 per centum.".

(b) Section 425 of such Act is amended by adding at the end thereof the following new sentence: "Expenditures made by a State for any calendar quarter which begins after September 30, 1978, for foster care services which do not constitute child welfare services shall be treated, for purposes of making Federal payments under this part with respect to expenditures for child welfare services, as if such foster care services did constitute child welfare services; except that, the amount payable to the State with respect to expenditures made for child welfare services and for foster care services during any such quarter shall not exceed 100 per centum of the amount of the expenditures made for child welfare services as determined without regard to this sentence.".

(c) Part B of title IV of such Act is further amended by adding at the end thereof the following new section:

"LIMITATION ON PAYMENTS WITH RESPECT TO FOSTER CARE

"SEC. 427. Notwithstanding any other provision of this part, if for any fiscal year which begins after September 30, 1978, there is appropriated under section 420 an amount in excess of the amount appropriated for the fiscal year ending on September 30, 1978, the amount payable to any State for expenditures made to provide child welfare services in the form of foster care maintenance payments in foster family homes or other foster care facilities, shall not exceed the amount of its allotment (before application of the provisions of section 424) under this part for the fiscal year ending September 30, 1978. Funds made available to any State pursuant to section 474(c) shall be subject to the limitation imposed by the preceding sentence.".

(d) Section 425 of such Act is amended by inserting "(a)" immediately after "SEC. 425." and by adding at the end thereof the following new subsection:

"(b) Funds expended by a State for any calendar quarter to comply with the statistical report required by section 476(b), and funds expended with respect to nonrecurring costs of adoption proceedings in the case of children placed for adoption with respect to whom assistance is provided under a State plan for adoption assistance approved under part E of this title, shall be deemed to have been expended for child welfare services.".

CASE REVIEW AND OTHER SERVICES FOR CHILDREN IN FOSTER CARE

SEC. 103. Part B of title IV of the Social Security Act is amended by adding after section 427 (as added by section 102(c) of this Act) the following new sections:

"PORTIONS OF INCREASED ALLOTMENTS TO BE USED FOR CERTAIN SERVICES

"SEC. 428. (a)(1) If, for any fiscal year after 1978, there is appropriated under section 420 a sum in excess of the sum appropriated thereunder for the fiscal year 1978, the appropriation Act by which such sum is appropriated may set aside the amount of such excess necessary for the carrying out of the activities and programs described in subsections (b) and (c).

"(2) Whenever a specified amount of the sum appropriated under section 420 for any fiscal year is set aside pursuant to paragraph (1), the allotment of each State for such fiscal year shall be adjusted accordingly so as to restrict the availability of funds to the carrying out of the activities and programs described in subsections (b) and (c).

"(b) For the first year that any amount of a State's allotment is restricted under subsection (a)(2), the amount so restricted may, except as provided in subsection (c), be expended only for the following purposes (and amounts so expended shall be conclusively presumed to be expended for child welfare services):

"(1) for the purpose of conducting an inventory of all children who have been in foster care under the responsibility of the State for a period of six months preceding the inventory; for the purpose of determining the appropriateness of, and necessity for, the current foster placement, whether the child can be or should be returned to his parents or should be freed for adoption, and the services necessary to facilitate either the return of the child or the placement of the child for adoption or legal guardianship;

"(2) for the purpose of designing and developing to the satisfaction of the Secretary—

"(A) a statewide information system from which the status, demographic characteristics, location, and goals for the placement of every child in foster care or who has been in such care within the preceding twelve months can readily be determined;

"(B) a case review system for each child receiving foster care under the supervision of the State; and

"(C) a service program designed to help children remain with their families and, where appropriate, help children return to families from which they have been removed or be placed for adoption or legal guardianship.

"(c) For any fiscal year (after the first fiscal year) that any amount of a State's allotment is restricted under subsection (a)(2), the amount so restricted may be expended only for the implementation and operation of the systems and programs described in subsection (b)(2) (and amounts for such purposes shall be conclusively presumed to be expended for child welfare services). In the case of any State which has completed an inventory of the type specified in subsection (b)(1) and the design and development of the program and systems referred to in subsection (b)(2) prior to the first fiscal year referred to in subsection (b), or at any time prior to the end of such fiscal year, the amount of such State's allotment which is restricted under subsection (a)(2) may thereafter be used for the purposes specified in the first sentence of this subsection.

"(d)(1) As used in subsection (b)(2)(B), the term 'case review system' means a procedure for assuring that—

"(A) each child has a case plan designed to achieve placement in the least restrictive (most family-like) setting available and in close proximity to the parents' parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents.

"(2) As used in paragraph (1)(B), the term 'administrative review' means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

"PAYMENTS TO INDIAN TRIBAL ORGANIZATIONS

"SEC. 429. (a) The Secretary may, in appropriate cases (as determined by the Secretary) make payments under this part directly to an Indian tribal organization within any State which has a plan for child-welfare services approved under this part. Such payments shall be made in such manner and in such amounts as the Secretary determines to be appropriate.

"(b) Amounts paid under subsection (a) shall be deemed to be a part of the allotment (as determined under section 421) for the State in which such Indian tribal organization is located.

"(c) For purposes of this section—

"(1) the term 'tribal organization' means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body; and

"(2) the term 'Indian tribe' means any tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (Public Law 92-203; 85 Stat. 688)) which (A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or (B) is located on, or in proximity to, a Federal or State reservation or rancheria.".

EARNED INCOME DISREGARD

SEC. -04. (a) Section 402(a)(7) of the Social Security Act is amended by striking

out "any expenses" and inserting in lieu thereof "any child care expenses".

(b) Section 402(a)(8)(A)(ii) of the Social Security Act is amended to read as follows:

"(ii) in the case of earned income of a dependent child not included under clause (i), a relative receiving such aid, and any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, (I) the first $60 of earned income for individuals who are employed at least forty hours per week, or at least thirty-five hours per week and are earning at least $92 per week; and (II) the first $30 of earned income for individuals not meeting the criteria of subclause (I), plus (III) in each case, one-third of up to $300 of additional earnings, and one-fifth of such additional earnings in excess of $300, except that in each case an amount equal to the reasonable child care expenses incurred (subject to such limitations as the Secretary may prescribe in regulations) shall first be deducted before computing such individual's earned income (except that the provisions of this clause (ii) shall not apply to earned income derived from participation on a project maintained under the programs established by section 432(b)(2) and (3)); and".

(c)(1) The amendments made by this section shall become effective on January 1, 1979.

(2) A State plan for aid and services to needy families with children shall not be regarded as failing to comply with the requirements imposed with respect to approved State plans under part A of title IV of the Social Security Act, and the amount payable to any State under such part shall not be decreased, solely because such State plan fails to comply with the requirements of paragraph (7) or (8) of section 402(a) of the Social Security Act as in effect after the date of enactment of this Act and prior to January 1, 1979, if such State plan complies with the requirements of such paragraphs as amended by this section.

TITLE II—OTHER AMENDMENTS RELATING TO SOCIAL SECURITY ACT

SEC. -01. (a)(1) Section 2002(a)(2)(A) of the Social Security Act is amended—

(A) by striking out "$2,500,000,000" and inserting in lieu thereof "the amount specified in clause (ii)";

(B) by inserting "(i)" after "(2)(A)"; and

(C) by adding the following clause at the end thereof:

"(ii) The amount specified for purposes of clause (i) is $2,500,000,000 for fiscal years prior to fiscal year 1979, $2,700,000,000 for fiscal year 1979, and $2,900,000,000 for fiscal years after fiscal year 1979.".

(2) Section 3 of Public Law 94-401 is amended—

(A) in the matter preceding paragraph (1) of subsection (a)—

(i) by striking out the word "and" which appears after "1977,", and

(ii) by inserting after "1978," the following: "and the fiscal year ending September 30, 1979,",

(B) in subsection (a)(1), by adding after and below subparagraph (B) the following new subparagraph:

"(C) 107.407 per centum of the amount of the limitation so imposed (as determined without regard to this section) in the case of such fiscal year ending September 30, 1979, or",

(C) in subsection (a)(2), by striking out "or either such fiscal year" and inserting in lieu thereof "or any such fiscal year",

(D) in subsection (b), by striking out "or either fiscal year" and inserting in lieu thereof "or any fiscal year",

(E) in subsections (c)(1) and (c)(2)(A), by striking out "or either fiscal year" and inserting in lieu thereof "or any fiscal year (other than the fiscal year ending September 30, 1979)",

(F) in subsection (d)(1)—

(i) by striking out the word "or" which appears after "1977,", and

(ii) by inserting after "1978" the following: ", or the fiscal year ending September 30, 1979", and

(G) in subsection (d)(2), by striking out "for either such fiscal year" and inserting in lieu thereof "for any such fiscal year".

(b) Section 2004(1) of such Act is amended by striking out "either the Federal Government or the State government" and inserting in lieu thereof "the Federal Government, the State government, or the county governments within such State".

(c)(1) Section 2004(1) of such Act (as amended by subsection (b)) is further amended by inserting before the semi-colon at the end thereof the following: ", and the end of such fiscal year or either of the next two succeeding fiscal years is established as the end of the State's services program period".

(2) Section 2004 of such Act is amended—

(A) by striking out "services program year" each place it appears and inserting in lieu thereof "services program period";

(B) by striking out "annual" in paragraph (2) (in the matter preceding subparagraph (A)) and in paragraph (4); and

(C) by striking out "during that year" in paragraph (2) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "during that period".

(3) Section 2002(a)(3)(B) of such Act is amended by striking out "annual".

(4) Sections 2003(d)(1) and 2005 of such Act are each amended by striking out "services program year" and inserting in lieu thereof in each instance "services program period".

(5) Section 2003(b) of such Act is amended—

(A) by striking out "each services program year" and inserting in lieu thereof "each fiscal year (as selected by the State under section 2004(1)) within each services program period"; and

(B) by striking out "and services program year" and inserting in lieu thereof "any services program period".

ADDITIONAL FEDERAL FUNDING UNDER AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAMS FOR CERTAIN MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS

SEC. -02. (a) Section 403(a)(3) of the Social Security Act is amended by—

(1) striking out "and" at the end of subparagraph (A);

(2) redesignating subparagraph (B) thereof as subparagraph (D); and

(3) by adding after subparagraph (A) the following new subparagraphs:

"(B) 90 per centum of so much of the sums expended during such quarter (commencing with the quarter which begins January 1, 1979) as are attributable to the planning, design, development, or installation of such statewide mechanized claims processing and information retrieval systems as (i) meet the conditions of section 402(a)(30), and (ii) the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of State plans approved under title XIX, and State programs with respect to which there is Federal financial participation under title XX,

"(C) 75 per centum of so much of the sums expended during such quarter (commencing with the quarter which begins January 1, 1979) as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under contract with the State) of the type described in subparagraph (B) (whether or not designed, developed, or installed with assistance under such subparagraph) and which meet the conditions of section 402(a)(30), and".

(b)(1) Section 402(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of subparagraph (28),

(B) by striking out the period at the end of the subparagraph (29) and inserting in lieu of such period the following: "; and", and

(C) by adding after and below subparagraph (29) thereof the following new subparagraph:

"(30) at the option of the State, provide, effective January 1, 1979 (or at the beginning of such subsequent calendar quarter as the State shall elect), for the establishment and operation, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under subsection (d), of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan for aid to families with dependent children approved under this part, so as (A) to control and account for (i) all the factors in the total eligibility determination process under such plan for aid (including, but not limited to, (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses, and mailing addresses (including potal ZIP codes), of all applicants and recipients of such aid and the relative with whom any child who is such an applicant or recipient is living) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether an individual is or has been receiving benefits from more than one jurisdiction, (II) checking records of applicants and recipients of such aid on a periodic basis with other agencies, both intra- and inter-State, for determination and verification of eligibility and payment pursuant to requirements imposed by other provisions of this Act), (ii) the costs, quality, and delivery of funds and services furnished to applicants for and recipients of such aid, (B) to notify the appropriate officials of child support, food stamp, social service, and medical assistance programs approved under title XIX whenever the case becomes ineligible or the amount of aid or services is changed, and (C) to provide for security against unauthorized access to, or use of, the data in such system.".

(2) Section 402 of such Act is further amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in subsection (a)(30), unless he finds that such document, when implemented, will generally carry out the objectives of the statewide management system referred to in such subsection, and such document—

"(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

"(B) contains a description of the proposed statewide management system referred to in section 403(a)(3)(D), including a description of information flows, input data, and output reports and uses,

"(C) sets forth the security and interface requirements to be employed in such statewide management system,

"(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

"(E) includes cost-benefit analyses of each alternative management system, data processing services failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.".

(c) Title IV of the Social Security Act is further amended by inserting after section 411 the following new section:

"TECHNICAL ASSISTANCE FOR DEVELOPING MANAGEMENT INFORMATION SYSTEMS

"SEC. 412. The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 403(a)(3)(B) of this Act.".

IMPLEMENTATION OF WORK AND TRAINING REQUIREMENTS UNDER AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAMS

SEC. –03. (a) Section 402(a)(19)(A) of Social Security Act is amended—

(1) by striking so much of subparagraph (A) as follows "(A)" and precedes clause (i), and inserting in lieu thereof the following: "that every individual, as a condition of eligibility for aid under this part, shall register for manpower services, training, employment, and other employment related activities with the Secretary of Labor as provided by regulations issued by him, unless such individual is—";

failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.".

(c) Title IV of the Social Security Act is further amended by inserting after section 411 the following new section:

"TECHNICAL ASSISTANCE FOR DEVELOPING MANAGEMENT INFORMATION SYSTEMS

"SEC. 412. The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 403(a)(3)(B) of this Act.".

IMPLEMENTATION OF WORK AND TRAINING REQUIREMENTS UNDER AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAMS

SEC. —03. (a) Section 402(a)(19)(A) of the Social Security Act is amended—

(1) by striking so much of subparagraph (A) as follows "(A)" and precedes clause (i), and inserting in lieu thereof the following: "that every individual, as a condition of eligibility for aid under this part, shall register for manpower services, training, employment, and other employment related activities with the Secretary of Labor as provided by regulations issued by him, unless such individual is—";

(2) in clause (vi) of subparagraph (A), by striking out "under section 433(g)";

(3) by striking out the word "or" after clause (v);

(4) by adding the word "or" after clause (vi); and

(5) by adding after clause (vi) the following new clause:

"(vii) a person who is working not less than 30 hours per week;".

(b) Section 402(a)(19)(B) of such Act is amended by inserting "to families with dependent children" immediately after "that aid".

(c) Section 402(a)(19)(D) of such Act is amended by striking out ", and income derived from a special work project under the program established by section 432(b)(3)".

(d) Section 402(a)(19)(F) of such Act is amended—

(1) by striking out, in the matter preceding clause (i), "and for so long as any child, relative, or individual (certified to the Secretary of Labor pursuant to subparagraph (G))" and inserting in lieu thereof "(and for such period as is prescribed under joint regulations of the Secretary and the Secretary of Labor) any child, relative or individual", and

(2) by inserting "and" at the end of clause (iv), and by striking so much of such subparagraph (F) as follows clause (iv).

(e) Section 402(a)(19)(G) of such Act is amended—

(1) in clause (i), by inserting "(which will, to the maximum extent feasible, be located in the same facility as that utilized for the administration of programs established pursuant to section 432(b)(1), (2), or (3))" immediately after "administrative unit",

(2) by striking out, in clause (ii), "subparagraph (A)", and inserting in lieu thereof "subparagraph (A) of this paragraph, (I)",

(3) by striking out "part C" where it first appears in clause (ii) and inserting in lieu thereof "section 432(b)(1), (2), or (3)".

(4) by striking out, in clause (ii), "employment or training under part C," and inserting in lieu thereof "employment or training under section 432(b)(1), (2), or (3), (II) such social and supportive services as are necessary to enable such individuals as determined appropriate by the Secretary of Labor actively to engage in other employment related (including but not limited to employment search) activities, and (III) for a period deemed appropriate by the Secretary of Labor after such an individual accepts employment, such social and supportive services are as reasonable and necessary to enable him to retain such employment,".

(f) Section 403(c) of such Act is amended by striking "part C" and inserting in lieu thereof "section 432(b)(1), (2), or (3)".

(g) Section 403(d)(1) of such Act is amended by adding at the end thereof the following new sentence: "In determining the amount of the expenditures made under a State plan for any quarter with respect to social and supportive services pursuant to section 402(a)(19)(G), there shall be included the fair and reasonable value of goods and services furnished in kind from the State or any political subdivision thereof.".

(h) The amendments made by this section (other than those made by subsections (c) and (d)) shall take effect on January 1, 1979, and the joint regulations referred to in section 402(a)(19)(F) of the Social Security Act (as amended by this section) shall be promulgated on or before such date, and take effect on such date.

INCENTIVE TO REPORT EARNED INCOME BY AID TO FAMILIES WITH DEPENDENT CHILDREN RECIPIENTS

SEC. –04. (a) Section 402(a)(8) of the Social Security Act is amended—

(1) by inserting "or" at the end of subparagraph (D) thereof, and

(2) by adding after subparagraph (D) the following new subparagraph:

"(E) any of the persons specified in clause (i) or (ii) of subparagraph (A) if there is a failure without good cause to make a timely report (as prescribed by the State plan) to the State agency of earned income received in such month;".

(b) The amendments made by this section shall take effect on January 1, 1979.

PAYMENT TO STATES FOR COMPENSATION OF COURT PERSONNEL IN CHILD SUPPORT CASES

SEC. –05. Section 455 of the Social Security Act is amended by adding after subsection (b) the following new subsection:

"(c)(1) Payment under subsection (a) shall be made with respect to compensation for judges and other support and administrative personnel of the courts who perform services directly related to the child support program established under the provisions of this part, but only for that portion of such compensation as relates to such services which are clearly identifiable with and directly related to such program.

"(2) Payments made as provided in paragraph (1) shall be made only with respect to amounts expended by a State on or after January 1, 1979, and only for amounts expended in a calendar year which exceed the amount expended by such State for such purposes in the twelve-month period beginning July 1, 1976.

"(3) Payments made to any State with respect to compensation as provided in paragraph (1) may be made by such State directly to the courts if such State so provides.".

CHANGE IN PUBLIC ASSISTANCE MATCHING FORMULA FOR PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM

SEC. –06. Section 1118 of the Social Security Act is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the term 'Federal medical assistance percentage' shall, in the case of Puerto Rico, the Virgin Islands, and Guam, mean 75 per centum when applied to quarters in fiscal years which commence after September 30, 1978.".

INCREASE IN AMOUNT OF PUBLIC ASSISTANCE DOLLAR LIMITATIONS FOR PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM

SEC. –07. Subsection (a) of section 1108 of the Social Security Act is amended—

(a) in paragraph (1)—

(1) by striking out "or" at the end of clause (D),

(2) by striking out the semicolon at the end of clause (E) and inserting in lieu thereof "prior to the fiscal year 1979, or"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) $72,000,000 with respect to the fiscal year 1979 and each fiscal year thereafter;",

(b) in paragraph (2)—

(1) by striking out "or" at the end of clause (D),

(2) by striking out "; and" at the end of clause (E) and inserting in lieu thereof "prior to the fiscal year 1979, or"; and

(3) by adding at the end thereof the following new subparagraph;

"(F) $2,400,000 with respect to the fiscal year 1979 and each fiscal year thereafter; and",

and

(c) in paragraph (3)—

(1) by striking out "or" at the end of clause (D),

(2) by striking out the period at the end of clause (E) and inserting in lieu thereof "prior to the fiscal year 1979, or"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) $3,300,000 with respect to the fiscal year 1979 and each fiscal year thereafter.".

NORTHERN MARIANA ISLANDS

SEC. 608. (a) Section 3(a) of the Social Security Act (as in effect on the effective date of this section with respect to the Commonwealth of Puerto Rico, the Virgin Islands, and Guam) is amended, in paragraphs (1) and (2), by striking out "and Guam," each place it appears therein and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands,".

(b)(1) Section 403(a) of the Social Security Act (as in effect on the effective date of this section with respect to the Commonwealth of Puerto Rico, the Virgin Islands, and Guam) is amended, in paragraphs (1) and (2), by striking out "and Guam," each place it appears therein and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands,".

(2) Section 423 of the Social Security Act is amended, in subsections (a) and (b), by striking out "and Guam" each place it appears therein and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands".

(c) Section 1003(a) of the Social Security Act (as in effect on the effective date of this section with respect to the Commonwealth of Puerto Rico, the Virgin Islands, and

Guam) is amended, in paragraphs (1) and (2), by striking out "and Guam," each place it appears therein and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands,".

(d) Section 1403(a) of the Social Security Act (as in effect on the effective date of this section with respect to the Commonwealth of Puerto Rico, the Virgin Islands, and Guam) is amended, in paragraphs (1) and (2), by striking out "and Guam," each place it appears therein and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands,".

(e) Section 1603(a) of the Social Security Act (as in effect on the effective date of this section with respect to the Commonwealth of Puerto Rico, the Virgin Islands, and Guam) is amended, in paragraphs (1) and (2), by striking out "and Guam," each place it appears therein and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands,".

(f) Section 1905(b) of the Social Security Act is amended by striking out "and Guam" and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands".

(g)(1) Section 1101(a) of the Social Security Act is amended—

(A) in the first sentence thereof, by striking out "and Guam" and inserting in lieu thereof ", Guam, and the Commonwealth of the Northern Mariana Islands", and

(B) in the fourth sentence thereof, by striking out "and Guam" each place it appears therein and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands".

(2) Section 1101(a)(8) of the Social Security Act is amended in subparagraphs (A) and (B), by striking out "and Guam" each place it appears therein and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands".

(h)(1) Section 1108(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (2),

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and

(C) by adding at the end thereof the following new paragraph:

"(4) for payment to the Commonwealth of the Northern Mariana Islands shall not exceed $570,000 with respect to fiscal year 1979 and each fiscal year thereafter.".

(2) Section 1108(b) of such Act is amended—

(A) by striking out "and" at the end of paragraph (2),

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and ", and

(C) by adding at the end thereof the following new paragraph:

"(4) for payment to the Commonwealth of the Northern Mariana Islands shall not exceed $15,000.".

(3) Section 1108(c) of such Act is amended—

(A) by striking out "and" at the end of paragraph (2),

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new paragraph:

"(4) for payment to the Commonwealth of the Northern Mariana Islands shall not exceed $160,000.".

(4) Section 1108(d) of such Act is amended by inserting "the Commonwealth of the Northern Mariana Islands," immediately after "Samoa,".

(5) The heading to section 1108 of such Act is amended by striking out "AND GUAM" and inserting in lieu thereof "GUAM, AND THE NORTHERN MARIANA ISLANDS".

(i) The last sentence of section 1118 of the Social Security Act, as added by section 807 of this Act, is amended by striking out "and Guam" and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands".

(j) Section 248 of Public Law 90-248 is amended—

(1) in subsection (b), by striking out "and Guam" and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands",

(2)(A) in the first sentence of subsection (c), by striking out "or Guam" and inserting in lieu thereof "Guam, or the Commonwealth of the Northern Mariana Islands",

(B) in the second sentence of subsection (c), by striking out "and Guam" and inserting in lieu thereof "Guam, or the Commonwealth of the Northern Mariana Islands",

(B) in the second sentence of subsection (c), by striking out "and Guam" and inserting in lieu thereof "Guam, and the Commonwealth of the Northern Mariana Islands", and

(3) in subsection (d), by striking out "or Guam" and inserting in lieu thereof "Guam, or the Commonwealth of the Northern Mariana Islands".

(k)(1) The provisions of titles I, X, XIV, and XVI of the Social Security Act (as applicable on the effective date of this section to Puerto Rico, the Virgin Islands, and Guam) shall be applicable to and in effect with respect to the Commonwealth of the Northern Mariana Islands.

(2) Section 7(b) of Public Law 93-647 is amended by striking out "or Guam" and inserting in lieu thereof "Guam, or the Commonwealth of the Northern Mariana Islands".

(l) The amendments made by this section shall become effective on October 1, 1978.

(m) Section 502 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States (approved by Public Law 94-241) shall be construed as if the clause "Section 228 of Title II and Title XVI of the Social Security Act as it applies to the several States" did not appear therein and, notwithstanding any provision of such section, no provision of the Social Security Act shall be or become applicable to the Northern Mariana Islands or any resident thereof by reason of the provisions of such section 502.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 3946), as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CRANSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I have two routine motions.

First, I move to reconsider the vote by which H.R. 3946 passed the Senate.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I ask that the Senate insist on its amendment to H.R. 3946 and request a conference with the House of Representatives and that the Chair appoint the conferees on behalf of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG, Mr. TALMADGE, Mr. MOYNIHAN, Mr. CURTIS, and Mr. HATCH conferees on the part of the Senate.

PROTECTION OF PRIVACY OF RAPE VICTIMS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 4727.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4727) to amend the Federal Rules of Evidence to provide for the protection of the privacy of rape victims.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read twice and that the Senate proceed to the immediate consideration of H.R. 4727.

The PRESIDING OFFICER. Without objection, it is so orderd.

Mr. THURMOND. Mr. President, the House passed the above bill Tuesday, October 10, 1978. It is being held at the desk pending a decision as to whether to refer it to committee (thereby killing it) or to pass it without amendment.

Senators BAYH and BENTSEN presently have bills on the subject pending in the Criminal Laws Subcommittee. An abbreviated version passed the Senate as part of S. 1437, the criminal code bill.

H.R. 4727, as passed by the House, essentially does the following:

First. Prohibits any use of reputation or opinion evidence of the past sexual behavior of the victim in a criminal prosecution for rape or assault with intent to commit rape.

Second. Restricts the use of direct evidence of the past sexual behavior of the victim of rape and assault with intent to commit rape to three situations:

(a) Where the judge finds after a hearing that admission of the evidence is required under the Constitution;

(b) The judge finds after a hearing that the past sexual behavior was with a person other than the accused and is being offered to show that someone other than the accused was the source of semen or injury; and

(c) The judge finds after a hearing that the past sexual behavior was with the accused and is offered by the accused solely on the issue of consent.

Third. Creates notice and hearing procedures on the evidentiary issues delineated by the bill.

Mr. President, I think this is a good bill. I think it is unconscionable when rape cases are tried that they can go back and try to attack a woman's veracity, her virtue, and so forth. This bill, as I understand it, will alleviate that situation.

I would inquire of the distinguished Senator from Indiana if he construes the bill that way.

Mr. BAYH. Mr. President, on October 10, the House of Representatives passed H.R. 4727, legislation to amend the Federal Rules of Evidence to provide for the protection of the privacy of rape victims. This legislation is identical to legislation I introduced in the Senate on March 23, 1977, S. 1100. The purpose of the House-passed measure, as well as my original bill, is to make the prosecution of Federal rape cases more effective and equitable for rape victims, and to serve as a model statute for State laws.

At the present time, many women rape victims are reluctant to report a rape or to testify during the trial itself. Many of these women fear that once they take the witness stand they will be subjected to a painful cross-examination into the intimate details of their past sexual histories. In Federal court and in most State courts, the trial judge is free to decide on a case-by-case basis. whether a victim can be cross-examined indiscriminately as to her past sexual relationships. Unfortunately, in many instances such questioning has degenerated into a public humiliation of the victim herself, and has had little relevance to the prosecution of the case in question.

The unfortunate result of this practice has been that women are hesitant to cooperate with police and prosecutors in bringing such cases to trial. After suffering the trauma of rape, many victims are understandably reluctant to put themselves through another ordeal on the witness stand. The practice of subjecting rape victims to such interrogation has been clearly shown to act as a deterrent on effective law enforcement for the crime of rape.

H.R. 4727 seeks to correct this unfortunate situation by amending the Federal Rules of Evidence concerning the admissability of evidence relating to rape victim's prior sexual history. Under the provisions of H.R. 4727, a new rule of evidence, applicable only in criminal cases, would make evidence of prior sexual history inadmissable except under three circumstances.

First, in order to make sure that we are infringing upon a defendant's civil liberties, such evidence may be admissable where it is required under the Constitution. This exception is intended to cover those instances where, because of an unusual set of circumstances, if the general rule of inadmissability were to be followed, it might deprive a defendant of his constitutional rights.

The second circumstance in which the defendant can offer evidence of a rape victim's prior sexual history is where the defendant raises the issue of consent and the evidence is of sexual behavior with the defendant.

The third circumstance in which a court can admit evidence of prior sexual history is where the evidence may show that sexual relations occurred between the victim and someone other than the defendant.

Evidence which might fall under these exceptions is not automatically admissible however. If the defendant proposed to offer evidence in either category, he must first make a written offer of proof which is submitted to the presiding judge. If the judge then decides after an in camera hearing that such evidence is admissible, he must make a written order specifically identifying the evidence to be admitted and describing exactly the areas of cross-examination to be permitted. This procedure is designed to afford the victim maximum notice of the questioning that may occur.

It is our hope that this legislation will serve as a model statute for individual State laws. To date at least 30 States, including my own State or Indiana, are more progressive than the Federal Government on this issue.

One need only look to a few statistics to show that a majority of the rapes committed are never reported. For example, the New York City Police Department estimates that only 1 in every 10 rapes committed in that city are ever reported. An 18-month-long study by the Denver Anti-Crime Council showed that 43.2 percent of reported rapes during the study period were never brought to trial because the victim refused to prosecute.

The crime of forcible rape is the fastest growing crime in the United States. The number of forcible rapes has increased an astonishing 62 percent since 1968. FBI statistics for 1976 show that reported rapes nationwide numbered 56,730. This means there is one rape every 10 minutes. I hope that my colleagues will join me in supporting this legislation which will provide for fairer and more effective prosecution of rape crimes.

Mr. President, I compliment the distinguished Congresswoman from Brooklyn, Congresswoman HOLTZMAN, for her initiative in joining in this legislation which is before us.

Mr. President, there have been a lot of people involved in this. The Senator from South Carolina expressed his concern, of course, as a member of the Judiciary Committee.

I would like to pay particular attention to the contributions made by the distinguished Senator from Delaware, the chairman of the subcommittee in Judiciary which has jurisdiction over this measure. Senator BIDEN has done yeoman work in bringing the Senate's attention to this matter.

Also I would like to call the Senate's attention to the long-time and continuing interest of the distinguished Senator from Texas (Mr. BENTSEN). He introduced similar legislation sometime ago and was looking forward to being here on the floor of the Senate at the time this was being debated. However, as a member of the Finance Committee and as a member of the conference committee which is in the process of trying to resolve some of the differences between the House and the Senate on certain legislation, it is not possible for him to be here.

I do want the RECORD to show that he has had a long-time, continuing interest in this, and has made a valuable contribution to this legislation reaching its present status.

PRIVACY PROTECTION FOR RAPE VICTIMS ACT OF 1978

● Mr. BIDEN. Mr. President, I am pleased to join my colleague from Indiana in moving that the Senate pass H.R. 4727, the Privacy Protection for Rape Victims Act of 1978. In enacting this legislation we will address a problem which has plagued our criminal justice system for generations.

Rape is one of the most heinous and fastest growing crimes in this country. According to the FBI, since 1962 forcible rapes have increased 62 percent. Yet, rape is also one of the most underreported violent crimes. Even when the crime is reported victims are often unwilling to proceed with prosecution. In New York City only one-tenth of all rapes are actually reported and another study in Denver found that over 40 percent of rape victims were unwilling to cooperate with a prosecution.

The rules of evidence used in criminal trials are a major cause of the reluctance of women to report rapes or to participate in the prosecution. These rules of evidence add to the shock and horror of rape by allowing the victim of the rape to be treated as if she somehow encouraged the rape.

The enactment of this legislation will eliminate the traditional defense strategy, too often permitted by our laws, of placing the victim and her reputation on trial in lieu of the defendant. This legislation will end the practice, at least in the Federal system, wherein rape victims are bullied and cross-examined about their prior sexual experiences. Indeed, in many cases the victims, no doubt, find the trial almost as degrading as the rape itself.

Thirty States have already taken action very similar to the bill that we propose today. However, in the Federal system it is still permissible to cross-examine the victim about past sexual behavior. This bill will modernize the Federal rules and at the same time serve as a model for reform in the remaining States.

The Advisory Committee notes on rule 404(a) of the Federal Rules of Evidence indicate that the rule clearly permits the use of opinion or reputation evidence or the use of evidence of specific behavior to show the character of a rape victim when the defendant raises the issue of consent. Of course this is the traditional approach by which a sharp defense counsel can often intimidate a rape victim.

In our zeal to correct this abuse it is important that we keep in mind the constitutional rights of the defendant to a fair trial. Therefore this bill has been carefully drafted to keep the reform within constitutional limits.

The bill clearly permits the defendant to offer evidence where it is constitutionally required. Indeed, the bill specifically recognizes two circumstances where the evidence may be admitted. However, the bill also would establish a special in camera procedure whereby the question of admissibility could be litigated without harm to the privacy rights of the victim or the constitutional rights of the defendant.

This bill is simple and noncontroversial. I understand it enjoys the support of the Justice Department as well as the American Civil Liberties Union. I urge my colleagues to vote in favor of this

bill not only for those reasons but because it will be a constructive addition to the law and to its enforcement.

Finally, I would like to insert in the CONGRESSIONAL RECORD some material offered by the American Bar Association in its testimony in favor of the bill on the House side. The material consists of a hypothetical interrogation of a robbery victim, assuming the robbery victim were asked the same kinds of questions a rape victim is often asked in cross-examination. Although the interrogation is humorous for the hypothetical robbery victim, it is not so funny for the real victims of rape:

"YOU ASKED FOR IT"

In the following exchange, a hold-up victim is asked questions similar to those asked of a rape victim. The testimony here—indeed, the whole line of questioning—would be inadmissible. In the case of the rape victim, it would be allowable—and quite standard.

"Mr. Smith, you were held up at gunpoint on the corner of First and Main?"

"Yes."

"Did you struggle with the robber?"

"No."

"Why not?"

"He was armed."

"Then you made a conscious decision to comply with his demands rather than resist?"

"Yes."

"Did you scream? Cry out?"

"No, I was afraid."

"I see. Have you ever been held up before?"

"No."

"Have you ever given money away?"

"Yes, of course. . . ."

"And you did so willingly?"

"What are you getting at?"

"Well, let's put it this way, Mr. Smith. You've given money away in the past—in fact you've quite a reputation for philanthropy. How can we be sure that you weren't contriving to have your money taken away from you by force?"

"Listen, if I wanted. . . ."

"Never mind. What time did this hold-up take place, Mr. Smith?"

"About 11 p.m."

"You were out walking on the street at 11 p.m.? Doing what?"

"Just walking."

"Just walking? You know it's quite dangerous being out on the street that late at night. Weren't you aware that you could have been held up?"

"I hadn't thought about it."

"What were you wearing at that time, Mr. Smith?"

"Let's see . . . a suit. Yes, a suit."

"An expensive suit?"

"Well, . . . yes. I'm a successful lawyer, you know."

"In other words, Mr. Smith, you were walking around the streets late at night in a suit that practically advertised the fact that you might be a good target for some easy money, isn't that so? I mean, if we didn't know better, Mr. Smith, we might even think you were asking for this to happen, mightn't we?"

"Look, can't we talk about the past history of the guy who did this to me?"

"Tell me, Mr. Smith—did you enjoy the experience? Did it make you feel good?"

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4727) was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SEIZURE OF VEHICLES USED IN SMUGGLNG ALIENS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. HUDDLESTON, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1197, which is cleared, I understand, on both sides of the aisle.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3093) to provide for the seizure, forfeiture, and disposition of vehicles used to illegally transport persons into the United States, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 2, beginning with line 1, strike through and including line 16, and insert in lieu thereof the following:

"(A) the owner, master, or other person in charge of such vessel, vehicle, or aircraft, was not, at the time of the alleged illegal act, a consenting party or privy thereto; or

"(B) the alleged illegal act occurred while such vessel, vehicle, or aircraft was in the illegal possession of any person other than the owner, as established by the criminal laws of the United States, or of any States.

"(2) The Attorney General shall, within one hundred and eighty days from the date of enactment of this Act, promulgate regulations setting forth procedures for the expeditious return to the owner, master, or other person in charge of any vessel, vehicle, or aircraft seized in violation of paragraph (1). In any such case, the owner, master, or other person in charge of such vessel, vehicle, or aircraft shall not incur any expenses, including costs of transportation, storage, damage, and attorney fees, associated with such seizure and forfeiture.

"(3) Any conveyance subject to seizure under this section may be seized without a warrant if there is probable cause to believe the conveyance has been used in violation of subsection (a) and circumstances exist where a warrant is not conditionally required."

On page 3, line 15, strike "(3)" and insert "(4)";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) is amended by redesignating subsection (b) as subsection (c) and adding a new subsection (b) as follows:

"(b)(1) Any vessel, vehicle, or aircraft which is used in the commission of a violation of subsection (a) shall be subject to seizure and forfeiture, except when—

"(A) the owner, master, or other person in charge of such vessel, vehicle, or aircraft, was not, at the time of the alleged illegal act, a consenting party or privy thereto; or

"(B) the alleged illegal act occurred while such vessel, vehicle, or aircraft was in the illegal possession of any person other than the owner, as established by the criminal laws of the United States, or of any States.

"(2) The Attorney General shall, within one hundred and eighty days from the date of enactment of this Act, promulgate regulations setting forth procedures for the expeditious return to the owner, master, or other person in charge of any vessel, vehicle, or aircraft seized in violation of paragraph (1). In any such case, the owner, master, or other person in charge of such vessel, vehicle, or aircraft shall not incur any expenses, including costs of transportation, storage, damage, and attorney fees, associated with such seizure and forfeiture.

"(3) Any conveyance subject to seizure under this section may be seized without a warrant if there is probable cause to believe the conveyance has been used in violation of subsection (a) and circumstances exist where a warrant is not conditionally required.

"(4) All provisions of law relating to the seizure, forfeiture, and disposition of vessels, vehicles, and aircraft for violations of customs law shall apply to violations of the provisions of this chapter: *Provided*, That—

"(A) duties imposed on customs officers or other persons regarding the seizure of such conveyances under customs law shall apply to seizures carried out under the provisions of this section by such officers or persons authorized for that purpose by the Attorney General; and

"(B) proceedings instituted under this subsection respecting vessels shall be subject to the Supplemental Rules of Certain Admiralty and Maritime Claims.".

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, this legislation, S. 3093 will provide a valuable tool to the Immigration and Naturalization Service in their fight to curb the escalating flow of illegal immigrants into this country. The amendment would provide the INS with statutory authority to seize and forfeit vehicles used to transport illegal aliens into this country. Included in the amendment is ample protection for innocent parties who have a financial interest in the vehicles.

S. 3093 has been thoroughly reviewed by many interested parties who found it acceptable and necessary. It was originally introduced by Senator DECONCINI and me, and an extensive subcommittee hearing was chaired by the distinguished Senator from Arizona on August 14, 1978. Commissioner Costillo of the Immigration and Naturalization Service appeared at the hearing along with several other reputable witnesses and all endorsed the bill. The bill also has been approved and reported by the Senate Judiciary Committee.

The need for this authority is clearly evident. The Immigration and Naturalization Service is presently engaged in the almost impossible task of stopping the flow of hundreds of thousands of illegal aliens into this country each year. In fiscal year 1976 the small INS staff apprehended approximately 875,000 illegal aliens. However, even with this large number of apprehensions it is estimated that many more escaped undetected. While no single additional Federal statute will totally eliminate this underground travel, the amendment which I am introducing would act as a deterrent by removing vehicles from this activity and making smuggling operations more expensive.

The amendment is essentially the same as existing Federal law from which the

U.S. Customs Service derives its authority to seize vehicles used in smuggling contraband into the United States. These statutes have been upheld many times by the Federal courts, and their effectiveness in deterring smuggling is generally accepted. In fiscal year 1977 the Customs Service seized several thousand conveyances. Of these, 989 vehicles, 16 vessels and 25 aircraft were forfeited.

The U.S. Customs Service has found its authority to seize vehicles to be extremely beneficial to its antismuggling efforts. And it seems logical that such authority should be extended to the Immigration and Naturalization Service since smuggling is involved in both situations.

Illegal immigration is a problem of monumental proportions which, because of its growing size, has the potential to seriously affect every facet of our economic and social life in this country. Estimates place the number of illegal aliens now living in this country between 4 and 8 million.

Although the INS is apprehending close to a million per year, it is generally agreed that the total number is increasing. Most of the illegal aliens who enter this country are young adults who are seeking employment. They are usually emigrating from a developing country that has a high rate of unemployment, or underemployment. The primary cause of this situation is the excessively high birth rate of the developing countries. In 1976 the world population passed the 4 billion mark, and it is continuing to grow at a staggering rate. Mexico, which accounts for most of the illegal aliens entering the United States, will see its population double in only 20 years, and in 50 years it will probably have more people than the United States. Since most of the illegal aliens come from the Western Hemisphere countries, we can anticipate that the efforts to emigrate to the United States will increase proportionately.

With the high rates of unemployment which we have experienced in recent months, I believe that the large numbers of illegal aliens who are willing to accept almost any type of job under almost any kind of adverse working conditions have contributed to the excessively high rates of unemployment in this country.

Not only do illegal aliens take jobs which could be held by American citizens, many experts believe that they also depress working conditions in the industries in which they are concentrated. Because of their illegal status, the workers cannot take the chance of drawing attention to themselves by demanding safe and healthy working conditions.

If illegal aliens have a significant impact on the present economy of this country, the prospects become even more disconcerting if we anticipate what the future holds. Zero population growth estimates that at current population growth and legal immigration levels, 800,000 illegal immigrants entering the United States each year would add 80 million to our population within the next 50 years. This would be the equivalent of adding seven additional cities the size of New York City to this country.

The amendment would also be aimed at another side of the issue which directly affects the well-being and safety of the illegal aliens themselves. In response to the increased number of aliens seeking entry and the restrictive measures instituted along our borders to control it, alien smuggling has developed into a large illegal business. The smugglers, "coyotes" as they are called, prey upon those seeking a better standard of living. Aliens are often charged exorbitant amounts for transportation into the United States, and the indications are that the business is thriving.

Christopher Dickey, a reporter who has done a series of articles for the Washington Post on the problem of illegal aliens in the Washington area, has called the situation a "cyclical drama." According to Mr. Dickey, the illegal aliens who are apprehended by the INS and are sent back to their home country have little difficulty in locating a "coyote" who will bring them back. Each time an illegal comes back, others are encouraged to make the trip because of the stories of employers who are more than willing to give them a job at wages much higher than they could ever earn at home.

Stories of murder, robbery, rape, and squalid travel conditions are often associated with these smuggling operations. Although I do not condone the process of illegal entry, I do not have any sympathy for the "coyotes" who use the misery of others for their personal gain. This amendment would provide one way of striking back at this criminal element by taking some of the profit out of their operations.

Mr. President, I believe that the case for passage of this amendment has been more than substantiated and I urge its adoption.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to en bloc.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, this bill gives the U.S. Immigration Service and the Attorney General the right to seize any vehicle used to smuggle illegal aliens into the United States. Further, the rights of an innocent vehicle owner not a party to the illegal act are protected by an amendment to the bill which I offered in committee.

This bill gives the Immigration Service the authority the Treasury Department and the Drug Enforcement Administration already have in regard to conveyances used to transport illegal drugs, firearms and alcohol.

The necessity to justify this statute is well proven. The right of the State to invoke forfeiture is founded in the common law, and it is based upon the premise one should not profit by one's own wrong doing.

The frequency of its application in drug related cases made by Federal law enforcement personnel makes an ironclad case in favor of making this statute of forfeiture available to immigration personnel who are charged with the duty of stemming the flow of illegal aliens across our borders.

The Congress historically has reserved unto itself the right to control the flow of aliens into our Nation. This right of control casts the duty on the Congress to give the immigration personnel the means and authority to achieve the goals set by the Congress in the control of illegal immigration.

Mr. President, it should be noted that in 1973 the Congress passed amendments to the immigration laws. The House committee bill contained similar seizure language to that contained in S. 3093 as introduced. The provisions of the House committee bill were subject of "Individual Views" by CHARLES E. WIGGINS of California. Mr. President, I ask unanimous consent that those Views be included in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. The amendment which I authored, directs the Attorney General within 180 days to promulgate regulations setting forth procedures for the expeditious return to the owners or other persons in charge of any vessel seized in violation of these provisions who is not a party to the illegal act. In other words, innocent owners would be entitled to a prompt return to their vehicles. Under current law, it is sometimes months or even years before wholly innocent parties can retrieve their property. Very often this involves considerable expense, including attorney's fees, storage and transportation of the vehicle as well as any damage as might occur. These regulations to be provided would hold the innocent owners harmless for any such expenses.

In my view, this will have a deterrent effect on the Immigration Service and perhaps set a precedent for other agencies who currently have the broader seizure and forfeiture authority. It is possible that there may be abuse of this provision where parties who are really part and parcel of the illegal acts would somehow claim they were innocent of the act. This problem, of course, would be a question of fact for determination in the administrative proceedings on the issue of return of the vehicle. It is my view that this problem would occur only in a minority of cases.

Mr. President, with these added provisions, I believe that S. 3093 is a much better bill. It goes far to answer the objections posed previously by Congressman WIGGINS.

EXHIBIT 1

ADDITIONAL VIEWS OF CONGRESSMAN CHARLES E. WIGGINS

The primary objective of H.R. 982 is to protect those who have the right to make up the domestic labor force from unfair and unlawful competition from illegal aliens. Such an objective has my unqualified support.

This bill would broaden the range of persons subject to punishment for participating in the "exploitation" of illegal aliens. Existing law makes it a felony to smuggle or attempt to smuggle aliens into the United States, 8 U.S.C. 1324 (a). This bill would add sections (b) and (c) to section 1324 to provide punishment for those who knowingly

employ illegal aliens, or engage in the business of referring illegal aliens for employment. I fully support this expanded definition of culpable behavior, and defer to the judgment of the Committee on the form and severity of the penalty provisions.

However, the Committee has seen fit to include, as section (d), a provision which mandates the seizure and forfeiture of vessels, vehicles, or aircraft used "in furtherance of a violation" of existing section (a) and insofar as proposed section (b) applies to those who refer for a fee or transport illegal aliens. The clear intent of the Committee is to inflict further punishment on those who exploit illegal aliens in violation of this statute. In fact, however, this forfeiture provision will impose considerable hardship and expense on wholly innocent persons and business entities, as well as persons who for a variety of reasons have not or can not be convicted of a violation of this statute. Only occasionally will this punishment be inflicted solely on the offender the Committee intends to punish.

My objection to forefeitures is only incidentally based on the fact that they are grossly inefficient methods of punishment. This legislative command that property "shall be seized and forfeited" if used "in furtherance of a violation" of the law offends the spirit of the protections afforded a person's right to own property by the Constitution of the United States. The Fourth Amendment protects the right of the people "to be sure in their . . . effects, against unreasonable . . . seizures." Yet this proposed forfeiture provision permits, indeed commands, a federal law enforcement agent to seize and impound on the spot any automobile he believes "has been or is being used" in violation of this law.

Although this forfeiture provision is intended to inflict punishment for a crime, it is specifically made civil in nature. Civil proceedings are dramatically different from criminal proceedings. A defendant has no right to be confronted by the witnesses against him as guaranteed by the Sixth Amendment, and no right to refuse to testify except as to matters protected by the Fifth Amendment. The government needs only to prove its case beyond a preponderance of the evidence to prevail, not beyond all reasonable doubt as is the standard in criminal cases. The government can appeal civil judgments. Verdicts may be directed against the defendants in favor of the government. Worst of all, administrators of the very agency which seizes the asset, rather than impartial juries, often determine the truth of facts upon which liability is based.

The Fifth Amendment commands that no person shall be "deprived of . . . property without due process of law; nor shall private property be taken for public use without just compensation." If the Committee intends to publish criminal conduct by seizing the personal property of the wrongdoer, should not a criminal conviction be a prerequisite to the punishment? Can anyone seriously argue that depriving a person of a $5,000 automobile differs from depriving him of $5,000 in cash because one is termed a forfeiture and one a fine? The bill contains no such requirement.

Consider the following hypothetical situation. A ship owner is arrested for smuggling aliens and the boat he operates is seized. The owner is tried and acquitted of the smuggling charge. The forfeiture provision proposed here directs the government to file a civil complaint (libel) against the boat. If the government can prove beyond a preponderance of the evidence (which could well be the same evidence which failed to persuade in the criminal trial) that the boat was used in furtherance of smuggling it would be forfeit. The owner would have absolutely no remedy to recover his boat or any compensation for it. No plea of double jeopardy is available, although in fact, he was tried for essentially the same misconduct twice. A court would point out that the double jeopardy protection of the Fifth Amendment prohibits only the infliction of two criminal penalties for the same act. Here the second penalty is "civil."

The calculated avoidance of Constitutional safeguards and criminal procedures to punish by forfeiture those guilty of a "civil" crime is clearly abusive. However, this abusive statute would punish persons not even arguably guilty of any wrongdoing. Such a harsh and intolerable result goes beyond abuse and into the spirit of the Eighth Amendment prohibitions against the infliction of "cruel and unusual punishments."

Consider again the hypothetical case of the ship owner charged with smuggling aliens. If that owner were instead a captain, and the ship owned by some other person or corporation, it would still be seized and forfeit to the government. The United States Attorney is commanded by this statute to proceed to forfeit this ship even though he knows the owner is totally without guilt. The federal judge presiding at the forfeiture proceeding will award the ship to the government even if he knows the owner is innocent. This manifestly unfair result is inevitable because of the fiction, which underlies the forfeiture law, that the object itself is guilty of wrongdoing and should be punished. The only issue in the forfeiture proceeding is whether or not the ship was used in furtherance of a violation of the law. It is my impression that the great majority of automobiles, boats, and other vessels seized and forfeited are owned, wholly or in part, by leinholders, conditional sales vendors, lessors, or other third party interests. This statute, then, is primarily directed at them.

The innocent people who have lost their automobiles, airplanes, or boats to the federal government may petition the Attorney General for clemency. If they can prove complete innocence, according to standards of innocence required by the Attorney General, they may get their property back, or at least part of it. The decision of the Attorney General, with an exception for a single review petition addressed to him, is absolute and unappealable. Even if the Attorney General decides you are guilt free, he may keep your property and pay you an amount judged by him to be fair value, 28 CFR 917(i). Even if you prove your innocence, the Attorney General will not return any property until the innocent party pays the "costs and expenses incident to the seizure of the property including any court costs and accrued storage charges," 28 CFR 917 (a). Is it a wise and enlightened statute that punishes the innocent even when they prevail? What about their attorney fees? What about the cost of renting or buying a replacement automobile or boat while the government holds theirs? How will they be made whole for the mental anguish, inconvenience and aggravation of proving their innocence in the fact of implacable incomprehensible laws?

These petitions for clemency, called petitions for remission or mitigation, are repugnant on two scores. Firstly, granting unreviewable discretion over the property rights of others to an administrator, tacitly allows the arbitrary exercise of that discretion, and so is contrary to the basic tenet that all powers of discretion must be exercised reasonably. Secondly, an innocent person must prove his innocence by a petition to an unseen employee of the Attorney General to avoid punishment. To those who condone such practices on the ground that the Attorney General "is fair" in returning property to people he finds innocent, I say it is unwise policy, at the very least, to relinquish Constitutionally guaranteed rights to the government in the hope that the government will be fair and generous in protecting those rights.

The imposition of civil forfeiture penalties for criminal behavior has long been criticized by the Supreme Court, see *Boyd* v. *United States*, 116 U.S. 616 (1886). In the *United States* v. *Coin and Currency*, 401 U.S. 715, 726 (1970), the Court quotes Blackstone's condemnation of the seizure of the property of the innocent by forfeiture "as based upon 'superstition' inherited from the 'blind days' of feudalism." However, the responsibility to write the law rests with Congress not the Supreme Court. It is for Congress to carry out its Constitutional duties, here to regulate Immigration and Naturalization, in a reasonable manner. There is no compelling reason, in fact no reason whatsoever, to punish by forfeiture in this statute. To do so would only add to existing similar abuses of Congressional power.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1276), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL AS AMENDED

The bill provides statutory authority for the seizure of vehicles used to transport persons in violation of section 274 of the Immigration and Nationality Act (8 U.S.C. 1324 (a)). Section 1324(a) of 8 U.S.C. provides:

§ 1324. Bringing in and harboring certain aliens; persons liable; authority to arrest.

(a) Any person, including the owner, operator, pilot, master, commanding officer, agent, or consignee of any means of transportation who—

(1) brings into or lands in the United States, by any means of transportation or otherwise, or attempts, by himself or through another, to bring into or land in the United States, by any means of transportation or otherwise;

(2) knowing that he is in the United States in violation of law, and knowing or having reasonable grounds to believe that his last entry into the United States occurred less than 3 years prior thereto, transports, or moves, or attempts to transport or move within th United States by means of transportation or otherwise, in furtherance of such violation of law;

(3) willfully or knowingly conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, in any place, including any building or any means of transportation; or

(4) willfully or knowingly encourages or induces, or attempts to encourage or induce, either directly or indirectly, the entry into the United States of—

any alien, including an alein crewman, not duly admitted by an immigration officer or not lawfully entitled to enter or reside within the United States under the terms of this chapter or any other law relating to the immigration or expulsion of aliens, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding $2,000 or by imprisonment for a term not exceeding 5 years, or both, for each alien in respect to whom any violation of this subsection occurs: *Provided, however,* That for the purposes of this section, employment (including the usual and normal practices incident to employment) shall not be deemed to constitute harboring.

Although agents of the Customs Service have authority to seize vehicles violating customs laws, the Immigration and Naturalization Service and agents enforcing the immigration laws have no authority to confiscate vehicles used to smuggle or transport aliens. This lacuna in the law has resulted in a significant inability to enforce immigration statutes.

Granting authority to seize vehicles used

to smuggle aliens into the country will allow Border Patrol agents to remove many vehicles from the smuggling trade. This strikes smugglers with a double blow: loss of use of the vehicle and cost of replacement. Leonel Castillo, Commissioner of the Immigration and Naturalization Service, in testimony before the Immigration and Naturalization Subcommittee, gave a classic example of the extent to which vehicles are used repeatedly and flagrantly by smugglers:

"At present, the INS has no authority to impound vehicles used in alien smuggling. As a result, when we make a smuggling arrest the owner of the vehicle may simply claim it from us. Often the vehicle is back in use for smuggling by the next day.

"I can illustrate this with several examples from the Chula Vista Border Patrol Sector where our officers have apprehended and successfully sought prosecution of a large number of smuggling rights. A 1978 Ford 1-ton stake bed truck was purchased on April 14, 1978. On April 29, the truck was stopped with smuggled aliens in it. The owner picked it up from storage the same day. The next day, April 30, the truck was stopped carrying smuggled aliens. Perhaps exercising an abundance of cautions, the owner waited 2 days, until May 2, before picking up the truck. Thereafter, the vehicle was stopped and seized by the Customs Service, which does have impoundment authority. In another case, a 1967 Chevrolet pickup engaged in smuggling operations was stopped by INS officers 12 times between April, 1977 and March, 1978.

"These are merely several examples of the blatant repeat violations which we encounter. In the Chula Vista Section, 828 of the 3,600 vehicles intercepted while transporting undocumented aliens during fiscal year 1977 were repeaters. Nationwide, the repeat rate is about 20 percent. Without new legislation, this "revolving door" phenomenon will continue."

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1201, 1209, 1214, 1231, 1232, 1234, and 1236.

Mr. BAKER. Mr. President, reserving the right to object, I shall not object. These items were cleared on our calendar. We are perfectly agreeable to their consideration and passage.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

VERMEJO RECLAMATION PROJECT, NEW MEXICO—CONTRACT AMENDMENT

The Senate proceeded to consider the bill (S. 876) to authorize the Secretary of the Interior to amend the contract for the construction, operation, and maintenance of the Vermejo reclamation project between the Vermejo Conservancy District, located in the State of New Mexico, and the United States, which had been reported from the Committee on Energy and Natural Resources with an amendment on page 1, line 4, strike "authorized with and subject" and insert "authorized, subject", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of the Interior is authorized, subject to the written consent of the Vermejo Conservancy District, to amend contract numbered 178r–458, dated August 7, 1952, as amended, between the Vermejo Conservancy District, located in the State of New Mexico, and the United States for the construction, operation, and maintenance of the Vermejo reclamation project, to relieve the Vermejo Conservancy District of its remaining repayment obligation under such contract and such other penalties or other assessments or costs including interest under such contract which may become due or owing before the date of enactment of this Act, and to transfer all right, title, and interest in or to the project facilities to the Vermejo Conservancy District; except that the Vermejo Conservancy District, to the extent practicable, shall continue to operate and maintain the facilities of the Vermejo reclamation project for the benefit of all authorized project users and in accordance with the authorized project purposes.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

D.C. "HOME RULE" ACT AMENDMENTS

The bill (H.R. 12116) to amend the District of Columbia Self-Government and Governmental Reorganization Act to repeal the authority of the President to sustain the vetoes by the Mayor of the District of Columbia of Acts passed by the Council of the District of Columbia and repassed by two-thirds of the Council, to change the period during which acts of the Council of the District of Columbia are subject to congressional review, and for other purposes, was considered, ordered to a third printing, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1291), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of this House-passed bill (H.R. 12116) is to amend the "Home Rule Act" (District of Columbia Self-Government and Governmental Reorganization Act) (approved December 24, 1973, 87 Stat. 774), in order (1) to grant the Mayor authority to exercise a pocket veto; (2) to repeal Presidential review of Council acts vetoed by the Mayor and overridden by the Council; (3) to shorten and make more predictable the congressional review period for acts passed by the Council; (4) to conform the newly-enacted referendum and initiative process to the congressional review procedures; and, (5) to increase the Council's review period for budget acts.

MAJOR PROVISIONS

H.R. 12116 amends the "Home Rule Act" as follows:

Section 404(e) is amended to prevent a Council bill from becoming an act without the Mayor's signature if the Council adjourns before expiration of the 10-day mayoral review period:

(a) To repeal the President's power to sustain the Mayor's veto of acts passed by the Council;

(b) To conform the provisions of the recently enacted Charter Amendment (providing for initiative and referendum) to the Home Rule Act requirements as to transmittals to Congress and the congressional review procedures, and

(c) To shorten the congressional review period of Council acts to 30 calendar days, not including weekends, holidays, or days when either House is in recess of more than 3 days or in adjournment sine die.

The District Charter Amendment No. 1 (providing for initiative and referendum) is amended to conform to section 602(c)—the congressional review process of acts passed by Council.

NEED FOR LEGISLATION

After several years of local government under the Home Rule Act, the District of Columbia has found that several provisions consistently cause unnecessary bottlenecks in the legislative process. The President's Task Force on the District of Columbia discussed many of these problem areas, and recommended a number of the changes reflected in this bill. The clearest recommendation to come out of the task force was that Federal intrusion in purely local District decisions should be reduced or eliminated wherever possible. The most needed changes are those that delay the effective date of legislation because of overly long or unnecessary review periods. These time restraints on the Mayor and the Council often cause great difficulties in carrying out their legislative duties.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PERMANENT SUSPENSION OF DUTY ON CERTAIN DYEING AND TANNING MATERIALS

The Senate proceeded to consider the bill (H.R. 11409) to extend indefinitely the period during which certain dyeing and tanning materials may be imported free of duty, which had been reported from the Committee on Finance with amendments as follows:

On page 2, line 15, strike "Sec. 2." and insert "(c)";

On page 2, line 15, strike "the first section of this Act" and insert "subsection (a) of this section";

On page 2, line 18, strike "June 30, 1978" and insert "the date of enactment of this Act";

On page 2, beginning with line 20, insert the following:

(d) Upon request therefor filed with the customs officer concerned on or before the

ninetieth day after the date of enactment of this Act, the entry of any article—

(1) which was made after June 30, 1978, and before the date of enactment of this Act, and

(2) with respect to which there would have been no duty if the amendment made by subsection (a) of this section applied to such entry

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930, or any other provisions of law, be liquidated or reliquidated as though such entry has been made on the date of enactment of this Act.

SEC. 2. TEMPORARY SUSPENSION OF DUTY ON CERTAIN FIELD GLASSES AND BINOCULARS.

(a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

"912.06 Field glasses, opera glasses, and prism binoculars, not designed for use with infra-red light (provided for in item 708.51 or 708.52, part 2A, schedule 7), Free. No Change. On or Before 12/31/79."

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

An Act to make permanent the existing temporary suspension of duty on certain dyeing and tanning materials, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PURCHASE OF CALENDARS

The resolution (S. Res. 585) relating to the purchase of calendars was considered and agreed to, as follows:

S. RES. 585

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $47,840 for the purchase of one hundred and four thousand calendars. The calendars shall be distributed as prescribed by the committee.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MARY R. COTHRAN

The resolution (S. Res. 586) to pay a gratuity to Mary R. Cothran, was considered and agreed to, as follows:

S. RES. 586

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Mary R. Cothran, mother of Mary R. Cothran, an employee of the Senate at the time of her death, a sum equal to ten and one half months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GARY DAVES AND MARC CAYER

The bill (H.R. 4533) for the relief of Gary Daves and Marc Cayer, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JOHN F. JOHNSON

The bill (H.R. 9075) for the relief of John F. Johnson, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TECHNICAL AND CLERICAL CORRECTIONS—H.R. 3946

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of Senate amendments to H.R. 3946.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTRACT DISPUTES ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar order No. 1039, S. 3178, the Contract Disputes Act of 1978.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill to provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies, which had been reported from the Committee on Governmental Affairs and the Committee on the Judiciary, jointly, with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Contract Disputes Act of 1978".

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term "agency head" means the head and any assistant head of an executive agency, and may "upon the designation by" the head of an executive agency include the chief official of any principal division of the agency;

(2) the term "executive agency" means an executive department as defined in section 101 of title 5, United States Code, an independent establishment as defined by section 104 of title 5, United States Code (except that it shall not include the General Accounting Office); a military department as defined by section 102 of title 5, United States Code, and a wholly owned Government corporation as defined by section 846 of title 31, United States Code, the United States Postal Service, and the Postal Rate Commission;

(3) the term "contracting officer" means any person who, either by virtue of his position or by appointment in accordance with applicable regulations, has the authority to enter into and administer contracts and make determinations and findings with respect thereto. The term also includes the authorized representative of the contracting officer, acting within the limits of his authority;

(4) the term "contractor" means a party to a Government contract other than the Government;

(5) the term "Administrator" means the Administrator for Federal Procurement Policy appointed pursuant to the Office of Federal Procurement Policy Act;

(6) the term "agency board" means an agency board of contract appeals established under section 8 of this Act; and

(7) the term "misrepresentation" means a false statement of substantive fact, or any conduct which leads to a brief of a substantive fact material to proper understanding of the matter in hand, made with intent to deceive or mislead.

APPLICABILITY OF LAW

SEC. 3. Unless otherwise specifically provided herein, this Act applies to any express or implied contract (including those of the nonappropriated fund activities described in sections 1346 and 1491 of title 28, United States Code) entered into by an executive agency for—

(1) the procurement of property, other than real property in being;

(2) the procurement of services;

(3) the procurement of construction, alteration, repair or maintenance of real property; or,

(4) the disposal of personal property.

CLAIMS AND DISPUTES SETTLEMENT AUTHORITY

SEC. 4. (a) Before referring any claim to the Attorney General, or commencing any litigation concerning such claim, each agency head, in accordance with the provisions of the Federal Claims Collection Act of 1966, is authorized to settle, compromise, pay, or otherwise adjust any claim by or against, or dispute with, a contractor relating to a contract entered into by it or another agency on its behalf, including a claim or dispute initiated after award of a contract, based on breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission, but excluding a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another Federal agency is specifically authorized to administer, settle, or determine. This section shall not authorize any agency head to settle, compromise, pay, or otherwise adjust any claim involving fraud.

(b) If a contractor is unable to support any part of his claim and it is determined that such inability is attributable to misrepresentation of fact or fraud on the part of the contractor, he shall be liable to the Government for an amount equal to such unsupported part of the claim in addition to all costs to the Government attributable to the cost of reviewing said part of his claim.

DECISION BY THE CONTRACTING OFFICER

SEC. 5. (a) All contract claims submitted by a contractor against the Government or by the Government against a contractor shall be in writing. After the submission of a con-

tract claim, the contracting officer shall issue a decision in writing and shall mail or otherwise furnish a copy of the decision to the contractor. The decision shall state the reasons for the decision reached, and shall inform the contractor of his rights as provided in this Act. Specific findings of fact are not required, but, if made, shall not be binding in any subsequent proceeding.

(b) The contracting officer's decision on the claim shall be final and conclusive and not subject to review by a forum, tribunal, or Government agency, unless an appeal or suit is timely commenced as authorized by this Act.

(c) A contracting officer shall issue a decision on any submitted claim promptly and, in any event, he shall issue a decision within sixty days from his receipt of a written request from the contractor that a decision be rendered within that period. This period may be extended by written agreement between the contractor and the executive agency. Any failure by the contracting officer to issue a decision on a contract claim within the period required will be deemed to be a decision by the contracting officer denying the claim and will authorize the commencement of the appeal or suit on the claim as otherwise provided in this Act. However, in the event an appeal or suit is so commenced in the absence of a prior decision by the contracting officer, the tribunal concerned may, at its option, stay the proceedings to obtain a decision on the claim by the contracting officer.

INFORMAL ADMINISTRATIVE CONFERENCE

SEC. 6. (a) It is the policy of the Congress that contractor claims should be resolved by mutual agreement, in lieu of litigation, to the maximum extent feasible. Accordingly, a contractor shall be afforded at least one opportunity, before or after a contracting officer's decision pursuant to section 5, for an informal conference with the agency involved for the purpose of considering the possibility of disposing of the claim by mutual agreement. This conference will be held within thirty days of the request for such conference, or later if mutually agreeable between the contractor and the executive agency head.

(b) The conferees may consider any matter, written or oral, relevant to the claim, but testimony or evidence shall not be taken. Any documentary materials or oral statements submitted during the conference shall not be evidence in any subsequent appeal or suit in court on the claim unless offered anew and admissible under applicable rules of evidence of the agency board or court. Any offers of settlement or compromise during or resulting from the conference shall be without prejudice and shall not be evidence or referred to in any subsequent appeal or suit in court on the claim.

(c) The designee or designees of the agency head conducting the informal conference shall be selected from a level above the office to which the contracting officer is attached, and if feasible, shall not have participated significantly in any prior consideration of the claim.

(d) Whenever an appeal or suit is initiated pursuant to this Act and the agency board or court determines that at least one informal conference requested by the contractor has not been held, the agency board or court shall stay any further proceedings until the conference is held or waived by the contractor.

CONTRACTOR'S RIGHT OF APPEAL TO BOARD OF CONTRACT APPEALS

SEC. 7. Within ninety days from the date of receipt of a contracting officer's decision under section 5, the contractor may appeal such decision to an agency board of contract appeals, as provided in section 8.

AGENCY BOARDS OF CONTRACT APPEALS

SEC. 8. (a) (1) Except as provided in paragraph (2) an agency board of contract appeals may be established within an executive agency when the agency head, after consultation with the Administrator, determines from a workload study that the volume of contract claims justifies the establishment of a full-time agency board of at least five members who shall have no other inconsistent duties. Workload studies will be updated at least once every three years and submitted to the Administrator.

(2) The Board of Directors of the Tennessee Valley Authority may establish a board of contract appeals for the Authority of indeterminate number of members.

(b) (1) Except as provided in paragraph (2), the members of agency boards shall be selected and appointed to serve in the same manner as hearing examiners appointed pursuant to section 3105 of title 5 of the United States Code, with an additional requirement that such members shall have had not fewer than five years' experience in public contract law. Members of agency boards serving as such on the effective date of this Act shall be considered qualified. The chairman and vice chairman of each board shall be designated by the agency head from members so appointed. The chairman of each agency board shall receive compensation at a rate equal to that paid a GS–18 under the General Schedule contained in section 5332, United States Code, the vice chairman shall receive compensation at a rate equal to that paid a GS–17 under such General Schedule, and all other members shall receive compensation at a rate equal to that paid a GS–16 under such General Schedule. Such positions shall be in addition to the number of positions which may be placed in GS–16, GS–17, and GS–18 of such General Schedule under existing law.

(2) The Board of Directors of the Tennessee Valley Authority shall establish criteria for the appointment of members to its agency board of contract appeals established in subsection (a) (2), and shall designate a chairman of such board. The chairman of such board shall receive compensation at a rate equal to the daily rate paid a GS–18 under the General Schedule contained in section 5332, United States Code for each day he is engaged in the actual performance of his duties as a member of such board. All other members of such board shall receive compensation at a rate equal to the daily rate paid a GS–16 under such General Schedule for each day they are engaged in the actual performance of their duties as members of such board.

(c) If the volume of contract claims is not sufficient to justify an agency board under subsection (a) or if he otherwise considers it appropriate, any agency head shall arrange for appeals from decisions by contracting officers of his agency to be decided by a board of contract appeals of another executive agency. In the event an agency head is unable to make such an arrangement with another agency, he shall submit the case to the Administrator for placement with an agency board. The provisions of this subsection shall not apply to the Tennessee Valley Authority.

(d) Each agency board shall have jurisdiction to decide any appeal from a decision of a contracting officer (1) under a contract made by its agency, and (2) under a contract made by any other agency when such agency or the Administrator has designated the agency board to decide the appeal.

(e) An agency board shall provide to the fullest extent practicable, informal, expeditious, and inexpensive resolution of disputes, and shall issue a decision in writing or take other appropriate action on each appeal submitted, and shall mail or otherwise furnish a copy of the decision to the contractor and the contracting officer.

(f) The rules of each agency board shall include a procedure for the accelerated disposition of any appeal from a decision of a contracting officer where the amount in dispute is $50,000 or less. The accelerated procedure shall be applicable at the election of only the contractor. Appeals under the accelerated procedure shall be resolved, whenever possible, within one hundred and eighty days from the date either party elects to utilize such procedure.

(g) (1) The decision of an agency board of contract appeals shall be final, except that—

(A) a contractor may appeal such a decision to the Court of Claims within one hundred twenty days after the date of receipt of a copy of such decision, or

(B) the agency head, if he determines that an appeal should be taken, and with the prior approval of the Attorney General, transmits the decision of the board of contract appeals to the United States Court of Claims for judicial review, under section 2510 of title 28, United States Code, as amended herein, within one hundred and twenty days from the date of the agency's receipt of a copy of the board's decision.

(2) Notwithstanding the provisions of paragraph (1), the decision of the board of contract appeals of the Tennessee Valley Authority shall be final, except that—

(A) a contractor may appeal such a decision to a United States district court pursuant to the provisions of section 1337 of title 28, United States Code within one hundred twenty days after the date of receipt of a copy of such decision, or

(B) The Tennessee Valley Authority may appeal the decision to a United States district court pursuant to the provisions of section 1337 of title 28, United States Code, within one hundred twenty days after the date of the decision in any case.

(h) Pursuant to the authority conferred under the Office of Federal Procurement Policy Act, the Administrator is authorized and directed, as may be necessary or desirable to carry out the provisions of this Act, to issue rules and regulations with respect to—the establishment, functions, and procedures of the agency boards; and

(i) (1) Following one hundred and twenty days from the date of enactment of this Act, the contract claims of all part-time agency boards (excluding the Tennessee Valley Authority) and boards of four members or less shall be consolidated with existing boards with greater than four members.

(2) All remaining boards of greater than four members shall develop workload studies for approval by the agency head as specified in section 8(a) (1).

SMALL CLAIMS

SEC. 9. (a) The rules of each agency board shall include a procedure for the expedited disposition of any appeal from a decision of a contracting officer where the amount in dispute is $10,000 or less. The small claims procedure shall be applicable at the sole election of the contractor.

(b) The small claims procedure shall provide for simplified rules of procedure to facilitate the decision of any appeal thereunder. Such appeals may be decided by a single member of the agency board with such concurrences as may be provided by rule or regulation.

(c) Appeals under the small claims procedure shall be resolved, whenever possible within one hunderd twenty days from the date on which the contractor elects to utilize such procedure.

(d) A decision against the Government or the contractor reached under the small claims procedure shall be final and conclusive and shall not be set aside except in cases of fraud.

(e) Administrative determinations and final decisions under this section shall have no value as precedent for future cases under this Act.

(f) The Administrator is authorized to review at least every three years, beginning with the third year after the enactment of the Act, the dollar amount identified as

within the guidelines of small claims, and based upon economic indexes selected by the Administrator adjust that level accordingly.

ACTIONS IN COURT: JUDICIAL REVIEW OF BOARD DECISIONS

SEC. 10. (a)(1) Except as provided in paragraph (2), and in lieu of appealing the decision of the contracting officer under section 5 to an agency board, a contractor may bring an action directly on the claim in the United States Court of Claims, notwithstanding any contract provision, regulation, or rule of law to the contrary.

(2) In the case of an action against the Tennessee Valley Authority, the contractor may only bring an action directly on the claim in a United States district court pursuant to section 1337 of title 28, United States Code, notwithstanding any contract provision, regulation, or rule of law to the contrary.

(3) Any action under paragraph (1) or (2) shall be filed within twelve months from the date of the issuance of the decision of the contracting officer concerning the claim, and shall proceed de novo in accordance with the rules of the appropriate court.

(b) In the event of an appeal by a contractor or the Government from a decision of any agency board pursuant to section 8, notwithstanding any contract provision, regulation, or rules of law to the contrary, the decision of the agency board on any question of law shall not be final or conclusive, but the decision on any question of fact shall be final and conclusive and shall not be set aside unless the decision is fraudulent, or arbitrary, or capricious, or clearly erroneous.

(c) In any appeal by a contractor or the Government from a decision of any agency board pursuant to section 8, the court may render an opinion and judgment and remand the case for further action by the agency board or by the executive agency as appropriate, with such direction as the court considers just and proper, or, in its discretion and in lieu of remand it may retain the case and take such additional evidence or action as may be necessary for final disposition of the case.

(d) Except as otherwise provided in this Act, and notwithstanding any statute or other rule of law, or any contract provision, every claim founded upon the same express or implied contract with the United States shall constitute a separate cause of action for purposes of any suit in a court of competent jurisdiction, and such court may, in its discretion, consolidate separate claims for purposes of decision or judgment, or delay acting on claim pending action on another claim.

(e) If two or more suits arising from one contract are filed in the Court of Claims and one or more agency boards, for the convenience of parties or witnesses, in the interest of justice, the Court of Claims may order the consolidation of such suits in that court or transfer any suits to or among the agency boards involved.

(f) In any suit filed pursuant to this Act involving two or more claims, counterclaims, cross-claims, or third-party claims, and where a portion of one such claim can be divided for purposes of decision or judgment, and in any such suit where multiple parties are involved, the court, whenever such action is appropriate, may enter a judgment as to one or more but fewer than all of the claims, portions thereof, or parties.

SUBPENA, DISCOVERY, AND DEPOSITION

SEC. 11. A member of an agency board of contract appeals may administer oaths to witnesses, authorize depositions and discovery proceedings, and require by subpena the attendance of witnesses, and production of books and papers, for the taking of testimony or evidence by deposition or in the hearing of an appeal by the agency board. In case of contumacy or refusal to obey a subpena by a person who resides, is found, or transacts business within the jurisdiction of a United States district court, the court, upon application of the agency board through the Attorney General shall have jurisdiction to issue the person an order requiring him to appear before the agency board or a member thereof, to produce evidence or to give testimony, or both. Any failure of any such person to obey the order of the court may be punished by the court as a contempt thereof. The laws with respect to the giving of false testimony, evidence, or affidavits in a Federal court proceeding shall apply to appeals before agency boards.

INTEREST

SEC. 12. Interest on amounts found due contractors on claims shall be paid to the contractor from the date the claim under section 5 accrues until payment following either a final decision of an agency board or a final decision of a court of competent jurisdiction, whichever is later, or a prior settlement thereof. The interest provided for in this section shall be paid at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41 (85 Stat. 97) for the Renegotiation Board.

APPROPRIATIONS

SEC. 13. (a) Any judgment against the United States on a claim under this Act shall be paid promptly in accordance with the procedures provided by section 1302 of the Act of July 27, 1956, (70 Stat. 694, as amended; 31 U.S.C. 724a).

(b) Any monetary award to a contractor by an agency board of contract appeals shall be paid promptly in accordance with the procedures contained in subsection (a) above.

(c) Payments made pursuant to subsections (a) and (b) shall be reimbursed to the fund provided by section 1302 of the Act of July 27, 1956, (70 Stat. 694, as amended; 31 U.S. 724a) by the agency whose appropriations were used for the contract out of available funds or by obtaining additional appropriations for such purposes.

(d)(1) Notwithstanding the provisions of subsection (a) through (c), any judgment against the Tennessee Valley Authority on a claim under this Act shall be paid promptly in accordance with the provisions of section 9(b) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831(h)).

(2) Notwithstanding the provisions of subsection (a) through (c), any monetary award to a contractor by the board of contract appeals for the Tennessee Valley Authority shall be paid in accordance with the provisions of section 9(b) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 (h)).

AMENDMENTS AND REPEALS

SEC. 14. (a) The first sentence of section 1346(a)(2) of title 28, United States Code, is amended by inserting before the period a comma and the following: "except that the district courts shall not have jurisdiction of any civil action or claim against the United States founded upon any express or implied contract with the United States or for liquidated or unliquidated damages in cases not sounding in tort which are subject to sections 8(g)(1) and 10(a)(1) of the Contract Disputes Act of 1978".

(b) Section 2401(a) of title 28, United States Code, is amended by striking out "Every" at the beginning and inserting in lieu thereof "Except as provided by the Contract Disputes Act of 1978, every".

(c) Section 1302 of the Act of July 27, 1956, as amended (70 Stat. 694, as amended; 31 U.S.C. 724a), is amended by adding after "2677 of title 28" the words "and decisions of boards of contract appeals".

(d) Section 2414 of title 28, United States Code, is amended by striking out "Payment" at the beginning and inserting in lieu thereof "Except as provided by the Contract Disputes Act of 1978, payment".

(e) Section 2517(a) of title 28, United States Code, is amended by striking out "Every" at the beginning and inserting in lieu thereof "Except as provided by the Contract Disputes Act of 1978, every".

(f) Section 2517(b) of title 28, United States Code, is amended by inserting after "case or controversy" the following: ", unless the judgment is designated a partial judgment, in which event only the matters described therein shall be discharged,".

(g) There shall be added to subsection (c) of section 5108 of title 5, United States Code, a paragraph (17) reading as follows:

"(17) the heads of executive departments or agencies in which boards of contract appeals are established pursuant to the Contract Disputes Act of 1978, and subject to the standards and procedures prescribed by this chapter, but without regard to subsection (d) of this section, may place additional positions, not to exceed seventy in number, in GS-16, GS-17, and GS-18 for the independent quasi-judicial determination of contract disputes, with the allocation of such positions among such executive departments and agencies determined by the Administrator for Federal Procurement Policy on the basis of relative case load."

(h)(1) section 1346(a) of title 28, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) Any action for injunctive or declaratory relief to restrain the disclousre of, or declare the rights of any person with respect to, trade secrets, data submitted pursuant to express or implied contract provisions restricting disclosure, and privileged or confidential financial information submitted pursuant to an offer or unsolicited proposal.

(2)(A) chapter 91 of title 28, United States Code, is amended by adding immediately after section 1506 the following new section:

"§ 1507. Declaratory relief in contract cases

"The Court of Claims shall have jurisdiction to grant injunctive or declaratory relief in an action against the United States to restrain the disclosure of and to declare the rights of any person with respect to trade secrets, data submitted pursuant to express or implied contract provisions restricting disclosure, and priviliged or confidential financial information submitted pursuant to an offer or an unsolicited proposal.".

(B) The table of sections for chapter 91 of such title is amended by inserting immediately after the item relating to section 1506 the following new item:

"1507. Declaratory relief in contract cases.".

(i) The Act of May 11, 1954 (68 Stat. 81; 41 U.S.C. 321, 322), is repealed.

(j)(1) The proviso in the last sentence of the second paragraph of section 9(b) of the Tennessee Valley Authority Act of 1933 (41 Stat. 63; 16 U.S.C. 831(b)) is amended by inserting "and the Contracts Disputes Act of 1978," after "as amended.".

(2) Section 9(b) of such Act is further amended by striking out the period at the end of the last paragraph and inserting in lieu thereof "and the Contracts Disputes Act of 1978".

(k) The first sentence of section 2201 of title 28, United States Code, is amended by inserting "including the Court of Claims," immediately after "States,".

(l)(1) Section 2510 of title 28, United States Code, is amended by—

(A) inserting "(a)" immediately before such section; and

(B) adding the following new subsection at the end thereof:

"(b)(1) The head of any executive department or agency may, with the prior approval of the Attorney General, refer to the Court of Claims for judicial review any final

decision rendered by a board of contract appeals pursuant to the terms of any contract with the United States awarded by that department or agency which such head of such department or agency has concluded is not entitled to finality pursuant to the review standards specified in section 10(b) of the Contracts Disputes Act of 1978. The head of each executive department or agency shall make any referral under this section within one hundred and twenty days of the receipt of a copy of the final appeal decision.

"(2) The Court of Claims shall review the matter referred in accordance with the standards specified in section 10(b) of the Contracts Disputes Act of 1978. The Court shall proceed with judicial review on the administrative record made before the board of contract appeals on matters so referred as in other cases pending in such court, shall determine the issue of finality of the appeal decision, and shall, as appropriate, render judgment thereon, take additional evidence, or remand the matter pursuant to the authority specified in section 1491 of this title.".

(2) (A) The section heading of such section is amended to read as follows:

"§ 2510. Referral of cases by the Comptroller General or the head of an executive department or agency.".

(B) The item relating to section 2510 in the table of sections for chapter 165 of title 28, United States Code, is amended to read as follows:

"2510. Referral of cases by the Comptroller General or the head of an executive department or agency.".

SEVERABILITY CLAUSE

SEC. 15. If any provision of this Act, or the application of such provision to any persons or circumstances, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

EFFECTIVE DATE OF ACT

SEC. 16. This Act shall apply to contracts entered into one hundred twenty days after the date of enactment. Notwithstanding any provision in a contract made before the effective date of this Act, the contractor may elect to proceed under this Act with respect to any claim pending then before the contracting officer or initiated thereafter.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. BAKER. Mr. President, I thank the managers of the contract disputes bill, S. 3178, for their cooperation in tailoring that bill to the needs of the Tennessee Valley Authority. The programs of TVA are diverse and its rules and responsibilities relative to the purchase and sales of property range from regulatory control to research and development in advanced chemical processes for fertilizers.

The TVA is a hybrid organization which possesses both the characteristics of a Federal agency and an independent corporation. The autonomy of its Board of Directors in setting policies is of paramount importance if TVA is to operate successfully in all of its modes.

For that reason, I have advocated a careful modification of S. 3178 to assure TVA's continued flexibility in procurement practices.

These modifications serve three purposes:

First, the sales of power and fertilizer by TVA are exempted from the bill. Those sales contracts are not currently subject to an administrative review process. The role of TVA in these agreements is both regulatory and commercial. Clearly these functions are not typical Federal procurement functions, and they are vital to the independent corporate role of TVA. It is essential that congressional action relative to these functions show careful concern for the continued autonomy of the Board of TVA in setting policies in these areas.

Second, while other contracts of TVA are subjected to the dispute process in the bill, the administrative procedures are controlled by the TVA. This further assures the independence of the agency.

Third, the modification deletes an amendment to the Tennessee Valley Authority Act. Amendments to this act would properly be within the jurisdiction of the Senate Environment and Public Works. The deletion of this provision helps avoid potential committee jurisdictional problems.

Mr. President, with that preface I have no objections to the adoption of S. 3178. I thank the managers of the bill for their cooperation and assistance.

Mr. THURMOND. Mr. President, as the ranking minority member of the Senate Judiciary Committee, I rise in support of S. 3178, a bill to provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies, as amended in the nature of a substitute. S. 3178—the Contract Disputes Act of 1978—in the words of the report issued jointly by the Senate Committees on Governmental Affairs and Judiciary, ' provides a fair, balanced, and comprehensive statutory system of legal and administrative remedies in resolving Government contract claims. The act's provisions help to induce resolution of more contract disputes by negotiation prior to litigation; equalize the bargaining power of the parties when a dispute exists; provide alternate forums suitable to handle the different types of disputes; and insure fair and equitable treatment to contractors and Government agencies." The substitute bill was supported by the two Senate committees, jointly, without the filing of any minority or individual views. The distinguished Senators LAWTON CHILES and HOWARD METZENBAUM, submitted the 53-page report on behalf of the Committee on Governmental Affairs and the Committee on the Judiciary, respectively. The distinguished Senators DENNIS DECONCINI, H. JOHN HEINZ, HOWARD M. METZENBAUM and BOB PACKWOOD cosponsored the proposed legislation.

Mr. President, the proposed law implements recommendations made by the Commission on Government Procurement. Although some concern arose as to the impact of this bill on defense procurement contracts, these problems have been successfully resolved by amendments today considered with the bill. S. 3178 should be enacted.

Mr. METZENBAUM. Mr. President, earlier this year, the Subcommittee on Citizens and Shareholders Rights and Remedies of the Committee on the Judiciary, which I chair, held joint hearings with the Committee on Governmental Affairs' Subcommittee on Federal Spending and Open Government, chaired by Senator CHILES. Those hearings were extremely useful and played a role in producing what I consider an excellent piece of legislation. I am pleased to join the Senator from Florida as a cosponsor, and I am sure that my colleagues will join me in commending him for the outstanding contribution he has made in this bill toward reform of the Federal procurement process.

The Contracts Disputes Act of 1978 is the end result of years of careful study and analysis. In 1972, for example, the Commission on Government Procurement issued a report that was sharply critical of the manner in which the Federal Government handles disputes with contractors. That report found that too often the agency boards charged under the existing system with reviewing contract disputes had very little credibility with the parties to those disputes. Frequently, the boards were perceived by the parties as excessively responsive to the contracting agencies whose disputes they decided. Furthermore, the boards were often viewed as lacking the authority and prestige needed to make sound and objective decisions and the procedures established by the boards have been widely criticized for failing to provide the necessary procedural safeguards and due process. The board procedures have also been justly described as excessively cumbersome where smaller claims are concerned.

The bill before us addresses each of these longstanding problems.

The bill provides for strong and independent Agency Boards of Appeal by the simple expedient of prohibiting Board members from undertaking duties within any agency that would be inconsistent with their judicial role. In addition, the bill improves the factfinding ability of the Boards by providing them with subpena and discovery power. It also provides for increased compensation to Board members in order to insure that the Government will be able to retain the high caliber personnel needed to make the strengthened system work effectively. And finally, the bill simplifies procedures for handling claims involving $10,000 or less.

These changes are badly needed. They will streamline contract disputes and they will clarify what are now confusing procedures.

But, Mr. President, the bill will do more than simply improve administration. It also contains tough provisions designed to discourage unwarranted contractor claims against the Government.

There can be no doubt that inflated contractor claims have cost the taxpayers of this country many millions of dollars. Under the leadership of the Senator from Wisconsin, the Joint Economic Committee has turned up example after example of questionable claims made by contractors against the Federal Government. In some cases, it appears that contractors have made a practice of rou-

timely submitting such claims simply to test the limits of Government tolerance—or credibility.

The current investigation of the General Services Administration involves widespread fraud and misrepresentation on the part of contractors and agency officials. It is difficult to imagine a more compelling case for increasing the deterrent effect of our laws against fraud.

Section 5 of the bill would discourage fraudulent claims by making any contractor who submits a fraudulent or misrepresented claim liable for an amount equal to the level of the claim itself. This provision is separate and distinct from the rights now possessed by the Government in laws such as the False Claims Act and the forfeiture statute. It supplements existing law because it reaches incipient action for which there is presently no adequate remedy. This legislation is the appropriate place in which to address this problem because it puts the contractor on notice that the kind of "horsetrading" in which some have indulged in the past is no longer legitimate.

Mr. President, I want to make it clear that this provision will in no way limit the right of contractors to make legitimate claims for recovery of legitimate costs. It will have no effect on the vast majority of contractors. It is directed only against that small minority of contractors who seek to play fast and loose with public funds.

Mr. President, I believe that we would be remiss were we to fail to move on this legislation against those few contractors who do, in fact, engage in fraud and misrepresentation. Today, when taxpayers justifiably complain of excessive Government spending, we cannot afford to overlook any opportunity to put an end to dishonesty and waste.

In closing, Mr. President, I want to urge the Senate to act promptly to adopt this legislation. In doing so, we will insure that contractors will receive the fair and objective treatment to which they are entitled. And we shall do so in a way that will protect the interests of the taxpayer.

Mr. PROXMIRE. Mr. President, Senator CHILES has performed a real service for the taxpayer. The Contract Disputes Act of 1978 represents a major step forward toward the establishment of a comprehensive system for handling disputes arising out of Government contracts.

PROTECTS TAXPAYER

Any effort to balance the rights and obligations of interested parties when a contract claim is filed would be inherently difficult. In addition to the Government and the contractor who are obviously concerned with the way contract disputes are resolved, the taxpayer also has a legitimate concern. In the final analysis the taxpayer will pay the bill for any claims settlement requiring an outlay of public funds. Therefore his interests, too, need to be taken into account.

I am satisfied that the bill we are acting on today, S. 3178, protects the taxpayer and provides for a fair and balanced procedure for the resolution of claims.

CLAIMS MUST BE DECIDED ON THEIR MERITS

I believe there is a consensus among those who participated in the drafting of the act that contract claims against the Government be decided strictly on their merits. It is most important that the taxpayer be assured that no money is paid by the Government to a private contractor for an unsubstantiated claim. Regardless of the circumstances of any individual case, there is simply no justification for any Government agency paying for a claim unless it has been found to be meritorious after a thorough examination by professional Government claims examiners. It is my hope that this act will help eliminate the filing of unsubstantiated or inflated claims by contractors who have experienced cost overruns because of their own mismanagement or inefficiency.

PROCEDURES MAKE DELAYS UNNECESSARY

It is also important that meritorious claims be settled promptly and that there be no undue delay in the evaluation and settlement of claims. S. 3178 provides for procedures which should make undue delays unnecessary.

There is no way to insure against the possibility that a claim may be unsubstantiated, inflated, or fraudulent, or that a contractor may be unreasonable in settlement negotiations. There are stiff penalties for fraudulent claims, but a contractor can make it impossible to reach a voluntary settlement of any claim and he has many opportunities to delay the claims review process.

In such cases the Government must resign itself to following the established procedures. Under the act a contractor may appeal the decision of the contracting officer to the agency's Board of Contract Appeals or directly to the Court of Claims. If the contractor goes through the Board of Appeals the Board's decision may be appealed to the Court of Claims. In any event, the agency should be willing to follow the established procedures to their administrative or judicial conclusion.

There are also procedures in this act to prevent Government officials from unduly delaying the resolution of a claim. In the case of claims under $50,000, the contracting officer must issue a decision in 60 days. For larger claims the decision must be issued within a reasonable time taking into account the size and complexity of the claim.

PUBLIC LAW 85–804

The act does not deal with the set of problems that fall under Public Law 85–804. Public Law 85–804 provides for extra contractual relief to contractors. It is not, strictly speaking, a mechanism for resolving contract disputes. There is good reason, therefore, for dealing with the contract disputes process and Public Law 85–804 separately.

The manner in which Public Law 85–804 has been employed recently by the Navy has caused some concern within Congress. The Banking, Housing and Urban Affairs Committee has an interest in this matter because of its responsibilities for defense production. The Banking Committee has already begun to inquire into the way Public Law 85–804 affects defense production and it is planned that more be done in this area in the near future.

I congratulate Senator CHILES for the magnificent task he has performed. He has had to balance the concerns of many Government agencies, committees of Congress, and outside groups. He showed great wisdom and patience by arranging numerous meetings where the many concerns could be expressed and I personally appreciate the spirit of cooperation, the courtesy and the enormous energy with which he and his staff conducted themselves.

Mr. SASSER. Mr. President, I would like to take this opportunity to express my support for S. 3178, as amended.

S. 3178 is aimed at reestablishing principles of equitable treatment for both the Federal Government and Government contractors in contracts disputes and claims.

During the markup session of S. 3178 by the Governmental Affairs Committee, I raised some concerns as to the possible effects this bill would have on the operations of the Tennessee Valley Authority, particularly with respect to the sale of fertilizer and public power. I would like to commend both Senator CHILES and METZENBAUM for their work resolving the issues raised in this important area. I am pleased with the amendments which have been offered with regard to TVA.

TVA's independent corporate status is the result of the avowed intent of the President and the Congress that TVA should be created as "a corporation clothed with the power of Government but possessed with the flexibility and initiative of a private enterprise." With its own independently established procurement system, TVA has found it beneficial to maintain a degree of flexibility without recourse to lengthy and complex regulations and procedures.

TVA serves 7 of our 50 States; its energy solution for our region is a large part of our national answer to the energy crisis. My main concern is that TVA continue supplying electricity to the Tennessee Valley at the lowest possible cost. Our region is highly dependent on electricity, which means that rate increases are hard on all of us, particularly the poor and elderly. TVA must remain autonomous. TVA's contracting operation, which is geographically removed from the District of Columbia, should be as close as possible to the people it serves so that it can work for their interests.

Mr. President, S. 3178, as amended, is responsive to TVA's unique legal, contractual and program situation.

UP AMENDMENT NO. 2049

Mr. ROBERT C. BYRD. Mr. President, I send a series of amendments to the desk and ask that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes unprinted amendments numbered 2049.

Mr. ROBERT C. BYRD. I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, line 14, strike out "either by virtue of his position or".

On page 24, line 6, insert "of fact" immediately after " 'misrepresentation".

On page 24, line 12, insert "(a)" after "Sec. 3.".

On page 24, between lines 22 and 23, insert the following:

(b) With respect to contracts of the Tennessee Valley Authority, the provisions of this Act shall apply only to those contracts which contain a disputes clause requiring that a contract dispute be resolved through an agency administrative process. Notwithstanding any other provision of this Act, contracts of the Tennessee Valley Authority for the sale of fertilizer or electric power or related to the conduct or operation of the electric power system shall be excluded from the Act.

(c) This Act does not apply to a contract with a foreign government, or agency thereof, or international organization, or subsidiary body thereof, if the head of the agency determines that the application of the Act to the contract would not be in the public interest.

On page 24, beginning on line 23, strike out all through line 14 on page 25, and insert in lieu thereof the following:

MARITIME CONTRACTS

SEC. 4. Appeals under paragraph (g) of section 8 and suits under section 10, arising out of maritime contracts, shall be governed by the Act of March 9, 1920, as amended (41 Stat. 525, as amended; 46 U.S.C. 741–752) or the Act of March 3, 1925, as amended (43 Stat. 1112, as amended; 46 U.S.C. 781–790) as applicable, to the extent that those Acts are not inconsistent with this Act.

On page 25, line 21, insert immediately after the period the following: "Liability under this subsection shall be determined within 6 years of the commission of such misrepresentation of fact or fraud."

On page 25, between lines 14 and 15, insert the following:

"FRAUDULENT CLAIMS"

On page 25, line 15, strike out "(b)" and insert in lieu thereof "SEC. 5.".

On page 25, beginning with lines 23, strike out all through line 7 on page 26, and insert in lieu thereof:

"SEC. 6. (a) All claims by a contractor against the government relating to a contract shall be in writing and shall be submitted to the contracting officer for a decision. All claims by the government against a contractor relating to a contract shall be the subject of a decision by the contracting officer. The contracting officer shall issue his decisions in writing, and shall mail or otherwise furnish a copy of the decision to the contractor. The decision shall state the reasons for the decision reached, and shall inform the contractor of his rights as provided in this Act. Specific findings of fact are not required, but, if made, shall not be binding in any subsequent proceeding. The authority of this subsection shall not extend to a claim or dispute for penalties of forfeitures prescribed by statute or regulation which another Federal agency is especially authorized to administer, settle, or determine. This section shall not authorize any agency head to settle, compromise, pay, or otherwise adjust any claim involving fraud.".

On page 26, line 9, strike out "a forum." and insert "any forum,".

On page 26, line 11, add the following at the end thereof: "Nothing in this Act shall prohibit executive agencies from including a clause in government contracts requiring that pending final decision of an appeal, action, or final settlement, a contractor shall proceed diligently with performance of the contract in accordance with the contracting officer's decision.".

On page 26, beginning on line 12, strike out all through line 2 on page 27 and insert in lieu thereof the following:

(c)(1) A contracting officer shall issue a decision on any submitted claim of $50,000 or less within sixty days from his receipt of a written request from the contractor that a decision be rendered within that period. For claims of more than $50,000, the contractor shall certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of his knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the contractor believes the government is liable.

(2) A contracting officer shall, within sixty days of receipt of a submitted certified claim over $50,000—

(A) issue a decision; or

(B) notify the contractor of the time within which a decision will be issued.

(3) The decision of a contracting officer on submitted claims shall be issued within a reasonable time, in accordance with regulations promulgated by the agency, taking into account such factors as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the contractor.

(4) A contractor may request the agency board of contract appeals to direct a contracting officer to issue a decision in a specified period of time, as determined by the board, in the event of undue delay on the part of the contracting officer.

(5) Any failure by the contracting officer to issue a decision on a contract claim within the period required will be deemed to be a decision by the contracting officer denying the claim and will authorize the commencement of the appeal or suit on the claim as otherwise provided in this Act. However, in the event an appeal or suit is so commenced in the absence of a prior decision by the contracting officer, the tribunal concerned may, at its option, stay the proceedings to obtain a decision on the claim by the contracting officer.

On page 27, beginning on line 3, strike out all through line 11 on page 28.

On page 28, line 15, strike "5" and insert in lieu thereof "6".

On page 34, line 16, strike "5" and insert in lieu thereof "6".

On page 28, line 24, strike out "five" and insert in lieu thereof "three".

On page 29, line 12, strike out "Members" and insert "Full-time members".

On page 29, line 5, insert "an" immediately before "indeterminate".

On page 31, line 18, strike out "either party" and insert "the contractor".

On page 31, line 1, strike out "under" both times it appears and insert in lieu thereof "relating to".

On page 31, line 4, immediately after the period, add the following: "In exercising this jurisdiction, the agency board is authorized to grant any relief that would be available to a litigant asserting a contract claim in the Court of Claims.".

On page 31, line 15, immediately before "election" insert "sole".

On page 32, beginning with the word "rules" on line 23, strike out through the dash on line 24 and insert: "guidelines with respect to criteria for".

On page 32, line 25, strike out the semicolon and the word "and" and insert "(except for a board established by the Tennessee Valley Authority).".

On page 33, strike lines 1 through 9 and insert the following in lieu thereof:

(i) Within one hundred and twenty days from the date of enactment of this Act, all agency boards, except that of the Tennessee Valley Authority, of three or more full time members shall develop workload studies for approval by the agency head as specified in section 8(a)(1).

On page 34, lines 8 and 9, strike out "identified as within the guidelines of small claims," and insert in lieu thereof "defined in section 9(a) as a small claim,".

On page 35, strike out lines 13 and 14 and insert in lieu thereof the following: "decision is fraudulent, or arbitrary, or capricious, or so grossly erroneous as to necessarily imply bad faith, or if such decision is not supported by substantial evidence.".

On page 35, line 2, strike out "issuance" and insert "receipt by the contractor".

On page 35, beginning on line 24, strike out all through line 7 on page 36.

On page 36, line 8, strike out "(e)" and insert in lieu thereof "(d)".

On page 36, line 14, strike out "(f)" and insert in lieu thereof "(e)".

On page 36, line 10, strike out the comma and insert "or".

On page 37, line 6, immediately after "General" add a comma and the following: "or upon application by the board of contract appeals of the Tennessee Valley Authority,".

On page 37, line 11, beginning with the word "The" immediately after the period, strike out all through the period on line 14.

On page 37, strike out lines 16 through 21 and insert in lieu thereof the following:

"Sec. 12. Interest on amounts found due contractors on claims shall be paid to the contractor from the date the contracting officer receives the claim pursuant to section 6(a) from the contractor until payment thereof. The interest provided for in this section shall".

On page 40, beginning with line 25, strike out through the matter following line 14 on page 42.

On page 42, line 15, strike out "(1)" and insert "h."

On page 43, immediately after the matter appearing after line 24, insert the following new subsection:

(i) Section 1491 of title 28, United States Code, is amended by adding the following sentence at the end of the first paragraph thereof: "The Court of Claims shall have jurisdiction to render judgment upon any claim by or against, or dispute with, a contractor arising under the Contract Disputes Act of 1978.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the explanation of the amendments be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATION OF AMENDMENTS—S. 3178

The great majority of the submitted amendments to S. 3178 are technical and clarifying in nature.

The five amendments dealing with the Tennessee Valley Authority clarify the application of S. 3178 to the operation of the TVA. The purpose of these amendments is to maintain the status quo regarding the traditional flexibility and independence of the Tennessee Valley Authority and to establish the terms and conditions of its contracts while bringing under the Act those ordinary procurement contracts of TVA in which a disputes clause is used. For the purposes of the TVA, the term "disputes clause" is intended to mean the kind of disputes procedure usually found in ordinary Government procurement contracts; that is, a clause which requires a contractor to pursue a claim first in an agency-conducted administrative process before going to court. It does not include other kinds of mechanisms negotiated in a contract, like specifying an independent third party to decide certain kinds of matters or special mechanisms to establish prices or price adjustments in long-term contracts. It is recognized that the Tennessee Valley Au-

thority has highly specialized purchasing needs and that it must have the freedom to exercise its business judgment in individual instances to be able to maintain the efficiency of its operations.

Although contracts relating to the electric power system and fertilizer sales of the Tennessee Valley Authority have not historically contained a disputes clause, they have been specifically exempted because their unique nature transcends the ordinary procurement and disposal contracts this Act intends to cover.

These amendments relating to the operation of the Tennessee Valley Authority would permit the TVA to implement the Act entirely on its own and not be subject to the regulations of the Administrator of the Office of Federal Procurement Policy. Also, the agency board of the TVA may enforce its own subpenas. And lastly, the amendment to the TVA Act is deleted as unnecessary and potentially misleading.

The amendments which delete sections 4(a) and add new language to reported sections 5(a), 8(d), and 13(b), address the concerns expressed by the Banking, Housing and Urban Affairs Committee, the subcommittee on Priorities and Economy in Government of the Joint Economic Committee and the Armed Services Committee that the Act not permit the Contracting Officer or the Agency Boards to grant the discretionary relief solely authorized by Public Law 85–804. The Act does not permit contracting officers or Agency Boards to grant such relief. Executive agency compromise and settlement authority is not addressed in this Act as this is a matter considered to be included in their existing procurement/acquisition authority under the established precedents. "All disputes" authority to eliminate the present problem whereby contested "breach" of contract cases cannot be resolved within the current disputes process is conferred to the executive agencies and the agency boards by the provisions in new Section 6(a) and 8(d) requiring all claims to be the subject of a Contracting Officer's decision and granting full jurisdiction in the Board of Contract Appeals to grant appropriate relief. The grant of authority to the agency boards in the amendment to section 8(d) is meant to supplement those situations where there is inadequate authority on the part of the contracting officer to fully resolve disputes. Agency boards will now have the same authority as the Court of Claims would have in contract cases under section 10(a), and will be in a position to hear the appeals of all contracting officers' decisions.

Section 12, Interest, is amended to address the concerns expressed by the executive agencies as well as the Armed Services Committee and the Justice Department that the determination as to "the date the claim accrues" could cause problems in defining the actual date when interest should start. There was added concern that contractors might delay submission of claims, thus not allowing the procuring agency the opportunity to review the claim at an early stage and possibly disposed of it. Because of these concerns, Section 12 has been amended to provide for interest on amounts found due contractors to be paid from the date the contracting officer receives the claim from the contractor until the payment thereof. This will provide a specific date from which interest will be paid and serve as an incentive for contractors to submit claims as soon as they are identified.

The amendment deleting section 10(d) of S. 3178 is out of a concern that the section might be interpreted as permitting contractors to split claims arising out of the same set of facts, thereby needlessly multiplying causes of action and encouraging forum shopping. It is not the intention of the committees to change the present law regarding joinder, compulsory counterclaims and definition of separate claims.

The amendment which strikes the last sentence of section 11 deals with the laws relating to false statements. Since such laws would be applicable by their own terms in appropriate situations the language of the bill might be construed as being a limit rather than a clarification.

The amendment to the reported section 5 (b) is a provision that would allow executive agencies the right to include in their contracts a clause requiring that pending final decision of an appeal or suit, or final settlement, a contractor shall proceed diligently with performance of the contract in accordance with the Contracting Officer's decision. This amendment addresses the concern of the Department of Defense that by not including such a statement in the statute, they might be precluded from inserting and enforcing sections in their contracts requiring that contractors continue performance on their contracts pending final determination of their claims. This will give the executive agencies the flexibility they currently have to include such clauses in their contracts.

Section 3 of S. 3178 is amended by adding a new subsection 3(c). This new section responds to the concerns of the Department of Defense in the handling of disputes in purchasing of supplies and services with foreign governments. These contracts are often regarded by other governments as being international agreements rather than conventional commercial transactions. Consistent with this characterization, these agreements frequently provide that disputes arising during performance of the agreement will be resolved through consultation among the governments. This amendment would give the agency head the authority and flexibility to deal with these types of cases.

The amendment to reported section 4(b) establishes a six-year statute of limitations for cases involving misrepresentation of fact or fraud.

Section 6 is deleted from the reported S. 3178. It is still the policy of Congress that contractor claims should be resolved by mutual agreement, in lieu of litigation, to the maximum extent possible. This amendment, however, reflects the concerns of the Department of Defense, Senator Proxmire, and Admiral Rickover that contractors will use this statutory authority for a meeting with superiors of the contracting officer to undermine the negotiating position of the contracting officer. I am sensitive to this concern. I also continue to believe that every effort should be made to limit the number of cases that need to be litigated. In many instances this can be accomplished by an informal conference. While this amendment deletes the statutory requirement to make available to the contractor an informal conference, I would expect that the executive agencies and the contractors will make every effort to resolve claims and disputes by mutual agreement, in lieu of litigation, to the maximum extent feasible.

Section 14(k) of the reported S. 3178 has been eliminated from the Act. This section would have given the Court of Claims jurisdiction under the Declaratory Judgment Act. The elimination of this provision addresses concerns expressed by the Justice Department, the Department of Defense and the Armed Services Committee that allowed the Court of Claims declaratory judgment authority would undermine the disputes resolving process by permitting, in some cases, access to the Court before presentation of a claim to the contracting officer. The subject of equity relief was never addressed by the Procurement Commission and I do not believe that S. 3178 is the correct forum for making this change in the jurisdiction of the Court of Claims.

A new section 4, Maritime Contracts, is added to S. 3178. The legislative report defined very precisely that the current jurisdictions for Maritime Contract claims is to be maintained and not changed by S. 3178. Concern has been expressed by the Department of Defense that this position should be included in the statute, thus section 4 has been added.

Section 10(b) is amended to change the standard of review on appeals of agency board decisions from "clearly erroneous" to "substantial evidence." As was stated in the legislative report of S. 3178, testimony was almost evenly divided between maintaining the current standard of "substantial evidence" and changing to "clearly erroneous." I am persuaded to retain the current standard for the following reasons:

1. Little hard evidence has been documented that the current standard is not working.

2. "Substantial evidence" is the almost universal standard for reviewing fact determinations by expert administrative bodies. It is the present standard and has been used for the last 24 years to review contracting decisions.

3. A major thrust of S. 3178 is to make the agency boards more prestigious and independent. Changing the standard of review would be counter-productive to this objective. The bill, therefore, makes no change in the present standard of review of agency board decisions.

Section 5(c) in the reported S. 3178 (section 6(c) in the Act as passed by the Senate) has been amended due to the concerns expressed by the Department of Defense, Senator Proxmire, and Admiral Rickover that the provisions of section 5(c), with regard to setting a time limit of 60 days after written request for a decision, were too limiting, especially for large, complex claims. The intent to this provision was to safeguard the interests of the contractor from possible unreasonable delays by contracting officers. This amendment would satisfy both concerns. The ultimate decision as to the appropriate time limit if there is a conflict by the contractor and the contracting officer will be made by the agency board after a petition by the contractor. This will safeguard the contracting officer from an arbitrary and unreasonable request from a contractor on a large complex claim and would also afford the contractor relief from possible delaying tactics of a contracting officer.

Section 14(h) in the reported S. 3178 has been eliminated from the Act. This action addressed concerns expressed by the Department of Defense, the Armed Services Committee, and the Administrative Practices Subcommittee in the Senate. The letter received from the Subcommittee Chairman, James Abourezk, is attached.

WASHINGTON, D.C.,
October 5, 1978.

Hon. LAWTON CHILES,
Chairman, Subcommittee on Federal Spending Practices and Open Government, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR LAWTON: I am writing to express the reasons for our opposition to § 14(h) of S. 3178, the Contract Disputes Act of 1978.

S. 3178, § 14(h), would vest in the Court of Claims and the district courts jurisdiction "to restrain the disclosure of and to declare the rights of any person with respect to trade secrets, data submitted pursuant to express or implied contract provisions restricting disclosure, and privileged or confidential financial information submitted pursuant to an offer or an unsolicited proposal."

As you may know, the Subcommittee on Administrative Practice and Procedure has general and legislative oversight responsibility for the Freedom of Information Act (FOIA). Generally, we are concerned that

the effect of § 14(h), if enacted, would be to revise extensively and unwisely current FOIA law with regard to the disclosure of allegedly confidential commercial information submitted by private contractors to government agencies.

Our specific reasons for opposing § 14(h) are as follows:

1. Enactment of § 14(h) would be premature in view of the pending Supreme Court case of Chrysler v. Brown.

The Supreme Court this term will decide the case of *Chrysler Corporation v. Schlesinger*, 565 F. 2d 1172 (3rd Cir. 1977), *cert. granted sub. nom., Chrysler Corporation v. Brown*, Sup. Ct. No. 77-922 (March 6, 1978). This important case raises a number of relevant issues, the resolution of which may make 14(h) unnecessary. For example, the Court will consider whether or not exemption 4 of FOIA, 5 U.S.C. 552(b)(4), mandates that confidential commercial information falling within the exemption not be publicly disclosed. The Court will also have the opportunity to address other issues raised by so-called "reverse FOIA" cases, including the rights of the information submitter, the obligations of Federal agencies to protect confidential business information, and the applicability of various laws currently relied upon to withhold trade secret information, in particular, 18 U.S.C. § 1905.

2. Government contractors currently have an adequate remedy to protect against the disclosure of their confidential commercial information.

The Committee report accompanying S. 3178 declares that the purpose of § 14(h) "is to provide the district courts and the Court of Claims with express authority for the protection of contractors with regards to their trade secrets and privileged and confidential information where there is currently no remedy at law." S. Rep. No. 1118, 95th Cong., 2nd Sess. 34 (1978). In fact, government contractors at present do have an adequate remedy for enjoining the disclosure of confidential commercial information. All the courts which have considered the issue have agreed that a cause of action does lie under one or more existing statutes, whether, for example, under FOIA itself, or 28 U.S.C. § 1331. *See, e.g., Chrysler Corporation* v. *Schlesinger*, 565 F. 2d 1172 (3rd Cir. 1977), cert. granted sub. nom., *Chrysler Corporation* v. *Brown*, Sup. Ct. No 77-922 (March 6, 1978); *General Dynamics Corp.* v. *Marshall*, 572 F. 2d 1211 (8th Cir. 1978); *Sears, Roebuck & Co.* v. *Eckerd*, No. 77-1417 (7th Cir., April 25, 1978); *Westinghouse Electric Corp.* v. *Schlesinger*, 542 F. 2d 1190 (4th Cir. 1976); *Charles River Park "A" Inc.* v. *HUD*, 519 F. 2d 935 (D.C. Cir. 1975). Submitters of business information, therefore, clearly have an adequate remedy to prevent unauthorized disclosure of allegedly confidential commercial information.

3. The enactment of § 14(h) would exacerbate the serious problem of forum shopping that currently exists with "reverse FOIA" suits.

Section 14(h) would create equitable jurisdiction for the first time in the Court of Claims, as well as in district courts, to grant injunctive or declaratory relief to restrain the disclosure of trade secrets and confidential commercial information. Currently, one of the more serious procedural problems with the "reverse FOIA" suit is the fact that it encourages the information submitter to engage in forum shopping. Thus, forums are often deliberately chosen to be as inconvenient as possible for the information requester so that the requester will be unable or unwilling to intervene in the reverse information proceeeding. Such forum shopping also becomes a problem for government agencies.

Increasingly, they are being confronted with "reverse FOIA" lawsuits filed by multiple plaintiffs in different parts of the country, where the requested information was submitted by several persons or companies, despite the fact that the questions presented are essentially the same. The creation of still another forum for "reverse FOIA" litigation, as provided under § 14(h), would only exacerbate this problem.

4. Section 14(h) does not provide the courts with adequate guidance concerning the specific standards of review to be used in reviewing actions brought under this section.

With regard to standards of review, the Committee report notes only that "[i]t is expected that the courts would use the well-developed standards for determining what are trade secrets and what is privileged information." S. Rep. No. 1118, supra, at 34. Would these "well-developed standards" be derived from the extensive number of FOIA precedents, or from general tort law precedents, which accept a far broader definition of what constitutes "confidential" or "privileged" information? The report does not indicate.

Nor does section 14(h) or the report indicate whether the appropriate standard to review an agency decision under the section is the usual "abuse of discretion" standard in the Administrative Procedure Act, limited to review on the agency record, or de novo review as under the Freedom of Information Act. This is another issue which the Supreme Court is likely to address in the Chrysler case. Without clearer guidance on the standard of review, section 14(h) could result in differing courts applying different standards in reviewing the increasing number of cases being brought to enjoin government agencies from releasing allegedly confidential information. I think you'll agree with me such an intolerable situation would create needless confusion and uncertainty.

5. Both our Subcommittee and the House Subcommittee on Government Information and Individual Rights are currently studying the problems of requests for confidential commercial information and "reverse FOIA" lawsuits.

During the 95th Congress, both Congressional committees with jurisdiction over FOIA have examined the numerous issues raised by FOIA requests for business data and expect to be dealing with the issues again in the 96th Congress. See, e.g., Hearings before the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary, U.S. Senate, on "Oversight of the Freedom of Information Act", 95th Cong., 1st Session (1978); Hearings before the Government Information and Individual Rights Subcommittee of the Government Operations Committee, U.S. House of Representatives, on the "Business Record Exemption of the Freedom of Information Act", 95th Cong., 1st Session. (1977). The House Subcommittee has released a comprehensive report on the issues, H.R. Rep. No. 1382, "Freedom of Information Act Requests for Business Data and Reverse FOIA Lawsuits", and our Subcommittee expects to release a report before the end of this Congress. Both the hearings and the reports are concerned with the issues raised by § 14(h) and discussed in this letter, including the Chrysler v. Brown case, and the problems of forum shopping and the appropriate standard of review in "reverse FOIA" suits. Should the Chrysler case not adequately resolve these and other "reverse FOIA" issues, legislative action would then be appropriate.

I share your concern about the issues raised by the growing number of lawsuits involving allegedly confidential business information. S. 3187, § 14(h), however, will only worsen the situation and I hope you'll agree to delete the provision from the bill.

Sincerely,

JAMES ABOUREZK,
Chairman, Subcommittee on Administrative Practice and Procedure.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate now proceed to the immediate consideration of H.R. 11002, Calendar Order No. 1181.

The PRESIDING OFFICER. The clerk will state the bill.

The legislative clerk read as follows:

A bill (H.R. 11002) to provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I move to strike all after the enacting clause of H.R. 11002 and to substitute therefor the text of S. 3178 as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The question is on engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 11002) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that consideration of S. 3178 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business now and that Senators may be permitted to speak up to 3 minutes therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that on October 11, 1978, he approved and signed the following acts:

S. 3467. An act to designate the United States Department of Agriculture's Pecan Field Station in Brownwood, Texas, as the "W. R. 'Bob' Poage Pecan Field station"; and

S.J. Res. 29. A joint resolution to authorize the President to issue a proclamation designating that week in November 1978, which includes Thanksgiving Day as "National Family Week".

MESSAGES FROM THE HOUSE

At 1:45 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6237. An act to amend section 9441 of title 10, United States Code, to provide for the budgeting by the Secretary of Defense, the authorization of appropriations, and the use of those appropriated funds by the Secretary of the Air Force, for certain specified purposes to assist the Civil Air Patrol in providing services in connection with the noncombatant mission of the Air Force;

H.R. 8222. An act to apply duty-free treatment under certain circumstances to articles produced in the insular possessions of the United States, and for other purposes; and

H.R. 9701. An act to amend the Budget and Accounting Procedures Act of 1950 to require that the Comptroller General provide for a financial audit with respect to pension plans for officers and employees of the Federal Government and its agencies and instrumentalities, to require that an annual report, including a financial statement and an actuarial statement, be furnished to the Congress and the Comptroller General with respect to such plans, and for other purposes.

The message also announced that the House has passed S. 1315, an act to provide more effectively for the use of interpreters in courts of the United States, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House has passed S. 3083, an act to extend the authorizations for the Noise Control Act of 1972, to expand the quiet communities program, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to H.R. 4319, an act to amend subchapter III of chapter 83 of title 5, United States Code, to provide that employees who retire after 5 years of service, in certain instances, may be eligible to retain their life and health insurance benefits, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate to the text of H.R. 11092, an act to increase the authorization of appropriations under the act of December 22, 1974 (88 Stat. 112), with an amendment in which it requests the concurrence of the Senate; and that the House agrees to the amendment of the Senate to the title of the bill.

At 3:38 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the amendments of the Senate Nos. 2 and 3 to the amendment of the House to S. 2093, an act to provide that the Exchange Stabilization Fund shall not be available for payment of administrative expenses, and for other purposes; that the House agrees to the amendment of the Senate No. 1 to the amendment of the House to the bill, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 12929, an act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate Nos. 2, 6, 13, 18, 20, 22, 27, 35, 45, 60, 66, 77, 81, 83, 90, 100, 104, and 106 to the bill, and concurs therein; that the House recedes from its disagreement to the amendments of the Senate Nos. 9, 15, 16, 23, 24, 25, 29, 31, 32, 33, 38, 39, 42, 44, 57, 72, 80, and 92 to the bill, and concurs therein each with an amendment; and that the House insists on its disagreement to the amendment of the Senate No. 103 to the bill.

The message further announced that the House disagrees to the amendment of the Senate to H.R. 13511, an act to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ULLMAN, Mr. ROSTENKOWSKI, Mr. VANIK, Mr. BURLESON of Texas, Mr. CORMAN, Mr. GIBBOS, Mr. WAGGONNER, Mr. CONABLE, Mr. DUNCAN of Tennessee, and Mr. ARCHER were appointed managers of the conference on the part of the House.

At 7 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed S. 2403, an act to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact, approved by Public Law 91–21, without amendment.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to S. 1566, an act to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information.

The message further announced that the House has passed the following bills, each with an amendment in which it requests the concurrence of the Senate:

S. 2049. An act to establish fees and allow per diem and mileage expenses for witnesses before United States Courts; and

S. 2075. An act to amend the Jury Selection and Service Act of 1968, as amended, by revising the section on fees of jurors and by providing for a civil penalty and injunctive relief in the event of a discharge or threatened discharge of an employee by reason of such employee's Federal jury service.

The message also announced that the House has passed H.R. 14289, an act to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 13635, an act making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 33 and 34 to the bill, and concurs therein; that the House recedes from its disagreement to the amendments of the Senate numbered 2, 4, 6, 10, 12, 27, 42, 44, 49, 51, and 58 and concurs therein each with an amendment in which it requests the concurrence of the Senate.

At 10:15 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House has passed the following bill, without amendment:

S. 3540. An act to rename the U.S. Federal building in Yakima, Wash., the "Justice William O. Douglas Federal Building".

The message also announced that the House has agreed to the following concurrent resolutions, without amendment:

S. Con. Res. 111. A concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 11445; and

S. Con. Res. 112. A concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 555.

The message further announced that the House has passed S. 1503, an act to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed S. 3371, an act to repeal certain provisions of law establishing limits on the amount of land certain religious corporations may hold in any territory of the United States, with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate to H.R. 5646, an act to amend the Regional Rail Reorganization Act of 1973 to require ConRail to make premium payments under certain medical and life insurance policies, to provide that ConRail shall be entitled to a loan under section 211(h) of such act in an amount required for such premium payments, and to provide that such premium payments shall be deemed to be expenses of administration of the respective railroads in reorganization, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to S. 555, an act to establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes.

The message further announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 9893. An act to amend the Internal Revenue Code of 1954 to increase the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes; and

H.R. 14145. An act to amend title 28 of the United States Code to make certain changes in the divisions within judicial districts and in the places of holding court, and to require the Director of the Administrative Office of the United States Courts to conduct a study of the judicial business of the Central District of California and the Eastern District of New York.

HOUSE BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 1185. An act to regulate interstate commerce with respect to parimutual wagering on horseracing to maintain the stability of the horseracing industry, and for other purposes;

S. 1318. An act to permit the State of Hawaii to use the proceeds from the sale, lease, or other disposition of certain real property for any public purpose;

S. 1626. An act to clarify the status of certain legislative and judicial officers under the provisions of title 5, United States Code, relating to annual and sick leave, and for other purposes;

S. 2411. An act to amend chapter 315 of title 18, United States Code, to authorize payment of transportation expenses for persons released from custody pending their appearance to face criminal charges before that court, any division of that court, or any court of the United States in another judicial district;

S. 3373. An act to amend title 10, United States Code, to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with International World Friendship Events or Troops on Foreign Soil meetings, and for other purposes;

H.R. 8755. An act to make specific provisions for ball or roller bearing pillow block, flange, take-up, cartridge, and hanger units in the Tariff Schedules of the United States, and for other purposes;

H.R. 10587. An act to improve the range conditions of the public rangelands;

H.R. 11035. An act to incorporate the United States Capitol Historical Society;

H.R. 11318 An act to amend the Small Business Act and the Small Business Investment Act of 1958;

H.R. 11445. An act to amend the Small Business Investment Act of 1958;

H.R. 11658. An act to amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing Great Lakes vessels in an amount not exceeding 87½ percent of the actual or depreciated actual cost of each vessel;

HR. 12051. An act relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions;

H.R. 12165. An act extending until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap, unwrought metal, and other articles of metal, and for other purposes;

H.R. 12264. An act to designate certain lands in the State of Wisconsin as wilderness;

H.R. 13167. An act to amend the Internal Revenue Code of 1954 to insure that the deduction for contributions to a black lung benefit trust be allowed for any such contributions which are made for the purpose of satisfying unfunded future liability, and for other purposes;

H.R. 13767. An act to amend the Federal Property and Administrative Services Act of 1949 to permit the recovery of replacement cost of motor vehicles and other related equipment and supplies; and

H.J. Res. 685. Joint resolution to designate October 7, 1979, the Sunday of "Fire Preventive Week" as Firefighters Memorial Sunday"; to designate October 14, 1978, as "National Jogging Day"; and to designate and authorize the President to proclaim February 11, 1979, as "National Inventors' Day".

The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore (Mr. MORGAN).

At 12:30 a.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate H.R. 12931, an act making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 14, 18, 21, 24, 37, 41, 46, 48, 65, 73, and 82 to the bill, and concurs therein; that the House recedes from its disagreement to the amendments of the Senate numbered 16, 40, 45, and 94, and concurs therein each with an amendment in which it requests the concurrence of the Senate.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 6237. An act to amend section 9441 of title 10, United States Code, to provide for the budgeting by the Secretary of Defense, the authorization of appropriations, and the use of those appropriated funds by the Secrteary of the Air Force, for certain specified purposes to assist the Civil Air Patrol in providing services in connection with the noncombatant mission of the Air Force, to the Committee on Armed Services.

H.R. 8222. An act to apply duty-free treatment under certain circumstances to articles produced in the insular possessions of the United States, and for other purposes; to the Committee on Finance.

H.R. 9701. An act to amend the Budget and Accounting Procedures Act of 1950 to require that the Comptroller General provide for a financial audit with respect to pension plans for officers and employees of the Federal Government and its agencies and instrumentalities, to require that an annual report, including a financial statement and an actuarial statement, be furnished to the Congress and the Comptroller General with respect to such plans, and for other purposes to the Committee on Governmental Affairs.

H.R. 9893. An act to amend the Internal Revenue Code of 1954 to increase the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes; to the Committee on Finance.

H.R. 14145. An act to amend title 28 of the United States Code to make certain changes in the divisions within judicial districts and in the places of holding court, and to require the Director of the Administrative Office of the United States Courts to conduct a study of the judicial business of the Central District of California and the Eastern District of New York; to the Committee on the Judiciary.

H.R. 14289. An act to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

REPORT OF A COMMITTEE SUBMITTED DURING THE RECESS

Under the authority of the order of Wednesday, October 11, 1978, the following report of a committee was submitted during the recess:

EMPLOYMENT AND TRAINING ACT AMENDMENTS OF 1978—CONFERENCE REPORT

Mr. WILLIAMS, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2570) to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes (Rept. No. 95–1325).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. Res. 545. A resolution to refer S. 3451 to the Court of Claims for the relief of Lance Industries, Incorporated (Rept. No. 95–1326).

BOUNDARY WATERS CANOE AREA WILDERNESS—CONFERENCE REPORT

Mr. ABOUREZK, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12250) to designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Area, and for other purposes (Rept. No. 95–1327).

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

Report Pursuant to Section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 95–1328).

VETERANS' AND SURVIVORS' PENSION IMPROVEMENT ACT OF 1978—CONFERENCE REPORT

Mr. CRANSTON, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10173) to amend title 38, United States Code, to improve the pension programs for veterans, and survivors of veterans, of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era, and for other purposes (Rept. No. 95–1329).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments:

S. 1112. A bill for the relief of Gladys Yan Chan Lu (Rept. No. 95–1330).

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment, but with an amendment to the title:

H.R. 1405. An act for the relief of Jennet Juanita Miller (Rept. No. 95–1331).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

H.R. 2756. An act for the relief of Marlene Holder (Rept. No. 95–1332).

H.R. 3618. An act for the relief of Martha Castro Fitz Maurice (Rept. No. 95–1333).

H.R. 9610. An act for the relief of Raymond Vishnu Clemons (Rept. No. 95–1334).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments:

H.R. 1422. An act for the relief of Julio Ortiz-Medina (Rept. No. 95–1335).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Human Resources:

Earl Oliver, of Illinois, to be a Member of the Railroad Retirement Board.

(The above nomination from the Committee on Human Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PROXMIRE, from he Committee on Banking, Housing, and Urban Affairs:

Adolph Philip Schuman, of California, to be a Director of the Securities Investor Protection Corporation.

The following-named persons to be Members of the Board of Directors of the National Corporation for Housing Partnerships:

Patricia K. Ritter, of Connecticut;

Kennon V. Rothchild, of Minnesota;

Herman J. Russell, of Georgia.

(The above nominations from the Committee on Banking, Housing, and Urban Affairs were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. CANNON. Mr. President, as in executive session, I report favorably sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 25, and October 2, 1978, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MATSUNAGA:

S. 3588. A bill for the relief of Vivian Lim Ong; to the Committee on the Judiciary.

By Mr. STEVENSON (for himself, Mr. CANNON, Mr. FORD, Mr. ZORINSKY, and Mr. RIEGLE):

S. 3589. A bill to establish an operational Earth Data and Information Service, in the National Aeronautics and Space Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MAGNUSON:

S. 3590. A bill for the relief of Jennifer Ferrer; to the Committee on the Judiciary.

By Mr. ANDERSON:

S. 3591. A bill for the relief of Antonio J. Marfori; to the Committee on the Judiciary.

By Mr. HELMS:

S. 3592. A bill to repeal the Credit Control Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. JOHNSTON:

S. 3593. A bill to authorize the enlistment of citizens of the Northern Mariana Islands in the Armed Forces of the United States of America; to the Committee on Armed Services.

By Mr. DOLE:

S. 3594. A bill to amend the Tariff Schedules of the United States to provide duty-free treatment of any aircraft engine used as a temporary replacement for an aircraft engine being overhauled outside the United States by its manufacturer, if duty was paid on such replacement engine during a previous importation; to the Committee on Finance.

By Mr. CANNON:

S. 3595. A bill to amend section 202(d) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, to extend the deadline for filing a report of rulemaking procedures; considered and passed.

By Mr. HEINZ:

S. 3596. A bill to provide expanded readjustment benefits for Vietnam-era veterans by promoting employment of such veterans through tax credits and job vouchers, by providing increased funding and improved programs for health and psychological care for such veterans, by improving education assistance under the GI bill for such veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DURKIN (for himself and Mr. MCINTYRE):

S. 3597. A bill to amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of liquefied natural gas and liquefied petroleum gas facilities, to provide standards with respect to the siting, construction, and operation of liquefied natural gas facilities, to establish a comprehensive liability and compensation fund for such facilities, to provide for the licensing of such facilities beyond the limits of territorial sea subject to the jurisdiction of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENSON (for himself, Mr. CANNON, Mr. FORD, Mr. ZORINSKY, and Mr. RIEGLE):

S. 3589. A bill to establish an operational Earth Data and Information Service, in the National Aeronautics and Space Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EARTH DATA AND INFORMATION SERVICE ACT OF 1978

● Mr. STEVENSON. Mr. President, I introduce today for myself an Senators CANNON, FORD, ZORINSKY, and RIEGLE the Earth Data and Information Service Act of 1978. This legislation establishes and and provides the institutional framework for developing and managing an operational service to provide data and information on resources and the environment using remote-sensing satellite technology.

This present bill is a refinement of S. 657 introduced by Senator WENDELL FORD of Kentucky during the first session of the 95th Congress. S. 657, in turn, was an outgrowth of legislation introduced in the 94th Congress by former Senator Frank Moss of Utah and Senator FORD. This background suggests the continuing interest of Senators in establishing an operational remote-sensing satellite system.

This legislation is also related to the Space Policy Act of 1978 (S. 3530) which I introduced on September 27, 1978. One of the specific goals of the U.S. space program to be achieved within the next 10 years, as enumerated in S. 3530, is "the establishment and operation of a system of remote-sensing of the Earth's resources, environment, and related conditions." The legislation I introduce today will achieve this goal.

NEED FOR OPERATIONAL SYSTEM

Landsat 1 was launched by the National Aeronautics and Space Administration in July 1972. Since that time, NASA has devoted considerable effort to developing the technology of remote sensing of the Earth's resources and environment by satellite. These research and development efforts have been carried out in collaboration with other Federal departments—Interior, Agriculture, Commerce, and State—State, regional, and local governments, private companies, and a number of foreign countries. A third generation satellite—Landsat C—was launched this year, and Landsat D is scheduled for launch in 1981.

The usefulness of remote-sensing technology is well documented. Landsat data is now being used in relation to agriculture, water resources, forestry, rangeland management, energy and minerals exploration, coastal zone management, mapping, geodesy, and in responding to natural disasters. This year NASA has launched the first Seasat which is developing a wealth of data and information related to oceans, fisheries, climate, and weather. Other satellites using remote-sensing technology are now operating or are in development.

The issues which this legislation addresses are clear cut: Does the research and development to date on remote-sensing technology justify a commitment to a permanent system? How should such a system be developed?

On the basis of extensive testimony,

the usefulness of the technology seems clear. Moreover, a commitment by the Federal Government to move toward a fully operational system, as provided in this legislation, is an essential step in aggregating the users of this technology in the public and private sectors.

While there is support in Congress for creating an operational remote-sensing satellite system, opinion within the executive branch seems to be divided. Last year the Subcommittee on Science, Technology, and Space held hearings on Senator FORD's bill, S. 657. At that time a number of Federal agencies, including NASA, the Department of the Interior, and the Department of Agriculture, were prepared to testify in support of the basic objectives of S. 657. The evening before the hearing these agencies were instructed by the Office of Management and Budget to change their testimony so as to be in opposition to S. 657.

Dr. Frank Press, Director of the Office of Science and Technology Policy, testified that it was "premature" to commit the Federal Government to support of an operational remote-sensing system. At that hearing Dr. Press also announced the formation of an ad hoc interagency committee to address the question of when, in the administration's view, an operational remote-sensing system would be feasible.

This particular committee established by Dr. Press never considered the question of operational status. However, it decided—wisely I believe—to include a multispectral scanning instrument on the Landsat D satellite to be launched in 1981. The operational issue has been reviewed subsequently by the Space Policy Review Committee, chaired by Dr. Press, and its recommendations were sent to President Carter earlier this month.

During the 17 months which has elapsed since Dr. Press' initial appearance before the subcommittee, several useful reports examining the management of remote-sensing satellites have been prepared. These include: "State and Local Government Perspectives on a Landsat Information System," prepared by the National Resource and Environment Task Force of the Intergovernmental Science, Engineering and Technology Advisory Panel; "State Legislative Recommendations on Landsat Technology," prepared by the National Conference of State Legislatures; and "Earth Information From Space by Remote Sensing," a report prepared for Dr. Press by Bruno Augenstein, Willis H. Shapley, and Eugene B. Skolnikoff. Earlier the Committee on Remote Sensing for development, chaired by Harland Cleveland, of the National Academy of Sciences considered the relevance of remote-sensing satellites to resource planning in developing countries.

These reports recognized the importance of pushing ahead with an operational remote-sensing system so that users can have a continuous, timely and usable flow of data. This conclusion does not mean there are no problems with the existing Landsat system or does it lessen the importance of making remote-sensing technology more sensitive to the needs of users. But how can these improvements best be achieved? By keeping the technology locked in the artificial world of experimental research and development? Or by establishing a framework to move in an orderly way from experimentation to a permament operational system? The legislation I introduce today follows the latter course.

DESCRIPTION OF LEGISLATION

Anyone familiar with the problem of establishing an operational remote-sensing system knows there is no perfect or self-evident solution. There are many possible approaches. However, after considerable thought and discussion, I have concluded that the most satisfactory approach is to charge NASA with primary responsibility for developing an operational system during an interim period of 7 years. However, once the system has been perfected, the President would recommend to Congress a permanent management structure. This could be retention of the responsibility by NASA, shifting responsibility to another Federal agency, creating a new Federal agency or Government corporation, or shifting responsibility to the private sector.

Responsibility within NASA is lodged in an office separated from the agency's research and development function. However, a principal reason for choosing NASA for this assignment is the importance of maintaining close ties between operational management of the system and continuing research and development activities. NASA is also directed to work closely with the user community in developing the operational system. Emphasis will be on developing useful data and basic information products. Users will bear principal responsibility for refining these data into more specialized information.

To some degree, the question of whether the system is "operational" is a semantic one. This legislation recognizes that a period of time is needed to bring the present experimental system to operational status. Nonetheless, the legislation also assumes that development of this operational system means a commitment by the Federal Government to maintain such a system at the end of the interim period of 7 years.

The legislation establishes an Earth Data and Information Service as a separate office in NASA. The principal operating arm of the Service is an Earth data and information system—an integrated collection of satellites, ground equipment, facilities, and procedures that produce data and basic information products for public and private users.

Authority to establish and manage the Service is vested in the Administrator of NASA. Direct operational responsibility rests with the General Manager of the Service, who is appointed by the President by and with the advice and consent of the Senate. The bill gives the Administrator and the General Manager considerable latitude in achieving the purposes of the act.

The interim period of 7 years is to be used for developing the institutional, financial, technical, and marketing capabilities needed to bring the Service to full operational status. During this interim period, whenever he deems it feasible, the President will prepare and transmit to the Congress recommendations on the appropriate organizational entity to continue an operational service after the interim period.

The Service is directed to meet the needs of all users, domestic and foreign, government and private, at terms to be established by the Administrator. By the end of the 7-year period, income should cover the costs of maintaining and operating the Service.

Since the Service will provide global data and information, there is likely to be considerable international interest in these products. Under the bill, the Service is encouraged to engage in international activities; the Administrator of NASA under the supervision of the President, and with the advice and participation of the Secretary of State, is given this responsibility. I personally believe that the potential for collaboration among nations in using remote-sensing technology is very real. The United States, for example, should take the initiative in developing a global information system that would serve the international community. Creation of a U.S. Earth Data and Information Service is the necessary first step in such a process.

The legislation requires that all U.S. remote-sensing satellites be subject to authorization, regulation, and supervision of the Federal Government. However, this restriction does not preclude contractual or other arrangements with the private sector and other users. Definition of the role of the private sector will be one of the major items to be worked out during the interim period. There also is to be continuing participation of users in planning the system and in acquiring, processing, analyzing, and distributing data and basic information products.

Under the bill, the President has authority to transfer to the Service functions or parts of functions of any other department or agency of the United States which relate primarily to the functions of the Service.

The President is to transmit annually to the Congress a report on the accomplishments of the Service. This report is to include an evaluation of the activities and accomplishments of the Service and recommendations.

Finally, the bill authorizes to be appropriated to the Service $20 million for fiscal year 1979 for the purposes of carrying out the provisions of the act. Further appropriations would have to be authorized annually by the Congress as part of NASA's budget.

A FIRST, BUT ESSENTIAL, STEP

In simplest terms, the bill creates an institutional framework for developing an operational remote-sensing system. It also provides a straightforward process for transforming the present experimental program into an operational system. The legislation does not prejudge the ultimate disposition of this system. It simply identifies NASA as the most sensible locale for the system during the 7-year interim period.

Testimony before the Subcommittee on Science, Technology and Space, to-

gether with the recent surveys of remote-sensing activties discussed above, indicates that a clear decision to establish such a framework is needed. The benefits of such a system, already considerable, will increase rapidly once the user community knows that data and information are guaranteed for the foreseeable future.

In weighing the recommendations of the Space Policy Review Committee, President Carter has decided to follow a policy which simply endorses the status quo; that is, proceed with the development of Landsat D and retain the existing systems as an experimental, research and development effort. I very much regret this decision. My concern is based primarily on the belief that a useful operational system can only be developed by exposing the existing experimental effort to the demands and pressures of the user community. I believe further that the utility of remotely sensed data has been sufficiently demonstrated to warrant this transitional step from experimental to operational status. Given these two factors, I see no compelling reason to postpone further a decision to initiate this transition. Despite the President's present view, I remain hopeful that a more positive approach can be worked out next year in the process of considering the Earth Data and Information Service Act.

As with the Space Policy Act, this legislation is being introduced now to provide an opportunity for evaluation and comment by Members of the Senate and House, officials in the executive branch, and State, regional, and local governments, and others. I plan to reintroduce the legislation at the opening of the 96th Congress and proceed promptly with hearings before the Subcommittee on Science, Technology, and Space. I hope that the Commerce Committee will report the bill prior to May 15, 1979 and that it will be enacted during the first session.

Mr. President, I ask unanimous consent that the text of the Earth Data and Information Services Act of 1978 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3589

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Earth Data and Information Service Act of 1978".

PURPOSE

SEC. 2. It is the purpose of this Act to establish the institutional framework for an operational earth data and information service based primarily on data obtained by remote sensing satellites and to provide improved cooperation between the government and private sectors and between the United States and the other nations of the world.

DEFINITIONS

SEC. 3. For the purposes of this title—

(1) "Administration" means the National Aeronautics and Space Administration;

(2) "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(3) "Data" means a set of signals acquired by a spacecraft, other vehicle, or other means by remote sensing or otherwise from objects on the Earth's surface, within the Earth's atmosphere or in space and transmitted from such spacecraft, other vehicle or other means to an Earth ground station including such corrections to the acquired signals by preliminary processing as needed to make the acquired signals complete and useful for further processing into information products;

(4) "Basic Information Products" means a number of information products meeting the needs of a broad spectrum of users and specifically defined in advance by the Service;

(5) "Interim Period" means that period immediately following the date of enactment of this Act during which the Service develops the institutional, financial, technical, and marketing capabilities needed to bring the Service to operational status, but such period may not exceed 7 years;

(6) "Operational Service" means a commitment to, and the provision of, a service embodying the integrated institutional, managerial, financial, technical, and marketing operations to assure the timely and continuous flow of reliable and useful data and basic information products to the users;

(7) "Service" means the Earth Data and Information Service established under section 6;

(8) "System" means Earth Data and Information System which includes—

(A) the earth remote sensing satellites and other observation devices,

(B) the associated ground equipment for command and control,

(C) data reception, aggregation, preprocessing and processing,

(D) the development of basic information products from the data, and

(E) the archiving and the disseminating of the data and basic information products by the Service;

designed to contribute to the understanding of the quality and quantity of the Earth's resources and environment; except the term does not include systems established primarily for: (i) purposes of national security, (ii) the National Weather Service, or (iii) commercial telecommunications, either domestic or international; and

(9) "User" means any person or organization, governmental or private, domestic or foreign, which uses data or basic information products, or both, provided by the service.

FINDINGS

SEC. 4. The Congress, recognizing that effective management of the Earth's resources and environment is essential to the needs of mankind, including the prevention of the needless depletion of resources, and that the acquisition and interpretation of data on the quality and quantity of the Earth's resources and environment are necessary for their effective management, finds that—

(1) there now exist technologies that can provide the opportunity for better management of the Earth's resources and environment;

(2) data provided by Earth remote-sensing satellites and other sources, and basic information products derived from such data, have a broad community of users requiring the timely and continuous availability of reliable data and basic information products;

(3) an operational service should be established so as to contribute to the attainment of national objectives, to serve the needs of the Federal, State and local governments and the private sector, and to provide for the betterment of all mankind through cooperative programs with other nations and international organizations;

(4) the successful development of an operational service is dependent on the establishment of an operational System;

(5) an interim period is needed to develop the institutional, financial, technical and market structure for an operational service; and

(6) continuing research and development of remote sensing systems is essential.

POLICY

SEC. 5. (a) The Congress declares that it is the policy of the United States that—

(1) the United States acknowledges the fundamental right of nations to acquire data from space;

(2) the United States shall develop and operate active and passive remote sensing systems on a global basis in support of national needs, and to meet the needs of other users;

(3) all United States Earth-oriented remote sensing satellites shall require Federal Government authorization, regulation, and supervision;

(4) technological advances in the remote sensing of the Earth from space shall be permitted pursuant to appropriate governmental controls which shall be based upon an assessment of civil benefits, national security, and foreign policy; and

(5) the Administrator, under supervision of the President, and with the guidance of the Secretary of State, shall cooperate with other nations and groups of nations in carrying out the provisions of this Act.

(b) The Congress of the United States directs that—

(1) the Service shall provide rapid processing of, and ready access to, the data and basic information products produced by the System at a reasonable cost to the users;

(2) the Service shall be developed so as to encourage and promote competition among suppliers of equipment and services for the System and to promote maximum use of remote sensing data and basic information products; and

(3) the products provided by the Service shall be made available to all users, both domestic and foreign, on the basis of charges to be established by the Administrator.

EARTH DATA AND INFORMATION SERVICE

SEC. 6. (a)(1) There is established in the Administration the Earth Data and Information Service.

(2) The functions of the Administrator under this Act shall be administered through the Service or in his absence by the Deputy Administrator or in the absence of both by an official of the Administration appointed by the President for a period not to exceed 30 days.

(b)(1) The Service shall be headed by a General Manager, who shall be appointed from civilian life by the President by and with the advice and consent of the Senate. Under the direction of the Administrator, the General Manager shall be responsible for the exercise of all powers and the discharge of all duties of the Service.

(2) There shall be in the Service a Deputy General Manager, who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, and shall perform such duties and exercise such power as the General Manager may prescribe. The Deputy General Manager shall act for, and exercise the powers of, the General Manager during his absence or disability.

(c) The General Manager and the Deputy General Manager shall not engage in any other business, vocation, or employment while serving as such.

(d) Whenever the President determines that it is feasible to do so, during the interim period but not later than 180 days prior to the end of the interim period, the President shall prepare and transmit to the Congress recommendations on the appropriate organizational entity best designed to continue an operational service as a Federal agency, (either as an independent agency or as a unit of an existing agency), a Government corporation or a private corporation. In

carrying out the provisions of this subsection, if the President determines that it is in the best interest of the Nation that the Service remain in the Administration, the President shall report that determination and the reasons for the determination to the Congress not later than 180 days prior to the end of the interim period.

FUNCTIONS OF THE SERVICE

SEC. 7. (a) In order to carry out the purposes of this Act, the Administrator shall establish in the Service an Earth Data and Information System. The Administrator shall develop and manage the System so that it becomes operational at the earliest practical date during the interim period.

(b) The Administrator is authorized to plan, initiate, construct, acquire, own, manage, and operate the System either directly or in conjunction with business concerns or foreign governments.

(c)(1) The Administrator is authorized to establish such communication networks as may be necessary to transmit data and basic information products on a timely basis consistent with the needs of the users as determined by the Service in consultation with the users. Insofar as practicable, the communications services needed to establish such communication networks shall be procured from the private sector.

(2) Before establishing any communications network authorized by this subsection the Administrator shall consult with the National Telecommunications Information Agency of the Department of Commerce, and the Federal Communications Commission.

(d) The Administrator shall—

(1) provide recommendations for continued research and development by the Administration on remote sensing components, subsystems, and systems for both space and ground operations of the System;

(2) arrange for the participation of the scientific, technical and user communities in planning the System, and in acquiring, processing, analyzing, and distributing data and basic information products to the users; and

(3) provide for the widest practical and appropriate dissemination of the data and basic information products to the users.

(e) In order to carry out the purposes of this Act, the Administrator is authorized—

(1) to conduct or contract for research and development, systems operations, and for user training related to its mission;

(2) to acquire the physical facilities, equipment and devices, necessary to its operations, including remote sensing satellites and associated equipment, the necessary ground facilities, whether by construction, purchase or gift;

(3) to provide satellite launching and related services;

(4) to enter into contracts or other arrangements with the user community, including departments and agencies of the Federal Government, State and local governments, and private businesses and individuals, on such terms as the Administrator may deem appropriate;

(5) to develop plans for the technical specifications of all elements of the system; and

(6) to appoint and fix the compensation of such officers and employees as may be necessary.

(f) The Administrator, under the supervision of the President, may participate in a program of international activities related to the functions of the service, pursuant to agreements made by the President or by the President, by and with the advice and consent of the Senate, as may be appropriate. Under the supervision of the President and with the advice of the Secretary of State, the Administrator may initiate and conduct negotiations with foreign nations or international organizations relating specifically to the functions of the Administrator under this Act. The Administrator shall keep the Secretary of State informed of discussions or negotiations with any foreign nation or international organization. The Secretary of State shall keep the Administrator advised on significant foreign policy considerations and developments related to such discussions and negotiations. The Administrator shall request the Secretary of State to assist in such discussions and negotiations and the Secretary shall render such assistance as may be appropriate.

REGULATIONS

SEC. 8. The President and the Administrator (with the consent of the President) are authorized to establish such regulations as may be necessary to carry out the provisions of this Act.

USER CHARGES

SEC. 9. (a) The Administrator shall establish a schedule of charges for products and services provided to users as required to carry out the provisions of this Act. The Administrator shall design such charges to assure, insofar as practical, that by the end of the interim period, the income from such charges, combined with any other income to the Service, will cover the costs of the Service exclusive of costs incurred by the Administration for research, development and testing on remote sensing systems, subsystems and components carried out under the National Aeronautics and Space Act of 1958.

(b) Each department or agency of the Federal Government needing data and basic information products of the kind that are provided by the Service, shall procure such data and basic information products from the Service. The Administrator with the agreement of the President shall establish the fees charged to such departments and agencies for such data and basic information products.

(c) In the establishment of charges and the collection of such charges from the users, the Administrator is exempt from and is not restricted or limited to charges for reproduction and handling set forth in section 552 of title 5, United States Code.

(d) Nothing in this section shall be construed to limit or otherwise affect the information, analysis, and distribution functions of any department or agency of the Federal Government.

PROHIBITION OF REPRODUCTION FOR SALE OR DISTRIBUTION OF DATA AND BASIC INFORMATION PRODUCTS

SEC. 10. (a) It shall be unlawful for any person to reproduce for sale or distribution, or to sell or distribute, any data or basic information product produced by the Service except in accordance with conditions specified by the Administrator.

(b)(1) Whoever violates any provision of subsection (a) or, any regulation issued under subsection (a), shall be subject to a civil penalty of not to exceed $5,000 for each such violation.

(2) Any such civil penalty may be compromised by the Administrator. In determining the amount of the penalty, or the amount agreed in the compromise, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in the compromise, may be deducted from any sums owing by the United States to the person charged.

(c)(1) The United States district court shall have jurisdiction, for cause shown, to restrain or enjoin violations of subsection (a) of this section upon petition by the appropriate United States attorney, or the Attorney General on behalf of the United States.

(2) Actions under paragraph (1) of this subsection may be brought in the district where any act or transaction constituting the violation occurred or in the district court where the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district or where the defendant is an inhabitant or wherever the defendant may be found.

(3) In any action brought under this subsection, subpoenas for witnesses who are required to attend a United States district court, may run into any other district.

APPLICABILITY OF THE NATIONAL AERONAUTICS AND SPACE ACT OF 1958

SEC. 11. (a) Except as otherwise provided in this Act, the Administrator shall, in carrying out his functions under this Act, have the same powers and authority the Administration has under the National Aeronautics and Space Act of 1958 to carry out its functions under that Act.

(b) Nothing in this Act shall be construed to reduce or otherwise affect the authority of the Administration under the National Aeronautics and Space Act of 1958 to continue the research, development, and testing of remote sensing components, subsystems, and systems for experimental purposes, provided that such research and development activities shall be coordinated with the activities of the Service.

TRANSFER OF RELATED FUNCTIONS

SEC. 12. (a) Subject to the provisions of this section, the President during the interim period, may transfer to the Service any functions and parts of functions of any other department or agency of the United States, or of any officer or organizational entity thereof, which relate primarily to the functions of the Service as prescribed by this Act. In connection with any such transfer, the President may, under this section or other applicable authority, provide for appropriate transfers of records, property, civilian personnel, and funds.

(b) Whenever any such transfer is made prior to January 1, 1981, the President shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate a full and complete report concerning the nature and effect of such transfer.

(c) After December 31, 1980, no transfer shall be made under this section until—

(1) a full and complete report concerning the nature and effect of such proposed transfer has been transmitted by the President to the Congress, and

(2) the first period of sixty calendar days of regular session of the Congress following the date of receipt of such report by the Congress has expired without the adoption by the Congress of a concurrent resolution stating that the Congress does not favor such transfer.

REPORTS TO THE CONGRESS

SEC. 13. (a) The Administrator shall transmit to the President, who in turn shall transmit to the Congress in January of each year, a report which shall include a comprehensive description of the activities and accomplishments of the Service during the preceding calendar year together with an evaluation of such activities and accomplishments in terms of the attainment of the objectives of this Act and such recommendations including recommendations for additional legislation as the Administrator deems necessary or desirable. The President may transmit each such report to the Congress as part of his report to the Congress as required under section 206 of the National Aeronautics and Space Administration Act of 1958.

(b) No information which has been classified for reasons of national security shall be included in any report made under this section, unless such information has been declassified by or pursuant to authority given by the President.

COMPENSATION OF OFFICERS

SEC. 14. (a) Section 5314 of title 5, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(66) General Manager, Earth Data and Information Service, National Aeronautics and Space Administration.".

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(114) Deputy General Manager, Earth Data and Information Service, National Aeronautics and Space Administration.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 15. (a) There are authorized to be appropriated to the Service $20,000,000 for the fiscal year 1979, for the purposes of carrying out the provisions of this Act, including research and development, operations of the Service, construction of facilities and payment of personnel. None of the funds appropriated pursuant to this Act may be used for the acquisition or condemnation of any real property, or the construction of any facility in excess of $500,000 unless (1) a period of 30 days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, of notice given by the Administrator containing a full and complete statement of the acquisition or construction proposed to be taken, or (2) each such committee before the expiration of such period has transmitted to the General Manager written notice to the effect that such committee has no objection to the proposed acquisition or construction. Sums appropriated pursuant to this subsection for the construction of facilities, or for research and development activities, shall remain available until expended.

(b) Any funds appropriated for the construction of facilities may be used for emergency repairs of existing facilities when such existing facilities are made inoperable by major breakdown, accident, or other circumstances and such repairs are deemed by the General Manager to be of greater urgency than the construction of new facilities.

(c) Notwithstanding the provisions of this or any other law, no appropriation may be made to the Service for any fiscal year or portion thereof beginning after September 30, 1980, unless previously authorized by legislation hereafter enacted by the Congress.●

By Mr. JOHNSTON:

S. 3593. A bill to authorize the enlistment of citizens of the Northern Mariana Islands in the Armed Forces of the United States of America; to the Committee on Armed Services.

● Mr. JOHNSTON. Mr. President, I send to the desk for appropriate referral legislation to enable citizens of the Northern Mariana Islands to enlist in the Armed Forces of the United States. I am introducing this legislation at the request of Governor Comacho, who had earlier written to me requesting my assistance in determining why citizens of the Northern Marianas could not enlist. In response to that request I, together with Senator JACKSON, chairman of the Committee on Energy and Natural Resources, wrote to the Department of Defense. Their response indicated that the difficulty could be resolved with respect to the Navy and the Marine Corps by an appropriate modification to their regulations but that it would be necessary for an amendment to existing statutes to cover the U.S. Army and Air Force.

Mr. President during the last Congress the covenant to establish the Commonwealth of the Northern Mariana Islands was enacted. That historic moment brought to fruition the hopes and desires of a people long separated from their relatives in Guam. Their desire to join the United States and to assume burdens and responsibilities attendant on citizenship is nowhere better exemplified than in the request from Governor Comacho that the citizens be permitted to enlist and serve in the Armed Forces of the country they have joined.

Mr. President, I am fully in support of this legislation and I urge prompt and favorable consideration by the Congress. I ask unanimous consent that the response of the Department of Defense to the committee's inquiry be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF DEFENSE,
Washington, D.C., September 7, 1978.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: I have been asked to reply to your letter dated August 10, 1978 concerning the enlistment of citizens of the Commonwealth of the Northern Mariana Islands in the armed services of the United States. As you can see by the attached letter from Representative Edward DLG. Pangelinan, we have given this matter very careful attention.

We have concluded that there should be no legal obstacle to enlistment by citizens of the Commonwealth in the Navy and the Marine Corps. However, existing statutes must be amended to permit such enlistments in the Army and the Air Force.

The United States Army and United States Air Force are precluded by statute from accepting enlistments except from citizens of the United States or persons "lawfully admitted for permanent residence." 10 U.S.C. Sections 505, 3253, 8253 (1970). The United States Marine Corps and the United States Navy require only changes in their regulations because they are not subject to statutes. United States Marine Corps Military Personnel Procurement Manual, Volume IV, MCO P 1100.74, Sec. 2006, January 3, 1977; Navy Recruiting Manual: COMNAVCRUT COM Instruction 1130.8A 2-I-15 (2-I-18, CH-16, August 4, 1977). We have recommended that the Navy and the Marine Corps take the necessary actions to amend their regulations to permit enlistment of qualified persons from the Northern Marianas. We also have advised counsel for the Commonwealth that we would have no objection should they decide to seek amendments to the statutes governing enlistment in the Army and the Air Force.

Sincerely,

BRENT N. RUSHFORTH,
Assistant General Counsel for International, Intelligence, and Investigative Programs.●

By Mr. DOLE:

S. 3594. A bill to amend the tariff schedules of the United States to provide duty-free treatment of any aircraft engine used as a temporary replacement for an aircraft engine being overhauled outside the United States by its manufacturer, if duty was paid on such replacement engine during a previous importation; to the Committee on Finance.

DUTY STATUS OF AIRCRAFT ENGINES

BILL TO CLARIFY DUTY STATUS OF AIRCRAFT ENGINES

● Mr. DOLE. Mr. President, I am introducing at this time a bill to provide duty-free treatment of any aircraft engine used as a temporary replacement for an aircraft engine being overhauled outside the United States by its manufacturer, providing duty was originally paid on the replacement engine during a previous importation.

This proposal is a modification of Public Law 95-198, which was enacted into law on November 23, 1977. That amendment to the tariff schedules of the United States provided duty-free treatment for aircraft replacement engines being used temporarily in place of engines being overhauled in the United States. My proposal simply extends that duty-free status for those engines replacing similar engines which are being repaired—not in the United States—but outside the United States by the original manufacturer. This is a fair and even-handed method for dealing with a problem which most of us see as unnecessarily burdensome to the aircraft industry. This modification will not detract from the effectiveness of last year's act for U.S.-based engine overhaul shops, nor will the addition of this exemption place any burden upon the U.S. Customs Service in administration of the tariff schedules of the United States.

In certain instances, when a foreign aircraft owner's engine requires repair or overhaul, the owner will contact a U.S. aircraft company for a replacement engine while he forwards the engine requiring repairs or overhaul directly to the engine manufacturer. In many cases, the manufacturer is not located within the United States. When the repair engine is shipped back to the foreign aircraft owner, the replacement or "loaner" engine is returned to the United States, subject to ad valorem duty. It is my understanding that the duty levied on the full replacement value of the engine and the amount charged for duty often exceeds the actual cost of the loan.

Mr. President, it seems logical that we should attempt to protect our domestic aircraft manufacturers to the extent possible in this regard. The validity of that logic has already been confirmed through our enactment of Public Law 95-198 last year. It now remains for us to insure that that protection extends to our domestic aircraft manufacturers in all cases, not just in an arbitrarily selected few instances. I trust that the committee will give careful consideration to this bill, which I intend to reintroduce in the 96th Congress.●

By Mr. HEINZ:

S. 3596. A bill to provide expanded readjustment benefits for Vietnam-era veterans by promoting employment of such veterans through tax credits and job vouchers, by providing increased funding and improved programs for health and psychological care for such veterans, by improving education assistance under the GI bill for such veterans, and for other purposes; to the Committee on Veterans' Affairs.

VIETNAM VETERANS ACT

● Mr. HEINZ. Mr. President, the bill that I am introducing today amends title 38 of the United States Code to correct longstanding inadequacies in Vietnam veterans' benefits. This bill, which can be referred to as the Vietnam Veterans Act, contains provisions for employment, health, education and housing problems experienced by Vietnam veterans today. The final section of the bill commissions a study of veterans policy.

Although the current level of unemployment among Vietnam veterans stands at only 6.3 percent, this figure does not adequately describe the actual employment opportunities for veterans. Of the employed veterans, 855,000 earn less than $4,000 per year and close to 3 million earn less than $9,000 per year. Unemployment among black veterans hit 11.2 percent last quarter, and the double digit figure for disabled veterans exceeds 35 percent.

Clearly then, the existing veterans' employment programs HIRE 1, HIRE 2, and VA–OJT, have failed to place the veteran in a competitive market position. Even the CETA program failed to reach the administration's goal of hiring 200,000 veterans, reaching only 98,000 last year. The bill I am introducing today addresses these problems.

Title I of this bill provides two alternatives, an employer tax credit program and a job voucher program, which feature streamlined delivery systems aimed at veterans with serious employment problems. The tax credit will hopefully rectify the problem caused by the excess of regulations which have plagued the HIRE programs. The tax credit section provides up to $3,000 in tax credits per veteran during the first year of employment, and up to $1,000 during the second year. The credit is calculated at a rate of 50 percent of wages paid, up to the first $6,000, during the first year and 16⅔ percent during the second year. To be eligible, an employer must hire a veteran receiving food stamps or eligible for food stamps upon registering.

The ready accessibility of the tax credit is its most appealing feature. If the veteran is eligible for food stamps the employer becomes immediately eligible for the credit upon completion of his/her income tax return. Because the funds are readily obtained, but restricted to training of lower income veterans, this program has the greatest potential benefit for the less employable veterans.

The job voucher program also included in title I focuses on the problem of underemployment. Under its provisions a veteran may use up to 1 year of his GI bill entitlement as a voucher which will provide direct monetary reimbursement to employers initiating training programs. Eligibility would be confined to veterans meeting needs tests similar to those under CETA, and the amount of the subsidy will equal the amount of the payment under fulltime education enrollment: $311 for single veterans, $422 for a veteran with two dependents. Any use of the entitlement as a voucher will be subtracted from the veteran's total period of entitlement under the GI bill, which presently is a maximum of 45 months.

I think these two provisions go a long way toward giving the unemployed veteran the means to enter the private sector, thus reducing the need for long-term Government support. But most importantly, the tax credit for employers and the job voucher programs provide these unemployed, underemployed, and less-employable Americans with the job opportunities they deserve.

Title II of this bill addresses the major health care problems confronting the veteran. A recent report by the administration cites a 23-percent higher suicide rate for Vietnam veterans than for nonveterans under the age of 34. According to a multiyear Cleveland study, 25 to 33 percent of noncombat and 40 to 50 percent of combat veterans face serious readjustment problems. Alcohol abuse is on the increase. And estimates by the President's Commission on Mental Health indicate that more than 200,000 Vietnam veterans need treatment for drug abuse. Unfortunately, the Veterans Administration has felt that its ability to deal with these problems is limited both by the time lapse before the recognition of problems and by the fact that readjustment problems are not serious enough disorders to be classified as diseases.

The Vietnam Veterans Act grants the VA special authority to treat readjustment problems for veterans who request it within 2 years of the bill's enactment. To help ensure that these services will actually be used by Vietnam veterans, the section leaves maximum room for the use of contract services. This contracting approach additionally obviates the need for the VA to develop a huge counseling apparatus which will be phased in and out of existence at greater expense to the taxpayer.

Education problems experienced by Vietnam veterans are addressed in title III of the bill.

For the 1978–79 school year, the average 12 months budget for a single self-supporting student will total $4,546 at a public 4-year, post-secondary institution. Although the maximum potential benefits available through all sources could total $6,894.50, the benefits actually realized by the single veteran will average only $2,007. This difference, explained in part by the eligibility requirements and payment provisions of the GI bill, becomes more significant when considered in relation to the disparity in benefit payments between different sectors of the country. The education provisions included in title III not only seek to equalize these differences but they attempt to extend the scope of educational benefits for veterans.

In the present benefit program, entitlement benefits account for the bulk of educational assistance. Entitlement benefits, however, are paid at a flat rate of $311 per month for a single veteran. While this amounts to $3,730 annually, it fails to reflect the tuition cost differentials throughout the Nation. In sectors where educational costs are lower, specifically in the Southern and Western States, economic incentives exist and more veterans are induced to participate. This disparity in participation rates is exemplified by California and Pennsylvania. In California, State university costs come to only $630 and GI bill participation reaches 68.7 percent; while in Pennsylvania, the costs of education amount to $1,149 annually and GI bill participation is only 43.5 percent. Among Vietnam veterans, participation in these two States is even more disparate—54.7 percent in California, and 20.1 percent in Pennsylvania.

The tuition equalizer in title III sees to help those veterans from States where tuition is more expensive. Under the provision of the bill, any veteran must meet the first $400 in tuition and fees out of the basic GI bill payment. The VA would then reimburse a veteran for 50 percent of up to the next $1,200 in tuition and fees. This provides a total available supplement tuition benefit of $600.

Title III also contains two additional provisions; extension of the delimiting date for veterans who were discharged before December 31, 1970, while maintaining the 10-year delimitation for veterans discharged after that date; and repeal of the State matching requirement to facilitate the use of tuition acceleration programs.

If the objectives of the GI bill are to provide equal benefits for equal service, these three provisions constitute a positive step in that direction.

Finally, titles IV and V of this act provide for an expanded State home loan program and a commission to review Vietnam veteran policies.

Under the proposed State home loan program, the VA would be authorized to cover the administrative start-up costs of State loan programs. These programs, patterned after the successful California State home loan program, will provide additional money to make available higher loans at interest rates below the prevailing market rate.

The interagency review of Vietnam policy just released by the President focused on existing programs. It did not begin to examine the underlying needs and structures of all veterans benefits outside the confines of Federal limitations. Title V commissions such a comprehensive study.

While I am aware that there is precious little time remaining in this 95th Session of the Congress, I am introducing this important piece of legislation today in the hope that my colleagues will have sufficient opportunity to review all the provisions and work with me toward early enactment of this bill in the next session.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3596

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCE TO TITLE 38, UNITED STATES CODE

SECTION 1. (a) This Act may be cited as the "Vietnam Veterans Act".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms or an amendment to, or repeal of, a section or other provision, the reference shall be considered to

be made to a section or other provision of title 38, United States Code.

TITLE I—EMPLOYMENT

TAX CREDIT FOR EMPLOYERS HIRING VIETNAM-ERA VETERANS

SEC. 101. (a) Section 51 of the Internal Revenue Code of 1954 (relating to amount of credit) is amended to read as follows:

"§ 51. Amount of credit.

"(a) Determination of amount.—The amount of the credit allowable by section 44B for the taxable year shall be the sum of—

"(1) 50 percent of the qualified first-year wages for such year, and

"(2) 16⅔ percent of the qualified second-year wages for such year,

reduced by the amount paid to the taxpayer for such year under section 2015 of title 38, United States Code.

"(b) Qualified wages defined.—For purposes of this subpart—

"(1) In general.—The term 'qualified wages' means the wages paid or incurred by the employer during the taxable year to eligible Vietnam-era veterans.

"(2) Qualified first-year wages.—The term 'qualified first-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer.

"(3) Qualified second-year wages.—The term 'qualified second-year wages' means, with respect to any individual, the qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under paragraph (2).

"(4) Only first $6,000 of wages per year taken into account.—The amount of the qualified first-year wages, and the amount of the qualified second-year wages, which may be taken into account with respect to any individual shall not exceed $6,000 per year.

"(5) Wages defined.—Except as provided in subsection (g)(2), the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

"(c) Eligible Vietnam-era veteran defined.—

"(1) In general.—For purposes of this section, the term 'eligible Vietnam-era veteran' means any individual who is certified by the Secretary of Labor as—

"(A)(i) having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, any part of which occurred after August 4, 1964, and before May 8, 1975, or

"(ii) having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability, if any part of such active duty was performed after August 4, 1964, and before May 8, 1975;

"(B) not having any day during the pre-employment period which was a day of extended active duty in the Armed Forces of the United States; and

"(C) meeting the food stamp requirements of paragraph (2).

For purposes of subparagraph (B), the term 'extended active duty' means a period of more than 90 days during which the individual was on active duty (other than active duty for training).

"(2) Food stamp requirements.—An individual meets the food stamp requirements of this paragraph if the appropriate food stamp agency determines that, during the pre-employment period, such individual was a member of a household which, at any time during such period, was receiving food stamps under the Food Stamp Act of 1977.

"(3) Pre-employment period.—For purposes of this subsection, the term 'pre-employment period' means the 60-day period ending on the date the individual is hired by the employer.

"(d) Qualified first-year wages cannot exceed 30 percent of FUTA wages for all employees.—The amount of the qualified first-year wages which may be taken into account under subsection (a)(1) for any taxable year shall not exceed 30 percent of the aggregate unemployment insurance wages paid by the employer during the calendar year ending in such taxable year. For purposes of the preceding sentence, the term 'unemployment insurance wages' has the meaning given to the term 'wages' by section 3306(b).

"(e) Remuneration must be for trade or business employment.—

"(1) In general.—For purposes of this subpart, remuneration paid by an employer to an employee during any year shall be taken into account only if more than one-half of the remuneration so paid is for services performed in a trade or business of the employer.

(2) Special rule for certain determination.—Any determination as to whether paragraph (1), or subparagraph (A) or (B) of subsection (g)(1), applies with respect to any employee for any year shall be made without regard to subsections (a) and (b) of section 52.

"(3) Year defined.—For purposes of this subsection and subsection (f), the term 'year' means the taxable year; except that, for purposes of applying so much of such subsections as relates to subsection (d), such term means the calendar year.

"(f) Special rules for agricultural labor and railway labor.—For purposes of this subpart—

"(1) Unemployment insurance wages.—

"(A) Agricultural labor.—If the services performed by any employee for an employer during more than one-half of any paid period (within the meaning of section 3306(d)) taken into account with respect to any year constitute agricultural labor (within the meaning of section 3306(k)), the term 'unemployment insurance wages' means, with respect to the remuneration paid by the employer to such employee for such year, an amount equal to so much of such remuneration as constitutes 'wages' within the meaning of section 3121(a), except that the contribution and benefit base for each calendar year shall be deemed to be $6,000.

"(B) Railway labor.—If more than one-half of remuneration paid by an employer to an employee during any year is remuneration for service described in section 3306(c)(9), the term 'unemployment insurance wages' means, with respect to such employee for such year, an amount equal to so much of the remuneration paid to such employee during such year which would be subject to contributions under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)), if the maximum amount subject to such contributions were $500 per month.

"(2) Wages.—In any case to which subparagraph (A) or (B) if paragraph (1) applies, the term 'wages' means unemployment insurance wages (determined without regard to any dollar limitation)."

(b)(1)(A) Section 52 of such Code (relating to special rules for computing credit for employment of certain new employees) is amended—

(i) by striking out subsections (c), (e), (i), and (j); and

(ii) by redesignating subsections (d), (f), (g), and (h) as subsections (c), (d), (e), and (f), respectively.

(B) Subsections (a) and (b) of section 52 of such Code are each amended by striking out "proportionate contribution to the increase in unemployment insurance wages" and inserting in lieu thereof "proportionate share of the wages".

(C) Subsection (e) of section 52 of such Code (as redesignated by subparagraph (A)) is amended—(i) by adding "and" at the end of paragraph (1); (ii) by striking out ", and" at the end of paragraph (2) and inserting a period; and

(iii) by striking out paragraph (3).

(2) Section 53 of such Code (relating to limitation based on amount of tax) is amended by striking out subsection (b) and by redesignating subsection (c) as subsection (b).

(3) The section heading of section 44B of such Code is amended to read as follows:

"§ 44B. Credit for employment of certain Vietnam-era veterans.",

(4) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by striking out the item relating to section 44B and inserting in lieu thereof the following:

"44B. Credit for employment of certain Vietnam-era veterans.".

(5) The subpart heading of subpart D of part IV of subchapter A of chapter 1 of such Code is amended to read as follows:

"Subpart D—Rules for Computing Credit for Employment of Certain Vietnam-era Veterans.".

(6) The table of subparts for such part IV is amended by striking out the item relating to subpart D and inserting in lieu thereof the following:

"Subpart D. Rules for computing credit for employment of certain Vietnam-era veterans.".

(c)(1) Except as otherwise provided in this subsection, the amendments made by this section shall apply to amounts paid or incurred after December 31, 1978, in taxable years ending after such date.

(2) In the case of an individual who is an eligible Vietnam-era veteran (within the meaning of section 51(c)(1) of the Internal Revenue Code of 1954) such individual shall be taken into account for purposes of the credit allowable by section 443 of such Code only if such individual is first hired by the employer after December 31, 1978.

(3) In the case of a taxable year which begins in 1978 and ends after December 31, 1978, the amount of the credit allowable by section 44B of the Internal Revenue Code of 1954 (determined without regard to section 53 of such Code) shall be the sum of—

(A) the amount of the credit which would be so allowable without regard to the amendments made by this section; and

(B) the amount which would be so allowable by reason of the amendments made by this section.

(4) The amendments made by subsection (b)(2) shall apply to taxable years beginning after December 31, 1978.

JOB VOUCHER PROGRAM UTILIZING EDUCATION ASSISTANCE ENTITLEMENT

SEC. 102. (a)(1) Chapter 42, relating to employment and training of disabled and Vietnam era veterans, is amended by adding at the end thereof the following new section:

"§ 2015. Job voucher employment assistance program

"(a)(1) A veteran of the Vietnam era who is eligible for educational assistance under chapter 34 of this title and who meets the requirements of paragraph (2) of this subsection may use not more than twelve months of such entitlement for employment assistance under this section, but the amount of such educational assistance to which the veteran is entitled shall be re-

duced by the amount of any employment assistance used under this section.

"(2) To be eligible for employment assistance under this section, a veteran must be certified by the Deputy Assistant Secretary of Labor for Veterans' Employment as being eligible for public service employment under the Comprehensive Employment and Training Act of 1973.

"(b)(1) Except as provided in paragraph (3) of this subsection, an employer (other than the Federal Government) who after the date of the enactment of this section employs a veteran of the Vietnam era in a job meeting the requirements of subsection (c) (and regulations prescribed thereunder) shall be eligible to receive a monthly payment from the Administrator for so long as the veteran is employed by such employer and the veteran is eligible for employment assistance under subsection (a) of this section.

"(2)(A) To receive a payment under paragraph (1), an employer shall submit a voucher to the Administrator at such time, in such form and manner, and containing such information as the Administrator may by regulation require. Upon receipt of such a voucher, the Administrator shall make the payment authorized by paragraph (1) of this subsection.

"(B) The amount of a monthly payment under paragraph (1) of this subsection shall be the amount of the monthly educational assistance allowance to which the veteran would be entitled under section 1682(a)(1) of this title if at the time of such payment the veteran was pursuing a program of education under chapter 34 of this title on a full-time basis.

"(3) An employer shall not be eligible to receive a payment under this section with respect to the employment of a veteran for any period of the employment of such veteran for which the employer has taken a tax credit allowed under section 44B of the Internal Revenue Code of 1954.

"(c) In order for a veteran to receive employment assistance under this section, the job in which the veteran is employed and with respect to which the assistance is sought must be one that provides significant training opportunities, satisfactory to the Administrator, for the veteran. The Administrator shall prescribe regulations to define 'significant training opportunities' for the purposes of this subsection.

"(d) In this section, the term 'veteran of the Vietnam era' has the meaning given such term by section 2011(2)(A) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2015. Job voucher employment assistance program.".

(b) The amendments made by subsection (a) shall take effect on July 1, 1979.

ADVERTISING OF AVAILABILITY OF TAX CREDIT AND JOBS VOUCHER

SEC. 103. (a) The Administrator of Veterans' Affairs, in consultation with the Secretary of Labor and the Secretary of the Treasury, shall take appropriate steps to inform both veterans of the Vietnam era and employers of the availability of the tax credit provided by section 44B of the Internal Revenue Code of 1954 (as amended by section 101) and of the job voucher provided by section 201 of title 38, United States Code (as added by section 102).

(b) There is authorized to be appropriated for fiscal year 1980 the sum of $2,000,000 for the purchase of advertising to carry out the provisions of subsection (a).

TITLE II—HEALTH AND PSYCHOLOGICAL CARE

PSYCHOLOGICAL READJUSTMENT

SEC. 201. (a) Chapter 17, relating to hospital, nursing home, domiciliary, and medical care, is amended by inserting after section 612 the following new section:

"§ 612A. Eligibility for readjustment counseling

"(a) The Administrator shall provide a general mental and psychological assessment and evaluation to any eligible veteran who served on active duty during the Vietnam era to determine whether the veteran has emotional or psychological problems related to readjustment from military to civilian life. To be eligible for such assessment and evaluation, a veteran must request such assessment and evaluation before the end of the one-year period beginning on the date of such veteran's last discharge or release from active duty or within two years after the date of the enactment of this section, whichever is later.

"(b)(1)(A) If, on the basis of an assessment and evaluation provided to a veteran under subsection (a) of this section, a physician employed by the Veterans' Administration certifies that the provision of mental health services to the veteran would facilitate the successful readjustment of the veteran to civilian life, the veteran shall be provided such mental health services as may be necessary for such purpose on an outpatient basis under the conditions specified for the provision of medical services under section 612(f)(1)(B) of this title.

"(B) For the purpose of the provision of such services, the counseling provided under subsection (a) of this section shall be deemed to have been provided as a part of hospital care.

"(C) A certification under subparagraph (A) of this paragraph may be made on the basis of a written report prepared on the basis of the mental and psychological assessment and evaluation provided under subsection (a) of this section.

"(2) Any hospital care and other medical services considered necessary as a result of counseling provided under subsection (a) of this section shall be provided only in accordance with the eligibility criteria otherwise set forth in this chapter (including the criteria set forth in section 611(b) of this title).

"(3) The Administrator shall provide referral services to veterans who are not eligible to have mental health services provided under this title to assist such veterans in obtaining mental health services from sources outside the Veterans' Administration.

"(c) The Administrator shall prescribe uniform national standards for the provision of mental health services under this section to ensure the provision of high quality mental health services under this section in all areas of the United States.".

(b) The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 612 the following new item:

"612A. Eligibility for readjustment counseling.".

DRUG AND ALCOHOL DEPENDENCY AND ABUSE TREATMENT

SEC. 202. (a) Subchapter II of chapter 17 is amended by adding at the end thereof the following new section:

"§ 620A. Treatment and rehabilitation for disabilities resulting from alcohol or drug dependence or abuse

"(a)(1) The Administrator shall establish and operate specialized medical programs for persons described in paragraph (3) of this subsection who have disabilities resulting from alcohol or drug dependence or abuse. Such programs shall provide such inpatient and outpatient care and rehabilitative services as the Administrator determines are reasonably necessary for the recovery and rehabilitation of such persons from such disabilities, shall be provided on a nationwide basis, and shall include individual counseling and referral services, crisis intervention services, and treatment of the symptoms of detoxification.

"(2)(A) In operating programs established under paragraph (1) of this subsection, the Administrator shall use the most effective treatment and rehabilitation methods available, including community alcohol and drug abuse treatment facilities, and shall use, to the maximum extent practicable, the utilization of satellite facilities, halfway houses, and encounter-style therapeutic communities and the use of counselors who have recovered from such disabilities. Care under such programs shall be provided beyond the detoxification period and shall be designed to bring about, to the maximum extent possible, the recovery of the person being treated from the disability involved and, to the maximum extent practicable, the restoration of the person to society as a productive, self-sufficient citizen.

"(B) The Administrator, in operating such programs, may contract for the use of private halfway-house facilities for such programs. The Administrator shall prescribe regulations to govern contracting under the preceding sentence.

"(3) Notwithstanding any other provision of this title, the Administrator shall provide treatment and services under this section to any person (other than a person barred from receiving benefits by section 3103 of this title) who served in the active military, naval, or air service during the Vietnam era and whose service during such era was the basis for awarding a Southeast Asia campaign ribbon.

"(b) If the Administrator determines that it is essential to a successful program of treatment and rehabilitation of a person who has received an initial evaluation or initial treatment under this section that treatment (including the furnishing of medication) and rehabilitative services be provided as part of the same program to a member of the person's immediate family who is also suffering from a disability resulting from alcohol or drug dependence or abuse, then the Administrator shall, if requested, pay the cost (up to an amount considered reasonable by the Administrator) of the provision of like treatment and services to the person, in a community facility approved by the Administrator, for which the Administrator contracts and at which the family member has been accepted for treatment with the person.

"(c) The Administrator shall offer each person being provided treatment and rehabilitative services under this section a method of treatment that is drug-free unless it is medically contraindicated to do so.

"(d) The Administrator shall utilize all available resources of the Veterans' Administration and shall use peer-group veterans in seeking out and providing counseling for eligible persons applying for treatment and rehabilitative services under this section.

"(e) The Administrator, in consultation with the Secretary of Labor, the Civil Service Commission, the National Institute on Drug Abuse, and the National Institute on Alcohol Abuse and Alcoholism, shall take all appropriate steps—

"(1) to urge Federal agencies and appropriate private and public firms, organiza-

tions, agencies, and persons to provide appropriate employment and training to persons who have been provided treatment and rehabilitative services under this section and who have been determined by competent medical authority to be sufficiently rehabilitated so as to be employable; and

"(2) to provide all possible assistance to the Secretary of Labor in placing such persons in positions providing such employment and training.

"(f) Upon receipt of an application for treatment and rehabilitative services under this section by any person who has been discharged or released from a period of active military, naval, or air service under conditions other than honorable, the Administrator shall—

"(1) advise such person of such person's rights to apply to the appropriate military department for review of such discharge or release under section 1552 and 1553 of title 10;

"(2) advise such person of the policy of such department with respect to reviews of discharges received in connection with drug use or possession; and

"(3) advise such person of all benefits under this title and under any other law to which such person is entitled or would be entitled with a discharge or release from such period of service under honorable conditions.

"(g)(1) The Administrator shall make available treatment and rehabilitative services under this section for any person eligible for such treatment and services who has been charged with, or convicted of, a criminal offense by any court of competent jurisdiction in the United States and who is not confined and not required to participate in a treatment and rehabilitation program by any such court.

"(2) The Administrator may also make available treatment and rehabilitative services under this section for any person eligible for such treatment and services who is under the jurisdiction of a court of competent jurisdiction as the result of having been charged with, or having been convicted of, a criminal offense and who is required to participate in a treatment and rehabilitation program by such court, but such services shall be provided only under such conditions as the Administrator determines will insure that the participation of such person in the program in question will not impair the voluntary nature of the treatment and rehabilitative services being provided to other patients in such program.

"(h) The Administrator shall submit as a part of the annual report submitted pursuant to section 214 of this title a full report on the programs carried out under this section.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 620 the following new item:

"620A. Treatment and rehabilitation for disabilities resultng from alcohol or drug dependence or abuse.".

CHOICE OF HEALTH CARE FACILITIES

SEC. 203. (a) Subchapter III of chapter 17 is amended by adding at the end thereof the following new section:

"§ 629. Choice of facilities for certain mental health care for Southeast Asia veterans

"(a)(1) Any person whose active military, naval, or air service during the Vietnam era was the basis for the awarding of a Southeast Asia campaign ribbon and who is eligible for care and treatment under section 612A of this title or under section 620A of this title may, at the election of such person, receive such care and treatment through a community mental health center providing mental health services under the Community Mental Health Centers Act (42 U.S.C. 2689 et seq.).

"(2) The Administrator shall reimburse each community mental health center for the reasonable value of any care and treatment provided by it to a person which such person could have received from the Veterans' Administration and shall reimburse a person for any amount paid by such person to a community mental health center for such care and treatment.

"(b)(1) To assure that mental health care is available to persons whose active military, naval, or air service during the Vietnam era was the basis for the awarding of a Southeast Asia campaign ribbon, the Administrator shall contract for the provision of mental health care to such persons under such plans as the Administrator considers appropriate. The types of mental health care which may be provided under such plans are the types of care and treatment authorized to be provided under sections 612A and 620A of this title.

"(2) In contracting for plans under paragraph (1) of this subsection, the Administrator shall provide that no mental health care shall be available under such a plan in an area designated by the Administrator as having adequate mental health care available through community mental health centers operating under the Community Mental Health Centers Act and through which an eligible person may receive such care under subsection (a).

"(3) Any plan contracted for under this subsection shall include provision for payment by the Administrator for any service of the least of the following amounts:

"(A) 100 per centum of the actual charge for such service.

"(B) 100 per centum of the usual charge for such service of the physician providing the service.

"(C) 100 per centum of the reasonable charge for such service.

"(4) No benefit shall be payable under any plan contracted for under this subsection in the case of any person enrolled in any other insurance, medical service, or health plan provided by law or through employment unless the person certifies that the particular benefit being claimed is not payable under such other plan.".

(b) The table of sections at the beginning of chapter 17 is amended by adding after the item relating to section 628 the following new item:

"629. Choice of facilities for certain mental health care for Southeast Asia veterans.".

GENERAL ACCOUNTING OFFICE REPRESENTATIVES IN VETERANS' ADMINISTRATION HOSPITALS

SEC. 204. (a) Subchapter III of chapter 17 is amended by adding after section 629 (as added by section 203 of this Act) the following new section:

"§ 630. Ombudsmen for patients in Veterans' Administration facilities

"The Administrator shall authorize any employee of the General Accounting Office assigned by the Comptroller General of the United States to duty in a facility of the Veterans' Administration providing hospital care, nursing home care, or domiciliary care under this chapter to have reasonable access to the patients in such facility and to the records and books of such facility. Any such employee so assigned may act as an ombudsman on behalf of patients in such facility to the head of such facility and to the Administrator.".

(b) The table of sections at the beginning of chapter 17 is amended by adding after the item relating to section 629 (as added by section 203 of this Act) the following new item:

"630. Ombudsman for patients in Veterans' Administration facilities.".

ADVERTISING OF PROGRAMS

SEC. 205. (a) The Administrator of Veterans' Affairs, in consultation with the Secretary of Health, Education, and Welfare, shall take appropriate steps to inform veterans of the Vietnam era of the availability of the programs under sections 612A, 602A, and 629 of title 38, United States Code (as added by sections 201, 202, and 203, respectively, of this Act).

(b) There is authorrized to be appropriated for fiscal year 1980 the sum of $2,000,000 for the purchase of advertising to carry out the provisions of subsection (a).

TITLE III—GI BILL EDUCATION ASSISTANCE

EXTENSION OF DELIMITING DATE

SEC. 301. (a) Subsection (a) of section 1662, relating to time limitations for completing a program of education, is amended to read as follows:

"DELIMITING PERIOD FOR ELIGIBILITY FOR EDUCATIONAL ASSISTANCE

"(a)(1) No educational assistance shall be provided to an eligible veteran under this chapter after the end of the 10-year period beginning on the date of such veteran's last discharge or release from active duty after January 31, 1955, except that—

"(A) any eligible veteran whose last discharge or release from active duty was during the period beginning on August 5, 1964, and ending on December 31, 1970, shall be eligible for such assistance until January 1, 1984; and

"(B) any eligible veteran who was prevented from initiating or completing such veteran's chosen program of education within such 10-year period because of a physical or mental disability which was not the result of such veteran's own willful misconduct shall, upon application, be granted an extension of the applicable period of eligibility for such length of time as the Administrator determines, from the evidence, that such veteran was prevented from initiating or completing such program of education.

"(2)(A) Notwithstanding the provisions of paragraph (1) of this subsection, any veteran shall be permitted to use any of such veteran's unused entitlement under section 1661 of this title for the purposes of eligibility for an education loan under the provisions of section 1798 of this title after the expiration of the period of such entitlement otherwise applicable to such veteran under such paragraph, if such veteran was pursuing an approved program of education on a full-time basis at the time of the expiration of such eligibility.

"(B) Notwithstanding any other provision of this chapter or any provision of chapter 36 of this title, any veteran whose period of eligibility for educational assistance is extended under subparagraph (A) of this paragraph may continue to use any unused loan entitlement under this paragraph as long as the veteran continues to be enrolled on a full-time basis in pursuit of the approved program of education in which such veteran was enrolled at the time of expiration of such veteran's eligibility until the earlier of—

"(i) the date such entitlement is exhausted,

"(ii) the date of the expiration of the period of eligibility otherwise applicable to such veteran under paragraph (1) of this subsection, or

"(iii) the date such veteran has completed the approved program of education in which such veteran was enrolled at the end of the period of eligibility referred to in paragraph (1) of this subsection.".

(b) Section 1662 is amended by adding at the end thereof the following new subsection:

"(f) Educational assistance under this chapter or chapter 36 of this title for which a veteran is eligible by virtue of an extension of eligibility for educational assistance provided by subsection (a)(1)(A) of this section may not be used for a program of education leading to a degree higher than a baccalaureate degree.".

(c) The amendments made by this section shall take effect on July 1, 1979.

TUITION EQUALIZER

SEC. 302. (a) Section 1682 is amended by adding at the end thereof the following new subsection:

"(f)(1) In addition to the educational asistance allowance payable to any eligible veteran under this chapter, there shall be paid to each such veteran (other than a veteran who is on active duty or is enrolled in a program that is pursued on less than a half-time basis, a program of flight training, or a program of instruction leading to a degree higher than a baccalaureate degree) a supplemental tuition allowance as described in this subsection.

"(2) The amount of supplemental tuition allowance payable to any veteran for any school year may not exceed $900 and shall be determined as follows:

"(A) The veteran shall pay the first $400 of the tuition and fees charged the veteran for that school year.

"(B) The Administrator shall reimburse 50 per centum of the next $1,200 of the tuition and fees paid by the veteran for that school year.

"(3) Application for supplemental tuition assistance under this subsection shall be made by a veteran to the Administrator in such form and manner as the Administrator shall prescribe, including certification from the educational institution of the amount of tuition and fees actually paid by the veteran for academic periods completed by the veteran.

"(4) In computing the amount of supplemental tuition allowances to which a veteran is entitled, the Administrator shall recognize as tuition and fees for any school year the lesser of the following amounts:

"(A) The amount of actual tuition and fees paid by the veteran.

"(B) The amount equal to the actual tuition and fees in effect on September 1, 1978.

"(5) For purposes of this subsection, the term 'school year' shall be defined by the Administrator to carry out the purpose of assisting veterans in the payment of their tuition and fees, but in no case may such term be defined to exceed twelve consecutive months.".

(b) The amendment made by subsection (a) of this section shall take effect on July 1, 1979.

REPEAL OF STATE MATCHING REQUIREMENT UNDER LOAN PROGRAM

SEC. 303. (a) Subsection (b) of section 1682A, relating to accelerated payments of educational assistance allowances, is amended—

(1) in paragraph (6)—

(A) by striking out "(A)"; and

(B) by striking out ", or (B) on which the appropriate State or local governmental unit establishes a program described in clause (8) of the subsection, whichever date is the later;" and inserting in lieu thereof "; and";

(2) by striking out "; and" at the end of paragraph (7) and inserting in lieu thereof a period; and

(3) by striking out paragraph (8).

(b) Subsection (c) of such section is amended by striking out "and matching amounts paid to the Administrator by a State or local governmental unit, as described in subsection (b)(8) of this section,".

(c) Subsection (d) of such section is amended—

(1) by striking out "33⅓ per centum" both places it appears therein and inserting in lieu thereof "66⅔ per centum";

(2) by striking out "are in excess of $700 for such school term" and inserting in lieu thereof "for such school term are in excess of the sum of $700 and any amount received by such veteran as a supplemental tuition allowance for such school term under section 1682(f) of this title";

(3) by inserting "or" before "(3)"; and

(4) by striking out "or (4)" and all that follows in such subsection through "of such veteran,".

(d) Section 1798(f)(1) is amended by striking out "and any matching contribution by a State or local governmental unit pursuant to section 1682A(b)(8) of this title".

ADVERTISING OF PROGRAMS

SEC. 304. (a) The Administrator of Veterans' Affairs, in consultation with the Secretary of Health, Education, and Welfare and the Secretary of Labor, shall take appropriate steps to inform veterans of the Vietnam era of the provisions of the amendments made by this title.

(b) There is authorized to be appropriated for fiscal year 1980 the sum of $2,000,000 for the purchase of advertising to carry out the provisions of subsection (a).

TITLE IV—ADMINISTRATIVE COSTS FOR STATE HOME LOAN PROGRAMS

GRANTS TO STATES FOR START-UP COSTS OF HOME LOAN PROGRAMS

SEC. 401. (a) Chapter 37, relating to home, condominium, and mobile home loans, is amended by adding at the end thereof the following new section:

"§ 1828. State home loan programs

"(a) The Administrator may enter into an agreement with a State or local government to pay such government the reasonable administrative expenses involved in establishing a veteran's home loan program meeting the requirements of subsection (b).

"(b) A program for which the Administrator may make payments under subsection (a) is a program that provides for the making of direct home loans to veterans (including veterans of the Vietnam era, as such term is defined in section 2011(2)(A) of this title) at interest rates below the prevailing market interest rate.

"(c) The Administrator shall prescribe regulations to carry out this section.".

(b) The table of sections at the beginning of chapter 37 is amended by adding at the end thereof the following new item:

"§ 1828. State home loan programs.".

TITLE V—COMMISSION TO STUDY VETERANS' BENEFITS ESTABLISHMENT

SEC. 501. There is established a commission to be known as the Commission on Veterans' Benefits (hereinafter in this title referred to as the "Commission").

FUNCTION OF COMMISSION

SEC. 502. (a) The Commission shall make a comprehensive study and appraisal of the structure, scope, and administration of the laws of the United States providing benefits to veterans and their dependents. In conducting such study, the Commission shall review and, where applicable, utilize the findings of the President's Commission on Veterans' Pensions and the report of the National Academy of Sciences on Veterans' Administration health care.

(b) In carrying out such review and study, the Commission shall give particular attention to—

(1) the needs of veterans of the Vietnam era and how the needs of such veterans differ from the needs of veterans of earlier periods of armed conflict of the United States;

(2) changes in basic military, social, fiscal, and economic factors in the society and culture of the United States that affect the role of veterans benefits;

(3) the conditions under which veterans benefits should be provided to different categories of veterans; and

(4) the relationship of the various veterans benefits to each other, to benefits for persons on active duty in the Armed Forces, and to the broader social security benefits and other benefits provided by the United States to persons without regard to their status as veterans or members of the Armed Forces.

MEMBERSHIP

SEC. 503. (a) The Commission shall be composed of seven members appointed by the President, two of whom shall be veterans of the Vietnam era, two of whom shall be members of women's and minority groups, and at least one of whom shall not be an officer or employee of the United States.

(b) Members shall be appointed for the life of the Commission.

(c)(1) Except as provided in paragraph (2), members of the Commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–17 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(2) Members of the Commission who are full-time officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(d) Four members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(e) The Chairman of the Commission shall be designated by the President from the members of the Commission who are not officers or employees of the United States.

(f) The Commission shall meet at the call of the Chairman or a majority of its members.

DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS

SEC. 504. (a) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the rate of basic pay in effect for grade GS–16 of the General Schedule.

(b) With the approval of the Commission, the Director may appoint and fix the pay of such additional personnel as he considers desirable.

(c) The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–15 of the General Schedule.

(d) With the approval of the Commission, the Director may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in

effect for grade GS–15 of the General Schedule.

(e) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this Act.

POWERS OF COMMISSION

SEC. 505. (a) The Commission may for the purpose of carrying out this title hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable.

(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act, upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

REPORT

SEC. 506. The Commission shall transmit a report to the President and to each House of Congress not later than the end of the 18-month period beginning on the date of the enactment of this Act. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative action as it considers appropriate.

TERMINATION

SEC. 507. The Commission shall cease to exist 30 days after submitting its final report pursuant to section 506.

By Mr. DURKIN (for himself and Mr. McINTYRE):

S. 3597. A bill to amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of liquefied natural gas and liquefied petroleum gas facilities, to provide standards with respect to the siting, construction, and operation of liquefied natural gas facilities, to establish a comprehensive liability and compensation fund for such facilities, to provide for the licensing of such facilities beyond the limits of territorial sea subject to the jurisdiction of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

COMPREHENSIVE LIQUEFIED ENERGY GAS SITING SAFETY AND LIABILITY ACT OF 1976

Mr. DURKIN. Mr. President, huge quantities of liquefied natural gas (LNG) and liquefied petroleum gas (LPG) are being imported into the United States and transported through heavily populated areas. These materials, which are collectively referred to as liquefied energy gases or LEG, play an important role in our national energy supply, especially in New England which has no indigenous supplies of natural gas. However, these fuels are extremely hazardous materials; therefore they must be properly regulated to insure their safe transportation and storage.

Legislative action is necessary in the near future, because the Federal Government is not doing enough to protect the public from the dangers posed by the transportation and storage of LEG. Just several weeks ago, a freight train with two liquefied petroleum gas tank cars derailed in my own State, in Portsmouth, N.H. No accident or leak occurred, but if it had, a disaster could have resulted.

To insure that the public is adequately protected from the dangers of liquefied energy gas, we must seriously focus on several major areas, including: First, the question of liability and compensation for those involved in a liquefied energy gas incident; second, the improvement of Federal regulations regarding the siting, construction and operation of LNG facilities; and third, application of appropriate standards for LPG transportation and storage facilities.

Today, I am introducing the Comprehensive Liquefied Energy Gas Siting Safety and Liability Act of 1978. This bill has many purposes, including:

First. To improve existing Federal regulations pertaining to liquefied natural gas (LNG) facilities;

Second. To assure that industry has formally submitted to the Department of Transportation a contingency plan which sets forth those steps which are to be taken in event of an LNG accident;

Third. To establish a comprehensive liability and compensation fund for liquefied energy gas accidents;

Fourth. To provide for the licensing of LNG facilities both beyond and within the limits of the U.S. territorial sea;

Fifth. To insure adequate safeguards and protective measures are taken to prevent sabotage or terrorism threats to an LEG ship or facility;

Sixth. To subject the transportation and storage of liquefied petroleum gas (LPG) to the civil procedures authorized under the Natural Gas Pipeline Safety Act of 1968.

I am convinced that Congress must act in all of the areas covered in this bill, especially liquefied energy gas safety and liability. Evidence and studies provided by the General Accounting Office, the Office of Technology Assessment, and the Congressional Research Service all indicate the need for major improvements in the handling of Federal responsibilities in this area. Recently, I chaired Commerce Committee hearings in Boston that further convinced me of the immediate need for improvements in Federal regulation over LEG. At these hearings a wide range of witnesses, local officials from New Hampshire, fire department officials, and State and Federal regulatory agencies all testified on the pressing need to improve Federal regulation of LEG.

LNG SAFETY AND FEDERAL REGULATIONS

Few would argue with the proposition that we must have Federal regulations to promote the safety of LNG facilities. In order to realize the need for improved Federal regulations, we must be aware of the hazards and safety requirements of LNG.

If LNG spills from its container, it rapidly vaporizes and becomes a highly flammable and explosive gas. Under these conditions, it represents a hazard to both people and property. Being very cold (−260° F), it will freeze skin tissue on contact. LNG can cause asphyxiation when it evaporates. If LNG vapor is mixed with air and ignited within some type of confinement, such as a building, the resulting rapid release of energy will cause the pressure of the LNG to rise to the point where the confining medium bursts or explodes.

One hazard possibly resulting from the escape of LNG is fire. If accidentally spilled on the ground, LNG evaporates very rapidly; and if the resulting vapor is ignited right away, a fire will develop over the evaporating pool of liquid, and it will continue to burn until all of the liquid has evaporated. If the spill is large, the fire may be of substantial dimensions, and the resulting thermal radiation can cause injury and damage at some distance away from the fire. If released LNG is not ignited, it will form a cloud that will move downwind. The natural turbulence of the air will dilute the vapor cloud as it travels downwind. Eventually it will become so diluted that it is no longer flammable, but if the cloud is ignited at some point downwind before it becomes fully diluted, it will burn and cause thermal injury and damage to anything it envelopes. Furthermore, such an accident could set off innumerable secondary explosions and fires, especially in built-up areas. We have an obligation to undertake every effort to insure this does not happen. Similar problems exist in regard to liquefied petroleum gases, or LPG, which is actually more prevalent in our energy supply system.

Another potential danger associated with LNG is the vulnerability to sabotage of facilities containing this fuel. GAO found that the security procedures and physical barriers at liquid energy gas facilities are generally not adequate to deter even an untrained saboteur. Successful sabotage at such a facility in an urban area could cause a catastrophe. Security at liquid energy gas facilities must be improved.

Of special concern is the fact that LNG is often stored in heavily populated areas and is also transported by trucks on busy streets and highways. For example, plants that store LNG during periods of low gas demand are located in Memphis, Tenn.; Charlotte, N.C.; Des Moines, Iowa; Baltimore, Md.; Brooklyn, N.Y., and Columbus, Ga. LNG is transported by truck through parts of Boston and throughout new England.

LPG ground transportation is also pervasive. LPG trucks travel on nearly every major highway in New England.

If a substantial amount of LNG were released in a populated area a major catastrophe could ensue. I am convinced that increased and more effective measures are needed to insure against the unique dangers LNG and LPG pose. Unexpected release of LNG resulting from a collision of an LNG tanker, from faulty containerization of LNG on board, or from careless handling or improper storage or processing of the material on land

could endanger life and property over a large geographical area, according to the GAO, dikes surrounding LNG tanks cannot contain the surge of LNG from a massive rupture or collapse of a tank wall.

In view of these potential dangers, any rational person would hope that the Federal Government would have acted to insure the safety of these facilities before they become so prevalent. However, this is not the case.

Regulatory agencies and witnesses before both the House and Senate Commerce Committees have criticized the regulatory activities of Federal agencies charged with insuring the safe transport of LNG. GAO noted that although the Coast Guard inspects all LNG ships before they enter U.S. harbors, these inspections do not include an examination of the operating condition of control equipment. GAO has found that Federal regulation and inspection of LNG importation, transportation, and storage have not been adequate to insure the public safety.

Furthermore, OTA indicated that the Coast Guard could conduct more rigorous inspections of LNG tankers and that inspection technology now in use could be improved. The Congressional Research Service has suggested that the characteristics of the Federal regulatory system do not appear to be compatible with the optimal requirements desirable for a system that must regulate a material as potentially dangerous as is LNG, the National Transportation Safety Board has frequently criticized DOT's program concerning the transportation of hazardous materials, including LNG. In addition, it is notable that DOT has no special inspection program for liquefied energy gas trucks. DOT also does not issue special regulations designed to protect against sabotage of vehicles transporting LNG. The Congress must act to improve this situation.

I am sorry to report to this body that the Department of Transportation has failed to adopt comprehensive Federal standards regarding the siting, design operation, and maintenance of LNG facilities. In 1972, the industry consensus standards developed by the National Fire Protection Association were incorporated into the Federal Gas Pipeline Safety Regulations, supposedly as an interim measure pending the development of comprehensive standards. Despite widespread concern over the adequacy of these interim standards and growing importance of LNG as an energy resource, the promised comprehensive standards have never been adopted.

My bill addresses this problem by identifying the criteria to be considered by the Secretary in developing standards and setting firm deadlines for proposing and adopting them. I consider this program to be of the utmost importance since, unless effective action is taken promptly, a number of major facilities are likely to be proposed and constructed in the absence of adequate safety standards. We cannot wait another 6 years for DOT to implement improved Federal regulations.

To insure that these regulations are effectively implemented, the DOT would be required to license the construction of each facility and to inspect annually each LNG facility.

I consider the question of safety and siting of LNG facilities to be a State matter as well as a Federal responsibility. Therefore, under this bill any State agency may adopt additional or more stringent standards for LNG facilities as long as such standards are compatible with the Federal minimum standards. Also, the Governor of an affected State or a responsible State agency having appropriate jurisdiction must approve the specific location of a proposed LNG facility in the affected State before a construction permit is granted by DOT.

LIQUEFIED PETROLEUM GAS (LPG)

LPG is an extremely hazardous material. I am convinced that Federal regulations to protect the public from its dangers are also inadequate.

LPG is heavier than air. If accidently released, the gas forms a highly flammable cloud that clings to the ground and has the capacity to sink into sewers and subway tunnels. The LPG in one tank truck, if released and vaporized, could fill 110 miles of sewer or 15 miles of subway tunnel, If this gas were then to ignite and unprecedented catastrophe would occur.

Under certain conditions, LPG is subject to a phenomenon called a boiling liquid expanding vapor explosion (BLEVE), which magnifies its danger many times.

The force of an LPG explosion can propel ruptured tank like a rocket, trailing liquid flame hundreds of feet. In one BLEVE in Kingman, Ariz. in 1973, 12 firemen were killed and onlookers inside automobiles 1,000 feet from the explosion area were burned. The fact that LPG facilities usually include more than one storage tank and that railroad shipments frequently involve more than one tank car, increases the potential for BLEVE's.

I call your attention to another tragic incident. The town of Waverly, Tenn., experienced a BLEVE on February 25, 1978. A derailed railroad tank car carrying 30,000 gallons of propane exploded during cleanup operations 48 hours after the derailment had occurred. The explosion leveled a four-block square area of the town, killing 12 people and injuring scores more.

The National Transportation Safety Board reported that although LPG was involved in only about 10 percent of the pipeline accidents in 1976, it was responsible for 66 percent of the deaths and 48 percent of the injuries.

Federal regulations concerning LPG must be improved. Under the Comprehensive Liquefied Energy Gas Siting Safety and Liability Act of 1978 LPG will be covered by the civil procedures provided for the regulation of natural gas. This conforms to the repeated recommendations of the National Transportation Safety Board and the General Accounting Office and corrects a deficiency in the law which has allowed this highly volatile product to be regulated in the same way as other, much less dangerous, petroleum products like gasoline.

By including LPG under the regulatory procedures for natural gas, I do not intend that the same regulations should apply to both natural gas and LPG. LPG clearly presents greater and different hazards and should be separately subjected to regulations tailored to its unique properties and this bill will insure that this distinction is made in future regulations.

LIABILITY AND COMPENSATION

Mr. President, as a former insurance commissioner, I am certain of the need to hold those causing damage to other parties strictly liable for their actions. After reading the GAO's report on LNG/LPG liability, I am convinced that any one affected by a disaster involving these materials would not be compensated properly, or in a timely fashion.

The GAO found that a major LNG or LPG accident could cause damage of such severity that injured parties could not be fully compensated under existing arrangements. GAO noted present corporate structures and legal limits on liability offer great protection to the parent corporations. This may diminish their incentives for safety. Most of the assets in the LNG system are protected by these corporate chains, and the top corporations, which derive all of the profits, would generally not be liable for the consequences of an accident since often each facility or ship is owned by a separate "paper" corporation.

Mr. President, I am of the philosophy that those who share in the profits of an enterprise must also share in the risks.

GAO found that the frontline companies, which are most vulnerable to liability claims, are usually the most thinly capitalized in the chain. Most of their assets may be the ship or terminal itself, which is unlikely to survive an accident that does extensive offsite damage.

Furthermore, GAO noted the liability of shipowners and bareboat ship charterers is limited by U.S. statute to the postaccident value of the vessel, plus any amounts owing for freight, if they can prove that they did not know about the causes of the accident.

Claimants after a major LNG accident would face long, complex, and expensive litigation involving potential complications at every step in the legal process. If the defendant corporation is foreign-owned, it and its assets may be out of reach—in fact, it may be impossible to serve legal papers on the corporation unless it maintains an agent in the United States.

It is not always possible to prove the primary cause of a major accident, since critical evidence may be destroyed by the accident itself. If the accident resulted from sabotage or natural forces, the company may not be liable at all.

We must act to correct these inequities. Under the Comprehensive Liquefied Energy Gas Siting, Safety, and Liability Act of 1978, the following are some of the actions to be taken:

First. A "liquefied energy gas incident

liability and compensation fund" would be established.

Second. Except in certain special cases, the owner and operator of a vessel, facility, or company engaged in the transportation or operation of a liquefied energy gas facility/vessel shall be held jointly and severely liable, without regard to fault for damages arising out of an incident involving liquefied gas stored in, or discharged from, the vehicle vessel, or facility.

Third. Each owner or operator of a liquefied gas facility, vessel, or vehicle shall establish and maintain evidence of financial responsibility sufficient to satisfy the maximum amount of liability as defined in the bill.

Fourth. Establishment of a claims procedure for those adversely affected by a liquefied gas incident.

Mr. President, there are many other provisions in this comprehensive bill that are necessary to improve and upgrade Federal regulation over the transportation, siting, safety, and liability of liquefied energy gases.

I feel that the Congress must devote more attention to these issues in order to formulate responsible legislation. I have introduced this legislation today, not as a finished document, but as a working manuscript, with the goal of promoting congressional action in this vital area.

Considerable parts of this legislation draw on provisions of other legislation developed and introduced in the House of Representatives. I have tried to draw the most effective provisions from these bills in order to provide the framework for a coherent, effective legislative approach to the difficult issue of liquefied energy gas regulations. I hope that in hearings over the next few months we can begin to grapple with the difficult, but important, issues posed by the increasing use of these volatile energy sources in the United States.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3597

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Liquefied Energy Gas Siting Safety and Liability Act of 1978".

SECTION 1. Except as otherwise expressly provided, whenever in this Title any reference, amendment or repeal is expressed in terms of a reference or amendment to, or repeal of, a section or other provision, it shall be considered to be made to a section or other provision of the Natural Gas Pipeline Safety Act of 1968.

TITLE I. SITING AND SAFETY OF LNG FACILITIES

SEC. 101. Section 2(a), as redesignated, is amended by striking out "and" at the end of paragraph (10) (as redesignated), by striking out the period at the end of paragraph (11) (as redesignated) and inserting a semicolon in lieu thereof, and by adding at the end thereof the following new items:

"(12) 'Liquefied Natural Gas or LNG' means natural gas in a liquid, semisolid, or solid state;

"(13) 'Liquefied Natural Gas facility' or 'LNG facility' or use of LNG, or for LNG conversion in interstate or foreign commerce, but does not include any structure or equipment (or portion thereof) located in navigable waters (as defined in section 3(8) of the Federal Power Act (16) U.S.C. 796(8));

"(14) 'LNG conversion' means conversion of natural gas into LNG (liquefaction or solidification) or the conversion of LNG into natural gas (vaporization);

"(15) 'Construction' means construction, reconstruction, or erection, and includes, with respect to any LNG facility, any act which the Secretary determines would result in the creation or substantial increase of capacity of such facility for transporting or storing LNG or for LNG conversion:

"(16) 'Existing LNG facility' means—

(A) with respect to siting standards, any LNG facility for which application for regulatory approval was filed and finally approved by the appropriate Federal agencies before the date of enactment of this title.

(B) with respect to construction and operation standards, any LNG facility the construction of which commences within 210 days of the date of enactment of this title;

"(17) 'New LNG facility' means any LNG facility other than an existing LNG facility;

"(18) 'LNG accident' means any release, burning, or explosion of LNG resulting from—

"(A) a rupture or other failure of a storage tank, pipeline, or other LNG facility;

"(B) natural hazards (including earthquakes, hurricanes, and high winds);

"(C) sabotage; or

"(D) any other cause which accident results in property damage of an amount equal to or greater than $10,000 or personal injury, or both; and

"(19) 'Interstate or foreign commerce' means any trade, traffic, transportation, exchange, or other commerce—

"(A) between any State and any place outside of such State, or

"(B) which affects any trade, transportation, exchange, or other commerce described in subparagraph (A).".

SITING AND SAFETY STANDARDS

SEC. 102. (a) The Act is amended by redesignating sections 6 through 17 as sections 8 through 19, respectively, and by inserting after section 5 the following new section:

"STANDARDS FOR LNG FACILITIES

"SEC. 6. (a)(1) After the date standards first take effect under this section, no new LNG facility may be constructed, unless the Secretary approves such construction and then only to the extent that such construction is in accordance with the applicable standards prescribed under subsection (b) and such other terms and conditions as the Secretary determines are appropriate to assure that the facility will be constructed and operated in compliance with standards under subsection (b). After the effective date of standards issued under subsection (b) the Secretary shall issue a construction permit on the basis of an application submitted pursuant to this act and which meets the siting standards established pursuant to subsection (b) for all new LNG facilities.

"(2) The Secretary shall not approve construction of any LNG facility under this subsection unless the person seeking such approval submits (1) a contingency plan which sets forth those steps which are to be taken in the event of an LNG accident and which the Secretary determines to be adequate to ensure maximum protection of public health, safety, and property, and (2)

"(b) Not later than 180 days after the date of the enactment of this section, the Secretary shall publish—

"(F) the medical, law enforcement, and fire prevention and fighting capabilities existing near each such location to cope with risks created by such a facility;

"(G) the costs of constructing and operating such LNG facility at each such location, including the costs to the United States and to State and local governments which are associated with such construction and operation; and

"(2) with respect to standards applicable to the construction of any new LNG facility—

"(A) the thermal resistance and other characteristics of materials to be used in the construction of such facility as compared to alternative materials;

"(B) design factors (such as multiple diking, underground storage, insulated concrete, and vapor containment barriers);

"(C) the characteristics of the LNG to be stored or converted at, or transported by, such facility (for example, whether it is to be in a liquid, semisolid, or solid state); and

"(D) the public safety factors of the design as compared to alternative designs (particularly the ability under such a design to prevent and contain an LNG spill);

"(E) security aspects including anti-intrusion design features (such as double fencing, electronic detection devices, and lookout towers.); and

"(3) with respect to standards for the operation of any LNG facility—

"(A) the conditions, features, and type of equipment and structures which comprise, or which are used in connection with such facility;

"(B) the fire prevention, fire-fighting and containment equipment and structures which comprise, or which are used in connection with such facility;

"(F) the medical, law enforcement, and fire prevention and fighting capabilities existing near each such location to cope with risks created by such a facility;

"(G) the costs of constructing and operating such LNG facility at each such location, including the costs to the United States and to State and local governments which are associated with such construction and operation; and

"(2) with respect to standards applicable to the construction of any new LNG facility—

"(A) the thermal resistance and other characteristics of materials to be used in the construction of such facility as compared to alternative materials;

"(B) design factors (such as multiple diking, underground storage, insulated concrete, and vapor containment barriers);

"(C) the characteristics of the LNG to be stored or converted at, or transported by, such facility (for example, whether it is to be in a liquid, semisolid, or solid state); and

"(D) the public safety factors of the design as compared to alternative designs (particularly the ability under such a design to prevent and contain an LNG spill);

"(E) security aspects including anti-intrusion design features (such as double fencing, electronic detection devices, and lookout towers.); and

"(3) with respect to standards for the operation of any LNG facility—

"(A) the conditions, features, and type of equipment and structures which comprise, or which are used in connection with such facility;

"(B) the fire prevention, fire-fighting and containment equipment and structures which comprise, or which are used in connection with such facility;

"(C) the security measures to be used with respect to the operation of such facility for the prevention of sabotage or other intentional acts which could cause an LNG accident;

"(D) maintenance procedures and equipment;

"(E) the training of personnel with respect to the equipment, structures, measures, and

procedures described in subparagraphs (A), (B), (C), and (D); and

"(F) other factors and conditions relating to the safe handling of LNG.

"(e) At any time after the effective date of standards initially prescribed under subsections (b) and (c), the Secretary shall, on his own motion or on the motion of any person, amend such standards to the extent he considers necessary to reflect changes in technology or to otherwise carry out the purposes of this section.

"(f) Any standards prescribed under this section, and amendments thereto, shall become effective 30 days after the date of issuance of such standards unless the Secretary, for good cause recited, determines an earlier or later effective date is required as a result of the period reasonably necessary for compliance and such date is specified in the order establishing or amending such standard.

"(g) The provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to all orders establishing, amending, or revoking, any standard established under this section. The Secretary shall afford interested persons an opportunity to participate fully in the establishment of such safety construction and siting standards through submission of written data, views, or arguments. The Secretary at his discretion may provide interested parties the opportunity to present oral testimony and have a full hearing on the record.

"(h) Any State agency may adopt additional or more stringent standards for LNG facilities if such standards are compatible with the Federal minimum standards.

"(i) The Secretary shall, within five days following the receipt by him of any application for construction of a liquefied natural gas facility pursuant to this section, notify the Governor of the affected State, in writing, concerning such application. No such application shall be approved unless at least one hearing is held in the affected local district in connection with such application.

(j) In no case shall the Secretary issue any permit for the construction of, or a license for the operation of, a liquefied natural gas facility unless: (1) environmental impact statements required by law in connection therewith have been prepared in accordance with such law. (2) The governor of the affected State, or a responsible State agency having jurisdiction with respect to such sitings within any such affected State, has approved the specific location of the proposed facility as contained in any such application.

(k) The Secretary shall approve or deny any application for construction of a liquefied natural gas facility or any application for a license to operate a liquefied natural gas facility submitted pursuant to this subtitle not later than ninety days after the last public hearing regarding such application.

(l) In carrying out the provisions of this title the Secretary shall consult with the Secretary of Energy to ensure that appropriate consideration is given to the technical economic and security aspects of LNG as they relate to the energy supply situation of the United States.

(m) After the effective date of the standards for the operation of new LNG facilities the Secretary shall issue regulations to ensure that such facilities are inspected at least on an annual basis by qualified Federal inspectors.

(b) (1) Section 2(a)(4), as redesignated, is amended by striking out "or affecting".

(2) Section 2(a)(10), as redesignated, is amended by inserting ", LNG facilities," after "pipeline facilities" the first place it appears therein.

(3) Section 3(d), as redesignated, is amended (A) by inserting "or LNG facilities" after "pipeline facilities"; and (B) by inserting after "in the same manner" the following: "and to the same extent".

(4) Section 4(b) (relating to Pipeline Transportation Safety Committee) is amended by inserting ", LNG facilities," after "pipeline facilities".

(5) Section 9 (relating to cooperation), as redesignated, is amended—

(A) by inserting "or LNG facility" after "affected pipeline facility" and after "gas pipeline"; and

(B) by inserting "or LNG facilities" after "pipeline facilities".

(6) Section 10 (relating to compliance), as redesignated, is amended by inserting "LNG facilities" after "pipeline facilities".

(7) Section 13 (relating to injunction and jurisdiction), as redesignated, is amended by inserting after "pipeline facility" the following: "or LNG facility".

(8) Section 14 (relating to inspection and maintenance plans), as redesignated, is amended—

(A) by inserting after "facilities" the following: "or LNG facilities" each place it appears;

(B) by striking out "pipeline safety" each place it appears and inserting in lieu thereof "pipeline and LNG facility safety"; and

(C) by inserting in paragraph (2) after "pipeline transportation" the following "or LNG facility".

(9) Section 14 (relating to records, etc.), as redesignated, is amended by inserting after "pipeline facilities" each place it appears the following: "and LNG facilities".

(10) Section 17(a)(2) (relating to annual report), as redesignated, is amended by inserting after "pipeline" the following: "or LNG facilities".

(11) Section 17(a)(4) (relating to annual report), as redesignated, is amended by striking out "and pipeline facilities" and inserting in lieu thereof ", pipeline facilities, and LNG facilites,".

ENFORCEMENT OF STANDARDS AND CIVIL PENALTIES

SEC. 103(a) Section 11(a) (relating to civil penalty), as redesignated by section 202 of this Act, is amended by inserting "(1)" before "Any person" and by adding at the end thereof the following new paragraph: shall be subject to a civil penalty of not to exceed $50,000 which penalty shall be in addition to any other penalties to which such person may be subject under this subsection.".

(b) The Act is further amended by redesignating sections 12 through 19 (as redesignated) as sections 13 through 20, respectively, and by inserting after section 11 the following new section:

"CRIMINAL PENALTY

"SEC. 12. Any person who willfully and knowingly violates the provisions of section 6 shall, on conviction thereof, be punished by a fine of not more than $50,000, or by imprisonment for not more than five years, or both.".

APPROPRIATIONS AUTHORIZATION

SEC. 205. Section 18(b) (relating to appropriations authorization), as redesignated, is amended by adding at the end thereof the following new paragraph;

"(3) There are authorized to be appropriated to carry out sections 6 of this Act for the fiscal year ending September 30, 1979, not to exceed $2,000,000.".

TITLE II. LIABILITY AND COMPENSATION FUND

SEC. 201. The Ports and Waterways Safety Act of 1972 is amended by adding at the end thereof the following:

"INTERNATIONAL AGREEMENTS

"SEC. 327. The Secretary of State, in consultation with the Secretary, shall seek effective international action and cooperation in support of the policy and purposes of this Act and may formulate, present, or support specific proposals in the United Nations and other competent international organizations for the development of appropriate international rules and regulations relative to the construction, ownership, and operation of offshore facilities and vessels transporting liquefied energy gases, with particular regard for measures that assure protection of such facilities as well as the promotion of navigational safety in the vicinity thereof. The Secretary shall also determine the feasibility and desirability of negotiating treaties or other means to establish effective liability insurance provisions governing the trans-national transportation of liquefied natural gas or liquefied petroleum gas.

"FUND ESTABLISHMENT

"SEC. 202. (a) There is established in the Treasury of the United States a Liquefied Energy Gas Incident Liability and Compensation Fund (hereinafter in this title referred to as the 'Fund'), to be available for the payment of claims under this subtitle. The Fund shall be administered by the Secretary and the Secretary of the Treasury, as provided in this subtitle. The Fund shall consist of an amount not to exceed $250,000,000, except that such limitation may be increased to the extent necessary to permit the deposit into the Fund of moneys referred to in paragraphs (2) and (3) of subsection (b) which are recovered or collected on behalf of the Fund. The Fund may sue or be sued in its own name.

"(b) The Fund shall be constituted from—

"(1) fees collected pursuant to subsection (c);

"(2) amounts recovered on behalf of the Fund under section 105; and

"(3) all other amounts recovered or collected on behalf of the Fund under this subtitle.

"(c)(1) The Secretary of the Treasury shall collect from the owner of each liquefied natural gas facility or liquefied petroleum gas importation facility more than 1 cent per thousand cubic feet of liquefied gas received at such facility for export, for entry into the United States, or for transportation in interstate commerce. Gas upon which a fee has been levied under this paragraph shall not be subject to a subsequent levy hereunder.

"(2) The Secretary of the Treasury shall from time to time, and in accordance with the limitation set forth in paragraph (1), modify or suspend the amount of the fee to be collected under this subsection in order to maintain the Fund at a level of not less than $50,000,000 and not more than $250,000,000, subject to permissible increase under section 102(a).

"(d)(1) The Secretary shall determine the amount in the Fund which is required for immediate access in order to meet potential obligations of the Fund.

"(2) All sums in the Fund in excess of the level determined under paragraph (1) shall be invested by the Secretary of the Treasury in income-producing securities issued by the United States. The income from, and the proceeds from the sale of, any securities held in the Fund shall be credited to the Fund.

"RECOVERABLE DAMAGES

"SEC. 203. Claims for damages arising out of a liquefied natural gas or liquefied petroleum gas accident may be asserted under this subtitle for—

"(1) personal injury; or

"(2) damage to, or destruction of, real or personal property in an amount equal to or exceeding $10,000.

"LIABILITY

"SEC. 2. (a)(1) Notwithstanding any other provision of law except as provided in subsections (b) and (c)—

"(A) the owner and operator of a vessel shall be held jointly and severally liable,

without regard to fault, for damages arising out of an incident involving liquefied natural gas or liquefied petroleum gas being carried on or being discharged from such vessel;

"(B) the owner and operator of a liquefied gas facility shall be held jointly and severally liable, without regard to fault, for damages arising out of an accident involving liquefied gas stored in or being discharged from such facility; and

"(2) The total of the liability under paragraph (1) of an owner or operator of a vessel, facility or transportation company shall not exceed $100,000,000, except that if the accident is caused primarily by—

"(A) the gross negligence or willful misconduct within the privity and knowledge of such owner or operator of such vessel or facility; or

"(B) a violation of applicable Federal safety, construction, or operating standards including hazardous materials transportation and pipeline safety standards; such owner and operator shall be jointly and severally liable for the full amount of such damages.

"(3) No liability shall be imposed under paragraph (1)—

"(A) when the accident is caused primarily by an act of war carried out by another nation; or by a natural phenomenon of an exceptional, inevitable, or irresistible character; or

"(B) as to a particular claimant, to the extent that the incident or damage is directly caused by the negligent or intentional act of such claimant.

"(b)(1) Except as provided in paragraph (2), the Fund shall be liable, without any limitation, for all damages for which a claim may be asserted under section 103 to the extent that the damage is not otherwise compensated.

"(2) No liability shall be imposed under paragraph (1)—

"(A) when the accident is caused primarily by an act of war carried out by another nation or by a natural phenomenon of an exceptional, inevitable, or irresistible character; or

"(B) as to a particular claimant, to the extent that the incident or damage is caused by the negligent or intentional act of such claimant.

"(3) If at any time the moneys available in the Fund are insufficient to meet the obligations of the Fund, the Secretary shall issue notes or other obligations to the Secretary of the Treasury in such forms and denominations, bearing such interest rates and maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of these notes or obligations shall be made by the Secretary from moneys in the Fund. These notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of these notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of these notes or other obligations shall be treated as public debt transactions of the United States.

"SUBROGATION

"SEC. 205. (a) Any person, including the Fund, who pays any amount to a claimant for a loss compensable under section 103, shall be subrogated to all rights, claims, and causes of action which that claimant has under this subtitle.

"(b) Upon request of the Secretary, the Attorney General of the United States may commence an action on behalf of the Fund for any amount paid by the Fund to a claimant pursuant to this subtitle. Such an action may be commenced against any owner, operator, or person providing financial responsibility, or other person, who may be liable to the compensated claimant or to the Fund for the damages for which the amount was paid.

"FINANCIAL RESPONSIBILITY

"SEC. 206. (a) Each owner or operator of a liquefied energy gas facility, liquefied energy gas vessel, shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which such owner or operator could be exposed in a case in which he would be entitled to limit his liability under section 204(a)(2). Financial responsibility may be established by any one, or a combination of, the following methods acceptable to the Secretary: (1) evidence of insurance, (2) security bonds, (3) qualification as a self-insurer, or (4) other evidence of financial responsibility satisfactory to the Secretary.

"(b)(1) Any person who fails to comply with the requirements of this section shall be liable for a civil penalty of not more than $10,000.

"(2) The Secretary of the Treasury shall refuse the clearance required by section 4197 of the Revised Statutes of the United States to any vessel subject to this subsection, which does not meet the requirements for financial responsibility established under subsection (a).

"NOTIFICATION

"SEC. 207. The owner or operator of, or the person in charge of, a liquefied energy gas vessel or facility which is involved in an accident shall notify the Secretary as soon as he has knowledge of such accident. Notification received pursuant to this subsection or information obtained by the exploitation of such notification shall not be used against any person providing such notification in any criminal case, except a prosecution for perjury or for giving a false statement.

"CLAIMS PROCEDURE

"SEC. 208. (a) Whenever the Secretary receives notification under section 107, or information from any person alleging a liquefied energy gas accident involving liquefied energy gas vessel, or facility, he shall notify the owner or operator of the vessel, vehicle, or facility of any such allegation and of his liability under this subtitle. Such owner or operator may, within five days after receiving such notification, deny any allegation, or deny liability for damages for any of the reasons set forth in section 104(a)(3).

"(b) Any denial made under subsection (a) shall be adjudicated in accordance with the provisions of subsections (j) and (k).

"(c)(1) If a denial is not made pursuant to subsection (a) of this section, the owner and operator, or the person providing financial responsibility, shall advertise, in accordance with regulations promulgated by the Secretary, in any area where damages occurred or may occur, the procedures under which claims may be presented to such owners and operator or such person providing financial responsibility. The Secretary shall publish the text of such advertisement, in modified form if necessary, in the Federal Register. If any person fails to make any advertisement required by this paragraph, the Secretary shall do so and such person shall pay the costs of such advertisement.

"(2) If a denial is made pursuant to subsection (a) of this section, the Secretary shall advertise and publish procedures under which claims may be presented to the Secretary for payment from the Fund.

"(3) Any advertisement made under this subsection shall begin no later than fifteen days after the date of the notification of owners and operators under subsection (b) and shall continue for a period of no less than thirty days.

"(d)(1) Except as provided in subsection (e) of this section, all claims shall be presented (A) to the owner and operator, or (B) to the person providing financial responsibility.

"(2) Any person to whom a claim has been presented under paragraph (1) shall promptly notify the claimant of the rights which such claimant may have under this title and notify the Secretary of receipt of such claim.

"(e) The following claims may be presented to the Secretary for payment by the Fund:

"(1) Any claim for damages resulting from any accident with respect to which a denial has been made pursuant to subsection (a) of this section.

"(2) Any claim which has been presented to any person pursuant to subsection (c)(1) of this section, if such person—

"(A) has not accepted liability for such claim for any reason,

"(B) submits to the claimant a written offer for settlement of the claim, which the claimant rejects for any reason, or

"(C) has not settled such claim by agreement with the claimant within sixty days after the date on which (i) such claim was presented, or (ii) advertising was commenced pursuant to subsection (c) of this section, whichever date is later.

"(f) In the case of a claim which has been presented to any person under subsection (d)(1), and which may be presented to the Secretary under subsection (e)(2), such person shall, within two days after a request by the claimant, transmit directly to the Secretary such claim and such other supporting documents as the Secretary may by regulation prescribe, and such claim shall be deemed presented to the Secretary for payment by the Fund.

"(g)(1) Except as provided in paragraph (2), the Secretary shall use the facilities and services of private insurance and claims adjusting organizations or State Agencies in processing claims against the Fund and may contact to pay compensation for those facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5), upon a showing by the Secretary that advertising is not reasonably practicable. The Secretary may make advance payments to a contractor for services and facilities, and the Secretary may advance to the contractor funds to be used for the payment of claims. The Secretary may review and audit claim payments made pursuant to this subsection. A payment to a claimant for a single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved by the Secretary. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted on behalf of that State or any of it agencies or subdivisions unless the payment has been approved by the Secretary.

"(2) In the case of extraordinary circumstances in which the facilities and services of private organizations described in paragraph (1) are inadequate to process all claims against the Fund, the Secretary may use Federal personnel to the extent necessary to process such claims.

"(h)(1) The Secretary shall prescribe, and may from time to time amend, regulations

for the filing, processing, settlement, and adjudication of claims against the Fund for damages resulting from liquefied bulk gas incidents.

"(2) Each person's damage claims arising from one incident which are presented to the Secretary shall be presented in one form, which may be amended to include new claims as they are discovered. Damages which are known or reasonably should be known, and which are not included in the claim at the time compensation is made, shall be deemed waived.

"(3) All claims under this title shall be presented to the owner or operator, or the person providing financial responsibility, or to the Secretary for payment from the Fund, not later than three years after the discovery of any damage for which such claim is made, except that no such claim may be presented after the end of the six-year period beginning on the date on which advertising was begun pursuant to subsection (c)(1).

"(i) The following matters in dispute shall be submitted to the Secretary and adjudicated pursuant to the provisions of this section:

"(1) Upon the petition of a claimant, in the case of a claim which has been presented to the Secretary for payment by the Fund, and in which the Secretary—

"(A) has, for any reason, denied liability for such claim; or

"(B) has not settled such claim by agreement with such claimant within ninety days after the date on which (i) such claim was presented to the Secretary, or (ii) advertising was commenced pursuant to subsection (c)(2) of this section, whichever date is later.

"(2) Upon the petition of the owner and operator or the person providing financial responsibility, who is or may be liable for damages under this title—

"(A) any denial made pursuant to subsection (b)(1) of this section:

"(B) any objection to an exception to the limit of liability set forth in section 204 (a)(2) of this title; and

"(C) the amount of any payment or proposed payment by the Fund which may be recovered from such owner and operator, or such person providing financial responsibility, pursuant to section 205.

"(j)(1) Upon receipt of any matter in dispute submitted for adjudication pursuant to subsection (j) of this section, the Secretary shall refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code. Such hearing examiner shall promptly adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code.

"(2) For purposes of any hearing conducted pursuant to this subsection, the hearing examiner shall have the power to administer oaths and subpena the attendance and testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues presented for determination. Subpenas shall be issued and enforced in accordance with procedures in subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the Secretary. If a person fails or refuses to obey a subpena, the Secretary may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him of books, papers, documents, or any tangible things.

"(3) A hearing conducted under this subsection shall be conducted within the United States judicial district within which the matter in dispute occurred, or, if such matter occurred within two or more districts, in any of the affected districts or, if such matter in dispute occurred outside of any district, in the nearest district.

"(k) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid shall be promptly disbursed by the Fund. Such decision shall not be reviewable by the Secretary.

"JUDICIAL REVIEW

"SEC. 209. (a) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under section 108(j) may, not later than sixty days after such decision is made, seek judicial review of such decision (1) in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit, or (2) in the United States Court of Appeals for the District of Columbia.

"(b) In any case in which the person responsible for the incident, or the Fund, seeks judicial review, attorneys' fees and court costs shall be awarded to the claimant if the decision of the hearing examiner is affirmed.

"JURISDICTION AND VENUE

"SEC. 210. (a) The United States district courts shall have original jurisdiction over all controversies arising under this subtitle, without regard to the citizenship of the parties or the amount in controversy.

"(b) Venue shall lie in any district (1) wherein the damage complained of occurred, or, if such damage occurred outside of any district, in the nearest district, or (2) wherein the defendant resides, may be found, or has its principal place of business. For the purposes of this section, the Fund shall reside in the District of Columbia.

"ACCESS TO RECORDS

"SEC. 211. (a) Each person responsible for contributing to the Fund in accordance with this subtitle shall keep such records and furnish such information as the Secretary shall prescribe in regulations. Collection shall be at such times and in such manner as shall be prescribed in regulations.

"(b) The Secretary shall have access to any books, documents, papers, and records of such person relevant to the administration of subtitle, and shall undertake regular examinations of and audits on the collection of fees.

"(c) The Comptroller General shall have access to any books, documents, papers, records, and other information of any person liable to contribute to the Fund, relevant to the administration of this title, and to all books, documents, papers, records, and other information of the Fund.

"ANNUAL REPORT

"SEC. 212. Within six months after the end of each fiscal year, the Secretary of the Treasury shall submit to the President of the Senate and the Speaker of the House of Representatives (1) a report on the administration of the Fund during such fiscal year, (2) a summary of the management and enforcement activities of the Fund, and (3) recommendations to the Congress for such additional legislative authority as may be necessary to improve the management of the Fund and the administration of the liability provisions of this subtitle.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 213(a) There are authorized to be appropriated such sums as may be necessary for the administration of the Fund.

"(b) The authority to issue notes or other obligations under section 104(b)(3) shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

"PREEMPTION

"SEC. 214 (a) Except as otherwise provided in this title, (1) no action may be brought in any court of the United States, or of any State or political subdivision thereof, for damages, for an economic loss described in section 202, a claim for which may be asserted when under this title, and (2) no person may be required to contribute to any fund, the purpose of which is to pay compensation for such a loss, or to establish or maintain evidence of financial responsibility relating to the satisfaction of a claim for such a loss.

"(b) Nothing in section (a) shall prohibit an action by the Fund, under any other provision of law, to recover compensation paid pursuant to this title.

"PRESIDENTIAL STUDY

"SEC. 215. The DOT Secretary shall study the adequacy of existing provisions of admiralty law and insurance practices related to coverage of vessels carrying liquefied gases and shall report to the Congress no later than 540 days after the enactment of this Act on his findings and recommendations.

"DEFINITIONS

"SEC. 216. For purposes of this title, the term—

"(1) 'Secretary' means the Secretary of the Department in which the Coast Guard is operating.

TITLE III. MISCELLANEOUS PROVISIONS

SUBTITLE A

Except as otherwise expressly provided, whenever in this subtitle, any reference, amendment or repeal is expressed in terms of a reference or amendment to, or repeal of, a section or other provision, it shall be considered to be made to a section or other provision of the Natural Gas Pipeline Safety Act of 1968.

WILLFUL DESTRUCTION OF INTERSTATE PIPELINE TRANSMISSION OR LNG FACILITIES

SEC. 301. Section 12 (as added by section 204 of this Act) is amended by inserting "(a)" after "SEC. 12." and by adding at the end thereof the following new subsection:

"(b) Any person who willfully injures or destroys, or attempts to injure or destroy—

"(1) any pipeline facility for the interstate transmission of gas, liquefied petroleum gas, or petroleum, including any facility or equipment covered under this Act under section 2 (b) or (d) used in the interstate transmission of gas or liquefied petroleum gas, or

"(2) any liquefied gas facility to which section 6 applies,

shall be fined not more than $15,000 or imprisoned not more than fifteen years, or both."

CITIZENS' CIVIL ACTION

SEC. 302. Section 20 (relating to citizen civil suits), as redesignated, is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"SEC. 20. (a)(1) Except as provided in subsection (b), any aggrieved person may commence a civil action for equitable relief as a citizen whenever such action constitutes a case or controversy—

"(A) against any person (including (i) the United States, and (ii) any other governmental instrumentality or the agency to the extent permitted by the 11th amendment to the Constitution) alleged to be in violation of any provision of this Act, any order or regulation issued under this Act, or any provision of this Act, any order or regulation issued under this Act, or any condition of approval pursuant to section 6 of this Act; or

"(B) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this Act, which is not discretionary with the Secretary.

"(2) Any action brought against the Sec-

retary under paragraph (1)(B) shall be brought in the district court for the District of Columbia or for the judicial district in which the facility involved is located or proposed to be located.

"(3) In suits brought under this section, the district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any provision of this Act or any condition of approval pursuant to section 6 of this Act or to order the Secretary to perform such act or duty, as the case may be.

"(b) No civil action may be commenced under this section—

"(1) under subsection (a)(1)(A)—

"(A) prior to 60 days after the plaintiff has given notice of the violation (i) to the Secretary (or to the applicable State agency in the case of a State which has been certified under section 5(a) and in which the violation is alleged to have occurred) and (ii) to any alleged violator; or

"(B) if the Secretary (or such State agency) has commenced and is diligently pursuing administrative proceedings or the Attorney General (or the chief law enforcement offices of such State) has commenced and is diligently prosecuting a civil or criminal action with respect to such matters in a court of the United States but in any such action any person may intervene as a matter of right; or

"(2) under subsection (a)(2) prior to 60 days after the plaintiff has given notice of such action to the Secretary (or such State agency.)

Notice under this subsection shall be given in such a manner as the Secretary shall prescribe by regulation.".

APPOINTMENTS OF DIRECTOR OF PIPELINE SAFETY OPERATIONS AND DIRECTOR OF MATERIALS TRANSPORTATION BUREAU

SEC. 303(a) Notwithstanding any other provision of law—

(1) no individual may serve for more than 180 days (in the aggregate) in an acting capacity in a position the principal duties of which were identified as of March 1, 1978, as assigned to the Director of the Office of Pipeline Safety Operations, Department of Transportation, or may serve as the Action Director of the Materials Transportation Bureau, Department of Transportation, and

(2) if a person is not appointed to such position within 180 days after a vacancy occurs in that position, the Secretary shall personally carry out the functions of such position until an appointment is made to that position and all delegations of authority under the Fuels Transportation Safety Act shall be suspended until such appointment is made.

(b) In the case of any vacancy in such positions on the date of the enactment of this Act, periods of service before the date of enactment shall not be taken into account for purposes of subsection (a).

LIQUEFIED PETROLEUM GAS SAFETY STANDARDS

SEC. 304. (a) Section 2(3) is amended—

(1) by striking out "transportation of gas" and inserting in lieu thereof "Pipeline transportation"; and

(2) by inserting after "interstate or foreign commerce" the following: ", or the transmission or distribution (but excluding the gathering) of liquefied petroleum gas by pipeline, in interstate or foreign commerce".

(b) Section 2 is amended by redesignating paragraphs (3) through (10) as paragraphs (4) through (11), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) 'Liquefied petroleum gas' means propane, butane, any related product, or mixture or combination thereof:".

(c) Section 2(2) is amended by inserting ", but such term does not include liquefied petroleum gas" after "toxic or corrosive".

(d) Section 2(4), as amended and redesignated, is further amended by inserting after "distribution of gas" the following: "(whether in a gaseous or nongaseous state)".

(e) Section 2 is amended by inserting "(a)" after "SEC. 2" and by adding at the end thereof the following new subsection:

"(b) Any storage facility, or category of storage facilities, physically connected to any pipeline facility, or facilities, used for the transmission or distribution of liquefied petroleum gas shall be included by the Secretary, by regulation, within the meaning of subsection (a)(4) if—

"(1) the Secretary finds that such inclusion would further the purposes of this Act; and

"(2) such facility has a storage capacity of 30,000 gallons or more, or is used in connection with one or more other storage facilities at the same site which have, in the aggregate, a storage capacity of 30,000 gallons or more.".

(f) Section 3 is amended by adding at the end thereof the following new subsection:

"(f)(1) Standards, or amendments to standards, required under this section by reason of the enactment of the Act of 1978 shall be prescribed not later than 18 months after the date of the enactment of such Act.

"(2) As soon as practicable but not later than 3 months after the enactment of such Act, the Secretary shall, by order, adopt interim minimum Federal safety standards for pipeline facilities and pipeline transportation to the extent not covered by this Act immediately before the date of the enactment of the comprehensive liquefied energy gas siting and safety Act of 1978. Such standards shall, to the extent the Secretary determines appropriate, be the State standards regulating pipeline facilities and pipeline transportation within such State on such date on enactment. In any State in which no such standards are in effect, the Secretary shall, by order, establish interim Federal safety standards for such pipeline facilities and pipeline transportation in such State which shall, to the extent the Secretary determines appropriate, be such standards as are common to a majority of States having safety standards for pipeline facilities and pipeline transportation on such date. Interim standards shall remain in effect until amended or revoked pursuant to this section. Any State agency may adopt such additional or more stringent standards for pipeline facilities and pipeline transportation not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, or the Interstate Commerce Act, as are not incompatible with the Federal minimum standards."

(g)(1) The following provisions are amended by striking out "the transportation of gas" each place it appears and inserting in lieu thereof "pipeline transportation":

(A) section 2(a) (5) and (9), as redesignated by subsection (a);

(B) section 3(b) and (e);

(C) section 4(b);

(D) section 8(a);

(E) section 11;

(F) section 12(a);

(G) section 13(b); and

(H) section 14(a)(4).

(2) the following provisions are each amended by striking out "transportation of gas" each place it appears and inserting in lieu thereof "pipeline transportation":

(A) section 2(a) (5) and (9), as redesig-

(B) section 3(b) and (e);

(B) section 5(b)(3); and

(C) section 10(a).

(3) The following provisions are each amended by striking out "gas pipeline" each place it appears and inserting in lieu thereof "pipeline":

(A) section 3(e);

(B) section 4(a); and

(C) section 14(b).

(4) Section 2(a)(4), as redesignated and amended, is further amended by striking out "or its storage" and inserting in lieu thereof ", or its storage in connection with such gathering, transmission, or distribution,".

(5) Section 4(c)(1) is amended—

(A) by striking out "gas safety programs" and inserting in lieu thereof "pipeline safety programs", and

(B) by striking out "date of enactment of this section," and inserting in lieu thereof the following: "date of enactment of the Comprehensive Liquefied Energy Gas Siting and Safety Act of 1978."

(6) The short title set forth in the first section is amended to read as follows: "Fuels Transportation Safety Act".

COVERAGE OF CERTAIN NONPIPELINE FACILITIES

SEC. 305. (a) Section 2, as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(d)(1) If the Secretary finds that the purposes of this Act would be furthered, he may, by regulation, require that the provisions of this Act shall apply with respect to any specified type or class of facility or equipment used in the transportation on land of gas or liquefied petroleum gas, in interstate or foreign commerce, or storage in connection with such transportation, to the same extent and in the same manner as such provisions apply with respect to pipeline facilities.

"(2) This subsection (or any action hereunder) shall not be construed to relieve any person from having to meet standards or meeting other requirements under any other Federal law; except that, if any regulation under this subsection results in the imposition of a standard or other requirement relating to any matter that the Secretary finds is covered by any other standard or requirement pursuant to any provision of law under the jurisdiction of the Secretary, the Secretary shall so state in such regulation, and that standard or requirement shall supersede and preempt the standard or requirement pursuant to such other provision of law to the extent such matter is covered under the regulation under this subsection.".

(b) Section 5(a) is amended by inserting "section 2(c)," after "Except for".

"SUBTITLE B—OFFSHORE LIQUIFIED NATURAL GAS FACILITIES

SEC. 306. The Ports and Waterways Safety Act of 1972 is amended by adding at the end thereof the following:

"SEC. 321. It is the policy of the Congress in enacting this subtitle to—

"(1) authorize and regulate the location, design and construction, and operation of offshore liquefied natural gas facilities, by establishing standards for safety and environmental review;

"(2) encourage the construction and utilization of offshore liquefied natural gas transportation facilities and other facilities posing significant safety or environmental hazards to persons, property, and the natural environment, on the Outer Continental Shelf or in superjacent waters, subject to the jurisdiction of the United States.

"LICENSE

"SEC. 322. (a) No person may engage in the ownership, design, construction, or operation of an offshore liquefied natural gas facility except in accordance with a license issued pursuant to this subtitle. The license required by this subtitle shall be the sole approval required for any such facility with respect to siting and safety standards.

"(b) The Secretary is authorized, upon application and in accordance with the provisions of this subtitle, to issue, transfer, amend, or renew a license for the ownership,

construction, and operation of an offshore liquefied natural gas facility.

"(c) The Secretary may issue a license under this subtitle if—

"(1) he determines that the applicant's proposed location, and plans for design, construction, and operation comply with the requirements established pursuant to section 313, and the applicant agrees in writing that there will be no substantial change in such proposal and plans without prior approval in writing from the Secretary;

"(2) he determines that the applicant will comply with applicable laws and regulations, and any conditions the Secretary may prescribe in accordance with subsection (d)(1);

"(3) he determines that the facility will not unreasonably interfere with international navigation or other reasonable uses of the high seas, as defined by treaty, convention, or customary principles of international law;

"(4) he determines that the applicant is financially responsible,

"(5) the Governor of each adjacent coastal State has approved the issuance of the license pursuant to section 313(c)(1);

"(6) the adjacent coastal State to which the offshore facility is to be directly connected by pipeline has developed, or is making reasonable progress toward developing, an approved coastal zone management program pursuant to the Coastal Zone Management Act of 1972.

"(d)(1) In issuing a license for the ownership, construction, and operation of an offshore facility, the Secretary shall prescribe any conditions which he deems necessary to carry out the provisions of this subtitle.

"(2) The Secretary shall establish such bonding requirements or other assurances as he deems necessary to assure that, upon the revocation or termination of a license, the licensee will remove all components of the offshore facility. In the case of components lying in the subsoil below the seabed, the Secretary is authorized to waive the removal requirements if he finds that such removal is not otherwise necessary and that the remaining components do not constitute any threat to navigation or to the environment.

"(e) Upon application, licenses issued under this subtitle may be transferred if the Secretary determines that such transfer is in the public interest and that the transferee meets the requirements of this subtitle.

"(f) Any citizen of the United States who otherwise qualifies under the terms of this subtitle shall be eligible to be issued a license for the ownership, construction, and operation of an offshore facility.

"(g) Licenses issued under this subtitle shall be for a term of not to exceed twenty years. Each licensee shall have a preferential right to renew his license subject to the requirements of subsection (c) of this section, upon such conditions and for such term, not to exceed an additional ten years upon each renewal, as the Secretary determines to be reasonable and appropriate.

"APPLICATION

"SEC. 313. (a) Each person seeking a license for an offshore facility under this subtitle shall make an application to the Secretary in accordance with the provisions of this section. An application shall be in such form, and contain such information, as the Secretary may require, including—

"(1) the name and address of the applicant;

"(2) the name, address, and citizenship of any person with whom the applicant has made, or proposes to make, a significant contract for the construction or operation of the facility, and a copy of such contract;

"(3) an exact description of the proposed location, along with such other information as may be necessary to demonstrate compliance with the siting requirements prescribed under section 324(b);

"(4) detailed plans for the design of each component of the facility and for the construction of the facility, including anticipated dates of completion for each phase of construction, along with such other information as may be necessary to demonstrate compliance with the design and construction requirements prescribed under section 324(c);

"(5) such information with respect to proposed operating procedures as may be necessary to demonstrate compliance with the operation requirements prescribed under section 324(d);

"(6) such information as may be necessary to determine the impact of the proposed facility on the marine environment and on the environment of adjacent coastal States;

"(7) the financial and technical capabilities of the applicant to hold a license issued under this subtitle.

"(b)(1) Not later than twenty-one days after the receipt of an application, the Secretary shall determine whether the application contains all of the information required by subsection (a). The Secretary shall immediately notify the applicant of any required information that is not contained in the application. If the Secretary determines that the required information appears to be contained in the application, he shall, not later than five days after making such determination, publish notice of the application and a summary of the plans in the Federal Register.

"(2) At least one public hearing shall be held in each adjacent coastal State. Any interested person may present relevant material at any hearing. If the Secretary determines, after hearings in each adjacent coastal State are concluded, that there exists one or more specific and material factual issues which may be resolved by a formal evidentiary hearing, at least one adjudicatory hearing shall be held in accordance with the provisions of section 554 of title 5 of the United States Code in the District of Columbia. The record developed in any such adjudicatory hearing shall be the basis for the Secretary's decision to approve or deny a license. Hearings held pursuant to this subsection shall be consolidated insofar as practicable with hearings held by other agencies. All public hearings with respect to an application shall be concluded not later than two hundred and forty days after notice of the initial application has been published pursuant to paragraph (1) of this subsection.

"(c)(1) Not later than ten days after issuing notice of an application pursuant to subsection (b), the Secretary shall transmit a complete copy of the application to the Governor of each adjacent coastal State. The Secretary shall not issue a license if any such Governor notifies the Secretary of his disapproval of the application, and specifies the grounds on which the application is inconsistent with State programs relating to safety, environmental protection, land and water use, or coastal zone management, not later than forty-five days after the last public hearing on such application. The Secretary must condition a license so as to make it consistent with such State programs.

"(2) An adjacent coastal State may apply for financial assistance under the coastal energy impact program pursuant to section 7 of the Coastal Zone Management Act of 1972, as amended, for the recovery of any environmental, economic, and administrative costs incurred as a result of the construction and operation of an offshore facility.

"(d) The Secretary shall approve or deny any application submitted pursuant to this subtitle not later than ninety days after the last public hearing on a proposed license.

"(c)(1) The Secretary may establish and collect such fees as may be necessary to recover the costs of processing applications. In addition, adjacent coastal States may collect such fees as may be necessary to recover costs incurred in considering an application for an offshore facility adjacent to such State.

"(2) A licensee shall pay annually in advance to the Secretary the fair market rental value (as determined by the Secretary of the Interior) of the subsoil and seabed of the Outer Continental Shelf of the United States to be utilized by the offshore facility, including the fair market value of the right-of-way necessary for the pipeline segment of the facility located on such subsoil and seabed. Such funds are to be used by the Secretary to defray the costs of implementing this Act, the remainder are to be transferred to the general funds of the United States Treasury.

"SAFETY AND ENVIRONMENTAL STANDARDS

"SEC. 314. (a)(1) The Secretary shall, in consultation with the Secretary of the Interior and the Administrator of the National Oceanic and Atmospheric Administration, not later than one year after the date of the enactment of this Act, issue regulations prescribing safety and environmental standards for the location, design, and construction, and operation of offshore liquefied natural gas facilities, in accordance with the provisions of this section.

"(2) The Secretary shall periodically review and whenever necessary, revise in the same manner as originally developed, standards established pursuant to paragraph (1) of this subsection.

"(b) The Secretary shall prescribe standards for the siting of offshore liquefied natural gas facilities, which shall be designed to minimize the danger to persons, property, and the marine environment of an accident, and which shall include standards—

"(1) for the location of offshore facilities in safe navigation areas, taking into consideration navigational hazards and the adequacy of surveys and charts in the area of the proposed facility, and vessel traffic patterns, the existence of international approved traffic separation schemes, and other uses of the seas adjacent to the proposed facility;

"(2) for the location of offshore facilities at a safe distance from other facilities or operations which might be a hazard to the offshore facility or which might be endangered by a liquefied natural gas incident;

"(3) with respect to natural hazards, such as meteorological or geological conditions, which might present a danger to an offshore facility;

"(4) for incident prevention and control facilities capable of controlling an incident and minimizing damage;

"(5) with respect to the effect of facilities on the marine environment, oceanic currents and wave patterns, and alternative uses of the oceans; and

"(6) with respect to such other factors as the Secretary deems necessary.

"(c) The Secretary shall require that the best available technology be used in the design and construction of offshore facilities, by prescribing—

"(1) minimum standards for materials, and for methods and techniques of design and construction, which shall be applied to each such facility; and

"(2) additional standards which may be applied in individual cases as deemed necessary by the Secretary to carry out the purposes of this subtitle, and which may be prescribed as conditions to a license under section 322(d)(1).

"(d) The Secretary shall prescribe regulations for the operation of offshore facilities which shall be designed to insure the safe transfer and storage of liquefied natural gas, and which shall include standards—

"(1) for vessel safety in accordance with title I of this Act, including the establishment of safety zones around offshore facilities;

"(2) for the use of Coast Guard-certified tankermen in the handling and transfer of liquefied natural gas from vessels to facilities, and for the training of such other personnel as is necessary for the operation and protection of facilities;

"(3) for the availability and use of incident prevention and control equipment at facilties;

"(4) for the use of security measures at facilities for protection against intentional acts which might cause incidents;

"(5) for the maintenance in safe condition of facilities and equipment, and for periodic safety and health inspections by the Coast Guard; and

"(6) for any other safety measures deemed necessary by the Secretary.

"REGULATIONS

"SEC. 315. (a) The Secretary shall, as soon as practicable after the date of the enactment of this subtitle, issue regulations to carry out the purposes and provisions of this subtitle.

Such regulation shall pertain to, but need not be limited to, application, issuance, transfer, renewal, suspension, and termination of licenses. Such regulations shall provide for full consultation and cooperation with all other interested Federal agencies and departments and with any adjacent coastal State, and for consideration of the views of any interested members of the general public. The Secretary is further authorized, consistent with the purposes and provisions of this subtitle, to amend or rescind any such regulation.

"(b) The Secretary shall, consistent with the purposes of this subtitle, prescribe regulations relating to those activities involved in site evaluation and preconstruction testing at potential offshore facility locations that may (1) adversely affect the environment, (2) interfere with other authorized users of the Outer Continental Shelf, or (3) pose a threat to human health and welfare. Such activity may not be undertaken, after the issuance of such regulations, except in accordance with such regulations.

"RELATIONSHIP TO OTHER LAW

"SEC. 316. (a)(1) The Constitution, laws, and treaties of the United States shall apply to an offshore facility licensed under this subtitle and to activities connected, associated, or potentially interfering with the use or operation of any such facility, in the same manner as if such facility were an area of exclusive Federal jurisdiction located within a State. Nothing in this subtitle shall be construed to relieve, exempt, or immunize any person from any other requirement imposed by Federal law, regulation, or treaty. Offshore facilities licensed under this subtitle do not possess the status of islands and have no territorial seas of their own.

"(2) Except as otherwise provided by this subtitle, nothing in this subtitle shall in any way alter the responsibilities and authorities of a State or the United States within the territorial seas of the United States.

"(b) The law of the nearest adjacent coastal State is declared to be the law of the United States, and shall apply to any offshore facility licensed pursuant to this subtitle, to the extent applicable and not inconsistent with any provision or regulation under this subtitle or other Federal laws and regulations. All such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States.

"(c) Except in a situation involving force majeure, a licensee of an offshore facility shall not permit a vessel, registered in or flying the flag of a foreign state, to call at, or otherwise utilize an offshore facility licensed under this subtitle unless (1) the foreign state involved, by specific agreement with the United States, has agreed to recognize the jurisdiction of the United States over the vessel and its personnel, in accordance with the provisions of this subtitle, while the vessel is located within the safety zone, and (2) the vessel owner or operator has designated an agent in the United States for receipt of service of process in the event of any claim or legal proceeding resulting from activities of the vessel or its personnel while located within such a safety zone.

"(d) The customs laws administered by the Secretary of the Treasury shall not apply to any offshore facility licensed under this subtitle, but all foreign articles to be used in the construction of any such offshore facility, including any component thereof, shall first be made subject to all applicable duties and taxes which would be imposed upon them by reason of their importation if they were imported for consumption in the United States. Duties and taxes shall be paid thereon in accordance with laws applicable to merchandise imported into the customs territory of the United States.

"(e) The United States district courts shall have original jurisdiction of any action arising out of or in connection with the construction or operation of an offshore facility. Any such action may be brought in the judicial district in which any defendant resides or may be found, or in the judicial district nearest the place where the cause of action arose.

"INTERNATIONAL AGREEMENTS

"SEC. 317. The Secretary of State, in consultation with the Secretary, shall seek effective international action and cooperation in support of the policy and purposes of this subtitle and may formulate, present, or support specific proposals in the United Nations and other competent international organizations for the development of appropriate international rules and regulations relative to the construction, ownership, and operation of offshore facilities, with particular regard for measures that assure protection of such facilities as well as the promotion of navigational safety in the vicinity thereof.

"SEC. 318. For purposes of this subtitle, the term—

"(1) 'Secretary' means the Secretary of the Department in which the Coast Guard is operating.

"(2) 'Offshore liquefied natural gas facility' or 'offshore facility' means a liquefied bulk gas facility, including vessels or installations used for the transfer, storage, and regasification of liquefied bulk gas are located on the Outer Continental Shelf or in superjacent waters subject to the jurisdiction of the United States.

"(3) 'Adjacent coastal State' means, with respect to an offshore facility, any coastal State which (A) would be directly connected by pipeline to an offshore facility, or (B) would be located within fifteen miles of a proposed offshore facility.

"(4) 'State' means any State of the United States of America, including its territories and possessions.

"(5) 'Liquefied natural gas incident' or 'incident' means an event of natural or manmade origin involving the transportation of liquefied bulk gases in the marine mode, and the transfer, storage, and regasification of such substances which causes, or poses an imminent threat of, significant damage to persons and property, real and personal.

"(6) 'Construction' means the supervising, inspection, actual building, repairing, or expanding of an onshore or offshore facility, or any of its components.

"(7) 'Person' includes an individual, a firm, corporation, association, partnership, consortium, joint venture, or governmental entity.

"(8) 'Vessel' means every description of watercraft or other artificial contrivance used and means of transportation on or through the water.

"(9) 'Owner' means any person holding title to, or, in the absence of title, any other indicia of ownership of, a vessel or facility, but does not include a person who, without participating in the management or operation of a vessel or facility, holds indicia of ownership primarily to protect his security interest in the vessel or facility.

"(10) 'Operator' means—

"(A) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel, or

"(B) in the case of a facility, any person, except the owner, responsible for the operation of the facility by agreement with the owner."

SECTION-BY-SECTION ANALYSIS; "LIQUEFIED ENERGY GAS SITING SAFETY AND LIABILITY ACT OF 1978"

TITLE I. SITING AND SAFETY STANDARDS

Section 102.—This section amends the SECTION-BY-SECTION ANALYSIS; "LIQUEFIED Natural Gas Pipeline Safety Act of 1968 by adding a new section which pertains to standards for the design, construction, operation, and maintenance of LNG facilities. No new liquefied natural gas facility may be constructed nor may construction occur with respect to an existing facility until the Secretary of Transportation (hereinafter "Secretary") determines that the construction, operation and maintenance of such facility would be in accordance with standards prescribed under this section. (The Secretary presently has the authority to seek a court order enjoining violations of a standard or rule under section 10, but there are no existing guidelines for standards.) After the effective date for the standards are issued under subsection B the Secretary shall issue a construction permit on the basis of the application submitted which meets standards applicable for all new LNG facilities.

Additionally, the Secretary shall not approve construction of a liquefied natural gas facility unless the applicant submits a contingency plan which details steps to be taken in case of a liquefied natural gas accident or supply interruption, and which the Secretary under this section determines to be adequate to ensure maximum protection of public health, safety, and property.

Construction standards prescribed under this section would not apply in the construction of those facilities for which an application for approval was filed and approved by appropriate Federal agencies before the date of enactment. The remaining facilities, defined as existing facilities, would be subject to standards mandated by this section which pertain to operation of facilities. If the capacity of an existing facility is to be expanded, standards mandated by this section pertaining to construction would be applicable to the expansion. New facilities would be subject to all standards mandated by this section.

The section requires that, within 180 days after enactment, the Secretary must establish minimum standards pertaining to: the remote siting of new stationary liquefied natural gas facilities; the design and construction of new LNG facilities; and the operation and maintenance of new facilities. Standards shall be developed independently by the Department of Transportation and shall make every effort to improve upon existing federal and industrial standards.

Within 270 days of enactment, the Secretary would be required to establish minimum standards pertaining to the operation and maintenance of any liquefied natural gas facility. After the effective date of operation and maintenance standards the Secretary shall issue operating permit for exist-

ing LNG facilities on the basis of an application submitted pursuant to the procedures prescribed in the bill.

In prescribing minimum standards for new stationary facilities the Secretary would be required to consider: (1) the nature of the use of the facility; (2) alternative locations; (3) existing and projected population and demographic characteristics of alternative locations and land uses near each location; (4) physical aspects of each location including seismic aspects; (5) medical, law enforcement and fire prevention and fire fighting capabilities of the location; and (6) costs of construction, operation and maintenance and the desirability of remote location.

In promulgating standards for the design and construction of any new liquefied natural gas facility the Secretary must consider: (1) thermal resistance and other characteristics of materials used in the construction of such facilities; (2) design factors (e.g., multiple diking); (3) the characteristics of the liquefied natural gas to be stored or converted (e.g., whether the gas is in liquid, semisolid or solid state); (4) the public safety factors of the design as compared to alternative designs (with special attention to design elements intended to prevent and contain a liquefied natural gas spill); and (5) security aspects, including anti-intrusion features.

In promulgating standards relating to the operation of any liquefied natural gas facility, the Secretary must consider the following: (1) the condition, features and type of equipment and structure utilized in the facility; (2) the fire prevention and containment equipment of the facility; (3) the security measures to be used to prevent sabotage; (4) training techniques in regard to the equipment; (5) its operation and security measures; and (6) other factors pertaining to the safe handling of liquefied natural gas.

Any standard prescribed under this section would become effective 30 days after the date of issuance unless the Secretary, upon a showing of good cause, determines that an earlier or later effective date is necessary to better assure compliance. Additionally, the Secretary would be directed to amend such regulations, on his own motion or on the motion of any person, in order to reflect changes in technology or to carry out the purposes of this section. The Secretary can also afford interested parties the opportunity to present testimony on such changes and to have full hearings on record.

The section also permits State agencies to adopt additional or more stringent standards for liquefied natural gas facilities provided those standards are compatible with Federal minimum standards. No construction application for a new LNG facility shall be approved without at least one hearing in the affected local district. Under no circumstance shall a permit be issued for construction, or licensing for operation of a facility without approval of the Governor of the affected state, or deny any application for construction, or licensing of a facility within a 90-day period after the last hearing regarding the application.

In carrying out the provisions of this title the Secretary also shall consult with the Secretary of Energy to ensure consideration of the technical, economic, and security aspects of liquefied energy gas supply. The Secretary is also required to issue regulations that ensure all LNG facilities inspected at least annually by qualified Federal inspectors.

The section also contains amendments of a technical and conforming nature, provides for civil and criminal penalties for violations and authorize $12 million to carry out the provisions of this title.

TITLE II. LIABILITY AND COMPENSATION

Section 201.—This section directs the Secretary of State, in consultation with the Secretary of Transportation, to seek international action in support of this bill. It authorizes the Secretary of State to formulate specific proposals for the U.N. and other international organizations dealing with construction, ownership and operation of offshore facilities and vessels carrying LEG, and directs the Secretary to determine the feasibility and desirability of negotiating treaties or other means to establish liability insurance covering LEG vessels.

Section 202.—This section establishes a Liquefied Energy Gas Incident Liability and Compensation Fund in the Treasury, and provides for joint administration by the Secretaries of the Treasury and Transportation. It authorizes a total amount for the Fund of up to $250 million, plus any additional amounts collected or recovered in later actions by the Fund and provides that the Fund may sue or be sued in its own name. The Fund shall be constituted from amounts recovered or collected, as well as fees of not more than 1 cent per thousand cubic feet on liquefied energy gases received for export, entry into the United States, or transportation in interstate commerce. These fees shall be collected from the owners of each liquefied natural gas facility or liquefied petroleum gas importation facility. The Secretary of the Treasury is directed to modify or suspend the amount of these fees in order to maintain the Fund at a level of between $50 million and $250 million. Any excess funds shall be invested by the Secretary of the Treasury in income-producing U.S. securities, with the proceeds credited to the Fund.

Section 203.—This section provides that damage claims may be asserted for an accident involving liquefied energy gases which involve personal injury (including death), or property damage equal to or exceeding $10,000.

Section 204.—This section provides strict liability for the owner and/or operator of a vessel carrying liquefied energy gases, or the owner/operator of a liquefied energy gas facility. Total liability for a specific claim is limited to $100 million, unless the incident is caused primarily by gross negligence or willful misconduct of the owner/operator or his agents, or by a violation of applicable Federal standards including hazardous materials or pipeline safety standards. This section also provides that no liability will be found if the accident is caused primarily by an act of war if such an act of war is carried out by another nation (this provision is designed to clarify the intent of legislation to cover any terrorist acts), or by an act of God. Furthermore, no liability is imposed if the damages are directly caused by the negligent or intentional actions of the claimant. If the Fund is inadequate to meet claims, the Secretary shall issue notes or other obligations to the Treasury. Ultimate redemption of these notes shall be made from the Fund. In the meantime the Treasury is directed to purchase such notes and these transactions are treated as public debt transactions.

Section 205.—This section subrogates the Fund as well as any other person paying any amount to claimants under the Act, and provides that upon the request of the Secretary of Transportation, the Attorney General shall bring an action on behalf of the Fund against any person who may be liable to the claimant or the Fund itself.

Section 206.—This section requires each owner/operator of a liquefied energy gas facility or vessel to maintain evidence of a financial responsibility that is adequate to satisfy the maximum limit of liability provided under Section 204. The Secretary is directed to promulgate regulations establishing methods to demonstrate financial responsibility, and provides that such a demonstration may include evidence of insurance, security bonds, qualification as a self-insurer, and/or other evidence of financial responsibility. A failure to comply creates liability for a civil penalty of not more than $10,000, and any vessel failing to comply with the requirements of the section shall be refused clearances.

Section 207.—This section requires the owner/operator of a liquefied energy gas vessel or facility to notify the Secretary as soon as he or she becomes aware of an accident involving LEG. Provides that any information received through or as a result of such notification shall not be used in a subsequent criminal case, except for a prosecution for perjury or for giving a false statement.

Section 208.—This section requires the Secretary of Transportation to notify the owner/operator of an LEG facility or vessel of any information related to an LEG accident as well as potential liability. The owner/operator then has five days to admit or deny liability for damages. If the owner/operator fails to deny liability, he (or his insurer) shall advertise claims procedures in accordance with regulations to be promulgated by the Secretary of Transportation; the Secretary of Transportation; the Secretary is also charged with publishing the advertisement in the *Federal Register*. If a denial is made, the Secretary is required to advertise procedures for presenting claims. Advertisements are required within fifteen days after the Secretary notifies owner/operators and must continue for at least thirty days. Any person to whom a claim has been presented is required to notify the claimant of all his or her legal rights and also notify the Secretary of the claim.

The following types of claims can be submitted directly to the Secretary: claims for which a denial has been filed, as well as those where the owner/operator has refused liability, submitted a written settlement offer which has been rejected by the claimant, or has not settled the claim within sixty days after the later of the dates on which the claim was presented or advertising was started.

The Secretary is also required to use and compensate private insurance companies or State agencies to process claims against the Fund, unless there are extraordinary circumstances where the Secretary determines that private or State facilities are inadequate. Each person's damage claims shall be presented in a single form that is amendable to include newly-discovered claims. However, damages that are known or reasonably should be known to the claimant, but that nevertheless are not included in the claim at the time that compensation is paid to the claimant are effectively waived.

The section also provides that all claims under the Act shall be presented to the owner/operator or his or her insurer, or to the Secreary for payment by the Fund, within three years after the discovery of damage. In any case, no claim may be presented after six years following the first day of advertising.

The section provides for the Secretary of Transportation to appoint a hearing examiner to hear any matter in which the Secretary has denied the petition of a claimant, or not settled a claim within ninety days after submission or first-advertising, or where the owner/operator objects to a denial or to an exception made by the Secretary to the limitation of liability. The examiner in these adjudicatory hearings shall have the power to administer oaths and subpoena witnesses and documents. Deci-

sions by the hearing examiners are not reviewable by the Secretary.

Section 209.—This section authorizes a party to seek review of the hearing examiner's decision in the United States Court of Appeals in the circuit where the damages occurred (or the nearest circuit if the damages occurred outside the jurisdiction of any circuit, or in the Court of Appeals for the District of Columbia): if the owner/operator appeals and the claimant prevails, fees and costs shall be awarded to the claimant.

Section 210.—This section provides that the United States District Courts shall have original jurisdiction for all controversies under this title, without regard to diversity of citizenship or the amount in controversy. Venue lies in any district where the damage occurred (or the nearest district if the damage occurred elsewhere), or where the defendant resides, may be found or has its principal place of business. The Fund "resides" in the District of Columbia.

Section 211.—This section requires each person responsible for contributing to the Fund to maintain such records as the Secretary of Transportation shall require.

The Secretary and the Comptroller General are given access to books and records relevant to the administration of this title.

Section 212.—This section requires the Secretary of the Treasury to submit an annual report on the administration of the Fund and any recommendations to the Congress within six months after the end of each fiscal year.

Section 213.—This section authorizes such sums as may be necessary to administer the Fund.

Section 214.—This section pre-empts other actions in the Federal or State courts for damages covered by this title.

Section 215.—This section requires the President to study the adequacy of existing provisions of admiralty law as well as marine insurance practices relative to the coverage of vessels carrying liquefied energy gases. A report to the Congress is required within a year and a half after enactment.

TITLE III

Subtitle A—Miscellaneous provisions

Willful destruction of interstate pipeline transmission or liquefied gas facilities

Section 301.—This section amends section 12 by subjecting any person who willfully injures or destroys or attempts to injure or destroy a pipeline facility for the interstate transmission of gas or petroleum or a liquefied gas facility to a fine of not more than $15,000 or imprisonment for not more than 15 years or both.

Citizen's Civil Action

Section 302.—This section amends section 20, as redesignated, (Citizens Civil Action) by redrafting subsections a and b to include reference to new section 6. The section provides that any person may commence a civil action for equitable relief whenever that citizen has a case or controversy against any person including the United States or any other government instrumentality (to the extent permitted by the 11th amendment of the Constitution) for violation of any provision, order or regulation of the Act or for violation of any condition of approval of new section 6 (Siting). Additionally, a citizen could bring suit against the Secretary for failure to perform any nondiscretionary act or duty. Any action brought against the Secretary must be brought in the district court of the District of Columbia or in the district court for the judicial district in which the facility is located or proposed to be located. The district court would have jurisdiction over suits brought under this section without regard to the amount in controversy or the citizenship of the parties.

A suit by a citizen against any person (involved in the shipment or storage of natural gas or liquified natural gas) or governmental entity for an alleged violation of the Act could not be brought prior to 60 days after the plaintiff has given notice to the Secretary, or to the appropriate State agency certified under section 5(a) and to the alleged violator.

A citizen could not bring a civil action against a person or governmental entity if the Secretary or Attorney General or chief law enforcement officer of a State has commenced a civil or criminal action, but the citizen could intervene as a matter of right. This provision tracks the existing provisions in the Act.

For purposes of this Act an "aggrieved" person means such person who otherwise has standing to bring such action notwithstanding the lack of any direct economic interest or injury thereto.

Appointments of Director of Office of Pipeline Safety Operations and Director of Materials Transportation Bureau

Section 303.—This section provides that no individual may serve as Acting Director of the Office of Pipeline Safety Operations, or as Acting Director of the Materials Transportation Bureau, of the Department of Transportation, for more than 180 days. It provides that if a Director of such an Office or Bureau is not appointed within 180 days after a vacancy occurs in such position, the Secretary of Transportation shall personally carry out the functions of such position and all delegations of authority under this Act shall be suspended until such appointment is made. It also provides that periods before the date of enactment shall not be taken into consideration in computing the 180-day period.

Liquefied Petroleum Gas Safety Standards

Section 304.—This section brings the transportation by pipeline of LPG within the ambit of the Act. The first step of this incorporation amends section 2 (Definitions), specifically section 2(3), to substitute "pipeline transportation" for the term "transportation of gas" and defines pipeline transportation to include the transmission or distribution (excluding gathering) of liquefied petroleum gas in interstate or foreign commerce.

Section 2(2) of the Act is amended to specifically exclude "liquefied petroleum gas" from the definition of "gas."

This section also permits the Secretary to include by regulation within the meaning of "'pipeline facilities" any storage facility or category of such facilities which are physically connected to any pipeline facility used for the transmission or distribution of liquefied petroleum gas if—

(1) The Secretary finds that the inclusion would further the purposes of the Act, and

(2) The facility has storage capacity of 30,000 gallons or more or is used in conjunction with other facilities having an aggregate storage capacity of 30,000 gallons or more.

The section also amends section 3 of the Act by requiring that new standards or amendments to standards pertaining to amendments described in this section shall be prescribed not later than 18 months after enactment. In the interim, the bill prescribes a procedure for interim regulations which parallels the procedure for interim regulations employed by the 1968 Act. Thus, within 3 months from enactment, the Secretary shall, by order, adopt interim minimum Federal safety standards for pipeline facilities to bring such facilities within the ambit of the Act. To the extent appropriate, such standards shall be the State standards regulating such facilities within such State on the date of enactment of this Act. If a State has no standards, the Secretary must promulgate standards which are common to a majority of States which have such standards. This provision also states that a State can adopt stricter standards for intrastate facilities, but cannot adopt or maintain more rigid standards for interstate facilites after Federal minimum interim standards are adopted.

The remaining provisions of the section are conforming, i.e., substitute "pipeline transportation" for "transportation of gas" in certain sections, etc.

Coverage of Certain Nonpipeline Facilities

Section 305.—This section authorizes the Secretary, if he finds the purposes of the Act would be furthered, to require by regulation that the provisions of the Act apply to specified types or classes of facilities or equipment used in the transportation on land of gas to the same extent or manner as pipeline facilities. If the Secretary promulgates a regulation or other requirement relating to a matter which is covered by another standard or requirement instituted pursuant to the authority of the Secretary, the Secretary shall so state in the regulation and the regulation issued pursuant to this Act shall supersede and preempt the prior standard or requirement.

Subtitle B—offshore liquefied natural gas facilities

Section 306.—This section amends the Ports and Waterways Safety Act of 1972 to establish regulatory procedures for the licensing, construction and operation of offshore liquefied natural gas facilities.

Section 313.—Application and licensing procedures for application for a construction license for an offshore LNG facility and specific information to be supplied by the applicant are prescribed. The Secretary is required to hold at least one public hearing in each adjacent coastal State which shall be basis for the Secretary's desire to approve or deny a license. The Secretary is required to approve or deny an application within 90 days after the last hearing.

The Secretary shall not issue a license if a Governor of an adjacent coastal state disapproves of the application on the grounds that the application is inconsistent with State programs relating to safety, environmental protection, land and water use, or coastal zone management.

Under this section, coastal states may apply for financial assistance under the coastal energy impact program pursuant to the Coastal Zone Management Act of 1972 for the recovery of any environmental, economic, and administrative costs incurred due to construction and operation of an offshore LNG facility.

Licensees shall pay the fair market rental value of the subsoil and seabed of the OCS used by an offshore facility.

Section 314.—Safety and Environmental Standards;

The Secretary shall within one year of enactment issue regulations establishing safety and environmental standards for the location, design, construction and operation of offshore LNG facilities.

The Secretary also shall issue standards for the siting of offshore LNG facilities designed to minimize the danger to persons, property, and the marine environment of an accident.

The Secretary shall require that the best available technology be used in the design and construction of offshore facilities by prescribing minimum standards for materials and methods and techniques of design and construction.

The Secretary also shall prescribe operating standards to ensure the safe transfer and storage of LNG.

Section 315.—Regulations:

The Secretary is authorized to insure regulations to carry out the provisions of this subtitle, including regulations to protect the environment and human health.

Section 316.—Relationship to Other Law

This section brings offshore LNG facilities

under the constitution, laws and treaties of the U.S. as well as the laws of the nearest adjacent coastal State.

No licensee shall permit a vessel flying a foreign flag to call at an offshore LNG facility unless the foreign state involved recognizes the jurisdiction of the U.S. over the vessel and if personnel in U.S. waters and the vessel owner has a designated agent in the U.S. to handle any claims.

The customs laws administered by the Secretary of the Treasury shall not apply to any offshore facility licensed under this subtitle.

U.S. district courts shall have original jurisdiction of any action arising out of construction or operation of an offshore facility.

Section 317.—International Agreements;

The Secretary of State shall seek international action in support of the policies and purposes of this subtitle.

Mr. DURKIN. Mr. President, I ask unanimous consent that the bill be jointly referred to the Committee on Commerce, Science, and Transportation and the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 1315

At the request of Mr. DECONCINI, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1315, a bill to provide more effectively for the use of interpreters in courts of the United States, and for other purposes.

S. 3425

At the request of Mr. RIEGLE, his name was added as a cosponsor of S. 3425, a bill to amend title XVIII of the Social Security Act.

S. 3570 THROUGH S. 3577

At the request of Mr. STAFFORD, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 3570, S. 3571, S. 3572, S. 3573, S. 3574, S. 3575, S. 3576, and S. 3577, bills to amend the Public Buildings Act of 1959, as amended, to authorize the financing of the acquisition and the construction of public buildings, and for other purposes.

SENATE JOINT RESOLUTION 159

At the request of Mr. WALLOP, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of Senate Joint Resolution 159, providing for congressional disapproval of implementation of national water resources policies, and for other purposes.

SENATE RESOLUTION 589—SUBMISSION OF A RESOLUTION WAIVING THE CONGRESSIONAL BUDGET ACT

Mr. RANDOLPH submitted the following resolution, which was referred to the Committee on the Budget:

S. RES. 589

Resolved, That, pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of the conference report to accompany H.R. 11733, the Surface Transportation Act of 1978. Such waiver is necessary for the Senate to complete action on legislation which provides spending authority for the Federal-aid highway program, and the Urban Mass Transit Act for fiscal years 1979, 1980, 1981 and 1982. The total new spending authority provided for this period by the conference report is $53,800,000,000. The spending authority for fiscal year 1979 is $9,000,000,000 for Federal-Aid Highways and $3,170,000,000 for Urban Mass Transit Assistance. This new spending authority is sufficient to allow the States to continue highway development at reasonable levels, and is consistent with projected revenues to the Highway Trust Fund.

SENATE RESOLUTION 590—SUBMISSION OF A RESOLUTION PROPOSING A NEW MARSHALL PLAN FOR THE MIDDLE EAST

Mr. JACKSON (for himself, Mr. CHURCH, Mr. JAVITS, Mr. CASE, and Mr. STONE) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 590

Whereas the Camp David Agreements have established a political framework for the construction of a new political relationship between Israel and Egypt which can be a significant step on the road to a stable peace in the middle East;

Whereas a major factor in the tensions that have produced a generation of political instability in the Middle East has been the poverty and desperation that afflicts the great mass of people in the area;

Whereas the potential resources of Egypt and other countries in the region are rich and plentiful and can be developed in peace and in partnership through cooperation and mutual assistance;

Whereas in helping to alleviate poverty in Egypt and elsewhere in the Middle East, there is a great and historic role for the United States, a role we once before filled in the reconstruction of postwar Europe: Now, therefore be it

Resolved, That it is the sense of the Senate that the President of the United States should take the lead in inviting Egypt and Israel to explore with our government and with the governments of other Western industrial nations the opportunity for a New Marshall Plan for the Middle East, leading to a full economic partnership with the Israeli and Egyptian people and all those in the Middle East who are willing to live in peace.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President of the United States.

Mr. JACKSON. Mr. President, I wish to submit on behalf of myself, Senator CHURCH, Senator JAVITS, Senator CASE, and Senator STONE a resolution expressing the sense of the Senate with respect to developing a new Marshall plan for the Middle East.

This resolution affirms the sense of the Senate that the President of the United States should take the lead in inviting Egypt and Israel to explore with our Government and with the governments of other Western industrial nations the opportunity for a new Marshall plan for the Middle East, leading to a full economic partnership with the Israeli and Egyptian people and all those in the Middle East who are willing to live in peace.

Mr. President, the representatives of Israel and Egypt today open their negotiations at Blair House to complete the historic Israeli-Egyptian peace treaty initiated at Camp David.

At this time, the Camp David agreements remain a political framework—a foundation—for the construction of a new political relationship.

The Middle East, with the exception of Israel, and despite vast oil revenues, remains plagued by poverty and instability. While a fourfold increase in the price of oil has enriched a small minority in a few countries, the great mass in the Middle East continue to suffer the burdens of inadequate food and shelter, high unemployment, and a dismal future. A major factor in the tensions that have produced a generation of political instability in the Middle East has been the desperation that afflicts all but a handful of rich and privileged individuals.

For example, the Egyptian people, some 38 million and growing over a million a year, live from hand to mouth. In Cairo, where 6 million people are crowded together, hundreds of thousands of urban poor live, without water, plumbing or electricity, inside the tombs of the ancient cemetery area. Ten percent of the infants born each year die in infancy. In the Upper Nile, and in farming areas generally, the parasitic disease schistosomiasis contributes to Egypt's male life expectancy of 54 years and condemns millions to internal bleeding, debilitation, and suffering. Professionals and skilled workers emigrate in droves—for there is no work for them in Egypt.

This can and must be changed. The potential resources are rich and plentiful. With peace they can be developed, and with peace one can foresee a fruitful partnership of unprecedented proportions between Israel, Egypt, and the United States.

In helping to alleviate poverty in Egypt and elsewhere in the Middle East, there is a great and historic role for the United States, a role we once before filled in the reconstruction of postwar Europe.

As was the case with the Marshall plan, it is essential that any such program for the Middle East be based on a full partnership with the Israelis and Egyptians. They should work with us and with other Western industrial nations for the common development of their countries and, eventually, the region as a whole. Among them, the countries possess all the potential resources: capital, ingenuity, management skills, labor and, with Western nation involvement, technology and markets. Together we can do much to reverse the misery of centuries, to make the deserts bloom.

The resolution we introduce today is intended to encourage President Carter to take the lead by inviting Egypt and Israel to explore with us and with other governments of Western industrial nations the opportunities for a new Marshall plan for the Middle East.

The American Government can and should let all the countries of the Middle East know that there is a path to the realization of their peaceful dreams along which we are willing to accompany them. And at the same time we must make it plain that those who are unwilling to join with us and Israel and Egypt will lose out on the economic and

other benefits of such cooperation and mutual assistance.

The Camp David agreements are, we trust, a significant step on the road to a stable peace in the Middle East. But for the peace to last it must be more than a peace among armies and diplomats, more than an official peace. It must come to occupy a place in the daily lives of Arabs and Israelis alike. There must be movement across once fortified borders that can now become gateways to the development of social, economic, and political relations—first among the Israeli and Egyptian people, and in time among all those in the Arab world who are willing to live in peace.

INCENTIVES FOR PEACE IN THE MIDDLE EAST

Mr. CHURCH. Mr. President, I am happy to cosponsor this resolution, offered by the able Senator from Washington, Mr. JACKSON, calling for the United States to encourage peace in the Middle East through the provision of economic incentives.

With the signing of the Camp David accords, the time has come for the United States to create such incentives for expanding peace in the Middle East. In an address I recently delivered in New York City entitled, "Incentives for Peace in the Middle East—A Call for a New American Policy," I spoke of a new strategy that would reward those countries that work with us to construct and complete the peace, while extracting a price from those that work against us. I ask unanimous consent that this address be inserted in the RECORD at the conclusion of my remarks.

As I said in New York:

The United States has paid dearly for the wars in that region, and our national interest calls out for an end to the conflict there. We should become a partner for an expanded peace, working in tangible ways to strengthen its foundations and to extend its frontiers.

This resolution moves in the proper direction, and I am glad to add my name to it.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

INCENTIVES FOR PEACE IN THE MIDDLE EAST

It is a great honor to receive the Carmel Laureate Award, which takes its name from the legendary Mount Carmel that overlooks the beautiful City of Haifa. I am told that the Prophet Elijah ascended to Heaven from this mountain after having made a fiery political speech in front of a great gathering. If my talk tonight appears to be a bit restrained, I hope you will understand that I see no reason to take unnecessary chances.

The Prophet Elijah is the symbol of the very precepts forming the spiritual cornerstone of the State of Israel—independence, freedom and rejuvenation. The symbol is embellished in the wake of Camp David and on this, the anniversary of the Jewish New Year. For on this Rosh Hashana, I believe the promise of peace has finally come within sight of the people of Israel who have so long yearned for it.

The face of the Middle East, distorted for 30 years by destruction and death, could be vastly transformed in the years ahead. Admittedly, the rapid sequence of events during the past year, since President Sadat's historic trip to Jerusalem, has strained our emotions. Our initial euphoria last November eventually gave way to deep-seated frustration as we witnessed the seeming disintegration of an historic opportunity for a settlement with Egypt. And as the long days and nights at Camp David wore on with increasingly gloomy reports, hope seemed to fade. But the determination of President Carter and the courage and vision of Prime Minister Begin and President Sadat in agreeing upon a framework for peace have renewed our faith.

It is my sincere belief that within a scant two months Israel will be signing a peace treaty with Egypt—removing the most powerful military force in the Arab world from its posture of unremitting hostility toward Israel. An Egypt at peace with Israel changes the whole equation in the Middle East. For, as President Sadat himself has observed: "Without Egypt, there can be no peace, and without Egypt, there can be no war.

It would be a fruitless exercise to try to quantify the concessions made by each side at Camp David, or to determine who came out "ahead." When history is finally written, it will be said that both President Sadat and Prime Minister Begin felt the weight of the past and the responsibility of the future. Neither flinched, despite the heavy pressures upon them, thus bearing out Shakespeare's perception that "courage mounteth with occasion."

President Sadat can now promise his people that within two or three years, Egypt will regain every inch of the Sinai without sacrificing the life of one more Egyptian soldier. He can also honestly claim that he has remained faithful to the larger Pan-Arab concerns by conferring on the Palestinians full autonomy over their own affairs in the immediate future, while furnishing them a framework within which they might peacefully resolve their remaining differences with Israel.

At the same time, Prime Minister Begin can truthfully point out to the Israelis that peace between them and the strongest Arab country is the gateway that can lead to peace throughout the Middle East.

While Sadat and Begin seem irrevocably committed to establish peace between their two countries, it remains to be seen whether the Palestinians, King Hussein, President Assad, and the rulers of Saudi Arabia can be persuaded to cooperate in a common effort to convert a bilateral peace into a regional peace for the whole Middle East.

The United States is attempting to bring the other Arab states into the peace process, as evidenced by Secretary Vance's recent trip to the capitals of these countries. But, thus far, the initial public reactions are not good. President Assad has emphatically endorsed the hard line P.L.O. rejection of the peace accords. King Hussein has negatively characterized the accords as not capable of achieving a just and lasting peace, while the Saudi Government has called the Camp David framework not acceptable.

While relations between Syria and the United States have improved slightly in recent years, we still have limited influence in Damascus. Our leverage over King Hussein, on the other hand, is considerable. Over the years, the United States has been a staunch supporter of the Hashemite Kingdom, and now is the time to bring our full weight to bear upon Jordan to support the Camp David accords. But even in Amman, full account must be taken of another major player in the Middle East drama—Saudi Arabia.

The prospects for peace in the Middle East will be greatly influenced by the decisions taken in Riyadh, the royal capital of Saudi Arabia. Through its massive financial aid to Egypt, Syria and Jordan, Saudia Arabia exerts much leverage over the policies of those three countries. If it withdraws its support for Sadat, Saudi Arabia could make it extremely difficult for the Egyptian President to complete the agreement with Israel while withstanding external opposition from the hard line Arab states. Likewise, by threatening to cut off economic assistance to Hussein, the Saudis might block his participation in further talks with Israel. Finally, there is little doubt that the absence or availability of Saudi funds would also have great impact on the attitudes of West Bank and Gaza Strip Palestinians.

Even a Saudi policy of benign indifference falls immeasurably short of what we, the *de facto* protector of Saudi Arabia, should expect. When this Administration successfully proposed furnishing F-15's to the Saudis, I opposed the sale on the grounds that F-15's were not the answer to oil price moderation, nor the appropriate weapon for Saudi defensive needs.

The Administration justified the sale in terms of the immense importance of Saudi Arabia in promoting a moderate and responsible course, both in Middle East regional development, including peacemaking, and international economic and financial affairs. Tonight, I remind the Administration of its own words. It is imperative that we make clear to the Saudi Government that our strategic concerns are mutual, that our interests are intertwined and, in the last analysis, it is the American security umbrella which shields the kingdom from potential Iraqi and Soviet aggression. In such circumstances, we have every right to expect the full and forthcoming cooperation of Saudi Arabia in our quest for a regional peace!

Ultimately, to be genuine and lasting, such a regional peace cannot rest for long upon treaties or individual leaders. It is all too fresh in Israeli minds that historical opportunities for peace have been quashed before by an assassin's bullet, or simply the fear of one. It will be recalled that in 1950, intensive secret negotiations took place with King Abdulla of Jordan and culminated in the initialling of a non-aggression pact. At the time, it was the most far-reaching document negotiated between Israel and any of its neighbors. But before the agreement was signed, Abdulla broke off uegotiations as a result of violent opposition by the other Arab governments and the threat of expulsion from the Arab league. In 1951, Abdulla was assassinated as he left the Al-Aksa Mosque in Jerusalem.

Even Gamal Abdul Nasser, the self-proclaimed spokesman for all the Arab countries, is reported to have expressed a desire to meet with David Ben-Gurion. According to Golda Meir, Nasser once said to an intermediary, "If Ben-Gurion came to talk to me, he would return home as a conquering hero. But if I went to him, I would be shot when I came back."

At long last, however the mood has changed. Anwar Sadat was greeted in the streets of Cairo as a conquering hero. For the first time, the odds in favor of more war in the Middle East have shifted to odds that favor peace.

But advocacy alone may not keep these odds favorable. Diplomatic talk may not be enough to persuade the other Arab countries to cooperate. New incentives for peace should be created. The United States should begin now to fashion a policy that will plainly demonstrate to the hold-outs that the fruits of peace can be infinitely more attractive than the spoils of war.

Having been a partner in hammering out the accords at Camp David, and having agreed to assume the same role in the upcoming peace treaty negotiations between Israel and Egypt, it is time we began to consider the kind of partnership we are willing to enter, once the treaty has been signed. I believe the United States should then become a partner for an expanded peace, working in tangible ways to strengthen its foundations and to extend its frontiers.

Therefore, I call tonight for a new addition to American policy in the Middle East, one

based upon a strategy that rewards those that work with us to construct and complete the peace, while extracting a price from those who work against us.

Henceforth, the United States should be prepared to invest generously in the furtherance of peace. We have paid dearly for the wars in the Middle East, and our national interest calls out for an end to the conflict there.

Let us begin our new partnership with the initial peacemakers, Israel and Egypt. We can help Sadat with his pressing economic problems. Take, for example, Egypt's dwindling harvests. Israel's advanced irrigation techniques could be of great help to the Egyptians in making their deserts bloom, as the spectacular success of the Negev proves. The opportunities are ample for the creation of joint projects for water desalinization, reclamation, and solar energy.

Similarly, we should declare our willingness to extend the same measure of support to Jordan and Syria, if and when they choose to participate in the building of a regional peace. Once they join in, they can expect our help in alleviating the suffering and in lifting the living standards of their people.

The other side of such a new policy should be made equally clear. If Assad turns his back on the establishment of a "secure and recognized" border on the Golan Heights; if he refuses to withdraw his forces from Lebanon, or to cooperate in the restoration of good order in that tormented land, then I see no reason why the United States should continue to supply him with $90 million a year!

And the same goes for Jordan, where the United States, over the years, has provided King Hussein—and his grandfather before him—with the princely sum of $1.5 billion.

President Sadat has called on Hussein to "shoulder his responsibilities" on the West Bank, within the framework of the Camp David accords. If he now refuses to do this, thus complicating the movement toward a reconciliation with the Palestinians, then let him look elsewhere for his financial support in the future. Why should we continue to pick up the tab!

Let us hope that such a policy is put into effect, and that it proves an effective instrument in widening the boundaries of peace in the Middle East. Still, Israel will be confronted for years to come with those Arab extremists bent upon the destruction of the Jewish state. Unfortunately, savage terrorist attacks by such fanatics will not soon disappear. Thus, it will be necessary for Israel to maintain her preparedness, and for the United States to see to it that her military capabilities remain sufficient.

Let me close with a few words about the institution you support, Haifa University. In a span of eight short years, this university has emerged as a major center of higher learning for the people of northern Israel. It is a unique university, vibrant, young, and bristling with new social experiments. Haifa University has been instrumental in furthering two of the most cherished goals of the Jewish tradition: education and equality. I commend all of you tonight, the American Friends of Haifa University for helping the people of Israel to realize another part of their impossible dream. For the impossible may yet be the attainable. A great Jewish historian, Cecil Roth, looked toward a future for the Middle East which is no longer beyond the reach of our years.

"Again," he wrote, "as in the days of Solomon, the area seemed about to become a bridge between East and West, drawing and giving inspiration in both directions. In the changed world in the second half of the Twentieth Century, this could well be part of Israel's function and mission."

On this joyous occasion marking both the Jewish New Year and the beginning of the road to peace, I would like to extend my heartfelt congratulations to the courageous people of Israel and to Jewry around the world.

On this Rosh Hashana, let us all rejoice in the beginning of a new year, a year that will continue to affirm the Jewish sanctity of peace, the indivisibility of freedom, and the brotherhood of man.

AMENDMENTS SUBMITTED FOR PRINTING

AIRCRAFT AND AIRPORT NOISE REDUCTION ACT—S. 3279

AMENDMENT NO. 4734

(Ordered to be printed and to lie on the table.)

Mr. EAGLETON submitted an amendment intended to be proposed by him to S. 3279, the Aircraft and Airport Noise Reduction Act of 1978.

FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978—H. R. 50

AMENDMENTS NOS. 4536 THROUGH 4733

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted 198 amendments intended to be proposed by him to H.R. 50, the Full Employment and Balanced Growth Act of 1978.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT—H.R. 39

AMENDMENT NO. 4735

(Ordered to be printed and to lie on table.)

Mr. DURKIN (for himself, Mr. ABOUREZK, Mr. NELSON, Mr. MCINTYRE, Mr. HASKELL, Mr. PELL, Mr. ROTH, Mr. RIEGLE, Mrs. HUMPHREY, Mr. LEAHY, and Mr. EAGLETON) submitted an amendment intended to be proposed by them, jointly, to H.R. 39, the Alaska National Interest Lands Conservation Act.

● Mr. DURKIN. Mr. President, I am submitting an amendment today which I intend to offer to H.R. 39, the "Alaska National Interest Lands Conservation Act," as reported from the Committee on Energy and Natural Resources when it comes before the Senate.

The purpose of this amendment is to expand the area of Federal land proposed for national park status in the committee bill.

Under the committee bill, National Park Service administration would be provided for 11 new areas, and three existing areas in Alaska would be significantly expanded. I believe the lands which are covered by these proposals are desirable and adequate for protection of national park caliber features, but I do not agree with the classifications which the committee has proposed for a number of these areas.

Preservation of national park caliber landscapes and ecosystems is not simply a matter of transferring jurisdiction to the National Park Service. Our national park system today contains a number of subcategories for land classification, and each carries with it a different degree of land protection against inconsistent uses.

DESCRIPTION OF PARK CATEGORIES

NATIONAL PARKS

National parks are established under the highest form of protection we afford to our national treasures of scenic, natural, cultural and historic significance. To protect these values, such areas are specifically off-limits to such uses as mining, logging, mineral leasing, and oil and gas development. In addition, our national parks serve a very vital function as sanctuaries for populations of wildlife and, as such, they are protected from sports hunting.

NATIONAL MONUMENTS

National monuments have the same degree of protection as parks. They generally focus on a single feature, rather than a broad landscape. They are also established for areas of particular cultural and archeological value.

NATIONAL PRESERVES

National preserves are a relatively new category, which the Congress developed in previous actions involving lands in Florida and in Texas. These areas are thoroughly and fully protected against nonconforming development, such as mining or logging, but are open for sport hunting. It is possible to locate a park and a preserve together in a complex which, if its lines are carefully located on the basis of wildlife patterns, results in no damage to wildlife populations, but affords opportunity in the preserve for taking of the huntable surplus of those populations by sports hunters.

NATIONAL RECREATION AREAS

Finally, we have some areas in our national park system which have the classification "national recreation area." These are generally located close to urban population concentrations. They are managed for a high density of recreational use and they also permit a much greater degree of land development, notably mining and mineral leasing.

In addition, it is a much easier process to locate transportation corridors across national recreation areas than it is across national parks, preserves, or monuments, and it is no secret that some of these areas have been situated solely to accommodate new transportation corridors.

REASON FOR MY AMENDMENT

During the markup of the Alaska lands legislation in committee, many of the areas were simply not given the protective status they deserved. For instance, national recreation areas were carved out of the Gates of the Arctic and the Wrangell-St. Elias National Park and Preserve, and we are now faced with the disturbing possibility that mining could take place in these great wilderness parks.

The purpose of my amendment is to correct the most damaging of these misclassifications. This involves significant boundary revisions and reclassifications in five—Gates of the Arctic, Lake Clark National Park and Preserve, Noatak National Preserve, Wrangell-St. Elias National Park and Preserve, and Katmai National Park and Preserve—of the 14 proposed park complexes and some other revisions. I will describe each, and the impacts of the changes which this amendment would accomplish.

1. GATES OF THE ARTIC

The administration recommended and the House passed a single great wilderness national park in the central Brooks Range. This approach is very important, for there is a real need for a major wildlife sanctuary in this area.

Gates of the Arctic should be a unified area with full national park protection in order to assure full protection for the scenic features as well as the wildlife. Under the committee's fragmented approach, a transportation corridor would be mandated across a part of the House-passed national park—even though the bill provides a process for permitting such corridors after a full showing of necessity and a careful review of alternative routes, which has not been done in this case—and mining would be allowed. This last point is especially important. The committee bill proposes two national recreation areas in the Gates of the Arctic. This has little to do with recreation. For these areas would serve none of the kinds of heavy recreational pressures associated with this classification in near-urban areas in the "Lower 48." Rather, the purpose of these two national recreation areas is simply to gain a weaker form of protection, in order to permit mining and mineral leasing.

My amendment proposes to restore the unified Gates of the Arctic National Park across this entire area, as proposed by the Department of the Interior and as already approved by the House.

2. LAKE CLARK NATIONAL PARK AND PRESERVE

The problem in this area is not the classification, for the pattern of park and preserve is basically acceptable. However, the committee determined to revise the boundaries in order to gerrymander out two important areas of State-owned land.

My amendment simply reincorporates this State land into the park boundaries in such a way that future land exchanges can be worked out on a mutually acceptable basis by the Federal and State governments, but the basic park boundary issues will have been resolved once and for all. Those areas of State land, in Chilikadrotna River-Mulchatna River area and in the vicinity of Chakachamna Lake and the Stony River, are of great scenic and recreational importance to the park and provide key access routes. They must be protected from incompatible development, and unified management by the National Park Service, following land exchanges, is essential.

3. NOATAK NATIONAL PRESERVE

The committee bill proposes a part of this area, in the Kelly River drainage, for lesser classification as a national recreation area, leaving open the possibility of approval of transportation corridors across this area without affirmative approval by Congress. The overall Noatak National Preserve has been designated an International Biosphere Reserve precisely because the integrity of the full mountain watershed is still intact.

This totally unspoiled ecosystem is the longest wilderness river valley left unspoiled in all of North America. It is inappropriate to subdivide this natural landscape into artificial fragments and to leave open the discretion to approve disruptive corridors without thorough congressional review. For this reason, my amendment would reincorporate the Kelly River area into the National Preserve, dropping the national recreation area classification. This follows the administration recommendations.

4. WRANGEL-ST. ELIAS NATIONAL PARK AND PRESERVE

This is an area of superlative values, yet here the committee bill restricts the national park to the least accessible high elevation rocks and ice. The establishment of a million and a quarter acre national recreation area simply has the effect of opening the area to mining and mineral leasing, which is highly undesirable. The effect of my amendment is to delete the national recreation area and incorporate the acreage back into the Wrangel-St. Elias National Preserve.

5. KATMAI NATIONAL PARK AND PRESERVE

These protect a particular important wildlife area. This is outstanding brown bear habitat, and the population of bears needs protection in the national park. My amendment revises the committee bill by adopting the preferable House-passed boundaries, using the House-passed map reference.

Mr. President, my amendment makes several other changes. I propose to upgrade the Cape Krusenstern National Preserve to national monument status, and the Kobuk National Preserve to national park status. In the case of Cape Krusenstern, the most significant archeological features in all of Alaska are found in this area, where 108 successive beach ridges are preserved, providing a unique record of settlement and usage.

In the case of the Kobuk Valley unit, my amendment also deletes an undesirable mandate for aircraft landing in a portion of this area, in order to give the National Park Service its ordinary and desirable management flexibility in dealing with this use.

Finally, my amendment deletes undesirable language providing special exceptions in two National Park System units.

In Mount McKinley, the committee bill provides for further study of mining in the Dunkel Mine and the Kantishna Hills area. Furthermore, the committee bill turns this study over to the proposed Alaska Land Use Council. Under my amendment, no such study would be mandated and full jurisdiction over these vital wildlife areas would be securely held by the Secretary of the Interior. In the case of the Yukon-Charley Rivers National Preserve, the committee bill proposes to mandate aircraft landing on the Upper Charley River. Such a statutory limitation on the discretion of the Secretary of the Interior to determine the best made and sites for access into this unit would be in conflict with his mandate to protect the area. The bill provides ample authority to protect access rights, and we should not tie the Secretary's hands in this fashion.

Mr. President, when all is said and done, the decisions we are making in this Alaska lands legislation will represent our response to the last great opportunity to plan and preserve the immense natural values of our Federal lands before patterns of development have made their mark. I believe we must take the time and the care to do this job well, and I believe doing it well requires a significant improvement over the committee bill in the standard of protection we give to new national park system units.

This is the objective of my national park system amendment. I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 4735

TITLE I

In title I, section 101—"Purposes"—insert a new subsection (d) as follows:

"(d) NATIONAL PARK SYSTEM EXPANSION. The nation's National Park System has been established and expanded to constitute a treasury of the outstanding natural, scenic, cultural and historical areas of the United States and to assure the preservation of these areas for the use and enjoyment of the American people of present and future generations. The natural, scenic, cultural and historical features on federal lands in Alaska are among our most outstanding, but have not been adequately recognized or protected. Establishment of these areas as national parks, national monuments, and national preserves, under established policies for the protection of such classifications, will more than double the acreage of our National Park System and will enhance the preservation of these areas through management by the National Park Service. It is the purpose of this Act, and particularly of title II hereof, to give full national park, national monument, and national preserve status to lands of outstanding scenic, natural, cultural, and historical value in Alaska."

TITLE II

In title II, section 201(a), strike out paragraphs (3) and (4) and insert in lieu thereof the following:

"(3) Cape Krusenstern National Monument, containing approximately five hundred and sixty thousand acres of Federal lands, as generally depicted on map numbered CAKR–90,007, and dated September 1978. The monument shall be managed for the following purposes, among others: To protect and interpret a series of archeological sites depicting every known cultural period in arctic Alaska; to provide for scientific study of the process of human population of the area from the Asian Continent; in cooperation with Native Alaskans, to preserve and interpret evidence of prehistoric and historic cultures; to protect habitat for seals and other marine mammals; to protect habitat and populations of birds, and other wildlife and fish resources; and to protect the viability of subsistence resources. Subsistence uses shall be permitted in the monument in accordance with the provisions of title VIII.

(4) Gates of the Arctic National Park, containing approximately eight million one hundred thousand acres of Federal lands, as generally depicted on map numbered GAAR–90,010–A and dated September 1978. The park shall be managed for the following purposes, among others: To maintain the wild and undeveloped character of the area, including opportunities for visitors to experience solitude, and the natural environment integrity and scenic beauty of the mountains, forest lands, rivers, lakes, and other natural features; to protect habitat for the populations of fish and wildlife, including, but not limited to, caribou, grizzly bear, Dall sheep, moose, wolves, and raptorial birds. Subsist-

ence use shall be permitted in the park in accordance with the provisions of title VIII."

In title II, section 201(a), strike out paragraph (6) and insert in lieu thereof the following:

"(6) Kobuk Valley National Park, containing approximately one million seven hundred and twenty thousand acres of Federal lands, as generally depicted on map numbered KOVA–90,009–A, and dated September 1978. The park shall be managed for the following purposes, among others: To maintain the environmental integrity of the natural features of the Kobuk River Valley, including the Kobuk, Salmon, and other rivers, the boreal forest, and the Great Kobuk Sand Dunes, in its undeveloped state; to protect and interpret, in cooperation with Native Alaskans, archeological sites associated with Native cultures; to protect migration routes for the Arctic caribou herd; to protect habitat for and populations of, fish and wildlife including, but not limited to, caribou, moose, black and grizzly bear, wolves, and waterfowl; and to protect the viability of subsistence resources. Subsistence uses shall be permitted in the park in accordance with the provisions of title VIII."

In title II, section 201(a), strike out paragraphs (7), (9), and (10) and insert in lieu thereof the following:

"(7) Lake Clark National Park, containing approximately two million four hundred thirty-nine thousand acres of Federal lands and Lake Clark National Preserve, containing approximately one million two hundred fourteen thousand acres of Federal lands, as generally depicted on map numbered LACL–90,008–B, and dated October 1978. The park and preserve shall be managed for the following purposes, among others: To protect the watershed necessary for perpetuation of the red salmon fishery in Bristol Bay, to maintain unimpaired the scenic beauty and quality of portions of the Alaska Range and the Aleutian Range, including active volcanoes, glaciers, wild rivers, lakes, waterfalls, and alpine meadows in their natural state; to protect habitat for and populations of fish and wildlife including but not limited to caribou, Dall sheep, brown and grizzly bears, bald eagle, and peregrine falcon. Subsistence use shall be permitted in the park/preserve in accordance with the provisions of title VIII."

(9) Noatak National Preserve, containing approximately five million seven hundred and ninety-nine thousand acres of Federal lands, as generally depicted on map numbered NOAT–90,003–B, and dated October 1978. The preserve shall be managed for the following purposes, among others: To maintain the environmental integrity of the Noatak River and adjacent uplands within the preserve in such a manner as to assure the continuation of geological and biological processes unimpaired by adverse human activity; to protect habitat for and populations of fish and wildlife; including but not limited to caribou, grizzly bear, Dall sheep, moose, wolves, and for waterfowl, raptors, and other species of birds; to protect archeological resources; and in a manner consistent with the foregoing, to provide opportunities for scientific research. The Secretary may establish a board consisting of scientists and other experts in the field of arctic research in order to assist him in the encouragement and administration of research efforts within the preserve. Subsistence use shall be permitted in the preserve in accordance with the provisions of title VIII."

"(10) Wrangell-Saint Elias National Park, containing approximately eight million four hundred and ninety-six thousand acres of Federal lands, and Wrangell-Saint Elias National Preserve, containing approximately three million six hundred and ninety thousand acres of Federal lands, as generally depicted on map numbered WRST–90,006–B, dated October 1978. The park and preserve shall be managed for the following purposes, among others: To maintain unimpaired the scenic beauty and quality of high mountain peaks, foothills, glacial systems, lakes and streams, valleys, and coastal landscapes in their natural state; to protect habitat for and populations of fish and wildlife, including but not limited to caribou, brown and grizzly bears, Dall sheep, moose, wolves, trumpter swans and other waterfowl, and marine mammals. Subsistence use shall be permitted in the park/preserve in accordance with the provisions of title VIII."

In title II, section 201(a), paragraph (11), strike out the final sentence in said paragraph.

In title II, section 202, strike out paragraph (2) and insert in lieu thereof the following:

"(2) Katmai National Monument by the addition of an area containing approximately one million one hundred and thirty thousand acres of public lands. An additional two hundred and ten thousand acres of public land is hereby established as Katmai National Preserve. The monument as expanded and the preserve are as generally depicted on a map entitled 'Katmai National Park and Preserve,' dated March 1978; furthermore, the monument as expanded is hereby redesignated as 'Katmai National Park.' The park and preserve shall be managed for the following purposes, among others: To protect high concentrations of brown and grizzly bears and their denning areas and habitat for other wildlife, to maintain unimpaired the natural water quality and quantity for significant salmon populations; to protect the environmental integrity of the area, including its rivers, lakes, and watersheds; and to provide opportunities in the Alagnak addition for continuation of previously established subsistence uses in accordance with the provisions of title VIII."

In title II, section 202, paragraph (3), strike out the final sentence of said paragraph. Subsistence use shall be permitted in the preserve in accordance with the provisions of title VIII.

NOTICE OF HEARING

COMMITTEE ON RULES AND ADMINISTRATION

● Mr. PELL. Mr. President, on behalf of the Committee on Rules, I wish to announce that a public hearing has been scheduled for Friday, October 13, 1978, at the hour of 10 a.m., in room 305, Russell Building, to consider the nomination of Max L. Friedersdorf to be a member of the Federal Election Commission.●

ADDITIONAL STATEMENTS

IAN SMITH

● Mr. HATCH. Mr. President, the visit of Prime Minister Smith and the Reverend Sithole to the United States has generated wide coverage in the media. One of the most thorough pieces of background reporting has been done by the Washington Weekly and appears in that publication today. I ask unanimous consent that my colleagues may have the benefit of reading it in the RECORD.

The editorial follows:

IAN SMITH—TWILIGHT OF AN ERA

(By Jack Penn)

History abounds with martyrs to a cause. The story of Ian Smith is grand tragedy in its real sense, for in his attempt to build a nation he has been betrayed by his own kit and kin, a disillusionment that only a man of great courage and integrity could tolerate without complete collapse.

I was very proud to know Ian Smith, and have recently created a sculpture of him, which I hope will perpetuate this moment of disillusionment and courage even to stimulate the comparison between his behaviour and those who tried to destroy him.

Ian Smith was a man. During World War II he qualified as a hero. He is essentially a family man and a farmer. He loved the outdoors and was one of the best athletes of his day. Born in a small town in Rhodesia of Scottish pioneer stock, he loved the country of his birth, but also loved Britain as he knew it in his youth. But later found himself only too often, the victim of British liberalism as defined by Malcolm Muggeridge 'anyone who murders a British soldier is a hero, and anyone who is murdered by a British soldier is a martyr. Our enemies are always admirable, our friends (a diminishing band) are despicable.' This type of liberal has sapped Britain's moral strength.

Until World War II life in Rhodesia was similar to that in South Africa, Australia or the Middle West of America. The cream of Rhodesian youth volunteered to fight alongside Britain and America when the call came. Ian Smith was a member of the Rhodesian squadron attached to the RAF. While his squadron was on duty protecting Alexandria, Ian Smith's plane crashed and he was badly injured. The left side of his face was smashed in and apart from fractures of his jaw, his malar-sygomatic complex, which supports his left cheek and eye was irreparably comminuted. Nevertheless, when he recovered he went back to duty and was very active over Italy. However, he was shot down and parachuted out unhurt, but over enemy territory. He was cared for by the local Italians, and the Germans searching for him failed to find him. He joined the Italian partisans for a time and eventually managed to escape into American occupied territory by crossing the Alps. He finally joined his squadron until the end of the war.

To this day he is proud to wear the R.A.F. tie. It is doubtful whether any member of the present British cabinet may do so.

Post war the situation in Rhodesia was extremely confusing. Prime ministers came and went, frustrated and confused. Godfrey Higgins considered that majority black rule would collapse the economy and likened the position of white and black to that of a rider and a horse. However in 1953 when the British suggested a federation with Northern Rhodesia—Nyasaland he undertook the premiership.

Rumblings occurred soon after. In 1956 Chipembere of Nyasaland said 'Moderation will never get us anywhere. The only language which British imperialism can understand is the language of conflict.'

This attitude of mind, which became epidemic in Africa affected the British Prime Minister, Harold MacMillan, culminating in his 'Wind of Change' speech in Ghana in 1960. The wind of change turned into a hurricane and it was not long before Roy Welensky—Premier at the time—was asked to release Northern Rhodesia and Nyasaland towards independence.

Roy Welensky told me personally as follows:

'MacMillan promised that after granting independence to the other two states, independence from Britain would be granted to Southern Rhodesia. He literally had tears in his eyes when making this promise. I believed him. But they were unfortunately crocodile tears.'

The announcement of secession was made in 1962 by the British minister of state—R. A. Butler. MacMillan contrived it—but the butler did it.

Todd Whitehead and Field followed Welensky but independence was never granted.

In 1964 Ian Smith become the Rhodesian prime minister. Although the British and Rhodesians expected an instant unilateral declaration of independence identical in format to the American declaration of independence, Smith made no precipitious decision but indicated his desire to have independence granted in the accepted fashion as occurred in the present Zambia and Malawi. But agreement with Britain was impossible as Smith and Wilson loathed each other and meetings held in London, Salisbury and two battleships only served to aggravate their mutual antipathy.

UDI became inevitable and was pronounced on November 11th, 1965. In view of the relative war records of Smith and Wilson the date was not fortuitous.

From now on it was a battle of survival for Rhodesia. From 1965 until 1978 there were harassments, sanctions and embargoes. Terrorism raised its head with Nkoma in Zambia and Mugabe in Mozambique. They called themselves 'Freedom Fighters' or 'Patriotic Front Soldiers.' Their victims however, were usually innocent civilians, most of them black. Torture and rape were a daily occurrence and there was no doubt that the strain within Rhodesia was being felt.

Eventually by acceding to the Kissinger plan for majority rule an internal settlement controlled by Smith and three black leaders was arranged in order to stop the slaughter of the innocents and release the embargoes as promised in the Kissinger settlement deal.

However, the 'Patriotic Front' has refused to cooperate and the embargoes have not been lifted. David Owen of Britain and Andrew Young of the USA have made demands which if acceded to, mean the elimination of white Rhodesians and control of the country by terrorists.

At the present moment Ian Smith is in the US by the invitation of 27 senators. After an emphatic refusal by Andrew Young and hesitation by the State Department, permission was granted for a visa following the intervention of Vance. The publicity engendered and the power of his own manly and honest personality will undoubtedly put the record straight.

However, Dr. David Owen and the British government, who owe their present existence to people like Ian Smith, have threatened to arrest him if he sets foot in the British Isles, even though Nkoma and Mugabe, self confessed murderers of innocent people, have had free access.

The land of Ian Smith has its back to the wall—but Ian Smith himself has not yet finished his fight for his country. If the next few months spell the end of an era and Smith is physically defeated, the moral victory will nevertheless, for all time, be his.●

PETITION ON EXPORT RESTRAINTS

● Mr. STEVENSON. Mr. President, I invite the attention of the Senate to a petition authored by the heads of 60 of the Nation's largest corporations. These business leaders are responsible for a significant share of America's production of goods and services. The operations of their companies and their suppliers and distributors reach into every State and practically every locality in the country. They also account for a large portion of America's exports. And they are deeply concerned about these exports—so concerned that they have formally petitioned the Government of the United States for, in their words, "full recognition of the damaging impact of export restraints on the American economy." I believe the case they present should receive our closest attention and the close attention of the executive branch of the Government which is also the object of their petition and is now in receipt of it.

I request that the letter and the text of the petition be printed in the RECORD following these remarks:

PFIZER INC.,
New York, N.Y., October 9, 1978.

Hon. ADLAI E. STEVENSON III,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: As chairman of the Emergency Committee for American Trade, I would like to wish you every success in your timely and important inquiry into the "use of export controls and export credits for foreign policy purposes."

I would like you to know how strongly the leaders of more than sixty of the major American companies who are joined together in ECAT agree with you when you proposed your inquiry with the observation that:

"The United States is suffering from escalating trade deficits and a deteriorating dollar; but U.S. exports are being subjected to new restrictions based on unexamined premises."

We are pleased to know that you now plan to examine these premises. The questions you put forward in your statement are the right questions—and finding their answers deserves the high priority you have assigned to the task.

As business leaders whose companies are responsible for a large portion of our nation's exports, we have been also asking the question of why exports should be made to bear the brunt of economic measures taken for "foreign policy purposes." Our answer is put forward in the enclosed petition, which has been sent to President Carter and his advisers. In it, we call upon the Administration to provide detailed and specific information on each and every denial of exports for policy reasons not involving national security.

I hope you will agree that such detailed and specific data on each such occurrence would make easier the larger task which you are undertaking of clarifying the issues and pointing the way to a practical export control policy for our nation.

Sincerely,

EDMUND T. PRATT, Jr.,
Chairman.

PETITION BY THE MEMBERS OF THE EMERGENCY COMMITTEE FOR AMERICAN TRADE TO THE GOVERNMENT OF THE UNITED STATES FOR FULL RECOGNITION OF THE DAMAGING IMPACT OF EXPORT RESTRAINTS ON THE AMERICAN ECONOMY

The United States adverse balance of trade is of near crisis proportions at a time when our nation's dependence on both exports and imports has never been greater. The continuation of this dependence is inescapable. In the case of oil, even under the most ideal circumstances of conservation, exploration, and the development of alternative energy sources, we cannot avoid massive dependence on imports. A long list of other raw materials not produced in sufficient quantities must be imported to sustain our economy. Moreover, imports of other products are important to American consumers.

Exports are the principal means of paying for our imports and are vital to the well-being of much of America's agriculture and its manufacturing and service industries. But competition for world markets has become fierce. Our share in world trade has been declining and our competitiveness in some areas is being eroded by changes in the world economy. Our export growth simply has not kept pace with the steady growth of our imports. In these circumstances, export expansion deserves highest priority by our national leaders in order to narrow the trade gap in a constructive fashion.

Yet, at a time when the need for export expansion has never been greater, our government is taking actions that increasingly inhibit U.S. sales abroad. In some cases, export incentives common to our foreign competitors are denied to Americans. In other cases—and these are becoming increasingly burdensome—American exporters are denied markets for reasons of public policy other than national security. Similarly, efforts have been made to impose on U.S. financial institutions disclosure and lending requirements with respect to their international operations that are unrelated to such traditional banking concerns as credit worthiness, and that are designed to achieve public policy goals.

Americans who depend on the export sector are as concerned as any of our citizens about human rights in other nations, about discrimination against other Americans, about human rights in other nations, about consumer safety, about curbing terrorism and about other such worthwhile goals of American policy. The export sector, however, is becoming more and more the instrument for the pursuit of these goals, thus bearing the burden of adverse domestic economic consequences—which are not being adequately taken into account.

The Emergency Committee for American Trade deplores this trend. We are concerned about the impact export denial has on the domestic economy and on the competitive position of U.S. firms. In nearly all instances our foreign competitors will step in to pick up the business opportunities afforded them through U.S. export restraints.

For example:

The Department of State—presumably for reasons of foreign policy—is holding back the sale to Libya of two Boeing 727's powered by Pratt & Whitney engines. The Libyan airline already operates a number of the same aircraft. The Libyan airline's chairman, while stating a preference for the Boeing aircraft, warns that unless an export license is soon granted, he is prepared to turn to the French-German Airbus to meet his airline's needs. He has also said that, if necessary, consideration will be given to Soviet-made equipment.

Allis-Chalmers Corporation had learned that the Department of State was preventing the export of $268 million of U.S. turbines to Argentina by invoking a provision of the Export-Import Bank Act concerning human rights. John L. Moore, Jr., President of the Bank, wrote Allis-Chalmers' Chairman, David C. Scott, that the project "clearly would qualify on economic or financial grounds for Eximbank financial support." Allis-Chalmers reports that 18 million man-hours of work for Americans are at stake since without U.S. financing, the order would be filled from abroad.

After two years of negotiating an order and an export license to sell a $6.8 million computer system for the Soviet news agency TASS, Sperry Rand Corporation found that its license was being refused because the sale was "inconsistent with the foreign policy of the United States at this time." The negotiations had been conducted under provisions of the Export Administration Act, and Sperry Rand's Chairman, J. Paul Lyet, said that the system "was carefully designed to provide adequate but not excessive capacity" for the 1980 Olympics.

Manufacturers of oil production equipment are threatened with substantial losses of exports to the Soviet Union for foreign policy reasons through a new Presidential directive.

Foreign boycott legislation has prevented Deere & Company from bidding to supply a substantial number of tractors to Iraq from its Dubuque, Iowa factory. The company

had developed the Iraq market for many years. A successful bid could have resulted in U.S. business worth $18 million and 20,000 man-days of work for John Deere's U.S. employees.

These examples taken from ECAT members are only illustrative. Most lost sales are not as dramatic as some just mentioned, and have not come to light. Meanwhile, the reputation of American companies as reliable suppliers is being eroded. The arbitrary and unpredictable nature of recent U.S. government actions can only have a chilling effect on the relations between U.S. exporters and their foreign customers and on future as well as on current exports. This is particularly true when the products affected are readily available from competitors abroad.

The Emergency Committee for American Trade recognizes and supports the need for export controls to protect U.S. national security. American business is willing to forego market opportunities where it is determined that the sale of products or of technology would clearly be detrimental to our national security. We recognize this legitimate national interest, but question the use and effectiveness of export restraints as a means of achieving desired political changes in the internal policies of other nations.

The congruence of public policy restrictions on exports is a phenomenon that was in all likelihood unanticipated by the architects of the various laws and regulations containing authorities to control exports. Yet the result is real. The export sector of our nation has been conscripted into a service from which others are largely exempt—and the casualty list is growing.

Again, probably by coincidence, this casualty list is hidden from public view and even from the view of legislators and Administration leaders. When laws and regulations are enacted that restrict exports, there has been up to now no requirement for analyses of their effects. And even when the adverse consequences were certain, there has been no consideration given to the help needed by the worker who would be unemployed or the farmer without a market or the entrepreneur facing bankruptcy or the shareholder watching equity shrink and dividends dwindle. Large companies may be able to weather the consequences, but small companies may not. While many small to medium-size companies are not direct exporters, they are suppliers to major exporters and thus share the economic loss when their customers' exports are curtailed by the government. One of our best hopes for increasing U.S. exports lies with encouraging smaller companies to export. Instead, they may conclude that it is hazardous to base much of their business on exports.

We, therefore, recommend that when the U.S. government proposes to take action to deny U.S. exports for reasons of public policy other than national security, it issue a public statement detailing the economic consequences in as complete detail as possible. Included, for example, should be identification of the target country and the product involved, the dollar amount of the shipment being curtailed, the supplier or suppliers concerned, and, to the extent available, the number and location of man-hours of work being lost as well as the names of other major countries from whom the product could be purchased. The export-denial statement should specify the specific reason for the denial and an analysis of how the U.S. action will bring about the desired change in the country concerned.

We believe a better appreciation of such adverse consequences should give pause to placing the burden of public policy on the export sector. Therefore, every action bearing on export restriction, whether the denial or delay of credits or of export licenses, or of penalties resulting from the failure to fulfill a contract, should be subject to open study of the potential damage to the export sector and then to periodic review.

We believe that greater awareness of the burdens borne by American workers, farmers, companies, and shareholders would contribute substantially to restraint in the use of trade for public policy purposes.

The members of the Emergency Committee for American Trade stand ready to cooperate with business, worker and farmer groups and with the Congress and the Administration in seeking feasible measures to sustain and to increase U.S. exports, which we believe to be a national necessity.●

DETERRENCE OF AGGRESSION IN KOREA

● Mr. HELMS. Mr. President, I have recently received a letter from the honorable Il Kwon Chung, Speaker of the National Assembly of the Republic of Korea. The speaker graciously expresses his appreciation for congressional action in making mandatory Presidential consultation with Congress in advance of any further withdrawal of U.S. ground forces from Korea. He also expresses appreciation for the $1.167 in military assistance voted by Congress in connection with the withdrawal.

Mr. President, in reading this letter, I was struck by the immediacy of the problem which faces the citizens of South Korea, as compared with the somewhat abstract and theoretical considerations which face the Members of this body when dealing with the problems of Communist aggression. There is a great deal more urgency to such considerations when the Communists are only a few miles away, instead of thousands of miles away.

In the United States, we tend to think of deterrence in terms of strategic missile systems and broad, overall considerations. But in many countries, like Korea, all around the world, if deterrence fails, it means being overrun with ground troops and the imposition of instant tyranny. Thus, deterrence has a human dimension, not merely a technological one. It is human compassion for our fellow human beings that prompts us to maintain a worldwide defense effort, certainly not the desire to construct a huge arsenal.

Mr. President, I responded to the Speaker in such terms, because I think that it is necessary to establish an international dialog. Too often we are looking at the hot spot of the moment, rather than at the protracted struggle that is constantly taking place in every corner of the globe.

Mr. President, I request that my exchange of correspondence with the Speaker of the Korean National Assembly be printed in the RECORD at the conclusion of my remarks.

The two letters follow:

NATIONAL ASSEMBLY,
REPUBLIC OF KOREA,
Seoul, Korea, September 18, 1978.

Hon. JESSE HELMS,
The Senate,
Washington, D.C.

DEAR SENATOR HELMS: First of all, I would like to take this opportunity to express my most profound gratitude for your genuine friendship and staunch support for my country. In particular, I whole-heartedly welcome the wise action of your esteemed Congress of passing unanimously the amendment of making mandatory the presidential consultation with the Congress in advance of any further withdrawal of the United States ground forces from Korea as well as adopting the international security assistance conference report including $1,167 million Korean security aid in conjunction with the withdrawal plan.

I do not doubt that such a proper measure of the Congress could be possible owing to your unusual interest and deep understanding of the situation on the Korean peninsula and of the security in Northeast Asia. I am proud to note that the people of my country are ever more grateful to you for your unreserved endeavor and cooperation.

As you are well aware of, north Korea has incessantly been preparing for another aggression according to its so called 4 major military lines by exerting every possible energy and resource for strengthening its armament. And now, the Communists in the north are claiming openly that they have completed the preparation for any war. Hence, they have persistently refused to accept our peace-oriented proposals for resuming dialogue and reducing tension; namely, to agree upon a mutual non-aggression pact and promote the economic cooperation, while striving to expedite the withdrawal of the United States ground troops from Korea by abusing the atmosphere of international detente and making various false peace propaganda in the international arena. They also try to bring uneasy relations to the traditional friendly ties between the United States and my country.

Furthermore, we are deeply concerned about the fact that the Soviet Union is continuously increasing its military power in the Far East, thereby driving the power balance in the region against the free democratic nations. Not only the governments of my country and all the Asian allies but also the military leaders and specialists of the United States have taken skeptical attitude toward the withdrawal plan of the United States government, as it had been evaluated that the withdrawal of the United States troops from Korea at the present stage—when 4 powers including the United States, Japan, China, and the Soviet Union are confronting each other on the Peninsula—would endanger the power balance in the region and may eventually cause another tragic war.

All in all, the people of my country are encouraged immeasurably by the proper and decisive action of the United States Congress taken in recent days. And I am confident that my country can now contribute to safeguarding democracy which our two countries have fought for, and peace of the free world.

I sincerely hope that you will provide with a continuous support and cooperation for the security of 35 million people of the Republic of Korea and peace on the Korean peninsula.

With my warmest personal regards,

Very sincerely yours,

IL KWON CHUNG,
Speaker.

U.S. SENATE,
Washington, D.C., October 12, 1978.

Hon. IL KWON CHUNG,
Speaker of the National Assembly,
Republic of Korea,
Seoul, Korea

DEAR MR. SPEAKER: I was deeply impressed by your fine letter expressing gratitude for recent Congressional actions affecting Korea. From this distance, so many thousands of miles away, we often have to depend upon abstract strategic considerations in making decisions which inevitably affect the future of the free world.

The Republic of Korea, however, is right on the front line. The Communist armies are

only a few miles away, not thousands of miles away. You are in a position to have direct knowledge of the steps taken by North Korea to prepare for war; and you are in a position to understand that if the Communists are no longer deterred by adequate military forces, backed up by the sure knowledge that such forces will be used to repel aggression, then thousands of your countrymen will die. And if deterrence fails completely, then you face total domination by tyranny. For you, the need for deterrence is no abstract consideration.

Moreover, the Korean situation is inevitably bound up with the entire question of freedom in Asia. If Korea should fall, a Communist offensive would be thrust directly at Japan, and Taiwan and the Philippines would be next. I am not talking about the famous "domino theory"; I am merely pointing out that the free Asian nations constitute a strategic unity, like an arch, which will collapse if any one member is removed.

These over-riding strategic considerations are not affected by the recent unfortunate miscalculations in U.S.-Korean affairs—miscalculations which reflect upon the U.S. Congress as much as upon anyone in Korea. It is important that we keep our eyes upon the fundamental issues of survival, which must not be compromised by sensationalism. You may be assured that I will continue to support what ever measures are necessary for the maintenance of peace.

Sincerely,

JESSE HELMS.●

INNOVATIVE DESIGN OF FEDERAL FURNITURE HELPS HANDICAPPED WORKERS

● Mr. RANDOLPH. Mr. President, Mrs. Vivien P. Woofter, formerly of Clay, W. Va., now interior designer for the Department of Health, Education, and Welfare, was recently instrumental in accomplishing a study concerning the feasible and inventive manner to design furniture to help the physically handicapped in the performance of office and administrative duties. Since the publication of the study many hundreds of private businesses and government agencies have requested copies of the study.

The study could become a standard for new awareness in government as well as in private industry for systems furniture to permit the physically handicapped to function well in office practices where, in the past, they were hampered in the performance of their duties by the office furniture and systems they were forced to use.

As chairman of the Subcommittee on the Handicapped of the Senate Committee on Human Resources, I have sponsored legislation to solve the problems of the handicapped, including their ability to function efficiently in office and administrative positions.

Furniture systems of the type in the study by Mrs. Woofter not only help the handicapped, but the physically able can use the systems as well, if not better, than the furniture systems they are now using.

There have been several articles in national design publications concerning the study by Mrs. Woofter. One of these appeared in the July issue of Contract Interiors magazine. Some of the excerpts from this article follow. I ask that they be printed in the RECORD.

The article excerpts follow:

FEDERAL DESIGN

Within the government, new faces, new design awareness, new humanism, new optimism, new research. Outside the government, some of the old skepticism.

As architect Herb Beckhard, a partner in the firm of Marcel Breuer and Associates, says, "The comforting thing is that the government now has people with real ability and taste. They're not jerks." In the years 1963–68, the Breuer firm's work on the Washington headquarters building for the Department of Housing and Urban Development was, Beckhard says, "an exercise in frustration." But their recent work on the nearby Humphrey Building for the Department of Health, Education, and Welfare has been a different matter. The government (especially, according to Beckhard, in the person of interior designer Vivien Woofter, with GSA until last year, now HEW's own staff designer) was genuinely interested in the architects' opinions and active participation. "There was no jealously, no duplicity—we worked together like true associates," Beckhard says.

Mr. RANDOLPH. Mrs. Woofter was instrumental in the development and the conduction of the following reported study:

SYSTEMS FURNITURE EVALUATION RESULTS

Perhaps the most interesting and encouraging recent activity of the GSA is its study of open plan systems furniture. The immediate goal was to find suitable furniture for the Hubert H. Humphrey building, new headquarters of the Department of Health, Education, and Welfare; another goal was to provide the Federal Supply Service with an evaluation of systems furniture prior to its making such furniture available for other government agencies. HEW, the FSS, and the Public Buildings Service cooperated in the testing of four categories of systems furniture at different locations within the HEW building. Four specific systems were chosen as "surrogates," each representing a category of structurally similar systems by a number of different manufacturers. As reported here in December, 1976, the four surrogates were; Steelcase, InterRoyal, Herman Miller, and Knoll.

A contract for the evaluation of the four installations was won by BOSTI (Buffalo Organization for Social and Technological Innovation, Inc.), the Buffalo, New York, firm headed by architect Mike Brill, who calls himself an "Environmental Diagnostician." Brill's four-month study, with particular emphasis (at HEW's request) on the adaptability of the systems for use by *handicapped* employees, used direct observation, written questionnaires, photographic observation, and interviews with both users and their supervisors to determine a score for each system. GSA, HEW, and Brill all emphasize two points about the results of the study: first, that the scores given relate only to how furniture works in one particular building; completely different results might be produced in another situation; and, second, that the systems studied were each considered only as surrogates for groups of systems. The space planning for the entire building, now in progress, will use furniture of the type rated highest by BOSTI, but not necessarily furniture by the particular manufacturer used in the test. The four categories, their descriptions, their surrogates, and (according to the BOSTI study) their order of rank are:

CATEGORY 1

A system developed from freestanding work and vertical storage assemblies with interlocking spanner panels.

Surrogate tested: Steelcase 9000.

Rank order: third.

CATEGORY 2

A system of interlocking panels combined with suspended work-surface and storage components.

Surrogate tested: Herman Miller Action Office II.

Rank order: first.

CATEGORY 3

A system of freestanding, self-contained work and storage assemblies.

Surrogate tested: Knoll Zapf.

Rank order: second.

CATEGORY 4

A system of modular equipment combined with freestanding or interlocking panels.

Surrogate tested: InterRoyal.

Rank order: fourth.

Although the category represented by Herman Miller was rated a clear first place for this particular building, using BOSTI's particular handicapped-oriented criteria, the other three categories—represented by InterRoyal, Knoll, and Steelcase—were all rated relatively closely together. The results might, therefore, be read as one first place and three seconds. Vivien Woofter of HEW points out, as well, that none of the four categories was rated as perfect by BOSTI.

As it did for the task ambient lighting study, the GSA's Design Action Center has published a number of "lessons learned" from the systems furniture study. They include:

"Pre-move and post-move orientation sessions should be given to all workers who will be located in open-planned areas. A separate orientation session should be provided for all supervisors.

"Researchers observed that the practice of having senior people in private office is a powerful deterrent to worker satisfaction with open planning and systems furniture.

"Several fully private, four-person enclosed spaces should be maintained in open-planned areas for confidential and secure matters.

"In layout and planning there should be no visual access from main corridors to workstations, thus affording freedom from work distractions.

"A place should be designated near storage or entry points for group displays and notices. Most furniture systems include an information kiosk. The use of this component should be explored.

"Careful attention should be given to flexibility of location of telephone and power outlets to accommodate changes and to address the needs of left- and right-hand users.

"Acoustic considerations become paramount in open-office planning. Top-quality acoustic ceilings should be used to ensure the success of open planning.

"Since the use of systems furniture is predicated on its capacity for adaptability, the researchers emphasize that the conversion of a workstation for use by a handicapped worker should be no more than an overnight job. In addition, they state that an adequately flexible furniture system should be able to accommodate organizational changes with ease.

"A user's manual should be developed and given to workers to aid optimum use of the system.

"A graphic identification system should be provided that includes information related to the building floor, office area, and programs. The signage must be carefully located. The furniture system must also provide for the attachment of name and title plates since few status-differentiating devices are available in open-planned areas."●

CONFERENCE ON TAX BILL SHOULD PROTECT THE ACHIEVEMENT OF THE CONGRESS

● Mr. HATCH. Mr. President, an editorial in today's Wall Street Journal

answers all of the criticisms of the Nunn amendment which overwhelmingly passed the Senate. It also points out the strong support in the House for the Holt amendment, the House counterpart to the Nunn amendment. The Nunn amendment clearly has the support of a bipartisan majority of the Congress and the American people.

I submit the editorial for the RECORD.

The editorial follows:

KEMP—WHAT?

Now that the Senate has passed the Nunn version of the Kemp-Roth tax cut, the folks who love big government are scurrying around trying to find a rationale for opposing it. The one on which they seem to be settling, floated in a speech by Sen. Moynihan on Monday night and repeated by President Carter at his press conference Tuesday, is that it is too radical a departure to take on the spur of the moment without extensive debate. Kemp-what? they ask. Never heard of it.

The intensively publicized proposal by Sen. Roth and Congressman Kemp, to be sure, would simply have cut tax rates successively in three steps over three years. It was attacked for ignoring spending and deficits, so Sen. Nunn laid out a five-year schedule of rate reductions but made them contingent on holding the growth of federal spending to the rate of inflation plus one percent. Those who argued that Mr. Roth and Mr. Kemp were irresponsible for ignoring spending now argue that Mr. Nunn is irresponsible for including spending.

As it happens, the idea of linking tax cuts to expenditure restraint has also been extensively debated this year, in the context of the budget process. It is said that the House has not had a chance to consider the Nunn proposal, but in fact for a few moments last May the House had actually passed what is in principle the same proposal. The Republican budget resolution offered by Rep. Marjorie Holt was specifically designed to accommodate the first year of the Kemp-Roth cuts, and was offered in the context of a systematic program tying the tax cuts with the spending restraint of a current-services budget—the same inflation-adjusted concept embodied in the Nunn bill.

As the rollcall ended, Mrs. Holt found herself with 202 votes for and 198 against. But Majority Leader Jim Wright started dragging Congressmen bodily into the well to change their votes, and the Holt amendment finally lost by 203 to 197. Mrs. Holt offered conceptually the same amendment again with the second budget resolution in September, and lost by 206 to 201. Considering the lopsided Democratic majorities and pull of the leadership and party loyalty, there is obviously quite considerable sentiment in the House for the principles now embodied in the Nunn amendment, which incidentally passed the Senate by 65 to 20. House Republicans are now moving to instruct the conferees to accept the Nunn amendment; it will be instructive to observe how the Democratic leadership behaves.

The political support for the principles involved is far more important than the mechanics of the Nunn amendment. In itself no gimmick or procedural device can reform government spending. The Washington Post has the fanciful notion that the Nunn mechanics would tie the hands of future Congresses, preventing them from working their wisdom when antirecession tax cuts or spending increases were needed. Yet there is no way to dictate to future Congresses. And on the record the more likely outcome, we should think, is that they would find some way to distort the Nunn amendment into a pro-spending device, an excuse for not cutting taxes.

What the Nunn mechanics would do, however, is to instill a bit of discipline in the congressional budget process, which itself has been neatly transformed into an engine of high taxes and high spending. No Senator was more effective in opposing tax reduction in this week's debate than budget czar Edmund Muskie, who refused even to let the Senate vote on the provision to repeal deduction of gasoline taxes. On the House side, we find back in May Budget Committee Chairman Giaimo deriding Mrs. Holt's lower totals as an impossible, a "wish-type amendment," though in fact outlays in the final budget resolution ultimately ended up almost exactly what she had proposed in May.

The real effect of the Nunn proposals would be to force the budget committees to take tax reduction seriously as a national goal. At present, tax levels are driven by spending desires; after the budget committees decide how much to spend, the revenue committees decide whether they can afford to cut taxes. With the political support that seems to be building in the country, plus a little luck, this can be reversed. We can decide what level of taxes we want to pay, in particular what levels are healthy for economic growth, and make the budget committees hold down spending accordingly.

This is what the budget process was supposed to have been. It is what the country seems to want. And given the Nunn vote in the Senate and the Holt votes in the House, a majority of the Congress—if given a free choice—would be ready to agree.●

CHAIRMAN TEAGUE RECEIVES NASA'S DISTINGUISHED PUBLIC SERVICE MEDAL

● Mr. STEVENSON. Mr. President, last week Representative OLIN TEAGUE, chairman of the House Committee on Science and Technology, received NASA's Distinguished Public Service Medal. NASA Administrator Robert Frosch made the presentation at NASA headquarters.

As a relative newcomer to space activities in Congress, I can nonetheless recognize the extraordinary contribution that TIGER TEAGUE has made in achieving U.S. leadership in all areas of space activity. He understood from the earliest days of the space program that this new environment had the potential of bringing benefits to Earth and of expanding our knowledge of our planet, solar system, and the universe. Year after year TIGER TEAGUE made sure our Government sustained a program that would take full advantage of these opportunities.

TIGER TEAGUE retires from Congress after more than 30 years of service. He leaves an impressive record of achievement. We salute him. And we also recognize the importance of maintaining U.S. technological leadership in space at a time when it is under increasing challenge by other countries.

Mr. President, I submit Dr. Frosch's remarks and the text of the citation which accompanies NASA's Distinguished Public Service Medal be printed following these remarks in the RECORD:

REMARKS BY HONORABLE ROBERT A. FROSCH

Good morning, ladies and gentlemen, and welcome to these ceremonies in tribute to a man whom we all know and respect and to whom our Nation's whole effort in space is so deeply indebted.

We are here to honor Chairman Teague for his unequalled contributions to the space program of our country, but before we do so, we must also give full credit to his equally significant accomplishments in behalf of the American veterans, of which he is himself an honored peer. For thirty eight years, in nineteen Congresses, as a Member and as Chairman of the Committee on Veterans Affairs, he zealously furthered the cause of these men and women whose needs and problems he understands so well.

For us at NASA, Chairman Teague's most outstanding asset has been his consistent and unswerving faith in the value and virtue of a dynamic and imaginative space program—a faith which he has conveyed to all the elements of the government, industry and university team on which all progress in space depends.

The single episode which best epitomizes Mr. Teague's profound faith in the space effort, was the leadership he demonstrated at the time of the Apollo fire in early 1967. The Space Program was in severe jeopardy because of the tragic deaths of the Apollo crew; many influential Americans questioned the wisdom of proceeding with the lunar landing program; the basic concept of the space effort was challenged; and many potentially disrupting actions were being proposed. The dynamic leadership of Chairman Teague spurred a prompt identification of the issues and a clear-cut course of action to resolve them. Undoubtedly, more than any other single individual, Chairman Teague "saved" the program and redirected our energies in a direction which resulted in the successful lunar landing within the decade of the 60's.

Chairman Teague is unique in the depth of his knowledge of the space program. He believes in and has consistently executed a "hands on" policy in regard to space, routinely and frequently visiting NASA Centers, industrial contractors and laboratories—in some cases, many times a year. He has insisted on firsthand, personal meetings with the organizations and people doing the work. Moreover, he has insisted that all Members of his Committee do the same and, thus, by example, has developed one of the most knowledgeable Committees in the House, especially valuable in view of the highly technical nature of space operations. His mentorship has thus provided a strong, informed, collective leadership for the Nation in space activities.

In space-related international relations, Mr. Teague has always taken a firm position, assuring that the Nation's interests are advanced and its responsibilities met. His support of the cooperative programs with the European Space Agency has been characterized by vision and foresight. His involvement of European decision-makers in our legislative process through visits and testimony has proved an innovative and effective device in the in-depth management of our activities in space.

Nowhere has his consistently optimistic and confident attitude toward the future of our operations in space been more evident or more constructive than in his enlightened and effective advocacy of the Space Shuttle. He fully understands the great potential of the Shuttle, its versatility, flexibility and open-ended promise, and has gone into the lists time after time in its behalf despite his realistic awareness that its debut could not occur "on his watch."

I think we are all aware of the benefits which are accruing to our people as a result of our activities in space. The flow has barely begun. In the years to come it will affect nearly every aspect of our lives, and all the millions of men and women here and around the world whose days are brightened and burdens lightened will owe a debt of grati-

tude to the man we are proud to know with deep affection as "Tiger" Teague.

OLIN E. TEAGUE: CITATION—DISTINGUISHED PUBLIC SERVICE MEDAL

In recognition of his distinguished contributions to the scientific and technological advancement of the Nation by his steadfast advocacy of a strong national space program. In two decades of leadership positions in the House of Representatives, he gained the continuing support of the Congress for the cause of building and maintaining the space-faring capabilities of the United States.●

SAN DIEGO

● Mr. LUGAR. Mr. President, my colleagues in Congress are accustomed to hearing from big-city mayors who paint a very bleak picture of life in our Nation's urban centers. In an effort to justify pleas for additional Federal support, mayors and their representatives in Washington describe desperate fiscal situations and dim prospects for ever again providing basic services and meeting financial obligations without massive new Federal aid programs. And, indeed, a good number of cities are in serious straits.

In a recent article, Mayor Pete Wilson of San Diego paints a very different picture of a city that has met the challenges of inflation and public employee unions, a city that has cut property tax rates significantly and has controlled spending, a city that is fiscally sound today. I am pleased to note that much of what Mayor Wilson says of San Diego could be said of Indianapolis as well, which I served as mayor for 8 years. San Diego is strong, because local leaders are willing to face difficult issues and make tough decisions.

It is time for Congress to pay more attention to winners in urban policy and to encourage other urban centers to follow their lead, rather than aiding them in their failure. I commend Mayor Wilson for his outstanding leadership in San Diego and his excellent article, which I present here to my colleagues for their interest and encouragement.

I ask that Mayor Wilson's article from the Christian Science Monitor be printed in the RECORD.

The article follows:

SAN DIEGO DOES IT—SO CAN YOUR CITY

(By Pete Wilson)

I am a big city mayor. And I am weary of hearing about the "crisis of the cities."

America's cities can never be healthy until America's economy is healthy. So-called inner-city residents and suburbanites alike must have the dignity and earning power that can be conferred only by jobs. The greatest contribution which governments (at all levels, but especially the federal) can make to curing stagflation and putting people to work is to forbear from more taxation and spending, and begin to undo the present levels.

So what can city governments do as their part in curing "the crisis of the cities"?

For years now San Diego has been ranked among the most livable cities in America. Equally important, several independent surveys have also pointed to San Diego as one of the fiscally healthy cities in the nation. San Diego has earned a reputation as a fiscal innovator, consistently working to keep government within the ability of taxpayers to pay.

San Diego has voluntarily reduced its property tax rate to the lowest level since 1910, achieving the lowest tax rate among California cities of 100,000 or above population. When assessed valuation of property soared, we offset that increase by cutting the tax rate some 27 percent over six years, refusing to treat inflated property values as a source of windfall revenues.

Perhaps the best yardstick of San Diego's performance has been its success in keeping down the number of employees on the public payroll. During my seven-year tenure, the ratio of employees-to-population has actually been reduced.

Our budget has grown 6.1 percent less than the figure that would be justified by inflation and growth in population. Today we plan to go an important step further. On the November ballot is a charter change that I proposed to place a permanent lid on city spending. The plan basically limits the growth in general government expenditures to the percent increase in population and offsets only three quarters of the rise in the cost of living.

The measure not only cuts spending, but is distinctly anti-inflationary in its forbearance from escalating our cost in direct proportion to increases in the cost of living. We don't want to keep pace with inflation. We want to fight it.

Even before the mandate of Proposition 13, San Diego had been lean and trim. It promoted spending critic Howard Jarvis, coauthor of Proposition 13, to remark that if all cities had been run as well as San Diego "we wouldn't have needed Proposition 13."

This administration has relied upon some fundamental principles to hold down the cost of government and has never wavered from them.

Because of our growing population, we have embarked on a firm course of residential growth management which, besides being environmentally sensible, squeezes the most effective use out of every tax dollar we receive.

By residential growth management we mean that the city has consciously steered 70 percent of new residential growth in the last six years into the urban areas which were already served by public facilities and city staff. By maximizing the use of existing fire stations, libraries, and parks, and their presently employed staff, we achieve both greater efficiency and substantial savings by not having to build and staff prematurely in remote and sparsely populated parts of the city.

At the same time, this city has been fair but firm at the bargaining table. We have resisted the sometimes outrageous demands of public employee unions, knowing there is a limit to what taxpayers can afford.

We have refused to engage in a sophisticated shell game where union leaders gladly settle for some right of management or lucrative fringe or pension benefits in lieu of higher wage increases. We simply cannot afford to bargain away the future.

We have made it crystal clear that strikes by public servants are illegal and will not be tolerated. At my suggestion, San Diego voters placed in the charter a provision which tells those who walk to keep right on walking. Most importantly, it forbids amnesty and the "sweetening of the pot" to persuade strikers to return.

By being tough, we've experienced labor peace. Equally important, by being firm we've refused to let public employees dictate public policy, which would invite fiscal disaster.

We must demand that in return for providing our public servants fair compensation and security, we receive the kind of productivity and efficiency we as taxpayers deserve.

Four years ago, a productivity team was brought here with an eye on consolidation and cost effectiveness. To date, increased productivity has saved citizens an estimated $5 million a year.

Limited space allows me to illustrate just a few instances of productivity improvements. Where once it took a crew of three to handle trash pickup, with mechanical help today it requires only two. And 28 percent of the routes are handled by a truck with a single operator.

Several government agencies now purchase goods in bulk. We are about to merge communication centers and crime laboratories.

We've begun to make greater use of reserves to handle the routine chores of the Police Department. A new trainee level was created as well. Together with reserves, their activity frees full-fledged police.

The time has come to give more serious consideration to increased involvement by the private sector in the delivery of government services.

The view that the private sector can often do it better has not always endeared me with my fellow big city mayors. Neither has my stand that programs such as the Comprehensive Employment and Training Act (CETA) tend to play into the hands of public employee unions and dry up capital for developing long-term private sector jobs.

In San Diego we have fostered sound private economic development. Every effort has been exerted to protect what is attractive about our city and to continue to attract the new industry we need to bring meaningful employment to our ever-growing population. Without jobs, there can be very little quality of life.

We've learned that low taxes and efficient government bring new business and job opportunities. I am reminded of a comment made by the late President Calvin Coolidge, who said:

"Nothing is easier than spending public money. It does not appear to belong to anybody; the temptation is overwhelming to bestow it on somebody."

We just can't afford to let it happen.●

THE UNTIMELY DEATH OF RALPH H. METCALFE

● Mr. BROOKE. Mr. President, I was shocked and deeply saddened by the news of the untimely and tragic death of my dear friend and colleague in the Congress, RALPH METCALFE. The city of Chicago, the State of Illinois and, indeed, the entire Nation, have suffered a great loss.

RALPH was blessed with many gifts, both as an athlete and in his chosen profession as a public servant. He was always willing to share those considerable gifts with the people of this Nation, a nation he loved so much.

I doubt that there are many Americans of my generation who will ever forget RALPH'S incredible accomplishments as a sprinter in the 1930's. He represented the United States at the 1932 Olympics in Los Angeles and at the 1936 Olympics in Berlin, at a time when Hilter was claiming to lead an Aryan "master race." He and the great Jesse Owens scored magnificent victories against the concept of racial superiority by soundly beating their German opponents. In his Olympic career, this marvelous athlete won a gold medal, two silvers, and a bronze. He thrilled those of us who heard of his exploits on the radio and from the newspapers and made young blacks like myself proud of our race and proud of our Nation.

RALPH METCALFE could have stopped there. He was a celebrity and a star. But he did not stop. He attended Marquette

University and the University of Southern California. He served his Nation in the Army and in the USO during World War II. And then he became the State of Illinois' first black State athletic commissioner.

As an elected public official, beginning in 1955 with his service as an alderman in Chicago, RALPH METCALFE displayed a tremendous sensitivity in dealing with people and their problems. He never lost that ability. He had a strength of character which gave him the moral leverage to command respect when he chose to speak out on important issues. And speak out he did. RALPH METCALFE was a man of conscience and dignity and he was uncompromising in the pursuit of equity and mutual tolerance. He possessed an independent spirit and was not afraid to challenge those who failed to act in the interest of his constituents and the people of Chicago. He was a fighter and he was not afraid to take on tough opponents when he believed his cause to be just.

I am proud to have counted him as a friend. I know I shall miss his energy and his forthright, honest manner. I valued his advice and he was a source of counsel and strength to many. His passing is a tremendous loss not only to his constituents in Chicago's South Side, but also to the Black Congressional Caucus, which he helped found, to his colleagues in the House and, indeed, to all citizens across this land.

To his devoted wife, Fay; his son, Ralph, Jr.; and his host of friends, I extend my deepest sympathy. My prayers are with them. And I know my colleagues in the Senate join with me in extending our deepest regrets to his family. This truly outstanding individual will be missed by all.●

THE PORTLAND VA HOSPITAL

● Mr. MARK O. HATFIELD. Mr. President, as we close the last days of the 95th Congress, we are also completing congressional review of a project which has caused a great deal of furor in my home State: Construction of a new Veterans' Administration hospital. My purpose here is not to again bring up the many issues surrounding this project. Instead, I would like to take a little of my colleagues' time to tell a personal story about this controversey, one which recounts the joys and frustrations we all encounter in political life.

Like so many issues, the proposal to build this VA hospital in Portland has been both a hardship and a healthy exercise for the community. As part of the debate over the size and location of the facility, the public has been exposed to extended discussions of the costs and types of health care our citizens deserve. Many groups studied this project, passed judgment on it, and then told the story in terms which suited their purposes. Public officials, including myself, joined with one side or another and made pronouncements of their own. I had hoped that exposure of the various arguments would help increase public awareness of health care problems, and I am sure to a certain extent this end was served.

At the same time, given our Nation's ability to divide itself into narrow interest groups, I am also aware that many people saw only what they wanted to in this local controversy. Recently, a personal experience has made me understand that the debate may have been as divisive as it was educational for some people.

John Wesley, a valuable friend as well as a helpful adviser on health matters, was intimately involved in the review of the VA proposal. As a hospital planner, he had a particular interest in one site originally considered by the VA for the hospital. Like all taxpayers, he also was concerned about overall costs.

But his point of view was not that simple. As a veteran, he felt keenly the need for a high level of medical care for those who have served in our Nation's defense. Finally, as a friend and adviser to me, John found himself in basic disagreement with my assessment of the proposal. This led to many long discussions, but never a loss of mutual respect.

It was through this last side of John's nature that I was again reminded of the challenges and disappointments which are part of almost all public decisions. John, by careful and thoughtful disagreement, caused me to review the hospital planning time and time again. If strictly personal interests had guided his outlook, I know my stubborn refusal to agree with all of his views would have caused bitterness on his part. In contrast, we maintained strong ties for we couched our talks in terms of overall health care needs, not simply the VA question.

Just as the Congress moved closer to a final decision on the Portland hospital, John was killed in an automobile accident. To many Oregonians, it came as a personal shock. For me, in addition to the tragedy, the accident brought a sudden end to our frank and helpful debates. Too often, as elected officials make controversial decisions, they hear only from those who will tell them what they want to hear. John combining both a personal interest and a genuine care for the public, summoned the courage to continue to argue another point of view with me.

I admired this in him and I know that we would have shared a certain happiness when the debate was ended, no matter what the outcome. We had thought and talked the issue through clearly and carefuly, each making what we felt was our best effort. Gone now, however, is my opportunity to thank him for his efforts. Also lost is my chance to talk with him in general terms about health care problems he was helping me explore.

But there was an even more important oversight on my part. Although I was not aware of it, some people had unfairly accused John of deserting the veterans' cause in his stand. I do not mean to suggest that John was in agreement with many veterans groups, but I believe that John would have been quick to note that his approach aimed at a solution which would help the general public and veteran alike.

He took these comments quietly, never mentioning them to me in any of our talks, but I am sure these charges bothered him greatly. Had I known of these accusations, I would have taken the first opportunity to assure him that I knew of his dedication to quality care for veterans. His approach was different from my own, but our ends were the same.

I am quite sure that more debate will be recorded before the Portland VA Hospital moves from the front pages to construction. Undoubtedly, we will see more strong personal disagreements emerge from this and other public topics. For my own part, however, I could not let this session close without expressing my support and thanks for John's work. In an issue filled with more than a little rancor, he reminded me that there are public spirited citizens who will turn their talents to a question, make their best estimate of the solution and remember to balance the needs of their community as a whole. Without that kind of recollection and many more, there can be little joy in my job.●

VETERANS' APPRECIATION DINNER FOR STROM THURMOND

Mr. STAFFORD. Mr. President, on September 23, 1978, the veterans of South Carolina honored my distinguished colleague, STROM THURMOND, for the work he has done in the area of veterans' affairs. A dinner was held at the South Carolina National Guard Armory where approximately 1,000 South Carolinians from throughout the State attended, many of whom traveled hundreds of miles to pay tribute to our distinguished colleague and join in the festivities. Also attending were representatives of many local posts, barracks, and chapters of the American Legion, Veterans of Foreign Wars, Disabled American Veterans, World War I, AMVETS, women's auxiliary units and others.

Mr. President, there were several excellent speakers at this appreciation dinner, three of whom were past national commanders of veterans organizations. I ask unanimous consent that the remarks of the Honorable Oliver E. Meadows, past national commander, Disabled American Veterans, and the Honorable Robert Charles Smith, past national commander of the American Legion, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF OLIVER E. MEADOWS

Senator and Mrs. Thurmond, Commander Smith of the American Legion, Commander Cothran of the VFW, Sid Wise, Department Commander, DAV, South Carolina, Friends of Senator Thurmond, Ladies and Gentlemen:

I appreciate the opportunity of joining with you in honoring our old and trusted friend, the Senior Senator from South Carolina, Senator Thurmond. Even though I am not from your state and have come from Texas to join you, I want you to know that we appreciate Senator Thurmond in Texas and recognize true leadership, dedication, and patriotism and would be glad to claim him as our own.

I speak for 600,000 DAV members when I express my thanks to Senator Thurmond for his efforts in our behalf. We have made

some major legislative accomplishments this year and had the strong backing and support of Senator Thurmond in our efforts.

We will be receiving a cost of living compensation increase beginning in October. We will receive increased dependency allowances for those disabled veterans in the 30 percent and 40 percent categories. We have improved the housing program and the burial programs for disabled and the changes which Senator Thurmond helped us achieve will benefit not only the veterans of South Carolina but 4 million veterans, widows and orphans across the country. These are major accomplishments for which we are grateful but I would like to bring to your attention two pieces of legislation that I think are indicative of Senator Thurmond's concern and compassion. These two bills affect only a few people. Their cost is not great. They will not draw public acclaim but they are vastly important to those few that have suffered serious hardship. The DAV has worked for years to achieve the passage of these bills and it appears that we have finally succeeded. I want to say without reservation that without Senator Thurmond's special interest, we probably would have failed.

One of the programs I am referring to is the "Paired Extremity" bill. This bill is designed to give extra help to a veteran who has lost an arm or leg from a service connected cause and subsequently losing the other limb from a non-service connected accident. It is obvious that the second loss is catastrophic yet the veteran has received no additional help. With the passage of this legislation the veteran will receive an extra allowance to help him meet his additional problems.

The other bill I refer to is the Presumption of Service Connected death which benefits certain widows. In the past we had many incidents where a woman has lived a lifetime with a 100% service connected veteran. Yet when the veteran died she received no compensation because it was decided that the cause of death was not service connected. An example would be a blind veteran who dies of a heart attack or in an accident. His wife would receive no compensation after his death. This new legislation changes this and gives this widow compensation which she justly deserves. These two pieces of legislation affect not only a few thousand deserving cases. They do not represent a political achievement. They will receive no publicity. Yet, Senator Thurmond because of his sympathy and compassion has devoted his time to their passage and we thank him.

Senator Thurmond has stood by us in other major battles. He helped us restore funds the Administration was trying to cut from veteran hospitals. He helped us preserve veteran's preference in federal employment. He helped us block the attempt to give veterans benefits to draft dodgers and deserters. With this kind of record we do indeed owe our thanks and appreciation.

There is another subject I would like to mention and that is seniority. Seniority in Committee service. The people of South Carolina have had the good sense to keep Senator Thurmond in Washington for 24 years and he has achieved the seniority to make him extremely effective and influential. Senator Thurmond is the senior Republican on the Veterans Affairs Committee. He is the senior Republican on the Judiciary Committee and he is the second Ranking Minority Member on the Armed Services Committee. In these positions, Senator Thurmond can exert a great deal of influence on legislation and national policy. It is no exaggeration to say that it is not likely that any major bill will be reported from those Committees over Senator Thurmond's objection.

South Carolina has a major investment in Senator Thurmond and he is well positioned to look after his state.

We of the DAV feel fortunate to have such a staunch friend in these positions of influence.

This is an appreciation dinner and not a political gathering and I will not presume to give political advice, but if I were to offer any advice I would remind you of the old rural adage.

"You best dance with the one that brung you."

Senator Thurmond, we of the DAV appreciate you. We thank you and we hope we can in some small way return the many kindnesses you have extended to us. Thank you.

REMARKS OF ROBERT CHARLES SMITH

Thank you, Commander Wise, for the opportunity and invitation to appear at this Veterans' testimonial for such a distinguished Statesman and American as Senator Strom Thurmond. Senator Thurmond is an individual who is respected by not only his colleagues but by all Americans throughout this nation as an individual who is a great Statesman. I recently was looking through some pictures which I had and ran across a picture which I am not certain the Senator will remember having taken, but it is a picture of my wife and me along with Dr. Jay Taylor of La. Tech University at a reception held by the Tower Club of that University, prior to a speaking engagement which the Senator had at the University. This was back in 1969 and I know that the people of that part of the country along with the officials of the University have a great respect for Senator Thurmond.

Senator Thurmond, a member of the Senate Veteran's Affairs Committee, the Senate Armed Forces Committee, a Veteran of World War II, and a member of The American Legion, has been a Senator who has fought for the preservation of those benefits which have been given by a grateful nation to the Veterans of this country through its Congress. He has supported, and continues to support, a strong military posture for this nation. The American Legion in 1975 presented to Senator Thurmond our Distinguished Public Service Award for his outstanding service to his Country and to the Nation's Veterans. But Senator Thurmond's service to the veteran community did not diminish, for he has continued to be an active member in the Senate for Veterans, as well as working tirelessly for the military security of this Nation.

He was instrumental in the passage of legislation that established in the Department of Labor the position of a Deputy Assistant Secretary of Labor for Veteran's Employment. He has been a strong advocate for improving the areas of compensation for disabled veterans and their survivors, pension reform, housing and education. Through the tireless efforts of Senator Thurmond, the Senate Committee on Veteran's Affairs was retained during the first session of this Congress. As you well remember, the Administration had attempted to consolidate the functions of this Committee with the Senate Committee on Human Resources. Due primarily to his efforts, the Senate Committee on Veteran's Affairs was retained.

Senator Thurmond has been an individual who has long supported a strong military position of this nation because we are the leading nation of the free world, we must have a military posture second to none. Those who have ideologies different from ours understand negotiating only from a standpoint of strength.

You will recall that just over one year ago, one of the largest federal employee unions announced its intention to poll its members to admit members of the armed forces. Senator Thurmond immediately recognized the danger to the integrity of the military command structure and as a result Senate Bill 274 was introduced to prohibit unionization of the armed forces. Committee hearings were held and, largely due to the Senator's efforts, by a majority vote of 87 to 3, this bill to prohibit the members of the armed forces joining a union was sent to the House for action. The House has deferred action on this but I am certain that when the action is taken in the House that there may be a Conference Committee which will have to be resolved and the Senator will be actively engaged in this.

During my year as National Commander, I don't believe that any other Senator accomplished more to further the programs and goals of The American Legion for the Veteran and for the national security posture of this Nation than did Senator Thurmond. During the Senate deliberations on the Panama Canal Treaties, no Senator was more vocal or presented any more reasonable and cogent arguments against the ratification of these treaties. None was more adept in persuading his colleagues that the treaties were not in the best interest of the United States. No Senator was more effective in representing the desires of his constituents than did your Senator Thurmond. And I would recall for you that at our Washintgon Rally last March when Senator Thurmond and the late Senator James Allen spoke to our American Legion Leaders prior to going to the Hill to see their Senators and Representatives, Senator Thurmond closed his remarks that day with this statement—and I quote, "If it comes down to the point of embarrassing the President or preserving our country, let's preserve our country"—end of quote.

In my final report to our Convention in New Orleans, I reminded our delegates that it was the obligation of each person who participates in our electoral process to know the candidates, to know their background, and to know their position, that each takes on the many issues before each of us before casting our ballot. Non-partisan does not mean you cannot know the candidates, their positions on issues vital to your interests, so that you will be certain of how each stands on those matters which are of paramount interest to each individual.

Certainly I know that I speak for all members of The American Legion when I say "Thank you, Senator Thurmond, for your efforts on our behalf, and more importantly, on behalf of the Veterans of this great Nation. We owe you a debt of gratitude and we will do our best to repay that to you."

Certainly it has been a privilege for me to have the opportunity to be at this testimonial in tribute to a great American, a great Statesman, one who is dedicated to the preservation of benefits and rights of the veterans and one who is dedicated to a strong national defense of this Nation. Thank you.

RALPH METCALFE

Mr. PERCY. Mr. President, together with all of my colleagues who knew him express deep regrets at the untimely death of RALPH H. METCALFE. RALPH METCALFE was a close personal friend and a respected colleague. From the time when he and Jesse Owens shattered Hitler's belief in a master race during the 1936 Olympics to his 8 years in the U.S. Congress, RALPH METCALFE was a fighter for justice and equality.

I most vividly remember RALPH METCALFE's defiance of city hall in Chicago over the issue of police brutality. Some elements of Chicago's Police Department have unfortunately had a reputation for excessive violence. When RALPH METCALFE began the long fight against police

brutality in 1972, statistics showed that Chicago policemen killed twice as many civilians as any police department in the country. By far, the great majority of their victims were poor blacks and Hispanic-Americans. As a result of the movement which he led, Chicagoans are no longer afraid of the police. It was also RALPH METCALFE who exposed the illegal spying on Chicago residents by the Chicago Police Department.

This was just one example of RALPH METCALFE's concern for the rights and well-being of others. During the 1950's, as committeeman for Chicago's Third Ward and later as its alderman, he fought hard for subsidized housing for the city's low-income residents. He was also in the forefront of the fight for equal educational opportunities. And, as a leading sponsor of the Humphrey-Hawkins full employment bill, which, in a timely tribute to him, we are considering on the floor of the Senate today, he fought to get needed jobs for the unemployed.

RALPH METCALFE was also an effective worker behind the scenes. As the chairman of the House Panama Canal Subcommittee, his tireless efforts were helpful in the successful negotiations for and the Senate's passage of the Panama Canal treaties. These treaties have already led to improved relations with our neighbors in Central and South America.

RALPH METCALFE's was a life marked by hard work, dedication, and excellence. The residents of Illinois' First Congressional District have lost a great Congressman, and the city of Chicago has lost a greater leader. Those of us who knew him and had the honor of working with him have lost a great friend. We must all rededicate ourselves to achieving his goals of justice and equality for all.

My deepest sympathy to Mrs. Metcalfe and RALPH's entire family.

SOLAR POWER SATELLITE NEEDS NO FURTHER FUNDING

Mr. PERCY. Mr. President, the Solar Power Satellite (SPS) will receive no further funding by the 95th Congress. A bill to pump an additional $25 million into this highly speculative program recently came before the Senate Energy and Natural Resources Committee. Last Thursday, the committee decided not to schedule a markup session on the bill.

I am happy with this decision. The Federal Government is already financing a $15.6 million, 3-year study of the SPS. It is only fitting that we await the results of this study, to be released in 1980, before spending more taxpayers' money on research which may lead nowhere.

During the past weeks, I have publicly aired my concerns about the SPS. On September 29, in a speech before the Senate, I outlined some of the system's potential liabilities. The SPS is an extremely costly, highly centralized technology which would likely require massive Government regulation and a complex new weapons system to defend it against enemy attack. It also poses a number of serious environmental problems, the foremost being microwave contamination.

On October 2, I sent letters to the seven minority members of the Senate Energy Committee, urging them to oppose the SPS bill. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LETTER FROM SENATOR PERCY TO MINORITY MEMBERS OF SENATE ENERGY COMMITTEE

OCTOBER 2, 1978.

The Senate Energy and Natural Resources Committee currently has before it the Solar Power Satellite Research, Development, and Demonstration Act (S. 2860). If passed, this bill would provide $25 million in additional funding for the Solar Power Satellite (SPS).

It is my strong conviction that further funding for the SPS at this point is ill-advised. Solar Power Satellites are a highly complex technology with many potential problems. Congress has already authorized a $15.6 million, three-year preliminary study to address some of these problems and determine whether further development of the technology is worthwhile. I firmly believe that we should await the results of this study, to be completed in 1980, before pumping another $25 million of the taxpayers' money into the program.

Further funding at this point might allow the SPS program to build a momentum which would hinder objective assessment in a few years' time. There are too many examples of government-funded projects which begin small but soon steamroll past all stopping.

NASA estimates that trial commercialization of the SPS would cost $60 to $70 billion. SPS proponents claim that private investment could provide part of this capital. Past experience, however, would indicate that the Federal government would bear much, if not most, of the financial burden. With so much funding tied up in the SPS, little Federal money would be available for developing other new energy technologies such as coal gasification, oil-shale conversion, and earth-based solar.

The Federal involvement in solar power satellites would not be limited to aid for its development and commercial testing. If the SPS is successful, experts predict that it could generate a third or more of our electrical needs by the year 2025. I find it difficult to foresee private industry running such a huge, complex space program—in all probability, the Federal government would find itself even more deeply involved in the energy business than it is today. Orbital rights of way, safety, fair pricing, and adequate electricity distribution would all be matters of government concern. These many responsibilities would cut further into the Federal budget and add to the already excessive regulation which the private sector endures.

I am also very concerned about the strategic vulnerability of the SPS. Economies of scale require that a single satellite generate a minimum of 2,500 megawatts; the more commonly discussed output per satellite is 10,000 megawatts. Because of each satellite's huge capacity, a hostile government could cripple our nation's economy by knocking out a small number of them. To protect the SPS we would have to develop a whole new weapons system—a task which would consume tax dollars and, more importantly, would pose yet a further threat to human survival.

Environmental hazards posed by the SPS are another cause for concern. Particularly worrisome are the possible effects of microwaves upon human health. Each satellite would transmit energy to earth by directing a microwave beam at a terrestrial receiving antenna. An estimated ten percent of these microwaves would stray from their target because of particles in the earth's atmosphere. Scientists are now exploring the possibility that microwaves can cause cataracts, genetic changes, and cancer in human beings.

As a member of the Energy and Natural Resources Committee, your position on further funding for the SPS is crucial. I urge you to oppose any additional Federal support for this program until we have examined the results of the $15.6 million study already under way.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

GOVERNOR EDWARDS ENDORSEMENT OF THE NUCLEAR WASTE MANAGEMENT ACT OF 1978

Mr. PERCY. Mr. President, in recent years we have witnessed a dramatic rise in public concern over the issue of nuclear waste disposal. The source of that concern is not hard to identify. Over the past 30 years, thousands of tons of spent nuclear fuel and high level nuclear waste have accumulated in this counrty. During those three decades, the American people trusted the Federal Government to answer the tough social and technical questions surrounding the disposal of that waste. They expected the Government to provide strong leadership which would insure that the problem would be solved both expeditiously and responsibly. Now, they are realizing that their trust has been largely betrayed.

The costs of that betrayal are high. The public is understandably beginning to wonder if the problems of nuclear waste disposal can in fact be solved. Given that doubt, and given the deplorable track record of the Federal Government, we can expect the public to watch future Government efforts with a critical eye. Their patience is reaching its limits. If the Government does not get on the right track soon, the public will lose confidence in its ability to solve the nuclear waste problem.

That loss of public confidence might well result in the demise of nuclear power in this country. I regard such an outcome as unfortunate and unnecessary. While the problems surrounding nuclear waste disposal are difficult, all of the available evidence suggests that they can be solved. But in order to insure that they are solved, strong congressional action must be taken to bring focus and direction to the efforts of the Federal Government.

A number of my colleagues in the Senate are beginning to realize the need for such action. Several major bills on nuclear waste were introduced during this past session, including S. 3343, my Nuclear Waste Management Act of 1978. The Energy, Nuclear Proliferation and Federal Services Subcommittee of the Governmental Affairs Committee held hearings on nuclear waste in July. Still, it is clear that the Senate will not take action on nuclear waste this session.

It is imperative that we act on this issue in the next session of Congress. We must give the Federal Government a mandate to solve the problems which remain, and to construct waste disposal facilities once those problems have been solved. We must identify a set of principles which will guide our Nation's nuclear waste disposal policy. We must establish a strong institutional framework within the Federal Government which will insure that we receive unified,

directed leadership. And finally, we must establish reasonable target dates for addressing the problems of nuclear waste disposal, to insure that the Federal Government does not dawdle any longer.

I have incorporated all of these ideas into S. 3343. In the months since I introduced the bill, I have received comments on it from a wide range of distinguished scientists, Government officials, and industry and environmental leaders. I have been encouraged by the support they have given to the principles contained in S. 3343. I have also benefited greatly from their suggestions for improvement.

The comments I have received have strengthened my conviction that S. 3343 can set us on the road to solving the problem of nuclear waste disposal. I intend to reintroduce the bill in the next session, and to work hard for its passage.

One of the most significant statements of support given to S. 3343 was made by Gov. James Edwards of South Carolina, the chairman of the Nuclear Power Subcommittee of the National Governors' Association. In a letter sent to President Carter, Secretary of Energy Schlesinger, and all of my colleagues in the Congress, Governor Edwards stated his support of the bill, contingent upon my making several modifications in it.

I wish to thank Governor Edwards for his support of S. 3343. I will consider his suggestions carefully before I reintroduce the bill in the next session. I would also like to make brief responses to them now.

First, I agree with Governor Edwards' suggestion that the bill should contain more explicit provisions regarding the participation of appropriate representatives of State and local government on the proposed "Nuclear Waste Review Panel." I will evaluate the various options open in this area, and modify the bill once that evaluation is complete.

Second, Governor Edwards suggested that officials from State and local government should be consulted before rather than upon the selection of sites for waste disposal facilities. That is exactly the intent of section 205 of the bill. I will review the wording of that section and consider making changes to clarify its intent.

Third, Governor Edwards suggested that nuclear waste research and development activities should be funded by the Federal Government. However, it is my belief that such activities should be paid for by the producers of nuclear waste. This is a complex issue, and I will review my position on it during the fall. There may well be a definable middle ground which will best reconcile the wide range of interests involved.

I ask unanimous consent that the text of Governor Edwards' letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

TEXT OF LETTER SENT BY GOVERNOR EDWARDS TO PRESIDENT CARTER, SECRETARY SCHLESINGER, AND MEMBERS OF CONGRESS

SEPTEMBER 18, 1978.

In my capacity as Chairman of the National Governors' Association, Nuclear Power Subcommittee, I have had the opportunity to review several pieces of legislation related to nuclear energy. One such bill that I would like to commend to you is Senate Bill 3343, the "Nuclear Waste Management Act of 1978", authored by Senator Charles H. Percy of Illinois.

Senator Percy has kept close touch with the work of the Senate Subcommittee on Energy, Nuclear Proliferation and Federal Services, chaired by Senator John Glenn of Ohio. Senator Percy's bill is very responsive to the testimony presented to Senator Glenn's Subcommittee on nuclear waste management. With the exceptions listed below, I feel Senator Percy's bill represents the issues and policies approved by the nation's governors concerning ways to deal with the nuclear waste management issue.

I have already recommended the following modifications to S–3343 to Senators Percy and Glenn, which, if approved, will reflect the nuclear energy policy positions approved by the governors:

A. The "Nuclear Waste Review Panel" should include the governor who is chairman of the National Governors' Association, Nuclear Power Subcommittee, as well as a similar appropriate representative of local governments. (Section 104). This needs to be clearly stated by statute and not left in the realm of agreements.

B. Involvement of a governor and other state and local government officials should occur before rather than upon making significant decisions or taking definitive action regarding specific waste management or disposal facilities. (Sections 205–d, e and f). These officials should be involved early and help provide the information required to review and analyze specific sites and local technical, social, economic and political conditions.

C. Research and Development funds should not be provided by the user fees. R&D is clearly a national responsibility and should be provided for out of general appropriations.

I would like to personally ask for your wholehearted support for S–3343 with the above modifications. Passage of such an amended bill will achieve a much needed Congressional mandate to move this country along with its vital nuclear waste management and nuclear energy options. Such leadership and such a mandate is essential to this nation's best economic and technology development interest.

Thank you for your support. If I can be of any assistance, please contact me.

With warm personal regards,

JAMES B. EDWARDS.

GROWING OLD IN AMERICA

Mr. PERCY. Mr. President, a few years ago, McGraw-Hill published my book, "Growing Old in the Country of the Young," which I had researched for a number of years, on the many serious problems of senior citizens in our Nation.

On September 24, the Chicago Tribune began publishing a remarkable special report entitled "Growing Old in America." This major series of articles, which ran through October 7, once again focuses our attention on the problems of the elderly. It is of vital importance that this be done. As stated in the opening article of this series:

The aging of America promises to be the most dramatic population trend of the next half century, comparable in its impact to the post-World War II baby boom that helped give the country its current fixation on youth.

This is not an idle statement. Those persons over age 65 comprise the fastest growing segment of our population. Presently, almost 10 percent of our population is age 65 or older. By the year 2025, that figure will be almost 25 percent. As the Chicago Tribune states:

This trend will profoundly affect lifestyles, employment patterns, and the way in which America spends its resources.

The Chicago Tribune is not a newcomer to this issue. It provided major assistance to the Senate Special Committee on Aging when we conducted our investigations into nursing home fraud and abuse several years ago. Those investigations have already led to significant improvements in the operation of nursing homes. Last year, the Medicare-Medicaid Anti-Fraud and Abuse Amendments Act was signed into law. This law will strengthen the capability of both the Federal and State governments to detect, prosecute, and punish instances of fraud and abuse in these programs.

Improvements have also been made in the physical condition of nursing home facilities. Nursing homes are, by and large, cleaner and more sanitary than they were when the committee began its investigations 8 years ago. However, as brought out in the Chicago Tribune series and as also mentioned in a recent investigation by the Better Government Association and WLS–TV in Chicago, abuse of nursing home residents continues.

On August 30, I chaired a hearing of the committee in Chicago to further explore abuse of nursing home residents. I found that better coordination between Federal, State, and local governments in regulating nursing homes is needed. I also found that more emphasis needs to be placed on home care services. Most elderly persons want to stay in their own homes. We should be facilitating this, instead of continuing programs and regulations which force them into unwanted and often unnecessary institutional care. This would not only be better for the individual, but also less costly.

However, nursing home abuses are not the main focus of the Chicago Tribune special report. The main focus is how this country should address the problems of an often forgotten but increasingly populous and vocal segment of our society.

In a recent taping I did for the public television show "Over Easy," I stated that the greatest problem facing senior citizens today is inattention. For example, through mandatory retirement laws, society decides when elderly persons have reached the end of their productive lives. When housing and other social welfare programs are developed, the needs of the elderly are considered almost as an afterthought. This perception of senior citizens as useless members of our society is, thankfully, gradually changing. We are beginning to pay more attention to senior citizens and their problems, not in a patronizing fashion, but in recognition of the many things they continue to contribute to our society.

Two current activities of the Senate Special Committee on Aging illustrate this point. In a series of hearings which we began this summer and will continue next year, the committee is exploring the issues of "retirement, work, and life-

long learning." One issue to be addressed is the role of the older worker in the labor force. Many persons over age 65 are able and willing to work. Congress recognized this when it raised the mandatory retirement from 65 to 70. However, many people believe that older workers deprive younger workers of needed jobs or advancement in their present jobs. This seeming conflict between the needs of younger workers and older workers is a clear example of the complex questions we must consider as we face an increasingly aging society.

The committee is also beginning a series of hearings on "Neighborhoods and Older Americans." A recent report by the National Urban Coalition entitled "Displacement: City Neighborhoods in Transition" names the elderly as "the most often displaced." This series of hearings will focus on the role of senior citizens in our communities. It will also address the problems the elderly face in obtaining housing and needed social services.

Mr. President, the Chicago Tribune's special report on "Growing Old in America" is a superb journalistic and analytic study of a nation in transition. I recently sent a letter to Senators FRANK CHURCH and PETE DOMENICI, chairman and ranking minority member of the Senate Special Committee on Aging, urging that the committee carefully analyze this special report. In the letter, I stated:

The information contained in the articles will be invaluable to the Committee as we continue (our investigations).

I have already mentioned the committee's continuing hearings on "Retirement, Work, and Lifelong Learning" and "Neighborhoods and Older Americans." Other issues which the committee is presently looking into and are also addressed in the special report are the medi-gap insurance problem and the quality of care in nursing homes. The work done by the Chicago Tribune should be well utilized in these areas of committee activity.

In addition, I further requested that the committee continue hearings next year on home health care. This has long been an area of committee concern. In an editorial printed at the conclusion of the special report, the Chicago Tribune points out that:

One theme unifying several stories in the series was having to leave one's own home against one's will—forced out not only by poor health but by inflation, crime, inadequate home-help services . . . The Senate Special Committee on Aging should give particular attention to government-financed home-help services, for many persons a practical alternative to more expensive government-financed institutional care, often in miserable conditions. And all tax-supported services should be on guard against the unscrupulous greedy, who are sure to seize every opportunity given them."

This last point is particularly important. Home care services are a relatively new and growing service area, and governmental involvement is still minimal. However, we are already beginning to hear of cases of fraud and abuse. The committee can provide an invaluable service to the Congress and to the American people by insuring that these services are provided in an efficient and effective manner.

Mr. President, I submit for the RECORD the Chicago Tribune's special report on "Growing Old in America" and the editorial which I have just mentioned. I am sure that my colleagues will find these articles to be highly informative and thought provoking.

I ask unanimous consent that the special report be printed in the RECORD.

There being no objection, the special report was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Sept. 24, 1978]

GROWING OLD IN AMERICA

(Persons over 65 years old will soon be the fastest-growing segment of the U.S. population, and their fears and problems have increasing importance for all. The Tribune's Task Force conducted a six-month, nationwide investigation—some of it by working undercover—to obtain a comprehensive view of the realities of aging in America. This is the first in a series of articles reported by William Gaines, Ray Moseley, William Recktenwald, and John Gorman and written by Moseley.)

The aging of America promises to be the most dramatic population trend of the next half century, comparable in its impact to the post-World War II baby boom that helped give the country its current fixation on youth.

One of every nine Americans today is 65 years of age or older. The ratio will gradually narrow until by the year 2025, according to some experts, nearly one of every four persons will be in that age group.

This trend will profoundly affect lifestyles, employment patterns, and the way in which America spends its resources.

The Tribune Task Force has spent six months examining the phenomenon of aging and seeking answers to the question of how American society cares for the growing army of its elderly.

Reporters worked undercover in nursing homes, home health care agencies, health insurance companies, and firms that sell retirement properties. They found and documented disturbing evidence of neglect, abuse and exploitation of one of the most vulnerable segments of the population.

But they also found, in interviews around the country with experts on aging, that the outlook for the elderly is increasingly hopeful; in the last two decades, America has made significant strides toward assuring its older generation a secure, happy, and healthful life.

ONE WHO SUFFERED SYSTEM'S INDIGNITY

The life of Mrs. Johnie Horton, filled with disappointment and tragedy, is an extreme example of the vicissitudes that can still afflict the old, the sick, and the helpless in American society.

Mrs. Horton, suffering from a serious heart condition and having lost a leg to amputation, spent the last five years in nursing homes.

For more than a year, the Illinois Department of Public Aid failed to pay the First Church of Deliverance convalescent home, 4316 S. Wabash Av., for her care.

By May, 1977, the bill for Mrs. Horton, a former country schoolteacher, had climbed to $4,179.70.

So the home's administrator, Ralph Goodpasteur, evicted her from the home—in a manner that prompted James D. Williams, public aid supervisor, to comment that Goodpasteur had shown "little or no regard for the health, safety, or welfare of mankind."

Goodpasteur called an ambulance, and Mrs. Horton was carried away on a stretcher as she clutched her only possessions, a purse and a radio.

On Goodpasteur's instructions, the ambulance crew drove to the public aid office and deposited her in the fifth-floor office of Mrs. Leona H. Levin, supervisor of nursing home services.

Mrs. Levin looked down at the stretcher and saw a woman "very upset and confused." She said she was worried that Mrs. Horton might die at any moment.

On her instructions, the ambulance took Mrs. Horton to the Ora G. Morrow nursing home, 5001 S. Michigan Av.

Williams was outraged by Goodpasteur's action and recommended proceedings to revoke his administrator's license.

He said Goodpasteur had not been paid because the Department of Public Aid had mistakenly canceled Mrs. Horton's eligibility for assistance in May, 1976. Goodpasteur had been told on three occasions that payment would be resumed when he signed a necessary form, Williams said, but "for some reason that we do not know, he did not follow the caseworker's instructions."

A state hearing resulted in a warning and reprimand to Goodpasteur, but he was allowed to keep his license.

As Goodpasteur sees it, he is the aggrieved party. He has filed suit against the public aid department, asking $4,700 for Mrs. Horton's care.

Goodpasteur was reluctant to discuss the case with The Tribune, but his attorney, Bernard Allan Fried, said public aid officials had treated Mrs. Horton as "a nonperson" and "we simply couldn't take it anymore."

Mrs. Horton spent three months at the Morrow home. Then she was transferred to the Normandy Terrace nursing home, 820 W. Lawrence Av. A Tribune reporter found her there last July, tied with a bedsheet to her wheelchair, a gash over her right eye from a recent fall.

She said she had no friends at the Normandy home, and "I'm lonely all the time because I don't want to be here." When the reporter took her out in her wheelchair, Mrs. Horton remarked that she had not been outside the home in nine months.

She had nothing to do all day but "just sit in this chair," she said, but she seemed resigned to her fate: "When you're old, poor, and ain't got but one leg, you generally do what they say and go where they tell you."

On Aug. 21, Mrs. Horton's travail came to an end. After a nine-day illness, she died in Thorek Hospital at the age of 89. She was buried a week later at Lincoln Cemetery.—WILLIAM RECHTENWALD.

THE "IMAGE OF INCAPACITY" PERSISTS—WITH TELEVISION'S HELP

Old people are sick, tired, and ugly. They can't do anything but sit and rock, go to church, or be pushed in wheelchairs.

Those are some of the ways that 180 Maryland children, aged 3 to 11, described the elderly in interviews conducted by the University of Maryland's Center on Aging.

"The physical characteristics of age—wrinkles, white hair, false teeth—were viewed with horror by the children," said Prof. Edward Ansello, associate director of the center. "But children also described older persons as being wonderful, kind, and rich."

His overall conclusion: "The children love, pity, and fear older persons."

In another survey, Duke University and Pennsylvania University faculty members expressed the opinion that a majority of elderly live in poverty. The correct proportion: 15 per cent or less.

In America's youth-oriented culture, many old people have to contend not only with the physical and financial difficulties of growing old but with stereotyped images and lack of

understanding that prevail among younger people.

Former Sen. Frank Moss, 67, of Utah, who was a member of the Senate Committee on Aging, once commented: "It is hell to be old in this country. . . We have made old age in this country a wasteland. It is T. S. Eliot's rats walking on broken glass. It's the nowhere in between this life and the great beyond."

Still, no matter how much they may view old age with distaste, many Americans apparently have not lost sight of the fact that their turn will come to be old. A national survey has found a surprisingly high degree of public support for programs to assist the elderly.

Americans older than 75 often face special problems—eyesight may start to dim, hearing to fade, the sense of touch to diminish.

As a result, they may move more slowly—much to the irritation of younger people around them.

Dr. Leon A. Pastalan, a University of Michigan gerontologist, tries to help his students gain a better appreciation of the problems of this group by, in effect, turning them into old people.

He outfits students with what they call "granny glasses"—specially developed spectacles with slightly opaque lenses to create the kind of cloudy view of the world that many elderly experience.

He puts plugs in their ears to simulate loss of hearing and applies two thin coats of a liquid bandage to their hands to cause a loss of tactile sensation.

"Like everybody else, I used to call old people Sunday drivers and tell them to get off the road," said Peter Karamitsanis, 26, a graduate architecture student. "But this program helps you to understand why some old people don't dare go over 20 miles an hour.

"I have come to appreciate them more because they are very alive people. They know a lot and are willing to share it, if people take the trouble to talk to them."

Pastalan developed his program principally to help architecture students become aware of the hazards old people encounter because of their limited vision and hearing.

For example, students learn that the typical supermarket, with its huge windows, presents a particular problem. As the lens of the eye becomes opaque, tiny prisms are formed; every prism picks up light and scatters it, producing starburst effects.

Thus, because of the glare from the windows, old people often are unable to see clearly the merchandise on display.

Medical students, social workers, policemen, bus drivers, and others who have frequent contact with the elderly also have changed their perceptions of old people because of Pastalan's program.

Medical students, for example, learn that a hospital often presents confusing images to old people. Light reflecting on a scrubbed tile floor can produce a sharp glare that makes it difficult for the patient to see even the doctor, particularly one dressed in white.

"The worst thing a doctor can wear is a white coat," Pastalan said.

He contends that industry, which has long been aware of the teen-age market, has been slow to realize the potential of the elderly market. As the proportion of elderly in the population grows, industry may have to adapt product designs, packaging, the size of type used on labels, and its advertising to a different market.

In much TV advertising and programming, old people are either ignored or portrayed in terms of ridicule.

The Gray Panthers, an organization of young and old people that seeks to promote a more positive image of the elderly, has made television a special target of its efforts.

"When old people are portrayed [on TV], we are usually stereotyped," Maggie Kuhn of Philadelphia, founder of the Panthers, told the U.S. House Committee on Aging.

"In appearance, our faces are blank and expressionless, our bodies are bent over, and the senior shuffle is just a step away from the embalming room. Our clothing is frumpy and ill-fitting. Our voices are high-pitched and querulous. . . . We are shown as stubborn, rigid, inflexible, forgetful, and confused."

Two special targets of Gray Panther wrath have been the Carol Burnett Show [no longer a network show] and Johnny Carson's Aunt Blabby.

Claude Pepper, the 77-year-old chairman of the House committee, asked: "Are we so victimized by our own stereotypes that we only recognize as elderly those televised characters who are toothless, sexless, humorless, witless, and constipated?"

In truth, this is the healthiest, best-educated, and most vigorous generation of old people in America's history. And medical studies have concluded that no other age group displays such diverse physical and mental characteristics. But the stereotypes persist.

"When I was younger, I was able to conduct my own business, and people accepted me on my reputation as a businesswoman," said Mary Miller, 71, a member of the Chicago Gray Panthers. "Now suddenly they look at my gray hair, and it closes doors to me.

"Some doctors treat you as if you are so far gone they needn't bother with you. If anything ails you, they just say it's because you are getting old."

When Amydelle Shah, 69, was forced to retire as a head nurse at the University of Illinois hospital last fall, she went out to find another job and was interviewed by a man in his 30s.

"When he found out I was 69, he said, 'Fantastic.' I went out of there feeling awful," she said. "I felt like a bug you put under a microscope."

The company hired her. Now, she says with irony, "they think I'm doing a 'fantastic' job."—RAY MOSELEY.

THE AGED: RISING CHALLENGE TO A NATION

My money runs out at the last of the month. I never go out. I read my prayers at night. I listen to the radio. It's not much.
Mrs. Isabel Hansen, 71, widow.

I am old. As soon as you can say that, you're over the hump. It's not a dirty word. I've earned every one of these gray hairs, and I'm not ashamed of them.
Stella Francis, 74, president, Chicago Gray Panthers.

I buy secondhand clothes; I don't mind. They say these are the Golden Years, but you can't prove it by me.
Caroline Arangelovich, 71, retired waitress.

There are many persons who are retired from a job but who do not wish to retire from life. I'm not satisfied with sitting around looking out the window; that's a great way to deteriorate.
Henry Grant, 70, retired teacher.

They are a mixed chorus, the voices of the elderly in America. Some, bowed by age, declining health, and loss of income, would agree with Ptah-hotep, an Egyptian philosopher, who wrote in 2500 B.C.: "Old age is the worst of misfortunes that can afflict a man."

Others cling fiercely to their pride and self-esteem and see old age as a period not to be endured but savored.

For all, it is a time of sudden and sometimes painful adjustments. They must contend with loss of spouses and friends, loss of income, a gradual loss of physical well-being, and a loss of the sense of belonging in a youth-oriented, highly mobile society.

Most of them, no matter how fortunate their circumstances in old age, are burdened with a degree of fear—of being alone, sick, helpless, abused, disdained, or ignored. Some also are afraid of dying; others, in their despair, long for it.

The Tribune Task Force has spent six months assembling a portrait of the elderly in America today. Reporters worked undercover in nursing homes, boarding homes, home health agencies, insurance companies specializing in health insurance for the elderly, and firms that sell retirement properties.

They interviewed scores of experts on problems of the aged throughout the country and examined the operation of public and private programs designed to benefit the elderly.

The picture that emerged is no more uniform than the voices of the old.

America has made big strides in the last two decades in enabling its growing population of elderly to live out their lives in security and dignity. But the elderly remain particularly vulnerable to the greedy and rapacious, to confidence men and to common criminals. And some government programs for the elderly fall far short of their goals.

A national survey found that the major concerns of the old are crime, poor health, declining income, and loneliness.

Although few old people will experience the personal disasters that they dread, the catalog of troubles they can encounter is substantial, the Task Force learned.

Medicare, the government health insurance program for the aged that was begun in 1966, often covers only a fraction of medical expenses, forcing many of the elderly to make huge out-of-pocket payments. Sometimes it takes months for Medicare to come through with reimbursements.

Salesmen exploit the fears of elderly persons about poor health and high medical costs to sell expensive health insurance, some of it worthless or nearly so.

Sizable numbers of the elderly, financially unable to move out of decaying neighborhoods, are easy victims of muggers, purse-snatchers, and home invaders. Their recourse is to imprison themselves in their homes.

Many nursing and board homes are filthy and short-staffed, provide inadequate services, and keep elderly patients drugged to make them easier to handle. At one home, a reporter working undercover was left alone on the night shift with seriously ill residents, though she had said her only previous work experience was as a waitress.

Control over the homes is divided among a bewildering array of federal, state, and city bureaucracies—with the result that there is little control at all.

Home health care, touted by many government officials as a means of serving the elderly outside nursing homes, is being financially exploited by some private, not-for-profit companies that charge three to five times as much as profit-making ones.

Retired persons who buy property in the Sun Belt, hoping to live out their years in a comfortable climate, sometimes find they have bought uninhabitable patches of barren land, without water or electricity and miles from the nearest town and shopping facilities.

Such problems, if not corrected now, are likely to multiply in the decades ahead, when old people are expected to be the fastest-growing segment of the American population.

In 1900, Americans 65 and older—the usual definition of "elderly"—numbered 3 million, or just 4 percent of the population. Today, numbering 23 million, they constitute nearly 11 percent of the population, and the percentage is rapidly rising: Every day, more than 1,000 people in the United States reach age 65.

By the year 2000, according to most projections, there will be at least 30 million elderly. And by 2025, when the post-World War II "baby boom" generation reaches old age, they will number 45 million, or 14 percent of the population.

Those projections may be too conservative. The Futures Group, a "think tank" organization in Glastonbury, Conn., believes that increases in life expectancy will be so dramatic that 72 million people aged 65 or over will be alive in 2025—roughly 22 percent of the projected population.

Life expectancy at birth has increased by about 25 years since 1900. Then a person could expect to live 47 years; today, the average is 72 years [77 for women, 69 for men]. The average age of Americans, 29.4 today, is expected to be 41 in the year 2000.

The Futures Group predicts that life expectancy at birth will average 86 by 2025.

The trend toward a more elderly population will have profound implications for the American economy and lifestyle. Social Security, pensions, health care costs, the job market, and retirement policies all will be affected.

America's preoccupation with youth will have to be tempered; instead of such films as "Saturday Night Fever," we may in 20 years be deluged with movies about life and romance in a retirement community.

"This trend will affect every institution one can imagine," said Robert C. Benedict, U.S. commissioner on aging.

"It will have an impact on how we teach doctors to practice medicine, architects to design buildings, and community planners to do their job."

As America's population gets older and improvements in health care extend life expectancy, the group that University of Chicago gerontologist Bernice L. Neugarten calls the "old-old"—those 75 and over—is expected to grow fastest of all.

Today the elderly include 14.5 million persons who are 65 to 74, 6.7 million who are 75 to 84, and 2 million who are 85 or older.

The "young-old"—the 65–74 group—are expected to increase by only 39 percent between 1975 and 2010, but the 75–84 group will grow by 52 percent and those 85 and older by 111 percent.

That alone portends a boom for the nursing home industry. Only 5 percent of the elderly—about 1 million persons—are in nursing homes and similar institutions today.

"By the time we get to a doubling of 65-plus population, we will have 2½ to 3 million people in nursing homes," said Dr. Robert N. Butler, director of the National Institute on Aging.

Most old people who enter nursing homes die there; the average stay is 1.1 years.

In an earlier time, most old people lived in the same home as their children, and families bore most of the burden of supporting them and caring for them when illness and disability struck.

That is still largely true in the black and Latino communities. But in an age marked by rapid mobility, it is no longer the case for most whites.

Contrary to popular myth, however, vast numbers of old people have not been deserted by their children or dumped in institutions to put them out of the way.

"Nursing homes are a last choice, not the first," said Dr. Ethel Shanas, a University of Illinois gerontologist whose studies on how families care for their elderly have done much to explode the myth.

Even though old people are less likely now to live with their children, 48 per cent of those living alone have a child within 10 minutes of their home, Shanas found. Three out of four see one of their children at least once a week—more than half do so nearly every day—and only 11 per cent go more than a month at a time without seeing at least one of their children.

But in a modern, urban society, care of the elderly increasingly is seen as a responsibility of the entire society rather than of the family alone. This concept developed in Europe many years ago but is relatively new to the United States.

Just 20 years ago, vast numbers of old people lived in poverty and misery. Social security payments often were inadequate; few people were covered by private pensions, and some who were found that the pensions vanished as firms went bankrupt. The cost of health care turned many into paupers.

Since then, Medicare and Medicaid—the government health insurance program for the indigent—have been enacted, Social Security coverage has been greatly expanded, private pensions have spread with safeguards built into them, and a broad range of new federal, state, and city programs for the elderly have come into being.

The number of elderly living in poverty has declined steadily. Today, according to federal estimates, 15 per cent of the elderly—slightly more than 3 million persons—fall below the official poverty line [$3,417 annually for couples and $2,720 for individuals], compared with 11.8 per cent of the general population who do. The government says another 10 per cent of old people live in "near poverty."

Prof. James H. Schulz of Brandeis University, perhaps the nation's foremost authority on the economics of aging, believes the true figure for the elderly poor is 5 to 12 per cent when non-money income—such as food stamps, Medicare, and Medicaid—is considered.

Whether the figure is 1 million or 3 million, it represents people who have to struggle merely to survive in this affluent society. They bring the median income for all persons 65 and over to just $161 a week for families, $67 for individuals.

At the other end of the scale, nearly 8 million older persons live in households with incomes of $15,000 or more. Many of America's elderly are doing quite well, and the public emphasis on problem areas tends to obscure the fact that this is generally the most prosperous, healthiest, and best-educated older generation in the nation's history.

As noted, 95 per cent of the elderly manage to live outside institutions, and 81 per cent enjoy sufficient health to be able to move about independently. More old people own their own homes than do persons under 65, and 82 per cent of the elderly homeowners have paid off their mortgages.

Although life remains bleak for a miniority of the elderly, University of Chicago gerontologist Robert Havighurst says: "I don't think the elderly are especially poorly treated in this country. The middle-class elderly can take care of themselves. The problem is with people living alone."

Statistical evidence bears that out. Except for minority groups, those facing the most severe problems in income, housing, and health are elderly widows or people who never married, and they constitute only a small segment of the elderly.

"We always talk about gaps in services, and that reflects an assumption that all old people need services," said Jack Ossofsky, executive director of the National Council on Aging in Washington.

"One-third of the elderly need significant help. Largely, they are the older of the old. But as we deal with the vulnerable old and the socially isolated, society thinks we are talking about all old people. This reinforces the negative stereotype of the elderly that prevails in this country."

But even most government programs for the elderly make no distinction as to need, and the costs have become immense.

Joseph Califano, secretary of Health, Education, and Welfare, recently estimated that such programs cost $112 billion a year—5 per cent of the gross national product and 24 per cent of the federal budget.

Several experts on aging have challenged his figures, but even allowing for a margin of exaggeration it is clear that the elderly represent a major cost to the American economy.

Nonetheless, the United States continues to lag behind some European countries—notably the Scandinavian countries, West Germany, and the Netherlands—in the care it gives its old people.

These countries have achieved higher standards of care by taxing themselves at a higher rate than Americans pay. A major question for American society is how much its citizens are willing to pay to assure a decent life for their grandparents, their parents, and ultimately themselves in old age.

Some press reports have forecast a developing "intergenerational warfare," with the shrinking number of younger persons in the work force rebelling at the burden of supporting a growing army of oldsters.

The recent approval by California voters of Proposition 13, which sharply reduced that state's property taxes, has fueled that argument.

But a Louis Harris survey found widespread support among younger people for programs to benefit the elderly, even if it means higher taxes. And most experts on aging discount the reports of "intergenerational warfare."

"The politcal system will work out change with compromise," said Schulz. "The young won't get everything they want, and neither will the old.

"The whole discussion is framed somewhat improperly. We continue to focus on the idea of somebody providing support for somebody else. But economists argue that the correct way to view it is the extent to which you are willing to defer income for your own old age."

Even if there are no major new programs for the elderly, Califai o estimates, the cost of serving them will reach $350 billion by 2010 and, in the 15 years after that, will jump to $635 billion—more than 10 per cent of projected GNP and more than 40 per cent of the federal budget.

Commissioner Benedict agrees that there will be increased costs in serving the elderly in the years ahead—but he sees pluses as well.

"To the extent that the elderly require services, it means jobs," he said. "Just as there was a boom in the electronics industries after World War II, in the next half century a whole new services field for the elderly will start to develop, and it will bring jobs with it."

He predicts a boom not only in the nursing home industry but also in nursing and other services to the elderly in their homes.

At least one expert worries that the elderly may be demanding too much.

"Any day now, the old can be in the same boat with the minorities, finding they have used up their potential for demanding more," said Dr. Wilma Donahue, 77, director of the International Center for Gerontology in Washington.

"It may be that we don't have much choice but to ask the family to provide more services to the old that they can't provide themselves. At the same time, we may have to evaluate more stringently how we determine who must have services so as not to give them to old people who are able to care for themselves."

This selective approach may not be politically acceptable, but it may require consideration in view of the rapid growth in the numbers of the elderly.

As Benedict puts it: "The demographics are alarming. Older people are increasing by 500,000 each year, and 80,000 to 100,000 of these need assistance and care of some kind."

The only alternative to meeting these

needs, Ossofsy said with a touch of hyperbole, "is what once was called the Final Solution. We have to react with greater humanity to people who are vulnerable."

RETIREMENT WELL PLANNED, HE "GOES LIKE 60"

Calvin "Pete" Pfingst goes out at 6:30 every Monday morning to play golf, works a few hours every Tuesday at a North Shore social center, and drives several friends to church every Sunday.

What makes all of that remarkable is that Pfingst is 95.

He typifies the many older Americans who remain vigorous, alert, and active in their retirement years.

Last May 22, Pfingst was one of 50 persons inducted into the Chicago Senior Citizens Hall of Fame by Mayor Bilandic in ceremonies at City Hall.

"He sets an example for persons of advanced years in leading a well-balanced life, which includes physical and mental activity," said the citation from the Mayor's Office for Senior Citizens.

Pfingst, a former principal of William Penn Elementary School and assistant principal of Lane Tech High School, retired in 1948 after more than 28 years of work for the Board of Education. A native of Wolcottville, Ind., he graduated from the University of Chicago and received a master's degree in education from Northwestern University. His first job was a $40-a-month teacher at a school in Indiana.

"I still drive," he says with pride. "I took the test the last time in 1976, and the tester said, 'Is this right? You're 93?' He passed me after seeing how well I could drive. I drive some people to church every Sunday (in Wilmette)."

Pfingst lives at the Presbyterian Home, a retirement home in northwest Evanston. His wife died 10 years ago, and they had no children.

He walks with a quick, sure stride and has no hearing or sight problems.

He attributes his good health and long life partly to heredity—his mother lived to 97 and her parents lived into their 90s. But the rest, he said, is the result of his lifestyle.

"I have avoided being habitual in any way that would be derogatory to my health," he said. "I don't drink. I don't smoke. I also take my time to do what I want to do. I am not in a rush. I take a walk each day.

"On Mondays, I go golfing with a friend (85 years old). We play until we are tired. We usually go out by 6:30 a.m. and play the back nine so we are not rushed."

Pfingst, who does his own cooking, said he also tries to be careful about what he eats. "I try to eat good food—fiber foods, lots of fruits—and I avoid sweets," he said.

On Tuesdays, Pfingst works for a few hours at the North Shore Senior Center, 620 Lincoln Av., Winnetka. Some of his former students from Lane Tech, now retired themselves, show up there and still remember the days when he taught them mathematics. Several have told him they became engineers because they enjoyed his classes so much.

Pfingst handles the biographies of the center's more than 700 senior members. He transcribes them in longhand, he said, because his penmanship is still sure and steady.

Some of his free time is spent reading, generally from the classics or the Bible, and he plays bridge several times a week.

Pfingst said he and his wife, who was also a teacher, planned well for their retirement; when the Presbyterian Home opened for membership in 1961, they were the first in line.

"I have no worries now," he said. "If I become ill, I can go to the infirmary and they will take care of me. It is all taken care of in the monthly fee."

His income, from Social Security and his pension as a teacher, is adequate for his needs, he said.

"What you need the most in later life are friends," he said. "And it's something you have to work at. My friends are my capital, and they create interest. I'm a very wealthy man because I have so many friends.

Last night, I took a girlfriend out to dinner, and we wound up playing bridge with another couple."—JOHN GORMAN.

[From the Chicago Tribune, Sept. 25, 1978]

THE NURSING HOMES—"A PLACE TO WAIT FOR THE END"

(In most countries [the nursing home] is utterly inhuman—no more than a place to wait for the end, a deathbed.) Simone de Beauvoir, "The Coming of Age"

Zeno Carter appeared to be near death when the night-shift nurse's aide looked in on him at the Uptown Shelter Care Home, 4646 N. Beacon St.

Carter, 66, a man of average height, was a wasted, skeletal figure weighing about 80 pounds. He told the aide he was unable to keep any food down, complained of two lumps in his abdomen, and said he was having hot and cold flashes.

He was so weak he could barely lift his head.

In reality, the nurse's aide was Tribune reporter Jane Fritsch, a member of a Task Force team that investigated nursing home conditions as part of a six-month examination of problems of the elderly.

Fritsch had walked in off the street two days before and, although she said her only previous work experience was as a waitress, had been hired on the spot by the administrator, Joan Adams.

Though she was a new employee, Fritsch was left in sole charge at night of the 42 residents of the home, an old, rundown, and dreary converted mansion in a seedy section of Uptown.

She checked the nursing charts and found that Carter had been ill for days. Dr. Mitchell Sokoloff, the physician for the home, had been telephoned about him twice in three days but had not come in to examine Carter, according to the records. The second call had been made earlier that day, when Carter became pale, weak and incontinent.

The records stated: "No PO [physician's order] received. Dr. states he will visit in a.m."

Fritsch immediately phoned Sokoloff, although it was nearly midnight, and told him it was urgent that Carter be hospitalized.

"Can't it wait until morning?" Sokoloff asked.

She insisted that it was urgent.

"Well, what excuse should I use when I call the hospital?" he asked.

Fritsch exploded. "I don't care. Make something up. This man is very sick and should have been put in a hospital long before I got here tonight."

Sokoloff called back minutes later and said hospitalization had been arranged. He told Fritsch to list "extreme weakness" as the reason for admission.

Zeno Carter died 16 days later at Martha Washington Hospital. Whether he would have survived if he had been hospitalized earlier is impossible to say. But at least there was someone on duty to try to save his life that night.

That is not always the case at the Uptown home, Fritsch was told. Aides and patients said that when the scheduled employe does not show up, residents are left alone at night, even though some former mental patients among them have a tendency to wander away.

Sokoloff subsequently declined to discuss his handling of the Zeno Carter case with The Tribune. To do so, he said, would violate "the patient's right to privacy." He also declined to say how long he had been associated with the Uptown home or with similar institutions.

Fritsch was one of several Tribune reporters who worked undercover in nursing and boarding homes in Illinois, Michigan, and Ohio during the investigation.

The reporters found that, although conditions have improved in some homes since a 1971 Tribune investigation uncovered widespread scandals, many can still be categorized as warehouses for the dying.

In the three states, reporters found:

Patients left to sit in their rooms all day and deteriorate, with few activities conducted for them. Typically, a daily schedule of activities was listed, but they never took place.

Patients drugged to make them easier to handle.

Incontinent patients left sitting for hours in their own wastes.

Filthy conditions that attracted hordes of rats, mice, and cockroaches.

The nursing home industry is a $14 billion-a-year business, much of it controlled by private entrepreneurs who in many cases appear to put profit before patient care.

There are more than 1 million patients in 23,000 homes. Dr. Robert N. Butler, director of the National Institute on Aging, told The Tribune that half of them are in third-rate homes.

"If we had a flood that left half a million people homeless, this nation would respond in a humanitarian way and declare a national emergency," he said. "But somehow this doesn't get declared a national emergency."

A U.S. Senate committee report in 1976 said: "Long-term care for older Americans stands today as the most troubled, and troublesome, component of our entire health care system."

Tribune reporters examined federal records and found scores of reports by inspectors citing flagrant violations of regulations, some alleging theft of patients' funds by administrators.

Yet there were few indications that any of the reports were ever acted upon. The reason apparently lies in the diffusion of responsibility for control of nursing homes among at least seven agencies.

With so many authorities involved, reports on violations are often simply passed from one to another, with none taking action, the Task Force found.

Edward C. Stec, director of health standards and quality for the U.S. Department of Health, Education, and Welfare in Chicago, said HEW conducts its own inspections of homes offering skilled nursing care but pays the state to inspect intermediate care homes, which mainly provide custodial care.

He said HEW can decertify homes from participation in Medicare or Medicaid but cannot close them. That responsibility, he said, rests with the state.

Another HEW official said he could not think of an offense short of murder that would result in a closure.

William Irvine, head of long-term care for the Illinois Department of Public Health, said there have been about 150 decertification hearings in the last two years, but only four or five homes have been decertified.

Irvine said homes can be fined for violations only if they have been found guilty in a court. "In seven years, we have never been able to assess a fine," he said.

Citizens For Better Care, a Detroit organization, has suggested there should be alternatives to closure, such as a financial penalty, a ban on admissions until faults are corrected, medical receiverships, and decertification of a portion of beds in a home until standards are met.

Dr. Butler said the task of inspection is too big for the number of inspectors available. He suggested establishment of a voluntary inspection system by a national organization, what he called "a PTA for nursing homes."

"What a difference it makes if a family visits a patient," he said. "The home tidies her up because her daughter is coming. But 50 percent of the patients have no family.

"If a national organization would take this on, the nursing home operators would make improvements. The volunteers could do hair styling and grooming, take patients on trips, and inspect for fire and physical hazards. The homes might even find it attractive."

The Illinois Health Care Association in Springfield, an organization of nursing home operators, told The Tribune that the way to better nursing home standards is more money.

"Seventy per cent of the patients are on Medicaid, and with Medicaid reimbursing only $19 a day, the basic level of care suffers," said Lynn May, an association spokesman.

May was also critical of the diffusion of responsibility for control of nursing homes.

"We did a survey and found there were about 75 offices that had some regulatory powers," he said. "One will say one thing and that will be contradicted by another. We are thinking of pushing a bill that would establish one inspection agency."

Reporter Fritsch worked two nights at the Regent Plaza nursing home, 901 S. Austin Blvd., formerly called the Austin Congress. She described it as "depressing, dirty, understaffed, and poorly maintained."

Again she walked in off the street and was hired, this time after a two-minute interview with nursing supervisor Catherine Wilde.

On Fritsch's first night at work, Mrs. Emogene Gaines, a licensed practical nurse, sat in the entrance lounge and refused to begin work until learning whether anyone else was going to show up.

She said she was fed up with short staffing and had worked too many midnight shifts when she was alone on duty.

"Up till now they've been able to talk me into staying, but my family won't let me do it anymore. It's just too much work," she said. Eventually, three other employes arrived and Mrs. Gaines stayed.

When morning came, Fritsch was told to dress the patients. The men got undershirts, shirts, and pants—no undershorts. The women got T-shirts and dresses—no other underwear. Both got men's socks, which weren't in matching pairs.

One resident said that his daughter used to bring him shirts, but after he wore them once they would be put in a common laundry. "I'd see them on some guy down the hall later," he said. "I've been here for seven years, and I'd rather be dead than spend another seven years here."

Most patients needed baths before dressing, Fritsch said, "but I was told they only get baths once a week."

In many homes where Tribune reporters worked, the non-nursing staff was paid only the federal minimum wage, $2.65 an hour, for what is often back-breaking work. Nationally, nursing homes experience a 75 per cent turnover of staff each year.

Many doctors are evidently reluctant to work in nursing homes, perhaps because of the depressing atmosphere of most such institutions.

The American Medical Association has said: "Sadly, the one individual who can significantly upgrade the quality of patient care . . . and simultaneously improve the morale of both patients and staff absents himself from the scene. That individual is the physician."

More than 65,000 registered nurses are working in the nation's 23,000 nursing homes, but a Senate report says that "unlicensed aides and orderlies with little or no training provide 80 to 90 per cent of the care."

Although some staff members seemed indifferent to patients, Tribune reporters found no instance of outright violence against patients. And they heard some employes express sympathy for patients.

"I've been here two months, and I just don't know about these old folks," a janitor told reporter William Recktenwald when both were working for a chain of five homes in Cincinnati.

"They should have something for them to do. They ain't got nothing to do; they just sit and wait on death to come."

And violent abuse of patients does occur. Administrator Susan Moore, who interviewed Recktenwald for a job with Quality Health Services, Inc., in Cincinnati, told him: "We ha[illegible] had bad luck with orderlies here. The last one we hired raped a patient."

Recktenwald drove a small truck carrying food to the five Quality Health homes. Linen, often soiled with urine and feces, was carried at the same time.

The day after the homes' pharmacist reviewed patient records, dietitian Brenda Sheppard told Recktenwald: "I want every home to get extra orange juice. They need it to give medication."

An aide later explained to him: "It's that magic orange juice. The nurse puts some medicine in it, and the patients go to sleep. They are no trouble after that orange juice."

A Senate committee report in 1975 said tranquilizers and other drugs affecting the central nervous system constitute almost 40 per cent of the medication given in nursing homes. The purpose, it said, is to make patients easier to handle.

Because of a shortage of nurses, drugs often are dispensed by unqualified personnel. A Senate report estimated that 20 to 40 per cent of the medications are given in error.

The average patient gets four to seven kinds of medication a day, some of them more than once. In 1976 the average drug bill for nursing home patients came to $300 a year; for elderly persons who were not institutionalized, the average was $87.

Little concern is shown for patient privacy and dignity in some homes, the Task Force found.

At the Forestview Home in Cincinnati, part of the Quality Health chain, Recktenwald saw an elderly woman sitting naked in a wheelchair, trying in vain to cover herself with her hands as aides dressed her. The door to her room had been left open and the privacy curtains pushed aside.

Reporter John Gorman and photographer Frank Hanes witnessed a similar incident in the Lehrer Home, 4636 N. Beacon St., Chicago.

Still, the conditions in nursing homes appear to be better than those in some boarding homes for the elderly.

The boarding home industry mushroomed several years ago when state governments began transferring thousands of persons out of mental hospitals. This was largely an economy move; the states paid the full bill for hospitals, but care in boarding homes is financed by federal Supplementary Security Income benefits for the indigent.

In New York, Deputy Atty. Gen. Charles J. Hynes investigated boarding homes last year and found many residents living what he called "a drab, barren existence that often sinks to levels that offend basic human dignity."

Harold Gordon of the Maryland Health Department said there are "horrendous" conditions in his state's boarding homes.

"We have seen residents literally stuffed into attics, basements, and, in one case, a barn," he said. "We have seen food being prepared that I would be hesitant to feed my dog. We have had reason to believe that the operators of some of our worst homes were in fact stealing the residents' Social Security funds."

Neither nursing nor boarding homes, of course, are uniformly bad.

Fritsch worked one day in the Lake Shore Nursing Centre, 7200 N. Sheridan Rd., and described it as a clean, well-run facility that appeared to offer good care.

Recktenwald worked at the Maria Parkway nursing home in Cleveland, which had lost its certification earlier because of understaffing and unsanitary conditions. When he worked there, the home was under new ownership, a larger number of nurses and aides had been hired, and the staff was cleaning up the facility.

But reporters also visited homes where inspectors previously had cited violations and found the violations continuing, with no action taken by government authorities.

For example, the last annual inspection report on the Pleasantview nursing home in suburban Niles complained of understaffing, medications distributed by unlicensed personnel, and food equipment, walls, and floors in need of cleaning.

Fritsch worked at Pleasantview one day and reported a smell of urine permeating the facility, incontinent patients left sitting in wet clothes, roaches overrunning the women's shower room, and staffing problems.

A nurse told her that none of her aides had shown up the previous day.

A 1977 report on the Michigan Terrace Nursing Center, 3405 S. Michigan Av., told of staffing hardships due to high absenteeism; a male resident seen using the toilet while a woman was in the room; lack of observation of patients by nurses, resulting in frequent accidents; many patients in need of clean clothing; nine residents without shoes; and a roach in a water pitcher.

Tribune reporters who visited Michigan Terrace this year found an overpowering stench of urine in one room, an incontinent patient sitting in wet pants, and roaches in patients' rooms and food storage rooms.

There are scores of reports on similar violations at other nursing homes throughout the area. Some date back seven or eight years. They are filed in the Chicago HEW offices, and most are gathering dust.

[From the Chicago Tribune, Sept. 25, 1978]

THERE IS NO PRESSURE TO TREAT THE OLD PEOPLE BETTER

Many nursing home residents are left in their rooms with nothing to do all day, "like one more piece in a potato salad" and gradually withdraw into a private world as their self-esteem vanishes.

That description comes from Mrs. Lilo Salmon, who sees hundreds of the elderly in nursing homes in her capacity as program director for the Little Brothers of the Poor, 1658 W. Belmont Ave.

"When we visit these people, we ask them to draw a picture of something they would like to do," she said. "Many of them draw a picture of a house with smoke coming out of the chimney. Because that's where they would like to be—in a house, not a nursing home."

The overwhelming majority of nursing home patients are elderly women, most of them widows.

The median age of the patients is 80. About 96 per cent are white, and 60 to 80 per cent are poor. Seventy-two per cent are widowed or divorced. Only 12 per cent have a living spouse, and 16 per cent never married.

Eighty-five per cent of those who enter a nursing home die there. The average length of stay is 1.1 years.

Although only 5 per cent of the elderly population are in nursing homes at any one time, about 20 per cent of all old people eventually spend some time in one.

"I never met a person in a nursing home who liked the food," Mrs. Salmon said. "Not only is it bad, it isn't enough. They draw pictures of food.

"They sometimes draw pictures of people sitting around a table, friends. Very often all they need is a little hope. Consciously they really think there is nothing left for them but dying."

Mrs. Gisela Mengin, a group worker for the Little Brothers, said nursing home regimes encourage the elderly to become passive and dependent.

"When all their decisions are made for them—when to get up, when to eat, what to eat, when to bathe—this narrows their lives, and after a while they let the nurses make all the decisions for them," she said.

"Then it's disastrous. You see the degeneration as more and more of their decisions are taken away from them. They suffer the loss of self-determination, of self-worth, the loss of being successful in any way."

A survey by the National Center for Health Statistics showed that more than half of nursing home patients are confined to the premises, to their beds, or to chairs.

Twenty percent were thought to be in homes because there was no one to look after them in their own homes; 33 per cent were considered too hard to handle at home; and 44 percent needed permanent care.

About 55 per cent are mentally impaired, according to the survey, 45 per cent are often incontinent, and 59 per cent are unable to manage their income or spending money.

Mrs. Salmon said it takes more than meeting the legal requirements for space, cleanliness, and staffing to make a good nursing home.

"If there is no personal involvement, it can be a terrible place," she said.

When we take them flowers or some candy or take them on an outing, we see the beauty still left in these old people, and they light up, come to life."

Mrs. Mengin agreed. "Very often the people who run the nursing homes are much more concerned with fulfilling the government requirements than with caring for the human needs of the patients," she said.

"They feel the threat of the government to meet the law, but there is no pressure to treat the old people better."

JOHN GORMAN.

[From the Chicago Tribune, Sept. 26, 1978]

OUR "EXTERMINATORS" FIND NURSING HOME FILTH

(You don't find many early or primitive societies that treat old people as badly as civilized societies do.—Anthropologist Margaret Mead.)

"This is cockroach heaven," announced the young administrator of the Stratford Home, a boarding home at 4131 N. Sheridan Rd., as he led the extermination crew into the dining room.

"Behind the milk machine and under the sink in the kitchen there are thousands of them," he said. "When you turn the lights on at night, they're all over the place."

At the Bethune Plaza nursing home, 4537 S. Drexel Blvd., a nurse screamed as a mouse appeared in a doorway, and the mouse fled. "I saw a rat in the laundry basket last week," she said. "It was a big one." Large rat traps were all along the walls.

In Illinois, Ohio, and Michigan, Tribune Task Force reporters conducting an investigation of nursing and boarding homes—part of a six month examination of the problems of the elderly in America—found that thousands of old people are living amid almost indescribable filth in buildings overrun with insects and rodents.

"The Task Force Pest Control Co."—a bogus firm staffed by reporters carrying extermination gear and a photographer with a concealed camera—visited scores of homes to document the findings.

The extermination fluid they used to spray the homes was a harmless deodorizer. It was not completely useless, for many of the homes they visited reeked of urine.

Many nursing and boarding homes in Chicago are in the Uptown area, their squalor often in keeping with that of the surrounding neighborhood's burned-out apartment shells, boarded-up stores, vacant lots cluttered with trash and auto parts, walks and gutters littered with broken glass.

The boarding home industry in particular has thrived since Illinois began removing mental patients from state hospitals several years ago in a budgetary move to make them wards of the federal government rather than the state.

Uptown became a boarding home center because it was a deteriorating area where property could be bought cheaply.

So many former mental patients are jammed into Uptown boarding homes that it has been called a "psychiatric ghetto." The patients often sit on curbs or wander the neighborhoods, asking passers-by for money or cigarettes.

The Task Force Pest Control Co. offered its services to nursing and boarding homes as a free demonstration. Many administrators snapped up the offer eagerly, some saying that they had no regular extermination program—though state regulations require them to keep premises free of infestations of insects and rodents.

The Stratford Home is a four-story, brick-structure on the corner of a decaying Uptown block.

From "cockroach heaven"—the dining room—the Task Force crew made its way to the boiler room.

"When we turn the lights on in here, there are cockroaches and water beetles all over the place," said the administrator, Gary Mellman. "I've killed about six mice in here myself with traps."

Throughout the facility the crew found mouse droppings, open garbage cans, filthy floors, broken windows, bathrooms without toilet paper, and large holes in baseboards.

Several residents told of seeing mice in their rooms.

At Bethune Plaza, a converted old hotel on the South Side, a woman patient told of seeing roaches come through the windows.

"The other night they ran across Molly's bed," she said, referring to her roommate. "I'm afraid they are going to run into her mouth while she's snoring."

In a second-floor dining room there were food particles all over the floor. A nurse said many patients need help with eating, and the staff does not always clean up after them.

"I've got to talk to the administrator about this," she said.

As the Task Force crew stepped into a corridor at Bethune Plaza, reporters saw a young orderly grappling with an elderly patient, his hand in the patient's trouser pocket.

"Come on, gimme that dollar and I'll give you a shave," he said. Then, seeing the visitors, he quickly withdrew his hand and said, "Lend me a dollar, will you?"

A nurse said nothing to the orderly, although patients are not supposed to have to pay to be shaved.

The Regent Plaza nursing home, 901 S. Austin Blvd., was also visited by the "exterminators," and reporter Jane Fritsch worked there as a nurse's aide for two nights.

"The entire building, including the first-floor lobby, reeked of urine," she said. "The floors were dirty, and our shoes stuck to them."

She found cockroaches running through cracks in the walls where the molding had fallen away. Windows were filthy, and drapes were ragged, dirty, or missing.

A bathroom had no toilet paper or towels. The linen closets on all four floors were virtually empty. Floors were flooded from rain that poured through a leaking roof.

"Every time it rains, this place floods," one aide said. No one mopped up the water.

A large elevator had not been working for at least four months, according to a nurse. The lock on the front door was broken and there was no security guard in the building, which is just across the street from where a woman had been murdered several weeks earlier.

When the Task Force "exterminating" crew arrived at Regent Plaza, administrator Martin Baskin told them: "The place can always use a spraying—they [roaches] are all over the place."

On the fifth floor, the crew found a decomposing mouse beside a bed. A nurse said a nearby activities room was overrun with roaches and mice.

"I've caught two mice myself, and I've only been here for two weeks," she said. "But I'm leaving on Friday."

The crew also sprayed the Uptown Shelter Care Home, 4646 N. Beacon St.; the Lehrer home, 4636 N. Beacon; the Michigan Terrace nursing home, 3405 S. Michigan Av.; the Park House nursing home, 2320 S. Lawndale Av.; and the Hearthside nursing home, 1223 W. 87th St.

Conditions at all the homes were similar—filth in the rooms, mouse droppings and dead roaches on the floors. In one darkened room of the Hearthside home, the crew was almost forced back by the overpowering stench of urine.

In some homes, reporters learned, the staff usually knew in advance when an inspection was to take place. At those times, unsanitary conditions suddenly were cleaned up.

In Cincinnati, reporter William Recktenwald worked as a driver and janitor for the five homes in the Quality Health Services chain and found several of them filthy.

At that chain's Forestview home, he said, "We mopped floors that could not have been washed in weeks, if not months. Patients sit in their own wastes as the nurse works on charts."

At the Gardenview home, part of the same chain, there was a strong odor, floors were dirty, and dishes and silverware were unclean, In another home, roaches crawled across the dietitian's desk.

"We have a big cleanup to get ready for the inspectors," a janitor told him. "They hire extra people. You wouldn't recognize the place at inspection time; everything is bright and shining."

Citizens for Better Care, a Detroit citizens group formed in 1969, has been working for legislation to make it a misdemeanor for a state employe to inform a nursing home when an inspection is scheduled.

"However, they know anyway," said Doug Roberts, a staff member. "There is a grapevine going. Because the inspections are scheduled by computer, nursing home operators can get together and closely pinpoint the day of an inspection.

"What's bad about this is that they hire extra people, clean the place up real nicely, and then the state pats them on the back and says they are doing a good job."

Reporter William Gaines worked as a janitor at the Conner Convalescent Center in Detroit, where one woman patient told him she had broken her hip when she slipped in a puddle of urine three months earlier.

A visitor riding an elevator with Gaines complained of the smell in the home and said, "They must keep elephants here."

Gaines observed one man seated in the main hallway near the second-floor dining room with urine staining the floor beneath him. He was still there hours later.

State inspection reports examined by Tribune reporters at the Illinois Department of Public Health offices in Springfield showed numerous sanitary violations, many of them with no indication that any action had been taken.

"Bugs [ants] on stoves . . . poor staffing . . . roaches noted in and about kitchen . . . residents complained of no towels, no washcloths, and no toilet paper," said a report on Hamlin House, 6 N. Hamlin Blvd. The administrator is Julius J. Underwood.

"Staffing inadequate. Patients poorly groomed. No underclothing for women. Progress reports of doctor are minimal. No bedspreads on [some] beds, said a report on the Uptown Shelter Care Home.

"Food service personnel do not practice hygienic food-handling techniques. . . . Cook rinsed hands in sink that chicken was standing in. . . . Facility not implementing procedures for investigating, controlling, and preventing infection, said a report on the Drexel Home, Inc., 61540 S. Drexel Blvd.

In Cincinnati, a federal inspector said "sanitation deficiencies have always been present" during inspections of the Garden of Eden nursing home, and "attempted compliance is never good or complete. He concluded his report: "Condition of regular sanitation—filthy."

On June 8, reporter Fritsch wrote to the Chicago office of the U.S. Department of Health, Education, and Welfare in charge of nursing homes.

Giving only her name and address as identification, she wrote that she had visited the Michigan Terrace nursing home and had noticed the building was infested with cockroaches.

"I saw roaches along the baseboards, behind and in the night stands, and crawling up and down the privacy curtains," she wrote.

Not until almost two months later, on Aug. 2, did she get an answer from HEW. Her letter was forwarded to William A. Irvine, chief of long-term care programs for the state Department of Public Health, and he wrote to her Aug. 10 saying an inspection visit would be made at Michigan Terrace.

An official of HEW later told The Tribune that inspections usually take place within two weeks after receipt of letters such as the one from Fritsch. In this case, the official said, there was a backlog and Fritsch's letter was slow in making its way through the bureaucratic pipeline.

Nationally, many nursing and boarding homes are not only filthy but are firetraps as well.

The National Fire Protection Association in Boston said that in 1975, the latest year for which figures are available, there were 9,300 fires in boarding and nursing homes throughout the country—an average of 26 per day.

The U.S. House Committee on Aging has estimated that half of the nursing homes have no automatic sprinkler system, although the value of such systems has been shown.

Chicago has required sprinkler systems in such buildings since 1977, following the deaths of 23 persons in a nursing home fire. Federal legislation has been introduced to require them in all homes receiving federal money.

The congressional General Accounting Office estimates the cost of adding such protection at $250 million to $400 million.

How To Select a Nursing Home

When a member of your family requires the care of a nursing home, the most difficult problem you face may be to find a good one.

Former Sen. Frank E. Moss, 67, of Utah, who served 12 years as chairman of the Senate Subcommittee on Long Term Care and is co-author of the book "Too Old, Too Sick, Too Bad," offers this advice on how to select a nursing home:

Obtain a list of such homes published by state health departments, and eliminate from consideration those that are too far away to permit regular visits by family and friends.

Visit some of the homes that remain on your list. Make the visit between 7 and 8 a.m., when shifts change and breakfast is being served, or between 11 a.m. and 1 p.m., when you can observe the noon meal. A return visit at night also may be revealing. Be wary of homes that sharply limit visiting hours or refuse to let you see the entire home.

Observe whether the staff treats patients with kindness and respect and whether doors are closed and privacy screens used when patients are given a bath. Are patients' clothes neat and clean? Are the men clean-shaven, and have the women had their hair done?

Look over the physical plant. Is the building well-maintained, brightly painted, and free from odors of urine and feces?

Visit the kitchen. Is it clean, free of insects and rodents? Are those preparing the food wearing hairnets and clean aprons? Does the home have the services of a dietitian? Is the food appetizing and in adequate portions? Are snacks available between meals and at bedtime?

Look for an activities program; without recreation, a day in a nursing home can be unbearable. Is there anything for patients to do besides watch television? Do volunteers provide instruction in arts and crafts?

Some persons may also wish to view the state inspection records of a particular nursing home. To do so contact the state Department of Public Health or your local Social Security office to learn where the records are kept.—William Rectenwald.

[From the Chicago Tribune, Sept. 26, 1978]

More Care a Matter of Cash, Say Homes' Execs

Nursing home operators whose facilities were investigated by The Tribune generally acknowledged that they have some serious problems and said the solution to most of them is more money.

A few operators refused to talk to reporters about findings of The Tribune Task Force that their homes fail to provide adequate patient care or lack proper sanitation.

"Nursing homes are always going to be a problem," said Joan Hayden, administrator of the Conner Convalescent Home in Detroit. "The employes are low-paid and hard-working. They are always criticized; no one ever says, 'You're doing a good job.' "

She said staff pay is low because most patient care is financed by Medicaid, the government health insurance program for the indigent, and "Medicaid doesn't pay enough."

A similar comment came from Jacob Lustig, owner of five Quality Health Services homes in Cincinnati.

"We get patients here from Cincinnati General Hospital," he said. "The hospital gets more than $200 a day per patient, but we are expected to take care of them for $22 per day."

Whether such complaints are justified is a matter of controversy.

A staff study for the U.S. Senate Committee on Aging several years ago showed that most nursing home operators cut corners to maximize profits and that most were doing very well financially.

At that time, nursing home stocks were among the glamor issues of the stock market.

A New York state commission reported in 1976 that a nursing home could easily show a profit of 25 per cent or better each year while complying with federal and state standards.

A 1974 report of the federal Cost of Living Council said, "There is immense profitability in owning and operating nursing homes."

Citizens for Better Care, a Detroit organization, calculated before-tax profits for 147 Michigan homes in 1975 at 40.48 per cent.

The AFL–CIO, which surveyed nursing home conditions last year, found that about 100 private corporations control 20 per cent of nursing home beds. From 1969 to 1972, it said, these companies experienced a growth of 116 per cent in average net income.

Nelson Cruikshank, President Carter's chief adviser on the elderly, told The Tribune: "I don't think the nursing home is an appropriate place for private investment. In a profit situation, it is inevitable that managers will make choices between quality of care and the profit-and-loss account."

The AFL-CIO has recommended a gradual phasing out of private nursing homes operated for profit and their replacement by nonprofit homes, perhaps church-affiliated or government-owned.

Most operators contacted by The Tribune were frank in discussing problems the Task Force uncovered.

Mrs. Hayden acknowledged the accuracy of a report that a woman patient had slipped in a puddle of urine on the floor of the Detroit home and broken her hip.

"That has happened more than once," she said. "These things are going to happen when you let patients move around. We want them to be as independent as possible."

Lustig said he had recently observed some aides leaving the door open while they gave a patient a bath and had reprimanded them. "It can happen, but it is not our policy," he said.

He said that carrying food and dirty linen in the same truck, discovered by a Tribune reporter working for the Cincinnati homes, has been stopped.

Operators whose homes were infested with rats, mice, and roaches all said they have hired exterminators or are planning to do so.

Elliot Pure, owner of the Stratford Home, 4131 N. Sheridan Rd., said the rodent and roach problem has been aggravated by the fact that the city has razed a large number of buildings in the area. He said the city is not doing enough to exterminate pests that flee such buildings.

"The homes I operate are 500 times better than they were nine years ago," he said. "But they're 500 percent from where I'd like them to be."

Pure said his biggest problems are money and finding competent employes. "A home cannot be run on $14.27 a day, which is what the Department of Public Aid pays per patient," he said. "If they took away all the 'brick and mortar' regulations, we could provide more services for the patients."

Joseph Davis, owner of the Pleasantview home in Niles, said the short-staffing found in his home is a problem throughout the industry. "We try, but we can't find good help for that position [aide]," he said.

Asked about incontinent patients seen sitting in their own wastes, he said: "That irritates me. Understaffing is no excuse. You may clean someone up and then two seconds later they are wet again. We are constantly working to improve conditions."

Ralph Scorpio, owner of the Uptown and Lehrer homes in Uptown, blamed "negligence on the part of an aide" for an incident in which a woman in the Lehrer home was given a bath with the door left open.

He denied findings that some windows in the Uptown home were without screens and some windows were broken.

Jerry Morgan, assistant administrator of the Bethune Plaza nursing home, 4537 S. Drexel Blvd., expressed outrage when told that an orderly attempted to take money from a patient's pocket as a "tip" for shaving him.

"That sort of thing is never permitted," he said. "I'd like to know who was involved so action can be taken."

When asked about food scraps found on a dining room floor, Morgan said the kitchen and dining areas are cleaned three times a day. "There could have been a time when it was dirty, but it would have been a short time," he said.

He also said the home has hired an exterminator, adding, "We have problems getting the city to treat public areas nearby."

Ralph Goodpasteur, administrator of the First Church of Deliverance convalescent home, 4316 S. Wabash Av., who was accused in a state audit report of comingling patients' money with his personal funds, told The Tribune he knew nothing about that charge.

He also denied knowing about an order requiring him to refund some Department of Public Aid payments.

Operators who refused to comment were from the Hearthside nursing home, 1223 W. 87th St.; Michigan Terrace, 3405 S. Michigan Av.; and Regent Plaza, 901 S. Austin Blvd. WILLIAM GAINES.

[From the Chicago Tribune, September 27, 1978]

"NONPROFIT" FIRMS GET BIG FEES—THE WASTE IN HOME CARE FOR ELDERLY

(The manner in which a society behaves with its old people unequivocally reveals the truth . . . of its principles and its ends.)—Simone de Beauvoir, "The Coming of Age"

A federal program to provide home health care for the elderly is being abused by some private, not-for-profit companies under government contracts, a Tribune Task Force investigation has disclosed.

Reporters found that large sums of federal money do not go into services for old people, as intended, but are used for lavishly appointed office suites and high salaries and convention trips for executives.

The fees these not-for-profit companies charge the government for nursing services are often three to five times as high as those that companies operated for profit charge their private patients. Companies operated for profit are not permitted to bill the government for home health services.

The not-for-profit companies also charge two to four times as much per patient as do Visiting Nurse Associations, which have operated in the home health fields since 1889.

The not-for-profit firms investigated by The Tribune have all come into being as a result of 1965 legislation that created Medicare and Medicaid, the government health insurance programs for the aged and the indigent.

For these firms, the government is the only source of revenue. Medicare and Medicaid make funds available for home health care—in which a nurse or nurse's aide calls at the home and provides nursing services under a doctor's orders—as an alternative to nursing homes for old people who cannot care for themselves.

Properly administered, the program should cost taxpayers less than nursing home care while offering the elderly the advantages of staying in their own homes.

But the Task Force findings, from a six-month examination of problems of the elderly, raise questions as to whether such a program can operate effectively without better cost controls.

Tribune reporter Jane Fritsch worked as a nurse's aide for three private, not-for-profit companies as part of the investigation, and reporters examined hundreds of Medicare and Medicaid records.

They found that some companies encourage nurse's aides to short-change the elderly on time spent in their homes. One allows aides to squeeze four visits into five hours, and another permits six visits in eight hours. In contrast, the average visit of a Chicago Visiting Nurse Association aide lasts more than three hours.

The reporters also found questionable relationships between jointly owned not-for-profit and for-profit companies.

One administrator, who draws a full-time salary from a not-for-profit company, owns a for-profit firm that operates out of the same office and receives fees for consulting services to not-for-profit companies in various cities.

Another not-for-profit company uses its Medicare-funded facilities to provide services for a sister company operated for profit.

Some of the owners of not-for-profit companies refused to answer questions from Tribune reporters about their operations or were instructed by their attorneys to reply only in writing.

The owners are apparently accustomed to putting things in writing, for one of the primary reasons they give for their higher costs is the amount of paper work required.

Samuel Skinner, attorney for several of these firms and former U.S. attorney for the Northern District of Illinois, said a national study has shown that a home health company has to process 500 pages of documents, plus 600 copies, just to bill the government for $25,000.

In contrast, he said, hospitals need to process only 50 pages of paper for every $60,000 billed to Medicare.

Most of the owners declined to comment on the relationship between their costs and the lavish manner in which some of them operate.

One owner, Timothy Sullivan of Home Med-Care Foundation, 6549 W. North Av., Oak Park, blamed high costs on the paper work and on a lack of controls. "No one is concerned about costs because the sky's the limit," he said.

Nationally, Medicare expenditures for home health care are expected to reach $607 million this year, and the Medicaid program is expected to pay out an additional $164 million. The bills are likely to grow higher in the next few years.

Joseph Califano, U.S. secretary of Health, Education, and Welfare, has said his department will present to Congress next year a set of proposals designed to shift more spending from institutional to home care.

The only lid now imposed on the spending of the home health firms is what is considered "reasonable" by government-designated fiscal intermediaries, usually commercial insurance companies, according to Mildred Tyssowski, acting director of HEW's Medicare Bureau in Washington.

This lack of strict control is reflected in a comparison of 1977 rates charged by the not-for-profit companies, the Visiting Nurse Association, and three for-profit companies checked by The Tribune. A breakdown of the rates:

Skilled nursing: Visiting Nurse Association, $22 to $35 a visit; not-for-profit companies, $29 to $50; for-profit companies, $10.

Nurse's aide: Visiting Nurse Association, $6.26 to $7.70 an hour; not-for-profit companies, $9.41 to $18.14; for-profit companies, $4.50 to $5.25.

The firm at the top of the list in billings to Medicare in Chicago is Home Health Service of Chicago South, which has offices in the IBM Building. The company billed Medicare an average of $43.30 for a visit by a skilled nurse, and its total billings last year were $1.8 million.

Jules Furth, executive director of the firm, listed more than $800,000 in operating expenses in addition to those for salaries and fringe benefits for people in the field, automobile allowances, and medical supplies.

Thus, 44.6 per cent of the charges billed to Medicare went for operating expenses, leaving 55.4 per cent for patient care.

Furth, who also owns four funeral homes, pays himself an annual salary of $39,000 as director of the home health firm.

His records list $29,256 for automobile operating costs in addition to the $85,278 paid as car allowances for visits to patients; $4,836 for travel and conference costs; $2,315 for coffee and soft drinks; and $17,803 for "miscellaneous."

His office rent increased from $50,915 to $81,844 last year, when he moved from one suite in the IBM Building to another, although his volume of business increased only slightly.

Other rents for home health organizations range from $5,694 a year, paid by the Visiting Nurse Association of Evanston, to $42,997, paid by Home Health Service of Chicago North at 301 E. Erie St.

Furth's agency and several others studied by the Task Force are represented by Skinner. In their written replies to questions from The Tribune, the firms said their high costs result from the volume of paper work and from a need to have offices in the high-rent downtown area.

They explained their substantial billings for automobiles by saying the cars are needed to enable them to participate in community affairs and to work with community organizations.

The task force examined records of 11 private, not-for-profit companies for the most recent fiscal year and found that all charged Medicare an average of more than $1,000 a year for each patient served.

The Visiting Nurse Association's highest average per patient was only $424. The difference, the records indicated, was due to higher costs and to a greater number of visits to patients made by the not-for-profit companies.

Reporter Fritsch found that some companies apparently try to use as many as possible of the 200 visits allowed by Medicare for each patient.

At Home Health Agency of Olympia Fields, 2555 W. Lincoln Hwy., where she was hired as a nurse's aide, Fritsch was told that Medicare will cut off the home visits if a patient's condition stabilizes, "so one way is to never say your patient is stable."

Jonathan Geren, assistant administrator, later told The Tribune that the company follows this policy not for its own benefit but to maximize benefits for the patients.

However, The Tribune learned that Blue Cross, the government's fiscal intermediary with several Chicago-area home health organization, bases pay scales for administrators on the number of visits made.

The Olympia Fields agency had per-patient costs that were among the highest of the firms examined: $1,516 per year.

Fritsch also worked for Chicago Home Care, 1808 W. 103d St., a for-profit company that supplies home health workers to five not-for-profit firms on the South Side and in the south suburbs.

Mrs. Patricia Tinder, the owner, dispatches and pays the aides, and the charges for their services are then billed to Medicare by the five companies.

Aides were encouraged by Mrs. Tinder to complete their assignments as quickly as possible and go home early.

"If you are on the road by 8, you can usually be done by 1," she told the reporter. That would mean less than one hour for each of five visits, when travel time is considered.

Fritsch found that Home Med-Care Foundation, Sullivan's not-for-profit firm in Oak Park, assigned aides to as many as six visits a day. She accompanied a nurse who visited six patients in just under six hours.

Home Med-Care operates from expensively furnished offices, but offices of a for-profit company that Sullivan owns consist of little more than a phone in his brother's law firm.

An examination of the charges of the two companies showed that if an aide worked for the profit-making company for eight hours, the patients would be charged a total of $36. If an aide worked for the not-for-profit firm for eight hours, making six calls at Sullivan's average rate to Medicare of $32.32 a visit, the cost to Medicare would be $193.92—more than five times as much.

Elsewhere, The Tribune found offices and administrators of a not-for-profit company apparently serving a for-profit company that has the same ownership.

Fritsch applied for a job with Home Aid Nursing Service, on the third floor of an office building at 3525 W. Peterson Av. Mrs. Hortense Lefkovitz, the supervisor, interviewed her and then offered her a job not with Home Aid but with Healtharama, Inc., a for-profit company on the first floor of the building.

The not-for-profit company had lavishly furnished offices, but the for-profit firm proved to be a phone in the office of Sidney Weinschneider, founder of both firms.

The profit-making company charged a maximum of $5.25 an hour for nurse's aides in 1977; the not-for-profit firm billed Medicaid $13 an hour.

Weinschneider is the former owner of Oak Manor Nursing Home, 66 W. Oak St. He sold it last year, after the state held hearings and issued a license with a 90-day cancellation provision because of repeated violations in operation of the home.

Mrs. Lefkovitz, while representing Home Aid, had before her the file of an elderly Healtharama client and made a copy of it on the Home Aid copying machine. She also gave the reporter an envelope listing Healtharama as being located in the not-for-profit office.

Mingling of the facilities of not-for-profit and profit-making companies has been cited as a violation of Medicare regulations by U.S. Senate and House committees investigating home health agencies.

The committees said that Flora M. Souza of Los Angeles, who operated one of the largest home health services in the nation, had funneled overhead cost of several corporations through her Home Kare firm and hence to Medicare.

Committee investigators also said that Peter Gottheiner, owner of the California-based National Home Health Care, Inc., owed the government $804,655 in unresolved audit exceptions involving excess profits, use of luxury automobiles, excessive salaries, wages paid relatives who did not work, and charges to Medicare for liquor, tobacco and other expenses unrelated to patient care.

The Task Force found instances of franchising of home health companies with the firms paying a consulting or service fee from Medicare funds to the person who helped establish them.

One nationwide consulting firm is operated by John D. Hirn of Chicago. Although Hirn shows himself on records submitted to the government as devoting 100 per cent of his time to a not-for-profit home health company, The Tribune found that he operates the for-profit consulting firm from the same offices.

A study by a Detroit citizens group found that Hirn had helped to establish four large companies there that make regular payments to Hirn's for-profit company.

Hirn, who declined to answer question's about the amount and type of consulting services he provides those companies, is executive director of Home Health Service of Chicago North, Inc. His wife, Doris, is executive director of Suburban Home Health Service, Inc., Des Plaines.

Together they billed Medicare for $2.6 million in 1977 and provided $1.25 million worth of direct patient care. Hirn's bill to Medicare averaged $1,198 per patient, his wife's $1,747 per patient.

Hirn also refused to discuss a $39,265-a-year phone bill and $55,658 for cars that was listed separately from auto allowances paid his field workers.

But he offered a solution to the inefficiency evident in the program:

"Do away with all the regulations and have the patient's doctor determine if the service is sufficient as given; I can cut the bills in half and deliver three times as much service."

Blue Cross, as fiscal intermediary for several Chicago home health agencies, has attempted to bring spending in line by disallowing claims for some consulting fees and advertising. One was a $30,000 claim from Furth's company.

Attorney Skinner has filed suit in U.S. District Court on behalf of the companies, contesting the expense cuts.

Mrs. Tyssowski said the Medicare Bureau is concerned about high administrative costs and the proliferation of agencies, and her office is considering setting upper limits on the costs of certain services.

[From the Chicago Tribune, Sept. 27, 1978]

REPORTER POSES AS TRAINEE—"ON ROUNDS" WITH VISITING NURSE

The patient was a woman in her 60s who had had several minor strokes and now appeared to be suffering from pneumonia.

The nurse called at her home, saw that her condition was not good, and phoned the woman's doctor. An appointment to have a chest X-ray was set up for that afternoon.

The next patient was a bedridden, incontinent woman who was found to have the beginnings of a bed sore. The nurse showed the woman's daughter how to arrange the bed and a rubber tube to relieve pressure and instructed her on how to care for the sore.

The nurse worked for Home Med-Care Foundation, 6549 W. North Av., Oak Park, a private, not-for-profit home health company. Tribune reporter Jane Fritsch, posing as a nurse's aide in training, accompanied her on her rounds as part of an investigation of the operations of home health firms.

The routine Fritsch described gives a glimpse of the variety of tasks performed by nurses working for these companies.

The beneficiaries of their services are old people who are unable to live independent'y and would in most cases be forced to go into nursing homes if they did not receive such help.

Although The Tribune's investigation uncovered evidence that the government-financed home health program is being abused by some companies, Fritsch reported that most nurses and nurse's aides she met are competent and dedicated to their jobs, despite the modest pay they receive.

In one instance, an employee went back to a home after her work day was finished to check on a patient she was concerned about.

Home health care has had a relatively low priority in federal spending, but that may be about to change.

President Carter's 1977 welfare reform program, which is still awaiting congressional action, includes a proposal to create 200,000 public service jobs to provide home services for the elderly.

At present there are only 30,000 homemaker-home health aides in the United States, one-tenth the estimated need. England, with one-fourth the population of the U.S., has 60,000 aides, and Sweden, with a population of only 8 million, has 35,000.

About half of all American communities have no home health service agencies, and 70 to 80 percent of all home health care is provided by families of the patients. Provisions of Medicare, the government health insurance program for the elderly, tend to discourage rather than encourage use of home health services.

For example, an elderly person is not eligible for home health care reimbursements unless he has first stayed at least three days in a hospital.

Dr. Ethel Shanas, a University of Illinois gerontologist, is considered the nation's leading expert in this field. She cautions that an expansion of home care services, although necessary and desirable, is unlikely to greatly reduce the proportion of old people in nursing homes.

The reason, she said, is twofold: The tremendous growth in the population of those 75 and over, and the increase in the number of working women, which makes it impossible for many families to help look after older relatives.

Dr. Shanas described Chicago as one of the more successful cities in providing home services to the elderly.

Through the Mayor's Office for Senior Citizens, 1,125 persons receive home health and housekeeping assistance each year, at a cost of $1.2 million. Home care is one of the most popular programs the office conducts, and demand for the services far exceeds the available funds.

[From the Chicago Tribune, Oct. 27, 1978]

DAY CARE WITH DIGNITY: "TO FEEL YOU'RE NOT ON THE SHELF"

(By Ray Moseley)

Until she suffered a stroke nearly two years ago, Mrs. Karla Hawkinson was a strong, healthy grandmother who enjoyed looking after her 3-year-old grandson for her working daughter.

After the stroke Mrs. Hawkinson, 73, was worried that she might have to go into a nursing home. But a social worker at the Chicago Rehabilitation Institute told her about another possibility—the Accom-O-Day Center, a day-care facility for the elderly, at 7358 N. Greenview Av.

For the last 18 months, Mrs. Hawkinson has been a "member" at Accom-O-Day [the center shuns the word "patient"]. Five days a week, a car from the center picks up her up at her daughter's home and takes her to the center, where she spends the day getting physical therapy, chatting with other members, playing games, listening to lectures, and going on outings to such diverse places as the Chicago Public Library and Wrigley Field.

Mrs. Hawkinson arrived at Accom-O-Day in a wheelchair. Today she gets around with a cane and said she uses the wheelchair "only when I go bowling."

"I just love this place," she said. "To feel you are still active, and not on the shelf, is a wonderful thing. It's a great help when you are not a burden, and it's nice to be able to go home at night to my own furniture and my own family.

"When you get older, you need to be with your own things. It means so much. It's a lot better than being in a nursing home."

Accom-O-Day is one of only 11 day-care centers for the elderly in Illinois, four of them in the Chicago area. Many gerontologists believe that thousands of old people could be spared the indignities of nursing homes and could have happier, healthier lives if there were more such centers, which originated in England and are a relatively new concept here.

For taxpayers, a network of day care centers could mean savings of millions of dollars, inasmuch as they can be operated for much less than nursing homes.

"There are many people in nursing homes who don't need to be there," said Mrs. Suzanne Deiss, the 34-year-old director of Accom-O-Day. "There is no reason why we cannot provide for old people a community for living instead of their having to fight to survive."

Accom-O-Day opened nearly three years ago as a private venture charging $2 an hour or a maximum of $16 a day. Mrs. Weiss said the center has operated at less cost than similar not-for-profit operations but failed to make maney and has been threatened with closure.

However, the Illinois Department on Aging has tentatively promised a grant of federal funds, which would make the service free

for the elderly. Mrs. Weiss said she hopes to be able to expand membership from 22 to 55 with the grant funds and eventually get it up to 75.

All the members are persons who are unable to care for themselves alone because of either strokes or neurological disorders.

A day's program may include gourmet cooking, current events, a movie, creative writing, table games, and exercises. Members are taken on outings once or twice a week.

"This goal is to keep them as active as possible, to provide a stimulating environment, and to allow their dignity to remain intact," Mrs. Weiss said.

The other day-care centers for the elderly in Illinois:

The Berwyn-Cicero Day Care Center, 1447 S. 50th St., Cicero; the Chicago Department of Human Services center, 841 E. 63d St.; the Council for Jewish Elderly center, 1015 Howard St., Evanston; Brightside Adult Day Care Center, 920 Third Ave., Rockford; Day Care Program of Champaign County Nursing Home, 1701 E. Main St., Urbana; Day Care Center of Mennonite Hospital, 807 N. Main St., Bloomington; the Elders, 695 S. State St. Elgin; Geriatric Day Care Program of the Zeller Zone Center, 5407 N. University St., Peoria; St. John's Hospital Day Care Center, Springfield; and the Family Services and Visiting Nurse Association center, Alton.

[From the Chicago Tribune, Sept. 28, 1978]

GAPS IN MEDICARE TRAP THE ELDERLY

(Oh that I may meet Fate and death when I am 60, without disease and without sorrow.) Mimnermus, Greek priest, 630 B.C.

Before Mrs. Fannie Helman died at age 85 last May in a Niles nursing home, she ran up bills of $6,000. Her family had been assured that Medicare would relieve them of part of that burden.

But when the bills were submitted, Medicare ruled that Mrs. Helman had been placed in the wrong bed in the nursing home and so was not covered. The family had to pay the entire bill.

Mrs. Cecilia Page, 68, went into an Oak Lawn hospital for a gall bladder operation last year and came out with a bill for $2,116, including $1,500 for the surgeon.

Medicare sent her a check for $880, leaving $1,236 to be paid from her own pocket.

If you think these examples indicate that something is wrong with the nation's health care for its elderly, you are right.

In a six-month examination of problems of the elderly, The Tribune's Task Force found experts generally in agreement that the health care system is in serious need of an overhaul.

Although it has had a significant effect in reducing the proportion of income that the elderly must spend on health care, it has failed spectacularly to relieve the possibility that sickness in old age will bring financial disaster.

"A person going into retirement doesn't realize what a precarious position he is in," said 77-year-old Rep. Claude Pepper [D., Fla.], chairman of the U.S. House Committee on Aging.

"He may own his home and have $25,000 in the bank. If he has a heart attack and his wife has an illness, he may have to take out a second mortgage on the home, and his savings will be used up. Middle-class people don't realize how near to disaster they are. A few thousand in savings will go in a year."

With Americans living longer than ever before, disease and physical deterioration are common problems in later years.

The elderly account for more than 25 per cent of the nation's annual $140 billion health care expenditure. Eighty-six per cent of them eventually have chronic health problems, such as arthritis, hearing impairment, poor eyesight, hypertension, heart disease, or diabetes.

Almost 40 per cent of the elderly—9 million persons—are limited in their activities to some extent because of chronic conditions.

Heart disease, strokes, and cancer are the major killers of the old, accounting for 65 per cent of death in the 65-and-over category. Heart disease kills 1½ times as many as cancer and strokes together.

The average hospital stay for old people is 11.6 days, compared with 7.7 days for the general population, and they use 25 per cent of all the drugs prescribed in the United States.

One survey has shown that drug costs ranging from $200 to $1,000 a year are not uncommon among old people.

All of this would be burden enough, but many elderly people complain that in addition they are confronted by medical indifference. Many doctors apparently take less satisfaction in treating old people than in treating the young, whose ailments generally are cured more readily.

In parts of Western Europe, particularly Britain and Scandinavia, geriatric medicine—treatment of the illnesses of the elderly—is a well-developed specialty. In the United States, no medical school offers it as a specialty, and only a relative handful of doctors identify themselves as geriatric specialists.

Medicare and Medicaid, started in 1966, were supposed to relieve the elderly of most of their financial worries about health care. But the worries persist, and dissatisfaction with these programs is widespread.

"We have a confusing and expensive patchwork of financing systems that spawns an even more inadequate delivery system," said Joseph Califano, secretary of Health, Education, and Welfare, whose department administers the system.

Medicare is a health insurance program that provides hospital and medical coverage under Social Security for persons 65 and over. Medicaid, financed mainly by the federal government but administered by the states, covers medical bills of low-income families, and 40 per cent of its clients are elderly.

Costs of both programs have risen astronomically since they were initiated, and the programs are blamed for fueling inflation in health care costs generally.

Last year Medicare and Medicaid cost the nation $36.9 billion, and this year the costs are expected to reach $42.6 billion. The estimate for 1979 is $48.9 billion.

Between 1978 and 2025, according to Califano, the expenses of these programs are expected to increase in real terms more than 10 times—twice as fast as the increases in Social Security.

Despite the amounts being spent by government, however, the out-of-pocket health care expenses of the elderly are averaging more than $400 a year, higher than they were before the system was adopted in 1966.

And Medicare covers only 38 per cent of the health costs of the elderly, according to Sen. Lawton Chiles (D., Fla.), a member of the Senate's Committee on Aging.

The elderly are spending more than $500 million annually on private health insurance to supplement Medicare. Nearly 60 per cent of the nation's old people are covered by some type of private insurance, but some of the coverage is worthless—and few of the private policies provide coverage in areas that Medicare itself does not cover.

Medicare has significant gaps in areas of concern to the elderly. It doesn't cover prescription drugs given outside hospitals, hearing aids, glasses, dental care, and routine foot care. Nor does Medicare cover long-term illness.

"The people who made Medicare knew nothing about gerontology," said Robert N. Butler, director of the National Institute on Aging. "It's not what we need, but it's an important step."

Medicaid fills some of the gaps in Medicare but, as Pepper says, "You have to be broke to get Medicaid. What kind of insurance is that?"

To qualify for Medicaid, a person cannot have assets of more than $1,500. Many people, especially elderly widows, are forced onto Medicaid after spending their meager savings on health care not covered by Medicare.

"The Medicaid spend-down is anti-family, anti-woman, pro-poverty, and destructive of human dignity," Butler said.

Medicare presents another problem for the elderly. Its intricate regulations are hard to understand and often beguile them into thinking they have more coverage than they do. And most elderly persons never find out how much of their expenses Medicare will reimburse until after they have paid a doctor and submitted the bills, though there are ways to determine the costs before undergoing an operation or other major medical procedure.

An elderly patient can get the information by following these steps: Ask Medicare who the government-designated carrier is for your medical insurance [in Chicago, it is Blue Cross]. Then write to the carrier, give the name of your doctor and the service he is to perform, and, citing the Freedom of Information Act, request the prevailing and customary charges for that service.

The prevailing charge is the average of what all doctors in a given area are charging for a particular service; the customary charge is the fee that your doctor charges other patients he serves.

With that information, you can determine how much Medicare will reimburse you. It will be 80 per cent of the customary, prevailing, or actual charge, whichever is lowest.

Whether anyone has ever gone through this procedure is open to question. A Tribune reporter who telephoned Blue Cross and asked how much Medicare would reimburse for a gall bladder operation was told the information was not available, and he was not informed that he could obtain this information by writing a letter.

An example of how the unwary can be confused by Medicare provisions is the case of Mrs. Helman, who bequeathed her family a bill for $6,000.

Mrs. Helman, who had cancer of the tongue, was admitted to the Bethany Terrace nursing home, 8425 N. Waukegan Rd., Niles, after she suffered a brain concussion in a fall last January.

Her daughters, Mrs. Rosalyn Zelkin and Mrs. Anne Stein, believed she was covered by Medicare in the nursing home. They said the doctor who treated her for the concussion and a hospital social worker both had told them her condition was such that she would qualify for Medicare.

But Mrs. Zelkin learned otherwise in mid-March, when she submitted several thousand dollars' worth of nursing home bills to Blue Cross.

She found that her mother was not covered because she had been placed in an intermediate care bed, which essentially means custodial care. Medicare does not cover intermediate care; it pays for only those nursing home patients who require around-the-clock skilled nursing care.

"We were never told the difference between a Medicare bed and a non-Medicare bed," Mrs. Zelkin said. "I simply assumed it was a Medicare bed. All the indications were that she needed skilled nursing care. She couldn't even press the nursing button."

The average health-care bill for an elderly person is more than $1,360 a year, compared with $475 for the general population, and hospital and nursing home costs account for 70 per cent of that.

Under Medicare there is no premium for hospital insurance, but the patient pays the first $144 of hospitalization costs in a 60-day period ($160 after Jan. 1). In the unlikely event that hospitalization should last more than 60 days, the patient must pay $36 a day for the next 30 days.

Beyond that, he has a lifetime reserve of 60 additional benefit days in a hospital, but less than 3 per cent of Medicare recipients use their reserve days, for which the patient pays $72 a day.

The hospital insurance is financed by contributions from employers, employes, and the self-employed, and it is likely that contributions will have to be increased soon. Current projections indicate that the program will run out of money in 1988.

Robert Samuel, legislative assistant for the National Council of Senior Citizens, said doctors often are blamed for prescribing hospitalization so they can benefit financially.

This does happen, he said, but the reverse is also true: The doctor may put a patient in the hospital to save the patient money. This happens in cases in which the patient has only hospital coverage under Medicare and thus cannot get reimbursement for his doctor's bills unless he is in a hospital.

Margaret Person, a spokeswoman for the Chicago Metro Seniors in Action, said the lack of coverage under Medicare for out-of-hospital drugs also prompts some unnecessary hospitalization.

"If the doctor has any compassion at all, he lets a patient on Medicare stay in the hospital," she said.

Califano has estimated that as many as 100,000 elderly persons are in hospitals who don't belong in them, their care costing $2.6 billion annually.

Sen. Frank Church [D., Idaho], chairman of the Senate Committee on Aging, has said that amount would be enough to cover the cost of prescription drugs, glasses, hearing aids, and physical checkup for the elderly.

The medical coverage provisions of Medicare can be even more bewildering than those for hospital and nursing home care. An elderly person pays $8.20 a month for medical coverage [these premiums have gone up each year] plus the first $60 of his medical costs each year.

Once the deductible amount is paid, he is covered under Medicare for 80 per cent of all "reasonable charges" he may incur.

Many doctors agree to accept as their fee whatever Medicare decides to pay. But about half do not, and in those cases, the catch is in what constitutes a "reasonable" charge.

Many people mistakenly assume that 80 per cent of their doctor bills will be covered in every case. In practice, the reimbursement often is well below that, because Medicare defines a reasonable charge as the lowest of the three rates mentioned earlier—the prevailing, customary, and actual charges.

Cecilia Page had never been seriously ill before her gall bladder operation, so she did not know that the $1,500 charged by the surgeon was far out of line. Medicare allowed her only $667.50 for the surgeon's bill.

"I was shocked when I received the bill, but not really floored until I found out what Medicare allowed me," she said. "I didn't know anyone who had a gall bladder operation, so I didn't ask around."

Susan Phillips, public affairs officer for the U.S. Health Care Financing Administration office in Chicago, said patients should forget the old taboos about discussing money with a physician and should get a second opinion if surgery is recommended.

Medicare will pay for this second opinion and has embarked on a program to publicize that fact, she said.

To the elderly person who falls sick, Medicare officials may seem unduly stringent in what they allow, thus putting the financial pinch on him instead of on the public purse or the providers of health care.

"By cutting the amount they will pay, Medicare is not controlling rates. They are only regulating half of the industry, the consumer," said Tim Hughes, director of the Senior Legal Aid project of the Chicago-Kent College of Law.

Paul Riff, 66, a retired mailman who lives in Niles, is paralyzed from the chest down as a result of a fall in March, 1977.

Because the first floor of his home is 30 inches above ground level, he at first had to call the Niles Fire Department to help get him and his wheelchair inside the house. Two months after his accident, he had a lift installed in his garage to solve the problem.

"Before I had the lift installed, I called the Medicare people and asked if this would be reimbursable," he said. "And the girl there told me to send in the bill after it had been installed, not to worry about it."

Medicare, however, eventually rejected the entire $2,061.25 claim on grounds that the lift was a "personal comfort" item.

Riff argued that it was necessary to enable him to get in and out of his house, but Medicare said that "access to daily living is not a necessity" under its regulations.

Mrs. Irene Pinkos, 67, a West Side resident, said she visited or phoned 15 dealers to find a wheelchair at the lowest possible price for her invalid brother, Joseph Szczesny, 78.

She finally bought a demonstrator model for $468.30. With the addition of two special seats, plus a doctor's bill the claim she submitted to Medicare totaled $579.18.

Medicare paid a total of $88.64 in installments over an eight-month period, then sent her an additional $130.20 when she protested and provided information that had been lacking in her original claim.

Mrs. Pinkos still does not understand why she did not get back 80 per cent of the cost, inasmuch as the wheelchair she bought was more than $100 cheaper than any other model she priced.

Many critics of Medicare fault the program for concentrating on acute care and ignoring the prevention of illness. Regular physical examinations, for example, are not covered.

In his book "Why Survive?" Dr. Butler said that only 4 percent of annual health care expenditures in the United States go for prevention.

Preventive testing, he said, would save money, reduce disabilities, and prolong life. He noted, for example, that 3,500 Americans are blinded by glaucoma each year and said 3,000 of these could be spared if tested periodically.

Many see the answer to the shortcomings of Medicare in adoption of a health insurance program for the entire population.

President Carter promised to announce such a program this year, then postponed action until next year because of continuing disputes over it within his administration.

Nelson Cruikshank, the President's chief adviser on the elderly, predicted that Carter's program will include some negotiated fee schedules for doctors, who now can charge as they please.

Whatever its details, the program will be costly. Federal budget officials have estimated it may total $110 billion a year. Not all of that would be new expenditures, however.

"We are already spending $140 billion a year for health care," Cruikshank said. "It would be distributed differently, but it would come out of the same pockets. The opposition has convinced people it will be an additional $110 billion, which is not true."

FEW DOCTORS ATTRACTED TO GERIATRICS SPECIALTY

(By Ray Moseley)

The United States has devoted increasing attention in recent years to problems of the elderly, but it still is far behind many other industrialized nations in numbers of doctors who are specialists in the ills of old people.

None of the more than 100 U.S. medical schools offers a specialty in geriatrics, the treatment of the elderly.

"In many medical schools, geriatrics medicine is an elective course for the junior or senior student. But few are interested enough to choose it," said Dr. Charles R. Beber of Miami, president of the American Geriatrics Society.

"Physicians who stand up and identify themselves as geriatrics specialists are really just a handful."

To some degree, this may reflect a lack of interest in treating the elderly on the part of many doctors. They may get more satisfaction from treating younger people because they can usually see more immediate results.

"We don't put much value in people without a future," Berber said. "Doctors are people. They live with the same prejudices and myths that their brethren do."

Medical schools also contend there is not room in the curriculum for more specialties. It took a long time before pediatrics was accepted as a specialty, and geriatrics faces the same resistance today.

But in the long run, Beber predicts, medical schools will not be able to avoid it. "The perception of the population around us is that people want geriatrics," he said.

This is likely to be increasingly true as the percentage of elderly grows. Sir Ferguson Anderson of Glasgow, Scotland, a world-renowned geriatrics specialist, has said:

"If a young man wants to take up medicine, then he must ask himself . . . if he is interested in the elderly. If he is not, then he would be well advised not to become a doctor, because the numbers of old people are going to be such that most of his patients will be elderly."

In Europe, which has had a high proportion of aged in its population far longer than has the United States, geriatrics is well developed, especially in Britain and Scandinavia.

Scotland alone has more doctors who call themselves geriatrics specialists than does the entire United States, according to Robert C. Benedict, commissioner of the U.S. Administration on Aging.

Beber thinks that may be misleading. "In this country, a lot of old people are dealt with satisfactorily by people identifying themselves as internists," he said. "Doctors who are interested in the aged train as internists."

There is no credentials board to certify anyone as a geriatrics specialist in the United States. So how does a doctor become one?

"I guess you go out in the desert, put your hand on a rock, look up at the stars, and say, 'I am a geriatrist,'" Beber said.

He sees the geriatrics specialty developing around nursing homes and other chronic care facilities, with practices in these facilities changing radically as a result.

"Nursing homes have to reduplicate the community," he said. "They have to give patients the socialization, privacy, and peer group relationships they have in the open community. Medical and nursing care has to be in place, but it has to be in the background.

"The focus has to be that this is where people live, and what kind of neighborhood do you want them to live in?"

[From the Chicago Tribune, September 28, 1979]

DISCOUNTS FOR THE ELDERLY AND WHO TO CONTACT FOR ADDITIONAL ASSISTANCE

FEDERAL TAXES

Besides the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the year are entitled to an additional $750 exemption.

A further credit may be claimed if the taxpayer is retired under a public retirement system. This credit reduces taxes as much as $375 for single persons and $562.50 for married persons filing jointly.

A taxpayer who sells his home and doesn't replace it may exclude from gross income part or, under certain circumstances, all of the gain of the sale if he was 65 before the date of the sale and owned and occupied the property for the last 5 of the 8 preceding years.

If the adjusted selling price was $35,000 or less, the gain is not taxed. If over $35,000, the percentage of the gain that is tax free is determined by dividing $35,000 by the adjusted sale price.

Internal Revenue Service, 230 S. Dearborn St. Telephone: 435–1040.

(The IRS has a limited amount of financing for assistance to elderly taxpayers in the preparation of their returns.)

PROPERTY TAXES

Persons 65 or older in Illinois and who have incomes of less than $10,000 a year are eligible for property tax relief.

Illinois Revenue Department, 160 N. La Salle St. Telephone: 793–2990 or 641–2150, or the statewide toll-free number. 800–252–8972.

An additional exemption, called the Homestead Exemption, is available to residents who live in the house they own. Equalized assessed valuation is reduced by $1,500.

Cook County Assessor's Office, Homestead Department, 118 N. Clark St. Telephone: 443–6151.

STATE INCOME TAXES

Persons 65 and over who are required to file state tax returns receive an extra $1,000 exemption. Also, recognized retirement pensions are exempt from state income tax.

Lt. Gov. Dave O'Neil, Senior Action Center, 160 N. La Salle St. Telephone: 793–3333. Or, Illinois Revenue Department, 160 N. La Salle St. Telephone: 793:2990 or 641–2150 or statewide toll-free number, 800–252–8972.

RENT SUBSIDY

Some federal rent subsidies for persons 62 and older are available. Income requirements vary according to family size, and there is a long waiting list.

Chicago Housing Authority, 22 W. Madison St. Telephone: 791–8500. Cook County Housing Authority, 407 S. Dearborn St. Telephone, 663–5447.

HEALTH SERVICES

Some free health testing and immunization services are available through the Chicago Board of Health. Other health services are available on a sliding scale payment basis.

Chicago Board of Health, Richard J. Daley Center, 100 N. Dearborn St. Telephone: 744–4340.

CITY VEHICLE STICKER AND DOG LICENSE

Persons 65 and over in Chicago pay half price.

City Clerk's Office, 121 N. La Salle St. Telephone 744-6875.

BUILDING PERMITS

Persons 65 and over in Chicago pay half price.

City Building Department, 121 N. La Salle St. Telephone: 744-3420.

SIDEWALK REPAIRS

Persons 65 and over in Chicago get a 75 percent discount.

Bureau of Streets and Sanitation, 121 N. La Salle St. Telephone: 744-4537.

STREETS ASSESSMENTS

Persons 65 and over in Chicago who have been notified that they will be given new street assessments pay half the assessment.

Richard Chelotti, Bureau of Streets and Sanitation, 121 N. La Salle St. Telephone: 744-7350.

GOLF COURSES

Persons 65 and over may play at all Chicago Park District golf courses for half price between 5 a.m. and 5 p.m. weekdays and after 4 p.m. on weekends and holidays. Permits cost 50 cents.

Chicago Park District, 425 E. McFetridge Dr. Telephone: 294–2493.

The eight Cook County Forest Preserve courses offer a half price discount to persons 65 or older after they pay a $1 lifetime registration fee. Seniors may use the discount at any of the courses from 6 a.m. to 3 p.m. Monday through Friday.

Cook County Forest Preserve office, 536 N. Harlem Ave., River Forest. Telephone: 366-6383.

BUS, TRAIN, AND SUBWAY FARES

Persons 65 and over are charged half fare for all Regional Transportation Authority facilities. Passes are issued at 270 locations in the Chicago area. Photos needed for passes can be obtained for 50 cents at the Mayor's Office for Senior Citizens, 180 N. La Salle St.

Regional Transportation Authority. Telephone: 836-7000 or 836-4000. Suburbanites may call toll-free 800-972-7000.

AIR FARES

Congress has authorized reduced fares on a space-available basis for persons 60 and over who are retired and for all persons 65 and over.

Contact airlines and travel agents to find out which airlines offer reduced rates.

NATIONAL PARKS AND FEDERAL FACILITIES

A Golden Age Passport is available for lifetime use to persons 62 and over upon entry into any federal park. The pass admits the bearer and others accompanying him in a single, private, noncommercial vehicle.

Army Corps of Engineers, Room 564, 219 S. Dearborn St., Chicago 60604. Telephone: 353-6405.

STATE PARKS

For persons 65 and over, there is no charge for hunting and fishing licenses or for camping. Proof of age must be shown upon entering parks.

Department of Conservation, 160 N. La Salle St. Telephone: 793-2070.

MUSEUMS

All museums in Chicago are either free or have discounts for the elderly.

Contact individual museums.

RETAIL PURCHASES

A booklet, "The Pride Discount Guide," lists hundreds of retail stores that offer discounts on purchases to the elderly. It is printed and distributed by Bell Federal Savings.

The Chicago Metropolitan Area Senior Citizens, Senate, 721 N. La Salle St. Telephone 649-9080.

[From the Chicago Tribune, Sept. 28, 1978]

CHICAGO'S HELPING HANDS

(By William Recktenwald)

Chicago was the first city in the nation to establish an agency to assist the elderly: the Mayor's Office for Senior Citizens [MOSC]. Now in its 22d year, it offers the widest range of services of such city agencies in the United States.

The Department of Human Services, the city Board of Health, and the City Colleges of Chicago also offer special services to the elderly.

The major programs of the agencies are:

Nutrition—The MOSC operates 87 food service sites in the city, and more than 5,000 low-income elderly persons receive hot lunches daily through the program. Another 1,200 get home-delivered "meals on wheels." Recipients who are able to do so are asked to help offset the cost of the meals, but those who cannot pay receive them free. Telephone 744–3221.

Home Help—The MOSC provides assistance in housekeeping, light repair work, shopping, some meal preparation, and other household tasks for elderly persons who are unable to perform such duties. Recipients of the services are asked to share in the cost to the degree they can afford. Telephone 744–4016.

Friendly Visitors—The MOSC arranges for visitors to help homebound elderly persons in writing letters, placing phone calls, and other social activities. A special corps of nursing home visitors provides companionship and information to persons living in those facilities, where the visitors also observe standards of care and report on problems. Telephone 744–4016.

Elder Artisans—This program, funded by the MOSC, encourages persons 55 and older to use and upgrade their handicraft skills to earn added income. Their products are sold to the public and the proceeds returned to the artisans. Telephone 744–5734.

Foster Grandparents—Through this program, also funded by the MOSC, elderly persons provide care and attention to children in hospitals, day-care centers, and residential facilities for the handicapped. The program provides part-time employment for low-income persons 60 and older. Telephone 744–7300.

Legal Services—Law interns from Chicago-Kent College of Law provide legal counseling to the elderly on such subjects as preparation of wills, estate planning, consumer protection, the Illinois Crime Victim's Compensation Act, employment, housing, Social Security, and food stamps. Fees are on a sliding scale and are waived for those unable to pay. The MOSC funds the program. Telephone 744–4016.

Health Services—Some free health testing and immunization services are available to the elderly through the Board of Health; other health services are available from that agency on a sliding-scale fee schedule. The Department of Human Services gives assistance to those 55 and older in the purchase of wheelchairs, safety rails, walkers, and other prosthetic and assistive devices; eligibility is limited to those living in 14 community service areas, generally in low-income neighborhoods. Telephone Board of Health, 744–4340; Department of Human Services, 744–7396.

Home Maintenance—The Department of Human Services provides funds in the same 14 community service areas for building ramps, widening doorways, lowering cabinets, repairing gutters, painting windows, and installing door locks, window bars, and smoke detectors. Telephone 744–6717.

Shelter—Emergency shelter for persons 60 and older who are unable to find lodging because of physical, emotional, or financial problems is available citywide through the Department of Human Services. Also provided are food, personal articles, and moving and storage of belongings. Telephone 744–7396.

Education—Persons 65 and over who register at the City Colleges of Chicago on the late registration date may sign up free for classes that have room for them, if they have the necessary qualifications. They are also eligible for free adult education classes offering up to 5 hours of credit. Telephone 269–8233.

[From the Chicago Tribune, Sept. 29, 1978]

INSURANCE FIRMS THAT FEAST ON FEARS OF THE AGED

(Old age has no fixed term, and one may fitly live in it so long as he can observe and discharge the duties of his station.—Cicero, "On Old Age")

The car bounced along a rutted dirt road in eastern Tennessee, lurching past primitive log cabins and wooden shanties, set amid mountainside farmland and green valleys.

Harry Maddox, 55, crack salesman for Associated Doctors, Inc., an insurance company in Nashville, was out beating the bushes for elderly customers. Maddox was unaware that

the "trainee" salesman beside him was actually a Tribune reporter, William Gaines.

The territory seemed unpromising. But the mountains of eastern Tennessee are filled with old people, many of them worried about health costs and easily persuaded that they can buy protection for expenses not covered by Medicare, the government health insurance program for the elderly.

Before the day ended, Maddox would sell a health insurance policy to an aged backwoodsman so poor that he had no need for it—he already had 100 per cent coverage through Medicaid, the government insurance program for the indigent.

"I never say contract: I say it's an application," Maddox explained. "And I don't say I'm here to talk about your insurance. I say I'm here to talk about your Medicare and enroll you in our program.

"The other day, I was back in the hills and I went to this old woman's house and said, 'I'm here to enroll you.' She said, 'Praise the Lord. Praise the Lord.' "

Other people voice a less ecstatic reaction to this type of sales pitch.

Wisconsin's insurance commissioner, Harold R. Wilde, says that many salesmen are engaged in a "medi-scare" insurance racket, seeking to exploit the fears of old persons who suffer from poor health and have limited incomes.

"Countrywide, these problems add up to a multimillion-dollar ripoff of our senior citizens," he said. "They are nothing less than a national disgrace."

Robert A. Beck, chairman and chief executive officer of the Prudential Insurance Co. of America, said some companies are offering policies to supplement Medicare coverage that have unreasonably small benefits in relation to premium costs.

"Those few companies give a bad name to the whole industry," he said. "We have been lax, as an industry, in policing our fellow companies. . . . We should criticize them."

Few states have acted to curb the abuses. State insurance departments frequently are headed by former industry representatives, and consumer groups charge that many of them act more as protective associations for the industry than as guardian of the public interest.

The Tribune Task Force investigated "Medicare supplement" sales practices as part of a six-month examination of problems of the elderly.

Reporter Gaines worked as a trainee with the Tennessee firm and with Pioneer Life Insurance Co. in Illinois. He examined records showing that some insurance companies are paying less than 30 cents of every premium dollar in benefits for health insurance—compared with 63.6 cents paid by Prudential Insurance Co. and 55.6 cents by Mutual of Omaha under their policies for individuals. [The benefit return is higher in group plans, but most of the elderly do not qualify for such coverage.]

He found insurance salesmen masquerading as representatives of a senior citizens association to begin their pitch to prospective customers. And he watched as some salesmen persuaded old people to get rid of existing policies and buy policies they were selling.

Supplemental coverage has become a huge business in the 12 years since the enactment of Medicare, and it's the principal source of income for some insurance companies. The reason for its popularity is that gaps in Medicare coverage can leave elderly persons with large out-of-pocket expenses for medical care.

The U.S. Senate Committee on Aging estimates that 63 per cent of the elderly—nearly 14 million persons—have some private health coverage for hospital care alone, and up to 55 per cent, or 12 million, have supplemental coverage for doctors' bills.

"Some [insurance salesmen] have represented themselves as federal employees of Medicare and suggested that Medicare will cover a lot less than is actually the case," said Sen. Lawton Chiles [D., Fla.], a committee member.

But sales can also be made without pretending to be a government worker, as Harry Maddox showed.

After manuevering his car up a rocky creek bed and onto a dirt road, he saw an old man in his yard. Maddox slowed the car and waved.

"I'm Harry Maddox from Associated Doctors," he said. "Dr. Garber sent me to ask you about your Medicare. Do you have your Medicare?"

The old man, who gave his age as 72, said he had Medicare and Medicaid.

"Let's go inside and I'll explain what Dr. Garber has approved for you," Maddox said.

Dr. James Garber was the founder of Associated Doctors. Although his name presumably meant nothing to most prospective customers, Maddox invoked it routinely. [Dr. Garber died Aug. 20, about four months after Gaines toured the Tennessee backwoods with Maddox.]

When Maddox talks with prospective customers, he does not mention that Associated Doctors is an insurance company. Louis "Buddy" Fortune, his boss in Nashville, had told Gaines earlier about the magic appeal of the name.

"It's like the doctors at the hospital are offering this thing," he said. "It removes the idea that some outside organization is involved."

Once seated in the old man's tumbledown shanty, Maddox acknowledged that the man had 100 per cent coverage under Medicaid. But Dr. Garber's plan, he explained, does not pay money to hospitals or doctors; it would provide "living expenses" if the man had to go into a hospital.

The old man's eyes lit up as Maddox dangled before him the prospect of "earning" $15 for every day spent in a hospital.

Soon he was hooked as surely as the dried worms on two fishing poles in a corner of the cluttered room; he agreed to buy a policy and to pay $43 for the first three months.

Later, at the home of a 78-year-old widow down the road, Maddox learned that she already had coverage with Pyramid Life Insurance Co. He tried to persuade her to get rid of that policy and buy his—a sales tactic barred by Tennessee law—but she refused.

It was not the best of days for Harry Maddox. He tried to find three old people who had answered a mail brochure offering free place mats—an inducement used by Associated Doctors to find prospects—but gave up after crossing a muddy field and tripping over an electrically charged wire.

"They just wanted the free place mats," he muttered, "I never give anybody the place mats. If they ask what happened I say, 'Why, didn't yours come in the mail?' "

"Buddy Fortune, his boss, doesn't have to rely on place mats. "When I'm out of leads, I look through the phone book for old names," he said. "You know, like Lulu and Ella."

The elderly people who buy Associated Doctors policies apparently do not have a clear idea of what they are getting.

Records in the Tennessee Insurance Department show that only 22.7 cents of each dollar a person in that state pays for accident and health insurance is returned in benefits by the company. Nationally, Associated Doctors policyholders get back 32.3 cents on the dollar.

Associated Doctors advertises that it pays up to $300 per operation. But a look at the policy's fine print showed that the only way anyone can collect this much is by having cranial brain surgery—an operation that could cost more than $1,500.

Associated doctors also says its basic plan covers hospital charges not covered by Medicare. But a person would have to be in a hospital more than 60 days to collect for any charges beyond the $144 Medicare deductible [$160 after Jan. 1], and the average hospital stay for a person over 65 is 11 days.

Salesmen push a provision that prescription drugs are covered, but the policy limits drug payments to $50 and calls for a $10 deductible.

After completing his work as a trainee, Gaines identified himself to Associated Doctors officials as a Tribune reporter and asked about the firm's sales tactics.

Thomas Campbell, assistant executive officer, said the company has never had a complaint about any of its salesmen using unethical practices.

He said he would not condone attempts to persuade old people to give up existing policies and buy Associated Doctors policies.

When asked why the company pays only $300 for brain surgery, Campbell said, "That is the price our actuaries set, and we have no control over what a doctor will charge."

Health insurance policies have become the most frequent subject of complaints received by many state insurance departments.

New Jersey recently charged 71 companies with selling policies carrying unreasonably small benefits in relation to premiums. Several years ago, Florida recalled more than 50,000 such policies, and only 18,000 qualified for reissue.

Insurance departments have listed these major problems with private health coverage: duplication of coverage; policies specifying flat dollar amounts of payment, without regard to rising costs; long waiting periods before protection begins; refusal to pay claims on grounds that the claimant suffered from a "pre-existing condition" when the policy was bought; and misleading advertising.

In Peoria, Gaines took a trainee position with the Ted Wurschmidt and Associates Agency, which represents Pioneer Life.

Wurschmidt, a former magazine sales crew chief, and his agents travel from town to town in rural Illinois, working out of motels. He explained that they get their leads on prospective customers through the Illinois Association of Senior Citizens, a not-for-profit corporation with 30,000 members that operates from a basement office in Peoria.

The relationship between Pioneer Life and the association is mentioned in the company's sales brochures, which explain that Pioneer pays the association for advertising space and solicits members for the association. Pioneer has a similar arrangement with a senior citizens association in Arizona.

The American Association of Retired Persons has much the same kind of tie-in with the Colonial Penn insurance company, a relationship that has inspired controversy on a national level. Some AARP members and a former officer have charged that AARP is only a "front" for Colonial Penn in selling its policies.

While posing as a trainee with Pioneer, Gaines sat in on a session in which Wurschmidt instructed his new salesmen in their work.

Wurschmidt told them to make use of the fact that prospects have joined the Illinois Association of Senior Citizens to help the salesmen "get in the door."

"It's the best possible presentation," Bill Taylor, one of his salesmen, said later. "I say I'm working with the senior citizens association. I ask to see their policies, then I get rid of those and sign them up for ours."

Taylor said there is no limit on how much he can sign. "I signed one man and his wife for a $3,400-a-year premium," he said. "When

I tell them I've got information direct from Medicare, that's when they start listening."

Wurschmidt said old people are easy to sell because they are lonely and like having someone to talk with. "They trust us. It doesn't matter what policy you are writing; if they like you, you could sell them Hong Kong Mutual," he said.

Gaines went out with salesman Lynn Syrdale to see how the pitch worked as Syrdale called on a retired Caterpillar Tractor Co. employe and his wife in Bloomington.

"Hi! I'm Lynn Syrdale. I'm working with the senior citizens association, and I have this membership application you sent in," he began.

Syrdale did not identify himself as a Pioneer salesman; he talked about the association and then said: "We also have some health benefits. We have a plan that will pay 100 per cent of the actual charges. There is no limit." [Insurance experts say no private plan fills all of the gaps in Medicare.]

The Bloomington couple had a Metropolitan Life policy obtained through Caterpillar. The wife said her husband had had some serious illnesses for which all of the bills had been paid by insurance, but Syrdale convinced her she could use more coverage.

After leaving the house, Syrdale told Gaines: "Most other guys would have given up when they found out he had Caterpillar. It's the best insurance around, and they probably won't need more insurance than that. But he's been sick, and she's worried."

Later, back at the motel, he boasted of his accomplishment. "How'd you like that presentation?" he asked. "Did you see how well it worked? They don't know what's happening until we slam it to them and then it's too late."

Last year, Pioneer paid more in commissions to salesmen than in benefits to policyholders, according to Illinois Department of Insurance records: 37.1 cents on the dollar to policyholders, 38.2 cents to salesmen.

When Gaines identified himself as a Tribune reporter to Pioneer's president, Peter Nauert, and asked about those figures, Nauert said they were misleading.

He said that many of the firm's policies were new, and thus a greater payout could be expected in subsequent years.

When asked about Wurschmidt's advice to trainees to use the association to "get in the door," he said that such a practice is against company policy.

Although Wurschmidt was sending out salesmen with names of prospective customers obtained through solicitation of membership in the association, Nauert said that practice had been forbidden.

He acknowledged, however, that salesmen were allowed to explain the benefits of the association and sign up new members as they solicited sales.

Clarence Reardon, founder and president of the association, said the organization has had few complaints about Pioneer.

Wurschmidt said his salesmen do not claim to work "for" the Illinois Association of Senior Citizens but say they work "with" the association. "That was the approach approved by the state Department of Insurance," he told The Tribune.

But Philip O'Connor, assistant to the Illinois insurance commissioner, said no such approval had been given Pioneer. "We are concerned about that kind of sales approach," he said.

In Atlanta, Gaines sought employment with Bankers Life and Casualty Co. agent Dwight DeLaPerriere, who told him there are more elderly prospects in the area than his company can handle.

"We give them the mirror test. Do you know what the mirror test is?" DeLaPerriere asked. "We put a mirror up to their nose, and if they are breathing we sign them."

Mrs. Lucille W. Lowry, 76, a widow who lives in the Otterbein Home, a Methodist retirement home near Lebanon, Ohio, has had much experience in dealing with Bankers Life salesmen.

They started calling on her in mid-1975. They talked with her, she said, showed her photos of their families, and drank Kool-Aid and coffee with her.

Sometimes three men would visit her together. From mid-1975 until April, 1977, they sold Mrs. Lowry 16 policies—eight for health and eight for life insurance.

She already had two life policies, bought in 1959 from another firm and each carrying an annual premium of $1,776. Her new policies brought her premiums to $12,790 a year. Her annual income was $13,428.

"I just didn't realize what was happening," Mrs. Lowry told a Tribune reporter. "They were such nice boys. . . . I'm just so embarrassed by this whole thing."

Fortunately for Mrs. Lowry, one of her sons found out about the policies and filed complains with state insurance authorities and the Senate Committee on Aging.

Bankers Life, expressing regret, apologized to Mrs. Lowry and her son, refunded the premiums, canceled the policies, and said it had dismissed an agent who forged the signatures of both Mrs. Lowry's sons on an application.

How to Buy "Medi-Gap" Coverage

(By William Gaines)

The elderly are presented with a bewildering array of health insurance plans purporting to fill the gaps in Medicare coverage.

There are many pitfalls in buying such insurance. Here are some tips from experts on what to watch for:

Make sure the policy does not exclude from coverage the same things Medicare will not cover—out-of-hospital prescription drugs, most nursing home care, routine physical examinations, eyeglasses, hearing aids, and dental care. Most so-called "Medi-gap" policies do not cover these expenses, warns Elizabeth Hanford Dole, a member of the Federal Trade Commission.

Don't buy insurance for protection from the initial deductible amounts you are required to pay under Medicare. It's a better investment to protect yourself against catastrophic illness, Dole said.

Check the policy's waiting period. Some policies will cover new illnesses after just 80 days, but others have waiting periods of as long as six months before certain diseases are covered, according to Herbert S. Denenberg, former Pennsylvania insurance commissioner.

Equally important is the exclusion for an illness that existed before the insurance was bought. If the exclusion runs for more than one year, don't buy the policy, Denenberg advises.

If you have Medicaid, the government health care program for low-income people, you do not need any private health insurance, said Harold Wilde, Wisconsin insurance commissioner.

Don't replace an existing insurance policy with another because you think it is "out of date." Switching policies may subject you to new waiting periods and new exclusions.

Shop for insurance from various companies and buy the most complete coverage from one, rather than buying numerous policies that may give duplicate coverage.

Judge a policy on its worth and on your need, not on the approach of the salesman or the endorsement of a club or association.

The "Brothers"—A Last Resort For Aged Poor

(By John Gorman)

The Rev. Aaron Montgomery sat on his front porch in a rundown section of the West Garfield neighborhood, wondering where his next meal would come from.

He had last eaten three days earlier.

Although he owns the two-flat building in which he lives, the Rev. Mr. Montgomery was deeply in debt as a result of deadbeat tenants, mounting utility bills, and property taxes. At 75, he was down and out; he began praying.

"I didn't know what to do, so I turned to the Lord," said the semi-retired Baptist minister. "And Lord Almighty, He answered me."

Without advance notice came a visit from a young man who brought a box of food—not just bread and butter, but delicacies: imported ham, shrimp, small boxes of cheese.

The young man was a worker for the Little Brothers of the Poor.

Year after year, similar scenes take place throughout the Chicago area. In scores of cases, the Little Brothers are the last resort for the elderly poor. Often they make their visits on the recommendation of an anonymous neighbor, which was how they had learned of the Rev. Mr. Montgomery's troubles.

The Little Brothers, a not-for-profit organization, are not affiliated with any church. Operating out of a modest storefront at 1658 W. Belmont Ave., they are financed through donations, bequests, and an antique sale held every other year.

They receive no government money and answer to no one but those they serve, providing food, transportation, homemaking services, and companionship for the elderly poor without charge.

At two resorts—one on a farm near Rochelle, in western Illinois, the other at Lake Delavan, Wis.—the Little Brothers also provide vacations in the country for hundreds of old people who otherwise might be shut in all year in dismal Uptown transient hotels, squalid Englewood apartments, or depressing nursing homes.

For most of the year, Mrs. Ada Rodgers, 82, lives in a one-bedroom apartment at a Chicago Housing Authority project on the West Side. For two weeks this year, she was a guest at the Rochelle resort. As she relaxed on a lawn chair and watched other elderly guests playing with a Frisbee, Mrs. Rodgers said of her hosts:

"They are so nice to us. It's hard to believe. They never complain about anything, never get mad at anything. Always bringing you something nice. There's no one like them."

[From the Chicago Tribune, Sept. 30, 1978]

Cell Processes Under Study: Scientists Eye "Vaccine" Against Aging

(Every man desires to live long, but no man would be old.—Jonathan Swift)

Baltimore.—Some day scientists may put together an "aging cocktail," a vaccination against getting old that will allow people to live about 200 years.

And some day, if the scientists come to understand the mystery of why human cells age, they may find a key not only to extending the lifespan but to curing cancer, reducing hip fractures in the elderly, and starving off senility.

. In no other country is so much effort being devoted to unraveling the secrets of aging, and most of the U.S. research is being done in the National Institute of Aging's laboratories here.

The average number of years a person can expect to live has increased dramatically in the last 200 years. At the founding of the American republic, 20 per cent of the population lived to be 65 or older; today, 80 per cent live that long.

But, as Dr. Robert N. Butler, director of the institute, notes, "In all human history we haven't changed the lifespan"—that is, the maximum term of life. It remains somewhere around 100 years, although there are people who live longer.

The institute is looking into possibilities of extending the lifespan, but its primary

emphasis is on finding ways to extend the healthy middle years of life.

It is spending $37 million this fiscal year for research on aging, and it has a long way to go before it comes up with definite answers. "We are where the National Cancer Institute was 25 years ago—just at the beginning," said one research specialist.

Even in its infancy, however, the program is dealing with some fascinating possibilities.

Dr. Richard G. Cutler heads a group trying to find out whether there is some underlying cell process that causes the body to age.

"If you can cure heart disease and the other major killers, you will succeed only in increasing life expectancy," he said. "You will extend old age, but you won't extend youth.

"To significantly extend health, you have to slow down the whole aging process. The only hope for that is to find the underlying process. If we can find it, it probably will mean an increase in the lifespan."

Cutler believes the aging process is a by-product of interference with the genetic apparatus of cells by unstable molecules called "free radicals." He suspects that the free radicals can cause cells to lose their original properties, thus producing aging.

There is an enzyme, or protein substance, in cells that can rid them of free radicals. There is also a mechanism that can repair damage to the cells' genetic material.

Thus the key to slowing or preventing cell aging may lie in increasing the enzyme and genetic repair levels, Cutler said.

"We are working on the idea that you may be able to fool the organism in the same way that a vaccine fools it into thinking it has an infection," he said. "Thus it might be possible to inject into the body some age components that will fool the organism so the enzymes are turned on. In effect, you would put together an 'aging cocktail' and have a vaccine against old age."

Cutler said he doubts that it would be possible to extend life indefinitely, but "doubling the lifespan potential is a reasonable objective from what we know."

Man begins to deteriorate at about age 30, he said, and it is realistic to think this could be delayed to 40 or even 50."

But Cutler views the possibility of a considerably longer lifespan with some apprehension. "I'm worried that if you have 150-year-old individuals you will run into health problems never faced before," he said.

The subject is fraught with controversy. As Cutler's boss, Dr. Butler, put it: "Many policy-makers are horrified at the thought of extending life. Others clearly would love to live longer."

Already, Butler noted, increased life expectancy has led to "numerous . . . dislocations that have left many elderly in poor health, with little money, and with low social status."

University of Chicago gerontologist Robert Havighurst and Gerontology Society President George A. Sacher have forecast that an extension of the lifespan probably would result in an increased need for health care and services.

The healthy early and middle years of life would be extended, but so would the period of declining health. Havighurst and Sacher believe that arthritis, rheumatism, and failing eyesight, among other ailments, might increase as people live longer.

But the research on aging could also lead to treatment of a more serious disease, according to Butler.

"If we can understand how a cell ages enough to extract the chemical related to it we might be able to apply it to cancer," he said. "We don't want to kill all cells, only the cancer cells. If we could find ways of reaching the solid tumors—we have had less success with these than with other forms of cancer—we could selectively age the cancer cells."

Cutler contends the incidence of cancer could be reduced if aging could be controlled, inasmuch as people become more susceptible to cancer with age.

Other research being done at the institute on problems of old age, such as broken hips and senility, could save billions of dollars in health costs if successful, Butler said.

He estimates that senile dementia afflicts about half the people in nursing homes, where the cost of maintaining them is about $6 billion a year. If spared the affliction, he said, most of them could remain in their own homes.

Butler also said there are 200,000 hip fractures among the elderly each year, resulting in medical bills running to $2 billion.

Dr. Edward L. Schneider of the institute is working on cell model systems that he hopes will lead to solutions to such problems.

He has taken bone from a young animal and treated it to turn it to powder. The powder is put into another young animal, and in two weeks it is converted to new bone.

Schneider is beginning to try the experiment with older animals to see if the same process occurs. The results could be useful in finding a solution to osteoporosis—the gradual loss of bone that occurs in women as the age, making them especially susceptible to fractures.

Schneider also is attempting to learn, with the use of cell models, why enlargement of the prostate occurs in almost all men by age 65.

Another subject he is investigating is Downes syndrome, or mongoloidism, which occurs mainly in children born to older mothers.

Each year 8,000 children are born in the United States with Downes syndrome, and they live an average of 30 years. It costs $3 billion a year to care for them.

When the mother is as young as 14, there is only a 1 in 2,000 chance of producing a child with Downes syndrome. For a woman of 45, the observed risk is 1 in 20.

"It was long thought to be due to maternal age," Schneider said. "Now there seems to be a possibility that it is due to the age of the father as well."

Schneider is working with mice to study Downes syndrome, and he is looking at abnormalities in human sperm to determine if these could be a factor.

"A lot of money is spent on prenatal diagnosis, but that is not a cure for the problem," he said. "The end result of our research will be prevention. For example, if we find that Downes syndrome is caused by a virus in the sperm, there could be a vaccine against it."

Dr. Reubin Andres, clinical director of the institute laboratories, is approaching the study of aging from another direction.

Twenty years ago, a group of retired scientists living in an area called Scientists Cliffs on Chesapeake Bay, not far from Baltimore, offered themselves as subjects for a study. They also recruited relatives and friends, and now there are 650 participants, ranging in age from 29 to 90.

They enroll for a lifetime and come to the laboratories every year or two for an exhaustive series of physical and mental tests.

"We are not studying older people and their diseases. Our emphasis is on understanding the nature of the whole process of getting old," Andres said.

"If you had a group of people all 70, it would represent an enormous diversity of biological age. Some would be in great shape—intellectually sound, physically healthy and active. Others would be already on the waste pile, essentially—physical wrecks, intellectually ruined, lonely, and sick.

"We would like to know if these things are predictable when a person is age 20 or age 60."

One tentative finding: Medical tables on desirable body weight may be inaccurate, especially for old people.

"If you are hypertense, diabetic, or have coronary disease, pulmonary disease, or osteoarthritis, you probably shouldn't be excessively overweight," Andres said. "But if you don't have those and you creep up 25 percent on those tables, there is no evidence that this will shorten your life."

Researchers also have found that old people resemble diabetics in results of blood sugar tests. "Are they becoming diabetic, or is it a different process?" Andres said. "The evidence seems to be that there is a difference between the mechanism of aging and that of diabetes."

Some conclusions from the study should become available in the next two years, he said, but the study is likely to go on indefinitely.

He wants to explore the reasons why whites live longer than blacks, why white-collar workers live longer than blue-collar workers, and why women outlive men.

"On risk factors, women do worse than men," he said. "They are fatter. Their lipid [blood fat] levels are higher. Their glucose [blood sugar] level is higher. They don't smoke as much, but they are catching up. They are starting to approach men in lifestyle. Yet the difference in longevity is increasing rather than decreasing."

A few years ago, University of Chicago gerontologist Bernice L. Neugarten conducted an inquiry among leading biological researchers and found that the overwhelming majority did not expect dramatic changes in the lifespan in the next few decades.

Instead, they forecast breakthroughs in disease treatment that will produce a slow but steady increase in life expectancy.

But even a small increase in life expectancy can have dramatic effects. For example, a 2 percent reduction in mortality would increase the elderly population at the turn of the century by 34 percent over present expectations.

Achieving such a reduction in mortality, Neugarten said, will depend on improved health practices, including reductions of atmospheric pollution, cigarette smoking, and consumption of foods likely to cause heart disease.

The major killers of the elderly are cardiovascular disease and cancer. If these diseases were cured, Stanford University gerontologist Leonard Hayflick estimates, up to 20 years of additional life expectancy could be attained.

Butler is more conservative. He said a cure for heart disease theoretically would add 11 years to life expectancy, but "this increase is only theoretical because the elimination of one disease would leave people vulnerable to others."

A more realistic estimate, he thinks, is that eradication of heart disease would add four years to life expectancy.

Hayflick mentions one novel way in which humans could increase life expectancy, but it is not likely to win much acceptance.

That is to reduce caloric intake to such a level that undernutrition—but not malnutrition—occurs. Longevity can be increased by as much as 50 percent in animals placed on such a diet, he said.

"But no human has ever undertaken it," he said. "For most people, the quality of life is more important than its quantity."

RETIRED AT 95, INSPIRING AT 105

(By Ray Moseley)

Morris Weisman has lost most of his sight, but he still walks to a synagog every Saturday for services.

His step may not be as steady as it once was, but, he says proudly, "I walk with no cane, and no help."

Blurred vision does not stop him from doing intricate handicraft work in the workshop at the Council for Jewish Elderly's Park View Home, 1401 N. California Av., where he has lived for eight years.

Weisman, who owned and operated a lug-

gage business in Chicago until he was 95, celebrated his 105th birthday on Sept. 20. A short, lively man with a ready smile, he said his health is "sometimes good, sometimes bad," but "my mind is strong."

Mrs. Sally Afable, activities director at the home, said Weisman is an inspiration to staff members. "Whenever I feel a bit down, I go and talk to him, and he cheers me up," she said.

"He functions independently. I was here three months before I realized he was virtually blind.

"He is one of the few men in the home who can conduct the religious services. He does it by memory, and he leads services every day."

Weisman's daughter, Mrs. Dina Rosen, 67, said: "His mental attitude is the key to his long life. He has always had enthusiasm, vigor, and an outgoing personality. He gave me a healthy attitude toward life."

Poland was a province of Russia when Weisman was born near the city of Lodz in 1873. As a teen-ager, he served in the Russian army. After working in Warsaw and Berlin at various jobs, he came to Chicago in 1912.

"My wife's sister sent me a ticket, so I came here," he said. "William Howard Taft was President then."

Weisman's wife died nine years ago at age 90, and a son, Jack, died in 1976. In addition to his daughter, he has two living sons, Abraham, 71, of Portland, Ore., and Nathan, 57, of Chicago. He also has six grandchildren and six great-grandchildren.

"Doing everything in moderation," he said, is part of the reason he has lived so long. Heredity may have been a factor, too; his mother died at 97 as she and her remaining family in Poland tried to flee before the Nazi invasion in 1939.

Weisman said three precepts have guided his life. He rattled them off in Hebrew, then in English:

"Love your friend like yourself.

"Be satisfied with what you have.

"Don't have arguments with anyone. If anyone tries to start an argument, don't answer; in time he will apologize to you. If you let yourself get aggravated, you will have a short life."

NUTRITIONAL MYTHS DEBUNKED

(By Ray Moseley)

Millions of old people are lured into wasting money on so-called health foods and vitamin supplements by "false promises of youthful vigor or longer life," according to one of America's leading nutritionists.

Dr. Frederick J. Stare, 68, founder of the Department of Nutrition at the Harvard School of Public Health in Boston, said that, so far as is known, food requirements vary little with age except that old people need fewer calories than the young.

He said most old people need only make sure they eat a variety of foods, not expensive "health" foods or nutritional supplements.

"The older you get, the more aches and pains you will have," he said in an interview. "Many old people will latch onto anything they think might help. Health and fad-food stores are just milking old people of what little money they have left."

He scoffed at such nostrums as sea salts, seaweed, and patent medicines promoted by some stores. "They will not do you any harm, but they will not do you any good," he said.

Nutrition is a major concern among the elderly, and many are unable to afford a balanced diet because of meager incomes.

In 1968, the Mayor's Office for Senior Citizens in Chicago pioneered what became a national nutritional program, financed largely by the federal government, for low-income elderly people.

Today more than 5,000 people in Chicago receive hot lunches through this program, and another 1,200 get home-delivered "meals on wheels." Nationally, 480,000 elderly persons are served by the federal nutrition program. Legislation now before the Senate would raise that to slightly more than a million persons.

In Britain, a country with one-fourth the population of the United States, nearly 13 million persons take part in a meals-on-wheels program.

Not all of the elderly are poor, of course, and Stare said a common problem among many of them, as among other Americans, is overnutrition. A person of age 70 needs 25 percent fewer calories than were needed at 25, he said.

To guard against too many calories, he recommends trimming the size of servings, cutting out most sweets, and reducing the amount of fat in the diet.

"Overnutrition is the most serious nutritional problem we have in our country, for all people," he said.

That view is not universally shared. Dr. Robert N. Butler, director of the National Institute on Aging, said a study of a group of elderly persons in Baltimore over the last 20 years shows that mild or moderate obesity has no effect on life expectancy.

Obesity, he said, apparently carries with it not only risks but "counter-balancing survival benefits" that deserve further study.

For many old people, eating is not the joy it was in earlier years. And having poor teeth or no teeth may be just a part of the problem.

"The flow of saliva may decrease, making food less palatable because of greater difficulty in swallowing." Stare said: "Reduced sensitivity of taste buds and olfactory receptor cells [the sense of smell] also decrease flavor sensation."

Digestion also may become impaired, as a result of reduction in the secretion of bile and of digestive enzymes, he said.

There isn't much a person can do about these problems, but Stare suggested that those with poor or no teeth eat ground meat, fish, cheese, and meats that are cooked until they are tender or that have been treated with a tenderizer.

For all old people, he recommends drinking one or two glasses of milk daily, preferably the nonfat or lowfat kind. "Some older people view milk strictly as a food for children and haven't formed the habit of drinking it as adults," he said.

To avoid constipation, a frequent problem with the elderly, he recommends 6 to 8 glasses of liquid daily—such as hot bouillon, coffee, tea, fruit juice, or vegetable juice—whole-grain breads and cereals, and fruits with edible skins.

Stare said there is some problem of iron deficiency anemia among the elderly, possibly because many cannot afford to eat meat as often as they should.

"Heart and kidney are less expensive than other cuts of meat, and they are excellent sources of iron, superior to other meat in this respect," he said.

There have been frequent reports that many elderly persons are so poor they are reduced to buying processed dog food.

"I have never seen any authentic information that anyone is eating dog food," Stare said. "I don't think there are many. But there would be nothing wrong with it nutritionally. It's a perfect food for a dog, and it would be for man."

Stare and Butler offered these additional health tips for the elderly:

Stop smoking; it's never too late. "The aggravating effect of smoking on cardiovascular disease appreciably disappears 30 to 40 days after a person stops smoking," Stare said. Butler added: "No one can say that because he's 70 and has smoked two packs a day for years that there is no point in stopping. There are recoveries, or near recoveries, in lung function if you stop smoking." The chances of developing emphysema also are health tips for the elderly:

Get more exercise. Stare said elderly persons, even those 75 or older, should walk at least a mile a day, then "as they get in shape make it a bit brisker." He said walking improves circulation and lessens the chances of forming blood clots.

Get sufficient rest. "Get in the habit of lying down for an hour in the afternoon and relaxing," Stare said. "Go to bed when you feel like it, but not too late."

[Chicago Tribune, Oct. 1, 1978]

CRIME—THE NO. 1 FEAR AMONG AGED

(Verily, old age, if thou bringest with thee no other bane, this one is enough: By living long one sees much he likes not.) Caecilius Statius, Roman poet.

Nathan Colman, who turned 101 last July 17, stepped into the elevator of his apartment building, departing for a visit to his wife, Mary, 89, who was dying in a nursing home.

There are security guards at the Flannery Building of the Chicago Housing Authority, where Colman has lived for 12 years, but they apparently had not noticed a man in his 30s who shared the elevator with him.

"When the door closed, he socked me on the side of the head," Colman said later. "He took $4.90 and my wife's wedding ring. I wanted to show it to her before she died."

Colman cried as he recalled the incident. His wife had died the next day, without having seen him that final time.

"They need to have a policeman here day and night to keep these punks out of here," Colman said. "I can't hit them hard enough to raise ashes off of them."

The locales change, but the scenario is a familiar one. In cities across the nation, the elderly find themselves particularly vulnerable to criminal attack, usually from teen-agers.

Frequently, youths wait nearby as old people cash their Social Security checks, then rob them of the only money some have to live on for a month.

Dr. Booker T. Yelder, Jr. of the National Center on the Black Aged said that the day Social Security checks arrive in the black community each month is considered "ripoff day."

"One has only to visualize the process as the wolf coming upon a herd of sheep," he said. "He has only to attack; there will be no fight."

The Tribune Task Force, in a six-month examination of problems of the elderly found a mixed pattern in the incidence of crime against old people.

In New York, the police department formed special senior citizen crime units in 1976, with undercover policewomen disguising themselves as aged to attract muggers. Since then, reported muggings and other categories of robbery against the elderly have dropped 25.4 per cent.

In Chicago, where there is no such unit, reported robberies of persons 60 and over rose 4.9 per cent last year—while robberies of all other persons were declining by 4.5 per cent.

In the first 7½ months of this year, robberies of the elderly have dropped 15.9 per cent in Chicago and those against the general population have fallen 11 per cent. But in both periods, strong-arm robberies (muggings) have increased against those over 69—by 11.1 per cent in 1977 and by 13.6 per cent for the first seven months of this year.

Raymond Clark, chief of Chicago's investigation division, said the department sees no need to adopt the "extreme measure" of organizing a special unit on crimes against the elderly.

"If there is a crime pattern in an area, we will use the tactical units and the special operations group, along with the criminal investigations units, to combat the problem," he said.

Noting that the chief predators of the elderly are boys, Clark said: "It probably would be popular to take a stance for harsher penalties, but what can you do with a 10- or 12-year-old? We identify them and try to channel them to a more useful area. They are children—sometimes they are destructive and dangerous, but they are still children."

No one knows how often crimes against the elderly occur nationally, because most police departments do not keep records on victims by age.

But some authorities think there may be more crime against the elderly than is generally supposed; more than half the elderly victims interviewed in one survey said they did not report the crimes against them because they thought the police couldn't do anything or because they feared retaliation.

Whatever the statistical truth, crime against the elderly is especially poignant because the victims are often more vulnerable, physically and financially, than younger persons.

A young person knocked to the ground will usually recover quickly, but some elderly persons treated no more roughly might never walk again. A street mugging could quickly turn a healthy, active retiree into a helpless invalid for the remainder of his life.

Mrs. Blanche LaValle, 73, was walking from the Howard Street elevated station to her home in Evanston when she was suddenly knocked down, breaking her hip. Her purse was ripped from her hands as she fell.

"It happened so fast, all I saw as I was going down was this little boy running," said Mrs. LaValle, a widow and retired bookkeeper.

A passerby caught the boy and his companion—one 12 years old, the other 14—and returned the purse with the $8 it contained.

Mrs. LaValle spent three weeks in a hospital and three months after that confined to her home. She still walks with a cane more than a year after the incident, a permanent victim of a fleeting moment of terror.

After she made several trips to court, each exceedingly difficult, the state's attorney's office dropped charges against the boys when a witness for Mrs. LaValle failed to appear.

Many elderly crime victims have chosen to imprison themselves in their homes, even at the cost of isolating themselves from friends and becoming desperately lonely.

Sometimes even these precautions serve no purpose. A study by the U. S. Law Enforcement Assistance Administration found that household burgarly and larceny against the elderly occur even more frequently than street muggings.

The elderly also are especially vulnerable to confidence games. Hundreds have lost all their savings to smooth-talking men and women who make a profession of bilking old people.

"Psychologically, financially, and physically, no group of citizens suffers more painful losses than our nation's elderly do at the hands of America's criminal predators," said former FBI Director Clarence M. Kelley.

A Louis Harris survey found that fear of crime is the No. 1 concern of America's elderly, ranking ahead of worries about health and income. A survey in Chicago produced the same finding.

Some victims are eventually driven from their homes by repeated home invasions and muggings.

Mrs. Marie O'Brien, 81, who now lives with the Little Sisters of the Poor at 2358 N. Sheffield Av., left her Near North Side home shortly after a 15-year-old boy threatened her with a nail-studded club, then took her wedding and engagement rings and other jewelry.

"He took my glasses off and stepped on them," she said. "Then he grabbed me and threw me to the floor. He wanted my money. Then he grabbed my arm and started twisting it."

That was just the latest of several attacks on Mrs. O'Brien. Once, a group of youths grabbed her on the street and beat her. They did not attempt to rob her; they apparently wanted only to inflict pain.

"After all this trouble, I didn't have a cent to my name, so I came here," said Mrs. O'Brien, referring to the Little Sisters home. She has tried to sell her own home, but because it is so rundown the best offer so far has been $5,000.

Although Chicago has not confronted crime against the elderly in the same way as New York, it has joined New York, Washington, New Orleans, Milwaukee, and Los Angeles in a two-year pilot project to assist elderly crime victim and to educate the elderly for their protection.

Funded by the federal government, the program involves 15 retired policemen and 5 retired firemen, whose activities include helping elderly crime victims to replace stolen documents; advising the elderly on locks or other security measures they need in their homes; and speaking to senior citizens groups on how to avoid muggings, burglaries, confidence games, and home-repair frauds.

"We don't think this program will eliminate crime against the elderly, but we expect it to have some impact in reducing crime," said David Strong of the Mayor's Office for Senior Citizens, which is in charge of the program here.

Getting elderly crime victims to testify against assailants is a major problem. Many are apt to be bewildered by the criminal-justice system and afraid to go to court; others may simply lack the transportation to get there.

The pilot program does not provide transportation to court, but a separate program of the city's Department of Human Services offers such assistance to residents of five police districts—Belmont, Foster, and Town Hall on the North Side and Gresham and Englewood on the South Side.

Authorities frequently say that eldely crime victims make poor witnesses because many of them suffer from poor eyesight, which makes identification doubtful, and they seldom get a good look at their assailants in any case.

But Chris Zaglifa, North Side field supervisor for the Department of Human Services, said: "It's a faulty generalization to say the elderly don't make good witnesses. It depends on the individual."

He cited the case of a 77-year-old man who recently went to court with department assistance, gave a good description of his assailant, and was able to identify him. The defendant was convicted.

One obstacle in trying to reduce crime against the elderly is that many insist on having their Social Security and other benefit checks mailed to them rather than arranging for direct deposits in a bank.

As Dr. Yelder noted, street-wise youths in some areas know when the checks are mailed and lie in wait for their victims. One morning, eight purses were snatched outside an Uptown supermarket where elderly women cash their Social Security checks.

"The way most old people cash their checks, they might as well hang a sign on them saying, 'I've got money and I'm robbable,'" Zaglifa said.

The majority of elderly crime victims live in low-income areas of the inner city. Many of them grew up in these areas or moved there years ago, when they were more prosperous neighborhoods. Trapped by low retirement incomes, they have been unable to move out as the neighborhoods deteriorated.

Mrs. Augusta Goldschmidt, 83, has lived in the same house in a changing neighborhood in Old Town for 50 years. She has experienced six home invasions in two years.

"They're cowards. They even stole my garbage can," she said. "They keep breaking in the windows. What's the good of getting them fixed if they're going to be broken the next day?

"It was a good neighborhood and you didn't have to be afraid 20 years ago. I always liked to walk, but you have to be careful now."

Lt. Lawrence Forberg, commander of the South Chicago District tactical unit, said: "Many of the people who are getting jumped are from the South Shore area. The neighborhood changed, but they never left. They stayed, and now they're old. They're easy marks."

In other parts of the nation as in New York City, police and community leaders have had some success in reducing crime against the elderly.

In Wilmington, Del., a sewing machine manufacturer designed a pattern for a pocket in which elderly women could hide their valuables and thus not have to carry purses. Police encouraged good samaritans to escort the elderly and urged old people not to walk the streets alone.

In the first nine months after the program started, street crime against the elderly decreased 22 per cent.

In Rochester, N.Y., the state has provided money to purchase 102 citizens band radios for elderly citizens and 25 mobile units to be used by local police in a model program to combat crime.

California, the District of Columbia, New York, and Connecticut are considering or have passed laws providing tougher sentences for crimes against the aged.

In Chicago and other cities, the police make special efforts to alert the elderly to confidence games that are directed at them, and the techniques of these crimes are regularly publicized in newspapers.

Still, many old people are taken unaware when confronted by con artists.

"You hear about this kind of thing, but you never think it's going to happen to you," said one victim. "I don't know how they spotted me. I'm so embarrassed; don't use my name."

This person lost $15,000 in an elaborate version of what police call the "pigeon drop." It is perhaps the most common of the confidence ruses.

The victim, a Southwest Side widow, was shopping near 51st Street and Damen Avenue when a young woman asked directions to a bank.

While they talked, another woman arrived and said she had found a bag containing $31,000 and wondered what to do with it.

The first woman said she worked for a lawyer nearby and would ask his advice. A few minutes later, she returned and said her boss had advised her that they could share the money if no one claimed it in 10 days.

But each woman would have to put up at least $8,000, she said, to be held in a bank as a sign of good faith if the owner of the money did claim it.

The victim of this scheme eventually was persuaded to give the women $5,000 from a strongbox at her home and to withdraw another $5,000 from the bank.

"The teller questioned me, but I told him I needed the money to lend to my son," she said. However, it seemed the teller delayed her just long enough to make the other two women nervous: When the victim came out of the bank with the money, they had disappeared with the earlier payment.

"I was too ashamed to go to the police. I didn't know what to do," she said.

Two days later, two men came to the door, identified themselves as policemen, and said they had arrested the two women who fleeced her.

The "policemen" said the bank teller was involved in the scheme, and they asked her cooperation in catching him. They took her to the bank and instructed her to withdraw $10,000.

The woman did as she was told and brought the money out in an envelope. The men took it and said they would check for fingerprints. Then they, like their female accomplices, vanished.

Police officials say that old people fall victim to con games such as this because they are lonely and easily led astray by people willing to show an interest in them.

"The elderly see a chance to enhance their savings and be independent of their families," said Investigator Frank McVeagh of the Brighton Park general assignment unit. "So they take a chance."

SOME SAFETY TIPS FOR THE VULNERABLE

The aged are more vulnerable to crime than younger people, but there are precautions that can reduce the chances of being victimized.

James Kujawa, a Chicago policeman working with the Mayor's Office for Senior Citizens, offers these suggestions:

Have your Social Security and other benefit checks mailed for deposit directly into your bank account instead of receiving them at home. Muggers know when checks are mailed and lie in wait for victims.

If you have to cash checks, arrange to have someone accompany you, and don't take shortcuts through alleys or vacant lots. Chris Zaglifa of the city's Department of Human Services also advises the elderly to avoid currency exchanges if possible, because muggers may stake them out.

When shopping or cashing a check, don't display your money so others can see how much you have.

Don't carry a purse if you can avoid it. Don't hold a purse by the handle and let it dangle at your side; it presents too tempting a target. Don't hang it over your shoulder either. Elderly women often suffer dislocated shoulders or broken wrists when purses are wrested from them. Hold the purse firmly under your arm. If someone grabs it, don't resist.

If you carry a purse, keep valuables in it to a minimum. Conceal cash, credit cards, or house keys on your person.

If you are a victim of a crime and incur expenses as a result of physical injury, you may be reimbursed for those in excess of $200 under the Illinois Crime Victims Compensation Act, provided such expenses are not covered by Medicare or other insurance.

For assistance in filing claims under the act, or for help in obtaining food, money, or medical aid after a crime, contact the Mayor's Office for Senior Citizens, 180 N. La Salle St., telephone 744-6798.

If you live in the Belmont, Foster, or Town Hall police districts on the North Side or the Gresham or Englewood districts on the South Side, you may obtain similar help as well as assistance in getting to court by contacting the city's Department of Human Services. The phone number for North Side residents is 348-1828, for South Side residents 783-4500.

[Chicago Tribune, Oct. 1, 1978]

HOW NEW YORK'S DECOYS HELP COLLAR THE THUGS

NEW YORK.—An ordinary-looking van makes its way through the busy traffic on Fordham Road in the Bronx, a racial melting pot not unlike Chicago's Uptown.

Three men are in the front of the van. Behind them a trim, 35-year-old blond woman puts on sneakers, baggy skirt and jacket, and a gray wig. She ties a blue kerchief around the wig, and suddenly she appears to be 70.

Mary Glatzle is about to be mugged for perhaps the 500th time.

She is a decoy for the New York Police Department's Senior Citizen Robbery Unit [SCRU], which has gained a reputation as one of the nation's most effective forces in combating crime against the elderly.

New York City has 1.4 million people over 60—and about 250,000 delinquent youths, many of whom prey on old people, according to Lt. Austin Kelly, police coordinator for the fight against senior citizen crime.

The first SCRU unit was formed in 1974, in response to a huge rise in crime against the elderly in the Bronx. The program was so successful that it was extended to other parts of the city.

Last year, muggings and robberies with a weapon against the elderly dropped 25.4 per cent in New York, significantly more than the 18.5 per cent decrease for the city's entire population.

The decoy units are part of a wide-ranging effort that also involves interviewing victims at home, where they are shown mug shots of suspects, and providing transportation to and from court if necessary.

But the decoys are playing an increasingly important role. Last year they made 493 arrests; in the first five months of 1978, they made 400.

In the back of the van on Fordham Road, Mary Glatzle is ready for her daily performance.

"There's always just a little bit of anxiety," she says.

Mary gets out of the van on a side street, and officers Lee Collier and James Miller follow a moment later.

She saunters up and down a crowded two-block stretch of Fordham. Behind her, the bearded Collier finds a box of hair-restorer handbills in a trash can and begins passing them out, keeping his eye on her.

Ahead, Miller stands outside a shop, to all appearances a clerk getting a breath of air.

"You can't afford to take your eyes off the decoy for a second," says officer James O'Brien, driving the van and keeping Mary in view. "If you're not watching, it's over with, and then you're in trouble."

On the street, two husky teen-agers are displaying more than normal interest in the old woman.

They walk past her, then turn around and walk past again, crowding her this time. Apparently they are trying to see if a threatening gesture will bring a plainclothes policeman down on them.

They keep walking, then return a second time as she pauses to look at handbags in a window.

One of the teen-agers stops in front of Mary to block her from view. The other dips his hand into her purse, removes her wallet, and drops it into a plastic school bag.

The teen-agers start to walk away, but Collier and Miller move in fast and collar them. O'Brien draws the van up to the curb, and the youths are quickly put inside.

Mary is grinning. "They passed me, and I saw them in the store window. Then they came back again, and bingo."

In more than two years on the job, she has been bruised, shoved, and pushed around, but never seriously injured.

Detective Gerald Keegan, another member of the Senior Citizens Robbery Unit, said the typical teen-ager who mugs old people assumes he will get away with it. He figures the victim probably will not be able to identify him, according to Keegan, and believes that even if identified he is unlikely to be convicted.

Keegan said youths steal from the elderly to buy clothes or to take out their girlfriends and play the "big shot" on the block.

"When they run out of money, they rob another elderly person," he said.

Irma Kramer, director of a Bronx senior citizens center, said one elderly woman had foiled an attempted purse-snatching by grabbing the criminal, a 9-year-old boy. He began to cry, and she asked why.

"This was my first job, and I failed," the child responded.

[Chicago Tribune, Oct. 2, 1978]

HOME-REPAIR PROBE: FURNACE OK, 3 FIND 'FLAWS'

(Old age is respectable so long as it asserts itself, maintains its right, is subservient to no one, and retains its sway to the last breath.) Cicero, "On Old Age"

One after another, servicemen from three heating companies came to the house and looked at the gas furnace, and in each case the verdict was bad.

The first one said he'd found a leak and told the nervous homeowner, "This could be your last year for this furnance."

The second also talked of a leak and said, "It will build up and spread out looking for a flame, like maybe in your water heater, and then the whole place can blow up."

The third diagnosed a faulty pump and said, "You're lucky we caught this thing before it damages something else."

The three repairmen didn't know it, but the worried-looking, elderly homeowner to whom they addressed their warnings was Tribune reporter Thomas Powers.

Just 24 hours earlier, at the Tribune's request, two servicemen for Peoples Gas Co. had thoroughly inspected the same furnace and had found only a minor problem, a poor mixture of gas and air.

They adjusted that and pronounced the furnace in fine working order.

Hoodwinking the elderly, sometimes charging them several thousand dollars for needless repairs, is a major business among some unscrupulous heating contractors in Chicago and other parts of the country. The same is true in the roofing industry.

The Tribune Task Force investigated frauds in home repair as part of a six-month examination of problems of the elderly.

Gene King, vice president for public affairs of the national Better Business Bureau, considers home-repair frauds a major national problem.

"Any of these fly-by-night outfits prey on the elderly," he said. "They use scare tactics to pressure them. We tell people to deal with reputable contractors. Check their references—find out from neighbors who did their repairs and how they liked them."

Donald Mulack, former chief of the consumer fraud division in the Illinois attorney general's office, said the two principal consumer frauds perpetrated on the elderly involve heating and roofing repairs.

"Elderly persons are especially susceptible because, oftentimes, their home is their only possession," he said. "They are fearful that something will happen to it."

The contractors often advertise discounts for the aged, then use scare tactics to sell them unneeded work at inflated prices. In many instances, they demand immediate payment and will even drive an elderly customer to the bank to get the money.

The first repairman called by Powers was from Cook County Heating and Cooling Co., a firm then operating at 4440 W. Montrose Ave. (The company has since been sued by the attorney general's office, and its officers have closed the business and disappeared.)

The repairman walked behind the furnace, took a quick glance, and said, "Look at this; you've got leakage here."

He said that two gallons of a solution of sodium silicate, more commonly known as "waterglass," would be needed to repair the leak. The cost would be $31 a gallon, plus $34 for the service call.

Powers said that before making a decision he would have to consult a son-in-law who was a plumber.

"What you really need to do is to put in a new boiler," the repairman said, estimating the cost at about $1,000.

Next came John Stein, a serviceman for Commonwealth Climatrol, Inc., 4635 N. Milwaukee Ave., a company that advertises discounts for senior citizens.

After a quick inspection, he said: "Your boiler's leaking. All wet on the inside. The whole bottom, it's all water. Ain't much you can do about it but take it apart and try to rebuild it."

He said the situation was "dangerous" because the leak could knock out the pilot light and cause an explosion. "This is a big job," he said. "Five sections are opening up and splitting on you. It's rusty."

Stein phoned David Baumol, the company manager, who arrived about 20 minutes later to look at the furnace.

"That's quite an old boiler," he said. "It's a little too small for the house, so it has to work twice as hard to provide the heat. It has kept the house warm, but it's worn out."

Baumol quoted prices for three new models, ranging from $2,200 to $2,700: "The whole inner works are shot," he said. Powers said he would have to think it over.

The third serviceman, from J&B Heating and Cooling Co., 5778 N. Elston Av., reported a defective pump.

"It's going to stop working. It's just a matter of time," he said. He quoted a price of $260 for a new pump, and Powers again said he would talk with his son-in-law.

The two representatives of Peoples Gas then returned for a second look at the furnace. They found that a wire controlling the thermostat switch on the gas valve had been disconnected. It had been connected when they first inspected the furnace.

"With that disconnected, the furnace won't work," one of them said. "You won't get any gas." They reaffirmed that the pump was working properly and that there was no leak in the boiler.

Later, Tribune reporters went to the firms whose servicemen had found the furnace faulty to seek explanations from the owners.

John Mehrholz, president of Commonwealth Climatrol, and Robert White, president of J&B, both defended the servicemen's findings.

Mehrholz said his men had told him the furnace was old and needed replacement, and "safety comes before everything." He quoted a price of $1,400 for a new furnace, $800 less than Baumol had quoted in the home.

White said the man who had inspected the furnace for J&B was a subcontractor who worked for him when he was too busy to handle calls. He said, incorrectly, that Powers had told the serviceman of a grinding noise in the furnace, which could only mean a new pump was needed.

He said $260 was a good price for a pump, adding, "If the man was out to cheat you, he would have charged you for a new boiler."

Reporters were unable to locate William McAteer, the owner of Cook County Heating and Cooling Co. His neighbors said that McAteer, his employees, and the company's equipment disappeared last May and that a procession of people who said they had bought furnaces but never got them had been looking for him since.

The Illinois attorney general's office filed suit against McAteer on March 9, charging that Cook County Heating and Cooling Co. and another McAteer firm, Air Temperature Heating and Air Conditioning Co., had engaged in fraudulent and deceptive practices.

Sheriff's deputies who attempted to serve a subpoena on McAteer could not find him.

J&B and its owner, White, were charged last year with bilking an elderly widow, Esther Neproszatis, of $25,089 over a three-month period.

The attorney general's office filed suit against J&B, alleging that Mrs. Neproszatis was incompetent to conduct her own affairs and that on several occasions White had accompanied her to a bank "and swindled, deceived, and misled her into giving him large sums of money for few, if any, legitimate services."

J&B was ordered to refund $25,000 to Mrs. Neproszatis. The company has appealed the verdict.

In December, 1976, Peter Dale Levang, a former serviceman for McAteer's Air Temperature company, gave the attorney general's office a deposition saying that the company's employees had often taken advantage of the elderly.

Levang said the company sent cards to new homeowners, stating that Air Temperature had installed a part on their furnaces and promising that if they called within 30 days the warranty would be transferred to them.

This, he said, was a device for getting into homes and then trying to convince the owners that there was something wrong with their furnaces.

Levang said that Air Temperature servicemen, on McAteer's orders, would tell a homeowner his furnace was leaking and offer to repair it with a sodium silicate solution.

Sodium silicate is worthless for sealing cracks, he said, and "many times we'd use just plain water. I always used either plain water or took some water and poured coffee in it to color it."

Levang said one practice was to "take a regular lead pencil, reach up inside of the heat exchanger, and draw a line." To the homeowner, he said, the pencil line would appear to be a crack in the heat exchanger.

"You tell the customer that he does have a defective heat exchanger, the seal did not hold, and that the unit is defective and can cause death," his deposition said.

In homes with boilers, he said, the technique was to place ice on top of the casing and fire up the boiler. The steady drip of water from the melted ice would convince the homeowner that the boiler was defective.

Levang said the cost of a new furnace would be about $200 but Air Temperature would charge $2,000.

He also said he knew nothing about repairing furnaces; if repairs were needed, one of Air Temperature's installers would have to be called in.

"That was the standard kind of joke around the office, that none of the 'front men' or 'down men' could repair much of anything," he said.

In the home repair business, unscrupulous contractors are known as "chimney shakers" because they go up on the roof and shake the chimney until they jar something loose.

Casimir Michalski, 77, and his wife, Angeline, 74, know all about that now.

On Jan. 25, 1977, Michalski was approached by a man who said he had noticed loose tar paper around Michalski's chimney. The man said he could repair it for $6.

"I thought that sounded like a pretty good deal," said Michalski, a retired painter.

The man returned with three assistants. After they had clambered onto the roof, he said the job would cost $90 because concrete at the base of the chimney was loose.

"Then he goes into the attic, and then I heard a crack," Michalski said. "He came down and said there was a crack at the base of the chimney."

The man, who identified himself as Alfonso Bartollo, said the job would now cost $2,500, adding that if the chimney were not repaired it would blow down soon. He demanded cash payment.

Michalski withdrew $1,400 from his bank and gave it to the man. The next morning the repair crew demanded the rest of the money, but Michalski, having second thoughts, balked. The crew knocked $500 off the price, and Michalski paid the $600 balance.

"Later we had a repairman here who said the job would have cost $690 to do right," he said. "I still don't know how I let that man into my home."

The repair crew was from Seal-Tab Roofing Co., formerly of 3942 N. Central Ave. The Illinois attorney general's office tried to sue Seal-Tab on behalf of Michalski and seven other elderly persons but was unable to locate the owners, Jerry Crowe and Peter Grech.

Francis Hindes, 80, a widower who lives on the North Side, reported a similar experience with Novak Roofing Co., 3733 N. Kimball Ave., which charged him $3,000 to re-roof two buildings he owns.

Hindes said Stan Novak demanded cash payment and "even promised me a bottle of scotch whisky when they were through if I paid them that day." He said the Novak crew drove him to the bank to withdraw money from his savings account.

"On my other building, he went up on the roof and shook loose a few bricks and told me the chimney might fall down, so I let them put up a new one," he said.

Hindes said Novak advertised discounts of 10 to 20 per cent for senior citizens, but his contract listed only a $45 discount on a $3,000 bill.

Worse yet, he said, the crew left before the job was finished, and both roofs have severe leaks. "The stairs in one building are like Niagara Falls when it rains," he said.

Novak Roofing Co. has no connection with Novak and Co., a roofing firm at 1928 W. Fullerton Ave. Tom Novak, owner of Novak and Co., said his firm has been in business since 1908 and the other company is damaging "the good reputation that my family has worked hard to make."

"It's in my lawyer's hands now, to try to get them to stop doing business in my name," he said.

Four months after the work on Hindes' roof was to be completed and after The Tribune had questioned Novak, a repair crew returned to Hindes' roofs and finished the job.

"I'd never give him another job, though," Hindes said. "I'll just have to wait and see if it lasts through the winter."

Tim Hughes, director of Senior Legal Aid at the Chicago-Kent College of Law, said there should be a law requiring all contractors to register with an address at which they can be served with legal papers.

He said some "fly-by-night" contractors have as an address only a place where they pick up mail. They often refuse a registered or certified letter, especially if it is from a court, he said.

Another ruse used to victimize the elderly involves people purporting to be from the water department, the gas company, or another utility.

Mrs. Ruth Johnson, 74, who gets about with the aid of a walker, was at home alone when a bogus meter reader came to her back door.

"He said he had to check the water pipes," she said. "He went to the kitchen and had me pound on the pipe with a spoon."

Another man arrived to assist the "meter reader," and they told her to stay in the kitchen and keep pounding on the pipes.

After about 40 minutes they left. Then she discovered that her bedroom had been ransacked and $1,200 that had been hidden in a dresser drawer was missing.

"When I found the money gone, I got the biggest shock of my life," she said. "How could they do that to an old person?"

Mrs. Minnie Lightfoot, 88, who lives on the South Side, said two men came to her home

on the pretext of cleaning a catch basin and broke into a bedroom safe, taking $1,100.

A month later, she said, a man offered to fix the siding on her house for $10. But when the work was done, he demanded $150. Frightened by his threatening manner, she paid him $150.

Later, a bogus electrical inspector kept Mrs. Lightfoot busy turning lights on and off while he took $170 from her bedroom and $180 from her tenant's room.

"They've come about 10 other times in the last year and a half," Mrs. Lightfoot said. "They use different stories, anything to get me out of the house or them inside.

"Now I'm a nervous wreck. I'm afraid to meet anyone at the door. When they steal from me, they're taking my grocery money. How can they do this to old people?"

ONE REPAIRMAN WHO'S ALWAYS WELCOME

Frequently the Council for Jewish Elderly in Chicago gets a phone call from an old person who says, "Send me Mr. Fix-It."

Within a short time, Justin Wetzler, 71, is on his way.

Wetzler, who fled Nazi Germany in 1937, retired five years ago as a consulting engineer and volunteered to work with the council as a visitor.

But sitting around and chatting with old people wasn't enough for him. Wetzler soon found he could help them more by fixing small appliances that had broken down.

It's an important service, helping old people to meet the high cost of remaining in their homes and apartments by avoiding the exorbitant rates that some unscrupulous repairmen charge. Wetzler now has two other retired men helping him, and he's looking for some younger people to teach as volunteer repairmen.

"Most of the people we serve don't own their own homes; they are in apartments where they have to tip the janitor for a favor, and they are not able to do that," said Wetzler, a robust, energetic man who lives in Evanston with his wife.

"It becomes a real problem. We clean out the pilot light on the stove, put up curtain rods and shelves, things like that."

He is busy at his volunteer job most of the week. The elderly bring some broken appliances to senior centers, but the large ones, such as television sets, require a house call.

"If a TV is on the blink, it is something serious," Wetzler said. "We keep a tube tester and some spare parts. When we take in a set that can't be repaired, we use it for parts."

Wetzler said he charges his customers according to their ability to pay.

"Old people don't want something for nothing. It is important to their dignity," he said.

Wetzler's talents are not limited to repairing appliances. He holds several patents for motorized equipment that he invented.

One invention is a motorized lift for hospital beds, another is a hospital bed with a built-in chemical bedpan. He also has a patent for motorized library shelves.

There are few government programs to help the elderly with repair jobs.

Last Saturday, the Beverly-Morgan Park Senior Service Program of the Lutheran Welfare Services of Illinois completed a one-year "mini-grant" program in which workmen charged $7 an hour to do large and small jobs in the homes of elderly residents. The work was inspected to make sure it was done properly and at a fair price.

Mrs. Shirley Twickler, coordinator for the program, said that more than 600 services were provided during the year it was in operation.

The workmen installed locks, replaced window panes, cleaned gutters, repaired furnaces, and did minor plumbing work.

"It was a vital program because it maintained their dignity and safety," Mrs. Twickler said of the project's elderly clients. But the funding for the program, which had been provided as a special grant from the Mayor's Office for Senior Citizens, ran out.

[From the Chicago Tribune, Oct. 3, 1978]

PENSIONS—TOO LITTLE TO LIVE?

(Not even to a philosopher could old age be easy in the depths of poverty, nor could a fool find it anything but burdensome even amid ample wealth.) Cicero, "On Old Age".

In the United States, the wealthiest nation on earth, a worker at retirement can expect to receive 30 to 46 per cent of his former income in Social Security benefits.

In several European countries—principally Sweden, West Germany, Austria, France, and Italy—workers can count on having 60 to 65 per cent of their earlier income in retirement. In Communist states, where the wages are lower, the figure is 75 per cent.

"We still have not been successful in creating the kind of just and equitable society for our elders that we should want," said Dr. Robert N. Butler, director of the National Institution on Aging.

Jack Ossofsky, executive director of the National Council on Aging, agreed. "There just ain't much gold in those golden years," he said. "Income remains the major problem of the elderly."

The spread of private pensions has supplemented Social Security income for many Americans and brought the average replacement income at retirement to 50 per cent or more for some. But well over half the working force still has no private pension coverage.

Among the elderly, one out of 12 couples and one of every four single or widowed persons live almost exclusively on Social Security. The system keeps more than 12 million of the nation's 22 million elderly above the poverty level.

But an estimated 15 per cent of American elderly live on incomes below the official poverty level [$3,417 for couples over 65, $2,720 for individuals]. Another 10 per cent are classified as "near poor."

Although some economists believe the level of poverty among the old is overstated, none disputes that old age, for many Americans, requires a significant degree of belt-tightening.

And for the poorest of the elderly poor, the situation is often desperate and degrading.

"With the amount the government gives these people, they get too much to die but not enough to live," said Mrs. Lilo Salmon of the Little Brothers of the Poor, which provides assistance to many elderly poor in Chicago.

"We find people in these one-room apartments and they say, 'If only I could die.' They don't get enough to live on decently. The last three days of the month it's probably peanut butter and jelly. They may get enough to eat, to live, but their human needs are not met at all."

Many of the elderly poor have been poor all their lives. But for some, like Mrs. Marie Grieg, 71, a Melrose Park widow, poverty begins with old age.

Her husband has a management position at a plant in Melrose Park, and she worked 6¼ years as a clerk in Cook County Court and at a state hospital.

They lived comfortably, raising and educating three children.

But Mrs. Grieg's husband was forced to retire early because of emphysema, which caused his death a few years later. He received a Social Security disability pension but no pension from his employer.

Mrs. Grieg retired at 65—and found out later that if she had stayed on for another 16 months she would have been eligible for a pension.

She now lives on $69.23 a week from Social Security in an apartment over a single-family home. Her rent alone absorbs $39.23 a week of her meager income.

Because she has diabetes, medical expenses account for much of what is left.

"The Social Security doesn't keep up with the costs at all," she said. "You work real hard all your life, earn a lot of money and pay a lot of taxes, and you get nothing out of it."

Earlier this year, she said, the gas in her apartment was cut off because she could not pay a $30 bill.

At the time, the federal government was providing help to the poor and elderly in meeting home heating bills through the Emergency Energy Assistance Program. Mrs. Grieg applied for the federal subsidy but was turned down. Official ruled she was not eligible because she uses gas only to cook and to heat water, not for room heating, and because her income was not low enough.

The senior Legal Aid Project in Maywood has filed a class-action suit in federal court on behalf of Mrs. Grieg and others like her, contending that she was unjustly denied assistance because of overly restrictive regulations.

The suit says that $30 million of the money available nationwide for utility bill relief was not spent, more than $1 million of it earmarked for Chicago and $750,000 for the suburbs.

[Richard M. Saul, chief of the energy section of the Community Services Administration in Washington, said, "The latest figures that we have available indicate that the EEAP will return just over $40 million it did not disburse."]

Senior Legal Aid got Mrs. Grieg's gas service restored, but meanwhile her unpaid bill has risen to $80. Until her gas was turned on, she cooked on a small electric sandwich maker.

Her landlady allowed her to get hot water from a basement laundry room while the gas was cut off, and she had to carry it up two flights of stairs in a bucket.

Mrs. Grieg and many others who receive no private pension, Social Security clearly is inadequate, despite huge increases in benefits in recent years.

From 1959 to 1975, the number of the elderly categorized as living in poverty dropped drastically—from 66 to 31 per cent for individuals and from 30 to 8.9 per cent for families. This was a sharper drop than for the population as a whole, and it was largely due to increases in Social Security benefits.

The increased benefits, combined with high unemployment, put such a financial strain on the Social Security system that Congress was forced earlier this year to raise Social Security taxes.

But Dr. James H. Schulz of Brandeis University, a leading authority on the economics of aging, argues that the increases in Social Security benefits have not been sufficient to ansure the nation's elderly a decent standard of living.

By government estimates, Social Security replaces 46 percent of the average person's working income.

Schulz argues that this estimate does not take into account reduced benefits from early retirement and other factors affecting income. He says the true wage-replacement rate under Social Security is only 30 to 40 per cent.

"We should expand Social Security moderately and get the replacement rate up to 55 per cent for the average worker," he said. "Then he will not have to worry if he is not covered by a pension plan or is covered by one that is bad."

Robert M. Ball, former Social Security administrator, has urged improvements in the benefits of nonmarried retired workers and elderly widows living alone or with nonrelatives. One of every three persons in these

categories lives below the poverty level despite Social Security, he said.

Schulz noted that after World War II, European nations had a high proportion of aged in their populations and made the commitment to provide for them.

"They had to pay 15 to 20 per cent of their earnings to support them, and they did it," he said. "It can be done. The question is whether we have the will to do it."

University of Chicago gerontologist Robert Havighurst said: "There is greater economic security for the elderly in the northern European countries. People who are working pay to support the elderly because they know their turn will come.

"But it's questionable how far we can go [in emulating the Europeans]. This tends to be socialistic."

In Europe, Social Security benefits go up when the cost of living rises. Most countries further increase benefits when national productivity goes up.

Since 1975, U.S. Social Security benefits have been tied to increases in the cost of living, but many elderly persons complain that when their benefits go up, the cost of food stamps and other expenses rise too.

"Landlords adjust rents to increases in Social Security automatically," said Mary Miller, 71, a member of the Chicago Gray Panthers. "They know about our increases before we do."

More than 34 million persons receive Social Security, 22 million of them 65 or older. The total payout in 1977 was $81.7 billion.

Since its inception in the 1930s, Social Security has been financed entirely out of contributions by employes and employers. There is fairly strong sentiment in Congress for changing this method, with many suggesting that part of the funding should come from general tax revenues.

But this could mean higher taxes, a higher deficit, or a reordering of priorities to reduce spending in other areas.

Social Security benefits are exempt from taxes, and Joseph Califano, Secretary of Health, Education, and Welfare, has mentioned one possible reform in this area.

"It seems at least open to discussion," he said, "Whether a wealthy lawyer, doctor, or business executive with a $50,000 pension should receive Social Security benefits free from any obligation to pay taxes."

In addition to Social Security, 2.1 million elderly living in "dire poverty" [assets of $1,500 or less for individuals, $2,250 or less for couples] receive Supplementary Security Income payments.

Blind and disabled persons below age 65 also qualify for these payments, and last year they totaled $5 billion from the federal government and $1.5 billion from the states.

The guaranteed minimum under SSI is $189.40 a month for individuals and $284.10 for couples.

"It can be predicted with relative assurance that dire poverty among the elderly will be practically eliminated before the year 2000," Havighurst said. He sees SSI as a major step in this direction and expects more generous payments in the future.

Mrs. Isabel Hansen, 71, a North Side widow, may never see that day. She gets $51.52 a week from Social Security, another $1.09 a week from the Illinois Department of Public Aid, and she barely gets by.

Her fixed expenses, including $27 a month for food stamps, run about $40 a week.

"My food with the food stamps usually lasts for about three weeks," she said. "There are months when I don't have anything to eat at the end of the month. I can't buy clothes or shoes or nothing on what I have left."

Mrs. Hansen has a heart ailment, Parkinson's disease, and diabetes. She also suffers from frequent dizzy spells.

"The relief people over there at Humboldt Park—they treat you like a dog," she said. "They want me to go into a [nursing] home, but I don't want to go into one of those. I have seen people who go in there, dying in those homes. I get so disgusted, I feel like turning on the gas."

About 2.4 per cent of elderly men and 0.2 per cent of elderly women have annual incomes in excess of $25,000. In general, the elderly have income levels about half those of the younger population. One in five younger people had an income of more than $12,000 in 1975, but only one in 20 elderly people did.

As a rule, older people need less money than the young because they have fewer expenses. Most have paid off mortgages on their homes and have raised and educated their children. They no longer have the expenses for clothing and transportation needed to go to work.

But economists contend that living expenses of the elderly do not drop by 50 per cent or more upon retirement, as their income generally does. In some areas, such as medical care, their expenses usually increase.

Charlie Zahr, 76, owned and ran a doll hospital in Chicago for more than 30 years. He said there were days during the Christmas season when he would earn $100.

"And that's when that was big money," he said. "But that's all gone. Now I get three checks a month to keep me going, just barely."

Zahr gets Social Security, SSI, and public aid payments that total $48 a week. But he pays $125 a month for his one-bedroom apartment and said his fixed expenses run nearly $50 a week. How does he live with expenses exceeding income?

"Well, I still got a few dollars put away," he said. "If I didn't have that, the best thing to do would be to get a gun and blow my brains out."

In recent years, the elderly have become the beneficiaries of a wide range of discounts on taxes, transportation fees, and other costs. But few of the people who work with the elderly consider these an adequate substitute for a decent retirement income.

"I'm willing to trade every discount system in the nation for a better retirement income," said Robert Ahrens, director of the Mayor's Office for Senior Citizens in Chicago.

Ball, the former Social Security administrator, said, "Our goal should be for the elderly to have reasonably adequate retirement incomes so that they can pay their own way."

Special tax treatment and subsidized prices, he said, "tend to undermine independence and to make older people appear to be objects of charity, both to themselves and to others."

Even with tax breaks, there is strong resistance among many elderly to payment of constantly rising property taxes. In some communities where the elderly predominate, proposed property tax increases to finance educational improvements have been repeatedly voted down.

In places where property taxes have gone up and where there is no tax relief for the elderly, as there is in Illinois, some old people find they cannot afford the higher payments and are forced to sell their homes.

Though Pensions Insured, "Future Debts" Go Unfunded

Until a few years ago, American workers could find themselves out in the cold when their company pension plans ran out of money or the firms went bankrupt.

That hasn't happened since 1974, when Congress passed the Employment Retirement Income Security Act [ERISA]. The law insures workers against loss of their pensions, up to $937.50 a month.

But the law did not address the deeper financial problems of pension plans, and these have persisted.

Indeed, the growth in pension plans in recent years and the steady increase in pension benefits that unions have won for their members have outstripped the ability of goverment units and private corporations to finance them.

Ultimately, pension financing problems may mean higher rates of taxation at all levels of government—and lower dividend returns for stockholders in private corporations.

Under ERISA, the insurance that protects workers' pensions is provided through employer contributions to a government-managed plan. If one company is unable to meet its pension obligations, all other firms contributing to the plan pick up the tab.

As Fortune magazine pointed out in an article last December, any defaults will have to come out of stock dividends, not only for the firm that defaults but for all others participating in the insurance plan.

In government, where pension financing problems are likely to be most severe in coming years—and where the ERISA protections do not apply—experts say the solution will have to be found either in higher taxes or in tightening of pension benefits.

Joseph Califano, the secretary of Health, Education, and Welfare, has estimated that federal, state, and municipal government plans, along with private plans, have unfunded liabilities that may exceed the national debt, more than $600 billion.

A survey conducted for Fortune found that 10 of the nation's largest corporations have unfunded pension liabilities equal to one-third or more of their net worth. The corporations: Chrysler, Westinghouse Electric, International Harvester, Bethlehem Steel, LTV, Lockheed Aircraft, National Steel, Republic Steel, American Motors, and Uniroyal.

Some smaller firms were found to be in even worse trouble. Wheeling-Pittsburgh Steel had unfunded vested liabilities that came to more than seven times the recent market value of its common stock.

Fortune estimated that total unfunded liabilities of American industry may reach several hundred billion dollars.

Some of the most serious pension funding problems are in multiemployer plans, generally concentrated in the construction, mining, transportation, and entertainment industries.

The Pension Benefit Guaranty Corp., which was created by ERISA, warned last July that multiemployer plans covering 1.3 million persons could fold in the next 10 years. It said the total liabilities of these plans is $3.5 billion.

"There is a limit to which public and private pensions can go on providing what Americans define as decent retirement income," said Harold L. Sheppard of the American Institutes of Research, co-author of "The Graying of Working America."

Califano said unfunded pension liabilities in the federal system are between $243 billion and $425 billion—which means the federal budget deficit is much larger than reported figures show.

The number of employes covered by more than 50 federal pension plans tripled in 16 years to 2.5 million in 1976. Unlike most private pensions, the federal benefits go up with increases in the consumer price index, and an increase of just 1 per cent can cost the government $800 million.

Such benefits usually are available at age 55 with 30 years' service. Many federal employes retire after 30 years, then take a job in the private sector and qualify for an additional Social Security pension.

This is especially true for the military, where only 20 years' service is required. The current unfunded liabilities in the military pension system reached $172 billion in 1976, and 25 per cent of the Pentagon payroll goes to retirees.

The number of public employes in state and local government has jumped from 3.5

million in 1950 to 12 million today. These employes are covered by 2,500 pension systems, many of them actuarially unsound.

For example, Sheppard noted, the New York City firemen's pension fund uses 1941 tables of life expectancy to calculate pension benefits. These tables are completely outdated in view of increases in life expectancy that have occurred since then.

"The firemen are not dying when they are supposed to," Sheppard said, and the result is a huge pension liability for the city. New York's five pension plans have unfunded liabilities of $6 billion, a major cause of the city's fiscal crisis.

In the District of Columbia, pension payments for police and firemen represent 43 per cent of the city payroll and could reach 110 per cent by the year 2020.

In nine Chicago and Cook County public pension funds, total unfunded liabilities are $2.5 billion, according to William J. McGlone, director of development for the Civic Federation, a Chicago taxpayers research organization.

The Chicago teachers fund has the largest unfunded liability, $53.8 million. Unfunded liabilities total $1.8 billion for Downstate teachers and $667 million for state employes, McGlone said.—WILLIAM GAINES.

THE POOREST OF THE ELDERLY POOR

The French writer Simone de Beauvoir, in her book "The Coming of Age," wrote that "old" is almost synonymous with "poor." That is an exaggeration—but not for some groups of elderly citizens.

The poorest of the elderly in America are women, blacks, Latinos, American Indians, and those who live in rural areas.

Probably the most shockingly poor are black elderly women living alone. Two out of every three of them have incomes below the poverty line [$2,720 annually for individuals], and 78 per cent are "near poor" at best, by government definition.

In contrast, the government classifies 15 per cent of all old people as poor and an additional 10 per cent as "near poor."

Perhaps the most disturbing fact is that elderly women constitute a steadily growing proportion of old people, inasmuch as more of them than men end their lives in poverty, loneliness, or nursing homes.

Women live 77 years on the average, men 69. Today there are 100 women over age 65 to every 69 men that old, and above the age of 75 there are nearly two women for every man. The 85-plus group, fastest-growing segment of the elderly population, consists mostly of women.

"It will be perfectly horrible when we have a society of only old ladies," said Dr. Wilma Donahue, 77, director of the International Center for Gerontology in Washington.

Most old women are widows. Only 39 per cent of women 65 and over are still married; 79 per cent of the men are. Of elderly persons with incomes below the poverty line, the overwhelming percentage are widows.

The anomaly for elderly women in America is that they live longer than men but have fewer benefits in the retirement years. Lower salaries for working women, lower pension benefits, and inadequate survivor benefits all contribute to placing many elderly widows in a grinding state of poverty.

In Illinois, there are 642,289 women 65 and over—three for every two men that old.

The Illinois Department of Aging estimates that more than half of all husbands do not make wills and thus may leave their widows at an additional disadvantage. Under state law, a widow with children receives only one-third of her husband's estate if he does not leave a will.

Economist Juanita Kreps, now secretary of the U.S. Department of Commerce, has said: "The older woman is the poorest in society today."

The median income of elderly blacks, both male and female, is roughly two-thirds that of elderly whites. About half of elderly blacks have incomes of less than $2,000 a year, and the percentage living in poverty is twice that of aged whites.

But black families tend to be more closely knit than white families. A large proportion of elderly blacks live with their children or other relatives, and only 6 per cent of the patients in nursing homes are black.

Although the average life expectancy of the general population has been rising steadily in recent decades, that of black males declined by a year between 1930 and 1970.

The life expectancy of black men is 60. For Mexican-American men it is 57, and for American Indian men it is 44. Blacks constitute 11 per cent of the general population but only 7.8 per cent of the elderly.

Louise Gerrard, executive director of the West Virginia Commission on Aging, calls the rural elderly "the most disadvantaged" of America's elderly population.

"They are more likely to live in poverty, to have substandard housing, to find it difficult to get needed services, and to lack mobility to get from homes to health clinics, food stamp offices, and senior centers," she said.

More than 20 percent of the rural elderly live in home without complete plumbing, and frequently the housing is ramshackle. On the average, rural housing is valued at 50 per cent of urban housing. In addition, 30 per cent of the rural elderly have no automobile available to them.—RAY MOSELEY.

FOR FUN—AND PREVENTION OF "RUST"

The present older generation is healthier than any that preceded it, and many of the elderly are trying to stay that way by participating in organized physical fitness programs.

The City Colleges of Chicago, the YMCA and YWCA, and the Chicago Park District all offer such programs for the elderly.

Forty fitness classes involving persons 60 to 92 years old have been held so far this year under sponsorship of the city colleges. Many of those enrolling also took part in the Fitness Festival, a regional meet held in Chicago, and the Senior Olympics, held last month in Springfield.

"People's bodies don't always wear out; they can rust out," said Susan Willis, a specialist in aging at the Mayor's Office for Senior Citizens

Any group of 30 or more senior citizens is eligible to have an instructor from Chicago City Colleges come to their meeting place and conduct fitness classes. Telephone 977-2520.

Those who are not part of a group may call the Adult and Continuing Education Department of the colleges to learn if fitness classes are to be held nearby. Telephone 977-2517.

The classes usually start with lessons in proper breathing and stretching, then advance to mild exercise and games.

The YWCA has an exercise class from 5:30 to 6:30 p.m. Mondays in the Loop Center, 37 S. Wabash Ave. The class, called Rhythmics, is open to men and women and starts with mild exercise done to music. Telephone 372-6600 for information.

The YMCA of Metropolitan Chicago has senior physical fitness or "gym and swim" classes for men and women at 18 Chicago and suburban locations.

The Chicago Park District holds fitness classes at various parks. The program also includes yoga classes and swimming.

Starting in January, the park district will offer indoor golf lessons free to senior citizens. (Others pay a $5 fee.)

[From the Chicago Tribune, Oct. 4 ,1978]

EARLY RETIREMENT BECOMING AN "ENDANGERED LUXURY"

(Nothing is more usual than the sight of old people who yearn for retirement; and nothing is so rare as those who have retired and do not regret it.) Charles Saint-Evremond, 1680

For a people supposedly devoted to the work ethic, Americans show an unusual relish for getting out of the labor force as early as possible. Many retire by age 62, some as early as their 50s.

But early retirement, that cherished part of the American dream, may not be with us for many more years.

Millions of working people who are now in their middle years or younger may find that they have to stay on the job well beyond 65 to help pay the soaring costs of old age in America, according to experts surveyed by the Tribune's Task Force in a six-month examination of problems of the elderly.

The reason can be found in population statistics: The number of elderly is rising at a phenomenal rate and the birth rate has dropped percipitously.

Today there are 23 million Americans 65 and over. By the turn of the century, there will be 30.6 million even if there is no increase in average life expectancy.

The Futures Group, a Glastonbury, Conn., "think tank" organization, predicts that life expectancy will rise dramatically and that the numbers will swell to 40 million by the year 2000.

Moreover, the fastest-growing group of the elderly is people 75 and older, and the cost of providing services to them is much higher than for the 65–75 group.

The population figures mean that a shrinking number of younger workers will be supporting an ever-growing number of older retired persons. "The problem boils down to how many nonproducers the producers can carry on their backs," says Nelson Cruikshank, President Carter's chief adviser on the elderly.

The ratio of active workers to retired citizens is 6 to 1 today. If current trends continue, it will be 3 to 1 by the year 2030.

Harold L. Sheppard of the American Institutes for Research, a former staff director of the U.S. Senate Committee on Aging, is one of the most prominent advocates of a change in retirement policies to keep more older workers on the job.

"If the trend toward early retirement continues, the cost of supporting retirement will become prohibitive," he said.

Already the nation's Social Security and pension systems have come under serious financial strain because of the burgeoning number of old people and the tendency to retire early.

Sheppard expects early retirement to remain the practice for a number of years but says that ultimately the elderly will have incentives to stay in the work force.

One incentive is inflation, which makes it more difficult to get by on pensions not geared to cost-of-living increases. Another is that more people reaching retirement age will have parents still living whom they must help support, he said.

Prof. James H. Schulz, a Brandeis University economist and expert on aging, predicts that companies will develop inducements to keep workers on the job longer when the supply of younger workers diminishes.

"This happened during the Korean War," he said. "Now companies have developed incentives all the other way."

University of Chicago gerontologist Robert Havighurst contends that rising energy costs, if nothing else, will force an increase in the usual retirement age in the next 20 years. By the turn of the century, he said, most Americans will wait until 70 to retire.

"We have a petroleum-intensive economy," he said. "As costs for fuel go up, we will have a more labor-intensive economy. We already are seeing this in agribusiness. People will be working longer—and they will be happier."

Indeed, many of those who have retired early are now disillusioned and bored; they

have found that endless fishing and golf have limited appeal.

Economic experts predict that, as business and industry become more dependent on older workers, new work patterns will develop to accommodate them: more part-time work, flexible schedules, and creation of less-demanding jobs for some elderly workers.

Some of that is happening already.

When David Dougherty, 66, of Schaumburg was nearing retirement at the First National Bank of Chicago as planning assistant to the vice president for personnel, he decided to create a position for himself.

He persuaded the bank to let him become a 40-hour-a-week "temporary" employee, serving as trust procedures administrator.

That way the bank doesn't have to pay him the fringe benefits that a regular employee gets. But, as Dougherty notes, it also means "they could fire me at any time." He said he is looking for a full-time job.

"I don't want to ride around the golf course every day. I want to be productive," he said. "I'm not decrepit, so there's no reason I should stop working."

A federal law taking effect next Jan. 1 will ban mandatory retirement for workers in the private sector before age 70 and eliminate mandatory retirement for federal employees.

The Labor Department predicts that only about 200,000 workers will take advantage of this law in its first year, but the numbers are expected to grow in succeeding years.

"The new law will have only a very, very minor impact on the trend toward early retirement," Sheppard said. "For a long time, the current trend will continue."

Most workers are in jobs in which there is no mandatory retirement, yet a majority elect to retire before 65. This is especially true in industries where many workers have boring, repetitive jobs: The average retirement age at General Motors is 59, and in the steel industry it is 61.

Shepard said that keeping older workers in the labor force will require not only more job opportunities but a change in the system that gives people incentives to retire early.

Federal law on the subject is contradictory. On one hand, Social Security law encourages workers to retire early by enabling them to begin drawing reduced benefits at age 62—three years earlier than the age for full benefits.

On the other, a new Social Security law raises benefits by 3 per cent for every year up to age 72 that a worker stays in the labor force beyond 65.

Social security law also reduces benefits by $1 for every $2 more than $4,000 a year that a retired person earns.

In contrast, many other industrialized nations encourage the elderly to stay in the work force. An elderly person may earn an unlimited amount and still draw his full Social Security pension in France, West Germany, the Netherlands, Switzerland, and Luxembourg.

Norway and Ireland have had a standard retirement age of 70 for years, and Norway raises Social Security benefits by 10 per cent for those who continue working past retirement age.

In many European countries, it is illegal to discharge a worker when he begins to draw a pension if he wishes to continue working.

In this country, the greatest barrier to employment of old persons is the "stereotyped image" that many personnel managers have, according to Shirley Brussell, executive director of Chicago's Operation ABLE [Ability Based on Long Experience], a coordinating agency for employment of the elderly.

"The personnel managers see old people as having health problems and being troublesome and frequently absent," she said.

Numerous studies have disproved these myths. They have shown that older workers, when they fall ill, may be out for longer periods than younger workers, but that their overall absenteeism is lower.

The studies also show that older workers generally have greater stability and a steadier rate of production than the young.

Bankers Life and Casualty Co., which has a policy of hiring older workers, said that in a six-month period, 27 per cent of the elderly had perfect attendance, a record achieved by only 10 per cent of those under 65.

Continental Illinois Bank and Trust Co. of Chicago has employed workers 65 and older on a part-time basis for about 10 years. Other major firms that make a practice of hiring the elderly are U.S. Steel, Polaroid, Prentice-Hall Publishing Co., Pitney-Bowes, and Texas Refinery.

"The greatest loss in the older years is not loss of physical ability or mental acuity," said Jack Ossofsky, executive director of the National Council on Aging. "It is the loss of options. We are mowing down the roses along with the weeds.

"We must bring to the attention of decision-makers in industry and the unions what we in gerontology have long known: Chronological age is a poor determinant of capacity. The only thing you know about an individual when you know his age is how many candles to buy for his birthday cake."

At the start of this century, it was common for people to continue working until they died. Today, only one in five men and one in 12 women still work at 65.

There are 2.8 million persons 65 and over who are employed—many of them part-time workers or self-employed—and another 145,000 are officially listed as unemployed and looking for work.

But economists say many thousands more who would like to work are not listed as unemployed because they have become discouraged and stopped looking for jobs. A Louis Harris survey found that as many as 4 million of the 23 million people older than 65 want to work.

The Burger King hamburger chain, like most other fast-food businesses, mainly employs teen-agers. But in the Chicago area, some Burger King managers have begun hiring senior citizens, and they are pleased with the result.

Agnes Stoeckel, 83, of Oak Park, grandmother of 14 and great-grandmother of 24, has worked at a Burger King in Berwyn for six months as a hostess.

"It was so lonesome staying home all the time," she said. "I wanted to get a job where I could meet people. I didn't think I was going to get the job because of my age, but I lied to them, told them I was 80."

George Thomas, 73, of Bellwood has worked as a host for Burger King in Maywood since January. He started in the kitchen but was made host when the manager noticed his knack for getting along with people.

"I like to talk to people, and I think that helps keep the business," said Thomas, who was formerly employed by a clothing company. "The job keeps me active, and I can use the money to pay the taxes on my home."

But the older people who are looking for jobs are many more than those who have found them.

Lilo Salmon, director of the Little Brothers of the Poor in Chicago, tells a typical experience of older people:

"You go to an unemployment office and you ask for work. And they laugh in your face. They say, 'Look, there are hundreds of thousands of people unemployed who are 40 and 50. Don't even come back here.' "

The U.S. Civil Rights Commission, in a report earlier this year, said there is widespread discrimination against the elderly in employment in federally financed programs.

"People over 65 are not placed . . . because administrators don't think they can find jobs for them, believe government will get a better return on its money serving younger people, or because of negative staff attitudes toward the old," the report said.

A vocational rehabilitation counselor in one city said that older clients often were referred to by staff members as the 4-H's—for hemorrhoids, hernias, hysterectomies, and hearing aids.

Under the Older Americans Act, the federal government has been providing funds through state employment services for several years to encourage the hiring of the elderly, mainly in nonprofit or public institutions such as libraries and schools.

"This is probably one of the most successful programs administered by the Labor Department," said Thomas Bradley, a labor expert at the National Council on Aging, which is one of the contractors working with state employment bureaus. "We have had a placement rate of 40 per cent."

The Illinois Bureau of Employment Security employs 18 persons, all over 55, as specialists in the employment of older workers.

"Most of them had retired, and they are doing a tremendous job with older workers," said Mary Alice Krakos, a bureau employment specialist. In a recent six-month period, she said, 5,009 elderly persons applied for jobs and 535 were placed.

There are more than 100 nonprofit senior employment centers around the country.

In Chicago, Operation ABLE, 36 S. Wabash Av., was set up last year with funding from several foundations to coordinate activities of such centers in this area.

"As far as I know, there is no other agency like this in the country," said Brussell, its director. At a recent White House conference on unemployment, Operation ABLE was cited as a model for other cities.

"The main reason that older people want to work is financial," Brussell said. "Their pensions may have been planned in a noninflationary time. A second reasons is that, after they retire, they get removed from the mainstream and they become bored.

"I have seen alcoholic or depressed people for whom getting back to work cures the problem."

Senior Action Services, Inc., 828 Davis St., Evanston, is an employment center that works with Operation ABLE. It helped Howard Kellerman, 65, a retired insurance salesman, find work with the State National Bank of Evanston.

"I work about 20 hours a week and don't exceed the $4,000 income that would reduce my Social Security," Kellerman said. "I wanted to keep physically and mentally active and supplement my income, and this job has done both for me."

Another agency, TASK, placed Richard Murphy, 64, of Homewood with a religious social center in the south suburbs as business manager.

"I wasn't prepared for retirement," said Murphy, formerly a claims manager for an insurance company. "It was an overnight decision, and I had made no plans. Right after I retired, I painted everything in the house that didn't move. I didn't know what to do with myself."

Although it meant a reduction in his Social Security benefits, Murphy said, "I went ahead and made $8,000 because the work was more important to me than the money."

He quit his job when summer came so he could spend more time outdoors, and now he hopes to find a part-time job.

The federal Comprehensive Employment and Training Act [CETA] program, designed to assist the poor in job training and placement, has been widely criticized for its failure to do more for older workers. Less than 4 per cent of CETA funds nationally have gone to the elderly.

"Chicago has led the country in providing more CETA funds for the elderly than any other city," said Tom Bradley of the National Council on Aging.

Such funding in Chicago is handled primarily through the Mayor's Office for Senior Citizens, which has placed 575 persons 62 and over in part-time jobs and 240 in full-time jobs.

Another 575 are in part-time work through a CETA program administered by the city's Department of Human Services.

EDUCATION AT 80: FOR ENJOYMENT, HIS FIRST REAL SCHOOLING

James A. Martin, 81, was born in a Mississippi halmlet and had no formal schooling as a child. But he dreamed all his life of getting an education.

When he married he sent his wife, Ada Alice, now 72, through high school and college. She became a social worker for the Cook County Welfare Department and later a caseworker and supervisor for the family division of the State of Washington; he worked as a Pullman Co. porter for 45 years.

Last year, Martin realized his dream. He entered Chicago Vocational High School's evening classes in American history and has just completed a summer course in the same subject.

"I thought I'd be embarrassed, but I wasn't, he said. "It's rough, because I really don't qualify for a high school course. But I'm not doing it for an education to make a living; I'm doing it for the enjoyment."

Only a relative handful of Americans are turning from the job market to the classroom after the reach 65. But, with the elderly population increasingly well-educated, experts predict that the number wanting to continue learning in old age will mushroom in the next few years.

"The public school system could be the vehicle for extensive pre-retirement training and for preparing families to care for the elderly in their own homes," said Robert C. Benedict, the U.S. commissioner on aging.

"There is also the question of whether public education is taking full advantage of older people as teachers and educators. They represent an enormously rich resource that could be called on to help educate young people."

The average urban resident over 65 in the United States has eight years of formal education. About 8 per cent of the 23 million elderly are college graduates, and 10 per cent are considered functionally illiterate.

Presently, only 2 per cent of those over 65—about 400,000 persons—and 4.5 per cent of those 55 to 65 are enrolled in educational programs. But surveys indicate that as many as half the elderly want to continue their education.

The Chicago Community Trust, which makes grants of $5.5 million a year to various programs, is funding the newly established Educational Network for Older Adults to help Chicago-area seniors get back in the educational swim.

"One reason that so few elderly are enrolled in education is not a lack of interest in learning but a lack of knowledge of what's there, and a lack of self-esteem," said Walter Buchmann, executive director of the Educational Network.

"Old people buy the stereotype about old people. They see themselves as inactive. They are also resistant because they don't want to sit in class with 20-year-olds and be gaped at. But they don't have to."

Buchmann said the elderly can enter college degree programs without taking regular courses, or they can sign up for special courses that have only older students.

He noted that some churches and synagogs also run educational programs for the elderly. Temple Shalom, 3480 N. Lake Shore Dr., has an open university for the elderly, with retired professors teaching the classes.

In the City Colleges of Chicago, persons 65 and over who register on the late registration date may attend classes that have room for them without charge if they have the proper qualifications.

They are also eligible for free adult education classes that earn up to five hours of credit.

Buchmann said that about 20 Chicago-area colleges and universities are cooperating with the Educational Network program.

The Educational Network can be reached by telephoning 782-8967.

Another educational possibility for the elderly is the Elderhostel, which offers a week of college-level courses to persons 60 or older [spouses under 60 are also eligible]. No college credit is given.

More than 100 American colleges are now participating in the Elderhostel program.

For information on courses at schools near Chicago, write Elderhostel, Wisconsin Region, University of Wisconsin Extension, Programs on Aging, Marietta House, 3270 N. Marietta Av., Milwaukee, Wis. 53201. Other listings are available from William Berkeley, national executive director, 55 Chapel St., Rm. 301, Newton, Mass. 02160.—WILLIAM GAINES.

WHERE ELDERLY CAN GET HELP IN RESUMING WORK

A number of agencies specialize in finding employment for older workers in the Chicago area. Following is a list of the principal ones:

North and Northwest—Du Page, Elmhurst YMCA Senior Employment Program, 211 W. 1st St., Elmhurst, telephone 833-7515; Highland Park Senior Center, 54 Laurel Av., Highland Park, 432-4110; Jewish Vocational Services and Suburban Satellites, 120 W. Eastman St., Arlington Heights, 255-4410, and 210 Skokie Valley Rd., Highland Park, 831-5630; Job Bound Center, Oak Mill Mall, Niles, 966-0016; Job Services, 901 W. Montrose Av., Chicago, 327-9350; Senior Action Services, Inc., 828 Davis St., Evanston, 864-7274; Senior Citizens Employment Center, 2020 W. Devon Av., Chicago, 761-9000; Senior Employment Opportunities, 1791 W. Howard St., Chicago, 274-4950; and Suburban Cook County Area Agency on Aging, 1396 Thacker St., Des Plaines, 827-8662.

South and Southwest—Jewish Vocational Services and Suburban Satellites, 18161 Morris St., Homewood, 799-6555; Job Services, 9231 S. Houston St., 374-8410, 9320 S. Ashland Av., 881-0700, and 1935 S. Halsted St., Chicago, 243-8350; South Suburban Council on Aging, TASK, and Project Re-entry, 15325 S. Page St., Harvey, 333-4988; Suburban Cook County Area Agency on Aging, 3518 W. 139th St., Robbins, 389-1910 or 333-6310.

West—Berwyn-Cicero Council on Aging, 5817 W. Cermak Rd., Cicero, 863-3553, and Suburban Cook County Area Agency on Aging, 931 Lake St., Oak Park, 386-8101.

Central—Catholic Charities, 721 N. La Salle St., 266-6100; Jewish Vocational Services, 1 S. Franklin St., 346-6700; Job Services, 40 W. Adams St., 793-4870; Mayor's Office for Senior Citizens, 180 N. La Salle St., 744-6798 or 744-5777; and Suburban Cook County Area Agency on Aging, 223 W. Jackson Blvd., 341-1400.

WHY MANY "DON'T GET AROUND MUCH"

When they retire, elderly Americans can escape the rush-hour hassles that afflict those still in the work force. But transportation remains a major problem.

Nearly 40 per cent of all elderly heads of households do not own an automobile. And many who do own cars are taken off the roads—unfairly, according to the National Council on Aging—because of difficulties in getting insurance.

The lack of a car makes many of the elderly heavily dependent on public transportation, which is seldom geared to their special needs.

For example, most public transport is designed to get people to work and home again; routes radiate like spokes on a wheel from the central city.

But the elderly often need to go crosstown, rather than downtown, to visit doctors, senior citizens centers, or friends. And few public transit routes are designed to get them there.

As they grow infirm, many persons also have difficulty climbing in and out of public vehicles. Fear of falling is thought to be a major factor limiting their use of public transport.

"Transportation is the means to any kind of social life for many old people, but public transportation is notoriously bad," said Nelson Cruikshank, President Carter's chief adviser on problems of the elderly.

The problem has not received as much attention as many of the elderly would like, but help is on the way.

Transportation Secretary Brock Adams announced last year that all new public buses bought with his department's assistance must meet specifications designed to aid the elderly and handicapped.

The buses must have floors no more than 22 inches above the ground and be capable of "kneeling" to 18 inches at stops. They also must be equipped with a ramp for boarding.

The "transbus," as the vehicle will be known, is not expected to be operating in most communities until about 1990.

The U. S. House Committee on Aging has recommended that persons serving as volunteer drivers for the elderly be given tax deductions and that companies providing non-profit transportation for the elderly receive tax exemptions.

In Chicago, the Mayor's Office for Senior Citizens [MOSC] provides limited transportation for elderly persons whose mobility is impaired.

The MOSC contracts with a private firm that provides five vans with lifts, one without a lift, and 12 sedans and station wagons. These vehicles transport 210 people a day.

Most use the vehicles to get to nutrition sites, where low-cost or free meals are available, or to do their shopping. About 85 a day use the vehicles to get to work or to doctors' offices.

"We do not come anywhere near meeting the demand for this service," a spokesman for the mayor's office said, noting that $610,000 in federal funds, plus $30,000 in income from elderly riders who contribute to the cost, is all that's available for the program.

Elderly persons who need the service are advised to call the MOSC transportation coordinator [telephone 744-4016] two or three weeks in advance. There is always a long waiting list.

The MOSC also sponsors a bus program to help senior citizens groups take recreational, educational, and cultural trips within Cook County. Costs are shared 50-50 with the group.

Chicago is one of about 150 cities that offer reduced public transport fares to the elderly, but Chicago Metro Seniors in Action, an umbrella group for various senior organizations, wants to go beyond that.

The Metro Seniors have proposed no-fare transportation for seniors. Free transport has been adopted by a number of cities across the nation, and the Metro Seniors say that businessmen in those cities have noted a rise in sales because old people travel more frequently.

[From the Chicago Tribune, Oct. 5, 1978]

POLITICS IN HOUSING FOR AGED

(Grow old along with me! The best is yet to be, The last of life, for which the first was made.)—Robert Browning.

State Rep. Daniel P. O'Brien, the Democratic committeeman for the 43d Ward, on Chicago's Near North Side, listens attentively when constituents file into his storefront headquarters at 1143 W. Webster Av. to discuss their problems.

According to Joe Starr, one of his precinct captains, "O'Brien's always looking out for his people. He's the kind of man you need to help you in the neighborhood."

One evening in early August, a man came to O'Brien to ask for help in getting an apartment for his mother in one of the Chicago Housing Authority projects for the elderly.

By law, political parties have no role in the assignment of apartments in federally subsidized housing projects; admission is supposed to be determined impartially on a first-come, first-served basis.

The man visiting O'Brien had been told the list of applicants was so long that, unless he used political influence, his mother might have to wait three years or more to get into a CHA apartment.

The committeeman didn't know it, but his visitor was Tribune reporter William Gaines, a member of a Task Force team investigating problems of the elderly. The "problem" he'd brought to O'Brien was fictional, arranged as part of the investigation.

O'Brien immediately promised Gaines that he would help get his mother into a housing project. Over the next six weeks, however, O'Brien's lieutenants made it clear that he does not dispense favors without getting something in return.

In this case, the terms of the "return favor" were that Gaines was to contribute $200 to the 43d Ward organization's campaign fund and to serve as an unpaid campaign worker on weekends.

Tribune reporters who talked with residents of housing projects for the elderly in various parts of the city had been told that such practices are common. Invariably, reporters were advised that they stood a better chance of getting an elderly parent into a project if they sought political help.

"They [the housing authority] will advise you it's a five-year wait, but if you know any politicians it will help," said an elderly woman working at the reception desk in one building. "Some of them ask for money under the table, but I don't believe in doing it that way."

An elderly man at another building said: "Talk to your precinct captain. Politics has a lot to do with this."

Acting on this advice, Gaines met with O'Brien briefly and was told that something could be done—but first Gaines would have to register to vote, then see his precinct captain, Joe Starr.

Starr, who seems to conduct most of his business over coffee in a restaurant at Wells Street and Lincoln Avenue, explained to Gaines how such matters are handled.

"If you do some work for O'Brien, he'll work a little harder for you," he said. Pointing out that the committeeman is seeking re-election in November as a state representative, he invited Gaines to spend some of his weekends canvassing the precinct for the candidate.

Too many people in the ward, Starr complained, "come around and want favors but they don't want to do anything." Then he got down to specifics:

"Here's what I want you to do. We've got these tickets for O'Brien. They're $50 each. I want you to go tell O'Brien you can sell four of them."

Gaines was then taken to ward headquarters and told to wait while Starr conferred with O'Brien. Next Gaines was ushered into an office where two of the committeeman's aides, George Alexander and Carl A. Honig, listened to the story about his mother.

Honig, the ward treasurer, told Gaines to get an application form for a CHA apartment and said, "We can attach a letter to it."

"We'd like for you to help us, too," he said. "We need some campaign support. We've got tickets to a party that cost $50 apiece, and we want you to buy four of them. That's how you can help us."

Gaines agreed, and Honig smiled as he handed over the tickets. "Check with me about the senior citizens home," he said. "I'll take care of that for you."

When contacted later by The Tribune, O'Brien denied that ticket sales are ever solicited as a condition for getting his help.

"I'm sure he [Honig] didn't imply that," he said, "I don't operate that way, and the organization doesn't operate that way."

O'Brien acknowledged that he tries to help people get into the CHA homes in his ward and said he keeps files of his letters to the CHA requesting such help. He added that his attempts have not been very successful.

"I don't know what it takes," he said. "But these are my constituents, and I try to help them out."

In 1976, the congressional General Accounting Office found that federal regulations governing admission to public housing projects have been violated more than once in Chicago.

The GAO reviewed the placement files of 174 tenants and found that 35 of them had been housed 8 to 59 months earlier than would have been the case if they had waited their turn on the application list.

A year earlier, federal officials had concluded that the CHA was using a tenant selection plan that violated the intent of antidiscrimination provisions of the Civil Rights Act of 1964. The officials found that separate waiting lists were being compiled for each project for the elderly, in addition to the required combined list for all projects.

In March, 1976, the federal Department of Housing and Urban Development's regional office in Chicago recommended rejection of a revised tenant selection plan submitted by the housing authority. The HUD office contended that the plan would reinforce racial and ethnic segregation in Chicago. But no action has been taken to resolve the matter, and The Tribune found that separate waiting lists are still in use.

In its six-month examination of problems of the elderly, the Task Force found that such evidence of political favoritism and racial discrimination is just a part of the difficulties that old people face in obtaining housing.

Across the nation, public housing for the elderly is in desperately short supply, and thousands of old people with low incomes are crowded into shabby hotels where they may be victimized by criminals or unscrupulous managers. More than 6,300 elderly persons are awaiting public housing in Chicago.

Housing costs are generally disproportionate to income. On the average, more than one-third of the budget of an elderly person goes for housing; for those 75 and older, the figure is 48 per cent—despite the fact that 70 per cent of the elderly occupying private housing own their property and 82 per cent of this group have paid off their mortgages.

For renters and homeowners alike, housing is often of poor quality. A Senate committee estimated in 1976 that at least 30 per cent of the nation's 23 million elderly live in substandard, deteriorating, or dilapidated housing.

Floyd Hyde, a former undersecretary of HUD and now a member of the staff of the National Council on Aging, said no public housing for the elderly has been started in the nation this year.

Although such housing programs have been highly successful, Hyde said, problems in connection with public housing for younger families have given the entire program a bad name and resulted in a loss of funding.

"With typical American impatience, we see problems in a program like that, and instead of solving the problems we discard the program," he said.

Another HUD program, under which loans are provided to private developers to build housing for the elderly, has been scaled back to provide for construction of only 16,000 apartment units this year and a like number next year, down from 40,000 annually in previous years.

Hyde said the nation needs 120,000 new units a year.

Among major cities, Chicago leads the country in availability of federally funded public housing for the elderly—270 units for every 100,000 persons. For New York City, the figure is 155 units.

In Chicago, 17,799 persons, most of them widows, live in the 15,331 public housing apartments designated for the elderly, paying an average of $50 a month in rent. Many of the apartments have special design features to meet the needs of the elderly.

Reporter William Recktenwald visited the Lincoln Sheffield homes at 2640 N. Sheffield Av., one of the CHA projects, and found contented residents in a pleasant setting.

"For the rent we pay, we should thank God every day," said Mrs. Frances Grundler, 76. She pays $62 a month for her apartment.

On the door of every apartment was a sign reading "OK." Residents display the blank side of the signs when they go to bed at night. If they fail to turn the signs over in the morning to display the "OK," it alerts floor captains who check each apartment daily to see if anyone needs help.

To ease the financial burden on persons unable to get into CHA projects, HUD subsidizies rents for 2,640 elderly persons. The tenants pay about 25 per cent of their income for rent, HUD paying the balance.

The Illinois Housing Development Authority, a state agency, financies private housing for low-income persons, including the elderly, that is generally superior to public housing.

The authority sells bonds and uses the proceeds to make low-interest loans to private developers to build the housing. Rents are subsidized by HUD, and the average renter pays $50 to $75 a month.

Since being established in 1967, the Housing Development Authority has financed construction of 16,847 apartments, 6,400 of them designated for the elderly and located close to shopping facilities and hospitals.

Joan Maas, marketing manager supervisor for the program, said most residents are elderly women living alone on Social Security benefits.

"There are three times as many applicants as there are units," she said. "The response we get is amazing. By the time the contractor is topping the roof, the building is usually filled."

Hyde, the former HUD undersecretary, has some reservations about the value of such a program.

"A lot of the elderly can work, but if we stash them in these projects, it's less likely," he said. "Their chance of working may depend on neighborhood ties, and there is a disruption from the neighborhood in this program. It's a good program, but limited in what it can do."

Whatever the limitations, Mrs. Gertrude Crevoisier, 68, would welcome an opportunity to live in one of the Housing Development Authority buildings.

Until she moved recently, she paid $140 a month for a one-room furnished apartment in the Lakeland House, 4541 N. Sheridan Rd., a poorly maintained building that caters to elderly persons on low incomes.

Her bathroom sink leaked and she had to use a hammer to turn off the kitchen faucets, she said, adding that there were large holes in the plaster, the furniture was old

and dirty, the rug was soiled, and the bathroom window would not close.

Mrs. Crevoisier, who receives $219 a month from Social Security, said she has applied to live in a public housing project. "But my God, by the time my number comes up, I'll be dead," she said.

Bennie Brennan, 78, and his wife, Caroline Arangelovich, 71, lived for four months in a small apartment in the Lakeland House. They complained that there was standing water from a broken pipe near the refrigerator and that the management had refused to do anything about it.

"I was afraid I was going to get electrocuted because there was a loose wire sticking out from the refrigerator," Arangelovich said.

The Lakeland House is owned by Our Home Co., 4401 N. Racine Ave.

Henry Lewis, the general manager, told The Tribune that the company acquired the building only a few months ago and has listed it for sale. "We have no building violations here," he said.

Reporters advised the city Building Department of conditions in the place. Inspectors then cited the building for 19 building code violations, including rotted window frames and sashes, cracked and falling plaster, leaks in several bathrooms, presence of cockroaches, and unsanitary conditions throughout the building.

Even more desperate, in many cases, is the plight of old people forced to live in what is known as single-room occupancy [SRO] housing in second- and third-rate residential hotels.

A staff report for the U.S. Senate Committee on Aging last June said that peeling paint, bad plumbing, infestation of insects, and filth are common in these facilities.

In the worst of them, it said, there is drug traffic and other criminal activities.

Residents often must surrender some of their freedoms to the manager of the hotel, according to the report. It said the managers may control whom the residents see, the hours of visits, and the residents' mail.

SRO tenants are excluded from the benefits of federal loans to rehabilitate old residential buildings. Such loans may be used only for "self-contained units," meaning units with private baths and providing kitchens or congregate dining.

In the SROs, residents use common bath and toilet facilities, and their single rooms often serve as both bedroom and kitchen. Rehabilitation of SRO buildings to meet federal standards would mean loss of half the units and a huge increase in rents, which many residents could not afford, the Senate report said.

Likewise, the SRO buildings do not qualify for the federal rent subsidy program.

Tribune reporter Thomas Powers checked into an SRO hotel at 55–57 W. Ontario St. and later described his room as "the filthiest I have ever seen."

He said the walls, ceiling, and floors were dirty, there were ratholes in the floor, a washstand was caked with dirt, and the mattress was stained with urine, blood, and vomit.

In the stairwell leading up to the room, Powers reported, paint was peeling from the walls, the carpet on the stairs was torn and dirty, and there was a mixture of strong, offensive odors.

Later, two other Tribune reporters went to the building and identified themselves. A woman on duty refused to answer questions but referred them to the caretaker.

When asked about building code violations, the caretaker said: "We have all kinds of violations here. Every building does in this area."

But there is no trouble with building inspectors, according to the caretaker. "They have too much to do. Besides, I don't let the city officials in, on orders of the owner," he said.

City Building Department records show that an inspection was attempted last April 14 at the Ontario Street buildings, but inspectors did not get inside. From external examination, they cited such violations as rotted wood, a missing section of a rear porch, broken and missing window panes, and open mortar joints.

John Power, director of the records section of the Building Department, told The Tribune that inspectors cannot enter a nonpublic building against the owner's wishes without a court order. And to get a court order, they must show "probable cause" to believe that violations exist inside, he said.

SOME UNREST IN THE LAND OF 'LIFE CARE'

(By John Gorman)

LEE'S SUMMIT, Mo.—To Al Laybourn, 78, a prosperous Missouri businessman, John Knox Village seemed an appealing concept in retirement living when he moved here in 1976 with his wife, Peg, 73.

The Laybourns paid an initial endowment fee of $43,950 and are assessed a monthly maintenance fee of $351.95.

For that they were promised a quiet life in a pleasant residential community with wide, well-paved streets, lovely landscaping, quaint footbridges, a golf course, swimming pools, and a fishing lake.

If they become ill, there is a nursing home and a clinic on the premises, and a 120-bed hospital was scheduled to open this fall.

The concept is called life care. John Knox Village—named for the 16th Century Scotsman who played a leading role in the establishment of the Presbyterian Church—was the first and is still the largest of 62 life-care centers in the nation that were founded by the Rev. Kenneth Berg.

"This is a delightful place—there's no doubt about it," said Laybourn.

But a quiet retirement haven it is not. In the last year, Laybourn has become a leader of a group of disillusioned residents directing an insurrection against Berg, charging that he has mismanaged their money.

The dispute has led to a lawsuit by the group and an investigation of sales practices at John Knox Village by the Missouri attorney general's office. The outcome could have repercussions for the operation of other John Knox Villages around the country, including one that is scheduled to open in about 15 months in the Chicago suburb of Orland Park.

Trouble in John Knox Village arose when the monthly maintenance fees for some residents started going up last year. Laybourn and other residents who asked to inspect financial records said they were rebuffed by Berg, a 55-year-old Presbyterian minister.

The group then filed a class-action suit charging that Berg has used the village's assets to make "highly speculative" investments with "grossly inadequate returns" and to buy property at "prices grossly in excess" of its value. Berg has filed an answer denying the charges.

The suit asks that a receiver and a new board of directors be appointed and that residents be repaid for losses they have suffered and awarded $6 million in punitive damages.

The residents who filed the suit say they have at least 1,000 supporters among the 2,800 residents. They contend that management has attempted to limit their support by making veiled threats to expel those involved in the case.

Berg built John Knox Village with a multimillion-dollar loan from the Prudential Insurance Co. of America and originally operated it as a for-profit company. In 1974, he turned it into a not-for-profit corporation. Then a for-profit company called Christian Services International, owned by Berg, was hired to manage the village and to hold the mortgage on it.

Berg also owns Group Communications which handles the advertising for the village and publishes its newsletter, and Environmental Design Associates, which does architectural and engineering work.

Residents must be at least 62. They pay an initial endowment of $9,950 to $43,950 plus a monthly service fee, the amounts depending on the size of the unit in which they live.

When a resident dies, his unit reverts to the village and is resold.

The Rev. William Perkins, 87, and his wife, Ethel, moved to the village in the winter of 1975–76. They paid an initial endowment of $19,710, and in slightly more than two years their service fee rose from $223 to $305 a month.

"We asked the salesgirl if there would be increases in the fees." Mrs. Perkins said. "She said they might have to face an increase, but that it would only be as high as the Social Security payments increase."

Mrs. Perkins said the fee increases were as much as 16 per cent in less than a year, and were accompanied by a 10 per cent reduction in services.

Another complaint of the dissidents is that those who become sick and are placed in the Med Center, [nursing home] have to relinquish their residences after a time.

"A friend whom I've known for 60 years has been in the Med Center for the last couple of years," said Carl D. Coffelt, 76, a retired electronics engineer.

"They took her apartment, sold it again, and upped her service fee."

Other complaints of the dissident group charged that bus and ambulance service was poor, clinic fees were exorbitant, and care in the nursing home was deficient. A Missouri Health Department inspector visited the nursing home May 1 and reported several shortcomings.

The dissidents also expressed fear that their money was being used to build the new hospital. Berg said Christian Services International bought the hospital in August to try to end that controversy.

Berg denied all the principal allegations against him in a 90-minute interview with The Tribune.

"No money has gone outside this project to speculative ventures in other cities," he said. He also said his books were open for inspection by any resident who wanted to see them.

"We are not ashamed of what has happened in this village," he said.

Fees have gone up because the cost of living has risen, he said, and not to have raised them would have been bad business.

The Tribune obtained a copy of the 1976 income-tax return for John Knox Village. Despite the rise in costs, it showed a profit of nearly $3 million, and Berg's figures for 1977 showed a profit of more than $4 million.

Berg said a cash reserve is necessary to cover future expenses. "We have to maintain reserves for stability," he said.

One demand of the dissidents was that the board of directors, which they described as hand-picked by Berg, be replaced by a board of residents.

Berg said that would be unworkable "because residents won't fairly vote themselves increases."

Nc decision has been reached in the suit brought by the residents. Some are convinced they will be expelled if they lose in court.

When asked about that, Berg acknowledged that residents can be asked to leave "if they create a situation that destroys the happy lodging or peaceful occupancy of others."

[From the Chicago Tribune, Oct. 6, 1978]

"A PLACE IN THE SUN" MAY OFFER LITTLE BUT DISCOMFORT

(Do not go gentle into that good night,
Old age should burn and rave at close of day;
Rage, rage, against the dying of the light.)—
Dylan Thomas.

NAVAJO, ARIZ.—John Plummer, 60, remembers the idyllic promises made in the brochures for Big Valley Ranches: abundant water, recreation, a town nearby for convenient shopping, swimming pools, and "just wonderful living."

Life in the Big Valley hasn't exactly been like that for Plummer, a retired engineer from Ft. Wayne, Ind., and his wife, Opal, since they bought land here five years ago.

The Plummers live in a mobile home on scrub land that is scorched by blistering heat in summer and raked by freezing winds in winter.

There is no town nearby, "and there probably never will be," Plummer said. Their nearest neighbor is five miles away, and they travel 150 miles to Gallup, N.M., to shop because it's less expensive there than anywhere closer.

Lots of water, the brochure said. Plummer said he drilled two wells and spent $19,091.84 before he found water.

The brochure mentioned electric power and other utilities. "After we moved in and there was still no power, we went to the power company and the man said he didn't know anything about it," Plummer said. "He figured it would cost about $870 a month to get electricity out here."

Plummer has his own generator, powered by a gas engine. He runs it intermittently because running it 24 hours a day would cost $9,000 a year.

The brochure spoke of "rich, fertile alluvial soil" that would grow almost anything "when touched with the magic of water." Plummer said he planted a garden and watered it from April to August, but nothing came up. He believes the soil is too sandy.

Plummer, who had not seen the land when he bought it, paid $14,400 for his 80-acre retirement retreat in the back of nowhere, and he can hardly believe what happened to him.

"It knocked the socks right off me. I saved all my life and now we're down to nothing. If I had it to do over again, I'd have stayed in Ft. Wayne."

A lot of other landowners—mostly elderly people who came to this area to retire and to escape the hard Northern winters—also wish they had it to do over again.

There are 250 families on 65,000 acres in Big Valley, and thousands more in other land developments across the Sun Belt who have found that reality falls short of the glowing brouchures, the fascinating sales spiels, and the bright dreams nurtured in their pre-retirement years.

Land fraud was among the problems investigated by The Tribune's Task Force as part of a six-month examination of the problems of the nation's elderly.

The 11-million-member American Association of Retired Persons and the National Retired Teachers Association have said that "faud and deception in the land sales industry are two of the more serious consumer problems facing our members."

The land developments in question are concentrated in New Mexico, Arizona, Colorado, Florida, Texas, and California.

Many people buy such land as an investment, often taking it sight unseen. When they try to sell it several years later, they find in many cases that the land is worth less than they paid for it.

Typically, the developer show them brouchures with pictures of happy people having drinks beside a swimming pool, lovely homes with expensive lawns, and handsome tennis courts and golf courses.

What the buyers do not realize is that the amenities pictured are usually confined to a small core area. Beyond that there may be only barren, windblown range land, miles from paved roads, utility lines, and shopping.

Testimony before the House Banking, Finance, and Urban Affairs Subcommittee in 1977 indicated that some of the land already sold is subject to earthquakes, landslides, or floods.

Harold Berliner, a California attorney who specializes in class-action suits involving land fraud, said that most buyers "do not have the faintest idea of the difference between a lot in New Mexico and an apartment in Baltimore."

"There is a myth widely believed by Easterners that the Lord placed natural gas, piped water, and telephone lines in all our land when he made it," Berliner told a congressional committee. "The reality . . . is a bleak desert scene . . . no roads, no water, no power, no phone."

The Federal and state governments have begun cracking down on developers using fraudulent promises to peddle such land at wildly inflated prices, and some of the elderly victims have banded together to bring lawsuits. But many of them may be unable to recover their money.

The Arizona attorney general's office is trying to close down the Big Valley Land Co. and obtain restitution for victims like the Plummers. The company's assets have been frozen, and it has been prohibited from selling land pending the outcome of the state's suit.

According to Thomas McClory, an assistant attorney general, Big Valley bought 60,000 acres from two ranchers in 1971 for $100 an acre and sold most of it before further sales were blocked.

Royden Brown, 57, a small, sun-wrinkled man, is the board chairman of Big Valley. He denied in an interview in his Scottsdale office that he had promised water, electricity, and other amenities to buyers. Those who say he did are liars, Brown said.

As for the promised town, he said it "went to hell" because an investor withdrew his money.

"We said there was going to be a future town built there," he said. "We didn't say we were going to build it. You know these people shape the truth to their situations, and soon they begin to believe it."

In 1973, Pasquale Mategrano, a retired Chicago baker, was visited by a nephew who was accompanied by a salesman for Big Valley. After a short sales presentation, Mategrano bought a 40-acre plot for $9,000.

A year later, a second salesman called on Mategrano to describe the glories of Big Valley.

Mategrano bought a second plot, for $26,000. He said that Ron Kaghan, the second salesman, told him the land would be worth a lot more in a few years.

"He gave us the big pitch," said Mategrano, now 71. "He said this was a prime piece of property. He said it was up in the mountains, where the air would be cool."

There are no mountains in the Big Valley development. Mategrano is still paying for his land in monthly installments, but he has no plans to live there.

"I have one son, and I thought maybe this could be for him to go to Arizona some day," he said.

Kaghan is now district sales manager in suburban Park Ridge for Palm Coast, Inc., a subsidiary of the International Telephone and Telegraph Corp. that sells land in Florida.

When questioned by a Tribune reporter, he said he could not remember selling land to the Mategranos, though he received a $2,000-plus commission on the deal.

Another Arizona company Consolidated Mortgage Co., was placed in receivership by the courts. It had three land ventures: Chino Valley Estates, Verde Lakes, and Castle Lakes.

David Quintieri, a Scottsdale lawyer who was named receiver, said the chances are "little or none" that people who bought land from Consolidated will get their money back.

"The best they can hope for, after all the court proceedings are through, is that they will have clear title to the land," he said.

Quintieri said the company bought lots for $200 and sold them for $3,000 to $4,000, plus interest.

"These people made payments for years and years and years to become proud owners of a piece of crap," he said. He described Consolidated as "a company without shareholders, a ship without sails, a complete mess."

Ned Warren Sr., the self-proclaimed "godfather" of Arizona land promotions, headed the company, which was sued by the Arizona attorney general in 1974 for fraudulent sale of land.

Warren is now serving a 62-year prison sentence. His four top aides were indicted but acquitted. Fifteen others, including Ned Warren Jr., are awaiting trial.

Actor Cesar Romero lent his name to Consolidated's operation and later testified that he was paid $1,000 a month for his promotional effort. His picture appeared on the cover of Consolidated's brochure.

"When we got here, we saw how so many of the lots flooded out," said Mrs. Audrey Mathivet, 66, who moved to Verde Lakes with her husband, Norman, in 1973.

"We saw one family watch as their trailer sank into the creek as it swelled."

She said she and her husband paid $3,500 for their land. "I haven't sold it so far because I wouldn't want to sell someone a piece of property the way Consolidated did," she said.

More than 8,600 people have bought land at Cochiti Lake, a development near Santa Fe, N.M., that was promoted by Great Western Cities, Inc., a subsidiary of Great Western United Corp.

In January, 1977, the Federal Trade Commission ordered the corporation to refund $4 million to persons who bought land there and in two other developments.

In addition, the company signed an agreement to spend $8 million on capital improvements by 1980 and another $8 million by 1985 to build roads, provide gas and sewage facilities, and construct recreational facilities.

The FTC also ordered the company to include this statement in all its advertising: "You should consider the value of our land to be uncertain. Do not count on an increase in value."

Justus C. Gilfillan, the company's board chairman, told The Tribune that Great Western has mailed reimbursement checks to 15,000 purchasers since the FTC order was issued.

Great Western is also facing a class action lawsuit brought on behalf of all those who bought land at Cochiti Lake.

Harold Breen, one of the attorneys who brought the suit, estimated that the company received about $40 million from Cochiti Lake land sales. The suit asks $45 million in damages.

Kenneth Myers, 67, a retired radio-TV repairman from De Kalb, bought a lot at Cochiti Lake in 1971. Four years later, when he retired to move there, he traded the lot in on another one on which a house had been built.

"They promised free access to the lake, but it costs $25 a year to put a boat on the lake, or $1 each time," he said. "We were told there would be a shopping center, but it wound up being just a convenience center."

"The plumbing is poorly insulated. The first winter the plumbing froze a couple of times, but that's fixed now. We're not miserable, but it's a hassle."

Alex Mashko, 62, of 6425 N. Damen Av., bought a Cochiti Lake lot in 1972 while honeymooning in New Mexico with his wife, Frieda, now 59. They later built a $27,500 retirement home there.

"If they followed through on those claims of a shopping center, hospital, a regular community in itself, the place could still take off like a skyrocket," said Mashko, who retired from the Postal Service about 2 years ago.

"But it's been a disaster. Right now, who the hell wants to buy out there? We rented

the place for a while, but for the last year and a half there's been no one living there. That damn lot isn't worth $100."

His wife has breast cancer, Mashko said, and Cochiti Lake is 50 miles from the nearest medical center. "That's just too far to go," he said.

Tom Neal, who worked as a salesman for Cochiti Lake lots, said that most of the salesmen believed in the development they were selling.

"I did; I bought a lot for $4,400," he said. "But it all ended when the salesmen started seeing the truth become fiction."

Rio Rancho Estates is another New Mexico development, near Albuquerque. The American Realty and Petroleum Corp. sold 77,000 homesites there to 45,000 persons for about $170 million.

In January, 1977, four executives of the company were convicted in U.S. District Court in New York on land-fraud charges and were sentenced to six months in jail. The company was fined $5,000.

According to the government, the company bought the land for $178 an acre and sold it for up to $11,800 an acre. Prosecutors said that three of the executives drew salaries of $90,000 to $135,000 annually and made killings on company stock, buying shares for 2 cents each and selling them for $60 when the stock peaked in 1969.

The core area of Rio Rancho consists of ranch houses on well-manicured lawns, a few parks, and a swimming pool. Beyond that are some cheap-looking frame houses and, farther out, nothing but barren, overgrazed land.

John Fanning, 60, bought two lots in the "outback" of Rio Ranchio, sight unseen, at a promotional dinner in New Jersey in 1971.

"I bought as an investment for my retirement," he said. "At the dinner, they showed you the green grass and the golf course and swimming pool. They give you the idea that's the way the whole area is going to look."

Fanning later bought a resale home in the core area for $27,500, but he has been unable to sell the two distant lots.

"They talked about the investment value of the land," he said. "Well, I think the cash value of the land I paid $6,200 for is about $1,800. I'm getting by, but I sure could use that money."

Rio Rancho officials declined to answer questions from The Tribune about the land sales.

Joseph Canepa, an assistant attorney general for New Mexico, said some people paid $15,000 for land from another company that the firm had bought for $12 an acre.

"They were told the area was mushrooming and it was a good investment," he said. "But they will be long gone before that land ever increases in value. We have an expert who is going to testify in one suit that the land won't be developed until the year 3000 if it continues at the same rate."

REPORTER LEARNS PITCH WITH A LAND SALES FIRM

Howard Goldstone, an official of Palm Coast, Inc., was instructing the trainee salesman in Park Ridge on the do's and don't's of selling land in Florida for the company.

"Stay away from the word investment," he said. "In fact, don't use it."

Palm Coast, a subsidiary of the International Telephone and Telegraph Corp., has special reason to be leery of the word.

In 1976, the company signed a consent order agreeing to discontinue several sales tactics that the Federal Trade Commission said Palm Coast salesmen had been using to mislead the public. Among them was the suggestion that purchase of Palm Coast land was a good investment.

The Palm Coast development is halfway between Daytona Beach and St. Augustine and just inland from Florida's east coast. Several inland waterways and small lakes are part of the development, which has 2,000 homesites and is scheduled for completion in 1983.

The "trainee," Tribune reporter John Gorman, learned during five days of work with the company that the policy stated by Goldstone doesn't necessarily correspond with the tactics of the firm's salesmen.

One day Gorman heard salesman Sidney Adelson tell a customer over the phone: "As more and more people move in, the value of the land, of course, increases, and with a big company like this [ITT] backing it, it encourages people to move in."

The FTC order forbids any representation that ITT is legally responsible for the debts of Palm Coast.

Later in the training a sales manager, Marshall Kerman, instructed Gorman on what to say to customers. As his pen glided across the map of Palm Coast, Kerman said, as though addressing a prospect: "See this waterfront property here? That property was going for $5,000 five years ago; now that goes for $25,000."

Later, Gorman identified himself as a Tribune reporter and asked Palm Coast officials about the salesmen's tactics.

Larry Kaghan, regional sales manager [his brother, Ron, is district manager], acknowledged that the language used by Adelson and Kerman would constitute a violation of the FTC order.

While working as a trainee, Gorman accompanied Kerman as he tried unsuccessfully to sell land to an elderly couple in Wheeling. Although the FTC order requires that salesmen show prospective customers copies of property reports from the State of Illinois or the U.S. Department of Housing and Urban Development, Kerman did not produce such reports.

When asked about this later, Kaghan said each salesman chooses his own time for introducing the reports. If the Wheeling couple had agreed to buy, he said, the property reports would have been produced before they signed a contract.

HOW TO COMPLAIN

A person who believes he is the victim of a land-fraud scheme can address his complaint to offices in both the state and federal governments in an effort to obtain redress.

At the state level, complaints should be sent to the attorney general's office. [The Chicago address is 160 N. La Salle St., Chicago 60601.] The federal agency that handles such complaints is the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, Washington, D.C. 20411.

EXECS WHO STAY AROUND—AND IN HARNESS

(By Ray Moseley)

Some of the biggest names in Chicago business have embarked on new careers after leaving their corporate office suites.

Sidelined by retirement, the former executives have signed up for a voluntary effort to help some of the city's charitable agencies through the newly formed Executive Service Corps of Chicago.

The corps was formally organized in August with Robert Brooker, 73, retired chief executive officer of Marcor, Inc., as chairman. It has offices at 208 S. La Salle St.

The corps represents a growing trend in America. Thousands of persons who have retired from work and do not need a paying job are volunteering services to their communities.

Not all are high-powered executives, either. A lot of ordinary people give their time to a variety of efforts, from child care to visiting patients in nursing homes.

A national survey has shown that about 22 per cent of older Americans—4.8 million people—are involved in volunteer service and another 10 per cent are interested in joining in. In the last year, volunteer service by the elderly in Chicago-area organizations has increased 86 per cent.

"We decided to establish the Executive Service Corps because we have so many projects in the city that go begging for help," Brooker said in an interview.

The Chicago effort is an outgrowth of the International Executive Corps, which sends retired American executives to Third World countries to make their expertise available to businesses.

A year ago, the Edna McConnell Clark Foundation of New York financed establishment of a National Executive Service Corps patterned on the international program.

The National Corps enlisted Brooker's help in finding projects in Chicago. A steering committee was set up to review the prospects and then decided to form an independent corps here, with financial support from the Chicago Community Trust.

"This program will demonstrate to the community the tremendous resource we have in the older population," said Norma Wisor, assistant director of the trust.

Among the people working with Brooker are Joseph Block, former chairman of Inland Steel; Joann Rasmussen, wife of Arthur Rasmussen, former chairman of Household Finance Corp.; Clinton E. Frank, former owner of an advertising agency; and Kenneth V. Zwiener, retired chairman of Harris Bank and Trust Co. and past chairman of the Northwestern University board of trustees.

The Executive Service Corps should help to answer a criticism frequently directed at charitable agencies—that they attract many public-spirited people but few with managerial ability.

"The agencies don't have the kind of talent we think we can get," Brooker said. "It is not our intention to run any of these charities. The services we will provide are consulting and advisory."

For example, Goodwill Industries has no program to train its workers to repair items that are donated to the organization. The Service Corps intends to set up such a training program.

Metro HELP, an organization that serves as a conduit between runaways and their families, has a problem retrieving information to pass on to runaways when they call. The Service Corps has data-processing technicians who will try to help.

Each project the corps undertakes is expected to last 60 to 90 days. Volunteers will be reimbursed for their expenses in some cases but will receive no other compensation.

Brooker said he hopes to attract 600 to 900 retired executives as volunteers and to keep 30 to 40 busy at a time. A similar group started recently in Indianapolis, called the Society of Retired Executives, has almost 300 volunteers.

"We need specialists—people in data processing, industrial engineering, personnel, some legal talent, credit people," Brooker said.

"There is a tremendous amount of talent out there. I don't think anyone knows how much. Most of them don't have much to do but play golf."

Brooker, who worked with the International Executive Corps in Taiwan and Indonesia after his retirement in 1970, said volunteer efforts can give retirees a sense of achievement, "a spark of life."

"That's my theory of retirement—keep busy," he said. "It keeps the juices going. But I get a little static at home from time to time about keeping too busy."

[From the Chicago Tribune, Oct. 7, 1978]

IN INCOMPETENCY HEARINGS, YOU NEEDN'T BE THERE TO LOSE

Nature abhors the old, and old age seems the only disease; all others run into this one.—Ralph Waldo Emerson.

In the 4th century B.C., the sons of the Greek dramatist Sophocles decided the old man had become dotty because he insisted on writing plays instead of tending to business matters.

The sons went to court in an attempt to have him declared an imbecile and to have the management of his property transferred to them.

Sophocles appeared before the jury, read his latest work, "Oedipus at Colonus," and asked whether it seemed the work of an imbecile. The jury found in his favor.

In the United States, he might never have had the chance to appear in court. The laws of most states permit a court to declare an elderly person mentally incompetent without his being present or even represented by an attorney.

Once such a judgment is issued, the elderly person loses his power to sue, to charge a purchase, to sign a contract, to deed property, to marry or divorce, to open a bank account, and to vote.

His house can be sold by a court-appointed guardian or conservator without his knowledge or consent.

"The penalty can be much more severe than the penalty for murder," said Dean Jost, an attorney in Chicago's Uptown neighborhood for the Legal Assistance Foundation of Chicago, who has dealt with many cases in which elderly persons have been declared incompetent.

The Tribune Task Force examined the problems of elderly persons with mental illness as part of a six-month investigation of old age in America.

The laws under which people can be found incompetent represent just one example of the discrimination and hardship that society imposes on the elderly who are mentally ill.

Medicare's laws also discriminate against those suffering from mental illness, and in recent years state governments have taken thousands of mental patients out of state hospitals and put them in nursing and boarding homes to shift the cost of their care to the federal government.

Other old persons may suffer because some doctors mistakenly diagnose a variety of health problems as senility and fail to give them proper treatment.

Experts estimate that 3 million to 4 million of America's 23 million old people have significant mental problems. According to this estimate, two of every three persons who have such problems are not receiving any mental health care.

The likelihood of mental illness tends to increase with age because of the psychological strains that may come with retirement from productive work, loss of income, loss of spouse, departure of children, and increased physical impairments.

The elderly account for 25 per cent of the suicides in the United States, although they constitute only 11 per cent of the population. The highest suicide rates occur among white males in their 80s.

In seeking to protect the mentally incompetent, state laws provide for appointment of guardians, who have responsibility for personal welfare of the individual, or of conservators, whose responsibility is for person's finances.

Such laws are considered necessary to help mentally impaired old people to make decisions in personal matters and to avoid their being victimized by the unscrupulous.

But many legal authorities believe the laws are too sweeping and do not provide enough safeguards of individual rights

"The protective service law is a two-headed creature, part Santa Claus and part ogre," two legal experts wrote in a study prepared last year for the Senate Committee on Aging.

Illinois recently reformed its laws to give greater protection to the rights of the mentally ill.

Under bills signed by Gov. Thompson on Sept. 5, a person cannot be found incompetent by a court until the judge has first appointed a temporary guardian to look into the case.

The temporary guaradian must present recommendations on whether the person should retain all control over his affairs, partial control, or none.

"This will allow the person to retain his dignity as well as have his rights protected," said Jerome Goldberg, who served as executive director of the Governor's Commission for Revision of the Mental Health Code.

But it remains to be seen, he said, whether the temporary guardian "will be a real guardian or one in name only."

Illinois is one of only eight states that have enacted such reform legislation, according to a spokesman for the American Bar Association. The others are California, Idaho, Kentucky, Maine, North Carolina, Texas, and Washington.

In most other states, the proceedings in such cases are usually a mere formality. Often, the family of the old person initiates the action by asking the family doctor to certify that the person is mentally incompetent.

The person whose competence is questioned may be given as little as three days' notice of the legal proceedings and often does not appear in court or have legal representation, according to John Lamb, co-director of the Mental Disability Legal Resource Center of the bar association.

The Doctor who has pronounced someone incompetent does not have to appear in court. In most cases, only those seeking to have an old person ruled legally incompetent are present, and the judge enters a judgment in default.

The bar association is preparing model legislation designed to put safeguards in such proceedings.

"People tend to be overprotective of old people," said Karen Lewis, a paralegal aide with the Senior Legal Air project at the University of Southern California.

"They want to put them in a nursing home and take away all of their rights just because they may not be able to totally handle all of their affairs."

Lewis told of an elderly woman in California who had gone into a nursing home after a fall in a bathtub. Then her daughter died, and the elderly woman lapsed into depression.

A state guardian was appointed. After a few years, the woman recovered. She was running errands for the nursing home and helping with other patients, but still she was without any legal rights.

The state guardian agreed to go to court with Legal Aid on her behalf, and her rights were restored.

In another California case, a young woman had been appointed guardian of her father. The state welfare department charged she was siphoning off his money through such devices as billing the estate for $100 worth of groceries and delivering only $30 worth to her father.

Legal Aid went to court and got the guardianship switched to a niece, but it took six months to get a hearing.

"Many times, the person involved dies before a problem gets a hearing," said Gary Rowse, project director of the Senior Citizens Legal Service at the University of Southern California. "It is bad for everyone, and the confusion and strain on the elderly person are probably harmful."

Prof. John J. Regan of the University of Maryland Law School and Georgia Springer, staff attorney for the National Council of Senior Citizens, have proposed changes in the laws on guardianship and civil commitment to give more protection to old people.

Except in emergencies, they suggest, courts should be required to order that the elderly person be screened by a psychiatrist and social worker to determine the most appropriate kind of assistance.

They also recommend that the elderly person be assured the right to be present in court, to be represented by a lawyer, and to cross-examine witnesses.

Another problem area for the old who are mentally ill involves Medicare, the federal health insurance program for the elderly.

An elderly person may receive hospital care for physical ailments as often as necessary, provided there is a 60-day break between hospital stays. But there is a lifetime limit of 190 days of coverage for treatment in a psychiatric hospital.

An old person with a physical ailment pays an initial deductible fee on doctor's bills, and Medicare covers 80 per cent of reasonable bills after that. But a mental patient, after paying the deductible, gets coverage for only 50 per cent of his bills, up to a limit of only $250.

"This is blatant discrimination against the mentally ill, and it was written into law by the U.S. Congress," said Hilda Robbins, president of the National Association for Mental Health.

The U.S. Civil Rights Commission, in a report on discrimination against the elderly in federally supported programs, said, "The area of mental health services represents one of the most glaring examples of discrimination on the basis of age."

The commission studied 328 community health centers. It found that people over 65 constituted 9.9 per cent of the populations served by the centers but only 4.1 per cent of the patients.

An additional finding was the that centers devoted only 5 per cent of staff hours to consultation with agencies that serve older persons.

"One result is that older persons do not have an opportunity to learn what preventive measures they can take to maintain good mental health," the commission said.

A further problem for the elderly mentally ill has been the "dumping" of patients from state hospitals into nursing and boarding homes, where psychiatric services are rarely available.

The reason is financial: It costs about $21,000 a year in state money to keep a patient in a mental hospital. In nursing and boarding homes, the federal government picks up the bill for the elderly under the Supplementary Security Income program, at an average cost of about $2,000 a year.

The number of patients in state hospitals has dropped more than 62 per cent in the last nine years. In Illinois, the percentage of elderly in state hospitals has declined 87 per cent, with an estimated 13,000 residents having been moved into Chicago's Uptown area, where nursing and boarding homes proliferate.

Dr. Jack Weinberg, director of the Illinois State Psychiatric Institute and past president of the American Psychiatric Association, said the dumping of mental patients into nursing homes is "devastating," both for them and for the mentally healthy patients already in the homes.

"In mental hospitals, we didn't provide enough money, so they became snake pits," he said. "Then we send the mentally ill into the community, and again we do not provide enough money. The guilt is all of ours."

Weinberg said one of the strains that may help induce mental illness in the elderly is that they are "a people without a future."

"It's subversive to the American way of life," he said. "In our society, we value the future more than anything else. The elderly can't enjoy retirement because they are planning for the future, and it's bleak. The hope for a better tomorrow is a mirage in the twilight of life."

Society must get away from "the stereotype that the elderly are useless," Weinberg said, and the elderly individual must do a

great deal himself to maintain his mental health.

"The secret of mental health is to have a multiplicity of sources of gratification—work, an interest in the community, recreation, education, church, and the family," he said.

Another problem of the elderly was highlighted recently by a group of medical experts who spoke at a National Institute of Health conference on treatable diseases of the elderly.

They said that 300,000 to 600,000 elderly persons who show symptoms of brain failure have been mistakenly labeled "senile" and often go untreated in nursing homes and mental hospitals.

These experts said a number of treatable physical diseases are often undiagnosed and can cause temporary brain dysfunction, giving the appearance of senility.

Such ailments include heart disease, strokes, certain infections, anemia, nerve disease, brain tumors, kidney or liver failure, diabetes, nutritional deficiencies, reactions to tranquilizers and other drugs, and alcoholism.

"The failure to treat and diagnose reversible brain syndromes is widespread," said Dr. Robert N. Butler, director of the National Institute on Aging.

President Carter's Commission on Mental Health has estimated that 20 to 30 per cent of those diagnosed as senile have conditions that are preventable or reversible if treated early.

WHERE ELDERLY CAN GET INVOLVED

When an elderly person suddenly finds himself widowed or retired, time may begin to drag and loneliness to set in. A number of agencies have devised programs to relieve the tedium. Following is a list of some of the agencies in the Chicago area that have volunteer programs for the elderly to join:

Bensenville Home Society Retired Senior Volunteer Program [RSVP], 331 S. York Rd., Bensenville 60106 [766–5800]; contact Rose Cummings. The Bensenville Home offers seniors a wide range of programs including community health, museum projects, and day-care services.

Community Development and Economic Development Association of Cook County, 600 S. Michigan Ave., Chicago 60605 [922 9158]. Offers foster grandparent and senior nutrition programs, among others.

Executive Service Corps, 208 S. La Salle St., Chicago 60604 [372–3356]. An organization of retired executives offering advice to charitable and nonprofit agencies.

Hull House RSVP, 3179 N. Broadway, Chicago 60657 [348–8330]. Offers seniors involvement in a wide range of neighborhood, community health, daycare, and other programs of public service.

SCORE [Service Corps of Retired Executives], a branch of the Small Business Administration, 219 S. Dearborn St., Chicago 60604. A group of retired executives who offer advice and counsel to fledging businessmen. Other offices in Illinois include Granite City, Peoria, Marion, Decatur, and [soon] in Rock Island County.

Senior Companions, 223 W. Jackson Blvd., Chicago 60606 [341–1400]. Offers a two-week course to train suburban elderly poor to visit shut-ins in the Chicago suburbs. There is a small salary for these positions.

Volunteer programs also exist at most hospitals, where the elderly can provide patient services including reading, writing letters, running errands, and making phone calls.

[From the Chicago Tribune, Oct. 11, 1978]

GROWING OLD IN AMERICA

Our 14-day Task Force series captioned "Growing Old in America," is concluded, but not forgotten. Sen. Percy [R. Ill.], for example, has urged Sen. Frank Church [D., Idaho], chairman of the Senate Special Committee on Aging, to conduct Senate hearings on topics developed in the Tribune series. "I urge the committee to carefully analyze the Chicago Tribune series," Sen. Percy said. "The information contained in the articles will be invaluable to the committee as we continue to investigate these issues."

"Growing old in America" has been one of the most ambitious projects of our Task Force. Reporters worked on it over a period of many months, and we reserved page-one space for the series throughout two weeks, no matter how weighty or numerous were the major stories competing for front page attention. Our team dug into many dimensions of being old here and now, from life in nursing homes to real estate deals in the Sun Belt. Those of our readers who were not in a position to recognize some of their own problems knew that they were reading about what they may be facing in the future. The project constituted a great opportunity for stimulating and satisfying reader interest, and our Task Force improved the opportunity most ably.

One theme unifying several stories in the series was having to leave one's own home against one's will—forced out not only by poor health but by inflation, crime, inadequate home-help services. Even predatory home repair men contribute to shortening people's ability to remain in their own homes. The old saying "Be it ever so humble, there's no place like home" is especially applicable to the elderly, who are almost always happier in their own familiar quarters than they can be anywhere else.

Of course physical and mental debility requires many aged people to end their days in institutions. Nursing homes meet an essential need. Excellent ones meet it very well—if also at a very high price. But the callous indifference of many nursing home managements towards their residents is a perennial scandal. The Tribune has told this story before now, and probably will be telling it again.

It is most important to structure services so that goodwill and money reenforce each other. When altruism and profit compete, profit often wins.

The Senate Special Committee on Aging should give particular attention to government-financed home-help services, for many persons a practical alternative to more expensive government-financed institutional care, often in miserable conditions. And all tax-supported services should be on guard against the unscrupulous greedy, who are sure to seize every opportunity given them.

People who are or who hope to be elderly [that is, just about everyone] should remember some of the lessons of our "Growing old in America" series. Healthful living and a prudent attitude towards salesmen can spare many of us vast avoidable trouble and grief.

O'HARE AREA RESIDENTS NEED THE AIRPORT NOISE REDUCTION ACT OF 1978

Mr. PERCY. Mr. President, I fully support S. 3279, the Aircraft and Airport Noise Reduction Act of 1978. Airplane noise is the No. 1 issue to tens of thousands of my constituents. Those constituents live with the once-every-60-seconds din of jet aircraft arriving and departing Chicago's O'Hare International Airport, the world's businest commercial airport. The bulk of these constituents spend less than 10 hours per year in an airplane. But they spend every waking hour and many restless sleeping hours the whine of jet engines.

No one can say for certain how deleterious the short and long range health effects of excessive noise are. But no one can deny that jet noise is annoying, obnoxious, and at times, painful.

Of course, the only airplane noise the vast majority of my constituents hears is the whisper of a jet already halfway across the sky. For some of my colleagues, almost all their constituents fall into this category. But citizens all across my State and every other State use the air transport system. The aircraft noise problem therefore belongs to all of us. It is up to all of us to take steps to solve it.

The biggest step was the one taken by the Federal Aviation Agency last year to mandate fleetwide compliance with airplane noise standards by 1985. Quieting noise from the source is a very effective way to ameliorate noise problems.

This bill takes some steps to help the airlines comply with these noise regulations. Cutting the ticket tax by 2 percent leaves airlines the option of raising air fare by 2 percent—thereby keeping ticket prices steady, and using this extra revenue to finance noise abatement improvements. However, I am hopeful that airlines will reduce their fares by 2 percent and use the increased profits generated by lower fares to finance quieter aircraft.

The 2 percent tax reduction has merit in its own right, as well as in its effect on noise abatement. If it does indeed result in lower air fares, it will be anti-inflationary, and it will make transportation available to some people who may not have been able to afford it before.

There are other important parts of the bill on which I base my support.

Title I provides funds for planning and implementing programs to improve compatibility between airplane noise and the uses of land around airports. These funds are only available to airports and airport area towns who volunteer to get together and commit themselves to solving their noise problems.

Once the commitment is made, though, funds are available to study and implement a whole range of noise control projects ranging from preferential runway systems to soundproofing buildings, to actual acquisition of noise-impacted property. With the funds as an incentive, I look to the implementation of aggressive noise compatibility programs across the country.

Title I also instructs the Secretary of Transportation to establish a sorely needed uniform system of measuring noise and noise impact. The kind of confusion that now characterizes noise control programs should cease.

Mr. President, the millions of Americans whose lives have been disrupted and hearing impaired by aircraft noise need this bill. I support the Aircraft and Airport Noise Reduction Act of 1978, and I hope we can pass it, confer on it, and get it into law before we go home.

S. 3279, THE AIRCRAFT AND AIRPORT NOISE REDUCTION ACT

Mr. PERCY. Mr. President, I am offering four amendments to the Aircraft and Airport Noise Reduction Act of 1978. I

urge my colleagues to support these amendments.

Section 102 of this bill gives to the Secretary of Transportation the responsibility to "identify land uses which are normally compatible with various impacts of noise on individuals." Section 304 gives to the same Secretary the authority to grant extensions and waivers from airplane noise regulations "as he determines reasonable." Both these sections conflict with earlier legislation giving this kind of responsibility and authority to the administrator of the Environmental Protection Agency.

The Noise Control Act of 1972 gives the EPA the responsibility to determine "levels of environmental noise in defined areas requisite to protect the public health and welfare." The same bill also amended the Federal Aviation Act of 1958 such that the FAA may not grant exemptions from noise regulations without first consulting the EPA.

The reasons we vested such authority in the EPA are as valid today as they were in 1972. EPA's primary function is to protect the public health and welfare from pollution, including noise pollution. The characteristics of airplane noise are not all that different from other kinds of noise. If the EPA has found that specified levels of noise at places where specified activities occur are dangerous, then those levels should apply to airplane noise. Public health and welfare should be the first word in airplane noise standards.

Therefore, I am offering this first amendment to guarantee the EPA its proper role in the setting and enforcing of airplane noise standards. The first part of this amendment directs the FAA to give presumption to EPA noise standards when it, the FAA, establishes noise compatibility levels. The second part of the amendment instructs the Secretary of Transportation to consult with the administrator of the EPA before granting any waivers.

It should be noted that this amendment does not give primary responsibility for setting and enforcing airplane noise standards to the EPA. Safety and other considerations dictate that the Secretary of Transportation have the final word on noise compatibility standards and on waivers. But he should not have sole authority. Under this amendment, he must start with EPA standards and consult with them on waivers. The final decisions, though, are up to him.

The second amendment is intended to guarantee that airports and airport area towns consider the option of using the grant money included in this bill to soundproof individual residences and apartment buildings. Too often, Federal money only goes for big projects. I would like to see some of this money going to the homeowner whose walls shake and windows rattle every time a plane goes over. Without explicit statement, I am afraid these grants would never filter down to the homeowner or apartment dweller. Therefore I suggest that number three in the list of projects qualifying for grant money in section 104(a) be amended to read "the construction of barriers and acoustical shielding, including the soundproofing of single-family residences, apartment buildings, and other buildings."

The third amendment deletes section 107. That section prohibits a new property owner from recovering for noise damages unless that person can prove to the court that noise got significantly worse after he purchased his property. In the first place, I do not believe it is the business of the Federal Government to legislate who can or cannot sue in civil court. I believe this section is unconstitutional and will be thrown out by the courts later if we do not delete it now.

This section was intended to protect airports from time-consuming and expensive lawsuits by people who, some contend, should have known better than to move in, in the first place. But many new property owners do not know better. Real estate agents have been known to investigate airport operations and show houses under one landing pattern only when another one is in use. Examples of other deceptive and borderline fraudulent practices are on file. The Federal Government should not deny the new property owner thus abused his right to protect himself. The lawsuit remedy is difficult enough as it is. Section 107 should be deleted.

The fourth amendment substitutes a study with broader dimensions for the study that is now called for in section 108. The Federal Interagency Aviation Noise Research Panel recommended in March of this year, the following:

If the postulated near-term and longer-range national aviation noise abatement goals are to be achieved circa 1985 and 2000, respectively, they will not likely be achieved merely by projected individual aircraft compliance with FAR 36 Stage 2 and Stage 3 levels, nor by additional improvements in source noise reductions affecting only a limited number of aircraft making up the total fleet. Instead, noise goal achievement will require the exercise of all four noise control options (source, path, airport operations and compatible land use), ideally in an optimal systems sense, so that maximum benefits can be achieved soonest with lowest costs. Systems studies are strongly endorsed, since these can explore the nature of optimal solutions considering a range of scenarios and variables. Such studies are important for future agency planning of noise abatement RT & D as well as future regulatory and implementation requirements, and to place the relative roles and importance of the four noise control options in better perspective.

This fourth amendment calls for such a study.

It instructs the Secretary of Transportation to look at all the factors involved in increasing compatibility between airport noise and land use around airports. It directs the Secretary to look toward a goal of full compatibility by January 1, 2000. And it asks him to weigh all these factors, and determine the combination that will bring us as close to the goal as is feasible, at the minimum cost to the whole system.

Since that minimum cost will entail some cost, this amendment also asks the Secretary of Transportation to determine the most efficient and effective means for obtaining the funds necessary to achieve maximum feasible compatibility.

Based on these determinations, the Secretary will make recommendations to the Congress. As the Interagency Noise Panel said, these recommendations will me invaluable in plotting the course of future airplane noise control actions.

In order to keep this study from turning out over-general this amendment requests the Secretary to report back by July with the dimensions of the study. In that way, we will see what we are getting. If it seems unfocused, we can ask the Secretary to direct the study toward more specific questions.

I urge the floor managers of this bill, and the rest of my colleagues, to accept these amendments.

Mr. President, I ask unanimous consent that the text of these amendments be printed in the RECORD at this point.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

On page 2, after line 25, insert the following:

Such regulations shall be compatible with the standards established by such Administrator for measuring and rating the impact of environmental noises in general, except in cases where the Secretary determines that safety issues or other special characteristics of aircraft noise require measurement or rating in a different manner.

On page 16, line 15, after the word "Secretary," insert the following: ", after consulting with the Administrator,."

On page 6, line 20, after the word "of", insert the following: "single family residences, apartment buildings, and other".

On page 11, beginning with line 20, delete all through line 7 on page 12.

On page 12, line 8, strike out all in such line through line 20, and insert in lieu thereof, the following:

SEC. 108. (a) The Secretary shall study the means available for achieving maximum feasible airport noise—land use compatibility, as defined in section 102(3), toward a goal of full compatibility by January 1, 2000, including, but not limited to—

(1) reductions in airport noise impact as a result of more stringent aircraft noise regulations and aircraft operating procedures; night time and early morning curfews; airport design and airport instrumentation changes; diversion of traffic from primary to secondary and satellite airports; accelerated development of more efficient and quieter aircraft powerplants; and

(2) changes in land use by means of acoustic insulation of buildings, changes in the zoning of undeveloped land, changes in the use of developed land, or by any other acceptable means.

Such study shall determine the combination of means which will achieve maximum feasible compatibility at minimum cost.

(b) The Secretary shall also determine the most efficient and effective means for obtaining funds for achieving such maximum feasible compatibility.

(c) Not later than July 1, 1979, the Secretary shall submit to Congress an interim progress memorandum detailing how such study will be carried out.

(d) Not later than January 1, 1980, the Secretary shall submit to Congress a report setting forth the determinations made pursuant to such study together with recommendations for legislation required to implement programs designed to achieve maximum feasible compatibility toward a goal of full compatibility by January 1, 2000.

HEW DEFIES CONGRESS IN PROPOSED WELFARE GIVEAWAY TO ILLEGAL ALIENS

Mr. PERCY. Mr. President, on February 23, 1978, I introduced an amendment to H.R. 7200—a bill which has not been scheduled for floor action—to reduce welfare abuses by newly arrived aliens. Reports from across the country indicate that it is not uncommon for aliens to begin collecting welfare payments after being in the country for only 30 days. I remain very concerned about this practice, which last year cost taxpayers nearly $80 million.

Now, a proposal which presents an even greater opportunity for abuse of our welfare system has been offered by the Department of Health, Education, and Welfare. The May 6, 1978 Federal Register contains notification of a proposed rulemaking by HEW's Social Security Administration. The regulation provides that "aliens who have continuously resided in the United States since before January 1, 1970, will be presumed to be permanently residing in the United States under color of law."

This new regulation would effectively allow illegal aliens to collect Supplemental Security Income (SSI) benefits—payments intended for the aged, blind, and disabled.

The notification of proposed rulemaking goes on to note that this regulation constitutes a change in policy. In fact, it is much more than that. This rule change amounts to a reversal in policy in blatant disregard of congressional intent.

Congress has been clear in stating its definition of the term "under color of law": the applicable Senate Finance Committee report states clearly that this term applies to aliens who entered the United States before July 1948, not January 1970 (Senate Report No. 92–1230, p. 466). At no time has Congress, through legislation or in committee reports, indicated any intention of modifying this stand. In fact, Congress this year declined to take action to change this date by not taking action on S. 2252, President Carter's proposal to grant permanent resident status to those who have entered the country before 1970.

Therefore, in proposing these regulations, it appears that HEW is attempting to provide welfare benefits by administrative flat. Congress has been unwilling to pass legislation on the broader question of whether persons who entered the United States illegally in the past ought not to be deemed legal and thus eligible for all kinds of privileges and benefits, among them SSI benefits. Yet HEW is trying the "backdoor" approach to implement policies contrary to the intent of Congress as previously expressed, and to what would appear to be Congress present intent in declining to take up the highly controversial—and in my view highly unwise—Carter proposal.

I believe the proposed rule change is contrary to the public interest, and yet another "rip off" of American taxpayers, already the victims of widespread welfare abuse. For that reason, together with my highly distinguished colleague Senator EASTLAND, the chairman of the Judiciary Committee which oversees immigration matters, I have written a letter to HEW Secretary Joseph Califano protesting this proposed rule. Both Senator EASTLAND and I feel that this issue is for Congress to decide, and that by proposing the new rule, HEW has once again overstepped its bounds—this time in a manner that flies in the face of policy that Congress set down years ago.

I ask unanimous consent to submit for the RECORD the letter Senator EASTLAND and I sent to Secretary Califano on this subject, along with a copy of the review done for me by the American Law Division of the Library of Congress on the interpretation of the key phrase determining eligibility, namely "under color of law". That memo concludes:

DHEW's proposed modification of these regulations would appear, in light of the above legislative history, to be overinclusive; that is, it would make presumptively eligible not only those who entered the U.S. prior to July 1948, and who have been given certificates of lawful admission but also those who can demonstrate continuous residence in the U.S. since before January 1, 1970. There would appear to be no warrant in the legislative history of the phrase in question to include the latter category.

In addition, I would like to submit a letter from the General Accounting Office to the then-Acting Commissioner of the Social Security Administration, which reaches the same conclusion.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 20, 1978.

Hon. JOSEPH A. CALIFANO, Jr.,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR SECRETARY CALIFANO: On May 16 the Department of Health, Education, and Welfare proposed an amendment to its regulations to allow illegal aliens who entered this country before 1970 to collect welfare benefits under the Supplemental Security Income (SSI) program.

The law creating SSI specifies that its benefits may go to aliens "permanently residing in the United States under color of law." HEW proposes to interpret this phrase to include aliens—even *illegal* aliens—who have lived in this country since January 1, 1970. We are disappointed that HEW is attempting to act without regard to Congressional intent. The phrase "under color of law," on the face of it, makes it clear that the program excludes *illegal* aliens.

The legislative history of the SSI legislation makes it even more clear that Congress intended to exclude illegal aliens. The Senate Finance Committee report notes that benefits would be paid only to people who are "United States citizens or aliens *lawfully admitted* for permanent residence" (Senate Report No. 92–1230, p. 385, emphasis added). The report defines the phrase "under color of law" to cover aliens who entered the United States before July 1948, *not* January 1970 (p. 466).

At roughly the same time, the House of Representatives debated H.R. 16188 (*Congressional Record*, 12 September 1972, pp. 30173–30179). Congressman Pickle introduced an amendment designed to curb welfare benefits from going to illegal aliens. In the debate on the amendment, Congressman McKevitt noted:

"If this amendment does anything it may express the clear intent of this Congress that we think that we should not have HEW requiring the States to pay welfare benefits to illegal aliens."

Congressman Randall agreed, adding:

"Let us adopt this amendment and see whether the people of HEW can continue to go their own way without paying attention to the mandates of Congress."

Congressman Mayne also concurred, saying:

"I am convinced that was not the intent of Congress when it passed the social security law. We did not intend to be providing social security benefits to illegal aliens."

Congressman Pickle himself said:

"Obviously we are all in agreement that we should not pay these benefits to illegal aliens."

The Pickle Amendment and the bill as a whole were adopted by the House.

We are attaching advisory opinions on your proposed regulation, furnished by the American Law Division of the Library of Congress, and by the Human Resources Division of the General Accounting Office. The Library of Congress opinion concludes:

"DHEW's proposed modification of these regulations would appear, in light of the above legislative history, to be overinclusive; that is, it would make presumptively eligible not only those who entered the U.S. prior to July, 1948, and who have been given certificates of lawful admission but also those who can demonstrate continuous residence in the U.S. since before January 1, 1970. There would appear to be no warrant in the legislative history of the phrase in question to include the latter category."

A similar conclusion is reached by the General Accounting Office.

The intent of the 92nd Congress, which enacted the SSI program, thus could not be more self-evident. As for the intent of Congress now, we note that last fall the Administration introduced S. 2252, the "Alien Adjustment and Employment Act." This bill would grant amnesty to illegal aliens who entered the United States before 1970, and have lived here since. These illegal aliens would then be eligible for, among other things, SSI benefits. Congress has so far chosen not to act on this legislation, and there is practically no possibility of its being considered during the remaining months of this Congress.

HEW's proposed regulation notes that the Department will notify the Immigration and Naturalization Service of the illegal aliens' presence in the country for "whatever action it deems necessary." Since the Administration has proposed total amnesty for these aliens, it is hardly likely that INS will "deem necessary" any corrective action at all.

We are especially dismayed that HEW thus appears to be acting in blatant disregard of the intent of Congress. Our Constitutional system requires that policy decisions such as this be decided by Congress, not by bureaucratic decree that flies in the face of what Congress has decided.

HEW's proposal is even more disturbing in view of the fact that the Social Security Administration appears to be engaged in a continuing practice of ignoring Congressional mandates. In April 1977, the Senate Finance Committee released a staff report on the SSI program which found a "pattern of disregard for the law" (p. 74). The report describes six specific policies that are contrary to Congressional intent.

We are also disappointed in the way in which the current proposal was promulgated. The INS estimates that 765,000 aliens would be added to the pool of eligible recipients if they otherwise qualify. Why then was no Economic Impact Statement prepared, in compliance with Executive Orders 11821 and 11949?

When Congress is ready to provide SSI

benefits to illegal aliens, we will do so. In the meantime, HEW's proposal is best rejected.

Sincerely,

JAMES O. EASTLAND,
CHARLES H. PERCY.

THE LIBRARY OF CONGRESS,
Washington, D.C., June 14, 1978.

To: Hon. Charles Percy, Senate Committee on Governmental Affairs.
Attn: Barry Breen.
From: American Law Division.
Subject: Whether DHEW reinterpretation of "Under Color of Law" Is in Accordance with Congressional Intent in SSI Program

This is in response to your inquiry concerning whether the reinterpretation of "under color of law" in the Supplemental Security Income (SSI) program, as proposed by the Department of Health, Education, and Welfare in regulations offered for public comment on May 16, 1978, is in accord with Congressional intent.

The SSI program extends eligibility to any individual who is aged, blind, or disabled, and who

is a resident of the United States, and is either (i) a citizen or (ii) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 1153(a)(7) or section 1182(d)(5) of Title 8). 42 USC 1382c(a)(1)(B).

With respect to how an individual can demonstrate permanent residence in the U.S. "under color of law," regulations presently in effect [1] provide as follows:

§ 416.204 Evidence of permanent residence in the United States under color of law.

(a) *Type of evidence to be submitted.* Evidence that an applicant has been residing permanently under color of law in the United States, as defined in § 416.120 for the purposes of establishing eligibility for supplemental security income payments, shall be of the following character:

(1) INS Form I-94 (Arrival-Departure Record) endorsed "REFUGEE—CONDITIONAL ENTRY," or

(2) INS Form I-94 endorsed to show bearer has been paroled for an indefinite period pursuant to section 212(d)(5) of the Immigration and Nationality Act, or

(3) Documentation in the form of correspondence from the Immigration and Naturalization Service stating the applicant has been granted *indefinite voluntary departure* or an *indefinite stay of deportation.*

(b) *Evidence not available.* If the evidence described in paragraph (a) of this section is not available, the applicant shall state the reason therefor and submit other evidence of probative value.

[39 FR 28627, Aug. 9, 1974]

DHEW now proposes to amend these regulations to include within the category of those permanently resident in the U.S. under color of law those persons who can demonstrate continuous residence in the U.S. since before January 1, 1970. The proposed regulation would add the following as subparagraph (a)(4) of 20 CFR Part 416.204:

(3) . . ., or

(4) Evidence which establishes that the applicant has continuously resided in the United States since before January 1, 1970. Where the applicant establishes permanent residence in the United States under color of law as provided for in this subparagraph (4), and where the applicant meets all other eligibility requirements, the Social Security Administration will notify the Immigration and Naturalization Service of the presence of the applicant in this country. 43 Fed. Reg. 21013 (May 16, 1978)

Footnotes at end of article.

The question is whether this proposed administrative extension of coverage with respect to who is considered to be permanently residing in the U.S. under color of law is consistent with Congressional intent.

The phrase "or otherwise permanently residing in the United States under color of law" was contained in neither the House committee version, the House-passed version, nor the Senate committee version of the bill which authorized the SSI program (H.R. 1). Each of these versions required, as a condition of eligibility for SSI benefits, that individuals be either resident citizens or aliens "lawfully admitted for permanent residence." [2] The above phrase was added by a floor amendment offered by Sen. Chiles and accepted by voice vote during the last day of Senate debate on H.R. 1.[3] A companion amendment offered and accepted simultaneously provided the following definition of the above phrase:

At the end of Part A, Title 5 of the bill, add the following new section:

SEC. —. Meaning of "permanently residing in the United States under color of law"; for the purposes of this act and any provision of the Social Security Act amended by this Act, the term "alien permanently residing in the United States under color of law" shall include an alien refugee who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act.[4]

In the House-Senate conference on the bill, however, this definitional section was deleted and its operative language included as a parenthetical expression after "or otherwise permanently residing in the United States under color of law" in section 1614(a)(1)(B).[5]

Because no objection was offered to Sen. Chiles' amendments on the Senate floor, the only comments that might be illustrative of the amendments' intent were those in support of the amendments by Sen. Chiles and his fellow Senator from Florida, Sen. Gurney. Both Senators articulated the reason as being to assure that Cuban refugees accepted into the United States as political refugees be eligible for SSI benefits and not be inadvertently excluded. Their comments were as follows: [6]

Mr. CHILES. Mr. President, I introduce these two amendments on behalf of my colleague, Mr. GURNEY, and myself. They simply make clear in the bill that it would not detract from the right to benefits of Cuban refugees, of which 12,000 reside in Florida. They are receiving benefits presently under the existing system, but there has been some question as to whether, under this bill, they would be eligible. These amendments would make clear that they are eligible.

The staffs of the distinguished chairman and the ranking minority member of the committee have seen these amendments. If there is no objection, I should like to have them agreed to.

Mr. GURNEY. Mr. President, these amendments which we are introducing at this time are designed to prevent a great and unintended economic hardship being placed upon the people of Dade County, Fla.

I know that the Finance Committee and its distinguished chairman did not intend this result, however, the effect of the limiting language concerning aliens which appears in the next to the last paragraph on page 466 of the committee report does just that.

Florida has about 12,000 refugees from Communist Cuba within its borders who are either over 65 years of age, blind, or disabled. At my request, HEW has provided an estimate that the payments for these individuals are about $18 million per year.

Mr. President, the Cuban refugee program is one of Federal responsibility and the State of Florida should not be required to bear the cost of that commitment alone. The categories of eligibility must, in all fairness, be amended to include these political refugees.

It was the Federal Government that established, under four successive administrations, the policy of opening this country's doors to refugees from Castro's tyranny. This policy was formalized during the preceeding administration by President Johnson's personal actions and by international agreement.

Moreover, under international protocols of general application, the United States has agreed to accord refugees staying in its territory equal treatment. If these amendments are not approved, the State of Florida, and Dade County will be forced to pay for programs which ought to be supported by the Federal Government. I am sure that this is not what the Members of this body want.

It is clear where the responsibility for these individuals lies and I urge my colleagues to support these two amendments.

Mr. LONG. Mr. President, we have no objection to the Senator's amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc of the Senator from Florida (Mr. CHILES).

The amendments were agreed to en bloc.

Some further illumination can be gleaned by reference to page 466 of the report of the Senate Finance Committee,[6a] to which the remarks of Sen. Gurney make reference. The version of H.R. 1 reported by the House Ways and Means Committee and adopted by the House would have replaced the existing program of Aid to Families with Dependent Children (AFDC) with a new Family Assistance Plan (FAP). As with the Ways and Means Committee and House-passed versions of the SSI program, eligibility for the FAP program would have been limited to U.S. residents who were either citizens or aliens "lawfully admitted for permanent residence." [7] The Senate Finance Committee substituted for the proposed FAP program a Work Opportunity program and a revised AFDC program. Included in the committee's AFDC revisions was a provision limiting eligibility to individuals who were citizens or aliens "lawfully admitted for permanent residence (or otherwise permanently residing in the United States under color of law.)" [8] The committee report explained this provision as being a reaction to a Supreme Court decision [9] holding that the states could not, in light of the absence of any explicit reference to aliens in the Social Security Act, disqualify or otherwise limit the eligibility of aliens for AFDC. According to the committee report, the Court made clear that although Congress has broad power over the terms and conditions of aliens' residence in the U.S., it cannot delegate that power to the individual states. Thus, the committee report explains the above language as an exercise of that power, and describes its intent as follows:

"Under the committee bill . . ., States would be mandated in Federal law to require as a condition of eligibility for the AFDC welfare program under the Social Security Act . . . that an individual be a resident of the United States and either a citizen or alien lawfully admitted for permanent residence or a person who is a permanent resident under color of law (that is, a person who entered the United States before July 1948 and who may be eligible for admission for permanent residence at the discretion of the Attorney General under section 1259 of title 8 of the United States Code).[10]

This is the language to which Sen. Gurney referred as potentially excluding Cuban refugees and which he and Sen. Chiles sought to correct by addition of their amendments.

Thus, it is clear that as proposed for the AFDC program by the Senate Finance Committee, the language "or otherwise perma-

nently residing in the United States under color of law" had a very restrictive meaning, including only those persons who entered the United States before July 1948 and who may be eligible for admission for permanent residence at the discretion of the Attorney General under section 1259 of title 8 of the United States Code.[11]

It is further clear that as amended by the Chiles amendment the phrase took on a broader meaning to include not only the aforementioned category but also political refugees from Cuba, i.e., "any alien lawfully present in the United States as a result of the application of the provisions of section 1153(a)(7) or section 1182(d)(5) of Title 8." Indeed, reference to sections 1153(a)(7) and 1182(d)(5) of Title 8 makes the phrase even more inclusive than Cuban refugees. Section 1153(a)(7), as in effect in 1972, gives the Attorney General authority to issue conditional entries to persons who are fleeing racial, religious, or political persecution in Communist or Communist-dominated countries or in the Middle East, or who have been uprooted by a natural catastrophe. Section 1182(d)(5) gives the Attorney General discretionary authority to temporarily parole into the U.S. aliens who are applying for admission, for "emergent reasons or for reasons deemed strictly in the public interest." Although both of these categories could include Cuban refugees, such refugees would not necessarily be the exclusive beneficiaries.

The Chiles amendment indicates no intent to eliminate from the coverage of the phrase "or otherwise permanently residing in the United States under color of law" the category specified in the Senate Finance Committee report, that is, those who entered the U.S. prior to July, 1948, and who, at the discretion of the Attorney General, have been issued certificates of lawful admission. Neither, on the other hand, do the amendments indicate any intent to broaden the coverage of the phrase beyond the categories specified by reference to Title 8, that is refugees from political, religious, or racial persecution and temporary parolees. Thus, it would appear that the coverage of the phrase "or otherwise permanently residing in the United States under color of law" was intended to be threefold: (1) aliens who entered the U.S. prior to July, 1948, and have been issued certificates of lawful admission by the Attorney General, (2) aliens who have been admitted as refugees from political, religious, or racial persecution, or from natural catastrophes, and (3) aliens who have been temporarily paroled into the U.S.[12]

Consequently, it would appear that DHEW's present regulations interpreting this phraseology (see p. 2) may be underinclusive: that is, they do not appear to presumptively include those who entered the U.S. prior to July, 1948, and who have been given certificates of lawful admission by the Attorney General.[13] On the other hand, DHEW's proposed modification of these regulations would appear, in light of the above legislative history, to be overinclusive; that is, it would make presumptively eligible not only those who entered the U.S. prior to July, 1948, and who have been given certificates of lawful admission but also those who can demonstrate continuous residence in the U.S. since before January 1, 1970. There would appear to be no warrant in the legislative history of the phrase in question to include the latter category. It could, of course, be argued that the language in the Senate Finance Committee report evidences an intent that coverage be extended to those who have long resided in, and have developed extensive ties with, the U.S. That has been said to be the purpose of 8 USC 1259 giving the Attorney General discretionary authority to give certificates of lawful admission to those who entered the U.S. prior to July, 1948.[14] But the specific reference by the Senate Finance Committee to the statute governing the certification of the lawful admission of such aliens would seem to make the extension of that ameliorative category to aliens resident in the U.S. since before January 1, 1970, a matter for legislative action rather than administrative decree.

We hope the above is responsive to your request. If we may be of additional assistance, please call on us.

DAVID M. ACKERMAN,
Legislative Attorney.

FOOTNOTES

[1] 20 CFR Part 416.204.

[2] See H. Rept. No. 92-231 (May 26, 1971) and S. Rept. No. 92-1230 (Sept. 26, 1972), 92nd Congress, 2nd Session.

[3] 118 Cong. Rec. 33959, 92nd Congress, 2nd Session (Oct. 5, 1972).

[4] In the Senate-passed version of H.R. 1, this definition was included as Section 564 of the bill, under the heading "Cuban Refugees."

[5] See H. Conf. Rept. No. 92-1605 (Oct. 14, 1972). The definitional section was numbered as Senate amendment 571, from which the Senate is listed on the first page of the conference report as receding. The conference report makes no further explanation of the language added to section 1614.

[6] 118 Cong. Rec. 33959 (Oct. 5, 1972).

[6a] S. Rept. No. 92-1230 (Sept. 26, 1972).

[7] House of Representatives Bills, 92nd Congress (1971-72), Vol. 1, p. 600, and Vol. 2, p. 367.

[8] House of Representatives Bills, 92nd Congress (1971-72), Vol. 2, p. 735.

[9] *Graham* v. *Richardson*, 403 U.S. 365 (1971).

[10] S. Rept. 92-1230 (Sept. 26, 1972), p. 466.

[11] *Id.*, Section 1259 of Title 8 provides the Attorney General discretionary authority to grant a certificate of lawful admission to aliens who entered the U.S. prior to June 30, 1948, who are otherwise not ineligible to citizenship, and who cannot otherwise establish lawful admission.

[12] This conclusion would seem correct notwithstanding that the Senate Finance Committee's proposed revisions of the AFDC program, in which it first included the phraseology in question and in the report on which it gave the phaseology a restrictive meaning, did not survive the House-Senate conference on H.R. 1. The identical language was added by the first Chiles amendment to the SSI program in full awareness, as made clear in Sen. Gurney's comments, of the restrictive meaning given it by the Senate Finance Committee, and the second Chiles amendment then broadened its meaning in both the AFDC and the SSI programs by reference to two additional categories of aliens. Thus, the subsequent deletion of the pertinent phrase from the AFDC revisions would not seem to affect its meaning in the SSI program.

[13] Subparagraph (b) of 20 CFR Part 416.204 could be taken as covering this category, but given the generality of the language this cannot be certain. They may also be covered as aliens "lawfully admitted for permanent residence."

[14] *Sit Jay Sing.* v. *Nice*, 182 F. Supp. 292 (D.C. Cal., 1960), *aff'd* 287 F. 2nd 561 (9th Cir., 1961).

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., July 31, 1978.

Mr. DONALD I. WORTMAN,
Acting Commissioner of Social Security, Department of Health, Education, and Welfare

DEAR MR. WORTMAN: We have reviewed your notice of proposed rulemaking, Federal Register Volume 43, number 95, Tuesday, May 16, 1978, which liberalizes Supplemental Security Income eligibility requirements for illegal (undocumented) aliens. We believe that the proposed rule is not consistent with congressional intent regarding aliens' eligibility for Supplemental Security Income. Moreover, we believe that any change to the eligibility criteria should be accomplished through legislation rather than the rulemaking process. Therefore, in our opinion, the proposed rule should be withdrawn. Our comments on these matters follow.

ALIENS' ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME CURRENTLY AND UNDER PROPOSED RULE

Section 1614(a) of the Social Security Act as amended (42 U.S.C. 1382c(a)(1)(B)) provides that aliens may be eligible for Supplemental Security Income if they are lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law. Aliens admitted for permanent residence are immigrants who are authorized to stay in the United States indefinitely. Aliens permanently residing in the United States under color of law include those aliens who can prove continuous residence in the United States since before June 30, 1948, and refugees.

The proposed rule would make it easier for undocumented aliens to prove their eligibility for Supplemental Security Income. The rule does this by requiring these aliens to prove continuous residence in the United States since before January 1, 1970, instead of June 30, 1948.

The Social Security Administration indicates that the rule is needed to enable some aliens who are long-term residents of the United States to be eligible for Supplemental Security Income. For example, a number of aliens who were converted from State welfare rolls to the Supplemental Security Income program were subsequently determined ineligible for benefits. They were removed from the rolls because they could not prove they were lawfully admitted or residing in the United States since before June 30, 1948.

PROPOSED RULE PREMATURE IN VIEW OF CURRENT CONGRESSIONAL CONSIDERATION OF ALIEN STATUS

In October 1977, a bill entitled the Alien Adjustment and Employment Act of 1977 (H.R. 9531) was introduced. The bill contained a series of actions "to help markedly reduce the increasing flow of undocumented aliens in this country and to regulate the presence of millions of undocumented aliens already here."

One element of the proposed legislation would, like the proposed rule, enable undocumented aliens who have been in the United States continuously since before January 1, 1970, to be eligible for Supplemental Security Income. The proposed legislation would amend the Immigration and Nationality Act (8 U.S.C. 1259) to authorize granting permanent resident status to undocumented aliens who have resided continuously in the United States since before January 1, 1970. Currently, the Immigration and Nationality Act (8 U.S.C. 1259) authorizes granting of permanent residence to undocumented aliens who have continuously resided in the United States since before June 30, 1948. Aliens who are granted permanent resident status are eligible for federally funded health and welfare benefits.

PROPOSED RULE NOT IN AGREEMENT WITH INTENT OF CONGRESS REGARDING COLOR OF LAW

Based on our review of legislative history as it relates to Supplemental Security Income eligibility, we have concluded that Congress intended color of law to include refugees and undocumented aliens who arrived in the United States before 1948. We believe current Social Security Administration regulations correctly reflect that meaning; and that legislation rather than rulemaking would be needed to include for Supplementary Security Income eligibility purposes under color of law undocumented aliens who arrived as recently as January 1, 1970.

According to section 1614(a) of the Social Security Act the term color of law includes aliens who are lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) (8 U.S.C. 1153(a)(7)) or section 212(d)(5) (8 U.S.C. 1182(d)(5)) of the Immigration and Nationality Act. Section 203(a)(7) includes aliens who enter the United States conditionally as refugees from political or religious persecution in communist or middle east countries. Section 212(d)(5) provides for persons paroled into the United States for an indefinite temporary period of time by the Attorney General in the public interest. Indochinese refugees entered the United States under this section.

Legislative history of H.R. 1 (92d Congress) which amended the Social Security Act to create the Supplemental Security Income program gives further meaning to the phrase color of law. On page 466 of the Senate Finance Committee's report accompanying H.R. 1 (Senate Report No. 92–1230) the Committee defines a person who is a permanent resident under color of law as "a person who entered the United States before July 1948 and who may be eligible for admission for permanent residence at the discretion of the Attorney General under section 1259 of title 8 of the United States Code." In effect, the Committee interprets a person who is a permanent resident under color of law to mean a person who meets the requirements of section 1259.

While this definition was used in discussion of the Aid to Families with Dependent Children program in the Committee report, it appears that the Congress intended this meaning of "color of law" to apply to the Supplemental Security Income program. During Senate floor action on H.R. 1, it was pointed out that the language in the bill "permanently residing in the United States under color of law" could operate to exclude Cuban refugees from Supplemental Security Income benefits. Consequently, on October 5, 1972, two amendments were introduced to insure that Cuban refugees would be eligible for Supplemental Security Income. The amendments added under the term color of law alien refugees who are lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act. We could find no legislative history to indicate that Congress wanted to broaden the category of aliens included under the Committee report definition of color of law; other than to add refugees.

Social Security presently recognizes the Senate Finance Committee report definition of color of law in determining eligibility for Supplemental Security Income. Section 2156 of the Social Security Claims Manual discusses presumption of lawful admission for permanent residence.

Section 2156 of the Social Security Claims Manual states that:

"Based on satisfactory proof of an individual's presence in the United States before June 30, 1948, as defined in the Immigration and Nationality Act and his continuous residence from such entry, presume for purposes of SSI eligibility that he is lawfully admitted for permanent residence unless available evidence negates such a presumption: * * *."

Evidence acceptable as proof of presence in the United States before June 30, 1948, include school records, marriage licenses, drivers licenses, social security cards issued prior to 1948, or statements from two persons attesting to the fact that the claimant was present in the United States prior to June 30, 1948.

Section 2157 takes note of the Senate Finance Committee report stating that:

"The Senate Finance Committee in its report on the 1972 Amendments characterized 'an individual permanently residing under color of law' as a person who entered the United States before July 1948 and may be eligible for admission for permanent residence at the discretion of the Attorney General under section 1259 of title 8 of the United States Code."

The section goes on to state that:

"This is the section which gave rise to the presumption referred to in section 2156 above and which Immigration and Naturalization Service approved for limited use for purposes of the Social Security Act."

CONCLUSION

The proposed rule parallels a more liberal immigration policy currently being considered by Congress. The present regulations regarding alien eligibility for Supplemental Security Income are in agreement with alien eligibility under color of law as presently defined by the Congress. We believe that any redefinition of the eligibility criteria should be accomplished through legislation rather than through the rulemaking process.

We appreciate the opportunity to comment on your notice of proposed rulemaking and would like to be advised of any consideration given to our comments.

Sincerely yours,

GREGORY J. AHART,
Director.

NELSON HOSPITAL COST CONTAINMENT AMENDMENT

Mr. MELCHER. Mr. President, the Montana Hospital Association has diligently promoted a program among Montana hospitals to hold down cost increases for patients. The association and the individual hospitals have voluntarily cooperated to keep the costs for patients as low as possible without sacrificing quality care for patients.

There are substantial results that are documented that illustrate that the Montana hospital program, which is voluntary, has succeeded far better than what is the case nationally.

The Montana Hospital Association has provided me with that documentation which I find to be a very compelling argument against further regimentation by more Federal requirements and reporting surely to be implemented by the pending amendment of the distinguished Senator from Wisconsin (Mr. NELSON).

I ask unanimous consent to have the material printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MONTANA HOSPITAL ASSOCIATION,
Helena, Mont., August 16, 1978.

Senator JOHN MELCHER,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MELCHER: On August 3, 1978 the Senate Finance Committee voted to report out the Talmadge Bill, S. 1470. At the same time the committee rejected an amendment offered by Senator Gaylord Nelson which would have expanded the Talmadge Bill's coverage beyond Medicare and Medicaid to include all payers and all inpatient revenues as well as set up standby controls to be triggered if the Voluntary Effort fails. It should be noted that the Senate Finance Committee approved the Talmadge Bill by a 12–1 vote and that it now has been tacked onto a House passed minor tariff bill (H.R. 5285).

The position of the Montana Hospital Association, its 60 member hospitals and over 8,000 employees is in support of the Talmadge Bill as reported out of the committee. We have taken this position because we are generally in agreement with the significant changes and improvements offered in the proposal particularly as they relate to reimbursement for Medicare and Medicaid. We are unalterably opposed to any approach made by Senators Kennedy or Nelson to further amend the bill on the floor of the Senate when it comes up for debate.

The Nelson amendment, which will be offered to the Talmadge Bill reported by the Senate Finance Committee as H.R. 5285, has many basic and serious defects which we in Montana feel will create many fundamental problems for hospitals. For instance, it would establish wage and price controls, on a standby basis, which by themselves are inflationary because they lead to protective, anticipatory increases. This in effect would undermine and destroy the Voluntary Effort which is currently underway nationally and in Montana to contain health care costs. Montana hospitals have an extremely good record in containing costs primarily due to the hospital industry in our state recognizing in 1969 that the public, the insurers and hospital administrators working together could hold down costs much better than any governmental agency either at the federal or state level. In fact, it was the Montana Hospital Association that in 1970 created the Montana Hospitals Rate Review System, secured a Kellog Foundation grant for the establishment of the system and then made certain it was an independent voluntary rate review organization with no domination from the hospitals or from their Association.

The establishment and operations of the Montana Hospitals Rate Review System over the past seven years has proven to be a vital voluntary method which currently operates on a budget of $80,000 per year in comparison to the state mandated rate review system in the state of Washington which currently has an operating budget in excess of $300,000 per year. We have proven in this state, as have other states with voluntary rate review systems, that the voluntary approach to cost containment is much more effective and efficient and achieves the goals of cost containment because of the cooperation of the industry subjecting itself to independent review.

The Nelson amendment would destroy not only the successful Voluntary Effort nationally but also our own Montana Hospitals Rate Review System by forcing it into a state mandated mechanism financed by the taxpayers rather than the users of the system.

The Nelson amendment would also mandate that the operation of the control structure be *Federal* thus resulting in a massive new bureaucracy complete with multitudes of regulations which is clearly contrary to the Carter Administration's avowed principle of decreasing the regulatory controls governing the nation. Although a "cap" is a simplistic response to a complex problem, the federal mechanism for its implementation would be extremely complicated and would require the development of elaborate and costly methods based upon data and indices that do not presently exist.

The Nelson amendment promises wage increases to nonsupervisory personnel, but the wage increase pass-through would not include important elements of hospital wages such as shift differentials, overtime and other fringe benefits. Thus, this promise could lead employees to expect wage increases which hospitals could not afford. It is far better for hospitals to either negotiate wages with their employees through recognized collective bargaining processes or to continue in a competitive fashion as they have over the past many years in upgrading wages and fringe benefits based upon merit

and the value of the hospital employee to the patients we serve.

The amendment would impose a flat "cap" on all hospitals, thus ignoring the legitimate differences among institutions and their needs. As you know, Montana is a state consisting primarily of small rural hospitals. In fact, 49 of our 60 hospitals could be classified as small rural hospitals when using as a criteria the federally defined level of fewer than 4,000 admissions per year. I would point out, however, that although the 49 small rural hospitals may be exempted from the cap under the Nelson amendment, the act would still apply to the 11 larger hospitals in our major Montana cities which served fully 63% of Montana's 1977 admissions. In 1977 these 11 hospitals had a total of 82,371 admissions out of a total statewide of 131,552 admissions. This is a crucial point for it is these 11 hospitals located in the most populous parts of our state that provide to Montanans the wide range of specialized services that cannot be provided in small rural hospitals. These hospitals with a need for greater numbers of employees and more expensive equipment naturally incur higher costs and have a greater need to generate revenues to maintain and improve their services.

It is a recognized fact in our state that the small rural hospitals do act as referral centers to the larger facilities, not so much because of lack of services in the smaller communities, but because of the location of the medical specialists in the larger cities. The adoption of the Nelson amendment could see the erosion of the development of full services in larger communities where, as you know, most of the people of our state reside.

We feel the present Talmadge Bill without the Nelson amendment fairly and adequately provides for both the survival of the small rural hospital with the allowance for the swing bed reimbursement mechanism and also protects the larger hospitals and their ability to generate revenue in a reasonable fashion. I would again point out that in Montana the survival of the Montana Hospitals Rate Review System on a voluntary basis is a key element to our cost containment efforts.

I am enclosing a copy of a press release which was recently mailed to the media in our state as an expression of Montana's efforts on cost containment for many years. The data in this press release is accurate and can be documented from records on file with the Montana Hospital Association. It shows conclusively that Montana hospitals are efficiently operated and are still providing a high quality of services for a most reasonable cost.

On behalf of our Montana hospitals, their voluntary Boards of Trustees, and the 8,000 employees I implore your strong efforts to defeat the Nelson amendment to H.R. 5285 and likewise any approach that would be made by Senator Kennedy to substitute his bill (S. 1391) for the current Talmadge Bill reported out of the Senate Finance Committee on a very strong 12–1 vote.

Sincerely,

WILLIAM E. LEARY,
Executive Vice President.

PRESS RELEASE, AUGUST 16, 1978

Data from the Montana Hospital Association (MHA) and the American Hospital Association (AHA) show that in 1977 Montana's average expenses per hospital admission remained significantly lower than the national average. The data shows further that the rate of increase in Montana's total hospital expenditures continues to be less than the national rate of increase.

MHA data on Montana's 60 community hospitals showed 1977 average expenses per admission of $830.54, $481.00 lower than the national figure of $1,311.63 as reported by the AHA. As regards the rate of increase in hospital expenses, Montana showed an average increase of 14.4% from 1976 to 1977, down 2.8 percentage points from the 17.2% increase from 1975 to 1976. The equivalent average increases nationwide were 19.1% from 1975 to 1976 and 15.6% from 1976 to 1977.

Despite the fact that Montana's hospital expenses are among the lowest in the nation, Montana hospitals are actively participating in a voluntary cost containment effort. The Montana Hospital Association Board of Trustees has voted to fully support the cost containment goals developed by the recently formed Montana Voluntary Cost Containment Steering Committee. In addition the MHA, in conjunction with the Montana Hospitals Rate Review System, will be monitoring hospital cost increases on a quarterly basis. All hospitals have been urged to attempt to reduce the rate of increase in their expenses by 2 percentage points in 1978. It is hoped that these efforts will insure that hospital care in Montana continues to be among the least expensive in the nation.

Among the other interesting facts shown by MHA and AHA data are the following:

The average length of stay in Montana hospitals was 5.2 days in 1977 down from 5.5 days in 1976; the average length of stay for all U.S. hospitals was 7.2 days in 1977 down from 7.4 days in 1976.

The average number of beds in Montana hospitals is 57; the average number for the U.S. is 164; only Alaska with an average of 56 beds per hospital has fewer beds per hospital than Montana.

The average number of admissions per hospital in Montana for 1977 was 2,193; the equivalent average for the entire U.S.A. was 5,800. There were 39 admissions per bed in Montana while the U.S. average showed 36 admissions per bed.

Montana hospitals lost over $10,600,000 in revenue in 1977 as a result of charity, bad debts and Medicare and Medicaid discounts; this is the equivalent of approximately $80 per admission and represents a 46.7% increase over the previous year.

Montana hospitals employed more than 8,000 persons in 1977 at a cost of over $71,000,000 in salaries and fringe benefits; this represents more than 57% of total hospital expenses for 1977.

Outpatient revenue represented 9.8% of total patient revenue in 1975, 10.6% in 1976 and 11.5% in 1977.

Outpatient visits increased from 425,265 in 1975 to 465,612 in 1977, a 9.5% increase, while inpatient days decreased from 728,214 in 1975 to 688,149 in 1977, a 5.5% decrease.

SPECIAL ORDERS

Mr. ROBERT C. BYRD. Mr. President, are there any orders for recognition of Senators tomorrow?

The PRESIDING OFFICER. There are none.

Mr. ROBERT C. BYRD. I ask unanimous consent that after the two leaders are recognized under the standing order tomorrow morning, the Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed 5 minutes, the Senator from New York (Mr. MOYNIHAN) for not to exceed 15 minutes, and the Senator from West Virginia (Mr. ROBERT C. BYRD) for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER DESIGNATING TIME FOR VOTE ON CLOTURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture on the Humphrey-Hawkins bill occur tomorrow morning at 11 o'clock, and that no quorum call as required by the rule be in order at that point.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 9 o'clock tomorrow morning. After the two leaders have been recognized and the orders for the recognization of Senators have been consummated, at 10 o'clock a.m. the 1 hour under the rule will begin running and the motion to invoke cloture will be voted on at 11 o'clock a.m. That will be a rollcall vote, and tomorrow will be another long day.

Mr. President, I thank all Senators for their patience and for good work they have done.

Mr. THURMOND. Mr. President, could I make an inquiry of the distinguished majority leader?

Mr. ROBERT C. BYRD. Certainly.

Mr. THURMOND. Will any motions be made before 9:30, or could they be made between 9 and 9:30 concerning legislation that Members may desire to bring up?

Mr. ROBERT C. BYRD. I anticipate that the distinguished minority leader and I will probably do a good many housekeeping measures—I do not think they should be referred to in that manner.

There should be several measures which are noncontroversial that the distinguished minority leader and I will probably dispose of before the hour begins to run on cloture. There may be some conference reports.

But I think the Senator could be assured that there would be no rollcall votes before 10 o'clock, unless it is a procedural vote to help get a quorum.

Mr. THURMOND. For instance, I am speaking of the Illinois brick decision, in which I am interested, and will impose a time limit.

Would that be apt to come up before 9:30?

Mr. BAKER. If the Senator will yield to me, I will be happy on his behalf to interpose an objection, if he wishes.

Mr. THURMOND. Would that extend to 9:30 or 10?

Mr. BAKER. Whichever the Senator says.

Mr. ROBERT C. BYRD. It is not anticipated that will happen before 10 or before 11.

Mr. THURMOND. I thank the Senator.

Mr. ROBERT C. BYRD. But I anticipate at some point between now and adjournment sine die, a Senator will offer an amendment to a vehicle dealing with that matter, but it will not be tomorrow morning, if the minority leader and I can prevent it.

Mr. THURMOND. A vehicle would have a time limit and which would bind the amendment, if it were offered.

Mr. ROBERT C. BYRD. I doubt that it will be, I would say.

Mr. THURMOND. Yes, but to put on a

time limit on anything on the Illinois Brick decision offered to the amendment, and bound by the time limit.

Mr. ROBERT C. BYRD. I think appropriate questions will be asked concerning time agreements that would alert Senators as to the contents of amendments that would be offered in the case of time agreements and the Senator would have his usual rights in such an instance.

Mr. THURMOND. I thank the Senator.

Mr. BAKER. Mr. President, if the Senate will yield for just one moment, I would reiterate my assurance to the Senator that during the time between convening in the morning and the time we turn to the consideration of the Humphrey-Hawkins bill, under the rule, the hour before the cloture vote, that I will do my best to see no unanimous-consent requests in that respect are entered into.

Mr. THURMOND. The Illinois Brick decision is a very complicated question that will take maybe days or probably weeks when it does come up.

So I want to be present to object to any time limit.

RECESS TO 9 A.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9 o'clock this morning.

The motion was agreed to; and at 1:10 a.m., the Senate recessed until Friday, October 13, 1978, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 12, 1978:

FEDERAL ELECTION COMMISSION

Max L. Friedersdorf, of Indiana, to be a member of the Federal Election Commission for a term expiring April 30, 1983, vice William L. Springer, term expired.

NATIONAL SCIENCE FOUNDATION

The following-named persons to be members of the National Science Board, National Science Foundation, for terms expiring May 10, 1984:

Lewis M. Branscomb, of New York, vice Russell D. O'Neal, term expired.

Eugene H. Cota-Robles, of California, vice William H. Meckling, term expired.

Ernestine Friedl, of North Carolina, vice Wesley G. Campbell, term expired.

Walter Eugene Massey, of Rhode Island, vice T. Marshall Hahn, Jr., term expired.

David V. Ragone, of Michigan, vice Joseph M. Reynolds, term expired.

Edwin Ernest Salpeter, of New York, vice William A. Nierenberg, term expired.

Charles Pence Slichter, of Illinois (reappointment).

HOUSE OF REPRESENTATIVES—*Thursday, October 12, 1978*

The House met at 10 a.m.

Rev. Dr. C. V. Jones, pastor, Tabernacle Baptist Church, Tioga, Pa., offered the following prayer:

Our precious Saviour, accept our thanks for the privilege to live in a nation where the phrase in the salute to our flag, "one nation under God," reminds us that Thou are still on the throne, regardless of all today's sinfulness.

We also thank Thee for the inscription upon our money, "In God We Trust," reminding us of our need to forsake our wickedness, even our own self-righteousness, by simply trusting in Thee only.

We pray that Thou will bless today, causing us to seek Thee first, by right now, from the depth of our hearts, trusting our personal lives and the life of our Nation into Thy hands, resulting with inward peace and outward obedience to Thy Holy Word. For Christ's sake. Amen.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, under clause 1, rule I, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, apparently the electronic device was not functioning at the beginning of this call. A number of Members who inserted their cards, myself included, were not recorded. I wonder how those Members could be notified of that fact.

The SPEAKER. Those Members' names are in the machine and will be recorded.

Mr. BAUMAN. All of those who responded?

The SPEAKER. Yes.

Mr. BAUMAN. I thank the Speaker.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 891]

Ambro	Gore	Pettis
Ammerman	Green	Pike
Andrews, N.C.	Hanley	Pritchard
Archer	Harrington	Quayle
Armstrong	Harsha	Quie
Beard, R.I.	Heckler	Quillen
Bellenson	Hefner	Rahall
Blouin	Heftel	Rhodes
Bonior	Hillis	Risenhoover
Bonker	Holtzman	Santini
Breckinridge	Hyde	Sarasin
Brown, Mich.	Ichord	Satterfield
Broyhill	Jacobs	Sawyer
Burke, Calif.	Kasten	Scheuer
Burton, John	Kastenmeier	Shipley
Caputo	Keys	Shuster
Carr	Krueger	Sisk
Cavanaugh	LaFalce	Skubitz
Chappell	Latta	Solarz
Chisholm	Le Fante	Spellman
Cochran	Leach	Spence
Conyers	Lederer	Stangeland
Cornwell	Leggett	Stark
Coughlin	Luken	Teague
Crane	Lundine	Tsongas
Dellums	McCloskey	Tucker
Dent	McDonald	Ullman
Derrick	McEwen	Vander Jagt
Diggs	Markey	Waggonner
Drinan	Martin	Walsh
Edwards, Okla.	Mazzoli	Weiss
Evans, Ind.	Meeds	White
Fithian	Meyner	Whitehurst
Flynt	Mikva	Whitley
Ford, Mich.	Miller, Calif.	Wiggins
Ford, Tenn.	Minish	Wright
Garcia	Mitchell, N.Y.	Wydler
Giaimo	Moffett	Wylie
Gibbons	Mottl	Young, Alaska
Gilman	Nichols	Young, Tex.
Goldwater	Oakar	
Gonzalez	Pease	

The SPEAKER. On this rollcall, 306 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill and concurrent resolutions of the House of the following titles:

H.R. 13418. An act to amend the Small Business Act by transferring thereto those provisions of the Domestic Volunteer Service Act of 1973 affecting the operation of volunteer programs to assist small business, to increase the maximum allowable compensation and travel expenses for experts and consultants, and for other purposes;

H. Con. Res. 730. Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 12255;

H. Con. Res. 739. Concurrent resolution to correct an error in the enrollment of H.R. 11318, a bill to amend the Small Business Investment Act of 1958; and

H. Con. Res. 740. Concurrent resolution authorizing corrections in the enrolled bill H.R. 10587.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10587) entitled "An act to improve the range conditions of the public grazing lands."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11445) entitled "An act to amend the Small Business Act and the Small Business Investment Act of 1958."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3447) entitled "An act to strengthen the economy of the United States through increased sales abroad of American agricultural products."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 12509. An act to amend the Immigration and Nationality Act to exclude from admission into, and to deport from, the United States all aliens who persecuted any person on the basis of race, religion, national origin, or political opinion, under the direction of the Nazi government of Germany, and for other purposes;

H.R. 12874. An act to provide for an accelerated program of research, development, and demonstration of solar photovoltaic energy technologies leading to early competitive commercial applicability of such technologies to be carried out by the Department of Energy, with the support of the National Aeronautics and Space Administration, the National Bureau of Standards, the General Services Administration, and other Federal agencies; and

H.R. 13511. An act to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 13511) entitled "An act to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes," disagreed to by the House; requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. HARRY F. BYRD, JR., Mr. NELSON, Mr. GRAVEL, Mr. BENTSEN, Mr. MATSUNAGA, Mr. MOYNIHAN, Mr. CURTIS, Mr. HANSEN, Mr. DOLE, Mr. PACKWOOD, and Mr. ROTH to be the conferees on the part of the Senate.

The message also announced that the Senate had passed concurent resolutions of the following titles, in which the concurrence of the House is requested:

S. Con. Res. 111. Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 11445; and

S. Con. Res. 112. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 555.

REV. DR. C. V. JONES

(Mr. McDADE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDADE. Mr. Speaker, it is my great privilege today to have offering the morning prayer the Reverend Dr. Charles V. Jones from my congressional district. It is both a personal and an official privilege to have such a distinguished member of the clergy open the proceedings of the House of Representatives today.

Rev. Dr. Jones was born in Sayre, Pa., and grew up in Rome, Pa. He now lives in Tioga, Pa., where he is pastor of the Tabernacle Baptist Church.

He was accompanied today by his lovely wife, Joanna, and two children, Nathan and Becky.

Rev. Dr. Jones was graduated from the Baptist Bible College in Missouri, in 1966, and for 21 years he has crisscrossed this Nation as an evangelist, bringing the word of God to the people of the Nation. That service was recognized when he was given an honorary doctor of divinity degree by the Baptist Christian University of Shreveport, La. That honorary doctor of divinity reads:

In recognition of outstanding scholarship, eminent leadership in the field of Christian education and in the field of Christian service.

Rev. Dr. Jones, we are very privileged to have you with us today, and we thank you for your inspiring words.

THE LATE HONORABLE GOODLOE E. BYRON

(Mr. LONG of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LONG of Maryland. Mr. Speaker, I have the sad duty to make the formal announcement of what many of the Members have already heard, the death of our beloved colleague, GOODLOE BYRON, from the Sixth Congressional District of western Maryland, who died suddenly last night at the age of 49.

Our deepest sympathy goes to his wife, Beverly and to their children, Goodloe, Jr., Barton Kimball, and Mary McComas.

GOODLOE, a Democrat, was serving his fourth term in the House from the Sixth District. He had previously served in the Maryland House of Delegates and in the Maryland State Senate. He comes from a very distinguished Maryland family. His grandfather was a U.S. Senator from Maryland, and his mother and father both served in the House of Representatives from the same district, the Sixth District. This did not mean that GOODLOE inherited that district. He had to struggle to win it. Throughout his 8 years, he fought hard on behalf of his constituents.

The funeral service will be held on Saturday. The precise place is not yet known, but it is understood that he requested to be buried in Antietam. He had a fine military record, and he wished at the site of the famous Civil War battle. We shall know later the exact time and place. I shall be asking for a special order for those Members who wish to contribute to his eulogy at a later date.

At this time, I submit the reports of GOODLOE'S untimely death provided in the Washington Post and Baltimore Sun this morning:

[From the Washington Post, Oct. 12, 1978]

WEST MARYLAND REPRESENTATIVE GOODLOE BYRON

(By Donald P. Baker)

Rep. Goodloe E. Byron (D-Md.) a long-distance runner who had competed in six runnings of the Boston Marathon, collapsed and died of a heart attack last night while jogging along the Chesapeake & Ohio Canal towpath near the Western Maryland town of Williamsport, where he was born.

Rep. Byron, 49, had won renomination last month and was considered a shoo-in for election to his fifth term as representative of the 6th District of Maryland.

The Democratic State Central Committee, which meets today, is expected to name a replacement to face the Republican nominee, a lightly regarded perennial office-seeker named Melvin Perkins, in the Nov. 7 general election.

Bob Atkinson, Rep. Byron's press secretary, said the congressman and a young aide who also was a marathon runner, Brinton Ayer, had run about 12½ miles when Rep. Byron stumbled and collapsed about 5:45 p.m.

Ayer tried to give mouth-to-mouth resuscitation, but his efforts to revive Rep. Byron failed. He flagged down a passing motorist, who called a rescue squad, which drove them to Washington County Hospital in Hagerstown. Rep. Byron was pronounced dead on arrival.

Dr. Francisco G. Japzon, the county medical examiner, said Byron's heart attack was caused by hardening of the arteries in the heart muscle. There were signs of previous heart attacks, he said.

Rep. Byron's father, William D. Byron, and mother Katherine E. Byron, both represented the same district in Congress four decades ago, and his grandfather was a U.S. senator from Maryland.

Last month, Rep. Byron won renomination, defeating Dan Rupli, 35, of Burkittsville, 8,641 to 6,680.

After Rupli nearly beat him in the 1976 primary, Rep. Byron acknowledged that the youthful lawyer's vigorous campaign "caught me by surprise."

This year, Rep. Byron was prepared, and despite another hard-fought challenge, he handily defeated Rupli.

Part of the difference, both Rupli and Rep. Byron agreed, was that the congressman from Frederick had changed his voting record more nearly to reflect his changing district.

After his first two terms, Rep. Byron was characterized by one Congress-watcher as "the most conservative congressional Democrat from outside the South."

But as he perceived a shift in the attitude of voters in his district, which sprawls from Appalachia in westernmost Garrett and Alleghany counties to liberal, suburban-chic Columbia in the east, Rep. Byron's voting pattern also shifted.

While Rupli attempted to portray Rep. Byron's shift to the center of the political spectrum as the actions of an incumbent running scared, voters in the 6th District apparently perceived the change as a rare act of a politician who seeks and then bows to the wishes of his constituents.

That was how Rep. Byron saw it, although he also was the first to admit that he was a practical politician who believed that "you can't do anything if you can't get elected."

Voting in behalf of his constituents, instead of forcing his personal philosophy on them, Rep. Byron said in an interview earlier this year, was something he learned from his father, who served in Congress from 1939 until he was killed in an airplane crash in 1941. (His mother served the remainder of her husband's second term, but did not seek re-election.)

Rep. Byron also was frank to admit that he got himself taken off the Commerce Committee after being tagged one of the "Dirty Dozen" House members targeted for defeat two years ago by Environmental Action, a lobbying group.

He said he felt trapped by the competing interests in his district, typified by clean-air

activists in Columbia and employers and workers in coal-dependent industries in Western Maryland, where unemployment already was far above the national average.

"So I went to the leadership and told them I wanted off," Rep. Byron admitted. "It was a no-win situation."

Rep. Byron also had conflicting feelings about clean-air legislation from a firsthand view.

A tannery owned by his family since 1832 was forced into receivership three years ago when it had to convert from coal to oil and install a sewage treatment plant to reduce wastewater runoff into the Potomac.

Yet as an active outdoorsman, Rep. Byron had a strong personal interest in a clean environment.

In addition to running, Rep. Byron was an energetic hiker, and had sponsored legislation that enlarged the Appalachian Trail, which snakes through his district on its way from Georgia to Maine.

He led expeditions to Alaska and numerous national parks, accompanied by his wife, the former Beverly Butcher, and their children, Goodloe, Jr., 24; Kimball, 23, and Mary, 12.

The family was featured on the cover of a recent issue of Backpacker Magazine, which lauded Rep. Byron's sponsorship of the trail bill, signed by President Carter in March, that will permit its completion.

CONGRESSMAN BYRON DIES OF APPARENT HEART ATTACK

SHARPSBURG, MD. (Special).—Representative Goodloe E. Byron (D. Md.) died unexpectedly last night, apparently of a heart attack, while running near here.

Mr. Byron collapsed about 6 P.M. on the C. & O. Canal towpath 8 miles from Williamsport, Md., where he was born and raised. He was running with an aide, Brenton Ayer, according to Dr. Francisco G. Japson, deputy medical examiner of Washington county.

An experienced marathon runner, Mr. Byron had completed 12½ miles of a planned 15-mile run when he was stricken.

Mr. Ayer tried desperately to revive the 49-year-old congressman, police said. But Mr. Byron was dead on arrival at Washington county hospital at 7:19 P.M. despite the efforts of a doctor in a specially equipped ambulance.

Dr. Japzon said there were plans last night to perform an autopsy to determine the exact cause of death.

The four-term congressman was running for re-election in the November 7 election against Melvin C. Perkins, the Republican nominee. Mr. Perkins was released yesterday after spending 10 days in the Baltimore County Jail pending trial on a charge of assaulting an MTA bus driver. He was fined $100 and court costs on that charge yesterday after being found guilty of assaulting Beverly Berry, a Mass Transit Administration bus driver.

Mr. Perkins, who called The Star last night after learning of Mr. Byron's death, said, "I'm going back on the campaign trail as if he never died."

George Nilson, a deputy state attorney general, last night said the Democratic State Central Committee can nominate a candidate to take Mr. Byron's place on the ballot. The committee was previously scheduled to meet today.

He said there is no requirement in law that the Democrats pick someone from the Sixth district, which stretches from southwest Baltimore County and Howard and Carroll Counties through the western part of the state. The district also includes a portion of Montgomery county.

But several sources suggested last night that Dan Rupli, who had challenged Mr. Byron in the past two primaries, would be a serious candidate.

Mr. Byron was described last night as a congressman who focused on serving his constituents. He rarely played an active role either in congressional committees or on the House floor, according to reporters who covered his career.

During his early years in Congress, Mr. Byron's voting record was very conservative. Before the 1976 primary, Environmental Action, a lobbying organization, named him to its "Dirty Dozen" list of congressmen who "have ridden roughshod over the nation's environmental interests."

But after that close contest with Mr. Rupli, Mr. Byron modified some of his stands, particularly those on environmental questions.

At the beginning of the current session he switched from the Interstate and Foreign Commerce Committee, where some consumer and environmental groups considered him as obstructionist, in the Armed Services Committee, where his role was less controversial.

In addition, in his work on the Interior and Insular Affairs Committee he had recently become increasingly supportive of conservation measures and proposals to expand national park space.

Despite these shifts, he remained until his death a firm member of the conservative minority in the Maryland delegation, which has also included Representative Robert E. Bauman (R., 1st) and Representative Marjorie S. Holt (R., 4th).

First elected to the House of Representatives in 1970 by the slim margin of 4,000 votes, Mr. Byron was seeking a fifth term until his death last night.

His political career began with his election in 1962 to the House of Delegates, where he served only one term before running a successful campaign for the state Senate in 1966.

Mr. Byron first attempted to win a seat in the United States Congress in 1968, running against the incumbent, J. Glenn Beall, Jr., currently the Republican nominee for governor.

Although he lost that election, he repeated his effort in 1970 when Mr. Beall sought the U.S. Senate seat held by Democratic Senator Joseph D. Tydings.

In seeking a seat in Congress, Mr. Byron was following in the steps of his father, William D. Byron, who was elected to the House in 1938 and 1940. The senior Mr. Byron died in 1941, and Mr. Byron's mother, Katherine, replaced him after winning a special election.

Commenting on Mr. Byron's ambition, an associate said in 1975: "All Goodloe ever wanted to do was to be what his father was, a congressman, and nothing more."

Representative Parren J. Mitchell (D., 7th), who was first elected to Congress the same year as Mr. Byron, said, "Goodloe Byron and I did not always agree, but I respected him for the zeal with which he fought for that which he believed in.

"All of us are shocked and hurt by his sudden death," Mr. Mitchell added.

Speaking on the Senate floor just before the close of the session last night, Senator Charles McC. Mathias, Jr. (R. Md.) said Mr. Byron "was a very strong force in our Maryland delegation."

Senator Paul S. Sarbanes (D., Md.), who spoke after Mr. Mathias, said Mr. Byron "reflected his family's tradition of distinguished service . . . he was one of our finest members. His loss is a great loss to the people of the state."

Representative Barbara A. Mikulski (D., 3d) said Mr. Byron went out of his way to help her when she was first elected in 1976. "He was very good with constituent services. He helped me get off the ground," she said.

A Republican colleague, Representative Newton I. Steers, Jr. (8th), said, "I was extremely fond of Goodloe. I think his death is a loss to Maryland and to the nation."

Representative Gladys Noon Spellman (D., 5th) noted that she is far more liberal than Mr. Byron, but added, "These things didn't matter. He was just a delightful person to work with."

After Mr. Sarbanes and Mr. Mathias spoke on the Senate floor, Senator Jacob K. Javits (R., N.Y.), who shared with Mr. Byron a strong interest in physical fitness, said Mr. Byron was "thorough-going, delightful gentleman, a high-spirited, patriotic gentleman."

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to my colleague from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, I thank the gentleman for yielding.

Congressman BYRON, throughout the length and breadth of Maryland, had earned the reputation of being the congressman who devoted just tremendous amounts of time to the individual problems of his constituents. He kept long office hours, and many, many Saturdays and Sundays were devoted to constituent work.

Quite apart from his legislative accomplishments, I think that he will be best known for that kind of fine attention to detail and service that he gave to his constituents.

I share the sense of loss of my colleague in the well. I think all of us do. I take this opportunity to convey my feeling of deep sympathy and compassion to his family.

Mr. LONG of Maryland. I thank the gentleman. Let me add by saying that I have known GOODLOE personally for many years. Being the senior member of the Maryland delegation, I have had a long and continuing relationship with him. In addition to the fine record of service to his constituents, he was a man of his word. We all know here in Congress how that is valued, how difficult it often is to live up to one's word in the practical hurley-burley of politics. When GOODLOE BYRON said he would do something, you could count on it. He was a prince of a man.

Ms. MIKULSKI. Mr. Speaker, when I learned of GOODLOE BYRON's death this morning, I was greatly saddened and shocked by the suddeness of such a tragic loss. Representative BYRON followed a family legacy of involvement in Maryland politics. His parents, William and Katherine Byron, both represented the same district in Congress, and his grandfather was a U.S. Senator from Maryland.

Representative BYRON worked to serve the best interests of Maryland and was an active member of the Maryland delegation; he worked as a teammate on issues of mutual concern. He was also of vital importance in expanding the economic base of the Port of Baltimore.

When I first arrived as a Member of the House of Representatives, I learned a great deal from GOODLOE. Even though

we very often differed philosophically on certain issues, his compassion for people and his ability to serve the individual needs of his constituents were inspirational to me.

I think I learned from Representative BYRON not to become caught up in political puffery as we go about our business, but instead to concentrate on the true needs of the people. I feel that I was a better Member of Congress because of my association with him. I mourn his loss and extend my sympathies to his family.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I came to the Congress with GOODLOE BYRON and have known him ever since. We served together on the Interior Committee. He and I have hiked and camped in Alaska together, floated down rivers together and appeared together in his district. My wife and I became very fond of GOODLOE and his family. My heart goes out to his wife, Beverly, and his children.

While GOODLOE and I did not agree on every issue, he was, as the gentleman from Maryland said, a man of his word, a man of integrity, and a man who had the capacity to change his views when he was persuaded that there was a basis for doing so. He was an invaluable member of the Interior Committee, and the Subcommittee on Alaska Lands, which I chaired. His courageous support on many of the most crucial issues was unflagging. Without him, the committee could not have produced as sound a bill on Alaska, and indeed on many other matters.

Those of us who have known him as a colleague will miss him, and we will also miss him as a friend. But we will also remember his gallant spirit, his openness and his dedication.

Mrs. HOLT. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentlewoman from Maryland.

Mrs. HOLT. Mr. Speaker, I thank the gentleman for yielding.

We are certainly saddened and shocked by the untimely death of GOODLOE BYRON.

I think the quality in GOODLOE that I cherished as a close personal friend—we served on the Armed Services Committee together—was his great compassion and his great concern about being a good Representative for the people of his district. He worked at it constantly. It was a matter of great concern to him.

He was a man of integrity and a devoted family man.

My love and prayers go out to Beverley and his children.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I add my condolences to the family of our late colleague on this most shocking occurrence.

I was talking to GOODLOE only last Friday, discussing his constant devotion to jogging and physical fitness. It certainly comes as a total surprise that a man who appeared to be in excellent health should fall at this point in his distinguished career.

I have no doubt that he would have been reelected by his constituents, whom he served so well. In a political arena where many differ, it is sometimes difficult to make friendships, but GOODLOE BYRON was a close friend, both as a Maryland colleague and a fellow member of the Interior Committee.

It will be very difficult for the citizens of Maryland to replace him.

Mr. EVANS of Delaware. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Speaker, I rise this morning with a heavy heart as one who has been a friend of GOODLOE BYRON since our days together at the University of Virginia.

GOODLOE BYRON was a man of integrity, he was a man of honor, and he was a man who did keep his word, and a man who really cared about people.

There are lots of ways I guess to judge an individual's worth here on Earth. Some might say it is eloquence on the stump that might be a big factor. I say the character and integrity and concern and love for one's fellow man is much more important, and GOODLOE BYRON led that type of life. He loved his family, he loved his friends, he loved his country.

We will miss him very, very deeply.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I was shocked and dismayed to hear of GOODLOE BYRON'S most untimely death.

Although we came from opposite ends of the country, we shared many enjoyable experiences such as hiking together. I had occasion to visit him in his district and he had also been in my district, on his many visits with his in-laws. I counted GOODLOE BYRON as a personal friend.

I want to express my sorrow and condolences to his wife and the children, and to the Butcher family in Santa Barbara.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, I want to join in offering condolences to GOODLOE'S children and to his wife Beverly. He served with us on the Interior Committee. He was a most faithful and hard-working Member. I think it will long be remembered that because of his leadership we were able earlier in this Congress to establish a meaningful Appalachian Trail system. I know that this remarkable feat was very close to his heart.

Mr. ALEXANDER. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman from Maryland for yielding. Like other Members of Congress who knew and loved GOODLOE BYRON of Maryland, I was shocked to learn of his untimely demise. We were close personal friends and I will remember always the mountains we climbed together in Alaska, backpacking along the Appalachian Trail and running side by side in the Boston Marathon. He was a competitor and an adventurer in the American tradition. Next year we had planned to hike and camp out in the Swiss Alps and climb the Matterhorn.

GOODLOE BYRON was a prince of a man, gentlemanly in his treatment of others, reverent to God; loyal and devoted to his family whom he loved so much.

During the times that we worked and played together he spoke often about his family, country, western Maryland, the changing values in our society and the environment.

He worked hard for his native State of Maryland, serving the numerous needs of his constituents and oftentimes talked about the virtues of loyalty, truth, honesty, and fidelity. He believed in the work ethic and felt that many of the problems we have in our society today stem from idleness of mind to which he referred as the "devil's workshop."

He loved outdoor life. He appreciated the majesty of the wilderness and valued the glory of nature. I remember that while backpacking with him in the Lake Clark region of Alaska during the summer of 1975, he persuaded me to support the Alaskan wilderness bill and cosponsor his amendment to create a wilderness area in the Lake Clark region. Our discussions of the conflicts between production of food and energy and the preservation of the environment gave me insight which I believe has helped me to reconcile the contradictions with which we are confronted today. GOODLOE understood how people on this Earth live in harmony with nature and demonstrated this unity in his own life. He believed that an experience with nature provided a common bond for families and friends which relieved the tensions of an industrial society and permitted people to know and understand one another better.

GOODLOE was proud of his work to improve the Appalachian Trail and the C. & O. Canal. When we hiked the trail he would outline his ideas for improvement to popularize the experience of hiking so that others could enjoy communing with nature. I know that every American ciitzen appreciates his contribution to the enhancement of our environment and the improvement of these great national landmarks. While others talked about the environment, GOODLOE worked to improve it. His accomplishments were recently cited in Backpacker magazine which lauded his workship for the trail bill. I think that recognition is deserving of the attention of all my colleagues and I would like to insert at this

point into the RECORD the text of this tribute to GOODLOE.

GOODLOE BYRON: HIKER ON THE HILL

(By Jack Burger)

(How a congressman, the author of the Appalachian Trail Bill, goes backpacking to get away from the phone and to make an investment in his family.)

Backpackers have friends in high places other than mountaintops. One of them is in the U.S. Congress: Representative Goodloe E. Byron, Democrat from Maryland. And he climbs more hills than Capitol Hill. He's a backpacker who enjoys the rarified air of the Appalachians and Grand Tetons as much as the heady atmosphere of Congress.

Being interested in both backpacking and politics makes Byron a leader in the movement to protect the existing trails and wildlands and to establish more trails where they are needed. A recent accomplishment was successfully sponsoring the bill that will complete protection of the Appalachian Trail corridor. H.R. 8803 provides $90 million for land purchases and was passed by Congress on March 7, 1978. President Carter signed the bill into law on March 21, 1978.

Byron's political career began in 1958 when he was elected county attorney in Maryland. From there he went to the state House of Delegates in 1962. In 1966, after one term, he was elected to the state Senate, and in 1970 he successfully ran for the U.S. Congress from Maryland's Sixth Congressional District.

Byron's hiking and camping career began in the 1940s as a Boy Scout in Williamsport, Maryland. On troop overnighters he first became acquainted with the Appalachian Trail, which crosses 39 miles of Maryland. From then on, the AT was an important part of his life.

In 1969 Colonel Lester Holmes, the executive director of the Appalachian Trail Conference, approached Byron, then a state senator, with an idea for a bill that would protect the entire length of the AT in Maryland. Byron agreed to help and sponsored a bill making Maryland the first state of provide such protection for the AT.

Rep. Byron's devotion to hiking and trails was one of the main reasons he chose to become one of the first directors of the American Hiking Society.

Byron's home in Frederick is only ten miles away from the Appalachian Trail. It was there that he and his family first began backpacking. Like most family hikers, their first forays were day hikes, soon supplemented by overnights. Next came New York's Adirondacks and the Rockies.

Since Byron has been a congressman, even a simple weekend outing to the AT must be planned almost two months in advance. "This job sure doesn't give you much time with your family," he said recently. "I guess that is why we like backpacking so much. It is one thing we can do totally as a family."

The Byrons' first trip to Glacier National Park was particularly important to him for this reason. "My oldest son, Geb (Goodloe E. Byron, Jr.), was 18, right out of school, and very impressionable," Byron said. "A parent is not usually able to relate easily to an 18-year-old; it's usually them against us. By going on that hike, we set up a common bond. It really was an investment in our family. We never could have accomplished this by going to a beach resort or a national park lodge."

The Byron family was especially intrigued by the wildlife in Glacier. "We even had a mountain goat pose with us just as if we were tourists," he recalled.

An equally important reason for Byron's backpacking is to escape the pressures of political life—constantly ringing telephones and a hectic schedule that rarely lets up. "Backpacking gives you a chance to touch base with nature, get your hands dirty, feel a little uncomfortable, take a few physical chances, and have a common experience with your family," he explained.

The daily routine of Congressman Byron is enough to make a layman scream for Saturday. He rises at 6:30 and if the weather permits, goes for a three- or four-mile run. (He gets in about 30 miles a week.) Then comes a quick breakfast and the 50-mile ride to the office, during which he reviews legislation, prepares for morning committee meetings, and reads letters from his constituents.

If Congress is in session, he has committee meetings all morning. A brief lunch lets him go over legislative briefings. During the afternoon the House of Representatives meets until five or six, except on Wednesday, a traditionally long day. Then he doesn't get out until eight or nine.

Byron's office receives an average of 250 letters a day. Each must be answered and signed, a task his 18 staff members in Washington and Maryland assist in. Byron himself must respond to more than 30 telephone calls daily. "People expect to talk to me personally," he said. "I find myself following up on legislation, trying to get assistance for a sewer project in my district, looking for funding for a national parks bill, helping people with social security problems."

Byron believes that the letters congressmen receive are among the most effective means for understanding the needs of their constituents. "People have to write. If they don't, we have no idea what they are thinking. I even noticed a recent letter to the editor in BACKPACKER from Susan Tremaine, a woman in my district. I don't know her, but from reading her letter I do get an idea of her special interest in the outdoors and hiking."

The trip home to Frederick in the evening is used much as the morning commute—reading mail, signing letters, reviewing legislation. But Byron's day doesn't end once he's home. Because his district is so close to Washington, he spends many evenings with his constituents, attending banquets, giving speeches, keeping in touch. In a normal week he attends four or five evening programs. The pace gets worse as an election nears.

In nonelection years Byron manages to squeeze in 25 to 30 days of hiking and backpacking during weekends and the legislative recess in August. One election year's backpacking trip was doubly welcome, though. In August, 1974, he, his wife Beverely, daughter Mary, younger son Kim—and their good friends, Clater and Peggy Smith—went to Grand Teton National Park to visit Geb, who had a summer job there on a trail crew. The Washington they left behind was tense and tumultuous. It was the summer in which the Watergate scandal came to a head—the Senate Judiciary Hearings, the impeachment proceedings and the resignation of President Richard M. Nixon. Byron found the Tetons a particularly soothing antidote to the stress of the Watergate situation. The Byrons stayed for nearly two weeks in the backcountry, packing through the Alaska Basin and near Marion Lake.

Byron thinks the Grand Teton National Park is "the most beautiful park in the country. There is no way you can begin to see the beauty of the park until you get into the backcountry."

Another summer Byron and his two sons went to Alaska. They backpacked in the Lake Clark area and for the first time were confronted by elements of risk that are unique to hiking in the Alaskan wilderness. Most mountain areas have unstable weather patterns, but Alaskan weather is made more treacherous by arctic winds of such velocity that a tent can be ripped to shreds in minutes.

Byron considers the Alaska trip an important one in his development as a backpacker. "It dramatically showed us that we should be prepared, with everything planned down to the last detail, and that equipment must be top-notch. We had the right clothes [the Byrons prefer woolens for cold weather]. Our tent held up fabulously, and our general preparation for possible problems was excellent. We could have used less expensive equipment, but I would not want to be at the mercy of the elements because my gear had broken down."

Moreover, Byron's experiences in Alaska are now bearing legislative fruit. The Alaska National Interest Lands Conservation Act, H.R. 39, is being debated this year in the House. Because of his first-hand knowledge of the area, Byron helped push through an amendment to the bill that would protect all the Lake Clark region. "Having backpacked there, I feel I have more of an understanding of the proper usage for the land," Byron said. "With H.R. 39," he added, "Congress can guarantee future generations the ability to see some of the most spectacular wilderness in the world. Seldom since I have been in Congress have we had a chance to provide something of this magnitude."

Following their Alaskan excursion Byron and his sons returned to their favorite park, the Tetons, where they were joined by his wife and daughter. This time they hiked into the Lake Solitude and Surprise Lake areas.

The weather, however, disrupted their plans. While the family was camping at 9,000 feet, rain started at 3 P.M. and quickly turned to snow. By morning several groups of backpackers were already coming down from the high country. The Byrons were "pretty darn cold" and not really equipped for winter weather. They did the prudent thing and hiked out.

On a trip in the summer of 1976, the family combined backpacking with a river run. They hiked from the South Rim of the Grand Canyon down to Phantom Ranch. There they rode a raft on a five-day run through the rapids of the Colorado River.

The Byrons were accompanied by the park superintendent, a ranger, and a park naturalist. Byron and the park superintendent had spirited discussions about how to allocate recreational uses of the river.

"As a hiker I've gotten a different perspective on recreational uses of all of our national parks," Byron said later. Although he can see other recreational users' points of view, he still sides with the hikers. "We watched some kayakers glide down the river, and I thought that they should have the unencumbered use of the river and the canyon. But they too produce waste and garbage. The backpacker causes the least number of problems with the land. I'll stick by the hiker."

Like most backpackers, Byron has certain habits he refuses to give up when on the trail. For instance, he shaves every morning. "It's my one concession to civilization. The children always kid me about it, but I like to shave. I've got this little can of shaving soap no more than two inches high and a tiny razor. I tuck them in my backpack along with my toothbrush and toothpaste."

His kids also tease him about the larger than normal first-aid kit he carries even on weekend overnight hikes. It includes antibiotics, pain relievers, and cold tablets, among much else. "The kids are always saying I could probably perform open heart surgery."

Byron is active in other sports. Long-distance running is one of his favorites. He has run in the Boston Marathon six times, with

a qualifying time of 3:27:00 set in 1974, and he is now training for this year's marathon. He has also completed the JFK 50-mile hike-and-run seven times. His son Kim has completed that race ten times—a record.

But Byron's biggest passion is hiking and backpacking. His favorite spot near home is Old Rag, a mountain next to the AT in Virginia. That's where Virginia's late Senator Harry F. Byrd used to go hiking every weekend he could.

Perhaps someday Byron will make the switch from House to Senate—as Byrd did—and climb the steps to the other side of the Capitol. That is, when he isn't climbing mountains.

GOODLOE BYRON was a well-known athlete, having run in many marathons, six at Boston. Many people have been inspired by his picturesque good health and athletic lifestyle. Members of Congress, like millions of other Americans, have recently begun to take exercise seriously. Running and jogging is a favorite form of exercise. With his death, those who knew him well have asked me, "It happened to GOODLOE, why make the effort?"

Those who have been discouraged by this event will be interested in the Capitol Physician's observations. When Dr. Freeman Carey, U.S. Capitol Physician, was confronted with this question he said:

Congressman BYRON's life was prolonged as a direct result of exercise. Had he not exercised regularly, he would not have lived as long as he did.

I ran with GOODLOE as late as last week. He knew he had a history of heart disease and discussed it frequently. He felt running helped him as he would say "Running has helped me live a longer, fuller life."

Congressman BYRON would frequently lament the thousands of Americans who are confined in nursing homes. He would say:

If more Americans would exercise regularly, we could close up 90 percent of the convalescent homes.

It is interesting to observe that one physician had advised him not to exercise, but he could not bear the thought of living without it. He said:

We all must go some day and it's far better to leave this earth doing those things you enjoy doing most living a full day each and every day.

It seems fitting that when he left this life that he was running on the towpath of the C. & O. Canal. I talked a few minutes ago with his charming and loyal wife, Bev, who was his partner in politics as well, who stood by his side and worked each day for the State of Maryland. She said that if he could have had it his own way that was the way he would have chosen.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I appreciate the gentleman from Maryland (Mr. LONG) yielding to me.

I still cannot believe that GOODLOE is not with us this morning and that he is not behind the rail on the floor listening, greeting friends, and being a part of the House proceedings.

I had the privilege of serving with him on the House Committee on Armed Services. The gentleman in the well, Mr. LONG of Maryland, mentioned that GOODLOE BYRON told his wife, I believe, that he would like to be buried in a certain Civil War cemetery in his district. I have just checked with the Veterans' Committee. I do not think that jurisdiction comes under the Committees on Veterans' Affairs but that it might come under the Committee on Interior and Insular Affairs. I certainly would hope that his request could be followed, I still cannot believe he will not walk in the Chamber and greet us in his easy wonderful manner.

Mr. LONG of Maryland. Mr. Speaker, I would say to the gentleman from Mississippi (Mr. MONTGOMERY) that I would certainly give the members of the Committee on Interior and Insular Affairs and the appropriate subcommittee, every support that I can in this matter in order to carry out the wishes of our colleague.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I had the privilege of serving with GOODLOE on the Committee on Interior and Insular Affairs. He had a relative in the State of Wyoming, my friend Richard Ford Pew of Jackson Hole, and GOODLOE BYRON were cousins. GOODLOE was particularly fond of the Jackson Hole country, and climbed the Tetons often.

He was a fine member of the Committee on Interior and Insular Affairs. His death is a shock to us all.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I too rise with a heavy heart in joining my colleagues in offering condolences to the family of GOODLOE BYRON on his sudden death.

I first came to know GOODLOE when I came to the Congress in 1973. In my first few weeks in the House, GOODLOE extended a helping hand of advice and assistance. Throughout my years in the Congress, GOODLOE took advantage of every opportunity he could find to utter an encouraging word and to stress the importance of committing ourselves to a strong defense of our Nation.

His shocking death comes at a time when the 95th Congress was drawing to a long awaited close. It was a Congress in which GOODLOE BYRON made significant strides.

There is always a sense of apprehension during the waning hours of the legislative life of a congressional session. We are all scurrying in a dozen different directions, attempting to clear up all the loose ends. We run ourselves ragged, and throughout it all there is that date lingering just a few weeks in the future, election day. This year, with Goodloe's loss, that apprehension takes on a different aspect. The loss of our good friend has brought us all down to earth.

I often joked with GOODLOE that I would someday have a foot race with him. He was a great long-distance runner, and I know the peace and tranquillity and sense of accomplishment it brought to him. He was a shining example of pride in one's self, one's family, one's community, and one's country.

To GOODLOE's widow, Beverly, and his three children, I offer heartfelt condolences. May it be of some consolation to the Byron family that we share their deep sense of loss.

Mr. TRIBLE. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Virginia.

Mr. TRIBLE. Mr. Speaker, I, too, wish to express my own sense of personal loss on the death of GOODLOE BYRON. GOODLOE was a man of strength who served his Nation well. I will always remember working with GOODLOE as a member of the Committee on Armed Services, and in this body, on behalf of a strong national defense and increased naval shipbuilding.

I will miss my friend GOODLOE.

The SPEAKER. The Chair would ask the gentleman from Maryland (Mr. LONG) to yield to just one more Member, and then to ask for general leave for all Members so that they may present their remarks in the RECORD.

Mr. LONG of Maryland. I thank the Speaker, and I will do so.

Mr. KINDNESS. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Speaker, I join in sad remembrance of GOODLOE BYRON, a friend of 27 years, since we went through law school and then took the Maryland and the District of Columbia bar examinations together. And over the years we have been friends, although we have been separated geographically until recently when we have had the opportunity to be closer again here in the Congress.

It is sad to think that only last week I commented to his son that his dad looked just as he did when we were in law school.

We all take our time upon this Earth and then pass away, but in the case of GOODLOE BYRON I feel that he has fulfilled many needs in this world, as is evidenced in his district by the people he sought to serve so well, and he will long be remembered for that service.

● Mr. STEERS. Mr. Speaker, I want to join the other Members who have paid tribute to GOODLOE BYRON.

I had known him for many years prior to either one of us being in Congress, and became a closer friend through serving together.

I think the outstanding attribute of the Congressman was his totally unsullied reputation for integrity. He was a man who represented his district with distinction. He was diligent, intelligent, and a man of great principle.

His contributions to his constituents, to the State of Maryland, and to our

Nation will be sorely missed. I join those whom he represented in a feeling of sorrow and shock; I shall miss very much, my friend, GOODLOE BYRON.●

● Mr. SANTINI. Mr. Speaker, we were all deeply saddened by the sudden passing of GOODLOE BYRON, one of our most admired and respected colleagues.

Having served with GOODLOE on the House Commerce and Interior Committees, I was often impressed by the manner in which he handled himself and his work.

An effective legislator, GOODLOE was either a formidable opponent or valuable ally, depending on which side of a particular issue he chose to take.

Although we sometimes disagreed on various issues, I could not help but respect his dedication to his convictions and his unswerving loyalty to his constituents.

Like his mother and father before him, both of whom served in Congress, GOODLOE did what he thought was right for his district and for Maryland. He was a good Congressman, a fine gentleman, and a warm human being.

The U.S. Congress, the people of Maryland, and all America will miss him.●

● Mr. CARNEY. Mr. Speaker, it is with great sadness that I rise today to note the untimely death of my good friend and distinguished colleague, Congressman GOODLOE E. BYRON, of Maryland.

Congressman BYRON was born in the western Maryland town of Williamsport, and followed both his father, William D. Byron, and his mother, Katherine E. Byron, in representing the Sixth Maryland District in the U.S. Congress. After encountering a challenge in this year's Democratic congressional primary, Representative BYRON'S reelection was generally assumed.

He and I were both elected to the U.S. House of Representatives in 1970, and during my 8 years of working with him, I had come to respect his judgment and cherish his friendship.

For the past several years, Representative BYRON and I served on the Commerce Committee together, and it was then that I came to know him as a rare legislator—one who could represent the divergent interests of his constituency with equity and grace.

As many of us know, Congressman BYRON was an athlete, a runner who had participated in the Boston Marathon six times. In addition, he was an avid hiker, and had led hiking trips to Alaska and many national parks. When he died while jogging on the Chesapeake and Ohio Canal towpath last night, this Chamber lost a skilled legislator and a conscientious Member.

We have all benefited greatly from our association with Representative BYRON, and I know that we will remember him for his exemplary professional and personal qualities. We will miss Congressman BYRON'S presence in the House, and I join my colleagues in extending my deepest sympathy to his bereaved family.●

● Mr. FORD of Tennessee. Mr. Speaker, it is with a great sense of loss that I stand before you today to pay tribute to a beloved colleague, the Honorable GOODLOE E. BYRON of Maryland. GOODLOE BYRON served this body and the people of western Maryland very well. He dedicated his whole life to representing his fellow Marylanders, not only in the House of Representatives, but also in the Maryland House of Delegates and the Maryland State Senate.

GOODLOE BYRON came from a politically active Maryland family. Both his father, William D. Byron, and his mother, Katharine E. Byron, served in this body, and his grandfather represented Maryland in the U.S. Senate. GOODLOE continued this family tradition with pride and humility.

He was truly a gentle man, who took great pride in his athletic prowess, having participated in the Boston marathon six times and completing this grueling event each time. GOODLOE was also an avid hiker and did his part here in Congress to make sure that Americans would have better hiking facilities by sponsoring legislation that enlarged the Appalachian Trail.

GOODLOE was my next-door neighbor in the Longworth House Office Building, and we often had the chance to talk about legislation and anything else that was on our minds as we walked to and from the House floor together. I could always count on GOODLOE for a friendly smile or a kind remark.

Mr. Speaker, yesterday GOODLOE BYRON was taken from us. He was stricken with a heart attack while running along the Chesapeake and Ohio Canal towpath which he enjoyed so much. I shall miss GOODLOE BYRON very much, and my heart goes out to his wife Beverly, his children, staff, and friends.●

● Mr. ZABLOCKI. Mr. Speaker, I was shocked and saddened to learn of the sudden passing of our colleague from Maryland, Representative GOODLOE BYRON.

Like so many other things in life, it is difficult to understand the tragic taking of one so young and with so much potential. Representative BYRON served ably in the House and had a brilliant career ahead of him. His self-discipline and perseverance were exemplified by his work as a legislator and as an athlete. He strove for perfection of mind and body. His character was one of strength.

Mr. Speaker, I am deeply sorry for the sudden death of GOODLOE BYRON and offer sincere and heartfelt condolences to his wife, Beverly, and their children.●

● Mr. MCCLORY. Mr. Speaker, the shocking report of the sudden and premature passing of our colleague, Representative GOODLOE E. BYRON of Maryland must have a most chilling effect about this Chamber.

To know GOODLOE BYRON was to respect, admire, and love him. He was a gentle, dedicated, and wholesome individual whose entire life and ideals represented the highest in both the public and private life of our Nation.

My wife, Doris, and I have had occasion to know and be with GOODLOE and Beverly Byron frequently during the past several years. We have visited in each others homes and have shared the responsibilities and experiences of being delegates to the Interparliamentary Union meetings where we have been privileged to represent our U.S. Congress.

Mr. Speaker, I know that it will be hard for many of us to reconcile ourselves to serve in this body without GOODLOE BYRON as a colleague and as a friend. I can state quite frankly that I am deeply grieved at the report of his passing. I am sure that the prayers and love of all of us who knew and worked with him will be needed by his wife, Beverly, and by his children and other members of the Byron family.

In behalf of my wife, Doris, and me, I extend to Bev Byron and to all members of the family our love, respect, and deep sympathy.●

● Mr. MICHEL. Mr. Speaker, we have once more been saddened by the sudden death of a distinguished colleague. A few days ago, Ralph Metcalfe died. Now we learn of the death of GOODLOE BYRON. It is indeed a profound loss to the Congress and to the Nation to lose two such fine legislators in the space of a few days.

GOODLOE BYRON'S career in Congress is an example of the kind of legislative success that does not always make the headlines. We often hear the question: "What piece of legislation did he ever have his name on?" as if placing your name on bills is the only way to judge legislative ability. GOODLOE BYRON was the kind of Congressman who worked behind the scenes quite often, quietly and persistently doing what he thought was best for his constituency and the country. That kind of work does not always make the headlines or the top of the television evening news. But it demands time and energy and dedication and the willingness to do the tough spadework necessary for legislative success.

He was, of course, a great lover of the outdoors and his sponsorship of the enlarging of the Appalachian Trail was an example of knowledge and love of a subject leading to legislation.

His constituents and his colleagues will miss him and his family has our condolences on this sad and sudden loss.●

● Mr. FLYNT. Mr. Speaker, it was with a feeling of sorrow and shock that I learned early today of the untimely passing of our beloved friend and colleague, the Honorable GOODLOE E. BYRON, late a Representative of Maryland. Only recently, I saw him and perceived him to be a picture of good health and, early this morning, I learned of his sudden death in his beloved free State of Maryland.

GOODLOE was often described as the most conservative Democrat outside the Deep South and he has twice had to defend his solid conservative position and twice the people of his district have sustained him as their chosen Representative.

Mr. Speaker, I considered GOODLOE BYRON as one of my closest friends. He was a man for whom I had the highest admiration and respect. Throughout his life, he not only reflected credit upon himself but upon his family, his district, and his State.

Mrs. Flynt and I have attended serv-

ices in a church in Hagerstown, Md., where his father is honored with a memorial stained-glass window.

Representative BYRON was preceded as Representative of his district and his State not only by his father but by his mother as well. His grandfather served as U.S. Senator from Maryland. GOODLOE came to the Congress with a tradition of public service and was beloved by his fellow citizens who perceived him as one of their own.

During his service in the U.S. House of Representatives, he earned the admiration and respect of those of us with whom he served. Our Nation, his State, and his district have suffered a great loss in the death of this young man. He will be missed by those of us in this body who were honored and privileged to be included within his circle of friends.

Mrs. Flynt joins me in extending to Beverly and their children our heartfelt sympathy and condolences.●

● Mr. WON PAT. Mr. Speaker, I rise to note my deep regret over the passing of our two esteemed colleagues, Representatives RALPH METCALFE and GOODLOE E. BYRON. These two men served their districts and the entire Nation with distinction and honor. They truly will be missed by all of us who were privileged to serve with them in the House of Representatives.

It is somewhat ironic that both men expired from heart attacks. I would hope that the untimely demise of our colleagues serves as a warning to all of us that our health is the most cherished possession we have. As our outstanding physician, Dr. Carey so often reminds us, we must take care of ourselves.

RALPH METCALFE will long be remembered not only for his tremendous efforts in the Congress to assist American blacks in their drive for equality, but for his unparalleled feats on the athletic field. In particular, history will always record his accomplishments in the 1936 Olympics where he was the recipient of a gold medal. His efforts then served as a living rebuttal of the racism of Hitler's Nazi Germany. Congressman METCALFE was always striving for the best in the human spirit and his impressive record of achievement in everything he sought to do is a living monument to him.

Representative BYRON's sudden passing was equally tragic. He held so much promise and left us at such a young age. He was extremely close to his constituents and none could ask for a finer representation in Congress. I was privileged to serve with GOODLOE in the House Interior and Armed Services Committees. There he made major contributions to the legislative efforts of the committees. I extend my sympathy to Mrs. Byron and wish her every success in her efforts to take her husband's seat in November.●

● Mr. JONES of Tennessee. Mr. Speaker, I rise today to express my sorrow and regret of the recent death of our colleague, GOODLOE BYRON. I know much will be said here about his service to his country and his devotion to his family. I share those sentiments, but I also feel a deep regret at the loss of a good man.

I did not serve on any committees with GOODLOE, nor did we come from the same area of the country. However, during our service together in this body, we developed a lasting friendship, one that I shall always remember and cherish.

I knew GOODLOE BYRON to be a good and decent man who was dedicated to providing his congressional district with honest, forthright representation in the House of Representatives. I also knew him as a kind and loving family man who felt the obligations to his family deeply.

I want to express my condolences to Mrs. Byron and the children and say to them that I am among the many Members of this body that felt the loss of GOODLOE deeply. We shall all miss him greatly.●

● Mr. MAZZOLI. Mr. Speaker, I came to Congress in the same year as GOODLOE BYRON, and his passing is a sudden and unexpected shock to me.

It is always difficult to cope with the death of a friend, but in GOODLOE's case, it is doubly difficult.

His hard work and intelligence brought much to this House. He will be widely mourned.

I extend my condolences to his family.●

● Mr. HEFTEL. Mr. Speaker, to those of us who knew him and, therefore, admired him, the passing of GOODLOE BYRON was more than a tragedy. It was a cruel shock. Here was a young man of robust spirit whose life opened before him with all the promise of a new morning. Already, his record of accomplishments had earned him an honored place in his community, and in the Nation as a whole. But we all knew that there was so much more to come. And so we will miss his future as much as his past. But most of all, I think, we will miss having his wisdom and good sense to draw upon during the daily conduct of our affairs. It is our duty to insure that the memory of his example not be lost.●

● Mr. PERKINS. Mr. Speaker, I realize that I am not alone in being shocked and saddened by the sudden death yesterday of our colleague, GOODLOE E. BYRON.

For a vigorous young man, full of promise, to be cut down so soon is a great tragedy at any time. But in the case of this distinguished son of western Maryland, it is doubly tragic, for he was clearly a man who had captured the hearts of the people he served.

It is not given to many to be born into such a heritage of service. Both his father and his mother were able and effective leaders of their community, and both served their people in this Chamber.

It was an honor to have served with GOODLOE BYRON for these last 8 years, and to have seen his development into an able and worthy representative for the people of Maryland.

We are saddened by his passing, and extend our sympathy to his family. This House is a better place for his having been here.●

● Mr. MURPHY of Illinois. Mr. Speaker, I was shocked and saddened to learn of the death of GOODLOE E. BYRON, a fine Congressman. During his 8 years in the House, GOODLOE BYRON faithfully represented his constituents in western Maryland. I am confident that his wife, Beverly, will carry out her husband's policies with the same diligence and conscientiousness that he did.

Besides being a capable legislator, GOODLOE BYRON was a fine example of physical fitness. He had run in six Boston Marathons and seven John F. Kennedy 50-mile runs, a tremendous achievement for a man in his forties.

All of us in the House will miss the presence of GOODLOE BYRON. I wish Beverly Byron the very best as she assumes her responsibilities as Congresswoman of Maryland's Sixth Congressional District.●

● Ms. OAKAR. Mr. Speaker, I would like to take this opportunity to pay tribute to Congressman GOODLOE BYRON from the great State of Maryland.

It goes without mention, he will be missed personally and professionally in the House of Representatives. His untimely and unfortunate death transports a period of reflection and reticence for us all.

His wholesome attitude toward life touched each of our lives in a special way. His memory will live on both in the House of Representatives and in the minds of those of us who had the pleasure of his company and friendship.●

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, it was with great sadness that I learned of the death of our colleague, GOODLOE BYRON, and I am happy to join in paying a well-deserved tribute to his service in the House.

His untimly death has cut short a career of public service which promised to exemplify the best in American politics. Before entering the Congress he had already achieved a record of distinction as a lawyer and legislator in the State of Maryland. During his four terms in the House he quickly demonstrated an intelligence and competence which won him the respect of all of us.

An enthusiastic outdoorsman, it was not surprising that he had a particular interest in the environment and natural resources. His assignment to the Interior and Insular Affairs Committee gave him an opportunity to give special attention to legislation in these areas, and he made outstanding contributions to the work of that committee.

A man of indefatigable energy and courage, both physical and moral, his absence in the Congress will be keenly felt.

I would like to extend to his family my deepest sympathy.●

● Mr. LIVINGSTON. Mr. Speaker, the Honorable GOODLOE BYRON was my neighbor in the Longworth Building for the past 14 months of my service in the U.S. House of Representatives. During that time I considered him to be a fine, intelligent, and dedicated public servant. I was shocked to learn of his untimely death, and I am grieved that his constituents and his country will be deprived of his talent and service.

I am pleased to learn that his widow, Mrs. Beverly Byron, is expected to join us

in the 96th Congress, and wish to assure her of my support and friendship.●

● Mr. O'BRIEN. Mr. Speaker, my acquaintance with GOODLOE BYRON was probably not nearly as long or profound as was the case with many other of my colleagues. However, it was long enough for me to assess him as a special person indeed.

Perhaps it was his good judgment, perhaps it was his warmth, perhaps his ability in his job, and perhaps it was his high sense of responsibility. Whatever it was, certainly he represented the best of the qualities of the Congress, and his loss is one deeply felt and not easily replaced.●

● Mr. MITCHELL of Maryland. Mr. Speaker, the House of Representatives, the Maryland congressional delegation, and the residents of Maryland have been stricken with the loss of one of our most well-respected colleagues.

Congressman GOODLOE E. BYRON was well known for his accessibility to his constituency, and to others who may have needed assistance. The sincerity and sensitivity with which he served the Sixth District of Maryland indeed, is a lasting example for those of us who will continue to represent our Nation's citizenry.

As House Members, we knew GOODLOE BYRON in such capacities as a member of both the House Armed Services Committee's Military Installations and Facilities Subcommittee and the Interior and Insular Affairs Committee's Subcommittee on Indian Affairs and Public Lands. We in the Maryland congressional delegation knew Mr. BYRON as a Member to whom we could unhesitantly look for guidance and relentless support on numerous issues.

While his constituents knew him as we did, they also knew a slightly different side. They knew the GOODLOE BYRON who was strongly dedicated to physical fitness and a strong Federal commitment for programs in this area for all Americans. The sincerity with which he addressed this issue was well illustrated, particularly by his active participation in seven of the 26-mile Boston Marathons. Mr. BYRON believed that a strong mind is best complemented by a physically fit body.

GOODLOE BYRON will certainly be missed by this House, and particularly by the members of the Maryland congressional delegation. However, the spirit of respect and dignity with which he served will always be with us.●

● Mr. YATRON. Mr. Speaker, I join with the many friends of GOODLOE E. BYRON in expressing my deep sorrow at his untimely passing.

Following a long family tradition of service in the Congress Representative BYRON performed his duties with exceptional ability and unquestionable integrity.

During his 8 years in the House of Representatives, Congressman BYRON never allowed political considerations to overshadow his concern for the people of the Sixth District of Maryland and his desire for real improvement in their lives.

Besides his outstanding work in the House, GOODLOE was a strong advocate of physical fitness. He had run in six Boston Marathons and seven John F. Kennedy 50-mile runs.

This Nation has lost a warm and fine human being and an extremely competent Member of Congress. I would like to express my deepest sympathy to his wife, Beverly, and their three children. I fully enjoyed my years working with GOODLOE BYRON and I consider it a privilege to have known him.●

● Mr. DERWINSKI. Mr. Speaker, I wish to express my deep sorrow over the recent death of our distinguished colleague, GOODLOE BRYON. His outstanding record of faithful service and his strength of character earned him an honored place in the hearts of all those who had the privilege to know him.

During his 8 years in Congress. GOODLOE was truly a hard-working legislator who knew how to get things done, but his efforts always reflected his deep concern for the well-being of his constituents.

GOODLOE was an extremely effective member of the Interior and Insular Affairs Committee. Because of his keen interest in the environment and in the protection of our natural resources, GOODLOE was instrumental in the movement to protect existing trails and wild lands. His contribution in these areas will long be a testimonial to his leadership.

To each position he held, GOODLOE BYRON, brought a special dedication and a commitment to do his very best for the people of the Sixth District, for the people of Maryland and for the people of our Nation. I believe that I can say that his work was deeply appreciated by all those he represented.

On behalf of Mrs. Derwinski and myself, I would like to express my sincere condolences to his wife, Beverly, and the entire BYRON family on their loss. We all share that loss to some extent, but I am confident that Beverly will carry out her husband's policies with the same diligence and conscientiousness that he did. I wish her the very best as she assumes the responsibilities of representing the Sixth District of Maryland.●

● Mr. VAN DEERLIN. Mr. Speaker, Congress lost one of its finest athletes and gentlemen October 11 with the passing of our colleague, GOODLOE BYRON.

Heir to a family tradition of distinguished public service, GOODLOE ably represented Maryland's Sixth Congressional District for 8 years. He was a shoo-in for reelection. Our grief is tempered only by the fact that he will be succeeded in this body by his widow, Beverly, a well-qualified person in her own right and daughter of another distinguished man, Harry Butcher, once aide and confidant to General Eisenhower and now a leading California broadcaster.

GOODLOE, of course, was well known and properly renowned as a leading distance runner, a six-time competitor in the Boston Marathon. I ran with him on several occasions—other than Boston, I assure you—and experienced firsthand the beauty of his district while jogging along the C. & O. Canal towpath, near Frederick.

But GOODLOE also was an environmentalist in the finest sense of the word, and it is in this area that I think his contributions will be longest remembered.

He was a devoted backpacker and outdoorsman, activities that helped make the Byrons such a closely knit family. It was due in large measure to his interest and leadership that Congress this year enacted legislation to provide $90 million for development of the Appalachian Trail System.

GOODLOE and I served for a number of years together on the House Communications Subcommittee, where I respected him as a man of integrity who was true to his ideals. He was a good friend whose loss is keenly felt.●

● Mr. NATCHER. Mr. Speaker, I join with the many friends of GOODLOE E. BYRON in expressing my sorrow at his untimely passing.

Congressman BYRON, following a long family tradition of service in the Congress of the United States, performed his duties with exceptional ability and unquestionable integrity. He was an able and dedicated Representative of his State of Maryland and of his country.

The people of the Sixth District of Maryland knew him well. He gave of himself fully and unselfishly. His sincere concern for his constituents' needs and problems was ever constant. This was a kind, considerate and courageous man. He will be greatly missed by the people of Maryland and by his colleagues in the House of Representatives.

Mr. Speaker, I would like to extend my deepest sympathies to the wife and family of the Honorable GOODLOE E. BYRON.●

● Mr. JOHNSON of California. Mr. Speaker, it was with great sadness that I learned of the untimely death of our colleague, GOODLOE BYRON of Maryland. We will certainly miss him here in the Halls of Congress.

GOODLOE was an effective and conscientious legislator who had gained the wide respect of his colleagues. He came from a long line of public servants and was making his own mark on the Congress.

During his 8 years in the House of Representatives, he worked diligently to serve the people of Maryland's Sixth Congressional District. He was an effective spokesman for the people of this area, for he knew their problems and knew how to work within the legislative system to get them solved.

It is always shocking when a Member of Congress passes away, but we are particularly grieved because GOODLOE was young. He was a very fine Representative and had much to offer in future years. We will not soon forget his accomplishments and his presence among us.

To his wife Beverly and to his family, my wife and I extend our deep sympathy. They can take comfort in knowing that GOODLOE served in the House of Representatives with distinction and excellence.●

● Mr. SIKES. Mr. Speaker, the State of Maryland, the Congress, and the Nation suffered a grievous loss with the death of Congressman GOODLOE BYRON of Maryland's 6th District. His death at only 49,

takes from the Congress one of the positive men whom we all regarded as having limitless potential and ability.

Particularly for me, having had the pleasure of serving with both of GOODLOE's parents in the House, this is a very real, personal loss. GOODLOE's father, William Byron, and his mother, Katherine Byron, both represented the same district in Congress almost four decades ago. Additionally, his grandfather was a U.S. Senator from Maryland.

Although he was a valued member of the Interior and Insular Affairs Committee, it was his work on the Armed Services Committee that initiated our association. Serving on the Military Installations Subcommittee and on the Seapower Subcommittee, GOODLOE BYRON came to stand for a strong Navy and a strong national defense. His expertise in the somewhat encumbered military installations and construction field was renowned far beyond that of such a junior member of that subcommittee.

His constituents recognized the abilities and potential of GOODLOE BYRON for he had already won renomination and had less-than-token opposition in the upcoming general election.

Often described as one of the most conservative of the Democrats from outside the South, GOODLOE BYRON will especially be missed when the 96th Congress convenes in January.

My sincere sympathy is extended to Mrs. Byron and the family. They can be very proud of GOODLOE's achievements and service to this country. His work has strengthened our Nation. His passing is truly our loss. He was a great American.●

● Mr. O'NEILL. Mr. Speaker, it is with deep regret that I join my colleagues today in paying tribute to the Honorable GOODLOE E. BYRON, whose sudden and untimely passing yesterday has left a void that will be hard to fill here in the House of Representatives.

Quiet and softspoken, GOODLOE BYRON did not seek headlines in the House of Representatives. Nevertheless, he was extremely sensitive and responsive to the important needs of the people of the Sixth District of Maryland and that was graphically demonstrated by the fact his constituents elected him to serve as their Representative in Washington for four terms and renominated him in September for his fifth term.

As an officer in the U.S. Army, a member of the Maryland bar, and county attorney, a member of the State legislature and, finally, as a Member of the U.S. House of Representatives, GOODLOE BYRON rightfully earned a reputation for integrity, hard work, and strength of character. As a public servant he brought honor and distinction to the State of Maryland and the Nation.

GOODLOE came from a distinguished family of public servants: His grandfather was a U.S. Senator from Maryland, and his father and mother both preceded him as Members of the U.S. House of Representatives. GOODLOE was proud to follow in these footsteps and acknowledged frequently to his colleagues how his father taught him that it is more important to vote in behalf of your constituents than to try to force your personal philosophies upon them.

His keen interest in the environment and the protection of our natural resources earned him the reputation as a leader in the movement to protect existing trails and wild lands and to establish more trails where they were needed. While in the Maryland State Senate he sponsored a bill making Maryland the first State to provide protection for the Appalachian Trail, which crosses 39 miles of Maryland. The Appalachian Trail has been an important part of GOODLOE BYRON's Life and on March 21, 1978, the President signed into law GOODLOE's bill, H.R. 8803, which will complete the protection of the Appalachian Trail corridor.

I will always remember GOODLOE BYRON as a long-distance runner who ran six times in the famous Boston Marathon and seven times in the J.F.K. 50-mile-hike-and-run. Tenacity, perserverance, dedication, stamina, endurance, drive, and determination—these are the qualities that marked him as a champion outdoorsman and in achieving his legislative goals as a legislator. I know how much he loved and respected the outdoors and enjoyed running and hiking with his family. Perhaps it is fitting that his passing came while he was doing what gave him such a sense of personal enjoyment.

My wife, Millie, joins me in expressing our sympathy and sincere condolences to GOODLOE's wife, Beverly, and their three children, Goodloe, Jr., Mary, and Kim.●

● Mr. SEBELIUS. Mr. Speaker, I wish to take this time to pay tribute to our friend and colleague, GOODLOE BYRON of Maryland who died so unexpectedly Wednesday evening.

GOODLOE came from a long line of dedicated public servants and during his four terms in the Congress did an exemplary job of carrying on his fine family tradition.

During the past 4 years I have had the privilege of serving with him on the Interior and Insular Affairs Committee. Because of his special interests as an outdoorsman and an athlete, we also worked together on the National Parks Subcommittee. He always did his homework and tried to do the very best he could for his constituents and the national interests. I feel honored to have known and worked with such a man.

The State of Maryland has lost a valuable asset with the death of GOODLOE BYRON and we in the House of Representatives have lost a fine colleague.●

● Mr. ANDERSON of California. Mr. Speaker, this Congress lost yet another of its Members to an unwelcomed and unexpected death. GOODLOE BYRON was stricken with a heart attack while jogging in his home district in western Maryland. I feel sure that not only his colleagues and the people of the Sixth District of Maryland, but the populace as a whole mourn the loss of this fine man and dedicated Member of Congress.

GOODLOE had served the State of Maryland since 1962, when he was elected to the house of delegates. From 1966 to 1970, he did an excellent job as State senator. In 1970, he carried his reputation for excellence to the U.S. House of Representatives.

GOODLOE's task was not an easy one, for he represented one of the most culturally diverse districts in the Nation, a mixture ranging from large city suburbanites to Appalachian coal miners. To adequately serve the interests of such widely divergent groups is difficult at best; yet GOODLOE never shirked his duty or avoided his responsibility to the citizens of Maryland. His service on the Interior and Insular Affairs and on the Armed Services Committees was admirable. GOODLOE will be remembered for his complete devotion to the people of the sixth district and for his sincere desire to effectively represent the will of his constituents.

This Nation has lost a fine human being and an extremely capable Member of Congress. We all lament the sudden passing of one who seemed so young and full of life. Fate is sometimes very cruel; there is no choice but to accept its consequences. My wife, Lee and I would like to express our deepest sympathy to those who will miss him the most, his wife Beverly and their three children. Although little can be said to comfort them in this time of bereavement, I know that all of us extend our deepest sympathies, and share in their loss.●

● Mr. BIAGGI. Mr. Speaker, the House remains in a state of shock over the sudden death of our friend and colleague GOODLOE BYRON. I wish to pay tribute to this outstanding public servant and man.

For the past 8 years, GOODLOE BYRON served with special distinction as the Representative of the Sixth Congressional District in Maryland. He followed a family tradition which saw both his mother and father represent the Sixth District in the House. GOODLOE BYRON was a lifelong resident of the district which encompasses the beautiful countryside of western Maryland.

GOODLOE BYRON was a tireless worker on behalf of his constituents. While in the House GOODLOE served on the Armed Services and Interior Committees. In the latter capacity he worked with special effort to insure that the Potomac River and the C. & O. Canals and their many towpaths and hiking areas were preserved. The tens of thousands of area residents who use these facilities owe a great deal to the work of GOODLOE BYRON.

GOODLOE was a quiet but entirely effective leader. His contributions to the legislative process were both numerous and substantial. It was my distinct honor to have GOODLOE as a friend. His presence in the House will be missed.●

● Mr. FREY. Mr. Speaker, it is with a great deal of sadness that I join in tribute to our departed colleague, the gentleman from Maryland, GOODLOE BYRON. GOODLOE was elected 2 years after I got here and I had the fortune to become a good frend of his. We served on the same committee for a while and being relatively the same age and having the same interest in athletics, got to know each other well. As a matter of fact, just several days before his death we were discussing sports and what the future

would bring. As usual, GOODLOE looked at it as a challenge and was eagerly looking forward to the next 2 years in the Congress.

There are few words that can really help at a time like this, but I want GOODLOE's wife and three children to know that he was respected by his colleagues as a fighter for principles. Party did not come first for GOODLOE, but this country. He would look at an issue, decide what to do and work to bring about what he believed no matter what the political pressure. The people of his district obviously loved and respected him as is evidenced by his continued reelections. The people of his district, the State of Maryland, and this country have lost a fine Congressman and a gentleman, and I have lost a good friend. What he did, what he stands for, his beliefs, his courage, his competitiveness will always remain. Marcia and I send our thoughts and our prayers in sorrow.●

● Mr. ANNUNZIO. Mr. Speaker, I rise to join my distinguished colleague, Hon. CLARENCE D. LONG, of the Second District of Maryland, in paying tribute to the Honorable GOODLOE E. BYRON, who represented the people of the Sixth District of Maryland during the 92d through the 95th Congress. The death of my outstanding colleague has left a void in this House, for he served his Maryland constituents and the American people with devotion and dedication.

GOODLOE BYRON began his career of leadership in Maryland as a member of the Maryland House of Delegates from 1962–66, and he also served in the Maryland Senate from 1966–70, when he was elected to the U.S. House of Representatives.

During his distinguished service in the House before he was cut down in the prime of his career, Congressman BYRON served on the Committee on Armed Services and the Committee on Interior and Insular Affairs. His record of excellence and creative accomplishment was most commendable.

GOODLOE BYRON was a man of deep conviction, independent in thought and action, and was willing to challenge any person or institution in the pursuit of his high ideals and what he thought was right for his people, and he will certainly be missed here in Congress.

Mrs. Annunzio and I extend our deepest sympathy to his wife, Beverly, and to his children, Goodloe, Jr., Barton Kimball, and Mary McComas.●

● Mr. CARR. Mr. Speaker, GOODLOE BYRON was a capable legislator, but even more importantly, a warm human being who will be missed by all of us in Congress.

I served with GOODLOE BYRON on the Committee on Armed Services and the Committee on Interior and Insular Affairs, and it was a pleasure to work with him. It was a particular pleasure and privilege to know GOODLOE personally. We occasionally talked together about the difficulty of getting good exercise in such a fast-paced and demanding job as that of a Member of Congress. It was through these talks that GOODLOE interested me in jogging, and my life was thus improved by him.

GOODLOE BYRON will be sorely missed by all of us, and we can only hope that, for his family and friends, the pain of his passing will be lessened by the good memory of the time he shared with us.●

● Mrs. BOGGS. Mr. Speaker, it is with a very heavy heart that I join my colleagues in paying tribute to the Honorable GOODLOE E. BYRON who left us so suddenly and tragically.

I wish to express my deepest sympathy to Beverly and their children whose pain and grief I share because of my many years of personal association with the Byron family.

My own husband, Hale, served with GOODLOE's father, the Honorable William D. Byron, and I was with GOODLOE's mother, the Honorable Katharine Byron, in New Orleans when she received the tragic news that her husband's flight had crashed, sending Congressman BYRON to his untimely death. And I admired the strong way Katharine carried on, much the way Beverly has determined to run for GOODLOE's seat to continue the tradition of Byron representation of the Sixth Congressional District of Maryland.

The enlargement of the Appalachian Trail, which GOODLOE sponsored and championed in Congress, should serve us as a lasting reminder of his good nature and his dedication to the physical and spiritual needs of the American people. The Trail, which meanders through the districts of many of his colleagues from Georgia to Maine, will help millions of Americans to personally experience the beauty and the history of our Nation.●

● Mr. ICHORD. Mr. Speaker, the death of GOODLOE BYRON has robbed Maryland and the Nation of an unusually able public servant and the Members of this House of a fine colleague and friend. I was proud to have worked with him on the Armed Services Committee and deeply saddened by his untimely passing. GOODLOE will be greatly missed by all of us and it is indeed unfortunate that his distinguished career and life of public service has been called from us.

GOODLOE BYRON served with distinction in the Maryland Senate before coming to the House in 1970. He served his country in the U.S. Army and held steadfastly to the time-honored traditions of the Democratic Party. He was an active, deeply concerned individual and a friend and mentor to us all. Year after year GOODLOE BYRON gave of himself freely to the people of Maryland and America. Although he has left us prematurely, all who knew him and were served by him are grateful for his wisdom, compassion and leadership. We shall long be guided by them.●

● Mr. DE LA GARZA. Mr. Speaker, GOODLOE BYRON was both a friend of mine and a colleague here in the House of Representatives.

As a friend, I knew GOODLOE BYRON to be a man of strength and convictions, of humor and insight, of action and deeds.

As a colleague, I knew GOODLOE to be an able and powerful legislator, who weighed carefully all sides of a question before making up his mind—but who tenaciously clung to his considered opinion even if it was temporarily unpopular in the eyes of the fickle public.

GOODLOE BYRON's death was a tragedy we all feel—none more than his charming wife Beverly and his children Goodloe, Jr., Barton, and Mary. The pain is worsened because GOODLOE seemed one of the healthiest Members of this body—and his death was so unexpected.

GOODLOE BYRON was a good man. I will miss him.●

GENERAL LEAVE

Mr. LONG of Maryand. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the life, character, and public service of our late colleague, the gentleman from Maryland, Mr. GOODLOE BYRON.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

MASSIVE BUILDUP BY SYRIAN TROOPS IN LEBANON

Mr. WOLFF. Mr. Speaker, the current situation in Lebanon saddens us all and presents a cause for grave concern as we seek peace in the Middle East.

In the wake of the civil war between Moslem leftists and Palestinians, and Christian forces, in 1976 there was installed in Lebanon what has been termed the "Arab deterrent force." This so-called deterrent force is supposed to keep the peace and is made up of forces from a number of Middle Eastern states, though it is comprised mainly of Syrians.

This "peacekeeping force" is anything but that. Mr. Speaker, at this very moment, people—innocent people—are dying in Lebanon. Bitter fighting has erupted between the Christian Lebanese and the Syrian forces. Although the latest in a long string of cease-fires went into effect this past Saturday, this cease-fire can best be described as an "uneasy truce" and in actuality, violations of the cease-fire are commonplace. Indeed, there are reports that, even now, the Syrians are using the so-called cease-fire as a cloak to hide their attempts to reinforce their troops, perhaps for a final assault on the Christian population.

Today marks the continuation of talks aimed at finding a peace in the Middle East, for today, representatives of the United States, Israel, and Egypt are meeting downtown at Blair House to transform the Camp David framework into an actual peace treaty.

Let us hope that nothing stands in the way of a successful conclusion to this mission.

But we cannot forget what is happening in Lebanon today for it bears a direct relationship to any future peace in the Mideast. The U.S. Congress is concerned about this situation, and today, an informal group of Congressmen heard testimony from a number of Christian Lebanese on the current situation.

What is now clear is that Syria does not wish to keep the peace. Instead it wants to subjugate Lebanon into "greater Syria." What is now needed is firm United States and United Nations action to restrain the Syrian troops and then work for their withdrawal. Tomorrow,

concerned Members of Congress will take to the floor of the House to discuss this situation. I urge all Members to support us in our efforts.

PROGRESS MADE IN SPECIAL STUDY ON ECONOMIC CHANGE

(Mr. BOLLING asked and was given permission to address the House for 1 minute.)

Mr. BOLLING. Mr. Speaker, under the unanimous-consent permission which I have just obtained, I have taken a special order for later today to share with the Members of the House the progress we have made in the Special Study on Economic Change authorized by House Concurrent Resolution 248.

THE INEQUALITY IN TAX CREDITS FOR THE ELDERLY

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, I wish we were taking time to study what we are doing before we blithely pass upon H.R. 9893, tax credit for the elderly, without amending it so that it treats equally those retirees under age 65 and those over age 65. The bill as it is presently written penalizes the retiree when he becomes 65. This is simply not fair.

It is not that I am against giving the tax credit for the elderly. I sponsored a bill that would have increased the credit and I pledge that if this bill is defeated, I will again sponsor that bill next session. However, my bill would apply the same phaseout to those under 65. This is the only fair thing to do.

The committee bill actually accents the discrimination by raising the amount of the base of the credit. It is true that those over 65 and up will have the phaseout raised from $10,000 on a joint return to $17,500, but another retiree under age 65 will have no phaseout. The credit will mean more dollars to those under age 65 than those over 65. The phaseout does not apply to unearned income, so persons of affluence will be especially benefitted.

If it were possible, I would offer an amendment to the committee bill. Unfortunately this rather controversial, and expensive bill is on the Suspension Calendar and amendments are not in order. This problem was originally called to my attention when some of my over 65 constituents wrote to me and asked why they were having to pay more tax than they would have to pay if they were under 65. I had the committee staff look into it and could not believe that we had written this discrimination into the law. Let us not make that discrimination worse by passing this bill.

LENGTHY HOUSE SESSIONS TAKE THEIR TOLL

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARTER. Mr. Speaker, one of the greatest historians of the House today told me that when we start the 10 a.m. to 8 p.m. or 10 p.m. or midnight sessions, we lose one to three Members. This is a man who knows the history of the House perhaps better than any man in this room. He is my colleague, the gentleman from Kentucky (Mr. NATCHER.)

Sadly, Mr. Speaker, we have lost two of these Members already. I regret this very much, and I hope that we will limit the time of these sessions in the maddening rush to try to finish our work. Instead, I hope that we will act calmly and deliberately and save the life of the third Member.

Mr. Speaker, I deeply regret the death of our good friends and colleagues, the Honorable Ralph Metcalfe and the Honorable GOODLOE BYRON. May God sustain their families and assuage their grief.

THE WASHINGTON POST'S CRITICISM OF THE CONGRESSIONAL LEADERSHIP

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. FRENZEL. Mr. Speaker, an editorial in this morning's Washington Post delivered the most searing indictment against the congressional leadership that I have seen yet.

The editorial points out that Congress biggest fault is mismanagement. The leadership is probably not unable to manage the peoples' affairs in a business-like manner, but it certainly is unwilling to do so.

The Post scores another bullseye in criticizing the overuse of the suspension calendar, a procedure already denounced by publications like the New Yorker. The House Republican Research Committee's Task Force on Reform, lead by our able colleague LARRY COUGHLIN, has been calling for improvements in the suspension procedure for 4 years. Naturally, our majority leadership has ignored those responsible requests.

The Post editorial also correctly identifies the leadership's political problem. It feels obliged to give its supporters whatever they want—staff, programs, expense allowances—even if those gifts are contrary to wishes of the people, or to the proper operation of the House.

I shall insert the editorial in the extension section of the RECORD today. It should command the attention of every person who wonders why his or her government does not work well under the present management.●

PROPOSED AMENDMENT TO ENDANGERED SPECIES ACT

(Mr. RONCALIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RONCALIO. Mr. Speaker and my colleagues, later today, following the consideration of S. 2727, the Amateur Sports Act of 1978, we are scheduled to consider the Endangered Species Act, H.R. 14104.

Mr. Speaker, I have an amendment to that act, which is vital to my State. The amendment, in effect, will contain certain findings which will permit the completion of a $1.6 billion powerplant 350 miles upstream from a 60-mile stretch of the Platte River, near Kearney, Nebr., which is one of 10 stopover or flyover habitats for certain sand and whooping cranes.

Again, Mr. Speaker, this amendment is vital to my State. It is not a direct, frontal attack upon the Endangered Species Act, but a careful precise exception based on facts unique to the Platte River. I will be grateful if all of the Members of the House will support the amendment, and favorable passage of H.R. 14104, as amended.

GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill H.R. 12929, Departments of Labor, and Health, Education, and Welfare Appropriations.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CONFERENCE REPORT ON H.R. 12929, LABOR-HEW APPROPRIATIONS, FISCAL YEAR 1979

Mr. FLOOD. Mr. Speaker, I call up the conference report on the bill (H.R. 12929) making appropriations for the Department of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of October 6, 1978.)

The SPEAKER pro tempore. Under the rule previously adopted, the conference report is considered as having been read.

The gentleman from Pennsylvania (Mr. FLOOD) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MICHEL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, I ask unanimous consent to revise and extend my remarks, and to insert a table and other extraneous material at the conclusion of my remarks.

Mr. Speaker, today we bring before the House the conference report on H.R. 12929, the Labor-HEW appropriation bill for fiscal year 1979. This conference report is the result of two long and arduous sessions with the Senate conferees, the first of which lasted over 10 hours. There are a total of 111 Senate amendments to the House bill, some of which contain several separate and distinct items on which the Senate and House bills do not agree. The House conferees are to be praised for their diligence, dedication, and willingness to devote many, many precious hours to the resolution of differences between the two Houses, which makes it possible for us to consider this conference report at this time.

Four months has elapsed since the Labor-HEW appropriation bill passed the House on June 13. The bill passed the Senate on September 27. At the present moment, the programs covered by this bill are without funding, since the Senate has not yet adopted the continuing resolution (H.J. Res. 1139) which passed the House on September 26. I am sure that I need not remind members that the fiscal year began on October 1.

The total appropriations provided in the conference report and recommended by the conferees amount to $56 billion in Federal funds and $4.8 billion in trust funds. The recommendation, in total, represents a reduction of $531,000,000 below the House bill and $1,285,000,000 the President's budget request. Unfortunately, I must add that there are, in addition, $17.6 billion in budget estimates for programs which were left out of both the House and the Senate bills because their authorizing legislation has expired. These programs will be covered by the continuing resolution until supplemental appropriations can be enacted next year.

The major change from the bill which the House passed last June is in the Basic Educational Opportunity Grants (BEOG) program. For this program, the conference recommendation is $2,600,000,000, or $763,600,000 less than the amount in the House bill. The Senate had cut out all of the funds contained in the House bill to extend the BEOG program to middle-income families, on the grounds that they would not be needed if tuition tax credits are enacted. The conference agreement restores $459,400,000 of the Senate cut, and recognizes that the tuition tax credit issue is still not resolved. We intend to take another look at the BEOG program in connection with next year's supplemental appropriation bill.

Another large change from the House bill which we are recommending is a reduction of $265.000.000 in appropriations for medicaid, which is based on the latest estimates of the Congressional Budget Office. We have also agreed to a portion of the Senate reduction in funds for impacted area aid. We have restored sufficient funds to insure that school districts do not receive less than they received last year. In toal, there is an increase of $11,100,000 for impacted area aid over fiscal year 1978.

Some but not all, of the reductions are offset by increases in other programs. Among the increases over the House bill which we have agreed to are:

Occupational Safety and Health	+$3,750,000
Mine Safety and Health	+2,000,000
Rural Health	+1,500,000
Black Lung Clinics	+7,500,000
Public Health Service Hospitals and Clinics	+20,000,000
National Institutes of Health (Including $27,000,000 for the National Cancer Institute)	+46,000,000
Mental Health Research and Training	+8,000,000
Emergency Aid for Desegregating Schools	+14,350,000
Education for the Handicapped	+14,812,000
Vocational Education State Grants	+25,500,000
Libraries	+8,500,000
Refugee Assistance	+7,800,000
Adoption Opportunities	+5,000,000

This is by no means an exhaustive catalog of all of the dollar changes from the House bill. The Labor-HEW appropriation bill contains funding for hundreds of programs, each of which must be dealt with separately. I intend to insert in the RECORD, at the conclusion of my remarks, a very detailed table which will show the amount agreed to by the conferees, together with appropriate comparisons with the House bill, the Senate bill, the budget estimates, and the fiscal year 1978 appropriation.

Mr. Speaker, I wish I could conclude my remarks at this point. Frankly, this is an appropriation bill, and in my opinion, we should be talking about dollars, and nothing else. Unfortunately, the annual appropriation bill is often the only vehicle which Members can find in which to express their views about a particular matter, and as a result, we find that every year the bill becomes cluttered up with legislative language on all sorts of subjects.

This is by way of a preface to my admission that your conferees have again not been able to resolve the abortion issue. Therefore, when you vote on this conference report, you will not be voting on the question of payments for abortions. That vote will come later, when we take up Senate amendment 103. At that time, I intend to offer a motion to insist on the House version of section 210, which, in my opinion, is vastly preferable to the Senate version.

Mr. Speaker, I urge all Members to vote for adoption of the conference report. This bill is well within the targets established by the second budget resolution. It is below the President's budget request, and it represents the results of 9 months of effort by Congress and a very careful weighing of priorities among the various programs funded in it. Also I have often said, this bill affects every man, woman, and child in America. It is one of the most important pieces of legislation which you will have an opportunity to vote on.

Mr. Speaker, the House during debate on June 8 on the fiscal year 1979 Labor-HEW appropriations bill voted overwhelmingly—290 to 87—for the amendment offered by the gentleman from Illinois (Mr. MICHEL) to reduce budget authority for HEW by $1 billion to be achieved by reducing fraud, abuse, and waste in the programs mentioned by the Department's Inspector General in his report to Congress of March 31, 1978. Conferees agreed to this provision.

I have received a communication from the Secretary of the Department of Health, Education, and Welfare, Joseph A. Califano, in which he sumarizes the Department's views on the Michel amendment and advises how his Department intends to proceed in administering its fiscal year 1979 appropriations in light of the amendment. Following is the text of the Secretary's letter which I take this opportunity to share with my colleagues:

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., October 11, 1978.

Hon. DANIEL F. FLOOD,
Chairman, Subcommittee on Labor-HEW, Committee on Appropriations, U.S. House of Representatives, Washington, D.C.

DEAR DAN: I am writing to summarize our views concerning the Michel Amendment, Section 201 of the Labor-HEW Appropriation bill, and to advise you how we intend to administer our appropriations in light of the Amendment. The Amendment would reduce the budget authority for HEW by $1 billion, provided that the reduction is achieved by reducing fraud, abuse and waste in the programs cited by the Inspector General in his report of March 31, 1978.

Let me first briefly summarize our views on the proposed Amendment. First, it is important to note that, to a large extent, HEW's 1979 budget request, and the line items in the appropriations bill which the conferees have approved, already reflect the savings anticipated from our plan to reduce fraud, abuse and waste by $1 billion in fiscal year 1979. Second, our plan anticipates significant savings in Medicare, a program for which no appropriation action is required, and therefore, a program not covered by Section 201. Finally, our plan includes actions that reduce funds for grantees who are misusing the money and shift it to grantees who will use it properly, actions which will not reduce the budget but ensure that whatever is appropriated is properly spent.

As you know, following the release of the Inspector General's report of March 31, I established a specific reduction targets for each operating component within the Department, and a copy of the Department's plan was sent to each member of Congress on June 6. This plan described the full scope of our effort to reduce fraud, abuse and waste. Our FY 79 goal is $1.055 billion. This does not reflect what we will accomplish in the long run because many of our programs are confronted with deep-seated, systemic problems. The goal is a most ambitious one, however, given the long lead times to effect change and the fact that some incidence of leakage is inevitable.

The target includes activities in the following areas:

Improving Medicaid program operations and recipient eligibility;

Increasing activities to identify fraud and abuse in benefit payment programs;

Increasing the number and intensity of audits of grantees;

Strengthening the review and negotiation process to verify reimbursements and improve the integrity of Medicare claims;

Improving management in the SSI and AFDC programs; and

Reducing fraud, abuse, and waste in all student financial assistance programs.

As indicated above, a significant portion (approximately $640 million) of the $1 billion goal is already reflected in the 1979 budget submission. These savings are concentrated in Medicaid, AFDC, SSI, and the Guaranteed Student Loan Program. Savings in the Medicare program (not covered by the Department's appropriation bill) account for approximately $150 million. Programs where expenditures which will continue, but for the proper recipients and services, account for approximately $265 million.

In short, we intend to meet the objective

of the Michel Amendment not by reducing program appropriations but rather by the vigorous application of the measures I have identified which should result in savings of $1 billion. Indeed, we are legally prohibited from reducing the appropriations for the programs to which the Amendment applies (the programs cited in the Inspector General's report)—Medicaid, Medicare, AFDC, Social Security, SSI, Social Services, Student Assistance and ESEA, Title I—since grantees or individual beneficiaries are entitled by statute to Federal funds under these programs. Failure to make such payments would give rise to enforceable claims against the Government.

Let me emphasize that I am deeply and personally committed to reducing fraud, abuse and waste in our programs and fully expect the implementation of our plan to accomplish the savings contemplated by Mr. Michel's Amendment.

Sincerely,

JOSEPH A. CALIFANO, Jr.

CONFERENCE AGREEMENT—H.R. 12929—FISCAL YEAR 1979 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL

	Fiscal year 1978 comparable appropriation	Fiscal year 1979 budget estimate	House bill	Senate bill	Fiscal year 1979 conference agreement	Conference compared to fiscal year 1978	Conference compared to 1979 estimates	Conference compared to House bill	Conference compared to Senate bill
SUMMARY									
Title I—Department of Labor:									
Federal funds	$2,334,637,000	$2,464,590,000	$2,466,906,000	$2,479,006,000	$2,473,056,000	+$138,419,000	+$8,466,000	+$6,150,000	−$5,950,000
Trust funds	1,531,997,000	1,685,737,000	1,695,737,000	1,695,737,000	1,695,737,000	+163,740,000	+10,000,000		
Unauthorized, not considered:									
Federal funds	(10,370,684,000)	(11,127,002,000)	***	***	***	***	***	***	***
Trust funds	(33,634,000)	(35,238,000)	***	***	***	***	***	***	***
Title II—Department of Health, Education, and Welfare:									
Federal funds	49,790,218,000	54,379,170,000	[1]54,020,219,000	[2]51,533,482,000	[1]53,085,830,000	+3,295,612,000	−1,293,340,000	−934,389,000	+1,552,348,000
Trust funds	2,859,046,000	3,105,466,000	3,050,281,000	3,067,281,000	3,050,281,000	+191,235,000	−55,185,000		−17,000,000
Unauthorized, not considered:									
Federal funds	(3,968,887,000)	(5,647,455,000)	***	***	***	***	***	***	***
Trust funds	(600,000)	(600,000)				(−600,000)	(−600,000)		
Title III—Related agencies:									
Federal funds	486,683,000	495,178,000	495,143,000	495,178,000	495,143,000	+8,460,000	−35,000		−35,000
Trust funds	33,142,000	34,317,000	34,317,000	34,317,000	34,317,000	+1,175,000			
Unauthorized, not considered:									
Federal funds	(1,080,280,000)	(845,686,000)	***	***	***	***	***	***	***
Sec. 411, 2 percent reduction estimate (Federal funds)			−397,166,000					+397,166,000	
Grand total, all titles:									
Federal funds	52,611,538,000	57,338,938,000	[1]56,585,102,000	[2]54,507,666,000	[1]56,054,029,000	+3,442,491,000	−1,284,909,000	−531,073,000	+1,546,363,000
Trust funds	(4,424,185,000)	(4,825,520,000)	(4,780,335,000)	(4,797,335,000)	(4,780,335,000)	(+356,150,000)	(−45,185,000)		(−17,000,000)
Unauthorized, not considered:									
Federal funds	(15,419,851,000)	(17,620,143,000)	***	***	***	***	***	***	***
Trust funds	(34,234,000)	(35,838,000)	***	***	***	***	***	***	***
TITLE I—DEPARTMENT OF LABOR									
EMPLOYMENT AND TRAINING ADMINISTRATION									
Program administration:									
Planning, evaluation and research	5,715,000	5,639,000	***	***	***	***	***	***	***
Comprehensive employment development	49,103,000	47,556,000	***	***	***	***	***	***	***
Trust funds	(2,428,000)	(2,333,000)	***	***	***	***	***	***	***
Apprenticeship services	13,856,000	14,067,000	***	***	***	***	***	***	***
U.S. employment service	708,000	803,000	***	***	***	***	***	***	***
Trust funds	(15,161,000)	(17,044,000)	***	***	***	***	***	***	***
Unemployment insurance service	1,621,000	1,620,000	***	***	***	***	***	***	***
Trust funds	(10,890,000)	(10,313,000)	***	***	***	***	***	***	***
Investigation and compliance	870,000	1,042,000	***	***	***	***	***	***	***
Trust funds	(1,131,000)	(1,368,000)	***	***	***	***	***	***	***
Executive direction and management	18,959,000	19,711,000	***	***	***	***	***	***	***
Trust funds	(4,024,000)	(4,180,000)	***	***	***	***	***	***	***
Subtotal, Program Administration	124,466,000	125,676,000	***	***	***	***	***	***	***
Federal funds	90,832,000	90,438,000	***	***	***	***	***	***	***
Trust funds	(33,634,000)	(35,238,000)	***	***	***	***	***	***	***
Employment and Training Assistance (CETA):									
General Manpower Training (Title I)	1,880,000,000	2,026,700,000	***	***	***	***	***	***	***
National Training Projects (Title III):									
Training	343,060,000	415,122,000	***	***	***	***	***	***	***
Program support	44,870,000	43,910,000	***	***	***	***	***	***	***
Subtotal	387,930,000	459,032,000	***	***	***	***	***	***	***
Special youth programs (titles III and VIII)	[3]	930,896,000	***	***	***	***	***	***	***
Summer youth employment program	756,000,000	740,200,000	***	***	***	***	***	***	***
Job Corps (Title IV)	417,000,000	296,000,000	***	***	***	***	***	***	***
Private sector initiative		400,000,000	***	***	***	***	***	***	***
Subtotal, Employment and Training Assistance	3,440,930,000	4,852,828,000	***	***	***	***	***	***	***
Temporary Employment Assistance (CETA II and VI)	[3]	5,955,286,000	***	***	***	***	***	***	***
FY 77 CETA Carry-over	[3](6,627,222,000)		***	***	***	***	***	***	***
Community Services Employment for Older Americans	211,700,000	228,450,000	***	***	***	***	***	***	***
Federal unemployment benefits and allowances:									
Payments to former Federal personnel	560,000,000	660,000,000	660,000,000	660,000,000	660,000,000	+100,000,000			
Trade adjustment assistance	240,000,000	190,000,000	190,000,000	190,000,000	190,000,000	−50,000,000			
Unemployment assistance and payments under other Federal unemployment programs	400,000,000	100,000,000	100,000,000	100,000,000	100,000,000	−300,000,000			
Subtotal, FUBA	1,200,000,000	950,000,000	950,000,000	950,000,000	950,000,000	−250,000,000			

***Consideration deferred due to lack of authorizing legislation.

[1] Reflects $1,000,000,000 reduction as a result of sec. 201 fraud, abuse, and waste reforms.

[2] Reflects $2,000,000,000 reduction as a result of sec. 201 fraud, abuse, and waste reforms.

[3] This budget authority provided in Public Law 95-29, fiscal year 1977 Economic Stimulus bill.

CONFERENCE AGREEMENT—H.R. 12929—FISCAL YEAR 1979 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL

	Fiscal year 1978 comparable appropriation	Fiscal year 1979 budget estimate	House bill	Senate bill	Fiscal year 1979 conference agreement	Conference compared to fiscal year 1978	Conference compared to 1979 estimates	Conference compared to House bill	Conference compared to Senate bill
EMPLOYMENT AND TRAINING ADMINISTRATION—Continued									
Grants to States for unemployment insurance and employment services:									
Unemployment insurance service	($771,100,000)	($804,655,000)	($813,055,000)	($813,055,000)	($813,055,000)	($+41,955,000)	($+8,400,000)		
Employment services:									
Federal funds	53,600,000	21,600,000	21,600,000	21,600,000	21,600,000	−32,000,000			
Trust funds	(583,500,000)	(646,400,000)	(646,400,000)	(646,400,000)	(646,400,000)	(+62,900,000)			
Subtotal, employment services	637,100,000	668,000,000	668,000,000	668,000,000	668,000,000	+30,900,000			
Contingency fund	(174,400,000)	(232,545,000)	(234,145,000)	(234,145,000)	(234,145,000)	(+59,745,000)	(+1,600,000)		
Subtotal, grants to States	1,582,600,000	1,705,200,000	1,715,200,000	1,715,200,000	1,715,200,000	+132,600,000	+10,000,000		
Federal funds	53,600,000	21,600,000	21,600,000	21,600,000	21,600,000	−32,000,000			
Trust funds	(1,529,000,000)	(1,683,600,000)	(1,693,600,000)	(1,693,600,000)	(1,693,600,000)	(+164,600,000)	(+10,000,000)		
Advances to unemployment trust fund and other funds		200,000,000	200,000,000	200,000,000	200,000,000	+200,000,000			
Subtotal, Employment and Training Administration	2,782,600,000	2,855,200,000	2,865,200,000	2,865,200,000	2,865,200,000	+82,600,000	+10,000,000		
Federal funds	1,253,600,000	1,171,600,000	1,171,600,000	1,171,600,000	1,171,600,000	−82,000,000			
Trust funds	(1,529,000,000)	(1,683,600,000)	(1,693,600,000)	(1,693,600,000)	(1,693,600,000)	(+164,600,000)	(+10,000,000)		
Unauthorized, not considered	(10,404,318,000)	(11,162,240,000)	***	***	***	***	***	***	***
Federal funds	(10,370,684,000)	(11,127,002,000)	***	***	***	***	***	***	***
Trust funds	(33,634,000)	(35,238,000)	***	***	***	***	***	***	***
LABOR—MANAGEMENT SERVICES ADMINISTRATION									
Salaries and expenses:									
Labor-management relations policy and service	3,260,000	3,910,000	3,310,000	3,910,000	3,710,000	+450,000	−200,000	+$400,000	−$200,000
Labor-management standards enforcement	14,939,000	16,418,000	16,418,000	16,418,000	16,418,000	+1,479,000			
Veterans reemployment rights	2,772,000	2,417,000	2,417,000	2,417,000	2,417,000	−355,000			
Federal labor-management relations	5,897,000	6,017,000	6,017,000	6,017,000	6,017,000	+120,000			
Employee benefits security	25,129,000	26,873,000	26,873,000	26,873,000	26,873,000	+1,744,000			
Executive direction management and support	5,064,000	4,319,000	4,319,000	4,319,000	4,319,000	−745,000			
Subtotal, LMSA	57,061,000	59,954,000	59,354,000	59,954,000	59,754,000	+2,693,000	−200,000	+400,000	−200,000
EMPLOYMENT STANDARDS ADMINISTRATION									
Salaries and expenses:									
Improving and protecting wages	53,075,000	62,367,000	62,367,000	62,367,000	62,367,000	+9,292,000			
Elimination of discrimination in employment	17,111,000	15,064,000	15,064,000	15,064,000	15,064,000	−2,047,000			
Workers' compensation	36,237,000	29,529,000	29,529,000	29,529,000	29,529,000	−6,708,000			
Trust funds	(265,000)	(320,000)	(320,000)	(320,000)	(320,000)	(+55,000)			
Program development and administration	13,209,000	13,484,000	13,484,000	13,484,000	13,484,000	+275,000			
Subtotal salaries and expenses	119,897,000	120,764,000	120,764,000	120,764,000	120,764,000	+867,000			
Federal funds	119,632,000	120,444,000	120,444,000	120,444,000	120,444,000	+812,000			
Trust funds	(265,000)	(320,000)	(320,000)	(320,000)	(320,000)	(+55,000)			
Special benefits:									
Federal employees compensation act benefits	292,325,000	228,137,000	228,137,000	228,137,000	228,137,000	−64,188,000			
Disabled coal miners benefits	24,300,000					−24,300,000			
Longshore and harbor workers' benefits	2,735,000	3,063,000	3,063,000	3,063,000	3,063,000	+328,000			
Subtotal, special benefits	319,360,000	231,200,000	231,200,000	231,200,000	231,200,000	−88,160,000			
Black Lung disability trust fund:									
Benefit payments	162,700,000	389,400,000	389,400,000	389,400,000	389,400,000	+226,700,000			
Employment Standards Administration, salaries and expenses	17,819,000	24,555,000	24,555,000	24,555,000	24,555,000	+6,736,000			
Departmental Management, salaries and expenses	1,170,000	8,310,000	8,310,000	8,310,000	8,310,000	+7,140,000			
Subtotal, Black Lung disability trust fund	181,689,000	422,265,000	422,265,000	422,265,000	422,265,000	+240,576,000			
Subtotal, Employment Standards Administration	620,946,000	774,229,000	774,229,000	774,229,000	774,229,000	+153,283,000			
Federal funds	620,681,000	773,909,000	773,909,000	773,909,000	773,909,000	+153,228,000			
Trust funds	(265,000)	(320,000)	(320,000)	(320,000)	(320,000)	(+55,000)			
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION									
Salaries and expenses:									
Safety and health standards	8,833,000	9,287,000	9,835,000	9,835,000	9,835,000	+1,002,000	+548,000		
Compliance:									
Federal inspections	62,651,000	66,742,000	70,089,000	77,589,000	73,839,000	+11,188,000	+7,097,000	+3,750,000	−3,750,000
State programs	34,105,000	42,500,000	42,500,000	42,500,000	42,500,000	+8,395,000			
Education, consultation, and information	22,047,000	30,710,000	31,404,000	31,404,000	31,404,000	+9,357,000	+694,000		
Safety and health statistics	6,347,000	6,433,000	6,488,000	6,488,000	6,488,000	+141,000	+55,000		
Executive direction and administration	5,087,000	7,058,000	7,158,000	7,158,000	7,158,000	+2,071,000	+100,000		
Subtotal, OSHA	139,070,000	162,730,000	167,474,000	174,974,000	171,224,000	+32,154,000	+8,494,000	+3,750,000	−3,750,000

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 12929—FISCAL YEAR 1979 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL

	Fiscal year 1978 comparable appropriation	Fiscal year 1979 budget estimate	House bill	Senate bill	Fiscal year 1979 conference agreement	Conference compared to fiscal year 1978	Conference compared to 1979 estimates	Conference compared to House bill	Conference compared to Senate bill
MINE SAFETY AND HEALTH ADMINISTRATION									
Salaries and expenses:									
Enforcement:									
(a) Coal	$54,501,000	$55,968,000	$55,968,000	$55,968,000	$55,968,000	+$1,467,000			
(b) Metal/nonmetal	22,358,000	27,492,000	27,492,000	27,492,000	27,492,000	+5,134,000			
(c) State grants	4,000,000	4,000,000	4,000,000	8,000,000	6,000,000	+2,000,000	+$2,000,000	+$2,000,000	−$2,000,000
(d) Standards development	110,000	3,193,000	3,193,000	3,193,000	3,193,000	+3,083,000			
Assessments	4,135,000	6,207,000	6,207,000	6,207,000	6,207,000	+2,072,000			
Education and training	6,712,000	6,404,000	6,404,000	6,404,000	6,404,000	−308,000			
Technical support	16,452,000	17,531,000	17,531,000	17,531,000	17,531,000	+1,079,000			
Program administration	2,586,000	2,705,000	2,705,000	2,705,000	2,705,000	+119,000			
Subtotal, Mine Safety and Health Administration	110,854,000	123,500,000	123,500,000	124,500,000	125,500,000	+14,646,000	+2,000,000	+2,000,000	−2,000,000
BUREAU OF LABOR STATISTICS									
Salaries and expenses:									
Labor force statistics	33,668,000	36,471,000	36,471,000	36,471,000	36,471,000	+2,803,000			
Prices and cost of living	20,917,000	30,717,000	30,717,000	30,717,000	30,717,000	+9,800,000			
Wages and industrial relations	13,245,000	13,826,000	13,628,000	13,628,000	13,628,000	+383,000	−198,000		
Productivity and technology	3,225,000	3,185,000	3,185,000	3,185,000	3,185,000	−40,000			
Economic growth	798,000	780,000	780,000	780,000	780,000	−18,000			
Executive direction and staff services	11,250,000	9,971,000	9,971,000	9,971,000	9,971,000	−1,279,000			
Revision of the Consumer Price Index	3,770,000					−3,770,000			
Subtotal, Bureau of Labor Statistics	86,873,000	94,950,000	94,752,000	94,752,000	94,752,000	+7,879,000	−198,000		
DEPARTMENTAL MANAGEMENT									
Saaries and expenses:									
Executive direction	10,766,000	11,080,000	9,580,000	9,580,000	9,580,000	−1,186,000	−1,500,000		
Legal services	24,055,000	27,606,000	27,606,000	27,606,000	27,606,000	+3,551,000			
Trust funds	(403,000)	(188,000)	(188,000)	(188,000)	(188,000)	(−215,000)			
International labor affairs	7,804,000	9,123,000	9,123,000	9,123,000	9,123,000	+1,319,000			
Administration and management	18,013,000	20,783,000	20,783,000	20,783,000	20,783,000	+2,770,000			
Trust funds	(1,108,000)	(1,211,000)	(1,211,000)	(1,211,000)	(1,211,000)	(+103,000)			
Adjudication	3,985,000	3,805,000	3,805,000	3,805,000	3,805,000	−180,000			
Trust funds	(1,221,000)	(418,000)	(418,000)	(418,000)	(418,000)	(−803,000)			
Promoting employment of the handicapped	1,505,000	1,616,000	1,616,000	1,616,000	1,616,000	+111,000			
Women's Bureau		2,525,000	2,525,000	2,525,000	2,525,000	+2,525,000			
Minimum Wage Study Commission	300,000	1,209,000	1,209,000	1,209,000	1,209,000	+909,000			
Subtotal, salaries and expenses	69,160,000	79,564,000	78,064,000	78,064,000	78,064,000	+8,904,000	−1,500,000		
Federal funds	66,428,000	77,747,000	76,247,000	76,247,000	76,247,000	+9,819,000	−1,500,000		
Trust funds	(2,732,000)	(1,817,000)	(1,817,000)	(1,817,000)	(1,817,000)	(−915,000)			
Special foreign currency program	70,000	200,000	70,000	70,000	70,000		−130,000		
Subtotal, departmental management	69,230,000	79,764,000	78,134,000	78,134,000	78,134,000	+8,904,000	−1,630,000		
Federal funds	66,498,000	77,947,000	76,317,000	76,317,000	76,317,000	+9,819,000	−1,630,000		
Trust funds	(2,732,000)	(1,817,000)	(1,817,000)	(1,817,000)	(1,817,000)	(−915,000)			
Total, Labor Department	3,866,634,000	4,150,327,000	4,162,643,000	4,174,743,000	4,168,793,000	+302,159,000	+18,466,000	+6,150,000	−5,950,000
Federal funds	2,334,637,000	2,464,590,000	2,466,906,000	2,479,006,000	2,473,056,000	+138,419,000	+8,466,000	+6,150,000	−5,950,000
Trust funds	(1,531,997,000)	(1,685,737,000)	(1,695,737,000)	(1,695,737,000)	(1,695,737,000)	(+163,740,000)	(+10,000,000)		
Total, unauthorized, not considered	(10,404,318,000)	(11,162,240,000)	***	***	***	***	***	***	***
Federal funds	(10,370,684,000)	(11,127,002,000)	***	***	***	***	***	***	***
Trust funds	(33,634,000)	(35,238,000)	***	***	***	***	***	***	***
TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
HEALTH SERVICES ADMINISTRATION									
Community health services:									
Community health centers	15,000,000	15,000,000	15,000,000	18,000,000	16,500,000	+1,500,000	+1,500,000	+1,500,000	−1,500,000
Unauthorized, not considered	253,000,000	286,000,000	***	***	***	***	***	***	***
Black lung clinics				10,000,000	7,500,000	+7,500,000	+7,500,000	+7,500,000	−2,500,000
Comprehensive health grants to States:									
Basic grants	90,000,000	90,000,000	***	***	***	***	***	***	***
Advance for 1980		90,000,000	***	***	***	***	***	***	***
Hypertension	11,000,000	11,000,000	***	***	***	***	***	***	***
Advance for 1980		11,000,000	***	***	***	***	***	***	***
Subtotal	101,000,000	202,000,000	**	***	***	***	***	***	***
Maternal and child health:									
Grants to States	$332,500,000	$345,500,000	$345,500,000	$345,500,000	$345,500,000	$+13,000,000			
Advance for 1980		345,500,000	***	***	***	***	***	***	***
Sudden infant death information dissemination	2,802,000	2,802,000	***	***	***	***	***	***	***
Research and training	29,354,000	29,354,000	30,354,000	34,000,000	32,177,000	+2,823,000	$+2,823,000	$+1,823,000	$−1,823,000
Subtotal, maternal and child health	361,854,000	374,854,000	375,854,000	379,500,000	377,677,000	+15,823,000	+2,823,000	+1,823,000	−1,823,000

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 12929—FISCAL YEAR 1979 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL

	Fiscal year 1978 comparable appropriation	Fiscal year 1979 budget estimate	House bill	Senate bill	Fiscal year 1979 conference agreement	Conference compared to fiscal year 1978	Conference compared to 1979 estimates	Conference compared to House bill	Conference compared to Senate bill
HEALTH SERVICE ADMINISTRATION—Continued									
Unauthorized, not considered	($2,802,000)	($348,302,000)	***	***	***	***	***	***	***
Genetic information and counseling	4,000,000	4,000,000	***	***	***	***	***	***	***
Family planning	135,000,000	145,000,000	***	***	***	***	***	***	***
Migrant health	34,500,000	34,500,000	***	***	***	***	***	***	***
National Health Service Corps	42,565,000	57,000,000	$57,000,000	$57,000,000	$57,000,000	+$14,435,000			
Unauthorized, not considered		5,947,000	***	***	***	***	***	***	***
NHSC, private practice grants			1,000,000		1,000,000	+1,000,000	+$1,000,000		+$1,000,000
Hemophilia treatment centers	3,000,000	3,000,000	***	***	***	***	***	***	***
Home health services	6,000,000	6,000,000	***	***	***	***	***	***	***
Program support	25,763,000	29,263,000	29,863,000	29,863,000	29,863,000	+4,100,000	+600,000		
Subtotal, community health	445,182,000	476,117,000	478,117,000	494,363,000	489,540,000	+44,358,000	+13,423,000	+$10,823,000	−4,823,000
Unauthorized, not considered	(539,302,000)	(1,034,749,000)	***	***	***	***	***	***	***
Health care services and systems:									
Patient care and special health services:									
Hospitals and clinics	175,678,000	152,504,000	152,504,000	177,000,000	172,504,000	−3,174,000	+20,000,000	+20,000,000	−4,496,000
Federal employee health	624,000	686,000	686,000	686,000	686,000	+62,000			
Construction and modernization	15,000,000					−15,000,000			
Payment to Hawaii	1,400,000	1,400,000	1,400,000	2,000,000	1,600,000	+200,000	+200,000	+200,000	−400,000
Subtotal	192,702,000	154,590,000	154,590,000	179,686,000	174,790,000	−17,912,000	+20,200,000	+20,200,000	−4,896,000
Emergency medical services	33,700,000	33,700,000	33,700,000	33,700,000	33,700,000				
Unauthorized, not considered	8,925,000	8,925,000	***	***	***	***	***	***	***
Program support	6,246,000	6,759,000	7,059,000	7,059,000	7,059,000	+813,000	+300,000		
Subtotal, health care services and systems	232,648,000	195,049,000	195,349,000	220,445,000	215,549,000	−17,099,000	+20,500,000	+20,200,000	−4,896,000
Unauthorized, not considered	(8,925,000)	(8,925,000)	***	***	***	***	***	***	***
Program management	6,393,000	+7,026,000	7,026,000	7,026,000	7,026,000	+633,000			
Subtotal, health services	684,223,000	678,192,000	681,092,000	721,834,000	712,115,000	+27,892,000	+33,923,000	+31,023,000	−9,719,000
Unauthorized, not considered	(548,227,000)	(1,043,674,000)	***	***	***	***	***	***	***
CENTER FOR DISEASE CONTROL									
Disease control:									
Project grants:									
Venereal disease	32,000,000	32,000,000	***	***	***	***	***	***	***
Immunization	31,200,000	35,000,000	***	***	***	***	***	***	***
Rat control	13,000,000	13,000,000	***	***	***	***	***	***	***
Lead-based paint poisoning prevention	10,250,000	10,250,000	***	***	***	***	***	***	***
Disease surveillance	56,042,000	59,711,000	60,211,000	65,000,000	64,000,000	+7,958,000	+4,289,000	+3,789,000	−1,000,000
Laboratory improvements	20,197,000	18,956,000	18,956,000	18,956,000	18,956,000	−1,241,000			
Health education	4,580,000	12,560,000	12,560,000	15,000,000	12,560,000	+7,980,000			−2,440,000
Occupational safety and health:									
Research:									
Grants	3,900,000	3,900,000	6,400,000	6,400,000	6,400,000	+2,500,000	+2,500,000		
Intramural program	40,497,000	41,114,000	41,114,000	41,114,000	41,114,000	+617,000			
Training	8,355,000	8,399,000	10,799,000	10,799,000	10,799,000	+2,444,000	+2,400,000		
Program support	3,513,000	3,681,000	3,681,000	3,681,000	3,681,000	+168,000			
Subtotal	56,265,000	57,094,000	61,994,000	61,994,000	61,994,000	+5,729,000	+4,900,000		
Buildings and facilities		1,912,000	1,912,000	1,912,000	1,912,000	+1,912,000			
Program management	3,366,000	3,427,000	3,427,000	3,427,000	3,427,000	+61,000			
Subtotal, preventive health	140,450,000	153,660,000	159,060,000	166,289,000	162,849,000	+22,399,000	+9,189,000	+3,789,000	−3,440,000
Unauthorized, not considered	(86,450,000)	(90,250,000)	***	***	***	***	***	***	***
NATIONAL INSTITUTES OF HEALTH									
National Cancer Institute	851,800,000	858,392,000	889,192,000	937,500,000	917,000,000	+65,200,000	+58,608,000	+27,808,000	−20,500,000
Unauthorized, not considered (sec. 472)	19,886,000	20,410,000	***	***	***	***	***	***	***
National Heart, Lung, and Blood Institute	424,927,000	432,184,000	485,584,000	485,584,000	485,584,000	+60,657,000	+53,400,000		
Unauthorized, not considered (sec. 472)	22,705,000	22,152,000	***	***	***	***	***	***	***
National Institute of Dental Research	57,437,000	57,841,000	63,841,000	60,000,000	61,920,000	+4,483,000	+4,079,000	−1,921,000	+1,920,000
Unauthorized, not considered (sec. 472)	4,198,000	4,198,000	***	***	***	***	***	***	***
National Institute of Arthritis, Metabolism, and Digestive Diseases	243,269,000	249,369,000	287,869,000	287,869,000	287,869,000	+44,600,000	+38,500,000		
Unauthorized, not considered (sec. 472)	16,777,000	17,877,000	***	***	***	***	***	***	***
National Institute of Neurological and Communicative Disorders and Stroke	170,932,000	173,610,000	188,910,000	225,000,000	205,000,000	+34,068,000	+31,390,000	+16,090,000	−20,000,000
Unauthorized, not considered (sec. 472)	7,322,000	7,322,000	***	***	***	***	***	***	***
National Institute of Allergy and Infectious Diseases	154,943,000	159,798,000	183,198,000	183,198,000	183,198,000	+28,255,000	+23,400,000		
Unauthorized, not considered (sec. 472)	7,223,000	7,004,000	***	***	***	***	***	***	***
National Institute of General Medical Sciences	196,298,000	185,092,000	225,092,000	230,000,000	231,058,000	+34,760,000	+45,966,000	+5,966,000	+1,058,000
Unauthorized, not considered (sec. 472)	34,364,000	49,320,000	***	***	***	***	***	***	***
National Institute of Child Health and Human Development	91,124,000	108,855,000	119,005,000	109,605,000	114,305,000	+23,181,000	+5,450,000	−4,700,000	+4,700,000
Unauthorized, not considered (sec. 472, title X)	75,131,000	90,076,000	***	***	***	***	***	***	***
National Institute on Aging	34,863,000	35,926,000	54,526,000	49,500,000	54,526,000	+19,663,000	+18,600,000		+5,026,000
Unauthorized, not considered (sec. 472)	2,390,000	1,984,000	***	***	***	***	***	***	***

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 12929—FISCAL YEAR 1979 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL

	Fiscal year 1978 comparable appropriation	Fiscal year 1979 budget estimate	House bill	Senate bill	Fiscal year 1979 conference agreement	Conference compared to fiscal year 1978	Conference compared to 1979 estimates	Conference compared to House bill	Conference compared to Senate bill
NATIONAL INSTITUTES OF HEALTH—Continued									
National Eye Institute	$80,694,000	$82,449,000	$100,549,000	$100,549,000	$100,549,000	+$19,855,000	+$18,100,000		
Unauthorized, not considered (sec. 472)	4,643,000	3,979,000	***	***	***	***	***	***	***
National Institute of Environmental Health Sciences	58,644,000	63,927,000	73,227,000	70,000,000	73,512,000	+14,868,000	+9,585,000	+$285,000	+$3,512,000
Unauthorized, not considered (sec. 472)	5,485,000	5,320,000	***	***	***	***	***	***	***
Research resources	144,531,000	148,499,000	152,899,000	153,899,000	153,649,000	+9,118,000	+5,150,000	+750,000	−250,000
Unauthorized, not considered (sec. 472)	515,000	550,000	***	***	***	***	***	***	***
John E. Fogarty International Center	8,459,000	8,489,000	8,789,000	8,989,000	8,989,000	+530,000	+500,000	+200,000	
Subtotal biomedical research	2,517,921,000	2,564,431,000	2,832,681,000	2,901,693,000	2,877,159,000	+359,238,000	+312,728,000	+44,478,000	−24,534,000
Subtotal, unauthorized, not considered	(200,639,000)	(230,192,000)	***	***	***	***	***	***	***
National Library of Medicine	29,521,000	31,787,000	31,887,000	35,000,000	33,444,000	+3,923,000	+1,657,000	+1,557,000	−1,556,000
Unauthorized, not considered	(7,987,000)	(7,987,000)	***	***	***	***	***	***	***
Office of the Director	18,871,000	19,373,000	19,673,000	19,673,000	19,673,000	+802,000	300,000		
Buildings and facilities	65,650,000	30,950,000	67,950,000	67,950,000	67,950,000	+2,300,000	+37,000,000		
Subtotal, National Institute of Health	2,631,963,000	2,646,541,000	2,952,191,000	3,024,316,000	2,998,226,000	+366,263,000	+351,685,000	+46,035,000	−26,090,000
Subtotal, unauthorized, not considered	(208,626,000)	(238,179,000)	***	***	***	***	***	***	***
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION									
General mental health:									
Research	107,421,000	129,371,000	123,371,000	129,371,000	126,371,000	+18,950,000	−3,000,000	+3,000,000	−3,000,000
Unauthorized, not considered (Rape Center)	4,436,000	6,000,000	***	***	***	***	***	***	***
Training	68,263,000	68,263,000	69,263,000	79,263,000	74,263,000	+6,000,000	+6,000,000	+5,000,000	−5,000,000
Unauthorized, not considered (sec. 472)	16,137,000	18,691,000	***	***	***	***	***	***	***
Community programs:									
Community support	7,600,000	7,600,000	7,600,000	7,600,000	7,600,000				
Operations:									
1st year	30,489,000		***	***	***	***	***	***	***
Continuation:									
Grants initiated under new law	64,628,000	104,694,000	104,694,000	104,694,000	104,694,000	+40,066,000			
Converted staffing grants	62,105,000	104,450,000	104,450,000	104,450,000	104,450,000	+42,345,000			
Conversion	19,372,000	24,366,000	***	***	***	***	***	***	***
Consultation and education	8,245,000	7,438,000	***	***	***	***	***	***	***
Financial distress	5,488,000	2,220,000	***	***	***	***	***	***	***
Continuations under old law:									
Staffing	58,115,000	23,596,000	23,596,000	23,596,000	23,596,000	−34,519,000			
Child mental health	20,599,000	17,319,000	17,319,000	17,319,000	17,319,000	−3,280,000			
Subtotal, community programs	213,047,000	257,659,000	257,659,000	257,659,000	257,659,000	+44,612,000			
Program support	29,513,000	31,173,000	31,173,000	31,173,000	31,173,000	+1,660,000			
Subtotal, mental health	418,244,000	486,466,000	481,466,000	497,466,000	489,466,000	+71,222,000	+3,000,000	+8,000,000	−8,000,000
Subtotal, unauthorized, not considered	(84,167,000)	(58,715,000)	***	***	***	***	***	***	***
Drug abuse:									
Research	34,092,000	45,930,000	39,930,000	45,930,000	42,930,000	+8,838,000	−3,000,000	+3,000,000	−3,000,000
Training	9,379,000	9,379,000	9,379,000	9,379,000	9,379,000				
Unauthorized, not considered (sec. 472)	621,000	784,000	***	***	***	***	***	***	***
Community programs:									
Project grants and contracts	161,000,000	161,000,000	***	***	***	***	***	***	***
Grants to States	40,000,000	40,000,000	***	***	***	***	***	***	***
Program support	16,817,000	18,178,000	18,178,000	18,178,000	18,178,000	+1,361,000			
Subtotal, drug abuse	60,288,000	73,487,000	67,487,000	73,487,000	70,487,000	+10,199,000	−3,000,000	+3,000,000	−3,000,000
Unauthorized, not considered	(201,621,000)	(201,784,000)	***	***	***	***	***	***	***
Alcoholism:									
Research	16,182,000	21,197,000	22,197,000	22,197,000	22,197,000	+6,015,000	+1,000,000		
Training	5,052,000	5,052,000	5,052,000	5,052,000	5,052,000				
Unauthorized, not considered (sec. 472)	2,148,000	2,350,000	***	***	***	***	***	***	***
Community programs:									
Project grants and contracts	78,706,000	78,706,000	78,706,000	78,706,000	78,706,000				
Grants to States	56,800,000	56,800,000	56,800,000	56,800,000	56,800,000				
Program support	9,660,000	10,202,000	10,202,000	10,202,000	10,202,000	+542,000			
Subtotal, alcoholism	166,400,000	171,957,000	172,957,000	172,957,000	172,957,000	+6,557,000	+1,000,000		
Unauthorized, not considered	(2,148,000)	(2,350,000)	***	***	***	***	***	***	***
Buildings and facilities	350,000					−350,000			
Program management	7,632,000	8,112,000	8,112,000	8,112,000	8,112,000	+480,000			
Subtotal, alcohol drug abuse, and mental health	652,914,000	740,022,000	730,022,000	752,022,000	741,022,000	+88,108,000	+1,000,000	+11,000,000	−11,000,000
Saint Elizabeths Hospital	74,171,000	75,824,000	75,824,000	75,824,000	75,824,000	+1,653,000			
Construction and renovation (SEH)	54,210,000					−54,210,000			
Subtotal, ADAMHA	781,295,000	815,846,000	805,846,000	827,846,000	816,846,000	+35,551,000	+1,000,000	+11,000,000	−11,000,000
Unauthorized, not considered	(287,936,000)	(262,849,000)	***	***	***	***	***	***	***

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 12929—FISCAL YEAR 1979 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL

	Fiscal year 1978 comparable appropriation	Fiscal year 1979 budget estimate	House bill	Senate bill	Fiscal year 1979 conference agreement	Conference compared to fiscal year 1978	Conference compared to 1979 estimates	Conference compared to House bill	Conference compared to Senate bill
HEALTH RESOURCES ADMINISTRATION									
Health planning and resources development:									
Health planning:									
Local agencies	$107,000,000	$115,400,000	***	***	***	***	***	***	***
State agencies	29,500,000	30,000,000	***	***	***	***	***	***	***
Planning methods/centers	6,500,000	6,900,000	***	***	***	***	***	***	***
Subtotal, unauthorized, not considered	(143,000,000)	(152,300,000)	***	***	***	***	***	***	***
Special medical facilities	2,750,000					−$2,750,000			
Program support	11,383,000	11,882,000	$11,882,000	$11,882,000	$11,882,000	+499,000			
Subtotal, planning and resources	14,133,000	11,882,000	11,882,000	11,882,000	11,882,000	−2,251,000			
Unauthorized, not considered	(143,000,000)	(152,300,000)	***	***	***	***	***	***	***
Health professions education:									
Health professions institutional assistance:									
Capitation grants	144,000,000	87,300,000	147,100,000	125,000,000	144,000,000		+$56,700,000	−$3,100,000	+$19,000,000
(MOD)	(120,100,000)	(81,400,000)	(120,100,000)	(102,100,000)	(120,100,000)		(+38,700,000)		(+18,000,000)
(VOPP)	(18,000,000)		(18,000,000)	(15,300,000)	(18,000,000)		(+18,000,000)		(+2,700,000)
(Public health)	(5,900,000)	(5,900,000)	(9,000,000)	(7,600,000)	(5,900,000)			(−3,100,000)	(−1,700,000)
Startup assistance	2,000,000	1,100,000	5,000,000	5,000,000	5,000,000	+3,000,000	+3,900,000		
Financial distress	3,000,000	2,000,000	5,000,000	2,000,000	5,000,000	+2,000,000	+3,000,000		+3,000,000
Subtotal, institutional	149,000,000	90,400,000	157,100,000	132,000,000	154,000,000	+5,000,000	+63,600,000	−3,100,000	+22,000,000
Health professions student assistance:									
Loans	20,000,000		10,000,000	10,000,000	10,000,000	−10,000,000	+10,000,000		
Loan repayments	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000				
National health service scholarships	60,000,000	60,000,000	75,000,000	75,000,000	75,000,000	+15,000,000	+15,000,000		
Exceptional need scholarships	5,000,000	5,000,000	9,000,000	5,000,000	7,000,000	+2,000,000	+2,000,000	−2,000,000	+2,000,000
Subtotal, student assistance	86,500,000	66,500,000	95,500,000	91,500,000	93,500,000	+7,000,000	+27,000,000	−2,000,000	+2,000,000
Health professions special educational assistance:									
Family medicine residencies and training	45,000,000	45,000,000	45,000,000	45,000,000	45,000,000				
Primary care residencies and training	15,000,000	16,000,000	17,500,000	17,500,000	17,500,000	+2,500,000	+1,500,000		
Interdisciplinary training	4,000,000	1,781,000	4,281,000	10,000,000	7,141,000	+3,141,000	+5,360,000	+2,860,000	−2,859,000
Physicians/dental extenders	9,100,000	9,100,000	9,100,000	9,100,000	9,100,000				
Area health education centers	17,000,000	18,000,000	18,000,000	20,000,000	20,000,000	+3,000,000	+2,000,000	+2,000,000	
Disadvantaged assistance	15,000,000	17,000,000	19,000,000	19,000,000	19,000,000	+4,000,000	+2,000,000		
Foreign medical graduates	2,000,000	1,000,000	1,000,000	1,000,000	1,000,000	−1,000,000			
Emergency medical training	6,000,000		6,000,000	6,000,000	6,000,000		+6,000,000		
National Advisory Committee on Graduate Medical Education	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000				
Supply and distribution reports	1,000,000	5,400,000	5,400,000		2,700,000	+1,700,000	−2,700,000	−2,700,000	+2,700,000
Subtotal, special programs	115,100,000	114,281,000	126,281,000	128,600,000	128,441,000	+13,341,000	+14,160,000	+2,160,000	−159,000
Health teaching facilities:									
Grants	8,500,000					−8,500,000			
Interest subsidies	2,000,000	3,000,000	3,000,000	3,000,000	3,000,000	+1,000,000			
Dental health education	6,000,000	4,000,000	4,000,000	4,000,000	4,000,000	−2,000,000			
Nursing institutional assistance:									
Capitation grants	30,000,000		***	***	***	***	***	***	***
Advance nurse training	12,000,000		***	***	***	***	***	***	***
Nurse practitioner training	13,000,000	13,000,000	***	***	***	***	***	***	***
Special projects	15,000,000	7,500,000	***	***	***	***	***	***	***
Unauthorized, not considered	(70,000,000)	(20,500,000)	***	***	***	***	***	***	***
Nursing student assistance:									
Loans	22,500,000		***	***	***	***	***	***	***
Scholarships	9,000,000		***	***	***	***	***	***	***
Traineeships	13,000,000		***	***	***	***	***	***	***
Loan repayment	1,500,000		***	***	***	***	***	***	***
Fellowships	1,000,000		***	***	***	***	***	***	***
Subtotal, unauthorized, not considered	(47,000,000)		***	***	***	***	***	***	***
Nursing research	5,000,000		5,000,000	5,000,000	5,000,000		+5,000,000		
Subtotal, nursing programs	5,000,000		5,000,000	5,000,000	5,000,000		+5,000,000		
Unauthorized, not considered	(117,000,000)	(20,500,000)	***	***	***	***	***	***	***
Allied health	19,500,000	7,900,000	13,000,000	13,000,000	13,000,000	−6,500,000	+5,100,000		
Public health:									
Special projects and health administration	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000				
Public health traineeships	7,000,000	1,100,000	5,100,000	7,000,000	7,000,000		+5,900,000	+1,900,000	
Health administration graduate programs	3,000,000	1,500,000	3,000,000	3,000,000	3,000,000		+1,500,000		
Health administration traineeships	1,500,000	1,000,000	1,000,000	2,000,000	2,000,000	+500,000	+1,000,000	+1,000,000	
Subtotal, public health	16,500,000	8,600,000	14,100,000	17,000,000	17,000,000	+500,000	+8,400,000	+2,900,000	
Program support	19,478,000	19,908,000	19,908,000	19,908,000	19,908,000	+430,000			

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 12929—FISCAL YEAR 1979 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL

	Fiscal year 1978 comparable appropriation	Fiscal year 1979 budget estimate	House bill	Senate bill	Fiscal year 1979 conference agreement	Conference compared to fiscal year 1978	Conference compared to 1979 estimates	Conference compared to House bill	Conference compared to Senate bill
Subtotal, health manpower	$427,578,000	$314,589,000	$437,889,000	$414,008,000	$437,849,000	+$10,271,000	+$123,260,000	−$40,000	+$23,841,000
Unauthorized, not considered	(117,000,000)	(20,500,000)	***	***	***	***	***	***	***
Program management	12,847,000	13,241,000	13,241,000	13,241,000	13,241,000	+394,000			
Subtotal, health resources	454,558,000	339,712,000	463,012,000	439,131,000	462,972,000	+8,414,000	+123,260,000	−40,000	+23,841,000
Unauthorized, not considered	(260,000,000)	(172,800,000)	***	***	***	***	***	***	***
Payments of sales insufficiencies	2,592,000	2,412,000	2,412,000	2,412,000	2,412,000	−180,000			
Medical facilities guarantee and loan fund	41,000,000	42,000,000	42,000,000	42,000,000	42,000,000	+1,000,000			
Subtotal, Health Resources Administration	498,150,000	384,124,000	507,424,000	483,543,000	507,384,000	+9,234,000	+123,260,000	−40,000	+23,841,000
Unauthorized, not considered	(260,000,000)	(172,800,000)	***	***	***	***	***	***	***
ASSISTANT SECRETARY FOR HEALTH									
Program operations:									
Health statistics:									
National health surveys and analysis	23,165,000	23,432,000	***	***	***	***	***	***	***
Cooperative health statistics	11,913,000	16,759,000	***	***	***	***	***	***	***
Program support	2,878,000	2,246,000	3,246,000	3,246,000	3,246,000	+368,000			
Subtotal	2,878,000	3,246,000	3,246,000	3,246,000	3,246,000	+368,000			
Subtotal, unauthorized, not considered	(35,078,000)	(40,191,000)	***	***	***	***	***	***	***
Health services research:									
Research	26,161,000	23,812,000	***	***	***	***	***	***	***
Program support	7,073,000	7,248,000	7,248,000	7,248,000	7,248,000	+175,000			
Subtotal	7,073,000	7,248,000	7,248,000	7,248,000	7,248,000	+175,000			
Health maintenance organizations:									
Grants and contracts	14,650,000	10,060,000	10,060,000	10,060,000	10,060,000	−4,590,000			
Unauthorized, not considered (feasibility)	6,450,000	15,850,000	***	***	***	***	***	***	***
Program support	5,034,000	6,297,000	6,297,000	6,297,000	6,297,000	+1,263,000			
Subtotal	19,684,000	16,357,000	16,357,000	16,357,000	16,357,000	−3,327,000			
Unauthorized, not considered	(6,450,000)	(15,850,000)	***	***	***	***	***	***	***
Special health programs:									
Health information and promotion	1,716,000	1,415,000	1,415,000	6,000,000	1,415,000	−301,000			−4,585,000
Physical fitness and sports	815,000	818,000	1,018,000	1,018,000	1,018,000	+203,000	+200,000		
Health practices assessment	781,000	786,000	786,000		200,000	+581,000	−586,000	−586,000	+2,000,000
Special initiatives	895,000	900,000	900,000		200,000	−695,000	−700,000	−700,000	+2,000,000
Subtotal	4,207,000	3,919,000	4,119,000	7,018,000	2,833,000	−1,374,000	−1,086,000	−1,286,000	−4,185,000
Subtotal, Public Health Service operations	33,842,000	30,770,000	30,970,000	33,869,000	29,684,000	−4,158,000	−1,086,000	−1,286,000	−4,185,000
Unauthorized, not considered	(67,689,000)	(79,853,000)	***	***	***	***	***	***	***
Public Health Service management:									
Regional management	5,196,000	5,313,000	5,313,000	5,313,000	5,313,000	+117,000			
Program direction and support services	15,831,000	16,235,000	16,235,000	16,235,000	16,235,000	+404,000			
Less trust fund transfer	−90,000					+90,000			
Subtotal, Public Health Service management	20,937,000	21,548,000	21,548,000	21,548,000	21,548,000	+611,000			
Subtotal, Assistant Secretary for Health	54,779,000	52,318,000	52,518,000	55,417,000	51,232,000	−3,547,000	−1,086,000	−1,286,000	−4,185,000
Unauthorized, not considered	(67,689,000)	(79,853,000)	***	***	***	***	***	***	***
Retirement pay and medical benefits for commissioned officers	56,948,000	65,083,000	65,083,000	65,083,000	65,083,000	+8,135,000			
Scientific activities overseas	11,387,000	11,387,000	11,387,000	11,387,000	11,387,000				
Total, health	4,859,195,000	4,807,151,000	5,234,601,000	5,355,715,000	5,325,122,000	+465,927,000	+517,971,000	+90,521,000	−30,593,000
Unauthorized, not considered	(1,458,928,000)	(1,887,605,000)	***	***	***	***	***	***	***
HEALTH CARE FINANCING ADMINISTRATION									
Grants to States for medicaid:									
Medical vendor payments	10,124,000,000	10,929,000,000	10,841,000,000	10,576,000,000	10,576,000,000	+452,000,000	−353,000,000	−265,000,000	
State and local administration	575,000,000	674,000,000	674,000,000	674,000,000	674,000,000	+99,000,000			
Subtotal	10,699,000,000	11,603,000,000	11,515,000,000	11,250,000,000	11,250,000,000	+551,000,000	−353,000,000	−265,000,000	
Payments to health care trust funds:									
Military service credit (HI)	143,000,000	141,000,000	141,000,000	141,000,000	141,000,000	−2,000,000			
Supplemental medical insurance	6,383,000,000	6,853,064,000	6,853,064,000	6,853,064,000	6,853,064,000	+470,064,000			
Hospital insurance for uninsured	687,941,000	733,849,000	733,849,000	733,849,000	733,849,000	+45,908,000			
Professional Standards Review Organization (PSRO activities for medicaid)	29,000,000	36,000,000	29,000,000	35,000,000	33,000,000	+4,000,000	−3,000,000	+4,000,000	−2,000,000
Subtotal	7,242,941,000	7,763,913,000	7,756,913,000	7,762,913,000	7,760,913,000	+517,972,000	−3,000,000	+4,000,000	−2,000,000

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 12929—FISCAL YEAR 1979 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL

	Fiscal year 1978 comparable appropriation	Fiscal year 1979 budget estimate	House bill	Senate bill	Fiscal year 1979 conference agreement	Conference compared to fiscal year 1978	Conference compared to 1979 estimates	Conference compared to House bill	Conference compared to Senate bill
HEALTH CARE FINANCING ADMINISTRATION—Continued									
Quality care management, research, and administration:									
Professional Standards Review Organization	$64,866,000	$2,720,000	$64,866,000	$64,866,000	$64,866,000	----------	−$17,854,000	----------	----------
Less trust fund transfer	−34,934,000	−39,923,000	−34,934,000	−34,934,000	−34,934,000	----------	+4,989,000	----------	----------
Subtotal, PSRO, Federal funds	29,932,000	42,797,000	29,932,000	29,932,000	29,932,000	----------	−12,865,000	----------	----------
Research, demonstration and evaluation programs	27,120,000	31,833,000	27,500,000	32,500,000	32,500,000	+$5,380,000	+$667,000	+$5,000,000	----------
Less trust fund transfer	−13,378,000	−18,091,000	−13,750,000	−13,750,000	−13,750,000	−372,000	+4,341,000	----------	----------
Subtotal, research, Federal funds	+ 13,742,000	13,742,000	13,750,000	18,750,000	18,750,000	+5,008,000	+5,008,000	+5,000,000	----------
Administrative costs	713,960,000	813,345,000	812,145,000	812,145,000	812,145,000	+98,185,000	−1,200,000	----------	----------
Less trust fund transfer	−664,890,000	−754,815,000	−754,215,000	−754,215,000	−754,215,000	−89,325,000	+600,000	----------	----------
Subtotal, administrative costs, Federal	49,070,000	58,530,000	57,930,000	57,930,000	57,930,000	+8,860,000	−600,000	----------	----------
Subtotal, quality care management, research, and administration:									
Federal funds	92,744,000	115,069,000	101,612,000	106,612,000	106,612,000	+13,868,000	−8,457,000	+5,000,000	----------
Trust funds	(713,202,000)	(812,829,000)	(802,899,000)	(802,899,000)	(802,899,000)	(+89,697,000)	(−9,930,000)	----------	----------
Subtotal, Health Care Financing Administration:									
New budget (obligational) authority	18,034,685,000	19,481,982,000	19,373,525,000	19,119,525,000	19,117,525,000	+1,082,840,000	−364,457,000	−256,000,000	−$2,000,000
EDUCATION DIVISION									
OFFICE OF EDUCATION									
ELEMENTARY AND SECONDARY EDUCATION									
Grants for disadvantaged children (title I):									
Grants to local educational agencies	2,372,760,000	2,587,661,000	2,686,661,000	2,500,000,000	2,686,661,000	+313,901,000	+99,000,000	----------	+186,661,000
State agency programs	322,500,000	344,500,000	344,500,000	344,500,000	344,500,000	+22,000,000	----------	----------	----------
State administration	27,490,000	30,515,000	31,515,000	29,639,000	31,515,000	+4,025,000	+1,000,000	----------	+1,876,000
Evaluation and studies	12,250,000	16,144,000	16,144,000	15,706,000	15,706,000	+3,456,000	−438,000	−438,000	----------
Subtotal	2,735,000,000	2,978,820,000	3,078,820,000	2,889,845,000	3,078,382,000	+343,382,000	+99,562,000	−438,000	+188,537,000
Support and innovation grants:									
Basic grants	190,000,000	190,000,000	190,000,000	193,000,000	190,000,000	----------	----------	----------	−3,000,000
Hold harmless	7,400,000	7,400,000	7,400,000	4,400,000	7,400,000	----------	----------	----------	+3,000,000
Subtotal	197,400,000	197,400,000	197,400,000	197,400,000	197,400,000	----------	----------	----------	----------
Bilingual education:									
Grants to school districts	81,000,000	81,000,000	89,000,000	85,000,000	89,000,000	+8,000,000	+8,000,000	----------	+4,000,000
Training grants:									
Inservice training	12,975,000	12,975,000	13,350,000	12,975,000	13,350,000	+375,000	+375,000	----------	+375,000
Other	24,000,000	28,000,000	29,625,000	28,000,000	29,625,000	+5,625,000	+1,625,000	----------	+1,625,000
Subtotal	36,975,000	40,975,000	42,975,000	40,975,000	42,975,000	+6,000,000	+2,000,000	----------	+2,000,000
Materials	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	----------	----------	----------	----------
Grants to State agencies	4,375,000	4,375,000	4,875,000	4,875,000	4,875,000	+500,000	+500,000	----------	----------
Advisory council	150,000	150,000	150,000	150,000	150,000	----------	----------	----------	----------
Information clearinghouse	500,000	1,000,000	1,000,000	500,000	1,000,000	+500,000	----------	----------	+500,000
Model replication and studies	2,000,000	12,500,000	2,000,000	2,000,000	2,000,000	----------	−10,500,000	----------	----------
Subtotal, bilingual education	135,000,000	150,000,000	150,000,000	143,500,000	150,000,000	+15,000,000	----------	----------	+6,500,000
Right to read	27,000,000	27,000,000	27,000,000	27,000,000	27,000,000	----------	----------	----------	----------
Follow through	59,000,000	35,000,000	***	***	***	***	***	***	***
Drug abuse education	2,000,000	2,000,000	***	***	***	***	***	***	***
Environmental education	3,500,000	3,500,000	***	***	***	***	***	***	***
Educational broadcasting facilities	19,000,000	1,000,000	***	***	***	***	***	***	***
Ellender fellowships	750,000	----------	750,000	1,000,000	1,000,000	+250,000	+1,000,000	+250,000	----------
Ethnic heritage studies	2,300,000	----------	2,300,000	1,000,000	2,000,000	−300,000	+2,000,000	−300,000	+1,000,000
Subtotal, elementary and secondary education	3,097,450,000	3,353,220,000	3,456,270,000	3,259,745,000	3,455,782,000	+358,332,000	+102,562,000	−488,000	+196,037,000
Unauthorized, not considered	(83,500,000)	(41,500,000)	***	***	***	***	***	***	***
SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS									
Maintenance and operations:									
Payments for "A" children	300,000,000	337,000,000	337,000,000	300,000,000	317,000,000	+17,000,000	−20,000,000	−20,000,000	+17,000,000
Payments for "B" children	357,000,000	374,300,000	374,300,000	357,000,000	357,000,000	----------	−17,300,000	−17,300,000	----------
Special provisions	16,600,000	16,600,000	16,600,000	16,600,000	16,600,000	----------	----------	----------	----------
Payments to other Federal agencies	57,700,000	63,500,000	63,500,000	63,500,000	63,500,000	+5,800,000	----------	----------	----------
Hold harmless	38,700,000	20,000,000	20,000,000	20,000,000	20,000,000	−18,700,000	----------	----------	----------
Subtotal	770,000,000	811,400,000	811,400,000	757,100,000	774,100,000	+4,100,000	−37,300,000	−37,300,000	+17,000,000
Construction	30,000,000	33,000,000	33,000,000	30,000,000	30,000,000	----------	−3,000,000	−3,000,000	----------
Disaster assistance	5,000,000	12,000,000	12,000,000	12,000,000	12,000,000	+7,000,000	----------	----------	----------
Subtotal	805,000,000	856,400,000	856,400,000	799,100,000	816,100,000	+11,100,000	−40,300,000	−40,300,000	+17,000,000
EMERGENCY SCHOOL AID									
National competition projects:									
Bilingual education projects	8,600,000	8,600,000	8,600,000	8,600,000	8,600,000	----------	----------	----------	----------
Educational television	6,450,000	6,450,000	6,450,000	6,450,000	6,450,000	----------	----------	----------	----------
Special programs and projects	76,250,000	65,000,000	62,000,000	75,000,000	70,000,000	−6,250,000	+5,000,000	+8,000,000	−5,000,000

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CONFERENCE AGREEMENT—H.R. 12929—FISCAL YEAR 1979 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL

	Fiscal year 1978 comparable appropriation	Fiscal year 1979 budget estimate	House bill	Senate bill	Fiscal year 1979 conference agreement	Conference compared to fiscal year 1978	Conference compared to 1979 estimates	Conference compared to House bill	Conference compared to Senate bill
Evaluation	$2,150,000	$2,900,000	$2,900,000	$2,900,000	$2,900,000	+$750,000			
Magnet schools	20,000,000	20,000,000	20,000,000	30,000,000	25,000,000	+5,000,000	+$5,000,000	+$5,000,000	−$5,000,000
State apportioned projects:									
Pilot programs	32,250,000	32,250,000	32,250,000	32,250,000	32,250,000				
Grants to nonprofit organizations	17,200,000	17,200,000	17,200,000	17,200,000	17,200,000				
General grants to school districts	137,600,000	137,600,000	137,600,000	137,600,000	137,600,000				
Subtotal, ESA projects	300,500,000	290,000,000	287,000,000	310,000,000	300,000,000	−500,000	+10,000,000	+13,000,000	−10,000,000
Civil rights training and advisory services	34,700,000	42,700,000	40,000,000	42,700,000	41,350,000	+6,650,000	−1,350,000	+1,350,000	−1,350,000
Subtotal emergency school aid	335,200,000	332,700,000	327,000,000	352,700,000	341,350,000	+6,150,000	+8,650,000	+14,350,000	−11,350,000
EDUCATION FOR THE HANDICAPPED									
State assistance:									
State grant program	502,800,000	804,000,000	804,000,000	804,000,000	804,000,000	+301,200,000			
Deaf-blind centers	16,000,000	16,000,000	16,000,000	16,000,000	16,000,000				
Preschool incentive grants	15,000,000	15,000,000	15,000,000	20,000,000	17,500,000	+2,500,000	+2,500,000	+2,500,000	−2,500,000
Subtotal, State assistance	533,800,000	835,000,000	835,000,000	840,000,000	837,500,000	+303,700,000	+2,500,000	+2,500,000	−2,500,000
Special population programs:									
Severely handicapped projects	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000				
Early childhood education	22,000,000	22,000,000	22,000,000	22,000,000	22,000,000				
Subtotal, special population programs	27,000,000	27,000,000	27,000,000	27,000,000	27,000,000				
Regional vocational, adult, and postsecondary programs	2,400,000	2,400,000	2,400,000	2,400,000	2,400,000				
Innovation and development	20,000,000	20,000,000	20,000,000	20,000,000	20,000,000				
Media and resource services:									
Media services and captioned film	19,000,000	19,000,000	19,000,000	19,000,000	19,000,000				
Regional resource centers	9,750,000	9,750,000	9,750,000	9,750,000	9,750,000				
Recruitment and information	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000				
Subtotal, media and resource services	29,750,000	29,750,000	29,750,000	29,750,000	29,750,000				
Special education manpower development	45,375,000	55,375,000	55,375,000	60,000,000	57,687,000	+12,312,000	+2,312,000	+2,312,000	−2,313,000
Special studies	2,300,000	2,300,000	2,300,000	2,300,000	2,300,000				
Subtotal, education for the handicapped	660,625,000	971,825,000	971,825,000	981,450,000	976,637,000	+316,012,000	+4,812,000	+4,812,000	−4,813,000
OCCUPATIONAL, VOCATIONAL, AND ADULT EDUCATION									
Vocational education:									
Grants to States for vocational education:									
Basic grants	430,266,000	430,266,000	449,266,000	500,266,000	474,766,000	+44,500,000	+44,500,000	+25,500,000	−25,500,000
Program improvement supportive services	107,567,000	107,567,000	112,317,000	112,317,000	112,317,000	+4,750,000	+4,750,000		
Programs for students with special needs	20,000,000	20,000,000	20,000,000	20,000,000	20,000,000				
Consumer and homemaking education	40,994,000	33,994,000	40,994,000	46,000,000	43,497,000	+2,503,000	+9,503,000	+2,503,000	−2,503,000
State advisory councils	5,066,000	5,066,000	6,073,000	6,073,000	6,073,000	+1,007,000	+1,007,000		
State planning			5,000,000		5,000,000	+5,000,000	+5,000,000		+5,000,000
Subtotal, State grants	603,893,000	596,893,000	633,650,000	684,656,000	661,653,000	+57,760,000	+64,760,000	+28,003,000	−23,003,000
Programs of national significance	28,307,000	28,307,000	29,557,000		10,000,000	−18,307,000	−18,307,000	−19,557,000	+10,000,000
Bilingual vocational training	2,800,000	2,800,000	2,800,000	2,800,000	2,800,000				
Subtotal vocational education 79–79	635,000,000	628,000,000	666,007,000	687,456,000	674,453,000	+39,453,000	+46,453,000	+8,446,000	−13,003,000
Adult education	90,750,000	90,750,000	100,000,000	100,000,000	100,000,000	+9,250,000	+9,250,000		
Subtotal, occupational, vocational, and adult education	725,750,000	718,750,000	766,007,000	787,456,000	774,453,000	+48,703,000	+55,703,000	+8,446,000	−13,003,000
STUDENT ASSISTANCE									
Basic educational opportunity grants:									
Grants	2,140,000,000	3,130,600,000	3,363,600,000	2,140,600,000	2,600,000,000	+460,000,000	−530,600,000	−763,600,000	+459,400,000
Administration	20,000,000	26,900,000	26,900,000	26,900,000	26,500,000	+6,900,000			
Institutional allowances		9,500,000	9,500,000				−9,500,000	−9,500,000	
Subtotal	2,160,000,000	3,167,000,000	3,400,000,000	2,167,500,000	2,626,900,000	+466,900,000	−540,100,000	−773,100,000	+459,400,000
Supplemental educational opportunity grants	270,093,000	270,093,000	340,100,000	340,100,000	340,100,000	+70,007,000	+70,007,000		
Work-study	435,000,000	600,000,000	520,000,000	600,000,000	550,000,000	+115,000,000	−50,000,000	+30,000,000	−50,000,000
Direct loans:									
Federal capital contributions	310,500,000	286,000,000	310,500,000	310,500,000	310,500,000		+24,500,000		
Teacher cancellations	15,160,000	18,400,000	18,400,000	18,400,000	18,400,000	+3,240,000			
Subtotal	325,660,000	304,400,000	328,900,000	328,900,000	328,900,000	+3,240,000	+24,500,000		
Incentive grants for State scholarships	63,750,000	76,750,000	86,750,000	76,750,000	76,750,000	+13,000,000		−10,000,000	
Subtotal, student assistance	3,254,503,000	4,418,243,000	4,675,750,000	3,513,250,000	3,922,650,000	+668,147,000	−495,593,000	−753,100,000	+409,400,000
HIGHER AND CONTINUING EDUCATION									
Special programs for the disadvantage (TRIO)	115,000,000	115,000,000	140,000,000	140,000,000	140,000,000	+25,000,000	+25,000,000		
Educational information centers	2,000,000		3,000,000	3,000,000	3,000,000	+1,000,000	+3,000,000		

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 12929—FISCAL YEAR 1979 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL

	Fiscal year 1978 comparable appropriation	Fiscal year 1979 budget estimate	House bill	Senate bill	Fiscal year 1979 conference agreement	Conference compared to fiscal year 1978	Conference compared to 1979 estimates	Conference compared to House bill	Conference compared to Senate bill
HIGHER AND CONTINUING EDUCATION—Continued									
Institutional assistance:									
Strengthening developing institutions	$120,000,000	$120,000,000	$120,000,000	$120,000,000	$120,000,000	.....	.....	.....	.....
Language training and area studies	18,000,000	18,000,000	20,000,000	20,000,000	20,000,000	+$2,000,000	+$2,000,000	.....	.....
University community services	18,000,000	.....	18,000,000	14,000,000	16,000,000	−2,000,000	+16,000,000	−$2,000,000	+$2,000,000
State postsecondary education commissions	3,500,000	.....	3,500,000	3,500,000	3,500,000	.....	+3,500,000	.....	.....
Veterans cost of instruction	23,750,000	19,000,000	19,000,000	19,000,000	19,000,000	−4,750,000	.....	.....	.....
Cooperative education	15,000,000	4,000,000	10,000,000	20,000,000	15,000,000	.....	+11,000,000	+5,000,000	−5,000,000
Construction—annual interest grants	4,000,000	29,000,000	29,000,000	29,000,000	29,000,000	+25,000,000	.....	.....	.....
Construction grants	.....	50,000,000	.....	.....	.....	.....	−50,000,000	.....	.....
Continuing education demonstration centers	.....	.....	500,000	500,000	500,000	+500,000	+500,000	.....	.....
Subtotal institutional assistance	202,250,000	240,000,000	220,000,000	226,000,000	223,000,000	+20,000,000	−17,000,000	+3,000,000	−3,000,000
Personnel development:									
Graduate professional opportunities	3,250,000	8,000,000	8,000,000	8,000,000	8,000,000	+4,750,000	.....	.....	.....
Legal training for disadvantage (CLEO)	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	.....	.....	.....	.....
Public service fellowships	4,000,000	.....	4,000,000	4,000,000	4,000,000	.....	+4,000,000	.....	.....
Mining fellowships	4,500,000	.....	4,500,000	4,500,000	4,500,000	.....	+4,500,000	.....	.....
Law school clinical experience	1,000,000	.....	2,000,000	.....	2,000,000	+1,000,000	+2,000,000	.....	+2,000,000
Subtotal, personnel development	13,750,000	9,000,000	19,500,000	17,500,000	19,500,000	+5,750,000	+10,500,000	.....	+2,000,000
Wayne Morse Chair on Law and Politics	500,000	.....	.....	.....	.....	−500,000	.....	.....	.....
Hubert H. Humphrey Institute and Dirksen Center	.....	7,500,000	7,500,000	7,500,000	7,500,000	+7,500,000	.....	.....	.....
Subtotal, higher and continuing education	333,500,000	371,500,000	390,000,000	394,000,000	393,000,000	+59,500,000	+21,500,000	+3,000,000	−1,000,000
LIBRARY RESOURCES									
Public libraries	60,237,000	60,237,000	65,000,000	70,000,000	67,500,000	+7,263,000	+7,263,000	+2,500,000	−2,500,000
School libraries and instructional resources	167,600,000	167,600,000	175,000,000	185,000,000	180,000,000	+12,400,000	+12,400,000	+5,000,000	−5,000,000
College library resources	9,975,000	.....	9,975,000	9,975,000	9,975,000	.....	+9,975,000	.....	.....
Research libraries	5,000,000	5,000,000	5,000,000	7,000,000	6,000,000	+1,000,000	+1,000,000	+1,000,000	−1,000,000
Training and demonstration	3,000,000	.....	3,000,000	3,000,000	3,000,000	.....	−3,000,000	.....	.....
Undergraduate instructional equipment	7,500,000	.....	.....	.....	.....	−7,500,000	.....	.....	.....
Subtotal, library resources	253,312,000	232,837,000	257,975,000	274,975,000	266,475,000	+13,163,000	+33,638,000	+8,500,000	−8,500,000
SPECIAL PROJECTS AND TRAINING									
Special projects:									
Metric education projects	2,090,000	2,090,000	1,840,000	1,840,000	1,840,000	−250,000	−250,000	.....	.....
Gifted and talented children	2,560,000	2,560,000	2,560,000	5,000,000	3,780,000	+1,220,000	+1,220,000	+1,220,000	−1,220,000
Community schools	3,553,000	5,791,000	5,000,000	6,753,000	5,376,000	+1,823,000	−415,000	+376,000	−377,000
Career education	10,135,000	10,135,000	35,000,000	30,000,000	32,500,000	+22,365,000	+22,365,000	−2,500,000	+2,500,000
Consumer education	4,068,000	3,135,000	3,135,000	4,068,000	3,601,000	−467,000	+466,000	+466,000	−467,000
Women's educational equity	8,085,000	9,000,000	9,000,000	9,000,000	9,000,000	+915,000	.....	.....	.....
Arts in education program	2,000,000	2,000,000	2,500,000	3,000,000	3,000,000	+1,000,000	+1,000,000	+500,000	.....
Dissemination	10,000,000	10,000,000	11,000,000	14,000,000	14,000,000	+4,000,000	+4,000,000	+3,000,000	.....
Educational TV programing	5,000,000	5,000,000	5,000,000	7,000,000	6,000,000	+1,000,000	+1,000,000	+1,000,000	−1,000,000
Subtotal	47,491,000	49,711,000	75,035,000	79,661,000	79,097,000	+31,606,000	+29,386,000	+4,062,000	−564,000
Educational personnel training:									
Teacher Corps	37,500,000	37,500,000	37,500,000	37,500,000	37,500,000	.....	.....	.....	.....
Teacher centers	8,250,000	10,250,000	15,000,000	10,250,000	12,625,000	+4,375,000	+2,375,000	−2,375,000	+2,375,000
Planning and evaluation	7,085,000	7,085,000	6,000,000	4,500,000	5,250,000	−1,835,000	−1,835,000	−750,000	+750,000
Information clearinghouse	333,000	.....	.....	.....	.....	−333,000	.....	.....	.....
Subtotal, special projects and training	100,659,000	104,546,000	133,535,000	131,911,000	134,472,000	+33,813,000	+29,926,000	+937,000	+2,561,000
Guaranteed student loan program:									
Interest subsidies	121,781,000	532,313,000	532,313,000	520,813,000	520,813,000	+399,032,000	−11,500,000	−11,500,000	.....
Unauthorized, not considered	.....	(70,000,000)	***	***	***	***	***	***	***
Student loan insurance fund	368,382,000	193,501,000	193,501,000	193,501,000	193,501,000	−174,881,000	.....	.....	.....
Authority to borrow (SLIF)	40,000,000	25,000,000	25,000,000	25,000,000	25,000,000	−15,000,000	.....	.....	.....
Subtotal, guaranteed student loan program	530,163,000	750,814,000	750,814,000	739,314,000	739,314,000	+209,151,000	−11,500,000	−11,500,000	.....
Unauthorized, not considered	.....	(70,000,000)	***	***	***	***	***	***	***
Health profession graduate student loan insurance fund:									
Student loan insurance	.....	1,500,000	1,500,000	.....	.....	.....	−1,500,000	−1,500,000	.....
Authority to borrow	.....	5,000,000	5,000,000	.....	2,500,000	+2,500,000	−2,500,000	−2,500,000	+2,500,000
Total	.....	6,500,000	6,500,000	.....	2,500,000	+2,500,000	−4,000,000	−4,000,000	+2,500,000
Higher education facilities loan and insurance fund	1,847,000	2,204,000	2,204,000	2,204,000	2,204,000	+357,000	.....	.....	.....
Educational activities overseas:									
Special foreign currency program	2,000,000	2,000,000	2,000,000	.....	.....	−2,000,000	−2,000,000	−2,000,000	.....
Salaries and expenses:									
Advisory committees	2,321,000	2,321,000	2,321,000	2,321,000	2,321,000	.....	.....	.....	.....
Program administration	117,937,000	124,845,000	124,509,000	124,509,000	124,509,000	+6,572,000	−336,000	.....	.....
Subtotal, salaries and expenses	120,258,000	127,166,000	126,830,000	126,830,000	126,830,000	+6,572,000	−336,000	.....	.....

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 12929—FISCAL YEAR 1979 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL

	Fiscal year 1978 comparable appropriation	Fiscal year 1979 budget estimate	House bill	Senate bill	Fiscal year 1979 conference agreement	Conference compared to fiscal year 1978	Conference compared to 1979 estimates	Conference compared to House bill	Conference compared to Senate bill
Subtotal, Office of Education	$10,220,267,000	$12,248,705,000	$12,723,110,000	$11,362,935,000	$11,951,767,000	+$1,731,500,000	−$296,938,000	−$771,343,000	+$588,832,000
Unauthorized, not considered	(83,500,000)	(111,500,000)	***	***	***	***	***	***	***
NATIONAL INSTITUTE OF EDUCATION									
Research and development	76,600,000	86,400,000	83,900,000	76,600,000	78,829,000	+2,229,000	−7,571,000	−5,071,000	+2,229,000
Program administration	13,371,000	13,600,000	13,600,000	13,471,000	13,471,000	+100,000	−129,000	−129,000	
Subtotal, National Institute of Education	89,971,000	100,000,000	97,500,000	90,071,000	92,300,000	+2,329,000	−7,700,000	−5,200,000	+2,229,000
ASSISTANT SECRETARY FOR EDUCATION									
Improvement of postsecondary education	12,000,000	14,500,000	13,000,000	13,000,000	13,000,000	+1,000,000	−1,500,000		
Lifelong learning		5,000,000					−5,000,000		
National Center for Educational Statistics	13,940,000	15,940,000	15,700,000	13,940,000	14,820,000	+880,000	−1,120,000	−880,000	+880,000
Salaries and expenses	10,303,000	10,817,000	10,663,000	10,663,000	10,663,000	+360,000	−154,000		
Subtotal, Assistant Secretary for Education	36,243,000	46,257,000	39,363,000	37,603,000	38,483,000	+2,240,000	−7,774,000	−880,000	+880,000
Total, Education Division	10,346,481,000	12,394,962,000	12,859,973,000	11,490,609,000	12,082,550,000	+1,736,069,000	−312,412,000	−777,423,000	+591,941,000
Unauthorized, not considered	(83,500,000)	(111,500,000)	***	***	***	***	***	***	***
SOCIAL SECURITY ADMINISTRATION									
FEDERAL FUNDS									
Payments to the social security trust funds	741,203,000	760,774,000	760,774,000	760,774,000	760,774,000	+19,571,000			
Special benefits for disabled coal miners (BLACK LUNG)	967,623,000	1,016,608,000	1,016,608,000	1,016,608,000	1,016,608,000	+48,985,000			
Supplemental Security Income program:									
Benefit payments	4,491,223,000	4,821,618,000	4,821,618,000	4,821,618,000	4,821,618,000	+330,395,000			
Hold harmless	45,000,000	45,000,000	45,000,000	45,000,000	45,000,000				
Vocational rehabilitation services	82,978,000	86,148,000	86,148,000	86,148,000	86,148,000	+3,170,000			
Administration	538,999,000	568,968,000	568,968,000	568,968,000	568,968,000	+29,969,000			
Federal fiscal liability	91,800,000	36,120,000	36,120,000	36,120,000	36,120,000	−55,680,000			
Subtotal	5,250,000,000	5,557,854,000	5,557,854,000	5,557,854,000	5,557,854,000	+307,854,000			
Assistance payments programs:									
Maintenance assistance:									
AFDC benefit payments	5,628,150,000	6,064,000,000	5,908,000,000	5,908,000,000	5,908,000,000	+279,850,000	−156,000,000		
Adult categories	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000				
Emergency assistance	33,000,000	34,000,000	34,000,000	34,000,000	34,000,000	+1,000,000			
State and local administration and training	638,000,000	670,000,000	670,000,000	670,000,000	670,000,000	+32,000,000			
Repatriation	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000				
Fiscal relief to States/localities									
Subtotal, maintenance	6,304,150,000	6,773,000,000	6,617,000,000	6,617,000,000	6,617,000,000	+312,850,000	−156,000,000		
Child support enforcement:									
Collections	−210,000,000	−237,000,000	−237,000,000	−237,000,000	−237,000,000	−27,000,000			
State and local administration	230,000,000	250,000,000	250,000,000	250,000,000	250,000,000	+20,000,000			
Subtotal, child support	20,000,000	13,000,000	13,000,000	13,000,000	13,000,000	−7,000,000			
Research and evaluation	3,003,000	5,000,000	3,000,000	3,000,000	3,000,000	−3,000	−2,000,000		
Administrative expenses	27,259,000	32,056,000	30,000,000	30,000,000	30,000,000	+2,741,000	−2,056,000		
Subtotal, assistance payments	6,354,412,000	6,823,056,000	6,663,000,000	6,663,000,000	6,663,000,000	+308,588,000	−160,056,000		
Refugee assistance:									
Cuban refugees	71,950,000	52,000,000	52,000,000	59,800,000	57,300,000	−14,650,000	+5,300,000	+5,300,000	−2,500,000
Indochinese refugees	124,000,000	95,500,000	95,500,000	100,500,000	98,000,000	−26,000,000	+2,500,000	+2,500,000	−2,500,000
Subtotal	195,950,000	147,500,000	147,500,000	160,300,000	155,300,000	−40,650,000	+7,800,000	+7,800,000	−5,000,000
Limitation on salaries and expenses, trust funds	(2,112,802,000)	(2,279,842,000)	(2,234,587,000)	(2,251,587,000)	(2,234,587,000)	(+121,785,000)	(−45,255,000)		(−17,000,000)
Subtotal, Social Security Administration:									
Federal funds	13,509,188,000	14,305,792,000	14,145,736,000	14,158,536,000	14,153,536,000	+644,348,000	−152,256,000	+7,800,000	−5,000,000
Trust fund limitation	(2,112,802,000)	(2,279,842,000)	(2,234,587,000)	(2,251,587,000)	(2,234,587,000)	(+121,785,000)	(−45,255,000)		(−17,000,000)
National Commission on Social Security				500,000	500,000	+500,000	+500,000	+500,000	
SPECIAL INSTITUTIONS									
American Printing House for the Blind	3,498,000	3,906,000	3,906,000	3,906,000	3,906,000	+408,000			
National Technical Institute for the Deaf: Academic program	14,630,000	16,625,000	16,625,000	16,625,000	16,625,000	+1,995,000			
Gallaudet College:									
Academic program	17,510,000	20,208,000	20,208,000	20,208,000	20,208,000	+2,698,000			
Model secondary school for the deaf	8,343,000	9,217,000	9,217,000	9,217,000	9,217,000	+874,000			
Kendall Demonstration Elementary School	3,907,000	4,303,000	4,303,000	4,303,000	4,303,000	+396,000			

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CONFERENCE AGREEMENT—H.R. 12929—FISCAL YEAR 1979 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL

	Fiscal year 1978 comparable appropriation	Fiscal year 1979 budget estimate	House bill	Senate bill	Fiscal year 1979 conference agreement	Conference compared to fiscal year 1978	Conference compared to 1979 estimates	Conference compared to House bill	Conference compared to Senate bil
SPECIAL INSTITUTIONS—Continued									
Construction	$16,216,000	$11,105,000	$11,105,000	$11,105,000	$11,105,000	−$5,111,000			
Subtotal, Gallaudet College	45,976,000	44,833,000	44,833,000	44,833,000	44,833,000	−1,143,000			
Howard University:									
Academic program	73,087,000	81,287,000	81,287,000	81,287,000	81,287,000	+8,200,000			
Howard University Hospital	22,106,000	22,106,000	22,106,000	22,106,000	22,106,000				
Construction	3,925,000	10,000,000	10,000,000	10,000,000	10,000,000	+6,075,000			
Subtotal, Howard University	99,118,000	113,393,000	113,393,000	113,393,000	113,393,000	+14,275,000			
Subtotal, special institutions	163,222,000	178,757,000	178,757,000	178,757,000	178,757,000	+15,535,000			
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT									
GRANTS TO STATES FOR SOCIAL AND CHILD WELFARE SERVICES									
Grants to States for social services	2,188,620,000	2,450,000,000	2,450,000,000	2,450,000,000	2,450,000,000	+261,380,000			
Child day care services	200,000,000	(a)	***	***	***	***	***	***	***
States and local training	63,530,000	71,552,000	71,552,000	71,522,000	71,552,000	+8,022,000			
Child welfare services	56,500,000	56,500,000	56,500,000	56,500,000	56,500,000				
Subtotal	2,308,650,000	2,578,052,000	2,578,052,000	2,578,052,000	2,578,052,000	+269,402,000			
Adoption opportunities				5,000,000	5,000,000	+5,000,000	+$5,000,000	+$5,000,000	
HUMAN DEVELOPMENT SERVICES									
Child development:									
Head Start	625,000,000	680,000,000	***	***	***	***	***	***	***
Research, demonstration, and evaluation	15,700,000	19,000,000	***	***	***	***	***	***	***
Child abuse	18,928,000	21,228,000	***	***	***	***	***	***	***
Runaway youth	11,000,000	11,000,000	***	***	***	***	***	***	***
Subtotal, child development	670,628,000	731,228,000	***	***	***	***	***	***	***
Aging programs:									
Community services (title III):									
State agency activities	19,000,000	19,000,000	***	***	***	***	***	***	***
Advance for 1980		19,000,000	***	***	***	***	***	***	***
Area planning and social services	153,000,000	153,000,000	***	***	***	***	***	***	***
Advance for 1980		153,000,000	***	***	***	***	***	***	***
Model projects	15,000,000	15,000,000	***	***	***	***	***	***	***
Subtotal, community services	187,000,000	359,000,000	***	***	***	***	***	***	***
Nutrition (title VII)	250,000,000	287,000,000	***	***	***	***	***	***	***
Advance for 1980		287,000,000	***	***	***	***	***	***	***
Research, demonstration, and manpower (title IV):									
Research	8,500,000	8,500,000	***	***	***	***	***	***	***
Training	17,000,000	17,000,000	***	***	***	***	***	***	***
Multidisplinary centers on gerontology	3,800,000	3,800,000	***	***	***	***	***	***	***
Subtotal, research, demonstration, and manpower	29,300,000	29,300,000	***	***	***	***	***	***	***
Federal Council on Aging	450,000	450,000	***	***	***	***	***	***	***
Multipurpose Senior Center (title V)	40,000,000	40,000,000	***	***	***	***	***	***	***
Advance for 1980		40,000,000	***	***	***	***	***	***	***
National clearinghouse	2,000,000	2,000,000	***	***	***	***	***	***	***
Subtotal, aging programs	508,750,000	1,044,750,000	***	***	***	***	***	***	***
Advance for 1980		(499,000,000)	***	***	***	***	***	***	***
Rehabilitation service and facilities:									
Basic State grants	760,472,000	785,457,000	***	***	***	***	***	***	***
Advance for 1980		785,000,000	***	***	***	***	***	***	***
Innovation and expansion	18,000,000	19,800,000	***	***	***	***	***	***	***
Service projects:									
Deaf-blind Center	2,500,000	2,500,000	***	***	***	***	***	***	***
Special projects	22,628,000	17,430,000	***	***	***	***	***	***	***
Training and facilities grants:									
Training services	5,000,000	5,000,000	***	***	***	***	***	***	***
Facility improvements	2,400,000	2,400,000	***	***	***	***	***	***	***
Evaluation	2,500,000	2,500,000	***	***	***	***	***	***	***
Subtotal, service projects	35,028,000	29,830,000	***	***	***	***	***	***	***
Research	31,500,000	31,500,000	***	***	***	***	***	***	***
Training	30,500,000	45,228,000	***	***	***	***	***	***	***
Subtotal	875,500,000	1,696,815,000	***	***	***	***	***	***	***
Advance for 1980		(785,000,000)	***	***	***	***	***	***	***
Grants for the developmentally disabled:									
State grants	33,058,000	49,880,000	***	***	***	***	***	***	***
Service grants	19,567,000	5,557,000	***	***	***	***	***	***	***
University affiliated facilities	6,500,000	6,500,000	***	***	***	***	***	***	***
Subtotal	59,125,000	61,937,000	***	***	***	***	***	***	***
Public service:									
Research	2,955,000	2,975,000	***	***	***	***	***	***	***
Child welfare training	8,150,000	9,000,000	***	***	***	***	***	***	***

***Consideration deferred due to lack of authorizing legislation.

[a] $200,000,000 budget estimate proposed for later transmittal following enactment of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 12929—FISCAL YEAR 1979 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL

	Fiscal year 1978 comparable appropriation	Fiscal year 1979 budget estimate	House bill	Senate bill	Fiscal year 1979 conference agreement	Conference compared to fiscal year 1978	Conference compared to 1979 estimates	Conference compared to House bill	Conference compared to Senate bill
Subtotal, public service	$11,105,000	$11,975,000	***	***	***	***	***	***	***
Special programs for Native Americans	33,000,000	33,800,000	***	***	***	***	***	***	***
White House Conference on Families	3,000,000		***	***	***	***	***	***	***
Salaries and expenses	65,951,000	68,445,000	***	***	***	***	***	***	***
Less: Trust fund transfer	−600,000	−600,000	***	***	***	***	***	***	***
Subtotal, human development services, unauthorized, not considered	2,226,459,000	3,648,350,000	***	***	***	***	***	***	***
Work incentives:									
Grants to States	351,995,000	351,995,000	$371,724,000	$371,724,000	$371,724,000	+$19,729,000	+$19,729,000		
Program direction and evaluation	13,005,000	13,276,000	13,276,000	13,276,000	13,276,000	+271,000			
Subtotal	365,000,000	365,271,000	385,000,000	385,000,000	385,000,000	+20,000,000	+19,729,000		
Research and training activities overseas		3,490,000	3,000,000				−3,490,000	−$3,000,000	
Subtotal, human development	2,673,650,000	2,946,813,000	2,966,052,000	2,968,052,000	2,968,052,000	+294,402,000	+21,239,000	+2,000,000	
Unauthorized, not considered	(2,426,459,000)	(3,648,350,000)	***	***	***	***	***	***	***
DEPARTMENTAL MANAGEMENT									
Office for Civil Rights	40,450,000	73,356,000	73,356,000	72,356,000	72,356,000	+31,906,000	−1,000,000	−1,000,000	
Less: Trust fund transfer	−514,000	−1,200,000	−1,200,000	−1,200,000	−1,200,000	−686,000			
Subtotal, Office for Civil Rights, Federal funds	39,936,000	72,156,000	72,156,000	71,156,000	71,156,000	+31,220,000	−1,000,000	−1,000,000	
General departmental management:									
Department direction	61,755,000	60,341,000	60,203,000	60,203,000	60,203,000	−1,552,000	−138,000		
Department operations	71,850,000	75,500,000	75,500,000	74,713,000	74,713,000	+2,863,000	−787,000	−787,000	
Less: Trust fund transfer	−27,883,000	−6,890,000	−6,890,000	−6,890,000	−6,890,000	+20,993,000			
Subtotal, general department management	105,722,000	128,951,000	128,813,000	128,026,000	128,026,000	+22,304,000	−925,000	−787,000	
Office of the Inspector General	32,745,000	40,311,000	40,311,000	40,311,000	40,311,000	+7,566,000			
Less: Trust fund transfer	−4,555,000	−4,705,000	−4,705,000	−4,705,000	−4,705,000	−150,000			
Subtotal, Inspector General, Federal funds	28,190,000	35,606,000	35,606,000	35,606,000	35,606,000	+7,416,000			
Policy research	29,949,000	27,000,000	25,000,000	27,000,000	25,000,000	−4,949,000	−2,000,000		−$2,000,000
Subtotal, departmental management	203,797,000	263,713,000	261,575,000	261,788,000	259,788,000	+55,991,000	−3,925,000	−1,787,000	−2,000,000
Sec. 201 fraud, abuse, and waste reduction			(−1,000,000,000)	(−2,000,000,000)	(−1,000,000,000)	(−1,000,000,000)	(−1,000,000,000)		(+1,000,000,000)
Total, Health, Education, and Welfare:									
Federal funds	49,790,218,000	54,379,170,000	54,020,219,000	51,533,482,000	53,085,830,000	+3,295,612,000	−1,293,340,000	−934,389,000	+1,552,348,000
Trust funds	(2,859,046,000)	(3,105,466,000)	(3,050,281,000)	(3,067,281,000)	(3,050,281,000)	(+191,235,000)	(−55,185,000)		(−17,000,000)
Total, unauthorized, not considered	(3,969,487,000)	(5,648,055,000)	***	***	***	***	***	***	***
Federal funds	(3,968,887,000)	(5,647,455,000)	***	***	***	***	***	***	***
Trust funds	(600,000)	(600,000)	***	***	***	***	***	***	***
TITLE III—RELATED AGENCIES									
ACTION (domestic programs):									
Volunteers in Service to America (VISTA)	25,567,000	36,941,000	***	***	***	***	***	***	***
Service learning programs	5,500,000	605,000	***	***	***	***	***	***	***
Older Americans volunteer programs:									
Foster Grandparents program	34,900,000	35,400,000	***	***	***	***	***	***	***
Senior Companion program	7,000,000	7,140,000	***	***	***	***	***	***	***
Retired Senior Volunteer program	20,100,000	20,100,000	***	***	***	***	***	***	***
Subtotal, older volunteers	62,000,000	62,640,000	***	***	***	***	***	***	***
Special volunteer programs	2,500,000	10,693,000	***	***	***	***	***	***	***
Program support	22,810,000	24,807,000	***	***	***	***	***	***	***
Subtotal, ACTION	118,377,000	135,686,000	***	***	***	***	***	***	***
Community Services Administration:									
Community ACTION Operations:									
Local initiative	369,000,000	381,000,000	***	***	***	***	***	***	***
Senior opportunities and service	10,000,000	10,500,000	***	***	***	***	***	***	***
State economic opportunity offices	12,000,000	7,500,000	***	***	***	***	***	***	***
Community food and nutrition	30,000,000	22,000,000	***	***	***	***	***	***	***
Emergency energy conservation services	65,000,000	10,000,000	***	***	***	***	***	***	***
Crisis intervention program (energy)	200,000,000		***	***	***	***	***	***	***
National youth sports program	6,000,000	6,000,000	***	***	***	***	***	***	***
Summer youth recreation and transportation	17,000,000	17,000,000	***	***	***	***	***	***	***
Training and technical assistance	1,000,000	3,000,000	***	***	***	***	***	***	***
Migrant program	1,000,000	1,000,000	***	***	***	***	***	***	***
Subtotal, Community ACTION	711,000,000	458,000,000	***	***	***	***	***	***	***

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 12929—FISCAL YEAR 1979 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL

	Fiscal year 1978 comparable appropriation	Fiscal year 1979 budget estimate	House bill	Senate bill	Fiscal year 1979 conference agreement	Conference compared to fiscal year 1978	Conference compared to 1979 estimates	Conference compared to House bill	Conference compared to Senate bill
TITLE III—RELATED AGENCIES—Continued									
Demonstrations:									
Rural housing	$6,000,000	$6,000,000	***	***	***	***	***	***	***
Other		12,400,000	***	***	***	***	***	***	***
Community economic development	48,170,000	25,800,000	***	***	***	***	***	***	***
Evaluation	1,000,000	3,100,000	***	***	***	***	***	***	***
Program administration	31,683,000	32,700,000	***	***	***	***	***	***	***
Subtotal, Community Services Administration	797,853,000	538,000,000	***	***	***	***	***	***	***
Corporation for Public Broadcasting:									
Fiscal year 1978 (advanced in fiscal year 1977)			***	***	***	***	***	***	***
Fiscal year 1980 (advanced in fiscal year 1978)	164,050,000		***	***	***	***	***	***	***
Fiscal year 1981 (current request)		172,000,000	***	***	***	***	***	***	***
Subtotal, Corporation for Public Broadcasting									
Unauthorized, not considered	(164,050,000)	(172,000,000)	***	***	***	***	***	***	***
Federal Mediation and Conciliation Service	22,465,000	22,686,000	$22,686,000	$22,686,000	$22,686,000	+$221,000			
Federal Mine Safety and Health Review Commission	193,000	4,776,000	4,776,000	4,776,000	4,776,000	+4,583,000			
National Commission on Libraries and Information Science	598,000	683,000	648,000	683,000	648,000	+50,000	−$35,000		−$35,000
National Labor Relations Board	92,508,000	100,467,000	100,467,000	100,467,000	100,467,000	+7,959,000			
National Mediation Board	3,913,000	3,969,000	3,969,000	3,969,000	3,969,000	+56,000			
Occupational Safety and Health Review Commission	7,150,000	7,658,000	7,658,000	7,658,000	7,658,000	+508,000			
Railroad Retirement Board:									
Payment to railroad retirement trust funds	250,000,000	313,000,000	313,000,000	313,000,000	313,000,000	+63,000,000			
Regional rail transportation protective account	93,500,000	25,000,000	25,000,000	25,000,000	25,000,000	−68,500,000			
Limitation on salaries and expenses	(33,142,000)	(34,317,000)	(34,317,000)	(34,317,000)	(34,317,000)	(+1,175,000)			
Soldier's and Airmen's Home (trust fund appropriation):									
Operation and maintenance	16,356,000	16,939,000	16,939,000	16,939,000	16,939,000	+583,000			
Subtotal, related agencies	519,825,000	529,495,000	529,460,000	529,495,000	529,460,000	+9,635,000	−35,000		−35,000
Federal funds	486,683,000	495,178,000	495,143,000	495,178,000	495,143,000	+8,460,000	−35,000		−35,000
Trust funds	(33,142,000)	(34,317,000)	(34,317,000)	(34,317,000)	(34,317,000)	(+1,175,000)			
Unauthorized, not considered, Federal funds	(1,080,280,000)	(845,686,000)	***	***	***	***	***	***	***
Sec. 411, 2 percent reduction estimate			(−397,166,000)					(+$397,166,000)	
SUMMARY									
Title I—Department of Labor:									
Federal funds	2,334,637,000	2,464,590,000	2,466,906,000	2,479,006,000	2,473,056,000	+138,419,000	+8,466,000	+6,150,000	−5,950,000
Trust funds	1,531,997,000	1,685,737,000	1,695,737,000	1,695,737,000	1,695,737,000	+163,740,000	+10,000,000		
Unauthorized, not considered:									
Federal funds	(10,370,684,000)	(11,127,002,000)	***	***	***	***	***	***	***
Trust funds	(33,634,000)	(35,238,000)	***	***	***	***	***	***	***
Title II—Department of Health, Education, and Welfare:									
Federal funds	49,790,218,000	54,379,170,000	[1] 54,020,219,000	[2] 51,533,482,000	[1] 53,085,830,000	+3,295,612,000	−1,293,340,000	−934,389,000	+1,552,348,000
Trust funds	2,859,046,000	3,105,446,000	3,050,281,000	3,067,281,000	3,050,281,000	+191,235,000	−55,185,000		−17,000,000
Unauthorized, not considered:									
Federal funds	(3,968,887,000)	(5,647,455,000)	***	***	***	***	***	***	***
Trust funds	(600,000)	(600,000)				(−600,000)	(−600,000)		
Title III—Related agencies:									
Federal funds	486,683,000	495,178,000	495,143,000	495,178,000	495,143,000	+8,460,000	−35,000		−35,000
Trust funds	33,142,000	34,317,000	34,317,000	34,317,000	34,317,000	+1,175,000			
Unauthorized, not considered:									
Federal funds	(1,080,280,000)	(845,686,000)	***	***	***	***	***	***	***
Sec. 411, 2 percent reduction estimate (Federal funds)			−397,166,000					+397,166,000	
Grand total, all titles:									
Federal funds	52,611,538,000	57,338,938,000	[1] 56,585,102,000	[2] 54,507,666,000	[1] 56,054,029,000	+3,442,491,000	−1,284,909,000	−531,073,000	+1,546,363,000
Trust funds	(4,424,185,000)	(4,825,520,000)	(4,780,336,000)	(4,797,335,000)	(4,780,335,000)	(+356,150,000)	(−45,185,000)		(−17,000,000)
Unauthorized, not considered:									
Federal funds	(15,419,851,000)	(17,620,143,000)	***	***	***	***	***	***	***
Trust funds	(34,234,000)	(35,838,000)	***	***	***	***	***	***	***

***Consideration deferred due to lack of authorizing legislation.

[1] Reflects $1,000,000,000 reduction as a result of sec. 201 fraud, abuse, and waste reforms.

[2] Reflects $2,000,000,000 reduction as a result of sec. 201 fraud, abuse, and waste reforms.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, I note that the conferees have deleted funds and positions for two activities in the Office of the Assistant Secretary for Health. These are the health practices assessment and the special initiatives programs. There are some important programs involved in these cuts. For example, it would delete funding for the Office of Population Affairs, which was established by the Congress as part of the family planning program in the Public Health Service Act (Public Law 94–63). Another example is the critical need to work on problems of transferring new health technology into health practice. At least half of the staff which the bill deletes for health practices assessment works on this critical mission.

My question, Mr. Speaker, will the committee be receptive to proposals from the Department which would accept the overall dollar and position reductions in the Office of the Assistant Secretary for Health, but spread them according to the health priorities as viewed by the Secretary and the Surgeon General?

Mr. FLOOD. Mr. Speaker, I may say to my friend, the gentleman from California (Mr. WAXMAN), that, of course, as he knows, we are always willing to entertain reprograming proposals and supplemental requests.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I find myself in the rather unusual position of having signed a Labor-HEW conference report, and I did so because we are bringing a bill back well under the Carter budget and because we included in the report some strong language clarifying the intent of the $1 billion amendment relating to waste, fraud, and abuse.

The conference report provides $56,054,029,000 in expenditures, an amount which does not include some $17 billion in unauthorized items. The total is $1,284,909,000 under the President's budget. It is also $531 million below the House version.

Most of the reduction from the budget can be accounted for by the $1 billion cut contained in my amendment, a $530 million reduction in the proposed increase for basic educational opportunity grants, and the allocation of $265 million less than requested for medicaid.

Likewise, most of the reduction below the House bill is due to the $773 million reduction from the House figure for the basic educational opportunity grants.

We had an oddity this year in that the Senate bill was some $2 billion below the House version, though most of that can be accounted for by the doubling of the Michel amendment to $2 billion and by the decision not to fund the President's middle-income student assistance proposal. But there were other reductions as well, such as in the ESEA title I and impact aid programs. The Senate conferees, however, showed a much great willingness to argue for their increases than their decreases, and the result was a conference report $1.5 billion above the Senate bill.

The conference went along with the $1 billion figure approved by the House for my amendment, rather than the Senate figure of $2 billion, because of a feeling that it is probably unrealistic to expect savings of as much as $2 billion in a single year's time.

Most importantly, however, we included language in the conference report making clear that the $1 billion reduction is in fact a real cut which the Secretary of HEW must adhere to. Secretary Califano had been claiming that my amendment represented merely an "exhortation" to reduce waste, fraud, and abuse, and that it did not legally require reductions in the programs cited by the Inspector General.

The conference report seeks to correct that "misunderstanding" on the Secreterms that he "shall not spend more tary's part by stating in unequivocal than the total allocated individually for these programs in this act minus $1,000,000,000."

I should point out that HEW lobbyists were all over our conference meeting trying to defeat this report language, and the Secretary himself sent a 3-page letter moaning about the difficulties of achieving this reduction.

I suggest to the Secretary that he would be doing the taxpayers of this country, as well as his own President, a much bigger favor if he would concentrate on reducing the waste, fraud, and abuse in his Department rather than on trying to find loopholes in order to escape congressional intent.

For the record, let me point out that the $1 billion reduction is really a very modest cut. I had originally planned to go with a $1.5 billion reduction; the Senate approved a $2 billion cut; and Mr. ASHBROOK asked for a $2.5 billion cut. My original $1.5 billion proposal exempted the trust fund programs; it exempted areas where legislation might be required to make savings, such as hospital cost containment; it took into account savings that had already been cranked in to the President's budget; and it contemplated no more than a 50-percent savings in most of the remaining areas. On top of all this, we cut the reduction by another $500 million in order to give the Secretary even more leeway. So I do not think we are asking for too much, and I do not think any of us need to hear any more whining from the Secretary about how difficult it is to make these savings.

Moving to some other items, the conference dropped the Miller amendment, which provided for a 2-percent across-the-board reduction and would have saved $397 million. This is becoming a pattern. We adopt these percentage reductions on the floor and then watch our conferees give them up without a fight in conference. If corresponding reductions were made in the line items, there might be justification for dropping the across-the-board provision, but in this case there clearly was no such justification.

I was likewise disappointed in our performance as conferees regarding the Walker amendment, which would have prohibited the application of ratios, quotas, or other numerical requirements. This was eagerly dropped, as was a milder Senate version. One would think that the conferees of both bodies at least owe it to their members to try and work out a compromise, but such was not the case.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Yes, I am happy to yield to the author of that amendment.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I think it is perhaps well to note at this point that the House, with the Walker amendment, passed strong antiquota legislation. At the same time, the Senate also passed antiquota legislation or an antiquota amendment, which referred to higher education only.

In the course of the conference, both of those amendments got dropped. Does the gentleman believe that there is a shared opinion of both Houses at this point that there should be antiquota language in this bill?

Mr. MICHEL. Mr. Speaker, I will say to the gentleman that his language, as I pointed out earlier, was stronger. As I recall, the gentleman mentioned quotas, racial and numerical requirements, which was much more meaningful than this bland word "quota." And I would have preferred that. We were in the parliamentary situation, however, where the sequence in which those amendments were considered, the gentleman's amendment came first in the bill. When the House backed away from that position, lo and behold the Senate conferees, simply receded from their own position on the amendment with the milder language. As a result there is no expression from either House or Senate in this conference report on the subject of quotas. Unfortunately as House conferees we could not tell the other body what they should be doing with their own amendment. So we were caught in that parliamentary device or squeeze, which now leaves us without an amendment at all.

Mr. WALKER. If the gentleman will yield further, I think it is important to note that both Houses did pass antiquota language.

Mr. MICHEL. Yes.

Mr. WALKER. And we end up with a bill with no antiquota language in it. I realize parliamentary maneuvering that went on, but it seems that the will of both Houses was lost with regard to quota language.

Mr. MICHEL. Yes.

Mr. WALKER. I would say further to the gentleman that I hope I might have the opportunity to offer a recommittal motion that will give the House again an opportunity to go on record in favor of the weaker Senate language but, nevertheless, in favor of the antiquota language in this conference report.

Mr. MICHEL. Of course, that would be the gentleman's prerogative if he is recognized for that purpose. If it were a disagreeing amendment, of course, after the adoption of the conference report, the gentleman could very well make his case on a disagreeing amendment. But without that kind of a device in the parliamentary procedure, the gentleman would, of course, be within his rights to make that motion on the recommittal of the conference report with instructions.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. MICHEL. Mr. Speaker, as I alluded to earlier, we settled on a figure of $2.6 billion for basic educational opportunity grants. This represents an increase of $460 million over the current level, but is $530 million short of what the President proposed as part of his middle income student assistance proposal. In other words, what we did was to go half way in the President's direction, in the expectation that the tax credit will ultimately be enacted into law, since it apparently will end up as part of the overall tax bill.

I think this represents a reasonable compromise, and will enable us to achieve the goal of assisting middle income families without busting the budget.

In the other student assistance programs, the conference report provides $550 million for work-study, $340 million for supplemental grants, $310 million for direct loans, and $76,750,000 for State scholarship incentive grants. All told, the Report provides a total of $3,922,650,000 for student assistance, a 21-percent increase over last year.

Another significant action the conferees took was to cut the Impact Aid program. I never thought I would see

the day, but we actually cut this program some $40.3 million below the budget request. The Senate bill contained a $57.3 million reduction, and while I would have preferred that figure, we at least went two-thirds of the way in that direction. The conference action provides the regular increase for category "A" children, but would keep category "B" allocations at last year's level. This represents a reasonable approach toward bringing this program under control, and I hope we can, at the very least, continue in this direction in future years.

In running down some of the other areas considered in conference, we added 200 industrial hygienist inspectors and support staff for OSHA, all over the budget and the House bill. I felt this increase was excessive, particularly since we added 100 just last year, and in view of the fact that to date, they have not even filled 69 of these positions.

The conferees accepted the Senate-passed Dole amendment which prohibits OSHA from assessing civil penalties for nonserious violations by an employer of 10 or fewer employees if the employer is making a good faith effort to eliminate a hazard found by a consultant.

The conference report retains the House language allowing OSHA to inspect any farm, regardless of size, where there is a temporary labor camp, but does contain language calling on the Secretary of Labor to place primary emphasis on farms with 10 or more employees.

The conferees accepted 80 percent of the Senate increase for Public Health Service hospitals, an amount which I felt was too high, particularly in view of reports that these hospitals are performing, at taxpayer expense, facelifts, breast changes, and other cosmetic surgery.

For NIH, we agreed on a total of $2,998,226,000, an increase of $46 million over the House and only $26 million under the Senate. The amount represents an increase of $351 million over the budget. The major increases over the House version include $28 million for cancer, $16 million for the Neurological Institute, and $6 million for the Institute of General Medical Sciences.

The report contains $144 million for health professions capitation grants, an increase of $57 million over the budget. The administration had sought to scale this program back, on the grounds that it was doing little to solve the maldistribution problem, and the Senate sought to go part way in this regard, but the conferees restored the figure to last year's level.

We have reduced funding for medicaid by $261 million below the budget, based on revised estimates. We have also included report language expressing concern over the length of time some States are taking in submitting their medicaid claims, and calling for a report from HEW on the possible impact of a time limitation. The Senate bill had such a limitation, and we ended up substituting this report language in its place, basically because some States expressed concern over a precipitous action in this regard. The States ought to be put on notice, however, that a limitation will likely be forthcoming if they do not start shaping up their administrative practices.

The Senate bill was $189 million below the House version for the ESEA title I program, but the Senate caved in without a fight and the conference settled on the higher House figure. The final amount is $100 million above the budget and $343 million above last year. Needless to say, these increases are excessive for a program that hasn't proven itself.

As with title I, the Senate conferees totally gave in on their $6.5 million reduction in the bilingual education program. The result is a $15 million increase in a program which evaluations have shown is not doing the job.

The conference report contains a $14,350,000 increase over the House bill for the emergency school aid program.

For vocational education, the increase is $8.4 million over the House bill. Of note here, we increased grants to States by $25.5 million over the House bill and $44.5 million over last year. This is offset by a $19.5 million reduction in programs of national significance. I want to make special reference to this latter item, because Congressman WYLIE has expressed concern over continued funding for the National Center for Research and Vocational Education, located at Ohio State University, and he is stuck up in an airplane returning from his district at this moment. The intent of the conferees was to continue funding for this center and the State occupational information coordinating committees, which together are currently being funded at about the $10 million level we provide in the report for this account. It is my understanding that the Office of Education worked long and hard to establish this center, and is strongly supportive of it. I would thus expect OE to willingly continue funding for it at the current level, and that certainly is the intent of the conferees.

I will be happy to yield to the chairman to ask if that was his understanding.

Mr. FLOOD. Yes; I think the gentleman has stated the situation very well. That certainly is my opinion and that of the conferees certainly on the House side.

Mr. MICHEL. I thank the distinguished chairman for his comment.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I want to concur with the gentleman from Illinois on this issue, because Congressman WYLIE had given me an amendment, if the gentleman recalls, to offer at the conference. The conference was closed at that point on amendments already resolved. The only things we were discussing were the three items in controversy, but I was assured by Members of the Senate also that HEW liked this program so much that maybe half of that fund would be used for the National Center at Ohio State.

Mr. MICHEL. As it was originally conceived, it was a 5-year plan. Three years have now been completed, and I think Mr. WYLIE's concern was where we have this much of an investment, and then wipe it out without an appropriate adjustment, I think he is certainly on good grounds in making the arguments he did.

One last item which should be mentioned is the number of positions funded in this bill. All told, excluding the unauthorized areas, we are providing 156,336 positions for the bureaucracy, an increase of 4,461 over last year and 1,631 over the President's budget. This includes an increase of 500 over the budget in the Public Health Service alone.

At a time when we are supposedly seeking to restrict the growth of the Federal bureaucracy, these personnel increases certainly do not represent a very good faith effort in this direction.

All in all, though, the pluses in this conference report probably outweigh the minuses, albeit by a small margin, and I thus urge its adoption.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield 3 minutes to my friend from Maryland (Mr. BAUMAN.).

Mr. BAUMAN. Mr. Speaker, I take this time only to apprise the membership of the situation in which we find ourselves from the point of view of those of us who strongly support the right to life. Of course, the first vote will occur on the conference report itself, and eventually we will reach the amendment that has been reported back in disagreement by both bodies regarding abortion.

The gentleman from Pennsylvania (Mr. FLOOD), the distinguished chairman of the subcommittee, to his great credit as a stalwart in this battle has again announced his intention to offer a motion to insist on the House position. But, what may occur first because of the parliamentary situation is the offering of a motion to recede and concur with an amendment which would continue present language regarding federally financed abortions, language that has been in effect since last December. That would come, Mr. Speaker, on a motion to recede and concur with that amendment. This language has already been adopted once by the House this year in the continuing resolution that is already in the other body and has not been acted upon.

It would be my intention or the intention of the gentleman from Illinois (Mr. HYDE)—who has been delayed flying in from Chicago this morning—to ask that the question be divided. So, we would be voting first on a motion to recede from the strong House position earlier endorsed by a rollcall vote several months ago, and I would hope that all Members would vote against that motion to recede.

That would place the two Houses in a position of having either to go back to conference and resolve the difference in some form or having the leadership I assume make the decision to go to the continuing resolution, as I said, that is now pending in the other body and allow that to pass. That would provide for funding at the conference levels. It would also continue last year's antiabortion language.

But, for those who feel strongly on the issue of life. I do not believe the House should recede to the other body in this matter, and I offer this explanation for the Members.

Mr. MICHEL. I have no further requests for time. Mr. Speaker.

Mr. FLOOD. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I take this time to engage the chairman of the Labor-HEW Appropriations Committee in a colloquy. I would like to direct a question to the chairman, but first I would like to commend the distinguished chairman of the Labor-HEW Appropriations Subcommittee and the other House conferees for fighting so vigorously to retain in this bill the full amount to fund the Middle Income Student Assistance Act. I am, of course, disappointed that the full House allowance for the basic grant program could not be preserved in conference. I understand that the major reasons for the insistence on a lower amount by the conferees from the other body were uncertainty over whether tuition tax credits will be enacted into law as well as uncertainty over the exact amount of basic grant funds that will be available to be carried over next year. I would hope that the subcommittee chairman would support a supplemental appropriation for the basic grant program early in the next Congress when these uncertainties are resolved. I would note that James McIntyre, the Director of the Office of Management and Budget, supported such a supplemental in his letter of October 2 to Senator MAGNUSON. I would also note that a supplemental would have to be enacted prior to March 15 in order for the additional funds to be available for grants to students in the 1979–80 academic year. Would the chairman be willing to support such a supplemental early in the next Congress?

Mr. FLOOD. Yes, I would say to my friend. I can assure the gentleman from Michigan that I would support such a supplemental within the time frame which he outlined.

Mr. FORD of Michigan. I thank the gentleman from Pennsylvania for his response.

Mr. Speaker, under permission granted, I include in my remarks at this point a letter addressed to me as chairman of the Subcommittee on Postsecondary Education, by the Under Secretary of Health, Education, and Welfare, Hale Champion, dated October 11, which describes the time frame for providing the necessary work for the student assistance programs prior to the March 15 date we have adverted to here:

THE UNDER SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., October 11, 1978.

Hon. WILLIAM D. FORD,
Chairman, Subcommittee on Postsecondary Education, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to respond to your request concerning the timing of a supplemental appropriation for FY 79 for the Basic Educational Opportunity Grant Program.

As you know, the Basic Grant Program is designed to be the foundation of student assistance on which aid packages are developed for individual students. As a result, the notification of the Basic Grant award levels must be closely coordinated with the award cycle of other student assistance programs and with institutional packaging calendars.

It is anticipated that the student application processing system will begin in January of 1979. Therefore, students will begin to receive their notices of eligibility in February. At the same time, we expect to notify institutions of their funding allocations under the Campus-Based Programs in early March so that the student award and decision process can begin during the middle of March.

The timetable would require that the Basic Grant Program provide the Schedule of Student Awards to institutions by mid-March at the latest. If it is decided that student award levels for FY 79 be increased through a supplemental appropriation, action on this supplemental would need to be completed by mid-March at the latest.

Sincerely yours,

HALE CHAMPION.

Mr. EARLY. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I yield to my friend, the gentleman from Massachusetts.

Mr. EARLY. Mr. Speaker, I would just like briefly to take this opportunity to explain why I did not sign this conference report. I think it was a compromise effort on behalf of both the House and the Senate, but in the conference committee there were several particular programs I disagreed with. That is to be expected. The reason I did not sign the report was because of what I consider to be an irresponsible fiscal approach to Government embodied in the amendment 102, the Michel amendment.

I want to make it crystal clear that I think the amendment filed by the gentleman from Illinois was offered in good faith, but I think it is the most dangerous thing we can do in a budgetary process—that type of cut plus the across-the-board cut. What we have done Mr. Speaker, is take this $56 billion bill and suggest that we reduce it by $1 billion in 6 particular categories on account of the Inspector General's report which suggested that there was $7 billion of waste, abuse, and fraud implemented last year.

I claim that you cannot cut an item you do not appropriate moneys for, and we are suggesting that we appropriate $1 billion for waste, abuse and fraud. I think that is irresponsible.

In the six programs the gentleman from Illinois (Mr. MICHEL) suggests a $1 billion reduction. What we must watch is what is going to happen.

As I suggested, the gentleman from Illinois (Mr. MICHEL) offered his amendment in good faith, and it appeared in our bill as being a $1 billion reduction. When it went to the other body they immediately jumped on it, and in a floor amendment reduced that $1 billion to $2 billion. There would have been nothing to prevent them from reducing it to $3, $4, or $5 billion.

I think we are sending out the wrong signal. I think we have a responsibility to cut funds in each specific program. What we are saying to the American public today is that we have a bill of $56 billion with an additional $17 billion authorized but not acted upon. We are saying to them that it is only $56 billion; that we cut via the Michel amendment, $1 billion. But if we look at the bill it identifies the six programs that were cited in the Inspector General's report, where Mr. MICHEL wants the $1 billion reduction. But what we have done with the six programs, in this bill, is to increase every single one of them. We have increased them to the tune of $2,900 million.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. EARLY. I yield to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, the case the gentleman from Massachusetts (Mr. EARLY) makes in his own behalf is well taken. I understand what he is saying. But the crux of our problem here is that all of these are entitlement programs. Unfortunately there is so little oversight on these so-called entitlement programs that we never really get a shot at correcting a bad situation until after the fact. We continue to blindly appropriate for these entitlement programs because there is so little oversight.

Then we find out a year later the moneys have been misspent and we have to make some attempt to correct a bad situation. I am getting sick and tired of having to take all the criticism when we have no control over the situation. We have got to take some drastic action and I submit this is a step in the right direction.

This is the first time, to my knowledge, that we have directed a Secretary of HEW to address himself specifically to waste, fraud, and abuse. I share the frustration of the gentleman from Massachusetts (Mr. EARLY) because when you are dealing with these programs including multi-billions of dollars, there is bound to be some fraud, waste, and abuse and we just have to do our best to try and correct it and keep it to a minimum.

Mr. EARLY. The gentleman believes what he has just said but he has been frustrated over the years by not being able to reduce this bill when both of us know we could reduce it and not cut back on the services to the poor whatsoever. But what we are doing here, by letting this happen on the appropriations bill, is establishing a precedent.

Mr. Speaker, although I did not sign the conference report, I want to commend my colleagues on the conference committee for an outstanding joint effort. I did not sign this report because of the amendment 102, the Michel amendment, which I consider to be an irresponsible fiscal approach to Government. The Michel amendment, offered in the best of faith and with the best intentions, is a dangerous precedent for the congressional budget process. What Congress is doing, Mr. Speaker, is taking a $56 billion appropriations bill and reducing it by 1 billion in six particular programs identified by the Inspector General in his annual report of March 31, 1978. This amounts to an admission that the Labor/HEW Appropriations Committee has indeed appropriated $1 billion for waste, fraud, and abuse, and now is attempting to rescind that appropriation.

I would like to cite each of these programs identified by the Inspector General and bring to your attention what the conference committee has recommended for fiscal year 1979 appropriations in these areas. For medicaid we

have appropriated an additional $560 million over the fiscal year 1978 level.

For medicare the bill provides an increase of $518 million in payments to the health care trust funds for benefits not financed by normal payroll or premium contributions. We have increased the supplemental security income program by $308 million over the amount of funds provided in fiscal year 1978.

These funds are used to pay cash benefits to aged, blind, and disabled persons with little or no income. Benefits are adjusted automatically to reflect changes in the cost of living. For the assistance payments program, the bill provides an increase of $308 million over the fiscal year 1978 level.

This higher cost is due to increases in the individual welfare benefit payment levels which are expected to average about 4.5 percent.

For the grants to State for social services program the bill provides $269.4 million more than was available in fiscal year 1978. In addition, for student financial assistance, the conference committee has increased appropriations over fiscal year 1978 by $668.147 million.

Finally, for title I of the Elementary and Secondary Education Act, there is an increase of $342.132 million over the 1978 level of funding. The total increase over fiscal year 1978 appropriations for these six areas amounts to a staggering $2.974 billion.

I believe that a much more responsible approach to this issue of waste, fraud, and abuse is to examine each specific account identified in the Inspector General's report and attempt to achieve savings in each specific program. That is the most effective and fiscally responsible route to pursue. We hold months of hearings on this bill.

Each agency and bureau within the Department appears before the subcommittee and we appropriate for them based on the merits of their budget justifications. What we are doing by attempting to cut $1 billion from this bill, is admitting that we initially appropriated this billion dollars for waste, fraud, and abuse and now are attempting to rescind the appropriation. If cuts are to be made, they should be made in the specific line items during subcommittee consideration of this bill, and not as an across-the-board cut.

I want to emphasize that Mr. MICHEL offered his amendment with fiscal responsibility in mind and in response to the mismanagement of funds which HEW has admitted to. However, as a member of this subcommittee I have an obligation to my constituency and to the general public to be fiscally responsible and accountable. We are telling the public that this bill is only $56 billion because we cut $1 billion because of waste, fraud, and abuse in HEW programs. I suggest that the proper way to achieve savings in this bill is to identify the sources of waste, fraud, and abuse in each account and then to appropriate individually based on the savings which can be achieved.

For these reasons I oppose the Michel amendment to this bill.

Mr. FLOOD. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. WALKER. Yes; I am, Mr. Speaker, in its present form.

The Clerk read as follows:

Motion to recommit offered by Mr. WALKER: Mr. WALKER moves to recommit the conference report on H.R. 12929 to the committee of conference with the following instructions to the managers on the part of the House:

That the House recede from its disagreement to the amendment of the Senate numbered 110; and concur therein.

● Mr. MOTTL. Mr. Speaker, one of the fine new educational programs now in operation is the National Center for Research in Vocational Education, located at Ohio State University.

During its short tenure, this new program, under the direction of Dr. Robert E. Taylor, has made tremendous forward strides in the field of vocational education. The National Center has furthermore done an excellent job in disbursing its findings across the country.

For the National Center to continue its fine work in this vital field of vocational education, it must be the recipient of $5.5 million of the $10 million agreed upon by conferees on the Labor-HEW appropriation legislation for programs of national significance.

It was clearly the intent of both House and Senate conferees that this fine program continue to operate at Ohio State University. It is incumbent upon this Congress that that intent be carried out to the fullest.●

The SPEAKER pro tempore (Mr. VANIK). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 187, nays 200, not voting 43, as follows:

[Roll No. 892]

YEAS—187

Abdnor	Beard, Tenn.	Butler
Ambro	Bennett	Carter
Andrews, N.C.	Bevil	Cederberg
Applegate	Biaggi	Chappell
Archer	Bowen	Clausen, Don H.
Armstrong	Breaux	Clawson, Del
Ashbrook	Brinkley	Cleveland
AuCoin	Brooks	Cohen
Badham	Brown, Ohio	Coleman
Bafalis	Buchanan	Collins, Tex.
Barnard	Burgener	Corcoran
Baucus	Burke, Fla.	Coughlin
Bauman	Burleson, Tex.	Cunningham
D'Amours	Ichord	Quillen
Daniel, Dan	Jenkins	Regula
Daniel, R. W.	Johnson, Colo.	Rinaldo
de la Garza	Jones, N.C.	Roberts
Derwinski	Jones, Okla.	Robinson
Devine	Kasten	Roe
Dickinson	Kazen	Rousselot
Dornan	Kelly	Rudd
Duncan, Tenn.	Kemp	Runnels
Early	Kindness	Ruppe
Edwards, Ala.	Kostmayer	Russo
Edwards, Okla.	Lagomarsino	Santini
Emery	Latta	Satterfield
English	Leach	Schulze
Erlenborn	Lent	Sebelius
Evans, Del.	Levitas	Shuster
Evans, Ind.	Livingston	Sikes
Flippo	Lloyd, Tenn.	Skelton
Florio	Long, La.	Skubitz
Flowers	Lott	Slack
Flynt	Luken	Smith, Nebr.
Foley	McDade	Snyder
Forsythe	McDonald	Spence
Fountain	McEwen	Stangeland
Frenzel	McKinney	Stump
Frey	Mann	Symms
Fuqua	Marlenee	Taylor
Gammage	Marriott	Thone
Gaydos	Martin	Traxler
Gephardt	Michel	Treen
Gibbons	Miller, Ohio	Trible
Ginn	Minish	Vander Jagt
Glickman	Mitchell, N.Y.	Waggonner
Goldwater	Moakley	Walgren
Goodling	Mollohan	Walker
Gradison	Montgomery	Walsh
Gudger	Moore	Wampler
Guyer	Moorhead, Calif.	Watkins
Hagedorn	Moorhead, Pa.	Whitehurst
Hall	Mottl	Whitten
Hammer-schmidt	Murphy, N.Y.	Wiggins
Hanley	Murphy, Pa.	Winn
Hansen	Myers, Gary	Wolff
Harsha	Myers, John	Wydler
Heckler	Neal	Yatron
Hightower	Nichols	Young, Fla.
Holt	Poage	Young, Tex.
Hubbard	Preyer	Zablocki
Huckaby	Quayle	Zeferetti

NAYS—200

Addabbo	Dodd	Long, Md.
Akaka	Downey	Lujan
Alexander	Drinan	McClory
Anderson, Calif.	Duncan, Oreg.	McCloskey
Anderson, Ill.	Eckhardt	McCormack
Andrews, N. Dak.	Edgar	McFall
Annunzio	Edwards, Calif.	McHugh
Ashley	Eilberg	McKay
Aspin	Ertel	Madigan
Baldus	Evans, Colo.	Maguire
Beard, R.I.	Fary	Mahon
Bedell	Fascell	Markey
Beilenson	Fenwick	Marks
Benjamin	Findley	Mattox
Bingham	Fish	Mazzoli
Blanchard	Fisher	Meeds
Boggs	Flood	Meyner
Boland	Ford, Mich.	Mikulski
Bolling	Fowler	Mikva
Bonior	Fraser	Milford
Bonker	Garcia	Miller, Calif.
Brademas	Giaimo	Mineta
Breckinridge	Gilman	Mitchell, Md.
Brodhead	Gore	Moffett
Broomfield	Grassley	Murphy, Ill.
Brown, Calif.	Green	Murtha
Burke, Mass.	Hamilton	Myers, Michael
Burlison, Mo.	Hannaford	Natcher
Burton, John	Harkin	Nedzi
Burton, Phillip	Harris	Nix
Carney	Hawkins	Nolan
Carr	Hillis	Nowak
Chisholm	Holland	O'Brien
Clay	Hollenbeck	Oberstar
Collins, Ill.	Holtzman	Obey
Conable	Horton	Ottinger
Conte	Howard	Panetta
Corman	Jeffords	Patten
Cornell	Jenrette	Patterson
Cotter	Johnson, Calif.	Pattison
Danielson	Jones, Tenn.	Pepper
Davis	Jordan	Perkins
Delaney	Kastenmeier	Pickle
Dellums	Kildee	Pike
Dent	Krebs	Pressler
Derrick	LaFalce	Price
Dicks	Lederer	Pritchard
Dingell	Leggett	Pursell
	Lehman	Railsback
	Lloyd, Calif.	Rangel

Reuss	Solarz	Vanik
Richmond	Spellman	Vento
Risenhoover	St Germain	Volkmer
Rodino	Staggers	Waxman
Rogers	Stanton	Weaver
Roncalio	Stark	Weiss
Rooney	Steed	Whalen
Rose	Steers	Wilson, Bob
Rosenthal	Steiger	Wilson, C. H.
Rostenkowski	Stokes	Wilson, Tex.
Roybal	Stratton	Wirth
Ryan	Studds	Wright
Scheuer	Thompson	Wylie
Schroeder	Thornton	Yates
Seiberling	Tucker	Young, Alaska
Sharp	Udall	Young, Mo.
Simon	Ullman	
Smith, Iowa	Van Deerlin	

NOT VOTING—43

Ammerman	Gonzalez	Pettis
Blouin	Harrington	Quie
Brown, Mich.	Hefner	Rahall
Broyhill	Heftel	Rhodes
Burke, Calif.	Hyde	Sarasin
Caputo	Ireland	Sawyer
Cavanaugh	Jacobs	Shipley
Cochran	Keys	Sisk
Conyers	Krueger	Stockman
Cornwell	Le Fante	Teague
Crane	Lundine	Tsongas
Diggs	Mathis	White
Evans, Ga.	Moss	Whitley
Fithian	Oakar	
Ford, Tenn.	Pease	

The Clerk announced the following pairs:

On this vote:

Mr. Broyhill for, with Mr. White against.

Mr. Cochran of Mississippi for, with Mr. Ammerman against.

Mr. Hyde for, with Mr. Rahall against.

Mr. Sawyer for, with Mr. Sarasin against.

Mr. Crane for, with Mr. Brown of Michigan against.

Until further notice:

Mr. Teague with Mrs. Pettis.

Mr. Shipley with Mr. Caputo.

Mrs. Burke of California with Mr. Quie.

Mr. Krueger with Mr. Stockman.

Mr. Gonzalez with Mr. Ford of Tennessee.

Mr. Evans of Georgia with Mr. Harrington.

Mr. Sisk with Mr. Heftel.

Mr. Hefner with Mr. Tsongas.

Mr. Whitley with Mr. Ireland.

Mr. Jacobs with Mr. Moss.

Ms. Keys with Ms. Oakar.

Mr. Pease with Mr. Lundine.

Mr. Conyers with Mr. Blouin.

Mr. Fithian with Mr. Cavanaugh.

Mr. Le Fante with Mr. Diggs.

Mr. Cornwell with Mr. Mathis.

Messrs. DORNAN, JONES of North Carolina, BURGENER, SIKES, HUCKABY, PREYER, LONG of Louisiana, WINN, YOUNG of Texas, CARTER, BUCHANAN, WOLFF, BURKE of Florida, and MURPHY of New York changed their vote from "nay" to "yea."

Mrs. SCHROEDER, Mr. ECKHARDT, Mr. BURKE of Massachusetts, and Mr. LEDERER changed their vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the conference report was agreed to.

CONFERENCE REPORT ON H.R. 10173, VETERANS' AND SURVIVORS' PENSION IMPROVEMENT ACT OF 1978

Mr. MONTGOMERY submitted the following conference report and statement on the bill (H.R. 10173) to amend title 38, United States Code, to improve the pension programs for veterans, and survivors of veterans, of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 95–1768)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10173) to amend title 38, United States Code, to improve the pension programs for veterans, and survivors of veterans, of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Veterans' and Survivors' Pension Improvement Act of 1978".

TITLE I—PENSION FOR VETERANS AND SURVIVORS

DEFINITION OF "PERIOD OF WAR"

SEC. 101. Section 501 of title 38, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) The term 'period of war' means the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, and the period beginning on the date of any future declaration of war by the Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution of the Congress.".

INCOME EXCLUSIONS

SEC. 102. (a) Subsection (a) of section 503 of title 38, United States Code, is amended by—

(1) striking out clause (1);

(2) redesignating clause (2) as clause (1);

(3) redesignating clause (3) as clause (2) and striking out the comma and "and chapters 11 and 13 (except section 412(a)) of this title" in such clause;

(4) striking out clauses (4), (5), and (6);

(5) redesignating clause (7) as clause (3);

(6) inserting after such clause the following new clause:

"(4) amounts equal to amounts paid—

"(A) by a veteran for the last illness and burial of such veteran's deceased spouse or child, or

"(B) by the spouse of a living veteran or the surviving spouse of a deceased veteran for the last illness and burial of a child of such veteran;";

(7) redesignating clause (8) as clause (5);

(8) striking out clause (9);

(9) redesignating clause (10) as clause (6);

(10) striking out clauses (11), (12), (13) and (14);

(11) redesignating clause (15) as clause (7);

(12) striking out clauses (16) and (17); and

(13) adding at the end of such subsection the following new clauses:

"(8) amounts equal to amounts paid by a veteran, veterans' spouse, or surviving spouse or by or on behalf of a veteran's child for unreimbursed medical expenses, to the extent that such amounts exceed 5 per centum of the maximum annual rate of pension (including any amount of increased pension payable on account of family members but not including any amount of pension payable because a person is in need of regular aid and attendance or because a person is permanently housebound) payable to such veteran, surviving spouse, or child;

"(9) in the case of a veteran or surviving spouse pursuing a course of education or vocational rehabilitation or training, amounts equal to amounts paid by such veteran or surviving spouse for such course of education or vocational rehabilitation or training, including (A) amounts paid for tuition, fees, books, and materials, and (3) in the case of such a veteran or surviving spouse in need of regular aid and attendance, unreimbursed amounts paid for unusual transportation expenses in connection with the pursuit of such course of education or vocational rehabilitation or training, to the extent that such amounts exceed the reasonable expenses which would have been incurred by a nondisabled person using an appropriate means of transportation (public transportation, if reasonably available); and

"(10) in the case of a child, any current-work income received during the year, to the extent that the total amount of such income does not exceed an amount equal to the sum of—

"(A) the lowest amount of gross income for which an income tax return is required under section 6012(a) of the Internal Revenue Code of 1954, to be filed by an individual who is not married (as determined under section 143 of such Code), is not a surviving spouse (as defined in section 2(a) of such Code), and is not a head of household (as defined in section 2(b) of such Code); and

"(B) if the child is pursuing a course of postsecondary education or vocational rehabilitation or training, the amount paid by such child for such course of education or vocational rehabilitation or training, including the amount paid for tuition, fees, books, and materials.".

(b) Subsection (c) of such section is repealed.

INCOME AND NET WORTH REPORTS

SEC. 103. Subsection (a) of section 506 of title 38, United States Code, is amended to read as follows:

"(a) As a condition of granting or continuing pension under section 521, 541, or 542 of this title, the Administrator—

"(1) may require from any person who is an applicant for a recipient of pension such information, proofs, and evidence as the Administrator determines to be necessary in order to determine the annual income and the value of the corpus of the estate of such person, and of any spouse or child for whom the person is receiving or is to receive increased pension (such a child is hereinafter in this subsection referred to as a 'dependent child') and, in the case of a child applying for or in receipt of pension under section 542 of this title (hereinafter in this subsection referred to as a 'surviving child'), of any person with whom such child is residing who is legally responsible for such child's support;

"(2) shall require that any such applicant or recipient file each year with the Veterans' Administration (on such form as may be prescribed for such purpose by the Administrator) a report showing—

"(A) the annual income which such applicant or recipient (and any such spouse or dependent child) received during the preceding year, the corpus of the estate of such applicant or recipient (and of any such spouse or dependent child) at the end of such year, and in the case of a surviving child, the income and corpus of the estate of any person with whom such child is resid-

ing who is legally responsible for such child's support;

"(B) such applicant's or recipient's estimate for the then current year of the annual income such applicant or recipient (and any such spouse or dependent child) expects to receive and of any expected increase in the value of the corpus of the estate of such applicant or recipient (and for any such spouse or dependent child); and

"(C) in the case of a surviving child, an estimate for the then current year of the annual income of any person with whom such child is residing who is legally responsible for such child's support and of any expected increase in the value of the corpus of the estate of such person;

"(3) shall require that any such applicant or recipient promptly file a revised report whenever there is a material change in the estimated annual income of such applicant or recipient (or of any such spouse or dependent child) or a material change in such applicant's or recipient's estimate of the value of the corpus of the estate of such applicant or recipient (or of any such spouse or dependent child), and in the case of a surviving child, a material change in the estimated annual income or value of the corpus of the estate of any person with whom such child is residing who is legally responsible for such child's support; and

"(4) shall require that any such applicant or recipient applying for or in receipt of increased pension on account of a person who is a spouse or child of such applicant or recipient promptly notify the Administrator if such person ceases to meet the applicable definition of spouse or child.".

FREQUENCY OF PAYMENT OF PENSION BENEFITS

SEC. 104. (a) Chapter 15 of title 38, United States Code, is amended by inserting after section 507 the following new section:

"§ 528. Frequency of payment of pension benefits

"(a) Except as provided under subsection (b) of this section, benefits under sections 521, 541, and 542 of this title shall be paid monthly.

"(b) Under regulations which the Administrator shall prescribe, benefits under sections 521, 541, and 542 of this title may be paid less frequently than monthly if the amount of the annual benefit is less than 4 per centum of the maximum annual rate payable to a veteran under section 521(b) of this title.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 507 a new item as follows:

"508. Frequency of payment of pension benefits.".

PENSION FOR SPANISH-AMERICAN WAR VETERANS

SEC. 105. Paragraph (3) of section 512(a) of title 38, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting "(except the rate provided under subsection (g) of such section)" after "of this title";

(B) by striking out "World War I" and inserting in lieu thereof "a period of war"; and

(C) by striking out the comma and "except as provided in subparagraph (B)" in the second sentence of such subparagraph; and

(2) in subparagraph (B), by striking out "if such veteran" and all that follows in the first sentence and inserting in lieu thereof a comma and "as in effect on December 31, 1978, under regulations which the Administrator shall prescribe.".

PENSION OF VETERANS OF A PERIOD OF WAR

SEC. 106. (a) Section 521 of title 38, United States Code, is amended to read as follows:

"§ 521. Veterans of a period of war

"(a) The Administrator shall pay to each veteran of a period of war who meets the service requirements of this section (as prescribed in subsection (j) of this section) and who is permanently and totally disabled from non-service-connected disability not the result of the veteran's willful misconduct, pension at the rate prescribed by this section, as increased from time to time under section 3112 of this title.

"(b) If the veteran is unmarried (or married but not living with or reasonably contributing to the support of such veteran's spouse) and there is no child of the veteran in the custody of the veteran or to whose support the veteran is reasonably contributing, and unless the veteran is entitled to pension at the rate provided by subsection (d) (1) or (e) of this section, pension shall be paid to the veteran at the annual rate of $3,550, reduced by the amount of the veteran's annual income.

"(c) If the veteran is married and living with or reasonably contributing to the support of such veteran's spouse, or if there is a child of the veteran in the custody of the veteran or to whose support the veteran is reasonably contributing, pension shall be paid to the veteran at the annual rate of $4,651, unless the veteran is entitled to pension at the rate provided by subsection (d)(2), (e), or (f) of this section. If the veteran has two or more such family members, such annual rate shall be increased by $600 for each such family member in excess of one. The rate payable shall be reduced by the amount of the veteran's annual income and, subject to subsection (h)(1) of this section, the amount of annual income of such family members.

"(d)(1) If the veteran is in need of regular aid and attendance, the annual rate of pension payable to the veteran under subsection (b) of this section shall be $5,680. reduced by the amount of the veteran's annual income.

"(2) If the veteran is in need of regular aid and attendance, the annual rate of pension payable to the veteran under subsection (c) of this section shall be $6,781. If such veteran has two or more family members, as described in subsection (c) of this section, the annual rate of pension shall be increased by $600 for each such family member in excess of one. The rate payable shall be reduced by the amount of the veteran's annual income and, subject to subsection (h)(1) of this section, the amount of annual income of such family members.

"(e) If the veteran has a disability rated as permanent and total and (1) has additional disability or disabilities independently ratable at 60 per centum or more, or (2) by reason of a disability or disabilities, is permanently housebound but does not qualify for pension at the aid and attendance rate provided by subsection (d) of this section. the annual rate of pension payable to the veteran under subsection (b) of this section shall be $4,340 and the annual rate of pension payable to the veteran under subsection (c) of this section shall be $5,441. If such veteran has two or more family members, as described in subsection (c) of this section, the annual rate of pension shall be increased by $600 for each such family member in excess of one. The rate payable shall be reduced by the amount of the veteran's annual income and, subject to subsection (h)(1) of this section, the annual income of such family members.

"(f)(1) If two veterans are married to one another and each meets the disability and service requirements prescribed in subsections (a) and (j), respectively, of this section, the annual rate of pension payable to such veterans shall be a combined annual rate of $4,651.

"(2) If either such veteran is in need of regular aid and attendance, the annual rate provided by paragraph (1) of this subsection shall be $6,781. If both such veterans are in need of regular aid and attendance, such rate shall be $8,911.

"(3) If either such veteran would be entitled (if not married to a veteran) to pension at the rate provided by subsection (e) of this section, the annual rate provided by paragraph (1) of this subsection shall be $5,441. If both such veterans would be entitled (if not married to one another) to such rate, such rate shall be $6,231.

"(4) If one such veteran is in need of regular aid and attendance and the other would be entitled (if not married to a veteran) to the rate provided for under subsection (e) of this section, the annual rate provided by paragraph (1) of this subsection shall be $7,571.

"(5) The annual rate provided by paragraph (1), (2), (3), or (4) of this subsection, as appropriate, shall (A) be increased by $600 for each child of such veterans (or of either such veteran) who is in the custody of either or both such veterans or to whose support either such veteran is, or both such veterans are, reasonably contributing, and (B) be reduced by the amount of the annual income of both such veterans and, subject to subsection (h)(1) of this section, the annual income of each such child.

"(g) The annual rate of pension payable under subsection (b), (c), (d), (e), or (f) of this section to any veteran who is a veteran of a period of war shall be increased by $800 if veterans of such period of war were not provided educational benefits or home loan benefits similar to those provided to veterans of later periods of war under chapters 34 and 37, respectively, of this title or under prior corresponding provisions of law.

"(h) For the purposes of this section:

"(1) In determining the annual income of a veteran, if there is a child of the veteran who is in the custody of the veteran or to whose support the veteran is reasonably contributing, that portion of the annual income of the child that is reasonably available to or for the veteran shall be considered to be income of the veteran, unless in the judgment of the Administrator to do so would work a hardship on the veteran.

"(2) A veteran shall be considered as living with a spouse, even though they reside apart, unless they are estranged.

"(i) If the veteran is entitled under this section to pension on the basis of such veteran's own service and is also entitled to pension on the basis of any other person's service, the Administrator shall pay such veteran only the greater benefit.

"(j) A veteran meets the service requirements of this section if such veteran served in the active military, naval, or air service—

"(1) for ninety days or more during a period of war;

"(2) during a period of war and was discharged or released from such service for a service-connected disability;

"(3) for a period of ninety consecutive days or more and such period began or ended during a period of war; or

"(4) for an aggregate of ninety days or more in two or more separate periods of service during more than one period of war.".

(b) The item relating to section 521 in the table of sections at the beginning of chapter 15 of such title is amended to read as follows:

"521. Veterans of a period of war.".

VETERANS' NET WORTH LIMITATION

SEC. 107. Section 522 of title 38, United States Code, is amended to read as follows:

"§ 522. Net worth limitation

"(a) The Administrator shall deny or discontinue the payment of pensions to a veteran under section 521 of this title when the corpus of the estate of the veteran or, if the veteran has a spouse, the corpus of the estates of the veteran and of the veteran's spouse is such that under all the circum-

stances, including consideration of the annual income of the veteran, the veteran's spouse, and the veteran's children, it is reasonable that some part of the corpus of such estates be consumed for the veteran's maintenance.

"(b) The Administrator shall deny or discontinue the payment of increased pension under subsection (c), (d), (e), or (f) of section 521 of this title on account of a child when the corpus of such child's estate is such that under all the circumstances, including consideration of the veteran's and spouse's income, and the income of the veteran's children, it is reasonable that some part of the corpus of such child's estate be consumed for the child's maintenance. During the period such denial or discontinuance remains in effect, such child shall not be considered as the veteran's child for purposes of this chapter.".

PENSION FOR SURVIVING SPOUSES OF SPANISH-AMERICAN WAR VETERANS

SEC. 108. Subsection (d) of section 536 of title 38, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking out "World War I" and inserting in lieu thereof "a period of war"; and

(B) by striking out the comma and "except as provided in paragraph (2)" in the second sentence of such paragraph; and

(2) in paragraph (2)—

(A) by inserting a comma and "as in effect on December 31, 1978" after "of this title" both places it appears; and

(B) by inserting a comma and "as in effect on such date" after "such selection 544".

PENSION FOR SURVIVING SPOUSES OF VETERANS OF A PERIOD OF WAR

SEC. 109. (a) Section 541 of title 38, United States Code, is amended to read as follows:

"§ 541. Surviving spouses of veterans of a period of war

"(a) The Administrator shall pay to the surviving spouse of each veteran of a period of war who met the service requirements prescribed in section 521(j) of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, pension at the rate prescribed by this section, as increased from time to time under section 3112 of this title.

"(b) If no child of the veteran is in the custody of the surviving spouse, pension shall be paid to the surviving spouse at the annual rate of $2,379, reduced by the amount of the surviving spouse's annual income.

"(c) If there is a child of the veteran in the custody of the surviving spouse, pension shall be paid to the surviving spouse at the annual rate of $3,116. If the surviving spouse has custody of two or more such children, the annual pension rate shall be increased by $600 for each such child in excess of one. In each case, the rate payable shall be reduced by the amount of the surviving spouse's annual income and, subject to subsection (g) of this section, the annual income of each such child.

"(d)(1) If a surviving spouse who is entitled to pension under subsection (b) of this section is in need of regular aid and attendance, the annual rate of pension payable to such surviving spouse shall be $3,806, reduced by the amount of the surviving spouse's annual income.

"(2) If a surviving spouse who is entitled to pension under subsection (c) of this section is in need of regular aid and attendance, the annual rate of pension payable to the surviving spouse shall be $4,543. If there are two or more children of the veteran in such surviving spouse's custody, the annual rate of pension shall be increased by $600 for each such child in excess of one. The rate payable shall be reduced by the amount of the surviving spouse's annual income and, subject to subsection (g) of this section, the annual income of each such child.

"(e)(1) If the surviving spouse is permanently housebound but does not qualify for pension at the aid and attendance rate provided by subsection (d) of this section, the annual rate of pension payable to such surviving spouse under subsection (b) of this section shall be $2,908 and the annual rate of pension payable to such surviving spouse under subsection (c) of this section shall be $3,645. If there are two or more children of the veteran in such surviving spouse's custody, the annual rate of pension shall be increased by $600 for each such child in excess of one. The rate payable shall be reduced by the amount of the surviving spouse's annual income and, subject to subsection (g) of this section, the income of any child of the veteran for whom the surviving spouse is receiving increased pension.

"(2) For purposes of paragraph (1) of this subsection, the requirement of 'permanently housebound' shall be met when the surviving spouse is substantially confined to such surviving spouse's house (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities reasonably certain to remain throughout such surviving spouse's lifetime.

"(f) No pension shall be paid under this section to a surviving spouse of a veteran unless the spouse was married to the veteran—

"(1) before (A) December 14, 1944, in the case of a surviving spouse of a Mexican border period or World War I veteran, (B) January 1, 1957, in the case of a surviving spouse of a World War II veteran, (C) February 1, 1965, in the case of a surviving spouse of a Korean conflict veteran, or (D) May 8, 1985, in the case of a surviving spouse of a Vietnam era veteran;

"(2) for one year or more; or

"(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

"(g) In determining the annual income of a surviving spouse for the purposes of this section, if there is a child of the veteran in the custody of the surviving spouse, that portion of the annual income of the child that is reasonably available to or for the surviving spouse shall be considered to be income of the surviving spouse, unless in the judgment of the Administrator to do so would work a hardship on the surviving spouse.

"(h) As used in this section and section 542 of this title, the term 'veteran' includes a person who has completed at least two years of honorable active military, naval, or air service, as certified by the Secretary concerned, but whose death in such service was not in line of duty.".

(b) The item relating to section 541 in the table of sections at the beginning of chapter 15 of such title is amended to read as follows:

"541. Surviving spouses of veterans of a period of war.".

PENSION FOR CHILDREN OF VETERANS OF A PERIOD OF WAR

SEC. 110. (a) Section 542 of title 38, United States Code, is amended to read as follows:

"§ 542. Children of veterans of a period of war

"The Administrator shall pay to each child (1) who is the child of a deceased veteran of a period of war who met the service requirements prescribed in section 521(j) of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, and (2) who is not in the custody of a surviving spouse eligible for pension under section 541 of this title, pension at the annual rate of $600, as increased from time to time under section 3112 of this title and reduced by the amount of such child's annual income; or, if such child is residing with a person who is legally responsible for such child's support, at an annual rate equal to the amount by which the appropriate annual rate provided under section 541(c) of this title exceeds the sum of the annual income of such child and such person, but in no event may such annual rate of pension exceed the amount by which $600, as increased from time to time under section 3112 of this title, exceeds the annual income of such child. The appropriate annual rate under such section 541(c) for the purposes of the preceding sentence shall be determined in accordance with regulations which the Administrator shall prescribe.".

(b) The item relating to section 542 in the table of sections at the beginning of chapter 15 of such title is amended to read as follows:

"542. Children of veterans of a period of war.".

SURVIVORS' NET WORTH LIMITATION

SEC. 111. Section 543 of title 38, United States Code, is amended to read as follows:

"§ 543. Net worth limitation

"(a)(1) The Administrator shall deny or discontinue payment of pension to a surviving spouse under section 541 of this title when the corpus of the estate of the surviving spouse is such that under all the circumstances, including consideration of the income of the surviving spouse and the income of any child for whom the surviving spouse is receiving increased pension, it is reasonable that some part of the corpus of such estate be consumed for the surviving spouse's maintenance.

"(2) The Administrator shall deny or discontinue the payment of increased pension under subsection (c), (d), or (e) of section 541 of this title on account of a child when the corpus of such child's estate is such that under all the circumstances, including consideration of the income of the surviving spouse and such child and the income of any other child for whom the surviving spouse is receiving increased pension, it is reasonable that some part of the corpus of the child's estate be consumed for the child's maintenance. During the period such denial or discontinuance remains in effect, such child shall not be considered as the surviving spouse's child for purposes of this chapter.

"(b) The Administrator shall deny or discontinue payment of pension to a child under section 542 of this title when the corpus of the estate of the child is such that under all the circumstances, including consideration of the income of the child, the income of any person with whom such child is residing who is legally responsible for such child's support, and the corpus of the estate of such person, it is reasonable that some part of the corpus of such estates be consumed for the child's maintenance.".

CONFORMING AMENDMENT RELATING TO SURVIVING SPOUSES' PENSION

SEC. 112. (a)(1) Section 544 of title 38, United States Code, is repealed.

(2) Chapter 15 of such title is amended by striking out the heading below section 543 of such chapter.

(b) The table of sections at the beginning of chapter 15 of such title is amended by striking out the item below the item relating to section 543 and by striking out the item relating to section 544.

TITLE II—DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING PARENTS

DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING PARENTS

SEC. 201. (a)(1) Paragraph (1) of subsection (b) of section 415 of title 38, United States Code, is amended to read as follows:

"(1) Except as provided in paragraph (4)

of this subsection, if there is only one parent, the monthly rate of dependency and indemnity compensation paid to such parent shall be $163, as increased from time to time under section 3112(b)(1) of this title and reduced by an amount, based upon the amount of such parent's annual income, determined in accordance with regulations which the Administrator shall prescribe under section 3112(b)(2) of this title.".

(2) Paragraph (3) of such subsection is amended by striking out "$3,770" and inserting in lieu thereof "$4,038" as increased from time to time under section 3112 of this title".

(3) The first sentence of paragraph (4) of such subsection is amended by striking out "the formula of paragraph (1) of this subsection or under the formula in subsection (d), whichever is the greater" and inserting in lieu thereof "paragraph (1) of this subsection or under subsection (d) of this section, whichever will result in the greater amount of such compensation being paid to such parent".

(b)(1) Paragraph (1) of subsection (c) of such section is amended to read as follows:

"(1) Except as provided in subsection (d) of this section, if there are two parents, but they are not living together, the monthly rate of dependency and indemnity compensation paid to each such parent shall be $115, as increased from time to time under section 3112(b)(1) of this title and reduced by an amount, based upon the amount of such parents' annual income, determined in accordance with regulations which the Administrator shall prescribe under section 3112(b)(2) of this title.".

(2) Paragraph (3) of such subsection is amended by striking out "$3,770" and inserting in lieu thereof "$4,038, as increased from time to time under section 3112 of this title"

(c)(1) Paragraph (1) of subsection (d) of such section is amended to read as follows:

"(1) If there are two parents who are living together, or if a parent has remarried and is living with such parent's spouse, the monthly rate of dependency and indemnity compensation paid to such parent shall be $109, as increased from time to time under section 3112(b)(1) of this title and reduced by an amount, based upon the amount of the combined annual income of the parents or the parent and the parent's spouse, determined in accordance with regulations which the Administrator shall prescribe under section 3112(b)(2) of this title.".

(2) Paragraph (3) of such subsection is amended by striking out "$5,070" and inserting in lieu thereof "$5,430, as increased from time to time under section 3112 of this title".

(d) Subsection (h) of such section is amended by striking out "$79" and inserting in lieu thereof "$85, as increased from time to time under section 3112 of this title,".

TITLE III—MISCELLANEOUS PROVISIONS AND CONFORMING AMENDMENTS

DEFINITION OF "PENSION"

SEC. 301. Paragraph (15) of section 101 of title 38, United States Code, is amended by inserting "or other periodic" after "monthly".

INCOME LIMITATION FOR RECEIPT OF DRUGS AND MEDICINES

SEC. 302. The second sentence of section 612(h) of title 38, United States Code, is amended by striking out "$500" and inserting in lieu thereof "$1,000".

EFFECTIVE DATES FOR CHANGES IN INCOME

SEC. 303. Clause (4) of section 3012(b) of title 38, United States Code, is amended to read as follows:

"(4) by reason of—

"(A) change in income shall (except as provided in section 3112 of this title) be the last day of the month in which the change occurred; and

"(B) change in corpus of estate shall be the last day of the calendar year in which the change occurred;".

CONFORMING AMENDMENT RELATING TO PROHIBITION ON CONCURRENT PENSIONS

SEC. 304. Paragraph (1) of section 3104(b) of title 38, United States Code, is amended by inserting "of this subsection and in section 521(i) of this title" after "(2) and (3)".

ANNUAL COST-OF-LIVING ADJUSTMENTS

SEC. 305. (a) Chapter 53 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 3112. Annual adjustment of certain benefit rates

"(a) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act as a result of a determination made under section 215(i) of such Act, the Administrator shall, effective on the date of such increase in benefit amounts, increase each maximum annual rate of pension under sections 521, 541, and 542 of this title and the rate of increased pension paid under such sections 521 and 541 on account of children, as such rates were in effect immediately prior to the date of such increase in benefit amounts payable under title II of the Social Security Act, by the same percentage as the percentage by which such benefit amounts are increased.

"(b)(1) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act as a result of a determination made under section 215(i) of such Act, the Administrator shall, effective on the date of such increase in benefit amounts, increase the maximum monthly rates of dependency and indemnity compensation for parents payable under subsections (b), (c), and (d), and the monthly rate provided in subsection (h), of section 415 of such title and the annual income limitations prescribed in subsections (b)(3), (c)(3), and (d)(3) of such section, as such rates and limitations were in effect immediately prior to the date of such increase in benefit amounts payable under title II of the Social Security Act, by the same percentage as the percentage by which such benefit amounts are increased.

"(2)(A) Whenever there is an increase under paragraph (1) of this subsection in such rates and annual income limitations, the Administrator shall, effective on the date of such increase in such rates and limitations, adjust (as provided in subparagraph (B) of this paragraph) the rates of dependency and indemnity compensation payable under subsection (b)(1) or (c)(1) of section 415 of this title to any parent whose annual income is more than $800 but not more than the annual income limitation in effect under subsection (b)(3) or (c)(3) of such section, as appropriate, and adjust the rates of such compensation payable under subsection (d)(1) of such section to any parent whose annual income is more than $1,000 but not more than the annual income limitation in effect under subsection (d)(3) of such section.

"(B) The adjustment in rates of dependency and indemnity compensation referred to in subparagraph (A) of this paragraph shall be made by the Administrator in accordance with regulations which the Administrator shall prescribe.

"(c)(1) Whenever there is an increase under subsection (a) in benefit rates payable under sections 521, 541, and 542 of this title and an increase under subsection (b) in benefit rates and annual income limitations under section 415 of this title, the Administrator shall publish such rates and limitations (including those rates adjusted by the Administrator under subsection (b)(2) of this section), as increased pursuant to such subsections, in the Federal Register at the same time as the material required by subsection 215(i)(2)(D) of the Social Security Act is published by reason of a determination under section 215(i) of such Act.

"(2) Whenever such rates and income limitations are so increased, the Administrator may round such rates and income limitations in such manner as the Administrator considers equitable and appropriate for ease of administration.".

(b) The table of sections at the beginning of chapter 53 of such title is amended by adding at the end thereof a new item as follows:

"3112. Annual adjustment of certain benefit rates.".

SAVINGS PROVISIONS FOR PERSONS ENTITLED TO PENSION AS OF DECEMBER 31, 1978

SEC. 306. (a)(1)(A) Except as provided in subparagraph (B), any person who as of December 31, 1978, is entitled to receive pension under sections 521, 541, or 542 of title 38, United States Code, may elect to receive pension under such section as in effect after such date, subject to the terms and conditions in effect with respect to the receipt of such pension. Any such election shall be made in such form and manner as the Administrator may prescribe. If pension is paid pursuant to such an election, the election shall be irrevocable.

(B) Any veteran eligible to make an election under subparagraph (A) who is married to another veteran who is also eligible to make such an election may not make such an election unless both such veterans make such an election.

(2) Any person eligible to make an election under paragraph (1) who does not make such an election shall continue to receive pension at the monthly rate being paid to such person on December 31, 1978, subject to all provisions of law applicable to basic eligibility for and payment of pension under section 521, 541, or 542, as appropriate, of title 38, United States Code, as in effect on December 31, 1978, except that—

(A) pension may not be paid to such person if such person's annual income (determined in accordance with section 503 of title 38, United States Code, as in effect on December 31, 1978) exceeds $4,038, in the case of a veteran or surviving spouse without dependents, $5,430, in the case of a veteran or surviving spouse with one or more dependents, or $3,299, in the case of a child; and

(B) the amount prescribed in subsection (f)(1) of section 521 of such title (as in effect on December 31, 1978) shall be $1,285;

as each such amount is increased from time to time under paragraph (3).

(3) Whenever there is an increase under section 3112 of title 38, United States Code (as added by section 304 of this Act), in the maximum annual rates of pension under sections 521, 541, and 542 of such title, as in effect after December 31, 1978, the Administrator of Veterans' Affairs shall, effective on the date of such increase under such section 3112, increase—

(A) the annual income limitations in effect under paragraph (2); and

(B) the amount of income of a veterans' spouse excluded from the annual income of such veteran under section 521(f)(1) of such title, as in effect on December 31, 1978;

by the same percentage as the percentage by which such maximum annual rates under such sections 521, 541, and 542 are increased.

(b)(1) Effective January 1, 1979, section 9 of the Veterans' Pension Act of 1959 (Public Law 86-211) is repealed.

(2)(A) Except as provided in subparagraph (B), any person who as of December 31, 1978, is entitled to receive pension under section 9(b) of the Veterans' Pension Act of 1959 may elect to receive pension under section 521, 541, or 542 of title 38, United States Code, as in effect after such date, subject to the terms and conditions in effect with respect to the receipt of such pension. Any such election shall be made in such form

and manner as the Administrator of Veterans Affairs may prescribe. If pension is paid pursuant to such an election, the election shall be irrevocable.

(B) Any veteran eligible to make an election under subparagraph (A) who is married to another veteran who is also eligible to make such an election may not make such an election unless boh such veterans make such an election.

(3) Any person eligible to make an election under paragraph (2) who does not make such an election shall continue to receive pension at the monthly rate being paid to such person on December 31, 1978, subject to all provisions of law applicable to basic eligibility for and payment of pension under section 9 (b) of the Veterans' Pension Act of 1959, as in effect on December 31, 1978, except that pension may not be paid to such person if such person's annual income (determined in accordance with the applicable provisions of law, as in effect on December 31, 1978) exceeds $3,534, in the case of a veteran or surviving spouse without dependents or in the case of a child, or $5,098, in the case of a veteran or surviving spouse with one or more dependents, as each such amount is increased from time to time under paragraph (4).

(4) Whenever there is an increase under section 3112 of title 38, United States Code (as added by section 304 of this Act), in the maximum annual rates of pension under sections 521, 541, and 542 of such title, as in effect after December 31, 1978, the Administrator shall, effective on the date of such increase under such section 3112, increase the annual income limitations in effect under paragraph (3) by the same percentage as the percentage by which the maximum annual rates under such sections 521, 542, and 543 are increased.

(c) Any case in which—

(1) a claim for pension is pending in the Veteran's Administration on December 31, 1978;

(2) a claim for pension is filed by a veteran after December 31, 1978, and within one year after the date on which such veteran became totally and permanently disabled, if such veteran became totally and permanently disabled before January 1, 1979; or

(3) a claim for pension is filed by a surviving spouse or by a child after December 31, 1978, and within one year after the date of death of the veteran through whose relationship such claim is made, if the death of such veteran occurred before January 1, 1979;

shall be adjudicated under title 38, United States Code, as in effect on December 31, 1978. Any benefits determined to be payable as the result of the adjudication of such claim shall be subject to the provisions of subsection (a).

(d) In any case in which any person who as of December 31, 1978, is entitled to receive pension under section 521, 541, or 542 of title 38, United States Code, or under section 9(b) of the Veterans' Pension Act of 1959, elects (in accordance with subsection (a)(1) or (b)(2), as appropriate) before October 1, 1979, to receive pension under such section as in effect after December 31, 1978, the Administrator of Veterans' Affairs shall pay to such person an amount equal to the amount by which the amount of pension benefits such person would have received had such election been made on January 1, 1979, exceeds the amount of pension benefits actually paid to such person for the period beginning on January 1, 1979, and ending on the date preceding the date of such election.

(e) Whenever there is an increase under subsections (a)(3) and (b)(4) in the annual income limitations with respect to persons being paid pension under subsections (a)(2) and (b)(3), the Administrator of Veterans' Affairs shall publish such annual income limitations, as increased pursuant to such subsections, in the Federal Register at the same time as the material required by section 215(1)(2)(D) of the Social Security Act is published by reason of a determination under section 215(1) of such Act.

AMENDMENTS CONCERNING PENSION FOR CERTAIN INSTITUTIONALIZED VETERANS

SEC. 307. Paragraph (, of section 3203(a) of title 38, United States Code, is amended to read as follows:

"(1)(A) Where any veteran having neither spouse nor child is being furnished domiciliary care by the Veterans' Administration, no pension in excess of $60 per month shall be paid to or for the veteran for any period after the end of the second full calendar month following the month of admission for such care.

"(B) Where any veteran having neither spouse nor child is being furnished hospital or nursing home care by the Veterans' Administration, no pension in excess of $60 per month shall be paid to or for the veteran for any period after the end of the third full calendar month following the month of admission for such care.

"(C) No pension in excess of $60 per month shall be paid to or for a veteran having neither spouse nor child for any period after the month in which such veteran is readmitted for care described in subparagraph (A) or (B) of this paragraph and furnished by the Veterans' Administration if such veteran is readmitted within six months of a period of care of not less than two full calendar months.".

STUDY OF PENSION BENEFITS PAID TO PERSONS OVERSEAS

SEC. 308. (a) The Administrator of Veterans' Affairs, in consultation with the Secretary of State, shall carry out a comprehensive study of the income characteristics of veterans of a period of war (as defined in section 101(11) of title 38, United States Code) and their survivors who are residing outside the fifty States and the District of Columbia, including those who are receiving pension benefits under chapter 15 of title 38, United States Code, or under section 9(b) of the Veterans' Pension Act of 1959, as in effect on the date of the enactment of this Act. The Administrator shall include in such study (1) an analysis of the issues involved in the payment of non-service-connected pension benefits to such persons, (2) analysis of such aspects of the economy of each foreign country and each territory, possession, and commonwealth of the United States in which a substantial number of such persons reside as are relevant to such issues, such as the rate of inflation, the standard of living, and subsistence levels in such foreign country or such territory, possession, or commonwealth, and (3) estimates of the present and future costs of the payment of pension benefits to such persons.

(b) The Administrator of Veterans' Affairs shall transmit a report to the Congress and to the President, not later than February 1, 1980, on the results of such study, together with the Administrator's recommendations as to the desirability of modifying the Veterans' Administration non-service-connected pension program for veterans of a period of war (as defined in section 101(11) of title 38, United States Code) and their survivors who are residing outside the fifty States and the District of Columbia.

TITLE IV—EFFECTIVE DATE

SEC. 401. The amendments made by this Act to title 38, United States Code, shall become effective on January 1, 1979.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same with an amendment as follows: In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to provide improvements in the pension program for certain veterans of a period of war with non-service-connected disabilities, for certain surviving spouses of veterans of a period of war, and for certain surviving children of veterans of a period of war, to increase the rates of dependency and indemnity compensation for surviving parents of certain veterans, to provide for automatic annual cost-of-living adjustments in the rates of pension and in the rates of parents' dependency and indemnity compensation, to prevent reductions in and terminations of pension and terminations of parents' dependency and indemnity compensation solely attributable to cost-of-living increases in social security benefits, and for other purposes.".

And the Senate agree to the same.

RAY ROBERTS,
OLIN E. TEAGUE,
G. V. MONTGOMERY,
JACK BRINKLEY,
W. G. BILL HEFNER,
ROBERT W. EDGAR,
SAM B. HALL, JR.,
JOHN PAUL HAMMERSCHMIDT,
CHALMERS WYLIE,
TENNYSON GUYER,
Managers on the Part of the House.

ALAN CRANSTON,
HERMAN E. TALMADGE,
JENNINGS RANDOLPH,
DICK STONE,
JOHN A. DURKIN,
SPARK M. MATSUNAGA,
ROBERT T. STAFFORD,
STROM THURMOND,
CLIFF HANSEN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10173), to amend title 38, United States Code, to improve the pension programs for veterans, and survivors of veterans, of the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text and an amendment to the title.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment and with a title amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I. PENSION FOR VETERANS AND SURVIVORS

Both the House bill and the Senate amendment restructure the non-service-connected pension program for needy wartime veterans who are permanently and totally disabled from non-service-connected causes or age 65 and over and the needy survivors of wartime veterans.

Under both the House bill and the Senate amendment, the restructuring replaces the present method of determining the veterans' or surviving spouse's pension amount by using a maximum monthly rate, reduced by the other income of the veteran or surviving spouse according to rate-decrement income

limitation formulae. Under both the House bill and the Senate amendment, there would be a maximum annual rate, reduced dollar for dollar by the other income of the pensioner, including, generally, the income of all family members for whom additional pension is paid; and fewer allowable exclusions from other income would be permitted than under the current program.

Both the House bill and the Senate amendment provide for maximum annual rates for veterans and surving spouses according to family size; higher rates for those veterans who are in need of regular aid and attendance or permanently housebound; higher rates for surviving spouse in need of regular aid and attendance; and maximum annual rates for the surviving children of veterans in cases where there is no surviving spouse or the child is not in the custody of the surviving spouse.

COVERED WARTIME SERVICE

The House bill provides benefits for veterans of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era, who meet specified service requirements for each period of war, and for the survivors of those veterans.

The Senate amendment provides benefits for veterans of a period of war, as defined in section 101(11) of title 38, United States Code, who meet the service requirements specified for periods of war generally, and for the survivors of those veterans. "Period of war" would include the Spanish-American war, Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, and any subsequent period of war.

The conference agreement provides that "period of war" for purposes of the restructured pension program shall be limited to the Mexican border period, World War I, World War II, the Korean Conflict, the Vietnam era, and any subsequent period of war.

SUBSTANTIAL GAINFUL EMPLOYMENT

The House bill provides that a veteran age 65 or over shall not be eligible for pension if such veteran is substantially gainfully employed.

The Senate amendment does not contain a comparable provision.

The House recedes.

Annual rates

Both the House bill and the Senate amendment provide for maximum annual rates, payable monthly to eligible veterans and survivors; and both provide that the veteran may receive additional pension for the veteran's spouse and children, and that the surviving spouse may receive additional pension for a child of the veteran in the surviving spouse's custody. Also, both the House bill and the Senate amendment provide that the applicable maximum annual rate shall be reduced by the pensioner's annual income, including in the case of veterans, the annual income of a spouse and children for whom the veteran is receiving additional pension, and, in the case of a surviving spouse, the annual income of children for whom the surviving spouse is receiving additional pension.

Maximum annual rates

The maximum annual rates provided for under the House bill, the Senate amendment, and the conference agreement are as follows:

	Conference agreement	House bill	Senate amendment
Veteran without dependent spouse or child	$3,550	$4,000	$3,240
Veteran with 1 dependent (spouse or child)	4,651	5,200	4,284
Veteran in need of regular aid and attendance without dependents (spouse or child)	5,680	6,160	5,340
Veteran in need of regular aid and attendance with 1 dependent	$6,781	$7,360	$6,384
Veteran permanently housebound without dependents	4,340	4,804	4,016
Veteran permanently housebound with 1 dependent (spouse or child)	5,441	6,004	5,060
Increase for each additional dependent child	600	600	660
Surviving spouse without dependent child	2,379	3,000	2,172
Surviving spouse with 1 dependent child	3,116	3,900	2,868
Surviving spouse in need of regular aid and attendance without dependent child	3,806	4,488	5,340
Surviving spouse in need of regular aid and attendance with 1 dependent child	4,543	5,388	6,384
Surviving spouse permanently housebound without dependent child	2,908	[1] 3,000	[1] 3,240
Surviving spouse permanently housebound with 1 dependent child	3,645	[1] 3,900	[1] 4,284
Increase for each additional dependent child	600	600	660
Surviving child where there is a surviving spouse eligible for pension benefits, but the child is not in such surviving spouse's custody	600	600	660
Surviving child where there is no surviving spouse	600	[2] 1,200	660

[1] No separate provision; amount shown would apply.
[2] Plus $600 for each additional such child, the total to be equally divided.

Veteran without dependents

The rates provided under the conference agreement are the result of compromises on several issues relating to rates. Under the House bill, the maximum annual rate for a veteran without dependents is $4,000; under the Senate amendment, that rate is $3,240. The conference agreement provides for a maximum annual rate for such a veteran of $3,550.

First dependent

Under the House bill, the maximum annual rate for a veteran with one dependent is $5,200; under the Senate amendment, $4,284. The conference agreement provides for a maximum annual rate of $4,651. Thus, the ratio between the rate for a veteran without dependents and a veteran with one dependent is 1:1.31, in lieu of the 1:1.30 ratio in the House bill and the 1:1.32 ratio in the Senate amendment. The conference agreement also applies this ration to the rates for a surviving spouse with one dependent child.

Each additional dependent

Under the House bill, the additional amount payable to a veteran or surviving spouse after the first dependent for each additional dependent is $600; under the Senate amendment, that amount is $660.

The Senate recedes.

Veterans in need of aid and attendance and housebound veterans

Under the House bill the addititonal amounts added to the basic rate for a veteran in need of regular aid and attendance and one who is permanently housebound are $2,160 and $804, respectively; under the Senate amendment, those amounts are $2,100 and $776.

The conference agreement provides that those amounts shall be $2,130 and $790, respectively.

World War I or elderly veterans

The House bill also provides that the annual maximum rate payable to any veteran attaining age 80 shall be $4,804, in the case of a veteran without dependents, and $6,004, in the case of a veteran with one dependent, plus $600 for each additional dependent. These rates are the same as the "household" rates in the House bill. Generally, veterans who will have attained the age of 80 by January 1, 1979, the effective date of the House bill, are veterans of World War I.

The Senate amendment provides for a 25-percent increase in pension benefits for veterans of a period of war if veterans of that period of war were not made eligible for VA educational assistance or home loan benefits similar to those provided under chapters 34 and 37 of title 38, United States Code, or prior corresponding provisions of law. This includes veterans of World War I, the Mexican border period, or the Spanish-American war.

The conference agreement provides for an increase of $800 in the applicable maximum annual rate for any veteran of a period of war if veterans of that period of war (including World War I veterans) were not made eligible for VA educational assistance or home loan benefits.

Veterans married to one another

In the case of two veterans married to one another each of whom is eligible on the basis of his or her own service and disability or age, the Senate amendment provides for a maximum annual combined rate that is the same as for a veteran with one dependent. Likewise, if either veteran is in need of regular aid-and-attendance or is "housebound", the rate would be the same as the aid-and-attendance or "housebound" rate, as appropriate, for a veteran with one dependent. If both veterans are "housebound" or in need of regular aid and attendance, or one is "housebound" and the other is in need of regular aid and attendance, the rate would be increased by an amount equivalent to two "housebound" or aid-and-attendance allowances, or one "housebound" and one aid-and-attendance allowance. In all such cases, $660 would be added for each dependent child of the veterans or of either veteran.

The House bill does not contain comparable provisions.

The conference agreement provides for the rates to be adjusted in accordance with the conference agreement on rates, and, with respect to married couples both of whom are veterans receiving pension benefits under current law, requiring that, unless both veterans elect benefits under the restructured program, neither may elect.

Surviving spouses

Under the House bill, the maximum annual rates for surviving spouses are established at three-fourths of the veterans' rates. Under the Senate amendment, the maximum annual rates for surviving spouses are the same as for veterans, where the surviving spouse is permanently and totally disabled or elderly or has a small or helpless child, and are established for other surviving spouses at two-thirds of the veterans' rates. Neither the House bill nor the Senate amendment provides for a "housebound" rate for disabled surviving spouses, but each provides for an aid-and-attendance rate for severely disabled surviving spouses, the House bill at approximately three-fourths of the veteran's aid-and-attendance rate, and the Senate amendment at a rate equal to the veterans' aid-and-attendance rate. The conference agreement provides for maximum annual rates, including aid-and-attendance and "housebound" rates, for surviving spouses at two-thirds of the veterans' rates.

Surviving children

Under the House bill, the maximum annual rate for a surviving child, where there is no surviving spouse, is $1,200, with $600 to be added for each additional child, the whole to be equally divided among the surviving children; if there is a surviving spouse, but the surviving child is not in such spouse's custody, the rate is $600 for each such child.

The Senate amendment provided for a maximum annual rate of $660 for each surviving child.

The conference agreement provides for a maximum annual rate of $600 for each surviving child.

PAYMENTS LESS FREQUENT THAN MONTHLY

Both the House bill and the Senate amendment, in order to minimize administrative costs associated with payments of small amounts, provide that pension benefits may be paid to veterans and surviving spouses less frequently than monthly if the amount of the benefit is less than a certain amount. Under the House bill, the amount is $10 per month ($120 per year); and under the Senate amendment, 4 percent ($129.60 per year) of the Senate single-veteran maximum annual rate.

The conference agreement provides that, under regulations to be prescribed by the Administrator, pension benefits may be paid less frequently than monthly where the amount of the annual benefit is less than 4 percent ($142) of the single-veteran maximum annual rate.

Dependent children

Both the House bill and the Senate amendment provide that a veteran shall receive additional pension for a child to whose support the veteran is reasonably contributing, and the House bill also provides that a veteran shall receive additional pension for a child in the veteran's custody.

The Senate recedes. Thus, the conference agreement provides that a child for whom a veteran shall receive additional pension may be a child in the veteran's custody or to whose support the veteran is reasonably contributing.

Determinations of income

Generally, under both the House bill and the Senate amendment, the total non-pension income of the pensioner and any dependents for whom the pensioner is receiving additional pension is considered in determining the pension amount. The House bill provides that the income of a veteran's spouse and child (excepting the child's earned income) shall be considered as the veteran's income to the extent that such income is reasonably available to the veteran, unless in the Administrator's judgment to do so would work a hardship on the veteran.

The Senate amendment does not contain a comparable provision. Thus, under the Senate amendment, the veteran's spouse's or child's income would be considered without regard to its reasonable availability to the veteran, or, in the case of a surviving spouse receiving additional pension for the veteran's child, to the surviving spouse.

The conference agreement provides that the veteran's spouse's income shall always be included in determining the pension amount payable to the veteran, and that the income of a veteran's child shall be considered as the veteran's or surviving spouse's income to the extent that such income is reasonably available to or for the veteran or the surviving spouse unless, in the Administrator's judgment, to do so would work a hardship on the veteran or the surviving spouse.

Surviving child's income

Both the House bill and the Senate amendment provide for benefits for the surviving child or children of a deceased wartime veteran. As under current law, such children would be eligible where either there is no surviving spouse or the surviving spouse is not eligible for pension benefits. Under both the House bill and the Senate amendment, a surviving child would also be eligible if the child is not in the custody of a surviving spouse who is eligible for pension benefits.

Both the House bill and the Senate amendment provide that the maximum annual rate payable to a surviving child would be reduced by the child's income from sources other than employment. The Senate amendment also provides that if the child is residing with a person who is legally responsible for the child's support, the annual amount payable would be equal to the amount by which the appropriate maximum annual rate, under the provisions governing surviving spouses' rates, exceeds the annual income of the child and such person or persons, but not to exceed the amount by which $660 (the maximum annual rate payable to a surviving child) exceeds the annual income of such child; the appropriate maximum annual rate would be determined in accordance with regulations prescribed by the Administrator, and the incomes of such persons would be determined according to the provisions governing determinations of the annual income of pensions. The House bill does not contain a comparable provision.

The House recedes. (As previously noted, the maximum annual rate payable to such a surviving child under the conference agreement is $600.)

Countable income and income exclusions

Current law provides that a pensioner's total annual non-pension income shall be included in determining the amount of pension payable, unless a specific exclusion from such income is authorized by law. Both the House bill and the Senate amendment continue this provision for the restructured program, and each provides for the following six exclusions:

(1) donations from public or private relief or welfare organizations;

(2) amounts equal to amounts paid by a surviving spouse or child for the veteran's just debts and the unreimbursed expenses of the veteran's last illness and burial;

(3) amounts equal to amounts paid by a veteran for the last illness and burial expenses of a veteran's spouse or by a veteran or surviving spouse for the last illness and burial expenses of a veterans' child;

(4) fire insurance policy proceeds;

(5) profit from the sale of real or personal property other than in the course of a business; and

(6) amounts in joint accounts acquired by reason of the death of the other co-owner.

COMPENSATION, DEPENDENCY AND INDEMNITY COMPENSATION AND PENSION PAYMENTS

The House bill provides for the exclusion of payments under chapters 11 (compensation), 13 (dependency and indemnity compensation) (except section 412(a)), and 15 (pension).

The Senate amendment does not contain a comparable provision, but provides that, for purposes of determinations of annual income, the annual income of a pensioner shall not include pension benefits.

The conference agreement provides that payments under chapters 11 and 13 shall not be excluded from annual income and that, in the case of a veteran receiving pension on the basis of his or her own service and another's service, the veteran shall receive only the greater benefit. Thus, in the case of a veteran married to another veteran who is receiving service-connected disability compensation, such compensation would be considered as income.

Educational expenses

Both the House bill and the Senate amendment provide for the exclusion of educational expenses. Specifically, the House bill provides for the exclusion of payments under chapter 31 (vocational rehabilitation) and 34 (veterans' educational assistance), and continues the current-law exclusion of payments under chapter 35 (dependents' and survivors' educational assistance).

The Senate amendment provides for the exclusion of amounts equal to amounts paid in the previous calendar year by a veteran or surviving spouse pursuing a course of education or vocational rehabilitation or training for educational expenses, including tuition, fees, books, materials, and in the case of such a veteran or surviving spouse in need of regular aid and attendance, related unusual transportation expenses.

The House recedes, with an amendment deleting the requirement that such expenses must have been incurred in the previous calendar year.

Unreimbursed medical expenses

Both the House bill and the Senate amendment provide for the deduction from a pensioner's annual income of certain unreimbursed medical expenses.

The House bill provides for the exclusion of amounts equal to all amounts paid by a veteran's spouse, surviving spouse, or child, for unreimbursed medical expenses if such expenses exceed 5 percent of the pensioner's annual income.

The Senate amendment provides for the exclusion of amounts equal to amounts paid in the previous calendar year by the veteran, the veteran's spouse, or the surviving spouse, or by or on behalf of a surviving child for unreimbursed medical expenses to the extent such expenses exceed the lesser of $100 or 5 percent of the annual income of the pensioner and are determined to be reasonably necessary for the health needs of the veteran or the veteran's spouse or children, the surviving spouse and children, or a surviving child. In certain cases, the exclusion would be disallowed if, after notice, the veteran continues to incur expenses for health-care services that are readily available at a VA-operated facility.

The conference agreement provides that unreimbursed medical expenses shall be excludable to the extent that they exceed 5 percent of the maximum annual rate that would be applicable, based on the number of family members for whom pension is payable, without regard to whether the pensioner is in need of regular aid and attendance or is housebound.

This provision in the conference agreement is designed to assure equity for each pensioner by making the non-deductible portion of such expenses vary only according to the number of persons for whom the pensioner is receiving additional pension, rather than according to the amount of the pensioner's non-pension income as in the House bill and, in part, in the Senate amendment, or a fixed amount such as $100, as the Senate amendment. The conferees note that, in generally accepting the House formulation of this exclusion, it is their intention that the VA not construe this provision as requiring any change (except as necessary with respect to amounts) in regulations specifying the persons for whom such expenses may be incurred, the types of allowable expenses, or the administrative provisions under which the pensioner may be reimbursed for such expenses—including lump-sum reimbursements where appropriate—or other regulations governing the administration of the current medical-expenses exclusion.

CHILD'S EARNED INCOME

Both the House bill and the Senate amendment provide for the exclusion of a dependent or surviving child's earned income. Under the House bill, all of a dependent or surviving child's earned income would be excluded. Under the Senate amendment, the current-work—earned—income of any child, including a surviving child, would be excluded up to the amount (presently $2,950) which would require the child to file a Federal income tax return under section 6012(a)(1)(A)(i) of the Internal Revenue Code of 1954

(26 U.S.C. 6012(a)(1)(A)(i)). The Senate amendment would further exclude any current-work income of any child, including a surviving child, who is pursuing a post-secondary course of education or vocational rehabilitation or training, to the extent of amounts paid by such child for such course of education or vocational rehabilitation or training, including amounts paid for tuition, fees, books, or materials. "Current-work" income would be defined as earned income within the meaning of appropriate sections of the Internal Revenue Code of 1954.

The House recedes, with an amendment deleting the Senate definition of current-work income, so that current-work income will mean earned income within the meaning of VA regulations defining earned income.

CURRENT-WORK INCOME AND WORK-TRAVEL EXPENSES

The Senate amendment also provides for the following exclusions:

(1) A partial exclusion of the family current-work income of a veteran or surviving spouse, limited to $780, plus one-half the remainder, in the case of a veteran or surviving spouse, and $1,560, plus one-half the remainder, in the case of a veteran or surviving spouse in need of regular aid and attendance.

(2) An exclusion of amounts equal to amounts paid by a veteran or surviving spouse in need of regular aid and attendance for unusual employment-related travel expenses in commuting between home and work.

The House bill does not contain comparable provisions.

The Senate recedes.

NET WORTH LIMITATIONS

Both the House bill and the Senate amendment continue the current-law requirement that pension be denied or discontinued if the pensioner's estate—net worth—is such that, under all the circumstances, including the consideration of the pensioner's income, it is reasonable that some portion of the pensioner's estate be used for his or her support. The House bill adds to the current-law provision that pension may be denied or discontinued if the pensioner's net worth is excessive, by providing for such denials or discontinuances in the case of a veteran whose spouse's net worth is excessive, and by providing for the denial or discontinuation of additional pension to a veteran or surviving spouse for a child if the child's net worth is excessive.

The Senate amendment provides that pension may be denied or discontinued if the net worth of a pensioner, or of any spouse or child for whom the pensioner is receiving additional pension, is excessive, and also provides expressly for the exclusion from the determination of the net worth of any dependent or surviving child of amounts reasonably set aside for educational or similarly worthwhile vocational goals.

The Senate recedes. Thus, under the conference agreement, additional pension to a veteran or surviving spouse for a child may be denied or discontinued if the child's net worth is excessive. The conferees note that the intention of these provisions is to prevent the payment of additional pension for the support of a child where the child has sufficient funds for support. The conferees urge the VA to take precautionary steps to assure that these provisions are not abused by a transfer of assets from the veteran or surviving spouse to the child.

Also, although the conference agreement does not contain the Senate's express exclusion from a child's net worth of certain amounts reserved for education, the conferees note that it is the current practice of the VA not to consider those amounts, and urge the VA to conform its regulations to accord with its current practice in this regard.

Surviving child's support

The Senate amendment provides that pension may be denied or discontinued in the case of a surviving child who is living with a person legally responsible for the child's support if such person's net worth is excessive.

The House bill does not contain a comparable provision.

The House recedes.

PENSIONERS' REPORTING REQUIREMENT

Both the House bill and the Senate amendment provide for resource reports—income and net worth reports—by pensioners, and the House bill also requires that all pensioners file such reports annually with the VA. The Senate amendment provides for such reports annually by all pensioners under the restructured program except those exempted under regulations to be prescribed by the Administrator for categories of persons all of whose income is regularly received and derived from Federal programs.

The Senate recedes.

The Senate amendment, but not the House bill, also requires the prompt reporting by a veteran or surviving spouse of a change in a dependent's status and, with respect to a surviving child living with a person legally responsible for the support of the child, requires such reports to include information as to the income and net worth of such a person.

The House recedes.

ELECTION OF BENEFITS

Civil War and Indian War pensioners

The Senate amendment, provides for elections by survivors of Civil War and Indian War veterans—to be irrevocable if pension benefits are actually paid pursuant to such an election—for benefits under the restructured program.

The House bill does not contain comparable provisions.

The Senate recedes.

Spanish-American War pensioners

The Senate amendment provides for similar elections by Spanish-American War veterans and survivors and by Spanish-American War pensioners who have previously elected current-law pension. Under the House bill, the current-law provision permitting Spanish-American War pensioners irrevocably to elect benefits under the provisions of law applicable to veterans of later periods of war and their surviving spouses would not be changed. The Senate amendment also provides that the automatic eligibility of certain Spanish-American War veterans for aid-and-attendance benefits under provisions of law relating to veterans of later periods of war shall not be extended to include automatic eligibility for aid-and-attendance benefits under the restructured program.

The conference agreement provides for grandfathering, under regulations to be prescribed by the Administrator, of any Spanish-American War veteran or surviving spouse who is receiving or who becomes entitled to receive such current-law aid-and-attendance benefits.

Current-law pensioners

The Senate amendment expressly provides for current pensioners to make elections to participate in the restructured program. Such elections would be irrevocable if pension is actually paid pursuant to such an election.

The House bill does not contain comparable provisions. However, the House bill provides that the grandfathering provisions of the House bill do not apply in any case for any period after pension is granted, pursuant to application, under title 38 as amended by the House bill.

The House recedes.

TITLE II. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING PARENTS

The Senate amendment provides for restructuring of the parents' dependency and indemnity compensation (DIC) program along the lines of the restructured pension program (including indexing to the Consumer Price Index increases) and, as a condition of eligibility, a requirement that the parent received one-half or more of his or her support from the veteran during the one-year period immediately preceding the veteran's death. The following annual rates, reduced by the amount of the parent or parent's annual countable income and the income of a remarried parent's spouse which is available to or for such parent, would apply:

One parent or each parent, if the parents are living apart	$3,240
Two parents living together	4,284
One parent (or each parent, if the parents are living apart) in need of regular aid and attendance	5,340
Two parents living together, one of whom is in need of regular aid and attendance	6,384
Two parents living together, both of whom are in need of regular aid and attendance	8,484

Parents receiving benefits under provisions of law in effect on the date before the effective date of the new program could either elect parents' DIC benefits under the restructured program if they are eligible, or continue receiving benefits under such provisions as in effect on the day before the effective date of the new program as long as they remain eligible under the terms and conditions of such provisions. No parent who becomes entitled to parents' DIC on or after the effective date of the restructured program would be entitled to receive benefits under provisions of law in effect on the day before such effective date unless such parent's application was pending on such day.

The House bill does not contain comparable provisions; but the conferees note that H.R. 11887, passed by the House on September 18, 1978, provides for a cost-of-living increase of 6 percent in the maximum monthly rates of parents' DIC and in the annual income limitations, with corresponding adjustments in the rate-decrement-income limitation formulae.

The conference agreement provides for a cost-of-living increase of 7.1 percent (the amount projected by the Congressional Budget Office as the increase in the Consumer Price Index for the period from January, 1978, to January, 1979) in the maximum monthly rates and annual income limitations, as follows:

1 parent	$163
2 parents together (each)	115
2 parents not together (each)	109
Parent in need of regular aid and attendance	85

The annual income limitations would be $4,038 for 1 parent and $5,430 for 2 parents living together. The conference agreement also provides for annual automatic adjustments—"indexing"—of the maximum monthly rates and the annual income limitations, according to the percentage adopted for the restructured pension program (which would in turn be based on the Consumer Price Index increase, as adopted for Social Security benefits) and at the same time, with annual adjustments in the less-than-maximum rates to be made under regulations to be prescribed by the Administrator, in accordance with the method employed—rate-decrement income limitation formulae—under current law. The conferees note that the intention of this provision is to assure that parents receiving DIC, who also receive Social Security benefits, other Fed-

eral benefits indexed in accordance with the annual Social Security cost-of-living increase, or other cost-of-living increases, will not be terminated from the parents' DIC program as a result of such cost-of-living increases.

Under the conference agreement, the parents' DIC maximum monthly rates and annual income limitations will be increased by 7.1 percent, effective January 1, 1979, and further increased, effective July 1, 1979, by the same cost-of-living percentage as Social Security benefits are increased. The Social Security percentage is generally based on the increase in the Consumer Price Index from the first quarter (using an average of the monthly index for the three months of the quarter) of the previous year to the first quarter of the year in which the increase is to become effective. For both the January, 1979, and July, 1979, increases in parents' DIC, the less-than-maximum rates will be adjusted by approximately the same percentages as are used in the maximum monthly rates.

Thus, during this transition, recipients of parents' DIC will receive payments which have been adjusted by the Consumer Price Index measured in part for both increases over the same period. However, this adjustment generally would represent a fairly small change in the rate of payments to any individual, and in the case of recipients receiving constant ($5.00) monthly payments, no change.

TITLE III. MISCELLANEOUS PROVISIONS AND CONFORMING AMENDMENTS

DEFINITION OF PENSION

Both the House bill and the Senate amendment redefine pension, currently defined, in part, as a monthly payment. Under the House bill, pension would be defined, in part, as a payment, and under the Senate amendment, as a monthly or other periodic payment.

The House recedes.

END-OF-THE-YEAR RULE

Both the House bill and the Senate amendment amend the "end-of-the-year" rule, which provides that the effective date of a reduction in or discontinuance of pension or parents' DIC by reason of a change in income or net worth shall be the last day of the calendar year in which the change occurred, to provide for an "end-of-the-month" rule for changes in income. Thus the effective date of a reduction of discontinuance resulting from a change in income generally would be the last day of the month in which the change occurred. The Senate amendment also changes the "end-of-the-year" rule to an "end-of-the-month" rule for changes in net worth.

The Senate recedes.

VA PRESCRIPTION DRUGS: ELIGIBILITY FOR FORMER PENSIONERS

The House bill amends existing section 612(h) of title 38, which provides that veterans who are totally and permanently disabled from non-service-connected causes and in need of regular aid and attendance, but who are no longer eligible for pension benefits because their incomes exceed the annual income limitations, shall be entitled to receive prescription drugs and medicine from the VA without charge to the veteran, provided that the veteran's annual income does not exceed the applicable annual income limitation by more than $500, by increasing that amount to $1,000.

The Senate amendment does not contain a comparable provision.

The Senate recedes.

The conferees note that such a veteran would be able to receive free VA drugs and medicines as long as the veteran's annual income does not exceed by more than $1,000 the applicable maximum annual rate, in the case of a veteran who becomes eligible for the benefits of this provision on or after the effective date of the restructured program, or the applicable annual income limitation, in the case of a grandfathered veteran.

INDEXING TO CPI FOR FUTURE RATE INCREASES

Indexing

Both the House bill and the Senate amendment provide for automatic annual adjustments—"indexing"—of the maximum annual pension rates in the restructured program. In addition, the Senate amendment provides for indexing of the restructured parents' DIC program and the dollar amounts of the partial exclusion of current-work income in both the restructured pension and parents' DIC programs, and for publication in the Federal Register, at the same time as Social Security materials relating to cost-of-living increases are published, of the maximum annual rates and dollar amounts as so increased.

The conference agreement provides for (1) indexing of the maximum annual pension rates, (2) indexing of the maximum monthly rates, monthly aid-and-attendance allowance, and annual income limitations in the parents' DIC program, and administrative adjustments along the lines of the rate-decrement income limitation method currently employed for such adjustments in the less-than-maximum rates of that program; and (3) publication in the Federal Register at the same time as materials relating to Social Security cost-of-living increases are published, of the pension, DIC, and other rates and income limitations as so increased.

Pension increases at same rate as social security cost-of-living increases

In the case of persons receiving pension benefits and benefits under any other Federal program which are increased in accordance with the annual Social Security cost-of-living increase, the Senate amendment provides for the recomputation of the amount of pension to which a person is entitled under the restructured program at the same time that Social Security benefit payments are increased. The Senate amendment also provides for such recomputations under the restructured parents' DIC program. The Senate recedes, with the understanding that the purpose of the recomputation provision is fully achieved under the indexing and other provisions.

The conferees note that under both the House bill and the Senate amendment, there would be assurance that not only would such pensioners no longer suffer reductions in benefits attributable to cost-of-living increases in such non-VA Federal benefits, but also that their aggregate incomes—pension plus Social Security income—would rise in accordance with the Consumer Price Index.

Under the restructured program, the benefit rate payable to pensioners who also receive Social Security benefits (or benefits under any other Federal program indexed like Social Security) would be increased by the same percentage as Social Security benefits, and at the same time; and the new pension rate, based on the new annualized Social Security (or other Federal) benefit rate, would be paid from the date of change until the next date upon which a similar change takes place—generally, from July of one year until July of the following year. Thus, for pensioners whose only non-pension income is Social Security (or other Federal) benefits, there would be assurance that their aggregate incomes—pension plus Social Security (or other Federal) benefits—would rise in accordance with the Consumer Price Index; this would also be true for pensioners whose non-Federal income increases in accordance with the Consumer Price Index.

LIMITED RETROACTIVITY FOR PENSIONERS ELECTING BENEFITS

The Senate amendment provides that any person currently receiving pension who elects to receive pension under the restructured program within three months of the effective date of the new program shall receive benefits retroactive to the effective date to the extent that they exceed amounts already paid to such person.

The House bill does not contain a comparable provision.

The House recedes with an amendment extending the limited period of retroactivity to nine months. The conferences note that the intention of this provision is to provide the VA with ample time to inform pensioners currently on the rolls about the restructured program and to encourage elections on the part of those pensioners who would be benefited.

"GRANDFATHERING" PROVISIONS

Current pensioners

Both the House bill and the Senate amendment provide for limited protection—"grandfathering"—to current pensioners who are not eligible for, or do not elect, benefits under the restructured program. The House bill provides that such persons shall continue to receive monthly pension benefits in the same amounts as they are receiving on the effective date. However, if a veteran's or surviving spouse's dependent, for whom the veteran or surviving spouse is receiving additional pension, dies or no longer meets the definition of dependent, the additional amount paid on account of the dependent would be discontinued; and, if a veteran receiving pension because of permanent and total disability is determined to be no longer so disabled, the veteran's pension would be discontinued.

The Senate amendment provides that any pensioner receiving pension on the effective date may continue to receive pension under the terms and conditions of the current program as long as he or she remains eligible.

The conference agreement provides that any grandfathered pensioner may continue to receive the same rate of pension so long as such pensioner's income does not exceed the current-law annual income limitations, as increased to keep pace with inflation. Under the agreement, the current-law annual income limitations of $3,770 (veteran or surviving spouse without dependents); $5,070 (veteran or surviving spouse with one dependent) and $3,080 (surviving child) would be increased by 7.1 percent—to $4,038, $5,430, and $3,299, respectively—effective on January 1, 1979, and thereafter would be indexed according to the percentage adopted for the restructured pension program, and at the same time.

In the case of a married veteran, where the effect of a cost-of-living increase in the couple's Social Security or other retirement benefits might increase the couple's countable annual income so that it exceeds the applicable income limitation by a small amount, the conference agreement would provide for indexing of the $1,200 current-law exclusion of a veteran's spouse's income in determining the amount of the couple's annual income for pension purposes. In this way, the pension benefit to the veteran would continue unchanged.

The conference agreement thus will assure that no veteran or survivor currently receiving pension will ever be forced off the rolls because of increases in other income—such as social security benefits—that are based on or are no greater than increases in the Consumer Price Index.

Under these provisions, the pension of a grandfathered pensioner would be terminated if (a) the pensioner's net worth becomes excessive (using the net worth criteria in effect on December 31, 1978); or (b) the pensioner's annual income exceeds the income limitations of the current program, as indexed. In addition, if a grandfathered pensioner receives additional pension for a dependent who dies or ceases to qualify as a dependent,

the additional pension would be terminated, as would the pension payable to a veteran who is determined to be no longer permanently and totally disabled; and the pension payable to survivors who no longer meet the applicable definitions would also be terminated.

"Section 306 pension"

In the conferees' view, the pension benefits provided under the grandfathering provisions of the conference report should be identified by a standard nomenclature. Thus, it is the intention of the conferees that pension under the grandfathering provisions should be referred to as "Section 306 pension", according to the section of the conference report containing those provisions, and that any reference to such pension in any regulation, directive, or other official document of the United States shall refer to such pension as "Section 306 pension".

RATES FOR CERTAIN INSTITUTIONALIZED PENSIONERS

The Senate amendment provides for an increase from $50 to $60 in the maximum monthly pension payable to a veteran who has no spouse or child and who is institutionalized at VA expense, and in the case of such a veteran being furnished hospital or nursing home care by the VA, extends from 2 to 3 months, and, in certain cases, an additional 3 months, the period of time during which the veteran may be institutionalized before any reduction in the veteran's pension benefit may be made as a result of such institutionalization.

The House bill does not contain comparable provisions.

The House recedes with an amendment deleting the provisions for the additional 3-month extension.

PENSIONERS RESIDING OUTSIDE THE 50 STATES

Benefits

The Senate amendment provides for a limitation of benefits under the restructured pension and parents' DIC programs to persons residing in the 50 States or the District of Columbia, and provides that persons residing elsewhere who become eligible on or after the effective date may apply for and receive benefits under the current-law pension or parents' DIC program.

The House bill does not contain comparable provisions.

The Senate recedes.

Study

The Senate amendment also requires a comprehensive study (to be submitted to the Congress by February 1, 1979) by the VA of the issues involved in the payment of pension benefits to persons residing outside the 50 States and the District of Columbia, including analyses of those aspects of the economies of the countries or United States territories, possessions, or commonwealths where such persons reside which are relevant to such issues, estimates of present and future costs of pension benefits to such persons, and recommendations to the Congress on the desirability of modifying the pension program with respect to such persons.

The House bill does not contain a comparable requirement.

The House recedes, with an amendment modifying the specifications of the study and extending the due date to February 1, 1980. The conferees urge the VA to take prompt measures to ensure that the study is submitted to Congress in a timely fashion, with due regard for the time required for the Executive Branch clearance process.

TITLE IV.—EFFECTIVE DATE

The House bill provides for an effective date of January 1, 1979. The Senate amendment provides for an effective date of October 1, 1978, for all amendments made by the proposed Act to title 38 and for certain other provisions; the remaining provisions would be effective upon enactment. The conference agreement provides for an effective date of January 1, 1979, for all amendments made by the proposed Act to title 38; other provisions would be effective upon enactment.

OMB STUDY

The Senate amendment requires a report by the Director of the Office of Management and Budget, to be submitted within one year of the proposed Act's enactment date, including a description of the coordination between the VA and the Social Security Administration with respect to the delivery of veterans' pension, social security retirement and disability, and supplemental security income benefits; recommendations for improving coordination (including legislative recommendations); a description of inconsistencies and inequities in the treatment of needy persons; and an assessment of the feasibility and desirability of reconciling unjustifiable differences among those programs, in terms of program features such as benefit amounts, countable income, asset limitations, and accounting periods. The House bill does not contain a comparable provision.

In lieu of the study to be conducted by the Office of Management and Budget, the conferees agree that such study should be conducted by the General Accounting Office.

The conferees will request, in writing, that the Comptroller General, in consultation with the Director of the Office of Management and Budget, conduct the study and that he prepare a report to be submitted to the Congress on the results of such study on or before October 1, 1979.

STATE OR LOCAL MATCHING-FUND REQUIREMENT FOR EDUCATION LOANS

The Senate amendment eliminates the State or local matching-fund requirement for the repayment of VA educational loans in connection with the program of accelerated payment of educational assistance.

The House bill does not contain a comparable provision.

The Senate recedes.

BUDGET AUTHORITY

The Senate amendment clarifies that none of its provisions shall be deemed directly or indirectly to authorize the enactment of new budget authority, except for the amendments to title 38, United States Code, that provide for new spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974. The House bill does not contain a comparable provision.

The Senate recedes.

RAY ROBERTS,
OLIN E. TEAGUE,
G. V. MONTGOMERY,
JACK BRINKLEY,
W. G. BILL HEFNER,
ROBERT W. EDGAR,
SAM B. HALL, Jr.,
JOHN PAUL HAMMERSCHMIDT,
CHALMERS WYLIE,
TENNYSON GUYER,
Managers on the Part of the House.
ALAN CRANSTON,
HERMAN E. TALMADGE,
JENNINGS RANDOLPH,
DICK STONE,
JOHN A. DURKIN,
SPARK M. MATSUNAGA,
ROBERT T. STAFFORD,
STROM THURMOND,
CLIFF HANSEN,
Managers on the Part of the Senate.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF REPORTS FROM THE COMMITTEE ON RULES

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1769) on the resolution (H. Res. 1426) providing for the consideration of reports from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

Mr. BAUMAN. Mr. Speaker, I do not think the gentleman from Missouri has properly filed his report. The resolution was considered this morning in the Rules Committee with no agenda, no notice. It was the intention of the gentleman from Maryland to move to reconsider this resolution. Now, it is jammed through here when we have been in session in the Rules Committee for only 15 minutes.

I think the members of the Rules Committee deserve something better than that. I question whether a quorum was even present.

The SPEAKER. The report has been filed.

Mr. BAUMAN. I make a point of order that a quorum was not present in the Rules Committee at the time the action was taken.

Mr. BOLLING. If the gentleman will yield——

Mr. BAUMAN. I do not have the floor.

The SPEAKER. The Chair will recognize the gentleman from Missouri.

Mr. BOLLING. Mr. Speaker, there was a quorum present. The vote was perfectly proper. No objection was heard, and I filed the report.

Mr. BAUMAN. And there was no notice given, as the rules of the Rules Committee require, of that proposed action.

The SPEAKER. Is the gentleman addressing the Chair?

Mr. BAUMAN. Mr. Speaker, the gentleman is addressing the gentleman from Missouri, who filed this; through the Chair.

The SPEAKER. Well, as far as notice is concerned, that is a matter of the interpretation of the rules of the Rules committee, to be raised within the committee and not in the House..

Mr. BAUMAN. I made a point of order that a quorum was not present. It is up to the gentleman from Missouri to present us with a transcript proving that it was.

Mr. BOLLING. Mr. Speaker, that is not up to the gentleman from Missouri. The proceeding is entirely in order.

The SPEAKER. The Chair will take the word of the gentleman from Missouri who was present in the committee that there was a quorum present.

CONFERENCE REPORT ON H.R. 12929, LABOR-HEW APPROPRIATIONS

Mr. FLOOD. Mr. Speaker, in order to expedite the disposition of these amendments—there are over 100 of them, as the Members know—I would like to suggest that all the amendments on which we are asking the House to recede and concur be considered en bloc.

Accordingly, Mr. Speaker, I ask unanimous consent that Senate amendments numbered 2, 6, 13, 18, 20, 22, 27, 35, 45, 60, 66, 77, 81, 83, 90, 100, 104, 106 be considered en bloc.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ASHBROOK. Mr. Speaker, unequivocally I object.

The SPEAKER. Objection is heard.

NATIONAL CENTER FOR VOCATIONAL EDUCATION

(Mr. WYLIE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. WYLIE. Mr. Speaker, I ask unanimous consent to revise and extend my remarks at this point in the RECORD.

I have just been informed that the gentleman from Illinois (Mr. MICHEL) the gentleman from Pennsylvania (Mr. FLOOD) and the gentleman from Massachusetts (Mr. CONTE) have engaged in a colloquy which addressed the question of legislative intent with reference to the National Center for Vocational Education at Ohio State University.

Yesterday, I was informed that consideration of this conference report would be coming up today as the second order of business. I was in Columbus for an open house at the Worthington High School last evening and perceived no difficulty in arriving on the floor in time to participate in the colloquy. Unfortunately, my air transportation, TWA Flight 426, was in a hold pattern for 56 minutes over Washington National Airport. This appears to be a ridiculous situation that ought to be looked into as the sky was clear over our Nation's capital and the visibility unlimited. If the plane had arrived on schedule, I would have had time to engage in the prearranged colloquy.

My real purpose in taking the floor now is to express my appreciation to Congressmen MICHEL, FLOOD, and CONTE for the assistance they have rendered me and the National Center for Vocational Education. The importance of vocational education cannot be overemphasized. This vital Center provides the Federal Government with its primary source of vocational education research which is disseminated throughout the entire country.

It was important that congressional intent be established that the program is to be continued at its present funding level. Robert Taylor, the Executive Director of the Center, is a good friend and has done an excellent job in directing operations and not allowing the Center to continue would truly be a waste of money the taxpayer has already invested in this worthy program.

The colloquy makes it clear that there will be no lapse in what everyone agrees is an excellent program.●

CONFERENCE REPORT ON H.R. 12929 LABOR–HEW APPROPRIATIONS

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will designate the first amendment in disagreement.

Senate amendment No. 2 is as follows: Page 3, line 1, after "year" insert ": *Provided further*, That amounts received or recovered pursuant to section 208(e) of Public Law 95–250 shall be available for payments".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein.

The SPEAKER. Without objection, the motion is agreed to.

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The question is on the motion offered by the gentleman from Pennsylvania (Mr. FLOOD).

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—yeas 110; nays 1.

So the motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 6 is as follows: Page 8, line 8, after "fishing" insert ": *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of 10 or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained by such consultants.

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 9 is as follows: Page 11, line 16, after "$681,092,000," insert "including 9,413 full-time permanent position,".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: "including 9,258 full-time permanent positions.".

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 13 is as follows: Page 12, line 18, after "$159,060,000," insert "including 3,982 full-time permanent positions".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 15 is as follows: Page 13, line 5, after "$889,192,000" insert ", including 2,076 full-time permanent positions".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: ", including 2,062 full-time permanent positions".

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 16 is as follows: Page 13, line 11, after "$485,584,000" insert ", including 791 full-time permanent positions".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: ", including 788 full-time permanent positions".

The SPEAKER. Without objection, the motion is agreed to.

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The question is on the motion offered by the gentleman from Pennsylvania (Mr. FLOOD).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The Chair will count. One hundred and thirty-two Members are present, not a quorum.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 385, nays 11, not voting 34, as follows:

[Roll No. 893]

YEAS—385

Addabbo	Bafalis	Bonker
Akaka	Baldus	Bowen
Alexander	Barnard	Brademas
Ambro	Baucus	Breaux
Anderson, Calif.	Beard, R.I.	Breckinridge
	Beard, Tenn.	Brinkley
Anderson, Ill.	Bedell	Brodhead
Andrews, N.C.	Beilenson	Brooks
Andrews, N. Dak.	Benjamin	Broomfield
	Bevill	Brown, Calif.
Annunzio	Biaggi	Brown, Ohio
Applegate	Bingham	Buchanan
Armstrong	Blanchard	Burgener
Ashbrook	Blouin	Burke, Fla.
Ashley	Boggs	Burke, Mass.
Aspin	Boland	Burleson, Tex.
AuCoin	Bolling	Burlison, Mo.
Badham	Bonior	Burton, Phillip

Butler	Hannaford	Myers, John
Carney	Hansen	Myers, Michael
Carr	Harkin	Natcher
Carter	Harris	Nedzi
Cavanaugh	Harsha	Nichols
Cederberg	Heckler	Nix
Chappell	Hefner	Nolan
Chisholm	Heftel	Nowak
Clausen, Don H.	Hightower	O'Brien
Clawson, Del	Hillis	Oakar
Clay	Holland	Oberstar
Cleveland	Hollenbeck	Obey
Cohen	Holtzman	Ottinger
Coleman	Horton	Panetta
Collins, Ill.	Howard	Patten
Conable	Hubbard	Patterson
Conte	Huckaby	Pattison
Corcoran	Hughes	Pease
Corman	Hyde	Pepper
Cornell	Ichord	Perkins
Cornwell	Jacobs	Pickle
Cotter	Jeffords	Pike
Coughlin	Jenkins	Poage
Cunningham	Jenrette	Pressler
D'Amours	Johnson, Calif.	Preyer
Daniel, Dan	Johnson, Colo.	Price
Daniel, R. W.	Jones, N.C.	Pritchard
Danielson	Jones, Okla.	Pursell
de la Garza	Jones, Tenn.	Quayle
Delaney	Jordan	Quillen
Dellums	Kasten	Railsback
Dent	Kastenmeier	Rangel
Derrick	Kazen	Regula
Derwinski	Kemp	Reuss
Devine	Keys	Richmond
Dickinson	Kildee	Rinaldo
Dicks	Kindness	Risenhoover
Dingell	Kostmayer	Roberts
Dodd	Krebs	Robinson
Dornan	Lagomarsino	Rodino
Downey	Latta	Roe
Drinan	Le Fante	Rogers
Duncan, Oreg.	Leach	Roncalio
Duncan, Tenn.	Lederer	Rooney
Early	Leggett	Rose
Eckhardt	Lehman	Rosenthal
Edgar	Lent	Rostenkowski
Edwards, Ala.	Levitas	Roybal
Edwards, Calif.	Livingston	Rudd
Edwards, Okla.	Lloyd, Calif.	Runnels
Eilberg	Lloyd, Tenn.	Ruppe
Emery	Long, Md.	Russo
English	Long, La.	Ryan
Erlenborn	Lott	Satterfield
Ertel	Lujan	Santini
Evans, Colo.	Luken	Sawyer
Evans, Del.	Lundine	Scheuer
Evans, Ga.	McClory	Schroeder
Evans, Ind.	McCloskey	Schulze
Fary	McCormack	Sebelius
Fascell	McDade	Seiberling
Fenwick	McEwen	Sharp
Findley	McFall	Shuster
Fish	McHugh	Sikes
Fisher	McKay	Simon
Fithian	McKinney	Skelton
Flippo	Madigan	Skubitz
Flood	Maguire	Slack
Florio	Mahon	Smith, Iowa
Flowers	Mann	Smith, Nebr.
Flynt	Markey	Snyder
Foley	Marks	Solarz
Ford, Mich.	Marlenee	Spellman
Forsythe	Marriott	Spence
Fountain	Martin	St Germain
Fowler	Mathis	Staggers
Frenzel	Mattox	Stangeland
Frey	Mazzoli	Stanton
Fuqua	Meeds	Stark
Gammage	Meyner	Steed
Garcia	Mikulski	Steers
Gaydos	Mikva	Steiger
Gephardt	Milford	Stokes
Gibbons	Miller, Calif.	Stratton
Gilman	Mineta	Studds
Ginn	Minish	Stump
Glickman	Mitchell, Md.	Taylor
Goldwater	Mitchell, N.Y.	Thompson
Goodling	Moakley	Thone
Gore	Moffett	Thornton
Gradison	Mollohan	Traxler
Grassley	Montgomery	Treen
Green	Moore	Trible
Gudger	Moorhead, Calif.	Tsongas
Guyer	Moorhead, Pa.	Tucker
Hagedorn	Mottl	Udall
Hall	Murphy, Ill.	Ullman
Hamilton	Murphy, N.Y.	Van Deerlin
Hammer-schmidt	Murphy, Pa.	Vander Jagt
Hanley	Murtha	Vanik
	Myers, Gary	Vento
		Volkmer
Waggonner	Whitehurst	Wydler
Walgren	Whitley	Wylie
Walker	Whitten	Yates
Walsh	Wilson, Bob	Yatron
Wampler	Wilson, C. H.	Young, Alaska
Watkins	Wilson, Tex.	Young, Fla.
Waxman	Winn	Young, Mo.
Weaver	Wirth	Young, Tex.
Weiss	Wolff	Zablocki
Whalen	Wright	Zeferetti

NAYS—11

Archer	Davis	Miller, Ohio
Bauman	Kelly	Rousselot
Bennett	McDonald	Symms
Collins, Tex.	Michel	

NOT VOTING—34

Abdnor	Fraser	Quie
Ammerman	Giaimo	Rahall
Brown, Mich.	Gonzalez	Rhodes
Broyhill	Harrington	Sarasin
Burke, Calif.	Hawkins	Shipley
Burton, John	Holt	Sisk
Caputo	Ireland	Stockman
Cochran	Krueger	Teague
Conyers	LaFalce	White
Crane	Moss	Wiggins
Diggs	Neal	
Ford, Tenn.	Pettis	

Mr. Ammerman with Mrs. Holt.
Mr. Teague with Mrs. Pettis.
Mr. Shipley with Mr. Caputo.
Mr. Rahall with Mr. Sarasin.
Mr. Ford of Tennessee with Mr. Quie.
Mr. Conyers with Mr. Abdnor.
Mr. Giaimo with Mr. Cochran of Mississippi.
Mrs. Burke of California with Mr. Crane.
Mr. Sisk with Mr. Brown of Michigan.
Mr. Hawkins with Mr. Broyhill.
Mr. John L. Burton with Mr. White.
Mr. Harrington with Mr. Wiggins.
Mr. Gonzalez with Mr. Fraser.
Mr. Krueger with Mr. Moss.
Mr. Neal with Mr. Ireland.
Mr. LaFalce with Mr. Stockman.
Mr. Diggs with Mr. Rhodes.

Mr. KELLY and Mr. MILLER of Ohio changed their vote from "yea" to "nay."

Mr. BUTLER changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

CONFERENCE REPORT ON H.R. 12250, DESIGNATING BOUNDARY WATERS CANOE AREA WILDERNESS AND ESTABLISHING BOUNDARY WATERS CANOE AREA MINING PROTECTION AREA

Mr. PHILLIP BURTON submitted the following conference report and statement on the bill (H.R. 12250) to designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Area, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 95–1770)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. (12250) to designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Area, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same as follows:

FINDINGS

SEC. 1. The Congress finds that it is necessary and desirable to provide for the protection, enhancement, and preservation of the natural values of the lakes, waterways, and associated forested areas known (before the date of enactment of this Act) as the Boundary Waters Canoe Area, and for the orderly management of public use and enjoyment of that area as wilderness, and of certain contiguous lands and waters, while at the same time protecting the special qualities of the area as a natural forest-lakeland wilderness ecosystem of major esthetic, cultural, scientific, recreational and educational value to the Nation.

PURPOSES

SEC. 2. It is the purpose of this Act to provide for such measures respecting the areas designated by this Act as the Boundary Waters Canoe Area Wilderness and Boundary Waters Canoe Area Mining Protection Area as will—

(1) provide for the protection and management of the fish and wildlife of the wilderness so as to enhance public enjoyment and appreciation of the unique biotic resources of the region,

(2) protect and enhance the natural values and environmental quality of the lakes, streams, shorelines and associated forest areas of the wilderness,

(3) maintain high water quality in such areas,

(4) minimize to the maximum extent possible, the environmental impacts associated with mineral development affecting such areas,

(5) prevent further road and commercial development and restore natural conditions to existing temporary roads in the wilderness, and

(6) provide for the orderly and equitable transition from motorized recreational uses to nonmotorized recreational uses on those lakes, streams, and portages in the wilderness where such mechanized uses are to be phased out under the provisions of this Act.

BOUNDARY WATERS CANOE AREA WILDERNESS DESIGNATION AND MAP

SEC. 3. The areas generally depicted as wilderness on the map entitled "Boundary Waters Canoe Area Wilderness and Boundary Waters Canoe Area Mining Protection Area" dated September 1978, comprising approximately one million and seventy-five thousand five hundred acres, are hereby designated as the Boundary Waters Canoe Area Wilderness (hereinafter referred to as the "wilderness"). Such designation shall supersede the designation of the Boundary Waters Canoe Area under section 3(a) of the Wilderness Act (78 Stat. 890) and such map shall supersede the map on file pursuant to such section. The map of the wilderness shall be on file and available for public inspection in the offices of the Supervisor of the Superior National Forest and of the Chief, United States Forest Service. The Secretary of Agriculture, hereinafter referred to as "The Secretary," shall, as soon as practicable but in no event later than one year after the date of enactment of this Act, publish a detailed legal description and map showing the boundaries of the wilderness in the Federal Register. Such map and description shall be filed with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such map and description shall have the same force and effect as if included in this Act. Correction of clerical and typographical errors in such legal description and map may be made.

ADMINISTRATION

SEC. 4. (a) The Secretary shall administer the wilderness under the provisions of this Act, the Act of January 3, 1975 (88 Stat. 2096; 16 U.S.C. 1132 note), the Wilderness Act of 1964 (78 Stat. 890, 16 U.S.C. 1131–1136), and in accordance with other laws, rules and regulations generally applicable to areas designated as wilderness.

(b) Paragraph (5) of section 4(d) of the

Wilderness Act of 1964 is hereby repeated and paragraphs (6), (7), and (8) of such section 4(d) are hereby redesignated as paragraphs (5), (6), and (7).

(c) Effective on January 1, 1979 the use of motorboats is prohibited within the wilderness designated by this Act, and that portion within the wilderness of all lakes which are partly within the wilderness, except for the following:

(1) On the following lakes, motorboats with motors of no greater than twenty-five horsepower shall be permitted: Fall, Lake County; Newton, Lake County; Moose, Lake County; Newfound, Lake County; Sucker, Lake County; Snowbank, Lake County; East Bearskin, Cook County; South Farm, Lake County; Trout, Saint Louis County; Basswood, except that portion generally north of the narrows at the north end of Jackfish Bay and north of a point on the international boundary between Ottawa Island and Washington Island; Saganaga, Cook County, except for that portion west of American Point; *Provided:* That, on the following lakes, until January 1, 1984, the horsepower limitations described in this paragraph shall not apply to towboats registered with the Secretary: Moose, Lake County; Newfound, Lake County; Sucker, Lake County; Saganaga, Cook County, as limited in this paragraph.

(2) on the following lakes and river, motorboats with motors no greater than ten horsepower shall be permitted: Clearwater, Cook County; North Fowl, Cook County; South Fowl, Cook County; Island River east of Lake Isabella, Lake County; Sea Gull, that portion generally east of Threemile Island, Cook County; Alder, Cook County; Canoe, Cook County.

(3) On the following lakes, or specified portions of lakes, motorboats with motors of no greater than ten horsepower shall be permitted until the dates specified: Basswood River to and including Crooked Lake, Saint Louis and Lake Counties, until January 1, 1984; Carp Lake, the Knife River, and Knife Lake, Lake County, until January 1, 1984; Sea Gull, Cook County, that portion generally west of Threemile Island, until January 1, 1999; Brule, Cook County, until January 1, 1994, or until the termination of operation of any resort adjacent to Brule Lake in operation as of 1977, whichever occurs first.

(4) On the following lakes, or specified portions of lakes, motorboats with motors of no greater than twenty-five horsepower shall be permitted until January 1, 1984; Birch, Lake County; Basswood, Lake County, that portion generally north of the narrows at the north end of Jackfish Bay and north of a point on the international boundary between Ottawa Island and Washington Island.

(d) The detailed legal description and map to be published pursuant to section 3 of this Act shall contain a description of the various areas where the motorized uses permitted by this section are located. No provision of this section shall be construed to limit mechanism portages or the horsepower of motors used on motorboats in the following areas within the wilderness:

Little Vermilion Lake, Saint Louis County; Loon River, Saint Louis County; Loon Lake, Saint Louis County; that portion of the Lac La Croix, Saint Louis County, south of Snow Bay and east of Wilkins Bay.

(e) For the purposes of this Act, a snowmobile is defined as any motorized vehicle which is designed to operate on snow or ice. The use of snowmobiles in the wilderness designated by this Act is not permitted except that the Secretary may permit snowmobiles, not exceeding forty inches in width, on (1) the overland portages from Crane Lake to Little Vermilion Lake in Canada, and from Sea Gull River along the eastern portion of Saganaga Lake to Canada, and (2) on the following routes until January 1, 1984:

Vermilion Lake portage to and including Trout Lake; Moose Lake to and including Saganaga Lake via Ensign, Vera and Knife Lakes East Bearskin Lake to and including Pine Lake via Alder Lake and Canoe Lake.

In addition to the routes listed above, the Secretary may issue special use permits for the grooming by snowmobiles of specified cross-country ski trails for day use near existing resorts.

(f) The Secretary is directed to develop and implement, as soon as practical, entry point quotas for use of motorboats within the wilderness portions of the lakes listed in subsection c, the quota levels to be based on such criteria as the size and configuration of each lake, and the amount of use on that lake: *Provided,* That the quota established for any one year shall not exceed the average actual annual motorboat use of the calendar years 1976, 1977, and 1978 for each lake, and shall take into account the fluctuation in use during different times of the year. Provided further that on each lake homeowners and their guests and resort owners and their guests on that particular lake shall have access to that particular lake and their entry shall not be counted in determining such use.

(g) Nothing in this Act shall be deemed to require the termination of the existing operation of motor vehicles to assist in the transport of boats across the portages from Sucker Lake to Basswood Lake, from Fall Lake to Basswood Lake, and from Lake Vermilion to Trout Lake, during the period ending January 1, 1984. Following said date, unless the Secretary determines that there is no feasible nonmotorized means of transporting boats across the portages to reach the lakes previously served by the portages listed above, he shall terminate all such motorized use of each portage listed above.

(h) The motorized uses authorized by this section shall be confined to those types of snowmobiles, motorboats and vehicles which have been in regular use in the Boundary Waters Canoe Area prior to the date of enactment of this Act. The Secretary may set forth additional standards and criteria to further define the type of motorized craft which may be permitted.

(i) Except for motorboats, snowmobiles, and mechanized portaging, as authorized and defined herein, no other motorized use of the wilderness shall be permitted. Nothing in this Act shall prohibit the use of aircraft, motorboats, snowmobiles, or other mechanized uses in emergencies, or for the administration of the wilderness area by Federal, State, and local governmental officials or their deputies, only where the Secretary finds that such use is essential.

RESORTS

SEC. 5. (a) The owner of a resort in commercial operation during 1975, 1976 or 1977 and located on land riparian to any of the lakes listed below may require purchase of that resort, including land and buildings appurtenant thereto, by written notice to the Secretary prior to September 30, 1985. The value of such resort for purposes of such sale shall be based upon its fair market value as of July 1, 1978, or as of the date of said written notice, whichever is greater, without regard to restrictions imposed by this Act:

Fall, Lake County, Moose, Lake County, Snowbank, Lake County, Lake One, Lake County, Sawbill, Cook County, Brule, Cook County, East Bearskin, Cook County, Clearwater, Cook County, Saganaga, Cook County, Sea Gull, Cook County, McFarland, Cook County, North Fowl, Cook County, South Fowl, Cook County, Jasper Lake, Lake County, Ojibway, Lake County.

(b) An owner requiring purchase of a resort under this provision may elect to retain one or more appropriate buildings and lands not exceeding three acres, for personal use as a residence: *Provided,* That the purchase price of the Government for a resort shall be reduced by the fair market value of such buildings and lands, with the same valuation procedures outlined above.

(c) With respect to any privately owned lands and interests in lands riparian to the lakes listed above, and if the Federal Government has been required to purchase a resort on said lake, said lands shall not be sold without first being offered for sale to the Secretary who shall be given a period of one hundred days after the date of each such offer within which to purchase such lands. No such lands shall be sold at a price below the price at which they have been offered for sale to the Secretary and if such lands are reoffered for sale they shall first be reoffered to the Secretary: *Provided,* That this right of first refusal shall not apply to a change in ownership of a property within an immediate family.

(d) There are authorized to be appropriated such sums as may be necessary for the acquisition of lands and interests therein as provided by this section.

TIMBER SALE CONTRACTS

SEC. 6. (a) The Secretary is directed to terminate within a period of one year after the date of passage of this Act, all timber sale contracts in the Boundary Waters Canoe Area Wilderness. There shall be no further logging of the virgin forest areas formerly enjoined from logging by the United States District Court on said contract areas during the termination period.

The purpose of said termination period is only to permit completion of the harvesting of timber within existing areas under contract that are not within the areas described above and permit the taking of ameliorative measures, including land and cover restoration that will, at the earliest feasible date, make the imprint of man's work substantially unnoticeable on the lands included as wilderness in this Act.

(b)(1) In the event that termination of timber sale contracts in subsection (a) reduces the total national forest volume which a purchaser has under contract on the Superior National Forest to less than two years cut based on the average volume of Superior National Forest timber harvested by the purchaser in the last three years, the Secretary may, with the consent of the purchaser substitute, to the extent practicable, timber on other national forest lands approximately equal in species and volume to the timber sale contract affected. In offering substitute timber, the Secretary shall negotiate the substitution at a price that is mutually equitable considering such factors as species, volume, logging accessibility, and other terms of the agreement.

(2) The United States will pay just compensation for any timber contracts terminated or modified by this Act, consistent with amendment V to the Constitution of the United States. Losses due to costs incurred in directly fulfilling the terms of such contracts shall be paid by the United States. Any action for the recovery from the United States of cost as provided above shall be brought in a court of competent judisdiction. Any such judgments shall be paid from the claims and judgments fund (31 U.S.C. 724a).

(c) Within the limits of applicable laws and prudent forest management;

(1) the Secretary shall, in furtherance of the purposes of subsection (a) of this section and of section 4 of the National Forest Management Act of 1976 (90 Stat. 2949), expedite the intensification of resource management including emphasis on softwood timber production and hardwood utilization on the national forest lands in Minnesota outside the wilderness to offset, to the extent feasible, the reduction in the programmed allowable timber harvest resulting from reclassification of the Boundary Waters Area, and the Secretary shall make a review of progress to date in 1983, and a forecast of planned achieve-

ments by 1985 and shall submit, as a part of the 1985 program under the schedule called for in the Resources Planning Act of 1974, a Plan and recommendations for 1985–1990. In administering the Superior National Forest, the Secretary is authorized and directed to engage in artificial and natural regeneration, release, site preparation, and other forms of timber production enhancement.

(2) The Secretary, in carrying out the requirements in section (c)(1), is authorized and directed to cooperate with the State of Minnesota and its political subdivisions to develop and implement a system of grants, for the development of renewable resources on State, County and private lands. He may also seek the cooperation of other Federal departments and agencies to assure a coordinated approach to renewable resources development.

(d) There is authorized to be appropriated, in addition to such sums as may otherwise be appropriated for the Superior National Forest from existing authorities established by law, the following additional sums for the fiscal years 1980 through 1990 inclusive:

(1) to carry out the purposes of subsection 6(c)(1) an additional $8,000,000 annually; and,

(2) to carry out the purposes of subsection 6(c)(2) an additional $3,000,000 annually. Provided, however, that the Federal share of any grant made pursuant to subsection 6(c)(2) shall not exceed 80 percent of the total cost of said grant.

(e) Funds appropriated pursuant to this section shall remain available until expended. Authorizations in excess of funds appropriated in a given fiscal year shall remain available for appropriation in subsequent fiscal years.

(f) In addition to those personnel who would otherwise be available, the Secretary is authorized to appoint and fix the compensation (not to exceed that of grade 15 on the General Schedule for Federal employees) of additional full-time personnel for the Superior National Forest to carry out the purposes of this Act.

LAWS APPLICABLE TO CERTAIN LANDS AND WATERS IN THE SUPERIOR NATIONAL FOREST

SEC. 7. (a) The provisions of the Acts listed in paragraph (b) of this section shall continue to apply to lands and waters specified in such Acts notwithstanding the inclusion of any such lands and waters in the wilderness or mining protection area designated under this Act. For lands and waters to which such Acts listed in paragraph (b) apply which are also within the wilderness or mining protection area designated under this Act, any withdrawal, prohibition, or restriction contained in such Acts listed in paragraph (b) shall be in addition to any withdrawal, prohibition, or restriction otherwise applicable to such wilderness or mining protection area under any other law.

(b) The Acts referred to in paragraph (a) are as follows:

(1) The Act of July 10, 1930 (46 Stat. 1020; 16 U.S.C. 577a, 577b), herein referred to as the "Shipstead-Nolan Act".

(2) The Act of June 22, 1948 (62 Stat. 568, as amended, 16 U.S.C. 577c–577b), herein referred to as the "Thye-Blatnik Act".

(c) The provisions of the Shipstead-Nolan Act are hereby extended and made applicable to all lands and waters not otherwise subject to such Act which are within the wilderness designated under this Act.

(d)(1) The authorities contained in the Thye-Blatnik are hereby extended and made applicable to all lands and waters not otherwise subject to such Act which are within the wilderness designated under this Act.

(2) In applying the second proviso of section 5 of such Thye-Blatnik Act to the areas to which such Act is extended and made applicable under this subsection, the phrase "fiscal year 1980" shall be substituted for the phrase "the first full fiscal year after the approval of this Act" in such proviso.

(3) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of the Thye-Blatnik Act with respect to the lands and waters within the wilderness designated under this Act. Such sums may be used for the payment of court judgments in condemnation actions brought under the terms of the Thye-Blatnik Act without regard to the date such condemnation actions were initially instituted. Funds appropriated from the Land and Water Conservation Fund may be used for the acquisition of any lands and waters, or interests therein within such wilderness.

EXISTING AIRSPACE RESERVATION

SEC. 8. The provisions of Executive Order 10092 as made applicable to the Boundary Waters Canoe Area established by the Wilderness Act of 1964 shall be deemed incorporated into this Act.

MINING PROTECTION AREA ESTABLISHMENT

SEC. 9. In order to protect existing natural values and high standards of environmental quality from the adverse impacts associated with mineral development, there is hereby established the Boundary Waters Canoe Area Mining Protection Area (hereinafter in this Act referred to as the "mining protection area"), comprising approximately two hundred and twenty-two thousand acres.

MAP AND BOUNDARIES

SEC. 10. The mining protection area shall comprise the area generally depicted as a mining protection area on the map entitled "Boundary Waters Canoe Area Wilderness and Boundary Waters Canoe Area Mining Protection Area" dated September 1978, which shall be on file and available for public inspection in the offices of the Supervisor of the Superior National Forest and of the Chief, United States Forest Service. As soon as practicable after this Act takes effect, the Secretary shall file a map and a legal description of the mining protection area with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such map and description shall have the same force and effect as if included in this Act. Correction of clerical and typographical errors in such description may be made.

MINING AND MINERAL LEASING IN THE WILDERNESS AND MINING PROTECTION AREA

SEC. 11. (a) In addition to any other applicable prohibition or withdrawal from entry or appropriation under any provision of the Wilderness Act or under any other provision of law, no permit, lease, or other authorization may be issued by any agency or authority of the United States for—

(1) exploration for, or mining of, minerals owned by the United States within the Boundary Waters Canoe Area Wilderness and Boundary Waters Canoe Area Mining Protection Area; or

(2) exploration for, or mining of minerals within such areas if such activities may affect navigable waters or

(3) the use of property owned by the United States in relation to any mining of or exploration for minerals in such areas which may materially impair the wilderness qualities of the wilderness area or which may materially impair the natural value and environmental quality of the mining protection area.

The prohibitions contained in this subsection and any withdrawal from entry or appropriation for mining of or exploration for minerals applicable to the Boundary Waters Canoe Area Wilderness and Boundary Waters Canoe Area Mining Protection Area shall not apply to the extent specifically provided in legislation enacted by the United States after the date of enactment of this Act pursuant to a national emergency declared by the President.

(b)(1) Consistent with the prohibitions and other requirements in subsection (a) of this section, no permit, lease, or other authorization shall be issued unless and until—

(A) the Secretary shall have approved a plan that details how mining will be conducted consistent with this Act and with other Federal, State, and local requirements, and that details how the area will be restored to its original condition or to a substantially equivalent condition, including the estimated cost thereof:

(B) the applicant has posted a bond for performance payable to the United States in an amount determined by the Secretary to be sufficient to assure completion of the reclamation plan if the work had to be performed by the United States;

(C) the applicant shall have obtained all the area incapable of reverting to its original als required by Federal, State, or local laws; and (iv) the Secretary has determined that no permanent facility will be constructed nor alteration will occur that could render the area incapable of reverting to its original condition or to a substantially equivalent condition.

(2) The provisions of paragraphs (2) and (3) of section 4(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1133(d)(2) and 16 U.S.C. 1133(d)(3)) shall not apply to the area designated herein as the Boundary Waters Canoe Area Wilderness.

(c) The Secretary is authorized to acquire any minerals or mineral rights within the wilderness and mining protection area alleged to be owned by persons other than the Federal or State governments in the following manner:

(1) The Secretary first may seek to acquire these minerals or mineral rights by donation. In seeking a donation, the Secretary shall inform the person alleging the ownership by purchase as set forth in paragraph (2) below.

(2) If the person alleging the ownership interest does not donate his minerals or mineral rights to either the Federal or State Governments, the Secretary is authorized to acquire the rights by purchase, within the limits of funds appropriated for property acquisition in the Superior National Forest, and in an amount appropriately discounted for the following factors if existent in relation to the particular mineral interest:

(A) The original patenting from the Federal public domain was fraudulent. The patenting of lands in the Boundary Waters Canoe Area Wilderness and Boundary Waters Canoe Area Mining Protection Area is prima facie fraudulent if (1) the Act under which the patent was issued was one of the Acts intended to put settlers on the land, such as, but without limitation, the Cash Purchase Act of 1820 (chapter LI, Act of April 24, 1820, 3 U.S. Stat. 566, 567, as amended); the Preemption Act of 1830 (chapter CCVIII, Act of May 29, 1830, 4 U.S. Stat. 420, 421, as amended); the Homestead Act of 1862 (chapter LXXV, Act of May 20, 1862, 12 U.S. Stat. 392–394, as amended); and the Timber and Stone Act (chapter 150, Act of June 3, 1878, 20 U.S. Stat. 88, 89, as amended, particularly by chapter 375, Act of August 4, 1892, 27 U.S. Stat. 348); and (2) the land was patented after 1875 and before the establishment of the Superior National Forest by proclamation on February 13, 1909. The Secretary also shall consider any other evidence of fraud when determining the value of the minerals such as (1) the transfer by the entryman or patentee of whole or partial interests in the property during the patenting process or soon thereafter, (2) the appearance in the chain of title of persons known to have

participated in land speculation as land brokers, entrymen, or in other capacities.

(B) The date of separation of the mineral or mineral rights from the surface interest, if the separation occurred after 1927, the year when the courts have determined that the roadless policy was established by the Secretary for the area.

(C) Any other factor, such as restrictions on mining within the area imposed by State or local government, or by operation of treaty.

(d) In the event any legal action or proceeding is instituted by or against the United States in relation to minerals or mineral rights where the patenting is prima facie fraudulent as described in subsection (c) of this section, the Attorney General of the United States shall assert the public's equitable right to constructive or public trusts, or to recover or offset damages including but not limited to those based on the value of land fraudulently acquired plus interest at 6 percentum per annum.

(e) Notwithstanding any requirement of this section, the Secretary shall have authority to acquire within the wilderness or mining protection area designated by this Act, existing mineral interests by donation, purchase, exchange, or through exercise of the power of eminent domain.

(f) There is authorized to be appropriated to the Secretary such sums as may be required to carry out the purposes of this section, to be available until expended.

SEVERABILITY

SEC. 12. If any provision of this Act is declared to be invalid, such declaration shall not affect the validity of any other provision hereof.

EXISTING STRUCTURES

SEC. 13. Nothing in this Act or the Wilderness Act shall be constructed to prohibit the maintenance of the Prairie Portage Dam (on the international boundary chain between Birch and Basswood Lakes), and the Secretary is authorized to perform such maintenance work as may be required to keep that dam functional at its present height and width. The Secretary is authorized to maintain other existing water control structures only where such structures are necessary to protect wilderness values or public safety.

JURISDICTION OVER FISH AND WILDLIFE

SEC. 14. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State with respect to fish and wildlife in the wilderness and the mining protection area.

JURISDICTION OVER WATERS

SEC. 15. The Secretary is authorized to promulgate and enforce regulations that limit or prohibit the use of motorized equipment on or relating to waters located within the wilderness in accordance with the provisions of this Act: *Provided*, That nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State with respect to such waters except to the extent that the exercise of such jurisdiction is less stringent than the Secretary's regulations promulgated pursuant to this section: *Provided further*, That any regulations adopted pursuant to this Act shall be complementary to, and not in derogation of regulations issued by the United States Coast Guard.

The Secretary is authorized to enter into cooperative agreements with the State of Minnesota with respect to enforcement of Federal and State regulations affecting the wilderness and the mining protection area.

COOPERATION WITH STATE

SEC. 16. (a) The Secretary shall cooperate with the State of Minnesota and any political subdivision thereof in the administration of the mining protection area and in the administration and protection of lands within or adjacent to the mining protection area owned or controlled by the State or any political subdivision thereof. Nothing in this title shall deprive the State of Minnesota or any political subdivision thereof of its right to exercise civil and criminal jurisdiction within the wilderness and the mining protection area and impose land use controls and environmental health standards on non-Federal areas within the wilderness and the mining protection area, or of its right to tax persons, corporations, franchises, or other non-Federal property, including mineral or other interests, in or on lands or waters within the wilderness and the mining protection area.

(b) The Secretary is authorized to enter into cooperative agreements with the State of Minnesota with respect to enforcement of Federal and State regulations affecting the wilderness and the mining protection and shall consult with the State of Minnesota in an effort to enhance the multiple-use benefits to be derived from both State and national forest lands.

TREATIES

SEC. 17. Nothing in this Act shall affect the provisions of any treaty now applicable to lands and waters which are included in the mining protection area and the wilderness.

EXPANSION OF RECREATION PROGRAMS

SEC. 18. (a) The Secretary is authorized and directed to expedite and intensify the program of dispersed outdoor recreation development on the Superior National Forest outside the Boundary Waters Canoe Area Wilderness, as designated by this Act. The Secretary shall consider in such new program development the need for the following: additional snowmobile trails, particularly those now planned or under construction; remote campsites on lightly developed lakes; and lake access sites and parking facilities to provide motorized recreation experiences similar to those previously available in the Boundary Waters Canoe Area.

(b) The Secretary, consistent with the Wilderness Act of 1964 and with this Act, is authorized to construct a system of new hiking, backpacking and cross-country ski trails within the Boundary Waters Canoe Area Wilderness as designated by this Act, and on appropriate adjacent federal lands outside the wilderness. In constructing such a trail system, consideration should be given to locating portions of the system near existing resorts on the perimeter of the wilderness to provide additional outdoor recreation opportunities for resort guests.

(c) The Secretary is authorized and directed to develop an educational program for the recreational users of the wilderness which will assist them to understand the purpose, value, and appropriate use of wilderness lands and the functioning of natural ecosystems in wilderness.

(d) The Secretary in cooperation with the State of Minnesota and other appropriate groups, consistent with the purposes of this Act, is authorized and directed to develop a program providing opportunities for a wide range of outdoor experiences for disabled persons.

(e) There are authorized to be appropriated such sums as may be necessary for the Secretary to carry out the purposes of this section.

SEC. 19. (a) The Secretary, in cooperation with other appropriate executive agencies, is authorized and directed to develop a cooperative program of technical and financial assistance to resorts in commercial operation in 1975, 1976, and 1977, and outfitters in commercial operation in 1977 which are located within the mining protection area or which are located on land adjacent to any of the lakes listed in section 5 of this Act. There are authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

(b) There are authorized to be appropriated to the Secretary funds to be made available as grants to the Agricultural Extension Service, University of Minnesota, to provide over a three-year period educational and technical assistance to businesses and communities adjacent to the Boundary Waters Canoe Area Wilderness in order to improve economic opportunities for tourism and recreation-related businesses in a manner which is complementary to the management of the wilderness.

MANAGEMENT STUDY

SEC. 20. The Secretary, acting through the Chief, United States Forest Service, shall, not later than October 1, 1981, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive management plan setting forth the specific management procedures to implement the objectives of this Act. An interim report setting forth public involvement procedures, management alternatives, and a timetable for the remaining study actions, shall be submitted within one year from the date of enactment of this Act.

LIMITATION OF AUTHORIZATIONS

SEC. 21. All authorizations for any funds to be appropriated under the terms of this Act shall not be effective until October 1, 1979. Notwithstanding any other provision of this Act, authority to enter into agreements or to make payments under this Act shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts.

And the Senate agree to the same.

PHILLIP BURTON,
MO UDALL,
ROBERT W. KASTENMEIER,
JOHN F. SEIBERLING,
BRUCE F. VENTO,
J. SKUBITZ,
KEITH G. SEBELIUS,
Managers on the Part of the House.

HENRY M. JACKSON,
JAMES ABOUREZK,
HOWARD M. METZENBAUM,
FRANK CHURCH,
J. BENNETT JOHNSTON,
DALE BUMPERS,
WENDELL R. ANDERSON,
SPARK M. MATSUNAGA,
CLIFFORD P. HANSEN,
MARK O. HATFIELD,
LOWELL P. WEICKER, JR.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two houses on the amendment of the Senate to the bill (H.R. 12250) to designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Area, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

GENERAL EXPLANATION

The Senate and the House of Representatives have enacted companion measures with respect to the Boundary Waters Canoe Area in northeastern Minnesota. In each case, the central thrust of the legislation is to provide further protection to this existing unit of the national wilderness preservation system. Many of the provisions of the two measures are identical. In each case, the existing Boundary Waters Canoe Area is redesignated as the Boundary Waters Canoe Area Wilderness. The three units of the wilderness are linked by a Mining Protection Area which sets a consistent standard of protection from the possible adverse effects of mining activity throughout the area. The United States Forest Service is to undertake a program of

complementary recreation development in the contiguous areas of the Superior National Forest. The agency is also to develop a program of intensive forest management on national forest lands within Minnesota, and is to cooperate with state and local agencies to develop the renewable resources of their lands. The two measures also contain similar extensions of various existing authorities to the additional lands designated as wilderness, and define the ways in which the federal agency is to cooperate with the state throughout the area.

While the two measures are therefore generally similar, the House, in receding to the Senate amendment, does agree to certain changes, the more substantive of which are discussed below.

MAJOR PROVISIONS

1. Motorized use

The major area of difference between the two measures is in the area of motorboat and snowmobile use. In terms of usage, the Senate amendment allows more than half of all existing motorboat use to continue whereas the House bill permitted only 25 percent to continue. In terms of lake surface open to motor use, the Senate amendment allows motorboat use on a third of the water area of the BWCA whereas the House bill would have permitted permanent motor use on only 5 percent of the water area. Regarding snowmobiles, the Senate amendment lifts the snowmobile ban by giving the Secretary of Agriculture the authority to permit snowmobile use on three designated trails for five years. The House measure contained the ban on use of snowmobiles except along two corridors to permit access to Canada, which also will remain open under the provisions of the Senate amendment. Although the managers on the part of the House had intended to provide stronger provisions restricting motorized use in the measure, the conferees agreed that the motorized use provisions of the Senate amendment represent a fair and workable compromise which all parties can accept as a reasonable solution which will afford increased protection of the area's wilderness character while allowing the continuation of the most heavily used and long established motorized routes.

2. Wilderness boundary

The Senate amendment makes several changes to the House-passed wilderness boundary which have the cumulative effect of decreasing the proposed additions to the area by approximately 1,500 acres as opposed to the House measure. The most substantial of these changes is to delete an area southwest of Eagle Mountain which contained an active timber sale. Other minor changes were made, after consultation with the United States Forest Service, in order to allow for existing facilities or to enhance the ability of the agency to manage the area as wilderness.

3. Voluntary resort sales

The Senate amendment extends by two years the period within which a qualifying resort owner may require purchase of his property. This is intended to permit resort owners to assess the effects of the five-year phaseout of certain motorized use provided by the Senate amendment. The right of first refusal of the Secretary to acquire properties on the lakes which qualify for directed resort purchases is restricted to only those lakes where such a directed purchase has occurred. This is consistent with the conferees views that this authority should only be available to the Secretary in those cases in which the federal government has been required to purchase a resort property.

4. Timber harvesting

The House and Senate measures are generally identical with regard to the phaseout of timber harvesting within the Boundary Waters area and with respect to the management of other national forest lands in the state of Minnesota. The Senate language does add a specific provision for the Secretary of Agriculture to make a review of progress and a forecast of planned achievements for the intensive management program which the amendment requires. The Secretary, consistent with existing applicable statutes, is also directed to engage in various management actions to improve this program in the Superior National Forest. The funding period for this program and for a program of matching grants to the state for forest purposes is also extended and the authorization increased.

5. Miscellaneous

The Senate amendment also makes several changes to improve the text of the mining provisions in the bill. The Senate language also modifies the House provision on existing structures within the wilderness to make clear that the Secretary may maintain existing small dams in the area if necessary to protect wilderness values or public safety.

PHILLIP BURTON,
MO. UDALL,
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BRUCE F. VENTO.
J. SKUBITZ,
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Managers on the Part of the House.

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J. BENNETT JOHNSTON,
DALE BUMPERS,
WENDELL R. ANDERSON,
SPARK M. MATSUNAGA,
CLIFFORD P. HANSEN,
MARK O. HATFIELD,
LOWELL P. WEICKER, Jr.,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 12929, LABOR-HEW APPROPRIATIONS

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Mr. FLOOD. Mr. Speaker, in order to expedite the disposition of these amendments, I would like to suggest that all such amendments on which we are asking that the House recede and concur be considered en bloc.

Accordingly, Mr. Speaker, I ask unanimous consent that Senate amendments numbered 18, 20, 22, 27, 35, 45, 60, 66, 77, 81, 83, 90, 100, 104, and 106 be considered en bloc.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The amendments in disagreement above referred to are as follows:

Senate amendment No. 18: Page 13, line 16, after "$63,841,000" insert ", including and not to exceed 287 full-time permanent positions".

Senate amendment No. 20: Page 13, line 23, after "869,000" insert ", including 642 full-time permanent positions".

Senate amendment No. 22: Page 14, line 7, after "$188,910,000" insert ", including 567 full-time permanent positions".

Senate amendment No. 27: Page 14, line 24, after "$119,005,000" insert ", including 400 full-time permanent positions".

Senate amendment No. 35: Page 15, line 22, after "$152,899,000" insert ", including 80 full-time permanent positions".

Senate amendment No. 45: Page 19, line 18, after "$52,518,000" insert ", including 1,921 full-time permanent positions".

Senate amendment No. 60: Page 26, line 11, after "$327,000,000" insert ": *Provided*, That the Assistant Secretary, in awarding funds under this program, shall not give less favorable consideration to the application of a local educational agency which has voluntarily adopted a plan qualified for assistance under this title than to the application of a local educational agency which has been legally required to adopt such a plan".

Senate amendment No. 66: Page 27, line 11, after "herein" insert ": *Provided further*, That not to exceed $112,317,000 shall be for carrying out part A, subpart 3 of the Vocational Education Act".

Senate amendment No. 77: Page 28, line 23, after "$390,000,000" insert ": *Provided*, That funds contained in Public Law 95-205 for carrying out section 525 of the Education Amendments of 1976 shall remain available for obligation until September 30, 1980".

Senate amendment No. 81: Page 29, line 21, after "535,000" insert ", of which not to exceed $1,840,000 shall be for carrying out section 403 of the Special Projects Act".

Senate amendment No. 83: Page 30, line 15, after "$126,830,000" insert ": *Provided*, That during the current fiscal year up to $10,000,000 in collections on Federally insured defaulted loans may be transferred to the Salaries and Expenses account for the payment of related collection activities".

Senate amendment No. 90: Page 35, after line 12, insert:

NATIONAL COMMISSION ON SOCIAL SECURITY

For carrying out the purposes of the National Commission on Social Security established pursuant to section 361 of Public Law 95-216, $500,000 to remain available until expended.

Senate amendment No. 100: Page 41, line 14, after "therein" insert ": *Provided*, That funds, appropriated under this head in Public Law 95-240 for compensating the State of Washington for expenses related to the Tacoma Indian Hospital, shall remain available until expended".

Senate amendment No. 104: Page 47, after line 9 insert:

SEC. 212. Funds appropriated under this title may not be used to pay the compensation of experts or consultants (other than full-time employees) or organizations thereof, or to procure by contract the services of experts or consultants or organizations thereof, in excess of $194,000,000 during fiscal year 1979.

For the purposes of this section, consultant costs are defined by chapter 815 of the General Administration Manual of the Department of Health, Education, and Welfare.

Senate amendment No. 106: Page 53, after line 11, insert:

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient or agent acting for such recipient to engage in any activity designed to influence legislation or appropriations pending before the Congress.

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendments of the Senate numbered 18, 20, 22, 27, 35, 45, 60, 66, 77, 81, 83, 90, 100, 104, and 106 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 23 is as follows. Page 14, line 12, after "$183,198,000" insert

", including and not to exceed 651 full-time permanent positions".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: ", including and not to exceed 649 full-time permanent positions".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 24 is as follows: Page 14, line 17, strike out "$225,092,000" and insert "$230,000,000".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert the following: "$231,058,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 25 is as follows: Page 14, line 18, after "$225,092,000" insert ", including 180 full-time permanent positions".

MOTION OFFERED BY MR. FLOOD

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 25 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: ", including 179 full-time permanent positions".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 29 is as follows: Page 15, line 4, after "526,000" insert ", including 263 full-time permanent positions".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 29 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: ", including 258 full-time permanent positions".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 29 is as follows: Page 15, line 10, after "$100,549,000" insert ", including 191 full-time permanent positions".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion. The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: ", including 186 full-time permanent positions".

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 32 is as follows: Page 15, line 16, strike out "$73,227,000" and insert "$70,000,000".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 32 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert the following: "$73,512,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 33 is as follows: Page 15, line 17, after "$73,227,000" insert ", including 401 full-time permanent positions".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: ", including 405 full-time permanent positions".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 38 is as follows: Page 16, line 15, after "$31,887,000" insert ", including 505 full-time permanent positions."

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 38 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: ", including 503 full-time permanent positions".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 39 is as follows: Page 15, line 24, after "$19,673,000," insert "including 4,770 full-time permanent positions and."

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 39 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: "including 4,780 full-time permanent positions and".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 42 is as follows: Page 18, line 1, after $463,012,000" insert ", including 1,300 full-time permanent positions,".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 42 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment insert the following: ", including 1,275 full-time permanent positions,".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 44 is as follows: Page 19, line 17, strike out "$52,518,000" and insert "$55,417,000".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 44 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert the following: "$51,232,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 57 is as follows: Page 25, line 8, after "Act" insert ": *Provided*, That the total amount paid with respect to entitlements under section 3 of that title shall not exceed the amount paid under that section in fiscal year 1978, and any reductions required thereby shall be derived by proportionately reducing the payments applied for by all local educational agencies under that section".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 57 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: ": *Provided*, That the total amount paid with respect to entitlements under section 3(b) of that title shall not exceed the amount paid under that section in fiscal year 1978, and any reductions required thereby shall be derived by proportionately reducing the payments applied for by all local educational agencies under section 3(b)".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 72 is as follows: Page 27, line 24, after "*Provided*," insert "That such funds may be expended notwithstanding the provisions of section 1208(a)(2) of the Higher Education Act: *Provided further*,".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of

the Senate numbered 72 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: "That such funds may be expended notwithstanding the provisions of section 1208(a)(2) of the Higher Education Act: *Provided further*, That (1) Funds appropriated in this Act for Basic Educational Opportunity Grants under the Higher Education Act of 1965 shall be used to make basic grants consistent with the Schedule of Expected Family Contribution in effect as of October 1, 1978, except that (A) such schedule shall not have an assessment rate on parental discretionary income in excess of 10.5 per centum, (B) such schedule shall not reduce the maximum basic grant below $1,800, and (C) such schedule shall retain the provisions relating to independent students as were in effect for the academic year 1978–79.

(2) If funds contained in this Act available for basic educational opportunity grants are insufficient to satisfy fully all basic grant entitlements as determined by the Family Contribution Schedule as modified by paragraph (1), the amount paid with respect to each such entitlement shall be—

(A) the full amount in the case of any entitlement which exceeds $1,600;

(B) in the case of any entitlement which exceeds $1,200 but does not exceed $1,600,

(C) in the case of any entitlement which exceeds $1,000 but does not exceed $1,200, 75 per centum thereof;

(D) in the case of any entitlement which exceeds $800 but does not exceed $1,000, 70 per centum thereof;

(E) in the case of any entitlement which exceeds $600 but does not exceed $800, 65 per centum thereof; and

(F) in the case of any entitlement which does not exceed $600, 50 per centum thereof: *Provided further*,"

Mr. FLOOD (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 80 is as follows: Page 29, line 21, strike out "$133,535,000" and insert "$131,911,000".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 80 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert the following: "$134,472,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 92 is as follows: Page 35, line 24, after "$147,500,000" insert ": *Provided*, That $10,000,000 of the foregoing amount shall be apportioned for the purposes of the special projects authorized by section 2(c) of the Indochina Migration and Refugee Assistance Act of 1975, as amended, to be administered primarily by the private voluntary resettlement agencies".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 92 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: ": *Provided*, That $7,500,000 of the foregoing amount shall be apportioned for the purposes of the special projects authorized by section 2(c) of the Indochina Migration and Refugee Assistance Act of 1975, as amended, to be administered primarily by the private voluntary resettlement agencies".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. FLOOD).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MAHON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 391, nays 0, not voting 39, as follows:

[Roll No. 894]

YEAS—391

Abdnor	Brodhead	de la Garza
Addabbo	Brooks	Delaney
Akaka	Broomfield	Dellums
Alexander	Brown, Calif.	Dent
Ambro	Brown, Ohio	Derrick
Anderson, Calif.	Buchanan	Derwinski
	Burgener	Devine
Anderson, Ill.	Burke, Fla.	Dickinson
Andrews, N.C.	Burke, Mass.	Dicks
Andrews, N. Dak.	Burleson, Tex.	Dingell
	Burlison, Mo.	Dodd
Applegate	Burton, John	Dornan
Archer	Burton, Phillip	Downey
Armstrong	Butler	Drinan
Ashbrook	Carney	Duncan, Oreg.
Ashley	Carr	Duncan, Tenn.
Aspin	Carter	Early
AuCoin	Cavanaugh	Eckhardt
Badham	Cederberg	Edgar
Bafalis	Chappell	Edwards, Ala.
Baldus	Chisholm	Edwards, Calif.
Barnard	Clausen, Don H.	Edwards, Okla.
Baucus		Ellberg
Bauman	Clawson, Del	Emery
Beard, R.I.	Clay	English
Bedell	Cohen	Erlenborn
Beilenson	Coleman	Ertel
Benjamin	Collins, Ill.	Evans, Colo.
Bennett	Collins, Tex.	Evans, Del.
Bevill	Conable	Evans, Ga.
Biaggi	Conte	Evans, Ind.
Bingham	Corcoran	Fary
Blanchard	Corman	Fascell
Blouin	Cornell	Fenwick
Boggs	Cornwell	Findley
Boland	Cotter	Fish
Bolling	Coughlin	Fisher
Bonior	Cunningham	Fithian
Bowen	D'Amours	Flippo
Brademas	Daniel, Dan	Flood
Breaux	Daniel, R. W.	Florio
Breckinridge	Danielson	Flynt
Brinkley	Davis	Foley
Brooks	Delaney	Rose
Broomfield	Dellums	Rosenthal
Brown, Calif.	Dent	Rostenkowski
Brown, Ohio	Derrick	Rousselot
Buchanan	Derwinski	Roybal
Burgener	Devine	Rudd
Burke, Fla.	Dickinson	Runnels
Burke, Mass.	Dicks	Ruppe
Burleson, Tex.	Dingell	Russo
Burlison, Mo.	Dodd	Ryan
Burton, John	Dornan	Santini
Burton, Phillip	Downey	Satterfield
Butler	Drinan	Sawyer
Carney	Duncan, Oreg.	Scheuer
Carr	Duncan, Tenn.	Schroeder
Carter	Early	Schulze
Cavanaugh	Eckhardt	Sebelius
Cederberg	Edgar	Seiberling
Chappell	Edwards, Ala.	Sharp
Chisholm	Edwards, Calif.	Shuster
Clausen, Don H.	Edwards, Okla.	Sikes
	Ellberg	Simon
Clawson, Del	Emery	Skelton
Clay	English	Skubitz
Cohen	Erlenborn	Slack
Coleman	Ertel	Smith, Iowa
Collins, Ill.	Evans, Colo.	Smith, Nebr.
Collins, Tex.	Evans, Del.	Snyder
Conable	Evans, Ga.	Solarz
Conte	Evans, Ind.	Spellman
Corcoran	Fary	Spence
Corman	Fascell	St Germain
Cornell	Fenwick	Staggers
Cornwell	Findley	Stangeland
Cotter	Fish	Stanton
Coughlin	Fisher	Stark
Cunningham	Fithian	Steed
D'Amours	Flippo	Steers
Daniel, Dan	Flood	Steiger
Daniel, R. W.	Florio	Stokes
Danielson	Flynt	Stratton
Davis	Foley	Studds
de la Garza	Ford, Mich.	Stump
Delaney	Ford, Tenn.	Symms
Dellums	Forsythe	Taylor
Dent	Fountain	Thompson
Derrick	Fowler	Thone
Derwinski	Fraser	Thornton
Devine	Frenzel	Traxler
Dickinson	Fuqua	Treen
Dicks	Gammage	Trible
Dingell	Garcia	Tsongas
Dodd	Gaydos	Tucker
Dornan	Gephardt	Udall
Downey	Gibbons	Ullman
Drinan	Gilman	Van Deerlin
Duncan, Oreg.	Ginn	Vander Jagt
Duncan, Tenn.	Glickman	Vanik
Early	Goldwater	Volkmer
Eckhardt	Gore	Waggonner
Edgar	Gradison	Walgren
Edwards, Ala.	Grassley	Walker
Edwards, Calif.	Green	Walsh
Edwards, Okla.	Gudger	Wampler
Ellberg	Guyer	Watkins
Emery	Hagedorn	Waxman
English	Hall	Weiss
Erlenborn	Hamilton	Whalen
Ertel	Hammer-schmidt	Whitley
Evans, Colo.		Whitten
Evans, Del.	Hanley	Wiggins
Evans, Ga.	Hannaford	Wilson, Bob
Evans, Ind.	Hansen	Wilson, C. H.
Fary	Harkin	Wilson, Tex.
Fascell	Harris	Winn
Fenwick	Hawkins	Wirth
Findley	Heckler	Wolff
Fish	Hefner	Wright
Fisher	Heftel	Wydler
Fithian	Hightower	Wylie
Flippo	Hillis	Yates
Flood	Holland	Yatron
Florio	Hollenbeck	Young, Alaska
Flynt	Holt	Young, Fla.
Foley	Holtzman	Young, Mo.
Ford, Mich.	Horton	Young, Tex.
Ford, Tenn.	Howard	Zablocki
Forsythe	Hubbard	Zeferetti
Fountain	Huckaby	
Fowler	Hughes	
Fraser	Hyde	
Frenzel	Ichord	
Fuqua	Jacobs	
Gammage	Jeffords	
Garcia	Jenkins	
Gaydos	Jenrette	
Gephardt	Johnson, Calif.	
Gibbons	Johnson, Colo.	
Gilman	Jones, N.C.	
Ginn	Jones, Okla.	
Glickman	Jones, Tenn.	
Goldwater	Jordan	
Gore	Kasten	
Gradison	Kastenmeier	
Grassley	Kazen	
Green	Kelly	
Gudger	Kemp	
Guyer	Keys	
Hagedorn	Kildee	
Hall	Kindness	
Hamilton	Kostmayer	
Hammer-schmidt	Krebs	
	LaFalce	
Hanley	Lagomarsino	
Hannaford	Latta	
Hansen	Le Fante	
Harkin	Leach	
Harris	Lederer	
Hawkins	Lehman	
Heckler	Lent	
Hefner	Levitas	
Heftel	Livingston	
Hightower	Lloyd, Calif.	
Hillis	Lloyd, Tenn.	
Holland	Long, La.	
Hollenbeck	Long, Md.	
Holt	Lott	
Holtzman	Lujan	
Horton	Luken	
Howard	Lundine	
Hubbard	McClory	
Huckaby	McCloskey	
Hughes	McCormack	
Hyde	McDade	
Ichord	McDonald	
Jacobs	McEwen	
Jeffords	McFall	
Jenkins	McHugh	
Jenrette	McKay	
Johnson, Calif.	McKinney	
Johnson, Colo.	Madigan	
Jones, N.C.	Maguire	
Jones, Okla.	Mahon	
Jones, Tenn.	Mann	
Jordan	Markey	
Kasten	Marks	
Kastenmeier	Marlenee	
Kazen	Marriott	
Kelly	Martin	
Kemp	Mathis	
Keys	Mattox	
Kildee	Mazzoli	
Kindness	Meeds	
Kostmayer	Meyner	
Krebs	Michel	
LaFalce	Mikulski	
Lagomarsino	Mikva	
Latta	Milford	
Le Fante	Miller, Calif.	
Leach	Miller, Ohio	
Lederer	Mineta	
Lehman	Mitchell, Md.	
Lent	Mitchell, N.Y.	
Levitas	Moakley	
Livingston	Moffett	
Lloyd, Calif.	Mollohan	
Lloyd, Tenn.	Moore	
Long, La.	Moorhead, Calif.	
Long, Md.	Moorhead, Pa.	
Lott	Mottl	
Lujan	Murphy, Ill.	
Luken	Murphy, N.Y.	
Lundine	Murphy, Pa.	
McClory	Murtha	
McCloskey	Myers, Gary	
McCormack	Myers, John	
McDade	Myers, Michael	
McDonald	Natcher	
McEwen	Neal	
McFall	Nedzi	
McHugh	Nichols	
McKay	Nix	
McKinney	Nolan	
Madigan	Nowak	
Maguire	O'Brien	
Mahon	Oakar	
Mann	Oberstar	
Markey	Obey	
Marks	Ottinger	
Marlenee	Panetta	
Marriott	Patten	
Martin	Patterson	
Mathis	Pattison	
Mattox	Pease	
Mazzoli	Pepper	
Meeds	Perkins	
Meyner	Pickle	
Michel	Pike	
Mikulski	Poage	
Mikva	Pressler	
Milford	Preyer	
Miller, Calif.	Price	
Miller, Ohio	Pritchard	
Mineta	Pursell	
Mitchell, Md.	Quayle	
Mitchell, N.Y.	Quillen	
Moakley	Railsback	
Moffett	Rangel	
Mollohan	Regula	
Moore	Reuss	
Moorhead, Calif.	Rhodes	
Moorhead, Pa.	Richmond	
Mottl	Risenhoover	
Murphy, Ill.	Roberts	
Murphy, N.Y.	Robinson	
Murphy, Pa.	Rodino	
Murtha	Roe	
Myers, Gary	Rogers	
Myers, John	Roncalio	
Myers, Michael	Rooney	
Natcher		
Neal		
Nedzi		
Nichols		
Nix		
Nolan		
Nowak		
O'Brien		
Oakar		
Oberstar		
Obey		
Ottinger		
Panetta		
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Rhodes		
Richmond		
Risenhoover		
Roberts		
Robinson		
Rodino		
Roe		
Rogers		
Roncalio		

NAYS—0

NOT VOTING—39

Ammerman	Caputo	Frey
Annunzio	Cleveland	Giaimo
Beard, Tenn.	Cochran	Gonzalez
Bonker	Conyers	Goodling
Brown, Mich.	Crane	Harrington
Broyhill	Diggs	Harsha
Burke, Calif.	Flowers	Ireland

Krueger	Quie	Stockman
Leggett	Rahall	Teague
Minish	Rinaldo	Vento
Montgomery	Sarasin	Weaver
Moss	Shipley	White
Pettis	Sisk	Whitehurst

The Clerk announced the following pairs:

Mr. Ammerman with Mr. Broyhill.
Mr. White with Mr. Quie.
Mrs. Burke of California with Mr. Rinaldo.
Mr. Krueger with Mr. Sarasin.
Mr. Minish with Mr. Stockman.
Mr. Montgomery with Mr. Cleveland.
Mr. Teague with Mr. Caputo.
Mr. Vento with Mr. Frey.
Mr. Moss with Mr. Whitehurst.
Mr. Shipley with Mr. Weaver.
Mr. Sisk with Mrs. Pettis.
Mr. Ireland with Mr. Goodling.
Mr. Leggett with Mr. Diggs.
Mr. Harrington with Mr. Crane.
Mr. Gonzalez with Mr. Cochran of Mississippi.
Mr. Bonker with Mr. Brown of Michigan.
Mr. Flowers with Mr. Beard of Tennessee.
Mr. Annunzio with Mr. Giaimo.
Mr. Rahall with Mr. Conyers.

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The Clerk will designate the remaining amendment in disagreement.

Senate amendment No. 103 is as follows: Page 46, line 19, strike out lines 1 to 4, inclusive, and insert:

SEC. 210. None of the funds in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or where medically necessary, or for rape or incest victims. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House insist on its disagreement to the amendment of the Senate numbered 103.

PREFERENTIAL MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 103 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

SEC. 210. None of the funds provided for in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum or for medical procedures necessary for the termination of an ectopic pregnancy.

Mr. BAUMAN. Mr. Speaker, under the rule, I demand that the question be divided.

The SPEAKER pro tempore. The question will be divided.

The gentleman from Pennsylvania (Mr. FLOOD) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MICHEL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois. (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the debate on H.R. 12929 the House rejected by a vote of 122 yeas to 287 nays a motion offered by the gentleman from Ohio (Mr. STOKES) to strike section 210 altogether, as the Members will recall. Then the House also rejected, by a vote of 198 to 212, a motion offered by the gentleman from Texas (Mr. WRIGHT) to insert the language of the current law, that being proposed by the gentleman from Texas (Mr. MAHON), in lieu of the language recommended by our Committee on Appropriations.

I made the comment at the time of our considering the original bill that I was going to back off from that compromise language and go back to a firmer position taken by the House in view of my having realized that the rules and regulations to promulgate what we were talking about were far too loosely constructed by the Department of HEW and in fact really subverted what we were talking about in quite precise terms, particularly as I recall that rule and regulation providing for a 60-day requirement when we were talking about prompt reporting of cases of rape or incest.

So, having taken that position during the consideration of the regular bill, I have to maintain that position today, and then we will see what the will of the House is on the chairman's motion here.

Mr. Speaker, at this juncture I would be happy to yield 5 minutes to the original author of this amendment, the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I would have preferred to follow my distinguished colleague, the gentlewoman from New Jersey (Mrs. FENWICK), because I would enjoy, as much as one can enjoy in such a discussion, responding to what the gentlewoman says. I have listened to her comments, and I think they deserve a response, but, nevertheless, let me just say a few things about the issue before us.

Mr. Speaker, I urge the House to stand fast. I urge the House to vote no on this motion to recede and to continue in its posture of saying, "Get the Government out of the business of paying for the killing of unborn children."

Call it a fetus, call it a bunch of randomly multiplying cells, if you want to be biologically incoherent. But that is a human life. By definition, that is a human life. Get the Government out of the business of paying for the extermination of human life.

The euphemisms that color this subject are amazing. They say a woman should have a choice over her own body. That is like talking about slavery from the point of view of the slave owner and ignoring the slave. You talk about the woman's body and ignore the victim—ignore the defenseless, voiceless human life that is in the womb. And if you leave it alone, it will be just as healthy, just as significant, just as useful as you are.

Now, every abortion occurs over somebody's dead body. Abortion is not something that happens to a woman. It happens to a baby. By definition, by intention, it is killing, and you are killing a human life that has begun through the miracle of cooperation of a man and woman and Almighty God.

But, it is said, there are social reasons why we cannot have some people. Some people might be deformed. My God. Do you have to pass a physical examination with perfect marks in order to be admitted to the human family? Is that what we want to do? By definition, by intention, abortion kills a human life once it has begun.

Mr. Speaker, I have thought about the law ever since I started law school, and I said to myself, "What is the purpose of the law?" And I have reduced that to a very simple, some might say simplistic, formula. The law is to protect the weak from the strong. That is what the law is for. And I do not know anyone weaker or more voiceless or more defenseless than an innocently inconvenient human life.

So I say we should get out of the business of killing human life. If there are problems—and there are tragic problems of unwanted children—cannot this society, with its resources, find human answers to the human problems of unwanted children?

I suggest to the Members that if they look at the training films and observe the use of the suction machine that performs abortions, they must conclude, unless they are blind, that that is the ultimate in child abuse. That is a human life, and do not obscure it by euphemisms, by calling it anything other than what it is.

Mr. Speaker, I hope that this House will stand firm in defense of the weak from the strong and get out of the business of paying for abortions.

Mr. FLOOD. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. STOKES).

Mr. STOKES. Mr. Speaker, I shall not consume the full 3 minutes here in order to discuss this motion. I do rise in sup-

port of the motion of the gentleman from Texas (Mr. MAHON). I do so because I happen to believe that his motion offers this House a chance at a reasonable and sensible compromise. It is not the best language. It is not even the language that I would choose if I had my opportunity to have the kind of language in this bill that I wanted.

But, I sat as a member of the House-Senate conference this past year when we sat in conference for 6 months trying to arrive at some kind of language which would be acceptable to both the House and Senate. I saw us settle all the money problems in that bill in 2 days, and then sit there for 6 months trying to arrive at proper language acceptable to both Houses. As the distinguished gentleman from Texas (Mr. MAHON) said, during the course of that 6-month period, we had something like 27 votes.

I spoke from the well many times and offered motions to the House trying to resolve this matter. I just think the language offered by the Mahon motion is sensible, it is reasonable, it is language I think we can live with. I intend to vote for it. I think the Senate will accept this language, and I urge our colleagues on the House side to accept the language of the Mahon motion.

Mr. MICHEL. Mr. Speaker, I yield 5 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I thank my colleague. I certainly will not take 5 minutes. I do support the Mahon resolution, and I think here we speak for the right of those who have no money as compared to those who have.

We are talking now about a legal procedure, declared legal by the Supreme Court. What this amendment says is that it is legal and should be available. Its defeat would mean that it will be available for those who have money, but unavailable to those who are poor. If we could stop abortions by a decision of this House or any other legislative body, we would be facing a very different question, but we cannot, and we know it.

When I was in Chile, where abortion was absolutely forbidden by law, I asked the head of the medical services of the country, "Why are there so many women in your hospitals?" He replied:

Because 35 percent of all the beds are filled by women dying of self-induced abortions. They are too poor for the back-room procedures that have killed our women in this country.

The backroom system in New Jersey was tragic in its results. I have told the House about this. A girl 16 years old with her mother went to Pennsylvania, and in a motel the girl died and the mother was held as an accessory to murder. That is a family tragedy. We are not talking about abstract statistics.

Yes, we are speaking for the defense of the weak and the poor, as compared to the resources that this country in its wisdom allows for those who have money. That is what we are talking about on the floor of the House today. That is all. Are we going to make it possible for the poor to have the medical services open to the rich?

Mr. FLOOD. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, and Members of the House, I take the well, on the medicaid abortion restrictions, almost as a matter of procedure now. It is "procedural" because, unfortunately, I do not believe we can change many votes on this issue. But, I still feel a great deal of rage within me when I see this body sit as judge, jury, and prosecutor on a great number of women in this country who really do not have a viable alternative to abortion. As the gentlewoman from New Jersey (Mrs. FENWICK) has said, the House has decided to segregate this country along economic lines on this issue which I feel very emotional about. And, I think we are wrong.

We sit here as a body, made up of men for the most part. And, the men will never have to deal with the trauma of abortion; we will never have to undergo an abortion, we will never have to weigh this issue as the most personal of all decisions. We, as men, may participate in such decisions with our wives or our loved ones sometimes, but it still will not be our ultimate decision, as men. I think we are wrong, therefore, to try to impose our decisions on others.

I think it is wrong that we show so little tolerance, as exemplified even in the amendment that is being substituted here. But, I hope we will adopt the Mahon amendment, to give at least the victims of rape and incest an option to deal with those tragedies. I hope, one day, all the male Members will read about the real alternatives to abortion that are available to women. Let the men then talk about how pleasant and easy they think it is to take the pill or to use a diaphragm or to have one's tubes "tied," or to get pregnant while practicing rhythm.

We act like it is so easy for women to make these decisions. It is not. We are just going to sit here so smugly and pretend these things are easy for women. We are going to continue to pretend that cancer is not a factor, that bleeding and hemorrhaging are not factors, that other injuries are not factors in birth control. Some of us are even going to pretend that rhythm always works.

I do not think anyone here would say that he wants to live in the kind of society where we segregate people based on economics and say that the poorest will lose their rights. But this has nothing to do with rights that are legislated. It has to do with the human function of making decisions about one's own body. Yet, the issue has been reduced to a procedural matter, because minds are made up. I suppose we will go on to deal with it as a procedural matter.

I have received a letter from a constituent of mine. I have carried it with me for 3 or 4 weeks now. The woman who wrote to me talks about the problem of wrestling with these decisions and talking them over with friends. She talks about that private decision. She says a lot of things in this letter that I do not agree with. She said that, maybe we should allow one abortion per woman; or we should make poor women go to Government hospitals. I do not agree with all of those things. But, my constituent makes a good case for tolerance of a woman's private decision for herself and a woman's role in counseling other women. Those are private decisions that we all understand among our friends and our own family. But publicly here today we refuse to understand—we deny other people their private decisions and personal beliefs. That is the flimsy basis for our pontifications.

I just wish there was a little more humanism in these discussions, some compassion for the woman. I do not relish abortion. But, I certainly do not relish this body's attitude toward American women. I do not think we can either reduce abortions or show tolerance for a woman's personal decision by supporting the strict House language. I hope we will adopt the Mahon substitute. At least it provides for women and youngsters involved in rape and incest, where they have no control over the situation.

I just plead with the Members to put themselves in other people's shoes and ask themselves what they would do in that private moment.

The letter of my constitutent follows:

SEPTEMBER 25, 1978.

DEAR CONGRESSMAN MILLER: Yesterday afternoon I happened to be watching a television program about abortion. As I tuned in it just so happened that Bella Abzug was speaking, and while I don't necessarily agree with Ms. Abzug, she is right when she said "if you don't like what is going on let your representative know". So, here I go. (and by the way, this is not the first time I have written on this subject).

First, let me qualify myself. I am a working wife and mother of 3 grown children. I have personally been involved with abortion through a close member of the family. I have also been personally involved with the illegitimate birth of a baby born to a 15 year old member of the family. And, in 1952 my very best girl friend of 17 years almost died as the result of an illegal abortion, and was left childless. So I have personally been involved with abortion, legal and illegal and, believe me it is very easy to become emotionally radical particularly when there is such pro and con within the same family. We have tried to compromise and justify when all it boils down to is the individual conscience.

I could go into all of the emotional reasons that have been gone over and over and over, but that is exactly what is wrong with the whole issue, emotions. What we have to look at is rights, the rights of the individual to choose abortion or not.

Men should not even be involved in my right to make this choice unless he is my husband. I say this because no man will ever have to have an abortion and in most situations the woman is left with the responsibility of raising the child or children. However, most of the representatives who make our laws are men (and in my opinion that is as it should be, I am not a women's libber) and therefore I must call upon you to put aside the over-reaction of the Anti-Abortionists and look only at my freedom of choice. Leave my conscience to me.

I do not believe that I have the right to tell my neighbor that she cannot have an abortion. She has to have the right to choose for herself. I don't live in her life, and if for whatever reason she decides she must do this I have to respect her right to do so, regardless of my personal opinion or beliefs, and I'll tell you this, I am 43 years old and if I were to become pregnant I would have an abortion, the reasons are my business, and if it were illegal I would still find a way.

This abortion issue has gotten way out of proportion. Women waving placards holding a baby, of course that really gets down to the old heart strings. But damn it, that baby is a whole different part of our lives, and that woman made the choice to have that baby, she didn't ask me if it was okay. What they are doing is saying "look at the living", and I say yes indeed, look at the living and respect the rights of those living and stop trying to be policeman of the conscience of the living.

If the Pope thinks abortion is a sin, then let him preach that to his followers, not to our President and law makers. Think of this, those people who are so adamant about abortions will never face the decision, because they don't believe in and won't consider it. Also, these same people would have a screaming fit if I or anyone else encouraged them to have an abortion. Why then do they have the right to tell me I can't.

What did I tell you, so far all of this is emotion, mine.

The question: Should women have the right to have a legal abortion in a good hospital with a good doctor. The answer: Absolutely. And that should be all there is to it.

I understand that the decision is indeed serious, and deserves all the thought one can muster, and cannot be taken lightly. But the individual must have the right to the freedom of choice. Therefore I implore you to put aside the emotions and the mis-placed over-reactions of the radicals and stick to the basics, and to use your influence to represent the choice of the people.

Now, the next big thing is whether we should pay for abortions for the poor? Yes. However, I don't believe they should be allowed private hospital or private doctor care at our expense. I believe that they should receive care at the County Hospital level, or government hospitals, or state. Or, the federal government should set a firm dollar amount which will be paid for an abortion, and if the abortion costs rise above that then that would be the responsibility of the patient. Every woman over the age of 10 knows what causes pregnancy, and if one woman continues to become pregnant time after time, then I don't believe the taxpayers should bear the repeated financial burden of her stupidity. That woman then needs counselling.

One serious problem is the sex education in our schools. Let me tell you about that, all they teach is the reproduction process, and by High School the children already know about that. What we need are specialized Sex Education Instructors. The children need to know about the consequences of their un-educated decisions, the commitments involved with intimacy, the ever-lasting emotional responsibilities of an instant physical desire. And, most importantly they need to learn that love, marriage and children are the ultimate joys in their lives, and irresponsible, pre-mature pre-marital games can lead to years of emotional destruction. It is not possible to "do your own thing" and to hell with the conesquences and ever hope to overcome the lasting psychological as well as emotional destruction.

I am continuously amazed at the ignorance of some parents toward the sex education of their children. It is appalling to me that so many parents are content with their heads in the sand and then completely devastated if their children do something as "dirty" as intercourse. Believe me, Mr. Miller, until we have real sex education we will have to be prepared for continued use of abortion. I can't help but believe that the education would be a lot less expensive (in the long term) than that for abortion costs.

In closing let me say thank you for all of your efforts in our behalf. I understand that your job is one of tremendous responsibility, and I appreciate the job and your representation, and thankful you are willing to take on such a task.

My thanks also to your fine staff.

Sincerely,

GLORIA G. CLARK.

Mr. MICHEL. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, the question before the House is a motion to recede. The choices before the membership are simply the language that the House backed on a rollcall vote earlier this year which permits abortions only if the life of the mother is in danger or the language which would be offered by the gentleman from Texas (Mr. MAHON) if the motion to recede is adopted, the current law.

I devoutly hope that the House will oppose the motion to recede. Undoubtedly we are going to be told that this will present a complication in the last days of this session, that it will hold up the appropriation bill, that this will cause us to be in session next week. I think all those arguments could be laid to rest very simply by the fact that the House has already acted on a continuing resolution which contains substantially the language the gentleman from Texas would have us adopt.

I, too, have some concern when the appropriation bill is replaced by a continuing resolution, but the integrity of the Appropriations Committee and the integrity of the process here, as much as this gentleman constantly tries to support that parliamentary integrity, is absolutely inconsequential compared to the question of life or death that is before us.

It is that ultimate question which this rollcall will put before you, for which you must be responsible to your districts and to your constituents. I hope that you will vote "no" so that the House can stand by the stronger language. I repeat, such action will not present a time problem.

Now, Mr. Speaker, we have heard the same arguments delivered repeatedly on this floor against the right to life and for federally funded abortions, and those arguments may have had some abstract validity at the time they were offered first since we had no accurate statistical analysis. One thing we do know is that the current situation, under Federal law, has not produced back-alley abortions. I refer you to "Monitoring the Health Impact of Restricting Medicaid Funds for Elective Abortions," a paper presented by Dr. Ann Marie Kimball, of the U.S. Department of HEW earlier this year, in which, after a statistical analysis and a lengthy, in-depth study made in various urban hospitals on the impact of the current language, it is said:

> Illegal abortion has been reported infrequently through the AMSH system. Only 5 cases have been recorded to date all occurring in non-Medicaid recipients. Thus, based on complication data we have no indication that Medicaid women in non-funded areas are seeking abortions from non-licensed practitioners or are inducing abortions themselves as a response for the lack of funds for elective abortions.

But I think we can even go further with the language that the House has adopted and make sure that abortions now occurring will not occur. We do not have the final statistical analysis, but the past actions of Congress restricting abortions is having the desired affect. Children are being permitted to live. That is what the entire battle on this issue has been about from the beginning.

The gentleman from Illinois, my colleague, Mr. HYDE, has balanced in his remarks the paradox of the concern for the mother against the concern for the child, and all of us share this concern. But neither has a greater right to life. But have that right.

I would hope that at this late hour in this protracted debate that has now extended over several years that the House will stand firm for its position and let the other body know exactly how we feel, with a certainty that within 3 or 4 days we will adjourn, there will be an HEW funding whether it is through an appropriation or through a continuing resolution.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. BONKER).

Mr. BONKER. Mr. Speaker, I rise in support of the amendment offered by the gentleman from Texas (Mr. MAHON).

Last year, if I recall correctly, we voted on this issue 15 or 16 times. And I recall at that time the chairman of the full committee commenting that in all his years in the House that this issue is the most vexing, and it certainly was the most difficult to work out between the House and the Senate.

Previously I had voted consistently for the Hyde amendment, but I felt that as a result of the efforts on behalf of the chairman of the full committee and the gentleman from Illinois (Mr. MICHEL) that we came up with corrective language and probably the only language that would be acceptable to both the House and the Senate.

Now we can proceed on the basis of facts.

In 1976, based upon a State-by-State survey, there were somewhere between 261,000 and 274,000 abortions at least partially funded by the Federal Government. Regulations placed into effect in the compromise language that was adopted on February 14 of this year, between that time and June 30, 1978, and that is the only period for which we have any data, the number of federally funded abortions totaled 739. On an accumulated basis this works out to about 1,700 federally funded abortions conducted under the compromise language adopted last year. So we have cut federally funded abortions 99 percent.

Even more striking is the fact that of the 739 federally funded abortions, 600 would have been allowed under the language insisted on by the House.

More than 600 were performed to save the life of the mother.

In short, the entire debate last year was over approximately 150 federally funded abortions, and those involved only cases where the mother was in extreme physical danger.

In view of all of this, Mr. Speaker, I can only conclude that it would be an insult to the patience, to the diligence, and to the wisdom of our chairman, the gentleman from Texas (Mr. MAHON), if we were to prolong the debate and prolong resolution of this important issue.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Speaker, I shall not take 2 minutes.

My colleague, the gentleman from Washington, has said it so well. As many Members know, I have a very moderate position on abortion; and that, of course, gives me trouble from both sides.

Nevertheless, it does appear to me that any reasonable people would recognize that we have been through this discussion time and time again. The Mahon position is the one we reached last year after many votes. As my colleague, Mr. BONKERS, has just pointed out, the results have been all that anyone could have asked for; and for us to again go through that same process of voting and voting and revoting and then, in all probability, coming up with this very same position does not impress me as a very wise way of using our time here in the House.

Mr. Speaker, the gentleman from Texas (Mr. MAHON), our chairman, has brought forth a position which I can support. As I say, even from my moderate point of view on abortion, I can support it. It has proven itself, and I would ask the House to support the Mahon language.

Mr. FLOOD. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, let me say that what we have to face here is the simple fact that there is no way by which we can turn a minority into a majority, either in the Senate or in this House. The Senate position is the distinct minority position in this House, and this House's position is the distinct minority position in the Senate.

That means to any rational person that we must compromise; and as has been indicated, if we do not compromise, we run the risk of the entire wheels of Government grinding to a halt.

Mr. Speaker, I have changed my position; frankly, on abortion through the years. When I first voted on it 5 or 6 years ago, I was offended by the idea that we would distinguish between poor women and other women in our society when it came to abortions. I have since come to the judgment that that position is not necessarily valid because I do believe that society has a right to limit public expenditure of funds for items which it finds offensive. I do not believe that women are entitled to free abortions of convenience anymore than I believe that they are entitled to free dental care under medicaid.

Mr. Speaker, the statistics cited by the gentleman from Washington (Mr. BONKER) are very telling. We had over 250,000 abortions funded under medicare-medicaid before this language was adopted a year ago, and this year we will have less than 2,300. Of those abortions, over 70 percent are approved by those who believe in the House position because they are necessary to save the life of the mother.

To suggest, under those circumstances, that this language proposed by the gentleman from Texas (Mr. MAHON) is permissive is bending the truth to a degree I did not think possible on this floor. The facts show otherwise.

Mr. Speaker, this is an extremely restrictive alternative which we are being asked to support today. I think we can all support it in good conscience—at least, I hope so.

Mr. Speaker, I yield back the balance of my time.

Mr. FLOOD. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, there is a time for everything. There is a time for debate. There is a time for rhetoric. Then there comes a time for decision, a time for action. That time is here.

As a matter of personal conviction, I oppose abortion. I do not believe in it as a matter of principle. Certainly I resist the concept of abortion "on demand." I do believe in the legislative process, however. I do believe in the necessity of reasonable men and women to come to a reasonable resolution of a problem. When this subject first arose early last year, I supported the more restrictive language initially, until it became apparent that insistence upon that language was a roadblock to the enactment of the appropriations bill. Again this year an intractible attitude is holding up the appropriations for education and health.

The time has come to stop posturing and recognize that a reasonable resolution of the subject has been made by reasonable men and women. The House and the Senate after many hours of lengthy debate finally arrived at an agreement last year. This is the same Congress as it was last year. I do not know why anybody thinks a final agreement would be any different than that arrived at by the same identical people last year, no matter how many times we might send the bill back to conference.

Surely even those who want to insist once again on the more restrictive language have no idea whatever that it will prevail.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. Surely, I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I just wanted to ask if the gentleman meant by the word posturing to question the sincerity of those of us who want to stay with the House language?

Mr. WRIGHT. I thank the gentleman for permitting me to make totally clear, if there were any doubt, that I would never question the sincerity of my friend, the gentleman from Illinois.

Mr. HYDE. Nor do I question that of the gentleman from Texas.

Mr. WRIGHT. I think that the gentleman proceeds from a depth of conviction which is at the same time emotional and deeply religious. I honor him for his conviction, but I really do not believe that even those who hold the conviction as firmly as he holds it actually expect that the Congress will agree to his language. They did not do so last year. Why then would we continue in a posture of insisting again and again and again?

Will there ever come a time when the gentleman from Illinois and others would be willing to accept any compromise? Now, that is an interesting question. If there is not any time when they ever will accept any compromise of that language, then let us just know that fact and recognize that some will not yield to any linguistic adjustment whatever.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I have another thing or two I want to say; but I will yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I think the gentleman has raised a legitimate question and the answer is one the gentleman already knows. Those of us who believe strongly in the right to life will never accept any compromise until all killing of unborn children with Federal funds is stopped and beyond that, we hope that all abortion will stop. We cannot accept the murder of unborn children under any circumstances unless the life of the mother is endangered.

Mr. WRIGHT. I think that is an honest answer and the gentleman is entitled to take that stand.

I have said I oppose abortion, and I do. But the entire legislative process is one of recognizing the legitimacy of convictions which conflict with our own and achieving honorable accommodations. There are real life situations to which a rigid dogmatism yields no answers. There are innocent young girls from poor families who are victimized by rape and incest, and I am not sure that I have the right to crucify them upon the cross of my own self-assumed moral absolutism. In this perhaps we should heed the counsel of Benjamin Franklin to doubt just a little our own infallibility.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. FLOOD. Mr. Speaker, I have no more time.

Mr. MICHEL. Mr. Speaker, I yield 2 additional minutes to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, I thank the gentleman from Illinois for yielding to me. What I want to say is quite simply this. The manifest decision is clear, that those who insist on the more restrictive language are not ever going to compromise. They will want to continue time and again this way, and that is their right; but there are others in the House who feel as I do that abortion is wrong, but that there are mitigating circumstances.

This language in the Mahon motion is the same language we agreed to last year. This language is not proabortion language under any stretch of the imagination. It is antiabortion language. It imposes restrictions. Now we quibble and quarrel ad infinitum about precisely what restrictions must or must not be imposed.

Let me say this. We have to decide this issue. This Congress has decided it once. We can stay and posture as long as we want; but if this is the attitude, to hold up these bills and try to hold up again the continuing resolution, even as was done last year time and again, then we cannot adjourn on Saturday. There is not any way we can get through.

Are we going to let one issue of this type, deeply as we feel about this conviction, hold up action on the entire range of programs that are authorized and funded by this Congress for health, for education, for safety, for jobs, those needs that are legitimate and deeply felt, and I might say even felt in a deeply religious sense?

So I plead with you, my colleagues, the time for decision has come. If we get out of here on Saturday, as the leadership has promised we will bend every effort to do, then we shall have to adopt the Mahon motion. Sooner or later, on this bill or on a continuing resolution, it is the only apparent answer. I know it is distasteful to some. It is not satisfactory to my friends who want an even more restrictive prohibition.

But it is a prohibition, and it is a reasonably restrictive prohibition. It is the prohibition which the Members of this same Congress, after many, many hours of lengthy debate, finally agreed to last year.

So, Mr. Speaker, for those reasons, I implore the Members, let us not unduly delay this session yet again. Let us vote for the Mahon substitute.

Mr. FLOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hold in my hand H.R. 12929, which passed the House June 13, 1978. This is the 1979 bill. Here is the language in this bill as passed by this House in June:

Section 210. None of the funds provided for in this Act shall be used to perform abortions except where the life of the mother shall be endangered if the fetus were carried to term.

That is the language passed by the House. It is in the 1979 bill. So I am unable to support the gentleman's motion to recede from the House language with respect to the funding of abortions.

I voted against this proposed compromise language last December, and I voted against it in June. The reasons are very simple. I believe that the exceptions contained in the language are much too broad. They offer possibilities for abuse. So I am still standing by the provisions which the House has repeatedly adopted and which provide that none of the funds in the bill will be used to pay for abortion except where the life of the mother would be endangered if the fetus were carried to term. That is the House language.

● Mr. WEISS. Mr. Speaker, I support the motion introduced by Mr. MAHON. If approved by the House, this will allow the compromise language on abortion reached last year to become part of the Labor-HEW appropriations bill for fiscal year 1979.

My position on Federal funding for abortion is well known. I believe that the Supreme Court decision in Roe against Wade clearly affirms a woman's right to choose abortion in the early stages of pregnancy, and I support that position. As such, the Hyde amendment discriminates against a segment of our population by denying their access to a legal, medical procedure. I have repeatedly voted and spoken against the Hyde amendment, and I continue to oppose it.

However, it is apparent that the compromise language is the most that prochoice advocates can now hope for. Last year, the House and Senate failed to concur until December, thus holding up final passage of the Labor-HEW appropriations bill and affecting all programs administered by those agencies. Therefore, although I favor full medicaid funding for abortion, I reluctantly support this compromise language as the most realistic and least restrictive measure which we can expect. I urge my colleague to join me.●

Mr. FLOOD. Mr. Speaker, I move the previous question on the preferential motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. NEDZI). The question is, Will the House recede from its disagreement to Senate amendment No. 103.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MAHON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 188, nays 216, not voting 26, as follows:

[Roll No. 895]

YEAS—188

Addabbo	Dellums	Heftel
Akaka	Derrick	Holland
Alexander	Dicks	Hollenbeck
Anderson, Calif.	Dingell	Holtzman
	Dodd	Horton
Anderson, Ill.	Downey	Howard
Andrews, N.C	Drinan	Hughes
Ashley	Duncan, Oreg.	Jacobs
AuCoin	Eckhardt	Jeffords
Baucus	Edgar	Johnson, Calif.
Bellenson	Edwards, Calif.	Johnson, Colo.
Bennett	Evans, Colo.	Jones, N.C.
Bingham	Evans, Del.	Jones, Tenn.
Blanchard	Fascell	Jordan
Bolling	Fenwick	Kastenmeier
Bonker	Findley	Keys
Brademas	Fisher	Kostmayer
Breckinridge	Flippo	Krebs
Brinkley	Flowers	Leach
Brodhead	Flynt	Lehman
Brooks	Foley	Levitas
Brown, Calif.	Ford, Mich.	Lloyd, Calif.
Broyhill	Ford, Tenn.	Long, Md.
Buchanan	Forsythe	Lundine
Burton, John	Fountain	McCloskey
Burton, Phillip	Fowler	McCormack
Butler	Fraser	McFall
Carr	Frenzel	McHugh
Chappell	Fuqua	McKinney
Chisholm	Garcia	Maguire
Clay	Gilman	Mahon
Cleveland	Ginn	Mann
Cohen	Glickman	Martin
Collins, Ill.	Green	Mattox
Conable	Gudger	Meeds
Conyers	Hamilton	Meyner
Corman	Hannaford	Mikulski
Cornwell	Harkin	Mikva
Coughlin	Harris	Milford
Danielson	Hawkins	Miller, Calif.
Davis	Hefner	Mineta

Mitchell, Md.	Richmond	Stockman
Moffett	Risenhoover	Stokes
Mollohan	Rogers	Studds
Moorhead, Pa.	Roncalio	Thompson
Neal	Rose	Tsongas
Nedzi	Rosenthal	Tucker
Nix	Roybal	Udall
Obey	Ryan	Ullman
Ottinger	Santini	Van Deerlin
Panetta	Scheuer	Walgren
Patterson	Schroeder	Waxman
Pattison	Seiberling	Weaver
Pease	Sharp	Weiss
Pepper	Sikes	Whitley
Pickle	Simon	Wiggins
Pike	Slack	Wilson, Bob
Poage	Smith, Iowa	Wilson, C. H.
Pritchard	Solarz	Wilson, Tex.
Pursell	Spellman	Wirth
Railsback	Stark	Wolff
Rangel	Steed	Wright
Reuss	Steers	Yates

NAYS—216

Abdnor	Gammage	Myers, Michael
Ambro	Gaydos	Natcher
Andrews, N. Dak.	Gephardt	Nichols
Annunzio	Gibbons	Nolan
Applegate	Goodling	Nowak
Archer	Gore	O'Brien
Armstrong	Gradison	Oakar
Ashbrook	Grassley	Oberstar
Aspin	Guyer	Patten
Badham	Hagedorn	Perkins
Bafalis	Hall	Pressler
Baldus	Hammer-schmidt	Price
Barnard	Hanley	Quayle
Bauman	Hansen	Quillen
Beard, R.I.	Harsha	Regula
Beard, Tenn.	Heckler	Rhodes
Bedell	Hightower	Rinaldo
Benjamin	Hillis	Roberts
Bevill	Holt	Robinson
Biaggi	Hubbard	Rodino
Blouin	Huckaby	Roe
Boggs	Hyde	Rooney
Boland	Ichord	Rostenkowski
Bonior	Ireland	Rousselot
Bowen	Jenkins	Rudd
Breaux	Jenrette	Runnels
Broomfield	Jones, Okla.	Ruppe
Brown, Ohio	Kasten	Russo
Burgener	Kazen	Satterfield
Burke, Fla.	Kelly	Sawyer
Burke, Mass.	Kemp	Schulze
Burleson, Tex.	Kildee	Sebelius
Burlison, Mo.	Kindness	Shuster
Carney	LaFalce	Skelton
Carter	Lagomarsino	Skubitz
Cavanaugh	Latta	Smith, Nebr.
Cederberg	Le Fante	Snyder
Clausen, Don H.	Lederer	Spence
Clawson, Del	Lent	St Germain
Coleman	Livingston	Staggers
Collins, Tex.	Lloyd, Tenn.	Stangeland
Conte	Long, La.	Stanton
Corcoran	Lott	Steiger
Cornell	Lujan	Stratton
Cunningham	Luken	Stump
D'Amours	McClory	Symms
Daniel, Dan	McDade	Taylor
Daniel, R. W.	McDonald	Thone
de la Garza	McEwen	Traxler
Delaney	McKay	Treen
Dent	Madigan	Trible
Derwinski	Markey	Vander Jagt
Devine	Marks	Vanik
Dickinson	Marlenee	Vento
Dornan	Marriott	Volkmer
Duncan, Tenn.	Mathis	Waggonner
Early	Mazzoli	Walker
Edwards, Ala.	Michel	Walsh
Edwards, Okla.	Miller, Ohio	Wampler
Eilberg	Minish	Watkins
Emery	Mitchell, N.Y.	Whalen
English	Moakley	Whitehurst
Erlenborn	Montgomery	Whitten
Ertel	Moore	Winn
Evans, Ga.	Moorhead, Calif.	Wydler
Evans, Ind.	Mottl	Wylie
Fary	Murphy, Ill.	Yatron
Fish	Murphy, N.Y.	Young, Alaska
Fithian	Murphy, Pa.	Young, Fla.
Flood	Murtha	Young, Mo.
Florio	Myers, Gary	Zablocki
Frey	Myers, John	Zeferetti

NOT VOTING—26

Ammerman	Crane	Krueger
Brown, Mich.	Diggs	Leggett
Burke, Calif.	Giaimo	Moss
Caputo	Goldwater	Pettis
Cochran	Gonzalez	Preyer
Cotter	Harrington	Quie
Rahall	Sisk	White
Sarasin	Teague	Young, Tex.
Shipley	Thornton	

The Clerk announced the following pairs:

On this vote:

Mrs. Burke of California for, with Mr. Quie against.

Mr. Harrington for, with Mr. Crane against.

Mr. Shipley for, with Mr. Goldwater against.

Mr. Diggs for, with Mr. Cotter against.

Until further notice:

Mr. Rahall with Mr. Cochran of Mississippi.

Mr. Ammerman with Mr. Brown of Michigan.

Mr. Giaimo with Mrs. Pettis.

Mr. Krueger with Mr. Thornton.

Mr. Gonzalez with Mr. Leggett.

Mr. White with Mr. Caputo.

Mr. Teague with Mr. Sisk.

Mr. Preyer with Mr. Moss.

Mr. OTTINGER and Mr. FLIPPO changed their vote from "nay" to "yea."

So the motion to recede was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. NEDZI). The question is on the motion offered by the gentleman from Pennsylvania (Mr. FLOOD).

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 13511, REVENUE ACT OF 1978

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 13511) to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so since the gentleman from Oregon (Mr. ULLMAN) is asking to send the tax bill to conference, and there have been a number of members of the committee with whom I have talked, and other Members, who have heard rumors that this bill, even if it is sent to conference today, cannot be completed, put in a final printed form, and acted upon by both bodies between now and Saturday night, which is the projected adjournment time. I thought this would be a good time for the gentleman from Oregon (Mr. ULLMAN) to give the House some definitive opinion, as he looks at it, on what the prospects are.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman.

Mr. ULLMAN. Mr. Speaker, I thank the gentleman for yielding, and I want to say to the gentleman from Maryland (Mr. BAUMAN) that I appreciate the opportunity to discuss this issue with the gentleman and with the Members of the House.

The conference will go into session immediately upon the appointing of the conferees. There is no reason why we cannot complete conference action by late Friday night, bring the conference report to the House on Saturday and complete action by late Saturday night in both the House and the Senate.

Mr. BAUMAN. I hope the assurances of the gentleman prove to be correct.

Mr. ULLMAN. If the gentleman will yield further, it is a long and difficult route, there is going to be nothing easy about it. I think the gentleman understands there are a lot of difficult and complex issues to be resolved.

We are of course, going to protect the position of the House to the maximum extent possible.

We met with the President this morning, Senator LONG and I, and had an understanding there, and our effort will be to get a bill that the President can sign. I think that is very definitely achievable, and that we will work out our differences in a way that will result in a bill.

Mr. JACOBS. Mr. Speaker, if the gentleman will yield, the chairman, the gentleman from Oregon (Mr. ULLMAN) has said that the conference might be long and difficult. Could the gentleman tell the House what he means by "long"?

Mr. ULLMAN. If the gentleman will yield, long hours.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. CONABLE. Mr. Speaker, reserving the right to object, I would like to explain to the Members of the House my intentions on this matter, so that there will be no misunderstanding about it. I have a motion to instruct.

The SPEAKER pro tempore. The gentleman will be recognized for that purpose.

Mr. CONABLE. I understand that. It is my intention, however, to use as little of the time that will be allotted to me as possible, but to do so sufficiently so the Members will understand the issue.

It is also my intention to yield half the time that I will be entitled to to the people designated by the chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN) on the other side of the aisle, for purposes of discussion only.

I want it understood that the time will be divided in that way informally, even though I would be controlling it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. OTTINGER. Reserving the right to object, Mr. Speaker, some 50 Members of the House have joined me in a letter expressing our intention to instruct the conferees with respect to sticking to the House position on capital gains relief for homeowners, the provision which allows up to $100,000 relief for the one-time sale of a home.

Is it the intention of the gentleman from New York (Mr. CONABLE) to allow

an amendment which would give us that opportunity?

Mr. CONABLE. If the gentleman will yield, Mr. Speaker, it is not our intention to do that.

Mr. OTTINGER. Further reserving the right to object, Mr. Speaker, I would like to advise the Members of the House that we will seek to defeat the previous question on this matter so that that can be brought before the House. The House voted overwhelmingly in favor of this provision, and the Members should be given an opportunity to express themselves. The House provision is considerably more effective in giving needed relief than is the position passed by the Senate. The Senate provision applies a complicated formula that would render the provision of much less value and, most importantly, extends the provision only to taxpayers over the age 55. In today's mobile society where corporations move their employees like players on a chessboard, the age 55 limitation is inadequate, both from the viewpoint of the individuals below 55 affected and from the viewpoint of the vast amount of real estate frozen off the market by reason of the huge unrealized gains on their homes which would be subject to tax if the House provision is not passed.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I am glad to yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I thank the gentleman for yielding.

I would like to say that I supported the position of the gentleman insofar as the House position is concerned, but the gentleman from Oregon (Mr. ULLMAN) has already stated that he intends to vigorously defend the House position at the conference.

Yet, it is my understanding that the motion the gentleman from New York (Mr. CONABLE) will be making relates to an instruction relative to a Senate position. Mr. Speaker, it seems to me much more necessary for us to instruct the House conferees rather than support the position taken by the gentleman from New York.

Mr. OTTINGER. Further reserving the right to object, Mr. Speaker, we could have the opportunity to do both if my amendment were accepted—the homeowners provision would be added to the motion of the gentleman from New York (Mr. CONABLE).

It is my understanding that the gentleman from Oregon (Mr. ULLMAN) is concerned about the cost of the provision, and I am not at all satisfied that he is going to hold true to the House position.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I am glad to yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, let me make my position absolutely clear. I am fully and totally supportive of the position which was included in the House bill relating to the $100,000 onetime life exemption from capital gains on the sale of a home. I do not want any misunderstanding about that.

My reference to revenue and my concern about revenue arises from our discussion with the President in which the made this the most important condition of signing the bill. It goes not just to this matter, but to all matters across the board. However, I want to assure the gentleman that I—and I think I can speak for the conferees on the House side—am totally supportive of this provision of the bill. I can assure him further that we are going to do everything humanly possible to keep this provision in the bill.

Mr. CONABLE. If the gentleman will yield, Mr. Speaker, I think I can give him that assurance also.

Mr. OTTINGER. Mr. Speaker, I thank both gentlemen, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

PREFERENTIAL MOTION OFFERED BY MR. CONABLE

Mr. CONABLE. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. CONABLE moves that the Managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 13511, the Revenue Act of 1978, be instructed to concur in the language of the Senate amendment which would provide income tax rate reductions for each of the four calendar years beginning with calendar year 1980, conditioned on the ratio of outlays to the Gross National Product, the rate of growth of Federal outlays, and balancing the Federal budget for fiscal year 1982, as follows:

PART 2—ADDITIONAL REDUCTIONS

SEC. 109 ADDITIONAL REDUCTIONS IN RATES.

(a) IN GENERAL.—Section 1 (relating to tax imposed) is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"(a) GENERAL RULE.—There is hereby imposed on the taxable income, for the taxable years beginning in the calendar years specified in subsection (b)(2), of every—

"(1) married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and every surviving spouse (as defined in section 2(a)), a tax determined under the applicable schedule for the taxable year,

"(2) head of a household (as defined in section 2(b)), a tax determined under the applicable schedule for the taxable year,

"(3) every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined under the applicable schedule for the taxable year, and

"(4) a married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax equal to one-half the tax which would be determined for an individual described in paragraph (1) with the same taxable income.

"(b) APPLICABLE SCHEDULES.—

"(1) APPLICATION OF SCHEDULES TO INDIVIDUALS.—For purposes of subsection (a) the applicable schedule for—

"(A) individuals described in subsection (a)(1) is schedule 2,

"(B) individuals described in subsection (a)(2) is schedule 3, and

"(C) individuals described in subsection (a)(3) is schedule 1.

"(2) APPLICATION OF SCHEDULES TO TAXABLE YEARS.—

"(A) CALENDAR YEAR 1980.—The schedules in effect for taxable years beginning in 1980 are as follows:

"Schedule 1

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$2,300	$3,400	$0+12.3%	$2,300
$3,400	$4,400	$136+13.3%	$3,400
$4,400	$6,500	$269+15.2%	$4,400
$6,500	$8,500	$588+19.0%	$6,500
$8,500	$10,800	$968+20.9%	$8,500
$10,800	$12,900	$1,449+22.8%	$10,800
$12,900	$15,000	$1,928+24.7%	$12,900
$15,000	$18,200	$2,446+28.5%	$15,000
$18,200	$23,500	$3,358+32.3%	$18,200
$23,500	$28,800	$5,070+37.0%	$23,500
$28,800	$34,100	$7,034+41.8%	$28,800
$34,100	$41,500	$9,249+46.5%	$34,100
$41,500	$55,300	$12,694+52.2%	$41,500
$55,300	$81,800	$19,904+59.8%	$55,300
$81,800	$108,300	$35,765+64.6%	$81,800
$108,300		$52,884+66.5%	$108,300

"Schedule 2

$3,400	$5,500	$0+12.3%	$3,400
$5,500	$7,600	$259+13.3%	$5,500
$7,600	$11,900	$539+15.2%	$7,600
$11,900	$16,000	$1,192+19.9%	$11,900
$16,000	$20,200	$2,010+23.7%	$16,000
$20,200	$24,600	$3,008+27.5%	$20,200
$24,600	$29,900	$4,220+30.4%	$24,600
$29,900	$35,200	$5,831+36.1%	$29,900
$35,200	$45,800	$7,744+40.8%	$35,200
$45,800	$60,000	$12,074+46.5%	$45,800
$60,000	$85,600	$18,685+51.3%	$60,000
$85,600	$109,400	$31,817+56.0%	$85,600
$109,400	$162,400	$45,157+60.8%	$109,400
$162,400	$215,400	$77,381+64.6%	$162,400
$215,400		$111,619+66.5%	$215,400

"Schedule 3

$3,000	$5,100	$0+12.3%	$3,000
$5,100	$7,200	$259+13.3%	$5,100
$7,200	$9,400	$539+15.2%	$7,200
$9,400	$12,500	$873+20.9%	$9,400
$12,500	$15,700	$1,521+22.8%	$12,500
$15,700	$18,900	$2,251+25.6%	$15,700
$18,900	$24,200	$3,071+29.4%	$18,900
$24,200	$29,500	$4,632+34.2%	$24,200
$29,500	$34,800	$6,445+39.9%	$29,500
$34,800	$45,400	$8,559+43.7%	$34,800
$45,400	$61,300	$13,192+51.3%	$45,400
$61,300	$82,500	$21,348+56.0%	$61,300
$82,500	$109,000	$33,231+59.8%	$82,500
$109,000	$162,000	$49,091+64.6%	$109,000
$162,000		$83,329+66.5%	$162,000

"(B) CALENDAR YEAR 1981.—The schedules in effect for taxable years beginning in 1981 are as follows:

"Schedule 1

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$2,300	$3,400	$0+11.6%	$2,300
$3,400	$4,400	$127+12.5%	$3,400
$4,400	$6,500	$252+14.2%	$4,400
$6,500	$8,500	$551+17.8%	$6,500
$8,500	$10,800	$907+19.6%	$8,500
$10,800	$12,900	$1,357+21.4%	$10,800
$12,900	$15,000	$1,806+23.1%	$12,900
$15,000	$18,200	$2,292+26.7%	$15,000
$18,200	$23,500	$3,146+30.3%	$18,200
$23,500	$28,800	$4,750+34.7%	$23,500
$28,800	$34,100	$6,590+39.2%	$28,800
$34,100	$41,500	$8,665+43.6%	$34,100
$41,500	$55,300	$11,892+48.9%	$41,500
$55,300	$81,800	$18,647+56.1%	$55,300
$81,800	$108,300	$33,506+60.5%	$81,800
$108,300		$49,544+62.3%	$108,300

"Schedule 2

$3,400–	$5,500	$0+11.6%	$3,400
$5,500–	$7,600	$243+12.5%	$5,500
$7,600–	$11,900	$505+14.2%	$7,600
$11,900–	$16,000	$1,117+18.7%	$11,900
$16,000–	$20,200	$1,883+22.2%	$16,000
$20,200–	$24,600	$2,818+25.8%	$20,200
$24,600–	$29,900	$3,953+28.5%	$24,600
$29,900–	$35,200	$5,463+33.8%	$29,900
$35,200–	$45,800	$7,255+38.3%	$35,200
$45,800–	$60,000	$11,312+43.6%	$45,800
$60,000–	$85,600	$17,505+48.1%	$60,000
$85,600–	$109,400	$29,808+52.5%	$85,600
$109,400–	$162,400	$42,305+57.0%	$109,400
$162,400–	$215,400	$72,494+60.5%	$162,400
$215,400		$104,570+62.3%	$215,400

"Schedule 3

$3,000–	$5,100	$0+11.6%	$3,000
$5,100–	$7,200	$243+12.5%	$5,100
$7,200–	$9,400	$505+14.2%	$7,200
$9,400–	$12,500	$818+19.6%	$9,400
$12,500–	$15,700	$1,425+21.4%	$12,500
$15,700–	$18,900	$2,108+24.0%	$15,700
$18,900–	$24,200	$2,877+27.6%	$18,900
$24,200–	$29,500	$4,340+32.0%	$24,200
$29,500–	$34,800	$6,038+37.4%	$29,500
$34,800–	$45,400	$8,019+40.9%	$34,800
$45,400–	$61,300	$12,359+48.1%	$45,400
$61,300–	$82,500	$20,000+52.5%	$61,300
$82,500–	$109,000	$31,132+56.1%	$82,500
$109,000–	$162,000	$45,991+60.5%	$109,000
$162,000		$78,066+62.3%	$162,000

"(C) CALENDAR YEAR 1982.—The schedules in effect for taxable years beginning in 1982 are as follows:

"Schedule 1

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$2,300–	$3,400	$0+11.2%	$2,300
$3,400–	$4,400	$123+12.0%	$3,400
$4,400–	$6,500	$243+13.8%	$4,400
$6,500–	$8,500	$532+17.2%	$6,500
$8,500–	$10,800	$876+18.9%	$8,500
$10,800–	$12,900	$1,311+20.6%	$10,800
$12,900–	$15,000	$1,745+22.4%	$12,900
$15,000–	$18,200	$2,214+25.8%	$15,000
$18,200–	$23,500	$30,40+29.2%	$18,200
$23,500–	$28,800	$4,590+33.5%	$23,500
$28,800–	$34,100	$6,367+37.8%	$28,800
$34,100–	$41,500	$8,373+42.1%	$34,100
$41,500–	$55,300	$11,491+47.3%	$41,500
$55,300–	$81,800	$180,19+54.2%	$55,300
$81,800–	$108,300	$32,376+58.5%	$81,800
$108,300		$47,874+60.2%	$108,300

"Schedule 2

$3,400–	$5,500	$0+11.2%	$3,400
$5,500–	$7,600	$235+12.0%	$5,500
$7,600–	$11,900	$488+13.8%	$7,600
$11,900–	$16,000	$1,079+18.1%	$11,900
$16,000–	$20,200	$1,820+21.5%	$16,000
$20,200–	$24,600	$2,723+24.0%	$20,200
$24,600–	$29,900	$3,820+27.5%	$24,600
$29,900–	$35,200	$5,279+32.7%	$29,900
$35,200–	$45,800	$7,011+37.0%	$35,200
$45,800–	$60,000	$10,931+42.1%	$45,800
$60,000–	$85,600	$16,914+46.4%	$60,000
$85,600–	$109,400	$28,803+50.7%	$85,600
$109,400–	$162,400	$40,879+55.0%	$109,400
$162,400–	$215,400	$70,050+58.5%	$162,400
$215,400		$101,045+60.2%	$215,400

"Schedule 3

$3,000–	$5,100	$0+11.2%	$3,000
$5,100–	$7,200	$235+12.0%	$5,100
$7,200–	$9,400	$488+13.8%	$7,200
$9,400–	$12,500	$790+18.9%	$9,400
$12,500–	$15,700	$1,377+20.6%	$12,500
$15,700–	$18,900	$2,037+23.2%	$15,700
$18,900–	$24,200	$2,780+26.7%	$18,900
$24,200–	$29,500	$4,193+31.0%	$24,200
$29,500–	$34,800	$5,834+36.1%	$29,500
$34,800–	$45,400	$7,749+39.6%	$34,800
$45,400–	$61,300	$11,942+46.4%	$45,400
$61,300–	$82,500	$19,326+50.7%	$61,300
$82,500–	$109,000	$30,083+54.2%	$82,500
$109,000–	$162,000	$44,440+58.5%	$109,000
$162,000		$75,435+60.2%	$162,000

"(D) CALENDAR YEAR 1983.—The schedules in effect for taxable years beginning in 1983 are as follows:

"Schedule 1

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$2,300–	$3,400	$0+10.7%	$2,300
$3,400–	$4,400	$117+11.5%	$3,400
$4,400–	$6,500	$232+13.1%	$4,400
$6,500–	$8,500	$508+16.4%	$6,500
$8,500–	$10,800	$836+18.0%	$8,500
$10,800–	$12,900	$1,250+19.7%	$10,800
$12,900–	$15,000	$1,664+21.3%	$12,900
$15,000–	$18,200	$2,111+24.6%	$15,000
$18,200–	$23,500	$2,899+27.9%	$18,200
$23,500–	$28,800	$4,376+32.0%	$23,500
$28,800–	$34,100	$6,071+36.1%	$28,800
$34,100–	$41,500	$7,984+40.2%	$34,100
$41,500–	$55,300	$10,957+45.1%	$41,500
$55,300–	$81,800	$17,181+51.7%	$55,300
$81,800–	$108,300	$30,871+55.8%	$81,800
$108,300		$45,647+57.4%	$108,300

"Schedule 2

$3,400–	$5,500	$0+10.7%	$3,400
$5,500–	$7,600	$224+11.5%	$5,500
$7,600–	$11,900	$465+13.1%	$7,600
$11,900–	$16,000	$1,029+17.2%	$11,900
$16,000–	$20,200	$1,735+20.5%	$16,000
$20,200–	$24,600	$2,596+23.8%	$20,200
$24,600–	$29,900	$3,642+26.2%	$24,600
$29,900–	$35,200	$5,033+31.2%	$29,900
$35,200–	$45,800	$6,685+35.3%	$35,200
$45,800–	$60,000	$10,422+40.2%	$45,800
$60,000–	$85,600	$16,128+44.3%	$60,000
$85,600–	$109,400	$27,463+48.4%	$85,600
$109,400–	$162,400	$38,978+52.5%	$109,400
$162,400–	$215,400	$66,792+55.8%	$162,400
$215,400		$96,345+57.4%	$215,400

"Schedule 3

$3,000–	$5,100	$0+10.7%	$3,000
$5,100–	$7,200	$224+11.5%	$5,100
$7,200–	$9,400	$465+13.1%	$7,200
$9,400–	$12,500	$754+18.0%	$9,400
$12,500–	$15,700	$1,313+19.7%	$12,500
$15,700–	$18,900	$1,943+22.1%	$15,700
$18,900–	$24,200	$2,651+25.4%	$18,900
$24,200–	$29,500	$3,998+29.5%	$24,200
$29,500–	$34,800	$5,563+34.4%	$29,500
$34,800–	$45,400	$7,388+37.7%	$34,800
$45,400–	$61,300	$11,387+44.3%	$45,400
$61,300–	$82,500	$18,427+48.4%	$61,300
$82,500–	$109,000	$28,684+51.7%	$82,500
$109,000–	$162,000	$42,373+55.8%	$109,000
$162,000		$71,926+57.4%	$162,000

"(c) SCHEDULE REDUCTION NOT TO TAKE EFFECT WHEN FEDERAL SPENDING EXCEEDS LIMITATIONS.—

"(1) NOTIFICATION OF CONGRESS.—In calendar years 1979 through 1982, after the adoption by the Congress of the second concurrent resolution on the Budget or any further concurrent resolution on the Budget adopted by the Congress under section 310 of the Congressional Budget Act of 1974 (referred to elsewhere in this subsection as the 'budget resolution') and before the beginning of the next calendar year, the Secretary shall notify the Congress if—

"(A) the total amount of Federal outlays agreed to in the budget resolution for the fiscal year which ends within such next calendar year exceed the following percent of the projected gross national product projected by the Congressional Budget Office for that fiscal year on the basis of the budget resolution for the fiscal year: 21 percent in fiscal year 1980; 20.5 percent in fiscal year 1981; 20.0 percent in fiscal year 1982; and 19.5 percent in fiscal year 1983.

"(B) only for fiscal year 1982 if the total amount of federal outlays specified in the Second Concurrent Budget Resolution for fiscal year 1982 exceed the total revenues specified in that resolution.

"(C) the increase in total Federal outlays specified in the budget resolution for that fiscal year exceeds the amount of Federal outlays estimated by the Congressional Budget Office to have actually occurred during the preceding fiscal year by a percent greater than—

"(i) the percent increase in the year to year implicit gross national product deflator (as projected by the Congressional Budget Office) for the 4 calendar quarter period ending on September 30 of the year following the one in which the Secretary is to make the notification, plus

"(ii) one percent.

"(2) SCHEDULED REDUCTION NOT TO TAKE EFFECT.—If any event described in subparagraph (A), (B), or (C) of paragraph (1) occurs, then—

"(A) the schedules which, under subsection (b), would be in effect for the next calendar year, shall not take effect for such next calendar year, and

"(B) the schedule which, under subsection (b), is in effect for the calendar year in which the event occurs shall remain in effect for the next calendar year.

"(3) APPLICATION OF PARAGRAPH (2) ON A CUMULATIVE BASIS.—If any scheduled tax reduction under subsection (b) does not go into effect during the calendar year for which it is scheduled (because of the application of paragraph (2)), then the reductions scheduled to go into effect in subsequent calendar years, shall take effect for the scheduled calendar year under subsection (b) unless precluded by the application of paragraph (2) in that year.

"(4) CORRESPONDING ADJUSTMENTS.—For each calendar year for which a schedule under subsection (b) is in effect, the Secretary shall change the zero bracket amount under section 63 for the calendar year, the tax tables prescribed under section 3, the withholding tables prescribed under section 3402, the dollar amounts set forth in section 3402(m)(1) (relating to percentage method withholding), and the dollar amounts set forth in 6012(a) (relating to filing requirements) necessary to reflect in such tables and amounts the schedules in effect for the calendar year. The amounts adjusted by the Secretary under this paragraph for any calendar year shall be the amounts in effect for taxable years beginning in that calendar year.".

Mr. CONABLE (during the reading). Mr. Speaker, I ask unanimous consent that the preferential motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. CONABLE) is recognized for 1 hour.

Mr. CONABLE. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I have offered a motion to instruct the managers on the part of the House on the tax cut legislation, H.R. 13511, to accept the Nunn-Chiles-Bellmon-Roth amendment.

This bipartisan amendment provides for an automatic, 4-year, across-the-board cut of about 5 percent each year beginning in 1980. Under the terms of the amendment, the tax cut would be canceled for the subsequent calendar year if outlays exceeded a specified percentage of the gross national product or if the increase in outlays exceeded the rate of inflation plus 1 percent. Also, if the fiscal 1982 budget runs a deficit, the calendar 1982 tax cuts would not go into effect.

This approach to fiscal discipline is responsible and workable. It explicitly links tax cuts and spending restraint, something which was implicit in the Kemp-Roth tax cut proposal. It dovetails with the congressional budget process in a constructive way that enables us to accommodate the meaningful tax cuts needed for a healthy and vigorous economy.

This is not a new idea. A 5-year plan to cut both taxes and spending was proposed as an amendment to the first and second concurrent resolutions on the budget by my colleague Congresswoman HOLT and me. It very nearly achieved success each time. We are heartened to see that a majority of both Democratic and Republican Senators voted this coalition proposal to a strong 65-to-20 acceptance. It appears that at last this proposal is getting the serious consideration that it deserves.

There are many good reasons to back the coalition amendment. Inflation has been steadily nudging the tax bite upward in recent years, and these "extra" revenues have been willingly used by the Federal Government for down payments on expensive new programs. Not surprisingly, we are now at a spending level which represents an extraordinarily large portion of our gross national product. Instead of spending amounts equivalent to 19 percent of GNP as we did in the 1960's or 20 percent of GNP as we did between 1970 and 1974, we are now hovering at the 23 percent mark. The coalition amendment would gradually push this spending back down until the 19-percent mark is once again achieved in 1983. This restraint would be applied gradually and responsibly. Outlays would be permitted to rise with the rate of inflation, and an additional 1 percent—these days 1 percent means more than $5 billion—is allowed in order to accommodate new or increased spending which may become necessary. Thus, the amendment does not mean cutbacks in existing programs or the stifling of new initiatives, it merely serves as a device to restrain excessive spending increases.

If we stick to this timetable, we will have achieved a balanced budget by 1982. Now the fact that it will be in balance is not as remarkable as the fact that it will be balanced at a level commensurate to 19 percent of GNP. We could balance the budget today if we were willing to see taxes rise to 23 percent of GNP. But the price would be a ruined economy.

As far as fiscal 1979 is concerned, the coalition amendment has no impact. The amendment assumes enactment of 1979 tax cuts of the dimensions allowed by the second concurrent resolution. The tax rate reductions begin the year after next and occur each year thereafter until 1983. This gives us plenty of time to plan spending priorities and patterns that fit this design with a minimum of dislocation.

Voting for this amendment is a way to make clear our firm resolve to lower taxes and spending over the next 5 years. We all understand that in the waning days of the 95th Congress we cannot dictate to the 96th and 97th Congress limits on their budget decisions. But adoption of this amendment is a public commitment to a budget policy of restraint which offers subsequent Congresses specific fiscal goals as well as a plan for achieving them.

If for unforeseen reasons it later becomes necessary to change the fiscal policy from the amendment's 5-year plan, this can be done. If a larger tax cut is desired, this can be enacted in addition to the 5-percent automatic cut. On the other hand, if it becomes necessary to spend more than the percent of GNP specified in the amendment, Congress could agree to do so. However, in this case the automatic 5-percent tax cut would not go into effect and an appropriate tax policy would have to be devised to meet the changed situation.

In summary, the bipartisan coalition amendment makes good fiscal sense and good political sense. The voters have indicated in recent months that they think Government is already quite large enough, and they have shown their willingness to check the reins directly if their elected Representatives are unwilling to do so. President Carter has said that he plans to hold down the fiscal 1980 deficit to a level even lower than the one projected in the coalition plan, and he anticipates a balanced budget on approximately the same time schedule.

Despite 4 years experience with the congressional budget process, we have never enunciated a fiscal policy. This amendment gives us the chance to do so. We can blueprint spending and taxing policies for the next 5 years, and with determination and perhaps some luck, we will be able to follow the plan.

But first we must agree to this goal. I urge my colleagues to do this by voting to instruct House tax bill conferees to concur in the coalition fiscal policy amendment.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I rise in support of the motion to instruct the House conferees to accept the amendment to the Senate-passed tax bill which was sponsored by a bipartisan coalition and accepted overwhelmingly in the other body. The essence of the Nunn-Chiles-Bellmon-Roth amendment is that it establishes the need to tie tax cuts with spending restraint. This past year in particular I believe it has become painfully clear to a majority in the House that the people want both lower taxes and lower deficits. Unfortunately, in my judgment, the House could not bring itself to accommodate both of these goals, and instead voted to lower the budget deficit largely at the expense of the taxpayer by reducing the size of the tax cuts originally proposed for 1979. The result, of course, was quite unsatisfactory: most people now realize that any tax reductions they will receive next year will not offset the tax increases they will experience due to higher social security deductions and the effects of inflation pushing their income into higher tax brackets.

The only answer, Mr. Speaker, is that we must reduce Federal spending in order to both balance the budget and reduce tax burdens. There is no other way. From my perspective as the ranking minority member of the Budget Committee, I believe this amendment would do more to strengthen the congressional budget process than any other piece of legislation which has come before this House.

For those who opposed the Kemp-Roth tax cut bill on the grounds it would entail large reductions in Federal revenues via tax cuts regardless of what was happening to Federal spending over the next 3 years, the Nunn-Chiles-Bellmon-Roth amendment provides a positive check against runaway deficits. We get the tax cuts if, and only if, Federal spending is restrained. It will force the Congress to make the hard choices it should have been making in the past but never did: it will force us to decide whether to have big new spending programs or to cut taxes; we will not be able to have it both ways.

If a majority of the Members of this body decide in subsequent years that new spending ought to take priority over tax reduction, so be it. Those Members, presumably, will be able to convince their constituents that these new spending programs are better for them than is tax relief. On the other hand, our desire to provide tax cuts can provide a strong defense against the wall-to-wall lobbyists around here who are constantly after more and bigger Federal programs. We can tell them, "Sorry, but our taxpayers can't afford it." I, for one, think that would be one of the best improvements we could ever make, and I urge my colleagues to join me in supporting the motion of the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I thank the gentleman for his remarks.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, as I take it, this approach was created just several days ago in the form of the Nunn amendment, was it not?

Mr. CONABLE. Mr. Speaker, if I may reclaim my time, let me say there is a long history of similar amendments, and this puts together several of those proposals explicitly, even though implicitly this has been part of the fiscal policy many Members have been advocating in this House for some time.

Mr. VANIK. Mr. Speaker, if the gentleman will yield further, the point I wanted to make is that this plan, which is very intricate, was never really discussed before any of the congressional committees. We have no statements from

economists or people who are expert on the flow of the economy or who can tell us what kind of a straitjacket into which we are putting the country with this kind of a commitment. This proposal takes away the discretion of the Congress and the President to act in the event that there is a change in economic circumstances such as a recession or some other very difficult circumstance we might have to deal with.

Mr. CONABLE. Mr. Speaker, it is my impression that the country would like to see Congress adopt this kind of a straitjacket. The people have the feeling that we are running around loose like a bunch of maniacs at this point as far as fiscal policy is concerned.

Mr. VANIK. Mr. Speaker, the other point I would want to make is that the proposal triggers tax cuts with no relationship to the resulting deficit. It is entirely conceivable that this provision would become operational at the cost of additional borrowing, which could be a burden on the entire country, which could add to inflation, and which could tremendously devalue the dollar and benefits of the tax cut.

Mr. CONABLE. Mr. Speaker, may I say that this is aimed directly at the deficit. It will result in a balanced budget by 1982 if this plan is followed. If it is not followed, the automatic tax cuts will not take effect.

Mr. VANIK. But it is not conditioned upon the avoidance of a deficit.

Mr. CONABLE. It is conditioned upon three things, and one of them is a balanced budget by 1982. The tax cut in 1982 does not take effect if we do not have a balanced budget by that time.

Mr. JACOBS. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield briefly to the gentleman from Indiana.

Mr. JACOBS. Mr. Speaker, I thank the gentleman for yielding.

Could the gentleman say for the Record what this plan contemplates by way of retiring the national debt in increments?

Mr. CONABLE. Mr. Speaker, this would result in a substantial surplus by 1983 if we continued to follow this type of plan. There will be a deficit until that time, and in my view what is important is that we have a plan to move in the direction of eliminating the deficit. I know the gentleman shares this concern. I know also that the gentleman is realistic enough to know that we are not going to balance the budget this year or next year or even in the following year unless we have some definite plan.

Mr. JACOBS. Mr. Speaker, I agree with that. My question more specifically, though, is this: the gentleman enumerated three specific conditions for the plan. I just wondered if a fourth was contemplated; namely, that a certain percentage of the national debt be retired each year after 1983?

Mr. CONABLE. I acknowledge that that might be a fine idea, but I would have to say that the Senate proposal does not include that. I think a reduction of the national debt ultimately is implicit in this proposal.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I will yield briefly to the gentleman from Oklahoma for the purpose of debate only.

Mr. JONES of Oklahoma. I thank the gentleman for yielding.

Mr. Speaker, the Nunn amendment establishes the principle, as I understand it, for the tax years succeeding 1979. That is in fact established in the bill that passed the House for tax year 1979. I am concerned that perhaps this is more illusory than fact, however. I wanted to ask the gentleman: As I understood the gentleman's comments, these are merely goals or things that we would like to achieve. Is this similar to the goals that were set out in the Humphrey-Hawkins bill?

Mr. CONABLE. It goes beyond this, because this is a plan which would take effect unless future Congresses either failed to meet conditions or specifically changed the law. In other words, there will be an automatic 5-percent cut if those conditions are met. And, thus, it goes beyond the establishment of the goal in the Humphrey-Hawkins Act.

Mr. JONES of Oklahoma. How can one realistically expect a balanced budget even in 1982 if what we are asking the Congress to do will limit them to spending at the inflation rate plus 1 percent and, in addition to that, having cost cuts across the board of 5 percent, 11 percent, 13 percent, et cetera?

Mr. CONABLE. We can do that only if we follow the condition that requires that the total expenditures of the Federal Government do not exceed the gross national product.

Mr. JONES of Oklahoma. It seems to me that if we leave off that inflation rate plus 1 percent, then we are looking in 1982 at a deficit which we will have to slash off.

Mr. CONABLE. Those are not the projections supplied by the Senate in justification for this proposal.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. KOSTMAYER).

Mr. KOSTMAYER. Mr. Speaker, I rise in support of the motion offered by the gentleman from New York (Mr. CONABLE) to instruct the House conferees now meeting on the tax bill to accept the Senate-passed Nunn amendment.

The Nunn amendment will provide an automatic, 4-year across-the-board cut of 5 percent each year in income tax rates, reducing Federal income taxes by $142 billion.

The Nunn amendment is similar to the Roth-Kemp proposal because it is a large across-the-board cut. But the Nunn amendment ties the tax cuts to cuts in Federal spending.

Many of my colleagues on both sides of the aisle have opposed the Roth-Kemp proposal because it promises tax cuts, but does nothing to curb Federal spending. This is irresponsible and would result in large deficits and skyrocketing inflation. Tax cuts of the size of the Roth-Kemp or Nunn are responsible only if cuts in spending are tied to tax cuts. The Nation cannot afford to operate as it has the past several years with substantial budget deficits. We must discipline ourselves, Mr. Speaker.

Who are we kidding when we overpromise or if we vote for large tax cuts without slicing spending. The deficit will grow and inflation will grow as well.

The Nunn amendment promises cuts—large cuts—but only if outlays are constrained. This is the responsible way to cut taxes and I urge my colleagues to support the motion. We can limit spending to a specified percentage of the gross national product, reduce the deficit and accomplish our goal of reducing taxes dramatically.

Mr. CONABLE. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Oregon (Mr. ULLMAN), the chairman of the Committee on Ways and Means.

Mr. ULLMAN. Mr. Speaker, let me first thank the gentleman for the way he is dividing the time, so that there will be a fair presentation of the issues on this matter. But having said that, let me as strongly as I know how urge the Members of this House to reject this proposition.

What we have here is Rube Goldberg tax policy. We ought to be making the decisions on an intelligent basis, based on a year-by-year analysis of where we are. We ought to be making those decisions in accordance with sound policy, based on economic conditions as they exist at any given time. In place of that, we are putting ourselves in a straitjacket, programing ourselves for 3 years, and in a way that it could be totally counterproductive to the purposes of achieving a stable economic situation in this country. What we are doing is tying our tax cuts to an arbitrary relationship between spending and GNP and not relating the issue at all to the economic posture of the country, whether we are going into a recession or whether we are in an overinflated economy.

We would be tying tax cuts only to that one set of figures, which does not in any way relate to the real economic issues in the country.

In 1982, yes, you relate tax cuts to a balanced budget. But if you in fact allow these tax cuts in 1980 and in 1981, at times when there should not be tax cuts, there is no way that you will achieve a balanced budget by 1982. Even if you came to 1982 and you had a situation where you were going into a recession, a bad economic downturn, which would result in an automatic deficit posture, at that very time when you needed a tax cut to keep the economy going, you would be prohibiting a tax cut from going into effect, thus, deepening the drive into a recession.

Now, this is absolutely the wrong kind of tax policy. I strongly urge the Members to defeat it. On top of that, it projects an uncertainty into the whole economic picture with respect to taxes that should not be there. Certainty is one of the most important things we ought to have in a tax posture for a country, and the assurance that if indeed we need changes to accommodate economic objectives, we have a Congress that is ready and willing to move intelligently to apply tax policy in the right way to fit that particular problem.

Here, we are preempting all of those things and producing a Rube Goldberg

scheme that could drive us right into the depths of a recession.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, I concur completely in what the gentleman from Oregon has to say. While this is politically attractive as we approach this election season this is precisely the wrong way to legislate something of this significance. The remarks of the gentleman from Oregon are right on point. What if 2 years from now we have a dip in GNP, where do we go? What happens? We do not know.

I commend the gentleman for his leadership, and I hope the House uses good sense and rejects this proposal.

Mr. ULLMAN. I thank the gentleman, and I strongly urge the Members to reject this proposal and maintain the right and the responsibility of this Congress to move on tax policy in accordance with economic circumstances as they exist next year and the following years.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, I thank the gentleman for yielding. I would hope that the chairman and the conferees would allow the House to have a vote again on the amendment that the gentleman from Ohio (Mr. VANIK) and I had offered on the tax bill. It was offered at an inopportune time, and it did not leave the options we thought should have have been given to us. Members will remember and the House will recall vividly that we started off in the hopes that there would not be but a very small tax cut this year, just enough to stimulate the economy.

The SPEAKER pro tempore. The time of the gentleman from Oregon has expired.

Mr. CONABLE. Mr. Speaker, I yield 2 additional minutes to the gentleman from Oregon (Mr. ULLMAN) for the purposes of debate only.

Mr. PICKLE. The bill as passed by the House was around $19 billion. Now, it looks like it will be $29 billion to $30 billion. A great many Members feel that when we give a tax cut of $30 billion, that adds to our national deficit of $30 billion, although there is argument for the inflationary factor we are going through.

But, the cold fact of the matter is, if we wanted to cut down on the deficit, we could actually cut out the tax cut. We may be faced with that alternative if this package keeps ballooning, so I would hope, Mr. Chairman, that when the gentleman goes to conference on this matter he will suggest to the conferees that this amendment (Vanik-Pickle) be made in order, or the gentleman from New York would be so kind as to include that in his preferential motion now. Either way, I think the House ought to have a chance to take another look at it.

Mr. ULLMAN. Let me respond with respect to the $29 billion tax cut. That is the position of the Senate bill, but let me assure the Members that our current budget resolution provides about $21.9 billion for a tax reduction in this package, together with other tax legislation, and this conference report will be consistent with the budget resolution. I want to assure the gentleman of that.

Mr. PICKLE. I assumed that would be a development, but one cannot tell when one goes to conference with that group of fellows across the hall.

Mr. CONABLE. Mr. Speaker, will the gentlewoman from Maryland yield to me briefly?

Mrs. HOLT. I yield to the gentleman from New York.

Mr. CONABLE. I would say to my chairman that we do not consider it a great tragedy that the American people should be able to keep a little of their own tax money.

The tax cut might get ballooned even further. I just hope we would be given a chance to have just one more vote on the Vanik-Pickle amendment because that would cut our deficit down by $20 billion.

Mr. Speaker, I yield 3 minutes for purposes of debate only to the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. I thank the gentleman from New York for yielding.

Mr. Speaker, I enthusiastically support the motion to instruct the House conferees to accept Senate amendment 4084 to H.R. 13511.

This would commit us to a realistic 5-year program of reducing taxes, slowing the growth rate of Government spending, balancing the budget, cutting inflation, and stimulating healthy economic growth.

The Nunn-Chiles-Bellmon-Roth amendment is one of the finest pieces of legislation that I have seen during my 6 years in the Congress. Many of us have worked diligently to produce such a result on the House side, but we have been frustrated by fierce partisanship.

Several points should be made, and the first is this: Senate amendment 4084 is a truly bipartisan product, crafted by gentlemen who recognized that tax and fiscal policy should not be a 1-year proposition, but should set a course for future years.

Here we also find a recognition that tax and fiscal policy should be set before we begin budgeting for the functions of government. This amendment will provide desperately needed discipline on the spending habits of Congress.

The tax cuts provided by this amendment would take effect only if the growth rate of Federal spending is limited to 1 percentage point above the rate of inflation, and only if Federal spending declines according to specified percentages of the gross national product.

This would become a powerful incentive impelling Congress to limit the growth of spending, and there is a further provision: the tax cut for 1982 would take effect only if the budget for that fiscal year is balanced.

The concept of linking tax cuts to spending limitations is not new to the 95th Congress. The amendments we offered to the first and second budget resolutions this year represent that concept.

Those budget amendments, you will recall, allowed for the first year of the Kemp-Roth tax reduction plan and held the growth rate of Federal spending to the estimated rate of inflation.

I commend the gentleman from New York (Mr. KEMP) and the senior Senator from Delaware (Mr. ROTH) for their long struggle to legislate a program of annual tax reductions.

The House, therefore, is already familiar with the concept of the Nunn-Chiles-Bellmon-Roth amendment, which is a perfection of concepts put forth in this House during debates this year.

Here is our opportunity to set a course which will inspire hope in the American people. Here is the promise of less inflation and lower taxes, strong economic development and jobs for our young people, a hope for a better life for all Americans.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Speaker, I rise to express my strong support of the Conable motion to instruct the House conferees on the tax bill (H.R. 13511) to accept the Senate amendment which is being referred to as the Nunn amendment, the coalition amendment, or son of Kemp-Roth.

Regardless of what we call it, this proposal is a giant step forward in assuming the kind of fiscal responsibility the American people are demanding of Government. It would give the American people the tax relief they so urgently need—$142 billion over 4 years—but it would make these individual income tax cuts contingent upon restraint of Government spending. Tax reductions in 1982 would be contingent upon achievement of a balanced budget. This proposal would establish a timetable and a responsible program for ending deficit spending which has been a prime factor in the current inflationary spiral.

If all this sounds familiar to the House, it should. We covered the need for substantial personal tax cuts when the House debated the Kemp-Roth bill during consideration of H.R. 13511. It was argued—erroneously—by opponents of Kemp-Roth that this proposal was irresponsible because it would lower Government revenues without placing limits on Government spending. Only a few days later those same opponents argued that the Holt amendment to the budget resolution was irresponsible because it would have combined the Kemp-Roth tax cuts with spending restraints and a balanced budget. The American people are tired of excuses. They want—and deserve—fiscal responsibility and meaningful tax relief now. Let us not fail at this crucial moment to provide them.

Mr. CONABLE. Mr. Speaker, I yield 4 minutes for purposes of debate only to the gentleman from Georgia (Mr. LEVITAS).

Mr. ICHORD. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Speaker, I rise in support of the motion of the gentleman from New York to instruct the conferees to accept the Nunn amendment which

would provide across-the-board income tax cuts contingent upon the achievement of certain budgetary goals. I do so with considerable doubt, however, that the Nunn amendment will accomplish its desired goals. Future Congresses cannot be mandated to achieve a balanced budget by statute. They will be found only if they want to be bound. I personally feel that the only way the problem of continuous Federal deficits can be solved is through the adoption of a constitutional amendment mandating a balanced budget, except in time of war or an emergency declared by a two-thirds vote. Deficit spending is the primary cause of inflation which is the most serious problem facing our Nation. The Nunn amendment cannot do any harm, as I interpret its effect, and it should assist future Congresses in achieving a balanced budget; therefore I wholeheartedly endorse the amendment and urge its adoption.

Mr. LEVITAS. Mr. Speaker, first of all, I want to make a few things perfectly clear about this motion and to expand on some of the comments of the gentleman from New York (Mr. CONABLE). I support his motion.

This is not a partisan issue. This motion and the amendment which was adopted in the Senate involves a coalition of Democrats and Republicans. It is and should be a bipartisan effort. I have seen too many people discussing this issue both in the Congress and out in the public who are more interested in making a partisan issue out of a tax reduction and spending cuts than they are in doing something to improve the economy balance the budget and let the American taxpayers keep and spend some of their own money.

Here is an opportunity free from partisan politics, free from a Republican issue or a Democrat issue, that will let us say to the American people: "I am interested in cutting spending and reducing taxes," which should go hand in hand.

One of the criticisms which I have heard across the land and in the press and on the floor of this House about the Kemp-Roth bill is that while it cut taxes it did not cut spending and therefore it would lead to inflation. The Nunn-Chiles-Bellmon-Roth amendment deals with that head on and specifically cuts spending as a condition to a tax reduction going into effect and it requires a balanced budget in 1982 or else there is no tax reduction. So we have met and solved the problem of inflation and deficit charged against Kemp-Roth.

There is another criticism I have heard.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield briefly at that point?

Mr. LEVITAS. I yield briefly to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. Mr. Speaker, I think the gentleman has made an excellent point. The Conable-Nunn recommendation clearly calls for proportionate reductions in expenditures, and that is part of the merit of this position.

In order for the tax cut to become effective, first, outlays could not exceed the following percentages of the projected gross national product: 21 percent in fiscal year 1980; 20.5 percent in fiscal year 1981; 20 percent in fiscal year 1982; and 19.5 percent in fiscal year 1983.

Second, any increase in outlays could not exceed the rate of inflation, plus 1 percent.

Third, if the budget for fiscal year 1982 were not balanced, the cuts for calendar year 1982 would not become effective.

So this revenue bill differs from other proposals since there are imposed conditions placed upon expenditures as well as calling for revenue reductions. Is that not correct?

Mr. LEVITAS. That is correct, and that is the genius of this position which you will have a chance to vote on.

Let me also tell the Members who are here and those who may be watching on their television sets, that this amendment does not add one penny above the budget resolution adopted by this House. It is not part of the $29 billion of tax cuts in the Senate bill, because this does not take effect until fiscal year 1980.

In order to deal with some of the facts on the matter which my colleague, the gentleman from Ohio has raised, let me tell the Members what the Congressional Budget Office has said about this.

The Congressional Budget Office says, under the set of assumptions made in this amendment, and in the projection we are now making:

* * * the budget would be essentially balanced by fiscal year 1982. * * *

It also shows that the proposed revenues—

would be consistent with a balanced Federal budget by 1982 and a continuation of the real economic growth assumed for the 1979 second budget resolution.

That is the Congressional Budget Office.

An econometric study, which was worked out by the Chase Econometric Associates, Inc., shows by 1983 the gross national product would be approximately $50 billion higher in 1972 dollars and $130 billion higher in current dollars under the assumptions of this amendment.

Now, listen to this, my Democratic colleagues:

The gain in employment by 1983 would be one million workers, and the employment rate would be reduced * * * to 5.3 percent.

The Federal budget would return to balance, as opposed to a $50 to $60 billion deficit which would occur if taxes were cut but government spending continued to rise at historical rates.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CONABLE. Mr. Speaker, I yield an additional 30 seconds to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, let me conclude, my colleagues, by saying this: This Nunn amendment is what we have all been searching for because it does permit a tax cut and it ties that tax cut to a balanced budget and to a reduction in spending that is not inflationary. It also creates jobs and adds to the gross national product.

I urge you to take this opportunity to support the motion of the gentleman from New York (Mr. CONABLE) on the Nunn-Chiles-Bellmon amendment, and I hope it will be passed overwhelmingly.

Mr. CONABLE. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. LAGOMARSINO) for purposes of debate only.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker and my colleagues, I think what we have before us is really what the spirit of proposition 13 in California was all about: A vote for a cut in taxes and a vote for a cut in the size of Government and in Government spending. Most people, at least those in California, are getting a lot more government than they want; they certainly are getting a lot more government than they are willing to pay for.

If you will, my colleagues, just imagine what will happen if this amendment is enacted into law.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CONABLE. I yield an additional half minute to the gentleman from California.

Mr. LAGOMARSINO. Imagine what will happen to business confidence and business investment should this amendment pass and be signed into law. I think we would see a real era of prosperity, with very low unemployment and a gain in production and in the overall economy.

Mr. CONABLE. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. VANIK) for purposes of debate only.

Mr. VANIK. Mr. Speaker, I want to thank the gentleman from New York for giving me this time to oppose his motion to instruct the conferees.

The situation we are in today brings up a far reaching tax change during the closing days of this Congress. It demonstrates that we should adopt a rule in the next Congress that would provide that we should not consider tax bills on the eve of a national election. We are all candidates for reelection and that pressure is on every single Member of this body who is seeking reelection. I think that in this kind of climate we are bound let better judgment be overcome by political expediency. I think that the tax bill should not be written in this pressure or under these kind of circumstances.

The motion offered by the gentleman from New York (Mr. CONABLE) to instruct the conferees to accept the Nunn amendment is a mandate to accept the specific language without a change or modification. It presumes that the work of the other body is perfect. Every Member in this body knows that the productions that we get from there are generally less than perfect. This motion would deny the conferees an opportunity to work out a solution that might embrace worthwhile changes and include elements that were omitted in the draft that was adopted by the other body.

Those elements are the effect that this proposal would have on the deficit and on the Federal debt.

This proposal has never been studied in the committee process. There were no experts who could be cross-examined. There were no economists who could tell us about the long-range consequences of this action.

The automatic tax cuts are engineered to operate without any reference to deficits and the debt. I want to point out that the process could well spearhead this country into a trillion-dollar debt and a horrendous deficit which would further deteriorate the dollar, stimulate inflation beyond all control, and probably guarantee an increase in the price of imported petroleum.

Mr. ULLMAN. If the gentleman will yield, Mr. Speaker, let me commend the gentleman and say that the President is fully aware of the implications of what the gentleman is laying out.

The President is strongly opposed to this measure. He did not say specifically under what conditions he would veto a bill; but, in my judgment, if this amendment were on the bill, because of the vast implications involved economically and the straitjacket economics which are involved, I am sure that the President would strongly consider vetoing the bill.

Mr. VANIK. Mr. Speaker, I think the chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN), has put the issue right on the table.

If we want a tax proposal to be vetoed, then the way to do it is to instruct the conferees, and that will be the result. I think if we want a meaningful tax program to come out of this Congress—and there still is hope that it might be done—our best hopes remain with the conference committee without instruction. The conferees, in their judgment and in their sense of responsibility, may be able to achieve the goals which are desired by this amendment without binding and locking the country into a pattern from which it may not be able to extricate itself in the event of a recession, in the event of a national emergency, or in the event of a crisis.

Mr. CONABLE. Mr. Speaker, I yield 1 minute, for purposes of debate only, to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I thank the gentleman for yielding.

I take this time to advise the House that based on the firm assurances which I have received from both the gentleman from Oregon (Mr. ULLMAN) and the gentleman from New York (Mr. CONABLE), that in the conference they will hold firmly to the House passed provision on capital gains relief for homeowners, I will not oppose the previous question on this matter.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, I certainly want to restate my position that I will do that. I think the gentleman understands that I cannot bind the rest of the conferees, and I cannot make a final commitment as to the outcome of the conference; but I will stand on the statement as the gentleman put it. We will firmly stay with the House position as long as it is humanly possible to do it, without losing the opportunity to get a tax bill altogether.

Mr. OTTINGER. Mr. Speaker, I know that the gentleman from Oregon (Mr. ULLMAN) and the gentleman from New York (Mr. CONABLE) will have considerable influence at the conference. If they do exert themselves to the fullest, I am hopeful that they will be successful in sustaining the House provision. I thank them for their assurances.

Mr. CONABLE. Mr. Speaker, I thank the gentleman from New York (Mr. OTTINGER) for his cooperation.

Mr. Speaker, I yield five minutes, for purposes of debate only, to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Speaker, as our colleague, my friend from Georgia (Mr. LEVITAS), has pointed out, there is a broad support for the Nunn amendment, not only in the Senate but also in the House of Representatives. The support is from Members from both political parties and from many philosophical persuasions.

I strongly support the motion of my colleague from New York (Mr. CONABLE), and I applaud his leadership in helping to bring substantial tax relief to the people.

I was at the White House this morning. I was there with the gentleman from New York (Mr. CONABLE) who represents an adjoining district, at a meeting involving another matter affecting the State of New York. In a conversation after that meeting I asked the President what were his feelings toward the tax bill which came out of the Senate with the Nunn amendment, was he going to veto it. He said that he had not made up his mind, that he is willing to look at it with an open mind. Thus, the statements made here that the bill is ultimately going to be vetoed, if the Nunn amendment remains in it, are misleading and inaccurate statements.

Whatever the President decides, I believe that the coalition that has been built up on behalf of this effort to get the marginal tax rates down—which was 2 to 1 in the Senate vote and I understand will be 2 to 1 here today—is sufficiently strong to withstand a veto. I hope the President will sign this bill. Without this type of rate reduction, without the Nunn amendment, we are going to be pushing the working men and women in this country into the 40 or even 50 percent marginal tax rate brackets within 3 or 4 years. The President surely does not want to do that.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. KEMP. I will yield to the distinguished chairman of the Ways and Means Committee.

Mr. ULLMAN. Mr. Speaker, the gentleman referred to the fact that the President will not veto this. The President was very explicit this morning in our conversation, he put this at the head of the list of things that had to be removed from the tax bill and he left no doubt, although he did not put it in specific words, he left no doubt that he would veto the bill.

Mr. KEMP. Mr. Speaker, I asked the President in clear language, would he veto this bill, and he said he had not made up his mind and that he would be openminded. That is all we can ask for or expect at this point.

The American people who work, save, and invest in their economy need to know with certainty the tax rates with which they are going to be faced. If Congress and the President do not do something to get the marginal tax rates down, for they are being pushed higher daily by inflation, not to mention the higher social security and other taxes, the rates they face will be so high as to discourage incentive. When taken as a whole, that will weaken further all other efforts to restore the economy. This is fact.

I received a letter from a man the other day. He said he had gotten a 6-percent pay increase several months ago. He wanted me to know that of his $65-a-month pay increase, his Federal tax increased $37.58; his State tax increased $21.03; his social security increased $3.97; and his State retirement increased $3.90. In other words, because his total increased tax deductions were $66.48, he had fallen behind $1.48 a month. And, of course, he had not even calculated the loss in real wages from inflation eating away at his paycheck at an additional rate of 10 percent. Thus, he had fallen substantially behind in net disposable aftertax income.

It does not end there. I received a letter this morning from a steelworker in my district, one who lives in Springville, N.Y. He wrote:

> As a lowly steelworker for the past 32 years, I have watched my pay dwindle due to taxes. During the last few years it has become ridiculous. The longer and harder I work, the smaller the reward.

I ask, "what kind of a system is it that tells a working person in New York, North Carolina, or anywhere in America, that if you get a 6-percent increase, your taxes go up more than 6 percent?"

Mr. Speaker, it is due to the very steeply graduated income tax rate structure. All rates must be lowered. Senator NUNN's amendment offers Congress an important opportunity to lower those rates from 70 percent in gradual steps down to 57 percent at the top, and from 14 percent in gradual steps down to 8 percent at the bottom so that all American workers, savers, and investors will receive incentive gains and a greater reward for their production.

The certainty of lower rates in the future through this Nunn amendment, is absolutely necessary for the growth of the economy and restoring incentives to the American people by bringing back to them a greater share of the rewards for working, saving, and investing and

engaging in that type of enterprise and risk-taking that is so necessary to the expansion of our economy without inflation.

The gentleman from Oregon, the chairman of the Committee on Ways and Means, said that this introduces uncertainty into the tax code. To the contrary, that is what his bill did and what the Nunn amendment does not do.

This tells a taxpayer that in the next year and the year after, on through the next 5 years, that there will be a greater reward for effort.

The one certainty that we can be sure of today is that if we do not do something like this, taxes are going up on the American people in the next 5 years by over $300 billion and the rates will be at such levels for our people that blue collar people in the State of New York will be working more for the Government than for themselves and the needs of their families. It must stop right now. For 8 years I have been working for a bill such as this and if it passes, I will introduce another tax rate reduction next year to get the rates even lower—the top rates must come down to 25 or 30 percent and the bottom rates down to 4 or 5 percent, plus lower capital gains and estate taxes for all.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. CONABLE. Mr. Speaker, I yield 1 additional minute to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Speaker, Government receipts, according to the President's figures, according to official Government projections, will grow from $401 billion in 1978 to $720 billion by 1983 under present law and policy. That is a $319 billion increase in taxes, one which will detrimentally affect every single working man and woman in this country. That is a 12-percent increase in taxes on the American people every single year.

The one way we can reintroduce certainty into our tax code and to simultaneously reintroduce growth into the American economy is to take the step outlined by both a majority, a solid majority of Republicans and Democrats today and lower all the marginal tax rates systematically over the next 5 years. I compliment Senators NUNN, BELLMON, CHILES, and ROTH plus Mr. CONABLE and Mr. LEVITAS for their tremendous efforts to get America going again on behalf of all the people of this Nation.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Speaker, given the difficult position I find myself in I take this brief moment to explain.

I have not voted to instruct conferees because I believe a conference is designed to resolve differences, not to provide confrontation no matter how appealing the motion on the issue.

I believe in the Nunn approach. If I were on the conference I would join my colleague from New York (Mr. CONABLE) in urging the House conferees to accept the approach outlined in the amendment. It is good economic and tax policy.

Thus, Mr. Speaker, I want to simply make clear my support for the Nunn amendment while I cannot vote to instruct.

Mr. CONABLE. Mr. Speaker, I yield 3 minutes, for the purpose of debate only, to the gentleman from Michigan (Mr. STOCKMAN).

Mr. STOCKMAN. Mr. Speaker, I rise in strong support of the motion to instruct, and I just want to reiterate the point made by the previous speaker, the gentleman from New York (Mr. KEMP).

The fact is that the only certainty we do have is that taxes will rise automatically, carried by the momentum of growth and inflation in the economy. As the gentleman indicated, in the next 4 fiscal years taxes will rise by $320 billion if we do not adopt tax policy changes in the interim.

I do not believe there is any Member of this House who believes we will not take action. I think every Member recognizes that if we look at the track record of the last 4 years, we know that we will have a tax bill every year. Yet no one has any idea at this point in time, no one who is trying to make some kind of economic decision for the future or who is trying to plan for the future, can possibly have any certainty about the nature, shape, and consequence of any of those ad hoc annual actions with the tax code.

So the point is that the only way we can provide certainty is to adopt 4-year tax cut and tie that to expenditure restraint.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would also like to point out that the assumptions made in this projection are based on the same figures for economic growth which this House adopted in the budget resolution for 1979, so it is the same economic growth that will be generated under this, plus the fact that we would have a balanced budget.

Mr. Speaker, I commend the gentleman for his remarks.

Mr. STOCKMAN. Mr. Speaker, I would also add that this projection of a $320 billion tax rise is based on 6-percent inflation. We are going to be lucky to hold it to that figure. Clearly it is above that today, so, therefore, the tax rise will probably be even greater.

The gentleman from Ohio (Mr. VANIK) talks about flexibility. I remember well both debates on the budget resolution this year in which we were told there was no controllability, that 75 percent of the budget is uncontrollable in the current year and that, therefore, our tax options were limited. We could not do the things we needed to do for the homeowner, we could not have the deep cuts in marginal rates that we needed for individuals, and we could not have a redirection or reorientation of the Tax Code to promote capital formation, because, we were told, we have no flexibility. The spending level is locked in, the deficit cannot be increased, and so we cannot afford the revenue loss from meaningful tax reduction.

This is an effort we are making to preclude that very situation, and now we get the other side of the argument from the same people. Well, they cannot have it both ways.

Every Member of this House knows that if we wait until the next fiscal year and the result of the current budget process to act, we will have no tax policy flexibility left. Spending will have risen again and the deficit will still be too large. And so, as the gentleman knows, we will again be in the position where the fiscal burden must fall on the back of the taxpayer in the form of backdoor tax increases.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, let me ask the gentleman, does the proposal not make the assumption that there is going to be no economic change in the next 5 years? It is assuming that everything is going to be normal.

How can that assumption be made at a time when the dollar is falling down to its lowest level in world markets today and around the country?

Mr. STOCKMAN. Mr. Speaker, I would suggest to the gentleman that the dollar has fallen to its low level precisely because of the policies we have followed in the last 3 years, the kind of polices the gentleman advocates that we continue.

Mr. CONABLE. Mr. Speaker, I yield 3 minutes, for purposes of debate only, to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Speaker, if I had a close race on my hands—and I do not—but if I did, I would certainly be very dubious about voting for this motion to instruct. It looks to me like exactly the kind of "carrot on a stick" by which somebody could lose an election.

This is one of those marvelously complicated ideas: "If you don't get hit by a train on Thursday and you are still breathing on Friday, we may give you a tax cut on Saturday."

The biggest single cause of disillusion to the American voters is the frustrated expectations caused by politicians in election heat. Here we are proposing a whole set of expectations: A $73 billion tax cut by the year 1983 if we live that long. Then we say, "If not, we will give it to you in 1984."

This is exactly the kind of a pit that it seems to me we ought not to be falling into, especially when there has not been one moment of hearings to even find out the dimensions of the pit.

I looked at the numbers. Where did the idea come from that Federal outlays should be reduced by half a percent a year between 1980 and 1981? Was that some kind of a figure that came down from Mount Sinai? Did that come down to us from some computer?

It came down out of thin air. It could

have been 1 percent, it could have been 2 percent, it could have been 3 or 6 percent. It could have been 7 percent. It could have come from great expertise, or it could have been absolutely a hat trick. None of us knows.

It says in here that there should be a 14-percent cut in 1982 and an 11-percent cut in 1981 and an 18-percent cut in 1984. Why not 16 percent, 14 percent, and 27 percent? What is the difference between these numbers and the phony numbers that the quarterback puts in when he is calling signals at the line and trying to confuse the opposition?

And who is the opposition? Who is it we are trying to persuade that we are going to do something when we may not?

The last time we did something simplistic and automatic like this was also just before an election. We were going to make sure that all of the social security recipients would automatically get a cost-of-living increase—and we did it one, two, zip, to make sure it was ready in time for an election. The Members brought on the trauma leading to the social security bill last year where we had to do a decoupling in order to fix that matter. And keep the social security system from falling on its face.

There are many ingredients in this formula that I like. I like the idea of putting together the tax rate, the spending rate and the need of the budget surplus. Those are the ingredients we should be adding together instead of addressing ad hoc, as we do now. But would it be hurtful to have 1 day of hearings and maybe another set of assumptions which makes sense? Should we look at the big cat for 1984 instead of 1983, or 1982 instead of 1983? What is this rush to judgment that says we have to have this "son of Kemp" this year?

Mr. CONABLE. Mr. Speaker, I yield 3 minutes for the purpose of debate to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, my distinguished friend and colleague, the gentleman from Illinois (Mr. MIKVA), has just suggested that, heavens, do not vote for this motion to instruct because some people might lose an election because of a frustrated electorate. I would respectfully suggest to my friend, the gentleman from Illinois (Mr. MIKVA), that some Members in this Chamber are going to lose this November because the electrorate is already frustrated with the kind of tax policy that this country has had over the last few years.

Now, we have heard over and over again this afternoon, as I have listened to this debate, two reasons why we should not vote for the motion to instruct. One is that this is an abuse of the legislative process, that we somehow have not adequately considered this issue.

My friends, we have spent hundreds, if not thousands, of hours debating and discussing the very kind of tax policy embraced in the so-called Nunn amendment adopted in the other body.

We have adopted many motions to instruct conferees in the past on a basis which was far more tenuous than the basis on which this amendment can and should be adopted this afternoon.

The other argument that has been raised is that we put ourselves in a straitjacket, that we cannot look ahead to 1983 and tell what the economic climate is going to be, we might be in a serious recession, we might be in a depression, and would we then be able to take the kind of measures we should in respect to expenditures and revenues if that were to occur?

And the author in the other body answered that, the Senator from Georgia answered that, when he said this:

> No, I say to the Senator that Congress would retain the absolute right of spending above the 1 percent in any kind of circumstances. It would not even require an emergency. What we do say is that if taxes are going to be cut, there are at least 2 conditions precedent, and for fiscal 1982 there are 3 conditions precedent, to the cut in taxes. And if any of those conditions do not come about, the taxes simply would not be cut.

We still retain, as the sovereign body that we are, the kind of flexibility that we need to either change the tax code or to change the spending outlays of this Government.

But in the meantime, as has been said over and over again, if you want to encourage the kind of investment planning that is needed to do something about the plight of the dollar, about which my friend, the gentleman from Ohio (Mr. VANIK), is so concerned, then for heaven's sake, recognize the necessity of imparting a degree of certainty into what we are going to do in this very sensitive area of tax reductions and in holding spending to a given level. And if you do that, then you will get the kind of response from the economy that will solve the problem that we have today with the economy.

Mr. Speaker, I urge the Members to support the motion to instruct the conferees.

The spending curbs contained in the Senate amendment will call upon our best efforts and best judgment, but the targets are achievable and deserving of our support. I am convinced we can stay within these fiscal parameters and still meet our obligations both here and abroad. We can—even under these limits—continue to address the critical social problems that confront our Nation, and at the same time adequately provide for our Nation's defense and overseas commitments. In order to implement these economies, we need only to muster the necessary resolve . . . we need only to hold our feet to the fire.

But in committing ourselves to spending restraints, we need not retreat from the congressionally established goal of full employment. We would, in fact, by adhering to the timetable specified in the Senate amendment, advance steadily towards the all-too elusive objective of full employment.

The unassailable fact is that our present mix of high unemployment and inflation—what Arthur Okun refers to as the "Great Stagflation Swamp"—is not the product of too little Government; it is the product of too much Government; it is the logical consequence of a burgeoning deficit that has hiked interest rates and crowded out private investment; it is the end result of escalating tax rates that have reduced the incentives to work, save and invest in this country; and finally it is the product of the inflationary dollars created by the Federal Reserve to help finance the extravagance of the Federal Government.

In limiting the size of Federal expenditures and receipts relative to the Nation's output, the Senate provision will help to restore economic stability and to assure continued economic growth. By reducing Federal tax rates and expenditures simultaneously, we will allow the private sector to expand and provide more jobs—free from the crowding out of Federal taxes and borrowing.

Earlier this year I introduced legislation designed to reduce Federal expenditures as a percent of national output, to lower rates of taxation and finally to balance the budget. I now urge you to vote for this motion—a motion that will instruct the House conferees to concur in a Senate amendment that would support those very same objectives.

There are many reasons to vote for this motion. Given the present mood of the electorate, it is of course a politically viable vote. But do not vote for this motion just because such a vote will be politically marketable this November. There are more valid and more urgent reasons for supporting the Senate amendment.

Chase Econometrics reports that this combination of tax cuts and spending curbs would by 1983 raise GNP by an additional $130 billion. But do not vote for this motion simply because it means accelerated economic growth.

Chase Econometrics also reports that employment by 1983 would be expanded by 1 million more jobs. But do not vote for this measure merely because it would lower the unemployment rate to 5.3 percent.

The Senate amendment would help to restore business confidence, but do not vote for this motion just because you want to enhance the investment climate in this country.

The amendment would help move us toward a balanced budget by 1983, but do not vote for this measure simply because you believe the Federal Government should be fiscally responsible.

The Senate's timetable would lower Federal Government expenditures as a percent of GNP from 22 percent to 19.5 percent by 1983, but do not vote for this motion just because you want to stop the Federal Government from crowding out growth in the private sector.

The Senate amendment by phasing out the deficit will go a long way toward stopping inflation, but do not vote for this measure just because you are concerned about the Nation's double-digit price spiral.

Vote for this motion because it will help to restore confidence in Government. Vote for this motion because the American people want lower spending and lower taxes. Vote for this motion because the American people believe, whether rightly or wrongly—and I believe they are right—that the Federal

Government can best address their needs, not by spending more, but by spending and taxing less.

If we postpone the day of fiscal reckoning, if we continue on the path of higher spending, higher taxes, and higher deficits, the American people will one day push us toward a constitutional amendment to strip this body of its power to spend beyond some arbitrary ceiling. I do not believe that a constitutionally mandated spending limit is either needed or workable. I am sure that most of you agree.

It is then up to us, the Congress, and the President to prove to the American people that the Federal Government is still responsive to public sentiment; that the Federal Government can still be entrusted with the public purse.

At stake is not merely the economic well-being of the American people, but also the integrity of our Federal institutions, and the public confidence in Government that is so essential to the smooth functioning of a Republic such as ours.

I urge your support on the motion to instruct the conferees.

Mr. CONABLE. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. GIAIMO), chairman of the Committee on the Budget for purposes of debate only.

Mr. GIAIMO. Mr. Speaker, I rise in opposition to the motion of the gentleman from New York to instruct the conferees. I have just come back from 6 days at home campaigning for reelection, and I am sorry to see that the minority party is also talking campaign politics in this Chamber here. And I say shame, shame on the minority party, the Republican Party, for taking a serious matter of the tax bill and playing campaign politics with it 3½ weeks before election, because that is exactly what you are doing.

But, you are not going to fool the American people. You have not fooled them in the past, and you are not now. How on Earth can you write a tax bill for 1980 and 1981 and 1982 when you have not the faintest idea of what the economy of this country will be in 1980 or 1981 or 1982? How on Earth can you set any levels of spending on programs when you have no idea of what the economic conditions will be? But, you are going to try to tell the people, "Look what we have done here. We have disciplined ourselves by setting a ceiling on expenditures and a ceiling on taxes."

It will not work. It will not wash, and it is a phony alibi.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. GIAIMO. I will not yield; not unless the gentleman gets me a little more time at the end of the 3 minutes. Then I will be delighted to.

The way to get a decent tax bill is the way this body and the other body have been trying to do it. They have been making proposals for a reasonable and a responsible tax cut, even though the other body's tax cut is not as responsible as I would like to see it. I hope that it will be reduced in conference and I hope that with the encouragement of the President of the United States it will be worked out.

But, the tax conferees are addressing themselves to what taxes should be, given the economic conditions of today, given the rate of economic growth, given the inflation rate, given the unemployment rate, and given the needs of the American people.

But you cannot vote this tax approach suggested by the gentleman from New York, it is unworkable; it is inflationary; it is a sham.

The SPEAKER pro tempore. The time of the gentleman from Connecticut has again expired.

Mr. CONABLE. Mr. Speaker, I yield an additional 3 minutes to the gentleman from Connecticut for the purposes of debate only.

Mr. Speaker, will the gentleman yield?

Mr. GIAIMO. I will be delighted to yield to the gentleman from New York.

Mr. CONABLE. There are several points that need to be made. First of all, this proposal that has been added to the tax bill in the Senate has been put there by a broad, bipartisan coalition of Senators, and I would like to say in that respect that if the President should veto the bill on that account, the coalition measure was passed by more than a two-thirds vote in the Senate, and I trust will have that kind of support here in the House.

Second, I would like to point out to the gentleman that under his own procedures, the procedures of the Budget Committee, a 5-year extension is required, and thus we are used to looking at projections of income and expenditure over a 5-year period.

Third, I would very much appreciate the leadership of this body, which is of the gentleman's party, in bringing up tax bills just before election, but when they come up before election I do not shrink from my duty if it approaches just before election.

Last of all, it seems to me that there are sufficient contingencies attached to this proposal so that nobody is trying to blur the uncertainties of the future in this one measure. However, we are creating a presumption in favor of tax reduction, and I think that is an entirely appropriate thing to do given the expressions of the American people.

Now, I yield to the gentleman from Connecticut.

Mr. GIAIMO. Of course we make 5-year studies and projections and anything else we want to call them in the Budget Committee, as the gentleman knows, but they certainly do not have the binding effect of law.

What we are doing here is writing revenue law, you are writing it into law, and I say that is wrong. It is misleading and it will not work. I submit that the amendment and motion should be voted down.

Mr. CONABLE. Mr. Speaker, I yield 2 minutes, for purposes of debate only, to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I rise in support of the motion to instruct the House managers of the tax bill to agree to the Senate amendment providing a 27½-percent tax over 5 years—actually 4 calendar years. The cuts would go into effect only if spending did not exceed the rate of inflation plus 1 percent, and if the gross spending as a percent of GNP declines at a specified rate.

This Senate amendment is an excellent marriage of tax cuts and spending cuts. It is exactly what the constituents of my area have been asking for.

It would put Congress' feet to the fire for the first time. The people want a tax cut each year as scheduled. If Congress cannot hold down its spending, the cuts will not go into effect. In that event, the people would probably be justified in wanting to replace the Congress rather than believe its promises. This amendment would prohibit Congress from eating its cake and having it, too.

In my judgment, this note epitomizes all the important, deeply felt issues that really concern people today. People think we spend too much; they believe inflation is the No. 1 public enemy, and they want a tax cut, and they want a balanced budget by 1982.

As far as I can tell this is either the first, or perhaps the second, vote in the House this year that covers all these popular concerns in a manner that gives some guarantee of success.

Opponents tell us that this is wrong motion at the wrong time. I doubt any person in this room would dare tell his or her constituents that it is wrong to vote for tax cuts linked to spending cuts.

No amendment, nor any bill, is perfect. But the Senate proposal—called the Nunn-Chiles-Bellmon-Roth, or the coalition amendments—seem to come awfully close to what all of us, and our constituents, are looking for. I urge all Members who have endorsed tax cuts and spending cuts to vote for it. If they do, it will pass by a handsome majority.

Mr. CONABLE. Mr. Speaker, I move the previous question on the preferential motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from New York (Mr. CONABLE).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ULLMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—yeas 268, nays 135, answered "present" 1, not voting 26, as follows:

[Roll No. 896]

YEAS—268

Abdnor	Badham	Bowen
Ambro	Bafalis	Breaux
Anderson, Ill.	Barnard	Breckinridge
Andrews, N.C.	Baucus	Brinkley
Andrews, N. Dak.	Bauman	Broomfield
	Beard, R.I.	Brown, Ohio
Applegate	Beard, Tenn.	Broyhill
Archer	Benjamin	Buchanan
Armstrong	Bennett	Burgener
Ashbrook	Bevill	Burke, Fla.
Aspin	Biaggi	Burke, Mass.
AuCoin	Bonker	Burton, John

Butler	Hansen	Panetta
Caputo	Harkin	Patterson
Carney	Harris	Pattison
Carr	Harsha	Pease
Carter	Heckler	Pickle
Cavanaugh	Hefner	Poage
Cederberg	Heftel	Pressler
Clausen, Don H.	Hightower	Pritchard
Clawson, Del	Hillis	Pursell
Cleveland	Holt	Quayle
Cohen	Horton	Quillen
Coleman	Hubbard	Railsback
Collins, Tex.	Huckaby	Regula
Conable	Hughes	Rhodes
Conte	Hyde	Rinaldo
Corcoran	Ichord	Risenhoover
Cornwell	Ireland	Roberts
Coughlin	Jacobs	Robinson
Cunningham	Jeffords	Roe
D'Amours	Jenkins	Rose
Daniel, Dan	Johnson, Colo.	Rousselot
Daniel, R. W.	Jones, N.C.	Rudd
Davis	Jones, Okla.	Runnels
de la Garza	Kasten	Ruppe
Delaney	Kelly	Russo
Derwinski	Kemp	Santini
Devine	Keys	Satterfield
Dickinson	Kindness	Sawyer
Dicks	Kostmayer	Schroeder
Dodd	Krebs	Schulze
Dornan	Lagomarsino	Sebelius
Downey	Latta	Sharp
Duncan, Tenn.	Leach	Shuster
Early	Lent	Skelton
Edwards, Ala.	Levitas	Skubitz
Edwards, Okla.	Livingston	Smith, Nebr.
Eilberg	Lloyd, Calif.	Snyder
Emery	Lloyd, Tenn.	Spellman
English	Lott	Spence
Erlenborn	Lujan	St Germain
Ertel	Luken	Stangeland
Evans, Colo.	McClory	Stanton
Evans, Del.	McCloskey	Steers
Evans, Ga.	McCormack	Stockman
Evans, Ind.	McDade	Stratton
Fenwick	McDonald	Stump
Findley	McEwen	Symms
Fish	McKay	Taylor
Fisher	McKinney	Thone
Fithian	Madigan	Traxler
Flippo	Maguire	Treen
Florio	Mann	Trible
Flowers	Marks	Tucker
Flynt	Marlenee	Udall
Foley	Marriott	Vander Jagt
Forsythe	Martin	Vento
Fountain	Mathis	Volkmer
Fowler	Mattox	Walgren
Frenzel	Meyner	Walker
Frey	Michel	Walsh
Fuqua	Milford	Wampler
Gammage	Miller, Ohio	Watkins
Gephardt	Minish	Whitehurst
Gilman	Mitchell, N.Y.	Whitley
Ginn	Moffett	Whitten
Glickman	Montgomery	Wiggins
Goodling	Moore	Wilson, Bob
Gradison	Moorhead, Calif.	Wilson, Tex.
Grassley	Mottl	Winn
Green	Murphy, Pa.	Wirth
Gudger	Myers, Gary	Wolff
Guyer	Myers, John	Wydler
Hagedorn	Neal	Wylie
Hall	Nichols	Yatron
Hammer-schmidt	Nolan	Young, Alaska
Hanley	Nowak	Young, Fla.
Hannaford	O'Brien	Young, Mo.
	Oakar	Zeferetti

NAYS—135

Addabbo	Burleson, Tex.	Fascell
Akaka	Burlison, Mo.	Flood
Alexander	Burton, Phillip	Ford, Mich.
Anderson, Calif.	Chisholm	Ford, Tenn.
Annunzio	Clay	Fraser
Ashley	Collins, Ill.	Garcia
Baldus	Conyers	Gaydos
Bedell	Corman	Giaimo
Beilenson	Cornell	Gibbons
Bingham	Cotter	Gore
Blanchard	Danielson	Hamilton
Blouin	Dellums	Hawkins
Boggs	Dent	Holland
Boland	Derrick	Holtzman
Bolling	Dingell	Howard
Bonior	Drinan	Jenrette
Brademas	Duncan, Oreg.	Johnson, Calif.
Brodhead	Eckhardt	Jones, Tenn.
Brooks	Edgar	Jordan
Brown, Calif.	Edwards, Calif.	Kastenmeier
	Fary	Kazen
	Kildee	Myers, Michael
	LaFalce	Natcher
	Le Fante	Nedzi
	Lederer	Nix
	Leggett	Oberstar
	Lehman	Obey
	Long, La.	Ottinger
	Long, Md.	Patten
	Lundine	Pepper
	McFall	Perkins
	Mahon	Pike
	Markey	Preyer
	Mazzoli	Price
	Meeds	Rangel
	Mikulski	Reuss
	Mikva	Richmond
	Miller, Calif.	Rodino
	Mineta	Rogers
	Mitchell, Md.	Rooney
	Moakley	Rosenthal
	Mollohan	Rostenkowski
	Moorhead, Pa.	Roybal
	Murphy, Ill.	Ryan
	Murphy, N.Y.	Seiberling
	Murtha	Sikes
	Simon	
	Slack	
	Smith, Iowa	
	Solarz	
	Staggers	
	Stark	
	Steed	
	Stokes	
	Studds	
	Thompson	
	Thornton	
	Tsongas	
	Ullman	
	Van Deerlin	
	Vanik	
	Waggonner	
	Waxman	
	Weaver	
	Weiss	
	Whalen	
	Wright	
	Yates	
	Zablocki	

ANSWERED "PRESENT"—1

Steiger

NOT VOTING—26

Ammerman	Harrington	Sarasin
Brown, Mich.	Hollenbeck	Scheuer
Burke, Calif.	Krueger	Shipley
Chappell	McHugh	Sisk
Cochran	Moss	Teague
Crane	Pettis	White
Diggs	Quie	Wilson, C. H.
Goldwater	Rahall	Young, Tex.
Gonzalez	Roncalio	

The Clerk announced the following pairs:

On this vote:

Mr. Crane for, with Mr. Steiger against.

Mr. Hollenbeck for, with Mr. Chappell against.

Mr. Goldwater for, with Mr. Rahall against.

Mr. White for, with Mr. Ammerman against.

Until further notice:

Mr. Krueger with Mr. Brown of Michigan.

Mr. Shipley with Mrs. Pettis.

Mr. Teague with Mr. Cochran of Mississippi.

Mr. Scheuer with Mr. Quie.

Mr. Charles H. Wilson of California with Mr. Sarasin.

Mr. Sisk with Mr. McHugh.

Mr. Roncalio with Mr. Moss.

Mrs. Burke of California with Mr. Diggs.

Mr. Gonzalez with Mr. Harrington.

Messrs. EVANS of Colorado, EVANS of Indiana, ROBERTS, CORNWELL, PATTERSON of California, POAGE, and STRATTON changed their vote from "nay" to "yea."

Mr. STEIGER. Mr. Speaker, I have a live pair with the gentleman from Illinois (Mr. CRANE). If he were present, he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

Mr. STEIGER changed his vote from "nay" to "present."

So the preferential motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. EVANS of Colorado). Without objection, the Chair appoints the following conferees: Messrs. ULLMAN, ROSTENKOWSKI, VANIK, BURLESON of Texas, CORMAN, GIBBONS, WAGGONNER, CONABLE, DUNCAN of Tennessee, and ARCHER.

There was no objection.

EXTENDING AUTHORITY FOR FLEXIBLE REGULATION OF INTEREST RATES ON DEPOSITS AND ACCOUNTS IN DEPOSITORY INSTITUTIONS

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the bill (H.R. 14289) to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman from Rhode Island (Mr. ST GERMAIN), the chairman of our subcommittee, assure us that this is an extension for 1 year of what is known as regulation Q, and that nothing else is included. Is that correct?

Mr. ST GERMAIN. Mr. Speaker, if the gentleman will yield, that is correct.

As a matter of fact, as the gentleman knows, we did this yesterday. The Senate is now in the process of loading this up like the super chief with freight cars. I felt perhaps that if we send the Senate a new clean bill, they will get the point. All we want is a 1-year extension of regulation Q.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's comment. We support the concept that this should not be adorned with all kinds of other items. I hope the gentleman has more success in persuading the other body not to add extra unrelated material than he did with the previous 1-year extension.

Mr. ST GERMAIN. We are trying to impress upon them that we do not want a potpourri. That is p-o-t-p-o-u-r-r-i.

Mr. ROUSSELOT. The gentleman from Rhode Island has always been good at spelling.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The Clerk read the bill as follows:

H.R. 14289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Act of September 21, 1966 (Public Law 89-597) is amended by striking out "December 15, 1978" and inserting in lieu thereof "December 15, 1979".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON S. 3084, HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the Senate bill

(S. 3084) to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, as the gentleman well knows, we are supposed to be in the housing conference in a few minutes. What assurance is there since yesterday's session in conference that this housing conference will be completed?

Mr. ST GERMAIN. Mr. Speaker, if the gentleman will yield, I will remind the gentleman that he must be optimistic. If the gentleman should fall off the Empire State Building and if on the way down somebody asked, "How are you doing, JOHN ROUSSELOT?", the gentleman should say, "Pretty good, so far." The gentleman must be optimistic.

Mr. ROUSSELOT. Yes, but when I look at the ground on this conference, it is quite hard to be optimistic.

Mr. ST GERMAIN. It certainly is.

Mr. ROUSSELOT. My belief is that it is going to be very difficult to complete this housing conference tonight. Why can we not simply wait until tomorrow?

Mr. ST GERMAIN. Mr. Speaker, as I said, we must be optimistic at this date, at this late date in the session.

Mr. ROUSSELOT. We will be here until midnight. Maybe the gentleman should do this later today.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

CONSENTING TO CERTAIN AMENDMENTS TO THE NEW HAMPSHIRE-VERMONT INTERSTATE SCHOOL COMPACT

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2403) to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact, approved by Public Law 91-21, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I am familiar with the legislation, but I just want to ask the gentleman if there are any nongermane amendments that have been appended to this bill in the other body.

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, there have been no amendments whatever, nongermane or otherwise, added by the Senate.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2403

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is given to the amendments to the New Hampshire-Vermont Interstate School Compact which have been agreed to by such States and are substantially as follows:

(1) amend article VII-G to read as follows:

"(G) STATE AID PROGRAMS.—As used in this paragraph the term 'initial aid' shall include New Hampshire and Vermont financial assistance with respect to a capital project, or the means of financing a capital project, which is available in connection with construction costs of a capital project or which is available at the time indebtedness is incurred to finance the project. Without limiting the generality of the foregoing definition, initial aid shall specifically include a New Hampshire state guarantee under RSA 195-B with respect to bonds or notes and Vermont construction aid under chapter 123 of 16 V.S.A. As used in this paragraph the term 'long-term aid' shall include New Hampshire and Vermont financial assistance which is payable periodically in relation to capital costs incurred by an interstate district. Without limiting the generality of the foregoing definition, long-term aid shall specifically include New Hampshire school building aid under RSA 198 and Vermont school building aid under chapter 123 of Title 16 V.S.A. For the purpose of applying for, receiving and expending initial aid and long-term aid an interstate district shall be deemed a native school district by each State, subject to the following provisions. When an interstate district has appropriated money for a capital project, the amount appropriated shall be divided into a New Hampshire share and a Vermont share in accordance with the capital expense apportionment formula in the articles of agreement as though the total amount appropriated for the project was a capital expense requiring apportionment in the year the appropriation is made. New Hampshire initial aid shall be available with respect to the amount of the New Hampshire share as though it were authorized indebtedness of a New Hampshire cooperative school district. In the case of a State guarantee of interstate district bonds or notes under RSA 195-B, the interstate district shall be eligible to apply for and receive an unconditional State guarantee with respect to an amount of its bonds or notes which does not exceed fifty percent of the amount of the New Hampshire share as determined above. Vermont initial aid shall be available with respect to the amount of the Vermont share as though it were funds voted by a Vermont school district. Payments of Vermont initial aid shall be made to the interstate district, and the amount of any borrowing authorized to meet the appropriation for the capital project shall be reduced accordingly. New Hampshire and Vermont long-term aid shall be payable to the interstate district. The amounts of long-term aid in each year shall be based on the New Hampshire and Vermont shares of the amount of indebtedness of the interstate district which is payable in that year and which has been apportioned in accordance with the capital expense apportionment formula in the articles of agreement. The New Hampshire aid shall be payable at the rate of forty-five percent, if there are three or less New Hampshire members in the interstate district, and otherwise it shall be payable as though the New Hampshire members were a New Hampshire cooperative school district. New Hampshire and Vermont long-term aid shall be deducted from the total capital expenses for the fiscal year in which the long-term aid is payable, and the balance of such expenses shall be apportioned among the member districts. Notwithstanding the foregoing provisions, New Hampshire and Vermont may at any time change their State school aid programs that are in existence when this compact takes effect and may establish new programs, and any legislation for these purposes may specify how such programs shall be applied with respect to interstate districts. Notwithstanding the foregoing, the respective amounts of New Hampshire and Vermont initial and long-term aid, with respect to a capital project of the Dresden School District for which indebtedness is authorized by a vote of the District after July 1, 1977, shall be initially determined for each year for each member district by the manner provided in this paragraph and the aid shall be paid to the Dresden School District, however, the amount of aid for those capital projects received by the Dresden School District on account of each member district shall be used by the District to reduce the sums which would otherwise be required to be raised by taxation within that member district.";

(2) insert the following at the end of article VII:

"(I) Notwithstanding paragraph (G) of this Article, initial and long-term aid may be allocated among the members of an interstate district other than the Dresden School District in the manner which is provided in the articles of agreement of that district, or if not therein provided, in the manner specified in paragraph (G) for all interstate districts other than the Dresden School District."; and

(3) amend Article IX to read as follows:

"ARTICLE IX

"AMENDMENTS TO ARTICLES OF AGREEMENT

"A. Amendments to the articles of agreement shall be adopted in the manner provided in the articles of agreement, and if no such provision is made in the articles of agreement then amendments shall be adopted by the affirmative vote of two-thirds of those present and voting at an interstate district meeting, except that:

"a. If the amendment proposes the addition of a new member district, the amendment shall be adopted in the same manner provided for the adoption of the original articles of agreement, provided that the planning committee shall consist of all of the members of the interstate district board of directors and all of the members of the school board of the proposed new member district or districts, and provided that the amendment shall be submitted to the voters of the interstate district, the affirmative vote of two-thirds of those present and voting at an interstate district meeting being required for approval of the amendment. The articles of agreement together with the proposed amendment shall then be submitted to the voters of the proposed new member district or districts, and an affirmative vote of a simple majority of those present and voting at each district meeting shall be required for approval of the amendment.

"b. No amendment to the articles of agreement may impair the rights of bond or note holders or the power of the interstate district to procure the means for their payment.

"c. Amendments to the articles of agreement of the Dresden School District shall be adopted in the following manner: (1) an amendment shall be initially approved upon

the affirmative vote of a simple majority of those voters of the Dresden School District who are present and voting at a meeting called for such purpose, (2) the amendment initially approved by the voters of the Dresden School District shall become final and effective upon the expiration of thirty days after the date of that vote, unless a petition is duly filed within that thirty-day period and the amendment is subsequently not approved by the voters of a member district in accordance with the procedure specified in clause (3), (3) if a petition, valid under applicable State law, is filed before the expiration of that thirty-day period with the clerk of any school district which is a member of the Dresden School District, which petition requires the calling of a special meeting of that member district for the purpose of considering the approval of the amendment initially adopted by the voters of the Dresden School District, then the board of school directors of that member district shall thereupon call a special meeting of that district for that purpose, (4) if the amendment as initially approved by the voters of the Dresden School District is approved by more than forty percent of the voters present and voting at the meeting of each member district in which a petition was filed under this section, then the amendment as initially adopted shall become final and effective upon the vote of that member district last to vote. If the amendment as initially approved by the voters of the Dresden School District is not so approved by more than forty percent of the voters present and voting at the meeting of any one member district, then the amendment shall be null and void and of no effect.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 1566, FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978

Mr. BOLAND. Mr. Speaker, I call up the conference report on the Senate bill (S. 1566) to authorize electronic surveillance to obtain foreign intelligence information.

The Clerk read the title of the Senate bill.

(For conference report and statement, see proceedings of the House of October 5, 1978.)

The SPEAKER pro tempore. Under the rule previously adopted, the conference report is considered as having been read.

The gentleman from Massachusetts (Mr. BOLAND) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MCCLORY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on S. 1566 which the House managers bring back to the House is, in almost every respect, the House bill. After what at times seemed to threaten to be a deadlocked conference, the Senate receded and accepted the House language exempting certain sensitive surveillances from the warrant requirement. These surveillances do not involve U.S. persons, and the language of both the bill and the statement of the managers has been clarified to reinforce that condition. Further, the Attorney General certifications, which authorized the surveillances, will be sealed and stored under security procedures determined by the Chief Justice, with the concurrence of the Attorney General, after consultation with the Director of Central Intelligence. This will safeguard the sensitive information they contain, as well as insure record accountability for these surveillances.

The conferees, Mr. Speaker, also debated long and hard on the provisions designating judges. We did so, with a clear indication from the intelligence agencies that the House verision simply made inadequate provision for the secrecy of the surveillances involved. This was because the amendment which eliminated the original special court in the House bill followed adoption of the McClory amendment in the Committee of the Whole. When the McClory amendment was later defeated by a separate vote in the House, restoring all the surveillances requiring judicial warrants the court provisions, adequate for the few warrant applications that could have been made under the McClory amendment, were now totally inadequate for the substantial number which would be necessary under the restored provisions of the bill.

Mr. Speaker, let me quote to the Members a letter of the Attorney General directed to all of the conferees:

> Whatever provision is finally adopted by the conferees to resolve this problem, it is essential that there be a small number of predesignated judges authorized to exercise nationwide jurisdiction under the act. Only in this way can the intelligence community be certain that appropriate security measures are followed with respect to the personnel and facilities involved in this sensitive area.

It was clear to the majority of the House conferees, from that letter, that some compromise version was necessary. The conferees discussed a half dozen different ways of selecting and appointing the judges who would act on warrant applications. Some were rejected because they exceeded the scope of the differences committed to conference. In the end, the conferees settled on a modified version of the Senate language, altered to guarantee geographic diversity in judge selection and discourage the possibility of judge shopping.

Mr. Speaker, the action of the House conferees in this matter was thoroughly consistent with the intent of the House. The so-called special court was struck in the House for two reasons enunciated by the author of the amendment, the gentleman from Pennslyvania (Mr. ERTEL).

First, he said there are no surveillances for a court to consider. They have all been eliminated by the McClory amendment. But that situation was reversed the next day, when the McClory amendment was defeated on a separate vote in the House.

Second, it was argued that concentrating all warrant applications in one location posed a security risk and that they should be dispersed throughout the Federal judicial system. Well, Admiral Turner, Director of Central Intelligence, Admiral Inman, the Director of the National Security Agency, Director Webster of the Federal Bureau of Investigation, and the Attorney General, as well, are unanimous in their rejection of that theory. Their desire is to have these applications considered in only one location.

Mr. Speaker, the House conferees have brought back a workable, responsible, and extremely important bill. This legislation is needed to make clear the authority of the intelligence agencies in collecting foreign intelligence information by means of electronic surveillance. It will protect the agents who must put the surveillances into operation. It will assure our people that this most intrusive but highly productive form of intelligence gathering is being conducted in a fashion that will preserve their privacy while protecting our Nation's security.

Mr. Speaker, this bill passed the Senate 95 to 1. It passed the House a month ago 246 to 128. The conference was adoped in the Senate on last Monday night by an overwhelming voice vote, with no dissenting voice vote.

Mr. Speaker, this bill is the recommendation of President Ford, Attorney General Levi, a recommendation of Attorney General Bell and President Carter. It is a bill that has been worked on for 3 years by the Committee on the Judiciary on the other side.

It has been worked on for many months—many months—by the Intelligence Committees of both House and Senate sides. This conference report deserves the support of this House.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. KASTENMEIER), from the Committee on the Judiciary which shares jurisdiction in this area.

Mr. KASTENMEIER. Mr. Speaker, it has now been over 6 years since the Supreme Court in the famous Kieth case cast a cloud over current warrantless procedures for foreign intelligence surveilance. In that landmark decision Mr. Justice Powell writing for the court, specifically invited Congress,

> To consider protective standards . . . which differ from those already prescribed for specified crimes in Title III (of the Omnibus Crime Control and Safe Streets Act of 1968). Different standards may be compatible with the Fourth Amendment if they are reasonable both in relation to the legitimate need of government for intelligence and the protected rights of our citizens.

Finally, after years of work by four congressional committees and two administrations, we have developed a bill which is supported by a unique historical consensus—supported by everyone from the FBI and CIA to the ACLU. I believe that it is imperative that this consensus not be allowed to disintegrate at this late hour.

The conference report before the House represents a fair compromise of the positions of the two bodies. Many hours of difficult negotiations went into the report, which like the House passed

bill, reflects a fair balancing of civil liberties protections against national security concerns.

Mr. Speaker, this conference report deserves approval for the following reasons:

For the first time, the executive branch will be bound by statutory restrictions; no longer will a claim of inherent executive authority to conduct national security wiretapping be recognized. The rule of law will be brought to this practice.

For the first time, the law will require that a criminal standard for United States persons be met prior to approval of a national security wiretap on them.

For the first time, an objective third party, a Federal judge, will be required to review and approve applications for these taps, using explicit statutory standards.

For the first time, the law will require extensive minimization procedures for national security wiretaps, thus requiring that extraneous information which may be gathered incidental to a tap be destroyed.

For the first time congressional oversight of national security wiretapping procedures will be provided by law. I can personally attest to the difficulty congressional committees and subcommittees have had in getting accurate, detailed information on the activities of the intelligence community. This requirement will be an important, substantive safeguard against the blatant abuses that have occurred in the past.

Lastly, this legislation will provide an important precedent for the crucial charter legislation which the Congress will be considering next year. I consider the bill before us today to be part of an ongoing effort to return the rule of law and the resultant public respect to the Nation's intelligence community.

As chairman of the Subcommittee on Courts, I believe that a word about the conference resolution of the judicial review procedures set forth in the conference report is in order.

The House adopted an amendment by the gentleman from Pennsylvania which would have required that all warrant applications be made to the U.S. district court for the geographical district in which the surveillance was to take place.

While I personally argued forcefully in conference for a court jurisdiction provision which would have reflected closely the House amendment, I was unable to persuade the Senate conferees for two reasons.

First, the entire intelligence community, including the Directors of the CIA, NSA, and FBI strongly opposed the House amendment. They argued that the inability of the Govenrment to make secure widely dispersed court facilities and numerous personnel would have made highly secret information potentially available to hostile foreign intelligence services. This was particularly persuasive with the conferees due to the fact that a major justification for the amendment of the gentleman from Pennsylvania was that it would offer more security against inflation by hostile intelligence agencies.

Secondly, the Ertel amendment was adopted at a point in the debate at which the House had accepted an amendment limiting the warrant procedure only to U.S. persons. This limitation was removed later in the debate. Had the warrant procedure applied only to that handful of wiretaps against U.S. persons there would have been a much more persuasive argument that ordinary courts, schooled in criminal warrant procedures, should bear the responsibility for receiving applications under the bill. However, as finally passed, the House bill extended this warrant requirement to foreign agents who are not U.S. persons. The intelligence community argued to the conferees that this required a judicial review process carried out by judges who, although experienced in general judicial procedures, were able to have the benefit of special study in the area of foreign affairs and foreign intelligence gathering. Such knowledge would not be available to judges generally without risks of compromise of national security.

Mr. Speaker, we have labored to persuade the Senate to accept the House bill and have met with great success as can be seen by the fact that the basic text before us today is that of the House-passed bill. However, since the other body enacted its bill by a margin of 95 to 1, compromise in the committee on conference was an obvious necessity. The compromise agreed to more than adequately reflects the House bill and enjoys the vigorous support of those involved in our Nation's intelligence-gathering effort as well as civil libertarians. I strongly urge approval of the conference report without further delay.

Mr. BUTLER. Mr. Speaker, will the gentleman yield for a question?

Mr. KASTENMEIER. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Speaker, the gentleman from Massachusetts and the gentleman from Wisconsin have discussed what took place in the conference. We spent 1½ hours on the floor debating an amendment which I offered and we compromised it with the insertion of the language "exclusive statutory" provision with reference to the procedures contained in this bill for conducting foreign electronic surveillance. I wonder if the gentleman can tell us what happened on that?

Mr. KASTENMEIER. Mr. Speaker, as the gentleman knows, the Senate provided no such term as "statutory." The House did agree—and I agreed as one Member of the House—to accept the word "statutory" without really very much debate as to what "statutory" meant. The 1½ hours of House debate which preceded that went to somewhat different language.

The Senate insisted that the word "statutory" be deleted. There is a full explanation on page 35 of the conference report, in which it states accurately and fairly:

> The conferees agree that the establishment by this act of exclusive means by which the President may conduct electronic surveillance does not foreclose a different decision by the Supreme Court. The intent of the conferees is to apply the standard set forth in Justice Jackson's concurring opinion in the Steel Seizure Case: "When a President takes measures incompatible with the express or implied will of Congress, his power is at the lowest ebb, for then he can rely only upon his own Constitutional power minus any Constitutional power of Congress over the matter.

That essentially states the view of the conferees. Nothing the gentleman or I can say will alter any constitutional power the President may have. However, we should not in fact, allocate any authority, statutory or otherwise, that the House may express by virtue of this law.

Mr. BUTLER. I thank the gentleman.

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Speaker, if I may add to what the gentleman from Wisconsin has said, if there is one point the Senate was not going to agree on, it was on this point. When the Senate insisted on the deletion of the word "statutory", we had actually no choice in the matter.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. BOLAND) has 15 minutes remaining. The gentleman from Illinois, (Mr. MCCLORY) is recognized for 30 minutes.

Mr. MCCLORY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, at this stage it is particularly important for us to realize what we are doing and what we are not doing. We should be aware of what this conference report provides and we should note that only five of the eight House conferees even signed the conference report. It does not happen too often that Members refuse to sign a conference report, but that occurred here. And the reason is because the House conferees have lost on every point. We have had to give ground either completely or we have had provisions in the House bill diluted to the extent that they coincide with what the Senate wanted and not what the House wanted.

This is particularly true with regard to the discussion that has taken place here on the floor with relation to the constitutional authority of the President, which was the subject of an amendment offered by the gentleman from Virginia (Mr. BUTLER). After a long discussion during the debate on this measure an agreement was reached in which both sides agreed that, by using the expression "statutory", that is, "exclusive statutory remedy" that that would mean that the inherent constitutional power of the President was not being affected. But it is true that the Senate conferees insisted on eliminating the word "statutory." They insisted on that because, in effect, what they are endeavoring to do with regard to all of our intelligence agencies and with respect to all of the intelligence activities, is to transfer the power that is granted by the Constitution to the President of the United States, to the courts. And we should realize that. It is an attempt to amend the Constitution by a simple legislative enactment.

Something else on which the Senate conferees insisted and which is in direct opposition to what was done in the House is this:

We rejected by better than a 2-to-1 majority, the establishment of a special court, and yet the special court, by omitting the word "special" was reinstated.

So again, I say, we should be aware of what has happened.

We have given in on every point.

The conference report imposes a requirement to transmit a sealed request for electronic surveillance even with regard to communications between foreign powers. We have reinstated the court involvement, which again the Senate conferees insisted upon, and which we gave in on.

Admiral Inman and the NSA, did not want to have court involvement, but we have given them court involvement because when their activities are revealed in a sealed envelope, and you file it with the court, and we then provide means by which the envelope can be unsealed and exposed, we are betraying the support we gave to NSA in the House-passed bill.

Is that consistent with the position of the House? Is that consistent with what both sides of the Intelligence Committee agreed upon and insisted upon? No. It is in complete defiance of what we decided here in the House.

The chairman of the committee (Mr. BOLAND) spoke about the McClory amendment. We never got anywhere near the McClory amendment. In the Intelligence Committee we had a tie vote on that amendment but then we lost it here on the floor, in a separate vote, when we went back into the House. There has been much pressure to get out a bill, and that is what it came down to finally at the end of the conference, that we have got to have some bill, we have got to have some legislation.

I say do not be in a hurry to make a serious mistake like this.

We will have charter legislation in the next Congress.

Let me add this, the abuses of the intelligence agencies are not abuses occurring now, or that occurred last year, or even the year before. They are abuses that relate to a period beginning long years ago—and which no longer occur. As a matter of fact, the existing guidelines have not been the subject of abuse. Consequently it seems to me that what we should be doing here is to thoughtfully and carefully strengthen the intelligence agencies, to make them better insofar as our national security is concerned, and not to compromise our actions in order to reach an accommodation with the American Civil Liberties Union, or any other group which would, if it could, prohibit all clandestine activities of our intelligence agencies because they do not believe that they are needed. They would require court ordered warrants for electronic surveillance. Indeed, they want our investigative agencies to secure judicial warrants for the appointment of informants.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. MCCLORY) has expired.

Mr. McCLORY. Mr. Speaker, I yield myself an additional half minute.

Mr. Speaker, I just want to finish this thought, and that is that we are really involved here with one big package. It is all one big package which we have before us today, foreign intelligence electronic surveillance.

However, we also will have before us next the question of whether we should report to the courts with regard to informants and disclose their names and identities to the courts so that they can be accessible. The Attorney General should himself know all about this because he is before a court right now where he is being compelled, under threat of contempt of court, to reveal the names of informants.

Imagine, Mr. Speaker, we have put ourselves into that same trap.

It would seem to me that one of the easiest ways to compromise the confidentiality with which the CIA and other intelligence agencies must operate is to require that a record be established and maintained in a special court.

Currently, as I said, it is a court which is endeavoring to require the Attorney General to disclose the identity of informants who have been employed by the FBI in connection with intelligence-gathering activties.

It is through a court proceeding initiated by the American Civil Liberties Union that a U.S. district court is endeavoring to identify individuals employed by a Chicago Department of Investigation, who infiltrated a radical group aimed at disrupting the Democratic National Convention in 1968.

Clearly, to identify informants is to virtually destroy this technique which, as the Director of the FBI has declared, serves as the key to antiterrorist and criminal investigations.

While it may be the aim of the ACLU and others to destroy this technique, and to eliminate informants from infiltrating organizations suspected of criminal, terrorist, or other types of antisocial or revolutionary activity, it should certainly not be the purpose of this legislation to give substance or support to such destructive efforts.

Yet, to impose upon the intelligence agencies a requirement to secure permission of a special court before undertaking national security intelligence-gathering activities either by way of electronic surveillance—or by the use of informants—is in effect to destroy any and all clandestine information-gathering activities—which are the key to criminal and national security intelligence gathering.

The House conferees have, in my view, failed to sustain the House position on virtually all counts. The exemption which was specifically granted by the action of the House Intelligence Committee so that no court proceeding or warrant requirement would be imposed where an electronic surveillance was sought for communications between foreign powers—was amended and significantly diluted.

The conference report imposes a requirement to transmit a sealed request for such electronic surveillance to the Chief Justice which, under some circumstances, may be unsealed.

In effect, the security which the Intelligence Committee felt was essential with regard to this extremely sensitive type of electronic surveillance was sacrificed by permitting a subsequent court proceeding to expose the electronic surveillance project for which the Attorney General has given his approval.

The House acted also to exempt the Executive from the court requirement with regard to securing foreign intelligence information in time of war declared by the Congress. No one seems to question the responsibility of the President to protect our national security in time of war. Thus, the House wisely recognized the constitutional authority and responsibility of the President in a wartime situation.

The conferees all but obliterated this exemption by substituting language which exempts the President from a warrant requirement for a period of just 15 days. Thereafter, all of the court proceedings and other requirements—including the possible appeals—are applicable in wartime just as they are in peacetime.

An extremely vital decision made in the House was the adoption of an amendment, offered by the gentleman from Virginia (Mr. BUTLER). After more than 1½ hours of debate on the amendment, compromise language was offered—and agreed to—making the bill the "exclusive statutory means" by which "electronic surveillance" may be conducted. This served to recognize the power which the Constitution vests in the President to engage in foreign intelligence gathering so as to protect our nation from foreign aggression. Sadly—and reprehensibly—this amendment was summarily dismissed in conference.

Finally, the conferees were in a serious dilemma with regard to the Ertel amendment which eliminated the entire "Special Court" provision for hearing warrant applications for national security electronic surveillance. After all, this amendment was adopted by a better than 2-to-1 margin. A patchwork provision to create a special court with judges from seven judicial circuits named by the Chief Justice of the U.S. Supreme Court found its way into the conference report. While there seemed to be a lack of agreement on this provision, the conferees acted almost in desperation with the argument that it was essential to produce some bill in this Congress on the subject of foreign intelligence electronic surveillance.

May I suggest that this is perhaps the major defect in the action which the conferees have recommended; namely, that it is essential to enact "some bill" in this Congress. In my view, "some bill" means even a bad bill and that is precisely what I feel the conferees have produced. This so-called carefully crafted legislation on the subject of foreign intelligence electronic surveillance is a modified accommodation to those who oppose all electronic surveillance plus those who feel that no national security intelligence gathering should be undertaken except upon the issuance of

a court order—and this includes electronic surveillance, the securing of intelligence information through informants, and every other type of clandestine intelligence gathering activities which are essential in the work of our intelligence agencies.

As I have maintained throughout the hearings and proceedings involving this subject, I feel strongly that legislation should be designed which will translate into statutory form the carefully drafted guidelines promulgated by former President Ford and later by President Carter. To substitute this confusing and constitutionally suspect legislation for an existing system with which the intelligence agencies have fully complied—and which has served to protect the privacy interests of our American citizens—is to commit an error which is both dangerous and possibly irreparable.

I hope that the conference report will be rejected and that the new Congress will have an opportunity to produce a sound and thoughtfully considered measure of which this body and this nation may be proud.

Mr. Speaker, in addition to the other arguments which have been presented in opposition to the conference report on the foreign intelligence surveillance measure, I wish to call attention to a recent editorial of station WOR-TV, New York City (channel 9), an independent station owned by RKO. The editorial expressed by the station's announcer, Mr. Herb Stupp, is entitled "A Delicate Balance" and is as follows:

A DELICATE BALANCE

Part of the aftershock of Watergate has been a drive to make the intelligence agencies accountable. The dilemma is how to balance civil liberties with serious national security needs. A bill called the foreign intelligence surveillance act tries to do just that.

The bill would create a special court in Washington. Before the CIA could eavesdrop on a suspected foreign agent, it would first have to obtain a warrant from this court. We like the idea of protecting liberty and privacy, but parts of the bill are dangerously impractical.

For instance, if the CIA wanted to intercept information going from one Soviet agent to another, it would first have to obtain a court order!

Another consideration is that by bringing foreign intelligence into the courts for the first time, we would be widening the circle of people with access to sensitive information. That includes judges, clerks, bailiffs, and other staff.

This is bound to mean leaks which would jeopardize our security.

Congressman McClory of Illinois has offered some amendments that make sense. He would require a warrant only for surveilling U.S. citizens and permanent residents. He would totally eliminate the warrant requirement for eavesdropping on foreign powers.

According to a study by the Heritage Foundation, terrorism is likely to increase in the United States. So while it is important to safeguard civil liberties, this is no time to hamstring our intelligence community.

We could support the foreign intelligence surveillance act, but only with the McClory amendments.

And that's our opinion. I'm Herb Stupp.

Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Speaker, we are, indeed, under considerable pressure to legislate in this area; but I hope we will not yield to that pressure if the price of doing so is to compromise settled constitutional principles.

The gentleman from Illinois (Mr. MCCLORY) touched on the subject. It has been the subject of debate here, but it needs to be repeated.

Central to this whole scheme of review of national security wiretaps is that a court, in the dead of night, upon application of the executive branch, will affect the rights of third parties without giving them the slightest notice of what it is doing. Furthermore, it is not intended that the third parties whose rights are affected, will ever receive notice. Indeed, if there was the slightest suspicion that the target of electronic surveillance would get wind of what the executive branch proposed to do in collusion with the judicial branch, the whole exercise would stop.

Mr. Speaker, can the Members not see that? Can we not see what we are doing to the Federal judiciary? We are involving them in a wholly ex parte determination, in a secret plan between the Justice Department and the judiciary, without involving the third party whose interest is affected.

That is not a case or controversy because it fails in the essential ingredient of an article III case or controversy. There is no adversary relationship before the court between the real parties in interest.

Mr. Speaker, we cannot approve this bill, even under pressure, if we are faithful to the Constitution, in my opinion. What would happen if we could rise above this current pressure and vote this conference report down?

The executive branch, which is the alleged perpetrator of all of this improper surveillance, supports the legislation. It is not going to view a rejection of the conference report as some license to violate the personal liberties of those in this country. I have confidence that the President and the Department of Justice will not conduct a rampage of surveillance if this conference report is voted down.

There is ample time in the next Congress to give more sensitive consideration to a fundamental constitutional principle.

Mr. Speaker, we accepted the argument I have made once after full debate; but after intensive pressure and, I suppose, upon further reflection, too, when a separate vote was called upon this issue in the House, the Members changed their mind. I accept that precedent. Let us change it again. We were right the first time. Let us reverse our position again and let this matter percolate a bit longer. The issues involved are far too fundamental for us to legislate in haste.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Let me first say that this is one of the last appearances of the gentleman in the well before the House, and as one who has been assisted many times by his observations on matters before our committee and on the floor, I want to wish him well in the years ahead.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MCCLORY. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. ROBINSON).

Mr. ROBINSON. I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to the conference report. Frankly, I find this to be a poor piece of legislation—all the more so in its timing.

While I opposed this measure when it was first considered in the House, upon final passage of the bill I had hoped that the amendments which were adopted during floor consideration would be substantially maintained in conference. But, to my dismay, not one of these amendments was maintained. Let me repeat that—every single change made on the House floor was substantially undone in conference.

I understand that the very nature of the conference between the two Houses must be one of compromise, but compromise is a two-way street, and I do not see that the Senate traveled the road at all. And, let me note that the provisions rejected by the conferees were contained in amendments not only adopted by voice vote, but in one instance adopted by a vote of 224 to 103—that is more than a 2-to-1 majority. Therefore, as I see it, even putting aside for the moment the substance of the conference report, I believe that it should be rejected simply on the grounds of the short shrift given the clearly expressed position of the House.

The conference report also presents numerous reasons for a "no" vote on the merits. For, while it extends fourth amendment, privacy protections to foreigners engaged in espionage in the United States, it thereby denies the President his constitutionally vested power to gather intelligence in order to protect our country from foreign aggression.

Finally, as I have already noted, consideration of this piece of legislation at this time presents a good example of bad timing. Currently pending in Congress is a bill entitled the "National Intelligence Reorganization and Reform Act." This bill would not only establish general guidelines for the activities of our intelligence agencies, but would also set out specific charters for each one of these agencies. It should be further understood that the bill we are considering today makes up one part of the Reorganization Act. It seems to me that legislation regulating foreign intelligence electronic surveillance would better be considered in an omnibus bill rather than, as we are doing today, on a piecemeal basis.

Mr. Speaker, I urge my colleagues to vote "no" on the conference report.

Mr. MCCLORY. Mr. Speaker, I yield 5

minutes to the distinguished gentleman from California (Mr. BOB WILSON), the ranking member of the permanent Select Committee on Intelligence.

Mr. BOB WILSON. Mr. Speaker, I rise in opposition to the conference report to S. 1566, the Foreign Intelligence Surveillance Act of 1978. I have great respect for my distinguished chairman and the subcommittee members. I did not sign the conference report because in considering this legislation I find a number of things which bother me.

I am bothered by the fact that an amendment adopted by the House after more than an hour and a half of debate—an amendment recognizing the constitutional power of the President to protect our national security—was totally rejected by the conferees.

I am bothered by the fact that a time of war exemption from the bill's warrant requirements adopted in the House was gutted in conference.

I am bothered by the fact that the conferees completely rejected an amendment striking from the bill a provision establishing "Special Courts"—despite the fact that this amendment had been adopted by more than a 2-to-1 majority in the House.

Mr. Speaker, what bothers me most of all is the fact that this piece of legislation is before the House at all at this time. It may be trite, but it is true: passing this bill now will be an act of putting the cart before the horse.

Currently pending in Congress is the National Intelligence Reorganization and Reform Act. This piece of legislation—which some refer to as the intelligence agency's "Charter Bill" will be the center of attention in the Intelligence agencies, as well as establish a framework for the conduct of intelligence activities.

While much of the bill establishes a general framework for intelligence activities, title III, part B, encompasses the very legislation which is before us today.

While I seriously question a number of provisions in the charter bill, I believe that the omnibus approach is the best way to go. I find it totally inadvisable to enact legislation aimed in only one area of foreign intelligence gathering before we have established, general statutory guidelines for all intelligence activities.

Mr. Speaker, I ask my colleagues to consider the following: currently we are operating under President Carter's Executive order which all available evidence indicates is doing the job—it is protecting reasonable privacy interests and regulating intelligence collection. Indeed, all of the testimony before the Intelligence Committee has shown the present situation to be abuse-free. Therefore, we can continue to operate effectively without this legislation, and it certainly would be preferable to consider it as part of general, intelligence agency reorganization legislation.

Mr. Speaker, I urge my colleagues to vote "no" on the conference report.

Mr. McCLORY. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. ASHBROOK), a member of the committee.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, this was a bad bill when it came before us on September 7. After the changes made by the conference committee, it is now considerably worse. In every case the conference decisions make it more difficult to surveil a foreign intelligence agent or terrorist.

In discussing an earlier state of this legislation in 1976, even Vice President MONDALE, then a Senator said:

> As far as I am concerned, foreign spies in this country should have no rights. Probably that is a little crudely put, but a KGB agent and so on—I shouldn't say it—I could care less how we proceed to get information from them or influence their behavior while they are in this country. What I am worried about is the application of these activities and their effect on American citizens. That is what I am talking about. (Testimony before the Senate Intelligence Committee, June 29, 1976, p. 69.).

This bill goes far beyond what even Vice President MONDALE advocated. It, in fact, grants fourth amendment privileges to foreign intelligence agents.

A few months ago, the CIA provided the House Intelligence Committee with an unclassified report on Soviet and KGB manipulation of the media. That report which was prepared at my request, covered among other matters the role of the International Communist Fronts such as the so-called World Peace Council which a few years ago gave its "peace prize" to the PLO terrorist leader Arafat.

According to the CIA, the gatherings of the international fronts:

> Serve as agent enlisting grounds for Soviet and bloc intelligence services. Front meetings in the USSR and Eastern Europe are ideal for this purpose because bloc intelligence officers can control the circumstances of their meetings with likely recruits, with no fear of surveillance by or interference from non-Communist security services. Most of the agents enlisted by Communist bloc intelligence services over the years were targeted while on visits to the Soviet bloc, some while in attendance at front meetings or on free vacations in the bloc offered in connection with these gatherings.

As a result of a conference change in definition of an "agent of a foreign power" members of foreign Communist Parties or of the international Communist fronts could not be electronically surveilled. Officers or employees could—but not members. The FBI would have to prove to a judge that the individual member was engaged in or preparing to engage in a criminal act.

This is a "Catch 22." How can the FBI know if a crime is being prepared without some surveillance?

The conference left "member" in the definition of an "international terrorist group." But even this is inadequate. For example, this administration refuses to designate the Palestine Liberation Organization as a terrorist group. I understand the diplomatic problems in this area. But under this bill as written, members of the PLO, other than officers or employees could not be surveilled, even with a warrant, unless we already know that they are planning a specific terrorist act, a specific crime. This is a criminal standard for surveillance of even terrorists and spies.

I would like to inform my colleagues that minority staffers were barred from all but one of the informal conference staff meetings. At the one meeting that a minority staffer was allowed to attend, there was an ACLU official present as well.

Mr. Speaker, this bill represents a total capitulation to the Senator from Massachusetts (Mr. KENNEDY) and his erstwhile staffers and assorted outside advisers of the ACLU and Morton Halperin ilk. It is a disaster we will live to regret. It is a victory for the anti-intelligence forces in our country, certainly not for the American people or our intelligence gathering men and women.

I urge that we vote down this conference report. We will have the opportunity to reconsider this matter as part of Charter Legislation next session. That is the appropriate time to consider this. I ask my colleagues to vote "no."

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I am glad to yield to my colleague, the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, on the subject of the PLO, I think it is important to point out that a warrant would be required in order to engage in electronic surveillance of the PLO.

As the gentleman stated, we have in the PLO a foreign power which is operating here in this country, and yet we would be deprived of the opportunity to get information by electronic surveillance from the PLO unless a court decides this can be done. That is what most intelligence is, that is, information which we should be able to secure without going to a court and applying for a warrant and then permitting the court to decide whether or not we can or cannot engage in electronic surveillance. It seems to me this is certainly inimical to our country's national security.

Mr. ASHBROOK. Mr. Speaker, my colleague, the gentleman from Illinois, is certainly right. If that sad day ever comes when terrorist acts expand in this country, I am sure the same Members who are voting today for this conference report will be rushing in to undo the damage that is being done now.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I applaud the position being taken by my colleague, the gentleman from Ohio (Mr. ASHBROOK), and I wish to associate myself with his remarks.

Mr. MURPHY of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report we bring back to the House today promises a new era for our Nation's intelligence agencies. The compromise we have reached with the Senate also represents

a pact we have struck with the U.S. intelligence community. They—as well as the Congress—have recognized that their activities must bear the clear imprimatur of lawful authority. They—as well as the Congress—want to know clearly what they should do and what they should not do. They—as well as the Congress—want the American people to have confidence that intelligence agencies are directing their activities at spies or terrorists or foreign powers—and not on Americans. This conference report helps assure that—where electronic surveillance is concerned—these goals have been met. I cannot emphasize too strongly that the provisions of the bill which we bring back to this body were worked out—at every stage—in cooperation with the intelligence agencies and not despite them. I believe the Congress—and the House in particular—can be proud of the new atmosphere of trust and cooperation between Congress and the intelligence community that S. 1566 represents.

The conference report itself closely resembles the bill which the House passed last month. In particular, the bill retains the House language which provides that certain sensitive surveillances of foreign powers—which do not involve the communications of U.S. persons—may be authorized without a judicial warrant. The conference report adds clarifying language on this point and requires transmission and storage of the sealed Attorney General authorizations under security procedures approved by the Chief Justice and the Attorney General.

Mr. Speaker, perhaps an important issue in conference, and one which has stirred controvery, concerns how the judges designated to hear warrant applications under the bill are chosen. There was a wide ranging debate in the conference committee on the method of selection. The conference substitute, quite frankly, came down in favor of the Senate language but with a change to insure a geographically diverse selection. Both the House and the Senate conferees decided on the arrangement the House did—seven judges with nationwide jurisdiction chosen by the Chief Justice, who rotate in pairs into the District of Columbia and operate under strict and comprehensive security provisions—because of the immediate and strong concern exhibited by both the Attorney General and the heads of the intelligence agencies. These officials requested a court of this description that met in this city in order to properly safeguard the sensitive intelligence information that will be the subject of warrant applications. The conferees otherwise provided for a diverse selection of judges and acted to prevent judge shopping. When the judges chosen under the bill are not hearing warrant applications, they will be assigned to other judicial duties.

Mr. Speaker, in large part the remainder of the conference report is the House bill. The Senate agreed to the House format, its definition of international terrorism, minimization procedures and retained the authorization in time of war. The Senate conferees, in sum, accepted the House provisions in nearly every case. They did so, however, because they wanted a strong bill—one that protects vital intelligence operations while preserving the privacy rights of our citizens. They passed the measure earlier this week—by a voice vote—in a similar spirit. I believe that the House should exhibit similar strong support for this bill. It is reasonable, it is workable and it is sorely needed by our intelligence agencies.

Let me close by establishing that point beyond any doubt. Let me read you the letters of Admiral Turner, Director of Central Intelligence, Admiral Inman, Director of the National Security Agency, and Director Webster of the Federal Bureau of Investigation.

This is the letter from Stansfield Turner, the Director of Central Intelligence:

WASHINGTON, D.C.,
October 11, 1978.

Hon. EDWARD BOLAND,
House Permanent Select Committee on Intelligence, House of Representatives, Washington, D.C.

DEAR CHAIRMAN BOLAND: I am informed that the conference report on the Foreign Intelligence Act of 1978 is scheduled for consideration on the floor of the House of Representatives in the near future. The purpose of this letter is to assure that this legislation, as it emerged from the conference, continues to have my full and unqualified support as head of the Intelligence Community.

From a security perspective, I am particularly gratified that the conference committee chose to include specific statutory language dealing with security measures in court proceedings and with a centralized court system to consider applications for warrants. The House version of this legislation, as amended on the floor, had not contained such language. The new provisions facilitate the implementation of specific security measures and reduce the opportunity for compromise of sensitive security information. These advantages far outweigh any benefits which might accrue from dispersing warrant applications around the country.

For these and many other reasons, I strongly urge that the House of Representatives approve the conference version of this legislation.

Yours sincerely,

STANSFIELD TURNER.

The letter from Admiral Inman, Director, National Security Agency and Chief of the Central Security Service, is as follows:

FORT GEORGE G. MEADE, MD.,
October 11, 1978.

Hon. EDWARD P. BOLAND,
Chairman, Permanent Select Committee on Intelligence, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I wish to reiterate my strong support for the Foreign Intelligence Surveillance Act as reported by the House-Senate Conference.

I am particularly pleased by the provisions adopted by the Conference on the court that will hear applications for authorization to conduct electronic surveillance. Limiting the number of judges to seven and providing (in the Conference Report) that the court shall sit in the District of Columbia will contribute materially to ensuring proper security.

Sincerely,

B. R. INMAN,
Vice Admiral, U.S. Navy,
Director, NSA/Chief, CSS.

The letter from William H. Webster, Director, Federal Bureau of Investigation, is as follows:

WASHINGTON, D.C.,
October 11, 1978.

Hon. EDWARD P. BOLAND,
Chairman, Permanent Select Committee on Intelligence, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I have been requested to provide my views on the result of the Conference Committee's resolution of the relatively minor differences between the House and Senate versions of the Foreign Intelligence Surveillance Act. As you know, the FBI has strongly supported enactment of this legislation and worked for passage of both versions.

On the whole, the FBI favored H.R. 7308 as passed by the House on September 7, 1978. However, I was particularly concerned with the manner in which the House version dealt with the designation and jurisdiction of judges authorized to grant electronic surveillance orders under the bill. As the Attorney General stated in his letter to the conferees of October 3, 1978:

"Particularly for counterintelligence investigations, the intelligence community cannot be faced with the situation, as now exists under the House bill, of having to travel across the country seeking a judge with jurisdiction to act in a particular locale. It would be both difficult to protect the security of the information and difficult to reach such a judge in time to act in an effective manner in urgent circumstances. Time is often of the essence and vital information might be lost in the time it would take to reach a judge. It is clearly preferable to have designated judges familiar with the Act available to act on an application so that we can protect civil liberties while at the same time insuring that vital information is not lost because of needless time delays or security concerns."

The Conference Report resolved this problem by centralizing a court in Washington with seven designated U.S. District Court judges selected from among the judicial circuits to exercise jurisdiction under the Act. I agree with the Attorney General that this result was essential to maintaining proper security for the sensitive information that will be provided to the court and will provide the FBI a forum that is accessible in a timely manner, both of which are vital to the conduct of our counterintelligence responsibilities. In short, the FBI is comfortable with the resolution of this issue.

I was also concerned that the House provision dealing with the surveillance of groups engaged in international terrorism be maintained in the Conference. The Conferees agreed with the House that this was an important difference between the bills and adopted the House version, which provides a broader basis for conducting electronic surveillance of groups engaged in international terrorism than did its Senate counterpart.

This legislation is important to the FBI. It makes clear that the FBI has legislative authority to conduct electronic surveillances in foreign counterintelligence operations and that our Agents will be protected in relying on judicial warrants for such purposes. The Conference Report satisfies these needs.

Sincerely yours,

WILLIAM H. WEBSTER,
Director.

Mr. Speaker, I say to my colleagues on the other side of the aisle that they cannot have it both ways. They cannot say we are impairing the security of this country, on the one hand, with this bill, and yet oppose the language of the bill on the other hand, which, as the intelli-

gence agencies have told us, provides strict security. They cannot have it both ways. We have seven judges coming to the District of Columbia, and I know there are a number of Members on the other side of the aisle who have come to me privately and told me that they are with us on this provision, that they endorse strong security in the court created by the bill.

Mr. MIKVA. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Illinois.

Mr. MIKVA. I thank the gentleman for yielding.

Mr. Speaker, I want to associate myself with the gentleman's remarks. I wish to commend the committee of conference for bringing forth what I think is a very workable solution to a very delicate set of problems. I intend to support the conference report.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the distinguished gentleman for yielding.

Mr. Speaker, I rise in support of the conference report to accompany S. 1566, the Foreign Intelligence Surveillance Act of 1978.

This important, complex, and much needed piece of legislation was first proposed by the Ford administration and Attorney General Levi in 1975. It is strongly supported by the current administration.

Further, in the 95th Congress, four standing committees studied this bill. The House and Senate Judiciary Committees and the House and Senate Intelligence Committees each took testimony on this bill.

Mr. MURPHY of Illinois. I thank the gentleman for his comments.

I am privileged to be a member of both the Intelligence and Judiciary Committees in the House, because of this I can vouch that their hearings considered all points of view and involved all interested parties.

Drawing on this detailed record, and the lengthy debate on the House floor the conference committee led by two distinguished gentlemen from Massachusetts, Mr. BOLAND and Senator KENNEDY produced a compromise product that is a very good bill.

This bill, embodied in the conference report now before the House, is a careful balance between our national security needs and the constitutional need to protect civil liberties. Also, this bill carefully protects the positions taken by both Houses in their work in committee and on the floor.

The major difference between the House and the Senate bills is that the House bill did not require a warrant for two especially sensitive activities while the Senate required a warrant in all cases. With only minor modifications this House provision was adopted by the conference committee.

The second major difference was the Senate's provision for a special court to hear applications for warrants. In a floor amendment, the House gave this authority to regular Federal district courts. Because Admiral Turner, the Director of Central Intelligence, informed us that it was an unacceptable security risk to involve so many judges in so many locations, the House conferees accepted a compromise on this point.

Under the terms of this compromise, seven regular Federal district judges from seven of the 11 judicial circuits will be designated to hear these warrant applications at a secured location to be designated by the intelligence agencies.

Thus, the security concerns of our intelligence agencies will be met without reestablishing the special count to which the House objected.

Beyond the careful work done by our conference committee there are good and sound substantive reasons for supporting this bill.

First and foremost, our intelligence agencies and agents want this bill very badly. Intelligence agents need a warrant or formal certification to protect them from the uncertainties which they now suffer.

FBI Director Webster, CIA Director Turner, and NSA Chief Inman asked the intelligence committee for a strong bill to protect their agents and to legitimize their work. They believe that this bill will help restore morale in their agencies by removing the cloud of civil and criminal penalties which now hangs over their agents.

This bill will free these men to vigorously proceed to check the KGB and other foreign intelligence agencies in this country.

Contrary to the assertion of its opponents, this conference report does allow electronic surveillance of foreign embassies and spies. In those cases where the surveillance cannot take place on the certification of the Attorney General—and such a certification covers most such cases—the conference report simply requires the issuance of an easily obtained warrant to authorize such an electronic surveillance.

Because of the obvious importance to our national security of such taps, the bill greatly reduced the materials which the judge has to review before granting such a warrant, and the bill allows such taps to be installed before a warrant is obtained if an emergency arises.

The bill protects the civil liberties of all Americans and their law-abiding foreign guests. All too often in the past, taps on foreign embassies were used as a pretext to gather political information on Americans including Members of Congress and Supreme Court Justices.

This bill will forever close the door on such want or disregard for our privacy. In short, this bill enacts into law these two important national policies:

First. Our intelligence agencies will play an important role in resisting our enemies' efforts to spy in this country.

Second. An American citizen's precious "right to be left alone" will be respected under the law.

Affirmation of these policies today will be a long step toward restoring public confidence in and the morale of our intelligence agencies.

I strongly urge the adoption of the conference report.

Mr. MCCLORY. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Speaker, I will just urge you to vote in opposition to the conference report. I would ask you to keep in mind that this very critical and sensitive issue has not received consideration by the Committee on the Judiciary. The conference got nothing for caving in on my amendment, even though it was a compromise quickly accepted on the House floor by the bills managers.

My premise, which was the basis for the amendment, dealt with the inherent constitutional power of the President of the United States, to engage in electronic foreign surveillance. I am satisfied from my reading of the Constitution and relevant cases that the President of the United States who has responsibility for our foreign policy, for our Armed Forces, and for our national security, has the inherent constitutional power, to engage in electronic foreign surveillance for security purposes.

What called my attention to the problems here was a colloquy between the gentleman from California (Mr. EDWARDS) and the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. EDWARDS said, "Is it clear that this bill eliminates the inherent power of the President to electronically surveil U.S. citizens without a warrant?"

Mr. KASTENMEIER replied, "In answer to the question of my colleague, I would say yes."

That was clearly the intention of this legislation when it left the House, and that is wrong. So, I offered an amendment which would affirmatively establish and say, "Yes, the President has that constitutional power," and after considerable debate we accepted—and I thought accepted on both sides—the series of words, "exclusive statutory means available." With my amendment the end result is that this act would constitute the exclusive statutory means and the constitutionally inherent power of the Executive would not be infringed upon or destroyed.

That amendment was quickly rejected, apparently, in the conference. I think that is basically wrong. This is what the conference report says:

> The conferees agree that the establishment by this act of exclusive means by which the President may conduct electronic surveillance, does not foreclose a different decision by the Supreme Court.

Now, that is really magnanimous. How arrogant can you get? We are not going to foreclose the Supreme Court from an act telling us what the Constitution is. But the Constitution is clear. We know what the law is. We know the President of the United States has this inherent power. We know it and the conferees know it. Every judicial circuit which has considered the issue have concluded that the President does in fact have this power.

The judicial warrant approach in the bill is premised on the proposition that the fourth amendment to the Constitution presumptively requires a warrant for every search. The underlying reasoning for this assertion is the Supreme Court's holding in the Keith case, where they ruled that a warrant is required for electronic surveillance employed for domestic security purposes. However, the warrant requirement in the Keith case was limited to domestic security cases, as the courts made it clear that they were in no way addressing the issues involved in foreign intelligence electronic surveillance.

Not only is there no existing case authority for vesting the Federal courts with jurisdiction to authorize or refuse to authorize foreign intelligence gathering activities as proposed in the conference substitute, but the U.S. Supreme Court has explicitly rejected such authority in *Chicago & Southern Air Lines Inc.* v. *Waterman Steamship Corp.*, 333 U.S. 103, 111 (1948) holding:

. . . It would be intolerable that courts without the relevant information, should review and perhaps nullify actions of the Executive taken on information properly held secret. Nor can courts sit in camera in order to be taken into executive confidences. But even if courts could require full disclosure, the very nature of executive decisions as to foreign policy is political, not judicial. Such decisions are wholly confided by our Constitution to the political departments of the government, Executive and Legislative. They are delicate, complex, and involve large elements of prophecy. They are and should be undertaken only by those directly responsible to the people whose welfare they advance or imperil. They are decisions of a kind for which the Judiciary has neither aptitude, facilities nor responsibility and which has long been held to belong in the domain of political power not subject to judicial intrusion or inquiry.

Even the most recent espionage case *United States* v. *Humphrey and Troung*, (Crim. No. 78–25–A, E.D. Va., May 19, 1978), stated:

It is not at all certain that a judicial officer, even an extremely well-informed one, would be in a position to evaluate the threat posed by certain actions undertaken on behalf of or in collaboration with a foreign state. . . . The Court is persuaded that an initial warrant requirement (for foreign intelligence electronic surveillance) would frustrate the President's ability to conduct foreign affairs in a manner that best protects the security of our Government.

What we have done, we have said to the President of the United States:

You may have this power—under the Constitution, but you are going to exercise it at your peril. If you think a situation is going to ever arise where you think it is important to exercise this inherent constitutional power, you go ahead and do it, but you are taking a big chance because you are violating this statute.

That is not the way it should be. The President of the United States has inherent powers. We should recognize those inherent constitutional powers and not put him in a position where he exercises them at his peril. That is what this bill does. I think it hampers and hamstrings unnecessarily the intelligence community charged with the responsibility of national security.

I think it is a basically wrong and irresponsible stop to take. That is why I insisted on my amendment and I believe that is why it was accepted on the floor by the House managers of the bill. That is why I am deeply disappointed that the conferees rejected it so summarily and why I urge the Members, in the interests of national security, to vote against this conference report so that we can protect the inherent power of the President.

The SPEAKER pro tempore. The time of the gentleman from Virginia has expired.

Mr. McCLORY. Mr. Speaker, I yield 1 additional minute to the gentleman from Virginia.

Mr. Speaker, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I might say that following our action here in the House and following the acceptance of the word "statutory," I had an informal conversation with the Attorney General, who told me that he was very pleased that the House had inserted the word "statutory" in the language of the bill, because he wanted to be sure that the President's constitutional authority was not diluted. I might say that at this very time the Attorney General of the United States is asserting that position in the Humphrey-Troung case, and in his statement to me and in the spy case he is prosecuting, he is asking us not to deny that authority, which is precisely what the Senate wants to do.

And for us to deny that authority—which is precisely what the Senate wants us to do and which is precisely what we are doing if we eliminate the word "statutory"—is to go against the Attorney General and against the position he has taken and is a position entirely inconsistent with the position agreed upon in this body when we passed the bill.

I thank the gentleman.

Mr. BUTLER. I thank the gentleman.

As a matter of fact, the Attorney General of the United States essentially took the some position when he was a judge of the fifth circuit, as the gentleman may know.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. ERTEL).

Mr. McCLORY. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania (Mr. ERTEL).

Mr. ERTEL. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I rise in opposition to the conference report and I do it advisedly because of the action of the conference committee in rejecting the amendment which was accepted by this body by a better than 2-to-1 margin here in a recorded vote. By 224 to 103 the House eliminated a special court requirement under this bill. Subsequently in the conference committee there was a proposal to try to diversify the court by allowing the 11 circuit chief judges to name district judges within their circuits to sit and approve warrants under this bill. This would give us geographic dispersion of the court. Certainly it would not interfere with the actual operation of the district courts throughout the Nation and would not set up a special court here in the District of Columbia. A special court here in Washington if penetrated by a foreign agency would expose our entire national intelligence operations. In addition by diversification of the court, we would not have judge shopping and we would not have the security risk of concentrating all our eggs in one basket. Furthermore it would not disrupt the normal court functions.

The House Intelligence Committee would not accept that provision although it appeared to me that the Senate, if I can recall exactly what Senator KENNEDY said, stated that it did not sound like an unreasonable proposal. Unfortunately the House conferees would not approve it. The objection was raised at one point that the proposal was subject to a point of order, but we cleared that up through the House Parliamentarian and the proposal was in order. However the House conferees rejected it and as a consequence, we came back today with a provision more onerous than in the House bill.

We now have a court consisting of seven men selected by the Chief Justice of the United States who is appointed for life. He does not get removed as does a circuit court chief judge who has to relinquish his position when he reaches the age of 70.

So in fact one Chief Justice of the United States selects the seven men who will sit on this court and he can, in fact, influence the foreign intelligence operation of this Nation throughout his lifetime, whether the Chief Justice be an Abe Fortas or a Warren Burger. He can appoint people who have his predisposition and we in this Nation will be encumbered with that predisposition throughout the Chief Justice's lifetime.

I think it is wrong. I think it is wrong also to consider that we will be selecting a judge possibly from California and telling him he has to come to Washington, D.C., and we do not know for how long he will have to stay and we do not know how long we will disrupt his court in California or his judicial position there. But he will have to come to Washington, D.C., and consider these wiretap cases regardless of the inconvenience. We may have to bring in a judge from Florida. It might be the very sad day for the judge to accept that assignment to the District of Columbia for an extended period. Do you think that is conducive to good government?

I think we have created a court which is inoperable. I would ask my colleagues to vote against the conference report and send it back, so it can be reconsidered.

Mr. McCLORY. Mr. Speaker, I yield 1 minute to gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I ask unanimous consent that I may revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ECKHARDT. Mr. Speaker, I can hardly say more than that in the time allotted to me, but I would like to say that this reminds me of the Court of

Star Chamber. The Encyclopedia Britannica says it stressed the royal authority by giving the King a speedy and effective legal process. However, the excesses of this court brought about its own extinction, but that was some 150 years later.

I might say also that this bill, as it came out of the conference, is worse than the original in the House before the Ertel amendment, because it does a very unprecedented thing in permitting an appeal by only the Government. The appeal to the appeals tribunal is only for the Government and the appeal from the appeals court to the Supreme Court is only in behalf of the Government.

If there is another precedent in which only the Government may appeal, and the appeal process is permitted, I should like to know it.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 2 minutes to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I rise in support of the conference report on S. 1566.

As I stated when the bill passed the House in September, "Rarely in the years that I have spent in the Congress have I seen a bill which has brought together often disparate thoughts into one well crafted piece of legislation supported by practically all of the thinking elements of our society."

At that time, I noted who was urging that this bill pass. I mentioned President Carter, President Ford, civil liberties groups, and the chairmen of the Intelligence Committee, the Judiciary Committee, the Appropriations Committee, the Armed Services Committee, and the Budget Committee. I also mentioned the Directors of the Central Intelligence Agency, the National Security Agency, and the FBI.

That was on September 7. Since then we have had a conference with the Senate. The conference report is before you now. It is essentially the same bill that passed the House on September 7 and it is just as strongly supported by all of these distinguished people.

This bill represents a watershed in the history of relations between the Congress and the intelligence community. It has been nurtured through the legislative process with the active cooperation of—not in despite of—the intelligence agencies.

For the first time legislation will provide a stamp of legitimacy for some of our most important intelligence activities. Also, for the first time, legislation will assure our people that these activities are being conducted in a manner consistent with their basic rights. It is for these reasons that the intelligence agencies have asked for this bill, and why I urge you to clear this conference report and send it to the President.

We can no longer afford to let this Nation's intelligence efforts remain adrift in a sea of legal confusion and uncertainty. We can no longer afford to let our intelligence agents remain suspend on this thread of doubt. And we can no longer let the rights of our people depend on the ad hoc resolution of this confusion, uncertainty, and doubt.

The House should act now, and pass this bill.

Mr. McCLORY. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, this legislation has indeed brought together all of the 2,400 former intelligence officers, all of those who know the intelligence business best, and they are all in opposition to this legislation and to the conference report. I am referring to Gen. Richard Stillwell, who is the head of that organization. I am also talking about Ray Cline, who has a distinguished record as a former deputy head of the CIA, I am talking about William Colby, the former Director of the CIA, who favors limiting the judicial warrant requirement to U.S. persons. All of those who know the intelligence business best, are against this legislation. They recognize the great danger to the entire intelligence community and to our national security through the enactment of this legislation.

So, Mr. Speaker, I implore the Members to reject this conference report, to vote no. Then in the next Congress when we have an opportunity to establish charter legislation for the CIA and the other intelligence agencies, we can translate the existing guidelines covering foreign intelligence electronic surveillance into statutory form—and include that subject in the charter legislation.

Mr. Speaker, I hope the House will reject the conference report.

Mr. MURPHY of Illinois. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER pro tempore. The gentleman from Illinois has 3 minutes remaining.

Mr. MURPHY of Illinois. Mr. Speaker, I yield myself the balance of my time.

In summing up, Mr. Speaker, let me say that there are former Army officers who still think that the cavalry is the only way to fight a war. There are some former naval officers who still think the battleship and the cruiser are the way to fight a war. But today intelligence gathering is conducted in a very scientific manner. As the gentleman from Illinois (Mr. McCLORY) knows quite well, it is a very scientific operation.

The officers who are in charge of the operation of this scientific technology and intelligence gathering, such as Adm. Stansfield Turner, head of the CIA, and I just read his letter a few minutes ago, want this bill. They include in their number Admiral Inman, the head of the National Security Agency that is most involved in the scientific aspects of our our intelligence-gathering efforts.

He wants this bill and wants it in the form as adopted by the Senate and the House conferees. The Director of the FBI, Judge Webster, who is in charge of our counterintelligence efforts—in other words, policing the activities of foreign spies on our shores—wants this legislation.

Therefore, to say that the former intelligence officers do not favor this legislation is like talking about antiquity. This is a new field of intelligence we are talking about today, and the gentleman who have the responsibility to operate in it all want S. 1566.

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Speaker, is it not a fact that those who are really in the collection business, who are now doing the collection of intelligence for all the agencies which the gentleman from Illinois describes, are the people who really want this bill? Do they not want it so they can be protected from court suits which are now developing in many areas across this land?

The gentleman from Illinois (Mr. McCLORY) makes the point that there are some 2,400 retired intelligence officers who do not want it. I am talking about the officers who are now presently on the payroll. They want it. They are the ones we ought to be concerned about.

Mr. Speaker, let me quote from a letter of yesterday from the President of the United States. It reads as follows:

> This legislation has been carefully developed over several years by Executive and Congressional leaders of both parties to protect both the strength of our Nation's intelligence agencies and the privacy rights of our citizens.

Mr. Speaker, that is the whole thrust of this proposal, the whole thrust of this legislation.

Mr. Speaker, I hope the Members of this House will accept the conference report.

Mr. MURPHY of Illinois. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. BOLAND).

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McCLORY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 226, nays 176, not voting 28, as follows:

[Roll No. 897]

YEAS—226

Addabbo	Bolling	Cornwell
Akaka	Bonior	Cotter
Ambro	Bonker	D'Amours
Anderson, Calif.	Bowen	Danielson
	Brademas	Delaney
Anderson, Ill.	Brinkley	Dellums
Annunzio	Brodhead	Dent
Applegate	Brooks	Derrick
Ashley	Brown, Calif.	Dicks
Aspin	Burke, Mass.	Dingell
AuCoin	Burlison, Mo.	Dodd
Baldus	Burton, John	Downey
Barnard	Burton, Phillip	Duncan, Oreg.
Baucus	Caputo	Early
Beard, R.I.	Carney	Edgar
Bedell	Carr	Edwards, Calif.
Beilenson	Cavanaugh	Eilberg
Benjamin	Chisholm	Evans, Colo.
Biaggi	Clay	Evans, Ga.
Bingham	Collins, Ill.	Evans, Ind.
Blanchard	Conte	Fary
Blouin	Corman	Fascell
Boland	Cornell	Fenwick

Findley	McFall	Richmond
Fisher	McHugh	Rodino
Fithian	McKay	Roe
Flood	McKinney	Rogers
Florio	Maguire	Roncalio
Flynt	Mahon	Rooney
Ford, Mich.	Mann	Rose
Ford, Tenn.	Markey	Rosenthal
Fowler	Marks	Rostenkowski
Fraser	Marlenee	Roybal
Garcia	Mathis	Russo
Gaydos	Mattox	Santini
Giaimo	Mazzoli	Scheuer
Gibbons	Meeds	Seiberling
Ginn	Meyner	Sharp
Glickman	Mikulski	Simon
Gore	Mikva	Sisk
Green	Mineta	Skelton
Hamilton	Minish	Smith, Iowa
Hanley	Mitchell, Md.	Solarz
Hannaford	Moakley	Spellman
Harkin	Moffett	St Germain
Harris	Montgomery	Staggers
Hawkins	Moorhead, Pa.	Steed
Heckler	Mottl	Steers
Hefner	Murphy, Ill.	Stokes
Heftel	Murphy, Pa.	Studds
Holland	Murtha	Thompson
Howard	Myers, Michael	Thornton
Hubbard	Natcher	Traxler
Hughes	Neal	Tsongas
Ireland	Nix	Tucker
Jacobs	Nolan	Udall
Johnson, Calif.	Nowak	Ullman
Johnson, Colo.	Oberstar	Van Deerlin
Jones, N.C.	Obey	Vanik
Jones, Okla.	Ottinger	Vento
Jones, Tenn.	Panetta	Walgren
Jordan	Patterson	Waxman
Kastenmeier	Pattison	Weaver
Keys	Pease	Weiss
Kildee	Pepper	Whalen
Kostmayer	Perkins	Whitley
Krebs	Pickle	Whitten
LaFalce	Pike	Wilson, Tex.
Le Fante	Preyer	Wirth
Lederer	Price	Wright
Leggett	Pritchard	Yates
Lehman	Pursell	Yatron
Long, La.	Quayle	Young, Tex.
Long, Md.	Railsback	Zablocki
Lundine	Rangel	Zeferetti
McCloskey	Reuss	

NAYS—176

Abdnor	Emery	Lloyd, Calif.
Andrews, N.C.	English	Lloyd, Tenn.
Andrews, N. Dak.	Erlenborn	Lott
	Ertel	Lujan
Archer	Evans, Del.	Luken
Armstrong	Fish	McClory
Ashbrook	Flippo	McCormack
Bafalis	Flowers	McDade
Bauman	Foley	McDonald
Beard, Tenn.	Forsythe	McEwen
Bennett	Fountain	Madigan
Bevill	Frenzel	Marriott
Boggs	Frey	Martin
Breaux	Fuqua	Michel
Breckinridge	Gammage	Milford
Broomfield	Gephardt	Miller, Ohio
Brown, Mich.	Gilman	Mitchell, N.Y.
Brown, Ohio	Goldwater	Mollohan
Broyhill	Goodling	Moore
Buchanan	Gradison	Moorhead, Calif.
Burgener	Grassley	
Burke, Fla.	Gudger	Murphy, N.Y.
Burleson, Tex.	Guyer	Myers, Gary
Butler	Hagedorn	Myers, John
Carter	Hall	Nedzi
Cederberg	Hammer-schmidt	Nichols
Clausen, Don H.		O'Brien
	Hansen	Oakar
Clawson, Del	Harsha	Patten
Cleveland	Hightower	Poage
Cohen	Holt	Pressler
Coleman	Holtzman	Quillen
Collins, Tex.	Horton	Regula
Conable	Huckaby	Rhodes
Corcoran	Hyde	Rinaldo
Coughlin	Ichord	Roberts
Cunningham	Jeffords	Robinson
Daniel, Dan	Jenkins	Rousselot
Daniel, R. W.	Jenrette	Runnels
Davis	Kasten	Ruppe
de la Garza	Kazen	Ryan
Derwinski	Kelly	Satterfield
Devine	Kemp	Sawyer
Dickinson	Kindness	Schroeder
Dornan	Lagomarsino	Schulze
Drinan	Latta	Sebelius
Duncan, Tenn.	Leach	Shuster
Eckhardt	Lent	Sikes
Edwards, Ala.	Levitas	Slack
Edwards, Okla.	Livingston	Smith, Nebr.
Snyder	Thone	Whitehurst
Spence	Treen	Wiggins
Stangeland	Trible	Wilson, Bob
Stanton	Vander Jagt	Winn
Stark	Volkmer	Wolff
Steiger	Waggonner	Wydler
Stockman	Walker	Wylie
Stump	Walsh	Young, Alaska
Symms	Wampler	Young, Fla.
Taylor	Watkins	Young, Mo.

NOT VOTING—28

Alexander	Harrington	Rudd
Ammerman	Hillis	Sarasin
Badham	Hollenbeck	Shipley
Burke, Calif.	Krueger	Skubitz
Chappell	Miller, Calif.	Stratton
Cochran	Moss	Teague
Conyers	Pettis	White
Crane	Quie	Wilson, C. H.
Diggs	Rahall	
Gonzalez	Risenhoover	

The Clerk announced the following pairs:

On this vote:

Mr. White for, with Mr. Stratton against.

Mr. Krueger for, with Mr. Chappell against.

Mrs. Burke of California for, with Mr. Crane against.

Mr. Rahall for, with Mr. Skubitz against.

Mr. Ammerman for, with Mr. Rudd against.

Until further notice:

Mr. Alexander with Mr. Badham.

Mr. Shipley with Mr. Cochran of Mississippi.

Mr. Teague with Mr. Hillis.

Mr. Charles H. Wilson of California with Mr. Hollenbeck.

Mr. Gonzalez with Mr. Quie.

Mr. Conyers with Mr. Sarasin.

Mr. Miller of Califoria with Mr. Harrington.

Mr. Moss with Mr. Diggs.

Mr. Risenhoover with Mrs. Pettis.

Messrs. LENT, SEBELIUS, McDADE, FOLEY, and STARK changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the Senate bill S. 1566, just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CONFERENCE REPORT ON H.R. 5263, ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

Mr. ULLMAN submitted the following conference report and statement on the bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts:

CONFERENCE REPORT (H. REPT. No. 95-1773)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Energy Tax Act of 1978".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; etc.

TITLE I—RESIDENTIAL ENERGY CREDIT

Sec. 101. Residential energy credit.

TITLE II—TRANSPORTATION

PART I—GAS GUZZLER TAX

Sec. 201. Gas guzzler tax.

PART II—MOTOR FUELS

Sec. 221. Exemption from motor fuels excise taxes for certain alcohol fuels.

Sec. 222. Denial of credit or refund for nonbusiness nonhighway use of gasoline, special motor fuels, and lubricating oil.

PART III—PROVISIONS RELATED TO BUSES

Sec. 231. Removal of excise tax on buses.

Sec. 232. Removal of excise tax on bus parts.

Sec. 233. Removal of excise tax on fuel, oil, and tires used in connection with intercity, local, and school buses.

PART IV—INCENTIVES FOR VAN POOLING

Sec. 241. Full investment credit for certain commuter vehicles.

Sec. 242. Exclusion from gross income of value of qualified transportation provided by employer.

TITLE III—CHANGES IN BUSINESS INVESTMENT CREDIT TO ENCOURAGE CONSERVATION OF, OR CONVERSION FROM, OIL AND GAS OR TO ENCOURAGE NEW ENERGY TECHNOLOGY

Sec. 301. Changes in business investment credit.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Treatment of intangible drilling costs for purposes of the minimum tax.

Sec. 402. Option to deduct intangible drilling costs in the case of geothermal deposits.

Sec. 403. Depletion for geothermal deposits and natural gas from geopressurized brine.

Sec. 404. Rerefined lubricating oil.

TITLE I—RESIDENTIAL ENERGY CREDIT

SEC. 101. RESIDENTIAL ENERGY CREDIT.

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44B the following new section:

"SEC. 44C. RESIDENTIAL ENERGY CREDIT.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the qualified energy conservation expenditures, plus

"(2) the qualified renewable energy source expenditures.

"(b) QUALIFIED EXPENDITURES.—For purposes of subsection (a)—

"(1) ENERGY CONSERVATION.—In the case of any dwelling unit, the qualified energy conservation expenditures are 15 percent of so much of the energy conservation expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $2,000.

"(2) RENEWABLE ENERGY SOURCE.—In the case of any dwelling unit, the qualified renewable energy source expenditures are the following percentages of the renewable en-

ergy source expenditures made by the taxpayer during the taxable year with respect to such unit:

"(A) 30 percent of so much of such expenditures as does not exceed $2,000, plus

"(B) 20 percent of so much of such expenditures as exceeds $2,000 but does not exceed $10,000.

"(39) PRIOR EXPENDITURES BY TAXPAYER ON SAME RESIDENCE TAKEN INTO ACCOUNT.—If for any prior year a credit was allowed to the taxpayer under this section with respect to any dwelling unit by reason of energy conservation expenditures or renewable energy source expenditures, paragraph (1) or (2) (whichever is appropriate) shall be applied for the taxable year with respect to such dwelling unit by reducing each dollar amount contained in such paragraph by the prior year expenditures taken into account under such paragraph.

"(4) MINIMUM DOLLAR AMOUNT.—No credit shall be allowed under this section with respect to any return for any taxable year if the amount which would (but for this paragraph) be allowable with respect to such return is less than $10.

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43.

"(6) CARRYOVER OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by paragraph (5) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(B) NO CARRYOVER TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1987.—No amount may be carried under subparagraph (A) to any taxable year beginning after December 31, 1987.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ENERGY CONSERVATION EXPENDITURES.—The term 'energy conservation expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for insulation or any other energy-conserving component (or for the original installation of such insulation or other component) installed in or on a dwelling unit—

"(A) which is located in the United States,

"(B) which is used by the taxpayer as his principal residence, and

"(C) the construction of which was substantially completed before April 20, 1977.

"(2) RENEWABLE ENERGY SOURCE EXPENDITURE.—

"(A) IN GENERAL.—The term 'renewable energy source expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for renewable energy source property installed in connection with a dwelling unit—

"(i) which is located in the United States, and

"(ii) which is used by the taxpayer as his principal residence.

"(B) CERTAIN LABOR COSTS INCLUDED.—The term 'renewable energy source expenditure' includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of renewable energy source property.

"(C) SWIMMING POOL, ETC., USED AS STORAGE MEDIUM.—The term 'renewable energy source expenditure' does not include any expenditure properly allocable to a swimming pool used as an energy storage medium or to any other energy storage medium which has a primary function other than the function of such storage.

"(3) INSULATION.—The term 'insulation' means any item—

"(A) which is specifically and primarily designed to reduce when installed in or on a dwelling (or water heater) the heat loss or gain of such dwelling (or water heater),

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards (if any) which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

"(4) OTHER ENERGY-CONSERVING COMPONENT.—The term 'other energy-conserving component' means any item (other than insulation)—

"(A) which is—

"(i) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) a device for modifying flue openings designed to increase the efficiency of operation of the heating system,

"(iii) an electrical or mechanical furnace ignition system which replaces a gas pilot light,

"(iv) a storm or thermal window or door for the exterior of the dwelling,

"(v) an automatic energy-saving setback thermostat,

"(vi) caulking or weatherstripping of an exterior door or window,

"(vii) a meter which displays the cost of energy usage, or

"(viii) an item of the kind which the Secretary specifies by regulations as increasing the energy efficiency of the dwelling,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards (if any) which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

"(5) RENEWABLE ENERGY SOURCE PROPERTY.—The term 'renewable energy source property' means property—

"(A) which, when installed in connection with a dwelling, transmits or uses—

"(i) solar energy, energy derived from geothermal deposits (as defined in section 613(e)(3)), or any other form of renewable energy which the Secretary specifies by regulations, for the purpose of heating or cooling such dwelling or providing hot water for use within such dwelling, or

"(ii) wind energy for nonbusiness residential purposes,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 5 years, and

"(D) which meets the performance and quality standards (if any) which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the property.

"(6) REGULATIONS.—

"(A) CRITERIA; CERTIFICATION PROCEDURES.—The Secretary shall by regulations—

"(i) establish the criteria which are to be used in (I) prescribing performance and quality standards under paragraphs (3), (4), and (5), or (II) specifying any item under paragraph (4)(A)(viii) or any form of renewable energy under paragraph (5)(A)(i), and

"(ii) establish a procedure under which a manufacturer of an item may request the Secretary to certify that the item will be treated, for purposes of this section, as insulation, an energy-conserving component, or renewable energy source property.

"(B) CONSULTATION.—Performance and quality standards regulations and other regulations shall be prescribed by the Secretary under paragraphs (3), (4), and (5) and under this paragraph only after consultation with the Secretary of Energy, the Secretary of Housing and Urban Development, and other appropriate Federal officers.

"(7) WHEN EXPENDITURES MADE; AMOUNT OF EXPENDITURES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when original installation of the item is completed.

"(B) RENEWABLE ENERGY SOURCE EXPENDITURES.—In the case of renewable energy source expenditures in connection with the construction or reconstruction of a dwelling, such expenditures shall be treated as made when the original use of the constructed or reconstructed dwelling by the taxpayer begins.

"(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

"(D) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness residential purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness residential purposes shall be taken into account. For purposes of this subparagraph, use for a swimming pool shall be treated as use which is not for residential purposes.

"(8) PRINCIPAL RESIDENCE.—The determination of whether or not a dwelling unit is a taxpayer's principal residence shall be made under principles similar to those applicable to section 1034, except that—

"(A) no ownership requirement shall be imposed, and

"(B) the period for which a dwelling is treated as the principal residence of the taxpayer shall include the 30-day period ending on the first day on which it would (but for this subparagraph) be treated as his principal residence.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a principal residence by 2 or more individuals—

"(A) the amount of the credit allowable under subsection (a) by reason of energy conservation expenditures or by reason of renewable energy source expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) there shall be allowable with respect to such expenditures to each of such individuals a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his pro-

portionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) 1977 EXPENDITURES ALLOWED FOR 1978.—

"(A) NO CREDIT FOR TAXABLE YEARS BEGINNING BEFORE 1978.—No credit shall be allowed under this section for any taxable year beginning before January 1, 1978.

"(B) 1977 EXPENDITURES ALLOWED FOR 1978.—In the case of the taxpayer's first taxable year beginning after December 31, 1977, this section shall be applied by taking into account the period beginning April 20, 1977, and ending on the last day of such first taxable year.

"(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(f) TERMINATION.—This section shall not apply to expenditures made after December 31, 1985."

(b) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44B the following new item:

"SEC. 44C. Residential energy credit."

(2) Subsection (c) of section 56 (defining regular tax deduction) is amended by striking out "credits allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, and 43."

(3) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by inserting after paragraph (20) the following new paragraph:

"(21) to the extent provided in section 44C(e), in the case of property with respect to which a credit has been allowed under section 44C;".

(4) Subsection (b) of section 6096 (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after April 20, 1977.

TITLE II—TRANSPORTATION

PART 1—GAS GUZZLER TAX

SEC. 201. GAS GUZZLER TAX.

(a) GENERAL RULE.—Part I of subchapter A of chapter 32 (relating to motor vehicle excise taxes) is amended by adding at the end thereof the following new section:

"SEC. 4064. GAS GUZZLER TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the sale by the manufacturer of each automobile a tax determined in accordance with the following tables:

"(1) In the case of a 1980 model year automobile:

"If the fuel economy of the model type in which the automobile this fall is:	The tax is:
At least 15	0
At least 14 but less than 15	$200
At least 13 but less than 14	300
Less than 13	550

"(2) In the case of a 1981 model year automobile:

"If the fuel economy of the model type in which the automobile this fall is:	The tax is:
At least 17	0
At least 16 but less than 17	$200
At least 15 but less than 16	350
At least 14 but less than 15	450
At least 13 but less than 14	550
Less than 13	650

"(3) In the case of a 1982 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 18.5	0
At least 17.5 but less than 18.5	$200
At least 16.5 but less than 17.5	350
At least 15.5 but less than 16.5	450
At least 14.5 but less than 15.5	600
At least 13.5 but less than 14.5	750
At least 12.5 but less than 13.5	950
Less than 12.5	1,200

"(4) In the case of a 1983 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 19	0
At least 18 but less than 19	$350
At least 17 but less than 18	500
At least 16 but less than 17	650
At least 15 but less than 16	800
At least 14 but less than 15	1,000
At least 13 but less than 14	1,250
Less than 13	1,550

"(5) In the case of a 1984 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 19.5	0
At least 18.5 but less than 19.5	$450
At least 17.5 but less than 18.5	600
At least 16.5 but less than 17.5	750
At least 15.5 but less than 16.5	950
At least 14.5 but less than 15.5	1,150
At least 13.5 but less than 14.5	1,450
At least 12.5 but less than 13.5	1,750
Less than 12.5	2,150

"(6) In the case of a 1985 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The Tax is:
At least 21	0
At least 20 but less than 21	$500
At least 19 but less than 20	600
At least 18 but less than 19	800
At least 17 but less than 18	1,000
At least 16 but less than 17	1,200
At least 15 but less than 16	1,500
At least 14 but less than 15	1,800
At least 13 but less than 14	2,000
Less than 13	2,650

"(7) In the case of a 1986 or later model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The Tax is:
At least 22.5	0
At least 21.5 but less than 22.5	$500
At least 20.5 but less than 21.5	650
At least 19.5 but less than 20.5	850
At least 18.5 but less than 19.5	1,050
At least 17.5 but less than 18.5	1,300
At least 16.5 but less than 17.5	1,500
At least 15.5 but less than 16.5	1,850
At least 14.5 but less than 15.5	2,250
At least 13.5 but less than 14.5	2,700
At least 12.5 but less than 13.5	3,200
Less than 12.5	3,850

"(b) DEFINITIONS.—For purposes of this section—

"(1) AUTOMOBILE.—

"(A) IN GENERAL.—The term 'automobile' means any 4-wheeled vehicle propelled by fuel—

"(i) which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and

"(ii) which is rated at 6,000 pounds gross vehicle weight or less.

"(B) EXCEPTION FOR CERTAIN VEHICLES.—The term 'automobile' does not include any vehicle which is treated as a nonpassenger automobile under the rules which were prescribed by the Secretary of Transportation for purposes of section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001) and which were in effect on the date of the enactment of this section.

"(C) EXCEPTION FOR EMERGENCY VEHICLES.—The term 'automobile' does not include any vehicle sold for use and used—

"(i) as an ambulance or combination ambulance-hearse,

"(ii) by the United States or by a State or local government for police or other law enforcement purposes, or

"(iii) for other emergency uses prescribed by the Secretary by regulations.

"(2) FUEL ECONOMY.—The term 'fuel economy' means the average number of miles traveled by an automobile per gallon of gasoline (or equivalent amount of other fuel) consumer, as determined by the EPA Administrator in accordance with procedures established under subsection (c).

"(3) MODEL TYPE.—The term 'model type' means a particular class of automobile as determined by regulation by the EPA Administrator.

"(4) MODEL YEAR.—The term 'model year,' with reference to any specific calendar year, means a manufacturer's annual production (as determined by the EPA Administrator) which includes January 1 of such calendar year. If a manufacturer has no annual production period, the term 'model year' means the calendar year.

"(5) MANUFACTURER.—The term 'manufacturer' includes a producer or importer.

"(6) EPA ADMINISTRATOR.—The term 'EPA Administrator' means the Administrator of the Environmental Protection Agency.

"(7) FUEL.—The term 'fuel' means gasoline and diesel fuel. The Secretary (after consultation with the Secretary of Transportation) may, by regulation, include any product of petroleum or natural gas within the meaning of such term if he determines that such inclusion is consistent with the need of the Nation to conserve energy.

"(c) DETERMINATION OF FUEL ECONOMY.—For purposes of this section—

"(1) IN GENERAL.—Fuel economy for any model type shall be measured in accordance with testing and calculation procedures established by the EPA Administrator by regulation. Procedures so established shall be the procedures utilized by the EPA Administrator for model year 1975 (weighted 55 percent urban cycle, and 45 percent highway cycle), or procedures which yield comparable results. Procedures under this subsection, to the extent practicable, shall require that fuel economy tests be conducted in conjunction with emissions tests conducted under section 206 of the Clean Air Act. The EPA Ad-

ministrator shall report any measurements of fuel economy to the Secretary.

"(2) SPECIAL RULE FOR FUELS OTHER THAN GASOLINE.—The EPA Administrator shall by regulation determine that quantity of any other fuel which is the equivalent of one gallon of gasoline.

"(3) TIME BY WHICH REGULATIONS MUST BE ISSUED.—Testing and calculation procedures applicable to a model year, and any amendment to such procedures (other than a technical or clerical amendment), shall be promulgated not less than 12 months before the model year to which such procedures apply.

"(d) SPECIAL RULES FOR SMALL MANUFACTURERS.—

"(1) IN GENERAL.—If, on the application of a small manufacturer, the Secretary determines that it is not feasible for such manufacturer to meet the tax-free fuel economy level for the model year with respect to all automobiles produced by such manufacturer or with respect to a model type produced by such manufacturer, the Secretary may by regulations prescribe an alternate rate schedule for such model year for all automobiles produced by such manufacturer or for such model type, as the case may be. The alternate rate schedule shall be based on the maximum feasible fuel economy level which such manufacturer can meet for such model year with respect to all automobiles or with respect to such model type, as the case may be.

"(2) APPLICATION TO INCLUDE NECESSARY INFORMATION.—An application under this subsection for any model year shall contain such information as the Secretary may by regulations prescribe.

"(3) DETERMINATIONS TO BE MADE ONLY AFTER CONSULTATION.—Determinations under paragraph (1) shall be made by the Secretary only after consultation with the Secretary of Energy, the Secretary of Transportation, and other appropriate Federal officers.

"(4) SMALL MANUFACTURER DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'small manufacturer' means any manufacturer—

"(i) who manufactured (whether or not in the United States) fewer than 10,000 automobiles in the second model year preceding the model year for which the determination under paragraph (1) is being made, and

"(ii) who can reasonably be expected to manufacture (whether or not in the United States) fewer than 10,000 automobiles in the model year for which the determination under paragraph (1) is being made.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) MANUFACTURER OF AUTOMOBILES PRODUCED ABROAD DETERMINED WITHOUT REGARD TO IMPORTATION.—The meaning of the term 'manufacturer' shall be determined without regard to subsection (b)(5).

"(ii) CONTROLLED GROUPS.—Persons who are members of the same controlled group of corporations shall be treated as one manufacturer. For purposes of the preceding sentence, the term 'controlled' group of corporations' has the meaning given to such term by section 1653(a); except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)."

(b) REDUCTION IN BASIS OF AUTOMOBILE ON WHICH GAS GUZZLER TAX WAS IMPOSED.—Section 1016 (relating to adjustments to basis) is amended by redesignating subsection (b) as subsection (d) and by inserting after subsection (c) the following new subsection:

"(d) REDUCTION IN BASIS OF AUTOMOBILE ON WHICH GAS GUZZLER TAX WAS IMPOSED.—If—

"(1) the taxpayer acquires any automobile with respect to which a tax was imposed by section 4064, and

"(2) the use of such automobile by the taxpayer begins not more than 1 year after the date of the first sale for ultimate use of such automobile.

the basis of such automobile shall be reduced by the amount of the tax imposed by section 4064 with respect to such automobile. In the case of importation, if the date of entry or withdrawal from warehouse for consumption is later than the date of the first sale for ultimate use, such later date shall be substituted for the date of such first sale in the preceding sentence."

(c) DENIAL OF CERTAIN EXEMPTIONS AND REFUNDS.—

(1) TAX-FREE SALES.—Subsection (a) of section 4221 (relating to certain tax-free sales) is amended by adding at the end thereof the following new sentence: "Paragraphs (4) and (5) shall not apply to the tax imposed by section 4004."

(2) UNITED STATES AND POSSESSIONS.—Section 4293 (relating to exemption for United States and possessions) is amended by striking out "tax imposed by section 4121" and inserting in lieu thereof "taxes imposed by sections 4064 and 4121".

(3) DENIAL OF REFUNDS FOR CERTAIN USES.—Paragraph (2) of section 6416(b) (relating to tax payments considered overpayments in the case of specified uses and resales) is amended by adding at the end thereof the following new sentence:

"Subparagraphs (C) and (D) shall not apply in the case of any tax paid under section 4064."

(d) PAYMENT OF TAX IN CASE OF LEASED AUTOMOBILES.—Section 4217 (relating to leases) is amended by adding at the end thereof the following new subsection:

"(e) LEASES OF AUTOMOBILES SUBJECT TO GAS GUZZLER TAX.—

(1) IN GENERAL.—In the case of the lease of an automobile the sale of which by the manufacturer would be taxable under section 4064, the foregoing provisions of this section shall not apply, but, for purposes of this chapter—

"(A) the first lease of such automobile by the manufacturer shall be considered to be a sale, and

"(B) any lease of such automobile by the manufacturer after the first lease of such automobile shall not be considered to be a sale.

"(2) PAYMENT OF TAX.—In the case of a lease described in paragraph (1)(A)—

"(A) there shall be paid by the manufacturer on each lease payment that portion of the total gas guzzler tax which bears the same ratio to such total gas guzzler tax as such payment bears to the total amount to be paid under such lease,

"(B) if such lease is canceled, or the automobile is sold or otherwise disposed of, before the total gas guzzler tax is payable, there shall be paid by the manufacturer on such cancellation, sale, or disposition the difference between the tax imposed under subparagraph (A) on the lease payments and the total gas guzzler tax, and

"(C) if the automobile is sold or otherwise disposed of after the total gas guzzler tax is payable, no tax shall be imposed under section 4064 on such sale or disposition.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) MANUFACTURER.—The term 'manufacturer' includes a producer or importer.

"(B) TOTAL GAS GUZZLER TAX.—The term 'total gas guzzler tax' means the tax imposed by section 4064, computed at the rate in effect on the date of the first lease."

(e) AUTHORITY TO EXTEND REGISTRATION SYSTEM TO EXEMPTION OF EMERGENCY VEHICLES.—Subsection (d) of section 4222 (relating to registration in the case of certain other exemptions) is amended by inserting "4064(b)(1)(C)," after "4063(b),".

(f) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 32 is amended by adding at the end thereof the following new item:

"Sec. 4064. Gas guzzler tax."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to 1980 and later model year automobiles (as defined in section 4064(b) of the Internal Revenue Code of 1954).

PART II—MOTOR FUELS

SEC. 221. EXEMPTION FROM MOTOR FUELS EXCISE TAXES FOR CERTAIN ALCOHOL FUELS.

(a) GASOLINE MIXED WITH ALCOHOL.—

(1) IN GENERAL.—Section 4081 (relating to imposition of tax on gasoline) is amended by adding at the end thereof the following new subsection:

"(c) GASOLINE MIXED WITH ALCOHOL.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed by this section on the sale of any gasoline—

"(A) in a mixture with alcohol, if at least 10 percent of the mixture is alcohol, or

"(B) for use in producing a mixture at least 10 percent of which is alcohol.

"(2) LATER SEPARATION OF GASOLINE.—If any person separates the gasoline from a mixture of gasoline and alcohol on which tax was not imposed by reason of this subsection, such person shall be treated as the producer of such gasoline.

"(3) ALCOHOL DEFINED.—For purposes of this subsection, the term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum, natural gas, or coal."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales after December 31, 1978, and before October 1, 1984.

(b) ALCOHOL MIXED WITH SPECIAL FUEL.—

(1) IN GENERAL.—Section 4041 (relating to imposition of tax on special fuels) is amended by adding at the end thereof the following new subsection:

"(k) FUELS CONTAINING ALCOHOL.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed by this section on the sale or use of any liquid fuel at least 10 percent of which consists of alcohol (as defined by section 4081(c)(3)).

"(2) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol on which tax was not imposed by reason of this subsection, such separation shall be treated as a sale of the liquid fuel."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales or use after December 31, 1978, and before October 1, 1984.

(c) REPORTS.—

(1) ANNUAL REPORT.—On April 2 of each year, beginning with April 1, 1980, and ending on April 1, 1984, the Secretary of Energy, in consultation with the Secretary of the Treasury and the Secretary of Transportation, shall submit to the Congress a report on the use of alcohol in fuel. The report shall include—

(A) a description of the firms engaged in the alcohol fuel industry,

(B) the amount of alcohol fuels sold in each State, and the amount of gasoline saved in each State by reason of the use of alcohol fuels,

(C) the revenue loss resulting from the exemptions from tax for alcohol fuels under sections 4041(k) and 4081(c) of the Internal Revenue Code of 1954, and

(D) the cost of production and the retail cost of alcohol fuels as compared to gasoline and special fuels before the imposition of any Federal excise taxes.

(2) REPORT.—The report submitted to the Congress on April 1, 1984, shall contain, in

addition to the information required under paragraph (1), an analysis of the effect on the alcohol fuel industry of the termination of the exemption from excise taxes provided under sections 4041(k) and 4081(c) of the Internal Revenue Code of 1954.

(d) EXPEDITION OF CERTAIN ETHANOL PRODUCTION APPLICATIONS.—The Secretary of the Treasury shall expedite, to the maximum extent possible, action on the application of any person with respect to the production of ethanol for use in producing gasoline described in section 4081(c) (or in producing liquid fuel described in section 4041(k) of the Internal Revenue Code of 1954. Within 6 months after the date of the enactment of this Act, the Secretary shall furnish to the Committee on Finance, United States Senate, and to the Committee on Ways and Means, United States House of Representatives, recommendations for legislation necessary to provide for changes in the provisions of chapter 51 of the Internal Revenue Code of 1954 to provide a simple, expeditious procedure for processing such applications and to simplify the regulation of such persons for purposes of such chapter consistent with adequate safeguards against the use of such applications to avoid or evade compliance with the provisions of such chapter relating to distilled spirits procured, dealt in, or used for other purposes.

SEC. 222. DENIAL OF CREDIT OF REFUND FOR NONBUSINESS NONHIGHWAY USE OF GASOLINE, SPECIAL MOTOR FUELS, AND LUBRICATING OIL.

(a) IN GENERAL.—

(1) GASOLINE.—

(A) So much of the first sentence of section 6421(a) (relating to nonhighway uses) as precedes "the Secretary" is amended to read as follows: "Except as provided in subsection (i), if gasoline is used in a qualified business use,".

(B) Subsection (d) of section 6421 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(3) QUALIFIED BUSINESS USE.—

"(A) IN GENERAL.—The term 'qualific l business use' means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

"(i) which (at the time of such use), is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or

"(ii) which, in the case of a highway vehicle owned by the United States, is used on the highway.

"(B) EXCEPTION FOR USE IN MOTORBOATS.—The term 'qualified business use' does not include any use in a motorboat.

"(C) Commercial fishing vessels.—For provisions exempting from tax gasoline, special motor fuels, and lubricating oil used for commercial fishing vessels, see—

"(i) subsections (a)(3) and (d)(3) of section 4221 (relating to certain tax-free sales),

"(ii) section 6416(b)(2)(B) (relating to refund or credit in case of certain uses), and

"(iii) section 4041(g)(1) (relating to exemptions from tax on special fuels)."

(2) SPECIAL MOTOR FUELS.—Subsection (b) of section 4041 (relating to special motor fuels) is amended by striking out the second and third sentences and inserting in lieu thereof the following:

"In the case of a liquid taxable under this subsection sold for use, or used, in a qualified business use, the tax imposed by paragraph (1) or by paragraph (2) shall be 2 cents a gallon. If a liquid on which tax was imposed by paragraph (1) at the rate of 2 cents a gallon by reason of the preceding sentence is used otherwise than in a qualified business use, a tax of 2 cents a gallon shall be imposed under the paragraph (2). For purposes of this subsection, the term 'qualified business use' has the meaning given to such term by section 6421(d)(3)."

(3) LUBRICATING OIL.—Subsection (a) section 6424 (relating to lubricating oil not used in highway motor vehicles) is amended by striking out "is used otherwise than in a highway motor vehicle" and inserting in lieu thereof "is used in a qualified business use (within the meaning of section 6421(d)(3))".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to uses after December 31, 1978.

PART III—PROVISIONS RELATED TO BUSES

SEC. 231. REMOVAL OF EXCISE ON BUSES

(a) GENERAL RULE.—Paragraph (6) of section 4063(a) (relating to exemption for local transit buses) is amended to read as follows:

"(6) BUSES.—The tax imposed under section 4061 (a) shall not apply in the case of any automobile bus chassis or automobile bus body."

(b) FLOOR STOCKS REFUNDS.—

(1) IN GENERAL.—Where, before the day after the date of the enactment of this Act, any tax-repealed article (as defined in subsection (e)) has been sold by the manufacturer, producer, or importer and on such day is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article, if—

(A) claim for such credit or refund is filed with the Secretary of the Treasury before the first day of the 10th calendar month beginning after the day after the date of the enactment of this Act based upon a request submitted to the manufacturer, producer, or importer before the first day of the 7th calendar month beginning after the day after the date of the enactment of this Act by the dealer who held the article in respect of which the credit or refund is claimed; and

(B) on or before the first day of such 10th calendar month reimbursement has been made to the dealer by the manufacturer, producer, or importer in an amount equal to the tax paid on the article or written consent has been obtained from the dealer to allowance of the credit or refund.

(2) LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to credit or refund under paragraph (1) unless he has in his possession such evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed by the Secretary of the Treasury under this subsection.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061(a) of the Internal Revenue Code of 1954 shall, insofar as applicable and not inconsistent with paragraphs (1) and (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(c) REFUNDS WITH RESPECT TO CERTAIN CONSUMER PURCHASES.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), where on or after April 20, 1977, and on or before the date of the enactment of this Act, a tax-repealed article (as defined in subsection (e)) has been sold to an ultimate purchaser, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer of such article an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article.

(2) LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to a credit or refund under paragraph (1) with respect to an article unless—

(A) he has in his possession such evidence of the sale of the article to an ultimate purchaser, and of the reimbursement of the tax to such purchaser, as may be required by regulations prescribed by the Secretary of the Treasury under this subsection;

(B) claim for such credit or refund is filed with the Secretary of the Treasury before the first day of the 10th calendar month beginning after the day after the date of the enactment of this Act based upon information submitted to the manufacturer, producer, or importer before the first day of the 7th calendar month beginning after the day after the date of the enactment of this Act by the person who sold the article (in respect of which the credit or refund is claimed) to the ultimate purchaser; and

(C) on or before the first day of such 10th calendar month reimbursement has been made to the ultimate purchaser in an amount equal to the tax paid on the article.

(3) OTHER LAWS APPLICABLE.—All provisions of laws, including penalties, applicable with respect to the taxes imposed by section 4061(a) of such Code shall, insofar as applicable and not inconsistent with paragraph (1) or (2) of this subsection, apply with respect to the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(d) CERTAIN USES BY MANUFACTURER, ETC.—Any tax paid by reason of section 4218(a) of such Code (relating to use by manufacturer or importer considered sale) on any tax-repealed article shall be deemed an overpayment of such tax if the tax was imposed on such article by reason of such section 4218(a) on or after April 20, 1977.

(e) DEFINITIONS.—For purposes of this section—

(1) The term "dealer" includes a wholesaler, jobber, distributor, or retailer.

(2) An article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made) and if, for purposes of consumption, title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

(3) The term "tax-repealed article" means an article on which a tax was imposed by section 4061(a) of such Code (as in effect on the day before the date of the enactment of this Act) and which is exempted from such tax by paragraph (6) of section 4063(a) of such Code (as amended by subsection (a) of this section).

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The heading for paragraph (1) of section 6412(a) (relating to floor stocks refunds) is amended by striking out "AND BUSES".

(2) Subsection (d) of section 4222 (relating to registration in case of certain other exemptions) is amended by striking out "4063(a) (6) or (7)" and inserting in lieu thereof "4063(a)(7)".

(g) EFFECTIVE DATE.—

(1) The amendments made by subsections (a) and (f) shall apply with respect to articles sold after the date of the enactment of this Act.

(2) For purposes of paragraph (1), an article shall not be considered sold on or before the date of the enactment of this Act unless possession or right to possession passes to the purchaser on or before such date.

(3) In the case of—

(A) a lease,

(B) a contract for the sale of an article providing that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding parial payment by installments,

(C) a conditional sale, or

(D) a chattel mortgage arrangement providing that the sale price shall be paid in installments,

entered into on or before the date of the enactment of this Act, payments made after such date with respect to the article leased or sold shall, for purposes of this subsection, be considered as payments made with respect to an article sold after such date, if the lessor or vendor establishes that the amount of payments payable after such date with respect to such article has been reduced by an amount equal to that portion of the tax applicable with respect to the lease or sale of such article which is due and payable after such date. If the lessor or vendor does not establish that the payments have been so reduced, they shall be treated as payments made in respect of an article sold on or before the date of the enactment of this Act.

SEC. 232. REMOVAL OF EXCISE TAX ON BUS PARTS.

(a) EXEMPT SALES.—Subsection (e) of section 4221 (relating to special rules for certain tax-free sales) is amended by adding at the end thereof the following new paragraph:

"(6) BUS PARTS AND ACCESSORIES.—Under regulations prescribed by the Secretary, the tax imposed by section 4061(b) shall not apply to any part or accessory which is sold for use by the purchaser on or in connection with an automobile bus."

(b) REFUND FOR CERTAIN SALES OF BUS PARTS.—Subparagraph (I) of section 6416(b)(2) (relating to refund for specified uses and resales) is amended to read as follows:

"(I) in the case of any article taxable under section 4061(b), sold for use by the purchaser on or in connection with an automobile bus;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales on or after the first day of the first calendar month beginning more than 10 days after the date of the enactment of this Act.

SEC. 233. REMOVAL OF EXCISE TAX ON FUEL, OIL, AND TIRES USED IN CONNECTION WITH INTERCITY, LOCAL, AND SCHOOL BUSES.

(a) REPAYMENT OF TAX ON GASOLINE AND OTHER MOTOR FUELS USED BY INTERCITY, LOCAL, OR SCHOOL BUSES.—

(1) GASOLINE.—Subsection (b) of section 6421 (relating to local transit systems) is amended to read as follows:

"(b) INTERCITY, LOCAL, OR BUSES.—

"(1) ALLOWANCE.—Except as provided in paragraph (2) and subsection (i), if gasoline is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the product of the number of gallons of gasoline so used multiplied by the rate at which tax was imposed on such gasoline by section 4081.

"(2) LIMITATION IN CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of gasoline used in any automobile but while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver)."

(2) OTHER FUELS.—Subsection (b) of section 6427 (relating to local transit systems) is amended to read as follows:

"(b) INTERCITY, LOCAL, OR SCHOOL BUSES.—

"(1) ALLOWANCE.—Except as provided in paragraph (2) and subsection (g), in any fuel on the sale of which tax was imposed by subsection (a) and (b) of section 4041 is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the product of the number of gallons of such fuel so used multiplied by the rate at which tax was imposed on such fuel by subsection (a) or (b) of section 4041.

"(2) LIMITATION IN CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver)."

(3) TECHNICAL AMENDMENTS.—

(A) Subsection (d) of section 6421 is amended—

(i) by striking out paragraph (2), and

(ii) by redesignating paragraph (3) (as added by section 222(a)(1)(B)) as paragraph (2).

(B) The last sentence of section 4041(b) (as added by section 222(a)(2)) is amended by striking out "6421(d)(3)" and inserting in lieu thereof "6421(d)(2)".

(C) Subsection (c) of section 4483 is amended by inserting "(as in effect on the day before the date of the enactment of the Energy Tax Act of 1978)" after "section 6421(b)(2)".

(b) REPAYMENT OF TAX ON LUBRICATING OIL USED IN INTERCITY, LOCAL, OR SCHOOL BUSES.—

(1) IN GENERAL.—Subsection (a) of section 6424 (relating to lubricating oil not used in highway motor vehicles) is amended to read as follows:

"(a) PAYMENTS.—Except as provided in subsection (f), if lubricating oil (other than cutting oils, as defined in section 4092(b), and other than oil which has previously been used) is used—

"(1) in a qualified business use (as defined in section 6421(d)(2)), or

"(2) in a qualified bus (as defined in section 4221(d)(7)), the Secretary shall pay (without interest) to the ultimate purchaser of such lubricating oil an amount equal to 6 cents for each gallon of lubricating oil so used."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) The section heading for section 6424 is amended by striking out "NOT USED IN HIGHWAY MOTOR VEHICLES" and inserting in lieu thereof "USED FOR CERTAIN NONTAXABLE PURPOSES".

(B) The table of sections for subchapter B of chapter 65 (relating to rules of special application) is amended by striking out "not used in highway motor vehicles" in the item relating to section 6424 and inserting in lieu thereof "used for certain nontaxable purposes".

(C) Paragraph (3) of section 39(a) (relating to certain uses of gasoline, special fue's, and lubricating oil) is amended by striking out "otherwise than in a highway motor vehicle" and inserting in lieu thereof "for certain nontaxable purposes".

(D) Sections 6504(9) and 6675(a) are each amended by striking out "not used in highway motor vehicles" and inserting in lieu thereof "used for certain nontaxable purposes".

(E) Paragraph (3) of section 209(f) of the Highway Revenue Act of 1956 is amended by striking out "lubricating oil not used in highway motor vehicles" and inserting in lieu thereof "lubricating oil used for certain nontaxable purposes".

(c) TIRES, TUBES, AND TREAD RUBBER.—

(1) IN GENERAL.—Paragraph (5) of section 4221(e) (relating to school buses) is amended to read as follows:

"(5) TIRES, TUBES, AND TREAD RUBBER USED ON INTERCITY, LOCAL, AND SCHOOL BUSES.—Under regulations prescribed by the Secretary—

"(A) the taxes imposed by paragraphs (1) and (3) of section 4071(a) shall not apply in the case of tires or inner tubes for tires sold for use by the purchaser on or in connection with a qualified bus, and

"(B) the tax imposed by paragraph (4) of section 4071(a) shall not apply in the case of tread rubber sold for use by the purchaser in the recapping or retreading of any tire to be used by the purchaser on or in connection with a qualified bus."

(2) QUALIFIED BUS DEFINED.—Subsection (d) of section 4221 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(7) QUALIFIED BUS.—

"(A) IN GENERAL.—The term 'qualified bus' means—

"(i) an intercity or local bus, and

"(ii) a school bus.

"(B) INTERCITY OR LOCAL BUS.—The term 'intercity or local bus' means any automobile bus which is used predominantly in furnishing (for compensation) passenger land transportation available to the general public if—

"(i) such transportation is scheduled and along regular routes, or

"(ii) the seating capacity of such bus is at least 20 adults (not including the driver).

"(C) SCHOOL BUS.—The term 'school bus' means any automobile bus substantially all the use of which is in transporting students and employees of schools. For purposes of the preceding sentence, the term 'school' means an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are carried on."

(3) TECHNICAL AMENDMENT.—Paragraph (2) of section 6416(b) (relating to specified uses and resales) is amended by striking out the period at the end of subparagraph (K) and inserting in lieu thereof a semicolon and by inserting after subparagraph (K) the following new subparagraphs:

"(L) in the case of any tire or inner tube taxable under paragraph (1) or (3) of section 4071(a), sold to any person for use as described in section 4221(e)(5)(A); or

"(M) in the case of tread rubber taxable under paragraph (4) of section 4071(a), used in the recapping or retreading of a tire sold to any person for use on or in connection with a qualified bus (as defined in section 4221(d)(7))."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act.

PART IV—INCENTIVES FOR VAN POOLING

SEC. 241. FULL INVESTMENT CREDIT FOR CERTAIN COMMUTER VEHICLES.

(a) IN GENERAL.—Subsection (c) of section 46 (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR COMMUTER HIGHWAY VEHICLES.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), in the case of a commuter highway vehicle the useful life of which is 3 years or more, the applicable percentage for purposes of paragraph (1) shall be 100 percent.

"(B) DEFINITION OF COMMUTER HIGHWAY VEHICLE.—For purposes of subparagraph (A), the term 'commuter highway vehicle' means a highway vehicle—

"(i) the seating capacity of which is at least 8 adults (not including the driver),

"(ii) at least 80 percent of the mileage use

of which can reasonably be expected to be (I) for purposes of transporting the taxpayer's employees between their residences and their place of employment, and (II) on trips during which the number of employees transported for such purposes is at least one-half of the adult seating capacity of such vehicle (not including the driver),

"(iii) which is acquired by the taxpayer on or after the date of the enactment of the Energy Tax Act of 1978, and placed in service by the taxpayer before January 1, 1986, and

"(iv) with respect to which the taxpayer makes an election under this paragraph on his return for the taxable year in which such vehicle is placed in service."

(b) AMENDMENTS OF THE RECAPTURE RULES.—

(1) Subsection (a) of section 47 (relating to recapture in case of certain dispositions, etc., of section 38 property) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULES FOR COMMUTER HIGHWAY VEHICLES.—

"(A) USEFUL LIFE.—For purposes of this subsection, 3 years shall be treated as the useful life which was taken into account in computing the credit under section 38 with respect to any commuter highway vehicle (as defined in section 46(c)(6)(B)).

"(B) CHANGE IN USE.—If less than 80 percent of the mileage use of any commuter highway vehicle by the taxpayer during that portion of any taxable year which is within the first 36 months of the operation of such vehicle by the taxpayer meets the requirements of section 46(c)(6)(B), then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from treating such vehicle, for purposes of determining qualified investment, as not being a commuter highway vehicle. If the application of this subparagraph to any property is followed by the application of paragraph (1) to such property, proper adjustment shall be made in applying paragraph (1)."

(2) Paragraph (5) of section 47(a) (as redesignated by subparagraph (A)) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (2) or (4)".

(3) Subparagraph (B) of section 47(a)(6) is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (5)".

SEC. 242. EXCLUSION FROM GROSS INCOME OF VALUE OF QUALIFIED TRANSPORTATION PROVIDED BY EMPLOYER.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as 125, and by inserting after section 123 the following new section:

"SEC. 124. QUALIFIED TRANSPORTATION PROVIDED BY EMPLOYER.

"(a) GENERAL RULE.—Gross income of an employee does not include the value of qualified transportation provided by the employer between the employee's residence and place of employment.

"(b) QUALIFIED TRANSPORTATION.—For purposes of this section, the term 'qualified transportation' means transportation in a commuter highway vehicle (as defined in section 46(c)(6)(B) but without regard to clause (iii) or (iv) thereof).

"(c) ADDITIONAL REQUIREMENTS.—Subsection (a) does not apply to the value of transportation provided by an employer unless—

"(1) such transportation is provided under a separate written plan of the employer which does not discriminate in favor of employees who are officers, shareholders, or highly compensated employees, and

"(2) the plan provides that the value of such transportation is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

"(d) DEFINITIONS.—For purposes of this section—

"(1) PROVIDED BY THE EMPLOYER.—Transportation shall be considered to be provided by an employer if the transportation is furnished in a commuter highway vehicle (described in subsection (b)) operated by or for the employer.

"(2) EMPLOYEE.—The term 'employee' does not include an individual who is an employee (within the meaning of section 401(c)(1)).

"(e) EFFECTIVE DATE.—Subsection (a) applies with respect to qualified transportation provided in taxable years beginning after December 31, 1978, and before January 1, 1986".

(b) EFFECTIVE DATE.—Subsection (a) applies with respect to qualified transportation provided in taxable years beginning after December 31, 1978, and before January 1, 1986".

(b) CLERICAL AMENDMENT.—The table of sections for such part is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 124. Qualified transportation provided by employer.

"Sec. 125. Cross references to other Acts."

(c) TRANSITION RULE.—The plan requirements of section 124(c) of the Internal Revenue Code of 1954 shall be considered to be met with respect to transportation provided before July 1, 1979, if there is a plan meeting such requirements of the employer in effect on that date.

TITLE III—CHANGES IN BUSINESS INVESTMENT CREDIT TO ENCOURAGE CONSERVATION OF, OR CONVERSION FROM, OIL AND GAS OR TO ENCOURAGE NEW ENERGY TECHNOLOGY

SEC. 301. CHANGES IN BUSINESS INVESTMENT CREDIT.

(a) AMOUNT OF CREDIT; ALLOWANCE OF ENERGY PERCENTAGE.—

(1) IN GENERAL.—Paragraph (2) of section 46(a) (relating to amount of credit for current taxable year) is amended to read as follows:

"(2) AMOUNT OF CREDIT.—

"(A) IN GENERAL.—The amount of the credit determined under this paragraph for the taxable year shall be an amount equal to the sum of the following percentages of the qualified investment (as determined under subsections (c) and (d):

"(i) the regular percentage,

"(ii) in the case of energy property, the energy percentage, and

"(iii) the ESOP percentage.

"(B) REGULAR PERCENTAGE.—For purposes of this paragraph, the regular percentage is—

"(i) 10 percent with respect to the period beginning on January 21, 1975, and ending on December 31, 1980, or

"(ii) 7 percent with respect to the period beginning on January 1, 1981.

"(C) ENERGY PERCENTAGE.—For purposes of this paragraph, the energy percentage is—

"(i) 10 percent with respect to the period beginning on October 1, 1978, and ending on December 31, 1982, or

"(ii) zero with respect to any other period.

"(D) SPECIAL RULE FOR CERTAIN ENERGY PROPERTY.—For purposes of this paragraph, the regular percentage shall not apply to any energy property which, but for section 48(l)(1), would not be section 38 property.

"(E) ESOP PERCENTAGE.—For purposes of this paragraph, the ESOP percentage is—

"(i) with respect to the period beginning on January 21, 1975, and ending on December 31, 1980, 1 percent, and

"(ii) with respect to the period beginning on January 1, 1977, and ending on December 31, 1980, an additional percentage (not in excess of ½ of 1 percent) which results in an amount equal to the amount determined under section 301(e) of the Tax Reduction Act of 1975.

This subparagraph shall apply to a corporation only if it meets the requirements of section 301(d) of the Tax Reduction Act of 1975 and only if it elects (at such time, in such form and in such manner as the Secretary prescribes) to have this subpargraph apply."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 46(c)(3) (relating to public utility property) is amended to read as follows:

"(A) For the period beginning on January 1, 1981, in the case of any property which is public utility property, the amount of the qualified investment shall be 4/7 of the amount determined under paragraph (1). The preceding sentence shall not apply for purposes of applying the energy percentage."

(B) The first sentence of section 46(f)(8) (relating to prohibition of immediate flow through) is amended by striking out "and the Tax Reform Act of 1976" and inserting in lieu thereof ", the Tax Reform Act of 1976, and the Energy Tax Act of 1978".

(b) DEFINITIONS AND TRANSITIONAL RULES.—Section 48 (relating to definitions and special rules) is amended by redesignating subsection (l) as subsection (n) and by inserting after subsection (k) the following new subsections:

"(l) ENERGY PROPERTY.—For purposes of this subpart—

"(1) TREATMENT AS SECTION 38 PROPERTY.—For the period beginning on October 1, 1978, and ending on December 31, 1982—

"(A) any energy property shall be treated as meeting the requirements of paragraph (1) of subsection (a), and

"(B) paragraph (3) of subsection (a) shall not apply to any energy property.

"(2) ENERGY PROPERTY DEFINED. The term 'energy property' means property—

"(A) which is—

"(i) alternative energy property,

"(ii) solar or wind energy property,

"(iii) specially defined energy property,

"(iv) recycling equipment,

"(v) shale oil equipment, or

"(vi) equipment for producing natural gas from geopressured brine,

"(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer after September 30, 1978, or

"(ii) which is acquired after September 30, 1978, if the original use of such property commences with the taxpayer and commences after such date, and

"(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and which has a useful life (determined as of the time such property is placed in service) of 3 years or more.

"(3) ALTERNATIVE ENERGY PROPERTY.—

"(A) IN GENERAL.—The term 'alternative energy property' means—

"(i) a boiler the primary fuel for which will be an alternate substance,

"(ii) a burner (including necessary on-site equipment to bring the alternate substance to the burner) for a combustor other than a boiler if the primary fuel for such burner will be an alternate substance,

"(iii) equipment for converting an alternate substance into a synthetic liquid, gaseous, or solid fuel (other than coke or coke gas),

"(iv) equipment designed to modify existing equipment which uses oil or natural gas as a fuel or as feedstock so that such equipment will use either a substance other than oil and natural gas, or oil mixed with a substance other than oil and natural gas (where such other substance will provide not less than 25 percent of the fuel or feedstock),

"(v) equipment which uses coal (including lignite) as a feedstock for the manufacture of chemicals or other products (other than coke or coke gas),

"(vi) pollution control equipment required (by Federal, State, or local regulations) to be installed on or in connection with equipment described in clause (i), (ii), (iii), (iv), or (v),

"(vii) equipment used for the unloading, transfer, storage, reclaiming from storage, and preparation (including, but not limited to, washing, crushing, drying, and weighing) at the point of use of an alternate substance for use in equipment described in clause (i), (ii), (iii), (iv), (v), or (vi), and

"(viii) equipment used to produce, distribute, or use energy derived from a geothermal deposit (within the meaning of section 613(e)(3)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage.

"(B) EXCLUSION FOR PUBLIC UTILITY PROPERTY.—The terms 'alternative energy property', 'solar or wind energy property', and 'recycling equipment' do not include property which is public utility property (within the meaning of section 46(f)(5)).

"(C) ALTERNATE SUBSTANCE.—The term 'alternate substance' means any substance other than—

"(i) oil and natural gas, and

"(ii) any product of oil and natural gas.

"(D) SPECIAL RULE FOR CERTAIN POLLUTION CONTROL EQUIPMENT.—The term 'pollution control equipment' does not include any equipment which—

"(i) is installed on or in connection with property which, as of October 1, 1978, was using coal (including lignite), and

"(ii) was required to be installed by Federal, State, or local regulations in effect on such date.

"(4) SOLAR OR WIND ENERGY PROPERTY.—The term 'solar or wind energy property' means any equipment which uses solar or wind energy—

"(A) to generate electricity, or

"(B) to heat or cool (or provide hot water for use in) a structure.

"(5) SPECIALLY DEFINED ENERGY PROPERTY.—The term 'specially defined energy property' means—

"(A) a recuperator,

"(B) a heat wheel,

"(C) a regenerator,

"(D) a heat exchanger,

"(E) a waste heat boiler,

"(F) a heat pipe,

"(G) an automatic energy control system,

"(H) a turbulator,

"(I) a preheater,

"(J) a combustible gas recovery system,

"(K) an economizer, or

"(L) any other property of a kind specified by the Secretary by regulations,

the principal purpose of which is reducing the amount of energy consumed in any existing industrial or commercial process and which is installed in connection with an existing industrial or commercial facility.

"(6) RECYCLING EQUIPMENT.—

"(A) IN GENERAL.—The term 'recycling equipment' means any equipment which is used exclusively—

"(i) to sort and prepare solid waste for recycling, or

"(ii) in the recycling of solid waste.

"(B) CERTAIN EQUIPMENT NOT INCLUDED.—The term 'recycling equipment' does not include—

"(i) any equipment used in a process after the first marketable product is produced, or

"(ii) in the case of recycling iron or steel, any equipment used to reduce the waste to a molten state and in any process thereafter.

"(C) 10 PERCENT VIRGIN MATERIAL ALLOWED.—Any equipment used in the recycling of material which includes some virgin materials shall not be treated as failing to meet the exclusive use requirements of subparagraph (A) if the amount of such virgin materials is 10 percent or less.

"(D) CERTAIN EQUIPMENT INCLUDED.—The term 'recycling equipment' includes any equipment which is used in the conversion of solid waste into a fuel or into useful energy such as steam, electricity, or hot water.

"(7) SHALE OIL EQUIPMENT.—The term 'shale oil equipment' means equipment for producing or extracting oil from oil-bearing shale rock but does not include equipment for hydrogenation, refining, or other process subsequent to retorting.

"(8) EQUIPMENT FOR PRODUCING NATURAL GAS FROM GEOPRESSURED BRINE.—The term 'equipment for producing natural gas from geopressured brine' means equipment which is used exclusively to extract natural gas described in section 613A(b)(3)(C)(i).

"(9) EQUIPMENT MUST MEET CERTAIN STANDARDS TO QUALIFY.—Equipment qualifies under paragraph (3), (4), (5), (6), (7), or (8) only if it meets the performance and quality standards (if any) which—

"(A) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and

"(B) are in effect at the time of the acquisition of the property.

"(10) EXISTING.—For purposes of this subsection, the term 'existing' means—

"(A) when used in connection with a facility, 50 percent or more of the basis of such facility is attributable to construction, reconstruction, or erection before October 1, 1978, or

"(B) when used in connection with an industrial or commercial process, such process was carried on in the facility as of October 1, 1978.

"(11) SPECIAL RULE FOR PROPERTY FINANCED BY INDUSTRIAL DEVELOPMENT BONDS.—In the case of property which is financed in whole or in part by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103, the energy percentage shall be 5 percent.

"(12) INDUSTRIAL INCLUDES AGRICULTURAL.—The term 'industrial' includes agricultural.

"(m) APPLICATION OF CERTAIN TRANSITIONAL RULES.—Where the application of any provision of subsection (l) of this section or subsection (a)(2) or (c)(3) of section 46 is expressed in terms of a period, such provision shall apply only to—

"(1) property to which section 46(d) does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer on or after the first day of such period, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection during such period,

"(2) property to which section 46(d) does not apply, acquired by the taxpayer during such period and placed in service by the taxpayer during such period, and

"(3) property to which section 46(d) applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d) of section 46) with respect to qualified progress expenditures made during such period."

(c) SPECIAL RULES FOR APPLYING LIMITATION BASED ON TAX LIABILITY.—

(1) Subsection (a) of section 46 is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RULES IN THE CASE OF ENERGY PROPERTY.—Under regulations prescribed by the Secretary—

"(A) IN GENERAL.—This subsection and subsection (b) shall be applied separately—

"(i) first with respect to so much of the credit allowed by section 38 as is not attributable to the energy percentage,

"(ii) second with respect to so much of the credit allowed by section 38 as is attributable to the application of the energy percentage to energy property (other than solar or wind energy property), and

"(iii) then with respect to so much of the credit allowed by section 38 as is attributable to the application of the energy percentage to solar or wind energy property.

"(B) RULES OF APPLICATION FOR ENERGY PROPERTY.—In applying this subsection and subsection (b) for taxable years ending after September 30, 1978, with respect to so much of the credit allowed by section 8 as described in subparagraph (A)(ii)—

"(i) paragraph (3)(C) shall be applied by substituting '100 percent' for '50 percent',

"(ii) paragraphs (7), (8), and (9) shall not apply, and

"(iii) the liability for tax shall be the amount determined under paragraph (4) reduced by so much of the credit allowed by section 38 as is described in subparagraph (A)(i).

"(C) REFUNDABLE CREDIT FOR SOLAR OR WIND ENERGY PROPERTY.—In the case of so much of the credit allowed by section 38 as is described in subparagraph (A)(iii)—

"(i) paragraph (3) shall not apply, and

"(ii) for purposes of this title (other than section 38, this subpart, and chapter 63, such credit shall be treated as if it were allowed by section 39 and not by section 38."

(2) Section 6401 (relating to the amounts treated as overpayments) is amended by adding at the end thereof the following new subsection:

"(d) CROSS REFERENCE.—

"For rule allowing refund for excess investment credit attributable to solar or wind energy property, see section 46(a)(10)(C)."

(d) DENIAL OF INVESTMENT TAX CREDIT FOR CERTAIN PROPERTY.—

(1) AIR CONDITIONING, SPACE HEATERS, ETC.—Subparagraph (A) of section 48(a)(1) (defining section 38 property) is amended to read as follows:

"(A) tangible personal property (other than an air conditioning or heating unit), or".

(2) BOILERS FUELED BY OIL OR GAS.—Subsection (a) of section 48 (defining section 38 property) is amended by adding at the end thereof the following new paragraph:

"(10) BOILERS FUELED BY OIL OR GAS.—

"(A) IN GENERAL.—The term 'section 38 property' does not include any boiler primarily fueled by petroleum or petroleum products (including natural gas) unless the use of coal is precluded by Federal air pollution regulations (or by State air pollution regulations in effect on October 1, 1978) or unless the use of such boiler will be an exempt use within the meaning of subparagraph (B).

"(B) EXEMPT USE DEFINED.—For purposes of subparagraph (A), the term 'exempt use' means—

"(i) use in an apartment, hotel, motel, or other residential facility,

"(ii) use in a vehicle, aircraft, or vessel, or in transportation by pipeline,

"(iii) use on a farm for farming purposes (within the meaning of section 6420(c)),

"(iv) use in—

"(I) a shopping center,

"(II) an office building,

"(III) a wholesale or retail establishment,

"(IV) any other facility which is not an integral part of manufacturing, processing, or mining, or

"(V) any facility for the production of electric power having a heat rate of less than 9,500 Btu's per kilowatt hour and which is capable of converting to synthetic fuels (as certified by the Secretary),

"(v) use in the exploration for, or the de-

velopment, extraction, transmission, or storage of, crude oil, natural gas, or natural gas liquids, and

"(vi) use in Hawaii.

Except as provided in clauses (iv)(V) and (vi) of the preceding sentence, the term 'exempt use' does not include use of a boiler which is public utility property (within the meaning of section 46(f)(51)."

(3) DENIAL OF RAPID DEPRECIATION FOR BOILERS FUELED BY OIL OR GAS.—Section 167 (relating to depreciation) is amended by redesignating subsection (p) as subsection (r) and by inserting after subsection (o) the following new subsection:

"(p) STRAIGHT LINE METHOD FOR BOILERS FUELED BY OIL OR GAS.—In the case of any boiler which, by reason of section 48(a)(10), is not section 38 property—

"(1) subsection (b), (j), and (l) shall not apply, and

"(2) the term 'reasonable allowance' as used in subsection (a) shall mean only an allowance computed under the straight line method using a useful life equal to the class life prescribed by the Secretary under subsection (m) which is applicable to such property (determined without regard to the last sentence of subsection (m)(1))."

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to property which is placed in service after September 30, 1978.

(B) BINDING CONTRACTS.—The amendments made by this subsection shall not apply to property which is constructed, reconstructed, erected, or acquired pursuant to a contract which, on October 1, 1978, and at all times thereafter, was binding on the taxpayer.

(e) DEPRECIATION ALLOWANCE IN CASE OF RETIREMENT OR REPLACEMENT OF CERTAIN OIL AND GAS BOILERS, ETC.—

(1) IN GENERAL.—Section 167 is amended by inserting after subsection (p) the following new subsection:

"(q) RETIREMENT OR REPLACEMENT OF CERTAIN BOILERS, ETC., FUELED BY OIL OR GAS.—

"(1) IN GENERAL.—If—

"(A) a boiler or other combustor was in use on October 1, 1978, and as of such date the principal fuel for such combustor was petroleum or petroleum products (including natural gas), and

"(B) the taxpayer establishes to the satisfaction of the Secretary that such combustor will be retired or replaced on or before the date specified by the taxpayer,

then for the period beginning with the taxable year in which subparagraph (B) is satisfied, the term 'reasonable allowance' as used in subsection (a) includes an allowance under the straight line method using a useful life equal to the period ending with the date established under subparagraph (B).

"(2) INTEREST.—If the retirement or replacement of any combustor does not occur on or below the date referred to in paragraph (1)(B)—

"(A) this subsection shall cease to apply with respect to such combustor as of such date, and

"(B) interest at the rate determined under section 6621 on the amount of the tax benefit arising from the application of this subsection with respect to such combustor shall be due and payable for the period during which such tax benefit was available to the taxpayer and ending on the date referred to in paragraph (1)(B)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years ending after the date of the enactment of this Act.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. TREATMENT OF INTANGIBLE DRILLING COSTS FOR PURPOSES OF THE MINIMUM TAX.

Subsection (b) of section 308 of the Tax Reduction and Simplification Act of 1977 is amended by striking out ", and before January 1, 1978".

SEC. 402. OPTION TO DEDUCT INTANGIBLE DRILLING COSTS IN THE CASE OF GEOTHERMAL DEPOSITS.

(a) IN GENERAL.—Subsection (c) of section 263 (relating to intangible drilling and development costs in the case of oil and gas wells) is amended—

(1) by adding at the end thereof the following new sentence: "Such regulations shall also grant the option to deduct as expenses intangible drilling and development costs in the case of wells drilled for any geothermal deposit (as defined in section 613(e)(3)) to the same extent and in the same manner as such expenses are deductible in the case of oil and gas wells.", and

(2) by amending the subsection heading to read as follows:

"(c) INTANGIBLE DRILLING AND DEVELOPMENT COSTS IN THE CASE OF OIL AND GAS WELLS AND GEOTHERMAL WELLS.—".

(b) MINIMUM TAX ON INTANGIBLE DRILLING COSTS IN THE CASE OF GEOTHERMAL WELLS.—

(1) Paragraph (11) of section 57(a) (relating to intangible drilling costs) is amended by striking out "oil and gas properties" each place it appears (including in the heading of subparagraph (C)) and inserting in lieu thereof "oil, gas, and geothermal properties".

(2) Clause (i) of section 57(a)(11)(B) is amended by striking out "oil and gas wells" and inserting in lieu thereof "oil, gas, and geothermal wells".

(3) Paragraph (11) of section 57(a) is amended by adding at the end thereof the following new subparagraph:

"(D) PARAGRAPH APPLIED SEPARATELY WITH RESPECT TO GEOTHERMAL PROPERTIES AND OIL AND GAS PROPERTIES.—This paragraph shall be applied separately with respect to—

"(i) all oil and gas properties which are not described in clause (ii), and

"(ii) all properties which are geothermal deposits (as defined in section 613(e)(3))."

(c) GAIN FROM DISPOSITION OF INTERESTS IN GEOTHERMAL WELLS.—

(1) Paragraphs (1) and (2) of section 1254(a) (relating to gain from disposition of interest in oil or gas property) are each amended by striking out "oil or gas property" each place it appears and inserting in lieu thereof "oil, gas, or geothermal property".

(2) Paragraph (3) of section 1254(a) (defining oil or gas property) is amended to read as follows:

"(3) OIL, GAS, OR GEOTHERMAL PROPERTY.—The term 'oil, gas, or geothermal property' means any property (within the meaning of section 614) with respect to which any expenditures described in paragraph (1)(A) are properly chargeable."

(3) The section heading of section 1254 is amended by striking out "OIL OR GAS" and inserting in lieu thereof "OIL, GAS OR GEOTHERMAL".

(4) The table of sections for part IV of subchapter P of chapter 1 is amended by striking out "oil or gas" in the item relating to section 1254 and inserting in lieu thereof "oil, gas, or geothermal".

(5) Subsection (c) of section 751 (relating to unrealized receivables) is amended by striking out "oil and gas property" and inserting in lieu thereof "oil, gas, or geothermal property".

(d) APPLICATION OF AT RISK RULES TO GEOTHERMAL DEPOSITS.—

(1) Paragraph (1) of section 465(c) (defining activities to which at risk rules apply) is amended by striking out "or" at the end of subparagraph (C), by adding ", or" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) exploring for, or exploiting, geothermal deposits (as defined in section 613(e)(3))".

(2) Paragraph (2) of section 465(c) is amended by striking out "or" at the end of subparagraph (C), by adding "or" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) geothermal property (as determined under section 614),".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to wells commenced on or after October 1, 1978, in taxable years ending on or after such date.

(2) ELECTION.—The taxpayer may elect to capitalize or deduct any costs to which section 263(c) of the Internal Revenue Code of 1954 applies by reason of the amendments made by this section. Any such election shall be made before the expiration of the time for filing claim for credit or refund of any overpayment of tax imposed by chapter 1 of such Code with respect to the taxpayer's first taxable year to which the amendments made by this section apply and for which he pays or incurs costs to which such section 263(c) applies by reason of the amendments made by this section. Any election under this paragraph may be changed or revoked at any time before the expiration of the time referred to in the preceding sentence, but after the expiration of such time such election may not be changed or revoked.

SEC. 403. DEPLETION FOR GEOTHERMAL DEPOSITS AND NATURAL GAS FROM GEOPRESSURED BRINE.

(a) GEOTHERMAL DEPOSITS.—

(1) IN GENERAL.—Section 613 (relating to percentage depletion) is amended by adding at the end thereof the following new subsection:

"(e) PERCENTAGE DEPLETION FOR GEOTHERMAL DEPOSITS.—

"(1) IN GENERAL.—In the case of geothermal deposits located in the United States or in a possession of the United States, for purposes of subsection (a)—

"(A) such deposits shall be treated as listed in subsection (b), and

"(B) the applicable percentage (determined under the table contained in paragraph (2)) shall be deemed to be the percentage specified in subsection (b).

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

"In the case of taxable years beginning in calendar year—	The applicable percentage is—
1978, 1979, or 1980	22
1981	20
1982	18
1983	16
1984 and thereafter	15

"(3) GEOTHERMAL DEPOSIT DEFINED.—For purposes of paragraph (1), the term 'geothermal deposit' means a geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor (whether or not under pressure). Such a deposit shall in no case be treated as a gas well for purposes of this section or section 613A, and this section shall not apply to a geothermal deposit which is located outside the United States or its possessions."

(2) TECHNICAL AMENDMENTS.—

(A) Paragraph (1) of section 613(c) (defining gross income from the property) is amended by inserting "and other than a geothermal deposit" after "oil or gas well"

(B) Paragraph (1) of section 613A(b) is amended—

(i) by inserting "and" at the end of subparagraph (A),

(ii) by striking out "and" at the end of subparagraph (B), and

(iii) by striking out subparagraph (C).

(C) Subsection (b) of section 614 (relating to special rules as to operating mineral interest in oil and gas wells) is amended—

(i) by inserting "or Geothermal Deposits"

after "Gas Wells" in the subsection heading, and

(ii) by inserting "or geothermal deposits" after "gas wells" in so much of the text as precedes paragraph (1) thereof.

(D) Subsection (c) of section 614 is amended by striking out "oil and gas wells" each place it appears and inserting in lieu thereof "oil and gas wells and geothermal deposits".

(b) NATURAL GAS FROM GEOPRESSURED BRINE.—

(1) IN GENERAL.—Subsection (b) of section 613A (relating to exemption for certain domestic gas wells) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) NATURAL GAS FROM GEOPRESSURED BRINE.—The allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to any qualified natural gas from geopressured brine, and 10 percent shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of such section."

(2) QUALIFIED NATURAL GAS FROM GEOPRESSURED BRINE.—Paragraph (3) of section 613A (b) (as redesignated by paragraph (1)) is amended by adding at the end thereof the following new subparagraph:

"(C) QUALIFIED NATURAL GAS FROM GEOPRESSURED BRINE.—The term 'qualified natural gas from geopressured brine' means any natural gas—

"(i) which is determined in accordance with section 503 of the Natural Gas Policy Act of 1978 to be produced from geopressured brine, and

"(ii) which is produced from any well the drilling of which began after September 30, 1978, and before January 1, 1984."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1978, and shall apply to taxable years ending on or after such date.

(d) COORDINATION WITH OTHER PROVISION.—Any allowance for depletion allowed by reason of the amendments made by subsection (b) shall not be treated as a credit, exemption, deduction, or comparable adjustment applicable to the computation of any Federal tax which is specifically allowable with respect to any high-cost natural gas (or category thereof) for purposes of section 107 (d) of the Natural Gas Policy Act of 1978.

SEC. 404. REREFINED LUBRICATING OIL.

(a) IN GENERAL.—Section 4093 (relating to exemption of sales to producers) is amended to read as follows:

"SEC. 4093. EXEMPTIONS.

"(a) SALES TO MANUFACTURERS OR PRODUCERS FOR RESALE.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on lubricating oils sold to a manufacturer or producer of lubricating oils for resale by him.

"(b) USE IN PRODUCING REREFINED OIL.—

"(1) SALES TO REREFINERS.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on lubricating oil sold for use in mixing with used or waste lubricating oil which has been cleaned, renovated, or rerefined. Any person to whom lubricating oil is sold tax-free under this paragraph shall be treated as the producer of such lubricating oil.

"(2) USE IN PRODUCING REREFINED OIL.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on lubricating oil used in producing rerefined oil to the extent that the amount of such lubricating oil does not exceed 55 percent of such rerefined oil.

"(3) REREFINED OIL DEFINED.—For purposes of this subsection, the term 'rerefined oil' means oil 25 percent or more of which is used or waste lubricating oil which has been cleaned, renovated, or rerefined."

(b) CONFORMING AMENDMENT.—Section 4092(a) is amended by striking out "4093" and inserting in lieu thereof "4093(a)".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 32 is amended by striking out the item relating to section 4093 and inserting in lieu thereof the following:

"SEC. 4093. EXEMPTIONS."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales on or after the first day of the first calendar month beginning more than 10 days after the date of the enactment of this Act.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

AL ULLMAN,
T. L. ASHLEY,
HARLEY O. STAGGERS,
DICK BOLLING,
THOMAS S. FOLEY,
DAN ROSTENKOWSKI,
JAMES C. CORMAN,
JOE D. WAGGONNER,
CHARLES B. RANGEL,
JOHN D. DINGELL,
PAUL G. ROGERS,
BOB ECKHARDT,
PHIL SHARP,
TOBY MOFFETT,
CHARLES WILSON,
HENRY S. REUSS,
WM. A. STEIGER,
JOHN ANDERSON,
GARRY BROWN,
Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN E. TALMADGE,
ABRAHAM RIBICOFF,
MIKE GRAVEL,
LLOYD BENTSEN,
WILLIAM D. HATHAWAY,
SPARK M. MATSUNAGA,
DANIEL MOYNIHAN,
CARL T. CURTIS,
ROBERT DOLE,
BOB PACKWOOD,
PAUL LAXALT,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts, submit the following joint statement to the House and the Senate in explanation of the effect of the action (other than action of a technical nature) agreed upon by the managers and recommended in the accompanying conference report.

GENERAL EXPLANATION

House Bill

The House bill suspends the duty on certain bicycle parts until June 30, 1980.

Senate Amendment

The Senate amnedment strikes out all of the House bill after the enacting clause and inserts two titles. Title I contains certain tax and other provisions related to energy and is in reality the Senate position on the matters decided in this conference. In order to bring the House energy tax provisions into conference, the Senate added a title II which is the text of title II of H.R. 8444 (the National Energy Act) as passed by the House.

Conference Agreement

The conference agreement does not include any provisions relating to the duty on bicycle parts. In order to explain the action agreed upon by the conference, in the remainder of this statement, title I of the Senate amendment will be referred to as the "Senate amendment" and title II of the Senate amendment (embodying the text of title II of H.R. 8444 as passed by the House) will be referred to as the "House bill."

A. RESIDENTIAL ENERGY CREDITS

1. Residential insulation and other energy-conserving component credit

House Bill

Under present law, no special tax credit or deduction is allowed for the installation of insulation or other energy-conserving components in or on a taxpayer's residence.

The House bill provides a nonrefundable income tax credit for insulation and other energy-conserving component expenditures for installations in or on the principal residence of the taxpayer. The credit is 20 percent of the first $2,000 of qualifying expenditures, for a maximum credit of $400. The credit would be applied against the taxpayer's liability, and no carryover is provided to the extent the credit exceeds the amount of tax liability.

The credit would be available only with respect to principal residences the construction of which was substantially completed before April 20, 1977. Owners and renters would be eligible for the credit; moreover, an individual who owns stock in a cooperative housing association or who is a member of a condominium management association would be eligible for the credit.

The credit would apply to qualifying insulation and other energy-conserving components. Insulation is defined as any item specifically and primarily designed to reduce, when installed in or on a dwelling or water heater, the heat loss or gain of the dwelling or water heater.

The term "other energy-conserving component" means any item (other than insulation) which is:

(1) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency;

(2) a device for modifying flue openings designed to increased the efficiency of operation of the heating system;

(3) an electrical or mechanical furnace ignition system which replaces a gas pilot light;

(4) a storm or thermal window or door for the exterior of the dwelling;

(5) a clock thermostat;

(6) caulking or weatherstripping of an exterior door or window; or

(7) an item of a kind which the Secretary of the Treasury specifies by regulations as increasing the energy efficiency of the dwelling.

The House bill applies to taxable years ending on or after April 20, 1977, for expenditures made on or after that date and before January 1, 1985.

Senate Amendment

The Senate amendment is generally the same as the House bill except in the following material respects: (1) the credit would be refundable; (2) the termination date of the credit would be one year later than the House bill (December 31, 1985); (3) individuals whose residences are the subjects of weatherization grants under the nontax energy provisions would not be entitled to the credit, (4) the amount of any loan made under the nontax energy provisions would be reduced by the amount of the credit allowed; and (5) additional energy-conserving components qualifying for the credit would include replacement furnaces, automatic energy-saving thermostats (as well as the lock thermostats included in the House bill), heat pumps, energy usage display meters, replacement fluorescent light systems, evaporative cooling devices, hydrogen-fueled residential equipment, and wood or peat fueled residential equipment.

Conference Agreement

The conference agreement follows the House bill with the following changes. First,

the credit is to be 15 percent of the first $2,000 of qualifying expenditures, for a maximum credit of $300. Second, the credit is to be available for expenditures made on or after April 20, 1977, and before January 1, 1986. Third, a credit carryover is provided to the extent that the credit exceeds the taxpayer's tax liability; the carryover is to extend for two years beyond the termination date of the credit, i.e., through taxable years ending before January 1, 1988. Fourth, a credit relating to qualifying expenditures made during 1977 is to be claimed (along with any credit relating to 1978 qualifying expenditures) only on the taxpayer's 1978 tax return and, subject to the carryover provision, only against the taxpayer's 1978 tax liability. Fifth, the credit would be available for automatic energy-saving thermostats (as well as clock thermostats) and energy usage display meters. Sixth, the credit is applicable to replacement burners on either oil-fired furnaces or boilers.

2. Residential Renewable Energy Source Equipment Credit

House Bill

Under present law, no special tax credit or deduction is allowed for solar, wind, or geothermal energy equipment installed in connection with a residence.

The House bill provides a nonrefundable income tax credit for qualifying solar and wind energy equipment expenditures for installations in connection with principal residence of the taxpayer. The credit would be 30 percent of the first $1,500 of qualifying expenditures and 20 percent of the next $8,500 of qualifying expenditures, for a maximum credit of $2,150. The credit would be applied against the taxpayer's tax liability, and no carryover would be provided to the extent the credit exceeds the amount of tax liability.

The credit would be available with respect to existing, newly constructed and reconstructed principal residences. Owners and renters would be eligible for the credit; moreover, an individual who owns stock in a cooperative housing association or who is a member of a condominium management association would be eligible for the credit.

The House bill applies to taxable years ending on or after April 20, 1977, for expenditures made on or after that date and before January 1, 1985.

Senate Amendment

The Senate amendment is generally the same as the House bill except in the following material respects: (1) the credit would be refundable; (2) the credit would be 30 percent of the first $2,000 and 20 percent for the next $8,000 of qualifying expenditures, for a maximum credit of $2,200; (3) the termination date of the credit would be one year later than the House bill (December 31, 1985); (4) the amount of any loan made under the nontax energy provisions would be reduced by the amount of the credit allowed; (5) the credit would apply to "passive" as well as "active" solar systems; [1] (6) the credit would apply to leased (as well as purchased) solar energy equipment; (7) the credit would apply to equipment using solar energy in the production of electricity; (8) the credit would apply to equipment using wind energy for transportation (as well as residential) purposes; (9) the credit would apply to equipment using geothermal energy; (10) the Secretary of Treasury, under regulations, may add to the list of qualifying property equipment items which rely on "renewable energy resources;" and (11) in determining whether an item is eligible for the credit, onsite inspections which are not already authorized in the assessment and collection of income taxes would be prohibited unless the resident claiming the credit consents to the inspection.

Conference Agreement

The conference agreement follows the Senate amendment, deleting, however, items (1), (4), (6), (7), (8) and (11) listed above under the Senate amendment section. In addition, certain other changes are made. First, the credit is to be nonrefundable, and, instead, a credit carryover is provided to the extent that the credit exceeds the taxpayer's tax liability; the carryover is to extend for two years beyond the termination date of the credit, i.e., through taxable years ending before January 1, 1988. Second, a credit relating to qualifying expenditures made during 1977 is to be claimed (along with any credit relating to 1978 qualifying expenditures) only on the taxpayer's 1978 tax return and, subject to the carryover provision, only against the taxpayer's 1978 tax liability.

B. TRANSPORTATION TAX PROVISIONS

3. Gas guzzler tax and use of proceeds

House Bill

A gas guzzler tax would be imposed on a manufacturer on the sale or initial lease of automobiles whose fuel economy fails to meet certain fuel efficiency standards. The fuel efficiency standards below which an automobile will be taxed would generally start from 3 to 5.5 miles (depending on the year involved) below the fleetwide average standards of the Energy Production and Conservation Act ("EPCA").

The tax would apply to 1979 and later model year automobiles weighing 6,000 pounds or less. The tax would not apply to trucks with a cargo capacity of 1,000 pounds or more or to vehicles which are equipped with 4-wheel drive and other significant features designed to equip them for off-highway operation.

Tax rates range from $339 to $553 in 1979, $245 to $1,216 in 1981, $345 to $2,134 in 1983, $371 to $2,638 in 1984, and $397 to $3,856 in 1985 and later years.

The exemption from the manufacturers excise taxes generally provided for State and local governments and nonprofit educational institutions would not be available in the case of the gas guzzler tax. Also, the Secretary of the Treasury would not have the authority to waive the gas guzzler tax in the case of sales or leases to the United States.

Purchasers of vehicle subject to the tax would have to reduce the basis of the vehicles by the amount of the tax.

Proceeds of the gas guzzler tax would be placed in a trust fund to be used for the purpose of reducing the national debt.

Senate Amendment

No provisions.

Conference Agreement

The conference agreement generally follows the House bill with several modifications.

First, under the conference agreement, no tax is imposed on 1979 model year automobiles. Second, the mileage standards, and generally the tax rates, applicable to each model year from 1979 through 1985 are deferred one year under the conference agreement. Thus, the mileage standards which the House bill would apply to model year 1979 are applied to model year 1980; the standards that the House bill would apply to model year 1980 are applied to model year 1981, etc. Beginning with model year 1983, the fuel efficiency standards below which a passenger automobile will be subject to tax are reduced one mile per gallon. Under the conference agreement, the fuel efficiency standards below which a passenger automobile will be subject to tax will generally start from 4 to 6.5 miles per gallon (depending on the year involved) below the fleetwide average standards of EPCA.

The rates of tax are rounded to the nearest $50, and the lowest two rates of tax for the 1980 model year and the lowest rate of tax for the 1981 and 1982 model years are reduced. Thus, the tax rates for model year 1980 passenger automobiles would range from $200 (for a passenger automobile with a mileage rating of at least 14, but less than 15, miles per gallon) to $550 (for a passenger automobile with a mileage rating of less than 13 miles per gallon). For the 1986 model year and later model years, the tax rates would range from $500 (for a passenger automobile with a mileage rating of at least 22.5, but less than 23.5, miles per gallon) to $3,850 (for a passenger automobile with a mileage rating of less than 12.5 miles per gallon).

The conference agreement also narrows the group of vehicles which are subject to the tax. As under the House bill, the automobiles to which this tax applies generally include any 4-wheeled vehicle propelled by fuel (1) which is manufactured primarily for use on public streets, roads and highways (except any vehicle operated exclusively on a rail or rails), and (2) which is rated at no more than 6,000 pounds gross vehicle weight.

However, the conference agreement excludes from the application of the tax any vehicle which is treated as a nonpassenger automobile under the rules which were prescribed by the Secretary of Transportation for purposes of section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001) and which were in effect on the date of the enactment of this provision.[1]

[1] An "active solar system" is based on the use of mechanically forced energy transfer, such as the use of fans to circulate solar generated energy. "Passive solar systems" are based on the use of conductive, convective, or radiant energy transfer, such as the use of portions of a residential structure which serve as solar furnaces so as to add heat to the residence. However, expenditures for labor, materials and components which will serve a significant structural function in the dwelling (e.g., extra-thick walls) would not be eligible for the credit.

[1] These rules provide as follows:

§ 523.5 Nonpassenger automobile.

(a) A nonpassenger automobile is an automobile either designed for off-highway operation, as described in paragraph (b) of this section, or designed to perform at least one of the following functions:

(1) Transport more than 10 persons;

(2) Provide temporary living quarters;

(3) Transport property on an open bed;

(4) Provide greater cargo-carrying than passenger-carrying volume; or

(5) Permit expanded use of the automobile for cargo-carrying purposes or other nonpassenger-carrying purposes through the removal of seats by means installed for that purpose by the automobile's manufacturer or with simple tools, such as screwdrivers and wrenches, so as to create a flat, floor level surface extending from the forwardmost point of installation of those seats to the rear of the automobile's interior.

(b) An automobile capable of off-highway operation is an automobile—

(1) (i) That has 4-wheel drive; or

(ii) Is rated at more than 6,000 pounds gross vehicle weight; and

(2) That has at least four of the following characteristics calculated when the automobile is at curb weight, on a level surface, with the front wheels parallel to the automobile's longitudinal centerline, and the tires inflated to the manufacturer's recommended pressure—

(i) Approach angle of not less than 28 degrees.

(ii) Breakover angle of not less than 14 degrees.

(iii) Departure angle of not less than 20 degrees.

(iv) Running clearance of not less than 8 inches.

Thus, even if these rules are later changed, a vehicle which is described as a nonpassenger automobile under the rules currently in effect would not be subject to the gas guzzler tax. Also, as in the House bill, vehicles which are equipped with 4-wheel drive and other significant features designed to equip them for off-highway operation would not be subject to the gas guzzler tax.

Another modification of the House bill provides special rules for small manufacturers. These rules, which are generally patterned on the special rules for small manufacturers in EPCA, provide that a small manufacturer (that is, a manufacturer of less than 10,000 automobiles per year) may apply to the Secretary of the Treasury for special treatment with respect to all of the automobiles manufactured by the manufacturer during a model year (or with respect to a model type). The term "manufacturer" for this purpose does not include an importer; however, a manufacturer who manufacturers some or all vehicles abroad is eligible to apply for this treatment.

If the Secretary determines that it is not feasible for the manufacturer to meet the tax-free fuel economy level for the model year with respect to all of its automobiles, or a particular model type, the Secretary can provide by regulation an alternate rate schedule for such model year automobiles or model type. The alternate rate schedule, which is to be determined by the Secretary only after consultation with the Secretary of Energy, the Secretary of Transportation, and other appropriate Federal officers, is to be based on the maximum fuel economy level which the manufacturer can meet for the model year for all the manufacturers automobiles or a particular model type, as the case may be. In determining an alternate rate schedule, the Secretary may vary the rates of tax, the mileage standards, or both.

The conference agreement omits the House bill provision which would require placement of the gas guzzler tax proceeds in a trust fund to be used for the purpose of reducing the national debt.

4. Repeal of personal deduction for State and local taxes on gasoline

House Bill

The House bill repeals the deduction for State and local taxes imposed with respect to gasoline, diesel fuel, and other motor fuels which are purchased by a taxpayer for nonbusiness use after December 31, 1977.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include this provision.

5. Extension of current rate of federal taxes on gasoline and other motor fuels

House Bill

Under present law, a retailers excise tax of 4 cents a gallon is imposed on diesel and other special motor fuels sold for use (or used) in a highway vehicle. Also, a manufacturers excise tax of 4 cents a gallon is imposed on gasoline sold by the producer or importer. These taxes are scheduled to be reduced to 1½ cents a gallon on October 1, 1979 (as the Highway Trust Fund—to which the revenues now go—is scheduled to expire as of September 30, 1979).

The bill extends the current 4-cents-a-gallon excise taxes on gasoline, diesel fuel, and other motor fuel (which are scheduled to drop to 1½ cents per gallon on October 1, 1979) for 6 years—that is until September 30, 1985.

Senate Amendment

The Senate amendment contains a provision which is the same as this provision in the House bill.

Conference Agreement

The conference agreement does not include these provisions of both the House bill and the Senate amendment because the excise taxes on gasoline and other motor fuels would be extended by other legislation (H.R. 11733) which has been approved by both the House and the Senate. This other legislation also deals with extension of the Highway Trust Fund and of the current rates of other highway-related excise taxes.

6. Exemption from motor fuels excise taxes for certain alcohol fuels

House Bill

No provision.

Senate Amendment

Gasohol (i.e., fuel which is a blend of gasoline, or other motor fuel, and alcohol) that is at least 10 percent alcohol (including ethanol, methanol or other alcohol) made from agricultural or forestry products would be exempted from the Federal excise taxes on motor fuels on or after January 1, 1978, and before October 1, 1985.

Gasohol that is at least 10 percent alcohol made from other products (such as urban wastes), but not from petroleum, natural gas, or coal, is also exempted from the Federal excise taxes on fuels for this period. The Secretary of Energy is directed to make annual reports to Congress from 1979 through 1985 on the use of alcohol in fuels.

Also, the Secretary is directed to expedite the applications for permits to distill ethanol for use in the production of gasohol and to report to the Senate Finance Committee and the House Ways and Means Committee on a simplified manner of regulating the distilling operations of gasohol producers who distill ethanol.

Conference Agreement

The conference agreement generally follows the Senate bill; however, under the conference agreement, the exemption would apply only to sales of fuel after December 31, 1978, and before October 1, 1984,[1] and the Secretary of Energy is directed to make annual reports on the use of alcohol in fuels only from 1980 through 1984.

7. Exemption From Agricultural Set Aside Requirements for Acreage Used for Commodities for Production of Alcohol Fuels

House Bill

No provision.

Senate Amendment

The amendment authorizes the Secretary of Agriculture to use any set-aside acreage (that is, acreage that would otherwise be withheld from production) for the production of any agricultural or forestry product that is to be used or sold for primary use in the manufacture of alcohol fuels.

Conference Agreement

The conference agreement does not include this provision of the Senate amendment. However, it is the intent of the conferees that, in determining the need for acreage set-aside programs for particular commodities and the extent of the acreage set-aside programs (under sections 105A and 107A of the Agricultural Act of 1949, as added by sections 402 and 502 of the Food and Agriculture Act of 1977), the Secretary of Agriculture take into account the demand for these commodities by producers of alcohol fuels (including fuels which consist of gasoline-alcohol blends) and other fuels.

Reducing the amount of acreage set aside for purposes of the set-aside program by the amount of acreage needed to provide commodities for use in alcohol fuels and other fuels will have the same general effect as allowing set-aside acreage to be used to provide raw materials for alcohol fuels—it will allow the used of "surplus" agricultural land to produce fuel crops. In addition, this approach will alleviate the need to trace production from set-aside acreage to use in alcohol fuels.

Since the conferees understand that the Secretary of Agriculture is required to take into account all sources of demand for agricultural commodities in determining the need for, and the extent of, set-aside programs for agricultural commodities, no statutory changes appear necessary to achieve the result intended by the conferees.

8. Removal of refund or credit for excise taxes on motor fuels and lubricating oil for nonbusiness, offhighway uses

House Bill

As of October 1, 1977, the current law 2-cent reduction (or credit or refund) of the Federal excise taxes on gasoline or special motor fuels used for nonhighway purposes would not be available if the gasoline or special motor fuel is used in a motorboat.

Senate Amendment

As of January 1, 1978, the Senate amendment repeals the 2-cents-a-gallon reduction (through refund, credit, or exemption) of the excise taxes on gasoline and special motor fuels, and the refund (or credit) of the 6-cents-a-gallon tax on lubricating oil, with respect to gasoline, special fuels, and lubricating oil used (1) for nonbusiness, off-high-

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(v) Front and rear axle clearances of not less than 7 inches each. (49 C.F.R. § 523.5.)

Another modification exempts emergency vehicles from the gas guzzler tax. This exemption covers any vehicles sold for use and used (1) as an ambulance or combination ambulance-hearse. (2) by the United States or by a State or local government for police or other law enforcement purposes, or (3) for other emergency uses prescribed by the Treasury Department by regulations. The first category of this exception, which applies to ambulances and combination ambulance-hearses regardless of ownership, does not include vehicles used solely as hearses (since they do not require acceleration for emergency use). The second category exempts vehicles used by the United States or by a State or local government for police or other law enforcement purposes. It does not include vehicles used by private law enforcement organizations. The third category, which exempts vehicles used for other emergency uses prescribed by Treasury Department regulations, is intended to give the Treasury Department the discretion to add vehicles used for emergency purposes. This could include, for example, vehicles used by the chief of a fire department if substantially all of the use of the vehicle is for fire department purposes. In promulgating regulations under this provision, the Treasury Department is intended to have the discretion to make distinctions based on ownership of the vehicle and the amount of use for emergency purposes, as well as on the nature of the purposes.

[1] The conference agreement follows the Senate bill in providing that, if mixture of gasoline and alcohol has been sold tax-free by the producer under the provisions added by this section and if a person later separates the gasoline from the mixture of gasoline and alcohol, such person shall be treated as the producer of the gasoline. Generally, such treatment means that a tax would be imposed on the sale or use by the producer of such separated gasoline. Similarly, if a mixture of special motor fuel and alcohol has been sold tax-free (under new sec. 4041(k)) and a person later separates the special motor fuel from the mixture of special motor fuel and alcohol, the separation will be treated as a sale of the special motor fuel which will be subject to the normal rules relating to the imposition of tax on such motor fuels (sec. 4041(b)). These provisions will apply to any separation of the gasoline (or special motor fuel) from the mixture of gasoline (or other motor fuel) and alcohol regardless of the manner in which the separation is accomplished.

way purposes (such as lawnmowers, snowmobiles, etc.) and (2) in motorboats (whether or not such use is business use).

However, the 2-cents-a-gallon reduction in the tax on gasoline is to continue to apply to gasoline used in a commercial fishing vessel for business use.

Conference agreement

The conference agreement generally follows the Senate amendment, but the provisions apply only to fuels used after December 31, 1978.

However, the provision relating to the availability of the 2-cents-a-gallon refund of the gasoline tax for commercial fishing vessels is replaced by appropriate cross references to other provisions of present law which make it clear that articles sold as supplies for vessels employed in the fisheries or whaling business are not subject to the excise taxes on fuels or lubricating oil (sec. 4041(g)(1) and sec. 4221 (a)(3) and (d)(3)). Where the sale of these items is made other than by the manufacturer, producer, or importer, the Code provides for a refund (or credit) of the tax when the item is used or sold for use as supplies for such vessels (sec. 6416 (a) and (b)(2)(B)). The Internal Revenue Service has ruled that fishing vessels are employed in the fisheries or whaling business when used (1) exclusively for the purpose of catching shrimp and other types of aquatic life for sale commercially as bait or (2) on specific trips exclusively for catching fish all of which are to be sold commercially (Rev. Rul. 65–134, 1965–1 C.B. 492). These cross references make it clear that no change is intended with respect to these exemptions for commercial fishing vessels.

9. Repeal of excise taxes on buses

House Bill

The House bill would repeal the 10-percent manufacturers excise tax imposed on the sale of buses having a gross vehicle weight of more than 10,000 pounds effective for sales on or after April 20, 1977.

Senate Amendment

The Senate amendment contains a provision which is identical to this provision in the House bill.

Conference Agreement

The conference agreement follows this provision of the House bill and the Senate amendment.

10. Repeal of excise taxes on bus parts

House Bill

The House bill would repeal the 8-percent manufacturers excise tax on bus parts and accessories for sales on or after the first day of the first calendar month beginning more than 10 days after the date of enactment.

Senate Amendment

The Senate amendment contains a provision which is the same as this provision in the House bill.

Conference Agreement

The conference agreement follows this provision of the House bill and the Senate amendment.

11. Removal of excise tax on certain items used on or in connection with intercity, local, or school buses

House Bill

Presently, privately owned and operated buses are subject to the manufacturers excise taxes on tires, tubes, tread rubber, gasoline, and lubricating oil, as well as the retailers excise taxes on diesel fuel and other special motor fuels. Complete exemption is provided from these excise taxes for State and local governments and for tax-exempt educational organizations. A partial exemption (2-cents-a-gallon refund or credit) is available from the tax on gasoline and other motor fuels for use by a privately owned local transit system for the portion of its total fare revenue represented by "commuter fare revenue."

The House bill removes the excise taxes on highway tires, inner tubes, tread rubber, gasoline, other motor fuels, and lubricating oil for private intercity, local and school bus operations, effective on the first day of the first calendar month which begins more than 10 days after the date of enactment.

Senate Amendment

The Senate amendment contains provisions which are the same as the provisions of the House bill.

Conference Agreement

The conference agreement follows the provisions of the House bill and the Senate amendment.

12. Tax credit for certain commuter vehicles

House Bill

No provision.

Senate Amendment

Under the Senate amendment, if an employer purchases a new van with a useful life of at least 3 years, seating nine or more persons (including the driver), and substantially all the use of the van is for transporting employees to and from work, the employer is entitled to the full 10-percent investment credit and the additional 10-percent business energy investment credit. These credits are available for vehicles purchased after April 19, 1977 and before January 1, 1986 and placed in service by the taxpayer before January 1, 1986.

Conference Agreement

The conference agreement generally follows the Senate bill in allowing the full 10-percent investment tax credit for certain vehicles used in van pooling, but it does not allow the additional 10-percent business energy credit for any of these vehicles. The full credit would apply only to vehicles acquired by the taxpayer after the date of enactment and placed in service prior to January 1, 1986.

Several changes are made in the definition of eligible vehicles. The eligible vehicles are designated as "commuter highway vehicles," the passenger seating capacity of which is at least 8 adults (not including the driver) and at least 80 percent of the mileage use of which is for vanpooling. Generally, use for vanpooling means use for the purpose of transporting the taxpayer's employees between their residences and their places of employment on trips during which the number of employees transported for this purpose is at least one-half of the adult seating capacity of the vehicle (not including the driver). The mileage use which qualifies as vanpooling use includes not only mileage traveled on trips which transport the required number of employees, but also use which is incident to such trips (such as "deadheading").

This revised definition is intended (inter alia) to make it clear that a bus, as well as a van, may qualify for the full investment credit under this provision.

In determining whether employees are transported from their homes to their places of employment, it is not necessary that the employees be picked up at, and transported to, their homes. It is sufficient to meet this requirement if the employees are transported to and from some central pickup point (or points) or intermediate location between the employees' residences and places of employment.

Under the normal investment credit rules, as applied to this provision, the credit will be recaptured if the commuter highway vehicle is disposed of within 3 years after it is placed in service. The conference agreement adds a recapture rule which provides, in effect, that recapture will occur if the full investment credit is claimed under this provision with respect to a vehicle, and within the first 36 months of the operation of the vehicle, the vehicle ceases to be a commuter highway vehicle. In applying the 80 percent of mileage use test to determine whether a vehicle ceases to be a commuter highway vehicle, the test shall be applied on the basis of the entire portion of the 36 month period which falls within the taxable year. If recapture results from a change in use from vanpooling to other business use, the amount of credit which will be recaptured will be two-thirds of the investment credit claimed (assuming the vehicle has a useful life of 3 or 4 years). If recapture results from a change from a vanpooling use to a personal use, the entire amount of the investment credit will be recaptured.

13. Exclusion from income of certain employer-furnished transportation

House bill

No provision.

Senate amendment

In the case of a taxpayer who is an employee, gross income would not include the value in excess of the employee's cost of transportation to or from work furnished by an employer if such transportation is in a commuter van.

This provision applies to transportation furnished after January 1, 1977, and before January 1, 1986. (No inference is intended concerning the taxability of transportation furnished during other periods.)

Conference agreement

The conference agreement generally follows the Senate amendment. However, certain changes are made concerning the transportation to which this provision applies.

In general, to qualify (1) the transportation must be furnished under a plan established in writing by the employer which meets the antidiscrimination requirements generally applicable to tax-exempt pension plans (sec. 401(a)(4)), and (2) the transportation must be by a commuter highway vehicle (which could qualify for the special investment credit if an election were made and the vehicle were acquired during the period for which the full investment tax credit is available).

Furthermore, the exclusion does not apply unless the plan under which the transportation is furnished provides that the value of any transportation is furnished in addition to, and not in lieu of, any compensation otherwise payable to the employee and provides such means of verification as the Secretary of the Treasury prescribes by regulation. Also, the provision does not apply to self-employed individuals (such as partner or proprietors) or former employees even though such individuals or former employees are treated as employees for certain other purposes under section 401(c)(1).

The plan under which transportation must be furnished must be reduced to writing prior to the furnishing of transportation under the plan, except that transportation under the plan will be considered qualified for the exclusion if it is reduced to writing no later than July 1, 1979. Thus, the plan will relate back to transportation furnished for the first half of 1979 if the plan is reduced to writing on or before July 1, 1979. There is no requirement that the plan be submitted to the Internal Revenue Service for prior or subsequent approval.

For years beginning prior to the issuance of final regulations, the employer will have been considered to have met the requirement that the plan provides means of verification as the Secretary prescribes by regulation if the plan provides for means of verification which are reasonable under the circumstances.

The managers wish to make it clear that no inference is intended as to whether gross income includes the value of transportation

to and from work in other situations, such as where the transportation is furnished by a car or limousine. Also, no inference is intended as to the inclusion in income of other types of "fringe benefits.

14. Tax Credit for Electric or Hydrogen Motor Vehicles

House Bill

A nonrefundable tax credit (i.e., the credit cannot exceed the taxpayers tax liabi'ity) would be provided for the first $300 of the purchase price of a new 4-wheel electric motor vehicle (manufactured primarily for use on public roads) purchased by an individual for personal use on or after April 20, 1977, and before January 1, 1983. This credit applies only to new vehicles, not to used vehicles or vehicles converted to electricity.

Senate Amendment

Under the Senate amendment, the credit is generally the same as the House bill except that it applies to vehicles purchased on or after April 20, 1977, and before January 1, 1983. However, the credit applies to electric motor vehicles even if they do not have 4 wheels (although they must be manufactured primarily for use on the public roads).

In addition, under the Senate amendment, this credit applies to new motor vehicles powered by hydrogen fuel systems and to the cost of converting gasoline powered vehicles to the use of hydrogen.

Conference Agreement

The conference agreement does note the provisions of the House bill and the Senate amendment.

15. Alcohol Fuels Research and Demonstration Project

House Bill

No provision.

Senate amendment

The Secretary of Energy is required to select a Federal agency to operate 1,000 of its passenger vehicles on alcohol fuel as a test or demonstration project; 900 of the passenger vehicles would be run on alcohol blended with gasoline, and 100 would operate on straight alcohol. This project is to be operated for a period of up to 3 years, and reports (including economic, technological, and environmental information) are to be made by the Secretary of Energy to Congress for each fiscal year through the fiscal year ending September 30, 1981.

For the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, there are authorized to be appropriated sums not to exceed $3 million in the aggregate for the 3 years as may be needed to carry out this project.

Conference agreement

The conference agreement does not include this provision.

C. CRUDE OIL EQUALIZATION AND REBATES; ENERGY TRUST FUND

16. Crude Oil Equalization Tax

House bill

An excise tax would be imposed on the first purchase (generally by the refiner) of price controlled, domestically produced crude oil. The tax would increase the cost of all crude oil to the world price by 1980. The termination date of the tax would be September 30, 1981.

The tax would be imposed in three stages. In 1978, a tax would be imposed on lower tier oil (old oil under current regulations) equal to one-half of the gap between the ceiling prices of lower tier and upper tier oil for each classification of crude oil. In 1979, the tax would be raised to equal the entire gap. In 1980 and for the duration of the tax, the tax would equal the difference between the wellhead prices of uncontrolled and controlled crude oil of the same classification. As a result, the price of controlled oil plus the tax would be raised to the world price of oil in 1980.

Exemptions from the tax are provided for crude oil used as feedstock to produce natural gas liquids and for crude oil and its products used to extract natural gas or crude oil. Presidential authority is granted to suspend increases in the tax subject to veto by either House.

The crude oil tax is applicable to first purchases of crude oil after December 31, 1977, and before October 1, 1981.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include this provision.

17. Natural gas liquids equalization tax

House bill

The tax would be imposed in three stages based upon the difference (the price gap) between the controlled price of the liquid and the wholesale price for No. 2 distillate fuel oil in the region, adjusted for differences in Btu content. The tax would equal one-third of the price gap in 1978, two-thirds of the gap in 1979, and equal to the entire gap in 1980 and later years.

The tax would be imposed on the use or sale for use, and the retailer (or user) would be liable for payment of the tax. Exemptions from the tax would be provided for natural gas liquids used in a residence, hospital, church, or school and for agricultural uses.

The natural gas liquids tax is applicable to sales to end users of natural gas liquids after December 31, 1977, and before October 1, 1981.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include this provision.

18. Heating oil refund and other home heating tax credits

House bill

The House bill provides a refund of the crude oil equalization tax to the retailer of heating oil for oil used in a residence, hospital, church, or school if the retailer passes on the refund to the user. The heating oil refund is effective for sales after December 31, 1977, and before October 1, 1981.

Senate amendment

The Senate amendment provides a refundable income tax credit equal to 25 percent of the initial $600 of expenditures on home heating oil and propane, phased out as adjusted gross income rises from $15,000 to $30,000. The amendment also provides a refundable tax credit up to $150 for the increase in home electric heating and cooling costs from one year to the next to the extent they result from increased prices for imported residual fuel oil, phased out as adjusted gross income rises from $15,000 to $30,000.

The heating oil credit is effective for taxable years beginning after December 31, 1977, and ending before January 1, 1983. The electric heating and cooling credit is effective for taxable years ending after December 31, 1977.

Conference agreement

The conference agreement does not include either the House or Senate provision.

19. Equalization tax rebates

House Bill

The House bill rebates net proceeds from the crude oil equalization taxes for 1978 only. The rebate is a fixed amount per taxpayer, with a double rebate for single heads of households. (It is estimated to be $22 per taxpayer.) The rebate, generally, would be provided as a nonrefundable tax credit for all taxpayers. Those persons who do not receive a credit for income tax purposes would receive a direct payment as part of their regular social security, SSI, railroad retirement or AFDC payments. Persons not receiving their rebate under these methods could file a claim with the Treasury (called the "roundup payment").

Senate Amendment

The Senate amendment provides generally that no new tax should be imposed under the bill unless the bill also provides adequate tax incentives for increased production and conservation of energy and for conversion to alternate sources of energy, and also contains tax mechanisms for mitigating undesirable consequences arising out of the energy crisis.

Conference Agreement

The conference agreement does not include any rebate provision.

20. Energy cost credit for the elderly

House Bill

No provision.

Senate Amendment

The Senate amendment provides a refundable tax credit of $75 for any taxpayer who maintains a household which includes someone age 65 or over, phased out between adjusted gross incomes of $7,500 and $12,500. The elderly credit would be effective for taxable years beginning after December 31, 1977, and ending before January 1, 1986.

Conference Agreement

The conference agreement does not include this provision.

21. Small refiners study

House Bill

The House bill provides that the Treasury Department will make a study of the effect of the imposition of the crude oil equalization tax and the entitlements program on small refiners. The results of the study are to be given to Congress within 90 days of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include this provision.

22. Oil pricing amendments for stripper wells

House Bill

No provision.

Senate amendment

Under present law oil from stripper wells is exempt from price controls. Stripper wells are those from properties on which the average daily production per well is less than 10 barrels. The definition of stripper oil is amended to include water and other injection wells in computing the average daily production per well.

Conference agreement

The conference agreement does not include this provision.

23. Energy Production, Conservation, and Conversion Trust Fund House bill

No provision.

Senate amendment

The Senate amendment establishes an Energy Production, Conservation, and Conversion Trust Fund. It appropriates to the Trust Fund a portion of the net revenues not refunded to consumers and not otherwise rebated, from any new taxes (not including extended existing taxes) added by the bill as enacted. The Trust Fund consists of two separately managed and administered accounts: (1) the Energy Financing Program Account, to encourage conservation of energy, conversion to energy sources other than oil and gas and domestic production of energy (other than conventional production of oil and natural gas), and (2) the Energy-

Efficient Transportation Account, to encourage energy-efficient forms of transportation. Any expenditures from either Trust Fund account would require authorization and appropriation acts.

Conference agreement

The conference agreement does not include this provision.

24. Payments to States

House bill

No provision.

Senate amendment

If there is a crude oil equalization tax, the Senate amendment authorizes an appropriation of up to $400 million in each of the fiscal years 1978, 1979, 1980 and 1981 for payments to States for repair of Federal-aid highways.

Conference agreement

The conference agreement does not include this provision.

D. TAX ON BUSINESS USE OF OIL AND NATURAL GAS; CREDITS AGAINST THE TAX

25. Excise tax on business use of oil and gas and credits against oil and gas use tax

House Bill

A tax would be imposed on the use of oil and natural gas as fuel in a trade or business. Three levels of tax would be imposed: Tier 1 would generally apply to process uses, Tier 2 would apply to boilers, turbines, and other internal combustion engines, and Tier 3 would apply to electric utilities, industrial cogenerators, and industrial producers of electricity using boilers with a total rating of at least 100 megawatts per plant.

The tax on Tier 1 oil would start at $.30 per barrel in 1979 and would rise gradually to $1.00 per barrel for use in 1981 and thereafter. The tax on Tier 2 oil would start at $.30 per barrel and would rise gradually to $3.00 per barrel for use in 1985 and thereafter. Tier 3 oil would be exempt through 1982 and would be taxed at $1.50 per barrel in 1983 and thereafter. Beginning in 1981, the tax rates would be adjusted annually for inflation that occurs after 1979.

With respect to the industrial use of natural gas in Tier 1 and Tier 2 categories, the tax would be determined on a variable tax basis by subtracting a cost differential, which would be reduced annually from $1.35 to $.30 for Tier 1 and from $1.05 to zero for Tier 2 by 1985, from the user acquisition price per million Btu of gas from the natural gas target price per million Btu for the region in which the gas is used. The basis for determining the natural gas target price is the average regional price of all No. 2 grade distillate oil sold during the preceding calendar year in the region, adjusted for differences in energy (Btu) content between such oil and natural gas.

Tier 3 gas would be exempt through 1982 and would be taxed at $.55 per million Btu in 1983. The rate would rise gradually to $.75 for use in 1985 and thereafter. The tax would not exceed the amount necessary to make the firm's cost of gas (including the tax) equal to the cost of residual oil (including the tax) in the region where the gas is used.

The following uses of oil and gas would be exempt from the tax:

(1) Industrial process use would be exempt from the tax when the use of fuels other than oil or natural gas would materially and adversely affect the manufacturing process or the quality of the manufactured goods, or when the use of such alternate fuels would not be economically and environmentally feasible.

(2) An exemption from the tax would be provided to nonindustrial uses of oil and natural gas in residential facilities, in transportation (including pipelines), on a farm for farming purposes, in nonmanufacturing commercial buildings, and in the exploration, development and production of crude oil and natural gas.

(3) Oil and natural gas would be exempt from taxation if used in a facility that was in existence or under construction on April 20, 1977, and which is precluded from using coal by State air pollution regulations in effect on that date or by Federal air pollution regulations. State regulations in effect after that date would also be grounds for exemption if such regulations were necessary to meet a requirement of Federal law. A regulation of a local agency having jurisdiction over a facility under an approved State Implementation Plan also would be the basis for an exemption.

In addition to oil or natural gas employed in exempt uses, firms would also be able to exempt from taxation the Btu content of 50,000 barrels of oil per year (i.e., 300 billion Btu). In cases of a regional competitive disadvantage, the Secretary of the Treasury may provide additional exempt amounts for individual plants, and he is required to publish the identification of taxpayers and plants which receive additions to their exempt amounts.

The Secretary of the Treasury would establish a procedure for reclassifying uses to a category which is taxed at a lower rate or which is exempt from tax. Reclassification would depend on the extent to which reduction in oil and natural gas use could be achieved as a result of the tax.

The President could suspend the tax for a period up to one year, if he believes it would have an adverse economic effect. A suspension plan would have to be submitted to Congress, and it would be subject to a veto by either House before the end of 15 days.

A taxpayer could elect a credit against the use tax of $1 for each dollar of qualified investment, up to 100 percent of the taxpayer's oil and natural gas use taxes, made after April 20, 1977. If the amount of investment is in excess of the amount of use taxes for the year, a carry-forward is permitted against use taxes in future years and a carry-forward to 1981 is provided for use taxes incurred in 1979 and 1980.

Utilities would be allowed to carry forward qualifying investment expenditures for offset against use tax liabilities that would be incurred beginning in 1983. Utilities would be allowed a credit to the extent that old oil and gas boilers are replaced or phased down for peakload or standby use (1500 hours or less a calendar year).

Where a phased-down old boiler is used between 1500 and 2000 hours in a calendar year, a penalty equal to the use tax would be imposed. Taxes paid in such cases would not be available for offset by qualified investment expenditures. Where old boilers would be used more than 2000 hours in a calendar year, there would be a recapture of credits against tax.

The taxpayer who elected to apply the credit against the user tax would receive the regular investment tax credit on his qualified energy investment expenditures only to the extent that a credit against the use tax was not claimed for the same investment outlay.

The credit would not be available after 1990, except for qualified property on which construction had begun.

Qualified energy investment which could be a credit against the use tax includes the cost of alternative energy property (as defined below in the section on Business Credits) placed in service during the year or, if the taxpayer elects, the progress expenditures made for that property during the year.

Senate Amendment

The Senate amendment provides for an excise tax on business use of oil and natural gas in existing coal-capable facilities and in new electric powerplants and major fuel burning installations. The tax would apply only to units capable of consuming at least 100 million Btu/hour or a combination of units at the same site capable of consuming at least 250 million Btu/hour.

The tax rate for oil used in new industrial and utility facilities would be $6.00 per barrel beginning in 1979. For existing installations, the tax would start at $.60 per barrel in 1979 and would rise gradually to $6.00 per barrel for use in 1985 and thereafter. The tax rates would be adjusted for inflation in the same manner as in the House bill.

The tax on industrial and utility use of gas would be the same as the Tier 2 tax in the House bill, except that the target price includes the oil users tax and the target price for gas is the full Btu equivalent for a comparable facility using oil (instead of a phase-in).

In addition to the exempt uses provided in the House bill. The Senate amendment exempts all process uses and the environmental exemption applies to all facilities and takes all State regulations into account. The Senate amendment also provides that any combustor qualifying for an exception or exemption from the requirement of using coal under any law or regulation is exempt from the tax.

The amendment also provides that the Secretary shall grant temporary exceptions for up to five years where alternate fuel transportation, pollution control equipment, or other necessary equipment is not available. In addition, the Secretary is to suspend the tax if he determines that the taxpayer is proceeding as expeditiously as possible to convert from the use of oil or gas.

Use in Hawaii is exempt under the Senate amendment.

The credit against the oil and gas user tax is generally the same as the House bill except that the credit is allowed only for the conversion of existing coal-capable facilities. In addition, the firm is eligible both for the investment credit and the user tax credit, and there are no special rules governing the eligibility of utilities for the credit.

The property which qualifies for the credit is generally the same as the House bill except that it includes equipment to convert an alternate substance to synthetic liquid fuel, but does not include nuclear, geothermal and hydroelectric equipment and does not include equipment for modifying existing boilers so that an alternate substance is at least 25 percent of the fuel.

Conference Agreement

The conference agreement does not include this provision.

E. BUSINESS ENERGY TAX CREDITS

26. Additional investment tax credit for alternative energy property

House Bill

The bill provides for an additional 10-percent investment credit which is not available to taxpayers who claim credit against the user tax. The credit is limited to 100 percent of tax liability, and this additional credit rate is 5 percent for property financed with tax-exempt industrial development bonds. Utilities will receive the credit for new boilers only to the extent that an existing oil- or gas-fired boiler is phased down to less than 1,500 hours of use per year. The credit is available only to persons engaged in a trade or business, and the credit is recaptured according to the rules for the regular investment credit.

Qualifying property includes equipment which uses a fuel or feedstock other than oil or gas or their products, i.e., an alternate substance. Equipment must be new and must be used in connection with a building or structure located in the United States and is eligible even if considered a structural component or used in connection with lodging facilities.

Alternative energy property includes:

(1) Boilers;

(2) Burners for combustors other than boilers;

(3) Nuclear and hydroelectric power equipment, not including turbines or generators;

(4)(a) Geothermal power equipment, not including turbines or generators;

(b) Geothermal equipment to provide heating, cooling and electricity used in connection with an existing building and an existing commercial or industrial process;

(5) Equipment for producing synthetic gas;

(6)(a) Equipment for modifying existing equipment so that an alternate substance is at least 25 percent of the fuel or feedstock;

(b) Equipment for modifying an existing boiler in an existing electric generating facility so that an alternate substance is at least 25 percent of the fuel; the rate of credit depends on fuel savings percentage;

(7) Pollution control equipment required by Federal, State, and local regulations to be installed in connection with equipment in categories (1), (2), (5), and (6);

(8) Equipment used to handle, store, and prepare an alternate substance, at the point of use as a fuel or feedstock, for use in equipment in categories (1), (2), (3), (4)(a), (5), (6) and (7); facilities to manufacture coke are excluded;

(9) Equipment which uses solar and wind energy to provide heat, cooling or electricity in connection with an existing building and existing industrial or commercial process, and

(10) Plans and designs for equipment in the above categories.

The credit is available for investments after April 19, 1977, and before January 1, 1983.

Senate amendment

The Senate amendment follows the House bill with several modifications. The Senate amendment provides a refundable, additional 15-percent investment tax credit. The credit rate is 7.5 percent for property financed with tax-exempt industrial development bonds. Bioconversion property financed with industrial development bonds, however, would receive the 15 percent credit. Utilities would receive credit for new boilers only to the extent that an existing oil- or gas-fired boiler is phased down to less than 2,000 hours of use per year. The credit is available to persons engaged in a trade or business, to educational, religious, charitable and scientific organizations (tax exempt under Code sec. 501(c)(3)), to electric utility cooperatives (tax-exempt under Code sec. 501(c)(12)), and to State and local governments. The credit is recaptured if property is disposed or if converted to nonqualifying use before one-half its useful life has elapsed. Investment qualifying for the credit is reduced to the extent that equipment is financed with Federal grants.

Alternative energy property is generally the same as the equipment included in the House bill, except that the equipment must meet performance standards prescribed by the Secretary. The Senate also added the following equipment to the list of eligible property:

(1) Dams, turbines and generators used in hydroelectric power facilities;

(2) Geothermal equipment to produce, distribute, or use geothermal energy but only, in the case of electrical generation, equipment up to the electrical transmission stage; there is no existing building or industrial process requirement;

(3) Equipment for producing a synthetic gaseous, liquid or solid fuel, for producing chemicals from coal or lignite, and for producing coke or coke gas;

(4) Handling equipment but not equipment used in conjunction with hydroelectric or geothermal equipment; handling equipment at facilities that process coal into coke or its byproducts would be eligible;

(5) Solar and wind energy equipment installed in connection with a new structure;

(6) Equipment to convert ocean thermal energy or tidal power into useful forms of energy, and

(7) Equipment used in construction of, and in research and development on, electric highway motor vehicles.

These provisions would be effective for investments after April 19, 1977, and before January 1, 1986.

Conference Agreement

The conference agreement follows the House bill with the following modifications.

The eligible equipment includes the Senate provision for equipment for producing synthetic liquid, gaseous or solid fuel, but not coke or coke gas, and equipment which uses coal (including lignite) as a feedstock for the manufacture of chemicals or other products, except coke or coke gas. Geothermal equipment is defined as in the Senate bill.

Hydroelectric and nuclear equipment, structures and dams are excluded.

Solar and wind energy equipment are included, as defined in the Senate amendment, and are eligible for a refundable credit. The definition of solar equipment does not include so-called "passive solar" equipment.

The additional investment credit for alternative energy property is not available to the tax-exempt organizations that were included in the Senate amendment: State and local governments and organizations exempt under sections 501(c)(3) and (12). In addition, the credit is not available to public utility property, as defined in section 46(f)(5): property used predominantly in the trade or business of the furnishing or sale of:

(i) electrical energy, water, or sewage disposal services,

(ii) gas through a local distribution system,

(iii) telephone service, telegraph service by means of domestic telegraph operations or other communication services, or

(iv) steam through a local distribution system or the transportation of gas or steam by pipeline.

The additional credits, except those for solar and wind energy equipment, are not refundable, but may be used to offset 100 percent of tax liability. The rules for applying the limitations based on tax liability to the use of the investment credit in combination with the energy credits provided in the conference agreement will operate under the following stacking order. A taxpayer first will apply the credits attributable to section 38 property (not including the energy credits provided in this agreement) against tax liability to the extent allowed under current law. The first-in-first-out rule of section 46(a) will continue to apply with respect to the stacking of credits within the limitation. Next, a taxpayer will apply the credits attributable to the application of the energy percentage of energy property to the remaining tax liability, up to 100 percent of that tax liability. Finally, if the energy credits exceed tax liability and any of the excess is attributable to solar and wind energy credits, these latter amounts will be treated as an overpayment of tax, i.e., as if the amounts were allowed by section 39.

The credits are available for eligible property, acquired and placed in service after September 30, 1978, and before January 1, 1983, to the extent of basis attributable to this period.

27. Specially defined energy property tax credit

House Bill

An additional 10-percent investment credit is provided for this category of energy property. The credit is limited to 50 percent of tax liability. Qualifying property is required to be new depreciable property, with a useful life of at least 3 years, used in connection with a structure located in the United States. All categories of qualifying property must satisfy performance and quality standards prescribed by the Secretary. The recapture rules under the regular investment credit also apply to this credit. The credit is reduced to 5 percent for property financed by industrial development bonds.

Eligible property includes: (1) a recuperator, (2) a heat wheel, (3) a regenerator, (4) a heat exchanger, (5) a waste heat boiler, (6) a heat pipe, (7) an automatic energy control system, (8) a turbulator, (9) a preheater, (10) a combustible gas recovery system, (11) an economizer, or (12) any other property of a kind specified by the Secretary by regulations, the principal purpose of which is reducing the amount of energy consumed in any existing industrial or commercial process and which is installed in connection with an existing industrial or commercial facility.

The additional credit applies to investments in qualifying property after April 19, 1977, and before January 1, 1983.

Senate Amendment

The Senate made available the same 10-percent credit as the House bill, but amended the House bill in several other respects.

The credit is refundable, under the same terms applicable to alternative energy property (No. 27 above).

The list of eligible property was expanded to include industrial heat pumps; energy efficient replacement electric motors; fuel cells, gas turbines and external combustion engines with demonstrated fuel efficiency; fluorescent replacement lighting systems; and silicone controlled rectifier units.

In addition, the Secretary's administrative authority has been extended to equipment that reduces the amount of heat wasted, and equipment in this category of energy property may be installed in connection with utility and agricultural facilities.

This credit applies, to investments in qualifying property after April 19, 1977, and before January 1, 1986.

Conference Agreement

The conference agreement generally follows the House bill, but the credit may be applied against 100 percent of tax liability as in the Senate amendment. The Secretary is authorized to specify other similar items of energy conservation equipment eligible for this credit, including modifications which are made to existing industrial processes, the principal purpose of which is the reduction in the amount of energy consumed or heat wasted. The conferees expect the Secretary to consult with the Department of Energy and the Bureau of Standards in determining additional items to be eligible as specially defined energy property. The credit will be available for qualifying property placed in service after September 30, 1978, and before January 1, 1983, and for qualified expenditures incurred during this period.

28. Energy property tax credit

House Bill

The additional nonrefundable 10-percent investment credit is available for two additional types of energy property:

(1) Cogeneration property for the production of steam, heat or other forms of useful energy and also electric energy; and

(2) Recycling equipment which is used exclusively in the recycling of solid waste or to sort and prepare solid waste for recycling.

This credit is limited to 50 percent of tax liability and the additional credit is reduced to 5 percent if the property is financed in whole or in part with industrial development bonds.

The credit applies to qualifying property

placed in service after April 19, 1977, and before January 1, 1983.

Senate Amendment

Under the Senate amendment, the credit is an additional 10 percent, applicable up to 100 percent of tax liability. Eligible property includes:

(1) Cogeneration property defined as in the House bill plus cogeneration for agricultural purposes, and water purification and desalination;

(2) Recycling equipment defined as in the House bill, but the exclusive use requirement is modified to permit use of up to 10 percent virgin materials; in addition, eligible equipment includes recycling equipment to the point where a marketable product has been produced, e.g., newsprint, paperboard, metal ingots, or textile fibers;

(3) Shale oil equipment which is used to mine, extract or produce oil from oil-bearing shale rock;

(4) Transportation equipment which includes commuter vans and equipment designed to reduce energy consumption when added to existing motor vehicles and commercial carriers;

(5) Equipment used to produce natural gas from geopressured brine;

(6) On-site electrical heat processing equipment which is replacement equipment and which uses electricity produced with an alternate substance; and

(7) Electric motor vehicles, primarily for use on public streets, roads and highways, when purchased for use in a trade or business.

The credit applies to eligible equipment placed in service after April 19, 1977, and before January 1, 1986.

Conference Agreement

The conference agreement provides that the additional 10 percent credit will be available to be applied against 100 percent of tax liability. Eligible property includes (1) recycling equipment defined as in the Senate bill, except that in the iron and steel industry the credit is limited to equipment used before the solid waste is reduced to a molten state, (2) shale oil equipment, as in the Senate amendment, and (3) equipment to produce natural gas from geopressured brine, as in the Senate amendment. For the latter equipment, the rules of the Federal Energy Regulatory Commission will be applied to determine which well qualifies as well producing natural gas from geopressured brine under the terms of the definition in the Natural Gas Pricing Act, but the Secretary of the Treasury will determine whether the equipment used in connection with that well is eligible for the credit.

The additional credit will be available for eligible equipment acquired or placed in service after September 30, 1978, and before January 1, 1983, and for qualified expenditures in this period.

29. Investment Tax Credit for Business Insulation

House Bill

The House bill makes all types of business insulation eligible for the existing investment credit where added to existing buildings. This includes structural insulation, insulation glass, storm doors, weatherstripping and similar items which satisfy performance and quality standards prescribed by the Secretary.

This credit applies to qualifying property placed in service after April 19, 1977, and before January 1, 1983.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement does not include this provision.

30. Denial of investment tax credit and accelerated depreciation for certain property

House Bill

Oil and natural gas fueled boilers and other combustors would generally be ineligible for the investment tax credit and accelerated methods of depreciation, unless either the use of coal was precluded by air pollution regulations or the taxpayer's use of oil or gas was exempt under the use tax provisions of the bill. Portable air conditioners and space heaters would also be ineligible to receive the investment credit.

This provision applies to property placed in service after June 20, 1977, except for property under a binding contract on that date.

Senate Amendment

No provision.

Conference Agreement

The conference agreement generally follows the House provision, modified to apply to portable air conditioners, portable space heaters and boilers fueled by oil or gas. Other combustors fueled by oil or natural gas will not be subject to the investment tax credit and accelerated depreciation denial rules under the conference agreement. In addition, the conference agreement includes the range of exempt uses under the House bill, which generally exempt from the provision those uses which are not part of manufacturing, production or mining. For example, an oil or gas fueled steam and electrical generation facility will be considered an exempt use where the products (such as steam or electricity) of the facility are provided for use by a group of exempt activities (such as a group of offices or hospitals) and the furnishing of electricity is not subject to rate regulation. In addition, the exempt uses are extended to include combined cycle electric plants.

The provision applies to property placed in service after September 30, 1978, except for property for which a binding contract was in effect on that date.

31. Depreciation allowance for early retirement or replacement of oil or gas boilers

House Bill

Special treatment is provided for depreciation of a natural gas or oil-fueled boiler or other combustor which is retired or replaced before the end of its originally determined useful life. The taxpayers will be authorized to redetermine the useful life of an oil or natural gas-fuel combustor and use this shortened useful life to depreciate the remaining basis in the property (net of any salvage value). If this treatment is elected, the taxpayer may use only the straight-line method for depreciation of the remaining basis. In order to qualify for this treatment, the taxpayer must establish to the satisfaction of the Secretary that there is a reasonable foundation for the conclusion that the combustor will in fact be retired or replaced at the end of the shortened useful life. The taxpayer will be eligible to use this treatment beginning with the taxable year in which the Secretary approves the application of the taxpayer to redetermine the useful life of the combustor under this provision. Recapture of excess depreciation deductions (with interest) is required where the retirement or replacement does not subsequently occur as scheduled.

This provision applies to tax years beginning after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

F. TAX INCENTIVES FOR ALTERNATIVE ENERGY SOURCES

32. Exemption for interest on IDBs for coal gasification and liquefaction

House Bill

No provision.

Senate Amendment

Under present law, interest on State or local obligations generally is exempt from Federal tax, except when the obligations are industrial development bonds (i.e., the proceeds are to be used by a non-exempt person). IDBs issued for certain specified purposes are exempt, but coal gasification and liquefaction are not of the exempt purposes.

Present law provides an exemption for bonds for facilities for the local furnishing of electric energy or gas, but not if the facilities are part of a system furnishing electricity or gas to more than two contiguous counties (or their political equivalents).

The Senate amendment provides that industrial development bonds for the furnishing of coal gasification and liquefaction facilities would be exempt from Federal tax. The exemption would be allowed even if the products of the facilities are furnished to more than two contiguous counties. The provision applies with respect to obligations issued after December 31, 1977.

Conference Agreement

The conference agreement does not include this provision.

33. Exemption for interests on IDBs for bioconversion facilities for the conversion of wastes into energy or fuels

House Bill

No provision.

Senate Amendment

Under present law, interest on State or local obligations generally is exempt from Federal tax, except when the obligations are industrial development bonds (i.e., the proceeds are to be used by a non-exempt person). IDBs issued for certain specified purposes are exempt, but the conversion of waste into energy generally is not one of the exempt purposes.

In the case of IDBs for sewage or solid waste disposal facilities, an exemption is provided by present law but only if at least 65 percent of the material processed is completely worthless.

Present law also provides an exemption for the local furnishing of electric energy or gas, but not if the facilities are part of a system furnishing electricity or gas to more than two contiguous counties (or their political equivalents).

The Senate amendment provides that industrial development bonds for bioconversion facilities for the conversion of municipal and agricultural wastes and other organic matter into energy into synthetic gaseous, liquid, or solid fuels would be exempt from Federal tax. The exemption would be allowed even if less than 65 percent of the materials processed are completely worthless, and even if the products of the facilities are furnished to more than two contiguous counties. The provision applies with respect to obligations issued after December 31, 1977.

Conference Agreement

The conference agreement does not include this provision.

34. Exemption for interest on IDBs for facilities for local furnishing of electricity or gas

House Bill

No provision.

Senate Amendment

Under present law, interest on State or local obligations generally is exempt from Federal tax, except when the obligations are industrial developmental bonds (i.e., the proceeds are to be used by a non-exempt person). IDBs issued for certain specified purposes are exempt.

Present law provides an exemption for bonds for the local furnishing of electric energy or gas, but not if the facilities are part of a system furnishing electricity or gas to more than two contiguous counties (or their political equivalents).

The Senate amendment extends the exemption from Federal tax on interest from industrial development bonds for facilities for the furnishing of electricity or gas to bonds issued by an authorized State agency for facilities to produce electric energy that is consumed in more than two contiguous counties within one State. The provision applies with respect to obligations issued after December 31, 1977.

Conference Agreement

The conference agreement does not include this provision.

35. Geothermal provisions — Depletion for geothermal deposits

House Bill

Under present law, geothermal resources are ineligible for percentage depletion deductions. However, the Ninth Circuit Court of Appeals has ruled that certain geothermal steam deposits are gas wells and are eligible for percentage depletion as natural gas. The various restrictions on percentage depletion for oil and gas enacted in the Tax Reduction Act of 1975 do not apply to the gas produced from the deposits involved in these court decisions.

The House bill provides a 10-percent deduction for depletion for all resources from geothermal deposits, including natural gas produced from geopressured brine. Under the House bill the amount of percentage depletion deductions allowable with respect to any geothermal property may not exceed the taxpayer's adjusted cost basis in the property.

Senate Amendment

The Senate amendment provides percentage depletion for geothermal resources located in the United States or its possessions. It contains a separate rule, described below, for gas produced from geopressure brine.

For geothermal resources, the percentage of gross income from each property which can be deducted as percentage depletion is 22 percent for production in calendar years 1978 through 1980, 20 percent for 1981, 18 percent for 1982, 16 percent for 1983, and 15 percent for all years thereafter. Percentage depletion for geothermal resources is not subject to the various limitations and restrictions relating specifically to oil and gas which were enacted in the Tax Reduction Act of 1975. The limitations enacted in 1975 are those which deny percentage depletion to integrated oil companies, limit percentage depletion for any taxpayer to 65 percent of taxable income, and limit percentage depletion to the equivalent of a certain average daily production of oil and gas. However, present law restrictions which apply to percentage depletion for all minerals also apply to percentage depletion for geothermal resources under the Senate amendment. Thus, the Senate amendment provides that depletion in excess of basis is an item of tax preference under the minimum tax, and that percentage depletion on any property is to be limited to 50 percent of the taxable income from that property (computed without regard to the deduction for depletion). Under the Senate amendment there is no basis limitation on the amount of allowable depletion deductions.

Conference agreement

The conference agreement follows the Senate amendment. This section of the conference agreement shall take effect on October 1, 1978, and shall apply to taxable years ending on or after October 1, 1978.

36. Geothermal provisions—Depletion for geopressured natural gas

House Bill

Under present law, natural gas is eligible for percentage depletion at a 22-percent rate. The rate is scheduled to phase down to 15 percent by 1984. Integrated oil and gas producers generally may not claim percentage depletion except for gas sold under pre-1975 fixed price contracts in which the price cannot be adjusted upward to reflect the limitations on percentage depletion enacted in the Tax Reduction Act of 1975. In addition, the amount of oil or gas eligible for percentage depletion for any producer or royalty holder is limited to the equivalent of 1,400 barrels per day in 1978 (scheduled to phase down to 1,000 barrels per day in 1980 and subsequent years). Percentage depletion on oil and gas is limited to 65 percent of taxable income computed without regard to the deduction for depletion. In addition, for any property the allowable percentage depletion deduction is limited to 50 percent of the taxable income from that property computed without regard to the deduction for depletion.

The House bill contains no provisions specifically relating to natural gas produced from geopressured brine. Under the House bill, geopressured brine is treated as a geothermal resource.

Senate Amendment

The Senate amendment provides a 10-percent deduction for percentage depletion for natural gas produced from geopressured brine in the United States or its possessions. The percentage depletion is not limited to the taxpayer's adjusted basis in the property, nor is it subject to the various restrictions which apply to percentage depletion for oil and gas—the limitation on depletion deductions for integrated oil and gas companies, the per barrel limitation, or the 65 percent of taxable income limitation. However, the allowable deduction is subject to the restrictions on percentage depletion generally. The allowable deduction on any property is to be subject to the limitation that it cannot exceed 50 percent of taxable income from the property (computed without regard to the deduction for depletion), and depletion in excess of adjusted basis is treated as an item of tax preference under the minimum tax.

Under the Senate amendment, the definition of natural gas produced from geopressured brine is to be issued by the Secretary of the Treasury in consultation with the Secretary of Energy.

The Senate amendment is effective for taxable years ending after December 31, 1977.

Conference Agreement

The conference agreement generally follows the Senate amendment with the following modifications. The conference agreement provides that the term "natural gas produced from geopressured brine" is to be precisely the same gas eligible for the special treatment under section 107(c)(2) of the Natural Gas Policy Act of 1978, and defined pursuant to section 503 of that Act. The conferees intend that, because percentage depletion is not limited to natural gas produced from geopressured brine but is available to a wide range of minerals, this provision is not to be construed to be a special tax provision or comparable adjustment under section 107(d) of that Act.

Ten-percent depletion for natural gas produced from geopressured brine is to be allowed only for wells drilled after September 30, 1978, and before January 1, 1984. Wells drilled within this period will continue to be entitled to percentage depletion for their entire producing lives. However, wells drilled before and after these dates will be treated as natural gas wells as under present law. This section of the conference agreement shall take effect on October 1, 1978, and shall apply to taxable years ending on or after October 1, 1978.

37. Geothermal provisions—Intangible drilling costs: Option to deduct drilling costs

House Bill

Under present law, oil and gas producers may elect to deduct intangible drilling costs (IDCs) rather than capitalize them and generally may recover those costs as part of the depletion or depreciation deduction. This election must be made for all of a taxpayer's oil and gas wells.

The House bill extends similar treatment to geothermal wells and provides that a separate election can be made for a taxpayer's geothermal wells, on the one hand, and for his oil and gas wells on the other. Under the House bill, wells producing natural gas from geopressured brine are treated as geothermal wells, and intangible drilling costs for wells producing natural gas from geopressured brine must be expensed if a taxpayer elects to expense intangible drilling costs for his geothermal wells.

Senate Amendment

The Senate amendment is the same as the House bill except that it provides for separate elections for (a) oil and gas wells, (b) geothermal wells, and (c) wells producing natural gas from geopressured brine.

Conference Agreement

The conference agreement allows an election to deduct IDCs for geothermal wells. The election is to be separate from that for oil and gas wells. The conference agreement does not change present law with respect to wells producing natural gas from geopressured brine, so that these will continue to be treated as natural gas wells for purposes of the IDC election.

Because the conference agreement does not change the IDC treatment of wells producing natural gas from geopressurized brine, the conferees intend that this provision is not to be construed to be a special tax provision or comparable adjustment under section 107(d) of the Natural Gas Policy Act of 1978.

38. Geothermal provisions—Intangible drilling costs: Application of the minimum tax

House Bill

Under present law, the deduction for intangible drilling costs on productive wells in excess of the deduction which would have been allowed with respect to those costs for that year through either 10-year amortization or cost depletion (excess IDCs) is treated as a tax preference item for purposes of the minimum tax for individuals.

In the Tax Reduction and Simplification Act of 1977, the Congress provided that for taxable years beginning only in 1977, excess IDCs in excess of oil and gas production income would constitute a tax preference item.

The House bill extends to geothermal properties for all future years a provision similar to the minimum tax provision on intangible drilling costs of individuals which was applicable for 1977. As a result, the item of tax preference will be the amount (if any) by which the amount of excess IDCs on geothermal properties in the taxable year is greater than the amount of the net income of the taxpayer from geothermal properties for the taxable year. Excess IDCs will be the amount of IDCs on productive wells, reduced by the deduction which would have

been allowed with respect to those costs through cost depletion. The amount of the net income of the taxpayer from geothermal properties for the taxable year will be the excess of (a) the aggregate amount of gross income (within the meaning of section 613 (a) from all geothermal properties of the taxpayer received or accrued by the taxpayer during the taxable year, over (b) the amount of any deductions allocable to such properties (reduced by the excess IDCs) for such taxable years.

Under the House bill, natural gas produced from geopressured brine is treated as a geothermal resource for purposes of the minimum tax.

This provision applies to wells commenced on or after April 20, 1977, in taxable years ending after that date.

Senate Amendment

The Senate amendment is the same as the House bill, except that the intangible drilling cost computation is to be made separately for geothermal resources, natural gas from geopressured brine, and oil and gas wells. Thus, the offset for related income in computing the minimum tax preference is to be made separately for each of the three categories.

Conference Agreement

The conference agreement generally follows the House bill. In addition, it continues the present law treatment of wells producing natural gas from geopressured brine as gas wells. Thus, income and deductions from wells producing natural gas from geopressured brine will continue to be aggregated with income and deductions from all oil and gas property for purposes of the related income offset under the minimum tax.

The conference agreement with respect to the application of the minimum tax to intangible drilling costs is the same as the rule applicable to those costs for 1977. Thus, a taxpayer's IDC preference is the amount (if any) by which the amount of excess IDCs arising in the taxable year is greater than the amount of the taxpayer's net income from oil and gas properties for the taxable year. The amount of the excess IDCs arising in the taxable year is the excess of (i) the IDCs paid or incurred in connection with oil and gas wells (other than cost incurred in drilling a nonproductive well) allowable for the taxable year, over (ii) the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles had been used with respect to such costs. The amount of the taxpayer's net income from oil and gas properties for the taxable year is the excess of (i) the aggregated amount of gross income (within the meaning of sec. 613(a)) from all oil and gas properties of the taxpayer received or accrued during the taxable year, over (ii) the amount of any deductions allocable to such properties reduced by excess IDCs for that taxable year. The term "straight line recovery of intangibles" means, except as described below, ratable amortization of IDCs over the 120-month period beginning with the month in which production from the well begins. Alternatively, at the taxpayer's election, straight line recovery of intangibles means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of determining the IDC preference. This section of the conference agreement shall take effect on October 1, 1978, and shall apply to taxable years ending on or after October 1, 1978.

39. Geothermal Provisions—Intangible Drilling Costs: Recapture

House Bill

Under present law, the total of IDCs deducted, reduced by the amount of IDCs which would have been deductible had those costs been capitalized and deducted through cost depletion, is subject to recapture upon a disposition of an oil and gas property.

The House bill extends present law to geothermal (including geopressured natural gas) properties, and applies it separately from recapture as to oil and gas properties. This provision would apply to wells commenced on or after April 20, 1977, in taxable years ending after that date.

Senate Amendment

The Senate amendment is the same as the House bill, except that oil and gas, geothermal, and geopressured natural gas properties would be treated separately.

Conference Agreement

The conference agreement essentially follows the House bill in applying recapture to geothermal wells. However, geopressured natural gas wells are to be treated as gas wells as under present law. This section of the conference agreement shall take effect on October 1, 1978, and shall apply to taxable years ending on or after October 1, 1978.

40. Geothermal Provisions—Intangible Drilling Costs: At Risk Limitation

House Bill

Under present law, the amount of any loss (otherwise allowable for the year) which may be deducted in connection with exploring for, or exploiting, oil and gas cannot exceed the aggregate amount with respect to which the taxpayer is at risk with regard to the property at the close of the taxable year.

The House bill extends present law to geothermal (including geopressured natural gas) properties, and treats developing those properties as an activity separate from developing oil and gas properties. This provision would apply to wells commenced on or after April 20, 1977, in taxable years ending after that date.

Senate Amendment

The Senate amendment is the same as the House bill, except that exploiting and developing oil and gas, geothermal, and geopressured natural gas are treated as separate activities.

Conference Agreement

The conference agreement follows the House bill. However, geopressured natural gas is aggregated with oil and gas as one activity. This section of the conference agreement shall take effect on October 1, 1978, and shall apply to taxable years ending on or after October 1, 1978.

41. Percentage Depletion for Peat

House Bill

No provision.

Senate Amendment

Under present law, peat is allowed 5 percent depletion.

The Senate amendment allows a 10-percent depletion deduction for peat from U.S. deposits which is used as fuel or otherwise to produce energy. (Peat for other purposes is still allowed 5 percent depletion.) This provision applies to taxable years ending after December 31, 1977.

Conference Agreement

The conference agreement does not include this provision.

42. Production Credits for Nonconventional Oil and Gas

House Bill

No provision.

Senate Amendment

Present law contains no provision for production incentives.

The Senate amendment provides nonrefundable income tax credits for production of nonconventional oil and gas in or offshore of the United States or its possessions. The credits are:

(a) $3 per barrel for shale oil;

(b) $3 per barrel for oil from tar sands;

(c) 50 cents per mcf for geopressured natural gas; and

(d) 50 cents for tight rock formation gas.

Credits are allowed according to the ratio of the taxpayer's gross income from the property to total gross income from the property. Credits are reduced on a project-by-project basis according to the ratio between Federal grants for equipment and facilities and total investment in equipment and facilities for nonconventional energy processes. The credits apply for taxable years beginning after December 31, 1977.

Conference Agreement

The conference agreement does not include these provisions.

G. LIMITATION OF PRESIDENT'S AUTHORITY TO ADJUST OIL IMPORTS; IMPORT ADJUSTMENT TAX CREDIT

43. Amendments to Trade Expansion Act of 1962

House Bill

No provision.

Senate Amendment

Under present law, the President may adjust imports of petroleum or petroleum products by quotas or monetary exactions (tariffs, duties, or fees) so that such imports do not threaten national security.

The Senate amendment nullifies the President's authority to adjust imports of petroleum or petroleum products under section 232(b) of the Trade Expansion Act of 1962, except for:

(a) military and defense emergencies involving national security; or

(b) adjustments of imports of refined petroleum products for reasons of national security.

The Senate amendment expressly recognizes the close relation between national security and a U.S. refining industry competitive with foreign refineries. Present law contains no such provision.

The amendment also provides for a 2-House veto of any proposed Presidential adjustment of imports of refined petroleum products under the Trade Expansion Act of 1962 authority within 30 days of the proposal's transmittal to Congress.

The amendment requires the President to establish procedures for refunding all or part of any increased tariff, fees, etc., on imported refined petroleum products to a public utility which demonstrates that it imports such products solely because of the unavailability of domestic supplies (regardless of price) of such product or of alternate domestic fuels or energy sources. Present law has no comparable provision.

Conference Agreement

The conference agreement does not include this provision.

44. Amendments to Trade Act of 1974

House Bill

No provision.

Senate Amendment

Present law allows the President to impose or increase duties on any import pursuant to trade agreements with foreign countries. He also may designate imports from a developing country for duty-free import treatment.

The Senate amendment bars the presidential imposition of, or increase in, import duties on petroleum or petroleum products pursuant to trade agreements with foreign countries under authority granted the President in Title I of the Trade Act of 1974, and also prohibits the President from designating imported petroleum or petroleum products as eligible articles for duty-free import treatment under Title V of the Trade Act of 1974.

This provision is effective as of the date of enactment.

Conference Agreement

The conference agreement does not include this provision.

45. Refined Petroleum Product Import Adjustment Tax Credit

House Bill

No provision.

Senate Amendment

The Senate amendment provides a refundable tax credit for the cost of purchasing refined petroleum products (both imported and domestic) for use in tax-exempt residences, hospitals, churches and schools.

The amount of credit is determined by multiplying units of such products used by an adjustment amount. The adjustment amount is determined by dividing the net revenues from any increased duty or fee imposed by the President under section 232(f) of the Trade Expansion Act of 1962 on imported refined petroleum products by the number of units used for qualified uses.

Present law contains no comparable provision.

The provision would be effective in taxable years beginning after December 31, 1976.

Conference Agreement

The conference agreement does not include this provision.

H. OTHER PROVISIONS

46. Intangible drilling cost deductions for oil and gas wells and the minimum tax

House Bill

Under present law, the deduction for intangible drilling costs in productive wells in excess of the deduction which would have been allowed with respect to those costs for that year through either 10-year amortization or cost depletion (excess IDCs) is treated as a tax preference item for purposes of the minimum tax for individuals.

In the Tax Reduction and Simplification Act of 1977, Congress provided that for taxable years beginning only in 1977, the tax preference would be excess IDCs in excess of oil and gas production income.

The House bill extends for all future years the minimum tax provision on intangible drilling costs of individuals which was applicable for 1977. Thus, with respect to all oil and gas properties of the taxpayer, the tax preference will be the amount (if any) by which the amount of excess IDCs arising in the taxable year is greater than the amount of the net income of the taxpayer from oil and gas properties for the taxable year. The amount of the net income of the taxpayer from oil and gas properties for the taxable year is the excess of (a) the aggregate amount of gross income (within the meaning of section 613(a)) from all oil and gas properties of the taxpayer received or accrued by the taxpayer during the taxable year, over (b) the amount of any deductions allocable to such properties, reduced by excess IDCs, for such taxable year.

These provisions are effective for taxable years ending December 31, 1977.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment

The conference agreement with respect to the application of the minimum tax to intangible drilling costs is the same as the rule applicable to those costs for 1977. Thus, a taxpayer's IDC preference is the amount (if any) by which the amount of excess IDCs arising in the taxable year is greater than the amount of the taxpayer's net income from oil and gas properties for the taxable year. The amount of the excess IDCs arising in the taxable year is the excess of (i) the IDCs paid or incurred in connection with oil and gas wells (other than cost incurred in drilling a nonproductive well) allowable for the taxable year, over (ii) the amount which would have been allowable for the taxable year in such costs had been capitalized and straight line recovery of intangibles had been used with respect to such costs. The amount of the taxpayer's net income from oil and gas properties for the taxable year is the excess of (i) the aggregated amount of gross income (within the meaning of sec. 613(a)) from all oil and gas properties of the taxpayer received or accrued during the taxable year, over (ii) the amount of any deductions allocable to such properties reduced by excess IDCs for that taxable year. The term "straight line recovery of intangibles" means, except as described below, ratable amortization of IDCs over the 120-month period beginning with the month in which production from the well begins. Alternatively, at the taxpayer's election, straight line recovery of intangibles means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of determining the IDC preference.

47. Rerefined lubricating oil

House Bill

Under present law, a 6-cent-per-gallon manufacturers excise tax is imposed on lubricating oil (other than cutting oils) sold in the United States by a manufacturer or producers, or used anywhere by a manufacturer or producer. The sale of recycled oil is not subject to the tax unless the recycled oil is mixed with new lubricating oil. In such a case, the excise tax is imposed on the portion of the mixture which consists of new lubricating oil.

The House bill exempts the sale of lubricating oil from the 6-cent-per-gallon manufacturers excise tax where the lubricating oil is sold for use in a mixture with previously used or waste lubricating oil which has been cleaned, renovated, or rerefined.

For the exemption to apply, the blend of old and new oil must consist of 25 percent or more of waste or rerefined oil. All of the new oil in a mixture is to be exempt from the excise tax if the blend contains 55 percent new oil, the excise tax exemption applies only with regard to the portion of the new oil that does not exceed 55 percent of the mixture.

The provision is effective for sales on or after the first day of the first calendar month beginning more than 10 days after enactment.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

48. Annual Report on Energy and Revenue Effects of the Bill

House Bill

The House bill requires the President to submit an annual report to the Congress every August after 1977. The report is to provide estimates of the amount of revenue increases or decreases resulting from each energy tax provision, and an evaluation of the extent to which each provision has resulted in increased energy conservation and production. The President is expected to include in his report the petroleum (or natural gas) savings resulting from each provision and the extent of any shifts from petroleum and natural gas to other materials resulting from each provision. This provision is effective upon enactment.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement does not include this provision.

49. White House Conference on Energy Conservation, and National Energy Conservation Planning and Advisory Council

House Bill

No provision.

Senate Amendment

The Senate amendment requires the President to convene a White House Conference on Energy to assess problems and make recommendations relating to energy conservation, no later than December 31, 1978.

Conference Agreement

The conference agreement does not include this provision.

50. Suspension of Import Duty on Insulation Materials

House Bill

No provision.

Senate Amendment

The Senate Amendment suspends present law import duties on glass fiber, mineral wool and related insulation materials, and boric acid with respect to material entered or withdrawn from warehouse for consumption. The suspension of duty would be effective through June 30, 1979.

Conference Agreement

The conference agreement does not include this provision.

51. Energy Stamp Program

House Bill

No provision.

Senate Amendment

The Senate amendment authorizes annual appropriations of $25 million for each of fiscal years 1978, 1979, and 1980, for five pilot projects to demonstrate an energy-stamp program providing financial assistance to low- and fixed-income households (homeowners or apartment dwellers) for residential energy costs. Participants must pay one-third the value of energy stamps received.

The authorization applies for fiscal years 1978–80.

There is no comparable program in present law.

Conference Agreement

The conference agreement does not include this provision.

52. Expedited Consideration of Authorization for U.S. Oil Pipelines From West Coast

House Bill

No provision.

Senate Amendment

The Senate amendment sets deadlines and otherwise expedites consideration of Federal authorizations for proposed U.S. pipeline systems to carry crude oil supplies inland from the West Coast. The Senate amendment also expedites judicial review of any such authorizations.

This provision is effective upon enactment.

Conference Agreement

The conference agreement does not include this provision.

53. Coordination of Effective Dates With the Congressional Budget Act

House Bill

No provision.

Senate Amendment

The Senate amendment provides that notwithstanding any other provision of the amendment, the Secretary of Treasury is to postpone (but not later than September 30.

1978) any of the effective dates of the amendment to insure that revenues for the fiscal year 1978 will not be less than $397 billion.

Conference Agreement

The conference agreement does not include this provision.

54. Sense of the Senate Regarding Revenue Loss From the Bill for Fiscal Year 1978

House Bill

No provision.

Senate Amendment

The Senate amendment expresses the sense of the Senate that the conferees on the part of the Senate shall, to the extent practical, limit the revenue loss from this amendment to $972 million for the fiscal year 1978.

Conference Agreement

The conference agreement does not include this provision.

TABLE 1.—BUDGET EFFECTS ON HOUSE, SENATE AND CONFERENCE VERSIONS OF THE ENERGY TAX PROVISIONS OF H.R. 5263

[In millions of dollars]

Item	House					Senate					Conference				
	1979*	1980	1981	1982	1983	1979*	1980	1981	1982	1983	1979*	1980	1981	1982	1983
Residential energy tax credits:															
Credit for insulation and other energy-conserving components [a]	−827	−491	−18	−546	−576	−1,265	−973	−1,112	−1,211	−1,125	−635	−370	−392	−415	−440
Credit for solar and wind energy expenditures [a]	−80	−62	−71	−87	−111	−84	−66	−74	−93	−118	−81	−64	−72	−89	−115
Subtotals [a]	−907	−553	−589	−633	−687	−1,349	−1,039	−1,186	−1,304	−1,243	−716	−434	−464	−504	−555
Tax credits for home energy costs:															
Energy cost credit for the elderly						−1,169	−1,180	−1,192	−1,202	−1,212					
Tax credit for increased residential energy costs attributable to imported oil						−43	−40	−44	−46	−50					
Tax credit for home heating oil costs						−1,400	−1,207	−1,181	−1,155	−954					
Tax credit for home heating extended to propane						−531	−476	−479	−485	−411					
Subtotal						−3,143	−2,903	−2,896	−2,888	−2,627					
Transportation tax provisions:															
Gas guzzler tax	100	100	100	135	150						(2)	45	50	100	
Repeal of deduction for State and local tax on gasoline [b]	894	859	944	1,039	1,143										
Tax extension to 1985 of existing rate on gasoline and other motor fuels [c]		3,302	3,404	3,496	3,585		3,302	3,404	3,496	3,585					
Exemption or reduction of tax rate for certain blended fuels						(2)	(2)	(2)	(2)	−6	(2)	(2)	(2)	(2)	−6
Denial of credit or refund for nonbusiness nonhighway use of gasoline and amendment of motor boat fuel provisions	5	4	4	4	4	4	4	4	4	4	(1)	4	4	4	4
Removal of excise tax on buses	−22	−9	−9	−9	−9	−22	−9	−9	−9	−9	−22	−9	−9	−9	−9
Removal of excise tax on bus parts	−6	−3	−3	−3	−3	−6	3	−3	−3	−3	−2	−3	3	−3	−3
Removal of excise tax on certain items used in connection with intercity local and school buses	−26	−13	−13	−1	13	−26	−13	−13	−13	−13	−11	−13	−13	−13	−13
Vanpooling incentives						(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Credit for qualified electric and hydrogen motor vehicles	(1)	−1	1	2	−4	−4	−3	−4	−5	−8					
Subtotal	946	4,239	4,426	4,647	4,853	−54	3,278	3,379	3,470	3,550	−35	−21	24	29	73
Crude oil equalization and natural gas liquids tax after rebate	7,758	8,638	11,557	3,633											
Excise tax on business use of oil and natural gas after income tax offset and rebate	−25	398	88	164	592		21	31	6	33					
Changes in business investment credit to encourage conservation of or conservation from oil and gas or to encourage new energy technology:															
Alternative conservation and new technology credits [d]	−824	−516	−673	−789	+491	−2,348	−1,578	−1,850	−2,164	−2,456	−221	−391	−496	−597	−458
Investment credit disallowed on property financed with credits	57	184	238	231	295										
Investment credit denied and depreciation limited to straightline on oil or gas boilers and air-conditioning and space heaters	204	121	114	103	99						42	98	99	93	96
Subtotal	−563	−211	−321	−455	−97	−2,348	−1,578	−1,850	−2,164	−2,456	−179	−293	−397	−504	−362
Tax incentives relating to alternative fuel sources:															
Use of industrial development bonds for coal gasification and liquefaction and bioconversion facilities						−16	−27	−47	−69	−97					
Percentage depletion:															
Peat						(1)	(1)	(1)	(1)	(1)					
Geothermal	(1)	(1)	(1)	(1)	(1)	(1)	(1)	−2	−4	−6	(1)	(1)	−2	−4	−6
Geopressurized methane							−1	−3	−5	−8		−1	−3	−5	−8
Option to deduct intangible drilling costs:															
Geothermal	−15	−17	−21	−20	−20	−28	−18	−21	−26	−30	−10	−18	−21	−26	−30
Geopressurized methane						−25	−17	−18	−20	−20	−11	−16	−17	−18	−19
Tax credits for production of oil and gas from nonconventional sources:															
50 cents credit per mcf of geopressurized methane gas							−7	−14	−22	−31					
50 cents credit per mcf of gas from nonconventional source							−29	−58	−90	−124					
$3 credit per barrel of shale oil and oil from tar sands						−23	−48	−83	−126	−176					
Subtotal	−15	−17	−21	−20	−20	−92	−147	−246	−362	−492	−21	−35	−43	−53	−63
Miscellaneous provisions:															
Treatment of intangible drilling costs for purposes of minimum tax [e]	−51	−61	−73	−84	−97	−51	−61	−73	−84	−97	−51	−61	−73	−84	−97
Refined lubricating oil	−6	−3	−3	−3	−3	−6	−3	−3	−3	−3	−2	−3	−3	−3	−3
Duty on building insulation materials and related materials						−2									
Subtotal	−57	−64	−76	−87	−100	−59	−64	−76	−87	−100	−53	−64	−76	−87	−100
Total	−2,137	12,430	15,064	7,249	4,541	−7,045	−2,432	−2,844	−3,229	−3,335	−1,004	−847	−956	−1,119	−1,007

*Figures may reflect liabilities of prior years

[1] Less than $1,000,000.

[2] Less than $5,000,000.

[a] The revenue estimates shown under the Senate version have been revised from the comparable figures in the Conference Comparison document dated July 12, 1978.

[b] This provision has been included in H.R. 13511 (The Revenue Act of 1978), as passed the House and by the Senate.

[c] This provision (for a 5-year extension) has been included in H.R. 11733 (The Highway Revenue Act of 1978) as passed the House and the Senate.

[d] Under the House version additional credits could be claimed against the business use tax of oil and gas.

[e] These figures represent revised estimates and are higher than those shown in the Conference Comparison document dated July 12, 1978.

TABLE 2.—ESTIMATED BUDGET EFFECT OF THE TAX CREDITS [1] FOR BUSINESS QUALIFIED PROPERTY BY TYPE OF PROPERTY AS AGREED TO BY THE CONFERENCE COMMITTEE, FISCAL YEARS 1979-83

[In millions of dollars]

Credit provision	1979	1980	1981	1982	1983
Alternative energy property [2]	−36	−90	−156	−227	−191
Specially defined energy property [3]	−145	−236	−261	−278	−207
Shale oil equipment	−7	−15	−21	−27	−20
Geopressurized methane equipment	−6	−9	−9	−9	−6
Solar and wind energy property	−7	−10	−15	−19	−13
Recycling equipment [3]	−20	−31	−34	−37	−21
Total	−221	−391	−496	−597	−458

[1] 10-percent nonrefundable credit effective after Sept. 30, 1978.
[2] Industrial (nonutility) equipment, primarily, nonoil or gas-burning boilers, combustors, and pollution control and handling equipment.
[3] Only if applied to or within a structure in existence before Oct. 1, 1979.

AL ULLMAN,
THOMAS L. ASHLEY,
HARLEY O. STAGGERS,
RICH BOLLING,
THOMAS S. FOLEY,
DAN ROSTENKOWSKI,
JAMES CORMAN,
JOE D. WAGGONNER,
CHAS. B. RANGEL,
JOHN D. DINGELL,
PAUL G. ROGERS,
BOB ECKHARDT,
PHIL SHARP,
TOBY MOFFETT,
CHARLES WILSON,
HENRY S. REUSS,
WILLIAM A. STEIGER,
JOHN ANDERSON,
GARRY BROWN,
Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN E. TALMADGE,
ABRAHAM RIBICOFF,
MIKE GRAVEL,
LLOYD BENTSEN,
WILLIAM D. HATHAWAY,
SPARK MATSUNAGA,
DANIEL MOYNIHAN,
CARL T. CURTIS,
ROBERT DOLE,
BOB PACKWOOD,
PAUL LAXALT,
Managers on the Part of the Senate.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 9937. An act to amend the Bank Holding Company Act Amendments of 1970.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10173) entitled "An act to amend ttile 38, United States Code, to improve the pension programs for veterans, and survivors of veterans, of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era, and for other purposes."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2. An act to require authorizations of new budget authority for Government programs at least every 5 years, to provide for review of Government programs every 5 years, and for other purposes;

S. 3158. An act to authorize the investigation to study the feasibility of the Santa Cruz Dam and Reservoir, Santa Cruz Irrigation District, New Mexico, and for other purposes; and

S. 3371. An act to repeal certain provisions of law establishing limits on the amount of land certain religious corporations may hold in any Territory of the United States.

The message also announced that the Vice President, pursuant to Public Law 84–689, appointed Mr. BENTSEN to attend the North Atlantic Assembly, to be held in Lisbon, Portugal, November 26–30, 1978.

ESTABLISHING FEES AND ALLOWING PER DIEM AND MILEAGE EXPENSES FOR WITNESSES BEFORE U.S. COURTS

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2049) to establish fees and allow per diem and mileage expenses for witnesses before U.S. courts.

The clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so for the purpose of allowing the gentleman an opportunity to give us a brief explanation.

Mr. KASTENMEIER. Mr. Speaker, if the gentleman from Maryland will yield, in brief, the purpose of the bill is to revise fees and travel and subsistence allowances for witnesses established in 28 U.S.C. 1821. Witness fees and allowances now provided pursuant to section 1821, because of inflation, no longer compensate the average witness for the actual costs which witness service entails, nor does section 1821 permit compensation for a variety of travel expenses which witnesses routinely incur. The proposed legislation would alleviate these difficulties by increasing attendance fees from $20 to $30 per day, and by changing the method of computation for travel allowances and subsistence pay.

There is no opposition to the proposed legislation, and I urge its adoption.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1821 of title 28, United States Code, is amended to read as follows:

"§ 1821. Per diem and mileage generally; subsistence

"(a) A witness in attendance at any court of the United States, or before a United States magistrate, or before any person authorized to take his deposition pursuant to any rule or order of a court of the United States, shall receive the fees and allowances which this section provides, except as otherwise provided by law. The phrase 'any court of the United States' shall include, in addition to the courts of the United States listed in section 451, any court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States. An alien who has been paroled into the United States for prosecution, pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)), or an alien who either has admitted belonging to a class of aliens who are deportable or has been determined pursuant to section 242(b) of the Act (8 U.S.C. 1252(b)) to be deportable shall be ineligible to receive the fees or allowances which this section provides.

"(b) Witnesses shall receive $30 for each day's attendance, which includes time necessarily occupied in going to and returning from the place of attendance.

"(c) Witnesses shall receive compensation for the actual expenses of travel on the basis of the means of transportation reasonably utilized and the distances actually and necessarily traveled. Witnesses who travel by common carrier shall receive the costs of transportation at the most economical rate available. A receipt or other evidence of actual cost shall be furnished. Witnesses who travel by privately owned vehicle (automobile, airplane, or motorcycle) shall receive a travel allowance equal to the mileage allowance which the Administrator of General Services prescribes pursuant to section 5704 of title 5, United States Code for official travel by employees of the Government. Computation of mileage under this section shall be made on the basis of a uniform table of distances adopted by the Administrator. Witnesses shall also receive reimbursement for incidental travel expenses, such as toll roads, bridges, tunnels, and ferries; taxicab fares between places of lodging and carrier terminals; and parking fees, upon presentation of a valid parking receipt. In the district of Alaska, whenever the use of a snowmobile, dog team, or boat is approved by the court, a United States magistrate, the United States attorney, or an assistant United States attorney, witnesses shall be paid the actual rental cost or reasonable estimate of necessary expenses. All normal travel expenses within and outside the judicial district shall be taxable as costs pursuant to section 1920 of this title.

"(d) Witnesses, other than those who are incarcerated, who attend at points so far removed from the respective residences as to prohibit return thereto from day to day shall receive an additional allowance for subsistence expenses for each night they must spend away from their residences. Such witnesses who attend in areas which the Administrator of General Services has designated as high cost areas under section 5702(c)(B), title 5, United States Code, shall receive an allowance equal to the maximum actual subsistence allowance which the Administrator prescribes for that area for official travel by employees of the Government. Such witnesses who attend in other areas shall receive an allowance equal to the maximum per diem allowance which the Administrator of General Services prescribes pursuant to section 5702(a) of title 5, United States Code, for official travel by employees of the Government in that area.

"(e) When a witness is detained for want of security for his apperance pursuant to section 3149 of title 18, United States Code, he shall be entitled for each day of detention when not in attendance at court, in addition to his subsistence, to the daily attendance fee which subsection (b) of this section provides.".

SEC. 2. The amendments made by this Act shall take effect on October 1, 1978.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike all after the enacting clause and insert:

S. 2049

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1821 of title 28, United States Code, is amended to read as follows:

"§ 1821. Per diem and mileage generally; subsistence

"(a)(1) Except as otherwise provided by law, a witness in attendance at any court of the United States, or before a United States Magistrate, or before any person authorized to take his deposition pursuant to any rule or order of a court of the United States, shall be paid the fees and allowances provided by this section.

"(2) As used in this section, the term 'court of the United States' includes, in addition to the courts listed in section 451 of this title, any court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States.

"(b) A witness shall be paid an attendance fee of $30 per day for each day's attendance. A witness shall also be paid the attendance fee for the time necessarily occupied in going to and returning from the place of attendance at the begining and end of such attendance or at any time during such attendance.

"(c)(1) A witness who travels by common carrier shall be paid for the actual expenses of travel on the basis of the means of transportation reasonably utilized and the distance necessarily traveled to and from such witness's residence by the shortest practical route in going to and returning from the place of attendance. Such a witness shall utilize a common carrier at the most economical rate reasonably available. A receipt or other evidence of actual cost shall be furnished.

"(2) A travel allowance equal to the mileage allowance which the Administrator of General Services has prescribed, pursuant to section 5704 of title 5, for official travel of employees of the Federal Government shall be paid to each witness who travels by privately owned vehicle. Computation of mileage under this paragraph shall be made on the basis of a uniform table of distances adopted by the Administrator of General Services.

"(3) Toll charges for toll roads, bridges, tunnels, and ferries, taxicab fares between places of lodging and carrier terminals, and parking fees (upon presentation of a valid parking receipt), shall be paid in full to a witness incurring such expenses.

"(4) All normal travel expenses within and outside the judicial district shall be taxable as costs pursuant to section 1920 of this title.

"(d)(1) A subsistence allowance shall be paid to a witness (other than a witness who is incarcerated) when an overnight stay is required at the place of attendance because such place is so far removed from the residence of such witness as to prohibit return thereto from day to day.

"(2) A subsistence allowance for a witness shall be paid in an amount not to exceed the maximum per diem allowance prescribed by the Administrator of General Services, pursuant to section 5702(a) of title 5, for official travel in the area of attendance by employees of the Federal Government.

"(3) A subsistence allowance for a witness attending in an area designated by the Administrator of General Services as a high-cost area shall be paid in an amount not to exceed the maximum actual subsistence allowance prescribed by the Administrator, pursuant to section 5702(c)(B) of title 5, for official travel in such area by employees of the Federal Government.

"(4) When a witness is detained pursuant to section 3149 of title 18 for want of security for his appearance, he shall be entitled for each day of detention when not in attendance at court, in addition to his subsistence, to the daily attendance fee provided by subsection (b) of this section.

"(e) An alien who has been paroled into the United States for prosecution, pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)), or an alien who either has admitted belonging to a class of aliens who are deportable or has been determined pursuant to section 242(b) of such Act (8 U.S.C. 1252(b)) to be deportable, shall be ineligible to receive the fees or allowances provided by this section.".

SEC. 2. The amendments made by this Act shall take effect on October 1, 1978, or on the date of enactment, whichever occurs later.

Mr. KASTENMEIER (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the committee amendment, and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JURY SYSTEM IMPROVEMENTS ACT OF 1978

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2075) to amend the Jury Selection and Service Act of 1968, as amended, by revising the section on fees of jurors and by providing for a civil penalty and injunctive relief in the event of a discharge or threatened discharge of an employee by reason of such employee's Federal jury service.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I take this time to yield to my colleague from Wisconsin to explain this measure.

Mr. KASTENMEIER. Mr. Speaker, I will be happy to explain.

This bill—an omnibus jury reform proposal—is actually a composite of three bills which passed the Senate unanimously by voice vote (S. 2072, S. 2074, and S. 2075). The proposed legislation, much of which has been recommended by the Judicial Conference in previous Congresses and some of which passed the Senate in the 94th Congress, make five changes in existing law:

First, it makes the excuse of prospective jurors from Federal jury service on the grounds of distance from the place of holding court contingent upon a showing of hardship on an individual basis.

Second, it clarifies existing law with respect to the qualification for jury service of persons who have been convicted of a crime and have subsequently had their civil rights restored.

Third, it adds to the definitional section of the Jury Selection and Service Act definitions relating to excuse from jury service, in order to allow the district court to grant excuses on a case-by-case basis; and relating to the jury selection and summoning process, in order to clarify the authority of the District Court to utilize automatic data processing in the selection of juries.

Fourth, it revises in its entirety the jury fee and subsistence allowance sections.

Last, it adds new provisions for a civil penalty and for injunctive relief against an employer who discharges or coerces an employee as a result of the employee's Federal jury service or summons for such service.

All of these changes are improvements to the existing system. The legislation is noncontroversial and without opposition. It has the support of the U.S. Department of Justice, the Judicial Conference, the American Bar Association, the American Civil Liberties Union, and the National Legal Aid and Defender Association.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, I concur entirely with the statements of my colleague from Wisconsin. In the hope that it would not interfere with the passage of the bill, I would indicate that there is no opposition, I understand, in the Committee on the Judiciary.

Mr. BUTLER. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Speaker, I thank the gentleman for his concise explanation and would just like to add that 10 years have now elapsed since the requirements of the Federal jury system have been comprehensively addressed by legislation. The passage of time has revealed the need for adjustment in several particulars, which have been suggested to the Congress by the Judicial Conference of the United States. The most glaring inadequacy is with respect to the compensation of Federal jurors. Section 1871 of title 28, United States Code, now provides for them to receive an attendance fee of $20 per day for each day of actual attendance at court or in necessary travel between their residence and the place of holding court. It further establishes a travel allowance of 10 cents per mile and a subsistence allowance, when an overnight stay is required, of $16 per day. The passage of 10 years has now rendered these rates inadequate to reasonably compensate jurors for the valuable service which they are called upon to render to the Federal judiciary and to the citizens of the United States. The allowances for travel and subsistence are particularly out of harmony with current economic conditions. By contrast, Federal employees in official travel status are now entitled to receive 17 cents per mile for the use of their automobiles, as compared to 10 cents for jurors, and to a subsistence allowance of

$35 per day against a $16 allowance for jurors.

The current proposal will increase witness fees to $30 a day and allow the director of the Administrative Office of Courts to set subsistence allowances and transportation expenses that are equivalent to what Federal employees receive. The slight additional expense which would accrue to the Government is a small price to pay in order to insure the continued availability to the Federal courts of jurors chosen from a representative cross-section of the population. Thus, I urge the passage of S. 2049.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2075

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Jury Fee and Juror Employment Act of 1978".

SEC. 2. Section 1871 of title 28, United States Code, is amended in its entirety to read as follows:

"§ 1871. Fees

"(a) GENERAL AUTHORITY.—Grand and petit jurors in district courts appearing pursuant to this chapter shall be paid the fees and allowances provided by this section. The requisite fees and allowances shall be disbursed on the certificate of the clerk of court in accordance with the procedure established by the Director of the Administrative Office of the United States Courts.

"(b) ATTENDANCE FEE.—A juror shall be paid an attendance fee of $30 per day for actual attendance at the place of trial or hearing. A juror shall also be paid the attendance fee for the time necessarily occupied in going to and returning from such place at the beginning and end of such service or at any time during the same.

"A petit juror required to attend more than thirty days in hearing one case shall be paid an additional attendance fee of $5 per day for each day in excess of thirty days in which he is required to hear such case.

"A grand juror required to attend for more than forty-five days of actual service shall be paid an additional attendance fee of $5 per day for each day in excess of forty-five days of actual service.

"(c) TRAVEL ALLOWANCES; TOLL CHARGES; PARKING FEES; TRAVEL IN AREAS OTHER THAN THE CONTIGUOUS STATES OF THE UNITED STATES.—A travel allowance equal to the maximum rate per mile that the Director of the Administrative Office of the United States Courts has prescribed pursuant to section 604(a)(7) of this title for payment to supporting court personnel in travel status using privately owned automobiles shall be paid to each juror, regardless of the mode of transportation actually employed. The prescribed rate shall be paid for the distance necessarily traveled to and from a juror's residence by the shortest practical route in going to and returning from the place of service. Actual mileage in full at the prescribed rate is payable at the beginning and at the end of a juror's term of service.

"The Director shall promulgate rules regulating interim travel allowances to jurors. Distances traveled to and from court should coincide with the shortest practical route.

"Toll charges for toll roads, bridges, tunnels, and ferries shall be paid in full to the juror incurring these charges. In the discretion of the court, reasonable parking fees may be paid to the juror incurring such charges upon presentation of a valid parking receipt. Parking charges shall not be included in any tabulation of mileage cost allowances.

"Any juror who travels to district court pursuant to summons in an area outside of the contiguous forty-eight States of the United States shall be paid the travel expenses provided under this section, or actual reasonable transportation expenses subject to the discretion of the district judge or clerk of court as circumstances indicate, exercising due regard for the mode of transportation, the availability of alternative modes, and the shortest practical route from residence to court.

"(d) SUBSISTENCE ALLOWANCES; SUBSISTENCE IN AREAS OUTSIDE OF THE CONTIGUOUS UNITED STATES.—A subsistence allowance covering meals and lodging shall be established from time to time by the Director of the Administrative Office of the United States Courts pursuant to section 604(a)(7) of this title, except that such allowance shall not exceed the allowance for supporting court personnel in travel status in the same geographical area, and such claims shall not require itemization.

"Such subsistence allowance shall be paid to a juror when an overnight stay is required at the place of holding court, and for the time necessarily spent in traveling to and from the place of attendance if an overnight stay is required.

"A subsistence allowance for jurors serving in district courts outside of the contiguous forty eight States of the United States shall be allowed at a rate equal to that per diem allowance which is paid to supporting court personnel in travel status in those areas where the Director of the Administrative Office of the United States Courts has prescribed an increased per diem fee pursuant to section 604 (a) (7) of this title.

"(e) SEQUESTERED JURORS.—Whenever in any situation a jury is ordered to be kept together and not to separate, the actual cost of subsistence during such period shall be paid upon the order of the court in lieu of the subsistence allowances payable under subsection (d). Such allowance for the jurors ordered to be kept separate or sequestered shall include the cost of meals, lodging, and other expenditures ordered in the discretion of the court for their convenience and comfort.

"(f) PUBLIC TRANSPORTATION; TRANSPORTATION AFTER HOURS.—A juror who uses public transportation in traveling to and from the court, the reasonable cost of which is not met by the transportation expenses allowable under subsection (c) of this section on account of the short distance traveled in miles, may be paid in the discretion of the court the actual reasonable expense of such public transportation, pursuant to the methods of payment provided by this section. Jurors who are required to remain at the court beyond the normal business closing hour for deliberation or for any other reason may be transported to their homes, or to temporary lodgings where such lodgings are ordered by the court, in a manner directed by the clerk and paid from funds authorized under this section.

"(g) REGULATIONS.—The Director of the Administrative Office of the United States Courts shall promulgate such regulations as may be necessary to carry out his authority under this section.".

SEC. 3. (a) Chapter 121 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1875. EMPLOYMENT RIGHTS

"(a) In the case of any individual who is absent from a position (other than a temporary position as defined by the Director of the Administrative Office of the United States Courts) in the employ of any employer to perform jury service, and who receives a certificate from the court verifying such service, and makes application, promptly after he is relieved from such service, to return to such position—

"(1) if such position was in the employ of a private employer, such individual shall—

"(A) if still qualified to perform the duties of such position, be restored by such employer or his successor in interest to such position or to a position of like seniority, status, and pay; or

"(B) if not qualified to perform the duties of such position by reason of disability sustained during the period of such service but qualified to perform the duties of any other position in the employ of such employer or his successor in interest, be restored by such employer or his successor in interest to such other position the duties of which he is qualified to perform as will provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case;

unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so; or

"(2) if such position was in the employ of any State or political subdivision thereof, it is declared to be the sense of the Congress that such individual should—

"(A) if still qualified to perform the duties of such position, be restored to such position or to a position of like seniority, status, and pay; or

"(B) if not qualified to perform the duties of such position by reason of disability sustained during the period of such service but qualified to perform the duties of any other position in the employ of the employer, be restored to such other position the duties of which he is qualified to perform as will provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case.

"(b)(1) Any individual who is restored to a position in accordance with the provisions of paragraph (1) of subsection (a) of this section shall be considered as having been on furlough or leave of absence during his period of jury service, shall be so restored without loss of seniority, and shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such individual entered upon jury service.

"(2) It is declared to be the sense of the Congress that any individual who is restored to a position in accordance with the provisions of paragraph (2) of subsection (a) of this section should be so restored as to give the individual such status in his employment continuously from the time of his entering upon jury service until the time of his restoration to such employment.

"(c) In any case in which two or more individuals who are entitled to be restored to a position under the provisions of this section, or any other law relating to similar reemployment benefits, left the same position in order to enter upon jury service, the individual who left such position first shall have the prior right to be restored thereto, without prejudice to the reemployment rights of any other individual to be restored.

"(d)(1) An individual claiming entitlement to the benefits of section 1875 of this title may make application to the district court for the district in which the employer alleged to have violated such section maintains a place of business and the court shall, upon finding probable merit in such claim, appoint counsel to represent such individual in any action in the district court necessary to the resolution of such claim. Such counsel shall be compensated and necessary expenses paid to the extent provided by the Criminal Justice Act of 1964 (78 Stat. 552; 18 U.S.C. 3006A). The court may tax a defendant employer, as costs payable to the court, the

attorney fees and expenses of a prevailing employee, where such costs were expended by the court pursuant to this subsection.

"(2) In any action or proceeding under this section the court shall award a prevailing juror who brings such action by retained counsel a reasonable attorney's fee as part of the costs.

"(3) No fees or court costs may be taxed against any individual bringing any action in good faith under this section.

"(c) Any private employer who fails to reinstate, discharges, threatens to discharge, intimidates, or coerces any employee by reason of such employee's jury service, attendance, or scheduled attendance in connection with such service, in any court of the United States shall be subject to a civil penalty of not more than $10,000 for each violation as to each juror.

"(f) For purposes of this section, the term 'jury service' includes attendance in any court of the United States in connection with service upon any grand or petit jury of the United States.".

(b) The analysis of such chapter 121 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1875. Employment rights.".

SEC. 4. Section 1869 of title 28, United States Code, is amended by adding at the end thereof the following:

"(j) 'undue hardship or extreme inconvenience' as a basis for excuse from immediate jury service under section 1866(c)(1) of this chapter shall include undue hardship or extreme inconvenience to the prospective juror, such as grave illness in the family or any other emergency which outweighs in immediacy and urgency his obligation to serve as a juror when summoned. Additionally, in situations where it is anticipated that a trial or grand jury proceeding may require more than thirty continuous days of service, the court may consider, as a further basis for temporary excuse, severe economic hardship to an employer which would result from the absence of a key employee at the time when he is summoned for jury service.".

SEC. 5. (a) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1364. Employment rights of jurors

"The district courts shall have original jurisdiction, without regard to the amount in controversy, to require any private employer to comply with the provisions of section 1875 of this title, and to award damages for any loss of wages or other benefits suffered by reason of such employer's failure so to comply.".

(b) The analysis of such chapter is amended by adding at the end thereof the following new item:

"1364. Employment rights of jurors.".

SEC. 6. The amendments made by section 2 of this Act shall apply in the case of any grand or petit juror serving on or after October 1, 1978, and the amendments made by sections 3, 4, and 5 of this Act shall apply to any grand or petit juror summoned for service or actually serving on or after the date of enactment of this Act.

With the following committee amendment:

Strike all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Jury System Improvements Act of 1978".

EXCUSE FROM JURY DUTY

SEC. 2. (a) Section 1863(b) of title 28, United States Code, is amended—

(1) by striking out paragraph (7); and

(2) by redesignating paragraphs (8) and (9), and all references thereto, as paragraphs (7) and (8), respectively.

(b) Section 1866(c) of title 28, United States Code, is amended by striking out "paragraph (5), (6), or (7)" and inserting in lieu thereof "paragraph (5) or (6)".

JURY SERVICE UPON RESTORATION OF CIVIL RIGHTS

SEC. 3. (a) Section 1865(b)(5) of title 28, United States Code, is amended by striking out "by pardon or amnesty".

(b) Section 1869(h) of title 28, United States Code, is amended by striking out "by pardon or amnesty.".

DEFINITIONS

SEC. 4. Section 1869 of title 28, United States Code, is amended—

(1) by striking out the period at the end of subsection (i) and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new subsections:

"(j) 'undue hardship or extreme inconvenience', as a basis for excuse from immediate jury service under section 1866(c)(1) of this chapter, shall mean great distance, either in miles or traveltime, from the place of holding court, grave illness in the family or any other emergency which outweighs in immediacy and urgency the obligation to serve as a juror when summoned, or any other factor which the court determines to constitute an undue hardship or to create an extreme inconvenience to the juror; and in addition, in situations where it is anticipated that a trial or grand jury proceeding may require more than thirty days of service, the court may consider, as a further basis for temporary excuse, severe economic hardship to an employer which would result from the absence of a key employee during the period of such service;

"(k) 'publicly draw', as referred to in sections 1864 and 1866 of this chapter, shall mean a drawing which is conducted within the district after reasonable public notice and which is open to the public at large under the supervision of the clerk or jury commission, except that when a drawing is made by means of electronic data processing, 'publicly draw' shall mean a drawing which is conducted at a data processing center located in or out of the district, after reasonable public notice given in the district for which juror names are being drawn, and which is open to the public at large under such supervision of the clerk or jury commission as the Judicial Conference of the United States shall by regulation require; and

"(l) 'jury summons' shall mean a summons issued by a clerk of court, jury commission, or their duly designated deputies, containing either a preprinted or stamped seal of court, and containing the name of the issuing clerk imprinted in preprinted, type, or facsimile manner on the summons or the envelopes transmitting the summons.".

FEES OF JURORS

SEC. 5. Section 1871 of title 28, United States Code, is amended to read as follows:

"§ 1871. Fees

"(a) Grand and petit jurors in district courts appearing pursuant to this chapter shall be paid the fees and allowances provided by this section. The requisite fees and allowances shall be disbursed on the certificate of the clerk of court in accordance with the procedure established by the Director of the Administrative Office of the United States Courts. Attendance fees for extended service under subsection (b) of this section shall be certified by the clerk only upon the order of a district judge.

"(b)(1) A juror shall be paid an attendance fee of $30 per day for actual attendance at the place of trial for hearing. A juror shall also be paid the attendance fee for the time necessarily occupied in going to and returning from such place at the beginning and end of such service or at any time during such service.

"(2) A petit juror required to attend more than thirty days in hearing one case may be paid, in the discretion of the trial judge, an additional fee, not exceeding $5 more than the attendance fee, for each day in excess of thirty days on which he is required to hear such case.

"(3) A grand juror required to attend more than forty-five days of actual service may be paid, in the discretion of the district judge in charge of the particular grand jury, an additional fee, not exceeding $5 more than the attendance fee, for each day in excess of forty-five days of actual service.

"(4) A grand or petit juror required to attend more than ten days of actual service may be paid, in the discretion of the judge, the appropriate fees at the end of the first ten days and at the end of every ten days of service thereafter.

"(5) Certification of additional attendance fees may be ordered by the judge to be made effective commencing on the first day of extended service, without reference to the date of such certification.

"(c)(1) A travel allowance not to exceed the maximum rate per mile that the Director of the Administrative Office of the United States Courts has prescribed pursuant to section 604(a)(7) of this title for payment to supporting court personnel in travel status using privately owned automobiles shall be paid to each juror, regardless of the mode of transportation actually employed. The prescribed rate shall be paid for the distance necessarily traveled to and from a juror's residence by the shortest practical route in going to and returning from the place of service. Actual mileage in full at the prescribed rate is payable at the beginning and at the end of a juror's term of service.

"(2) The Director shall promulgate rules regulating interim travel allowances to jurors. Distances traveled to and from court should coincide with the shortest practical route.

"(3) Toll charges for toll roads, bridges, tunnels, and ferries shall be paid in full to the juror incurring such charges. In the discretion of the court, reasonable parking fees may be paid to the juror incurring such fees upon presentation of a valid parking receipt. Parking fees shall not be included in any tabulation of mileage cost allowances.

"(4) Any juror who travels to district court pursuant to summons in an area outside of the contiguous forty-eight States of the United States shall be paid the travel expenses provided under this section, or actual reasonable transportation expenses subject to the discretion of the district judge or clerk of court as circumstances indicate, exercising due regard for the mode of transportation, the availability of alternative modes, and the shortest practical route between residence and court.

"(d)(1) A subsistence allowance covering meals and lodging of jurors shall be established from time to time by the Director of the Administrative Office of the United States Courts pursuant to section 604(a)(7) of this title, except that such allowance shall not exceed the allowance for supporting court personnel in travel status in the same geographical area. Claims for such allowance shall not require itemization.

"(2) A subsistence allowance shall be paid to a juror when an overnight stay is required at the place of holding court, and for the time necessarily spent in traveling to and from the place of attendance if an overnight stay is required.

"(3) A subsistence allowance for jurors serving in district courts outside of the contiguous forty-eight States of the United States shall be allowed at a rate not to exceed that per diem allowance which is paid to supporting court personnel in travel status in those areas where the Diretcor of the Administrative Office of the United States Courts

has prescribed an increased per diem fee pursuant to section 604(a)(7) of this title.

"(e) During any period in which a jury is ordered to be kept together and not to separate, the actual cost of subsistence shall be paid upon the order of the court in lieu of the subsistence allowances payable under subsection (d) of this section. Such allowance for the jurors ordered to be kept separate or sequestered shall include the cost of meals, lodging, and other expenditures ordered in the discretion of the court for their convenience and comfort.

"(f) A juror who must necessarily use public transportation in traveling to and from court, the full cost of which is not met by the transportation expenses allowable under subsection (c) of this section on account of the short distance traveled in miles, may be paid, in the discretion of the court, the actual reasonable expense of such public transportation, pursuant to the methods of payment provided by this section. Jurors who are required to remain at the court beyond the normal business closing hour for deliberation or for any other reason may be transported to their homes, or to temporary lodgings where such lodgings are ordered by the court, in a manner directed by the clerk and paid from funds authorized under this section.

"(g) The Director of the Administrative Office of the United States Courts shall promulgate such regulations as may be necessary to carry out his authority under this section.".

PROTECTION OF JURORS' EMPLOYMENT

SEC. 6. (a)(1) Chapter 121 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1875. Protection of jurors' employment

"(a) No employer shall discharge, threaten to discharge, intimidate, or coerce any permanent employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service, in any court of the United States.

"(b) Any employer who violates the provisions of this section—

"(1) shall be liable for damages for any loss of wages or other benefits suffered by an employee by reason of such violation;

"(2) may be enjoined from further violations of this section and ordered to provide other appropriate relief, including but not limited to the reinstatement of any employee discharged by reason of his jury service; and

"(3) shall be subject to a civil penalty of not more than $1,000 for each violation as to each employee.

"(c) Any individual who is reinstated to a position of employment in accordance with the provisions of this section shall be considered as having been on furlough or leave of absence during his period of jury service, shall be reinstated to his position of employment without loss of seniority, and shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such individual entered upon jury service.

"(d) An individual claiming that his employer has violated the provisions of this section may make application to the district court for the district in which such employer maintains a place of business and the court shall, upon finding probable merit in such claim, appoint counsel to represent such individual in any action in the district court necessary to the resolution of such claim. Such counsel shall be compensated and necessary expenses repaid to the extent provided by section 3006A of title 18, United States Code.

"(2) In any action or proceeding under this section, the court may award a prevailing employee who brings such action by retained counsel a reasonable attorney's fee as part of the costs. The court may award a prevailing employer a reasonable attorney's fee as part of the costs if the court determines that the action is frivolous, vexatious, or brought in bad faith.".

(2) The chapter analysis of chapter 121 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1875. Protection of jurors' employment.".

(b)(1) Chapter 85 of title 28, United States Code, is amended by redesignating section 1363, and all references thereto, as section 1364, and by inserting immediately after section 1362 the following new section:

"§ 1363. Jurors' employment rights

"The district courts shall have original jurisdiction of any civil action brought for the protection of jurors' employment under section 1875 of this title.".

(2) The chapter analysis of chapter 85 of title 28, United States Code, is amended by striking out the item relating to section 1363 and inserting in lieu thereof the following:

"1363. Jurors' employment rights.
"1364. Construction of references to laws of the United States or Acts of Congress.".

EFFECTIVE DATE

SEC. 7. (a) Except as provided in subsection (b) of this section, the amendments made by this Act shall apply with respect to any grand or petit juror summoned for service or actually serving on or after the date of enactment of this Act.

(b) The amendment made by section 5 of this Act shall apply with respect to any grand or petit juror serving on or after the sixtieth day following the date of enactment of this Act.

Mr. KASTENMEIER (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and a motion to reconsider was laid on the table.

MAKING CERTAIN CHANGES IN DIVISIONS WITHIN JUDICIAL DISTRICTS AND REQUIRING DIRECTOR OF ADMNISTRATIVE OFFICE OF U.S. COURTS TO CONDUCT CERTAIN STUDIES

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 14145) to amend title 28 of the United States Code to make certain changes in the divisions within judicial districts and in the places of holding court, and to require the Director of the Administrative Office of the U.S. Courts to conduct a study of the judicial business of the Central District of California and the Eastern District of New York.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I do so for the purpose of yielding to my colleague from Wisconsin for an explanation of this measure.

Mr. KASTENMEIER. If the gentleman will yield, I will be happy to explain this.

This bill consists really of 6 sections. It amended the Central District of Illinois by removing Kankakee County from the central district and placing it in the northern district. It was in response to the urgent request of the gentleman from Illinois (Mr. O'BRIEN).

Section 2 eliminates the judicial divisions in the State of Maine. This too is not controversial. No one is opposed to this. It is just an accommodation for the members from the State of Maine for additional flexibility and more efficient operation in its district court.

The city of White Plains is added as a place for holding court for the southern district.

Jamestown in western Pennsylvania is added as an additional place of holding court.

Section 5 requires the Director of the Administrative Office of the U.S. courts to conduct a comprehensive study of the judicial business of the Central District of California and the Eastern District of New York and to make recommendations to the Congress with respect to the need or lack of need for creation of new judicial districts. In conducting his study, the Director may interview all the active district judges from the areas in question and surrounding judicial districts.

Mr. Speaker, I know of no opposition to this.

● Mr. OTTINGER. Mr. Speaker, I rise in strong support of H.R. 14145 which makes certain changes in the places of holding court, including authorizing the holding of court for the southern district at White Plains, N.Y.

As the representative in Congress of major portions of Westchester County, N.Y., including the city of White Plains, I feel there is a very strong case to be made in favor of establishing a location in Westchester for the court of the southern district.

The Westchester County Bar Association made an extensive study on the feasibility of holding court in the city of White Plains and concluded that such a site would greatly improve service to the nine counties in the southern district which lie outside of New York City.

Currently, only one courthouse services the entire southern district, and the distances which must be traveled to reach Foley Square in Manhattan make it terribly inconvenient for a major portion of the public, the bar, and the court. The distances involved severely deplete the court's pool of jurors, as a person residing more than 50 miles from a courthouse can be excused from jury duty upon request. It was noted in the Westchester County Bar Association report supporting the White Plains location that problems concerning jury selection have been severe because of the large area covered by the Foley Square courthouse.

Roughly 40 percent of the people in the jurisdiction of the southern district live outside of New York City. All nine counties outside of the city are experiencing population growth and the trend during the next decade is for further in-

creases in population in the counties outside of New York City.

The southern district handles one of the busiest caseloads in the Nation. Roughly two-thirds of all pending civil cases in the second circuit are pending in the southern district. In fiscal year 1973, the southern district ranked 8th out of 94 district courts in new criminal cases started and pending.

The establishment of a division of the southern district in White Plains is supported by the Westchester County Bar Association and all other county bar associations in the district. It is also supported by the Judges of the southern district who unanimously adopted a resolution of approval.

White Plains is the county seat of Westchester. Roughly 48 percent of the population in the nine-county area of the southern district outside of New York City reside in Westchester County. White Plains is easily accessible by various means of transportation. The headquarters for many large corporations and banking institutions are located in the White Plains area. In addition, the center of the city is being revitalized through extensive urban renewal efforts, and could easily accommodate the physical needs of the court.

In conclusion, I urge my colleagues to support H.R. 14145, as I know the bill will enhance the operation of the court of the southern district.●

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, I understand there is no additional cost in sections 1, 2, and 5 and there may be additional cost in sections 3 and 4, but the additional costs would be minimal. Is that correct?

Mr. KASTENMEIER. That is correct.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. OTTINGER. Mr. Speaker, reserving the right to object, I strongly support this legislation.

I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the bill, as follows:

H.R. 14145

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 99 of title 28 of the United States Code is amended to read as follows:

§ 99. Maine

"Maine constitutes one judicial district.

"Court shall be held at Bangor and Portland."

SEC. 2. The last sentence of section 112(b) of title 28, United States Code, is amended to read as follows:

"Court for the Southern District shall be held at New York and White Plains.".

SEC. 3. The last sentence of section 118(e) of title 28, United States Code, is amended to read as follows:

"Court for the Western District shall be held at Erie, Johnstown, and Pittsburgh.".

SEC. 4 (a) Section 124(b)(2) of title 28, United States Code, is amended by striking out "Polk," and "Trinity,".

(b) Section 124(e) of title 28, United States Code, is amended to read as follows:

"Eastern District

"(e) The Eastern District comprises seven divisions.

"(1) The Tyler Division comprises the counties of Anderson, Gregg, Henderson, Panola, Rains, Rusk, Smith, Van Zandt, and Wood.

"Court for the Tyler Division shall be held at Tyler.

"(2) The Beaumont Division comprises the counties of Hardin, Jefferson, Liberty, and Orange.

"Court for the Beaumont Division shall be held at Beaumont.

"(3) The Sherman Division comprises the counties of Collin, Cook, Denton, and Grayson.

"Court for the Sherman Division shall be held at Sherman.

"(4) The Paris Division comprises the counties of Delta, Fannin, Hopkins, Lamar, and Red River.

"Court for the Paris Division shall be held at Paris.

"(5) The Marshall Division comprises the counties of Camp, Cass, Harrison, Marion, Morris, and Upshur.

"Court for the Marshall Division shall be held at Marshall.

"(6) The Texarkana Division comprises the counties of Bowie, Franklin, and Titus.

"Court for the Taxarkana Division shall be held at Texarkana.

"(7) The Lufkin Division comprises the counties of Angelina, Cherokee, Houston, Jasper, Nacogdoches, Newton, Polls, Sabine, San Augustine, Shelby, Trinity, and Tyler.

"Court for the Lufkin Division shall be held at Lufkin.".

SEC. 5. Within one year after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall conduct a comprehensive study of the judicial business of the Central District of California and the Eastern District of New York, and shall make recommendations to the Congress with respect to the need for creation of new judicial districts from portions of the judicial districts referred to in this section or the immediately surrounding judicial districts.

SEC. 6. (a) Except as provided in subsection (b) of this section, the provisions of this Act shall take effect 180 days after the date of enactment of this Act.

(b) The provisions of section 5 of this Act shall take effect on the date of enactment of this Act.

(c) Nothing in this Act shall affect the composition or preclude the service of any grand or petit juror summoned, empaneled, or actually serving in any judicial district on the effective date of this Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That section 93 of title 28, United States Code, is amended—

(1) in paragraph (1) of subsection (a), by striking out "Kankakee,", and

(2) in subsection (b), by inserting "Kankakee," immediately after "Iroquois,".

SEC. 2. Section 99 of title 29 of the United States Code is amended to read as follows:

"§ 99. Maine

"Maine constitutes one judicial district.

"Court shall be held at Bangor and Portland.".

SEC. 3. The last sentence of section 112(b) of title 28, United States Code, is amended to read as follows:

"Court for the Southern District shall be held at New York and White Plains.".

SEC. 4. The last sentence of section 118(c) of title 28, United States Code, is amended to read as follows:

"Court for the Western District shall be held at Erie, Johnstown, and Pittsburgh.".

SEC. 5. Within one year after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall conduct a comprehensive study of the judicial business of the Central District of California and the Eastern District of New York, and shall make recommendations to the Congress with respect to the need for creation of new judicial districts from portions of the judicial districts referred to in this section or the immediately surrounding judicial districts.

SEC. 6. (a) Except as provided in subsection (b) of this section, the provisions of this Act shall take effect 180 days after the date of enactment of this Act.

(b) The provisions of section 5 of this Act shall take effect on the date of enactment of this Act.

(c) Nothing in this Act shall affect the composition or preclude the service of any grand or petit juror summoned, empaneled, or actually serving in any judicial district on the effective date of this Act.

Mr. KASTENMEIER (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the committee amendment be dispensed with and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

GENERAL LEAVE

Mr. McCLORY. Mr. Speaker, I ask unanimous consent that all Members may have permission to revise and extend their remarks with respect to this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter and tabulations on the conference report and the amendments in disagreement on the bill H.R. 13635, making appropriations for the Department of Defense for fiscal year ending September 30, 1979, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 13635, DEFENSE APPROPRIATIONS FOR FISCAL YEAR 1979

Mr. MAHON. Mr. Speaker, I call up the conference report on the bill (H.R. 13635) making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of October 11, 1978.)

The SPEAKER pro tempore. Under

the rule previously adopted, the conference report is considered as having been read.

The gentleman from Texas (Mr. MAHON) will be recognized for 30 minutes, and the gentleman from Alabama (Mr. EDWARDS) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it has been a long time since I heard that old battle cry which contains the lines "Tramp, tramp, tramp, the boys are marching."

I stand here in the well of the House to sound the battle cry of the troops who are threatened with no pay as a result of the inaction of Congress, of which I am a senior Member. I have no patience and no desire to participate in an exercise of futility and I call upon my colleagues to join with me as I present to you a conference report on the Defense appropriation bill.

We can clear this defense conference report very shortly. There is no reason why we cannot. I have every assurance that it will be promptly cleared by the other body and it will go to the President and the troops will be paid tomorrow and Congress will not be humiliated.

The bill that I bring to you is not a perfect bill, and they never are, but it is the best we can do under the circumstances.

The bill is the largest bill ever presented to the Congress in the history of our Nation. It is $117.3 billion. It is $1.9 billion below the President's budget. It is $1.8 billion below the bill that passed the House. It is $843.6 million more than the bill passed by the Senate. It is a compromise bill.

The total in this bill is $4.7 billion above the bill of last year. And that is not the whole story because one of the reasons is that there will have to be and there must be a defense supplemental as a result of certain needs that were not in conference.

We are providing not only additional sums to cover economic inflation, but sums to cover real growth in military readiness.

That is all we are doing and I hope you will agree with me and I think you will.

The biggest single item that was cut out of this bill was for the nuclear-powered aircraft carrier and that is the reason why we are really below the budget to the extent that we are.

There were some 520 individual programs addressed in the conference and I would not undertake to discuss in detail each of the individual programs, as I am sure you will well understand.

After a long dispute on agreement between the Navy and the shipbuilders we are providing an additional $209 million to settle shipbuilders' claims. Nobody likes it, but after 5 years this is the best that can be done under the circumstances, and in this respect we followed the agreement of the House Committee on Armed Services.

We passed this bill originally on August 9. It went to the other body. The Senate did not pass it until October 5. The Senate's delay was due, of course, in large part, to the veto of the defense authorization bill by the President.

The conferees met on the day the Senate passed the appropriation bill, October 5, and we met all day on Friday the 6th, and we met on Monday, October the 9th, a legal holiday, and we met on Tuesday, October the 10th, and that is the reason you have the bill before you.

Although we do not have all the printed matter—we have the paperwork done, but we do not have all the copies that we would like to have of the report, but we do have some.

We hope to clear this conference report—and we believe we can—through both bodies today and relieve the pressure which many of us have felt in this whole process.

Mr. Speaker, that is about all I think I need to say. We have a few motions on amendments in disagreement, a few controversial matters; but in our system we have to have compromises and take some shortcuts if we want to make the system work. Otherwise democracy is a failure.

Therefore, Mr. Speaker, that is all I have to say by way of a discussion of the conference report at this time.

Mr. Speaker, I reserve the balance of my time, and by prior leave to revise and extend my remarks, I insert the following table setting forth new budget authority recommended by title and individual appropriation as a result of the conference agreement:

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY, FISCAL YEAR 1979

	New budget authority					Conference compared with—			
	Enacted fiscal year 1978	Estimates fiscal year 1979	House, fiscal year 1979	Senate, fiscal year 1979	Conference fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate bill
TITLE I—MILITARY PERSONNEL									
Military personnel, Army	9,166,733,000	9,180,000,000	9,123,499,000	9,154,325,000	9,154,325,000	−12,408,000	−25,675,000	+30,826,000	
Military personnel, Navy	6,453,113,000	6,463,000,000	6,456,450,000	6,455,500,000	6,461,600,000	+8,487,000	−1,400,000	+5,150,000	+6,100,000
Military personnel, Marine Corps	2,022,200,000	2,016,500,000	2,015,900,000	2,004,275,000	2,014,975,000	−7,225,000	−1,525,000	−925,000	+10,700,000
Military personnel, Air Force	7,573,090,000	7,576,000,000	7,507,195,000	7,521,081,000	7,525,001,000	−48,089,000	−50,999,000	+17,806,000	+3,920,000
Reserve personnel, Army	555,600,000	532,600,000	546,650,000	541,000,000	547,350,000	−8,250,000	+14,750,000	+700,000	+5,550,000
Reserve personnel, Navy	216,700,000	719,000,000	226,825,000	246,800,000	227,025,000	+10,325,000	+48,025,000	+200,000	−19,775,000
Reserve personnel, Marine Corps	82,424,000	81,200,000	83,725,000	83,100,000	84,125,000	+1,701,000	+2,925,000	+400,000	+1,025,000
Reserve personnel, Air Force	178,800,000	183,600,000	186,325,000	185,250,000	186,850,000	+8,050,000	+3,250,000	+525,000	+1,600,000
National Guard personnel, Army	782,500,000	477,100,000	788,900,000	755,100,000	755,500,000	−27,000,000	+8,400,000	−33,400,000	+400,000
National Guard personnel, Air Force	239,600,000	252,200,000	256,477,000	253,877,000	256,477,000	+16,877,000	+4,277,000		+2,600,000
Total, title I, new budget (obligational) authority, Military personnel	27,270,760,000	27,211,200,000	27,191,946,000	27,201,108,000	27,213,228,000	−57,532,000	+2,028,000	+21,282,000	+12,120,000
TITLE II—RETIRED MILITARY PERSONNEL									
Retired pay, defense	9,179,600,000	10,148,938,000	10,139,838,000	10,079,838,000	10,139,838,000	+960,238,000	−9,100,000		+60,000,000
TITLE III—OPERATION AND MAINTENANCE									
Operation and maintenance, Army	8,475,000,000	9,2334,00,000	9,115,421,000	9,031,659,000	9,115,000,000	+640,000,000	−118,400,000	−421,000	+83,341,000
(Transfer from other accounts)	(100,000,000)					(−100,000,000)			
Operation and maintenance, Navy	11,059,731,000	11,843,000,000	11,691,754,000	11,573,155,000	11,691,000,000	+631,237,000	−152,000,000	−754,000	+117,844,000
Operation and maintenance, Marine Corps	654,326,000	744,100,000	733,475,000	731,400,000	733,000,000	+78,674,000	−11,100,000	−475,000	+1,600,000
Operation and maintenance, Air Force	8,544,384,000	9,415,200,000	9,243,892,000	9,186,267,000	9,243,000,000	+698,616,000	−172,200,000	−892,000	+56,733,000
Operation and maintenance, Defense agencies	2,974,019,000	3,094,000,000	3,034,350,000	3,019,495,000	3,034,000,000	+59,981,000	−60,000,000	−350,000	+14,505,000
Operation and maintenance, Army Reserve	393,096,000	420,800,000	416,900,000	410,200,000	416,900,000	+23,804,000	−3,900,000		+6,700,000
Operation and maintenance, Navy Reserve	319,290,000	379,300,000	386,500,000	365,200,000	382,900,000	+63,610,000	+3,600,000	−3,600,000	+17,700,000
Operation and maintenance, Marine Corps Reserve	16,613,000	20,000,000	19,900,000	19,600,000	19,900,000	+3,287,000	−100,000		+300,000
Operation and maintenance, Air Force Reserve	384,849,000	395,300,000	386,500,000	386,700,000	384,700,000	−149,000	−10,600,000	−1,800,000	−2,000,000
Operation and maintenance, Army National Guard	772,466,000	795,700,000	789,700,000	783,700,000	789,700,000	+17,234,000	−6,000,000		+6,000,000
Operation and maintenance, Air National Guard	849,107,000	938,600,000	932,700,000	932,000,000	932,700,000	+83,593,000	−5,900,000		+700,000
National Board for the Promotion of Rifle Practice, Army	365,000	352,000	365,000	365,000	365,000		+13,000		
Claims, defense	82,500,000	89,500,000	87,500,000	89,500,000	87,500,000	+5,000,000	−2,000,000		−2,000,000
Contingencies, defense	2,500,000	5,000,000	2,500,000	2,500,000	2,500,000		−2,500,000		
Court of Military Appeals, defense	1,375,000	1,948,000	1,648,000	1,750,000	1,750,000	+15,000	−198,000	+102,000	
Secretary of Defense readiness fund	100,000,000					−100,000,000			

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY, FISCAL YEAR 1979—Continued

	New budget authority					Conference compared with—			
	Enacted fiscal year 1978	Estimates fiscal year 1979	House, fiscal year 1979	Senate, fiscal year 1979	Conference fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate bill
Foreign currency fluctuations, Defense			500,000,000	500,000,000	500,000,000	+500,000,000	+500,000,000		
XIII Olympic Winter Games			2,000,000	2,000,000	2,000,000	+2,000,000	+2,000,000		
Total, title III, new budget (obligational) authority, Operation and maintenance	34,629,963,000	37,376,200,000	37,345,105,000	37,035,492,000	37,336,915,000	+2,706,952,000	−39,285,000	−8,190,000	+301,423,000
(Transfer from other accounts)	(100,000,000)					(−100,000,000)			
TITLE IV—PROCUREMENT									
Aircraft procurement, Army	657,100,000	1,017,800,000	917,401,000	971,708,000	949,709,000	+292,609,000	−68,091,000	+32,308,000	−21,999,000
Missile procurement, Army	536,883,000	773,200,000	738,100,000	734,000,000	736,900,000	+200,017,000	−36,300,000	−1,200,000	+2,900,000
Procurement of weapons and tracked combat vehicles, Army	1,421,200,000	1,636,600,000	1,528,400,000	1,511,100,000	1,511,100,000	+89,900,000	−125,500,000	−17,300,000	
Procurement of ammunition, Army	1,179,300,000	1,420,100,000	1,071,456,000	1,293,100,000	1,218,100,000	+38,800,000	−202,000,000	+146,644,000	−75,000,000
(Transfer from other accounts)	(57,500,000)		(59,400,000)	(30,000,000)	(30,000,000)	(−27,500,000)	(+30,000,000)	(−29,400,000)	
Other procurement, Army	1,403,325,000	1,789,200,000	1,591,000,000	1,623,800,000	1,642,250,000	+238,925,000	−146,950,000	+51,250,000	+18,450,000
(Transfer from other account)	(2,700,000)		(40,000,000)	(40,000,000)	(40,000,000)	(+37,300,000)	(+40,000,000)		
Other procurement, Army 1973/75 (liquidation of deficiency)	(21,000,000)					(−21,000,000)			
Aircraft procurement, Navy	3,552,900,000	4,078,800,000	4,381,100,000	4,287,200,000	4,358,700,000	+805,800,000	+279,900,000	−22,400,000	+71,500,000
Weapons procurement, Navy	2,240,600,000	2,047,500,000	1,983,800,000	1,988,500,000	1,955,600,000	−285,000,000	−91,900,000	−28,200,000	−32,900,000
(Transfer from other accounts)	(52,700,000)					(−52,700,000)			
Shipbuilding and conversion, Navy	5,760,500,000	4,712,400,000	5,688,000,000	3,760,600,000	3,759,600,000	−2,000,900,000	−952,800,000	−1,928,400,000	−1,000,000
(Transfer from other accounts)	(42,000,000)					(−42,000,000)			
Other procurement, Navy	2,176,410,000	2,708,600,000	2,617,150,000	2,642,450,000	2,641,600,000	+465,600,000	−67,000,000	+24,450,000	−850,000
(Transfer from other accounts)	(10,000,000)					(−10,000,000)			
Procurement, Marine Corps	440,400,000	371,900,000	349,000,000	356,000,000	356,000,000	−84,400,000	−15,900,000	+7,000,000	
(Transfer from other accounts)	(9,800,000)					(−9,800,000)			
Aircraft procurement, Air Force	5,833,000,000	6,897,700,000	6,966,507,000	6,569,307,000	6,893,307,000	+1,060,307,000	−4,393,000	−73,200,000	+324,000,000
(Transfer from other accounts)	(34,400,000)					(−34,400,000)			
Missile procurement, Air Force	1,763,200,000	1,676,800,000	1,595,700,000	1,551,800,000	1,579,800,000	−183,400,000	−97,000,000	−15,900,000	+28,000,000
(Transfer from other accounts)	(44,600,000)					(−44,600,000)			
Other procurement, Air Force	2,337,345,000	2,516,100,000	2,294,750,000	2,410,612,000	2,362,250,000	+24,905,000	−153,850,000	+67,500,000	−48,362,000
(Transfer from other accounts)	(4,800,000)		(37,000,000)		(37,000,000)	(+32,200,000)	(+37,000,000)		(+37,000,000)
Procurement, Defense agencies	327,826,000	280,900,000	266,800,000	272,200,000	273,800,000	−54,026,000	−7,100,000	+7,000,000	+1,600,000
Total, title IV, procurement: New budget (obligational) authority	29,629,989,000	31,927,600,000	31,989,164,000	29,972,377,000	30,238,716,000	+608,727,000	−1,688,884,000	−1,750,448,000	+266,339,000
(Transfer from other accounts)	(258,500,000)		(136,400,000)	(70,000,000)	(107,000,000)	(−151,500,000)	(+107,000,000)	(−29,400,000)	(+37,000,000)
(Liquidation of deficiency)	(21,000,000)					(−21,000,000)			
TITLE V—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION									
Research, development, test, and evaluation, Army	2,417,882,000	2,721,400,000	2,652,304,000	2,530,197,000	2,635,864,000	+217,982,000	−85,536,000	−16,440,000	+105,667,000
Research, development, test, and evaluation, Navy	3,991,791,000	4,490,500,000	4,463,860,000	4,450,060,000	4,468,871,000	+477,080,000	−21,629,000	+5,011,000	+18,811,000
(Transfer from other accounts)			(15,000,000)	(41,000,000)	(15,000,000)	(+15,000,000)	(+15,000,000)		(−26,000,000)
Research, development, test, and evaluation, Air Force	4,158,266,000	4,339,100,000	4,155,700,000	4,067,600,000	4,131,040,000	−27,226,000	−208,060,000	−24,660,000	+63,440,000
(Transfer from other accounts)			(8,800,000)					(−8,800,000)	
Research, development, test, and evaluation, Defense agencies	754,278,000	889,400,000	885,144,000	886,638,000	892,887,000	+138,609,000	+3,487,000	+7,743,000	+6,249,000
Director of Test and Evaluation, Defense	25,000,000	27,600,000	27,600,000	27,600,000	27,600,000	+2,600,000			
Total, title V, new budget (obligational) authority, research, development, test, and evaluation	11,347,217,000	12,468,000,000	12,184,608,000	11,962,095,000	12,156,262,000	+809,045,000	−311,738,000	−28,346,000	+194,167,000
(Transfer from other accounts)			(23,800,000)	(41,000,000)	(15,000,000)	(+15,000,000)	(+15,000,000)	(−8,800,000)	(−26,000,000)
TITLE VI—SPECIAL FOREIGN CURRENCY PROGRAM									
Special foreign currency program	2,480,000	14,362,000	13,092,000	14,362,000	14,362,000	+11,882,000		+1,270,000	
TITLE VII—WORKING CAPITAL FUNDS									
Army stock fund	100,000,000	74,000,000	74,000,000	74,000,000	74,000,000	−26,000,000			
Navy stock fund	30,000,000					−30,000,000			
Marine Corps stock fund	1,900,000					−1,900,000			
Air Force stock fund	34,600,000	26,800,000	26,800,000	26,800,000	36,800,000	+2,200,000			
Defense stock fund	4,300,000					−4,300,000			
Total, title VII, new budget (obligational) authority, Working capital funds	170,800,000	100,800,000	100,800,000	100,800,000	100,800,000	−70,000,000			
TITLE VIII—GENERAL PROVISIONS									
Additional transfer authority, sec. 834	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)				

	New budget authority					Conference compared with—			
	Enacted fiscal year 1978	Estimates fiscal year 1979	House, fiscal year 1979	Senate, fiscal year 1979	Conference fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate bill
TITLE IX—RELATED AGENCIES									
Intelligence community staff	9,249,000	9,683,000	11,225,000	12,700,000	12,000,000	+2,751,000	+2,317,000	+775,000	−700,000
Payment to the CIA retirement and disability fund	35,100,000	43,500,000	43,500,000	43,500,000	43,500,000	+8,400,000			
Office of Federal Procurement Policy	1,000,000					−1,000,000			
Total, title IX, new budget (obligational) authority, related agencies	45,349,000	53,183,000	54,725,000	56,200,000	55,500,000	+10,151,000	+2,317,000	+775,000	−700,000
TITLE X—INTEROCEANIC CANAL STUDY COUNCIL									
Interoceanic Canal Study Council				700,000					−700,000
RECAPITULATION									
Title I—Military personnel	27,270,760,000	27,211,200,000	27,191,946,000	27,201,108,000	27,213,328,000	−57,532,000	+2,028,000	+21,282,000	+12,120,000
Title II—Retired military personnel	9,179,600,000	10,148,938,000	10,139,838,000	10,079,838,000	10,139,838,000	+960,238,000	−9,100,000		+60,000,000
Title III—Operation and maintenance	34,629,963,000	37,376,200,000	37,345,105,000	37,035,492,000	37,336,915,000	+2,706,952,000	−39,285,000	−8,190,000	+301,423,000
(Transfer from other accounts)	(100,000,000)					(−100,000,000)			
Title IV—Procurement	29,629,989,000	31,927,600,000	31,989,164,000	29,972,377,000	30,238,716,000	+608,727,000	−1,688,884,000	−1,750,448,000	+266,339,000
(Transfer from other accounts)	(258,500,000)		(136,400,000)	(70,000,000)	(107,000,000)	(−151,500,000)	(+107,000,000)	(−29,400,000)	(+37,000,000)
(Liquidation of deficiency)	(21,000,000)					(−21,000,000)			
Title V—Research, development, test, and evaluation	11,347,217,000	12,468,000,000	12,184,608,000	11,962,095,000	12,156,262,000	+809,045,000	−311,738,000	−28,346,000	+194,167,000
(Transfer from other accounts)			(23,800,000)	(41,000,000)	(15,000,000)	(+15,000,000)	(+15,000,000)	(−8,800,000)	(−26,000,000)
Title VI—Special foreign currency program	2,470,000	14,362,000	13,092,000	14,362,000	14,362,000	+11,882,000		+1,270,000	
Title VII—Working capital funds	170,800,000	100,800,000	100,800,000	100,800,000	100,800,000	−70,000,000			
Title VIII—General provisions (additional transfer authority, sec. 834)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)				
Title IX—Related agencies	45,349,000	53,183,000	54,725,000	56,200,000	55,500,000	+10,151,000	+2,317,000	+775,000	−700,000
Title X—Interoceanic Canal Study Council				700,000					−700,000
Total, Department of Defense (NOA)	112,276,158,000	119,300,283,000	119,019,278,000	116,422,972,000	117,255,621,000	+4,979,463,000	−2,044,662,000	−1,763,657,000	+832,649,000
(Transfer from other accounts)	(358,500,000)		(160,200,000)	(111,000,000)	(122,000,000)	(−236,500,000)	(+122,000,000)	(−38,200,000)	(+11,000,000)
Total funding available	112,634,658,000	119,300,283,000	119,179,478,000	116,533,972,000	117,377,621,000	+4,742,963,000	−1,922,662,000	−1,801,857,000	+843,649,000
(Transfer authority)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)				
(Liquidation of deficiency)	(21,000,000)					(−21,000,000)			
Distribution by organizational component:									
Army	27,861,450,000	30,342,252,000	29,354,096,000	29,415,054,000	29,547,063,000	+1,685,613,000	−795,189,000	+192,967,000	+132,009,000
(Transfer from other accounts)	(160,200,000)		(99,400,000)	(70,000,000)	(70,000,000)	(−90,200,000)	(+70,000,000)	(−29,400,000)	
(Liquidation of deficiency)	(21,000,000)					(−21,000,000)			
Navy	39,018,880,000	40,135,800,000	41,097,439,000	38,963,841,000	39,154,896,000	+136,016,000	−980,904,000	−1,942,543,000	+191,055,000
(Transfer from other accounts)	(114,500,000)		(15,000,000)	(41,000,000)	(15,000,000)	(−99,500,000)	(+15,000,000)		(−26,000,000)
Air Force	31,896,241,000	34,217,400,000	33,552,546,000	33,091,294,000	33,521,925,000	+1,625,684,000	−695,475,000	−30,621,000	+430,631,000
(Transfer from other accounts)	(83,800,000)		(45,800,000)		(37,000,000)	(−46,800,000)	(+37,000,000)	(−8,800,000)	(+37,000,000)
Defense agencies/OSD	4,274,638,000	4,402,710,000	4,820,634,000	4,816,045,000	4,836,399,000	+561,761,000	+433,689,000	+15,765,000	+20,354,000
Retired military personnel	9,179,600,000	10,148,938,000	10,139,838,000	10,079,838,000	10,139,838,000	+960,238,000	−9,100,000		+60,000,000
Related agencies	45,349,000	53,183,000	54,725,000	56,200,000	55,500,000	+10,151,000	+2,317,000	+775,000	−1,400,000
Total, Department of Defense (NOA)	112,276,158,000	119,300,283,000	119,019,278,000	116,422,972,000	117,255,621,000	+4,979,463,000	−2,044,662,000	−1,763,657,000	+832,649,000
(Transfer from other accounts)	(358,500,000)		(160,200,000)	(111,000,000)	(122,000,000)	(−236,500,000)	(+122,000,000)	(−38,200,000)	(+11,000,000)
Total funding available	112,634,658,000	119,300,283,000	119,179,478,000	116,533,972,000	117,377,621,000	+4,742,963,000	−1,922,662,000	−1,801,857,000	+843,649,000
(Transfer authority)	(750,000,000)	(75,000,000)	(750,000,000)	(750,000,000)	(750,000,000)				
(Liquidation of deficiency)	(21,000,000)					(−21,000,000)			

Mr. EDWARDS of Alabama. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this is a good bill, and we have worked long and hard on it. We spent many hours in conference. We came back with a bill which I think we can be proud of. I think it is a bill which is adequate this year for our defense needs. That is not to say that we will not have to spend more next year and in future years.

I think this committee has scrubbed this bill just about as well as a bill can be scrubbed. We had to yield to some extent to the Senate; personally I thought too often. Frequently they had to yield to us; and the long and short of it is that we have brought to the Members of the House a product of reasonable men seeking compromise and trying to do the best we could in that spirit.

Mr. Speaker, I join with my chairman in urging the Members to see that the troops are paid, to see that this bill is passed and becomes law, so that we can move on to other things and, as our particular committee will have to do, start thinking in terms of next year already.

Again, Mr. Speaker, I want to see the conference report passed because of the troops. I want to see it passed for another reason, Mr. Speaker. This is the last conference report which the gentleman from Texas (Mr. MAHON) will bring to this floor from this subcommittee, and I just think somehow it would be awful if he has to end his career without a bill and has to go through the continuing resolution process.

Mr. Speaker, I could not tell who was clapping, but I finally realized it was the chairman. He has worked a long time on this bill. He has worked a long time on the Subcommittee on Defense. I am not going to go through all the things which we said about him when we brought our bill to the floor, although we all feel very strongly about what he has done for the defense of this country. However, Mr. Speaker, I would like to see us, as a sort of retirement present, give him this bill intact, complete, signed into law as a defense appropriations act and not become a part of a continuing resolution.

Therefore, Mr. Speaker, I urge the Members to think long and hard as they look at the issues involved which will be coming up. Let us do all we can to get this bill passed as a sign of our great respect for our good friend, the gentleman from Texas, Mr. GEORGE MAHON. Mr. Chairman, I want to say once again that it has been a real pleasure working with you. It has been a real pleasure working with the gentleman from Florida (Mr. SIKES) and with the gentleman from Georgia (Mr. FLYNT). We are going to miss all three of them on this subcommittee. The three of them have been an inspiration to all of us who serve in the House. They are true patriots who are extremely concerned with the future security of this Nation. I wish the three of you well in your future endeavors.

Mr. Speaker, I insert in the RECORD certain additional information on the conference report at this point.

The material referred to follows:

TOTAL FUNDING IN BILL

$117.4 billion.

REDUCTIONS AS COMPARED TO REQUEST: $1.9 BILLION

$1.7 billion in procurement; and $311.7 in R&D.

INCREASES AS COMPARED TO FY 1978 APPROPRIATIONS: $4.7 BILLION

$960.2 million for retired personnel; $2.7 billion for operations and maintenance; $608.7 million for procurement; and $809 million for R&D.

FINAL BILL AS COMPARED TO HOUSE AND SENATE VERSIONS

House: $119.2 billion.

Senate: $116.5 billion.

Final: $117.4 billion—$1.8 billion below House version and $843.6 million over Senate version.

MAJOR ACTIONS

Junior Enlisted Travel: provides funds to extend junior enlisted travel and allowances for dependents in overseas areas as provided by the House, but the bill places a ceiling of 350,000 on the number of dependents of military personnel allowed in overseas areas. This provision would allow an additional 6,200 dependents to travel overseas.

Commissary Store Subsidy: provides for continued full funding support for all commissary stores. The Senate proposed a phase-out of commissary subsidies over a three-year period and the deletion of $113 million in the bill for that purpose.

Undergraduate Helicopter Pilot Training: provides funding for the continuation of separate helicopter pilot training by both the Army and Navy. The General Provision (Sec. 858), which was inserted by the Senate, prohibits consolidation of helicopter pilot training and was brought back in disagreement.

Tanks: provides $343.6 million for 410 M60A3 tanks and $300.5 million for the initial buy of 110 XM-1 tanks.

Aircraft: provides $688.8 million for 36 F-14s; $429.5 million for 9 F-18s; $792.7 million for 144 A-10s; $1.2 billion for 78 F-15s; and $1.3 billion for 145 F-16s.

Ships: provides $3.8 billion for 13 ships as follows: 1 SSN-688 nuclear-powered attack submarine; 8 FFG guided missile frigates; 1 destroyer tender; 2 TAGOS ocean surveillance ships; 1 cable laying ship; Add on of $209 million to cover shortfall in funding for claims settlement.

(NOTE.—includes no funding for the CVN-71 aircraft carrier, LHA amphibious ships, conversion of LPH amphibious ships to V/STOL ships, and design of the V/STOL light carrier.)

RESEARCH AND DEVELOPMENT

Ballistic missile defense system technology: provides $114 million.

Tank Gun Development program (120mm gun): $35.6 million.

F-14 engine: Transfers $15 million from FY77 to FY79 to commence a joint competitive Navy/Air Force effort to develop an advanced technology engine for current and future aircraft. An additional $26 million appropriated last year remains available for this purpose.

V/STOL Programs: terminates the Navy's Type A V/STOL program and directs the Navy to initiate design studies of the Type B supersonic fighter/attack V/STOL aircraft for the late 1990s. The bill provides $87.4 million over-and-above the budget request for the Marine Corps' AV-8B program and an additional $3.0 million to conduct design studies of the AV-8B Plus—a naval variant of the AV-8B. The AV-8B is the only viable V/STOL program in progress. It is helping to pave the way for the future by taking existing technology and improving upon it, and by fostering a climate in which more advanced V/STOL concepts can be pursued. The AV-8B could provide a logical transition to the Navy's Type B V/STOL aircraft planned for the late 1990s.

COMMENTS ON NAVY SHIPBUILDING

The funding in this bill will provide for a strong defense posture during fiscal year 1979. What concerns me is what is apt to happen down the road so far as the Navy is concerned.

The controversy surrounding the Administration's confusing shipbuilding program and the future role of the Navy were probably the two most important questions considered this year. These issues will certainly continue into the next budget.

We are a seapower. Our dependence on the sea has continued to grow as we have become more involved in the world economy. Yet as our dependence on the sea has increased, our ability to control the sealanes has come under increasing challenge by the Soviet Union.

Herein lies the problem. We are simply not building enough ships and naval aircraft.

This bill provides funds to buy only 13 new Navy ships and about 100 Naval aircraft. The Navy needs to be procuring two to three times that number of ships and aircraft each year if the Navy is to fulfill all its assigned missions in the future. Although this bill provides the Navy with more money than either of the other two services, it doesn't seem to be enough. The Navy will need more money if it is to continue doing all the things that must be done.

I am greatly concerned about this problem, and I intend to get into it in much greater detail next year.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the distinguished gentleman from Texas.

Mr. MAHON. I thank the gentleman for yielding.

I know we say nice things about each other on the floor and especially at this season, but if I have served during my 44-year period with any statesmen, I will have to name one of them as the distinguished gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. I thank the distinguished chairman.

Mr. MAHON. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. FLYNT).

Mr. FLYNT. Mr. Speaker, I strongly and most sincerely urge the adoption of this conference report and agreement to the motions which will be made from time to time to recede and concur in the amendments of the Senate. We who served on this conference worked long and hard hours to complete the work on this conference report on Tuesday night last. The staff in turn worked diligently until late last night so that the chairman could file the conference report during the legislative day of yesterday.

We have brought this conference report to the House in the hope that it will be adopted today and can be immediately transmitted to the other body and signed into law by the President this evening in order that the military and civilian personnel of the Department of Defense can be paid without having to proceed under a continuing resolution.

The Department of Defense appropriation bill is too important not to be passed in the normal appropriation processes. I hope that this conference report will be immediately adopted and transmitted to the other body and from there to the White House so that, hopefully, it may be signed tonight and that the Department of Defense will not have to operate under any kind of a continuing resolution but rather under an enacted appropriations bill.

I urge the adoption of the conference report and agreement to the motions which relate to amendments in disagreement.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. I thank the gentleman for yielding.

Has there been unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on this conference report?

Mr. MAHON. Unanimous consent has already been granted that all Members may have 5 legislative days in which to revise and extend their remarks on this matter and on all amendments in disagreement.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. I thank the gentleman, and I want to congratulate him.

This bill is $117.3 billion, a tremendous amount of money. I want to congratulate the House on the diligent work that was done in an area of my concern, and that is the food irradiation program it is a boondoggle. They are also going to experiment with saving fresh fruits and vegetables from spoilage. I know that the republic will rest easy tonight when we pass this bill knowing that there is $6 million in this bill to investigate ways in which we can keep food fresh and ways in which we can make sure that the servicemen have fast-food service when they want it. This is truly an effort to make our servicemen not only good fighters but well fed, and I would hope that next year we can eliminate the $6 million so that we can have an Army that is lean and tough and does not waste money.

I thank the gentleman for yielding, and I thank him for his work.

Mr. EDWARDS of Alabama. Mr. Speaker, I yield 2 minutes to the gentleman from Idaho (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I take these 2 minutes to address three questions to the distinguished chairman, if he will so indulge me.

I would like to ask the distinguished chairman, in the conference report, as I understand it, the Senate version had originally provided for a new title X for an Interoceanic Canal Study Council, and for the necessary expenses in accordance with law of the Interoceanic Canal Study Council in an amount of $700,000 from which the Senate receded in conference and there are no such funds in the conference report as presented here. I will ask the chairman is this correct?

Mr. MAHON. If the gentleman will yield, I will say to the gentleman that the other body ill-advisedly put in the bill a title X, Interoceanic Canal Study Council. It was rejected with a vengeance by the House conferees because we did not want that matter in this defense bill.

Mr. HANSEN. Mr. Speaker, I thank the chairman.

I would like to further ask a question. Under title VIII, section 808, subsection (1), there was a provision in the Senate version for expenses of disinterment, transportation, and reinterment of such remains of United States citizens and of members of their immediate family buried with them in the Canal Zone as the Secretary of the Army may direct.

Also there was a provision for $1.7 million out of Army O. & M. funds provided. Neither of these provisions were accepted in the conference report; is this correct?

Mr. MAHON. Mr. Speaker, if the gentleman will yield, the conferees refused to approve the proposal to which the gentleman has referred.

The SPEAKER pro tempore (Mr. MINETA). The time of the gentleman from Idaho has expired.

Mr. EDWARDS of Alabama. Mr. Speaker, I yield 1 additional minute to the gentleman from Idaho (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, am I to understand there are no other funds provided any different in the conference report regarding the Panama Canal than passed this body in the original bill earlier; is that correct?

Mr. MAHON. I believe the gentleman is correct. His batting average is good.

Mr. HANSEN. Mr. Speaker, I thank the distinguished chairman and commend him and the House conferees for a job well-done in upholding the expressed will of the House and the people of the Nation in rejecting continued efforts to implement the Panama Canal Treaties, especially through circumvention of proper constitutional procedure.

Mr. EDWARDS of Alabama. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I would like to have a colloquy with my good friend and chairman of the Committee on Appropriations. As the gentleman knows, I was successful in striking section 847 from the bill when it came through the House. In essence, what section 847 would have done, it would have prohibited the Department of Defense from expanding its competitive rate program for the transportation of household goods beyond those areas which were covered on May 1 of 1978.

We won that amendment, myself and the gentleman from California (Mr. MCCLOSKEY) by a very healthy vote of 269 for my amendment and only 96 opposed to the amendment.

Now I see that the conference has brought out an exemption for Hawaii and Alaska. I do not know what I am going to do here today, but I would like to find out from the chairman if the House fought in conference to go along with the House thinking on this particular issue.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I will be glad to yield to my good friend, the gentleman from Texas.

Mr. MAHON. Mr. Speaker, the House conferees fought valiantly for the House position which was sponsored by the gentleman from Massachusetts, a member of our committee.

We had more than one period of discussion on this matter during the 3- or 4-day session. We were able to eliminate subsection (b) of the amendment No. 76, which is section 852. In other words, the competitive rate program will apply to every place in the whole wide world, except in two American States, Alaska and Hawaii.

That was the best we could do under the circumstances. This particular section may be irrelevant, anyway, because the Secretary of Defense has already stated that he would not apply the program to Alaska and Hawaii. We did the best we could and the gentleman has achieved almost all his objectives. He covered the whole world, except Alaska and Hawaii. Hawaii is a relatively small place. Alaska is a little different.

Mr. FLYNT. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from Georgia.

Mr. FLYNT. Mr. Speaker, I am pleased to tell the gentleman from Massachusetts that the House sustained more of the House position than it yielded to the Senate.

Mr. Speaker, subsection (b) of the Senate amendment was far more encompassing than was subsection (a). Subsection (a) was the only part to which the House agreed, and the House conferees strenuously rejected subsection (b).

The SPEAKER pro tempore. The time of the gentleman from Massachusetts (Mr. CONTE) has expired.

Mr. EDWARDS of Alabama. Mr. Speaker, I yield 3 additional minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. MCCLOSKEY. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from California.

Mr. MCCLOSKEY. Mr. Speaker, I think it is important that the House understand what we are being asked to do in conceding this point. We have asked for competitive bidding on the business of the defense industry in every possible place we could.

By House action a couple of months ago we said we were going to ship household goods overseas, including Alaska and Hawaii, by competitive bidding in order to get the lowest rate.

I do not have any real problem with what we do here, Mr. Speaker, because we are in effect saying that until the end of this fiscal year we would not require competitive bidding to Alaska and Hawaii, but the justification for that in the conference report was that the GAO would make a study to see if that was in the best interests of the United States.

The reason the Conte amendment passed by such an overwhelming margin was because the freight forwarders in Alaska and Hawaii were not cooperating to deliver to the GAO the records as to whether this was in the best interests of the United States.

If we are to recede on this section of the Senate amendment, I would like the commitment of the committee chairman and the subcommittee chairman that we would not try to extend this exemption again if we are unable to get the GAO report because these companies do not cooperate. It seems to me that if we are going to exempt them from competitive bidding while we are waiting for a GAO report, we ought to insist that these com-

panies cooperate to the end that we will not include this legislation again in an appropriation bill as an exemption for the very same industries that are not cooperating with the arm of the Government, the GAO, that reports to us.

Mr. Speaker, may we have that commitment?

Mr. MAHON. Mr. Speaker, if the gentleman from Massachusetts will yield, I would remind the gentleman that I will not, of course, be presenting the Defense bill on the conference report next year.

Mr. McCLOSKEY. I understand that. It is the Nation's loss.

Mr. MAHON. I cannot speak for my colleagues, but I assume that if the gentleman from California (Mr. McCLOSKEY) returns to Congress—and I am sure he will—the gentleman will watch over this situation, and the conferees will do what is in the best interests of the country.

Mr. McCLOSKEY. Mr. Speaker, if the gentleman will yield further, the point I want to make is that what we are asking the House to do is to delay this until the end of this fiscal year, pending the receipt of this report. I want to make sure there is no intention on the part of this committee to recede in such a way that this competitive bidding requirement will be extended longer than this fiscal year.

Mr. MAHON. Mr. Speaker, I understand what the gentleman has said, and I believe the gentleman is correct.

Mr. McCLOSKEY. Mr. Speaker, I thank the gentleman.

Mr. CONTE. Mr. Speaker, I want to thank the gentleman from Texas (Mr. MAHON) and the gentleman from Georgia (Mr. FLYNT) for their contributions.

Mr. Speaker, I would like to make a few points. First, delay of the program for Alaska and Hawaii will not save money. To the contrary, the CRP bidding has proven that the cost of moving military household goods is substantially reduced wherever it has been implemented. As indicated by the past track record of the programs, millions of dollars spent in moving costs between the mainland of Alaska and Hawaii will be saved upon implementation.

Waiting for GAO and DOD studies as suggested seemingly would serve little purpose. The GAO has already indicated that it is favorably impressed with the overall program but its ability to do a scientific study of this question is sorely impaired because of freight forwarders themselves are prohibiting access to the necessary data.

It is claimed that Alaska and Hawaii would somehow be discriminated against because they will be affected by a bidding program not applicable to the other 48 States. This is not so.

There is good reason for such treatment—DOD points out that:

Alaskan/Hawaiian freight forwarders should be under the CRP because the economic structure of the industry there is similar to the international movers. In the contiguous U.S. there are 1,800 movers—92 percent of whom are motor carriers, not freight forwarders. Because the industry is so large, collusion (direct or indirect) doesn't take place and the "me too" system, with the ICC ceiling, works.

There is already precedent for different treatment. U.S. servicemen in Alaska and Hawaii receive pay allocation benefits as being stationed in a foreign country rather than being treated the same as stateside soldiers. In this instance, the unique living found in Alaska is taken into account. All the extension of the CRP program does to these States is to take the unique moving circumstance into account.

Contrary to what you may have heard, there is no indication that this program will take away jobs or stifle small business. Small business participation in the CRP program instead has substantially grown as the program has been expanded.

In sum, I believe that to encourage more of the free enterprise competition that has made this country great and to encourage millions of dollars in savings on military moves, it is unfortunate that Alaska and Hawaii have been exempted from competitive bidding of household furnishing.

Mr. MAHON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Missouri (Mr. BURLISON), a member of the committee.

Mr. BURLISON of Missouri. Mr. Speaker, I have signed the conference report "except as to certain intelligence matters." I have done this to express my concern regarding a portion of the appropriation for the national foreign intelligence program which is described in a classified annex to the joint statement. Specifically, I am distressed that funds for a major technical program which were authorized for a particular purpose are now being appropriated for a different purpose. This has occurred because conferees accepted a last minute proposal by the administration which has the effect of thwarting the clear intention of authorization. This could not have been done in public because such action was clearly subject to a point of order. Despite the substantial progress this year in congressional oversight of intelligence, these actions trammel the authorization process and cause me to question whether our control of intelligence has yet reached maturity.

This creates a dilemma for me. While I understand fully, and support the need for confidentiality in these matters, it is wrong for the administration to take advantage of secrecy, however necessary, to thwart clear congressional intent.

Mr. Speaker, I yield such time as he may require to the gentleman from Florida (Mr. SIKES), a member of the committee.

Mr. SIKES. Mr. Speaker, I rise in support of the conference report and the motions to be made by the chairman of the Committee.

● Mr. SIKES. Mr. Speaker, it is very important that we not overlook the essentiality of completing action on this bill without further conference committee action. The Secretary of Defense has stated that payrolls of 466,000 DOD civilian employees are due now and for 1.5 million service personnel tomorrow. The Department has no money to meet these payrolls. Passage of this appropriation bill or a continuing resolution now is essential or these people will go payless. Even after passage of this bill, a lead time of several days is required to insure the checks are in the hands of personnel. A continuing resolution is apparently a hopeless prospect because the Senate has loaded down the House-passed continuing resolution in a manner unacceptable to House Members.

The defense appropriation bill is before you. The conferees have completed work on it. Further delays in consideration and approval of the bill mean no pay for your constituents who work for the Department of Defense or for uniformed personnel and their families.

There are several items in disagreement. Included are abortion, a perennial problem for the Congress; shipment of household goods, with a serious question over whether there should be unlimited competition or a return to a system of modified competition; and, of course, undergraduate helicopter pilot training consolidation. This latter controversy has taken altogether too much of the time of Congress for several years. Included among the number of bureaucrats who cluster in Washington and who successfully resist all efforts to reduce their numbers or to insure really productive efforts, are professional planners. Some of them make a career of developing plans which keep them employed for years. This apparently is the case with the proposal to consolidate helicopter pilot training. If the professional planners ever are able to achieve approval of the plan to consolidate helicopter pilot training, they have another plan waiting in the wings. They will attempt to consolidate all pilot training. The combination would generate lifetime careers for skillful bureaucrats. Some of the planners are more entrenched and knowledgeable than the political appointees in the secretariat who endorse their programs.

The reason advanced for consolidation of undergraduate helicopter pilot training is a claim of savings. Not only have the claims been disproved time and again, the Navy has never accepted them as valid. It is interesting to point out that the Navy submitted a reclama to the Secretary of Defense on the fiscal year 1979 budget submission setting forth the official Navy view and stating that

the assumed consolidation savings are virtually nonexistent. Where the Department of Defense has claimed savings of nearly $100 million in 5 years, the Navy's position, carefully substantiated, is that at best only $6.3 million in costs could be avoided in a 5-year period.

OSD replied to Navy's reclama by: First, revising their DP's and, second, conducting an audit of Navy UHPT costs by the Defense Audit Service—note this was a defense audit, which ignored the Navy audit.

OSD has continually refused to allow the Navy to be a partner in the discussions. They gave Navy a brief look at the findings which have been reached in OSD, give Navy a very few days for a reclama; then ignore the reclama. There is much more, but it only substantiates what I have said. All of this is spelled out in detail in my remarks in the CONGRESSIONAL RECORD of yesterday.

I am sure that none of us want this bill to go back to conference. It is my sincere hope that the House will concur in the position agreed to by the conferees on each of the items in disagreement. It is very certain that, in the case of helicopter pilot training, another conference will not change the result now before us. In their last vote on the subject, the Senate voted 75 to 21 against consolidation. That is much stronger than any vote cast by the House for consolidation. Apparently the Senators have been more fully informed about the facts on savings and on the risk to be run on Army training, which simply will not meet Navy standards. Too many House Members who did not listen to the debate have been swayed by claims advanced as they came in the doors of the Chamber to vote—claims that the savings would be astronomical. The Senate conferees are strongly united on this subject. On this and on the other items of disagreement, the House must accept the responsibility if there are further delays in the passage of this vital bill.

The gentleman from Alabama (Mr. DICKINSON) is a strong proponent of the proposal to consolidate undergraduate helicopter pilot training. He is a direct beneficiary. Consolidation would take the program from a Florida base in my district and transfer it to a base in his district in Alabama. It is only natural that he wage a very determined effort in behalf of his constituents. He is a conscientious and capable Member, and I am glad that we retain a strong friendship despite our difference in this instance. I am confident that his overriding concern for the defense of our Nation will prove paramount on today.

This is a good bill. It represents an improvement in our overall defense capability, although I am disappointed that the Congress has not taken advantage of the request from Secretary Brown for add-ons of approximately $2 billion to replace funds deleted with the carrier. The opportunity to add more funds at the request of a Secretary of Defense is a rare thing. I feel that the request should have been honored. It was not in our power in the Appropriations Committee to do this because of limits in the authorization.

I strongly feel that we are not adequately meeting America's defense needs. We have not done so in several years. We are strong, very strong. That is not the point. Russia is stronger and, relatively, their strength is increasing much faster than ours. Their aims for world domination are very apparent. A weakening of America's comparative defense, encourages adventurism by the Soviets. Their advances, particularly in Asia and Africa, will encourage confrontations with this country. If there were a confrontation and if we could not win or risk a conflict, it would be a sad day for America and it could mean an ending of the American way of life.

I am happy to join in what has been said about the leadership of the Subcommittee on Defense, about the sterling qualifications of the distinguished gentleman from Texas (Mr. MAHON) and of the distinguished gentleman from Alabama (Mr. EDWARDS). I am happy to join in the plaudits for the distinguished gentleman from Georgia (Mr. FLYNT) who has been an outstanding champion for a strong defense.

In particular I want to express my commendations for the ability and the dedication of the members of our subcommittee staff. I do not believe a more expert group is existent anywhere on Capitol Hill than the staff members for our subcommittee, who are so ably headed by Ralph Preston. I would like to single all of them out for praise for their good work. It has been a pleasure to work with the members of the subcommittee and with the staff. The memories of these years of joint endeavor will always have a warm, appreciated place in my mind and in my heart.●

Mr. EDWARDS of Alabama. Mr. Speaker, I yield 5 minutes to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Speaker, if I might have the attention of the membership, I think they will find this of interest.

Let me say to my good friend, the gentleman from Idaho (Mr. HANSEN), who raised the point just answered by the gentleman from Texas (Mr. MAHON), our very distinguished chairman, as to the funds for Panama, that I have recently returned from the Canal Zone, at the direction of my Armed Services Committee chairman, to find out what was the intent, and the rationale for the request of some $40 million this year in military construction and an additional $40 million next year in military construction in the Canal Zone, when we already know that we have given it away.

Mr. Speaker, let me say this: The answer to the question of why we need to spend additional funds is so that we can maintain our presence there. We have some 9,500 military, plus dependents, plus whatever entourage goes along to support them.

One might ask: Why do we need almost 10,000 troops in the Canal Zone, and what are these funds for?

Let me tell the Members what the funds are for. The funds are to replace the facilities that we are having to give up as a result of the treaty we have just signed, and to make similar new facilities available to our troops on property that we will not give up for another 20 years.

What type of facilities? Well, things like schools. If we are going to keep our dependents down there, if we are going to keep our children down there, as a part of the property that we are ceding back to Panama we are giving up schools, and we have to build additional schools.

There is an item of $3 million for a commissary warehouse and refrigeration. We are going to have to give up a perfectly good facility in 1 year. But if we are going to keep our troops there, then we have to maintain a commissary. If we maintain a commissary, then we have to have refrigeration and storage areas.

So what we have to do, ultimately, Mr. Speaker, what the membership of this House and the Defense Appropriations and Armed Services have to decide is the very basic question: Do we need to maintain a presence of approximately 10,000 military troops, and, if so, why?

Now, the reason, they tell me, is to meet a threat. My question is, then: What threat? Internal? External? Where is the threat? Are we talking about Russia loading up planes and coming over? Are we talking about Cuba physically invading? No.

I have talked to the CIA and to the DIA, and both have said that the external threat is probably less than a year ago.

What threat? We are talking about the internal threat.

Well, one may ask, What is the internal threat? Is it greater now than it was?

The intelligence agencies with whom I have talked admit that, no, it has substantially subsided with the signing of the treaty, because Torrijos and his government were in a position, and it was even indicated had made preliminary moves to perhaps sabotage the canal.

So what I am saying is that we are spending and planning to spend millions and millions of dollars to build facilities to substitute for the facilities that we have that we are giving up, that we should never have given up, in the first place.

What we have to come to grips with is what we are going to do to continue our presence there and how much is necessary. I think that with our reflex capability that we are going to find that certainly in our armed services we are going to be leaning more toward the

capability to respond to a growing threat, rather than to continue to replace and throw away millions of dollars to build facilities on property that we have already agreed to give away in sequential steps in the next 20 years.

If I might have the attention of the chairman of the full committee, I would like to ask his understanding of the financial situation as to the pay of our military as it is connected with the conference report presently under discussion.

At least three of the speakers that have preceded me have alluded to the fact that we have got to pay the troops.

The SPEAKER pro tempore. The time of the gentleman from Alabama has expired.

Mr. EDWARDS of Alabama. Mr. Speaker, I yield 3 additional minutes to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, I agree with you, I agree with everybody, that we have got to pay the troops. What I would like for the gentleman to inform me and the House at the same time is, what is the situation? As I understand it, and let the chairman correct me if I am wrong, there is money in this bill to pay operation and maintenance, and salaries for the military personnel. We have also passed a continuing resolution so that if this bill for anv reason were to be delayed, the continuing resolution would be in force and effect, and they could be paid.

Unfortunately, the Senate passed a continuing resolution affecting HEW and one other Bureau but which did not include DOD funds. If this bill goes back to conference again, then there will be a hiatus where the armed services will not be paid unless the Senate does what it should have done and still can very easily do, and what we have already done, which is to pass the continuing resolution.

I wonder if the chairman would care to correct what I have said if I have been in error in any way, and explain to the House what the situation is.

Mr. MAHON. There is one clear road to get this bill to the President, and that road is to pass this conference report through the House, send it to the other body, which is ready to send it to the White House. If it gets there by midnight, the troops will be paid tomorrow, Congress is vindicated, and the soldiers are less anxious. I think we need to move in that direction, and I appreciate the attitude of the gentleman in wanting to do something to take care of this situation.

Mr. DICKINSON. I am concerned about the situation, and I appreciate the chairman's expression in favor of passage of the conference report, but it did not answer my question. My question is, there are three controversial items that may require an individual vote. One has to do with abortion; one has to do with the cargo preference, and the third had to do with consolidated helicopter training. On any one of these, if a separate vote is required and is sustained, then the bill goes back to conference.

Mr. MAHON. It may well go back to conference. If we do not pass the conference report as proposed to the House today, then eventually we will have to go back to conference with the other body. When we would get this conference with the other body, with all they have to do, I do not know. It would be very unlikely, in my judgment, that the troops could be paid.

The SPEAKER pro tempore. The time of the gentleman from Alabama has again expired.

Mr. EDWARDS of Alabama. Mr. Speaker, I yield 2 additional minutes to my colleague from Alabama.

Mr. DICKINSON. Would the chairman agree, though, that this problem could be obviated, if necessary, by the Senate doing the same thing the House has already done, and pass a continuing resolution?

Mr. MAHON. Well, the other body has included public works in the Senate version of the continuing resolution. We sent the continuing resolution to the other body on the 26th day of September, and it has not passed the other body.

At the markup in committee, I understand that defense has been stricken from the Senate version of the continuing resolution. That is one reason why I say the clear road to solving the problem is the approval of this conference report in the House.

Mr. DICKINSON. If I might paraphrase the chairman, his answer is "Yes," but he prefers not to do it that way.

Mr. MAHON. I do not have any control over the other body.

Mr. DICKINSON. I understand that, but it could be done. I thank the chairman.

Mr. MAHON. It would require a conference between the House and the Senate, and there is no way we could complete a successful conference before midnight tonight. And that mean the troops may not receive a paycheck tomorrow.

Mr. EDWARDS of Alabama. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Mr. Speaker, I have a request to make of the chairman. Before the substitution amendment on abortion comes up I would like to discuss this issue with the chairman so that I do not have to break my promise to him this morning that I would do everything I could not to unnecessarily delay the proceedings this late in the session. However we have a very peculiar situation that developed today.

This House just a few hours ago voted by a strong margin, 216 to 188, not to accept the Mahon language in the HEW bill, but now we are down to the question of accepting that very same language on the DOD bill.

How can we give more liberalized abortion language to middle-class military people—and hopefully we still pay our military sufficiently to refer to them as middle class, while we are properly applying tougher pro life wordings to the laws governing welfare cases under the HEW bill.

I want to do what is proper on this problem of the possible holdup of military pay.

But the Senate places our fine military in the awkward position of delayed paychecks, not this Chamber.

The Senate rejected the language that we sent over to them in September, decent language that they could have accepted or discussed a compromise. Instead they arrogantly totally excised every word of the Dornan amendment.

I asked some generals last week, "Can you keep the embargo of September 30 on abortions in the military in effect until next spring?" They smiled at me and said they were not the Secretary of Defense.

Can you assure me you will try to get a continued promise on an abortion embargo from Mr. Harold Brown so that I do not stand up and ask for a division of the question in a few moments here. And believe me I have the parliamentary moves down pat and it will create a furor here if I fight for the lives of the innocent unborn without DOD cooperation. I do not know how many babies will die, killed in their mothers' wombs in military hospitals if this flawed language goes in with no DOD assurances on an embargo until February or March.

I say to the gentleman on my left here go ahead and groan at my convictions and beliefs. So what. It is a fact of life and death we discuss now.

I want to know who on the chairman's excellent staff will counsel with me for a few moments here before we lose several more hours of precious time in this our final month. We have had two of our distinguished colleagues tragically die, the work backs up with each passing day and the clock is still ticking away.

Mr. HEFTEL. Mr. Speaker, will the gentleman yield?

Mr. DORNAN. I yield to the distinguished gentleman from Hawaii.

The SPEAKER. The time of the gentleman from California has expired.

Mr. EDWARDS of Alabama. Mr. Speaker, I yield 1 additional minute to the gentleman from California (Mr. DORNAN).

Mr. DORNAN. I yield to the gentleman from Hawaii (Mr. HEFTEL).

Mr. HEFTEL. Mr. Speaker, I think it would be very unfortunate if this body and the other body do not make it possible for the military to be paid. They live from one payhceck to the next, and they cannot possibly understand the kinds of dialog and the kinds of intrigue and the kinds of parliamentary procedures that are going on between the two bodies. We are going to adjourn sometime Sunday morning, and I think that if we care about the military and we want to make sense to them, sense that they can understand, I think we

have to now make up our minds to accept the reasonable position of the chairman and accept the Senate version, and wait for another day if we must, but do not do it at the expense of the military and our credibility in terms of their families and our credibility with them .

Mr. DORNAN. Mr. Speaker, let me reclaim a few seconds of my time.

This House a few hours ago overwhelmingly rejected that language that was just called reasonable. It is not reasonable language. It is awful language.

If I can be assured that the Secretary of Defense is not going to thwart the will of this House and that he will leave the stop-all-abortions embargo in effect—and remember that embargo language suggests "until the Congress thrashes this out next spring," then I might be willing to go with solid assurances against abuse with the rejected language only to get our fine servicemen paid and with the solid understanding that the Dornan amendment comes back next year with the certainty of springtime thunder and lightning.

Mr. MAHON. Mr. Speaker, the House did decline to approve in the HEW bill language which is in the present law with respect to abortion the language is very restrictive and apparently has reduced abortions paid for by the Federal Government by about 95 percent.

That may not be an accurate figure, but that is the best we are able to come up with from the Secretary of HEW. It will go to the other body, which voted about 15 times, I believe, last year against the position of the House with regard to the abortion matter. So what the other body will do now, I do not know. But it is pretty easy to speculate that the HEW matter will not be resolved today or tomorrow or the next day.

It seems to me that it is a different situation with respect to our military, who are stationed here and there all over the world in many isolated areas. As I say, it is a different situation from their standpoint. So I would hope, and quietly pray, that the gentleman from California (Mr. DORNAN) would let us adopt the Defense conference report with the language of the present law which was approved last year, and which was approved in the continuing resolution, as the gentleman from California did not oppose at the time we passed the continuing resolution. The gentleman has tried to cooperate with the committee with respect to this matter and I appreciate the fact of his cooperation. I would hope, therefore, that we do not have to go through the trauma of another battle in regard to this matter, because we have a peculiar and unique situation. I think the gentleman from California realizes that, and I would like his cooperation.

Mr. DORNAN. Mr. Speaker, would the distinguished chairman yield for a moment?

Mr. MAHON. I will yield.

Mr. DORNAN. I do understand the uniqueness of the situation, but in that respect I would add that we would have had different kind of machinations going on here than we are observing now if the Members of the senior House, or the other body, I should say, were to have its entire membership up for re-election every 2 years as we do, and then there would be no demanding that we knuckle under and recede and concur with their positions because they would be more responsive to the will of the American people over abortion.

So, does the gentleman have any assurances that they will accept this amendment, or will they stand by absolutely no abortion language, as they have tried to do?

Mr. MAHON. Yes, we have complete assurances, insofar as we can get them, that the language of the present law would be approved by the other body. We would not, by any means, have capitulated to the position of the other body which tends to open the floodgates for federally funded abortions. We did not agree to that. We insisted upon bringing back the language in the current law, which I hope will be reasonably satisfactory under the circumstances for our military forces at home and abroad.

We have about 350,000 dependents of military personnel overseas. The Defense Department and its personnel have various problems that are quite different from the population involved in the HEW bill. And the people can very well, in my opinion, differentiate between the HEW bill and the defense bill with respect to this troublesome and emotional issue which is before us today.

Mr. FLYNT. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I will be glad to yield to the gentleman from Georgia.

Mr. FLYNT. I thank the chairman, the gentleman from Texas (Mr. MAHON) for yielding to me.

Mr. Speaker, I would like to respond, if I may, to the gentleman from California (Mr. DORNAN) with whom I voted on this issue I think every single time with the exception of the vote this morning.

The vote this morning caught me in sort of a "Catch 22" position because I knew that within a few hours after the vote occurred this morning that we would have this same question raised on the Defense Department appropriation bill, that that would be coming up this afternoon.

Consistency is by no means an essential ingredient of a Member of this body or anyone in public life.

However, the gentleman from California (Mr. DORNAN) is well aware, I think, that the House by no means capitulated to the Senate on the amendment that the Senate made to this part of the bill.

As a matter of fact, if the conferees had not been striving as diligently as they were to bring a conference report out and bring it back to the House, knowing the membership of the conferees on the part of the House, I have strong reason to believe that the conferees would have insisted just as strongly as the gentleman from California (Mr. DORNAN) and the gentleman from Illinois (Mr. HYDE) who is standing beside him, would have done.

The Senate bill was silent on this issue, they struck out our amendment altogether. We felt that in the interest of expediting this bill through the legislative and appropriation processes we should at the very least bring back language which the House had previously agreed to in providing funds for HEW last year and in the House-passed version of a proposed continuing resolution for DOD.

We did so acting in the utmost good faith and in the hope that Members of the House would understand and accept the position the conferees took.

Mr. MAHON. Mr. Speaker, there was nothing with regard to abortion in the Senate version of the defense bill.

The other body placed in the HEW bill language which was less restrictive than that in the House version of the Labor-HEW bill. But there was nothing in the Senate version of the defense bill on this subject.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I think we are all aware of the precarious situation we are in. I think there is some understandable feeling on this side that the House seems always to bend to the will of the Senate, if not in language, then in the regulations which implement that language.

The problem with the HEW bill was the regulations as well as the language; but the language would have been more acceptable had the regulation implementing it been more consistent with and more consonant with what I felt was the legislative intent of the House.

Mr. Speaker, I am suggesting that regulations must be issued to implement this language and that HEW will not be issuing those regulations. I would assume the Department of Defense would.

Mr. Speaker, I express the hope that if this language which is being suggested now is adopted by a nonrecorded vote, the regulations implementing it would be a little more sensitive to the legislative intent of the House rather than what HEW did to us in its regulations on the other appropriation bill. What I am talking about is rape and incest. That should

be promptly reported; and "promptly" means a matter of days, not 2 months.

Mr. Speaker, may I make one more point, and then I think we can cover this situation.

I would hope that the legislative intent as understood by the Department in issuing its regulations would be to talk about reporting rape and incest in a matter of days rather than 2 months later, as HEW did. I would hope that the physical condition which abortion is supposed to alleviate would be on which would have some preexisting nature so that there could be some verification that, it, in fact, existed.

With that understanding with respect to legislative intent, I would respectfully suggest that we not make a fight on this issue in this bill at this time and that we do try to do what is best for the most people without for a second yielding in the strength and the commitment of our position that unborn children are just as important as grown soldiers.

Mr. Speaker, I thank the gentleman for yielding.

Mr. MAHON. Mr. Speaker, the Department of Defense people have assured me that steps are being taken to provide regulations which will be meaningful, strict, appropriate, and in agreement generally with the mood of the Congress and of the country with regard to this issue.

Further, Mr. Speaker, I shall take the opportunity of speaking to the Secretary of Defense himself and will also write him a letter, seeking to impress upon him the importance of the matters which we are now discussing in this colloquy. I believe that would be helpful, and I am sure the gentleman from Alabama (Mr. EDWARDS) would share in these views.

Mr. EDWARDS of Alabama. Mr. Speaker, if the gentleman will yield, I do share his feelings and I would join in such a letter to the Secretary.

If I may say, Mr. Speaker, last year when we voted some 11 times on the issue of abortion in the HEW bill, I was one of those who voted for the Hyde amendment and then finally voted for the compromise language which is in the current law. I must say that I felt as though I ended up with egg on my face when I saw the HEW regulations which were put out to implement the law which we all struggled so hard to come up with.

That is the reason I voted against the chairman earlier today when he offered the same amendment to the fiscal year 1979 HEW appropriations bill.

I think the Defense Department understands what the gentleman from Illinois (Mr. HYDE) is talking about, and I join with the chairman in assuring him that we will talk to the Secretary. I will join with the chairman in a letter to the Secretary to try to carry out the clear intent expressed by the gentleman from Illinois.

Mr. MAHON. If I may say to the gentleman from Alabama, I think the officials of HEW are subject to severe criticism for the way the abortion issue has been handled by the Department of HEW.

Mr. EDWARDS of Alabama. I share the gentleman's sentiment.

Mr. FLYNT. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Georgia (Mr. FLYNT).

Mr. FLYNT. I thank the gentleman for yielding.

I just want to say to the gentleman from California (Mr. DORNAN) and the gentleman from Illinois (Mr. HYDE), if I could have their attention, that I want to express my thanks as a Member of this Congress to the gentleman from Illinois and the gentleman from California, and the gentleman from Alabama (Mr. EDWARDS), for their outstanding attitude on this particular part of this bill. Let me say that I endorse every word that the gentleman from Illinois (Mr. HYDE) said about his disappointment in the regulations issued by HEW, and I hope that the regulations to be issued by the Department of Defense will conform to the legislative intent of the House of Representatives.

Mr. DORNAN. Mr. Speaker, will the gentleman yield for just a final thought?

Mr. MAHON. I yield to the gentleman from California.

Mr. DORNAN. I appreciate the gentleman's giving me the courtesy of this colloquy. It has helped me to resolve a problem that we have all shared here, because it does not involve this sensitive situation with the military. However, we all know that it has been a long time since we have had in the White House a first family who has been so outspokenly prolife and against selective abortions of all kinds. We know that an Executive order, one single Executive order—and there has been precedent for it in many administrations, even on this issue of abortion—would solve this problem until spring when we could thrash it out properly.

I respect the tremendous assurance the gentleman has given me that this is going to be hammered out with the military, and I do trust the military that there will be no shenanigans. Doctors in the military are not pure abortionists running abortion mills, where the true medical code becomes an absurdity because one abortionist will sign off anything another abortionist says any time of night or morning.

So I say that when the President comes on the telephone and appeals for an energy vote, and he says, "Is there anything I can do for you?" I blundered my chance on the MIA question. I wish I had asked him about issuing an Executive order on the MIA, since he said he would not campaign in my district.

If I return after November 7, and the two gentlemen are finishing a glorious career, I will personally go to the Pentagon and ask to see the distinguished Secretary of Defense, and he will see any one of us, and I will get assurances on this issue that there will be no game playing on the military side in taking innocent, unborn human life.

I thank the gentleman for his graciousness, and I will not engage in any requests.

● Mr. STRATTON. Mr. Speaker, I am concerned about the provision contained in section 845 of the appropriations bill that would set the limit of CHAMPUS payments at the 80th percentile of the fair and reasonable charges for health care providers.

The House and the Senate have previously addressed themselves to that particular matter, both in H.R. 10929, the original authorization bill that was vetoed by the President, and in H.R. 14042, the follow-on bill.

In both bills, the appropriate authorizing committees in the House and the Senate set the upper limits for CHAMPUS at the 90th percentile, but despite that we are asked today now to change our minds in the rush of last minute congressional business and set the upper limit at the 80th percentile instead.

Mr. Speaker, I am alarmed at this situation, particularly due to the almost chaotic state of health care delivery in military medical facilities. I do not believe there is a Member in this Chamber who has not heard from one of his active duty or retired constituents concerning the problems in military health care. Those problems are forcing many beneficiaries literally to flee to civilian care under CHAMPUS in order to maintain even minimal health standards.

The purpose of the action taken by the Armed Services Committee was to attempt to get CHAMPUS back on the track in order to help alleviate some of these problems. Now we are being asked in the appropriations process to lower our sights and tell those active duty and retired constituents of ours that they deserve something less than the best in health care.

All of us recognize the urgency of getting this appropriation conference report approved so that military personnel may receive their hard-earned and well-deserved pay. I will not make a point of order, as I would certainly be entitled to do, or otherwise resist approval of the report for that and other obvious reasons necessitating the urgent enactment of this legislation.

However, Mr. Speaker, I would urge very strongly that upon entering the 96th Congress there be consideration given to tightening the rules relative to legis-

lating through the appropriations process. It seems to be a clear non sequitur for the primary authorizing committee—in this case, the Armed Services Committee—to exercise its jurisdictional responsibilities in setting certain limits for the CHAMPUS program and then have the Appropriations Committee come along a few weeks later and undertake in effect to amend the legislation already adopted by the Congress through the appropriate authorization process.

Further, I strongly urge that the Appropriations Committee reevaluate its actions with regard to percentiles in CHAMPUS during consideration of the fiscal year 1980 appropriations bill with a view to conforming their action with the action taken earlier in the peoples forum, the authorization process.

Mr. Speaker, I will not oppose this conference report, in the interests of the welfare of our Armed Forces, and therefore I urge all my colleagues to support it, too.●

● Mr. PICKLE. Mr. Speaker, I want to urge all of my colleagues to adopt this conference report and send it on its way to the Senate as quickly as possible. Because of the unconscionable delays in the passage of this important appropriations bill have created the possibility that the men and women who defend our Nation may not receive their paychecks.

The 1.5 million men and women who serve in our armed services have already made tremendous sacrifices in the service of our Nation but this is one sacrifice, one indignity that is too much to ask of anyone.

This morning I received a call from a woman from Austin, Tex., who said she has only $12 in the bank with rent payments and loan payments that are due tomorrow and she has no money to feed her children. I am sure that every Member of this Congress will agree that this is a shameful way to treat our armed services.

I hope that this House will place no more obstacles in front of this bill so that we may see it signed into law on this day.●

● Mr. AKAKA. Mr. Speaker, we have debated this matter many, many times. The Department of Defense's various programs for moving military personnel's household goods are extremely complex—whether they be the competitive rate program, the carrier evaluation rating system, the me-too system or the direct procurement method.

Therefore, it is unfortunate that votes have been cast on the basis of "catch phrases", such as "more competition" and "cut Government spending".

Well, I can only say this: What would your constituents say if you voted to allow funding for the expansion of a Government program while, at the very same time, the Government itself was also paying for studies to determine whether that program was a good one or not?

I think the answer is obvious.

Currently, the General Accounting Office is evaluating how CRP has or has not worked up to this point. Furthermore, because CRP has only been used in foreign countries, the DOD is studying the potential impact it will have on the economies of Hawaii and Alaska should it be implemented in those two States.

Both of these investigations were ordered because the House Committee on Merchant Marine and Fisheries felt there had been sufficient evidence presented in oversight hearings to cast doubt on the merits of the competitive rate program.

If the GAO report concludes that CRP has been a full success in foreign countries, fine. Let us extend its usage to all nations within the military network.

If the Defense Department study shows that CRP will not have an adverse impact on the economies of Alaska and Hawaii, but a positive one, fine. Let us then implement it throughout the United States.

But for the present, do we truly believe that we are exhibiting our concern over Government spending by allowing funding for the expansion of a program while we are also paying for two studies to determine whether or not CRP should even be continued,

It is a contradiction I do not think we can justify to our voters. Therefore, I would urge that we accept the language of Senate amendment No. 76.●

● Mr. HILLIS. Mr. Speaker, although I am terribly disturbed that the House conferees decided to include the Senate's language limiting the reimbursement level for CHAMPUS to the 80th percentile, I do not intend to oppose the chairman's motion due to the urgency of this legislation. As many Members will remember, this same language was ruled out of order as legislation in an appropriation bill under rule XXI, clause 2 when the House considered this measure in August. Prior to that, the House had shown its support for the 90th percentile by approving my amendment to the original DOD authorization bill, H.R. 10929, which was vetoed. Further, the House Armed Services Committee reported H.R. 8647 which would establish the 90th percentile as the statutory level of reimbursement. The history of this issue clearly indicates strong support in the House for the 90th percentile.

CHAMPUS is not a health insurance program. It is intended to be an extension of military health care. It is, therefore, necessary that the program be responsive to the needs of its beneficiaries if it is to function as designed and intended by Congress.

After the House approved my amendment to the DOD authorization bill adding language establishing the 90th percentile as the upper limit for payment, I received a letter from Gen. Alton Slay, commander of the USAF Systems Command. I would like to read a paragraph from that letter:

During my recent round of base visits, our people, particularly the junior enlisted members, described the severe hardships and attendant morale problems they were encountering because of the difficulties and expense involved under the current CHAMPUS fee payment schedule. In some instances, adequate health care for their dependents was simply out of reach for them financially. Your amendment goes a long way toward correcting this situation.

I feel the Defense Department shares General Slay's feelings although no official position has ever been stated. However, the Assitant Secretary for Health Affairs in three appearances before the House Armed Services Committee testified on military health care delivery and indicated support for the 90th percentile.

In its report on this bill, the Appropriations Committee noted "that there may be reason to increase the payment from the 75th percentile but [the committee] has selected a go-slow policy." It should be understood that the 90th percentile was effective until fiscal year 1978 when it was suddenly lowered by Senate Appropriation Committee language in the fiscal year 1978 appropriation bill. My efforts this year have been to reestablish the 90th percentile as the maximum level of reimbursement. My point is that a "go-slow" policy should not be adopted in returning to the pre-fiscal year 1978 level of maximum reimbursement. We are faced with a situation as General Slay explained where junior enlisted personnel cannot take advantage of CHAMPUS due to the low payment schedule without facing severe hardships. These hardships are caused because beneficiaries must pay the difference between what CHAMPUS covers and what the physician charges. CHAMPUS has become a cost-sharing program which was never intended by Congress except with respect to retired personnel.

While I was not privileged to the discussions of the conference committee which considered this matter, I am at a loss to understand how the expressed will of the House could be so easily disregarded. Furthermore, the level of reimbursement for CHAMPUS is rightfully an issue which the Armed Services Committee should decide. It is inappropriate for matters of this nature to be decided by the Appropriations Committee when the Armed Services Committee has made its position well known.

Should I have the honor of serving in the 96th Congress, I will again fight for the 90th percentile. I would like to make it clear for the record that the only reason I am not going to request a recorded vote on this amendment or raise a point of order against it is due to the urgency of getting this bill to the President. However, the Appropriations Committee should be aware of the Armed Services Committee's desire to have the 90th percentile established as the level of reimbursement and my personal commitment to see that desire realized.●

● Mr. SIKES. Mr. Speaker, as part of our consideration of the final stages of congressional approval of the Defense

appropriation bill for fiscal 1979, I feel there should be discussion of the status of the development of lasers as weapons in the United States. Knowledgeable individuals in our country are deeply concerned that we may not be holding our own with the Russians in this field. It is known that they are making an intense effort to be the first to achieve effective weapons capability with lasers. We are carrying on laser programs as a part of our scientific and defense effort and over the last 10 years, during an accelerating national effort to advance the state-of-the-art in high energy lasers, a number of major milestones have been achieved.

The gas dynamic laser was brought from the laboratory to full scale and produced power levels adequate for weapon applications.

Significant improvements have been achieved in chemical laser performance in devices which are being scaled to weapon power.

Pointer-trackers capable of directing lethal laser beams to targets have been demonstrated.

All three services have performed lethality demonstrations against live targets including high speed missiles.

A flightweight high power gas dynamic laser has been fabricated and tested and will shortly be flown by the Air Force to demonstrate its effectiveness in the realistic Airborne Laser Laboratory environment.

Current Air Force plans include the demonstration of a higher performance, simpler gas dynamic laser now being designed for installation in current operational aircraft. This Air Force program is known as the Short Range Applied Technology (SRAT) program and represents the earliest real potential for U.S. military operational systems applicable to existing Air Force and Navy airborne requirements.

The Navy and Air Force are developing high power chemical lasers for application to sea level missions and high altitude or space missions.

The Army is working toward a version of the chemical laser specifically tailored to match its field environment.

Over the last 10 years, the Department of Defense has invested over a billion dollars in these and many other high energy laser programs. In spite of this investment and significant accomplishments in many areas, the services are all still far from an operational weapon system. There are two primary reasons for this. First, scientists, rather than engineers, are in control of the program and, by nature, desire to look for better scientific approaches to a requirement rather than developing a proven capability into an operational system. Second, the using commands in the three services are not pressing for system development since there is no weaponized high energy laser that demonstrates meeting their requirements. Also, because there is no user pressure for the weapon, the weapon is therefore not justified and a "Catch 22" situation develops. It is like trying to get a job which demands experience when you cannot get experience without a job.

Since only a management decision will break the cycle, a decision to demonstrate a weaponized high energy laser is urgently needed. While a demonstration of a weaponized laser is ultimately needed by each service due to the variety of their operational environments, right now the demonstration of one prototype would provide substantial evidence to all services of the usefulness of the high energy laser. The alternative that the Department of Defense seems to be headed toward is to continue working on technology for many years to come. Since spending in the DoD high energy laser program is about $200 million per year, only 5 years of this will result in another billion having been spent, and still there will be no laser weapon.

Therefore, I believe the course is clear: weaponize the high energy laser, provide a convincing prototype demonstration to the using commands and begin realizing a payoff from the billion dollars already invested in high energy lasers.

In other words, we are not doing what we should to stay ahead of the Russians to insure full capability of a laser weapons system. This could become a race to the death—the death of the country that lags behind.●

● Mr. LEGGETT. Mr. Speaker, I rise to give my colleagues a budgetary perspective on the conference report on H.R. 13635, the Department of Defense Appropriations Act, 1979.

The pending conference report would provide budget authority of $117.2 billion and outlays of $105.4 billion from current and prior years. The budget authority is below the assumptions underlying the second budget resolution for fiscal year 1979 and the outlays are essentially consistent with the budget resolution.

The conference report would provide $1,763 million less in budget authority and $195 million more in outlays than the bill did when it passed the House. The large reduction in budget authority is primarily related to the elimination of the nuclear aircraft carrier (CVN–71) which was included in the House passed bill.

The following factsheet outlines the relationship between this conference report, the second budget resolution and the President's budget request.

FACTSHEET

H.R. 13635 DEPARTMENT OF DEFENSE APPROPRIATIONS BILL, FISCAL YEAR 1979, CONFERENCE REPORT

I. Spending action compared to second budget resolution assumptions

The conference report on the DOD Appropriations Bill for FY 1979 provides $117.3 billion in budget authority and $105.2 billion in outlays. These amounts are $1.8 billion in budget authority below Second Budget Resolution assumptions and essentially on target for outlays.

II. Background

Following is a table showing the conference report compared to the House and Senate passed bills:

(In billions)

	DOD appropriations bill, budget authority fiscal year 1979	outlays
House passed bill (Second Budget Res.)	119.1	105.2
House position less CVN funds and plus ship claims funds	117.2	105.2
Senate passed bill	116.5	105.0
Conferece report	117.3	105.4
Conference report Over (+)/Under (−) House passed bill	−1.8	+.2

The $1.8 billion difference between the House passed bill and the conference report is the deletion of CVN funds ($2,130 million) and the addition of $209 million for ships claims.

III. Perspective on Function Totals

There are three Second Budget Resolution assumptions for the National Defense function yet to be acted on after the conference report on the DOD Appropriations Bill—the spring pay supplemental, a Public Works Appropriations Bill to fund DOD nuclear energy activities (the bill was vetoed and sustained) and legislation to provide for the sale of additional strategic materials. Approval of the DOD Appropriations Bill conference report in addition to the assumptions of budget authority and outlays for the three remaining items should result in a functional total below the levels of the Second Budget Resolution.

IV. Comparison to President's Budget

Budget authority in this bill is $2.0 billion below the $119.3 billion requested by the President, outlays are $5.4 billion below the $109.8 billion estimated by the President.●

Mr. MAHON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

Senate amendment No. 2 is as follows: Page 2, line 19, strike out "$6,456,450,000" and insert "$6,455,500,000."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$6,461,600,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 4 is as follows: Page 3, line 12, strike out "$7,507,195,000" and insert "$7,521,081,000.".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 4 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$7,525,001,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 6 is as follows: page 3, line 21, strike out "$546,650,000" and insert "$541,800,000.".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$547,350,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 10 is as follows: Page 4, line 15, strike out "$83,725,000" and insert "$83,100,000.".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 10 and concur therein with an amendment, as follows: in lieu of the sum proposed by said amendment, insert the following: "$84,125,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 12 is as follows: page 4, line 25, strike out "$186,325,000" and insert "$185,250,000.".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 12 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$183,850,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 27 is as follows: page 10, line 10, strike "$386,500,000" and insert "$386,700,000."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$384,700,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 33 is as follows: page 14, line 15, insert ": *Provided further*, That restrictions contained within appropriations or other provisions of law limiting the amounts that may be obligated or expended for rentals, construction, or other services or supplies are hereby increased to the extent necessary to reflect downward fluctuations in currency exchange rates from those used in preparing the applicable budget submission".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 34 is as follows: Page 14, line 21, insert ": *Provided further*, That contracts or other obligations entered into payable in foreign currencies may be recorded as obligations based on the currency exchange rates used in preparing budget submissions, and adjustments to reflect fluctuations to currency exchange rates may be recorded as disbursements are made: *Provided further*,".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 42 is as follows: Page 19, line 11, strike $1,591,000,000" and insert "$1,623,800,000,".

MOTION OFFERED BY MR. MAHON

Mr. MAHON, Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 42 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$1,642,250,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 44 is as follows: Page 20, line 16, strike "$1,983,800,000" and insert "$1,988,500,000,".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 44 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$1,955,600,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 49 is as follows: Pages 21, line 16, insert "for the T-AGOS SURTASS ship program, $98,000,000;".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "for the T-AGOS SURTASS ship program $69,000,000;".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 51 is as follows: Page 21, line 20, strike "$5,688,000,000" and insert "$3,760,600,000,".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 51 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$3,759,600,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 58 is as follows: Page 25, line 23, strike "$266,800,000" and insert "$272,200,000,".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 58 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$273,800,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 60 is as follows: Page 26, line 18, strike out "$4,463,860,000," and insert $4,450,060,000,".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 60 and concur therein with an amendment, as follows: In lieu of

the sum proposed by said amendment, insert the following: "$4,468,871,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 65 is as follows: Page 27, line 21, strike out "$885,144,000."

And insert $886,638,000,".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 65 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$892,887,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 74 is as follows: Page 52, line 24, strike out "or (f) any service or supply which is not medically or psychologically necessary to diagnose and treat a mental or physical illness, injury, or bodily malfunction as diagnosed by a physician, dentist, or a clinical psychologist, as appropriate, except as authorized by section 1079 (a)(4) of title 10, United States Code."

And insert: "(f) reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished; or (g) any service of supply which is not medically or psychologically necessary to prevent, diagnose, or treat a mental or physical illness, injury, or bodily malfunction as assessed or diagnosed by a physician, dentist, clinical psychologist, certified psychiatric mental health nurse specialist, certified nurse-midwife, or other certified nurse practitioner, as appropriate, except as authorized by section 1079(a)(4) of title 10, United States Code.".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 74 and concur therein with an amendment, as follows: In lieu of the matter striken and inserted, insert: "(f) reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished; or (g) any service or supply which is not medically or psychologically necessary to prevent, diagnose, or treat a mental or physical illness, injury, or bodily malfunction as assessed or diagnosed by a physician, dentist, clinical physchologist, or certified nurse-midwife, as appropriate, except as authorized by section 1079(a)(4) of title 10, United States Code".

Mr. MAHON (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 76 is as follows: Page 56, line 8, insert:

SEC. 852. (a) None of the funds appropriated by this Act shall be obligated under the Competitive Rate Program of the Department of Defense for the transportation of household goods to or from Alaska or Hawaii.

(b) None of the funds appropriated by this Act shall be obligated for any payments to any low rate setting freight forwarder for transportation services furnished beginning November 1, 1978, for transportation of more than 80 percent of the estimated tonnage of commercial through household goods over any traffic route to or from a rate setting area under the Competitive Rate Program of the Department of Defense: *Provided*, That the limitations shall not apply to a traffic route over which less than 30,000 pounds of estimated tonnage will be transported: *Provided further*, That this limiation shall not apply to shipments to or from a rate setting area in the United States in which the total number of outbound shipments under the program during the period November 1, 1976, through April 30, 1977, was less than 3 percent of the total number of outbound shipments during that period.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 76 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 853. None of the funds appropriated by this Act shall be obligated under the Competitive Rate Program of the Department of Defense for the transportation of household goods to or from Alaska or Hawaii.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 77 is as follows: Page 57, line 3: strike out:

SEC. 853. None of the funds appropriated by this Act or available in any working capital fund of the Department of Defense shall be available to pay the expenses attributable to lodging of any person on official business away from his designated post of duty, or in the case of an individual described under section 5703 of title 5, United States Code, his home or regular place of duty, when adequate government quarters are available, but are not occupied by such person.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 77 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

SEC. 854. (a) None of the funds appropriated by this Act or available in any working capital fund of the Department of Defense shall be available to pay the expenses attributable to lodging of any person on official business away from his designated post of duty, or in the case of an individual described under section 5703 of title 5, United States Code, his home or regular place of duty, when adequate government quarters are available, but are not occupied by such person.

(b) The limitation set forth in subsection (a) is not applicable to employees whose duties require official travel in excess of fifty percent of the total number of the basic administrative work weeks during the current fiscal year.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 84 is as follows: Page 59, line 12, insert: SEC. 858. None of the funds appropriated by this Act may be used for the consolidation or realignment of advanced or undergraduate pilot training squadrons of the Navy as currently proposed by the Department of Defense.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 84 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 860. None of the funds appropriated by this Act may be used for the consolidation or realignment of advanced or undergraduate pilot training squadrons of the Navy as currently proposed by the Department of Defense.

The SPEAKER pro tempore. The gentleman from Texas (Mr. MAHON) is recognized for 30 minutes.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, I thank the chairman of the committee for yielding.

Mr. Speaker, let me say first to the gentleman from Texas (Mr. MAHON), the distinguished chairman of the Committee on Appropriations, that it has been a very real privilege for me to work with him during the 14 years I have served in this very distinguished body.

In my activities on the Committee on Armed Services, working the with gentleman as chairman of the Subcommittee of Defense on the Committee on Appropriations, I have never had anything but the highest regard for the gentleman, and all of my dealing with him have been most amiable and pleasant and on the very highest order.

I want to pay my personal respects to the gentleman as he handles what I presume will be his last bill, and I want to say how much all of us on this side of the aisle—and, indeed, I am sure this is true of the entire body—love and admire and respect the gentleman. I certainly want to get on the record at this time by saying that.

Mr. MAHON. Mr. Speaker. I thank the gentleman from Alabama (Mr. DICKINSON) very much for those generous words.

Mr. DICKINSON. Mr. Speaker, if the gentleman will yield further, let me say that what I am about to do now is probably the hardest thing I have done since being a Member of this body. It is my right and privilege at this point to ask for a division of the question on the motion and to force a vote on the question of consolidated helicopter training.

Mr. Speaker, this House has already voted several times on this question, my amendment overwhelmingly earlier this year, by almost a 2-to-1 vote. The same thing happened last year, and I think

that this House would perhaps vote the same way, if asked at this late date to vote once again to consolidate the basic helicopter training of all military services so that we can save what is estimated to be at least $100 million over the next 5 years. I think perhaps the House would vote the same way again.

I think so, in view of the history.

But the chairman knows, and I know, that there comes a point of reality when you might win a victory and lose the battle. And, as we have discussed in our previous colloquy, tied up in this bill are the paychecks of millions of our service personnel who will not get paid on time if I should offer my motion and it prevails and the Senate should be as "unyielding" as they have been in the past.

Mr. MAHON. Mr. Speaker, in the conference with the other body I explained to the Senate conferees that the House conferees had been instructed in regard to undergraduate helicopter pilot training, and I told the conferees of the other body that we did not propose to betray our colleagues in the House of Representatives and that we were going to insist upon the House position.

Individual members of the conference had different views in respect to the matter, but collectively we were going to insist. But day after day, during the conference, and when we were not in conference, the representatives of the other body assured me that they would not yield, regardless of what the House did, they did not propose to yield their position.

There are many ramifications and implications involved in this matter that the gentleman understands.

So session after session after session in respect to this matter, we tried to persuade the Senate to recede without success. What we could do would be to bring the matter back to the House for further action and the House would have the opportunity for further action. But, of course, if we have further action and we send this back to the other body, there is no doubt in the world that it will be bucked back to us and the conference will be delayed and the troops would not be paid tomorrow. The other body voted 75 to 21 on this issue.

Mr. DICKINSON. If the chairman would yield further, I want to commend him again, because I am aware that in the conference the chairman did make the statement that the House had spoken on this matter and that he was going to maintain the House position, and when a motion was made to recede and concur he did in fact stand with the House position, and they did not recede and concur. And if the chairman had done otherwise, he would have been going against the wishes of the House. I am aware of it, and I am appreciative of it, and I certainly think it should be a matter of record.

Mr. Speaker, I would just like to say that at this time I have spoken with the Secretary of Defense personally, and he feels strongly that this is a matter that should be done. I spoke with him yesterday. I have spoken with the Secretary of the Navy. He said:

Don't talk to me. You are preaching to the choir. I agree with everything you say.

I was assured yesterday by the Secretary of Defense that it would be in next year's budget if it was not successfully concluded in this budget. And so rather than take the chance that we would delay all of the military service personnel being paid on time—and God knows many of them live from hand to mouth, on the pay that they get—and knowing that whatever we do now will not bring about the consolidation which I seek and which the DOD seeks, and will not effectively accomplish the purpose, but might be counterproductive to those in the military for whom we wish the best and want to help, I will ask for a vote on this motion, but I will not insist upon a rollcall vote—just to make it a matter of record.

I want to again thank the chairman for his consideration and to explain why I am not making my motion at this time—not because of any lack of conviction on my part or of being convinced that I would not prevail in this one instance, but I do think, in the long run, it might prove selfish on my part and hurt other people who are looking for a paycheck, and it might not effectively accomplish the purpose which we seek at this time.

Mr. MAHON. I thank the gentleman for his statesmanlike position.

Mr. EDWARDS of Alabama. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. Mr. Speaker, I want to commend the gentleman from Alabama (Mr. DICKINSON). I think he shows great statesmanship at a time such as this. He has fought hard. He had the conferees on the House side instructed. The conferees in fact stood by their instructions and the gentleman knows, I think, that he could tie up this bill and send us back to conference at a most inopportune time. I think he shows great statesmanship in that respect and in his respect for the House, in his respect for the servicemen and women of this country and for others who are paid by this bill.

I want to compliment him for the spirit in which he has handled this matter.

Mr. MAHON. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 85 is as follows: Page 59, line 16, strike out:

SEC. 859. None of the funds appropriated by this Act shall be available to increase the pay of a prevailing rate employee, as defined in paragraph (A) of section 5342(a)(2) of title 5, United States Code, as the result of adjustments in pay pursuant to section 5343 of title 5, United States Code, effective on or after October 1, 1978, in excess of 5.5 percent of the rate of pay in effect on September 30, 1978, for such an employee.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 85 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

SEC. 861. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 89 is as follows: Page 61, line 4 strike out:

SEC. 861. None of the funds appropriated by this Act may be used to pay for abortions performed by any means except where the life of the mother would be in danger if the fetus is carried to term nor may any of such funds be used to promote or encourage abortions.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 89 and concur therein with an amendment, as follows: In lieu of the following:

SEC. 863. None of the funds appropriated by this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

Mr. MAHON (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAHON. Mr. Speaker, this is the motion involving the issue of abortion which we have already discussed in connection with this measure. I ask for a vote.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

CONFERENCE REPORT ON S. 555, ETHICS IN GOVERNMENT ACT OF 1978

Mr. DANIELSON. Mr. Speaker, I call up the conference report on the Senate bill (S. 555) to establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes.

The Clerk read the title of the Senate bill.

(For conference report and statement, see proceedings of the House of October 11, 1978.)

The SPEAKER pro tempore. Under the rule previously adopted, the conference report is considered as having been read.

PARLIAMENTARY INQUIRY

Mr. WIGGINS. Mr. Speaker, I pose a parliamentary inquiry.

It is my intention to make a point of order against title VI of the conference report, and I will do so at this time if it is the appropriate time to do so.

The SPEAKER pro tempore. This is the appropriate time. Is the gentleman designating title VI?

POINT OF ORDER

Mr. WIGGINS. Mr. Speaker, I make a point of order against title VI of the conference report. That, for the Speaker's information, is the title dealing with the special prosecutor language in the conference report, and I request to be recognized on my point of order.

The SPEAKER pro tempore (Mr. MINETA). The Chair will hear the gentleman from California.

Mr. WIGGINS. Mr. Speaker, my point of order is based upon rule XXVIII, which is the germaneness section. It is my position, Mr. Speaker, that title VI is a nongermane Senate amendment and it violates that section of the House rules which I have cited. It is to be remembered, Mr. Speaker, that a similar amendment to the Senate amendment was offered on the House floor during our consideration of H.R. 1. At that time an objection was raised to the amendment on the ground that it was nongermane to the bill. At that time the Speaker sustained the point of order.

It is my view, Mr. Speaker, that for the very reasons cited by the Speaker in rejecting the so-called Hyde amendment, the present Senate amendment is similarly defective and subject to a point of order.

When the gentleman from Illinois (Mr. HYDE) argued forcefully that the amendment he proposed was germane, he called to the attention of the Speaker that the issue dealt broadly with ethics in Government, but that argument did not prevail. He also called to the attention of the Speaker that the special prosecutor language was referred to the Judiciary Committee, but that language did not prevail.

Indeed, every argument which I think the proponents of the Senate language must now make in order to sustain the germaneness of this amendment was considered by the Speaker only several days ago and was rejected.

I wish, however, to not rest my case entirely upon the arguments which were made most cogently by the gentleman from California (Mr. DANIELSON) as he argued against the point of order earlier but rather wish to proceed by saying that the language in the special prosecutor amendment added by the Senate is so broad and sweeping that it covers in several respects private individuals, that is to say, new classes of people who are not covered under the sweep of the ethics bill.

As the Speaker knows, the ethics bill in the various titles affects those in the legislative branch, the executive branch, and the judicial branch of Government. However the special prosecutor legislation goes beyond that. It includes former members of the executive branch who are by hypothesis in private life. It also includes private individuals who have never served in Government, namely the campaign manager of a Presidential campaign or a person in a similar position connected with a Presidential campaign.

Under the Senate amendment a special prosecutor may be appointed in the event of alleged irregularities by these private individuals.

Now, Mr. Speaker, this is extending the categories of coverage in a very significant way and is a basis for my point of order to be sustained, but before I rest my case, Mr. Speaker, I wish to address myself to a more fundamental reason.

The special prosecutor bill, which is tacked on to the ethics bill, is a complicated and important piece of legislation. It was considered in detail by a different subcommittee in the Committee on the Judiciary which did not consider the ethics bill. It is true that the Committee on the Judiciary reported out a special prosecutor bill but it was never brought to the floor of the House and, indeed, has never been debated nor subject to amendment by Members of this House.

It is a far-reaching piece of legislation, it is complicated, different in form, different in purpose, different in all respects from the ethics bill which we did consider several days ago.

I hope that the Speaker, when the Speaker is prepared to rule, will recognize that germaneness, if it is to have any meaning at all, is offended in a fundamental way by allowing the Senate to tack on an issue which is so basically different and unrelated to the ethics bill which we considered earlier.

I hope the Speaker will sustain my point of order.

The SPEAKER pro tempore. Does the gentleman from California desire to be heard on the point of order?

Mr. DANIELSON. I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman is recognized.

Mr. DANIELSON. Mr. Speaker, the so-called special prosecutor portion of this bill was the work product of the Subcommittee on Criminal Justice of the Committee on the Judiciary which is chaired by our distinguished colleague, the gentleman from South Carolina (Mr. JAMES MANN) and I will yield to him in order to respond to the arguments the gentleman from California (Mr. WIGGINS) has made.

The SPEAKER pro tempore. The Chair will recognize the gentleman from South Carolina on the point of order.

Mr. MANN. Mr. Speaker, I thank the gentleman for yielding to me, and I will take a moment or two in order to outline the background of the legislation pending before the House at the moment, because it is somewhat complicated to describe.

The House amendment to S. 555 is actually the text of H.R. 1 as passed by the House. The text of H.R. 1, as finally approved, was actually the text of an amendment in the nature of a substitute, as amended. Thus, the issue, as I understand it, is whether the provisions of title VI of the conference report would have been germane to the amendment in the nature of a substitute which eventually became the text of House bill, H.R. 1, had the provisions of title VI been offered as an amendment to the amendment in the nature of a substitute. I believe that the provisions of title VI would have been germane to the amendment in the nature of a substitute and that the chair should therefore overrule the point of order.

During the consideration of the amendment in the nature of a substitute, the gentleman from Illinois (Mr. HYDE) offered an amendment with provisions similar to, but also critically different from, the provisions of title VI of the conference report. Unlike title VI of the conference report, the gentleman's amendment included Members of Congress. Since title II of the amendment in the nature of a substitute was limited to financial disclosure by executive branch personnel, the amendment of the gentleman from Illinois was not germane to title II and a point of order to his amendment was sustained.

The basic test for determining germaneness is whether the fundamental purpose of the amendment is germane to the fundamental purpose of the bill. The question here, then, is whether the fundamental purpose of title VI is germane to the fundamental purpose of the amendment in the nature of a substitute. I submit that it is. The purpose of the amendment in the nature of a substitute, which is subtitled the "Ethics in Government Act," is to promote ethical conduct by Federal Government officials and certain other private citizens. The purpose of title VI of the conference report is also to promote ethical conduct.

A second test for germaneness is whether the subject matter of the amendment relates to the subject matter of the bill. The question here is whether the subject matter of title VI of the conference report relates to the subject matter of the amendment in the nature of a substitute. I submit that it does.

The subject matter of the amendment in the nature of a substitute was broad. It encompassed ethical standards and conduct involving officials in all three branches of the Federal Government—legislative, executive, and judicial—as well as certain private citizens.

With regard to Federal Government employees and officials, it required detailed financial disclosure statements to be filed by people in all three branches of Government. It established an Office of Government Ethics with broad authority, including the power to promulgate regulations pertaining to "conflicts of interest and ethics in the executive branch." It amended our Federal criminal law in the area of conflicts of interest.

With regard to the point upon which the gentleman from California (Mr. WIGGINS) seems to primarily rely, that of the involvement of private citizens, the amendment in the nature of a substitute reached out to cover people who were private citizens as candidates for Congress, whether or not they were elected. It made criminal certain conduct by partners of Government employees or officers, even though the partners are not

themselves Government officers or employees. This is in section 241(a), establishing section 207(h) of title 18, United States Code, which was in the amendment in the nature of a substitute as it was considered by the House.

The gentleman from California concedes that the amendment in the nature of a substitute encompasses private citizens. He argues, however, that those private citizens are connected in some way with the Government.

Mr. Speaker, I submit that the private citizens covered in title VI of the conference report encompass only one narrow group. The President's campaign manager is connected to the Government just as much as the partner of some Government employee who may be violating some law in appearing before some Government agency. He is connected in the same way as the business partner of a Government employee would be connected.

Conflict of interest is apparent when a Government employee is involved in hearing a matter in which a business partner is involved, and a similar conflict is present when the Attorney General is called upon to prosecute the person who successfully managed the President's Presidential campaign.

Therefore, Mr. Speaker, the amendment in the nature of a substitute applied to private citizens when their status or relationship to people within the Government would create ethical or conflict-of-interest problems within the Federal Government.

This is precisely true of the only private citizens encompassed by title VI of the conference report, including, as I said before, the manager of the President's successful election or reelection campaign.

Based upon the above, Mr. Speaker, I submit that the provisions of title VI of the conference report would have been germane to the amendment in the nature of a substitute if those provisions had been offered as a separate title to the amendment in the nature of a substitute.

Therefore, I submit that the point of order should be overruled.

Mr. WIGGINS. Mr. Speaker, may I be heard further.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Speaker, I am fully sympathetic with the awkward position in which the gentleman from South Carolina (Mr. MANN) finds himself. He knows full well that the Chair sustained a point of order against a similar special prosecutor proposal when this matter was considered in the House. It is incumbent upon him to distinguish that action, obviously, in order to take the contrary point of view. Now he attempts to distinguish the recent decision of the Speaker by pointing out that the so-called Hyde amendment was nongermane to a title. However, had it been offered as a separate title, the argument of nongermaneness would not have prevailed.

Since this Senate proposal is a separate title, he urges the Speaker to adopt that reasoning. However, the trouble, Mr. Speaker, is that my friend, the gentleman from South Carolina, misunderstands the germaneness rule. An amendment, in order to overcome a charge of nongermaneness, must be germane to the bill and not to a title. That is the basis upon which the distinction is made that it was nongermane to a title.

Mr. Speaker, I respectfully suggest that my friend, the gentleman from South Carolina, has misconceived the germaneness rule. If the bill, whether by separate title or as an amendment to an existing title, is, in fact, nongermane, as the Speaker has previously held, recent precedent would require the Speaker to follow that decision.

Mr. MANN. If I may be heard further, Mr. Speaker, I feel not awkward, but very comfortable in the position which I have taken, not only with respect to the proper parliamentary distinction between titles and the purpose of the bill. It will be recalled that title II in our bill on the floor of the House related to executive branch employees, while the Hyde amendment, which was ruled nongermane, involved Members of Congress.

Mr. Speaker, the arguments I have made relate to the entire bill, and I think I have shown that not only is it coordinated with reference to the purpose of the legislation in general, but it is coordinated with reference to the persons involved to an adequate extent.

The SPEAKER pro tempore. Does the gentleman from California (Mr. DANIELSON) wish to be heard further?

Mr. DANIELSON. I have no argument to add other than that advanced.

The CHAIRMAN (Mr. MINETA). The Chair has examined the ruling cited by the gentleman from California and the previous discussion relative to title II of the House bill in the discussion of the 27th of September and the ruling of the Chair at that time. In examining that, it is a narrow ruling, and it only applies to title II and not to the whole bill. In looking at the gentleman's point of order in this instance the gentleman from California makes two points, one as title VI relates to new classes of persons not covered by the House-passed bill, and the other in terms of the breadth of the types of conduct subject to investigation by the special prosecutor.

It seems that under what is being considered here, the breadth of the investigation which the special prosecutor may undertake, goes far bevond the scope of the activity regulated by the House-passed bill. In looking at title VI, it authorizes the special prosecutor to investigate any violation of any Federal criminal law other than a violation constituting a petty offense—conduct which may or may not directly relate to the official duties of the persons covered. For that reason and for the reason that the Chair does not feel that the prior ruling is directly in point or a precedent in the present situation, the Chair does sustain the point of order.

Does the gentleman have a motion?

MOTION OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Speaker, I now move that the House reject title VI of the conference report.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. WIGGINS moves to reject title VI of the conference report on Senate 555.

The SPEAKER pro tempore. The gentleman from California (Mr. WIGGINS) is recognized for 20 minutes.

Mr. WIGGINS. Mr. Speaker, as a result of the ruling of the Chair that the motion has been made to reject the Senate amendment, 40 minutes of debate will follow, 20 minutes apparently to be controlled by me and, I presume, 20 minutes by the other gentleman from California. At the conclusion of 40 minutes of debate, or such portions thereof as we may consume, it is my intention to ask for a vote to reject title VI of the bill, the special prosecutor section.

Mr. Speaker, since the special prosecutor issue has not been before the House, I think it is important for me to take at least a part of my time to explain what the Senate has added to the bill and which our conferees have asked us to embrace. Title 28 of the United States Code is amended under this proposal by adding several new sections. The first, section 592, provides that when the Attorney General shall receive specific information charging certain designated officials with any felonious conduct, he shall thereupon conduct a preliminary investigation of the charges. The officials whose conduct may be questioned are the President, the Vice President, certain officials designated in section 5312 of title V—and I admit that I have forgotten who those individuals are at the moment—those executive level employees in the executive branch of schedule IV and above, Department of Justice Executive Level 3 and above employees, the Assistant Attorney General, the Director and the Deputy of the CIA, the Commissioner of Internal Revenue, and anyone who held any of those offices in the previous administration but who at the time of the charge is in private life. In addition, the campaign manager and the chairman of the national campaign committee—private individuals, I would presume—of the Committee to Elect or Reelect the President are also covered.

Now, if an allegation of any felonious conduct is made with respect to any of the individuals I have designated, it is incumbent upon the Attorney General to conduct a preliminary examination into those charges. The proposal gives the Attorney General 90 days within which to act. At the end of that 90-day period, or prior thereto, the Attorney General must make one of two determinations. He must determine either that the allegations are without substance, or he must make a determination that there is merit in the allegations.

I should, I suppose, to be complete, mention that he may also make no determination at all, which is tantamount to making a finding that there is substance to the charge.

If the Attorney General, after conducting an examination with respect to an allegation against his President, for example, finds it to be without substance, he must file a report containing his findings and the reasons therefor to a panel of the court, a new panel created

under this legislation, which shall sit here in Washington and be composed of three judges as a special panel of the Court of Appeals of the District of Columbia. In the case of a finding of no impropriety, the court has no power to act beyond the receipt of the finding by the Attorney General that no impropriety has been found. Indeed, it may do nothing with the report other than to release certain portions of it to the Congress or to the public if it, the court, believes that it would be proper to do so.

Alternatively, the Attorney General may find the allegations to have some substance, in which event the Attorney General shall apply to this panel of three judges for the appointment of a special prosecutor. The court is given the power to not only appoint a special prosecutor, but to define his jurisdiction.

The contents of the report by the Attorney General after a preliminary finding of some impropriety is to remain secret, available only to the court, and I presume, to the special prosecutor, but may not be released to the public or to Congress without special leave of this new court.

The Attorney General's determination not to appoint a special prosecutor or the Attorney General's determination to seek the appointment of a special prosecutor is not reviewable in any court by any third party.

When an application is received by the court, certain duties are created under this proposal which must be discharged by the court. First, the court must appoint a special prosecutor. It has no discretion to reject a special prosecutor. The court may, upon application of the Attorney General, in order to avoid several special prosecutors' offices functioning simultaneously, add to the jurisdiction of a special prosecutor which has already been appointed.

After the appointment of a special prosecutor by the court, the bill gives him certain powers. Suffice it to say that the power given to the special prosecutor is just about as broad as the power given to the present Attorney General with respect to such matters as appearances before grand juries, signing complaints, and grants of immunity, for example. In addition, the power of decision with respect to national security classifications of evidence is vested in the special prosecutor.

Mr. Speaker, I make a special point out of the national security power, because we have seen in recent years Attorneys General, in the interest of the national security, declining to prosecute suspected violators of our espionage statutes for fear that in the course of such trial the Government would be compelled to disclose matters which would be contrary to the national interest.

The Attorney General is in a unique position, I believe, to make that sensitive judgment, since he sits as a member of the President's Cabinet and has access to high-level personnel who are able to bring factual data to bear on this issue.

It is to be noted by contrast that the special prosecutor does not sit as a member of the President's Cabinet and will not be able, by reason of his limited access to information available to the President of the United States, to make the same sensitive judgments on national security issues which may now be made with confidence by the Attorney General. I emphasize this point only because I wish to let all the Members know that this bill we are asked to approve does grant that extraordinary power to the special prosecutor.

In addition, the special prosecutor has the power to appoint such employees, attorneys, and consultants as he deems appropriate to the exercise of his office. We are authorizing for appropriation such sums as may be required for the special prosecutor to discharge those responsibilities.

Finally, with respect to the authority of the special prosecutor, I want to emphasize one unique authority contained in this bill. It is the power of the three-judge panel which I have mentioned to reach down into the Department of Justice and take matters pending there away from the Department of Justice and confer jurisdiction upon the special prosecutor to proceed in those areas.

At the conclusion of whatever comes of the investigation of the special prosecutor and any criminal trails which may result, the special prosecutor is instructed to file a report with Congress concerning his activities. This is not expected to be a complete report. Indeed, the special prosecutor must only report in detail to the court which appoints him, and that court shall determine which portions of the special prosecutor's report are fit for us to read.

There is a unique provision in the bill which my friend, the gentleman from Illinois (Mr. HYDE), if he were here, would delight in, and that is the provision that grants power to the minority to trigger the appointment of a special prosecutor. On this matter I particularly invite the attention of the Members, because I am not sure they know the extent of the power given to the majority and the minority in this bill. The bill provides that a majority of the majority of the Committee on the Judiciary of either the House or Senate may request the appointment of a special prosecutor. It also provides that a majority of the nonmajority Members may request the appointment of a special prosecutor. What is not said are the circumstances which could trigger such a request by the majority or the minority.

There is no reference back to the early sections of the bill which narrow the jurisdiction of the special prosecutor and give power to trigger his appointment only upon claims of felonious misconduct with respect to several discreet classes of people.

This is an open invitation, I think, to politicize the special prosecutor process, and would not be tolerated in a bill which had been carefully considered by this House.

In the event my Republican colleagues view with some glee the prospect of appointing a special prosecutor, I want them to know that the carrot which is held out in one sentence is promptly withdrawn in another, because if the special prosecutor is not appointed pursuant to this request by the minority, then the Attorney General to whom the request is directed must state his reasons therefor to the committee. The report is to be secret unless the committee decides to release all or parts of it. The decision of the committee is, of course, the decision of the majority.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Texas.

Mr. HALL. I thank the gentleman for yielding.

I understood the gentleman to say that the three-judge panel would have the authority to proceed into the Department of Justice and remove jurisdiction of matters from the Justice Department at a time when the Justice Department had previously assumed jurisdiction.

Mr. WIGGINS. I direct the gentleman's attention to section 594, subdivision (e) of the bill, and I am sure that the gentleman will read, as I have, that the special prosecutor can ask the court—and I presume if he can ask the court, the court has power to dispose of that request—to refer matters pending in the Department of Justice to the special prosecutor for action.

Mr. HALL. But it would take the court to make that judgment?

Mr. WIGGINS. Oh, surely. And if one has no regard for the doctrine of separation of powers, that would not be troublesome. But the question of the court reaching into the Department of Justice and pulling something out to refer to a special prosecutor is very troublesome to me.

Mr. HALL. Does it state in that section what the special prosecutor would have to show to the court before that authority would be granted?

Mr. WIGGINS. My memory is that it does not. I do not have a copy of the bill before me, but I refer the gentleman to section 594, subsection of the bill.

Mr. HALL. I thank the gentleman.

Mr. WIGGINS. There are other matters in this bill, but I am afraid my time will run out, Mr. Speaker, without addressing myself to the main problem as I see it. I know I am gaining, much against my will, a reputation for challenging all matters on constitutional grounds—and I apologize to the Members for that. But I really must share with the Members what the holding of Buckley against Valeo was in respect to the ability of the Congress to take away from the President powers of appointment.

In summary, the court held that the Congress may not pass legislation conferring upon someone other than the President the power to make appointments into the executive branch.

And, in summary, I will tell the Members exactly what is done here. We are giving to judges the power to appoint a special prosecutor, a person in the executive branch but who is apparently under the control of no one. Now, I suggest that the bill certainly runs contrary to the spirit of Buckley against Valeo and runs contrary to the spirit of good government as well if we are going to have accountability.

I know that on the other side it may be pointed out that in one rare and unique circumstance the court now has the power to appoint on an interim basis

a U.S. attorney. I concede that. But that power is to be exercised only on an interim basis until the President can act. And clearly it is understood that the court is acting only until the President can assert his power under article II of the Constitution. By contrast, here the President has no power to question the decision of the court, and we simply and flatly are granting to a court the power to appoint an executive official. And that we cannot do.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. I thank the gentleman for yielding.

Mr. Speaker, I simply want to commend the gentleman on his superlative analysis of this section on what appears to be a veiled but quite ominous threat to the separation of powers, and I congratulate my colleague.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Illinois.

Mr. HYDE. I appreciate the gentleman's yielding, and I want to say that it is very seldom, I can think of two, maybe three instances, where I disagree philosophically and legislatively with the gentleman in the well, and I have total admiration for his ability and for his grasp of legal problems, but I think this is an excellent amendment. I think that the mechanism for a special prosecutor is particularly appropriate when you have one party controlling all three branches—well, the executive, the House, and the Senate, in any event. I am not sure about the U.S. Supreme Court. I would not hazard a guess on that. But I do think that the result of the Watergate hearings produced a recommendation that this mechanism be created, and I think the fact that it is included in this ethics bill is laudatory, and I do support it. I hope the gentleman's motion is defeated.

Mr. WIGGINS. Mr. Speaker, I think my friend, the gentleman from Illinois (Mr. HYDE), is being deluded. It must be borne in mind that the decision to ask for a special prosecutor is vested in the Attorney General.

The Attorney General's preliminary determination that the issue is without merit is not reviewable. What kind of a mechanism is that for impartial review of charges against executive branch employees, even if you subscribe to the theory of this legislation?

Mr. HYDE. But this bill contains within it a provision that a majority of the minority of the House Judiciary Committee, or the other body's Judiciary Committee, may petition for the appointment of a special prosecutor. This uniquely provides the minority—and we are a minority—with an opportunity to at least dramatize for the press and for the media and for the country the need for a special prosecutor.

Mr. WIGGINS. I want the gentleman to know that this ability to dramatize is somewhat circumscribed in the bill. When the majority of the minority sends a written request down to the Attorney General asking the Attorney General to appoint a special prosecutor, and the Attorney General declines to do so, sending his reasons back to the committee, no part of that report may be made public unless the committee—that is, the majority—agrees to let it be made public.

Mr. HYDE. If the gentleman will yield further, certainly the request and the reasons for that request are public; are they not?

Mr. WIGGINS. Yes; the request is made public.

Mr. HYDE. I would suggest then, if the request is made public and the reasons for the request, and the response being in the negative is kept secret, a very useful purpose would be served.

Mr. WIGGINS. Well, I suppose it would be if we dealt with honest men, but this bill presupposes dishonest people in the executive branch who would not perhaps react to that kind of public pressure if it were contrary to their self-interest.

We are talking about an important subject here. A special prosecutor, if we are going to institutionalize the office, is a dramatic slap in the face of the Department of Justice, a Department which has shown itself able to act without fear or favor in the past. I urge an "aye" vote on my motion.

Mr. DANIELSON. Mr. Speaker, I yield 19 minutes or such portion of it as he may consume to the gentleman from South Carolina (Mr. MANN).

Mr. MANN. Mr. Speaker, each of us knows that the idea of a special prosecutor has been bouncing around with considerable force for about 5 years, and now we have an opportunity to enact a moderate piece of legislation developed by a conservative subcommittee of the House Judiciary Committee, and accepted virtually verbatim by the Senate conferees; and we, I hope, will not blow this opportunity.

We have a bill here which does not include Members of Congress; we have a bill here which does not provide for a permanent prosecutor who might be engaged in witch hunting; we have a bill here which has been accepted and declared—if they have the capacity to do that—constitutional by the Department of Justice and the American Bar Association. We have a bill here which leaves to the Attorney General the power to request the appointment of a special prosecutor. We have a bill that has the approval of the administration, the Department of Justice, the Senate, the American Bar Association, Common Cause, and we have here a printed report of the House Judiciary Committee wherein the House Judiciary Committee by a vote of 24 to 6 adopted this piece of legislation. Here is the report; it is in print; it is available.

So, I do not believe that anybody is being particularly taken by surprise. If there is any surprise, it is that we have been able to prevail on all of the moderate decisions that could have been made in the development of this legislation.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I want to join the gentleman in his remarks, salute them, and commend the gentleman for his leadership in getting this legislation in the posture that it is in now. I will be very candid; I did not think I would ever see the day when the majority party would bring this to the floor. I commend the gentleman.

I want to say this. I do not view this as a slap in the face at the Attorney General. I view this as a resource that the Attorney General may be very pleased to avail himself of in the unhappy circumstance of people of his own political party being involved in a possible conflict situation. I think this is an added resource for the Attorney General and I should think he would welcome it.

Again I thank the gentleman for yielding.

Mr. RODINO. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from New Jersey, chairman of the Committee on the Judiciary.

Mr. RODINO. Mr. Speaker, I want to join with the gentleman from Illinois, a member of the Committee on the Judiciary, in his remarks.

As chairman of the Committee on the Juidiciary, I know that this legislation has been before the House for a long period of time, and it has been studied and studied seriously, and considered as a necessary piece of legislation by the subcommittee which is chaired by the gentleman from South Carolina. I commend him for the work that produced what I consider to be a very effective provision in this ethics bill which will deal with a situation which has been crying out for a solution for a long period of time.

The gentleman from South Carolina, along with the members of the subcommittee, had diligently and very loyally devoted themselves to this problem. I think it is timely that we adopt this provision, one which has been agreed to by the conferees. It is to the credit of the gentleman from South Carolina that this effort comes to this final result today.

Mr. MANN. I thank the chairman.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to compliment the gentleman from South Carolina for his efforts in respect of the special prosecutor legislation. I also want to commend the members of the subcommittee, including the gentleman from Illinois (Mr. HYDE), for the work they have done.

This has been a matter that has consumed the attention of the Subcommittee on Criminal Justice not only in this Congress but also in the prior Congress. It is an important piece of legislation. It may not be perfect but I think it is workable. I commend the subcommittee for adopting it and I hope it is adopted by the House.

Mr. MANN. I thank the gentlewoman.

I think the gentleman from Illinois said it very well when he said that this gives the Attorney General an additional resource. I think most people and the Attorney General would agree that there

are occasions when it would be better to have a special prosecutor other than the Attorney General. The Attorney General is a close associate of the President and I can quote all kinds of people about the appearance of justice and such things, but the Attorney General is a close associate of the President and it is suspect in this day and time when a high official is charged with an offense and the Attorney General is a close associate of the President. It is better for the President and Attorney General to be able to call in a special prosecutor in special cases and to remove the Attorney General from any stigma of partiality or partisanship.

As indicated earlier, this bill is important for what it does not do. It does not impede or impair or affect the action of the Congress in any way. With respect to impeachment, this bill requires that the special prosecutor turn over to the Congress any evidence that would indicate an impeachment situation.

The bill is designed to work in harmony with the Congress and certainly the Attorney General.

I think the gentleman from California (Mr. WIGGINS) made an excellent exposition of the mechanics of the bill.

I might indicate to the Members who the officials are that could trigger it, by being charged or accused of a crime, who could trigger the mechanism to appoint a temporary special prosecutor:

The President, the Vice President, individuals serving at the Cabinet level, senior staff in the White House earning more than $50,000 per year. Any individual in the Department of Justice compensated at level 3 of the Executive Schedule or above. Any Assistant Attorney General, director or deputy. The Director of the Central Intelligence or the Commissioner of Internal Revenue. And, incidentally, level 3 in the Attorney General's office would only cover the Attorney General, the Deputy Attorney General, the Associate Attorney General, the Solicitor General, the FBI Director, the LEAA Administrator; someone who held any of those positions or offices, which I have just indicated, during the incumbency of the President or the last preceding President if that President were of the same political party, and lastly, the national campaign manager or chairman of the national committee to elect or re-elect the President.

To indicate to you the type of momentum that this idea has had, the Senate during the last Congress passed a bill to provide for a permanent special prosecutor. Frankly, that idea is anathema to me. I referred to it earlier as affording the possibility of a witch hunt, to have somebody down there, who has a job, a function to perform, and then the bureaucratic impulse is going to strike him and he is liable to strike out at anyone.

In this case we have the Attorney General requesting the appointment of a special prosecutor. Only the Attorney General can request the special prosecutor, and, as the gentleman from Illinois (Mr. HYDE) indicated, if he does not respond to a situation that appears to be appropriate then a majority of the House Committee on the Judiciary, or the Senate Committee on the Judiciary, or a majority of the majority party Members, or majority of minority party Members, can make that request, and the political process will take place, and the special prosecutor will be appointed and, where appropriate, and where the Attorney General wants to bite the bullet and handle the matter himself, he still has that power.

So I respectfully submit that this is a bill which fills a necessary function in this 1978 atmosphere that prevails, not just because it is 1978, but for the future for the public expectations about integrity in Government.

There is one other point, to indicate how moderate and modest our end result is, the Senate bill contained the establishment, or the requirement for the establishment of an Office of Government Crimes, which they changed to read Office of Public Integrity. I guarantee you that in the conference it was tough going to get the Senate to back off from the requirement that the Department of Justice establish such an office. Their first version was with a Director appointed by the President in the Department of Justice Office of Public Integrity, or Office of Government Crimes.

We were able to strike that out and to provide merely that the Attorney General would report, on an annual basis, to the Congress on the activities of his department with reference to those public crimes by public officials.

And so I cannot emphasize enough, and I, of course, will be pleased to respond to any particulars about the legislation, but I cannot emphasize enough the fact that we think we have developed a modest bill, one that fits into our framework and the action that we are taking with reference to Members of the Congress. One that deals, nevertheless, gently with the separation of powers, and does not erode in any way, nor subject in any way, the Members of Congress or the Congress of the United States to any fallout.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Speaker, will the gentleman tell the House whether or not the Attorney General now has the power to appoint a special prosecutor in any case in which he deems it appropriate to do so?

Mr. MANN. In my judgment, he does have that power.

Mr. Speaker, if there are no further questions, I yield back the balance of my time.

Mr. DANIELSON. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Mr. Speaker, I only want to note that the two leaders in this debate, the gentleman from California (Mr. WIGGINS) and the gentleman from South Carolina (Mr. MANN), are leaving this body at the end of this session. I wish to say that the quality of the debate which we have just heard is a measure of the loss which this body is going to suffer when they leave us. The private sector is going to gain some very valuable legal talent, and we are certainly going to lose it here in the Congress. We will miss them.

Mr. Speaker, in this particular debate I come down on the side of the gentleman from South Carolina (Mr. MANN), and I hope that the motion will be defeated.

Mr. DANIELSON. Mr. Speaker, I yield myself such time as I may consume.

I rise in opposition to the motion and in full support of the position and the arguments advanced by the gentleman from South Carolina (Mr. MANN).

I would like to point out some things for the information of my colleagues here in the Congress. This special prosecutor provision applies only to executive department personnel. Who are they? They are set forth in the bill. They are the President and the Vice President, and then there is a reference made to section 5312 of title 5, United States Code.

Mr. Speaker, I have that title before me, and they are indeed the uppercrust of the executive department. The list consists of Cabinet members; the Secretaries of State, Treasury, and Defense; the Attorney General; the Postmaster General; and the Secretaries of the Interior, of Agriculture, of Commerce, of Labor, of Health, Education, and Welfare, of Housing and Urban Development, and of Transportation.

The provision of the bill spells out that in addition to those whom I have mentioned, included are the people within the Executive Office of the President who are compensated at a rate not less than that of level 4 of the Executive Schedule. These people are people working in the President's own office.

Mr. Speaker, the President wants this bill. He is talking about a special prosecutor to examine the activities of himself and his Vice President, his Cabinet, the people working in the White House, and within the Department of Justice, in which, I submit, a special prosecutor is uniquely appropriate inasmuch as one cannot conceive of an Attorney General investigating and prosecuting himself or some immediate member of his staff.

That is all we reach here. I want my colleagues in the legislative branch, my colleagues here in the House, to recognize that this portion of the bill applies only to that executive upper level which I have named, plus the National Committee Officers. No one else.

The President, who should be the most concerned here, has himself stated that he eagerly supports this bill and hopes that it will be passed.

The President has sent letters to the Committee on Criminal Justice urging the passage of this legislation since it applies only to his inner circle. I urge strongly that the motion be defeated.

I might add in closing that it warms my heart very much to again be on the same side with the distinguished gentleman from Illinois (Mr. HYDE). I think everyone should follow the advice of the gentleman from Illinois (Mr. HYDE) on this point and vote the motion down.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding.

The gentleman from California, I am sure, did not intend to exclude from the coverage of the bill all of the officials in

private life who formerly occupied positions in the prior administration.

Mr. DANIELSON. No. I thank the gentleman. Those who formerly occupied exactly the same positions, however.

Mr. WIGGINS. Yes.

Mr. DANIELSON. The Secretary of Defense in one administration is fungible with the Secretary of Defense in another administration. I thank the gentleman for reminding me.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WIGGINS).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WIGGINS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 49, nays 344, not voting 37, as follows:

[Rollcall No. 898]

YEAS—49

Bonker	Gibbons	Obey
Brooks	Gonzalez	Quayle
Brown, Ohio	Hammer-schmidt	Quillen
Butler	Jones, N.C.	Rhodes
Clawson, Del	Jones, Okla.	Rostenkowski
Collins, Tex.	Kelly	Ruppe
Conable	Kindness	Ryan
Daniel, Dan	Lent	Satterfield
Daniel, R. W.	Livingston	Steed
Delaney	McClory	Steiger
Dickinson	McDonald	Stump
Dingell	McKay	Waggonner
Duncan, Tenn.	Miller, Ohio	Wiggins
Edwards, Ala.	Murphy, N.Y.	Wilson, Bob
Erlenborn	Myers, John	Winn
Findley	Nedzi	Young, Alaska
Frenzel		

NAYS—344

Abdnor	Buchanan	Edgar
Addabbo	Burgener	Edwards, Calif.
Akaka	Burke, Fla.	Edwards, Okla.
Ambro	Burke, Mass.	Eilberg
Anderson, Calif.	Burleson, Tex.	Emery
Anderson, Ill.	Burlison, Mo.	English
Andrews, N.C.	Burton, John	Ertel
Andrews, N. Dak.	Caputo	Evans, Colo.
Annunzio	Carney	Evans, Del.
Applegate	Carr	Evans, Ga.
Archer	Carter	Evans, Ind.
Armstrong	Cavanaugh	Fary
Ashbrook	Cederberg	Fascell
Ashley	Chisholm	Fenwick
Aspin	Clausen, Don H.	Fish
AuCoin	Clay	Fisher
Bafalis	Cleveland	Fithian
Baldus	Cohen	Flippo
Barnard	Coleman	Florio
Baucus	Collins, Ill.	Flowers
Bauman	Conte	Foley
Beard, R.I.	Corcoran	Ford, Mich.
Beard, Tenn.	Corman	Ford, Tenn.
Bedell	Cornell	Forsythe
Beilenson	Cornwell	Fountain
Benjamin	Cotter	Fowler
Bennett	Coughlin	Fraser
Bevill	Cunningham	Fuqua
Biaggi	D'Amours	Gammage
Blanchard	Danielson	Garcia
Blouin	Davis	Gaydos
Boland	de la Garza	Gephardt
Bolling	Dellums	Giaimo
Bonior	Dent	Gilman
Bowen	Derrick	Ginn
Brademas	Derwinski	Glickman
Breaux	Devine	Goldwater
Breckinridge	Dicks	Goodling
Brinkley	Dodd	Gore
Brodhead	Dornan	Gradison
Broomfield	Downey	Grassley
Brown, Calif.	Drinan	Green
Brown, Mich.	Duncan, Oreg.	Gudger
Broyhill	Early	Guyer
	Eckhardt	Hagedorn
Hall	Mattox	Russo
Hamilton	Mazzoli	Santini
Hanley	Meyner	Sawyer
Hannaford	Michel	Scheuer
Hansen	Mikulski	Schroeder
Harkin	Mikva	Schulze
Harris	Miller, Calif.	Sebelius
Harsha	Mineta	Selberling
Hawkins	Minish	Sharp
Heckler	Mitchell, Md.	Shuster
Hefner	Murphy, Pa.	Simon
Heftel	Moakley	Sisk
Hightower	Moffett	Skelton
Holland	Mollohan	Skubitz
Holt	Montgomery	Slack
Holtzman	Moore	Smith, Iowa
Horton	Moorhead, Calif.	Snyder
Howard	Moorhead, Pa.	Solarz
Hubbard	Mottl	Spellman
Huckaby	Murphy, Ill.	Spence
Hughes	Murphy, Pa.	St Germain
Hyde	Murtha	Staggers
Ichord	Myers, Gary	Stange and
Jacobs	Myers, Michael	Stanton
Jeffords	Natcher	Stark
Jenkins	Neal	Steers
Jenrette	Nichols	Stockman
Johnson, Calif.	Nix	Stokes
Johnson, Colo.	Nolan	Stratton
Jones, Tenn.	Nowak	Studds
Jordan	O'Brien	Symms
Kasten	Oakar	Taylor
Kastenmeier	Oberstar	Thompson
Kazen	Ottinger	Thone
Kemp	Panetta	Thornton
Keys	Patten	Traxler
Kildee	Patterson	Treen
Kostmayer	Pattison	Trible
Krebs	Pease	Tucker
LaFalce	Pepper	Udall
Lagomarsino	Perkins	Ullman
Latta	Pickle	Van Deerlin
Le Fante	Pike	Vander Jagt
Leach	Poage	Vanik
Lederer	Pressler	Vento
Lehman	Preyer	Volkmer
Levitas	Price	Walgren
Lloyd, Calif	Pritchard	Walker
Lloyd, Tenn.	Pursell	Walsh
Long, La.	Rahall	Wampler
Long, Md.	Railsback	Watkins
Lujan	Rangel	Waxman
Luken	Regula	Weaver
Lundine	Reuss	Weiss
McCloskey	Richmond	Whalen
McCormack	Rinaldo	Whitehurst
McDade	Risenhoover	Whitley
McEwen	Roberts	Whitten
McFall	Robinson	Wilson, Tex.
McHugh	Rodino	Wirth
McKinney	Roe	Wolff
Maguire	Rogers	Wright
Mahon	Roncalio	Wydler
Mann	Rooney	Wylie
Markey	Rose	Yates
Marks	Rosenthal	Yatron
Marlenee	Rousselot	Young, Fla.
Marriott	Roybal	Young, Mo.
Martin	Runnels	Zablocki
Mathis		Zeferetti

NOT VOTING—37

Alexander	Frey	Quie
Ammerman	Harrington	Rudd
Badham	Hillis	Sarasin
Bingham	Hollenbeck	Shipley
Boggs	Ireland	Sikes
Burke, Calif.	Krueger	Smith, Nebr.
Burton, Phillip	Leggett	Teague
Chappell	Lott	Tsongas
Cochran	Madigan	White
Conyers	Meeds	Wilson, C. H.
Crane	Milford	Young, Tex.
Diggs	Moss	
Flynt	Pettis	

The Clerk announced the following pairs:

Mr. Alexander with Mr. Quie.
Mr. Teague with Mr. Sarasin.
Mr. Shipley with Mr. Badham.
Mr Krueger with Mr. Rudd.
Mr. Meeds with Mr. Cochran of Mississippi.
Mr. Flynt with Mr. Crane.
Mr. Chappell with Mr. Lott.
Mr. Phillip Burton with Mr. Frey.
Mr. Sikes with Mr. Hillis.
Mr. White with Mr. Hollenbeck.
Mr. Charles H. Wilson of California with Mr. Madigan.
Mr. Ammerman with Mr. Bingham.
Mrs. Boggs with Mr. Ireland.
Mrs. Burke of California with Mr. Conyers.
Mr. Harrington with Mr. Leggett.
Mr. Milford with Mr. Moss.
Mr. Tsongas with Mrs. Smith of Nebraska.
Mr. Diggs with Mrs. Pettis.

Mr. CONABLE and Mr. McDONALD changed their vote from "nay" to "yea."

Messrs. BURKE of Florida, ADDABBO, and PANETTA changed their vote from "yea" to "nay."

So the motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. EVANS of Colorado). The gentleman from California (Mr. DANIELSON) will be recognized for 30 minutes, and the gentleman from California (Mr. MOORHEAD) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, this is the conference report on the so-called ethics bill. I yield myself such time as I may consume, but I hope not to consume too much time. Only 2 weeks have gone by since this bill was debated at length and in depth by the House. I am certain that no one has forgotten the provisions, or at least the important provisions, of the bill since then.

I would like to point out that since that time in our conference, we have been successful in having the Senate recede to a very, very substantial part of the differences between the bills that the two Houses passed. Time after time in the conference, the Senate did recede to the House, and it would be my purpose here to point out those few instances in which the House felt compelled to recede to the Senate. In all instances, so far as I know, they were beneficial to our general purposes.

In one instance, in referring to the disclosure of value of income of over $100, in defining what unearned income is, the subject matter of rents was included. I would like to point out that the sense of the action on rent is that we mean net rent, so if someone had, for example, an apartment house with a huge gross but a good deal of expense to be subtracted from the gross, we are talking about the net when we are talking about that income.

The House receded to the Senate in another respect, as to the reporting of gifts. The Senate had a provision in their bill which permitted the appropriate committee of the Senate to grant a waiver of the need to report certain gifts. The House receded to the Senate in that respect, so that it will be possible for the appropriate House committee or appropriate committee of the other body administering financial disclosure to waive the need for reporting gifts in certain circumstances. It was brought to our attention that there might be wedding presents and the like in which it would not only be onerous, but even conceivably cause social problems, to disclose how much the gift cost, and so forth. So, the House receded; waivers can be granted under those circumstances.

I would like to point out that the Senate receded to us on the limit to which real property has to be reported. The House had a very wholesome provision that we need only to report real property if it is used for the purpose of producing

income. We do not have to report real property which is a personal residence. The Senate saw the wisdom of that point and receded to our position.

In another item on the reporting of liabilities, the Senate receded to us. The Senate had a provision that they had to report all liabilities exceeding $2,500. The House had a more appropriate limit of not reporting liabilities of less than $5,000. The conference committee in its wisdom thought it better to raise that to $10,000, and that is now in the provision in the conference report.

There is another proviso on estimating values. Some of the Members have been concerned that it would be difficult to place a precise value on various properties, so we settled that by providing that the fair market value is a sufficient value and a good faith estimate is enough to establish the fair market value.

The House did recede to the Senate on a provision which required persons to divulge the identity of certain positions which they may have held in the 1 year preceding entering into office.

On categories of value the other body had amounts up to $5 million. The House had a $100,000 maximum for categories of value. The Senate met us nine-tenths of the way and the $5 million was reduced down to $250,000, at which point we came to agreement. We did go part way to the Senate but they went from $5 million to $250,000 and we only went from $100,000 up to $250,000.

Again the House receded to the Senate provision permitting an individual to use good faith in estimating the value of an item if the exact value was not known.

A more substantial amendment in which the House receded had to do with the blind trust. We had a blind trust in our bill and they had a blind trust provision in their bill. However in the Senate they had a more detailed provision for blind trust which actually facilitates working out the blind trust, because one knows precisely what he has to do rather than in the general terms of the House bill, so we did recede to their language in that.

The Senate receded to the wholesome provision in our bill which did not require random audits. The Senate had required random audits, but they recognized the wisdom of our provision doing away with requirements of random audits.

Also we have a problem inasmuch as we are almost at election time. it is 3 weeks and 5 days off, and recognizing the fact that it might be difficult to have this bill passed and signed by the President and the information transmitted to all candidates, we did strike from the bill, for this year only, the provision which would impose sanctions on the failure of a candidate to get his report in. The candidates must report their financial statements but because of the shortness of time and the inequities that might result we relieve them of sanctions this year, 1978.

That has to do with the legislative branch.

In the executive branch the main thing that took place is the item which we have heretofore discussed this evening, the provision is actually in a separate title, but the provision for a special prosecutor to have jurisdiction in cases in which allegedly there is wrongdoing by the top level of the executive branch.

In the judicial department we stuck very closely to the language that we already had in the bill. As the Members well know, Mr. Speaker, we tried to tailor this bill in such a manner that the requirements for disclosure and reporting would be applied evenhandedly to the Members of the legislative branch, the executive branch, and the judicial branch, save only for a few little exceptions which are necessary to accomodate the inherent differences in the nature of the work performed by the members of the three branches.

We also made a change in the format of the bill.

When the bill left the House we had three titles, legislative, executive branch and judicial. The Senate had the disclosure provisions in one large massive mixed up version, that is the reporting requirements, so we broke it up, still having titles I, II and III for legislative, executive, and judicial, but a new title IV is the Office of Government Ethics, which was part B of title II in the House bill. This is not a substantial change, merely a change in the format.

The postemployment conflict of interest provisions which were part of title II in the House bill are now a separate title, title V.

We have just discussed title VI, the special prosecutor.

Title VII applies only to the other body. The other body wished to have the right to set up a Senate counsel and we felt that they were entitled to a Senate counsel if they wanted it, but the provision has no impact on this House. So we receded to their position on that.

Mr. Speaker and Members, that is substantially all that I have in my report and I urge the adoption of the conference report.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Texas.

Mr. KAZEN. Is the report that the gentleman was referring to that carries no sanctions this year, to be filed by every candidate including the incumbents?

Mr. DANIELSON. No, it does not. The reason is this, let me explain, the incumbents filed their report last April. There is currently no requirement that a nonincumbent candidate file a report and there will not be until and unless this bill is passed. Inasmuch as that may be just a week or two before the election, we felt that it would be inequitable to impose sanctions on a candidate for failing to get his report in. He must get it in but he will not have sanctions.

The conferees recognized the fact that in the stress of politics it may be that a candidate will point out that his opponent has not yet filed his report. That would have the effect of compelling compliance.

Mr. KAZEN. Mr. Speaker, if the gentleman will yield further, my point is that since we have already filed one this does not apply to us this year.

Mr. DANIELSON. No. We have already complied.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. DANIELSON. I am happy to yield to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I just wanted to compliment the gentleman from California (Mr. DANIELSON) on his excellent statement and for his long and untiring work and for the hours that he has spent on this bill. I think he has done a magnificent job.

Mr. Speaker, I rise in support of the conference report on S. 555, the Ethics in Government Act of 1978.

In adopting this conference report, the House will be reaffirming a very simple fact that the Government of the United States was not created so that those working for it may make financial gain from the powers given the Government by the people.

The Ethics in Government Act, for sure, will not touch directly upon every employee of the Government. However, its underlying intention should. As the Congress stated 20 years ago in passing a code of ethics for Government service (H. Con. Res. 975, July 11, 1958):

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should:

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.

3. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not: and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

9. Expose corruption wherever discovered.

10. Uphold these principles, ever conscious that public office is a public trust.

Mr. Speaker, I have one clarifying comment to make regarding part of the conference agreement. This part concerns the Ashbrook-Frenzel amendment adopted on the House floor to limit the outside earned income of high-level executive branch personnel. As the conference report managers' statement notes, present laws and regulations severely restrict outside earnings and jobs for any executive branch employee. Part II of Executive Order 11222, relating to standards of conduct, completely prohibits employment which conflicts with agency

regulatory interests. Section 202 of that Executive order (and agency regulations promulgated under it) are quite strict, as follows:

SEC. 202. An employee shall not engage in any outside employment, including teaching, lecturing, or writing, which might result in a conflict, or an apparent conflict, between the private interests of the employee and his official government duties and responsibilities, although such teaching, lecturing, and writing by employees are generally to be encouraged so long as the laws, the provisions of this order, and Civil Service Commission and agency regulations covering conflict of interest and outside employment are observed.

Consequently, the Ashbrook-Frenzel provision in essence restates and reaffirms intentions already on the books. It is not intended that this provision modify the stricter regulation now in effect. This provision simply sets parameters which the Director of the Office of Government Ethics, in promulgating future executive branch conduct regulations, must consider.

Mr. DANIELSON. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER pro tempore. The Chair will state that the gentleman from California has 19 minutes remaining.

Mr. MARKS. Mr. Speaker, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Pennsylvania (Mr. MARKS).

Mr. MARKS. Mr. Speaker, I thank the gentleman for yielding and I am just curious. You are suggesting that candidates for office at this time must file?

Mr. DANIELSON. They must file.

Mr. MARKS. A financial report?

Mr. DANIELSON. That is correct.

Mr. MARKS. But if they do not file there are no sanctions against their not filing?

Mr. DANIELSON. That is correct.

I would like to repeat the reasoning. It is simply this that we already are at Lief Ericson's day—I mean Columbus Day, October 12—and before this bill becomes law, if it does become law, several more days may have gone by and we felt it would be unfair to impose sanctions on candidates who might not even get the word by November 1.

Mr. MARKS. Does the gentleman expect then that they will be filed, that these reports will be filed by the candidates?

Mr. DANIELSON. I would think that they will. If I were a candidate under such circumstances, an incumbent candidate, I would certainly point out to my constituents if my opponent had not filed his report.

Mr. PREYER. Mr. Speaker, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from North Carolina.

Mr. PREYER. Mr. Speaker, on the point that was just raised, I think it should be mentioned that the congressional committees have been informed that they should notify each candidate that he must file. There will be no sanctions if he does not file, that is, we will not fine him $5,000, but the discipline of the election process will very much apply. If your opponent, or a candidate does not file, you are certainly free to argue the case that he, as a matter of law, should file, and has not filed.

Mr. KAZEN. Mr. Speaker, will the genteman yield further?

Mr. DANIELSON. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, one more question to clarify that point. What is the date in the bill by which these people have to file?

Mr. DANIELSON. November 1, 1978.

Mr. KAZEN. I thank the gentleman.

Mr. DANIELSON. Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD of California. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, if anyone voted for this legislation as it passed through the House a couple of weeks ago, there is no really good reason to vote against it at this time. If anyone voted against it when it passed through the House, I think there have been no changes made in the conference committee which would improve the bill to the extent that he or she would want to vote for it at this time.

It is unfortunate that we have come to the position in our Government where this kind of legislation is necessary, where the personal financial affairs of individuals at the upper level, who work for the executive branch of Government, for the judicial system, and for Members of Congress must be exposed. It is very unfortunate, but that time has obviously come since there are so many people in the governmental establishment who are in trouble. One seldom reads a newspaper without reading about some corruption somewhere in Government.

In the conference report the financial provisions are not radically different from those which this House passed a few days ago. The House conferees were successful in keeping the other body's enthusiasm for disclosure under reasonable constraint.

One of the sections in which I was most interested, the 1-year, no-contract provision, is not as good as it was when it passed out of the House. The Eckhardt amendment was modified substantially, but the bill is better than it was as it was originally introduced.

We made changes which make only those people paid at the level of GS–17's and above and who have significant decisionmaking or supervisory responsibility subject to this 1-year, no-contract provision.

It gave authority for the department heads and the Commissioner of Ethics to bring other people the 1-year no contract which they felt were necessary, but I think that it is a considerably improved piece of legislation over that which was originally introduced in this area.

Certain items of property which were seen as not presenting a conflict of interest have been so recognized in S. 555, such as personal savings accounts of $5,000 or less and mortgages on personal residences. All are excluded from reporting.

As in the House version, specific reference to criminal penalties was removed from this legislation.

The Senate bill had a provision requiring random audits of all the disclosure statements filed under this bill. This audit provision was taken out in the conference version.

Mr. Speaker, the gentleman from California (Mr. DANIELSON) has referred to the blind trust provision, which is a very complicated provision in the Senate version. Most of it was put into the conference report. I frankly would have preferred that this provision had been left out. I cannot see that it adds any real benefit to the bill, but the Senate wanted it. They insisted upon it, so we backed down on that point.

Mr. Speaker, I ask for the adoption of the conference report.

Mr. DANIELSON. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the disclosure requirements in the conference agreement are substantially the same as in the House bill, with separate titles for each of the three branches of Government. The Senate receded to the House version in nearly all respects, and the House managers agreed to the Senate provision containing detailed requirements for the establishment of blind trusts. This blind trust provision will insure that such financial arrangements are truly blind by requiring that the trustee be independent of the Government official and that the portfolio is adequately diversified. The trust document and the assets initially placed in the trust would be publicly available.

With respect to the reporting requirements in S. 555, the only major differences are as follows: First, the disclosure threshold for reporting liabilities is raised to $10,000, and it covers loans at any time during the calendar year; second, categories of value are raised one additional level so that the maximum is $250,000 or above; and third, Members must report positions held in any corporation, nonprofit organization, or other institution, except for positions in any religious, social, fraternal, or political entity, and positions solely of an honorary nature. The exemptions for honorary positions applies to the situation, for example, where a Member is the honorary chairman of some organization or is listed on the group's letterhead, but does not actively participate in the organization's operations.

There is also a change in the reporting of income. Any income from interest, dividends, rents, or capital gains will be reported by category of value, rather than exact dollar amount, since the property from which that income is derived is disclosed by category of value. All other income will be reported by dollar amount. In reporting income from any business entity, the gross amount should be listed. However, in recognition that gross income from a business may be misleading since it would not accurately reflect the Member's earnings from that business, the income definition in the conference report provides that net income from a business may also be listed. Gross income from a busi-

ness does not mean the gross sales of the business, but rather the gross income received by the Member.

The conference agreement directs the Clerk of the House to develop financial disclosure forms, and the Committee on Standards of Official Conduct is required to review the disclosure statements. It is the intention of the House managers that the Standards Committee will determine the policy on development of the disclosure forms and will be responsible for interpreting the disclosure requirements under the act. The Clerk of the House will be basically acting in a ministerial function to implement the disclosure law by preparing the forms and distributing them to those individuals required to file. The conference agreement also specifically authorizes the Clerk to promulgate rules and regulations in carrying out his responsibilities under the act. However, the Clerk is required to consult with the Standards Committee for its advice and guidance before issuing such regulations, and those regulations should reflect the policy considerations approved by the Standards Committee.

Finally, Mr. Speaker, candidates in the 1978 general election are required to file an abbreviated disclosure statement prior to the election. Candidates who lost a primary election this year obviously would not be required to file under the act. Because of the short period of time in which to comply with the disclosure law, the conference agreement provides that candidates will not be subject to any sanction under the act for failure to file this year. The Democratic and Republican Campaign Committees are notifying candidates this week of the information they are required to file.

Mr. Speaker, the Ethics in Government Act is landmark legislation. I am confident that enactment of this bill will go a long way towards restoring public confidence in Government. The importance of this legislation cannot be overstated. I urge adoption of the conference report.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding. I want to congratulate him for his long and patient struggle for title I, and for what I think is a pretty successful conclusion of that title.

However, earlier in this evening's discussion we were talking about the requirement that candidates file disclosure statements on November 1. The bill is not specific as to whether that means the date on which they drop the envelope in the post office box, or the date of receipt.

It seems to me that our precedent with the Federal election law is that the postmark date should be the one that prevails. Will the chairman of the select committee tell me if that is what he believes the committee intended in this case?

Mr. PREYER. My understanding of what we intended on the committee was that the postmark date is the controlling date, that is, the date the letter or report is postmarked.

Mr. FRENZEL. I thank the gentleman for his response and for his fine work on this bill.

Mr. PREYER. I thank the gentleman from Minnesota.

TUITION TAX CREDIT

Mr. DANIELSON. I yield 2 minutes to the gentleman from Texas (Mr. PICKLE).

(By unanimous consent, Mr. PICKLE was allowed to speak out of order.)

Mr. PICKLE. Mr. Speaker, soon we are going to have four votes on suspension matters. One will be a motion to recommit with instructions, the so-called Gradison amendment pertaining to the tuition tax credit measure. The instruction would provide that the House manager insist that a tax credit be provided for tuition paid for elementary and secondary education. All Members know that this is a very controversial matter. The Tax Committee is considering this proposition at this time.

The point I want to make to the Members is simply this with respect to tuition tax credit. As conferees, we found out that the Senate agreed there was no way that they could pass a bill on tuition tax credit for elementary and secondary education. They admitted that could not be done. Therefore, the conferees limited tuition tax credit to higher education. I know there may be some feeling in this body that we ought to have aid to elementary and secondary education. I simply say to the Members that there is no way in the world that the Senate would pass it, so I would hope that the conferees would not be instructed as provided for under the Gradison amendment. The other matter I would hope the Members would keep in mind is the matter I mentioned this morning. That is the bill H.R. 9893, the credits for elderly retirement personnel. That bill simply would mean that those persons under 65 pay a less tax than those persons over 65. That was not intended, but that is the cold fact of the matter. We do raise the base so everybody gets a little more money, but the fact of the matter is that the discrimination is still there, and I would hope that Members could vote against that bill.

Mr. DANIELSON. Mr. Speaker, I reserve the remainder of my time.

Mr. MOORHEAD of California. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, this conference report is worthy of House support. It is very similar to the House version which was passed by a large majority.

It does contain an extra title on a special prosecutor which has not been considered by the House and is not a good provision. And also it contains some other Senate material which would probably best be eliminated.

But, for the legislative branch, we have been pretty faithful to the House version. We retained the House disclosure provisions almost intact which reinforced our previous decision that we would not use a net worth or tax statement for the basis of disclosure. We are only asking for disclosure of specified information which we believe will reveal potential conflicts of interest.

In all the disclosure discussions, both on the House rules and on this bill, my only serious regret has been the adament insistence of the House to require spouse disclosures. In my judgment, the earnings and the assets of a spouse are not in the public domain, but should instead remain a matter of personal privacy.

It is becoming increasingly difficult to approve women on boards and commissions because their husbands represent clients of all kinds. As women move more into the mainstream, men will have the same trouble with alleged conflicts of interests. Acceptance of a Federal job will soon require that both spouses quit their jobs, an unreasonable sacrifice by any person's standard.

I have one other great fear about this bill. I am afraid we are making it more difficult for Government to hire quality people in our executive departments. It is difficult enough now to lure qualified people out of other vocations. With the disclosure, revolving door, and other provisions in this bill I believe it will be even more difficult.

I believe that this Congress will want to review these two matters more closely in the future. But, for now, the conference committee did a good job with a difficult problem, and the conference report should be adopted.

Mr. MOORHEAD of California. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in support of the conference report to accompany S. 555, the Ethics in Government Act, which establishes stringent new financial disclosure systems and conflict of interest requirements for the three branches of the Federal Government. This measure will help preserve and promote the integrity of public officials.

Mr. Speaker, House conferees initially were faced with a number of potentially troublesome areas of disagreement with the Senate. However, a spirit of fairness and a willingness to compromise so permeated the discussions that the conference committee proceeded smoothly and was, in fact, able to conclude its business in only a day and a half of deliberations.

In this regard, I wish to commend the gentleman from California, a senior member of the Committee on the Judiciary (Mr. DANIELSON), who acted as vice chairman of the conference, for both the evenhandedness that he demonstrated with all House conferees and the eloquent delineation of the House position on all issues for resolution with the Senate. I also commend the sense of responsibility reflected by my colleagues from the Committee on Post Office and Civil Service, on which I serve, the gentlelady from Colorado (Mrs. SCHROEDER), and the gentleman from Virginia (Mr. HARRIS), as well as all my fellow conferees representing the Committee on the Judiciary, the Committee on Armed Services, and the Committee on Ethics.

I believe that the conferees reached sound solutions to questions involving the stringency of legislative, executive, and judicial financial disclosure requirements; the scope of the content of reports; representation by congressional

legal counsel; and postemployment conflicts of interest. In each instance where the House receded to the Senate language, the House conferees actually accepted the stronger language of the Senate which had the effect of improving the merits of this legislation.

Accordingly, I urge the adoption of the conference report.

Mr. MOORHEAD of California. Mr. Speaker, I yield back the balance of my time.

Mr. DANIELSON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VOLKMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 370, nays 23, not voting 37, as follows:

[Rollcall No. 899]

YEAS—370

Abdnor	Carr	Fithian
Addabbo	Carter	Flippo
Akaka	Cavanaugh	Flood
Alexander	Cederberg	Florio
Ambro	Chisholm	Flowers
Anderson, Calif.	Clausen, Don H.	Flynt
Anderson, Ill.	Clay	Foley
Andrews, N.C.	Cleveland	Ford, Mich.
Andrews, N. Dak.	Cohen	Ford, Tenn.
Annunzio	Coleman	Fountain
Applegate	Collins, Ill.	Fowler
Archer	Conable	Fraser
Ashbrook	Conte	Frenzel
Ashley	Conyers	Fuqua
Aspin	Corcoran	Gammage
AuCoin	Corman	Garcia
Bafalis	Cornell	Gaydos
Baldus	Cornwell	Gephardt
Barnard	Cotter	Giaimo
Baucus	Coughlin	Gibbons
Bauman	Cunningham	Gilman
Beard, R.I.	D'Amours	Ginn
Beard, Tenn.	Daniel, Dan	Glickman
Bedell	Daniel, R. W.	Goldwater
Beilenson	Danielson	Goodling
Benjamin	Davis	Gore
Bennett	de la Garza	Gradison
Bevill	Dellums	Grassley
Biaggi	Dent	Green
Bingham	Derwinski	Gudger
Blanchard	Devine	Guyer
Blouin	Dickinson	Hagedorn
Boggs	Dicks	Hall
Boland	Dingell	Hamilton
Bolling	Dodd	Hanley
Bonior	Dornan	Hannaford
Bonker	Downey	Harkin
Bowen	Drinan	Harris
Brademas	Duncan, Oreg.	Harsha
Breaux	Duncan, Tenn.	Hawkins
Breckinridge	Early	Heckler
Brinkley	Eckhardt	Hefner
Brodhead	Edgar	Heftel
Broomfield	Edwards, Ala.	Hightower
Brown, Calif.	Edwards, Calif.	Holland
Brown, Mich.	Edwards, Okla.	Holt
Brown, Ohio	Eilberg	Holtzman
Broyhill	Emery	Horton
Buchanan	English	Howard
Burgener	Ertel	Hubbard
Burke, Fla.	Evans, Del.	Huckaby
Burke, Mass.	Evans, Ga.	Hughes
Burleson, Tex.	Evans, Ind.	Hyde
Burlison, Mo.	Fary	Ichord
Burton, John	Fascell	Jacobs
Burton, Phillip	Fenwick	Jeffords
Caputo	Findley	Jenkins
Carney	Fish	Jenrette
	Fisher	Johnson, Calif.
		Johnson, Colo.
Jones, Okla.	Mottl	Shuster
Jones, Tenn.	Murphy, Ill.	Sikes
Jordan	Murphy, N.Y.	Simon
Kasten	Murphy, Pa.	Skelton
Kastenmeier	Murtha	Skubitz
Kazen	Myers, Gary	Slack
Kelly	Myers, John	Smith, Iowa
Kemp	Myers, Michael	Snyder
Keys	Natcher	Solarz
Kildee	Neal	Spellman
Kindness	Nedzi	Spence
Kostmayer	Nichols	St Germain
Krebs	Nix	Staggers
LaFalce	Nolan	Stangeland
Lagomarsino	Nowak	Stanton
Latta	Oakar	Stark
Le Fante	Oberstar	Steed
Leach	Obey	Steers
Lederer	Ottinger	Stockman
Lent	Panetta	Stokes
Levitas	Patten	Stratton
Livingston	Patterson	Studds
Lloyd, Calif.	Pattison	Stump
Lloyd, Tenn.	Pease	Taylor
Long, Md.	Pepper	Thompson
Lujan	Perkins	Thone
Luken	Pickle	Thornton
Lundine	Poage	Traxler
McCory	Pressler	Treible
McCloskey	Preyer	Tucker
McCormack	Price	Udall
McDade	Pritchard	Ullman
McEwen	Pursell	Van Deerlin
McFall	Quayle	Vander Jagt
McHugh	Quillen	Vanik
McKinney	Rahall	Vento
Madigan	Railsback	Volkmer
Maguire	Rangel	Walgren
Mahon	Regula	Walker
Mann	Reuss	Walsh
Markey	Rhodes	Wampler
Marks	Richmond	Watkins
Marlenee	Rinaldo	Waxman
Marriott	Risenhoover	Weaver
Martin	Roberts	Weiss
Mathis	Robinson	Whalen
Mattox	Rodino	Whitehurst
Mazzoli	Roe	Whitley
Meyner	Rogers	Whitten
Michel	Rooney	Wilson, Bob
Mikulski	Rose	Wilson, Tex.
Mikva	Roybal	Winn
Miller, Calif.	Runnels	Wirth
Miller, Ohio	Ruppe	Wolff
Mineta	Russo	Wright
Minish	Ryan	Wydler
Mitchell, Md.	Santini	Wylie
Mitchell, N.Y.	Satterfield	Yates
Moakley	Sawyer	Yatron
Moffett	Scheuer	Young, Alaska
Mollohan	Schroeder	Young, Fla.
Moore	Schulze	Young, Mo.
Moorhead, Calif.	Sebelius	Zablocki
Moorhead, Pa.	Seiberling	Zeferetti
	Sharp	

NAYS—23

Armstrong	Forsythe	Roncalio
Brooks	Gonzalez	Rostenkowski
Butler	Hammer-schmidt	Rousselot
Clawson, Del.	Hansen	Steiger
Collins, Tex.	Jones, N.C.	Symms
Delaney	McDonald	Treen
Erlenborn	O'Brien	Waggonner
Evans, Colo.		Wiggins

NOT VOTING—37

Ammerman	Krueger	Rosenthal
Badham	Leggett	Rudd
Burke, Calif.	Lehman	Sarasin
Chappell	Long, La.	Shipley
Cochran	Lott	Sisk
Crane	McKay	Smith, Nebr.
Derrick	Meeds	Teague
Diggs	Milford	Tsongas
Frey	Montgomery	White
Harrington	Moss	Wilson, C. H.
Hillis	Pettis	Young, Tex.
Hollenbeck	Pike	
Ireland	Quie	

The Clerk announced the following pairs:

Mr. Rosenthal with Mr. Lott.

Mr. Ammerman with Mr. Hollenbeck.

Mrs. Burke of California with Mr. Hillis.

Mr. Chappell with Mr. Cochran of Mississippi.

Mr. Krueger with Mr. Frey.

Mr. Long of Louisiana with Mr. Quie.

Mr. McKay with Mr. Sarasin.

Mr. Shipley with Mr. Rudd.

Mr. Teague with Mr. Crane.

Mr. Charles H. Wilson of California with Mrs. Pettis.

Mr. Montgomery with Mr. Badham.

Mr. Derrick with Mr. Ireland.

Mr. Lehman with Mr. Leggett.

Mr. Sisk with Mr. White.

Mr. Tsongas with Mrs. Smith of Nebraska.

Mr. Meeds with Mr. Milford.

Mr. Pike with Mr. Moss.

Mr. Harrington with Mr. Diggs.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the Senate bill S. 555, just passed.

The SPEAKER pro tempore (Mr. RONCALIO). Is there objection to the request of the gentleman from California?

There was no objection.

DIRECTING SECRETARY OF SENATE TO MAKE CORRECTIONS IN ENROLLMENT OF S. 555

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 112), directing the Secretary of the Senate to make corrections in the enrollment of the Senate bill S. 555, and ask for its immediate consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate concurrent resolution (S. 112), as follows:

S. CON. RES. 112

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 555) to establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In section 101(c)—

(A) strike out "presently" and insert after "legislative branch" the following: "upon assuming such position"; and

(B) strike out "102(a)" and insert in lieu thereof "102(b)".

(2) In section 101(e) insert a comma after "Office of the Attending Physician".

(3) In section 101(f)—

(A) strike out "Senate Committee" and insert in lieu thereof "committee of the Senate", and

(B) strike out "House Committee" and insert in lieu thereof "committee of the House of Representatives".

(4) In section 102(a)(1)(B)—

(A) insert a comma after "capital gains"; and

(B) strike out the dash and insert in lieu thereof a colon.

(5) In section 102(a)(2)(B) strike out "and unless" and insert in lieu thereof a period and the following: "A gift need not be so aggregated if".

(6) In section 102(a)(4), in the first sentence strike out "exceeds" before "$10,000 at any time" and insert in lieu thereof "exceed".

(7) In section 102(a)(4)(B) insert a comma after "furniture".

(8) In section 102(a)(5) insert a comma after "purchase, sale".

(9) In section 102(a)(6) strike out "and" before "any educational" and insert in lieu thereof "or".

(10) In section 102(b), insert "of subsection (a)" after "paragraph (1)".

(11) In section 102(e)(1), strike out "of his dependent children" and insert in lieu thereof "dependent child".

(12) In section 102(e)(2)—

(A) in subparagraph (B)(i), strike out "of his dependents," and insert in lieu thereof "dependent child, and";

(B) strike out clause (ii) of subparagraph (B) and insert in lieu thereof the following:

(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of,

(C) strike out "or his dependents" and insert in lieu thereof "or any dependent child"; and

(D) strike out "section 102(a)(1)(B)" and insert in lieu thereof "subsection (a)(1)(B) of this section".

(13) in section 102(e)(3), strike out "of his dependents" and insert in lieu thereof "dependent child".

(14) In section 102(e)(3)(A)(iii) strike out "(as defined in section 107(2))".

(15) In section 102(e)(3)(C)—

(A) in clause (v) strike out "section 102(a)(1)(8) of this title" and insert in lieu thereof "subsection (a)(1)(B) of this section"; and

(B) in clause (vii)(II) strike out "and" after "holding an asset" and insert in lieu thereof a comma.

(16) In section 102(e)(3) strike out subparagraph (D) and insert in lieu thereof the following:

(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office.

For the purposes of this subsection "interested party" means a reporting individual, his spouse, and any dependent child if the reporting individual, his spouse, or dependent child has a beneficial interest in the principal or income of a qualified blind trust; "broker" has the meaning set forth in section 78 of title 15, United States Code; and "supervising ethics office" means the designated committee of the House of Representatives for those who file their reports required by this title with the Clerk and the designated committee of the Senate for those who file the reports required by this title with the Secretary.

(17) In section 102(e)(4), strike out "28" and insert in lieu thereof "18".

(18) In section 102(e)(5)(A)(ii) and (B) strike out "section 102(c)(1)" each place it appears and insert in lieu thereof "subsection (c)(1) of this section".

(19) In section 102(e)(5)(C)(ii)—

(A) insert "with such office" after "file";

(B) strike out "with his supervising ethics office"; and

(C) insert "of this section" after "subsection (c)".

(20) In section 102(e)(6)(A), in clauses (i) and (ii) insert "paragraph (3) of" before "this subsection".

(21) in section 102(e)(6)(B), insert "of this subsection" after "paragraph (3)(C)".

(22) In section 102(e)(7)(C), strike out the comma after "interested party" and insert "of this subsection" after "paragraph (5)".

(23) In section 103(a) strike out "of" after "Resident Commissioner" and insert in lieu thereof "from".

"(24) In section 103(c) strike out ", as amended".

(25) Strike out subsection (f) of section 103 and insert in lieu thereof the following:

(f) In order to carry out responsibilities under this title—

(1) the Clerk shall, after consultation with the designated committee of the House of Representatives, and

(2) the designated committee of the Senate shall develop reporting forms and may promulgate rules and regulations.

(26) In section 104(a)—

(A) in the first sentence strike out "Within" and insert in lieu thereof "Except as provided in the second sentence of this subsection, within"; and

(B) in the second sentence strike out "within 15 days of" and insert in lieu thereof "within fifteen calendar days after".

(27) In section 104(b)—

(A) in the first sentence strike out "Within" and insert in lieu thereof "Except as provided in the second sentence of this subsection, within"; and

(B) by inserting immediately after the first sentence the following new sentence: "With respect to reports required to be filed by May 15 of any year, such reports shall be made available for public inspection within fifteen calendar days after May 15 of such year.".

(28) In section 105(a), strike out "Committee" each place it appears and insert in lieu thereof "committee".

(29) In section 105(b)—

(A) strike out "Act" each place it appears and insert in lieu thereof "title"; and

(B) in the second sentence strike out "paragraph" and insert in lieu thereof "subsection".

(30) In section 107—

(A) in paragraph (2) strike out the period at the end thereof and insert in lieu thereof a semicolon;

(B) in paragraph (3)(C) strike out the comma after "State", strike out "entermtainment" and insert in lieu thereof "entertainment", strike out the colon and "or" after "subdivisions thereof", and strike out the semicolon after "country" and insert in lieu thereof a comma;

(C) in paragraph (4) strike out "the same meaning as the term has when used in the Federal Election Campaign Act of 1971." and insert in lieu thereof "the meaning given such term in the Federal Election Campaign Act of 1971;";

(D) in paragraph (9) strike out ", as amended"; and

(E) in paragraph (16) strike out "'or the Senate'" and insert after "'Representatives'" the following: "and 'designated committee of the Senate'".

(31) In section 201(c) insert "in a calendar year" after "becoming a candidate".

(32) In section 201(e)—

(A) strike out "as termination of employment in such position, file a report"; and

(B) insert "(a)" immediately after "202".

(33) In section 202(a)(1)(B) strike out the dash and insert in lieu thereof a colon.

(34) In section 202(a)(2)(B) strike out "and unless," and insert in lieu thereof a period and the following: "A gift need not be so aggregated if".

(35) In section 202(a)(4), in the first sentence strike out "exceeds" before "$10,000 at any time" and insert in lieu thereof "exceed".

(36) In section 202(a)(4)(B) insert a coma after "furniture" and insert a comma after "appliances".

(37) In section 202(a)(5) insert a comma after "purchase, sale".

(38) In section 202(a)(6)(A)—

(A) strike out "and" before "any educational" and insert in lieu thereof "or"; and

(B) strike out "This paragraph" and insert in lieu thereof "This subparagraph".

(39) In section 202(a)(6)(B) strike out "(1)" and "(2)" and insert in lieu thereof "(i)" and "(ii)", respectively.

(40) In section 202(b), strike out "title" and insert "of subsection (a)" after "paragraph (1)".

(41) In section 202(c) strike out "of this title".

(42) In section 202(d)(2) in the first sentence strike out "(d)" immediately before the period.

(43) In section 202(f)(1)—

(A) insert a comma after "(b)"; and

(B) strike out "of his dependent children" and insert in lieu thereof "dependent child".

(44) In section 202(f)(2)—

(A) in subparagraph (B)(i), strike out "of his dependents," and insert in lieu thereof "dependent child, and";

(B) strike out clause (ii) of subparagraph (B) and insert in lieu thereof the following:

"(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of,";

(C) strike out "or his spouse, or his dependent child" and insert in lieu thereof ", his spouse, or any dependent child"; and

(D) strike out "section 202(a)(1)(B)" and insert in lieu thereof "subsection (a)(1)(B) of this section".

(45) In section 202(f)(3), strike out "of his dependents" and insert in lieu thereof "dependent child".

(46) In section 202(f)(3)(C)(vi)(II) strike out "and" after "holding an asset" and insert in lieu thereof a comma.

(47) In section 202(f)(3) strike out subparagraph (D) and insert in lieu thereof the following:

"(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office. Fur purposes of this subsection, 'interested party' means a reporting individual, his spouse, and any dependent child if the reporting individual, his spouse, or dependent child has a beneficial interest in the principal or income of a qualified blind trust; 'broker' has the meaning set forth in section 78 of title 15, United States Code; and 'supervising ethics office' means the Office of Government Ethics.".

(48) In section 202(f)(4)(A) strike out "28" and insert in lieu thereof "18".

(49) In section 202(f)(4)(B)—

(A) strike out "A" after "subparagraph" and insert in lieu thereof "(A)".

(B) insert "child" after "dependent";

(C) in subparagraph (B)(i)(V) strike out "act" and insert in lieu thereof "Act" and strike out "requirement" and insert in lieu thereof "requirements"; and

(D) in subparagraph (B)(ii) strike out "take advantage of" and insert in lieu thereof "comply with".

(50) In section 202(f)(5)(C)(ii)—

(A) insert "with such office" after "file";

(B) strike out "with his supervising ethics office"; and

(C) insert "of this section" after "subsection (d)".

(51) In section 202(f)(6)(A), in clauses (i) and (iii) insert "paragraph (3) of" before "this subsection".

(52) In section 202(f)(6)(B), insert "of this subsection" after "paragraph (3)(C)".

(53) In section 202(f)(7)(C), strike out the comma after "interested party" and insert "of this subsection" after "paragraph (5)".

(54) In section 204(b)—

(a) strike out "and the Director of the Office of Government Ethics" and insert in lieu thereof "or the Director of the Office of Government Ethics, as the case may be,"; and

(B) strike out "they have" and insert in lieu thereof "he has".

(55) In section 205(a) insert "by the" before "Secretary concerned".

(56) In section 205(b) strike out the first sentence and insert in lieu thereof the following: "Each agency shall, within fifteen days after any report is received by the agency under this title, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy.".

(57) In section 205(d) in the first sentence strike out "part" and insert in lieu thereof "title".

(58) In section 206(b)(2)(B) insert im-

mediately before the period "with such laws and regulations".

(59) In section 206(b)(3) in subparagraphs (B) and (C) strike out the period and insert in lieu thereof a comma.

(60) In section 207(a), strike out "Section 202 (a), (b) and (d)" and insert in lieu thereof "Subsections (a), (b), and (d) of section 205".

(61) In section 209—

(A) in paragraph (2) strike out the period at the end thereof and insert in lieu thereof a semicolon;

(B) in paragraph (4) strike out "the same meaning as the term has when used in the Federal Election Campaign Act of 1971." and insert in lieu thereof "the meaning given such term in the Federal Election Campaign of 1979;".

(62) Insert the following after section 209 of the bill:

OUTSIDE EARNED INCOME

SEC. 210. Except where the employee's agency or department shall have more restrictive limitations on outside earned income, all employees covered by this title who are compensated at a pay grade in the General Schedule of grade 16 or above and who occupy nonjudicial full-time positions appointment to which is required to be made by the President, by and with the advice and consent of the Senate, may not have in any calendar year outside earned income attributable to such calendar year which is in excess of 15 percent of their salary.

(63) In the section immediately following the heading "EFFECTIVE DATE" in title II of the bill, strike out "Sec. 210." and insert in lieu thereof "Sec. 211.".

(64) In secton 301(b) strike out "Committee" and insert in lieu thereof "committee".

(65) In section 301(d) strike out "section 301(c)" and insert in lieu thereof "subsection (c) of this section".

(66) In section 301(e) strike out "by" after "established" and insert in lieu thereof "pursuant".

(67) In section 302(a)(1)(A), insert "(other than income referred to in subparagraph (B))" immediately after "income".

In section 302(a)(1)(B) of the bill strike out "(other than income referred to in subparagraph (B))".

(68) In section 302(a)(2)(B) strike out "and unless," and insert in lieu thereof a period and the following: "A gift need not be so aggregated if".

(69) In section 302(a)(4), in the first sentence strike out "exceeds" before "$10,000 at any time" and insert in lieu thereof "exceed".

(70) In section 302(a)(4)(B) insert a comma after "furniture" and insert a comma after "appliances".

(71) In section 302(a)(6) strike out "and" before "any educational" and insert in lieu thereof "or".

(72) In section 302(b), insert "of subsection (a)" after "paragraph (1)".

(73) In section 302(d)(2) in the first sentence strike out "(d)" immediately before the period.

(74) In section 302(f)(1)—

(A) insert "of this section" after "subsections (a), (b), and (c)"; and

(B) strike out "of his dependent children" and insert in lieu thereof "dependent child".

(75) In section 302(f)(2)—

(A) in subparagraph (B)(i), strike out "of his dependents," and insert in lieu thereof "dependent child, and";

(B) strike out clause (ii) of subparagraph (B) and insert in lieu thereof the following:

(ii) the holding or sources of income of which such individual, his spouse, and any dependent child have no knowledge of,

(C) strike out "or his dependent child" and insert in lieu thereof "or any dependent child"; and

(D) strike out "section 302(a)(1)(B)" and insert in lieu thereof "subsection (a)(1)(B) of this section".

(76) In section 302(f)(3), strike out "of his dependents" and insert in lieu thereof "dependent child".

(77) In section 302(f)(3)(C)(vi)(II) strike out "and" after "holding an asset" and insert in lieu thereof a comma.

(78) In section 302(f)(3) strike out subparagraph (D) and insert in lieu thereof the following:

(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office.

For purposes of this subsection "interested party" means a reporting individual, his spouse, and any dependent child if the reporting individual, his spouse, or dependent child has a beneficial interest in the principal or income of a qualified blind trust; "broker" has the meaning set forth in section 78 of title 15, United States Code; and "supervising ethics office" means the Judicial Ethics Committee.

(79) In section 302(f)(5)(C)(ii)—

(A) insert "with such office" after "file";

(B) strike out "with his supervising ethics office"; and

(C) insert "of this section" after "subsection (d)".

(80) In section 302(f)(6)(A), in clauses (i) and (iii) insert "paragraph (3) of" before "this subsection".

(81) In section 302(f)(6)(B), insert "of this subsection" after "paragraph (3)(C)".

(82) In section 302(f)(7)(C), strike out the comma after "interested party" and insert "of this subsection" after "paragraph (5)".

(83) In section 303(b) strike out the comma after "he sits".

(84) In section 305(b) strike out the first sentence and insert in lieu thereof the following: "The Committee shall, within fifteen days after any report is received by the Committee under this title, permit inspection by or furnish a copy of such report to any person requesting such inspection or copy.".

(85) In section 307(b) insert a comma after "disclosure".

(86) In section 308—

(A) in paragraph (2) strike out the period at the end thereof and insert in lieu thereof a semicolon;

(B) in paragraph (4) strike out "the same meaning as the term has when used in the Federal Election Campaign Act of 1971." and insert in lieu thereof "the meaning given such term in the Federal Election Campaign Act of 1971;"; and

(C) in paragraph (9) insert "United States" before "court of appeals" and "district courts, including".

(87) In section 402(b)(3) strike out "such statements" and insert in lieu thereof "financial statements filed pursuant to such title".

(88) In section 402(d) immediately before the period strike out "Act" and insert in lieu thereof "title".

(89) In section 405(1) insert "and" after the semicolon.

(90) In the heading for section 207 of title 18 United States Code, as amended by section 501 of the bill, strike out the colon and insert in lieu thereof a semicolon.

(91) In section 207(a) of title 18, United States Code, as amended by section 501 of the bill—

(B) insert a comma immediately after "otherwise represents";

(B) insert a comma immediately after "(except the United States)"; and

(C) strike out "written or oral communication" and insert in lieu thereof "oral or written communication".

(92) In section 207(b) of title 18, United States Code, as amended by section 501 of the bill—

(A) in clause (ii), insert "and" and immediately after "having been so employed"; and

(B) in paragraph (3), insert a comma immediately after "such responsibility".

(93) In section 207(c) of title 18, United States Code, as amended by section 501 of the bill—

(A) strike out "government" and insert in lieu thereof "Government";

(B) strike out "employed in the Executive Branch" and insert in lieu thereof "so employed and";

(C) insert a comma immediately after "knowingly acts as agents or attorney for";

(D) insert a comma immediately after "or otherwise represents";

(E) insert a comma immediately after "anyone other than the United States"; and

(F) strike out "shall" and insert in lieu thereof "shall".

(94) In section 207(d) of title 18, United States Code, as amended by section 501 of the bill—

(A) in paragraph (1), strike out "or" the fourth time it appears;

(B) in paragraph (2), strike out "or" the fourth time it appears; and

(C) in paragraph (2), insert a comma immediately after "supervisory responsibility".

(95) In section 207(e) of title 18, United States Code, as amended by section 501 of the bill, insert a comma immediately after "agencies".

(96) In section 207(f) of title 18, United States Code, as amended by section 501 bill, insert a comma immediately after "technical discipline".

(97) In section 207(g) of title 18, United States Code, as amended by section 501 of the bill—

(A) strike out "in which such officer or employee of the Government or special Government employee participates or has participated personally and substantially as a Government employee" and insert in lieu thereof "in which such officer or employee or special Government employee participates or has participated personally and substantially as an officer or employee"; and

(B) insert "for" immediately after "imprisoned".

(98) In section 207(h) of title 18, United States Code, as amended by section 501 of the bill, insert a comma immediately after "oath".

(99) In section 207(i) of title 18, United States Code, as amended by section 501 of the bill, strike out "the former officer" the first time it appears therein and insert in lieu thereof "a former officer".

(100) In section 502 of the bill, strike out "pursuant subsection (d) of section 207, title 18, United States Code" and insert in lieu thereof "pursuant to section 207(d) of title 18, United States Code".

(101) In section 591(b)(3) of title 28, United States Code, as added by section 601 of the bill, strike out "the rate provided for" and insert in lieu thereof "the annual rate of basic pay provided for".

(102) In section 591(h)(4) of title 28, United States Code, as added by section 601 of the bill, strike out "the rate provided for" and insert in lieu thereof "the annual rate of basic pay provided for".

(103) In section 591(b)(4) of title 28, United States Code, as added by section 601 of the bill, strike out each of the semicolons with the exception of the semicolon at the end thereof and insert in lieu thereof a comma.

(104) In section 592(c)(2) of title 28, United States Code, as added by section 601 of the bill, strike out the semicolon and insert in lieu thereof a comma.

(105) In section 594(a)(7) of title 28, United States Code, as added by section 601 of the bill, strike out the comma immediately following "6005".

(106) In section 594(a)(8) of title 28, United States Code, as added by section 601

of the bill, strike out "section 6103 of title 26" and insert in lieu thereof "section 6103 of the Internal Revenue Code of 1954".

(107) In section 594(b) of title 28, United States Code, as added by section 601 of the bill, strike out "the rate of pay" and insert in lieu thereof "the annual rate of basic pay".

(108) In section 594(c) of title 28, United States Code, as added by section 601 of the bill, insert a comma immediately after "duties" the second time it appears.

(109) In section 595(a) of title 28, United States Code, as added by section 601 of the bill—

(A) strike out the comma immediately after "Congress"; and

(B) strike out "that" and insert in lieu thereof "such".

(110) In section 595(b)(2) of title 28, United States Code, as added by section 601 of the bill, strike out "prosecutor" the third time it appears and insert in lieu thereof "prosecuted".

(111) In section 595(e) of title 28, United States Code, as added by section 601 of the bill, strike out "a judiciary committee" and insert in lieu thereof "the Committee on the Judiciary".

(112) In section 596(a)(2) of title 28, United States Code, as added by section 601 of the bill, strike out "judiciary committees" and insert in lieu thereof "Committees on the Judiciary".

(113) In section 596(a)(3) of title 28, United States Code, as added by section 601 of the bill, strike out the opening quotation marks immediately before "judicial reviews".

(114) In section 529 of title 28, United States Code, as added by section 601 of the bill, strike out "public Integrity Section" and insert in lieu thereof "Public Integrity Section".

(115) In section 604 of the bill, strike out the comma immediately after "title 28" the first time it appears.".

(116) In section 701(a)(4) of the bill—

(A) strike out "rate of pay for level III" and insert in lieu thereof "rate of basic pay for level III"; and

(B) strike out "rate of pay for level IV" and insert in lieu thereof "rate of basic pay for level IV".

(117) In section 701(b)(1) strike out "rate of pay for level V" and insert in lieu thereof "rate of basic pay for level V".

(118) In section 702(b)(3) of the bill, strike out "Judiciary Committee" and insert in lieu thereof "Committee on the Judiciary".

(119) In section 703(b) of the bill, strike out "section Joint Leadership Group or" and insert in lieu thereof "section 705 only when directed to do so".

(120) In section 703(d)(2) of the bill, insert "an" immediately before "affirmative vote".

(121) In section 704 (a) (1) of the bill—

(A) insert a comma immediately after "political subdivision thereof";

(B) insert a comma immediately after "taken by"; and

(C) insert a comma immediately after "officer" the third time it appears.

(122) In section 704 (a) (2) insert a comma immediately after "officer" the second time it appears.

(123) in section 705 (a) of the bill, strike out "title 23 of the United States Code" and insert in lieu thereof "title 28 of the United States Code".

(124) In section 705(b) of the bill, strike out "with in" and insert in lieu thereof "within".

(125) In section 705 of the bill, strike out

"(e) The extent to which a report filed pursuant to subsection (c)(2) is in compliance with such subsection shall not be reviewable in any court of law."

and insert in lieu thereof.

"(e) A report filed pursuant to subsection (c) (2) shall not be reviewable in any court of law to the extent such report is in compliance with such subsection.".

(126) in section 1364(b) of title 28, United States Code, as added by subsection (f)(1) of section 705 of the bill, strike out "an entity or person refusing or failing, or threatening to refuse or not to comply, with a subpena" and insert in ileu thereof "an entity or person refusing, or failing to comply with, or threatening to refuse or not to comply with, a subpena".

(127) In section 1364(b) of title 28, United States Code, as added by subsection (f)(1) of section 705 of the bill—

(A) strike out "refusing or failing, or threatening to refuse or not to comply, resides" and insert in lieu thereof "refusing, or failing to comply, or threatening to refuse or not to comply, resides";

(B) strike out "an subpenas for witnesses who are required to attend" and insert in lieu thereof "and subpenas for witnesses who are required to attend".

(128) In section 1364(e) of title 28, United States Code, as added by subsection (f)(1) of section 705 of the bill, insert a comma immediately after "section".

(129) In section 705 of the bill, strike out

"(e) Nothing in this section shall limit the discretion of—

and insert in lieu thereof

"(g) Nothing in this section shall limit the discretion of—".

(130) In section 707 of the bill, strike out "district court to issue and order" and insert in lieu thereof "district court to issue an order".

(131) In section 708(a)(4) of the bill, insert a comma immediately after "officer" the second time it appears.

(132) In section 708(a)(5) of the bill, insert a comma immediately after "Parliamentarian of the Senate".

(133) In section 708(b) of the bill—

(A) strike out "Memoranda" and insert in lieu thereof "memoranda"; and

(B) strike out "information or a confidential" and insert in lieu thereof "information of a confidential".

(134) In section 709(7) of the bill, insert "the" immediately before "Congress".

(135) In the section that immediately follows the heading "CONFLICT OR INCONSISTENCY" strike out "Sec. 10." and insert in lieu thereof "Sec. 710.".

(136) In subsection (b) of the section that immediately follows the heading "CONFLICT OR INCONSISTENCY" strike out "recipt" and insert in lieu thereof "receipt".

(137) In section 711(a)(2) of the bill, inset a comma immediately after "section 703 (a)".

(138) In section 711(b) of the bill, insert "and" immediately before "special committees".

(139) In section 712(b) of the bill, insert "section" immediately before "706".

(140) In section 714(d) of the bill, strike out the comma immediately after "March 3, 1875".

(141) In section 715 of the bill, insert "of" immediately after "If any provision of any part of this title or".

(142) In section 715 of the bill, insert "of" immediately after "the provisions of other parts and".

(143) In section 104(b) of the bill strike out "Secretary" and insert in lieu thereof "Secretary".

(144) In section 107(15) strike out "means and individual" and insert in lieu thereof "means an individual".

(145) In section 201(f)(3) of the bill strike out "rate of basis" and insert in lieu thereof "rate of basic".

(146) In section 202(a) of the bill strike out "with respect the" and insert in lieu thereof "with respect to the".

(147) In section 209(2) of the bill strike out "grandfather" and insert in lieu thereof "grandfather".

(148) In section 107(8)(A) of the bill, insert "the District of Columbia, or any State or political subdivision thereof" immediately after "United States Government".

Mr. DANIELSON (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate concurrent resolution and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. WIGGINS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California to dispense with further reading?

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

AUTHORIZING CLERK OF THE HOUSE TO MAKE CERTAIN CORRECTIONS IN ENROLLMENT OF H.R. 11445, AMENDING THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate concurrent resolution (S. Con Res. 111) directing the Clerk of the House to make corrections in the enrollment of the bill (H.R. 11445) to amend the Small Business Act and the Small Business Invesment Act of 1958.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa:

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 111

(1) In section 20(1)(5) of the Small Business Act as proposed to be added by section 102 of the bill, insert a comma after the phrase "Federal department, agency or instrumentality" the first time it appears.

(2) In section 503(a)(4) of the Small Business Act as proposed to be added by section 117(a) of the bill, strike the comma after the words "guarantee is made under this subsection".

(3) In section 117(b) of the bill, insert a period at the end of the sentence.

(4) In section 118 of the bill, strike "(a)" after "amended" and insert in lieu thereof "(1)".

(5) In section 118 of the bill, strike "(b)" and insert in lieu thereof "(2)".

(6) In section 118 of the bill, strike "(c)" and insert in lieu thereof "(3)".

(7) In section 118 of the bill, insert "(a)" after "Sec. 118.".

(8) In section 5(b)(12) of the Small Business Act as proposed to be added by section 118 of the bill, strike the comma after the phrase "banks and private dealers" the first time it appears.

(9) In section 5(b)(12) of the Small Business Act as proposed to be added by section 118 of the bill, strike the words "the Small Business Act" and insert in lieu thereof "this Act".

(10) In section 5(b)(12) of the Small Business Act as proposed to be added by section 118 of the bill, strike the period at the end of the last sentence and insert in lieu thereof"; and".

(11) In section 118, add a new subsection as follows:

"(b) Section 4(c)(1) of the Small Business Act is amended by inserting "5(b)(12)," between "sections" and "7(a)".

(12) In section 21(a)(1) of the Small Business Act proposed to be added by section 201 of the bill, strike the words "community colleges or junior colleges" and insert in lieu thereof "community college or junior college".

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate concurrent resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, may I ask the gentleman from Iowa (Mr. SMITH) whether the corrections listed in the Senate concurrent resolution are totally technical in nature and that there are no nongermane amendments that have been added?

Mr. SMITH of Iowa. Mr. Speaker, if the gentleman will yield, it is strictly a list of technical amendments.

Mr. BAUMAN. Further reserving the right to object, no nongermane items have been added by the other body?

Mr. SMITH of Iowa. There are no nongermane amendments.

Mr. BAUMAN. I thank the gentleman and I withdraw my reservation of obligation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

RENAMING THE U.S. FEDERAL BUILDING IN YAKIMA, WASH., THE "JUSTICE WILLIAM O. DOUGLAS FEDERAL BUILDING"

Mr. MINETA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3540) to rename the U.S. Federal Building in Yakima, Wash., the "Justice William O. Douglas Federal Building", and ask for its immediate consideration in the House.

The clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. WALSH. Mr. Speaker, reserving the right to object, and I do so only for the purpose of giving the chairman of the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation, the gentleman from California, Mr. MINETA, the opportunity to explain what this is all about.

Mr. MINETA. Mr. Speaker, will the gentleman yield?

Mr. WALSH. I yield to the gentleman from California.

Mr. MINETA. The Subcommittee on Public Buildings and Grounds of the House Committee on Public Works and Transportation held a hearing on the naming of the Federal Court and Office Building in Yakima, Wash., for Justice William O. Douglas. The building that would be so renamed is where Justice Douglas used to hold office when he went to Yakima, Wash., which was his home and residence during the summers and in the off-court times. It was unanimously passed by the subcommittee and also by the full Committee on Public Works and Transportation.

Mr. WALSH. Mr. Speaker, I thank the gentleman for his explanation and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so only to ask the gentleman from California (Mr. MINETA) if there are any nongermane provisions which have been appended to this bill?

Mr. MINETA. Mr. Speaker, if the gentleman will yield, there are none at all.

Mr. BAUMAN. I thank the gentleman and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3540

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Federal building and courthouse located at 25 South Third Street in Yakima, Washington, is hereby designated as the "Justice William O. Douglas Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Justice William O. Douglas Federal Building.

CONFERENCE REPORT ON H.R. 12605, PUBLIC TELECOMMUNICATIONS FINANCING ACT OF 1978

Mr. STAGGERS submitted the following conference report and statement on the bill (H.R. 12605) to amend the Communications Act of 1934 to extend and improve the provisions of such Act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes:

CONFERENCE REPORT
(H. REPT. 95-1774)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12605) to amend the Communications Act of 1934 to extend and improve the provisions of such Act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the mattter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Public Telecommunications Financing Act of 1978".

TITLE I—CONSTRUCTION AND PLANNING OF FACILITIES

DECLARATION OF PURPOSE

SEC. 101. Section 390 of the Communications Act of 1934 is amended to read as follows:

"DECLARATION OF PURPOSE

"SEC. 390. The purpose of this subpart is to assist, through matching grants, in the planning and construction of public telecommunications facilities in order to achieve the following objectives: (1) extend delivery of public telecommunications services to as many citizens of the United States as possible by the most efficient and economical means, including the use of broadcast and nonbroadcast technologies; (2) increase public telecommunications services and facilities available to, operated by, and owned by minorities and women; and (3) strengthen the capability of existing public television and radio stations to provide public telecommunications services to the public.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 102. Section 391 of the Communications Act of 1934 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 391. There are authorized to be appropriated $40,000,000 for each of the fiscal years 1979, 1980, and 1981, to be used by the Secretary of Commerce to assist in the planning and construction of public telecommunications facilities as provided in this subpart. Sums appropriated under this subpart for any fiscal year shall remain available until expended for payment of grants for projects for which applications approved by the Secretary pursuant to this subpart have been submitted within such fiscal year. Sums appropriated under this subpart may be used by the Secretary to cover the cost of administering the provisions of this subpart.".

CONSTRUCTION AND PLANNING

SEC. 103. (a) Section 392 of the Communications Act of 1934 is amended to read as follows:

"GRANTS FOR CONSTRUCTION AND PLANNING

"SEC. 392. (a) For each project for the construction of public telecommunications facilities there shall be submitted to the Secretary an application for a grant containing such information with respect to such project as the Secretary may require, including the total cost of such project, the amount of the grant requested for such project, and a 5-year plan outlining the applicant's projected facilities requirements and the projected costs of such facilities requirements. Each applicant shall also provide assurances satisfactory to the Secretary that—

"(1) the applicant is (A) a public broadcast station; (B) a noncommercial telecommunications entity; (C) a system of public telecommunications entities; (D) a nonprofit foundation, corporation, institution, or association organized primarily for educational or cultural purposes; or (E) a State or local government (or any agency thereof), or a political or special purpose subdivision of a State;

"(2) the operation of such public telecommunications facilities will be under the control of the applicant;

"(3) necessary funds to construct, operate, and maintain such public telecommunications facilities will be available when needed;

"(4) such public telecommunications facilities will be used only for the provision of public telecommunications services;

"(5) the applicant has participated in comprehensive planning for such public telecommunications facilities in the area which the applicant proposes to serve, and such

planning has included an evaluation of alternate technologies and coordination with State educational television and radio agencies, as appropriate; and

"(6) the applicant will make the most efficient use of the grant.

"(b) Upon approving any application under this section with respect to any project for the construction of public telecommunications facilities, the Secretary shall make a grant to the applicant in an amount determined by the Secretary, except that such amount shall not exceed 75 percent of the amount determined by the Secretary to be the reasonable and necessary cost of such project.

"(c) The Secretary may provide such funds as the Secretary deems necessary for the planning of any project for which construction funds may be obtained under this section. An applicant for a planning grant shall provide such information with respect to such project as the Secretary may require and shall provide assurances satisfactory to the Secretary that the applicant meets the eligibility requirements of subsection (a) to receive construction assistance.

"(d) Any studies conducted by or for any grant recipient under this section shall be provided to the Secretary, if such studies are conducted through the use of funds received under this section.

"(e) The Secretary shall establish such rules and regulations as may be necessary to carry out this subpart, including rules and regulations relating to the order of priority in approving applications for construction projects and relating to determining the amount of each grant for such projects.

"(f) In establishing criteria for grants pursuant to section 393 and in establishing procedures relating to the order of priority established in subsection (e) in approving applications for grants, the Secretary shall give special consideration to applications which would increase minority and women's ownership of, operation of, and participation in public telecommunications entities. The Secretary shall take affirmative steps to inform minorities and women of the availability of funds under this subpart, and the localities where new public telecommunications facilities are needed, and to provide such other assistance and information as may be appropriate.

"(g) If, within 10 years after completion of any project for construction of public telecommunications facilities with respect to which a grant has been made under this section—

"(1) the applicant or other owner of such facilities ceases to be an agency, institution, foundation, corporation, association, or other entity described in subsection (a)(1); or

"(2) such facilities cease to be used only for the provision of public telecommunications services (unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so);

the United States shall be entitled to recover from the applicant or other owner of such facilities the amount bearing the same ratio to the value of such facilities at the time the applicant ceases to be such an entity or at the time of such determination (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facilities are situated), as the amount of the Federal participation bore to the cost of construction of such facilities.

"(h) Each recipient of assistance under this subpart shall keep such records as may be reasonably necessary to enable the Secretary to carry out the functions of the Secretary under this subpart, including a complete and itemized inventory of all public telecommunications facilities under the control of such recipient, and records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project in connection with which such assistance is given or used, the amount and nature of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

"(i) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance under this subpart that are pertinent to assistance received under this subpart.".

(b)(1) The provisions of section 392(g) of the Communications Act of 1934, as added by subsection (a), shall apply to any grant made under section 392 of such Act before, on, or after the date of the enactment of this Act. Any authority and responsibility of the Secretary of Health, Education, and Welfare regarding the administration of such grants are hereby transferred to the Secretary of Commerce.

(2) Subject to the provisions of section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), the following are hereby transferred to the Secretary of Commerce for appropriate allocation:

(A) the personnel employed in connection with or in support of, or as an integral part of the mission of, the functions transferred to the Secretary of Commerce from the Secretary of Health, Education, and Welfare by paragraph (1); and

(B) the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, arising from, available for, or to be made available for, or in connection with, the functions described in subparagraph (A).

Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds originally were authorized and appropriated.

(3) The Director of the Office of Management and Budget, in consultation with the Secretary of Commerce and the Secretary of Health, Education, and Welfare, shall—

(A) make such determinations as may be necessary with regard to the transfer of the functions transferred to the Secretary of Commerce from the Secretary of Health, Education, and Welfare by paragraph (1); and

(B) make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, arising from, available for, or to be made available for, or in connection with, the functions described in subparagraph (A);

as the Director may deem necessary to accomplish the purposes of this Act and the amendments made by this Act.

CRITERIA FOR APPROVAL AND EXPENDITURES BY SECRETARY OF COMMERCE

SEC. 104. Section 393 of the Communications Act of 1934 is amended to read as follows:

"CRITERIA FOR APPROVAL AND EXPENDITURES BY SECRETARY OF COMMERCE

"SEC. 393. (a) The Secretary, in consultation with the Corporation, public telecommunications entities, and as appropriate with others, shall establish criteria for making construction and planning grants. Such criteria shall be consistent with the objectives and provisions set forth in this subpart, and shall be made available to interested parties upon request.

"(b) The Secretary shall base determinations of whether to approve applications for grants under this subpart, and the amount of such grants, on criteria developed pursuant to subsection (a) and designed to achieve—

"(1) the provision of new telecommunications facilities to extend service to areas currently not receiving public telecommunications services;

"(2) the expansion of the service areas of existing public telecommunications entities;

"(3) the development of public telecommunications facilities owned by, operated by, and available to minorities and women; and

"(4) the improvement of the capabilities of existing public broadcast stations to provide public telecommunications services.

"(c) Of the funds appropriated pursuant to section 391 for any fiscal year, not less than 75 percent shall be available to extend delivery of public telecommunications services to areas not receiving such services through grants for facilities of new and existing public telecommunications entities, and preoperational expenses associated with such facilities. In choosing among applicants for grants, the Secretary shall compare the advantages of alternate technologies on the basis of costs and benefits.

"(d) Of the sums appropriated pursuant to section 391 for any fiscal year, a substantial amount shall be available for the expansion and development of noncommercial radio broadcast station facilities.".

LONG-RANGE PLANNING FOR FACILITIES

SEC. 105. Section 394 of the Communications Act of 1934 is amended to read as follows:

"LONG-RANGE PLANNING FOR FACILITIES

"SEC. 394. (a) The Secretary, in consultation with the Corporation, public telecommunications entities, and as appropriate with other parties, shall develop a long-range plan to accomplish the objectives set forth in section 390. Such plan shall include a detailed 5-year projection of the broadcast and nonbroadcast public telecommunications facilities required to meet such objectives, and the expenditures necessary to provide such facilities.

"(b) The plan required in subsection (a) shall be updated annually, and a summary of the activities of the Secretary in implementing the plan shall be submitted concurrently to the President and the Congress not later than the 31st day of December of each year.".

MISCELLANEOUS PROVISIONS

SEC. 106. (a) The heading for part IV of title III of the Communications Act of 1934 is amended to read as follows:

"PART IV—ASSISTANCE FOR PUBLIC TELECOMMUNICATIONS FACILITIES; TELECOMMUNICATIONS DEMONSTRATIONS; CORPORATION FOR PUBLIC BROADCASTING".

(b) The heading for subpart A of part IV of title III of the Communications Act of 1934 is amended to read as follows:

"Subpart A—Assistance for Public Telecommunications Facilities".

(c) The position of Deputy Assistant Secretary of Commerce for Communications and Information, established in Department of Commerce Organization Order Numbered 10–10 (effective March 26, 1976), shall be compensated at the rate of pay in effect from time to time for level V of the Executive Schedule under section 5316 of title 5, United States Code.

TITLE II—TELECOMMUNICATIONS DEMONSTRATIONS

ASSISTANCE FOR DEMONSTRATION PROJECTS

SEC. 201. Part IV of title III of the Communications Act of 1934 is amended by striking out section 392A and section 395, by redesignating subpart B and subpart C as subpart C and subpart D, respectively, and by inserting after subpart A the following new subpart:

"Subpart B—Telecommunications Demonstrations

"ASSISTANCE FOR DEMONSTRATION PROJECTS

"SEC. 395. (a) It is the purpose of this subpart to promote the development of nonbroadcast telecommunications facilities and services for the transmission, distribution, and delivery of health, education, and public or social service information. The Secretary is authorized, upon receipt of an application in such form and containing such information as he may by regulation require, to make grants to, and enter into contracts with, public and private nonprofit agencies, organizations, and institutions for the purpose of carrying out telecommunications demonstrations.

"(b) The Secretary may approve an application submitted under subsection (a) if he determines that—

"(1) the project for which application is made will demonstrate innovative methods or techniques of utilizing nonbroadcast telecommunications equipment or facilities to satisfy the purpose of this subpart;

"(2) demonstrations and related activities assisted under this subpart will remain under the administration and control of the applicant;

"(3) the applicant has the managerial and technical capability to carry out the project for which the application is made; and

"(4) the facilities and equipment acquired or developed pursuant to the application will be used substantially for the transmission, distribution, and delivery of health, education, or public or social service information.

"(c) Upon approving any application under this subpart with respect to any project, the Secretary shall make a grant to or enter into a contract with the applicant in an amount determined by the Secretary not to exceed the reasonable and necessary cost of such project. The Secretary shall pay such amount from the sums available therefor, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

"(d) Funds made available pursuant to this subpart shall not be available for the construction, remodeling, or repair of structures to house the facilities or equipment acquired or developed with such funds, except that such funds may be used for minor remodeling which is necessary for and incidental to the installation of such facilities or equipment.

"(e) For purposes of this section, the term 'nonbroadcast telecommunications facilities' includes, but is not limited to, cable television systems, communications satellite systems and related terminal equipment, and other modes of transmitting, emitting, or receiving images and sounds or intelligence by means of wire, radio, optical, electromagnetic, or other means.

"(f) The funding of any demonstration pursuant to this subpart shall continue for not more than 3 years from the date of the original grant or contract.

"(g) The Secretary shall require that the recipient of a grant or contract under this subpart submit a summary and evaluation of the results of the demonstration at least annually for each year in which funds are received pursuant to this section.

"(h)(1) Each recipient of assistance under this subpart shall keep such records as may be reasonably necessary to enable the Secretary to carry out the Secretary's functions under this subpart, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purposes of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subpart.

"(i) The Secretary is authorized to make such rules and regulations as may be necessary to carry out this subpart, including regulations relating to the order of priority in approving applications for projects under this subpart or to determining the amounts of grants for such projects.

"(j) The Commission is authorized to provide such assistance in carrying out the provisions of this subpart as may be requested by the Secretary. The Secretary shall provide for close coordination with the Commission in the administration of the Secretary's functions under this subpart which are of interest to or affect the functions of the Commission. The Secretary shall provide for close coordination with the Corporation in the administration of the Secretary's functions under this subpart which are of interest to or affect the functions of the Corporation.

"(k) There are authorized to be appropriated $1,000,000 for each of the fiscal years 1979, 1980, and 1981, to be used by the Secretary to carry out the provisions of this subpart. Sums appropriated under this subsection for any fiscal year shall remain available for payment of grants or contracts for projects for which applications approved under this subpart have been submitted within one year after the last day of such fiscal year.".

TITLE III—CORPORATION FOR PUBLIC BROADCASTING

DECLARATION OF POLICY

SEC. 301. Section 396(a) of the Communications Act of 1934 is amended to read as follows:

"SEC. 396. (a) The Congress hereby finds and declares that—

"(1) it is in the public interest to encourage the growth and development of public radio and television broadcasting, including the use of such media for instructional, educational, and cultural purposes;

"(2) it is in the public interest to encourage the growth and development of nonbroadcast telecommunications technologies for the delivery of public telecommunications services;

"(3) expansion and development of public telecommunications and of diversity of its programming depend on freedom, imagination, and initiative on both local and national levels;

"(4) the encouragement and support of public telecommunications, while matters of importance for private and local development, are also of appropriate and important concern to the Federal Government;

"(5) it furthers the general welfare to encourage public telecommunications services which will be responsive to the interests of people both in particular localities and throughout the United States, and which will constitute an expression of diversity and excellence;

"(6) it is necessary and appropriate for the Federal Government to complement, assist, and support a national policy that will most effectively make public telecommunications services available to all citizens of the United States; and

"(7) a private corporation should be created to facilitate the development of public telecommunications and to afford maximum protection from extraneous interference and control.".

CHAIRMAN OF THE BOARD

SEC. 302. Section 396(d)(1) of the Communications Act of 1934 is amended by striking out "President shall designate one of the members first appointed to the Board as Chairman; thereafter the".

COMPENSATION OF OFFICERS AND EMPLOYEES

SEC. 303. (a) Section 396(e)(1) of the Communications Act of 1934 is amended by inserting after the first sentence the following new sentence: "No officer or employee of the Corporation may be compensated by the Corporation at an annual rate of pay which exceeds the rate of basic pay in effect from time to time for level I of the Executive Schedule under section 5312 of title 5, United States Code.".

(b) The amendment made by subsection (a) shall not be construed to reduce the annual rate of pay of any officer or employee of the Corporation for Public Broadcasting in any case in which (1) such officer or employee was appointed or named to any position in the Corporation before the date of the enactment of this Act; and (2) the annual rate of pay for such position, as in effect on such date of enactment, exceeds the maximum rate of pay established in section 396(e)(1) of the Communications Act of 1934, as amended by subsection (a).

PURPOSES AND ACTIVITIES OF CORPORATION

SEC. 304. Section 396(g) of the Communications Act of 1934 is amended to read as follows:

"Purposes and Activities of Corporation

"(g)(1) In order to achieve the objectives and to carry out the purposes of this subpart, as set out in subsection (a), the Corporation is authorized to—

"(A) facilitate the full development of public telecommunications in which programs of high quality, diversity, creativity, excellence, and innovation, which are obtained from diverse sources, will be made available to public telecommunications entities, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature;

"(B) assist in the establishment and development of one or more interconnection systems to be used for the distribution of public telecommunications services so that all public telecommunications entities may disseminate such services at times chosen by the entities;

"(C) assist in the establishment and development of one or more systems of public telecommunications entities throughout the United States; and

"(D) carry out its purposes and functions and engage in its activities in ways that will most effectively assure the maximum freedom of the public telecommunications entities and systems from interference with, or control of, program content or other activities.

"(2) In order to carry out the purposes set forth in subsection (a), the Corporation is authorized to—

"(A) obtain grants from and make contracts with individuals and with private, State, and Federal agencies, organizations, and institutions;

"(B) contract with or make grants to public telecommunications entities, national, regional, and other systems of public telecommunications entities, and independent producers and production entities, for the production or acquisition of public telecommunications services to be made available for use by public telecommunications entities, except that—

"(i) to the extent practicable, proposals for the provision of assistance by the Corporation in the production or acquisition of programs or series of programs shall be evaluated on the basis of comparative merit by panels of outside experts, representing diverse interests and perspectives, appointed by the Corporation; and

"(ii) nothing in this subparagraph shall be construed to prohibit the exercise by the Corporation of its prudent business judgment with respect to any contract or grant

to assist in the production or acquisition of any program or series of programs recommended by any such panel;

"(C) make payments to existing and new public telecommunications entities to aid in financing the production or acquisition of public telecommunications services by such entities, particularly innovative approaches to such services, and other costs of operation of such entities;

"(D) establish and maintain, or contribute to, a library and archives of noncommercial educational and cultural radio and television programs and related materials and develop public awareness of, and disseminate information about, public telecommunications services by various means, including the publication of a journal;

"(E) arrange, by grant to or contract with appropriate public or private agencies, organizations, or institutions, for interconnection facilities suitable for distribution and transmission of public telecommunications services to public telecommunications entities;

"(F) hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the Corporation in carrying out the purposes of this subpart;

"(G) conduct (directly or through grants or contracts) research, demonstrations, or training in matters related to public television or radio broadcasting and the use of nonbroadcast communications technologies for the dissemination of noncommercial educational and cultural television or radio programs;

"(H) make grants or contracts for the use of nonbroadcast telecommunications technologies for the dissemination to the public of public telecommunications services; and

"(I) take such other actions as may be necessary to accomplish the purposes set forth in subsection (a). Nothing contained in this paragraph shall be construed to commit the Federal Government to provide any sums for the payment of any obligation of the Corporation which exceeds amounts provided in advance in appropriation Acts.

"(3) To carry out the foregoing purposes and engage in the foregoing activities, the Corporation shall have the usual powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code, 29-1001 et seq.), except that the Corporation is prohibited from—

"(A) owning or operating any television or radio broadcast station, system, or network, community antenna television system, interconnection system or facility, program production facility, or any public telecommunications entity, system, or network; and

"(B) producing programs, scheduling programs for dissemination, or disseminating programs to the public.

"(4) All meetings of the Board of Directors of the Corporation, including any committee of the Board, shall be open to the public under such terms, conditions, and exceptions as are set forth in subsection (k)(4).

"(5) The Corporation, in consultation with public broadcast stations, shall undertake a study to determine the manner in which personal services of volunteers should be included in determining the level of non-Federal financial support pursuant to subsection (k)(2)(A). The study, which shall be completed not later than 180 days after the effective date of this paragraph, shall include an examination of any fiscal, administrative, or other factors which should be taken into account in determining the manner in which such services should be so included, and shall include proposed valuation standards. Upon completion, the study and the proposed valuation standards shall be submitted to the Comptroller General of the United States for approval.

"(6) The Corporation, in consultation with interested parties, shall create a 5-year plan for the development of public telecommunications services. Such plan shall be updated annually by the Corporation.".

INTERCONNECTION SERVICE

SEC. 305. Section 396(h) of the Communications Act of 1934 is amended to read as follows:

"Interconnection service

"(h)(1) Nothing in this Act, or in any other provision of law, shall be construed to prevent United States communications common carriers from rendering free or reduced rate communications interconnection services for public television or radio services, subject to such rules and regulations as the Commission may prescribe.

"(2) Subject to such terms and conditions as may be established by public telecommunications entities receiving space satellite interconnection facilities or services purchased or arranged for, in whole or in part, with funds authorized under this part, other public telecommunications entities shall have reasonable access to such facilities or services for the distribution of educational and cultural programs to public telecommunications entities. Any remaining capacity shall be made available to other persons for the transmission of noncommercial educational and cultural programs and program information relating to such programs, to public telecommunications entities, at a charge or charges comparable to the charge or charges, if any, imposed upon a public telecommunications entity for the distribution of noncommercial educational and cultural programs to public telecommunications entities. No such person shall be denied such access whenever sufficient capacity is available.".

ANNUAL REPORT TO CONGRESS

SEC. 306. Section 396(i) of the Communications Act of 1934 is amended to read as follows:

"REPORT TO CONGRESS

"(i)(1) The Corporation shall submit an annual report for the preceding fiscal year ending September 30 to the President for transmittal to the Congress on or before the 15th day of February of each year. The report shall include—

"(A) a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this subpart and such recommendations as the Corporation deems appropriate;

"(B) a comprehensive and detailed inventory of funds distributed by Federal agencies to public telecommunications entities during the preceding fiscal year; and

"(C) the summary of the annual report provided to the Secretary pursuant to section 398(b)(4).

"(2) The officers and directors of the Corporation shall be available to testify before appropriate committees of the Congress with respect to such report, the report of any audit made by the Comptroller General pursuant to subsection (1), or any other matter which such committees may determine.".

FINANCING; OPEN MEETINGS AND FINANCIAL RECORDS

SEC. 307. (a) Section 396(k) of the Communications Act of 1934 is amended to read as follows:

"Financing; Open Meetings and Financial Records

"(k)(1)(A) There is hereby established in the Treasury a fund which shall be known as the Public Broadcasting Fund (hereinafter in this subsection referred to as the 'Fund'), to be administered by the Secretary of the Treasury.

"(B) There is authorized to be appropriated to the Fund, for each of the fiscal years 1978, 1979, and 1980, an amount equal to 40 percent of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, except that the amount so appropriated shall not exceed $121,000,000 for fiscal year 1978, $140,000,000 for fiscal year 1979, and $160,000,000 for fiscal year 1980.

"(C) There is authorized to be appropriated to the Fund, for each of the fiscal years 1981, 1982, and 1983, an amount equal to 50 percent of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, except that the amount so appropriated shall not exceed $180,000,000 for fiscal year 1981, $200,000,000 for fiscal year 1982, and $220,000,000 for fiscal year 1983.

"(D) Funds appropriated under this subsection shall remain available until expended.

"(2)(A) The funds authorized to be appropriated by this subsection shall be used by the Corporation, in a prudent and financially responsible manner, solely for its grants, contracts, and administrative costs, except that the Corporation may not use any funds appropriated under this subpart for purposes of conducting any reception, or providing any other entertainment, for any officer or employee of the Federal Government or any State or local government. The Corporation shall determine the amount of non-Federal financial support received by public broadcasting entities during each of the fiscal years referred to in paragraph (1) for the purpose of determining the amount of each authorization, and shall certify such amount to the Secretary of the Treasury, except that the Corporation may include in its certification non-Federal financial support received by a public broadcasting entity during its most recent fiscal year ending before September 30 of the year for which certification is made. Upon receipt of such certification, the Secretary of the Treasury shall make available to the Corporation, from such funds as may be appropriated to the Fund, the amount authorized for each of the fiscal years pursuant to the provisions of this subsection.

"(B) Funds appropriated and made available under this subsection shall be disbursed by the Secretary of the Treasury on a quarterly basis, in such amounts as the Corporation certifies will be necessary to meet its financial obligations in the succeeding quarter.

"(3)(A) The Corporation shall reserve for distribution among the licensees and permittees of public television and radio stations an amount equal to—

"(i) not less than 40 percent of the funds disbursed by the Corporation from the Fund under this section in each fiscal year in which the amount disbursed is $88,000,000 or more, but less than $121,000,000;

"(ii) not less than 45 percent of such funds in each fiscal year in which the amount disbursed is $121,000,000 or more, but less than $160,000,000; and

"(iii) not less than 50 percent of such funds in each fiscal year in which the amount disbursed is $160,000,000 or more.

"(B)(i) The Corporation shall establish an annual budget according to which it shall make grants and contracts for production of public television or radio programs by independent producers and production entities and public telecommunications entities, for acquisition of such programs by public telecommunications entities, for interconnection facilities and operations, for distribution of funds among public telecommunications entities, and for engineering and program-related research. A significant portion of funds available under the budget established by the Corporation under this subparagraph shall be used for funding the production of television and radio programs. Of such portion, a substantial amount shall be reserved for distribution to independent producers and production entities for the production of programs.

"(ii) All funds contained in the annual budget established by the Corporation under clause (i) shall be distributed to entities outside the Corporation and shall not be used for the general administrative costs of the Corporation, the salaries or related expenses of Corporation personnel and members of the Board, or for expenses of consultants and advisers to the Corporation.

"(iii) During each of the fiscal years 1981, 1982, and 1983, the annual budget established by the Corporation under clause (i) shall consist of not less than 95 percent of the funds made available by the Secretary of the Treasury to the Corporation pursuant to paragraph (2)(A).

"(iv) In determining the amount of funds which shall be made available for radio programming and operations under this subparagraph, the Corporation shall take into account the increased financial needs relating to radio programming and operations resulting from the expansion and development of noncommercial radio broadcast station facilities through the use of funds made available pursuant to section 393(d).

"(C) In fiscal year 1981, the Corporation may expend an amount equal to not more than 5 percent of the funds made available by the Secretary of the Treasury during such fiscal year pursuant to paragraph (2)(A) for those activities authorized under subsection (g)(2) which are not among those grant activities described in subparagraph (B).

"(D) In fiscal years 1982 and 1983, the amount which the Corporation may expend for activities authorized under subsection (g)(2) which are not among those grant activities described in subparagraph (B) shall be 105 percent of the amount derived for the preceding fiscal year.

"(4) Funds my not be distributed pursuant to this subsection to the Public Broadcasting Service or National Public Radio (or any successor organization), or to the licensee or permittee of any public broadcast station, unless the governing body of any such organization, any committee of such governing body, or any advisory body of any such organization, holds open meetings preceded by reasonable notice to the public. All persons shall be permitted to attend any meeting of the board, or of any such committee or body, and no person shall be required, as a condition to attendance at any such meeting, to register such person's name or to provide any other information. Nothing contained in this paragraph shall be construed to prevent any such board, committee, or body from holding closed sessions to consider matters relating to individual employees, proprietary information, litigation and other matters requiring the confidential advice of counsel, commercial or financial information obtained from a person on a privileged or confidential basis, or the purchase of property or services whenever the premature exposure of such purchase would compromise the business interests of any such organization. If any such meeting is closed pursuant to the provisions of this paragraph, the organization involved shall thereafter (within a reasonable period of time) make available to the public a written statement containing an explanation of the reasons for closing the meeting.

"(5) Funds may not be distributed pursuant to this subsection to any public telecommunications entity that does not maintain for public examination copies of the annual financial and audit reports, or other information regarding finances, submitted to the Corporation pursuant to subsection (1)(3)(B).

"(6)(A) The Corporation, in consultation with public television and radio licensees, shall review annually the percentage of funds reserved pursuant to paragraph (3)(A), and the criteria and conditions regarding the division and distribution of such funds among public television and radio stations.

"(B) The funds reserved for public broadcast stations pursuant to paragraph (3)(A) shall be divided into two portions, one to be distributed among radio stations and one to be distributed among television stations. The Corporation shall make a basic grant from the portion reserved for television stations to each licensee and permittee of a public television station that is on the air. The balance of the portion reserved for television stations and the total portion reserved for radio stations shall be distributed to licensees and permittees of such stations in accordance with eligibility criteria that promote the public interest in public broadcasting, and on the basis of a formula designed to—

"(i) provide for the financial needs and requirements of stations in relation to the communities and audiences such stations undertake to serve;

"(ii) maintain existing, and stimulate new, sources of non-Federal financial support for stations by providing incentives for increases in such support; and

"(iii) assure that each eligible licensee and permittee of a public radio station receives a basic grant.

"(7) No distribution of funds pursuant to this subsection shall exceed, in any fiscal year, 50 percent of a licensee's or permittee's total non-Federal financial support during the fiscal year second preceding the fiscal year in which such distribution is made.

"(8) The funds distributed pursuant to paragraph (3)(A) may be used at the discretion of the recipient for purposes relating to the provision of public television and radio programming, including, but not limited to—

"(A) producing, acquiring, broadcasting, otherwise disseminating public television or radio programs;

"(B) procuring national or regional program distribution services that make public television or radio programs available for broadcast or other dissemination at times chosen by stations;

"(C) acquiring, replacing, or maintaining facilities, and real property used with facilities, for the production, broadcast, or other dissemination of public television and radio programs; and

"(D) developing and using nonbroadcast communications technologies for public television or radio programming purposes.

"(9)(A) Funds may not be distributed pursuant to this subpart to any public broadcast station unless such station establishes a community advisory board. Any such station shall undertake good faith efforts to assure that the composition of its advisory board reasonably reflects the diverse needs and interests of the communities served by such station.

"(B) The board shall be permitted to review the programming goals established by the station, the service provided by the station, and the significant policy decisions rendered by the station. The board may also be delegated any other responsibilities, as determined by the governing body of the station. The board shall advise the governing body of the station with respect to whether the programming and other policies of such station are meeting the specialized educational and cultural needs of the communities served by the station, and may make such recommendations as it considers appropriate to meet such needs.

"(C) The role of the board shall be solely advisory in nature, except to the extent other responsibilities are delegated to the board by the governing body of the station. In no case shall the board have any authority to exercise any control over the daily management or operation of the station.

"(D) In the case of any public broadcast station in existence on the effective date of this paragraph, such station shall comply with the requirements of this paragraph with respect to the establishment of a community advisory board not later than 180 days after such effective date.

"(E) The provision of subparagraph (A) prohibiting the distribution of funds to any public broadcast station unless such station establishes a community advisory board shall be the exclusive remedy for the enforcement of the provisions of this paragraph.

"(10) Funds may not be distributed pursuant to this subsection to the Public Broadcasting Service or National Public Radio (or any successor organization) unless assurances are provided to the Corporation that no officer or employee of the Public Broadcasting Service or National Public Radio (or any successor organization), as the case may be, will be compensated at an annual rate of pay which exceeds the rate of basic pay in effect from time to time for level I of the Executive Schedule under section 5312 of title 5, United States Code.".

(b) Section 396(k)(10) of the Communications Act of 1934, as added by subsection (a), shall not be construed to reduce the annual rate of pay of any officer or employee of the Public Broadcasting Service or National Public Radio (or any successor organization) in any case in which (1) such officer or employee was appointed or named to any position in the Public Broadcasting Service or National Public Radio (or any successor organization) before the date of the enactment of this Act; and (2) the annual rate of pay for such position, as in effect on such date of enactment, exceeds the maximum rate of pay established in section 396(k)(10) of the Communications Act of 1934, as added by subsection (a).

FINANCIAL MANAGEMENT AND RECORDS

SEC. 308. Section 396(l)(3) of the Communications Act of 1934 is amended to read as follows:

"(3)(A) Not later than 1 year after the effective date of this paragraph, the Corporation, in consultation with the Comptroller General, and as appropriate with others, shall develop accounting principles which shall be used uniformly by all public telecommunications entities receiving funds under this subpart, taking into account organizational differences among various categories of such entities. Such principles shall be designed to account fully for all funds received and expended for public telecommunications purposes by such entities.

"(B) Each public telecommunications entity receiving funds under this subpart shall be required—

(i) to keep its books, records, and accounts in such form as may be required by the Corporation;

"(ii) to undergo an annual audit by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State, which audit shall be in accordance with auditing standards developed by the Corporation, in consultation with the Comptroller General; and

"(iii) to furnish annually to the corporation a copy of the audit report required pursuant to clause (ii), as well as such other information regarding finances, including an annual financial report as the Corporation may require.

"(C) Any recipient of assistance by grant or contract under this section, other than a fixed price contract awarded pursuant to competitive bidding procedures, shall keep such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(D) The Corporation or any of its duly authorized representatives shall have access to any books, documents, papers, and records of any recipient of assistance for the purpose of auditing and examining all funds received or expended for public telecommunications purposes by the recipient. The Comptroller General of the United States or any of his duly authorized representatives also shall have access to such books, documents, papers, and records for the purpose of auditing and examining all funds received or expended for public telecommunications purposes during any fiscal year for which Federal funds are available to the Corporation.".

EQUAL EMPLOYMENT OPPORTUNITY

SEC. 309. Section 398 of the Communications Act of 1934 is amended to read as follows:

"FEDERAL INTERFERENCE OR CONTROL PROHIBITED; EQUAL EMPLOYMENT OPPORTUNITY

"SEC. 398. (a) Nothing contained in this part shall be deemed (1) to amend any other provision of, or requirement under, this Act; or (2) except to the extent authorized in subsection (b), to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over public telecommunications, or over the Corporation or any of its grantees or contractors, or over the charter or bylaws of the Corporation, or over the curriculum, program of instruction, or personnel of any educational institution, school system, or public telecommunications entity.

"(b)(1) Equal opportunity in employment shall be afforded to all persons by the Public Broadcasting Service and National Public Radio (or any successor organization) and by all public telecommunications entities receiving funds pursuant to subpart C (hereinafter in this subsection referred to as 'recipients'), and no person shall be subjected to discrimination in employment by any recipient on the grounds of race, color, religion, national origin, or sex.

"(2)(A) The Secretary is authorized and directed to enforce this subsection and to prescribe such rules and regulations as may be necessary to carry out the functions of the Secretary under this subsection.

"(B) The Secretary shall provide for close coordination with the Commission in the administration of the responsibilities of the Secretary under this subsection which are of interest to or affect the functions of the Commission so that, to the maximum extent possible consistent with the enforcement responsibilities of each, the reporting requirements of public telecommunications entities shall be uniformly based upon consistent definitions and categories of information.

"(3)(A) The Corporation shall incorporate into each grant agreement or contract with any recipient entered into on or after the effective date of the rules and regulations prescribed by the Secretary pursuant to paragraph (2)(A), a statement indicating that, as a material part of the terms and conditions of the grant agreement or contract, the recipient will comply with the provisions of paragraph (1) and the rules and regulations prescribed pursuant to paragraph (2)(A). Any person which desires to be a recipient (within the meaning of paragraph (1)) of funds under subpart C shall, before receiving any such funds, provide to the Corporation any information which the Corporation may require to satisfy itself that such person is affording equal opportunity in employment in accordance with the requirements of this subsection. Determinations made by the Corporation in accordance with the preceding sentence shall be based upon guidelines relating to equal opportunity in employment which shall be established by rule by the Secretary.

"(B) If the Corporation is not satisfied that any such person is affording equal opportunity in employment in accordance with the requirements of this subsection, the Corporation shall notify the Secretary, and the Secretary shall review the matter and make a final determination regarding whether such person is affording equal opportunity in employment. In any case in which the Secretary conducts a review under the preceding sentence, the Corporation shall make funds available to the person involved pursuant to the grant application of such person (if the Corporation would have approved such application but for the finding of the Corporation under this paragraph) pending a final determination of the Secretary upon completion of such review. The Corporation shall monitor the equal employment opportunity practices of each recipient throughout the duration of the grant or contract.

"(C) The provisions of subparagraph (A) and subparagraph (B) shall take effect on the effective date of the rules and regulations prescribed by the Secretary pursuant to paragraph (2)(A).

"(4) Based upon its responsibilities under paragraph (3), the Corporation shall provide an annual report for the preceding fiscal year ending September 30 to the Secretary on or before the 15th day of February of each year. The report shall contain information in the form required by the Secretary. The Corporation shall submit a summary of such report to the President and the Congress as part of the report required in section 396(i). The Corporation shall provide other information in the form which the Secretary may require in order to carry out the functions of the Secretary under this subsection.

"(5) Whenever the Secretary makes a final determination, pursuant to the rules and regulations which the Secretary shall prescribe, that a recipient is not in compliance with paragraph (1), the Secretary shall, within 10 days after such determination, notify the recipient in writing of such determination and request the recipient to secure compliance. Unless the recipient within 120 days after receipt of such written notice—

"(A) demonstrates to the Secretary that the violation has been corrected; or

"(B) enters into a compliance agreement approved by the Secretary;

the Secretary shall direct the Corporation to reduce or suspend any further payments of funds under this part to the recipient and the Corporation shall comply with such directive. Resumption of payments shall take place only when the Secretary certifies to the Corporation that the recipient has entered into a compliance agreement approved by the Secretary. A recipient whose funds have been reduced or suspended under this paragraph may apply at any time to the Secretary for such certification.

"(c) Nothing in this section shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the content or distribution of public telecommunications programs and services, or over the curriculum or program of instruction of any educational institution or school system.".

TITLE IV—MISCELLANEOUS PROVISIONS; EFFECTIVE DATE

DEFINITIONS

SEC. 401. Section 397 of the Communications Act of 1934 is amended to read as follows:

"DEFINITIONS

"SEC. 397. For the purposes of this part—

"(1) The term 'construction' (as applied to public telecommunications facilities) means acquisition (including acquisition by lease), installation, and modernization of public telecommunications facilities and planning and preparatory steps incidental to any such acquistion, installation, or modernization.

"(2) The term 'Corporation' means the Corporation for Public Broadcasting authorized to be established in subpart C.

"(3) The term 'interconnection' means the use of microwave equipment, boosters, translators, repeaters, communication space satellites, or other apparatus or equipment for the transmission and distribution of television or radio programs to public telecommunications entities.

"(4) The term 'interconnection system' means any system of interconnection facilities used for the distribution of programs to public telecommunications entities.

"(5) The term 'meeting' means the deliberations of at least the number of members of a governing or advisory body, or any committee thereof, required to take action on behalf of such body or committee where such deliberations determine or result in the joint conduct or disposition of the governing or advisory body's business, or the committee's business, as the case may be, but only to the extent that such deliberations relate to public broadcasting.

"(6) The terms 'noncommercial educational broadcast station' and 'public broadcast station' mean a television or radio broadcast station which—

"(A) under the rules and regulations of the Commission in effect on the effective date of this paragraph, is eligible to be licensed by the Comimssion as a noncommercial educational radio or television broadcast station and which is owned and operated by a public agency or nonprofit private foundation, corporation, or association; or

"(B) is owned and operated by a municipality and which transmits only noncommercial programs for education purposes.

"(7) The term 'noncommercial telecommunications entity' means any enterprise which—

"(A) is owned and operated by a State, a political or special purpose subdivision of a State, a public agency, or a nonprofit private foundation, corporation, or association; and

"(B) has been organized primarily for the purpose of disseminating audio or video noncommercial educational and cultural programs to the public by means other than a primary television or radio broadcast station, including, but not limited to, coaxial cable, optical fiber, broadcast translators, cassettes, discs, microwave, or laser transmission through the atmosphere.

"(8) The term 'nonprofit' (as applied to any foundation, corporation, or association) means a foundation, corporation, or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(9) The term 'non-Federal financial support' means the total value of cash and the fair market value of property and services (including, to the extent provided in the second sentence of this paragraph, the personal services of volunteers) received—

"(A) as gifts, grants, bequests, donations, or other contributions for the construction or operation of noncommercial educational broadcast stations, or for the production, acquisition, distribution, or dissemination of educational television or radio programs, and related activities, from any source other than (i) the United States or any agency or instrumentality of the United States; or (ii) any public broadcasting entity; or

"(B) as gifts, grants, donations, contributions, or payment from any State, or any educational institution, for the construction or operation of noncommercial educational broadcast stations or for the production, acquisition, distribution, or dissemination of educational television or radio programs, or payments in exchange for services or materials with respect to the provision of educational television or radio programs.

Such term includes the fair market value of personal services of volunteers, as computed

using the valuation standards established by the Corporation and approved by the Comptroller General pursuant to section 396(g)(5), but only with respect to such services provided to public telecommunications entities after such standards are approved by the Comptroller General and only, with respect to such an entity in a fiscal year, to the extent that the value of the services does not exceed 5 percent of the total non-Federal financial support of the entity in such fiscal year.

"(10) The term 'preoperational expenses' means all nonconstruction costs incurred by new telecommunications entities before the date on which they begin providing service to the public, and all nonconstruction costs associated with expansion of existing entities before the date on which such expanded capacity is activated, except that such expenses shall not include any portion of the salaries of any personnel employed by an operating public telecommunications entity.

"(1) The term 'public broadcasting entity' means the Corporation, any licensee or permittee of a public broadcast station, or any nonprofit institution engaged primarily in the production, acquisition, distribution, or dissemination of educational and cultural television or radio programs.

"(12) The term 'public telecommunications entity' means any enterprise which—

"(A) is a public broadcast station or a noncommercial telecommunications entity; and

"(B) disseminates puplic telecommunications services to the public.

"(13) The term 'public telecommunications facilities' means apparatus necessary for production, interconnection, captioning, broadcast, or other distribution of programming, including, but not limited to, studio equipment, cameras, microphones, audio and video storage or reproduction equipment, or both, signal processors and switchers, towers, antennas, transmitters, translators, microwave equipment, mobile equipment, satellite communications equipment, instructional television fixed service equipment, subsidiary communications authorization transmitting and receiving equipment, cable television equipment, video and audio cassettes and discs, optical fiber communications equipment, and other means of transmitting, emitting, storing, and receiving images and sounds, or intelligence, except that such term does not include the buildings to house such apparatus (other than small equipment shelters which are part of satellite earth stations, translators, microwave interconnection facilities, and similar facilities).

"(14) The term 'public telecommunications services' means noncommercial educational and cultural radio and television programs, and related noncommercial instructional or informational material that may be transmitted by means of electronic communications.

"(15) The term 'Secretary' means the Secretary of Commerce when such term is used in subpart A, and the Secretary of Health, Education, and Welfare when such term is used in subpart B, subpart C, and this subpart.

"(16) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(17) The term 'system of public telecommunications entities' means any combination of public telecommunications entities acting cooperatively to produce, acquire, or distribute programs, or to undertake related activities.".

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION ANNUAL REPORT

SEC. 402. The National Telecommunications and Information Administration shall submit an annual report to the Congress not later than January 31 of each calendar year, beginning with calendar year 1980. Each such report shall relate to the preceding calendar year and shall contain information on the activities of the Administration with respect to domestic communications, international communications, Federal Government communications, spectrum plans and policies, and any other matters.

EFFECTIVE DATE

SEC. 403. The provisions of this Act, and the amendments made by this Act, shall take effect on the date of the enactment of this Act.

And the Senate agree to the same.

HARLEY D. STAGGERS,
LIONEL VAN DEERLIN,
JOHN M. MURPHY,
CHARLES J. CARNEY,
TIMOTHY E. WIRTH,
MARTY RUSSO,
ED MARKEY,
T. A. LUKEN,
ALBERT GORE, Jr.,
BARBARA A. MIKULSKI,
HENRY A. WAXMAN,
SAMUEL L. DEVINE,
LOUIS FREY, Jr.,
W. HENSON MOORE,
CARLOS J. MOORHEAD,
MARC L. MARKS,
Managers on the Part of the House.

HOWARD W. CANNON,
FRITZ HOLLINGS,
WARREN MAGNUSON,
ROBERT GRIFFIN,
HARRISON H. SCHMITT,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12605) to amend the Communications Act of 1934 to extend and improve the provisions of such Act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—CONSTRUCTION AND PLANNING OF FACILITIES

Authorization

House Bill

The House bill provided that sums appropriated for the facilities program may be used by the Secretary of Commerce to cover the costs of administering the program.

Senate

No provision.

Conference Agreement

The Senate recedes.

Eligibility for grants

House Bill

The House bill authorized States, localities, and nonprofit educational and cultural organizations other than those organized primarily to engage in public broadcasting, to apply for facilities grants.

Senate Amendment

The Senate amendment limited grant eligibility to public broadcast stations, noncommercial telecommunications entities, and systems of public telecommunications entities.

Conference Agreement

The conferees agree to the broader eligibility criteria contained in the House bill, emphasizing however that the facilities acquired with assistance from this program are to be used only for the provision of public telecommunications services. Moreover, entities receiving funds for the construction or acquisition of broadcasting facilities must be eligible for receipt of the necessary permits and licenses from the Federal Communications Commission.

Facilities grant applications—coordination with State agencies

House Bill

No provision.

Senate Amendment

The Senate amendment required applicants for facilities grants to demonstrate that they have coordinated their plans with State educational broadcasting agencies, as appropriate.

Conference Agreement

The House recedes.

Facilities inventory

House Bill

No provision.

Senate Amendment

The Senate amendment required each recipient of assistance to keep a complete and itemized inventory of all public telecommunications facilities under its control.

Conference Agreement

The House recedes.

Transfer of HEW personnel and resources

House Bill

No provision.

Senate Amendment

The Senate amendment provided authority for the transfer to the Secretary of Commerce of personnel, assets, liabilities, contracts, property, records, and other resources employed in connection with the Educational Broadcasting Facilities Program administered by the Secretary of HEW.

Conference Agreement

The House recedes.

Funds for expansion and development of radio facilities

House Bill

The House bill stated that not less than 25 percent of the funds appropriated each year for facilities must be available for the expansion and development of public radio facilities.

Senate Amendment

No provision.

Conference Agreement

The conference agreement replaces the specific statutory percentage contained in the House bill with the words "a substantial amount".

The conferees agree that a priority of this program should be to strengthen public radio through the provision of adequate levels of funding for expansion and development. While the conferees agree that a specific set-aside would remove necessary discretion in the administration of this program, the conferees expect that the funding received by public radio should approximate the per-

centages received during fiscal years 1977 and 1978, or should be greater if eligible radio expansion and development applications so justify. In addition, the conferees expect that the Secretary of Commerce will coordinate activities in this area with those of the Corporation for Public Broadcasting.

Ceiling on grants to States

House Bill

The House bill deleted a provision of existing law limiting the total amount of grants in any one State for any fiscal year to no more than 8½ percent of the appropriation for that fiscal year.

Senate Amendment

The Senate bill maintained such provision.

Conference Agreement

The Senate recedes.

In deleting the specific statutory 8½ percent ceiling, the conferees do not imply that they reject this percentage as an unreasonable measure of equitable geographic distribution of funds. However, the conferees agree to the removal of the statutory ceiling since it may be necessary to exceed a specific ceiling from time to time in order to achieve the program's major objective of expanding the reach of public telecommunications services. The conferees fully expect that there will continue to be an equitable and geographically balanced distribution of funds pursuant to this program.

Inventory of Federal funds by Secretary of Commerce

House Bill

No provision.

Senate Amendment

The Senate amendment directed the Secretary of Commerce to prepare an annual inventory of funds distributed by all Federal departments and agencies to public telecommunications entities.

Conference Agreement

The Senate recedes. The conferees agree that this function is more appropriate for the Corporation to carry out, and have so provided in title III of the report. The conferees expect that the Office of Management and Budget will assist the Corporation in carrying out this function by facilitating cooperation between the Corporation and the Federal agencies involved.

TITLE II—TELECOMMUNICATIONS DEMONSTRATIONS

Extension of authorization period

House Bill

No provision.

Senate Amendment

The Senate amendment extended the authorization for an additional two fiscal years, beyond the one year provided by both the House bill and Senate amendment.

Conference Agreement

The House recedes.

TITLE III—CORPORATION FOR PUBLIC BROADCASTING

Compensation of officers and employees

House Bill

The House bill limited the annual rate of pay for officers and employees of the Corporation to not more than level I of the Executive Schedule.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes with an amendment providing that there would be no reduction in the salaries of current officers and employees.

In adopting the amendment, the conferees agree that it would be unfair to force a reduction in the current salaries of officers named and appointed prior to the date of enactment of this legislation (including the new President of the Corporation who has been named and appointed and will assume his new responsibilities after the date of enactment). The conferees do not intend the amendment to permit any such officer to receive any increase in his current annual rate of pay if such increase would result in a salary level higher than the current Level I salary then in effect.

Purposes and activities of corporation

House Bill

The House bill expanded one of the purposes of the Corporation to include the encouragement of programs of "diversity, creativity, excellence, and innovation".

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

Program proposal evaluation panels

House Bill

The House bill required that, to the maximum extent possible, the Corporation's program support functions be carried out on the basis of advice provided by panels of outside experts.

Senate Amendment

No provision.

Conference Agreement

The conferees agree to the provision in the House bill to require the use by CPB of panels of experts to evaluate program production and acquisition proposals. The conference agreement provides that these panels be utilized by the Corporation "to the extent practicable". The conferees intend that CPB have some discretion in determining when and how such panels are used. However, the conferees expect that CPB will act in good faith and with all deliberate speed to implement this requirement. The conferees require that the panels be composed of experts "representing diverse interests and perspectives" and intend that they be broadly representative, drawing upon talent from all regions of the country.

Library and Archives

House Bill

No provision.

Senate Amendment

The Senate amendment expanded the existing authority of the Corporation to "contribute to" as well as to establish and maintain a library and archives of public telecommunications programs and related materials.

Conference Agreement

The House recedes.

CPB Program Acquisition Authority

House Bill

The House bill prohibited CPB from "acquiring" programs.

Senate Amendment

No provision.

Conference Agreement

The House recedes.

By deleting the prohibition against acquisition of programs by the Corporation, the conferees leave undisturbed the existing program rights acquisition practices of the Corporation. However, in agreeing to the deletion of this prohibition, the conferees do not intend to permit the Corporation to acquire program rights without making the programs available for dissemination to the public by public telecommunications entities. The conferees expect that the appropriate committees of the Congress will monitor the practices of the Corporation in this area to ensure that they are fair and reasonable.

Volunteer services

House Bill

The House bill required the Corporation to study the manner in which personal services of volunteers shauld be included in determining the level of non-federal financial support raised by each station. The bill also deleted the former exclusion of volunteer services from the statutory definition of "non-Federal financial support". The bill also provided that the value of volunteer services for purposes of matching Federal funds may not exceed 5 percent of each station's total non-Federal financial support in each fiscal eyar.

Senate Amendment

No provision.

Conference Agreement

The conferees agree to the House provision with an amendment specifying that the Corporation is to complete its study and receive GAO approval of its proposed valuation standards prior to the inclusion of volunteer services by the stations. The conferees agree that a comprehensive study be completed and valuation standards developed by the Corporation within 180 days of the date of enactment of this legislation. Thereupon, the results of the study and the proposed standards shall be submitted to and reviewed by the Comptroller General. The Comptroller General must approve the proposed standards before any credit for the personal services of volunteers will be allowed. In the event that the Comptroller General disapproves the proposed standards, the Corporation will undertake to address the objections of the Comptroller General and resubmit revised standards until the objections of the Comptroller General have been met. The effective date for the inclusion of personal services of volunteers shall be the date upon which approval by the Comptroller General occurs, and only volunteer services rendered after that date will qualify for inclusion as non-Federal financial support for purposes of the match.

In carrying out its study and development of standards, the Corporation is expected to take ihto account any information developed within the accounting profession relating to donated services among nonprofit organizations.

Planning by the Corporation

House Bill

The House bill provided that the Corporation shall create and update annually a 5-year plan for the development of public television and radio programs and services.

Senate Amendment

The Senate amendment required that the 5-year plan be included in the Corporation's annual report to the Congress.

Conference Agreement

The Senate recedes.

Satellite Interconnection Service

House Bill

The House bill entitled public telecommu nications entities to priority use of interconnection systems supported by Federal funds, and provided that excess capacity on such systems be made available to others, at a charge reflecting the direct cost of distributing their programs to public telecommunications entities. The House bill mandated the Corporation to set terms and conditions for access to such interconnection systems by such other parties.

Senate Amendment

The Senate amendment allowed public telecommunications entities using "satellite" interconnection facilities and services supported by Federal funds to set the terms and conditions governing such use. Public telecommunications entities other than those receiving interconnection facilities or services were afforded reasonable access to such facilities in order to distribute programs to any public telecommunications entity. Any excess capacity remaining after such use was to be made available, at comparable charges, to others for transmitting noncommercial educational and cultural materials to pubic telecommunications entities.

Conference Agreement

The House recedes.

Matching formula

House Bill

The House bill provided a matching formula whereby an appropriation of one Federal dollar is authorized for every two dollars of non-Federal financial support received by public broadcasting entities (up to the level authorized).

Senate Amendment

The Senate amendment provided a similar formula at a ratio of $1 (Federal) to $2.25 (non-Federal).

Conference Agreement

The Senate recedes. The conferees believe that this reduction in the matching requirement will help to alleviate the fund-raising burden on the local stations.

FY 1983 authorization level

House Bill

The House bill provided an authorization ceiling of $220 million for FY 1983.

Senate Amendment

The Senate amendment provided an authorization ceiling of $200 million for FY 1983.

Conference Agreement

The Senate recedes.

Limitation on use of funds appropriated to the corporation

House Bill

The House bill required that the Corporation use appropriated funds "in a prudent and financially responsible manner," and prohibited the use of appropriated funds for the purpose of conducting any reception, or other entertainment, for any government officer or employee.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

Annual CPB grants budget

House Bill

The House bill provided that, is addition to making grants and contracts for the distribution of funds among public telecommunications entities, for program production and acquisition, and for interconnection system facilities and operations, the Corporation may provide grants for management training, engineering and program-related research, and enhancement of instructional broadcasting services. The House bill also provided that a significant portion of CPB's grants budget be allocated to programming, and that a substantial amount be reserved for distribution to independent producers.

In addition, the House bill required the Corporation to take into account the increasing financial needs of radio in determining the amount of funds to be allocated for radio purposes.

Senate Amendment

No provision.

Conference Agreement

The conferees agree to permit the support of a reasonable level of engineering and program-related research through the annual grants budget of the Corporation, rather than exclusively through the Corporation's internal administration budget.

The conferees also agree that significantly higher levels of funds should be allocated to programming at both the national and local levels. The current levels of expenditure by the Corporation for the production and acquisition of programs (17 percent of its funds) is insufficient. By the term "significant portion", the conferees intend that the Corporation should strive to allocate at least one-fourth of its funds to programming by fiscal year 1981.

The conferees also agree that "substantial" amount of the funds allocated for programming by CPB should be reserved for independent producers. In agreeing to the term "substantial amount" for independent producers, it is the conferees' intention to recognize the important contribution independent producers can make in innovative and creative new programming. By "independent producer" the conferees have in mind producers not affiliated with any public telecommunications entity and especially the smaller independent organizations and individuals who, while talented, may not yet have received national recognition. The talents of these producers have not been adequately utilized in the past. While setting aside a specific percentage of funds for this purpose would have removed discretion in the administration of the Corporation's funds, the conferees fully expect the Corporation to take the necessary steps to increase the level of participation previously available to these smaller independent producers.

Open meetings

House Bill

The House bill provided that, as a condition of receiving CPP assistance, the governing boards, committees, and advisory bodies of all public broadcast stations, the Public Broadcasting Service, and National Public Radio must be open to the public under terms and conditions specified in the bill. The bill also provided that closed sessions may be held for specified reasons, provided, however, that if closed meetings are held, the organization must make available to the public a written statement containing an explanation of the reasons for closing the meeting and a list of attendees.

Senate Amendment

The Senate amendment contained a similar open meetings provision which applied to all public broadcasting entities and public telecommunications entities. The Senate amendment did not apply to committees or advisory board meetings, and the exceptions to the open meetings requirement differed in certain respects from those contained in the House bill. The Senate amendment made no provision for a public statement explaining the circumstances of closed meetings.

Conference Agreement

The conferees agree to the House provision with the following changes:

(1) The conferees agree to the Senate provisions regarding the exceptions to the open meetings requirement, but adding the House language regarding commercial or financial information; and

(2) The conferees have modified the House provision pertaining to the public statement regarding closed meetings.

While agreeing that, as a rule, committees of governing boards should hold open meetings, the conferees recognize that, from time to time, emergency situations or the convenience of teleconferencing may make it impracticable to hold an open committee meeting preceded by reasonable notice. In such situations, requiring advance notice to the public for committee meetings would be unreasonable. Although the conferees understand that meetings conducted by telephone cannot be open to the public, the conferees expect that the entities involved will attempt to minimize those instances.

Public examinations of financial reports

House Bill

The House bill required that, as a condition of receipt of CPB assistance, public broadcast stations must maintain for public examination copies of annual financial and audit reports submitted to the Corporation.

Senate Amendment

The Senate amendment required that, as a condition to receipt of assistance, public broadcasting entities and public telecommunications entities maintain for public examination any financial information submitted to the Corporation.

Conference Agreement

The House recedes with an amendment. The conferees agree that the requirements of this provision should apply to all public telecommunications entities, rather than public broadcast stations alone. However, the conferees do not agree to extend this provision to cover "public broadcasting entities".

Community service grant criteria

House Bill

The House bill added 5 new criteria for determining the community service grant for each public television station. The 5 criteria were related to encouraging (1) innovative approaches to reaching new audiences, (2) responsiveness to the community, (3) cost efficiencies, (4) programs to train women and minorities, and (5) the use of volunteers.

Senate Amendment

No provision.

Conference Agreement

The House recedes. In agreeing to remove the criteria contained in the House provision, the conferees recognize that the criteria could be difficult to interpret uniformly as a matter of law in the allocation of funds. However, the conferees believe these criteria to be laudable and desirable goals for the system as a whole to strive to attain.

Community advisory boards

House Bill

The House bill provided that, as a condition of receiving CPB funds, public broadcast stations must establish community advisory boards. To the maximum extent feasible, the membership of the board was to be composed of individuals representative of the communities served by the station. The House bill described the role of the board, emphasizing that it was to be solely advisory in nature.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes with an amendment to replace the provision in the House bill requiring the membership of community advisory boards to reflect their community composition, with a requirement that stations make good faith efforts to achieve a diverse and responsive board.

The conferees agree that in order for public broadcasting to be responsive to community needs, mechanisms for effective public input into planning and decision-making must be improved. The conferees believe that the establishment of community advisory boards should assist the stations in developing programs and policies that address the specialized needs of the communities that they endeavor to serve. While agreeing on the importance of advisory boards as a means of enhancing public participation in public broadcasting, the conferees believe it appropriate that public broadcasting stations exercise a reasonable measure of discretion in the selection of advisory board members. Moreover, the conferees intend that no individual member of the public or representative of any particular organization or group has any legally enforceable right to membership on an advisory board. Nor does the conference agreement entitle anyone to seek, or

any court or government agency to order, a station to take or refrain from taking any action with respect to programming, services, or the policies of a station. The conferees agree that the role of the board is to be solely advisory in nature and this definition of function is especially important in the case of institutional licenses.

The conferees agree that in cases involving statewide public broadcasting systems owned and operated by a State, or State agency or institution, a community advisory board may, but need not, consist of members reflecting statewide needs and interests. In the case of State or local government institutional licensees, the conferees intend that where a conflict regarding the establishment of an advisory board may arise between this provision and State constitutional or statutory law, State law shall prevail.

The conferees agree that this provision does not preclude the stations from establishing and maintaining other types of advisory bodies. Nor does this provision imply that stations with existing advisory boards that comply with this provision must establish new or additional advisory boards.

Compensation of officers and employees of PBS and NPR

House Bill

The House bill limited the annual rate of pay for officers and employees of the Public Broadcasting Service and National Public Radio to not more than level I of the Executive Schedule.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes with an amendment providing that there would be no reduction in the salaries of officers currently holding positions. In adopting the amendment, the conferees agree that it would be unfair to force a reduction in the current salaries of officers named and appointed prior to the date of enactment of this legislation.

In addition, the conferees are concerned about the trend toward too much centralization of control in the public television system. This danger exists because all the elements of a broadcasting network are present in the relationship between the Public Broadcasting Service (PBS) and the public television licensees which are members of this trade association. PBS acts as a central authority that determines, directly or indirectly, not only what programs will be produced and distributed nationally, but also when such programs will be broadcast in various communities around the country, in accordance with national publicity campaigns. Too often, success has been measured by the size of the national audience, regardless of the needs, desires, and viewing habits of the local public television station's audience.

This is in direct contravention of the Public Broadcasting Act of 1967 which provided that "programs of high quality, obtained from diverse sources. . . ." would be "made available to [local] stations who choose to use them at times chosen by the [individual] stations. . . .".

The single, centralized authority of a fourth network perpetuates a "closed system," which inhibits access to program production assistance, national distribution, and local broadcast of programs produced.

Public broadcasting was created to be a true alternative to commercial broadcasting and the Corporation for Public Broadcasting was authorized and directed by Congress to assist in that development. Therefore it is imperative that the system remain vigilant to prevent "creeping networkism."

Financial management and records

House Bill

The House bill required the Corporation, in consultation with GAO, the Financial Accounting Standards Board, and others as appropriate, to develop a uniform system of accounts to be used by all public broadcasting licensees or permittees receiving funds from CPB. The bill required that the accounting system be designed to account fully for all funds received and expended for public broadcasting purposes by the stations. The bill further required any public broadcast licensee receiving CPB funds (1) to keep its books, records, and financial accounts in such form as may be required by CPB; (2) to undergo an annual audit by certified independent auditors; and (3) to furnish annually to CPB a copy of the audit report and other information on financial operations that CPB may require.

Senate Amendment

The Senate amendment contained a similar provision requiring the Comptroller General to adopt, within one year, in consultation with CPB and others as appropriate, uniform accounting principles to be used by all public telecommunications entities receiving funds from CPB. Such principles were to be designed to recognize various organizational differences among such entities and to permit a full accounting for all funds received and expended for public telecommunications purposes.

The Senate amendment also broadened the authority of CPB and the Comptroller General to examine financial records pertaining to the receipt and expenditure of non-Federal as well as Federal funds.

Conference Agreement

The conference agreement requires the Corporation, in consultation with the Comptroller General and others as appropriate, to develop within one year after the enactment of this legislation uniform accounting principles to be used by all public telecommunications entities. In addition, the conference agreement makes clear that the Corporation and the Comptroller General shall have access, for purposes of audit and examination, to any financial records pertaining to the receipt and expenditure of non-Federal as well as Federal funds. The conferees do not intend this provision to have the effect of permitting any governmental interference with program content or selection.

Equal employment opportunity

House Bill

The House bill provided that equal opportunity in employment (including appointments to governing or advisory bodies) shall be afforded to all persons by all public telecommunications entities receiving funds from CPB, and that "no person shall be subjected to discrimination in employment by any such recipient on the grounds of race, color, religion, national origin, or sex". The bill charged the Secretary of HEW with enforcing this provision.

The House bill also required CPB to incorporate into each grant or contract with any public telecommunications entity a statement indicating that the recipient will comply with the bill's provisions pertaining to EEO and the rules and regulations adopted by the Secretary of HEW. Each recipient was directed to provide CPB with information necessary for CPB to satisfy itself that the recipient is in compliance, except that CPB may not withhold funds on this basis unless the Secretary makes a final determination of noncompliance. CPB was required to monitor the equal employment opportunity practices of public broadcast licensees and other public telecommunications entities throughout the duration of each grant or contract.

The House bill further required the Corporation, based upon its information collection and monitoring activities, to provide to the Secretary of HEW an annual report in such form and containing such information as the Secretary may require. CPB also was required to submit a summary of the report to the President and the Congress.

The House bill also provided that, whenever the Secretary makes a final determination that the recipient is not in compliance with these provisions, the Secretary must notify the recipient within 10 days of this finding. Unless the recipient corrects the violation or enters into an approved compliance agreement within 120 days of this notification, the Secretary was required to direct the Corporation to reduce or suspend funds. The Corporation was required to comply with such directives by the Secretary.

Senate Amendment

The Senate amendment contained similar provisions providing a process for EEO enforcement, which applied additionally to public broadcasting entities, and which mandated coordination of reporting requirements between the Secretary of Health, Education, and Welfare and the FCC. The Senate provision contemplated a somewhat different role for the Corporation in assisting the Secretary of HEW in carrying out his or her responsibilities, and somewhat different responsibilities and procedures for CPB and HEW. The Senate provision contained an exemption from procedural requirements for recipients with less than 5 full-time employees. The Senate amendment provided that the EEO provisions did not authorize any Federal interference in program content or distribution or educational curricula.

Conference Agreement

The conferees agree generally to the provisions of the House bill with several modifications. The EEO provisions will apply to the Public Broadcasting Service, National Public Radio, and all public telecommunications entities receiving funds from CPB, but not to the appointment of governing or advisory boards. The Senate provision relating to coordination between the Secretary of HEW and the FCC is also agreed to by the conferees. The conferees also agree not to exempt recipients with less than 5 full-time employees, and to adopt the Senate amendment's provision preventing Federal intrusion into program or curriculum matters.

In agreeing to the Corporation's role in monitoring the EEO practices of recipients, the conferees do not intend that the Corporation in any manner be deemed an agent of the United States. However, the conferees do intend that the Corporation shall place substantial reliance on the guidelines developed by the Secretary of HEW in conducting preliminary reviews of the EEO practices of grant applicants and recipients. Nothing contained in the EEO provisions should be construed as authorizing the Corporation to carry out on-site compliance reviews.

Editorializing and support of political candidates; recording of certain programs

House Bill

The House bill amended section 399 of the Communications Act of 1934 by eliminating that section's prohibition against editorializing and by deleting the requirement that stations keep audio recordings of programs in which issues of public importance are discussed. The House bill maintained the prohibition against support or opposition of political candidates by public broadcast stations.

State Amendment

No provision.

Conference Agreement

The House recedes.

Annual report by National Telecommunications and Information Administration

House Bill

No provision.

Senate Amendment

The Senate amendment required the National Telecommunications and Information

Administration to submit an annual report of its activities to the Congress not later than January 31st of each calendar year.

Conference Agreement

The House recedes.

HARLEY O. STAGGERS,
LIONEL VAN DEERLIN,
JOHN M. MURPHY,
CHARLES J. CARNEY,
TIMOTHY E. WIRTH,
MARTY RUSSO,
ED MARKEY,
T. A. LUKEN,
ALBERT GORE, JR.,
BARBARA A. MIKULSKI,
HENRY A. WAXMAN,
SAMUEL L. DEVINE,
LOUIS FREY, JR.,
W. HENSON MOORE,
CARLOS J. MOORHEAD,
MARC L. MARKS,
Managers on the Part of the House.

HOWARD W. CANNON,
FRITZ HOLLINGS,
WARREN MAGNUSON,
ROBERT GRIFFIN,
HARRISON H. SCHMITT,
Managers on the Part of the Senate.

REPEALING PROVISIONS ESTABLISHING LIMITS ON LAND HELD BY CERTAIN RELIGIOUS CORPORATIONS

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3371) to repeal certain provisions of law establishing limits on the amount of land certain religious corporations may hold in any territory of the United States.

The Clerk read the title of the Senate bill.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman from California could explain the purpose of the bill.

Mr. PHILLIP BURTON. If the gentleman will yield, some 100 years ago the Congress in its infinite wisdom passed legislation forbidding religious and charitable organizations, including the Church of Jesus Christ the Latter-day Saints, from owning real property valued in excess of $50,000 in any of the territories of the United States. This bill will repeal such statutes which are simply obsolete, and their constitutionality is highly suspect. It does not contravene, however, the terms and conditions of the Northern Mariana Islands Covenant. On behalf of the gentleman from Arizona (Mr. UDALL) I offer this legislation.

Mr. BAUMAN. I thank the gentleman and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3371

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1890 of the Revised Statutes of the United States (48 U.S.C. 1480), section 26 of the Act entitled "An Act to amend an Act entitled 'An Act to amend section fifty-three hundred and fifty-two of the Revised Statutes of the United States, in reference to bigamy, and for other purposes' approved March twenty-second, eighteen hundred and eighty-two" (48 U.S.C. 1480a), and the Act of September 22, 1950 (48 U.S.C. 1480b), are hereby repealed.

SEC. 2. This repeal may not be considered or construed as endorsement, support, or permission for any development on or other use of any land in any territory or possession of the United States; nor shall it be evidence of congressional or other intent to confirm title to any lands in said territories or possessions claimed by any association, corporation, or other entity for religious or charitable purposes.

AMENDMENT OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PHILLIP BURTON: After line 7, page 2, insert the following new section:

"SEC. 3. Subsection 3(b) of the Act entitled 'An Act to provide that the Territory of American Samoa be represented by a nonvoting Delegate to the United States House of Representatives, and for other purposes is hereby amended to read as follows: '(b) owe allegiance to the United States;'."

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, I would like to ask the gentleman what the amendment does.

Mr. PHILLIP BURTON. If the gentleman will yield, Mr. Speaker, this amendment requires that any delegate from American Samoa shall owe allegiance to the United States, but thereby permits, in addition to U.S. citizens, U.S. Nationals to qualify as candidates.

Mr. BAUMAN. That is all that it does?

Mr. PHILLIP BURTON. That is correct.

Mr. BAUMAN. Is there any other nongermane provision contained in it?

Mr. PHILLIP BURTON. No, there are no other nongermane provisions.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California (Mr. PHILLIP BURTON).

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANNOUNCEMENT OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The unfinished business is as follows:

Pursuant to clause 3, rule XXVII, and the order of the House of October 4, 1978, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order, all by the yeas and nays:

H.R. 9893.
S. 957.
S. 1503.

There will be 15 minutes allowed for the first vote, and the Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

IRC AMENDMENTS RE INCOME TAX LIMITATIONS FOR THE ELDERLY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 9893, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 9893, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 388, nays 5, not voting 37, as follows:

[Rollcall No. 900]

YEAS—388

Abdnor	Cederberg	Flowers
Addabbo	Chisholm	Flynt
Akaka	Clausen, Don H.	Foley
Alexander	Clawson, Del	Ford, Mich.
Ambro	Clay	Ford, Tenn.
Anderson, Calif.	Cleveland	Forsythe
Anderson, Ill.	Cohen	Fountain
Andrews, N.C.	Coleman	Fowler
Andrews, N. Dak.	Collins, Ill.	Fraser
Annunzio	Collins, Tex.	Frenzel
Applegate	Conable	Fuqua
Archer	Conte	Gammage
Armstrong	Corcoran	Garcia
Ashbrook	Corman	Gaydos
Ashley	Cornell	Gephardt
Aspin	Cornwell	Giaimo
AuCoin	Cotter	Gibbons
Bafalis	Coughlin	Gilman
Baldus	Cunningham	Ginn
Barnard	D'Amours	Glickman
Baucus	Daniel, Dan	Goldwater
Bauman	Daniel, R. W.	Gonzalez
Beard, R.I.	Danielson	Goodling
Beard, Tenn.	Davis	Gore
Bedell	de la Garza	Gradison
Benjamin	Delaney	Grassley
Bevill	Dellums	Green
Biaggi	Dent	Gudger
Bingham	Derwinski	Guyer
Blanchard	Devine	Hagedorn
Blouin	Dickinson	Hall
Boggs	Dicks	Hamilton
Boland	Dingell	Hammer-schmidt
Bolling	Dodd	Hanley
Bonior	Dornan	Hannaford
Bonker	Downey	Hansen
Bowen	Drinan	Harkin
Brademas	Duncan, Oreg.	Harris
Breaux	Duncan, Tenn.	Harsha
Breckinridge	Early	Heckler
Brinkley	Eckhardt	Hefner
Brodhead	Edgar	Heftel
Brooks	Edwards, Ala.	Hightower
Broomfield	Edwards, Calif.	Holland
Brown, Calif.	Edwards, Okla.	Holt
Brown, Mich.	Eilberg	Holtzman
Brown, Ohio	Emery	Horton
Broyhill	English	Howard
Buchanan	Erlenborn	Hubbard
Burgener	Ertel	Huckaby
Burke, Fla.	Evans, Del.	Hughes
Burke, Mass.	Evans, Ga.	Hyde
Burleson, Tex.	Evans, Ind.	Ichord
Burlison, Mo.	Fary	Jacobs
Burton, John	Fascell	Jeffords
Burton, Phillip	Fenwick	Jenkins
Butler	Findley	Jenrette
Caputo	Fish	Johnson, Calif.
Carney	Fisher	Johnson, Colo.
Carr	Fithian	Jones, N.C.
Carter	Flippo	Jones, Okla.
Cavanaugh	Flood	Jones, Tenn.
	Florio	Jordan

Kasten	Myers, Gary	Skelton
Kastenmeier	Myers, John	Skubitz
Kazen	Myers, Michael	Slack
Kelly	Natcher	Smith, Iowa
Kemp	Neal	Smith, Nebr.
Keys	Nedzi	Snyder
Kildee	Nichols	Solarz
Kindness	Nix	Spellman
Kostmayer	Nolan	Spence
Krebs	Nowak	St Germain
LaFalce	O'Brien	Staggers
Lagomarsino	Oakar	Stangeland
Latta	Oberstar	Stanton
Le Fante	Obey	Steed
Leach	Ottinger	Steers
Lederer	Panetta	Steiger
Lehman	Patten	Stockman
Lent	Patterson	Stokes
Levitas	Pattison	Stratton
Livingston	Pease	Studds
Lloyd, Calif.	Pepper	Stump
Lloyd, Tenn.	Perkins	Symms
Long, La.	Pike	Taylor
Long, Md.	Pressler	Thompson
Lujan	Preyer	Thone
Luken	Price	Thornton
Lundine	Pritchard	Traxler
McClory	Pursell	Treen
McCloskey	Quayle	Trible
McCormack	Quillen	Tucker
McDade	Rahall	Udall
McEwen	Railsback	Ullman
McHugh	Rangel	Van Deerlin
McKinney	Regula	Vander Jagt
Madigan	Reuss	Vanik
Maguire	Rhodes	Vento
Mahon	Richmond	Volkmer
Mann	Rinaldo	Waggonner
Markey	Risenhoover	Walgren
Marks	Roberts	Walker
Marlenee	Robinson	Walsh
Marriott	Rodino	Wampler
Martin	Roe	Watkins
Mathis	Rogers	Waxman
Mattox	Roncalio	Weaver
Mazzoli	Rooney	Weiss
Meyner	Rose	Whalen
Michel	Rosenthal	Whitehurst
Mikulski	Rostenkowski	Whitley
Mikva	Rousselot	Whitten
Miller, Ohio	Roybal	Wiggins
Mineta	Runnels	Wilson, Bob
Minish	Ruppe	Wilson, C. H.
Mitchell, Md.	Russo	Wilson, Tex.
Mitchell, N.Y.	Ryan	Winn
Moakley	Santini	Wirth
Moffett	Satterfield	Wolff
Mollohan	Sawyer	Wright
Moore	Scheuer	Wydler
Moorhead, Calif.	Schroeder	Wylie
	Sebelius	Yates
Moorhead, Pa.	Seiberling	Yatron
Mottl	Sharp	Young, Alaska
Murphy, Ill.	Shuster	Young, Fla.
Murphy, N.Y.	Sikes	Young, Mo.
Murphy, Pa.	Simon	Zablocki
Murtha	Sisk	Zeferetti

NAYS—5

Bellenson	McDonald	Poage
Bennett	Pickle	

NOT VOTING—37

Ammerman	Hillis	Pettis
Badham	Hollenbeck	Quie
Burke, Calif.	Ireland	Rudd
Chappell	Krueger	Sarasin
Cochran	Leggett	Schulze
Conyers	Lott	Shipley
Crane	McFall	Stark
Derrick	McKay	Teague
Diggs	Meeds	Tsongas
Evans, Colo.	Milford	White
Frey	Miller, Calif.	Young, Tex.
Harrington	Montgomery	
Hawkins	Moss	

The Clerk announced the following pairs:

Mr. Chappell with Mr. Quie.
Mr. Hawkins with Mr. Sarasin.
Mr. Evans of Colorado with Mr. Frey.
Mr. Krueger with Mr. Schulze.
Mr. Montgomery with Mr. Rudd.
Mr. Shipley with Mr. Badham.
Mr. Teague with Mr. Cochran of Mississippi.
Mr. White with Mr. Crane.
Mr. Ammerman with Mr. Hillis.
Mrs. Burke of California with Mr. Lott.
Mr. Derrick with Mr. Hollenbeck.
Mr. Conyers with Mr. Harrington.
Mr. Ireland with Mr. Leggett.
Mr. McKay with Mr. Moss.
Mr. Miller of California with Mr. Tsongas.
Mr. Meeds with Mr. Stark.
Mr. McFall with Mr. Milford.
Mr. Diggs with Mrs. Pettis.

So (two-thirds having voted in favor thereof), the rules were suspended, and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

DISPUTE RESOLUTION ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill S. 957, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ECKHARDT) that the House suspend the rules and pass the Senate bill S. 957, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 224, nays 166, not voting 40, as follows:

[Roll No. 901]

YEAS—224

Addabbo	Collins, Ill.	Gonzalez
Akaka	Corman	Goodling
Alexander	Cornwell	Gore
Ambro	Cotter	Green
Anderson, Calif.	Coughlin	Gudger
	D'Amours	Hamilton
Andrews, N.C.	Danielson	Hannaford
Annunzio	Davis	Harkin
Applegate	Dellums	Harris
Aspin	Dicks	Heckler
AuCoin	Dingell	Hefner
Baldus	Dodd	Heftel
Barnard	Dornan	Holland
Baucus	Drinan	Holtzman
Beard, R.I.	Duncan, Oreg.	Horton
Bedell	Early	Howard
Bellenson	Eckhardt	Hubbard
Benjamin	Edgar	Huckaby
Biaggi	Eilberg	Jenkins
Bingham	Ertel	Jenrette
Blanchard	Evans, Del.	Johnson, Calif.
Blouin	Evans, Ind.	Jones, N.C.
Boggs	Fary	Jones, Okla.
Boland	Fascell	Jones, Tenn.
Bolling	Findley	Jordan
Bonior	Fish	Kastenmeier
Bonker	Fisher	Kazen
Brademas	Fithian	Kildee
Breaux	Flood	Krebs
Brodhead	Florio	LaFalce
Brown, Calif.	Foley	Lagomarsino
Brown, Mich.	Ford, Mich.	Le Fante
Broyhill	Ford, Tenn.	Lederer
Burgener	Fountain	Lehman
Burke, Mass.	Fowler	Levitas
Burton, John	Fraser	Lloyd, Calif.
Burton, Phillip	Frenzel	Long, La.
Caputo	Fuqua	Long, Md.
Carney	Garcia	Lundine
Carr	Gephardt	McClory
Carter	Gialmo	McCormack
Cavanaugh	Gibbons	McKinney
Chisholm	Gilman	Maguire
Clay	Ginn	Mann
Markey	Pattison	Spellman
Mathis	Pepper	St Germain
Mattox	Pike	Staggers
Mazzoli	Pressler	Steed
Meyner	Preyer	Steers
Mikulski	Price	Steiger
Mikva	Pritchard	Stokes
Mineta	Pursell	Studds
Minish	Rahall	Thompson
Mitchell, Md.	Railsback	Thornton
Mitchell, N.Y.	Rangel	Traxler
Moakley	Richmond	Tucker
Moffett	Rinaldo	Udall
Moorhead, Pa.	Rodino	Ullman
Murphy, Ill.	Roe	Van Deerlin
Murphy, N.Y.	Rogers	Vanik
Murphy, Pa.	Roncalio	Vento
Myers, Michael	Rooney	Walgren
Neal	Rose	Walker
Nedzi	Rosenthal	Waxman
Nix	Rostenkowski	Weaver
Nolan	Roybal	Weiss
Nowak	Ruppe	Whitley
O'Brien	Ryan	Wilson, C. H.
Oakar	Santini	Wilson, Tex.
Oberstar	Scheuer	Wirth
Obey	Schroeder	Wolff
Ottinger	Sharp	Wright
Panetta	Sisk	Yates
Patten	Smith, Iowa	Yatron
Patterson	Solarz	Zeferetti

NAYS—166

Abdnor	Forsythe	Natcher
Anderson, Ill.	Gammage	Nichols
Andrews, N. Dak.	Gaydos	Pease
	Glickman	Perkins
Archer	Goldwater	Pickle
Armstrong	Gradison	Poage
Ashbrook	Grassley	Quayle
Ashley	Guyer	Quillen
Bafalis	Hagedorn	Regula
Bauman	Hall	Reuss
Beard, Tenn.	Hammer-schmidt	Rhodes
Bennett		Risenhoover
Bevill	Hanley	Roberts
Bowen	Hansen	Robinson
Breckinridge	Harsha	Rousselot
Brinkley	Hightower	Runnels
Brooks	Holt	Russo
Broomfield	Hughes	Satterfield
Brown, Ohio	Hyde	Sawyer
Buchanan	Ichord	Sebelius
Burke, Fla.	Jacobs	Seiberling
Burleson, Tex.	Jeffords	Shuster
Burlison, Mo.	Johnson, Colo.	Sikes
Butler	Kasten	Simon
Cederberg	Kelly	Skelton
Clausen, Don H.	Kemp	Skubitz
	Keys	Slack
Clawson, Del	Kindness	Smith, Nebr.
Cleveland	Kostmayer	Snyder
Cohen	Latta	Spence
Coleman	Lent	Stangeland
Collins, Tex.	Livingston	Stanton
Conable	Lloyd, Tenn.	Stratton
Conte	Lujan	Stump
Corcoran	Luken	Symms
Cornell	McCloskey	Taylor
Cunningham	McDade	Thone
Daniel, Dan	McDonald	Treen
Daniel, R. W.	McEwen	Trible
de la Garza	McHugh	Volkmer
Delaney	Madigan	Waggonner
Dent	Mahon	Walsh
Derwinski	Marks	Wampler
Devine	Marlenee	Watkins
Dickinson	Marriott	Whalen
Downey	Martin	Whitehurst
Duncan, Tenn.	Michel	Whitten
Edwards, Ala.	Milford	Wiggins
Edwards, Okla.	Miller, Ohio	Wilson, Bob
Emery	Mollohan	Winn
English	Moore	Wydler
Erlenborn	Moorhead, Calif.	Wylie
Evans, Ga.		Young, Alaska
Fenwick	Mottl	Young, Fla.
Flippo	Murtha	Young, Mo.
Flowers	Myers, Gary	Zablocki
Flynt	Myers, John	

NOT VOTING—40

Ammerman	Hillis	Quie
Badham	Hollenbeck	Rudd
Burke, Calif.	Ireland	Sarasin
Chappell	Krueger	Schulze
Cochran	Leach	Shipley
Conyers	Leggett	Stark
Crane	Lott	Stockman
Derrick	McFall	Teague
Diggs	McKay	Tsongas
Edwards, Calif.	Meeds	Vander Jagt
Evans, Colo.	Miller, Calif.	White
Frey	Montgomery	Young, Tex.
Harrington	Moss	
Hawkins	Pettis	

The Clerk announced the following pairs:

On this vote:

Mrs. Burke of California and Mr. Krueger for, with Mr. Crane against.

Mr. Hollenbeck and Mr. Stockman for, with Mr. Lott against.

Until further notice:

Mr. McKay with Mr. Frey.
Mr. Montgomery with Mr. Hillis.
Mr. Ammerman with Mr. Quie.
Mr. Chappell with Mr. Rudd.
Mr. Edwards of California with Mr. Sarasin.
Mr. Teague with Mr. Schulze.
Mr. White with Mr. Vander Jagt.
Mr. Tsongas with Mr. Cochran of Mississippi.
Mr. Shipley with Mr. Badham.
Mr. Stark with Mr. Leach.
Mr. McFall with Mr. Ireland.
Mr. Miller of California with Mr. Derrick.
Mr. Hawkins with Mr. Meeds.
Mr. Conyers with Mr. Moss.
Mr. Evans of Colorado with Mr. Harrington.
Mr. Diggs with Mr. Leggett.

Mrs. HECKLER changed her vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR PAYMENT OF LOSSES AS RESULT OF BAN ON CHEMICAL TRIS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill (S. 1503), as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the Senate bill S. 1503, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 304, nays 90, not voting 36, as follows:

[Rollcall No. 902]

YEAS—304

Abdnor	Brinkley	Daniel, Dan
Addabbo	Brodhead	Daniel, R. W.
Akaka	Broomfield	Danielson
Alexander	Brown, Ohio	Davis
Anderson, Calif.	Broyhill	de la Garza
	Buchanan	Delaney
Anderson, Ill.	Burgener	Dent
Andrews, N.C.	Burke, Fla.	Derwinski
Andrews, N. Dak.	Burke, Mass.	Devine
	Burleson, Tex.	Dickinson
Annunzio	Burlison, Mo.	Dicks
Applegate	Burton, Phillip	Dingell
Archer	Caputo	Dodd
Armstrong	Carney	Dornan
Ashley	Carr	Downey
Aspin	Carter	Duncan, Oreg.
AuCoin	Cederberg	Duncan, Tenn.
Baldus	Chisholm	Eckhardt
Bauman	Clausen, Don H.	Edwards, Ala.
Beard, R.I.		Edwards, Okla.
Beard, Tenn.	Clawson, Del	Eilberg
Bevill	Clay	Emery
Biaggi	Cleveland	English
Blanchard	Cohen	Erlenborn
Blouin	Collins, Tex.	Ertel
Boggs	Conable	Evans, Ga.
Boland	Conte	Evans, Ind.
Bolling	Corcoran	Fary
Bonior	Corman	Fascell
Bonker	Cornwell	Fenwick
Bowen	Coughlin	Fish
Breaux	Cunningham	Fisher
Breckinridge	D'Amours	Fithian
Brinkley	Daniel, Dan	Flippo
Brodhead	Daniel, R. W.	Flood
Broomfield	Danielson	Flowers
Brown, Ohio	Davis	Flynt
Broyhill	de la Garza	Foley
Buchanan	Delaney	Ford, Mich.
Burgener	Dent	Ford, Tenn.
Burke, Fla.	Derwinski	Forsythe
Burke, Mass.	Devine	Fountain
Burleson, Tex.	Dickinson	Fowler
Burlison, Mo.	Dicks	Fraser
Burton, Phillip	Dingell	Frenzel
Caputo	Dodd	Gammage
Carney	Dornan	Garcia
Carr	Downey	Gaydos
Carter	Duncan, Oreg.	Giaimo
Cederberg	Duncan, Tenn.	Gilman
Chisholm	Eckhardt	Ginn
Clausen, Don H.	Edwards, Ala.	Goldwater
	Edwards, Okla.	Gonzalez
Clawson, Del	Eilberg	Goodling
Clay	Emery	Gore
Cleveland	English	Green
Cohen	Erlenborn	Gudger
Collins, Tex.	Ertel	Guyer
Conable	Evans, Ga.	Hagedorn
Conte	Evans, Ind.	Hamilton
Corcoran	Fary	Hammer-schmidt
Corman	Fascell	
Cornwell	Fenwick	Hanley
Coughlin	Fish	Hannaford
Cunningham	Fisher	Harris
D'Amours	Fithian	Harsha
Daniel, Dan	Flippo	Heckler
Daniel, R. W.	Flood	Hefner
Danielson	Flowers	Hightower
Davis	Flynt	Holland
de la Garza	Foley	Holt
Delaney	Ford, Mich.	Horton
Dent	Ford, Tenn.	Howard
Derwinski	Forsythe	Huckaby
Devine	Fountain	Hyde
Dickinson	Fowler	Jeffords
Dicks	Fraser	Jenkins
Dingell	Frenzel	Jenrette
Dodd	Gammage	Johnson, Calif.
Dornan	Garcia	Johnson, Colo.
Downey	Gaydos	Jones, N.C.
Duncan, Oreg.	Giaimo	Jones, Okla.
Duncan, Tenn.	Gilman	Jones, Tenn.
Eckhardt	Ginn	Kasten
Edwards, Ala.	Goldwater	Kazen
Edwards, Okla.	Gonzalez	Kelly
Eilberg	Goodling	Kemp
Emery	Gore	Kindness
English	Green	Lagomarsino
Erlenborn	Gudger	Latta
Ertel	Guyer	Le Fante
Evans, Ga.	Hagedorn	Leach
Evans, Ind.	Hamilton	Lederer
Fary	Hammer-schmidt	Lent
Fascell		Lloyd, Calif.
Fenwick	Hanley	Lloyd, Tenn.
Fish	Hannaford	Long, La.
Fisher	Harris	Lujan
Fithian	Harsha	Luken
Flippo	Heckler	Lundine
Flood	Hefner	McClory
Flowers	Hightower	McCloskey
Flynt	Holland	McCormack
Foley	Holt	McDade
Ford, Mich.	Horton	McDonald
Ford, Tenn.	Howard	McEwen
Forsythe	Huckaby	McFall
Fountain	Hyde	McKinney
Fowler	Jeffords	Madigan
Fraser	Jenkins	Mann
Frenzel	Jenrette	Marks
Gammage	Johnson, Calif.	Marriott
Garcia	Johnson, Colo.	Martin
Gaydos	Jones, N.C.	Mathis
Giaimo	Jones, Okla.	Mattox
Gilman	Jones, Tenn.	Mazzoli
Ginn	Kasten	Meyner
Goldwater	Kazen	Michel
Gonzalez	Kelly	Mikulski
Goodling	Kemp	Mikva
Gore	Kindness	Milford
Green	Lagomarsino	Mineta
Gudger	Latta	Mitchell, N.Y.
Guyer	Le Fante	Moakley
Hagedorn	Leach	Moffett
Hamilton	Lederer	Moore
Hammer-schmidt	Lent	Moorhead, Calif.
	Lloyd, Calif.	
Hanley	Lloyd, Tenn.	Moorhead, Pa.
Hannaford	Long, La.	Murphy, Ill.
Harris	Lujan	Murphy, N.Y.
Harsha	Luken	Murphy, Pa.
Heckler	Lundine	Murtha
Hefner	McClory	Myers, John
Hightower	McCloskey	Myers, Michael
Holland	McCormack	Neal
Holt	McDade	Nedzi
Horton	McDonald	Nichols
Howard	McEwen	Nix
Huckaby	McFall	Nolan
Hyde	McKinney	Nowak
Jeffords	Madigan	O'Brien
Jenkins	Mann	Oberstar
Jenrette	Marks	Ottinger
Johnson, Calif.	Marriott	Patten
Johnson, Colo.	Martin	Patterson
Jones, N.C.	Mathis	Pattison
Jones, Okla.	Mattox	Pepper
Jones, Tenn.	Mazzoli	Pickle
Kasten	Meyner	Pike
Kazen	Michel	Pressler
Kelly	Mikulski	Preyer
Kemp	Mikva	Price
Kindness	Milford	Pritchard
Lagomarsino	Mineta	Pursell
Latta	Mitchell, N.Y.	Quayle
Le Fante	Moakley	Quillen
Leach	Moffett	Rahall
Lederer	Moore	Railsback
Lent	Moorhead, Calif.	Regula
Lloyd, Calif.		Rhodes
Lloyd, Tenn.	Moorhead, Pa.	Risenhoover
Long, La.	Murphy, Ill.	Roberts
Lujan	Murphy, N.Y.	Robinson
Luken	Murphy, Pa.	Rodino
Lundine	Murtha	Roe
McClory	Myers, John	Roncalio
McCloskey	Myers, Michael	Rooney
McCormack	Neal	Rose
McDade	Nedzi	Rostenkowski
McDonald	Nichols	Rousselot
McEwen	Nix	Roybal
McFall	Nolan	Runnels
McKinney	Nowak	Ruppe
Madigan	O'Brien	Russo
Mann	Oberstar	Ryan
Marks	Ottinger	Santini
Marriott	Patten	Satterfield
Martin	Patterson	Sawyer
Mathis	Pattison	Scheuer
Mattox	Pepper	Schroeder
Mazzoli	Pickle	Sebelius
Meyner	Pike	Seiberling
Michel	Pressler	Sharp
Mikulski	Preyer	Shuster
Mikva	Price	Sikes
Milford	Pritchard	Sisk
Mineta	Pursell	Skelton
Mitchell, N.Y.	Quayle	Skubitz
Moakley	Quillen	Slack
Moffett	Rahall	Smith, Iowa
Moore	Railsback	Smith, Nebr.
Moorhead, Calif.	Regula	Solarz
	Rhodes	Spellman
Moorhead, Pa.	Risenhoover	Spence
Murphy, Ill.	Roberts	St Germain
Murphy, N.Y.	Robinson	Stangeland
Murphy, Pa.	Rodino	Stanton
Murtha	Roe	Steers
Myers, John	Roncalio	Steiger
Myers, Michael	Rooney	Stockman
Neal	Rose	Stokes
Nedzi	Rostenkowski	Stratton
Nichols	Rousselot	Studds
Nix	Roybal	Stump
Nolan	Runnels	Symms
Nowak	Ruppe	Thompson
O'Brien		Thone
Oberstar		Thornton
Ottinger		Traxler
Patten		Trible
Patterson		Tucker
Pattison		Ullman
Pepper		Van Deerlin
Pickle		Vander Jagt
Pike		Vento
Pressler		Waggonner
Preyer		Walgren
Price		Walker
Pritchard		Walsh
Pursell		Wampler
Quayle		Watkins
Quillen		Weaver
Rahall		Weiss
Railsback		Whitehurst
Regula		Whitley
Rhodes		Whitten
Risenhoover		Wiggins
Roberts		Wilson, Bob
Robinson		Wilson, C. H.
Rodino		Wilson, Tex.
Roe		Winn
Roncalio		Wirth
Rooney		Wolff
Rose		Wright
Rostenkowski		Wydler
Rousselot		Wylie
Roybal		Yatron
Runnels		Young, Alaska
Ruppe		Young, Fla.
Russo		Young, Mo.
Ryan		Zablocki
Santini		Zeferetti
Satterfield		
Sawyer		
Scheuer		
Schroeder		
Sebelius		
Seiberling		
Sharp		
Shuster		
Sikes		
Sisk		
Skelton		
Skubitz		
Slack		
Smith, Iowa		
Smith, Nebr.		
Solarz		
Spellman		
Spence		
St Germain		
Stangeland		
Stanton		
Steers		
Steiger		
Stockman		
Stokes		
Stratton		
Studds		
Stump		
Symms		
Thompson		
Thone		
Thornton		
Traxler		
Trible		
Tucker		
Ullman		
Van Deerlin		
Vander Jagt		
Vento		
Waggonner		
Walgren		
Walker		
Walsh		
Wampler		
Watkins		
Weaver		
Weiss		
Whitehurst		
Whitley		
Whitten		
Wiggins		
Wilson, Bob		
Wilson, C. H.		
Wilson, Tex.		
Winn		
Wirth		
Wolff		
Wright		
Wydler		
Wylie		
Yatron		
Young, Alaska		
Young, Fla.		
Young, Mo.		
Zablocki		
Zeferetti		

NAYS—90

Ambro	Gibbons	Minish
Ashbrook	Glickman	Mitchell, Md.
Bafalis	Gradison	Mollohan
Barnard	Grassley	Mottl
Baucus	Hall	Myers, Gary
Bedell	Hansen	Natcher
Bellenson	Harkin	Oakar
Benjamin	Heftel	Obey
Bennett	Holtzman	Panetta
Bingham	Hubbard	Pease
Brademas	Hughes	Perkins
Brooks	Ichord	Poage
Brown, Calif.	Jacobs	Rangel
Brown, Mich.	Jordan	Reuss
Burton, John	Kastenmeier	Richmond
Butler	Keys	Rinaldo
Cavanaugh	Kildee	Rogers
Coleman	Kostmayer	Rosenthal
Collins, Ill.	Krebs	Simon
Cornell	LaFalce	Snyder
Cotter	Lehman	Staggers
Dellums	Levitas	Steed
Drinan	Livingston	Taylor
Early	Long, Md.	Treen
Edgar	McHugh	Udall
Evans, Del.	Maguire	Vanik
Findley	Mahon	Volkmer
Florio	Markey	Waxman
Fuqua	Marlenee	Whalen
Gephardt	Miller, Ohio	Yates

NOT VOTING—36

Ammerman	Harrington	Moss
Badham	Hawkins	Pettis
Burke, Calif.	Hillis	Quie
Chappell	Hollenbeck	Rudd
Cochran	Ireland	Sarasin
Conyers	Krueger	Schulze
Crane	Leggett	Shipley
Derrick	Lott	Stark
Diggs	McKay	Teague
Edwards, Calif.	Meeds	Tsongas
Evans, Colo.	Miller, Calif.	White
Frey	Montgomery	Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. McKay and Mr. Krueger for, with Mr. White against.

Until further notice:

Mr. Ammerman with Mr. Quie.
Mrs. Burke of California with Mr. Rudd.
Mr. Chappell with Mr. Hollenbeck.
Mr. Edwards of California with Mr. Hillis.
Mr. Shipley with Mr. Cochran of Mississippi.
Mr. Evans of Colorado with Mr. Lott.
Mr. Hawkins with Mr. Frey.
Mr. Teague with Mr. Badham.
Mr. Moss with Mr. Crane.
Mr. Stark with Mr. Sarasin.
Mr. Tsongas with Mr. Schulze.
Mr. Ireland with Mr. Harrington.
Mr. Miller of California with Mr. Derrick.
Mr. Montgomery with Mr. Meeds.
Mr. Conyers with Mr. Leggett.
Mr. Diggs with Mrs. Pettis.

Mr. WOLFF changed his vote from "nay" to "yea."

Mr. LEHMAN changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 3151, DEPARTMENT OF JUSTICE APPROPRIATION AUTHORIZATION ACT, FISCAL YEAR 1979

Mr. RODINO submitted the following conference report and statement on the Senate bill (S. 3151) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 95-1777)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3151) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of he bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Year 1979".

SEC. 6. There are hereby authorized to be appropriated for the fiscal year ending September 30, 1979, to carry out the activities of the Department of Justice (including any

bureau, office, board, division, commission, or subdivision thereof), the following amounts:

(1) For General Administration, including hire of passenger motor vehicles and miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Associate Attorney General or the Assistant Attorney General for Administration: $28,966,000.

(2) For General Legal Activities, including miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Deputy Attorney General, or the Associate Attorney General or the Assistant Attorney General for Administration; not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and advance of public moneys under section 3648 of the Revised Statutes (31 U.S.C. 529); $95,481,000.

(3) For the Antitrust Division: $47,080,000.

(4) For United States Attorneys and Marshals, including purchase of firearms and ammunition; lease and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year; supervision of United States prisoners in non-Federal institutions; and bringing to the United States from foreign countries persons charged with crime: $221,736,000.

(5) For Fees and Expenses of Witnesses, including expenses, mileage, compensation and per diems of witnesses in lieu of subsistence, as authorized by law; including advances of public moneys except that no sums authorized to be appropriated by this Act shall be used to pay any witness more than one attendance fee for any one day: $20,144,000.

(6) For Support of United States Prisoners in non-Federal institutions, including necessary clothing and medical aid, payment of rewards, and reimbursements to Saint Elizabeths Hospital for the care and treatment of United States prisoners, at per diem rates as authorized by section 2 of the Act entitled "An Act to authorize certain expenditures from the appropriations of Saint Elizabeths Hospital, and for other purposes", approved August 4, 1947 (24 U.S.C. 168a): $25,100,000.

(7) For the Community Relations Service: $5,353,000.

(8) For the Federal Bureau of Investigation for expenses necessary for the detection and prosecution of crimes against the United States; protection of the person of the President of the United States and the person of the Attorney General; acquisition, collection, classification and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside receiving departments or related agencies; and such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General; including purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles; acquisition, lease, maintenance, and operations of aircraft; firearms and ammunition; payment of rewards; benefits in accordance with those provided under sections 911 (9) through (11) and 957 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9)–(11) and 22 U.S.C. 1157) under regulations prescribed by the Secretary of State; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate: $561,341,000.

(9) For the Immigration and Naturalization Service, for payment of expenses not otherwise provided for, necessary for the administration of the laws relating to immigration, naturalization, and alien registration, including advance of cash to aliens for meals and lodging while en route; payment of allowances to aliens, while held in custody under the immigration laws, for work performed; payment of expenses and allowances incurred in tracking lost persons as required by public exigencies in aid of State or local law enforcement agencies where provision for reimbursement by such State and local law enforcement agencies is made; payment of rewards; not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; firearms and ammunition and attendance of firearms matches; operation, maintenance, remodeling and repair of buildings, and the purchase of equipment incident thereto; refunds of maintenance bills, immigration fines, and other items properly returnable except deposits of aliens who become public charges and deposits to secure payment of fines and passage money; payment of interpreters and translators who are not citizens of the United States and distribution of citizenship textbooks to aliens without cost to such aliens; acquisition of land as sites for enforcement fence and construction incident to such fence; benefits in accordance with those provided under sections 911 (9) through (11) and 957 of the Foreign Service Act of 1946 (22 U.S.C. 1136(9)–(11) and 22 U.S.C. 1157) under regulations prescribed by the Secretary of State; research related to immigration enforcement which shall remain available until expended: $320,722,000, of which $2,052,000 shall be made available for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals.

(10) For the Drug Enforcement Administration to hire and acquire law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year; pay in advance for special tests and studies by contract; pay in advance for expenses arising out of contractual and reimbursements with State and local law enforcement and regulatory agencies while engaged in cooperative enforcement and regulatory activities in accordance with section 503a(2) of the Controlled Substances Act; pay expenses not to exceed $70,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; pay rewards: pay for publication of technical and informational material in professional and trade journals; purchase chemicals, apparatus, and scientific equipment; pay for necessary accommodations in the District of Columbia for conferences and training activities; acquire, lease, maintain, and operate aircraft; research related to enforcement and drug control to remain available until expended: employ aliens by contract for services abroad; benefits in accordance with those provided under section 911 (9) through (11) and 957 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9)–(11) and 22 U.S.C. 1157), under regulations prescribed by the Secretary of State, such sums as authorized by section 709(a) of the Controlled Substances Act (21 U.S.C. 904(a)), for the fiscal year ending September 30, 1979, for the activities authorized by the Comprehensive Drug Abuse Prevention and Control Act of 1970.

(11) For the Federal Prison System, $362,662,000, including—

(A) for the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions; purchase of and hire of law enforcement and passenger motor vehicles; compilation of statistics relating to prisoners in Federal penal and correctional institutions; assistance to State and local governments to improve their correctional systems; firearms and ammunition; medals and other awards; payment of rewards; purchase and exchange of farm products and livestock; construction of buildings at prison camps; and acquisition of land as authorized by section 4010 of title 18, United States Code; transfer to the Health Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for the direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions; making such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Control Corporation Act, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for Federal Prison Industries, Incorporated;

(B) for carrying out the provisions of sections 4351 throupgh 4353 of title 18, United States Code, which establish a National Institute of Corrections, to remain available until expended; and

(C) for planning, acquisition of sites and construction of new facilities, and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, to remain available until expended.

SEC. 3. (a) None of the sums authorized to be appropriated by this Act may be used to pay the compensation of any person employed after the date of the enactment of the Act as an attorney (except foreign counsel employed in special cases) unless such person shall be duly licensed and authorized to practice as an attorney under the laws of a State, territory, or the District of Columbia.

(b) None of the sums authorized to be appropriated by this Act for the Federal Bureau of Investigation shall be used to pay the compensation of any employee in the competitive service.

(c) None of the additional sums authorized to be appropriated by this Act for criminal investigations and management direction shall be reprogrammed to the Domestic Terrorism Intelligence Program.

SEC. 4. (a) Sums authorized to be appropriated by this Act which are available for expenses of attendance at meetings shall be expended for such purposes in accordance with regulations prescribed by the Attorney General.

(b) Sums authorized to be appropriated by this Act may be used for the purchase of insurance of motor vehicles operated in official government business in foreign countries.

(c) Sums authorized to be appropriated by this Act for salaries and expenses shall be available for services as authorized by section 3109 of title 5 of the United States Code.

(d) The labor of United States prisoners may be used for work performed with sums authorized to be appropriated by section 2 (11)(C).

(e) Sums authorized to be appropriated by this Act to the Department of Justice may be used for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

(f) Sums authorized to be appropriated by

this Act may be used for (1) expenses of primary and secondary schooling for dependents of personnel stationed outside the continental United States at cost not in excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents, and (2) transportation of those dependents between their place of residence and schools serving the area which those dependents would normally attend when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation.

(g) There are authorized to be appropriated such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

SEC. 5. Section 1001(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000g) is amended by striking out the last sentence.

SEC. 6. (a) The Attorney General shall perform periodic evaluations of the overall efficiency and effectiveness of the Department of Justice programs and any supporting activities funded by appropriations authorized by this Act and annual specific program evaluations of selected subordinate organization's programs, as determined by priorities set either by the Congress or the Attorney General.

(b) The evaluations shall be performed by the appropriate Department level program review staff.

(c) Subordinate Department of Justice organizations and their officials shall provide all necessary assistance and cooperation to the Department level program review staff in the conduct of the evaluation, including full access to all information, documentation, and cognizant personnel, as required.

(d) Completed evaluations shall be made available to the Committees on the Judiciary of the Senate and House of Representatives.

SEC. 7. During the fiscal year for which appropriations are authorized by this Act, each organization of the Department of Justice, through the appropriate office within the Department of Justice, shall notify in writing the Committees on the Judiciary, of the House of Representatives and the Senate, and other appropriate committees a minimum of fifteen days prior to—

(1) reprogramming of funds in excess of $150,000 or 10 percent, whichever is less, bebetween the programs within the offices, divisions, and boards as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(2) reprogramming of funds in excess of $500,000 or 2 percent, whichever is less, between programs within the Bureaus as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives:

(3) any reprogramming action which involves less than the amounts specified in paragraphs (1) and (2) if such action would have the effect of significant program changes and committing substantive program funding requirements in future years;

(4) increasing personnel or fund by any means for any project or program for which funds or other resources have been restricted;

(5) creation of new programs or significant augmentation of existing programs;

(6) reorganization of offices or programs; and

(7) significant relocation of offices or employees.

Section 4002 of title 18, United States Code, is amended by striking out "Director of the Bureau of Prisons" and inserting "Attorney General" in lieu thereof.

SEC. 9. The Attorney General shall consult with the Secretary of Defense in order to develop a plan to assure that such suitable facilities as the Department of Defense operates which are not in active use shall be made available for operation by the Department of Justice for the confinement of United States prisoners. Such plan shall provide for the return to the management of the Department of Defense of any such facility upon a finding by the Secretary of Defense that such return is necessary to the operation of the Department.

SEC. 10. (a) On or before September 1, 1979, the Attorney General shall submit to the Congress—

(1) a plan to assure the closure of the United States Penitentiary on McNeil Island, Steilacoom, Washington, on or before January 1, 1982; and

(2) a report on the status of the Federal Prison Industries.

(b) The report made under this section shall include a long-range plan for the improvement of meaningful employment training, and the methods which could be undertaken to employ a greater number of United States prisoners in the program. Such report may include recommendations for legislation.

SEC. 11. Notwithstanding the second of the paragraphs relating to salaries and expenses of the Federal Bureau of Investigation in the Department of Justice Appropriation Act, 1973 (86 Stat. 1115), sums authorized to be appropriated by this Act for such salaries and expenses may be used for the purposes described in such paragraph until but not later than the end of the fiscal year ending September 30, 1979.

SEC. 12. In addition to any other sums authorized by this Act to be appropriated for the activities of the Federal Prison System, there are authorized to be appropriated $1,000,000 to bring the facilities of the Federal Prison System into compliance with fire safety standards of the localities in which such facilities are located. Not later than one hundred and eighty days after the appropriation of sums authorized for this purpose, the Federal Bureau of Prisons shall report to the Congress the extent to which such facilities have complied with such standards. Such report shall describe the purposes for which sums authorized to be appropriated have been or are to be expended.

SEC. 13. (a) The Attorney General shall, during the fiscal year for which appropriations are authorized by this Act, transmit a report to each House of the Congress in any case in which the Attorney General—

(1) establishes a policy to refrain from the enforcement of any provision of law enacted by the Congress, the enforcement of which is the responsibility of the Department of Justice, because of the position of the Department of Justice that such provision of law is not constitutional; or

(2) determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional

(b) Any report required in subsection (a) shall be transmitted not later than thirty days after the Attorney General establishes the policy specified in subsection (a)(1) or makes the determination specified in subsection (a)(2). Each such report shall—

(1) specify the provision of law involved;

(2) include a detailed statement of the reasons for the position of the Department of Justice that such provision of law is not constitutional; and

(3) in the case of a determination specified in subsection (a)(2), indicate the nature of the judicial, administrative, or other proceeding involved.

(c) If, during the fiscal year for which appropriations are authorized by this Act, the Attorney General determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional, then the representative of the Department of Justice participating in such proceeding shall make a declaration in such proceeding that such position of the Department of Justice regarding the constitutionality of the provision of law involved constitutes the position of the executive branch of the United States with respect to such matter.

SEC. 14. Using sums authorized to be appropriated by this Act, the Federal Bureau of Investigation shall in its Uniform Crime reports classify arson as a Part I offense.

SEC. 15. No part of any sums authorized to be appropriated by this Act may be used for the purpose of transferring any border control activities of the Immigration and Naturalization Service (including patrol and inspections) to any other agency or department of the Federal Government.

SEC. 16. The Attorney General, in consultation with the Congress, shall develop special eligibility criteria under the current United States parole program for Indochina Refugee which would enable a larger number of refugees from Cambodia to qualify for admission to the United States.

SEC. 17. The Attorney General shall undertake a study of the extent to which complaints of violations of Federal criminal laws are not prosecuted and shall make recommendations for improving the percentage of such complaints which are prosecuted by the Department. The study shall also analyze the cases that have not been prosecuted and make recommendations to assure that the decisions not to prosecute are in accordance with national policy. The study and recommendations shall be provided to the Committees on the Judiciary of the Senate and House of Representatives not later than October 1, 1979.

SEC. 18. (a) With respect to any undercover investigative operation of the Federal Bureau of Investigation which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(1) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act may be used for leasing space within the United States, the District of Columbia and the territories and possessions of the United States without regard to section 3679(a) of the Revised Statutes (31 U.S.C. 665(a)), section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "MISCELLANEOUS" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes (31 U.S.C. 529), section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));

(2) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3639 of the Revised Statutes (31 U.S.C. 521); and

(3) the proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of sec-

tion 3617 of the Revised Statutes (31 U.S.C. 484);

only upon the written certification of the Director of the Federal Bureau of Investigation and the Attorney General (or, if designated by the Attorney General, the Deputy Attorney General) that any action authorized by paragraph (1), (2), or (3) of this subsection is necessary for the conduct of such undercover operation.

(b) As soon as the proceeds from an undercover investigative operation with respect to which on action is authorized and carried out under paragraphs (2) and (3) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

SEC. 19. The Federal Bureau of Investigation shall provide a written report to a Member of Congress on any investigation conducted based on a threat on the Member's life under section 351 of title 18 of the United States Code.

SEC. 20. (a) The Attorney General shall take such steps as may be necessary to acquire or to construct, in Los Angeles County, California, a Federal detention center. Such center shall be capable of accommodating not less than five hundred Federal detainees.

(b) In addition to any other sums that are authorized to be appropriated by this Act, there are authorized to be appropriated $2,600,000 for planning and site acquisition for the fiscal year ending September 30, 1979, to carry out this section.

SEC. 21. (a) The Act entitled "An Act to authorize membership on behalf of the United States in the International Criminal Police Commission, approved June 10, 1938 (52 Stat. 640; 22 U.S.C. 236a) is amended by striking out the last two sentences and inserting in lieu thereof the following: "All dues and expenses to be paid for the membership of the United States shall be paid out of sums authorized and appropriated for the Department of Justice.".

(b) The Attorney General is authorized to pay to the International Criminal Police organization the unpaid balance of the dues for calendar years prior to 1978 and such sums as may be necessary are authorized to be appropriated to carry out the provisions of this subsection.

SEC. 22. Section 5108(c)(8) of title 5, United States Code, is amended by striking out "32" and inserting in lieu thereof "45".

And the House agree to the same.

That the House recede from its amendment to the title of the bill.

PETER W. RODINO, Jr.,
JACK BROOKS,
BOB KASTENMEIER,
DON EDWARDS,
JOSHUA EILBERG,
JAMES R. MANN,
GEORGE E. DANIELSON,
TOM RAILSBACK,
CHARLES E. WIGGINS,
HAMILTON FISH, Jr.,
Managers on the Part of the House.

JAMES O. EASTLAND,
BIRCH BAYH,
DENNIS DECONCINI,
PAUL HATFIELD,
STROM THURMOND,
MALCOLM WALLOP,
For consideration in the area of Special Prosecutor:
ABE RIBICOFF,
JACOB K. JAVITS,
CHARLES H. PERCY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3151) to authorize aprpopriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House to the text of the bill with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

As to dollar amounts, both houses were in agreement on the amount of sums authorized to be appropriated for General Administration, Fees and Expenses of Witnesses, Support of United States Prisoners and Community Relations Services, and thus not committed to the conference committee.

As to those items in dispute committed to conference, the resolution of the items is as follows:

General Legal Activities.—The conferees agreed to a compromise figure of $95,481,000, including an additional $3.31 million for the Criminal Division and $2.266 million for the Civil Rights Division above the President's request, as explained in the Senate Report 95–911.

Antitrust Division.—The House recedes to the Senate figure of $47,080,000, an increase of $703,000 above the President's request, to supplement the division's international oil investigations.

U.S. Attorneys and Marshals.—The conferees agreed to a total of $221,736,000, which is an increase of $25,000,000 above the House figure and which will permit a supplemental appropriation to cover approximately 5 months of expense for additional assistant U.S. attorneys and marshals required to handle increased court activities generated by the new judgeships created by the Congress.

The managers agree that the funds budgeted and authorized to be appropriated for the Witness Security Program of the Marshal's Service are inadequate to allow the service to perform its duties or fulfill its commitments in that field. In light of this finding, the managers feel that the Department should submit a supplemental request for an authorization and appropriation for an additional $1.6 million to bring the services funding up to the level suggested by Senate Report 95–911.

Federal Bureau of Investigation.—The conferees agreed to $561,341,000.

Immigration and Naturalization Service.—The conferees agreed to $320,722,000, by reason of the Senate receding to the House position.

The conferees have agreed to the House authorization level of $320,722,000 for the Immigration and Naturalization Service (INS), notwithstanding the lower appropriation level ($299,350,000), previously approved by the Congress in the State, Justice, Commerce, Judiciary and Related Agencies Appropriation Bill (Public Law 95–431). The conferees believe that this increased authorization level is urgently needed to improve INS' efforts to control the illegal alien problem, as well as to reduce the adjudication and naturalization backlogs in the various INS district offices around the country. The conferees are hopeful that the Administration will submit a request for a supplemental appropriation to provide the additional positions that are authorized herein.

Federal Prison System—The conferees agreed to $362,662,000 by reason of the Senate receding to the House position, which was the lowest figure committed to the conference. This figure includes $160,000 to increase support for legal services for inmates as explained in House Report (95–1148).

As to Section 12 of the substitute, the Senate receded and concurred in the House position which authorized to be appropriated $1,000,000 for fire prevention in the Federal Prison System.

As to Sections 13, 14, 15, 16, 17, 18 and 19 of the substitute, the Senate receded and concurred in the House position. In Section 17 the date for the report was changed from March 31, 1979 to October 1, 1979.

As to Section 20 the Senator receded and concurred in the substance of the House amendment, after the conferees had agreed to limit the authorization for appropriations to "$2,600,000 for planning and site acquisition" and after a technical amendment in Sec. 20(a).

As to Section 21 the House receded and concurred in the Senate position authorizing continued participation in Interpol with the provision that all dues and expenses for membership be paid out of sums appropriated to the Department of Justice.

As to Section 22 the conferees agreed that the total number of supergrade positions authorized under Section 5108(c) of title 5 be 45 positions in lieu of the 92 positions contained in the Senate bill. It is the conferees' intent that the additional 13 supergrade positions authorized in section 24 of the substitute be used for attorney positions and not, by substitution or otherwise, for administrative positions.

By vote of the conferees the Senate refused to concur in section 28 and section 32 of the House amendment to S. 3151 and the House thereupon receded from its provisions.

The Senate Conferees recede and concur in the House addition of the phrase "appropriate committees" to section 7 of the bill. In addition, the Conferees concur with the language of Senate Report 95–911 which would provide adequate resources to the program review activities of the Office of Management and Finance to fully carry out the requirements of section 6 and 7 of the bill.

The Special Prosecutor provision in the Senate bill was deleted because the subject was included in the Conference Report on S. 555.

The House receded to the Senate provision which amends the Civil Rights Act of 1964 to remove the $75 limitation on Community Relations Service consultants.

PETER W. RODINO, Jr.,
JACK BROOKS,
BOB KASTENMEIER,
DON EDWARDS,
JOSHUA EILBERG,
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Managers on the Part of the House.

JAMES O. EASTLAND,
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For consideration in the area of Special Prosecutor:
ABE RIBICOFF,
JACOB K. JAVITS,
CHARLES H. PERCY,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 12050, TUITION TAX CREDIT ACT OF 1978

The SPEAKER pro tempore. The unfinished business is the motion offered by the gentleman from Ohio (Mr. GRADISON) to recommit the conference report on the bill H.R. 12050 to the committee of conference with instructions, on which the yeas and nays are ordered.

The Clerk will rereport the motion to recommit.

The Clerk read as follows:

Mr. GRADISON moves to recommit the conference report on the bill (H.R. 12050) to the committee of conference with instructions to the managers on the part of the House to insist on those provisions of the House bill which provide that tuition paid to elementary or secondary schools is eligible for the tax credit and to insist on the provision of the House bill which sets forth the maximum amount of the credit for tuition paid to elementary or secondary schools.

PARLIAMENTARY INQUIRY

Mr. WAGGONNER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WAGGONNER. Mr. Speaker, I make this inquiry simply because the level of noise is such in the House that I am not quite sure we all understand exactly what we are being required to vote on. Am I correct that this motion to recommit with instructions and that an "aye" vote will recommit the conference report and a "no" vote is a vote for adoption of the conference report?

The SPEAKER pro tempore. No; that is not so. It is the Chair's belief that an "aye' vote will sustain the position of the House and insist upon the House position. An "aye" vote will recommit to conference, but a "no' vote will be for adoption.

Mr. WAGGONNER. An "aye" vote will recommit the conference report.

The SPEAKER pro tempore. Yes.

The vote was taken by electronic device, and there were—yeas 207, nays 185, not voting 38, as follows:

[Roll No. 903]

YEAS—207

Addabbo	Clawson, Del	Foley
Ambro	Cleveland	Forsythe
Andrews, N. Dak.	Cohen	Frenzel
Annunzio	Coleman	Garcia
Applegate	Collins, Tex.	Gaydos
Archer	Conable	Gephardt
Armstrong	Conte	Giaimo
Ashbrook	Conyers	Gibbons
Ashley	Corcoran	Gilman
Bafalis	Cornell	Goldwater
Barnard	Cotter	Goodling
Bauman	Coughlin	Gradison
Beard, R.I.	Cunningham	Grassley
Beard, Tenn.	D'Amours	Green
Benjamin	Daniel, R. W.	Guyer
Biaggi	de la Garza	Hagedorn
Bingham	Delaney	Hanley
Blouin	Dent	Hansen
Boggs	Derwinski	Harkin
Boland	Devine	Harsha
Breaux	Dornan	Heckler
Brinkley	Early	Heftel
Brooks	Edgar	Holt
Broomfield	Edwards, Ala.	Horton
Brown, Mich.	Edwards, Okla.	Howard
Brown, Ohio	Eilberg	Hughes
Burgener	Emery	Hyde
Burke, Fla.	Erlenborn	Jeffords
Burke, Mass.	Ertel	Johnson, Calif.
Caputo	Evans, Del.	Kasten
Carney	Evans, Ga.	Kelly
Cavanaugh	Fary	Kemp
Cederberg	Fish	Kildee
Clausen, Don H.	Flood	Kindness
	Florio	Kostmayer
	Flynt	Lagomarsino
Latta	Myers, Michael	Slack
Le Fante	Natcher	Smith, Nebr.
Leach	Nedzi	Snyder
Lederer	Nix	Solarz
Lent	Nowak	St Germain
Levitas	O'Brien	Staggers
Livingston	Oakar	Stangeland
Long, La.	Ottinger	Stanton
Lujan	Patten	Steers
Luken	Pattison	Steiger
McDade	Pease	Stockman
McDonald	Pressler	Stratton
McEwen	Price	Symms
Maguire	Pritchard	Thone
Markey	Quayle	Traxler
Marks	Railsback	Treen
Marriott	Regula	Van Deerlin
Mathis	Rinaldo	Vander Jagt
Mazzoli	Rodino	Vanik
Meyner	Roe	Vento
Michel	Roncalio	Volkmer
Mikulski	Rooney	Walgren
Miller, Ohio	Rostenkowski	Walker
Minish	Rousselot	Walsh
Moakley	Runnels	Whitten
Moore	Ruppe	Wilson, Bob
Moorhead, Calif.	Russo	Winn
	Ryan	Wolff
Motti	Santini	Wydler
Murphy, Ill.	Sawyer	Wylie
Murphy, N.Y.	Scheuer	Yatron
Murphy, Pa.	Sebelius	Young, Mo.
Murtha	Seiberling	Zablocki
Myers, John	Shuster	Zeferetti

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Abdnor	Fraser	Patterson
Akaka	Fuqua	Pepper
Alexander	Gammage	Perkins
Anderson, Calif.	Ginn	Pickle
	Glickman	Pike
Anderson, Ill.	Gonzalez	Poage
Andrews, N.C.	Gore	Preyer
Aspin	Gudger	Pursell
Baldus	Hall	Quillen
Baucus	Hamilton	Rahall
Bedell	Hammer-schmidt	Rangel
Bellenson		Rhodes
Bennett	Hannaford	Richmond
Bevill	Harris	Risenhoover
Blanchard	Hawkins	Roberts
Bolling	Hefner	Robinson
Bonior	Hightower	Rogers
Bowen	Holland	Rose
Brademas	Holtzman	Rosenthal
Breckinridge	Hubbard	Roybal
Brodhead	Huckaby	Satterfield
Brown, Calif.	Ichord	Schroeder
Broyhill	Jenkins	Sharp
Buchanan	Jenrette	Sikes
Burleson, Tex.	Johnson, Colo.	Simon
Burlison, Mo.	Jones, N.C.	Sisk
Burton, John	Jones, Okla.	Skelton
Burton, Phillip	Jones, Tenn.	Skubitz
Butler	Jordan	Smith, Iowa
Carr	Kastenmeier	Spellman
Carter	Kazen	Spence
Chisholm	Keys	Stark
Clay	Krebs	Steed
Collins, Ill.	LaFalce	Stokes
Corman	Lehman	Studds
Cornwell	Lloyd, Calif.	Stump
Daniel, Dan	Lloyd, Tenn.	Taylor
Danielson	Long, Md.	Thompson
Davis	McClory	Thornton
Dellums	McCloskey	Trible
Derrick	McCormack	Tsongas
Dickinson	McFall	Tucker
Dicks	McHugh	Udall
Dingell	McKinney	Ullman
Dodd	Mahon	Waggonner
Downey	Mann	Wampler
Drinan	Marlenee	Watkins
Duncan, Oreg.	Martin	Waxman
Duncan, Tenn.	Mattox	Weaver
Eckhardt	Mikva	Weiss
English	Milford	Whalen
Evans, Ind.	Mineta	Whitehurst
Fascell	Mitchell, N.Y.	Whitley
Fenwick	Moffett	Wiggins
Findley	Mollohan	Wilson, C. H.
Fisher	Moorhead, Pa.	Wilson, Tex.
Fithian	Myers, Gary	Wirth
Flippo	Neal	Wright
Flowers	Nichols	Yates
Ford, Mich.	Nolan	Young, Alaska
Ford, Tenn.	Oberstar	Young, Fla.
Fountain	Obey	
Fowler	Panetta	

NOT VOTING—38

Ammerman	Burke, Calif.	Diggs
AuCoin	Chappell	Edwards, Calif.
Badham	Cochran	Evans, Colo.
Bonker	Crane	Frey
Harrington	McKay	Reuss
Hillis	Madigan	Rudd
Hollenbeck	Meeds	Sarasin
Ireland	Miller, Calif.	Schulze
Jacobs	Mitchell, Md.	Shipley
Krueger	Montgomery	Teague
Leggett	Moss	White
Lott	Pettis	Young, Tex.
Lundine	Quie	

The Clerk announced the following pairs:

On this vote:

Mr. Harrington for, with Mr. Chappell against.

Mr. Hollenbeck for, with Mr. White against.

Mr. Crane for, with Mrs. Burke of California against.

Mr. Rudd for, with Mr. Krueger against.

Until further notice:

Mr. Montgomery with Mr. Madigan.

Mr. Ammerman with Mr. Quie.

Mr. AuCoin with Mr. Sarasin.

Mr. McKay with Mr. Schulze.

Mr. Mitchell of Maryland with Mr. Hillis.

Mr. Edwards of California with Mr. Lott.

Mr. Meeds with Mr. Lundine.

Mr. Evans of Colorado with Mr. Badham.

Mr. Miller of California with Mr. Cochran of Mississippi.

Mr. Reuss with Mr. Frey.

Mr. Teague with Mr. Moss.

Mr. Shipley with Mr. Jacobs.

Mr. Ireland with Mr. Leggett.

Mr. Bonker with Mr. Diggs.

Mr. PURSELL changed his vote from "yea" to "nay."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 12467, REHABILITATION, COMPREHENSIVE SERVICES, AND DEVELOPMENTAL DISABILITIES AMENDMENTS OF 1978

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 12467) to amend the Rehabilitation Act of 1973 to extend certain programs established in such Act, to establish a community service employment program for handicapped individuals, to provide for independent living rehabilitation services for the severely handicapped, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT ON H.R. 12931, FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS ACT, 1979

Mr. LONG of Maryland. Mr. Speaker, I call up the conference report on the bill (H.R. 12931) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of October 10, 1978.

The SPEAKER pro tempore. Under the rule previously adopted, the conference report is considered as having been read.

The gentleman from Maryland (Mr. LONG) will be recognized for 30 minutes, and the gentleman from Florida (Mr. YOUNG) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conferees concluded action on the foreign assistance appropriation bill for fiscal 1979 only a few short days ago. We are returning a bill very close to the original House version. In fact, discounting those items not considered by the House, the bill is less than one-half of 1 percent above the House passed version. The bill, as agreed upon in conference, is $1.2 billion below President Carter's request.

I should take this opportunity to commend the ranking member, BILL YOUNG of Florida, for his valuable contribution during the recent House-Senate conference and indeed, throughout the year. Additionally, the rest of the subcommittee members, DAVID OBEY, CHARLES WILSON, SIDNEY YATES, YVONNE BURKE, MATT MCHUGH, ED ROYBAL, LOUIS STOKES, SILVIO CONTE, and VIRGINIA SMITH have all worked tirelessly to fashion a foreign aid bill acceptable to the majority of the Members of the House.

The President's veto of the public works appropriation bill and other developments have not added to the popularity of this bill; and indeed the ranking member, BILL YOUNG of Florida and I have done our best to make it more responsible. We have fought this battle of the fiscal year 1979 foreign assistance bill for over 9 months. Our efforts have, we are told, forced those who administer our foreign aid programs to exercise a little more prudence and more consideration for the views of the Congress and the American people. At this time, only hours from sine die adjournment, we must look at the positive aspects of the foreign assistance bill and consider our alternatives.

Earlier in this decade we all witnessed a devastating war in the Middle East, which led to an embargo on oil from that region that doubled and tripled oil and gasoline prices. In order to maintain peace in the Middle East, the administration has felt it is necessary to make an increased investment of U.S. economic and military aid in that part of the world. The foreign assistance bill is the vehicle for providing such aid. In fiscal 1979 alone this bill contains $2.8 billion for economic and military aid to the three confrontation states and Israel.

Egypt: $750 million in economic assistance;

Jordan: $93 million in economic assistance and additional funds for military assistance;

Syria: $90 million in economic assistance; and

Israel: $850 million in economic aid and $1 billion in military assistance.

Just several weeks ago, at Camp David, there was hammered out the structure for a Middle East settlement which, if completed, could lead to a lasting peace in that part of the world. The $2.8 billion contained in this bill is critical to this structure, without which there could erupt a war that could engulf us all. An aye vote for this conference report is an aye vote for furthering peace in the Middle East and world economic stability.

This bill contains funds for other important programs. Last year Colombia reaped over $600 million from the export of cocaine and marihuana, most of it destined for the United States, where it goes out on the streets in Baltimore, New York, Chicago, and Los Angeles. This bill contains $38.5 million for international narcotics control, to help to stem the tide of heroin from Mexico and elsewhere.

Many of us have constituents interested in at least one program eligible for funding under the American schools and hospitals abroad program. For one such institution in the Middle East, I received correspondence from over 20 of my colleagues. This bill contains $25 million for this program.

Africa is torn with political and economic upheaval. The United States is trying to get a smooth transition to majority rule in Rhodesia. The United States is part of a multinational consortium to lead the Sahel region out of drought and despair and this bill contains $75 million for the Sahel development program. The United States is a major contributor to humanitarian and refugee assistance in Africa and in this bill are $45,000,000 in economic support funds, $20,000,000 in additional refugee assistance, with millions more in development assistance.

Earlier this year the Congress voted to lift certain sanctions with regard to Turkey, a move which called for funds critical to the peaceful resolution of the Greece-Turkey-Cyprus situation. Accordingly, this bill contains funds for Greece and Turkey, and $15 million for refugees on Cyprus.

The Congress has again and again voiced concerns about U.S. subsidies to foreign producers of commodities in surplus on the world market and in competition with U.S. producers, in many cases injuring U.S. firms and workers out of all proportion to the benefits given to the countries said to be aided; indeed a case can be made that the export of these industries hurts both the United States and the developing countries which must further subsidize the industries at a cost in funds for education, health, food and housing. The bill contains a general provision, basically the same as passed by the House in August, which provides a vehicle to protect U.S. procedures of such surplus commodities. This bill also contains a prohibition on direct U.S. bilateral assistance to Vietnam, Cambodia, Laos, Mozambique, Angola, and Cuba.

Mr. Speaker, the bill contains funding for programs critical to every one of us. If the foreign aid program is forced to operate under a continuing resolution, many critical programs would not be funded and U.S. foreign policy objectives would be greatly impaired.

Mr. Speaker, I insert the following table which lists the amounts contained in the conference agreement.

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted, 1978	Estimates, 1979	House, 1979	Senate, 1979	Conference, 1979	1978 enacted	1979 estimate	House bill	Senate bill
TITLE I—FOREIGN ASSISTANCE ACT ACTIVITIES									
Funds Appropriated to the President									
Economic Assistance									
Agricultural, rural development, and nutrition development assistance	$515,000,000	$673,181,000	$610,000,000	$605,000,000	$605,000,000	+$90,000,000	−$68,181,000	−$5,000,000	.....
Population planning, development assistance	155,000,000	205,445,000	195,000,000	180,000,000	185,000,000	+30,000,000	−20,445,000	−10,000,000	+$5,000,000
Health, development assistance	95,000,000	148,494,000	135,000,000	125,000,000	130,000,000	+35,000,000	−18,494,000	−5,000,000	+5,000,000
Education and human resources development, development assistance	76,000,000	109,036,000	100,000,000	94,000,000	97,000,000	+21,000,000	−12,036,000	−3,000,000	+3,000,000
Technical assistance, energy, research, reconstruction and selected development problems, development assistance	90,000,000	126,244,000	120,000,000	114,794,000	115,000,000	+25,000,000	−11,244,000	−5,000,000	+206,000
Total, development assistance	931,000,000	1,262,400,000	1,160,000,000	1,118,794,000	1,132,000,000	+201,000,000	−130,400,000	−28,000,000	+13,206,000
Loans	(325,100,000)	(470,795,000)	(406,000,000)	(372,558,000)	(396,200,000)	(+71,100,000)	(−74,595,000)	(−9,800,000)	(+23,642,000)
Grants	(605,900,000)	(791,605,000)	(754,000,000)	(746,236,000)	(735,800,000)	(+129,900,000)	(−55,805,000)	(−18,200,000)	(−10,436,000)
International organizations and programs	240,250,000	282,150,000	260,000,000	261,700,000	260,000,000	+19,750,000	−22,150,000	.....	−1,700,000

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted, 1978	Estimates, 1979	House, 1979	Senate, 1979	Conference, 1979	1978 enacted	1979 estimate	House bill	Senate bill
American schools and hospitals abroad	$23,750,000	$8,000,000	$25,000,000	$25,000,000	$25,000,000	+$1,250,000	+$17,000,000		
Contingency fund	5,000,000	5,000,000	3,000,000	3,000,000	3,000,000	−2,000,000	−2,000,000		
International disaster assistance	18,500,000	25,000,000	20,000,000	22,500,000	20,000,000	+1,500,000	−5,000,000		−$2,500,000
Italy relief and rehabilitation assistance	25,000,000					−25,000,000			
African refugee assistance			15,000,000		15,000,000	+15,000,000	+15,000,000		+15,000,000
Sahel development program	50,000,000	90,000,000	60,000,000	75,000,000	75,000,000	+25,000,000	−15,000,000	+$15,000,000	
International narcotics control	37,100,000	40,000,000	40,000,000	37,500,000	38,500,000	+1,400,000	−1,500,000	−1,500,000	+1,000,000
Payment to the Foreign Service retirement and disability fund	24,220,000	24,820,000	24,820,000	24,820,000	24,820,000	+600,000			
Overseas training (foreign currency program)	(400,000)	(400,000)	(400,000)	(400,000)	(400,000)				
Middle East Special Requirements Fund									
Middle East special requirements fund	(8,000,000)					(−8,000,000)			
Security Supporting Assistance									
Security supporting assistance	(2,202,200,000)	(1,904,400,000)	(1,747,400,000)	(1,782,400,000)	(1,782,500,000	(−419,800,000)	(−122,000,000)	(+35,000,000)	
Economic Support Fund									
Economic support fund	2,173,400,000	1,875,000,000	1,747,000,000	1,882,000,000	1,882,000,000	−291,400,000	+7,000,000	+135,000,000	
Peacekeeping Operations									
Peacekeeping operations	45,900,000	29,400,000	27,400,000	27,400,000	27,400,000	−18,500,000	−2,000,000		
United Nations Forces in Cyprus									
United Nations Forces in Cyprus	(9,100,000)					(−9,100,000)			
Operating Expenses of the Agency for International Development									
AID operating expenses	213,000,000	261,000,000	258,000,000	240,000,000	254,000,000	+41,000,000	−7,000,000	−4,000,000	+14,000,000
Israel-United States binational agricultural research and development fund									
Israel-United States binational agricultural research and development fund		40,000,000	40,000,000	40,000,000	40,000,000	+40,000,000			
Inter-American Foundation									
Appropriations		7,882,000	25,000,000	7,882,000	10,000,000	+10,000,000	+2,118,000	−15,000,000	+2,118,000
Limitation of obligations	(7,062,000)	(3,618,000)	(3,618,000)	(3,618,000)	(3,618,000)	(−3,444,000)			
Total, economic assistance, title I	3,787,120,000	3,950,652,000	3,705,220,000	3,765,596,000	3,806,720,000	+19,600,000	−143,932,000	+101,500,000	+41,124,000
Military Assistance									
Military Assistance Program									
Military assistance	220,000,000	133,500,000	64,500,000	84,875,000	83,375,000	−136,625,000	−50,125,000	+18,875,000	−1,500,000
Recission	−40,200,000					+40,200,000			
International Military Education and Training									
International military education and training	30,000,000	32,100,000	25,700,000	30,060,000	27,900,000	−2,100,000	−4,200,000	+2,200,000	−2,160,000
Total, military assistance title I	209,800,000	156,600,000	90,200,000	114,935,000	111,275,000	−98,525,000	−54,325,000	21,075,000	−3,660,000
Subtotal, title I, new budget (obligational) authority, Foreign Assistance Act Activities	3,996,920,000	4,116,252,000	3,795,420,000	3,880,531,000	3,017,995,000	−78,925,000	−198,257,000	+122,575,000	+37,464,000
Sec. 115 reductions estimate			−42,852,000					+42,852,000	
Total, title I, new budget (obligational) authority, Foreign Assistance Act activities	3,996,920,000	4,116,252,000	3,752,568,000	3,880,531,000	3,917,995,000	−78,925,000	−198,257,000	+165,427,000	+37,464,000
TITLE II—FOREIGN MILITARY CREDIT SALES									
Foreign military credit sales	675,850,000	674,300,000	635,400,000	673,960,000	654,500,000	−21,350,000	−19,800,000	+19,100,000	−19,460,000
Total, titles I and II, new budget (obligational) authority	4,672,770,000	4,387,968,000	4,790,552,000	4,554,491,000	4,572,495,000	−100,275,000	−218,057,000	+184,527,000	+18,004,000
TITLE III—FOREIGN ASSISTANCE (OTHER)									
ACTION—International Programs									
Peace Corps	86,234,000	95,135,000	95,000,000	95,135,000	95,000,000	+8,766,000	−135,000		−135,000
Department of State									
Migration and refugee assistance	66,869,000	90,836,000	91,336,000	111,544,200	111,544,200	+44,675,200	+20,708,200	+20,208,200	
U.S. Emergency Refugee and Migration Assistance Fund	12,500,000	15,000,000	15,000,000	9,500,000	9,500,000	−3,000,000	−5,500,000	−5,500,000	
Total, Department of State	79,369,000	105,836,000	105,336,000	121,044,200	121,044,200	+41,675,200	+15,208,200	+14,708,200	

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued
[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted, 1978	Estimates, 1979	House, 1979	Senate, 1979	Conference, 1979	1978 enacted	1979 estimate	House bill	Senate bill
TITLE III—FOREIGN ASSISTANCE (OTHER)									
Funds Appropriated to the President									
International Financial Institutions									
Contribution to the Asian Development Bank:									
Paid-in capital	$16,799,000	$23,915,312	$15,000,000	$23,915,312	$19,451,200	+$2,652,200	−$4,464,121	+$4,451,200	−$4,464,112
Callable capital	151,189,000	215,239,812	135,000,000	214,239,812	175,060,800	+23,871,800	−40,179,012	+40,060,800	−40,179,012
Development fund	49,512,000	70,488,000	70,000,000	70,488,000	70,488,000	+20,976,000		+488,000	
Total, contribution to the Asian Development Bank	217,500,000	309,643,124	220,000,000	309,643,124	265,000,000	+47,500,000	−44,643,124	+45,000,000	−44,643,124
Contribution to the Inter-American Development Bank:									
Interregional paid-in capital	36,711,000	27,296,025	27,296,025	27,296,025	27,296,025	−9,414,975			
Callable capital	182,639,000	322,367,077	322,367,077	322,367,077	322,367,077	+139,728,077			
Interregional callable capital	145,927,000	239,065,381	235,065,381	239,065,381	239,065,381	+93,138,381			
Fund for special operations	114,723,000	325,277,000	208,996,890	175,000,000	175,000,000	+60,277,000	−150,277,000	−33,996,890	
Total, contribution the the Inter-American Development Bank	480,000,000	914,005,483	797,725,373	763,728,483	763,728,482	+283,728,483	−150,277,000	−33,996,890	
Contribution to the International Bank for Recontruction and Development:									
Paid-in capital	38,000,000	66,590,422	30,000,000	30,000,000	16,307,914	−21,692,083	−50,282,505	−13,692,083	−13,692,083
Callable capital	342,000,000	599,313,790	270,000,000	133,079,165	146,771,248	−195,228,752	−452,542,542	−123,228,752	+13,692,083
Total, contribution to the International Bank for Reconstruction and Development	380,000,000	665,904,212	300,000,000	163,079,165	163,079,165	−216,920,835	−502,825,047	−136,920,835	
Contribution to the International Finance Corporation	38,000,000	40,045,100	39,000,000	40,045,100	40,045,100	+2,045,100		+1,045,100	
Contribution to the International Development Association	800,000,000	1,550,000,000	1,221,400,000	1,300,000,000	1,258,000,000	+458,000,000	−292,000,000	+36,600,000	−42,000,000
IDA IV		(750,000,000)	(421,400,000)	(500,000,000)	(458,000,000)	(+458,000,000)	(−292,000,000)	(+36,600,000)	(−42,000,000)
IDA V	(800,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	(800,000,000)				
Contribution to the African Development Fund	10,000,000	25,000,000	25,000,000	25,000,000	25,000,000	+15,000,000			
Total, International Financial Institutions	1,925,500,000	3,504,597,919	2,603,125,373	2,601,495,872	2,514,852,748	+589,352,748	−989,745,171	−88,272,625	−86,643,124
Total, title III, new budget (obligational) authority, Foreign Assistance (other)	2,091,103,000	3,705,568,919	2,804,461,373	2,817,675,072	2,730,896,948	+639,793,948	−974,671,972	−73,564,425	−86,778,124
TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES									
(Limitation on program activity)	(5,458,207,000)	(5,347,345,000)	(5,347,345,000)	(5,347,345,000)	(5,347,345,000)	(−110,862,000)			
(Limitation on administrative expenses)	(13,170,000)	(13,515,000)	(13,515,000)	(13,515,000)	(13,515,000)	(+345,000)			
Total, title IV, Export-Import Bank of the United States (limitations on use of corporate funds)	(5,471,377,000)	(5,360,860,000)	(5,360,860,000)	(5,360,860,000)	(5,360,860,000)	(−110,517,000)			
Sec. 511 reductions estimate			−15,706,720					+15,706,720	
Subtotal, new budget (obligational) authority, titles I, II, and III	6,763,873,000	8,496,120,919	7,176,722,653	7,372,166,072	7,303,391,948	+539,518,948	−1,192,728,971	+126,669,295	−68,774,124
INTERNATIONAL TIN BUFFER STOCK									
International tin buffer stock		60,000,000					−60,000,000		
Subtotal, new budget (obligational) authority, titles I, II, and III	6,763,873,000	8,556,120,919	7,176,722,653	7,372,166,072	7,303,391,948	+539,518,948	−1,252,728,971	+126,669,295	−68,774,124
TITLE V—PARTICIPATION IN SUPPLEMENTARY FINANCING FACILITY, INTERNATIONAL MONETARY FUND									
Participation in supplementary facility, International Monetary Fund		1,831,640,000		1,831,640,000	1,831,640,000	+1,831,640,000		+1,831,640,000	
Grand total, new budget (obligational) authority	6,763,873,000	10,387,760,919	7,176,722,653	9,203,806,072	9,135,031,948	+2,371,158,948	−1,252,728,971	+1,958,309,295	−68,774,124

Mr. ASHBROOK. Mr. Speaker, will my colleague yield?

Mr. LONG of Maryland. I will be happy to yield to the gentleman from Ohio.

Mr. ASHBROOK. I understand that Sahel project is a water project, is it not?

Mr. LONG of Maryland. Well, it will contain some water related projects.

Mr. ASHBROOK. Sort of a public works water project, as I recall.

Mr. LONG of Maryland. I do not think at this point that is the main part of it. They are presently in the planning stage.

Mr. ASHBROOK. But it will one day be a public works water project?

Mr. LONG of Maryland. I imagine a good deal of it may be.

Mr. PEASE. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Ohio.

Mr. PEASE. Mr. Speaker, I think it is just worth remembering in the House that in the Sahel there is a water project, and that is the area where 100,000 people died of starvation and malnutrition just a few years ago because of water shortages.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have some good news and some bad news tonight. The good news is that because of a cold and a sore throat I am not going to treat the Members to my usual display of enthusiasm on the subject of foreign aid.

The bad news is that this conference report is not exactly as it was presented

just a few minutes ago. It was suggested that this conference report is a $7.1 billion bill. The only problem with that figure is that it leaves out the $1.831 billion that is in there for the Wittaveen Facility of the International Monetary Fund. So we come here tonight with a conference report that is not just slightly over $7 billion. We have a conference report tonight that is just slightly over $9 billion, which is nearly $2 billion larger than when it left the House of Representatives.

Also a very good restriction that was placed in by the House providing that none of the American taxpayers' dollars could be used for projects in Vietnam, which happens to be a water project by the way, that restriction was stricken out, so now there is no language in the conference report to place any kind of restriction on the indirect use of American tax dollars for Vietnam.

The House spoke rather strongly on the question of $90 million for Syria, and we struck it from the bill with a very large vote. The conference committee put the $90 million for Syria back in the bill.

Today, tonight, as of this moment, apparently the Syrians are trying to keep some kind of cease-fire in order in Lebanon, but last week they were not. Last week they were killing.

I would predict—and Members mark the date of October 12—I think maybe one reason why the Syrians have tried to be the good kids on the block this week is because they know this $90 million could be in jeopardy, but I would be willing to wager that not too many days after October 12 this cease-fire that exists in Lebanon tonight will be a full-bore, full-speed-ahead war between Syrian troops and the Christians in Lebanon.

On the question of a water project in Vietnam, as Members know, the World Bank—and we are the largest contributor to the World Bank—through IDA, which is the soft loan window, has already approved a soft loan of $60 million to Vietnam with no interest and delayed repayment requirement, for a water project, much like some of the water projects which were vetoed last week.

As a matter of fact, billions of dollars in this bill we are considering tonight is for water projects in many places of the world other than the United States.

If the need for water projects is so important, as our colleague, the gentleman from Ohio (Mr. PEASE) said, in the Sahel area, it would seem to me that water projects would also be important in some of the arid areas of the United States.

Let me give you an idea of the kind of water projects we are talking about.

Through the International Development Association, through IDA of the World Bank, there is a $22 million water project for Afghanistan.

Again, through the World Bank there is a $14.5 million project for Cameroon as well as a $14.5 million project through IDA.

In India there is an IDA project of $126 million.

In Indonesia there is, through the World Bank, a water project for $140 million.

In Pakistan, through IDA, there is a water project of $35 million.

In the Philippines there is a World Bank water project of $150 million.

In Colombia there is a World Bank water project of $126 million.

In Guatemala there is a World Bank water project of $72 million.

Again, water management dams.

Yugoslavia, through the World Bank there is a project of $73 million for dams.

And the list goes on and on and on.

Mr. WATKINS. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Mr. Speaker, I would ask the gentleman how many dollars there are in this bill for water projects?

Mr. YOUNG of Florida. That is pretty hard to pin down because water projects are not line items. You see, most of the water projects that I have mentioned so far will be handled through the World Bank and IDA and some of the other banks. The gentleman knows, just as do all Members of this House, that once our American tax dollars get in the hands of those supersovereign international money changers we lose all control of them. They might all go for water projects, for all I know, in the coming years.

Mr. WATKINS. If the gentleman will yield further, it is my understanding that there are approximately $2.5 billion or more to be used as loans for water projects yet such projects have been turned down in this country of ours. I think this is quite inflationary, I do not know whether that is the gentleman's opinion or not.

Mr. YOUNG of Florida. I believe it is. I think that $2.5 billion is a fairly close estimate. Also, you have to include in addition to that estimate the Sahel water projects.

Let me call your attention to the Sahel development program which, by the way, is in addition to so many other projects that we have going in the Sahel. The Sahel development process is estimated to be a 10-year program of $10 billion. Now the U.S. share of that $10 billion is going to be $2 billion. That is for water management projects in the Sahel area.

The experts have told us time and time again that we are not able to roll back the desert, that we are not able to make the Sahel a fertile area, but, nevertheless, we are, this year, making a large downpayment on an overall program that is going to run at least 10 years in the Sahel.

I really wonder why in the world the American taxpayer is being required to spend tax dollars for these inflationary types of water projects all around the world when we are not allowed to spend them for similar important projects right here at home.

Mrs. FENWICK. Mr. Speaker will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I think there is one item that perhaps we do not think of: that money comes back to us. The fact is that we have $40 billion in trade with the underdeveloped countries, and that 6 million jobs in America depend on the sales to those countries. All of Europe does not buy what these developing countries buy. We have got to increase their capacity to buy our products, and those are the products they want to buy.

Mr. YOUNG of Florida. I appreciate the remarks of the gentlewoman from New Jersey (Mrs. FENWICK), but just let me say this, I hear that argument all the time, but the strange thing is, when we get right down to the true, hard, facts, each year as our foreign aid assistance grows larger, the value of the dollar drops and our balance-of-trade deficit increases. So there must be something wrong with that logic. It just does not work out somehow.

Mr. JOHN T. MYERS. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Mr. Speaker, I thank the gentleman for yielding, and in response to the gentlewoman from New Jersey, does she not believe that some of our own people deserve something also? Such as the farmers who have been flooded out and who do not have money to buy tires, equipment, tractors. If they could raise a crop, they can buy some of these things? Also what about some of our people who are running out of water?

The University of Massachusetts is going to close because of water shortage.

Is not the gentlewoman from New Jersey (Mrs. FENWICK) concerned about people in this country? Why the bleeding heart for somebody overseas who never returns a dollar back? Every one of the water projects built in this country has returned an average of $7 for every $1 which has been invested.

Name one of those overseas which has returned something anywhere nearly close to that.

Mrs. FENWICK. We are getting $40 billion back already.

Mr. JOHN T. MYERS. Let us think of the losses we have had in this country, including the lives lost.

Mr. PEASE. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Ohio.

Mr. PEASE. I think it is pointless, Mr. Speaker, to continue this debate much longer. However, I would point out that in the Sahel the average per capita income is $90 per year.

I think that circumstance is a little different from what we have in some of our areas here in the United States.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for his comment.

I would like to point out to our colleagues that if anyone thought this was the only program we were going to provide funds for in the Sahel, maybe there would be a stronger argument. However, let me tell the Members where else the American taxpayer is providing dollars for Sahel programs. There are funds and personnel coming into the Sahel from AID, the Peace Corps, the International Development Association, the World Bank, the African Development Bank,

the United Nations Development Program, the United Nations Development Fund, UNICEF, the U.N. Food and Agriculture Organization, World Health Organization, World Meteorological Organization, International Labor Organization, Organization for Economic Cooperation and Development, and some 10 to 15 private, voluntary organizations. We make substantial contributions to all of them.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, I think it should be pointed out that as we have provided assistance to the developing nations, as the gentlewoman from New Jersey pointed out, today our greatest exports are not to Western Europe; they are not to Japan. Our greatest export market for creating American jobs and selling American food is in the developing nations; and that will continue as long as we are enlightened.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding.

I want to nominate this subcommittee and its staff writers for the award for the most uninformative conference report of the session. The gentleman from Maryland reads a lot of conference reports, and rarely does he see an attempt made to keep full information from the House to the extent that this conference report does. There is almost no explanation of any of the amendments or of the provisions deleted or added. Unless one gets an engrossed copy of the Senate-passed bill, he does not know what is in the bill.

Mr. Speaker, it may be of interest to some Members who have not read that copy to look more closely at the dollar amounts and the provisions.

Mr. Speaker, I would like to ask the gentleman, since we were not informed to any extent in the report, what on earth is the thinking behind the majority in this conference committee which restored to Vietnam direct aid from international lending institutions when this Congress has repeatedly voted against such provisions? As a matter of fact, if we look on page 24 of this bill, we find that provision deleted so that we did not even know what true action was taken. I am not sure whether this was a mistake or done by design, but that line is missing from the bill.

What is the reasoning behind it? Are we using American tax dollars to aid a country which only a few years ago was killing American troops and now comes to us demanding reparations?

Is that what we are being asked to vote for in the last days of this Congress when we cannot pass bills for domestic water projects and the other needs for this country?

Mr. YOUNG of Florida. To respond to the gentleman from Maryland, Mr. Speaker, the House has spoken several times in a rather loud voice saying that we do not want U.S. tax dollars to be used for Vietnam. The gentleman knows my position on that very well because I have offered most of those amendments.

The gentleman knows of my position that perhaps some time we will reach the point where we can have a meaningful relationship with Vietnam and with every other country in the world, but today this country of Vietnam is not only the country which killed 50,000 Americans during that tragedy there it is also the same Vietnam which has refused to make an accurate and realistic accounting for Americans listed as still missing in action in Southeast Asia. It is the same Vietnam which held American prisoners of war in such a degrading manner that I just cannot bring myself to vote for any bill which is going to tax my constituents to send their money to Vietnam, no matter how indirect the route might be.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield further, if this report is adopted, that power to send that aid to Vietnam will be conferred upon these banks.

Mr. YOUNG of Florida. That is the effect.

Mr. BAUMAN. Mr. Speaker, I commend the gentleman from Florida, not only for opposing those provisions, but for not signing this conference report. I think it is a disgrace that we are asked to use our peoples tax money for these purposes.

Mr. LONG of Maryland. Mr. Speaker, I yield 6 minutes to the gentleman from New York (Mr. McHUGH).

Mr. McHUGH. Mr. Speaker, I thank the gentleman for yielding. I will not take the 6 minutes.

I thank the gentleman for yielding and I rise in support of the conference report. I believe it represents a reasonable compromise among conflicting points of view.

Mr. Speaker, at the outset I do want to respond to the gentleman from Maryland (Mr. BAUMAN), and to the gentleman from Florida (Mr. YOUNG). This question which they raised was debated for a long time when this bill was on the House floor in August. The issue, as the gentleman from Maryland undoubtedly realizes, is not Vietnam at all. The fact of the matter is that this bill contains a prohibition of direct assistance in our bilateral programs to Vietnam. American taxpayer dollars under those bilateral programs will not go to Vietnam.

The problem with the provision which was stricken from the bill by the conferees, the provision which says that there shall be no indirect assistance to Vietnam, is not the issue of Vietnam at all. It is an issue whether or not the banks, the international lending institutions, can accept contributions from any country, including the United States, with that type of condition attached. It has been debated and established many times that those banks cannot, pursuant to their charters, accept any contribution with that type of condition attached. That is the issue.

The fact is that if we enacted a law which conditioned our contributions in that way, the banks could not accept our contributions. No U.S. money would go to the banks and inevitably other countries would impose such conditions as well. That would undoubtedly lead to the collapse of the international lending institutions. Perhaps that is what the gentleman from Maryland wishes, but I do not think it is the intent of the House of Representatives and I certainly do not think it was the intent of the conferees, and that is what is reflected in the conference report.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. McHUGH. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I would say to the gentleman from New York, I have heard him make this argument repeatedly; but, as well versed in these matters of charters of banks as he is, I would urge him to listen to the gentleman from Maryland (Mr. LONG), who has shown conclusively that the bank charters do not contain such restrictions. Either the gentleman from New York is wrong or the gentleman from Maryland (Mr. LONG) is wrong. Now, who is wrong?

Mr. McHUGH. Perhaps the gentleman from Maryland was not here when we debated this issue.

Mr. BAUMAN. I was here for all the debate on these bills.

Mr. McHUGH. Then the gentleman should recall that there was a letter discussed when we debated the bill, a letter signed by seven secretaries of the Treasury——

Mr. BAUMAN. Mr. Speaker, will the gentleman yield further?

Mr. McHUGH. Mr. Speaker, I do not yield further.

Mr. Speaker, there was a letter signed by seven secretaries of the Treasury, Republican and Democratic secretaries of the Treasury, in which they maintained unanimously that those banks cannot accept this type of conditional contribution. In addition, we have had legal opinions to the same effect.

What we have here is an assertion by the gentleman from Maryland that that is not so. I am afraid that is simply not of equal weight or authority as the citations which I have given.

Mr. Speaker, this conference report is the product of many months of careful work. Both the House and the other body have spent most of the year considering the President's budget request. We have substantially reduced the funds asked for by the administration and I believe we have done so in a thoughtful manner. As is usually the case, there were some differences between the House and the Senate, but the compromises which have been effected are reasonable ones. Accordingly, this report deserves the support of the Members.

As you know, Mr. Speaker, the President asked us to appropriate $8.4 billion last January. After months of hearings, our subcommittee voted to reduce this amount by $1.1 billion and the House approved a number of additional reduc-

tions when it considered the bill in August.

The Senate voted to appropriate $9.3 billion last month, a figure substantially higher than the bill approved by the House because it included $1.8 billion to finance the U.S. contribution to the IMF Supplementary Financing Facility. At the time the House considered this bill last August, that request was not before us.

The conference report before us today would appropriate $9.1 billion, including the $1.8 billion for the Witteveen Facility. As I said, I think that it represents a responsible compromise that will allow us to meet our responsibilities abroad without compromising efforts to address the very real problems we face at home.

It is important to note that there were 100 items in disagreement between the House and Senate versions of this bill. Many of these raised important, sensitive and controversial matters of public policy, issues that were often charged with a great deal of emotion.

The members of the conference committee worked very hard to resolve these differences. It was not an easy task, and it took more than 8 hours before we were finally able to reconcile all of our differences.

While it was obviously necessary for us to compromise with the Senate on some issues. I believe that the House prevailed on many of the most significant items. Led by Chairman LONG of Maryland, the House conferees consistently sought to sustain the House position on important issues, and, as I said, I think we were generally successful.

Mr. Speaker, I will not attempt to duplicate the excellent summary that has been presented to the House by our Chairman. However, there are a number of important provisions in the report that I would like to comment on.

ECONOMIC SUPPORT FUND

The one issue which divided House conferees the most, and which took the longest time to resolve, was the question of whether we should provide assistance to Syria through the Economic Support Fund.

As Members of the House will recall, the House voted in August to delete the administration request for $90 million. However, that action occurred before the dramatic breakthrough at Camp David. As a result of the progress achieved at those talks, the Senate voted to provide the $90 million for Syria which the administration requested.

I cannot emphasize too strongly the importance attached by many of us in conference to the recent events. For example, Senator SCHWEIKER of Pennsylvania, the ranking minority member on the Senate Foreign Operations Subcommittee, indicated in conference that he had originally intended to support the House position on Syria when the issue was debated in the Senate. However, in the wake of Camp David, he concluded that it was important to give the President the flexibility he will need if additional progress is to be achieved in the Middle East.

Because the Senate conferees were adamant in refusing to recede to the House position on this question, it was clearly necessary to work out some type of compromise. There are two important components to the compromise that was finally adopted.

First, the Senate agreed to eliminate from the bill its specific earmarking of $90 million for Syria. Second, the House agreed to accept the Senate total for the Economic Support Fund, which of course includes the $90 million for Syria. As we indicated in the conference report, however, these funds are to be used "only if the President believes that their use will serve the process of peace in the Middle East."

In short, while Syria will no longer automatically be entitled to $90 million, the President will retain the authority to make funds available if he concludes that doing so will promote peace. I believe that this is a responsible compromise, Mr. Speaker.

I and many others have grave concerns regarding Syrian actions in the Middle East. However, our Nation has committed itself to helping achieve a just and permanent peace in that region of the world. We know that this will be a long and often frustrating process. We will not always approve of the policies or actions of every nation there.

However, the question is not whether we approve or disapprove of Syrian actions. The question is whether we are prepared to give the President the flexibility he needs to achieve the goal which all of us seek. namely, a comprehensive settlement of the problems in the Middle East.

Peace is not going to come quickly or easily. Thirty years of bloodshed cannot be wiped out overnight. Nonetheless, real progress has been made, and President Carter has just achieved a dramatic breakthrough at Camp David. I believe that he has earned our confidence and support.

We know that a lasting peace will ultimately depend on the cooperation of all nations in the Middle East, including Syria. The President has asked us to provide him with a little flexibility in his dealings with that nation. I think we would be pennywise and pound foolish if we were to deny him this if, in his judgment, it may help in the search for peace.

IMF SUPPLEMENTARY FINANCING FACILITY

Mr. Speaker, as has been stated, the conference report is $1.9 billion higher than the amount the House approved in August. The primary reason is that the Senate voted to include funding for U.S. participation in the Supplementary Financing Facility of the International Monetary Fund (the so-called Witteveen Facility). This funding was not included in our version of the bill.

If we subtract the $1.8 billion included in this bill for the Witteveen Facility and the $90 million for Syria, the conference report actually appropriates only $37 million more than the House approved in August. I think that this is a fair reflection of how strongly we fought to maintain the figures voted by the House.

Mr. Speaker, it should not be necessary to spend much time debating the Witteveen Facility. The conference report on the legislation authorizing our participation was approved recently by 100 votes. That decision effectively settled whether the United States would participate, and our bill merely appropriates the funds. I would like to make two points, however.

First, it is important to note that our share in the financing of this facility amounts to only 17 percent and will be repaid with interest within 12 years. By way of contrast, the OPEC nations will be providing 47 percent of the financing, with approximately half of their share coming from Saudi Arabia, the largest single contributor to the facility.

Second, it seems increasingly clear that a vigorous U.S. economy cannot be achieved or sustained except in the context of a healthy world economy. Unfortunately, most nations have not recovered fully from the worldwide recession experienced earlier in this decade. Those nations need both time and financial help to make the necessary adjustments, and the IMF must play an important role in this effort. Clearly, then, it is in our own economic interest to support this facility.

Accordingly, the House conferees concluded that it would be appropriate to bring this report back to the House with funding for the supplementary financing facility.

MILITARY ASSISTANCE

Mr. Speaker, I am particularly pleased that this conference report still provides for some very substantial cuts in foreign military credit sales and the international military education and training program (IMET). Frankly, I was not sure that we could achieve these cuts given the token reductions that the Senate made in these accounts.

However, I think we did relatively well. The conferees agreed to split the difference between the House and Senate recommendations for IMET. In turn, the 20-percent reduction in the foreign military credit sales program—exclusive of Israel—that the House adopted last August was sustained with a Senate add-on of $5 million for Lebanon and $1.5 million for Greece.

Mr. Speaker, my hope is that this will force the administration to more carefully consider the rationale for these programs. I seriously question whether the program levels recommended by the administration are necessary to promote our national security interests. At the same time, I am also concerned that these programs encourage developing nations to spend more on military expenditures than is necessary to promote their own defense. In my judgment these resources could be better used to promote growth with equity in the developing world.

These substantial reductions also reflect our continuing concern about human rights violations throughout the world. Although the conferees generally refused to engage in country specific sanctions, it was clearly our intention that human rights considerations be taken into account by the administration in programing these reductions.

The one notable exception to the approach we adopted was the Philippines. The conferees agreed to reduce funding under the military assistance program for the Philippines by $2.5 million. Although this was less than the cut recommended by the House, this should not be taken as an indication that our concern regarding human rights violations in the Philippines is diminishing. In the first place, this reduction is larger than the cut we voted last year. In addition, the Philippines is the only country which Congress chose to single out by name for a reduction, a clear reflection of our special concern with the policies of the Marcos regime and the impact of those policies on the Philippine people, people for whom we have always had a particular affection.

Consequently, I hope that the Government of the Philippines will take note of these facts. As this reduction indicates, there is a very real concern in this Congress over the manner in which the Government of the Philippines treats its citizens.

MIGRATION AND REFUGEE ASSISTANCE

There is one relatively small item contained in the conference report that should also be noted. The Senate version of the foreign assistance bill earmarked $1.5 million as a contribution to the UN High Commissioner for Refugees to help meet the needs of Cambodian refugees in Vietnam. This amendment was originally proposed by Senators KENNEDY and DOLE.

The House conferees agreed to include the $1.5 million for this purpose in the bill, but we recommended that the specific legislative earmarking be eliminated. The Senate conferees agreed to this request. However. the fact that the earmarking was eliminated should not be misconstrued. Our intent was that these funds should be used to assist Cambodian refugees in Vietnam.

Mr. Speaker, it is estimated that there are between 150,000 and 300,000 Cambodian refugees in Vietnam at the present time. While the United States provides some help to Cambodian refugees in Thailand through the UNHCR, we have thus far provided no help to those who reach Vietnam as their point of escape from the terror which is occurring in Cambodia.

Regardless of how each of us may feel about normalization of relations with Vietnam, I think that we can agree that the problems of Cambodian refugees need to be addressed regardless of where they find refuge. Accordingly, I believe that the decision of the conferees represent a first step toward addressing the problem of Cambodian refugees in Vietnam.

ANGOLA/MOZAMBIQUE WAIVER

The managers for the House will offer a motion later today to recede and concur in an amendment offered by the Senate that would provide the President with authority to waive the ban on bilateral assistance to Angola and Mozambique.

As the Members will recall, the House version of this bill imposed a total ban on assistance to these two nations. As just mentioned, the Senate version includes a similar ban but allows the President to waive this prohibition "if he determines, and so reports to the Congress, that furnishing such assistance . . . would further the foreign policy interests of the United States."

Mr. Speaker, I hope that the House will accept this language. It is similar to the waiver authority contained in the International Security Assistance Act of 1978, and would provide the President with much greater flexibility to deal with changing circumstances than the original House language.

All of us realize that conditions in Africa could change dramatically in coming months. Therefore, we should avoid writing the foreign policy of the United States into law in an excessively rigid fashion. The original House language left the President with no discretion to respond to changing circumstances, and I think that the conference report deals with this problem in a responsible fashion.

This issue is essentially the same one we face with respect to funding for Syria, namely, whether we should trust our President to conduct our foreign policy in a reasonable manner. I believe that the President has earned our trust, and therefore I hope that members will concur in this change when it is brought before the House.

INDIRECT ASSISTANCE

Mr. Speaker, one of the most divisive issues in this House has been whether we should attach conditions to our contributions to the international financial institutions (IFIs).

On several occasions in the past, efforts have been made to prohibit "indirect" assistance to certain nations whose governments we disapprove of. Last year, for example, an amendment to bar indirect assistance to Vietnam, Laos, Cambodia, and Uganda passed the House by a large margin. Certainly, no Member of Congress approves of the governments of these nations.

However, as most Members now realize, the IFIs cannot legally accept contributions that are conditioned in this manner. Their charters prohibit it, as well they should. If one nation earmarked its contributions, other nations would inevitaby do likewise. The result would be to endanger the principle of international burden-sharing in the effort to promote development, a principle that is very much in our own interest as a nation.

This year the House wisely reversed itself on this matter, defeating the Young amendment prohibiting "indirect" aid to the aforementioned countries by a margin of 205 to 198. Unfortunately, subsequent to making this decision, the House then voted to impose a restriction on IDA lending to Vietnam and on IFI contributions to Cuba.

The House conferees voted to recede from our position on these last amendments. We really had no choice but to do so. If such restrictions were part of our law, the United States would effectively be withdrawing from participation in the international lending institutions. This would inevitably lead to the collapse of those institutions, a result which I am sure most Members of the House do not desire.

The House also adopted a proposal under which the U.S. Executive Directors to the IFIs will propose charter amendments that would allow human rights considerations to be taken into account in IFI lending decisions. Although reluctant to do so, the Senate conferees agreed to accept this amendment. It will be interesting to see if this approach proves viable. While we are all deeply committed to the advancement of human rights, we also have found it virtually impossible to apply human rights criteria consistently in our own bilateral assistance programs. It is reasonable to ask, therefore, whether the IFIs will be able to develop appropriate criteria that could be applied in a consistent manner.

CONCLUSION

Mr. Speaker, as I mentioned at the very beginning, I think that the many issues which divided the House and the Senate on this bill have been resolved in a responsible fashion, and I hope that Members of the House will support this conference report.

I know that it is not the easiest thing to do politically. Our constituents are understandably concerned first and foremost with our own economic problems at home. They do not always appreciate why a modest foreign assistance program is in the interest of a stable world and in our own economic interest.

Nonetheless, this conference report deserves our support. It is the only vehicle through which the United States can share its vision of the world with peoples in the developing nations. It reflects our traditional humanitarian values. At the same time, it also supports important economic and political objectives that are in our self-interest.

Mr. LONG of Maryland. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me comment on the Vietnam matter and the willingness of the banks to lend money.

I have read their charters, and I am convinced that if they really wanted to change their charters, they could do it, but the fact is they do not want to change their charters in the restrictive manner in which we would like to change them. There is no way we found that we could get some such restrictive language accepted by the Senate and by the administration that would enable us to get a foreign aid bill. It is as simple as that.

I am inclined to agree with the gentleman from Maryland that this is not a matter of absolute restraint on the part of the banks. They could do it if they wanted to but they do not want to, and so we are in a bind, and we want to get a foreign aid bill adopted.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, let me ask the gentleman, do the charters presently forbid that kind of activity?

The gentleman refers to what could be done. The fact is, however, that presently the charters forbid it, do they not?

Mr. LONG of Maryland. Mr. Speaker,

the gentleman can read the charters that way if he wants to. They are rather vague on this. But the point is they could change their charters without too much difficulty, but they do not want to.

I want to be honest with the House on this. We are simply faced with the fact that we will either get a foreign aid bill or we will go under a continuing resolution.

On the Witteveen Facility, let me point out that we had to agree to this funding because it was thrust on us by the Senate through an amendment. I object to this facility. I think it is a device by which the American taxpayer is asked to supply money to the poor countries so they can continue to buy high priced oil from the OPEC nations.

I would have opposed this if it had not been for Camp David accords. The fact is, though, that we needed the support of our friends in those negotiations, and we wanted to see the spirit of Camp David carried out. So in that spirit, I think it was justified.

Mr. McHUGH. Mr. Speaker, will the gentleman from Maryland yield to me so I can take another moment or two?

Mr. LONG of Maryland. I yield to the gentleman from New York.

Mr. McHUGH. Mr. Speaker, I would simply like to put into the RECORD the legal authorities to which I referred earlier, all of which indicate that the banks cannot accept conditional contributions from the United States or any other country.

We have received legal opinions from the General Counsel of the Inter-American Development Bank, the World Bank, and the Asian Development Bank, as well as an opinion from the General Counsel of the Treasury Department. In addition, the Comptroller General of the United States, the American Law Division of the Congressional Research Service and the International Law Division of the District of Columbia Bar have all addressed this issue. They all agree that without amendments to their charters, the banks could not accept U.S. contributions with these conditions attached.

Mr. Speaker, the issue here is not Vietnam. That is a red herring. There is no direct assistance allowed under this conference report for Vietnam, and the fact is that the banks will not accept contributions with these restrictions attached.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I just wish to associate myself with the remarks of the gentleman from New York (Mr. McHUGH) and point out that we have to make a decision.

Do we want to politicize the World Bank or not? Right now it is nonpolitical, and some of these loans go to countries we do not like. But if we want to politicize it, we are going to change the character of the institution completely. We are going to end up with Israel being barred from getting loans from OPEC nations, and Afghanistan is not going to want Pakistan to get anything, and so on. We are going to destroy the entire international character of that institution.

Maybe that is a good thing, but I do not think so. I think the United States benefits from this. I think it is in our national interest to help the economy of lesser developed countries to make customers out of them for us, to give us access to their raw materials, and to stabilize their economies and keep a little peace in the world.

To do that we sometimes have to see our money go into the pot and then have it go to a country that we do not like, but the payoff for that is to have a viable international bank system that does assist in keeping peace in the world, getting access to minerals for this country, and getting customers for this country.

Somebody has mentioned Rhodesia. I think our policy is terrible in Rhodesia. I am on record as saying that, but that is a different issue. I would say that if we start to politicize this bank, Rhodesia will never get a loan.

Mr. Speaker, I support the conference report.

Mr. YOUNG of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, all of the sophisticated arguments I have just listened to do not change one bit the fact that when this bill left this body, which is supposed to be coequal to the other body, it said:

Provided further, That none of the funds appropriated or otherwise made available by this paragraph shall be obligated or expended to finance any assistance or reparations to the Socialist Republic of Vietnam.

Now, that I think represents a majority view in this country.

Surely, we are told, these payments serve a great purpose. Surely, you say, they do a great deal of good. But go back and try to explain this aid to Vietnam to your constitutents. Talk to the group of relatives of MIA's who were in the Rayburn room this afternoon. Talk to them about how our tax money is being used to aid Vietnam and its Communist rulers.

This foreign aid program has no constituency in this country except for some very wealthy corporations who make a great deal out of it. The foreign aid program may do some good in foreign countries, but it does very well in the board rooms of Wall Street.

Mr. Speaker, I see no reason why we should not defeat this conference report and leave foreign aid appropriations on a continuing resolution basis for the next fiscal year. At least spending would be at last year's level, and all of these sophisticated arguments do not vary that. I urge a vote to recommit this bill.

Mr. YOUNG of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. JOHN T. MYERS).

Mr. JOHN T. MYERS. Mr. Speaker—

"These appropriations are generally in accord with national needs, and I support them.

"But this bill also contains provisions for excessive, wasteful water projects . . ."

"This bill would hamper the Nation's ability to control inflation, eliminate waste and make the Government more efficient."

"No challenge the Congress and the Executive Branch must face together is more painful than the exercise of budgetary discipline in each individual case. But only consistent, determined discipline will enable us to achieve our shared objectives of controlling inflation, balancing the budget and making Government more efficient."

"This appropriations bill is a true and difficult test of our resolve to discipline the Federal budget. Each bit of additional spending always looks small and unimportant against the total Federal budget. The temptation to look the other way in each case is always great. But both Congress and the Executive Branch must recognize that there is no one single dramatic act which will control the budget. Budgetary control must be achieved by the cumulative impact of hard choices such as the one I am presenting to the Congress today."

"There are competing uses for every Federal dollar and difficult choices must be faced. Every program in Government, no matter how vital, must focus first on matters of highest priority. The President and the Congress must join in this difficult effort."

". . . the American people have the right to expect that their Government will pursue these goals effectively, efficiently and with the budgetary discipline and careful planning essential to reduce inflation and continue economic growth. Citizens rightly demand sound programs to meet their needs. They rightly demand restraint and judgment in the allocation of public funds. And they expect those of us in public office to demonstrate the courage needed to face hard choices."

These statements I have just made are not mine.

That is the end of a quotation. Those are heavy words, are they not? But they do not apply to this bill. At least they were not written for this bill. That was the statement by President Jimmy Carter, as he vetoed the same type of bill, but for the American people, a bill to provide flood control, as there was more than $2 billion in this bill to provide flood control, to protect farmers so that they can feed the hungry, not only in our own country, but in the world, to pay taxes to help balance the budget, to provide water, municipal and industrial water, for our communities, so that we can give jobs to people and, to pay taxes. Taxes are not paid on crops that are flooded out, on crops that are never harvested.

There is not one of these projects that are in this bill of more than $2 billion for water projects where there has been a benefit-cost ratio required. Yet, every one in the water and energy bill the other day had to have a benefit-cost returning back to the taxpayer more than was invested. Usually 7 to 1 for the investment. There is not one of these that has had an environmental impact statement. What right does this Congress have to impose unsound, environmentally unsound, projects on these people of other lands. Are we tonight going to do this? Destroy their environment.

There is going to be a motion to recommit. The motion to recommit will allow this Congress to go back and redo its work. To cut the water projects from this bill which are inflationary. There is $2 billion to be saved.

Oh, I know the President right now is hoping that you will vote to recommit this. He does not want to be embarrassed. Those on the Democrat side of the aisle do not want to embarrass their President, and you succeeded in not embarrassing him by voting to sustain the veto the other day. You can save a veto, because I know the President is going to have to veto this bill containing $2 billion water projects which are environmentally unsound and inflationary. The conference report is more than $2 billion more than the House bill provided when it passed the House. Anyone who voted to sustain the President's veto of the Water and Energy Development Appropriation bill will have to vote to recommit the conference report tonight. So, you will be doing a great service for the President tonight to vote to recommit this bill. To quote the President recently: It is inflationary; it is wasteful; it is not an efficient use of the taxpayers' money. Vote to recommit this bill tonight.

Mr. LONG of Maryland. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. CHARLES WILSON).

Mr. CHARLES WILSON of Texas. Mr. Speaker, I would simply like to address myself to the point that was made from the other side concerning the politicization of the banks. I have been one who has been a very stern critic of what I term to be unfair political interference with the workings of the bank. I have been a particular stern critic of the loans that have been withheld from certain countries because they were perceived to be conservative countries in the past, whereas loans have gone forward for more leftwing countries.

But, I would like to report to my friends on the other side of the aisle who are interested in this particular issue that that discrimination no longer exists, and the euphoria and power concerning human rights the State Department had, which some Members were so concerned about months ago, has virtually disappeared. I think the gentleman from Illinois (Mr. HYDE) was absolutely correct in saying that we want to avoid this sort of political consideration.

I just want to report to the more conservative Members of the House that political consideration is now gone, and the banks are now truly apolitical. The loans are not withheld from conservative countries because of the mores of a few young, very zealous people in the State Department. I think that is important.

Mr. YOUNG of Florida. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I oppose this report for several reasons. One reason is that I am beginning to have the same attitude as some of my colleagues in the sense that charity really does begin at home. When I see that in my own district we may lose 40,000 steel jobs if we do not dredge our harbor, and those people might be going on unemployment compensation, which indeed would cost billions of dollars to taxpayers and businesses. But, we do not have one time expenses for our own people.

But the second reason, and perhaps even a more important reason, is the fact that this bill fuses the human needs issue with the military weapons issue, and I think it is wrong to do that. I do not have a problem in voting for foreign aid when it comes to economic development and human needs. I do have a problem when it comes to militarizing the world with military weapons. For that reason, because they are not separate issues that we can vote upon separately, I am going to vote against this conference report.

Mr. YOUNG of Florida. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. MCCLOSKEY).

Mr. MCCLOSKEY. Mr. Speaker, I rise only to ask the chairman of the committee about the population research assistance that is provided. In the House conference report, when we passed the bill the words appeared that:

> The Committee expects AID to consider the possibility of providing a United States contribution of $4.5 million from this account to the World Health Organization's Special Program of Research, Development and Research Training in Human Reproduction.

I want to assure my colleagues and the gentleman from Maryland that there is no abortion money in this conference report for allocation to the World Health Organization's special program in reproduction research.

Since the House originally appropriated $195 million, with $4½ million allocated for WHO's population research, and the Senate apparently did not address the question, may we be assured, if we approve this conference report, that within the $185 figure there is $4½ million for the WHO's program for research in human reproduction?

Mr. LONG of Maryland. Mr. Speaker, the gentleman's concerns are covered in the proper authorization legislation. They have also been addressed in the Appropriations Committee report, and we assume that the administration will make the necessary allocations.

Mr. MCCLOSKEY. I thank the gentleman for that statement. I assume this is the minority understanding also?

Mr. YOUNG of Florida. Mr. Speaker, that is my understanding of the language in the conference report. In the absence of such language in the conference report or the Senate report I would assume the House language would prevail. As the gentleman knows the House language was very specific on that point.

Mr. MCCLOSKEY. I thank the gentleman. I will be glad to support the conference report on that basis.

Mr. YOUNG of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise in support of this conference report.

After a very intense floor debate and conference, the majority of its issues have been discussed at length. The result of this deliberation is a bill which is both fiscally responsible and indicative of our commitment to the development of the Third and Fourth Worlds.

Mr. Speaker, many of my good friends including the gentleman from Indiana, who read from the President's message, have compared these public works projects with the vetoed public works bill; let me advise them that many of these public works projects, in fact most of them in the developing countries, are very different from the modern and complex projects that are undertaken here in the United States. In some cases these projects consist not of great big dams but a lot of these consist of earthen dams, small-scale irrigation works designed to benefit small farmers and cooperatives and low-income people. In other cases, they are for potable water or sewerage projects in rural or urban areas which help meet the basic needs for improving health conditions of deprived and deserving peoples.

We cannot stand on the floor of this House and compare what we voted on last week with what is in this bill here because we would be comparing apples and oranges. In fact, many of the Members of Congress would not even want to go near these places to examine them because of the stench and disease and sickness and poverty and the hunger. So let us not compare these two programs.

This is a humanitarian program: I know the gentleman has the milk of human kindness in his veins, and I know he is upset at what happened last week, but at the end he is going to go along with us.

Mr. Speaker, some Members may question the higher level of appropriation which emerged from the conference. I would like to explain the difference. Since the floor debate in August there have been major foreign policy developments which necessitate the appropriation of higher funds. There is the increase in the economic support fund, and the military assistance program, and the addition of the Witteveen Facility of $1.8 billion. All are timely and important components of our foreign policy and reflect the dynamic nature of the United States' state of affairs.

The higher level of funding for the Economic Support Fund was not reached without considerable debate. Although the House had originally voted to deny funds to Syria because of the continued problems in Lebanon, recent Middle East developments make these funds a key bargaining tool for negotiating with the Syrians. Not specifically earmarked for Syria, the funds "remain available for use by the President if such would serve the process of peace in the Middle East."

It is my hope that the Camp David peace talks proceed without undue delay and I believe the President should be given our full cooperation by providing him with the means to achieve the objectives in the framework for peace.

Mr. Speaker, at this point I insert in the RECORD a letter that the President sent me. I am sure he sent some to the members of the committee also, requesting this allocation of funds for Syria:

THE WHITE HOUSE,
Washington, Oct. 12, 1978.

Hon. SILVIO CONTE,
Subcommittee on Foreign Operations, Committee on Appropriations, House of Representatives, Washington, D.C.

To Congressman Silvio Conte: Two weeks ago I urged you and your fellow conferees for the Foreign Aid Appropriations Bill to accept the Senate amendment appropriating $90 million for economic support funds for Syria. I made this request because of the delicate stage of the Middle East peace negotiations. I would like to express my gratitude to you for your generous response, and to assure you that the appropriations will only be used in the pursuit of peace as specified in the conference report.

In recent weeks there has been a tragic renewal of violence in Beirut. Many people have lost their lives, many more have been injured, and a great deal of destruction has befallen the once beautiful city of Beirut.

Because we have maintained the confidence and respect of all parties to this tragedy, we were able to help them arrange a cease-fire last weekend through the United Nations Security Council. This cease-fire provides an opportunity for us all to work together in support of the Government of Lebanon to bring about a reconciliation of the peoples of that land.

President Sarkis of Lebanon is now embarked on a major initiative to seek the help of friendly governments in keeping this still-fragile cease-fire in effect. A meeting will take place in Beirut on Sunday. This meeting among participants in the Arba Deterrent Force in Lebanon may be the key to keeping the cease-fire in effect as the more fundamental issues in Lebanon are addressed.

I am writing, therefore, to encourage you to stand for firm support of the conference report's funding for Middle Eastern countries. A floor challenge to this funding could be read in key Middle Eastern countries as a disruptive signal. I urge you to continue your support at this delicate moment for our efforts to bring peace to the Middle East and to Lebanon.

Sincerely,

JIMMY CARTER.

Mr. Speaker, the economic support funding for Turkey and the military assistance program package for Greece will help to realize U.S. objectives in the Mediterranean. Not only will this beef up NATO's southern flank, this appropriation demonstrates our commitment to a peaceful resolution of the Cyprus problem and the internal difficulties each nation is now facing.

The $1.8 billion earmarked for the Witteveen Facility constitutes the majority of the increase over the House funding level. I think the importance of this facility must be underscored. The residual effects of the 1973 oil embargo have continued to keep many of the economies of both developing and developed worlds off balance. We all felt the repercussions of the embargo but for a developing nation just getting on its feet, the consequences are far more serious.

Excessive drains on foreign reserves, subsequent declines of necessary imports, lack of funds for continued investment and development all translate into economic disaster for much of the developing world. The facility will provide additional funding to return some equilibrium to the economies of such nations. And as economic interdependence is a fact of life in the seventies, just as economic prosperity in the third world translates into increased exports and employment for the United States, economic decline yields the opposite: unemployment and the decline of exports. The industrialized world including the United States can hardly afford the costs of such decline. The Witteveen Facility will serve as a much needed form of "economic life insurance" to guard against such an occurrence.

Mr. Speaker, I do not want to give the impression that the conference was characterized by "add-on fever." This is not the case. Several major areas were trimmed, in particular the international banks. The FSO account of the Inter-American Development Bank was cut by $33 million while the substantial amount of $136 million was sliced off the callable capital account of the World Bank appropriation.

Other compromises were reached between House and Senate conferees which entailed lower funding levels for many of the accounts in each title.

Some important language compromises were also worked out in committee. Migration and refugee assistance will be centralized in an effort to avoid further bureaucratic proliferation and overlapping. The language barring indirect assistance to specific countries was removed thus enabling the IFI's to accept the U.S. contributions. New Export-Import language was adopted for section 508 which will play a key role in increasing our exports—a critical objective of the new national export promotion package. And important to many Members is the President's direction to the IFI's to begin consideration of a human rights amendment to their charters. I could go on, but time permits me to only highlight those most crucial areas of the bill.

In summing up, Mr. Chairman, this is a good bill. It is a product of enlightened self-interest. Among other things, it helps to meet the world's humanitarian needs in a fiscally responsible manner. I urge its adoption in order that we may continue to challenge the specter of poverty throughout the world.

Mr. LONG of Maryland. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma (Mr. WATKINS).

Mr. WATKINS. Mr. Speaker and my colleagues in the House, I rise in opposition to this conference report and I ask you also to vote to recommit.

There is $2.5 billion in the public works projects, over a 60-percent increase, and I repeat, over a 60-percent increase in the funds, and the issue is inflation. That is what we were told last week and I submit to you tonight that is the issue, inflation.

The gentleman from New York stated that the issue may not be just Vietnam, even though I disagree with the fact that dollars are going here to build water projects and not into the poor economic areas of the United States.

The issue is not just Romania, even though I disagree with the fact that money is going there for public work projects.

The issue tonight, my colleagues, is inflation.

Last week when we had the public works bill up to help the American people, from one end of Pennsylvania Avenue to the other, and all across the Nation, we heard the echo of inflation, inflation, inflation, inflation, inflation. To my colleagues I say that when you have 60-percent increase in a foreign aid bill that is truly inflationary.

The gentleman who preceded me in the well said no, you cannot compare, this is like comparing apples and oranges. Let me say to my colleagues that those who were hurt last week were the poor in the rural areas of this Nation where in many cases 12 to 15 percent of the people are unemployed. They were poor native Americans. They were the poor blacks. They were the poor whites. They needed jobs.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I appreciate my good friend, the gentleman from Oklahoma (Mr. WATKINS) yielding to me. I was struck by the same thought as the preceding gentleman, that it was the same gentleman who spoke of our President as the eagle fighting inflation just the other day.

Perhaps the gentleman and I ought to go back to Oklahoma and suggest that some of our constituents ought to move to other countries because they might be treated better by the gentleman from Massachusetts and other Members of this body.

Mr. Speaker, I join the gentleman in urging a "no" vote on this very, very inflationary piece of legislation.

Mr. WATKINS. Mr. Speaker, I thank the gentleman.

Again, I state the issue tonight is inflation; and I hope that will echo across these halls as we start to cast our votes.

Mr. Speaker, I ask the Members to vote against this conference report, and I ask them to vote to recommit it.

Mr. YOUNG of Florida. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, we heard a great deal here this past week when the public works bill was here about "pork barrel." This is $9 billion worth of foreign "pork barrel," primarily managed from Wall Street. Yes, it is helpful to them; but it really does not help the people in this country.

Mr. Speaker, I wish to remind the Members that this is the highest foreign aid bill we have ever had. The highest foreign pork barrel at a time when our President tries to tell us that he is trying to fight inflation.

Mr. Speaker, this is, in fact, $9 billion worth of foreign inflation. I urge its defeat.

Mr. LONG of Maryland. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. STOKES).

Mr. STOKES. Mr. Speaker, I thank the gentleman for yielding me this time.

In the brief time I have, I would like to respond to the remarks made by the gentleman from Florida (Mr. YOUNG) with reference to the Sahelian program.

I think that the House ought to be aware of the fact that in the Sahel area we are talking about some 28 million of the poorest people in the world. We are talking about eight of the poorest countries in the world. At the same time we talk of the contribution of the United States, we are talking about $1 billion over a period of 10 years, which, in turn, generates some $10 billion from other donors in the world.

Mr. Speaker, when we talk about that part of the world, let me just cite some of the testimony before our committee with reference to the drought situation which occurred in that part of the world. They told us the following:

Although the amount of external assistance provided to the Sahel during the height of the drought was staggering—almost a billion dollars—a monumental human disaster was averted. Even so, tens of thousands died, whole populations were displaced and the basic wealth of the region, cattle and farms, was devastated.

Mr. Speaker, throughout the debate I have heard some comparison between water projects in the Sahel area and water projects in the United States. There is no comparison between water projects in that part of the world and water projects in the United States.

Mr. Speaker, let me read further from the testimony with reference to this area. It reads as follows:

In the Sahel, the majority of the people are compressed into a band about 200 miles wide. The Sahara presses from the North and desertification progresses. In the South, terrible diseases such as river blindness (onchocerciasis) and sleeping sickness (trypanosomiasis) deny use of much of the most fertile land. The people cannot simply be moved because of the social and economic disruption it would cause to the Sahelians as well as their neighboring countries.

The economies are stagnant. There has been a steady decline in average gross domestic product per capita over the last 15 years. The Sahel, already at the bottom of the economic scale, is declining—not developing.

Then it goes on to make reference to the malaria and parasitic diseases rampant in that part of the world.

Mr. Speaker, I submit that the program in the Sahel area is no different from the aid programs all over the world. For instance, the United States maintains the same type of irrigation and disease control programs in India.

Mr. Speaker, I urge a vote in favor of the conference report.

Mr. YOUNG of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. MILLER), a member of the committee.

Mr. MILLER of Ohio. Mr. Speaker, I thank the gentleman for yielding.

I think it is a good time to convey the message once more about where we are getting the money which we are using to loan and give to other nations.

Mr. Speaker, I have the record which shows that West Germany has loaned us about $26 billion to pay our national debt.

We have West Germany receiving last year $1.4 million interest on money loaned for our national debt. We paid them that much for the $26 billion that they loaned us.

Mexico alone owns $20 million of our national debt.

Many of these are countries we have aided that are now loaning us money so that we can go out and give more to the Third World nations.

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired.

Mr. YOUNG of Florida. Mr. Speaker, I yield my 1 last minute to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Speaker, I thank the gentleman for yielding.

To Japan, which has loaned us $18 billion we have paid interest of $779 million last year.

I think it is important to show that since 1946 we have given away in foreign aid, in grants, whatever you might say, $195 billion to other nations.

Yes, it has been beneficial in some areas, but by the same token we have had many that have taken advantage of us when we have to go out in the money market to borrow the money to give to those nations which later become developed. We speak today of underdeveloped countries. When they become developed, they in turn loan us money so that we can loan it to someone else.

All it amounts to is that we increase our national debt until now it is over $800 billion and we are sending the interest to the very nations that we loaned the dollars to.

I will provide for the RECORD information on foreign holdings of U.S. debt and interest paid to those nations.

ESTIMATED TOTAL FOREIGN HOLDINGS OF MARKETABLE AND NONMARKETABLE U.S. TREASURY BILLS, NOTES, AND BONDS REPORTED BY BANKS AND BROKERS AS OF SELECTED YEARENDS

[In millions of dollars]

Country	Dec. 31, 1975	Dec. 31, 1976	Dec. 31, 1977
Europe:			
Austria	225.5	156.7	[1] 130.0
Belgium-Luxembourg	1,773.0	1,131.2	[1] 1,168.1
Denmark	238.3	215.3	590.0
Finland	22.9	36.4	[1] 74.5
France	6,145.4	3,036.8	[1] 3,429.2
Germany	19,927.1	22,261.2	[1] 25,984.5
Greece	10.1	60.0	[1] 75.0
Italy	95.0	1,638.8	[1] 4,796.2
Netherlands	2,433.5	2,248.8	[1] 2,501.6
Norway	507.7	530.7	[1] 631.1
Portugal	4.1	2.3	[1].1
Spain	1.2	1.4	[1] 1.8
Sweden	2,052.8	1,343.0	2,208.6
Switzerland	3,532.2	4,973.1	[1] 7,207.1
Turkey	(2)	(2)	(2)
United Kingdom	1,136.0	1,077.0	[1] 12,037.9
Yugoslavia	1.3	13.1	9.0
Other Western Europe	286.7	443.4	[1] 484.5
Poland			.6
U.S.S.R.			
Other Eastern Europe	5.7	5.4	4.7
Total, Europe	38,398.5	39,174.6	[1] 61,334.5
Canada	3,133.6	3,407.7	[1] 2,284.0
Latin America:			
Argentina	66.6	57.1	[1] 15.0
Bahamas	3.7	5.0	[1] 4.2
Brazil	4.9	4.9	[1] 2.0
Chile	.2	.2	[1].1
Colombia	37.2	230.1	[1] 482.9
Cuba			
Ecuador	.7	5.1	18.6
Mexico	36.7	20.8	[1] 20.6
Panama	1.5	(2)	[1] 6.6
Peru	(2)	(2)	2.1
Trinidad and Tobago	15.8		17.1
Uruguay	.1	.1	(1 2)
Venezuela	293.7	543.8	[1] 490.5
Other Latin American Republics	50.7	137.6	[1] 146.3
Bermuda	2.5	3.8	(1 2)
Birtish West Indies		3.4	[1] 5.8
Netherlands Antilles	161.6	118.0	[1] 170.0
Other Latin America	6.4	6.4	[1] 1.7
Total, Latin America	682.3	1,136.3	[1] 1,383.5
Asia:			
China, People's Republic of (China mainland)	(2)	(2)	(2)
China, Republic of (Taiwan)	154.0	258.[1]	[1] 171.6
Hong Kong	93.1	148.6	[1] 197.3
India	21.3	451.4	[1] 774.2
Indonesia	195.6	96.1	128.4
Israel	4.2	3.6	[1] 8.9
Japan	8,884.9	12,394.8	[1] 18,619.3
Korea	32.6	80.6	[1] 436.6
Lebanon		(2)	(2)
Malaysia			244.9
Pakistan			41.9
Philippines	30.8	9.6	[1] 29.5
Singapore		594.2	[1] 696.7
Syria			
Thailand	41.9	223.3	[1] 234.4
Middle East oil-exporting countries	5,673.6	9,765.7	[1] 13,483.8
Other Asia	84.1	418.7	[1] 75.1
Total, Asia	15,206.1	24,444.7	[1] 35,142.6
Africa:			
Egypt	151.6	1.4	[1] 75.4
Ghana	3.7		(1)
Liberia			
Morocco			
South Africa	23.9	18.6	[1] 46.4
Zaire	5.8	6.2	7.8
African oil-exporting countries	2,288.0	1,246.9	1,005.7
Other Africa	95.0	107.9	101.8
Total, Africa	2,568.0	1,381.0	[1]1,237.1
Other countries:			
Australia	1,522.4	1,566.6	[1] 733.9
All other	36.6	26.9	[1] 21.5
Total, other countries	1,559.0	1,593.5	[1] 755.4
Total, foreign countries	61,547.5	71,137.8	[1] 102,137.1
International and regional:			
International	2,861.7	5,570.2	5,319.6
European regional			
Latin American regional	17.5	135.6	103.3
Asian regional	5.6	5.4	8.9
African regional		23.1	20.0
Total, international and regional	2,884.8	5,734.3	5,451.8
Grand total	64,432.3	76,872.1	[1] 107,588.9

[1] Revised.
[2] Less than $500,000.

Source: Department of the Treasury/OASEP/EI/EIS, Mar. 10' 1978.

Country	*Total holdings*
Other countries:	
Australia	734.5
All other	23.6
Total other countries	758.1
Total foreign countries	102,569.5
International and regional:	
International	5,319.6
European regional	
Latin American regional	103.3
Asian regional	8.9
African regional	20.0
Total International and Regional	5,451.8
Grand total	108,021.3

* Less than $500,000

FOREIGN HOLDINGS OF U.S. DEBT SECURITIES

Question: What is the composition of Federal debt held by foreign parties? Who holds these instruments?

Answer: Data for the period ending December 31, 1977, indicates the following composition of foreign debt holdings:

[In billions of dollars]

Type of instrument	12/31/76	12/31/77
Non-marketable:		
Bills and certificates of indebtedness:		
Dollar	1.7	1.7
Foreign currency	—	—
	1.7	1.7
Notes:		
Dollar	19.1	19.3
Foreign currency	1.5	1.2
	20.6	20.5
Marketable:		
Bonds and notes	15.8	38.6
Bills	39.1	47.2
	54.9	85.8
Total	77.2	108.0

INTEREST PAYMENTS ON FOREIGN HOLDINGS OF U.S PUBLIC DEBT SECURITIES, CALENDAR YEARS 1975–77

[In millions of dollars]

	1975	1976	1977
Argentina	1.5	5.5	5.5
Australia	158.5	85.5	64.5
Austria	12.0	8.5	8.0
Belgium	115.5	59.5	71.5
Canada	238.0	228.0	171.0
Denmark	15.5	18.5	40.0
France	270.0	207.5	174.0
West Germany	1,391.5	1,329.5	1,435.5
Italy	69.5	32.0	144.5
Japan	604.0	659.5	779.5
Mexico	2.0	3.0	1.5
Netherlands	174.0	121.0	131.0
Norway	20.0	27.5	36.0
Spain	(1)	(1)	(1)
Sweden	108.5	109.0	92.0
Switzerland	237.5	263.5	274.0
Thailand	8.5	6.5	14.0
United Kingdom	108.0	71.0	387.5
Oli producing countries	300.0	600.0	791.5
International	136.0	241.0	288.5
All other	279.0	182.0	295.5
Total [2]	4,250.5	4,258.5	5,205.5

[1] Less than $200,000.
[2] Totals may not add due to rounding.

Source: Office of the Secretary, Office of Government Financing, Mar. 9, 1978.

Mr. LONG of Maryland. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I would like to say that the conference report on this bill, H.R. 12931, the Foreign Assistance Appropriations bill for fiscal year 1979, is generally consistent with the second budget resolution levels as established by the Congress. I would like to submit for the RECORD a copy of the House Budget Committee early warning on this bill. It follows:

I. SPENDING ACTION COMPARED TO TARGET

This bill includes $9,245 million in budget authority and $2,821 million in outlays. Inasmuch as the Appropriations Committee has not yet filed its subdivision under Section 302 of the Budget Act, the comparison below relates to the allocation made to the full Appropriations Committee in the conference report on the Second Budget Resolution, 1979. Amounts of budget authority and outlays in this bill together with amounts previously enacted and passed House are below the allocations to the full Appropriations Committee by $39,302 million in budget authority and $23,770 million in outlays.

[In millions of dollars]

	Budget authority	New entitlement authority	Outlays
1. Committee subdivision target (full committee)	354,959	.....	311,524
2. Less: Amount in reported bill	−9,245	.....	−2,821
3. Less: Previously enacted or passed House	−306,412	.....	−284,933
4. Spending action compared to target:			
Over target			
Under target	39,302	.....	23,770

II. PROJECTION

Budget authority and outlays assumed in the Second Budget Resolution but not yet considered would not cause the full Appropriations Committee allocation to be exceeded. More specifically, the amounts included in the subject bill, the Foreign Assistance Appropriations Bill for 1979, are consistent with the assumptions underlying the Second Budget Resolution for 1979.

[In millions of dollars]

	Budget authority	New entitlement authority	Outlays
1. Amount remaining within subcommittee target	39,302	.....	23,770
2. Less: Amounts assumed in the resolution, but not yet considered	38,561	.....	22,791
3. Assuming no changes from remaining budget resolution assumptions:			
Over subcommittee target			
Under subcommittee target	741	.....	979

A. Amounts Under Committee Targets—Budget authority is expected to be under the Committee allocation by $741 million and outlays are expected to be under by $979 million. These amounts result from the "Michel Amendment" which reduced the Labor-HEW Appropriation bill by $1 billion in budget authority and outlays to reflect anticipated savings in fraud, waste and abuse as well as a reduction of $773 million in the Basic Education Opportunities Grants program. These savings are partially offset by small increases in other appropriation bills.

B. Amounts Assumed in the Budget Resolution, but Not Yet Considered—The following table indicates, by functional category, major items allocated in the conference report on the Second Budget Resolution to the Committee on Appropriations, including the Public Works Appropriation Bill as vetoed and sustained by a House vote, but not yet acted upon:

[In millions of dollars]

		Budget authority	Outlays
050	National defense:		
	Pay increases	1,756	1,745
	Public works appropriations bill	2,579	1,321
250	General science, space, and technology: Public works appropriations bill	441	267
270	Energy:		
	GNMA energy initiatives	500	30
	Public housing retrofit	210	.....
	Other energy programs	300	90
	Public works appropriations bill	3,484	1,452
300	Natural resources and environment:		
	Rural clean water program	100	62
	Firefighting	182	164
	Parks and recreation	150	50
	Pollution control and abatement	120	89
	Public works appropriations bill	3,406	1,959
350	Agriculture: CCC borrowing authority	2,000	.....
370	Commerce and housing credit:		
	National consumer cooperative bank	60	14
400	Transportation:		
	Railroad programs (Amtrak and ConRail)	345	345
	Mass transportation initiatives	375	130
	Airport legislation	49	10
450	Community and regional development:		
	Public works	700	82
	EDA and energy impact grants	150	40
	Public works appropriations bill	531	87
500	Education, training, employment, and social services:		
	CETA and other labor programs	10,482	8,424
	Human development and other social services	2,865	1,838
	Education program initiatives	1,177	354
	Potential additional allowance for BEOG's pending resolution of tuition tax credits		
550	Health:		
	Extension of existing services, training and resources programs	1,505	524
	Proposed legislation (medicaid)	200	200
600	Income security:		
	Fiscal relief for States	331	331
	Other liberalizations	290	290
	Nutrition programs	244	148
700	Veterans benefits and services:		
	Compensation and pensions	1,656	1,228
	Readjustment benefits	431	281
	Other veretans programs	58	44
750	Administration of Justice: Judges bill and other	137	27
850	General purpose fiscal assistance: Supplementary fiscal assistance	550	550
920	Allowances:		
	Pay increases	800	800
	Distribution of percentage cuts	397	215
	Assumed savings from Michel Amendment		−400
	Total	38,561	22,791

III. PERSPECTIVE ON FUNCTION TOTALS

Budget authority and outlays in this bill are essentially consistent with assumptions underlying the Second Budget Resolution.

IV. COMPARISON WITH THE PRESIDENT'S BUDGET

According to the Conference report, budget authority in this bill is $1,143 million below the $10,388 million requested by the President for these items.

V. BACKGROUND

The Conference Report provides $2,068 million in budget authority and $62 million in outlays over the amounts in the House-

passed bill. The largest single increase of $1,831 million for the IMF Witteveen Facility was assumed in the Second Budget Resolution but had not yet been requested by the Administration when the House Foreign Assistance Bill was reported.

FACTSHEET—H.R. 12943, FOREIGN ASSISTANCE APPROPRIATIONS BILL, FISCAL YEAR 1979

COMPARISON OF CONFERENCE REPORT AND 2D BUDGET RESOLUTION—ASSUMPTIONS FOR THE PROGRAMS IN THIS BILL

[In millions of dollars]

Functions	Amount in the bill[1]	Amount assumed in resolution	Difference (+) over or (−) under resolution
150 International affairs:			
Budget authority	9,205	9,229	−24
Outlays	5,406	5,327	+79
350 Agriculture:			
Budget authority	40	40	----------
Outlays	40	40	----------
Total:			
Budget authority	9,245	9,269	−24
Outlays	5,446	5,367	+79

[1] Includes outlays from budget authority enacted in prior years for items included in the bill.

Note: Detail may not add to totals due to rounding.

Mr. Speaker, I would like to comment briefly on some of the charges made about this bill. It has been suggested, first of all, that this bill is almost $2 billion above the House bill as it left the House. That is absolute nonsense. The fact is that program for program this bill is 1 percent above the figure when it left the House. The only reason for the figure of $1.9 billion above the House level, which you find in the conference report is that after this bill left the House we added an entire separate portion to the bill, a facility which had already been approved by this House. We did it at the emergency request of the Federal Reserve Board and others, so that among other things we could defend the dollar internationally. Not $1 of that added amount will ever leave the U.S. Treasury; so the argument that we are giving more than 1 percent above the bill as it left the House is absolute nonsense.

So this bill is virtually identical in terms of dollar amounts to the bill which left the House on a vote of 223 to 167.

I would like to respond to the argument made about the dropping of the restrictions on Vietnam and Cuba. The gentleman from New York has already indicated what the facts of life were on that. As we have indicated, we have no choice. If we did not drop that provision, we were faced with the fact that the banks could not under their present charters accept the money. That would throw into disarray the international banking structure which we worked for 20 years to build and which has allowed us to reduce our share of this kind of assistance around the world from 60 percent in 1964 to 28 percent in 1977.

I think it is ironic that Cuba refuses to participate in the Bank because Cuba styles these banks as being too capitalistic for their tastes, so they, therefore, do not join. It would be the height of folly if, to administer a meaningless rebuke to Cuba and Vietnam, we dismantled the international banking structure, which is viewed by Cuba as being too capitalistic for them to participate. I do not think that would be very smart.

On the question of Syria, the matter is very simple. Do we want to give the President maximum leverage to do whatever he can in the Middle East to achieve peace, or do we not?

I met with our Ambassador to Lebanon last week, and I asked him this question:

"Mr. Ambassador, what would be the effect of cutting off or reducing aid to Syria?"

This is his answer: "It wouldn't modify their policy there. It will affect our ability to work with them. It would be noted as an act of hostility and contradiction—such an action wouldn't be helpful in terms of our influence" in the situation.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield on the Syrian point?

Mr. OBEY. Mr. Speaker, if I may, I will first complete just one last statement, and then I would be happy to yield.

We have provided today over $100 billion in the defense bill for tools for war. In this bill we also provide a very small amount of money for tools for war for our allies. I must point out to the gentlewoman from Ohio that that is the lowest dollar amount for military appropriations in years. From her standpoint, this is by far the best bill we have ever brought to this floor.

I want to say that the main purpose of this bill is to provide a few tools for peace. We appropriate in this bill less than one-tenth of the amount that we appropriated earlier today for the tools for war. I would urge the Members, if they want to attack the social conditions that breed war, that breed revolution, and that breed communism all over the world, to support legislation like this because it attacks the education problems, it attacks the poverty problems, and it attacks the health problems that foster those kinds of conditions.

Mr. Speaker, I think this bill is, at least in a small way, a measure of our decency and our sense of concern for the people with whom we share this globe.

It is not an international welfare program. It is an effort to help societies generate the conditions that will enable them to bootstrap themselves into eventual self-reliance.

It is in our national interest and it costs the average American 56 cents per week, less than the cost of a pack of cigarettes. It is a good investment.

The SPEAKER pro tempore. The Chair regretfully announces that all time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. CEDERBERG

Mr. CEDERBERG. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. CEDERBERG. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CEDERBERG moves to recommit the conference report on the bill, H.R. 12931, to the committee of conference.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WATKINS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 191, nays 201, not voting 38, as follows:

[Roll No. 904]

YEAS—191

Abdnor	Evans, Del.	McDade
Anderson, Calif.	Evans, Ind.	McDonald
Andrews, N.C.	Fary	McEwen
Andrews, N. Dak.	Fithian	McKay
Applegate	Flippo	Madigan
Archer	Flowers	Marlenee
Ashbrook	Flynt	Marriott
Babalis	Foley	Martin
Barnard	Fountain	Mathis
Baucus	Fuqua	Michel
Bauman	Gammage	Milford
Beard, R.I.	Gaydos	Miller, Ohio
Beard, Tenn	Gephardt	Montgomery
Benjamin	Ginn	Moore
Bennett	Goldwater	Moorhead, Calif.
Bevill	Goodling	Mottl
Bowen	Grassley	Murphy, Pa.
Breaux	Gudger	Murtha
Brinkley	Guyer	Myers, John
Brooks	Hagedorn	Myers, Michael
Brown, Ohio	Hall	Natcher
Broyhill	Hammer-schmidt	Neal
Burgener	Hansen	Nichols
Burke, Fla.	Harkin	O'Brien
Burke, Mass.	Harris	Oakar
Burleson, Tex.	Harsha	Panetta
Butler	Hefner	Perkins
Carney	Heftel	Pickle
Carter	Hightower	Pike
Cederberg	Holland	Poage
Clausen, Don H.	Holt	Pressler
Clawson, Del	Huckaby	Quillen
Cleveland	Hughes	Rahall
Cohen	Ichord	Regula
Coleman	Jenkins	Rhodes
Collins, Tex.	Jenrette	Risenhoover
Corcoran	Johnson, Calif.	Roberts
Cornell	Johnson, Colo.	Robinson
Cunningham	Jones, N.C.	Rose
D'Amours	Jones, Okla.	Rousselot
Daniel, Dan	Jones, Tenn.	Runnels
Daniel, R. W.	Kasten	Russo
Davis	Kazen	Satterfield
de la Garza	Kelly	Sawyer
Delaney	Kemp	Schroeder
Dent	Kindness	Sebelius
Derrick	Lagomarsino	Shuster
Devine	Latta	Slack
Dickinson	Le Fante	Smith, Iowa
Duncan, Tenn.	Leach	Smith, Nebr.
Early	Lederer	Snyder
Edwards, Ala.	Levitas	Spence
Edwards, Okla.	Livingston	Staggers
Emery	Lloyd, Tenn.	Stangeland
English	Long, La.	Steed
Ertel	Lott	Stump
	Lujan	Symms
	McCormack	Taylor

Thone	Wampler	Winn
Treen	Watkins	Wydler
Trible	Weaver	Wylie
Vander Jagt	Whitehurst	Young, Alaska
Waggonner	Whitley	Young, Fla.
Walker	Whitten	
Walsh	Wilson, Bob	

NAYS—201

Addabbo	Forsythe	Nolan
Akaka	Fowler	Nowak
Alexander	Fraser	Oberstar
Ambro	Frenzel	Obey
Anderson, Ill.	Giaimo	Ottinger
Annunzio	Gibbons	Patten
Ashley	Gilman	Patterson
Aspin	Glickman	Pattison
AuCoin	Gonzalez	Pease
Baldus	Gore	Pepper
Bedell	Gradison	Preyer
Beilenson	Green	Price
Biaggi	Hamilton	Pritchard
Bingham	Hanley	Pursell
Blanchard	Hannaford	Railsback
Blouin	Hawkins	Rangel
Boggs	Heckler	Reuss
Boland	Holtzman	Richmond
Bolling	Horton	Rinaldo
Bonior	Howard	Rodino
Bonker	Hubbard	Roe
Brademas	Hyde	Rogers
Breckinridge	Jacobs	Roncalio
Brodhead	Jeffords	Rooney
Brown, Calif.	Jordan	Rostenkowski
Brown, Mich.	Kastenmeier	Roybal
Buchanan	Keys	Ruppe
Burlison, Mo.	Kildee	Ryan
Burton, John	Kostmayer	Santini
Burton, Phillip	Krebs	Scheuer
Caputo	LaFalce	Seiberling
Carr	Leggett	Sharp
Cavanaugh	Lehman	Simon
Chisholm	Lent	Skelton
Clay	Lloyd, Calif.	Solarz
Collins, Ill.	Long, Md.	Spellman
Conable	Luken	St Germain
Conte	Lundine	Stanton
Corman	McClory	Stark
Cornwell	McCloskey	Steers
Cotter	McFall	Steiger
Coughlin	McHugh	Stokes
Danielson	McKinney	Stratton
Dellums	Maguire	Studds
Derwinski	Mahon	Thompson
Dicks	Mann	Thornton
Dingell	Markey	Traxler
Dodd	Marks	Tsongas
Dornan	Mattox	Udall
Downey	Mazzoli	Ullman
Drinan	Meyner	Van Deerlin
Duncan, Oreg.	Mikulski	Vanik
Eckhardt	Mikva	Vento
Edgar	Miller, Calif.	Volkmer
Edwards, Calif.	Mineta	Walgren
Eilberg	Minish	Waxman
Erlenborn	Mitchell, Md.	Weiss
Evans, Ga.	Mitchell, N.Y.	Whalen
Fascell	Moakley	Wilson, Tex.
Fenwick	Moffett	Wirth
Findley	Mollohan	Wolff
Fish	Moorhead, Pa.	Wright
Fisher	Murphy, Ill.	Yates
Flood	Murphy, N.Y.	Yatron
Florio	Myers, Gary	Young, Mo.
Ford, Mich.	Nedzi	Zablocki
Ford, Tenn.	Nix	Zeferetti

NOT VOTING—38

Ammerman	Harrington	Schulze
Armstrong	Hillis	Shipley
Badham	Hollenbeck	Sikes
Broomfield	Ireland	Sisk
Burke, Calif.	Krueger	Skubitz
Chappell	Meeds	Stockman
Cochran	Moss	Teague
Conyers	Pettis	Tucker
Crane	Quayle	White
Diggs	Quie	Wiggins
Evans, Colo.	Rosenthal	Wilson, C. H.
Frey	Rudd	Young, Tex.
Garcia	Sarasin	

The Clerk announced the following pairs:

On this vote:

Mr. Wiggins for, with Mr. Tucker against.

Mr. Armstrong for, with Mr. Sarasin against.

Mr. Badham for, with Mr. Krueger against.

Mr. Crane for, with Mrs. Burke of California against.

Mr. Frey for, with Mr. Diggs against.

Mr. Rudd for, with Mr. Shipley against.

Mr. Skubitz for, with Mr. Rosenthal against.

Until further notice:

Mr. Ammerman with Mr. Cochran of Mississippi.

Mr. Sikes with Mr. Hillis.

Mr. Chappell with Mr. Quayle.

Mr. Teague with Mr. Hollenbeck.

Mr. Charles H. Wilson with Mr. Quie.

Mr. Evans of Colorado with Mr. Schulze.

Mr. Harrington with Mr. Stockman.

Mr. Conyers with Mr. Broomfield.

Mr. Sisk with Mr. White.

Mr. Ireland with Mr. Meeds.

Mr. Garcia with Mr. Moss.

Messrs. PERKINS, MICHAEL O. MYERS, ROBERT W. DANIEL, JR., LEACH, and RISENHOOVER changed their vote from "nay" to "yea."

Messrs. GILMAN, LENT, STARK, DICKS, VOLKMER, and KREBS changed their vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 203, nays 188, not voting 39, as follows:

[Roll No. 905]

YEAS—203

Addabbo	Dodd	Kastenmeier
Akaka	Dornan	Keys
Alexander	Downey	Kildee
Ambro	Drinan	Kostmayer
Anderson, Calif.	Duncan, Oreg.	Krebs
Anderson, Ill.	Eckhardt	LaFalce
Annunzio	Edgar	Le Fante
Aspin	Edwards, Calif.	Leach
Baldus	Eilberg	Lederer
Bedell	Erlenborn	Leggett
Beilenson	Evans, Del.	Lehman
Biaggi	Evans, Ga.	Lent
Bingham	Fary	Lloyd, Calif.
Blanchard	Fascell	Long, Md.
Blouin	Fenwick	Luken
Boggs	Findley	Lundine
Boland	Fish	McCloskey
Bonior	Fisher	McCormack
Bonker	Flood	McDade
Brademas	Florio	McFall
Breckinridge	Foley	McHugh
Brodhead	Ford, Mich.	McKinney
Brown, Calif.	Ford, Tenn.	Madigan
Brown, Mich.	Forsythe	Maguire
Buchanan	Fowler	Mann
Burke, Mass.	Fraser	Markey
Burlison, Mo.	Frenzel	Mazzoli
Burton, John	Giaimo	Meyner
Burton, Phillip	Gilman	Mikulski
Caputo	Glickman	Mikva
Carr	Gonzalez	Mineta
Cavanaugh	Gore	Minish
Chisholm	Gradison	Mitchell, N.Y.
Clay	Green	Moakley
Collins, Ill.	Hamilton	Moffett
Conable	Hanley	Mollohan
Conte	Hannaford	Moorhead, Pa.
Corman	Heckler	Murphy, Ill.
Cornwell	Hollenbeck	Murphy, N.Y.
Cotter	Holtzman	Myers, Gary
Coughlin	Horton	Myers, Michael
Danielson	Howard	Nedzi
Derwinski	Hyde	Nix
Dicks	Jeffords	Nolan
Dingell	Johnson, Calif.	Nowak
	Jordan	O'Brien
Oberstar	Rosenthal	Tsongas
Obey	Rostenkowski	Tucker
Ottinger	Ruppe	Udall
Patten	Ryan	Ullman
Patterson	Santini	Van Deerlin
Pattison	Scheuer	Vanik
Pease	Seiberling	Vento
Pepper	Simon	Walgren
Preyer	Skelton	Waxman
Price	Smith, Iowa	Weiss
Pritchard	Solarz	Whalen
Pursell	Spellman	Wilson, Tex.
Railsback	St Germain	Winn
Rangel	Stanton	Wirth
Reuss	Steers	Wolff
Richmond	Steiger	Wright
Rinaldo	Stockman	Wydler
Rodino	Stokes	Yates
Roe	Stratton	Yatron
Rogers	Studds	Young, Mo.
Roncalio	Thompson	Zablocki
Rooney	Traxler	Zeferetti

NAYS—188

Abdnor	Fuqua	Moorhead, Calif.
Andrews, N.C.	Gammage	Mottl
Andrews, N. Dak.	Gaydos	Murphy, Pa.
Applegate	Gephardt	Murtha
Archer	Gibbons	Myers, John
Ashbrook	Ginn	Natcher
AuCoin	Goldwater	Neal
Bafalis	Goodling	Nichols
Barnard	Grassley	Oakar
Baucus	Gudger	Panetta
Bauman	Guyer	Perkins
Beard, R.I.	Hagedorn	Pickle
Beard, Tenn.	Hall	Pike
Benjamin	Hammer-schmidt	Poage
Bennett	Hansen	Pressler
Bevill	Harkin	Quillen
Bowen	Harris	Rahall
Breaux	Harsha	Regula
Brinkley	Hefner	Rhodes
Brooks	Heftel	Risenhoover
Brown, Ohio	Hightower	Roberts
Broyhill	Holland	Robinson
Burgener	Holt	Rose
Burke, Fla.	Hubbard	Rousselot
Burleson, Tex.	Huckaby	Roybal
Butler	Hughes	Runnels
Carney	Ichord	Russo
Carter	Jacobs	Satterfield
Cederberg	Jenkins	Sawyer
Clausen, Don H.	Jenrette	Schroeder
Clawson, Del	Johnson, Colo.	Sebelius
Cleveland	Jones, N.C.	Sharp
Cohen	Jones, Okla	Shuster
Coleman	Jones, Tenn.	Slack
Collins, Tex.	Kasten	Smith, Nebr.
Corcoran	Kazen	Snyder
Cornell	Kelly	Spence
Cunningham	Kemp	Staggers
D'Amours	Kindness	Stangeland
Daniel, Dan	Lagomarsino	Stark
Daniel, R. W.	Latta	Steed
Davis	Levitas	Stump
de la Garza	Livingston	Symms
Delaney	Lloyd, Tenn.	Taylor
Dellums	Long, La.	Thone
Dent	Lott	Thornton
Derrick	McClory	Treen
Devine	McDonald	Trible
Dickinson	McEwen	Vander Jagt
Duncan, Tenn.	McKay	Volkmer
Early	Mahon	Waggonner
Edwards, Ala.	Marks	Walker
Edwards, Okla.	Marlenee	Walsh
Emery	Marriott	Wampler
English	Martin	Watkins
Ertel	Mathis	Weaver
Evans, Ind.	Mattox	Whitehurst
Fithian	Michel	Whitley
Flippo	Milford	Whitten
Flowers	Miller, Calif.	Wilson, Bob
Flynt	Miller, Ohio	Wylie
Fountain	Montgomery	Young, Alaska
	Moore	Young, Fla.

NOT VOTING—39

Ammerman	Frey	Quie
Armstrong	Garcia	Rudd
Ashley	Harrington	Sarasin
Badham	Hawkins	Schulze
Bolling	Hillis	Shipley
Broomfield	Ireland	Sikes
Burke, Calif.	Krueger	Sisk
Chappell	Lujan	Skubitz
Cochran	Meeds	Teague
Conyers	Mitchell, Md.	White
Crane	Moss	Wiggins
Diggs	Pettis	Wilson, C. H.
Evans, Colo.	Quayle	Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mrs. Burke of California for, with Mr. Ammerman against.
Mr. Krueger for, with Mr. Badham against.
Mr. Sarasin for, with Mr. Crane against.
Mr. Diggs for, with Mr. Chappell against.

Until further notice:

Mr. Ashley with Mr. Rudd.
Mr. Moss with Mr. Schulze.
Mr. Conyers with Mr. Skubitz.
Mr. Evans of Colorado with Mr. Wiggins.
Mr. Hawkins with Mr. Quayle.
Mr. Mitchell of Maryland with Mr. Lujan.
Mr. Shipley with Mrs. Pettis.
Mr. Sikes with Mr. Frey.
Mr. Sisk with Mr. Quie.
Mr. Teague with Mr. White.
Mr. Garcia with Mr. Harrington.
Mr. Ireland with Mr. Meeds.
Mr. Charles H. Wilson of California with Mr. Cochran of Mississippi.
Mr. Hillis with Mr. Broomfield.

Mr. RISENHOOVER changed his vote from "yea" to "nay."

Mr. MOFFETT changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

(By unanimous consent, Mr. WRIGHT was allowed to speak out of order.)

SUCCESSFUL HEART SURGERY FOR KING KHALID OF SAUDI ARABIA

Mr. WRIGHT. Mr. Speaker, I know I speak for all my colleagues when I express my feelings of joy and relief at the news of the successful heart surgery and improving condition of King Khalid of Saudi Arabia.

As we all know, the King is in the United States for medical treatment and will remain here for some time during his recovery. Several members of the royal family are with him.

A great friend of the United States, King Khalid has been a source of moderation and restraint during a period of tension and conflict in the Middle East.

Under his leadership Saudi Arabia's representatives to the meetings of the OPEC nations have acted with wisdom and courage, providing a counterweight to the more radical members of the cartel. Under his leadership the world oil situation has become more stable and predictable.

We in the United States look to King Khalid to continue his active role in the quest for peace in the Middle East. We are confident that, given the catalyst provided by current peace efforts, the King will be able to contribute meaningfully to establishment of a lasting and just peace in that part of the world.

I know my colleagues join me in the hope that the King will be able soon to resume his normal activities as the ruler of the great Saudi nation.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will designate the first amendment in disagreement.

Senate amendment No. 14 is as follows: Page 3, line 18, after "1979" insert ": *Provided*, That loans made pursuant to this authority to countries whose annual per capita gross national product is greater than $550 but less than $900 shall be repayable within twenty-five years following the date on which funds are initially made available under such loans, and loans to countries whose annual per capita gross national product is greater than $900 shall be repayable within twenty years following the date on which funds are initially made available under such loans

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 14 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 16 is as follows: Page 4, line 13, after "$25,000,000" insert ": *Provided*, That $3,000,000 shall be available only for support of Israeli students studying in American sponsored centers of learning in the Arab countries and Arab students studying in American sponsored centers of learning in Israel

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$1,000,000".

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 18 is as follows: Page 4, line 22, after "$20,000,000" insert ": *Provided*, That $1,000,000 shall be available only to control locust plagues in Africa".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 18 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 21 is as follows: Page 5, line 5, after "expended" insert ": *Provided*, That no part of such appropriations may be available to make any contribution of the United States to the Sahel development program in excess of 10 per centum of the total contributions to such program".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 21 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 24 is as follows: Page 5, line 18, after "$24,820,000" insert ": *Provided*, That none of these funds or other funds available to the Foreign Service Retirement and Disability Fund shall be available to carry out the provisions of section 406 of the Foreign Relations Authorization Act, Fiscal Year 1979".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion. The Clerk read as follows:

Mr. LONG of Maryland moves that the House insist on its disagreement to the amendment of the Senate numbered 24.

PREFERENTIAL MOTION OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. YOUNG of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein.

The SPEAKER pro tempore. Does the gentleman from Maryland desire recognition?

Mr. LONG of Maryland. Yes, Mr. Speaker, I do.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. LONG) will be recognized for 30 minutes, and the gentleman from Florida (Mr. YOUNG) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, the conferees have returned this amendment in true disagreement. On October 10 the President signed into law the Department of State authorization bill for 1978. Included in this law was a section 406 which would allow participants in the Foreign Service retirement fund to compute their retirement based on their highest single annual salary. When the foreign assistance appropriations bill left the House there was no mention of this section 406. In the Senate, an amendment was attached prohibiting any of the funds in this act or any other pertinent appropriations act from being used to execute the provisions of section 406—the high one retirement.

I would like to make several observations, Mr. Speaker. First of all, this amendment is clearly legislation in an appropriation bill and it without a doubt goes far beyond the scope of this appropriations bill. The Appropriations Committee has come under a great deal of criticism in recent years because of our inclusion of certain provisions in appropriations bills which are construed as legislation. We have worked to ameliorate this situation and maintain a professional working relationship with the authorizing committees. Here is an instance which we feel is in definite violation of the intent of the rules of the House.

As to the merits of the amendment, the conferees have mixed emotions. However, there is one point which is obvious. On October 10, the legislation authorizing such retirement was signed into law.

If this amendment is adopted the issue will have to be fought out in the courts.

The Senate language simply prohibits funding availability for the high one legislation but the legislation that has been signed is an entitlement and personnel eligible to retire under such entitlement will have the right to sue the Government for the necessary funds to execute the provisions of the settlement. The result will be confusion and excessive court costs. Costs which will ultimately be borne by the taxpayer.

Mr. Speaker, I urge the Members to sustain the House position and deal with this issue in the appropriate authorizing legislation at a later date.

I am not particularly in favor of the high one retirement legislation but this is not the proper place or proper manner in which to deal with it. I do understand efforts are being made to repeal this legislation in other legislative measures, and that is the proper approach.

I ask that the gentleman's motion be defeated.

The SPEAKER pro tempore. The gentleman from Florida (Mr. YOUNG) is recognized for 30 minutes.

Mr. YOUNG of Florida. Mr. Speaker, the reason I offer this substitute motion is to give us an opportunity to clarify the issue and have some debate on this specific item and make a decision.

The House position is this, that certain employees of the State Department be permitted to retire having their retirement based on their high-1-year salary. Throughout the Government people retire based on the average of their 3 best years.

I want Members to know that I am standing up for the administration in this particular case. They are opposed to this high-1-year provision, if I read the CONGRESSIONAL RECORD accurately from September 29, 1978. They are opposed to it because they say it will bust the President's budget.

I will provide the letter for the RECORD.

But the figures they provide are these: The 1-year cost in this bill for fiscal year 1979 could be as high as $47 million to allow these people to retire using their high-1-year salary. They also tell us if all Federal agencies were to adopt this provision the annual cost could be $200 million to allow people to retire based on their high-1-year salary. In fact they project—and these are administration figures—over the 30-year period many employees could be expected to serve in the Government, the cost for this high-1-year provision could be as high as $3.5 billion, just so one group of employees could retire based on their high-1-year salary when everybody else retires based on the average of their best 3 years.

We ought to approve my substitute motion and concur with the position of the Senate, and that is to keep these employees in the same category as other Federal employees.

At this point I yield to the gentleman from Illinois (Mr. DERWINSKI) for the purpose of debate only, such time as he may consume.

Mr. DERWINSKI. Mr. Speaker, 2 months ago by an overwhelming vote of 280 in favor and 103 against, the House passed my amendment to this legislation striking $90 million from the economic support fund for Syria.

What particularly persuaded the House to take this action against Syria was the action of its military forces in Lebanon. For months now, that strife-torn country has seen killings and shellings of Christian civilians in Beirut and other parts of Lebanon by Syria's so-called peacekeeping forces. The slaughter became so systematic that it assumed overtones of genocide. Have the Lebanese Christians no human rights? As Israeli Prime Minister Begin noted last month in a plea to all Christian nations:

> The Christians in Northern Lebanon face a massacre. They are being attacked day in and day out. Help them for God's sake . . . this is my urgent call to all free nations—take care what is happening in Lebanon.

Syria is transforming its forces, originally part of an Arab peacekeeping force, into an army of occupation with all that implies for Lebanese independence and for Israel's security.

Since 1975, the United States has poured $425 million into Syria. The rationale for this assistance is the aim of gaining some leverage in a nation that has consistently opposed U.S. efforts to achieve lasting peace in the Middle East. A review of Syria's behavior from the inception of U.S. assistance indicates quite clearly that its intended effect has been minimal. The Syrians clearly remain responsive to the dictates of the Soviets who have furnished them with $3.5 billion in military assistance since the 1973 Yom Kippur war. Most recently Syria has rejected the results of Camp David as well as the President's call for an international conference to resolve the 3-year-old Lebanese civil war.

In view of the foregoing, you can understand my disappointment when I learned the committee of conference on this bill capitulated to heavy, last minute White House pressure, and voted to retain the $90 million. I hope I am wrong, but I am afraid this tells the Syrians that they can literally get away with murder.

I would like to commend the conferees for at least instructing the President in their report to use the money only if he believes its use will serve the process of peace in the Middle East. I regret, however, their decision to reject my suggestion that the President report to Congress his reasons for approving the use of such funding.

However, a number of items must be closely monitored, especially reports of growing Syrian military pressure in Lebanon. And the degree and nature of Soviet assistance to Syria in this regard.

The Syrians are partitioning Lebanon. And in the process are destroying Christian areas that had been sustained even during the centuries long Turkish occupation of that area.

We must also be alert to the humanitarian need for immigration, a situation in which the United States could play a leading role.

The legislative situation is stacked against me. The Senate and House-Senate conferees have capitulated under administration pressure, leaving the United States in an indefensible position of financing Syria, while that country's troops continue their attack on the Christian population of Lebanon.

I serve notice on the House that I intend to raise this issue at the earliest possible moment in the next Congress. I trust that I will find the administration at that time in a more legitimate position than its present posture of embracing the Syrians. Where is the Carter human rights concern for the Christian Lebanese?

Mr. YOUNG of Florida. Mr. Speaker, I yield to the gentleman from Alabama (Mr. BUCHANAN) for the purposes of debate only such time as he may consume.

Mr. BUCHANAN. Mr. Speaker, I rise in support of the motion of the gentleman from Maryland.

This body has voted twice in the Foreign Relations Authorization Act for this retirement provision under the regular procedures of the House. The President signed into law the bill authorizing this provision.

Now the Senate, which I might add also voted for this provision in approving the Foreign Relations Authorization Act conference report, is attempting to do an end around run against the House and place a legislative provision on an appropriations bill.

But let us look for a moment to see whether this amendment will accomplish what the Senate intends. The retirement provision is law, the President signed it. It is an entitlement. Thus those planning to take advantage of this provision—and it is my understanding that 45 individuals have already done so—could, and no doubt would, take the United States to court to obtain the money to which they are entitled.

Should we recede to the Senate on this amendment we will disregard our own rules in order to spend more money and continue inefficiency. At the same time we will open the door to a flood of suits against the Government which, in turn, will consume many man-hours and additional taxpayer dollars. It is my understanding that attorneys for both the Department of State and OMB believe the Government will lose these suits.

Mr. Speaker, the amendment is wrong and the method used to add the amendment is wrong and I, therefore, strongly urge my colleagues to agree to the motion of our distinguished colleague from Maryland to disagree to the Senate amendment and insist on the House position.

Mr. LONG of Maryland. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I have had a number of the Members come up to me within the last few minutes after hearing the remarks of the gentleman from Florida (Mr. YOUNG) and they have said to me,

"Hey, Obey, what is wrong with what Young is saying?"

I simply want you to understand the position the Committee on Appropriations found itself in. We were faced with an issue which had already been decided by this House in the authorization bill. This House already voted in the authorization bill for the procedure on State Department retirement which the gentleman from Florida is now suggesting ought to be knocked out.

The Committee on Appropriations could have done that. I do not happen to favor the position of the authorizing committee. But I want to ask all of you who are members of authorizing committees one question:

Do you want the Committee on Appropriations in the future to use its power in the appropriations process to nullify actions taken by authorizing committees?

I do not think you do. That is the No. 1 reason that we chose not to exercise the power which we could have exercised to oust this particular provision which none of us are very happy about, or at least some of us are not.

Secondly, even if you adopt the motion of the gentleman from Florida (Mr. YOUNG) as the saying goes, "We ain't doin' nothin'." Because the fact is that because of a previous action of this House those retirees have a legal entitlement to that retirement at higher pay.

Now you may not like that but you voted for it, not on this bill, but on the authorization bill several weeks ago.

So if you vote tonight, and you can do that if you want to, and I suspect you probably will, but if you vote tonight for the motion of the gentleman from Florida, please understand that you will not be saving the taxpayers a dime. All you will be doing is creating additional legal cases which will cost Uncle Sam more dollars to defend because those retirees will have a legal entitlement and nothing we do here tonight will change that.

Mr. KAZEN. Mr. Speaker, will the gentleman yield for a question?

Mr. OBEY. Surely.

Mr. KAZEN. Is it not possible for this House tonight to put a provision in this bill repealing that previous action?

Mr. OBEY. No, it is not.

Mr. LONG of Maryland. No, it is not.

Mr. KAZEN. If no point of order is raised against it, it cannot be done? Is the gentleman telling me that it cannot be done?

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. OBEY. May I have 1 more minute to respond to the gentleman from Texas?

Mr. LONG of Maryland. I yield 1 additional minute to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, as a practical matter there are some Members of this House who approve of that provision because they think it gets rid of State Department deadwood, so they would probably object to any unanimous consent request.

Mr. KAZEN. You are going to reward them by getting rid of them at a higher retirement?

Mr. OBEY. I do not reward them, the House passed the legislation, I did not.

Mr. KAZEN. That is why you should repeal it by voting against it.

Mr. LONG of Maryland. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding.

I agree with the remarks of the gentleman from Wisconsin (Mr. OBEY), Mr. Speaker; and I would urge that the motion made by the gentleman from Florida (Mr. YOUNG) be voted down, because all that it would do is confuse the issue. The House should vote for the motion made by the gentleman from Maryland (Mr. LONG), the chairman, because the effort in this bill to repeal the authorizing act will, in fact, not repeal that legislative act.

Therefore, Mr. Speaker, while it sounds good, it has the direct legal effect of simply complicating an issue which has already taken place and upon which people have relied. The proper process would be to submit a direct repealer or some other modification of the issue in a proper legislative vehicle.

Prohibition of the funds, which exists in the language of the Senate amendment, which is not germane, and therefore has to come in for a separate vote, and which the gentleman from Florida now asks us to concur in, will simply cloud the issue and not resolve it. Therefore, I urge you to vote against the motion to recede and concur with the Senate amendment and vote for the motion to insist on the disagreement of the House with the Senate amendment.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this problem is not all that complicated. I think it is very simple to understand.

The gentleman from Wisconsin (Mr. OBEY) has made the point that the House has approved this language. Mr. Speaker, we all know that the House approves a lot of authorization bills with many, many different sections in them. If we had the opportunity to vote on every section separately, many of the sections would not be there.

That, I submit, is the case with section 406 of the House bill. Had the Members had the opportunity to vote separately on this section. I do not think it would be in the bill; but there was no vote on this section 406.

Mr. Speaker, all we are doing here, if we agree to the Senate language, is the same thing we often do on appropriation bills, and that is to place a restriction upon the use of the funds. This is not the first time that has ever happened, and I would submit respectfully that it is certainly not the last.

Mr. Speaker, here is what the language says:

Provided, that none of these funds or any of the funds available to the Foreign Service Retirement and Disability Fund shall be available to carry out the provisions of section 406 of the Foreign Relations Authorizations Act, fiscal year 1979.

That is all it is, a simple restriction on the use of appropriated funds.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, I am not sure that the gentleman from Florida (Mr. YOUNG) caught the point of my colleague, the gentleman from Wisconsin (Mr. OBEY).

What happened is that we now have a law, a bill which was signed into law by the President after having been passed by the House and Senate, as a result of which some people have some legal entitlements. The fact that we do not appropriate the money now, whether it was good policy or bad policy, does not matter. It is the law, and we have said in the law, "You are entitled to certain retirement benefits."

Whether or not we appropriate the money or whether they sue for it, they will get the money and we will have to pay the legal fees. I do not see any way out of that right now.

Mr. YOUNG of Florida. The gentleman from Illinois (Mr. SIMON) is not correct in saying that I did not understand that because I did understand it. The gentleman is correct that that could very well be the situation. However, I just do not think that we need to be taking one bad step because we took another bad step. Once in a while, if we are wrong, we ought to admit we are wrong. We are wrong if we are going to take the taxpayers' money and use it to give special benefits to one special group of employees. I love them all, all of the ones I know who serve in the foreign service. I love them, and I am sure that I love their colleagues whom I do not know. I would like to do all kinds of good things for them, but I am looking at the $47 million that your taxpayers and my taxpayers are going to have to come up with. That, I think, is unfair because it applies to only one group of employees who work for the Federal Government but not to others. There is just something wrong with that way of thinking.

Mr. SIMON. If the gentleman will yield further, Mr. Speaker, I think his motion is directed to the wrong bill.

Would the gentleman acknowledge that if his motion is adopted, we will not save one penny; and in fact, it will cost the taxpayers more money?

Mr. YOUNG of Florida. No, I will not. I would say to my dear friend and colleague that I refuse to acknowledge that because I am not convinced that that is the case.

Mr. YOUNG of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. LONG of Maryland. Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I move the previous question on the motion to recede and concur.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the preferential motion to re-

cede and concur offered by the gentleman from Florida (Mr. YOUNG).

The question was taken; and on a division (demanded by Mr. YOUNG of Florida—there were—ayes 67, noes 47.

So the motion to recede and concur was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 37 is as follows:

Page 10, line 6, after "3109" insert ": *Provided further*, That not to exceed $10,000,000 of the funds made available by this Act shall be made available for personal service contracts and that of this amount not to exceed $2,000,000 shall be made available from Operating Expenses of the Agency for International Development and not to exceed $2,000,000 shall be made available from Operating Expenses of the Agency for International Development and not to exceed $8,000,000 shall be available from other funds made available by this Act".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Senate Amendment No. 40 is as follows: Page 11, line 22 after "$64,500,000" insert ", in addition to which amount the unobligated balance as of September 30, 1978, in the basic account symbol assigned by the Treasury for the appropriation made available under this heading for the fiscal year 1977 and the unobligated balance as of September 30, 1978, in the basic account symbol assigned by the Treasury for the appropriation made available under this heading for the fiscal year 1978 are continued available for the fiscal year 1979 and, further, amounts obligated as of September 30, 1978, in the basic account symbol assigned by the Treasury for the appropriation made available under this heading for the fiscal year 1978, are, if deobligated, continued available for the fiscal year 1979, the total of all such funds made available not to exceed $211,875,000. The unobligated and obligated balances as of September 30, 1978, shall be merged with and accounted for under the same basic account symbol assigned by the Treasury for the appropriation made under this heading".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 40 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$210,375,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 41 is as follows: Page 12, line 14, after "$64,500,000" and insert ": *Provided*, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the obligation of such deobligated funds for activities, programs, projects, type of material assistance, countries other operations not justified or in excess of the amount justified for the fiscal year 1979".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 41 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 45 is as follows: Page 13, line 3, after "700,000" insert ", in addition to which amount the unobligated balance as of September 30, 1978, in the basic account symbol assigned by the Treasury for the appropriation made available under this heading for the fiscal year 1977 and the unobligated balance as of September 30, 1978, in the basic account symbol assigned by the Treasury for the appropriation made available under this heading for the fiscal year 1978 are continued available for the fiscal year 1979 and, further, amounts obligated as of September 30, 1978, in the basic account symbol assigned by the Treasury for the appropriation made available under this heading for the fiscal year 1978 are, if deobligated, continued available for the fiscal year 1979, the total of all such funds made available not to exceed $30,915,000. The unobligated and obligated balances as of September 30, 1978, shall be merged with and accounted for under the same basic account symbol assigned by the Treasury for the appropriation made under this heading

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 45 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$28,755,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 46 is as follows: Page 13, line 20, after "700,000" insert ": *Provided*, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the obligation of such deobligated funds for activities, programs, projects, type of materiel assistance, countries or other operations not justified or in excess of the amount justified for the fiscal year 1979".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 46 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 48 is as follows: Page 14, after line 20, insert:

SEC. 103. Unobligated balances as of September 30, 1978, of funds heretofore made available under the authority of the Foreign Assistance Act of 1961, as amended, for "International disaster assistance", "Middle East special requirements fund", and "United States emergency refugee and migration assistance fund" are hereby continued available for the fiscal year 1979, for the same appropriation account and for the same purposes for which appropriated.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 48 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 63 is as follows: Page 18, line 1, after "1978" insert", and except that the President may waive this prohibition with respect to any such country if he determines, and so reports to the Congress, that furnishing such assistance to such country would further the foreign policy interests of the United States".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 63 and concur therein.

Mr. BAUMAN. Mr. Speaker, on Senate amendment No. 63, I demand a division of the question, and I wish to be heard.

The SPEAKER pro tempore. The question will be divided.

Mr. LONG of Maryland. Regular order, Mr. Speaker.

The SPEAKER pro tempore. The Chair is attempting to proceed with regular order.

The gentleman from Maryland (Mr. LONG) will be recognized for 30 minutes, the gentleman from Florida (Mr. YOUNG) will be recognized for 30 minutes, and the question will be divided.

The Chair recognizes the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this motion provides that the House would recede from its position which would be a straight cutoff of direct assistance to Mozambique and Angola to accept the Senate position which would allow for a Presidential waiver in certain circumstances.

On September 26, the President signed into law the International Security Assistance Act of 1978. This act contains a section 533(b) which does basically the same thing as the Senate amendment. Even though the Senate amendment extends the waiver authority to the entire foreign assistance bill, the bulk of any assistance to persons in Mozambique and Angola would come from the economic support fund which is covered by the authorization bill.

Mr. Speaker, the effect of the motion before the House will be to basically bring the provisions of the appropriation bill

and the relative authorization bill into conformance. I urge that the Members adopt the motion.

Mr. YOUNG of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, the motion before us is to recede from the House position. The bill as passed originally contained an absolute prohibition against any direct aid to Mozambique or Angola. The conferees on the House side agreed to a position that would allow the President to waive this prohibition and simply inform the Congress that he was willing to give foreign aid to either one of these Marxist-controlled countries in Africa.

It is true this provision in the law is already in effect in the Foreign Assistance Act that was passed earlier, and that in fact was an amendment that was offered by me on May 12.

But I happen to believe that the situation in Southern Africa has changed appreciably since this House acted on May 12. I do not honestly believe the President, who within the last 48 hours has refused even to meet with Prime Minister Ian Smith and Rev. Sithole of Rhodesia to discuss the situation, ought to be able to have the power to give foreign aid to two Marxist countries, both of which are serving as bases for guerrilla and Communist operations against the people of Rhodesia and South West Africa.

In the case of Angola it is the base for operations for various activities against the Southwest African Territory, better known these days as Namibia, and in the case of Mozambique it is the major staging area for the guerrillas who are attacking and killing blacks and whites.

I cannot forsee any situation in which the best interests of the foreign policy of the United States would require giving aid to either of those two countries.

If the Members believe as I do that this Congress ought to go on record against the activities that are occurring there, against the slaughter that is occurring there, against the intervention of Cuban troops in the area, and against Russian advisors and all the violence that is occurring there, and demand a stable policy in southern Africa, I would strongly urge them to vote against the motion to recede so we would have an absolute prohibition against aid to either of these two countries. Then that policy could be changed only if the President came to Congress and asked a waiver of this prohibition.

Mr. Speaker, I urge a no vote on the motion.

Mr. LONG of Maryland. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Speaker, I must say that that I am amazed that the gentleman from Maryland (Mr. BAUMAN) would urge us to reject this amendment, since he is in effect asking us to reject the very same amendment which he offered in this Chamber to the authorization bill on May 12.

That foreign aid authorizing legislation contained no prohibition whatsoever against foreign aid to either Mozambique or Angola. The gentleman from Maryland (Mr. BAUMAN), who is concerned about the possibility that our tax dollars might be going to either of those two countries, offered an amendment which was accepted and adopted on the floor providing that no foreign aid could go to either Angola or Mozambique unless the President certified that it was in our foreign policy interests to provide such assistance to those two countries.

Lo and behold, an identical amendment is adopted in the Senate to the foreign aid appropriations bill. And when the conference committee met, the House conferees, knowing that the Members of the House had accepted precisely the same amendment when it was offered by the gentleman from Maryland to the authorization bill, graciously decided to recede and concur to the Senate amendment on the grounds that we had already expressed our will in favor of precisely that proposition on May 12, when it was offered by the gentleman from Maryland, who now asks us to reject the very amendment which he urged upon us a few months ago.

The gentleman tells us that since that time things have changed in southern Africa. And, indeed, they have. But what happened? We find that Angola, over the course of the past few months has entered into an agreement with Zaire, in order to prevent the Zaireians who are in Angola from passing into Zaire and the Angolan's in Zaire from crossing over to Angola. That was a constructive agreement, and our own country has applauded it and supported it.

We also find that the Angolan Government played an instrumental role in encouraging SWAPO, the rebel group in Namibia, to accept the proposals of the Western Five, including our own country, for a peaceful transition to majority rule in Namibia. The only change which has taken place is that the Government of South Africa, which originally accepted the proposal of the Western Five, 2 weeks ago decided to repudiate the very agreement which they originally accepted.

Mr. Speaker, I would submit that in the last few months, if we take a look at what has happened in southern Africa, we would find that the Government of Angola on two important matters concerning their relations with Zaire, on the one hand, and the future of Namibia, on the other, has acted in an extremely constructive and statesmanlike fashion.

All this amendment does, to which the committee has asked us to recede and concur, is not to provide any foreign aid to Angola or Mozambique, but simply to provide the President of the United States with the flexibility, if he deems it in the foreign policy interest of the country, to provide them with some assistance in the future. We may well need the cooperation of these countries in the critical days ahead us we proceed with our efforts to promote peaceful transitions to majority role in Zimbabwe and Namibia and I urge you to give the President the flexibility which he may need.

Mr. YOUNG of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, if there was ever any proof of need for the rejection of this language and the need to vote no on the pending motion to recede, the gentleman from New York just provided it. The gentleman from New York has from the beginning been in league consistently on the issues of South African policy with Ambassador Young, President Carter, and Richard Moos, down at the State Department. They are the architects of a most disastrous policy. And the gentleman said right, "Let the President have the discretion to use this foreign aid if he wishes to give to these two countries." He cannot deny that the Cubans are there in the thousands. He cannot deny that Mozambique is the base for slaughtering of whites and blacks in Rhodesia. He says, "Maybe in the next fiscal year"—and that is all this provision applies to—"the situation will change to where we ought to give these countries American taxpayers' money in the form of foreign aid."

I cannot concede that happening. But if it does, we ought not leave it to the President alone. We have a coequal responsibility on foreign policy matters.

I urge a no vote. If you do not agree with our present policy toward southern Africa, if you do not agree with the Marxist presence in these countries, vote no on this motion to recede.

The SPEAKER pro tempore. The question is: Will the House recede from its disagreement to Senate amendment No. 63.

The question was taken; and on a division (demanded by Mr. SOLARZ) there were—yeas 60; nays 50.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 161, nays 204, not voting 65, as follows:

[Roll No. 906]

YEAS—161

Addabbo	Cornell	Hamilton
Alexander	Cornwell	Hanley
Anderson, Ill.	Cotter	Hannaford
Andrews, N. Dak.	Danielson	Harkin
	Dellums	Harris
Ashley	Dent	Hawkins
Baldus	Dicks	Heckler
Bedell	Dodd	Holtzman
Beilenson	Downey	Howard
Benjamin	Drinan	Hughes
Bingham	Duncan, Oreg.	Jacobs
Blanchard	Eckhardt	Jeffords
Blouin	Edgar	Johnson, Calif.
Boggs	Ellberg	Kastenmeier
Boland	Fary	Keys
Bonior	Fascell	Kildee
Bonker	Fenwick	Kostmayer
Brademas	Findley	Krebs
Brodhead	Fisher	LaFalce
Buchanan	Flood	Le Fante
Burlison, Mo.	Florio	Leach
Carney	Foley	Lederer
Carr	Ford, Mich.	Lehman
Cavanaugh	Ford, Tenn.	Levitas
Chisholm	Fraser	Long, La.
Collins, Ill.	Gaydos	Long, Md.
Conte	Gore	Lundine
Corman	Green	McCloskey

McFall	Ottinger	Seiberling
McHugh	Panetta	Sharp
McKinney	Patten	Simon
Maguire	Patterson	Smith, Iowa
Mahon	Pattison	Solarz
Mann	Pease	Spellman
Markey	Pepper	St Germain
Marks	Perkins	Steers
Mattox	Pickle	Stokes
Mikulski	Price	Studds
Mikva	Pritchard	Thompson
Mineta	Pursell	Thornton
Minish	Rahall	Tucker
Mitchell, Md.	Rangel	Udall
Moffett	Reuss	Van Deerlin
Mollohan	Richmond	Vanik
Moorhead, Pa.	Rodino	Vento
Murtha	Roe	Walgren
Natcher	Rogers	Waxman
Nedzi	Roncalio	Weaver
Nix	Rooney	Weiss
Nolan	Rostenkowski	Whalen
Nowak	Roybal	Wirth
Oakar	Ryan	Wright
Oberstar	Scheuer	Yatron
Obey	Schroeder	Zablocki

NAYS—204

Abdnor	Forsythe	Moorhead, Calif.
Akaka	Fountain	Mottl
Ambro	Fowler	Murphy, Ill.
Anderson, Calif.	Frenzel	Murphy, N.Y.
Andrews, N.C.	Fuqua	Murphy, Pa.
Applegate	Gammage	Myers, Gary
Archer	Gephardt	Myers, John
Ashbrook	Gibbons	Myers, Michael
AuCoin	Gilman	Nichols
Bafalis	Ginn	O'Brien
Barnard	Glickman	Pike
Bauman	Goldwater	Poage
Beard, R.I.	Gonzalez	Pressler
Bennett	Goodling	Preyer
Bevill	Gradison	Quillen
Biaggi	Grassley	Railsback
Bowen	Gudger	Regula
Breaux	Guyer	Rhodes
Breckinridge	Hagedorn	Rinaldo
Brinkley	Hall	Risenhoover
Brooks	Hammer-schmidt	Roberts
Brown, Mich.	Hansen	Robinson
Brown, Ohio	Harsha	Rose
Broyhill	Hefner	Rousselot
Burgener	Heftel	Runnels
Burke, Fla.	Hightower	Ruppe
Burke, Mass.	Holland	Russo
Burleson, Tex.	Holt	Santini
Butler	Horton	Satterfield
Caputo	Hubbard	Sebelius
Carter	Huckaby	Shuster
Cederberg	Hyde	Skelton
Clausen, Don H.	Ichord	Smith, Nebr.
Clawson, Del	Jenkins	Snyder
Cleveland	Jenrette	Spence
Cohen	Johnson, Colo.	Staggers
Coleman	Jones, N.C.	Stangeland
Collins, Tex.	Jones, Okla.	Stanton
Conable	Jones, Tenn.	Steed
Corcoran	Kazen	Steiger
Coughlin	Kelly	Stockman
Cunningham	Kemp	Stratton
D'Amours	Lagomarsino	Stump
Daniel, Dan	Latta	Symms
Daniel, R. W.	Lent	Taylor
Davis	Livingston	Thone
de la Garza	Lloyd, Calif.	Treen
Delaney	Lloyd, Tenn.	Trible
Derrick	Lott	Ullman
Derwinski	Lujan	Vander Jagt
Devine	Luken	Volkmer
Dickinson	McClory	Waggonner
Dornan	McCormack	Walker
Duncan, Tenn.	McDade	Walsh
Early	McDonald	Wampler
Edwards, Ala.	McEwen	Watkins
Edwards, Okla.	McKay	Whitehurst
Emery	Madigan	Whitley
English	Marlenee	Whitten
Erlenborn	Marriott	Wilson, Bob
Ertel	Martin	Winn
Evans, Del.	Mathis	Wolff
Evans, Ga.	Mazzoli	Wydler
Evans, Ind.	Michel	Wylie
Fithian	Miller, Ohio	Young, Fla.
Flippo	Mitchell, N.Y.	Young, Mo.
Flowers	Moakley	Zeferetti
Flynt	Montgomery	
	Moore	

NOT VOTING—65

Ammerman	Fish	Rosenthal
Annunzio	Frey	Rudd
Armstrong	Garcia	Sarasin
Aspin	Giaimo	Sawyer
Badham	Harrington	Schulze
Baucus	Hillis	Shipley
Beard, Tenn.	Hollenbeck	Sikes
Bolling	Ireland	Sisk
Broomfield	Jordan	Skubitz
Brown, Calif.	Kasten	Slack
Burke, Calif.	Kindness	Stark
Burton, John	Krueger	Teague
Burton, Phillip	Leggett	Traxler
Chappell	Meeds	Tsongas
Clay	Meyner	White
Cochran	Milford	Wiggins
Conyers	Miller, Calif.	Wilson, C. H.
Crane	Moss	Wilson, Tex.
Diggs	Neal	Yates
Dingell	Pettis	Young, Alaska
Edwards, Calif.	Quayle	Young, Tex.
Evans, Colo.	Quie	

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Wiggins.
Mr. Aspin with Mr. Schulze.
Mr. Chappell with Mr. Sawyer.
Mr. Dingell with Mr. Rudd.
Mr. Edwards of California with Mr. Sarasin.
Mr. Neal with Mr. Skubitz.
Mr. Miller of California with Mr. Young of Alaska.
Mr. Krueger with Mr. Badham.
Mr. Giaimo with Mr. Beard of Tennessee.
Mr. Rosenthal with Mr. Broomfield.
Mr. Shipley with Mr. Cochran of Mississippi.
Mr. Sikes with Mr. Crane.
Mr. Teague with Mr. Hollenbeck.
Mr. White with Mr. Frey.
Mr. Charles Wilson of Texas with Mr. Hillis.
Mr. Traxler with Mr. Quayle.
Mr. Charles H. Wilson of California with Mr. Fish.
Mr. Slack with Mr. Kasten.
Mr. Sisk with Mr. Quie.
Mrs. Meyner with Miss Jordon.
Mr. Harrington with Mr. Kindness.
Mr. Evans of Colorado with Mr. Leggett.
Mr. Brown of California with Mr. Meeds.
Mrs. Burke of California with Mr. Milford.
Mr. Ammerman with Mr. Conyers.
Mr. Yates with Mr. Moss.
Mr. Baucus with Mr. Garcia.
Mr. John L. Burton with Mr. Ireland.
Mr. Phillip Burton with Mr. Tsongas.
Mr. Clay with Mr. Diggs.
Mr. Stark with Mrs. Pettis.

Mr. RISENHOOVER changed his vote from "yea" to "nay."

So the motion to recede was rejected.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House insist on its disagreement to the amendment of the Senate numbered 63.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 65 is as follows: page 18, line 13, strike out all after "appropriated" down to and including "advance" in line 8 and insert "without the written prior approval of the Appropriations Committees of both Houses of the Congress".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 65 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 73 is as follows: page 20, line 16, after "$91,336,000" insert ": *Provided further*, That $20,000,000 of these funds be expended only by the Department of Health, Education, and Welfare for the resettlement in the United States of Soviet and other refugees not currently covered by existing Federal refugee programs: *Provided further*, That these funds shall be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 73 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 82 is as follows: page 25, after line 7, insert:

FUTURE UNITED STATES CONTRIBUTIONS TO THE INTERNATIONAL FINANCIAL INSTITUTIONS

It is the sense of the Congress that the United States share of contributions to future replenishments of the International Financial Institutions should not exceed the percentages enumerated below for each of the respective accounts within these institutions:

Asian Development Bank:
Paid-in capital, 16.3 percent;
Callable capital, 16.3 percent;
Asian Development Fund, 22.2 percent;
African Development Bank:
Special Fund, 18 percent;
Inter-American Development Bank:
Paid-in capital, 34.5 percent;
Callable capital, 34.5 percent;
Fund for Special Operations, 40 percent;
International Bank for Reconstruction and Development:
Paid-in capital, 24 percent;
Callable capital, 24 percent;
International Development Association, 25 percent;
International Finance Corporation, 23 percent.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 82 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 94 is as follows: Page 30, line 19, strike out all after line 19 over to and including line 6 on page 23.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 94 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

"SEC. 608. None of the funds appropriated or made available pursuant to this Act for direct foreign assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar or competing commodity."

The motion was agreed to.

The SPEAKER. The Clerk will designate the last amendment in disagreement.

Senate amendment No. 96 is as follows: Page 31, after line 20, insert:

SEC. 609. The President shall initiate wide international consultations beginning with the member nations of the Organization of Economic Cooperation and Development (OECD), designed to develop a viable standard governing the allocation of development assistance for the production and export of commodities. Such consultations shall relate to commodities which are in surplus in the world market and if produced for export would cause substantial harm to producers of the same, similar or competing products. Not later than one year after the enactment of this Act the President shall report to the President of the Senate, the Speaker of the House of Representatives, and the Chairmen of the House and Senate Appropriations Committees on the progress made in carrying out this section.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 96 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert "610".

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

GENERAL LEAVE

Mr. LONG of Maryland. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to and also on the amendments in disagreement and the motions just agreed to.

Mr. Speaker, I also ask unanimous consent that I may be permitted to include certain extraneous matter and tables.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate insists upon its amendment to the bill (H.R. 11209) entitled "An act to provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12929) entitled "An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes."

And, that the Senate agreed to the amendments of the House to the amendments of the Senate numbered 9, 15, 16, 23, 24, 25, 29, 31, 32, 33, 38, 39, 42, 44, 57, 72, 80, and 92 to the above-entitled bill.

And, that the Senate recedes from its amendment numbered 103 to the bill with an amendment.

CONFERENCE REPORT ON S. 1487 ELIMINATING RACKETEERING IN SALE AND DISTRIBUTION OF CIGARETTES

Mr. RODINO submitted the following conference report and statement on the Senate bill (S. 1487) to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 95-1778)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1487) to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

That title 18, United States Code, is amended by inserting after chapter 113 the following new chapter:

"Chapter 114—TRAFFICKING IN CONTRABAND CIGARETTES

"Sec.
"2341. Definitions.
"2342. Unlawful acts.
"2343. Recordkeeping and inspection.
"2344. Penalties.
"2345. Effect on State law.
"2346. Enforcement and regulations.

"§ 2341. Definitions

"As used in this chapter—

"(1) the term 'cigarette' means—

"(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and

"(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A);

"(2) the term 'contraband cigarettes' means a quantity in excess of 60,000 cigarettes, which bear no evidence of the payment of applicable State cigarette taxes in the State where such cigarettes are found, if such State requires a stamp, impression, or other indication to be placed on packages or other containers of cigarettes to evidence payment of cigarette taxes, and which are in the possession of any person other than—

"(A) a person holding a permit issued pursuant to chapter 52 of the Internal Revenue Code of 1954 as a manufacturer of tobacco products or as an export warehouse proprietor, or a person operating a customs bonded warehouse pursuant to section 311 or 555 of the Tariff Act of 1930 (19 U.S.C. 1311 or 1555) or an agent of such person;

"(B) a common or contract carrier transporting the cigarettes involved under a proper bill of lading or freight bill which states the quantity, source, and destination of such cigarettes;

"(C) a person—

"(i) who is licensed or otherwise authorized by the State where the cigarettes are found to account for and pay cigarette taxes imposed by such State; and

"(ii) who has complied with the accounting and payment requirements relating to such license or authorization with respect to the cigarettes involved; or

"(D) an officer, employee, or other agent of the United States or a State, or any department, agency, or instrumentality of the United States or a State (including any political subdivision of a State) having possession of such cigarettes in connection with the performance of official duties;

"(3) the term 'common or contract carrier' means a carrier holding a certificate of convenience and necessity, a permit for contract carrier by motor vehicle, or other valid operating authority under the Interstate Commerce Act, or under equivalent operating authority from a regulatory agency of the United States or of any State;

"(4) the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands; and

"(5) the term 'Secretary' means the Secretary of the Treasury.

"§ 2342. Unlawful acts

"(a) It shall be unlawful for any person knowingly to ship, transport, receive, possess, sell, distribute, or purchase contraband cigarettes.

"(b) It shall be unlawful for any person knowingly to make any false statement or representation with respect to the information required by this chapter to be kept in the records of any person who ships, sells, or distributes any quantity of cigarettes in excess of 60,000 in a single transaction.

§ 2343. Recordkeeping and inspection

"(a) Any person who ships, sells, or distributes any quantity of cigarettes in excess of 60,000 in a single transaction shall maintain such information about the shipment, receipt, sale, and distribution of cigarettes as the Secretary may prescribe by rule or regulation. The Secretary may require such person to keep only—

"(1) the name, address, destination (including street address), vehicle license number, driver's license number, signature of the

person receiving such cigarettes, and the name of the purchaser;

"(2) a declaration of the specific purpose of the receipt (personal use, resale, or delivery to another); and

"(3) a declaration of the name and address of the recipient's principal in all cases when the recipient is acting as an agent.

To the extent that such information is contained in existing business records, no additional records shall be required by the Secretary. Nothing contained herein shall authorize the Secretary to require reporting under this section.

"(b) Upon the consent of any person who ships, sells, or distributes any quantity of cigarettes in excess of 60,000 in a single transaction or pursuant to a duly issued search warrant, the Secretary may enter the premises (including places of storage) of such person for the purpose of inspecting any records or information required to be maintained by such person under this chapter, and any cigarettes kept or stored by such person at such premises.

§ 2344. Penalties

"(a) Whoever knowingly violates section 2342(a) of this title shall be fined not more than $100,000 or imprisoned not more than five years, or both.

"(b) Whoever knowingly violates any rule or regulation promulgated under section 2343(a) or 2346 of this title or violates section 2342(b) of this title shall be fined not more than $5,000 or imprisoned not more than three years, or both.

"(c) Any contraband cigarettes involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of such Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

"§ 2345. Effect on State law

"(a) Nothing in this chapter shall be construed to affect the concurrent jurisdiction of a State to enact and enforce cigarette tax laws, to provide for the confiscation of cigarettes and other property seized for violation of such laws, and to provide for penalties for the violation of such laws.

"(b) Nothing in this chapter shall be construed to inhibit or otherwise affect any coordinated law enforcement effort by a number of States, through interstate compact or otherwise, to provide for the administration of State cigarette tax laws, to provide for the confiscation of cigarettes and other property seized in violation of such laws, and to establish cooperative programs for the administration of such laws.

"§ 2346. Enforcement and regulations

"The Secretary, subject to the provisions of section 2343(a) of this title, shall enforce the provisions of this chapter and may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter.".

SEC. 2. The table of chapters of part I of title 18, United States Code, is amended by inserting immediately below the item relating to chapter 113 the following:

"114. Trafficking in Contraband Cigarettes ---------- 2341."

SEC. 3. (a) Section 1(b) of the Act of August 9, 1939 (ch. 618, 53 Stat. 1291 (49 U.S.C. 781(b)), is amended—

(1) by striking out "or" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) Any cigarette, with respect to which there has been committed any violation of chapter 114 of title 18, United States Code, or any regulation issued pursuant thereto.".

(b) Section 7 of the Act of August 9, 1939 (ch. 618, 53 Stat. 1291 (49 U.S.C. 787)), is amended—

(1) by striking out "and" at the end of subsection (e);

(2) by striking out the period at the end of subsection (f) and inserting in lieu thereof "; and"; and

(3) by inserting after subsection (f) the following new subsection:

"(g) The term 'cigarettes' means 'contraband cigarettes' as now or hereafter defined in section 2341 of title 18, United States Code.".

(c) Section 1961(1)(B) of title 18, United States Code, is amended by inserting after "sections 2314 and 2315 (relating to interstate transportation of stolen property)," the following: "sections 2341–2346 (relating to trafficking in contraband cigarettes),".

SEC. 4. (a) Except as provided in subsection (b), this Act shall take effect on the date of its enactment.

(b) Sections 2342(b) and 2343 of title 18, United States Code, as enacted by the first section of this Act, shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act.

SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of chapter 114 of title 18, United States Code, added by the first section of this Act.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

JOHN CONYERS,
ELIZABETH HOLTZMAN,
ALLEN ERTEL,
LAMAR GUDGER,
HAROLD L. VOLKMER,
PETER RODINO,
TOM RAILSBACK,
JOHN ASHBROOK,
Managers on the Part of the House.

JAMES O. EASTLAND,
EDWARD KENNEDY,
JOE BIDEN,
STROM THURMOND,
ORRIN G. HATCH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1487) to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

(1) STATEMENT OF FINDINGS AND PURPOSE

The Senate bill contains a "Statement of Findings and Purpose".

The House amendment contains no comparable provision.

The conference substitute adopts the House version with the intent that since the Senate provision merely summarizes the legislative history giving rise to this Act, it serves no legislative purpose to restate it in the Act itself.

Nevertheless, the conferees acknowledge the accuracy of the statements contained in the "Statement of Findings and Purpose" of the Senate bill, to wit, the following:

(1) there is widespread traffic in cigarettes moving in or otherwise affecting interstate of foreign commerce, and that the States are not adequately able to stop the movement into their States and the sale of such cigarettes in violation of their tax laws through the exercise of their police power;

(2) there is a causal relationship between the flow of cigarettes into interstate commerce to be sold in violation of State laws and the rise of racketeering in the United States;

(3) a Federal role in the fight against cigarette smuggling will assist the States in their law enforcement efforts and will be undertaken with the recognition that primary enforcement responsibility remains with the individual States;

(4) certain records maintained by persons possessing, selling, distributing, carrying, transporting, purchasing, or receiving cigarettes could have a high degree of usefulness in criminal investigations.

(5) It is the purpose of this Act to provide a timely solution to a serious organized crime problem and to help provide law enforcement assistance to individual States.

With respect to any possible effect which the absence of a Statement of Findings and Purpose might have—particularly the absence of its mention of cigarette bootlegging moving in or otherwise affecting interstate or foreign commerce—the following letter from John C. Keeney, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice, was before the conferees:

DEPARTMENT OF JUSTICE,
Washington, D.C., October 2, 1978.

HON. JOHN CONYERS, JR.,
Chairman, Subcommittee on Crime, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN CONYERS: This is in response to your letter of September 18, 1978, requesting the formal views of this Department as to whether or not absence of specific mention of "interstate commerce" in H.R. 8853 renders it constitutionally defective.

We do not think the bill is constitutionally defective because of its failure to mention "interstate commerce" specifically. The interstate aspect of cigarette bootlegging is inherent in the activity. Congress' legislative efforts to make it a crime are premised on the interstate element: it is because of the interstate nature of the activity; and the inability of the States to control it, that the effort to legislate was undertaken. These factors are made clear, as you point out, by the legislative history of the bill. Therefore, the lack of a statement of findings and purposes relating to the interstate nature of bootlegging in this most recent version of the bill does not seem to us to be a defect. Most bills, after all, do not specifically set forth the findings of fact upon which they are based, and there is no requirement that they do so. *Perez* v. *United States*, 402 U.S. 146, 156 (1971).

Nor do we see a problem because the substantive provisions are not limited to interstate traffic in cigarettes. With respect to prospective criminal cases where an interstate element is shown, the bill is clearly constitutional. Should strictly intrastate activities become the subject of prosecution, we think any court would find, just as the Supreme Court did in *Perez, supra*, that the activities affect interstate commerce on the basis of the Congress' detailed findings as they appear in the legislative history of the legislation.

In *Perez*, the Court found that "[e]xtortionate credit transactions, though purely

intrastate, may in the judgment of Congress affect interstate commerce." *Id.* at 154. According to the Court, Congress may deliberately write a law encompassing "'more than the precise thing to be prevented'" if necessary to prevent an evil. Finally, as a practical matter, the incidence of cases involving purely intrastate activities should be rare since the Department has repeatedly declared its intention to prosecute only when organized crime is involved.

In our view, the only question here is whether cigarette bootlegging is a class of activities within the power of Congress to regulate. The answer to the question is unlikely to depend on whether Congress restricts the bill's substantive provisions to transactions involving interstate activities or whether it attaches formal findings as a preamble.

Please let me know if I can be of any further assistance.

Sincerely,

JOHN C. KEENEY,
Deputy Assistant Attorney General,
Criminal Division.

(2) DEFINITIONS

(A) *Definition of the term "contraband cigarettes"*

1. The Senate bill defines "contraband cigarettes" as a quantity of sixty thousand or more cigarettes, bearing no evidence of the payment of applicable State cigarette taxes in the State in which they are found.

The House amendment is similar but defines "contraband cigarettes" as a quantity in excess of 30,000 cigarettes.

The conference substitute adopts the House provision with a modification providing that "contraband cigarettes" means a quantity in excess of 60,000 cigarettes.[1]

2. The Senate bill excludes from the definition of "contraband cigarettes" those cigarettes in the possession of four specific classes of persons.

The House amendment similarly excludes from the definition of "contraband cigarettes" cigarettes in the possession of the same four classes of persons, except that (1) the exclusion for cigarettes in the possession of common or contract carriers only applies to those transporting cigarettes under a proper bill of lading or freight bill which states the quantity, source and destination of such cigarettes, and (2) the exclusion for cigarettes in the possession of persons licensed or otherwise authorized by the State where the cigarettes are found to account for and pay cigarette taxes imposed by such State only applies to those who have actually complied with the accounting and tax payment requirements relating to such license or authorization with respect to the cigarettes involved.

The conference substitute adopts the House provision with modifications.

[1] Some concern was expressed in the course of the conference that the definition of "contraband cigarettes" inadvertently extinguished rights of certain Indians and Indian tribes under current law to engage in the commercial sale of cigarettes within Indian country free of State taxation. The phrase "applicable State cigarette taxes" makes it clear that this legislation is not intended to affect transportation or sale by Indians or Indian tribes acting in accordance with legally established rights. The conferees do not intend that this bill address the current exemption from state taxation of cigarette sales on Indian reservations and nothing in this bill is intended to affect this or any other immunity from state tax held by any Indian or Indian tribe. Similarly, other commercial cigarette sales exempted by law from State taxation (for example, military post exchanges) are not affected by this legislation.

(3) UNLAWFUL ACTS

Section 1286 of the Senate bill makes it unlawful for any person knowingly to possess, sell, distribute, carry, transport, purchase, or receive contraband cigarettes. Section 1288(b) included an offense for knowingly making a false statement or representation with respect to information required by the Secretary to be kept in the records of a person.

The House amendment declares (a) It shall be unlawful to knowingly ship, transport, receive, possess, sell, distribute, or purchase contraband cigarettes. (b) It shall be unlawful to knowingly make any false statement or representation with respect to the information required to be kept in the records of a dealer.

The conference substitute adopts the House provision with modifications adding the phrase "whoever" to both subsections (a) and (b).

(B) *Definitions of "dealer" and "person"*

The Senate bill does not use or define the term "dealer". Coverage of the bill is directed at any "person", defined to include "any individual, corporation, company, association, firm, partnership, society, or joint stock company."

The House bill defines the term "dealer" to mean "any person who sells or distributes in any manner any quantity of cigarettes in excess of 30,000 in a single transaction". "Person" is not defined.

The conference substitute deletes the definition of "person" because "person" is defined in 1 U.S.C. 1 for all Acts of Congress. The term "dealer" is also not included in the conference substitute.

The term "dealer" was primarily used in the House bill to designate and limit those persons subject to the recordkeeping provisions. This can be effectively accomplished by selective use of the operative language in the definition of the prohibited conduct.

(C) *Definition of "common or contract carrier"*

The House bill provides a more detailed definition of "common or contract carrier" than the Senate version by explicitly including a carrier holding "a permit for contract carrier by motor vehicle, or other valid operating authority under the Interstate Commerce Act".

The conference substitute adopts the House provision.

(D) *Definition of "State"*

The Senate bill defines "State" to include "Puerto Rico, or a territory or possession of the United States".

The House provision substitutes "the Commonwealth of Puerto Rico, or the Virgin Islands" for this language.

The conference substitute adopts the House provisions as more accurately delineating the practical scope of this legislation.

(4) ENFORCEMENT, REGULATIONS, RECORDKEEPING, REPORTING AND INSPECTION

The Senate bill contained the following language in Sec. 1287:

"§ 1287. Enforcement and regulations

"The Secretary shall enforce the provisions of this chapter and may prescribe such rules and regulations which are reasonably necessary to carry out the provisions of this chapter:

Provided, however, That nothing contained in this chapter shall be interpreted as authorizing the Secretary to require persons who sell, distribute, transport or purchase cigarettes in the ordinary course of business to maintain records of such activities or to report such activities to the Secretary; except that the Secretary may require that any person involved in any transaction of a quantity of sixty thousand or more cigarettes shall note, on existing business records kept in the ordinary course of business, the identity and destination of the person receiving such cigarettes.

The House amendment contained essentially the same language as the first sentence of Sec. 1287 in Sec. 2346. The House amendment also contained Sec. 2343, which read as follows:

"§ 2343. Recordkeeping, reporting, and inspection

"Each dealer shall—

"(1) maintain such records of shipment, receipt, sale, and other distribution of cigarettes; and

"(2) submit to the Secretary such reports and information with respect to such records;

in such form and manner as the Secretary shall by regulation prescribe. Upon the consent of any dealer, or pursuant to a duly issued search warrant, the Secretary may enter the premises (including places of storage) of such dealer for the purpose of inspecting any records or documents required to be maintained by such dealer under this chapter, and any cigarettes kept or stored by such dealer at such premises.

The conference substitute adopts the following language:

"(a) Any person who ships, sells, or distributes any quantity of cigarettes in excess of 60,000 in a single transaction shall maintain such information about the shipment, receipt, sale, and distribution of cigarettes as the Secretary may prescribe by rule or regulation. The Secretary may require such person to keep only—

"(1) the name, address, destination (including street address), vehicle license number, driver's license number, signature of the person receiving such cigarettes, and the name of the purchaser;

"(2) a declaration of the specific purpose of the receipt (personal use, resale, or delivery to another); and

"(3) a declaration of the name and address of the recipient's principal in all cases when the recipient is acting as an agent.

To the extent that such information is contained in existing business records, no additional records shall be required by the Secretary. Nothing contained herein shall authorize the Secretary to require reporting under this section.

The intent of the conferees in arriving at the language of section 2343(a) is to recognize the necessity of balancing two important concerns: that those responsible for the investigation and prosecution of organized crime cases in this area have the necessary information to achieve this result, and that those required to keep records not be unduly burdened by unnecessary excessive recordkeeping requirements. For this latter reason, the conferees also deleted all reporting requirements. It is the understanding of the conferees that nothing in this Act is intended to authorize the Secretary to require any reports. This is clarified by the statutory language in section 2346 which expressly makes that general section subject to section 2343(a).

(5) PENALTIES

The Senate bill (a) establishes a fine of not more than $100,000 or imprisonment for not more than five years, or both for a person who knowingly possesses, sells, distributes, carries, transports, purchases or receives contraband cigarettes, and (b) establishes a fine of $5,000 or imprisonment for not more than three years, or both, for a person who knowingly violates any rules or regulations promulgated under section 1287 (Enforcement and regulations) or who knowingly makes any false statement or representation with respect to the information required by the Secretary to be kept in the records of a person.

The House amendment establishes a fine of not more than $10,000 or imprisonment

for not more than two years, or both, for whoever violates any provision of this chapter or regulations promulgated thereunder.

The conference substitute adopts the Senate provision, with the modification that (a) a person who knowingly violates section 2342(a) shall be subject to a fine of not more than $100,000 or imprisonment for not more than five years, or both and (b) a person who knowingly violates any rules or regulations promulgated under section 2343 or section 2342(b) of this chapter shall be fined not more than $5,000 or imprisonment for not more than three years, or both.

It is noted that section 2342(b) as adopted by the conference is the false statement offense which was deemed more appropriately located in the "unlawful acts" section as provided in the original House version.

(6) EFFECT ON STATE LAW

The Senate bill states that nothing in this chapter shall be construed to inhibit or otherwise affect any coordinated law enforcement effort by a number of States, through interstate compact or otherwise, to provide for the administration of State cigarette tax laws, to provide for the confiscation of cigarettes and other property seized in violation of such laws and to establish cooperative programs for the administration of such laws.

The House amendment contains no comparable provision.

The conference substitute adopts the Senate provision.

(7) TREASURY DEPARTMENT STUDY

The Senate bill authorizes the Secretary of the Treasury to carry out a study with a view to recommending to the Congress a program pursuant to which the several States would be encouraged to adopt and administer comprehensive laws establishing reasonable cigarette taxes and effective criminal provisions providing penalties for trafficking in contraband cigarettes in order to eliminate or control such trafficking. The Senate bill also states that such a study shall include recommendations relating to the types and amounts of federal assistance, including technical and financial, which should be provided under any such program.

The House amendment contains no comparable provision.

The conference substitute adopts the House provision, in recognition of the fact that the conference substitute already states that the concurrent jurisdiction of the states to enact and enforce cigarette tax laws is undisturbed and that nothing in this chapter shall inhibit any coordinated law enforcement effort by a number of States, through interstate compacts or otherwise, to provide for the establishment of cooperative programs for the administration of such laws.

The conferees had before them a study conducted for the Subcommitee on Crime of the House Committee on the Judiciary by the Congressional Research Service of the Library of Congress which found that the relevant statutes of several of the States most severely affected by cigarette bootlegging were extremely lax in that many are merely misdemeanor statutes calling for relatively mild fines or prison terms. The conferees also recognize that State law enforcement efforts, particularly in those States most severely affected by cigarette bootlegging, must be significantly improved and that enactment of this legislation is not to be interpreted as a signal to the States to lessen their efforts in this regard. The major responsibility for enforcing State cigarette tax laws is now and must continue to be the burden of the States. The proposed legislation is designed to supplement current efforts by the States to combat cigarette bootlegging, not to supplant them. States are encouraged to upgrade their capabilities in this regard, both in terms of increased resources and stronger State cigarette bootlegging statutes, which presumably can be appropriately supported by increased saving of tax dollars through effective law enforcement.

(8) AUTHORIZATION

The Senate bill authorizes to be appropriated for the fiscal year beginning October 1, 1978, such sums as may be necessary to carry out the provisions of this Act. The House amendment has no comparable provision.

The conference substitute adopts the Senate version, but deletes the phrase "for the fiscal year begining October 1, 1978".

JOHN CONYERS,
ELIZABETH HOLTZMAN,
ALLEN ERTEL,
LAMAR GUDGER,
HAROLD L. VOLKMER,
PETER RODINO,
TOM RAILSBACK,
JOHN ASHBROOK,
Managers on the Part of the House.

JAMES O. EASTLAND,
EDWARD KENNEDY,
JOE BIDEN,
STROM THURMOND,
ORRIN G. HATCH,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 2493, AIR TRANSPORTATION REGULATORY REFORM ACT OF 1978

Mr. JOHNSON of California submitted the following conference report and statement on the Senate bill (S. 2493) to amend the Federal Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 95-1779)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2493) to amend the Federal Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Airline Deregulation Act of 1978".

DEFINITIONS

SEC. 2. (a) Section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301) is amended—

(1) by inserting after paragraph (13) the following new paragraphs:

"(14) 'Charter air carrier' means an air carrier holding a certificate of public convenience and necessity authorizing it to engage in charter air transportation.

"(15) 'Charter air transportation' means charter trips, including inclusive tour charter trips, in air transportation, rendered pursuant to authority conferred under this Act under regulations prescribed by the Board.";

(2) by inserting after paragraph (32) the following new paragraph:

"(33) 'Predatory' means any practice which would constitute a violation of the antitrust laws as set forth in the first section of the Clayton Act (15 U.S.C. 12).";

(3) by inserting after paragraph (35) the following new paragraph:

"(36) 'State agency' means that department, agency, officer, or other entity of a State government which has been designated according to State law as—

"(A) the recipient of any notice required under title IV of this Act to be given to a State agency; or

"(B) the representative of the State in any matter about which the Board is required, under such title IV, to consult with or consider the views of a State agency."; and

(4) by striking out paragraphs (36) and (37).

(b) Section 101 of such Act is amended by renumbering the paragraphs of such section, including all references thereto, as paragraphs (1) through (41), respectively.

DECLARATION OF POLICY

SEC. 3. (a) Section 102(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(a)) is amended to read as follows:

"FACTORS FOR INTERSTATE AND OVERSEAS AIR TRANSPORTATION

"SEC. 102. (a) In the exercise and performance of its powers and duties under this Act with respect to interstate and overseas air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The assignment and maintenance of safety as the highest priority in air commerce, and prior to the authorization of new air transportation services, full evaluation of the recommendations of the Secretary of Transportation on the safety implications of such new services and full evaluation of any report or recommendation submitted under section 107 of this Act.

"(2) The prevention of any deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public.

"(3) The availability of a variety of adequate, economic, efficient, and low-price services by air carriers without unjust discriminations, undue preferences or advantages, or unfair or deceptive practices, the need to improve relations among, and coordinate transportation by, air carriers, and the need to encourage fair wages and equitable working conditions.

"(4) The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital.

"(5) The development and maintenance of a sound regulatory environment which is responsive to the needs of the public and in which decisions are reached promptly in order to facilitate adaption of the air transportation system to the present and future needs of the domestic and foreign commerce of the United States, the Postal Service, and the national defense.

"(6) The encouragement of air service at major urban areas through secondary or satellite airports, where consistent with regional airport plans of regional and local authorities, and when such encouragement is endorsed by appropriate State entities encouraging such service by air carriers whose sole responsibility in any specific market is to provide service exclusively at the secondary or satellite airport, and fostering an environment which reasonably enables such

carriers to establish themselves and to develop their secondary or satellite airport services.

"(7) The prevention of unfair, deceptive, predatory, or anticompetitive practices in air transportation, and the avoidance of—

"(A) unreasonable industry concentration, excessive market domination, and monopoly power; and

"(B) other conditions;

that would tend to allow one or more air carriers unreasonably to increase prices, reduce services, or exclude competition in air transportation.

"(8) The maintenance of a comprehensive and convenient system of continuous scheduled airline service for small communities and for isolated areas, with direct Federal assistance where appropriate.

"(9) The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services.

"(10) The encouragement of entry into air transportation markets by new air carriers, the encouragement of entry into additional air transportation markets by existing air carriers, and the continued strengthening of small air carriers so as to assure a more effective, competitive airline industry.".

(b) Section 102 of such Act is amended by adding at the end thereof the following new subsection:

"FACTORS FOR FOREIGN AIR TRANSPORTATION

"(c) In the exercise and performance of its powers and duties under this Act with respect to foreign air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The encouragement and development of an air transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

"(2) The regulation of air transportation in such manner as to recognize and preserve the inherent advantage of, assure the highest degree of safety in, and foster sound economic conditions in, such transportation, and to improve the relations between and coordinate transportation by air carriers.

"(3) The promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices.

"(4) Competition to the extent necessary to assure the sound development of an air transportation system property adopted to the needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

"(5) The promotion of safety in air commerce.

"(6) The promotion, encouragement, and development of civil aeronautics.".

(c) That portion of the table of content contained in the first section of such Act which appears under the side hearing

"Sec. 102. Declaration of Policy: The Board."

is amend by striking out

"(a) General factors for consideration.

"(b) Factors for all-cargo air service."

and inserting in lieu thereof

"(a) Factors for interstate and overseas air transportation.

"(b) Factors for all-cargo air service.

"(c) Factors for foreign air transportation.".

FEDERAL PREEMPTION

SEC. 4. (a) Title I of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is amended by adding at the end thereof the following new section:

"FEDERAL PREEMPTION

"PREEMPTION

"SEC. 105. (a) (1) Except as provided in paragraph (2) of this subsection, no State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to rates, routes, or services of any air carrier having authority under title IV of this Act to provide interstate air transportation.

"(2) Except with respect to air transportation (other than charter air transportation) provided pursuant to a certificate issued by the Board under section 401 of this Act, the provisions of paragraph (1) of this subsection shall not apply to any transportation by air of persons, property, or mail conducted wholly within the State of Alaska.

"PROPRIETARY POWERS AND RIGHTS

"(b) (1) Nothing in subsection (a) of this section shall be construed to limit the authority of any State or politcal subdivision thereof or any interstate agency or other political agency of two or more States as the owner or operator of an airport served by any air carrier certificated by the Board to exercise its proprietary powers and rights.

"(2) Any aircraft operated between points in the same State (other than the State of Hawaii) which in the course of such operation crosses a boundary between two States, or between the United States and any other country, or between a State and the beginning of the territorial waters of the United States, shall not, by reason of crossing such boundary, be considered to be operating in interstate or overseas air transportation.

"EXISTING STATE AUTHORITY

"(c) When any intrastate air carrier which on August 1, 1977, was operating primarily in intrastate air transportation regulated by a State receives the authority to provide interstate air transportation, any authority received from such State shall be considered to be part of its authority to provide air transportation received from the Board under title IV of this Act, until modified, suspended, amended, or terminated as provided under such title.

"DEFINITION

"(d) For purposes of this section, the term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and any territory or possession of the United States.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE I—GENERAL PROVISIONS"

is amended by adding at the end thereof

"Sec. 105. Federal preemption.

"(a) Preemption.

"(b) Proprietary powers and rights.

"(c) Existing State authority.

"(d) Definition.".

REPORT ON SUBSIDY COST-SHARING, STUDY OF LEVEL OF AIR SAFETY, AND REPORT ON AIR CARRIER MARKETING OF TOURS

SEC. 5. (a) Title I of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is further amended by adding at the end thereof the following new sections:

"REPORT ON SUBSIDY COST-SHARING

"SEC. 106. Not later than January 1, 1980, the Board and the Secretary of Transportation, shall, separately or jointly, submit a comprehensive report to the Congress on the feasibility and appropriateness of devising formulas by which States and their political subdivisions could share part of the costs being incurred by the United States under sections 406 and 419 of this Act. Such report shall include any recommendations of the Board and the Secretary for the implementation of such cost-sharing formulas.

"SAFETY STUDY

"POLICY

"SEC. 107. (a) The Congress intends that the implementation of the Airline Deregulation Act of 1978 result in no diminution of the high standard of safety in air transportation attained in the United States at the time of the enactment of such Act.

"REPORT

"(b) Not later than January 31, 1980, and each January 31 thereafter, the Secretary of Transportation shall prepare and submit to the Congress and the Board a comprehensive annual report on the extent to which the implementation of the Airline Deregulation Act of 1978 has affected, during the preceding calendar year, or will affect, in the succeeding calendar year, the level of air safety. Each such report shall, at a minimum, contain an analysis of each of the following:

"(1) All relevant data on accidents and incidents occurring during the calendar year covered by such report in air transportation and on violations of safety regulations issued by the Secretary of Transportation occurring during such calendar year.

"(2) Current and anticipated personnel requirements of the Administrator with respect to enforcement of air safety regulations.

"(3) Effects on current levels of air safety of charges or proposals for changes in air carrier operating practices and procedures which occurred during the calendar year covered by such report.

"(4) The adequacy of air safety regulations taking into consideration changes in air carrier operating practices and procedures which occurred during the calendar year by such report.

Based on such report, the Secretary shall take those steps necessary to ensure that the high standard of safety in air transportation referred to in subsection (a) of this section is maintained in all aspects of air transportation in the United States.

"RECOMMENDATIONS

"(c) Not later than January 31, 1980, and each January 31 thereafter, the Secretary of Transportation shall submit to the Congress and the Board recommendations with respect to the level of surveillance necessary to enforce air safety regulations and the level of staffing necessary to carry out such surveillance. The Secretary of Transportation's recommendations shall include proposals for any legislation needed to implement such recommendations.

"REGULATIONS AND INSPECTION PROCEDURES

"(d) Not later than July 1, 1979, the Secretary of Transportation shall complete a thorough review, and submit a report thereon to the appropriate authorizing committees of the Congress and to the Administrator, of the safety regulations and inspection procedures applicable to each class of air carriers subject to the provisions of title IV of this Act, in order to ensure that all classes of air carriers are providing the highest possible level of safe, reliable air transportation to all the communities served by those air carriers. Based on such review, the Administrator shall promulgate such safety regulations and establish such inspection procedures as the Administrator deems necessary to maintain the highest standard of safe reliable air transportation in the United States.

"REPORT ON AIR CARRIER MARKETING OF TOURS

"Sec. 108. Not later than May 1, 1979, the Board shall prepare and submit a report to the Congress which sets forth the recommendations of the Board on whether this Act and regulations of the Board should be amended to permit air carriers to sell tours directly to the public and to acquire control of persons authorized to sell tours to the public. The report shall evaluate the effects on the following groups of allowing air carriers to sell tours:

"(1) The traveling public.

"(2) The independent tour operator industry.

"(3) The travel agent industry.

"(4) The different classes of air carriers.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading.

"TITLE I—GENERAL PROVISIONS"

is amended by adding at the end thereof:

"Sec. 106. Report on subsidy cost-sharing.

"Sec. 107. Safety study.

"(a) Policy.

"(b) Report.

"(c) Recommendations.

"(d) Regulations and inspection procedure.

"Sec. 108. Report on air carrier marketing of tours.".

APPLICATION FOR CERTIFICATE

SEC. 6. Section 401(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(b)) is amended—

(1) by striking out "and shall be so verified"; and

(2) by inserting ", and upon any community affected" immedately before the period.

ROUTE APPLICATIONS

SEC. 7. (a) Section 401(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(c)) is amended to read as follows:

"ROUTE APPLICATIONS

"(c)(1) Upon the filing of any application pursuant to subsection (b) of this section, the Board shall give due notice thereof to the public by posting a notice of such application in the office of the secretary of the Board and to such other persons as the Board may by regulation determine. The Board shall—

"(A) set such application for a public hearing;

"(B) begin to make a determination with respect to such application under the simplified procedures established by the Board in regulations pursuant to subsection (p); or

"(C) dismiss such application on the merits;

not later than ninety days after the date the application is filed with the Board. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of the certificate requested by such application. Any order of dismissal of an application issued by the Board without setting such application for a hearing or beginning to make a determination with respect to such application under such simplified procedures, shall be deemed a final order subject to judicial review in accordance with the provisions of section 1006 of this Act.

"(2) If the Board determines that any application should be set for a public hearing under clause (A) of the second sentence of paragraph (1) of this subsection, an initial or recommended decision shall be issued not later than one hundred and fifty days after the date of such determination by the Board. Not later than ninety days after the initial or recommended decision is issued, the Board shall make its final order with respect to such application. If the Board does not act within such ninety-day period—

"(A) in the case of an application for a certificate to engage in interstate or overseas air transportation, the initial or recommended decision shall become the final decision of the Board and shall be subject to judicial review in accordance with the provisions of section 1006 of this Act; and

"(B) in the case of an application for a certificate to engage in foreign air transportation, the initial or recommended decision shall be transmitted to the President pursuant to section 801 of this Act.

"(3) Not later than the one-hundred-eightieth day after the Board begins to make a determination with respect to an application under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section, the Board shall issue its final order with respect to such application.

"(4) If an applicant fails to meet the procedural schedule adopted by the Board in a particular proceeding, the applicable period prescribed in paragraph (2)(3) of this subsection may be extended by the Board for a period equal to the period of delay caused by the applicant. In addition to any extension authorized by the preceding sentence, in extraordinary circumstances, the Board may, by order delay an initial or recommended decision for not to exceed thirty days beyond the final date on which the decision is required to be made.".

(b) The amendments made by subsection (a) of this section shall apply to any application filed under section 401(b) of the Federal Aviation Act of 1958 on or after the one-hundred-eightieth day after the date of enactment of this Act.

(c) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 401. Certificate of public convenience and necessity."

is amended by striking out

"Sec. 401. C

"(c) Notice of application."

and inserting in lieu thereof

"(c) Route applications.".

ISSUANCE OF CERTIFICATE

SEC. 8. Paragraphs (1), (2), and (3) of section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)(1)–(3)) are amended to read as follows:

"(d)(1) The Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the applicant is fit, willing, and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation—

"(A) in the case of interstate or overseas air transportation, is consistent with the public convenience and necessity; and

"(B) in the case of foreign air transportation, is required by the public convenience and necessity;

otherwise such application shall be denied.

"(2) In the case of an application for a certificate to engage in temporary air transportation, the Board may issue a certificate authorizing the whole or any part thereof for such limited periods—

"(A) in the case of an application for interstate or overseas air transportation, as is consistent with the public convenience and necessity; and

"(B) in the case of an application for foreign air transportation, as may be required by the public convenience and necessity;

if it finds that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

"(3) In the case of an application for a certificate to engage in charter air transportation, the Board may issue a certificate to any applicant, not holding a certificate under paragraph (1) or (2) of this subsection on January 1, 1977, authorizing interstate air transportation of persons, which authorizes the whole or any part thereof—

"(A) in the case of an application for interstate or overseas air transportation, for such periods, as is consistent with the public convenience and necessity; and

"(B) in the case of an application for foreign air transportation, for such periods, as may be required by the public convenience and necessity;

if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.".

THROUGH SERVICE AND JOINT FARES

SEC. 9. Paragraph (4) of section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)(4)) is amended to read as follows:

"(4)(A) Notwithstanding any other provision of this Act, any citizen of the United States who undertakes, within any State, the carriage of persons or property as a common carrier for compensation or hire with aircraft capable of carrying thirty or more persons pursuant to authority for such carriage within such State granted by the appropriate State agency is authorized—

"(i) to establish services for persons and property which includes transportation by such citizen over its routes in such State and transportation by an air carrier or a foreign air carrier in air transportation; and

"(ii) subject to the requirements of section 412 of this title, to enter into an agreement with any air carrier or foreign air carrier for the establishment of joint fares, rates, or services for such through services.

"(B) The joint fares or rates established under clause (ii) of subparagraph (A) of this paragraph shall be the lowest of—

"(i) the sum of the applicable fare or rate for service in the State approved by the appropriate State agency, and the applicable fare or rate for that part of the through service provided by the air carrier or foreign air carrier;

"(ii) a joint fare or rate established and filed in accordance with section 403 of this Act; or

"(iii) a joint fare or rate established by the Board in accordance with section 1002 of this Act.".

UNUSED AUTHORITY

SEC. 10. (a) Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) Except as provided in subparagraphs (B) and (G)(i) of this paragraph; if an air carrier is authorized by its certificate to provide round trip service nonstop each way between any two points in the forty-eight contiguous States or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week for at least thirteen weeks during any twenty-six-week period (other than such a period during which service was interrupted by a labor dispute which lasted more than six weeks) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a manimum of five round trips per week, has been provided between such points for at least thirteen weeks during such twenty-six-week period, pursuant to published flight schedules, by no more than one other air carrier, then the Board shall issue a certificate to the first applicant who, within thirty days after the last day of such twenty-six-week period, submits an application

which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(B) Except as provided in subparagraph (G)(ii) of this paragraph, if an air carrier is authorized to provide seasonal round trip service nonstop each way between any two points in the forty-eight contiguous States in interstate air transportation or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week during half of the weeks during such season (other than such a season during which service was interrupted by a labor dispute which lasted more than 25 per centum of such season) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least half of the weeks during such season, pursuant to published flight schedules, by no more than one other air carrier, then the Board shall issue a certificate to the first applicant who, within thirty days after the last day of such season, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(C) With respect to any application which is submitted pursuant to subparagraph (A) or (B) of this paragraph, except as provided in subparagraph (G), the Board shall issue a final order granting such certificate within fifteen days of the date of such application.

"(D) Except as provided in subparagraphs (E) and (G)(i) of this paragraph, if an air carrier is authorized by its certificate to provide round trip service nonstop each way between any two points in the forty-eight contiguous States or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week for at least thirteen weeks during any twenty-six-week period (other than such a period during which service was interrupted by a labor dispute which lasted more than six weeks) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least thirteen weeks during such twenty-six-week period, pursuant to published flight schedules, by two or more other air carriers, then the Board, subject to subparagraph (F) of this paragraph, shall issue a certificate to the first applicant who, within thirty days after the last day of such twenty-six-week period, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(E) Except as provided in subparagraph (G)(ii) of this paragraph, if an air carrier is authorized to provide seasonal round trip service nonstop each way between any two points in the forty-eight contiguous States in interstate air transportation or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week during half of the weeks during such season (other than such a season during which service was interrupted by a labor dispute which lasted more than 25 per centum of such season) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least half of the weeks during such season, pursuant to published flight schedules, by two or more other air carriers, then the Board, subject to subparagraph (F) of this paragraph, shall issue a certificate to the first applicant who, within thirty days after the last day of such season, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(F)(i) Except as provided in subparagraph (G) of this paragraph, with respect to any application which is submitted pursuant to subparagraph (D) or (E) of this paragraph, the Board shall issue a final order granting such certificate within sixty days of the date of such application, unless the Board finds that the issuance of such certificate is inconsistent with the public convenience and necessity. Prior to issuing such final order, the Board shall afford adequate notice and opportunity for interested persons to file appropriate written evidence and argument, but the Board need not hold oral evidentiary hearings.

"(ii) For purposes of clause (i) of this subparagraph, there shall be a rebuttable presumption that any transportation covered by an application for a certificate submitted pursuant to subparagraph (D) or (E) of this paragraph is consistent with the public convenience and necessity.

"(G)(i) If, after the failure of any air carrier to provide the minimum level of service between any pair of points for the period of time specified in subparagraph (A) or (D) of this paragraph and before the Board receives an application from any applicant for a certificate under such subparagraph to provide air transportation between such points, the Board receives notice from such air carrier that it intends to commence service within thirty days of such notice and to provide a minimum of five round trips per week for thirteen consecutive weeks between such points, the Board receives notice from received notice from such air carrier with respect to such points, the Board shall not approve such application for a certificate to provide service between such points during such thirteen-week period based upon such failure, unless such air carrier fails to provide such service during such thirteen-week period.

"(ii) If, after the failure of any air carrier to provide the minimum level of service between any pair of points for the period of time specified in subparagraph (B) or (E) of this paragraph and before the Board receives an application from any applicant for a certificate under such subparagraph to provide air transportation between such points, the Board receives notice from such air carrier that it intends to commence service within fifteen days of the first day of the next season and to provide a minimum of five round trips per week for the first half of such season between such points and the Board has not previously received notice from such air carrier with respect to such points, the Board shall not approve such application for a certificate to provide service between such points, the Board receives notice from such based upon such failure, unless such air carrier fails to provide such service during the first half of such period.

"(H)(i) Whenever the Board issues a certificate pursuant to subparagraph (A) or (D) of this paragraph, the air carrier receiving such certificate shall commence service pursuant to such certificate within forty-five days of such issuance. If such air carrier fails to commence service within such period, the Board shall revoke such certificate.

"(ii) Whenever the Board issues a certificate pursuant to subparagraph (B) or (E) of this paragraph to provide seasonal service, the air carrier receiving such certificate shall commence service pursuant to such certificate within fifteen days after the beginning of the first such season which begins on or after the date of such issuance. If such air carrier fails to commence service within such period, the Board shall revoke such certificate.

"(I) Not more than one certificate shall be issued under this paragraph for round trip nonstop service between two points in interstate air transportation based upon the failure of the same air carrier to provide such service between such points.

"(J) Whenever the Board issues a certificate pursuant to subparagraph (A) of this paragraph based upon the failure of any air carrier to provide the round trip service described in such subparagraph, the Board shall suspend the authority of such air carrier to provide such service, and suspend the authority of any other air carrier which failed to provide such service during the same twenty-six-week period, for twenty-six weeks after the date of the issuance of such certificate pursuant to subparagraph (A), or until such time within such twenty-six weeks as the air carrier to which a certificate is issued under such subparagraph fails to provide such service at a minimum of five round trips per week for at least thirteen weeks, whichever first occurs, except that the Board shall not suspend the authority of such air carriers under this subparagraph if the Board finds that such suspension is not necessary to encourage continued service between such points by the air carrier which received a certificate under subparagraph (A).".

(b) Section 401(f) of such Act is amended by striking out "hereinafter provided" and inserting in lieu thereof "provided in this section".

FILL-UP RIGHTS

SEC. 11. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(6) Any air carrier holding a valid certificate to engage in foreign air transportation is authorized, on any scheduled flight in foreign air transportation, to transport persons, property, and mail between points in the United States between which it is authorized to operate during such flight. The authority described in the preceding sentence shall be limited to one round-trip flight per day between any such pair of points, unless the Board authorizes more than one round-trip flight per day between any such pair of points."

AUTOMATIC MARKET ENTRY PROGRAM

SEC. 12. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(7)(A) After the first business day of each of the calendar years 1979, 1980, and 1981 and before the thirtieth day of such calendar year—

"(i) any air carrier which (I) has operated during the preceding calendar year in accordance with a certificate issued by the Board under this section which has been in force during such entire preceding calendar year, and (II) has provided air transportation of persons during such calendar year; and

"(ii) any intrastate air carrier which has a valid certificate or license issued by a State

regulatory authority to engage in intrastate air transportation and which has operated more than one hundred million available seat-miles in intrastate air transportation in the preceding calendar year;

may apply to the Board for a certificate under this subparagraph to engage in nonstop service between any one pair of points in interstate or overseas air transportation (other than a pair of points either point of which is in the State of Hawaii) in addition to any pair of points authorized by any existing certificate or license held by such air carrier or intrastate air carrier, except that no air carrier may apply to engage in nonstop service between such pair of points if any air carrier has filed written notice to the Board pursuant to subparagraph (C) of this paragraph with respect to such pair of points. Not later than the sixtieth day after the date on which the Board receives an application from an applicant under this subparagraph, the Board shall issue a certificate to such applicant for the nonstop service specified in such application, unless within such sixty-day period the Board determines that the applicant is not fit, willing, and able to provide such nonstop service and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board issued under this Act.

"(B) Not later than the one-hundred-twentieth day of calendar year 1979, 1980, or 1981, any air carrier which submitted an application to the Board in accordance with subparagraph (A) of this paragraph in such calendar year and—

"(i) which did not receive a certificate to provide service between the pair of points set forth in the application because of a determination by the Board under such subparagraph (A); or

"(ii) which received a certificate to provide service between such pair of points, but was not the only air carrier to receive a certificate under such subparagraph (A) during such calendar year to provide nonstop service between such pair of points;

may reapply to the Board for a certificate to engage in nonstop service between any one pair of points in interstate or overseas air transportation (other than the pair of points specified in the first application submitted to the Board by such air carrier in such calendar year and other than a pair of points either point of which is in the State of Hawaii) in addition to any pair of points authorized by any existing certificate or license held by such air carrier or intrastate air carrier, except that no air carrier may apply to engage in nonstop service between such pair of points if any air carrier has filed written notice to the Board pursuant to subparagraph (C) of this paragraph with respect to such pair of points. Not later than the sixtieth day after the date on which the Board receives an application under this subparagraph, the Board shall issue a certificate to the applicant for such nonstop service, unless within such sixty-day period the Board makes a determination with respect to the issuance of such certificate in accordance with the second sentence of subparagraph (A) of this paragraph. If the Board issues a certificate to an applicant under this subparagraph, it shall revoke any authority in any certificate which it granted to such applicant in the same calendar year under subparagraph (A) of this paragraph.

"(C)(i) Subject to clause (ii) of this subparagraph, any air carrier which is authorized pursuant to paragraph (1) or (2) of this subsection to engage in nonstop service between any pair of points in interstate or overseas air transportation on the first business day of calendar year 1979, 1980, or 1981 and which wants to preclude any other air carrier from obtaining authority under subparagraph (A) or (B) of this paragraph to engage in nonstop service between such pair of points during such calendar year may, on such day, file written notice to the Board which sets forth such pair of points. Upon receipt of any written notice under the preceding sentence, the Board shall make such notice available to the public.

"(ii) No air carrier may file a written notice under clause (i) of this subparagraph during any calendar year with respect to more than one pair of points in interstate or overseas air transportation.

"(D)(i) The Board shall, on an emergency basis, by rule, modify the program established by this paragraph, if the Board finds that—

"(I) the operation of such program is causing substantial public harm to the national air transportation system, or a substantial reduction in air service to small and medium sized communities in any region of the country;

"(II) the modification proposed by the Board is required by the public convenience and necessity in order to alleviate such harm or reduction; and

"(III) such harm or reduction identified by the Board cannot be rectified by any reasonably available means other than the modification proposed by the Board.

Any emergency modification proposed by the Board under this subparagraph shall modify such program only to the minimum extent necessary to rectify the harm or reduction identified by the Board. Any emergency modification of such program may be limited to any pair of points.

"(ii) The findings of fact by the Board in any proceeding held pursuant to this subparagraph, if supported by substantial evidence, shall be conclusive. No objection to a modification of the program proposed by the Board under this subparagraph shall be considered by a court unless such objection shall have been submitted to the Board, or if it was not so submitted, unless there were reasonable grounds for failure to do so.

"(E) The Board shall conduct a study of the procedure for certification of air carriers and intrastate air carriers set forth in subparagraphs (A) and (B) of this paragraph to evaluate—

"(i) whether such procedure is consistent with the criteria set forth in section 102 of this Act; and

"(ii) the relative effectiveness of such procedure as compared with other procedures for certification set forth in this Act, including but not limited to, the procedures set forth in paragraphs (5) and (6) of this subsection and in subsection (p) of this section.

Not later than December 31, 1980, the Board shall complete such study and report the results of such study to the Congress.".

EXPERIMENTAL CERTIFICATES

SEC. 13. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(8) The Board may grant an application under subsection (d) (1), (2), or (3) of this section (whether the application be for permanent or temporary authority) for only a temporary period of time whenever the Board determines that a test period is desirable in order to determine if projected services, efficiencies, methods, rates, fares, charges, or other projected results will in fact materialize and remain for a sustained period of time, or to assess the impact of the new services on the national air route structure, or otherwise to evaluate the proposed new services. In any case where the Board has issued a certificate under any one of such subsections on the basis that the air carrier holding such certificate will provide innovative or low-priced air transportation under such certificate, the Board, upon petition, or its own motion, may review the performance of such air carrier, and may alter, amend, modify, suspend, or revoke such certificate or authority in accordance with the procedures prescribed in section 401(g) of this title, on the grounds that such air carrier has not provided, or is not providing, such air transportation.".

DETERMINATIONS FOR ISSUANCE OF CERTIFICATES

SEC. 14. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(9)(A) In any determination as to whether or not any applicant is fit, willing, and able to perform properly the air transportation specified in the application for a certificate described in paragraph (1)(A), (2)(A), or (3)(A) of this subsection and to conform to the provisions of this Act, the applicant shall have the burden of showing that it is so fit, willing, and able.

"(B) In any determination as to whether the air transportation specified in any application for a certificate described in paragraph (1)(A), (2)(A), or (3)(A) of this subsection is or is not consistent with the public convenience and necessity, an opponent of the application shall have the burden of showing that such air transportation is not consistent with the public convenience and necessity.

"(C) Transportation covered by any application for a certificate described in paragraph (1)(A), (2)(A), or (3)(A) of this subsection shall, for the purposes of such paragraphs, be deemed to be consistent with the public convenience and necessity, unless the Board finds based upon a preponderance of the evidence that such transportation is not consistent with the public convenience and necessity.".

TERMS AND CONDITIONS OF CERTIFICATE

SEC. 15. (a) Paragraph (3) of section 401(e) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(e)(3)) is amended by striking out "supplemental air transportation" and inserting in lieu thereof "foreign charter air transportation".

(b) Paragraph (4) of section 401(e) of such Act is amended by striking out the semicolon and all that follows down through the period and inserting in lieu thereof a period.

(c) Paragraph (6) of section 401(e) of such Act is amended by striking out "supplemental air carrier" and inserting in lieu thereof "charter air carrier".

REMOVAL OF RESTRICTIONS

SEC. 16. Section 401(e) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(e)) is further amended by adding at the end thereof the following new paragraph:

"(7)(A) On and after the date of enactment of this paragraph, the Board shall not attach a closed-door restriction to any certificate issued under this section. Any closed-door restriction attached to any certificate issued before such date shall, on and after such date, have no force or effect. This subparagraph shall not apply to (i) a closed-door restriction applicable to air transportation between two points both of which are in the State of Hawaii, or (ii) a closed-door restriction in effect on such date which resulted from a sale, exchange, or transfer by any air carrier of its authority to provide air transportation to another air carrier.

"(B) Upon application of any air carrier seeking removal or modification of a term, condition, or limitation attached to a certificate issued under this section to engage in interstate, overseas, or foreign air transportation, the Board shall, within sixty day after the filing of such application, set such application for oral evidentiary hearings on the record or begin to consider such application under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section for purposes of eliminating or modifying any such term, condition, or limitation which it finds is inconsistent with the criteria set forth in section 102 of this Act. Applications under this

paragraph shall not be subject to dismissal pursuant to section 401(c)(1) of this Act.

"(C) For purposes of this paragraph, the term 'closed-door restriction' means any condition attached to a certificate to provide interstate or overseas air transportation issued to any air carrier under this section which prohibits such air carrier from providing local passenger service between any pair of points between which it is authorize to operate pursuant to such certificate.".

EFFECTIVE DATE AND DURATION OF CERTIFICATE

SEC. 17. Section 401(f) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(f) is amended by striking out "ceased:" and all that follows down through the period and inserting in lieu thereof "ceased.".

AUTHORITY TO MODIFY, SUSPEND, OR REVOKE

SEC. 18. The first sentence of section 401(g) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(g)) is amended by inserting "or pursuant to the simplified procedures under subsection (p) of this section" after "notice and hearings".

TERMINATIONS, REDUCTIONS, AND SUSPENSIONS OF SERVICE

SEC. 19. (a) Section 401(j) of the Federal Aviation Act of 1958 is amended to read as follows:

"TERMINATIONS, REDUCTIONS, AND SUSPENSIONS OF SERVICE

"(j)(1) No air carrier holding a certificate issued under this section shall—

"(A) terminate or suspend all air transportation which it is providing to a point under such certificate; or

"(B) reduce any such air transportation below that which the Board has determined to be essential air transportation for such point;

unless such air carrier has first given the Board, any community affected, and the State agency of the State in which such community is located, at least 90 days notice of its intent to so terminate, suspend, or reduce such air transportation. The Board may, by regulation or otherwise, authorize such temporary suspension of service as may be in public interest.

"(2) If an air carrier holding a certificate issued pursuant to section 401 of this Act proposes to terminate or suspend nonstop or single-plane air transportation between two points being provided by such air carrier under such certificate, and such air carrier is the only air carrier certificated pursuant to such section 401 providing nonstop or single-plane air transportation between such points, at least sixty days before such proposed termination or suspension, such air carrier shall file with the Board and serve upon each community to be directly affected notice of such termination or suspension.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the side heading.

"Sec. 401. Certificate of public convenience and necessity."

is amended by striking out "(j) Application for abandonment." and inserting in lieu thereof "(j) Terminations, reductions, and suspensions of service.".

ADDITIONAL POWERS AND DUTIES OF BOARD WITH RESPECT TO CHARTER AIR CARRIERS

SEC. 20. (a) The center heading for section 401(n) of the Federal Aviation Act of 1958 is amended by striking out "SUPPLEMENTAL" and inserting in lieu thereof "CHARTER".

(b) Paragraphs (1) through (4) of section 401(n) of such Act are amended to read as follows:

"(n)(1) No air carrier providing air transportation under a certificate issued under this section shall commingle, on the same flight, passengers being transported in interstate or overseas charter air transportation with passengers being transported in scheduled interstate or overseas air transportation, except that this subsection shall not apply to the carriage of passengers in air transportation under group fare tariffs.

"(2) No rule, regulation, or order issued by the Board shall restrict the marketability, flexibility, accessibility, or variety of charter trips provided under a certificate issued under this section except to the extent required by the public interest, and shall in no event be more restrictive than those regulations regarding charter air transportation in effect on October 1, 1978.

"(3) Notwithstanding any other provision of this title, no certificate issued under this section shall authorize the holder thereof to provide charter air transportation between two points within the State of Alaska unless, and then only to the extent to which, the Board, in issuing or amending such certificate, may authorize after determining that such charter air transportation is required by the public convenience and necessity. This subsection shall not apply to a certificate issued under this section to a person who, before July 1, 1977, maintained its principal place of business within the State of Alaska and conducted air transport operations between points within the State of Alaska with aircraft having a certificated gross takeoff weight of more than 40,000 pounds.

"(4) No certificate issued under this section shall permit a charter air carrier to sell or offer for sale an inclusive tour in air transportation by selling or offering for sale individual tickets directly to members of the general public, or to do so indirectly by controlling, being controlled by, or under common control with, a person authorized by the Board to make such sales.".

(c) Paragraph (5) of section 401(n) of such Act is amended—

(1) in the first sentence, by striking out "a supplemental air carrier to comply with the provisions of paragraph (1), (3), or (4) of this subsection" and inserting in lieu thereof "a charter air carrier to comply with the provisions of subsection (q) or (r) of this section"; and

(2) in the last sentence, by striking out "paragraphs (1), (3), and (4) of this subsection" and inserting in lieu thereof "subsections (q) and (r) of this section".

(d)(1) Section 401 of such Act is amended by adding at the end thereof the following new subsections:

"INSURANCE AND LIABILITY

"(q)(1) No certificate shall be issued or remain in effect unless the applicant for such certificate or the air carrier, as the case may be, complies with regulations or orders issued by the Board governing the filing and approval of policies of insurance or plans for self-insurance in the amount prescribed by the Board which are conditioned to pay, within the amount of such insurance, amounts for which such applicant or such air carrier may become liable for bodily injuries to or the death of any person, or for loss or damage to property of others, resulting from the operation or maintenance of aircraft under such certificate.

"(2) In order to protect travelers and shippers by aircraft operated by certificated air carriers, the Board may require any such air carrier to file a performance bond or equivalent security arrangement, in such amount and upon such terms as the Board shall prescribe, to be conditioned upon such air carrier's making appropriate compensation to such travelers and shippers, as prescribed by the Board, for failure on the part of such carrier to perform air transportation services in accordance with agreements therefor.

"CONTINUING REQUIREMENT

"(r) The requirement that each applicant for any other authority under this title must be found to be fit, willing, and able to perform properly the transportation covered by its application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board under this Act, shall be a continuing requirement applicable to each such air carrier with respect to the transportation authorized by the Board. The Board shall by order, entered after notice and hearing, modify, suspend, or revoke such certificate or other authority, in whole or in part, for failure of such air carrier to comply with the continuing requirement that the air carrier be so fit, willing, and able, or for failure to file such reports as the Board may deem necessary to determine whether such air carrier is so fit, willing, and able.".

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 401. Certificates of public convenience and necessity."

is amended—

(A) by striking out

"(n) Additional powers and duties of Board with respect to supplemental air carriers."

and inserting in lieu thereof

"(n) Additional powers and duties of Board with respect to charter air carriers.";

and

(B) by adding at the end thereof

"(q) Insurance and liability.

"(r) continuing requirement.".

PROCEDURES FOR PROCESSING APPLICATIONS

SEC. 21. (a)(1) Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) is amended by adding at the end thereof the following new subsection:

"'PROCEDURES FOR PROCESSING APPLICATIONS FOR CERTIFICATES

"(p)(1) The Board shall promulgate rules establishing simplified procedures for—

"(A) the disposition of applications for a certificate to engage in air transportation pursuant to subsection (d)(1), (2), or (3) of this section; and

"(B) the alteration, amendment, modification, suspension, or transfer of all or any part of any certificate pursuant to subsection (f), (g), or (h) of this section.

Such rules shall provide for adequate notice and an opportunity for any interested person to file appropriate written evidence and argument, but need not provide for oral evidentiary hearings. Such rules may provide that such written evidence and argument shall be filed by such person as part of a protest or memorandum filed with respect to such application under subsection (c) of this section.

"(2) The Board may use such simplified procedures in any case if the Board determines that the use of such simplified procedures is in the public interest. The rules adopted by the Board pursuant to this subsection shall, to the extent the Board finds it practicable, set forth the standards it intends to apply in determining whether to employ such simplified procedures, and in deciding cases in which such procedures are employed.".

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 401. Certificate of public convenience and necessity."

is amended by inserting at the end thereof

"(p) Procedures for processing applications for certificates.".

(b)(1) Section 402 of the Federal Aviation Act of 1958 (49 U.S.C. 1372) is amended by adding at the end thereof the following new subsection:

"PROCEDURES FOR PROCESSING APPLICATIONS FOR PERMITS

"(h) The Board shall promulgate rules establishing simplified procedures for—

"(1) the disposition of applications for a permit to engage in foreign air transportation pursuant to this section; and

"(2) the alteration, amendment, modification, suspension, or transfer of all or any part of any permit pursuant to subsection (f) of this section.

Such rules shall provide for adequate notice and an opportunity for all interested persons to file appropriate written evidence and argument, but need not provide for oral evidentiary hearings.".

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec'tion 402. Permits to foreign air carriers."

is amended by inserting at the end thereof

"(h) Procedures for processing applications for permits.".

NOTICE OF TARIFF CHANGES

SEC. 22. Section 403(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(c)) is amended to read as follows:

"NOTICE OF TARIFF CHANGES

"(c)(1) Except as provided in paragraph (2) of this subsection, no change shall be made in any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, specified in any effective tariff of any air carrier until thirty days after notice of the proposed change has been filed, posted, and published in accordance with subsection (a) of this section, except the Board may establish an alternative notice requirement, of not less than twenty-five days, to allow an air carrier to match the fares or charges specified in another air carrier's proposed tariff. Any notice specified under this subsection shall plainly state the change proposed to be made and the time such change will take effect.

"(2) If the effect of any proposed tariff change would be to institute a fare that is outside of the applicable range of fares specified in subparagraphs (A) and (B) of section 1002(d)(4) of this Act, or specified by the Board under section 1002(d)7) of this Act, or would be to institute a fare to which such range of fares does not apply, then such proposed change shall not be implemented except after sixty days' notice filed in accordance with regulations prescribed by the Board.

"(3) In exercising its power to suspend tariffs under sections 1002(g) and 1002(j) of this Act, the Board shall file and deliver a statement in writing of its reasons for such suspension, as required under section 1002 (g), at least thirty days before the date on which the affected tariff would otherwise go into effect.".

RATES OF CARRIAGE FOR PERSONS AND PROPERTY

SEC. 23. Section 404(a)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1374(a)(1)) is amended by inserting "authorized to engage in scheduled air transportation by certificate or by exemption under section 416 (b)(3) of this title" immediately before the first semicolon.

MAIL AND COMPENSATION

SEC. 24. (a)(1) Clause (3) of the second sentence of section 406(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1376(b)) is amended to read as follows: "(3) the need of each such air carrier (other than a charter air carrier) for compensation for the transportation of mail sufficient to insure the performance of such service, and—

"(A) during the period beginning on the date of enactment of this clause and ending on January 1, 1983, both dates inclusive, together with all other revenue of the air carrier from the service for which the compensation is being paid; and

"(B) after January 1, 1983, together with all other revenue of the air carrier;

to enable such air carrier under honest, economical, and efficient management, to provide (except for modifications with respect to an individual point determined after January 1, 1983, to be required by the public interest, after giving interested parties an opportunity for an evidentiary hearing with respect to air transportation for such individual point) air transportation of at least the same extent, character, and quality as that provided during the year ending December 31, 1977, to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the Postal Service, and the national defense.".

(2) Section 406(b) of the Federal Aviation Act of 1958 is amended by inserting after the second sentence the following new sentences: "Notwithstanding any other provision of this section, rates of compensation paid to any carrier under this section for service performed between the date of enactment of this sentence and January 1, 1983, shall be based on the subsidy need of such carrier with respect to service performed to points for which such carrier was entitled to receive compensation for serving during calendar year 1977. In the case of any local service carrier, such subsidy need shall be based on the adjusted eligible need of such carrier determined in a manner consistent with the provisions of Local Service Class Subsidy Rate VIII, with technical adjustments, and in the case of any other carrier receiving compensation during the twelve months ended June 30, 1978, such subsidy need shall be determined pursuant to the method in effect during the twelve months ended June 30, 1978. Any air carrier receiving compensation from the Board pursuant to this section which, before January 1, 1986, terminates service to a point for which such compensation is paid shall not, if such service is resumed by such air carrier, be eligible for compensation from the Board under this section for such service. Nothing in this subsection shall be construed as prohibiting any air carrier specified in the preceding sentence from applying for and receiving compensation for such service under section 419 of this title.".

(b) Subsection (c) of such section 406 (49 U.S.C. 1376(c)) is amended by adding at the end thereof the following new sentence: "The Board shall make no payments under this section for any services performed after January 1, 1986.".

LOCAL SERVICE AIR CARRIER COMPENSATION

SEC. 25. (a) The last sentence of section 406(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1376(b)) is amended as follows:

(1) By striking out "the year 1966" and inserting in lieu thereof "the years 1964, 1965, and 1966".

(2) By striking out "Rate III–A" and inserting in lieu thereof "Rates III and III–A".

(3) By striking out "order E–23850 (44 CAB 637 et seq.)" and inserting in lieu thereof "orders E–21311 and E–23850 (41 CAB 138 et seq. and 44 CAB 637 et seq.)".

(b) Section 12(b) of Public Law 95–163, Ninety-fifth Congress, approved November 9, 1977, is amended by striking out "the year 1966" and inserting in lieu thereof "the year 1974, 1965, or 1966".

MERGERS AND CONTORL

SEC. 26. (a) Section 408 of the Federal Aviation Act of 1958 (49 U.S.C. 1378) is amended as follows:

(1) Subsection (a) of such section 408 (49 U.S.C. 1378(a)) is amended to read as follows:

"ACTS PROHIBITED

"SEC. 408. (a) Except as provided in subsection (b) of this section, it shall be unlawful—

"(1) for two or more air carriers, or for any air carrier and any other common carrier or any person substantially engaged in the business of aeronautics, to consolidate or merge their properties, or a substantial portion thereof, into one person for the ownership, management, or operation of the properties previously in separate ownerships;

"(2) for any air carrier, any person controlling an air carrier, any other common carrier, or any person substantially engaged in the business of aeronautics, to purchase, lease, or contract to operate all or a substantial portion of the properties of any air carrier;

"(3) for any air carrier or person controlling an air carrier to purchase, lease, or contract to operate all or a substantial portion of the properties of any person substantially engaged in the business of aeronautics otherwise than as an air carrier;

"(4) for any foreign air carrier or person controlling a foreign air carrier to acquire control in any manner whatsoever of any citizen of the United States substantially engaged in the business of aeronautics;

"(5) for any air carrier or person controlling an air carrier, any other common carrier, or any person substantially engaged in the business of aeronautics to acquire control of any air carrier in any manner whatsoever;

"(6) for any air carrier or person controlling a certificated air carrier to acquire control, in any manner whatsoever, of any person substantially engaged in the business of areonautics other than as an air carrier; or

"(7) for any person to continue to maintain any relationship established in violation of any of the foregoing paragraphs of this subsection.".

(2) Subsection (b) of such section 408 (49 U.S.C. 1378 (b)) is amended to read as follows:

"POWER OF BOARD

"(b)(1) In any case in which one or more of the parties to a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section is an air carrier holding a valid certificate issued by the Board under section 401(d) of this section to engage in interstate or overseas air transportation, a foreign air carrier, or a person controlling, controlled by, or under common control with, such an air carrier or a foreign air carrier, the person seeking approval of such transaction shall present an application to the Board, and, at the same time, a copy to the Attorney General and the Secretary of Transportation, and thereupon the Board shall notify the persons involved in the transaction and other persons known to have a substantial interest in the proceeding, of the manner in which the Board will proceed in disposing of such application. Unless, after a hearing, the Board finds that the transaction will not be consistent with the public interest or that the conditions of this section will not be fulfilled, it shall, by order, approve such transaction, upon such terms and conditions as it shall find to be just and reasonable and with such modifications as it may prescribe, except the Board shall not approve such transaction—

"(A) if it would result in a monopoly or would be in furtherance of any combination or conspiracy to monopilize or to attempt to monopolize the business of air transportation in any region of the United States; or

"(B) the effect of which in any region of the United States may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are outweighed in the public interest by the probable effect of the transaction in meeting significant transportation conveniences and needs of the public, and unless it finds that such significant transportation conveniences and

needs may not be satisfied by a reasonably available alternative having materially less anticompetitive effects.

The party challenging the transaction shall bear the burden of proving the anticompetitive effects of such transaction, and the proponents of the transaction shall bear the burden of proving that it meets the significant transportation conveniences and needs of the public and that such conveniences and needs may not be satisfied by a less anticompetitive alternative.

"(2) In any case in which the Board determines that the transaction which is the subject of the application does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, and determines that neither the Attorney General, nor the Secretary, nor any other person disclosing a substantial interest in the transaction then currently is requesting a hearing, the Board, no sooner than 30 days after publication in the Federal Register of notice of the Board's intention to dispose of such application without a hearing (a copy of which notice shall be furnished by the Board to the Attorney General and the Secretary not later than the day following the date of such publication), may determine that the public interest does not require a hearing and, in accordance with the standards set forth in subparagraphs (A) and (B) of paragraph (1) of this subsection, by order, approve or disapprove such transaction.

"(3)(A) In any case in which none of the parties to a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section, is an air carrier holding a valid certificate issued by the Board under section 401(d) of this title to engage in interstate or overseas air transportation, a foreign air carrier, or a person controlling, controlled by, or under common control with, such an air carrier or a foreign air carrier, any person seeking approval of such transaction shall file with the Board not later than the forty-fifth day before the effective date of such transaction, a statement of its intent to enter into any of the prohibited acts set forth in subsection (a) of this section. The Board may, within forty-five days after the date of such filing, require such person to file an application for approval pursuant to the requirements of paragraph (1) of this subsection if it finds either that the proposed transaction may monopolize, tend to monopolize, or otherwise restrain competition in air transportation in any section of the country or that the person may not be fit, willing, and able to properly perform the transportation authorized by any license which is a part of such transaction and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board issued pursuant to this Act. Subject to subparagraph (B) of this paragraph, if the Board fails to require such person to file an application pursuant to such paragraph (1) within such forty-five days, the proposed transaction shall not be subject to subsection (a) of this section.

"(B) If the Board determines that any transaction is not subject to subsection (a) of this section as a result of the last sentence of subparagraph (A) of this paragraph and such transaction received such statutory exemption due to any fraud, misrepresentation, or omission of relevant and material facts, the Board may, pursuant to rules which it is authorized to prescribe, make such transaction subject to subsection (a) of this section.".

(b) Section 408(c) of such Act is amended by inserting "any person controlling such air carrier," after "air carrier," the first place it appears in such subsection.

INTERLOCKS

SEC. 27. (a) Section 409 of the Federal Aviation Act of 1958 (49 U.S.C. 1379) is amended by striking out the center heading of such section and the center heading for subsection (a) of such section and inserting in lieu thereof the following section center heading:

"INTERLOCKING RELATIONSHIPS".

(b) Section 409 of the Federal Aviation Act of 1958 is also amended by striking out "SEC. 409. (a)" and inserting in lieu thereof "SEC. 409.".

(c) Section 409 (as amended by subsections (a) and (b) of this section) is amended as follows:

(1) Paragraph (1), (2), and (3) are each amended by striking out "is engaged in any phase of" and inserting in lieu thereof "is substantially engaged in the business of".

(2) Paragraphs (4), (5), and (6) are each amended by striking out "engaged in any phase of" and inserting in lieu thereof "substantially engaged in the business of".

(d) Section 409(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1379(b)) is hereby repealed.

(e) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by striking out

"Sec. 409. Prohibited interests.
"(a) Interlocking relationships.
"(b) Profit from transfer of securities."

and inserting in lieu thereof

"Sec. 409. Interlocking relationships.".

AGREEMENTS

SEC. 28. (a) Section 412(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1382(a)) is amended—

(1) by inserting in the subsection center heading "AFFECTING FOREIGN AIR TRANSPORTATION" immediately after "AGREEMENTS"; and

(2) by inserting "foreign" immediately after "affecting".

(b) Section 412(b) of such Act is amended by inserting "affecting foreign air transportation" immediately after "agreement" each place it appears in such section.

(c) Section 412 of such Act is further amended by adding at the end thereof the following new subsections:

"FILING AND APPROVAL OF AGREEMENTS AFFECTING INTERSTATE OR OVERSEAS AIR TRANSPORTATION

"(c)(1) Any air carrier may file with the Board a true copy, or, if oral, a true and complete memorandum, of any contract or agreement (whether enforceable by provisions for liquidated damages, penalties, bonds, or otherwise), or a request for authority to discuss possible cooperative working arrangements, affecting interstate or overseas air transportation and in force on the effective date of this subsection, or thereafter entered into, or any modification or cancellation thereof, between such air carrier and any other air carrier, foreign air carrier, or other carrier.

"(2)(A) The Board shall by order disapprove any contract, agreement, or request filed pursuant to paragraph (1) of this subsection, or whether or not previously approved by it, that it finds to be adverse to the public interest or in violation of this Act, and shall by order approve any contract, agreement, or request, or any modification or cancellation thereof, that it does not find to be adverse to the public interest, or in violation of this Act, except that—

"(i) the Board may not approve or, after periodic review, continue its approval of any such contract, agreement, or request, or any modification or cancellation thereof, which substantially reduces or eliminates competition, unless it finds that the contract, agreement, or request is necessary to meet a serious transportation need or to secure important public benefits and it does not find that such need can be met or such benefits can be secured by reasonably available alternative means having materially less anticompetitive effects;

"(ii) the Board may not approve any contract or agreement between an air carrier not directly engaged in the operation of aircraft in air transportation and a common carrier subject to the Interstate Commerce Act, as amended, governing the compensation to be received by such common carrier for transportation services performed by *it;* and

"(iii) the Board may not approve any such contract or agreement, or any modification or cancellation thereof, that limits the level of capacity among air carriers in markets in which they compete, that fixes rates, fares, or charges between or among air carriers (except for joint rates, fares, or charges).

"(B) In any proceeding before the Board involving the application of the standards set forth in subparagraph (A)(i) of this paragraph, the party opposing the proposed contract, agreement, or request shall have the burden of proving the reduction or elimination of competition, and the availability of alternative means having less anticompetitive effects, and the party defending the proposed contract, agreement, or request shall have the burden of proving transportation need or public benefits.

"(C) The findings required by subparagraph (A)(i) of this paragraph, shall be included in any order of the Board approving or disapproving any contract or agreement, or any memorandum of any contract or agreement, or any modification or cancellation thereof, or any request.

"PROCEEDINGS UPON FILING

"(d) Upon the filing of any contract or agreement, or any modification or cancellation thereof, or any request for authority to discuss possible cooperative working arrangements, pursuant to subsection (a) or (c) of this section, the Board, in accordance with regulations which it prescribes, shall provide to the Attorney General and the Secretary of Transportation written notice of, and an opportunity to submit written comments on, the filed document. The Board may, upon its own initiative or if requested by the Attorney General or such Secretary, hold a hearing, in accordance with regulations prescribed by the Board, to determine if a contract or agreement, or request for discussion authority, whether or not previously approved, is consistent with the provisions of this Act.".

(d) That portion of the table of contents which appears under the side hearing

"Sec. 412. Pooling and other agreements."

is amended by striking out

"(a) Filing of agreements required.
"(b) Approval by Board."

and inserting in lieu thereof

"(a) Filing of agreements affecting foreign air transportation required.
"(b) Approval by Board.
"(c) Filing and approval of agreements affecting interstate or overseas air transportation.
"(d) Proceedings upon filing.".

MUTUAL AID AGREEMENTS

SEC. 29. (a) Section 412 of the Federal Aviation Act of 1958 (49 U.S.C. 1382) is amended by adding at the end thereof the following new subsection:

"MUTUAL AID AGREEMENTS

"(e)(1) Notwithstanding any other provision of law, any mutual aid agreement between air carriers which was approved by the Board before the date of enactment of this subsection and which is in effect on such date of enactment shall be deemed disapproved and not in effect on and after such date of enactment.

"(2) No air carrier shall enter into any

mutual aid agreement with any other air carrier, unless such air carrier files a true copy of such agreement with the Board and the Board approves such agreement pursuant to the provisions of this section. Notwithstanding subsection (c) of this section, the Board shall not approve any such agreement unless such agreement provides (A) that any air carrier will not receive payments for any period which exceed 60 per centum of the direct operating expenses during such period, (B) that benefits under the agreement are not payable for more than eight weeks during any labor strike, and that such benefits may not be for losses incurred during the first thirty days of any labor strike, and (C) that any party to such agreement will agree to submit the issues causing any labor strike to binding arbitration pursuant to the Railway Labor Act if the striking employees request such binding arbitration.

"(3) For purposes of this subsection, the term—

"(A) 'mutual aid agreement' means any contract or agreement between air carriers which provides that any such air carrier will receive payments from the other air carriers which are parties to such contract or agreement for any period during which such air carrier is not engaging in air transportation, or is providing reduced levels of service in air transportation, due to a labor strike; and

"(B) 'direct operating expenses' includes interest expenses but does not include depreciation or amortization expenses.".

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 412. Pooling and other agreements."

is amended by inserting at the end thereof

"(e) Mutual aid agreements.".

ANTITRUST EXEMPTION

SEC. 30. (a) Section 414 of the Federal Aviation Act of 1958 (49 U.S.C. 1384) is amended to read as follows:

"ANTITRUST EXEMPTION

"SEC. 414. In any order made under section 408, 409, or 412 of this Act, the Board may, as part of such order, exempt any person affected by such order from the operations of the 'antitrust laws' set forth in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12) to the extent necessary to enable such person to proceed with the transaction specifically approved by the Board in such order and those transactions necessarily contemplated by such order, except that the Board may not exempt such person unless it determines that such exemption is required in the public interest.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by striking out

"Sec. 414. Legal restraints."

and inserting in lieu thereof

"Sec. 414. Antitrust exemption.".

EXEMPTION AUTHORITY

SEC. 31. (a) Section 416(b)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1386 (b)(1)) is amended to read as follows:

"EXEMPTIONS

"(b)(1) Except as provided in paragraph (2) of this subsection, the Board, from time to time and to the extent necessary, may exempt from the requirements of this title or any provision thereof, or any rule, regulation, term, condition, or limitation prescribed thereunder, any person or class of persons if it finds that the exemption is consistent with the public interest.

(b) Section 416(b) of such Act is amended by adding at the end of thereof the following new paragraph:

"(3) The Board may by order relieve foreign air carriers who are not directly engaged in the operation of aircraft in foreign air transportation from the provisions of this Act to the extent and for such periods as such relief may be in the public interest.".

COMMUTER EXEMPTION

SEC. 32. Section 416(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1386(b)) is further amended by adding at the end thereof the following new paragraphs:

"(4) Subject to paragraph (5) of this subsection, any air carrier in air transportation which provides (A) passenger service solely with aircraft having a maximum passenger capacity of less than fifty-six passengers, or (B) cargo service in air transportation solely with aircraft having a maximum payload capacity of less than eighteen thousand pounds, shall be exempt from the requirements of subsection (a) of section 401 of this title, and of such other sections of this Act as may be prescribed in regulations promulgated by the Board, if such air carrier conforms to such liability insurance requirements and such other reasonable regulations as the Board shall from time to time adopt in the public interest. The Board may by regulation increase the passenger or property capacities specified in this paragraph when the public interest so requires.

"(5) The exemption from section 401 of this title or any other requirement of this Act shall not apply to any air transportation by any air carrier between points both of which are in the State of Alaska, or one of which is in the State of Alaska and the other in Canada, unless such air carrier also holds authority to provide such air transportation from the State of Alaska.

"(6) Any air carrier operating within the State of Alaska pursuant to the exemption from section 401 of this title shall not be subject to any limitation, promulgated by the Board, on the number or location of points to be served by such air carrier, or any limitation in the frequency of service by such air carrier to points within such State, unless the Board, after a hearing, finds that the operation of such air carrier substantially impairs the ability of a certificated air carrier to provide the service authorized by its certificate, including but not limited to, the minimum service requirement for such State specified in section 419(e)(2) of this title.".

SMALL COMMUNITY AIR SERVICE

SEC. 33. (a) Title IV of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new section.

"SMALL COMMUNITY AIR SERVICE

"GUARANTEED ESSENTIAL AIR TRANSPORTATION

"SEC. 419. (a)(1) For purposes of this subsection, the term 'eligible point' means any point in the United States to which, on the date of enactment of this section, any air carrier—

"(A) is providing service pursuant to a certificate issued to such carrier under section 401 of this title; or

"(B) is authorized pursuant to such certificate to provide such service, but such service is suspended on such date of enactment.

"(2)(A) With respect to each eligible point which on the date of enactment of this section is served by not more than one air carrier holding a certificate issued under section 401 of this title, not later than the last day of the one-year period beginning on such date of enactment, the Board, after considering the views of any interested community and the State agency of the State in which such community is located, shall determine what is essential air transportation for such point.

"(B) With respect to any eligible point which on the date of enactment of this section is served by more than one air carrier holding a certificate issued under section 401 of this title and which thereafter receives service by not more than one such air carrier, not later than the last day of the six-month period beginning on the date on which the Board receives notice that service to such point will be provided by not more than one such air carrier, the Board, after considering the views of any interested community and the State agency of the State in which such community is located, shall determine what is essential air transportation to such point.

"(C) The Board shall periodically review the determination of what is essential air transportation to each eligible point, and may, based upon such review and consultations with any interested community and the State agency of the State in which such community is located, make appropriate adjustments as to what is essential air transportation to such point.

(3) No air carrier shall terminate, suspend, or reduce air transportation to any eligible point below the level of essential air transportation established by the Board under paragraph (2) unless such air carrier—

"(A) if such air carrier—

"(i) holds a certificate issued under section 401 of this title, or

"(ii) does not hold such a certificate, but is receiving compensation pursuant to paragraph (5) of this subsection for service to such eligible point,

has given the Board, the appropriate State agency or agencies, and the communities affected at least ninety days notice prior to such termination, suspension, or reduction; and

"(B) if such air carrier does not hold such a certificate and is not receiving compensation pursuant to paragraph (5) of this subsection for service to such eligible point, has given the Board, the appropriate State agency or agencies, and the communities affected at least thirty days notice prior to such termination, suspension, or reduction.

"(4) Whenever the Board determines that essential air transportation will not be provided to any eligible point without compensation—

"(A) the Board shall provide notice that applications may be submitted by any air carrier which is willing to provide essential air transportation to such point for compensation under this subsection. In selecting an applicant to provide essential air transportation to such point for compensation the Board shall, among other factors, specifically consider—

"(i) the desirability of developing an integrated linear system of air transportation whenever such a system most adequately meets the air transportation needs of the communities involved;

"(ii) the experience of the applicant in providing scheduled air service in the vicinity of the communities for which essential air transportation is proposed to be provided; and

"(iii) notwithstanding the provisions of clause (ii), with respect to any eligible point in the State of Alaska, the experience of an applicant in providing scheduled air service, or significant patterns of nonscheduled air service pursuant to an exemption granted pursuant to section 416 of this title, in Alaska; and

"(B) the Board shall establish, in accordance with the guidelines promulgated under subsection (d) of this section, a rate of compensation to be paid for providing such essential air transportation.

"(5) The Board shall make payments of compensation under this subsection at times and in a manner determined by the Board to be appropriate. The Board shall continue to

pay compensation to any air carrier to provide essential air transportation to any eligible point only for so long as the Board determines it is necessary in order to maintain essential air transportation to such eligible point.

"(6) Notwithstanding section 401(j) of this title, if an air carrier has provided notice to the Board under paragraph (3) of such air carrier's intention to suspend, terminate, or reduce service to any eligible point below the level of essential air transportation to such point, and if at the conclusion of the applicable period of notice the Board has not been able to find another air carrier to provide essential air transportation to such point, the Board shall require the carrier which provided such notice to continue such service to such point for an additional 30-day period, or until another air carrier has begun to provide essential air transportation to such point, whichever first occurs. If at the end of such 30-day period the Board determines that no other air carrier can be secured to provide essential air transportation to such eligible point on a continuing basis, either with or without compensation, then the Board shall extend such requirement for such additional 30-day periods (making the same determination at the end of each such period) as may be necessary to continue air transportation to such eligible point until an air carrier can be secured to provide essential air transportation to such eligible point on a continuing basis.

"(7)(A) If any air carrier (i) which is providing air transportation to any eligible point, and (ii) which is receiving compensation under this subsection or under section 406 of this title for providing such air transportation to such point, is required by the Board to continue service to such point beyond the date on which such air carrier would, but for paragraph (6) of this subsection, be able to suspend, terminate, or reduce service to such point below the level of essential air transportation to such point, then after such date such air carrier shall continue to receive such compensation until the Board finds another air carrier to provide essential air transportation to such point.

"(B) If the Board requires an air carrier which holds a certificate issued under section 401 of this title and which is providing air transportation to any eligible point without compensation pursuant to paragraph (5) of this subsection or section 406 of this title to continue to provide essential air transportation to such point beyond the 90-day notice period after which, but for paragraph (6) of this subsection, such air carrier would be able to suspend, terminate, or reduce service to such point below essential air transportation for such point, then the Board shall compensate such air carrier for any losses that the air carrier incurs in complying with this subparagraph after the last day of such 90-day period, except that the Board shall not make any payments under this subparagraph, to any trunk air carrier for service to such point after the last day of the one-year period beginning on the date on which any payment is made to such air carrier under this subparagraph for service to such point.

"(C) If the Board requires an air carrier which does not hold a certificate issued under section 401 of this title, but which is providing air transportation to any eligible point without compensation pursuant to paragraph (5) of this subsection or section 406 of this title to continue to provide essential air transportation to such point beyond the 30-day notice period after which, but for paragraph (6) of this subsection, such air carrier would be able to suspend, terminate, or reduce service to such point below essential air transportation for such point, then the Board shall compensate such air carrier for any losses that such air carrier incurs in complying with this paragraph after the last day of such 30-day period.

"(9) During any period for which the Board requires any air carrier to continue providing air transportation to an eligible point which such air carrier has proposed to terminate, reduce, or suspend, the Board shall continue to make every effort to secure an air carrier to provide at least essential air transportation to such eligible point, on a continuing basis.

"(10) Unless the Board has determined what is essential air transportation for any eligible point pursuant to paragraph (2) of this subsection, the Board shall, upon petition of any appropriate representative of such point, prohibit any termination, suspension, or reduction of air transportation which reasonably appears to deprive such point of essential air transportation, until the Board has completed such determination.

"(11)(A) After January 1, 1983, any air carrier may file an application with the Board seeking to have any compensation provided under section 406 of this title to the air carrier then serving an eligible point terminated in order to allow the applicant air carrier to provide air transportation to that eligible point for compensation under this section. The Board shall grant such application, after notice and a hearing if requested by the air carrier receiving subsidy under section 406, taking into consideration the objectives specified in subparagraphs (A) (i) and (ii) of paragraph (5) of this subsection, if the applicant can show that termination of the compensation being paid under section 406, and that the provision of service by such applicant with compensation under this section, will result in a substantial—

"(i) improvement in the air service being provided such eligible point; and

"(ii) decrease in the amount of compensation that will be required to continue essential air transportation to such eligible point.

"(B) After January 1, 1983, any air carrier may file an application with the Board seeking to have the compensation provided under this section to the air carrier then serving an eligible point, and which has been serving such eligible point for at least two years preceding the date on which such application is filed, terminated in order to allow the applicant air carrier to provide essential air transportation to such eligible point for compensation under this section The Board shall grant such application, after notice and a hearing if requested by an air carrier receiving compensation under this section, taking into consideration the objectives specified in subparagraphs (A)(i) and (ii) of paragraph (4) of this subsection, if the applicant air carrier can show that termination of the compensation being provided to the air carrier then serving such eligible point, and the provision of essential air transportation for compensation under this section by the applicant air carrier will result in a substantial—

"(i) improvement in the air transportation being provided such eligible point with no increase in the amount of compensation then being paid; or

"(ii) decrease in the amount of compensation that will be required to continue essential air transportation to that eligible point.

"(C) In disposing of each application filed under this subsection, the Board shall, in addition to considering the objectives specified in subparagraphs (A)(i) and (ii) of paragraph (4), solicit and give great weight to the opinions of the communities affected by the proposed replacement of an air carrier under this subsection.

"OTHER AIR SERVICE

"(b)(1) For purposes of this subsection, the term 'eligible point' means—

"(A) any point in the United States which has been deleted from a certificate issued under section 401 of this title between July 1, 1968, and the date of enactment of this section, both dates inclusive, and which the Board designates pursuant to paragraph 2 of this subsection; and

"(B) any other point in the State of Alaska or Hawaii designated by the Board under paragraph 2 of this subsection.

"(2)(A) Not later than January 1, 1980, after considering the views of State agencies and other interested parties, the Board shall, by rule, establish objective criteria for designating points as eligible points. In establishing or modifying such criteria, the Board shall consider, among other factors, the level of traffic generated by the point concerned, its future traffic generating potential, the cost to the Federal Government of providing essential air transportation to such point, the alternative means of transportation available to the residents of such point for access to the national transportation system and its principal communities of interest, and the degree of isolation of such point from the national air transportation system. The Board may, from time to time, by rule, modify the criteria established by it under this subparagraph.

"(B) Not later than January 1, 1980, the Board shall begin to review each point described in paragraph (1)(A) of this subsection to determine whether such point shall be designated as an eligible under the criteria established under subparagraph (B) of this paragraph. The review and designation of each such point shall be completed before January 1, 1982.

"(C) On or after January 1, 1982, the Board, upon application by any interested party, may designate any point an eligible point under the criteria established under subparagraph (B) of this paragraph (1) if such point is in the State of Alaska or the State of Hawaii, and (ii) if such designation would not increase the total number of points receiving a subsidy under this section and section 406 of this title above the total number of points receiving a subsidy under such section 406 on July 1, 1968.

"(3) The designation of any point by the Board under paragraph (2) of this subsection as an eligible point may be withdrawn if the point no longer meets the criteria for designation as an eligible point.

"(4)(A) With respect to any point which the Board designates as an eligible point pursuant to paragraph (2) of this subsection, not later than the last day of the six-month period beginning on the date on which the Board makes such designation, the Board, after considering the views of any interested community and the State agency of the State in which such community is located, shall determine what is essential air transportation to such point.

"(B) The Board shall periodically review the determination of what is essential air transportation to each eligible point, and may, based upon such review and consultation with any interested community and any State agency of the State in which such community is located, make appropriate adjustments as to what is essential air transportation to such point.

"(5) Whenever the Board determines that essential air transportation will not be provided to any eligible point without compensation—

"(A) the Board shall provide notice that applications may be submitted by any air carrier which is willing to provide essential air transportation to such point for compensation under this subsection. In selecting an applicant to provide essential air transportation to such point for compensation, the Board shall, among other factors, specifically consider—

"(i) the desirability of developing an integrated linear system of air transportation whenever such a system most adequately

meets the air transportation needs of the communities involved;

"(ii) the experience of the applicant in providing scheduled air service in the vicinity of the communities for which essential air transportation is proposed to be provided; and

"(iii) notwithstanding the provisions of clause (ii), with respect to any eligible point in the State of Alaska, the experience of an applicant in providing scheduled air service, or significant patterns of nonscheduled air service pursuant to an exemption granted pursuant to section 416 of this title, in Alaska; and

"(B) the Board shall establish, in accordance with the guidelines promulgated under subsection (d) of this section, a rate of compensation to be paid for providing such essential air transportation.

"(6) The Board shall make payments of compensation under this subsection at times and in a manner determined by the Board to be appropriate. The Board shall continue to pay compensation to any air carrier to provide essential air transportation to any eligible point only for so long as the Board determines it is necessary in order to maintain essential air transportation to such eligible point.

"(7) Prior to terminating, suspending, or reducing essential air transportation to any eligible point, an air carrier—

"(A) if such air carrier—

"(i) holds a certificate under section 401 of this title, or

"(ii) does not hold such a certificate, but is receiving compensation pursuant to paragraph (6) of this subsection for service to such eligible point, shall give the Board, the appropriate State agency or agencies, and the communities affected at least ninety days notice prior to such termination, suspension, or reduction; and

"(B) if such air carrier does not hold such a certificate and is not receiving compensation pursuant to paragraph (6) of this subsection for service to such eligible point, shall give the Board, the appropriate State agency or agencies, and the communities affected such notice (not to exceed 30 days) as the Board shall by regulation prescribe.

"(8)(A) After January 1, 1983, any air carrier may file an application with the Board seeking to have the compensation provided under this subsection to the air carrier then serving an eligible point, and which has been serving such eligible point for at least 2 years preceding the date on which such application is filed, terminated in order to allow the applicant air carrier to provide essential air transportation to such eligible point for compensation under this subsection. The Board shall grant such application, after notice and a hearing if requested by an air carrier receiving compensation under this section, taking into consideration the objectives specified in subparagraphs (A)(i) and (ii) of paragraph (5) of this subsection, if the applicant can show that termination of the compensation being provided to the air carrier then serving such eligible point, and that the provision of essential air transportation for compensation under this subsection by the applicant, will result in a substantial—

"(i) improvement in the air transportation being provided such eligible point with no increase in the amount of compensation then being paid; or

"(ii) decrease in the amount of compensation that will be required to continue essential air transportation to that eligible point.

"(B) In disposing of each application filed under this paragraph, the Board shall, in addition to considering the objectives specified in subparagraphs (A) (i) and (ii) of paragraph (5), solicit and give great weight to the opinions of the communities affected by the proposed replacement of an air carrier under this subsection.

"LEVEL OF SAFETY

"(c)(1) For purposes of this subsection the term 'commuter air carrier' means an air carrier exempt from any requirement of this Act under section 416(b)(3) of this title.

"(2) Notwithstanding section 416(b) of this title, the Board shall not provide any compensation under this section to any commuter air carrier to provide service to any eligible point, and the Board shall prohibit any commuter air carrier from providing service to any eligible point, unless the Board determines that such commuter air carrier—

"(A) is fit, willing, and able to perform such service; and

"(B) that all aircraft which will be used to perform such service and all operations relating to such service will conform to the safety standards established by the Administrator under paragraph (3) of this subsection.

"(3) Not later than the one-hundred-eightieth day after the date of enactment of this paragraph, the Administrator, by regulation, shall establish safety standards (A) for aircraft being used by commuter air carriers to provide any service described in paragraph (2) of this subsection, and (B) for all operations relating to such service. Such safety standards shall become effective not later than the last day of the eighteenth month which begins after such date of enactment and shall impose requirements upon such commuter air carriers to assure that the level of safety provided to persons traveling on such commuter air carriers is, to the maximum feasible extent, equivalent to the level of safety provided to persons traveling on air carriers which provide service pursuant to certificates issued under section 401 of this title.

"GUIDELINES FOR COMPENSATION

"(d) The Board shall, by rule, establish guidelines to be used by the Board in computing the fair and reasonable amount of compensation required to insure the continuation of essential air transportation to any eligible point. Such guidelines shall include expense elements based upon representative costs of air carriers providing scheduled air transportation of persons, property, and mail, using aircraft of the type determined by the Board to be appropriate for providing essential air transportation to the eligible point.

"INSURANCE

"(e) No air carrier shall receive any compensation under this section unless such air carrier complies with regulations or orders issued by the Board governing the filing and approval of policies of insurance or plans for self-insurance in the amount prescribed by the Board which are conditioned to pay, within the amount of such insurance, amounts for which such air carrier may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others, resulting from the operation or maintenance of aircraft.

"DEFINITION

"(f) For purposes of this section, the term 'essential air transportation' means scheduled air transportation of persons to a point provided under such criteria as the Board determines satisfies the needs of the community concerned for air transportation to one or more communities of interest and insures access to the Nation's air transportation system, at rates, fares, and charges which are not unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial, and—

"(1) with respect to air transportation to any point (other than in the State of Alaska), in no case shall essential air transportation be specified as fewer than two daily round trips, 5 days per week, or the level of service provided by air carriers to such point based on the schedules of such air carriers in effect for calendar year 1977, whichever is less; and

"(2) with respect to air transportation to any point in Alaska, essential air transportation shall not be specified at a level of service less than that which existed for such point during calendar year 1976, or two round-trips per week, whichever is greater, unless otherwise specified under an agreement between the Board and the State agency of the State of Alaska, after consultation with the community affected.

"DURATION OF PROGRAM

"(g) This section shall cease to be in effect after the last day of the ten-year period which begins on the date of enactment of this section.".

(b) That portion of the table of contents which appears under the center heading.

"TITLE IV"—AIR CARRIER ECONOMIC REGULATION

is amended by adding at the end thereof

"SEC. 419. Small community air service.

"(a) Guaranteed essential air transportation.

"(b) Other air service.

"(c) Level of safety.

"(d) Guidelines for compensation.

"(e) Insurance.

"(f) Definitions.

"(g) Duration of program.".

PRESIDENTIAL REVIEW OF INTERNATIONAL ROUTE CASES

SEC. 34. Section 801(a) of the Federal Aviation Act of 1958 (48 U.S.C. 1461(a)) is amended to read as follows:

"THE PRESIDENT OF THE UNITED STATES

"SEC. 801. (a) The issuance, denial, transfer, amendment, cancellation, suspension, or revocation of, and the terms, conditions, and limitations contained in, any certificate authorizing an air carrier to engage in foreign air transportation, or any permit issuable to any foreign air carrier under section 402 of this Act, shall be presented to the President for review. The President shall have the right to disapprove any such Board action concerning such certificates or permits solely upon the basis of foreign relations or national defense considerations which are within the President's jurisdiction, but not upon the basis of economic or carrier selection considerations. Any such disapproval shall be issued in a public document, setting forth the reasons for the disapproval to the extent national security permits, within sixty days after submission of the Board's action to the President. Any such Board action so disapproved shall be null and void. Any such Board action not disapproved within the foregoing time limits shall take effect as action of the Board, not the President, and as such shall be subject to judicial review as provided in section 1006 of this Act.".

ASSESSMENT OF CIVIL PENALTIES

SEC. 35. (a) Paragraph (1) of subsection (a) of section 901 of the Federal Aviation Act of 1958 (49 U.S.C. 1471(a)(1)) is amended by inserting after the fourth sentence thereof the following new sentences: "The amount of any such civil penalty for any violation of any provision of title IV of this Act, or any rule, regulation, or order issued thereunder, or under section 1002(i) of this Act, or any term, condition, or limitation of any permit or certificate issued under title IV shall be assessed by the Board only after notice and an opportunity for a hearing and after written notice upon a finding of violation by the Board. Judicial review of any order of the Board assessing such a penalty may be obtained only pursuant to section 1006 of this Act.".

(b) Paragraph (2) of subsection (a) of such section 901 is amended to read as follows:

"(2) Any civil penalty may be compromised

by the Secretary of Transportation in the case of violations of title III, V, VI, or XII of this Act, or any rule, regulation, or order issued thereunder, or by the National Transportation Safety Board in the case of violations of title VII of this Act, or any rule, regulation, or order issued thereunder, or by the Postmaster General in the case of regulations issued by him. The amount of such penalty when finally determined, or fixed by order of the Board, or the amount agreed upon in compromise, may be deducted from any sums which the United States owes to the person charged.".

PROCEDURES FOR CIVIL PENALTIES

SEC. 36. (a) The first sentence of subsection (b)(1) of section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473(b)(1)) is amended by inserting "or assessed" immediately after "imposed".

(b) The second sentence of subsection (b)(1) of such section 903 is amended by inserting "with respect to proceedings involving penalties other than those assessed by the Board," immediately after "except that".

RATES

SEC. 37. (a) Subsection (d) of section 1002 of the Federal Aviation Act of 1958 (49 U.S.C. 1482(d)) is amended—

(1) in paragraph (1), by inserting "or (4)" immediately after "paragraph (2)"; and

(2) by adding at the end thereof the following new paragraphs:

"(4) The Board shall not have authority to find any fare for interstate or overseas air transportation of persons to be unjust or unreasonable on the basis that such fare is too low or too high if—

"(A) with respect to any proposed increase filed with the Board on or after July 1, 1979 (other than any proposed increase in any fare filed by any air carrier if such proposed fare is for air transportation between any pair of points and such air carrier provides air transportation to 70 per centum or more of the persons traveling in air transportation between such points, an aircraft operated by air carriers with certificates issued under section 401 of this Act), such proposed fare would not be more than 5 per centum higher than the standard industry fare level for the same or essentially similar class of service, except that, while no increase of any fare within the limits specified in this subparagraph may be suspended, an increase in such fare, above the standard industry fare level shall be found unlawful if that increase results in a fare which is unduly preferential, unduly prejudicial, or unjustly discriminatory; or

"(B) with respect to any proposed decrease filed after the date of enactment of this paragraph, the proposed fare would not be more than 50 per centum lower than the standard industry fare level for the same or essentially similar class of service, except that this provision shall not apply to any proposed decrease in any fare if the Board determines that such proposed fare would be predatory.

In determining whether any fare for air transportation of persons is unjust or unreasonable on the basis that it is too high, the Board shall take into consideration reasonably estimated of foreseeable future costs and revenues for a reasonably limited future period during which the fare at issue would be in effect.

"(5) In any Board proceeding under paragraph (1) of this subsection with respect to interstate or overseas air transportation of persons, the party opposing any fare or charge on the basis that it is too low shall have the burden of proving that the fare or charge is too low.

"(6)(A) For purposes of paragraph (4) of this section, 'standard industry fare level' means the fare level (as adjusted only in accordance with subparagraph (B) of this paragraph) in effect on July 1, 1977, for each interstate or overseas pair of points, for each class of service existing on that date, and in effect on the effective date of the establishment of each additional class of service established after July 1, 1977.

"(B) The Board shall, not less than semiannually, adjust each standard industry fare level specified in subparagraph (A) by increasing or decreasing such fare level, as the case may be, by the percentage change from the last previous period in the actual operating cost per available seat-mile for interstate and overseas transportation combined. In determining the standard, the Board shall make no adjustment to costs actually incurred.

"(C) Not later than July 1, 1979, the Board shall issue rules modifying the rules governing those classes of service in existence on July 1, 1977, which classes provide lower fare levels during off-peak periods, so as to expand the period of availability of such classes. The Board shall allow any air carrier to establish additional classes of service in accordance with the objectives of subsection (e)(5) of this section or as may be otherwise consistent with the public interest.

"(7) The Board may by rule increase the percentage specified in paragraph (4)(B) of this subsection.

"(8) Whenever a complaint is filed with the Board by a civic party under this subsection alleging that any individual or joint fare or charge demanded, charged, collected, or received for interstate or overseas air transportation is or will be unjustly discriminatory, unduly preferential, unduly prejudicial, or predatory, the Board shall grant, deny, or dismiss such complaint within ninety days after such complaint is filed.".

(b) Subsection (e) of such section 1002 is amended to read as follows:

"RULE OF RATEMAKING

"(e) In exercising and performing its power and duties with respect to determining rates, fares, and charges described in paragraph (1) of subsection (d) of this section, the Board shall take into consideration, among other factors—

"(1) the criteria set forth in section 102 of this Act;

"(2) the need for adequate and efficient transportation of persons and property at the lowest cost consistent with the furnishing of such service;

"(3) the effect of prices upon the movement of traffic;

"(4) the desirability of a variety of price and service options such as peak and offpeak pricing or other pricing mechanisms to improve economic efficiency and provide low-cost air service; and

"(5) the desirability of allowing an air carrier to determine prices in response to particular competitive market conditions on the basis of such air carrier's individual costs.".

(c)(1) Whenever the Board pursuant to its authority under section 1002 of the Federal Aviation Act of 1958 (49 U.S.C. 1482) prescribes a uniform method generally applicable to the establishment of joint fares, and the divisions thereof, between air carriers holding certificates issued under section 401 of such Act, it shall make such uniform method applicable to the establishment of joint fares, and the divisions thereof, between such air carriers and commuter air carriers. Any commuter air carrier which has an agreement with any air carrier to provide service for persons and property which includes transportation over its routes and transportation by such air carrier in air transportation shall provide at least ninety days notice to such air carrier and to the Board prior to modifying, suspending, or terminating such service, and if such commuter air carrier fails to provide such notice, any uniform method made applicable to the establishment of joint fares, and the divisions thereof, between air carriers and commuter air carriers in accordance with the preceding sentence shall not apply to such commuter air carrier.

(2) For purposes of this subsection—

(A) the terms "air carrier" and "Board" have the meanings given such terms in the Federal Aviation Act of 1958; and

(B) the term "commuter air carrier" means any air carrier operating pursuant to section 416(b)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1386(b)(3)) who operates at least five round trips per week between one pair of points, pursuant to flight schedules.

(3) Paragraph (1) of this subsection shall apply to any uniform method described in such paragraph which the Board prescribes on or after December 27, 1974.

TIME REQUIREMENTS

SEC. 38. (a) Title X of the Federal Aviation Act of 1958 (49 U.S.C. 1481 et seq.) is amended by adding at the end thereof the following new section:

"TIME REQUIREMENTS

"SEC. 1010. In the case of any application or other written document submitted to the Board under section 408, 409, 412, or 416 of this Act on or after the one-hundred-eightieth day after the date of enactment of this section, the Board shall—

"(1) if the Board orders an evidentiary hearing, issue a final order or decision with respect to such written document, not later than the last day of the twelfth month which begins after the submission of such document, except in the case of an application submitted under section 408 of this Act, the Board shall issue its final order or decision not later than the last day of the sixth month after submission; or

"(2) if the Board does not order an evidentiary hearing, issue a final order or decision with respect to such document, not later than the last day of the sixth month which begins after the date of the submission of such document.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE X—PROCEDURE"

is amended by adding at the end thereof

"Sec. 1010. Time requirements.".

WITHHOLDING OF INFORMATION

SEC. 39. Section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504) is amended to read as follows:

"WITHHOLDING OF INFORMATION

"SEC. 1104. Any person may make written objection to the public disclosure of information contained in any application, report, or document filed pursuant to provisions of this Act or of any information obtained by the Board, the Secretary of State, or the Secretary of Transportation pursuant to the provisions of this Act stating the grounds for such objection. Any information contained in such application, report, or document, or any such other information obtained by the Board, the Secretary of State, or the Secretary of Transportation, shall be withheld from public disclosure by the Board, the Secretary of State, or the Secretary of Transportation, as the case may be, if disclosure of such information would prejudice the formulation and presentation of positions of the United States in international negotiations and adversely affect the competitive position of any air carrier in foreign air transportation. The Board, the Secretary of State, or the Secretary of Transportation, as the case may be, shall be responsible for classified information in accordance with appropriate law, except that nothing in this section shall authorize the withholding of information by the Board,

the Secretary of State, or the Secretary of Transportation from the duly authorized committees of Congress.".

SUNSET PROVISIONS

SEC. 40. (a) The Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is amended by adding at the end thereof the following new title:

"TITLE XVI—SUNSET PROVISIONS

"TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

"TERMINATION OF AUTHORITY

SEC. 1601. (a)(1) The following provisions of this Act (to the extent such provisions relate to interstate and overseas air transportation of persons) and the authority of the Board with respect to such provisions (to the same extent) shall cease to be in effect on December 31, 1981:

"(A) Sections 401(d)(1), (2), and (3) of this Act (insofar as such sections require a determination of consistency with the public convenience and necessity and insofar as section 401(d)(3) prohibits persons holding certificates under section 401(d)(1) or (d)(2) from obtaining certificates to provide interstate or overseas charter air transportation of persons).

"(B) Section 401(d)(8) of this Act.

"(C) Section 401(e)(1) of this Act (insofar as such section permits the Board to specify terminal and intermediate points).

"(D) Section 401(j) of this Act (except with respect to essential air transportation).

"(E) Sections 401(n)(1) and (4) of this Act.

"(F) Section 404(a) of this Act (insofar as such section requires any air carrier to provide air transportation authorized by its certificate).

"(G) Section 405(b) of this Act (insofar as such section requires the filing of any statement or schedule by any air carrier).

"(2) The following provisions of this Act (to the extent such provisions relate to interstate and overseas air transportation of persons) and the authority of the Board with respect to such provisions (to the same extent) shall cease to be in effect on January 1, 1983:

"(A) Section 403 of this Act.

"(B) Section 404 of this Act (except insofar as such section requires air carriers to provide safe and adequate service).

"(C) Section 407(b) and (c) of this Act.

"(D) Sections 1002(d)(1) and (d)(2), (e), (g), (h), and (i) of this Act.

"(3) The authority of the Board under sections 408 and 409 of this Act (relating to interstate and overseas air transportation) and the authority of the Board under section 414 of this Act (relating to such sections 408 and 409) is transferred to the Department of Justice on January 1, 1983.

"(4) Title II of this Act shall cease to be in effect on January 1, 1985.

"TRANSFER OF CERTAIN AUTHORITY

"(b)(1) The following authority of the Board is transferred to the following Federal departments and instrumentalities:

"(A) The authority of the Board under sections 406(b)(3) and (c) of this Act to provide compensation for air transportation to small communities and under section 419 of this Act is transferred to the Department of Transportation.

"(B) The authority of the Board under this Act with respect to foreign air transportation is transferred to the Department of Transportation which shall exercise such authority in consultation with the Department of State.

"(C) The authority of the Board under sections 408 and 409 of this Act (relating to foreign air transportation), the authority of the Board under section 412 of this Act, and the authority of the Board under section 414 of this Act (relating to such sections 408, 409, and 412) is transferred to the Department of Justice.

"(D) The authority of the Board under this Act with respect to the determination of the rates for the carriage of mails in interstate and overseas air transportation is transferred to the Postal Service and such authority shall be exercised through negotiations or competitive bidding.

"(2) Any authority transferred under paragraph (1) of this subsection shall take effect on January 1, 1985.

"REPORT AND ASSESSMENT BY BOARD

"(c) Not later than January 1, 1984, the Board shall prepare and submit to the Congress a comprehensive review of the Board's implementation of the provisions of this Act during the preceding initial period of this Act's existence, and a comprehensive review of each of the Board's programs under this Act. Each such review shall be made available to the committee or committees of the Senate and House of Representatives having jurisdiction with respect to the annual authorization of funds for the Board and its programs for the fiscal year beginning October 1, 1983.

"ELEMENTS FOR BOARD CONSIDERATION

"(d) The comprehensive review of the Board's implementation of this Act, prepared for submission under subsection (c), shall include—

"(1) a detailed comparison of the degree of competition within the airline industry as of the year preceding enactment of this section and the final year covered by the review;

"(2) a comparison of the degree of pricing competition in the industry during those two one-year periods;

"(3) a comparison of the extent of unused authority held by the industry during those two one-year periods, with details as to the number of nonstop route segments which have been transferred from one carrier to another under section 401(d)(5) of this Act;

"(4) an assessment of the degree to which agreements approved under section 412 of this Act have affirmatively or negatively affected the degree of competition within the industry;

"(5) a comparison of the extent of air transportation service provided to small communities during the two one-year periods specified above, together with details as to the comparative subsidy costs during these two periods;

"(6) an assessment of the degree, if any, to which the administrative process has been expedited under this Act;

"(7) an assessment of the impact of the foregoing changes upon the national air transportation system in terms of benefits or detriments to the traveling and shipping public, the Postal Service, and the national defense, and the benefits and detriments to air carriers, certificated and uncertificated; and

"(8) the Board's opinion as to whether the foregoing changes in combination, have improved or harmed this Nation's domestic air transportation system and the United States-flag foreign air transportation system.

This assessment shall be accompanied by a detailed opinion from the Board as to whether the public interest requires continuation of the Board and its functions beyond January 1, 1985, and, if it is the Board's conclusion that it should continue to exist, detailed recommendations as to how the provisions of this Act should be revised to insure continued improvement of the Nation's air transportation system beyond January 1, 1985. The Board's assessment under this subsection shall also be accompanied by a comparative analysis of procedures under section 801 of this Act before and after the date of enactment of the Airline Deregulation Act of 1978, together with the Board's opinion as to the benefits of each set of procedures.

"ELEMENTS FOR EACH COMPREHENSIVE REVIEW

"(e) Each comprehensive review of the Board's programs under this Act, prepared for submission under subsection (c) of this section, shall include—

"(1) an identification of the objectives intended for the program, and the problem or need which the program was intended to address;

"(2) an identification of any other programs having similar or potentially conflicting or duplicative objectives;

"(3) an assessment of alternative methods of achieving the purposes of the program;

"(4) a justification for the authorization of new budget authority, and an explanation of the manner in which it conforms to and integrates with other efforts;

"(5) an assessment of the degree to which the orignal objectives of the program have been achieved, expressed in terms of the performance, impact, or accomplishments of the program and of the problem or need which it was intended to address, and employing the procedures or methods of analysis appropriate to the type or character of the program;

"(6) a statement of the performance and accomplishments of the program in each of the previous four completed fiscal years and in the year of submission, and of the budgetary costs incurred in the operation of the program;

"(7) a statement of the number and types of beneficiaries or persons or entities served by the program;

"(8) an assessment of the effect of the program on the national economy, including, but not limited to, the effects on competition, economic stability, employment, unemployment, productivity, energy consumption and conservation, and price inflation, including costs to consumers and to businesses;

"(9) an assessment of the impact of the program on the Nation's health and safety;

"(10) an assessment of the degree to which the overall administration of the program, as expressed in the rules, regulations, orders, standards, criteria, and decisions of the officers executing the program, are believed to meet the objectives of the Congress in enacting this Act;

"(11) a projection of the anticipated needs for accomplishing the objectives of the program, including an estimate if applicable of the date on which, and the conditions under which, the program may fulfill such objectives;

"(12) an analysis of the services which could be provided and performance which could be achieved if the program were contained at a level less than, equal to, or greater than the existing level; and

"(13) recommendations for necessary transitional requirements in the event that funding for such program is discontinued, including proposals for such executive or legislative action as may be necessary to prevent such discontinuation from being unduly disruptive.".

(b) That portion of the table of contents contained in the first section of such Act is amended by inserting at the end thereof

"TITLE XVI—SUNSET PROVISIONS

"SEC. 1601. Termination of Civil Aeronautics Board and Transfer of Certain Functions.

"(a) Termination of authority.

"(b) Transfer of certain authority.

"(c) Report and assessment by Board.

"(d) Elements for Board consideration.

"(e) Elements for each comprehensive review.".

AMENDMENTS TO THE AIRPORT AND AIRWAY DEVELOPMENT ACT OF 1970

SEC. 41. (a) Section 29 of the Airport and Airway Development Act of 1970 is amended—

(1) by striking out "Notwithstanding" and inserting in lieu thereof the following:

"(a) SERVICE BY INTRASTATE AIR CARRIER.—Notwithstanding"; and

(2) by inserting at the end thereof the following new subsection:

"(b) SUSPENDED OR DELETED SERVICE.—Notwithstanding any other provision of this title, any public airport which, on the date of enactment of the Airline Deregulation Act of 1978, is regularly served by an air carrier (other than a charter air carrier) certificated by the Civil Aeronautics Board under section 401 of the Federal Aviation Act of 1958 shall be deemed to be an air carrier airport (other than a commuter service airport) for the purposes of this title. This subsection shall cease to be in effect after September 30, 1980.".

(b) Paragraph (1) of section 11 of the Airport and Airway Development Act of 1970 is amended by striking out "(other than a supplemental air carrier)" and inserting in lieu thereof "(other than a charter air carrier)".

GOVERNMENT GUARANTEE OF EQUIPMENT LOANS

SEC. 42. (a)(1) The first sentence of the first section of the Act entitled "An Act to provide for Government guarantee of private loans of certain air carriers for purchase of modern aircraft and equipment, to foster the development and use of modern transport aircraft by such carriers, and for other purposes", approved September 7, 1957 (49 U.S.C. 1324 note) (hereinafter in this section referred to as the "Act"), is amended by inserting "and to promote the development of local, feeder, and short-haul charter air transportation of cargo" after "and short-haul air transportation".

(2) The second sentence of the first section of the Act is amended by inserting ", charter air carriers, commuter air carriers, and intrastate air carriers" immediately after "air carriers".

(b) Section 2 of the Act is amended to read as follows:

"SEC. 2. As used in this Act—

"(1) 'aircraft purchase loan' means any loan, or commitment in connection therewith, made for the purchase of commercial transport aircraft, including spare parts normally associated therewith;

"(2) 'air carrier' means any air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board under section 401(d)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)(1));

"(3) 'charter air carrier' has the meaning given such term in section 101(14) of the Federal Aviation Act of 1958;

"(4) 'charter air transportation' has the meaning given such term in section 101(15) of the Federal Aviation Act of 1958;

"(5) 'commuter air carrier' means any air carrier operating pursuant to section 416(b)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1386(b)(3)) who operates at least five round trip flights per week between one pair of points in accordance with published flight schedules;

"(6) 'intrastate air carrier' means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage primarily in intrastate air transportation (as such term is defined in section 101(26) of the Federal Aviation Act of 1958); and

"(7) 'Secretary' means the Secretary of Transportation.".

(c) Section 3 of the Act is amended to read as follows:

"SEC. 3. The Secretary is authorized to guarantee any lender against loss of principal or interest on any aircraft purchase loan made by such lender to—

"(1) any air carrier whose certificate (A) authorizes such air carrier to provide local or feeder air service, (B) authorizes scheduled passenger operations the major portion of which are conducted within the State of Hawaii, (C) authorizes operations (the major portion of which is conducted either within Alaska or between Alaska and the forty-eight contiguous States), within the State of Alaska (including service between Alaska and the forty-eight contiguous States, and between Alaska and adjacent Canadian territory), or (D) authorizes metropolitan helicopter service,

"(2) any charter air carrier for the purchase of any all-cargo nonconvertible aircraft,

"(3) any commuter air carrier, or

"(4) any intrastate air carrier.

Such guarantee shall be made in such form, on such terms and conditions, and pursuant to such regulations, as the Secretary deems necessary and which are not inconsistent with the provisions of this Act.".

(d) Section 4 of the Act is amended to read as follows:

"SEC. 4 (a) Subject to subsection (b) of this section, no guaranty shall be made—

"(1) extending to more than the upaid interest and 90 percent of the unpaid principal of any loan;

"(2) on any loan or combination of loans for more than 90 percent of the purchase price of the aircraft, including spare parts, to be purchased therewith;

"(3) on any loan whose terms permit full repayment more than 15 years after the date thereof;

"(4) wherein the total face amount of such loan, and of any other loans to the same air carrier, charter air carrier, commuter air carrier, or intrastate air carrier or corporate predecessor of such air carrier, charter air carrier, commuter air carrier, or intrastate air carrier guaranteed and outstanding under the terms of this Act exceeds $100,000,000;

"(5) unless the Secetary finds that, without such guaranty, in the amount thereof, the air carrier, charter air carrier, commuter air carrier, or intrastate air carrier would be unable to obtain necessary funds for the purchase of needed aircraft on reasonable terms;

"(6) unless the Secretary finds that the aircraft to be purchased with the guaranteed loan is needed to improve the service and efficiency of operation of the air carrier, charter air carrier, commuter air carrier, or intrastate air carrier;

"(7) unless the Secretary finds that the prospective earning power—

"(A) of the applicant air carrier or charter air carrier, together with the character and value of the security pledged, furnish (i) reasonable assurances of the applicant's ability to repay the loan within the time fixed therefor, and (ii) reasonable protection to the United States; and

"(B) of the applicant commuter air carrier or intrastate air carrier, together with the character and value of the security pledged, furnish (i) reasonable assurances of the applicant's ability and intention to repay the loan within the time fixed therefor, to continue its operations as a commuter air carrier or intrastate air carrier, and to the extent found necessary by the Secretary, to continue its operations as a commuter air carrier or intrastate air carrier between the same route or routes being operated by such applicant at the time of the loan guarantee, and (ii) reasonable protection to the United States; and

"(8) on any loan or combination of loans for the purchase of any new turbojet-powered aircraft which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary acting through the Administrator of the Federal Aviation Administration (14 C.F.R. part 36), as such regulations were in effect on January 1, 1977.

"(b) No guaranty shall be made by the Secretary under subsection (a) of this section on any loan for the purchase of any all-cargo nonconvertible aircraft by any charter air carrier in an amount which, together with any other loan guaranteed and outstanding under this Act to such charter air carrier, or corporate predecessor of such charter air carrier, would result in the ratio of the total face amount of such loans to $100,000,000 exceeding the ratio of the amount of charter air transportation of such charter air carrier provided to medium, small, and nonhub airports during the twelve-month period preceding the date on which the application for such guaranty is made by such charter air carrier to the total amount of charter air transportation of such charter air carrier during such twelve-month period.".

(e) Section 8 of the Act is amended to read as follows:

"SEC. 8. The authority of the Secretary under section 3 of this Act shall terminate five years after the date of enactment of this section.".

EMPLOYEE PROTECTION PROGRAM

SEC. 43 (a). GENERAL RULE.—(1) The Secretary of Labor shall, subject to such amounts as are provided in appropriation Acts, make monthly assistance payments, or reimbursement payments, in amounts computed according to the provisions of this section, to each individual who the Secretary finds, upon application, to be an eligible protected employee. An eligible protected employee shall be a protected employee who on account of a qualifying dislocation (A) has been deprived of employment, or (B) has been adversely affected with respect to his compensation.

(2) No employee who is terminated for cause shall receive any assistance under this section.

(b) MONTHLY ASSISTANCE COMPUTATION.—(1) An eligible protected employee shall, subject to such amounts as are provided in appropriation Acts, receive a monthly assistance payment, for each month in which he is an eligible protected employee, in an amount computed by the Secretary. The Secretary, after consultation with the Secretary of Transportation, shall, by rule, promulgate guidelines to be used by him in determining the amount of each monthly assistance payment to be made to a member of each craft and class of protected employees, and what percentage of salary such payment shall constitute for each applicable class or craft of employees. In computing such amounts for any individual protected employee, the Secretary shall deduct from such amounts the full amount of any unemployment compensation received by the protected employee.

(2) If an eligible protected employee is offered reasonably comparable employment and such employee does not accept such employment, then such employee's monthly assistance payment under this section shall be reduced to an amount which such employee would have been entitled to receive if such employee had accepted such employment. If the acceptance of such comparable employment would require relocation, such employee may elect not to relocate and, in lieu of all other benefits provided herein, to receive the monthly assistance payments to which he would be entitled if this paragraph were not in effect, except that the total number of such payments shall be the lesser of three or the number remaining pursuant to the maximum provided in subsection (e).

(c) ASSISTANCE FOR RELOCATION.—If an eligible protected employee relocates in order to obtain other employment, such employee shall, subject to such amounts as are provided in appropriations Act, receive reasonable moving expenses (as determined by the Secretary) for himself and his immediate family. In addition, such employee shall, subject to such amounts as are provided in appropriation Acts, receive reimbursement payments for any loss resulting from selling his principal place of residence at a price below

its fair market value (as determined by the Secretary) or any loss incurred in cancelling such employee's lease agreement or contract of purchase relating to his principal place of residence.

(d) DUTY TO HIRE PROTECTED EMPLOYEES.—(1) Each person who is a protected employee of an air carrier which is subject to regulation by the Civil Aeronautics Board who is furloughed or otherwise terminated by such an air carrier (other than for cause) prior to the last day of the 10-year period beginning on the date of enactment of this section shall have first right of hire, regardless of age, in his occupational specialty, by any other air carrier hiring additional employees which held a certificate issued under section 401 of the Federal Aviation Act of 1958 prior to such date of enactment. Each such air carrier hiring additional employees shall have a duty to hire such a person before they hire any other person, except that such air carrier may recall any of its own furloughed employees before hiring such a person. Any employee who is furloughed or otherwise terminated (other than for cause), and who is hired by another air carrier under the provisions of this subsection, shall retain his rights of seniority and right of recall with the air carrier that furloughed or terminated him.

(2) The Secretary shall establish, maintain, and periodically publish a comprehensive list of jobs available with air carriers certificated under section 401 of the Federal Aviation Act of 1958. Such list shall include that information and detail, such as job descriptions and required skills, the Secretary deems relevant and necessary. In addition to publishing the list, the Secretary shall make every effort to assist an eligible protected employee in finding other employment. Any individual receiving monthly assistance payments, moving expenses, or reimbursement payments under this section shall, as a condition to receiving such expenses or payments, cooperate fully with the Secretary in seeking other employment. In order to carry out his responsibilities under this subsection, the Secretary may require each such air carrier to file with the Secretary the reports, data, and other information necessary to fulfill his duties under this subsection.

(3) In addition to making monthly assistance or reimbursement payments under this section, the Secretary shall encourage negotiations between air carriers and representatives of eligible protected employees with respect to rehiring practices and seniority.

(e) PERIOD OF MONTHLY ASSISTANCE PAYMENTS.—(1) Monthly assistance payments computed under subsection (b) for a protected employee who has been deprived of employment shall be made each month until the recipient obtains other employment, or until the end of the 72 months occurring immediately after the month such payments were first made to such recipient, whichever first occurs.

(2) Monthly assistance payments computed under subsection (b) for a protected employee who has been adversely affected relating to his compensation shall be paid for no longer than 72 months, so long as the total number of monthly assistance payments made under this section for any reason do not exceed 72.

(f) RULES AND REGULATIONS.—(1) The Secretary may issue, amend, and repeal such rules and regulations as may be necessary for the administration of this section.

(2) The rule containing the guidelines which is required to be promulgated pursuant to subsection (b) of this section and any other rules or regulations which the Secretary deems necessary to carry out this section, shall be promulgated within six months after the date of enactment of this section.

(3) The Secretary shall not issue any rule or regulation as a final rule or regulation under this section until 30 legislative days after it has been submitted to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives. Any rule or regulation issued by the Secretary under this section as a final rule or regulation shall be submitted to the Congress and shall become effective 60 legislative days after the date of such submission, unless during that 60-day period either House adopts a resolution stating that that House disapproves such rules or regulations, except that such rules or regulations may become effective on the date, during such 60-day period, that a resolution has been adopted by both Houses stating that the Congress approves of them.

(4) For purposes of this subsection, the term "legislative day" means a calendar day on which both Houses of Congress are in session.

(g) AIRLINE EMPLOYEES PROTECTIVE ACCOUNT.—All payments under this section shall be made by the Secretary from a separate account maintained in the Treasury of the United States to be known as the Airline Employees Protective Account. There are authorized to be appropriated to such account annually, beginning with the fiscal year ending September 30, 1979, such sums as are necessary to carry out the purposes of this section, including amounts necessary for the administrative expenses of the Secretary related to carrying out the provisions of this section.

(h) DEFINITIONS.—For the purposes of this section—

(1) The term "protected employee" means a person who, on the date of enactment of this section, has been employed for at least 4 years by an air carrier holding a certificate issued under section 401 of the Federal Aviation Act of 1958. Such term shall not include any members of the board of directors or officers of a corporation.

(2) The term "qualifying dislocation" means a bankruptcy or major contraction of an air carrier holding a certificate under section 401 of the Federal Aviation Act of 1958, occurring during the first 10 complete calendar years occurring after the date of enactment of the Airline Deregulation Act of 1978, the major cause of which is the change in regulatory structure provided by the Airline Deregulation Act of 1978, as determined by the Civil Aeronautics Board.

(3) The term "Secretary" means the Secretary of Labor.

(4) The term "major contraction" means a reduction by at least 7½ percent of the total number of full-time employees of an air carrier within a 12-month period. Any particular reduction of less than 7½ percent may be found by the Board to be part of a major contraction of an air carrier if the Board determines that other reductions are likely to occur such that within a 12-month period in which such particular reduction occurs the total reduction will exceed 7½ percent. In computing a 7½-percent reduction under this paragraph, the Board shall not include employees who are deprived of employment because of a strike or who are terminated for cause.

(i) TRANSFER OF AUTHORITY OF THE BOARD.—The authority of the Board under this section is transferred to the Department of Transportation on January 1, 1985.

(j) TERMINATION.—The provisions of this section shall terminate on the last day the Secretary is required to make a payment under this section.

LABOR DISPUTE

SEC. 44. Within ten days after the date of enactment of this section the President, pursuant to section 10 of the Railway Labor Act, shall create a board to investigate and report on the dispute between Wien Air Alaska Incorporated, and the Air Line Pilots Association. Such board shall report its findings to the President within thirty days from the date of its creation.

COLLECTION OF FEES, CHARGES, AND PRICES

SEC. 45. Notwithstanding any other provisions of law, neither the Secretary of Transportation nor the Administrator of the Federal Aviation Administration shall collect any fee, charge, or price for any approval, test, authorization, certificate, permit, registration, conveyance, or rating relating to any aspect of aviation (1) which is in excess of the fee, charge, or price for such approval, test, authorization, certificate, permit, registration, conveyance, or rating which was in effect on January 17, 1973, or (2) which did not exist on January 1, 1973, until all such fees, charges, and prices are reviewed and approved by Congress.

CONTINUITY FOR CERTAIN CERTIFICATES

SEC. 46. Any reference in any law, rule, regulation, or document of the United States to a supplemental air carrier or supplemental air transportation shall be deemed to be a reference to a charter air carrier or charter air transportation, respectively.

EXISTING DETERMINATIONS

SEC. 47. All orders, determinations, rules, regulations, permits, contracts, certificates, rates, and privileges which have been issued, made, or granted, or allowed to become effective, by the President, the Civil Aeronautics Board, or the Postmaster General, or any court of competent jurisdiction, under any provision of law repealed or amended by this Act, or in the exercise of duties, powers, or functions, which are vested in the Board, and which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Board, or by any court of competent jurisdiction, or by operation of law.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment to the title of the bill insert the following: "An Act to amend the Federal Aviation Act of 1958, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes."

And the House agree to the same.

HOWARD W. CANNON,
WARREN G. MAGNUSON,
ADLAI E. STEVENSON,
WENDELL H. FORD,
TED STEVENS,
HARRISON H. SCHMITT,
JOHN C. DANFORTH,
Managers on the Part of the Senate.

HAROLD T. JOHNSON,
RAY ROBERTS,
GLENN M. ANDERSON,
TENO RONCALIO,
ELLIOTT H. LEVITAS,
WILLIAM H. HARSHA,
GENE SNYDER,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2493) to amend the Federal Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes, submit the following joint statement to the House and

the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

Senate bill

Provides the bill may be cited as the "Kennedy-Cannon-Pearson Air Transportation Reform Act of 1978".

House amendment

Provides the amendment may be cited as the "Air Service Improvement Act of 1978".

Conference substitute

Provides that the Act may be cited as the "Airline Deregulation Act of 1978".

DECLARATION OF POLICY

Senate bill

This section sets forth the congressional policy to guide the Board in performing its duties. In contrast to the current Act, the bill establishes different standards of the public interest or public convenience and necessity for domestic (including overseas) air transportation. (Subsection (a) of section 102 covers interstate and overseas air transportation and subsection (b) covers foreign air transportation. The legislative language governing foreign air transportation is left unchanged and has not been considered by the committee.) The policy statement consists of six directions for the Board to use as guides in evaluating the public interest and the public convenience and necessity.

Subsection (a), the new declaration of policy for interstate and overseas air transportation, is designed to give the Board a clear and firm mandate to regulate in a manner which places primary reliance on competition. The Board is instructed to make every effort to utilize competition and market forces to achieve regulatory goals, such as low-cost, efficient air transportation. And, the policy statement designates a competitive industry as a goal in itself. The Board is particularly instructed to create and maintain a regulatory and economic environment which will encourage the realistic threat of competition, facilitate entry into markets by qualified firms and develop market incentives to lower costs and better efficiency by existing and new carriers.

Apart from the encouragement of new entry, the Board is given the companion directive to prevent anticompetitive practices and avoid industry and market concentration.

The declaration of policy for the first time includes an explicit congressional mandate that scheduled service for small and isolated areas be maintained and improved.

Subsection (b) retains the current declaration of policy for foreign air transportation.

House amendment

The amendment changes the policy statement for interstate and overseas air transportation. The revised statement directs the Board to stress competition, low-fare service, entry by new carriers, and avoidance of industry concentration. The Board is also required to develop programs to replace carriers holding unused authority and to develop a regulatory environment in which decisions will be reached promptly. The Board is further directed to continue its program of strengthening smaller air carriers.

The policy statement makes it clear that increased reliance upon competition must not result in any deterioration in safety. The Board is directed to give the highest priority to maintaining safety and to preventing deterioration in established safety procedures, including evaluation of a section 107 report by the Secretary of Transportation. The Board is also required to take account of the interests of industry employees by encouraging fair wages and equitable working conditions.

The revised policy statement directs the Board to encourage air service at major urban areas through secondary or satellite airports where consistent with local and regional airport plans of regional and local authorities. The Board is further directed to encourage the development of service to secondary or satellite airports by specialist air carriers, whose sole responsibility would be to serve the secondary or satellite airports when such encouragement is endorsed by appropriate State agencies.

Conference substitute

Combines the declarations of policy from the Senate bill and the House amendment, except that the conference substitute does not contain paragraph (2) from the Senate declaration of policy or paragraph (3) from the House declaration of policy and the conference substitute provides that the Board shall consider the avoidance of unreasonable industry concentration as being in the public interest and in accordance with the public convenience and necessity.

The language in the policy declaration directing the Board to encourage the continued strengthening of small carriers is not interpreted to mean that the Board must engage in carrier selection in its route proceedings to preclude large air carriers from new routes. Rather, it is intended to direct the Board to continue providing opportunities for the small carriers in as many ways as possible and not restrict them solely because they have historically had operations limited in area or extent.

In adopting this new, comprehensive legislation, which entirely overhauls the aviation regulatory system, Congress was mindful of recent activities of the CAB. This new charter is intended as a legislative mandate to the CAB both as to the direction and policy of aviation regulation and also, it should be noted, the limits of such policy. In short, Congress expects the deregulation of the aviation industry to move in accordance with this legislation and not in accordance with the, perhaps, differing concepts of some members of the CAB. The legislation establishes specific programs for increased competition. The legislation also includes a new policy statement which gives the CAB broad discretion to establish other programs to encourage competition, such as the multiple, permissive authority program recently established by the Board. Such programs are needed in the gradual and phased transition to a deregulated system. However, we expect that in developing these programs the Board will pay heed to the provisions of the policy statement giving specific directions to the Board. We also expect that any additional programs will not be incompatible with the specific programs Congress has established.

DEFINITONS

Senate bill

Section 3 of the bill amends section 101 of the Federal Aviation Act of 1958 by deleting several definitions which are no longer needed in the implementation of that Act, and adding certain new definitions which are as follows:

(a) "All-cargo air transportation" means air transportation of property, or of property and mail, only.

(b) "Charter air transportation" means charter trips, including inclusive tour charter trips, in air transportation, rendered pursuant to authority conferred under this Act under regulations prescribed by the Board.

(c) "Local air transportation" means scheduled air transportation of persons, property, and mail provided pursuant to a certificate issued under section 420 of this Act.

(d) "Predatory" refers to practices which would constitute a violation of the antitrust laws (defined in section 414).

(e) "Scheduled air transportation" means air transportation in regular route service which is not charter air transportation.

(f) "State agency" means that department, agency, officer, or other entity of a State government which has been designated according to State law as—

(1) the recipient of any notice required under title IV to be given to a State agency; or

(2) the representative of the State in any matter about which the Board is required, under title IV, to consult with or consider the view of a "State agency."

In addition, the existing definitions for "supplemental air carrier" and "supplemental air transportation" are deleted from the Federal Aviation Act of 1958. Under the amendments made by this Act supplemental air carriers will be referred to as air carriers providing charter air transportation.

House amendment

Amends section 101 of the Federal Aviation Act of 1958 by adding two new definitions as follows:

(1) "Essential air transportation" means, with respect to the air transportation provided by any air carrier to any point (A) two round trips per day at least five days per week, or (B) the level of service provided by such air carrier to such point based on the schedule of such air carrier in effect for calendar year 1977 whichever is the lesser.

(2) "Predatory" means any practice which would constitute a violation of the antitrust laws as set forth in the first section of the Clayton Act (15 U.S.C. 12).

Conference substitute

Amends section 101 of the Federal Aviation Act of 1958 as follows:

(1) Adds the following new definitions:

(A) Charter air carrier.

(B) Charter air transportation (as defined in the Senate bill).

(C) Predatory (as defined in the House amendment).

(D) State agency (as defined in the Senate bill).

(2) Repeals the definitions of supplemental air carrier and supplemental air transportation.

SAFETY STUDY

Senate bill

Section 4 of the bill amends title I of the Federal Aviation Act by adding at the end thereof a new section which states that the Congress intends for the implementation of the amendments made by the bill to have no deleterious effect on the high standards of safety currently attained in the air transportation industry. In order to carry out that intent, the Secretary is directed to conduct a continuous review of the effects the implementation of this bill is having on the standard of safety in the industry, and, based on that study, to take whatever remedial action he deems necessary to insure that the highest standard of safety is maintained.

Specifically, the Secretary is instructed to study the inspection and safety regulations applicable to each class of air carriers to which title IV applies. Based on that study,

the Administrator of the Federal Aviation Administration is directed to prescribe those safety and inspection regulations he deems necessary to maintain the highest standard of safe reliable air transportation in the United States.

Finally, the Secretary is required to report to the Congress during each of the first 5 calendar years occurring after the date of enactment of this section on the results of the study conducted by him. Each study report shall contain necessary legislative and administrative recommendations.

House amendment

Provides annually beginning no later than January 31, 1980 for a report to Congress and the Board by the Secretary of Transportation on the extent to which the implementation of this Act during the preceding year has affected the level of air safety. An analysis is required of specific data and requirements, practices, procedures, and regulations. In addition, annually, the Secretary is required to submit to Congress and the Board recommendations on necessary surveillance to enforce safety regulations, including staff levels and proposed legislation.

Conference substitute

Combines the substantive provisions of the Senate bill and the House amendment.

CERTIFICATES

Senate bill

Section 5 of the bill amends section 401 of the Federal Aviation Act of 1958 in its entirety.

Subsection (a) gives the Board the general authority to issue certificates of public convenience and necessity to engage in: (1) Scheduled interstate or overseas air transportation of persons, property, and mail; and (2) foreign air transportation, including scheduled passenger service, foreign all-cargo, and foreign charter air transportation.

Subsection (b) requires the Board to authorize new service unless it is not consistent with the public convenience and necessity with the burden for such a showing falling on the opponent of any application for such a certificate.

Subsection (c) establishes the standard the Board will apply for issuing certificates of public convenience and necessity for foreign air transportation. These standards are unchanged, except that the Board is prohibited from issuing a certificate authorizing an air carrier to engage in foreign charter air transportation if that air carrier holds a certificate issued before January 1, 1977, to engage in scheduled air transportation.

Subsection (d) contains three separate factors that the Board is required to consider, in addition to the policy statement, in making any determination of the public convenience and necessity. These three guidelines stress innovative and more efficient methods of operation in air transportion, reductions in fares, and avoidance of industry concentration, excessive market domination, monopoly power and other conditions that would tend to allow one more air carriers unreasonably to increase prices, reduce services, or exclude competition. It further states that the diversion of revenue from one air carrier to another is not in itself inconsistent with the public convenience and necessity.

Subsection (e) requires the Board to include in each certificate issued for scheduled interstate and overseas air transportation the terminal and intermediate points (if any) between which such air carrier is to provide such air transportation, and the service to be provided. In addition, the Board may include in such a certificate other limitations, including limiting the period for which a certificate is valid, as may be required by the public convenience and necessity.

Subsection (f) directs the Board to designate, in a certificate issued for foreign air transportation, only the general route to be followed, and to designate terminal and intermediate points only if practical. This subsection authorizes a holder of a certificate for foreign air transportation to carry, in scheduled foreign air transportation, mail of foreign countries. In addition, this subsection also authorizes an air carrier performing scheduled flights in foreign air transportation to carry persons, property, and mail, on one round trip flight per day in each city-pair market, on such flights in any State or the District of Columbia. The Board may, by rule, increase that number of flights per day on which such service may be provided.

Subsection (g) retains the provisions of existing law formerly contained in section 401(e)(5).

Subsection (h) contains provisions relating to the termination or suspension of air transportation which is being provided under a certificate issued under this section. Any air carrier proposing to terminate, suspend, or reduce air transportation is required to give the Board, the community affected, and the State agency of the State in which that community is located at least 90 days' notice, unless the air carrier proposing to terminate or suspend air transportation between two points is the only air carrier certificated under section 401 providing air transportation between those points, in which case that air carrier shall give 60 days' notice. In either case, the Board, during the period of notice, shall make every effort to secure another air carrier to perform the air transportation being terminated or suspended or reduced. If the Board is unable to secure another air carrier then the Board—

(1) may require the air carrier proposing to terminate or suspend air transportation to continue providing such air transportation for an additional 90 days; and

(2) shall see that essential air transportation is provided, with subsidy under section 419(h), if necessary.

In addition, subsection (h)(2) authorizes the Board to permit an air carrier to suspend air transportation being provided by it, without notice, if it is in the public interest to do so, and so long as essential air transportation is maintained. An application for a suspension will be served on the Board, the community affected, and the State agency of the State in which the community is located. A suspension of longer than 30 days may not be granted without a hearing, if a hearing is requested by the affected community.

Finally, paragraph (4) of this subsection makes clear the definition of "State" includes Puerto Rico and the Virgin Islands.

Subsection (i) of section 401 will authorize any air carrier to petition the Board to have granted to it the authority of another air carrier to provide nonstop scheduled interstate or overseas air transportation between two points. The Board shall grant such authority if the authority sought has not been exercised at a minimum five round trips per week for at least 80 days during the 12 months immediately preceding the date the petition is filed, and if it is consistent with the public convenience and necessity. In addition, the Board, on its own or on petition, may reduce, restrict, suspend, or terminate the authority the nonuse of which gave rise to the petition under this subsection, if it is consistent with the public convenience and necessity.

Instead of the periods of limitation that would otherwise apply to any application filed under this section, paragraph (2) requires the Board to make its determinations under this subsection within 90 days after receiving a petition, giving priority consideration to each such petition. Finally, the subsection provides specifically that all petitions under this subsection shall, except as specifically provided, be handled according to the procedures specified in section 1010, relating to expedited procedures.

Subsection (j) makes closed-door restriction illegal after January 1, 1980, except for existing closed-door restrictions between points within Hawaii and any such restrictions the Board may deem necessary to impose in the future; and those closed door restrictions which resulted from the sale, transfer, or exchange by one air carrier of its authority to provide air transportation in any market to another air carrier.

Subsection (k) establishes a program whereby certain air carrier, both federally certificated and intrastate air carriers, can obtain authority to provide domestic scheduled air transportation over additional segments without Board approval. Those air carriers who are eligible for the automatic entry program are to file their selections with the Board by the first business day of July each year. For calendar years 1979 and 1980, each air carrier will be able to select one segment, and in 1981 and each year thereafter, each air carrier will be able to select two segments. The total statute miles of all segments selected by any one air carrier in 1 year may not exceed 3,000 statute miles. Hawaii is not included in this program for the reasons discussed earlier in the committee report.

The subsection contains two limitations on the number of routes served by carriers which will be available for automatic entry by other carriers during the first years of the program. First, each air carrier may designate by the first business day in July of each year certain segments over which it provides nonstop regularly scheduled air transportation. Segments so designated will not be open to automatic entry by other carriers. For 1979, 1980, and 1981 each carrier may designate three segments; for 1982, two segments; and for 1983, one segment. Thereafter, all segments shall be available for automatic entry. Secondly, regional carriers receiving subsidy and small trunk carriers (fewer than 25 billion available seat-miles annually) are protected by an absolute limitation on the total number of routes which can be subject to entry on each of their systems. Subsidized carriers may be subject to entry on no more than two of the routes on their system each year during 1979, 1980, and 1981. Other smaller carriers are subject to entry on no more than four of the routes in their system during calendar year 1979 and 1980. If the total number of routes of a carrier selected by other airlines for automatic entry is greater than the total number of routes permitted, the Board is to certify as available for entry those routes which have been selected by the smallest air carriers (based on system-operating revenues) up to the number permitted. Any air carrier denied its choice for automatic entry because of the operation of these limitations may select another segment by filing the selection with the Board on September 15. The Board shall process this selection by October 15.

The Board shall publish the list of segments selected within 10 days after the first business day in July. If a route is available for entry, all air carriers selecting the route shall be certified for automatic entry. If an air carrier selects the same segment as another air carrier, the air carrier may select another segment, withdrawing the first selection. The Board shall certify the segments as made by August 1, if they are all found to be valid selections. No segment may be selected if it had been selected during the preceding 2 years, and scheduled air transportation is being provided over that segment under such authority.

The authority received by an air carrier under this program shall be authority to provide regularly scheduled nonstop air transportation over the segment selected for

20 months. If the air carrier provides such air transportation for 18 months then the Board shall grant that air carrier permanent authority to provide such air transportation.

Under this subsection the Board is required to report to the Congress on the operation of the program. The first report shall be filed by March 1, 1980, and each annual report shall be filed by March 1 of each year thereafter. Additionally, a comprehensive report will be filed by March 1, 1983, which shall contain an evaluation and review of the program during the immediately preceding 4 years. The comprehensive report shall give special attention to the impact of the program on the air transportation being provided small and medium sized communities.

Finally, the Board is authorized to modify the program, on an emergency basis, by rule, if the Board determines that—

(1) the operation of such program is causing substantial public harm to the national air transportation system, or a substantial reduction in air service to small and medium sized communities in any region of the country;

(2) the modification proposed by the Board is required by the public convenience and necessity in order to alleviate such harm or reduction; and

(3) such harm or reduction identified by the Board cannot be rectified by any reasonably available means other than the modification proposed by the Board.

In so modifying the program the Board shall choose the least disruptive solution to the emergency. The modification will become effective after it has lain before the Congress for 60 legislative days, unless either House disapproves of the modification by resolution or both Houses approve of it, by concurrent resolution. If the Congress so approves by concurrent resolution, the modification is effective on the date of adoption of the approving resolution.

Paragraph (12) defines an eligible "segment" for purposes of the automatic entry program as being an air route between two points within the contiguous 48 States or between a point in the contiguous 48 States and a point in Alaska, Puerto Rico, or the U.S. Virgin Islands.

Subsection (l) provides for the establishment of a civil reserve air fleet which will be available to the Secretary of Defense for the transportation of persons or property by transport category aircraft in interstate air transportation. In addition, this subsection authorizes the Secretary of Defense to contract with air carriers which are not in the civil reserve air fleet when no air carrier in such fleet is capable or willing to provide the services he needs. This subsection is a restatement of the law as it was before the enactment of this bill.

Subsection (m) embodies the provisions on charter air transportation applicable to air carriers holding a certificate issued under section 401. Those air carriers will be permitted to engage in charter air transportation under regulations prescribed by the Board. An air carrier holding such a certificate which engaged in off-route charter operations on January 1, 1977, shall be permitted to continue those off-route charter operations. Other such carriers will be limited in the percentage of their total system-scheduled aircraft miles operated in a year that may be devoted to off-route charter trips.

This subsection also requires the regulations of the Board relating to charter air transportation to specify the same frequency and regularity limitations on off-route charter operations that the Board applied on January 1, 1977. The term "off-route charter" shall have the same meaning as that term was defined on January 1, 1977.

House amendment

Under existing law, CAB is required to grant applications for interstate and overseas transportation (defined as service to U.S. possessions and territories) if the proposed service is "required by the public convenience and necessity." The Air Service Improvement Act changes the test to whether the proposed service "is consistent with" the public convenience and necessity.

In addition, transportation covered by an application for a certificate is statutorily deemed to be consistent with the public convenience and necessity unless the Board finds on clear and convincing evidence that such transportation is inconsistent with the public convenience and necessity, thus shifting the burden of proof to the opponents of the application.

The House provides that a certificate for a market becomes unused or dormant if the certificated carrier does not provide service of at least five round trips a week for at least 13 weeks during a 26 week period. Similar standards are provided for seasonal certificates.

The House provides two types of procedures for replacement of carriers with dormant certificates.

Markets which do not receive any nonstop service or which receive nonstop service by only one carrier are the markets most in need of replacement service. For these markets, the House provides that CAB must authorize replacement service in fifteen days by the first applicant who certifies that it is in compliance with FAA regulations and is able to comply with CAB regulations.

For markets actually served by two or more carriers, the House provides that the CAB must authorize the first applicant who makes the foregoing certifications, unless the CAB finds, within 60 days, that award of replacement authority would be inconsistent with the public convenience and necessity. The House establishes a rebuttable presumption that any application to replace a dormant carrier is consistent with the public convenience and necessity.

When the Board authorizes a new carrier to replace a carrier with dormant authority, the Board is directed to suspend all dormant certificates in the market. The suspension terminates if the new carrier allows its certificate to become dormant.

The carriers eligible to participate in the experimental entry program provided in section 10 of the House amendment are CAB certificated passenger carriers, both scheduled and supplemental, and intrastate passenger carriers operating at least 100 million available seat miles a year. The program permits each of these carriers to enter one new market in the first calendar year after enactment, under the following procedures.

On the first business day of the calendar year, such scheduled certificated carrier may select one market which will not be subject to entry under the program. No later than the thirtieth day of the year each eligible air carrier may apply to the Board for authority to enter one market in either interstate or overseas air transportation. The Board must issue a certificate to the applicant in 60 days unless the Board finds that the award of a certificate would be likely to result in a substantial impairment of the national air transportation system or a substantial reduction in air service to small and medium-size communities.

One hundred twenty days after the start of the calendar year, there is a "second round" of selections for carriers whose first choice was overruled by CAB or who picked a market which was also chosen by other carriers. In the latter situation, any carrier is free to give up its first choice market and pick another market in its place.

After allowing the entry permitted under the program, the CAB is required to study the results and compare the relative effectiveness of this program and entry under other provisions of the Act, including the unused authority program, the program for award of "fill-up" rights and the award of authority under simplified procedures. The Board's study must be completed no later than June 30, 1980.

Under existing law and CAB policies, some U.S. international carriers have been awarded certificates which permit them to serve several U.S. cities on an international route, but not to carry passengers between these cities. The House awards the U.S. international carriers "fill-up" rights on all their international routes. To insure that the fill-up authority does not have a severe impact on other carriers in these markets, the bill provides that domestic passengers can be carried only on international flights and the fill-up authority is limited to one round trip a day unless the Board authorizes additional flights.

The House amendment provides authority to the CAB to issue temporary, experimental certificates to carriers proposing low fares or new types of service. Section 11 allows the Board to grant temporary certificates for experimental purposes and to amend or revoke these certificates in accordance with the procedures of section 401(g) if the certificate holder fails to provide the service proposed.

To facilitate removal of unnecessary certificate restrictions the House provision prohibits the CAB from dismissing any applications for removal of certificate restrictions, and requires CAB to begin proceedings on these applications within 60 days after they are filed.

Conference substitute

Amends section 401(b) of the Federal Aviation Act of 1958 to require service of an application upon any affected communities.

Amends paragraphs (1), (2), and (3) of section 401(d) of the Act to provide that in the case of an application for a certificate to provide interstate or overseas scheduled, temporary, or charter air transportation, the Board shall approve the application and issue a certificate if it finds that the applicant is fit, willing, and able, to perform such transportation and such transportation is consistent with the public convenience and necessity. In any determination as to whether or not an applicant is fit, willing and able, to properly perform air transportation specified in an application for a certificate to engage in interstate or overseas scheduled, temporary, or charter air transportation, the applicant shall have the burden of showing that the applicant is so fit, willing, and able, and an opponent of such application shall have the burden of showing that such air transportation is not consistent with the public convenience and necessity. The conference substitute also provides in section 401(d)(9) of the Act that any such air transportation covered by an application shall be deemed to be consistent with the public convenience and necessity unless the Board finds, based upon a preponderance of the evidence, that such transportation is not consistent with the public convenience and necessity.

Amends section 401(d) of the Act by adding the following new paragraphs:

(1) New paragraph (5) (relating to unused (dormant) authority). This amendment is basically the same as the House provision with the following exceptions.

(A) The conference substitute provides that on a one-time basis for each pair of points an air carrier which has failed to provide service between such points for the minimum amount of time specified in the new paragraph may, by giving notice to the Board and reactivating service, stop the Board from issuing a certificate to another air carrier.

(B) If the Board issues a certificate to an

applicant under this new paragraph to provide service between any pair of points between which not more than one other air carrier is providing service on the date such applicant submits an application for such certificate, the Board shall suspend the authority of any air carrier which failed to provide the minimum level of service between such points for twenty-six weeks after the date of the issuance of such certificate to such applicant, or until such time within such twenty-six weeks as such applicant fails to provide such service at a minimum of five round trips per week for at least thirteen weeks, whichever first occurs, except that the Board shall not suspend any authority under this subparagraph if the Board finds that such suspension is not necessary to encourage continued service between such points by the applicant air carrier.

(2) New paragraph (6) (relating to fill-up rights) is substantively the same as the Senate bill and the House amendment.

(3) New paragraph (7) (relating to the new automatic market entry program) provides that for each of the calendar years 1979, 1980, and 1981, certain air carriers and intrastate air carriers may apply to the Board to engage in nonstop service between any single pair of points in interstate or overseas transportation (other than a pair of points either point of which is in the State of Hawaii), except that no air carrier may apply for authority under this paragraph if any air carrier has filed notice with the Board to protect such pair of points. Any authority obtained under this new paragraph is to be in addition to any other authority held by the carrier making application under this paragraph. Within each such calendar year any air carrier may file a written notice with the Board with respect to one pair of points in interstate or overseas air transportation which it intends to protect under this paragraph. The protection is only from entry under this paragraph. The Board is required to act upon any application filed under this paragraph within sixty days after the Board receives such application and the Board shall issue a certificate for the service covered by such application unless it determines that the applicant is not fit, willing, and able, to provide such nonstop service and to conform to the provisions of the Act.

(4) New paragraph (7) provides an opportunity under certain circumstances for an air carrier to file a second application under such paragraph. It also requires the Board to modify the automatic market entry program on an emergency basis if the Board makes certain findings with respect to such program. The Board may use this provision to modify the program with respect to any pair of points. Finally, this new paragraph requires the Board to conduct a study of the procedure for certification of air carriers and intrastate air carriers under the paragraph, to make certain evaluations of such procedure, and to submit a report on such study to Congress by December 31, 1980.

(5) New paragraph (8) (relating to experimental certification) is the same as the House amendment.

Amends the following paragraphs of section 401(e) of the Act:

(1) Paragraph (3) is amended to limit its application to foreign charter air transportation.

(2) Paragraph (4) is amended to delete the provision relating to charter air transportation.

Amends seciton 401(e) of the Act by adding a new paragraph (7) which eliminates (other than for certain specified cases) the authority of the Board to attach any closed-door restrictions to any certificate issued under section 401 of the Act. This new paragraph (other than for such cases) removes any closed-door restrictions attached to any certificate before the date of enactment of this paragraph. This new paragraph also requires the Board to take certain actions with respect to applications filed by air carriers seeking removal or modification of terms, conditions, or limitations, attached to certificates issued under section 401 and provides that such applicants shall not be subject to dismissal pursuant to section 401(c)(1) of the Act.

Amends section 401(f) of the Act to eliminate the proviso in such section.

Repeals section 401(j) of the Act and inserts in its place a new 401(j) relating to termination, reduction, and suspension of services. New section 401(j) provides that no certificated air carrier shall terminate or suspend all air transportation which it is providing to a point under a certificate or reduce such air transportation below essential air transportation for such point unless it has provided the appropriate ninety-days notice. Paragraph (2) of such new section 401(j) provides that a certificated air carrier shall give sixty days notice before terminating or suspending nonstop or single-plane air transportation between two points being provided by such air carrier under its certificate.

Eliminates the existing paragraphs (1) through (4) of section 401(n) of the Act and inserts in their place the following new paragraphs:

(1) New paragraph (1) (relating to part charter limitation) is substantially the same as the Senate bill.

(2) New paragraph (2) (relating to charter regulations) is essentially the same as the Senate bill. The limitations on the Board's powers to restrict the flexibility of charters are not intended to limit the Board's authority to adopt regulations for the protection of consumers.

(3) New paragraph (3) (relating to charter air transportation in Alaska) is the same as the Senate bill.

(4) New paragraph (4) (formerly a part of the definition of supplemental air transportation) provides that a charter air carrier may not sell inclusive tours directly to the general public or control a person authorized by the Board to make such sales. Moving this part of the definition to title IV of the Act permits the Board to exercise its exemption authority with respect to this prohibition.

Amends section 401 of the Act by adding two new subsections:

(1) New subsection (q) (relating to insurance and liability) is the same as the Senate provision.

(2) New subsection (r) (relating to continuing fitness requirement) is the same as the Senate provision.

NOTICE OF TARIFF CHANGES

Senate bill

This section amends section 403(c) of the Federal Aviation Act of 1958 which now requires 30 days' notice of any proposed tariff change. Under the amendment there will be three categories of notice requirements: (1) If the proposed tariff would institute a fare outside of the non-suspension zone established in section 1002(d)(2) or specified by the Board under section 1002(d)(7), or a fare to which such zone does not apply, the air carrier proposing such tariff shall file 60 days' notice. (2) Generally, an air carrier proposing a tariff change shall file 30 days' notice. (3) Finally, the Board may set a notice requirement of 25–30 days to allow an air carrier to match the fares or charges in another air carrier's proposed tariff.

Furthermore, whenever the Board suspends a proposed tariff under section 1002(g) or 1002(j), the Board is required, in paragraph (3), to deliver a statement of its reasons for such suspension at least 30 days before the proposed tariff is to take effect.

House amendment

No comparable provision.

Conference substitute

Same as the Senate bill.

MAIL AND COMPENSATION

Senate bill

This section amends section 406 of the Federal Aviation Act and is designed to phase out the current subsidy program in 7 years.

Subsection (a) maintains existing standards for determining subsidy under this section with one exception. During the first 4 years the Board may not consider "all other revenues" of each air carrier in determining subsidy levels. This eliminates the Board's current profit-sharing formula. Each carrier is assured of being able to provide service of at least the same extent, character, and quality as that which it provided under subsidy during calendar 1977. If any carrier terminates service for which it had previously received compensation, however, it shall no longer be eligible to receive compensation under section 406 if that service is later resumed, but it will be able to apply for and receive compensation for such service under section 419.

Subsection (b) provides that any future subsidy payments by the Board under section 406 may be made only to carriers entitled to receive compensation from the Board under this section for the performance of services during the 12 months ended June 30, 1977. This subsection also terminates all payments by the Board under this section after 7 years.

House amendment

Provides that during the next 4 years, the local service carriers must continue to receive subsidy to provide the same extent, character, and quality of service as they provided during 1977. During the first 4 years the Board may not consider "all other revenues" of each air carrier in determining subsidy levels. Thereafter, service may be modified only after an evidentiary hearing for each city involved. The bill further provides that the section 406 subsidy program will terminate 10 years after enactment. Requires that for four years local service carriers continue to be paid subsidy according to the basic principles of Class Rate VIII.

Conference substitute

Combines that portion of the Senate bill relating to the duration of the subsidy program with the provisions of the House amendment (other than as to the duration of the program).

MERGERS AND CONTROL

Senate bill

Section 8 of the bill amends section 408 of the Federal Aviation Act of 1958 in regard to those types of acquisition agreements that need the approval of the Board and with respect to the Board's power and procedure for either approving or disapproving such agreements.

Subsection (a) of section 8 amends section 408(a) in two respects. (1) It deletes the phrase "in any other phase of aeronautics" and inserts instead "substantially engaged in the business of aeronautics". This is done in order to narrow the class of persons whose involvement in acquisition, control, and merger agreements requires Board approval. (2) The last paragraph of subsection (a) is deleted in an attempt to modernize the subsection by deleteing superfluous parts. No substantive change was intended.

Subsection (b) of the bill amends section 408(b) of the Federal Aviation Act of 1958 by adding the Attorney General and the Secretary to the list of people whom the Board must notify when it receives an application for approval of a transaction referred to in subsection (a). This subsection also deletes the separate standard of approval for acquisitions transactions when a carrier other than an air carrier is involved. This

subsection further changes the standards for approving transactions by delineating that the Board may not approve transactions which would result in or would be in furtherance of a conspiracy or combination to monopolize the business of air transportation in the United States. Neither may the Board approve any transaction which would have the effect, in any region of the United States, of lessening competition, creating a monopoly, or restraining trade, unless the Board finds that the anticompetitive effects of the transaction are outweighed in the public interest by the more probable effect of meeting significant transportation convenience and needs of the community, and that significant transportation needs will not be met by reasonably available alternatives having a less anticompetitive effect.

In any proceeding occurring under this section the opponents of any transaction shall have the burden of showing anticompetitive effects, while proponents of the transaction have the burden of showing that significant transportation needs will not be met by reasonably available lesser anticompetitive alternatives.

Paragraph (2) of the subsection requires the Board to process these applications for approval of these transactions within 180 days, unless they are of a particularly complex nature. If they are complex, the procedure may be extended for additional periods of 90 days each, but no more than another 180 days. Notice of extensions shall be served on the Congress and on the parties.

Finally, paragraph (3) provides that if the transaction does not involve an air carrier directly engaged in the operation of aircraft, and neither the Attorney General and the Secretary of Transportation nor any other person disclosing a substantial interest in the transaction is requesting a hearing, then the Board, after 30 days notice, may go ahead and either approve or disapprove the transaction, without a hearing.

House amendment

The amendment eliminates the Board's jurisdiction over certain mergers and acquisitions which do not involve aviation interests. The amendment adopts a prior notification procedure for transactions involving uncertificated carriers. If the Board receives notice of the merger and takes no action within 45 days, the transaction may be consummated without further Board action. Any such transaction is subject to the antitrust laws.

The amendment also eliminates the "second proviso" to section 408(b) of the Federal Aviation Act which limits the Board's ability to approve transactions involving surface carriers and air carriers.

The amendments also eliminates the requirement for CAB approval when persons with no aviation interests acquire control of an air carrier, and the related presumption that a 10 percent interest constitutes control.

Conference substitute

Continues the requirements of existing law with respect to the types of mergers and acquisitions for which CAB approval is required, with the following changes:

(1) Eliminates the requirement for CAB approval when persons with no aviation interests acquire control of an air carrier.

(2) Changes the jurisdictional test for certain transactions from persons engaged "in any other phase of aeronautics" to persons "substantially engaged in the business of aeronautics."

Provides that the Board may not approve a transaction which would substantially lessen competition, unless the Board finds that the anticompetitive effects of the transaction are outweighed in the public interest by the probable effect of the transaction in meeting significant transportation needs, and that these needs may not be satisfied by a reasonably available alternative having materially less anticompetitive effects.

Adopts a prior notification procedure for transctions involving non-certificated carriers. If the Board receives notice of this type of transaction and takes no action within 45 days, the transaction may be consummated. Any such transaction would be subject to the antitrust laws.

The elimination of the proviso in section 408(a)(5) does not preclude the Board from making any similar exemption pursuant to its authority under section 416.

The intent of the new section 408 of the proposed legislation is to insure that, in light of deregulation, mergers in the air carrier industry will be tested by the antitrust standards traditionally applied by the courts to unregulated industries. However, under the new section 408, even if a merger does not meet the antitrust standards of the Sherman and Clayton Acts it may nonetheless be approved if it meets "significant transportation needs of the community to be served," and if there is no "reasonably available less anticompetitive alternative" to the merger. These latter tests only apply if a merger or similar transaction does not meet the Sherman and Clayton Act standards. The "public interest" standard in section 408(b) of the Federal Aviation Act of 1958 is retained in the new section, but that standard must now be interpreted in light of the intent of Congress to move the airline industry rapidly toward deregulation. The foundation of the new airline legislation is that it is in the public interest to allow the airline industry to be governed by the forces of the marketplace. Consistent with that premise, mergers of air carriers should be governed by the same standards that are applied to mergers of other firms.

INTERLOCKS

Senate bill

Section 9 amends section 409(a) of the Federal Aviation Act of 1958 by striking out the phrase "is engaged in any phase of aeronautics" and inserting in its stead the phrase "is substantially engaged in the business of aeronautics." It also repeals section 409(b) of the Federal Aviation Act of 1958.

House amendment

No comparable provision.

Conference substitute

Same as the Senate bill.

AGREEMENTS

Senate bill

Section 10 makes a series of amendments to section 412 of the Federal Aviation Act of 1958.

Subsections (a) and (b) amend existing subsections (a) and (b) of section 412, making those subsections applicable to foreign air transportation only.

Subsection (c) amends section 412 by adding at the end of that section several new subsections relating to interstate and overseas air transportation. Subsection (c) states the general rule that agreements or requests for authority to discuss agreements or cooperative working arrangements may be filed with the Board. This includes both those agreements in effect on the date of enactment of this subsection and those entered into later. Subsection (d) establishes a procedure to be followed by the Board when it receives an agreement or request for authority to discuss a possible agreement or cooperative working arrangement. The Board will first notify the Secretary of Transportation and the Attorney General, giving each an opportunity to submit written comments. If requested by the Attorney General, or the Secretary, or upon its own initiative, the Board will hold a hearing to determine if the agreement or request for authority to discuss is consistent with this Act. Subsection (e) states that the Board shall approve agreements or requests for authority to discuss if such authority or request is consistent with the public interest and not in violation of this Act. The Board may not approve an agreement or request for authority to discuss: (1) If the agreement concerned would limit levels of capacity in markets in which the party air carriers compete; (2) fixes rates, or charges, other than joint fares; or (3) the agreement concerned is between an air carrier not directly engaged in the operation of aircraft and another common carrier subject to the Interstate Commerce Act.

Subsection (e) states further that the Board may not approve agreements or requests for authority to discuss if the affect of the agreement concerned would: (1) Substantially lessen competition in air transportation; (2) tend to create a monopoly; or (3) significantly burden competition, unless the Board finds, after studying reasonably available alternatives having a materially less anticompetitive effect that the anticompetitive effects of such approval are outweighed by significant and demonstrable air transportation benefits for the general public; and with respect to decisions made after January 1, 1983, that the benefits cannot be accomplished by reasonably available alternative means have materially less anticompetitive effects.

Subsection (f) provides that if an agreement would provide significant cost savings or other significant competitive advantages, and if the Board finds that the public interest requires, then the Board can require that the agreement provide that such air carriers' competitors be able to join in the agreement. Furthermore, if the Board approves an agreement although it has anticompetitive effects of the type specified above, the Board then will be required to limit the effectiveness of the agreement to a period reasonably related to the continued existence of the factors upon which it based its decision, but in no case longer than 5 years. Paragraph (3) of this subsection puts the burden of proving anticompetitive effects on the party opposing the proposed contract or agreement, and the burden of proving air transportation benefits is placed on the party defending the proposed contract or agreement. In addition, the party defending the proposed contract will have the burden of proving that the benefits cannot be accomplished by reasonably available alternative means having materially less anticompetitive effects with respect to decisions made after July 1, 1983. Paragraph (5) of subsection (f) requires the Board to approve or disapprove an application within 90 days after the application was filed with the Board unless the Board determines that it is of a particularly complex nature, in which case the Board may take up to an additional 270 days to approve or disapprove the application. Finally, paragraph (9) provides that approval of agreements rendered by the Board before January 1, 1979, shall expire on January 1, 1982, unless refiled before September 1, 1980, and reapproved according to this section.

House amendment

The amendment codifies the test which the Board has used to pass on agreements which are inconsistent with the antitrust laws. Under this test, known as the "local cartage" test, an agreement which substantially reduces or eliminates competition cannot be approved unless the agreement is necessary "to meet a serious transportation need or to secure important public benefits."

The amendment also declares unlawful contracts between air carriers for pooling or apportioning revenues to provide financial assistance to an air carrier whose employees are engaged in a lawful work stoppage.

Conference substitute

Limits the application of existing subsections (a) and (b) of section 412 of the Fed-

eral Aviation Act of 1958 to foreign air transportation.

In addition, the conference substitute adds two new subsections to such section 412. Subsection (c) which relates to filing and approval of agreements affecting interstate and overseas air transportation, makes the filing of such agreements and the filing of requests to discuss possible cooperative working arrangements permissive.

It also provides that the Board in deciding whether to approve any such contract, agreement, or request shall determine whether such contract, agreement, or request is in the public interest except that the Board (1) may not approve or continue to approve such contract, agreement, or request which substantially reduces or eliminates competition, unless it finds that such contract, agreement, or request is necessary to meet a serious transportation need or to secure important public benefits and the Board does not find that such need can be secured by reasonably available alternative means having materially less anticompetition effects and (2) may not approve such contract or agreement, or any modification or cancellation thereof, that limits the level of capacity among air carriers in markets in which they compete, or that fixes rates, taxes, or charges between or among air carriers (except for joint rates, fares, or charges).

New section 412(c) adopts the prohibition relating to contracts and agreements for compensation to carriers subject to the Interstate Commerce Act. It also provides that the parties opposing the proposed contract, agreement, or request shall bear the burden of proving the reduction or elimination of competition and the availability of alternative means having less anticompetitive effects, and any party defending the proposed transaction shall have the burden of proving transportation need or public benefits.

The conferees intend that this provision should not affect the Board's ability to make its own independent record findings that there are reasonably available alternatives or that the transaction will reduce competition.

Any approval of an agreement by the Board under section 412 may be for a limited period of time. Finally, new section 412(c) requires that certain findings of the Board be included in any order of the Board under section 412.

New section 412(d) requires the Board to notify the Attorney General and the Secretary of Transportation of receipt of any contract, agreement, or request filed with the Board.

Provides that any mutual aid agreement between air carriers (agreements in which the parties agree to make payments for revenues lost by a party during a labor dispute) which are in effect on the date of enactment shall be deemed disapproved. Further provides that no carrier shall enter into a mutual aid agreement unless such agreement is filed with and approved by the Board. The Board shall not approve any mutual aid agreement unless the agreement provides (A) that payments to carriers during a strike shall not exceed 60 percent of direct operating expenses (defined to include interest expenses and exclude depreciation expenses) incurred during the strike, (B) that benefits may not be paid for more than 8 weeks during a strike and may not be paid for losses incurred during the first 30 days of a strike, and (C) that all parties to the agreement agree to submit issues causing a strike to binding arbitration, pursuant to the Railway Labor Act, if requested by the striking employees.

ANTITRUST IMMUNITY

Senate bill

The amendment made by section 11 of the bill would relieve persons from the operation of the antitrust laws "only insofar as would be necessary to enable such person to engage in the air transportation activities specifically approved by the Board in such order." In addition, the amendment would permit the Board to specifically define and limit the scope of immunity conferred by such order.

House amendment

The amendment limits section 414 immunity in several respects. First, the amendment clarifies that section 414 immunity is limited to the antitrust laws. Second, the amendment provides that immunity shall be granted only insofar as is necessary to permit completion of transactions specifically approved by the Board, or transactions necessarily contemplated by a Board order. Third, the amendment provides that the grant of antitrust immunity is discretionary with the Board and that the Board in granting immunity must find the grant to be in the public interest.

Conference substitute

Same as the House amendment.

EXEMPTIONS

Senate bill

Section 12 makes two amendments to section 416 of the Federal Aviation Act of 1958.

The first amendment is to subsection (b) (1) of section 416 and authorizes the Board to exempt, from time to time, any person or class of persons from the requirements of title IV. Those exemptions may be granted if the Board finds that the exemption is consistent with the public interest. The Board would be required to issue a final decision, within 90 days, with respect to an application for an exemption on the size of aircraft which an air carrier may use. The Board is prohibited from limiting the frequency of service, or the number or location of points to be served by an air carrier operating within the State of Alaska under part 298 of the economic regulations of the Board, unless the Board, after hearing, finds that the operations of such an air carrier substantially impairs the ability of another certificated air carrier to provide service authorized by its certificate.

The second amendment inserts two new paragraphs to subsection (b) of section 416 of that Act. The first new paragraph, paragraph (3), states that an air carrier which engages in interstate or overseas air transportation using an aircraft having a seating capacity of 36 passengers or less, and a maximum certificated gross takeoff weight of 40,000 pounds or less, shall not be required to obtain a certificate under title IV. In paragraph (4) the Board would be authorized to exempt from the provisions of the Act, foreign air carriers who are not directly engaged in the operation of aircraft in foreign air transportation to the extent and for such periods as such relief may be in the public interest.

House amendment

The amendment amends section 416(b) to allow the Board to grant exemptions to any persons, including foreign air carriers and persons controlling air carriers. It removes the "undue burden" requirement and allows the Board to grant exemptions in cases in which the activity to be exempted is of limited extent.

The amendment also amends section 416 to grant commuters an exemption to operate aircraft with a capacity of up to 56 passengers or 18,000 pounds of cargo. The bill further provides that the Board may increase these aircraft limits when it finds that the public interest so requires.

Conference substitute

The conference substitute follows the same approach as the Senate in the general exemption provisions. The Board is authorized to exempt any person from the requirements of title IV if it finds that an exemption is consistent with the public interest. The Board is permitted to exempt foreign air carriers not directly engaged in the operation of aircraft from the provisions of the Act.

With respect to commuters, the substitute follows the approach of the House amendment and authorizes commuters to operate aircraft with a capacity of up to 56 passengers or 18,000 pounds of cargo.

The conference substitute adopts the Senate provisions on commuter operations in Alaska. This provision requires that commuters in Alaska hold State authority. The award of State authority does not, in and of itself, entitle a carrier to Federal subsidy.

COMPETITION FOR ESSENTIAL AIR TRANSPORTATION

Senate bill

Section 13 inserts a new section at the end of title IV of the Federal Aviation Act of 1958, a section 419.

Subsection (a) (1) of the new section 419 would authorize the Board to determine fair and reasonable amounts of compensation for, and make payments of compensation to, any eligible air carrier who is providing or will provide essential air transportation to an eligible point.

Paragraph (2) will require the Board to establish guidelines to be used by the Board in computing the fair and reasonable amount of compensation needed to insure the continuation of essential air transportation at an eligible point. Such guidelines shall include expense elements based upon representative costs of other air carriers providing scheduled air transportation using aircraft of a type, determined by the Board, to be appropriate for providing essential air transportation to the eligible point concerned.

Subsection (b) defines an eligible air carrier as an air carrier holding either a 401 or a 420 certificate, and, in the case of an air carrier providing essential air transportation to an eligible point in the State of Alaska, an air carrier holding authority to engage in such air transportation issued by the proper agency of the State of Alaska.

Subsection (c) defines an eligible point as a point in any of the States, the District of Columbia, or the Commonwealth of Puerto Rico, which, on January 1, 1979, was listed on a 401 certificate. These points are included without regard to whether they are actually receiving service on January 1, 1979. In addition, the Board is authorized to designate other points as eligible points under the guidelines established under subsection (d). Furthermore, the subsection provides that any point which is on a 401 certificate on January 1, 1979, shall remain designated as an eligible point until January 1, 1989.

Under the provisions of subsection (d), the Board, after considering, among other factors, the level of traffic generated by a point, future traffic generating potential, the cost to the Government of providing essential air transportation to that point, the alternative means of transportation available to the residents of the point concerned for access to the national transportation system and its principal communities of interest, and the degree of isolation of the point from the national air transportation system, shall, by January 1, 1980, establish objective criteria for designating additional points as eligible points. In addition, the Board is instructed under such subsection to consider the views of State agencies and other interested parties. Under paragraph (2) of subsection (d) the Board is required, by no later than January 1, 1980, to begin to review those points in any State, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands which were deleted from any certificate of public convenience and necessity between July 1, 1968, and January 1, 1979. Applying the criteria established under the previous para-

graph, the Board shall, by January 1, 1981, then make a determination whether those points should be designated as eligible points. Beginning January 1, 1982, the Board may designate any point as an eligible point using the criteria established under paragraph (1), upon application of any interested person. Finally, paragraph (4) indicates that the designation of a point as an eligible point may be withdrawn according to the procedures specified in section 1010, except that points currently listed on any certificate of public convenience and necessity are guaranteed service for at least 10 years.

Subsection (e) provides that when the Board determines that essential air transportation will no longer be provided to an eligible point, the Board shall entertain and consider applications by eligible air carriers who are willing to provide essential air transportation to that point for compensation under this section. The Board is given three criteria to specifically consider in reviewing the applications. The Board is to consider the desirability of developing an integrated linear system of air transportation if such a system best meets the needs of the community, the experience of the applicant in providing scheduled air transportation in the vicinity of the communities for which essential air transportation is proposed to be provided, and, in the case of eligible points in Alaska, the experience of an applicant in providing scheduled air service or significant patterns of nonscheduled air service under part 298. The Board then will determine the amount of compensation to be paid any individual eligible air carrier. Such compensation shall be paid only for so long as it is necessary in order to maintain essential air transportation at the eligible point concerned. Paragraph (3) authorizes and directs the Board to periodically review the amount of compensation being paid to any eligible air carrier, and the Board is authorized to make appropriate adjustments in such amount. The Board may terminate compensation payments to any air carrier who does not satisfactorily provide the essential air transportation for which the compensation is being paid.

Subsection (f) establishes two procedures by which the Board will be able to entertain competing applications for compensation. After January 1, 1983, a 401 or a 420 air carrier will be able to file an application with the Board seeking to have compensation provided to an air carrier under section 406 terminated so that the applicant air carrier will be able to provide the air transportation under compensation under this section. The Board is directed to grant such applications if the applicant can show that termination of 406 compensation that will be required to continue essential air transportation (1) result in a substantial improvement in the air service being provided to the point concerned, and (2) decrease the amount of compensation that will be required to continue essential air transportation to the point concerned. A hearing will be held on such application if requested by the air carrier receiving subsidy under 406.

After January 1, 1983, any air carrier may also apply to the Board to have the compensation provided under this section to an air carrier providing service to an eligible point for at least 2 years terminated in order to allow the applicant to provide essential air transportation to the point concerned. The Board is authorized to grant such applications only if the applicant can show that compensation under this section will result in improvement in the air transportation being provided or a decrease in the amount of compensation that will be required to continue the essential air transportation to the eligible point. Finally, in disposing of applications under this subsection, the Board is directed to solicit and give great weight to the opinions of the communities affected by the proposed replacement of an air carrier under this subsection.

Subsection (g) authorizes and directs the Board to establish criteria to be used in determining the essential air transportation for eligible points for which compensation may be provided under this section. Such criteria shall be established by no later than January 1, 1980. The Board is further directed specifically to consult with interested communities and States, the Government of the Virgin Islands or the Commonwealth of Puerto Rico. The criteria established by the Board shall include, among other things, the standards which the Board will apply to determine the minimum frequently of air transportation to an eligible point, the minimum specifications of the aircraft to be used in providing the essential air transportation, and the maximum fares. On and after July 1, 1982, the Board, upon the request of any community affected or of any certificated air carrier, shall determine what is essential air transportation for the eligible point of the community making such request or for an eligible point being served by the air carrier making that request. In addition, the Board is required by January 1, 1985, to determine what is essential air transportation for each eligible point specified in subsection (c)(1) of this section, or designated by it under subsection (c)(2). Paragraph (2) of this subsection defines the phrase "essential air transportation." The paragraph provides that in no case shall essential air transportation be specified as fewer than two daily round trips 5 days per week, except that in instances of air transportation provided in the State of Alaska essential air transportation shall be specified at a level of service not less than that which existed for such particular point during calendar year 1976. Furthermore, in the case of essential air transportation in Alaska, the minimum level shall not be less than two round trips per week unless otherwise specified under an agreement between the Board and the State agency of the State of Alaska, after consultation with the community affected. In addition, the Board is directed to periodically review the specifications of essential air transportation for any eligible point and is authorized to make the appropriate adjustments after consultation with the community and the State agency of the State in which the community is affected.

Subsection (h) places on the Board the burden to insure that essential air transportation on a continuing basis is provided to each eligible point specified in paragraph (1) of subsection (c) until January 1, 1979. If at any time during the period beginning January 1, 1979, and ending January 1, 1989, the Board receives notice that essential air transportation will not be provided to a point to which that service is guaranteed, then it will follow the procedure spelled out in that subsection. That procedure requires the Board to (1) determine if there is another air carrier actually providing essential air transportation to the eligible point. If there is, the Board will continue to monitor that service. (2) If there is no other air carrier willing and able to provide essential air service, then the Board shall secure an eligible air carrier to provide such air transportation. (3) If the Board determines that an eligible air carrier cannot be secured in the period specified, and it is necessary in order to continue to provide essential air transportation, without a suspension of service, to the eligible point, then the Board shall require the air carrier then providing the air transportation to the point concerned to continue to provide such air transportation for an additional 30-day period. The Board, during the 30 days, will continue to seek another air carrier to provide essential air transportation to the point concerned.

If, however, the Board is unable to secure such other air carrier, the Board may continue to require such air carrier to maintain essential air transportation at the point concerned for an additional 30-day period, making the same determination at the end of each such period. In no case will such an air carrier, who is operating on these 30-day periods, be allowed to discontinue such air service until the Board certifies that another air carrier is willing and able to step in and provide essential air transportation to the point concerned. Any air carrier which is required to continue operating during these 30-day periods will be paid compensation under paragraph (3). The section also requires air carriers which are subject to the jurisdiction of the Board, other than air carriers certificated under section 401 or 420, to give the Board, the community affected, and the appropriate State agency 90 days' notice before such an air carrier will terminate, reduce, or suspend air transportation it is providing to an eligible point. Such an air carrier giving 90 days' notice will also be able to receive compensation computed under paragraph (3). Amounts of compensation payable by the Board under paragraph (3) shall be in amounts, determined by the Board, necessary to insure the recipient a reasonable rate of return on its investment related to the air transportation involved, taking into account its fully allocable cost in providing the air transportation involved and the air carrier's revenues derived from providing such air transportation.

Subsection (b) makes it clear that any air carrier who, on January 1, 1977, was receiving compensation under section 406 of the Federal Aviation Act of 1958, shall not have such compensation payments suspended or terminated or be required to obtain a certificate under section 420 to serve the points for which they are receiving compensation solely by reason of the enactment of the amendments made by this act. However, if during the 7 years occurring after the day of enactment of this act, an air carrier terminates air service being provided with 406 compensation, any further compensation payments for that air service will be computed under the provisions of this section.

House amendment

The amendment establishes a new program under which commuter airlines are eligible for subsidy. The Board is given flexibility to determine the method of paying subsidy. Subsidy may be offered for service to communities now served by local service carriers, cities at which local service carriers are authorized to suspend service, or cities which have been deleted from local service carrier certificates since 1968. Commuters are permitted to receive subsidy without undergoing the regulatory and economic burdens of certification. The subsidy agreement itself can be used to insure that adequate service will be provided.

Cities presently listed on air carrier certificates are guaranteed service for 10 years with subsidy, if necessary. The level of service must be at least two round trips per day, 5 days a week, or the service actually provided in 1977, whichever is less. If service is reduced below the foregoing level, and no certificated carrier or commuter is willing to serve the community without subsidy, the CAB must subsidize a commuter. Before establishing subsidized service for a commuter, the CAB must consult with appropriate State and local officials.

The CAB also is required to review cities deleted from air carrier certificates since 1968 to determine whether subsidized service should be provided. In making these determinations, the CAB must consider the subsidy cost, the number of persons to be benefited, and the alternative surface and air transportation available.

The amendment provides that within 180

days after enactment, the Administrator of the Federal Aviation Administration shall establish safety standards for commuter carriers providing subsidized service. Such safety standards shall take effect after the end of the eighteenth month which begins after such date of enactment and shall impose requirements on commuter air carriers to assure a level of safety equivalent to the maximum feasible extent, to that provided by certificated air carriers. Subsidy cannot be awarded to a commuter until the Board has determined that the commuter will comply with the foregoing safety standards.

As it applies to cities which are guaranteed air service by this section, it also provides that when a carrier wishes to reduce its service at one of these cities below the level of "essential air transportation," (as defined by the CAB) the carrier must give 90 days notice of its intention to do so. Upon receipt of notice, CAB must find a replacement carrier. CAB is directed to postpone the proposed reduction of service until replacement service is available. Carriers which are required to continue service under this provision are entitled to compensation for any losses incurred.

Conference substitute

The conference substitute guarantees continued air transportation for 10 years to all cities which are listed on air carrier certificates on the date of enactment, including cities at which a certificated carrier has suspended service. To insure such service the substitute establishes a new subsidy program, with compensation to be based on the needs of the community and the use of appropriate size aircraft.

For each city which is guaranteed service for 10 years, the Board is directed to establish a level of "essential air transportation" which in no case shall be less than 2 daily round trips, 5 days a week, or the level of service actually provided during calendar year 1977.

Air carriers serving cities which are guaranteed air service are required to give notice before reducing service at the city below the level of essential air transportation. Certificated carriers and carriers receiving subsidy under the new community-based subsidy program must give at least 90 days notice before reducing service and commuters which are not receiving subsidy must give 30 days notice.

When the Board receives notice of a proposed reduction in service, the Board must make every effort an arrange for another carrier to provide essential air transportation on a continuing basis. If the Board determines that essential air transportation will not be provided without compensation, the Board is directed to select an air carrier and establish a rate of compensation, following certain guidelines. The guidelines for compensation require that compensation be based on the use of aircraft determined by the Board to be appropriate for providing essential air transportation to the community.

If the Board is not able to arrange for replacement service within the period of notice, the Board must require the carrier serving notice to continue to serve the point for an additional 30-day period. The obligation to serve may be extended for additional 30-day periods until replacement service has been arranged. During these 30-day periods, the Board is required to make every effort to find a replacement carrier.

The carriers which are required to continue service under the foregoing provisions are entitled to compensation for any losses incurred. In the case of carriers already receiving compensation under this section, or section 406, the established rate of compensation continues. In the case of carriers not receiving compensation, this section specifically authorizes compensation for losses. Any such payments to any air carrier which the Board currently classifies as a trunk carrier or which in the future is classified by the Board as a trunk carrier are limited to a 1-year period for any community. While the conferees recognize that this provision may, in rare circumstances, result in the temporary subsidization of trunks, it is the strong intent of the conferees that such subsidization should be done only as a stop-gap measure to assure continued service to the point. If the Board is required to provide temporary subsidy to a trunk under this provision, it should give the highest priority to finding a replacement carrier.

The conference substitute also provides for the addition of a limited number of new communities to the new community-based subsidy program.

First, the Board is directed to review all cities which have been deleted from air carrier certificates since 1968, and decide whether any of these cities should be made eligible for the new community-based subsidy program. Thereafter, the Board may add additional points in Alaska and Hawaii to the program, so long as the total number of points receiving subsidy under this section and section 406 does not exceed the total number of points which received a subsidy under section 406 on July 1, 1968.

Before terminating service at any of the communities added to the program, certificated carriers and other carriers receiving compensation, must give 90 days notice, and unsubsidized carriers not holding a certificate, must give 30 days notice.

The conference substitute includes specific provisions authorizing replacement of a subsidized carrier. After January 1, 1983, any carrier may file an application seeking to replace a carrier receiving section 406 subsidy. The Board is directed to grant the application if the applicant shows that it can provide a substantial improvement in the air service being provided and a decrease in the amount of compensation which is required. Any replacement service would be compensated under the new subsidy program.

Applications to replace carriers operating under the new subsidy program may be filed after January 1, 1983, if the subsidized carrier has been serving the point for at least 2 years. The prospective replacement carrier must show that his service would result in a substantial improvement in air service with no increase in subsidy, or in a substantial decrease in the amount of subsidy required to provide essential air transportation.

The conference substitute establishes safety requirements for commuter air carriers receiving compensation. Such commuters must demonstrate that they are "fit, willing, and able" to perform the proposed service and that aircraft used to perform the service, and all operations relating to such service, will conform to safety standards established by the FAA Administrator. Such safety standards must be established in 180 days and must require commuters to develop the same level of safety as is provided on certificated carriers to the maximum feasible extent. The conferees recognize that the FAA has recently amended its safety rules with respect to commuter carriers and if the Administrator determines that such recently promulgated regulations meet the requirements of this section the Administrator may make a written finding to that effect setting forth with specificity how such rules, in fact, comply with the intent of this section.

The conference substitute requires any air carrier receiving subsidy under this program to comply with insurance requirements promulgated by the Board.

There is no limitation on the classes of air carriers eligible to participate in the new community-based subsidy program. However, the amounts of subsidy must be based on use of appropriate size aircraft. Carriers participating in the section 406 subsidy program, which terminates 7 years after enactment may apply for the new program at any time.

LOCAL AIR TRANSPORTATION

Senate bill

This section further amends title IV of the Federal Aviation Act of 1958 by adding at the end of that title a new section 420.

Subsection (a) authorizes the Board to issue certificates to applicants to engage in local air transportation if the Board determines that the applicant is fit, willing, and able to perform properly local air transportation and to conform to the provisions of the act and the rules, regulations, and requirements of the Board.

Subsection (b) states that the Board shall not designate the geographical area or the terminal or intermediate points within or between which an air carrier holding a certificate under this section may provide air transportation.

Subsection (c) provides that an air carrier holding a certificate under this section who is no longer fit, willing, and able or has intentionally failed to comply with any applicable provisions of this title or any order, regulation, or rule of the Board, may have such certificate suspended or revoked. Such suspension or revocation may be done by either petition or by the Board on its own motion.

Subsection (d) provides two separate rules which will apply when an air carrier holding a certificate under this section proposes to terminate, suspend, or reduce air service to a point which it is serving under authority of this section. The first rule states that if such air transportation being terminated, suspended, or reduced is to a point listed on a certificate of public convenience and necessity of any air carrier on January 1, 1979, then the air carrier shall give the Board, the eligible point, and the State agency concerned 90 days' notice before it terminates, suspends, or reduces such air transportation, unless the essential air transportation for the point is being provided by another air carrier. If essential air transportation would continue to be provided, and in all other cases, the Board shall prescribe a reasonable notice period, not longer than 30 days, to be adhered to by each such air carrier when proposing to terminate or suspend local air transportation. Mere reduction in service to any eligible point which does not leave the community with less than essential air transportation requires no advance notice.

Subsection (e) provides that certain provisions of title IV of the Federal Aviation Act of 1958 shall not apply to an air carrier holding a certificate issued under this section if such air carrier does not also hold a certificate issued under section 401 or section 421. Nor shall the sections listed in this subsection apply to local air transportation provided by any other air carrier holding a certificate issued under this section.

Subsection (f) prohibits an air carrier from providing air transportation under a certificate issued under this section with an aircraft which has a seating capacity of more than 36 passengers and a maximum certificated gross takeoff weight of greater than 40,000 pounds.

Subsection (g) prohibits an air carrier certificated under this section from providing air transportation under that certificate between two points in the State of Alaska, or between one point which is in the State of Alaska and the other is in Canada, unless such air carrier also holds authority to provide that air transportation from the appropriate agency of the State of Alaska.

Subsection (h) requires each such air carrier to maintain in effect liability insurance, or self-insurance, as required by the Board.

House amendment

No comparable provision.

Conference substitute

No comparable provision. Although the conference substitute does not require certification of commuters, the Board is encouraged to grant 401 certificates to qualified commuters.

CHARTER CERTIFICATES

Senate bill

Section 15 further amends title IV of the Federal Aviation Act of 1958 by adding at the end of that title a new section 421 dealing with charter certificates.

Subsection (a) is the general authority for the Board to issue certificates to applicants to engage in interstate or overseas charter air transportation.

Subsection (a) also contains the specific standards which the Board will apply in issuing any certificate under this section. Specifically, it provides that the Board shall issue certificates to persons who are fit, willing, and able to perform the air transportation specified in the certificate, to conform properly to the provisions of this act, and the rules of the Board. In addition, the Board will determine that the air transportation specified is consistent with the public convenience and necessity in the case of applications which are filed with the Board before January 1, 1982. After that date, this standard may not be applied.

Subsection (b) prohibits the Board from issuing a certificate under this section, during the last 5 years after its date of enactment, to any air carrier which, before January 1, 1977, held a certificate under section 401(d)(1) of the Federal Aviation Act of 1958, authorizing scheduled air transportation.

Subsection (c) authorizes the Board to put such reasonable limitations in certificates issued under this section as the Board deems necessary. However, such limitation shall not include the designation of geographical areas, or the terminal or intermediate points within or between which service may be rendered.

Subsection (d) provides that an air carrier who held a certificate of public convenience and necessity on December 31, 1978, authorizing interstate or overseas air transportation shall continue to have all the authority, rights, and privileges conferred by that certificate as well as the authority to transport mail in interstate or overseas air transportation.

Paragraph (3) of this subsection provides for the issuance of certificates under this section to certain scheduled all-cargo carriers operating pursuant to an exemption issued by the Board. Finally, paragraph (4) of this subsection provides that any reference in any law, rule, regulation, or document of the United States to a certificate of public convenience and necessity for supplemental or all-cargo air transportation shall be deemed to be a reference to a certificate under this section.

Subsection (e) deals with charter operations in Alaska. It states that a certificate under this section shall not authorize the holder to conduct operations between points within the State of Alaska unless the Board specifically authorizes such operations, except for carriers who have their principal place of business located within the State of Alaska, or any air carrier which, on July 1, 1977, was classified by the Board as an Alaskan air carrier.

House amendment

Section 7 of the House amendment provides that the Board may issue certificates to applicants (including certain scheduled air carriers) for authority to engage in that interstate or overseas supplemental air transportation which is consistent with the public convenience and necessity.

Conference substitute

Incorporates the concept of charter air transportation and charter air carriers from the Senate into the existing framework of the Federal Aviation Act of 1958.

GENERAL PROVISIONS

Senate bill

This section amends title IV of the Federal Aviation Act of 1958 by inserting at the end thereof an additional section, numbered section 422.

Subsection (a) states the general rule that no air carrier shall engage in air transportation unless that air carrier has a certificate issued by the Board or is exempt from the provisions of this title. In addition, the subsection provides that any air carrier may hold more than one certificate.

Subsection (b) restates the provisions with respect to filing applications for certificates that previously appeared in section 401 of the act.

Subsection (c), concerning notices of applications filings, again, restates the laws that previously applied with respect to notices of applications.

Subsection (d) again is a restatement of the law with respect to the authority of an air carrier to change schedules, equipment, accommodations, and facilities and services as the development of the business and the demands of the public require.

Subsection (e) prohibits any direct air carrier from entering into or maintaining a control relationship with any charter tour operators, except for those engaged exclusively in selling or organizing charter trips in foreign air transportation which originate abroad.

Subsection (f) provides that certificates issued under this title shall be effective from the date specified in the certificate until suspended or revoked by the Board, or if issued for a specific period, until the date of expiration, unless suspended or revoked.

Subsection (g) grants the Board the authority to modify, suspend, or revoke certificates issued under section 401 or 421. This subsection provides that the Board may alter, amend, modify, or suspend such certificates if (1) the public interest so requires, or (2) may revoke any such certificate if the holder intentionally fails to comply with any provision of this title or any order, rule, or regulation issued by the Board. However, no certificate shall be revoked unless the holder thereof fails to comply within a reasonable time with an order of the Board commanding obedience to the provision or the order found by the Board to have been violated. In addition, it provides that when the Board issues a certificate under section 401 on the basis that the air carrier applying for the certificate will provide innovative or low-priced air transportation under that certificate, the Board may revoke, alter, amend, modify, or suspend such certificate on the grounds that such air carrier has not provided or is not providing such innovative or low cost air transportation.

Subsection (h) provides for the nontransferability of certificates issued under this title, unless incidental to a transaction described in section 408, and in compliance therewith.

Subsection (i) relating to certain rights not conferred by certificates issued under this title, and subsection (j) relating to compliance with labor legislation, are both merely restatements of those respective subsections as they appeared in the Federal Aviation Act of 1958 before the date of enactment of this act.

Subsection (k) requires each holder of a certificate issued under this title to comply with the regulations of the Board relating to insurance and liability and to plans for self-insurance. Paragraph (2) of that subsection requires the Board to prescribe regulations with respect to performance bonds or equivalent security arrangements that must be maintained and filed by air carriers holding a certificate under this title.

Subsection (l) prohibits, for the 5 years immediately after the date of enactment of this act, any air carrier from mixing charter and regularly scheduled passengers on the same flight. At the end of the 5 years, each certificated air carrier will be able to sell 20 percent of the seats on any aircraft used in charter air transportation to individual passengers, so long as those tickets are sold within 15 days of the flight. The prohibition during the first 5 years occurring after the date of enactment shall not apply to the carriage of passengers in air transportation under group fare tariffs.

Subsection (m) states that the requirement for any applicant to be found fit, willing, and able and to comply with the rules of the Board are continuing requirements applicable to each such air carrier. Under this subsection the Board is directed to modify, suspend, or revoke in all or in part the authority granted under a certificate if the holder is found to have failed to comply with this continuing requirement.

Subsection (n) prohibits the Board from issuing regulations restricting the marketability, flexibility, excessibility, or variety of charter trips except to the extent required by the public interest. In any event, such restrictions shall be no more rigid than those which were in effect on July 1, 1977.

House amendment

No comparable provision.

Conference substitute

The conference substitute does not contain a new section relating exclusively to general provisions. To the extent that the conference substitute adopts any provisions that appear in the Senate bill on this subject a discussion of the provisions appears as part of the discussion of "Certificates".

FEDERAL PREEMPTION

Senate bill

Section 17 adds another section to title IV of the Federal Aviation Act of 1958.

This new section, section 423, prohibits a State from enacting any law, establishing any standard determining routes, schedules, or rates, fares, or charges in tariffs of, or otherwise promulgating economic regulations for, any air carrier certified by the Board. However, any State which, on or before January 1, 1979, authorized an air carrier to provide intrastate air transportation in that State, may continue to regulate such intrastate operations of such air carrier for so long as not less than 50 percent of the revenues of such air carrier are derived from such intrastate operations. As soon as more than 50 percent of such an air carrier's revenues are derived from its interstate operations then all of its operations become subject to the Board jurisdiction. The Board is directed to determine the allocation of revenue. Interstate operations include carrying passengers on a continuing journey in interstate air transportation even though part of the journey involves transportation between two points in the same State.

Paragraph (2) preserves the rights of air carriers under State authority once they become fully regulated by the Board.

Paragraph (3) of subsection (a) of this section provides that, except for air transportation provided under a 401 certificate or air transportation for which compensation may be paid under section 419, the provisions of this subsection do not apply to air transportation conducted wholly within the State of Alaska.

Paragraph (4) provides that an air carrier who enters into an agreement with an intrastate air carrier for the through handling of baggage or passengers shall not, by reason of that agreement, be subject to regulation by any State, nor shall such intrastate air car-

rier become subject to regulation by the Board, except to the extent the Board regulates such agreements.

Paragraph (5) states that merely because an aircraft being used in intrastate air transportation crosses either the boundaries between two States or between the United States and any other country or between the United States and the territorial waters shall not be considered to be operating in interstate or overseas air transportation. This paragraph does not apply to air transportation between two points in the State of Hawaii.

House amendment

The amendment provides that when a carrier operates under authority granted pursuant to title IV of the Federal Aviation Act, no State may regulate that carrier's routes, rates or services. The bill further provides that if a carrier was primarily an intrastate carrier on August 1, 1977, and subsequently receives authority from CAB, its State authority must be included in its CAB certificate until the CAB modifies the certificate.

The amendment also eliminates Federal jurisdiction over certain service which is essentially intrastate in nature. Under existing law, CAB has jurisdiction over air service between two cities in a State if the aircraft passes over places outside the State. The amendment provides that service between two cities in a State is not subject to CAB jurisdiction solely because the aircraft passes over places outside of the State. This provision does not apply to flights between the Hawaiian Islands which will continue to be regulated by the CAB.

Conference substitute

Same as House amendment, except that with respect to Alaska the conference substitute adopts the same approach as the Senate bill and provides that in Alaska preemption applies only to air transportation (other than charter air transportation) provided under a section 401 certificate. The substitute provides a limited exception for Alaska because of the special circumstances in Alaska with regard to cargo, in particular. Due to geographic and climatic conditions a great deal of cargo is shipped to and consolidated in southern points in Alaska and is subsequently distributed to points throughout the State by air. Where such shipments occur, the conferees intend that the subsequent shipments by air between points in Alaska be subject only to State economic regulation, regardless of whether a single waybill is used.

FARES AND PRACTICES

Senate bill

Section 18 substantially revises subsections (d) and (e) of section 1002 of the Federal Aviation Act of 1958 to reduce the power of the CAB to regulate interstate and overseas airline rates and fares.

Subsection (a) of section 18 amends subsection 1002(d) by removing the power of the Board to review the "justness" and "reasonableness" of interstate and overseas charter fares and cargo rates except for cargo rates within Alaska and Hawaii and by reducing the Board's discretion over the justness and reasonableness of scheduled fares. Paragraph (1) establishes the general authority of the Board to hold an inquiry into the justness and reasonableness of fares, charges, rules, and classifications for interstate or overseas scheduled air transportation. If the Board finds a challenged fare, charge, classification, or practice to be unjust or unreasonable, it is empowered to establish the lawful maximum or minimum or maximum and minimum fare or charge, or the lawful classification or practice to be made effective. The Board's present power to set the fare levels (as opposed to maximum or minimum) is removed.

The powers granted to the Board by paragraph (1) are modified by paragraph (2) which establishes an upward and downward zone in which the Board may not find fares to be unjust or unreasonable. On the upward side, the Board may not find a fare for scheduled passenger air transportation to be unjustly or unreasonably high unless, after July 1, 1979, it is more than 5 percent above the standard industry fare level for the same or essentially similar class of service (defined in paragraph (6)). This upward zone does not apply to any market in which the affected air carrier transports 70 percent or more of the passenger air traffic as determined by the Board. On the downward side, the Board cannot find a fare for scheduled passenger transportation to be unjustly or unreasonably low unless (A) on the date the tariff containing the fare was filed, the fare in question was more than 35 percent below the standard industry fare level for the same or essentially similar class of service, or (B) on the grounds the fare is predatory (defined in section 101 (35)). The paragraph also provides that in determining whether a fare for scheduled passenger air transportation is too high, the Board shall take into consideration reasonably estimated or foreseeable future costs and revenues for the period for which the tariff is to be in effect.

Paragraph (3) empowers the Board to investigate the justness or reasonableness of classifications, rules, and practices utilized by air carriers for the interstate or overseas transportation of cargo or the interstate or overseas charter transportation of persons. The Board is empowered to correct offending practices. Although the Board is not given the power to review the justness or reasonableness of air cargo rates or charter passenger air transportation fares, this section gives the Board the power to review, from a consumer protection standpoint, the many rules and practices established by carriers for the provision of these types of air transportation.

Paragraph (4) empowers the Board to determine whether rates or fares for scheduled or charter interstate or overseas air transportation of persons or property or any classification or practice affecting such fares or charges (including fares within the zone or reasonableness of paragraph (d)(2)) will be unjustly discriminatory, unduly preferential, unduly prejudicial, or predatory. If it so determines, the Board is given the limited power to order a carrier to modify the offending practice or to cease collecting the offending price only to the extent necessary to elliminate the discrimination, preference, prejudice, or predatory practice.

Paragraph (5) places the burden of showing that a fare or a charge is too low on the party opposing such fare or charge.

Paragraph (6)(A) defines standard industry fare level as the fare level in effect on July 1, 1977, for each class of service existing on that date and in effect on the date of establishment of classes coming into existence after that date. Subparagraph (B) authorizes the Board to adjust, no less than semiannually, the standard industry fare level. Such adjustments shall be done by increasing or decreasing the fare level by the percentage change from the last previous period in the actual operating cost per available seat-mile for domestic scheduled service. Subparagraph (C) requires the Board to issue rules modifying the rules governing those classes of service in existence on July 1, 1977, which provide lower fare levels during off-peak periods. These rules shall be issued by no later than July 1, 1978.

Paragraph (7) empowers the Board to increase the downward zone of reasonableness established by subparagraph (2)(B).

Subsection (b) of section 18 amends section 1002(e) of the Federal Aviation Act of 1958 in its entirety. The new subsection (e) provides six factors that the Board is to take into consideration in exercising and performing its powers and duties under subsection (d) of section 1002.

House amendment

The amendment provides that air carriers are authorized to raise fares up to 5 percent above the fare in effect one year earlier. This upward fare flexibility does not extend to any market in which a carrier carries more than 90 percent of the traffic and is not effective until Congress adopts a new entry program following the CAB study on automatic entry except that if a carrier reduces its fare under automatic downward flexibility, the carrier may increase the reduced fare up to any fare which is not higher than the fare in effect prior to the first fare reduction.

The amendment establishes downward fare flexibility for reductions of up to 25 percent below present coach fares in the first year after enactment and up to 50 percent of present coach fares thereafter, so long as the proposed fares are not predatory. The downward flexibility may be used for either reduced coach fares or discount fares.

The amendment does not prohibit fare increases or decreases which are greater than the prescribed limits. However, these fare changes will not be allowed automatically and will have to be approved by CAB.

Subsection (b) of section 29 amends section 1002(e) of the Federal Aviation Act of 1958 in its entirety. The new subsection provides five factors that the board is to take into consideration in exercising and performing its power and duties under subsection (d) of section 1002.

Conference substitute

On upward fare flexibility the substitute adopts the same approach as the Senate.

Effective July 1, 1979, air carriers may raise their fares up to 5 percent above the standard industry fare level without CAB approval. This authorization does not apply to any market in which the carrier carries more than 70 percent of the traffic. The "standard industry fare level" is the fare level in effect on July 1, 1977, as modified, by the Board, not less than semiannually, on the basis of actual changes in operating costs.

For downward flexibility, carriers are allowed to reduce their fares up to 50 percent below the standard industry fare level, unless the Board determines that a decrease would be predatory. The Board is given authorization to increase the percentage of downward fare flexibility.

SUSPENSION OF RATES, FARES, AND CHARGES

Senate bill

Section 19 amends subsection 1002(g) of the Federal Aviation Act of 1958 by adding three additional restrictions on the Board's power to suspend rates, fares, and charges:

First, the Board is forbidden to suspend or reject on any grounds, including those enumerated in paragraph (d)(4), a tariff for scheduled passenger transportation on the basis of a passenger fare contained in that tariff if such a fare is within the zones specified in paragraph (d)(2).

Second, the Board is forbidden to suspend or reject any other fares, rates, or charges, unless the Board is authorized under subsection (d) to find the proposed rate, fare, or charge unlawful.

Third, the Board may not suspend or reject a proposed fare or charge on the basis that it is too low (including allegations that it is predatorily low) unless the Board first finds that there is a substantial probability that he proposed fare or charge will be found unlawful under subsection (d).

House amendment

No comparable provision.

Conference substitute

No comparable provision.

EXPEDITED PROCEDURES

Senate bill

Section 20 inserts a new section at the end of title X of the Federal Aviation Act of 1958

The new section, section 1010, in subsection (a) provides that whenever the Board receives an application, complaint, or petition under title IV and relating to domestic air transportation, other than one filed under section 408 or 409, or an application by a United States air carrier for a certificate to perform foreign air transportation, the Board shall, within 90 days after receiving such petition, determine whether a specific provision of that title or the public interest requires a hearing. During the 90 days interested parties shall be given an opportunity to submit written data, views, or arguments on that question. If the Board determines that a hearing is not required, then the Board shall issue a decision either granting, denying, or dismissing the pleading filed. Such decision shall be issued within 30 days after the Board determines that a hearing is not required, but in no case more than 120 days after the date the petition was filed with the Board. Any such decision should be deemed to be a final order of the Board to judicial review.

If the Board determines that a specific provision of title IV or the public interest requires a hearing, it may proceed in one of two ways. If there are disputed issues of material fact which requires an oral evidentiary hearing, the Board shall set such application for such oral evidentiary hearing. Interested persons will then be entitled to present such evidence and testimony and to conduct cross examination as the Board determines to be appropriate and required. In such a hearing, an administrative law judge or Board member shall issue an initial or recommended decision within 150 days after the date of the Board's decision to set the oral evidentiary hearing.

If the Board does not act within 60 days after the initial or recommended decision is issued, that decision becomes the final decision of the Board subject to judicial review. If the Board decides to review such initial or recommended decision, it shall issue its final order within 90 days after the date such initial or recommended decision was issued. If the petition raises questions which are unusually complex or difficult, the Board may extend for not more than 30 days the period within which the Board, the administrative law judge, or Board members shall issue an initial or recommended decision. Within these time limits, the Board has authority to set dates and requirements for interlocutory motions, answers, petitions, and other pleadings and procedural steps.

Even though a specific provision of title IV or the public interest may require an oral evidentiary hearing, the Board may, by order, dispense with an oral evidentiary hearing and proceed to a final decision with or without an opportunity for further written or oral argument. If the Board takes this action, it shall first issue an order to show cause describing specifically the action it proposes to take, setting forth its tentative findings of fact and conclusions of law, requiring any interested parties opposing such action to show cause why such action should not be taken, and, if such party requests an oral evidentiary hearing, why such a hearing is necessary and why any relevant and material facts cannot be adequately placed on the record by written submissions or other means. After evaluating any responses to its order, the Board shall then proceed to a final decision of the case or set the case down for oral evidentiary hearing. Final decisions shall be rendered within not more than 180 days after the date the application was filed, and decisions to set down for oral evidentiary hearing shall be made within not more than 120 days after the application was filed.

Subsection (e) preserves the right of any air carrier to obtain an oral evidentiary hearing in any proceeding relating to the suspension or revocation of its certificate.

Subsection (f) provides that when the Board receives a complaint under section 1002 (d)(4) from a civic party, the Board shall grant, deny, or dismiss such complaint within 90 days after such complaint was filed.

Subsection (g) requires the Board, whenever it grants, denies, or dismisses a petition, to state the reasons for so granting, denying, or dismissing such petition. The Board may, however, dismiss an application or other document for failure to comply with the procedures of the Board.

House amendment

The amendment imposes procedural deadlines for Board decisions. For route applications the amendment would require the Board to decide within three months from the date a route application is filed whether to set the application for hearing or dismiss it on the merits. An order of dismissal could be reviewed by the courts.

In those route cases which are set for hearing, the amendment requires the Administrative Law Judge to issue his decision in 180 days, and the Board to issue its decision 90 days thereafter. These provisions mean that the Board will decide all route cases within 1 year from the filing of an application. As a sanction to insure that the Board complies with this deadline, the amendment provides if the Board fails to decide a case in a year, the ALJ's decision will become final. The amendment also provides for deadlines to be extended if applicants fail to meet procedural schedules established by the Board, and provides a 90-day extension of the deadlines in extraordinary cases. To give the Board sufficient time to adjust to the new deadlines, they do not take effect until 1 year after the date of enactment.

The amendment also establishes procedural deadlines for other types of cases such as agreements and exemptions. In these cases the Board is required to issue a final decision in 6 months if there is no evidentiary hearing, and in 1 year if a hearing is held. Merger cases must be decided in 6 months.

The amendment permits the Board to promulgate rules establishing simplified procedures for processing route applications by U.S. and foreign air carriers. The procedures must provide for notice and an opportunity for interested persons to file evidence and argument; however, the procedures need not provide for oral evidentiary hearings.

The amendment also provides criteria for the Board to determine whether to apply the simplified procedures in particular cases.

Conference substitute

Amends section 401(c) to require the Board to (1) set any application for public hearing, (2) begin to make a determination with respect to application under the simplified procedures established under section 401(p), or (3) dismiss the application on the merits within ninety days after the application is filed with the Board. Such amendment also provides that if the Board dismisses an application without setting it for a hearing or beginning to make a determination under subsection (p) such dismissal shall be deemed a final order and be subject to judicial review under the provisions of the Act. The amendment to subsection (c) also provides specific time deadlines which are to govern the Board's determinations with respect to any application filed with the Board under section 401.

Adds a new section 401(p) to the Act which requires the Board to promulgate rules establishing simplified procedures for disposing of applications and certificates under sections 401(d)(1), (2), or (3) and for the alteration, amendment, modification, suspension, or transfer of certificates pursuant to sections 401(f), (g), and (h) of the Act. Such rules are to provide for adequate notice and submission of appropriate written evidence and argument, but need not require for oral evidence or hearings. Such rule may provide that written evidence and argument be filed as part of a protest or memorandum filed under section 401(c) of the Act. The new section permits the Board to use the simplified procedures when the Board determines such use to be in the public interest.

The conference substitute also contains an amendment which adds a new section 402(h) to the Act (relating to procedures for processing applications for permits for foreign air carriers) which is the same as the House amendment.

The conference substitute also adds a new section 1010 to the Act which sets forth the following time requirements with respect to applications or other written documents submitted to the Board under section 408, 409, 412, or 416 of the Act:

(1) If the Board orders an evidentiary hearing, the Board shall issue a final order or decision with respect to the written document within 12 months after it is submitted, except in the case of an application submitted under section 408 the Board shall issue its final order or decision within 6 months after the application is submitted.

(2) If the Board does not order an evidentiary hearing, the Board shall issue a final order or decision with respect to the document within 6 months after the date of its submission.

EXISTING DETERMINATIONS

Senate bill

Section 21 preserves all orders, determinations, rules, regulations, permits, contracts, certificates, rates, and privileges issued, made, granted, or allowed to become effective by the President or the Civil Aeronautics Board, the Postmaster General, or any court of competent jurisdiction, made before the effective date of this act, until they are amended, modified, terminated, superseded, set aside, or repealed by the Board or by any court of competent jurisdiction or by operation of law.

House amendment

No comparable provision.

Conference substitute

Same as the Senate bill.

EMPLOYEE PROTECTION PROVISION

Senate bill

Subsection (a) of this section states the general rule that the Secretary of Labor may make monthly assistance payments or reimbursement payments to eligible protected employees. An eligible protected employee is a protected employee who, on account of a qualifying dislocation, has been deprived of employment or has been adversely affected with respect of his compensation.

Subsection (b) provides for the computation of monthly assistance. It directs the Secretary of Labor to consult with the Secretary of Transportation and, by rule, to promulgate guidelines to be used by him in determining amounts of compensation for each craft and class of protected employees, and to determine the percentage of salary such payment shall constitute. The Secretary shall deduct from such amounts the full amount of any unemployment compensation received by the protected employee. Paragraph (2) authorizes the amount of monthly assistance payable to each employee to be reduced, if the protected employee refuses offered employment, to an amount which the employee would have been entitled to receive had he accepted the employment. If the acceptance of comparable employment requires reloca-

tion, the employee may elect not to relocate and, in lieu of all other benefits, he shall be entitled to receive monthly compensation payments equal to the total number of compensation payments remaining pursuant to the maximum provided in subsection (e) or (3), whichever is less.

Subsection (c) authorizes the Secretary to make payments for reasonable moving expenses for the protected employee and his immediate family if the employee relocates in order to obtain other employment. Such employee may also be entitled to be reimbursed for losses sustained when the employee sells his principal place of residence at a price below fair market value or any loss incurred in canceling such employee's lease agreement or contract of purchase relating to his principal place of residence.

Subsection (d) requires an air carrier hiring additional employees to hire first a protected employee who has been terminated or otherwise furloughed as a result of a qualifying dislocation, except that such air carrier may recall any of its own furloughed employees before hiring such a person. A person who is so furloughed or terminated and hired by another air carrier shall retain his rights of seniority and right to recall with the air carrier that furloughed or terminated him. This subsection also requires the Secretary to establish and maintain a comprehensive list of jobs available with 401 certificated air carriers. He shall also, from time to time, publish that list which shall include such information and job detail as may be necessary. The Secretary, too, shall make every effort to assist an eligible protected employee in finding other employment. As a condition to receiving payments under this section, such an employee shall have the duty of cooperating fully with the Secretary. The Secretary is directed to encourage negotiations between air carriers and representatives of eligible protected employees with respect to rehiring practices and seniority.

Subsection (e) limits the monthly assistance payments under this section to no more than 36 months, or until the protected employee obtains other employment, whichever first occurs.

Subsection (f) authorizes the Secretary to issue, amend, and repeal such rules and regulations as may be necessary for the administration of this section. All rules and regulations of the Secretary shall be submitted to the Congress and they shall become effective 60 legislative days after the date they were submitted, unless during that period either House adopts a resolution disapproving the rules. However, during that 60-day period if a resolution has been adopted indicating that both Houses approve of such rules or regulations, then they shall become effective on the date that resolution is adopted.

Subsection (g) establishes an airlines employees protective account in the Treasury of the United States.

Subsection (h) defines, for the purposes of this section, the terms "protected employee," "qualifying dislocation," "Secretary," and "major contraction." The definition of a qualifying dislocation provides that the qualifying dislocation must occur within 10 years after the effective date of this section.

Finally, subsection (i) provides that the section will terminate on the last day that the Secretary is required to make a payment under this section.

House amendment

The amendment provides that authority granted by the amendment may not be exercised until the Secretary of Labor certifies that employees affected by new authority are protected by arrangements no less favorable than those in 5(2)(f) of the Interstate Commerce Act and section 405 of the Rail Passenger Service Act (including subsequent amendments to these Acts). Employee benefits are paid initially by the employer who will be reimbursed from a separate account in the U.S. Treasury.

Conference substitute

Is basically the same as the Senate bill except as follows:

(1) Provides that a "major contraction" means a reduction by at least 7½ percent of the total number of full time employees within a 12-month period.

(2) Provides that payment benefits are available for 72 months.

(3) Provides that protected employees who are furloughed or terminated (other than for cause) have first right of hire, regardless of age.

(4) Provides that employees fired for cause are not eligible for benefits or hiring priority under the program.

(5) Provides that the Secretary of Labor, by rule, must promulgate the guidelines for the program and any other regulations the Secretary deems necessary to implement the program within 6 months after the date of enactment of the Airline Deregulation Act of 1978. Such rules and amendments thereto must be submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives 30 legislative days before such rules are issued as final rules. Any rule or regulation issued by the Secretary under this section as a final rule or regulation shall be submitted to the Congress and shall become effective 60 legislative days after the date of such submission, unless during that 60-day period either House adopts a resolution stating that that House disapproves such rules or regulations.

(6) Provides that protected employees hired by other carriers shall retain their rights of seniority and rights of recall with the air carriers that furloughed them. The rights granted by this provision shall remain effective until this section is terminated under subsection (j). This does not affect any rights employees have as a matter of contract.

Under the conference substitute, a protected employee who is deprived of employment, or adversely affected with respect to compensation, is eligible for financial benefits if his employer incurs a bankruptcy or a major contraction of employment, and CAB finds that a major cause of his unemployment has been the change in the regulatory structure resulting from the Airline Deregulation Act of 1978. The conferees intend the requirement that the deprivation of employment be related to the Deregulation Act to be a continuing requirement. For example, an employee who begins to receive benefits and then reaches mandatory retirement age would not be eligible for benefits beyond the date he reached retirement age. After that date the cause of unemployment would not be the Deregulation Act, but the reaching of retirement age.

LOAN GUARANTEE

Senate bill

Section 23 makes amendments to the Act of September 7, 1957, relating to the loan guarantee program for purchasers of certain aircraft.

The first amendment, an amendment to section 3 of that act, authorizes the Secretary to guarantee a lender against loss of principal or interest when he makes a loan to an air carrier holding a certificate to engage in local air transportation from the CAB, or an air carrier holding a certificate of public convenience and necessity issued by the CAB. It also amends such section 3 to extend the guarantee to operators the major portion of which is conducted in Hawaii.

The second amendment amends section 4(c) of that act and provides that a qualifying loan is any loan whose terms permit full repayment less than 15 years after the date thereof, in lieu of 10 years which is the existing law.

The third amendment, an amendment to section 4(d) of that act, increases the total face value of eligible loans from $30 million to $100 million.

The fourth amendment amends section 8 of that act, and provides that the act shall expire 25 years after its date of enactment, extending the provisions of that act for another 5 years.

House amendment

Section 32 of the amendment renews and modifies the Aircraft Loan Guarantee Program (act of September 7, 1975, as amended, 49 U.S.C. 1324) which expired on September 7, 1977.

The amendment extends the loan guarantee program for 5 years and makes several modifications designed to further the effectiveness of the program.

First, the program is extended to commuter airlines and intrastate air carriers. For a commuter carrier or intrastate air carrier to receive the benefits of the program, the Secretary of Transportation must be reasonably assured that the applicant is financially sound and will continue operations as a commuter carrier or intrastate air carrier over the routes being operated at the time of the guaranteed loan.

The amendment also makes supplemental air carriers eligible for loan guarantees.

Other changes in the law are designed to take account of changes in aircraft and aircraft financing which have occurred in the 20 years since the legislation was first enacted.

First, the term of loans which may be guaranteed has been extended from 10 to 15 years.

A second change is to extend the amount of loans which may be guaranteed for each carrier from $30 million to $75 million.

The amendment further provides that new turbojet aircraft must comply with noise standards in effect on January 1, 1977, to be eligible for the program.

Conference substitute

Extends the loan guarantee program for 5 years and makes several modifications to the program.

Makes commuter carriers and intrastate air carriers eligible for the program. Charter air carriers are also made eligible for the program for the purchase of all cargo nonconvertable aircraft. The total amount of loans which may be guaranteed under the program is increased to $100,000,000. The amount of loans which may be extended to a charter air carrier is based on the amount of service it provides to small communities.

AIRPORT AND AIRWAY DEVELOPMENT ACT AMENDMENTS

Senate bill

Section 24 makes amendments to the Airport and Airway Development Act to accommodate the creation of a new class of air carrier, and local air carrier, who holds a certificate under the new section 422 (added by this Act).

House amendment

No comparable provision.

Conference substitute

Amends the Airport and Airway Development Act of 1970 to assure that any airport which on the date of enactment of the Airline Deregulation Act of 1978 is an air carrier airport (other than a commuter service airport) continue to be considered as an air carrier airport until September 30, 1978.

MISCELLANEOUS PROVISIONS

Senate bill

Section 25 makes the conforming amendments to the table of contents of the Federal Aviation Act of 1958.

House amendment

Makes conforming amendments to the table of contents of the Federal Aviation Act of 1958 in each section where necessary.

Conference substitute

Makes conforming changes to the table of contents in each section as appropriate.

EFFECTIVE DATE

Senate bill

Provides that sections 4 (relating to safety study), 23 (relating to aircraft loan guarantees), 24 (relating to Airport and Airway Development Act of 1970), and the effective date section are to be effective on the date of enactment. All other sections take effect on January 1, 1979.

House amendment

Provides that all provisions take effect on the date of enactment except as specifically provided to the contrary in any specific provision.

Conference substitute

Same approach as under the House amendment.

SUBSIDY STUDY

Senate bill

No comparable provision.

House amendment

The amendment requires DOT and CAB to undertake a study of the CAB subsidy program for commuters and certificated carriers and to consider the feasibility of requiring State and local government to share part of the subsidy cost. The study is to be completed by January 1, 1980.

Conference substitute

Essentially the same as the House amendment.

THROUGH SERVICE AND JOINT RATES

Senate bill

No comparable provision.

House amendment

Amends section 401(d)(4) of the Federal Aviation Act of 1958 relating to the establishment of through service and joint fares now applicable to carriers within the States of California and Florida to carriers within any State.

Conference substitute

Same as the House amendment.

TERMINATION ON SUSPENSION OF CERTAIN SERVICE

Senate bill

A discussion of the Senate provision on termination or suspension of service appears within the description of the Senate provision on certificates.

House amendment

The amendment requires 90 days notice to the CAB and affected communities if a change in schedules will cause some markets to lose all nonstop or single plane service.

Conference substitute

Same as the House amendment, except it adopts the 60-day notice period in the Senate bill.

RATES OF CARRIAGE FOR PERSONS AND PROPERTY

Senate bill

No comparable provision.

House amendment

The amendment amends section 404 of the Federal Aviation Act of 1958 to make it clear that certificated carriers have a duty to enter into through service arrangements with commuters.

Conference substitute

Same as the House amendment.

LOCAL SERVICE AIR CARRIER COMPENSATION

Senate bill

No comparable provision.

House amendment

The amendment provides that in determining subsidies for 1964 and 1965, the CAB may not take account of any income tax refunds for that year resulting from tax loss carrybacks. The CAB is required to re-determine any 1964 or 1965 subsidy determination which took account of tax loss carrybacks.

This amendment extends the provisions of Public Law 95-163, enacted on November 9, 1977, to 1964 and 1965.

The amendment requires that refunds be made to any carriers which were required to make subsidy refunds because of tax loss carrybacks for 1964 and 1965.

Conference substitute

Same as the House amendment.

PRESIDENTIAL REVIEW OF INTERNATIONAL ROUTE CASES

Senate bill

No comparable provision.

House amendment

The amendment provides that the President may disapprove CAB international route decisions only on the basis of foreign relations or national defense considerations and that the President may not disapprove CAB decisions on economic grounds or carrier selection grounds.

Conference substitute

Same as the House amendment.

CIVIL PENALTIES

Senate bill

No comparable provision.

House amendment

The amendment gives the CAB power to impose civil penalties after notice and hearing. The bill further provides that the Board's order imposing a penalty is subject to review by the U.S. Court of Appeals, as provided in section 1006 of the Act. If the Board is unable to collect a civil penalty which it has imposed, it will be necessary for the Board to institute a collection proceeding in the District Court. However, in this proceeding the violator would not be entitled to a new trial.

Conference substitute

Same as the House amendment. This provision is not intended to affect any existing authority of the U.S. Postal Service to impose civil penalties.

JOINT FARE—UNIFORM METHODS

Senate bill

No comparable provision.

House amendment

The amendment requires that if CAB establishes a joint fare formula for certificated airlines, this formula must be extended to joint fares between certificated carriers and commuters. The amendment provides that commuters entering into joint fares with a certificated carrier have a duty to give 90 days' notice before terminating their service in a market in which joint fares are offered. Failure to give this notice will make the commuter ineligible for participation in CAB's uniform method of establishing fares.

Conference substitute

Same as the House amendment.

WITHHOLDING OF INFORMATION

Senate bill

No comparable provision.

House amendment

The amendment provides that CAB, the State Department, and the Department of Transportation shall withhold information from public disclosure if disclosure would prejudice formulation and presentation of U.S. positions in international negotiations and adversely affect the competitive position of U.S. air carriers in foreign air transportation.

Conference substitute

Essentially the same as the House amendment.

SUNSET PROVISIONS

Senate bill

No comparable provision.

House amendment

The amendment includes a sunset provision providing that the CAB will terminate on December 31, 1982. This provision will require the Congress to undertake a thorough review of the CAB and the functions it performs, and to determine whether the agency should be continued in the same or modified form.

The amendment further provides that by December 31, 1981, the CAB must submit reports and recommendations on whether it should be continued.

Following termination of the CAB, the bill provides that CAB's subsidy authority and its authority over foreign air transportation is transferred to DOT; CAB's authority over intercarrier mergers and agreements is transferred to Department of Justice, and CAB's authority to set mail rates is transferred to the Postal Service.

Conference substitute

Adds a new title XVI to the Federal Aviation Act of 1958 which repeals certain provisions of the Act and the authority of the Board with respect to such provisions, and transfers the authority of the Board under certain other provisions to various Federal departments and instrumentalities. The following provisions of the Act (relating to interstate and overseas air transportation) cease to be in effect on December 31, 1981 (as does the Board's authority under such provisions):

(A) Section 401(d)(1), (2), and (3) of this Act (insofar as such sections require a determination of consistency with the public convenience and necessity and insofar as section 401(d)(3) prohibits persons holding certificates under section 401(d)(1) or (d)(2) from obtaining certificates to provide interstate or overseas charter air transportation of persons).

(B) Section 401(d)(8) of this Act.

(C) Section 401(e)(1) of this Act (insofar as such section permits the Board to specify terminal and intermediate points).

(D) Section 401(j) of this Act (except with respect to essential air transportation).

(E) Section 401(n) (1) and (4) of this Act.

(F) Section 404(a) of this Act (insofar as such section requires any air carrier to provide air transportation authorized by its certificate).

(G) Section 405(b) of this Act (insofar as such section requires the filing of any statement or schedule by any air carrier).

The following provisions of the Act (relating to interstate and overseas air transportation) cease to be in effect on January 1, 1983 (as does the Board's authority under such provisions):

(A) Section 403 of this Act.

(B) Section 404 of this Act (except insofar as such section requires air carriers to provide safe and adequate service.)

(C) Section 407(b) and (c) of this Act.

(D) Sections 1002(d)(1) and (d)(2), (e), (g), (h), and (i) of this Act.

The authority of the Board under sections 408 and 409 of the Act relating to interstate and overseas air transportation is transferred to the Department of Justice on January 1, 1983.

The conference substitute provides that title II of the Act shall cease to be in effect on January 1, 1985, with the following authority of the Board being transferred to the following Federal departments and instrumentalities on January 1, 1985:

(A) The authority of the Board under sections 406(b)(3) and (c) of this Act to provide compensation for air transportation to small communities and under section 419 of this Act is transferred to the Department of Transportation.

(B) The authority of the Board under this Act with respect to foreign air transportation is transferred to the Department of Transportation which shall exercise such authority in consultation with the Department of State.

(C) The authority of the Board under sections 408 and 409 (relating to foreign air transportation) and under section 412 of this Act is transferred to the Department of Justice.

(D) The authority of the Board under this Act with respect to the determination of the rates for the carriage of mails in interstate and overseas air transportation is transferred to the Postal Service and such authority shall be exercised through negotiations or competitive bidding.

The conference substitute adopts the House amendment with respect to the report to be submitted by the Board except that the date by which such report is to be submitted to the Congress is changed to January 1, 1984.

It is not the intention of the conferees in relieving the Board of its authority with respect to domestic fares to limit its ability to determine maximum fares and charges allowed for essential air transportation to communities receiving subsidized air service or communities at which essential air transportation is guaranteed for ten years, or to prohibit such communities from petitioning the Board or its successor agency with respect to fares charged for essential air transportation.

COLLECTION OF FEES, CHARGES, AND PRICES

Senate bill

No comparable provision.

House amendment

The amendment would prohibit the Secretary of Transportation and the Administrator of the Federal Aviation Administration from imposing so called "administrative user charges" for certificates, registrations, examinations, and similar authorizations relating to aviation without Congressional approval, except that those fees in effect on January 1, 1973, would not be affected and would stay at the same level.

Conference substitute

Same as the House amendment.

LABOR DISPUTE

Senate bill

No comparable provision.

House amendment

This provision would require the President to appoint a board to investigate and report on the dispute between Wien Air Alaska, Incorporated, and the Air Line Pilots Association. This board would function under the terms of section 10 of the Railway Labor Act. It is to report its findings within 30 days from the date of its creation.

Conference substitute

Same as the House amendment. The provision does not change existing law with respect to the respective rights of the parties to the labor dispute. Further, the intent of the provision is directed to the creation of a board limited to fact finding only that will investigate the labor dispute and report such facts to the President.

AVAILABILITY OF FUNDS

Senate bill

No comparable provision.

House amendment

Funds authorized by this Act, including any amendments made by this Act, shall be fiscal years beginning on and after October 1, 1978.

Conference substitute

No comparable provision.

HOWARD W. CANNON,
WARREN G. MAGNUSON,
ADLAI E. STEVENSON,
WENDELL H. FORD,
TED STEVENS,
HARRISON H. SCHMITT,
JOHN C. DANFORTH.
Managers on the Part of the Senate.

HAROLD T. JOHNSON,
RAY ROBERTS,
GLENN M. ANDERSON,
TENO RONCALIO,
ELLIOTT H. LEVITAS,
WILLIAM H. HARSHA,
GENE SNYDER.
Managers on the Part of the House.

REQUEST FOR CONSIDERATION OF AMENDMENTS TO H.R. 11209—INTERNATIONAL MARITIME SATELLITE TELECOMMUNICATIONS ACT

Mr. VAN DEERLIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11209) to provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services, with a Senate amendment thereto, recede from disagreement to the Senate amendment, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Speaker pro tempore. Is there objection to the request of the gentleman from California?

Mr. BROWN of Michigan. Mr. Speaker, reserving the right to object, it is my understanding the Chair intends to take up two bills, the meat import bill and the ERISA reorganization plan yet this evening. It was my understanding we were going to recess at 12 o'clock this evening.

I therefore think it totally incredible that we are taking up unanimous-consent requests at this point in time. I shall object to any unanimous-consent request that is made henceforth, and I object to this one.

The SPEAKER pro tempore. Objection is heard.

MEAT IMPORT ACT OF 1978

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself in the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11545) to modify the method of determining quantitative limitations on the importation of certain articles of meat and meat products, to apply quantitative limitations on the importation of certain additional articles of meat, meat products, and livestock, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 11545, with Mr. FUQUA, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Friday, October 6, 1978, the bill had been considered as having been read and open to amendment at any point.

Mr. ULLMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to inform the Members, that we will make every effort to take care of this bill in very short order. I am going to ask unanimous consent that all Members may have permission to revise and extend their remarks. There are a couple of amendments that I think can be handled expeditiously, and I hope the Members will cooperate.

AMENDMENT OFFERED BY MRS. SMITH OF NEBRASKA

Mrs. SMITH of Nebraska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SMITH of Nebraska: Page 16, line 1, strike out "January 1, 1979," and all that follows down through line 3 and insert in lieu thereof "January 1, 1979.".

Mrs. SMITH of Nebraska. Mr. Chairman, this amendment simply strikes the termination date—December 31, 1988—from the bill.

In essence this date is a sunset clause. No one is stronger for the sunset principle in Federal programs than I am, but this is the wrong type of program to which to attach a specific termination date.

The legislation does not create a new Federal agency. It does not expand the bureaucracy or make a commitment for annual appropriations.

It deals primarily with cattle cycles and the procedure to be followed in seeing that consumers have a dependable, stable supply of red meat. The 10-year period between 1978 and 1988 covers only one cattle cycle. If the act ends at the conclusion of this cycle, the efforts of our producers to solve their long-term problem will be undermined.

Faced with such a limitation, cattlemen would be encouraged to reduce their herds. This reduction in the red meat supply would be felt at the meat counter where consumers could be faced with high prices.

Anything that upsets livestock production in this country and causes a decrease in domestic output, plays right into the hands of foreign importers who have no compunction about undermining the production of red meat in the United States.

Mr. Chairman, sunset clauses certainly have their place in legislation, but it is obvious that such a clause is not required in this particular bill. It does more harm than good.

The bill will be just as strong without it and certainly our livestock producers will be a lot better off without it. They can go ahead with their long-range plans and the Nation's housewives can be assured of a constant supply of fresh, wholesome meat.

I respectfully urge my colleagues to adopt the amendment to strike the unnecessary termination date.

Mr. ULLMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I am glad to yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I would agree with the gentlewoman from Nebraska (Mrs. SMITH), and I wish to assure her that the members of the Committee on Ways and Means will carefully monitor this matter. I see no need for this termination date or for the sunset provision, and I hope the gentlewoman's amendment is adopted.

Mrs. SMITH of Nebraska. Mr. Chairman, I thank the gentleman.

Mr. VANIK. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I am glad to yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, the sunset provision provides for a "review mechanism" at the end of a complete cattle cycle—10 years—to determine what changes, if any, are desirable to obtain further improvements. It must be remembered that all of the formulas which were considered are based on USDA estimates of domestic commercial cattle production for the next 10 years. The Department of Agriculture has indicated that these projections, although based on the best indicators currently available to us, are subject to some degree of error. To insure that we have a review procedure at the conclusion of a full cattle cycle to enable us to fully judge the effectiveness of the law is, in my opinion, an extremely important point and I urge that this provision remain in the bill.

Mr. STEIGER. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, I appreciate the gentlewoman's yielding.

This is an amendment offered by our colleague, the gentleman from Minnesota. I must say that I do not have the strong feelings that the gentleman from Ohio (Mr. VANIK) has raised on this, and I think we can let the committee work its will.

The point that the chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN), made is the one that I really think is fundamental, and that is that the subcommittee and the full committee clearly will monitor this program with great care regardless of whether or not there is a sunset provision in it.

So, Mr. Chairman, I would say to my friend, the gentleman from Ohio (Mr. VANIK) that I do not think it is the end of the world if this amendment is adopted.

Mrs. SMITH of Nebraska. Mr. Chairman, I thank the gentleman.

Ms. KEYS. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentlewoman from Kansas.

Ms. KEYS. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, I support the gentlewoman's amendment. I opposed this provision in the Committee on Ways and Means, and I think it is a ridiculous amendment. As the gentlewoman has said so accurately, this does not add any bureaucracy or any agency. The whole purpose of the bill is to provide a stability of supply.

Mr. Chairman, the gentlewoman's amendment should be adopted, and I urge my colleagues to support it.

Mrs. SMITH of Nebraska. Mr. Chairman, I thank the gentlewoman, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Nebraska (Mrs. SMITH).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FINDLEY

Mr. FINDLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FINDLEY: Page 15 between lines 11 and 12 insert the following:

"(h) The President may suspend any proclamation made under subsection (f), increase the amount of any total quantity proclaimed under such subsection, or increase the amount of any total quantity established under subsection (g), if—

"(1) during a period of national emergency declared under section 201 of the National Emergencies Act of 1976, he determines and proclaims that such action is required by overriding national security interests of the United States, or

"(2) he determines and proclaims that the supply of articles of the kind to which the limitation would otherwise apply will be inadequate, because of a natural disaster, to meet domestic demand at reasonable prices.

Any such suspension shall be for such period, and any such increase shall be in such amount, as the President determines and proclaims to be necessary to carry out the purposes of this subsection. The effective period of any such suspension or increase made pursuant to paragraph (1) may not extend beyond the termination, in accordance with the provisions of section 202 of the National Emergencies Act of 1976, of such period of national emergency, notwithstanding the provisions of section 202(a) of that Act.

Redesignate subsections (h), (i) and (j) accordingly.

Mr. FINDLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. FINDLEY. Mr. Chairman, this amendment has the support of the gentleman from Florida (Mr. GIBBONS), who spoke for several amendments last Friday. It has the support of the National Cattlemen's Association. I think it has great merit because it does establish in the law flexibility the President may find necessary to use.

It does just two things. It permits the President to set aside the limitations in the Meat Import Act if there are circumstances of overriding national interest or if a supply problem develops which is caused by natural disaster.

Frankly, I know of no opposition to the amendment, and I hope it can be accepted.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I commend the gentleman for his work, and also the gentleman from Florida (Mr. GIBBONS), in putting the amendment together. It does, I think, satisfy the basic requirements. It is acceptable to the people in the cattle industry. It should be adopted unanimously.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, I want to join the distinguished chairman of the Committee on Ways and Means in complimenting the gentleman from Illinois (Mr. FINDLEY) and the gentleman from Florida (Mr. GIBBONS) on this amendment.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, this amendment is a good amendment. I urge its adoption. It is acceptable to all on our side, as well.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. FINDLEY).

The amendment was agreed to.

● Mr. DE LA GARZA. Mr. Chairman, I rise in support of H.R. 11545.

My area of Texas is one of the major beef producing areas in the United States. Most, if not all the cattlemen are my friends, and I know from personal knowledge of their plight. The last few years have been hard on them. The elements have played havoc with their herds, as well as the actions of the market for many other reasons. This is a modest attempt to assist them. Just giving the consumers of this Nation some stability in the supply of beef will merit our support, and this measure will help to do so, and at the same time give the cattlemen some needed protection from imports. I urge all my colleagues to join with us and support this measure.●

● Mr. ALEXANDER. Mr. Chairman, as the representative of a district and State that includes a relatively large number of beef producers, I am keenly aware of the problems that our beef producers have encountered in keeping their heads above water in recent years. Present meat import quotas provide for an increase in beef imports as domestic production increases and for reduced imports as domestic supplies decline. This simply does not make sense. As a result, it is the beef consumer who has had to bear the brunt of this "roller coaster" effect in beef prices at the supermarket. And the beef producer is faced with an uncertain return on his labors.

In the last session I introduced legislation to make basically three changes in the Meat Import Quota Act of 1964 (Public Law 88–482). Included in my proposal were provisions to change the definition of meat to include all imports of beef under the act, no matter how processed; reduce the trigger for imposition of quotas from 110 to 100 percent of the quotas set in the act; and to give the President the authority to suspend quotas and reduce the amount of imports coming in each year.

Since that time, my colleague, Mr.

POAGE of Texas introduced, and I cosponsored, the legislation before us to correct these and other negative aspects of Public Law 88–482 by providing for a varying quota designed to be countercyclical to the U.S. meat cycle.

As the Senate has already acted on legislation introduced by Senator BENTSEN that is similar to H.R. 11545, I am hopeful that we can adopt this needed legislation, immediately resolve differences with the Senate version and send this bill to the President for signature. I believe beef producers and consumers alike will applaud such an initiative. I urge my colleagues to support this bill.●

The CHAIRMAN. Are there further amendments? If not, the question is on the committee amendment in the nature of a subtitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker, having resumed the chair, Mr. FITHIAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11545) to modify the method of determining quantitative limitations on the importation of certain articles of meat and meat products, to apply quantitative limitations on the importation of certain additional articles of meat, meat products, and livestock, and for other purposes, pursuant to House Resolution 1343, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and on a division (demanded by Mr. ROUSSELOT) there were—yeas 154, nays 9.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 289, nays 66, not voting 75, as follows:

[Roll No. 907]

YEAS—289

Abdnor	Andrews, N. Dak.	Aspin
Addabbo	Applegate	AuCoin
Akaka	Archer	Bafalis
Alexander	Ashbrook	Baldus
Ambro	Ashley	Barnard
Andrews, N.C.	Bauman	Baucus
Beard, R.I.	Gore	Nix
Bedell	Grassley	Nolan
Bennett	Gudger	Nowak
Bevill	Guyer	O'Brien
Biaggi	Hagedorn	Oakar
Blouin	Hall	Oberstar
Boland	Hamilton	Obey
Bonker	Hammer-schmidt	Panetta
Bowen	Hanley	Patterson
Breaux	Hansen	Pattison
Breckinridge	Harkin	Pease
Brinkley	Harsha	Pepper
Brooks	Hawkins	Perkins
Brown, Calif.	Hefner	Pickle
Brown, Mich.	Heftel	Pike
Brown, Ohio	Hightower	Poage
Broyhill	Holland	Pressler
Buchanan	Hollenbeck	Preyer
Burgener	Holt	Price
Burke, Fla.	Horton	Pritchard
Burke, Mass.	Hubbard	Pursell
Burleson, Tex.	Huckaby	Quillen
Burlison, Mo.	Ichord	Rahall
Butler	Ireland	Railsback
Carney	Jacobs	Rangel
Carr	Jeffords	Regula
Carter	Jenkins	Rhodes
Cavanaugh	Jenrette	Risenhoover
Cederberg	Johnson, Calif.	Roberts
Chisholm	Johnson, Colo.	Robinson
Clausen, Don H.	Jones, N.C.	Rogers
Clawson, Del	Jones, Okla.	Roncallo
Coleman	Jones, Tenn.	Rooney
Collins, Ill.	Kasten	Rose
Collins, Tex.	Kastenmeier	Rostenkowski
Corcoran	Kazen	Rousselot
Corman	Kelly	Ruppe
Cornell	Keys	Ryan
Cornwell	Kildee	Santini
Coughlin	Krebs	Satterfield
Cunningham	LaFalce	Sawyer
Daniel, Dan	Lagomarsino	Schroeder
Daniel, R. W.	Latta	Sebelius
Danielson	Leach	Seiberling
Davis	Lehman	Sharp
de la Garza	Lent	Shuster
Delaney	Levitas	Simon
Dent	Lloyd, Calif.	Skelton
Derrick	Lloyd, Tenn.	Smith, Iowa
Devine	Long, La.	Smith, Nebr.
Dickinson	Long, Md.	Snyder
Dicks	Lott	Spellman
Dodd	Luken	Spence
Dornan	Lundine	Staggers
Downey	McClory	Stangeland
Duncan, Oreg.	McCloskey	Steers
Duncan, Tenn.	McCormack	Steiger
Edgar	McDonald	Stokes
Edwards, Ala.	McEwen	Stratton
Edwards, Okla.	McHugh	Stump
English	McKay	Symms
Ertel	McKinney	Taylor
Evans, Del.	Madigan	Thone
Evans, Ga.	Mahon	Thornton
Evans, Ind.	Mann	Treen
Fary	Marks	Trible
Fascell	Marlenee	Ullman
Findley	Marriott	Van Deerlin
Fisher	Martin	Vander Jagt
Fithian	Mathis	Vanik
Flippo	Mattox	Vento
Flood	Michel	Volkmer
Flowers	Mikva	Waggonner
Flynt	Miller, Ohio	Walgren
Foley	Mineta	Walker
Ford, Mich.	Mitchell, N.Y.	Walsh
Ford, Tenn.	Moakley	Wampler
Forsythe	Mollohan	Watkins
Fountain	Montgomery	Weaver
Fowler	Moore	Whitehurst
Fraser	Moorhead, Calif.	Whitley
Frenzel	Moorhead, Pa.	Whitten
Fuqua	Murphy, Ill.	Wilson, Bob
Gammage	Murphy, N.Y.	Wilson, Tex.
Gaydos	Murphy, Pa.	Winn
Gephardt	Murtha	Wirth
Ginn	Myers, John	Wright
Glickman	Natcher	Wylie
Gonzalez	Neal	Yatron
Goodling	Nichols	Young, Mo.
		Zablocki

NAYS—66

Anderson, Calif.	Conable	Florio
Bellenson	Conte	Gibbons
Benjamin	Cotter	Gilman
Bingham	D'Amours	Gradison
Blanchard	Dellums	Green
Boggs	Derwinski	Harris
Brademas	Dingell	Heckler
Brodhead	Drinan	Holtzman
Burton, John	Early	Hughes
Caputo	Eckhardt	Hyde
Cleveland	Erlenborn	Kemp
Fenwick	Kostmayer	Le Fante
Lederer	Nedzi	Stockman
Livingston	Patten	Studds
McDade	Reuss	Thompson
Maguire	Richmond	Waxman
Markey	Rinaldo	Weiss
Mazzoli	Rodino	Whalen
Mikulski	Roybal	Wolff
Minish	Russo	Wydler
Myers, Gary	Scheuer	Young, Fla.
Myers, Michael	Solarz	
	St Germain	

NOT VOTING—75

Ammerman	Giaimo	Rosenthal
Anderson, Ill.	Goldwater	Rudd
Annunzio	Hannaford	Runnels
Armstrong	Harrington	Sarasin
Badham	Hillis	Schulze
Beard, Tenn.	Howard	Shipley
Bolling	Jordan	Sikes
Bonior	Kindness	Sisk
Broomfield	Krueger	Skubitz
Burke, Calif.	Leggett	Slack
Burton, Phillip	Lujan	Stanton
Chappell	McFall	Stark
Clay	Meeds	Steed
Cochran	Meyner	Teague
Cohen	Milford	Traxler
Conyers	Miller, Calif.	Tsongas
Crane	Mitchell, Md.	Tucker
Diggs	Moffett	Udall
Edwards, Calif.	Moss	White
Eilberg	Mottl	Wiggins
Emery	Ottinger	Wilson, C. H.
Evans, Colo.	Pettis	Yates
Fish	Quayle	Young, Alaska
Frey	Quie	Young, Tex.
Garcia	Roe	Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Chappell for, with Mr. Conyers against.

Until further notice:

Mr. Annunzio with Mr. Wiggins.
Mr. Bonior with Mr. Skubitz.
Mr. Krueger with Mr. Kindness.
Mr. Ammerman with Mr. Cohen.
Mr. McFall with Mr. Cochran of Mississippi.
Mrs. Burke of California with Mr. Crane.
Mrs. Meyner with Mr. Quayle.
Mr. Phillip Burton with Mr. Broomfield.
Mr. Zeferetti with Mr. Quie.
Mr. Mottl with Mr. Young of Alaska.
Mr. Moffett with Mr. Stanton.
Mr. Teague with Mr. Schulze.
Mr. Tsongas with Mr. Rudd.
Mr. Ottinger with Mr. Sarasin.
Mr. Roe with Mr. Lujan.
Mr. Slack with Mr. Hillis.
Mr. Sikes with Mr. Frey.
Mr. Sisk with Mr. Emery.
Mr. Miller of California with Mr. Fish.
Mr. Mitchell of Maryland with Mr. Beard of Tennessee.
Mr. Moss with Mr. Anderson of Illinois.
Mr. Yates with Mr. Goldwater.
Mr. Charles H. Wilson of California with Mr. Rosenthal.
Mr. Udall with Mr. Badham.
Mr. Giaimo with Mr. Shipley.
Mr. Evans of Colorado with Mr. Runnels.
Mr. Garcia with Mr. Stark.
Mr. Eilberg with Mr. Traxler.
Mr. Edwards of California with Mr. Steed.
Mr. Clay with Mr. Tucker.
Mr. Hannaford with Mr. Howard.
Mr. Diggs with Mr. Meeds.
Miss Jordan with Mr. Leggett.
Mr. Milford with Mr. Harrington.

Messrs. MURPHY of Pennsylvania, BOB WILSON, and RUPPE changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PICKLE. Mr. Speaker, I ask unanimous censent that all Members may have

5 legislative days in which to revise and extend their remarks on the bill H.R. 11545, just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 12467, COMPREHENSIVE REHABILITATION SERVICES AMENDMENTS OF 1978.

Mr. BRADEMAS submitted the following conference report and statement on the bill (H.R. 12467) to amend the Rehabilitation Act of 1973 to extend certain programs established in such Act, to establish a community service employment program for handicapped individuals, to provide for independent living rehabilitation services for the severely handicapped, and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 95-1780)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the amendments of the Senate to the bill (H.R. 12467) to amend the Rehabilitation Act of 1973 to extend certain programs established in such Act, to establish a community service employment program for handicapped individuals, to provide for independent living rehabilitation services for the severely handicapped, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That (a) this Act may be cited as the "Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978".

TITLE I—AMENDMENTS TO THE REHABILITATION ACT OF 1973

VOCATIONAL REHABILITATION SERVICES; AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS

SEC. 101. (a) Section 100(b) of the Rehabilitation Act of 1973 is amended—

(1) in subsection (b)(1), by adding at the end the following: "There is further authorized to be appropriated for such purpose $808,000,000 for the fiscal year ending September 30, 1979, and the amount determined under subsection (c) for the three succeeding fiscal years, but in no event shall the amount appropriated be greater than $880,000,000 for the fiscal year ending September 30, 1980, $945,000,000 for the fiscal year ending September 30, 1981, and $972,000,000 for the fiscal year ending September 30, 1982.";

(2) by amending subsection (b)(2) to read as follows:

"(2) For the purpose of allotments under section 120(a)(1), there are authorized to be appropriated $45,000,000 for the fiscal year ending September 30, 1979, $50,000,000 for the fiscal year ending September 30, 1980, $55,000,000 for the fiscal year ending September 30, 1981, and $60,000,000 for the fiscal year ending September 30, 1982. There are further authorized to be appropriated for such purpose for each such year such additional sums as the Congress may determine to be necessary."; and

(3) by adding at the end the following new paragraph:

"(3) For the purpose of making grants to Indian tribes under part D of this title, there are authorized to be appropriated for the fiscal year ending September 30, 1979, and for each of the three fiscal years thereafter, in addition to any other amounts authorized to be appropriated under this section, such sums as may be necessary for such fiscal year, but not more than an amount equal to 1 percent of the amount appropriated for that fiscal year under paragraph (1) of this subsection.".

(b) Section 100 of the Rehabilitation Act of 1973 is amended by adding at the end the following new subsection:

"(c)(1) No later than November 15 of each fiscal year (beginning with the fiscal year 1979), the Secertary of Labor shall publish in the Federal Register the percentage change in the price index published for October of the preceding fiscal year and October of the fiscal year in which such publication is made.

"(2)(A) If in any fiscal year the percentage change published under paragraph (1) indicates an increase in the price index, then the amount authorized to be appropriated under subsection (b)(1) for the subsequent fiscal year is the amount authorized to be appropriated for the fiscal year in which the publication is made under paragraph (1) increased by such percentage change.

"(B) If in any fiscal year the percentage change published under paragraph (1) does not indicate an increase in the price index, then the amount authorized to be appropriated under subsection (b)(1) for the subsequent fiscal year is the amount authorized to be appropriated for the fiscal year in which the publication is made under paragraph (1).

"(3) For purposes of this subsection, the term 'price index' means the Consumer Price Index for All Urban Consumers, published monthly by the Bureau of Labor Statistics.".

(c) Section 110(a) of the Rehabilitation Act of 1973 is amended to read as follows:

"SEC. 110. (a)(1) For each fiscal year beginning before October 1, 1978, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under section 100(b)(1) for allotment under this section as the product of (A) the population of the State, and (B) the square of its allotment percentage, bears to the sum of the corresponding products for all the States.

"(2)(A) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment in an amount equal to the amount such State received under paragraph (1) for the fiscal year ending September 30, 1978, and an additional amount determined pursuant to subparagraph (B) of this paragraph.

"(B) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment, from any amount authorized to be appropriated for such fiscal year under section 100(b)(1) for allotment under this section in excess of the amount appropriated under section 100(b)(1) for the fiscal year ending September 30, 1978, in an amount equal to the sum of—

"(i) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and the square of its allotment percentage bears to the sums of the corresponding products for all the States; and

"(ii) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and its allotment percentage bears to the sum of the corresponding products for all the States.

"(3) The sum of the payment to any State (other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands) under this subsection for any fiscal year which is less than one-third of 1 percent of the amount appropriated under section 100(b)(1), or $3,000,000, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment to each of the remaining such States under this subsection, but with such adjustments as may be necessary to prevent the sum of the allotments made under this subsection to any such remaining State from being thereby reduced to less than that amount.".

(d) Section 110(b) of the Rehabilitation Act of 1973 is amended by inserting "(1)" after "(b)", by striking out the last sentence, and by adding at the end thereof the following new paragraphs:

"(2) If a State receives as its Federal share under section 111(a) for any fiscal year, as a result of the maintenance of effort provisions of such section, less than 80 percent of the expenditure of such State for vocational rehabilitation services under the plan for such State approved under section 101 (including any amount expended by such State for the administration of the State plan but excluding any amount expended by such State from non-Federal sources for construction under such plan), such State shall be entitled to an additional payment for such fiscal year, subject to the same terms and conditions applicable to other payments under this part, equal to the difference between such payment under section 111(a) and an amount equal to 80 percent of such expenditure for vocational rehabilitation services.

"(3) Any payment attributable to the additional payment to a State under this subsection shall be made only from appropriations specifically made to carry out this subsection, and such additional appropriations are hereby authorized.".

(e)(1) The second sentence of section 120(a)(1) of the Rehabilitation Act of 1973 is amended by striking out "three" and inserting in lieu thereof "five".

(2) The first sentence of section 121(b) of the Rehabilitation Act of 1973 is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1982".

STATE PLANS

SEC. 102. (a) Section 101(a) of the Rehabilitation Act of 1973 is amended—

(1) by striking out "For each fiscal year in which" and all that follows through the dash and inserting in lieu thereof the following: "In order to be eligible to participate in programs under this title, a State shall submit to the Commissioner a State plan for vocational rehabilitation services for a three-year period and, upon request of the Commissioner, shall make such annual revisions in the plan as may be necessary. Each such plan shall—";

(2) in paragraph (5)(A) by inserting after "handicaps" the first place it appears the following: "and a description of the method to be used to utilize existing rehabilitation facilities to the maximum extent feasible";

(3) in paragraph (6) by inserting "(A)" after "(6)", by inserting "and" after the semicolon the second place it appears, and by adding at the end the following new subparagraph:

"(B) provide satisfactory assurances that facilities used in connection with the delivery of services assisted under the plan will comply with the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;";

(4) in paragraph (7) by striking out "and" at the end of clause (A), and by inserting before the semicolon at the end thereof a comma and the following: "and (C) provisions relating to the establishment and maintenance of minimum standards to assure the availability of personnel, to the maximum

extent feasible, trained to communicate in the client's native language or mode of communication";

(5) in clause (C) of paragraph (9) by striking out "under section 401" and inserting in lieu thereof "under section 13";

(6) in paragraph (11) by inserting before the semicolon the following: "(specifically including arrangements for the coordination of services to individuals eligible for services under this Act, the Education of the Handicapped Act, and the Vocational Education Act)";

(7) in paragraph (12) by inserting "(A)" after "(12)", by inserting after the semicolon "and", and by adding at the end the following new subparagraph:

"(B) provide (as appropriate) for entering into agreements with the operators of rehabilitation facilities for the provision of services for the rehabilitation of handicapped individuals;";

(8) in paragraph (15) by striking out "(including the State's needs for rehabilitation facilities)" and inserting in lieu thereof "(including the capacity and condition of rehabilitation facilities, plans for improving such facilities, and policies for the use thereof by the State agency)";

(9) in paragraph (18) by inserting "personnel" before "working in the field of vocational rehabilitation" and by striking out "and" at the end thereof;

(10) in paragraph (19) by striking out the period and by inserting in lieu thereof a semicolon; and

(11) by adding at the end thereof the following new paragraphs:

"(20) provide satisfactory assurances to the Commissioner that, except as otherwise provided in section 130, the State shall provide vocational rehabilitation services to handicapped American Indians residing in the State to the same extent as the State provides such services to other significant segments of the population of handicapped individuals residing in the State;

"(21) provide that the State agency has the authority to enter into contracts with profitmaking organizations for the purpose of providing on-the-job training and related programs for handicapped individuals under part B of title VI upon a determination by such agency that such profitmaking organizations are better qualified to provide such rehabilitation services than nonprofit agencies and organizations; and

"(22) provide for the establishment and maintenance of information and referral programs (the staff of which shall include, to the maximum extent feasible, interpreters for the deaf) in sufficient numbers to assure that handicapped individuals within the State are afforded accurate vocational rehabilitation information and appropriate referrals to other Federal and State programs and activities which would benefit them.".

(b) Section 101(c) of the Vocational Rehabilitation Act of 1973 is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "(1)" before "the plan" and inserting in lieu thereof "(A)";

(3) by striking out "(2)" and inserting in lieu thereof "(B)"; and

(4) by adding at the end the following new paragraph:

"(2) The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of subsection (a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

(c) Section 101(d) of the Rehabilitation Act of 1973 is amended to read as follows:

"(d)(1) Any State which is dissatisfied with a final determination of the Commissioner under subsection (b) or (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the thirty-day period beginning on the date notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer deisgnated by him for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which he based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

"(2) If, in an action under this subsection to review a final determination of the Commissioner under subsection (b) or (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within thirty days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

"(3)(A) Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction (i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c), and (ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

"(B) Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).".

INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM

SEC. 103. Section 102 of the Rehabilitation Act of 1973 is amended—

(1) in subsection (b) by inserting "and agree to" after "redevelop"; and

(2) by adding at the end the following new subsection:

"(d)(1) The Director of any designated State unit shall establish procedures for the review of determinations made by the rehabilitation counselor or coordinator under this section, upon the request of a handicapped individual (or, in appropriate cases, his parents or guardians). Such procedures shall include a requirement that the final decision concerning the review of any such determination be made in writing by the Director. The Director may not delegate his responsibility to make any such final decision to any other officer or employee of the designated State unit.

"(2) Any handicapped individual (or, in appropriate cases, his parent or guardian) who is not satisfied with the final decision made under paragraph (1) by the Director of the designated State unit may request the Secretary to review such decision. Upon such request the Secretary shall conduct such a review and shall make recommendations to the Director as to the appropriate disposition of the matter. The Secretary may not delegate his responsibilities under this paragraph to any officer of the Department of Health, Education, and Welfare who is employed at a position below that of an Assistant Secretary.".

SCOPE OF SERVICES; TELECOMMUNICATIONS SERVICES

SEC. 104. (a) Section 103(a)(1) of the Rehabilitation Act of 1973 is amended by inserting "mental or" before "emotional".

(b) Section 103(b) of the Rehabilitation Act of 1973 is amended—

(1) in paragraph (1) by striking out "and" after the semicolon;

(2) in paragraph (2) by (A) inserting "(including services offered at rehabilitation facilities)" after "services" and (B) striking out the period and inserting in lieu thereof "; "; and

(3) by adding at the end the following new paragraphs:

"(3) the use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programing to meet the particular needs of handicapped individuals; and

"(4) the use of services providing recorded material for the blind and captioned films or video cassettes for the deaf.".

CLIENT ASSISTANCE

SEC. 105. Section 112(a) of the Rehabilitation Act of 1973 is amended—

(1) by striking out "section 304" in each place it appears and inserting in lieu thereof "section 310";

(2) by striking out "up to $1,500,000" and all that follows through "dispersed regions" and inserting in lieu thereof "no less than $3,500,000 for the fiscal year ending September 30, 1979, and for each of the three succeeding fiscal years, to establish in geographically dispersed regions"; and

(3) by inserting before the period at the end of the first sentence the following: ", including assistance in pursuing legal, administrative, or other appropriate remedies to insure the protection of the rights of such individuals under this Act".

AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

SEC. 106. Part D of title I of the Rehabilitation Act of 1973 is amended to read as follows:

"PART D—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

"VOCATIONAL REHABILITATION SERVICES GRANTS

"SEC. 130. (a) The Commissioner, in accordance with the provisions of this part, may make grants to the governing bodies of Indian tribes located on Federal and State reservations to pay 90 percent of the costs of vocational rehabilitation services for handicapped American Indians residing on such reservations.

"(b)(1) No grant may be made under this part for any fiscal year unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application unless the application—

"(A) is made at such time, in such man-

ner, and contains such information as the Commissioner may require;

"(B) contains assurances that the rehabilitation services provided under this part to handicapped American Indians residing on a reservation in a State shall be, to the maximum extent feasible, comparable to rehabilitation services provided under this title to other handicapped individuals residing in the State; and

"(C) contains assurances that the application was developed in consultation with the designated State unit of the State.

"(2) The provisions of sections 5, 6, 7 and 102(a) of the Indian Self-Determination and Education Assistance Act shall be applicable to any application submitted under this part. For purposes of this paragraph, any reference in any such provision to the Secretary of Health, Education, and Welfare or to the Secretary of the Interior shall be considered to be a reference to the Commissioner.

"(3) Any application appproved under this part shall be effective for not less than twelve months except as determined otherwise by the Commissioner pursuant to prescribed regulations. The State shall continue to provide vocational rehabilitation services under its State plan to American Indians residing on a reservation whenever such State includes any such American Indians in its State population under section 110(a)(1)."

"(d) For the purpose of computing the allotment of any State under section 110(a), the number of American Indians residing on a reservation to be served by a grant under this part shall be subtracted from the population used for such State in section 110(a)(1) as follows:

"(1) 33 percent of such American Indians in the first fiscal year during which such Indians are served by grants under this part;

"(2) 66 percent of such American Indians in the second fiscal year during which such Indians are served by grants under this part; and

"(3) 100 percent of such American Indians in the third fiscal year during which such Indians are served by grants under this part.

"(e) The term 'reservation' includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

"EVALUATION

"SEC. 131. Not less than thirty months after the date of the enactment of the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978, the Secretary shall submit to the Congress an evaluation of the programs conducted under this part. Such evaluation shall be conducted by persons other than persons immediately responsible for administration of such programs. Such evaluation shall include—

"(1) an examination of the comparability of vocational rehabilitation services provided under this part to services provided to other handicapped individuals under section 101; and

"(2) An assessment of the extent to which governing bodies of Indian tribes receiving grants under this part have made services under such grants available to all handicapped American Indians residing on reservations served by such grants."

DECLARATION OF PURPOSE

SEC. 107. Section 200 of the Rehabilitation Act of 1973 is amended to read as follows:

"DECLARATION OF PURPOSE

"SEC. 200. The purpose of this title is to—

"(1) provide for a comprehensive and coordinated approach to the administration and conduct of research, demonstration projects, and related activities for the rehabilitation of handicapped individuals, including programs designed to train persons who provide rehabilitation services and persons who conduct research, by authorizing Federal assistance in accordance with a plan for rehabilitation research developed under this title;

"(2) facilitate the distribution of information concerning developments in rehabilitation procedures, methods, and devices to rehabilitation professionals and to handicapped individuals to assist such individuals to live more independently;

"(3) improve the distribution of technological devices and equipment for handicapped individuals by providing financial support for the development and distribution of such devices and equipment; and

"(4) increase the scientific and technological information presently available in the field of rehabilitation.".

RESEARCH AUTHORIZATION

SEC. 108. Section 201(a) of the Rehabilitation Act of 1973 is amended to read as follows:

"SEC. 201. (a) There are authorized to be appropriated—

"(1) for the purpose of providing for the expenses of the National Institute of Handicapped Research under section 202, other than expenses to carry out section 204, such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the three succeeding fiscal years; and

"(2) for the purpose of carrying out section 204, $50,000,000 for the fiscal year ending September 30, 1979, $75,000,000 for the fiscal year ending September 30, 1980, $90,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982.".

NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

SEC. 109. The Rehabilitation Act of 1973 is amended—

(1) by repealing section 304 and redesignating section 305 as section 313;

(2) by transferring section 203 to title III and redesignating such section as section 304;

(3) by repealing section 204 and redesignating section 202 as section 204; and

(4) by inserting after section 201 the following new sections:

"NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

"SEC. 202. (a) In order to promote and coordinate research with respect to handicapped individuals and to more effectively carry out the programs under section 204, there is established within the Department of Health, Education, and Welfare a National Institute of Handicapped Research (hereinafter in this title referred to as the 'Institute'), which shall be headed by a Director (hereinafter in this title referred to as the 'Director'). In the performance of his functions, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Health, Education, and Welfare to whom the Commissioner is responsible under section 3(a) of this Act.

"(b) The Director, through the Institute, shall be responsible for—

"(1) administering the programs described in section 204;

"(2) disseminating information acquired through research funded by the Institute to other Federal, State, and local public agencies and to private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

"(3) coordinating, through the Interagency Committee established by section 203 of this Act, all Federal programs and policies relating to research in rehabilitation;

"(4) disseminating educational materials to primary and secondary schools, institutions of higher education, and to public and private entities concerning how the quality of life of handicapped individuals may be improved;

"(5) conducting an education program to inform the public about ways of providing for the rehabilitation of handicapped individuals, including information relating to family care and self care;

"(6) conducting conferences, seminars, and workshops (including in-service training programs) concerning research and engineering advances in rehabilitation pertinent to the problems of handicapped individuals;

"(7) taking whatever action is necessary to keep the Congress fully and currently informed with respect to the implementation and conduct of programs and activities carried out under this title; and

"(8) producing, in conjunction with the Department of Labor, the National Center for Health Statistics, the Bureau of the Census, the Social Security Administration, and other Federal departments and agencies, as may be appropriate, statistical reports and studies on the employment, health, income, and other demographic characteristics of handicapped individuals and disseminating such reports and studies to rehabilitation professions and others to assist in the planning and evaluation of vocational and other rehabilitation services for the handicapped.

"(c)(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code. In carrying out any of his functions under this section, the Director shall be guided by general policies of the National Council on the Handicapped established in title IV. The Director shall not delegate any of his functions to any officer who is not directly responsible to him.

"(2) There shall be a Deputy Director of the Institute (hereinafter in this section referred to as the 'Deputy Director') who shall be appointed by the Secretary. The Deputy Director shall be compensated at the rate provided for grade GS–17 of the General Schedule under section 5332 of title 5, United States Code, and shall act for the Director during the absence or disability of the Director, exercising such powers as the Director may prescribe. In the case of any vacancy in the office of the Director, the Deputy Director shall serve as Director until a Director is appointed under paragraph (1). The position created by this paragraph shall be in addition to the number of positions placed in grade GS–17 of the General Schedule under section 5108 of title 5, United States Code.

"(3) The Director, subject to the approval of the President, may appoint, for terms not to exceed three years, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and may compensate, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical and professional employees of the Institute as the Director deems necessary to accomplish the functions of the Institute and also appoint and compensate without regard to such provisions in a number not to exceed one-fifth of the number of full-time, regular technical and professional employees of the Institute.

"(4) The Director may obtain the services of consultants, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

"(d) The Director, pursuant to regulations which the Secretary shall prescribe, may establish and maintain fellowships with such stipends and allowances, including travel and subsistence expenses provided for under title 5, United States Code, as the Director considers necessary to procure the assistance of highly qualified research fellows from the United States and foreign countries.

"(e) The Director shall, pursuant to regulations which the Secretary shall prescribe, provide for scientific review of all research grants and programs over which he has authority by utilizing, to the maximum extent possible, appropriate peer review groups established within the Institute and composed of non-Federal scientists and other experts in the rehabilitation field.

"(f) Not less than 90 percent of the funds appropriated under paragraph (2) of section 201(a) to carry out section 204 shall be expended by the Director to carry out such section through grants or contracts with qualified public or private agencies and individuals.

"(g) The Director shall develop and submit to appropriate committees of the Congress within eighteen months after the effective date of this section a long-range plan for rehabilitation research which shall—

"(1) identify any research which should be conducted respecting the problems encountered by handicapped individuals in their daily activities, especially problems related to employment;

"(2) determine the funding priorities for research activities under this section and explain the basis for such priorities, including a detailed description of any new types of research recommended under this paragraph for funding; and

"(3) specify appropriate goals and timetables for activities to be conducted under this section.

The plan required by this subsection shall be developed by the Director in consultation with the Commissioner, the National Council on the Handicapped established under title IV, the Commissioner of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act, the Interagency Committee established by section 203, and any other persons or entities the Director considers appropriate. Such plan shall be reviewed at least once every three years and may be revised at any time by the Director to the extent he considers necessary.

"(h) In order to promote cooperation among Federal departments and agencies conducting research programs, the Director shall consult with the administrators of such programs, and with the Interagency Committee established by section 203, regarding the design of research projects conducted by such entities and the results and applications of such research.

"(i)(1) The Director shall take whatever actions he considers appropriate to provide for a comprehensive and coordinated research program under this title. In providing such a program, the Director may undertake joint activities with other Federal entities engaged in research and with appropriate private entities. Any Federal entity proposing to establish any research project related to the purposes of this Act shall consult, through the Interagency Committee established by section 203, with the Director in his role of Chairman of such Committee and provide the Director with sufficient prior opportunity to comment on such project.

"(2) Any person responsible for administering any program of the National Institutes of Health, the Veterans' Administration, the National Science Foundation, the National Aeronautics and Space Administration, the Bureau of Education for the Handicapped, or of any other Federal entity, shall through the Interagency committee established by section 203, consult and cooperate with the Director in carrying out such program if the program is related to the purposes of this section.

"INTERAGENCY COMMITTEE

"SEC. 203. (a)(1) In order to promote coordination and cooperation among Federal departments and agencies conducting rehabilitation research programs, there is established within the Federal Government an Interagency Committee on Handicapped Research (hereinafter in this section referred to as the 'Committee'), chaired by the Director and comprised of such members as the President may designate, including the following (or their designees): the Director, the Commissioner, the Commissioner of Education, the Administrator of Veterans' Affairs, the Director of the National Institutes of Health, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, and the Director of the National Science Foundation.

"(2) The Committee shall meet not less than four times each year.

"(b) The Committee shall identify, assess, and seek to coordinate all Federal programs, activities, and projects, and plans for such programs, activities, and projects with respect to the conduct of research related to rehabilitation of handicapped individuals.

"(c) The Committee, not later than eighteen months after the date of enactment of this section, and annually thereafter, shall submit to the President and to the appropriate committees of the Congress a report making such recommendations as the Committee deems appropriate with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to the conduct of research related to rehabilitation of handicapped individuals.".

RESEARCH BY PRIVATE ORGANIZATIONS

SEC. 110. Section 204(a) of the Rehabilitation Act of 1973 (as so redesignated by section 109(3) of this Act) is amended—

(1) by striking out "The Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to" and inserting in lieu thereof "The Director may";

(2) by striking out "public or nonprofit" and inserting in lieu thereof "public or private";

(3) by striking out "provision of vocational rehabilitation services" and inserting in lieu thereof "provision of vocational and other rehabilitation services";

(4) by inserting after "restorative techniques" the following: ", including basic research where related to rehabilitation techniques or services"; and

(5) by inserting ", psychiatric" after "social".

RESEARCH AND TRAINING CENTERS

SEC. 111. Section 204(b) of the Rehabilitation Act of 1973 (as so redesignated by section 109(3) of this Act) is amended—

(1) by striking out "the Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to" and inserting in lieu thereof "the Director may";

(2) by amending paragraph (1) to read as follows:

"(1) Establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education for the purpose of (A) providing training (including graduate training) to assist individuals to more effectively provide rehabilitation services, (B) providing coordinated and advanced programs of research in rehabilitation, and (C) providing training (including graduate training) for rehabilitation research and other rehabilitation personnel. The research to be carried out at each Center shall be determined on the basis of the particular needs of handicapped individuals in the geographic area served by the Center, and may include basic or applied medical rehabilitation research, research regarding the psychological and social aspects of rehabilitation, and research related to vocational rehabilitation. The Centers shall be encouraged to develop practical applications for the findings of their research. Grants may include funds for services rendered by such a center to handicapped individuals in connection with such research and training activities.";

(3) in clause (A) of paragraph (2) by inserting "psychiatric," before "psychological"; and

(4) by adding at the end the following new paragraphs:

"(6) Conduct of a research program concerning the use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programing to meet the particular needs of handicapped individuals.

"(7) Conduct of a program of joint projects with the National Institutes of Health, the Health Services Administration, the Administration on Aging, the National Science Foundation, the Veterans' Administration, the Office of Education, the National Aeronautics and Space Administration, other Federal agencies, and private industry in areas of joint interest involving rehabilitation.

"(8) Conduct of a program of research related to the rehabilitation of handicapped children and of handicapped individuals who are aged sixty or older.

"(9) Conduct of a research program to develop and demonstrate innovative methods to attract and retain professionals to serve in rural areas in the rehabilitation of handicapped and severely handicapped individuals.

"(10) Conduct of a model research and demonstration project designed to assess the feasibility of establishing a center for producing and distributing to deaf individuals captioned video cassettes providing a broad range of educational, cultural, scientific, and vocational programing.

"(11) Conduct of a model research and demonstration program to develop innovative methods of providing services for preschool age handicapped children, including the following: (A) early intervention, parent counseling, infant stimulation, early identification, diagnosis, and evaluation of severely handicapped children up to the age of five, with a special emphasis on severely handicapped children up to the age of three; (B) such physical therapy, language development, pediatric, nursing, and psychiatric services as are necessary for such children; and (C) appropriate services for the parents of such children, including psychiatric services, parent counseling, and training.

"(12) Conduct of a model research and training program under which model training centers shall be established to develop and use more advanced and effective methods of evaluating and developing the employment

potential of handicapped individuals, including programs which—

"(A) provide training and continuing education for personnel involved with the employment of handicapped individuals;

"(B) develop model procedures for testing and evaluating the employment potential of handicapped individuals;

"(C) develop model training programs to teach handicapped individuals skills which will lead to appropriate employment;

"(D) develop new approaches for job placement of handicapped individuals, including new followup procedures relating to such placement; and

"(E) provide information services regarding education, training, employment, and job placement for handicapped individuals.".

AUTHORIZATIONS FOR REHABILITATION FACILITIES AND VOCATIONAL TRAINING

SEC. 112. (a)(1) The first sentence of section 301(a) of the Rehabilitation Act of 1973 is amended by striking out "for the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, September 30, 1977, and September 30, 1978" and inserting in lieu thereof "for each fiscal year ending before October 1, 1982".

(2) The last sentence of section 301(a) of the Rehabilitation Act of 1973 is amended by striking out "October 1, 1983".

(b) Section 302(a) of the Rehabilitation Act of 1973 is amended to read as follows:

"SEC. 302. (a) For the purpose of making grants and entering into contracts under this section, there are authorized to be appropriated such sums as may be necessary for each fiscal year ending before October 1, 1982.".

LOAN GUARANTEES

SEC. 113. Section 303 of the Rehabilitation Act of 1973 is amended to read as follows:

"LOAN GUARANTEES FOR REHABILITATION FACILITIES

"SEC. 303. (a) It is the purpose of this section to assist and encourage the provision of needed facilities for programs for handicapped individuals primarily served by State rehabilitation programs.

"(b) The Commissioner may, in accordance with this section and subject to section 306, guarantee the payment of principal and interest on loans made to nonprofit private entities by non-Federal leaders and by the Federal Financing Bank for the construction of rehabilitation facilities, including equipment used in their operation.

"(c) In the case of a guarantee of any loan to a nonprofit private entity under this section, the Commissioner shall pay, to the holder of such loan and for and on behalf of the project for which the loan was made, amounts sufficient to reduce by 2 percent per annum the net effective interest rate otherwise payable on such loan. Each holder of a loan which is guaranteed under this section shall have a contractual right to receive from the United States interest payments required by the preceding sentence.

"(d) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, may not exceed $100,000,000.

"(e)(1) The Commissioner may not approve a loan guarantee for a project under this section unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Commissioner determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this section.

"(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this section the amount of any payment made pursuant to such guarantee, unless the Commissioner for good cause waives such right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this section (including terms and conditions imposed under paragraph (1)) may be modified by the Commissioner to the extent he considers consistent with the interests of the United States.

"(C) Any loan guarantee made by the Commissioner under this section shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to much such loan.

"(D) Guarantees of loans under this section shall be subject to such further terms and conditions as the Commissioner considers necessary to assure that the purposes of this section will be achieved.

"(f)(1) There is established in the Treasury a loan guarantee fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Commissioner without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts—

"(A) to enable him to discharge his responsibilities under loan guarantees issued by him under this section; and

"(B) for payment of interest under subsection (c) on loans guaranteed under this section.

There are authorized to be appropriated such amounts as may be necessary to provide the sums required for the fund. There shall also be deposited in the fund amounts received by the Commissioner in connection with loan guarantees under this section and other property or assets derived by him from his operations respecting such loan guarantees, including any money derived from the sale of assets.

"(2)(A) If at any time the sums in the fund are insufficient to enable the Commissioner—

"(i) to make payments of interest under subsection (c); or

"(ii) to otherwise comply with guarantees under this section of loans to nonprofit entities;

he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Commissioner with the approval of the Secretary of the Treasury.

"(B) Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations.

"(C) The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph, and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as a public debt transaction of the United States.

"(D) Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Commissioner from the fund.".

TRAINING

SEC. 114. Section 304 of the Rehabilitation Act of 1973 (as so redesignated by section 109(2) of this Act) is amended—

(1) in subsection (a)—

(A) by striking out "The Secretary, through the Commissioner, in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to" and inserting in lieu thereof "The Commissioner may";

(B) by inserting ", medical, social and psychological rehabilitation" after "vocational"; and

(C) by striking out "and" before "in performing" and inserting in lieu thereof the following: ", including personnel specially trained in providing employment assistance to handicapped individuals through job development and job placement services, and personnel trained";

(2) in subsection (b)—

(A) by inserting ", rehabilitation psychiatry" after "work"; and

(B) by inserting after "blind and deaf individuals," the following: "specialized personnel in providing job development and job placement services for handicapped individuals,"; and

(3) by adding at the end the following new subsections:

"(c) The Commissioner shall evaluate the impact of the training programs conducted under this section, shall determine training needs for personnel necessary to provide services to handicapped individuals, and shall develop a long-term rehabilitation manpower plan designed to target resources on areas of personnel shortage.

"(d)(1) For the purpose of training a sufficient number of interpreters to meet the communications needs of deaf individuals, the Secretary, through the Office of Information and Resources for the Handicapped, may award grants under this section to any public or private nonprofit agency or organization to establish interpreter training programs or to provide financial assistance for ongoing interpreter training programs. Not more than twelve programs shall be established or assisted by grants under this section. The Secretary shall award grants for programs in such geographic areas throughout the United States as the Secretary considers appropriate to best carry out the purpose of this section. Priority shall be given to public or private nonprofit agencies or organizations with existing programs that have demonstrated their capacity for providing interpreter training services.

(2) No grant shall be awarded under this section unless the applicant has submitted an application to the Secretary in such form, and in accordance with such procedures, as the Secretary may require. Any such application shall—

"(A) describe the manner in which an interpreter training program would be developed and operated during the five-year period following the award of any grant under this section;

"(B) demonstrate the applicant's capacity or potential for providing training for interpreters for deaf individuals;

"(C) provide assurances that any interpreter trained or retrained under such program shall meet such minimum standards of competency as the Secretary may establish for purposes of this section;

"(D) provide assurances that (i) to the extent appropriate, the applicant shall provide for the training or retraining (including short-term and in-service training) of teachers who are involved in providing instruction to deaf individuals but who are not certified as teachers of deaf individuals, and (ii) funds for such in-service training shall be provided under this section only through funds appropriated under the Education for All Handicapped Children Act; and

"(E) contain such other information as the Secretary may require.

"(d) There are authorized to be appropriated to carry out this section $34,000,000 for the fiscal year ending September 30, 1979, $40,000,000 for the fiscal year ending September 30, 1980, $45,000,000 for the fiscal year ending September 30, 1981, and $50,000,000 for the fiscal year ending September 30, 1982. There are further authorized to be appropriated for each such fiscal year such additional sums as the Congress may determine to be necessary to carry out this section.".

COMPREHENSIVE CENTERS

SEC. 115. (a) The Rehabilitation Act of 1973 is amended by inserting after section 304 the following new section:

"COMPREHENSIVE REHABILITATION CENTERS

"SEC. 305. (a) (1) In order to provide a focal point in communities for the development and delivery of services designed primarily for handicapped persons, the Commissioner may make grants to any designated State unit to establish and operate comprehensive rehabilitation centers. The centers shall be established in order to provide a broad range of services to handicapped individuals, including information and referral services, counseling services, and job placement, health, educational, social, and recreational services, as well as to provide facilities for recreational activities.

"(2) To the maximum extent practicable, such centers shall provide, upon request, to local governmental units and other public and private nonprofit entities located in the area such information and technical assistance (including support personnel such as interpreters for the deaf) as may be necessary to assist those entities in complying with this Act, particularly the requirements of section 504.

"(b) No grant may be made under this section unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application for a grant unless the application—

"(1) contains assurances that the designated State unit will use funds provided by such grant in accordance with subsections (c) and (d); and

"(2) contains such other information, and is submitted in such form and in accordance with such procedures, as the Commissioner may require.

"(c) (1) The designated State unit may—

"(A) in accordance with subsection (e) make grants to units of general purpose local government or to other public or nonprofit private agencies or organizations and may make contracts with any agency or organization to pay not to exceed 80 percent of the cost of—

"(i) leasing facilities to serve as comprehensive rehabilitation centers;

"(ii) expanding, remodeling, or altering facilities to the extent necessary to adapt them to serve as comprehensive rehabilitation centers;

"(iii) operating such centers; or

"(iv) carrying out any combination of the activities specified in this subparagraph; and

"(B) directly carry out the activities described in subparagraph (A), except that not more than 80 percent of the costs of providing any comprehensive rehabilitation center may be provided from funds under this section.

"(3) Funds made available to any designated State unit under this section for the purpose of assisting in the operation of a comprehensive rehabilitation center may be used to compensate professional and technical personnel required to operate the center and to deliver services in the center, and to provide equipment for the center.

"(d) (1) The designated State unit may approve a grant or enter into a contract under subsection (c) only if the application for such grant or contract meets the requirements specified in paragraphs (1), (2), (4), and (5) of section 306(b) and if the application contains assurances that any facility assisted by such grant for contract shall be in reasonably close proximity to the majority of individuals eligible to use the comprehensive rehabilitation center.

"(2) Any designated State unit which directly provides for comprehensive rehabilitation centers under subsection (c) (1) (B) shall use funds under this section in the same manner as any other grant recipient is required to use such funds.

"(e) If within 20 years after the completion of any construction project for which funds have been paid under this section—

"(1) the owner of the facility ceases to be a public or nonprofit private agency or organization, or

"(2) the facility ceases to be used for the purposes for which it was leased or constructed (unless the Commissioner determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so),

the United States shall be entitled to recover from the grant recipient or other owner of the facility an amount which bears the same ratio to the value of the facility (or so much thereof as constituted an approved project or projects) at the time the United States seeks recovery as the amount of such Federal funds bore to the cost of renovating the facility under subsection (c) (1) (A) (ii). Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

"(f) The requirements of section 306 shall not apply to funds allotted under this section, except that subsections (g) and (h) of such section shall be applicable with respect to such funds.

"(g) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year ending September 30, 1979, and for the three succeeding fiscal years.".

(b) Section 306(a) of the Rehabilitation Act of 1973 is amended by inserting in the first sentence before the period ", except as otherwise provided in section 305(g)".

SPECIAL FEDERAL RESPONSIBILITIES

SEC. 116. Title III of the Rehabilitation Act of 1973 is amended—

(1) by inserting after the title heading the following:

"PART A—CONSTRUCTION AND TRAINING PROGRAMS

and

(2) by adding after section 306 the following new part:

"PART B—SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 310. (a) For the purpose of carrying out this part (other than section 313), there are authorized to be appropriated such sums as may be necessary for each fiscal year ending before October 1, 1982.

"(b) Of the amounts appropriated for any fiscal year under subsection (a), 5 percent of such amount shall be available in such fiscal year only for the purpose of making grants under section 312. There is further authorized to be appropriated for each such fiscal year such additional amount as may be necessary to equal, when added to the amount made available for the purpose of making grants under section 312, an amount of $5,000,000 for each such fiscal year.

"SPECIAL DEMONSTRATION PROGRAMS

"SEC. 311. (a) Subject to the provisions of section 306, the Commissioner may make grants to States and to public or nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstrations (including related research and evaluation) for—

"(1) establishing programs and, where appropriate, constructing facilities for providing vocational rehabilitation services, which hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals (especially those with the most severe handicaps), including individuals with spinal cord injuries and blind or deaf individuals, irrespective of age or vocational potential, who can benefit from comprehensive services;

"(2) applying new types or patterns of services or devices for handicapped individuals (including programs for providing handicapped individuals, or other individuals in programs servicing handicapped individuals), with opportunities for new careers; and

"(3) operating programs and, where appropriate, renovating and constructing facilities to demonstrate methods of making recreational activities fully accessible to handicapped individuals.

"(b) Any project or demonstration assisted by a grant under this section which provides services to individuals with spinal cord injuries shall—

"(1) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

"(2) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost effectiveness of, such a regional system;

"(3) demonstrate and evaluate existing, new, and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

"(4) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

"MIGRATORY WORKERS

"SEC. 312. The Commissioner, subject to the provisions of section 306, is authorized to make grants to any State agency desig-

nated pursuant to a State plan approved under section 101, or to any local agency participating in the administration of such a plan, to pay up to 90 per centum of the cost of projects or demonstrations for the provision of vocational rehabilitation services to handicapped individuals, as determined in accordance with rules prescribed by the Secretary of Labor, who are migratory agricultural workers or seasonal farmworkers, and to members of their families (whether or not handicapped) who are with them, including maintenance and transportation of such individuals and members of their families where necessary to the rehabilitation of such individuals. Maintenance payments under this section shall be consistent with any maintenance payments made to other handicapped individuals in the State under this Act. Such grants shall be conditioned upon satisfactory assurance that in the provision of such services there will be appropriate cooperation between the grantee and other public or nonprofit agencies and organizations having special skills and experience in the provision of services to migratory agricultural workers, seasonal farmworkers, or their families. This section shall be administered in coordination with other programs serving migrant agricultural workers and seasonal farmworkers, including programs under title I of the Elementary and Secondary Education Act of 1965, section 311 of the Economic Opportunity Act of 1964, the Migrant Health Act, and the Farm Labor Contractor Registration Act of 1963.

"HELEN KELLER NATIONAL CENTER

"Sec. 313. (a) The purpose of this section is to provide for the establishment and operation of the Helen Keller National Center for Deaf-Blind Youths and Adults. Any funds appropriated under this part for construction of the Center shall remain available until expended.

"(b) In order—

"(1) to demonstrate methods of (A) providing the specialized intensive services, and other services, needed to rehabilitate handicapped individuals who are both deaf and blind, and (B) training the professional and allied personnel needed adequately to staff facilities specifically designed to provide such services and training to such personnel who have been or will be working with deaf-blind individuals;

"(2) to conduct research in the problems of, and ways of meeting the problems of rehabilitating, deaf-blind individuals; and

"(3) to aid in the conduct of related activities which will expand or improve the services for or help improve public understanding of the problems of deaf-blind individuals;

the Secretary, subject to the provisions of section 305, is authorized to enter into an agreement with any public or nonprofit agency or organizations for payment by the United States of all or part of the costs of the establishment and operation, including construction and equipment, of a center for vocational rehabilitation of handicapped individuals who are both deaf and blind, which center shall be known as the Helen Keller National Center for Deaf-Blind Youths and Adults.

"(c) Any agency or organization desiring to enter into such agreement shall submit a proposal therefor at such time, in such manner, and containing such information as may be prescribed in regulations by the Secretary. In considering such proposals the Secretary shall give preference to proposals which (1) give promise of maximum effectiveness in the organization and operation of the Helen Keller National Center, and (2) give promise of offering the most substantial skill, experience, and capability in providing a broad program of service, research, training, and related activities in the field of rehabilitation of deaf-blind individuals.

"(d) To the extent feasible the Helen Keller National Center for Deaf-Blind Youths and Adults shall seek to recover from States, private insurers, and other participating public and private agencies the costs of services and provided to individuals by the Center.

"(e) There are authorized to be appropriated to carry out this section such sums as may be necessary for each fiscal year beginning before October 1, 1982.

"READER SERVICES FOR THE BLIND

"Sec. 314. (a) The Commissioner may award grants to States or to private nonprofit agencies or organizations of national scope (as so determined by the Commissioners) to—

"(1) provide reading services to blind persons who are not otherwise eligible for such services through other State or Federal programs; and

"(2) expand the quality and scope of reading services available to blind persons, and to assure to the maximum extent possible that the reading services provided under this Act will meet the reading need of blind persons attending institutions providing elementary, secondary, or post-secondary education, and will be adequate to assist blind persons to obtain and continue in employment.

Any State which receives a grant under this section shall administer the reading services for which such grant is awarded through the designated State unit of the State.

"(b) No grant shall be awarded under this section unless the applicant has submitted an application to the Secretary in such form, at such time, and containing such information as the Secretary may require.

"(c) For purposes of this section, the term 'reading services' means—

"(1) the employment of persons who, by reading aloud, can afford blind persons ready access to printed information;

"(2) the transcription of printed information into braille or sound recordings if such transcription is performed pursuant to individual requests from blind persons for such services;

"(3) the storage and distribution of braille materials and sound recordings;

"(4) the purchase, storage, and distribution of equipment and materials necessary for the production, duplication, and reproduction of braille materials and sound recordings;

"(5) the purchase, storage, and distribution of equipment to blind persons to provide them with individual access to printed materials by mechanical or electronic means; and

"(6) radio reading services for blind persons.

"INTERPRETER SERVICES FOR THE DEAF

"Sec. 315. (a) The Commissioner may make grants to designated State units to establish within each State a program of interpreter services (including interpreter referral services) which shall be made available to deaf individuals and to any public agency or private nonprofit organization involved in the delivery of assistance or services to deaf individuals.

"(b) No grant may be made under this section unless an application therefor, is submitted to the Commissioner in such form, at such times, and in accordance with such procedures as the Commissioner may require. Such application shall—

"(1) provide assurances that the program to be conducted under this section will be operated in areas within the State which are specifically selected to provide convenient locations for the provision of services to the maximum number of deaf individuals feasible;

"(2) include a plan which describes, in sufficient detail, the manner in which interpreter referral services will be coordinated with the information and referral programs required under section 101(a)(22);

"(3) provide assurances that the program will seek to enter into contractual or other arrangements, to the extent appropriate, with private nonprofit organizations comprised of primarily hearing-impaired individuals (or private nonprofit organizations which have the primary purpose of providing assistance or services to hearing-impaired individuals) for the operation of such programs;

"(4) provide that any interpreter participating in the program shall be required to meet minimum standards established by the Commissioner; and

"(5) contain such other information as the Secretary may require.

"(c) Any designated State unit receiving funds under this section may provide interpreter services, without cost, for a period of not to exceed one year to any public agency or private nonprofit organization which provides assistance to deaf individuals. At the end of such period, agencies or organizations receiving such services through referrals shall reimburse the designated State unit for the costs of such services. Funds may also be used for the purchase or rental of equipment necessary to provide assistance or services to deaf individuals.

"(d) Funds provided to any designated State unit for any program under this section shall not be used for any administrative or related costs, nor shall such funds be used for assistance to deaf individuals who are receiving rehabilitation services under any other provision of this Act.".

"SPECIAL RECREATIONAL PROGRAMS

"Sec. 316. The Commissioner, subject to the provisions of section 306, shall make grants to State and public nonprofit agencies and organizations for paying part or all of the cost of initiation of recreation programs to provide handicapped individuals with recreational activities to aid in the mobility and socialization of such individuals. The activities authorized to be assisted under this section may include, but are not limited to, scouting and camping, 4-H activities, sports, music, dancing, handicrafts, art, and homemaking. No grant may be made under the provisions of this section unless the agreement with respect to such grant contains provisions to assure that, to the extent possible, existing resources will be used to carry out the activities for which the grant is to be made, and that with respect to children the activities for which the grant is to be made will be conducted after school.

NATIONAL COUNCIL ON THE HANDICAPPED

Sec. 117. The Rehabilitation Act of 1973 is amended by striking out title IV and inserting in lieu thereof the following new title:

"TITLE IV—NATIONAL COUNCIL ON THE HANDICAPPED

"ESTABLISHMENT OF NATIONAL COUNCIL ON THE HANDICAPPED

"Sec. 400. (a) There is established within the Department of Health, Education, and Welfare a National Council on the Handicapped (hereinafter in this title referred to as the 'National Council'), which shall be composed of fifteen members appointed by the President, by and with the advice and consent of the Senate. The members of the National Council shall be appointed so as to be representative of handicapped individuals, national organizations concerned with the handicapped, providers and administrators of services to the handicapped, individuals engaged in conducting medical or scientific research relating to handicapped individuals, business concerns, and labor organizations. At least five members of the National Council shall be handicapped individuals, or parents or guardians of handicapped individuals.

"(b)(1) Members of the National Council shall be appointed to serve for terms of three

years, except that of the members first appointed—

"(A) five shall serve for terms of one year,

"(B) five shall serve for terms of two years, and

"(C) five shall serve for terms of three years,

as designated by the President at the time of appointment.

"(2) Members may be reappointed and may serve after the expiration of their terms until their successors have taken office.

"(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

"(c) The President shall designate the Chairman from among the members appointed to the National Council. The National Council shall meet at the call of the Chairman, but not less often than four times each year.

"(d) Eight members of the National Council shall constitute a quorum and any vacancy in the National Council shall not affect its power to function.

"DUTIES OF NATIONAL COUNCIL

"SEC. 401. The National Council shall—

"(1) establish general policies for, and review the operation of, the National Institute of Handicapped Research;

"(2) provide advice to the Commissioner with respect to the policies of and conduct of the Rehabilitative Services Administration;

"(3) advise the Commissioner, the appropriate Assistant Secretary of the Department of Health, Education, and Welfare, and the Director of the National Institute of Handicapped Research on the development of the programs to be carried out under this Act;

"(4) review and evaluate on a continuing basis all policies, programs, and activities concerning handicapped individuals, and persons with developmental disabilities conducted or assisted by Federal departments and agencies, including programs established or assisted under this Act or under the Developmental Disabilities Assistance and Bill of Rights Act, in order to assess the effectiveness of such policies, programs, and activities in meeting the needs of handicapped individuals;

"(5) make recommendations to the Secretary, the Commissioner, and the Director of the National Institute of Handicapped Research respecting ways to improve research concerning handicapped individuals, the admiration of services for handicapped individuals, and the methods of collecting and disseminating the findings of such research, and make recommendations for facilitating the implementation of programs based upon such findings; and

"(6) submit not later than March 31 of each year (beginning in 1980) an annual report to the Secretary, the Congress, and the President, containing (A) a statement of the current status of research concerning the handicapped in the United States, (B) a review of the activities of the Rehabilitation Services Administration and the National Institute of Handicapped Research, and (C) such recommendations respecting the items described in clauses (A) and (B) as the National Council considers appropriate.

"COMPENSATION OF NATIONAL COUNCIL MEMBERS

"SEC. 402. (a) Members of the National Council shall be entitled to receive compensation at a rate equal to the rate of basic pay payable for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day they are engaged in the performance of their duties as members of the National Council.

"(b) Members of the National Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the National Council except for compensation for travel expenses as provided under subsection (c) of this section.

"(c) While away from their homes or regular places of business in the performance of services for the National Council, members of the National Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"STAFF OF NATIONAL COUNCIL

"SEC. 403. (a) The National Council may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, up to seven technical and professional employees to assist the National Council to carry out its duties.

"(b) The National Council may procure temporary and intermittent services to the same extent as is authorized by section 3109 (b) of title 5, United States Code (but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code).

"(c) The Administrator of General Services shall provide to the National Council on a reimbursable basis such administrative support services as the Council may request.

"ADMINISTRATIVE POWERS OF NATIONAL COUNCIL

"SEC. 404. (a) The National Council may prescribe such bylaws and rules as may be necessary to carry out its duties under this title.

"(b) The National Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

"(c) The National Council may appoint advisory committees to assist the National Council in carrying out its duties. The members thereof shall serve without compensation.

"(d) The National Council may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 405. There are authorized to be appropriated to carry out this title such sums as may be necessary.".

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 118. (a)(1) Section 502(a) of the Rehabilitation Act of 1973 is amended to read as follows:

"SEC. 502. (a)(1) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the 'Board') which shall be composed as follows:

"(A) Eleven members shall be appointed by the President from among members of the general public of whom five shall be handicapped individuals.

"(B) The remaining members shall be the heads of each of the following departments or agencies (or their designee whose positions are executive level IV or higher):

"(i) Department of Health, Education, and Welfare.

"(ii) Department of Transportation.

"(iii) Department of Housing and Urban Development.

"(iv) Department of Labor.

"(v) Department of the Interior.

"(vi) Department of Defense.

"(vii) Department of Justice.

"viii) General Services Administration.

"(ix) Veterans' Administration.

"(x) United States Postal Service.

The President shall appoint the first Chairman of such Board who shall serve for a term of not more than two years; thereafter, the Chairman shall be elected by a vote of a majority of the Board for a term of one year.

"(2) The term of office of each appointed member of the Board shall be three years; except that (i) the members first taking office shall serve, as designated by the President at the time of appointment, four for a term of one year, four for a term of two years, and three for a term of three years, and (ii) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

"(3) If any appointed member of the Board becomes a Federal employee, such member may continue as a member of the Board for not longer than the sixty-day period beginning on the date he becomes such an employee.

"(4) No individual appointed under paragraph (1)(A) of this subsection who has served as a member of the Board may be reappointed to the Board more than once unless such individual has not served on the Board for a period of two years prior to the effective date of such individual's appointment.

"(5)(A) Members of the Board who are not regular full-time employees of the United States shall, while serving on the business of the Board, be entitled to receive compensation at rates fixed by the President, but not to exceed the daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, including traveltime, for each day they are engaged in the performance of their duties as members of the Board; and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

"(B) Members of the Board who are employed by the Federal Government shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.".

(b)(1) Section 502(b)(1) of the Rehabilitation Act of 1973 is amended to read as follows: "(1) insure compliance with the standards prescribed pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968 (including the application of that Act to the United States Postal Service) including but not limited to enforcing all standards under that Act, and insuring that all waivers and modifications of standards are based upon findings of fact and are not inconsistent with the provisions of such Act and this section;".

(2) Section 502(b)(2) of the Rehabilitation Act of 1973 is amended by inserting "communication," before "and attitudinal", and by inserting "telecommunication devices," before "public buildings"; and

(3) Section 502(b) of the Rehabilitation Act of 1973 is amended by striking out "and" at the end of clause (5), by striking out the period at the end of clause (6) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new clauses: "(7) establish minimum guidelines and requirements for the standards issued pursuant to the Act of August 12, 1968, as amended, commonly known as the Architectural Barriers Act of 1968; and (8) insure that public conveyances, including rolling stock, are readily accessible to, and usable by, physically handicapped persons.".

(c)(1) The first sentence of section 502(d) of the Rehabilitation Act of 1973 is amended by striking out "or contracts with"

and by inserting after "organizations" "or contracts with private nonprofit or for-profit organizations".

(2) The second sentence of section 502(d) of the Rehabilitation Act of 1973 is amended by striking out "The" and inserting in lieu thereof "Except as provided in paragraph (3) of subsection (e), the".

(3) The last sentence of section 502(d) of the Rehabilitation Act of 1973 is amended by inserting "or public conveyance or rolling stock" after "building" and by striking out "prescribed pursuant to the Act cited in subsection (b) of this section 55 and inserting in lieu thereof "enforced under this section".

(4) Section 502(d) of the Rehabilitation Act of 1973 is amended by adding at the end thereof the following new sentences: "Pursuant to chapter 7 of title 5, United States Code, any complainant or participant in a proceeding under this subsection may obtain review of a final order issued in such proceeding.

(5) Section 502(a) of the Rehabilitation Act of 1973 is further amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraphs:

"(2) The executive director is authorized, at the direction of the Board—

"(A) to bring a civil action in any appropriate United States district court to enforce, in whole or in part, any final order of the Board under this subsection; and

"(B) to intervene, appear, and participate, or to appear as amicuscuriae, in any court of the United States or in any court of a State in civil actions which related to this section or to the Architectural Barriers Act of 1968.

Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the executive director may appear for and represent the Board in any civil litigation brought under this section.".

"(3) The Board, in consultation and coordination with other concerned Federal departments and agencies and agencies within the Department of Health, Education, and Welfare, shall develop standards and provide appropriate technical assistance to any public or private activity, person, or entity affected by regulations prescribed pursuant to this title with respect overcoming to architectural, transportation, and communication barriers. Any funds appropriated to any such department or agency for the purpose of providing such assistance may be transferred to the Board for the purpose of carrying out this paragraph. The Board may arrange to carry out its responsibilities under this paragraph through such other departments and agencies for such periods as the Board determines is appropriate. In carrying out its technical assistance responsibilities under this paragraph, the Board shall establish a procedure to insure separation of its compliance and technical assistance responsibilities under this section.".

(d) Section 502(e) of the Rehabilitation Act of 1973 is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraphs:

"(2) The Executive Director shall exercise general supervision over all personnel employed by the Board (other than hearing examiners and their assistants). The Executive Director shall have final authority on behalf of the Board, with respect to the investigation of alleged noncompliance in the issuance of formal complaints before the Board, and shall have such other duties as the Board may prescribe.

"(3) For the purpose of this section, an order of compliance issued by a hearing examiner shall be deemed to be an order of the Board and shall be the final order for the purpose of judicial review.".

(e) Section 502 of the Rehabilitation Act of 1973 is amended by striking out subsection (h) and inserting in lieu thereof the following new subsections:

"(h)(1) Within one year following the enactment of this subsection, the Board shall submit to the President and the Congress a report containing an assessment of the amounts required to be expended by States and by political subdivisions thereof to provide handicapped individuals with full access to all programs and activities receiving Federal assistance.

"(2) The Board may make grants to, or enter into contracts with, public or private organizations to carry out its duties under subsections (b) and (c). The Board may also make grants to any designated State unit for the purpose of conducting studies to provide the cost assessments required by paragraph (1). Before including in such report the findings of any study conducted for the Board under a grant or contract to provide the Board with such cost assessments, the Board shall take all necessary steps to validate the accuracy of any such findings.

"(i) There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Board under this section such sums as may be necessary for each fiscal year ending before October 1, 1982, but in no event shall the amount appropriated for any one fiscal year exceed $3,000,000.".

NONDISCRIMINATION UNDER FEDERAL PROGRAMS AND ACTIVITIES

SEC. 119. Section 504 of the Rehabilitation Act of 1973 is amended—

(1) in the section heading by inserting "and programs" after "grants"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof "or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.".

NONDISCRIMINATION PROVISIONS; INTERAGENCY COUNCIL; SECRETARIAL DUTIES

SEC. 120. (a) Title V of the Rehabilitation Act of 1973 is amended by adding at the end thereof the following new sections:

"REMEDIES AND ATTORNEYS' FEES

"SEC. 505. (a)(1) The remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), including the application of sections 706(f) through 706(k) (42 U.S.C. 2000e–5(f) through (k)), shall be available, with respect to any complaint under section 501 of this Act, to any employee or applicant for employment aggrieved by the final disposition of such complaint, or by the failure to take final action on such complaint. In fashioning an equitable or affirmative action remedy under such section, a court may take into account the reasonableness of the cost of any necessary work place accommodation, and the availability of alternatives therefor or other appropriate relief in order to achieve an equitable and appropriate remedy.

"(2) The remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 shall be available to any person aggrieved by any act or failure to act by any recipient of Federal assistance or Federal provider of such assistance under section 504 of this Act.

"(b) In any action or proceeding to enforce or charge a violation of a provision of this title, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

"SECRETARIAL RESPONSIBILITIES

"SEC. 506. (1) The Secretary may provide directly or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof, technical assistance—

"(A) to persons operating rehabilitation facilities; and

"(B) with the concurrence of the Board established by section 502, to any public or nonprofit agency, institution, or organization;

for the purpose of assisting such persons or entities in removing architectural, transportation, or communication barriers. Any concurrence of the Board under this paragraph shall reflect its consideration of the cost studies carried out by States under section 502(c)(1).

"(2) Any such experts or consultants, while serving pursuant to such contracts, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the daily equivalent of the rate of basic pay payable for grade GS–18 of the General Schedule, under section 5332 of title 5, United States Code, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(3) The Secretary, with the concurrence of the Board and the President may provide, directly or by contract, financial assistance to any public or nonprofit agency, institution, or organization for the purpose of removing architectural, transportation, and communication barriers. No assistance may be provided under this paragraph until a study demonstrating the need for such assistance has been conducted and submitted under section 502(h)(2) of this title.

"(4) In order to carry out this section, there are authorized to be appropriated such sums as may be necessary.

"INTERAGENCY COORDINATING COUNCIL

"SEC. 507. There shall be established an Interagency Coordinating Council (hereinafter referred to in this section as the 'Council') composed of the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Attorney General, the Chairman of the United States Civil Service Commission, the Chairman of the Equal Employment Opportunity Commission, and the Chairman of the Architectural and Transportation Barriers Compliance Board. The Council shall have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this title, and the regulations prescribed thereunder. On or before July 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section. Nothing in this section shall impair any responsibilities assigned by any Executive order to any Federal department, agency, or instrumentality to act as a lead Federal agency with respect to any provisions of this title.".

APPLICATION OF OTHER LAWS

SEC. 121. The Rehabilitation Act of 1973 is amended by inserting after section 10 the following new section:

"APPLICATION OF OTHER LAWS

"SEC. 11. The provisions of the Act of December 5, 1974 (Public Law 93-510) and of title V of the Act of October 15, 1977 (Public Law 95-134) shall not apply to the administration of the provisions of this Act or to the administration of any program or activity under this Act.".

MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 122. (a) The Rehabilitation Act of 1973 is amended—

(1) by amending section 2 to read as follows:

"DECLARATION OF PURPOSE

"SEC. 2. The purpose of this Act is to develop and implement, through research, training, services, and the guarantee of equal opportunity, comprehensive and coordinated programs of vocational rehabilitation and independent living.".

(2) in section 3(a) by inserting "and part A of title VI" after "titles IV and V", and by inserting at the end thereof the following: "Any reference in this Act to duties to be carried out by the Commissioner shall be considered to be a reference to duties to be carried out by the Secretary acting through the Commissioner. In carrying out any of his functions under this Act, the Commissioner shall be guided by general policies of the National Council on the Handicapped established under title IV of this Act.";

(3) by striking out section 3(b) and redesignating section 3(c) as 3(b);

(4) in section 7(3) by striking out "and the initial equipment" and all that follows through the period and inserting in lieu thereof "and may include such additional equipment and staffing as the Commissioner considers appropriate.";

(5) in section 7(4)(B) by inserting after "medical" a comma and the word "psychiatric";

(6) in section 7(6)—

(A) by striking out "The term" and inserting in lieu thereof: "(A) Except as otherwise provided in subparagraph (B), the term";

(B) by striking out "(A)" after "individual who" and inserting in lieu thereof "(i)" and by striking out "(B)" after "and" and inserting in lieu thereof "(ii)"; and

(C) by striking out the last sentence and by adding at the end the following new subparagraph:

"(B) Subject to the second sentence of this subparagraph, the term 'handicapped individual' means, for purposes of titles IV and V of this Act, any person who (i) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment. For purposes of sections 503 and 504 as such sections relate to employment, such term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.";

(7) in section 7(10)—

(A) by inserting "psychiatric" after "medical" in subparagraph (A) thereof; and

(B) by inserting "psychiatric," before "psychological" in subparagraph (B) thereof;

(8) in section 7 by (A) redesignating paragraphs (3) through (14) as paragraphs (4) through (15), respectively, and (B) inserting after paragraph (2) the following new paragraph:

"(3) The term 'designated State unit' means (A) any State agency unit required under section 101(a)(2)(A) of this Act, or (B) in cases in which no such unit is so required, the State agency described in section 101(a)(B)(i) of this Act.";

(10) in section 10 by inserting before the period at the end thereof the following: ", except that this section shall not be construed to limit or reduce fees for services rendered by rehabilitation facilities";

(11) by adding after section 11 (as added by section 121 of this Act) the following new sections:

"ADMINISTRATION OF THE ACT

"SEC. 12. (a) In carrying out the purposes of this Act, the Commissioner may—

"(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations;

"(2) provide short-term training and technical instruction;

"(3) conduct special projects and demonstrations;

"(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this Act; and

"(5) provide staff and other technical assistance to the National Council on the Handicapped.

"(b) In carrying out his duties under this Act, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and may pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

"(c) The Commissioner may promulgate such regulations as he considers appropriate to carry out his duties under this Act.

"(d) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"REPORTS

"SEC. 13. Not later than one hundred and twenty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President for transmittal to to the Congress a full and complete report on the activities carried out under this Act. Such annual reports shall include statistical data reflecting services and activities provided individuals during the preceding fiscal year.

"EVALUATION

"SEC. 14. (a) The Secretary shall evaluate the impact of all programs authorized by this Act, their general effectiveness in achieving stated goals, and their effectiveness in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

"(b) In carrying out evaluations under this section, the Secretary shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

"(c) The Secretary shall annually publish summaries of the results of evaluative research and evaluation of program and project impact and effectiveness, the full contents of which shall be available to the Congress and the public.

"(d) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

"(e) Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this section shall be made available to him, upon request, by the departments and agencies of the executive branch.

"(f) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"INFORMATION CLEARINGHOUSE

"SEC. 15. (a) The Secretary may establish a central clearinghouse for information and resource availability for handicapped individuals which shall provide information and data regarding (1) the location, provision, and availability of services and programs for handicapped individuals, (2) research and recent medical and scientific developments bearing on handicapping conditions (and their prevention, amelioration, causes, and cures), and (3) the current numbers of handicapped individuals and their needs. The clearinghouse shall also provide any other relevant information and data which the Secretary considers appropriate.

"(b) The Commissioner may assist the Secretary to develop within the Department of Health, Education, and Welfare a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide information regarding the information and data referred to in subsection (a) of this section to the Congress, public and private agencies and organizations, handicapped individuals and their families, professionals in fields serving such individuals, and the general public.

"(c) Any office established to carry out the provisions of this section shall be known as the 'Office of Information and Resources for the Handicapped'.

"(d) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"TRANSFER OF FUNDS

"SEC. 16. No funds appropriated under this Act for any research program or activity may be used for any purpose other than that for which the funds were specifically authorized.".

(b) Title I of the Rehabilitation Act of 1973 is further amended—

(1) in parts A through C by striking out "Secretary" in each place it appears and inserting in lieu thereof "Commissioner"; and

(2) in section 121(a) by inserting after the first sentence the following new sentence: "Payments may also be made under this section for the costs of the construction of facilities to be used in providing services under such State plan if provision for such construction is included in such State plan.".

(c) Title III of the Rehabilitation Act of 1973 is further amended—

(1) in section 300—

(A) by adding before the semicolon in paragraph (1) the following: "and authorize such staffing as the Commission deems appropriate";

(B) by striking out paragraph (4); and

(C) by redesignating paragraph (5) as paragraph (4);

(2) in section 301 by striking out "initial" each place it appears and by striking out "Secretary" in each place it appears and inserting in lieu thereof "Commissioner";

(3) in section 302 by striking out "Secretary" in each place it appears and inserting in lieu thereof "Commissioner";

(4) in subsections (a), (c), (e), (f), and (i) of section 306 by striking out "Secretary" in each place it appears and inserting in lieu thereof "Commissioner";

(5) by amending paragraph (3) of section 306(b) to read as follows:

"(3) provide that the agency or organization receiving Federal funds under this title will make an annual report to the Commissioner, which the Commissioner shall submit to the Secretary for inclusion (in summarized form) in the annual report submitted to the Congress under section 13;";

(6) in paragraph (4) of section 306(b) by

striking out "Secretary" where it first occurs and inserting in lieu thereof "Commissioner"; and

(7) by striking out "SPECIAL FEDERAL RESPONSIBILITIES" in the title heading and inserting in lieu thereof "SUPPLEMENTARY SERVICES AND FACILITIES".

(d) Title V of the Rehabilitation Act of 1973 is further amended—

(1) in section 503(a), by striking out "as defined in section 7(6)" and inserting in lieu thereof "as defined in section 7(7)"; and

(2) in section 504, by striking out "as defined in section 7(6)" and inserting in lieu thereof "as defined in section 7(7)".

(e) Section 412 of the Energy Conservation and Production Act is amended by striking out "as defined in section 7(6)" and inserting in lieu thereof "as defined in section 7(7)".

(f) Section 1904 of title 38, United States Code, is amended—

(1) by striking out "section 202(b)(2)" and inserting in lieu thereof "and section 204(b)(2)"; and

(2) by striking out ", and section 405" and all that follows through "activities)".

(g) The table of contents for the Rehabilitation Act of 1973 is amended—

(1) by inserting after the item relating to section 10 the following new items:

"Sec. 11. Application of other laws.
"Sec. 12. Administration of the Act.
"Sec. 13. Reports.
"Sec. 14. Evaluation.
"Sec. 15. Information clearinghouse.
"Sec. 16. Transfer of funds.";

(2) by striking out the items relating to part D of title I and section 130 and inserting in lieu thereof the following:

"PART D—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

"Sec. 130. Vocational rehabilitation services grants.
"Sec. 131. Evaluation.";

(3) by striking out the items relating to titles II and III and to sections 200 through 204 and 300 through 306 and inserting in lieu thereof the following:

"TITLE II—RESEARCH

"Sec. 200. Declaration of purpose.
"Sec. 201. Authorization of appropriations.
"Sec. 202. National Institute of Handicapped Research.
"Sec. 203. Interagency committee.
"Sec. 204. Research.

"TITLE III—SUPPLEMENTARY SERVICES AND FACILITIES

"PART A—MISCELLANEOUS PROGRAMS

"Sec. 300. Declaration of purpose.
"Sec. 301. Grants for construction of rehabilitation facilities.
"Sec. 302. Vocational training services for handicapped individuals.
"Sec. 303. Loan guarantees for rehabilitation facilities.
"Sec. 304. Training.
"Sec. 305. Comprehensive rehabilitation centers.
"Sec. 306. General grant and contract requirements.

"PART B—SPECIAL PROJECTS

"Sec. 310. Authorization of appropriations.
"Sec. 311. Special demonstration programs.
"Sec. 312. Migratory workers.
"Sec. 313 Helen Keller National Center.
"Sec. 314. Reader services for the blind.
"Sec. 315. Interpreter services for the deaf."
"Sec. 316. Special Recreational Programs.";

(4) by striking out the items relating to title IV and sections 400 through 407 and inserting in lieu thereof the following:

"TITLE IV—NATIONAL COUNCIL ON THE HANDICAPPED

"Sec. 400. Establishment of National Council on the Handicapped.
"Sec. 401. Duties of National Council.
"Sec. 402. Compensation of National Council members.
"Sec. 403. Staff of National Council.
"Sec. 404. Administrative powers of National Council.
"Sec. 405. Authorization of appropriations.";

and

(5) by adding at the end of the items relating to title V the following new items:

"Sec. 505. Remedies and attorneys' fees.
"Sec. 506. Secretarial responsibilities.
"Sec. 507. Interagency Coordinating Council.".

TITLE II—COMMUNITY SERVICE PILOT PROGRAMS; PROJECTS WITH INDUSTRY

ESTABLISHMENT OF PROGRAMS

SEC. 201. The Rehabilitation Act of 1973 is amended by adding at the end thereof the following new title:

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"SHORT TITLE

"SEC. 601. This title may be cited as the 'Employment Opportunities for Handicapped Individuals Act'.

"PART A—COMMUNITY SERVICE EMPLOYMENT PILOT PROGRAMS FOR HANDICAPPED INDIVIDUALS

"ESTABLISHMENT OF PILOT PROGRAMS

"SEC. 611. (a) In order to promote useful opportunities in community service activities for handicapped individuals who have poor employment prospects, the Secretary of Labor (hereinafter in this part referred to as the 'Secretary') is authorized to establish a community service employment pilot program for handicapped individuals. For purposes of this part, the term 'eligible individuals' means persons who are handicapped individuals (as defined in section 7(7) of this Act) and who are referred to programs under this part by designated State units.

"(b)(1) The Secretary may enter into agreements with public or private nonprofit agencies or organizations, including national organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or tribal organizations in order to carry out the pilot program referred to in subsection (a). Such agreements may include provisions consistent with subsection (c) for the payment of the costs of projects developed by such organizations and agencies in cooperation with the Secretary. No payment shall be made by the Secretary toward the cost of any such project unless the Secretary determines that:

"(A) Such project will provide employment only for eligible individuals, except that if eligible individuals are not available to serve as technical, administrative, or supervisory personnel for a project then such personnel may be recruited from among other individuals.

"(B) Such project will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities.

"(C) Such project will employ eligible individuals in services related to publicly owned and operated facilities and projects, or projects sponsored by organizations, other than political parties, exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954, except for projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship.

"(D) Such project will contribute to the general welfare of the community in which eligible individuals are employed under such project.

"(E) Such project (i) will result in an increase in employment opportunities over those opportunities which would otherwise be available, (ii) will not result in any displacement of currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits), and (iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed.

"(F) Such project will not employ any eligible individual to perform work which is the same or substantially the same as that performed by any other person who is on layoff from employment with the agency or organization sponsoring such project.

"(G) Such project will utilize methods of recruitment and selection (including the listing of job vacancies with the State agency units designated under section 101(a)(2)(A) to administer vocational rehabilitation services under this Act) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project.

"(H) Such project will provide for (i) such training as may be necessary to make the most effective use of the skills and talents of individuals who are participating in the project, and (ii) during the period of such training, a reasonable subsistence allowance for such individuals and the payment of any other reasonable expenses related to such training.

"(I) Such project will provide safe and healthy working conditions for any eligible individual employed under such project and will pay any such individual at a rate of pay not lower than the rate of pay described in paragraph (2).

"(J) Such project will be established or administered with the advice of (i) persons competent in the field of service in which employment is being provided, and (ii) persons who are knowledgeable with regard to the needs of handicapped individuals.

"(K) Such project will pay any reasonable costs for work-related expenses, transportation, and attendant care incurred by eligible individuals employed under such project in accordance with regulations prescribed by the Secretary.

"(L) Such project will provide appropriate placement services for employees under the project to assist them in locating unsubsidized employment when the Federal assistance for the project terminates.

"(2) The rate of pay referred to in subparagraph (I) of paragraph (1) is the highest of the following:

"(A) the prevailing rate of pay for persons employed in similar occupations by the same employer.

"(B) The minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938 if such employee were not exempt from such Act under section 13 thereof.

"(C) The State or local minimum wage for the most nearly comparable covered employment.

The Department of Labor shall not issue any certificate of exemption under section 14(c) of the Fair Labor Standards Act of 1938 with respect to any person employed in a project under this section.

"(c)(1) The Secretary may pay not to exceed 90 percent of the cost of any project which is the subject of an agreement entered into under subsection (b). Notwithstanding the preceding sentence, the Secretary may pay all of the costs of any such project which is (A) an emergency or disaster project, or (B) a project located in an economically depressed area, as determined by the Secretary in consultation with the Secretary of Commerce and the Director of the Community Services Administration.

"(2) The non-Federal share of any project under this part may be in cash or in kind. In

determining the amount of the non-Federal share, the Secretary may attribute fair market value to services and facilities contributed from non-Federal sources.

"(d) Payments under this part may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.

"ADMINISTRATION

"SEC. 612. (a) In order to effectively carry out the provisions of this part, the Secretary shall, through the Commissioner of the Rehabilitation Services Administration, consult with any designated State unit with regard to—

"(1) the localities in which community service projects of the type authorized by this part are most needed;

"(2) the employment situations and types of skills possessed by eligible individuals in such localities; and

"(3) potential projects suitable for funding in such localities.

"(b) The Secretary shall coordinate the pilot program established under this part with programs authorized under the Emergency Jobs and Unemployment Assistance Act of 1974, the Comprehensive Employment and Training Act of 1973, the Community Services Act of 1974, and the Emergency Employment Act of 1971. Appropriations under this part may not be used to carry out any program under the Acts referred to in the preceding sentence.

"(c) In carrying out this part, the Secretary may, with the consent of any other Federal, State, or local agency, use the services, equipment, personnel, and facilities of such agency with or without providing such agency with reimbursement and may use the services, equipment, and facilities of any other public or private entity on a similar basis.

"(d) Within one hundred and eighty days after the effective date of this part, the Secretary shall issue and publish in the Federal Register such regulations as may be necessary to carry out this part.

"(e) The Secretary shall not delegate any function of the Secretary under this part to any other department or agency of the Federal Government.

"PARTICIPANTS NOT FEDERAL EMPLOYEES

"SEC. 613. (a) Eligible individuals who are employed in any project funded under this part shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5, United States Code.

"(b) No contract shall be entered into under this part with a contractor who is, or whose employees are, under State law, exempted from operation of any State workmen's compensation law generally applicable to employees, unless the contractor shall undertake to provide for persons to be employed under such contract, through insurance by a recognized carrier or by self-insurance authorized by State law, workmen's compensation coverage equal to that provided by law for covered employment.

"(c) No part of the wages, allowances, or reimbursement for transportation and attendant care costs made available to an eligible individual employed in any project funded under this part shall be treated as income or benefits for the purpose of any other program or provision of State or Federal law, unless the Secretary makes a case by case determination that disallowance of such income or benefits is inequitable or does not carry out the purposes of this title.

"INTERAGENCY COOPERATION

"SEC. 614. (a) The Secretary shall consult with, and obtain the written views of, the Commissioner of the Rehabilitation Services Administration before establishing rules or general policy in the administration of this part.

"(b) The Secretary shall consult and cooperate with the Director of the Community Services Administration, the Secretary of Health, Education, and Welfare, and the heads of other Federal agencies carrying out related programs, in order to achieve maximum coordination between such programs and the programs established under this part. Each Federal agency shall cooperate with the Secretary in diseminating information relating to the availability of assistance under this part and in identifying individuals eligible for employment in projects assisted under this part.

"EQUITABLE DISTRIBUTION OF ASSISTANCE

"SEC. 615. (a)(1) Preference in awarding grants or contracts under this part shall be given to organizations of proven ability in providing employment services to handicapped individuals under this program and similar programs. The Secretary, in awarding grants and contracts under this section, shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts among the States, taking into account the needs of underserved States.

"(2) The Secretary shall allot for projects within each State the sums appropriated for any fiscal year under section 617 so that each State will receive an amount which bears the same ratio to such sums as the population of the State bears to the population of all the States.

"(b) The amount allotted for projects within any State under subsection (a) for any fiscal year which the Secretary determines will not be required for such year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, to projects within other States in proportion to the original allotments to projects within such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates that projects within such State need and will be able to use for such year. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

"(c) The amount apportioned for projects within each State under subsection (a) shall be apportioned among areas within each such State in an equitable manner, taking into consideration (1) the proportion which eligible individuals in each such area bears to the total number of such individuals, respectively, in that State, and (2) the relative distribution of such individuals residing in rural and urban areas within the State.

"DEFINITIONS

"SEC. 616. For purposes of this part—

"(1) the term 'community service' means social, health, welfare, and educational services, legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; economic development; and such other services essential and necessary to the community as the Secretary, by regulation, may prescribe;

"(2) the term 'pilot program' means the community service employment program for handicapped individuals established under this part; and

"(3) the term 'attendant care' means interpreter services for the deaf, reader services for the blind, and services provided to assist mentally retarded individuals to perform duties of employment.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 617. There are authorized to be appropriated to carry out the purposes of this part $35,000,000 for the fiscal year ending September 30, 1979, $50,000,000 for the fiscal year ending September 30, 1980, $75,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982.

"PART B—PROJECTS WITH INDUSTRY AND BUSINESS OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"PROJECTS WITH INDUSTRY

"SEC. 621. (a)(1) The Commissioner, in consultation with the Secretaries of Labor and Commerce and with designated State units, may enter into agreements with individual employers and other entities to establish jointly financed projects which—

"(A) shall provide handicapped individuals with training and employment in a realistic work setting in order to prepare them for employment in the competitive market;

"(B) shall provide handicapped individuals with such supportive services as may be required to permit them to continue to engage in the employment for which they have received training under this section; and

"(C) shall, to the extent appropriate, expand job opportunities for handicapped individuals by providing for (i) the development and modification of jobs to accommodate the special needs of such individuals, (ii) the distribution of special aids, appliances, or adapted equipment to such individuals, (iii) the establishment of appropriate job placement services, and (iv) the modification of any facilities or equipment of the employer which are to be used primarily by handicapped individuals.

"(2) Any agreement under this subsection shall be jointly developed by the Commissioner, the prospective employer, and, to the extent practicable, the appropriate designated State unit and the handicapped individuals involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contain the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

"(b) No payment shall be made by the Commissioner under any agreement with an employer entered into under subsection (a) unless such agreement—

"(1) provides assurances that handicapped individuals placed with such employer shall receive at least the applicable minimum wage;

"(2) specifies that the Commissioner, together with the designated State unit, has the right to review any termination of employment, and that, in the event such termination occurs less than three years after the date of the commencement of employment of the handicapped individual involved, the Commissioner shall be entitled to require the repayment of a portion of the funds made available to the employer if such termination is without reasonable cause, as determined by the Commissioner in consultation with such designated State unit; and

"(3) provides assurances that any handicapped individual placed with such employer shall be afforded terms and benefits of employment equal to those which are afforded to other employees of such employer, and that such handicapped individuals shall not be unreasonably segregated from other employees.

"(c) Payments under this section with respect to any project may not exceed 80 per centum of the costs of the project.

"BUSINESS OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"SEC. 622. The Commissioner, in consultation with the Secretarys of Labor and Commerce, may make grants to, or enter into contracts with, handicapped individuals to enable them to establish or operate commercial or other enterprises to develop or market their products or services. Within ninety days after the effective date of this section, the Commissioner shall promulgate regulations to carry out this section, including regulations specifying (1) the maximum amount of money which may be provided under this section to any participant, and (2) procedures for certification, by designated State units, of individuals eligible to participate in any program under this section.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 623. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part for each fiscal year beginning before October 1, 1982."

CONFORMING AMENDMENTS

SEC. 202. (a) The table of contents for the Rehabilitation Act of 1973, as amended by section 120(c)(6), is further amended by adding at the end thereof the following:

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"Sec. 601. Short title.

"PART A—COMMUNITY SERVICE EMPLOYMENT PROGRAMS FOR HANDICAPPED INDIVIDUALS

"Sec. 611. Establishment of program.
"Sec. 612. Administration.
"Sec. 613. Participants not Federal employees.
"Sec. 614. Interagency cooperation.
"Sec. 615. Equitable distribution of assistance
"Sec. 616. Definitions.
"Sec. 617. Authorization of appropriations.

"PART B—PROJECTS WITH INDUSTRY AND BUSINESS OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"Sec. 621. Projects with industry.
"Sec. 622. Business opportunities for handicapped individuals.
"Sec. 623. Authorization of appropriations."

TITLE III—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

COMPREHENSIVE SERVICES

SEC. 301. The Rehabilitation Act of 1973, as amended by section 201 of this Act, is further amended by adding at the end the following new title:

"TITLE VII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

"PART A—COMPREHENSIVE SERVICES

"PURPOSE

"SEC. 701. The purpose of this title is to authorize grants (supplementary to grants for vocational rehabilitation services under title I) to assist States in providing comprehensive services for independent living designed to meet the current and future needs of individuals whose disabilities are so severe that they do not presently have the potential for employment but may benefit from vocational rehabilitation services which will enable them to live and function independently.

"ELIGIBILITY

"SEC. 702. Services may be provided under this title to any individual whose ability to engage or continue in employment, or whose ability to function independently in his family or community, is so limited by the severity of his disability that vocational or comprehensive rehabilitation services appreciably more costly and of appreciably greater duration than those vocational or comprehensive rehabilitation services required for the rehabilitation of a handicapped individual are required to improve significantly either his ability to engage in employment or his ability to function independently in his family or community. Priority of services under this part shall be given to individuals not served by other provisions of this Act.

"(b) For purposes of this title, the term 'comprehensive services for independent living' means any appropriate vocational rehabilitation service (as defined under title I of this Act) and any other service that will enhance the ability of a handicapped individual to live independently and function within his family and community and, if appropriate, secure and maintain appropriate employment. Such services may include any of the following: counseling services, including psychological, psychotherapeutic, and related services; housing incidental to the purpose of this section (including appropriate accommodations to and modifications of any space to serve handicapped individuals); appropriate job placement services; transportation; attendant care; physical rehabilitation; therapeutic treatment; needed prostheses and other appliances and devices; health maintenance; recreational activities; services for children of preschool age, including physical therapy, development of language and communication skills, and child development services; and appropriate preventive services to decrease the needs of individuals assisted under the program for similar services in the future.

"ALLOTMENTS

"SEC. 703. (a)(1) From sums made available for each fiscal year for the purposes of allotments under this subpart, each State whose comprehensive services plan has been approved under section 705 shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States. Except as provided in paragraph (2), the allotment to any State under the preceding sentence shall be not less than $200,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year which is less than $200,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts.

"(2) For purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall not be considered as States and shall each be allotted not less than one-eighth of 1 percent of the amounts made available for purposes of this subpart for the fiscal year for which the allotment is made.

"(b) Amounts necessary to increase the allotments of States under paragraph (1) or to provide allotments under paragraph (2) shall be derived by proportionately reducing the allotments of the remaining States under paragraph (1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $200,000 or one-third of 1 percent of the sums made available for purposes of this subpart for the fiscal year for which the allotment is made.

"(c) Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, he shall make such amount available for carrying out the purposes of this section to one or more of the States which he determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

"PAYMENTS TO STATES FROM ALLOTMENTS

"SEC. 704. (a) From each State's allotment for a fiscal year under section 703, the State shall be paid the Federal share of the expenditudes incurred during such year under its State plan approved under section 705. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

"(b)(1) The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 705.

"(2) The non-Federal share of the cost of any project assisted by an allotment under this subpart may be provided in kind.

"(3) For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision of such State shall, subject to regulations prescribed by the Commissioner, be regarded as expenditures by such State.

"STATE PLANS

"SEC. 705. (a) In order to be eligible for grants under this part, a State shall submit to the Commissioner a State plan for a three-year period for providing comprehensive services for independent living to severely handicapped individuals, and, upon request of the Commissioner, shall make such annual revisions in the plan as may be necessary. Each such plan shall—

"(1) designate the designated unit of such State as the agency to administer the programs funded under this part;

"(2) demonstrate that the State has studied and considered a wide variety of methods for providing comprehensive services to severely handicapped individuals (such as regional and community centers, halfway houses, and patient-release programs) and that the State will provide, to the maximum extent feasible, meaningful alternatives to institutionalization;

"(3)(A) describe the quality, scope, and extent of the comprehensive services for independent living to be provided to handicapped individuals under this part, and specify the State's goals and plans with respect to the distribution of funds received under part B of this title; and

"(B) provide satisfactory assurances that facilities used in connection with the delivery of services assisted under this part and part B of this title will comply with the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;

"(4) provide assurances that (A) an individualized written rehabilitation program meeting the requirements of section 102 will be developed for each handicapped individual eligible for independent living services under this part; (B) such services will be provided in accordance with such program; and (C) that such program be coordinated with the individualized written rehabilitation plan, or education program for such individual required under section 102 of this Act, section 112 of the Developmental Disabilities Services and Facilities Construction Act, and sections 612(4) and 614(a)(5) of the Education for All Handicapped Children Act of 1975, respectively;

"(5) provide assurances that the State will conduct periodic reviews of the progress of individuals assisted under this title to determine whether services provided to such individuals should be continued, modified, or discontinued;

"(6) provide assurances that special efforts will be undertaken to provide technical assistance to urban and rural poverty areas with respect to the provision of com-

prehensive services for severely handicapped individuals and describe such efforts;

"(7) provide assurances that handicapped individuals shall have a substantial role in developing the State plan;

"(8) provide assurances that not less than 20 percent of the funds received by a State under this part shall be used to make grants to local public agencies and private nonprofit organizations for the conduct of independent living services except that the Commissioner may waive the requirement of this clause if the Commissioner determines, on the basis of evidence submitted by the State, that such State cannot feasibly use the funds required to be expended under this section for the purposes of this clause; and

"(9) contain such other information, and be submitted in such form and in accordance with such procedures, as the Commissioner may require.

"(b) As soon as practicable after receiving a State plan submitted under subsection (a), the Commissioner shall approve or disapprove such plan. The Commissioner shall approve any State plan which he determines meets the requirements and purposes of this section. The provisions of subsections (b), (c), and (d) of section 101 of this Act shall apply to any State plan submitted to the Commissioner pursuant to this section, except that for purposes of this section, all references in such subsections to the Secretary shall be deemed to be references to the Commissioner.

"PART B—CENTERS FOR INDEPENDENT LIVING

"GRANT PROGRAM ESTABLISHED

"SEC. 711. (a) The Commissioner may make grants to any designated State unit which administers the State plan under section 705 to provide for the establishment and operation of independent living centers, which shall be facilities offering the services described in subsection (c)(2).

"(b) No grant may be made under this section unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application for a grant unless the application—

"(1) contains assurances that the designated State unit will use funds provided by such grant in accordance with subsection (c); and

"(2) contains such other information, and is submitted in such form and in accordance with such procedures, as the Commissioner may require.

"(c) An application by a public or nonprofit agency or organization for such grant shall—

"(1) provide assurances that handicapped individuals will be substantially involved in policy direction and management of such center, and will be employed by such center;

"(2) contain assurances that the independent living center to be assisted by such grant shall offer handicapped individuals a combination of independent living services, including, as appropriate—

"(A) intake counseling to determine the client's need for specific rehabilitation services;

"(B) referral and counseling services with respect to attendant care;

"(C) counseling and advocacy services with respect to legal and economic rights and benefits;

"(D) independent living skills, counseling, and training, including such programs as training in the maintenance of necessary equipment and in job-seeking skills, counseling on therapy needs and programs, and special programs for the blind and deaf;

"(E) housing and transportation referral and assistance;

"(F) surveys, directories, and other activities to identify appropriate housing and accessible transportation, and other support services;

"(G) health maintenance programs;

"(H) peer counseling;

"(I) community group living arrangements;

"(J) education and training necessary for living in the community and participating in community activities;

"(K) individual and group social and recreational activities;

"(L) other programs designed to provide resources, training, counseling, services, or other assistance of substantial benefit in promoting the independence, productivity, and quality of life of handicapped individuals;

"(M) attendant care and training of personnel to provide such care; and

"(N) such other services as may be necessary and not inconsistent with the provisions of this title; and

"(3) contain such other information, and be submitted in such form and in accordance with such procedures, as the Commissioner may require.

"(d) If, within six months after the date in each fiscal year on which the Commissioner begins to accept applications from designated State units under this section, a designated State unit in a State has not submitted such an application, the Commissioner may accept applications for grants under this section from local public agencies or private nonprofit organizations within such State. After the receipt of such applications, the Commissioner may make grants to such agencies or organizations for the purpose of establishing independent living centers to provide the services described in subsection (c)(2).

"PART C—INDEPENDENT LIVING SERVICES FOR OLDER BLIND INDIVIDUALS

"SERVICE PROGRAM ESTABLISHED

"SEC. 721. (a) The Commissioner may make grants to any designated State unit to provide independent living services to older blind individuals. Such services shall be designed to assist an older blind individual to adjust to his blindness by becoming more able to care for his individual needs. Such services may include—

"(1) services to help correct blindness such as (A) outreach services, (B) visual screening, (C) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions and (D) hospitalization related to such services;

"(2) the provision of eyeglasses and other visual aids;

"(3) the provision of services and equipment to assistant an older blind individual to become more mobile and more able to care for himself;

"(4) mobility training, Braille instruction, and other services and equipment to help an older blind individual adjust to blindness;

"(5) guide services, reader services, and transportation; and

"(6) any other appropriate services designed to assist a blind person in coping with daily living activities, including supportive services or rehabilitation teaching services.

"(b) No grant may be made under this section unless an application therefor, containing such information as the Commissioner may require, has been submitted to and approved by the Commissioner. The Commissioner may not approve any application for a grant unless the application contains assurances that the designated State unit will seek to incorporate any new methods and approaches relating to the services described in subsection (a) into its State plan for independent living services under section 705 of this title.

"(c) Funds received under this section by any designated State unit may be used to make grants to public or private nonprofit agencies or organizations to—

"(1) conduct activities which will improve or expand services for older blind individuals and help improve public understanding of the problems of such individuals; and

"(2) provide independent living services to older blind individuals in accordance with the provisions of subsection (a).

"(d) For purposes of this section, the term 'older blind individual' means an individual aged fifty-five or older whose severe visual impairment makes gainful employment extremely difficult to attain but for whom independent living goals are feasible.

"PART D—GENERAL PROVISIONS

"PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

"SEC. 731. (a) The Commissioner may make grants to States to establish systems to protect and advocate the rights of severely handicapped individuals. In order to be eligible for a grant under this section, a State shall provide the Commissioner with assurances that any system established with grants made under this section shall have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such individuals receiving services under this title within the State. A State must provide that such system will be independent of any designated State unit that provides services under this part to such individuals.

"(b) No grant may be made under this section unless an application therefor has been submitted to the Commissioner containing such information and in such form and in accordance with such procedures as the Commissioner may, by regulation, prescribe.

"EMPLOYMENT OF HANDICAPPED INDIVIDUALS

"SEC. 732. As a condition of providing assistance under this title, the Secretary shall require that each recipient of assistance take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals under the provisions of this Act which govern employment (1) by State rehabilitation agencies and rehabilitation facilities, and (2) under Federal contracts and subcontracts.

"PART E—AUTHORIZATIONS

AUTHORIZATION OF APPROPRIATIONS

"SEC. 731. (a) For the purpose of carrying out the provisions of parts A, B, and C of this title, there are authorized to be appropriated $80,000,000 for the fiscal year ending September 30, 1979, $150,000,000 for the fiscal year ending September 30, 1980, $200,000,000 for the fiscal year ending September 30, 1981, and such sums as may be necessary for the fiscal year ending September 30, 1982.

"(b) From the amounts authorized to be appropriated under this section, an amount shall be made available for the purpose of carrying out the provisions of Part C of this title in an amount not in excess of 10 percent of the amount made available for carrying out the provisions of subpart 1 of part A of this title.".

"(c)(1) For the purpose of carrying out Part D of this title, there are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the three succeeding fiscal years, but in no event shall such sums exceed $6,000,000 for the fiscal year ending September 30, 1979, $7,500,000 for the fiscal year ending September 30, 1980, and $9,000,000 for the fiscal year ending September 30, 1981.

"(2) The provisions of section 1913 of title 18 of the United States Code shall be applicable to all moneys authorized under the provisions of this subsection."

CONFORMING AMENDMENT

SEC. 302. The table of contents for the Rehabilitation Act of 1973, as amended in section 120 (c)(6) and section 202 (b), is

further amended by adding at the end thereof the following:

"TITLE VII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

"PART A—COMPREHENSIVE SERVICES

"Sec. 701. Purpose.
"Sec. 702. Eligibility.
"Sec. 703. Allotments.
"Sec. 704. Payments to States from allotments.
"Sec. 705. State plans.

"PART B—INDEPENDENT LIVING CENTERS

"Sec. 711. Grant program established.

"PART C—INDEPENDENT LIVING SERVICES FOR OLDER BLIND INDIVIDUALS

"Sec. 721. Service program established.

"PART D—GENERAL PROVISIONS

"Sec. 731. Protection and advocacy of individual rights.
"Sec. 732. Employment of handicapped individuals.

"PART E—AUTHORIZATIONS

"Sec. 731. Authorization of appropriations."

TITLE IV—SPECIAL STUDIES AND MISCELLANEOUS PROVISIONS

RESEARCH AND DEMONSTRATIONS PROJECTS

SEC. 401. (a) The Secretary of Health, Education, and Welfare is authorized to make grants to, and to enter into contract with, public and nonprofit private agencies and organizations for the purpose of research and demonstration projects specifically designed to address the multiple and interrelated service needs of handicapped individuals, the elderly, and children, youths, adults, and families. A report evaluating each project funded under this section shall be submitted to appropriate committees of the Congress within four months after the date each such project is completed.

(b) There are authorized to be appropriated to carry out this section such sums as may be necessary.

No funds other than those appropriated pursuant to this subsection can be used for the conduct of research specifically authorized by this section.

(c) Within one year after the date appropriations are made under subsection (b) for purposes of research and demonstration projects under subsection (a), the Secretary shall prepare and transmit to the Congress a study concerning the impact of vocational rehabilitation services provided under the Rehabilitation Act of 1973 on recipients of disability payments under titles II and XVI of the Social Security Act. The study shall examine the relationship between the vocational rehabilitation services provided under the Rehabilitation Act of 1973 and the programs under sections 222 and 1615 of the Social Security Act, and shall include—

"(1) an analysis of the savings in disability benefit payments under titles II and XVI of the Social Security Act as a result of the provision of vocational rehabilitation services under the Rehabilitation Act of 1973;

"(2) a specification of the rate of return to the active labor force by recipients of services under sections 222 and 1615 of the Social Security Act;

"(3) a specification of the total amount of expenditures, in the five fiscal years preceding the date of submission of the report, for vocational rehabilitation services under the Rehabilitation Act of 1973 and under sections 222 and 1615 of the Social Security Act, and recommendations for the coordinated presentation of such expenditures in the Budget submitted by the President pursuant to section 201 of the Budget and Accounting Act, 1921; and

"(4) recommendations to improve the coordination of services under the Rehabilitation Act of 1973 with programs under sections 222 and 1615 of the Social Security Act, including recommendations for increasing savings in disability benefits payments and the rate of return to the active labor force by recipients of services under sections 222 and 1615 of the Social Security Act.".

SPECIAL STUDY CONCERNING HANDICAPPED INDIVIDUALS LIVING IN RURAL AREAS

SEC. 402. The Secretary, after consultation with the Commissioner of the Rehabilitation Services Administration, Commissioner of Education, the Director of the National Institute on Handicapped Research, and other appropriate officials, organizations, and individuals, shall conduct a study of the special problems and needs of handicapped individuals who reside in rural areas in the United States. Upon the completion of such study, but not later than eighteen months after the date of enactment of this Act, the Secretary shall submit the results of such study, together with such recommendations as he deems appropriate to the President, and to the appropriate committees of the Congress.

SPECIAL STUDY CONCERNING DISINCENTIVES TO EMPLOYMENT

SEC. 403. In consultation with appropriate Federal departments and agencies, the Secretary shall conduct a study of possible ways to structure Federal programs providing benefits to handicapped individuals in order to eliminate any disincentives for individuals receiving benefits under such programs to obtain and continue in employment. Upon the completion of such study, but not later than twenty-four months after the date of enactment of this Act, the Secretary shall submit the results of such study, together with such recommendations as the Secretary deems appropriate to the President and the Congress.

PROHIBITION ON CERTAIN PROGRAMS

SEC. 404. No funds appropriated under the Rehabilitation Act of 1973, the Older Americans Act of 1965, or the Child Abuse Prevention and Treatment Act may be obligated or expended for research, demonstration, or evaluation programs or projects which are not directly managed and monitored by the office charged by law with direct responsibility for carrying out such research, demonstration, or evaluation programs or projects under such Acts and which are not specifically authorized in full by one or more such Acts.

LIMITATIONS ON AUTHORIZATIONS

SEC. 405. No authorization of appropriations in this Act (except for title V) shall be effective for any fiscal year beginning before October 1, 1978. Notwithstanding any other provision of this Act, no new borrowing authority or authority to enter into contracts under this Act (except for title V) shall be effective except to such extent or in such amounts as are provided in advance in appropriations Acts.

TITLE V—AMENDMENTS TO THE DEVELOPMENTAL DISABILITIES SERVICES AND FACILITIES CONSTRUCTION ACT

REFERENCE TO ACT

SEC. 501. Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Services and Facilities Construction Act.

SHORT TITLE; FINDINGS AND PURPOSES

SEC. 502. Part A is amended by striking out section 101 and inserting in lieu thereof the following sections:

"SHORT TITLE

"SEC. 100. This title may be cited as the 'Developmental Disabilities Assistance and Bill of Rights Act'.

"FINDINGS AND PURPOSES

"SEC. 101. (a) The Congress finds that—

"(1) there are more than two million persons with developmental disabilities in the United States;

"(2) individuals with disabilities occurring during their developmental period are more vulnerable and less able to reach an independent level of existence than other handicapped individuals who generally have had a normal developmental period on which to draw during the rehabilitation process;

"(3) persons with developmental disabilities often require specialized lifelong services to be provided by many agencies in a coordinated manner in order to meet the persons' needs;

"(4) general service agencies and agencies providing specialized services to disabled persons tend to overlook or exclude persons with developmental disabilities in their planning and delivery of services; and

"(5) it is in the national interest to strengthen specific programs, especially programs that reduce or eliminate the need for institutional care, to meet the needs of persons with developmental disabilities.

"(b)(1) It is the overall purpose of this title to assist States to assure that persons with developmental disabilities receive the care, treatment, and other services necessary to enable them to achieve their maximum potential through a system which coordinates, monitors, plans, and evaluates those services and which ensures the protection of the legal and human rights of persons with developmental disabilities.

"(2) The specific purposes of this title are—

"(A) to assist in the provision of comprehensive services to persons with developmental disabilities, with priority to those persons whose needs cannot be covered or otherwise met under the Education for All Handicapped Children Act, the Rehabilitation Act of 1973, or other health, education, or welfare programs;

"(B) to assist States in appropriate planning activities;

"(C) to make grants to States and public and private, non-profit agencies to establish model programs, to demonstrate innovative habilitation techniques, and to train professional and paraprofessional personnel with respect to providing services to persons with developmental disabilities;

"(D) to make grants to university affiliated facilities to assist them in administering and operating demonstration facilities for the provision of services to persons with developmental disabilities, and interdisciplinary training programs for personnel needed to provide specialized services for these persons; and

"(E) to make grants to support a system in each State to protect the legal and human rights of all persons with developmental disabilities.".

DEFINITIONS AND SPECIAL REPORT

SEC. 503. (a) Section 102(1) is amended by inserting "the Northern Mariana Islands," after "Guam,".

(b)(1) Paragraph (7) of section 102 is amended to read as follows:

"(7) The term 'developmental disability' means a severe, chronic disability of a person which—

"(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

"(B) is manifested before the person attains age twenty-two;

"(C) is likely to continue indefinitely;

"(D) results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and

"(E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other

services which are of lifelong or extended duration and are individually planned and coordinated.".

(2) The Secretary of Health, Education, and Welfare shall submit to Congress, not later than January 15, 1981, a special report concerning the impact of the amendment of the definition of "developmentally disabled" made by paragraph (1) This report shall include—

(A) an analysis of the impact of the amendment on each of the categories of persons with developmental disabilities receiving services under the Developmental Disabilities Assistance and Bill of Rights Act before the date of enactment of this Act, and for the fiscal year ending on September 30, 1979 and for the succeeding fiscal year, including—

(i) the number of persons with developmental disabilities in each category served before and after such date of enactment; and

(ii) the amounts expended under such Act for each such category of persons with developmental disabilities before and after such date of enactment; and

(B) an assessment, evaluation, and comparison of services provided to persons with developmental disabilities provided before the date of enactment of this Act and for the fiscal year ending September 30, 1979 and for the succeeding fiscal year.

(c) Paragraph (8) of section 102 is amended—

(1) by inserting "(A)" after "(8)";

(2) by striking out "means specialized services" and all that follows through "such term includes" and inserting in lieu thereof the following: "means priority services (as defined in subparagraph (B)), and any other specialized services or special adaptations of generic services for persons with developmental disabilities, including in these services the"; and

(3) by adding at the end thereof the following new subparagraphs:

"(B) The term 'priority services' means case management services (as defined in subparagraph (C)), child development services (as defined in subparagraph (D)), alternative community living arrangement services (as defined in subparagraph (E)), and nonvocational social-developmental services (as defined in subparagraph (F)).

"(C) The term 'case management services' means such services to persons with developmental disabilities as will assist them in gaining access to needed social, medical, educational, and other services; and such term includes—

"(i) follow-along services which ensure, through a continuing relationship, lifelong if necessary, between an agency or provider and a person with a developmental disability and the person's immediate relatives or guardians, that the changing needs of the person and the family are recognized and appropriately met; and

"(ii) coordination services which provide to persons with developmental disabilities support, access to (and coordination of) other services, information on programs and services, and monitoring of the persons' progress.

"(D) The term 'child development services' means such services as will assist in the prevention, identification, and alleviation of developmental disabilities in children, and includes (i) early intervention services, (ii) counseling and training of parents, (iii) early identification of developmental disabilities, and (iv) diagnosis and evaluation of such developmental disabilities.

"(E) The term 'alternative community living arrangement services' means such services as will assist persons with developmental disabilities in maintaining suitable residential arrangements in the community, and includes in-house services (such as personal aides and attendants and other domestic assistance and supportive services), family support services, foster care services, group living services, respite care, and staff training, placement, and maintenance services.

"(F) The term 'nonvocational social-developmental services' means such services as will assist persons with developmental disabilities in performing daily living and work activities.".

(d) Paragraph (9) of section 102 is amended to read as follows:

"(9) The term 'satellite center' means an entity which is affiliated with one or more university affiliated facilities and which functions as a community or regional extension of such university affiliated facility or facilities in the delivery of services to persons with developmental disabilities, and their families, who reside in geographical areas where adequate services are not otherwise available.".

(e) Paragraph (10) of section 102 is amended by striking out "and which aids" and all that follows through the end thereof and inserting in lieu thereof the following: "and which provides for at least the following activities:

"(A) Interdisciplinary training for personnel concerned with developmental disabilities.

"(B) Demonstration of the provision of exemplary services relating to persons with developmental disabilities.

"(C)(i) Dissemination of findings relating to the provision of services to persons with developmental disabilities, and (ii) providing researchers and government agencies sponsoring service-related research with information on the needs for further service-related research.".

(f) Section 102 is amended by inserting after paragraph (11) the following new paragraph:

"(12) The term 'State Planning Council' means a State Planning Council established under section 137.".

REPEAL OF NATIONAL ADVISORY COUNCIL ON SERVICES AND FACILITIES OF THE DEVELOPMENTALLY DISABLED

SEC. 504. (a) Section 108 is repealed.

(b)(1) Section 110(a) is amended by striking out ", in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled,".

(2) Section 145(a) is amended by striking out ", after consultation with the National Advisory Council on Services and Facilities to the Developmentally Disabled,".

(3) Section 145(e) is amended by striking out "(after consultation with the National Advisory Council on Services and Facilities to the Developmentally Disabled)".

REGULATIONS

SEC. 505. The text of section 109 is amended to read as follows:

"SEC. 109. The Secretary, not later than 180 days after the date of enactment of any Act amending the provisions of this title, shall promulgate such regulations as may be required for the implementation of such amendments.".

SEC. 506. (a) Section 110(a) is amended—

(1) by striking out "within two years of" and all that follows through "Bill of Rights Act develop" in the first sentence and inserting in lieu thereof "develop, not later than October 1, 1979,";

(2) by striking out "Within six months after the development of such a system, the" in the second sentence and inserting in lieu thereof "The";

(3) by striking out "the receipt of assistance under this title, that such State" in the second sentence and inserting in lieu thereof "a State's receipt of assistance on and after October 1, 1980, under this title, that the State";

(4) by striking out "Within two years after the date of the development of such a system, the" in the third sentence and inserting inserting in lieu thereof "The"; and

(5) by striking out "the receipt of assistance under this title, that each State" in the third sentence and inserting in lieu thereof "a State's receipt of assistance on and after October 1, 1982, under this title, that the State."

(b) Subsection (c) of section 110 is amended to read as follows:

"(c) Upon development of the evaluation system described in subsection (b), the Secretary shall submit to Congress a report on the system, which report shall include an estimate of the costs to the Federal Government and the States of developing and implementing such a system.".

(c) Section 110 is amended by striking out subsection (d).

RIGHTS OF THE DEVELOPMENTALLY DISABLED

SEC. 507. Section 111 is amended by adding at the end thereof the following new sentence:

"The rights of persons with developmental disabilities described in findings made in this section are in addition to any constitutional or other rights otherwise afforded to all persons.".

PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

SEC. 508. (a) Section 113(a) is amended—

(1) by striking out "The Secretary shall require" and all that follows through "such system will (A)" and inserting in lieu thereof "In order for a State to receive an allotment under part C, (1) the State must have in effect a system to protect and advocate the rights of persons with developmental disabilities, (2) such system must (A)";

(2) by striking out "State" in clause (2)(B);

(3) by striking out "and (B)" and inserting in lieu thereof "(B) not be administered by the State Planning Council, and (C)";

(4) by inserting before the period at the end of the first sentence the following: ", and (3) the State must submit to the Secretary in a form prescribed by the Secretary in regulations (A) a report, not less often than once every three years, describing the system, and (B) an annual report describing the activities carried out under the system and any changes made in the system during the previous year"; and

(5) by striking out the last sentence thereof.

(b) Section 113(b)(1) is amended—

(1) by inserting "(A)" after "(b)(1)";

(2) by amending the second sentence to read as follows: "Allotments and reallotments of such sums shall be made on the same basis as the allotments and reallotments are made under the first sentence of subsections (a)(1) and (d) of section 132, except that no State (other than Guam, the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) in any fiscal year shall be allotted an amount under this subparagraph which is less than the greater of $50,000 or the amount of the allotment to the State under this paragraph for the previous fiscal year."; and

(3) by adding at the end the following new subparagraph:

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts of the allotments for grants to be made in accordance with such subparagraph for any fiscal year exceeds the total of the amounts appropriated for such allotments under paragraph (2), the amount of a State's allotment for such fiscal year shall bear the same ratio to the amount otherwise determined under such subparagraph as the total of the amounts appropriated for that year under paragraph (2) bears to the aggregate amount required to make an allotment to each of the States in accordance with subparagraph (A).".

(c) Paragraph (2) of section 113(b) is amended (1) by striking out "and" after "1977,", and (2) by adding before the period the following: ", $9,000,000 for the fiscal year ending September 30, 1979, $12,000,000 for the fiscal year ending September 30, 1980, and $15,000,000 for the fiscal year ending September 30, 1981. The provisions of section 1913 of title 18, United States Code, shall be applicable to all moneys authorized under the provisions of this section".

GRANT AUTHORITY, APPLICATIONS, AND AUTHORIZATION OF APPROPRIATIONS FOR UNIVERSITY AFFILATED FACILITIES

SEC. 509. Part B is amended to read as follows:

"PART B—UNIVERSITY AFFILIATED FACILITIES

"GRANT AUTHORITY

"SEC. 121. (a) From appropriations under section 123, the Secretary shall make grants to university affiliated facilities to assist in the administration and operation of the activities described in section 102(10).

"(b) The Secretary may make one or more grants to a university affiliated facility receiving a grant under subsection (a) to support one or more of the following activities:

"(1) Conducting a feasibility study of the ways in which it, singly or jointly with other university affiliated facilities which have received a grant under subsection (a), can establish and operate one or more satellite centers which would be located in areas not served by a university affiliated facility. Such a study shall be carried out in consultation with the State Planning Council for the State in which the facility is located and where the satellite center would be established.

"(2) Assessing the need for trained personnel in providing assistance to persons with developmental disabilities.

"(3) Provision of service-related training to practitioners providing services to persons with developmental disabilities.

"(4) Conducting an applied research program designed to produce more efficient and effective methods (A) for the delivery of services to persons with developmental disabilities, and (B) for the training of professionals, para-professionals, and parents who provide these services.

The amount of a grant under paragraph (1) may not exceed $25,000.

"(c) The Secretary may make grants to pay part of the costs of establishing satellite centers and may make grants to satellite centers to pay part of their administration and operation costs. The Secretary may approve an application for a grant under this subsection only if the feasibility of establishing or operating the satellite center for which the grant is applied for has been established by a study assisted under this section.

"APPLICATIONS

"SEC. 122. (a) Not later than six months after the date of the enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, the Secretary shall establish by regulation standards for university affiliated facilities. These standards for facilities shall reflect the special needs of persons with developmental disabilities who are of various ages, and shall include performance standards relating to each of the activities described in section 102(10).

"(b) No grant may be made under section 121 unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and maner, and contain such information, as the Secretary may require. Such an application shall be approved by the Secretary only if the application contains or is supported by reasonable assurances that—

"(1) the making of the grant will (A) not result in any decrease in the use of State, local, and other non-Federal funds for services for persons with developmental disabilities and for training of persons to provide such services, which funds would (except for such grant) be made available to the applicant, and (B) be used to supplement and, to the extent practicable, increase the level of such funds; and

"(2)(A) the applicant's facility is in full compliance with the standards established under subsection (a), or

"(B)(i) the applicant is making substantial progress toward bringing the facility into compliance with such standards, and (ii) the facility will, not later than three years after the date of approval of the initial application or the date standards are promulg ted under subsection (a), whichever is later, fully comply with such standards.

"(c) The Secretary shall establish such a process for the review of applications for grants under section 121 as will ensure, to the maximum extent feasible, that each Federal agency that provides funds for the direct support of the applicant's facility reviews the application.

"(d)(1) The amount of any grant under section 121(a) to a university affiliated facility shall not be less than $150,000 for any fiscal year.

"(2) The amount of any grant under section 121(c) to a satellite center which has received a grant under section 121(b) (as in effect before the date of the enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978) for the fiscal year ending September 30, 1978, shall not be less than $75,000 for any fiscal year.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 123. (a) For the purpose of making grants under section 121, there are authorized to be appropirated $12,000,000 for the fiscal year ending September 30, 1979, $14,000,000 for the fiscal year ending September 30, 1980, and $16,000,000 for the fiscal year ending September 30, 1981.

"(b) Of the sums appropriated under subsection (a), not less than—

"(1) $9,000,000 for the fiscal year ending September 30, 1979,

"(2) $10,000,000 for the fiscal year ending September 30, 1980, and

"(3) $11,000,000 for the fiscal year ending September 30, 1981,

shall be made available for grants under subsections (a) and (c) of section 121 to qualified applicants which received grants under section 121 during the fiscal year ending September 30, 1978. The remainder of the sums appropriated for such fiscal years shall be made available as the Secretary determines, except that not less than 40 percent of such remainder shall be made available for grants under subsections (b) and (c) of section 121.".

AUTHORIZATION AND ALLOTMENTS FOR STATES

SEC. 510. (a) Section 131 is amended (1) by striking out "and" after "1977,", and (2) by inserting before the period the following: ", $55,000,000 for the fiscal year ending September 30, 1979, $65,000,000 for the fiscal year ending September 30, 1980, and $75,000,000 for the fiscal year ending September 30, 1981.".

(b) Section 132(a) is amended—

(1) by striking out subparagraph (B) of paragraph (1) and paragraphs (2), (3) and (4);

(2) by striking out "and facilities" each place it appears in subsection (a)(1);

(3) by striking out "(A)" in paragraph (1)(A) and by redesignating clauses (i) through (iii) of such paragraph as subparagraphs (A) through (C), respectively; and

(4) by inserting at the end thereof the following new paragraphs:

"(2) For any fiscal year, the allotment under paragraph (1)—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands may not be less than $100,000, and

"(B) to any other State may not be less than the greater of $250,000, or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1978.

"(3) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 133(b)(2)(B), in the State plan of the State.".

STATE PLANS FOR PROVISION OF SERVICES

SEC. 511. (a) Subsection (b) of section 133 is amended to read as follows:

"(b) In order to be approved by the Secretary under this section, a State plan for the provision of services for persons with developmental disabilities must meet the following requirements:

"State Planning Council and Administration of Plan

"(1)(A) The plan must provide for the establishment of a State Planning Council, in accordance with section 137, for the assignment to the Council of personnel in such numbers and with such qualifications as the Secretary determines to be adequate to enable the Council to carry out its duties under that section, and for the identification of the personnel so assigned.

"(B) The plan must designate the State agency or agencies which shall administer or supervise the administration of the State plan and, if there is more than one such agency, the portion of such plan which each will administer (or the portion the administration of which each will supervise).

"(C) The plan must provide that each State agency designated under subparagraph (B) will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.

"(D) The plan must provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this part.

"Description of Objectives and Services

"(2) The plan must—

"(A) set out the specific objectives to be achieved under the plan and a listing of the programs and resources to be used to meet such objectives:

"(B) describe (and provide for the review annually and revision of the description not less often than once every three years) (i) the extent and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for Federally assisted State programs as the State conducts relating to education for the handicapped, vocational rehabilitation, public assistance, medical assistant, social services, maternal and child health, crippled children's services, and comprehensive health and mental health, and under such other plans as the Secretary may specify, and (ii) how funds alloted to the State in accordance with section 132 will be used to complement and augment rather than duplicate or replace services for persons with developmental disabilities which are eligible for Federal assistance under such other State programs;

"(C) for each fiscal year, assess and describe the extent and scope of the priority services (as defined in section 102(8)(B)) being or to be provided under the plan in the fiscal year; and

"(D) establish a method for the periodic evaluation of the plan's effectiveness in meeting the objectives described in subparagraph (A).

"Use of Funds

"(3) The plan must contain or be supported by assurances satisfactory to the Secretary that—

"(A) the funds paid to the State under section 132 will be used to make a significant contribution toward strengthening services for persons with developmental disabilities through agencies in the various political subdivisions of the State;

"(B) part of such funds will be made available by the State to public or nonprofit private entities;

"(C) such funds paid to the State under section 132 will be used to supplement and to increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds; and

"(D) there will be reasonable State financial participation in the cost of carrying out the State plan.

"Provision of Priority Services

"(4)(A) The plan must—

"(i) provide for the examination not less often than once every three years of the provision, and the need for the provision, in the State of the four different areas of priority services (as defined in section 102(8)(B)); and

"(ii) provide for the development, not later than the second year in which funds are provided under the plan after the date of the enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, and the timely review and revision of a comprehensive statewide plan to plan, financially support, coordinate, and otherwise better address, on a statewide and comprehensive basis, unmet needs in the State for the provision of at least one of the areas of priority services, such area or areas to be specified in the plan, and (at the option of the State) for the provision of an additional area of services for the developmentally disabled, such area also to be specified in the plan.

"(B)(i) Except as provided in clause (iii), the plan must provide that not less than $100,000 or 65 percent of the amount available to the State under section 132, whichever is greater, will be expended, as provided in clause (ii), for service activities in the areas of services specified in the plan under subparagraph (A)(ii).

"(ii) For any year in which the sums appropriated under section 131 do not exceed—

"(I) $60,000,000, not less than $100,000 or 65 percent of the amount available to the State under section 132, whichever is greater, must be expended for service activities in no more than two of the areas of services specified in the plan under subparagraph (A)(ii), and

"(II) $90,000,000, not less than $100,000 or 65 percent of the amount available to the State under section 132, whichever is greater, must be expended for service activities in no more than three of the areas of services specified in the plan under subparagraph (A)(ii).

"(iii) A State, in order to comply with clause (i) for a fiscal year beginning before January 1, 1980, is not required to reduce the amount which is available to it under section 132 and which is expended for planning activities below the amount so expended for planning activities in the preceding fiscal year, if substantially the remainder of the amount available to the State, which is expended for other than administration, is expended for service activities in the areas of services specified in the plan under subparagraph (A)(ii). For purposes of this clause, expenditures for planning activities do not include any expenditures for service activities (as defined in clause (iv)).

"(iv) For purposes of this subparagraph, the term 'service activities' includes, with respect to an area of services, provision of services in the area, model service programs in the area, activities to increase the capacity of institutions and agencies to provide services in the area, coordinating the provision of services in the area with the provision of other services, outreach to individuals for the provision of services in the area, the training of personnel to provide services in the area, and similar activities designed to expand the use and availability of services in the area.

"(C) Notwithstanding subparagraph (B), upon the application of a State, the Secretary, pursuant to regulations which the Secretary shall prescribe, may permit the portion of the funds which must otherwise be expended under the State plan for service activities in a limited number of areas of services to be expended for service activities in additional areas of services if he determines that the expenditures of the State on service activities in the initially specified areas of services has reasonably met the need for those services in the State in comparison to the extent to which the need for such additional area or areas of services has been met in such State. Such additional areas shall, to the maximum extent feasible, be areas within the areas of priority services (as defined in section 102(8)(B)).

"(D) The plan must provide that special financial and technical assistance shall be given to agencies or entities providing services for persons with developmental disabilities who are residents of geographical areas designated as urban or rural poverty areas.

"Standards for Provision of Services and Protection of Rights of Recipients of Services

"(5)(A)(i) The plan must provide that services furnished, and the facilities in which they are furnished, under the plan for persons with developmental disabilities will be in accordance with standards prescribed by the Secretary in regulations.

"(ii) The plan must provide satisfactory assurances that buildings used in connection with the delivery of services assisted under the plan will meet standards adopted pursuant to the Act of August 12, 1968 (42 U.S.C. 4151–4157) (known as the Architectural Barriers Act of 1968).

"(B) The plan must provide that services are provided in an individualized manner consistent with the requirements of section 112 (relating to habilitation plans).

"(C) The plan must contain or be supported by assurances satisfactory to the Secretary that the human rights of all persons with developmental disabilities (especially those persons without familial protection) who are receiving treatment, services, or habilitation under programs assisted under this title will be protected consistent with section 111 (relating to rights of the developmentally disabled).

"(D) The plan must provide assurances that the State has undertaken affirmative steps to assure the participation in programs under this title of individuals generally representative of the population of the State, with particular attention to the participation of members of minority groups.

"Professional Assessment and Evaluation Systems

"(6) The plan must provide for—

"(A) an assessment of the adequacy of the skill level of professionals and paraprofessionals serving persons with developmental disabilities in the State and the adequacy of the State programs and plans supporting training of such professionals and paraprofessionals in maintaining the high quality of services provided to persons with developmental disabilities in the State; and

"(B) the planning and implementation of an evaluation system (in accordance with section 110(a)).

"Utilization of VISTA Personnel; Effect of Deinstitutionalization

"(7)(A) The plan must provide for the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 (Public Law 93–113) and other appropriate voluntary organizations, except that such volunteer services shall supplement, and shall not be in lieu of, services of paid employees.

"(B) The plan must provide for fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions under the plan to provide alternative community living arrangement services (as defined in section 102(8)(E)), including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees.

"Additional Information and Assurances Required by Secretary

"(8) The plan also must contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this part.".

(b) Section 133(d)(1) is amended by striking out "for such purpose" and inserting in lieu thereof "for the total expenditures for such purpose by all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan".

(c) Section 133(d)(2) is amended by striking out "during the fiscal year ending June 30, 1975" and inserting in lieu thereof "during the previous fiscal year".

STATE PLANNING COUNCILS

SEC. 512. (a) Subsection (a) of section 137 is amended to read as follows:

"(a)(1) Each State which receives assistance under this part shall establish a State Planning Council which will serve as an advocate for persons with developmental disabilities (as defined in section 102(7)). The members of the State Planning Council of a State shall be appointed by the Governor of the State from among the residents of that State. The Governor of each State shall make appropriate provisions for the rotation of membership on the Council of his respective State. Each State Planning Council shall at all times include in its membership representatives of the principal State agencies, higher education training facilities, local agencies, and nongovernmental agencies and groups concerned with services to persons with developmental disabilities in that State.

"(2) At least one-half of the membership of each such Council shall consist of persons who—

"(A) are persons with developmental disabilities or parents or guardians of such persons, or

"(B) are immediate relatives or guardians of persons with mentally impairing developmental disabilities,

who are not employees of a State agency which receives funds or provides services under this part, who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any other entity which receives funds or provides services under this part, and who are not persons with an ownership or control interest (within the meaning of section 1124(a)(3) of the Social Security Act) with respect to such an entity.

"(3) Of the members of the Council described in paragraph (2)—

"(A) at least one-third shall be persons with developmental disabilities, and

"(B)(i) at least one-third shall be individuals described in subparagraph (B) of paragraph (2), and (ii) at least one of such

individuals shall be an immediate relative or guardian of an institutionalized persons with a developmental disability.".

(b) Section 137(b) is amended to read as follows:

"(b) Each State Planning Council shall—

"(1) develop jointly with the State agency or agencies designated under section 133(b)(1)(B) the State plan required by this part, including the specification of areas of services under section 133(b)(4)(A)(ii);

"(2) monitor, review, and evaluate, not less often than annually, the implementation of such State plan;

"(3) to the maximum extent feasible, review and comment on all State plans in the State which relate to programs affecting persons with developmental disabilities; and

"(4) submit to the Secretary, through the Governor, such periodic reports on its activities as the Secretary may reasonably request, and keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.".

(c) Section 137 is amended by striking out subsection (c).

SPECIAL PROJECT GRANTS

SEC. 13. (a) Section 145 is amended—

(1) by inserting "(particularly priority services)" after "otherwise improving services" in subsection (a)(1);

(2) by striking out ", including programs" and all that follows through the semicolon at the end of paragraph (1) of subsection (a) and inserting in lieu thereof "; and";

(3) by striking out "subsection (d)" in subsections (e) and (f) and inserting in lieu thereof "subsection (f)" each place it appears;

(4) by redesignating subsections (b) through (f) as subsections (d) through (h), respectively;

(5) by inserting after paragraph (1) of subsection (a) the following (and redesignating paragraphs (2) through (9) of subsection (a) as paragraphs (1) through (8), respectively):

"(2) demonstrations (and research, training, and evaluation in connection therewith) for establishing programs which hold promise of expanding or otherwise improving protection and advocacy services related to the state protection and advocacy system (described in section 113).

"(b) Grants provided under subsection (a) shall include grants for—"; and

(6) by inserting before subsection (d), as so redesignated, the following new subsection:

"(c) The Secretary shall establish procedures to insure participation of persons with developmental disabilities and their parents or guardians in determining priorities to be utilized by the Secretary in making grants under this section.".

(b) Section 145(b), as amended by subsection (a) of this section, is amended (1) by striking out "and" at the end of paragraph (7), (2) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and", and (3) by adding at the end thereof the following new paragraph:

"(9) developing or demonstrating innovative methods to attract and retain professionals to serve in rural areas in the habilitation of persons with developmental disabilities.".

(c) Section 145(f), as so redesignated, is amended (1) by striking out "and" after "1977,", and (2) by inserting before the period the following: ", $20,000,000 for the fiscal year ending September 30, 1979, $22,000,000 for the fiscal year ending September 30, 1980, and $26,000,000 for the fiscal year ending September 30, 1981".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 514. (a) Section 112 is amended—

(1) by striking out "after September 30, 1976," in subsection (a):

(2) by striking out "Such" in subsection (b)(3) and inserting in lieu thereof "The"; and

(3) by striking out "an" before "objective criteria" in clause (B) of subsection (b)(3).

(b) Section 134 is amended—

(1) by striking out "CONSTRUCTION," in its heading,

(2) by striking out "(a)" in subsection (a), and

(3) by striking out subsection (b).

(c) Section 135 is amended—

(1) by striking out "CONSTRUCTION," in its heading;

(2) by striking out "(a)" in subsection (a); and

(3) by striking out subsection (b).

(d) The heading to part C is amended to read as follows:

"PART C—GRANTS FOR PLANNING AND PROVISION OF SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES".

EFFECTIVE DATE

SEC. 515. The amendments made by this title shall apply to payments under title I of the Mental Retardation Facilities and Community Mental Health Centers Construction Act for fiscal years beginning on and after October 1, 1978.

And the Senate agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert: "An Act to amend the Rehabilitation Act of 1973 to extend certain programs established in such Act, to establish a community service employment program for handicapped individuals, and to provide comprehensive services for independent living for handicapped individuals, to amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs under that Act, and for other purposes.".

And the Senate agree to the same.

For consideration of titles I through IV of the House amendments to the Senate amendments only:

CARL D. PERKINS,
JOHN BRADEMAS,
EDWARD P. BEARD,
GEORGE MILLER,
DALE E. KILDEE,
CEC HEFTEL,
AUGUSTUS F. HAWKINS,
MARIO BIAGGI,
ALBERT H. QUIE,
JAMES E. JEFFORDS,
JOHN N. ERLENBORN,

For consideration of title V of the House amendments to the Senate amendments only:

HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID E. SATTERFIELD,
RICHARDSON PREYER,
JAMES H. SCHEUER,
HENRY A. WAXMAN,
JAMES J. FLORIO,
TIM LEE CARTER,
JIM BROYHILL,
EDWARD MADIGAN,

Managers on the Part of the House.

JENNINGS RANDOLPH,
HARRISON A. WILLIAMS,
TOM EAGLETON,
EDWARD KENNEDY,
ALAN CRANSTON,
WILLIAM D. HATHAWAY,
JACOB JAVITS,
ROBERT T. STAFFORD,
ORRIN G. HATCH,
RICHARD S. SCHWEIKER,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the amendments of the Senate to the bill (H.R. 12467) to amend the Rehabilitation Act of 1973 to extend certain programs established in such Act, to establish a community service employment program for handicapped individuals, to provide for independent living rehabilitation services for the severely handicapped, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate amendment to the text of the bill and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House to the amendment of the Senate with an amendment which is a substitute for both versions. The differences between the Senate amendment, the House amendment to the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—VOCATIONAL REHABILITATION SERVICES

PART A—GENERAL PROVISIONS

VOCATIONAL REHABILITATION SERVICES; AUTHORIZATION OF APPROPRIATIONS

House bill

Section 101 of the House bill authorized funds to be appropriated for the basic State vocational rehabilitation programs as follows:

[In millions]

	Fiscal year—				
	1979	1980	1981	1982	1983
Basic State grants	$808	(1)	(1)	(1)	(1)
Expansion authority		$50	$50	$50	$50
Innovation and expansion	100	100	100	100	100
Indian tribes:					
(a) Demonstration grants	(2)	(2)	(2)	(2)	(2)
(b) General programs	(3)	(3)	(3)	(3)	(3)

[1] Authorization based upon Consumer Price Index (CPI).
[2] Authorization not to exceed 1 percent of the amount appropriated for basic State program.
[3] Such sums.

Senate amendment

The Senate amendment authorized funds to be appropriated for the basic State vocational rehabilitation program as follows:

[In millions]

	Fiscal year—		
	1979	1980	1981
Basic State grants	$813	$880	$945
Expansion authority			
Innovation and expansion	45	50	55
Indian tribes	(1)	(1)	(1)

[1] Authorization not to exceed 1 percent of the amount appropriated for basic State program.

Conference agreement

The conference agreement authorizes appropriations as follows:

[In millions]

	Fiscal year—			
	1979	1980	1981	1982
Basic State grants	$808	CPI	CPI	CPI
Innovation and expansion	45	$50	$55	$60

The conference agreement is a substitute which authorizes appropriations of $808 mil-

lion for fiscal year 1979. The substitute also provides that authorizations in each of the following three fiscal years shall be determined in accordance with the Consumer Price Index provisions, and that appropriations shall not exceed $880 in fiscal year 1980, $945 in fiscal year 1981 and $972 million in fiscal year 1982.

The conference agreement also deletes the authority for demonstration grants for Indians provided in the House bill.

STATE PLANS

1. Planning Cycle

House bill

Section 102 of the House bill provided that State plans for vocational rehabilitation shall be required to be submitted every three years, and, upon request of the Commissioner, shall be revised annually to make such minor annual revisions as may be necessary to ensure the provision of accurate and current information.

Senate amendment

No provision.

Conference agreement

Senate recedes with an amendment striking the word "minor" in reference to annual revisions and striking the phrase "to ensure the provision of accurate and current information."

2. Rehabilitation Facilities

House bill

The House bill required that State plans must provide a description of methods to be utilized in existing rehabilitation facilities; provide for entering into agreements with such facilities for the provisions of services for the rehabilitation of handicapped individuals; and provide assurances that such facilities be evaluated.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment adding that "as appropriate" in referring to agreements with rehabilitation facilities.

3. Architectural Barriers

House bill

No provision.

Senate amendment

The Senate amendment required assurances in the State plan that rehabilitation facilities comply with the Architectural Barriers Act.

Conference agreement

The House recedes.

4. Profitmaking

House bill

The House bill required State plan assurances of authority to contract for on-the-job training with profitmaking organizations.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment restricting the authority to those profitmaking organizations whose applications demonstrate clear superiority with respect to the quality of services proposed under the contract. The conferees agree that the grant and contracting authority to profitmaking organizations is not to be extended to organizations making excessive profits. However this restriction is not intended to discourage the funding to profitmaking organizations.

5. Information and Referral

House bill

The House bill provided for the establishment of information and referral programs (the staff of which shall include interpreters for the deaf) in sufficient numbers to assure that handicapped individuals within the State are afforded accurate vocational rehabilitation information and appropriate referrals to other Federal and State programs and activities which would benefit them.

Senate agreement

No provision.

Conference agreement

The Senate recedes with an amendment specifying that the staff of such programs shall include interpreters only to the maximum extent feasible.

6. Withholding Funds

House bill

The House bill provided for the withholding of funds for noncompliance with State plan provisions until a final order is issued. It also authorized the Commissioner to bypass a State not in compliance and disburse funds to other public or private agencies submitting a plan meeting the State plan requirements.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment striking the provision relating to withholding of funds pending a final court order.

7. Judicial Review

House bill

The House bill provided specific criteria for judicial review of a Commissioner's final determination relating to a State's compliance with the State plan requirement. It provided that a State dissatisfied with such a determination may file a petition for judicial review of such determination which the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the thirty-day period beginning on the date such final determination was made.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment specifying that the thirty-day period for the filing of petitions shall commence on the date the State receives notice of the Commissioner's final determination.

PROCEDURAL SAFEGUARDS

House bill

No provision.

Senate amendment

The Senate amendment provided that any individual served under the Act is guaranteed procedural safeguards in regard to his complaints over the initiation, modification or termination of vocational rehabilitation services. Included is a listing of procedures, the rights to be accorded to any party to any hearing conducted because of a complaint, provisions for appeal of the findings and decision of such hearing to a three-man arbitration panel, and provision for subsequent civil action for such relief as the court may determine is appropriate. No civil action could be brought under this section for monetary damages.

Conference agreement

The conference agreement is a substitute which amends the present law relating to the individualized written rehabilitation program provisions. The substitute provides that the director of the State vocational rehabilitation agency shall establish procedures for the review, upon the request of the handicapped individual (or, in appropriate cases, his parents or guardians), of determinations made by the rehabilitation counselor or coordinator. Such procedures shall include a requirement that the final decision concerning the review of any such determination be made in writing by the director of the State agency. Such director may not delegate his responsibility to make any such final decision to any other officer or employee of the State agency.

The substitute additionally provides that any handicapped individual (or, in appropriate cases, his parents or guardians) who is not satisfied with the final decision made by the director of the State agency may request the Secretary to review such decision. The Secretary shall review such decision and make recommendations to the State director as to the appropriate disposition of the matter. The Secretary is authorized to delegate this responsibility to the level of Assistant Secretary or higher.

SCOPE OF SERVICES

1. Rehabilitation Facilities

House bill

The House bill expanded the definition of vocational rehabilitation services, when provided for the benefit of groups of handicapped individuals, to permit such services to be offered at rehabilitation facilities.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

2. Communication Media

House bill

The House bill expanded the definition of vocational rehabilitation services to groups of handicapped persons to include the use of services providing recorded material for the blind and captioned films or video cassettes for the deaf.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

PART B—BASIC VOCATIONAL REHABILATATION SERVICES

STATE ALLOTMENTS

House bill

No provision.

Senate amendment

The Senate amendment directed the Secretary, pursuant to regulations which he shall prescribe, to make such adjustments in State allotments as is appropriate to reflect State efforts with respect to rehabilitating handicapped individuals.

Conference agreement

The Senate recedes with an amendment providing that, of the amounts appropriated in excess of the amounts appropriated in Fiscal Year 1978 for basic State vocational rehabilitation grants in each fiscal year, fifty percent shall be allocated to the states on the basis of the present formula without squaring the state per capita income factor. All other funds are allocated on the present formula.

CLIENT ASSISTANCE

House bill

The House bill deleted the limitation on the number of client assistance projects which may be established. It also increased the authorizations from $1.5 million to not less than $3.5 million for each fiscal year. It also required client assistance projects to help handicapped persons in pursuing legal, administrative, or other appropriate remedies to ensure the protection of their rights under this Act.

Senate amendment

The Senate amendment removed the numerical limits on the client assistance projects.

Conference agreement

The Senate recedes.

PART C—INNOVATION AND EXPANSION GRANTS

1. Independent Living

House bill

No provision.

Senate amendment

The Senate amendment provided that no less than twenty-five percent of the sums appropriated for innovation and expansion grants for fiscal year 1979, and 30 per centum of such sums appropriated for fiscal years 1980 and 1981, shall be available for independent living programs.

Conference agreement

The Senate recedes.

2. Project Duration

House bill

The House bill raises from three to five years the total period of time in which a project may receive funds for innovation and expansion.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

PART D—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

DEMONSTRATION GRANTS

House bill

The House bill authorized the Commissioner to make grants to Indian tribes for demonstration projects under which the tribes shall develop the capacity to administer vocational rehabilitation services for handicapped American Indians residing on or near to Indian reservations.

Senate amendment

No provision.

Conference agreement

The House recedes.

REHABILITATION SERVICES GRANTS

House bill

The House bill authorized the Commissioner to make grants to Indian tribes to provide vocational rehabilitation services to handicapped Indians residing on or near reservations, which services would be administered by the tribes as a substitution for the services previously administered by the State (unless the State chooses to continue to offer additional services). Any State which ceased to offer vocational rehabilitation services to tribes receiving grants would have its allotment for basic State vocational rehabilitation services under section 110 reduced proportionately. Appropriations made available for this program would be distributed equitably among the tribes. These grants could have covered up to 100 percent of the costs of services.

Senate amendment

The Senate amendment authorized the Secretary to make grants to tribal organizations of Indian tribes located on Federal and State reservations to pay 90 per centum of the costs of vocational rehabilitation services for handicapped American Indians residing on such reservations. The term "reservation" included Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act. The amendment further provided a method of computing the allotment of any State under section 110(a) with regard to American Indians to be served under this part and that the State shall continue to provide vocational rehabilitation services under its State plan to American Indians residing on a reservation whenever such State includes any such American Indians in its State population under section 110(a)(1).

The Senate amendment further required that the application be developed in consultation with the appropriate State agency.

Provision is also made for an evaluation of the programs conducted under this part not less than 30 months after the date of enactment.

Conference agreement

The House recedes the following amendments: (1) grants shall be made to "governing bodies" of Indian tribes, rather than tribal organizations; (2) appropriations made available are to be distributed equitably among approved applicants; (3) application of certain sections of the Indian Self-Determination Act are added; and (4) other clarifying amendments are made.

TITLE II—RESEARCH

NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

1. Director

House bill

The House bill provided that the Director of the National Institute of Handicapped Research shall be appointed by the President with the advice and consent of the Senate.

Senate amendment

The Senate amendment authorized the Secretary to appoint the Director.

Conference agreement

The Senate recedes.

2. Reassignment of Director's Responsibilities

House bill

No provision.

Senate amendment

The Senate amendment provided that the Secretary, after consultation with appropriate committees of the Congress, could determine that the Director be directly responsible to and report to an individual other than the Secretary or Under Secretary or Appropriate Assistant Secretary if the Secretary finds that the purposes of this title would thereby be more effectively carried out.

Conference agreement

The Senate recedes.

3. Compensation of Director

House bill

The House bill provided compensation payable under level V of the Executive Schedule for the Director.

Senate amendment

The rate of compensation for the Director under the Senate amendment is the rate payable for grade GS–18.

Conference agreement

The Senate recedes.

4. Deputy Director

House bill

The House bill provided that the Deputy Director shall be appointed by the President.

Senate amendment

The Senate amendment provided that the Deputy Director shall be appointed by the Secretary.

Conference agreement

The House recedes.

5. Administration of Research

House bill

The House bill gave the Institute responsibility for administering the programs described in sections 203, relating to research, as well as the Helen Keller National Center for Deaf-Blind Youths and Adults.

Senate amendment

The Senate amendment gave the Institute's Director responsibility in overseeing all programs and activities carried out under this title.

Conference agreement

The Senate recedes with an amendment retaining present administrative responsibility for the Helen Keller Center.

6. Long-Range Research Plan

House bill

The House bill required the Director to develop within one year a long-range plan on research activities affecting handicapped individuals. Consultation with other officials is required in developing this plan.

Senate amendment

The Senate amendment was similar, except that it required the plan to be developed in 18 months and with the specific consultation of the Commissioner of Education, appropriate officials responsible for the administration of the Development Disabilities Services and Facilities Construction Act, and the Interagency Committee on Handicapped Research.

Conference agreement

The conference agreement requires the plan to be developed within 18 months and in consultation with the officials and agencies listed in the Senate provisions.

7. Information to Congress

House bill

No provision.

Senate amendment

The Senate amendment required the Institute's Director to take whatever action is necessary to keep the Congress fully and currently informed with respect to the implementation and conduct of programs and activities carried out under this title.

Conference agreement

The House recedes.

8. Consultants

House bill

No provision.

Senate amendment

The Senate amendment authorized the services of consultants to be obtained.

Conference agreement

The House recedes.

INTERAGENCY COMMITTEE

House bill

The House bill authorized the Director to promote cooperation among Federal departments and agencies conducting research programs affecting handicapped individuals.

Senate amendment

The Senate amendment established within the Federal government an Interagency Committee on Handicapped Research in order to promote cooperation among Federal departments and agencies conducting rehabilitation research programs.

The Committee, not later than 18 months after the date of enactment of this section, and annually thereafter, shall submit to the Office of Management and Budget and appropriate committees of Congress a report making recommendations.

Conference agreement

The conference agreement accepts both House and Senate provision with an amendment clarifying that the purpose of the Committee is to promote coordination in such research activities and that the Committee shall submit its report to the President rather than the Office of Management and Budget.

INTERAGENCY COOPERATION

House bill

The House bill provided that any Federal entity proposing to establish any research project related to the purpose of this Act shall consult with the Director before establishing the project and provide the Director with sufficient opportunity to comment on the project.

It also provided that any person responsible for administering any program of the National Institutes of Health, the Veterans' Administration, the National Science Foun-

dation, the National Aeronautics and Space Administration, the Bureau of Education for the Handicapped, or of any other Federal entity, shall consult and cooperate with the Director in carrying out such program if the program is related to the purposes of this section.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment referring to the Director, as "Chairman of the Interagency Coordinating Committee."

GRANTS AND CONTRACTS

1. Rehabilitation Techniques

House bill

The House bill provided for basic research related to rehabilitation techniques or services.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

2. Research and Training Centers

House bill

The House bill provided that the National Institute of Handicapped Research rather than the Commissioner, is responsible for establishing and supporting research and training centers. These centers would provide training (including graduate training) to assist individuals to more effectively provide rehabilitation services; provide coordinated and advanced programs of research in rehabilitation; and provide training (including graduate training) for rehabilitation research personnel. The research to be carried out at each center would be determined on the basis of the particular needs of handicapped individuals in the geographic area served by the center, and may include basic or applied medical rehabilitation research, research regarding the psychological and social aspects of rehabilitation, and research related to vocational rehabilitation. The centers would be encouraged to develop practical applications for the findings of their research. Grants could include funds for services rendered by such a center to handicapped individuals in connection with such research and training activities.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

3. Model Preschool Centers and Employment Projects

House bill

No provision.

Senate amendment

The Senate amendment provided for special research and demonstration projects in preschool activities for handicapped children and in employment training activities. These model projects were contained under the Senate's proposed comprehensive services title.

Conference agreement

The House receded with an amendment transferring responsibility for these model projects to the National Institute of Handicapped Research.

Conference agreement

The House recedes.

4. Joint Projects

House bill

The House bill authorized a program of joint projects with the National Institutes of Health, the Health Services Administration, the Administration on Aging, the National Science Foundation, the Veterans' Administration, the Office of Education, the National Aeronautics and Space Administration, other Federal agencies, and private industry in areas of joint interest involving rehabilitation.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

5. Age-Related Research

House bill

The House bill authorized the Director to conduct a program of research related to the rehabilitation of handicapped children and of handicapped adults who are aged sixty or older.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

6. Fellowships

House bill

The House bill authorized a research fellowship program.

Senate amendment

No provision.

Conference agreement

The conference agreement provided the Director with authority to conduct a research fellowship program.

7. Video Cassettes

House bill

The House bill authorized a model research and demonstration project designed to assess the feasibility of establishing a center for producing and distributing to deaf individuals captioned video cassettes providing a broad range of education, cultural, scientific, and vocational programming.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

8. Rural Areas

House bill

No provision.

Senate amendment

The Senate amendment authorized a research program to develop and demonstrate innovative methods to attract and retain professionals to serve in rural areas in the rehabilitation of handicapped and severely handicapped individuals.

Conference agreement

House recedes.

SET-ASIDE FOR ENGINEERING CENTERS

House bill

The House bill struck the current set-aside of appropriations for rehabilitation engineering centers.

Senate amendment

The Senate amendment retained the set-aside.

Conference agreement

The Senate recedes.

TRAINING

House bill

No provision.

Senate amendment

The Senate amendment gave the Director of the Institute authority "in overseeing all programs and activities carried out under this title." This would have included training activities presently under Section 203 of the Act.

Conference agreement

The Senate recedes.

AUTHORIZATIONS

House bill

The House bill provided authorizations for administrative purposes for the National Institute of Handicapped Research at such sums as may be necessary for fiscal year 1979, and for each of the succeeding fiscal years. It also provided $75 million for fiscal year 1979, $85 million for fiscal year 1980, $95 million for fiscal year 1981, $100 million for fiscal year 1982, and $125 million for fiscal year 1983 for research grants and contracts.

Senate amendment

The Senate amendment only authorized appropriations for research activities at $38 million for fiscal year 1979, $44 million for fiscal year 1980 and $51 million for fiscal year 1981.

Conference agreement

The conference agreement is a substitute which authorizes for each of the next four fiscal years such sums as necessary for the Institute's administrative activities and $50 million, $75 million, $90 million and $100 million over the next four years respectively for research activities.

TITLE III—SUPPLEMENTARY SERVICES AND FACILITIES

REHABILITATION FACILITY CONSTRUCTION

House bill

The House bill extended authorizations of appropriations for rehabilitation facility construction under section 301 for five fiscal years at such sums as necessary for each year.

Senate amendment

The Senate amendment extended authorizations for rehabilitation facility construction for three fiscal years at such sums as necessary for each year.

Conference agreement

The conference agreement extends authorizations for four fiscal years.

VOCATIONAL TRAINING

House bill

For the purpose of making grants and entering into contracts under section 302 for vocational training, the House bill authorized to be appropriated such sums as may be necessary for each of the next five fiscal years.

Senate amendment

The Senate amendment is identical, except that appropriations are authorized for only three fiscal years.

Conference agreement

The conference agreement extends authorizations for four fiscal years.

SPECIAL PROJECTS AND DEMONSTRATIONS

1. Deaf and Blind Projects

House bill

The House bill authorized demonstration projects to improve rehabilitation services for the deaf and blind regardless of age or vocational potential.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

2. Interpreter Services for the Deaf

House bill

The House bill authorized the Commissioner to establish through designated State vocational rehabilitation agencies a program of interpreter referral services in each State. Any interpreter providing services under such programs would be required to meet minimum standards established by the Commissioner.

Senate amendment

The Senate amendment authorized the Secretary to establish interpreter information and referral centers for deaf individuals in each State. Funds would be allotted to States on the basis of the relative population of deaf individuals.

Applications from States would be required. These applications must provide as-

surances that funds would be contracted to private nonprofit agencies comprised of deaf individuals or organizations which provide assistance to deaf individuals. Funds could be used for equipment needed for deaf persons. Any interpreter participating in the program would be required to meet minimum standards established in the Registry for Interpreters for the Deaf.

The Senate amendment authorized $12 million for fiscal year 1979, $13 million for fiscal year 1980, and $14 million for fiscal year 1981 for these programs.

Conference agreement

The conference agreement is a substitute which deletes the State formula grant provision, the specific certification of interpreters by the Registry for Interpreters for the Deaf and the specific and separate authorizations.

3. Reader Services for the Blind

House bill

The House bill authorized the Commissioner to make grants to State vocational rehabilitation agencies for expanding reader services to blind persons not otherwise eligible for such services.

Senate amendment

The Senate amendment contained a provision similar to the House bill except that it authorized grants as well to existing private nonprofit national agencies or organizations.

In addition the Senate amendment contained a State formula grant program administered by State vocational rehabilitation agencies which meet certain State plan requirements relating to administrative structure. This Senate provision contained a definition of "reading services" and provided specific authorizations of $4 million in fiscal year 1979, $6 million in fiscal year 1980, and $8 million in fiscal year 1981.

Conference agreement

The conference agreement provides specific authority under present authority but eliminates the provisions relating to State administration. Separate authorizations are also eliminated.

4. Facilities Construction and Renovation

House bill

The House bill amended section 304(b)(1) to permit special project grants to be used where appropriate for constructing facilities.

Senate amendment

The Senate amendment allowed these special project grants to be used for the renovation and construction of facilities, where appropriate.

Conference agreement

The House recedes.

5. Recreation

House bill

No provision.

Senate amendment

The Senate amendment authorized grants to State and public nonprofit agencies and organizations for paying part or all of the cost of initiating recreation programs for handicapped individuals.

Conference agreement

The House recedes.

6. Authorizations

House bill

For the purpose of making grants under section 304 for special projects and demonstration (and for research and evaluation connected therewith), the House bill authorized to be appropriated such sums as may be necessary for each of the next five fiscal years.

Senate amendment

The Senate amendment is identical, except that authorizations are extended for three fiscal years.

Conference agreement

The conference agreement is a substitute which extends authorizations for four fiscal years.

THE HELEN KELLER CENTER

House bill

The House bill provided that the Center will seek to recover from States, private insurers, and other participating public and private agencies the cost of services it provides to handicapped individuals. It also transfers the administration to the Director of the National Institute of Handicapped Research. It also extends for five years, through fiscal year ending prior to October 1, 1983, the authorization of appropriations for the Center.

Senate amendment

The Senate amendment authorized appropriations for the Center for three years.

Conference agreement

The conference agreement deletes transfer of administrative responsibility for the Center to the National Institute of Handicapped Research. The Center's authorizations are extended for four fiscal years at such sums as necessary for each year.

COMPREHENSIVE REHABILITATION CENTERS

House bill

The House bill authorized grants to State vocational rehabilitation agencies to establish and operate comprehensive rehabilitation centers. Such centers would provide a broad range of services to handicapped persons, including information and referral services, counseling services, and job placement, health, educational, social, and recreational services, as well as facilities for such activities. They would provide to local governmental units and to nonprofit entities such information and technical assistance (including interpreters for the deaf) as may be necessary to assist those entities in complying with the Act. From funds received under this program State vocational rehabilitation agencies may make grants to agencies or organizations to construct and operate such centers, or such State agencies may directly provide for the construction and operation of such centers.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment deleting construction authority.

LOAN GUARANTEES

House bill

The House bill amended section 303 of the act by removing the current provisions relating to mortgage insurance for rehabilitation facilities and substituting provisions which guarantee the payment of principal and interest on loans made to nonprofit private entities by non-Federal lenders and by the Federal Financing Bank for the construction of rehabilitation facilities. It provided that the Commisisoner could pay to the holder of such loans amounts sufficient to reduce by 3 percent per year the net effective interest rate otherwise payable on any such loan. The total of the principal of the loans outstanding at any time with respect to which guarantees could be issued shall not exceed $200 million.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment changing from three to two percent the net effective interest rate reduction to be achieved by these mortgage loans and reducing the total maximum amount of outstanding loans to $100 million.

TRAINING

1. General Training

House bill

The House bill provided that the Commissioner would administer all professional training activities under the Act. It authorized the training of personnel specializing in job development and job placement for handicapped individuals. It provided that grants could be made available to train personnel in the fields of medical, social, and psychological rehabilitation. It authorized the Commissioner to provide grants to undergraduate schools of medicine to support programs in rehabilitation medicine in order to orient medical students to the care of handicapped individuals. It required the Commissioner to develop a long-term rehabilitation manpower plan designed to target resources of areas of personnel shortages.

Senate amendment

The Senate amendment required the Secretary to measure the impact as well as evaluate training programs.

Conference agreement

The Senate recedes on all training activities, except those relating to undergraduate programs in rehabilitation medicine where the House recedes.

2. Deaf Interpreter Training Progams

House bill

The House bill authorized the Secretary to establish 12 programs for training interpreters for deaf individuals. It also required that persons trained meet minimum standards established by the Secretary.

Senate amendment

The Senate amendment was similar except that it authorized the Secretary, through the Office of Information and Resources for the Handicapped to administer the programs.

Additionally, the Senate amendment provided that interpreters who provide services required under the Education of the Handicapped Act may be trained solely through funds for in-service training drawn from appropriations under the Education of the Handicapped Act, and that any interpreter trained should meet minimum standards established by the Registry for Interpreters for the Deaf.

The Senate amendment also named six specific institutions which will receive these training funds.

Conference agreement

The House recedes with an amendment which deletes mention of certification by Registry of Interpreters for the Deaf and requests that the Secretary be given authority to set minimum standards, deletes provisions relating to satellite centers which actually provide interpreter services. These services could be provided under other provisions in both bills and nothing would bar a training institution from entering into a contract with a State agency to provide such interpreter services.

The House amendment also deletes the specific citation of the following six institutions which would receive funding: Gallaudet College in Washington, District of Columbia; Saint Paul Technical Vocational Institute in Saint Paul, Minnesota; California State University in Northbridge, California; Seattle Central Community College in Seattle, Washington; Delgado College in New Orleans, Louisiana; and the National Technical Institute for the Deaf in Rochester, New York. The conferees wish to make clear that the striking of references to these intitutions should not be interpreted in any way to reflect adversely on the efforts of these institutions. Indeed, the conferees would encourage these institutions to compete for training grants and would urge that these institutions, as well as other institutions with ongoing programs of proven worth in the training of qualified interpreters, to be given priority consideration for such training grants rather than the establishment of new training programs.

3. Authorizations

House bill

The House bill authorized $35 million for fiscal year 1979, $40 million for fiscal year 1980, $45 million for fiscal year 1981, $55 million for fiscal year 1982, $65 million for fiscal year 1983, and for each such fiscal year such additional sums as may be necessary.

Senate bill

The Senate amendment authorized $34 million for fiscal year 1979, $44 million for fiscal year 1980 and $51 million for fiscal year 1981.

It also authorized $8 million for each of the next three fiscal years for training interpreters for deaf individuals.

Conference agreement

The conference agreement is a substitute which authorizes $34 million for fiscal year 1979, $40 million for fiscal year 1980, $45 million for fiscal year 1981, $50 million for fiscal year 1982 and such additional sums as may be necessary for each of the four fiscal years.

TITLE V—NATIONAL COUNCIL ON THE HANDICAPPED

1. Number of Members

House bill

The House bill established within the Department of Health, Education and Welfare a 20-member National Council on the Handicapped.

Senate amendment

The Senate amendment created a 15-member Federal Council on Handicapped Individuals within the Federal government.

Conference Agreement

The Senate recedes with an amendment limiting the number of Council members to 15.

2. Composition

House bill

The House bill provided that at least 5 members of the Council be handicapped individuals. In addition, the House bill required at least 5 members responsible for administering State vocational rehabilitation programs, at least 5 members engaged in rehabilitation research, and the remaining members knowledgeable about problems of disabled people.

Senate amendment

The Senate amendment required that members of the Council, in addition to handicapped individuals, be representatives of consumer organizations, service providers, business and labor.

Conference agreement

The House recedes with an amendment adding representation for researchers; administrators of services to the handicapped; representatives of the handicapped including parents or guardians. Handicapped individuals includes the developmentally disabled (as defined in this law), as well as all types of handicapped individuals as defined in this Act.

3. Vacancies

House bill

The House bill required vacancies on the Council to be filled by Presidential appointment with Senate confirmation.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

4. Compensation

House bill

The House bill established compensation rates for Council members.

Senate amendment

The Senate amendment was comparable, except that the Senate amendment excludes regular full-time employees of the United States from receiving compensation other than travel, subsistence, and other necessary expenses incurred in the performance of their duties.

Conference agreement

The House recedes.

5. Meetings

House bill

The House bill required that the National Council shall meet at the call of the Chairman, but not less often than six times a year.

Senate amendment

The Senate amendment was comparable except that the Senate required the Council to meet at least 4 times a year. In addition, the Senate amendment designates the Secretary of Health, Education, and Welfare as an ex officio member of the Council.

Conference agreement

The House recedes.

6. Quorum

House bill

The House required a quorum of 11 members for the Council.

Senate amendment

The Senate amendment sets the quorum at 8 members.

Conference agreement

The House recedes.

7. General Duties

House bill

The House bill required the Council to (1) establish general policies for and review the activities of RSA and NIHR and, (2) advise and make recommendations to the Commissioner, the Secretary of Health, Education, and Welfare, and the Director of NIHR on program authorized by the Rehabilitation Act.

Senate amendment

The Senate amendment required the Council to advise the President on matters relating to the special needs of severely handicapped individuals. It also required the Council to review and evaluate on a continuing basis all policies, programs, and activities concerning handicapped individuals, severely handicapped individuals, and persons with developmental disabilities conducted or assisted by all Federal departments and agencies, including programs established or assisted under the Rehabilitation Act of 1973, the Comprehensive Services for Severely Handicapped Individuals Act of 1978, and the Developmental Disabilities Service and Facilities Construction Act, with a view toward determining the effectiveness of all Federal policies, programs and activities in meeting the needs of handicapped and severely handicapped individuals.

Conference agreement

The conference agreement strikes "severely" in reference to handicapped individuals and provides that the Council shall establish general policies of the Institute and advise with respect to the policies of the Rehabilitation Services Administration and the National Institute of Handicapped Research.

Further the Council would review and evaluate all policies, programs and activities concerning handicapped individuals conducted or assisted by the Federal government, including the Rehabilitation Act of 1973, and the Developmental Disabilities Services and Facilities Construction Act.

8. Policy Guidance

House bill

The House bill provided that in "carrying out any of his functions under the Act, the Commissioner shall be governed by general policies of the National Council on the Handicapped established under title IV of this Act."

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment striking the word "governed" and inserting in lieu thereof "guided."

9. Project Application Review

House bill

The House bill required the Council to review and make recommendations regarding applications for client assistance project, Indian demonstration projects, research and training and supplementary services.

Senate amendment

No provision.

Conference agreement

The House recedes.

10. Ombudsman

House bill

No provision.

Senate amendment

The Senate amendment required the Council to serve as an ombudsman for the severely handicapped individuals.

Conference agreement

The Senate recedes.

11. Public Information

House bill

No provision.

Senate amendment

The Senate amendment required the Council to provide public information on the needs of the handicapped.

Conference agreement

The Senate recedes.

12. Public Forums

House bill

No provision.

Senate amendment

The Senate amendment required the Council to provide public forums on the problems of the handicapped.

Conference agreement

The Senate recedes.

13. Reports

House bill

The House bill required the Council to submit a report annually to the Secretary, the Congress, and the President, containing (A) a statement of the current status of research affecting the handicapped in the United States, (B) an analysis of the activities of the Rehabilitation Services Administration and the National Institute of Handicapped Research, and (C) such recommendations respecting these actiivties as the National Council considers appropriate.

Senate amendment

The Senate amendment was comparable, except that the Senate amendment required interim reports in addition to an annual report and required the President to transmit the report to Congress with comments and recommendations.

Conference agreement

The Senate recedes with an amendment requiring the Council to "review" rather than analyze the activities of the Rehabilitation Services Administration and the National Institute of Handicapped Research.

14. Application Reviews

House bill

The House bill required that no application subject to Council review may be approved without its recommendation.

Senate amendment

No provision.

Conference agreement

The House recedes.

15. Staff

House bill

The House bill specifically provided for the appointment of a staff director and at least seven technical and professional employees.

Senate amendment

The Senate amendment provided that the Secretary shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities.

Conference agreement

The Senate recedes with an amendment striking the specific reference to the appointment of a staff director.

16. Temporary Staff

House bill

The House bill authorizes the Council to hire temporary staff.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

17. Support Services

House bill

The House bill authorized the Administrator of General Services Administration to provide to the National Council on a reimbursable basis such administrative support services as the Council may request.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

18. Securing Federal Information

House bill

The House bill authorized the Council to secure information from other Federal agencies.

Senate amendment

No provision.

Conference agreement

The House recedes.

19. Hearings

House bill

The House bill authorized the Council to hold hearings.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

20. Advisory Committees

House bill

The House bill authorized the Council to appoint its own advisory committees.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

21. Use of Mails

House bill

The House bill authorized the Council to use the mails as any other Federal agency.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

22. Authorizations

House bill

The House bill authorized such sums as may be necessary for the Council for each of the five fiscal years.

Senate amendment

The Senate amendment provided annual authorizations of $1.2 million through October 1, 1981.

Conference agreement

The conference agreement is a substitute authorizing such sums as may be necessary for each of the next four fiscal years.

TITLE V—MISCELLANEOUS

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

1. Title

House bill

The House bill added "Communication" to the title of the Architectural and Transportation Barriers Compliance Board.

Senate amendment

No provision.

Conference agreement

The House recedes.

2. Federal Members

House bill

The House bill designated the heads of nine Federal agencies as members of the Board.

Senate amendment

The Senate amendment was similar but included a representative of the Department of Justice.

Conference agreement

The House recedes.

3. Public Members

House bill

The House bill required the appointment of 9 handicapped individuals who are knowledgeable about architectural barriers and not Federal employees.

Senate amendment

The Senate amendment required the appointment of 6 public members, 5 of whom must be handicapped.

Conference agreement

The Conference agreement is a substitute which requires the appointment of 11 public members, 8 of whom must be handicapped.

4. Chairman

House bill

The House bill required the President to appoint the Chairman of the Board from among its members.

Senate amendment

The Senate amendment required that the first Chairman of the Board would be appointed by the President, from among the public members who are handicapped individuals, and would serve for a term of not more than 2 years; thereafter, the Chairman shall be elected by a vote of a majority of the Board for a term for 1 year.

Conference agreement

The House recedes with an amendment to eliminate the requirement that the Chairman be a handicapped individual.

5. Terms

House bill

The House bill set the terms of office for the Board members at 6 years.

Senate amendment

The Senate amendment set the terms of office of each appointed member of the Board at 3 years, with certain exceptions.

Conference agreement

The House recedes.

6. Reappointment

No provision.

Senate amendment

The Senate amendment provides that no individual appointed as a general public member of the Board would be reappointed to the Board more than once unless such individual has not served on the Board for a period of 2 years prior to the effective date of such individual's appointment.

Conference agreement

The House recedes.

7. Federal Employment

House bill

The House bill provided that if an appointed member of the Board becomes a Federal employee, such member would be allowed to continue as a member of the Board for not longer than sixty days from the date of such employment.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

8. Compensation for Public Members

House bill

No provision.

Senate amendment

The Senate amendment included provisions for compensation of members of the Board who are not regular full-time employees of the United States, and for travel, subsistence, and other necessary expenses incurred by them, and by members of the Board who are employed by the Federal government, in carrying out their duties.

Conference agreement

The House recedes.

9. Compensation of Federal Members

House bill

No provision.

Senate amendment

The Senate amendment provided that members who are Federal employees would not be so compensated but would be reimbursed for travel and other expenses.

Conference agreement

The House recedes.

10. Voting

House bill

No provision.

Senate amendment

The Senate amendment provided for any matter calling for a vote, each member from the general public shall have one vote, and each member from Federal departments or agencies shall have one-half of one vote.

Conference agreement

The Senate recedes. The conferees intend that each member shall have one vote.

11. Architectural Barriers Act

House bill

The House bill required the Board to establish minimum guidelines and requirements for standards under the Act of August 12, 1968 (hereinafter in this section referred to as the Architectural Barriers Act of 1968), to enforce all standards prescribed by any Federal entity under such Act, to insure that any waiver or other modification of any standard is based upon findings of fact and is not arbitrary and capricious.

Senate amendment

The Senate amendment provided that a function of the Board is to insure compliance with the standards prescribed pursuant to the Architectural Barriers Act of 1968, (including the application of that act to the U.S. Postal Service) including but not limited to enforcing all standards under that Act, and insuring that all waivers and modifications of standards are based upon findings of fact and are not inconsistent with the provisions of such Act and of section 502 of this Act.

Conference agreement

The conference agreement blends the two provisions.

12. Communication Barriers

House bill

The House bill included communications within the scope of the Board's authority.

Senate amendment

No provision.

Conference agreement

The Senate recedes. The conferees acknowledge that communication barriers adversely affect visually impaired individuals and expects the Board to give its attention to these problems.

13. Section 504

House bill

The House bill required the Board to make final determinations with regard to compliance with section 504 of this Act regarding architectural, transportation, and communication barriers confronting handicapped individuals.

Senate amendment

No provision.

Conference agreement

The House recedes. The conferees however would like to express the opinion that common standards should be applied by all Federal agencies and would encourage the use of the expertise that might reside on the Board and rely upon its recommendations.

14. Report on Accessibility Costs.

House bill

The house bill required the Board to submit a report to the President and the Congress within twelve months after the effective date containing an assessment of the amount required to be expended by each state to provide handicapped individuals access to all programs and activities receiving Federal assistance.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

15. Technical Assistance

House bill

The House bill authorized the Board to provide technical assistance to any person or entity for the purpose of assisting such person or entity in complying with the act or with the accessibility standards under the Architectural Barriers Act of 1968.

Senate amendment

The Senate amendment is comparable except that the Senate amendment limits technical assistance to architectural and transportation barriers accessibility. In addition, the Senate amendment authorizes the Board to conduct technical assistance in cooperation with other Federal agencies.

Conference agreement

The conference agreement would specify that technical assistance shall include the removal of communication barriers; that the Board shall develop common standards, and that to "the extent practicable" shall provide technical assistance to public or private activities, persons or entities.

16. Profit-making Organizations

House bill

The House bill authorized the Board to make grants to, or enter into contracts with, public or private organizations.

Senate amendment

The Senate amendment authorized the Board to enter into contracts but not grants with private organizations.

Conference agreement

The Senate recedes to the House provision with an amendment restricting the authority to those profit-making organizations whose applications demonstrate clear superiority with respect to the quality of services proposed under the contract. The conferees agree that the grant and contracting authority to profit-making organizations is not to be extended to organizations making excessive profits. However, nothing stated herein is intended to discourage the use of profit-making organizations.

17. Accessibility Cost Studies

House bill

The House bill authorized the Board to make grants to state vocational rehabilitation agencies to study the costs of removing barriers.

Senate amendment

No provision.

Conference agreement

The Senate recedes. The conferees wish to express that these studies are to be used in determining reasonable expenditures for the financial assistance in barrier removal authorized elsewhere under Title V of this Act. Until such studies are completed, assistance should not be extended for such purposes.

18. Suits on Final Orders

House bill

No provision.

Senate amendment

The Senate amendment gave the executive director of the Board the authority (at the direction of the Board) to bring suit to enforce a final order of the Board.

Conference agreement

The House recedes.

19. Authorizations

House bill

The House bill authorized to be appropriated for the Board's activities such sums as may be necessary through October 1, 1983.

Senate amendment

The Senate amendment authorized $3 million for each fiscal year before October 1, 1981.

Conference agreement

The conference agreement is a substitute which authorized such sums as may be necessary for each of the next four fiscal years, but in no event to exceed $3 million for each fiscal year.

NONDISCRIMINATION PROVISIONS

1. Applicability of Section 504 to the Federal Government

House bill

The House bill provided that Section 504 applies as well to any program or activity conducted by any Executive agency. It also provided that the head of such an agency shall promulgate such regulations as may be necessary to carry out this section. Copies of such proposed regulations would be submitted to appropriate authorizing committees of the Congress, and such regulations could take effect no earlier than the thirtieth day after the date on which such regulations are so submitted to such committees.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment adding coverage of the provision covered by Section 501(b).

2. Attorneys' Fees and Remedies

House bill

The House bill added a new section 505 to title V of the Act to provide that in any action to enforce section 501, section 503, or section 504 of the Act, the court may allow the prevailing party, other than the United States, a reasonable attorneys' fee as part of the costs.

Senate amendment

The Senate amendment provided that the remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), including the application of section 706 (f) through (k) (42 U.S.C. 2000e–5 (f) through (k), shall be available, with respect to any complaint under section 501 of this Act, to any employee or applicant for employment aggrieved by the final disposition of such complaint, or by the failure to take final action on such complaint.

The Senate amendment also provided that in fashioning an equitable or affirmative action remedy under such section, a court may take into account the reasonableness of the cost of any necessary workplace accommodation, and the availability of alternatives thereof or other appropriate relief.

It further provided that the remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 would be available to any person aggrieved by any act or failure to act by any recipient of Federal assistance or Federal provider of such assistance under section 504 of this Act, and that in any action or proceeding to enforce or charge a violation of a provision of title V, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

Conference agreement

The House recedes with amendments clarifying that in fashioning an equitable or affirmative action remedy under section 501, a court may take into account the reasonableness of the cost of any necessary work place accommodation, and the availability of alternatives therefor or other appropriate relief in order to achieve an appropriate and equitable remedy.

3. Interagency Coordinating Council

House bill

No provision.

Senate amendment

The Senate amendment established an Interagency Coordinating Council in the Federal government to develop consistent policies among Federal agencies responsible for enforcing title V of the Rehabilitation Act. This Council would be composed of the Secretary of Health, Education and Welfare, the Secretary of Labor, the Attorney General, the Chairman of the U.S. Civil Service Commission, and the Chairman of the Architectural and Transportation Barriers Compliance Board. Such Council would have responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this title, and the regulations prescribed thereunder. A report would be transmitted to the President and to the Congress on or before July 1 of each year, containing a report of the Council's activities, together with such recommendations for legislative or administrative changes as it concludes are desirable.

Conference agreement

The House recedes with an amendment specifying that nothing in these provisions would impair the responsibilities assigned to any Federal agency by Executive Order, and clarifying that the Equal Employment Opportunity Commission is to be a member of the Council.

4. Secretarial responsibilities for barrier removal

House bill

The House bill authorized the Secretary to provide technical assistance for the removal of architectural, transportation, communication barriers. It also permitted the Secretary to provide financial assistance for such purposes, if the application for such assistance is approved by the Architectural and Transportation Barriers Compliance Board.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment specifying that the President must also approve financial assistance for barrier removal and that such assistance shall be made available only after the state studies on accessibility costs authorized under Section 502 are completed and assessed.

PART A—COMMUNITY SERVICES EMPLOYMENT PROGRAMS

1. Program established

House bill

The House bill added a new title to the act entitled "Employment Opportunities for Handicapped Individuals." Part A of the new title provided for a community service employment program, administered by the Secretary of the Department of Labor, to provide full- or part-time community service employment to handicapped persons referred to the program by State vocational rehabilitation agencies. Such employment would pay at least the minimum wage and would not result in the displacement of other currently employed workers. The Secretary shall administer the program under Part A by entering into agreements with public or private nonprofit entities (including governmental units) under which the Secretary shall provide for not to exceed 90 percent of the costs of carrying out employment projects specified in the agreement. The Secretary may enter into such agreements only if the conditions specified in Part A are satisfied. Projects funded by the Secretary shall offer appropriate placement services to handicapped employees to assist them in obtaining unsubsidized employment when the project ends.

Senate amendment

No provision.

Conference agreement

The Senate recedes with a technical amendment limited to pilot projects and programs.

2. Authorizations

House bill

The House bill authorized $80 million for fiscal year 1979, $100 million for fiscal year 1980, $125 million for fiscal year 1981, $150 million for fiscal year 1982, and $175 million for fiscal year 1983.

Senate amendment

No provision.

Conference agreement

The conference agreement is a substitute which provides authorizations for four fiscal years at the following amounts: $35 million, $50 million, $75 million and $100 million.

PART B—PROJECTS WITH INDUSTRIES; BUSINESS OPPORTUNITIES

1. Program Established

House bill

The House bill established under Part B of the new title two programs. The first authorizes the Commissioner to enter into jointly financed projects with industry for the purpose of providing handicapped individuals with on-the-job training and employment under agreements in a realistic work setting. Such projects shall be established under agreements entered into by the Commissioner and the prospective employer (with the advice of State vocational rehabilitation agencies). Under the agreements the Commissioner may pay for not more than 80 percent of the costs of any project, including costs for the distribution of special aids or equipment and for modification of any facilities of the employer if used primarily by handicapped persons. The employer must pay handicapped employees under the project the applicable minimum wage and provide benefits comparable to those afforded other employees.

The second program authorized the Commissioner to make grants to handicapped persons to enable them to operate commercial or other enterprises and to develop or market their services and products.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment which requires the Commissioner to consult with the Secretary of Commerce and the Secretary of Labor.

2. Authorizations

House bill

The House bill authorizes $25 million for fiscal year 1979, $25 million for fiscal year 1980, $30 million for fiscal year 1981, $35 million for fiscal year 1982, and $40 million for fiscal year 1983.

Senate amendment

No provision.

Conference agreement

The conference agreement is a substitute which authorizes such sums as necessary for each of the next four fiscal years.

TITLE VII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

STATE GRANTS FOR COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

House bill

The House bill added a new title VII to the Act, under which State vocational rehabilitation agencies could provide, in accordance with a 3-year plan, rehabilitation services to handicapped persons who need extensive services to develop their employment potential. Such persons, who may not be ready for vocational rehabilitation, would receive services to assist them in living more independently in their communities. Such services could include a wide range of services including health services, homemaker services, and attendant care. A handicapped person would apply for such services at an office of his or her State vocational rehabilitation agency. The agency would develop an individualized service plan for the handicapped person, would review his progress, and would seek to prepare each client for gainful employment.

Senate amendment

The Senate amendment had a similar provision but provided for an annual plan and a long-range plan. It is also permitted a State agency other than the designated State vocational rehabilitation agency to administer the program if the governor so chooses and the Secretary concurs.

Conference agreement

The Senate recedes with amendments to the State plan requirements. These amendments provide for annual revisions when necessary, and require the State plan—

(1) to describe the quality, scope, and extent of the comprehensive services being provided to severely handicapped individuals and specify the State's goals and plans with respect to the distribution of grants pursuant to the independent living and service programs under the title;

(2) to provide satisfactory assurances that facilities used in connection with the delivery of services assisted under this title will comply with the Architectural Barriers Act of 1968; and

(3) to provide that special efforts will be undertaken to provide technical assistance to poverty areas with respect to the provision of comprehensive services for handicapped individuals and describe such efforts.

The amendment further provides that priority shall be given to those handicapped individuals now unserved by other provisions of the Rehabilitation Act or the Developmental Disabilities Services and Facilities Construction.

The amendment further provides that up to 20 percent of a State's allotment for comprehensive services for independent living, under Part A, must be passed along to private nonprofit organizations, but that the Commissioner is authorized to waive this provision.

Centers for Independent Living

House bill

The House bill established a program of grants to State vocational rehabilitation agencies for centers for independent living.

Senate amendment

The Senate amendment provided that State agencies could make grants to establish and operate centers for independent living.

Conference agreement

The Senate recedes with an amendment providing that if a State does not apply within 6 months for grants for centers for independent living, under Part B, the Commissioner may provide grants directly to private nonprofit organizations for establishing and operating such centers. Furthermore, the conference agreement requires that centers for independent living include attendant care and training of personnel to provide such care; referral and counseling services with respect to attendant care; community group living arrangements; and surveys, directories, and other activities to identify appropriate housing and accessible transportation and provide housing referral, transportation and other support services.

Independent Living Services for Older Blind Persons

House bill

No provision.

Senate amendment

The Senate amendment provided for a separate program for older blind persons and established a State entitlement program with funds allocated to States on the basis of their share of the national population. To be eligible for grants a State would be required to meet certain state vocational rehabilitation agency administrative requirements.

Conference agreement

The conference agreement is a substitute, which makes services to the blind a part of this title and authorizes the Commissioner to make grants to any State vocational rehabilitation agency unit which qualifies for payments under the independent living program to develop and demonstrate new approaches in providing independent living services to older blind individuals. Such services may include, but are not limited to, any goods or services necessary to assist an older blind person to adjust to blindness and to render such person more capable of caring for his individual needs.

The Commissioner may not approve an application for a grant unless the application contains assurances that the State will seek to incorporate the new methods and approaches to developed into its State plan for independent living services.

The separate authorization is eliminated.

Protection and Advocacy

House bill

No provision.

Senate amendment

The Senate amendment required States to establish a system to protect and advocate the rights of severely handicapped individuals as a condition to a State receiving an allotment for comprehensive services for independent living. Such system (1) would have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such individuals who are receiving services within such State, and (2) shall be independent of any agency that provides services under this title to such individuals.

Provision was also made to insure coordination of the system to advocate and protect

the rights of such individuals with the system to protect and advocate the rights of persons with developmental disabilities required under the Developmental Disabilities Services and Facilities Construction Act.

Conference agreement

The House recedes with an amendment authorizing grants to states to establish systems to protect and advocate the rights of severely handicapped individuals provided for only in this title, and authorizing appropriations of such sums as may be necessary for the fiscal years 1979–1982, except that such appropriations may not be greater than $6 million for FY '79, $7.5 million for FY '80, and $9 million for FY '81 for establishing such systems.

Employment Requirements

House bill

No provision.

Senate amendment

The Senate amendment requires affirmative action in the employment of handicapped individuals among programs receiving funds for comprehensive services for severely handicapped individuals.

Conference agreement

The House recedes.

State Councils on Severely Handicapped Individuals

House bill

No provision.

Senate amendment

The Senate amendment requires each State to establish a State Council on Severely Handicapped Individuals which will serve as an advocate for severely handicapped individuals in order to receive funds for comprehensive services for independent living.

Conference agreement

The Senate recedes.

AUTHORIZATIONS

House bill

The House bill authorized $80 million for fiscal year 1979, $130 million for fiscal year 1980, $180 million for fiscal year 1981, and such sums as necessary for each of the next two fiscal years for state grants for independent living services.

The House bill further authorized $50 million for fiscal year 1979, $80 million for fiscal year 1980, $110 million for fiscal year 1981 and such sums as necessary for each of the following two years for grants to centers for independent living.

Senate amendment

The Senate amendment authorized grants to States to assist in developing and implementing comprehensive services for severely handicapped individuals. For this purpose the following amounts are authorized: $90 million for the fiscal year ending September 30, 1979; $110 million for the fiscal year ending September 30, 1980; and $150 million for the fiscal year ending September 30, 1981.

Authorizations to carry out the Senate's proposed protection and advocacy systems were as follows: $6 million for the fiscal year 1979, $7.5 million for fiscal year 1980, and $9 million for fiscal year 1981.

The Senate amendment further authorized $8 million in fiscal year 1979, $10 million in fiscal year 1980, and $12 million in fiscal year 1981 for State grants for providing services for older blind persons.

Conference agreement

The conference agreement is a substitute authorizing appropriations for State grants for comprehensive services for independent living, centers for independent living, and independent living services for older blind persons of $80 million, $150 million, $200 million and such sums as necessary over the next fiscal year.

The conference agreement also provides that an amount not to exceed 10 percent of what is appropriated for comprehensive services for independent living, under Part A, may be used for providing independent living services to older blind persons.

DEMONSTRATION AND MODEL PROGRAMS

House bill

No provision.

Senate amendment

The Senate amendment authorized financial assistance with public agencies or private nonprofit institutions for the development and demonstration of models for centers and the provision of services to meet the special needs of severely handicapped individuals. Such models would include (1) centers to create and utilize the best methods of appraising and developing the employment potential of severely handicapped individuals; (2) models for independent living and community service centers for severely handicapped individuals; and (3) models for preschool age severely handicapped children. The amendment authorized appropriations for the programs as follows: $50 million for fiscal year 1979; $55 million for fiscal year 1980; and $65 million for fiscal year 1981.

Conference agreement

The conference agreement is a substitute which strikes the projects described in parenthesis (2) and includes the other projects under the authority of the National Institute of Handicapped Research.

Research, Training and Evaluation

House bill

No provision.

Senate amendment

The Senate amendment authorized grants for research, training and evaluation for comprehensive services for severely handicapped individuals.

Conference agreement

The Senate recedes.

MISCELLANEOUS

INTERAGENCY RESEARCH AND DEMONSTRATION AUTHORITY

House bill

Title IV of the House bill authorized the Secretary of the Department of Health, Education and Welfare to conduct research and demonstration projects concerns with the interrelated needs of handicapped individuals, elderly, children, youth, adults and families. Such sums as necessary were authorized to be appropriated for these projects.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

SPECIAL STUDY ON DISABILITY PROGRAMS

House bill

The House bill mandated the Institute to undertake a study of the special problems and needs of handicapped individuals who reside in rural areas. In addition, the Institute was directed to undertake a study of the way in which Federal programs providing benefits to handicapped individuals might be restructured so as to eliminate any disincentives for persons receiving benefits under such programs. The study is required to be submitted 24 months after effective date of this Act.

Senate amendment

The Senate amendment required the Secretary to conduct a study of the impact of vocational rehabilitation on the recipients of disability payments under the Social Security Act.

Conference agreement

The conference agreement adopts all this authority but places it under the authority of the Secretary outside the Rehabilitation Act.

TRANSFER OF FUNDS

House bill

The House bill prohibited research funds appropriated under this Act from being used for purposes other than those authorized.

Senate amendment

Title V of the Senate amendment provided that no funds appropriated under the Rehabilitation Act of 1973, the Older Americans Act of 1965, or the Child Abuse Prevention and Treatment Act may be obligated or expended for research, demonstration, or evaluation programs or projects which are not directly managed and monitored by the office charged by law with the direct responsibility for carrying out such research, demonstration or evaluation programs or projects under such Acts and which are not specifically authorized in full by one or more such Acts.

Conference agreement

The House recedes.

DECLARATION OF PURPOSE

House bill

The House bill amends the Declaration of Purpose to provide that, "The purpose of this Act is to develop and implement, through research, training, services, and the guarantee of equal opportunity, comprehensive and coordinated programs of vocational and independent living rehabilitation."

Senate amendment

No provision.

Conference agreement

The Senate recedes with a technical amendment.

DEFINITIONS

1. Establishment of Rehabilitation Facility

House bill

The House bill amends section 7(3) to strike "initial" in each place it appears in referring to equipment and staffing expenses reimbursable in establishing rehabilitation facilities.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment clarifying that funds may be provided for ongoing staffig and equipment as the Commissioner may determine.

2. Alcoholics and Drug Abusers

House bill

The House bill provides that for the purpose of sections 503 and 504, the term handicapped individual does not include an individual "who is an alcoholic or who is a drug abuser in need of rehabilitation."

Senate amendment

The Senate amendment provides that the term handicapped individual does not include an alcoholic or drug abuser whose condition of alcoholism or drug abuse renders that individual not qualified for employment by preventing him from performing the essential functions of the job in question.

Conference agreement

The conference substitute clarifies that only those active alcoholics or drug abusers who cannot perform the essential functions of a job in question or who present a danger to life and property are not covered by the employment provisions of sections 503 and 504.

3. Independent Living

House bill

The House bill defines "independent living services" under a new title VII, Comprehensive Services for Independent Living.

Senate amendment

The Senate amendment defines "independent living programs" for the purposes of title I activities within "Innovation and Expansion".

Conference agreement

The Senate recedes.

APPLICATION OF OTHER LAWS

House bill

The House bill exempts the Rehabilitation Act from the provisions of the Joint Funding Simplification Act and the provision of Public Law 95–134 allowing the transfer of programs among agencies in the territories.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

TECHNICAL AMENDMENT

House bill

The House bill amends title I of the Act to incorporate provisions previously contained in title IV of the Act.

Senate amendment

The Senate amendment extends the existing title IV authorities.

Conference agreement

The Senate recedes.

REFERENCE AMENDMENTS

House bill

The House bill changes all references in title I and several in title III from the Secretary to the Commissioner. It also changes those references to the Secretary in the present title IV provisions relating to reports, the information clearing house, and administration of the Act of the Commissioner. It retains Secretarial references in regard to present title IV evaluation.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment retaining references to the Secretary in regard to the information clearinghouse authority under the present title IV and specifying that this clearinghouse shall be referred to as "The Office of Information and Resources for the Handicapped."

Authorization for information

CLEARINGHOUSE ACTIVITIES

House bill

The House bill authorizes such sums as necessary for each of the next five fiscal years for the information clearinghouse activities presently under section 405(d) of the Act.

Senate amendment

The Senate amendment authorizes to be appropriated for carrying out the information clearinghouse activities, $600,000 for each fiscal year ending prior to October 1, 1981.

Conference agreement

The conference substitute authorizes such sums as necessary for each of the next four fiscal years. The conferees expect that the clearinghouse, heretofore referred to as the Office for Handicapped Individuals and which will henceforth be referred to as the Office of Information and Resources for the Handicapped, will receive no less funding than it received in fiscal year 1978. It is further intended that personnel presently serving in the Office for Handicapped Individuals be transferred to the new Office of Information and Resources for the Handicapped.

AMENDMENTS TO DEVELOPMENTAL DISABILITIES SERVICES AND FACILITIES CONSTRUCTION ACT

Short Title

House amendment

The House amendment designated the short title as the "Developmental Disabilities Act."

Senate amendment

The Senate amendment designated the short title as the "Developmental Disabilities Assistance and Bill of Rights Act."

Conference agreement

The House recedes.

Declaration of Objectives

House amendment

The House amendment contained a statement of findings and objectives for the Developmental Disabilities Act.

Senate amendment

No provision.

Conference agreement

The Senate recedes, with an amendment deleting objectives relating to development of a national plan.

Definition of a State

House amendment

The House amendment defined a State to include the Northern Mariana Islands.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

Definition of a Developmental Disability

House amendment

The House amendment defined a developmental disability as a severe, chronic disability which is attributable to mental retardation, cerebral palsy, epilepsy, autism or dyslexia, or to any other condition similar to those conditions because it results in similar impairment of general intellectual functioning or adaptive behavior and requires similar treatment and services; which is manifest before age 22; which is likely to continue indefinitely; which results in substantial functional limitations in certain specified areas; and which reflects the need for lifelong, individually planned services.

Senate amendment

The Senate amendment defined a developmental disability as a severe, chronic disability which is attributable to a mental or physical impairment or combination of mental and physical impairments; which is manifested before age 22; which is likely to continue indefinitely; which results in substantial functional limitations in certain specified areas; and which reflects the need for lifelong, individually planned services.

Conference agreement

The House recedes. The conferees stress, however, that the definition agreed to is intended to cover everyone currently covered under the definition and is also intended to add other individuals with similar characteristics. In this definition, individuals with the conditions currently listed in the law—autism, cerebral palsy, dyslexia, epilepsy, or mental retardation—would be included if they meet the following criteria: manifestation prior to age 22, expectation of continuing indefinitely, substantial functional limitation, and need for multiple services for an extended period. It is not the intent to exclude anyone who legitimately should have been included under the definition in current law.

The conferees further wish to make clear their intent that the services provided under the Developmental Disabilities Assistance and Bill of Rights Act to individuals already receiving service should not be diminished as a result of the revised definition, although it is intended that the planning process and provision of services will immediately address all disability groups covered by the functional definition. In addition, as funding increases, it is expected that a reasonable proportion of any new funding will be directed to meeting the needs of developmentally disabled individuals with those disabilities named in the existing law.

Study of the Impact of Modification of the Definition of a Developmental Disability

House amendment

No provision.

Senate amendment

The Senate amendment required the Secretary to make a special report to the Congress concerning the impact of the modification of the definition of a developmental disability within 30 months of the date of enactment.

Conference agreement

The House recedes with an amendment setting a date certain for the report of January 15, 1981, and making clarifying changes.

Establishment of Priority Services

House amendment

The House amendment established four priority services for the developmentally disabled: case management services, child development services, alternative community living arrangement services, and nonvocational social developmental services.

The House amendment required that for so long as appropriations under Section 131 for State allotments do not exceed $60 million, each State plan must provide that not less than $100,000, or 70 percent of the funds available to the State through State allotments under Section 132, whichever is greater, will be expended on no more than two areas of service, at least one of which must be an area selected from the priority service areas established in the Act. The second area of service may either be a priority service area or an area of service designated by the State. (The limit on the number of allowed service areas in which 70 percent must be spent increases to three when appropriations exceed $60 million but are less than $90 million).

Senate amendment

No provision.

Conference agreement

The Senate recedes, with the following amendments:

(a) the definition of one of the priority service areas, nonvocational social-developmental services, is amended to eliminate the limitation on services to those over 18 years of age

(b) the proportion of funds required to be spent on the limited areas of designated services at least one of which must be a priority service area is reduced from 70 percent to 65 percent (or $100,000, whichever is higher).

(c) provision for a waiver of the requirement that 65 percent of funds be expended on no more than two service areas. Upon application by a State, the Secretary may permit a State to designate additional areas of service if he determines that the expenditures for the originally designated two areas of service can reasonably meet the need for those services in the State in comparison to the extent to which the need for the additional area or areas of services the State wishes to designate has been met in the State. The additional areas of services to be designated are to be areas within the areas of priority services defined in the Act, to the maximum extent feasible.

In adopting the waiver provision, the conferees were addressing the particular situation which occurs in states like the State of California, which both because of its sizeable state allotment (which makes it feasible to devote 65 percent of the expenditures to more than two areas of service while still allowing a substantial commitment to each designated area), and its particular situation regarding its use of area boards to identify regional service gaps and priorities, which might be disrupted by the limitation, justified allowing some flexibility in the general standard.

Consolidation of Requirements for State Plans

House amendment

The House amendment consolidated and reorganized the requirements of current law

concerning State plans, and eliminates certain requirements that are now obsolete or unnecessary.

Senate amendment

No provision.

Conference agreement

The Senate recedes, with an amendment restoring the requirements of current law relating to (a) use of funds so as not to duplicate or replace services, (b) maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Services Act of 1973 and other voluntary organizations, and (c) provision for fair and equitable arrangements to protect employees affected by deinstitutionalization efforts.

Additional Requirements for State Plans

House amendment

No provision.

Senate amendment

The Senate amendment required State plans to include (a) assurance that facilities used in connection with the delivery of services assisted under the plan comply with the standards established pursuant to the Architectural Barriers Act of 1968, and (b) assurances that the State has undertaken affirmative steps to assure participation of individuals representative of the population, with particular attention to the participation of members of minority groups.

Conference agreement

The House recedes. The conferees note that it is their intent that a State undertake affirmative steps to assure the participation in programs for the developmentally disabled of individuals generally representative of the population of the State covered by the Act, with particular attention to the participation of members of minority groups, because they believe it is important that all citizens of a State be given equitable consideration under this Act. It is further intended that the American Indian population, whether residing on or off the reservation, be included in the planning and services under the Act.

Authorization for State Allotments

House amendment

The House amendment authorized $60 million for FY 1979, $75 million for FY 1980, and $90 million for FY 1981, for State allotments under Section 132, and established a minimum grant to American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands of $100,000, and for all other States, not less than the higher of $250,000 or the allotment received by the State in FY 1978.

Senate amendment

The Senate amendment authorized $45 million for FY 1979, $50 million for FY 1980, and $55 million for FY 1981, for State allotments under Section 132.

Conference agreement

The Senate recedes with an amendment authorizing $55 million for FY 1979, $65 million for FY 1980, and $75 million for FY 1981.

State Planning Council role in the development of the State plan

House amendment

The House amendment provided that the State planning council develop the State plan.

Senate amendment

The Senate amendment provided that the State planning council advise regarding the State plan, and supervise its development.

Conference agreement

The Senate recedes, with an amendment providing that the State planning council jointly develop the plan with the designated State agency. The conferees note that the State council is intended to have the major role in setting broad policy, including development of the priorities for services required to be specified in the State plan.

The conferees intend that the public, and consumers of services for the developmentally disabled, have input into development of the State plan to the maximum extent that is both possible and appropriate.

Consumer Membership of State Planning Councils

House amendment

The House amendment provided that at least one-sixth of the Council members shall be persons with developmental disabilities or with a milder form of such disability, and at least one-sixth shall be immediate relatives or guardians of persons with mentally impairing developmental disabilities (with one of these a relative or guardian of an institutionalized developmentally-disabled person).

Senate amendment

The Senate amendment provided that at least one-half of the membership of the Council shall be persons with developmental disabilities or parents or guardians of such persons.

Conference agreement

The conference agreement provides that at least one-half of the membership of the Council shall be persons with developmental disabilities as defined in the Act, or their parents or guardians; and further specifies that of that one-half, at least one-third shall be persons with developmental disabilities, and at least one-third shall be immediate relatives or guardians of persons with mentally impairing developmental disabilities (with one of these a relative or guardian of an institutionalized developmentally-disabled person).

Limitation on Consumer Membership

House amendment

The House amendment provided that a person shall not be considered to fill one of the State planning council membership slots designated for the developmentally disabled (or their parents or guardians) if he is a managing employee of a State agency or any other entity receiving funds or providing services under this part, or a person with an ownership or control interest in the entity.

Senate amendment

The Senate amendment provided that a person shall not be considered to fill one of the State planning council membership slots designated for the developmentally disabled (or their parents or guardians) if he is an officer or employee of any State agency or any entity which receives funds or provides services under this part.

Conference agreement

The Senate recedes, with an amendment specifying that any employee of a State agency receiving funds under the title shall not be considered a consumer member.

National Advisory Council

House amendment

The House amendment provided for certain changes in the membership and role of the National Advisory Council on Services and Facilities for the Developmentally Disabled.

Senate amendment

The Senate amendment repealed the National Advisory Council on Services and Facilities for the Developmentally Disabled.

Conference agreement

The House recedes. The conferees note that the National Advisory Council on Services and Facilities for the Developmentally Disabled is abolished to avoid unnecessary duplication and overlap with the National Council on the Handicapped. However, it is intended that the developmentally disabled, and the parents or guardians of developmentally disabled individuals who are unable to represent themselves, be included in the membership of the National Council on the Handicapped, and that the National Council include within its functions concern with the needs of the developmentally disabled and advice on programs carried out under the Developmental Disabilities Assistance and Bill of Rights Act.

Minimum Grants for Protection and Advocacy Systems

House amendment

The House amendment established a minimum grant to each State of $50,000 or the amount of the allotment to the State in the previous fiscal year for protection and advocacy systems.

Senate amendment

No provision.

Conference agreement

The Senate recedes, with an amendment providing that the minimum grant does not apply to any of territories except Puerto Rico.

Ban on Lobbying by Protection and Advocacy Systems

House amendment

No provision.

Senate amendment

The Senate amendment affirms the applicability of section 1913 of title 18 of the United States Code to protection and advocacy systems funded under this title.

Conference agreement

The House recedes.

Authorizations for Protection and Advocacy Systems

House amendment

The House amendment authorized $9 million for FY 1979, $12 million for FY 1980, and $15 million for FY 1981 for protection and advocacy systems.

Senate amendment

The Senate amendment authorized $8 million for FY 1979, $10 million for FY 1980, and $11 million for FY 1981 for protection and advocacy systems.

Conference agreement

The Senate recedes.

Definition and Tasks of University-Affiliated Facilities

House amendment

The House amendment clarified and made more specific the functions of university-affiliated programs, and specified additional functions which they may legitimately undertake if application for funding to support the additional functions is approved by the Secretary.

Senate amendment

No provision.

Conference agreement

The Senate recedes, with an amendment restoring the term "university-affiliated facilities" in place of "university-affiliated programs", restoring their primary functions by deleting specification of technical assistance and the conduct of service-related research as basic functions, and making other minor changes.

Satellite Centers

House amendment

The House amendment deleted any specific reference to satellite centers and substitutes a description of their role, i.e., promotion of services to developmentally disabled persons in geographical areas where adequate services are not available.

Senate amendment

No provision. The Senate amendment left current law relating to satellite centers intact.

Conference agreement

The House recedes, with an amendment clarifying the definition of a satellite center

to emphasize the mission of providing services to developmentally disabled persons in geographical areas where adequate services are not available. The conferees note that although the agreement provides that university-affiliated facilities may continue to apply for funding to conduct feasibility studies for satellite centers, the conferees expect that priority would be given to funding satellite centers which have been determined to be feasible before further feasibility studies are carried out. Further, it is intended that once a satellite center has been demonstrated to be feasible through a feasibility study, even if funding for its development and operation does not immediately ensue, an additional feasibility study would not generally be required, except in highly unusual circumstances where over three years had passed since the feasibility study was done or major changes had occurred in the area.

Standards for University-Affiliated Facilities

House amendment

The House amendment provided that the Secretary shall establish standards for university-affiliated facilities within six months after enactment of this Act, and that in order to receive funding a university-affiliated facility must either be in compliance with the standards established or be making substantial progress toward complying with the standards and be able to achieve full compliance within three years of the date its initial application is approved or the standards are promulgated, whichever is later.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

Authorization Levels and Minimum Grant for University-Affiliated Facilities

House amendment

The House amendment authorized $15 million for FY 1979, $18 million for FY 1980, and $21 million for FY 1981 for university-affiliated facilities. It further provided that of the amounts appropriated, not less than $9 million in FY 1979, $10 million in FY 1980, and $11 million in FY 1981 is to be made available to qualified applicants which received grants under section 121(a) during FY 1978, for the purposes of carrying out the functions specified in the definition of university-affiliated facilities. A minimum grant of $150,000 was established for this purpose.

Senate amendment

The Senate amendment authorized $8 million in FY 1979, $10 million in FY 1980, and $12 million in FY 1981 for university-affiliated facilities.

Conference agreement

The Senate recedes, with an amendment which (a) authorizes $12 million in FY 1979, $14 million in FY 1980, and $16 million in FY 1981 for university-affiliated facilities, (b) includes funding for satellite centers which received a grant in FY 1978 within the reserved funds of $9 million, $10 million, and $11 million set aside in the House amendment for fiscal years 1979, 1980, and 1981, respectively, and (c) establishes a minimum grant of $75,000 for existing satellite centers.

The conferees emphasize that although the minimum grant concept for university-affiliated programs is retained, it is not intended that this be a guarantee of a $150,000 grant for each of the next three fiscal years for all applicants funded in or prior to FY 1978. The conferees expect that only facilities which can document substantial progress each year toward meeting the standards established by the Secretary, so that there is clear evidence the facility can reasonably be expected to be in full compliance with the standards by the three-year deadline, should be funded; further, each facility should be required to meet the standards at the earliest possible date it can do so; the three year deadline is not meant to excuse facilities from progressing as rapidly as is feasible. Additionally, it is not the intention of the conferees that grants to UEF's which currently exceed $150,000 be reduced to provide funds to meet the minimum grant for other institutions; sufficient funds have been authorized so that this should not occur.

Evaluation System

House amendment

The House amendment provided that the Secretary must develop a comprehensive system for evaluation of services provided to persons with developmental disabilities through programs assisted under this Title not later than October 1, 1979, that a State must have a time-phased plan for implementation of the evaluation system by October 1, 1980, and must have the plan in place by October 1, 1982.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

Contract Authority for Special Projects

House amendment

The House amendment added contract authority to the Secretary's existing authority to use grants for special projects.

Senate amendment

No provision.

Conference agreement

The House recedes.

Additional Special Project Authority

House amendment

The House amendment provided the Secretary authority to fund special projects for determining the service needs of persons who have mental or physical impairments manifest before age 22 requiring specialized services who are not developmentally disabled as defined by this Act.

Senate amendment

The Senate amendment provided the Secretary authority to fund special projects to develop or demonstrate innovative methods to attract and retain professionals to serve in rural areas in the habilitation of persons with developmental disabilities.

Conference agreement

The House recedes. The special project authority provided in the House amendment is not necessary since the functional definition of a developmental disability has been adopted.

Authorizations for Special Projects

House amendment

The House amendment authorized $25 million in FY 1979, $28 million in FY 1980, and $31 million in FY 1981 for contracts and grants for special projects.

Senate amendment

The Senate amendment authorized $20 million for FY 1979, $22 million for FY 1980, and $26 million for FY 1981 for grants for special projects.

Conference agreement

The House recedes.

For consideration of titles I through IV of the House amendments to the Senate amendments only:

CARL D. PERKINS,
JOHN BRADEMAS,
EDWARD P. BEARD,
GEORGE MILLER,
DALE E. KILDEE,
CEC HEFTEL,
AUGUSTUS F. HAWKINS,
MARIO BIAGGI,
ALBERT H. QUIE,
JAMES E. JEFFORDS,
JOHN N. ERLENBORN,

For consideration of title V of the House amendments to the Senate amendments only:

HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID E. SATTERFIELD,
RICHARDSON PREYER,
JAMES H. SCHEUER,
HENRY A. WAXMAN,
JAMES J. FLORIO,
TIM LEE CARTER,
JIM BROYHILL,
EDWARD MADIGAN,

Managers on the Part of the House.

JENNINGS RANDOLPH,
HARRISON A. WILLIAMS,
TOM EAGLETON,
EDWARD KENNEDY,
ALAN CRANSTON,
WILLIAM D. HATHAWAY,
JACOB JAVITS,
ROBERT T. STAFFORD,
ORRIN G. HATCH,
RICHARD S. SCHWEICKER,

Managers on the Part of the Senate.

REORGANIZATION PLAN NO. 4 (ERISA ADMINISTRATION)

Mr. BROOKS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the resolution (H. Res. 1308) to disapprove Reorganization Plan No. 4 transmitted by the President on August 10, 1978.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 1308

Resolved, That the House of Representatives does not favor Reorganization Plan Numbered 4 transmitted to the Congress by the President on August 10, 1978.

The SPEAKER. The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1308 is a resolution to disapprove Reorganization Plan No. 4 of 1978. This resolution, as in previous cases is introduced under the Reorganization Act to give Congress an opportunity to vote on all reorganization plans submitted by the President. Reorganization Plan No. 4 was considered carefully by the Committee on Government Operations and our recommendation is that the House vote down House Resolution 1308 and permit Reorganization Plan No. 4 to go into effect.

The reorganization plan will remedy administrative problems created under the Employee Retirement Income Security Act of 1974 (ERISA) which resulted from the dual jurisdiction given by that

act to the Treasury Department and the Labor Department. The plan will eliminate most of the duplications by making transfers of functions between the two Departments. It would give statutory authority for minimum standards and the responsibility for funding participation and vesting of benefit rights to the Treasury Department. The Labor Department will have authority over fiduciary obligations and have the oversight of fiduciary conduct.

The plan caused some difficulties for the Ways and Means Committee because it gave the Secretary of Labor the right to veto a revocation of tax exemption for a pension plan, thereby bringing an additional Government agency into the making of tax decisions. This problem has been worked out with the administration and Representative JAKE PICKLE, who brought it to our attention, has received a letter from OMB Director Jim McIntyre which he and other members of Ways and Means consider a satisfactory resolution of that problem. This correspondence has been included in our report.

Another problem was caused by the date incorporated in the plan of April 30, 1980, by which time the President will submit to Congress legislative recommendations on long-term revisions of ERISA administration. Some of us felt that this would leave insufficient time for Congress to act during that year. Accordingly, the administration agreed to change that date to January 31, 1980, and has sent up an amendment to this effect which has been incorporated into the plan.

It is our opinion that the reorganization is a major improvement and will be beneficial to Government, business, and to the millions of participants in pension plans who look to ERISA for security. The administration of ERISA provided for will serve adequately until Congress makes permanent changes in the implementation of that important act.

I recommend a "no" vote on the resolution.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to the distinguished gentleman from New York.

Mr. HORTON. Mr. Speaker, the President's fourth reorganization plan of 1978 is a disappointment in many ways, but at least it takes a small step forward in the battle to remedy the administrative problems created by the Employee Retirement Income Security Act of 1974. My disappointment stems from the fact that this reorganization plan, like virtually every reorganization plan submitted during the 95th Congress, simply does not do much. It does not go far enough. So while this is a modest beginning, we should not lose sight of the problems that we must still solve if we ever are to reduce the bureaucratic confusion, jurisdictional overlap, excessive and unnecessary paperwork, and just plain abuse of the current system.

Every Member of this House knows that ERISA is a tough, complex issue and effective change will not be easy to accomplish. Nevertheless, I am committed to a comprehensive reorganization of ERISA, not just a modest beginning. So while I will support Reorganization Plan No. 4, it is not because I am happy or satisfied or even impressed with it. I support it simply because it is a step in the right direction.

Reorganization Plan No. 4 will transfer from the Labor Department to the Treasury Department most responsibilities for setting minimum standards for funding, participation, and vesting of benefits in private pension plans. The Labor Department, however, will retain some authority to disapprove certain minimum standards that substantially affect collectively bargained plans.

The plan transfers to Labor the responsibility for fiduciary or trust standards and prohibited transactions, which guard against conflicts of interest and regulate the granting of exemptions from prohibited transactions. It retains the current enforcement responsibilities of both Labor and Treasury.

The plan also provides that the Office of Management and Budget and the Departments of Labor and Treasury will jointly evaluate the extent to which the plan alleviates the problems in administering ERISA. It stipulates that the President will, by January of 1980, submit to the Congress the results of the evaluation and make specific legislative recommendations for a long-term administrative structure under ERISA. In other words, Reorganization Plan No. 4, by the administration's own admission and design, is simply an interim, short-term attack at ERISA's many problems.

Mr. Speaker, because I feel that even a small step is better than none at all, I support Reorganization Plan No. 4 and I urge my colleagues to support it by rejecting House Resolution 1308.

Mr. ERLENBORN. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to the distinguished gentleman from Illinois.

Mr. ERLENBORN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to the resolution of disapproval.

This reorganization plan will put in place a reorganization of the administration of ERISA. It has the support of all the members of our committee, I believe. It is only, I think, a temporary and a partial solution; but within the plan is the promise of this administration that they will come up in January of 1980 with recommendations for a final legislative resolution of the administrative problems of ERISA.

Mr. Speaker, because of that, I support the plan and ask for a vote against the resolution of disapproval.

Mr. BROOKS. Mr. Speaker, I move the previous question on the resolution of disapproval.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The resolution was rejected.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the disapproval resolution just considered.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

SHIPPING ACT AMENDMENTS OF 1978

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 9518) to amend the Shipping Act, 1916 to strengthen the provisions prohibiting rebating practices in the U.S. foreign trades, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Shipping Act Amendments of 1978".

SEC. 2. Section 16 of the Shipping Act, 1916 is amended, by striking "$5,000" in the sixth paragraph, and inserting, in lieu thereof, "$25,000".

SEC. 3. Section 18(b) of the Shipping Act, 1916 is amended by deleting subsection (6) thereof and by adding the following new language in lieu thereof:

"(6) Whoever violates any provision of this section, other than subsection (b)(3) hereof involving rebates or refunds shall be subject to a civil penalty of not more than $5,000 for each day such violation continues.

"(7) Whoever violates subsection (b)(3) hereof by means of rebates or refunds, shall be subject to a civil penalty of not more than $25,000 for each shipment on which a rebate or refund was paid and to suspension by the Commission of any or all tariffs filed by or on behalf of such carrier, or suspension of that carrier's right to utilize any or all tariffs of conferences of which that carrier may be a member, for a period not to exceed twelve months. Any carrier whose tariffs or rights of use thereof have been suspended pursuant to this paragraph and who accepts cargo for carriage during the suspension period which cargo otherwise would have been governed by the provisions of the suspended tariff(s) shall be subject to a civil penalty of not more than $50,000 for each shipment so accepted.

"For purposes of this subsection and section 22(c) of this Act, a shipment shall mean all of that cargo, the carriage of which is evidenced by a single bill of lading.".

SEC. 4. Section 21 of the Shipping Act, 1916 is amended by designating the existing two paragraphs as subsection "(a)" and by adding a new subsection (b) as follows:

"(b) The Commission shall require the chief executive officer of every vessel operating common carrier by water in foreign commerce and to the extent it deems feasible, may require any shipper, consignor, consignee, forwarder, broker, other carrier or other person subject to this Act, to file a periodic, written certification under oath with the Commission attesting to—

"(1) a policy prohibiting the payment, solicitation, or receipt of any rebate which is unlawful under the provisions of this Act;

"(2) the fact that such policy has been promulgated recently to each owner, officer, employee, and agent thereof;

"(3) the details of the efforts made, within the company or otherwise, to prevent or correct illegal rebating; and

"(4) full cooperation with the Commission in its investigation of illegal rebating or refunds in United States foreign trades, and in its efforts to end such illegal practices.

The Commission may by regulation prescribe the form and content of any certification required under the authority of this subsection. Failure to file any such certification shall result in a civil penalty of not more than $5,000 for each day such violation continues.".

SEC. 5. Section 22 of the Shipping Act, 1916 is amended as follows:

(a) designate the two existing paragraphs as "(a)" and "(b)", respectively;

(b) amend subsection (b), as designated by this Act, by deleting therefrom the phrase "except as to orders for the payment of money,"; and

(c) immediately after subsection (b), as designated by this Act, insert the following:

"(c)(1) In addition to, and without limiting the authority granted to the Commission by subsections (a) and (b) hereof, the Commission may, on its own motion, institute an adjudicatory investigation into possible violations of section 16 (other than paragraphs First and Third) involving rebates or refunds in foreign commerce or violations of section 18(b)(3) involving rebates or refunds, with the powers set forth in subsection (c)(2) hereof in addition to those already contained in sections 27, 43, and other sections of this Act.

"(2) Failure on the part of any person, respondent to a proceeding instituted pursuant to subsection (c)(1), or any other person directly or indirectly controlling, controlled by, or under common control with such respondent, to comply with any subpena or any duly issued order compelling an answer to interrogatories or to designated questions propounded by deposition or compelling production of documents in relation to any investigation conducted under subsection (c)(1), shall authorize the Commission to issue an order to show cause why any or all tariffs filed pursuant to section 18(b) of this Act, by or on behalf of a respondent carrier, or any or all rights of a respondent carrier to utilize such tariffs in the case of conference tariffs, should not be suspended until that carrier or any person directly or indirectly controlling, controlled by, or under common control with such carrier, has fully responded to the pertinent deposition, interrogatory, production request or motion, or subpena, and after such proceeding, and after consultation with the Secretary of State, to suspend those tariffs or the respondent carrier's right to utilize such tariffs. Any carrier whose tariff(s) or rights of use thereof have been suspended pursuant to this subparagraph and who accepts cargo for carriage during the suspension period which cargo otherwise would have been governed by the provisions of the suspended tariff(s) shall be subject to a civil penalty of not more than $50,000 for each shipment so accepted.

"(3) The Secretary of State shall take appropriate steps to negotiate a regime of cooperation with other maritime nations engaged in United States foreign trades to secure compliance with the Commission's requirements for information. He shall issue a report to the President and the Congress within one hundred and eighty days after enactment of this Act on the results of those negotiations. If the President deems that the steps taken provide saisfacory Commission access to such information, he shall so certify to the Congress within thirty days after receipt of the Secretary's report. If such certification is not made, the penalties prescribed in paragraph (c)(2) for failure to comply with information requests shall be mandatory.

"(4) Before any tariff suspension ordered pursuant to paragraph (c)(2) becomes effective, it shall be immediately submitted to the President who may, within ten days after receiving it, disapprove any such order if he finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.".

SEC. 6. Section 23 of the Shipping Act, 1916 is amended by deleting therefrom the language ", other than for the payment of money,".

SEC. 7. Section 27 of the Shipping Act, 1916 is amended by deleting from subsection (b) thereof the phrase "other than for the payment of money".

SEC. 8. Section 29 of the Shipping Act, 1916 is amended by deleting therefrom the phrase "other than an order for the payment of money,".

SEC. 9. Section 30 of the Shipping Act, 1916 is amended in the initial and final paragraphs thereof by deleting the phrase "for the payment of money" and by inserting, in lieu thereof, the phrase "for the payment of reparation".

SEC. 10. Section 32 of the Shipping Act, 1916 is amended by inserting at the end thereof the following new subsections:

"(d) No penalty shall be imposed on any person for conspiracy after August 29, 1972: (1) to rebate or refund in violation of the initial paragraph or paragraph Second of section 16, or under section 18(b)(3) of this Act; or (2) to defraud the Commission by concealment of such rebates or refunds in any manner.

"(e) Notwithstanding any other provision of law, the Commission shall have authority to assess or compromise all civil penalties provided in this Act: *Provided, however,* That, in order to assess such penalties a formal proceeding under section 22 of this Act shall be commenced within five years from the date when the violation occurred.".

SEC. 11. The provisions of this Act, including the amendments made by this Act, shall become effective immediately upon its date of enactment.

Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent to dispense with the reading of the Senate amendment and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. RUPPE. Mr. Speaker, reserving the right to object, does the bill contain the language by the House?

Mr. MURPHY of New York. Mr. Speaker, if the gentleman will yield, it is identical to the House language.

Mr. RUPPE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York (Mr. MURPHY) to dispense with reading the Senate amendments?

There was no objection.

Mr. MURPHY of New York. Mr. Speaker, this bill passed the House on March 22, 1978, by a vote of 390 to 1.

When the Senate took up this bill on the Senate floor, an amendment was proposed which was amended by substituting the House language as originally passed. Therefore, the bill which we now have before us, technically amended, is the House bill.

The Senate amendments also contain an amended title which was inadvertently included in the bill and should not have been contained in it. The correct title should read:

A bill to amend the Shipping Act, 1916 to strengthen the provisions prohibiting rebating practices in the United States foreign trades.

We are accepting the Senate amended title only because of the lateness of the session and our concern with insuring passage of this much-needed legislation.

This bill for the first time provides for equality of treatment of foreign-flag carriers and U.S. carriers on the high seas. It will assist the Federal Maritime Commission in carrying out its statutory responsibility to prevent discrimination in our foreign commerce through illegal rebating.

The SPEAKER. Is there objection to the initial request of the gentleman from New York (Mr. MURPHY)?

There was no objection.

A motion to reconsider was laid on the table.

INTERNATIONAL MARITIME SATELLITE TELECOMMUNICATIONS ACT

Mr. VAN DEERLIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11209) to provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services with a Senate amendment thereto, recede from disagreement to the Senate amendment, and concur therein with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "International Maritime Satellite Telecommunications Act".

SEC. 2. The Communications Act of 1934, as amended (47 U.S.C. 151 et seq.), is further amended by adding at the end thereof the following new title:

"TITLE VII—INTERNATIONAL MARITIME SATELLITE TELECOMMUNICATIONS

"DECLARATION OF POLICY AND PURPOSE

"SEC. 701. (a) The Congress hereby declares that it is the policy of the United States to provide for the participation of the United States in an organization which is established or empowered to develop and operate an international maritime satellite telecommunications system (hereinafter in this title referred to as 'the organization'). Such participation shall be in either the International Maritime Satellite Organizatiton or another international maritime satellite telecommunications organization. Such system shall have facilities and services which will serve maritime commercial and safety needs of the United States and foreign countries.

"(b) It is the purpose of this title to provide that the participation of the United States in the organization specified in subsection (a) of this section shall be through the Communications Satellite Corporation, which constitutes a private entity operating for profit, and which is not an agency or establishment of the Federal Government.

"DEFINITIONS

"SEC. 702. For purposes of this title—

"(1) the term 'common carrier' has the meaning given it in section 3(h) of this Act;

"(2) the term 'corporation' means the Communications Satellite Corporation incorporated on February 1, 1963, under section 301 of the Communications Satellite Act of 1962;

"(3) the term 'satellite earth terminal station' means a complex of communications equipment located on land, operationally interconnected with one or more terrestrial communications systems, and capable of transmitting telecommunications to, or receiving telecommunications from, the space segment;

"(4) the term 'space segment' means any satellite or capacity on a satellite maintained under the authority of the organization, for the purpose of providing international maritime telecommunications services and the tracking, telemetry, command, control, monitoring, and related facilities and equipment required to support the operation of such satellite or capacity;

"(5) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and

"(6) the term 'person' includes an individual, partnership, association, joint stock company, trust, or corporation.

"DESIGNATED OPERATING ENTITY

"SEC. 703. (a)(1) The Communications Satellite Corporation is hereby designated as the sole operating entity of the United States for participation, for the purpose of providing international maritime satellite telecommunications services, in the organization.

"(2) The corporation may participate in and is hereby authorized to sign the operating agreement or other like instruments of the organization as the sole designated operating entity of the United States.

"(b) The corporation—

"(1) subject to the provisions of subsection (d) of this section, shall be the sole owner and operator of any satellite earth terminal station in the United States; and

"(B) shall interconnect such stations, and the maritime satellite telecommunications provided by such stations, with the facilities and services of United States domestic common carriers and international common carriers, other than any common carrier, system, or other entity in which the corporation has any ownership interest, as authorized by the Commission; and

"(2) may establish, own, and operate the United States share of the jointly owned international space segment and associated ancillary facilities.

"(C) The corporation shall be responsible for fulfilling any financial obligation placed upon the corporation as a signatory to the operating agreement or other pertinent instruments, and any other financial obligation which may be placed upon the corporation as the result of a convention or other instrument establishing the organization. The corporation shall be the sole United States representative in the managing body of the organization.

"(d) Any person, including the United States Government or any agency thereof, may be authorized, in accordance with paragraph (1) or (2) of this subsection, to be the sole owner or operator, or both, of any satellite earth terminal station if such station is used for the exclusive purposes of training personnel in the use of equipment associated with the operation and maintenance of such station, or in carrying out experimentation relating to maritime satellite telecommunications services: Provided, That—

"(1) if such person is the United States Government or any agency thereof, such satellite earth terminal station shall have been authorized to operate by the executive department charged with such responsibility; or

"(2) in all other cases, such satellite earth terminal station shall have been authorized by the Commission.

"(e) The Commission shall determine the operational arrangements under which the corporation shall interconnect its satellite earth terminal station facilities and services with United States domestic common carriers and international common carriers, other than any common carrier, system, or other entity in which the corporation has any ownership interest, for the purpose of extending maritime satellite telecommunications services within the United States and beyond. The initial determination shall be made by the Commission no later than 6 months after the date of the enactment of this title, and the Commission shall thereupon transmit to the Congress a report relating to such determination.

"(f) Notwithstanding any provision of State law, the articles of incorporation of the corporation shall provide for the continued ability of the board of directors of the corporation to transact business under such circumstances of national emergency as the President or his delegate may determine would not permit a prompt meeting of the number of directors otherwise required to transact business.

"IMPLEMENTATION OF POLICY

"SEC. 704. (a) The Secretary of Commerce shall—

"(1) exercise such supervision over the corporation as may be necessary to insure that the activities of the corporation are consistent with the national interest of the United States;

"(2) coordinate the activities of Federal agencies with responsibilities in the field of telecommunications (other than the Commission), so as to ensure that there is full and effective compliance with the provisions of this title;

"(3) take all necessary steps to ensure the availability and appropriate utilization of the telecommunications services provided by the organization for general governmental purposes, except in any case in which a separate telecommunications system is required to meet unique governmental needs or is otherwise required in the national interest; and

"(4) exercise his authority in a manner which seeks to obtain coordinated and efficient use of the electromagnetic spectrum and orbital space, and to ensure the technical compatibility of the space segment with existing communications facilities in the United States and in foreign countries.

"(b) The President is authorized to issue instructions to the corporation in connection with its relationships and activities with foreign governments and international entities and other organizations (including the organization) as may be necessary to ensure that such relationships and activities are consistent with the foreign policy of the United States.

"(c) The Commission shall—

"(1) institute such proceedings as may be necessary to carry out the provisions of sections 703(b) and 703(e) of this title;

"(2) make recommendations to—

"(A) the Secretary of Commerce, for the purpose of assisting the Secretary in supervising the corporation pursuant to subsection (a)(1) of this section; and

"(B) the President, to assist the President in his issuance of instructions to the corporation pursuant to subsection (b) of this section;

"(3) grant such authorizations as may be necessary under title II and title III of this Act to enable the corporation—

"(A) to provide to the public, pursuant to section 703(b)(1)(B) of this title, space segment channels of communication obtained from the organization; and

"(B) to construct and operate such satellite earth terminal stations in the United States as may be necessary to provide sufficient access to the space segment;

"(4) establish procedures to provide for the continuing review of the telecommunications activities of the corporation as the United States signatory to the operating agreement to other like instruments; and

"(5) prescribe such rules as may be necessary to carry out the provisions of this title.

"(d) The Commission is authorized to issue such instructions to the corporation with respect to regulatory matters within the jurisdiction of the Commission.

"STUDY OF STRUCTURE AND ACTIVITIES OF COMMUNICATIONS SATELLITE CORPORATION

"SEC. 705. (a) The Commission shall conduct a study of the corporate structure and operating activities of the corporation, with a view toward determining whether any changes are required to ensure that the corporation is able to fulfill its obligations and carry out its functions under this title, this Act, and the Communications Act of 1962.

"(b) The Commission shall transmit a report to the Congress no later than 12 months after the date of the enactment of this title relating to the study of the corporation conducted under subsection (a) of this section. Such report shall contain a detailed statement of the findings and conclusions of such study, any action taken by the Commission related to such findings and conclusions, and any recommendations of the Commission for such legislative or other action as the Commission considers necessary or appropriate.

"STUDY OF PUBLIC MARITIME COAST STATION SERVICES

"SEC. 706. (a) The Commission shall conduct a study of public maritime coast station services, as that term is defined in 47 CFR Part 81, with particular emphasis on high seas services, with a view toward determining whether the rules and regulations of the Commission and the assignment of licenses and radio frequencies in effect on the date of the enactment of this title should be subject to any alteration in order to establish a systematic approach for the provision of modern and effective maritime telecommunications systems.

"(b) The Commission shall transmit a report to the Congress no later than 18 months after the date of the enactment of this title relating to the study of public maritime coast station services conducted under subsection (a) of this section. Such report shall contain a detailed statement of the findings and conclusions of such study, any action taken by the Commission related to such findings and conclusions, and any recommendations of the Commission for such legislative or other action as the Commission considers necessary or appropriate.

"STUDY OF RADIO NAVIGATION SYSTEMS

"SEC. 707. (a) The President, in conjunction with Government agencies which will or may be affected by the development of a Government-wide radio navigation plan, shall conduct a study of all Government radio navigation systems to determine the most effective manner of reducing the proliferation and overlap of such systems. The objective of such study shall be the development of such a plan.

"(b) The President shall transmit a report to the Congress no later than 12 months after the date of the enactment of this title relating to the study conducted under subsection (a) of this section. Such report shall contain a detailed statement of the findings and conclusions of such study, any action taken by the President related to such findings and conclusions, and any recommendations of the President for such legislative or other action as the President

considers necessary or appropriate for implementation of a Government-wide radio navigation plan.".

The Clerk read the House amendment to the Senate amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That the Communications Satellite Act of 1962 is amended by adding at the end thereof the following new title:

"TITLE V—INTERNATIONAL MARITIME SATELLITE TELECOMMUNICATIONS

"SHORT TITLE

"SEC. 501. This title may be cited as the 'International Maritime Satellite Telecommunications Act'.

"DECLARATION OF POLICY AND PURPOSE

"SEC. 502. (a) The Congress hereby declares that it is the policy of the United States to provide for the participation of the United States in the International Maritime Satellite Organization (hereinafter in this title referred to as 'INMARSAT') in order to develop and operate a global maritime satellite telecommunications system. Such system shall have facilities and services which will serve maritime commercial and safety needs of the United States and foreign countries.

"(b) It is the purpose of this title to provide that the participation of the United States in INMARSAT shall be through the Communications Satellite Corporation, which constitutes a private entity operating for profit, and which is not an agency or establishment of the Federal Government.

"DESIGNATED OPERATING ENTITY

"SEC. 503. (a)(1) The Communications Satellite Corporation is hereby designated as the sole operating entity of the United States for participation in INMARSAT, for the purpose of providing international maritime satellite telecommunications services.

"(2) The corporation also shall have authority to participate in any other maritime satellite telecommunications system on an interim basis to serve the maritime commercial and safety needs of the United States through an interim operating arrangement in accordance with subsection (b).

"(3) The corporation may participate in and is hereby authorized to sign the operating agreement or other pertinent instruments of INMARSAT as the sole designated operating entity of the United States.

"(b)(1) The corporation may participate in any maritime satellite telecommunications system under subsection (a)(2) only if—

"(A) the corporation signs the operating agreement of INMARSAT before beginning such participation;

"(B) such participation is in the nature of an interim operating arrangement remaining in effect only until INMARSAT begins its operations; and

"(C)(i) in the case of participation which may be undertaken only pursuant to a treaty or executive agreement, such treaty or executive agreement is in effect; or

"(ii) in any case in which participation does not require any treaty or executive agreement, the President does not disapprove such participation during the period of 60 calendar days after the corporation notifies the President of such proposed participation.

"(2) If the corporation participates in an interim operating arrangement with a maritime satellite telecommunications system under this subsection, the provisions of this title relating to participation of the corporation in INMARSAT also shall apply to such interim participation.

"(3) Any disapproval by the President under paragraph (1)(C)(ii) shall be published in the Federal Register as soon as practicable after the date of such disapproval.

"(c) The corporation—

"(1) may own and operate satellite earth terminal stations in the United States;

"(2) shall interconnect such stations, and the maritime satellite telecommunications provided by such stations, with the facilities and services of United States domestic common carriers and international common carriers, other than any common carrier or other entity in which the corporation has any ownership interest, as authorized by the Commission;

"(3) shall interconnect such stations and the maritime satellite telecommunications provided by such stations, with the facilities and services of private communications systems, unless the Commission finds that such interconnection will not serve the public interest; and

"(4) may establish, own, and operate the United States share of the jointly owned international space segment and associated ancillary facilities.

"(d) The corporation shall be responsible for fulfilling any financial obligation placed upon the corporation as a signatory to the operating agreement or other pertinent instruments, and any other financial obligation which may be placed upon the corporation as the result of a convention or other instrument establishing INMARSAT. The corporation shall be the sole United States representative in the managing body of INMARSAT.

"(e)(1) Any person, including the Federal Government or any agency thereof, may be authorized, in accordance with paragraph (2) or paragraph (3), to be the sole owner or operator, or both, of any satellite earth terminal station if such station is used for the exclusive purposes of training personnel in the use of equipment associated with the operation and maintenance of such station, or in carrying out experimentation relating to maritime satellite telecommunications services.

"(2) If the person referred to in paragraph (1) is the Federal Government or any agency thereof, such satellite earth terminal station shall have been authorized to operate by the executive department charged with such responsibility.

"(3) In any other case, such satellite earth terminal station shall have been authorized by the Commission.

"(f) The Commission may authorize ownership of satellite earth terminal stations by persons other than the corporation at any time the Commission determines that such additional ownership will enhance the provision of maritime satellite services in the public interest.

"(g) The Commission shall determine the operational arrangements under which the corporation shall interconnect its satellite earth terminal station facilities and services with United States domestic common carriers and international common carriers, other than any common carrier, system, or other entity in which the corporation has any ownership interest, and private communications systems when authorized pursuant to subsection (c)(3) for the purpose of extending maritime satellite telecommunications services within the United States and in other areas. The initial determination of operational arrangements shall be made by the Commission no later than 6 months after the effective date of this title, and the Commission shall thereupon transmit to the Congress a report relating to such determination.

"(h) Notwithstanding any provision of State law, the articles of incorporation of the corporation shall provide for the continued ability of the board of directors of the corporation to transact business under such circumstances of national emergency as the President or his delegate may determine would not permit a prompt meeting of the number of directors otherwise required to transact business.

"IMPLEMENTATION OF POLICY

"SEC. 504. (a) The Secretary of Commerce shall—

"(1) coordinate the activities of Federal agencies with responsibilities in the field of telecommunications (other than the Commission), so as to ensure that there is full and effective compliance with the provisions of this title;

"(2) take all necessary steps to ensure the availability and appropriate utilization of the maritime satellite telecommunications services provided by INMARSAT for general governmental purposes, except in any case in which a separate telecommunications system is required to meet unique governmental needs or is otherwise required in the national interest;

"(3) exercise his authority in a manner which seeks to obtain coordinated and efficient use of the electromagnetic spectrum and orbital space, and to ensure the technical compatibility of the space segment with existing communications facilities in the United States and in foreign countries; and

"(4) take all necessary steps to determine the interests and needs of the ultimate users of the maritime satellite telecommunications system and to communicate the views of the Federal Government on utilization and user needs to INMARSAT.

"(b) The President shall exercise such supervision over, and issue such instructions to, the corporation in connection with its relationships and activities with foreign governments, international entities, and INMARSAT as may be necessary to ensure that such relationships and activities are consistent with the national interest and foreign policy of the United States.

"(c) The Commission shall—

"(1) institute such proceedings as may be necessary to carry out the provisions of section 503 of this title;

"(2) make recommendations to the President for the purpose of assisting him in his issuance of instructions to the corporation;

"(3) grant such authorizations as may be necessary under title II and title III of the Communications Act of 1934 to enable the corporation—

"(A) to provide to the public, in accordance with section 503(c)(2) of this title, space segment channels of communication obtained from INMARSAT; and

"(B) to construct and operate such satellite earth terminal stations in the United States as may be necessary to provide sufficient access to the space segment;

"(4) grant such other authorizations as may be necessary under title II and title III of the Communications Act of 1934 to carry out the provisions of this title;

"(5) establish procedures to provide for the continuing review of the telecommunications activities of the corporation as the United States signatory to the operating agreement or other pertinent instruments; and

"(6) prescribe such rules as may be necessary to carry out the provisions of this title.

"(d) The Commission is authorized to issue instructions to the corporation with respect to regulatory matters within the jurisdiction of the Commission. In the event an instruction of the Commission conflicts with an instruction of the President pursuant to subsection (b), the instructions issued by the President shall prevail.

"STUDY OF STRUCTURE AND ACTIVITIES OF COMMUNICATIONS SATELLITE CORPORATION

"SEC. 505. (a) The Commission shall conduct a study of the corporate structure and operating activities of the corporation, with a view toward determining whether any changes are required to ensure that the corporation is able to effectively fulfill its obligations and carry out its functions under this Act and the Communications Act of 1934.

"(b) The Commission shall transmit a report to the Congress not later than 18 months after the effective date of this title relating to the study of the corporation conducted under subsection (a). Such report shall contain a detailed statement of the findings and conclusions of such study, any action taken by the Commission related to such findings and conclusions, and any recommendations of the Commission for such legislative or other action as the Commission considers necessary or appropriate.

"STUDY OF PUBLIC MARITIME COAST STATION SERVICES

"SEC. 506. (a) The Commission shall conduct a study of public maritime coast station services, with particular emphasis on high seas services, with a view toward determining whether the rules and regulations of the Commission and the assignment of licenses and radio frequencies in effect on the effective date of this title should be subject to any alteration in order to establish a systematic approach for the provision of modern and effective maritime telecommunications systems.

"(b) The Commission shall transmit a report to the Congress not later than 12 months after the effective date of this title relating to the study of public maritime coast station services conducted under subsection (a). Such report shall contain a detailed statement of the findings and conclusions of such study, any action taken by the Commission related to such findings and conclusions, and any recommendations of the Commission for such legislative or other action as the Commission considers necessary or appropriate.

"STUDY OF RADIO NAVIGATION SYSTEMS

"SEC. 507. (a) The President, in conjunction with Government agencies which will or may be affected by the development of a Government-wide radio navigation plan, shall conduct a study of all Government radio navigation systems to determine the most effective manner of reducing the proliferation and overlap of such systems. The objective of such study shall be the development of such a plan.

"(b) The President shall transmit a report to the Congress no later than 12 months after the effective date of this title relating to the study conducted under subsection (a) of his section. Such report shall contain a detailed statement of the findings and conclusions of such study, any action taken by the President related to such findings and conclusions, and any recommendations of the President for such legislation or other action as the President considers necessary or appropriate for implementation of a Government-wide radio navigation plan.

"DEFINITIONS

"SEC. 508. For purposes of this title—

"(1) the term 'person' includes an individual, partnership, association, joint stock company, trust, or corporation;

"(2) the term 'satellite earth terminal station' means a complex of communications equipment located on land, operationally interconnected with one or more terrestrial communications systems, and capable of transmitting telecommunications to, or receiving telecommunications from, the space segment;

"(3) the term 'space segment' means any satellite (or capacity on a satellite) maintained under the * * *

Mr. VAN DEERLIN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment and the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, could the gentleman from California (Mr. VAN DEERLIN) assure us that as far as this entire transaction is involved, there are no nongermane amendments?

Mr. VAN DEERLIN. Mr. Speaker, if the gentleman will yield, I can assure the gentleman there are none, and the chairman of the Committee on Merchant Marine and Fisheries is here to make the same assurance, as will the minority members of both committees on the gentleman's side.

Mr. BAUMAN. Mr. Speaker, I am triply assured, and I appreciate the gentleman's response.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. VAN DEERLIN. Mr. Speaker, H.R. 11209, the International Maritime Satellite Telecommunications Act, is a bill which provides for the establishment, ownership, operation, and Government oversight and regulation of international maritime satellite telecommunications services for the United States.

This bill was originally introduced on February 28, 1978, and passed the House on May 15, 1978, by a unanimous vote. We have before us today an amendment to the Senate amendment to the House bill, which reflects months of negotiations between the House and Senate. This proposed amendment is a compromise which preserves most of the concepts contained in the original House bill:

First. Interconnection. Section 503(c)(3) preserves the right of private communications systems; that is, noncommon carrier systems—to interconnect with the satellite Earth terminal stations and the maritime satellite telecommunications provided by such stations.

The proposed compromise amendment language avoids an approach taken by the Senate which was a major concern of the Department of Justice which was expressed to the Committee on Interstate and Foreign Commerce on July 14, 1978. The Department was concerned "that users be afforded some right to access the system directly" as opposed to requiring "users to contract for satellite service through one of the * * * carriers. * * * The threat that customers may switch their business to other suppliers, or vertically integrate to satisfy their individual requirement, ordinarily has a beneficial restraining influence on the prices their suppliers charge, and can also spur suppliers to providing service more responsively."

The language in the proposed amendment preserves this right for the users which was originally proposed by the House.

Second. Satellite Earth stations. Section 503(f) authorizes international common carriers, domestic common carriers, and private communications systems (in addition to Comsat) to own all or any portion of satellite Earth terminal stations if such ownership will enhance the provision of maritime satellite services in the public interest. It is expected that the Federal Communications Commission would not authorize any construction, ownership, and operation of a satellite Earth terminal station by any applicant, including Comsat, if such authorization would not enhance the provision of maritime satellite services.

The proposed compromise amendment continues to protect the concerns of the House and the Department of Justice that the legislation "imposes certain restrictions on Comsat as the designated Inmarsat participant regarding vertical integration into the ownership of Earth terminals and interconnection with commonly owned communications systems interfacing with the Inmarsat system."

The proposed language would allow the user to integrate his communications system into his ownership of satellite Earth terminal stations to satisfy the users' own individual requirements. The language allows other common carriers to own and construct satellite Earth terminal stations; it is expected that this provision will enable the non-COMSAT carriers to prevent COMSAT from monopolizing the ownership of such stations.

Third. Navigation study. The House agreed to the inclusion of the study in section 507 after the agreement of the Senate to recede from its request (Senate Report 95–1036, p. 17) that the study give "serious consideration" to encouraging INMARSAT "to meet commercial navigation and safety needs through the INMARSAT space segment." The House has found no basis whatsoever for such a recommendation. All responsible outside input to the House has indicated that such a navigation service would be a financial loss for INMARSAT.

Fourth. Interim system. Section 503(b) allows for COMSAT to participate in an interim maritime satellite telecommunications system to follow after its present MARISAT system and to proceed with the operations of INMARSAT. The proposed compromise amendment language allows for the President to disapprove such interim participation. While the House does not object to the rumored Hughes/Comsat hybrid system offering its service to INMARSAT, it hopes the President will prevent such a system from offering service in such a manner as to interfering with the creation and operation of INMARSAT.

I recommend that the Members of the House unanimously agree to this proposed compromise amendment and send this legislation to the Senate for their approval.

Mr. MURPHY of New York. Mr. Speaker, I rise in support of this legislation.

This bill is a compromise measure between the House and Senate passed bills. It is an amendment to the Senate amendment to the House bill. More importantly, H.R. 11209 does not require an authorization for an appropriation of U.S. funds.

The House bill, H.R. 11209, unanimously passed this body on May 15, 1978 by a vote of 350 to 0. The Senate passed the House bill on August 7, 1978 by a voice vote.

The legislation provides for the participation of the United States in the

International Maritime Satellite Organization (INMARSAT).

The purpose of the INMARSAT organization is to develop and operate a global satellite telecommunications system for the maritime community.

For more than 10 years the International Maritime Consultative Organization (IMCO), which is an agency of the United Nations, has been conducting meetings in an effort to improve maritime communications. After two drafts, a convention and operating agreement were completed and opened for signature on September 3, 1976. The convention provides that INMARSAT will be ratified 60 days after the documents have been signed by nations representing 95 percent of the investment shares in INMARSAT. The deadline for signature is July 3, 1979, or the INMARSAT documents would become null and void.

Mr. Speaker, this technology is the communication medium of the future for the maritime industry. Prior to the advent of satellite systems, communications techniques were limited to VHF, MF, and HF radio. Now, the problems of communicating with this conventional radio; namely, frequency congestion, blackouts, interference, and fading, will be relieved with the use of satellite systems. Moreover, satellites permit automatic operation round the clock.

With rapid and reliable communication at hand, health and safety of life at sea, efficient and economical management of ships, and maritime public correspondence services will be greatly improved. Not since the introduction of the Marconi wireless has the maritime community seen such a significant breakthrough in global telecommunications.

One aspect of the INMARSAT system that is of paramount concern to the Merchant Marine and Fisheries Committee is the promotion of maritime safety.

The capability for continuous worldwide ship-to-shore communication could revolutionize maritime search and rescue operations. Therefore, this committee is interested in the inclusion of a satellite distress relay function in the space segment of the INMARSAT system.

Presently, maritime voice and record communications service to the U.S. Navy and to commercial maritime users is provided through the MARISAT system. This is a system of three synchronous satellites, owned and operated as a joint venture by a consortium of four U.S. common carriers, and is the first application of satellite technology to maritime communications. Commercial voice and telex services began in the summer of 1976; there are currently over 100 shipboard terminals accessing the MARISAT system.

Briefly, this compromise bill, which preserves most of the concepts contained in the original House bill:

First. Declares that it is the intent of the Congress that the United States participate in INMARSAT through a private entity that operates for a profit, and is not an agency or establishment of the Federal Government;

Second. Designates the Communications Satellite Corporation (COMSAT) as the U.S. entity to provide maritime satellite telecommunications;

Third. States COMSAT may own and operate satellite Earth terminal stations. Persons other than COMSAT may own and operate satellite Earth terminal stations if the Federal Communications Commission determines that the ownership will enhance the provision of maritime satellite services in the public interest;

Fourth. Requires COMSAT to serve as a participating common carrier and connect its facilities with other domestic and international common carriers, or private communications systems unless the Federal Communications Commission finds that the interconnection will not serve the public interest;

Fifth. Authorizes the Secretary of Commerce to supervise the implementation of the act;

Sixth. Authorizes the President to issue instructions to COMSAT as the U.S. representative to INMARSAT with regard to our national interest and foreign policy;

Seventh. Provides that the President shall conduct a study of all Government radio navigation systems to determine the most effective manner of reducing the proliferation and overlap of such systems; and

Eighth. Authorizes the Federal Communications Commission to issue instructions to COMSAT as the U.S. representative to INMARSAT with respect to regulatory matters; and further authorizes the Commission to study the structure and activities of COMSAT and public maritime coast station services.

Specifically, section 503(c)(3), the interconnection section, preserves the right of private communications systems, that is, the maritime user to interconnect with the satellite Earth terminal stations and the maritime satellite telecommunications provided by such stations. It is the view of the House that the maritime user should have the most flexibility possible in designing a communications network that may better serve his needs in terms of both technology and cost.

On satellite Earth stations—503(f)—under the original House-passed bill, COMSAT, or any U.S. domestic common carrier, international common carrier, or private communication system could construct, own, and operate all or any portion of the Earth station facility. In the original Senate-passed bill COMSAT was provided with 100 percent ownership in the Earth station facilities. While the House-Senate compromise permits COMSAT to be an owner and operator of satellite Earth terminal stations in the United States, ownership by other parties including the maritime user will be authorized by the Federal Communications Commission upon a showing that the additional ownership will enhance maritime satellite service in the public interest. The House-Senate compromise allows Common Carriers and Users, in addition to COMSAT, to own and construct satellite Earth stations; in this manner the House expects the Federal Communications Commission to be mindful of the House and Executive branch in granting such authorization, so as to prevent COMSAT from monopolizing the ownership of such stations. While the House realizes that present maritime satellite telecommunications necessitate very few such stations, it is quite possible that future growth in INMARSAT services will provoke a desire for more numerous and less costly stations.

The House-Senate compromise provides for the President, in conjunction with appropriate executive branch agencies and the Federal Communications Commission to conduct a study of Government provision of radio navigation systems, and to report back to Congress within 12 months. While the House feels that this interagency study should be helpful in developing a government-wide radio navigation plan, the House believes that the future commercial maritime navigation and safety needs should not be made through the INMARSAT space segment.

The House is particularly pleased that the Senate agreed to section 504(A)(4) which states that the Secretary of Commerce will "take all necessary steps to determine the interests and needs of the ultimate users of the maritime satellite telecommunications system and to communicate the Government's views on utilization and user needs to INMARSAT."

Mr. Speaker, this bill allows the United States to participate in a new generation of maritime communications. This is in keeping with the "declaration of policy" set forth in the Merchant Marine Act, 1936, which states, as part of its purpose:

To further the development and maintenance of an adequate and well-balanced merchant marine. (D) composed of the best-equipped, safest, and most suitable types of vessels . . .

This bill does not require an authorization of appropriated funds. Moreover, the policies in this bill do not impact Intelsat or its relationship with U.S. carriers.

This bill reflects many months of negotiations between the House and Senate. It is legislation that establishes an organizational structure and operating arrangement that best serves the public interest.

I recommend that the Members of the House unanimously agree to this proposed compromise amendment and send this legislation to the Senate for their approval.

The SPEAKER. Is there objection to the initial request of the gentleman from California (Mr. VAN DEERLIN)?

There was no objection.

A motion to reconsider was laid on the table.

OIL POLLUTION LIABILITY AND COMPENSATION ACT OF 1978

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 6803) to establish a uniform and comprehensive legal regime governing liability and compensation for damages and cleanup costs caused by oil pollution, and for other purposes, with Senate amendments thereto and concur in the Senate amendments with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Oil Pollution Liability and Compensation Act of 1978".

DEFINITIONS

SEC. 2. For the purposes of this Act—

(1) the terms "oil", "discharge", "vessel", "public vessel", "United States", "owner or operator", "remove" or "removal", "contiguous zone", "onshore facility", "offshore facility", "barrel", and "hazardous substance" shall have the meaning provided in section 311(a) of the Federal Water Pollution Control Act;

(2) the terms "State", "person", "navigable waters", and "territorial seas" shall have the meaning provided in section 502 of the Federal Water Pollution Control Act;

(3) the term "act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character the effects of which could not have been prevented or avoided by the exercise of due care or foresight;

(4) the term "claim" means a request, made in writing for a sum certain, for compensation for damages or removal costs resulting from a discharge of oil or a hazardous substance;

(5) the term "claimant" means any person who presents a claim for compensation under this Act;

(6) the term "damages" means damages for economic loss or the loss of natural resources as specified in section 3(a)(2) of this Act;

(7) the term "Fund" means the Oil Spill Liability Fund established under section 4 of this Act;

(8) the term "guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this Act or section 311(p) of the Federal Water Pollution Control Act;

(9) the term "natural resources" includes land, fish, wildlife, biota, air, water, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Fishery Conservation and Management Act of 1976), any State or local government, or any foreign government;

(10) the term "refinery" means a terminal which receives oil for the purpose of refinement; and

(11) the term "terminal" means any permanently situated onshore or offshore facility which receives oil in bulk directly from any vessel, offshore production facility, offshore port facility, or any pipeline including the pipeline constructed under the Trans-Alaska Pipeline Authorization Act.

LIABILITY FOR DAMAGES AND REMOVAL COSTS

SEC. 3. (a) Except where an owner or operator of a vessel or an onshore or offshore facility can prove that a discharge was caused solely by (i) an act of God, (ii) an act of war, (iii) negligence on the part of the United States Government, or (iv) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, and notwithstanding any other provision or rule of law, such owner or operator of a vessel or an onshore or offshore facility from which oil or a hazardous substance is discharged in violation of section 311(b)(3) of the Federal Water Pollution Control Act shall be jointly, severally, and strictly liable for—

(1)(A) all costs of removal incurred by the United States Government or a State under subsection (c), (d), (e), (b)(2)(B)(v), or (f)(4) of section 311 of the Federal Water Pollution Control Act or under the Intervention on the High Seas Act or section 18 of the Deepwater Port Act of 1974, and

(B) any other costs or expenses incurred by any person to remove oil or a hazardous substance as the terms "remove" or "removal" are defined in section 311(a)(8) of the Federal Water Pollution Control Act; and

(2) all damages for economic loss or loss of natural resources resulting from such a discharge, including:

(A) any injury to, destruction of, or loss of any real or personal property;

(B) any loss of use of real or personal property;

(C) any injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss;

(D) any loss of use of any natural resources, without regard to the ownership or management of such resources;

(E) any loss of income or profits or impairment of earning capacity resulting from injury to or destruction of real or personal property or natural resources, without regard to the ownership of such property or resources; and

(F) any direct or indirect loss of tax, royalty, rental, or net profits share revenue by the Federal Government or any State or political subdivision thereof, for a period of not to exceed one year.

(b) In the case of an injury to, destruction of, or loss of natural resources under subsection (a)(2)(C) of this section, liability shall be to the United States Government and to any State for natural resources within the State or belonging to, managed by, controlled by, or appertaining to such State. The President, or the authorized representative of any State, shall act on behalf of the public as trustee of such natural resources to recover for such damages. Sums recovered shall be available for use to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government or the State government, but the measure of such damages shall not be limited by the sums which can be used to restore or replace such resources.

(c)(1) The liability of an owner or operator of a vessel or an onshore or offshore facility for damages and removal costs under this section, and inclusive of the limits of liability established under section 311(f) of the Federal Water Pollution Control Act, for each discharge or incident shall not exceed—

(A) $300 per gross ton or $500,000, whichever is greater, of any vessel carrying oil or hazardous substances in bulk or in commercial quantities as cargo;

(B) $300 per gross ton of any other vessel;

(C) the total of all costs of removal under subsection (a)(1) of this section plus $50,000,000 for any offshore facility operated under the authority of or subject to the Outer Continental Shelf Lands Act;

(D) $50,000,000 for any deepwater port subject to the Deepwater Port Act of 1974 (including the liability of the licensee for a discharge from any vessel moored at such port, in any case where $50,000,000 exceeds $300 per gross ton of such vessel); or

(E) $50,000,000 for any other onshore or offshore facility.

(2) Notwithstanding the limitations of paragraph (1) of this subsection, the liability of the owner or operator of a vessel or an onshore or offshore facility under subsection (a) of this section shall be the full and total damages and removal costs not offset by any removal costs incurred on behalf of such owner or operator, if (A) the discharge of oil or a hazardous substance was the result of willful misconduct or gross negligence within the privity and knowledge of the owner or operator or of a gross or willful violation (within the privity and knowledge of the owner or operator) of applicable safety, construction, or operating standards or regulations; or (B) the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by a responsible official in connection with removal activities under the contingency plan established under section 311(c) of the Federal Water Pollution Control Act.

(3) Notwithstanding the limitations of paragraph (1) of this subsection or the exceptions or defenses of subsection (a) of this section, all costs of removal incurred by the United States Government or any State or local official or agency in connection with a discharge of oil from any offshore facility operated under the authority of or subject to the Outer Continental Shelf Lands Act or a vessel carrying oil as cargo from such a facility shall be borne by the owners and operator of the offshore facility or vessel from which the discharge occurred.

(4) If the President determines that a level of liability established by paragraph (1) above or a level of financial responsibility required by section 6 of this Act will have either a significant adverse impact on small business enterprises or a significant anti-competitive impact, the President may adjust such levels of liability or financial responsibility by rule or regulations as follows:

(A) The limit of liability or financial responsibility for facilities subject to subparagraphs 3(c)(1)(D), to no less than $35,000,000;

(B) The level of liability for facilities subject to subparagraph 3(c)(1)(C) to the total of all removal costs under subsection 3(a)(1) and an amount for all damages to no less than $35,000,000, or, the level of financial responsibility for such facilities to no less than $35,000,000.

Before publishing said proposed rule or regulation the President shall notify the Committee on Environment and Public Works and the Committee on Commerce, Science and Transportation of the United States Senate and the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation of the United States House of Representatives of his intention to propose said rule or regulation. The notice shall state with particularity the President's justification for said rule or regulation and shall include a statement of the views of the Federal Trade Commission on whether the liability or financial responsibility limit sought to be changed has significant anti-competitive or small business impacts.

(d) In any case where the owner or operator of a vessel or an onshore or offshore facility can prove that a discharge was caused solely by an act or omission of a third party (or solely by such an act or omission in combination with an act of God, an act of war, or negligence on the part of the United States Government), such third party shall be liable under this section as if such third party were the owner or operator of a vessel or onshore or offshore facility from which the discharge actually occurred. Where the owner or operator of a vessel carrying oil or hazardous substances as cargo or an onshore or offshore facility which handles or stores oil or hazardous substances in bulk or commercial quantities, from which oil or a hazardous substance is discharged, alleges that such discharge was caused solely by an act or omission of a third party, such owner or operator shall promptly pay to the United States Government, and any other claimant, the costs of removal or damages claimed and shall be entitled by subrogation to all rights of the United States Government or other claimant to recover such costs of removal or damages from such third party under this subsection.

(e) The President is authorized to establish by regulation, with respect to any class or category of onshore or offshore facility subject to subsection (c)(1)(E) of this section, a maximum limit of liability under this section of less than $50,000,000 but not less than $8,000,000.

(f) A discharge of oil or a hazardous substance in or on the territorial sea, internal waters, or adjacent shoreline of a foreign nation shall be deemed to be a discharge in

violation of section 311(b)(3) of the Federal Water Pollution Control Act for purposes of this section, and claims for compensation for damages and removal costs may be made under this Act by any citizen of a foreign nation or by any foreign nation, if such damages or removal costs, resulted from a discharge of oil, or threat of a discharge of oil, from—

(1) a facility located in the United States or subject to the jurisdiction of the United States;

(2) a vessel incident occurring in the navigable waters of the United States; or

(3) a vessel carrying oil as cargo between two ports subject to the jurisdiction of the United States.

(g) The owner or operator of a vessel shall be liable in accordance with this section and section 311 of the Federal Water Pollution Control Act as provided under section 7 of this Act notwithstanding any provision of the Act of March 3, 1851 (46 U.S.C. 183ff).

LIABILITY FUND ESTABLISHMENT

SEC. 4. (a)(1) There is hereby established in the Treasury of the United States an Oil Spill Liability Fund, not to exceed $200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b) (2) and (3) of this section being paid into such Fund. The Fund shall be administered by the President and the Secretary of the Treasury, as specified in this section. The Fund may sue and be sued in its own name.

(2) There is hereby established in the Treasury of the United States a Hazardous Substances Liability Fund. After the completion of the study required under subsection (f) of this section and the effective date of any fee on hazardous substances established by the Congress to be placed in such fund, such fund shall repay to the Oil Spill Liability Fund all sums expended out of the Fund pursuant to section 5 of this Act in connection with discharges of hazardous substances, together with interest at a rate equal to that paid on notes or obligations issued under subsection (e) of this section.

(b) The Fund shall be constituted from—

(1) all fees collected pursuant to subsection (c);

(2) all moneys recovered on behalf of the Fund under section 5;

(3) all moneys recovered or collected under section 311(b)(2)(B) of the Federal Water Pollution Control Act.

(c)(1) Beginning ninety days after the enactment of this Act, the Secretary of the Treasury shall collect from the owners of refineries receiving crude oil, and from the owners of terminals receiving any oil for export from or entry into the United States whether for import or transfer to a foreign country, a fee, not to exceed 3 cents per barrel of oil received. Oil upon which a fee has been levied under this paragraph shall not be subject to subsequent levy hereunder. The person who owns such oil shall be responsible for assuring the payment of such fee and shall be obligated to reimburse the owner of such refinery or terminal, as the case may be, the full amount of the fee levied on the oil of that person and paid by the owner of the refinery or terminal.

(2) The Secretary of the Treasury, after consulting with appropriate Federal agencies, may promulgate rules and regulations relating to the collection of the fees authorized by paragraph (1) and, from time to time, the modification thereof. Modifications shall become effective on the date specified therein, but no earlier than the ninetieth day following the date the modifying regulation is published in the Federal Register. Any modification of the fee shall be designed to assure that the Fund is maintained at a level not less than $150,000,000 and not more than $200,000,000. No regulation that modifies fees, nor any modification of such a regulation, whether or not in effect, may be stayed by any court pending completion of judicial review of that regulation or modification.

(3)(A) Any person who fails to collect or pay fees as required by the regulation promulgated under paragraph (2) shall be liable for a civil penalty not to exceed $10,000, to be assessed by the Secretary of the Treasury, in addition to the fees required to be collected or paid and the interest on those fees at the rate the fees would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (d)(2). Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General shall, at the request of the Secretary of the Treasury bring an action in the name of the Fund against that person for such amount.

(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection, and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such required material for the purpose of audit and examination.

(d)(1) The President shall determine the level of funding required for immediate access in order to meet potential obligations of the Fund.

(2) The Secretary of the Treasury may invest any excess in the Fund, above the level determined under paragraph (1), in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) If at any time the moneys available in the fund are insufficient to meet the obligations of the Fund, the President shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of these notes or obligations shall be made by the President from moneys in the Fund. These notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any note or other obligations issued hereunder and, for that purpose, is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of these notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of these notes or other obligations shall be treated as public debt transactions of the United States. The authority of the President to issue notes or other obligations under this subsection shall be subject to such amounts as are provided in appropriation acts.

(f) The President shall establish an interagency task force to investigate all appropriate aspects of requiring a fee on hazardous substances to be collected and placed in the Hazardous Substance Liability Fund established by subsection (a)(2) of this section and the appropriate level at which such fund shall be maintained. Such task force shall also consider whether liability of a discharger or compensation from the Fund ought to be provided for personal injury resulting from discharges of oil or hazardous substances. The report of such investigation, together with legislative recommendations, shall be submitted to the Congress not later than eighteen months after the enactment of this Act.

(g) The Administrator of the Environmental Protection Agency, the Commandant of the Coast Guard, and the Comptroller General shall undertake a study of possible incentives to safer operation of vessels and facilities to reduce the potential of discharges of oil or hazardous substances, and generally of measures to prevent or avoid the occurrence of such discharges. Such study shall address (1) the feasibility of a variable fee for replenishment of the Fund under subsection (c) of this section which takes into account the likelihood of a discharge and the operational experience of individuals or classes, and (2) whether current practices in the insurance and banking industries provide any incentives or disincentives to reducing the potential for discharges of oil or hazardous substances. Such study shall be conducted in consultation with other appropriate Federal and State agencies, the affected industries, and other interested parties. A first report of such study, together with legislative recommendations, if any, shall be submitted to the Congress not later than July 1, 1979, and as appropriate thereafter.

USE OF LIABILITY FUND

SEC. 5. (a) The President shall use the money in the Fund for the following purposes:

(1) payment of any claim for costs of removal or damages in excess of the amount for which the owner or operator of the vessel or onshore or offshore facility from which oil or a hazardous substance is discharged is liable under section 3 of this Act;

(2) payment of any claim for costs of removal or damages where the source of the discharge of oil or a hazardous substance is not known or cannot be identified;

(3) payment of any claim for costs of removal or damages in any case where the claim has not been satisfied in accordance with subsection (b) of this section;

(4) all removal costs or expenses or other costs of carrying out the national contingency plan established under section 311(c) of the Federal Water Pollution Control Act, including removal costs incurred by any person and approved under such national contingency plan;

(5) subject to such amounts as are provided in appropriation Acts, the costs of providing equipment and similar overhead, related to the purposes of this Act and section 311 of the Federal Water Pollution Control Act, and of establishing and maintaining damage assessment capability, for any Federal agency involved in strike forces, emergency task forces, or other response teams under such national contingency plan;

(6) the costs of assessing both short-term and long-term injury to, destruction of, or loss of any natural resources resulting from a discharge of oil or a hazardous substance;

(7) the costs of Federal or State efforts in the restoration, rehabilitation, or replacement or acquiring the equivalent of any natural resources injured, destroyed, or lost as a result of any discharge of oil or a hazardous substance;

(8) reimbursement to any State for the payment of any claims for costs of removal or damages payable under this Act which such State has paid with funds under the control of such State pursuant to the national contingency plan or to a delegation under subsection (b) of this section;

(9) subject to such amounts as are provided in appropriation Acts, not to exceed $10,000,000 per fiscal year, the costs of research related to the purposes of this Act and section 311 of the Federal Water Pollution Control Act, to be performed by Federal agencies including the Environmental Protection Agency, the Fish and Wildlife Service, and the National Oceanic and Atmospheric Administration, as directed by the ocean pollution research coordinating committee established under the Environmental Research, Development, and Demonstration Act of 1978. Such research shall include, but not be limited to (A) development and refinement of protocols to determine the type and extent of short and long term injury or loss of natural resources, (B) development and refinement of the best available procedures to identify the value of injured or lost resources, (C) laboratory or field research on the effects of oil and hazardous substances on living and nonliving resources that will provide additional scientific basis for damage assessments, and (D) research on minimizing the damage caused by spill control, dispersal and removal operations. Responsibility under the preceding sentence shall be assigned in accordance with the assessment responsibilities established under subsection (e)(2) of this section and officials responsible for such assessments shall be consulted before proposal of any research plan or appropriation request under the preceding sentence; and

(10) subject to such amounts as are provided in appropriation Acts, the administrative and personnel costs of administering the Fund and this Act.

(b)(1) The President is authorized to promulgate regulations designating one or more Federal officials who may obligate money in the Fund in accordance with subsection (a) of this section or portions thereof. The President is also authorized to delegate authority to obligate money in the Fund or to settle claims to officials of a State with an adequate program operating under a cooperative agreement with the Federal Government.

(2) The President is authorized to delegate the administration of his duties and authorities under this Act to the heads of those Federal departments, agencies, and instrumentalities which the President determines appropriate.

(3)(A) The President shall promulgate, and may from time to time amend, regulations for the presentation, filing, processing, settlement, and adjudication of claims for costs of removal or damages resulting from the discharge of oil or a hazardous substance under this Act.

(B) Whenever the President receives information from any person alleging they have incurred costs of removal or damages resulting from the discharge of oil or a hazardous substance for which the owner or operator of a vessel or onshore or offshore facility is liable under section 3 of this Act, he shall notify the owner, operator, and guarantor of such vessel or onshore or offshore facility of such allegation. Such owner or operator or guarantor, may, within five days after receiving such notification or presentation of any claim by a claimant, deny such allegations, or deny liability for damages for any of the reasons set forth in subsections (a) of section 3 of this Act.

(C) The owner and operator of any vessel or onshore or offshore facility from which oil or a hazardous substance has been discharged shall provide notice to all potential injured parties.

(D) All claims shall be presented in the first instance to the owner, operator, or guarantor of the vessel, or onshore or offshore facility from which oil or a hazardous substance has been discharged. In any case where the claim has not been satisfied in accordance with this paragraph, the claimant may elect to commence an action in court against such owner, operator, or guarantor or to present the claim for payment from the Fund under this section.

(E) No claim may be presented nor may an action be commenced for damages under this Act unless that claim is presented or action commenced within six years from the date of the discharge or the date of the discovery of the loss, whichever is later.

(c)(1) Payment of any claim by the Fund under this section shall be subject to the United States Government acquiring by subrogation all rights of the claimant to recover the costs of removal or damages from the person responsible for such discharge.

(2) Any person, including the Fund, who pays compensation pursuant to this Act to any claimant for damages or costs of removal resulting from a discharge of oil or a hazardous substance shall be subrogated to all rights, claims, and causes of action for such damages and costs of removal such claimant has under this Act or any other law.

(3) Upon request of the President, the Attorney General shall commence an action on behalf of the Fund to recover any compensation paid by the fund to any claimant pursuant to this Act, and, without regard to the limitation of liability provided for in section 3(c), all costs incurred by the Fund by reason of the claim, including interest, administrative and adjudicative costs, and attorney's fees. Such an action may be commenced against any owner, operator, or guarantor, or against any other person who is liable, pursuant to any law, to the compensated claimant or to the Fund, for the damages or costs of removal for which the compensation was paid.

(d) The Fund shall not be available to pay any claim for costs of removal or damages to the extent the discharge or the damages had been caused by the gross negligence or willful misconduct of that particular claimant.

(e)(1)(A) The President, acting through the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Environmental Protection Agency, and the Director of the Fish and Wildlife Service, not later than two years after the enactment of this Act, shall promulgate regulations for the assessment of damages for injury to, destruction of, or loss of natural resources resulting from a discharge of oil or a hazardous substance, for the purpose of section 3(a)(2) (C) and (D) of this Act, section 5(a)(7) of this Act, and section 311(f) (4) and (5) of the Federal Water Pollution Control Act.

(B) Such regulations shall specify (i) standard procedures for simplified assessments requiring minimal field observation, including establishing measures of damages based on units of discharge or units of affected area, and (ii) alternative protocols for conducting assessments in individual cases to determine the type and extent of short and long term injury, destruction, or loss. Such regulations shall identify the best available procedures to determine such damages, including both direct and indirect injury, destruction, or loss and shall take into consideration factors including, but not limited to, replacement value, use value, and ability of the ecosystem or resource to recover.

(C) Such regulations shall be reviewed and revised as appropriate every two years.

(2) In accordance with such regulations, damages for injury to, destruction of, or loss of natural resources resulting from a discharge of oil or a hazardous substance, for the purposes of section 3(a)(2) (C) and (D) and section 5(a)(7) of this Act and section 311(f) (4) and (5) of the Federal Water Pollution Control Act, shall be assessed by (A) the Director of the Fish and Wildlife Service for living natural resources and their supporting ecosystems over which such Service has management or construction authority, (B) the Administrator of the National Oceanic and Atmospheric Administration for other natural resources in the marine environment beyond the baseline of the territorial sea, and (C) the Administrator of the Environmental Protection Agency for all other natural resources. Such officials shall act for the President as trustee under section 3(b) of this Act and section 311(f)(5) of the Federal Water Pollution Control Act.

(3) Any determination or assessment of damages for injury to, destruction of, or loss of natural resources for the purposes of section 3(a)(2) (C) and (D) and section 5(a)(7) of this Act and section 311(f) (4) and (5) of the Federal Water Pollution Control Act shall have the force and effect of a rebuttable presumption on behalf of any claimant (including a trustee under section 3(b) of this Act or a Federal agency) in any judicial or adjudicatory administrative proceeding under this Act or section 311 of the Federal Water Pollution Control Act.

(f) The Comptroller General shall provide an audit review team to audit all payments, obligations, reimbursements, or other uses of the Fund, to assure that the Fund is being properly administered and that claims are being appropriately and expeditiously considered. The Comptroller General shall submit to the Congress an interim report one year after the establishment of the Fund and a final report two years after the establishment of the Fund. The Comptroller General shall thereafter provide such auditing of the Fund as is appropriate. Each Federal agency shall cooperate with the Comptroller General in carrying out this subsection.

(g) The Comptroller General, in consultation with the Administrator of the Environmental Protection Agency, shall investigate the necessity for providing assistance in emergencies caused by the release into the environment of any pollutant or other contaminant which presents or may reasonably be anticipated to present an imminent and substantial danger to the public health or welfare, and shall report to the Congress not later than April 1, 1979, on the results of such investigation together with a recommendation on the appropriate level and source of funding for section 504(b) of the Federal Water Pollution Control Act.

FINANCIAL RESPONSIBILITY

SEC. 6. (a)(1) The owner or operator of any vessel over three hundred gross tons (except a non-self-propelled barge that does not carry oil or hazardous substances as cargo or fuel) using any port or place in the United States or the navigable waters or any offshore facility shall establish and maintain in accordance with section 311(p) of the Federal Water Pollution Control Act evidence of financial responsibility sufficient to meet the liability to which the owner or operator of such vessel could be subjected under section 3(c)(1) of this Act. The provisions of paragraphs (3), (4), (5), and (6) of such section 311(p) shall apply to any vessel, or the owner or operator thereof, subject to this section. This subsection shall take effect October 1, 1978.

(2) Any vessel subject to the requirements of this subsection which is found in the navigable waters without the necessary evidence of financial responsibility shall be subject to seizure by the United States of any oil or hazardous substances carried as cargo.

(b)(1) The owner or operator of any offshore facility shall establish and maintain evidence of financial responsibility sufficient to meet the liability to which the owner or operator of such facility could be subject under section 3(c)(1) of this Act or $50,000,000, whichever is less. Such evidence of financial responsibility shall be established according to regulations prescribed by the President and comparable to that required under section 311(p) of the Federal Water Pollution Control Act. This subsection shall

take effect one hundred and eighty days after enactment of this Act.

(2) The owner or operator of any offshore facility subject to this subsection who fails to comply with this subsection or the regulations prescribed thereunder shall be subject to a fine of not more than $10,000 per day of violation.

STATE LAWS AND PROGRAMS

SEC. 7. Nothing in this Act shall be construed or interpreted as preempting any State from imposing any additional liability or requirements with respect to the discharge of oil or hazardous substances within such State.

CONFORMING AMENDMENTS

SEC. 8. (a) TRANS-ALASKA PIPELINE AUTHORIZATION ACT.—(1) Section 204(b) of the Trans-Alaska Pipeline Authorization Act (87 Stat. 586) is amended, in the first sentence—

(A) by inserting after the words "any area" the words "in the State of Alaska";

(B) by inserting after the words "any activities" the words "related to the Trans-Alaska Oil Pipeline"; and

(C) by inserting at the end of the subsection the following new sentence: "This subsection shall not apply to removal costs covered by the Oil Spill Liability Fund and Compensation Act of 1978".

(2)(A) Section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653 (c)) is hereby repealed. The Trans-Alaska Pipeline Liability Fund is hereby abolished. All assets of that fund, as of the effective date of this section, shall be transferred to the Oil Spill Liability Fund established by section 4 of this Act. The Oil Spill Liability Fund shall assume any and all liability incurred by the Trans-Alaska Pipeline Liability Fund under the terms of section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)).

(B) The Secretary of the Interior shall certify to the Secretary of the Treasury the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time the transfer of assets required under paragraph (A) is made. If the Secretary finds that—

(i) the total amount of the assets so transferred is greater than the total amount of the outstanding claims so certified, subject to subparagraph (D) of this paragraph the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified shall constitute an advance payment toward payment of the fee due under section 4(c) of this Act on barrels of oil, and the Secretary may remit such fee until such time as the total amount of the fees so remitted equals the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified; or

(ii) the total amount of the assets so transferred is less than the total amount of the outstanding claims so certified, the Secretary of the Treasury shall increase by 2 cents per barrel the fee imposed under section 4 on barrels of oil until such time as the total amount of the 2-cent-per-barrel increase so collected equals the difference between the amount of the certified outstanding claims and the amount of the transferred assets.

(C) In the event that the total amount of the actual claims settled is less than the total amount of the outstanding claims certified, the difference between these amounts shall be rebated by the Secretary of the Treasury directly to the operator of the trans-Alaska oil pipeline for payment, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel.

(D) If an owner of oil (as that term is used in section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act) who prior to enactment of this Act paid fees to the operator of the pipeline for transfer to the Trans-Alaska Pipeline Liability Fund receives the benefit of an advance payment under subparagraph (B)(i) of this paragraph for the collection or payment of fees established under section 4(c) of this Act, such owner of oil shall compute, based upon accepted accounting procedures, what the oil production tax and what the royalty paid to the State of Alaska would have been had payments not been made to the Trans-Alaska Pipeline Liability Fund in the amount of fees remitted. The difference between the amounts so computed and amounts actually paid to the State of Alaska shall be paid by each such owner to the State of Alaska. Such owner shall make such payment to the State of Alaska during such time the collection of payment of fees under section 4(c) of this Act is remitted.

(E) For purposes of paragraph (B), the term "barrels of oil" means only barrels of oil which would, but for the repeal made by this paragraph, be subject to the fee imposed under section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act. The term "Secretary" means the Secretary of the Treasury.

(b) INTERVENTION ON THE HIGH SEAS ACT.—Section 17 of the Intervention on the High Seas Act (88 Stat. 10) is amended to read as follows:

"SEC. 17. The Fund established under section 4 of the Oil Spill Liability Fund and Compensation Act of 1978 shall be available to the Secretary for actions taken under section 5 of this Act.".

(c) FEDERAL WATER POLLUTION CONTROL ACT.—Section 311 of the Federal Water Pollution Control Act is amended as follows:

(1) Clause (H) of paragraph (2) of subsection (c) is amended by inserting after the words "of this section" the words "or the fund established under section 4 of the Oil Spill Liability Fund and Compensation Act of 1978, as appropriate,".

(2) Subsection (f) is amended, in the last sentence of paragraph (1), by inserting a comma after the word "vessel" and by adding immediately thereafter "or against any guarantor of an owner's or operator's liability under the Oil Spill Liability and Compensation Fund Act of 1978,".

(3) Subsection (g) is amended, by inserting in the last sentence, after the word "party" the words "or against any guarantor of an owner's or operator's liability under the Oil Spill Liability and Compensation Fund Act of 1978".

(4) Any sums appropriated prior to the enactment of this Act under subsection (k) of such section 311 shall be transferred to the Fund established under section 4 of this Act.

(d) DEEPWATER PORT ACT.—The Department Port Act of 1974 (88 Stat. 2126) is amended as follows:

(1) In section 4(c)(1) strike "section 18 (1) of this Act;" and insert in lieu thereof "section 6 of the Oil Spill Liability and Compensation Fund Act of 1978,".

(2) Subsections (b), (d), (e), (f), (g), (h), (i), (j), (l), (n), and clause (1) of subsection (m) of section 18 are deleted.

(3) Clause (3) of subsection (c) of section 18 is amended by striking "Deepwater Port Liability Fund established pursuant to subsection (f) of this section.", and inserting in lieu thereof "fund established under section 4 of the Oil Spill Liability and Compensation Fund Act of 1978".

(4) Subsections (c), (k), and (m) of section 18 are redesignated (b), (c), and (d), respectively, and clauses (2), (3), and (4) of subsection (m) are redesignated (1), (2), and (3), respectively.

(e) OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS.—Title III of the Outer Continental Shelf Lands Act Amendments of 1978 is hereby repealed.

(f) Any expenditure under section 5(a) of this Act, other than those (1) under the authority of section 311(c) of the Federal Water Pollution Control Act involving the balance of the contingency fund established under section 311(K) of such Act and transferred to the Fund under section 8(c)(4) of this Act, or (2) involving the balance of the Trans-Alaska Pipeline Liability Fund transferred to the Fund under section 8(a)(2) of this Act, shall be made after October 1, 1978, for any claim arising before such date and after the date of enactment of this Act.

Amend the title so as to read: "An Act to provide for compensation for damages and cleanup costs caused by discharges of oil and hazardous substances, to establish a liability fund, and for other purposes.".

The SPEAKER. The Clerk will report the House amendments to the Senate amendments.

The Clerk read the House amendments to the Senate amendments as follows:

In lieu of the matter proposed to be inserted by the Senate amendments, insert the following:

That this Act may be cited as the "Comprehensive Oil Pollution Liability and Compensation Act".

TITLE I—DOMESTIC OIL POLLUTION LIABILITY, COMPENSATION, AND FUND

DEFINITIONS

SEC. 101. For the purposes of this title, the term—

(a) "Secretary" means the Secretary of Transportation;

(b) "funds" means the fund established by section 102;

(c) "person" means an individual, firm, corporation, association, partnership, consortium, joint venture, or governmental entity;

(d) "incident" means any occurrence or series of occurrences, involving one or more vessels, facilities, or any combination thereof; which causes, or poses an imminent threat of, oil pollution;

(e) "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water;

(f) "public vessel" means a vessel which—

(1) is owned or chartered by demise, and operated by (A) the United States, (B) a State or political subdivision thereof, or (C) a foreign government, and

(2) is not engaged in commercial service;

(g) "ship" means either of the following types of vessels carrying oil in bulk as cargo:

(1) a self-propelled vessel, or

(2) a non-self-propelled vessel which is certificated to operate outside the internal waters of the United States;

(h) "inland oil barge" means a non-self-propelled vessel, carrying oil in bulk as cargo and certificated to operate only on the internal waters of the United States while operating in such waters;

(i) "facility" means a structure, or group of structures (other than a vessel or vessels), used for the purpose of transporting, drilling for, producing, processing, storing, transferring, or otherwise handling oil;

(j) "onshore facility" means any facility, other than an offshore facility, located in, on, or under any land within the United States;

(k) "offshore facility" means any facility located in, on, or under the navigable waters or, if the facility is subject to the jurisdiction of the United States, the high seas;

(l) "terminal" means a permanently situated facility, located within the territorial limits of the United States and not owned by any agency of the Federal Government, which receives oil in bulk directly from any vessel, offshore production facility, offshore port facility, onshore pipeline, or a pipeline

constructed under the provisions of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.);

(m) "refinery" means a terminal which receives crude oil for the purpose of refinement;

(n) "oil pollution" means—

(1) the presence of oil, either in an unlawful quantity or which has been discharged at an unlawful rate—

(A) in or on the navigable waters or their connecting or tributary waters within the United States, or on land or waters within the United States immediately adjacent thereto; or

(B) in or on the waters of the contiguous zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606); or

(2) the presence of oil in or on the waters of the high seas outside the territorial limits of the United States—

(A) when discharged in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.) or the Deepwater Port Act of 1974, as amended by this Act (33 U.S.C. 1501 et seq.);

(B) causing injury to or loss of natural resources belonging to, appertaining to, or under the exclusive management authority of, the United States; or

(C) when such oil was discharged from a ship which received oil at the terminal facilities of the pipeline authorized by the Trans-Alaska Pipeline Authorization Act, as amended by this Act (43 U.S.C. 1651 et seq.), for transportation to a port in the United States, and was discharged from such ship prior to being brought ashore in such a port; or

(3) the presence of oil in or on the territorial sea, internal waters, or adjacent shoreline, of a foreign country, in a case where damages are recoverable by a foreign claimant under this title;

(o) "navigable waters" means those waters of the United States (including the territorial sea) the general character of which is navigable and which, either by themselves or by uniting with other waters, form a continuous waterway on which vessels may navigate or travel between two or more States or to or from any foreign nation;

(p) "United States claimant" means any person residing in the United States, the Government of the United States or an agency thereof, or the government of a State or a political subdivision thereof, who asserts a claim;

(q) "foreign claimant" means any person residing in a foreign country, the government of a foreign country, or any agency or political subdivision thereof, who asserts a claim;

(r) "United States" and "State" include the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession over which the United States has jurisdiction;

(s) "oil" means petroleum, including crude oil or any fraction or residue therefrom;

(t) "cleanup costs" means costs of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from that incident;

(u) "person in charge" means the individual immediately responsible for the operation of a vessel or facility;

(v) "claim" means a demand in writing for a sum certain;

(w) "discharge" means any emission, intentional or unintentional, and includes spilling, leaking, pumping, pouring, emptying, or dumping;

(x) "owner" means any person holding title to, or, in the absence of title, any other indicia of ownership of, a vessel or facility, but does not include a person who, without participating in the management or operation of a vessel or facility, holds indicia of ownership primarily to protect his security interest in the vessel or facility;

(y) "operator" means—

(1) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel, or

(2) in the case of a facility, any person, except the owner, responsible for the operation of the facility by agreement with the owner;

(z) "property" means littoral, riparian, or marine property;

(aa) "removal costs" means—

(1) cost incurred under subsection (c), (d), or (l) of section 311 of the Federal Water Pollution Control Act, as amended by this Act, section 5 of the Intervention on the High Seas Act, or subsection (b) of section 18 of the Deepwater Port Act of 1974 as amended by this Act; and

(2) cleanup costs, other than the costs described in clause (1);

(bb) "guarantor" means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator;

(cc) "internal waters of the United States" means those waters of the United States lying inside the base line from which the territorial sea is measured and those waters outside such base line which are a part of the Gulf Intracoastal Waterway;

(dd) "gross ton" means a unit of one hundred cubit feet for the purpose of measuring the total unit capacity of a vessel;

(ee) "barrel" means forty-two United States gallons at 60 degrees Fahrenheit; and

(ff) "natural resources" includes fish, wildlife, biota and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Fishery Conservation and Management Act of 1976), any State or local government, or any foreign government.

FUND ESTABLISHMENT, ADMINISTRATIVE, AND FINANCING

SEC. 102. (a) There is hereby established in the Treasury of the United States a Comprehensive Oil Spill Liability Fund, not to exceed $200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b) (2) and (3) of this section being paid into such fund. The fund shall be administered by the Secretary and the Secretary of the Treasury, as specified in this section. The fund may sue and be sued in its own name.

(b) The fund shall be constituted from—

(1) all fees collected pursuant to subsection (d);

(2) all moneys recovered on behalf of the fund under section 108;

(3) all other moneys recovered or collected on behalf of the fund, under this title.

(c) In addition to the processing and settlement of claims under section 107, the fund shall be immediately available for the removal costs described in section 101(aa)(1), and the Secretary is authorized to promulgate regulations designating the person or persons who may obligate available money in the fund for such purposes. In addition, the moneys in the fund shall also be available, subject to such amounts as are provided in appropriation acts, as follows:

(1) not to exceed $10,000,000 per fiscal year, for research related to the purposes of this title, such research to be performed as directed by the President and to include, but not be limited to, (A) development and refinement of protocols to determine the type and extent of short and long term injury or loss of natural resources, (B) development and refinement of the best available procedures to identify the value of injured or lost resources, (C) laboratory or field research on the effects of oil on living and nonliving resources that will provide additional scientific basis for damage assessments, and (D) research on minimizing the damage caused by spill control, dispersal and removal operations; and

(2) not to exceed $5,000,000 per fiscal year, for administrative and personnel costs necessary to administer the fund and this title, other than the provisions of section 112.

(d)(1) Subject to the provisions of section 202(b), the Secretary of the Treasury shall collect from the owners of refineries receiving crude oil, and from the owners of terminals receiving any oil for export or entry into the United States, whether for import or transfer to a foreign country, a fee, not to exceed three cents per barrel of oil received. Oil upon which a fee has been levied under this paragraph shall not be subject to subsequent levy hereunder. The person who owns such oil shall be obligated to reimburse the owner of such refinery or terminal, as the case may be, the full amount of the fee levied on the oil of that person and paid by the owner of the refinery or terminal.

(2) The Secretary of the Treasury, after consulting with the Secretary, may promulgate reasonable rules and regulations relating to the collection of the fees authorized by paragraph (1) and, from time to time, the modification thereof. Modifications shall become effective on the date specified therein, but no earlier than the ninetieth day following the date the modifying regulation is published in the Federal Register. Any modification of the fee shall be designed to insure that the fund is maintained at a level not less than $150,000,000 and not more than $200,000,000. No regulation that modifies fees, nor any modification of such a regulation, whether or not in effect, may be stayed by any court pending completion of judicial review of that regulation or modification. No modified fees paid by any owner of a refinery or a terminal pending completion of judicial review of the modified fee regulation shall be repaid to such owner notwithstanding the final judicial determination.

(3)(A) Any person who fails to collect or pay fees as required by the regulations promulgated under paragraph (2) shall be liable for a civil penalty not to exceed $10,000, to be assessed by the Secretary of the Treasury, in addition to the fees required to be collected or paid and the interest on those fees at the rate the fees would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (e)(2). Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General may, at the request of the Secretary of the Treasury, bring an action in the name of the fund against that person for such amount.

(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection, and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such required

material for the purpose of audit and examination.

(e)(1) The Secretary shall determine the level of funding required for immediate access in order to meet potential obligations of the fund.

(2) The Secretary of the Treasury may invest any excess in the fund, above the level determined under paragraph (1), in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the fund shall be credited to and form a part of the fund.

(f) If at any time the moneys available in the fund are insufficient to meet the obligations of the fund, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of these notes or obligations shall be made by the Secretary from moneys in the fund. These notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of these notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of these notes or other obligations shall be treated as public debt transactions of the United States.

(g) The Comptroller General shall provide an audit review team to audit all payments, obligations, reimbursements, or other uses of the fund, to assure that the fund is being properly administered and that claims are being appropriately and expeditiously considered. The Comptroller General shall submit to the Congress an interim report one year after the establishment of the fund and a final report two years after the establishment of the fund. The Comptroller General shall thereafter provide such auditing of the fund as is appropriate. Each Federal agency shall cooperate with the Comptroller General in carrying out this subsection.

DAMAGES AND CLAIMANTS

SEC. 103. (a) Claims for damages for economic loss, discovered on or after the effective date of this section and arising out of or directly resulting from oil pollution, may be asserted for—

(1) removal costs;

(2) injury to, or destruction of, real or personal property;

(3) loss of use of real or personal property;

(4) injury to, or destruction of, natural resources, including the reasonable costs of determining the extent of such injury or destruction;

(5) loss of use of natural resources;

(6) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources; and

(7) loss of tax revenue for a period of one year due to injury to real or personal property.

(b) A claim authorized by subsection (a) may be asserted—

(1) under item 1, by any claimant: *Provided,* That the owner or operator of a vessel or facility involved in an incident may assert such a claim only if he can show that he is entitled to a defense to liability under section 104(e)(1) or 104(e)(2) or, if not entitled to such a defense to liability, that he is entitled to a limitation of liability under section 104: *Provided further,* That where he is not entitled to such a defense to liability but entitled to such a limitation of liability, such claim may be asserted only as to the removal costs incurred in excess of that limitation;

(2) under items 2, 3, and 5, by any United States claimant, if the property involved is owned or leased, or the natural resource involved is utilized, by the claimant;

(3) under item 4, by the President, as trustees for natural resources over which the United States Government has sovereign rights or exercises exclusive management authority, or by any State for natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State: *Provided,* That compensation paid under this item shall be used only for the restoration of the natural resources damaged or for acquisition of equivalent resources;

(4) under item 6, by any United States claimant if the claimant derives at least 25 per centum of his earnings from activities which utilize the property or natural resource;

(5) under item 7, by any State or political subdivision thereof;

(6) under items 2 through 7, by a foreign claimant to the same extent that a United States claimant may assert a claim if—

(A) the oil pollution occurred (1) in the navigable waters or (2) in or on the territorial sea or adjacent shoreline of a foreign country of which the claimant is a resident;

(B) the claimant is not otherwise compensated for his loss;

(C) the oil was discharged from a facility or from a vessel located adjacent to or within the navigable waters or was discharged in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.) or the Deepwater Port Act of 1974, as amended by this Act (33 U.S.C. 1501 et seq.); and

(D) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country involved, or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants: *Provided, however,* That condition (C) shall not apply where the claim is asserted by a resident of Canada and where the oil pollution involves oil that has been transported through the pipeline authorized under the Trans-Alaska Pipeline Authorization Act, as amended, has been loaded on a ship for transportation to a port in the United States, and is discharged from the ship prior to being brought ashore in that port; and

(7) under any item, by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of United States claimants who may assert a claim under this subsection, when he determines that the claimants would be more adequately represented as a class in asserting their claims.

(c) If the Attorney General fails to take action under clause (7) of subsection (b) within sixty days of the date on which the Secretary designates a source under section 106 any member of a group may maintain a class action to recover damages on behalf of that group. Failure of the Attorney General to take action shall have no bearing on any class action maintained by any claimant for damages authorized by this section.

(d) If the number of members of a class in an action brought under subsection (b)(7) or subsection (c) exceeds one thousand, publication of notice of such action in local newspapers of general circulation in the areas in which the damaged persons reside shall be deemed to fulfill the requirement for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure.

LIABILITY

SEC. 104(a) Subject to the provisions of subsections (b), (c), (d), and (e), the owner and operator of a vessel other than a public vessel, or of a facility, which is the source of oil pollution, or poses a threat of oil pollution in circumstances which justify the incurrence of the type of costs described in section 101(aa)(1) of this title, shall be jointly, severally, and strictly liable for all damages for which a claim may be asserted under section 103.

(b) Except when the incident is caused primarily by willful misconduct or gross negligence, within the privity or knowledge of the owner or operator; or is caused primarily by a violation, within the privity or knowledge of the owner or operator, of applicable safety, construction, or operating standards or regulations of the Federal Government; or except when the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities, the total of the liability under subsection (a) and any removal costs incurred by, or on behalf of, the owner or operator shall be limited to—

(1) in the case of a vessel other than a ship or other than an inland oil barge, $150 per gross ton;

(2) in the case of an inland oil barge, $150,000 or $150 per gross ton, whichever is greater;

(3) in the case of a ship, $300,000 or $300 per gross ton (up to a maximum of $50,000,000), whichever is greater;

(4) in the case of a deepwater port subject to the Deepwater Port Act of 1974 (including the liability of the owner or operator of such deepwater port for a discharge from a ship moored at such port), $50,000,000;

(5) in the case of an offshore facility operated under authority of the Outer Continental Shelf Lands Act, the total of removal costs plus $50,000,000; or

(6) in the case of a facility other than one described in clause (4) or (5), $50,000,000 or such lesser limit as is established under subsection (d).

The Secretary shall, from time to time, report to Congress on the desirability of adjusting the monetary limitation of liability specified in subsection (b).

(c) Notwithstanding the provisions of clauses (4) and (5) of subsection (b) hereof, the Secretary may reduce the limits of liability for facilities subject to those clauses, if he determines that the limits of liability established under subsection (b) will have either a significant adverse impact on small business enterprises or a significant anticompetitive impact, such reduction in liability limits to be made as follows:

(1) the limit of liability for facilities subject to clause (4) to be reduced to a level of not less than $35,000,000; and

(2) the limit of liability for facilities subject to clause (5) to be reduced to the total of all removal costs under section 103(a)(1) plus a level of not less than $35,000,000.

Before publishing said proposed rule or regulation the Secretary shall notify the Committee on Environment and Public Works and the Committee on Commerce, Science and Transportation of the United States Senate and the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation of the United States House of Representatives of his intention to propose said rule or regulation. The notice shall state with particularity the Secretary's justification for said rule or regulation and shall include a

statement of the views of the Federal Trade Commission on whether the liability or financial responsibility limit sought to be changed has significant anti-competitive or small business impacts.

(d) The Secretary shall issue regulations establishing limits of liability, up to $50,000,000, for various classes of facilities other than those described in clauses (4) and (5) of subsection (b). These regulations shall take into account the size, type, location, oil storage and handling capacity, and other matters relating to the likelihood of incidents involving those classes. Such limits shall, to the extent practicable, be comparable to those limits established under clause (3) of subsection (b), taking into account the relative potential threat of oil pollution.

(e) There shall be no liability under subsection (a)—

(1) where the incident is caused primarily—

(A) by an act of war, hostilities, civil war, or insurrection; or

(B) by a natural phenomenon of an exceptional, inevitable, and irresistible character, which could not have been prevented or avoided by the exercise of due care or foresight;

(2) to the extent that the incident is caused by an act or omission of a person other than—

(A) the claimant,

(B) the owner or operator,

(C) an employee or agent of the claimant, the owner, or the operator, or

(D) one whose act or omission occurs in connection with a contractual relationship with the claimant, the owner, or the operator;

(3) as to a particular claimant, where the incident or the economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(4) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(f)(1) Subject to the provisions of paragraph (2) hereof, the fund shall be liable, without any limitation, for all damages for which a claim may be asserted under section 103, to the extent that the loss is not otherwise compensated.

(2) Except for the removal costs specified in clause (1) of section 101(aa), there shall be no liability under paragraph (1) hereof—

(A) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection;

(B) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(C) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(g)(1) In addition to the damages for which claims may be asserted under section 103, and without regard to the limitation of liability provided in section 104, the owner, operator, or guarantor shall be liable to the claimant for interest on the amount paid in satisfaction of the claim for the period from the date upon which the claim was presented to such person to the date upon which the claimant is paid, inclusive, less the period, if any, from the date upon which the owner, operator, or guarantor shall offer to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim to the date upon which the claimant shall accept that amount, inclusive. However, if the owner, operator, or guarantor shall offer to the claimant, within sixty days of the date upon which the claim was presented, or of the date upon which advertising was commenced pursuant to section 106, whichever is later, an amount equal to or greater than that finally paid in satisfaction of the claim, the owner, operator, or guarantor shall be liable for the interest provided in this paragraph only from the date the offer was accepted by the claimant to the date upon which payment is made to the claimant, inclusive.

(2) The interest provided in paragraph (1) shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

(h) No indemnification, hold harmless, or similar agreement shall be effective to transfer from the owner or operator of a facility, to any other person, the liability imposed under subsection (a) hereof, other than as specified in this title: *Provided*, That this provision does not preclude an agreement whereby the holder of a leasehold interest for the exploration of oil agrees to indemnify for, or hold harmless from, such liability, the owner or operator of a vessel or facility which is, by contract or other agreement, engaged in activity on behalf of the holder of the leasehold interest.

(i) Nothing in this title, including the provisions of subsection (h) hereof, shall bar a cause of action that an owner or operator, subject to liability under subsection (a), or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

(j) To the extent that they are in conflict with, or otherwise inconsistent with, any other provisions of law relating to liability or the limitation thereof, the provisions of this section shall supersede all such other provisions of law, including those of section 4283(a) of the Revised Statutes, as amended (46 U.S.C. 183(a)).

FINANCIAL RESPONSIBILITY

SEC. 105. (a)(1) The owner or operator of any vessel (except a non-self-propelled barge that does not carry oil as fuel or cargo), over three hundred gross tons, which uses an offshore or onshore facility or the navigable waters, shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of such vessel would be exposed in a case where he would be entitled to limit his liability in accordance with the provisions of section 104 of this title and the provisions of subsection (f) and (g) of section 311 of the Federal Water Pollution Control Act, as amended. Financial responsibility may be established by any one, or any combination, of the following methods, acceptable to the President: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In cases where an owner or operator owns, operates, or charters more than one vessel subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

(2) The Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States to any vessel, subject to this subsection, which does not have certification furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

(3) The Secretary, in accordance with regulations promulgated by him, shall (A) deny entry to any port or place in the United States or navigable waters to, and (B) detain at the port or place in the United States from which it is about to depart for any other port or place in the United States, any vessel subject to this subsection which, upon request, does not produce certification furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

(b) The owner or operator of a facility which (1) is used for drilling for, producing, or processing oil, or (2) has the capacity to transport, store, transfer, or otherwise handle more than one thousand barrels of oil at any one time, shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of the facility would be exposed, in a case where he would be entitled to limit his liability, in accordance with the provisions of section 104 of this title, or $50,000,000, whichever is less.

(c) Any claim authorized by section 103(a) may be asserted directly against any guarantor providing evidence of financial responsibility as required under this section. In defending such claim, the guarantor shall be entitled to invoke all rights and defenses which would be available to the owner or operator under this title. He shall also be entitled to invoke the defense that the incident was caused by the willful misconduct of the owner or operator, but shall not be entitled to invoke any other defense which he might have been entitled to invoke in proceedings brought by the owner or operator against him.

NOTIFICATION, DESIGNATION, AND ADVERTISEMENT

SEC. 106. (a) The person in charge of a vessel or facility, which is involved in an incident, shall immediately notify the Secretary of the incident, as soon as he has knowledge thereof. Notification received pursuant to this subsection or information obtained by the exploitation of such notification shall not be used against any such person or his employer in any criminal case, other than a case involving prosecution for perjury or for giving a false statement.

(b)(1) When the Secretary receives information, pursuant to subsection (a) or otherwise, of an incident which involves oil pollution, the Secretary shall, where possible, designate the source or sources of the oil pollution and shall immediately notify the owner and operator of such source, and the guarantor, of that designation.

(2) When a source designated under paragraph (1) is a vessel or a facility, and the owner, operator, or guarantor fails to inform the Secretary, within five days after receiving notification of the designation, of his denial of such designation, such owner, operator, or guarantor, as required by regulations promulgated by the Secretary, shall advertise the designation and the procedures by which claims may be presented to him. If advertisement is not otherwise made in accordance with this paragraph, the Secretary shall, as he finds necessary, and at the expense of the owner, operator, or guarantor involved, advertise the designation and the procedures by which claims may be presented to that owner, operator, or guarantor.

(c) In a case where—

(1) the owner, operator, and guarantor all deny a designation in accordance with paragraph (2) of subsection (b),

(2) the source of the discharge was a public vessel or

(3) the Secretary is unable to designate the source or sources of the discharge under paragraph (1) of subsection (b),

the Secretary shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the fund.

(d) Advertisement under subsection (b) shall commence no later than fifteen days from the date of the designation made thereunder to continue for a period of no less than thirty days.

CLAIMS SETTLEMENT

SEC. 107. (a) Except as provided in subsection (b), all claims shall be presented to the owner, operator, or guarantor.

(b) All claims shall be presented to the fund—

(1) where the Secretary has advertised or otherwise notified claimants in accordance with section 106(c), or

(2) where the owner or operator may recover under the provisions of section 103(b)(1).

(c) In the case of a claim presented in accordance with subsection (a), and in which—

(1) the person to whom the claim is presented denies all liability for the claim, for any reason, or

(2) the claim is not settled by any person by payment to the claimant within sixty days of the date upon which (A) the claim was presented, or (B) advertising was commenced pursuant to section 106(b)(2), whichever is later,

the claimant may elect to commence an action in court against the owner, operator, or guarantor, or to present the claim to the fund, that election to be irrevocable and exclusive.

(d) In the case of a claim presented in accordance with subsection (a), where full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under section 104 or because the owner, operator, and guarantor are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the fund.

(e) In the case of a claim which has been presented to any person, pursuant to subsection (a), and which is being presented to the fund, pursuant to subsection (c) or (d), such person, at the request of the claimant, shall transmit the claim and supporting documents to the fund. The Secretary may, by regulation, prescribe the documents to be transmitted and the terms under which they are to be transmitted.

(f) In the case of a claim presented to the fund, pursuant to subsection (b), (c), or (d), and in which the fund—

(1) denies all liability for the claim, for any reason, or

(2) does not settle the claim by payment to the claimant within sixty days of the date upon which (A) the claim was presented to the fund or (B) advertising was commenced pursuant to section 106(c), whichever is later,

the claimant may submit the dispute to the Secretary for decision in accordance with section 554 of title 5, United States Code. However, a claimant who has presented a claim to the fund pursuant to subsection (b) may elect to commence an action in court against the fund in lieu of submission of the dispute to the Secretary for decision, that election to be irrevocable and exclusive.

(g)(1) The Secretary shall promulgate regulations which establish uniform procedures and standards for the appraisal and settlement of claims against the fund.

(2) Except as provided in paragraph (3), the Secretary shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the fund and may contract to pay compensation for those facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), upon a showing by the Secretary that advertising is not reasonably practicable. The Secretary may make advance payments to a contractor for services and facilities, and the Secretary may advance to the contractor funds to be used for the payment of claims. The Secretary may review and audit claim payments made pursuant to this subsection. A payment to a claimant for a single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved by the Secretary. When the services of a State agency are used in processing and settling claims no payment may be made on a claim asserted on or behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Secretary.

(3) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the Secretary may use Federal personnel to process claims against the fund.

(h) Without regard to subsection (b) of section 556 of title 5, United States Code, the Secretary is authorized to appoint, from time to time for a period not to exceed one hundred and eighty days, one or more panels, each comprised of three individuals, to hear and decide disputes submitted to the Secretary pursuant to subsection (f). At least one member of each panel shall be qualified in the conduct of adjudicatory proceedings and shall preside over the activities of the panel. Each member of a panel shall possess competence in the evaluation and assessment of property damage and the economic losses resulting therefrom. Panel members may be appointed from private life or from any Federal agency except the staff administering the fund. Each panel member appointed from private life shall receive a per diem compensation, and each panel member shall receive necessary traveling and other expenses while engaged in the work of a panel. The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as amended, regarding special government employees, apply to panel members appointed from private life.

(i)(1) Upon receipt of a request for decision from a claimant, properly made, the Secretary shall refer the dispute to (A) an administrative law judge, appointed under section 3105 of title 5, United States Code, or (B) a panel appointed under subsection (h).

(2) The administrative law judge and each member of a panel to which a dispute is referred for decision shall be a resident of the United States judicial circuit within which the damage complained of occurred, or, if the damage complained of occurred within two or more circuits, of any of the affected circuits, or, if the damage occurred outside any circuit of the nearest circuit.

(3) Upon receipt of a dispute, the administrative law judge or panel shall adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code. In any proceeding subject to this subsection, the presiding officer may require by subpena any person to appear and testify or to appear and produce books, papers, documents, or tangible things at a hearing or deposition at any designated place. Subpenas shall be issued and enforced in accordance with procedures in subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the Secretary. If a person fails or refuses to obey a subpena, the Secretary may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him of books, papers, documents, or any tangible things.

(4) A hearing conducted under this subsection shall be conducted within the United States judicial district within which, or nearest to which, the damage complained of occurred, or, if the damage complained of occurred within two or more districts, in any of the affected districts, or, if the damage occurred outside any district, of the nearest district.

(5) The decision of the administrative law judge or panel under this subsection shall be the final order of the Secretary, except that the Secretary, in his discretion and in accordance with rules which he may promulgate, may review the decision upon his own initiative or upon exception of the claimant or the fund.

(6) Final orders of the Secretary made under this subsection shall be reviewable pursuant to section 702 of title 5, United States Code, in the district courts of the United States.

(j)(1) In any action brought against an owner, operator, or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the fund at the same time those pleadings are served upon the opposing parties.

(2) The fund may intervene in the action as a matter of right.

(3) In any action to which the fund is a party, if the owner, operator, or guarantor admits liability under this title, the fund upon its motion shall be dismissed therefrom to the extent of the admitted liability.

(4) If the fund receives from either the plaintiff or the defendant notice of such an action, the fund shall be bound by any judgment entered therein, whether or not the fund was a party to the action.

(5) If neither the plaintiff nor the defendant gives notice of such an action to the fund, the limitation of liability otherwise permitted by section 104 of this title is not available to the defendant, and the plaintiff shall not recover from the fund any sums not paid by the defendant.

(k) In any action brought against the fund, the plaintiff may join any owner, operator, or guarantor, and the fund may implead any person who is or may be liable to the fund under any provision of this title.

(l) No claim may be presented, nor may an action be commenced for damages recoverable under this title, unless that claim is presented to, or that action is commenced against, the owners, operators, or guarantor, or against the fund, as to their respective liabilities, within three years from the date of discovery of the economic loss for which a claim may be asserted under section 103(a), or within six years of the date of the incident which resulted in that loss, whichever is earlier.

SUBROGATION

SEC. 108. (a) Any person or governmental entity, including the fund, who shall pay compensation to any claimant for an economic loss, compensable under section 103, shall be subrogated to all rights, claims, and causes of action which that claimant has under this title.

(b) Upon request of the Secretary, the Attorney General may commence an action, on behalf of the fund, for the compensation paid by the fund to any claimant pursuant to this title. Such an action may be commenced against any owner, operator, or guarantor, or against any other person or governmental entity, who is liable, pursuant to any law, to the compensated claimant or to the fund, for the damages for which the compensation was paid.

(c) In all claims or actions by the fund against any owner, operator, or guarantor, pursuant to the provisions of subsections (a) and (b), the funds shall recover—

(1) for a claim presented to the fund (where there has been a denial of source designation) pursuant to section 107(b)(1), or (where there has been a denial of liability) pursuant to section 107(c)(1)—

(A) subject only to the limitation of lia-

bility to which the defendant is entitled under section 104(b), the amount the fund has paid to the claimant, without reduction;

(B) interest on that amount, at the rate calculated in accordance with section 104(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the fund is paid by the defendant, inclusive, less the period, if any, from the date upon which the fund shall offer to the claimant the amount finally paid by the fund to the claimant in satisfaction of the claim against the fund to the date upon which the claimant shall accept that offer, inclusive; and

(C) all costs incurred by the fund by reason of the claim, both of the claimant against the fund and the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; and

(2) for a claim presented to the fund pursuant to section 107(c)(2)—

(A) in which the amount the fund has paid to the claimant exceeds the largest amount, if any, the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

(i) subject to dispute by the defendant as to any excess over the amount offered to the claimant by the defendant, the amount the fund has paid to the claimant;

(ii) interest, at the rate calculated in accordance with section 104(g)(2), for the period specified in clause (1) of this subsection; and

(iii) all costs incurred by the fund by reason of the claim of the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; or

(B) in which the amount the fund has paid to the claimant is less than or equal to the largest amount the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

(i) the amount the fund has paid to the claimant, without reduction;

(ii) interest, at the rate calculated in accordance with section 104(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the defendant offered to the claimant the largest amount referred to in this subclause: *Provided*, That if the defendant tendered the offer of the largest amount referred to in this subclause within sixty days of the date upon which the claim of the claimant was either presented to the defendant or advertising was commenced pursuant to section 106, the defendant shall not be liable for interest for that period; and

(iii) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction of the claim of the fund to the date upon which the fund shall accept that offer, inclusive.

(d) The fund shall pay over to the claimant that portion of any interest the fund shall recover, pursuant to clause (1) and subclause (A) of clause (2) of subsection (c), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept that offer, inclusive.

(e) The fund is entitled to recover for all interest and costs specified in subsection (c) without regard to any limitation of liability to which the defendant may otherwise be entitled.

JURISDICTION AND VENUE

SEC. 109. (a) The United States district courts shall have exclusive original jurisdiction over all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy.

(b) Venue shall lie in any district wherein the injury complained of occurred, or wherein the defendant resides, may be found, or has his principal office. For the purposes of this section, the fund shall reside in the District of Columbia.

RELATIONSHIP TO STATE LAW

SEC. 110. (a) Except as provided in this title—

(1) no person shall be required to contribute to any fund by any Federal, State, or other law, the purpose of which is to pay compensation for any loss which may be compensated for under this title;

(2) no owner or operator of a facility or vessel, who establishes and maintains evidence of financial responsibility in accordance with this title, shall be required under any State law, rule, or regulation to establish any other evidence of financial responsibility in connection with liability for the discharge of oil from such facility or vessel, and evidence of compliance with the financial responsibility requirements of this title shall be accepted by a State in lieu of any other requirement of financial responsibility imposed by such State, in connection with the liability for the discharge of oil from such facility or vessel; and

(3) subject to the provisions of subsection (b) hereof, no action may be brought in any court of the United States or of any State or political subdivision thereof, for damages for an economic loss described in section 103 of this title.

(b) A claimant, other than a governmental entity, has the election of pursuing his remedy for damages for an economic loss described in section 103 under any applicable State law or under the provisions of this Title and, once having made that election, shall be precluded from submitting a claim or pursuing a remedy under the alternative procedure: *Provided*, That in any case where the owner or operator of a vessel or facility is required to respond to claims under laws of one or more States and to pay compensation pursuant to such laws which would result, together with claims presented under this title for loss caused by the same incident, in payments which in the aggregate are in excess of the liability of that owner or operator under section 104 of this title, shall be compensated by the fund established under section 102 hereof for any such excess.

(c) Except as specifically provided otherwise herein, this title shall not be interpreted to preempt the field of liability; nor interpreted to preclude any State from imposing a tax or fee upon any person or upon oil in order to finance the purchase or prepositioning of oil discharge cleanup equipment or other preparation for the cleanup of an oil discharge which affects such State; nor to preclude any State from imposing additional requirements or liability for damages, including cleanup costs, within the jurisdiction of such State, resulting from a discharge of oil.

PENALTIES

SEC. 111. (a)(1) Any person who fails to comply with the requirements of section 105, the regulations promulgated thereunder, or any denial or detention order, shall be subject to a civil penalty of not more than $10,000.

(2) Such penalty may be assessed and compromised by the President or his designee, in connection with section 105(a)(1), and by the Secretary, in connection with section 105(a)(3) and section 105(b). No penalty shall be assessed until notice and an opportunity for hearing on the alleged violation have been given. In determining the amount of the penalty or the amount agreed upon in compromise, the demonstrated good faith of the party shall be taken into consideration.

(3) At the request of the official assessing the penalty, the Attorney General may bring an action in the name of the fund to collect the penalty assessed.

(b) Any person in charge, subject to the jurisdiction of the United States, who fails to give the notification required by section 106(a) shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both.

STUDIES

SEC. 112. (a) The President is authorized and directed to conduct a study to determine (1) whether adequate private oil pollution insurance protection is available on reasonable terms and conditions to the owners and operators of vessels, onshore facilities, and offshore facilities subject to liability under section 104, and (2) whether the market for such insurance is sufficiently competitive to assure purchasers of features such as a reasonable range of deductibles, co-insurance provisions and exclusions. The President shall submit the results of his study, together with his recommendations, to the Congress within one year of the date of enactment of this Act, and shall submit an interim report on his study within three months of the date of enactment of this Act.

(b) The President is authorized and directed to establish an interagency task force to study methods and procedures for implementing a uniform law providing liability and compensation for cleanup costs and damages from hazardous substance spills from any source. The study shall give particular attention to methods of adjudicating and settling claims as rapidly, economically, and equitably as possible. The study shall also review the availability of insurance and whether liability or compensation ought to be provided for personal injury. The report of such investigation, together with legislative recommendations, shall be submitted to the Congress within eighteen months after the enactment of this Act.

(c) The President is authorized and directed to undertake a study of the methodology for the assessment of damages for injury to, destruction of, or loss of natural resources resulting from a discharge of oil or a hazardous substance. Such study shall specify (1) standard procedures for simplified assessments requiring minimal field observation, including establishing measures of damages based on units of discharge or units of affected area, and (2) alternative interagency agreements for conducting assessments in individual cases to determine the type and extent of short- and long-term injury, destruction, or loss. Such study shall identify the best available procedures to determine such damages, including both direct and indirect injury, destruction, or loss and shall take into consideration factors including, but not limited to, replacement value, use value, and ability of the ecosystem or resource to recover. The report of the study shall be submitted to the Congress within two years after the enactment of this Act.

(d) The Comptroller General, in consultation with the Administrator of the Environmental Protection Agency, shall study the necessity for providing assistance in emergencies caused by the release into the environment of any pollutant or other contaminant which presents or may reasonably be anticipated to present an imminent and substantial danger to the public health or welfare, and shall report to the Congress within one year after the enactment of this

Act, on the results of such study, together with a recommendation on the appropriate level and source of funding for section 504 (b) of the Federal Water Pollution Control Act, as amended.

APPROPRIATIONS

SEC. 113. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of section 112.

(b) The Secretary is hereby authorized to incur indebtedness on behalf of the United States, as provided in section 102(f), to the extent provided, in appropriation Acts, for that purpose.

ANNUAL REPORT

SEC. 114. Within six months after the end of each fiscal year, the Secretary shall submit to the Congress (1) a report on the administration of the fund during such fiscal year, and (2) his recommendations for such legislative changes as he finds necessary or appropriate to improve the management of the fund and the administration of the liability provisions of this title.

TITLE II—EFFECTIVE DATES; CONFORMING AMENDMENTS

SEC. 201. (a) This section, section 101, subsection (d) of section 105, section 203, and all provisions of title I authorizing the delegation of authority or the promulgation of regulations shall be effective on the date of enactment of this Act.

(b) All other provisions of title I, the regulations applicable thereto, and section 202 shall be effective on the one hundred and eightieth day after the date of enactment of this Act: *Provided*, That the penalty authorized by section 111 for failure to comply with the requirements of section 105 or the regulations promulgated thereunder shall not be effective until the ninetieth day after the promulgation of such regulations or the two hundred and seventieth day after the date of enactment of this Act, whichever is earlier.

SEC. 202. (a) Subsection (b) of section 204 of the Trans-Alaska Pipeline Authorization Act (87 Stat. 586) is amended, in the first sentence, by inserting after "any area", the words "in the State of Alaska"; by inserting after "any activities", the words "related to the trans-Alaska oil pipeline", and by inserting at the end of the subsection a new sentence to read as follows: "This subsection shall not apply to removal costs resulting from oil pollution as that term is defined in section 101(n) of the Comprehensive Oil Pollution Liability and Compensation Act.".

(b)(1) Subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act is hereby repealed. The Trans-Alaska Pipeline Liability Fund is hereby abolished. All assets of that fund, as of the effective date of this section, shall be transferred to the Comprehensive Oil Spill Liability Fund established by section 102 of this Act. The Comprehensive Oil Spill Liability Fund shall assume any and all liability incurred by the Trans-Alaska Pipeline Liability Fund under the terms of subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act, and shall also assume any and all liability incurred by the officers or trustees in the execution of their duties involving the Trans-Alaska Pipeline Liability Fund, other than the liability of such officers or trustees for gross negligence or willful misconduct.

(2) The Secretary of the Interior shall certify to the Secretary the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time the transfer of assets required under paragraph (1) is made. If the Secretary finds that—

(A) the total amount of the assets so transferred is greater than the total amount of the outstanding claims so certified, subject to paragraph (4) of this subsection, the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified shall constitute an advance payment toward payment of the fee due under section 102(d) of this Act on barrels of oil, and the Secretary may waive such fee until such time as the total amount of the fees so waived equals the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified; or

(B) the total amount of the assets so transferred is less than the total amount of the outstanding claims so certified, the Secretary shall increase by 2 cents per barrel the fee imposed under such section 102(d) on barrels of oil until such time as the total amount of the 2-cent-per-barrel increase so collected equals the difference between the amount of the certified outstanding claims and the amount of the transferred assets.

(3) In the event that the total amount of the actual claims settled is less than the total amount of the outstanding claims certified, the difference between these amounts shall be rebated by the Secretary directly to the operator of the trans-Alaska oil pipeline for payment, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel.

(4) If an owner of oil (as that term is used in section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act) who prior to enactment of this Act paid fees to the operator of the pipeline for transfer to the Trans-Alaska Pipeline Liability Fund receives the benefit of an advance payment under paragraph (2) of this subsection for the collection or payment of fees established under section 102(d) of this Act, such owner of oil shall compute, based upon accepted accounting procedures, what the oil production tax and what the royalty paid to the State of Alaska would have been had payments not been made to the Trans-Alaska Pipeline Liability Fund in the amount of fees waived. The difference between the amounts so computed and amounts actually paid to the State of Alaska shall be paid by each such owner to the State of Alaska. Such owner shall make such payment to the State of Alaska during such time as the collection of payment of fees under section 102(d) of this Act is waived.

(5) For purposes of paragraphs (2) and (3):

(A) the term "barrels of oil" means only barrels of oil which would, but for the repeal made by paragraph (1), be subject to the fee imposed under section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act;

(B) the term "Secretary" means the Secretary of the Treasury.

(c) Section 17 of the Intervention on the High Seas Act (88 Stat. 10) is amended to read as follows:

"SEC. 17. The fund established under section 102 of the Comprehensive Oil Pollution Liability and Compensation Act shall be available to the Secretary for actions and activities, relating to oil pollution, taken under section 5 of this Act, and the revolving fund established under section 311(k) of the Federal Water Pollution Control Act, as amended, shall be available for other actions and activities taken under section 5 of this Act.".

(d) Section 311 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321) is further amended as follows:

(1) Subsection (a) is amended by replacing the period at the end of clause (16) thereof with a semicolon and adding a new clause (17) to read as follows:

"(17) 'person in charge' means the individual having immediate operational responsibility.".

(2) Paragraph (5) of subsection (b) is amended in the last sentence, by inserting after the word "person", the words "or his employer".

(3) Paragraph (6) of subsection (b) is amended—

in the first and second sentences, by striking the phrase "or person in charge" each time it appears and inserting in lieu thereof "person in charge, or employer of such person in charge,"; and

in the third sentence, by striking "the owner or operator" and inserting in lieu thereof "whoever being".

(4) Clause (H) of paragraph (2) of subsection (c) is amended by inserting after the words "of this section" the words "or the fund established under section 102 of the Comprehensive Oil Pollution Liability and Compensation Act, as appropriate,".

(5) Subsection (d) is amended by striking the last sentence and inserting in lieu thereof "Any expense incurred under this subsection or under the Intervention on the High Seas Act (or the Convention as defined in section 2(3) thereof) shall be reimbursed from the fund established under subsection (k) of this section or the fund established under section 102 of the Comprehensive Oil Pollution Liability and Compensation Act, as appropriate. Any expense incurred thereunder for which reimbursement may be had from the fund established under subsection (k) of this section shall be recoverable from the owner or operator of the vessel in accordance with subsection (f) of this section.".

(6) Paragraph (5) of subsection (b) and subsections (f), (g), (h), (i), and (o) are amended by inserting after the word "oil" wherever it appears the words "(other than petroleum, crude oil, or any fraction or residue therefrom)".

(7) Subsection (f) is further amended, in the last sentence of paragraph (1), by inserting a comma after the word "vessel" and by adding immediately thereafter "or against the person furnishing financial responsibility under section 15 of the Comprehensive Oil Pollution Liability and Compensation Act,".

(8) Subsection (g) is further amended, by inserting in the last sentence, after the word "party" the words "or against the person providing financial responsibility for that party under section 105 of the Comprehensive Oil Pollution Liability and Compensation Act,".

(9) Subsection (k) is amended to read as follows:

"(k) There is hereby authorized to be appropriated to a revolving fund to be established in the Treasury such sums as may be necessary to maintain such fund at a level of $35,000,000 to carry out the provisions of subsections (c), (d), (i), and (l) of this section respecting discharges or imminent discharges of oil (other than petroleum, crude oil, or any fraction or residue therefrom) and hazardous substances. Any other funds received by the United States under this section respecting such discharges shall also be deposited in this fund for these purposes. All sums appropriated to, or deposited in, the fund shall remain available until expended.".

(10) Subsection (l) is amended by deleting the period at the end of the second sentence and by inserting in lieu thereof the words "respecting discharges or imminent discharges of oil (other than petroleum, crude oil, or any fraction or residue therefrom).".

(11) Subsection (p) is hereby repealed and subsections (q) and (r) are redesignated subsection (p) and (q), respectively.

(e) The Deepwater Port Act of 1974 (88 Stat. 2126) is amended as follows:

(1) In section 4(c)(1), strike "section 18 (l) of this Act;" and insert in lieu thereof "section 105 of the Comprehensive Oil Pollution Liability and Compensation Act;".

(2) Subsections (b), (d), (e), (f), (g), (h), (i), (j), (l), and (n) of section 18 are deleted.

(3) Clause (3) of subsection (c) of section

18 is amended by striking "Deepwater Port Liability Fund established pursuant to subsection (f) of this section." and inserting in lieu thereof "fund established under section 102 of the Comprehensive Oil Pollution Liability and Compensation Act.".

(4) Subsection (k) of section 18 is amended to read as follows:

"(k) This section shall not be interpreted to preclude any State from imposing additional requirements, not inconsistent with the provisions of the Comprehensive Oil Pollution Liability and Compensation Act, for any discharge of oil from a deepwater port or a vessel with any safety zone.".

(5) Subsections (c), (k), and (m) of section 18 are redesignated (b), (c), and (d), respectively.

(f) Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Public Law 95-372) Is hereby repealed.

OIL AND HAZARDOUS SUBSTANCE LIABILITY

SEC. 203. (a) Section 311(a)(2) of the Federal Water Pollution Control Act is amended by inserting before the semicolon at the end thereof the following: ", but excludes (A) discharges in compliance with a permit under section 402 or 404 of this Act, (B) discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under section 402 or 404 of this Act, and (C) discharges from a point source, designated in a permit or permit application under section 402 or 404 of this Act, which are caused by events occurring within the scope of relevant operating or treatment systems;".

(b) Section 311(b)(2)(E) of such Act is amended to read as follows:

"(B)(i) The owner, operator, or person in charge of any vessel, onshore facility, or offshore facility from which there is discharged a hazardous substance in violation of paragraph (3) of this subsection shall (subject to the defenses to liability provided in subsection (f) of this section) be assessed a civil penalty by the Administrator based on consideration of the size of the business of the owner or operator, the effect on the ability of the owner or operator to continue in business, the gravity of the violation, and the nature, extent, and degree of success of any efforts made by the owner, operator, or person in charge to minimize or mitigate the effects of such discharge. The amount of the penalty shall not exceed $50,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, operator, or person in charge, such owner, operator, or person shall be assessed a civil penalty by the Administrator, based upon the gravity of the violation, in any amount not exceeding $250,000. No penalty shall be assessed unless the owner, operator, or person in charge shall have been given notice and opportunity for a hearing on the charge. Each violation is a separate offense. Any such civil penalty may be compromised by the Administrator. Civil penalties shall not be assessed under both this section and section 309 for the same discharge.

"(ii) In addition to establishing a penalty for the discharge of a hazardous substance, the Administrator may act to mitigate the damage to the public health or welfare caused by such discharge. The cost of such mitigation shall be deemed a cost insurred under subsection (c) of this section for the removal of such substance by the United States Government.".

(c) Section 311(b)(3) of such Act is amended by striking out "in harmful quantities" and inserting in lieu thereof "in such quantities as may be harmful".

(d) Section 311(b)(4) of such Act is amended to read as follows:

"(4) The President shall by regulation determine for the purposes of this section those quantities of oil and any hazardous substances the discharge of which may be harmful to the public health or welfare of the United States, including but not limited to fish, shellfish, wildlife, and public and private property, shorelines, and beaches.".

(e) Section 311(b)(6) of such Act is amended by striking out "or a hazardous substance" each place it appears.

SEC. 204. If any provision of this Act or the applicability thereof is held invalid, the remainder of this Act shall not be affected thereby.

Amend the title so as to read: "To provide a comprehensive system of liability and compensation for oil spill damage and removal costs, and for other purposes.".

Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. TREEN. Mr. Speaker, reserving the right to object, I do this simply to inquire of the chairman of the committee if the language contained in the legislation is the language which was agreed upon today between the majority and the minority?

Mr. MURPHY of New York. Mr. Speaker, if the gentleman will yield, this is the language that was agreed upon between the majority and minority in both committees.

Mr. TREEN. And no changes have been made in that language this afternoon?

Mr. MURPHY of New York. There have been no changes other than as contained in the final agreement with the gentleman.

Mr. TREEN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, can my colleague assure us that there is nothing in the bill on the Senate side that is nongermane?

Mr. MURPHY of New York. Mr. Speaker, if the gentleman will yield, there is nothing on the Senate side that is nongermane. In fact, we still have to go back to the Senate with the language that we have agreed upon.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

FURTHER MFSSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House with amendments to a bill of the Senate of the following title:

S. 791. An act to authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho.

IN TRIBUTE TO RALPH H. METCALFE

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of California. Mr. Speaker, on Tuesday, the Nation lost one of its truly outstanding leaders. We who have had the pleasure to work with Ralph Metcalfe have lost a remarkable colleague, and a good friend. The people of the First Congressional District of Illinois have lost a man of integrity and leadership who will not easily be replaced.

I first met Ralph at the finish line of the 100-meter sprint in the 1932 Olympics in Los Angeles where he had just come in second, thus winning an Olympic silver medal. I was at the finish line because I had the privilege of working for Fox News at the Olympic games.

In those days we did not have televisions, we only had newsreels. At the time, my "business" was fast motorcycles and motorcycle racing, and it was my job with Fox to get the news films from the finish line to the film laboratory in the shortest time possible after each event. After the films were developed they were sent to movie houses throughout the country for people to see the latest news events.

I have also had the privilege to serve with Ralph on the Merchant Marine and Fisheries Committee for the past 8 years. During that time he worked hard to insure the future of the American merchant marine, and as chairman of the Subcommittee on the Panama Canal, Ralph worked diligently to maintain the safe operation and maintenance of the Panama Canal.

Ralph has always strived to be the best and do the most thorough job in everything, starting as a medalist in those 1932 and 1936 Olympics, as a member of the Chicago City Council from 1955-70, and as a Member of the House since 1970.

Little did I dream, when I first congratulated Ralph back in 1932, that we would one day be serving together in the U.S. House of Representatives. Ralph and I often reminisced about our first meeting on that memorable day in 1932.

In this time of sorrow for the entire Nation, my wife Lee and I would like to extend our sympathy to those who will miss Congressman Metcalfe most; his wife Madalynne and son Ralph Jr. They should know that the thoughts of all of us in this Chamber are with them in their hours of grief. For indeed, speaking for the Nation and as individuals, we share in that grief, and will miss Ralph Metcalfe greatly.

INTERIM REGULATIONS ISSUED BY CIVIL SERVICE COMMISSION TO IMPLEMENT TITLE IV OF PUBLIC LAW 95-390

(Mr. SOLARZ asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. SOLARZ. Mr. Speaker, I have received a copy of the interim regulations issued by the Civil Service Commission to implement title IV of Public Law 95-390. This is the law that provides for the adjustment of work schedules for religious observances. I am gratified with the promptness with which the Commission has responded in issuing these interim regulations.

It is my hope that the Commission will move as expeditiously in issuing final regulations giving full effect to the intent of Congress that the accommodation made possible by title IV be available to all Federal employees in executive agencies and military departments as those terms are defined in sections 105 and 102 of title 5, United States Code.

I trust that agencies in the judicial and legislative branches, as well as the Government of the District of Columbia, will proceed with the same expedition to insure that their employees will have the benefits provided by title IV of this legislation.

Mr. Speaker, I request that this copy of the Civil Service Commission interim regulations be printed in the RECORD as an extension of my remarks.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., October 2, 1978.

Subject: Adjustment of Work Schedules for Religious Observances.

To: Heads of Departments and Independent Establishments.

1. The President signed the Federal Employees Flexible and Compressed Work Schedules Act of 1978 into law on September 29, 1978 (Public Law 95-*). Title IV of this Act, entitled "Adjustment of Work Schedules for Religious Observances," amends title 5, United States Code, to provide that a Federal employee may elect to work compensatory overtime for the purpose of taking time off without charge to leave when personal religious beliefs require that the employee abstain from work during certain periods of the workday or workweek. Under this law, any employee who elects to work compensatory overtime for this purpose shall be granted (in lieu of overtime pay) an equal amount of compensatory time off (hour for hour) from his or her scheduled tour of duty. However, the law also provides that under appropriate regulations an employee's election to work compensatory overtime or to take compensatory time off to meet his or her religious obligations may be disapproved by an agency if such modifications in work schedules interfere with the efficient accomplishment of an agency's mission. (Note: Title IV is permanent legislation and bears no relation to the 3-year experimental program of flexible and compressed workweeks otherwise authorized by the Act.)

2. The Civil Service Commission plans to promulgate further regulations for implementing title IV of the Act for Executive agencies. (Note: The statute requires agencies cited in subparagraphs (C) through (G) of section 5541(1) of title 5, United States Code, to prescribe their own regulations for implementing title IV of this Act.) Because of the immediacy of certain days of religious observance for some Federal employees which occur in early October and fall on normal workdays, and in view of the requirement that Commission regulations be issued within 30 days of enactment, Executive agencies shall be governed by the following interim regulations:

PART 550—PAY ADMINISTRATION
(General)

SUBPART J—ADJUSTMENT OF WORK SCHEDULES FOR RELIGIOUS OBSERVANCES

550.1001 Coverage.

This subpart applies to each employee in or under an Executive agency as defined by section 105 of title 5, United States Code.

550.1002 Compensatory Time Off for Religious Observances.

(a) These interim regulations are issued pursuant to title IV of Public Law 95-* enacted September 29, 1978. Under the law and these regulations, an employee whose personal religious beliefs require the abstention from work during certain periods of time may elect to engage in overtime work for time lost for meeting those religious requirements.

(b) To the extent that such modifications in work schedules do not interfere with the efficient accomplishment of an agency's mission, the agency shall in each instance afford the employee the opportunity to work compensatory overtime and shall in each instance grant compensatory time off to an employee requesting such time off for religious observations when the employee's personal religious beliefs require that the employee abstain from work during certain periods of the workday or workweek.

(c) For the purpose stated in (b) above, the employee may work such compensatory overtime before or after the grant of compensatory time off. A grant of advanced compensatory time off should be repaid by overtime work within a reasonable amount of time. Compensatory overtime shall be credited to an employee on an hour for hour basis or authorized fractions thereof. Appropriate records will be kept of compensatory overtime earned and used.

(d) The premium pay provisions for overtime work in subpart A of part 550 of title 5, Code of Federal Regulations, and section 7 of the Fair Labor Standards Act of 1938, as amended, do not apply to compensatory overtime work performed by an employee for this purpose.

(e) These interim regulations shall remain in effect until superseded by further regulations on this subject by the Civil Service Commission.

(Note: An agency is expected to accommodate to an employee's request to work compensatory overtime. If no productive overtime is available to be worked by the employee at such time as he or she may initially request, alternative times should be arranged for the performance of the compensatory overtime work.)

Agencies are reminded of their obligation under E.O. 11491, as amended, to notify and consult or negotiate, as appropriate, with recognized unions.

4. A copy of title IV of Public Law 95- is attached.

By direction of the Commission:

RAYMOND JACOBSON,
Executive Director.

Attachment.

[Title IV of Public Law 95-390, enacted September 29, 1978]

ADJUSTMENT OF WORK SCHEDULES FOR RELIGIOUS OBSERVANCES

Compensatory Time Off For Religious Observances

SEC. 401. (a) Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5550a. Compensatory time off for religious observances

"(a) No later than 30 days after the date of the enactment of this section, the Civil Service Commission shall prescribe regulations providing for work schedules under which an employee whose personal religious beliefs require the abstention from work during certain periods of time, may elect to engage in overtime work for time lost for meeting those religious requirements. Any employee who so elects such overtime work shall be granted equal compensatory time off from his scheduled tour of duty (in lieu of overtime pay) for such religious reasons, notwithstanding any other provision of law.

"(b) In the case of any agency described in subparagraphs (C) through (G) of section 5541(1) of this title, the head of such agency (in lieu of the Commission) shall prescribe the regulations referred to in subsection (a) of this section.

"(c) Regulations under this section may provide for such exceptions as may be necessary to efficiently carry out the mission of the agency or agencies involved."

(b) The analysis for chapter 55 of title 5, United States Code, is amended by adding after the item relating to section 5550 the following:

"5550a. Compensatory time off for religious observances."

GENERAL LEAVE FOR EXTENSION OF REMARKS UNTIL PUBLICATION OF LAST EDITION OF CONGRESSIONAL RECORD

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that all Members of the House shall have the privilege, until the last edition authorized by the Joint Committee on Printing is published, to extend and revise their own remarks in the CONGRESSIONAL RECORD on the subject of one or more retiring Members, if they so desire, and may also include therein such short quotations as may be necessary to explain or complete such extensions of remarks.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

IRS RACE QUOTAS: FIRST STEP TOWARD TOTAL FEDERAL CONTROL OF PRIVATE EDUCATION

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, between 80 and 90 percent of the American people oppose both racial hiring quotas and busing. As I pointed out to this House last month. Dr. James Coleman, whose study and testimony a decade ago was the basis of racial quotas which are the excuse for busing, has declared racial quotas to be a complete failure. Now the Internal Revenue Service is moving to require both racial quotas and minority hiring quotas in private schools throughout America. It is difficult to imagine a more callous or unconstitutional action.

We all know what will be the next steps after racial guidelines have been imposed on private schools by the Federal Government. We have seen every vestige of local and State autonomy taken away from State and local schools in the name of fighting racism, then sexism, and then religion. It will not be long before the Federal bureaucracy is scrutinizing the textbooks and teaching of each

private school for alleged sexism and for teaching religion. In a very short time, if these regulations go through, our private schools will be treated precisely as are schools receiving direct public support.

For years I have warned that Federal aid meant Federal control of State and local schools. Many of the school officials who thought JOHN ASHBROOK was an alarmist at the time have since faced an annual nightmare of Federal paperwork and Federal interference which has taken much if not most of the joy out of teaching. If they thought I was an alarmist then, what would they have thought had I predicted over a decade ago that Federal aid to education would mean they would have to try to hire professors because of their skin color, or that their cheerleaders would be required to cheer equally for male and female basketball teams, all by Federal decree? With this experience before our eyes, there is nothing more absurd than to think that the Internal Revenue Service's proposed racial hiring and student quotas are the last step that will be taken toward Federal control of private education.

The education establishment in Washington must destroy meaningful private education in this country for one reason: private education is doing too good a job. Like any other bloated monopolist, the Federal education establishment fears competition above all else. They cannot continue to use the public school system to teach life adjustment and propaganda to the children if parents are offered an alternative. The educational bureaucrats cannot continue to turn out an ever-increasing number of functional illiterates with high school diplomas if a healthy private school system continues in the present private school drive toward teaching reading, writing, arithmetic, and American values. For the Washington educational establishment to continue the 15-year educational disaster in this country as it wishes to do, it must destroy meaningful private education in this country. To do this, it will never have a better tool than the Carter administration.

It has not been the will of the people, but rather the will of the Washington educational establishment led by the National Education Association, which has dictated the policy of the Carter administration. If the NEA wants a Department of Education, a Department of Education becomes Carter policy. A taxpayer revolt begins with an overwhelming victory in the largest State in the Union. The voice of the people speaks loud and clear on the subject of blind governmental spending, with a special emphsis on education. But Mr. Carter hears not a whisper of it. Within weeks of the passage of proposition 13, the administration pushes through an increase in the 5-year authorization for every Federal education program which has been part of the 15-year disaster in education in this country. The people may shout, but Carter hears only the NEA and the Washington education bureaucracy.

There may be someone in this country naive enough to believe that the Washington educational establishment, whose unswerving aim is to eliminate competition in education, is not behind this proposed action by the Internal Revenue Service. But such naivete is not suitable for a Member of the U.S. Congress.

In 1964, I warned that the Civil Rights Act of that year would be used to enforce busing. Liberals, moderates, and even conservatives told me that I was being an alarmist, and pointed to the explicit prohibition in that act against the use of withholding Federal funds to enforce racial balance in public schools. As I predicted, the bureaucracy simply ignored that prohibition. It is difficult for me to believe that we can continue to live in a dream world where the educational bureaucracy is supposed to be interested only in preventing racial or sexist abuse. That is not and never has been the real aim of racial quotas and preferential hiring requirements embraced by the Washington educational establishment. The purpose is control over local, State, and now private schools.

The proposed Internal Revenue Service race quotas represent the beginning of the end for meaningful private education in America. If they are allowed to take effect, it will mark the closing of the last means by which parents can escape the suffocating power of the Washington educational establishment over education in this country.

The proposed change in the law will occur before Congress is able to do a single thing to stop this agency unless we act this week. The IRS quietly issued these regulations on August 22 (Federal Register No. 43, No. 163), and specified that public comment could not be submitted after October 23.

I urge my colleagues to write letters to: Commissioner of Internal Revenue, attention: EEO, Washington, D.C. 20224. I submit herein a copy of my own letter for the record so that my colleagues may see the rationale upon which I base my objections.

Re: IRS Notification of Proposed Rulemaking, Federal Register, No. 43, August 22, 1978

(To Jerome Kurtz, Commissioner, IRS)

This regulation will, if promulgated, set a dangerous precedent in this country. The imposition of IRS minority quota standards for private schools will create a new regulatory network which amounts to nothing less than legislation by decree.

When Section 501(c)(3) was added to the Internal Revenue Code, the legislative branch considered that tests for tax exempt status would revolve around a small not-for-profit educational standard. At no time did the Congress consider the imposition of specific regulations as to hiring practices or student recruitment in the private schools. The 501 exemption speaks to organizations operated for education purposes, in which no part of the net earnings accrues to a private shareholder or individual, and in which there is no substantial influence upon legislation, and no participation in political campaigns.

Under no circumstances did the Congress authorize the promulgation of operational standards for educational institutions which qualify under the 501(C)3 treatment. It was not the intent of Congress to structure an I.R.S. policing system to dictate policies for the private schools to ensure that they:

Are hiring racial minority teachers

Are actively recruiting minority students

Have established scholarships for racial minorities

Are increasing the proportion of racial minority students

Have as a bare minimum, as a percentage of minority students of the proper school age in the respective community: 20%.

It is my suggestion that you rescind entirely these proposed regulations. If you do not choose to do this, then it would be the recommendation of this Member of Congress that you at a bare minimum, permit both Houses of the Congress to conduct oversight hearings on the basis upon which you propose these regulations before you act.

Because you have set October 23 as the cutoff date for public comment, it would now be impossible for the Congress to conduct such inquiries. It would serve the best interest of good government to delay further action on this matter until the Ninety-sixth Congress has convened, and has taken the opportunity to examine carefully the proposed regulations.

Sincerely,

JOHN M. ASHBROOK.

LOU FREY

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. BENNETT) is recognized for 30 minutes.

● Mr. BENNETT. Mr. Speaker, I and many other Members of Congress pay tribute today to LOU FREY who has represented Winter Park, Fla., area beginning in 1969; and who retires from the House this year. LOU FREY has had a distinguished career in the House and it was preceded by distinction before he came here.

He graduated cum laude from Colgate University in 1955, enlisted in the U.S. Navy in that same year and served until he was discharged in 1958 as lieutenant (j.g.). He graduated from the University of Michigan Law School with honors in 1961 with a J.D. degree. He is married to the former Marcia Turner and Mr. and Mrs. Frey have five children: Julie, Lynn, Louis III, Lauren, and Chris. He practiced law in Orlando, Fla., until coming to Congress.

Here in Congress he was elected chairman of the Republican Research Committee in his third term and re-elected chairman thereafter. He was honored by Time magazine as "one of the Young Leaders in America in 1974." His work on the Science and Technology Committee and the Committee on Interstate and Foreign Commerce has been outstanding, as well as his other legislative achievements here in Congress.

There are few men in Congress who have had the universal appreciation by all Members of Congress which LOU enjoys. His going from Congress will be a real loss for all of us; and a loss to the advancement of good legislation, because he has authored and passed many excellent measures for our country and for mankind. We will miss you LOU.●

GENERAL LEAVE

Mr. BENNETT. Mr. Speaker, I ask unanimous consent that all Members may revise and extend their remarks in reference to the gentleman from Florida (Mr. FREY).

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

● Mr. YOUNG of Florida. Mr. Speaker, it is with mixed emotions that I join in this special order to honor my close friend and colleague, LOU FREY, Congressman from the Ninth District of Florida. I am very pleased to have had the opportunity to work with him in the Florida delegation, but I also feel a personal loss at his retirement after his five terms of service.

LOU was elected to Congress one term before I was so he and I have had many similar experiences as part of the Republican Party contingent in the Florida delegation. Although LOU has only been a Member for 10 years, his has been a distinguished record of public service on behalf of the citizens of the Ninth District, the State of Florida and the Nation. LOU has been a valuable and contributing member of the Interstate and Foreign Commerce Committee and is the ranking minority member of the Subcommittee on Communications. He is also a member of the Science and Technology Committee and has made many contributions to the U.S. space program which has had so many successful projects that began in his own district which includes Cape Canaveral.

LOU's accomplishments, talents and potential have not gone unnoticed outside his district and State as he was cited by Life magazine as a "Hope for Congress" in 1972 and also by Time magazine in 1974 as one of the "200 young leaders in America." His legislative work, constituent service and personal leadership characteristics show that he is the type of private individual and public servant who will be sorely missed by his constituents, his fellow members of the Florida delegation and the Nation.

Having worked with LOU throughout my entire service in Congress, I feel a special kinship for him and I will miss his friendship, advice and counsel and the special contributions that he has made to the Congress. I look forward to our continued association for many years to come.●

● Mr. LEHMAN. Mr. Speaker, I will miss LOU FREY very much when he retires from Congress. It has been a pleasure to know him since I came to Congress in 1973, and I have enjoyed working with him as a fellow member of the Florida delegation.

LOU FREY has epitomized the kind of Congressman we need here in Washington. He came to serve in his job, not to be served by it. His vitality, spirit, and personal independence has inspired us all.

All his friends wish him well in the future, and we hope that he will not stay away from public life where he can still do so much good.●

● Mr. DERWINSKI. Mr. Speaker, I would like to join with my colleagues in paying a well-deserved tribute to LOU FREY, who will be leaving the Congress at the close of this session. We have been fortunate to have LOU as a colleague and to benefit from his extraordinary ability.

During his 10 years in Congress, LOU has served the people of the Florida's Ninth Congressional District with dedication and distinction and he may step down from his duties here in Congress knowing that he has served well and contributed significantly to the legislative process.

LOU FREY has distinguished himself as a man of integrity and ability and has been an asset to the State of Florida, Congress, and to the Nation. His work on both the Science and Technology and Interstate and Foreign Commerce Committees has gained him a reputation as a energetic, conscientious, hard-working public servant.

My wife, Pat joins me in wishing LOU and Marcia and their family, health, happiness, and good luck in the years ahead. LOU will be greatly missed by all his friends in the House, but I hope that his future brings only the best and that he will remain in public service.●

● Mr. FASCELL. Mr. Speaker, I would like to take this opportunity to express my personal respect for our colleague, LOUIS FREY, JR., who will be leaving the House of Representatives at the conclusion of his present term.

LOU has admirably represented the Ninth Congressional District of Florida since his initial election in 1968.

Although we come from different sides of the political aisle, I have always liked and respected LOU FREY. As a member of the House Committee on Science and Technology, and Interstate and Foreign Commerce, he has worked diligently for his legislative objectives.

LOU's ability and dedication are well-known among his peers, and his traits of character have won him high esteem among all of us. He is one of the most personable Members of the House.

Because of his admirable qualities, LOU has accomplished a great deal during his congressional tenure. I will miss LOU's presence but hope that his future pursuits will prove enjoyable and productive.

I would like to extend to LOU, and to his family, my best wishes for personal success and happiness in the years ahead.●

● Mr. WAGGONNER. Mr. Speaker, as we take time to honor our colleagues who have chosen not to seek reelection I would like to pay tribute to LOU FREY.

LOU has been an excellent example to each and every Member of Congress of just how capable and dedicated the young men of this great country are. For several years LOU and I served together on the Science and Astronautics Committee and it became evident that he was one who tackled any problem head-on and met each challenge with enthusiasm.

I am sure that LOU views his departure with mixed emotions, as does each Member who is retiring. Although his wisdom and leadership and friendship will be missed by his colleagues in the Congress, the people of Florida can be justly proud of the way in which LOU has represented them.

In 1974 LOU was chosen by Time magazine as one of the "Young Leaders in America" and rightly so. He has set an example which challenges each young American; that of working on a fulltime basis for the freedom which our Founding Fathers worked so hard to establish.

I wish LOU and his young family the very best in all their future endeavors and have no doubt that LOU will continue to be one of the top "Young Leaders in America."●

● Mr. CORMAN. Mr. Speaker, I commend the gentleman from Florida for taking this time so that those who have had the privilege of working with LOU FREY also have the opportunity for a proper sendoff.

Although we could often be found on opposing sides of an issue, his fairness and integrity have been highly regarded. LOU has been very active in Republican Party affairs, notably service as chairman of their Research Committee. His dedicated efforts to improve the GOP are commendable.

As a conscientious member of the Science and Technology Committee, he has strived to keep America on the leading edge of innovation and discovery. As a former member of the predecessor committee to Science and Technology, I know the importance of the space program for stimulating the imagination and innovativeness of the American people. Representing both Cape Kennedy and Disney World will keep LOU ever bold and inquisitive.

LOU's departure was because of his ambition to greater serve the people of Florida. I am confident that wherever good fortune will lead, LOU's interest in serving the public will follow.●

● Mr. ZABLOCKI. Mr. Speaker, I join our colleagues in wishing Representative LOU FREY a happy and fulfilling retirement from the House of Representatives and success in his future endeavors.

Representative LOU FREY is a hard-working, energetic man who will certainly be missed by this body. His expertise in law and his responsiveness to Members of the House were exceptional assets during his service.

Representative FREY graduated with honors from the University of Michigan Law School and was subsequently admitted to the Florida Bar. After a successful career in law he was elected by members of the Ninth District of Florida to the U.S. House of Representatives in 1968. He was reelected to every Congress afterwards, and in 1976 swept the district with a 78.2 percent plurality.

Mr. Speaker, I believe that whatever LOU FREY chooses to pursue, he will put forth every effort and do a good job. I join our colleagues and friends in wishing him the best for a happy and fulfilling future.●

● Mr. ROGERS. Mr. Speaker, I join my colleagues in wishing LOU FREY every success as he leaves the House at the end of this 95th Congress.

I have enjoyed working with LOU, both in the Commerce Committee on which we served together, and as a member of the Florida delegation.

LOU has been a hard worker on behalf of the people of his district, of Florida, and of the Nation.

I know he has played a major role, and had a profound effect on the development of the communication law of our

country. I am sure Chairman VAN DEERLIN joins me in thanking LOU for his hard work and cooperation.

LOU FREY has also been a voice of reason in the consideration of many bills before our committee and the House.

It has been an enjoyable and rewarding association. May I join my colleagues in wishing LOU FREY every success in the future.●

● Mr. MICHEL. Mr. Speaker, I welcome this opportunity to honor our good friend and distinguished colleague LOU FREY.

It is customary on these occasions to pay tribute to the legislative ability of the Member who is retiring. I join with all of my colleagues on both sides of the aisle in saying that for 10 years we have had the benefit of LOU's dedication, his ability, and his hard work.

But there are times you get to know a lot about a colleague by what he does outside his legislative duties. Such is the case with LOU FREY. As you know, one of the most difficult positions to play in baseball is shortstop. You have to be able to go to either side, go deep and throw accurately, come in on the ball and make the double play. A shortstop is the player who serves as the "glue" that holds together a team. In many ways he is the player around whom a team is built.

For years I have watched LOU play shortstop in the congressional ball game. He can field and throw with the best of them and you might say that his qualities as shortstop are exactly those of a good legislator: the ability to be able to cover a wide area and still get the job done; the flexibility to move combined with the firmness and sense of balance necessary to be consistent; and the courage to face problems head-on whether it is a runner sliding into the base or a tough political decision.

It is my hope that LOU is only on the "temporarily disabled" list and that we will have once again the benefit of his ability, his courage, his friendship, and his integrity—not to mention his ability to go into the hole and make the long, accurate throw.●

● Mr. DE LA GARZA. Mr. Speaker, I rise today to salute the third of three great Congressmen from Florida who shall be leaving at the end of this session. Today is LOU FREY's day in the sun, and there are few Members who deserve it more.

Ever since LOU joined the House in 1969, he has represented Florida's Ninth District with diligence and integrity. In the relatively short time LOU's been in Congress, he has become a fixture of the House—outspoken in committee, on the floor, anywhere he is called upon to defend the rights and promote the views of his constituents.

LOU's departure leaves me with mixed emotions. On the one hand, the House will be darkened by the loss of one of its brightest candles. On the other hand, Florida will be warmed by his presence—and, after a couple of cold winters, perhaps that is what Florida needs.

Mr. Speaker, LOU FREY has my very best wishes for success in his future endeavors, and I know I speak for the entire House when I wish him well.●

● Mr. MANN. Mr. Speaker, LOU FREY and I were both elected to Congress in 1968, and arrived here when it was still fashionable for freshmen to be seen but not heard. In a sense, it was a blessing in disguise. Since nothing much was expected of us during our first 2 years, we were able to spend a good deal of time learning the ropes together—even though assigned to different committees.

Of course, the situation changed with the 92d and subsequent Congresses, as both of us became more deeply involved in the business of our respective committees. While LOU, as a member of the House Interstate and Foreign Commerce Committee and the Science and Technology Committee, was spearheading a major review of the Communications Act, and working on legislation related to cable TV, public broadcasting and space technology, I was busy with matters of concern to the House Judiciary Committee, District of Columbia Committee and a couple of select committees involved in the study of crime and drug abuse.

Although we have not seen as much of one another as we did in the beginning, the friendship and mutual respect that we established as freshmen has endured, and we have learned and benefited from the expertise that each has developed in our respective fields of endeavor.

I might add that LOU's interests and expertise extended beyond the scope of his committee work as he sought to improve the lot of the handicapped and veteran pensioners, and to promote the development of alternate energy sources and solutions to the problems of drug abuse.

In all of his legislative pursuits, LOU has demonstrated a capacity for hard work, an ability to get to the root of a tangled web of problems and a tendency to stay cool when under pressure—qualities which have earned him the recognition and respect of his colleagues on both sides of the aisle.

Although I am sure he will be missed—I cannot say that will apply to both sides of the aisle when the annual congressional baseball game rolls around. Rumor has it that the odds are in favor of the Democrats now that the Republicans are losing the best shortstop that their team has ever had—a man who won the most valuable player award three times in the past 10 years.

It may be that LOU is ready for the big league. But, whatever his plans, I know that he still has a lot to offer to society and that he will be equal to the task regardless of the dimensions of the undertaking.●

● Mr. FLOWERS. Mr. Speaker, when I count the blessings that have come my way in the last 10 years while being privileged to serve here in the "People's House"—the House of Representatives—right at the top of the list are the close, personal friendships that have developed with other Members. We may come from different places with widely different backgrounds, but there is surely something special here that allows a depth of friendship which is hard to find.

If anything, my feeling of friendship for the gentleman from Florida, LOU FREY, is extra special. It was destined to be so from our very first day in Congress, January 3, 1969, when we moved into offices adjoining each other in the Longworth Building. We have shared many wonderful experiences together—we have traveled half way around the world and we have collided at second base. Together we have fought the "enemy" many times—sometimes for real, sometimes imaginary. We have laughed and had fun and we have pushed and shoved each other on the paddle ball court. And we were both taken to the woodshed by the voters of our respective States at about the same time last month.

But I have a certain knowledge that the sun will always rise and shine for the "Kid" on each tomorrow, as I know it will on the friendship and admiration I have for him.

Who knows? Maybe we will figure out a way to get our offices next to each other again * * *.

LOU FREY has my best wishes for every success and happiness in the years ahead.●

● Mr. MONTGOMERY. Mr. Speaker, LOU FREY was elected to the House of Representatives 2 years after my own service began and since that time I have come to know him as a person of deep personal commitment to our legislative process and serving the people of Florida's Ninth District.

LOU FREY's leadership abilities have been recognized by many including Time magazine which chose him as a "Young Leader in America" in 1974 and the Republican Research Committee, which chose him to serve as its chairman for two terms. But more importantly, his abilities have been recognized by his colleagues as they have often sought his advice on legislation coming from the Interstate and Foreign Commerce and Science and Technology Committees.

I am particularly mindful of LOU's deep and sincere interest in the well-being of our Nation's veterans. He has long sought to improve the lot of America's former servicemen and servicewomen. I can assure you that his interest has been of immense help to me in formulating worthwhile programs in the House Veterans Affairs Committee.

Mr. Speaker, in addition to my association with LOU FREY as a fellow member of the House, I also consider him to be one of my closest personal friends. I am grateful for the fact that even though our association in the Congress will end, our friendship will not.●

● Mr. ERLENBORN. Mr. Speaker, when the Congress adjourns sine die, we will lose the talent and wit of my good friend LOU FREY.

He will be returning to the sunny climes of Florida after spending the better part of 10 years in the often chilly weather of Washington.

When LOU was chairman of the Republican Research Committee, he provided those of us on this side of the aisle with clear, concise reports on the issues facing us. He was in that position during some of the most difficult days our party has

ever faced, and helped us get through those days.

Mr. Speaker, we will miss LOU FREY. He represented the people of Florida and the country well.●

● Mr. CHAPPELL. Mr. Speaker, I rise this afternoon to pay tribute to one of the members of Florida's delegation here in the House—a gentleman who, unfortunately, will be leaving Washington when the 95th Congress adjourns, my distinguished colleague, LOU FREY.

LOU FREY has been one of the ablest members of the Florida delegation since coming to the Congress 10 years ago. He and I came to the House together, as freshmen in the 91st Congress. For that 10 years, the Ninth District of Florida has enjoyed the very capable and dedicated representation that LOU FREY has so conscientiously given. His party will lose a clear and respected voice here on the Hill.

Not only were LOU and I sharing the common experience of House Membership during the week, on weekends we saw a great deal of each other as "shipmates"—fellow Naval Reservists, who carried out our weekend warrior assignments at the Naval Air Reserve training unit in Jacksonville. Our time in the Naval Reserve gave us a shared, firsthand perspective on naval and defense issues that we would not otherwise have had.

Through five times in the House, LOU and I have often worked together on issues of concern to the State of Florida. Perhaps the most significant of these was the successful effort to designate the Canaveral area as a National Seashore. The Fourth and Ninth Districts share a common boundary, which divides the Canaveral shoreline. Throughout the struggle to bring the legislation to enactment, I knew I could count on LOU whenever help was needed. Many of our colleagues may have discovered that it is not always easy or perhaps even possible to work with fellow Members of the opposite party, even when pursuing a common goal. I believe that LOU and I proved that cooperation can take place despite differing political affiliation, to produce benefits to the citizens of both districts.

Suffice it to say, Mr. Speaker, I view the retirement of LOU FREY with mixed emotions. The Florida delegation will lose an able and dedicated legislator—but the Republican baseball team will also lose a sticky-fingered and entirely too effective shortstop.

I ask my colleagues on both sides of the aisle to join with me in recognizing the many contributions and accomplishments of our fellow Member, LOU FREY, as we approach the end of this fifth term in the House of Representatives.●

● Mr. VAN DEERLIN. Mr. Speaker, it is a special pleasure to join in this tribute to LOU FREY, one of my closest associates in the House membership.

LOU is ranking Republican on the House Communications Subcommittee, which I chair. Together we drafted and submitted H.R. 13015, the proposed Communications Act rewrite which would change completely the rules for Federal regulation of television, radio, telephone, cable TV, and other telecommunications systems.

This landmark legislation has stirred much debate and controversy in the 4 months since it was introduced, and for that LOU can take much of the credit. It was at LOU's instigation that we decided to embark on this project 2 years ago. He saw before I did that the old 1934 Communications Act had become badly dated, and was therefore a poor vehicle for dealing with modern communications technologies.

At times, when a broadcaster or public interest advocate complains about our bill, I am tempted to say, "Go tell LOU FREY. He's the one who thought it up."

Of course, the bill has drawn such opposition because it would alter the status quo for many established interests. But it would also open up new opportunities for communications industries and the public by ending much of the Federal regulation that we have found to be both ineffective and inhibiting.

LOU, a fine baseball player who has been a fixture at shortstop for the House GOP team, also was a staunch champion of the antiblackout law that allowed local television stations to carry pro football games if they were sold out 72 hours in advance.

Despite his easy-going and informal style, he is among the most energetic Members of the House, a can-do sort who sticks with a job until it is done.

LOU FREY is still a young man. Based on his fine record here, I know he will succeed in whatever he undertakes in the future.●

CONGRESSMAN JAMES J. DELANEY WILL RETIRE AFTER 34 YEARS IN HOUSE OF REPRESENTATIVES

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 60 minutes.

Mr. ADDABBO. Mr. Speaker, at the end of this session, the House will lose one of its most senior Members with the retirement of JAMES J. DELANEY of Queens. The New York congressional delegation will miss his presence in the new Congress more than anyone but his departure will be a sad one for all who have known and worked with JIM DELANEY.

There is much we can say about JIM DELANEY and some of it is even good. He maintains that because he has lived long enough to outlive the majority of his enemies and to have most of his sinful ways forgotten in the dust of past years that he ought to be remembered as the resident saint of the House. Well, for anyone who knows this son of Ireland, that is probably too much to swallow, even at most charitable.

Nevertheless, we can say this: There is only one JIMMY DELANEY. The mold has been broken and none like him will come our way again.

In 34 years of service in the House, a man has many triumphs as well as many defeats. JIM served on the House Rules Committee, rising to become its chairman, and he has felt the warmth of victory and the wrath of loss more times than he can remember. He has had Speakers of the House and Presidents of the United States seek his advice and counsel and he has endured when they did not like what they heard. Throughout all of the years, up and until today, he has never varied from the course he felt was right, no matter what pressures were brought to bear against him.

And during the last 2 years, at a time when he had at last climbed the pinnacle that so long had eluded him—the chairmanship of the Committee on Rules—this stalwart man who had said no to Truman and Eisenhower, who had said no to Kennedy and Johnson and Nixon and Ford and Carter—this man who had stood firm against the railings of Sam Rayburn and John McCormack; in these last 2 years when the chairmanship was his and his alone to wield, this giant of a man answered his call to duty with a heroic slogan that echoes still today:

"Yes, Tippy, Yes, Tippy."

Yes, it has been true that during the last 2 years, Chairman DELANEY has given more rules to more legislation that affects more people and creates more rollcalls than has ever been the case before. It is also true that because of those rules, this Congress has put together a record for hard work and dedication that will be hard to equal in Congresses to come.

But it is not the office that we honor nor is it the title that we cherish. Our affection is for the man who has moved among us in this House for three and a half decades of the most unbelievable change this Nation has ever endured.

For me, it is the human elements I shall miss. There has never been a better storyteller in this House than JIMMY DELANEY unless it might have been our former colleague Manny Celler of New York. Their impromptu contests of "Can You Top This" used to be one of the most rewarding hours a person could spend, and I look back over the years and I can recall JIMMY DELANEY stories that illustrate almost every point a man would want to make. JIMMY DELANEY sometimes appears to be a national repository of ethnic humor, the kind of humor that is funny because it pinpoints human foibles rather than cutting at nationalities. I and my Italian-American heritage have often been the butt of his humor and time after time I have gone away saying to myself that he understands the heritage of Italians, especially those who made that fearful trek to a new and foreign land, so far better than I who grew up in it.

And that brings us to what is essentially the best part of JIM DELANEY. He has spent his years on Earth looking and listening well. So many of us look and we do not really see. He sees everything and he hears everything because he cares about people so deeply it has to be felt rather than expressed.

And because he cared so much for those around him, people throughout his life have looked to him for support and leadership. In his youth, he was a poor man who worked with his hands so that he might become a member of the bar. In his youth, he was an outstanding ath-

lete who was good at any game he played, and in his youth, he was filled with that bursting desire to experience life that drew to him the friendship of the famous and the infamous.

And in his middle and his later years he rejoiced in his family and his work. He served nearly a decade in the Queens district attorney's office, and he practiced law in New York City with some of the giants of that field. He ran for Congress and won in 1944, and he was turned out of office 2 years later, and returned to office again in 1948. He lost the 1946 election because he refused to compromise an unpopular stand at a time when everyone around him was running for cover.

And then there were the years of sorrow and agony. Those were the years when arthritis nearly immobilized him, where every moment was painful. Those were the years of personal sadness as well: 11 years in an unsuccessful battle against the cancer that eventually took his beloved wife.

But he endured. He was among the first who underwent the then-radical hip replacement operations. Eventually, he would undergo two of those operations but he would emerge from that battle at last freed from the continuous pain that had nagged him for so long. Today, at 77, JIM DELANEY sets off all the alarm buttons at security stations at airports when he goes through, but he moves around easily and well again.

And through it all, his Irish wit has carried him through. Those of us who have lived so closely with JIMMY through the years know that along with the Irish wit and beauty comes the Irish temper. And is there one of us in this Chamber who has not been exposed at least once to even portions of wrath and wit? Sometimes within the same minute?

There is no explaining JIMMY DELANEY, no way of putting him down on paper in black and white. Any Irishman whose birthday comes 2 days after St. Patrick's Day must be endured to be believed and understood. We here in this House have endured—and enjoyed—and pleasured in the company of JIM DELANEY for years and years. We have shared him amongst ourselves, and now it is time for him to leave these halls and go forth upon an unsuspecting world.

Go well, JIM. Go in good health and our best wishes, and watch out, world. You have got a tiger coming your way.

● Mr. BIAGGI. Mr. Speaker, it is sad to say goodbye to good friends and colleagues with whom we have shared so much time and experience. And I have been fortunate, like many of you here now, to have worked alongside JIM and under his direction for many years. He is my good friend. At times he has been very much like a father to me. We have represented neighboring constituencies in Queens County, N.Y. And we have shared like brothers a special bond of love and commitment to the great city of New York.

But we really do not say goodbye to a guy like JIM DELANEY. A man of his character and distinction who has served in this great body for 32 years is a part of this institution, and will remain so for many years to come. And JIM DELANEY is very much a part of who we are and what we are working to accomplish.

JIM DELANEY's representation in Congress had very special meaning for New York. He came to these Halls to begin the 79th Congress, having won election to the area of Queens which is now the Ninth Congressional District on November 7, 1944. He was elected again on November 2, 1948, to the 81st Congress, and has won reelection ever since to each succeeding Congress. He is leaving us at a time after which he has achieved and established two very significant positions to provide service and leadership for New York and our Nation.

He is leaving us as the chairman of the House Rules Committee. No Member of this body could deny that any of the legislation of this 95th Congress would have been possible without the talents and leadership of JIM DELANEY.

He also leaves us as the chairman and dean of the New York State congressional delegation. It was always personally gratifying for me to work under his tutelage. Many years ago I was a detective lieutenant in the 114th precinct, and it was my pleasure to have him under my friendly surveillance—'nuff said. And I welcomed the confidence he placed in me through my appointment as chairman of the task force for the renewal of the New York City Federal loan financing legislation. We won a great victory. But it was the lasting support of JIM DELANEY which made that victory possible. He was greatly responsible for saving New York City.

I will miss the person and figure of JIM DELANEY in Congress. His bearing and demeanor are trademarks around here. These hallowed halls will long echo with the strains of his bursts of laughter and outrage. I enjoyed his good sense of humor as one who is close to him can do. And it was also my privilege at times to enjoy his great warmth and compassion. He is a man who was the friend of Presidents. He had their confidence because of his political acumen and integrity.

JIM DELANEY is a loving family man. I know my colleagues will join me in wishing for him and his family that the years ahead in Key Biscayne bring him happiness, good health, and peace of mind.●

● Mr. GREEN. Mr. Speaker, I want to join with those of my colleagues who are speaking in tribute to Congressman JAMES DELANEY, who is retiring after 34 years of service in the House.

As chairman of the House Rules Committee, JIM DELANEY skillfully helped direct the national agenda for Congress and those of us from New York will sorely miss his leadership as the senior member of our delegation.

I mention his contributions to consumer protection in fighting dangerous chemical additives to food and drugs and his efforts to bring tax-relief to hard-pressed families through tuition tax credits, as only two of JIM DELANEY's recent interests which I believe typify his ability to represent the needs of his district and the needs of our Nation with equal vigor.

I am proud to have had the opportunity to serve in Congress with JIM DELANEY. I know I am expressing the feelings of the rest of my colleagues in saluting him for a job well done and wishing him all possible future success and happiness.●

● Mr. RODINO. Mr. Speaker, I want to take this opportunity to pay tribute to a great Congressman and a great American. Rules Committee Chairman JAMES J. DELANEY is an institution in this House and I have been proud to serve with him since I entered Congress in 1949.

JAMES DELANEY's personal concern for people and his special wit has been well appreciated by those of us who have shared all or part of his three decades in Congress. During that time, the people of the Ninth District in New York could not have had a better or more loyal Representative than JAMES J. DELANEY. His attention has never waivered from the needs of his constituents and the best interests of our Nation. All Americans should be grateful to him for his fight for the passage of the Delaney amendment prohibiting the sale of drugs known to produce cancer in animals. It has saved countless lives. His stewardship of the Rules Committee has been a great service to the country during a time when the committee has had to consider an awesome amount of legislation. In all his work, JAMES J. DELANEY has performed admirably and memorably.

Mr. Speaker, I will miss my friend from New York as he leaves Congress, but I am happy that his long career provides so many fond memories of his proud record.●

● Mr. DOWNEY. Mr. Speaker, when Congressman JAMES J. DELANEY first stepped foot into this Chamber, I was not even an idea. I speak today of someone I know as Mr. Chairman and dean of the New York delegation and someone I respect as a legislator of accomplishment.

As a man of Congress, JIM DELANEY has helped guide our Nation for more than three decades. As a man of New York, he has helped to sustain the greatest city in the world throughout the postwar era and, especially, in its time of greatest need.

Foresight and legislative skill have been the hallmarks of his career. His early work to protect the Nation's food supply from pesticides on the farm and dangerous additives in the factory was truly a project of vision. He has left us with a body of law which continues to protect the health of our people and which exemplifies, in every sense of the phrase, that what we do here affects the lives of all Americans.

Congressman DELANEY's legislative skills have been applied to many of the great domestic issues of the day. In an era of limited energy resources, his leadership provided us with a Federal aid to mass transit program. In an era of cynicism, he has run the Rules Committee in an open and aboveboard way.

Mr. Speaker, the people of Queens and the city of New York will miss JIM DELANEY, and as we wish him well in his future endeavors, I would like to join a certain gentleman from Boston in

lamenting the fact that the caucus of silver-haired Irishmen in the U.S. House of Representatives will be without one of its most steadfast Members in the 96th Congress.●

● Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to the Honorable JAMES J. DELANEY, chairman of the House Rules Committee, who is retiring at the close of the 95th Congress as the dean of the New York congressional delegation to Congress. It has been a truly rewarding personal experience for me to have known him as a colleague and I am honored to have served with him during the 14 years I have been in the House of Representatives.

JIM was first elected to the 79th Congress, and then to the 81st Congress, and was reelected to every succeeding Congress until the present 95th Congress, and he has proven himself a capable legislator and fully worthy of the trust and confidence of his constituents of the Ninth New York Congressional District.

This admiration for his leadership is not confined to the citizens of New York, for he is respected by every Member of Congress. Having served for over three decades with outstanding dedication to high standards, JIM DELANEY has compiled a splendid record of excellence and achievement, and his inspiring example will be missed here in the House.

Seldom does one find a man of JIM DELANEY's stature, a man so wholeheartedly dedicated and responsive to the needs of the people he served, and his contributions have made America a better country. I extend my warmest best wishes to JIM for a healthy and happy retirement.●

● Mr. RHODES. Mr. Speaker, for the past 3½ decades, JIM DELANEY has been a hard-working Member of Congress. His name is known nationwide as author of an amendment that has had far-reaching effects in the food and drug industries.

His amendment was adopted with the aim of protecting the American people from one of our major killer diseases—cancer.

I have been his colleague in the Congress for a major part of JIM's service, and I know how dedicated he has been to the cause of better health for our people.

We certainly will miss his many years of experience, and I join my colleagues in wishing him the very best for the future.●

● Mr. RUSSO. Mr. Speaker, I do not know how you can really pay full tribute to a gentleman who has served for over 30 years in Congress. His battles, his accomplishments, his legislation—so much would have to be said to do justice to the congressional career of Representative JIM DELANEY.

It is remarkable to consider that this gentleman was here making his mark as an advocate of protection of the public from harmful substances in our food, long before we could grasp the magnitude of the problem and while some of us here were just learning to ride a tricycle, or not even around yet.

Representative JIM DELANEY has served with dedication and the people of New York have been ably represented. But he has worked for the common good for all of us, and Congress and the country owe him thanks.

It has been a pleasure to serve with JIM, and I want to wish him continued success and great happiness.●

● Mr. BINGHAM. Mr. Speaker, I welcome the opportunity to participate in this special order in honor of our departing colleague, the dean of the New York delegation and chairman of the great Committee on Rules, the Honorable JAMES J. DELANEY.

JIM DELANEY was one of the elder statesmen of the House already when I arrived here some 14 years ago and I looked upon him with nothing less than awe. However, as the years went by and I got to know JIM, he became for me, as for so many of our colleagues, an object of affection, rather than awe.

In fact getting to know this colorful character from Queens County has been one of the great experiences of my years in the House, and I hope to see a lot more of him.

There is no question that JIM DELANEY has been a stalwart friend of the city and State of New York. When our long-time dean, Mannie Celler, left the House, JIM DELANEY took his place as dean of the New York delegation. As such, working with our former colleague and the present mayor of New York City, Ed Koch, JIM brought a disparate group of Members together as an effective, working delegation. Moreover, as one who presided over our delegation meetings with his inimitable brand of humor, he often made enjoyable delegation meetings that might otherwise have been routine. All of us benefited from his sometimes needling wit.

All in all, JIM DELANEY has been a memorable colleague and dean. We shall miss him very much.●

● Mr. ZABLOCKI. Mr. Speaker, like many of my colleagues, I was saddened to learn that my good friend, Representative JAMES J. DELANEY, had announced his retirement at the conclusion of the 95th Congress.

Having served 16 terms as a dedicated and responsible Member of Congress from the Ninth Congressional District of New York, JIM DELANEY will long be remembered for his important contribution as Chairman of the important House Rules Committee. In this capacity our retiring colleague has been instrumental in expediting to the floor bills which have required skillful expertise to insure a well-balanced debate. I believe this is the result of Representative DELANEY's illustrious law career, having previously practiced law in all the courts in the State of New York.

Undeniably, one of Chairman DELANEY's major contributions which will have a lasting impact on all our lives is his tireless efforts in the field of consumer health. We are all familiar with the Delaney amendment to the Food Additives Act of 1958 which prohibits the use of any chemicals known to induce cancer in animals or humans.

As early as 20 years ago, Representative DELANEY was actively fighting on behalf of the consumer, and as chairman of the Select Committee to Investigate the Use of Chemicals in Food and Cosmetics, he brought to public attention the hazards of chemical additives as well as the danger of pesticides. Needless to say, JIM DELANEY was the catalyst for countless investigations which have led to an increased awareness of the health hazards of modern technology.

On the subject of tax reform, I will sorely miss my political ally, as on many occasions we united in our attempts to provide tax relief to the lower- and middle-income taxpayer who has carried the full weight of the tax burden for many years. As a further indication of his commitment to improving the quality of life for the less fortunate, JIM DELANEY has consistently voted for responsible legislation to give the unemployed jobs and provide assistance to the poor.

Mr. Speaker, while I am sorry to see Chairman DELANEY leave the legislative branch, I join with my colleagues here on the floor of the House of Representatives in extending every best wish for continued good health and success in every one of his future endeavors.●

● Mr. FREY. Mr. Speaker, I would like to join with his many friends in wishing JIM DELANEY well. He has served this country long and well. JIM has been one of the best liked Members of Congress, effectively working for the legislation he believes in. I am delighted that JIM will be living part time in Florida, bringing a great deal of credit to our State. The State of New York and the people of this country are losing a fine Member of Congress. JIM can look back on a career that he leaves with pride and know that over the years he has gained the respect and friendship of all in the House.

Good luck and God speed.●

● Mr. QUILLEN. Mr. Speaker, I would like to take this opportunity to congratulate Congressman JAMES J. DELANEY on his many years of outstanding service in the House of Representatives.

The tremendous work he has done in serving his constituents and our Nation is a shining example for others to follow, and his efforts will long be remembered. His record of accomplishments shows a great deal of dedication and ability, as well as determination and personal integrity.

As ranking minority member of the House Rules Committee, I have enjoyed working with Congressman DELANEY, and his chairmanship has been very effective and decisive—he has made many important contributions to this country.

I know he will continue his high level of service as he retires from the Congress. We will all miss him, but I am sure the future holds many more wonderful things in store.

I am confident that all of my colleagues join with me in paying tribute to JAMES J. DELANEY and extend to him our sincere best wishes for the years that lie ahead.●

● Mr. DE LA GARZA. Mr. Speaker, today I rise with feelings of respect, admiration, and amazement to join in the special order for the distinguished Congressman from New York's Ninth District, JAMES J. DELANEY.

JIM is most definitely a Member we all hold in respect, for as chairman of the Committee on Rules, he has exerted his judicious and firm hand over every bill and resolution which came to the floor. For more than 30 years, JIM DELANEY has been a force to be reckoned with in the House—and I do not think anyone will doubt that the country is in better shape now that it would be without JIM.

Admiration is the word I think most appropriately describes my true feelings for this exceptional gentleman. To each and every task he faces, JIM applies his fine qualities of honesty, dedication, and fairness—and he has done so consistently over the years.

Mr. Speaker, amazement is the way I would characterize my reaction when I first contemplate the House without JIM. It is like a day without sunshine, or a bill without a rule. Mr. Speaker, the Congress will be poorer without the richness which is JIM DELANEY, but he has earned his vacation.

Thanks, JIM, for all you have done. I think I speak for all the Members when I sincerely wish you the very best in the future.●

● Mr. DERWINSKI. Mr. Speaker, for the past 34 years, the citizens of the Ninth District of New York have been ably represented here in Congress by our distinguished colleague, JAMES J. DELANEY.

Serving as chairman of the Rules Committee, JIM has made many conscientious contributions to our legislative process and in the implementation of important and responsible legislative policy.

Over the years, JIM has served the people of the Nation, as well as the people of his district, with outstanding ability. And it is with great pleasure that I join with my colleagues today to wish him the very best in the years ahead. JIM may, indeed, take pride in his accomplishments in the House, and we will certainly miss his wise counsel and leadership.●

● Mr. BRINKLEY. Mr. Speaker, with the adjournment of the 95th Congress, the Honorable JIM DELANEY of New York will retire from the U.S. Congress after 34 years of service.

Dedicating one's life to serving the public is an action to be highly commended. JIM DELANEY's years in Congress have made him a respected Member of the House of Representatives, and his ability and dedication will be missed by all of us.

As chairman of the Rules Committee, JIM has shouldered tremendous responsibility, and he has performed admirably. His leadership role has truly been a fine example for each of us.

In "The Ladder of St. Augustine," Henry Wadsworth Longfellow penned words of tribute to great men which truly typify this fine Congressman:

"The heights by great men reached and kept
Were not attained by sudden flight,
But they, while their companions slept,
Were toiling upward in the night."

We shall miss JIM DELANEY, and as long as water runs downhill, his name will be spoken in the Halls of Congress with respect and with affection.●

● Mr. McHUGH. Mr. Speaker, I am pleased to join today in paying tribute to the illustrious and dedicated service rendered in this body over many years by our colleague, Congressman JIM DELANEY of New York.

Congressman DELANEY represents the congressional district in which my parents reside and, therefore, I am not only a colleague but a kind of constituent-in-law. I am well acquainted with the affection and esteem with which he is regarded by the people he has served so well.

New York is very proud of him for his service as chairman of the House Rules Committee. In addition, he has served as dean of the New York congressional delegation at a time of particular crisis for New York City, and thus has played a very significant role in the complex efforts to assist the city.

We will remember and cherish his friendship, his unfailing sense of humor amid the hectic events of congressional life, and his exemplary service to his district, his State, and his country. I am proud to join with all his friends in Congress in wishing for him much happiness in the years to come.●

● Mr. JOHNSON of California. Mr. Speaker, as we conclude the 95th Congress I am reminded that the distinguished chairman of the House Committee on Rules will be retiring. JIM DELANEY has been an important and effective Member of this body, and I want to wish him continued good health and happiness as he leaves these Halls.

JIM has spent 34 years in this Chamber and has given nearly his entire life to public service. He is to be commended on his legislative record and his efforts in behalf of his constituents.

Throughout his career in Congress, JIM DELANEY has made important contributions to the legislation enacted by Congress. Although his accomplishments are many, JIM DELANEY is perhaps best known to the "man on the street" as the author of the "Delaney amendment" which has served unswervingly as the Government's standard for preventing the marketing of substances proven to be carcinogenic.

More recently, as chairman of the Committee on Rules, JIM has demonstrated his effectiveness in helping to move legislation swiftly through the House. His leadership has played an important role in the successful record of Congress in recent years.

As JIM leaves us, we congratulate him on a job well done and ask that he continue to share with us his wisdom and knowledge.●

● Mr. LUNDINE. Mr. Speaker, I join with my colleagues of the House and those in the New York delegation in today wishing the very best in the future to a most distinguished legislator, JIM DELANEY.

As a relatively new member of the delegation, coming to the Congress in the middle of a term, I had occasion to be particularly grateful for JIM DELANEY's counsel and example. His services as dean of the New York delegation and as chairman of the House Rules Committee have been examples of leadership and statesmanship. His service to his district won him the enviable distinction of being nominated by three political parties at once.

Mr. DELANEY will be missed by all of us who have had the opportunity to learn from his years in the Chamber and benefit from his experiences and interests. I want to wish him a pleasant, well-earned retirement.●

● Mr. MITCHELL of New York. Mr. Speaker, I am pleased to join in this special tribute to the dean of the New York congressional delegation and a dedicated New Yorker who has served his district, State, and Nation well for 34 years here in the House of Representatives.

Those of us who have been privileged to work closely with JIM DELANEY know him to be an individual concerned about people and their problems and one who has always been most anxious to help in contributing to the solution of these problems. He has led our congressional delegation during a period of transition in which we have gone from a group of individuals working independently to a cohesive team of Representatives working together for the common good. His leadership has been noted by many others but I bring it to our attention here today because I think it especially significant and, therefore, deserving of special mention.

We all wish JIM DELANEY well and hope that our paths will continue to cross often.●

● Mr. MANN. Mr. Speaker, I would like to join my colleagues in paying tribute to a distinguished fellow Member, JAMES DELANEY of New York.

The chairmanship of the House Rules Committee has culminated a 32-year career in Congress during which JIM has earned the respect of all of his colleagues.

Through the years, Chairman DELANEY has been known as a champion of consumer protection. More than 20 years ago, as chairman of the Select Committee to Investigate the Use of Chemicals in Food and Cosmetics, JIM sponsored the Delaney Act, for which he is known throughout the Nation. He has also been very active in the fields of revenue sharing, Federal funds for mass transit, and education. I had the pleasure of working with him when, as chairman of the Informal House Textile Committee, I found my colleague from New York to be a strong proponent of fair textile trade policies. Though JIM and I have not always been on the same side of every issue, I have always had the utmost respect for his intelligence and dedication.

As chairman of the Rules Committee, JIM has shown himself to be a skillful legislator, who has kept the committee moving. Jim's efficiency is tempered by a good sense of humor which has brought a light touch to many a heated meeting.

With the departure of Congressman DELANEY, Congress is losing a dedicated and well-respected Member. I wish the Congressman many happy and fruitful years in his well earned retirement.●

● Mr. BOLAND. Mr. Speaker, I take this opportunity to join with my colleagues to pay tribute to JAMES DELANEY under this special order.

JIM DELANEY has served in Congress since the New Deal days of Franklin Roosevelt. His constituents have returned him to Congress 16 times. This long term of service has also been a distinguished one. As chairman of the Rules Committee, JIM DELANEY has presided over consideration of the major bills of the 95th Congress. His chairmanship has been characterized by fairness and dedication.

In addition to his work on the Rules Committee, JIM DELANEY has been in the forefront of many important issues over the years. His drafting of a guide for the testing of new chemicals was an important step in consumer protection. This Delaney clause has been the subject of some controversy, but has surely saved many lives over the past 20 years.

Mr. Speaker, I wish JIM DELANEY the best of luck in all future endeavors. He will surely be missed here in the House of Representatives.●

● Mr. SKUBITZ. Mr. Speaker, it is with great pleasure that I join my colleagues in paying tribute to JIM DELANEY, who will be retiring at the close of the 95th Congress. JIM'S representation of New York has been in the highest tradition of public service.

Although I have not been privileged to serve on the same committees as JIM, I have had occasion to lobby him in his capacity as a member of the Appropriations Committee. He has always been fair. I have become an admirer of JIM'S dedication to hard work and constant vigilance to insure the best interest of the public is served.

I truly hate to see the career of such a fine Representative come to an end. The people of New York's Ninth District are losing an exemplary public servant.

JIM has earned a high place in the eyes of his colleagues.

I extend my sincere wish that JIM will find much happiness in retirement.●

GENERAL LEAVE

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my Special Order on today, the retirement of Honorable JAMES J. DELANEY.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

TRIBUTE TO JOHN E. MOSS

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. DINGELL) is recognized for 60 minutes.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my Special Order on today, the retirement of my dear friend and colleague, the Honorable JOHN E. Moss.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Speaker, with my colleagues in the House of Representatives, I pay special tribute to one of my very best friends, the gentleman from California, JOHN E. Moss.

He is public citizen No. 1 in my book.

It is JOHN E. Moss whose gallant and pluckish, fiery and untiring determination has resulted in numerous provisions within our public laws to protect the individual rights of American citizens. JOHN'S efforts to this end have been etched in stone guiding our country and American Government. He is the author and protector of the Freedom of Information Act, one of the truly major accomplishments of a stunning congressional career.

We cannot replace JOHN who has, and I say this with great regret but full understanding, chosen to retire from the House. His record is a quarter of a century of service for the common good of the people and the Nation. We can only follow in the well-marked trail JOHN has blazed, sometimes with a blowtorch but mostly with a well-honed axe, to insure that we and others in future sessions of Congress keep the protections, that JOHN Moss has secured, intact for future generations.

JOHN has served honorably as a senior member of both the Government Operations Committee and the Interstate and Foreign Commerce Committee. It has been on the Commerce Committee, sitting side by side with JOHN for most of those 25 years, where I learned many useful rules of parliamentary procedure, along the hard knocks of the legislative process. JOHN and I were usually together on the same side of most issues and I believe it can be said we have been a most formidable team. But, honest men will differ upon occasion and when he and I differed, it was always with a great deal of exuberance while our respect for one another remained solidly intact. He has been a real "bear" in legislative combat and a fighter for his fellow Americans.

It is said in this Chamber that the Member who best knows the rules of the House can win many a legislative victory. For JOHN Moss, I can say that he has "ruled" in this House.

I honor this man and I love him—and—he and his wife, Jean, have all my affection and best wishes for the happiest of days ahead as they return to California.

Mr. ANDERSON of California. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I am delighted to yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Speaker, when the 95th Congress adjourns for the last time, Washington will bid farewell to one of its most worthy public servants, Congressman JOHN E. Moss of California. The constituents of the Third District, as well as his colleagues here in the Capitol, surely will miss the presence of this active, straightforward, independent man who worked for so many years to advance the cause of individual freedom.

My first encounter with JOHN was during the time that we spent serving together in the California State Assembly, 1948–51. Although JOHN was just a young fellow and brand new to politics, he was just as bold and feisty then as he is today. He left the State Assembly in 1952, when he was elected to the House.

JOHN'S move to Washington did not cause him to forget those who sent him here. Always, he carries in his heart the knowledge that he is both servant and protector of the people. JOHN has acted upon this knowledge with foresight, diligence and unsurpassed dedication, as exemplified by his sponsorship of the Freedom of Information Act in the late 1950's. Since then, he has continued his fight for individual rights with his invaluable service as chairman of the Oversight and Investigations Subcommittee and as a member of the Government Operations Subcommittee on Government Information and Individual Rights. JOHN'S record in Congress clearly justifies his reputation as a man ahead of his time, and my personal experiences with him more than solidify that image. As chairman of the California delegation he has provided the leadership and know-how so vital both to the members of the delegation personally and to the legislative process as a whole.

For 26 years JOHN Moss has been a dedicated public servant, an awesome political fighter, and a loyal friend to those around him. He has earned the respect and admiration of his constituents and his fellow members. While I know how deserving JOHN is of a long, pleasant life of leisure in his retirement, I am also sadly aware that all of us will feel a certain loss when he is not with us at the opening of the 96th Congress. My wife, Lee, joins me in wishing all the best to JOHN and his lovely wife Jean and family.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Speaker, JOHN Moss surely is one of the most extraordinary Members ever to have served in this Chamber. My only regret is that I overlapped him by only 4 years. I would like to have continued to serve with him because he has taught me a lot, and taught other newer Members a great deal.

Mr. DINGELL. Including the gentleman in the well.

Mr. MAGUIRE. I am grateful to the gentleman, as I am sure JOHN Moss is, for that generous comment.

The fact of the matter is that JOHN Moss is a rigorous investigator who has great respect for facts, regardless of where they lead; who has great reverence for this institution, and who has distinguished himself time and again in his dedication to this country and what this country is all about. I join with all of my colleagues in honoring a very great man, JOHN Moss of California.

Mr. DINGELL. I thank my good friend for his comments.

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, I thank the gentleman for yielding. JOHN Moss, of course, is the dean of our California Democratic delegation, and he has been a tremendous help to me ever since I arrived here in the Congress a few years ago. We are going to miss him here, miss him a great deal.

I do not know of anybody who is quite as vitally interested in what goes on about the House, who takes quite so independent a point of view, as JOHN Moss, and who never hesitates to tell people where he stands on things. I really like that, myself. I think we need more of it.

I get a real pleasure out of talking with JOHN once in a while, and I told him what I remember it was that Adlai Stevenson said: "What the world needs is more ornery people."

I think he is one of the most ornery people I know, and I say that in a friendly sense.

I usually arm wrestle with him, and he usually beats me to show that he is strong as an ox. I think that epitomizes the way JOHN Moss lives. He knows what he is thinking about, he knows his business. He believes firmly in what his position is. He does not hesitate to tell anybody. You know, in this day of pablum that reaches from coast to coast, it is nice to have somebody who can tell you where he stands, and you do not have a bit of doubt, particularly when he has got the kind of ability JOHN Moss has.

I am sorry we are going to be losing him here, because we need more JOHN MOSSES. I have a hunch we will hear a lot about him.

I thank the gentleman from Michigan for giving me a chance to tell what I think of a great Congressman, and dean of our delegation.

Mr. DINGELL. I thank my friend.

● Mr. DRINAN. Mr. Speaker, I have met very few persons in my lifetime who had the integrity, the courage, and the vision possessed by Congressman JOHN EMERSON Moss.

Congressman Moss was one of my inspirations before I came to the Congress in 1971, and he has remained as one of my ideals and models.

JOHN Moss will follow the evidence and the truth wherever it may lead and will decide on the merits of the question no matter how difficult the political or personal consequences.

The American people owe a tremendous debt of gratitude to Congressman Moss as the principal author of the Freedom of Information Act. He has opened up the American Government in totally unprecedented and historic ways.

Congressman Moss has been a battler for the rights of the consumer in almost countless ways. In his work on the Commerce Committee and on the Government Operations Commitee he has been a stalwart in insisting that the executive branch of Government disclose everything that Congress needs in order to legislate responsibly and to do conscientious oversight.

The 26 years of his life which Congressman Moss has given to the Congress of the United States have brought about monumental contributions to the well-being of America.

Congressman Moss will continue to be in my mind the ideal Member of the House. I and countless others will hold him in veneration all the days of our lives. The like of him will not soon come to us again, and for that reason we stand in admiration and veneration.

Mr. BOLAND. Mr. Speaker, I take pleasure in joining with my colleagues to pay tribute to our good friend JOHN Moss.

JOHN Moss and I came to Congress in the same year. I have, therefore, had the opportunity to closely follow his career in the House. Throughout that career, JOHN Moss has been an outspoken champion of the rights of consumers and the rights of citizens to have access to their Government. He has been in the forefront on issues that have only recently come into vogue.

His service on the Government Operations Committee and the Interstate and Foreign Commerce Committee has resulted in numerous legislative achievements that have benefited all Americans. The Freedom of Information Act, which has made the records of the Federal Government more accessible to its citizens, is almost entirely the product of the efforts of JOHN Moss. In addition, the Consumer Product Safety Commission owes much of its independent stature to the persistence and dedication of JOHN Moss.

Mr. Speaker, the career of JOHN Moss has indeed been a distinguished one. He will be missed in the House of Representatives. I wish him the best of luck as he moves on to new challenges.●

● Mr. STARK. Mr. Speaker, I would like to take a few moments to salute our distinguished and respected colleague, JOHN Moss. Mr. Moss has decided to take his leave of the halls of Congress after some 24 years of hard work in this body and faithful representation of his constituents in Sacramento, Calif. JOHN Moss' absence will be sorely felt by both his congressional colleagues and by those he represents.

Throughout his career in Washington, JOHN Moss has been a man ahead of his times. Back in the 1950's—without the support of the organized public interest lobbies which we rely on today—JOHN saw the need for legislation which would give the American people access to Government information. A long and sometimes lonely battle, led by JOHN Moss, resulted in the passage of the Freedom of Information Act. Without this legislation, we would not have come so far along the road to the open and accessible Government which is so loudly demanded today. His commitment to open Government, moreover, enabled JOHN to understand the corruption of the Nixon administration as many of us were just beginning to notice that something was amiss.

Mr. Moss has always been sensitive to the needs of his constituents. This sensitivity has created a legislative answer to many of the most pressing needs of the American people. A pioneer in the consumer movement, for example, JOHN Moss' leadership was important in the creation of the Consumer Product Safety Commission.

Finally, all of us in the House know of JOHN's hard work as a member of the Commerce Committee. As chairman of the Subcommittee on Investigations, he has taken his oversight responsibilities very seriously. The importance of his thankless job of insuring that legislation is being implemented in accordance with the intent of Congress and the best interests of the American people cannot be overestimated.

We all owe JOHN Moss a heartfelt thanks and our very best wishes.●

● Mr. RUSSO. Mr. Speaker, for over a quarter of a century JOHN Moss has served with distinction and courage in the House. It is with a great sense of loss that we bid JOHN Moss farewell as he leaves the body he has served so well. JOHN has often stood alone, but he never allowed the force of numbers to still his forceful voice. He came here in 1952 breathing fire and ready for battle, and battle he did.

I doubt if he has ever been considered an ordinary man—and clearly he demonstrated his exceptional nature and just plain "grit" when he fought, almost single-handedly, for the adoption of the Freedom of Information Act, which has given many citizens a mechanism for obtaining the documents and materials that affect their lives.

He has made his mark in the Commerce Committee and it was a pleasure and education for me to serve with a Member of his skill and insight. He has helped make this country a better place and he can leave the Congress feeling the satisfaction of a job well done.●

● Mr. JOHNSON of California. Mr. Speaker, with the close of the 95th Congress will come the close of the long and distinguished career of my friend and colleague from California, JOHN Moss. We are thankful for his very generous contributions to effective Government through his service as a Member of Congress, and will indeed be sorry to see him leave this Chamber.

JOHN came to Congress over a quarter of a century ago. He has established a reputation for honesty and integrity and for leadership JOHN has never been afraid to stand up for what he believed, and because of this he has been a champion of the little man.

JOHN Moss' accomplishments as a Member of Congress are numerous. He is renown for his investigative skills and his ability to go directly to the point of an argument. He had been a valued member of the Interstate Commerce and the Government Operations Committees.

As a fellow Californian, I have also had the opportunity to observe JOHN Moss as a member of the largest State delegation, and more recently as the head of our delegation. JOHN has brought continuity to a very diverse delegation and has been effective in developing a

consensus on matters of special interest to the golden State.

Mr. Speaker, although JOHN has left his mark on Congress in many ways, I must once again commend JOHN for his hard work and long struggle to enact the Freedom of Information Act. This single piece of legislation was enacted only after unceasing efforts by JOHN Moss. Today it stands as one of the most important pieces of legislation adopted by the Congress in recent decades to protect the individual freedoms we all hold so dear.

JOHN has been a friend and counsel to me, and his departure is in many respects a sad occasion for me. I am bouyed, however, by the knowledge that he will now have the opportunity to relax and regain his health. We are going to miss his fighting spirit and his most able leadership. We know that he has made his full measure of contribution as a Member of Congress and well deserves to pass on the mantle of representing our State Capital here in the House of Representatives.

To JOHN and to his wife Jean, both Albra and I wish the very best for the future. We hope that JOHN will continue to share his suggestions and ideas with us, for he still has much to offer from which we can all benefit.●

● Mr. MARKS. Mr. Speaker, it has been my pleasure to serve the past 2 years as a member of the Interstate Subcommittee on Oversight and Investigations, chaired by the distinguished JOHN Moss. His retirement this year will represent a personal loss for me, as well as a loss to the entire Nation.

As an architect of such major pieces of legislation as the Freedom of Information Act, the Privacy Act, and the bill creating the Consumer Product Safety Commission, Congressman Moss has earned national recognition and acclaim for his great interest in the common man and strong support for consumer issues. In spite of this well-deserved stature, however, JOHN Moss continues to treat all persons, great and small, with equal respect and dignity.

As a freshman member of the minority party, I have been especially aware of the fair treatment which Chairman Moss has accorded each member of the Oversight Subcommittee. JOHN Moss has personally helped me learn about congressional operations, and has personally assisted me in getting through the difficult first term every freshman faces.

As a member of Chairman Moss' Oversight Subcommittee, I have watched first-hand his untiring dedication to consumer causes, his unflinching inquiries into potential violations of consumer interests, and his tenacity in seeing a matter through to its resolution. These qualities will be greatly missed. I wish my good colleague a happy and fulfilling retirement.●

● Mr. COLLINS of Texas. Mr. Speaker, I want to join with my colleagues from the Commerce Committee in a salute to JOHN Moss, of California. Since I probably was on the opposite side of issues with JOHN more than any member of our committee, I have learned to respect him for all of his ability. Anyone soon discovers that JOHN Moss knows the rules of the committee and the rules of Congress better than anyone. I have questioned him many times but I find that when you verify the technical precedents that he was always right.

There never was anyone in Congress who was more tenacious in standing by his position. When JOHN Moss thinks something is right, hellfire and brimstones cannot phase him in his position. His determination and aggressiveness made him very effective as the chairman of the Oversight and Investigations Subcommittee. When the record is reviewed, history will probably find that JOHN Moss did more work during the 4 years that he headed up the Oversight and Investigations Subcommittee than was accomplished in the 100 years preceding his chairmanship.

JOHN Moss is a tireless worker and I cannot imagine him in retirement. What he is going to do with all of that energy is beyond my comprehension. JOHN Moss was a positive personality who will be missed in Congress.●

● Mr. DELLUMS. Mr. Speaker, today, October 12, 1978 in this special order of the House, I would like to join in honoring the senior Member of the California delegation, Congressman JOHN E. Moss. The 26 years that JOHN Moss has served in the House of Representatives are in their longevity deserving of much respect but it is his achievements that truly stand as a monument to this colleague's career. JOHN Moss possesses the kind of political foresight that prompted him to sponsor the Freedom of Information Act way before it became popular to support the notion that citizens' should have access to such information. As a member of the Commerce Committee JOHN Moss continued his support for more "unpopular" causes, one eventually leading to the creation of the independent Consumer Product Safety Commission. As chairman of the Subcommittee on Oversight and Investigations of the Interstate and Foreign Commerce Committee he has aggressively pursued investigations into unfair practices of American corporations to protect the American consumer. It is because of these outstanding achievements, his commitment to his beliefs, and his many years of superior service to the people of California's third district that I join in honoring my friend and colleague JOHN E. Moss.●

● Mr. BROOKS. Mr. Speaker, in January 1953, I was sworn in for the first time as a Member of the U.S. Congress.

On that same day, a most able and distinguished gentleman from the State of California became a Member of the House of Representatives.

I can truly say that throughout these 26 years we have served here together, I observed no Member more dedicated to his principles, more tenacious in achieving his objectives, nor more capable in carrying out his responsibilities than JOHN Moss.

It has been my pleasure to serve as chairman of the House Government Operations Committee where Congressman Moss is one of the ranking members. He is primarily responsible for one of the most far-reaching pieces of legislation the Congress has passed in recent years, the Freedom of Information Act. Through the Freedom of Information Act, Congressman Moss has unlocked the doors of the vast Federal bureaucracy for the ordinary citizens of this country.

An unflagging defender of the rights of the consumer, Congressman Moss, as chairman of the Subcommittee on Oversight and Investigations of the Interstate and Foreign Commerce Committee, has exposed numerous examples of unsafe products or activities that have endangered millions of Americans. His success here in the Congress will inure to the benefit of the people of this country for many years.

His departure is our loss, but I wish him and his family the very best in the years to come.●

● Mr. LENT. Mr. Speaker, I thank my colleague from Michigan (Mr. DINGELL) for setting aside this time for tributes to our good friend JOHN Moss who is retiring from the House of Representatives at the conclusion of his current term. It is most appropriate that those of us who have served with him join in marking his departures from the House with this special order, for I think every Member of this body would agree that the House of Representatives just will not be the same without the presence of JOHN Moss.

Especially is that true of those, like myself, who have had the privilege of serving on the Subcommittee on Oversight and Investigation of the House Committtee on Interstate and Foreign Commerce, which JOHN has chaired with such purposeful determination and masterful authority for the past 4 years.

Anyone who has ever challenged JOHN Moss to debate knows full well the depth of knowledge which JOHN Moss has amassed; the capability of his quick wit in putting that knowledge to use; and the adroit use he makes of the intricate parliamentary rules and procedures to further his cause. Certainly, no one matches the decisiveness of JOHN Moss as a chairman. There are those—mainly Republicans—who have been heard to claim to have suffered a loss of hearing from the oft-repeated wham of his gavel.

In his career as chairman of the Subcommittee on Oversight and Investigation, JOHN Moss was tireless. His inquisitive mind continually sought new areas of investigation, which took our subcommittee into a range of probes and surveys broad enough to stagger the imagination. In just the past 2 years, during the life of the 95th Congress, the Moss subcommittee has held hearings on nearly 40 different subjects and has conducted investigations on many more.

The range of those hearings and investigations has been encyclopedic, dealing with everything from the presence of carbon tetrachloride in the drinking water of Cincinnati to the use of cadavers in research on automobile accidents. In between, the subcommittee has delved into the state of our natural gas supplies; amateur athletics; aluminum electrical wiring; nursing home abuses; the quality of surgical care; conflicts of interest in

regulatory agencies; nuclear waste disposal problems; cancer causing chemicals in the environment and in food; the trans-Alaska pipeline; solar energy systems, and a number of oversight hearings concerning regulatory agencies. It has been a full 2 years.

It would be difficult to find in the annals of the House of Representatives a member who has been as dedicated as JOHN Moss to the uncovering of matters which might be harmful to the general public. It would also be difficult to find a Member of Congress who is leaving such an imprint on the Nation as does JOHN Moss. The Freedom of Information Act, which he authored and shepherded through the Congress, is in itself a landmark accomplishment. But in addition, JOHN Moss is leaving an imprint of his philosophy on regulatory agencies which will long remain. The various investigatory actions he carried through have had a major effect in many areas, particularly in those involving health care and environmental problems.

Although I serve on the opposite side of the aisle from JOHN Moss, our differences on issues have never interfered with our friendship. I view his departure from the Congress with real regret, for the House of Representatives will miss his dedication, determination and persistence.

I am confident, however, that no matter where his retirement years may lead, JOHN Moss' brilliant mind will be constantly searching for new challenges and new opportunities to benefit our Nation. I know my colleagues join in wishing JOHN Moss the best of luck, and the best of health throughout the years to come.●

● Mr. RODINO. Mr. Speaker, I want to take this opportunity to honor a very dedicated public servant and distinguished Member of this House. Ever since JOHN Moss came to Washington in 1952 he has been a leader for the rights of individuals and has worked tirelessly to make it possible for American citizens to have greater faith in their Government. As a member of the House Committee on Interstate and Foreign Commerce and the House Committee on Government Operations, JOHN Moss has been a most vigilant public servant who protected the rights of common citizens against more powerful special interests.

JOHN Moss has always directed his efforts in the best interests of American democracy—the belief that Government should work for all the people. His authorship of the Freedom of Information Act and his leadership in establishing the Consumer Product Safety Commission are two shining examples of his perseverance and legislative effectiveness.

Mr. Speaker, JOHN Moss' intelligence and candor, and his constant voice for justice, will be sorely missed in Congress. I am proud to have served with him for 15 years and I wish him well.●

● Mr. KILDEE. Mr. Speaker, it is difficult to calculate the contributions JOHN Moss of California, has made to the ideals of our constitutional democracy.

We know that JOHN Moss has championed the causes of individual liberty at a time in our history when a great many forces in our society threaten to erode the foundations of these greatest constitutional protections.

We know that JOHN Moss has defended and strengthened the legitimate rights and interests of the Congress of the United States, improving our constitutional structure of checks and balances.

I add my voice to the many who wish him a productive, happy, healthy retirement and I know his contributions to our society will not end upon his departure from these Chambers.●

● Mr. LLOYD of California. Mr. Speaker it is not a happy occasion to say goodby to a friend and colleague on his retirement, except for the opportunity it presents to say to him what you have wanted to say many times before but never found the right moment. I would say first of all that JOHN Moss marches to a relentless drummer. His adversaries may wish that his path took him somewhere other than across theirs, but he is steadfast and unswerving toward a goal which even adversaries must admire: Good government and the greatest benefit for the most people. The Third District of California was the only special interest which had his ear—but not always his vote, since JOHN Moss includes in his definition of representation the rare qualities of independence and leadership. Congressman as super caseworker is not his idea of representative government, although a more loyal, helpful friend you will never have. His constituents, his party—and sometimes both parties—have agreed with that definition for 26 years, and the result has been a strong, respected voice in Congress on behalf of not only a half million Californians, but also of all Americans who care about individual freedom and a Government which is an extension of their needs and not the other way around.

I count myself as privileged to have worked with JOHN. As a fellow Californian, as dean of our California Democratic delegation, and as an expert, experienced coworker, he personifies for me the ideas of dedication and public service. He is a lesson which will be taught for as long as there are people who remember his work here.●

● Mr. CORMAN. Mr. Speaker, I am privileged to pay tribute to a respected friend and dean of my delegation, the Honorable JOHN Moss. I must, however, add a note of deep personal regret that JOHN is retiring from the House. He, like so many of my fellow Californians, has decided to return home, and I will miss him very much.

JOHN is completing 26 years of an outstanding congressional career. He has served with superb distinction as chairman of the Subcommittee on Consumer Protection and Finance and now as chairman of the Subcommittee on Oversight and Investigations of the Interstate and Foreign Commerce Committee. Through these assignments JOHN has championed the causes of the American consumer. He has been a vital force in protecting the public from the hazards of faulty household and garden products, flammable fabrics, and dangerous toys for children by helping to establish the Consumer Product Safety Commission. He has also fought to strengthen the terms of product warranties to guarantee recourse against defective goods and services.

On a broader basis, JOHN has challenged the oil and gas companies for price gouging and attacked the health industry for performing unnecessary surgery on the unsuspecting public. In addition, in the late fifties JOHN sponsored the Freedom of Information Act. Almost alone, he battled to force the Government to give citizens access to information their taxes paid for. In the midsixties he won the war.

JOHN has fought valiantly to give Americans a better way of life. Those who follow him will gain a great deal from the standard of performance he now leaves behind him.

It has been a rare privilege to serve here with this distinguished Californian. I wish for JOHN and his wife, Jean, who has been so devotedly at this side in all endeavors, the best of everything yet to come—years of happiness, contentment, and good health.●

● Mr. LONG of Louisiana. Mr. Speaker, as we all know, the dean of the California delegation, Congressman JOHN Moss will be retiring from service in the House of Representatives at the close of this Congress.

JOHN Moss has distinguished this legislative body for the past 26 years, and in so many ways, his membership has been crucial to the operation of this Congress. All of us here hold him in the highest esteem. As the chairman of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce, Mr. Moss has relentlessly sought to improve the operations of our Government through proper and effective oversight. While oversight is often described as less than glamorous, our colleague has ably demonstrated that it is absolutely essential to insure that the legislative intent of Congress is followed. If more of our colleagues would follow his example, much of the pending legislation before both Houses of Congress would be unnecessary.

We in the House are truly indebted to the distinguished gentleman from California. JOHN Moss' political courage is without equal. His leaving will create a great void in this body and he will be sorely missed.

Mr. Speaker, I offer to my colleagues the following article which recently appeared in Roll Call. I believe Congressman Moss' points are well taken and we all stand to benefit from careful consideration of his comments.

[From Roll Call, Sept. 28, 1978]

MOSS ADVISES LULL TO EVALUATE CHANGES

(By Alan Goodman)

At various times he has been denounced by his critics as "arrogant," "difficult," and "self-righteous." And these are just a few of the adjectives that retiring veteran Rep. John Moss (D-Calif) can immediately recall that have been used to describe him.

But you quickly discover once you begin to talk with this iron-willed lawmaker—and take even a passing glance at his Congressional career—that this sort of thing does not phase him. If anything, the controversy that

has surrounded Moss over the years is his badge of honor; Congress, he laments, has descended into blandness.

"The strong figures are not there any more. The important thing today is to be popular. Once there was a great desire to be right in what you did, but now the motto is 'don't make too many waves'. It reflects a reliance to too great an extent on polls and polling techniques," he said.

Some may argue that this stern view is a gross exaggeration; that there are a number of Members, particularly younger ones, who are willing to "make waves." But almost any long-time Congressional observer will also tell you that there are not too many striking, colorful figures in the Capitol any more—that this is the age of the technocrat, the "colorless."

"No one wants to be thought of as arrogant and difficult, and the other things that I have been characterized as, and that has made for a duller Congress. Whatever people may say about me, though, at least they cannot say that I am a bland fellow," said the blunt, independent Congressman.

That will and tenacity are important to this 26-year House veteran is also evident when he talks about his concerns about the institution.

"Congress needs to assert its right to know what is going on. We've had to go to court to defend our right to get information (from the executive branch), and this is important. We must establish this right more firmly so we will not be dependent upon spoon-feeding, as we have been in the past," said Moss, who long pushed for a Freedom of Information act and who has fought many a battle with industry and administration figures as chairman of the Interstate and Foreign Commerce subcommittee on oversight and investigations.

Moss believes that if Congress had shown more interest in the past in its oversight function it could not have been so easily deceived about such things as the conduct of the war in Vietnam. There seems to be a growing interest in Congress in this area, but not enough to satisfy one of its biggest champions.

"If we exercised that function more we could enormously reduce the number of laws we would have to write. It does not get the immediate attention of some of the more spectacular bills, but I think in the long run I have shown that it can get you attention if the end product is good," said the 63-year-old lawmaker.

Moss also thinks it is high time that Congress put its own house in order. He is concerned, for example, about the extent to which "reforms" have been pushed through without due consideration to their impact on the institution.

"We have had this mad rush for change, and it has intensified over the last 10 years. It has gotten to the point where every new Congress is supposed to organize and greet the future with some changes that are generally characterized as 'reforms.'

"Whether they are or are not has not really been decided, however. They have not been evaluated to determine whether they have improved the performance of Congress, or made individual Congressmen more competent or productive," he said.

These questions should be answered before Congress rushes to embrace more "reforms," he said. "Changes should be made carefully and based on an evaluation of what they have done and might be expected to do in the opinion of those who have had to work with them. Knowledge should be relied upon rather than ignorance as the basis for acting. We are talking about the reality of a functioning institution of government, not textbook political theory," said the imposing Member.

Congress should also exercise more discipline in deciding what matters it will, and can, take up, and the degree to which Members may engage in nonlegislative business, said Moss.

The "non-legislative" issue particularly provokes the subcommittee chairman, who recalls frequent instances in the past when he has been forced to wait for members of his panel to show up in order to conduct business—only to learn that they were tied up doing something else, like conducting an interview or taping a message in the recording studio (although, in fairness, sometimes they also had another committee commitment).

"When I first came here the top priority was legislative business. If there was any appointment that a Member stayed away from it was a non-legislative one. This simply is not as true today," said Moss, who is dean of the California delegation in the House.

Another "abuse" that bothers the Congressman is the way suspension calendar is being used. "Legislation—sometimes major legislation—is being rammed through under conditions allowing no proper concern for perfecting the bills. This is an abuse of the suspension calendar, and it must stop," he said.

Another internal matter of general concern to those interviewed for this series is the obsession with ethics. Moss believes that Congress efforts in this area in recent years have not made the ethics of the institution any better or improved the "standards or quality" of the individual Members. "We are applying the ethical concept of the present and the future to actions of the past, and that is very difficult to do. We have to justify now things that took place years ago when customs were very different than they are today," said Moss.

But then, a lot of things in Congress were very different in the past than they are today, and the strong-willed, opinionated Congressman thinks his institution had better sit back and evaluate all of this very carefully before it plunges into the future.●

● Mr. ROGERS. Mr. Speaker, I join each of my colleagues when I express my sense of loss for this institution, the Nation, and the Commerce Committee on which we served together, at the departure of JOHN Moss. But we join equally in wishing JOHN every success in his new endeavors.

I am proud to count JOHN as one of my friends in this House, and as a close associate as a member of the Commerce Committee. JOHN has truly left his mark on some of the major laws of this country in the fields of consumer law, health, and energy. As chairman of the Subcommittee on Oversight and Investigations, JOHN has diligently pursued the proper implementation of the laws of this Nation, and has sought to expose new areas in need of legislative remedy.

And JOHN Moss has made the phrase "freedom of information" a meaningful right for every citizen to be privy to the decisions and actions of his Government.

JOHN has never been afraid of a fight, and I know that every Cabinet Secretary has taken office with the knowledge that he or she might soon be the subject of one of JOHN'S subpenas.

JOHN Moss has become one of the respected leaders of this institution; I join in thanking him for this contribution, and in wishing him every success for the future.●

● Mr. RINALDO. Mr. Speaker, I am pleased to rise today to pay tribute to an outstanding Member of the House of Representatives.

JOHN Moss has served in Congress for 26 years and has been far more than an ordinary legislator. He has always been willing to tackle the tough issues, and he has never been afraid of a fight; we all respect him because he is tough-minded, but fair at the same time.

His practical wisdom has guided him as chairman of the Subcommittee on Oversight and Investigations, on which I also serve and where he has done an outstanding job. Over the years, he has contributed greatly to the enactment of important legislation, such as the Moss-Magnuson Act, and the legacy he leaves behind him is one of which he can truly be proud.

But while he has been legislating on some of the most important issues facing the Nation, JOHN Moss has not forgotten his district—and his constituents have never forgotten him. Only a few years ago, he was endorsed by both political parties for reelection to the House of Representatives and he was overwhelmingly reelected to Congress.

It will be a long time, Mr. Speaker, before we have such a magnetic, forceful personality as JOHN Moss. We will miss him, and I personally want to wish him every success in the future.●

● Mr. OBEY. Mr. Speaker, I hate to see JOHN Moss leave this place. He has that sense of rage about injustice, unfairness, and stupidity that any Member of Congress needs to keep him going.

He was passionate in his support for the rights of consumers. He was a passionate protector of the individual against the clophopper tendencies of the State and his passion will be greatly missed.

In all institutions, political as well as other, the color seems to be slowly leeching out as passionate conviction is replaced by briefcase mentality. It is a great loss of this country and to this institution.

The American people can be thankful that JOHN Moss spent 26 years in this House. I will miss him.●

● Mr. OTTINGER. Mr. Speaker. JOHN Moss is one of my all-time favorite Congressmen. Since I first came to Congress in 1965 he has been perhaps the most consistent and vigorous protector of the Congress, of the Constitution, and of the consumer. His understanding of the way things work, and his insistence upon their working as they should, is deep.

JOHN Moss is a fighter. For the consumer, for the governmental processes that make this democracy work, JOHN Moss is perhaps the greatest champion in all of Congress history. Of due process, too, he is a foremost supporter.

JOHN Moss has been the most active advocate of assuring that the laws enacted by the legislative branch are fairly and adequately enforced. And he knows when to admit the laws are not working, and to seek the requisite changes.

One of the characteristics I hope I can claim to share with JOHN Moss is irreverence; if there is any Member of this body who provides an example in that department and who proves that one does

not have to drop the attitude as one ages, it is JOHN Moss.

If someone starts messing around with the public interest, with governmental processes, with congressional procedure, you can count on JOHN Moss to mess with the folks that are doing the messing.

Even more unusual is that JOHN Moss is also a sufficiently masterful politician who usually wins. Agreeing with him substantively, as I almost invariably have, has been agreeable and enjoyable; winning is just sheer fun.

The 96th Congress will find itself with a substantial vacuum created by the departure of JOHN Moss from our ranks. I will miss him, and I know we all will. Worse, those new Members who will take their seats for the first time in 1979 will not have the chance to know JOHN as a colleague, and to learn from him. That is a sorrowfully lost chance.

But the years have been good, and JOHN Moss has served the people of his district and all of the American people well. He has been a giant among us; his absence next year from our ranks will be sorely missed.

My best wishes go to JOHN Moss, in spite of my selfish wish that he would still remain, in the hopes that he has a long and fruitful sojourn away from these hectic haunts. When he ever visits, he will be extremely welcome here.

JOHN Moss, it has been a tremendous privilege working with you. I join my colleagues in giving you our warmest best wishes.●

● Mr. MANN. Mr. Speaker, after almost three decades of public service—including 12 terms in the U.S. Congress—JOHN Moss has more than earned the right to be free of the pressures of public office, and to enjoy what I hope will be many years of leisure with his wife and family.

The fact that the people of the Third Congressional District of California found him worthy of their sustained trust and support over the period of 24 years is a tribute in and of itself to JOHN Moss.

If it were not for them and their faith in him, the Congress would not have had the benefit of his wisdom and experience, and the Nation would not have had the benefit of his sensitivity to the public's right to know about the actions of Government. I refer, of course, to the major role that JOHN Moss played in the enactment into law of the Freedom of Information Act—a role for which he has received national acclaim and recognition, and justifiably so.

JOHN has been equally sensitive to the statutory and constitutional rights of individuals affected by Government agencies in his oversight of the Privacy Act of 1974, which is designed to protect those rights.

All of us as citizens owe a debt of gratitude to JOHN Moss for protecting our right to know what the Government is doing, and for protecting us from Government invasion of our privacy.●

● Mr. VAN DEERLIN. Mr. Speaker, JOHN Moss may not be the most easy-going Member of Congress—as Government agencies and corporations who have come into conflict with the Oversight Subcommittee might attest—but he ranks among the highest in integrity.

As spokesman for the public against a company trying to pass off shoddy goods—like tires that come apart—he is a bloodhound never thrown off the track by soothing words. He protects the consumer not only by persistent and careful oversight of American commerce, but through the Consumer Product Safety Commission he did so much to establish.

A fighter for the rights of the individual in the world of business, he has done more than any other public figure in recent memory to prevent further encroachment by Government bureaucracies into the private lives of our citizens. The Freedom of Information Act, like JOHN Moss, is a thorn in the side of those who value a smooth-running bureaucracy above individual rights and privacy. But it is perhaps the greatest insurance that the year 1984 in the United States will find us still valuing the individual above the State.

JOHN Moss is like Harry Truman. Some saw him as brusque and rough-edged; others saw that he was just immune to the bull that many other people blandly accepted.●

● Mr. ZABLOCKI. Mr. Speaker, the adjournment of the 95th Congress brings the retirement of our friend and colleague, Representative JOHN E. Moss of the Third District of California.

Representative Moss has ably served in this House for over 24 years. Besides his many duties to his constituents, JOHN Moss has served on the House Government Operations and Commerce Committees. As chairman of three powerful subcommittees, Representative Moss has skillfully carried on his responsibilities to oversee the operations of executive branch agencies as well as to protect the statutory and constitutional rights of individuals affected by Government agencies. Perhaps his most noteworthy accomplishment is his authorship of the widely acclaimed Freedom of Information Act.

Mr. Speaker, our colleague has a distinguished background in business and legislation. After leaving his career in business and real estate, he served our country during World War II. Subsequently he was elected to the California State Assembly in 1938, and reelected every term until he ran for his U.S. seat. In 1952 he ran and won a seat in this House where he has since served. I remember the honor bestowed to JOHN Moss in 1958 when he was nominated by both the Republican and Democratic parties.

Mr. Speaker, through his committee assignments, Representative Moss had the difficult task of balancing the sometimes seemingly conflicting spheres of the Government's national security interests and the consumers' right to information and privacy. JOHN Moss did an excellent job, which will well be remembered.

Mr. Speaker, I join the many others who stand today to wish our friend, Representative JOHN E. Moss, health, happiness, and a fruitful retirement.●

● Mr. ROYBAL. Mr. Speaker, as the 95th Congress comes to a close, so do the careers of many of our colleagues in the House. Among the most notable of those Members retiring this year is the dean of the California delegation, JOHN Moss.

It is a pleasure and a privilege to add my words of praise today for a man who, during his 26 years in Congress, has represented the people of California and the Nation with steadfast and dedicated service. He has upheld the faith and trust of his constituents and worked unceasingly for the betterment of all Americans. JOHN has a long and impressive career and will be remembered as a friend of the common man and a fighter for progressive legislation.

As principal author of the Freedom of Information Act, JOHN can take pride in his persistence and determination which brought this important concept into legislative reality. Additionally, his work in overseeing the Privacy Act of 1974 has been of particular importance in protecting the statutory and constitutional rights of individuals affected by Government agencies.

As Subcommittee Chairman on Oversight and Investigation of the Interstate and Foreign Commerce Committee, JOHN has had oversight responsibility of the operations, practices, and policies of executive branch agencies and departments and all programs within the jurisdiction of the full committee. In his subcommittee work, as in all his legislative responsibilities, JOHN has demonstrated keen insight, as well as considerable foresight.

I would like to congratulate JOHN on his distinguished career and wish him a long and enjoyable retirement—filled with good health and happiness.●

● Mr. FREY. Mr. Speaker, I would like to join with all his colleagues in wishing my good friend and committee colleague, JOHN Moss, well. JOHN has served his State and his country long and well. He has been an outstanding Congressman, one who has never been afraid to fight for the principles he believes in.

In a personal way, I have liked and admired JOHN. During the times he acted as chairman of the Commerce Committee, there was no fairer chairman. He knew the rules and enforced them no matter what his personal opinions happened to be. It also was a learning process to watch JOHN use the parliamentary rules during the committee debate. Even at times when he would oppose you, after the debate he would explain what he did and why. He was courteous and friendly toward me during our 10 years of mutual service. JOHN has certainly earned a well-deserved retirement. I wish him well, and Marcia and I send our best wishes for the future.●

● Mr. DE LA GARZA. Mr. Speaker, it is a distinct pleasure for me to join in this special order for my good friend from the Third District of California, JOHN Moss.

Now, Mr. Speaker, it is not often that I am without something to say. Nevertheless, when I consider the longevity of JOHN's service in this body, and all of his sterling accomplishments, the multi-

tude of praiseworthy deeds makes it hard to know where to start.

It is not the time now to detail JOHN Moss' good works—the CONGRESSIONAL RECORD is long enough already. A catalog of JOHN'S accomplishments would fill a hefty book. I would like to make one observation, though—the California delegation has long been respected throughout the House for its clout and judiciousness, and this can be attributed directly to the diligent and conscientious work of JOHN Moss.

The Congressman from the Third District of California has certainly earned a period of rest, but that does not make it any easier for the rest of the Members to accept. For we are going to be forced to continue without JOHN'S leadership and foresight which have been like beacons, guiding us through the thickets of congressional debate.

Thank you, JOHN, for a job well done. We are all going to miss you.●

● Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to Honorable JOHN E. Moss, who is retiring this year as the dean of the California congressional delegation to Congress.

JOHN Moss has given a quarter century of dedicated and devoted service to his constitutents of the Third District of California, and has compiled an outstanding record during his distinguished career. His diligent efforts as chairman of the Oversight and Investigations Subcommittee of the House Interstate and Foreign Commerce Committee have been both fruitful and beneficial to the citizens of this Nation, and indeed, these successful efforts have made America a more just and successful country.

Few men have given more of themselves to good government, or have a more compassionate understanding of human problems than has JOHN Moss as a member of the Subcommittee on Government Information and Individual Rights and the Subcommittee on Legislation and National Security, both of the House Government Operations Committee. He has been in the forefront of efforts to implement meaningful solutions and effective action on behalf of individual citizens caught in the bewildering maze of the Federal bureaucracy.

JOHN is a fine legislator and a distinguished leader, and he will be missed by both his constituents and his colleagues.

I extend to JOHN Moss my best wishes for a healthy and happy retirement.●

● Mr. SKUBITZ. Mr. Speaker, it is with a great deal of pleasure I join the many friends of JOHN Moss in paying tribute to his years of outstanding service to the people of California and the people of the Nation. The memories of my years of service with JOHN are vivid ones.

The first time I met JOHN Moss he reminded me of the first time I had an engagement with an olive. I was a high school freshman and had never seen an olive. When I tasted my first olive—I did not like it. Neither the taste nor the seed agreed with me. But, the more olives I ate the more I liked them—now they are my favorite fruit.

When I first became a member of the Interstate Commerce Committee, I was advised by some of my colleagues—that JOHN was the enemy. But the longer I served on the committee, the more I worked with him on legislation, the longer I watched him in action, the more I respected him as a legislator and as a man.

JOHN Moss is one of my very good friends. There are times we disagree—but we disagree without being disagreeable. More importantly when JOHN is for or against an issue—he can support his position, and back his point of view in a most convincing manner—it's never "just because."

I will truly miss JOHN as a colleague and a friend and I wish him the best in retirement.●

● Mr. PATTERSON of California. Mr. Speaker, it is with sincerity and sadness that I join my colleagues today in honoring our good friend and leader, JOHN Moss. As dean of the California delegation, Congressman JOHN Moss has set for us a remarkable example with his diligence, patience and, above all, his integrity.

Back in 1975 when the 94th Congress new Members converged, we found not only a leader but a valuable ally in JOHN Moss. JOHN had already been fighting many years for the causes we most cared about—openness in Government and congressional reform. JOHN Moss had led the long and successful battle for the Freedom of Information Act, and with his guidance we were able to set our sights on more openness and accountability in Congress.

In addition, every consumer in this country owes JOHN Moss special thanks. It was through his efforts that the Consumer Product Safety Commission, a truly independent body, came into existence.

JOHN Moss proved to be a man of ideas throughout his 25 years in the House. I regret his decision to retire and he will be deeply missed for many reasons. But despite his absence, JOHN will be long remembered as an independent, effective voice in Congress.●

● Mr. GOLDWATER. Mr. Speaker, this House is going to miss JOHN Moss. He is a man of great personal integrity and rare candor. He has the unique ability to challenge those around him to give their best because he demands the best.

Long before it became fashionable to talk about consumers or protect consumer rights, JOHN Moss was in the forefront—present at the beginning—of legislative endeavors to provide consumer rights.

I have often disagreed with him on a number of philosophical issues, but he has my respect and admiration. He has a keen mind, and if you're going to debate JOHN Moss, be prepared, because he is the most able of adversaries.

California is proud of JOHN Moss—proud that he is willing to stand up and be counted for principle regardless of how it may affect him politically.

He has fought in the trenches—often a lone fighter. But, many of the things that JOHN Moss fought for 20 years ago have come to pass. The presence of JOHN Moss will be felt by this House for a long time to come. I feel confident that the future will continue to find him actively involved in promoting the public interest—an interest that he always put before his own.●

STATUS OF SPECIAL STUDY ON ECONOMIC CHANGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. BOLLING) is recognized for 10 minutes.

Mr. BOLLING. Mr. Speaker, the special study on economic change project grew out of discussions with the majority and minority members of the Joint Economic Committee and with the leadership in the House and Senate. We prepared a prospectus at that time, about a year and a half ago, which called for a 3½-year study. It identified the nature of major changes occurring in the United States and in the world that we felt needed analysis and policy alternatives for consideration. On the basis of this description, House Congressional Resolution 248 was introduced in the House and passed overwhelmingly, and then was approved by the Senate by unanimous consent on July 18, 1977.

The underlying thesis of the study is that economic, social, political, international, and technical conditions have changed, and are still changing markedly. This suggests that conventional wisdom and established economic tools may not be equal to meeting the challenge of making sound policies in the economic sphere. The so-called laws of economics have not been repealed, but all guiding principles presuppose a certain environment of conditions, customs, and practices; and when these change, the implementation of new policies and the modes of adjustment have to change also.

There was a period of perhaps 20 or 30 years when economists could take some satisfaction in having found enough guidelines to policymaking that this Nation could achieve rapid economic growth, reasonably full employment, and minimal amounts of price inflation. The watchword became for a brief period "fine tuning" to remove the remaining small irregularities and temporary disequilibriums. But no country today seems able to provide full employment, stable prices, continued growth, and nonbeggar-thy-neighborliness in its international relations all at the same time. Perhaps we can never attain such a happy state. But the United States and several other major countries were reasonably close to such a stable and progressive macro-solution, even with other shortcomings and unfulfilled dreams of parts of their populations. Can we once again find policies to help us return to a more stable economic environment and provide work for those who need it? The task will not be easy; partly because of problems having to do with changes in institutions, attitudes, and resources.

During the months the special study has been underway, it has acquired a small staff to organize and direct the preparation of extensive background ma-

terials needed for policy analysis. They are aided by the permanent staff of the Joint Economic Committee and the Congressional Research Service. There is also cooperation with the General Accounting Office, the Office of Technology Assessment and other congressional and executive department agencies. Moreover, a considerable amount of help has come from a diverse group of individual consultants, resource people, and economic analysis groups around the country.

Almost everyone consulted can agree on most of the underlying problems. Differences begin to develop as how best to describe the issues and to arrange them in a logical framework for analysis. The view is probably reasonably close to unanimous that we must weave together again the component parts of the study to show how they all relate and interact. It does little good to solve one specific problem while ignoring the secondary and tertiary costs of the "solution." There are considerable disagreements over when this process of integration or syntheses should take place—in the beginning, middle, or end—even if theoretically we all seek the same result.

What the special study staff has done, in cooperation with the regular staff, support agencies, and many outside consultants, is develop a 10-area program of analysis as the first part of the process. We have selected an area director for each of these sections of the study, who has worked with the special study staff, the rest of the Joint Economic Committee staff, and the Congressional Research Service to develop an array of specific papers and other studies which will illuminate the basic changes, the dilemmas, and the policy alternatives in his specific area. Within the limits of time and funding, we have had to make such undertakings selective and illustrative, not exhaustive. We have sought drafts of as many of these individual papers as possible by the end of this year, so that in 1979, we can subject them to peer review, and otherwise prepare them for publication.

Let me describe the 10 major areas we are investigating. They are:

First. Human resources and demographics;

Second. Materials and energy;

Third. Research and innovation;

Fourth. "Stagflation"—persistent inflation with unemployment;

Fifth. Federal sector finances;

Sixth. State and local finances;

Seventh. Pension systems:

Eighth. Government impact;

Ninth. The international environment; and

Tenth. Discontinuities in trends.

These titles are broad, and there are inherent problems of subject overlap and duplication; or, the problems are common ones, but the emphasis and viewpoint in the area analysis may be somewhat different. Almost any explicit topic which we might select for analysis is found to have aspects which affect most if not all the 10 topics I have just listed.

To delineate these 10 areas more specifically, we developed a detailed outline after many months of meetings and discussions. The ultimate "laundry list" cut so broad a swath that we could not possibly pursue every topic to a complete analysis within the scope of this study. So in the next stage we convened informally bodies of experts and resource people who would meet with the staff to suggest priorities and to recommend qualified people to undertake those individual papers which offered the best prospects for providing a useful product.

I have already suggested a necessary further step is to integrate the results of all these studies, so that the committee does not end up just with an interesting collection of essays and reports. We recognize the necessity, and the "how to" continues to occupy our attention.

An early step has been to make sure that the 10 area directors who head the efforts in each of the 10 fields themselves meet about once a month, joining with assigned staff from the Joint Economic Committee and the Congressional Research Service. As a minimum, they discuss common problems, share issues, and develop plans to exploit data bases of common interest. This helps us identify the overlap, the gaps and arrange extra channels of communication among individual contributors. We have found this part of the process working reasonably well. The next stage will come in 1979 as the flow of draft papers comes in for review and integration.

We do not rely exclusively on commissioned papers to gather information for the study. We regard as equally important steps to involve a larger community in the issues and approaches to their understanding as well as to choices about them. At both stages, we seek objective, dispassionate understanding if possible, something with which people of many persuasions can feel comfortable as providing useful insights. We expect some papers, and some witnesses in public forums, to show advocacy of their own positions, but we hope in such cases to end up with a sufficiently wide-range of views that even those who are ready to take sides will view these total efforts as constructive and educational for all of us.

This brings us to the nature of the panel meetings which the SSEC held in May and June 1978 over a total of 13 days. This first round focused on demographic factors, then on employment and unemployment, and finally moved on to issues of prices, productivity, capital formation, and inflation. These hearings represented an introduction to the study in general, not any single area exclusively.

A summary of the content of the panel meetings is now available in committee print form. The full transcript of those meetings is in the printing process. The panel meetings were successful in highlighting the kinds of issues and central problems with which the SSEC is concerned. I commend the summary report now and the full hearings record later to the attention of the Members.

The process of conducting the SSEC program is going well, and we have been very pleased with the size of the response of individuals to contributing to the study. Especially, we are pleased that we have obtained so many high caliber and effective participants. They are indeed bringing the kinds of objective discussions and authoritative information which had been the original intent in undertaking the SSEC.

During the next year, there will be additional panel meetings, together with the flow of printed reports which make up the program. We also expect before the year is over to be well along with the integrative process, so that a comprehensive overview of the issues and their interactions will be available for thinking about policy alternatives.●

TEENAGE PREGNANCIES: GOVERNMENT OR INDIVIDUAL SOLUTION?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 20 minutes.

● Mr. GRASSLEY. Mr. Speaker, earlier this year, Joseph Califano, Secretary of Health, Education, and Welfare, announced another massive Federal campaign designed to solve another growing problem in America—teenage pregnancies. Each year, 1 million teenage girls, almost all single, become pregnant. It is estimated that, from these pregnancies, there are 600,000 live births; 100,000 are terminated by miscarriages; and 300,000 end in abortions.

The costs of these problems are enormous. The Urban Institute recently figured out that in 1975, Federal-State cash welfare payments to households containing teenage mothers, or older women who first gave birth in their teens, totaled $4.65 billion. This is over half of the entire cost of the cash benefits for the aid to families with dependent children program. When one includes the price of food stamps, medical and social services, the costs skyrocket even further. The costliest effects of teenage pregnancies cannot be measured in dollars, however. Each year, teenage pregnancies usher in hundreds of thousands of mothers and children into a lifetime of dependency, anguish, and despair.

As a solution, Secretary Califano has proposed the "Adolescent Health, Services, and Pregnancy Prevention and Care Act of 1978." This new Federal crusade would expand and coordinate existing programs, such as family planning, sex education, HEW-funded research, community health centers, and maternal and child health. The price tag of this new venture is placed at $60 million. This is in addition to an increased authorization of $64 million for such programs, proposed as part of President Carter's budget for 1979. HEW has also requested an additional $337 million for expanded medicaid coverage for low-income pregnant women, as a method for dealing with the problems of teenage pregnancy.

Teenage pregnancies are a serious problem, and should be dealt with as such, but I believe that this proposed new Federal program is just not the answer we need. Today, in response to Secretary Califano's proposals, I would like to examine the factors that have allowed this problem to grow to crisis

proportions, explain why I firmly believe this predicted Federal response is sadly lacking, and propose a new emphasis to characterize our efforts in solving this problem. An emphasis that is absolutely essential if our efforts are ever to be successful.

The great American paradox is that we can have such vexing social problems in the midst of our vast technological achievements and our unprecedented high standard of living. More scientific progress has been made in the last 50 years than in the preceding 5,000. In less than a century, we have seen the discovery of the light bulb and the splitting of the atom. Only 66 years have intervened between the Wright brothers' historic flight at Kitty Hawk and Neil Armstrong's first step onto the Moon during the epic voyage of Apollo XI. We live in a truly remarkable age. We are the most educated people in the world. A well-taught freshman knows more about physics than did Newton. Despite the constant criticisms of our Nation, by world standards we have come close to producing a just society, as unprecedented sums of money have been spent to eliminate crime and social injustice. To quote economist Martin Anderson of the Hoover Institution—

> By the end of 1977 the total amount of money spent cumulatively on public welfare by the federal, state, and local governments since the war on poverty began in 1964 will be roughly $300 billion. The estimated cost of fighting World War II is $288 billion. By the end of 1977, the war on poverty will have cost us more than World War II.

As Senator S. I. HAYAKAWA recently stated in Harper's magazine:

> The unintended revolution created by mass production and consumption has come close to producing a classless society in America. Executives and working men alike drive Comets and Cadillacs, drink Coke and Schlitz and Old Grand Dad, eat Nabisco wafers and Hormel ham, and watch the Johnny Carson show.
>
> . . . . and the poor of America are not poor by world standards. Our welfare clients live far better than the working people of more than half the world.

In spite of all the efforts of our Federal Government toward creating a better society, however, we are nevertheless still faced with enormous problems. Sex education and readily available contraceptives and abortions were supposed to curb teenage pregnancy, remember? Today sex education has been broadened, and contraceptives and abortions are much easier to obtain than a decade ago, yet the National Center for Health Statistics reports that there are now more pregnant 15-year-olds and illegitimate babies than ever before. Prejudice, Government corruption, economic instability all continue virtually unabated. Why have reform efforts failed to really solve so many of our national ills? Why are additional Federal campaigns, such as the one recently proposed by Secretary Califano to help solve the problem of teenage pregnancies, bound to disappoint? Because they are based on false ideas about how positive social change is brought to pass.

For decades social planners have operated on the premise that the nature of man is basically either neutral, or that men have at heart a "pure, crystalline and well-organized native personality." In recent years we have seen all sorts of trendy human potential groups trade on this false idea. They have been joined by an advertising profession that leads us to believe our innate perfection will surface with the purchase of this or that commodity.

Thus, the idea has surfaced in Government that our problems are rooted in our environment, not ourselves. Personal responsibility has been abandoned, and we have opted for the more ego-soothing notion that the solution to our problems lies in a massive overhaul of society's institutions rather than to challenge teenagers that the direction of their lives is their individual responsibility. The locus of power for such change is Government, so it is not unlikely that the rise of our enormous Federal bureaucracy is in part responsible for the demise of individual accountability and responsibility. So, countless Federal programs have poured billions of dollars trying to improve our health, education, and welfare. They have endlessly told us how to make a better living, but have said nothing of living better.

> Many people have embraced the "I'm O.K., You're O.K." philosophy which states that if you are a well adjusted person with a good self-image you accept your neighbor and his views even though you might not embrace them as your own. If a person uses this to measure value structure there is a lack of absolutes. According to this theory it becomes gauche to conclude that teen-age pregnancies of single girls are a problem because then you are imposing your value structure on someone else. It then becomes the philosophy "I'm O.K., You're *NOT* O.K." which is considered deviant by many liberal minded psychologists. Thus all modes of conduct become relative and absolutes are not accepted. People h..ve come to believe that the choice between ways of living is just a choice between equally plausible "lifestyles".

It has been tragic that such a bankrupt philosophy of amorality has been adopted within our policymaking circles. Indeed, during the eight-page statement of Secretary Califano, announcing his new teenage pregnancy "prevention" program, never once does he state that the flood of out-of-wedlock teenage pregnancies is wrong. Oh, to be sure, the sad effects of such situations are described, priming us to accept efforts to improve the living conditions of such unfortunate individuals. But never once is the root issue, the root problem, addressed. Never once is the deplorable lack of individual moral responsibility mentioned. Those that try to interject such issues into policy discussions are bombarded with the hackneyed bromides "you are just making value judgments," or "you can't legislate morality." Well, my friends, virtually nothing is value-free, and I would rather have positive values acclaimed than negative values proclaimed. Every decision we make here in Congress involves some decision as to what is right or wrong, as well as "correct" or "incorrect." Such moral considerations are necessary, for it is only as men and women confront an honest knowledge of themselves that the first step on the road to genuine improvement is taken.

Teenagers need to be challenged to have a realistic view of their existence which would include individual responsibility to themselves, society, and their offspring. Califano's proposal to take over this responsibility by providing funding for all prenatal, maternal, and pediatric care, shifts the responsibility of the individual to the State. Radical reforms have, at times, been necessary, but reform alone is not sufficient. Reforms alone are not sufficient because society is not made up of just institutions, but of men and of women. We are not just biological machines needing the right environment to function properly. The hearts of individuals who make up society must be changed, regenerated if you will, before society as a whole can experience real change.

Today, international, national, State, and local problems can be traced to trouble within individual human hearts. For all our advancements in the 20th century, the words of Neil Armstrong serve as a needed reminder:

> Technology does not improve the quality of life, it only improves the quality of things * * * improving the quality of things that surround living can be achieved by the application of knowledge. Improving the quality of life, however, requires the application of wisdom.

Einstein himself recognized the internal nature of man's problems. He is quoted as saying:

> It is not the explosive power of atomic war that I fear, but rather the explosive power for evil in the hearts of men.

Dr. Karl Menninger states:

> I am convinced, myself, that man's fundamental problem is his human egocentricity.

Even the renowned philosopher and atheist Bertrand Russel, wrote:

> Man still has a caveman's heart. We must find a way to change the caveman's heart.

Unfortunately, such truth is little recognized or adopted in our society today. As a Washington Star editorialist recently put it:

> Madness takes many forms. Our modern madness may be the unreflective dismissal of the inescapable—and natural—need for moral judgment.

Americans today, and America's representatives need to face facts. We are inclined to blame our troubles on others, or on our environment, when we should be saying with Shakespeare's Cassius,

> The fault, dear Brutus, is not in our stars. but in ourselves.

Today the specific issue we are addressing is that of unwanted teenage pregnancies. So to some, my remarks on the need for a resurgence of individual moral responsibility, and a new emphasis recognizing such responsibility to characterize our public policy, may seem to be quite a digression from the issue at hand. But such is not the case. What remarks could be more relevant when we hear of surveys indicating that

over 40 percent of teenage pregnancies occur because either the mothers did not care if they got pregnant, or were concerned with contraceptives interfering with "pleasure" or "spontaneity"? What remarks could be more relevant when we hear lame explanations for the flood of illegitimate teenage births—excuses like "women are reaching sexual physical maturity at a younger age," or, children lack "contraceptive responsibility commensurate with their sexual maturity."

If we are ever to solve the vexing problem we are addressing today, as well as a host of other societal ills, we must place the burden of responsibility on the individual for the moral choices made. As I and my colleagues attempt to formulate policies that curb such problems let us keep that essential emphasis at the center of our thinking.

It was Alexis de Tocqueville who wrote 140 years ago, that "America is great because America is good, but that if America ceases to be good, it will cease to be great." How timely those words are. America's fundamental need is a rejection of the egocentrism that plagues us so, and a return to the Biblical absolutes of right and wrong that have served us so well in the past.

In closing, let me qoute from a recent address given by the civil rights leader, the Reverend Jesse Jackson, national president of Operation PUSH:

> More vital than the economic crisis is the spiritual and moral crisis facing us. It does not matter if the Democrats or the Republicans are holding the bucket if the bucket has a hole in the bottom . . . (for) the death of ethics is the sabotage of excellence. Without an ethical foundation, economics become unfeasible, education loses purpose; and purpose loses power. . . . If we seek new values in the nation, we will add new value to the nation. . . . But unless God builds the house, we labor in vain. . . .

As we labor to confront the tragedy of hundreds of thousands of unwanted teenage pregnancies, let us not labor in vain.●

IRS ATTACK ON SCHOOLS AND CHURCHES MUST STOP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BAUMAN) is recognized for 30 minutes.

Mr. BAUMAN. Mr. Speaker, on August 22 of this year, the Internal Revenue Service issued a set of proposed guidelines for the determination of the tax-exempt status of private schools. These regulations purported to address the issue of tax-exempt status for schools that conduct discriminatory policies in their student admissions. However, while they may carry a proper goal, these regulations pose an imminent danger to the freedoms still enjoyed by the American people. Because many of the schools covered by these regulations are church-related schools, the investigation into the schools involves an investigation into the sponsoring church. This necessarily includes a determination by the IRS of what constitutes an acceptable religious body and what does not. I believe there is a clear threat here to the doctrine of separation of church and state with the possibility that the Federal Government might decide what is an acceptable religious belief, and what is not.

Furthermore, the IRS regulations place the burden of proof on the school to show that they are not discriminating in their admissions, rather than require the IRS to make the case. As pointed out by several commentators on this subject, including the editors at the Washington Star newspaper, this difference in approach places an entirely new interpretation on the role and status of tax-exempt organizations of all descriptions. By requiring the institutions to make the case of their receiving tax-exempt status, we have placed the exemption in the category of a privilege to be issued at the sufferance of the bureaucrats rather than a right stemming from the church or group's role in our society.

To some, this distinction may seem obscure but it reaches to the very heart of the concept of our Government and its relationship to the people. On the one hand, we have the notion of a Government which views taxes as simply the means of gaining the revenue it needs to provide services. This Government exempts certain organizations from the obligation to pay taxes because it sees their function as being at least as important as its own. These organizations are recognized as being nonprofit and as providing a service to the community that extends beyond what the Government considers its rightful role.

Another view of Government has been coming into more frequent vogue in recent years. It holds that everything is subject of confiscation or control at any time through taxation or regulation. According to this notion, individuals and organizations are permitted to conduct their activities only so long as they act according to the tenets of the policy set down by the Government. Taxation is viewed as much an instrument of enforcement as an instrument for raising revenue. Under this idea the use of tax laws to punish nonprofit organizations behaving in a manner inconsistent with the wishes of the bureaucrats in Washington is even laudable. It makes little difference that the amount of revenue that will be raised by taxing nonprofit organizations will be miniscule. Raising revenue is not the point of this exercise. The Internal Revenue Service has been turned into the agent of the social planner and the power to tax is consciously being used as the power to destroy.

The regulations issued by IRS on August 22 of this year are dangerous in two respects. First, they presume that the schools and churches in question are guilty until proven innocent. They place the burden of proof upon the private institutions to prove that they are guilty. Second, this action puts the IRS in the role of enforcer. It sets that agency upon the mission of using strong-arm tactics on those in the private sector who do not choose to adopt Government policy. It is one thing for the Government to pass upon the behavior and practices of Government institutions and those who receive Government payments. It is an entirely different matter when the Government embarks upon a campaign of destruction against those in the private sector who chose another course.

Because I am concerned about this policy and because I believe it is of vital concern to all who serve in this body, I am inserting in the RECORD two items that illustrate the gravity of this matter. The first is an article from Human Events magazine. The second is a list of the questions recently asked of a minister in Georgia by the IRS in an effort to determine whether he and his church met Government standards for tax exemption. This list of questions will illustrate that this IRS campaign is directed as much toward harassment as toward taxing policy. I would ask my colleagues to pay particular attention to questions 13 thru 31 on this questionnaire. One can only imagine how much time it would take to answer such questions. This is clearly harassment of religious institutions by the Government. We should all view these actions with alarm and oppose them.

PROPOSED IRS REGULATIONS THREATEN PRIVATE SCHOOLS

During debate on the tuition tax credit measure on August 15, Sen. Jesse Helms (R.-N.C.) announced that, despite his belief in the basic concept of providing such tax relief for parents of private-school children, he could not support the specific language included in the Senate bill. In particular, Helms objected to a clause directing the Department of Health, Education and Welfare, among other agencies, to report on civil rights enforcement by the Internal Revenue Service and to make "suggestions . . . for enhancing" the IRS's enforcement "of public policies against racial discrimination and other forms of discrimination. . . ."

Noting that the clause was not limited to racial discrimination alone, the Tar Heel lawmaker said he feared such language could ultimately lead the IRS to impose on the private schools the same federal interference that has proved so disastrous in the public schools (see August 26 issue, page 3).

Helms observed that "it does not take too much imagination," given HEW's record in such matters to envision the agency "demanding co-ed sports programs, co-ed dormitories, the hiring of homosexual teachers, the availability of abortion counselors, and the abolition of male and female choirs, and so forth, all erected on some pretext of public policy."

It turned out that the Senate voted to delete tax credits for elementary and secondary tuition and, with them, the wording that Helms found so dangerous. Yet just one week later, on August 22, the IRS, acting on its own, proposed new regulations that, if finally adopted, could have much the same frightening consequences.

In 1970, the IRS ruled that private schools found guilty of racial discrimination would no longer be exempt from paying federal income taxes nor would they be entitled to receive tax-deductible contributions. In 1975, the agency further stipulated that, to keep their tax-exempt status, private schools must include a nondiscriminatory policy on their by-laws, must mention this policy in all of their brochures and other public-relations materials, and must publicly announce the policy at least once a year.

But under the newly proposed revenue procedure, which will remain open for written public comment through October 23, the IRS would arbitrarily presume that many schools were guilty of discrimination, even if they had been strictly adhering to the agency's existing guidelines!

Specifically, the new ruling would define any private school, including one affiliated with a church, as a "reviewable school" if it had been "formed or substantially expanded at or about the time of public school desegregation in the community served by the school," and its minority enrollment was less than 20 per cent of the percentage of minority students in the community's total school-age population. If, for example, the community had a 50 per cent population of minority students, the school would have to have at least a 10 per cent minority enrollment.

Schools which fell in this "reviewable" category would automatically be presumed racially discriminatory—i.e., guilty until proven innocent—and would lose their tax-exempt status unless they could demonstrate that they were making a "good faith" effort not to discriminate. And to prove good faith, a private school would have to meet a long list of requirements, such as providing minority scholarships, minority recruitment programs, minority hiring, increasing minority enrollment and so forth.

There are numerous problems with these regulations. To begin with, though obviously directed against so-called "segregation academies" founded to thwart integration, they would also affect many other private schools whose creation had nothing to do with the racial issue.

While the bulk of the desegregation efforts across the country have occurred in the last 15 years, it has also been during this period that many public school systems have gone into decline. Not only have the academic skills imparted in the public schools dropped precipitously during these years, but so have standards of discipline and decorum. It was also during this period that the state-supported schools dropped all references to religion, such as prayer and scripture reading.

Not surprisingly, many new private schools, particularly those in the fundamentalist Protestant "Christian School Movement," were founded during these years because parents wanted something better for their children than the public schools were offering. Yet under the new IRS regulations, these schools would be indiscriminately lumped in with the segregation academies.

As relatively new institutions, moreover, many of these schools have to struggle just to make financial ends meet. Consequently, it would be no easy task for them to provide the minority scholarships and other programs now contemplated by IRS. Yet the alternative—losing their tax-exempt status—would be equally disastrous.

The Protestant schools are not the only ones that would be hurt. According to George Reed, the general counsel of the United States Catholic Conference, the proposed new ruling is "completely unrealistic" insofar as parochial schools are concerned, including the definition of "community" as "the geographical area of the public school district within which the school is located together with any other public schcol district from which the school enrolls at least 5 per cent of its student body."

"In short," Reed noted, "the minority status of a parochial school would be determined on the basis of the public school district which in somes cases embraces a whole city. This obviously is a misleading test insofar as the parochial schools are concerned."

Obviously, in the case of church-related schools, it would be more realistic to compare the number of minority students in the school to the percentage of minority families in the area belonging to that religion, rather than to the community at large. But even this approach could prove misleading.

The fact is that not everyone is either willing or able to make the necessary economic sacrifices to pay tuition to a private school, on top of the taxes he is forced to pay to support the public schools. Indeed, the proposed regulations could make it even harder for minority students to attend private schools since, without tax-exempt status, schools would be forced to raise their tuition while donations for possible scholarships would decrease.

In the name of fighting racial discrimination, then, the proposed IRS regulations could inflict unrealistic and meddlesome standards on many schools when the only thing they are guilty of is not meeting the agency's arbitrary and prejudicial standards. This in turn would play right into the hands of the public school establishment, which would find its competition from the private sector abruptly reduced.

But the issue at stake in this controversy goes even beyond federal control of private schools. As Jack Clayton of the American Association of Christian Schools told HUMAN EVENTS: "If this precedent is allowed to stand, then every regulation that has affected the public schools will be applied not only to private schools but ultimately to churches, private charities, hospitals and on and on."

Clayton noted that historically the purpose of tax exemption for churches and other institutions was to guarantee their independence from state interference. But the premise underlying the new IRS ruling is different.

As the Washington Star explained in an editorial: "The rationale of the new IRS rules for private schools is that tax exemption reflects more than a decision by government to ignore what is none of its business; it bestows a positive benefit. Where once it was felt that tax exemption—not only of schools but of churches, museums and other charitable institutions—reflected the view that certain realms of private discretion can and should flourish without government hindrance, there is an increasing tendency to regard tax exemption as a privilege—a privilege to be enjoyed on the government's terms even if taxation was never before contemplated."

Put another way, the new regulations are based on the idea that tax exemption is a form of federal assistance. And once this concept is accepted, all private tax-exempt organizations will by definition be subject to the same maze of federal ukases that have already become customary in connection with government grants.

Sen. Helms could not have been closer to the truth when he said during the tuition tax credits debate that IRS regulations of this kind would not for long be limited to the racial issue alone. As Helms pointed out at the time, IRS Commissioner Jerome Kurtz himself acknowledged in a speech last January 9 that the agency has "almost no" statutory guidance from Congress in the area of civil rights enforcement.

Said Kurtz: "We have almost no specific statutory guidance; our authority and obligations on racial issues derive from the constitutional doctrine announced in Brown v. Board of Education in 1954, and cases enforcing and interpreting it, and from the broad national policy announced in the 1964 Civil Rights Act."

But once the IRS begins enforcing its interpretations of "broad national policy," it can only be a matter of time until it is telling the schools what they must teach in regard to such sensitive areas as the role of the sexes, birth control and so forth, just as Helms predicted.

Nor will it necessarily stop with the schools. Considering the government's "broad national policy" regarding family planning, for example, what's to stop IRS from telling Catholic hospitals that, to keep their tax exemptions, they must perform abortions? In sum, the ramifications are endless—and ominous.

The only good thing that can be said about these regulations is that they may yet be stopped. Letters opposing the proposed ruling have already begun pouring into the IRS from all parts of the country. (Readers who are interested have until October 23 to send their comments to: Commissioner of Internal Revenue, Attention: E:EO, Washington, D.C. 20224.)

In addition, a number of conservative lawmakers have expressed their disapproval to the IRS and more are expected to do the same in the near future. Given the lack of specific statutory authority in this area, some congressional sources are hopeful that the agency can be persuaded to withdraw the proposal.

Should such efforts fail, however, the IRS will have dealt yet another crippling blow to the American tradition of freedom.

IRS QUESTIONNAIRE No. I

1. Give the full name of your organization and your Employer Identification Number.

2. Give the full address of your organization.

3. Furnish the name, address and telephone number of the person to be contacted for information concerning your organization.

4. Give the date that your organization was incorporated or formed. Is it formed under the non-profit corporation act of the State of Georgia?

5. Have you ever filed an application for recognition of exemption with the Internal Revenue Service? If so, please furnish a copy of the application.

6. Submit a conformed copy of your organization's creating instruments, i.e., Articles of Incorporation, Constitution, Articles of Association.

7. Submit a conformed copy of your organization's By-Laws or other rules for its operation.

8. Does your organization file annual information returns (Form 990)?

9. Does your organization file Form 941 to report Federal Insurance Contributions Act (F.I.C.A.) taxes and income tax withholdings on employees?

10. Does your organization file Form 990–T, Exempt Organizations Business Income Tax Return?

11. Does your organization control or is it controlled by any other organization? If so, please give the name of the related organization(s) and explain the relationship.

12. Is your organization financially accountable to any other organization? If so, please explain and identify the other organization(s).

13. Does your organization have a recognized creed and form of worship? If so, please explain in detail.

14. Does your organization impose a formal code of doctrine upon its members? If so, please explain in detail.

15. Does your organization require renunciation of any or all former religious beliefs on the part of your members?

16. Does your organization have a definite and distinct ecclesiastical government? If so, please explain in detail.

17. Does your organization have a distinct religious history? If so, please explain in detail.

18. Does your organization have a complete organization of ordained ministers (or your equivalent to ministers) ministering to the needs of their congregations? If so, are these ministers (or their equivalents) ordained following prescribed courses of study? In

addition, please explain, in detail, education and experience requirements necessary to become one of your ministers and provide a copy of the Certificates of Ordination that have been issued to them.

19. Does your organization have a regular congregation or regular religious services? If so, please give frequency and average attendance. Also, state where these services are held, i.e., a church, a residence, other.

20. Please state how many members your church has to date. Further, have any applicants for membership been rejected and if so, why? Describe membership requirements and attach a current schedule of membership fees and dues.

21. Describe fully the sacerdotal functions your ministers perform and indicate whether they are licensed by the State of Georgia to perform marriages and other ministerial functions.

22. Does your organization have any Sunday Schools for the religious instruction of the young?

23. Provide a complete list of your officers and directors including a brief resume of their backgrounds, and indicate their functions and responsibilities in your organization.

24. Are meetings held by your governing body? If so, please give frequency. Also, if meetings are held, are minutes kept?

25. Describe fully whether you pay compensation or make any other payments to or for individuals who perfom services for your organization. If so, provide a schedule of the persons compensated with the amounts paid each for your most recent accounting year.

26. Please submit sample copies of any pamphlets, brochures, newspaper articles or other publications concerning your organization.

27. Provide copies of all agreements or contracts concerning the sale, use, or purchase of property by your organization.

28. Are any of your organization's properties recognized by your county tax commissioner as being exempt from local property taxes?

29. Provide a list of property owned, rented, or otherwise utilized by your organization and the purpose for which such property is used.

30. Identify those contributors who have given $500 or more during the most recent accounting year.

31. Submit a schedule of receipts and expenditures for your most recent accounting year. This schedule should clearly classify your sources of financial support and describe in detail the nature and purpose of your expenditures.

NOTE.—Since this questionnaire does not provide sufficient space to adequately answer questions asked herein requiring detailed responses, please attach necessary additional sheets making reference thereon to the question(s) being answered.

FTC INSURANCE REGULATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. COLLINS) is recognized for 30 minutes.

Mr. COLLINS of Texas. Mr. Speaker, I serve as the ranking Republican member on the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce which recently held extensive oversight hearings on "Life Insurance Marketing and Cost Disclosure." The focal point of these hearings was the on-going effort by the Federal Trade Commission to develop a Federal cost disclosure system for life insurance which would foist the Commission into business of Federal regulation of insurance, a move which I find totally without merit, unwise, and ill-conceived.

In 1945, the Congress passed the McCarran-Ferguson Act which in its declaration of policy stated:

> Congress hereby declares that the continued regulation and taxation by the several States of the business of insurance is in the public interest * * *

What the Congress was, thus, saying in 1945 was that the States were better able to and should regulate the business of insurance to the exclusion of regulation by the Federal Government and, indeed, that has certainly been the case. The life insurance industry has never been subjected to or needed Federal intervention, and I do not believe that it is now warranted. The State commissions have done an outstanding job of taking care of insurance industry problems in each respective State as well as on a coordinated national level.

Life insurance in force in the United States more than doubled in the decade ending in 1976 (to $2.34 trillion), as did the amount of life insurance per American family (to $30,000). Americans were purchasing $320 billion of life insurance annually by the end of that decade, and benefits payments were, by then, very nearly $25 billion a year. There were over 1,700 companies competing in the market place, and in 1976 new life insurance company investments in the economy had reached a record high of $175 billion. At the same time, the life insurance industry incurred taxes and fees of $4 billion on its 1976 operations.

Although our subcommittee hearings dealt primarily with the issue of life insurance, I took the occasion to ask the FTC's designated spokesman, Mr. Albert H. Kramer, Director of the FTC Bureau of Consumer Protection, if the agency had any plans to look at other aspects of the insurance industry such as property and casualty insurance cost disclosures. Mr. Kramer responded that he was not aware of any plans to look at casualty and property insurance cost disclosure. What Mr. Kramer did not tell me, however, and what I had to learn later, from other sources, is that the FTC has massive plans for far-flung activity in the insurance field. I have before me a 60-page FTC staff memorandum prepared for presentation to the FTC Commissioners in June of this year, which is devoted to the insurance industry—not just life insurance—and to a discussion of FTC jurisdiction over it. One section of this memorandum is devoted to "new initiatives according to the task force's priorities."

Another section of this FTC staff memorandum gives "an overview of the implications of McCarran-Ferguson for the FTC's jurisdiction over insurance." Still another explores "major consumer and competition insurance problems and prescribes ongoing and new initiatives that address each problem area." Among future investigations is listed an investigation of automobile insurance underwriting, and even the role private insurance companies should play if a system of national health insurance is adopted by Congress. I firmly believe that the expenditure of taxpayer dollars is unjustified and unwise.

The FTC's basic statute is the Federal Trade Commission Act which assigns to that agency two basic areas of responsibility: first, to address themselves to unfair methods of competition and second, to deal with unfair or deceptive trade practices. Leaving the question of the McCarran-Ferguson Act totally aside for the moment, I still do not see how the FTC has any basis for such a sweeping investigation. As to the question of unfair methods of competition which is the Commission's antitrust responsibility, there is no evidence of lack of competition or unfair methods of competition. On the contrary, the evidence shows that the marketplace is competitive and functioning well. As evidence of this I need to point no further than to the testimony of Mr. Kramer of the FTC before our subcommittee with respect to life insurance. Mr. Kramer said:

> In terms of the structure of the industry, I think the life insurance industry is very competitively structured.

Mr. Kramer was indeed correct in his assessment, because we now have 1,750 companies selling life insurance today. This industry in all likelihood is the most competitive in the Nation.

As for the second aspect of the FTC's jurisdiction that deals with unfair or deceptive trade practices, I again, leaving McCarran-Ferguson aside, would submit that it cannot be successfully demonstrated that unfair or deceptive trade practices are ongoing. Where is the unfairness and what is the deception?

Mr. Kramer of the FTC in his testimony before our subcommittee said that the "primary need is for information about the rate of return that purchasers of a life insurance policy will earn" as compared to other forms of investment. If the failure to provide this type of information is an unfair or deceptive trade practice, then the U.S. Government is engaged in this activity on a daily basis when it causes savings bonds to be sold. The Federal Government does not disclose that its rate of return on savings bonds is low compared to other forms of investment.

Apparently, the FTC's basic premise is that the consuming public views life insurance as an investment opportunity not unlike buying stock. I can tell you that on the basis of 25 years of experience in the life insurance industry prior to coming to Congress that people buying life insurance are not buying it for its investment potential, but they are buying it because they love their wives, families, and children.

I, therefore, believe that even without the existence of McCarran-Ferguson that the FTC's efforts in this field are totally inappropriate. When you then take into account that McCarran-Ferguson is the law of this Nation, the FTC's activities in the insurance area are totally uncalled for and immense duplication of effort which is already being exerted in the States, and an utter waste of the tax dollar. As Mr. Joel A. Shapiro, Chairman of the Committee on Federal Law and Legislation of the National Association of Life Underwriters clearly pointed out

to our committee, the States have already adopted legislation to regulate unfair and deceptive trade practices which is the only jurisdictional premise on which the FTC could hang its proverbial hat.

As to life insurance cost disclosure which was the specific subject of our hearings, the National Association of Insurance Commissions has already adopted a model life insurance solicitation regulation which has been in turn adopted by a growing number of States. The FTC's efforts in this area are clear signals to me that the agency is intent upon establishing a beachhead by means of their efforts in the life insurance cost disclosure area in order to launch additional, more massive forays into Federal regulation of the insurance industry. The FTC wants to circumvent the McCarran-Ferguson Act and get its foot in the door so that it can expand its jurisdiction, expand the size of its staff, expand its budget, and expand its jurisdiction by means of federally regulating an industry that is already being effectively regulated by the States.

Another point that I made during the course of our subcommittee's hearings on insurance and will make again here today is that I am totally amazed when I stop to consider that some Federal agency is attempting to give advice and direction in this area. The Federal Government is into the insurance business in a very big way through their annuity programs of social security, railroad, civil service, and military retirement programs all of which are in abysmal shape. Social security took in $80 billion last year but expended $88 billion; railroad retirement 4 years ago was in catastrophic shape and 4 years ago the Congress had to bail them out; civil service retirement deficiencies have been estimated to be $150 billion dollars; and in the military retirement system there are no reserves whatsoever. No, Mr. Speaker, Federal agencies are in no position to give expert advice if the performance record to date is any indication. On the contrary, I believe that we should be looking to the private sector as a role model to be emulated.

If there is an area that virtually cries out for disclosure to the American public, I believe that it is in the area of these Federal programs such as social security, railroad, military and civil service retirement. This is a subject that needs to be reviewed, and the Federal agencies and the Congress are not meeting their obligations in this regard. For instance, I am sure that the majority of the American public is not aware of the fact that if a young person were to put the same amount into private life insurance as they are required to contribute to social security that they will receive more than twice as much from that private plan than they will from social security at age 65. I suggest to the insurance commissioner from the State of Iowa, who testified before the subcommittee on behalf of the National Association of Insurance Commissioners, that the States can and must do something in this area. Every one of these Federal programs affect residents of the States, and someone or some entity much closer to the people than this remote and seemingly aloof Federal Government should undertake to provide the citizenry with this information so that the Federal Government and its officials can be held accountable.

Everyone today realizes the rate of bureaucratic expansion. The United States is presently in the midst of the most rapid and pervasive expansion of Government control over business in modern times. And now the FTC wants to add to this massive Government bureaucracy by moving in and assigning regulations to yet another industry—one that has a highly regarded history of customer satisfaction. Government today means complexity and higher costs and the FTC will be forcing recommendations on insurance consumers when they do not want them and have not asked for them. My experience in the insurance business has shown me that competition does more to keep companies alert to consumer interests than the Government could ever do. Americans do not want more Federal Government meddling especially in an area already effectively working. Agents are not going to sell a plan that does not represent value. The FTC should stay out of the insurance industry, and the Federal Government must put its own house in order before promulgating any more rules for the private sector.

THE PLIGHT OF VLADIMIR KISLIK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New Jersey (Mrs. MEYNER) is recognized for 5 minutes.

● Mrs. MEYNER. Mr. Speaker, I am pleased to join in the "vigil for freedom" sponsored by the Union of Councils for Soviet Jewry on behalf of persecuted Soviet Jewish individuals and families.

I would like to bring to the attention of my colleagues today the case of Vladimir Kislik of Kiev. Three years ago, the wife and son of Mr. Kislik were allowed to emigrate to Israel, but Mr. Kislik himself was refused permission to leave because he dealt with classified information in a prior job. Because of the Kisliks' desire to have their son grow up in Israel, they accepted the offer of the Soviet Government in the hope that the separation would only be temporary.

Mr. Kislik was trained as a metallurgical engineer. However, he has been unable to obtain employment since applying for emigration. In May 1976, after speaking to his wife in Israel, his phone was disconnected. Without a job or family, Kislik sought to keep his spirits up by conducting a private seminar on problems of science and technology. He was instructed to discontinue the seminar or face imprisonment.

In 1977, he was singled out in a Kiev newspaper as an alleged agent of "foreign powers" determined to smuggle various documents on nuclear physics out of the country. Mr. Kislik bravely joined with four other Kiev Jews in a 24-hour hunger strike during the 25th International Communist Party Congress. He is now constantly surrounded and followed by an 8-man "cage" of KGB agents much like the KGB "cage" that followed Anatoly Shcharansky prior to his arrest.

Mr. Kislik's only crime was his expressed desire to emigrate to Israel to rejoin his family. In 1975, the Soviet Union, along with 34 other nations, signed the Helsinki Final Act which committed the signatories to certain principles of human rights, including the reunification of divided families, religious freedom, minority rights, and freedom of travel among countries.

It is time for the Soviet Union to live up to its promises. It is my hope that this vigil will help Vladimir Kislik and thousands of others to fulfill their dreams of freedom.●

FTC INVESTIGATION OF DEBT COLLECTORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, too many of us have experienced the disappointment of initiating legislation, seeing it pass both Houses of Congress, proudly witnessing the President sign it, and watching it be scuttled by a lazy or antagonistic bureaucracy unwilling to enforce it. The protection a law affords is meaningless if it is disregarded by those responsible for assuring it achieves its purpose. I am pleased to know that this will not be the fate of a consumer protection bill which I authored this session, the Fair Debt Collection Practices Act. I applaud the recent decision of the Federal Trade Commission to conduct a full-scale investigation into compliance with this law.

Until passage of this legislation, consumers were subject to uncontrolled harassment by debt collectors concerned about nothing other than recovering money without consideration either for the facts of a case, or the feelings and rights of the people they hounded. This bill prohibits debt collectors from using tactics designed to intimidate debtors into submission. Under the act, debt collectors are prohibited from using threats of violence or profane language, contacting debtors at unusual times and places, and falsely claiming they will have the debtor arrested and jailed.

Unfortunately, another fact we in Congress have learned to live with is that passing laws to prohibit certain acts does not mean those acts will disappear overnight. Although many debt collectors have certainly made a good faith effort to curb unfair practices, others continue to violate both the letter and the spirit of the law. The Federal Trade Commission has in the past 6 months received over 1,000 complaints about abusive debt collectors. Because many people either submit to unscrupulous collectors or are unaware of the proper channels available to them for registering complaints, it is clear that this is just the tip of an iceberg.

Yet although the effort by the FTC is an admirable one, the agency cannot do it alone. Consumers must be aware of

their rights under the law, and take actions to defend these rights if they are infringed. This is the most effective method of regulating business practices. If debt collectors are made conscious of the fact that consumers know their rights, and are prepared to stand up for them, this will have as great an effect on their practices as anything the Federal Trade Commission or Congress can do. By joining forces, citizens and the Government can stop those who continue to violate the law. Only in this way can the law achieve its purpose of providing the full protection consumers need, and deserve.●

TRIBUTE TO RETIRING MEMBERS OF THE COMMITTEE ON THE DISTRICT OF COLUMBIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

● Mr. DIGGS. Mr. Speaker, I rise today, as chairman of the Committee on the District of Columbia in the House, to pay tribute to those members of our committee who will not be returning to the House in January. These distinguished gentlemen are from both sides of the aisle: JAMES MANN, of South Carolina, CHARLES WHALEN, of Ohio, and TED RISENHOOVER, of Oklahoma.

In addition, I would like to begin with special remarks in tribute to a former, retiring member of the committee, DONALD FRASER, of Minnesota.

Mr. Speaker, before leaving the committee at the beginning of the 95th Congress to serve on the Budget Committee, DON FRASER served on the committee with dedicated distinction for 12 years commencing with the opening of the 89th Congress.

When DON became a member of the committee in 1965, I was pleased to serve with a colleague who shared many of the same goals for advancing the political and economic prerogatives of the long disenfranchised residents of the Nation's Capital. DON joined enthusiastically in the legislative efforts of a growing group of progressives on the committee. This group had a changing bipartisan membership but included U.S. Secretary of Transportation Brock Adams, of Washington, Director of the Congressional Research Service Gil Gude, of Maryland, Senator CHARLES MCC. MATHIAS, of Maryland; FRANK HORTON, of New York; BILL HUNGATE, of Missouri; ANDY JACOBS, of Indiana; Gov. Arthur Link, of North Dakota; RONALD DELLUMS, of California; AB MIKVA, of Illinois; Pete Kvros, of Maine; Ancher Nelsen, of Minnesota; and STEWART MCKINNEY, of Connecticut.

Mr. Speaker, it was this group of concerned legislators who would begin to lay the groundwork for a new era of progressive leadership of the committee. In a 10-year period, 1963–73, this group within the committee achieved the enactment of an elected school board for the Nation's Capital, an elected Delegate from the District of Columbia, the establishment of Federal City College and the Washington Technical Institute, the first land grant institutions for the District of Columbia. These institutions would later be merged into the University of the District of Columbia as a result of committee reported legislation. In addition, this group worked successfully for the authorization of a 100-mile rapid rail public transit system for the National Capital region and significantly increased Federal payments to the budget of the District of Columbia. It was an unprecedented decade of dedication in the committee to make the District of Columbia a better city and would culminate in the extension of home rule to the District of Columbia in the 93d Congress.

Mr. Speaker, DON FRASER, of course, was one of the architects of the 1973 Home Rule Charter which extended unprecedented delegated authority to an elected Mayor and City Council in the District of Columbia and brought to an end over 100 years of Presidentially appointed local governments in the Nation's Capital.

DON FRASER has long been an advocate of electing neighborhood based officials to advise the higher echelons of elected and appointed officials in urban government. As a result of this interest and Minnesota's experience, DON proposed that the new Home Rule Charter provide for the election of Advisory Neighborhood Councils to counsel the city government on decisions affecting planning, development, recreation, and the full range of city services in a particular neighborhood area. The city council later changed the names of the neighborhood councils to Advisory Neighborhood Commissions (ANC's). In addition, Congress required that the ANC concept be approved in a referendum of the voters of the District of Columbia. Such approval came in an overwhelming vote of May 7, 1974.

The first ANC elections were held on February 3, 1976. ANC Commissioners, representing 2,000 residents each, were elected from 372 single member districts comprising 36 Advisory Neighborhood Commission areas. A worthy experiment in grassroots government had become a reality in the Nation's Capital.

Mr. Speaker, DON FRASER will be missed on the committee and in the House. Missed will be his counsel and dedicated advocation for advancing the welfare of the residents of the District of Columbia. Should he remain in the National Capital area, we might all hope that his interest and counsel be available to those responsible for assuring a financially healthy, effective, representative local government in the Nation's Capital.

In summation, it is interesting to note that since 1947 (80th Congress) three progressive legislators from Minnesota, including DON FRASER, collectively have served a total of 42 years on the committee. The Nation's Capital and the House might hope for the continued committee service of progressive Minnesotans in the years ahead.

Mr. Speaker, JIM MANN came to the committee with the 93d Congress. Particularly missed will be JIM's very capable and knowledgeable legal mind. His legal expertise, beginning with the Home Rule Charter, has advanced the quality of many legislative and oversight responsibilities of the committee. His 6 years of service and 94th Congress chairmanship of the committee's Judiciary Subcommittee have immeasurably advanced justice and public safety in the Nation's Capital. In every way JIM MANN's service on the committee was representative of the new wave of moderate, progressive legislators from the South, for many years an element of constructive balance not available to the committee. The House and the Nation's Capital are hopeful that more JIM MANN's will seek to serve on the committee.

Mr. Speaker, the only negative comment appropriate to CHUCK WHALEN'S service on the committee is that his tenure was all to brief. However, since coming to the minority side of the committee, CHUCK WHALEN has contributed profoundly to the financial welfare of the Nation's Capital. His 4-year tenure on the committee's Fiscal Affairs Subcommittee has been witness to his efforts to assure that local financial obligations, some of which were imposed in prehome rule days by Congress, do not weaken the resolve of the committee and the House to preserve and advance locally elected government in the Nation's Capital.

Mindful of the history of the financial calamities of the 1870's, which in part moved the committee to recommend that the House vote to revoke elected government in the Nation's Capital, the gentleman from Ohio and the Fiscal Affairs Subcommittee have held hearings and reported legislation to improve the accounting system of the District of Columbia government and hopefully one day make the system a model for jurisdictions throughout the United States.

CHUCK WHALEN and the subcommittee also worked to assure that the Federal Government completely upgrade the physical plant of St. Elizabeths Hospital before any transfer of that facility to the District of Columbia government is even contemplated.

In addition, the subcommittee and the gentleman from Ohio contributed profoundly to legislative efforts to successfully bring forth a reformed, actuarially sound, federally supported pension system for the police, firefighters, teachers, and courts of the District of Columbia.

Mr. Speaker, these legislative achievements prevented the widely predicted insolvency, within 20 years' of the District of Columbia government.

The gentleman from Ohio also took an active interest in a comprehensive series of hearings on the impediments to and the goals for the optimum economic, functional, and aesthetic planning and development of the Nation's Capital. This oversight effort is the only comprehensive examination by Congress of how best the Nation's Capital might cope better presently with the planning and development process and how local, Federal, and congressional leaders might work together to assure for posterity an even better planned, aesthetically developed, and economically healthy Capital City.

Mr. Speaker, an interest in the cultural life of the Nation's Capital was quietly, but effectively pursued by the gentleman from Ohio during his tenure

on the committee. Sensitive to the unique political status of the District of Columbia a city with responsibilities similar to those of a State, CHUCK WHALEN worked quietly to make known the financial difficulties of many local private cultural institutions of international renown such as the Corcoran Gallery of Art, the Folger Shakespeare Library and Theatre, the Arena Stage, and the Museum of African Art. Many Members of Congress and many Federal officials were quietly educated by CHUCK about the limited ability of the District of Columbia government to provide subsidies for the operation of such local but internationally appreciated institutions in the Nation's Capital. As a result of CHUCK's efforts, concerned Members of Congress and Government officials are more receptive to the study of proposals for special Federal-District of Columbia subsidies for these and other local cultural institutions and activities in the District of Columbia. One immediate result of these efforts was the support of CHUCK and the work of the late Senator from Minnesota, Hubert H. Humphrey and numerous colleagues, to successfully enact legislation transferring the operation of the Museum of African Art to the Smithsonian Institution.

The gentleman from Ohio has been a consistent advocate of completing the 100-mile metro rapid rail transit system for the National Capital region. His support and counsel on the committee regarding this matter will be missed. So too the committee will miss his broad and enlightened encouragement of expanded cooperation among the 20 jurisdictions that comprise the National Capital region. And most profoundly missed will be his civil dissents and conscientious contributions which always brought enhanced quality to a piece of legislation, the resolution of an issue, or an oversight matter before the committee.

Fortunately, the gentleman from Ohio will not be leaving the Nation's Capital. He is remaining to assume the leadership of a new international relations citizens organization called New Directions. CHUCK will be working tirelessly to advance the goals of New Directions which are to relieve human suffering everywhere, to resolve peacefully global conflict, and bring greater levels of social justice and economic progress to all the World's citizens.

In addition, a whole new generation of leadership will be enriched by Professor WHALEN at the Catholic University of America here in the Nation's Capital.

Mr. Speaker, CHARLES WHALEN is the 40th Member of the House from Ohio to serve on the Committee on the District of Columbia since 1823. On the whole, Ohio has given the committee progressive members interested in making the Nation's Capital a pleasant, monumental, secure, and residential city for the international community, government official, visitor, and resident alike. We hope that CHARLES WHALEN's counsel and interest in District of Columbia affairs remain available to all of us and that progressive members from Ohio in the Whalen mold continue to seek membership on the District of Columbia Committee.

Mr. Speaker, TED RISENHOOVER served conscientiously on the committee's Fiscal Affairs and Judiciary Subcommittees. On the Judiciary Subcommittee, TED's counsel and experience as a member of the Oklahoma Crime Commission enhanced the subcommittee's drafting and reporting of important revisions to the District of Columbia Bail Reform Act. The revisions were intended to answer objections that the Bail Reform Act almost routinely permits the release on personal recognizance of felony suspects who often have established patterns of violent criminal behavior. The Senate, unfortunately, has usually moved to block these revisions after overwhelming House approval in the 94th and 95th Congresses.

While serving on the Judiciary Subcommittee, TED also participated in the drafting and reporting of legislation to update the congressional charter of George Washington University. The charter was first reported from the Committee on the District of Columbia in 1821.

As a ranking member of the Fiscal Affairs Subcommittee, TED participated in extensive hearings on the commuter tax and the Federal payment. TED voted in subcommittee to send legislation to the full committee authorizing the District of Columbia City Council to tax the incomes of nonresidents.

Additional, TED's Fiscal Affairs Subcommittee tenure also contributed to the successful reporting of pension reform legislation, assuring a soundly financed government for the Nation's Capital.

Mr. Speaker, the record is clear. TED RISENHOOVER's service on the District of Columbia Committee has contributed immeasurably to advancing public safety and soundly financed government in the Nation's Capital.●

LEGISLATION TO AMEND INTERNAL REVENUE CODE TO EXCLUDE $1,000 OF INTEREST FROM SAVINGS FROM GROSS INCOME OF CERTAIN TAXPAYERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WEISS) is recognized for 5 minutes.

● Mr. WEISS. Mr. Speaker, it is time our tax code stopped penalizing lower-middle income taxpayers for being thrifty. Last year, more than 43 million—52 percent—taxpayers earned less than $10,000. This group includes blue-collar workers, the elderly, and many young couples just getting started. In most cases, their budgets are stretched to the limit, and as inflation continues to erode their disposable income, savings become increasingly important.

By taxing the interest on savings, the Government adds to this group's economic burden. In an attempt to change this, I am, today, introducing a bill allowing individuals or families with "expanded incomes" (adjusted gross income plus the excluded half of capital gains) of less than $10,000 to exclude from taxable income up to $1,000 of savings account interest. Passage of this bill would allow lower-middle income earners to save without fear of losing any interest to taxation.

The loss in total revenue would be minimal, because this group, which earns only 19 percent of all income, cannot afford to devote large amounts of their income to savings. At the same time, however, the bill would reward those taxpayers who do make this sacrifice.

The problems of the lower-middle income earner are difficult enough without adding the burden of exposing small amounts of savings to taxation. I urge my colleagues to join me in sponsoring this bill:

H.R. 14306

A bill to amend the Internal Revenue Code of 1954 to exclude $1,000 of interest from savings from the gross income of certain taxpayers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part III of subchapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as section 125 and by inserting after section 123 the following new section:

"SEC. 124. PARTIAL EXCLUSION OF INTEREST FROM SAVINGS.

"(a) GENERAL RULE.—In the case of an individual, gross income does not include interest which (but for this section) would be includable in the gross income of such individual for the taxable year.

"(b) LIMITATIONS.—

"(1) INTEREST LIMITATION.—The amount of interest excluded under subsection (a) from the gross income of a taxpayer for the taxable year shall not exceed—

"(A) $1,000, in the case of a single individual,

"(B) $1,500, in the case of a joint return, or

"(C) $750, in the case of a married individual filing a separate return.

"(2) ADJUSTED GROSS INCOME LIMITATION.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds—

"(A) $10,000, in the case of a single individual,

"(B) $15,000, in the case of a joint return, or

"(C) $7,500, in the case of a married individual filing a separate return,

the amount of interest which may be excluded under subsection (a) from the gross income of such taxpayer (determined after the application of paragraph (1)) shall be reduced by $1 for each $1 of the excess of the modified adjusted gross income of the taxpayer over the amount applicable to such taxpayer under subparagraph (A), (B), or (C).

"(c) SPECIAL RULES FOR MARRIED INDIVIDUALS.—

"(1) COMMUNITY PROPERTY.—This section shall be applied without regard to community property laws.

"(2) DETERMINATION OF STATUS.—For purposes of this section, the determination of whether an individual is married shall be made in the manner prescribed by section 143.

"(d) DEFINITIONS.—For purposes of this section—

"(1) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined without regard to paragraph (3) of section 62.

"(2) INTEREST.—The term 'interest' means any amount (whether or not designated as interest) paid by a bank (as defined by section 581), a mutual savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, or similar organiza-

tion, in respect of deposits, investment certificates, or withdrawable or repurchasable shares."

(b) The table of sections for such part III is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 124. Partial exclusion of interest from savings.

"Sec. 125. Cross references to other Acts."

SEC. 2. The amendments made by the first section of this Act shall apply to taxable years ending after the date of the enactment of this Act.●

NEWSPERSONS' PRIVILEGE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

● Mr. OTTINGER. Mr. Speaker, today I am reintroducing the Newspersons' Privilege Act of 1978 with the following cosponsors: Messrs. AUCOIN, CARR, CONYERS, DELLUMS, EDWARDS of California, GILMAN, HARRINGTON, LUNDINE, MITCHELL of Maryland, OAKAR, PRICE, RICHMOND, ROSENTHAL, RYAN, STEERS, and WAXMAN.

The hour is late in the 95th Congress, as I fully realize, but the importance of the issue of protecting newspersons from having to divulge their sources or notes was heightened this week when the Supreme Court refused to consider the appeal of the New York Times and its reporter, Myron A. Farber. At this very moment, Mr. Farber, a newspaper reporter, has been sentenced to jail for carrying out his news reporting duties and seeking to keep open the channel for the free flow of information to the press.

This case and others recently have raised serious question about the willingness of our courts vigorously to uphold the free press clause of the first amendment. If this dangerous trend continues, that most essential of institutions in our free society, the press, stands in peril. We in the Congress must prepare to act with urgency. It is my hope in reintroducing the bill at this time that my colleagues will give it serious consideration during the next few months in preparation for action early in the 96th Congress.●

EXPORT TRADE ARTICLE NO. 3: COMPUTER COMPETITION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

● Mr. ALEXANDER. Mr. Speaker, I wish to call the attention of my colleagues to the following article entitled, "U.S. Computer Firms Facing Foreign Threat" which was written by Thomas Love.

At a time when our exports should be increasing we find more and more countries moving into areas where the United States has always been dominant, that is, highly sophisticated areas such as nuclear and computer technology.

The article written by Mr. Love examines the foreign competition in computer sales. France, England, Japan, and Russia are all developing computer systems for export. While the United States is still No. 1, the trend is unmistakably clear that "U.S. companies won't have it as easy in the future as they have in the past." As chairman of the Export Task Force, my colleagues and I feel it imperative that U.S. exporters be allowed to peddle their wares in an open and free environment. The U.S. Government must concern itself not with hindering exports but with facilitating them. The article which appeared October 6, 1978, in the Washington Star follows:

U.S. COMPUTER FIRMS FACING FOREIGN THREAT

(By Thomas Love)

At one time a few years ago, the American computer industry was the computer industry. Now, U.S. firms are facing increasing competition and that's no longer the case.

No one in the industry seems to be willing to roll over and play dead in surrender to foreign competition, but there is an increasing awareness that U.S. companies won't have it as easy in the future as they have in the past.

Recent Department of Commerce import-export figures show the rising problem for the industry. Although exports are still far above imports, imports are scoring the more rapid gain.

During the first six months of 1978, exports rose from $1.527 billion the previous year to $1.876 billion, a 22.86 percent increase. But imports were up from $129 million to $343 million, a 165.89 percent increase.

Frank T. Cary, chairman of IBM, said, "Every year we see an increase in competition from foreign computer companies, particularly in France, Britain and Japan, where the governments provide very effective support in various ways to national manufacturers.

"All three, for example, give outright subsidies to their electronic data processing manufacturers and exercise a strong preference for the products of these national companies. The Japanese government has declared data processing an export industry and is working closely with manufacturers to bring that about.

"We respect the capability of these competitors and we consider them to be very significant competition," he concluded.

But the competition for the future comes not only from the nations Cary mentioned, but possibly from an unexpected source as well—the Soviet Union.

The U.S.S.R., in cooperation with other Eastern European countries, is developing a RYAD II computer system apparently based on the IBM 370 series—replacing the RYAD I, based on the IBM 360 series—which is expected to be produced by 1979 or 1980.

Although this computer is expected to be for use in the Soviet bloc and isn't viewed as a threat, its successors may be put into the international marketplace at attractive prices and may pose a threat to other manufacturers.

Lloyd Kaufman of the Computer and Business Machine Manufacturers Association, which represents such manufacturers as IBM, Control Data Corp. and Sperry Univac, said, "The technological lead of three to five years we used to have is no longer true.

"The commercially most developed nations—Germany, France, Japan—are on a par with the U.S. technology," he continued. "The Japanese have some very high-powered projects and are working with large-scale integrated circuits. And they're working with some government support.

"In July, France announced it is going the way of 'Japan, Inc.' with a move to more high technology with less reliance on such things as steel and textiles," he continued.

"We're trying to keep ahead, but we're not much encouraged by the federal government," he charged, referring to controls which limit exports of computer equipment. He used as an example the recent blockage of a Sperry Univac computer sale to the Soviet news agency Tass.

"Our Western allies have similar controls but this country's are more stringent," he said. "Since 1949, we have been coordinating our activities and new negotiations will be held in Paris next week to work up a list of restrictions."

James R. Fullam, a vice president of Sperry Univac, however, said, "U.S. technology is still by far well-advanced. And the U.S. software capability is demonstrably superior, although there is some respectable foreign competition, especially from Japan," he went on.

"Software" is such things as programming, compared to the computer frame itself.

This superiority in software is very important, Fullam pointed out. "It used to be—10 years ago—80 percent of computer costs was hardware. Now it's 50–50," he said.

"Our main (foreign) competition is from the Japanese who are present in the United States in American companies. Itel sells Japanese products and Amdahl has a business relationship with the Japanese," he said. Japanese financing of Amdahl activities is seen within the industry as giving them access to U.S. technology.

"We don't see too much competition from the Europeans, although there is some from Nixdorf of Germany," Fullam said.

Overseas, the major competition for American firms is from the companies of that country. For instance, in Britain the No. 1 company is ICL, a British firm, with IBM No. 2.

One reason is that most foreign countries give their national companies the government's business.

There also is little Japanese business in Europe, Fullam said.

"For the next decade, there is no question about the dominance of the United States in the world market," he predicted. "There is real action among the U.S. companies."

One thing going for American companies is their entrenched position in many places, since it is cheaper and easier to buy a new-generation system from the same company which made the system now in use.

"I don't want to minimize what the Japanese are doing," he continued. "They want to participate in the world market in computers like they do in the market in cameras, automobiles and hi-fis. We have a lot of smarts and we can keep running double time. But we'll know they're there."

One example of the Japanese drive is a new system announced last month by Hitachi which its maker billed as "the world's biggest and fastest computer"—allegedly 1.6 to 1.7 times faster than IBM's 3033 series and cheaper to rent.

But American manufacturers aren't standing still. For instance, IBM this week introduced a new "distributed processing" system—the 8100 Information System, which places computing power throughout an organization rather than at a central site.●

THE PLIGHT OF LEV GENDIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HANLEY) is recognized for 5 minutes.

● Mr. HANLEY. Mr. Speaker, I am most pleased today to join in the "Vigil for Freedom," sponsored by the Union of Councils for Soviet Jewry on behalf of Soviet Jewish families and individuals who are being detained in the U.S.S.R. as a result of the Soviet Government's repressive emigration policies.

In 1975, 35 nations signed the Helsinki Final Act, which committed the 35 signatory nations to pursue policies consistent with basic principles of human rights, including the reunification of divided families whose members live in

different countries, religious freedom, minority rights, and free travel between countries.

Unfortunately, the Soviet Government has disregarded the human rights provisions of the Final Act.

Today, I bring to my colleagues attention the case of Lev Gendin, a 36-year-old electronics engineer from Moscow. Immediately after applying for a visa in November 1970, he was dismissed from his job and reduced to performing various types of menial work. Under constant surveillance and harassment, Lev has served a total of 160 days in jail since 1970. Assaulted by KGB thugs, he suffered a spinal injury

In 1974, Lev Gendin was arrested in the Kishinev railway station while awaiting a train. He was given a 15-day prison sentence on a trumped-up charge of "disgraceful behavior" in a tiny solitary confinement cell, and, therefore, began a 6-day hunger strike. Soon after, he was moved to a cell where the other prisoners threatened his life daily. When his sentence was extended arbitrarily, he managed to escape while in transit between prisons. When he made his way back to Moscow where he is well known, authorities let the matter of his escape drop.

Lev's most recent visa application was again rejected, and he was warned he would be sent to Siberia rather than to Israel. Currently unemployed, the threat of being tried on a "parasitism" charge is serious. Moreover, despite the fact that he is well over military age, he was recently called for military service. Conscription would mean indefinite postponement of all future visa applications.

In Israel, Aviva Klein-Gendin is a tireless worker in the struggle to win freedom for her husband, with whom she lived for only 3 months before she alone was given a visa. She knows Lev writes to her every week, but she sometimes does not receive word from him for months. Aviva strongly believes that protests in the West are their only shield against stronger Soviet action, and their only hope of forcing his eventual release.

She says:

Our lives are in the hands of the West. If there will be enough protests, sooner or later he will be free and I will see him again and we can begin to live our lives.

We cannot ignore the plight of Lev and Aviva. Their story should strengthen our resolve to assist them and those like them, and to continue in this vigil for freedom until those who seek peace and freedom are given their human right to enjoy them.●

REVITALIZING NEIGHBORHOODS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 20 minutes.

● Mr. REUSS. Mr. Speaker, as we return home after this session to talk with our constituents, we will be meeting with people in their own neighborhoods. It is frequently forgotten that neighborhoods play a crucial role in ameliorating many social problems that concern us all. I hope these remarks, highlighting how neighborhoods can be a constructive force in urban life, will be useful to all Members in the weeks ahead.

In good neighborhoods people know each other, cooperate, and make life more human for each other. Where neighborliness is absent, people may be afraid to leave their homes or apartments, and life can be joyless and hard.

Viable neighborhoods make viable cities. Neighborhood decay means city decay. Jane Jacobs reminded us that the future of the city lies in the revitalization of our neighborhoods.

The Federal Government, which has spent billions on cities since the Housing Act of 1937, on balance has probably produced as much grief as improvement. Unwittingly, urban renewal, urban expressways, and mammoth high-rise public housing projects have all contributed to neighborhood stress or annihilation. As Msgr. Geno Baroni has pointed out, the combination of faulty programs and faulty social strategies has hastened the flight of population and jobs from central city neighborhoods.

History, while never repeating itself, nonetheless has its lesson. Andrew Greeley, director of the Center for the Study of American Pluralism in Chicago, recounts an urban neighborhood that was:

A ten-square block area with almost 14,000 people, an average of 39.8 inhabitants per acre—three times that of the most crowded portions of Tokyo, Calcutta, and many other Asian cities. More than three-quarters of the apartments have less than 400 square feet, 556 of them are in basements which quickly become awash with human excrement during even mild rainstorms. Garbage disposal is a chronic problem—usually it is simply dumped in the narrow passageways between buildings. The death rate is 37.2 per thousand. Desertion, juvenile delinquency, mental disorders, and prostitution have the highest rates in the city. Social disorganization in this neighborhood, according to all outside observers—even the sympathetic ones—is practically total and irredeemable.

Blacks? Latinos? Inhabitants of some Third World city? No. Poles in Chicago in 1920.

The neighborhood is still there although the manure boxes are gone, and so are the backyard buildings, the outdoor plumbing, the sweatshops over the barns, the tuberculosis, the family disorganization, the violence, and the excessive death rates.

The Poles are gone too for the most part, having moved further northwest along Milwaukee Avenue and out into the suburbs—a prosperious middle class.

Those Polish-Americans in the 1920s were characterized as alienated, disorganized, and unredeemable because of inherent social pathology. Yet time—and jobs that brought steady income—transformed the slum dwellers into prosperous citizens. Looking back, they had the good fortune to achieve their transformation before reformers could expose them to what Greeley called "dependency-producing welfare legislation."

The urban poor of the post-World War II era have not, by and large, followed the path of the Poles, or of the Italians, or of the Irish before them. They have been caught up instead in a system that entraps them in their own poverty. Too few see successes among friends and family to gain the firm conviction that they too, by working hard, might realize the American dream

Welfare programs, instead of freeing the urban newcomers so they "make it" in a fluid society, created a new phenomenon: a welfare way of life. At the same time, the blacks among the urban poor faced severe prejudice. The flight of middle class whites broke up the old neighborhoods before the new residents could develop solid neighborhoods of their own.

Here were all the ingredients for generating crime—the lack of neighborhood cohesion, the absence of hope for the future, the debilitating effects of relief, the low level of job opportunities, and poverty encircled, both geographically and culturally, by affluence.

The decline of safety, the faltering quality of schools, and the loss of property values in black or Chicano poverty areas confirm racist stereotypes among whites who forget their own up-from-poverty histories. But neither whites nor blacks nor the cities they inhabit can look to the future with optimism unless they come to grips with the dynamics of neighborhoods and the fears, legitimate and otherwise, that obstruct neighborhood rejuvenation.

Public schools, once the pride of cities and a chief mechanism for transmitting hope and ambition to each new generation, have lost momentum. Many school systems have deteriorated badly. It is easier to cite the ingredients needed for restoring schools to health than to put these into practice. Among the essentials are discipline, high standards of pupil behavior, strong parental support of and respect for their children's teachers, and dedicated teachers who insist on achievement, not mere attendance, as a criterion for passing and graduating. There is no more important neighborhood-building activity than to work cooperatively to achieve such goals

Crime and the insecurity it breeds are mortal enemies of good neighborhood. The entire criminal justice system is embroiled in controversy and some of the best informed students of crime profess that they have more questions than answers. One thing, however, is certain: the police alone cannot combat crime. Unless citizens, adults and youth, residents and business, join hands with law-enforcement officials, the arson and street crimes and white collar corruption will continue to tear up communities. The more nearly citizens become actively involved, the more chance they have of turning back the tidal wave of crime.

If the cycle of crime is to be broken, this must begin with young people. The potential criminals of tomorrow might be turned around in their formative years if they are given enough love, attention, understanding, constructive criticism, and useful activities to pursue. These are all neighborhood functions, and neither more police nor more reliance on sophisticated anticrime technology, however necessary, can substitute for the involvement of a human network of concerned and caring individuals. A neighborhood at its best is such a network.

The fear of declining property values has been a major impediment to the de-

velopment of inner city neighborhoods with a rich mixture of different racial, ethnic, and economic classes. Panic peddling and blockbusting have been generated by unscrupulous real estate agents. The syndrome of decline has been reinforced by insurance firms and lending institutions that, in essence, walked away from transitional neighborhoods. These "redlining" practices finally are being condemned by responsible business groups as well as by neighborhood interests, but it will take patience and hard work to overcome the misimpression that economically and racially mixed neighborhoods are inherently unstable.

We are beginning to rediscover the neighborhood in human as well as in brick-and-mortar terms. But part of the difficulty in coming to grips with the dynamics of growth and decline among neighborhoods is that neighborhoods differ so much from each other. They have different problems, different types of people, different institutions. A low-income, cohesive neighborhood with strong institutions and leadership has little in common with a low-income neighborhood where crime and social disintegration prevail. Fortunately, there are impressive successes from which we can learn.

Birmingham is achieving neighborhood vitality through a self-identification process for neighborhoods and communities that was begun in 1974. Citizen groups developed a whole array of neighborhood improvement programs. These ranged from increased public services in lower-income neighborhoods to flood control, from neighborhood communications devices to better street lighting. The mayor and city council accepted every recommendation of this citizen participation plan. Birmingham as a result is quietly becoming one of the Nation's leading cities in putting people-power to work.

Pittsburgh's central north side, containing 3,800 homes, seemed doomed until a group of neighborhood residents launched a block clean-up program. When they failed to get support from city hall, they convinced a local foundation and the Pittsburgh lending industry to help. From this coalition emerged the neighborhood housing services, dedicated to neighborhood upgrading. During its first 5 years, NHS promoted over 600 loans, saw home improvement lending increases by 97 percent, worked to reduce code violations from 1,200 homes, and saw real estate values climb by 60 percent. Several key elements have been credited for the success of the NHS program: it is a local program confined to specific neighborhoods. It is nongovernmental and nonbureaucratic. It is a self-help effort rather than a giveaway program.

The Hill section of St. Louis came to life as a result of a Federal Government invasion. A recessed interstate highway was about to be built through the Hill, stranding a third of its population. The community demanded the construction of overpasses to keep the community intact. While women with baby buggies obstructed bulldozers, community leaders descended upon Transportation Secretary John Volpe for a pointed discussion of the matter. Volpe relented, and the Hill did its part by raising $50,000 to partially finance the overpasses.

With the unity and momentum from victory in the highway battle, Hill residents moved into a new round of community-building. A successful Italian street festival raises funds for such projects as the planting of 10,000 trees, transforming a dump into a park, and sponsoring a summer youth program focused on improving their neighborhoods. The neighborhood formed a housing organization called Hill 2000, Inc., which contributes either 10 percent of renovation costs or $500, whichever is less, to any homeowner undertaking exterior improvements.

As a result of these citizen efforts, the Hill is now an immaculately clean and attractive community, despite a median income below $10,000. Litter is gone from the streets. The red, white, and green fireplugs bespeak the ethnic pride of its residents. Significantly, this recycling occurred without benefit of Federal aid—unless a Federal highway slicing through the neighborhood can be considered a benefit.

Unfortunately, for every successful neighborhood rebirth there are numerous examples of neighborhood decline. Much disintegration occurs despite massive inputs of aid. Via defaults, HUD became the owner of over 300,000 houses, which were part of a $4 billion rehabilitation program. An entire block of New York City was rehabilitated at a cost of over $11,000 per unit, only to be engulfed by the surrounding neighborhood. In Boston over 3,000 apartments were rehabilitated only to be foreclosed.

Taken together, the failures and successes point to the inescapable fact that neighborhood rehabilitation requires that not only the buildings but the social fabric has to be injected with new life, and that the communities own resources must be drawn on for this effort.

Unfortunately, there exist neighborhoods overwhelmingly characterized by abandonment, massive tax delinquency, and substandard dwellings. Americans do not like to admit that any problem defies solution. But the failure of existing types of aid to halt decay in these depletion areas has convinced some that limited funds should not be invested further in these locations. M. Carter McFarland, an architect of many of the Nation's housing programs, sadly concluded that:

> Improving housing is not enough to reverse the downward spiral in neighborhoods afflicted by deep social pathologies. We do not know exactly how to deal with these more fundamental causes of the slum condition. It follows that money and energy spent on housing improvement in neighborhoods significantly affected by these pathologies are likely to be wasted and to produce no permanent neighborhood improvement.

This is not to say that the people in such areas should not be helped to relocate or to improve their ability to function in other ways. A glimmer of hope comes from the earlier example of Poles and other immigrants. In more modern guise, the hope is kept alive by the examples of the Black Muslims and Puerto Rican evangelicals, who showed that even out of conditions of extreme individual and social disorganization an edifice of trust can be brought into being. The Black Muslims in prison conditions that would seem most counterproductive have produced remarkable results. This seems surprising only because we have forgotten that the early Christian Church also was a kind of underground government ministering to slaves, outcasts, and criminals in the rotting structure of the Roman Empire. The Black Muslims, like the early Christian Church, offer strong political medicine, but this may be necessary for people who have been left without self-respect, dignity, or hope.

If self-help is a key to wholesome neighborhoods, an array of Federal programs is available to encourage neighborhoods to help themselves.

A major new tool for this purpose is the Consumer Cooperative Banking Act of 1978. It provides $400 million in seed capital over the next 4 years in the form of loans to nonprofit consumer cooperatives. These organizations in turn provide millions of consumers with goods and services, including food stores, health care, optical goods, housing, pharmaceuticals, and repair service. Because most communities needing such facilities lack expertise to set up and run these cooperatives, the new law includes funding for technical assistance to promote self-help.

Other major Federal tools include:

Section 312 direct loans for housing rehabilitation.

Homesteading, which makes abandoned houses available at practically no cost to families on condition they rehabilitate them to reasonable standards.

The Urban Reinvestment Task Force, through which HUD and the Federal Home Loan Bank Board seek to bring together the city, community residents, and local financial institutions in a concentrated effort to rehabilitate and improve specific neighborhoods. Modeled after Pittsburgh's Neighborhood Housing Services, discussed above, this program relies on existing neighborhood leadership capacity and is thus best suited to neighborhoods at the early stages of the decay cycle, rather than to those characterized by heavy absentee ownership, severe vandalism, extreme poverty, and runaway abandonment.

A portion of section 8 rental assistance funds is reserved to State finance agencies and localities to support housing rehabilitation for lower-income families.

The community development block grant (CDBG) program recognizes that local governments in concert with citizens should determine their own local programs. Localities received over $3 billion under this program in fiscal year 1977. CDBG funds have been used creatively to assist many poor neighborhoods.

National endowment for the arts grants, averaging no more than $22,000 each, enable neighborhood and civil organizations to plan and design features to make their cities more attractive places in which to live and work. NEA grants involve a minimum of redtape, encourage community initiative, and are sensitive to local conditions.

Urban development action grants are designed to provide seed money to stimulate large-scale private investment in declining cities. The first grants went primarily into business districts, but subsequent grants were to be aimed increasingly at needy neighborhoods.

The Home Mortgage Disclosure Act is designed to inhibit redlining in deteriorating areas. It requires lending institutions to report where they make mortgages and gives them incentives for meeting the credit needs of the neighborhoods where their savings deposits originate.

States can encourage corporations to contribute money or technical expertise to neighborhood-based development activities by crediting these against the State corporate tax. Such State tax credit programs have recently led Secretary of Commerce Juanita Kreps to encourage firms to earmark 5 percent of their charitable contributions to neighborhood and city revitalization projects.

Cities and counties can also encourage neighborhood rehabilitation via tax encouragement. Currently owners are actually penalized for upgrading their homes—when they improve their properties, their property taxes rise. By reducing or eliminating the real estate tax on housing and other buildings, leaving the tax on land values only, rehabilitation could be made more attractive to owners and investors.

Zoning is another tool which local governments can use to improve neighborhoods. In the past, zoning has been defined so narrowly that sterile neighborhoods have resulted. Residential areas are deprived of village-type commercial or recreational facilities, and job opportunities are zoned out. Now that many industries are clean, appropriate mixed zoning would go a long way to make neighborhoods more vital and interesting, at the same time saving energy and enhancing the quality of neighborhood life.

While it is tempting to throw up one's hands in despair at the staggering problems of urban decay, we do have success models to emulate. Large-scale rehabilitation projects have succeeded in revitalizing the declining areas of some cities. A prime example of how this can be achieved through the cooperative action of local government, the Federal Government, and neighborhood residents is Baltimore, where the city's downward spiral was arrested.

If we are to be true to the vision of a multi-racial, economically diverse, vibrant city, we must make in-town living attractive to the affluent and the middle class. Their return heralds a rejuvenation of the housing stock, a necessary shot-in-the-arm to an eroding tax base, and an energetic necleus who are willing and able to "fight City Hall" when public services are inadequate.

There is growing evidence that at least parts of many of our older central cities are undergoing a revival. Many old but structurally sound buildings are being rehabilitated. Middle- and higher-income people—mostly young couples and single individuals without children—are moving into older neighborhoods formerly written off as dead or dying. This restoration is visible, for example, in the South End in Boston, Park Slope in Brooklyn, Queens Village in Philadelphia, or Adams-Morgan and Capitol Hill in Washington, and has been achieved largely without government plan, subsidy, or intervention. I have always believed that there are things the government should and should not do. Here we have a clear-cut case of something working well without government interference. We should leave well enough alone.

The return of the middle class, however, carries with it the specter of displacement of the poor from their homes. Ideally, cities would insure that decent alternative homes at affordable costs are made available to the displaced in cadence with the rehabilitation. The satellite communities of metropolitan areas and the States should assume some of this responsibility, since many of the displaced will want to live in the older and closer-insuburbs. Displacement would not be so traumatic if there were an abundance of decent housing and good neighborhoods offering viable options to poorer families.

Moreover, when rehabilitation becomes a citywide phenomenon, rather than a feature of a few select neighborhoods, there will be less pressure by the affluent on any single area. Relative stability, with a wholesome mix of income groups, should not be overlooked as a long-term goal for urban neighborhoods.

Return migration by the middle class raises the possibility of undermining the black political power that has emerged in many cities. Although these middle class families include both blacks and whites, their presence is viewed by some as a threat to the new black political power structure. This is not necessarily the case. Mayor Bradley of Los Angeles and Mayor Young of Detroit offer evidence that blacks are able to get elected even when they are a minority of the total population. And Clarence Mitchell of the NAACP testified:

> I have no apprehension about the diminution of black representation because we desegregate our society. I think then we will open the flood-gates for the enormous reservoir of talent that exists in this country without regard to race. And I would predict we will see more, not less, of minority people in all arms of the government.

The realization of the ideal that "all men are created equal" has been long in coming. Yet, in the newly redeveloping neighborhoods of many cities, we are beginning to witness large-scale voluntary integration. The young and the affluent, often white, are quietly integrating previously all-black areas. We find significant integration in a great many middle-class in-town apartments. Unaccompanied by outcry or tension, the phenomenon has occurred unheralded and almost unnoted—a true indication that we are, at long last, beginning to approach the ideal of a color-blind society.

Also, neighborhood activists are putting new meaning into the phrase "government of the people and by the people." They are agitating until their legislators respond.

Some of the most innovative bits of urban revitalization—the antiredlining campaign, urban homesteading, consumer co-ops, development banks—originated in neighborhoods and only later went national. Neighborhoods spawned organizations which did battle to preserve their communities, to block disruptive highways, to halt the bulldozing of irreplaceable architecture, to picket city halls and corporate headquarters, and to hold real estate agencies, banks and other financial institutions to higher standards of civic responsibility.

This great reservoir of citizen initiative and cooperative enterprise needs to be encouraged. Self-help and mutual assistance are still an excellent way of managing social life.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

● Mr. COTTER. Mr. Speaker, although I was on Capitol Hill October 12 I was not called for the vote on the abortion language included in the fiscal year 1979 Labor-HEW appropriations bill. Had I been called, I would have voted against receding to the Senate language.●

"OUR WONDERFUL HOMELAND," A POEM BY MRS. MARJORIE CARPENTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. DAVIS) is recognized for 5 minutes.

● Mr. DAVIS. Mr. Speaker, it is with a feeling of pride and accomplishment that we are sometimes able to observe the good works of our tax dollars in a form that is obvious to all.

Recently, I was able to observe just such an accomplishment in St. George, S.C., in the dedication of a community center that will serve citizens from all over Dorchester County, including our senior citizens. At the dedication ceremony, I was privileged to hear an example of writing and elocution that so moved me that I wanted to share it with my colleagues. The author is a senior citizen and a poet who has captured the color, beauty and majesty of her homeland in a composition.

In this day of incredible technology, we sometimes lose sight of the magnificence of our land. Fortunately, there are people like Mrs. Marjorie Carpenter of Summerville, S.C., who take pen in hand to remind us.

Her poem is entitled "Our Wonderful Homeland." While it concerns the great State of South Carolina, it will serve to remind everyone of the beauty of their own home State. We are not the architects of our land, we are the caretakers. In keeping with that truth, I offer Mrs. Carpenter's poem for your thoughtful consideration.

OUR WONDERFUL HOME-LAND

We love our own South Carolina
  Our dear home-land, "The Palmetto State,"
With all her proud history,
  Whose noble people made her great.
We love every part

of this beautiful land of ours,
From the mountains to the seashore,
All the trees and all the flowers;
The palmettos and live oaks,
The loblolly and long-leafed pines,
The sweet magnolia
And the yellow jessamine vines.
The cedars, the cypress,
And all the moss draped trees,
The crepe myrtles, the maples,
And aspens that tremble in the breeze;
All the lovely gardens
That are famous worldwide
With breathtaking beauty
On every side.
The charming city of Charleston,
With so many sights to see
"America's Most Historic City"
The historians surely all agree.
And Summerville, like fairyland,
"The Flower Town in the Pines"
With camellias, wisteria, gorgeous azaleas,
Along every street that winds and winds.
The quaint old town of St. George
Where Senior Citizens really rate,
The place when people grow older
They never get out of date.
The proud old city of Columbia,
The capital of our grand old State,
No doubt on history's immortal pages
She will always be there among the great.
And all the other cities
And every little town
From the smallest, most remote,
To those of great renown,
All the hills and the rivers,
And the clear winding streams,
All the placid lakes,
Where the moonlight gleams,
Acres of tomatoes and potatoes,
Rows of corn and cotton fields white;
Bobwhites call in the morning
And mocking birds singing at night!
The magic lure of the ocean,
As the waves toss to and fro,
With a feeling of awe at its vastness
That stirs and thrills the heart so!
The shady trails to the tops of the mountains,
How inspiring to be there!
It seems like a little bit closer to heaven
On a mountain than almost anywhere!
And all the kind-hearted people
Who live in our fair land;
Who are always willing and ready,
When anyone needs a helping hand.
They'll smile when you are happy
And rejoice when you are glad.
They'll help you when you're in trouble.
And stand by you when you're sad.
We love not only South Carolina,
But all of the good old U.S.A.
"May God continue to bless her,"
We do most reverently pray.
For all the blessings
This world can give
Are surely bestowed upon
This land where we live.
We thank God for giving us
This blest land of our birth,
The United States of America!
The grandest place there is on earth●

SALT II AND U.S. NATIONAL SECURITY INTERESTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 10 minutes.

● Mr. ZABLOCKI. Mr. Speaker, in appraising the many comments one hears about the strategic arms limitation talks (SALT II) negotiations expected to be about to be concluded between the United States and the Soviet Union, one must keep in mind the simple but crucial fact that U.S. national security is really the only consideration on which to judge those negotiations and their final product. As chairman of the Committee on International Relations, my chief concern for this country's national security leads me to express my full support for the administration's efforts to conclude a SALT agreement.

I take this position only after much careful thought, thorough review of the facts, and consistent with my long-standing commitment to the idea that meaningful arms control negotiations contribute to national security.

In making this evaluation, I believe SALT must be judged on its own merits and not be viewed as an expression of approval or disapproval of Soviet actions in other fields or in other areas of the world. This commitment to the negotiation process should not be interpreted to condone Soviet "adventurism" in Africa, suppression of human rights, or violations of the Helsinki Accords.

To begin this discussion, it is important to establish the facts.

The first is that the U.S.-U.S.S.R. strategic forces are presently in rough balance although structured differently. The second fact is the guaranteed destructive capability of these forces. As the President pointed out in his speech at the Naval Academy last June:

We know that neither the United States nor the Soviet Union can launch a nuclear assault on the other without suffering a devastating counterattack which could destroy the aggressor nation.

A recent study within the executive branch concludes that a surprise Soviet first strike today would destroy 48 percent of the United States, but U.S. retaliatory forces would still be able to destroy 58 percent of the Soviet Union. The study also projects the mutually assured destruction (MAD) of both sides by mid-1980's with a Soviet first strike and U.S. retaliatory forces both being able to cause almost total destruction of both countries.

In an address on August 22 to the American Legion National Convention, Secretary of Defense Harold Brown noted:

Right now, even after a Soviet surprise attack, we could deliver literally thousands of thermonuclear weapons to targets in the Soviet Union. Despite the improving Soviet offensive and defensive forces, that capability of ours is not going to decline in the future. It is going to increase.

The problem of confronting us then is a delicate and challenging one. In the final analysis we have but two basic options—either we can succumb to the status quo, or, with cautious reason and hope, we can seek relief from the peril of mutual destruction.

In the first instance, if we want only to preserve strategic balance, both sides can continue in an unrestricted competition and accumulate more nuclear weapons and increasingly sophisticated delivery systems—with no increase in security and at higher costs. According to recent estimates by the Senate Budget Committee that option would cost the American taxpayer an additional $100 billion in defense spending over the next 15 years. Burdensome as that may seem financially and ominous as it is in terms of increased terror and potential destruction, I believe we would spend whatever is necessary. Our chief SALT negotiator, Paul C. Warnke, recently observed that the United States is determined to prevent the Soviets from gaining any strategic advantage:

We've got the will and the resources to do that. I have no doubt that if there is going to be an unbridled competition, we can match them and we can outmatch them. That's one of the things that gives us a strong negotiating position.

If, on the other hand, we want to stabilize the strategic balance and eventually reverse the trend, we can and should try to reach a SALT agreement that limits and in time reduces the number of nuclear weapons. This second option goes in what I believe is the direction of commonsense and reason. Equally important, it achieves that vital dimension to which I remain unalterably committed—U.S. national security.

This commitment to the process of arms control negotiations as a means of preserving peace and achieving security is neither new nor capricious. As a matter of fact, it is exactly the course of action followed by both Republican and Democratic administrations over the last 10 years. In 1968 President Johnson began preparations for SALT which led to the SALT I agreement under President Nixon in 1972. In 1974 President Ford established a framework for equal numbers of strategic nuclear delivery vehicles embodied in the Vladivostock Accord. This, in turn, laid the basis for President Carter's present efforts to stabilize strategic forces through a SALT II agreement and set the stage for further reductions in those forces through a SALT III effort.

Consistent with the pattern established by his predecessors, President Carter's efforts in SALT II have been especially reassuring in the important respect that U.S. negotiating positions have not been the arbitrary judgement of any one individual. Rather, U.S. positions in the negotiations have been and continue to be the result of a careful and extensive blending of policy options representing a whole range of legitimate concerns and interests, the assimilation of which has been led and controlled by the President himself, with total direction and final judgment his alone.

In reference to the emerging SALT agreement there is a valid question many ask: What is in it for us? Like all legitimate questions, it deserves a clear answer. With the negotiations nearing completion, we can expect SALT II as presently envisioned to provide the following specific benefits for the United States:

It will maintain and eventually increase strategic stability by reducing the number of Soviet nuclear delivery vehicles targeted against the United States by more than 300 over the terms of the agreement;

It will hold the deployment of Soviet strategic forces well below what they could deploy in the absence of constraints;

It will protect and satisfy the vital interests of our allies;

SALT II will allow the United States to preserve military options by permitting us to continue the planned development of new weapons we may need for our future security, such as a mobile ICBM system; and

Finally, it will allow the United States to rely with adequate assurance on our independent ability to verify Soviet compliance.

The advantage of relying on our own capabilities and not on the "goodwill" of the Soviets is particularly crucial in the context of verification. Over the last 10 years, American Presidents and negotiators have been willing to reach agreements only when we were sure we could adequately verify Soviet compliance with them. We have never been willing to rely solely on Soviet assurances or "trust"—and rightfully so. Consistent with this principle, SALT II must rely instead on limits and rules that we can effectively and adequately verify ourselves by national technical means. Chief of SALT support staff of the Central Intelligence Agency, Mr. Ray McCrory, testified on this very point before the Subcommittee on International Security and Scientific Affairs this past June 7:

In point of fact, verification has played a very major role in developing the provisions of the agreement. I think I will be able to show you that some very hard negotiating has resulted in some very favorable provisions of the treaty for us, which, in fact, resolve ambiguities in the favor of the observer and therefore make us much more confident that we will be able to monitor the specific provisions to which I refer.

In addition to the issue of verification, some critics complain that SALT II does not guarantee the invulnerability of our land-based forces in the 1980's. The facts are, however, Mr. Speaker, that the failure of SALT I to ban MIRV's guaranteed that at some future time the land-based missiles of both sides would become vulnerable. Fortunately, the MIRV sublimit as already agreed to in SALT II will slow the rate of this inevitable increase in vulnerability.

Furthermore, these critics demand that the Soviets agree to massive reduction in their land-based forces which presently constitute approximately 70 percent of their nuclear arsenal. Is this demand realistic? Would the Soviets agree? Would we, Mr. Speaker, agree to a massive reduction in our air and sea-based forces which constitute approximately 70 percent of our nuclear forces? Of course not. Rather, as envisioned, SALT II preserves this formidable U.S. deterrent, slows the rate of increase in the vulnerability of our land-based forces, and preserves a range of options to respond to the potential threat of ICBM vulnerability in the future.

Mr. Speaker, there is another dimension of the SALT question that has to be thoroughly addressed—and understood. It involves the American people and where they stand on the question of SALT as it affects their security and their pocketbooks. Characteristically and consistently, they stand on the side of commonsense and reason where SALT is concerned. As reflected in public opinion polls, the percentage of Americans favoring a new SALT agreement consistent with our national security interests has risen steadily from 59 percent in 1976 to 66 percent in 1977 to an overwhelming 75 percent in 1978.

What those numbers indicate is that a vast majority of the American people properly recognize that a workable and verifiable new agreement to limit strategic nuclear weapons enhances their security and preserves their well-being.

The American people very obviously understand that failure to achieve a SALT agreement would:

Produce more offensive and destabilizing weapons dangerous to national security;

Stimulate the spread of nuclear weapons to states which do not now have them;

Increase the probability of nuclear war and potential levels of destruction; and

Increase defense spending without a corresponding increase in security.

Accordingly, Mr. Speaker, I encourage the President to continue his efforts toward completing a verifiable SALT II agreement. Because of the prospective importance of a SALT II agreement to our national security, I also urge that judgment of its terms be reserved until a final agreement is submitted by the President to Congress for consideration. To do otherwise at this time could undermine the present negotiations and our country's vital national security interests. When the agreement is submitted to the Congress, the Members, and others concerned will have full opportunity to carefully review the agreement before it can receive final approval.

And, the American people can be assured that final approval will be given only if its agreements are in the national security interests of the United States.●

THE TOXIC POLLUTANT COMPENSATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 10 minutes.

● Mr. LAFALCE. Mr. Speaker, I am pleased to introduce today the Toxic Pollutant Compensation Act—a truly comprehensive measure designed to provide relief to all persons injured as a result of toxic pollutants in our environment.

Essentially, the bill distinguishes among three classes of victims—those victims who sustained their injuries as a result of the fault of a manufacturer, those victims who sustained their injuries in the course of their employment, and those victims who sustained their injuries as a result of a toxic pollutant, but without fault. While the bill treats each of these three classes in a somewhat different fashion, it does provide a central theme: the Environmental Protection Agency is directed to study physical injuries, and to determine which such injuries are caused by toxic pollutants. In making this determination EPA will take into account the exposure to the toxic pollutant—both as to time and place—necessary to produce the physical injury. EPA's determination will greatly expedite the compensation processes since the bill provides for the utilization of this finding in subsequent legal and/or administrative proceedings.

The measure also provides for the creation of a compensation agency. Generally, this agency will pay benefits, up to $50,000, to persons (other than employees) who have sustained injury as a result of toxic pollutants. These benefits will be available regardless whether a manufacturer is ultimately determined to be responsible for the physical injuries. However, in the event that a manufacturer is at fault, EPA will be subrogated to the rights of the injured person, and will either share in any recovery he may receive, or initiate its own action against the person at fault.

I will conclude my remarks by briefly outlining for you how this measure will affect each of the three classes of persons.

VICTIMS WHOSE INJURY WAS CAUSED AS A RESULT OF A MANUFACTURER'S FAULT

The legal system has inhibited victims seeking redress for toxic pollutant-related injuries, since, under existing law, it is either difficult to establish causation, or, by the time the injury is linked to the toxic substance, the action is barred by time. Title I of the bill provides for a Federal cause of action addressed to both of these difficulties.

It provides that an action may be maintained in either State or Federal court, which is supplementary to all existing rights. The time for bringing such an action, which is provided in the bill to be 2 years, does not begin to run until EPA determines that there is a "requisite nexus" between the physical injury complained of and the toxic substance alleged.

While the plaintiff still must show the manufacturer to be at fault to recover, his burden of proof insofar as showing causation is considerably ameliorated. He must merely show that he has in fact sustained the physical injury, that EPA has determined that the pollutant causes the injury, and that he has had a sufficient exposure to the pollutant—both as to time and place—within the guidelines determined by EPA.

I should emphasize, Mr. Speaker, that the foregoing process deals only with the question of causation of an injury, and does not bear on the question of a manufacturer's alleged negligence. That will still have to be proven in court under existing or future standards of liability. Unsuccessful plaintiffs seeking damages for negligence may still receive benefits under titles II and III of the bill, described in greater detail below, if they meet the standards set forth in those titles.

When a plaintiff does sustain his cause of action, he is entitled to damages, both special and general. Moreover, in the case where the manufacturer is found to have operated with a gross and wanton disregard for human life, exemplary (punitive) damages can be had. However, these latter damages are paid not to plaintiff, but rather to the toxic pollutant revolving fund which will be discussed below.

EMPLOYEES

Under present law, employees, like the victims described above, suffer difficulties in obtaining benefits for toxic pollutant-caused injuries sustained in the work-

place as a result of deficiencies in State workers' compensation laws. These difficulties include severe problems in establishing causation, as discussed above. Moreover, these claims if ultimately filed may be untimely, since often it was not discovered that the injury was caused by substances to which they were exposed in the workplace until long after they have left the particular job. Title II of the bill preempts State law to expand the time for filing a worker's compensation claim, and permits an employee to establish causation, both in the fashion described above. It is important to note, however, that the bill does not substantively enlarge upon the rights of these injured employees who, under present law, are not permitted to maintain a direct action against their employer who was responsible for their injuries.

VICTIMS INJURED WITHOUT FAULT

Upon occasion, despite all precautions taken by a manufacturer who is conducting his operations under the best conditions then known, physical injuries may be caused by toxic pollutants produced by such a manufacturer. This may be especially true of those substances which require 20 to 30 years of exposure before producing their deleterious effects. It was my judgment that to hold such a manufacturer liable for injuries resulting thereby would be inequitable.

Accordingly, the bill provides for a toxic pollutant compensation agency within EPA, which will pay, up to a minimum of $50,000, benefits to persons with physical injuries caused by such toxic pollutants. These benefits include medical benefits; rehabilitative services, and lost compensation. However, to obtain such benefits, EPA must have determined the requisite nexus between the physical injury complained of, and the alleged toxic substance. If the claimant can establish that he is in fact suffering the physical injury, and has had the requisite exposure, then he will be able to obtain these benefits.

The benefits are paid out of the "toxic pollutant revolving fund," which is administered by the toxic pollutant compensation agency.

TEMPORARY ASSISTANCE FOR VICTIMS WITH RECOURSE ONLY TO LEGAL SYSTEM

It was also thought appropriate to include for victims with recourse only through the legal system as eligible for benefits from the toxic pollution control agency. (Employees can generally obtain benefits through the worker's compensation system much more rapidly than litigants.) In the case of these victims, the agency will operate similarly to a State worker's compensation system: it will become subrogated to the rights of any claimant to whom it pays benefits, and may maintain an action directly against the manufacturer at fault, or alternatively, will share in any recovery the claimant may obtain under the legal system.

All amounts recovered by way of subrogation or lien will be deposited in the revolving fund, as will any exemplary damages awarded as provided above.

THE ENVIRONMENTAL PROTECTION AGENCY

The Environmental Protection Agency is given a broad grant of power to make findings and determinations with respect to physical injuries caused by alleged toxic pollutants. Its finding, termed under the act a finding of "requisite nexus" will greatly facilitate the legal and administrative burdens of all victims. The formulation of this standard is, of course, subject to due process requirements, as it may adversely affect many manufacturers. Accordingly, the bill provides for input by all manufacturers into the decisionmaking process.

In conclusion, I believe the approach put forth in this bill to be both comprehensive, yet equitable for all persons concerned. While refinements to this measure may ultimately prove appropriate, I nevertheless believe that its general approach would go a long way toward alleviating problems encountered in the burgeoning problem area of toxic pollutants.●

STATEMENT OF INTRODUCTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CARR) is recognized for 5 minutes.

● Mr. CARR. Mr. Speaker, I recently introduced H.R. 14271, with my colleague from Wisconsin, BILL STEIGER, as a cosponsor. This bill is designed to provide more equitable treatment for certain recipents of child benefits under the social security system.

Present law discriminates against certain persons who receive child benefits due to a disability. As you may know, these child benefits are granted to disabled persons so long as they remain in a dependent status. In most cases, the law provides that recipients lose this dependent status, and thus their benefits, when they marry another person.

In fact, however, not all marriages make a disabled person any less dependent. For example, take the case of a blind person who receives child benefits as a result of that disability and who wishes to marry another disabled person who receives benefits under the supplemental security income program. Although a blind or otherwise disabled person does not become any less dependent by marrying a similarly disabled person, current law provides that if a child benefit recipient marries an SSI recipient, the child benefits are lost.

This in effect penalizes the couple for getting married. If they were to live together, they would receive both benefits, but if they marry, they are only eligible for a couple's SSI benefit, which is substantially smaller than the combination of their previous benefits. This creates a substantial financial disincentive toward marriage, something which is painful to those disabled persons who believe in the institution of marriage and the preservation and encouragement of strong family units.

H.R. 14271 would resolve this problem, and make the law apply equally to single recipients (who are automatically considered dependent) and married recipients whose marriage has not in fact reduced their dependency.

First, the bill adds SSI recipients to the list of persons that a disabled child benefit recipient can marry without losing that child benefit.

Second, the bill provides that the child benefit may be counted as income against only that portion of the couple's SSI benefit which is greater than the single person's benefit. Without this second provision, the child benefit recipient would keep his or her benefit, but the couple's SSI benefit would be reduced dollar-for-dollar by the amount of the child benefit, leaving the couple in the same disadvantaged position.

It is important to note, however, that the child insurance benefit can be counted as income against that portion of the couple's SSI benefit which is greater than a single person's benefit. This is necessary to prevent the law from bias in the other direction, in favor of marriage, since without this provision a married couple would be able to combine the higher couple's SSI benefit with the regular child benefit.

In sum, these two provisions of H.R. 14271 insure that the law governing child benefits and SSI benefits will not be biased for or against the institution of marriage. As it should be, that decision will be left to the individuals concerned—free from any economic incentives or disincentives emanating from Washington, at least as far as the child benefit and SSI programs are concerned.

Finally, the bill will become effective upon enactment, and will apply to all marriages on or after the date of enactment. Persons who would be covered by this legislation, but were married prior to enactment would be able to reapply for benefits and receive them if eligible, but there would not be any retroactive payment of benefits lost due to the provisions of the present law.

H.R. 14271 is one step toward reforming Federal tax and benefit policies which make it economically disadvantageous for persons to marry and thus perpetuate the family structure which is so vital to the health of our society. I regret that there is not time to consider the bill during this session of Congress, and I plan to reintroduce the measure at the beginning of the next Congress. At that time, I will work to see that it receives the prompt consideration it deserves.●

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. MIKVA. Mr. Speaker, last week, I had to return to the 10th Congressional District of Illinois at various times to honor some longstanding commitments. As a result, I missed several votes.

Had I been present, I would have voted "yes" on rollcall Nos. 868 and 869 which provided for the reauthorization of the Perishable Agricultural Commodities Act and the creation of the Rural Transportation Advisory Task Force. I would have voted "yes" on rollcall No. 871, the DOD amendment to the Department of Defense Appropriations Authorization Act for fiscal year 1979 to provide for congressional approval of DOD contract dispute settlements in excess of $25 million. I also would have voted "yes" on rollcall No. 872, the vote on final passage of the fiscal year 1979 Defense De-

partment authorization. However, I would have voted "no" on rollcall No. 873, the Magistrate Act of 1978, and "no" on rollcall No. 874, the Water Resources Development Act of 1978.

I would have voted "no" on rollcall No. 880—a motion to agree to waive the requirements of the Environmental Policy Act for development of certain rivers in Colorado. I would have voted "no" on rollcall No. 881, the Kindness amendment to the Financial Institutions Regulatory Act. I would have voted "yes" on rollcall Nos. 882 and 883, the Stark and Hanley amendments to the same bill.

I would have voted "yes" on rollcall No. 885 to expedite the procedures of the House in the final week of the session, and "yes" on rollcall No. 886 to provide for consideration of the Child Health Assurance Act. I would have voted "no" on rollcall No. 888, the Steiger amendment to the sugar bill adding a cost escalator to the price objectives, and I would have voted "no" on final passage of the sugar bill, rollcall No. 889. I would have voted "yes" on rollcall No. 887, passage of the conference report on the Civil Service Reform Act. And, I would have voted "no" on rollcall No. 890, the Burleson amendment to the Meat Import Act to reduce the levels of meat imports.●

STATEMENT OF REPRESENTATIVE JOHN D. DINGELL ON FILING OF THE NATURAL GAS CONFERENCE REPORT (H.R. 5289)

(Mr. DINGELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DINGELL. Mr. Speaker, during the hiatus since the conference report on natural gas was filed in the Senate, a number of questions have arisen regarding the meaning of certain sections. Therefore, Representatives STAGGERS, ASHLEY, ECKHARDT, and WILSON of Texas have joined with me in preparing a comprehensive explanatory statement addressing these questions. I am placing this expression of the intent of the Managers on behalf of the House regarding the meaning of these sections in the CONGRESSIONAL RECORD as the conference report is filed in the House. It is our hope that this statement will assist Members of the House during their consideration of this most important legislation. The explanatory statement follows:

EXPLANATORY STATEMENT

DEFINITION OF NATURAL GAS

The bill defines the term "natural gas" identically to the Natural Gas Act definition in order to assure proper coordination between these related pieces of legislation. However, one aspect of the definition requires further explanation. Under the Natural Gas Act definition of "natural gas", artificial gas is not "natural gas" but a commingled stream of naturally produced gas and artificial gas is. One purpose of utilizing the Natural Gas Act definition was to prevent circumvention of the ceiling price rules by the simple expedient of commingling small quantities of artificial gas with naturally produced gas. If the definition of natural gas did not apply to such a commingled stream, a question could arise as to whether the ceiling prices of the bill applied to the sale of naturally produced gas contained in the commingled stream. Moreover if no sale of the naturally produced gas occurred prior to the commingling, a question could arise regarding the applicability of the bill at all. Furthermore, if the gas were sold in intrastate commerce, the just and reasonable standard of the Natural Gas Act would not apply, and circumvention of the bill might indeed succeed. The definition utilized in the bill prevents such a result.

One possible side effect of the use of this definition should be discussed in order that an unintended consequence not result. The use of the Natural Gas Act definition of "natural gas" assures that the bill's ceiling prices will not apply to sales of artificial natural gas not mixed with naturally produced gas. However, the question arises whether the ceiling prices will apply to the "first sale" of the mixture of artificial gas and naturally produced gas. It was not intended that the bill's ceiling prices, which are generally applicable to field sales, should be broadened to cover pipeline sales solely because the pipeline made bona fide purchases of artificial gas and commingled it with naturally produced gas purchased in the field. (The foregoing is in no way intended as a limitation upon FERC's authority under section 2(21)(A)(v).) Rather, application of the exclusion of section 2(21)(B) from the definition of the term "first sale" appears to indicate that any such unintended consequence will not arise. If a ceiling price did extend to the "first sale" of such a commingled stream, and assuming of course that no circumvention of ceiling prices is involved, FERC can deal with the matter through its flexible high-cost gas pricing authority and, to a somewhat lesser degree, through its discretionary authority to grant ceiling price adjustments under section 110. Even more directly, FERC can deal with this matter through its application of the definition of the term "first sale" so as to be consistent with the intent of the conferees.

SOUTHLAND PROVISIONS

Section 2(18)(B)(iii) establishes an exemption from the definition of the term "committed or dedicated" which is used throughout the bill. The purpose of this provision is to deal with issues raised by the Supreme Court's decision in *California* v. *Southland Royalty Co.*, decided May 31, 1978.

The potential for extension of the holding of the *Southland* case has cast a cloud of uncertainty over the question whether natural gas production is interstate or intrastate in character. This in turn may hamper financing of new natural gas wells and cause disruption of gas supplies to intrastate natural gas consumers.

This legislation is intended to substitute a uniform natural gas pricing policy for the bifurcated system of regulation under the Natural Gas Act. The legislation seeks to encourage expanded exploration for, and development of, the Nation's natural gas resources and provide reliable supplies of gas to both interstate and intrastate markets. These objectives would be frustrated if the uncertainties created by the *Southland* case were not addressed.

Section 2(18)(B)(iii), in conjunction with the provisions of titles I and VI, especially sections 104, 105, and 601(a)(1)(A), prospectively resolve the question of the status of natural gas production. These provisions are intended to remove the cloud of uncertainty which would influence future investment decisions, hamper development of the Nation's natural gas resources, and impair the continuity of natural gas supplies to intrastate markets.

Recently some question has arisen respecting the scope of the bill's language dealing with *Southland*. It has been accurately pointed out that the bill's provisions are prospective only in their application and do not directly address the question of civil penalties, criminal prosecutions, and obligations for pay back for violations of the Natural Gas Act occurring prior to date of enactment. This has raised concerns that too much uncertainty remains. These concerns are unfounded for several reasons.

First, no civil penalty authority of any form exists under the Natural Gas Act.

Second, criminal sanctions under the Natural Gas Act may only be imposed for knowing and willful violations. It is generally acknowledged that, prior to the *Southland* decision, producers did not normally regard their gas as dedicated to interstate commerce by the action of an earlier lessee whose lease had terminated. Thus, as both a practical and legal matter it is hard to conceive of instances in which the fact situations affected by an extension of the *Southland* decision could give rise to criminal penalties under the knowng and willful standard of the Natural Gas Act.

Third, the unavailability of the data respecting past dedications of gas to interstate commerce, which gives rise to the *Southland* problems, will as a practical matter also limit the ability of the Federal Energy Regulatory Commission to prove past violations of the Natural Gas Act. This very point has been conceded by FERC Chairman Curtis as confronting the Commission with "difficult policy choices in determining whether to allocate significant staff resources to search out and bring enforcement and remedial actions . . . in these cases."

Moreover, one further point should be considered. While the *Southland* provisions of this legislation prospectively immunize producers from enforcement actions brought under the Natural Gas Act based upon an extension of the principles of the *Southland* case, additional flexibility was needed respecting enforcement of past violations of requirements of the Natural Gas Act, for example in cases where the producer who had commenced deliveries of gas to interstate commerce diverted that gas to intrastate commerce. A Federal enforcement policy directed towards recovering a payback of natural gas volumes in conjectural circumstances (especially where it is clear the producer acted in good faith and without knowledge or notice that his gas might be regarded as dedicated due to the action of an earlier lessee under an expired lease) could frustrate the objectives of this bill. Producers faced with possible payback exposure would not be free to reinvest in new drilling activities the revenues derived from sales of historically intrastate gas. If this traditional financing mechanism is eliminated or seriously impaired, the supply objectives of this bill cannot hope to be achieved. Sudden supply disruptions in the intrastate market which could result from such an enforcement policy would also be inconsistent with the objectives of the legislation. With respect to past violations of the Natural Gas Act, it is appropriate that enforcement be accomplished through development of judicious enforcement policies by the Federal Energy Regulatory Commission in consideration of the objectives of the Natural Gas Policy Act. If FERC were to fail to consider the policy objectives of the Natural Gas Policy Act in its administration of related provisions of the Natural Gas Act, the Commission would not be carrying out its responsibilities under the Natural Gas Policy Act. The FERC will certainly bear these considerations in mind as it develops a policy of enforcement of the Natural Gas Act consistent with implementation of the Natural Gas Policy Act of 1978.

In addition, technical questions regarding the details of section 2(18)(B)(iii) have also arisen. Questions exist regarding the relationship between the terms "reversion" and "successor-in-interest".

The term "successor in interest" is intended to include any heir or assignee of a mineral interest of the person whose actions caused the commitment or dedication of the gas to interstate commerce. The term "successor in interest" is also intended to include a holder of a right to explore for, de-

velop, produce or sell natural gas under a farm-out arrangement with the person whose actions caused the commitment or dedication of the gas to interstate commerce.

However, as indicated on page 71 of the Statement of Managers, the term "successor in interest" excludes "any interest owner who acquires his right pursuant to the reversion or any other termination of a natural gas leasehold interest, or any subsequent grantee of such interest owner who acquires his interest after the date of such reversion or other termination." Thus the term "reversion", as utilized in section 2(18)(B)(iii) is intended to include any process by which a natural gas leasehold interest or part thereof terminates and the lessee loses the right to explore for, develop, produce or sell natural gas from the acreage formerly covered by such lease or part thereof. Such processes include termination by voluntary release, by a judicial cancellation decree, or under the provision of a lease which require termination if production is not established or if production is not maintained in paying quantities.

Thus, the successor in interest chain is intended to be broken upon reversion of the leasehold interest to the landowner. The term would then not apply to either the landowner, or a subsequent lessee who is not affiliated with the person by whose action the gas was dedicated to interstate commerce.

A technical question has arisen respecting the reason for applying the limitation "other than by means of any reversion of a leasehold interest" to the term "including any successor in interest" in the parenthetical modification of the term "person" used in section 2(18)(B)(iii). To understand the reason for this construction, it must be recognized that the "person" referred to in subclause (I) of clause (iii) is the same "person" previously referred to in clause (iii).

Therefore, if a lessee has dedicated gas to interstate commerce and a successor to the leasehold interest of that person has the right to produce natural gas on May 31, 1978, the exception set forth in clause (iii) would not apply to the definition of committed or dedicated under section 2(18)(A). However, it was not intended that a landowner who has leased mineral interests should be considered a "successor in interest" upon expiration or reversion of the leasehold. Because state property law governs the status of the reversion of any leasehold interest, the conferees provided for the exclusionary language in question to assure that the landowner would not be considered a "successor in interest" under federal law even if there were not a merger of the leasehold interest with the underlying fee interest upon termination or reversion of the leasehold. Otherwise it was considered possible that under some state law a lessor-landowner might have been deemed to be a successor to the interest of his own lessee following termination of the lease. This was not intended to be the case for purposes of federal law. Finally, the exclusionary limitation "other than by means of any reversion of a leasehold interest" applies solely to the term "including any successor in interest" and is not an exclusion of lessors, who regain the mineral interests through reversion of a mineral lease, from the term "person". Clearly, if a person reacquired mineral rights through a reversion and thereafter dedicated the gas to interstate commerce, the exception set forth in clause (iii) would be inapplicable if that person, or any successor in interest of that person, had the right to produce the gas on May 31, 1978.

Some questions have also arisen concerning the meaning of the term "sold in interstate commerce" in section 2(18)(B)(iii)(II). This clause is intended to be based on the actual sale of gas in interstate commerce. Thus a contract and a certificate of public convenience and necessity authorizing the sale of gas that may be produced from a lease do not alone constitute natural gas being "sold in interstate commerce". The question is a factual one based upon whether actual sales of natural gas in interstate commerce had commenced and were ongoing on May 31, 1978. It should also be noted that gas being sold on May 31, 1978, within the meaning of section 2(18)(B)(iii)(II), may, in certain cases, include gas which was sold before and after May 31, 1978, but not on May 31, 1978, itself. For example, if gas were contracted for interstate sale before May 31 1978, and deliveries commenced before May 31, 1978, and continued after May 31, 1978, with routine breaks in deliveries due to normal operational factors, including a break on the specific day of May 31, 1978, the gas was "being sold" in interstate commerce on May 31, 1978, although no "sale" occurred on that date.

The application of section 2(18) to natural gas subject to an option is the subject of other inquiries. Basically the resolution of this question depends upon the construction and legal effect of the "option". If the option is in the nature of a contractual obligation binding the producer to sell the gas to an interstate purchaser, it would appear that by its terms section 2(18) would apply to the gas. If not, section 2(18) might not apply. In either event, the question is largely academic since under section 601(a)(1)(B) nonprice regulation over the gas under the Natural Gas Act is terminated if the gas is new gas, high-cost gas, or produced from a new, onshore production well. In almost every case, the new gas or new, onshore production well category will apply. In such cases, the only non-price regulation which would remain applicable would be the regulatory requirements imposed under section 315. The requirements of that section are far less burdensome than the certification, rate filing, and abandonment requirements of the Natural Gas Act.

DEFINITION OF NEW LEASE

The term "new lease" when used with respect to the Outer Continental Shelf is defined as "a lease, entered into on or after April 20, 1977, of submerged acreage." The question has arisen whether a lease issued after April 20, 1977, of previously leased OCS acreage, with respect to which a prior lease has expired, can qualify as a new lease. Under the definition such a lease is a new lease. In fact the Conference Report does not include a limitation contained in the definition in the House bill which would have excluded a subsequent lease of previously leased acreage from qualifying as a new lease. The limitation of the House bill was deleted in the belief that the recently enacted revision of the OCS laws is adequate to prevent abuses. The conferees anticipated that by regulating bidder eligibility and obtaining all relevant geological and geophysical data regarding the leased acreage from the original lessee, USGS can prevent abuses arising from efforts to achieve a price advantage by returning acreage to the government as unproductive and thereafter requiring drilling rights if the acreage is substantially re-offered for lease.

Other federal statutes, including the antitrust laws, racketeering statutes, and mail fraud provisions of the criminal code, provide additional protections against collusion by potential bidders seeking to obtain a price advantage by converting old OCS leases to new lease status. One additional point should be made in connection with the definition of the term "new lease". When the Conference Report utilized the term "lease", the conferees were referring to a lease issued by the Secretary of the Interior and not a sublease or farm out under that primary lease. Only new OCS leases directly with the U.S. government were intended to qualify for new gas treatment.

SECTION 101

Questions have arisen regarding the meaning of section 101(b)(5). This rule is intended to facilitate resolution of which ceiling price may apply if more than one ceiling price rule appears applicable. Whichever ceiling price could result in the highest price is the applicable maximum lawful price. Of course this does not impose upon either the FERC or any state agency an affirmative obligation to identify which of several potential classifications should apply. It is up to the producer to apply for whatever designation he determines is most likely to be of greatest benefit to him (in most cases that will be the designation which also yields the highest price). If the state agency determines (and is not reversed by FERC) that the producer's gas satisfies the statutory requirements applicable to the category for which designation was sought, the producer may then charge up to the statutory maximum lawful price applicable to the category. It may also be possible for FERC and state agency implementing rules to permit a producer to seek and obtain more than one designation. Thus, a producer might be permitted to apply for both new, onshore production well status and new gas status. Assuming that the former will be relatively easy for the producer to demonstrate, and for the state agency to determine, satisfaction of the statutory requirements, such dual filing could permit the producer to collect the section 103 price applicable to gas produced from new, onshore production wells pending resolution of perhaps more difficult issues associated with the new gas determination. Another way in which the dual determination requests could be appropriate would be in cases in which one determination would yield a short term benefit, while another a long term advantage. Such could be the case where a new well produces new gas and also qualifies as a stripper well.

A single proceeding to determine qualification for both designations would permit the producer to obtain stripper well pricing under section 108 prior to January 1, 1985, and deregulation as new gas thereafter. In the long run a single state proceeding might present less administrative burdens than a subsequent proceeding in which a classification not previously requested is sought. However, FERC is in the best position to determine whether administrative and enforcement difficulties would be presented by applications for, and approval of, multiple designations. Therefore this issue is one which FERC will certainly address as part of its implementing regulations.

Section 101(b)(9) sets forth the relationship between the ceiling prices established under the bill and contract terms. Questions have arisen regarding the application of section 101(b)(9) to sections 104 and 105. It is especially important, in terms of the transition from the present system to the national market established under this bill, that producers be able to continue their deliveries of gas to interstate and intrastate customers. Therefore the relationship between the bill and existing contractual arrangements covered by these sections is an important one. The rule set forth in section 101(b)(9) is that the legislation establishes *ceiling* prices. Contract prices may be lower than the federal maximum lawful price. In such cases the contractual arrangement between the parties continues to govern their relationship and is not superseded by the federal ceiling prices. Thus contract prices are superseded only in those instances in which the ceiling price is less than the contract price.

The FERC is intended to play an enforcement role with respect to the ceiling prices, not with respect to enforcement of private contracts *per se*. FERC has no direct enforcement duties under section 101(b)(9) since the provision merely sets forth a rule of construction and does not, in and of itself, establish any requirements or ceiling prices. Of course, in some cases, for example under section 105, the statutory ceiling prices and con-

tract prices will coincide. In those cases FERC's enforcement responsibilities under this legislation may require an inquiry regarding the meaning of contractual provisions. This inquiry is essential if FERC is to enforce the ceiling price where that price is based upon a contract between private parties. Nevertheless, it is contemplated that FERC's implementation of the bill will be accomplished with minimal interference with contractual relationships.

In particular, enactment of this legislation does not mean that sales of gas covered by sections 104 and 105 must terminate until FERC acts to authorize continued deliveries. Nor does enactment of the legislation mean that sales under existing intrastate contracts at prices higher than that provided in section 109 ($1.45 as of April 1977) will be rolled back to this level through the operation of section 503(e) until an FERC determination is made. It is contemplated that sales subject to these sections will continue without interruption. FERC can adequately fulfill its administrative and enforcement responsibilities by mechanisms other than certification prior to commencement of deliveries.

SECTION 102

There has been some discussion whether "new reservoirs" on "old OCS leases" in the Baltimore Canyon would be deregulated under the Natural Gas Policy Act. "New reservoirs" (reservoirs discovered on or after July 27, 1976) on "old OCS leases" (leases entered into before April 20, 1977) would qualify for the new gas ceiling price under section 102(d). However, such gas would not be deregulated for pricing or non-pricing purposes.

On the other hand, "new gas", that is, gas produced from a "new lease" as defined under section 102(c), would be deregulated for pricing purposes under section 121(a)(1) as of January 1, 1985. This category of gas would also be deregulated for non-pricing purposes under section 601(a)(1)(B)(ii), effective as of the first day of the first month beginning after date of enactment.

SECTION 104

Section 104 establishes the ceiling price mechanisms applicable to natural gas dedicated to interstate commerce prior to enactment of the bill and for which a just and reasonable rate had been established under the Natural Gas Act. The applicable just and reasonable rate in effect in April 1977 is referenced as the base price to which the inflation adjustment factor is applied to yield the maximum lawful price in any future month.

The just and reasonable rate under FPC Opinion 770–A applicable to wells spudded on or after January 1, 1975, includes a $.01 escalator each calendar quarter. Moreover, technically speaking, Opinion 770–A establishes a just and reasonable rate of $1.62 per Mcf for this vintage. The $1.42 per Mcf price most commonly referred to is merely the base rate allowed under the decision discounted to its then present value. The $.01 per quarter escalator is designed to yield an average $1.62 per Mcf rate over the projected life of the average reservoir.

Accordingly, a question has arisen whether the just and reasonable rate referenced in section 104(b)(1)(A)(i) is to include the $.01 quarterly adjustment in the inflation adjustment under section 104(b)(1)(A)(ii). The answer is an emphatic NO. The conferees did not intend a double dip. The "just and reasonable rate . . . applicable . . . on April 20, 1977" is intended to incorporate by reference the $1.45 per Mcf price permitted in April 1977. This price is to be adjusted thereafter *only* pursuant to the inflation adjustment provided in section 104(b)(1)(A)(ii). (Moreover, lest there be any doubt, the conferees did *not* intend the reference to be to the $1.62 price either.) That the conferees intended to reference the $1.45 per Mcf price is supported by the construction of section 109, wherein the $1.45 price is set forth. Section 104 deals with area rates, national rates of several vintages, and special relief pricing. Therefore it was not possible or practical to specify each rate. Incorporation by reference was required. In the case of section 109, a specific rate was possible and the rate selected was the just and reasonable rate under Opinion 770–A applicable on April 20, 1977, *i.e.*, $1.45 per Mcf. This assured that these sections would be consistent with one another.

A question has arisen respecting the pricing of interstate gas, presently subject to contract, including a warranty contract, at a price lower than the just and reasonable rate presently applicable to the gas, following expiration of that contract. As the preceding paragraphs indicate, sections 104 and 106 would be applicable. Under section 101(b)(5), the section yielding the higher price would establish the maximum lawful price. If a contract is being satisfied with gas produced from wells of a vintage for which a higher just and reasonable rate has been established by the Commission, that just and reasonable rate is referenced as the basis for the maximum lawful price under section 104.

Moreover, once the existing contract no longer limits the price (see section 101(b)(9)), the producer could change and the purchaser could pay any amount up to the maximum lawful price which, under both sections 104 and 106, would be based upon the just and reasonable rate which, but for enactment of this legislation, would have been applicable. The exceptions to this rule are where the gas would qualify for price treatment as new natural gas, gas produced from a new, onshore production well, high-cost natural gas, or gas produced from a stripper well. In such cases the maximum lawful price would be established by sections 102, 103, 107 or 108, respectively.

SECTION 105

Another question has arisen relating to contract terms. Under section 105, a distinction is made for ceiling price purposes between, on the one hand, contracts under which the price paid for deliveries of gas on the date of enactment is greater than the new gas ceiling price on that date under section 102 and, on the other hand, contracts under which the price paid for deliveries of gas on the date is less than the new gas ceiling price.

The ceiling price mechanism under section 105(b)(1) is based upon "the terms of the existing contract . . . in effect on [date of enactment]". This phrase must be distinguished from the phrase "contract price" used in section 105(b)(2). The latter is date specific, referring to the price paid under the contract for gas deliveries on date of enactment. The phrase "the price under the terms of the . . . contract" used in section 105(b)(1) refers to the contract schedule of prices or contract mechanism for establishing prices over time. This schedule or mechanism is given effect with the single limitation that the price so established may not exceed the new gas ceiling price established under section 102. The contract price terms in effect on date of enactment would then be honored up to the new gas ceiling price.

The ceiling price mechanism under section 105(b)(2) is based upon the "contract price" on date of enactment. The "contract price" as used in this paragraph is defined in section 105(c) as the price paid under a contract for deliveries on that date. The annual inflation adjustment factor is applied to this base price to establish ceiling prices for future months. These ceiling prices supersede any future higher price which might be established under the contract. However, the new gas ceiling price under section 102, which is utilized as a ceiling price cap under section 105(b)(1), contains a more rapid price escalator than the annual inflation adjustment factor utilized in section 105(b)(2). Therefore, provision is made in section 105(b)(2) to switch from a ceiling price mechanism based upon the contract price on date of enactment (escalated only by the annual inflation adjustment factor) to a ceiling price mechanism based upon the new gas ceiling price, when the ceiling price under the latter mechanism exceeds the ceiling price under the former mechanism.

While on the subject of section 105, it should be noted that the limitation on the operation of indefinite price escalator clauses under section 105(b)(3) does not take effect until January 1, 1985. Neither subparagraph (A) nor subparagraph (C) of section 105(b)(3) is effective until 1985 and the limitation set forth in subparagraph (C) of section 105(b)(3) is applicable solely for purposes of subparagraph (A) of section 105(b)(3). Section 105(b)(3) was included to limit the impact of deregulation in 1985 of intrastate contracts in existence on date of enactment. The conferees were concerned that, following deregulation, the operation of indefinite price escalator clauses, in existence on May 3, 1978, and contained in certain existing intrastate contracts, could operate to increase rapidly intrastate gas prices following deregulation. Section 105(b)(3)(A) puts a lid on that escalation. Subparagraph (C) of section 105(b)(3) was included solely to prevent modification in the operation of existing intrastate contracts containing such clauses on May 3, 1978, if the modification, by amendment or otherwise, would result in prices exceeding the limitation set forth in section 105(b)(3)(A). In such cases, the modification is to be disregarded and section 105(b)(3)(A) would limit the prices which could be charged under the indefinite price escalator clause of the contract in the same manner as if the modification had not occurred. Section 105(b)(3)(C) does not limit, or authorize FERC to limit, the future use of indefinite price escalators in new contracts. Under section 105(b) indefinite price escalators contained in an existing intrastate contract on date of enactment are to be given effect, up to the limitations set forth in sections 105(b)(1) and 105(b)(2). Indefinite price escalator clauses added to existing contracts after date of enactment may not affect the application of section 105(b) since under that section it is the terms of the contract in effect on date of enactment which govern. If the indefinite price escalator clause is contained in an existing intrastate contract on date of enactment, but was not contained in the contract on May 3, 1978, the limitation of section 105(b)(3)(A) would apply after 1984 but section 105(b)(3)(C) would be inapplicable.

SECTION 106

With respect to implementation of section 106, which, like sections 104 and 105, does not require any state agency determination under section 503, it was similarly intended that FERC's implementation of the requirements of the legislation not be burdensome. In particular, it was intended that section 106 should be implemented with minimal interference in the contractual relationships which exist at the time of rollover. To the extent similar situations exist, the principles which the conferees intended should guide FERC in implementation of sections 104 and 105 were intended to be applicable to implementation of section 106 as well.

Section 106(a) broadens the definition of the term "rollover contract", only for purposes of subsection (a), to include any contract which would have been a rollover contract but for the fact that the expiration of the previous contract occurred prior to enactment. Of course the generally applicable definition of a "rollover contract" is set forth in section 2(12) and limits the phrase to contracts which succeed a contract which expires on or *after* enactment of the bill. The broadening language of section 106(a) is merely a drafting device designed to avoid an anomaly which would otherwise occur.

For example, but for the expressed applicability of section 106(a) to interstate contracts which expired before enactment, any succeeding contract entered into after enactment would be held to the $.295 per Mcf rate for flowing gas, adjusted only for inflation under section 104. Since producers would be entitled to $.54 per Mcf rate under existing FERC regulations upon negotiation of a new contract, such a result would have been anomalous.

In determining the maximum lawful price applicable to an interstate rollover contract, it might appear that a potential for a price rollback exists under section 106(a). The provisions of section 104 provide for an escalation of the just and reasonable rate with inflation. At the time of rollover, the maximum lawful price determined under section 106(a) would be the applicable just and reasonable rate at the time of rollover (assuming that rate exceeds $.54 plus inflation). If the just and reasonable rate established by the Commission has escalated at a slower rate than inflation, the initial price for the rollover contract under section 106(a) would be lower than the maximum lawful price applicable to the expiring contract under section 104.

This apparent price rollback anomaly is avoided by the road application of section 104. Section 104 is not limited to existing contracts and successors to existing contracts but is applicable to any interstate gas for which a just and reasonable rate exists. Therefore, section 104 can apply to interstate rollover contracts as well. In contrast, section 105 is limited in application to existing intrastate contracts and successors to existing intrastate contracts. Prices for rollovers of existing intrastate contracts are determined exclusively by section 106(b). Thus price determinations for interstate rollovers can be made under section 104 or section 106(a). Therefore, if, at the time of rollover, section 106(a) would result in a price rollback, section 104 remains applicable (in accordance with section 101(b)(5)) and no rollback occurs.

SECTION 108

In section 108, the term "non-associated" gas is utilized. The conferees did not anticipate that this would be a burdensome standard for FERC to apply. State agency rules of thumb in this area may, especially at the outset, prove to be of valuable assistance to FERC. For example, in Texas a gas well is defined as one which produces at least 100 Mcf of gas per barrel of condensate or crude oil. A well with a greater ratio of oil to gas is classified as an oil well and the associated gas production is denominated casinghead gas. The Statement of Managers explains that *de minimis* amounts of oil production are not intended to disqualify gas from being deemed by FERC to be non-associated gas. Thus, coordination of the federal definition of "non-associated" gas with parallel concepts embodied in existing state regulatory practices could facilitate the initial implementation of the bill. If evidence gained from experience indicates a need for modification, FERC could then depart from existing state practices as it determines appropriate.

The intention of the conferees to respect and rely upon state agency determinations in areas of their historical expertise is demonstrated by the reference in section 108(b)(3)(A)(ii) to conservation practices "recognized or approved by the state agency having jurisdiction over the production of natural gas".

Section 108 also refers to "recognized enhanced recovery techniques". It was the intent of the conferees that, in giving definition to these terms under section 501, FERC should look to state agency recognition of certain techniques as enhanced recovery techniques for guidance.

SECTION 110

With respect to section 110, it has been correctly observed that the authority to permit adjustments is discretionary. However, by authorizing discretionary adjustments the conferees did not intend to authorize a refusal to grant appropriate allowances where such refusal would be an abuse of discretion. Thus, if the function performed is not usually performed by the producer without provision being made for compensation over and above the amount paid for the gas, prevailing industry practice may guide FERC to approve ceiling price adjustments which the Commission determines appropriate and consistent with the purposes of the legislation. For example, if the producer undertakes to compress the gas to pipeline pressure, and if an allowance is customarily made by the pipeline for such compression, the conferees anticipated that FERC would consider approval of an appropriate allowance under section 110. However administrative flexibility was deemed important. Therefore it was also intended that FERC could selectively focus on the areas which appear appropriate for approval of adjustments under section 110 in such a manner that the implementation of the section would not become administratively burdensome.

SECTION 311

Section 311 authorizes sales by intrastate pipelines to interstate pipelines or local distribution companies. A question of interpretation is presented by the language of sections 311(b)(2)(C) and 311(b)(7)(B). In section 311(b)(2)(C), FERC is required to permit an adjustment to the maximum fair and equitable price permitted to be charged by the intrastate pipeline so as to increase the revenue derived from the sale to offset certain added costs incurred by the intrastate pipeline in order to make the sale. These added costs must result from an increase in the intrastate pipeline's weighted average acquisition cost of gas due to the purchase of the volumes resold in the transaction authorized under section 311. On the other hand, under section 311(b)(7)(B), FERC is required to disapprove any application for an authorization of a sale under the section if FERC determines that the sale would involve natural gas "acquired solely or primarily" for the purpose of resale under the section. The Statement of Managers, at page 107, gives an illustration of what is intended by section 311(b)(2)(C). Thus, it is intended that intrastate pipelines, which have existing contracts or negotiate contracts containing provisions either for take-or-pay volumes or for higher volumes (than are currently being taken) to be available upon demand, should be allowed to take these volumes under the terms of the contract if the terms were negotiated without regard to the possibility of disposing of the additional volumes through sales authorized under section 311(b). This is consistent with section 311(b)(7) since FERC could make a determination that these volumes were not acquired "solely or primarily" for the purpose of resale under section 311(b). Another distinction that may be useful in applying sections 311(b)(2)(C) and 311(b)(7)(B) is that section 311(b)(2)(C) deals with the price effect of increased deliveries necessary to carry out a sale under section 311(b), while section 311(b)(7)(B) deals with the purpose for contracting for gas supplies.

Section 311(b) gives FERC authority to authorize intrastate pipelines to sell natural gas to interstate pipelines and local distribution companies under certain conditions. Section 311(2)(A) provides that the selling pipeline's price shall not exceed the sum of its weighted average acquisition cost of natural gas plus two additional adjustments. In some cases, the selling intrastate pipeline company owns or controls several pipeline systems which are not interconnected and gas from these systems is not commingled. The question has arisen as to whether FERC could permit the selling company to sell gas from such separate and distinct pipeline systems at the weighted average acquisition cost of the separate system from which the gas is actually sold.

The authority of section 311 is broad and is supplemented by the general rulemaking powers vested in the Commission in section 501 of the Act. It is anticipated that this authority, in conjunction with the authority to define terms used in the legislation, will afford FERC substantial discretion with respect to the implementation of section 311 in particular cases. Therefore, FERC could make such a determination with respect to the treatment of weighted average acquisition costs.

SECTION 315

Questions have arisen respecting the implementation of section 315. This section was included principally to assure a degree of continuity of gas supplies to the interstate system despite non-price deregulation of certain categories of gas, including new gas, previously dedicated to interstate commerce. Pipeline investments and commitments to users have been predicated upon the volume of dedicated gas, not merely on the volume of presently flowing gas. It has been correctly observed that, in conjunction with the Commission's authority under sections 501 and 503, section 515 provides a mechanism to protect the security of present interstate pipeline supplies. A concern has been expressed, however, that these authorities could be used by the Federal Energy Regulatory Commission to apply non-price requirements to sales of intrastate gas to the same degree that such requirements are applied to sales of gas previously dedicated to interstate commerce. This construction would go far beyond the purpose of section 315. The non-price regulatory powers exclusively over previously dedicated gas given the Commission under section 315 were not intended to authorize the imposition of non-price conditions on sales of previously intrastate gas by applying to such sales the same non-price conditions authorized under section 315 for dedicated interstate gas. The Commission's authority to impose non-price regulatory requirements under section 315 on intrastate gas is limited to prescribing minimum contract duration under section 315(a) and requiring the filing of contracts and ancillary agreements under section 315(c). Of course, the Commission's authority over price related matters is not so limited.

Although the provisions of section 315(b) are intended to provide mechanisms to assure continuity of adequate supplies of previously dedicated gas to interstate pipelines, the provisions of section 315(b) do not apply to gas produced from the OCS which was not dedicated to interstate commerce under the Natural Gas Act prior to enactment. Of course, the Commission's authority over price related matters is not so limited. Some concern has been expressed that consequently FERC will be unable to assure continued deliveries of gas produced from the OCS. This concern is not well founded for two reasons. First, under this bill, FERC can prescribe the minimum contract duration. Second, FERC retains its transportation certification authority under section 7 of the Natural Gas Act. That authority was relied upon by both FERC and its predecessor, the FPC, to impose a wide range of conditions upon the transportation of gas in interstate commerce. This authority remains intact, a point underscored by the Statement of Managers language on page 111.

SECTION 503

A question has arisen respecting section 503(e), relating to interim collection of rates. Typographical, printing and other tech-

nical errors will be corrected in the concurrent resolution. Section 503(e)(1)(B)(ii) is intended to require the filing for a determination of eligibility within 90 days after date of enactment or, if later, before any collection is made. The seller is authorized to make initial collection of the section 109 maximum lawful price provided that the requirements of section 503(e)(1)(B) have been satisfied. The refund requirement of section 503(e)(3)(B) is intended to apply to any funds collected in excess of the maximum lawful price for which the gas qualifies.

In addition, a number of questions have arisen regarding the relationship between FERC and the state agencies to which significant responsibility is entrusted under section 503. It must be acknowledged that cooperation between the Commission and state regulatory agencies will be essential to the successful implementation of the bill. It may be anticipated that the state agencies with specialized expertise and years of practical experience in related forms of regulation can and will properly discharge their responsibilities. Unnecessary federal interference with state agencies could undermine the cooperative spirit necessary for implementation of the bill and commencement of the rationalization of the Nation's natural gas pricing policy. It is the intention of the conferees that FERC implement the bill with an awareness of this fact.

Moreover, cooperation between FERC and state regulatory agencies may greatly simplify FERC's task of implementing the bill. For example, recognition of state agency practices in applying the technical concept of true vertical depth, could minimize interference with present industry practices, avoid wasteful expenditures and facilitate attainment of the objectives of the legislation. Absolute certainty in this area is not required (and may not be possible). Substantial evidence of depth will suffice. The legislation is flexible enough to enable FERC to determine that certain evidence, although not conclusive of depth due to normal, allowable deviations from the vertical occurring during drilling is adequate for a determination under section 503 to be based upon it.

Similarly, with respect to determining whether production in commercial quantities has occurred, the implementation of the bill could be simple or very complex, depending upon the degree of federal-state cooperation. A rebuttable presumption is established under section 101(b)(2) that, if the gas was not sold, production did not occur in commercial quantities. However, this presumption could be rebutted, for example, through a showing that the gas was produced but not sold because it was used by the producer for a nonfield use, e.g., to fuel a crude oil refinery or petrochemical plant. A corollary rule, drawn from state regulatory practices could simplify determinations where the gas has been sold. The bill does not contemplate that a profitability inquiry would be required to determine whether gas was produced in commercial quantities from each of the 250,000 potential marker wells in Texas alone. Instead, at least for purposes of establishing on a prima facie basis that a well must be considered to be a marker well, state regulatory practices could be relied upon. On that basis, evidence of the sale of the gas and payment of severance tax thereon would suffice, absent evidence to the contrary, to show prior commercial production.

The legislation does not contemplate that FERC will intrude into the traditional conservation functions performed by the states. This is a matter reserved to the state agencies who, in the exercise of their historical powers, will continue to regulate such matters as drilling locations, completion techniques, production rates, etc. Of course, the Secretary of Energy is authorized under section 505 to intervene as a matter of right in state prorationing proceedings. This intervention authority, however, does not grant the Secretary any substantive powers or displace any state authority.

SECTION 504

Section 504(b) lists various types of civil enforcement actions which may be instituted by the FERC. With respect to certain of these actions, section 504(b) specifically provides that the FERC may initiate enforcement action in the U.S. District Court for the District of Columbia, among others. With respect to other enforcement actions, however, there is no specific reference to the U.S. District Court for the District of Columbia. While it is appropriate that the FERC have the specific option to initiate certain enforcement actions in the U.S. District Court for the District of Columbia, the lack of a specific reference to such court should not be construed to mean that the FERC would be *precluded* from initiating action in that forum. Subject to the normal rules of venue, the U.S. District Court for the District of Columbia may be an appropriate court for the initiation of any enforcement action.

With respect to the standard of culpability required for criminal prosecution under the Natural Gas Policy Act, a question has arisen as to the meaning of the term "willfully" in section 504(c). As noted on page 122 of the Joint Statement of Managers, it is intended that the phrase have the same meaning as in section 21 of the Natural Gas Act. Accordingly, the term "willfully" does not imply that the accused must have had a bad or evil purpose; rather, it means that the accused acted intentionally, voluntarily, or with a careless disregard or indifference to statutory obligations. Earlier debate in the Senate which seemed to imply a higher standard of culpability, such as that at page 29660 of the *Congressional Record* was directed to the intentional nature of the conduct and should be read in that context.

SECTION 506

Section 506(a)(1) contains technical errors which are intended to be corrected by concurrent resolution before the legislation is signed into law. Among other things, section 506(a)(1) does not now reflect the separate judicial review procedures established under section 503. Section 506(a)(1) should be corrected to read "(other than a final decision by the Commission under section 503(b)(1) which is reviewable under section 503(b)(4), any order assessing a civil penalty under section 504(b)(6), or any order under sections 302 or 303)." This correction is in accord with the intent expressed in the Joint Statement of Managers as pages 118–119.

The judicial review requirements of section 503(b) are intended to be distinct from the judicial review provisions set forth in section 506. Accordingly, section 503(c)(4) specifically provides that judicial review of section 503 determinations is to be available only under the provisions of section 503(b).

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. WHITE (at the request of Mr. WRIGHT), for today, on account of official business.

To Mr. GONZALEZ (at the request of Mr. WRIGHT), for today until 7:30 p.m., on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. BOLLING, for 10 minutes today, and to include extraneous matter.

(The following Members (at the request of Mr. LIVINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. GRASSLEY, for 20 minutes, today.
Mr. QUILLEN, for 5 minutes, today.
Mr. BAUMAN, for 30 minutes, today.
Mr. COLLINS of Texas, for 30 minutes, today.
Mr. GOLDWATER, for 5 minutes, today.
Mr. GREEN, for 5 minutes, today.

(The following Members (at the request of Mr. PANETTA) to revise and extend their remarks and to include extraneous material:)

Mrs. MEYNER, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. DIGGS, for 5 minutes, today.
Mr. FASCELL, for 5 minutes, today.
Mr. WEISS, for 5 minutes, today.
Mr. OTTINGER, for 5 minutes, today.
Mr. ALEXANDER, for 30 minutes, today.
Mr. HANLEY, for 5 minutes, today.
Mr. REUSS, for 20 minutes, today.
Mr. COTTER, for 5 minutes, today.
Mr. DAVIS, for 5 minutes, today.
Mr. ZABLOCKI, for 10 minutes, today.
Mr. LAFALCE, for 10 minutes, today.
Mr. CARR, for 5 minutes, today.
Mr. DAVIS, for 60 minutes, October 13.
Mr. BEVILL, for 60 minutes, October 14.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DINGELL, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,767.50.

(The following Members (at the request of Mr. LIVINGSTON) and to include extraneous material:)

Mr. STEIGER in two instances.
Mr. ANDERSON of Illinois.
Mr. BOB WILSON in four instances.
Mr. COUGHLIN.
Mr. SYMMS.
Mr. FREY.
Mr. FINDLEY.
Mr. COLLINS of Texas in three instances.
Mr. COLEMAN.
Mr. BEARD of Tennessee.
Mr. RUDD.
Mr. MICHEL.
Mr. BROWN of Ohio in four instances.
Mr. DERWINSKI.
Mr. WINN.
Mr. DEL CLAWSON.
Mr. WAMPLER in three instances.
Mr. FRENZEL in four instances.
Mr. STEERS.
Mrs. HECKLER.
Mr. RHODES.
Mr. LIVINGSTON.
Mr. LAGOMARSINO.
Mr. GARY A. MYERS.
Mr. WYLIE.
Mr. GREEN.
Mr. GILMAN in two instances.
Mrs. FENWICK.
Mr. RUPPE.
Mr. HAMMERSCHMIDT.

(The following Members (at the request of Mr. PANETTA) and to include extraneous matter:)

Mr. OBEY in four instances.
Mr. HARRIS in two instances.

Mr. DINGELL in three instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. EDWARDS of California in three instances.
Mrs. MEYNER.
Mr. FISHER.
Mr. MCDONALD in five instances.
Mr. MURPHY of Illinois.
Mr. GORE in two instances.
Mrs. SCHROEDER in two instances.
Mr. MOFFETT.
Mr. FASCELL in 10 instances.
Mr. BLANCHARD in two instances.
Mr. PEPPER in two instances.
Mr. FRASER in five instances.
Mr. WEISS.
Mr. WAXMAN.
Mr. JOHNSON of California in five instances.
Mr. MICHAEL O. MYERS.
Mr. SKELTON in two instances.
Mr. VANIK.
Mr. BLOUIN.
Mr. FORD of Michigan.
Mr. COTTER.
Mr. BRODHEAD in two instances.
Mr. LEGGETT.
Mr. PREYER.
Mr. RUSSO in three instances.
Mr. EDGAR.
Mr. ALEXANDER.
Ms. MIKULSKI.
Mr. WALGREN.
Mr. SANTINI.
Mr. LEHMAN.
Mr. KRUEGER.
Mr. O'NEILL.
Mr. LAFALCE.
Ms. OAKAR.
Mr. EILBERG in three instances.
Mr. MAGUIRE in two instances.
Mr. BEVILL.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2. An act to require authorizations of new budget authority for Government programs at least every 5 years, to provide for review of Government programs every 5 years, and for other purposes; to the Committees on Government Operations and Rules; and

S. 3158. An act to authorize the investigation to study the feasibility of the Santa Cruz Dam and Reservoir, Santa Cruz Irrigation District, New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 8755. An act to make specific provisions for ball or roller bearing pillow block, flange, take-up, cartridge, and hanger units in the Tariff Schedules of the United States, and for other purposes;

H.R. 10587. An act to improve the range conditions of the public rangelands;

H.R. 11035. An act to incorporate the U.S. Capitol Historical Society;

H.R. 11318. An act to amend the Small Business Act and the Small Business Investment Act of 1958;

H.R. 11445. An act to amend the Small Business Investment Act of 1958;

H.R. 11658. An act to amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing Great Lakes vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel;

H.R. 12051. An act relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions.

H.R. 12165. An act to extend until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap unwrought metal, and other articles of metal, and for other purposes;

H.R. 12264. An act to designate certain lands in the State of Wisconsin as wilderness;

H.R. 13167. An act to amend the Internal Revenue Code of 1954 to insure that the deduction for contributions to a black lung benefit trust be allowed for any such contributions which are made for the purpose of satisfying unfunded future liability, and for other purposes;

H.R. 13767. An act to amend the Federal Property and Administrative Services Act of 1949 to permit the recovery of replacement cost of motor vehicles and other related equipment and supplies; and

H.J. Res. 685. Joint resolution to designate October 7, 1979, the Sunday of "Fire Prevention Week" as "Firefighters' Memorial Sunday"; to designate October 14, 1978, as "National Jogging Day"; and to designate and authorize the President to proclaim, February 11, 1979, as "National Inventors' Day."

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1185. An act to regulate interstate commerce with respect to parimutuel wagering on horseracing to maintain the stability of the horseracing industry, and for other purposes;

S. 1318. An act to permit the State of Hawaii to use the proceeds from the sale, lease, or other disposition of certain real property for any public purpose;

S. 1626. An act to clarify the status of certain legislative and judicial officers under the provisions of title 5, United States Code, relating to annual and sick leave, and for other purposes;

S. 2411. An act to amend chapter 315 of title 18, United States Code, to authorize payment of transportation expenses for persons released from custody pending their appearance to face criminal charges before that court, any division of that court, or any court of the United States in another Federal judicial district; and

S. 3373. An act to amend title 10, United States Code, to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with International World Friendship Events of Troops on Foreign Soil meetings, and for other purposes.

BILLS AND A JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on October 11, 1978, present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 7843. To provide for the appointment of additional district and circuit judges, and for other purposes;

H.R. 12255. To amend the Older Americans Act of 1965 to provide for improved programs for older persons, and for other purposes;

H.R. 12556. For relief of Batavia Turf Farms, Inc.;

H.R. 12932. Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes;

H.R. 13803. To terminate the authorization of the navigation project on the Columbia Slough, Oreg.; and

H.J. Res. 638. Extending the deadline for the ratification of the equal rights amendment.

THE LATE HONORABLE GOODLOE E. BYRON

Mr. LONG of Maryland. Mr. Speaker, I offer a resolution (H. Res. 1430) on the death of the Honorable GOODLOE E. BYRON.

The Clerk read the resolution as follows:

H. Res. 1430

Resolved, That the House has heard with profound sorrow of the death of the Honorable GOODLOE E. BYRON, a Representative from the State of Maryland.

Resolved, That a committee of 20 Members of the House with such Members of the Senate as may be joined be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

The resolutions were agreed to.

The SPEAKER. The Clerk will report the remaining resolution.

The Clerk read as follows:

Resolved, That as a further mark of respect the House do now adjourn.

ADJOURNMENT

The resolution was agreed to.

Accordingly (at 12 o'clock and 56 minutes a.m.), pursuant to House Resolution 1430, the House adjourned until today, Friday, October 13, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5119. A communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1979 for the General Services Administration (H. Doc. 95–399); to the Committee on Appropriations and ordered to be printed.

5120. A communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1979 for the Department of the Interior (H. Doc. No. 95–400); to the Committee on Appropriations and ordered to be printed.

5121. A letter from the Chairman, District of Columbia Armory Board, transmitting the annual reports and financial statements for calendar year 1977 of the District of Columbia National Guard Armory and the Robert F. Kennedy Memorial Stadium, pursuant to section 10 of Public Law 80–605 and section 10 of Public Law 85–300; to the Committee on the District of Columbia.

5122. A letter from the Executive Director, Board for International Broadcasting, transmitting a report on the Board's activities under the Government in the Sunshine Act during fiscal year 1978, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

5123. A letter from the Chairman, Federal Election Commission, transmitting a copy of correspondence sent by the Commission to the Office of Management and Budget, pursuant to section 310(d)(1) of the Federal Election Campaign Act of 1971, as amended; to the Committee on House Administration.

5124. A letter from the Comptroller General of the United States transmitting a report of an expenditure of funds by the Department of the Army in violation of a restriction in the Department of Defense Appropriation Act, 1976, and subsection (a) of the Antideficiency Act, pursuant to section 312(c) of the Budget and Accounting Act, 1921, jointly, to the Committees on Government Operations, Appropriations, and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. NIX: Committee on Post Office and Civil Service. Report pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 95–1767). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee of conference. Conference report on H.R. 10173 (Rept. No. 95–1768). Ordered to be printed.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 1426 providing for the consideration of reports from the Committee on Rules (Rept. No. 95–1769). Referred to the House Calendar.

Mr. PHILLIP BURTON: Committee of conference. Conference report on H.R. 12250 (Rept. No. 95–1770). Ordered to be printed.

Mr. THOMPSON: Committee on House Administration. Report pursuant to section 302 (b) of the Congressional Budget Act of 1974 (Rept. No. 95–1771). Referred to the Committee of the Whole House on the State of the Union.

Mr. PRICE: Committee on Armed Services. Report pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 95–1772). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee of conference. Conference report on H.R. 5263 (Rept. No. 95–1773). Ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on H.R. 12605. (Rept. No. 95–1774). Ordered to be printed.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 14148. A bill designating the "Justice William O. Douglas Federal Building" (Rept. No. 95–1775). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. Senate Joint Resolution 160. Joint resolution to initiate preliminary studies for the restoration and renovation of the Pension Building in Washington, District of Columbia, to house a Museum of the Building Arts, and for other purposes; with amendment (Rept. No. 95–1776). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee of conference. Conference report on S. 3151 (Rept. No. 95–1777). Ordered to be printed.

Mr. RODINO: Committee of conference. Conference report on S. 1487 (Rept. No. 95–1778). Ordered to be printed.

Mr. ANDERSON of California: Committee of conference. Conference report on S. 2493 (Rept. No. 95–1779). Ordered to be printed.

[*Submitted Oct. 13 (legislative day, Oct. 12), 1978*]

Mr. PERKINS. Committee of conference. Conference report on H.R. 12467 (Rept. No. 95–1780). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ST GERMAIN (for himself, Mr. REUSS, and Mr. ANNUNZIO):

H.R. 14289. A bill to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CORCORAN of Illinois (for himself and Mr. STANGELAND):

H.R. 14290. A bill to expedite decisions concerning the temporary storage of spent fuel and the permanent storage of spent fuel and other radioactive waste, including the selection of sites for storage facilities, the determination of whether the Federal Government should take title to such fuel and such waste, and the amount of storage fees which should be charged; jointly, to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and Rules.

By Mr. CORMAN (for himself, Mr. EVANS of Indiana, Mr. LONG of Maryland, and Mr. JEFFORDS):

H.R. 14291. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. CORMAN (for himself, Mr. GILMAN, and Mr. WALGREN):

H.R. 14292. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. EDWARDS of California (for himself, Mr. MINETA, and Mr. MCCLOSKEY):

H.R. 14293. A bill to amend the Copyright Act of 1976 to provide copyright protection for imprinted design patterns on semiconductor chips; to the Committee on the Judiciary.

By Mr. ERLENBORN (for himself and Mr. EDWARDS of Oklahoma):

H.R. 14294. A bill entitled the "Fair Treatment for Skilled Trades Act of 1978"; to the Committee on Education and Labor.

By Mr. FASCELL:

H.R. 14295. A bill to designate the "Paul G. Rogers Federal Building"; to the Committee on Public Works and Transportation.

By Mr. FRASER:

H.R. 14296. A bill to amend the Internal Revenue Code of 1954 to provide a temporary credit against income tax for employees and their employer if the average rate of compensation increase for the employees does not exceed a certain rate, to authorize the President to impose a tax surcharge and to postpone certain price increases, and for other purposes; to the Committee on Ways and Means.

By Mr. FUQUA (for himself, Mr. WINN, Mr. TEAGUE, Mr. ROE, Mr. WYDLER, Mr. LLOYD of California, Mr. FREY, Mr. DOWNEY, Mr. HOLLENBECK, Mr. FLIPPO, Mr. GAMMAGE, Mr. WIRTH, and Mr. WATKINS):

H.R. 14297. A bill to establish a Space Industrialization Corporation to promote, encourage, and assist in the development of new products, processes, and industries using the properties of the space environment; jointly, to the Committee on Banking, Finance and Urban Affairs and Science and Technology.

By Mr. HANSEN:

H.R. 14298. A bill to amend the Federal Reserve Act to require that detailed minutes of Federal Open Market Committee meetings be released to the general public 5 years after the date of the meeting to which they relate; to the Committee on Banking, Finance and Urban Affairs.

H.R. 14299. A bill to amend the Federal Reserve Act to provide authority for Federal reserve banks to lend obligations to the Secretary of the Treasury and for the Secretary of the Treasury to borrow such obligations to meet the Treasury's short-term cash needs; to the Committee on Banking, Finance and Urban Affairs.

By JONES of Tennessee:

H.R. 14300. A bill to remove the Obion and Forked Deer Rivers in Tennessee from the list of navigable streams of the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. LAFALCE:

H.R. 14301. A bill to provide a comprehensive scheme of compensation for victims injured as a result of toxic pollutants; jointly, to the Committee on Education and Labor, Interstate and Foreign Commerce, and the Judiciary.

By Mr. MOORHEAD of Pennsylvania:

H.R. 14302. A bill to correct inequities in certain sales representatives practices, to provide protection for certain sales representatives terminated from their accounts without justification, and for other purposes; to the Committee on Interstate and Foreign Commerce

By Mr. OTTINGER (for himself, Mr. AUCOIN, Mr. CARR, Mr. CONYERS, Mr. DELLUMS, Mr. EDWARDS of California, Mr. GILMAN, Mr. HARRINGTON, Mr. LUNDINE, Mr. MITCHELL of Maryland, Ms. OAKAR, Mr. PRICE, Mr. RICHMOND, Mr. ROSENTHAL, Mr. RYAN, Mr. STEERS, and Mr. WAXMAN):

H.R. 14303. A bill to protect from disclosure the confidential sources and information of newspersons; to the Committee on the Judiciary.

By Mr. PEPPER (for himself and Mr. MCCLORY):

H.R. 14304. A bill to amend title XVIII of the Social Security Act to remove all limits on the number of home health visits for which payment may be made under both part A and part B (eliminating the requirement of prior hospitalization in the case of home health care under part A), to include additional types of services as home health care, and for other purposes; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. SKUBITZ (for himself and Mr. MADIGAN):

H.R. 14305. A bill to establish a framework for the prevention of railroad accidents by requiring railroads to develop and implement effective total system railroad safety programs and to provide Federal assistance for safety-related railroad projects; to the Committee on Interstate and Foreign Commerce.

By Mr. WEISS:

H.R. 14306. A bill to amend the Internal Revenue Code of 1954 to exclude $1,000 of

interest from savings from the gross income of certain taxpayers; to the Committee on Ways and Means.

By Mr. CHARLES WILSON of Texas:

H.R. 14307. A bill to provide for the increase of food stamp allotments for households having members with medical dietary needs; to the Committee on Agriculture.

By Mr. DRINAN (for himself and Mr. KEMP):

H.R. 14308. A bill to secure and protect the freedom of the press from unwarranted intrusions by persons acting under color of law; to the Committee on the Judiciary.

By Mr. GREEN:

H.R. 14309. A bill to guarantee the confidentiality of sources of information of the news media and to protect certain rights of privacy of individuals; jointly, to the Committees on the Judiciary, and Interstate and Foreign Commerce.

By Mr. HAMMERSCHMIDT:

H.R. 14310. A bill to require that certain procedures be followed with respect to the Internal Revenue Service's "Proposed Revenue Procedure on Private Tax-Exempt Schools"; to the Committee on Ways and Means.

By Mr. LEACH (for himself, Mr. ANDERSON of Illinois, Mr. BONIOR, Mr. CONABLE, Mr. COUGHLIN, Mr. DOWNEY, Mr. DRINAN, Mr. EDWARDS of California, Mr. FASCELL, Mr. FRENZEL, Mr. GRADISON, Mr. GREEN, Mr. HANLEY, Mr. HILLIS, Mr. HUGHES, Mr. KASTENMEIER, Mr. PATTISON of New York, Mr. PRITCHARD, Mr. RUPPE, Mr. SAWYER, Mr. STEERS, and Mr. WHALEN):

H.R. 14311. A bill to require the establishment, on the basis of the decennial census, of congressional districts that are contiguous and compact and that meet certain other requirements, in order to insure fair and effective representation; to the Committee on the Judiciary.

By Mr. McDONALD:

H.R. 14312. A bill to provide that existing regulations issued by the Secretary of Labor with respect to occupational exposure to cotton dust shall cease to be effective and that any future regulations with respect to such exposure shall be subject to congressional disapproval; to the Committee on Education and Labor.

By Mr. PURSELL (for himself, Mr. STARK, Mr. STOKES, Mr. ROE, Ms. KEYS, Mr. MCCORMACK, Mr. BROWN of Ohio, Mr. MCDONALD, Mr. BEILENSON, Mr. RAHALL, Mr. DEVINE, Mr. GUYER, Mr. LE FANTE, Mrs. FENWICK, Mr. CORCORAN of Illinois, Mr. RANGEL, Mr. JEFFORDS, Mr. MARRIOTT, Mr. ROBINSON, Mr. EDWARDS of Oklahoma, Mr. MONTGOMERY, and Mr. BADHAM):

H.R. 14313. A bill to encourage on-the-scene emergency care aboard aircraft by relieving physicians, registered nurses, and aircraft employees from civil liability for damages resulting from any act or omission in rendering such care; to the Committee on the Judiciary.

By Mr. SOLARZ (for himself, Mr. CARR, Mr. DOWNEY, Mr. EDGAR, Mr. LA FALCE, and Mr. PATTISON of New York):

H.R. 14314. A bill to amend the Internal Revenue Code of 1954 to provide individuals a credit against income tax for amounts paid or incurred for certain State and local individual income taxes and to repeal the deduction for such taxes, State, and local general sales taxes, and State and local taxes on gasoline and other motor fuels; to the Committee on Ways and Means.

By Mr. CRANE:

H.R. 14315. A bill to amend the Housing and Community Development Act of 1974 for the purpose of providing guaranteed loans under title I of such act to assist communities with a shortage of water supply; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. HECKLER:

H.R. 14316. A bill to amend titles II and XVIII of the Social Security Act to include eligible drugs, requiring a physician's prescription or certification and approved by a formulary committee, among the items and services covered under the hospital insurance program; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. HOWARD (for himself, Mr. JACOBS, Mr. JOHNSON of California, Mr. NOLAN, Mr. JENKINS, Mr. HUBBARD, Mr. MATTOX, Mr. GEPHARDT, Mr. BAFALIS, Mr. JEFFORDS, Mr. RAILSBACK, Mr. DERWINSKI, Mr. HANLEY, Mr. DUNCAN of Oregon, Mr. LAGOMARSINO, Mr. BEVILL, Mr. RICHMOND, Mr. RANGEL, Mr. LEVITAS, Mr. DOWNEY, and Mr. O'BRIEN):

H.R. 14317. A bill to establish a congressional award program for the purpose of recognizing excellence and leadership among young people; to the Committee on Education and Labor.

By Mr. WAMPLER (for himself, Mr. GRASSLEY, and Mr. LEACH):

H.R. 14318. A bill to regulate, through the Secretary of Agriculture, the production, sale, and shipment of animal biological products, and to repeal the act of March 4, 1913; to the Committee on Agriculture.

By Mr. ASHBROOK:

H.J. Res. 1167. Joint resolution authorizing the President to proclaim the month of November 1978 as "National REACT Month"; to the Committee on Post Office and Civil Service.

By Mr. HILLIS:

H.J. Res. 1168. Joint resolution proposing as amendment to the Constitution of the United States to provide a 6-year terms for President and for Vice President and a 3-year term for Representatives and to limit the total number of years for which Senators and Representatives may serve; to the Committee on the Judiciary.

By Mr. CLEVELAND (for himself, Mr. D'AMOURS, Mr. CHAPPELL, Mr. FORSYTHE, Mr. HEFNER, Mr. MCDONALD, Mr. QUAYLE, Mr. CHARLES WILSON of Texas and Mr. YOUNG of Missouri):

H. Con. Res. 744. Concurrent resolution expressing the sense of Congress that all remaining proceedings with respect to the Seabrook Nuclear Station project should be expedited and that all licensing and permitting procedures for the construction and operation of nuclear generating stations should be reviewed and modified to improve the efficiency of such procedures; to the Committee on Interior and Insular Affairs.

By Mr. GINN:

H. Con. Res. 745. Concurrent resolution expressing the sense of Congress on the proposed revenues procedure of the Internal Revenue Service relating to private tax-exempt schools; to the Committee on Ways and Means.

By Mr. SATTERFIELD:

H. Con. Res. 746. Concurrent resolution expressing the sense of Congress with respect to the Internal Revenue Service's proposed revenue procedure on private tax-exempt schools; to the Committee on Ways and Means.

By Mr. THOMPSON:

H. Con. Res. 747. Concurrent resolution to establish a children's day care center for the employees of Capitol Hill; to the Committee on House Administration.

By Mr. HANSEN (for himself, Mr. JOHN T. MYERS, Mr. CRANE, Mr. ICHORD, Mr. DORNAN, Mr. GOODLING, Mr. BEVILL, Mr. CUNNINGHAM, Mr. GUYER, Mr. CHAPPELL, Mr. FRENZEL, Mr. BADHAM, Mr. COLLINS of Texas, Mr. ROBINSON, Mr. SYMMS, Mr. HAGEDORN, Mr. MCDONALD, Mr. EMERY, Mr. LAGOMARSINO, Mr. GOLDWATER, and Mr. HALL):

H. Con. Res. 748. Concurrent resolution to uphold the separation of powers between the executive and legislative branches of Government in the termination of treaties; to the Committee on International Relations.

By Mr. BOLLING:

H. Res. 1427. Resolution providing for the consideration en bloc of the conference reports on the bills H.R. 4018, H.R. 5146, H.R. 5037, H.R. 5289, and H.R. 5263; to the Committee on Rules.

By Mrs. SCHROEDER (for herself, Mr. UDALL, Mr. BEDELL, Mr. BRODHEAD, Mrs. BURKE of California, Mr. CARR, Mr. DELLUMS, Mr. DRINAN, Mr. EDGAR, Mr. EDWARDS of California, Mr. EILBERG, Mr. FASCELL, Mr. FISHER, Mr. Mr. FRASER, Mr. GEPHARDT, Mr. LEHMAN, Mr. MCHUGH, Mr. MARKEY, Mr. MIKVA, Mr. MITCHELL of Maryland, Mr. MOFFETT, Mr. NEAL, Mr. OTTINGER, Mr. PANETTA, and Mr. PATTISON of New York):

H. Res. 1428. Resolution to implement clause 9 of rule XLIII and clause 6(a)(3)(A) of rule XI of the Rules of the House of Representatives, relating to employment practices; jointly to the Committees on House Administration, and Rules.

By Mrs. SCHROEDER (for herself, Mr. UDALL, Mr. RANGEL, Mr. REUSS, Mr. SEIBERLING, Mr. SIMON, Mr. STEERS, Mr. TSONGAS, Mr. VENTO, and Mr. WEAVER):

H. Res. 1429. Resolution to implement clause 9 of rule XLIII and clause 6(a)(3)(A) of rule XI of the Rules of the House of Representatives, relating to employment practices; jointly, to the Committees on House Administration, and Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. WALGREN introduced a bill (H.R. 14319) to waive the statute of limitations with regard to the tort claim of Eazor Express, Inc. of Pittsburgh, Pa., against the United States, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

The SPEAKER presented a petition of the National Tay-Sachs and Allied Diseases Association, Inc., New York, N.Y., relative to the Genetic Diseases Act, which was referred to the Committee on Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 11274

By Mr. COUGHLIN:

—Page 10, after line 17, insert the following new section (and redesignate the succeeding sections accordingly):

SEC. 2. (a) Section 411(a)(1) of the Higher Education Act of 1965 (hereinafter in this Act referred to as the "Act") is amended by inserting before the period at the end thereof the following: ", except that the amount of such grant shall not be less than $250 for any student whose annual adjusted family income (determined in accordance with regulations prescribed by the Commissioner) does not exceed $30,000".

(b) Section 411(a)(2)(B)(ii) of the Act is amended to read as follows:

"(ii) No basic grant under this subpart shall exceed whichever is the greater of—

"(I) the difference between the expected family contribution for a student and the actual cost of attendance at the institution at which that student is in attendance, or

"(II) $250.

If with respect to any student, it is determined that the amount of a basic grant plus the amount of the expected family contribution for that student exceeds the actual cost of attendance for that year, the amount of the basic grant shall be reduced until the combination of expected family contribution and the amount of the basic grant does not exceed the actual cost of attendance, except that any reduction required by this paragraph shall not reduce the amount of any basic grant to less than $250: *Provided*, That, in the case of a single independent student with no dependents, no basic grant under this subpart shall exceed the difference between the expected family contribution for a student and the actual cost of attendance at the institution at which that student is in attendance. If with respect to such single independent student, it is determined that the basic grant shall be reduced until the combination of expected family contribution and the amount of the basic grant does not exceed the actual cost of attendance at such an institution.".

—Page 10, on line 18, insert "(1)" after "(a),".

Page 10, on line 22, insert "(I)" after "(iv)"

Page 11, insert the following after line 1:

"(II) For any academic year after academic year 1978–79 for which funds available for payments under this subpart are not sufficient to satisfy fully all entitlements under this subpart determined in accordance with subdivision (I), an assessment rate of 11.5 per centum shall be applied to such income.".

(2) Section 411(b)(3)(B)(i) of the Act is amended by inserting "determined on the basis of the assessment rate specified in subsection (a)(3)(B)(iv)(II)" immediately after "under this subpart".

—Page 15, after line 21 insert the following:

SEC. 5. (a)(1) Section 425(a)(1) of the Act is amended by striking out "$2,500" and inserting in lieu thereof "$3,000" and by striking out "$5,000" and inserting in lieu thereof "$5,500".

(2) Section 425(b)(2) of the Act is amended by striking out "$7,500" and inserting in lieu thereof "$9,000" and by striking out "$15,000" and inserting in lieu thereof "$16,500".

(3) Section 428(b)(1)(A) of the Act is amended by striking out "$2,500" and inserting in lieu thereof "$3,000" and by striking out "$5,500" and inserting in lieu thereof "$5,500".

(4) Section 428(b)(1)(B) of the Act is amended by striking out "$7,500" and inserting in lieu thereof "$9,000" and by striking out "$15,000" and inserting in lieu thereof "$16,500".

And redesignate the following sections accordingly.

—Page 16, strike line 11 through 25 and insert in lieu thereof the following:

(c)(1) Section 423(2)(B) of the Act is amended to read as follows:

"(B) For the purposes of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if such student's adjusted family income at the time of execution of the note or written agreement evidencing such loan—

"(i) is less than $40,000, or

"(ii) is equal to or greater than $40,000 and the eligible institution has provided the lender with a statement evidencing a determination of need and recommending a loan in the amount of such need.

The Commissioner shall by June 30 of each year adjust the income level which determines eligibility for interest subsidies by an amount equal to the percentage increase in the Consumer Price Index as published by the Secretary of Commerce for the preceding calendar year, rounded off to the nearest $100 amount.".

—Page 20, after line 15 insert the following:

SEC. . The provisions of section 2 of this Act shall not be effective for any fiscal year in which a credit for taxes paid under section 45 of subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 is permitted.

H.R. 12299

By Mr. ASHBROOK:

—Page 1, beginning with line 6, strike out everything through line 2 on page 6, and renumber the remaining sections accordingly.

Strike out "the Council" each time it appears in the bill and insert in lieu thereof "the Secretary".

Page 13, lines 5 and 6, strike out "Proposed regulations shall be subject to the approval of the Council.".

Page 13, strike out lines 9, 10, and 11 and insert:

"(1) the term 'Secretary' means the Secretary of Health, Education, Welfare;".

Page 13, strike out lines 15 and 16 and renumber the remaining paragraphs of the section accordingly.

Amend the title of the bill to read as follows: "To provide grants for the assistance of victims of domestic violence and for training programs, and for other purposes."

—Page 4, line 9, strike out "five" and insert in lieu thereof "three"; in line 14 strike out "and"; in line 15 strike out "(B)" and insert in lieu thereof "(C)" and after line 14 insert:

"(B) two individuals, one of whom shall be an Attorney General of a State, and one of whom shall be a local police officer; and".

—Page 5, line 21, strike out "Council" and insert in lieu thereof "Secretary".

Page 6, line 4, strike out "make grants" and insert in lieu thereof "make recommendations to the Secretary with respect to grants made".

Page 8, line 6, strike out "Council" and insert in lieu thereof "Secretary".

Page 10, line 8, strike out "make grants" and insert in lieu thereof "make recommendations to the Secretary with respect to grants made".

Page 11, lines 16 and 24, strike out "Council" and insert in lieu thereof "Secretary".

Page 12, line 7, strike out "Council" and insert in lieu thereof "Secretary".

—Page 6, line 12, after the word "years." insert the following:

"No funds received by a sponsor agency under this section may be used for—

"(1) any administrative costs arising in connection with any program carried out by such agency under the grant or contract involved; or

"(2) the purchase or leasing of any supplies, other than materials, tools, and supplies.

—Page 6, line 5, strike out "for" and insert in lieu thereof "to provide not more than 50 percent of the cost of".

Page 6, line 12, after the word "years", insert the following:

"The non-Federal contribution to the cost of any volunteer program carried out under this title shall be in cash. The Secretary may not waive in whole or in part any matching local contribution."

—Page 6, line 5, strike out "for" and insert in lieu thereof "to provide not more than 75 percent of the cost of".

Page 6, line 12, after the word "years", insert the following:

"The non-Federal contribution to the cost of any volunteer program carried out under this title shall be in cash. The Secretary may not waive in whole or in part any matching local contribution."

—Page 6, line 5, strike out "for" and insert in lieu thereof "to provide not more than 90 percent of the cost of".

Page 6, line 12, after the word "years", insert the following:

"The non-Federal contribution to the cost of any volunteer program carried out under this title shall be in cash. The Secretary may not waive in whole or in part any matching local contribution."

—Page 10, line 19, after "(2)" insert "the grant will be used only in accordance with".

—Page 11, strike out lines 4, 5, 6, and 7 and renumber the remaining clauses of subsection (c) accordingly.

—Page 11, line 18, before the semicolon insert "prepared by a certified public accountant".

—Page 12, line 16, strike out "approved by the Council" and insert in lieu thereof "reviewed by the Council and approved by the Secretary".

—Page 13, beginning on line 5, strike out "Proposed regulations shall be subject to the approval of the Council.".

—Page 13, line 13, after "tribe" insert ", private organization organized for profit,".

—Page 14, line 12, strike out "$15,000,000" and insert in lieu thereof "$10,000,000", and insert a period after "1979" and strike out everything that follows through line 14.

—Page 14, line 15, insert the following:

(b) No funds appropriated pursuant to this Act for any fiscal year shall be available for use by the Secretary in administering the provisions of this Act.

—Page 14, line 19, strike out "20 per centum" and insert in lieu thereof "10 per centum".

—Page 14, lines 12 and 13, strike out "$15,000,000", "$20,000,000", and "$30,000,000" and insert in lieu thereof, respectively, '$5,000,000", "$7,500,000", and "$10,000,000".

—Page 14, line 4, after "Guam," insert "American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands,".

—Page 14, after line 21, insert the following new section:

"DURATION OF GRANTS AND CONTRACTS

"SEC. 12. (a) Any grant or contract made by the Secretary under section—shall have a duration of not more than 1 year. The Secretary shall review each such grant or contract before its expiration and the Secretary shall have the authority to extend a grant or contract at the end of such 1-year period if the Secretary determines that such extension will further the purpose of this title.

"(b) The Secretary shall not have any authority to delegate the review of grants and contracts required in subsection (a) to any other officer or employee of the Department of Health, Education, and Welfare."

—Page 14 after line 21, insert the following new section:

"SEC. 12. The provisions of this Act are repealed effective at the close of September 30, 1979."

—Page 14, after line 21, insert the following section:

"SEC. 12. (1) The Secretary shall transmit to each House of the Congress any regulation prescribed by the Secretary.

"(2) Any regulation prescribed by the Secretary under paragraph (1) shall not be effective unless, during the first period of 60 calendar days of continuous session of the Congress after the date of transmittal to the Congress, both Houses of the Congress pass a concurrent resolution the matter after the resolving clause of which reads as follows: 'The Congress hereby approves the proposed regulation transmitted by the Secretary of Health, Education and Welfare to the Congress , 19__.'

"(B) For purposes of this paragraph—

"(i) continuity of session of the Congress

is broken only by an adjournment sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

—Page 14, after line 21, insert the following new section:

"POLITICAL ACTIVITIES

"SEC. 12. (a) No part of any funds appropriated to carry out this title shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office or any voter registration activity, or to pay the salary of any officer or employee who, in his official capacity as such an officer or employee, engages in any such activity.

"(b) For purposes of this section, the terms 'election' and 'Federal office' have the meanings given them in section 301 of the Federal Election Campaign Act of 1971.

—Page 14, after line 21, insert the following new section:

"REPAYMENT OF FEDERAL FUNDS

"SEC. 12. Whenever the Secretary, after giving reasonable notice and opportunity for hearing to any sponsor agency, finds that the project for which a grant or contract was received no longer complies with the provisions of this title, or with the relevant application as approved by the Secretary, the Secretary shall notify such sponsor agency of such findings and shall require such sponsor agency to make repayments to the Secretary in amounts equal to the amount of financial assistance provided to the sponsor agency for such project under this title. The Secretary may authorize the continuance of payments with respect to any project pursuant to this title which is being carried out by such sponsor agency and which is not involved in the noncompliance.

—page 14, after line 21, insert the following new section:

"CONGRESSIONAL REVIEW OF REGULATIONS

"SEC. 12. (a) Any regulation or guideline prescribed by the Secretary under this title shall be submitted to each House of the Congress not later than 120 days before such regulation or guideline is scheduled to take effect. No such regulation or guideline may take effect unless it is approved by both Houses of the Congress in accordance with subsection (b).

"(b)(1) Any regulation or guideline prescribed by the Director under this title shall not be effective unless, during the first period of 60 calendar days of continuous session of the Congress after the date of transmittal to the Congress, both Houses of the Congress pass a concurrent resolution the matter after the resolving clause of which reads as follows: 'The Congress hereby approves the proposed transmitted by the Secretary of Health, Education, and Welfare to the Congress on , 19 .'

"(2) For purposes of this subsection—

"(A) continuity of session of the Congress is broken only by an adjournment sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

—Page 14, after line 21, insert the following new section:

"PROHIBITION OF CERTAIN ACTIVITIES

"SEC. 12. Each sponsor agency shall provide assurances to the Secretary of Health, Education, and Welfare that no employee of such agency, and no person participating in any project under this title under the direction of such agency, while carrying out any activities under this title, shall engage in, or encourage others to engage in—

"(1) any rioting or civil disturbance;

"(2) any activity which is in violation of any outstanding injunction of any court of competent jurisdiction; or

"(3) any other illegal activity.

—Page 14, after line 21, insert the following new section:

"PROGRAM PLAN

"SEC. 12. (a) The Secretary shall prepare and publish in the Federal Register a program plan designed to implement the provisions of this title. The Secretary shall transmit such program plan to each House of the Congress for review under subsection (b) after such publication of the program plan in the Federal Register. The Secretary may not make any grants or enter into any contracts under section 12 until such program plan has taken effect in accordance with the provisions of this section.

"(b)(1) The program plan prepared by the Secretary under subsection (a) shall not be effective if, during the first period of 90 calendar days of continuous session of the Congress after the date of transmittal to the Congress, either House of the Congress adopts a resolution the matter after the resolving clause of which reads as follows: 'The proposed program plan transmitted by the Secretary of Health, Education, and Welfare to the Congress on September 1, 1979, is hereby disapproved.'

"(2) For purposes of this subsection—

"(A) continuity of session of the Congress is broken only by an adjournment sine dine; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

—Page 14, after line 21, insert the following new section:

REVIEW OF PERSONNEL ACTIONS

SEC. 12. (a) The United States Civil Service Commission (hereinafter in this section referred to as the "Commission") shall carry out a comprehensive review of personnel actions taken by the Secretary of Health, Education, and Welfare and by any other officer or employee of the Agency, during the 2-year period immediately before the date of the enactment of this Act. The purpose of such review shall be to determine whether any violation of Federal law relating to the competitive service occurred in connection with any such personnel action.

(b) The Commission shall report its findings to each House of the Congress as soon as practicable after completion of the review required in subsection (a).

—Page 14, after line 21, insert the following new section:

AUDIT OF PROGRAMS

SEC. 12. (a) The Comptroller General of the United States (hereinafter in this section referred to as the "Comptroller General") shall carry out a comprehensive audit of each program administered by the Department of Health, Education, and Welfare on the date of the enactment of this Act. The purpose of each such audit shall be to determine whether any recipient of grants, subgrants, contracts, subcontracts, or loans under any Act has engaged in any misuse of Federal financial assistance.

(b) The Comptroller General shall submit a report to each House of the Congress with respect to each audit carried out by the Comptroller General under subsection (a) as soon as practicable after the completion of such audit.

—Page 14, after line 21, insert the following new section:

And redesignate the following sections and references to sections accordingly:

POLITICAL ACTIVITIES

SEC. 12. Any recipient of Federal financial assistance under this Act may not use funds from any source for any purpose described in the preceding sentence during the period for which such Federal financial assistance is available for use by such recipient.

—Page 14, after line 21, insert the following new section:

"SEC. 12. If the Secretary determines that any recipient of funds under this Act has used such funds, or has permitted the use of such funds, for any activity prohibited in paragraph (1), then the Secretary shall terminate payments to such recipient under the grant or contract involved in accordance with the provisions of section.".

—Page 14, after line 21, insert the following new section:

"REDUCTION OF PAPERWORK

"SEC. 12. In order to reduce unnecessary, duplicative, or disruptive demands for information, the Secretary in consultation with other appropriate agencies and organizations, shall continually review and evaluate all requests for information made under this Act and take such action as may be necessary to reduce the paperwork required under this Act. The Secretary shall request only such information as the Secretary deems essential to carry out the purposes and provisions of this Act.".

—Page 14, after line 21, insert the following new section:

"TERMINATION OF PROJECTS

"SEC. 12. The Secretary shall not renew any contract or grant to carry out any project under this Act upon the expiration of such contract or grant if the chief executive officer of the State in which such project is being carried out, or the chief elected official or the governing body of the unit of general local government (in any case in which there is no chief elected official) of the locality in which such project is being carried out, furnishes written notice to the Secretary (before the expiration of such contract or grant) specifying that such officer, official, or governing body, as the case may be, does not concur in the renewal of such contract or grant.".

—Page 14, after line 21, insert the following new section:

SEC. 12. The Secretary shall not have any authority to employ experts or consultants, or organizations thereof, in connection with carrying out the provisions of this Act.

—Page 14, after line 21, insert the following new section:

"ANNUAL REPORTS

"SEC. 12. The Secretary shall submit a report regarding the administration of this title to the President and to the Congress as soon as practicable after the end of each fiscal year. Each such report shall—

"(1) include a detail statement of activities carried out under each grant or contract made by the Secretary during the fiscal year involved; and

"(2) list the name and address of each person receiving a grant from, or entering into a contract with, the Secretary during such fiscal year.

—Page 14, after line 21, insert the following new section:

SEC. 12. The Secretary, in awarding grants to sponsor agencies in a State for any fiscal year, shall require that 50 percent of the funds made available under such grants shall be used for programs in rural areas of such State.

H.R. 12442

By Mr. LEVITAS:

—Page 15, immediately after line 6, insert the following new section:

SEC. 9. (a) Section 9 of the Consumer Product Safety Act (15 U.S.C. 2058) is amended by adding at the end thereof the following new subsection:

"(f)(1) Notwithstanding any other provision of this or any other Act, the Commission shall, simultaneously with promulgation by the Commission of any rule under this or any other Act, transmit a copy of such rule to the President of the Senate and the Speaker of the House of Representatives. The rule shall not become effective if—

"(A) within 90 calendar days of continuous session of Congress after the date of transmittal, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That the Congress disapproves the rule promulgated by the Consumer Product Safety Commission dealing with the matter of , which rule was transmitted to the Congress on .', the blank spaces therein being appropriately filled; or

"(B) within 60 calendar days of continuous session of Congress after the date of transmittal, one House of Congress adopts such a concurrent resolution and such resolution is not disapproved by the other House of Congress within 30 calendar days of continuous session of Congress after it is received by such other House.

"(2) If, at the end of 60 calendar days of continuous session of Congress after the date of transmittal of a rule to the Congress pursuant to paragraph (1), no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule and neither House has adopted such a resolution, then thereafter the rule may take effect and may not be disapproved under paragraph (1)(A). If, within such 60-day period, such a committee has reported or been discharged from further consideration of such a resolution or either House has adopted such a resolution, the rule may not take effect sooner than 90 calendar days of continuous session of Congress after its transmittal to the Congress and may not take effect then if it has been disapproved under paragraph (1)(A).

"(3) For purposes of this subsection—

"(A) in determining periods of continuous session of Congress—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress; and

"(B) the term 'rule' means any rule which the Commission is authorized to promulgate under this Act and any regulation, standard, or amendment thereto which the Commission is authorized to promulgate under any other Act, but does not include any such rule, regulation, standard, or amendment thereto which the Commission for good shown determnies should in the public interest have an earlier effective date than would be possible if such rule, regulation, standard, or amendment thereto were transmitted to the Congress for review under this subsection.

"(4) Any reference to date of issuance of promulgation of a rule by the Commission in any provision of any other Act which provides a specified period of time beginning on such date during which a petition may be filed for judicial review of such rule shall be deemed to be a reference to the earliest date on which such rule may take effect under this subsection.

"(5) Congressional inaction on or rejection of a resolution of disapproval regarding any rule promulgated by the Commission shall not be deemed an expression of approval of such rule.".

(b)(1) Section 9(d)(1) of such Act (15 U.S.C. 2058(d)(1)) is amended—

(A) in the first sentence by striking out "date promulgated" and inserting in lieu thereof "earliest date on which such rule may take effect under section 9(f)"; and

(B) in the second sentence by striking out "date of promulgation" and inserting in lieu thereof "earliest date on which such rule may take effect under section 9(f)".

(2) Section 11(a) of such Act (15 U.S.C. 2060(a)) is amended by striking out "Not later than 60 days after a consumer product safety rule is promulgated by the Commission," and inserting in lieu thereof "During the 60-day period beginning on the earliest date on which a consumer product safety rule promulgated by the Commission may take effect under section 9(f),".

(c) The amendments made by this section shall apply with respect to rules promulgated after the date of enactment of this section.

—Page 15, immediately after line 6, insert the following new section:

SEC. 9. (a) The Consumer Product Safety Act is amended by adding at the end thereof the following new section:

"ECONOMIC IMPACT ANALYSIS

"SEC. 36. (a) In any notice with respect to a proposed rule which it publishes in the Federal Register, the Commission shall include a detailed statement describing the economic impact of the proposed rule. Each such statement shall include, but not be limited to, an analysis of—

"(1) the cost impact of the proposed rule on consumers, producers, and distributors of the item which would be subject to the rule;

"(2) the direct and indirect costs of compliance with the proposed rule for persons who would be required to comply with the rule;

"(3) the cost to the Commission of implementing, monitoring compliance with, and enforcing the proposed rule;

"(4) the effect of the proposed rule on employment;

"(5) the fiscal effects of any increase in unemployment which is anticipated as a result of the proposed rule;

"(6) any unavoidable adverse economic impacts that the proposed rule would cause; and

"(7) alternatives to the proposed rule which the Commission considered, including an explanation of why those alternatives were not proposed.

"(b) As used in this section, the term 'rule' means any rule which is proposed by the Commission under this Act and any standard, regulation, or amendment thereto which is proposed by the Commission under any other Act.".

(b) The table of contents contained in section 1 of the Consumer Product Safety Act is amended by inserting the following new items immediately after the item relating to section 34:

"Sec. 35. Interim cellulose insulation safety standard.

"Sec. 36. Economic impact analysis.".

H.R. 13778

By Mr. BAUCUS:

(Amendment to the Brooks amendment in the nature of a substitute.)

—Page 8, after line 9, insert the following new subsection:

(c) The Secretary shall provide a unified approach to rural family education through the coordination of programs within the Department and shall work with the Federal Interagency Committee on Education to coordinate related activities and programs of other Federal departments and agencies.

—At the end of matter proposed to be inserted by the amendment, add the following new subsection:

(c) The Secretary, through the Director of the Office created by this section, shall also provide a unified approach to rural family education through the coordination of programs within the Department and shall work with the Federal Interagency Committee on Education to coordinate related activities and programs of other Federal departments and agencies. Such Director shall perform such duties and exercise such powers as the Secretary may prescribe.

H.R. 13778

By Mr. ERLENBORN:

(Amendment in the nature of a substitute offered by Mr. BROOKS.)

—On page 1, amend the title to read: "To establish a Department of Public Education and Youth, and for other purposes."

On each of the following pages, where designated, between the words "of" and "Education" insert "Public", and after the word "Education" add "and Youth":

Page 1, line 5; page 3, line 4; page 4, line 24; page 5, line 24; page 40, line 22; page 41, line 14; page 41, line 19; page 42, line 10; page 42, line 21; page 43, line 1.

On page 1, amend the title to read: "To establish a Department of Public Education, and for other purposes."

On each of the following pages, where designated, between the words "of" and "Education" insert "Public":

Page 1, line 5; page 3, line 4; page 4, line 24; page 5, line 24; page 40, line 22; page 41, line 14; page 41, line 19; page 42, line 10; page 42, line 21; page 43, line 1.

—Page 34, line 10, insert the following new section and amend the table of contents accordingly:

"PROHIBITION OF FUNDING

"SEC. 439. No funds may be provided by the Secretary or the Department to any institution or public or private agency which provides abortion counseling or services to its employees or students either directly or through contractual arrangements, including the provision of health insurance.

—Page 36, line 3, add the following new section and redesignate the following sections accordingly:

"LIMITATIONAL ON APPROPRIATIONS

"SEC. 503. Appropriations to operate programs in the Department for any fiscal year may not be more than the amounts made available to the department in the previous fiscal year plus an amount equal to 125 per centum of the increase in the Consumer Price Index for the previous calendar year."

And amend the table of contents.

—Page 40, strike subsection (c), lines 23 through 25, and redesignate the following sections accordingly.

The amendment removes the provision of the Act which increases the government-wide pool of supergrades from 3301 to 3365 thereby requiring that the new positions in the department at the GS–16 to GS–18 levels be taken from existing resources.

—Page 44, strike lines 6 and 7 and insert the following:

"SEC. 601. The provisions of this Act shall take effect upon the enactment of legislation to codify Title 20 of the United States Code."

—Page 44, strike lines 6 and 7 and insert the following:

"SEC. 601. The provisions of this Act shall take effect on October 1 of any fiscal year in which projected revenues and outlays for the Federal government are in balance."

H.R. 14104

By Mr. JEFFORDS:

—Page 19, line 8, insert ", which shall take effect as provided in paragraph (2)," after "order".

Page 19, line 14, insert after the period the following: "The Committee shall transmit the order (bearing an identification number) to the Congress.".

Page 19, after line 14, insert the following:

"(2)(A) An order issued under paragraph (1) shall take effect at the end of the first period of 60 calendar days of continuous session of Congress after the date on which the order is transmitted to the Congress unless, between the date of transmittal and the

end of the 60-day period, either House passes a resolution stating in substance that the House does not favor such order.

"(B) For the purpose of subparagraph (A) of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

"(C) Under provisions contained in an order, a provision of the order may be effective at a time later than the date on which the order otherwise is effective or, if both Houses of Congress have defeated a resolution of disapproval, may be effective at a time earlier than the expiration of the 60-day period required by subparagraph (A).

"(D) An order which is effective shall be printed (i) in the Statutes at Large in the same volume as the public laws and (ii) in the Federal Register.

"(E) A statute enacted, and a regulation prescribed before the effective date of an order issued under this subsection has the same effect as if the order had not been issued.

"(F) This paragraph (other than subparagraph (A)) is enacted by Congress—

"(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deeemd a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described in subparagraph (G), and it supersedes other rules only to the extent that it is consistent therewith; and

"(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(G) For the purpose of this subsection, 'resolution' means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: 'That the does not favor the order numbered transmitted to Congress by the Endangered Species Committee on , 19 , the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled.

"(H) A resolution with respect to an order issued under paragraph (1) shall be referred to a committee (and all resolutions with respect to the same order shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(I) (i) If the committee to which a resolution with respect to an order has been referred has not reported it at the end of 45 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the order which has been referred to the committee.

"(ii) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same order), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(iii) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same order.

"(iv) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an order, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

"(v) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order.

"(vi) Immediately following the conclusion of the debate on the resolution with respect to an order, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final approval of the resolution shall occur.".

Page 19, line 15, strike out "(2)" and insert in lieu thereof "(3)".

S. 666

By Mr. JONES of Oklahoma:

—Page 14, after line 25 insert the following new subsection:

(e) (1) Any employee specified in paragraph (2) shall be treated in the same manner as a preference eligible under section 2108(3)(A) of title 5, United States Code, for purposes of obtaining an appointment in the competitive service. The treatment of any such employe as a preference eligible under this paragraph shall terminate—

(A) upon such employee's appointment to a position in the competitive service that is not time limited, or

(B) at the end of the five year period beginning on the date of the enactment of this Act, whichever first occurs.

(2) An employee shall be treated as a preference eligible under paragraph (1) if such employee—

(A) has been continuously employed in the Bureau of Indian Affairs, the Indian Health Service, a tribal organization (to the extent provided in section 8336(g)(2) of title 5, United States Code, as added by the first section of this Act), or any combination thereof, during the period beginning on June 17, 1974, and ending on the date of the enactment of this Act;

(B) is not entitled to preference under the Indian preference laws, or entitled to receive lands and benefits under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.; 85 Stat. 688); and

(C) is unable to qualify for an annuity under section 8336(g)(1) of title 5, United States Code (as added by the first section of this Act) because of a failure to meet the requirements of subparagraph (A) of such section and will be unable for such reason to qualify for an annuity under such section at any date occurring before January 1, 1986.

Page 15, strike out line 1 and insert the following:

(f) (1) The Civil Service Commission shall promulgate regulations to carry out subsection (e) and shall provide all other

Page 15, line 14, strike out "(f)" and insert in lieu thereof "(g)".

SENATE—Friday, October 13, 1978

(Legislative day of Wednesday, October 11, 1978)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

Mr. DECONCINI. The Honorable ORRIN G. HATCH, a bishop in the Church of Jesus Christ of Latter-day Saints, will lead us in prayer today.

PRAYER

The Honorable ORRIN G. HATCH, a Senator from the State of Utah, offered the following prayer:

Our Father in Heaven, we pray to Thee as we begin our duties this day. We are grateful for this great land and the freedoms we have under this constitutional form of government. We are grateful to be here to have the opportunity to do what is right for this country. We pray for Thy spirit to be with us this day and to guide us that we may put our country first and to do the things that are best for the people.

Imbue us with decency, integrity, and strength that we might be able to fulfill our noble cause as Senators in the U.S. Senate. We pray for blessings on our leadership, blessing on the President of our country, on his Cabinet, and on all those who are serving the people of our Nation.

We do this in the name of Jesus Christ. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 13, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

OFFERING OF PRAYER BY SENATOR HATCH

Mr. ROBERT C. BYRD. Mr. President, I compliment the distinguished Senator from Utah (Mr. HATCH) on his excellent prayer this morning in opening the Senate.

Mr. HATCH. I thank the majority leader.

LEGISLATIVE ACHIEVEMENTS—95TH CONGRESS

Mr. ROBERT C. BYRD. Mr. President, the 95th Congress faced many challenges, both domestic and international, when it convened January 4, 1977. It fully embraced its responsibility to meet these challenges and achieved solutions to some of the most complex issues of modern times.

The 95th Congress began with a newly elected President who presented us with a massive agenda at a time when the economy was faltering. Through the combined efforts of the Congress and the President, the economy made a major recovery and a comprehensive national energy program is close to enactment.

The energy package, which is a key element in the effort to stabilize the Nation's economy, consists of five components of immense complexity which seek to increase our domestic supplies of energy through fairer pricing policies, while reducing our dependence on foreign oil imports and cutting our consumption of energy through conservation and fuel efficiency. The energy package which is close to enactment embodies:

A program that will update the present antiquated natural gas policy with a system of pricing that will not gouge the American consumer but will stimulate exploration and production of domestic energy supplies;

A program that will require major industries to burn more available domestic coal instead of oil and gas;

A program that will exhort public utility companies to use pricing methods which encourage energy conservation by consumers both large and small; and

A program that will reward individuals and corporations through tax credits and incentives for conserving energy and for increasing production, exploration, and development of new energy sources.

For the past 10 months, Senate and House conferees have worked arduously to arrive at provisions which would be acceptable to Members of both Houses. The Nation owes a special debt of gratitude to Senator JACKSON who led a relentless battle to reach agreement among conferees on natural gas policy.

The Senate has now given its final approval to an overhaul of natural gas pricing policy, industrial coal conversion, mandatory and voluntary conservation, and public utility rate conservation measures. Approval of the energy taxation component will mark the culmination of the work of this Congress, as well as several previous Congresses, and will ready for enactment the first comprehensive energy policy in history which will serve the Nation into the next decade.

The Congress has long recognized the need for improved laws to deal with energy problems. Since 1969, it has enacted over 100 energy-related pieces of legislation. These laws cover subjects ranging from geothermal steam research to oil allocation authority and have led the way to the enactment this year of a national energy policy.

In this Congress alone, almost 40 energy-related bills have been enacted. The 95th Congress was not yet a month old when it sent the President the Emergency Natural Gas Act of 1977 authorizing him to allocate gas supplies to alleviate an emergency gas shortage.

By May of 1977, the Senate had passed the cornerstone of the President's energy package, the creation of a Department of Energy, through which a national energy policy would be implemented. During the fall, both Houses completed consideration of the five major energy proposals and sent them to conference. The Congress enacted strip mining legislation which had been vetoed three times by Republican Presidents. New clean water and clean air programs became law. Congress increased appropriations for continued research and development of alternative energy resources and adopted a treaty paving the way for a trans-Alaska natural gas pipeline.

During the second session, while Senate and House conferees for the major energy bills continued to seek resolutions to differing provisions of this very complex and controversial legislation, the Congress authorized loans and loan guarantees to small businesses to stimulate the marketing of solar technologies and other energy conserving products.

It required the Defense Department to incorporate solar energy systems in all new military family housing and in at least 25 of all other military facilities under design. We wrote into law an Outer Continental Shelf Act setting forth a national policy for the development of oil and gas resources offshore. This act, representing 5 years of effort by the Congress in opposition to previous administrations, strikes a needed balance between oil and gas development and potentially adverse economic, social and environmental impacts from offshore activities.

Aside from the landmark achievement in energy, the 95th Congress met the challenge of a weakened national economy by enacting during the first session the President's $21 billion economic stimulus package that cut taxes for 46 million Americans and created over a million jobs. This year, the Congress has played a leading role in combating inflation by restraining Federal spending and controlling the Federal deficit. In setting 1979 budget levels, the Congress reduced the President's budget ceiling on the future cost of the Government as he proposed in January by over $12 billion and his projected Federal budget deficit by $22 billion. In considering the 1979 appropriations for the functioning of the various operations of the Federal Government, the Congress made reductions of over $10 billion which include percentage cuts as large as 12 percent for foreign operations and almost 10 percent of the Department of Interior. The Senate has passed a $29.3 billion tax cut for Americans which is designed, in part, to offset the impact of inflation on the overburdened taxpayer by cutting 11 percent from the average tax bill.

In a desire to improve the efficiency and responsiveness of the Federal Government, the 95th Congress enacted numerous innovations. It expeditiously approved extension of the President's authority to reorganize Federal agencies and, since then, has approved six reorganization plans submitted by the President. The first overhaul of the civil service system in nearly a century has been enacted to allow greater flexibility in firing incompetent bureaucrats and in rewarding superior workers. The Congress has cleared legislation to require Federal agencies to increase their use of part-time and flexi-time employment as a means of opening up employment opportunities in the Government for the elderly, handicapped, women, and others with family responsibilities. Just yesterday, the Congress sent the President legislation requiring detailed financial disclosure of top officials not only within the legislative branch but in the executive and judicial branches of the Government. Both Houses of Congress have adopted stiff codes of ethics for its Members and employees. The Senate made wide-sweeping and very meaningful changes to its committee structure which have improved the effectiveness and efficiency of this body.

In the field of international affairs, the Senate advised and supported the President in three controversial initiatives, despite political pressures. The extensive consideration the Senate gave the Panama Canal treaties resulted in essential clarification of the American right to defend the canal and to have priority

passage through the canal in an emergency. Senate approval of the ratification of these treaties, which had been under negotiation for 14 years, was clearly in the best interest of the United States although it took extraordinary courage for many Senators to support them. The action of the Senate on these treaties will have great symbolic significance for our future relations with the developing countries of Latin America and throughout the world.

The Senate's support of the President's Mideast arms sales to Egypt, Israel, and Saudi Arabia was instrumental, I believe, in evoking the high level of cooperation displayed by Egypt at the Camp David peace effort. The lifting of the embargo on U.S. arms to Turkey as proposed by the administration was amended by the Senate to condition its lifting on Presidential certification that such action would support a solution of the Cyprus issue. This action will hopefully hasten a settlement in Cyprus and revitalize U.S.-Turkish relations while strengthening the North American Alliance, of which Turkey is an essential member.

Other major achievements of the 95th Congress must include:

A refinancing of the social security system to make it solvent into the next century for Americans living in retirement now and in the future;

An increase in the minimum wage over the next 4 years to insure low-paid workers a decent living;

An extension of the equal rights amendment ratification date until June 30, 1982;

A proposed amendment to the Constitution granting voting representation in the House and Senate to the District of Columbia;

An increase of 152 new Federal district and circuit judgeships to enable the courts to efficiently and expeditiously handle their caseloads;

Deregulation of airline rates which has already benefitted consumers by reduced airfares; and

Nuclear nonproliferation legislation which will lessen the spread of nuclear materials and technology while improving the framework for international cooperation.

The Congress enacted numerous important reauthorizations and modification of existing programs ranging from aid to education to veterans' pensions. The Senate passed other important legislation, notably a sunset bill requiring systematic review and authorization of Government spending programs at least every 10 years. This process would increase the options for allocating Federal resources to meet changing national needs and could result in enormous savings. The Senate also approved a hospital cost containment bill requiring mandatory controls on hospital cost increases if they cannot be held down by 2 percent in 1978 and 1979.

This impressive record of achievement could not have been possible without the unflagging diligence of all Members of the Senate, who have worked long and hard and can be justifiably proud of their considerable accomplishments. I take this opportunity to thank the assistant majority leader, Senator CRANSTON, for his untiring assistance throughout the past 2 years. I wish to acknowledge my gratitude to the minority leader, Mr. BAKER, and the minority whip, Mr. STEVENS, for their cooperation in expediting the work of the Senate.

A more complete listing of the achievements of the 95th Congress is contained in a report prepared by the staff of the democratic policy committee. I ask unanimous consent that that report and related material be inserted in the RECORD at the conclusion of my remarks.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

ENERGY-RELATED LEGISLATION 1969–1977

(October 13, 1978)

91st Congress (1969–1970) (5):

1. Public Law 91–158, Interstate Oil Compact Commission, 2-Year Extension, S.J. Res. 54.

2. Public Law 91–173, Coal Mine Health and Safety Act of 1969, S. 2917.

3. Public Law 91–245, Oil and Gas Leases, S. 1193.

4. Public Law 91–581, Geothermal Steam Act of 1970, S. 368.

5. Public Law 91–631, National Mines and Minerals Policy Act, S. 719.

92d Congress (1971–1972) (7):

6. Public Law 92–84, Atomic Energy Commission Authorization, 1972, H.R. 9388.

7. Public Law 92–307, Temporary Operating Licenses for Nuclear Powerplants, H.R. 14655.

8. Public Law 92–314, Atomic Energy Commission Appropriations, 1973, S. 3607.

9. Public Law 92–401, Natural Gas Pipeline Safety Act of 1968, H.R. 5065.

10. Public Law 92–500, Federal Water Pollution Control Act Amendments of 1972, S. 2770.

11. Public Law 92–583, Coastal Zone Management Act of 1972, S. 3507.

12. S. Res. 45, to establish the Senate National Fuels and Energy Policy Study Group.

93d Congress (1973–1974) (43):

13. Public Law 93–28, Economic Stabilization Act Amendments of 1973; Voluntary Petroleum Allocation, S. 398.

14. Public Law 93–60, AEC Authorization, S. 1994.

15. Public Law 93–74, NASA Authorization, H.R. 7528.

16. Public Law 93–87, Federal-Aid Highway Act, S. 502.

17. Public Law 93–88, Euratom Corporation Act of 1958 Amendments, S. 1993.

18. Public Law 93–119, Oil Pollution Act Amendments, H.R. 5451.

19. Public Law 93–153, Mineral Leasing Act of 1920, Amendments, and Trans-Alaska Oil Pipeline Authorization, S. 1081.

20. Public Law 93–159, Emergency Petroleum Allocation Act of 1973, S. 1570.

21. Public Law 93–182, Emergency Daylight Saving Time Energy Conservation Act of 1973, H.R. 11324.

22. Public Law 93–208, G.I. Bill Benefits During Energy Crisis, S. 2794.

23. Public Law 93–239, Highway Speed Limit Reduction, H.R. 11372.

24. Public Law 93–245, Supplemental Appropriations; Naval Petroleum Reserves, H.R. 11576.

25. Public Law 93–248, Intervention on the High Seas Act, S. 1070.

26. Public Law 93–249, Fuel Cost Pass-Through for Truckers, S.J. Res. 185.

27. Public Law 93–275, Federal Energy Administration, H.R. 11793.

28. Public Law 93–276, AEC Authorization Act, S. 3292.

29. Public Law 93–316, NASA Authorization Act, H.R. 13998.

30. Public Law 93–319, Energy Supply and Environmental Coordination Act of 1974, H.R. 14368.

31. Public Law 93–322, Special Energy Research and Development Appropriations for 1975, H.R. 14434.

32. Public Law 93–377, AEC Omnibus Legislation of 1974, S. 3669.

33. Public Law 93–383, Housing and Community Development Act, S. 3066.

34. Public Law 93–386, Aid to Energy Affected Small Businesses, S. 3331.

35. Public Law 93–403, Natural Gas Pipeline Safety Act, as amended, Additional Appropriations, H.R. 15205.

36. Public Law 93–409, Solar Heating and Cooling Demonstration Act of 1974, H.R. 11864.

37. Public Law 93–410, Geothermal Energy Research, Development, and Demonstration Act, H.R. 14920.

38. Public Law 93–426, Defense Production Act of 1950, two-year extension, S. 3270.

39. Public Law 93–434, Emergency Daylight Saving Time Energy Conservation Act of 1973, Amendments, H.R. 16102.

40. Public Law 93–438, Energy Reorganization Act of 1974, H.R. 11510.

41. Public Law 93–454, Federal Columbia River Transmission System, S. 3362.

42. Public Law 93–473, Solar Energy Research, Development and Demonstration Act of 1974, S. 3234.

43. Public Law 93–482, Duty Free Entry of Methanol for use as Fuel, H.R. 11251.

44. Public Law 93–485, International Nuclear Cooperation Act, S. 3698.

45. Public Law 93–496, National Railroad Passenger Corporation, H.R. 15427.

46. Public Law 93–511, Emergency Petroleum Allocation Act of 1973 Extension, H.R. 16757.

47. Public Law 93–514, Nuclear Information Annual Report, S. 3802.

48. Public Law 93–522, Sequoia National Park Hydroelectric Project, H.J. Res. 444.

49. Public Law 93–577, Federal Nonnuclear Energy Research and Development Act of 1975, S. 1283.

50. Public Law 93–627, Deep Water Ports Act, H.R. 10701.

51. Public Law 93–643, Federal-Aid Highway Act Amendments of 1975—Fuel Exports to U.S.S.R., S. 3934.

52. Public Law 93–646, Export-Import Bank Act Amendments, H.R. 15977.

53. S. Res. 138, National Consumer Effort to Save Gas.

54. S. Res. 249, Oil Price Increase.

55. S. Res. 279, Washington Energy Conference.

94th Congress (1975–1976) (23):

56. Public Law 94–12, Tax Reduction Act of 1975; Repeal of Depletion Allowance, H.R. 2166.

57. Public Law 94–18, Nuclear Regulatory Commission Authorization, S. 994.

58. Public Law 94–79, Nuclear Regulatory Commission Authorization, S. 1716.

59. Public Law 94–139, TVA Bonding Authority, H.R. 9472.

60. Public Law 94–163, Energy Policy and Conservation Act, S. 622.

61. Public Law 94–180, Public Works—ERDA Appropriations 1976, H.R. 8122.

62. Public Law 94–187, ERDA Authorization 1976, H.R. 3474.

63. Public Law 94–197, Nuclear Accident Indemnity, H.R. 8631.

64. Public Law 94–227, International Petroleum Exposition, S.J. Res. 59.

65. Public Law 94–258, Naval Petroleum Reserves Production Act of 1976, H.R. 49.

66. Public Law 94–269, ERDA Supplemental Authorization, 1976, S. 3108.
67. Public Law 94–291, Nuclear Regulatory Commission Authorization, S. 3107.
68. Public Law 94–332, Federal Energy Administration Extension, S. 3625.
69. Public Law 94–355, Public Works—ERDA Appropriations, 1977, H.R. 14236.
70. Public Law 94–364, Motor Vehicle Information and Cost Savings Act, S. 1518.
71. Public Law 94–370, Coastal Zone Management Act Amendments, State grants, S. 586.
72. Public Law 94–377, Federal Coal Leasing Amendments Act, S. 391.
73. Public Law 94–385, Energy Conservation and Production, H.R. 12169.
74. Public Law 94–413, Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, H.R. 8800.
75. Public Law 94–422, Land and Water Conservation Fund Act, S. 327.
76. Public Law 94–477, Natural Gas Pipeline Safety, H.R. 12168.
77. Public Law 94–493, Interstate Oil and Gas Compact, S.J. Res. 126.
78. Public Law 94–586, Alaskan Gas Transportation, S. 3521.

95th Congress (1977–78) (30):

79. Public Law 95–2, Natural Gas Emergency, S. 474.
80. Public Law 95–3, Urgent Power Supplemental Appropriations, H.J. Res. 227.
81. Public Law 95–36, Deepwater Ports, S. 891.
82. Public Law 95–39, ERDA Nonnuclear Authorization, 1977, S. 36.
83. Public Law 95–52, Export Control Administration, H.R. 5840.
84. Public Law 95–70, FEA Authorization, S. 1468.
85. Public Law 95–87, Stripmining Reclamation, H.R. 2.
86. Public Law 95–91, Department of Energy, S. 826.
87. Public Law 95–95, Clean Air, H.R. 6161.
88. Public Law 95–96, Public Works—Energy Research Appropriations, 1978, H.R. 7553.
89. Public Law 95–158, Alcan Pipeline, H.J. Res. 621.
90. Public Law 95–164, Mine Safety, S. 717.
91. Public Law 95–183, ERDA Nuclear Authorization, S. 1339.
92. Public Law 95–236, Radiation Exposure, S. 266.
93. Public Law 95–238, ERDA Nuclear/Nonnuclear Authorization, S. 1340.
94. Public Law 95–242, Nuclear Nonproliferation, H.R. 8638.
95. Public Law 95–279, Emergency Agricultural Act—Gasahol Program, H.R. 6782.
96. Public Law 95–297, Petroleum Marketing Practices, H.R. 130.
97. Public Law 95–315, Small Business Energy Loans, H.R. 11713.
98. Public Law 95–343, Stripmining Program Authorizations, S. 2463.
99. Public Law 95–356, Military Construction Authorization, 1979—Solar, Geothermal and Utility Systems Programs, H.R. 12602.
100. Public Law 95–372, Outer Continental Shelf, S. 9.
101. Public Law 95–424, International Development Assistance—Bilateral Assistance, H.R. 12222.
102. Public Law 95–434, National Science Foundation Authorization, H.R. 11400.
103. Public Law 95–448, Agriculture Appropriations, 1979—Energy Conservation Programs, H.R. 13125.
104. Public Law 95– , Interior Appropriations, 1979—Energy Production, Supply and Population Programs, H.R. 12932.
105. Public Law 95– , Rate Discrimination, S. 2249.
106. Public Law 95– , Nuclear Regulatory Commission Authorization—Uranium Mill Tailings, S. 2584.
107. Public Law 95– , Department of Energy—Military Authorization, H.R. 11686.
108. Public Law 95– , Coal Leasing, S. 3189.

ENERGY MEASURES, 95TH CONGRESS

(October 13, 1978)

Enacted 30:

Agricultural Appropriations, 1979—Energy Conservation Programs (H.R. 13125, P.L. 95–448)
Alcan Pipeline (H.J. Res. 621, P.L. 95–158)
Clean Air (H.R. 6161, P.L. 95–95)
Coal Leasing (S. 3189, P.L. 95–)
Deepwater Ports Extension (H.R. 6401, P.L. 95–36)
Department of Energy (S. 826, P.L. 95–91)
Department of Energy—Military Authorization (H.R. 11686, P.L. 95)
Emergency Agricultural Act—Gasohol Program (H.R. 6782, P.L. 95–279)
ERDA Nonnuclear Authorization, 1977 (S. 36, P.L. 95–39)
ERDA Nuclear Authorization (S. 1339, P.L. 95–183)
ERDA Nuclear/Nonnuclear Authorization—Civilian (S. 1340, P.L. 95–238)
Export Control—Arab Boycott (H.R. 5840, P.L. 95–52)
FEA Authorization (S. 1468, P.L. 95–70)
Interior Appropriations, 1979—Energy Production, Supply, and Regulation Programs (H.R. 12932, P.L 95–)
International Development Assistance—Bilateral Assistance for Energy Resource Development (H.R. 12222, P.L. 95–424)
Military Construction Authorization, 1979—Solar, Geothermal and Utility Systems Programs (H.R. 12602, P.L. 95–356)
Mine Safety (S. 717, P.L. 95–164)
National Science Foundation Authorization (H.R. 11400, P.L. 95–434)
Natural Gas Emergency (S. 474, P.L. 95–2)
Nuclear Nonproliferation Act (H.R. 8638, P.L. 95–242)
Outer Continental Shelf (S. 9, P.L. 95–372)
Petroleum Marketing Practices (H.R. 130, P.L. 95–297)
Public Works—Energy Research Appropriations, 1978 (H.R. 7553, P.L. 95–96)
Radiation Exposure (S. 266, P.L. 95–236)
Rate Discrimination (S. 2249, P.L. 95–)
Small Business Energy Loans (H.R. 11713, P.L. 95–315)
Strategic Petroleum Reserve Plan No. 1 (S. Res. 429—S. Agreed to disapproval resolution)
Stripmining (H.R. 2, P.L. 95–87)
Stripmining Program Authorization (S. 2463, P.L. 95–343)
Urgent Power Supplemental Appropriations, 1977 (H.J. Res. 227, P.L. 95–3)

In conference (Ten):

Coal Conversion (H.R. 5146—S. agreed to conf. rept.)
Energy Conservation (H.R. 5037—S. agreed to conf. rept.)
Energy Taxation (H.R. 5263—Conf., rept. filed)
HUD Authorization—Solar and Home Insulation Programs (S. 3084)
Natural Gas Pipeline Safety (S. 1895)
Natural Gas Pricing (H.R. 5289—S. agreed to conf. rept.)
Nuclear Regulatory Commission Authorization—Uranium Mill Tailings (S. 2584)
Public Utility Rate Reform (H.R. 4018—S. agreed to conf. rept.)
Solar Photovoltaic Energy (H.R. 12874)
Water Resource Projects—Waterway User Fee—Fuel Use Taxes (H.R. 8309 and H.R. 8533)

Passed Senate, not House (9):

Alaska Pipeline Destruction (S. 1496)
Educational Institution Energy Savings Grants (S. 701—Provisions are now in energy conservation bill)
Endangered Species—Possible exemptions for certain energy supply projects (S. 2899)
Energy Conservation Tax Credit—S. added provisions on floor (H.R. 112)
ERDA Nuclear Authorization—Civilian/Military (S. 1341)
ERDA Synthetic Fuel Loan Guarantee Program (S. 37)
Natural Gas Pipeline Safety (S. 1895)
Oil Shale Commercialization (S. 419)
Pipeline Destruction (S. 1502—Provisions contained in S. 1895)

Vetoed (2):

ERDA Nuclear/Nonnuclear—Civilian (S. 1811—Contained Clinch River—enacted as P.L. 95–238)
Public Works Energy Research Appropriations, 1979—Energy Research Projects (H.R. 12928)

SUMMARY OF LEGISLATIVE ACHIEVEMENTS, 95TH CONGRESS

AGRICULTURE

Agricultural credit: Amends the Consolidated Farm and Rural Development Act in order to improve Federal agricultural assistance programs; establishes a new economic emergency loan program for farmers and ranchers; extends eligibility for farm real estate and operating loans to family farm corporations, cooperatives and partnerships; authorizes the Secretary to make, insure or guarantee loans to farmers for meeting Federal, State or local requirements for agricultural, animal or poultry waste pollution abatement and control facilities; increases the lending limits for farm real estate and operating loans; authorizes the Secretary to make, insure or guarantee loans of up to $1 million to rural communities cut off from access to electric energy sources for the construction, acquisition and operation of power transmission facilities; establishes a special low-income farm ownership loan program for small family farmers who are unable to get credit under the act's regular programs and provides that interest rates be no higher than five percent; establishes a new economic emergency loan program through May 15, 1980, for farmers, ranchers or domestic agricultural corporations and partnerships who (1) have adequate experience and resources, (2) need such credit to maintain a viable agricultural production operation, and (3) are unable to obtain sufficient credit elsewhere due to national or areawide economic stress and limits such loans to $400,000 per borrower, interest rates to the government plus one percent, and government guarantees up to 90 percent; extends and amends the Emergency Livestock Credit Act of 1974 to enable the Secretary to make new loan guarantees through September 30, 1979; authorizes payments to agricultural producers who carry out emergency measures to control wind erosion on farmlands or to rehabilitate farmlands damaged by wind erosion on farmlands or to rehabilitate farmlands damaged by wind erosion or other natural disasters; and authorizes the Secretary to increase the target price for rice under certain conditions to compensate producers for participation in the set-aside. H.R. 11504—Public Law 95–334, approved August 4, 1978.

Agricultural exports: Authorizes the Commodity Credit Corporation (CCC) to finance export sales of U.S. agricultural commodities out of CCC and private stocks on "intermediate" credit terms (in excess of three years but not more than ten years) to develop, expand or maintain the importing nation as a foreign market on a long-term basis for the commercial sale and export of U.S. agricultural commodities; and requires the Secretary to provide "short-term" CCC financing (not to exceed three years) to ex-

porters of U.S. agricultural commodities who need to provide their customers such short-term deferred payment terms to meet sales competition from other nations or to make additional export sales and authorizes such credit for commercial sales to the People's Republic of China. S. 3447—Passed Senate September 8, 1978; Passed House amended September 25, 1978; Senate agreed to conference report October 11, 1978.

Agricultural foreign investment information: Requires all foreign nationals who hold interests in U.S. agricultural land on the effective date of this bill to submit reports to the Secretary of Agriculture detailing their nationality, type of interest held, location of the land, acreage involved, date of acquisition of the interest, purchase price or other consideration and other specified information; requires the Secretary to analyze the information and submit annual reports to the President and the Congress on the effects of such investments. S. 3384—Public Law 95-—, approved 1978.

Aquaculture policy: Establishes a National Acquaculture Council to report to the Congress biennially on the status of U.S. aquaculture and to establish within 18 months of enactment, a National Aquaculture Development Plan setting forth those actions which the Federal government should undertake to further the development of aquaculture; establishes an Interagency Aquaculture Coordinating Committee to ensure a continuing exchange of information; authorizes the use of grants or contracts to carry out various provisions of the act; and provides for an insurance program for stock, property and liability if, within the first 18 months, a need is indicated. H.R. 9370—Public Law 95-443, approved October 10, 1978.

Beef and veal imports: Stabilizes U.S. beef and veal production and prices at levels adequate to provide a fair return to domestic producers; insures U.S. consumers adequate supplies at reasonably stable prices; provides imported beef and veal reasonable access to the U.S. market; modifies the adjusted base quantity for unprocessed beef and veal by a countercyclical factor; establishes a new adjusted base quantity for processed beef and veal; permits the President to suspend or increase the quotas under certain circumstances; and provides that no more than 54 percent of the annual quota amount, or estimated annual imports in the absence of a quota, could enter the U.S. in any calendar half beginning on January 1 or July 1 of any year. H.R. 5052—Passed House July 18, 1977; Passed Senate amended May 5, 1978.

Commodity Futures Trading Commission: Extends through fiscal 1982 the authorization for the five-member Commodity Futures Trading Commission headed by a chairman who will serve at the President's pleasure; prohibits any commissioner or GS-16 or higher employee from transacting business for others with the Commission for one year after leaving the Commission; confers jurisdiction on the States to prosecute violations of the Commodity Exchange Act in Federal district courts and increases the criminal penalties for violations; exempts dealers, processors, brokers, sellers or cash commodities, nonprofit voluntary membership and general farm organizations from the registration and related recordkeeping and reporting requirements; contains new provisions on commodity option transactions and requires the Commission to issue regulations concerning the granting and offering of options on physical commodities; permits the Commission to authorize a registered futures association to perform any of the registration functions with respect to associated persons; permits the responsibility of the contract market for the conduct of an arbitration process to be delegated to certain registered futures associations; requires public disclosure of the reasons and penalties in proceedings to discipline or deny membership to any person; requires the Commission to regulate leverage transactions including those involving gold or silver bouillon on bulk coins; and contains other provisions to improve and strengthen the regulation of the nation's $1.1 trillion commodity futures industry. S. 2391—Public Law 95-405, approved September 30, 1978.

Cooperative forestry assistance: Consolidates in one statute and clarifies the authorities for existing cooperative forestry assistance programs, now contained in seven separate statutes, which are administered by the Secretary of Agriculture; establishes congressional policy on the desirability of a cooperative Federal and State effort to maintain and improve non-Federal forest lands; establishes a rural life disaster fund to assist States in dealing with rural fire emergencies; establishes programs of management assistance, planning assistance, and technology implementation for State foresters; permits States, upon development of a State forestry plan, to consolidate individual Federal cooperative forestry program grants (except for forestry incentive cost-share payments and payments from any special Treasury fund) into a single annual grant to be matched by the State; and provides that the programs are to be administered to complement the related activities of the Forest Service and other agencies of the Department of Agriculture. H.R. 11777—Public Law 95-313, approved July 1, 1978.

Emergency Agricultural Act: Amends the Food and Agricultural Act of 1977 to give the Secretary of Agriculture discretionary authority to increase the target prices for wheat, feed grains and upland cotton for the 1978 through 1981 crops whenever a set-aside program is in effect for one or more of these crops; allows the Secretary to increase the target price for any other commodity (except rice) in such amounts as he determines necessary for the effective operation of the program; increases the borrowing authority of the Commodity Credit Corporation from $14.5 to $25 billion, effective Ocotber 1, 1978; provides that the Secretary may permit the acreage set aside or diverted from the production of a commodity to be devoted to the production of any other commodity for the conversion into gasohol if the Secretary determines that such production is desirable; and provides, effective October 1, 1978, that the Secretary—during any year in which there is no set-aside or diverted acreage—may make incentive payments for production of commodities to be converted into gasohol if such production is desirable. H.R. 6782—Public Law 95-279, approved May 15, 1978.

FIFRA: Extends through fiscal 1979 the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and authorizes therefor $54.5 million for 1978 and such sums as necessary but not to exceed $70 million for 1979; gives the States primary enforcement responsibility subject to certain conditions and broadens their ability to issue regulations to meet special local needs; authorizes a State to approve additional uses of Federally-registered pesticides for use within the State to meet special local needs; precludes EPA from disapproving a State registration on grounds that the pesticide is not essential but provides that it could suspend the authority of a State to register local-use pesticides if the State lacks adequate controls or to disapprove a registration if an imminent hazard exists; retains EPA's authority to reclaim enforcement authority in emergencies; authorizes simplified registration procedures, including provision for conditional registration under certain circumstances; and contains provisions relating to data owners' rights and compensation and limiting disclosure of trade secret information. S. 1678—Public Law 95-396, approved September 30, 1978.

Forest and rangeland renewable resources: Repeals the McSweeney-McNary Act of 1928 and replaces it with updated and expanded authority for the Secretary of Agriculture to implement and conduct programs of forest and rangeland renewable resources research; directs the Secretary to make and keep current a comprehensive survey and analysis of the forest and rangeland renewable resources; authorizes establishment of a system of experiment stations for conducting renewable resources research; expands the Secretary's authority to acquire land and to accept donated money and property for renewable resources research; and authorizes competitive grants and advances of funds to grantees and persons cooperating with the Secretary in performing research. H.R. 11778—Public Law 95-307, approved June 30, 1978.

Land and water resources conservation: Establishes a mechanism for making long-range policy to encourage the wise and orderly development of the nation's soil and water resources: requires the Secretary of Agriculture to (1) prepare an appraisal of the nation's land, water and related resources and (2) develop a national land and water conservation program setting forth the direction for future soil and water conservation efforts by the Department of Agriculture on the nation's private and non-Federal lands by December 31, 1979, and to update them each fifth year thereafter; requires that the appraisal and the program together with a detailed statement of policy for soil and water conservation activities be transmitted to Congress on the first day it convenes in 1980 and at each five-year interval thereafter; requires the President, beginning in fiscal 1982, to transmit to Congress a report stating the extent to which the programs and policies projected under the budget meet the statement of policy and to set forth reasons for requesting Congress to approve a lesser program or policy presented in the budget; requires the Secretary to submit to Congress, beginning with fiscal 1982, an annual report evaluating the program's effectiveness; and authorizes such sums as necessary to carry out the act. S. 106—Public Law 95-192, approved November 18, 1977.

Omnibus farm bill: Extends through fiscal 1981 the basic price support programs for wheat, feed grains, cotton, rice, and wool, the food stamp program, and the Food for Peace Program (Public Law 480); extends for three years the authorization for the Environmental Protection Agency to regulate pesticides; and establishes a new charter, and clearer direction for the Federal role in agricultural research; places a limitation of $40,000 on the total payments which a person may receive annually under one or more of the programs for wheat, feed grains, and upland cotton for the 1978 crops, $45,000 for the 1979 crops, and $50,000 each for the 1980 and 1981 crops instead of the present $20,000 ceiling; limits such payments for rice to $52,250 for the 1978 crops, and $50,000 each for the 1979, 1980 and 1981 crops instead of the present $55,000 limitation; sets the price support for milk at 80 percent of parity adjusted semianually but reviewed quarterly through March 31, 1979; requires the Secretary to formulate a producer storage program on original or extended price support loans for wheat and feedgrains at the same support level as provided by the 1949 Act, as amended, repayable in three to five years; authorizes the President to negotiate a system of food reserves for humanitarian food

relief and to maintain such a reserve of food commodities as a contribution of the United States to the system; expands the authority of the Secretary to acquire commodities for disposition in the event of national disasters; makes certain changes in the farm storage facility loan program; authorizes the Secretary to implement an emergency feed program to assist producers in preserving and maintaining livestock; eliminates the Food Stamp purchase requirement; limits participation to households whose incomes and other financial resources are determined to be a substantial limiting factor in permitting them to obtain a nutritionally adequate diet; eliminates automatic, categorical eligibility of welfare recipients; establishes a new program of grants for high-priority agricultural research to be awarded on the basis of competition among scientific research workers and all colleges and universities; establishes a new program of grants for facilities and instrumentation used in agricultural research; establishes a new program of education grants and fellowships to strengthen training and research programs in the food and agricultural sciences, to be awarded on the basis of competition; and makes certain improvements regarding grain inspection. S. 275—Public Law 95–113, approved September 29, 1977.

Sugar stabilization: Authorizes the President to implement the International Sugar Agreement (ISA), including authority to limit entry of sugar from non-ISA member countries or areas; establishes a price objective of 16 cents per pounds raw value for sugar beginning sugar supply year 1978 (which starts October 1, 1978) through sugar supply year 1982; continues the right to waive countervailing duties until February 15, 1979; authorizes the President to contribute up to 5,000 long tons of tin metal from the national defense stockpile to the tin buffer stock and authorizes the General Services Administrator to dispose of another 30,000 tons of surplus tin from the domestic strategic stockpile; and prohibits the use of price support payments to producers and processors of sugar cane or sugar beets while the fees and quotas are in effect;

Amends the Social Security Act to make needed improvements in the programs of supplemental security income benefits, aid to families with dependent children, child welfare service, and social services. H.R. 7200—Passed House June 14, 1977. Passed Senate amended October 12, 1978. In conference.

BUDGET

Third budget resolution, 1977: Revises the Second Budget Resolution for fiscal 1977 setting the level of revenues at $347.7 billion, outlays at $417.45 billion, new budget authority at $472.9 billion, deficit at $69.75 billion, and public debt at $718.4 billion. S. Con. Res. 10—Action completed March 3, 1977.

First budget resolution, 1978: Recommends 1978 total budget revenues of $396.3 billion, outlays of $460.95 billion, new budget authority of $503.45 billion, deficit of $64.65 million and public debt level of $784.9 billion. S. Con. Res. 19—Action completed May 17, 1977.

Second budget resolution, 1978: Revises the First Budget Resolution for fiscal 1978 setting the level of revenues at $397 billion, outlays at $458.25 billion, new budget authority at $500.1 billion, deficit at $61.25 billion, and public debt at $775.45 billion. H. Con. Res. 341—Action completed September 15, 1977.

First budget resolution, 1979: Recommends 1979 total estimated revenues of $447.9 billion, outlays of $498.8 billion, new budget authority of $568.85 billion, deficit of $50.9 billion and public debt level of $849.1 billion. S. Con. Res. 80—Action completed May 17, 1978.

Second budget resolution: Revises the First Budget Resolution for fiscal 1979 setting the level of revenues at $448.7 billion, outlays $38.8 billion and public debt at $836.0 billion. H. Con. Res. 683—Action completed September 23, 1978

CIVIL AND CRIMINAL JUSTICE

Age discrimination in employment: Raises the upper age limit of the Age Discrimination in Employment Act from 65 to 70, effective January 1, 1979; prohibits the application of a mandatory retirement age of less than 70 which is contained in a seniority system or an employee benefit plan; permits the compulsory retirement of management or highly compensated employees at the age of 65 or above if they will receive an employer-provided annual retirement benefit of at least $27,000 exclusive of social security; permits colleges and universities to maintain until July 1, 1982, compulsory retirement policies for faculty at age 65 or above with unlimited tenure; eliminates effective September 30, 1978, the upper age limitation for most Federal employees; provides that the effective date of the prohibition against mandatory retirement between the ages of 65 and 70 if such policies are contained in collective bargaining agreements which are in effect on September 1, 1977, shall be delayed until the termination of the contract or January 1, 1980. H.R. 5383—Public Law 95–256, approved April 6, 1978.

Bankruptcy reform: Modernizes the bankruptcy law by codifying a new title that will embody the substantive law of bankruptcy and makes extensive amendments to title 28, Judiciary and Judicial Procedure, that will encompass the structure of the revised bankruptcy courts; vests the power to appoint bankruptcy judges in the courts of appeals rather than in the district courts; provides that a judge shall be compensated at an annual rate of $48,500 and shall serve for a 12-year term; provides that a bankruptcy judge may be removed for incompetence, misconduct, neglect of duty and disability, as determined by the judicial council of the circuit; and calls for a three-year transition period to ensure the availability of experienced bankruptcy judges for service on the bankruptcy bench. H.R. 8200—Public Law 95– , approved 1978.

Child adoption and child abuse prevention: Extends for four years the authorizations for the Child Abuse Prevention and Treatment Act and authorizes $10.5 million for programs and projects designed to prevent, identify and treat sexual abuse of children, including programs involving the treatment of family units; authorizes $5 million to facilitate the removal of barriers to interstate adoptions and the placement of children with special needs in permanent adoptive homes; and establishes within HEW an administrative arrangement to provide an adoption information exchange system and to coordinate departmental programs as well as to carry out education and training programs. H.R. 6693—Public Law 95–266, approved April 24, 1978.

Child pornography: Makes it a Federal offense to use children under the age of 16 in the production of pornographic materials which are to be mailed or otherwise transported in interstate or foreign commerce; proscribes the interstate transportation of persons under 18 years of age for the purpose of engaging in prostitution by extending the Mann Act's provisions against female prostitution to include juvenile males; and amends the penalty provisions regarding mailing, importation, or transportation of obscene materials to increase the penalties up to ten years' imprisonment or $10,000 or, in case of a second offense, a minimum of two years and a maximum of 15 years' imprisonment and up to $15,000. S. 1585—Public Law 95–225, approved February 6, 1978.

Cigarette racketeering: Makes cigarette smuggling a Federal offense and establishes trafficking in contraband cigarettes as a racketeering offense under the Criminal code; defines "contraband cigarettes" as 60,000 or more cigarettes bearing no identification that applicable State taxes were paid; directs the Secretary of Treasury to enforce these provisions and to prescribe such rules and regulations as necessary; and imposes a fine of $100,000 and/or five years' imprisonment for dealing in contraband cigarettes and a fine of $5,000 and/or three years' imprisonment for violating any rules or regulations prescribed by the Secretary or knowingly making any false statement or misrepresentation with respect to any required recordkeeping, S. 1487—Passed Senate September 29, 1978; Passed House amended October 3, 1978; conference report filed.

Criminal code reform: Creates for the first time a systematic, consistent and comprehensive Federal criminal code to remedy the hodgepodge that now exists by replacing title 18 with a "Federal Criminal Code"; creates a Commission to establish guidelines to govern the imposition of sentences for all Federal offenses; provides for a structure of consistent penalties for conduct of a similar nature or seriousness; provides for appellate review of a sentence by appeal of the defendant if it exceeds the maximum guideline for such a crime or by the government if it is less than the minimum; provides that the maximum term of imprisonment established by the Commission shall not exceed the minimum by more than 25 percent; requires the Commission in promulgating guidelines to consider alternatives to incarceration for nonviolent first offenders; allows pretrial detention of an individual charged with a serious crime such as murder, rape, armed kidnapping, drug trafficking and armed robbery; reduces the present 79 different terms to define state of mind to four: intentional, knowing, reckless or negligent; defines offenses in terms of the underlying misconduct (e.g., kidnapping) and the particular circumstances under which the Federal government may exercise jurisdiction over the criminal conduct (e.g., transportation of the victim across a State line); provides penalties for the use of dangerous weapons by para-military groups that intend to take over a function of government by force; repeals the Smith Act of 1940 which prohibited advocacy of the overthrow of the government; makes it an offense to conspire within the U.S. to assassinate a foreign official; adds an offense for possession of an eavesdropping device with intent that it be used unlawfully; vests jurisdiction in the Federal government over any felony, such as burglary, committed for the purpose of affecting a Federal election; adds discrimination on the basis of sex to other forms of discrimination prohibited; allows Federal prosecution of assault or murder while prosecuting for a civil rights violation; applies sex offenses without discrimination to both men and women and includes forcible sodomy in the definition of rape; provides that rape by means of force, threats of imminent serious injury or kidnapping or drugs will be punishable even where the victim is married to the offender; eliminates corroboration of a victim's testimony; prohibits defense or grading distinction based upon the promiscuity of the victim and severely restricts inquiry into the prior sexual conduct of the victim; expands the offense of kidnapping to include a case in which one hold his own child for ransom, as a hostage, or with similar criminal intent;

proscribes the takeover of legitimate businesses with the proceeds of a racketeering enterprise; provides that simple possession of more than 100 grams (about one pound) of an opiate (which retails for at least $4,000) is made a more serious offense than a simple possession of other drugs; makes possession of 30 grams (about one ounce) or less of marijuana subject to prosecution by summons rather than arrest, reduces the penalties and has liberal provisions for expungement of the record of conviction; provides a mandatory sentence of at least two years for commission of violent crimes in which firearms were used; narrows existing law so that an incitement to riot may not be prosecuted unless a riot actually occurs; redefines a riot to include ten participants instead of three; and creates a consumer protection offense to allow more effective prosecution of pyramid sales schemes; strengthens the mail fraud statute and includes a consumer fraud section to assist in combatting hardcore consumer fraud; and increases fines. S. 1437—Passed Senate January 30, 1978.

Criminal diversion program: Establishes a diversion program whereby eligible persons charged with an offense which is likely to result in a conviction would waive their right to a speedy trial and enter into an agreed upon program of rehabilitation which, if successfully completed, would result in the charge being dismissed with prejudice. S. 1819—Passed Senate April 27, 1978.

Domestic violence: Provides for Federal support and stimulation of State, local and community activities to prevent domestic violence, to assist the victims of domestic violence, and to coordinate Federal programs and activities pertaining to domestic violence; and authorizes Federal formula grants to States and direct Federal grants to localities. S. 2759—Passed Senate August 1, 1978.

Equal rights amendment: Extends from March 22, 1979, to June 30, 1982, the period during which three-quarters of the State legislatures have to ratify and make valid the proposed amendment to the Constitution granting equal rights to women. H.J. Res. 638—Public Law 95– , approved 1978.

Federal rules of criminal procedure: Approves, with modifications, certain amendments to the Federal Rules of Criminal Procedures proposed by the Supreme Court on April 26, 1976, and disapproves other such amendments. H.R. 5864—Public Law 95–78, approved July 30, 1977.

Foreign intelligence surveillance: Requires a court order for electronic surveillance conducted for foreign intelligence purposes within the United States or targeted against the international communications of particular U.S. persons who are in the United States, and establishes the exclusive means by which such surveillance may be conducted; and permits emergency surveillance without a court order in limited circumstances. S. 1566—Public Law 95– , approved 1978.

Horse racing bets: Regulates interstate commerce with respect to legal interstate wagering on horse races by providing that interstate bets cannot be taken on those races within a particular State without proper compensation to the industry; establishes that the three partners in racing (tracks, horsemen and States) be in agreement on the equitable share of the off-track revenues before the off-track betting corporation may accept interstate wagers; and makes certain exemptions from these regulations. S. 1185—Public Law 95– , approved 1978.

Immigration and naturalization of adopted children: Establishes uniform procedures for admission to the United States of adopted or prospective adoptive children of U.S. citizens; allows the adoption of more than two alien children; requires that a favorable adoption home study must be performed prior to admission of an adopted child; and makes adopted children eligible for the same citizenship benefits as natural-born children. H.R. 12508—Public Law 95–417, approved October 5, 1978.

Immigration ceiling: Establishes a single worldwide ceiling of 290,000 for the admission of immigrants by combining the current, separate ceilings on immigration from the Eastern (170,000) and Western (120,000) Hemispheres; and establishes a 16-member Select Commission on Immigration and Refugee Policy to study and evaluate existing laws governing the admission of immigrants and refugees and to make recommendations to the President and Congress by September 30, 1980. H.R. 12443—Public Law 95–412, approved October 5, 1978.

Juvenile justice: Strengthens and extends for three years, the program established by the Juvenile Justice and Delinquency Prevention Act of 1974; makes changes to the formula grant program intended to clarify ambiguous language in the 1974 act, and to assist States to more effectively expand formula grant funds according to priority areas identified in the States' juvenile justice plan; requires that not more than 7.5 percent of a State's total formula grant allotment may be used to cover the costs of planning, administration, or any pre-award activities, and that any grant funds used for these purposes must be matched on a dollar-for-dollar basis from State or local funds; provides that formula grant program funds will cover 100 percent of the approved cost of any program or activity; extends eligibility for State formula grant pass-through funds to local private agencies which have previously been denied; provides that States in compliance with the deinstitutionalization requirement shall have preference for reallocated formula grant funds; provides that 25 percent of Part B funds be allocated for the special emphasis program, and expands its scope to include activities to help prevent school violence and vandalism, to promote youth advocacy, and to assist State legislatures to develop legislation to achieve State compliance with the act; prohibits the use of formula grant funds to match other LEAA funds but allows them to be so used for other Federal juvenile delinquency program grants; and authorizes funding for the extension of the Runaway Youth Act. H.R. 6111—Public Law 95–115, approved October 3, 1977.

Public safety officers group life insurance: Establishes a nationwide program of group life insurance for public safety officers that would be under the control of the Law Enforcement Assistance Administration but purchased from one or more life insurance companies; sets the amount of group life and accidental death and dismemberment insurance at the amount of the officer's salary plus $2,000, with a minimum coverage of $10,000 and a maximum of $32,000; establishes an Advisory Council on Public Safety Officers Group Life Insurance to review the administration of the program and advise the LEAA on matters of policy; and creates a fund in the Treasury known as the Public Safety Officers' Group Insurance Revolving Fund. S. 262—Passed Senate September 16, 1977.

Sex discrimination on basis of pregnancy: Amends title VII of the Civil Rights Act of 1964 to make clear that the prohibitions against sex discrimination in the act include discrimination in employment on the basis of pregnancy or pregnancy-related disabilities; provides that these provisions will take effect immediately upon enactment except that, with regard to fringe benefit plans, they are to take effect by July 1, 1980, or 180 days after enactment whichever is greater; provides that for a period of one year or until the expiration of any applicable collective bargaining agreement, employers may not reduce existing benefits as a means of coming into compliance; and provides that where employees and employers share the cost of presently existing benefits, employers are permitted to apportion the cost of any benefit required as a result of this legislation. S. 995—Passed Senate September 16, 1977; Passed House amended July 18, 1978; Senate agreed to conference report October 13, 1978.

DEFENSE

Coast Guard authorizations: Authorizes $1,262,521,000 for fiscal 1978 for the Coast Guard for the procurement of vessels and aircraft, construction and improvement of shore and offshore facilities, alteration and removal of obstructive bridges, aids to navigation, pollution abatement, administrative expenses and operating expenses; authorizes a year-end strength for active duty personnel of 39,145 and an average military student load of 5,506; includes funds for the recent presidential program of boarding and inspecting oil tankers, reactivation of Coast Guard cutters to be used as back-up vessels in the enforcement of the 200-mile Fishery Conservation Zone, enforcement of the Fishery Conservation and Management Act of 1976, and the study of oil spill containment in high seas or fast rivers; and restores funds which the Coast Guard expended as a result of the unanticipated winter storm damage. H.R. 6823—Public Law 95–61, approved July 1, 1977.

Authorizes $1,409,463,000 for fiscal 1979 for the operation and maintenance of the Coast Guard as well as acquisition, construction and improvement of vessels, aircraft and facilities, the alteration or removal of obstructive bridges and research, development, testing and evaluation; contains increased funding for the Coast Guard's law enforcement responsibilities, particularly drug patrols and fishery law enforcement and the Loran-C navigation system stations in support of NATO; authorizes an end-of-year strength for active duty personnel of 39,331 and sets at 5,445 the average military student loads; requires the Coast Guard to evaluate the adequacy of existing oilspill cleanup procedures on the Columbia River due to the increased petroleum transportation resulting from the opening of the trans-Alaskan oil pipeline; and extends the Federal programs under the Federal Boat Safety Act of 1971 through fiscal 1980 at an annual authorization of $10 million. H.R. 11465—Public Law 95–308, approved June 30, 1978.

Military construction authorizations: Authorizes $3,724,718,000 for fiscal 1978 for construction and other related authority for the military departments and the office of the Secretary of Defense within and outside the United States; contains nearly $200 million for selected projects designed to conserve energy and to control pollution at military installations; encourages utilization of solar energy where practical and economically feasible; includes $70 million for a test program which will meter energy consumed in individual military family housing units in order to establish reasonable energy consumption ceilings and to assess occupants for any consumption in excess; includes $7.3 million for construction of support facilities at Diego Garcia; establishes permanent procedures for accomplishing base realignments at military installations employing more than 500 civilian personnel; and authorizes the Secretary to enter into contracts for the purchase of fuel derived from waste products. S. 1474—Public Law 95–82, approved August 1, 1977.

Authorizes $4,128,312,000 for fiscal 1979 for construction and other related authority for the military departments, and the Office of the Secretary of Defense within and outside the United States; calls on DOD to devote increasing resources to the energy crisis; requires the incorporation of optimum solar systems in all new military family housing and in 25 percent of all new facilities placed under design; provides that solar systems will be incorporated if their cost differential can be amortized over the expected life of the facility; provides authority to develop geothermal resources on lands under military jurisdiction and to contract for the purchase of public utility services derived from energy resources other than nuclear or fossil fuel; calls for the use of recyclable waste as a source of energy; requires a report on the construction backlog for U.S. Forces in Europe supporting NATO; and redefines the term military installation for purposes of closing or realigning a base as a facility at which not less than 300 rather than 500 civilian personnel are authorized to be employed. H.R. 12602—Public Law 95-356, approved September 8, 1978.

Military procurement authorizations: Authorizes $36.1 billion for fiscal 1978 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes and other weapons, and research, development, test and evaluation for the Armed Forces; contains funds to improve the deterrent and fighting capabilities of NATO without increasing the commitment of American ground forces; establishes a Naval Shipbuilding Commission to report on current policies and procedures; sets the endstrength for active duty personnel at 2,085,100, the average strength of the Selected Reserve at 868,900, the endstrength of civilian personnel at 1,018,600 and the average military student load at 248,894; directs the Secretary to expand the job classifications to which female members of the Armed Services may be assigned; authorizes a test educational bonus program for the Selected Reserve; requires at least one ROTC unit in each State; includes $95,250,000 for programs of the Defense Civil Preparedness Agency; provides that females who become members of the Armed Forces will incur the same six-year statutory obligation as males; extends to October 1, 1979, the President's authority to transfer by sale, credit sale or guaranty, aircraft and equipment to Israel; requires an annual accounting of all experiments and studies conducted by DOD involving human subjects; prohibits funds for advertising the Special Discharge Review Program for certain Vietnam-era individuals; reduces the authorized levels of generals and admirals to 1,073 over a three-year period beginning fiscal 1978 and provides for a like reduction in the number of civilian personnel grades GS 13-18; and provides for congressional consideration of recommended modifications in U.S. Strategic Arms Programs to facilitate negotiation or agreement in the Strategic Arms Limitation Talks. H.R. 5970—Public Law 95-79, approved July 30, 1977.

Authorizes a total of $35,235,969,000 for procurement, research and development and civil defense for fiscal 1979; includes $22,875,600,000 for procurement; authorizes $429.5 million for procurement of nine Navy F-18 fighter aircraft; $724 million for 36 F-14 (Tomcat) fighters; $145.5 million for 16 two-place TA-7D attack aircraft to modernize the National Guard forces; $12.264 billion for research and development and $209 million for payment of settlements of Naval shipbuilding claims disputes with Litton Industries and General Dynamics; supports design studies of a high performance SSBN which could complement the Trident submarine; and continued studies and exploratory development of a cruise missile carrier; sets the active duty end strength at 2,055,750, ready reserve minimum of 834,875 and a civilian personnel end strength of 1,005,500; sets the Naval reserve at 87,000; authorizes the Secretary of the Navy to assign women on certain Navy ships; establishes a ceiling for payments to physicians under CHAMPUS; extends for two years authority to provide reenlistment and enlistment bonuses to enlisted personnel in critical skills, special pay and bonuses for military health professionals, and finaicial aid to officer candidates under the Marine Corps Platoon Leaders Class program; increases and restructures the rate of special pay for sea duty; extends for two years authority for educational assistance and a reenlistment bonus for the Selected Reserve; and provides that the Commandant of the Marine Corps become a member of the Joint Chiefs of Staff. S. 3486—Public Law 95-) approved 1978.

Military unionization: Makes it unlawful for a member of the Armed Forces to join a military union or to solicit or maintain membership or for a labor organization to enroll military members, to solicit or accept dues or fees, to negotiate or bargain with the government for military members, or to represent military members in grievance proceedings; prohibits any military or civilian official of the Department of Defense from negotiating or bargaining with a purported military union or from authorizing union activities on government property; and prohibits any individual from bargaining on behalf of military members, from using military property for purposes outlawed elsewhere in the bill, or from organizing or carrying out a strike or other concerted action involving military members against the government. S. 274—Passed Senate September 16, 1977; Passed House amended September 26, 1978.

Survivors' benefits of retired military personnel: Authorizes increases in retired serviceman's family protection plan (RSFPP) annuities for the survivors of retired members who died on or before March 20, 1974; reinstates the full survivor benefit plan (SBP) payment to which the surviving spouse would otherwise be entitled subject to certain conditions; eliminates the offset of social security under the SBP where the widow or widower works; increases the guaranteed minimum annual income for certain needy widows whose husbands died prior to September 21, 1972, without being able to elect into the SBP; conforms the RSFPP law to the SBP law; provides protection to survivors of reservists who completed twenty years of Federal service and died before age 60; and provides reservists two additional options for coverage. H.R. 3702—Public Law 95-397, approved September 30, 1978.

DISASTER ASSISTANCE

Drought emergency authority: Provides temporary authorities to the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976-77 drought conditions affecting irrigated lands in the western States; authorizes the Secretary to acquire water supplies by purchase from willing sellers and redistribute the water to users at negotiated prices; directs the Secretary to determine the priority of need in allocating acquired or developed water; authorizes deferment of the 1977 installment charge payments owed to the U.S. on Federal reclamation projects; requires program coordination with emergency and disaster relief operations conducted by other Federal agencies; and authorizes interest-free five-year loans to individual irrigators for construction, management and conservation activities or acquisition of water. S. 925—Public Law 95-18, approved April 7, 1977.

Removes constraints on the allocation of funds for drought assistance and permits the use of funds already appropriated for the programs authorized under Public Law 95-18 in a more effective and timely manner; and authorizes the Secretary to waive the repayment of loans made if the recipient agrees to undertake a program of water conservation. S. 1935—Public Law 95-107, approved August 17, 1977.

Drought emergency relief: Authorizes $225 million in grant and loan authority to the Economic Development Administration for assistance to States, Indian tribes or units of local government with a population of 10,000 or more for drought-related projects; specifies the permissible activities for which grants may be made; limits grants to 50 percent of the cost of any project at five-percent interest for not to exceed 40 years; and permits obligation of funds for drought impacted projects conducted by eligible applicants during fiscal 1977 if they are compatible with the purposes of the act. S. 1279—Public Law 95-31, approved May 23, 1977.

Small business disaster loans: Authorizes $50 million to the Small Business Administration to make disaster loans to relieve economic injury caused by the 1976-77 drought at a five percent rate of interest and up to 30 years; permits SBA to make loans for short term construction projects to improve water conservation practices or to rehabilitate, replace or augment water supply facilities adversely affected by the drought; and makes farms and businesses in drought-designated areas eligible for such loans. S. 1306—Passed Senate August 4, 1977; House failed to pass under suspension of the rules November 1, 1977.

ECONOMY-FINANCE

Countercyclical revenue sharing: Extends and amends title II of the Public Works Employment Act of 1976, the Intergovernmental Antirecession and Supplementary Fiscal Assistance Amendments of 1978; extends antirecession assistance and establishes a supplementary fiscal assistance program to local governments with continued high unemployment; provides that funds to be distributed will be determined quarterly based on the most recently available unemployment data and that the amount to be authorized will depend on whether subtitle A, the antirecession program, or subtitle B, the supplementary fiscal assistance program, is in effect; provides that when the national average rate of unemployment (seaonally adjusted) equals or exceeds six percent, subtitle A will be in effect and $125 million, plus an additional $30 million for each one-tenth of one percent by which that rate of unemployment exceeds six percent, will be distributed quarterly; provides that when the national unemployment rate has been less than six percent for two consecutive calendar quarters but exceeds five percent, subtitle B, the supplementary fiscal assistance program, will be in effect and $85 million will be distributed during each calendar quarter only to local governments; continues established administrative provisions in current law; and provides that local governments scheduled to receive not more than $10,000 for any calendar quarter will receive a single payment including its entitlement of general revenue sharing. H.R. 2852—Passed House May 8, 1978; Passed Senate amended September 23, 1978; Repassed Senate amended September 26, 1978.

Export administration—Arab boycott: Extends the Export Administration Act of 1969 through fiscal 1979; requires a review of the export control lists, rules and regulations issued under the act; authorizes the Secretary of Defense to recommend his disapproval of an export license application whenever he determines that the export would be detri-

mental to U.S. national security; exempts agricultural commodities purchased for export and stored in the United States from susbequent export restrictions if such storage will not have a serious domestic inflationary impact; requires a study of the national security impact of the export of technical information to restricted countries within six months of enactment and adds other reporting and notification requirements; excludes petroleum products refined in the U.S. foreign trade zones or in Guam from any quantitative limitations imposed for short supply purposes unless the Secretary of Commerce limits such exports; prohibits export of Alaskan oil except for exchanges of crude oil in similar quantity with governments of adjacent foreign states or for oil that is temporarily exported, or where the President finds that such export is in the national interest; allows a 60-legislative-day period for such action to be vetoed by either House of Congress prior to any export; provides for termination of any contract for the export of oil if U.S. petroleum suppliers are seriously threatened; seeks to prevent most forms of compliance with foreign boycotts; prohibits refusal to do business with blacklisted firms and boycotted countries pursuant to foreign boycott demands; prohibits discrimination against any U.S. person on the grounds of race, religion, sex or national origin in order to comply with a foreign boycott or furnishing of such information for enforcement purposes; requires public disclosure of requests to comply with foreign boycotts and whether foreign boycotts are being complied with; and makes these provisions applicable to all domestic concerns and persons, including intermediaries in the export process; and provides for certain exemptions. H.R. 5840—Public Law 95–52, approved June 22, 1977.

Export-Import Bank: Extends to September 30, 1978, the operating authority of the Export-Import Bank; requires the Bank to obtain the State Department's advice on whether Bank Credits are consistent with U.S. human rights policy; directs the Bank to cooperate with other U.S. government agencies in international negotiations directed toward mutual reduction of government-subsidized export financing; requires a 25-day congressional review period before the Bank may loan or guarantee any export transaction involving nuclear power, enrichment, reprocessing, research or heavy water production facilities; prohibits the Bank from approving future financial transactions involving support for exports to a country which the Secretary of State determines has violated International Atomic Energy Agency nuclear safeguards or agreements with the U.S. concerning transfers of nuclear materials or has exploded a nuclear device (except Britain, France, China and Russia) unless the President determines that it would be in the national interest, and Congress has had 25 days to review the transaction; and prohibits the Bank from supporting the export of liquid metal fast breeder nuclear reactors and nuclear fuel reprocessing plants. H.R. 6415—Public Law 95–143, approved October 26, 1977.

Financial institutions regulatory agencies: Strengthens the supervisory authority of the Federal banking agencies over financial institutions and their affiliates; empowers the regulatory agencies to issue cease-and-desist orders against individuals directly without naming the corporate financial institution; authorizes the imposition of civil penalties of up to $1,000 per day against a financial institution or individual for violating a final cease-and-desist order; authorizes the divestiture of a nonbank subsidiary of a bank holding company if the nonbank or noninsured subsidiary constitutes a serious risk to the financial safety, soundness or stability of the subsidiary bank or insured savings and loan association; requires that loans to insiders be aggregated with loans to companies they control and, when aggregated, may not exceed the lending limitations on loans to a single borrower under Federal law in the case of a national bank or applicable State law in the case of a State-chartered bank; requires approval by two-thirds of the bank's board of directors for insider loans over $25,000 with substantially the same terms as loans prevailing in the market; authorizes the removal of an officer or director of a financial institution if the individual has demonstrated a willful disregard for the safety or soundness of the institution; prohibits interlocking management and director relationships, with certain specified exceptions, among depository institutions; prohibits interlocking relationships between a depository institution having assets in excess of $1 billion and a depository institution with assets in excess of $500 million; authorizes the Federal Reserve to exempt by rule interlocking management or director relationships among financial institutions where the effect would be procompetitive; requires prior approval of the FDIC for a State-insured nonmember bank to establish a foreign branch or invest in a foreign bank; clarifies the authority of the bank regulatory agencies to examine bank service contractors; makes it a crime to forcibly assault or intimidate a financial institution regulatory official; and proscribes revolving door employment practices by the heads of the financial institutions regulatory agencies. S. 71—Passed Senate August 5, 1977.

Foreign corporate bribes and domestic disclosures: Requires companies subject to the jurisdiction of the Securities and Exchange Commission to maintain accounting standards and management control over their assets; makes it a crime for corporations to use the mail to bribe a foreign official to obtain or retain business; imposes a maximum fine of $1 million on issuers and $10,000 and five years' imprisonment on officers, directors, employees or stockholders acting on behalf of the issuer for each violation of the criminal prohibitions; requires those persons who already file reports with the SEC when they own more than five percent of the shares in a U.S. company to identify their residence, citizenship and the nature of their beneficial ownership; and requires the Commission to consolidate the various beneficial ownership reporting requirements of the Securities Exchange Act into a centralized nonduplicative system for the collection of such information, and to tabulate and make it available to regulators and the public. S. 305—Public Law 95–213, approved December 19, 1977.

International banking: Provides for Federal regulation of participation by foreign banks in domestic financial markets by establishing the principle of competitive equality under law between foreign and domestic banks; makes Federal deposit insurance available for deposits of branches of foreign banks; places monetary policy controls over the funds of branches and agencies of foreign banks; authorizes Federal regulatory agencies to examine foreign banking operations in the United States to insure the safety and soundness of the system; and authorizes foreign banks to continue to operate across State lines. H.R. 10899—Public Law 95–369, approved September 17, 1978.

New York City loan: Provides additional financial assistance to New York City over the next four years in the form of long-term Federal guarantees of up to $1.65 billion in aggregate principal through June 30, 1982, to be available on a standby basis to be used only if the city is unable to obtain sufficient credit elsewhere; provides possibility for seasonal financing up to $325 million during 1979 only under certain conditions; provides that guarantees may be made for terms of up to 15 years; and sets conditions which must be satisfied before the Secretary of the Treasury can guarantee any city-related guarantees. H.R. 12426—Public Law 95–339, approved August 8, 1978.

New York City pension funds: Extends for four years the provision in present law which permits five New York City employee pension plans to retain their tax-exempt status under the provisions of the Internal Revenue Code, even though they purchase debt obligations issued by or on behalf of the City of New York under the terms of an agreement with the city or an agency of New York State; and extends such protection to three New York State employee pension plans should they purchase such obligations. H.R. 12051—Public Law 95– , approved 1978.

Pension plan insurance: Amends the Employee Retirement Income Security Act of 1974 to defer until July 1, 1979, the date by which multiemployer pension plans must pay an annual insurance premium to the Pension Benefit Guaranty Corporation to guarantee retirement benefits in the event that a pension plan terminates with insufficient funds; and increases the premium rate payable to the Corporation by plans that are not multiemployer plans. H.R. 9378—Public Law 95–214, approved December 19, 1977.

Public debt limit extensions: Increases the temporary debt limit from $300 billion to $352 billion for the six-month period ending March 31, 1978, making a total permanent and temporary debt limit of $752 billion. H.R. 9290—Public Law 95–120, approved October 4, 1977.

Continues through July 31, 1978, the present public debt limit of $752 billion. H.R. 11518—Public Law 95–252, approved March 27, 1978.

Sets the combined permanent and temporary public debt limit at $798 billion (which is composed of the $400 billion permanent debt limit and a $398 billion temporary debt limit which expired on July 31, 1978) through March 31, 1979, and increases by $5 billion Treasury Department authority to issue long-term bonds with interest rates above 4¼ percent. H.R. 13385—Public Law 95–333, approved August 2, 1978.

Regulation Q: Extends until December 15, 1977, existing authority (Regulation Q) under the Interest Rate Control Act by which Federal financial regulatory agencies set interest rate ceilings on deposits in financial institutions under their respective jurisdictions, and extends until August 31, 1977, the Treasury Department's authority to borrow funds from the Federal Reserve System. H.R. 3365—Public Law 95–22, approved April 19, 1977.

Extends until December 15, 1978, the authority for various Federal financial regulatory agencies to establish flexible ceilings on interest rates paid by financial institutions on time and savings deposits (Regulation Q). H.R. 9710—Public Law 95–188, approved November 16, 1977.

Regulation Q—Export-Import Bank extension: Extends until December 15, 1980, the authority for various Federal financial regulatory agencies to establish flexible ceilings on interest rates paid by financial institutions on time and savings deposits (Regulation Q); extends NOW accounts to New York and New Jersey; permits the Federal Home Loan Mortgage Company to purchase secured home improvement loans; increases from $40,000 to $100,000 the limits for IRA and KEOGH accounts; contains the provisions of S. 71, the Financial Institutions Supervisory bill, as passed by the Senate; extends for five years the Export-Import Banks au-

thority to make new commitments and increases by $15 billion the limitation on the aggregate commitments that the bank may have outstanding at any one time; and contains other provisions.

H.R. 14279—Passed House October 11, 1978; Passed Senate October 12, 1978.

Securities investor protection: Amends the Securities Investor Protection Act of 1970 to remove certain limitations which impair the efficient satisfaction of customers' claims and to address certain problems which have arisen in liquidation procedures; increases from $50,000 to $100,000 the amounts available to be distributed in liquidations to each customer and increases from $20,000 to $40,000 the amount available to satisfy claims for cash; permits the customer to receive securities to the maximum extent possible instead of cash; authorizes streamlined procedures in processing claims in cases where a significant savings in time would result; delays to November 1, 1978, the effective date of section 11(a) which prohibits all exchange members from effecting transactions on exchanges for their own accounts, accounts of their associates and accounts over which they or their associates exercise investment discretion; and increases from $500,000 to $1.5 million the maximum aggregate dollar amount of securities which may be offered to the public pursuant to an exemption from the act's registration requirements in order to encourage the growth and expansion of small business. H.R. 8331—Public Law 95–283, approved May 21, 1978.

Small business amendments: Provides multiyear authorizations for the programs administered by the Small Business Administration; earmarks specific funding levels for nonleading activities for a four-year period; mandates greater emphasis on advocacy, economic research, procurement assistance, management and technical assistance, minority small business and data maagement; authorizes banks and private lenders to form a pool of any type of SBA guaranteed loans and to issue certificates of beneficial ownership in such pools; provides for the formation of local development companies and authorizes SBA loans of up to $500,000 for each small business being assisted by the company; extends through fiscal 1980, the authority of nonprofit organizations of handicapped individuals to participate in small business procurement set-asides; makes energy shortage loans available to small business injured by any type of energy shortage; exempts business concerns employing ten or fewer employees from coverage under OSHA and from required recordkeeping on occupational injuries and illnesses; authorizes a four-year pilot program for establishing small business development centers (SBIC's) to provide management and technical assistance to small businesses and authorizes SBA to make matching grants on a 50–50 basis to any qualifying entity; defines and expands the duties of the SBA Chief Counsel for Advocacy; calls for the appointment of six Associate Administrators with defined responsibilities; contains a Small Business economic policy act with declared policy objectives and calls for a report on the credit needs of small businesses; authorizes SBA to license a new category of small business concerns, Venture Capital Investment Companies (VCIC's), to provide small business concerns; and requires the President to call a White House conference on small business by June 30, 1978. H.R. 11445—Public Law 95– , approved 1978.

Authorizes a total of $1.4 billion for fiscal 1978 and $1.565 billion for fiscal 1979 for the Small Business Administration; sets levels of $2 billion for the surety bond guarantee program, $4 million for the lease guarantee program, $150 million for pollution lease guarantees, and $171 million for salaries and expenses; places ceilings for the first time on SBA lending programs except for the physical and economic injury disaster loans which are open ended authorizations; eliminates SBA's obligation to pay interest on capital appropriations to the Real Estate Lease Guarantee Revolving Fund, the Surety Bond Guarantee Revolving Fund and the Pollution Control Lease Guarantee Revolving Fund; eliminates the authority to invest temporarily idle funds except for fees from the Pollution Control Lease Guarantee Revolving Fund; requires SBA's annual report to break out the assistance provided to socially and economically disadvantaged individuals; authorizes SBA to finance residential or commercial construction or rehabilitation for sale but provides that such loans may not be used primarily for land acquisition; authorizes SBA to make displaced business loans to small concerns suffering substantial economic injury as a result of displacement by a State or local government or public service entity which exercises its right of eminent domain; authorizes SBA economic injury loans up to $100,000, upon the request of the Governor of the State, to small businesses concerns in an area affected by a natural disaster even if the extent of the damage was not sufficient for a disaster declaration by the President, Secretary of Agriculture or Administrator of SBA; lowers the interest rate on physical disaster loans from the period July 1, 1976, to October 1, 1978, for the uninsured damaged portion of a principal residence and property; authorizes SBA to certify a small business company's ability to perform a specific government contract and provides that a contract may not be withheld for any reason if SBA issues a certificate of competency; and directs that priority be given to labor surplus areas when awarding small business set-aside contracts. H.R. 692—Public Law 95–89, approved August 4, 1977.

Establishes a small business development center program within SBA to aid in the growth and development of new and existing small businesses; and authorizes SBA to make grants to a State to defray 75 percent of the cost of developing and operating a development center program to provide smaller concerns with a broad range of advice, information and assistance and to fund 100 percent of the cost of developing and operating regional centers. S. 972—Passed Senate August 5, 1977.

Increases the fiscal 1977 authorization ceilings for the following SBA financial assistance programs: Business Loan and Investment Fund $7.4 billion, Economic Opportunity Loans $525 million, and Small Business Investment Company Program from $725 million to $887.5 million; and increases the fiscal 1977 ceiling on the Surety Bond Guarantee Program $110 million. H.R. 2647—Public Law 95–14, approved March 24, 1977.

Amends the Small Business and the Small Business Investment Acts to clarify and improve the minority enterprise small business investment company (MESBIC) program, the surety bond guarantee program, the section 8(a) and subcontracting programs and related procurement assistance activities for small businesses owned and controlled by socially and economically disadvantaged individuals; authorizes MESB'C's to form as limited partnerships; requires that SBIC's and MESB'C's formed after October 1, 1979, have private paid-in capital of not less than $500,000; creates a ten-member advisory committee to encourage the placement of subcontracts with eligible minority businesses and to foster the development and training of development program to provide assistance exclusively to minority business concerns; specifies that the procurement authority under section 8(a) will be used only for helping to develop businesses owned by socially and economically disadvantaged persons and defines the concerns eligible for such contracts; distinguishes between formally advertised and negotiated procurements; requires businesses to apply for assistance under this program; provides for the establishment of goals for small business participation in Federal procurement contracts; authorizes the Federal agencies to reserve contracts for research, development, test and evaluation, contracts for architectural and engineering services, and contracts having an estimated dollar value under $10,000 for small businesses; establishes in each Federal agency having procurement powers an Office of Small and Disadvantaged Business Utilization responsible for implementing programs under sections 8 (subcontracting) and 15 (prime contracting) of the Small Business Act; directs the Administrator of the Office of Federal Procurement Policy to promulgate a single simplified procurement regulation; establishes subcontracting requirements for certain large contracts; and authorizes SBA to make loans to local development companies to finance plant construction, conversion or expansion, including land acquisition. H.R. 11318—Public Law 95– , approved 1978. (VV)

Amends the Small Business Act to insert those provisions of the Domestic Volunteer Service Act of 1973 which govern the operation of SBA's volunteer counseling programs, SCORE (Service Corps of Executives) and ACE (Active Corps of Executives); provides workmen's compensation coverage for a SCORE or ACE volunteer injured or killed while performing counseling services pursuant to a SBA agreement; reimburses volunteers for the cost of malpractice insurance; authorizes the Administrator to accept any money or property received by SBA as a gift, devise or bequest for use in carrying out the provisions of the Small Business Act; and increases the maximum amount of compensation and subsistence allowances which SBA may pay to individuals employed by contract or experts and consultants to the same level which other agencies and departments may compensate such individuals. H.R. 13418—Public Law 95– , approved 1978. (VV)

Susan B. Anthony dollar: Authorizes the minting and issuance of a new circulating dollar coin bearing the likeness of Susan B. Anthony and continues the current Eisenhower-Apollo statutory design for collectors. S. 3036—Public Law 95–447, approved October 10, 1978.

EDUCATION

Alcohol and drug abuse education: Extends through fiscal 1981 the Alcohol and Drug Abuse Education Act of 1970, as amended and authorizes therefor $10 million for 1979, $14 million for 1980, and $18 million for 1981 which shall remain available through fiscal 1981 to permit multiple year funding. H.R. 10569—Public Law 95–336, approved August 4, 1978.

Career education incentives: Provides Federal financial incentives to States, local educational agencies, and postsecondary educational institutions to develop, implement and strengthen career education programs to ensure that education will be more closely related to the work world and career preferences of individuals; authorizes $50 million for fiscal 1979, $100 million each for 1980 and 1981, $50 million for 1982 and $25 million for 1983 to State and local educational agencies to implement career education programs in elementary and secondary schools; and authorizes $15 million annually over the five-year period to postsecondary institutions, public agencies or private nonprofit entities

for postsecondary education demonstration projects having national significance or unusual promise in promoting career education at the postsecondary level. H.R. 7—Public Law 95–207, approved December 13, 1977.

Department of Education: Provides for the establishment of a cabinet-level Department of Education headed by a high-level Federal official who can assure that education receives the appropriate emphasis and be held accountable for the successes or failures of educational programs and policies at the Federal level; transfers the education functions and programs of the following agencies: the entire Education Division of HEW as well as other education functions at HEW; the child nutrition and nutrition education programs (other than women, infants and children feeding programs) from the Department of Agriculture; the operation and administration of the overseas dependent schools from the Defense Department, a transfer which will be phased in over three years; programs relating to science education from the National Science Foundation; student loan and grant programs known and the Law Enforcement and Education Program and the Law Enforcement Intern Program from the Department of Justice; and the College Housing Loan Program from the Department of Housing and Urban Development; provides for the establishment of an Intergovernmental Advisory Council to develop policies and relations relating to education; and gives statutory authority to the Federal Interagency Committee on Education as a mechanism to coordinate education policies and practices by Federal agencies. S. 991—Passed Senate September 28, 1978.

Elementary and secondary education: Extends through fiscal 1979, programs of Federal aid under the Elementary and Secondary Education Act of 1965; and extends through fiscal 1979 and Adult Education Act, Title II of the National Defense Education Act of 1958, and the carryover authority contained in section 412(b) of the General Education Provisions Act. S. 1752—Public Law 95–112, approved September 24, 1977.

Extends the Elementary and Secondary Education Act of 1965 through fiscal 1983; authorizes $3 billion for compensatory services to children in low-income areas who show need for special educational support; includes two new elements in the title I program—incentive grants to encourage the use of State funds for compensatory education programs and concentration grants to those school districts wih the highest numbers and proportions of low-income students; modifies the basic formula for distribution of title I funds to provide for the full counting of children receiving Aid to Families with Dependent Children; provides that 50 percent of funds appropriated above the fiscal 1979 level be distributed to local educational agencies on the basis of the 1975 survey of income and education; authorizes Federal funds to match State compensatory education programs at the rate of one Federal dollar to two State dollars; extends the bilingual education program, increasing authorizations for training activities, research and evaluation, and grants; extends the provisions relating to impact aid to local school systems which pays a percentage of their educational costs to compensate for the presence of Federally-owned facilites which do not pay any taxes; amends the existing tier system, to allow increased flexibility in the appropriation process; repeals the present absorption provision; adds to owned by foreign governments and international organizations local entitlement property; extends existing law relating to adult education and adds a new program of adult education for immigrants; extends existing authorizations of elementary and secondary education program for Indians through fiscal 1983; prohibits psychiatric or psychological testing or any testing or treatment the primary purpose of which is other than achievement or aptitude testing without parental consent; and extends the Indochina Refugee Children Assistance Act of 1976 through 1983. H.R. 15—Passed House July 13, 1978; Passed Senate amended August 24, 1978; Senate agreed to conference report October 12, 1978.

Handicapped education: Extends certain programs under the Education of the Handicapped Act through fiscal 1982 and provides the authority for the Bureau of Education to support model education projects for all handicapped children under section 641 of the act. H.R. 6692—Public Law 95–49, approved June 17, 1977.

Higher education grants and loans: Expands the basic educational opportunity grants program under the Higher Education Act of 1965 so that families with incomes of $25,000 (instead of the present cutoff at $13,000) and one child in college will be eligible for a basic grant which will result in eligibility of an additional 1.5 million students; removes the cap from the guaranteed student loan program and permits any qualified family or person to borrow from private lenders for education which would be amortized and repaid through the private loan market with 100 percent payment guarantees by the Federal government; increases from $237.4 million to $500 million; increases the mandatory minimum funding for the college work-study program from $237.4 million to $500 million; increases the mandatory minimum funding for the supplemental educational opportunity grant program from $130,093,000 to $370 million for fiscal 1979 and to $450 million for fiscal 1980 and thereafter; increases the authorization for initial year supplemental grants (available to first-time students) from $200 million to $250 million; and amends the State student incentive grant program to allow continued participation in that program of States which have constitutional prohibitions against participation of nonprofit institutions of higher education in State grant programs. S. 2539—Passed Senate August 16, 1978.

Vocational education: Removes the $25 million a year limit for State administrative expenses under title II of the Education Amendments of 1976 and authorizes funds under the basic State grant for this purpose with the requirement that States match any Federal funds used; requires States to set forth in their State plan the amount of Federal funds they plan to retain at the State level for administration; and gives each local recipient the option of using a percentage of Federal funds which is equal to the percentage of Federal funds in their vocational education program or to use any amount of Federal funds as long as they are matched by State appropriated funds for administrative expenses. H.R. 3437—Public Law 95–40, approved June 3, 1977.

ELECTIONS

Campaign Act amendments: Substantially reduces the number of reports required to be filed with the Federal Election Commission under the Federal Election Campaign Act of 1971; raises from $100 to $250 the threshold above which detailed information with respect to contributions and expenditures must be reported and, with respect to independent expenditures, from $100 to $250; makes changes in the law to strengthen the role of political parties in future elections; contains language to encourage a candidate to support his political party's presidential candidate by providing that the costs of listing or mentioning the name of any presidential nominee by any other candidate in his campaign material will not be considered as a contribution in-kind prohibited by the act; permits the transfer of excess campaign funds to a political party committee without limitation; authorizes $250,000 in fiscal 1978 to reimburse States for the additional costs of receiving and preserving Federal campaign reports; and the statute of limitation from three years to five years with regard to violations of the Campaign Act. S. 926—Passed Senate August 3, 1977.

Overseas citizens voting rights: Amends the Overseas Citizens Voting Rights Act of 1975 and the Federal Voting Assistance Act of 1955 to improve the administration and operation of these laws; authorizes utilization of the same ballot application provisions presently contained in the Federal Voting Assistance Act for all citizens residing overseas; and authorizes revision of the absentee registration and ballot application forms to develop a single form which could also be used by citizens residing abroad. S. 703—Public Law 95– , approved 1978.

EMPLOYMENT

CETA: Extends the authorization of sums as necessary for all titles of the Comprehensive Employment and Training Act (CETA) through fiscal 1978; extends the amendments to title VI made by the Emergency Jobs Programs Extension Act of 1976, which provide that each prime sponsor of a public service employment program may use its allocation, first, to sustain its existing number of public service job holders under the act, and shall thereafter fill any additional public service jobs with low-income persons unemployed for at least 15 weeks who have been receiving or are eligible for unemployment compensation, and also provide that 50 percent of title VI job vacancies due to attrition must meet those eligibility requirements, but the remaining 50 percent may be filled under the original title VI requirements (15 days unemployment in areas having seven percent or higher unemployment rates, and 30 days unemployment in other areas). H.R. 2992—Public Law 95–44, approved June 15, 1977.

Amends the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services for economically disadvantaged persons, unemployed or underemployed persons which will result in an increase in their earned income; extends Comprehensive Employment and Training Services, Public Service Employment, National Programs, Summer Youth Program, Job Corps and the National Commission for Manpower Policy for four years; extends for two years the youth programs enacted under the Youth Employment and Demonstration Projects Act of 1977; includes strong anti-fraud and abuse provisions; prohibits the substitution of program funds for State and local revenues; authorizes the Secretary of Labor to make use of State and local agencies, especially law enforcement agencies, to monitor and enforce provisions of the Act; directs the Secretary to establish standards and procedures to assure against nepotism, political patronage, conflicts of interest, improper commingling of funds, inadequate records, kickbacks and other improprieties; adds a new program to establish transitional public service employment for the structurally unemployed and provides a new allocation formula for distributing funds for this program; establishes a ceiling of $10,000, and in high wage areas up to $12,000, on the Federal share of wages that can be paid to a public service employment job holder; limits public service emploment participation to twelve months, which may be extended for six months

in areas of high unemployment; requires that not less than two percent be allocated to Native American entitles; extends the countercyclical public service employment program and modifies the eligibility criteria for participation, wages, supplementation and project requirement; consolidates the following programs into one youth title: Job Corps, Summer Youth Programs, Youth Employment and Demonstration Programs, and the Young Adult Conservation Corps; and authorizes for two years a new private sector program to increase private sector employment opportunities for the economically disadvantaged and seeks to bring business and labor together to form private industry councils (PIC's) to assist in creating private sector jobs for the economically disadvantaged. S. 2570—Passed Senate August 25, 1978; Passed House amended September 22, 1978; Senate agreed to conference report October 13, 1978.

Emergency unemployment compensation—Federal pay raises: Extends the Emergency Unemployment Compensation Act to October 31, 1977, to provide a maximum of 13 weeks of emergency benefits (which combine with the 26 weeks of regular and 13 weeks of extended benefits for a total of 52 weeks of unemployment benefits) in States where the insured unemployment rate is five percent or more, with a phaseout under which individuals eligible before October 31, 1977, may continue to receive benefits until January 31, 1978; extends until April 30, 1977, the maximum 26-week program now in effect (which combine with 26 weeks of regular and 13 weeks oi extended benefits for a total of 65 weeks of unemployment benefits) in order to avoid terminating benefits for certain participants in that program; establishes new statutory authority and procedures for the treatment of fraud and erroneous payments and specifies certain eligibility requirements; requires certain States to recover any overpayments made to individuals; makes fraud in connection with the program a Federal crime and imposes a fine of up to $10,000 and imprisonment for up to five years; and amends present law to require an affirmative vote of the Senate and the House to make effective the President's quadrennial recommendations regarding the salary increases of Members of Congress, the Federal judiciary. Cabinet officials and other top Federal personnel. H.R. 4800—Public Law 95-19, approved April 12, 1977.

Humphrey-Hawkins full employment: Seeks to establish and translate into practical reality the right of all adult Americans able, willing, and seeking to work the full opportunity for useful paid employment; requires the President to submit an annual economic report including annual numerical goals for 5 years for employment and unemployment, production, real income and productivity; short and medium term goals at 3% adult unemployment and 4% overall unemployment within 5 years with an inflation rate goal of 3% by 1983 and 0% by 1988; and contains other provisions. H.R. 50—Passed House March 16, 1978. Passed Senate amended October 13, 1978.

Public Works Employment: Authorizes an additional $4 billion to extend the program of grants to State and local governments to provide jobs through construction in places with the most distressing levels of unemployment as originally authorized under title I of the Public Works Employment Act of 1976; provides that 65 percent of the funds be allotted on total numbers of unemployed and 35 percent on the basis of the relative severity of unemployment, with States' participation in the 35 percent allocation only if their unemployment rates exceed 6.5 percent for the most recent 12-month period; provides that no State shall receive less than three-fourths of one percent nor more than 12.5 percent; requires that 70 percent or more of the funds be spent in areas within a State having unemployment rates above the national average and 30 percent for areas with rates below the national average but above 6.5 percent; contains a 2½ percent set-aside for Indian and Alaskan Natives projects to insure a substantial fund for such projects while permitting high-unemployment non-Indian communities a competitive chance to be awarded projects in States with Indian communities; includes the transportation of water to drought-stricken areas within the term "public works project" and permits an applicant who received a grant to substitute one or more projects for the project for which the grant was made under certain conditions approved by the Administrator; requires that priority and preference be given to pending applications resulting in energy conservation; ensures that all laborers and mechanics employed on projects are paid the prevailing wage rate; and mandates, in title II, the obligation of funds for water resource projects for fiscal 1977 (with the exception of the Meramec Dam in Missouri) and states congressional intent not to uphold any prospective budget rescissions or deferrals regarding these projects. H.R. 11—Public Law 95-28, approved May 13, 1977.

Youth employment and training: Adds a new youth employment title to the Comprehensive Employment and Training Act of 1973 and authorizes such sums as necessary over a three-year period; creates a National Young Adult Conservation Corps to provide work for unemployed youths in the nation's public lands and water; establishes a variety of employment, training, and demonstration programs to explore methods of dealing with the structural unemployment problems of the Nation's youth; provides part-time employment and/or training for economically disadvantaged youths between the ages of 16 and 19 who resume or maintain attendance in secondary school to acquire a high school diploma or its equivalent; authorizes youth community conservation and improvements projects to put unemployed youths to work for a period not to exceed 12 months on the rehabilitation or improvement of public facilities, neighborhood improvements, weatherization and basic repairs to low-income housing, and conservation, maintenance or restoration of natural resources on non-Federal public lands; authorizes support for employment and training programs designed to enhance job prospects and career opportunities for young persons; specifies the wage rates to which employed youths are entitled; prohibits full-time employment of youths who have not exceeded the compulsory school attendance age; permits full-time employment when school is not in session; requires a report on the progress of the programs by March 15, 1978; disregards a youth's earnings in determining the family's eligibility to participate in Federal or Federally-assisted welfare programs; requires the Secretary of Labor to take steps to increase CETA participation by disabled veterans and Vietnam-era veterans under 35 years of age; and provides that, in filling teaching positions in public schools with financial assistance under CETA, special consideration be given to unemployed persons with State certification and teaching experience. H.R. 6138—Public Law 95-93, approved August 5, 1977.

ENERGY

Alaska pipeline (ALCAN): Approves the President's decision on an Alaska natural gas transportation system submitted to Congress on September 22, 1977, which authorizes private construction of a natural gas pipeline through Canada, and finds that any environmental impact statements prepared relative to the system and submitted with the President's decision are in compliance with the National Environmental Policy Act of 1969. H.J. Res. 621—Public Law 95-158, approved November 8, 1977.

Coal conversion: Prohibits certain new electric power plants and major fuel burning installations (MFBI's) capable of a fuel heat rate input of at least 100 million Btu's per hour or an aggregation of units which together are capable of a fuel heat rate input of 250 Btu's per hour from using natural gas or petroleum as their primary energy source except for fuel required for startup testing, flame stabilization, feedstock uses and direct-fire uses; limits the coverage of MFBI's to only backers, gas turbines internal combustion engines, and combined cycle units and specifically excludes pumps and compressors used solely in connection with the production, gathering, transmission, storage, and distribution of gases and liquids; authorizes the Secretary to prohibit by rule or order the use of oil and gas by certain new MFBI nonboilers;

Requires existing electric powerplants and MFBI's capable of using coal or other fuels with heat input rates of at least 100 million Btu's per hour, or an aggregation of coal capable units of fuel heat input rates exceeding 250 million Btu's per hour, or units which cannot use coal capable of fuel heat input rates of at least 250 Btu's per hour, to cease using natural gas as their primary energy source after January 1, 1990, and not to increase the proportional use of natural gas before that date; prohibits the use of petroleum by new MFBI's which are capable of consuming any fuel at a fuel input rate of 100 Btu's per hour or more, with temporary exemptions possible at the discretion of the Secretary;

Provides that any existing facility which uses coal after April 19, 1977, may not increase its use of petroleum unless the appropriate State certifies that such an increase is necessary for compliance with the Clean Air Act; authorizes the Administrator to order existing powerplants and MFBI's capable of using combinations of coal or other fuels with natural gas or petroleum to use minimal amounts of natural gas or petroleum; prohibits plants using petroleum as the primary energy source as of April 20, 1977, from converting to natural gas; extends coal conversion provisions of the Energy Supply and Environment Coordination Act of 1974 which allows the Administrator to order coal conversions by facilities capable of using coal prior to 1990;

Provides temporary exemptions for the use of both petroleum and natural gas to facilities: (1) if coal or fuels other than gas or petroleum are not available (up to ten years); (2) if adequate coal or other fuel transportation facilities are not available (up to five years); (3) if necessary air pollution equipment and facilities are not available (up to five years); (4) where the use of natural gas is necessary to achieve or maintain an ambient air quality standard (up to five years); (5) if existing plants need additional time to employ synthetic fuels or innovative technologies (up to ten years); or (6) if such an exemption would be in the public interest (up to five years);

Provides permanent exemptions from the petroleum and natural gas provisions to facilitates: (1) if coal and fuels other than natural gas or petroleum are not available; (2) if the cost of using coal or other fuels substantially exceeds the cost of using oil; (3) if environmental factors preclude compliance; (4) if the facility is constructed for only standby emergency operation; (5) if a cogeneration facility cannot obtain economic and other benefits if coal or other fuels are

used; or (6) at the discretion of the Secretary, if it cannot comply with the prohibition because of existing State or local law;

Provides a permanent exemption for cogeneration facilities if the benefits of cogeneration cannot otherwise be obtained; grants permanent exemption to existing powerplants and MFBI's to permit the use of certain fuel mixtures containing gas or petroleum; extends the natural gas prohibitions to existing electric powerplants with fuel heat input rates between 100 and 250 BTU's per hour which are not capable of using coal unless the facility demonstrates that it cannot convert without substantial physical modification or reduction in the rated capacity of the unit; allows a permanent exemption for the use of liquified natural gas in cases where the use of coal would cause substantial environmental harm; provides an exemption for the use of natural gas to allow MFBI's to honor certain contracts with pipelines originating in Canada.

Authorizes the Secretary to prohibit, by rule, the use of natural gas for certain boilers used for space heating; prohibits the use of decorative natural gas outdoor lights except for those used at historic sites or which are necessary for safety reasons; provides that all Federal agencies are subject to the prohibitions of the act;

Grants the President emergency authority to allocate coal, but not any fuel derivatives; authorizes the President to stay the application of the act if he finds an emergency exists due to coal shortages; sets procedures by which a peakload electric powerplant for MFBI may use gas or petroleum during an emergency;

Provides that new electric peakload powerplants are to be granted permanent exemptions from petroleum prohibitions if the facility will be operated for peakload purposes only, and from natural gas prohibitions in any area where a national ambient air quality standard has not or will not be attained; allows intermediate-load powerplants to be exempted from the petroleum prohibitions if convertible to coal derived fuels when available; mandates that permanent exemptions from petroleum prohibitions are to be granted to MFBI's if satisfactory product quality control would be jeopardized or product requirements cannot be met by the use of coal or fuels other than gas and petroleum; requires applicants seeking permanent exemptions for new electric powerplants to consider alternate sites where coal and other fuels could be used, or the possibility of purchasing electric power instead of using petroleum;

Requires existing powerplants and MFBI's to file annual compliance reports beginning January 1, 1980; allows electric utility systems using intrastate gas to submit a system compliance report rather than individual reports; empowers the Administrator to compensate any existing facility which in the absence of such compensation would otherwise be entitled to a permanent exemption; authorizes the Administrator to make direct loans and loan guarantees to facilitates for air pollution control devices necessitated by coal conversion;

Provides that a facility prevented from using natural gas under contract may sell its rights at a price to be determined, including an amount to compensate the company which transports the gas; contains provisions which allow facilities to use natural gas or petroleum in emergency situations; authorizes assistance for additional public facilities and services in regions impacted by coal production expansion; requires the Administrator to monitor coal prices and to report thereon to the Congress; and authorizes $100 million for rehabilitation of minor and branch railroad lines which transport coal and coal products. H.R. 5146—Passed House July 18, 1977; Passed Senate amended September 8, 1977; Senate agreed to conference report July 18, 1978.

Coal leasing: Authorizes the Secretary of Interior to aquire specific rights to leases for coal in Utah and Wyoming by exchanging leases of equal value covering other Federal lands; further implements the Secretary's authority to issue rights-of-way under the authority of the Federal Land Policy and Management Act of 1976 by authorizing him to sell coal, which may be removed incidental to the exercise of the right-of-way, at fair market value; authorizes the Secretary to adjust the boundaries of an existing lease by adding not more than 160 acres of land; clarifies the Secretary's authority to exchange mineral interests in Federal lands for privately owned mineral interests and to sell federally owned interests under the authority of the Federal Land Policy and Management Act; and prohibits women miners in underground mines on Federal lands. S. 3189—Public Law 95, approved 1978.

Deepwater ports: Extends through fiscal 1980 the annual $2.5 million authorization under the Deepwater Port Act of 1974 which established a licensing and regulatory program governing offshore deepwater port development beyond the territorial limits of the United States. H.R. 6401—Public Law 95-36, approved June 1, 1977.

Department of Energy: Creates a Cabinet-level Department of Energy (DOE) to permit coherent administration of the national energy policy; establishes within the Department: (1) the Energy Information Administration to gather, analyze and distribute energy data and to implement a system of mandatory reporting by major energy-producing firms of information related to the economics of energy supply; (2) the Economic Regulatory Administration to administer regulatory functions which the Secretary deems appropriate and which do not fall exclusively within the jurisdiction of the Federal Energy Regulatory Commission; (3) an Office of Inspector General to promote efficiency and prevent fraud and abuse within DOE; (4) the Office of Energy Research; and (5) the Leasing Liaison Committee, composed of an equal number of members from the DOE and the Department of Interior, to provide for cooperation and consultation between the two Departments; provides that the GAO shall audit the DOE; transfers all functions of the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission, except those functions transferred to the Federal Energy Regulatory Commission; four Regional Power Marketing administrations and the power-marketing functions of the Bureau of Reclamation currently under the Department of Interior; authority under the Outer Continental Shelf Lands Act, Mineral Lands Leasing Act, Mineral Leasing Act for Acquired Lands, Geothermal Stream Act of 1970 and the Energy Policy and Conservation Act related to the leasing of energy resources onshore and offshore; functions relating to fuel supply and demand analysis currently under the Bureau of Mines; authority for development and promulgation of new building conservation standards now vested in the Secretary of HUD; Commerce Department programs to promote voluntary industrial energy conservation; jurisdiction over three naval oil reserves and three naval oil shale reserves currently administered by the Department of Defense; authority currently vested in the Interstate Commerce Commission related to the transportation of oil by pipelines; and authority to publish guidelines for the Rural Electrification Administration on the issuance of loans or loan guarantees for generation and transmission facilities; retains the responsibility for promulgation of automobile efficiency standards within the Department of Transportation, but requires the Secretary of Transportation to give the Energy Secretary 10 days in which to provide written comment on any standard prior to its implementation; leaves responsibility for policing clean air standards with the Environmental Protection Agency; continues responsibility for actual leasing of resources for the extraction of energy sources from public land in Interior, but places control over all economic terms and conditions of such leases in DOE; provides that nothing in the transfer of Federal leasing functions from Interior to DOE shall be construed as affecting Indian lands and resources or as transferring the responsibility of the Secretary of Interior concerning such lands and resources; requires Cabinet-level departments and agencies with conservation responsibilities to designate a principal conservation officer within their Department; provides that the responsibility for the promotion of vanpooling and carpooling shall be transferred to the Secretary of Transportation; creates within the Department, independent of the Secretary's control, a five-member Federal Energy Regulatory Commission with its members appointed by the President and approved by the Senate; provides that the Commission shall have sole jurisdiction over the establishment and enforcement of rates and charges for the transmission and sale of electricity and natural gas, and authority to license hydroelectric power plants; provides that either the Secretary or the Commission may propose a rule pertaining to functions within the exclusive jurisdiction of the Commission and that the Secretary can set reasonable time limits for completion of rulemaking proceeding before the Commission; provides that the Secretary shall have jurisdiction over the import and export of natural gas and electricity, emergency interconnections and curtailment priorities; provides that the Secretary shall have sole power to propose oil pricing actions, and that all such proposals must be referred immediately to the Commission which has sole power to make such final decisions on the proposal; provides that the Commission can either agree to an oil pricing proposal (in which case the Secretary may issue the rule), amend the proposal (in which case the Secretary may accept the changes and issue the final rule or reject the changes and not issue the rule), or reject the proposal (in which case the Secretary may not issue the rule); provides that during an energy crisis the President may grant the Secretary temporary exclusive pricing authority; requires the President to submit a proposed national energy policy plan by April 1, 1979, to be updated biennially thereafter and a comprehensive review of each program in the Department by January 15, 1982, for review with respect to authorizing legislation for fiscal 1983. S. 826—Public Law 95-91, approved August 4, 1977.

Department of Energy—Military: Authorizes a total of $2,976,484,000 to carry out national security programs, including scientific research and development in support of the armed services, strategic and critical materials necessary for the common defense and military applications of nuclear energy as follows: $1,237,194,000 for Weapons activities; $514,500,000 for Special Materiels Production; $104,000,000 for Intertial Confinement Fusion; $265,600,000 for Naval Reaction Development; $32,600,000 for Defense Intelligence and Arms Controls; $45,089,000 for Nuclear Materials Licensing and Safeguards; $47,151,000 for Programs Direction and Management Support related to National Security Programs; establishes certain limitations.

the testing and replacement of components of the B43 bomb and the SM-2 warhead; authorizes procurement of enhanced radiation (neutron bomb) components for the Lance Warhead and 8-inch artillery projectile; prohibits starting any projects if the current estimated costs are more than 25 percent of the amount authorized; requires a single request for appropriations for all nuclear arms scientific research; and requires that a status report on government-owned equipment, facilities and materiel be submitted with the 1980 budget request. H.R. 11686—Passed House May 17, 1978; Passed Senate amended September 30, 1978.

ERDA nonnuclear authorization—Civilian 1977: Authorizes a total of $4,946,261,000 for the Energy Research and Development Administration for fiscal 1977, of which $1,175,671,000 is for non-nuclear scientific research and programs and $3,770,590,000 for nonweapon nuclear scientific research programs; allows the Administrator to assist in the demonstration of the production of synthesis gas, methane, methanol, anhydrous ammonia and similar energy intensive products from municipal waste by entering into agreements with units of local government proposing to construct facilities for the manufacture of such products; authorizes a small grants program to promote the research, development and demonstration of energy-related systems and technologies appropriate to the needs of local communities; requires the Administrator, in consultation with EPA, to report to the Congress on the environmental monitoring, assessment and control efforts related to its various energy demonstration projects; authorizes work in biomedical and environmental research, operational safety, environmental control technology, the materials sciences, and molecular mathematical and geosciences; and prohibits ERDA from starting projects if the current estimated cost exceeds the original estimated cost by more than 25 percent. S. 36—Public Law 95-39, approved June 3, 1977.

ERDA nonnuclear authorization—Civilian, 1978: Authorizes a total of $6,161,445,000 for civilian energy research and development and plant and capital equipment for the Energy Research and Development Administration for fiscal 1978 which includes funding for R&D in fossil energy, solar energy, geothermal energy and nuclear research; and authorizes a guaranteed loan program for the conversion of biomass into desirable forms of energy and for demonstration technologies to produce alternative fuels from coal, oil shale and other domestic resources. S. 1340—Public Law 95-238, approved February 25, 1978.

ERDA nuclear authorization—Military, 1978: Authorizes $2,607,100,000 for the Energy Research and Development Administration (ERDA) for fiscal 1978 national security programs and includes funds for operating expenses for the laser fusion program, the naval reactor program, and program management and support items attributed to national security. S. 1339—Public Law 95-183, approved November 15, 1977.

Energy conservation policy: Establishes both voluntary and mandatory energy conservation programs designed to significantly reduce the rate of growth in domestic energy consumption;

Residential provisions: Requires electric and natural gas companies, pursuant to a plan filed by each governor, to (1) offer to inspect and advise each customer about the energy conservation measures appropriate to the residential building that the customer owns or occupies, (2) provide the customer with a list of installation contractors and lending institutions which have been certified under the provisions of the State plan, (3) arrange, at the request of the customer, for the installation and financing of the measure chosen and collect from the customer the associated costs on a regular utility billing cycle; prohibits any electric and natural gas utility companies from installing most energy conservation measures unless it provides these services prior to enactment, unless it broadly advertised or made substantial preparation for such service, or unless State law requires or explicitly permits a utility to do so;

Weatherization Grants for Low-Income Families: Creates a separate grant program under the Farmers Home Administration to finance weatherization of homes of the rural poor; extends through 1980 the weatherization program established under the Energy Conservation in Existing Buildings Act of 1976; provides loan insurance for energy conserving improvements and solar energy systems; authorizes Government National Mortgage Association programs of secondary financing for energy conserving improvements and solar energy systems for homes with total GNMA purchase authority of $5 billion; establishes a 5-year GNMA revolving fund of $100 million administered by the Secretary of HUD to provide loans for installation of residential solar heating and cooling equipment; establishes a loan program within HUD for energy conservation improvements to multi-family housing;

Auto and consumer products efficiency standards: Authorizes the Secretary to raise civil penalties for violation of the current energy efficiency standards for automobiles; requires disclosure to a consumer of any gas guzzler tax applicable to an automobile; extends coverage of the fuel economy labeling requirements of current law to include light trucks and vans; requires an EPA report on how well the current EPA automobile fuel economy estimates compare with the fuel economy actually obtained; requires Secretary to establish mandatory energy efficiency standards for categories of products such as refrigerators, freezers, water heaters, air-conditioners, furnaces and other home heating equipment, and clothes dryers; prohibits the promulgation of a standard if a test procedure has not been prescribed, or if the Secretary determines that such a standard would not result in signficant energy conservation or that it is not technologically feasible or economically justified; creates a 30-month period during which any State standard prescribed during that period would be automatically preempted as a means of encouraging manufacturers to aid DOE in establishing Federal standards; authorizes DOE to establish test procedures and labeling requirements that will disclose to the purchaser the relative energy efficiency of the industrial product for sale; contains provisions to encourage recycling of energy intensive materials in industries related to metals, paper, textile and rubber.

Federal energy initiatives: Requires DOE to establish life-cycle capital and operating-cost methods for all Federal buildings: provides that in leasing buildings, the Federal government must give preference to buildings with solar heating and cooling equipment or energy efficient buildings; authorizes $100 million through fiscal 1980 for development of a program to demonstrate solar heating and cooling in Federal buildings; requires each Federal agency to retrofit selected buildings so that by 1990 all Federal buildings will be retrofitted to assure their maximum possible life cycle cost-effectiveness; authorizes $98 million through September 30, 1981, for procurement of photovoltaic solar electric generation systems for use by Federal agencies;

And contains miscellaneous energy-related provisions regarding industrial efficiency reporting, State energy conservation plan funding, the establishment of an Office of Minority Economic Research and Development within DOE and several energy-related studies. H.R. 5037—Passed House July 18, 1977; Passed Senate amended September 13, 1977; Senate agreed to conference report October 9, 1978. (467)

Energy taxes: Sets forth an energy taxation policy to encourage energy conservation, expansion of domestic energy sources, and conversion to coal fuel sources by utilities and industrial installations;

Residential tax credits: Includes a refundable tax credit of 20 percent of the initial $2,000 of expenditures on home insulation and other residential energy conserving components for a maximum credit of $400; provides a refundable tax credit of up to $75 per year for persons 65 years and older for residential energy costs; entitles homeowners to a refundable tax credit for renewable energy source equipment, which includes solar, wind and geothermal energy systems of 30 percent of the first $2,000 of expenditures and 20 percent of the next $8,000 for a maximum credit of $2,200; provides, through 1982, a refundable tax credit of 25 percent of the cost of home heating oil, with a maximum annual credit of $150;

Business energy investment credit: Contains a business energy investment credit which provides an additional 15 percent refundable credit for certain alternate energy property (equipment involved in the use of a substance as a fuel or feedstock other than oil, natural gas or a derived product), and an additional 10 percent refundable credit for certain specially defined energy property (equipment which reduces energy consumption when added to an existing production or processing) during the period between April 19, 1977, and January 1, 1986; provides that charitable, educational, religious and other tax exempt organizations, as well as State and local governments, are eligible to receive the credit;

Additional incentives: Contains language which is intended to give the conferees flexibility, with respect to any new taxes which may be in the bill agreed to by the conferees, to use a portion of the revenues raised by such taxes to provide tax and other economic incentives for increased production, conservation and conversion;

Oil and gas users tax: Imposes an excise tax on the industrial and utility use of oil and natural gas of $6 per barrel by 1985 or the equivalent amount to bring gas to the same price; limits this tax to new electric powerplants and major fuel-burning installations and existing facilities which are capable of burning coal;

Energy trust fund: Provides that a portion of any funds which may be raised by new taxes in the bill be used for an energy trust fund, to finance outlays for energy production, energy conservation and energy-efficient forms of transportation;

Other tax provisions: Extends through September 30, 1985, the existing four-cent-per-gallon tax on gasoline and other motor fuels, which otherwise is scheduled to decline to 1½ cents per gallon after September 30, 1979; and removes the two-cents-per-gallon refund or credit for gasoline and other fuels for motorboat and other nonbusiness off-highway use; exempts from the four-cent gasoline tax gasoline-alcohol blends (gasahol) if such blends contain at least 10 percent ethanol and/or methanol and if the alcohol is made from agricultural or forestry products, and reduces the tax rate to three cents per gallon for gasahol containing alcohol made from other products(such as coal); contains a $300 tax credit for the purchase of electric cars for personal use; provides an exemption from income tax of employees for energy-

efficient transportation provided by employers; exempts rerefined lubricating oil from the excise tax on new oil; extends the existing 10-percent investment tax credit to business insulation; increases the rate of percentage depletion from five percent to 10 percent for peat used directly or indirectly for fuel; allows percentage depletion and expensing of intangible drilling costs for geothermal energy under rules similar to existing provisions for oil and gas; provide 10-percent depletion and expensing of intangible drilling costs and geological and geophysical costs for geopressurized methane gas; contains a $3 per barrel tax credit for production of shale oil, and a 50-cent per mcf credit for production of geopressurized methane gas and gas from other nonconventional sources; provides a permanent exemption from the minimum tax for intangible drilling costs to the extent of oil and natural gas production income; allows a tax exemption for industrial development bonds used for bioconversion facilities and for local liquefaction and gasification facilities;

Nontax provisions: Requires an annual report to the Congress by the President on the energy saving and revenue effects of the bill; and limits the President's power to impose tariffs, license fees, or quotas on crude oil imports to wartime or actual hostilities and limits his authority to adjust imports of refined petroleum products to adjustments necessary for national security, and allows a two-House veto by Congress within 30 days. H.R. 5263—Passed House July 18, 1977; Passed Senate amended October 31, 1977; In conference.

Federal Energy Administration authorization: Extends through fiscal 1978 the authorities under the Federal Energy Administration Act; includes $1.21 billion to permit 250 million barrels of crude oil to be placed in the Strategic Petroleum Reserve by the end of calendar year 1978; contains $1.8 million for the appliance labeling program under the Energy Supply and Environmental Coordination Act of 1974 and extends FEA's authority to require certain facilities which presently burn oil and gas to convert to coal; adds provisions limiting the powers of the regional counsels of FEA; establishes general procedures to be followed with respect to the use of commercial standards by the FEA; and requires the Administrator, within 120 days of enactment, to publish regulations which would require prospective FEA contractors to disclose all relevant data which could cause a possible conflict of interest in carrying out activities for FEA. S. 1468—Public Law 95-70, approved July 21, 1977.

Natural gas emergency: Authorizes the President to declare a natural gas emergency if he finds that a severe shortage exists or is imminent in the United States which would endanger the supply of natural gas for high-priority uses and the exercise of his authorities is reasonably necessary to assist in meeting requirements for such uses; gives the President authority to require: any interstate pipeline to make emergency deliveries or transport interstate natural gas to any other interstate pipeline or a local distribution company served by an interstate pipeline; any intrastate pipeline to transport interstate natural gas from one interstate pipeline to another or to any local distribution company served by an interstate pipeline; or the construction and operation by any pipeline of necessary facilities to effect deliveries or transportation; provides that these authorities shall terminate by April 30, 1977, or after the President terminates the emergency, whichever is earlier; authorizes interstate pipelines or local distribution companies to purchase supplies of natural gas for delivery before August 1, 1977, from intrastate pipelines at unregulated prices; authorizes the President to require any interstate or intrastate pipeline to transport gas and operate facilities necessary to carry out emergency purchase contracts; and imposes civil penalties of up to $25,000 a day for violations. S. 474—Public Law 95-2, approved February 2, 1977.

Natural gas pipeline safety programs: Authorizes $10.5 million for fiscal 1979 for Natural Gas Pipeline Safety Act programs of which $6 million is for the Department of Transportation's pipeline safety activities and $4.5 million is for grants-in-aid to federally certified State natural gas pipeline safety programs; and makes a Federal crime the willful or attempted destruction or injury to any interstate pipeline facility used to transport oil or gas with a maximum fine of $5,000 and/or 15 years' imprisonment. S. 1895—Passed Senate May 3, 1978; Passed House amended September 12, 1978; Senate agreed to House amendment with amendment September 29, 1978. (VV)

Natural gas pricing: Amends and extends the Natural Gas Act altering the pricing structure of domestic natural gas in order to encourage increased development, production and conservation of U.S. natural gas resources;

Pricing: Redefines what natural gas production qualifies as "new natural gas" and lengthens the period of time prior to the deregulation of most categories of natural gas; provides that all natural gas prices be allowed to escalate with inflation and, in some cases, faster than inflation, which is measured by the Gross National Product implicit price deflator converted to a monthly price adjustment factor; establishes a ceiling price for "new gas" at $1.75 per million Btu's as of April 20, 1977, which would increase at a rate equal to inflation plus .2 percent, plus 3.5 percent until April 1981 and plus four percent thereafter; provides that new natural gas onshore includes gas produced from (1) a new well 2.5 miles or more from a marker well; (2) a new well with a completion location 1,000 feet below the nearest, deepest completion location within 2.5 miles; and (3) a new reservoir onshore; provides that new natural gas offshore includes gas produced from (1) new leases; and (2) new reservoirs in old leases; excludes "behind-the-pipe" gas and "withheld" gas from onshore new gas definition; establishes a ceiling price for new, onshore production wells at $1.75 per million Btu's as of April 20, 1977, and increases at a rate equal to inflation; deregulates in 1985 that portion of this gas which was not committed or dedicated to interstate commerce on April 20, 1977; provides a special ceiling price escalator after January 1, 1985, for that which is not deregulated; establishes a ceiling price for all other natural gas which is required to be sold in interstate commerce at $1.45 as of April 20, 1977, and increases at a rate equal to inflation; establishes a ceiling price for natural gas under existing intrastate contracts at the lower of (1) the contract price, or (2) the new gas price with increase equal to inflation; establishes a ceiling for natural gas for sales under rollover contracts which are contracts that expire at the end of a fixed term; provides that interstate rollovers get the higher of (1) the applicable "just and reasonable" price under the Natural Gas Act, or (2) $.54; provides that intrastate rollovers get the higher of (1) the contract price, or (2) $1.00 to be increased at a rate equal to inflation; provides that State or Indian royalty production gets the new gas ceiling price for intrastate rollovers; deregulates certain specified categories of "high-cost" gas approximately one year after enactment and authorizes the Federal Energy Regulatory Commission (FEPC) to allow "incentive" prices for other categories of high-cost gas; grants natural gas wells producing up to 60 Mcf per day special stripper well price treatment at $2.09 as of May 1978 and increases at a rate equal to inflation plus 3.5 percent until April 1981 and 4.0 percent thereafter; eliminates ceiling price regulation as of January 1, 1985, for (1) new natural gas; (2) deep new, onshore production wells; and (3) existing intrastate contracts which are over $1.00 on December 31, 1984; deregulates certain high cost gas upon the effective date of the first incremental pricing rule; deregulates certain shallow new onshore production wells on July 1, 1987, or upon the last day that price controls are in effect if reimposed; authorizes the President or Congress to reimpose price controls for one 18-month period from July 1, 1985, until June 30, 1987; provides that either House of Congress may veto the President's imposition and that both Houses must act to reimpose price controls without the President; provides expedited procedures to assure a floor vote;

Incremental pricing: Requires FERC to develop an incremental pricing rule within 12 months for industrial boiler fuel facilities served directly or indirectly by interstate pipelines; requires FERC to amend its first rule within 18 months to broaden the application of incremental pricing to other industrial facilities which is subject to a one-House veto; requires portions of interstate pipelines' acquisition cost for natural gas to be passed through to incrementally priced industrial facilities; requires that any costs subject to passthrough be placed in a special account and requires incrementally priced industrial facilities to pay these surcharges until the price they pay for natural gas is equal to the cost of substitute fuel at the burner-tip; requires that FERC determine the cost of substitute fuel, or alternative fuel on a regional basis; provides that once an incrementally priced industrial facility reaches the alternative fuel price, the passthrough is limited to the amount necessary to keep the facility at the alternative fuel price; requires local distribution companies to pass through the surcharges to incrementally priced industrial facilities which shall be enforced by the Attorney General or the FERC; exempts residences, small commercial users, schools, hospitals and other institutions and electric utilities and certain small industrial boiler fuel facilities from the requirements of incremental pricing; exempts existing imports from incremental pricing; requires that gas produced from Prudhoe Bay, Alaska, and transported to the Lower 48 States be given rolled in pricing for both the basic wellhead price and the transportation cost;

Energy Emergency Authority: Authorizes the President to declare a natural gas emergency, based upon certain findings, under which he may authorize natural gas sales from unregulated intrastate pipelines and local distribution companies.

Curtailment: Provides that, in cases of natural gas curtailment, residential users, small users, hospitals, and similar users vital to public health and safety shall have first priority to available natural gas; users who need gas to perform essential agricultural, food processing and food-packaging purposes shall have second priority; and essential industrial process or feedstock uses for which natural gas is essential for users as determined by the Secretary; and

Contains provisions requiring the commission to report to the Congress annually on specified aspects of natural gas pricing policies. H.R. 5289—Passed House July 18, 1977;

Passed Senate amended October 4, 1977; Senate agreed to conference report September 27, 1978.

Nuclear Regulatory Commission authorizations: Authorizes $297,740,000 for fiscal 1978 for the Nuclear Regulatory Commission; includes $41,480,000 for nuclear reactor regulation, $12,130,000 for standards development, $33,050,000 for inspection and enforcement, $22,090,000 for nuclear materials safety and safeguards, $148,900,000 for regulatory research, $10,180,000 for program technical support with up to $600,000 authorized for the Fellowship Program, and $29,910,000 for program direction and administration; provides $2,700,000 for obligations related to the Clinch River Breeder Reactor Project, $2,100,000 for obligations related to the Barnwell, South Carolina, fuel reprocessing plant with provisions that the authorizations be reduced by the same amount if further construction is cancelled or deferred; requires development of a plan to resolve generic safety issues and for development of new or unproved safety systems of nuclear power plants; establishes a fellowship program to assist the committee in carrying out its duties in a timely manner; and contains conflict of interest provisions similar to those adopted for the FEA and ERDA. S. 1131—Public Law 95-209, approved December 13, 1977.

Authorizes $336,395,000 for the Nuclear Regulatory Commission for fiscal 1979 which includes: $46,880,000 for nuclear reactor regulation, $14,945,000 for standards development, $38,760,000 for inspection and enforcement, $27,240,000 for nuclear materials safety and safeguards, $166,640,000 for nuclear regulatory research, $13,480,000 for program technical support and $27,950,000 for program direction and administration; expands licensing and regulatory authority over the disposal of uranium mill tailings; requires a study on the benefits of extending Commission licensing and regulatory authority over the storage and disposal of nuclear wastes; provides a 55 percent increase in resources authorized for the waste management program; authorizes $2.5 million to implement a new program of research into improved safety systems for nuclear power plants; authorizes $225,000 for equal employment opportunity activities; establishes an internal NRC Fuel Cycle Evaluation Task Force to access progress of national and international fuel cycle evaluations; authorizes grants for a long-term storage or disposal facility for certain specified radioactive wastes; and creates an Office of Public Counsel, as an independent office within the NRC, to represent interested parties directly affected by an NRC decision before the Commission. S. 2584—Passed Senate September 18, 1978; Passed House amended October 4, 1978; Senate requested conference October 10, 1978.

Oil shale commercialization: Directs the Secretary of Energy to establish a program for the purpose of testing up to three oil shale technologies to determine their commercial, environmental and social viability; provides that the tests shall be carried out using the "GOCO" concept whereby the Federal government supplies all funds and a private corporation contracts for the construction and operation of the test facilities; provides that the test projects may be constructed on lands of the Navy Oil Shale Reserve or on unleased, unencumbered Federal lands and, if feasible, situated at a single site; authorizes the Secretary to guarantee loans on obligations issued by State and local governments in dealing with the social and economic impact of the program, with a limit on the Federal obligation of $20 million each for fiscal 1979 and 1980; provides that should the guarantees prove insufficient, the Secretary may make direct loans to State or local governments; allows the Secretary to waive repayment of such loans if the State or local government demonstrates that there will be net adverse impacts resulting from the program; establishes the Oil Shale Commercialization Test Special Fund for program related costs; authorizes $200,000 for fiscal 1979 and additional, unspecified amounts for future years; and authorizes an additional $200,000 for fiscal 1979 for planning grants for State and local governments; provides that all patents developed during the course of the program would vest in the United States and any commercially valuable product produced during the course of the program may either be used by the Secretary or sold at public auction. S. 419—Passed Senate June 27, 1978.

Outer Continental Shelf: Directs the Secretary of Interior to prepare a five-year comprehensive leasing program to facilitate environmentally-safe development of the OSC while assuring receipt of fair market value for publicly owned oil and gas resources; provides a mechanism for separation of exploration from development and production so that Federal, State and local government officials can assess the political, environmental, social and economic impact of proposed development in order to resolve any problems prior to production; contains other provisions to increase coastal States participation in OCS policy development: requires, to promote competition, the use of alternative bidding methods other than the traditional bonus bid system on at least 20 percent and no more than 60 percent of tracts offered for leasing each year; permits peridoic reviews by the Attorney General of the competitive aspects and impacts of OCS activities and decisions, including bidding; prohibits joint bidding by major oil companies except when determined necessary for exploration and development; allows leases, which are usually set for five years, to extend for 10 years when necessary because of adverse conditions; requires that at least 20 percent of offshore production of oil or gas be offered for purchase by independent refiners; grants explicit authority to the Secretary to suspend and cancel leases and to pay compensation for a cancellation, when no fault of the lessee is involved; includes provisions for promulgation and enforcement of safety and environmental regulations, collection and confidentiality of data, Federal purchase of oil and gas, limitation on employment of government employees in industry and domestic manning and U.S. documentation on OCS facilities and vessels; sets civil penalties of up to $10,000 per day for noncompliance and criminal penalties of up to $100,000 per day for deliberate violations; creates an offshore oil pollution fund to pay for clean-up costs and damage resulting from oil spills which will be financed by a producers fee of three cents per barrel; makes the operator of offshore facilities liable for removal and clean-up costs and other damages up to $35 million; establishes the liability of the operator of a vessel at $250,000 or $300 per gross ton; provides that the fund be maintained at a level not less than $100 million or more than $200 million; authorizes the establishment of a fishermen's gear compensation fund and provides that each area account within the Fund would be self-supporting by a fee not to exceed $5,000 on each lessee and permittee in an area; provides the total amount in the Fund shall not exceed $1 million and the total amount in an area account shall not exceed $100,000; amends the Coastal Zone Management Act to authorize $130 million for ten years for formula grants to coastal States; modifies the allocation formula for awarding grants for States adjacent to newly leased OCS acreage at 50 percent, oil and gas produced adjacent to a coastal State at 25 percent, and oil and gas first landed in the coast State at 25 percent; provides that no State may receive more than 37.5 percent of the total and establishes a two percent floor on the amount of funds that any State may receive which is eligible under the existing formula; and authorizes $5 million annually for administrative grants to enable States to carry out their operational and managerial responsibilities under the Federal leasing process. S. 9—Public Law 95-372, approved September 18, 1978.

Petroleum marketing practices: Prohibits a franchisor of motor fuels from terminating a franchise during the term of the franchise agreement and from failing to renew the relationship at the expiration of the franchise term unless the termination or nonrenewal is based upon certain specified grounds and is executed in accordance with the notice requirements set forth in the bill; allows, under certain circumstances, an initial trial franchise period after which a franchisor may fail to renew the trial franchise whether or not a ground exists which would justify nonrenewal of a regular franchise; places the burden of proving compliance with all statutory requirements on the franchisor; preempts State law in the subject areas in which there is Federal legislation; contains octane disclosure provisions requiring (1) the testing of automotive gasoline by refiners to determine its octane rating, (2) the certification of the octane rating of automotive gasoline by suppliers and distributors of such gasoline, and (3) the display of the octane rating of automotive gasoline by retailers at the point of sale to consumers; and requires the Environmental Protection Agency to conduct field sampling and testing of gasoline to verify octane ratings; provides that violations of the octane disclosure provisions are enforceable by the Federal Trade Commission as unfair or deceptive trade practices under the Federal Trade Commission Act. H.R. 130—Public Law 95-279, approved June 19, 1978.

Public utility rate reform: Requires State utility regulatory authorities and nonregulated municipal and cooperative utilities to examine a series of Federally recognized ratemaking standards in hearings with an opportunity for input from affected utilities and consumers to determine the relationship between these standards and the purposes of the act of conservation, efficiency in use of facilities, and equitable rates; requires each regulatory authority and nonregulated utility to consider within 3 years the applicability of the following standards to utility rates: time-of-day rates, seasonal rates, cost of service pricing, interruptible rates and loan management techniques, prohibition of declining block rates which are not cost justified, and life line rates; requires, within 2 years, each regulatory authority and nonregulated utility to consider and adopt, if appropriate, rules on: master metering, review of automatic adjustment clauses, information to consumers advertising, and termination of service; makes the provision of the Act apply to any electric utility with annual sales in excess of 500 million kilowatt hours; requires each regulatory authority and nonregulated utility to report annually to the Secretary of Energy on their actions taken pursuant to the act, and to gather and make available on request information on costs of service; grants the right of intervention to the Secretary or any ratepayer of the affected utility and to participate in a proceeding to raise the issue of the consideration of one or more of the enumerated federal standards, or of other concepts which contribute to the achievement of the purposes of the Act; allows intervenors to seek judicial review of the determination made by the regu-

latory authority or nonregulated utility in State court pursuant to applicable State appellate procedures;

Contains provisions regarding FERC authorities, with respect to cogenerators, interconnection, and "wheeling" of transmission facilities and loans to small hydroelectric facilities; authorizes the Secretary to intervene in ratemaking proceedings for gas utilities to argue on behalf of rates that would achieve the Act's purposes of conservation efficiency and equitable rates; and grants the Secretary authority to prohibit, during a natural gas emergency, any electric utility powerplant or major fuel burning installation from using natural gas; and directs the FERC to provide rules to facilitate the voluntary conversion of natural gas users to heavy fuel oils. H.R. 4018—Passed House July 18, 1977; Passed Senate amended October 6, 1977; Senate agreed to conference report October 9, 1978. (*533,466)

Radiation exposure: Extends the program of the Energy Research and Development Administration to provide financial assistance to limit radiation exposure resulting from the widespread use of sand containing mill tailings in the construction of approximately 500 public and private buildings in the Grand Junction, Colorado area. S. 266—Public Law 95-236, approved February 21, 1978.

Small business energy loans: Authorizes direct, immediate participation and guaranteed loans to certain small businesses that manufacture or market solar or other renewable energy equipment or energy conservation equipment or firms which provide professional engineering or architectural services which conserve energy or apply renewable energy measures as their main objective. H.R. 11713—Public Law 95-315, approved July 4, 1978.

Solar photovoltaic energy: Authorizes $125 million to the Department of Energy in fiscal 1979 for programs in solar photovoltaic energy technologies research and demonstration; requires the Secretary to establish procedures whereby any public or private entity may apply for Federal assistance in purchasing and installing solar photovoltaic components and systems in new or existing facilities; calls for cooperation with appropriate Federal agencies to carry out such projects and activities in Federal buildings and facilities; directs the Secretary to coordinate and monitor all systems installed under this act; and sets aside ten percent of the funds for participation of small business. H.R. 12874—Passed House June 28, 1978; Passed Senate amended October 10, 1978.

Strategic petroleum reserve plan no. 1: Disapproves Energy Action DOE No. 1 which proposes to amend the strategic petroleum reserve plan in order to authorize an expansion of the size of the reserve from 500 million barrels to one billion barrels and to provide for the storage of twenty million barrels of petroleum on the U.S. east coast. S. Res. 429—Senate agreed to disapproval resolution April 17, 1978.

ENVIRONMENT

Clean air: Extends for two additional years, the existing interim auto emission standards of 1.5 grams per mile for hydrocarbons (HC), 15 grams for carbon monoxide (CC), and 2 grams for nitrogen oxides (NOx); requires 1980 model cars to meet emission standards of .41 gram for HC, 7 grams for CO, and 2 grams for NOx; requires 1981 model cars to meet the final emission standards set by the 1970 Clean Air Act of .41 grams for HC, 3.4 grams for CO, and 1 gram for NOx; authorizes EPA to waive the 1 NOx standard to a level not to exceed 1.5 grams per mile beginning in model year 1981; authorizes EPA to grant a two-year waiver of the CO standard to seven grams; reduces warranties for emission-control devices from five years and/or 50,000 miles to two years and/or 24,000 miles; authorizes EPA and the States to issue enforcement orders extending compliance schedules for stationary sources until July 1, 1979; limits extension of compliance to not more than three years delay, except in cases of innovative technology (five years), coal conversion extensions or smelter orders; automatically subjects noncomplying sources to a penalty after July 1, 1979, equal to the cost of compliance to eliminate any economic advantage of delay; provides that areas where air quality is presently cleaner than the existing standards shall be protected by nondeterioration standards; designates the most carefully protected areas as Class I areas and other areas as Class II and III areas; provides a mechanism for States to redesignate lands from Class I to II or II to III; specifies certain areas which may not be designated as Class III; allows an Indian tribe to designate its land as Class I; defines "significant deterioration" in all clean air areas as a specified amount of additional pollution measured by increments of sulfur oxides and particulates; exempts facilities otherwise subject to the nondegradation provisions which emit less than 50 tons per year of total pollutants from the increment requirements; provides that States issue construction permits to new major emitting facilities in clean air areas requiring the use of best available control technology; requires new sources locating in Class II areas to demonstrate to the State that they will not exceed the Class II pollution increments, or adversely affect the air quality values in any nearby Class I area; allows a State Governor to waive compliance with the Class I standards if computer models show in advance that the standards would not be exceeded for 18 days annually with the right of the Secretary of Interior to object and a final decision to be made by the President within 90 days; requires new sources proposed for construction in nonattainment areas to meet a number of conditions prior to approval of construction; requires that such sources meet the lowest achievable emission rate; requires that emission reductions from existing sources more than offset the emissions from the new source; requires that existing sources use all reasonably available controls; provides that sources may only be approved after July 1, 1979, if a State implementation plan exists, the source is in compliance with its requirements, and the plan assures the attainment of the health standards within three years; makes available an extension until 1987 for States that cannot show attainment of the oxidant and carbon monoxide standards within three years; provides waiver from the source-by-source emission offset requirement available to a State under limited conditions; requires a review of the air quality criteria for existing ambient air quality standards; allows a State to temporarily suspend State implementation plan requirements where necessitated by energy or economic emergencies under specified conditions; authorizes the President to require major noncomplying industrial coal burners to utilize coal supplies that are locally and regionally available instead of importing low-sulfur Western coal if necessary to avoid local economic disruption, after taking into account the final cost to the consumer; and contains other provisions. H.R. 6161—Public Law 95-95, approved August 7, 1977.

Clean water: Authorizes $24.5 billion through 1982 in Federal grants to local municipalities for construction of sewage treatment plants; increases the flexibility of the Administrator of EPA and the States in determining the best cleanup techniques; allows the Secretary to extend for five years, until January 1, 1982, on a case-by-case basis, the deadline for communities to meet clean water standards if they have been unable so far to obtain Federal funds for construction; alters the criteria for grant allocation from the current formula based totally on need, to a new formula based on population plus partial needs; provides a four percent set-aside for grants to rural states; provides a set-aside for construction grants to encourage innovative and alternate technologies of two percent in 1979, and three percent in 1980 and 1981 to bring the rate of funding up from 75 percent to 85 percent; permits the Administrator of EPA to allow a "reasonable" time for compliance with the 1977 deadline and to set up a compliance schedule; allows EPA to grant an extension of the 1977 deadline for achieving the "best practicable technology" up to April 1, 1979, to a source whose facilities are under construction but not completed by July 1, 1977, and who in good faith has tried to meet the requirements; extends for one year, until July 1, 1984, the deadline for using the best available technology to limit discharge of conventional pollutants and 129 other pollutants to be specified by EPA; allows EPA to specify other pollutants which industry must use the best available technology to limit discharge of within three years of its designation by the EPA, but requires complete compliance no later than July 1, 1984; extends the deadline for using the best available technology for all other pollutants until 1987; increases the jurisdiction for oil spills out to 200 miles and the limits of liability for cleaning up oil spilled from tankers or oil terminals; sets liability with respect to inland oil barges at $125 per gross ton or $125,000, whichever is greater and, with respect to any other vessel, at $150 per gross ton unless the vessel carries oil or hazardous substances as cargo in which case there is a minimum liability of $250,000; authorizes the President to raise liability for onshore and offshore handling facilities up to $50 million from $8 million; modifies the controversial wetlands protection provisions by exempting such activities as farming, ranching and forestry; retains Federal control over disposal of dredge and fill materials, but allows any State to administer its own program if it has an EPA approved plan; allows some communities to use an *ad valorem* tax system or another payment scheme to charge residential users for waste treatment if the charges are in proportion to use and if the consumer is notified of his contribution to support the waste treatment facility; continues to require proportionate user charges from industry; and gives States exclusive control over the priority of projects for Federal funding so long as those priorities reflect the requirements of the act. H.R. 3199—Public Law 95-217, approved December 27, 1977.

Climate program: Directs the President to promulgate a five-year national climate program which shall include a statement of responsibilities of the Federal agencies involved and provide for program coordination; establishes a National Climate Program Office with the Department of Commerce which shall be responsible for administering the program; directs the Secretary of Commerce to establish a program of Federal/State cooperative activities in climate research and to provide research results and information to individuals concerned with agricultural production, water resources and energy use; and authorizes the Secretary to make grants of up to 50 percent of the costs in any one year for research and services provided at the State and regional level. H.R. 6669—Public Law 95-367, approved September 17, 1978.

Earthquake hazards reduction: Establishes a national earthquake hazards reduction program under the direction of the President to minimize the loss and disruption resulting from future earthquakes. S. 126—Public Law 95–124, approved October 7, 1977.

Endangered species: Extends through fiscal 1980 and authorizes a total of $16 million for the section 6 State grant-in-aid program under the Endangered Species Act of 1973, and contains language to facilitate qualification by a State for financial assistance under the program. S. 1316—Public Law 95–212, approved December 19, 1977.

Establishes an Endangered Species Interagency Committee to review Federal projects which have come into irresolvable conflict between the act's mandate to project and manage endangered and threatened species and other legitimate national goals and priorities, such as providing energy, economic development and other benefits to the American people, and to determine if the project should be completed, modified or terminated; requires that at the time a species is declared to be threatened or endangered, the appropriate habitat be designated as critical; provides that five members of the seven-member committee must vote to exempt a project from compliance with the act; authorizes the President to grant an exemption for Federally funded works for repairs which are necessary to prevent a recurrence of a natural disaster; and extends the authorization through fiscal 1981. S. 2899—Passed Senate July 19, 1978.

Authorizes $365,564,000 for fiscal 1979 for ongoing research and development programs conducted by EPA plus an additional amount of $40 million for special programs and studies; directs that the $14 million in the President's budget for pollution control technology must be spent by EPA thus prohibiting the proposed transfer of research on energy-related pollution control technologies to the Department of Energy; establishes a specific mechanism for future coordination of Federal research on ocean pollution; includes $7 million for grants to universities and similar institutions conducting research and training to support continuing programs of long-term environmental research; contains $3 million for a study of the special air quality problems of the gulf coast region; authorizes $2 million for a two-year study of the coordination of environmental research in the Federal government and the application of the results of that research to specific environmental problems; authorizes $3 million for grants to support and encourage ongoing participation by qualified groups of citizens on the effect of long-term changes in science, technology and society on the future environment and quality of life; provides $3 million to the National Bureau of Standards to carry out environmentally related programs in coordination with EPA and $2 million for development of specifications to be used in classifying materials recovered from solid waste; and authorizes $15 million for grants to demonstrate technologies to increase the availability of safe, high quality drinking water. H.R. 11302—Passed House April 27, 1978; Passed Senate amended May 26, 1978; Senate agreed to conference report September 26, 1978.

EPA authorization: Authorizes a total of $253,603,000 for the environmental research and development program conducted by the Environmental Protection Agency for fiscal 1978; directs the Administrator to coordinate EPA's programs of environmental research with those of other agencies; and requires Agency employees who perform duties pertaining to environmental research and development or who have known conflicts of interest to file statements with the Administrator concerning such interests. H.R. 5101—Public Law 95–155, approved November 8, 1977.

Fish and wildlife programs—Sea-level canal study: Improves the administration of certain fish and wildlife programs by the Departments of Interior and Commerce; expands the Cooperative Units Assistant program to authorize financial assistance to support researchers who work on projects funded by the program; provides specific authority for the Secretaries to enter into formal cooperative agreements to provide State enforcement officers with certain Federal protections and benefits while they are acting as Federal agents; authorizes the Secretary of Interior to accept gifts or bequests of real and personal property for the benefit of programs administered by the Fish and Wildlife Service; authorizes the use of volunteers in administration of the fish and wildlife progams; authorizes the Secretary of Interior to open more than 40 percent of refuge for hunting upon a published finding that this action is necessary to prevent disease; rereferences the regulation of the subsistence use of migratory birds in Alaska contained in three treaties and conventions on migratory birds with the language contained in the Soviet Convention; modifies the Eagle Protection Act to allow development of regulations permitting the taking of golden eagle nests in certain instances if they conflict with a resource development or recovery operation;

Establishes an Interoceanic Canal Study Council to conduct a review and assessment of alternate routes for the construction and operation of a new interoceanic canal across America to connect the Atlantic and Pacific Oceans, and to submit to the Congress, within one year of enactment, a report specifying the country in which the most advantageous route is located; gives Congress 60 days during which they may disapprove the plan by passage of joint resolution; requires the Secretary of State to certify that the host country is willing to participate in such a canal; establishes, upon appproval of the proposal, an International Sea-Level Canal Study Commission to assess the feasibility of a sea-level canal in the host country and to prepare an environmental impact report; and requires the Commission to submit a report of its findings and recommendations within three years. H.R. 2329—Passed House January 19, 1978; Passed Senate amended September 26, 1978; Conference report filed.

Marine mammal protection: Extends the Marine Mammal Protection Act of 1972 through fiscal 1981; authorizes grants to States of up to 50 percent of the cost of developing and implementing marine mammals management plans; authorizes grants or financial assistance to any Federal or State agency, public or private institution, or other person to undertake research in subjects which are relevant to the protection and conservation of marine mammals; and authorizes funds for the administration and enforcement of the program. H.R. 10730—Public Law 95–316, approved July 10, 1978.

Noise control: Authorizes $10.9 million for general technical assistance, regulatory and administrative responsibilities under section 19 of the Noise Control Act of 1972 and $2.1 million for research and development for fiscal 1978. S. 1511—Passed Senate May 18, 1977.

Extends the Noise Control Act through fiscal 1979 and authorizes therefore $17,812,000; includes $3 million for noise research by the Environmental Protection Agency and $4 million for provision of technical assistance by the Environmental Protection Agency and the Secretary of Transportation areawide abatement programs; requires certain airport owners and operators to submit to the Administrator and the Secretary areawide noise abatement plans respecting aircraft noise associated with airports falling within the purview of the bill; establishes criteria for the disapproval of such plan; provides that the Administrator shall monitor the implementation of approved plans; and requires annual reports to Congress on development and implementation. S. 3083.—Public Law 95– , approved 1978.

Nongame fish and wildlife conservation: Authorizes $90 million through fiscal 1981 for the Secretary of the Interior to provide grants to the States for conserving nongame fish and wildlife including habitat acquisition and modification, census taking and population monitoring, educational interpretative programs, and improved wildlife related law enforcement; and provides that the Federal share of project costs would be 90 percent in the first two years and 75 percent thereafter. S. 1140—Passed Senate May 24, 1978.

Ocean dumping: Amends the Marine Protection, Research and Sanctuaries Act of 1972 to authorize a total of $11.3 million for fiscal 1978 of which $4.8 million is for ocean dumping, $6 million for research aspects needed to support a limitation on dumping harmful materials into the ocean, and $500,000 for the designation and regulation of marine sanctuaries; and provides that the dumping into ocean waters of municipal sewage sludge which may unreasonably degrade the marine environment shall be ended as soon as possible, and in no case continue beyond December 31, 1981. H.R. 4297—Public Law 95–153, approved November 4, 1977.

Ocean pollution research: Calls upon the Administrator of the National Oceanic and Atmospheric Administration, in coordination with the Administrator of EPA, to prepare a comprehensive five-year Federal plan for environmental research and development related to marine pollution, with emphasis on the inputs, fates and effects of petroleum, sewage, sludge and other pollutants in the marine environment; requires an estimate of the adverse environmental impact caused by increased shipments of foreign oil into the U.S.; and authorizes grants and contracts for environmental research and development pertaining to marine pollution and requires that grant applications and contract bids be acted on within six months of receipt. S. 1617—Public Law 95–273, approved May 8, 1978.

Oil spill liability: Establishes a single, comprehensive, Federal statute dealing with liability and compensation for damages and cleanup costs caused by an oil spill from vessels or facilities on the navigable waters, including the inland waters, of the United States; imposes strict liability, including removal and mitigation costs, on the owner or operator of any vessel or facility discharging oil or hazardous substances in violation of the Clean Water Act; creates two funds, one for oil spill liability to pay for the removal of and damages from oil discharges (which supercedes all existing or proposed funds) and one for hazardous substances to pay claims and removal costs associated with the discharge of hazardous substances; establishes the oil liability fund with fees of up to three cents per barrel of crude oil received by refineries or terminals and provides that the fees would be suspended when the fund reached $200 million; provides that payments from the hazardous substance fund would not commence until EPA's pending litigation on its regulations (designation, removability, rate of penalty and harmful quantities) issued pursuant to the Clean Water Act is resolved; requires a study, within 18 months, by an interagency task force on a system of fees for hazardous substances and the appropriate size of the fund; preserves the power of any State to impose any additional requirements or liability with respect to discharges of oil or hazardous substances within the State; and calls upon the agencies with management and protection responsibilities over natural resources to standardize a process for assessing natural resources dam-

ages caused by both major and minor spills and to issue initial regulations within two years which will be updated and reviewed on a regular basis every two years. H.R. 6803—Passed House September 12, 1978; Passed Senate amended October 5, 1978; House agreed to Senate amendment with amendment October 12, 1978.

Safe drinking water: Extends the Safe Drinking Water Act of 1974 through fiscal 1979 and authorizes therefor a total of $71 million for 1978 and $81 million for 1979; requires EPA to submit to Congress, within 18 months of enactment, a report relating to costs of implementing the act and an analysis of the present and projected availability of an adequate and dependable supply of safe drinking water; directs the Administrator to make grants for free training to personnel of State and local agencies and those who work for public water systems; authorizes EPA to make grants to a State if it is making a diligent effort and significant progress toward primary enforcement; provides for EPA retention and reallocations to other States of 25 percent of grants if primary enforcement is not assumed by fiscal 1980; extends for an additional 270 days the current 270 day period for State submission of applications for primary enforcement responsibility for the underground drinking water sources program; requires Federal agencies to comply with all State and local requirements respecting drinking water and underground injection programs; directs EPA to avoid disrupting or duplicating existing State law when establishing regulations governing underground injection control; provides that any State or local government may bring suit in State courts to enforce any requirement of safe drinking water or the underground injection program; authorizes the Administrator to make grants to alleviate emergency drinking water situations; and authorizes the Administrator to require public waste systems to monitor for sodium and other unregulated contaminants and to notify their customers of the level in their drinking water. S. 1528—Public Law, 95–190, approved November 16, 1977.

Stripmining control and reclamation: Establishes a program for the regulation of coal surface mining activities and the reclamation of coal mined lands, under the administration of the Office of Surface Mining Reclamation and Enforcement in the Interior Department, to assure that surface coal mining operations—including exploration activities and the surface effects of underground mining—are conducted so as to prevent or minimize degradation to the environment and that such surface coal mining is not conducted where reclamation is not feasible; sets forth a series of minimum uniform requirements for all coal surface mining on both Federal and State lands which deal with (1) preplanning, (2) mining practices, and (3) post-mining reclamation; provides that these minimum Federal standards be administered and enforced by the States and by the Secretary of the Interior on public lands; authorizes funds to assist States in improving their regulatory and enforcement programs; provides for Federal enforcement of a State program if a State fails to comply with the act; authorizes $200,000 in 1978, $300,000 in 1979 and $400,000 thereafter for five years in matching funds to each State to establish a State mining and mineral resources research institute to conduct research and train mineral engineers and scientists; provides for the protection of scarce and vital water resources in the permit application requirements, reclamation standards and provisions for designation of areas unsuitable for mining; provides for a mechanism on both State and Federal lands for citizens to petition for certain areas being designated as unsuitable for surface coal mining; prohibits stripmining of lands which cannot be reclaimed under the standards of the act in national parks and recreational areas, and areas which would adversely affect such parks; prohibits stripmining 300 feet from an occupied building, 100 feet from a public road, or 500 feet from an underground mine; requires with regard to lands where the Federal government owns the coal but not the surface estate that the surface owner must give written consent to the stripmining of the Federally-owned coal deposits and where the surface and mineral estates are in private ownership, disputes shall be settled by State law; requires the Secretary of Interior to issue interim regulations for environmental standards within 90 days; requires EPA approval of air and water quality regulations; requires compliance by all new mines within six months; exempts mining operators with under 100,000 tons annual production from compliance with the interim environmental standards until January 1, 1979; bans stripmining on alluvial valley floors if it disrupts farming and the quantity and quality of the water supply except in specified circumstances; requires a coal exchange program for fee coal located in alluvial valleys; requires that applicants seeking to stripmine on prime farmland demonstrate to the State regulatory authority that they have the technological capability to restore the mined area within a reasonable time; establishes a fund to be used to reclaim abandoned mined lands which will be derived from a reclamation fee levied on every ton of coal mined at 35 cents per ton for surface mined coal and 15 cents per ton for all coal mined by underground methods or 10 percent of the value of the coal at the mine, whichever is less; requires that 50 percent of all fees be allocated to the State or Indian reservation from which it was mined; applies to lignite coal a fee of the lesser of either 10 cents per ton or two percent of the value of the coal; requires the Secretary, pending approval of a State program, to carry out a Federal enforcement program which includes inspection and enforcement actions in accordance with the act; and contains comprehensive provisions for inspections, enforcement notices and orders, administrative and judicial review, penalties and citizen participation. H.R. 2—Public Law 95–87, approved August 3, 1977.

Increases to $25 million the funding for grants to States to cover costs of enforcement programs during the interim enforcement period and costs of Federal inspections during the interim period; and increases the funding for the program of assistance to small coal mine operators (those producing 100,000 tons or less per year) to $25 million in each of fiscal 1979 and 1980. S. 2463—Public Law 95–343, approved August 11, 1978. (VV)

Toxic substances: Provides for the compensation of victims of chemical contamination incidents involving food, livestock or poultry; provides a mechanism for a State to apply for Federal grants of up to 75 percent of the amount a State pays victims injured by a chemical accident; provides that States may apply for Federal assistance for farming operations that would be hard hit by any quarantine for condemnation actions taken against their crops, livestock or poultry; permits consumers who unknowingly are exposed to the toxic chemicals through consumption of tainted food products to apply to EPA for assistance; and increases the authorization to $50 million for fiscal 1978 and $100 million for fiscal 1979. S. 1531—Passed Senate October 31, 1977.

GENERAL GOVERNMENT

Amateur sports: Expands the authority of the United States Olympic Committee to act as the coordinating body for amateur athletic activities; directs the Committee to establish and maintain provisions for the equitable resolution of disputes involving participation in the Olympic Games, the Pan American Games, world championship competition, or other competitions designated by the Committee; provides a mechanism by which formal complaints or challenges made against the authority of national governing bodies; and authorizes the Secretary of Commerce to award grants to assist the committee in the development of amateur athletics in the United States. S. 2727—Passed Senate May 8, 1978; Passed House amended September 26, 1978.

D.C. retirement reform: Establishes, with Federal financial assistance, separate retirement funds for police officers and firefighters, teachers and judges of the District of Columbia in order to liquidate the Federal share of the unfunded liability accrued by pensions granted prior to transfer to the District's Home Rule government on January 2, 1975; establishes a Retirement Board to manage the funds; provides actuarially sound management to protect the benefits of participants and beneficiaries under the plans; requires the Retirement Board to comply with reporting and disclosure requirements similar to those in the Employee Retirement Income Security Act of 1974; provides disability retirement benefits which compare with other cities; and provides the annuitant a sufficient retirement allowance while keeping pension costs at a level the District can afford. H.R. 6536—Passed House September 26, 1977; Passed Senate amended August 24, 1978; Senate agreed to conference report October 6, 1978.

Federal assistance program information: Increases the availability of information about Federal domestic assistance programs by requiring the Director of the Office of Management and Budget (OMB) to identify and provide information on specified Federal domestic assistance programs for public distribution through electronic media and a public catalog. S. 904—Public Law 95–220, approved December 28, 1977.

GAO audits: Provides that the General Accounting Office may conduct management and finanical audits of the Internal Revenue Service and the Bureau of Alcohol, Tobacco and Firearms and contains provisions to insure the confidentiality of information and imposes penalties for unauthorized disclosure. S. 213—Public Law 95–125, approved October 7, 1977.

Requires the Comptroller General to conduct audits of the Federal Reserve System (FRS), the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC), which are at present the only exceptions to FAO audits; and extends to GAO employees having access to bank examination reports the penalty provisions for unlawful disclosure of information. H.R. 2176—Public Law 95–320, approved July 21, 1978.

Intelligence activities authorization: Authorizes such amounts as specified in a classified annex prepared by the Committee of Conference for intelligence activities of the United States government for fiscal 1979 including specific amounts for the Central Intelligence Agency, Defense Intelligence Agency, National Security Agency, military services, Departments of State, Treasury and Energy, Federal Bureau of Investigation and the Drug Enforcement Administration plus $12,700,000 for the Intelligence Community staff (ICS) and sets the end strength of full-time employees at 269; authorizes $43.5 million for the Central Intelligence Agency Retirement and Disability System; and requires the Attorney General to submit a one-time report describing those cases during 1979 that an alien was admitted into the United States after the Attorney General was notified by the FBI Director that the alien was excludable under certain provisions of the Immigration and Nationality Act. H.R. 12240—Public Law 95–370, approved September 17, 1978.

Justice Department authorization: Provides for the first time an authorization to carry out the activities of the Department of Justice for fiscal 1979. S. 3151—Passed Senate July 10, 1978; Passed House amended September 28, 1978; Senate agreed to conference report October 13, 1978.

Library services and construction: Extends through fiscal 1982 the authorizations in the Library Services and Construction Act for library services grants, public library construction grants, interlibrary cooperation grants and older readers services grants; directs that a portion of library services funds be reserved for urban libraries; revises the hold harmless base year date for library services to the handicapped; and provides that remodeling funds under library construction programs may be used to remove architectural barriers to the handicapped and to make library structures more energy efficient. S. 602—Public Law 95–123, approved October 7, 1977.

NASA authorizations: Authorizes $4,049,429,000 for NASA for fiscal 1978 of which $3,041,500,000 is for research and development, $160,940,000 is for the construction of facilities, and $846,989,000 is for research program and management; supports several new programs including: five space shuttle orbiters, a third generation earth resources survey spacecraft, Landsat–D, to carry an advanced scanning instrument, initiation of a Jupiter orbiter probe mission; provides continued funding of the Space Shuttle; and includes the second funding increment for a fuel efficient aircraft technology development program designed to decrease fuel consumption of commercial jet transports by 50 percent. H.R. 4088—Public Law 95–76, approved July 30, 1977.

Authorizes $4,401,600,000 for NASA for fiscal 1979 of which $3,337,600,000 is for research and development, $150,000,000 is for construction of facilities, and $914,000,000 is for research and program management; supports research and development projects currently underway and several important new starts all within the space function; provides funding for the continuing development of the Space Shuttle; supports major projects in space science and applications approved in prior years and significant efforts in earthquake and ocean condition monitoring and forecasting, and weather observation and forecasting; and supports research and development projects in all of the major classes of aeronautical vehicles. H.R. 11401—Public Law 95–401, approved September 30, 1978.

Payments-in-lieu-of-taxes for certain Federal lands: Adds to the list of lands for which Federal payments are made the following three new categories: (1) semiactive or inactive military installations; (2) national park lands acquired for donation to the Federal Government and so donated within eight years of acquisition; and (3) any unit of local government located outside the boundaries of an organized borough in Alaska which acts as the collecting and distributing agency for real property taxes. S. 74—Passed Senate May 19, 1978.

U.S. territories: Provides authorizations for the continuance of the civil government of the Trust Territory of the Pacific through fiscal 1980; authorizes $13,515,000 for the government of the Northern Marianas until the separate funding provisions of their Covenant become effective; authorizes payment of adjudicated claims and final awards made by the Micronesian Claims Commission contingent upon Japan's payment of 50 percent of these claims; authorizes $12.5 million for the rehabilitation of Eniwetok Atoll; provides compensation to the people of Rongelap and Utirik Atolls in the Marshall Islands for radiation exposure resulting from a thermonuclear detonation on Bikini Atoll; authorizes a $15 million grant to Guam for typhoon rehabilitation, upgrading and construction of public facilities, and maintenance of essential services; provides for the Secretary to assume the costs of the Guam and Virgin Islands comptrollers general; gives the district court of Guam jurisdiction to review individual claims arising from U.S. land acquisitions in Guam immediately after World War II; authorizes $25 million to enable Guam to purchase the new Medical Center of the Marianas; allows the Virgin Islands Legislature to vary the present six percent ad valorem custom duty on imports; extends to Guam and the Virgin Islands certain programs that will be extended to the Northern Marianas by the Commonwealth Covenant; and provides for the consolidation of block grants to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific and the Government of the Northern Marianas. H.R. 6550—Public Law 95–134, approved October 15, 1977.

Authorizes $13,868,000 for fiscal 1979 and $20 million thereafter for grants to the government of Guam for rehabilitation, upgrading and construction of public facilities; calls for an analysis of the capital infrastructure needs of Guam for the period 1985 through 1990; increases the authorization for the purchase of the Marianas Medical Center by Guam; authorizes $15 million for relocation of the people of Bikini Atoll within the Marshall Islands and to cover compensation costs for any radiological damage; authorizes $12 million for the construction of a powerplant for the Northern Mariana Islands; authorizes implementation of a food stamp program in the Northern Mariana Islands and distribution of Federally-donated foods where a food stamp program has not been implemented; authorizes $5 million to the government of the Virgin Islands to promote economic development; authorizes $52 million for construction of hospital facilities; and establishes various memorials to commemorate campaigns of the Pacific Theater of World War II. S. 2821—Public Law 95–348, approved August 18, 1978.

White House authorization: Provides permanent authority for the employment of experts and consultants, expenses, maintenance and operation of the White House Office, the Executive Residence at the White House, the executive duties and responsibilities of the Vice President, the Domestic Policy staff and the Office of Administration; and continues the present authorization of $1 million for unanticipated needs of the President and requires an annual report setting forth the amounts and purposes of such expenditures for the prior fiscal year. H.R. 11003—Passed House April 13, 1978; Passed Senate amended July 14, 1978; Senate agreed to conference report October 7, 1978.

GOVERNMENT EFFICIENCY AND REORANIZATION

Civil service reform: Makes a comprehensive reform of the civil service laws; codifies merit system principles and subjects employees who commit prohibited personnel practices to disciplinary action; provides for an independent Merit Systems Protection Board and Special Counsel to adjudicate employee appeals and protect the merit system; provides new protections for employees who disclose illegal or improper government conduct; empowers a new Office of Personnel Management to supervise personnel management in the executive branch and delegate certain personnel auhority to the agencies; establishes a new performance appraisal system and new standard for dismissal based on unacceptable performance; streamlines the processes for dismissing and disciplining Federal employees; creates a Senior Executive Service which embodies a new structure for selecting, developing and managing top-level Federal executives; provides a merit pay system for GS–13 to 15 managers, so that increases in pay are linked to the quality of the employees' performance; authorizes the Office of Personnel Management to conduct research in public management and carry out demonstration projects that test new approaches to Federal personnel administration; and creates a statutory base for the improvement of labor-management relations, including the establishment in law of the Federal Labor Relations Authoriy. S. 2640—Public Law 95– , approved 1978.

Customs procedural reform: Simplifies and reforms a number of customs procedures to expedite the processing of good and individuals; increases the personal duty exemption; imposes different penalties for fraud, negligence and gross negligence; and places a one-year limit on the time in which Customs has to liquidate a re-entry. H.R. 8419—Public Law 95–410, approved October 3, 1978.

D.C. voting representation in congress: Proposes an amendment to the Constitution, which must be ratified to be valid as part of the Constitution by three-fourths of the States within seven years, to provide representation of the District of Columbia in the U.S. House of Representatives and the Senate; permits the District to participate fully in the electoral college; and extends to the people of the District the right to participate in the ratification process of proposed amendments to the Constitution. H.J. Res. 554—Passed House March 2, 1978; Passed Senate August 22, 1978. Submitted to the States for ratification.

Ethics in Government: Establishes for the first time, a new code of financial disclosure for the executive, legislative and judicial branches of government; enacts new restrictions on post-employment activities by former high-ranking executive branch officials to prohibit "revolving door" employment; sets up a mechanism for the appointment of temporary special prosecutors in cases involving criminal activity by executive branch officials where the Justice Department has a conflict of interest; and creates a new Senate legal counsel to provide legal representation in cases where the Senate's institutional powers are in question. S. 555—Passed Senate June 27, 1977; Passed House amended September 27, 1978; Senate agreed to conference report October 9, 1978.

Federal employees flexible and compressed work schedules: Establishes a three-year experiment by the Civil Service Commission in flexible work schedules (under which there is a designated core time during which all employees must be present, and flexible time during which employees may choose their time of arrival and departure within certain limits) and compressed work schedules (under which a full-time employee works 80 hours within a schedule of less than ten work-days); allows an employee to work more than an eight hour day or 40 hour week without receiving overtime pay; permits experiments with a four-day week or other compressed work schedule in units not represented by an employee union if a majority of the employees so approve; provides for transfer of workers who would suffer a personal hardship under the experiment; and mandates the Commission to evaluate the impact of flexible and compressed work schedules on energy usage, commuter traffic patterns, utilization of mass transit, services to the public, general efficiency of government operations and impact on individuals and families. H.R. 7814—Public Law 95–390, approved September 29, 1978.

Federal employees part-time career employment: Requires the creation of a part-time career employment program in every Federal agency to promote the creation of part-time job opportunities at all civil service grade levels up to a 16; makes clear the intent to encourage permanent part-time work, rather than temporary or intermittent employment; requires the review of positions as they become open to ascertain whether they are appropriate for conversion to part-

time slots; provides that an agency shall not abolish any position occupied by an employee in order to make the duties available on a part-time basis; provides that no full-time employee can be coerced into taking a part-time position as a condition of continued employment; and changes the current method for determining personnel ceilings in each agency by requiring the counting of employees on the basis of the fractional part of the 40-hour week actually worked. H.R. 10126—Public Law 95-437, approved October 10, 1978.

Offices of Inspector and Auditor General: Creates the Offices of Inspector and Auditor General in seven executive departments (Agriculture, Commerce, Defense, HUD, Interior, Labor and Transportation) and six executive agencies (CSA, EPA, GSA, NASA, SBA and VA) to consolidate existing auditing and investigative resources to more effectively combat fraud, abuse, waste and mismanagement; provides that each Inspector and Auditor General will be appointed by the President with Senate approval; makes the head of the agency the Inspector General's immediate supervisor but prohibits him from limiting the Inspector General from undertaking and completing any audits and investigations which he or she deems necessary; provides that the Inspector General may be removed only by the President who must inform Congress of his reasons for doing so; requires semiannual reports to Congress; gives the Inspector General authority to have access to all records, reports or documents available to the agency relating to programs over which he or she has responsibility and to require, by subpena, the production of such information; and provides that the Inspector General may receive and investigate employee complaints. H.R. 8588—Public Law 95-452, approved October 12, 1978.

Presidential reorganizational authority: Extends for three years from the date of enactment the authority of the President under chapter 9, title 5, U.S.C., to submit reorganization plans to Congress proposing the reorganization of agencies in the executive branch; provides that reorganization plans may: create new agencies, transfer or consolidate the whole or part of agencies or their functions to other agencies, abolish all or part of the functions of an agency except any enforcement function or statutory program, change the name of an agency, authorize an agency official to delegate any of his functions, and provide that the head of any agency be an individual, commission or board with a fixed term not to exceed four years; requires that each plan be based upon a presidential finding that the proposed action is necessary to accomplish one or more of the purposes of the statute and specify the reduction of or increase in expenditures likely to result from the plan, as well as any anticipated improvements in the effectiveness or efficiency of the government; prohibits the use of reorganization authority to: create a new executive department, abolish an executive department or an independent regulatory agency, abolish any function mandated by Congress through statutes, increase the term of an office beyond that provided by law, create new functions not authorized by pre-existing statutes, or continue a function beyond the period authorized by law; requires the President to submit each plan to both Houses of Congress simultaneously for referral to the appropriate committees; requires that a disapproval resolution be introduced whenever a plan is submitted to assure that there will be a resolution for the Committee to act on and to report either favorably or unfavorably; provides that plans shall become law at the end of 60 calendar days of continuous session of the Congress unless either House passes a resolution of disapproval; specifies that no more than three reorganization plans may be pending in the Congress at any one time; allows the President to amend a plan within the first 30 days after submission if neither committee has ordered reported a disapproval resolution or made any other recommendations on the plan, or to withdraw a plan at any time prior to the conclusion of the 60 day period; contains parliamentary procedure for congressional floor action when considering reorganization plans; and specifies that plans may provide for the transfer or other disposition of affected records, property, and personnel, and for the transfer of unexpended appropriations if the funds will be used for their original purpose. S. 626—Public Law 95-17, approved April 6, 1977.

Sunset review: Establishes a systematic and orderly procedure for reconsideration by Congress every 10 years of its past program enactments in order to increase congressional options for allocating Federal resources to meet changing national needs and congressional accountability for past legislation; sets out a ten year schedule for the reconsideration and reauthorization of all Federal programs, according to groups by budget subfunction; requires that no new budget authority can be obligated or expended for any program not specifically reauthorized by Congress according to the termination schedule; and requires that the report accompanying any authorization bill reported out by a committee must answer certain basic questions about the legislation. S. 2—Passed Senate October 11, 1978.

HEALTH

Clinical laboratories: Extends and expands the existing program of mandatory licensure to all laboratories (except those under the jurisdiction of the Department of Defense or the Veterans' Administration) soliciting and accepting specimens for laboratory analysis; authorizes the Secretary of Health, Education, and Welfare to license those laboratories meeting quality assurance standards and to delegate this authority to States with primary enforcement responsibility to implement laboratory quality assurance programs; authorizes establishment of an Office of Clinical Laboratories to provide a uniform regulatory program for all laboratories subject to Federal jurisdiction; provides authority to exempt physicians' office laboratories under certain conditions and laboratories primarily engaged in biomedical or behavioral research; authorizes increased penalties for failure to comply with the national standards and for any fraudulent reimbursement claims under Medicare-Medicaid; and authorizes one-year experimental demonstration competitive bidding in State medicaid programs. S. 705—Passed Senate July 28, 1977.

Community mental health centers—biomedical research: Extends through fiscal 1979 the assistance programs under the Community Mental Health Centers Act; permits recovery of facilities assistance funds awarded under the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963; authorizes the Surgeon General to make research chemicals and research animals available to appropriate public health authorities and other officials and scientists; extends authorizations to assist medical libraries for three fiscal years; authorizes the Director of the National Cancer Institute to establish and pay for centers for basic research; provides a one-year extension for the National Cancer Institute and for the National Heart, Lung and Blood Institute; extends the National Research Service Award Act for three years; authorizes Federal assistance for education, counseling and treatment projects for families of alcoholics; and encourages research on the impact of alcohol abuse and alcoholism on the family; and establishes a presidential commission for the protection of human subjects of biomedical and behavioral research. S. 2450—Passed Senate June 26, 1978.

Family planning—sudden infant death: Expands the availability of voluntary family planning services and increases research in the biomedical, contraceptive development, and behavioral fields relating to family planning and population by providing substantially increased authorizations for the services, training, research and information programs for the next five years; places new emphasis on family planning services to sexually active adolescents and to members of both sexes who want to avoid unwanted pregnancy; ensures that no services project employee is compelled to act regarding abortion or sterilization in a way that violates personal conscience; establishes, within HEW, an administrative unit to carry out the Sudden Infant Death Syndrome program and provides substantially increased authorizations for the program over the next five years to improve and expand the data collection system, provide clearinghouse activities, expand counseling and information projects, improve services in States now being served, and insure that adequate resources are made available within the National Institute of Child Health and Human Development for research into the causes and prevention of sudden infant death. S. 2522—Passed Senate June 7, 1978.

Health maintenance organizations: Authorizes $170 million for health maintenance organization (HMO) feasibility planning and initial development grants and contracts for three fiscal years; increases the maximum dollar limit for initial development project grants, contracts and loan guarantees, the aggregate dollar limit for initial operating loans and guarantees and the amount of operating loans which could be disbursed to an HMO in any one year; adds a new authority for loans and loan guarantes to assist in the costs of equipping, constructing, acquiring or renovating ambulatory care facilities for HMO's and entities intending to become HMO's; provides increased controls to prevent fraud and abuse; and imposes criminal penalties for knowingly filing false statements. S. 2534—Passed Senate July 21, 1978; Passed House amended September 25, 1978; In conference.

Health planning: Revises and extends the authorities and requirements under titles XV and XVI of the Public Health Service Act for health planning and health resources development; strengthens the certificate of need program in order to insure linkages between planning and regulatory decisions and requires that all certificate of need decisions be consistent with each State's individual health plan; extends the requirement for certificate of need review to any one piece of equipment valued over $150,000 regardless of location; and establishes a new program to encourage the voluntary discontinuance of unneeded or duplicative hospital services. S. 2410—Passed Senate July 27, 1978.

Health research: Extends for three years the authorization for the National Center for Health Services Research and the National Center for Health Statistics and establishes legislative authority and definition to the Office of Health Technology which is presently existing as an administrative entity within the Office of Assistant Secretary for Health. S. 2466—Senate rejected June 26, 1978; Reconsidered and passed Senate August 10, 1978; Passed House amended September 25, 1978; In conference.

Hospital cost containment: Authorizes standby mandatory Federal hospital cost controls effective on July 1, 1979 if the voluntary program that has been put in place by the American Hospital Association fails to cut inflation by 2 percent annually in 1978 and in 1979; and contains medicare-medicaid

administrative provisions. H.R. 5285—Passed House July 18, 1977. Passed Senate amended October 12, 1978. (486)

Medical school grants: Requires medical schools which are required, as a condition to receiving capitation grants, to accept U.S. citizens who completed at least two years of study in foreign medical schools in the 1978–79 school year and passed part I of the National Board of Medical Examiners examination to increase, by five percent, the third year enrollment for the 1978–79 school year; allows public traineeship grants to be awarded to all institutions providing graduate or specialized training in public health; gives the director of the Indian Health Service additional flexibility to recruit doctors to serve Indian populations; and requires a study to determine whether schools of medicine, nursing or osteopathy deny admission or discriminate against any applicant because of his or her views on abortion. H.R. 9418—Public Law 95–215, approved December 19, 1977.

Nurse training: Extends for two years, through fiscal 1980, the various grant and loan authorities under the Nurse Training Act; and provides that grants or contracts may be awarded to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry and public health if they are in serious financial distress. S. 2416—Passed Senate June 7, 1978; Passed House amended September 19, 1978; in conference.

Public health programs: Extends through fiscal 1983 the assistance programs under the Public Health Service Act which have demonstrated their ability to improve the health status of our population and to increase the access of medically underserved populations to health care services in a cost effective manner which include prevention and control of venereal disease, research and counseling information on genetic diseases, hemophilia treatment and blood separation centers, home health services, community health centers and migrant health centers: establishes a three-year program to assist hospital-affiliated primary care centers in areas where such centers will not duplicate the services provided by community and migrant health centers; establishes a Commission on National Primary Health Care Needs to develop a national strategy to assure equal access to primary health care for all individuals regardless of location or income; authorizes through fiscal 1981 programs relating to hypertension, formula grants to the States for comprehensive public health services, immunization of children against communicable diseases, rodent control and lead-based paint poisoning; establishes an Office of Physical Fitness and Sports Medicine and authorizes formula and project grants for comprehensive preventive health services; and establishes a program for developing community-based services to assist pregnant adolescents and adolescent parents. S. 2474—Passed Senate September 29, 1978.

PUBLIC HEALTH PROGRAMS—BIOMEDICAL RESEARCH: Extends through fiscal 1978, without major substantive modifications, the assistance programs under the Community Mental Retardation and Community Mental Health Centers Act and the programs under the Public Health Service Act, including biomedical research and authorizes therefor $3.357 billion; authorizes an additional $67.5 million for grants to construct and modernize public hospitals to meet life and safety codes and avoid loss of accreditation; prohibits payments under medicare and medicaid to health maintenance organizations whose memberships are made up of a majority of individuals who are recipients of such benefits; provides for equity in student loan programs, scholarship programs and payback provisions for medical students within the National Health Service Corps; increases the authorization for the maternal and child health grant programs and extends through fiscal 1980 the authority for 100 percent Federal financing of medicaid skilled nursing and intermediate care facility inspection and enforcement costs; provides that States shall not receive less than their 1976 formula grant allotments under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act; and authorizes $140 million for preventive family planning project grants and $5 million for the Sudden Infant Death Syndrome Counseling and Information Services. H.R. 4975—Public Law 95–83, approved August 1, 1977.

RENAL DISEASE: Improves the end stage renal disease program by providing incentives for the use of lower cost, medically appropriate self-dialysis as an alternative to high cost institutional dialysis; eliminates current program disincentives to the use of transplantation; implements incentive reimbursement methods to assure more cost-effective delivery of services to dialysis patients and providing for studies of alternate ways to improve the program. H.R. 8423—Public Law 95–292, approved June 13, 1978.

SACCHARIN STUDY: Provides the authority for studies on the health risks and benefits of saccharin and information respecting food additives in general and requires that the saccharin study be completed within one year of enactment and the food additives study within 15 months; delays the FDA proposed ban on the sale of saccharin and saccharin products for 18 months pending completion of the studies; and requires a specified warning label on all food products containing saccharin. S. 1750—Public Law 95–203, approved November 23, 1977.

HOUSING

Housing and community development: Amends the Housing and Community Development Act of 1974 and authorizes a total of $14,678,975,000 for housing programs through fiscal 1980; authorizes $12.4 billion for extension of the community development program of which not less than $197 million is for for low-cost housing projects, and not less than $120 million be used for housing for the elderly and handicapped; provides a dual formula method of allocation which permits communities to use either poverty or age of housing stock as the primary indicator of need; authorizes $400 million for the creation of an urban development action grant program (UDAG) to aid seriously distressed cities over the next three years; provides that priority for UDAG funds be given to impacted cities and urban counties most in need; authorizes $100 million annually for the next three years for completion and financial close-out of urban renewal projects; allows multiyear funding to small cities; permits a town or township to be deemed a city if all incorporated places within its boundaries enter into agreements with it to undertake essential community development and housing assistance activities; sets aside 25 percent of UDAG funds for cities with populations under 50,000; provides $1.2 billion in new contract authority for low-income housing programs and limits the amount of assistance to be used on existing rather than new housing; authorizes $685 million for public housing operating subsidies; permits HUD to make assisted housing payments for new or rehabilitated housing units beyond 60 days in an FHA-insured project; provides that loans for housing and related facilities for elderly and handicapped persons assisted under section 202 be made without regard to mortgage insurance limits contained in the National Housing Act; permits interest reduction subsidies for section 235 cooperatives to increase the availability of cooperative housing projects for low-income families; authorizes $60 million for policy development and research and $15 million for the urban homesteading program; extends the flood insurance program for one year, with several modifications, including a provision allowing communities which choose not to participate in the flood insurance program to continue to have access to conventional forms of financing; extends through fiscal 1978 the following mortgage credit programs authorized under the National Housing Act: insurance of financial institutions, general insurance program, housing for moderate income and displaced families, home ownership for lower income families, rental cooperative housing for lower income families, experimental financing, armed services housing, mortgage insurance for land development, and mortgage insurance for group practice facilities; extends through fiscal 1978 the authority to set FHA interest rates; increases the maximum loan amount for FHA-insured mortgages and for loans made by chartered savings and loan associations to adjust for the inflation in the costs of homes, mobile homes and home improvements; decreases the downpayment requirements for FHA-insured loans; lowers the FHA mortgage insurance premium paid by nonprofit teaching facilities hospitals; provides for the expansion of the experimental graduated payment mortgage program; amends the Government National Mortgage Association emergency tandem plan to correct problems in the program and give it greater flexibility, particularly for use in urban areas and for housing rehabilitation; establishes the Community Reinvestment Corporation which requires Federal financial regulatory agencies in the course of examining the institutions they regulate to assess each institution's performance in meeting the credit needs of its primary savings service area to the extent consistent with sound business operations; provides that regulations resulting from the act will become effective no later than 390 days after its enactment; extends through fiscal 1978 the rural housing programs under the Farmers Home Administration (FmHA) and increases by $25 million the low rent housing for domestic farm labor and low income repair loans programs; modifies the guaranteed loan program of FmHA to completely separate the guaranteed loan program, both in operation and funding, from the insured (direct) loan program; restricts the guaranteed loan program to persons with above average incomes, thereby asserting congressional intent that FmHA use the direct loan program for low- and moderate-income persons; authorizes $10 million in fiscal 1978 for the mutual and self-help housing program; provides, for the first time, special authorizations for rural housing for the handicapped; authorizes congregate housing for elderly and handicapped persons and families; requires that at least 60 percent of FmHA loans made pursuant to the single family and rental programs benefit persons of low income; requires the establishment of a research capacity within FmHA; mandates the implementation of a rural rent subsidy; expands the definition of "rural area" to include smaller communities with standard metropolitan statistical areas which have a serious lack of mortgage credit; and states explicitly that property subject to a lien by the United States or held by the FmHA is taxable by State and local jurisdictions. H.R. 6655—Public Law 95–128, approved October 12, 1977.

Authorizes $30 billion in fiscal 1979 to extend the basic housing and community development programs conducted by the Department of Housing and Urban Development and the Farmers Home Administration; authorizes a major expansion of the section 312 rehabilitation loans and the urban homesteading programs with important changes designed to increase the effectiveness of these programs; gives a higher priority to loans for lower income families; provides a

sliding scale of interest rates ranging between three percent and the Treasury's borrowing rate, based on family income in order to improve targeting of Federal subsidies; authorizes $370 million in rehabilitation loans annually in fiscal 1979 and 1980; allows cities which cannot qualify for funds on a citywide basis but which have areas of severe economic and physical distress to receive Urban Development Action Grant (UDAG) funds; authorizes funding increases for Housing Assistance Programs including programs of assistance to benefit the handicapped, to improve security in publicly-assisted projects, and to maintain financially troubled projects; extends FHA insurance and a number of other housing related programs for an additional year; establishes a new program to provide services, such as housekeeping assistance and meals, for low-income elderly and disabled individuals residing in publicly-assisted housing; extends and authorizes funding for rural housing programs and initiates a new program to assist very low income rural families to purchase and maintain their homes; establishes the Neighborhood Reinvestment Corporation Act to continue the work of the Urban Reinvestment Task Force in sponsoring neighborhood housing services programs, defined as local partnerships of residents, lending institutions and local government working to upgrade the neighborhood; and amends various housing acts in order to provide for, among other matters, increased exemptions under the Interstate Land Sales Disclosure Act, increased participation by mortgage bankers in the programs conducted by the Federal Home Loan Mortgage Corporation, and a prohibition of expenditures by HUD for the purpose of implementing their proposed reorganization of multifamily and community planning and development functions. S. 3084—Passed Senate July 20, 1978; Passed House, amended July 25, 1978; in conference.

Supplemental housing authorizations: Authorizes additional funds for housing assistance for lower income Americans in fiscal 1977; extends the riot insurance and crime insurance progarms; establishes a National Commission on Neighborhoods; increases the authorization for section 8 rental assistance by $378 million for a total of $1,228,050,000 and the operating subsidy funds for public housing projects by $19.6 million to pay for this winter's unexpectedly high heating costs; contains a $10 million increase for a total of $15 million for the HUD urban homesteading program; and increases from $500 million to $1.341 billion the ceiling for losses incurred by the Federal Housing Administration General Insurance Fund. H.R. 3843—Public Law 95–24, approved April 30, 1977.

INTERNATIONAL

Arms Control and Disarmament Agency: Authorizes a total of $16.6 million for the Arms Control and Disarmament Agency (ACDA) for fiscal 1978; creates a new position of Special Representative for Negotiations to serve as the Alternate Chairman of the U.S. SALT delegation; removes the requirement that all ACDA contracts and grants be with U.S. institutions and persons; and states the sense of Congress that adequate verification compliance with the terms of arms control agreements should be an indispensable part of any agreement. H.R. 6179—Public Law 95–108, approved August 17, 1977.

Authorizes $18,395,000 for fiscal 1979 for the Arms Control and Disarmament Agency; earmarks funds for a broad range of programs related to International Atomic Energy safeguard and related activities; and requires a study of the arms control research centers in academic institutions with a view to determining the Federal role in assisting them. H.R. 11832—Public Law 95–338, approved August 8, 1978.

Diplomatic immunity: Codifies the privileges and immunities provisions of the Vienna Convention as the sole U.S. law on the subject of diplomatic immunity; repeals a 1970 statute banning suits against diplomats and their servants, which has been construed to create full immunity for these individuals; requires foreign diplomats to carry liability insurance against risks arising from the operation of automobiles, vessels, or aircraft in the United States; and creates a substantive right of an injured or damaged party to proceed directly against the insurance company where the insured diplomat enjoys immunity from suit. H.R. 7819—Public Law 95–393, approved September 30, 1978.

International development assistance: Authorizes a total of $1.95 billion for fiscal 1979 for bilateral development assistance, international disaster assistance programs, operating expenses for the United States Agency for International Development (AID); voluntary U.S. contributions to international organizations and other development and economic assistance programs; establishes overall U.S. foreign policy goals with respect to U.S. development cooperation policy; authorizes special treatment for relatively least developed countries; revises the policy directives for AID's housing investment guaranty program; prohibits the use of funds for any form of aid to the Socialist Republic of Vietnam, Cambodia, Uganda or Cuba or to any country which allows, supports or encourages acts of terrorism; expands and improves orphanages, hostels, day care centers, school feeding programs and health, education and welfare programs which serve disadvantaged children in Asia; facilitates adoption of disadvantaged Asian children by American families; calls for a study to determine methods by which U.S. food assistance programs can be more effectively used; strengthens U.S. international health assistance by separating its authorization from that for population assistance; and establishes a permanent International Disaster Fund. H.R. 12222—Public Law 95–424, approved October 6, 1978.

International development assistance—Food for Peace: Authorizes funds for fiscal 1978 for bilateral development assistance, international disaster assistance programs, operating expenses for the United States Agency for International Development AID) and voluntary U.S. contributions to international organizations; includes $200 million for the initial U.S. contribution to the Sahel Development Program; extends the Housing Investment Guaranty Program through fiscal 1979 and authorizations for housing guaranty programs for Israel, Portugal and Lebanon; provides assistance for victims of the Italian earthquake; integrates population planning programs with U.S. health and other development assistance programs; bars funds for assistance to or reparations for Vietnam, Cambodia, Laos, or Cuba; directs the President to continue to try to obtain an accounting of MIA's; repeals various provisions of the Foreign Assistance Act prohibiting assistance to countries which furnish assistance to or trade with Cuba or Vietnam; bars funds for involuntary sterilizations; includes a separate title to strengthen the economic development and trade expansion aspects of the Food for Peace program (Public Law 480) and to clarify the humanitarian intent of the program; repeals the present exclusion from the title I sales program of those countries or exporters which trade with Cuba or North Vietnam; and removes the restriction on sales to the United Arab Republic; changes the title I sales allocation formula; increases minimum agricultural commodities to be shipped annually under title II of Public Law 480, and creates a new food for development program; and expands and refines the "grantback" authority. H.R. 6714—Public Law 95–88, approved August 3, 1977.

International emergency economic powers: Revises and delimits the President's authority to regulate international economic transactions during wars or national emergencies under section 5(b) of the Trading with the Enemy Act of 1917 with provision for continuation of existing exercises of authority. H.R. 7738—Public Law 95–223, approved December 28, 1977.

International financial institutions: Provides a total of $5.125 billion in multiyear authorizations for continued participation by the United States in six international financial institutions including the World Bank, the International Development Association and the African Development Fund; instructs U.S. representatives to vote to channel aid to projects which address the basic human needs of people in the recipient country; requires U.S. representatives to oppose all assistance to countries which engage in consistent patterns of gross violations of internationally recognized human rights or which provide refuge to airline hijackers; specifies several additional factors which U.S. representatives should consider in carrying out their duties; and requires U.S. representatives to oppose loans or assistance to expand foreign export production of palm oil, sugar or citrus crops if such production will cause injury to U.S. producers. H.R. 5262—Public Law 95–118, approved October 3, 1977.

International Monetary Fund—Bretton Woods: Amends further the Bretton Woods Agreement Act of 1945 in order to authorize U.S. participation in the Witteveen Supplementary Financing Facility of the IMF which was established to aid member countries troubled by oil and trade deficits; authorizes the Secretary of the Treasury to make resources available to the IMF in an amount not greater than the equivalent of 1,450 million special drawing rights (approximately $1.75 billion) which is approximately 17 percent of the overall initial total; instructs the U.S. Executive Director to seek to assure that a Fund decision will not undermine U.S. policy regarding comparability of treatment of public and private creditors in cases of debt rescheduling where official U.S. credits are involved; and instructs the U.S. Executive Director to oppose any Witteveen Facility loans to Cambodia, Uganda or to any nation aiding terrorists. H.R. 9214—Public Law 95–435, approved October 10, 1978.

International security assistance: Authorizes a total of $3,195,900,000 in 1978 budget authority for eight programs to finance international security programs totalling $4,579,100,000; provides $228.9 million for the military assistance program which includes funds for military aid to Greece, Portugal, Turkey and Jordan; provides $677 million to finance foreign military sales credits to 29 countries, with direct credits to Israel and Zaire, and with all loans to other countries financed through the Federal Financing Bank; states that a U.S. arms transfers restraint policy shall not impair Israel's deterrent strength or undermine the military balance in the Middle East; authorizes $1.89 billion for the security assistance program to provide economic assistance for 15 countries; provides security supporting assistance for disaster relief in Lebanon; creates an $80 million Southern Africa Special Requirements Fund to address the economic problems caused by the conflict in that region and prohibits the use of funds to aid Mozambique, Angola, Tanzania, or Zambia unless the President determines that such aid would further U.S. policy interest; provides $39 million for international narcotics control of which $12.5 million will be used for programs in Mexico; prohibits military assistance, training and credits to Ethiopia and Argentina; prohibits economic assistance to any supplier or recipient of nuclear technology or equipment unless both agreed to place the transferred equipment under multilateral auspices when available and that all nuclear activities will be placed under international safeguards; raises the FMS

credits and sales ceiling for Turkey; and requires a one-year termination of the sale of defense articles and services to any country granting sanctuary to international terrorists unless U.S. national security interests demand otherwise. H.R. 6884—Public Law 95–92, approved August 4, 1977.

Authorizes $2,817,500,000 for seven programs which constitute the fiscal 1979 international security assistance program which results in program authority of approximately $4.3 billion; includes $133.5 million for grant military assistance; authorizes military assistance advisory groups for 14 countries and further limits the activities of such groups; authorizes a foreign military sales credit program of $2,085,500,000; and cuts such funds for Paraguay on human rights grounds; creates an Economic Support Fund (ESF) in place of the Security Assistance Program to stress the economic nature of such programs and authorizes therefor $1.902 billion; provides that two-thirds of the assistance for Egypt and Israel be provided on a grant basis; urges the availability of ESF funds to Turkey for research to prevent damage from earthquakes or other natural disasters; bars aid from this fund to Mozambique, Angola, Tanzania or Zambia unless the President waives this prohibition; authorizes $30.9 million to create a new "International Peacekeeping, Basic Rights, and Related Program" account of security programs previously in Security Supporting Assistance; authorizes the President to transfer defense articles and services to South Korea in conjunction with U.S. ground troop withdrawal; substitutes for the current policy statement a legal requirement to deny security assistance to any country whose government engages in a consistent pattern of gross violations of internationally recognized human rights unless national interest of the United States to provide such assistance; sets at 790 the fiscal 1979 ceiling on military personnel assigned overseas to perform security assistance management functions; provides, effective December 31, 1978, for the lifting of U.S. sanctions against Rhodesia if the government in Salisbury has made a good faith effort to negotiate with all parties and a new government, chosen by free elections, has been installed; repeals the limited embargo on arms sales to Turkey; and requires various reports including defense requirement surveys and a review of U.S. policy toward the Soviet Union. S. 3075—Public Law 95–384, approved September 26, 1978.

Nuclear nonproliferation: Establishes a more effective framework for international cooperation to encourage development of peaceful nuclear activities to meet energy needs and to assure that export by any nation of nuclear materials and technology does not contribute to proliferation; provides for congressional review of any proposal by the President to bring foreign spent fuel to the U.S. for storage; authorizes the President, pending establishment of INFA, to make available for transfer to an international stockpile enough low-enriched uranium to produce up to 100,000 megawatt-years of power; provides that INFA fuel assurance and participation in the interim stockpile will be exclusively for nations which adhere to effective nonproliferation policies; authorizes the Department of Energy and the Nuclear Regulatory Commission to establish and operate safeguards and physical security programs for peaceful uses of nuclear energy; directs the U.S. to seek to negotiate with other nations and groups of nations to adopt general principles and procedures including common international sanctions for violation of peaceful-use obligations, and to establish international procedures to be followed should nuclear materials be stolen or diverted, or limits the authority of DOE to distribute source and special nuclear material without having to obtain an NRC license; ensures that transfers of technology which pertain to production of special nuclear material may not be made without authorization by the Secretary of DOE, unless they are already specifically authorized by an agreement of cooperation; provides for presidential consideration of export license applications which NRC does not approve and congressional review of any presidential decision to approve such an export; specifies licensing criteria to govern peaceful nuclear exports by the U.S. and certain types of conduct which would result in termination of nuclear exports from the U.S.; and directs the President to seek agreement from all nations to accept additional controls on their own peaceful nuclear activities and to require adherence to such controls by the recipients of their nuclear exports; and directs the U.S. to work with developing nations to develop a program for meeting energy needs through alternative resources consistent with economic factors and environmental protection. H.R. 8638—Public Law 95–242, approved March 10, 1978.

OPIC: Extends until September 30, 1981, the basic operating authority of the Overseas Private Investment Corporation (OPIC) through which the Government insures U.S. investment project; requires that preferential the risks of inconvertibility of local currency into dollars and expropriation loss due to war or revolution; requires maintenance of a development impact profile for each investment project; requires that preferential consideration be given to projects in less developed countries with per capita incomes of $520 or less and that activities in less developed countries with per capita incomes of $1,000 or more in 1975 dollars be restricted with certain exceptions for small business and cooperative projects and mineral and energy projects; prohibits direct underwriting of insurance jointly with private insurance companies; denies claims payments to any insured investor convicted of or engaging in bribery of a foreign official in relation to an OPIC-insured project; prohibits support of expanded production or processing of palm oil, sugar or citrus for export to the United States; and requires OPIC, in consultation with the Secretary of State, to take into account observance by a country of human rights. H.R. 9179—Public Law 95–268, approved April 24, 1978.

Panama Canal Neutrality Treaty: Establishes a permanent regime of neutrality in order that both in time of peace and in time of war the Canal shall remain secure and open to peaceful transit; provides that Panama and the U.S. agree to maintain the regime of neutrality beginning in the year 2000 which shall be maintained in order that the Canal shall remain permanently neutral and applies the same regime to any other international waterway that may be built in Panama; provides that each country shall, in accordance with their respective constitutional processes, defend the Canal against any threat to neutrality and consequently shall have the right to defend the Canal against any threat or aggression which shall not be interpreted as a right of intervention into the internal affairs of Panama or against the territorial integrity or political independence of Panama; provides that beginning in the year 2000 Panama alone shall operate the Canal and maintain all military forces and installations within Panama's territory; provides that notwithstanding these provisions, if the Canal is closed or its operation is interfered with, the U.S. and Panama may unilaterally take steps it deems necessary to reopen the Canal or restore its operation, including the use of military forces in Panama; provides that nothing in the Treaty shall preclude Panama and the U.S. from making, in accordance with their respective constitutional processes, any agreement to facilitate their responsibility to defend the Canal including an agreement for continued U.S. military presence in Panama; provides that the war and auxiliary vessels of the U.S. and Panama shall have the right to transit the Canal expeditiously; states that this expeditious transit shall include the right to go to the head of the line of vessels in order to transit the Canal rapidly in case of need or emergency; provides that such need or emergency shall be determined by the nation operating the vessel; provides before the Treaty can go into force that the U.S. and Panama must negotiate an agreement under which the American Battle Monuments Commission would administer the American Sector of the Corozal Cemetery and makes provision for the transfer of the remains of other Americans buried at Mount Hope Cemetery; prohibits economic assistance, military grant assistance, security supporting assistance, foreign military sales credits or international military education and training to Panama; and provides that all amendments, reservations, understandings, declarations and other statements incorporated by the Senate in its resolution of ratification be included in the instrument of ratification exchanged with the government of Panama. Ex. N, 95th–1st—Resolution of notification agreed to March 17, 1978.

Panama Canal Treaty: Terminates prior United States-Panama treaty relationships concerning the Canal and establishes a partnership arrangement for the operation, maintenance and defense of the Panama Canal by the United States and Panama through December 31, 1999; provides that the treaty enter into force simultaneously with the Neutrality Treaty, six months from the date of exchange of instruments of ratification; provides that exchange of the instruments of ratification shall not be effective prior to March 31, 1979, and the treaties shall not enter into force prior to October 1, 1979, unless implementing legislation has been enacted before March 31, 1979; grants to the U.S. the rights to manage, operate and maintain the canal including the right to establish and collect tolls; provides that the U.S. carry out these responsibilities through a new United States government agency, the Panama Canal Commission, which will replace the Panama Canal Company and the Canal Zone Government and which will be supervised by a board of nine members, five Americans and four Panamanians; requires the Commission to reimburse Panama $10 million semiannually for costs incurred by Panama in providing various public services in the canal operating area and in certain housing areas; requires the U.S. and Panama to agree on specific levels and quality of services to be provided by Panama for the $10 million annual payment for services which are essential to the effective functioning of the canal, to examine the cost of services every three years and to resubmit any disagreement between the United States and Panama to a binding independent audit; grants the U.S. the primary responsibility for the protection and defense of the canal for the duration of the treaty; provides that the right to intervene militarily in Panama to keep the canal open and operating shall not have as its purpose or be interpreted as a right of intervention into the internal affairs of Panama or interference with its independence or sovereign integrity; provides for the establishment of a Combined Board comprised of an equal number of senior military representatives from the two countries to facilitate planning and cooperation between the armed forces of both; provides that Panama and the U.S. study jointly the feasibility of a sea-level canal and enter into negotiations for its construction in the event that it is determined necessary; prohibits, for the duration of the treaty, construction of a canal except in accordance with the provisions of this treaty or as the U.S. and Panama may otherwise agree; prohibits the U.S. from ne-

gotiating with other countries for the right to construct an interoceanic canal on any other route during the life of the treaty; provides that the instruments of ratification to be exchanged shall include provisions whereby each party agrees to waive these two prohibitions; upon entry into force, transfers to Panama all right, title and interest which the U.S. may have in real property and nonremovable improvements located in areas not reserved for U.S. use under the treaty; provides that upon termination of the treaty, Panama will assume total responsibility for the Panama Canal which shall be turned over in operating condition free of liens and debts; provides that Panama receive payments to be derived from canal operating revenues as "a just and equitable return on the national resources which it has dedicated to" the Panama Canal as follows: (a) a share of tolls amounting to 30 cents per Panama Canal ton of shipping transiting the canal; (b) a fixed amount of $10 million per year; and (c) an additional sum up to $10 million per year if the Canal operating revenues yield a surplus over expenditures including other payments made under the treaty; provides that any accumulated unpaid balance under item (c) at the termination of the treaty shall be payable only to the extent of any operating surplus in the last year of the treaty's duration and that nothing shall be construed as obligating the U.S. to pay any unpaid balance and that no U.S. Treasury funds may be used for any of the above three payments without statutory authorization: and requires the Panama Canal Commission to reimburse the U.S. for interest on funds or other assets directly invested by the U.S. Commission or its predecessor Panama Canal Corporation. Ex. N, 95th-1st—Resolution of ratification agreed to April 18, 1978.

Peace Corps authorization: Authorizes $112,424,000 for fiscal 1979 for Peace Corps programs and an additional supplemental authorization of $3,713,000 for fiscal 1978, to cover increases in employee pay and other benefits; earmarks $1 million for contributions to the United Nations Volunteer Program and changes the limitation on contributions to two percent of the annual Peace Corps appropriations; calls upon the Peace Corps to pay particular attention to the integration of women in the national economies of developing countries; permits use of funds and expertise to assist indigenous volunteer programs by Third World Nations; extends medical malpractice protection to volunteers; expands medical coverage to Foreign Service employees stationed in the United States; and authorizes assignment of Peace Corps volunteers in refugee assistance programs. H.R. 11877—Public Law 95-331, approved August 2, 1978.

Rhodesian chrome: Amends the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome by nullifying the effect of Section 203 of the Armed Forces Appropriations Act of 1972 which permitted the importation into the United States of chromium and other strategic minerals from Rhodesia, despite mandatory U.N. sanctions against trade with that country which the United States supported by its vote in the United Nations Security Council and by Executive Order 11419; and authorizes the President to suspend the act if he determines that it would encourage negotiations and further the peaceful transfer from minority to majority rule in Rhodesia. H.R. 1746—Public Law 95-12, approved March 18, 1977.

Romanian earthquake authorization: Authorizes $20 million to the President for fiscal year 1977 for the relief and rehabilitation of refugees and other earthquake victims in Romania; and states that nothing in this act shall be interpreted as endorsing any measure undertaken by Romania which would suppress human rights as defined in the Helsinki Declaration and the United Nations Declaration on Human Rights or as constituting a commitment to provide development assistance to Romania. H.R. 5717—Public Law 95-21, approved April 18, 1977.

State Department authorizations: Authorizes $1,693,308,000 for fiscal 1978 for the operations of the State Department, including the Office of Foreign Buildings, the United States Information Agency (USIA) and the Board of International Broadcasting (which makes grants to Radio Free Europe/Radio Liberty); strengthens the ability of the Board for International Broadcasting to oversee and set broad policy direction for Radio Free Europe/Radio Liberty, Inc.; provides that any implementation of the President's policy of phased troop withdrawal from Korea should be consistent with the security interests of South Korea and the interests of the United States in Asia, notably Japan; contains provisions to encourage assistance to Americans incarcerated abroad; provides that any new Panama Canal treaty or agreement negotiated with funds appropriated under this title must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, property and defense of the Panama Canal; states the sense of Congress that Cuban policies and actions regarding use of military and paramilitary personnel beyond its borders and the Cuban government's disrespect for human rights are among elements which must be taken into account during negotiations for normalization of relations; and prohibits funds for operations or aid to Vietnam and directs the President to take all possible steps to obtain a final accounting of POWs and MIAs. H.R. 6689—Public Law 95-105, approved August 17, 1977.

Authorizes a total of $1,969,710,000 for fiscal 1979 of which $1,399,253 is for the Department of State, $420,577,000 for the International Communication Agency, and $88,180,000 for the Board of International Broadcasting; authorizes an additional $37,275,000 in supplemental funds for fiscal 1978 to pay for U.S. contributions to UNESCO which were suspended because of UNESCO's actions against Israel; earmarks $25 million for resettling refugees from the Soviet Union and Eastern Europe in Israel; bars the use of funds to implement the Panama Canal Treaties unless authorized by the Constitution or by act of Congress and for aid or reparation to Vietnam; earmarks $4 million to expand use of solar energy in buildings acquired under the Foreign Buildings Act; provides a special computation of retirement annuities for certain participants in the Foreign Service Retirement System who retire between October 1, 1978, and December 31, 1979; broadens minority business participation in State Department procurement; calls for U.S. assistance to bring about an orderly transition to majority rule and protection of minority rights in Rhodesia; makes permanent the President's authority to regulate the entry of aliens into the United States; calls for various reports including a comprehensive review of U.S. diplomatic and economic relations with Cuba; contains congressional findings on the importance of science and technology on U.S. foreign policy and calls for implementation of such a policy; states as a sense of the Congress that the UN Committee on Exercise of the Inalienable Rights of the Palestinian People and the UN Special Unit on Palestinian Rights should be terminated; calls for the Secretary to convey to all nations the concern of Congress over the destruction of marine mammals; provides a statutory mandate for the new International Communication Agency (which came into being on April 1, 1978, as a result of Reorganization Plan No. 2 which consolidated into the ICA functions previously performed by the USIA and State Department's Bureau of Education and Cultural Affairs); contains provisions to improve procedures under the Case-Zablocki Act which requires that the text of any international agreement entered into by the executive branch be submitted to Congress within sixty days. H.R. 12598—Public Law 95-426, approved October 7, 1978.

State Department supplemental authorization: Provides a supplemental authorization of $89.5 million for the Department of State for fiscal 1977 for: past due U.S. dues and assessments to UNESCO in arrears because of a congressionally imposed suspension; aid to Soviet and East European refugees not settling in Israel; and the Indochinese Refugee Program; construction of apartment units for the U.S. mission in Cairo; and requires that the text of any international agreement entered into on behalf of the United States be transmitted to the Congress within 20 days of its being signed. H.R. 5040—Public Law 95-45, approved June 15, 1977.

JUDICIARY

Judicial tenure: Establishes within the judicial branch a system as a supplement to the impeachment process for investigating and resolving allegations that the condition or conduct of members of the Federal judiciary is or has been inconsistent with the good behavior required under article III, section 1 of the Constitution; and provides that an investigation of a complaint filed against a Federal judge may result in involuntary retirement, removal or censure or dismissal of the charges while a complaint filed against a Supreme Court Justice may result in a report to the House of Representatives recommending removal, censure or dismissal of the case. S. 1423—Passed Senate September 7, 1978.

Jurors' fees, qualifications and service: Amends in its entirety the jury fee section of the Jury Selection and Service Act effective October 1, 1978; increases the attendance fee for grand and petit jurors to $30 per day and provides for enhanced attendance fees of extended service; increases the commuter travel allowance; adds a parking allowance to the travel costs payable subject to the discretionary control of the district court; provides for the establishment of a fixed subsistence allowance; authorizes convenience and comfort expenditures for jurors who are sequestered for long periods; and provides clearly defined relief for prospective jurors against employers who could discharge or threaten to discharge them by reason of jury service and imposes a civil penalty for each violation of a juror's right to perform jury duty. S. 2075—Passed Senate April 27, 1978; passed House amended October 12, 1978.

Allows more flexible treatment of rehabilitated persons, previously convicted for crimes punishable by imprisonment for more than one year, whose qualifications are being considered for jury service in Federal courts; clarifies the limited purposes for which jury selection records and papers may be disclosed and increases the maximum fine for unauthorized disclosure; defines the requirements of the public drawing for jury selection with respect to manual and automated computer data processing; and extends Federal Employees Compensation Act coverage to all persons serving as jurors in U.S. district courts. S. 2074—Passed Senate April 27, 1978.

Makes the excuse of prospective jurors from Federal jury service on the grounds of distance from the place of holding court contingent upon a showing of hardship or extreme inconvenience to be determined by the district judge on a case-by-case basis. S. 2072—Passed Senate April 27, 1978.

Omnibus judgeships: Provides for the appointment of 117 additional permanent district court judges, 35 new circuit court judges and four temporary judges; makes the creation of the new district judgeships

effective upon the President's promulgation of "standards and guidelines" for merit selection; provides that any court of appeals having more than 15 active judges, such as the fifth and ninth circuits, may create such administrative units it deems necessary; and amends existing law to require that actions brought against rail or motor carriers on claims for damage or delay to shipments be subject to a minimum jurisdictional amount of $10,000 for each bill in lading, in order to prevent abuse of the Federal judicial process by persons bringing such actions simply as a means of tolling the statute of limitations while settlement negotiations are undertaken. H.R. 7843—Public Law 95– , approved 1978.

U.S. Magistrates: Enlarges and amends the current jurisdictional provisions for U.S. magistrates in order to improve access to the Federal courts for the less advantaged; allows magistrates to finally determine civil cases, upon the consent of the parties involved; authorizes a magistrate to "conduct any or all proceedings in any jury or nonjury civil matter"; specifies appeal and review procedures available to an aggrieved party in a civil matter decided by a magistrate; requires that all magistrates must have been admitted to the practice of law for at least five years and their appointment approved by the circuit judicial council; and expands jurisdiction of magistrates to try minor criminal offenses to include all misdemeanors; S. 1613—Passed Senate July 22, 1977.

Witness fees and expenses: Revises witness fee, travel and subsistence allowances to provide a daily attendance fee, compensation for travel and overnight accommodations. S. 2049—Public Law 95– , approved 1978.

Victims of crime: Authorizes the Attorney General to make grants to States having crime victims compensation programs to cover up to 25 percent of the nonadministrative costs incurred by the State in compensating a victim of a qualifying criminal act, which is punishable under a statute of the State, and 100 percent of nonadministrative costs of a criminal act subject to exclusive Federal jurisdiction. H.R. 7010—Passed House September 30, 1977; Passed Senate amended September 11, 1978; In conference.

Black lung benefits: Modifies the definition of "pneumoconiosis" in the Federal Coal Mine Health and Safety Act to include the sequelae of the disease and respiratory and pulmonary impairment arising out of coal mine employment as presently interpreted by the Social Security Administration and the definition of "miner" to expand the coverage under the program; requires the Secretary to accept the evaluation of X-rays read by a board-certified or board-eligible radiologist without submitting them to a further reading in determining pneumoconiosis claims: requires the 'Secretary to accept an autospy report for purposes of determining the presense of pneumoconiosis and the stage of advancement; allows a miner-claimant the right to insist on a complete pulmonary examination to substantiate his claim; entitles the survivor of a miner who died before the enactment of the 1977 amendments and who was employed in the coal mines for at least 25 years prior to June 30, 1971, to benefits if the miner was disabled by pneumoconiosis at the time of death; provides that eligible survivors of approved claimants would not be required to file a new benefits claim; requires the Secretaries to review all denied or pending claims; permits the use of affidavits in determining the disability of deceased miners in the absence of other sufficient evidence; authorizes the establishment of Labor Department field offices to assist claimants with their claim filing and processing; expands the situations under which coal mine operators who acquire mines from previous operators would be required to assume liability (concurrently with the prior operator) for the payment of black-lung benefits to individuals previously employed in the mine which has a retroactive effect, applying to changes in ownership taking place on or after January 1, 1970; provides that the trust fund established under Public Law 95–227 pay benefits in cases where there is no operator, where a liable operator has failed to make payment in a timely manner, or where the miner's last coal mine employment was before January 1, 1970; creates a black lung compensation insurance fund in the Department of Labor to enable the Secretary to offer insurance to operators if such insurance is not available privately at reasonable cost; and requires the Secretary of Labor to supply each denied claimant with a written statement showing the reasons for the denial. H.R. 4544—Public Law 95–239, approved March 1, 1978. *NOTE*: (Revenue provisions are contained in H.R. 5322 which became Public Law 95–227.)

Black lung trust fund: Imposes an ad valorem tax on the sale of coal by a coal producer at the rate of 50 cents a ton on underground-mined coal and 25 cents a ton on surface-mined coal but in no event more than two percent of the sales price; establishes a Black Lung Disability Fund in the Treasury supported from tax revenues, appropriated repayable advances and investment income to pay benefits including part C benefits expended by the Secretary of Labor, repayment of advances to the fund, including interest and all expenses of operation and administration under part C; authorizes the trust fund to reimburse those operators who paid benefits to disabled coal miners under part C for claims based on pre-1970 coal mine employment; provides special rules for trust funds established by coal mine operators to satisfy their obligations under the so-called "responsible operator" provisions of the black lung benefits program; permits the coal mine operator designated as the one responsible for payment of benefits to a miner to fund its obligations in advance through contributions to a tax-exempt trust; and makes these contributions deductible, within limits, and includes safeguards to ensure that the money in the trust can be used only for the payment of these black lung benefits. H.R. 5322—Public Law 95–227, approved February 10, 1978.

Mine safety and health: Strengthens the national mine safety and health program by providing uniform administration and enforcement for the entire mining industry under a single act administered by the Department of Labor; amends the Federal Mine Safety and Health Act of 1969 (the Coal Act) to make its enforcement and administrative provisions applicable to the entire coal and noncoal mining industry; transfers the responsibility for the administration and enforcement of the mine safety and health program from the Department of the Interior to the Department of Labor; provides a streamlined mechanism for the promulgation of mandatory safety and health standards by imposing time limitations on each step of the standard-making process; establishes an independent Federal Mine Safety and Health Review Commission which is assigned all adminstrative review responsibilities and authorized to assess civil penalties; requires each operator to have a Secretary-approved safety and health training program which provides at least 40 hours of training for new underground miners, 24 hours of training for new surface miners, and eight hours of annual retraining for all miners; requires at least four inspections each year for all underground mines in their entirety, at least two inspections a year for all surface mines in their entirety, and at least one spot inspection every five working days for particularly hazardous mines; expands miners' participation in inspection by authorizing their representatives to participate in the annual inspection and any pre- or post-inspection conferences held at the mine; permits miners to request inspections in writing if they suspect a hazardous situation; requires the Secretary to notify the mine operator of any violation of the health and safety standards with a time period within which the violation must be fully abated; authorizes the inspector to issue an order closing all or a portion of a mine affected by certain violations and if a pattern of violations exists; expands the coverage of those presently protected against discriminatory actions under the Coal Act to include applicants for employment; and provides a variety of civil and criminal penalties. S. 717—Public Law 95–164, approved November 9, 1977.

Minimum wage increase: Amends the Fair Labor Standards Act of 1938 to increase the minimum wage rate to $2.65 on January 1, 1978, to $2.90 in 1979, to $3.10 in 1980, and to $3.35 in 1981; increases the minimum wage in Puerto Rico for employees at wages between $2 per hour and $2.29 by $.25 in 1978 and by $.30 in 1979 and each year thereafter until parity is reached, and for those at wages less than $2 per hour increases the minimum wage by $.20 in 1978 and by $.25 in 1979 and each suceeding year until $2.30 per hour after which it will be increased by $.30 until parity is reached; reduces from 50 percent to 45 percent in 1979 and to 40 percent in 1981 the credit against the minimum wage which an employer may credit against payment of the minimum wage to employees who receive more than $30 per month tips; provides exemption from coverage for certain employees; authorizes the Secretary of Labor, within certain guidelines to waive child labor restrictions for employment of children as hand harvest agricultural laborers paid on a piece rate basis if the Secretary finds that the use of 10- and 11-year-old children is necessary to prevent severe economic disruption of an applicant's industry; increases the small business sales test which exempts small businesses from minimum wage coverage from $250,000 to $275,000 effective July 1, 1978, to $325,000 July 1, 1980, and to $362,500 December 31, 1981; and increases from four to six the number of students an employer may hire at a special minimum wage. H.R. 3744—Public Law 95–151, approved November 1, 1977.

NATURAL RESOURCES—NATIONAL HISTORIC SITES

Bureau of Land Management authorization: Authorizes the operations of the Bureau of Land Management through 1982 which includes management of lands and resources, acquisition, construction and maintenance, payments-in-lieu of taxes, and mineral development impact loans; and authorizes the Secretary to provide impact loans to communities and governmental subdivisions that have suffered some inordinate impact as a result of energy activities in their area to be secured by anticipated funds which States would be entitled to receive as part of their royalty from minerals extracted within their States. H.R. 10787—Public Law 95–352, approved August 20, 1978.

Dam safety and inspection: Gives the Corps of Engineers the right to enter all damsites for inspection; provides for judicial priority for consideration of any subsequent proceedings and provides United States agents or contractors with liability protection for dam inspection work. S. 2444—Passed Senate June 9, 1978.

Provides permanent authority for the Secretary of the Interior to undertake actions deemed necessary to insure the safety of dams and related facilities under the jurisdiction of the Bureau of Reclamation; and authorizes up to $100 million to carry out the safety of dams program, conditioned upon the submission of a report to Congress

of the proposed works required for dam safety. S. 2820—Passed Senate July 28, 1978.

Provides Federal assistance to the States for the development and implementation of effective dam safety programs in order to protect human life and property; excludes dams in any State with an approved State dam inspection program from Federal inspection; authorizes the Corps of Engineers to distribute $15 million in each of fiscal 1979, 1980 and 1981 in dam safety funds among the States with one-third of the funds to be allocated equally among the States with approved dam safety programs and two-thirds on the basis of the number of dams in each State; limits grants to 50 percent of the State's dam safety program costs; authorizes Federal reinsurance of guarantees on any dam liability insurance in those States with an approved safety program; establishes a $20 million revolving fund to assist dam owners to make any required repairs or replacements to a dam; estabilshes a Federal Dam Safety Review Board to review existing Federal dam safety procedures and standards and the implementation of State plans and provide the corps with information it may need to withdraw approval of a State plan; requires Federal dam building agencies to consult fully with the State on the design and safety of any Federal dam built in that State and to allow State officials to join Federal inspectors on safety inspection of those dams; and authorizes funds for training State dam safety inspectors. S. 2437—Passed Senate June 9, 1978

Fishermen's protection reimbursement program: Extends until October 1, 1981, the voluntary insurance program of the Fishermen's Protective Act which provides for the reimbursement of certain losses suffered as a result of the seizure of a U.S. commercial fishing vessel by a foreign country; prohibits the import of any wildlife products of endangered species from offending nations; sets up a modified no-fault insurance program for reimbursing American fishermen for damage to their fishing gear or vessel caused by foreign or domestic vessels; and requires that the foreign fishing vessel pay for the entire cost of the program, except for administrative costs, which would be paid for by the American fishing vessels owners. H. R. 10878—Public Law 95-376, approved September 18, 1978.

Fishery conservation and management: Authorizes $30 million for fiscal 1979 to the Secretary of Commerce to provide for the conservation and management of the fishery resources of the United States; authorizes joint fishing ventures (involving U.S. and foreign fishermen) within the 200 mile fishery conservation zone except when U.S. processing capability either is or will be adequate for processing the fish harvested from the fishery; and requires an annual report on all allocations of U.S. fish to foreign nations and all tariff and nontariff trade barriers imposed by such nations on the importation from the United States of fish from its underdeveloped fisheries. H.R. 10732—Public Law 95-354, approved August 28, 1978.

Grazing fees: Establishes a 20-year schedule for increased funding for range improvements that are in addition to moneys requested by the Secretary of Interior for range, wildlife and soil and water management purposes; stipulates that at least 80 percent of the total 20 year authorization be used for on-the-ground range improvements and not more than 20 percent for administrative purposes; sets a statutory formula for changing fees for grazing of domestic livestock through 1985 on both national forests which are administered by the Forest Service and on national resource lands, which are administered by the Bureau of Land Management; incorporates the factors of cost production of livestock and price of beef and forage value; amends the Federal Land Policy and Management Act of 1976 to emphasize grazing permits and leases should be issued for 10 year period, unless determined otherwise on a case-by-case Secretary review; provides that at least $10 million per year from the grazing fee receipts or 50 percent of such receipts, whichever is greater, will go into the range betterment fund; provides for the development and implementation of experimental incentive programs for grazing permittees whose stewardship result in range improvements; requires the establishment of multiple use advisory councils as already authorized by existing laws; and provides a formula for removal of excess burros and wild horses from public lands. Public Law 95- , approved 1978.

Land and water conservation fund: Establishes as a special account the Land and Water Conservation Fund for use in acquiring the backlog of lands previously authorized for inclusion in the national park system and certain similar Federal areas and increases the authorized level of the fund. H.R. 5305—Public Law 95-42, approved June 10, 1977.

Military and other public lands conservation: Extends through fiscal 1981, the authority for carrying out conservation and rehabilitation programs on military reservations and certain public lands; authorizes funds for the Secretary of Defense to cooperate with the Secretary of the Interior and appropriate State conservation agencies in conducting fish and wildlife conser ation and public recreation programs on military lands; and authorizes the Secretaries of Agriculture and Interior to develop similar Federal-State cooperative arrangements for lands under their jurisdiction. H.R. 13745—Public Law 95-420, approved October 5, 1978.

Recreation permits: Establishes uniform and objective policies and procedures to be employed by the Forest Service in issuing and administering permits for ski areas and other commercial outdoor recreation facilities and services on national forest lands. S. 1338—Passed Senate July 13, 1977.

Redwood National Park expansion: Increases the authorized acreage of the Redwood National Park by approximately 48,000 acres to bring the total acreage to 106,000; designates an additional 30,000 acres as a "park protection zone" which the Secretary of Interior may acquire upon certain findings; authorizes $33 million for a watershed rehabilitation program; and includes provisions designed to protect persons adversely affected by the park expansion. H.R. 3813—Public Law 95-250, approved March 27, 1978.

Timber sales: Requires the Secretary of Agriculture to select the bidding method on Forest Service timber that will foster open and fair competition, insure that the Federal Government will receive the appraised value of the timber, and take into consideration the economic stability of communities whose economies are dependent on such national forest materials; requires that in oral auctions, only prospective purchasers whose written sealed bids which are equal to or in excess of the appraised value of the forest timber may participate. S. 1360—Public Law 95-233, approved February 20, 1978.

Water resources development—saline water conversion: Reinstates for fiscal 1978 the authorization for grants under the Water Resources Act of 1964 to colleges or universities in each State to carry out water resources and technology; and extends through fiscal 1978 the authorization of the Saline Water Conversion Act of 1971 including projects to demonstrate the technology of desalination. H.R. 4746—Public Law 95-84, approved August 2, 1977.

Establishes an organic act for the Department of Interior's Office of Water Research and Technology by substantially reenacting and consolidating the Water Resources Research Act of 1964 and the Saline Water Conversion Act of 1971 and expanding the authority of the Water Research and Conservation Act of 1977; authorizes funds for each of the State water institutes for water research for matching and unfocused research grants; and authorizes funds for research on the improvement of saline or other types of impaired waters. S. 2704—Public Law 95- , approved ——— —, 1978.

Waterway users fee: authorizes $421 million for construction and replacement of Locks and Dam 26 at Alton, Illinois, with a new dam and single lock; authorizes replacement of certain wildlife habitat losses due to construction of the new dam and project-related recreation development in a specified area; authorizes $12 million for development of a master plan of the Upper Mississippi River system to be submitted for congressional approval by January 1, 1982; prohibits the Secretary of the Army from undertaking any construction project on the system, except that authorized for locks and dam 26, until Congress has approved the plan; imposes a graduated excise tax on diesel and other liquid fuels used by commercial cargo vessels on specified inland waterways; exempts from the tax fuels used by tugs in moving LASH and Seabee ocean going barges carrying international cargoes; and authorizes $8 million for the Secretaries of Commerce and Transportation jointly to undertake a comprehensive study on the impact of fuel taxes on inland waterway users. H.R. 8533—Public Law 95- , approved ——— —, 1978.

SENATE

Committee reorganization: Amends the Standing Rules of the Senate to rationalize the jurisdictions of Senate committees, effective February 11, 1977, among 15 standing committees and six other special, select or joint committee; abolishes the Aeronatical and Space Sciences Committee and transfers its jurisdiction to newly created Committee on Commerce, Science and Transportation abolishes the District of Columbia Committee and the Committee on Post Office and Civil Service and transfers their jurisdictions to a newly created Committee on Governmental Affairs; transfers the jurisdiction of the former Interior Committee to an Energy and Natural Resources Committee; transfers the jurisdiction of the former Public Works Committee into a new Environment and Public Works Committee; transfers the jurisdiction of the former Labor and Public Welfare Committee to a new Human Resources Committee; continues the existence of the Special Committee on Aging with membership reduced to nine in the next Congress; continues the existence of the Select Committee on Nutrition and Human Needs until December 31, 1977, after which its jurisdiction will be transferred to the Committee on Agriculture, Nutrition and Forestry; establishes a temporary Select Committee on Indian Affairs to consider all legislation relating to Indians for the duration of the 95th Congress after which its jurisdiction will be transferred to the Human Resources Committee;

Limits the number of committee and subcommittee memberships a Senator can hold generally to two major or class "A" committees and one class "B" committee and eight subcommittees thereof; prohibits committees from establishing subunits other than subcommittees; permits the majority and minority leaders to temporarily increase the sizes of committees to ensure majority party control; allows Senators to serve on joint committees where such service is required to be from members of a committee on which such Senator serves; prohibits Rules Committee members from serving on any joint committee unless the Senate members of such committees are required by law to be from the Rules Committee; exempts mem-

bers of the Budget Committee during the 94th Congress from certain assignment limitations during the 95th Congress; continues grandfather rights for Senators who are serving on three standing committees as a result of an exemption in the Legislative Reorganization Act of 1970 to continue to do so during the 95th Congress; allows the chairmen and ranking minority members of the Post Office and Civil Service Committee and the District of Columbia Committee to serve on the Governmental Affairs Committee and two other committees of the same class, as long as their service on Governmental Affairs remains continuous; prohibits a Senator from serving as Chairman of more than one standing, select, special, or joint committee unless the jurisdiction is directly related to that of the standing committee he chairs; prohibits Senators from serving as chairman of more than one subcommittee of each standing, select, special or joint committee; limits members to two class A committee or subcommittee chairmanships and one class B committee or subcommittee chairmanship, effective at the beginning of the 96th Congress; requires that not later than July 1, 1977, the appropriate standing committees shall report legislation terminating the statutory authority of the Joint Committees on Atomic Energy, Congressional Operations and Defense Production; requires that the appropriate standing committees report recommendations not later than July 1, 1977, with respect to the Joint Committees on the Library and on Printing; allows Senators to serve on joint committees considered for termination pending their final disposition;

Provides for sequential and joint referral of bills that cross jurisdictional lines based on motions by the majority and minority leaders, instead of by unanimous consent; provides for a computerized schedule of committee meetings by the Rules Committee; permits committees to meet without special leave until the conclusion of the first two hours of a meeting of the Senate or 2:00 p.m., except for the Appropriations and Budget Committees which may meet at any time without special consent; requires that morning meetings of committees and subcommittees be scheduled for one or both of two periods, one ending at 11:00 a.m., and a second beginning at 11:00 a.m. and ending at 2:00 p.m.; provides for continuous review of the committee system by the Rules Committee in consultation with the majority and minority leaders; prohibits consideration of committee amendments to bills when the amendments are not in the jurisdiction of the committee proposing them; requires committee reports to contain an evaluation of the regulatory impact which would be incurred by individuals and businesses in carrying out the provisions of the bill; provides for the transition of staff from abolished or realigned committees to the new committees and provides for salary and tenure of committee staff during a transition period; provides that committee staff reflect the relative numbers of majority and minority members and that one-third of the committee staffing funds be allocated to the minority members for compensation of minority staff; provides that such adjustment be made over a four-year period beginning July 1, 1977, with not less than one-half being made in two years; provides for funding of increases in the expenditures of new committees resulting from this resolution; incorporates provisions of S. Res. 60 of the 94th Congress relating to individuals appointed by Senators to assist them with committee work; provides for the referral of measures according to the realigned juridsictions; and provides that legal references to old committees are to be construed as referring to their successors. S. Res. 4—Senate agreed to February 4, 1977.

Senate Ethics Code: Amends the Standing Rules of the Senate to create a Code of Official Conduct; amends S. Res. 338, the original resolution establishing the Select Committee on Ethics, to provide for additional procedures for enforcing the new Code as well as other laws and rules of the Senate; and directs other Senate committees to study certain matters related to this resolution;

Public financial disclosure: Requires Senators, candidates for the Senate, officers and employees of the Senate earning in excess of $25,000 per year to file a report listing their earned income and the sources and categories of value of their income, other than earned income, and all other interests, assets, and holdings held for the purposes of investment or income production;

Gifts: Prohibits knowingly accepting a gift or gifts having an aggregate value of over $100 during a year from any individual or organization defined as having a "direct interest in legislation";

Outside earned income: Limits outside earned income of a Senator, officer or employee earning over $35,000 to 15 percent of the person's salary; limits each honorarium to $1,000 for Senators and to $300 for officers and employees; allows Senators or staff to accept honoraria up to $25,000 if immediately donated to a tax-exempt charity;

Conflict of interest: Bars the use of one's official position to introduce or aid the progress of legislation, the principal purpose of which furthers one's own financial interest; allows Members or staff who earn over $25,000 to provide professional services for compensation if not affiliated with a firm or association and if their work is not carried out during regular Senate office hours; directs committee employees earning over $25,000 to divest themselves of any holdings which may be directly affected by the actions of the Committee for which they work unless permitted by their supervisor and the Ethics Committee; prohibits Senators from lobbying the Senate for one year after leaving the Senate; applies a similar prohibition to employees lobbying the Committee or office for which they worked;

Unofficial office account: Abolishes unofficial office accounts, those accounts defined as not including personal funds of a Member, official funds, political funds and reimbursements;

Foreign travel: Prohibits "lame duck" travel by a defeated or retiring member; prohibits receipt of counterpart funds where there has been reimbursement from another source; restricts per diem allowance to food, lodging and related expenses and places the responsibility on the person receiving the per diem to return any unused funds;

Franking privilege—radio-TV studio—Senate computer: Prohibits mass mailings and the use of the radio-TV studios within 60 days of an election; requires the use of official funds to purchase paper, to print, and prepare mass mailings under the frank; requires a Senator to register mass mailings annually for public inspection; prohibits the use of the Senate computer to store names identified as campaign workers;

Political activity by officers and employees: Restates the present ban on staff soliciting or receiving campaign contributions; allows a Senator to name one assistant each in his Washington and State office to receive and handle campaign funds;

Discriminatory employment practices: Prohibits discrimination on the basis of race, color, religion, sex, national origin or state of physical handicap in employment practices in the Senate;

Enforcement: Sets forth procedures for the Select Committee on Ethics in investigating complaints of violation of the Code and enforcing its provisions;

Further studies: Requires the Appropriations Committee to report within 120 days regarding an adjustment of official allowances; requires the Finance Committee to report within 120 days on the tax status of funds raised and expended to defray ordinary and necessary expenses of Members; directs the Rules Committee (1) to report within 120 days on the desirability of promulgating rules providing for: (a) periodic aduits by GAO of all committee and office accounts; (b) a centralized record-keeping system of accounts, allowances, expenditures and travel expenses of all committees and offices; (c) suggested accounting procedures for committee and office accounts; and (d) public disclosure and availability of information on the accounts of all committees and offices in a form which segregates the allowances and expenses of each committee and office; (2) to report within 120 days on the desirability of requiring that only official Senate funds may be used to pay for any expenses incurred by a Senator in the use of the radio-TV studios; and (3) to study laws relating to contributions made by officers or employees as well as on proposals to prohibit the misuse of official staff in election campaigns and report thereon within 180 days; requires the Governmental Affairs Committee to report (1) within 180 days regarding employee discrimination complaints and the desirability of establishing rules requiring "blind trusts" by Members, officers and employees of Senate and (2) within 120 days regarding the use of simplified form of address for franked mail; and directs the Foreign Relations Committee to report in 90 days on the problem of travel, lodging and other related expenses provided Members and staff paid for by foreign governments where it is not possible to procure transportation, lodging or other related services or to reimburse the foreign government for those purposes. S. Res. 110—Senate agreed to April 1, 1977.

SOCIAL SERVICES

Child care program extension: Extends through fiscal 1978 provisions relating to the title XX social services program which otherwise would expire September 30, 1977; adds $200 million in child care funding, and authorizes States to use part of these funds for the employment of welfare recipients in child care jobs; allows an income tax credit of 20 percent of wages paid (up to $1,000) to employers who hire welfare recipients for child care jobs; sets Federal staffing standards for preschool child care facilities; and permits certain aspects of treatment of addicts and alcoholics to be funded under the social service program; provides that Federal matching funds cannot be denied to any State because it exceeded the previous 10 percent limitation on joint payments; increases to 90 percent Federal participation in State administrative costs to implement the Indian Health Care Improvement Act; increases to July 1, 1978, the period for allowing depreciation for expenditures to rehabilitate low income rental housing; extends for two years the exclusion from income of amounts received under the Armed Forces Health Professional Scholarship Program and similar programs; protects disaster victims from having their SSI benefits reduced or terminated because they received assistance to replace damaged property; and permits employment agencies placing companion sitters to be exempt from the Internal Revenue Code requirements imposed on employers in regard to unemployment taxes. H.R. 3387—Public Law 95-171, approved November 12, 1977.

Child nutrition: Makes permanent the child care food program that currently provides meals for 676,000 children in day care centers; extends the special supplemental food program for women, infants and children (WIC) for four years; expands the nu-

trition education authority in the WIC program and provides that a minimum of one-fifth of WIC administrative funds shall be used for nutrition education; increases the authorization for food service equipment assistance for schools; and increases the level of funding of State administrative expenses under the child nutrition programs. S. 3085—Passed Senate July 21, 1978.

Domestic volunteer services (Action).—Extends for three years the authorizations for the domestic volunteer programs of the ACTION agency; makes the terms of payment for VISTA volunteer stipends consistent with those in the Peace Corps Act; provides authority to support short-term, part-time volunteers 20 hours or more per week for 26 or more consecutive weeks; allows the Director to provide stipends to full-time, full-year volunteers enrolled under programs such as the National Youth Service Demonstration Program; insures that discretionary programs are conducted in both urban and rural areas; authorizes a new Urban Neighborhood Volunteer Program to strengthen and encourage the involvement of individuals and other local entities in community revitalization and person-to-person service activities in distressed urban neighborhoods. S. 2617—Passed Senate July 21, 1978.

Economic opportunity: Extends through fiscal 1981 the authorization for antipoverty programs under the Economic Opportunity Act; changes from 60/40 to 80/20 the matching formula for the Federal share for community action programs; provides for program grants (available to community action agencies, community development corporations and other public or private nonprofit organizations and agencies) for a demonstration employment and training opportunities program, with special emphasis on youth, the structurally unemployed, single heads of households with dependent children, older workers and veterans; creates a separate title for migrant and seasonal farmworkers; and changes the formula for distribution of funds for the Headstart program to give States 100 percent of what they are eligible for based on their poverty populations and specifies the order of priority for the use of excess funds. H.R. 7577—Passed House July 26, 1978; Passed Senate amended August 2, 1978; Conference report filed.

Indian child welfare: Establishes legislative standards and an order of preference to govern the placement of Indian children in foster or adoptive care settings with first preference accorded to members of the child's extended family; provides that tribes may alter this statutory order by enacting ordinances of their own and may request transfers of placement cases from State to tribal courts; estabishes a right of tribes to receive notification of placement proceedings in State or local courts and provides a right or tribal intervention in such proceedings; provides that an Indian child, placed in adoptive or other setting may qualify for enrollment in his or her tribe of origin and for other benefits and property rights to which he or she may be entitled because of Indian status upon reaching the age of 18 and authorizes the Secretary to make grants to Indian tribes and organizations to carry out Indian family development programs. S. 1214—Passed Senate November 4, 1977.

Medicare-medicaid anti-fraud: Strengthens the capability of the government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs; modifies the penalty provisions in existing law which relate to those persons providing services under medicare and medicaid; reclassifies misdemeanors as felonies and increases penalties to a maximum fine of $25,000 and/or five years' imprisonment; clarifies the types of financial arrangements and conduct classified as illegal; permits States to suspend the eligibility of medicaid recipients convicted of defrauding the program; requires the Secretary of HEW to suspend from participation under medicare and medicaid, for a period he deems appropriate, an individual practitioner who has been convicted of a criminal offense involving medicare or medicaid; requires health-related entities providing services under title XX of the Social Security Act, to disclose annually the identity of any person who has a five percent or more ownership interest in the entity; requires all institutional providers of services to disclose, in the application for participation or certification, the names of owners, officers, directors, agents or managing employees who have been convicted of fraud against the medicare, medicaid, or State social service grant programs; authorizes the Comptroller General to issue subpenas to obtain necessary information or a court order requiring compliance with the subpena; includes several provisions designed to clarify the nature and scope of PSRO review responsibilities; requires the Secretary to establish for each of the different types of health services institutions a uniform system for the reporting of such items as cost of operation, volume of services, rates, capital assets and bill data for use by medicare and medicaid providers to be phased in by type of provider; provides for 90 percent Federal matching funds for fiscal 1978 through 1980 subject to an annual maximum payment of one percent of medicaid expenditures in a State or $500,000, whichever is greater, for expenditures to establish and operate State medicaid fraud control units to prepare and prosecute cases of suspected fraud and abuse. H.R. 3—Public Law 95–142, approved October 25, 1977.

Older Americans: Continues until September 30, 1981, authorizations for programs under the Older Americans Act of 1965; consolidates the existing three titles into a single title for streamlining administration; establishes three priorities of (1) services associated with access, (2) in-home services, and (3) legal services, requiring that at least 50 percent of each area agency on aging allocation be directed to these three categories; establishes a separate title for grants for Indian tribes to promote the delivery of comprehensive social services, including nutritional services, to Indians aged 60 or over; authorizes a White House Conference on Aging in 1981; and mandates a study on racial and ethnic discrimination in Federal programs for the elderly to be conducted by the U.S. Commission on Civil Rights. H.R. 12255—Public Law 95– , approved 1978.

School lunch and child nutrition: Extends through September 30, 1980, the summer food service program for children; extends through September 30, 1982, the authority of the Secretary of Agriculture to purchase agricultural commodities for donation to the child nutrition programs when acquisitions under other agricultural authorities are not available; authorizes additional funds for States administrative expenses in operating the child nutrition program; revises the school breakfast program to increase the Federal maximum reimbursement for especially needy schools and requires States to establish the standards, subject to the Secretary's approval, under which schools in severe need may receive 100 percent of their operating costs; establishes a five-year entitlement nutrition education and information program under which grants (based on the rate of 50 cents for each child enrolled in schools or other educational institutions in each State) would be made to State educational agencies for the purpose of encouraging effective dissemination of scientifically valid information about food and nutrients to children participating in the school lunch and related child nutrition programs; and requires the Secretary to approve the competitive foods for sale at schools. H.R. 1139—Public Law 95–166, approved November 10, 1977.

Social security financing: Restores the social security programs of old age, survivors and disability insurance to financial soundness in both the short range and long range; reduces from 72 to 70 the age at which income earned by a social security recipient will not reduce social security benefits; and increases the earnings limitation from $3,000 to $6,000 by 1982 for those aged 65 to 70; and makes certain changes to the Aid to Families with Dependent Children (AFDC) programs; makes existing law cost-of-living increase provisions apply only to individuals who are already on the benefit rolls at the time each increase occurs; applies a new automatic adjustment mechanism to the benefit formula for new retirees using wage indexing which will avoid the present over-indexing; modifies the social security tax rate schedules to bring in additional revenue by increasing the percent paid by employer and employee each from 5.85 percent in 1977, to 6.05 percent in 1978, to 7.05 percent in 1985, to 7.65 percent in 1990 and thereafter; increases the tax for the self-employed from 7.90 percent in 1977, to 8.10 percent in 1978, to 9.90 percent in 1985, and to 10.75 percent in 1990 and thereafter; provides for three increases in the contribution and benefit base equally for employees and employers to $22,900 in 1979, $25,900 in 1980, $29,700 in 1981 and automatically thereafter; makes the tax base under the railroad retirement program and the pension insurance administered by the Pension Benefit Guaranty Corporation the same as the automatic increase provisions of present law; reduces, with certain exceptions, benefits payable under social security to dependent spouses, including surviving spouses, by the amount of any civil service retirement benefits payable to the spouse applicable only to future applicants for social security benefits for spouses; shortens from 20 to 10 years the length of time a divorced person must have been married to a worker to be eligible for the divorced persons benefits; prevents any loss of benefits for widows over 60 who remarry; reduces from 72 to 70 the age at which income earned above the earnings limitation by a social security recipient will not reduce social security benefits; increases the earnings limitation to $4,000 in 1978, $4,500 in 1979, $5,000 in 1980, $5,500 in 1981 and $6,000 in 1982; requires timely delivery of social security checks when the normal delivery day falls on a weekend or holiday; prohibits retroactive reduced benefits in cases involving entitlement before additional Federal funding of welfare costs as a means of providing fiscal relief to State and local governments for fiscal 1978; requires States to pass through to local jurisdictions the full amount of the payment but not more than 100 percent of the amount of the AFDC cash for which the local government was otherwise responsible; establishes a program of fiscal incentives as part of the AFDC quality control program to encourage States to reduce errors; allows States to acquire accurate wage data from earnings information in records maintained by the Social Security Administration and State employment security agencies; and authorizes the Secretary of HEW to establish necessary safeguards against improper disclosure of the information. H.R. 9346—Public Law 95–216, approved December 20, 1977.

Vocational rehabilitation: Extends programs established under the Rehabilitation Act of 1973 and the Development Disabilities Services and Facilities Construction Act through fiscal 1981 and establishes a comprehensive srevices program for severely handicapped individuals; continues the Hill-Burton allotment formula of funds to States; establishes programs for handicapped American Indians and other individuals in need of independent living services; increases minimum State allotments; authorizes grants to States and public nonprofit agencies and

organizations for initiating recreational activities for the handicapped; authorizes short-term training and instruction including fellowships and traineeships in psychiatric rehabilitation; expands the authority and scope of the Architectural and Transportation Barriers Compliance Board; establishes a new program entitled the "Comprehensive Services for Severely Handicapped Individuals Act of 1978" for the development and implementation of comprehensive services for the severely handicapped; establishes the Federal Council on the Handicapped to advise and assist the President and Congress on the problems and needs of the handicapped; establishes (1) a reading services program for the blind, (2) a rehabilitation services program for older blind individuals, and (3) centers for the training of interpreters for the deaf and information and referral centers and interpreter referral centers for the deaf; and establishes a National Institute of Handicapped Research to coordinate Federal efforts in rehabilitation research. H.R. 12467—Passed House May 16, 1978; Passed Senate amended September 21, 1978; Conference report filed.

TAXATION

Energy conservation tax credit: Allows, effective April 20, 1977, a tax credit of up to $400 for certain residential energy conservation and alternative energy source expenditures including passive solar systems. H.R. 112—Passed House February 2, 1978; Passed Senate amended August 23, 1978.

Tax cut, 1978: Cuts individual income taxes by $14.5 billion in 1979 by making the following changes: increases the personal tax exemption from $750 to $1,000 to replace the temporary $35 tax credit; replaces the existing tax rate schedule, which contains 25 brackets with a new schedule with only 15 wider brackets and lower rates; increases the zero bracket amount and the corresponding floor under itemized deductions, which replaces the old standard deduction, from $2,200 to $2,300 for single persons, from $3,200 to $3,400 for married couples, and from $2,200 to $3,000 for single heads of households;

Provides for additional deductions in individual income tax rates during calendar years 1980, 1981, 1982, and 1983 contingent, for each additional reduction, upon Federal spending not exceeding the inflation rate by 1 percent and outlays dropping from the present 21.5 percent of gross national product to 19.5 percent by 1983; provides a $250 educational tuition tax credit for students studying fulltime at colleges and universities;

Expands the earned income tax credit for the working poor from the present 10 percent of the first $4,000 of earnings which is phased out at $8,000 to 12 percent of the first $5,000 of earnings phased out at $11,000; simplifies the credit and makes it payable throughout the year in the employee's paycheck rather than in a lump sum as a tax refund;

Provides an additional personal exemption for permanently and totally disabled individuals who are not receiving Federal payments under disability programs; increases the tax credit for the elderly by increasing the amount of income eligible for the credit from $2,500 to $3,000 for single persons and from $3,750 to $4,500 for married couples; phases out the credit for single persons at $15,000 instead of at $7,500 and for married couples at $17,500 instead of $10,000; repeals the deduction for nonbusiness State and local gasoline taxes; doubles the present tax credit for political contributions;

Reduces the corporate tax rate from the present 48 percent to 46 percent in 1979 and to 44 percent in 1981; makes permanent the 10 percent investment tax credit for business and allows companies to use it to offset 90 percent of their other tax liability rather than the present 50 percent; allows the credit to rehabilitate existing buildings; allows companies to depreciate the first $25,000 of new machinery and equipment in three years instead of the much longer period prescribed for most categories of equipment by the IRS;

Increases the rate of the existing WIN and welfare recipient tax credit in place of extending the existing general jobs tax credit; provides a new targeted jobs credit to encourage businesses to hire needy youths and others who often have difficulty finding jobs even when the economy is prosperous;

Denies businesses a deduction for entertainment facilities, including yachts, country clubs and hunting lodges;

Cuts capital gains taxes sharply by increasing from 50 percent to 70 percent the proportion of long-term capital gains excluded from taxable income; increases from $35,000 to $100,000 the exclusion for capital gains from the sale of a principal resident of persons over 55.

Replaces the existing add-on minimum tax for individuals by an alternative tax, which individuals will pay only if it exceeds their regular income tax;

Permanently extends the employee stock ownership provisions in the investment tax credit (TRASOP):

Allows independent oil and gas producers an estimated $30 million in tax rebates on the minimum tax they were temporarily required to pay last year;

H.R. 13511—Passed House August 10, 1978; Passed Senate amended October 1, 1978; In conference.

Tax reduction and simplification: Amends the Internal Revenue Code of 1954 to extend the indivdual and business income tax reductions enacted in 1975 and to provide tax simplification as follows:

Standard deduction and tax simplification: Permanently changes the standard deduction to $2,200 for single returns and heads of households and $3,200 for joint returns; revises the tax tables to simplify tax computation for 96 percent of all taxpayers by building into the tax tables the personal exemption, the general tax credit, and the Standard deduction;

Individual and corporate tax reductions: Extends through 1978 the general tax credit of $35 per person or two percent of the first $9,000 of taxable income, whichever is larger; extends the earned income credit equal to 10 percent of the first $4,000 of earned income which is phased out as income rises from $4,000 to $8,000;

Extends through 1978 the corporate tax cuts, enacted in 1975 and subsequently extended, which reduced the tax rate on the initial $25,000 of corporate taxable income from 22 percent to 20 percent and reduced the rate on the next $25,000 from 48 to 22 percent;

Filing requirements and withholding changes: Increases the income level at which a tax return must be filed from $2,450 to $2,950 for a single person and a head of household and from $3,600 to $4,700 for a joint return; requires modification of the withholding rates to reflect the changed standard deduction;

New jobs credit: Provides a new jobs tax credit for 1977 and 1978 equal to 50 percent of the increase in each employer's wage base under the Federal Unemployment Tax Act (FUTA) above 102 percent of that wage base in the previous year; reduces the employer's deduction for wages by the amount of the credit, thereby reducing the maximum gross credit for each new employee from $2,100 to $1,806; limits the credit to no more than: (1) 50 percent of the increase in total wages paid by the employer for the year above 105 percent of total wages in the previous year; (2) 25 percent of the current year's FUTA wages; (3) $100,000 per employer; and (4) the taxpayer's tax liability with provision of carrying back cerdit for three years and carrying forward credit for seven years; provides an additional 10 percent nonincremental credit for hiring the handicapped, including handicapped veterans, who have received vocational training

Postponement of changes in 1976 act: Postpones for one year the effective date of revisions made by the Tax Reform Act of 1976 in the tax treatment of sick pay and income earned abroad; relieves individual taxpayers for periods prior to April 16, 1977, and corporations for the period prior to March 16, 1977, from additions to tax and interest arising from changes in the tax law made applicable to 1976 by the 1976 Act; relieves employers from penalties for under withholding in 1976 on remuneration which became taxable prior to January 1, 1976, as a result of the 1976 Act; lifts the exclusive use of the test in the 1976 act for business deductions for the use of the home for day care services for children, handicapped individuals and the elderly and limits such deductible expense; extends for 1976 the election to treat a State legislator's place of residence within the legislative district he represents as his tax home for purposes of determining deductions for travel and expenses;

Minimum tax on intangible drilling costs: Provides for taxable years beginning in 1977 that intangible drilling costs incurred in oil and gas production operations are to be subject to the minimum tax to the extent that these expenses exceed oil and gas production income;

Charitable contributions of conservation easements: Extends through June 13, 1981, the period during which deductions are allowable for charitable contributions of remainder interests in real property exclusively for conservation purposes as well as the period during which deductions are allowable for charitable contributions exclusively for conservation purposes of easements with respect to real property, if the easement is perpetual;

Work incentive (WIN) program: Authorizes an additional $435 million each for fiscal 1978 and 1979 for employment and supportive services for welfare recipients with no requirement for State matching funds;

Child care facilities amortization: Extends through 1981 the five-year amortization provision for expenditures relating to child care facilities for children of the taxpayer's employees;

Retirement income credit election: Allows taxpayers over age 65 to choose between the retirement income credit as it existed before the 1976 act and as revised by it for 1976 taxes only;

Accrual accounting for farm operations: Postpones until 1978 the effective date for requiring accrual accounting by any farm corporation if either (a) two families own at least 65 percent of the stock, or (b) three families own at least 50 percent of the stock and substantially all of the remaining stock is owned by employees or their families;

Gambling withholding: Modifies the 1976 requirement for withholding on gambling winnings to provide that withholding is required on proceeds of more than $1,000 from bets placed in parimutuel pools involving horses, dogs or jai alai but only if the amount of the proceeds is at least 300 times as large as the amount wagered;

Extension of countercyclical revenue sharing: Extends for six quarters, or until national unemployment drops below six percent, the current countercyclical revenue sharing legislation which expires September 30, 1977, to help State and local governments maintain services; authorizes up to $1 billion in additional funding for fiscal 1977 for a total of $2.25 billion; authorizes up to $2.25 billion for fiscal 1978; requires that the most recent data be used in the allocation formula and that the national amount be determined on the basis of tenths

of the unemployment percentage in excess of six percent rather than on half percentage points; provides that each tenth of a percentage point will generate $30 million for allocation in addition to the basic $125 million; extends the program to Guam, American Samoa, Puerto Rico and the Virgin Islands;

Other provisions: Amends the Social Security Act to clarify the law which provides for the garnishment of Federal payment for purposes of child support and alimony; and contains other provisions. H.R. 3477—Public Law 95–30, approved May 23, 1977.

Tuition tax credit: Provides a personal income tax credit for tuition and fees of undergraduate college and postsecondary vocational students effective August 1, 1978, in an amount equal to 50 percent of tuition and fees, with a maximum credit of $250 per student; provides that, in the case of a student receiving a Federal Basic Grant or Supplemental Grant, the amount of the grant is to be deducted from the prospective tax credit so as to insure a "dollar for dollar" relationship between the two forms of aid; increases the maximum credit to $500 on October 1, 1980, at which time half-time students would be eligible; insures that additional educational assistance does affect the other basic grants to recipients; and provides authorization for more funds for the Supplemental Educational Opportunity Grants College Work-Study Programs and removes the present $25,000 income ceiling on eligibility for in-school interest subsidies on guaranteed student loans. H.R. 12050—Passed House June 1, 1978; Passed Senate amended August 15, 1978; House recommitted conference report with instructions October 12, 1978.

TRANSPORTATION-COMMUNICATIONS

Aircraft insurance and reduced rates for elderly: Extends until September 30, 1982, the authority of the Secretary of Transportation to insure certain aircraft where commercial insurance is unavailable because of war or other hostilities in foreign countries and expands his authority to situations in which insurance against risks other than "war risks" (such as hijacking or terrorism) may be needed to permit continuance of air service; permits the Civil Aeronautics Board (CAB) to approve reduced rate fares to retired persons 60 years of age or over, all persons 65 years of age or over, and the handicapped on a space-available basis; requires CAB, within six months of enactment to report to Congress on the feasibility of reduced rates for persons 21 years of age or younger on a space available basis; permits airlines operating wholly within the States of California or Florida to offer through ticketing and baggage service in cooperation with interstate airlines to facilitate passenger and baggage movements and permits the adoption of joint fares and rates between intrastate airlines and CAB certificated airlines; requires airlines to give the public and the CAB 45 days of advance notice on tariff changes, air carriers to give 60 days of advance notice in changes of freight rates, and indirect carriers to give 45 days of advance notice in changes of freight rates, and requires that the CAB approve or disapprove such changes at least 15 days before the effective date of the tariff. H.R. 6010—Public Law 95–163, approved November 9, 1977.

Airline deregulation: Sets forth U.S. policy to develop an air transportation system which places increased reliance on market competition, with safeguards against unfair or predatory practice or decreases in services to smaller communities; revises current standards governing entry application for interstate and overseas scheduled air transportation to promote competition by directing the Civil Aeronautics Board (CAB) to authorize proposed air transportation entries unless it determines that such transportation is not consistent with the public convenience and necessity; establishes a graduated automatic entry program by allowing carriers to enter one new route a year for the first two years and two new routes a year thereafter without CAB approval; provides a five-year adjustment period to the automatic entry program during which carriers may place a limited number of their routes outside automatic entry and during which subsidized and smaller carriers will be protected by limiting the number of their unprotected routes; eliminates the requirement that all intercarrier agreements be submitted to the CAB for approval and the provision that once approved such provisions are immune from antitrust laws, and provides instead that CAB approval is required only if antitrust immunity is sought; eliminates CAB authority to immunize certain types of highly anticompetitive agreements and requires agreements submitted for CAB approval to meet a public interest test prior to immunization; establishes safeguards to insure that joint arrangements approved by CAB will be open to all carriers on reasonable terms; requires periodic CAB review of any agreement with anticompetitive potential; phases out over the next seven years the present section 406 subsidy program, which provides compensation for essential air services to small communities with the amount of the subsidy based on the needs of the carrier system, and introduces a new program with subsidies to be based upon the needs of the communities; guarantees for the next ten years essential air services to all communities now listed on a carrier's certificate; directs the CAB to begin reviewing the needs of new communities applying for the subsidy program one year after enactment; establishes a new class of certified air carriers, limited in size to 36-person seating capacity and 40,000 pounds certified gross takeoff weight, for the purpose of serving smaller communities; establishes a zone of pricing flexibility within which carriers are free to raise their fares (after July 1, 1979) five percent above the standard industry level in competitive markets, and lower fares (upon enactment) 35 percent below the standard industry fare level; provides that upward pricing mobility shall not apply in markets in which one air carrier has over 70 percent of the traffic; authorizes the Board to fine fares unlawful if they are predatory, even if they are within the pricing zone; contains an employee protection program to provide financial assistance to employees with four or more years in the industry who lose their jobs, suffer a reduction in wages, or are forced to relocate due to bankruptcy or a contraction of at least 15 percent in their car carrier employer; prohibits States from exercising economic regulatory control over interstate airlines, while allowing States to retain jurisdiction over intrastate airlines if those carriers obtain CAB certificates until more than 50 percent of the carrier's revenues are derived from interstate services; contains provisions throughout the bill requiring expedient action on all applications, complaints, and other matters filed before the CAB; and creates a new section of the Federal Aviation Act to insure surveillance of safety standards throughout the transitional period of reform. S. 2493—Passed Senate April 19, 1978; Passed House amended September 21, 1978; conference report filed.

Amtrak authorization: Authorizes funds for the National Railroad Passenger Corporation (Amtrak) for fiscal year 1979 for payment of operating expenses, including the Northeast corridor, and for operating and capital expenses of rail passenger service requested by the States; for payment of the costs of capital acquisitions or improvements of the basic system; and for payment of the principal amount of Federal guaranteed obligations (other than leases) of the Corporation; directs the Secretary of Transportation to submit to the Congerss by December 31, 1978, a recommendation for an Amtrak routes system based upon current and future market and population and considering, among other things, the adequacy of alternative transportation modes, the impact of frequency and fare structure alternatives, any unique advantages of rail service, and energy conservation; directs Amtrak to begin planning for implementation of the new system immediately upon its approval even though no modifications or restructuring may begin before fiscal 1980; directs the Secretary to develop economical and reliable rolling stock and equipment that will be compatible with the upgraded right-of-way in the Northeast corridor; earmarks $27 million for equipment modification or replacement for the Northeast corridor; requires that Amtrak be operated and managed as a for-profit corporation; requires the Secretary to evaluate the common stock ownership of the corporation and submit by December 31, 1978, a report on retention, retirement or conversion of the stock; mandates the development and implementation of a rail safety program; raises from 60 percent to 80 percent the Federal share for projects to convert or modernize railroad terminals; permits a State or local transportation agency whose request for Amtrak service has been refused to petition the Interstate Commerce Commission for an order directing Amtrak to comply with the request; permits Amtrak to enter into contracts to operate commuter rail passenger service; and directs Amtrak to establish schedules to attract and service the bulk mail of the postal service. S. 3040—Public Law 95–421, approved October 5, 1978.

Commuter rail operating aid: Increases the percentage of Federal contribution for the last six months of the existing commuter rail operating assistance program to 80 percent; deletes the requirement that any applicant for assistance must provide assurance to the Secretary of Transportation that the rail service will be continued after the section 17 subsidy program terminates and extends the program for two years with 50 percent Federal funding and a new authorization of $30 million annually for fiscal 1979 and 1980; and provides for a new section 18 program to provide operating assistance to rail commuter lines not eligible under section 17 of $20 million for fiscal 1979 which will be distributed under a formula to cover operating deficits of eligible commuter rail systems. H.R. 8346—Public Law 95–187, approved November 16, 1977.

ConRail stock: Authorizes the United States Railway Association to purchase an additional $1.2 billion of the Series A preferred stock of the Consolidated Rail Corporation (ConRail) to cover ConRail's projected five-year Federal funding requirements; prohibits ConRail from investing $345 million of the additional authorization until it has in effect an employee stock ownership plan and requires, within 14 months of enactment, submission of a proposed plan; authorizes $9 million for reconstruction of the railroad bridge over the Hudson River at Poughkeepsi, New York; removes the $100 million ceiling on trustee certificates; and extends from September 30, 1978, until September 30, 1979, the rail assistance program. S. 2788—Passed Senate August 1, 1978.

Highways—Mass Transit: Authorizes Federal-aid highway programs through fiscal year 1980 in title I—"Federal-Aid Highway Act of 1978"; provides for more expeditious completion of the Interstate System by establishing a firm "cutoff date" which requires that projects on the Interstate System be under construction, contract for construction or completed by September 30, 1986, and by improving the procedure for those States financing interstate construction by providing additional funds ready to move

forward on interstate projects; authorizes $175 million for each year solely for resurfacing, restoring and rehabilitation (3R) routes on the Interstate System; requires the States to maintain their completed interstate routes and meet certain minimum standards to avoid suspension of Federal aid to primary route projects; permits a State to use interstate 3R funds on its primary system provided its interstate routes comply with the minimum standards; reduces the Federal share of interstate 3R work from 90 to 70 percent; over increases authorizations for the bridge replacement program to $525 million; allows funds to be used to rehabilitate as well as replace bridges; permits up to 30 percent of the funds authorized for this program to be sued to rehabilitate or replace bridges which are not on a Federal-aid system;

Title II—"Highway Safety Act of 1978": Extends and amends the Highway Safety Act of 1966 through 1982, and sets authorization levels for highway safety research and development and grants to States which initiate innovative approaches to highway safety; reduces the areas and number of mandatory highway safety standards required under the Highway Safety Act to provide States greater flexibility in identifying their own needs and solutions to their unique safety problems; provides a program for increased enforcement of the 55 mile per hour national maximum speed limit with graduated minimum standards to measure the effectiveness of State speed limit programs; directs the Secretary of Transportation to reduce a State's apportionment of its non-interstate highway construction funds in the amount of up to five percent each year through 1983 and up to ten percent in fiscal 1984 and succeeding years if the State does not meet the minimum compliance goals for 55 mile per hour speed limit; continues the Federal share payable for highway safety programs by the Secretary of Transportation on a matching basis at the traditional level of 70 percent;

Title III—"Federal Public Transportation Act of 1978": Amends the Urban Mass Transportation Act of 1964 to provide new authorizations for the program of Federal assistance through fiscal 1982; restructures both the discretionary and formula capital grant and loan programs to include most routine bus-related capital activities within the formula program; revises the section 5 formula to provide increased operating assistance on a more equitable basis; creates a new formula assistance program for small urban and rural areas; creates a human resources program; and establishes new requirements for transportation planning and nondiscrimination activities;

Title IV—"Highway Revenue Act of 1978": Extends the Highway Trust Fund and the existing highway excise taxes for five years from September 30, 1979, through September 30, 1984; and postpones the scheduled rate reductions of the highway excise taxes allocated to the trust fund for five years. H.R. 11733—Passed House September 28, 1978; Passed Senate amended October 3, 1978; in conference. (VV)

Local rail services: Amends the Department of Transportation Act as it relates to the local rail assistance program to correct several key deficiencies which have been identified in the existing branch line rehabilitation and service continuation program; contains provisions to make the program permanent and set the Federal share of the cost at 80 percent; allows for operating subsidies on lines permitted to be abandoned by the Interstate Commerce Commission for three years; revises the formula for the allocation of funds so that the new lines eligible for rehabilitation would control the allocation of two-thirds of the available funds and those eligible only for the subsidy would control one-third of the funds; provides that no State would receive less than one percent of the annual appropriation; amends the Interstate Commerce Act to authorize the Interstate Commerce Commission to require a railroad to provide safe and adequate facilities and equipment to carry out its responsibilities as a common carrier if the railroad's capital will not be impaired and, in limited circumstances, to require an owning railroad to allow, as a condition of an abandonment, a different operator to operate over the owning railroad's tracks in order to perform certain nonrevenue services; requires ConRail to provide modified or additional commuter service if a State or local commuter authority offers an adequate subsidy; requires a report on the means of indemnifying ConRail for uninsurable losses it may incur in the operation of a commuter rail service; and requires prompt consideration by the Federal Railroad Administration for emergency railroad service loans for the Chicago, Milwaukee and St. Paul Railroad. S. 2981—Passed Senate September 23, 1978; passed House amended October 13, 1978.

Maritime authorizations: Authorizes $553,597,000 for programs of the Maritime Administration for fiscal 1978 for acquisition, construction or reconstruction of vessels and construction-differential subsidies, for payment of ship operating differential subsidies, for research and development, for the reserve fleet, for maritime training at the Merchant Marine Academy at Kings Point, N.Y., and for financial assistance to the State marine schools which includes an increased annual student subsidy; bars the payment of operating differential funds to any subsidized liner company unless its chief executive officer certifies his cooperation with the Federal Maritime Commission investigation of illegal rebating; increases from 75 to 87½ percent the amount of title XI guarantee financing available to a ferry operating solely in point-to-point transportation. S. 1019—Public Law 95–173, approved November 12, 1977.

Authorizes $496,792,000 for fiscal 1979 for certain maritime programs of the Department of Commerce and for the operating expenses of the Maritime Administration for ship construction; for operating-differential subsidies; for research and development activities; for maritime education and training expenses including funds for the U.S. Merchant Marine Academy at Kings Point, New York, State marine schools, and supplementary training; and for Maritime Administration operating S. 2553—Public Law 95–298, approved June 26, 1978.

Public Broadcasting: Extends and improves the provisions relating to long-term financing for the Corporation for Public Broadcasting; transfers to the Department of Commerce the Education Broadcasting Facilities Program now administered by HEW; continues the present system of multi-year advance authorizations for noncommercial educational and cultural radio and television programs and provides for moderate increases in the funding levels: encourages the growth and development of nonbroadcast, as well as broadcast, communications technologies to insure that public programming is available to as many citizens as possible by the most efficient and economic means: stimulates new efforts to expand opportunities for minorities and women in unemployment training and operation of public telecommunications facilities; clarifies the mission of the Corporation and reduces unnecessary overlap of its activities with other public broadcasting organizations; facilitates access to the system by independent program producers; mandates long-term planning for future needs by both the Corporation and the Department of Commerce; provides greater participation and accountability to the public by all recipients of public funds but does not permit the Government to interfere with sensitive program content or other related activities of these recipients. H.R. 12605—Passed House July 10, 1978; Passed Senate amended September 19, 1978; Conference report filed.

Tanker safety: Amends the Ports and Waterways Safety Act of 1972 to establish more stringent construction, design, equipment, repair, manning, maintenance, and operation standards for all tankers, regardless of flag, entering U.S. ports; provides clear authority both on shore and offshore, for the Secretary of Transportation to bar substandard vessels from operating in U.S. waters; authorizes the creation of a Marine Safety Information System to identify substandard vessels and disclose the true ownership of ships. S. 682—Public Law 85– , approved , 1978.

U.S. Railway Association: Authorizes $27.2 million for the adminstrative expenses of the United States Railway Association (USRA) for fiscal year 1979; permits the Secretary of Treasury to make postbankruptcy loans to the Delaware and Hudson Railroad up to December 31, 1979, in order to enable the line to continue normal service; and extends retroactively from the effective date of the Regional Rail Reorganization Act of 1973 (from 900 days to three years) a provision for establishing the value of rail properties transferred by ConRail to any State, local or regional transportation authority. H.R. 10898—Public Law 95– , approved 1978.

Amends the Regional Rail Reorganization Act of 1973 to authorize an additional $13 million making a total of $23 milion for fiscal 1978 to the United States Railway Association to cover litigation and other anticipated expenses involving the reorganization of the Northeast railroads. H.R. 4049—Public Law 95–199, approved November 23, 1977.

VETERANS

G.I. education benefits: Authorizes a 6.6 percent cost-of-living increase, effective October 1, 1977, in the education assistance allowances provided under the Vocational Rehabilitation, Veterans' Educational Assistance, Survivors' and Dependents' Educational Assistance, Correspondence Courses, On-Job Training, and Education Loans sections of the G.I. bill; establishes a program of accelerated educational assistance payments for veterans and eligible persons attending a school with yearly tuition costs in excess of $700; extends for two years the delimiting date for education benefits to certain veterans; extends the period of time that a veteran with a mental or physical disability or impairment has to utilize G.I. bill benefits; increases the work-study allowances for veteran students; and sets up a new process by which the Women's Air Force Service Pilots and similar groups may have their service recognized as active military in order that they may be eligible for veterans' benefits. H.R. 8701—Public Law 95–202, approved November 23, 1977.

Veterans' pension and survivor benefits: Provides an improved and more equitable pension program for needy wartime veterans who are disabled by reason of non-service-connected disability or who are 65 years of age or older and for the needy surviving spouses and children of wartime veterans. H.R. 10173—Passed House June 28, 1978; Passed Senate July 31, 1978; Senate agreed to conference report October 12, 1978.

Increases the rates of disability and death pension and the rates of dependency and indemnity compensation (DIC) for parents; provides a cost-of-living adjustment in the rates and annual income limitations applicable to pension for nonservice-connected disabled veterans and their surviving spouses, for surviving parents receiving dependency and indemnity compensation; provides an increase of approximately 6.5 percent in rates of disability and death pension under current law, including the additional

amount authorized for dependents; increases by approximately 6.5 percent the rates of dependency and indemnity compensation (DIC) payable to parents; increases by the same percentage the maximum income limitations applicable to pensioners and parents entitled to DIC under current law, and to beneficiaries under the protected pension law; increases by the same percentage the amount of additional pension and DIC payable to those recipients so entitled based upon aid and attendance or household status; and increases additional allowances for recipients of wartime death compensation by the same percentage based upon need for regular aid and attendance. H.R. 7345—Public Law 95-204, approved December 2, 1977.

Provides a 7.3 percent cost-of-living increase in veterans disability compensation and dependency and indemnity compensation (DIC) and other benefits payable for more severe disabilities; raises to $200 per month the special pension rate payable to Congressional Medal of Honor recipients; and calls for a report on issues relating to the adequacy, compensation awards to and health care needs of former prisoners of war. H.R. 11886—Public Law 95- , approved 1978.

Increases the maximum grants for qualified veterans to acquire specially adapted housing and the maximum loan guaranty entitlement for the purchase of a home and extends such entitlement to Vietnam veterans; makes various improvements in the VA mobile home loan program; creates a program of grants to assist States in establishing, improving, maintaining and expanding veterans' cemeteries; calls for an on-going review of the VA education default rate; and permits the Administrator to limit eligibility for education loans and to reduce the loan repayment period for certain types of loans. H R. 12028—Public Law 95- , approved 1978.

Authorizes contracts with the Republic of the Philippines for the provision of hospital care and medical services to Commonwealth Army veterans and new Philippine Scouts for service-connected disabilities; authorizes the continued maintenance of a Veterans' Administration office in the Republic of the Philippines; extends through fiscal 1979 the VA's authority to enter into special-pay agreements with physicians and dentists; and extends until September 30, 1981, the period during which certain Vietnam-era veterans may receive veterans readjustment appointments in the Federal Government. H.R. 5029—Passed House April 4, 1977; Passed Senate amended May 26, 1978.

Veterans' care in State homes: Provides a 6.6 percent increase in: cost-of-living for disabled veterans in basic compensation rates and in the rates payable for more serious disabilities; the additional allowances for spouses, children, and dependent parents paid to veterans rated 50-percent disabled or more; dependency and indemnity compensation (DIC) benefits including the additional allowances payable for dependent children and those in need of aid and attendance; benefits payable to the children of veterans whose deaths were service-connected, when there is no surviving spouse; benefits payable to surviving children who have become permanently incapable of self-support prior to the age of 18; and the annual clothing allowance paid to certain seriously disabled veterans; and extends eligibility for specially adapted housing grants to permanently and totally service-connected disabled veterans with certain specified disabilities. H.R. 1862—Public Law 95-117, approved October 3, 1977.

Consolidates the construction grant-assistance programs for State home domiciliary and hospital facilities and for State home nursing care facilities; creates new statutory authority for grants for the construction of new domiciliary facilities and the expansion of domiciliary and hospital facilities and for initial equipment in both categories; sets at 33⅓ percent the annual limit a State may receive of the total amount appropriated for the program; and includes domiciliary and hospital projects under the statutory nursing home program recapture provision. H.R. 3695—Public Law 95-62, approved July 5, 1977.

Veterans' health care improvement: Improves the quality and efficiency of health care provided to sick or disabled veterans in the Veterans' Administration health care system; clarifies the circumstances under which the VA may furnish contract hospital care and medical services in certain cases; extends and makes modifications in the Veterans' Administration special-pay program to attract physicians and dentists in certain scarce categories to agree to full-time service in the Department of Medicine and Surgery; provides for the establishment of new programs for readjustment professional counseling, preventive health care for veterans, service-connected disabilities, and expanded drug and alcohol treatment and rehabilitation programs. H.R. 5027—Passed House April 4, 1977; Passed Senate amended September 9, 1977.

Veterans' physician and dentist comparability pay: Extends until September 30, 1978, the VA's authority to enter into special pay agreements and provides for the retroactive payment of special pay to otherwise eligible physicians and dentists who are hired between October 1, 1977, and the date of enactment and who sign such agreements within 30 days of the date of enactment and conforms the pay of podiatrists and optometrists to the appropriate levels of basic pay in the physicians and dentists schedule for the period October 21, 1976, through October 8, 1977. H.R. 8175—Public Law 95-201, approved November 23, 1977.

Vietnam veterans' discharges and benefits: Denies entitlement to veterans' benefits to certain Vietnam era veterans holding clemency discharges who have become so entitled because of the presidential program pardoning draft evaders. S. 1307—Public Law 95-126, approved October 8, 1977.

U.S. FOREIGN POLICY

Mr. ROBERT C. BYRD. Mr. President, foreign policy requires a continuing evaluation of our interests. It involves responding to evolving conditions—all too often this means responding to a crisis, the threat of a crisis, or a high-tension situation.

Indeed, there sometimes appears to be a compulsion to respond, to act quickly, when, in fact, a more measured, careful response would not only suffice but would be preferable. As Victor Hugo stated, "Caution is the eldest offspring of wisdom."

CONGRESSIONAL ROLE

Because of the complexity, the swiftly moving events, the question frequently has been asked whether Congress can play an effective role in the foreign policy area.

I believe the answer to be unquestionably affirmative. And I believe that events of recent months are strong evidence of a responsible congressional role in foreign affairs.

The reactive aspect of foreign policy is clearly and properly within the domain of the Executive, although to the highest degree possible there should be consultation with the Congress.

While recognizing the Executive primacy in this area, there still remains a vast and weighty congressional responsibility in foreign affairs.

Before commenting further on the congressional role, let me turn to some of the specific elements of our foreign policy.

UNITED STATES-SOVIET RELATIONS

To speak of U.S. foreign policy is, in large measure, to speak of United States-Soviet relations. No one subject so dominates our international outlook as does our relationship with the Soviet Union. Additionally, United States-Soviet relations spill over into other areas and condition our approach to a variety of policy questions.

That our relations with the Soviets are given such importance is understandable. Our two nations are the world's greatest military powers, possessing extensive nuclear capability. In view of the catastrophic potential of this nuclear weaponry, we attach great significance to mutual agreement on restraint and limitations on nuclear arms.

I have frequently stated that I consider a good strategic arms limitation treaty to be of primordial importance. At the same time, I have stressed that it must be a good treaty—a treaty that is verifiable and fully protective of our security interests and those of our European allies.

We have been told that progress is being made toward a SALT II agreement and that Secretary Vance will visit Moscow later this month to continue the discussions.

I am hopeful that a good SALT treaty can be successfully negotiated. If and when that occurs, the treaty will receive the most thoroughgoing scrutiny when it is submitted to the Senate.

Despite our hopes for limiting the numbers and the destructive potential of nuclear weapons, we can afford to have no illusions about the Soviet Union.

The Soviets are our adversaries.

They have hundreds of strategic warheads aimed at the United States. They have undertaken a massive military buildup in Eastern and Central Europe. The Soviet-Cuban involvement in Africa remains a matter of great concern. The Soviet Government has engaged in inhumane and repressive treatment of some of its own citizens.

In past months, relations between our two nations have been generally characterized as in a deteriorating state, but more recently there have been some slight signs of an upturn.

With President Carter, I would obviously prefer cooperation with the Soviet Union, rather than confrontation. However, we should be realistic. We can hope for cooperation and seek to avoid confrontation, but, undeniably and inevitably, we are engaged in competition.

For the foreseeable future—recognizing that there can be rapid turnabouts in international affairs—that situation is unlikely to change in any significant way.

Thus our foreign policy must be conditioned by this ongoing competitive relationship. We must recognize these realities, much as we might prefer to see things differently, and much as we hope

relations will improve. The Soviet military strength cannot be dismissed. This is a major factor affecting our North Atlantic Treaty Alliance, which is one of the cornerstones of U.S. foreign policy. As George Washington pointed out:

To be prepared for war is one of the most effectual means of preserving peace.

But in recognizing these realities, we should not make the Soviet Union the sole focal point of our entire foreign policy. There are too many other important items on our international agenda. We need to act on our own initiatives, steering a course that reflects our own best interests and our desire to cooperate with other nations in building a more stable, more secure, and more prosperous world.

Let us make clear our policies, our intentions, and our principles, and act accordingly. While we must always assure that our national security interests are protected, it is time to break away from the action-reaction cycle with the Soviet Union. If the Soviets show serious signs of seeking more positive relations, then we will be prepared to respond, and in a positive vein.

I do not think it behooves us to react or respond to every Soviet move—to zig every time the Soviets zag.

We enter into negotiations on a possible SALT treaty not as a favor to the Soviet Union, but in our own interest. It is in our interest to limit the spiraling and costly strategic arms race. If a sound, fair, and verifiable agreement can be achieved, then it will be in our interest.

I do not profess to have all the answers, but I believe the same principle should apply to the much-discussed question of Soviet trade. We should act out of our own interests. The basis for our policy should be quite clear: To the extent that it serves our interests, we should allow trade with the Soviet Union.

I have long maintained that there must be strict regulations on technology transfer to the Soviet Union. I favor a firm embargo on any equipment that might have military application. The administration has recently moved to impose a more thorough review on any transfer of petroleum exploration and production equipment, and properly so.

But we would hardly be acting in our own self-interest if we were to cut off agricultural sales to the Soviet Union. Such sales represent a valuable export market of at least $6 billion annually.

Economic leverage can be an instrument of U.S. foreign policy, although we should be careful not to overestimate its value. In the case of the Soviet Union, we should recognize the limits of leverage. The Soviets would obviously like to have access to some of our more sophisticated technology, but they are not to any major extent dependent on us. Most items the Soviets seek to import are available from other sources; other Western countries and Japan have generally been quite eager to sell to the Soviets.

We should set forth our trade policy and adhere to it. Obviously, we want to retain some flexibility, and our policy should be a matter for continuing reevaluation, but not on a daily or weekly basis. We can hope that the limited trade which we do carry on with the Soviets will have a positive political effect on Soviet behavior over a period of time. But just as we should recognize the limits of leverage, so should we acknowledge that the benefits of such trade may be limited and gradual at best.

A POSITIVE ROLE

To reiterate, what I am suggesting is that we continue to move away, as much as possible, from the reactive role and move toward a more active, positive role in international affairs.

The administration and the Congress have already moved in this direction, although more remains to be done.

Most notably, President Carter, by negotiating the Camp David agreements, seized the initiative, turning what appeared to be a dead-end street into what could well be the road to peace in the Middle East. This was a remarkable breakthrough.

Congress will be called upon to support some of the following aspects of the agreement, assuming that the peace process continues to move forward.

I believe that an important factor in gaining the high level of cooperation from Egypt in the peace effort was the approval earlier this year of the sale of F–5E aircraft to Egypt. The sale took our relations with Egypt across a new threshhold; it reflects the increasing ties between our two countries. President Sadat has said that the Senate's support of the sale—voting down a resolution of disapproval—was critical.

At the same time, the Senate has reaffirmed its strong and longstanding support for the security of Israel. Israel remains the largest recipient of U.S. foreign assistance.

We also moved to help create more stable conditions in the Middle East by selling F–15 aircraft to Saudi Arabia, recognizing the mutuality of interests between the United States and Saudi Arabia. We look to the Saudis to play a more active and constructive role in the Middle East peace efforts.

I spoke earlier of the responsible congressional role in foreign policy, and I want to recall here that, as a result of congressional concerns, a number of assurances related to the Middle East arms sales—future sales and the conditions of the sales—were agreed to by the administration. Congress thus played an important role in shaping the final terms of the sales.

Another example of positive and forward-looking action by the administration and the Senate was on the Panama Canal treaties. The Senate gave extensive consideration to the treaties—37 days of debate, preceded by lengthy committee hearings. During its consideration of the treaties, the Senate amended and added to the treaties—strengthening them and meeting legitimate concerns raised by Members of the Senate. The Senate's action in approval of the treaties was, I believe, consistent with our national principles, and in the best interests of the United States, as well as our hemispheric neighbors. The treaties have great symbolic significance for our future relations with the rapidly developing countries of Latin America—countries whose destinies are closely intertwined with our own.

I want to mention one further policy issue which the Senate debated this year, and which, like the Middle East arms sales and the Panama Canal treaties, aroused strong feelings. I am referring to the lifting of the embargo on U.S. arms to Turkey. On this, as well as the other issues I have cited, a majority of Senators was willing to stand up for broader national interests, despite strong political pressures.

Here again, the Senate acted in a responsible manner; its approval of the lifting of the embargo was conditioned on Presidential certification that such action would support a solution of the Cyprus issue. The amendment which the Senate approved was designed to help spur a settlement on Cyprus and to show an evenhanded approach in the area.

On all of these major foreign policy issues, the Senate has provided the administration with the critical support it has needed. The Senate has also left its own imprint on each of these measures, reflecting the continuing high level of Senate involvement in foreign policy issues.

A salient aspect of the Turkish embargo question was its relationship to NATO. Lifting the embargo involved not only revitalizing United States-Turkish relations, but strengthening the North Atlantic Alliance, of which Turkey is an essential member.

NATO has been a primary emphasis of the Carter administration, and this is strongly supported by the Congress. At the NATO summit meeting here in May, the member countries agreed to a long-term defense program (LTDP), with greater alliance cooperation and planning. The program represents a substantial commitment to the strengthening of NATO'S deterrent and defense posture. Following the NATO summit, I had the opportunity to visit Europe for discussion with a number of key European leaders. I met with an enthusiastic reception for the renewed U.S. emphasis on European security.

WORKING TOGETHER

I have cited a number of foreign policy areas where the Congress and President Carter have successfully worked together. Yet, from time to time, suggestions are made that Congress has unduly involved itself in foreign policy and unduly restricted Presidential authority. Such suggestions surfaced during the rebel invasion of Zaire in May. In fact, the President was not impeded by any congressional restrictions in providing emergency assistance to Zaire.

Through the war powers resolution and other legislation, Congress has taken steps to safeguard the congressional role in matters of major importance. By so doing, it has not unduly inhibited Presidential action and flexibility in foreign affairs.

Obviously there is a danger that devices such as the legislative veto could be overused, and I think Congress should be careful about applying too many restrictions and conditions in specific cases. It is important to remember, however, that in almost every case where Congress has applied such restrictions, they may be waived by a Presidential de-

termination that our national security interests are involved.

I do not think there is any question but that the President retains considerable flexibility and a broad range of authority in foreign affairs. The President also has the responsibility to inform and consult with Congress. This is essential for a successful foreign policy.

The Carter administration generally deserves high marks in this category, having consulted and informed the Congress regularly on most important foreign policy matters. The White House, State Department, and the Defense Department all deserve credit and I look forward to a continuation of the prevailing good relationship.

THE INTERNATIONAL AGENDA

Although the Senate and the administration can point with considerable pride to our accomplishments in foreign affairs, a full and challenging international agenda remains.

In addition to strategic arms limitations, which I have mentioned, there is also a need for progress in limiting conventional arms transfers. This, of course, requires the cooperation of other supplier nations.

I have noted the remarkable progress made at Camp David toward peace in the Middle East. While the Camp David agreements represent a significant step, many critical problems remain unresolved. Of particular concern is the continuing civil war which has brought such devastation to Lebanon and which has implications for possible broader conflict in the region.

Still another area which calls for skillful diplomatic effort is Southern Africa. Our aim must be to encourage peaceful change and representative government, but a volatile atmosphere makes progress difficult.

There are, of course, a number of other outstanding issues, but one that I believe to be of special significance is our relationship with the People's Republic of China. There have been signs of gradually growing ties between the United States and China. We are moving toward greater cooperation in a number of areas—educational, scientific, and commercial. Recently the Senate approved legislation that would extend limited most-favored-nation status to China, making it eligible for short-term credits through the Commodity Credit Corporation.

I strongly favor this increased cooperation and movement toward normalization of relations. I believe such developments are fully consistent with our national interests, and are important for the maintenance of a stable balance of power and the preservation of world peace.

THE ECONOMIC FACTOR

Foreign policy is composed of many parts. Two of the major components are security or defense policy and economic policy. In both these areas, the Congress is playing a major role and should continue to do so.

In closing, I want to focus on economic policy because this is a matter which should be receiving great emphasis. In many respects it is the key to our international posture. It is here that we must really bear down. We must get our economic house in order if we are to carry our weight in international affairs.

International economic stability and imbalance are matters for the most serious concern. Uneven growth rates among the Western nations and Japan and the staggering debt burden of Third World countries have severely strained the international monetary system and have fueled inflation.

We cannot be complacent about the decline of the dollar and our huge trade deficit. There must be a continuing and concerted effort to fight inflation, reduce our excessive oil imports, resist protectionist pressures, and expand exports.

Some notable actions have been taken by Congress and by the administration to stem inflation and strengthen the economy. Of particular importance, I believe, is the congressional commitment to restrain spending, as evidenced in the second concurrent budget resolution, which reduced the President's January projected deficit to below $40 billion.

Another key element of the effort to deal with the problems of our economy is the energy legislation approved by the Congress this year. This movement toward a comprehensive energy program has important international consequences. Foreign leaders have viewed us as profligate in our use of energy, not only reducing the supply of oil available to their countries, but, also, contributing to our balance-of-payments problems and thus weakening the dollar by our dependence on imported oil. When I met with European leaders in July, I told them Congress would act favorably on energy legislation before adjournment. The recent congressional action on energy should send a strong and positive message to other nations.

These economic issues cannot be separated from our national security. We need a sound economic base in order to support a strong national defense and to maintain our international defense commitments.

Clearly, economic problems are likely to create international instability. We have to recognize the increasing interaction between the United States and the economies of other nations. It is important to remember that 10 million American jobs depend on our exports. More than half the wheat, soybeans, and rice grown in the United States is sold overseas. One out of every three dollars in U.S. corporate profits derives from international activities.

The economic welfare of the American people increasingly depends on a world economic system in which we need to obtain resources from abroad and to find markets for our products. The developing of Third World countries is critical in this regard. Two-thirds of our imports are raw materials that we do not or cannot readily produce. The United States now depends on developing countries for 45 percent of our oil, 85 percent of our bauxite, 93 percent of tin, 59 percent of zinc ore, and 36 percent of iron ore.

President Carter recently announced a new trade policy—featuring an increased emphasis on promoting the export of U.S. products—which should help strengthen our international economic position.

A central purpose of our economic policy must be to restore confidence in the dollar. There must be international confidence that the United States can and will control Government spending, control the budget deficit, and control our oil imports. Confidence in the dollar is vital to international economic stability. The United States sets the economic pace for the rest of the world.

Congress has taken significant steps to demonstrate to the rest of the world that we have the necessary discipline and that we are serious about cutting spending, bringing down the deficit, and establishing a solid energy policy.

These positive steps will, I believe, help restore confidence in the dollar and in our international leadership. Continued progress in this direction must be a major goal in the months ahead.

SUMMARY

Mr. President, I have discussed some of our major achievements as well as some of the challenges confronting us in foreign affairs.

Specific issues on which the Senate has acted within recent months—and acted with courage—include some landmarks in contemporary foreign policy: The Panama Canal treaties, the Middle East arms sales, lifting the Turkish embargo.

Congress is playing an active and responsible role in foreign policy, but not hindering the Executive's requisite authority in this field.

Among those challenges which face us, one of the foremost is, as I have stated, in the economic area. Strengthening our economy is a key to a successful U.S. foreign policy.

We must continue the maintenance of a strong national defense and sound international alliances, while at the same time seeking firm and fair agreements to limit the proliferation of arms. We will hope for cooperation, but we will not shrink from competition.

As I have noted, the international agenda is replete with difficult issues. No doubt there will be other unforeseen developments that will make headlines in the months ahead. But we should avoid becoming bogged down in every would-be minicrisis that surfaces. Let us chart our course and hold to it. We should, as much as possible, steer clear of a reactive policy. We need to continue to act positively and on our own initiative, reflecting our best interests and our desire to cooperate with other nations in creating a more stable, more secure, and more prosperous world. A strong foreign policy is one of the cornerstones of a strong America.

Mr. President, I thank the distinguished minority whip for his kindness in yielding some of his time to me.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no requirement for my time.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Sen-

ator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 5 minutes.

REMOVE RESTRICTIONS ON FEMALE PAGES

Mr. PROXMIRE. Mr. President, recently the Senate passed a measure to extend the time for ratification of the equal rights amendment. Although we differ on technical interpretations of the ERA, I know that all of my colleagues believe that women should have the same access to educational and work opportunities as men.

I wish to call attention to an unfair situation that exists here in the Senate, right under our noses. I refer to the excessive restrictions on the appointment of female pages.

The Senate resolution which first authorized the use of female pages stipulates that Senators appointing such pages must file an agreement with the Sergeant at Arms stating that the Senator:

Will be responsible for the safe transportation of the female page he appoints between the Senate and the page's place of local abode and return; and

Will assume full reponsibility for the safety, well-being, and strict supervision of such female page while such page is in her place of local abode.

The American Law Division of the Library of Congress informs me that this responsibility cannot be shifted to the parents by waiver and that a Senator would be liable for an injury that might occur while the female page is under his supervision.

Even though he may take a sincere personal interest in her well-being, a busy Senator cannot possibly oversee a female page's daily trips to and from home. Nor can he supervise her activities away from the Senate, and thus he assumes a tremendous legal risk in agreeing to serve in place of her parents.

This enormous responsibility obviously has a chilling effect on the hiring of female pages.

If you will look around this morning, you will see an overwhelming preponderance of males—not just among Senators, 98 percent of whom are male, but among the pages, who do such a fine job of helping us here in the Senate. I am informed that of approximately 20 to 25 Senate pages only 4 are female.

None of the Democratic pages in the Senate are female. The House of Representatives, which has no restrictions on the use of female pages, now has 22 young women out of a total of 56 pages.

We are not required to assume this responsibility for the young men. Why should young women be treated differently? I doubt that young men are more likely to need close supervision.

I am sure many of my colleagues would gladly appoint young women if it were not for the legal responsibility, which is virtually impossible for us to meet.

Clearly, the current system is unfair to the many young women who would enjoy and profit from the great experience of working in the U.S. Senate.

When the Senate reconvenes next year, I will introduce a resolution to eliminate the current requirements for overseeing a female page's safety and well-being and to put girl and boy pages on equal footing, which is what is done in the House.

In place of current rules I will suggest a written agreement among the Senator, the page (male or female), and the page's parents as to the Senator's responsibility for the page's transportation, lodging, and well-being.

I made the same suggestion 5 years ago, which was included in a congressional page reorganization bill which was passed by the Senate but received no action in the House.

Congress is often called "the last plantation" because of its exemption from the civil rights laws that we pass. People can point to the effective restriction on the appointment of female pages as an example of condescending and discriminatory treatment of women on the Hill. I hope that my colleagues will see fit to join in this effort to open up opportunities for female pages and remove one small but significant blot on the Senate's record of promoting equal treatment for women.

GENOCIDE: LEST WE FORGET

Mr. PROXMIRE. Mr. President, briefly on another subject, a recent Washington Post article raised a question with regard to the issue of genocide in a most ironic context. The article stated:

An Israeli produced television documentary that contains a brief account of the 1915 massacre of over a million Armenians at the hands of the Turks has caused a diplomatic brouhaha with Turkey. There are charges that the film is being suppressed at the request of the Israeli Foreign Military.

Today Israel includes a large community of Armenians who live mainly in Jerusalem. The newspaper account suggested that for diplomatic reasons, the Israeli foreign ministry might be considering the suppression of one of the worst examples of genocide in the history of the world.

How ironic, how distressing that would be, if true. Hoping that there was some explanation, some extenuating circumstance that I was not aware of, I asked the State Department if the story was true.

The U.S. State Department said that mine was not the first congressional inquiry and that a telegram had been sent to Israel seeking information about the newspaper account. Soon a telegram was sent from our Embassy in Tel Aviv to the State Department. Roughly the telegram stated:

According to Israeli media sources, no decision has been made on whether the film will be shown on Israeli TV. A decision is expected from the TV Board of Directors in 2 or 3 weeks and it will almost certainly be positive that the film will be shown. Pressure has not come from the Turkish Government, but is internally generated. The United Armenian Committee which had collaborated in making the film and provided footage reported that the showing of the documentary had been frozen rather than cancelled and expressed belief that it would eventually be shown.

Mr. President, I hope that the Israelis—victims of genocide themselves—will not succumb to pressure, either internal or external, to suppress news of other genocides.

I hope that the mass murder of the Armenians will become common knowledge through the medium of television.

Genocide is a crime that the world should know about, a crime that nations should not tolerate anywhere. It is a crime whose existence we must be constantly reminded of, lest we forget.

Mr. President, the Senate has had the opportunity to ratify the Genocide Convention, a treaty which outlaws genocide, for three decades.

Yet for 30 years we have neglected to ratify this vital human rights document.

Could it be that we avoid a moral position on this heinous crime? Have we forgotten the need to express our solidarity with 82 other nations, among them our closest allies?

Mr. President, we should not become complacent, forgetting that genocide has occurred and will continue to occur. Never again should an Adolf Hitler be able to say, as he did in 1939:

Who talks nowadays of the extermination of the Armenians?

Mr. President, we must ratify the Genocide Convention.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. BAKER. Mr. President, I would be happy, if the Senator can use it, to reclaim part of my time under the standing order.

Mr. PROXMIRE. I thank the Senator, but I have finished.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New York (Mr. MOYNIHAN) is recognized for not to exceed 15 minutes.

THE NUNN-CHILES AMENDMENT LIMITING FEDERAL TAXES AND FEDERAL SPENDING

Mr. MOYNIHAN. I thank the Chair.

Mr. President, late Monday evening it fell to me to offer the concluding opposition comments in the short debate on the Nunn-Chiles amendment, before it was overwhelmingly adopted by the Senate. My remarks were necessarily brief, and I have sought this opportunity to explain in slightly greater depth why, in my view, this popular and imaginative proposition ought not become law this year.

It would constitute the single most important change in the American political economy since the introduction of the unified budget under President Harding. It would work an extraordinary change in our budgetary, fiscal, and economic arrangements. Yet there have been no hearings. There has been no sustained scrutiny or analysis. Most Senators knew nothing of the proposal until Monday, when a "Dear Colleague" letter dated Saturday, October 7, may have reached their desks. Yet Monday evening we were asked to vote for something we were told would sharply cut taxes in a responsible manner: by linking those cuts to Federal spending and by linking both to the performance of the economy.

It is apparent why many find this idea appealing. Tax cuts are popular, particularly at this season. A balanced budget remains a cherished goal. Limiting Fed-

eral outlays to a specific percentage of GNP is an increasingly engaging prospect, one that I along with others have been talking about for some years and which President Carter set forth as a goal in his economic message last January.

But let us consider some of the possible consequences of hastily adopting the particular measure now before us.

First, enormous actions would turn on minuscule variations in indicators such as the gross national product, total Federal outlays, and the rate of inflation. These are indispensable, if far from precise, indicators, but they have never before been asked to bear such a heavy burden of automatic policysetting. From useful planning and analytical tools, they would take on an existence of their own as independent variables on which the largest Government decisions would be dependent.

Second, the mechanical arrangements are replete with enormous "notches" and "sudden death" provisions. If the necessary conditions are not met in year 1 or year 2, for example, but not met in year 3, the full 3 years of tax cut would go into effect all at once. This could trigger an abrupt $60 billion tax reduction in 1983, a huge change that in turn could rest on expenditure decisions as small as one-tenth of 1 percent of GNP.

Third, while it is hard to conceive of willful manipulation of the gross national product itself, it is easy to imagine a large uncontrollable event, such as a protracted strike in a major industry, or, I might add, a filibuster in the U.S. Senate, eroding the rate of economic growth—or the rate of expenditure—in a given year sufficiently to cause Federal expenditures to fall short of the prescribed percentage, thus preventing a general tax reduction that would have occurred but for the disturbance.

Fourth, the provision has extraordinarily perverse economic effects. May I say the economic effects that would automatically come about are almost precisely the opposite of those which have traditionally been assumed to be normal reaction to rises and falls in economic products.

In a boom period, the GNP will grow rapidly relative to Federal outlays, making the tax cut conditions easier to meet and thereby triggering a tax cut in the middle of the boom. Conversely, in a recession the GNP will grow slowly or decline, making the tax cut conditions impossible to meet so that no tax cut will be enacted, just when one is most needed.

Consider what would have happened if we had enacted this program in 1972, at the peak of a very considerable period of economic expansion. Federal outlays as a fraction of GNP that year came to 20.9 percent. In 1975, in the trough of our worst recent recession, when conditions demanded a large increase in Federal spending to stimulate the economy, actual Federal expenditures as a percentage of GNP were 22.4 percent. Had we been operating under these constraints, Federal expenditures at this point would have been limited to 19.5 percent of GNP, which translates to $42 billion less than was in fact spent that year. To be sure, the spending "cap" could have been ignored, but then there would have been no tax cut, just at the point when one was most needed.

Fifth, because of the "notch" effect, the last few items on the appropriations schedule can swing the decision on whether there will be a tax cut or not. For example, the last $500 million in the defense budget might mean no tax cut; or the first $500 million of a welfare reform bill, or a health insurance bill, or an important urban renewal plan. The pressure against late appropriations items, and supplemental appropriations, no matter how worthy, will be tremendous.

Sixth, the conditions which must be met to trigger tax cuts are all based on projections of expenditure and forecasts of GNP and inflation. The temptation to gimmick, fudge, or otherwise use mirrors in budget accounting and GNP forecasting will be irresistible, both in the executive and legislative branches. The proposal also defeats, or at least imperils, any serious attempts to do economic and fiscal planning. For example, in planning the next year's fiscal policy there could be a huge swing in the size of the budget deficit or surplus, depending on whether the planner was forecasting a 3.0 or, say, a 3.2-percent increase in GNP, since that difference could trigger or not trigger a large tax cut—and such variations in estimates are not unusual; they are in the range of normal economic uncertainty on the part of the planners. But this problem is compounded when the planner—by which I mean any Government executive or business executive—tries to make any sense of the future.

Seventh, the private sector needs as much certainty as to forward tax rates as fiscal policy can make possible. The proposed arrangement provides just the opposite. One can envision a "futures market" in tax rates.

Eighth, the authors of the proposal assume future real annual increases in GNP of 3.6 percent. Over the past decade, actual increases have averaged 2.9 percent, but annual rates have varied from minus 1.4 percent to plus 5.7 percent. Although we are now in the 15th consecutive quarter of economic recovery from the recession of 1974–75, if our future economic growth is less than 3.6 percent, the automatic annual increases in uncontrollable Federal outlays, now 70 percent of our budget, such as social security, veterans benefits, food stamps, and unemployment compensation will place heavier and heavier pressure on the "controllable" portion of the budget.

It is entirely possible to envision a situation in which popular pressure to allow a tax cut to happen could force an unwise decision with respect to spending even on so fundamental a purpose as national defense.

I find something fundamentally disturbing about this effort to bind ourselves to arbitrary limitations in the face of manifest uncertainty about what the future may hold—and always holds. There is not, to my knowledge, another country with such an arrangement. One might find such strictures ineptly pursued in centrally planned economies, but no democracy has tried it. We have been governing this Nation for almost two centuries on the basis of the free choices of successive Congresses and Presidents. I see nothing in our past record to make us fearful of our future performance.

Mr. President, appended to my remarks is an illustrative table showing the impact which the Nunn-Chiles amendment would have had upon the Federal budget if it had been in effect in 1972. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

IMPACT ON FEDERAL BUDGET IF NUNN-CHILES WERE ADOPTED IN 1972

[Figures in billions]

Year	GNP	Federal expenditures	Percent of GNP	Federal deficit	Federal expenditures as a percent of GNP under Nunn-Chiles	"Allowable" Federal expenditures under Nunn-Chiles	Deficit under Nunn-Chiles
1972	$1,110	$232	20.9	($23.4)	20.4	$232	($23.4)
1973	1,237	247	20.0	(14.8)	20.5	254	(21.8)
1974	1,359	270	19.8	(4.7)	20.0	272	(6.7)
1975	1,454	326	22.4	(45.1)	19.5	284	(3.1)
1976	1,625	366	22.5	(66.4)	19.0	309	----------

Mr. MOYNIHAN. Mr. President, as I speak in this Chamber, I stand alone save for my distinguished friend from Hawaii—there is no one in the galleries, or almost no one, and there is likely to be no one even in the Senate offices listening. I contrast this atmosphere with the scene on Monday evening, when, by a rollicking vote of 65 to 20, the U.S. Senate agreed to a wholly untried, scarcely explicated change in our economic order of a kind not known for two or three generations; when, in full throat, we agreed to slash the budget, cut taxes, limit expenditures, and guarantee, as my County Kerry ancestors would have said, "to live content and pay no rent" in a hypothesized future beyond compare.

Few have heard my remarks, and I cannot imagine that many more will have the time, in the last 48 hours of the Congress, to read them; but I do suggest that these arrangements may have consequences wholly unlike any of those

expected. It seems to me that we are making—or contemplating—fundamental changes in the arrangements of the American political economy in an extraordinarily casual way. If we do these things in this way, I cannot imagine that the President will accept them. If the President accepts them, then I truly have lost my understanding of what constitutes responsible government in this period.

That may suggest my own aberrance, but I am not fully resigned to that explanation as yet.

Mr. President, I have completed my remarks, and I yield this abandoned field to whomsoever may desire it. I see the Senator from Tennessee has come by. I am happy to have his company.

Mr. BAKER. The Senator from Tennessee has rearrived. It seems as if he has been here all night long.

Mr. MOYNIHAN. I am sure that is very nearly the reality.

Mr. BAKER. Mr. President, what is the order of procedure this morning?

The ACTING PRESIDENT pro tempore. The Senator from West Virginia has a special order for 15 minutes. Ten minutes remain on the minority leader's time.

Mr. MATSUNAGA. Will the minority leader yield for 2 minutes to dispose of a matter which I discussed with the minority side?

Mr. BAKER. Could the Senator from Hawaii indicate to me what the matter is?

Mr. MATSUNAGA. This is with reference to the Samoan delegate.

Mr. BAKER. Mr. President, I regretfully must advise my friend from Hawaii that that item has not been fully cleared on this side; perhaps he can put the request a little later, but I cannot do it at this moment.

Mr. MATSUNAGA. I will withhold my request.

Mr. BAKER. I thank the Senator.

REORGANIZATION PLAN NO. 4 OF 1978

MR. ROBERT C. BYRD. Mr. President, on behalf of Mr. RIBICOFF, I move consideration of Senate Resolution 537, Calendar Order No. 1200, a resolution disapproving Reorganization Plan No. 4 of 1978.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 537

Resolved, That the Senate does not favor Reorganization Plan No. 4 of 1978, relating to the Employment Retirement Income Security Act of 1974, transmitted to the Congress on August 10, 1978.

The motion was agreed to and the Senate proceeded to consider the resolution.

MR. ROBERT C. BYRD. Mr. President, on behalf of Senator RIBICOFF, I have moved consideration of Senate Resolution 537, Calendar No. 1200, a resolution of disapproval regarding Reorganization Plan No. 4 of 1978. Reorganization Plan No. 4 is designed to simplify and improve the complex administrative requirements of the Employment Retirement Income Security Act of 1974. The plan will eliminate most of the current overlap and duplicative administrative effort between the two departments responsible for the enforcement of ERISA—the Treasury Department and the Labor Department.

On September 28, the Committee on Governmental Affairs unanimously, by a vote of 11 to 0, recommended that the Senate disapprove the pending resolution of disapproval regarding Reorganization Plan No. 4.

Mr. President, in accord with the recommendation of the Governmental Affairs Committee, I move that the Senate disapprove the resolution of disapproval.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The resolution (S. Res. 537) was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was rejected.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO INDEFINITELY POSTPONE SENATE RESOLUTION 576

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 1223, Senate Resolution 576, waiving section 303(a) of the Congressional Budget Act of 1974 with respect to consideration of an amendment intended to be proposed by Mr. KENNEDY (for himself and other Senators) to H.R. 13511, be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar orders numbered 1237 through 1243.

Mr. BAKER. Reserving the right to object——

Mr. ROBERT C. BYRD. Mr. President, these are all relief bills.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BAKER. There is no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LANCE INDUSTRIES, INC.

The resolution (S. Res. 545) to refer S. 3451 to the Court of Claims for the relief of Lance Industries, Inc., was considered and agreed to, as follows:

Resolved, That S. 3451 entitled "A bill for the relief of Lance Industries, Incorporated", together with all accompanying papers, is hereby referred to the Chief Commissioner of the Court of Claims pursuant to section 1492 and 2509 of title 28, United States Code, for further proceedings in accordance with applicable law.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GLADYS YAN CHAN LU

The Senate proceeded to consider the bill (S. 1112) for the relief of Gladys Yan Chan Lu, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, beginning with line 6, strike comma;

On page 1, beginning with line 6, strike "and shall be accorded immediate relative status under section 201(b) of such Act";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Gladys Yan Chan Lu may be classified as a child within the meaning of section 101(b)(1)(E) of such Act, upon approval of a petition filed on her behalf by Mr. and Mrs. Kuo C. Lu, citizens of the United States, pursuant to section 204 of such Act. No natural parent, brother, or sister, or prior adoptive parent of Gladys Yan Chan Lu shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JENNET JUANITA MILLER

The bill (H.R. 1405) for the relief of Jennet Juanita Miller, was considered, ordered to a third reading, read the third time, and passed.

The title was amended so as to read:

An Act for the relief of Jennet Juanita Miller (also known as Jennet Juanita Flowers).

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

MARLENE HOLDER

The Senate proceeded to consider the bill (H.R. 2756) for the relief of Marlene Holder, which had been reported from the Committee on the Judiciary with an amendment in line 8, after "Act" strike the comma and "and the provisions of section 245(c) of the Act shall be inapplicable in this case".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MARTHA CASTRO FITZ MAURICE

The Senate proceeded to consider the bill (H.R. 3618) for the relief of Martha Castro Fitz Maurice, which had been reported from the Committee on the Judiciary with an amendment in line 4, strike "Martha Castro Maurice" and insert "Martha Castro Fitz Maurice".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RAYMOND VISHNU CLEMONS

The Senate proceeded to consider the bill (H.R. 9610) for the relief of Raymond Vishnu Clemons, which had been reported from the Committee on the Judiciary with an amendment on page 2, beginning with line 1, strike through and including line 5, and insert in lieu thereof the following:

right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JULIO ORTIZ-MEDINA

The Senate proceeded to consider the bill (H.R. 1422) for the relief of Julio Ortiz-Medina, which had been reported from the Committee on the Judiciary with amendments as follows:

In line 3, strike "provision of section 242 (a)(31)" and insert "provisions of paragraphs (17) and (31) of section 212(a)";

In line 7, strike "this exemption" and insert "these exemptions";

In line 8, strike "a ground" and insert "grounds".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR PRINTING OF S. 2

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that 500 copies of S. 2, the sunset bill, be printed as passed by the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—H.R. 13650

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of H.R. 13650, the Uranium Mill Tailings Radiation Control Act of 1978, that an amendment in the nature of a substitute offered jointly by the Committees on Energy and Natural Resources and Environment and Public Works be in order.

I ask unanimous consent that debate on the bill then be limited to 10 minutes, to be equally divided between Mr. HART and Mr. PAUL G. HATFIELD; that there be a time limitation of 7 minutes for each amendment, to be equally divided between the proponents and opponents; that there be a time limitation on any debatable motion, appeal, or point of order if such is submitted to the Senate, of 3½ minutes, and that the agreement be in the usual form.

Mr. BAKER. Reserving the right to object, Mr. President, and I will not object, I joined the majority leader in trying to get a time-limitation agreement on this bill.

This bill is a fairly complex measure and to make sure that we deal with it in time for the other body to deal with it, I would hope that the majority leader can schedule it for action at some appropriate window early in the day so we can dispose of it.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BAKER. I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senate can dispose of the matter early.

COURT ANNEXED ARBITRATION ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1023, S. 2253.

Mr. BAKER. Mr. President, reserving the right to object, did the majority leader ask unanimous consent to proceed?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I am sorry to have delayed the majority leader. That item is cleared.

Mr. ROBERT C. BYRD. I thank the minority leader.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2253) to amend title 28 of the United States Code to encourage prompt, informal, and inexpensive resolution of civil cases by use of arbitration in U.S. district courts and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Court-Annexed Arbitration Act of 1978".

SEC. 2. (a) Title 28, United States Code, is amended by adding after chapter 43 the following new chapter:

"CHAPTER 44—ARBITRATION

"Sec.
"641. Authorization of arbitration.
"642. Certification of arbitrators.
"643. Compensation of arbitrators.
"644. Jurisdiction.
"645. Arbitration hearing.
"646. Arbitration award and judgment.
"647. Trial de novo.

"§ 641. Authorization of arbitration

"Each United States district court may authorize by rule the use of arbitration in accordance with the provisions of this chapter.

"§ 642. Certification of arbitrators.

"(a) Each district court is authorized to certify arbitrators to perform services in accordance with this chapter. Each certification shall be entered on record in the certifying court.

"(b) An arbitrator is subject to the provisions of sections 202 through 209 of title 18, United States Code, that apply to a special Government employee of the executive branch. A person shall not be barred from the practice of law because he is an arbitrator.

"§ 643. Compensation of arbitrators

"(a) The district court shall provide the amount of compensation, if any, that shall be paid to each arbitrator for his services for each case in which he serves.

"(b) Under regulations prescribed by the Director of the Administrative Office of the United States Courts, a district court may reimburse arbitrators for actual transportation expenses necessarily incurred by them in the performance of their duties under this chapter.

"§ 644. Jurisdiction

"(a) Notwithstanding any provision of law to the contrary and except as provided in subsections (b) and (c) of this section, a district court that authorizes arbitration under section 641 shall refer to arbitration any civil action pending before it if—

"(1) the parties consent to arbitration; or

"(2)(A) the relief sought consists only of money damages not in excess of $100,000 or such lesser amount as the district court may set, exclusive of interest and costs;

"(B) jurisdiction is based in whole or in part on section 1331, 1332, 1333, 1345, or 1346 of this title, or section 2 of the Act of March 9, 1920, as amended (46 U.S.C. 742), or section 1 of the Act of March 3, 1925, as amended (46 U.S.C. 781); and

"(C) the action is based on a negotiable instrument or contract or is for personal injury or property damage.

"(b) No referral to arbitration under this chapter shall be made—

"(1) of an action based on an alleged violation of a right secured by the Constitution of the United States;

"(2) of an action in which relief is sought from any official or employee of the United States in his individual capacity for an act performed by such official or employee acting within the outer perimeter of his official duties, whether or not the action is also

brought against such official or employee in his official capacity or the United States;

"(3) of an action by the United States—

"(A) to recover money or property illegally or improperly obtained by an employee or former employee of the United States or any agency thereof; or

"(B) based upon fraud; or

"(4) if jurisdiction is based in whole or in part on section 1343 of this title.

"(c) A district court may establish by rule procedures for excepting from arbitration, for good cause shown, individual cases that would otherwise be referred under subsection (a).

"§ 645. Arbitration hearing

"(a) Arbitrators to whom actions are referred under section 644 shall have within the territorial jurisdiction of the court the power to conduct arbitration hearings and make awards as provided in this chapter. The arbitrators shall have the power to administer oaths and affirmations.

"(b) The arbitration hearing shall begin within a time period specified by the district court, but in no event later than one hundred and fifty days from the filing of the answer or thirty days from the disposition of any motion to dismiss the complaint, motion for judgment on the pleadings, or motion for summary judgment, whichever is later.

"(c) Rule 45 of the Federal Rules of Civil Procedure, relating to subpoenas, applies to subpoenas for the attendance of witnesses and the production of documentary evidence at an arbitration hearing under this chapter.

"(d) An arbitrator may admit any evidence in an arbitration hearing which he considers relevant and trustworthy. The Federal Rules of Evidence may be used as a guide to the admissibility of evidence, except that evidence which is privileged under Rule 501 of the Federal Rules of Evidence shall not be admissible.

"§ 646. Arbitration award and judgment

"The arbitration award shall be filed with the clerk of the district court promptly after the hearing is concluded, and shall be entered as the judgment of the court after the time has expired for requesting a trial de novo pursuant to section 647 unless a party demands a trial de novo pursuant to that section. The judgment so entered shall be subject to the same provisions of law and shall have the same force and effect as a judgment of the court in a civil action, except that it shall not be subject to appeal.

"§ 647. Trial de novo

"(a) Within thirty days after the filing of the arbitration award with the court, any party may demand a trial de novo in the district court.

"(b) Upon a demand for a trial de novo, the action shall be restored to the docket of the court and treated for all purposes as if it had not been referred to arbitration, and any right of trial by jury that a party otherwise would have had is preserved.

"(c) Unless the parties have otherwise stipulated, the court shall not admit at the trial de novo any evidence that there has been an arbitration proceeding, the nature or amount of any award, or any other matter concerning the conduct of the arbitration proceeding, except that testimony given at the arbitration hearing may be used for purposes of impeachment.

"(d) If the party that demanded a trial de novo fails to obtain in the district court a judgment, exclusive of interest and costs, more favorable to him or her than the arbitration award, the court may tax against that party the costs of the arbitration proceeding as provided in section 1920, and the amount of any arbitrator's fees.".

(b) The table of chapters for title 28, United States Code, and for part III of title 28, United States Code, are each amended by inserting after the item relating to chapter 43 the following new item:

"44. Arbitration ..... 641".

SEC. 3. (a) Arbitration in accordance with chapter 44 of title 28, United States Code, as added by section 2 of this Act, shall be implemented on a test basis for a period of three years from the date of enactment of this Act in no fewer than five nor more than eight representative districts to be designated by the Chief Justice of the United States, after consultation with the Attorney General. Before designating the representative districts, the Chief Justice shall consult the regular active judges in each district under consideration and no district shall be so designated if a majority of the regular active judges in that district request that it not be so designated.

(b) The Federal Judicial Center, in consultation with the Attorney General and the Administrative Office of the United States Courts, shall transmit to the Congress, two years and six months from the date of enactment of this Act, a report on the use, effectiveness, and benefits of arbitration in the test district courts and such other districts in which cases are referred to arbitration.

SEC. 4. There is authorized to be appropriated for the fiscal year ending September 30, 1979, to the judicial branch such sums as may be necessary to be allocated by the Administrative Office of the United States Courts to Federal judicial districts and the Federal Judicial Center to carry out the purposes of this Act. The funds so appropriated shall remain available until expended, except that no such funds shall be expended for the arbitration of actions referred to arbitration subsequent to the date of repeal set forth in section 5 of this Act.

SEC. 5. Effective three years from the date of enactment of this Act, chapter 44 of title 28, United States Code, as added by section 2 of this Act, is repealed except that the provisions of that chapter shall continue to apply through final disposition of all actions in which referral to arbitration was made before the date of repeal.

SEC. 6. This Act shall take effect sixty days after the date of enactment.

● Mr. DECONCINI. Mr. President, it is with great pleasure that I initiate discussion of S. 2253, as amended, the Court-Annexed Arbitration Act of 1978. This bill was introduced by the distinguished chairman of the Judiciary Committee, Senator JAMES O. EASTLAND. After extensive hearings in the Subcommittee on Improvements in Judicial Machinery, the original concept underlying S. 2253 has been refined into what both Senator EASTLAND and I believe will constitute a major advance in the struggle to make the Federal judicial branch more responsive to the many and varied needs of the American people.

The bill contains findings that in civil litigation there are avoidable expenses and delays in many Federal district courts. The purpose of the bill is set forth as being the promotion of prompt, informal, and inexpensive resolution of disputes. The vehicle for achieving that result is arbitration.

This measure is the culmination of the highly favorable experiences with arbitration in State courts and in pilot projects now being undertaken by the Federal district courts in three jurisdictions. Presently, Arizona, California, New York, Ohio, and Pennsylvania employ arbitration at some level in their court systems. Careful attention has been given to these programs, and the results obtained by them have convinced many people that the time is ripe for a test of compulsory, nonbinding arbitration in the Federal courts. S. 2253 would provide that test.

Under the bill, a 3-year experiment would be conducted to find solutions to the mounting difficulties encountered by both jurists and litigants that arise from the growing backlog of cases now confronting the Federal courts. It is a response to the widespread concern that the effectiveness of the Federal judicial system is being weakened by the ever-increasing demands on the time of the Federal courts. This legislation employs arbitration as an alternative dispute resolution mechanism that would reduce the length and expense of litigation in many civil actions.

The use of compulsory, nonbinding arbitration should enhance the responsiveness of the judicial system to the demands of society by providing some litigants with a quasi-judicial means of resolving disputes that is speedier and less costly, but no less fair, than the existing court process. At the same time, this will enable the courts to concentrate their limited resources on those legal and constitutional issues they are uniquely qualified to resolve.

At the time of its introduction, S. 2253 contained specific regulations for the conduct of arbitration hearings. It has been concluded that, because this legislation proposes only an experiment with arbitration, it is desirable that a variety of methods of implementing arbitration in the district courts be encouraged and explored. A conference on arbitration under local rule was sponsored by the Federal Judicial Center on May 24, 1978, and was attended by the chief judge and clerk of the pilot district courts and others. There it was generally agreed that it is too early to evaluate fully the merits of the differing rules used in present arbitration systems and that future experience with the pilot programs will reveal which type of guidelines are best suited for a national system of compulsory, nonbinding arbitration.

Thus, the rigid structure of the bill as originally introduced was found to be inappropriate. The amended bill gives each district court wide discretion in such procedural matters as determining which cases should be submitted to arbitration, in establishing rules for the prearbitration period, in setting costs for arbitration proceedings, in selecting and compensating arbitrators, and in regulating the discovery stage of the arbitration process. It is hoped that this discretionary approach will result in a variety of methods of court-annexed arbitration being tested.

The bill creates a new chapter in title 28 of the United States Code that would establish a process of mandatory arbitration of specified categories of civil actions, with the right to a full district court trial de novo preserved. Under the proposal, five to eight districts shall be chosen by the Chief Justice, after consultation with the Attorney General, to try compulsory, nonbinding arbitration on a 3 year experimental basis. Any other district court may also adopt this arbitration procedure on its own. This approach was taken because it is felt that the present experience with arbitra-

tion is sufficiently extensive to warrant a comprehensive and controlled test to determine how advantageous mandatory use of arbitration would be in the Federal courts. At the same time, however, it seems premature to impose an arbitration scheme on all 94 districts without a period of experimentation and study.

The arbitration program proposed is compulsory in that all cases of specified types will be automatically referred to arbitration soon after pleadings are closed unless, upon the motion of a party, the district court judge orders that a case be excepted from arbitration. Two broad classes of cases to be arbitrated have been identified under the proposal. Generally, tort and contract actions, where the claim is exclusively for money damages of less than $100,000—or a lesser amount determined by the district court—will be required to go to arbitration.

Also, any case may be arbitrated with the consent of the parties. A few types of cases within the general tort and contract categories frequently present issues of such sensitivity or general public importance that they warrant a trial before a district court judge. Therefore, certain exceptions have been made. These cases are specifically identified and excluded from arbitration under the amended bill. For example, actions base on alleged violations of constitutional or civil rights may not be arbitrated. In addition, any case may be removed from the arbitration process at the discretion of the district court upon a showing of good cause.

Once a case has been referred to arbitration, time limits are imposed upon each step of the process in order to keep the average elapsed time from case filing to arbitration decision as brief as is reasonably possible. Litigants coming within the program are to receive a hearing not later than 150 days from the filing of the answer or 30 days from the disposition of any motion to dismiss the complaint, motion for judgment on the pleadings, or motion for summary judgment, whichever is later. Each district court may fix time limits within these boundaries by local rule. Discovery proceedings are another area where significant gains in judicial efficiency may be had. It is recognized that limited discovery may frequently be necessary so that the parties may be well enough prepared to engage in a meaningful and fair arbitration hearing. Consequently, witnesses and documents may be subpenaed under Federal Rule of Civil Procedure 45, and the district courts are given discretion to formulate rules for discovery within the 150-day time restriction. But extended discovery, frequently complained of in litigation today, will not be possible before arbitration.

After the arbitration hearing has commenced, the Federal Rules of Evidence should act as a nonbinding guide to the admissibility of evidence, with the understanding that privileged evidence may not be introduced in any event. It is intended that the relaxed rules would permit the admission of some hearsay evidence, particularly in documentary form.

The result of these streamlined procedures and enforced time limitations will be speedier dispute resolution and reduced backlogs in the courts. In California, a State which employs an arbitration program similar to that proposed by this legislation, the median time from the filing of the complaint until trial in a civil case in Los Angeles was 2½ years, while the median from the stipulation to arbitrate until filing of the award was only 60 days. Philadelphia, by raising the amount in controversy beneath which arbitration was compulscry, within 2 years reduced the backlog of its entire civil calendar from 48 months to 21 months.

Arbitration not only reduces the time required for litigation, it also lessens the expense to private litigants through diminished pretrial preparation, simplified evidentiary procedures, and elimination of certain stages in the traditional jury trial process. Reduced expenses makes it economically more feasible for parties to pursue justified claims and to present a defense to the trier of fact in relatively uncomplicated cases. In Ohio, the cost of arbitrating a case was estimated at $49; in Philadelphia, the per-case cost of arbitrators fees is $150. The salary and administrative costs for full court adjudication have been estimated at $500 to $600 per day for a trial that may last several days.

Empirical studies indicate that arbitration proceedings are generally perceived to be fair. A California survey reported that all attorneys and claim managers questioned believed that arbitration was as fair as a jury trial; three-fourths felt it was as fair as a court trial. Litigant satisfaction with arbitration has been demonstrated by the comparison of appeal rates from arbitration awards with the rate of appeal from conventional court decisions. In the California Superior Court, appeal rates from arbitration awards to trials de novo have ranged from 8 to 25 percent with most jurisdictions averaging between 11 and 13 percent, as compared with the 11 to 14 percent rate to appeal from all contested civil cases in California.

Moreover, the majority of the appeals for trials de novo settle before a trial actually takes place. Thus, in most jurisdictions only 5 to 6 percent of arbitrated cases are retried de novo. These appeal rates from judicial arbitration awards indicate that arbitrated cases produce results as satisfactory to the parties as the regular civil trial process.

There are other, less easily quantified benefits to the administration of justice. There should be substantial improvement in the quality of judicial decisionmaking with the reduced pressure afforded by a more current calendar. Producing faster, less expensive dispute resolutions should eliminate some of the protracted anxiety felt by many litigants. Faster litigation will enable litigants to end more quickly a traumatic incident and to plan their future with greater certainty, especially in personal injury cases. Factfinding accuracy will be immediately improved because dispute resolution will occur closer to the incident involved. Finally, the fairness of the settlement climate will be enhanced because high costs and court congestion would no longer be used as a bargaining tool. This consideration is of great importance in a civil justice system in which most cases are settled prior to trial.

Court-annexed arbitration also commends itself to the bar. It presents an opportunity to improve the public's image of the legal community. The success of court-annexed arbitration is largely made possible by the interest and energy of volunteer attorney arbitrators. Attorney action of this kind could make a positive impact on a public highly frustrated by the current congestion and cost of civil litigation.

Although S. 2253, as amended, proposes a compulsory program of arbitration, that program is not binding upon the litigants. The bill preserves the right of the parties to demand a full district court trial de novo in the event they are dissatisfied with the outcome of the arbitration proceeding. Where a trial de novo is demanded, the case is placed on the district court civil docket and treated in all respects as if it had never been referred to arbitration. Neither the fact of the arbitration proceeding nor the award may be admitted into evidence at the district court trial.

However, the use of testimony given at the arbitration hearing would not be precluded from use for impeachment purposes in a subsequent trial. This legislation originally contained a provision that used the taxing of court costs as a means of discouraging the parties from demanding a trial de novo. After extensive review of the constitutional and practical implications of such a provision, I am offering an amendment composed of technical corrections to remove from the bill all special restrictions on the demand for a trial de novo.

These amendments would provide that arbitration costs be assessed in the same manner as all other court costs with the understanding that if the district court finds that a demand for a trial de novo was made without good cause, the party making the demand shall in no event be awarded costs and may have costs assessed against him. The amendments do not represent a departure from the developed case law of court costs and do not substantially dilute the effectiveness of the arbitration program. Experience with arbitration indicates that most litigants will be satisfied with arbitration decisions and will not demand full district court trials; therefore, special cost provisions that serve as incentives to accept arbitration awards are not needed for the program to be effective.

During the 3 years that the statute is to be in force the Federal Judicial Center, in consultation with the Attorney General, is required to study the operation of the arbitration procedure. At the end of 2½ years the Center is required to file a report with the Congress evaluating the operation of arbitration in the test districts.

In summary, increased utilization of court-annexed arbitration would be a means of increasing public satisfaction with the administration of justice. While arbitration is not the only innovation capable of improving the administration of justice, it is a particularly desirable alternative because it is capable of attaining speed, economy, and fairness without requiring radical innovations in either substantive or procedural law. The

substantive law upon which arbitration decisions are based remains unchanged. Traditional trial procedures are retained in streamlined form; compulsory, nonbinding arbitration is not competitive with, but supplemental to, court procedure. It preserves the right to a trial de novo by jury and is ultimately subject to supervision by the courts. Court-annexed arbitration is a valid and viable alternative to conventional litigation. Its experimental use as proposed by the bill presents a little risk to litigants and provides the possibility of great improvements in our judicial system.●

Mr. ROBERT C. BYRD. Mr. President, the substitute proposed by the committee has been adopted, has it?

The ACTING PRESIDENT pro tempore. No, it has not been adopted.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendment in the nature of a substitute be agreed to and the bill, as thus amended, be considered as original text for the purpose of further amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 2095

(Purpose: To authorize the district court to establish rules providing for the inclusion of costs as part of an arbitration award, and to revise section 647 (b) relating to costs in cases in which a party demands a trial de novo. To make certain technical and conforming amendments)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment to make technical amendments in the bill, and I ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 2095.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 14, between lines 5 and 6, in the item relating to section 643, strike out "Compensation of arbitrators" and insert in lieu thereof "Arbitration fees and costs".

On page 14, line 10, strike out "641. Authorization of arbitration" and insert in lieu thereof "632. Certification of arbitrators".

On page 14, line 19, strike out "Compensation of arbitrators" and insert in lieu thereof "Arbitration fees and costs".

On page 14, line 20, strike out "provide" and insert in lieu thereof "establish and pay".

On page 15, between lines 5 and 6, insert the following new subsection:

"(c) The district court may establish by rule provisions for the inclusion of costs as provided in section 1920 as part of the arbitration award in section 646.".

On page 18, strike lines 20 through 25 and insert in lieu thereof the following:

"(d) Arbitrator's fees paid under subsection (a) of section 643 may be taxed pursuant to rule as costs in any district court judgment in which subsection (a) is invoked. In deciding upon such action, the court shall take into account whether the demand for a trial de novo was made with good cause. A good cause determination shall include a finding that the demand was not made for the purpose of unnecessarily prolonging the litigation.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the amendment is considered and agreed to.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as amended, as follows:

S. 2253

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

That this Act may be cited as the "Court-Annexed Arbitration Act of 1978".

SEC. 2. (a) Title 28, United States Code, is amended by adding after chapter 43 the following new chapter:

"Chapter 44—ARBITRATION

"Sec.

"641. Authorization of arbitration.
"642. Certification of arbitrators.
"643. Arbitration fees and costs.
"644. Jurisdiction.
"645. Arbitration hearing.
"646. Arbitration award and judgment.
"647. Trial de novo.

"§ 641. Authorization of arbitration

"Each United States district court may authorize by rule the use of arbitration in accordance with the provisions of this chapter.

"§ 642. Certification of arbitrators

"(a) Each district court is authorized to certify arbitrators to perform services in accordance with this chapter. Each certification shall be entered on record in the certifying court.

"(b) An arbitrator is subject to the provisions of sections 202 through 209 of title 18, United States Code, that apply to a special Government employee of the executive branch. A person shall not be barred from the practice of law because he is an arbitrator.

"§ 643. Arbitration fees and costs

"(a) The district court shall establish and pay the amount of compensation, if any, that shall be paid to each arbitrator for his services for each case in which he serves.

"(b) Under regulations prescribed by the Director of the Administrative Office of the United States Courts, a district court may reimburse arbitrators for actual transportation expenses necessarily incurred by them in the performance of the duties under this chapter.

"(c) The district court may establish by rule provisions for the inclusion of costs as provided in section 1920 as part of the arbitration award in section 646.

"§ 644. Jurisdiction

"(a) Notwithstanding any provision of law to the contrary and except as provided in subsections (b) and (c) of this section, a district court that authorizes arbitration under section 641 shall refer to arbitration any civil action pending before it if—

"(1) the parties consent to arbitration; or

"(2)(A) the relief sought consists only of money damages not in excess of $100,000 or such lesser amount as the district court may set, exclusive of interest and costs;

"(B) jurisdiction is based in whole or in part on section 1331, 1332, 1333, 1345, or 1346 of this title, or section 2 of the Act of March 9, 1920, as amended (46 U.S.C. 742), or section 1 of the Act of March 3, 1925, as amended (46 U.S.C. 781); and

"(C) the action is based on a negotiable instrument or contract or is for personal injury or property damage.

"(b) No referral to arbitration under this chapter shall be made—

"(1) of an action based on an alleged violation of a right secured by the Constitution of the United States;

"(2) of an action in which relief is sought from any official or employee of the United States in his individual capacity for an act performed by such official or employee acting within the outer perimeter of his official duties, whether or not the action is also brought against such official or employee in his official capacity or the United States;

"(3) of an action by the United States—

"(A) to recover money or property illegally or improperly obtained by an employee or former employee of the United States or any agency thereof; or

"(B) based upon fraud; or

"(4) if jurisdiction is based in whole or in part on section 1343 of this title.

"(c) A district court may establish by rule procedures for excepting from arbitration, for good cause shown, individual cases that would otherwise be referred under subsection (a).

"§ 645. Arbitration hearing

"(a) Arbitrators to whom actions are referred under section 644 shall have within the territorial jurisdiction of the court the power to conduct arbitration hearings and make awards as provided in this chapter. The arbitrators shall have the power to administer oaths and affirmations.

"(b) The arbitration hearing shall begin within a time period specified by the district court, but in no event later than one hundred and fifty days from the filing of the answer or thirty days from the disposition of any motion to dismiss the complaint, motion for judgment on the pleadings, or motion for summary judgment, whichever is later.

"(c) Rule 45 of the Federal Rules of Civil Procedure, relating to subpoenas, applies to subpoenas for the attendance of witnesses and the production of documentary evidence at an arbitration hearing under this chapter.

"(d) An arbitrator may admit any evidence in an arbitration hearing which he considers relevant and trustworthy. The Federal Rules of Evidence may be used as a guide to the admissibility of evidence, except that evidence which is privileged under Rule 501 of the Federal Rules of Evidence shall not be admissible.

"§ 646. Arbitration award and judgment

"The arbitration award shall be filed with the clerk of the district court promptly after the hearing is concluded, and shall be entered as the judgment of the court after the time has expired for requesting a trial de novo pursuant to section 647 unless a party demands a trial de novo pursuant to that section. The judgment so entered shall be subject to the same provisions of law and shall have the same force and effect as a judgment of the court in a civil action, except that it shall not be subject to appeal.

"§ 647. Trial de novo

"(a) Within thirty days after the filing of the arbitration award with the court, any party may demand a trial de novo in the district court.

"(b) Upon a demand for a trial de novo, the action shall be restored to the docket of the court and treated for all purposes as if it had not been referred to arbitration, and any right of trial by jury that a party otherwise would have had is preserved.

"(c) Unless the parties have otherwise stipulated, the court shall not admit at the trial de novo any evidence that there has been an arbitration proceeding, the nature or amount of any award, or any other matter concerning the conduct of the arbitration proceeding, except that testimony given at

the arbitration hearing may be used for purposes of impeachment.

"(d) Arbitrator's fees paid under subsection (2) of section 643 may be taxed pursuant to rule as costs in any district court judgement in which subsection (a) is invoked. In deciding upon such action, the court shall take into account whether the demand for a trial de novo was made with good cause. A good cause determination shall include a finding that the demand was not made for the purpose of unnecessarily prolonging the litigation.".

(b) The table of chapters for title 28, United States Code, and for part III of title 28, United States Code, are each amended by inserting after the item relating to chapter 43 the following new item:

"44. Arbitration ---------- 641".

SEC. 3. (a) Arbitration in accordance with chapter 44 of title 28, United States Code, as added by section 2 of this Act, shall be implemented on a test basis for a period of three years from the date of enactment of this Act in no fewer than five nor more than eight representative districts to be designated by the Chief Justice of the United States, after consultation with the Attorney General. Before designaing the representative districts, the Chief Justice shall consult the regular active judges in each district under consideration and no district shall be so designated if a majority of the regular active judges in that district request that it not be so designated.

(b) The Federal Judicial Center, in consultation with the Attorney General and the Administrative Office of the United States Courts, shall transmit to the Congress, two years and six months from the date of enactment of this Act, a report on the use, effectiveness, and benefits of arbitration in the test district courts and such other districts in which cases are referred to arbitration.

SEC. 4. There is authorized to be appropriated for the fiscal year ending September 30, 1979, to the judicial branch such sums as may be necessary to be allocated by the Administrative Office of the United States Courts to Federal judicial districts and the Federal Judicial Center to carry out the purposes of this Act. The funds so appropriated shall remain available until expended, except that no such funds shall be expended for the arbitration of actions referred to arbitration subsequent to the date of repeal set forth in section 5 of this Act.

SEC. 5. Effective three years from the date of enactment of this Act, chapter 44 of title 28, United States Code, as added by section 2 of this Act, is repealed except that the provisions of that chapter shall continue to apply through final disposition of all actions in which referral to arbitration was made before the date of repeal.

SEC. 6. This Act shall take effect sixty days after the date of enactment.

Passed the Senate October 13 (legislative day, October 11), 1978.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 2253, as amended.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1103), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE AMENDMENT

The amendment is in the nature of a substitute and its purpose is to incorporate several changes in the bill which the committee feels are necessary. Since the committee amendment is in the nature of a substitute, the perfecting changes made in the language of the bill as originally introduced will be explained in detail in the body of the report and in the sectional analysis.

PURPOSE OF THE BILL AS AMENDED

The purpose of the proposed legislation is to establish, on a 3-year experimental basis, compulsory, nonbinding arbitration as an alternative to conventional litigation in specified classes of civil action. This is done in an effort to reduce the costs associated with such litigation and to otherwise expedite the judicial process. The bill also provides guidelines by which U.S. district courts may direct arbitration proceedings held within their jurisdictions.

PRINTING OF PRAYERS OF REV. EDWARD GARDINER LATCH

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House on House Concurrent Resolution 742.

The PRESIDING OFFICER. The Chair lays before the Senate House Concurrent Resolution 742, which will be stated.

The assistant legislative clerk read as follows:

H. Con. Res. 742, providing for the printing of prayers offered by Reverend Edward Gardiner Latch during the Ninety-fourth and Ninety-fifth Congresses.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the concurrent resolution.

The ACTING PRESIDENT pro tempore. Is there objection?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The concurrent resolution (H. Con. Res. 742) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SERVICES FOR DRUG DEPENDENT OFFENDERS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 3336.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 3336) entitled "An Act to enable the Department of Justice and the Administrative Office of the United States Courts to provide services and special supervision to drug dependent Federal offenders in an efficient and effective manner", do pass with the following amendments:

1. Page 2, lines 14 and 15, strike out "$4,006,000", and insert: $3,500,000

2. Page 2, line 16, strike out "$4,246,000", and insert: $3,645,000

3. Page 2, line 17, strike out "$4,501,140", and insert: $3,750,000

● PAUL G. HATFIELD. Mr. President, this amended bill represents a fair and workable compromise. As originally introduced by me, together with the other members of the Subcommittee on Penitentiaries and Corrections, the Senators from Arizona (Mr. DECONCINI) and Maryland (Mr. MATHIAS), S. 3336 was a bill recommended by the Department of Justice. Briefly, it would improve the quality and delivery of drug aftercare services to drug-dependent Federal probationers and parolees by transfering the contracting, monitoring and supervisory services for such programs from the Federal Bureau of Prisons to the Division of Probation through the Administrative Office of the U.S. Courts. As I stated upon introduction of the bill, substantial savings to the taxpayers will result upon this bill's enactment, since the Probation Division is much better equipped—particularly in terms of staff available—to perform this statutory function than is the Bureau. I remind my colleagues that the transfer for which funds are authorized for 3 fiscal years is already in existence by virtue of enabling legislation, that this legislation will not take effect until fiscal year 1980, and that its enactment will not affect or prejudice in any way proposed amendments to the Narcotics Addict Rehabilitation Act of 1966, as amended.

As reported from the Senate Judiciary Committee and passed by this body August 17, S. 3336 would have authorized the sums of $4,006,000, $4,246,360, and $4,501,140, for fiscal years 1980, 1981, and 1982, respectively. As originally marked up by the Subcommittee on Administrative Law and Governmental Relations of the House Judiciary Committee earlier this year, an equivalent measure would have authorized only $3,000,000 for each of those years. Under the leadership of Congressman GEORGE DANIELSON, the chairman of the subcommittee, and with the cooperation of Congressman PETER RODINO, the chairman of the full committee in the other body, we were able to reach an agreement which we believe to be mutually satisfactory. The Members of the House were able to persuade us that the program transfer could be authorized at lower figures—namely, $3,500,000 for 1980, $3,645,000 for fiscal 1981, and $3.750,000 for fiscal 1982—without prejudicing the program. Similarly, they conceded that the objectives of drug aftercare would be better served by the inclusion of a waiver of bidding procedures in letting counseling and urine surveillance contracts, as provided in the Senate-passed bill. It is our opinion that the resulting compromise is a beneficial one. A technical amendment was added on the House floor to assure that congressional action on the bill now for a future fiscal year, in relation to an existing program, would not violate the provisions of the Congressional Budget and Impoundment Control Act of 1974 and congressional budget procedures.

Mr. President, in addition to my gratitude to Senators DECONCINI and MATHIAS and Tim McPike and Ralph Oman of

their respective staffs, I would like to extend my appreciation to Bill Shattuck, Alan Coffey and Jim Lauer of the House subcommittee staff for their assistance in making this compromise possible.●

Mr. President, I move that the Senate concur in the House amendments en bloc.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the House amendments were concurred in en bloc.

Mr. BAKER. I move to lay that motion on the table.

Mr. BAKER. Mr. President, I see the Senator from Hawaii is still on the floor. I take this moment to say we have been able to clear the matter inquired of earlier, so we have no objection to proceeding with its consideration.

Mr. MATSUNAGA. I thank the Senator from Tennessee.

MAILING OF LOTTERY MATERIAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 11580, an act to provide for the sale of lottery equipment to foreign countries in which lotteries are legal, and that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 11580) to amend title 18 of the United States Code to make lawful certain activities concerning certain foreign and domestic legal lotteries.

The bill was considered, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONVEYANCE OF CERTAIN LANDS TO THE UNIVERSITY OF NEW MEXICO

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1216, S. 1403.

Mr. BAKER. Mr. President, reserving the right to object for just one moment.

Mr. ROBERT C. BYRD. It conveys lands to the University of New Mexico.

Mr. BAKER. We have no objection.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 2, beginning with line 6, strike through and including line 16, and insert in lieu thereof the following:

SEC. 2. Conveyance under this Act shall be made only (a) upon the University of New Mexico providing satisfactory assurances to the Secretary that no valid mining claims exist on the described lands, other than the patented mining claims of Doctor Arthur Montgomery; and (b) upon the condition that the described land shall be held and used by the University of New Mexico and shall not be conveyed by the university, and the minerals thereunder shall not be mined and sold in commercial quantities: *Provided*, That if the Secretary of the Interior determines that mining of the minerals contained in the described lands is necessary for the security of the United States, the University of New Mexico shall lease the lands for mining to such person as may be designated by the Secretary under the terms of a lease to be prepared by the Secretary, with any royalties to be paid to the United States. The patent conveying the lands to the University of New Mexico shall contain such provision.

On page 3, line 16, beginning with the comma, strike through and including the comma at the beginning of line 17, after "Montgomery";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to the conditions and limitations specified in this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to convey to the University of New Mexico all right, title, and interest of the United States in the following described land comprising approximately one hundred and ten acres:

Southeast quarter of the southwest quarter; south half of the northeast quarter of the southwest quarter; southwest quarter of the southeast quarter; and the southwest quarter of the northwest quarter of the southeast quarter, section 29, township 23 north, range 11 east, New Mexico principal meridian.

SEC. 2. Conveyance under this Act shall be made only (a) upon the University of New Mexico providing satisfactory assurances to the Secretary that no valid mining claims exist on the described lands, other than the patented mining claims of Doctor Arthur Montgomery; and (b) upon the condition that the described land shall be held and used by the University of New Mexico and shall not be conveyed by the university, and the minerals thereunder shall not be mined and sold in commercial quantities: *Provided*, That if the Secretary of the Interior determines that mining of the minerals contained in the described lands is necessary for the security of the United States, the University of New Mexico shall lease the lands for mining to such person as may be designated by the Secretary under the terms of a lease to be prepared by the Secretary, with any royalties to be paid to the United States. The patent conveying the lands to the University of New Mexico shall contain such provision.

SEC. 3. No conveyance shall be made unless application for conveyance is filed by the university with the Secretary within six months of the date of approval of this Act.

SEC. 4. The Secretary may in his direction require that he be furnished a perimeter survey of the described lands. All costs of obtaining such survey and any costs of supplying the Secretary with the proof that no valid unpatented mining claims, with the exception of those held by Doctor Montgomery, exist on the property, shall be borne by the university.

SEC. 5. No conveyance shall be made under this Act until the university has shown to the satisfaction of the Secretary that all right, title, and interest of Doctor Arthur Montgomery to unpatented mining claims and the existing patented mining claim in the above described lands have been conveyed to the University of New Mexico.

Mr. ROBERT C. BYRD. I ask unanimous consent that the committee amendments be agreed to en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The committee amendments were agreed to en bloc.

UP AMENDMENT 2096

Mr. BAKER. Mr. President, I send an amendment by the distinguished Senator from New Mexico (Mr. DOMENICI) to the desk and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) for the Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 2096.

On page 1, line 5, after the word "convey" insert the phrase "at fair market value".

The amendment was agreed to.

Mr. BAKER. I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-7301), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I. PURPOSE

The purpose of S. 1403, as reported by the committee, is to provide for the conveyance of certain lands near Dixon, New Mexico, to the University of New Mexico.

II. BACKGROUND AND NEED

S. 1403 directs the Secretary of the Interior to convey all right, title and interest of the United States in certain lands to the University of New Mexico, subject to certain conditions and limitations. The lands described in the bill comprise about 110 acres.

The 110 acres involved consist of a 20.66 acre patented mining claim held by Dr. Arthur Montgomery and several unpatented mining claims held by Dr. Montgomery. Dr. Montgomery is willing to donate his interest in these claims to the University for geologic studies if the University is able to obtain fee title to lands covered by the unpatented claims. All of the land covered by the unpatented claims may be subject to conflicting claims.

The area that would be conveyed contains lithium, beryllium, columbium, and tantalum. Although these deposits may not now be generally considered commercial, they are a potential source of these scarce and strategic materials and may be commercial at a later date. These lands are also used for grazing, hunting and some recreation, including rockhounding.

Although Dr. Montgomery could convey his 20.66 patented mining claim without the need for legislation, he and the university believe that it is essential that the entire 110 acres be under the jurisdiction of the University and not separated as to ownership. This is because the claims on the 110 acres are considered to be an integral part of the

Harding Pegmatite Mine and its uniquely interesting geological and mineralogical features.

NATIONWIDE SERVICE OF SUBPENAS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 12393, an act to provide for a nationwide service of subpenas in cases under the False Claims Act, and that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 12393), an act to provide for a nationwide service of subpoenas under the False Claims Act, and for other purposes.

The Senate proceeded to consider the bill.

UP AMENDMENT 2097

(Purpose: To provide for the seizure and forfeiture of vehicles used to illegally transport persons into the United States)

Mr. ROBERT C. BYRD. On behalf of the distinguished Senator from Arizona, who now presides over the Senate, I send an amendment to the desk and ask that it be stated by the clerk.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. DECONCINI, proposes an unprinted amendment numbered 2097:

On page 1, line 10, insert the following:

SEC. 2. Section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) is amended by redesignating subsection (b) as subsection (c) and adding a new subsection (b) as follows:

"(b)(1) Any vessel, vehicle, or aircraft which is used in the commission of a violation of subsection (a) shall be subject to seizure and forfeiture, except when—

"(A) the owner, master, or other person in charge of such vessel, vehicle, or aircraft, was not, at the time of the alleged illegal act, a consenting party or privy thereto; or

"(B) the alleged illegal act occurred while such vessel, vehicle, or aircraft was in the illegal possession of any person other than the owner, as established by the criminal laws of the United States, or of any States.

"(2) The Attorney General shall, within one hundred and eighty days from the date of enactment of this Act, promulgate regulations setting forth procedures for the expeditious return to the owner, master, or other person in charge of any vessel, vehicle, or aircraft seized in violation of paragraph (1). In any such case, the owner, master, or other person in charge of such vessel, vehicle, or aircraft shall not incur any expenses, including costs of transportation, storage, damage, and attorney fees, associated with such seizure and forfeiture.

In the case of a vehicle seized and forfeited pursuant to paragraph (1) subject to a valid lien or other third-party interest, the regulations shall provide for satisfaction of the third party interest without expense to the interestholder.

"(3) Any conveyance subject to seizure under this section may be seized without a warrant if there is probable cause to believe the conveyance has been used in violation of subsection (a) and circumstances exist where a warrant is not constitutionally required.

"(4) All provisions of law relating to the seizure, forfeiture, and disposition of vessels, vehicles, and aircraft for violations of customs law shall apply to violations of the provisions of this chapter: *Provided*, That—

"(A) duties imposed on customs officers or other persons regarding the seizure of such conveyances under customs law shall apply to seizures carried out under the provisions of this section by such officers or persons authorized for that purpose by the Attorney General; and

"(B) proceedings instituted under this subsection respecting vessels shall be subject to the Supplemental Rules of Certain Admiralty and Maritime Claims.".

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill was ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECRUITMENT AND RETENTION OF CERTAIN PHYSICIANS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 990.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 990) entitled "An Act to amend title 5, United States Code, to provide special allowances to certain physicians employed by the United States in order to enhance the recruitment and retention of such physicians", do pass with the following amendments:

1. Page 4, line 14, strike out "physician, dentist, or veterinarian" and insert: physician

2. Page 5, line 5, strike out "or".

3. Page 5, line 8, strike out "and", and insert: or

4. Page 5, after line 8, insert:

"(G) section 2 of the Act of May 29, 1959 (Public Law 86–36, as amended, 50 U.S.C. 402 note), relating to the National Security Agency; and

5. Page 6, after line 10, insert:

SEC. 3. The amendments made by this Act are repealed, unless specifically extended by Act of Congress, effective on September 30, 1981.

6. Page 6, strike out line 11 and all that follows over to and including line 20, page 7.

Mr. ROBERT C. BYRD. I move that the Senate concur in the House amendments en bloc.

The motion was agreed to.

REGIONAL RAIL REORGANIZATION ACT AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5646.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 5646) entitled "An Act to amend the Regional Rail Reorganization Act of 1973 to require ConRail to make premium payments under certain medical and life insurance policies, to provide that ConRail shall be entitled to a loan under section 211(h) of such Act in an amount required for such premium payments, and to provide that such premium payments shall be deemed to be expenses of administration of the respective railroads in reorganization", with the following amendments:

In lieu of the matter stricken and inserted by the said amendment insert:

1. Page 3, line 11, strike out all after "graph." down to and including "of" the second time it appears in line 14, and insert: For purposes of section 211(h)(4)(A)(iii), amounts required for the payment of such premiums and benefits shall be deemed to be valid administrative claims against

2. Page 4 of the House engrossed bill, after line 5, insert:

SEC. 2. The conferring of administrative claim status on amounts paid for the insurance premiums and benefits described in the amendment made by the first section of this Act shall be effective solely for purposes of meeting the conditions set forth in section 211(h)(4)(A)(iii) of the Regional Rail Reorganization Act of 1973 with respect to which obligations of the estate of a railroad in reorganization may be paid pursuant to such section 211(h), and shall not be construed—

(1) as affecting the jurisdiction of the district court having jurisdiction over such a railroad in reorganization to determine whether such insurance premiums and benefits constitute enforceable contractual obligations of the estate of such a railroad for purposes of reimbursement under such section 211(h); or

(2) as establishing or reordering and priority which a claim against the estate of such a railroad for reimbursement for the amounts paid for such insurance premiums and benefits may or may not have under the provisions of the Bankruptcy Act or any other law.

SEC. 3. Notwithstanding any other provision of law, any corporation which, pursuant to a plan of reorganization under section 77 of the Bankruptcy Act, is the successor in interest to a railroad in reorganization shall have standing to assert, in any judicial or administrative proceeding, any claim or defense available to such railroad in reorganization with respect to whether the insurance benefits and premiums described in the amendment made by the first section of this Act constitute enforceable contractual obligations of the estate of such railroad in reorganization. For purposes of this section, the term "railroad in reorganization" has the meaning given such term in paragraph (14) of section 102 of the Regional Rail Reorganization Act of 1973.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senate concur in the House amendments to the Senate amendments en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION AMENDMENTS OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 11092.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the text of the bill (H.R. 11092) entitled "An Act to increase the authorization of appropriations under the Act of December 22, 1974 (88 Stat. 1972)", with the following amendment:

In lieu of the matter proposed to be inserted by the said amendment, insert:

That this Act may be cited as the "Navajo and Hopi Indian Relocation Commission Amendments of 1978".

SEC. 2. Section 12(b) of the Act of December 22, 1974 (88 Stat. 1712, 1716) is amended by inserting before the period at the end of the sentence the following: ": *Provided*, That effective March 1, 1979, no person who is serving in an elected Federal, State, or local public office shall be eligible to serve or continue to serve as a member of the Commission".

SEC. 3. The first sentence of section 12(e) of the Act of December 22, 1974 (88 Stat. 1712, 1717) is amended by inserting before the period at the end thereof the following: ": *Provided*, That effective November 1, 1978, no such member shall be paid more than $28,000 during any fiscal year".

SEC. 4. Section 13(c)(5) is amended to read as follows:

"(5) take effect ninety days (excluding Saturdays, Sundays, and holidays, and any day on which either House is not in session) after the date of submission to the Congress pursuant to subsection (a) of this section, unless during such ninety day period one House of the Congress adopts a resolution disapproving such plan: *Provided, however*, That the Commission is authorized and directed to proceed with voluntary relocation as promptly as practicable following its first meeting.".

SEC. 5. Section 25(a)(5) of the Act of December 22, 1974 (1712, 1723) is amended by striking out "$500,000" and inserting in lieu thereof "$1,000,000".

Resolved, That the House agree to the amendment of the Senate to the title of the bill.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate concur in the House amendment to the Senate amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WITNESS FEES AND EXPENSES

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2049.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2049) entitled "An Act to establish fees and allow per diem and mileage expenses for witnesses before United States courts", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

That section 1821 of title 28, United States Code, is amended to read as follows:

"§ 1821. Per diem and mileage generally; subsistence

"(a)(1) Except as otherwise provided by law, a witness in attendance at any court of the United States, or before a United States Magistrate, or before any person authorized to take his deposition pursuant to any rule or order of a court of the United States, shall be paid the fees and allowances provided by this section.

"(2) As used in this section, the term 'court of the United States' includes, in addition to the courts listed in section 451 of this title, any court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States.

"(b) A witness shall be paid an attendance fee of $30 per day for each day's attendance. A witness shall also be paid the attendance fee for the time necessarily occupied in going to and returning from the place of attendance at the beginning and end of such attendance or at any time during such attendance.

"(c)(1) A witness who travels by common carrier shall be paid for the actual expenses of travel on the basis of the means of transportation reasonably utilized and the distance necessarily traveled to and from such witness's residence by the shortest practical route in going to and returning from the place of attendance. Such a witness shall utilize a common carrier at the most economical rate reasonably available. A receipt or other evidence of actual cost shall be furnished.

"(2) A travel allowance equal to the mileage allowance which the Administrator of General Services has prescribed, pursuant to section 5704 of title 5, for official travel of employees of the Federal Government shall be paid to each witness who travels by privately owned vehicle. Computation of mileage under this paragraph shall be made on the basis of a uniformed table of distances adopted by the Administrator of General Services.

"(3) Toll charges for toll roads, bridges, tunnels, and ferries, taxicab fares between places of lodging and carrier terminals, and parking fees (upon presentation of a valid parking receipt), shall be paid in full to a witness incurring such expenses.

"(4) All normal travel expenses within and outside the judicial district shall be taxable as costs pursuant to section 1920 of this title.

"(d)(1) A subsistence allowance shall be paid to a witness (other than a witness who is incarcerated) when an overnight stay is required at the place of attendance because such place is so far removed from the residence of such witness as to prohibit return thereto from day to day.

"(2) A subsistence allowance for a witness shall be paid in an amount not to exceed the maximum per diem allowance prescribed by the Administrator of General Services, pursuant to section 5702(a) of title 5, for official travel in the area of attendance by employees of the Federal Government.

"(3) A subsistence allowance for a witness attending in an area designated by the Administrator of General Services as a high-cost area shall be paid in an amount not to exceed the maximum actual subsistence allowance prescribed by the Administrator, pursuant to section 5702(c)(B) of title 5, for official travel in such area by employees of the Federal Government.

"(4) When a witness is detained pursuant to section 3149 of title 18 for want of security for his appearance, he shall be entitled for each day of detention when not in attendance at court, in addition to his subsistence, to the daily attendance fee provided by subsection (b) of this section.

"(e) An alien who has been paroled into the United States for prosecution, pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)), or an alien who either has admitted belonging to a class of aliens who are deportable or has been determined pursuant to section 242(b) of such Act (8 U.S.C. 1252(b)) to be deportable, shall be ineligible to receive the fees or allowances provided by this section.".

SEC. 2. The amendments made by this Act shall take effect on October 1, 1978, or on the date of enactment, whichever occurs later.

● Mr. DECONCINI. Mr. President, S. 2049, which was passed by the Senate on April 27, 1978, is an act to establish fees and allow per diem and mileage expenses for witnesses before U.S. courts.

Aside from changes of style or changes which are inconsequential there are four differences between S. 2049 as recently passed by the House and S. 2049 as passed by the Senate. First, under the Senate version a witness who uses a common carrier must travel at "the most economical rate available" to receive a travel allowance, while under the House version a witness need only travel at "the most economical rate reasonably available." Second, under the Senate version a witness would receive reimbursement for "incidental travel expenses," while under the House version a witness only receives reimbursement for a specified list of expenses, such as charges for toll bridges and taxicab fares. Third, the House version does not contain language that would authorize the Government to reimburse a witness for the use of a snowmobile, dog team, or boat in the District of Alaska. However, such language has been incorporated into the report that accompanies S. 2049 as passed by the House of Representatives. Fourth, the Senate version requires that subsistence allowances for a witness must equal the subsistence allowances that the Administrator of General Services fixes for Federal employees who travel in areas which are similar to the areas that are traveled in by the witness. The House version, however, only states that the witness allowances are "not to exceed" the allowances of the Federal employees.●

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate concur in the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

JURY SYSTEM IMPROVEMENTS ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2075.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2075) entitled "An Act to amend the Jury Selection and Service Act of 1968, as amended, by revising the section on fees of jurors and by providing for a civil penalty and injunctive relief in the event of a discharge or threatened discharge of an employee by reason of such employee's Federal jury service", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Jury System Improvements Act of 1978".

EXCUSE FROM JURY SERVICE

SEC. 2. (a) Section 1863(b) of title 28, United States Code, is amended—

(1) by striking out paragraph (7); and

(2) by redesignating paragraphs (8) and (9), and all references thereto, as paragraphs (7) and (8), respectively.

(b) Section 1866(c) of title 28, United States Code, is amended by striking out "paragraph (5), (6), or (7)" and inserting in lieu thereof "paragraph (5) or (6)".

JURY SERVICE UPON RESTORATION OF CIVIL RIGHTS

SEC. 3. (a) Section 1865(b)(5) of title 28, United States Code, is amened by striking out "by pardon or amnesty".

(b) Section 1869(h) of title 28, United States Code, is amended by striking out "by pardon or amnesty."

DEFINITIONS

SEC. 4. Section 1869 of title 28, United States Code, is amended—

(1) by striking out the period at the end

of subsection (i) and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new subsections:

"(j) 'undue hardship or extreme inconvenience', as a basis for excuse from immediate jury service under section 1866(c)(1) of this chapter, shall mean great distance, either in miles or traveltime, from the place of holding court, grave illness in the family or any other emergency which outweighs in immediacy and urgency the obligation to serve as a juror when summoned, or any other factor which the court determines to constitute an undue hardship or to create an extreme inconvenience to the juror; and in addition, in situations where it is anticipated that a trial or grand jury proceeding may require more than thirty days of service, the court may consider, as a further basis for temporary excuse, severe economic hardship to an employer which would result from the absence of a key employee during the period of such service;

"(K) 'publicly draw', as referred to in sections 1864 and 1866 of this chapter, shall mean a drawing which is conducted within the district after reasonable public notice and which is open to the public at large under the supervision of the clerk or jury commission, except that when a drawing is made by means of electronic data processing, 'publicly draw' shall mean a drawing which is conducted at a data processing center located in or out of the district, after reasonable public notice given in the district for which juror names are being drawn, and which is open to the public at large under such supervision of the clerk or jury commission as the Judicial Conference of the United States shall be regulation require; and

"(l) 'jury summons' shall means a summons issued by a clerk of court, jury commission, or their duly designated deputies, containing either a preprinted or stamped seal of court, and containing the name of the issuing clerk imprinted in preprinted, type, or facsimile manner on the summons or the envelopes transmitting the summons.".

FEES OF JURORS

SEC. 5. Section 1871 of title 28, United States Code, is amended to read as follows:

"§ 21871. Fees

"(a) Grand and petit jurors in district courts appearing pursuant to this chapter shall be paid the fees and allowances provided by this section. The requisite fees and allowances shall be disbursed on the certificate of the clerk of court in accordance with the procedure established by the Director of the Administrative Office of the United States Courts. Attendance fees for extended service under subsection (b) of this section shall be certified by the clerk only upon the order of a district judge.

"(b)(1) A juror shall be paid an attendance fee of $30 per day for actual attendance at the place of trial or hearing. A juror shall also be paid the attendance fee for the time necessarily occupied in going to and returning from such place at the beginning and end of such service or at any time during such service.

"(2) A petit juror required to attend more than thirty days in hearing one case may be paid, in the discretion of the trial judge, an additional fee, not exceeding $5 more than the attendance fee, for each day in excess of thirty days on which he is required to hear such case.

"(3) A grand juror required to attend more than forty-five days of actual service may be paid, in the discretion of the district judge in charge of the particular grand jury, an additional fee, not exceeding $5 more than the attendance fee, for each day in excess of forty-five days of actual service.

"(4) A grand or petit juror required to attend more than ten days of actual service may be paid, in the discretion of the judge, the appropriate fees at the end of the first ten days and at the end of every ten days of service thereafter.

"(5) Certification of additional attendance fees may be ordered by the judge to be made effective commencing on the first day of extended service, without reference to the date of such certification.

"(c)(1) A travel allowance not to exceed the maximum rate per mile that the Director of the Administrative Office of the United States Courts has prescribed pursuant to section 604(a)(7) of this title for payment to supporting court personnel in travel status using privately owned automobiles shall be paid to each juror, regardless of the mode of transportation actually employed. The prescribed rate shall be paid for the distance necessarily traveled to and from a juror's residence by the shortest practical route in going to and returning from the place of service. Actual mileage in full at the prescribed rate is payable at the beginning and at the end of a juror's term of service.

"(2) The Director shall promulgate rules regulating interim travel allowances to jurors. Distances traveled to and from court should coincide with the shortest practical route.

"(3) Toll charges for toll roads, bridges, tunnels, and ferries shall be paid in full to the juror incurring such charges. In the discretion of the court, reasonable parking fees may be paid to the juror incurring such fees upon presentation of a valid parking receipt. Parking fees shall not be included in any tabulation of mileage and allowances.

"(4) Any juror who travels to district court pursuant to summons in an area outside of the contiguous forty-eight States of the States of the United States shall be paid the travel expenses provided under this section, or actual reasonable transportation expenses subject to the discretion of the district judge or clerk of court as circumstances indicate, exercising due regard for the mode of transportation, the availability of alternative modes, and the shortest practical route between residence and court.

"(d)(1) A subsistence allowance covering meals and lodging of jurors shall be established from time to time by the Director of the Administrative Office of the United States Court pursuant to section 604(a)(7) of this title, except that such allowance shall not exceed the allowance for supporting court personnel in travel status in the same geographical area. Claims for such allowance shall not require itemization.

"(2) A subsistence allowance shall be paid to a juror when an overnight stay is required at the place of holding court, and for the time necessarily spent in traveling to and from the place of attendance if an overnight stay is required.

"(3) A subsistence allowance for jurors serving in district courts outside of the contiguous forty-eight States of the United States shall be allowed at a rate not to exceed that per diem allowance which is paid to supporting court personnel in travel status in those areas where the Director of the Administrative Office of the United States Courts has prescribed an increased per diem fee pursuant to section 604(a)(7) of this title.

"(e) During any period in which a jury is ordered to be kept together and not to separate, the actual cost of subsistence shall be paid upon the order of the court in lieu of the subsistence allowances payable under subsection (d) of this section. Such allowance for the jurors ordered to be kept separate or sequestered shall include the cost of meals, lodging, and other expenditures ordered in the discretion of the court for their convenience and comfort.

"(f) A juror who must necessarily use public transportation in traveling to and from court, the full cost of which is not met by the transportation expenses allowable under subsection (c) of this section on account of the short distance traveled in miles, may be paid, in the discretion of the court, the actual reasonable expense of such public transportation, pursuant to the methods of payment provided by this section. Jurors who are required to remain at the court beyond the normal business closing hour for deliberation or for any other reason may be transported to their homes, or to temporary lodgings where such lodgings are ordered by the court, in a manner directed by the clerk and paid from funds authorized under this section.

"(g) The Director of the Administrative Office of the United States Courts shall promulgate such regulations as may be necessary to carry out his authority under this section.".

PROTECTION OF JURORS' EMPLOYMENT

SEC. 6. (a)(1) Chapter 121 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1875. Protection of jurors' employment

"(a) No employer shall discharge, threaten to discharge, intimidate, or coerce any permanent employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service, in any court of the United States.

"(b) Any employer who violates the provisions of this section—

"(1) shall be liable for damages for any loss of wages or other benefits suffered by an employee by reason of such violation;

"(2) may be enjoined from further violations of this section and ordered to provide other appropriate relief, including but not limited to the reinstatement of any employee discharged by reason of his jury service; and

"(3) shall be subject to a civil penalty of not more than $1,000 for each violation as to each employee.

"(c) Any individual who is reinstated to a position of employment in accordance with the provisions of this section shall be considered as having been on furlough or leave of absence during his period of jury service, shall be reinstated to his position of employment without loss of seniority, and shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at teh time such individual entered upon jury service.

"(d) An individual claiming that his employer has violated the provisions of this section may make application to the district court for the district in which such employer maintains a place of business and the court shall, upon finding probable merit in such claim, appoint counsel to represent such individual in any action in the district court necessary to the resolution of such claim. Such counsel shall be compensated and necessary expenses repaid to the extent provided by section 3006A of title 18, United States Code.

"(2) In any action or proceeding under this section, the court may award a prevailing employee who brings such action by retained counsel a reasonable attorney's fee as part of the costs. The court may award a prevailing employer a reasonable attorney's fee as part of the costs if the court determines that the action is frivolous, vexatious, or brought in bad faith.".

(2) The chapter analysis of chapter 121 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1875. Protection of jurors' employment.".

(b)(1) Chapter 85 of title 28, United States Code, is amended by redesignating section 1363, and all references thereto, as section

1364, and by inserting immediately after section 1362 the following new section:

"§ 1363. Jurors' employment rights

"The district courts shall have original jurisdiction of any civil action brought for the protection of jurors' employment under section 1875 of this title.".

(2) The chapter analysis of chapter 85 of title 28, United States Code, is amended by striking out the item relating to section 1363 and inserting in lieu thereof the following:

"1363. Jurors' employment rights.
"1364. Construction of references to laws of the United States or Acts of Congress."

EFFECTIVE DATE

SEC. 7. (a) Except as provided in subsection (b) of this section, the amendments made by this Act shall apply with respect to any grand or petit juror summoned for service or actually serving on or after the date of enactment of this Act.

(b) The amendment made by section 5 of this Act shall apply with respect to any grand or petit juror serving on or after the sixtieth day following the date of enactment of this Act.

● Mr. DECONCINI. Mr. President, S. 2075, which was passed by the Senate on April 27, 1978, is an act to amend the Jury Selection and Service Act of 1968, as amended. It revises the section on fees of jurors. It also provides for a civil penalty and injunctive relief against an employer who has discharged or threatened to discharge an employee because of his Federal jury service.

Aside from changes of style and inconsequential changes, there are certain minor differences between S. 2075 as passed by the Senate and S. 2075 as recently passed by the House. First, the House version encompasses portions of two other acts that had been passed by the Senate, S. 2072 and S. 2074. S. 2072 requires a showing of hardship on an individual basis for a prospective juror who attempts to be excused from the Federal jury service on the grounds that he lives too great a distance from the location of the court. S. 2074, inter alia, extends to all jurors in U.S. district courts the protection that Federal employees enjoy under title 5, United States Code, for service-related injuries.

Second, S. 2074 establishes a fine of not more than $5,000 in addition to imprisonment for not more than 1 year, or both, for any person who unlawfully discloses the papers or records generated in the process of jury selection. The House version of S. 2075 leaves unchanged the fine for such offense at the level at which it is now fixed in 28 United States Code, Section 1867(f). That level is $1,000.

S. 2074 further requires that papers and records from obsolete master jury wheels "shall be available solely for the purpose of determining the validity of the selection of any jury." S. 2074 also establishes a punishment for unlawful disclosure of master wheel records—a fine of not more than $5,000 or imprisonment for not more than 1 year, or both. The House version of S. 2075 retains the law as it now exists in 28 United States Code, Section 1868, which provides no punishment and states simply that the records "shall be available for public inspection for the purpose of determining the validity of the selection of any jury."

Third, the House version of S. 2075 defines "undue hardship or extreme inconvenience" for purposes of exemption from jury service as, inter alia, "great distance either in miles or traveltime, from the place of holding court." The Senate version of S. 2075 does not include this language in its definition of "undue hardship or extreme inconvenience."

Fourth, the House version of S. 2075 omits title III of the Senate version of S. 2074. Title III compensates Federal jurors for service-related injuries in a manner similar to the compensation received by Federal employees under title 5, United States Code.

Fifth, the Senate version of S. 2075 states that a petit juror who is compelled to attend more than 30 days in hearing one case "shall be paid an additional fee of $5 for each day in excess" of the 30-day period. The House version of S. 2075 states that such a juror "may be paid, in the discretion of the trial judge, an additional fee, not exceeding $5 more than the attendance fee, for each day in excess" of the 30-day period. A similar difference exists between the two versions in the case of a grand juror, the House version making the payment of the enhanced attendance fee discretionary with the district judge.

Sixth, the Senate version of S. 2075 provides for a travel allowance to jurors at a rate equal to the rate established administratively for court personnel in official travel status. The House version allows jurors such allowance at a rate not to exceed the rate given the court personnel.

Seventh, the House version of S. 2075 abbreviates language in the Senate version that protects a juror from discharge or threats of discharge from his usual employment on account of his Federal jury service. Nevertheless, the two versions are virtually the same in both purpose and effect.

Eighth, the Senate version of S. 2075 subjects the employer of a threatened or discharged juror to a civil penalty of not more than $10,000 per employee, per violation. The House version makes the penalty not more than $1,000 per employee, per violation.

Ninth, the House version of S. 2075 omits language of the Senate version of S. 2075 that gives prior employment rights to the first of two jurors discharged at different times from the same position by the same employer.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate concur in the House amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

OVERSEAS CITIZENS VOTING RIGHTS ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 703.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 703) entitled "An Act to improve the administration and operation of the Overseas Citizens Voting Rights Act of 1975, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That section 2 of the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) 'official postcard' means a postcard application for registration to vote and for an absentee ballot in the form provided in section 204(d) of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc–14(d)).".

SEC. 2. Section 3 of the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973 dd–1) is amended by inserting before the period the following: "or, in lieu thereof, an alternative form of identification consistent with this Act and applicable State or district requirements, if a citizen does not possess a valid passport or card of identity and registration".

SEC. 3. Section 4 of the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973 dd–2) is amended by adding at the end thereof the following new subsection:

"(c) In carrying out the provisions of this section, it is recommended that each State—

"(1) accept any official postcard which is duly executed by any person who meets the requirements in section 3 of this Act as a simultaneous application for registration under such State's election laws and for an absentee ballot under such State's absentee balloting laws;

"(2) if a special application is required for registration by mail, provide that the necessary forms will be sent with the absentee ballot and may be returned with it;

"(3) authorize and instruct the State or local election officials, upon receipt of any official postcard application or any other application for registration to vote or an absentee ballot, to mail immediately to the applicant a ballot, instructions for voting and returning the ballot, and a self-addressed envelope; and

"(4) provide that there be printed across the face of each envelope the words 'Official Election Balloting Material—Via Air Mail', or similar language.".

SEC. 4. The Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd et seq.) is amended—

(1) by redesignating sections 5, 6, 7, and 8 as sections 7, 8, 9, and 10, respectively; and

(2) by inserting after section 4 the following new sections:

"CURRENT ABSENTEE VOTING INFORMATION

"SEC. 5. (a) The Presidential designee under section 201 of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc–11) (hereinafter in this Act referred to as the 'Presidential designee') shall request, when appropriate, each State to furnish him with information on the current absentee registration and voting procedures of each State pertaining to citizens entitled to vote in Federal elections under this Act. Such information shall include election dates, officers to be elected, any provisions under such State's law requiring the removal of the name of any person from such State's voter registration roll (for whatever reason), and information related to the number of absentee voters in such State who are entitled to vote in Federal elections under this Act. Where consistent with their respective duties, appropriate departments or agencies of the Federal Government shall assist and cooperate with the Presidential designee, both in the collection of such information and in its dissemination to persons who meet the requirements in section 3 of this Act.

"(b) The Secretary of State shall publicize, in the manner best designed to reach the

persons meeting the requirements in section 3 of this Act—

"(1) the right of such persons to vote in Federal elections and the procedures available to such persons to enforce that right, as provided in this Act; and

"(2) with the assistance of the Postmaster General, the availability of expedited mail delivery of balloting material under this Act.

The Presidential designee shall notify all appropriate State and local election officials of such availability under this Act and under the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc et seq.).

"PRINTING AND TRANSMITTING OF POSTCARDS; FREE POSTAGE; PUBLICITY

"SEC. 6. (a) The Administrator of General Services shall cause to be printed and distributed to the Department of Justice, the Department of State, and any other appropriate department or agency of the Federal Government official postcards for use in accordance with the provisions of this Act as directed by the Presidental designee. Such departments or agencies shall deliver or make available such postcards to persons meeting the requirements in section 3 of this Act not later than August 15 immediately before any general Federal election for use in such election. To the extent practicable, such postcards shall also be made available at appropriate times to such persons for use in special or primary Federal elections.

"(b)(1) The Postmaster General, the Attorney General, the Secretary of State, and the head of any other appropriate department or agency of the Federal Government shall facilitate the transmission of balloting material, including official postcards, absentee ballots, voting instructions, and envelopes for the return of such ballots, to and from persons meeting the requirements in section 3 of this Act.

"(2) Any balloting material sent from the United States to any person meeting the requirements in section 3 of this Act shall be sent by priority airmail or by the most expedited postal service available.

"(3) Any balloting material sent to the United States by any person meeting the requirements in section 3 of this Act shall be returned by priority airmail or by the most expedited service available, wherever practicable. Such material may be mailed from any Armed Forces post office in an overseas area established as provided in section 406 of title 39, United States Code, unless otherwise prohibited by any treaty or other agreement between the United States and a foreign country. In the case of ballots executed outside the United States by any person, such ballots may be segregated from other forms of mail and placed in special bags marked with special tags printed and distributed by the Postmaster General for this purpose.

"(c) Official postcards, ballots, voting instructions, and envelopes, whether transmitted individually or in bulk, shall be free of postage, including airmail postage, when sent from the United States in the United States mails.".

SEC. 5. Section 9 of the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd–5), as so redesignated in section 4(1), is amended—

(1) by inserting "(a)" before "Nothing"; and

(2) by adding at the end thereof the following new subsection:

"(b) The exercise of any right to register or vote in Federal elections by any citizen outside the United States shall not affect the determination of his place of residence or domicile for purposes of any tax imposed under Federal, State, or local law.".

SEC. 6. The Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd et seq.), as amended in section 4, is further amended by adding at the end thereof the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 11. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.".

SEC. 7. Section 101 of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc) is amended—

(1) by inserting "(a)" before "The"; and

(2) by adding at the end thereof the following new subsection:

"(b) Each State shall enable every citizen in the following categories who is absent from the place of his voting residence to register absentee and to vote by absentee ballot in any Federal election, as defined in section 2(1) of the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd(1)), held in his election district or precinct if he is otherwise eligible to vote in that election:

"(1) Members of the Armed Forces while in the active service, and their spouses and dependents.

"(2) Members of the Merchant Marine of the United States, and their spouses and dependents.

The rights granted in this section shall be supplemental to the voting rights presently enjoyed by these citizens under other Federal and State laws.".

SEC. 8. Section 202 of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc–12) is amended by inserting after "voting procedures," the following: "any provision under such State's law requiring the removal of the name of any person from such State's registration roll (for whatever reason), information related to the number of absentee voters in a State who are entitled to vote in Federal elections under this Act,".

SEC. 9. Section 203 of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc–13) is amended—

(1) in paragraph (1), by striking out "Council of State Governments" and inserting in lieu thereof "government of the several States"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following new paragraph:

"(3) the Postmaster General and the heads of the departments and agencies concerned to facilitate the transmission of balloting materials to and from persons to whom this Act is applicable. Any balloting material sent from the United States to such persons shall be sent by priority airmail or by the most expedited postal service available. Any balloting material sent to the United States by such persons shall be returned by priority airmail or by the most expedited service available, wherever practicable. In the case of ballots executed outside the United States by any such person, such ballots may be segregated from other forms of mail and placed in special bags marked with special tags printed and distributed for this purpose.".

SEC. 10. Section 204 of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc–14) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding the provisions of subsections (a), (b), and (c), the Presidential designee shall design, for purposes of carrying out the provisions of this Act and the Overseas Citizens Voting Rights Act of 1975, a single form of postcard application for registration to vote and for an absentee ballot. The Presidential designee is empowered to promulgate such form by regulation and upon adoption of such form, subsections (a), (b), and (c) of this section shall have no effect.".

SEC. 11. (a) Section 2401(c) of title 39, United States Code, is amended—

(1) by inserting after "title" a comma and the following: "the Overseas Citizens Voting Rights Act of 1975,"; and

(2) by striking out "Act" before the period and inserting in lieu thereof "Acts".

(b) Section 3627 of title 39, United States Code, is amended by striking out "or under the Federal Voting Assistance Act of 1955" and inserting in lieu thereof "under the Federal Voting Assistance Act of 1955, or under the Overseas Citizens Voting Rights Act of 1975".

(c) Section 3626 of title 39, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) In the administration of this section, the rates for third-class mail matter mailed by a qualified political committee shall be the rates currently in effect under former section 4452 of this title for third-class mail matter mailed by a qualified nonprofit organization.

"(2) For purposes of this subsection—

"(A) the term 'qualified political committee' means a national or State committee of a political party, the Republican and Democratic Senatorial Campaign Committees, the Democratic National Congressional Committee, and the National Republican Congressional Committee;

"(B) the term 'national committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level; and

"(C) the term 'State committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level.".

● Mr. PELL. Mr. President, on May 9, 1977, the Senate passed S. 703, a bill to amend the Overseas Citizens Voting Rights Act of 1975 and the Federal Voting Assistance Act of 1955. The House has recently considered this measure, and on September 19, 1978, passed S. 703, with an amendment, by a vote of 327 to 78.

Although I do not agree entirely with the House amendment, I believe the House has improved on the Senate version and that the bill, as passed by the House, deserve the support of the Senate.

There have been a number of technical changes made to the Senate bill, as well as several substantive amendments. The principal changes made by the House are as follows:

In section 4 of S. 703, the Presidential designee, now the Secretary of Defense, must request certain voting information from the States for use by Federal agencies in assisting eligible voters in exercising their right to vote in Federal elections under the Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act. The Senate version calls for the Presidential designee to request such information "annually or more often, when appropriate." The House bill merely says "when appropriate."

The House and Senate versions also differ on what information is to be included in the Presidential designee's requests, although the two bills agree that such information shall include election dates, officers to be elected, and any provisions under such State's voter registration roll, for whatever reason. The Senate bill requires the inclusion of other matters to be voted on, such as referenda issues, and any information relevant to Federal elections. Neither requirement is contained in the House bill. The Senate bill requires that such information include the number of absentee voters in a State, whereas the House bill asks only for the number of absentee voters in such State who are entitled to vote in Federal elections under the Overseas Citizens

Voting Rights Act and the Federal Voting Assistance Act.

There is also a difference with respect to what information is to be publicized to Americans overseas, and concerning who is to do the publicizing. The Senate bill requires the Presidential designee to publicize the right of such persons to vote in Federal elections, and the procedures available to enforce that right, as well as the availability of free postage and expedited mail delivery of balloting material. The House bill calls for the Secretary of State to perform this function, but that the availability of free postage is not to be publicized, because the House bill limits free postage only to voting related materials sent from the United States overseas. The State Department has no objection to assuming the publicizing function, which is consistent with State's current practices in assisting overseas Americans with voting. With embassies and consulates throughout the world, the State Department is ideally suited to this task.

The last section added by the House grants lower third-class bulk mail rates to "qualified political committees," such as the national and State committees of a political party, and the congressional and senatorial campaign committees of both major parties. Under the House provision, these committees would pay the lower third-class bulk mail rates now enjoyed by qualified nonprofit organizations. The lower rates, which are being phased out over the next 9 years, are estimated by the Congressional Budget Office to cost the Postal Service $2.4 million in fiscal year 1979, $4.5 million in fiscal year 1980, then dropping off to $2 million in fiscal year 1983. Although this provision is broader than that passed by the Senate last year in S. 926, I believe we should accept the House version, since it will provide a measure of relief to the financially burdened political process.

Beyond these differences, S. 703 contains important improvements in the two acts which will assist Americans residing abroad in exercising their constitutional right to vote in Federal elections. The bill amends the Federal Voting Assistance Act to require the States to provide by law for absentee registration and voting in Federal elections by members of the Armed Forces and merchant marine and their dependents; and requires the Presidential designee to design a standardized postcard to serve as a simultaneous application for registration and request for an absentee ballot.

The bill amends the Overseas Citizens Voting Rights Act in the following way: It expands coverage of the act to include U.S. citizens who do not have passports or State Department cards of identity, but who possess other acceptable forms of identification. It encourages States to accept the standardized postcard designed by the Presidential designee as a simultaneous application for registration and request for absentee ballot. It provides that election material sent abroad by the States is to be sent free of postage. It provides that the exercise of the right to register and vote under the act not affect the determination of the citizen's place of residence or domicile for the purpose of imposing any Federal, State or local tax.

The bill, as passed by the House, encourages States to instruct election officials to expedite the processing of applications and to mail out immediately ballots and voting instructions with a return envelope. It also recommends that States print standardized mailing envelopes with the words "Official Election Balloting Material—Via Air Mail," or similar language. The General Services Administrator is also required to print and distribute the official postcard to the various interested executive branch agencies. The bill further requires the Postmaster General, the Attorney General, the Secretary of State, and the heads of other agencies and departments, to facilitate the transmission of election materials by priority air mail.

Mr. President, I believe this bill will help those who administer the law on the Federal and State levels, and will assist American civilians overseas and American defense personnel away from their homes, in voting in Federal elections.

I urge my colleagues to support the House amendments.●

● Mr. GRIFFIN. Mr. President, in general I believe that the House amendments to S. 703 will better enable U.S. citizens residing abroad to exercise their constitutional right to vote. However, I do not support the House amendment to S. 703 which would entitle certain political committees to reduce third-class postage rates for political mailings.

I call attention to paragraph (c) of section 11 of S. 703, on pages 19 and 20 of the bill as printed. This provision is an attempt to extend a public financing arrangement already in effect—one which many Senators and most taxpayers do not realize exists. It is aimed at giving "qualified political committees" the same postal subsidy that is already available to labor unions and any other "nonprofit organizations" for political mailings.

Specifically, this amendment would enable the national and State committees of a political party and the Democratic and Republican senatorial and congressional campaign committees to mail any material at the nonprofit organization postage rates of 2.7 cents per letter. Currently, these organizations pay the regular third-class bulk mail rate of 8.4 cents per letter. However, if this amendment becomes law, it is estimated that the Government would be subsidizing these political committees with an additional $3 to $4 million per year.

One would think that the special 2-cent rate now available for qualified nonprofit organizations would be used only for nonpolitical mailings. However, that is not the case. Labor unions routinely use this special postage rate for blatantly political mailings. For example, I have before me a letter sent out to all Michigan UAW members. Its heading is "Election '78: 1978 Election News from the Michigan UAW Community Action Program." This letter is a statement of the Michigan UAW political endorsements for the upcoming elections. It was sent out under the 2-cent nonprofit organization postage frank.

Labor unions are not the only organizations presently entitled to this political mailing subsidy. The Postal Service regulations enable the National Right to Work Committee and Common Cause, among many others, to enjoy this same subsidy. Each of these groups is entitled to mail their matter at 2.7 cents per piece rather than 8.4 cents per piece. As a result, there is a Government subsidy of $57,000 for every million pieces of mail sent out by these organizations.

The bill before us would extend this subsidy to the most politically active committees of our political parties. These committees send out millions of pieces of mail each year—and every piece of mail sent by these committees would be subsidized by the Government.

I find it particularly ironic that the Senate would even consider extending the 2 cent postal rate to mailings by political committees, at a time when Members of Congress are tightening down on their own use of the frank. Of course, it has always been improper for a Member of Congress to mail out under the frank purely political mailings. One cannot, in a newsletter, urge the election or defeat of any candidate. Not only that, but recently, we have even prohibited ourselves from sending out mass mailings—of any sort—for a period of 60 days prior to an election. We realize that any mass mailing close to an election can have a political effect.

In light of those restrictions, I wonder—are we, through this provision of S. 703, enabling our political committees to do indirectly, what we have prohibited ourselves from doing? This provision would create a special frank for certain political committees. It would enable those political committees to send mass mailings at a vastly reduced rate. In fact, it would have the Government subsidize two-thirds of every political mailing made by these committees.

I do not believe that the Government should subsidize any political mailing. I believe existing provisions of law should be amended so as to preclude the subsidization of political mailings by labor unions and by other so-called nonprofit organizations.●

● Mr. MATHIAS. Mr. President, I am pleased to join my distinguished colleagues from Rhode Island (Mr. PELL) and Arizona (Mr. GOLDWATER) in urging the Senate to accept the House version of S. 703, a bill to amend the Overseas Citizens Voting Rights Act of 1975 and the Federal Voting Assistance Act of 1955.

After a careful review of the differences between the House and Senate versions of S. 703, I have concluded that it is appropriate for the Senate to recede to the House-passed bill. The differences between the two bills are relatively minor; and, most important, both versions contain the so-called "tax neutrality" provision, which is the key section in the Senate bill. This provision provides that the exercise of any right to register or vote in Federal elections by an American citizen overseas shall not affect the determination of his residence or domicile for purposes of any tax im-

posed by Federal, State, or local law. It would go far toward assuring that American citizens voting overseas would be free to vote absentee without fear of the imposition of State taxes solely due to their exercising their right to vote in Federal elections.

The need for a "tax neutrality" provision was made clear last year during the hearings before the Senate Rules and Administration Committee. As the hearing record on S. 703 reveals, the absence of such a provision had a substantial chilling effect on the American electorate residing overseas. The results of the 1976 election fully warrant the enactment of appropriate, corrective legislation.

This "tax neutrality" provision is similar to one contained in the Senate-passed version of the Overseas Citizens Voting Rights Act of 1974, which was dropped at the insistence of the House. At the time that Congress completed action on the 1975 bill, Senator PELL and I expressed concern over the deletion of that important provision. And, I indicated that sometime in the future Congress might well want to incorporate a "tax neutrality" provision into Federal law. I am pleased that time has come.

I am aware that during the Senate hearing, and in the House consideration of this bill, there was some debate concerning the constitutionality of the "tax neutrality" provision. I am convinced that there is ample constitutional authority to support such a provision. Support for the constitutionality of a "tax neutrality" provision can be found in several constitutional provisions, including the 24th amendment and the due process clause of the 5th and 14th amendments. My distinguished colleague from Arizona has also included in the Senate hearing a memorandum of law recognizing the broad congressional power to legislate in connection with Federal elections.

I want to express my concern, however, over a disturbing development in the administration of the Federal military and overseas absentee voting program that has arisen since the initial Senate passage of S. 703 last year. I understand that the Department of Defense has been less than enthusiastic about its role as designee charged with responsibility for administration of the 1955 act, and is apparently unhappy with the prospects of administering the 1975 act as provided for under S. 703. The Federal Election Commission has declined an invitation by the Department of Defense that the FEC take over this responsibility, and no other Government agency has stepped forward to take over this program. This issue must be resolved.

It is too late for a major review of this administrative responsibility in this election year. But, I want to emphasize that the restoration of an effective Federal voting assistance program for overseas and military absentee voters should be regarded as a high priority objective of the administration. I think the administration should give careful consideration to establishing a new, nonpartisan, independent office that could serve as the Presidential designee under the 1955 and 1975 acts (as amended by S. 703), and that could coordinate the activities of the Departments of Defense, State and Justice, the Postal Service, the General Services Administration, and other Government agencies having responsibility for carrying out the information-gathering and dissemination activities contemplated by this legislation.

I hope that the administration will be able to report to the Senate Rules and Administration Committee fairly promptly what steps it has taken to assure the effective administration of the military overseas absentee voting program under the 1955 and 1975 acts as modified by S. 703.

One of the highlights of the 94th Congress was the passage of the Overseas Citizens Voting Rights Act of 1975 (Public Law 94–203). The enactment of this legislation removed many of the impediments to the participation in Federal elections of thousands of Americans living abroad and signaled Congress intent to end the discrimination against private citizens seeking access to the Federal franchise. The experience of the 1976 Federal elections indicates, however, that passage of Public Law 94–203 was not enough. More legislation is needed to refine the existing law and to eliminate difficulties not addressed by Public Law 94–203. Congress must remove the remaining barriers to broad participation in Federal elections by Americans living abroad. S. 703 would do just that.

The adoption of the 1955 and 1975 acts has brought about significant progress in absentee voting among military and overseas voters over the last two decades. I look forward to even greater success in the years ahead.●

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate concur in the amendment of the House on S. 703.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COURT INTERPRETERS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1315.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from te House of Representatives:

Resolved, That the bill from the Senate (S. 1315) entitled "An Act to provide more effectively for the use of interpreters in courts of the United States, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Court Interpreters Act".

SEC. 2. (a) Chapter 119 of title 28, United States Code, is amended by adding at the end thereof the following new sections:

"§ 1827. Interpreters in courts of the United States

"(a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of interpreters in courts of the United States.

"(b) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters in courts of the United States in bilingual proceedings and proceedings involving the hearing impaired (whether or not also speech impaired), and in so doing, the Director shall consider the education, training and experience of those persons. The Director shall maintain a current master list of all interpreters certified by the Director and shall report annually on the frequency of requests for, and the use and effectiveness of, interpreters. The Director shall prescribe a schedule of fees for services rendered by interpreters.

"(c) Each United States district court shall maintain on file in the office of the clerk of court a list of all persons who have been certified as interpreters, including bilingual interpreters and oral or manual interpreters for the hearing impaired (whether or not also speech impaired), by the Director of the Administrative Office of the United States Courts in accordance with the certification program established pursuant to subsection (b) of this section.

"(d) The presiding judicial officer, with the assistance of the Director of the Administrative Office of the United States Courts, shall utilize the services of the most available certified interpreter, or when no certified interpreter is reasonably available, as determined by the presiding judicial officer, the services of an otherwise competent interpreter, in any criminal or civil action initiated by the United States in a United States district court (including a petition for a writ of habeas corpus initiated in the name of the United States by a relator), if the presiding judicial officer determines on such officer's own motion or on the motion of a party that such party (including a defendant in a criminal case), or a witness who may present testimony in such action—

"(1) speaks only or primarily a language other than the English language; or

"(2) suffers from a hearing impairment (whether or not suffering also from a speech impairment)

so as to inhibit such party's comprehension of the proceedings or communication with counsel or the presiding judicial officer, or so as to inhibit such witness' comprehension of questions and the presentation of such testimony.

"(e)(1) If any interpreter is unable to communicate effectively with the presiding judicial officer, the United States attorney, a party (including a defendant in a criminal case), or a witness, the presiding judicial officer shall dismiss such interpreter and obtain the services of another interpreter in accordance with this section.

"(2) In any criminal or civil action in a United States district court, if the presiding judicial officer does not appoint an interpreter under subsection (d) of this section, an individual requiring the services of an interpreter may seek assistance of the clerk of court or the Director of the Administrative Office of the United States Courts in obtaining the assistance of a certified interpreter.

"(f)(1) Any individual other than a witness who is entitled to interpretation under subsection (d) of this section may waive such interpretation in whole or in part. Such a waiver shall be effective only if approved by the presiding judicial officer and made expressly by such individual on the record after opportunity to consult with counsel and after the presiding judicial officer has explained to such individual, utilizing the services of the most available certified interpreter, or when no certified interpreter is reasonably available, as determined by the presiding judicial officer, the services of an otherwise competent interpreter, the nature and effect of the waiver.

"(2) An individual who waives under paragraph (1) of this subsection the right to an interpreter may utilize the services of a noncertified interpreter of such individual's choice whose fees, expenses, and costs shall be paid in the manner provided for the payment of such fees, expenses, and costs of an interpreter appointed under subsection (d) of this section.

"(g)(1) Except as otherwise provided in this subsection or section 1828 of this title, the salaries, fees, expenses, and costs incident to providing the services of interpreters under subsection (d) of this section shall be paid by the Director of the Administrative Office of the United States Courts from sums appropriated to the Federal judiciary.

"(2) Such salaries, fees, expenses, and costs that are incurred with respect to Government witnesses shall, unless direction is made under paragraph (3) of this subsection, be paid by the Attorney General from sums appropriated to the Department of Justice.

"(3) The presiding judicial officer may in such officer's discretion direct that all or part of such salaries, fees, expenses, and costs shall be apportioned between or among the parties or shall be taxed as costs in a civil action.

"(4) Any moneys collected under this subsection may be used to reimburse the appropriations obligated and disbursed in payment for such services.

"(h) In any action in a court of the United States where the presiding judicial officer establishes, fixes, or approves the compensation and expenses payable to an interpreter from funds appropriated to the Federal judiciary, the presiding judicial officer shall not establish, fix, or approve compensation and expenses in excess of the maximum allowable under the schedule of fees for services prescribed pursuant to subsection (b) of this section.

"(i) The term 'presiding judicial officer' as used in this section and section 1828 of this title includes a judge of a United States district court, a United States magistrate, and a referee in bankruptcy.

"(j) The term 'United States district court' as used in this section and section 1828 of this title includes any court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States established by section 132 of this title.

"(k) The interpretation provided by certified interpreters pursuant to this section shall be in the consecutive mode except that the presiding judicial officer, with the approval of all interested parties, may authorize a simultaneous or summary interpretation when such officer determines that such interpretation will aid in the efficient administration of justice. The presiding judicial officer on such officer's motion or on the motion of a party may order that special interpretation services as authorized in section 1828 of this title be provided if such officer determines that the provision of such services will aid in the efficient administration of justice.

§ 1828. Special interpretation services

"(a) The Director of the Administrative Office of the United States Courts shall establish a program for the provision of special interpretation services in criminal actions and in civil actions initiated by the United States (including petitions for writs of habeas corpus initiated in the name of the United States by relators) in a United States district court. The program shall provide a capacity for simultaneous interpretation services in multidefendant criminal actions and multidefendant civil actions.

"(b) Upon the request of any person in any action for which special interpretation services established pursuant to subsection (a) are not otherwise provided, the Director, with the approval of the presiding judicial officer, may make such services available to the person requesting the services on a reimbursable basis at rates established in conformity with section 501 of the Act of August 31, 1951 (ch. 376, title 5, 65 Stat. 290; 31 U.S.C. 483a), but the Director may require the prepayment of the estimated expenses of providing the services by the person requesting them.

"(c) Except as otherwise provided in this subsection, the expenses incident to providing services under subsection (a) of this section shall be paid by the Director from sums appropriated to the Federal judiciary. A presiding judicial officer, in such officer's discretion, may order that all or part of the expenses shall be apportioned between or among the parties or shall be taxed as costs in a civil action, and any moneys collected as a result of such order may be used to reimburse the appropriations obligated and disbursed in payment for such services.

"(d) Appropriations available to the Director shall be available to provide services in accordance with subsection (b) of this section, and moneys collected by the Director under that subsection may be used to reimburse the appropriations charged for such services. A presiding judicial officer, in such officer's discretion, may order that all or part of the expenses shall be apportioned between or among the parties or shall be taxed as costs in the action.".

(b) The table of sections for chapter 119 of title 28, United States Code, is amended by adding at the end thereof the following:

"1827. Interpreters in courts of the United States.

"1828. Special interpretation services.".

SEC. 3. Section 604(a) of title 28, United States Code, is amended—

(a) by striking out paragraph (10) and inserting in lieu thereof:

"(10) (A) Purchase, exchange, transfer, distribute, and assign the custody of lawbooks, equipment, supplies, and other personal property for the judicial branch of Government (except the Supreme Court unless otherwise provided pursuant to paragraph (17)); (B) provide or make available readily to each court appropriate equipment for the interpretation of proceedings in accordance with section 1828 of this title; and (C) enter into and perform contracts and other transactions upon such terms as the Director may deem appropriate as may be necessary to the conduct of the work of the judicial branch of Government (except the Supreme Court unless otherwise provided pursuant to paragraph (17)), and contracts for nonpersonal services for pretrial services agencies, for the interpretation of proceedings, and for the provision of special interpretation services pursuant to section 1828 of this title may be awarded without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5);";

(b) by redesignating paragraph (13) as paragraph (17); and

(c) by inserting after paragraph (12) the following new paragraphs:

"(13) Pursuant to section 1827 of this title, establish a program for the certification and utilization of interpreters in courts of the United States;

"(14) Pursuant to section 1828 of this title, establish a program for the provision of special interpretation services in courts of the United States;

"(15)(A) In those districts where the Director considers its advisable based on the need for interpreters, authorize the full-time or part-time employment by the court of certified interpreters; (B) where the Director considers it advisable based on the need for interpreters, appoint certified interpreters on a full-time or part-time basis, for services in various courts when he determines that such appointments will result in the economical provision of interpretation services; and (C) pay out of moneys appropriated for the judiciary interpreters' salaries, fees, and expenses, and other costs which may accrue in accordance with the provisions of section 1827 and 1828 of this title;

"(16) In the Director's discretion, (A) accept and utilize voluntary and uncompensated (gratuitous) services, including services as authorized by section 3102 of title 5, United States Code; and (B) accept, hold, administer, and utilize gifts and bequests of personal property for the purpose of aiding or facilitating the work of the judicial branch of Government, but gifts or bequests of money shall be covered into the Treasury;".

SEC. 4. Section 604 of title 28, United States Code, is amended further by inserting after subsection (e) the following new subsections:

"(f) The Director may make, promulgate, issue, rescind, and amend rules and regulations (including regulations prescribing standards of conduct for Administrative Office employees) as may be necessary to carry out the Director's functions, powers, duties, and authority. The Director may publish in the Federal Register such rules, regulations, and notices for the judicial branch of Government as the Director determines to be of public interest; and the Director of the Federal Register hereby is authorized to accept and shall publish such materials.

"(g)(1) When authorized to exchange personal property, the Director may exchange or sell similar items and may apply the exchange allowance or proceeds of sale in such cases in whole or in part payment for the property acquired, but any transaction carried out under the authority of this subsection shall be evidenced in writing.

"(2) The Director hereby is authorized to enter into contracts for public utility services and related terminal equipment for periods not exceeding ten years.".

SEC. 5. Section 602 of title 28, United States Code, is amended to read as follows:

§ 602. Employees

"(a) The Director shall appoint and fix the compensation of necessary employees of the Administrative Office in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and General Schedule pay rates.

"(b) Notwithstanding any other law, the Director may appoint certified interpreters in accordance with section 604(a)(15)(B) of this title without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and General Schedule pay rates, but the compensation of any person appointed under this subsection shall not exceed the appropriate equivalent of the highest rate of pay payable for the highest grade established in the General Schedule, section 5332 of title 5.

"(c) The Director may obtain personal services as authorized by section 3109 of title 5, at rates not to exceed the appropriate equivalent of the highest rate of pay payable for the highest grade established in the General Schedule, section 5332 of title 5.

"(d) All functions of other officers and employees of the Administrative Office and all functions of organizational units of the Administrative Office are vested in the Director. The Director may delegate any of the Director's functions, powers, duties, and authority (except the authority to promulgate rules and regulations) to such officers and employees of the judicial branch of Government as the Director may designate, and subject to such terms and conditions as the Director may consider appropriate; and may authorize the successive redelegation of such functions, powers, duties, and authority as the Director may deem desirable. All official acts performed by such officers and employees shall have the same force and effect as though performed by the Director in person.".

SEC. 6. Section 603 of title 28, United States Code, is amended by striking out the second paragraph thereof.

SEC. 7. Section 1920 of title 28, United States Code, is amended by striking out the period at the end of paragraph (5) and inserting a semicolon in lieu thereof and by inserting after paragraph (5) the following new paragraph:

"(6) Compensation of court appointed experts, compensation of interpreters, and salaries, fees, expenses, and costs of special interpretation services under section 1828 of this title.".

SEC. 8. Section 5(b) of the Act of September 23, 1959 (Public Law 86-370, 73 Stat. 652), is repealed.

SEC. 9. There are authorized to be appropriated to the judicial branch of Government such sums as may be necessary to carry out the amendments made by this Act.

SEC. 10. (a) Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act.

(b) Section 2 of this Act shall take effect ninety days after the date of the enactment of this Act.

SEC. 11. Any contracts entered into under this Act or any of the amendments made by this Act shall be limited to such extent or in such amounts as are provided in advance in appropriation Acts.

● Mr. DECONCINI. Mr. President, I am very pleased by the imminent passage of S. 1315, the "Court Interpreter's Act." I would like to extend special thanks to Congressman DON EDWARDS and Congressman FRED RICHMOND for their great interest in this bill and further thanks to Senator CHARLES MATHIAS, cosponsor of S. 1315, for all his work on this important piece of legislation.

The "Court Interpreter's Act" insured that all individuals in Federal proceedings will be provided with a certified interpreter if their primary language is not English or if they have a hearing impairment. The urgent necessity for passage of this bill is reflected in the significant number of individuals whose first language is not English, over 25 million; and the approximately 15 million individuals who suffer a hearing impairment. These figures total 40 million individuals who presently do not enjoy the full benefits of our legal system.

The passage of this bill is long overdue and will remedy a glaring inequity in our system of justice.●

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate concur in the amendment of the House.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 1 hour on cloture not begin until Senators have completed their work—it will only take another 3 or 4 minutes—and the distinguished Senator from Hawaii has been able to clear up the matter which he has been interested in, and which has been cleared.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUIET COMMUNITIES ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 3083.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 3083) entitled "An Act to extend the authorizations for the Noise Control Act of 1972, to expand the quiet communities program, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Quiet Communities Act of 1978".

SEC. 2. Section 14 of the Noise Control Act of 1972 is amended to read as follows:

"QUIET COMMUNITIES, RESEARCH, PUBLIC INFORMATION

"SEC. 14. To promote the development of effective State and local noise control programs, to provide an adequate Federal noise control research program designed to meet the objectives of this Act, and to otherwise carry out the policy of this Act, the Administrator shall, in cooperation with other Federal agencies and through the use of grants, contracts, and direct Federal actions—

"(a) develop and disseminate information and educational materials to all segments of the public on the public health and other effects of noise and the most effective means for noise control, through the use of materials for school curricula, volunteer organizations, radio and television programs, publication, and other means;

"(b) conduct or finance research directly or with any public or private organization or any person on the effects, measurement, and control of noise, including but not limited to—

"(1) investigation of the psychological and physiological effects of noise on humans and the effects of noise on domestic animals, wildlife, and property, and the determination of dose/response relationships suitable for use in decisionmaking, with special emphasis on the nonauditory effects of noise;

"(2) investigation, development, and demonstration of noise control technology for products subject to possible regulation under sections 6, 7, and 8 of this Act;

"(3) investigation, development, and demonstration of monitoring equipment and other technology especially suited for use by State and local noise control programs;

"(4) investigation of the economic impact of noise on property and human activities; and

"(5) investigation and demonstration of the use of economic incentives (including emission charges) in the control of noise;

"(c) administer a nationwide Quiet Communities Program which shall include, but not be limited to—

"(1) grants to States, local governments, and authorized regional planning agencies for the purpose of—

"(A) identifying and determining the nature and extent of the noise problem within the subject jurisdiction;

"(B) planning, developing, and establishing a noise control capacity in such jurisdiction, including purchasing initial equipment;

"(C) developing abatement plans for areas around major transportation facilities (including airports, highways, and rail yards) and other major stationary sources of noise, and, where appropriate, for the facility or source itself; and,

"(D) evaluating techniques for controlling noise (including institutional arrangements) and demonstratiing the best available techniques in such jurisdiction;

"(2) purchase of monitoring and other equipment for loan to State and local noise control programs to meet special needs or assist in the beginning implementation of a noise control program or project;

"(3) development and implementation of a quality assurance program for equipment and monitoring procedures of State and local noise control programs to help communities assure that their data collection activities are accurate;

"(4) conduct of studies and demonstrations to determine the resource and personnel needs of States and local governments required for the establishment and implementation of effective noise abatement and control programs; and

"(5) development of educational and training materials and programs, including national and regional workshops, to support State and local noise abatement and control programs;

except that no actions, plans or programs hereunder shall be inconsistent with existing Federal authority under this Act to regulate sources of noise in interstate commerce;

"(d) develop and implement a national noise environmental assessment program to identify trends in noise exposure and response, ambient levels, and compliance data and to determine otherwise the effectiveness of noise abatement actions through the collection of physical, social, and human response data;

"(e) establish regional technical assistance centers which use the capabilities of university and private organizations to assist State and local noise control programs;

"(f) provide technical assistance to State and local governments to facilitate their development and enforcement of noise control, including direct onsite assistance of agency or other personnel with technical expertise, and preparation of model State or local legislation for noise control; and

"(g) provide for the maximum use in programs assisted under this section of senior citizens and persons eligible for participation in programs under the Older Americans Act.".

SEC. 3. The fourth sentence of section 611(c)(1) of the Federal Aviation Act, as amended by section 7 of the Noise Control Act of 1972, is amended by striking "a reasonable time" and inserting in lieu thereof "ninety days", and by adding before the period "and a detailed analysis of and response to all documentation or other information submitted by the Environmental Protection Agency with such proposed regulations".

SEC. 4. Section 11(a) of the Noise Control Act of 1972 is amended by inserting "(1)" after "(a)" and by adding the following new paragraph:

"(2) Any person who violates paragraph (1), (3), (5), or (6) of subsection (a) of section 10 of this Act shall be subject to a civil penalty not to exceed $10,000 per day of such violation".

SEC. 5. Section 6 of the Noise Control Act of 1972 is amended by adding the following subsection:

"(f) At any time after the promulgation of regulations respecting a product under this section, a State or political subdivision thereof may petition the Administrator to revise such standard on the grounds that a more stringent standard under subsection (c) of this section is necessary to protect the public health and welfare. The Administration shall publish notice of receipt of such petition in the Federal Register and shall within ninety days of receipt of such petition respond by (1) publication of proposed revised regulations in accordance with subsection (c)(3) of this section, or (2) publication in the Federal Register of a decision not to publish such proposed revised regulations at that time, together with a detailed explanation for such decision.".

SEC. 6. Section 19 of the Noise Control Act of 1972 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 19. There are authorized to be appropriated to carry out this Act (other than for research and development) $15,000,000 for the fiscal year ending September 30, 1979.".

SEC. 7. (a) Section 1002(a)(4) of the Solid Waste Disposal Act is amended by deleting the hyphen between the words "solid" and "waste" in the last line.

(b) Section 1004 of the Solid Waste Disposal Act is amended by—

(1) revising paragraph (8) by striking out everything after "improvement of land";

(2) reviewing paragraph (10) by striking out "disposal" and inserting in lieu thereof "management";

(3) by revising paragraph (29) to read as follows:

"(29) The term 'solid waste management facility' includes—

"(A) any resource recovery system or component thereof,

"(B) any system, program, or facility for resource conservation, and

"(C) any facility for the collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid wastes, including hazardous wastes, whether such facility is associated with facilities generating such wastes or otherwise.".

(c) Section 1008(a)(3) of the Solid Waste Disposal Act is amended by striking out "title IV" and inserting in lieu thereof "subtitle D".

(d) Section 1008(b) of the Solid Waste Disposal Act is amended by striking ", pursuant to this section" and by inserting after "suggested guidelines" each time it appears the phrase "or proposed regulations under this Act".

(e) Section 2003 of the Solid Waste Disposal Act is amended by inserting "Federal agencies," after "to provide".

(f) Section 3002 of the Solid Waste Disposal Act is amended by—

(1) revising paragraph (5) by striking out the semicolon after "subtitle" and substituting a comma, and by striking out "and" and inserting in lieu thereof "or pursuant to title I of the Marine Protection, Research and Sanctuaries Act (86 Stat. 1052); and"; and

(2) revising paragraph (6) by adding a close parenthesis after "subtitle" the first time it appears.

(g) Section 3003 of the Solid Waste Disposal Act is amended by—

(1) revising subsection (a)(4) by striking out the period after "subtitle" and substituting a comma, and by adding at the end thereof "or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052).."; and

(2) revising subsection (b) by striking out "subtitle" after "the regulations promulgated by the Administrator under this" and inserting in lieu thereof "section".

(h) Section 3005(a) of the Solid Waste Disposal Act is amended by inserting "treatment, storage, or" after "and upon and after such date the".

(i) Section 3006(c) of the Solid Waste Disposal Act is amended by—

(1) striking out "required for" wherever it appears in the subsection and inserting in lieu thereof "of"; and

(2) inserting the word "may" immediately after "3005," and before "submit".

(j) Section 3007(a)(1) of the Solid Waste Disposal Act is amended by striking out "or disposed of" and inserting in lieu thereof "disposed of, or transported from".

(k) Section 3008 of the Solid Waste Disposal Act is amended by—

(1) revising subsection (d)(1) to read as follows:

"(1) transports any hazardous waste identified or listed under this subtitle to a facility which does not have a permit under section 3005 (or 3006 in the case of a State program), or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052),."; and

(2) revising subsection (d)(2) to read as follows:

"(2) treats, stores, or disposes of any hazardous waste identified or listed under this subtitle without having obtained a permit under section 3005 (or 3006 in the case of a State program) or pursuant to title I of the Marine Protection, Research and Sanctuaries Act (86 Stat. 1052)."

(l) Section 4007(C) of the Solid Waste Disposal Act is amended by redesignating subsection "(C)" as "(c)".

(m) Section 6001 of the Solid Waste Disposal Act is amended by inserting "or management" between "disposal" and "of solid waste".

(n) Section 6002 of the Solid Waste Disposal Act is amended by—

(1) deleting "(A)" after "(1)" in subsection (c) and changing "(B)" and "(C)" to "(2)" and "(3)", respectively; and changing "(i)", "(ii)", and "(iii)" to "(A)", "(B)", and "(C)", respectively;

(2) in subsection (c)(3) as redesignated, striking "Contracting" and inserting in lieu thereof "After the date specified in any applicable guidelines prepared pursuant to subsection (e) of this section, contracting"; and

(3) inserting in the second sentence of subsection (e) after "containing such materials" the phrase "and with respect to certification by vendors of the percentage of recovered materials used,".

(o) Section 6004 of the Solid Waste Disposal Act is amended by—

(1) revising subsection (a)(1)(A) by striking out "disposal" and inserting in lieu thereof "management";

(2) revising subsection (a)(1)(B) by striking out "disposal" and inserting in lieu thereof "management"; and

(3) revising subsection (b) by striking out "Secretary" and inserting in lieu thereof "Administrator".

(p) Section 7002 of the Solid Waste Disposal Act is amended by—

(1) revising subsection (c) by striking out "section 212" and inserting in lieu thereof "subtitle C"; and

(2) revising subsection (e) by striking out "requiring" and inserting in lieu thereof "require".

(q) Section 7003 of the Solid Waste Disposal Act is amended by striking out "for" before "contributing to the alleged disposal".

(r) Section 7007 of the Solid Waste Disposal Act is amended by—

(1) revising subsection (b)(1)(A) by striking out "disposal" and inserting "management"; and by striking out "resources" and inserting "resource";

(2) revising subsection (b)(1)(B) by striking out "disposal" and inserting "management"; and

(3) revising subsection (c)(3) by striking out "disposal" and inserting "management" in lieu thereof.

(s) Section 8001(a) of the Solid Waste Disposal Act is amended by—

(1) revising paragraph (2) by striking out "disposal" and inserting "management" in lieu thereof; and

(2) revising paragraph (13) by inserting "treatment," after "for purpose of".

(t) Section 8002 of the Solid Waste Disposal Act is amended by—

(1) revising paragraph (1) of subsection (g) by inserting a comma between "shale" and "liquefaction";

(2) revising paragraph (1) of subsection (j) by inserting "the Secretary of Energy, the Chairman of the Council of Economic Advisors," before "and a representative of the Office of Management and Budget,";

(3) revising paragraph (2) of subsection (j) by striking "(2)(D)" and inserting "(1)(D)" in lieu thereof;

(4) revising paragraph (3) of subsection (j) by striking "(2)(D)" and inserting "(1)" in lieu thereof; and

(5) revising subsection (l) by striking out "required under subsection (a), (h), (i) and (j)" and inserting in lieu thereof "required under subsections (a), (h), and (i)".

(u) Section 8003(a)(3) of the Solid Waste Disposal Act is amended by striking out "discarded materials" and inserting "solid waste" in lieu thereof.

(v) Section 8004(a)(1) of the Solid Waste Disposal Act is amended by striking out "discarded material" and inserting "solid waste" in lieu thereof.

SEC. 8. (a) The Secretary of Transportation and the Administrator of the Environmental Protection Agency shall jointly study the aircraft noise effects from an airport on communities located in a State other than the State in which the airport is located. The criteria to be used in selecting the airport to be studied shall include:

(1) the airport shall be operated by a State, a unit of general purpose local government of a State, or a special purpose entity constituted for the purpose of operating an airport, and

(2) the airport shall have a point on the airport boundary within one nautical mile from a State boundary, and

(3) the airport shall have had in excess of sixty thousand scheduled air carrier departures during the preceding calendar year.

(b) The study shall be conducted in cooperation with the airport operator, appropriate Federal, State, and local officials, and the appropriate metropolitan planning organization.

(c) The Secretary and the Administrator shall prepare and submit to Congress a report within nine months of the conclusion of the study, but no later than twenty-four months after enactment of this section.

Amend the title so as to read: "An Act to extend provisions of the Noise Control Act of 1972 for one year, and for other purposes.".

● Mr. CULVER. Mr. President, on July 19, 1978 the Senate passed S. 3083, the Quiet Communities Act.

It reauthorized the Noise Control Act of 1972 for 2 years and directs a change in focus for the Environmental Protection Agency (EPA) from setting national standards on noise sources to undertaking a comprehensive program of research, technical assistance, and discretionary grants in support of noise control programs at the state and local levels. This legislation is based on testimony taken at the first comprehensive oversight hearings by the Senate Resources Protection Subcommittee on the Noise Control Act in several years.

Comparable legislation was considered by the Subcommittee on Transportation and Commerce of the House Committee on Interstate and Foreign Commerce. The subcommittee is chaired by Mr. ROONEY, the distinguished Congressman from Pennsylvania. Under his able leadership a bill was approved by the committee in May and passed by the House on October 10, 1978.

The House adopted the basic provisions of S. 3083 after making three changes. These changes do not affect the programs established in the act and are acceptable to the Senate Committee on Environment and Public Works.

Briefly, the proposed amendments by the House reduce the authorization to 1 year, through fiscal year 1979; mandate a study by EPA and the Department of Transportation of airport noise which affects communities located in another State; and reiterate that no actions or plans developed under the act shall be inconsistent with existing Federal authority to regulate sources of noise in interstate commerce.

The Senate and House versions of the bill each contain technical amendments to the Resource Conservation and Recovery Act, Public Law 94–580. Those changes have been developed to correct certain errors in the drafting of the original legislation during the close of the 94th Congress 2 years ago.

Mr. President, the Quiet Communities Act should provide a real boost to States and local communities interested in controlling excessive noise. It is clear that Federal, State, and local governments must work together in a complementary way to reduce unwanted noise.

Mr. President, I commend our colleagues in the House for their action on

this bill, and I urge my fellow Senators to support S. 3083 as amended by the House.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments of the House be agreed to en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments were agreed to en bloc.

WILLIAM L. SPRINGER BUILDING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 7305.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 7305.

The PRESIDING OFFICER. Without objection, it is so ordered.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7305) to designate a certain Federal building in Champaign, Illinois, the "William L. Springer Building".

The Senate proceeded to consider the bill.

UP AMENDMENT 2098

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 2098:

On page 1, line 3, insert the following: after "that"

"(a)," and after line 8 insert the following: "(b) This act shall become effective on April 12, 1979.".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (UP No. 2098) was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL LIFE AND HEALTH BENEFITS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4319.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 4319) entitled "An Act to amend subchapter III of chapter 83 of title 5, United States Code, to provide that employees who retire after 5 years of service, in certain instances, may be eligible to retain their life and health insurance benefits, and for other purposes", with the following amendment:

In lieu of the matter proposed to be inserted by the said amendment, insert:

That (a) section 8706 of title 5, United States Code, is amended—

(1) by striking out subsections (b) and (c) and inserting in lieu thereof the following new subsection:

"(b)(1) If on the date the insurance would otherwise stop the employee retires on an immediate annuity and has been insured under this chapter throughout—

"(A) the 5 years of service immediately preceding such date, or

"(B) the full period or periods of service during which the employee was entitled to be insured, if less than 5 years,

life insurance only may be continued, without cost to the employee, under conditions determined by the Commission.

"(2) If on the date the insurance would otherwise stop the employee is receiving compensation under subchapter I of chapter 81 of this title because of disease or injury to the employee and has been insured under this chapter throughout—

"(A) the 5 years of service immediately preceding such date, or

"(B) the full period or periods of service during which the employee was entitled to be insured, if less than 5 years,

life insurance only may be continued, without cost to the employee, under conditions determined by the Commission, during the period the employee is receiving compensation for work injuries and is held by the Secretary of Labor or his delegate to be unable to return to duty.

"(3) The amount of life insurance continued under paragraph (1) or paragraph (2) of this subsection shall be reduced by 2 percent at the end of each full calendar month after the date the employee becomes 65 years of age and is retired or is receiving such compensation for disease or injury. The Commission shall prescribe minimum amounts, not less than 25 percent of the amount of life insurance in force before the first reduction, to which the insurance may be reduced.";

(2) by redesignating subsections (d) through (f) as subsections (c) through (e), respectively; and

(3) by striking out "(a)–(c)" in subsection (d), as redesignated by paragraph (2), and inserting in lieu thereof "(a) and (b)".

(b) Section 8705(a) of title 5, United States Code, is amended by striking out "or (c)".

(c) Section 8714a of title 5, United States Code, is amended—

(1) by striking out "8706(d)" in subsection (c)(1) and inserting in lieu thereof "8706(c)";

(2) by amending subsection (c)(2) to read as follows:

"(2)(A) In the case of any employee who retires on an immediate annuity and has been insured under this section throughout—

"(i) the 5 years of service immediately preceding the date of such retirement, or

"(ii) the full period or periods of service during which the employee was entitled to be insured, if less than 5 years,

the amount of optional life insurance only which has been in force throughout such period may be continued, under conditions determined by the Commission.

"(B) In the case of any employee who becomes entitled to receive compensation under subchapter I of chapter 81 of this title because of disease or injury to the employee and has been insured under this section throughout—

"(i) the 5 years of service immediately preceding the date such employee becomes entitled to such compensation, or

"(ii) the full period or periods of service during which the employee was entitled to be insured, if less than 5 years,

the amount of optional life insurance only which has been in force throughout such period may be continued, under conditions determined by the Commission, during the period the employee is receiving such compensation for disease or injury and is held by the Secretary of Labor or his delegate to be unable to return to duty.

"(C) The amount of optional life insurance continued under subparagraph (A) or subparagraph (B) of this paragraph shall be subject to the same monthly reductions as required for regular life insurance under section 8706(b)(3) of this title."; and

(3) by striking out "or 8706(c)" in subsection (d).

SEC. 2. Section 8901(3)(A) of title 5, United States Code, is amended by striking out "12" and inserting in lieu thereof "5".

SEC. 3. The amendments made by this Act shall take effect on the date of the enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendment be concurred in.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

H.R. 13892—TO AMEND TITLE 28 OF THE UNITED STATES CODE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 13892.

The ACTING PRESIDENT pro tempore laid before the Senate H.R. 13892, an act to amend title 28 of the United States Code to provide that the requirement that each U.S. attorney and U.S. marshal reside in the district for which he is appointed shall not apply to an individual appointed to such a position for the Northern Mariana Islands if such individual is at the same time serving in the same capacity in another district.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

H.R. 13650—AN ACT TO AUTHORIZE THE SECRETARY OF ENERGY TO ENTER INTO COOPERATIVE AGREEMENTS WITH CERTAIN STATES

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 13650.

The ACTING PRESIDENT pro tempore. Laid before the Senate H.R. 13650, an act to authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting

residual radioactive material at existing sites, to provide for the regulation of uranium mill tailings under the Atomic Energy Act of 1954, and for other purposes.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 2099

Mr. GARN. Mr. President, I send to the desk an amendment in the nature of a substitute——

Mr. ABOUREZK. Mr. President, may we know what that is?

Mr. BAKER. The uranium mill tailings bill.

Mr. GARN. Mr. President, I send to the desk an amendment in the nature of a substitute to the text of H.R. 13650 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 2099.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Uranium Mill Tailings Radiation Control Act of 1978".

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Sec. 302. Designation by Secretary.

FINDINGS AND PURPOSES

SEC. 2 (a) The Congress finds that uranium mill tailings located at active and inactive mill operations may pose a potential and significant radiation health hazard to the public, and that the protection of the public health, safety, and welfare and the regulation of interstate commerce require that every reasonable effort be made to provide for the stabilization, disposal, and control in a safe and environmentally sound manner of such tailings in order to prevent or minimize radon diffusion into the environment and to prevent or minimize other environmental hazards from such tailings.

(b) The purposes of this Act are to provide—

(1) in cooperation with the interested States, Indian tribes, and the persons who own or control inactive mill tailings sites, a program of assessment and remedial action at such sites, including, where appropriate, the reprocessing of tailings to extract residual uranium and other mineral values where practicable, in order to stabilize and control such tailings in a safe and environmentally sound manner and to minimize or eliminate radiation health hazards to the public, and

(2) a program to regulate mill tailings during uranium or thorium ore processing at active mill operations and after termination of such operations in order to stabilize and control such tailings in a safe and environmentally sound manner and to minimize or eliminate radiation health hazards to the public.

TITLE I—REMEDIAL ACTION PROGRAM

DEFINITIONS

SEC. 101. For purposes of this title—

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "Commission" means the Nuclear Regulatory Commission.

(3) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(4) The term "Indian tribe" means any tribe, band, clan, group, pueblo, or community of Indians recognized as eligible for services provided by the Secretary of the Interior to Indians.

(5) The term "person" means any individual, association, partnership, corporation, firm, joint venture, trust, government entity, and any other entity, except that such term does not include any Indian or Indian tribe.

(6) The term "processing site" means—

(A) any site, including the mill, containing residual radioactive materials at which all or substantially all of the uranium was produced for sale to any Federal agency prior to January 1, 1971 under a contract with any Federal agency, except in the case of a site at or near Slick Rock, Colorado, unless—

(i) such site was owned or controlled as of January 1, 1978, or is thereafter owned or controlled, by any Federal agency, or

(ii) a license (issued by the Commission or its predecessor agency under the Atomic Energy Act of 1954 or by a State as permitted under section 274 of such Act) for the production at such site of any uranium or thorium product derived from ores is in effect on January 1, 1978, or is issued or renewed after such date; and

(B) any other real property or improvement thereon which—

(i) is in the vicinity of such site, and

(ii) is determined by the Secretary, in consultation with the Commission, to be contaminated with residual radioactive materials derived from such site.

Any ownership or control of an area by a Federal agency which is acquired pursuant to a cooperative agreement under this title shall not be treated as ownership or control by such agency for purposes of subparagraph (A)(i). A license for the production of any uranium product from residual radioactive materials shall not be treated as a license for production from ores within the meaning of subparagraph (A)(ii) if such production is in accordance with section 108(b).

(7) The term "residual radioactive material" means—

(A) waste (which the Secretary determines to be radioactive) in the form of tailings resulting from the processing of ore for the extraction of uranium and other valuable constituents of the ores; and

(B) other waste (which the Secretary determines to be radioactive) at a processing site which relate to such processing, including any residual stock of unprocessed ores or low-grade materials.

(8) The term "tailings" means the remaining portion of a metal-bearing ore after some or all of such metal, such as uranium, has been extracted.

(9) The term "Federal agency" includes any executive agency as defined in section 105 of title 5 of the United States Code.

(10) The term "United States" means the 48 contiguous States and Alaska, Hawaii, Puerto Rico, the District of Columbia, and the territories and possessions of the United States.

DESIGNATION OF PROCESSING SITES

SEC. 102. (a)(1). As soon as practicable, but no later than one year after enactment of this Act, the Secretary shall designate processing sites at or near the following:

Salt Lake City, Utah.
Green River, Utah.
Mexican Hat, Utah.
Durango, Colorado.
Grand Junction, Colorado.
Rifle, Colorado (two sites).
Gunnison, Colorado.
Naturita, Colorado.
Maybell, Colorado.
Slick Rock, Colorado (two sites).
Shiprock, New Mexico.
Ambrosia Lake, New Mexico.
Riverton, Wyoming.
Converse County, Wyoming.
Lakeview, Oregon.
Falls City, Texas.
Tuba City, Arizona.
Monument Valley, Arizona.
Lowman, Idaho.
Cannonsburg, Pennsylvania.

Subject to the provisions of this title, the Secretary shall complete remedial action at the above listed sites before his authority terminates under this title. The Secretary shall within one year of the date of enactment of this Act also designate all other processing sites within the United States which he determines require remedial action to carry out the purposes of this title. In making such designation, the Secretary shall consult with the Administrator, the Commission, and the affected States, and in the case of Indian lands, the appropriate Indian tribe and the Secretary of the Interior.

(2) As part of his designation under this subsection, the Secretary, in consultation with the Commission, shall determine the boundaries of each such site.

(3) No site or structure with respect to which remedial action is authorized under Public Law 92-314 in Grand Junction, Colorado, may be designated by the Secretary as a processing site under this section.

(b) Within one year from the date of the enactment of this Act, the Secretary shall assess the potential health hazard to the public from the residual radioactive materials at designated processing sites. Based upon such assessment, the Secretary shall, within such one year period, establish priorities for carrying out remedial action at each such site. In establishing such priorities, the Secretary shall rely primarily on the advice of the Administrator.

(c) Within thirty days after making designations of processing sites and establishing the priorities for such sites under this section, the Secretary shall notify the Governor of

each affected State, and, where appropriate, the Indian tribes and the Secretary of the Interior.

(d) The designations made, and priorities established, by the Secretary under this section shall be final and not be subject to judicial review.

(e)(1) The designation of processing sites within one year after enactment under this section shall include, to the maximum extent practicable, the areas referred to in section 101(6)(B).

(2) Notwithstanding the one year limitation contained in this section, the Secretary may, after such one year period, include any area described in section 101(6)(B) as part of a processing site designated under this section if he determines such inclusion to be appropriate to carry out the purposes of this title.

STATE COOPERATIVE AGREEMENTS

SEC. 103. (a) After notifying a State of the designation referred to in section 102 of this title, the Secretary subject to section 113, is authorized to enter into cooperative agreements with such State to perform remedial actions at each designated processing site in such State (other than a site located on Indian lands referred to in section 105). The Secretary shall, to the greatest extent practicable, enter into such agreements and carry out such remedial actions in accordance with the priorities established by him under section 102. The Secretary shall commence preparations for cooperative agreements with respect to each designated processing site as promptly as practicable following the designation of each site.

(b) Each cooperative agreement under this section shall contain such terms and conditions as the Secretary deems appropriate and consistent with the purposes of this Act, including, but not limited to, a limitation on the use of Federal assistance to those costs which are directly required to complete the remedial action selected pursuant to Section 108.

(c)(1) Except where the State is required to acquire the processing site as provided in subsection (a) of section 104, each cooperative agreement with a State under section 103 shall provide that the State shall obtain, in a form prescribed by the Secretary, written consent from any person holding any record interest in the designated processing site for the Secretary or any person designated by him to perform remedial action at such site.

(2) Such written consent shall include a waiver by each such person on behalf of himself, his heirs, successors, and assigns—

(A) releasing the United States of any liability or claim thereof by such person, his heirs, successors, and assigns concerning such remedial action, and

(B) holding the United States harmless against any claim by such person on behalf of himself, his heirs, successors, or assigns arising out of the performance of any such remedial action.

(d) Each cooperative agreement under this section shall require the State to assure that the Secretary, the Commission, and the Administrator and their authorized representatives have a permanent right of entry at any time to inspect the processing site and the site provided pursuant to section 104(b)(1) in furtherance of the provisions of this title and to carry out such agreement and enforce this Act and any rules prescribed under this Act. Such right of entry under this section or section 106 into an area described in section 101(6)(B) shall terminate on completion of the remedial action, as determined by the Secretary.

(e) Each agreement under this section shall take effect only upon the concurrence of the Commission with the terms and conditions thereof.

(f) The Secretary may, in any cooperative agreement entered into under this section or section 105, provide for reimbursement of the actual costs, as determincd by the Secretary, of any remedial action performed with respect to so much of a designated processing site as is described in section 101(6)(B). Such reimbursement shall be made only to a property owner of record at the time such remedial action was undertaken and only with respect to costs incurred by such property owner. No such reimbursement may be made unless—

(1) such remedial action was completed prior to enactment of this Act, and unless the application for such reimbursement was filed by such owner within one year after an agreement under this section or section 105 is approved by the Secretary and the Commission, and

(2) the Secretary is satisfied that such action adequately achieves the purposes of this Act with respect to the site concerned and is consistent with the standards established by the Administrator pursuant to section 275(a) of the Atomic Energy Act of 1954.

ACQUISITION AND DISPOSITION OF LANDS AND MATERIALS

SEC. 104. (a) Each cooperative agreement under section 103 shall require the State, where determined appropriate by the Secretary with the concurrence of the Commission, to acquire any designated processing site, including where appropriate any interest therein. In determining whether to require the State to acquire a designated processing site or interest therein, consideration shall be given to the prevention of windfall profits.

(b)(1) If the Secretary with the concurrence of the Commission determines that removal of residual radioactive material from a processing site is appropriate, the cooperative agreement shall provide that the State shall acquire land (including, where appropriate, any interest therein) to be used as a site for the permanent disposition and stabilization of such residual radioactive materials in a safe and environmentally sound manner.

(2) Acquisition by the State shall not be required under this subsection if a site located on land controlled by the Secretary or made available by the Secretary of the Interior pursuant to section 106(a)(2) is designated by the Secretary, with the concurrence of the Commission, for such disposition and stabilization.

(c) No State shall be required under subsection (a) or (b) to acquire any real property or improvement outside the boundaries of—

(1) that portion of the processing site which is described in section 101(6)(A), and

(2) the site used for disposition of the residual radioactive materials.

(d) In the case of each processing site designated under this title other than a site designated on Indian land, the State shall take such action as may be necessary, and pursuant to regulations of the Secretary under this subsection, to assure that any person who purchases such a processing site after the removal of radioactive materials from such site shall be notified in an appropriate manner prior to such purchase, of the nature and extent of residual radioactive materials removed from the site, including notice of the date when such action took place, and the condition of such site after such action. If the State is the owner of such site, if State shall so notify any prospective purchaser before entering into a contract, option, or other arrangements to sell or otherwise dispose of such site. The Secretary shall issue appropriate rules and regulations to require notice in the local land records of the residual radioactive materials which were located at any processing site and notice of the nature and extent of residual radioactive materials removed from the site, including notice of the date when such action took place.

(e)(1) The terms and conditions of any cooperative agreement with a State under section 103 shall provide that in the case of any lands or interests therein acquired by the State pursuant to subsection (a), the State with the concurrence of the Secretary and the Commission, may—

(A) sell such lands and interests,

(B) permanently retain such land and interests in lands (or donate such lands and interests therein to another governmental entity within such State) for permanent use by such State or entity solely for park, recreational, or other public purposes, or

(C) transfer such lands and interests to the United States as provided in subsection (f).

No lands may be sold under subparagraph (A) without the consent of the Secretary and the Commission. No site may be sold under subparagraph (A) or retained under subparagraph (B) if such site is used for the disposition of residual radioactive materials.

(2) Before offering for sale any lands and interests therein which comprise a processing site, the State shall offer to sell such lands and interests at their fair market value to the person from whom the State acquired them.

(f)(1) Each agreement under section 103 shall provide that title to—

(A) the residual radioactive materials subject to the agreement, and

(B) any lands and interests therein which have been acquired by the State, under subsection (a) or (b), for the disposition of such materials,

shall be transferred by the State to the Secretary when the Secretary (with the concurrence of the Commission) determines that remedial action is completed in accordance with the requirements imposed pursuant to this title. No payment shall be made in connection with the transfer of such property from funds appropriated for purposes of this Act other than payments for any administrative and legal costs incurred in carrying out such transfer.

(2) Custody of any property transferred to the United States under this subsection shall be assumed by the Secretary of such Federal agency as the President may designate. Notwithstanding any other provision of law, upon completion of the remedial action program authorized by this title, such property and minerals shall be maintained pursuant to a license issued by the Commission in such manner as will protect the public health, safety, and the environment. The Commission may, pursuant to such license or by rule or order, require the Secretary or other Federal agency having custody of such property and minerals to undertake such monitoring, maintenance, and emergency measures necessary to protect public health and safety and other actions as the Commission deems necessary to comply with the standards of Section 275(a) of the Atomic Energy Act of 1954. The Secretary or such other Federal agency is authorized to carry out maintenance, monitoring and emergency measures under this subsection, but shall take no other action pursuant to such license, rule or order with respect to such property and minerals unless expressly authorized by Congress after the date of enactment of this Act. The United States shall not transfer title to property or interest therein acquired under this subsection to any person or State, except as provided in subsection (h).

(g) Each agreement under section 103 which permits any sale described in subsection (e)(1)(A) shall provide for the prompt reimbursement to the Secretary from the proceeds of such sale. Such reimbursement shall be in an amount equal to the lesser of—

(1) that portion of the fair market value

of the lands or interests therein which bears the same ratio to such fair market value as the Federal share of the costs of acquisition by the State to such lands or interest therein bears to the total cost of such acquisition, or

(2) the total amount paid by the Secretary with respect to such acquisition.

The fair market value of such lands or interest shall be determined by the Secretary as of the date of the sale by the State. Any amounts received by the Secretary under this title shall be deposited in the Treasury of the United States as miscellaneous receipts.

(h) No provision of any agreement under section 103 shall prohibit the Secretary of the Interior, with the concurrence of the Secretary of Energy and the Commission, from disposing of any subsurface mineral rights by sale or lease (in accordance with laws of the United States applicable to the sale, lease, or other disposal of such rights) which are associated with land on which residual radioactive materials are disposed and which are transferred to the United States as required under this section if the Secretary of the Interior takes such action as the Commission deems necessary pursuant to a license issued by the Commission to assure that the residual radioactive materials will not be disturbed by reason of any activity carried on following such disposition. If any such materials are disturbed by any such activity, the Secretary of the Interior shall insure, prior to the disposition of the minerals, that such materials will be restored to a safe and environmentally sound condition as determined by the Commission, and that the costs of such restoration will be borne by the person acquiring such rights from the Secretary of the Interior or from his successor or assign.

INDIAN TRIBE COOPERATIVE AGREEMENTS

SEC. 105. (a) After notifying the Indian tribe of the designation pursuant to section 102 of this title, the Secretary, in consultation with the Secretary of the Interior, is authorized to enter into a cooperative agreement, subject to section 113, with any Indian tribe to perform remedial action at a designated processing site located on land of such Indian tribe. The Secretary shall, to the greatest extent practicable, enter into such agreements and carry out such remedial actions in accordance with the priorities established by him under section 102. In performing any remedial action under this section and carrying out any continued monitoring or maintenance respecting residual radioactive materials associated with any site subject to a cooperative agreement under this section, the Secretary shall make full use of any qualified members of Indian tribes resident in the vicinity of any such site. Each such agreement shall contain such terms and conditions as the Secretary deems appropriate and consistent with the purposes of this Act. Such terms and conditions shall require the following:

(1) The Indian tribe and any person holding any interest in such land shall execute a waiver (A) releasing the United States of any liability or claim thereof by such tribe or person concerning such remedial action and (B) holding the United States harmless against any claim arising out of the performance of any such remedial action.

(2) The remedial action shall be selected and performed in accordance with section 108 by the Secretary or such person as he may designate.

(3) The Secretary, the Commission, and the Administrator and their authorized representatives shall have a permanent right of entry at any time to inspect such processing site in furtherance of the provisions of this title, to carry out such agreement, and to enforce any rules prescribed under this Act. Each agreement under this section shall take effect only upon concurrence of the Commission with the terms and conditions thereof.

(b) When the Secretary with the concurrence of the Commission determines removal of residual radioactive materials from a processing site on lands described in subsection (a) to be appropriate, he shall provide, consistent with other applicable provisions of law, a site or sites for the permanent disposition and stabilization in a safe and environmentally sound manner of such residual radioactive materials. Such materials shall be transferred to the Secretary (without payment therefor by the Secretary) and permanently retained and maintained by the Secretary under the conditions established in a license issued by the Commission, subject to section 104(f)(2) and (h).

ACQUISITION OF LAND BY SECRETARY

SEC. 106. Where necessary or appropriate in order to consolidate in a safe and environmentally sound manner the location of residual radioactive materials which are removed from processing sites under cooperative agreements under this title, or where otherwise necessary for the permanent disposition and stabilization of such materials in such manner—

(1) The Secretary may acquire land and interests in land for such purposes by purchase, donation, or under any other authority of law or

(2) the Secretary of the Interior may make available public lands administered by him for such purposes in accordance with other applicable provisions of law.

Prior to acquisition of land under paragraph (1) or (2) of this subsection in any State, the Secretary shall consult with the Governor of such State. No lands may be acquired under such paragraph (1) or (2) in any State in which there is no (1) processing site designated under this title or (2) active uranium mill operation, unless the Secretary has obtained the consent of the Governor of such State. No lands controlled by any Federal agency may be transferred to the Secretary to carry out the purposes of this Act without the concurrence of the chief administrative officer of such agency.

FINANCIAL ASSISTANCE

SEC. 107. (a) In the case of any designated processing site for which an agreement is executed with any State for remedial action at such site, the Secretary shall pay 90 per centum of the actual cost of such remedial action, including the actual costs of acquiring such site (and any interest therein) or any disposition site (and any interest therein) pursuant to section 103 of this title, and the State shall pay the remainder of such costs from non-Federal funds.

The Secretary shall not pay the administrative costs incurred by any State to develop, prepare, and carry out any cooperative agreement executed with such State under this title, except the proportionate share of the administrative costs associated with the acquisition of lands and interests therein acquired by the State pursuant to this title.

(b) In the case of any designated processing site located on Indian lands, the Secretary shall pay the entire cost of such remedial action.

(c) In addition to the 75 per centum authorized to be paid under title II of Public Law 92-314 to the State for carrying out a cooperative arrangement for remedial action under section 202 of such Act, there is authorized to be paid to the State from the amounts made available under this Act, 15 per centum of the total cost of the remedial actions taken or to be taken under such section 202.

REMEDIAL ACTION

SEC. 108. (a)(1) The Secretary or such person as he may designate shall select and perform remedial actions at designated processing sites and disposal sites in accordance with the general standards prescribed by the Administrator pursuant to section 275 a. of the Atomic Energy Act of 1954. The State shall participate fully in the selection and performance of a remedial action for which it pays part of the cost. Such remedial action shall be selected and performed with the concurrence of the Commission and in consultation, as appropriate, with the Indian tribe and the Secretary of the Interior.

(2) The Secretary shall use technology in performing such remedial action as will insure compliance with the general standards promulgated by the Administrator under section 275 a. of the Atomic Energy Act of 1954 and will assure the safe and environmentally sound stabilization of residual radioactive materials, consistent with existing law. No such remedial action may be undertaken under this section before the promulgation by the Administrator of such standards.

(b) Prior to undertaking any remedial action at a designated site pursuant to this Title, the Secretary shall request expressions of interest from private parties regarding the remilling of the residual radioactive materials at the site and, upon receipt of any expression of interest, the Secretary shall evaluate among other things the mineral concentration of the residual radioactive materials at each designated processing site to determine whether, as a part of any remedial action program, recovery of such minerals is practicable. The Secretary, with the concurrence of the Commission, may permit the recovery of such minerals, under such terms and conditions as he may prescribe to carry out the purposes of this Title. No such recovery shall be permitted unless such recovery is consistent with remedial action. Any person permitted by the Secretary to recover such mineral shall pay to the Secretary a share of the net profits derived from such recovery, as determined by the Secretary. Such share shall not exceed the total amount paid by the Secretary for carrying out remedial action at such designated site. The person recovering such minerals shall bear all costs of such recovery. Any person carrying out mineral recovery activities under this paragraph shall be required to obtain any necessary license under the Atomic Energy Act of 1954 or under State law as permitted under section 274 of such Act.

RULES

SEC. 109. The Secretary may prescribe such rules consistent with the purposes of this Act as he deems appropriate pursuant to title V of the Department of Energy Organization Act.

ENFORCEMENT

SEC. 110. (a)(1) Any person who violates any provision of this title or any cooperative agreement entered into pursuant to this title or any rule prescribed under this Act concerning any designated processing site, disposition site, or remedial action shall be subject to an assessment by the Secretary of a civil penalty of not more than $1.000 per day per violation. Such assessment shall be made by order after notice and an opportunity for a public hearing, pursuant to section 554 of title 5, United States Code.

(2) Any person against whom a penalty is assessed under this section may, within sixty calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, the Secretary

shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review. Section 402(d) of the Department of Energy Organization Act shall not apply with respect to the functions of the Secretary under this section.

(4) No civil penalty may be assessed against the United States or any State or political subdivision of a State or any official or employee of the foregoing.

(5) Nothing in this section shall prevent the Secretary from enforcing any provision of this title or any cooperative agreement or any such rule by injunction or other equitable remedy.

(b) Subsection (a) shall not apply to any licensing requirement under the Atomic Energy Act of 1954. Such licensing requirements shall be enforced by the Commission as provided in such Act.

PUBLIC PARTICIPATION

SEC. 111. In carrying out the provisions of this title, including the designation of processing sites, establishing priorities for such sites, the selection of remedial actions, and the execution of cooperative agreements, the Secretary, the Administrator, and the Commission shall encourage public participation and, where appropriate, the Secretary shall hold public hearings relative to such matters in the States where processing sites and disposal sites are located.

TERMINATION; AUTHORIZATION

SEC. 112. (a) The authority of the Secretary to perform remedial action under this title shall terminate on the date seven years after the date of promulgation by the Administrator of general standards applicable to such remedial action unless such termination date is specifically extended by an Act of Congress enacted after the date of enactment of this Act.

(b) The amounts authorized to be appropriated to carry out the purposes of this title by the Secretary, the Administrator, the Commission, and the Secretary of the Interior shall not exceed such amounts as are established in annual authorization Acts for fiscal year 1979 and each fiscal year thereafter applicable to the Department of Energy. Any sums appropriated for the purposes of this title shall be available until expended.

LIMITATION

SEC. 113. The authority under this title to enter into contracts or other obligations requiring the United States to make outlays may be exercised only to the extent provided in advance in annual authorization and appropriation Acts.

REPORTS TO CONGRESS

SEC. 114. (a) Beginning on January 1, 1980, and each year thereafter until January 1, 1986, the Secretary shall submit a report to the Congress with respect to the status of the actions required to be taken by the Secretary, the Commission, the Secretary of the Interior, the Administrator, and the States and Indian tribes under this Act and any amendments to other laws made by this Act. Each report shall—

(1) include data on the actual and estimated costs of the program authorized by this title;

(2) describe the extent of participation by the States and Indian tribes in this program;

(3) evaluate the effectiveness of remedial actions, and describe any problems associated with the performance of such actions; and

(4) contain such other information as may be appropriate.

Such report shall be prepared in consultation with the Commission, the Secretary of the Interior, and the Administrator and shall contain their separate views, comments, and recommendations, if any. The Commission shall submit to the Secretary and Congress such portion of the report under this subsection as relates to the authorities of the Commission under title II of this Act.

(b) Not later than July 1, 1979, the Secretary shall provide a report to the Congress which identifies all sites located on public or acquired lands of the United States containing residual radioactive materials and other radioactive waste (other than waste resulting from the production of electric energy) and specifies which Federal agency has jurisdiction over such sites. The report shall include the identity of property and other structures in the vicinity of such site that are contaminated or may be contaminated by such materials and the actions planned or taken to remove such materials. The report shall describe in what manner such sites are adequately stabilized and otherwise controlled to prevent radon diffusion from such sites into the environment and other environmental harm. If any site is not so stabilized or controlled, the report shall describe the remedial actions planned for such site and the time frame for performing such actions. In preparing the reports under this section, the Secretary shall avoid duplication of previous or ongoing studies and shall utilize all information available from other departments and agencies of the United States respecting the subject matter of such report. Such agencies shall cooperate with the Secretary in the preparation of such report and furnish such information as available to them and necessary for such report.

(c) Not later than January 1, 1980, the Administrator, in consultation with the Commission, shall provide a report to the Congress which identifies the location and potential health, safety, and environmental hazards of uranium mine wastes together with recommendations, if any, for a program to eliminate these hazards.

(d) Copies of the reports required by this section to be submitted to the Congress shall be separately submitted to the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(e) The Commission, in cooperation with the Secretary, shall ensure that any relevant information, other than trade secrets and other proprietary information otherwise exempted from mandatory disclosure under any other provision of law, obtained from the conduct of each of the remedial actions authorized by this Title and the subsequent perpetual care of those residual radioactive materials is documented systematically, and made publicly available conveniently for use.

ACTIVE OPERATIONS; LIABILITY FOR REMEDIAL ACTION

SEC. 115. (a) No amount may be expended under this title with respect to any site licensed by the Commission under the Atomic Energy Act of 1954 or by a State as permitted under section 274 of such Act at which production of any uranium product from ores (other than from residual radioactive materials) takes place.

(b) In the case of each processing site designated under this title, the Attorney General shall conduct a study to determine the identity and legal responsibility which any person (other than the United States, a State, or Indian tribe) who owned or operated or controlled (as determined by the Attorney General) such site before the date of the enactment of this Act may have under any law or rule of law for reclamation or other remedial action with respect to such site. The Attorney General shall publish the results of such study, and provide copies thereof to the Congress, as promptly as practicable following the date of the enactment of this Act. The Attorney General, based on such study, shall, to the extent he deems it appropriate and in the public interest, take such action under any provision of law in effect when uranium was produced at such site to require payment by such person of all or any part of the costs incurred by the United States for such remedial action for which he determines such person is liable.

TITLE II—URANIUM MILL TAILINGS LICENSING AND REGULATION DEFINTION

SEC. 201. Section 11 e. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"e. The term 'byproduct material' means (1) any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material, and (2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.".

CUSTODY OF DISPOSAL SITE

SEC. 202. (a) Chapter 8 of the Atomic Energy Act of 1954, as amended, is amended by adding the following new section at the end thereof:

"SEC. 83. OWNERSHIP AND CUSTODY OF CERTAIN BYPRODUCT MATERIAL AND DISPOSAL SITES.—

"a. Any license issued or renewed after the effective date of this section under section 62 or section 81 for any activity which results in the production of any byproduct material as defined in section 11 e. (2) shall contain such terms and conditions as the Commission determines to be necessary to assure that, prior to termination of such license—

"(1) the licensee will comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission for sites (A) at which ores were processed primarily for their source material content or (B) at which such byproduct material is deposited, and

"(2) ownership of any byproduct material defined in section 11 e. (2) which resulted from such licensed activity shall be transferred to the United States, or at the option of the affected State, to the State. Any license in effect on the date of the enactment of this section shall either contain such terms and conditions on renewal thereof after the effective date of this section, or shall comply with paragraphs (1) and (2) such terms and conditions upon the termination of such license, whichever first occurs.

"b. (1) The Commission shall require by rule, regulation, or order, in accordance with the requirements of section 181 of this Act, that title to land on which byproduct material is disposed be transferred to the United States, or at the option of the affected State, to the State, at the time of termination of any license for the generation or possession of such material unless the Commission determines in accordance with the requirements of section 181 of this Act that such transfer of title is not necessary or desirable to protect health or minimize danger to life or property in connection with the disposal of such byproduct material. Any such rule, regulation, or order shall specify standards for the transfer of title to such land, and to such material disposed of on the land, to the State or the United States, including:

(A) standards to minimize the need for future remedial work; (B) standards to minimize the cost, including the cost to the State or the United States, for any long-term maintenance and monitoring; and (C) standards to permit the reservation of rights by the transferor to the future reprocessing of byproduct material, as defined in section 11 e. (2) of this Act, and to the future use of the surface or subsurface estate, consistent with any standards or requirements promulgated

by the Commission which are applicable to the generation, possession of transfer of byproduct material, as so defined.

"(2) If transfer to the United States of title to such byproduct material and such land is required in accordance with paragraph (1) of this subsection, the Secretary of Energy or the Federal agency designated by the President under subsection c. shall, following the Commission's determination of compliance under subsection d., assume title and custody of the byproduct material and land transferred as provided in this subsection. Such officer or instrumentality shall maintain such material and land in such manner as will protect the public health and safety and the environment. Such custody may be transferred to another officer or instrumentality of the United States only upon approval of the President upon his determination that such officer or instrumentality meets the requirements of subsection c.

"(3) The Commission, may, pursuant to a license, or by rule or order, require the Secretary or other Federal agency having custody of such property and materials to undertake such monitoring, maintenance, and emergency measures as are necessary to protect the public health and safety and such other actions as the Commission deems necessary to comply with the standards promulgated pursuant to section 84 of this Act. The Secretary or such other Federal agency is authorized to carry out maintenance, monitoring, and emergency measures but shall take no other action pursuant to such license, rule, or order, with respect to such property and materials unless expressly authorized by Congress after the date of enactment of this Act.

"(4) The transfer of title to land or materials to a State or the United States pursuant to this subsection shall not relieve any licensee of liability for any fraudulent or negligent acts done prior to such transfer.

"(5) Material and land transferred to the United States in accordance with this subsection shall be transferred without cost to the United States (other than administrative and legal costs incurred in carrying out such transfer). The United States shall not transfer title to material or property acquired under this subsection to any person, unless such transfer is in the same manner as provided under section 104(h) of the Uranium Mill Tailings Radiation Control Act of 1978.

"(6) The provisions of this subsection respecting transfer of title and custody to land shall not apply in the case of lands held in trust by the United States for any Indian tribe or lands owned by such Indian tribe subject to a restriction against alienation imposed by the United States. In the case of such lands which are used for the disposal of byproduct material as defined in section 11 e. (2), the licensee shall be required to enter into such arrangements with the Commission as may be appropriate to assure the long-term maintenance and monitoring of such lands by the United States

"c. If transfer to the United States of title to such byproduct material and such land is required in accordance with subsection b., the Secretary of Energy or such Federal agency as the President shall designate shall have custody of such property or material. The President shall not designate the Commission for such purposes.

"d. Upon termination of any license to which this section applies, the Commission shall determine whether or not the licensee has complied with all applicable standards and requirements under such license.".

(b) This section shall be effective three years after the enactment of this Act.

(c) The table of contents for chapter 8 of the Atomic Energy Act of 1954, as amended, is amended by inserting the following new item after the item relating to section 82:

"Sec. 83. Ownership and custody of certain byproduct material and disposal sites.".

AUTHORITY TO ESTABLISH CERTAIN REQUIREMENTS

Sec. 203. Section 161 of the Atomic Energy Act of 1954, as amended, is amended by adding the following new subsection at the end thereof:

"x. establish by rule, regulation, or order, after public notice, and in accordance with the requirements of Section 181 of this Act, such standards and instructions as the Commission may deem necessary or desirable to ensure—

"(1) that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided, before termination of any license for byproduct material as defined in section 11 e. (2), by a license to permit the completion of all requirements established by the Commission for the decontamination, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with byproduct material as so defined, and

"(2) that—

"(A) in the case of such license issued or renewed after the date of the enactment of this subsection, to the maximum extent practicable, the need for long term maintenance and monitoring of such sites, structures and equipment after termination of such license will be minimized; and

"(B) in the case of each license for such material (whether in effect on the date of the enactment of this section or issued or renewed thereafter), if the Commission determines that any such long-term maintenance and monitoring is necessary, the licensee, before termination of any license for byproduct material as defined in section 11 e. (2), will make available such bonding, surety, or other financial arrangements as may be necessary to assure such long-term maintenance and monitoring.".

* * * * *

subsection shall take into account, as determined by the Commission, so as to avoid unnecessary duplication and expense, performance bonds or other financial arrangements which are required by other federal agencies or state agencies and/or other local governing bodies for such decommissioning, decontamination and reclamation and long-term maintenance and monitoring, except that nothing in this paragraph shall be construted to require that the Commission accept such bonds or arrangements if the Commission determines that such bonds or arrangements are not adequate to carry out subparagraphs (1) and (2) of this subsection.".

COOPERATION WITH STATES

Sec. 204. (a) Section 274 b. of the Atomic Energy Act of 1954, as amended, is amended by adding "as defined in section 11 e. (1)" after the words "byproduct materials" in paragraph (1); by renumbering paragraphs (2) and (3) as paragraphs (3) and (4); and by inserting the following new paragraph immediately after paragraph (1):

"(2) byproduct materials as defined in section 11 e. (2);".

(b) Section 274 d. (2) of such Act is amended by inserting the following before the word "compatible": "in accordance with the requirements of subsection o. and in all other respects".

(c) Section 274 n. of such Act is amended by adding the following new sentence at the end thereof: "As used in this section, the term 'agreement' includes any amendment to any agreement.".

(d) Section 274 j. of such Act is amended—

(1) by inserting "all or part of" after "suspend";

(2) by inserting "(1)" after "finds that"; and

(3) by adding at the end before the period the following: ", or (2) the State has not complied with one or more of the requirements of this section. The Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section".

(e) (1) Section 274 of such Act is amended by adding the following new subsection at the end thereof:

"o. In the licensing and regulation of byproduct material as defined in section 11 e. (2) of this Act or of any activity which results in the production of byproduct material as so defined under an agreement entered into pursuant to subsection b., a State shall require—

"(1) compliance with the requirements of subsection b. of section 83 (respecting ownership of byproduct material and land), and

"(2) compliance with standards which shall be adopted by the State for the protection of the public health, safety, and the environment from radiation hazards associated with such material which are equivalent, to the extent practicable, or more stringent than, standards adopted and enforced by the Commission for the same purpose, including requirements and standards, promulgated by the Commission and the Administrator of the Environmental Protection Agency pursuant to sections 83, 84, and 275, and

"(3) procedures which—

(A) in the case of licenses, provide procedures under State law which include

(i) an opportunity, after public notice, for written comments and a public hearing, with a transcript, and

(ii) a written determination which is based upon findings included in such determination and upon the evidence presented during the public comment period and which is subject to judicial review;

(B) in the case of rulemaking, provide an opportunity for public participation through written comments or a public hearing and which provide for judicial review of the rule;

"(C) require for each license which has a significant impact on the human environment a written analysis, which shall be available to the public before the commencement of any such proceedings, of the impact of such license, including any activities conducted pursuant thereto, on the environment, which analysis shall include—

"(i) an assessment of the radiological and nonradiological impacts to the public health of the activities to be conducted pursuant to such license;

(ii) an assessment of any impact on any waterway and groundwater resulting from such activities;

(iii) consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted pursuant to such license; and

(iv) consideration of the long-term impacts, including decommissioning, decontamination, and reclamation impacts, associated with activities to be conducted pursuant to such license, including the management of any byproduct material as defined by section 11e(2); and

"(D) prohibit any major construction activity with respect to such material prior to complying with the provisions of subparagraph (C).

If any State under such agreement imposes upon any licensee any requirement for the payment of funds to such State for the reclamation or long-term maintenance and monitoring of such material, and if transfer to the United States of such material is required in accordance with section 83 b. of this Act, such agreement shall be amended by the Commission to provide that such State shall transfer to the United States upon termination of the license issued to such licensee the total amount collected by such State from such licensee for such purpose. If such payments are required, they must be

sufficient to ensure compliance with the standards established by the Commission pursuant to section 161 x. of this Act. No State shall be required under paragraph (3) to conduct proceedings concerning any license or regulation which would duplicate proceedings conducted by the Commission.".

(f) Section 274 c. of such Act is amended by inserting the following new sentence after paragraph (4) thereof: "The Commission shall also retain authority under any such agreement to make a determination that all applicable standards and requirements have been met prior to termination of a license for byproduct material as defined in section 11 e. (2).".

(g) Nothing in any amendment made by this section shall preclude any State from exercising any other authority as permitted under the Atomic Energy Act of 1954 respecting any byproduct material defined in section 11 e. (2) of the Atomic Energy Act of 1954.

(h) (1) On or before the date three years after the date of the enactment of this Act, notwithstanding any amendment made by this title, any State may exercise any authority under State law respecting byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, in the same manner, and to the same extent, as permitted before the enactment of this Act.

(2) An agreement entered into with any State as permitted under section 274 of the Atomic Energy Act of 1954 with respect to byproduct material as defined in section 11 e. (2) may be entered into at any time after the date of the enactment of this Act but no such agreement may take effect before the date three years after the date of the enactment of this Act.

AUTHORITIES OF COMMISSION RESPECTING CERTAIN BYPRODUCT MATERIAL

SEC. 205. (a) Chapter 8 of the Atomic Energy Act of 1954, as amended, is amended by adding the following new section at the end thereof:

"SEC. 84. AUTHORITIES OF COMMISSION RESPECTING CERTAIN BYPRODUCT MATERIAL.—

"a. The Commission shall insure that the management of any byproduct material as defined in section 11 e. (2) is carried out in such manner as—

"(1) the Commission deems appropriate to protect the public health and safety and the environment, from radiological and nonradiological hazards associated with the processing and with the possession and transfer of such material,

"(2) conforms with applicable general standards promulgated by the Administrator of the Environmental Protection Agency under section 275, and

"(3) conforms to general requirements established by the Commission, with the concurrence of the Administrator, which are to the maximum extent practicable at least comparable to requirements applicable to the possession, transfer, and disposal of similar hazardous material regulated by the Administrator under the Solid Waste Disposal Act, as amended.

(b) Notwithstanding any other provision of law, following termination of any license issued for the generation or disposal of byproduct material as defined in section 11 e. (2), ownership of any such material or of land on which such material has been disposed shall be maintained pursuant to a license issued by the Commission pursuant to this section in such manner as will protect the public health, safety and the environment.

"b. In carrying out its authority under this section, the Commission is authorized to—

"(1) by rule, regulation, or order require persons, officers, or instrumentalities exempted from licensing under section 81 of this Act to conduct monitoring, perform remedial work, and to comply with such other measures as it may deem necessary or desirable to protect health or to minimize danger to life or property, and in connection with the disposal or storage of such byproduct material; and

"(2) make such studies and inspections and to conduct such monitoring as may be necessary.

Any violation by any person other than the United States or any officer or employee of the United States of any rule, regulation, or order or licensee's provision of the Commission established under this section or section 83 shall be subject to a civil penalty in the same manner and in the same amount as violations subject to a civil penalty under section 234. Nothing in this section affects any authority of the Commission under any other provision of this Act.".

(b) The first sentence of Section 81 of the Atomic Energy Act of 1954, as amended, to read as follows: "No person may transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, own, possess, import, or export any byproduct material, except to the extent authorized by this section, section 82 or section 84.

(c) The table of contents for such chapter 8 is amended by inserting the following new item relating to section 83:

"Sec. 84. Authorities of Commission respecting certain byproduct material.".

AUTHORITY OF ENVIRONMENTAL PROTECTION AGENCY RESPECTING CERTAIN BYPRODUCT MATERIAL

SEC. 206. (a) Chapter 19 of the Atomic Energy Act of 1954, as amended, is amended by inserting after section 274 the following new section:

"SEC. 275. HEALTH AND ENVIRONMENTAL STANDARDS FOR URANIUM MILL TAILINGS.—

"a. As soon as practicable, but not later than one year after the date of enactment of this section, the Administrator of the Environmental Protection Agency (hereinafter referred to in this section as the 'Administrator') shall, by rule, promulgate standards of general application (including standards applicable to licenses under section 104(h)) of the Uranium Mill Tailings Radiation Control Act of 1978) for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with residual radioactive materials (as defined in section 101 of the Uranium Mill Tailings Radiation Control Act of 1978) located at inactive uranium mill tailings sites and depository sites for such materials selected by the Secretary of Energy, pursuant to title I of the Uranium Mill Tailings Radiation Control Act of 1978. Standards promulgated pursuant to this subsection shall, to the maximum extent practicable, be consistent with the requirements of the Solid Waste Disposal Act, as amended. The Administrator may periodically revise any standard promulgated pursuant to this subsection.

"(b) (1) As soon as practicable, but not later than eighteen months after the enactment of this section, the Administrator shall, by rule, promulgate standards of general application for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with the processing and with the possession, transfer, and disposal of byproduct material, as defined in section 11 e. (2) of this Act at sites at which ores are processed primarily for their source material content, or which are used for the disposal of such byproduct material.

"(2) Such generally applicable standards promulgated pursuant to this subsection for nonradiological hazards shall provide for the protection of human health and the environment consistent with the standards required under subtitle C of the Solid Waste Disposal Act, as amended, which are applicable to such hazards: *Provided however*, That no permit issued by the Administrator is required under this Act or the Solid Waste Disposal Act, as amended, for the processing, possession, transfer, or disposal of byproduct material, as defined in section 11 e. (2) of this Act. The administrator may periodically revise any standard or criterion promulgated pursuant to this subsection.

Within three years after such revision of any such standard, the Commission and any State permitted to exercise authority under section 274 b. (2) shall apply such revised standard in the case of any license for byproduct material as defined in section 11e (2) of any revision thereof.

"c. (1) Before the promulgation of any rule pursuant to this section, the Administrator shall publish the proposed rule in the Federal Register, together with a statement of the research, analysis, and other available information in support of such proposed rule, and provide a period of public comment of at least thirty days for written comments thereon and an opportunity, after such comment period and after public notice, for any interested person to present oral data, views, and arguments at a public hearing. There shall be a transcript of any such hearing. The Administrator shall consult with the Commission and the Secretary of Energy before promulgation of any such rule.

"(2) Judicial review of any rule promulgated under this section may be obtained by any interested person only upon such person filing a petition for review within sixty days after such promulgation in the United States court of appeals for the Federal judicial circuit in which such person resides or has his principal place of business. A copy of the petition shall be forthwith transmitted by the clerk of court to the Administrator. The Administrator thereupon shall file in the court the written submissions to, and transcript of, the written or oral proceedings on which such rule was based as provided in section 2112 of title 28, United States Code. The court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. The judgment of the court affirming, modifying, or setting aside, in whole or in part, any such rule shall be final, subject to judicial review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(3) Any rule promulgated under this section shall not take effect earlier than sixty calendar days after such promulgation.

"d. Implementation and enforcement of the standards promulgated pursuant to subsection b. of this section shall be the responsibility of the Commission in the conduct of its licensing activities under this Act. States exercising authority pursuant to section 274 b. (2) of this Act shall implement and enforce such standards in accordance with subsection o. of such section.

"e. Nothing in this Act applicable to byproduct material as defined in section 11 e. (2) of this Act shall affect the authority of the Administrator under the Clean Air Act of 1970, as amended, or the Federal Water Pollution Control Act, as amended.".

(b) The table of contents for chapter 19 of the Atomic Energy Act is amended by inserting the following new item after the item relating to section 274:

"Sec. 275. Health and environmental standards for uranium mill tailings."

AUTHORIZATION OF APPROPRIATION FOR GRANTS

SEC. 207. There is hereby authorized to be appropriated for fiscal year 1980 to the Nuclear Regulatory Commission not to exceed $500,000 to be used for making grants to States which have entered into agreements with the Commission under section 274 of

the Atomic Energy Act of 1954, as amended, to aid in the development of State regulatory programs under such section which implement the provisions of this Act.

EFFECTIVE DATE

SEC. 208. Except as otherwise provided in this title the amendments made by this title shall take effect on the date of the enactment of this Act.

CONSOLIDATION OF LICENSES AND PROCEDURES

SEC. 209. The Nuclear Regulatory Commission shall consolidate, to the maximum extent practicable, licenses and licensing procedures under amendments made by this title with licenses and licensing procedures under other authorities contained in the Atomic Energy Act of 1954, as amended.

TITLE III—STUDY AND DESIGNATION OF TWO MILL TAILINGS SITES IN NEW MEXICO

STUDY

SEC. 301. The Commission, in consultation with the Attorney General and the Attorney General of the State of New Mexico, shall conduct a study to determine the extent and adequacy of the authority of the Commission and the State of New Mexico to require, under the Atomic Energy Act of 1954 (as amended by title II of this Act) or under State authority as permitted under section 274 of such Act or under other provision of law, the owners of the following active uranium mill sites to undertake appropriate action to regulate and control all residual radioactive materials at such sites to protect public health, safety, and the environment: the former Homestake-New Mexico Partners site near Milan, New Mexico, and the Anaconda carbonate process tailings site near Bluewater, New Mexico. Such study shall be completed and a report thereof submitted to the Congress and to the Secretary within one year after enactment of this Act, together with such recommendations as may be appropriate. If the Commission determines that such authority is not adequate to regulate and control such materials at such sites in the manner provided in the first sentence of this section, the Commission shall include in the report a statement of the basis for such determination. Nothing in this Act shall be construed to prevent or delay action by a State as permitted under section 274 of the Atomic Energy Act of 1954 or under any other provision of law or by the Commission to regulate such residual radioactive materials at such sites prior to completion of such study.

DESIGNATION BY SECRETARY

SEC. 302. (a) Within ninety days from the date of his receipt of the report and recommendations submitted by the Commission under section 301, notwithstanding the limitations contained in section 101(6)(A) and in section 115(a), if the Commission determines, based on such study, that such sites cannot be regulated and controlled by the State or the Commission in the manner described in section 301, the Secretary may designate either or both of the sites referred to in section 301 as a processing site for purposes of title I. Following such designation, the Secretary may enter into cooperative agreements with the New Mexico to perform remedial action pursuant to such title concerning only the residual radioactive materials at such site resulting from uranium produced for sale to a Federal agency prior to January 1, 1971, under contract with such agency. Any such designation shall be submitted by the Secretary, together with his estimate of the cost of carrying out such remedial action at the designated site, to the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Energy and Nautral Resources of the Senate.

(b)(1) No designation under subsection (a) shall take effect before the expiration of one hundred and twenty calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die) after receipt by such Committees of such designation.

(c) Except as otherwise specifically provided in subsection (a), any remedial action under title I with respect to any sites designated under this title shall be subject to the provisions of title I (including the authorization of appropriations referred to in section 112(b)).

Mr. GARN. Mr. President, I ask unanimous consent that statements by Senators HASKELL and DOMENICI be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY MR. HASKELL

Today the Senate will consider the Residual Radioactive Materials Act of 1978, S. 3078. I am pleased with the expeditious manner in which this legislation was considered by the Committee on Energy and Natural Resources. In spite of the press of legislation during these last few weeks of the Congress, my Subcommittee on Energy Production and Supply was able to hold hearings on this bill. The full Energy Committee found time in the midst of a very heavy workload to consider the bill late last month, and we have had sufficient time to discuss a final version with the House of Representatives. Those familiar with the usual pace of the legislative process will recognize the effort involved in consideration of this bill. It is an effort for which I thank my fellow Members of the Committee on Energy and Natural Resources for their assistance. I think they realize, as I stated at the first hearing on this measure, that the people living adjacent to these uranium mill tailings piles, as well as those who live in homes where tailings have been used as construction material, demand action now. We have met that demand.

The bill reported by the Committee incorporates several changes which improve the remedial action program. Provision is made for public participation during the program. The Secretary of Energy is to prepare a study of other radioactive sites in the United States and to supply the Congress with a report on such sites. We will then be sure that something is being done to deal with all of these hazards. In addition, the Environmental Protection Agency is to study the potential health, safety and environmental hazards of wastes at uranium mines. The Attorney General is to examine the question of the liability of present and former owners of uranium mill sites and, if he determines that it is appropriate, to seek recovery of all or part of the costs of the remedial action program. These studies, in sum, will provide us with a much clearer picture of both the dangers which still exist and an answer to the question of who is responsible for remedying the problem. Finally, the States' share of the cost of the remedial action program is reduced from 25% to 10%. This will insure that the program is carried out much more rapidly.

I urge the Senate to adopt this important legislation. I ask that my name be added as a cosponsor of this legislation.

STATEMENT BY MR. DOMENICI

The major purpose of this legislation is to insure that the potential hazards of residual radioactive materials, a result of poor Federal regulatory practices of the past, will be dealt with in conformance with current scientific standards.

These tailings piles contain the waste resulting from uranium production contracts under the national uranium development and procurement program which emerged in the late 1940's and ran until the mid 1960's.

Our principal intent is to eliminate any potential health risks emanating from these sites. Another important aspect of this Federal/State cooperative program provides for the extraction of residual valuable minerals under controlled conditions.

This bill provides for immediate remedial action for two sites in New Mexico; at Shiprock and Ambrosia Lake. It further provides for a study to determine whether the State has adequate authority to require remedial action on the remaining two sites in New Mexico or whether they are to be included with the previously designated abandoned sites. These two orphan sites are near Milan and Bluewater.

This legislation enjoys broad bipartisan support and reflects the concern of both Houses of Congress and recognizes a compassionate federal responsibility for this problem.

The fact that its primary intent is remedial and that this remedial process will be initiated immediately buttresses the emphasis on action and not fixing responsibility.

For these reasons I recommend my colleagues vote in favor of this measure.

● Mr. HANSEN. Mr. President, I rise in strong support of the Residual Radioactive Materials Act of 1978. S. 3078. The Energy and Natural Resources Committee is proposing an amendment in the nature of a substitute to the committee-reported version of S. 3078. The committee amendment is a modification of the House-passed companion legislation, H.R. 13650, the Uranium Mill Tailings Radiation Control Act of 1978. The modifications to H.R. 13650 contained in the committee amendment reflect many of the policy decisions adopted in the Energy Committee's consideration of this legislation.

Very briefly, Mr. President, this legislation is the outgrowth of congressional concern originally manifested in Public Law 92–314, which authorized the old Atomic Energy Commission to conduct remedial action cleanup operations in Grand Junction, Colo. At the time of our consideration of that legislation in the 92d Congress, the Federal Government became convinced that the use of uranium mill tailings in the construction of many buildings and facilities in Grand Junction, Colo., after the mill tailings had accumulated from our Nation's nuclear weapons program, constituted a serious health hazard to the inhabitants of that Colorado town. Consequently, the Atomic Energy Commission was directed in 1974 to review other possible sites where similar mill tailings accumulations might also constitute a threat to public health and safety. Over the past 3 years, the Commission and its successors, first, the Energy Research and Development Administration, and then, the Department of Energy, have reviewed systematically all of the known, significant accumulations of uranium mill tailings resulting from the nuclear weapons program. This same concern also has been the subject of several very detailed reports by the General Accounting Office and by the various State and university organizations in the affected States.

All of the aforementioned activity resulted in the administration's conclusion at the beginning of this year that these mill tailings sites did constitute a

serious public health and safety hazard which should be the subject of Federal remedial action as soon as possible. The hearings before the Energy and Natural Resources Committee, as well as the two House committees of jurisdiction, the Interior and Insular Affairs Committee and the Interstate and Foreign Commerce Committee, verified the accuracy of the studies that had been done and the conclusions which have been drawn by the administration and others who have evaluated this problem. On that basis, the administration submitted S. 3078 which was introduced by Senator JACKSON by request. Similar legislation had been introduced by Senator GARN and a number of bipartison cosponsors, including Senators HATCH, DECONCINI, MCCLURE, DOMENICI, LAXALT, HANSEN, WALLOP, and SCHMITT, in S. 3008, and later by Senator HART and a number of bipartisan cosponsors, including Senators DOMENICI, GARN, HATCH, and LAXALT, in S. 3253. All of these bills reflect the basic judgment that the mill tailings located at sites now inactive do constitute a serious threat to public health and safety that should be the subject of remedial action to stabilize the mill tailings in order to protect public health and safety and the environment. These various bills addressing this fundamental concern adopted somewhat different schemes for achieving that consensus result, but basically all of the introduced bills proposed action now to initiate the required remedial action.

Mr. President, the committee report discusses at some length the issue of the possible liabilities of the various parties associated with these inactive mill tailings, including the Federal Government, the mill operators, the States, and the other interested parties. It is the conclusion of the Energy and Natural Resources Committee, as it was of the two House committees and the full House in reviewing the liability issue, that a Federal assistance program, with cost-sharing and in cooperation with the States, was the appropriate approach to deal with this problem. That approach is adopted in the legislation before us today. I believe that a balanced, equitable, and well-reasoned approach has resulted from the considerations by these respective committees over the past year, in the form of the committee substitute amendment which is before us today.

Mr. President, I am pleased to report to the Senate that the committee substitute amendment has been worked out in close coordination with the House committees of jurisdiction and also with our Senate Committee on Environment and Public Works, which has jurisdiction over the regulation of uranium mill operations, to develop what I sincerely hope will be an acceptable bill for both the Senate and the House. I particularly want to commend the House committee chairman and the ranking minority members and their staffs for their support in our joint efforts to reach an acceptable consensus position on this bill, as represented by the committee substitute amendment. I also want to note at this time the excellent congressional support which we have received from officials of the respective States which will be involved in this program and the representatives of the uranium milling industry in the American Mining Congress and the American Nuclear Energy Council who have supported these activities. I believe that it is a significant achievement for this Congress and, indeed, for the American people when our two legislative bodies and the administration and the States and industry can fashion an agreement such as this dealing with public health and safety in a reasonable and responsible way.

One issue on which the Senate Energy and Natural Resources Committee felt particularly strongly in fashioning S. 3078, as reported by the committee, was the question of relative equities associated with mill tailings at the sites of active uranium milling operations. As a result of its concern regarding the issue, the committee in the reported bill directed the Secretary to conduct a study reviewing the respective responsibilities which might exist as between the Federal Government, the States, and the industrial operators for the uranium mill tailings generated in our nuclear weapons program over the past 30 years, which now are located at these active sites. Many members of the committee felt very strongly that there is an element of artificiality limiting Federal assistance only to remedial action for mill tailings located at inactive sites while placing a full financial burden on operators of active sites to complete remedial actions for those tailings which also result from nuclear weapons programs. Consequently, this was an important item in the discussions with the other body.

Mr. President, in an effort to move this legislation to enactment, we have agreed with the representatives of the House to remove the statutory study from this legislation, because of certain concerns and objections developed during the House consideration of the companion bill. At the same time, however, we continue to be concerned about the equity issue at active sites, and accordingly, by nonstatutory action will request the Secretary of Energy and the Comptroller General of the United States to quickly and thoroughly review all of the relevant considerations and prepare a formal report for the committee and the Congress. In this way, the committee will preserve this considerable issue without any prejudice to the enactment or the implementation of the remedial action program contained in this bill.

Mr. President, there are several elements of the legislative history of this measure which need to be clarified for the future implementation of this program. Section 5(a) of S. 3078, as reported by the Senate Committee on Energy and Natural Resources, provided for State "review and concurrence", also with the Nuclear Regulatory Commission's concurrence, on the remedial actions selected for each individual site. Section 108(a)(1) of title I of the committee substitute amendment provides that—

> Remedial action shall be selected and performed with the concurrence of the Commission (NRC) and in consultation with the State. . . .

While the committee substitute amendment statutorily modifies the State concurrence requirement of S. 3078, as reported, and substitutes a consultation requirement, the intent of the Energy and Natural Resources Committee and, indeed, the Senate, is that this statutorily required consultation will involve the fullest possible participation by each of the respective States in the selection of the remedial action for each site. Even though the State is not given an effective statutory veto over the selection of the remedial action, the Secretary of Energy and the NRC should coordinate closely with the appropriate State officials at every step of the remedial action selection and implementation process. Since the remedial actions in many cases will involve significant construction activity in populated areas, it is most important that the States and the local officials in those population centers fully agree with and support the actions proposed by the remedial action and its subsequent implementation. Also, State and local officials have a legitimate and proper concern and role in the remedial action at a processing site and the ultimate stabilization of uranium mill tailings at the ultimate disposal site for the protection of the local public health and safety and the local environment. These same officials also have a very strong and appropriate interest in the effectiveness of the remedial action and the long-term stabilization of these uranium mill tailings to avoid any further threat to the local public health and safety or the local environment. For these and other obvious reasons, the committee and the Senate clearly intend and expect that the Secretary of Energy and the NRC within the context of the statutory consultation requirement will proceed for an effective, orderly, and systematic participation of State and local officials throughout the initial planning, selection, and implementation of the remedial action. Further, the committee substitute amendment includes the requirement in section 111 that there be public participation and the holding of public hearings in the State where remedial actions will occur. S. 3078, as reported by the Senate Committee on Energy and Natural Resources, included the same requirement.

The committee substitute amendment, in section 115, requires the Attorney General of the United States to review the potential liabilities of the various parties for any of the Federal costs which will be incurred in the conduct of this program. It is the intent of the committee that section 115 shall not be construed to create any new cause of action as a result of the enactment of this legislation. Any liability which should be established under section 115 must exclusively and conclusively rest on existing law other than this bill. Additionally, the committee does not intend by enactment of section 115 to encourage the Attorney General to embark on a major, new litigation effort unnecessarily. The Attorney General should seek settlement or bring suit only where the facts in an individual situation clearly establish a

failure to meet an affirmative burden under existing law directly related to the past stabilization of the mill tailings.

I urge the support of all Members for the passage of this legislation.●

● Mr. JACKSON. Mr. President, I rise in support of the bill S. 3078 and the committee amendment which will be proposed.

This amendment is being proposed by the Senate Committee on Energy and Natural Resources and the Committee on Environment and Public Works jointly.●

● Mr. HART. Mr. President, the amendment we are offering has been drafted by the Senate Committee on Energy and Natural Resources and the Committee on Environment and Public Works. It is my understanding that both of these committees fully support the provisions under their respective jurisdictions.

For my own part, there are provisions in both provisions of this package which I believe could be improved. However, the amendment we are offering represents the collective judgment of our two committees and is the best compromise that could be worked out in the time available.

This amendment addresses two separate but related issues. The first issue concerns remedial action clean up of abandoned uranium mill tailings. The provision to deal with this problem was drafted by the Energy and Natural Resources Committee. The second issue concerns the regulatory and licensing authority of the Federal Government and the States over currently active and future uranium milling activities. The provision concerning this issue was drafted by the Senate Committee on Environment and Public Works. I would like to take a few minutes to explain the rationale behind the Environment Committee's provision, and its relation to the rest of the amendment we are offering.

Mr. President, under present law, the Nuclear Regulatory Commission has the authority and responsibility to regulate uranium milling and milling operations, and the Commission is currently exercising that authority over 11 active sites. An additional 14 sites are regulated by individual States. Under the authority of the Atomic Energy Act, these States developed approved regulatory programs and assumed regulatory responsibility from the NRC.

Although the NRC licenses active uranium mining and milling activities, existing law does not permit the Commission to regulate the disposal of mill tailings once milling and mining operations cease and the operating license expires. It is this authority to regulate tailings after milling operations cease. that we propose be given to the NRC.

Mr. President, it is imperative that uranium mill tailings be carefully regulated. They are just as radioactive as the original uranium ore from which they came. In fact, if tailings are not properly controlled, they can be more dangerous than radioactive wastes generated by powerplants and nuclear weapons programs.

Furthermore, although uranium mill tailings wastes are not as radioactive as high-level wastes generated by nuclear powerplants or military weapons programs, these wastes remain radioactive for thousands of years. Thus, the potential long-term danger to the public health and safety is far greater. People need not come into direct contact with tailings to be exposed to this radioactive hazard, because the radiation from tailings escapes and travels in the form of radioactive radon gas—which can cause leukemia and other forms of cancer.

Because there has been no proper authority for controlling this threat to public health, tailings at abandoned mining and milling sites have been left exposed dangerously near several populated areas. In Grand Junction, Colo., and Salt Lake City, Utah, for example, uranium mill tailings have been left unattended near schools, homes, and offices. People living in and around some of these sites are being exposed to radiation levels considerably higher than the levels permitted inside uranium mines.

The Colorado Department of Health has conducted a study of leukemia rates in areas of the State where people are exposed to mill tailings. The results are only preliminary, but the evidence collected to date indicates that the incidence of leukemia in these areas is almost double that in other parts of Colorado. Although the direct connection to radon gas from these tailings has not yet been proved this high incidence of leukemia is alarming.

Furthermore, the General Accounting Office concluded in a report issued just last month that radiation from the five worst abandoned tailings sites may cause as many as 1,000 cases of cancer in the next century. And, if these tailings are not properly disposed, that trend will continue for hundreds of thousands of years, resulting in millions of cases of cancer.

Authorization to deal with this serious threat to public health is contained in the provisions of this amendment, which was drafted by the Senate Committee on Energy and Natural Resources.

Mr. President, the total effect of this amendment is to correct past mistakes and to provide assurance that these costly mistakes will not be repeated in the future. Enactment of this legislation is an essential step toward solving this Nation's nuclear waste dilemma, and it is a step which must be taken now. I urge my colleagues, support.●

● Mr. WALLOP. Mr. President, I would like to address a question to Senator HART relating to the new section 83b of the Atomic Energy Act, as provided under this act, which vests the Commission or an agreement State with authority to require land to be transferred to the United States. Such transfer could occur upon termination of a license for the generation or possession of tailings or waste as defined in section 11e of the Atomic Energy Act, as amended by this act. It is my understanding that so-called solution mining projects, in which uranium is brought to the surface by means of a fluid solution and is extracted with the remaining material pumped back below the surface, would not generally be considered for transfer status under the new section 83b.

Mr. HART. Mr. WALLOP, your statement is correct. Contrasted with conventional mining and milling methods which cause significant surface disturbance and require extensive reclamation, solution mining techniques allow for the recovery of relatively small and widely scattered deposits of uranium with minimal disturbance of the land and provide for waste materials to be reinjected into the original locations below the land surface from which the uranium was removed. Therefore, the necessity of transferring surface and subsurface title may not exist where uranium mining and extraction is limited to solution techniques.●

● Mr. RANDOLPH. Mr. President, the issue before us today, uranium mill tailings disposal, has been carefully considered by the Committee on Environment and Public Works in connection with our overall review of the issue of nuclear waste disposal. I have seen no indication of a proven technology or definitive long-term plan for the disposal of reactor wastes.

Similarly, the hazardous wastes from uranium mills present a long-ignored threat to the health and safety of our citizens. Although these mill tailings are far less toxic than spent fuel or high level waste, they persist for long periods of time. Their lower level of activity has led to complacency on the part of those that have used them, even as construction materials.

The regulatory gaps which have allowed this situation to occur were addressed in a committee amendment to the authorization bill for the Nuclear Regulatory Commission, recently passed by the Senate. The provision we are proposing as title II, in combination with the remedial action proposal of the Committee on Energy and Natural Resources, is very similar to that to which the Senate previously agreed. By combining these two, we can have a complete legislative package. Assuming favorable action by the other body, the parallel provision can be dropped from the Nuclear Regulatory Commission bill.

The proposed amendment provides that any remedial action other than maintenance, monitoring, or emergency measures can be undertaken by the Department of Energy pursuant to a Commission license or order only after authorization by the Congress. This does not limit the Department's ability to perform work for which a previous licensee is liable, where recovery of any Federal expenditures will be sought from the licensee. It is intended only to limit the Department's undertaking of further major remedial actions at Federal expense to instances with congressional authorization.

I support this amendment as a worthwhile extension of Nuclear Regulatory Commission authority over the mill tailings disposal aspect of the fuel cycle. I regret, however, that we deal first with

the least troublesome radioactive waste problem, one for which in fact adequate regulatory authority already exists under subtitle "C" of the Solid Waste Disposal Act.

I am concerned that in mandating the Commission to control mill tailings disposal through its permitting powers, we achieve at least the degree of control which would result under subtitle "C" of the Solid Waste Disposal Act. Uranium mill tailings certainly are a hazardous waste under that subtitle, which I authored, for their radioactive and nonradioactive characteristics. While it may be preferable to integrate regulation of such wastes with the permitting of other aspects of the fuel cycle such as the ore processing, the environmental protections of subtitle "C" must not be lost or reduced.

I have insisted that the amendment contain provisions assuring a continued role for the Administrator of the Environmental Protection Agency establishing generally applicable standards for mill tailings disposal, following the provisions of subtitle "C," and requiring that the specific management requirements set by the Nuclear Regulatory Commission are at least as stringent as requirements which apply to similar hazardous wastes under the Solid Waste Disposal Act.

The section-by-section analysis which comprises the legislative history for the committee amendment to S. 2584 attempted to further define the relative roles of the Nuclear Regulatory Commission and the Administrator of the Environmental Protection Agency in regulating uranium mill tailings disposal. That analysis notes that the generally applicable standards and criteria for which the Administrator is responsible are to prescribe general standards of performance, not specific management requirements and not site specific.

Such general standards of performance may include standards for the placement and location of disposal sites—including demographic or geological criteria or water flow restrictions—requirements that disposal sites be reclaimed so they do not need continuing maintenance or meet minimum maintenance requirements; general requirements that sites be designed and managed to prevent any contact of the tailings by human or animal life and that use of disposal sites be restricted to avoid disturbing integrity of the tailings stabilization; provisions for ground and surface water monitoring; and general performance standards for stabilization of tailings in various circumstances. Limitations on environmental exposure or emissions or other introduction of radioactive or any other constituents of mill tailings in the air or ground or surface waters, are also within the authority of the Administrator under new section 275. In setting generally applicable standards and criteria the Administrator will take into account the degree to which human health and the environment are already adequately protected by Commission requirements established under new section 84, and require whatever else is necessary for the protection of human health and the environment.

Standards and requirements under the amendment will be implemented and enforced by the Commission through its permitting process. Consequently, no Environmental Protection Agency permit could be required under these provisions or the Solid Waste Disposal Act. This does not affect, of course, any permits which may be required under the Federal Water Pollution Control Act or other environmental laws. The Environmental Protection Agency is not directly involved in implementation or enforcement for particular disposal sites, but the Agency is expected to conduct active oversight to assure the standards and criteria and the law are being followed. Some means by which this may be done are comments on proposed permits or the required environmental impact statements on proposed permits under section 309 of the Clean Air Act.●

Mr. HEINZ. Mr. President, I would like to explain in greater detail the special problems of the site covered by this legislation which is in Pennsylvania.

The Canonsburg, Pa., site is, I believe, one of the only sites of the 22 listed in the bill that is currently occupied by both structures and people. The site, which has not been used as a uranium recovery facility since 1957, is now an industrial park containing 14 small businesses employing 150 people.

It is important to note that these firms located on the site only after its owner received assurances from the Atomic Energy Commission in 1966 that—

No hazard to health and safety is involved as a result of AEC licensed activities.

This action by the AEC effectively gave the Canonsburg site a clean bill of health and directly led to the use of the site for other purposes.

Despite these AEC assurances, recent studies performed for the Department of Energy at the site indicate that radiation levels exceed both background and guideline levels. The study further suggested that remedial action is deemed necessary on all structures and throughout the three yard areas at the Canonsburg site.

The recent Ford, Bacon and Davis Utah, Inc. study of Canonsburg analyzed five different remedial action plans ranging from covering the entire site with at least 2 feet of "clean" topsoil to demolishing the existing structures and shipping the debris to one of several alternative disposal sites, either nearby or in the Western United States. The cost of these alternatives ranges from $571,000 for the first to over $55,000,000 for the most expensive of the others.

It is important to note in this study that every alternative examined involves closing down the buildings on the site permanently and ending all activity there, thus dispossesing the occupants and forcing them to relocate. The study specifically concluded that decontaminating the buildings and making them fit for further use would be more expensive than demolition and disposal.

I believe that this is a reasonable study, but I am concerned that proper provision be made for those displaced occupants. In the case of unoccupied sites there is obviously no problem. In the case of sites like Canonsburg, however, the situation is more complicated, and the bill is unclear with regard to what costs would be reimbursed in those circumstances when site occupants are required by the Department of Energy and others participating in the formulation of a remedial action plan to vacate. Of particular importance in the Canonsburg case are the moving and relocation expenses of the businesses occupying the site. The site owner, having been compensated for his property, will be in a position to obtain an alternative location should he desire to do so.

Similarly, the business tenants will have to find new buildings to rent, hopefully at rates comparable to what they are paying now. What also remains to be covered for the site occupants, however, are the expenses of moving and relocating that will be incurred. In that regard I am pleased to note that the managers of the bill have made clear that the direct costs referred to in section 103 of the bill would include relocation expenses for the occupants of the site in those cases where the Department of Energy and those others involved in the cooperative arrangement have determined that vacating the site is the best alternative.

I would further point out that some of the businesses on the Canonsburg site are operated by tenants rather than the owner of the property. If the site were to be demolished, both tenants and owner would have to move. The bill makes clear that in that circumstance, payment for relocation expenses would be made to all site occupants who were relocating, including both the owner of the property and the tenants.

Mr. President, the problems of these sites are difficult to resolve and potentially quite serious. I am pleased that the committee has been able to work out a good bill at this late date in the session, and with the clarification made by the bill's managers, I am pleased to support it.

Mr. President, I would like to ask the distinguished floor manager a question with respect to his interpretation on section 103(b) of the substitute bill. Is it your understanding that the phrase "costs which are directly required to complete the remedial action selected pursuant to section 108" is intended to include relocation expenses for the occupants of a site in those cases where such relocation is a necessary part of the remedial action to be taken at such site?

Mr. HANSEN. That is my understanding.

Mr. CHURCH. Mr. President, I rise in support of the bill H.R. 13650, the Residual Radioactive Materials Act of 1978. This bill addresses the problem of uranium mill tailings piles which must be cleaned up as soon as practicable, so as to protect the health of the citizens who may be exposed.

While I support the bill as reported by the Senate Energy Committee, I must

express one reservation concerning the substitute amendment which will be proposed by the chief sponsors of this legislation. My reservation has to do with the cost sharing formula which has been adopted in the substitute version. The Energy Committee reported a bill which provided for 100 percent Federal funding of the clean up of these uranium mill tailings piles.

However, in an effort to reach a version of this bill which the House will be able to accept quickly in the waning days of this session, the sponsors have agreed to a reduction of the 100 percent Federal funding to only a 90 percent Federal share. As I will explain more fully later on, I feel that over the years this problem has evolved into totally a Federal responsibility. I believe that requiring the States to assume even this 10 percent of the cost of clean up is inequitable.

However, the need to begin to clean up these sites is clear, and we must begin as soon as possible. With the Congress drawing to a close we have only this opportunity to act to protect the citizens who may be exposed. Therefore, I will withhold my objection to the proposed cost-sharing formula at this time. The Senate should revisit this inequitable situation next year.

When we look at the history of the uranium milling for defense purposes, it becomes clear why anything less than 100 percent Federal funding for cleaning up wastes from such milling would be inequitable. These abandoned uranium mill tailing piles were created under a contract solely for National defense purposes. Some of the sites were cleaned up to the standards prevailing at the time, while others were not. The piles are now abandoned, and the original contractors are either unable or unwilling to clean these piles. With further understanding about nuclear energy, we have learned more about the potential health hazards associated with these "orphan" mill tailing piles.

It now becomes imperative that these piles be cleaned up to a safer level.

But who is to blame for this lack of knowledge and inadequate clean-up? As between the States and the Federal Government the answer is obvious.

During the operation of these milling plants, the State government was not allowed to regulate these plants which were operating for defense purposes solely. In addition very little research work into the health effects of these tailings was done by the Federal Government until after the completion of these contracts. Therefore the States could not have had the access or the information necessary to regulate the creation of these wastes or the control of these piles.

It can be readily seen that the States were not even involved and the Federal Government is the one who should assume the entire cost of the immediate clear-up.

Some have argued that the States have received substantial benefits from having had the industries in the State. But this argument overlooks the point that the presence of these industries required the States to provide services. I believe an accounting will show that the taxes paid by the industry and the workers would not even equal these expenditures by the State. Therefore there were no excess State revenues to provide the funds demanded in this bill.

As part of the question of who should pay and how much, the Senate has included an amendment which would require an investigation of the responsibility of the owners of the sites.

The committee added an amendment to require that the Attorney General conduct a study to determine whether any Federal interest has been adversely affected by the original or any subsequent owner of any site designated under this act. The Attorney General is directed to consider existing statutes, standards set by contract with the Federal Government—where applicable to the owner—regulations in effect at the time, and other law which is applicable to the owner or the processing sites. The purpose of the study is to determine if by contract or law existing at the time there was a responsibility that was not fulfilled at that time.

The committee notes that this is a special and urgent situation which requires that the remedy, that is, clean-up of the uranium mill tailing piles, be initiated before the liability will be determined. The committee feels that the first priority is to accomplish the clean-up of these piles as quickly as possible; the public health and safety is the first consideration.

However if the Attorney General determines that he has sufficient cause to believe that a party has not met a responsibility incumbent at the time of ownership which adversely affects a Federal interest, the Attorney General shall take action as may be appropriate. Such action shall seek to require the party to pay all or any part of the costs incurred by the United States for the remedial action at the particular site.

In conclusion, I wish to discuss one further addition to the committee amendment, which was urged by the House. This is the concept that the Secretary shall set priorities to complete the cleanup of those piles which present the greatest level of health hazard. This is appropriate and the way that the Secretary should proceed in this program. However, we do not want a well-intentioned priority list to turn into an unconscionable, bureaucratic nightmare. In approaching the cleanup of these sites, the Secretary should, as the legislation directs him, immediately start preparations for negotiations with all of the States involved. Federal-State committees should be set up, and the negotiation agreements for the 22 listed sites must be immediately started.

However, in following his priority list, the Secretary should not allow a roadblock in one State to prohibit his efforts further down the list. If other States are ready to proceed, unresolved barriers in States with a higher priority should not stop him. States that are ready to proceed should be allowed to go forward. The resources of the Secretary should be fully applied at all times. In fact, there is no other way that the Secretary can complete all 22 of the listed sites, as he is directed to do, within the time allotted in the bill.

Finally, I urge my colleagues to pass this bill. This is a problem which has long been ignored and must be addressed. With our burdensome agenda in the Congress, this may be the only chance we have to do something.

● Mr. WALLOP. Mr. President, I am pleased to support the amendment offered by my distinguished colleague from Colorado, the chairman of the Nuclear Regulation Subcommittee. This amendment to title II of the bill would establish new licensing and related regulatory authority for the Nuclear Regulatory Commission and for the States under the agreement State program for the disposal of uranium mill tailings. Mr. President, I believe that this amendment represents a reasonable accommodation between the provision adopted by the Senate as an amendment to the NRC fiscal year 1979 authorization bill on August 25 and the legislation passed by the other body last week. Together with the provisions in title I which address the problem of abandoned mill tailings at certain inactive sites, this legislation represents a reasoned and comprehensive approach for assuring the safe and proper disposal of these materials.

The amendment would require the development of Federal standards to govern the disposal of uranium mill tailings. Those standards would guide the Nuclear Regulatory Commission in its licensing of uranium milling operations. The amendment would also preserve the opportunity of the States through the agreement State program to license and regulate uranium mills. The agreement States would be required to follow at a minimum any Federal substantive standards. In addition, public participation and environmental review goals would be established for the agreement States, although the States would be given the flexibility to determine the specific means to meet those goals. For example, the agreement State would be required to prepare a written environmental analysis addressing such factors as the radiological impacts of the activity, the impact on ground water, the long-term impact on the public health and the environment, and alternative sites and engineering methods. The manner in which these and other factors would be addressed in the analysis, however, would be left to the determination of the States and the provision is drafted so as to avoid any requirement that the States mirror Federal procedures. In order to assist the agreement States in meeting these new and important responsibilities, the amendment provides an authorization of $500,000 beginning in fiscal year 1980 for assistance to the agreement States.

The amendment also carefully addresses the ultimate disposal of uranium mill tailings. One question which occurred here is the need for Goverment ownership of mill tailings disposal sites. The amendment provides a detailed mechanism for determining whether Government ownership is necessary or

desirable to protect health or minimize danger to life or property. If the Commission determines that such ownership is needed, it must prescribe standards to assure that all stabilization requirements are met, to minimize the need for future remedial work, to minimize the cost for long-term maintenance and monitoring, and to permit the future use of the land and the tailings consistent with all applicable NRC requirements. Also, the affected State would have the option of assuming ownership in lieu of the Federal Government. This approach insures that the transfer of lands to Government ownership will only be required after a thorough consideration of the issue by the appropriate regulatory authorities and on the basis of an adequate public record. Furthermore, the amendment insures that the future use of these lands will not be unnecessarily restricted beyond any requirements needed to protect the public health and safety.

Mr. President, I support the amendment and I urge its adoption.●

● Mr. JACKSON. Mr. President. I rise in support of the bill H.R. 13650 and the committee amendment which will be proposed.

This amendment is being proposed by the Senate Committee on Energy and Natural Resources and the Committee on Environment and Public Works jointly. This amendment was also negotiated with the House Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs. All four committees have worked very hard to reach a single text which will be acceptable to all parties.

We hope on the Senate side that we have succeeded, and the House will adopt this agreed upon amendment.

As in any negotiation between the Houses, there are many differences resulting in substantial give and take. One question I wish to have answered relates to the comingling of tailings from Federal defense contracts. The proposed committee amendment addresses the situation of abandoned tailings piles from defense contracts, and active operations for commercial purposes. Not addressed herein is the problem of comingled tailings from defense related operations and commercial operations.

The version of S. 3078 as reported from the Energy Committee contained a requirement that the Secretary of Energy study this problem and report back to the Congress next year. The House for various reasons has opposed this study as a part of the bill. However, I plan to request just such a study from the Secretary of Energy and the General Accounting Office. I feel that these questions must be adddressed. I am happy to report that Congressman DINGELL has already sent a letter to the Secretary asking for just such a report, therefore expressing the interest of both Houses.●

Mr. GARN. Mr. President, I move the adoption of the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Utah.

The amendment (UP No. 2099) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. If there are no further amendments, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I thank the majority leader.

ORDER TO HOLD BILL AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as it is received, H.R. 6237 be held at the desk pending further disposition. This has to do with the Civil Air Patrol.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 1219, H.R. 12349.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DuNOIR BASIN ADDITION, WASHAKIE WILDERNESS

The Senate proceeded to consider the bill (H.R. 12349) to provide for the DuNoir Basin Addition to the Washakie Wilderness, which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 1, line 6, strike "thirty four thousand five hundred" and insert "eleven thousand one hundred";

On page 1, line 7, after "depicted" insert "as wilderness";

On page 1, line 8, strike "DuNoir Basin," and insert Proposed—";

On page 1, line 9, strike "Additions Proposed", dated June" and insert "Addition" dated September 26, 1978";

On page 2, line 1, strike "in, and deemed a part of";

On page 2, line 8, strike "such" and insert "the";

On page 2, line 11, strike "such" and insert "the";

On page 2, line 11, strike "Such" and insert "The";

On page 2, beginning with line 15, strike through and including line 21, and insert in lieu thereof the following:

SEC. 3. Within the area depicted as the Special Management Unit on the map entitled "Proposed—Washakie Wilderness Addition" and dated September 26, 1978, which is on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture, any roads that may be constructed for the purpose of timber harvesting shall be closed at the completion of timber harvesting operations.

SEC. 4. Section 5 of the Revised Statutes, title 86, page 792 (Public Law 92-476) is repealed.

SEC. 5. No moneys shall be expended for development or maintenance of this area prior to fiscal year 1980 in excess of those that would have been expended for the area had it remained in management to preserve its wilderness character under Public Law 92-476.

Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1305), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

H.R. 12349 as amended would designate approximately 11,000 acres of the DuNoir Basin Special Management Unit in Wyoming's Shoshone National Forest as an addition to the existing Washakie Wilderness, and return approximately 17,700 acres of that unit to multiple use management.

BACKGROUND AND NEED

Through the enactment of Public Law 92-476 designating the Washakie Wilderness, the Congress directed the Secretary of Agriculture to study a 28,800-acre special management unit of the DuNoir Basin to determine the highest and best public use of the area.

The Draft Environmental Impact Statement identified a preferred alternative of an 11,100-acre wilderness with the remaining 17,700 acres available for other uses. The Department completed its review and recommended that the entire 28,800 acres be included in wilderness. The area lies adjacent to the existing Teton Wilderness and the Washakie Wilderness, and is 30 miles from Teton Park. There are oil and gas leases in the area near the Special Management Unit, and approximately 1.5 million board feet of marketable timber in the unit itself. Approximately 11,000 acres of the unit was cut for ties in the 1920's and some evidence of the harvesting operations remain.

The paramount values in the management unit are the wildlife values. The Unit has at times provided habitat for bighorn sheep, mountain lion, mule deer, moose and bear. There is a resident population of elk numbering approximately 300, and another herd in excess of 1,000 migrate through the unit on an annual basis. The maintenance of wildlife values and timber harvesting are not necessarily conflicting management objectives. However, the unfettered access to the area by recreational users following timbering operations might prove detrimental to the elk. Preservation of the wildlife values, however, can be maintained under a less stringent management than wilderness classification. The closure of roads at completion of timbering operations would allow multiple use of the area while preserving its wildlife values.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SIMPLIFIED RETIREMENT PLANS

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a concurrent resolution (S. Con. Res. 113) which has been cleared and ask unanimous consent for its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution will be stated by title.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent the reading by title be dispensed with, and I shall explain it.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this resolution, if agreed to by the Senate and the House of Representatives, would permit the conferees on H.R. 13511 to consider a provision, section 152 (relating to simplified retirement plans), which was agreed to by the Finance Committee but inadvertently omitted from the printed version of the committee amendment.

The resolution (S. Con. Res. 113) was read, considered by unanimous consent, and agreed to, as follows:

S. CON. RES. 113

Resolved by the Senate (the House of Representatives concurring), That, due to an inadvertent omission in the Senate reported version of H.R. 13511, entitled "An Act to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes", in resolving the difference between the Senate and the House on such bill, it shall be deemed that the Senate agreed to the following section 152, and the conferees are authorized to consider the same:

SEC. 152. SIMPLIFIED EMPLOYEE PENSIONS.

(a) Increase in Maximum Limitation Under Section 408 to $7,500.—Section 408 (relating to individual retirement account) is amended by redesignating subsection (j) as subsection (m) and by inserting after subsection (i) the following new subsection:

"(j) Increase in Maximum Limitations for Simplified Employee Pensions.—In the case of a simplified employee pension, this section shall be applied by substituting '$7,500' for '$1,500' in the following provisions:

"(1) paragraph (1) of subsection (9),

"(2) paragraph (2) of subsection (b), and

"(3) paragraph (5) of subsection (b)."

(b) Simplified Employee Pension Defined.—Section 408 is amended by inserting after subsection (j) the following new subsection:

"(k) Simplified Employee Pension Defined.—

"(1) In general.—For purposes of this title, the term 'simplified employee pension' means an individual retirement account or individual retirement annuity with respect to which the requirements of paragraphs (2), (3), (4), and (5) of this subsection are met.

"(2) Participation requirements.—This paragraph is satisfied with respect to a simplified employee pension for a calendar year only if for such year the employer contributes to the simplified employee pension of each employee who—

"(A) has attained age 25, and

"(B) has performed service for the employer during at least 3 of the immediately preceding 5 calendar years.

"(3) Contributions may not discriminate in favor of the highly compensated, etc.—

"(A) In general.—The requirements of this paragraph are met with respect to a simplified employee pension for a calendar year if for such year the contributions made by the employer to simplified employee pensions for his employees do not discriminate in favor of any employee who is—

"(i) an officer,

"(ii) a shareholder,

"(iii) a self-employed individual, or

"(iv) highly compensated.

"(B) Special rules.—For purposes of subparagraph (A)—

"(i) there shall be excluded from consideration employees described in subparagraph (A) or (C) of section 410(b)(2), and

"(ii) an individual shall be considered a shareholder if he owns (with the application of section 318) more than 10 percent of the value of the stock of the employer.

"(C) Contributions must bear a uniform relationship to total compensation.—For purposes of subparagraph (A), employer contributions to simplified employee pensions shall be considered discriminatory unless contributions thereto bear a uniform relationship to the total compensation (not in excess of the first $100,000) of each employee maintaining a simplified employee pension.

"(D) Treatment of certain contributions and taxes.—Except as provided in this subparagraph, employer contributions do not meet the requirements of this paragraph unless such contributions meet the requirements of this paragraph without taking into account contributions or benefits under chapter 2 (relating to tax on self-employment income), chapter 21 (relating to Federal Insurance Contribution Act), title II of the Social Security Act, or any other Federal or State law. Taxes paid under section 3111 (relating to tax on employers) with respect to an employee may, for purposes of this paragraph, be taken into account as a contribution by the employer to an employee's simplified employee pension. If contributions are made to the simplified employee pension of an owner-employee, the preceding sentence shall not apply unless taxes paid by all such owner-employees under chapter 2, and the taxes which would be payable under chapter 2 by such owner-employees but for paragraphs (4) and (5) of section 1402(c), are taken into account as contributions by the employer on behalf of such owner-employees.

"(4) Withdrawals must be permitted. A simplified employee pension meets the requirements of this paragraph only if—

"(A) employer contributions thereto are not conditioned on the retention in such pension of any portion of the amount contributed, and

"(B) there is no prohibition imposed by the employer on withdrawals from the simplified employee pension.

"(5) Contributions must be made under written allocation formula.—The requirements of this paragraph are met with respect to a simplified employee pension only if employer contributions to such pension are determined under a definite written allocation formula which specifies—

"(A) the requirements which an employee must satisfy to share in an allocation, and

"(B) the manner in which the amount allocated is computed.

"(6) Definitions.—For purposes of this subsection and subsection (2)—

"(A) Employee, employer, or owner-employee.—The terms 'employee', 'employer', and 'owner-employee' shall have the respective meanings given such terms by section 401(c).

"(B) Compensation.—The term "compensation' means, in the case of an employee within the meaning of section 401(c)(1), earned income within the meaning of section 401(c)(2).

"(l) Simplified Employer Reports.—An employer who makes a contribution on behalf of an employee to a simplified employee pension shall provide such simplified reports with respect to such contributions as the Secretary may require by regulations. The reports required by this subsection shall be filed at such time and in such manner, and information with respect to such contributions shall be furnished to the employee at such time and in such manner, as may be required by regulations."

(c) Maximum Deduction Under Section 219.—Subsection (b) of section 219 (relating to maximum deduction in the case of retirement savings) is amended by adding at the end thereof the following new paragraph:

"(7) Simplified employee pensions.—In the case of an employer contribution on behalf of the employee to a simplified employee pension, the limitation under paragraph (1) shall be the lesser of—

"(A) 15 percent of compensation includible in the employee's gross income for the taxable year (determined without regard to the employer contribution to the simplified employee pension), or

"(B) the sum of—

"(i) the amount contributed by the employer to the simplified employee pension and included in gross income (but not in excess of $7,500), and

"(ii) $1,500, reduced (but not below zero) by the amount described in clause (i).

In the case of an employee who is an officer, shareholder, or owner-employee described in section 408(k)(3), the amount referred to in subparagraph (B) shall be reduced by the amount of tax taken into account with respect to such individual under subparagraph (D) of section 408(k)(3)."

(d) Employees of Enterprises Under Common Control.—Subsections (b) and (c) of section 414 are each amended by inserting "408(k)," after "401,".

(e) Simplified Employee Pension May Be Taken Into Account in Determining Whether Employer Meets Certain Other Nondiscrimination Provisions.—Paragraph (5) of section 401(a) is amended by adding at the end thereof the following new sentence: "For purposes of determining whether one or more plans of an employer satisfy the requirements of paragraph (4) and of section 410(b), an employer may take into account all simplified employee pensions to which only the employer contributes."

(f) Employer Deductions.—Section 404 (relating to deduction for contributions of employer to certain plans) is amended by adding at the end thereof the following new subsection:

"(h) Simplified Employee Pensions.—For purposes of this section, a contribution paid by an employer to a simplified employee pension shall be treated as a contribution paid by the employer to a profit-sharing plan."

(g) Amendments to Secton 415.—Section 415 (relating to limitations on benefits and contributions under certain plans) is amended—

(1) by redesignating subparagraphs (E) and (F) of subsection (a)(2) and subparagraphs (F) and (G) and by inserting after subparagraph (D) the following new subparagraph:

"(E) a simplified employee pension.";

(2) by inserting "408(k)," after "408(b),"in the material immediately following subparagraph (G) of section 415(b)(2);

(3) by inserting "any simplified employee pension," after "section 408(b)," in section 415(e)(5); and

(4) by striking out "or" in section 415(k)(1)(F), by redesignating subparagraph (G) of section 415(k)(1) as subparagraph (H), and by inserting after section 415(k)(1)(F) the following new subparagraph:

"(G) a simplified employee pension, or".

(h) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME AGREEMENT ON CLOTURE MOTION DEBATE

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Hawaii (Mr. MATSUNAGA) for his characteristic courtesy and patience.

Mr. President, I ask that the 1 hour under the cloture rule not begin running until the Senator has been able to dispose of the amendment, which has been cleared.

Mr. BAKER. Reserving the right to object, I wonder if the majority leader would consider setting a time for the cloture vote by unanimous consent at 11 o'clock.

I think there is no problem on this side by abbreviating it a few minutes, and that would be the practical effect of that request.

Mr. ROBERT C. BYRD. That was done on yesterday, 11.

Mr. BAKER. Was the request the Senator just made that the hour begin running at the conclusion of the proceedings by the Senator from Hawaii——

Mr. ROBERT C. BYRD. That would not interfere with the order on yesterday that the vote occur at 11.

Mr. BAKER. So the vote would still be at 11?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I thank the Senator.

Mr. BROOKE. If the Senator will yield for a question, as I understand it, the cloture vote would take place at 11 on Humphrey-Hawkins?

Mr. ROBERT C. BYRD. Yes.

Mr. BROOKE. The hour prior is to be used for debate

Mr. ROBERT C. BYRD. Yes.

If I have not, I ask unanimous consent that the time preceding the cloture vote be divided between the two leaders or their designees.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LAND HOLDINGS BY CERTAIN RELIGIOUS CORPORATIONS

Mr. MATSUNAGA. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 3371.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 3371) entitled "An Act to repeal certain provisions of law establishing limits on the amount of land certain religious corporations may hold in any Territory of the United States", do pass with the following amendment:

Page 2, after line 9, insert:

Sec. 3. Subsection 3(b) of the Act entitled "An Act to provide that the Territory of American Samoa be represented by a nonvoting Delegate to the United States House of Representatives, and for other purposes" is hereby amended to read as follows: "(b) owe allegiance to the United States;".

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the Senate concur in the amendment of the House.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TERRITORY OF AMERICAN SAMOA NONVOTING DELEGATE

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the Committee on Environment and Natural Resources be discharged from further consideration of H.R. 13702, a measure to provide for the territory of American Samoa to be represented by a nonvoting delegate to the U.S. House of Representatives, and for other purposes, and that the Senate proceed to the immediate consideration of said measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 13702) to provide that the Territory of American Samoa be represented by a non-voting Delegate to the United States House of Representatives, and for other purposes.

The Senate proceeded to consider the bill.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent the bill be read twice, and I ask for third reading.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill was read the third time.

Mr. MATSUNAGA. Mr. President, I rise in support of H.R. 13702, a bill which would provide for direct representation of the people of American Samoa in the U.S. Congress by a nonvoting delegate similar to the delegates who now represent Guam, the Virgin Islands, Puerto Rico, and the District of Columbia. This measure was passed earlier this month by the House of Representatives as a noncontroversial measure under the Suspension Calendar.

Mr. President, American Samoa is an unincorporated territory of the United States which is composed of seven islands totaling approximately 76 square miles, and is situated 2,600 miles southwest of the State of Hawaii. The resident population of the territory is about 30,000, with an additional number of Samoans, between 40,000 and 50,000, living in Hawaii and on the west coast. Under the Immigration and Nationality Act, American Samoans are classified as American nationals, not U.S. citizens, although a significant number have become American citizens through the military service or emigration to the States.

The first visit of officials of the United States to the Samoan Islands was by a scientific expedition led by Navy Lt. Charles Wilkes in 1839. In 1871, another U.S. naval officer, Cmdr. Richard Meade, was assigned to make the second American visit to the islands. Meade's visit later resulted in a formal agreement drawn between High Chief Mauga, leader of the Pago Pago Bay area, and the United States for "the exclusive privilege of establishing in the said harbor of Pago Pago, island of Tutuila, a naval station", in exchange for the protection of the islands against foreign powers. Although President Grant approved the proposed agreement, it was never ratified by the Senate.

In the years following Meade's visit, the United States took considerable interest in Samoa, primarily because of the Pago Pago harbor area, which was considered by naval experts to be among the finest in the South Pacific. During the latter part of the 19th century, the Samoan Islands became an international issue which involved the United States, Germany, and Great Britain. After many years of negotiations, U.S. jurisdiction over American Samoa was recognized by the Treaty of Berlin, which was ratified by the Congress in 1900, and sovereignty was acquired by the Cession of Tutuila (1900) and Manu'a (1904), which were finally ratified by the Congress in 1929.

By Executive order in February 1900, President McKinley assigned the administration of the Territory of American Samoa to the Department of the Navy. In June 1951, President Truman, by means of another Executive order, transferred the administration of Samoa to the Secretary of the Interior.

In recent years, Mr. President, the people of American Samoa have made significant progress toward the goals of greater self-government and closer ties with the United States. Since 1963, by local initiatives, the Samoan people subjected themselves to an income tax similar to that adopted by the Territory of Guam, by selective usage of the U.S. Internal Revenue Code. In 1966, the Samoan people participated in a territory-wide plebiscite whereby the majority of the voters accepted the current Revised Territorial Constitution of American Samoa, which was approved by the Secretary of the Interior in 1967. In 1969, the local government established a joint budget review committee, which comprised both members of the administration and the legislature, to provide more input by Samoan leaders into the budgetary process. In 1970, the Samoan people held, for the first time, a territory-wide election of a delegate at large to serve as their government's special representative to Washington. And, most recently, the first popularly elected Governor of the Territory of American Samoa took office.

Mr. President, these accomplishments represent significant steps forward in the development of greater participation by the people of American Samoa in the conduct of their local affairs.

However, Mr. President, an important problem, vital to the future growth of American Samoa, remains unaddressed today. That problem is that American Samoa is the only U.S. territory with a significant population that does not have official representation in the Congress.

The elected Delegate at Large of American Samoa has no official standing in the Congress, as was the case with Guam and the Virgin Islands prior to 1972. Therefore, the territory has long looked to Hawaii's congressional delegation and other interested Members of Congress for support and assistance in national affairs affecting American Samoa. In view of the rapidly changing economic and political conditions both in the United States and in the Pacific Basin, I strongly believe that we must now provide American Samoa with direct representation in the Congress. A nonvoting delegate from American Samoa would more effectively represent and interpret the needs and interests of the territory before Congress and the many agencies of the Federal Government. Furthermore, an official delegate to the Congress would provide the people of American Samoa with representation responsible to them, and not to some other constituency.

As a Senator from Hawaii, the Pacific neighbor of American Samoa, and as one who has long been sensitive to the needs and aspirations of the Samoan people, I know very well the good character of these Pacific island people. They are extremely proud to be part of the United States and have, over the years, made many significant contributions to our Nation. During the three-quarters of a century that the American flag has flown over American Samoa, the territory has stood in the South Pacific as a stalwart representative of the United States and the principles of freedom and democracy which make our Nation great. In my judgment, we can only strengthen the bonds of friendship and cooperation between the American Samoa and the United States by providing the people of the territory with representation in the Congress.

The enactment of this bill to provide American Samoa with a nonvoting delegate will be an important signal of our continuing commitment to the well-being of the people of that territory. I, therefore, strongly urge my colleagues to give favorable consideration to this important legislation.

Mr. President, on behalf of the Energy and Natural Resources Committee, I would like to discuss four issues involved in H.R. 13702, as passed by the House.

First, this measure requires that a candidate for the office of delegate be a citizen of the United States for at least 7 years. This requirement is derived from the legislation providing for nonvoting delegates from Guam and the Virgin Island. The situation in American Samoa, however, is not similar to that of these territories where citizenship had been extended, but more akin to the situation of Puerto Rico and the Philippines where the residents were classified as U.S. nationals. At the time Congress passed legislation providing for a nonvoting representative from Puerto Rico and two from the Phillipines, the residents of those areas were U.S. nationals, not citizens, and the enabling acts required only that the candidate for office "owe allegiance to the United States." The requirement for Puerto Rico was changed when citizenship was extended, but not before.

Mr. President, the committee has received copies of a resolution from the Samoan legislature and from the office of the delegate at large of American Samoa raising the issue of the citizenship requirement. For me, and believe for the other members of the committee, the language in the House-passed bill limiting the office of delegate to U.S. citizens is unacceptable.

However, the committee does not intend to offer an amendment to the House bill to delete the requirement of citizenship. Because of the lateness of this session of Congress, the committee is accepting the House bill and recommends that it be passed without amendment. We take this action with the understanding that the House will take immediate action on another measure to add language which will modify H.R. 13702 to permit American nationals, as well as U.S. citizens, to hold the office of delegate.

Second, H.R. 13702 provides that the candidate be an inhabitant of American Samoa. On the surface, this would appear to be nothing more than a residency requirement; but due to the recent problems with the definition of residency for the Washington representative of the Commonwealth of the Northern Mariana Islands, the term "inhabitant" has an element of imprecision. The House report on H.R. 13702 addresses this problem by noting several situations, such as military service, which should not disqualify a candidate. The very fact that such an explanation is needed demonstrates why a better definition should be adopted. To that end, I would like to make clear on behalf of the committee that the word "inhabitant" means only that the candidate "be eligible to vote for Members of the House of Representatives of the legislature of American Samoa." That phrase is consistent with the definition used by the House for the word "inhabitant." The committee believes that that interpretation will avoid the unfortunate experience with the Northern Marianas.

Mr. President, the third and fourth issues are related. The House-passed bill provides for a 2-year term for the Samoan delegate and provides only a 50 percent clerk-hire allowance. In the past, especially in the cases of Puerto Rico and the Philippines, the Congress recognized that the nonvoting delegate was the territory's representative and has varied the term of office. The Resident Commissioner from Puerto Rico has a 4-year term, and the two Resident Commissioners from the Philippines had 3-year terms of office. The present delegate from Samoa has a 4-year term in accordance with Samoan law; and the committee would prefer to recognize the wishes of the Samoan people for a 4-year term.

With respect to the clerk-hire provision, this is an issue with which we have had substantial recent experience. The legislation for the Guam and Virgin Islands delegates originally provided for 60 percent clerk-hire allowances. That was found to be totally inadequate, and less than one Congress later, we had to increase the allowance to 100 percent. There is a good chance that the 50 percent clerk-hire allowance provided in the House bill will prove inadequate, and the next Congress may have to act to raise the limit.

Again, Mr. President, in an effort to expedite the consideration of this legislation, I do not intend to offer any amendments. The questions raised by the committee with respect to the definition of the word inhabitant, the term of office of the delegate, and the proposed clerk-hire allowance must await resolution at a later time. With respect to the citizenship limitation in the House bill, House amendment to a Senate bill, S. 3371, has already been concurred with by the Senate so as to permit American nationals to hold the office of delegate.

Mr. President, I strongly urge passage of H.R. 13702.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 13702) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MINERAL LEASING ACT AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 3189.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 3189) entitled "An Act to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201 (a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That (a) notwithstanding any provision of law to the contrary and notwithstanding the provisions of section 2(a)(1) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 201(a)(1)), the Secretary of the Interior is authorized to issue leases for coal on other Federal lands in the State of Utah to the lease applicant named in preference right lease applications serial numbers U1362, U1363, U1375, U5233, U5234, U5235, U5236, and U5237 upon surrender and relinquishment by the applicant of such preference right lease applications and all right to lease the lands covered by such applications, such surrender and relinquishment to be made in exchange for the lease or leases to be issued by the Secretary.

(b) Nothwithstanding any provision of law to the contrary and notwithstanding the provisions of section 2(a)(1) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 201(a)(1)), the Secretary of the Interior is authorized to issue leases for coal on other Federal lands in the State of Wyoming to the owner or owners of Federal coal leases serial numbers W0313666, W0111833, W073289, W0312311, and W0313668, B025369, W0256663, W5035, W0321794 covering lands in the State of Wyoming upon the surrender and relinquishment of such leases or portions thereof.

(c) The leases to be issued by the Secretary pursuant to the authority granted by subsections (a) and (b) of this Act and the leases or portions thereof or rights to leases to be exchanged therefor shall be of equal value. If such leases or portions thereof or rights to leases are not of equal value, the Secretary is authorized to receive, or pay out of funds available for that purpose, cash in an amount up to 25 per centum of the value of the coal lease or leases to be issued by the Secretary in order to equalize the value of the lease or lease rights to be exchanged.

(d) Any exchange lease issued by the Secretary under the authority of this Act shall contain the same terms and conditions as those leases surrendered, or in case of a surrendered lease right, the same terms and conditions as those to which the lease applicant would be entitled.

(e) This subsection does not require or obligate the Secretary to take any action or to make any commitment to a lessee or lease applicant with respect to issuance, administration, or development of any lease.

SEC. 2. Section 2(a)(1) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 201(a)(1)), is further amended by striking the period at the end of the first sentence and inserting in lieu thereof the following: ": *Provided*, That notwithstanding the competitive bidding requirement of this section, the Secretary may, subject to such conditions which he deems appropriate, negotiate the sale at fair market value of coal the removal of which is necessary and incidental to the exercise of a right-of-way permit issued pursuant to title V of the Federal Land Policy and Management Act of 1976.".

SEC. 3. Section 3 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 203), is further amended by adding after the word "contiguous", the words "or cornering", and by deleting the period at the end of the second sentence thereof and adding the following clause: "except that nothing in this section shall require the Secretary to apply the production or mining plan requirements of section 2(d)(2) and 7(c) of this Act (30 U.S.C. 201(d)(2) and 207(c)). The minimum royalty provisions of section 7(a) of this Act (30 U.S.C. 207(a)) shall not apply to any lands covered by this modified lease prior to a modification until the term of the original lease or extension thereof which became effective prior to the effective date of this Act has expired.".

SEC. 4. Section 37 of the Mineral Leasing Act of 1920 (30 U.S.C. 193) is further amended by the addition of the words "except as provided in sections 206 and 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756, 2757–8), and" after "only in the form and manner provided in this Act," and before the word "except".

SEC. 5. Section 30 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 187) is further amended by striking the word "boy" and inserting in lieu thereof "child" and by striking the phrase "or the employment of any girl or woman, without regard to age,".

SEC. 6. (a) The Secretary of the Interior is authorized and directed within nine months of the date of enactment of this Act to evaluate and review the scenic, recreational, fish and wildlife, cultural, historic, and other public values of the reservoir in Johnson County, Wyoming, known as Lake DeSmet and the adjoining and adjacent coal properties. The Secretary's review and evaluation shall be for the purpose of determining whether the Lake DeSmet property shall be acquired for public use and enjoyment by exchange for Federal coal lands.

(b) If the Secretary determines that the Lake DeSmet property shall be acquired, he is authorized, with the agreement of the owners of the property, to acquire the Lake DeSmet property by exchanging Federal coal lands, interests in Federal coal lands, or Federal coal leases.

(c) The exchange authorized by this section shall be for equal value. To the extent, if any, the value of the lands or interests exchanged are not equal the difference may be adjusted by the payment of money so long as the payment does not exceed 25 per centum of the total value of the lands or interests transferred out of Federal ownership. In determining the value of the Lake DeSmet property, the Secretary is authorized and directed to include the fair market value of the property, considering the acquisition cost of the lands, the value of the coal deposits, water rights and water resource developments, and capital and other appropriate improvements. The exchange of such properties shall be carried out expeditiously in accordance with the provisions of this section and other Federal land exchange authority to the extent such authority is applicable and consistent with this section.

(d) The Secretary is authorized to transfer any property acquired pursuant to this section (1) to the appropriate agency in the Department of the Interior for management and administration, or (2) to the State of Wyoming for recreational purposes and fish and wildlife management. Any conveyance to the State of Wyoming shall contain a reservation of all minerals to the United States and shall provide that, if the State ceases to use the property conveyed for fish propagation and wildlife management, title to such property shall revert to the United States.

SEC. 7. Effective October 1, 1979, there are authorized to be appropriated to the Secretary such sums as are necessary to carry out the purposes of this Act.

SEC. 8. The title of the Federal Coal Leasing Amendments Act of 1975 (Public Law 94–377) is hereby changed to the Federal Coal Leasing Amendments Act of 1976.

Mr. JACKSON. I would like to point out, Mr. President, that while the exchanges authorized by the House amendment to S. 3189 are specific to individual leaseholders, the exchanges authorized are not, according to the Department of the Interior, inconsistent with the standards governing the general exchange authority contained in S. 3189, as passed by the Senate.

The principle in the Senate bill, which is supported by the administration, would restrict the use of exchange authority to those circumstances in which the Secretary seeks to resolve environmental problems which could not be prevented through enforcement of the Surface Mining Control and Reclamation Act of 1977 or other environmental laws. By accepting the House amendment, the Senate would agree with the House to delete the general exchange authority but would not, in approving the authority for exchange of specific leases, be doing violence to the principles contained in the Senate version.

I agree with the administration that the value of these amendments as tools for the Secretary of the Interior in managing Federal coal resources is great enough that the amendments should not be lost in a conflict over exchange authority, when, as I have noted, the treatment of exchange in the House bill does not do violence to the concept of exchange authority adapted by the Senate. In short, I believe that the general authority to exchange as outlined in the Senate legislation makes for better resource management than the piecemeal or case-by-case approach contained in the House amendment, but that the failure of the House to adequately deal with the exchange issue should not be allowed to be an obstacle to passage of this important legislation.

Mr. HANSEN. Mr. President, I move that the Senate concur in the amendment of the House.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that the Senate go into executive session for 1 minute only, for the consideration of two nominations, and then immediately return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—these items have been cleared on our calendar. I express my appreciation to the majority leader for agreeing to take up the nominations at this time. One is a nomination to the Board of Directors of the Tennessee Valley Authority.

The Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

TENNESSEE VALLEY AUTHORITY

The assistant legislative clerk read the nomination of Richard Merrell Freeman, of Illinois, to be a member of the Tennessee Valley Authority.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Mr. President, I will support the confirmation of Mr. Richard Freeman to serve on the TVA Board of Directors. The Environment and Public Works Committee has held 3 days of public hearings on the nomination and has covered a great many subjects of interest to the TVA and the people of my State. We even heard from the present Chairman of the Board in an effort to resolve once and for all the nature and extent of the relationship that exists between David and Dick Freeman.

Although I am not entirely pleased with some of his answers to my questions regarding issues before the TVA Board,

on balance, I believe the necessity for a quorum is more important than the adequacy of his answers. Moreover, I am impressed with Mr. Richard Freeman's integrity and intelligence.

For that reason, Mr. President, I will vote to confirm the nomination of Mr. Richard Freeman. Also, I would urge the President to send up the nomination of the third Director to the TVA Board without further delay.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

CALIFORNIA DEBRIS COMMISSION

The assistant legislative clerk read the nomination of Col. John Miley Adsit to be a member of the California Debris Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President of the United States be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, what is before the Senate?

The ACTING PRESIDENT pro tempore. There is no pending business before the Senate other than the 1 hour debate preceding the vote on the cloture motion at 11 o'clock.

Mr. ROBERT C. BYRD. Which has now been reduced to 45 minutes. Am I correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

The Chair thanks the Senator for his generous remarks this morning with respect to the Chair.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LEAHY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978

The Senate resumed the consideration of the bill (H.R. 50).

Mr. BROOKE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). The Senator will state it.

Mr. BROOKE. As I understand the parliamentary situation at the present time, we are now in an hour of controlled time of debate on the Humphrey-Hawkins bill, prior to a cloture vote which will take place at 11 a.m. Is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BROOKE. Mr. President, on the Humphrey-Hawkins bill is an amendment, submitted by the Senator from Massachusetts, which has to do with nondiscrimination against the elderly, women, minorities, and the handicapped in the U.S. Senate. Is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BROOKE. Mr. President, as I said when I submitted that amendment, I am strongly committed to having the Senate obey the law which the Senate has passed, which would prohibit discrimination against women, the elderly, minorities, and the handicapped in the Senate and in Congress.

I said at the time that I introduced the amendment, and I feel just as strongly now if not more, time has long passed when we should have passed this legislation which was introduced really at the beginning of this Congress and which has been the subject of much study, hearings, and ultimately legislation in the form of a mechanism for providing for nondiscrimination against women, the elderly, minorities, and the handicapped in employment in the Senate and equal pay for those that I have named, promotional opportunities, and all that goes with it.

Mr. President, I also said at the time of the introduction of that amendment that I am committed to the passage of the Humphrey-Hawkins bill. I am a cosponsor, an original cosponsor of the Humphrey-Hawkins bill. I feel very strongly that it should be the law of this land, that we need it, and that it should be passed. It was the subject of lengthy hearings before my committee, the Banking, Housing, and Urban Affairs Committee, as it was before the Human Resources Committee.

At some time after this bill was introduced there was a meeting with the President in an effort to get Presidential support for the legislation, and as a price for that Presidential support, in my opinion the Humphrey-Hawkins bill was somewhat emasculated if not emasculated.

Since that time there have been attempts made to further weaken what was the original intent of Senator Hubert Humphrey, Congressman GUS HAWKINS, and those of us who joined as cosponsors of the Humphrey-Hawkins bills.

Even at this very moment negotiations are going on between the proponents and the opponents of that bill. The distinguished majority leader, together with the distinguished minority leader, has attempted to have sessions that would hopefully result in a time agreement so that the Humphrey-Hawkins bill could be brought up and acted upon by the Senate.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BROOKE. I am very pleased to yield.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for yielding.

Mr. President, I have been asked by members of the ad hoc committee to delay the cloture vote until 12 noon today. I have not asked the minority leader, but I now clear it with him, and he can reserve the right to object.

UNANIMOUS-CONSENT AGREEMENT

I ask unanimous consent that the debate on cloture end at 11 a.m., and that the cloture vote occur at 12 noon. This will allow the Senate in the meantime during the intervening hour to get on with other business.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I am delighted to hear the majority leader make that request. I have just received word from the Republican members of the ad hoc committee that they feel they are making good progress and that such a request is likely to produce a good result. So I am pleased not only not to object but to concur in the request.

Mr. ROBERT C. BYRD. I thank the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I am encouraged by the words of the distinguished minority leader that the ad hoc committee believes that it is making some progress in its negotiations. And certainly I hope and pray that those negotiations are successful, even though I must be candid and express my view that I do not hold out much hope for any strengthened Humphrey-Hawkins bill, but I interpret the minority leader's remarks to mean that at least there is some hope that a bill may be agreed upon that can be passed by the Senate before this Congress adjourns sine die.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. BROOKE. I yield.

Mr. BAKER. Mr. President, I thank the Senator from Massachusetts.

I know of the extraordinary effort that he has put into this legislation and the justifiable pride he feels in his contribution to it. No one here has stated more eloquently than he the need for full employment and the formulation of public policy that would establish that objective.

I am happy to report to the Senator from Massachusetts that in the ad hoc committee, and by the way the ad hoc committee is made up of those who support Humphrey-Hawkins in its original configuration and those who do not, progress is being made and they felt that their progress this morning did in fact

justify the postponement of the cloture vote by an hour. I cannot tell the Senator from Massachusetts the nature of the progress. I rather suspect that we are now involved in those negotiations with questions of inflation goals as well as unemployment goals. But the distinguished majority leader is on the floor, I see, and he and I elected not to participate in those conversations so that the committee would have the fullest opportunity to explore their differences and the potential for agreement.

I have a feeling that we may get an agreement, and I think that is a good thing, because I think the establishment of a policy that brings consensus to this body on a controversial issue of such importance would be good for the country as well as good for the Senate.

So I take this opportunity to express my appreciation to the Senator from Massachusetts for his heroic efforts in this field and to express to him my optimism that we may yet see some measure that is generally suitable to the mood and temper of the Senate and to the country to follow on after his efforts.

Mr. BROOKE. Mr. President, I thank my distinguished minority leader for his words of enlightenment and encouragement, and I further express my appreciation to him for his leadership together with the leadership of the majority leader in keeping these negotiations going.

I know that at many times during this rather lengthy period negotiations threatened to be terminated and thus there would have been no possibility in this session of Congress, or in this Congress, more correctly, for passage of Humphrey-Hawkins.

Because the Senator from Tennessee has said that I personally feel so strongly about Humphrey-Hawkins, I express my deep appreciation to him and to the majority leader for keeping the negotiations going even though, as they have both said, and I think rightfully so, they were not participating in the deliberations of the ad hoc committee. They obviously cannot do that and run the Senate as well in these waning days of this Congress.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. ROBERT C. BYRD. I wish to thank him for his kind and generous remarks.

Mr. BROOKE. I thank the majority leader.

However, Mr. President, I was torn between two issues of paramount concern to me and I think really to Congress. One was Humphrey-Hawkins, which would establish a goal of unemployment which certainly we need that is significant. Even significant, though, there are no programs now in that Humphrey-Hawkins bill, which would establish such a goal. It is mostly symbolic, if not all symbolic, and even though it is I still believe that there is a place for symbolism and a benefit to be derived from symbolism.

Thus, I am torn between Humphrey-Hawkins and the commitment to equality of opportunity for all in employment in the U.S. Senate.

Here we have mandated the equal opportunity in employment throughout the Government, throughout the business sector, the private sector of our economy, and yet at the same time we exempted ourselves from the equal employment or Equal Pay Act of 1973; we had exempted ourselves from title VII of the Civil Rights Act of 1964. It seemed to me to be an act of hyprocrisy for the Senate of the United States to establish one standard for the rest of the Nation and another standard for itself.

It was for that reason that I introduced an amendment to Humphrey-Hawkins which would provide for the establishment of a mechanism to insure that the U.S. Senate did not discriminate in the hiring, in the promotion, and pay of women, minorities, the elderly, and the handicapped.

We have evidence to prove that that is what is happening in the U.S. Senate today, 1978, as we wind up the 95th Congress.

Mr. President, there are those around who are suggesting that by my introduction of the amendment against nondiscrimination of the elderly, the women, the handicapped, and the minorities, that I thereby might jeopardize the vote on cloture on Humphrey-Hawkins.

Some are saying that, because the amendment is on the bill that, thereby, they cannot vote for cloture for Humphrey-Hawkins and, in effect, they are saying that if the amendment is on the bill at the time the cloture vote is taken that they cannot vote for cloture because of their opposition to this amendment.

Mr. President, I never question the motives of my colleagues. I have some serious doubts, however, as to the legitimacy, the wisdom, of such a specious argument as that. But we have to deal with realities, Mr. President, and the realities are that we need to get 60 votes in the Senate for cloture on Humphrey-Hawkins in order for this bill to be passed.

I, for one, would never, as I said at the time I introduced the amendment, stand in the way of the passage of the Humphrey-Hawkins bill. So it is a very difficult decision for me to make. It is a difficult decision for me, because I do not believe that, though I strongly support both of these measures, it is an either/or situation or should be an either/or situation. It should not be a choice between whether we should have full employment in this country or whether the employees who happen to be employees of the U.S. Senate or nonemployees who want to work for the U.S. Senate who happen to be women or elderly or members of a minority group or handicapped can be employed and given an equal opportunity.

It should not be a choice between the two. Both of them are very worthy causes. Both are, in my opinion, essential pieces of legislation. There should be no question about either.

But Members of the Senate, of course, disagree in some respect, and I think it is being used perhaps as an instrument in order to deny the Senate its opportunity to vote up or down on Humphrey-Hawkins; namely, by voting against cloture.

Mr. President, I have made my decision. It has been a painful one; it is a difficult one. But I am buttressed by the fact that there will be opportunities again, and I shall seek those opportunities and wait for those opportunities to give the Senate the opportunity to vote on both the Humphrey-Hawkins bill and the amendment that I introduced for nondiscrimination of personnel in the U.S. Senate.

My decision, which I have described as painful and tragic, is a matter of chronological priority. Thus, Mr. President, I ask unanimous consent that I may be allowed to withdraw my amendment to the Humphrey-Hawkins bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Having withdrawn my amendment with all the reluctance that I can muster, Mr. President, I want to again assure the Chair and the Senate, but mostly I want to assure women and elderly and minorities and handicapped, that our battle to make the Senate of the United States come in line with the rest of the country and give full equal employment opportunities, with all that that means to those who would work in the Senate, is by no means terminated, and that we will continue to fight in Congress in order to bring that about through the amendment that I have just reluctantly withdrawn from this bill and from this bill only.

Mr. President, I yield the floor.

Mr. GOLDWATER. Mr. President, I just wanted to explain my position on the Humphrey-Hawkins bill. There is nothing new about this legislation. The first time I heard it discussed was when I was in college 50 years ago. In fact, it was one of the first premises on which the socialized economy suggested by the Soviets was based. But they saw the dangers in it even with a government-controlled economy.

My objection to it are not in the symbolism of establishing a goal for unemployment or a goal for inflation or for balancing budgets. My objection, Mr. President, is that when we fail to hit the goal of employment—and, mind you, it it going to be in there, and this year, if we pass the Humphrey-Hawkins bill, what we are doing is hanging a skeleton in a handy closet so that in the years after this we can put meat on it, the organs in it, to give it the muscle that it has to have if it ever has a chance of working, and I do not think it has that chance.

When we do not meet the employment goals, then the Government steps in, and the Government begins to regulate jobs, begins to regulate prices, begins to regulate wages and taxes, and we go through periods such as we have already gone through, where something might be manufactured in Boston, Mass., but we find that Boston, Mass., is an area of great surplus production, but we find

some community in Texas that is not, so the Government has the power to transfer that business to Texas.

I know this sounds foolish, but I want to remind my colleagues that we have been through all of this once before, and fortunately we got out of it. In my opinion, you cannot have a successful operation of a piece of legislation like the Humphrey-Hawkins bill without absolute domination of the economy by the Federal Government.

Now, if everything works, and we set a goal of 4 percent for unemployment and we hit it, fine and dandy. But I raise the question, why 4 percent?—4.5 percent was the goal that was set way back in 1946. I asked the authors of this legislation, "How did you arrive at that figure?" They sort of smiled and said, "Almost by flipping a nickel."

To begin with, we do not get honest figures about our unemployment in this country. The labor statistics are probably the most juggled statistics I have ever run into. They always remind me of a book I once had, "How To Lie With Statistics."

You cannot employ people unless they are 16 years old, but in spite of that, people under 16 are counted in the unemployment figures. You are not supposed to hire people over 65, but in spite of that they are counted. So when we look at the unemployment figures submitted to us by the Department of Labor, Mr. President, I feel certain they are not honest—or, to put it an easier way, they are not true.

I would much rather see the figures come to us divided. I admit there are a lot of black people in this country unemployed, and if we want to set a goal, let us take the groups that are not well employed, like the blacks in some cases, my Indians in some cases, in some cases Puerto Ricans and the Mexican-Americans——

The PRESIDING OFFICER. All of the time of the minority has expired.

Mr. GOLDWATER. Of what?

The PRESIDING OFFICER. Of the minority.

Mr. GOLDWATER. I knew I was a minority, but I did not know I was that much of one.

The PRESIDING OFFICER. Who yields time?

Mr. GOLDWATER. The minority is out of it.

Mr. ROBERT C. BYRD. Mr. President, I yield time to the Senator from Hawaii (Mr. INOUYE) to call up a conference report.

FOREIGN ASSISTANCE APPROPRIATIONS, 1979—CONFERENCE REPORT

Mr. INOUYE. Mr. President, I submit a report to the committee of conference on H.R. 12931 and ask for its immediate consideration.

The PRESIDING OFFICER. Until the papers can be retrieved, the conference report cannot be called up.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the Senator not suggest the absence of a quorum, please?

Mr. INOUYE. I withdraw that.

Mr. ROBERT C. BYRD. I would just request that the Senator hold the floor until the papers can be found and the conference report can be disposed of.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12931) making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. INOUYE. Mr. President, this conference report provides the details of the compromise agreement reached between the managers on the part of the House and the managers on the part of the Senate. I can say, without hesitation or qualification, that it is a good compromise, a fair compromise, and one which I believe the Senate should support.

The Senate went into conference with a bill totaling $9,203,806,072; we came out of the long, tough negotiating session with the House with a bill totaling $9,135,031,984, a difference of only $68,774,124. Because our positions were sound, because the Senate managers were steadfast in their support, we were able to persuade the House conferees in many instances and many Senate initiatives emerged unscathed. To be sure, we found it necessary to recede or to accept House amendments on some items, but that is the nature of compromise. In all, the Senate did quite well in maintaining its position.

Mr. President, as I noted when I introduced the committee version of this bill into the Senate, this is not a "normal" foreign aid bill; it has a significant difference and that is, it provides funding for U.S. participation in the Supplementary Financing Facility—the so-called Witteveen Facility—of the International Monetary Fund. Under this bill, the United States is making a $1.8 billion investment in international monetary stability. And, with the current plight of the dollar, I believe we all have an interest in restoring and preserving international monetary stability.

Mr. President, the conference report recommends the appropriation of $9,203,806,072 for fiscal year 1979 funding of foreign assistance and related programs. This amount is $2,371,158,948 more than was appropriated last year for foreign assistance and related programs, but it is also $1,252,728,971 less than the amount requested by the President.

Mr. President, we are now well into fiscal year 1979. With each day that passes there is a costly delay—a postponement of management decisions, a loss of momentum in the timing and execution of programs, and the deferral of necessary personnel actions. This bill was considered at length before it was sent to conference; the Senate conferees responsibly discharged their duties and through hard negotiations obtained a good conference agreement. I now ask the Senate to affirm the work of its conferees and to approve the conference report on H.R. 12931.

Mr. President, I move that the conference report be agreed to.

Mr. ROBERT C. BYRD. Mr. President, has the distinguished Senator from Hawaii finished?

Mr. INOUYE. Yes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum until the Senator from Pennsylvania (Mr. SCHWEIKER) can get here. He was detained at a committee meeting, and is on his way.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, the conference report on foreign assistance appropriations represents a hard fought compromise ironed out by the Senate and House conferees. The conference held on September 27 went from 2 in the afternoon until 10:30 that night. It was a good conference, with all of the various issues being discussed in some detail.

Mr. President, as the distinguished Senator from Hawaii (Mr. INOUYE) has stated the conference agreement calls for a total appropriation of $9,135,031,948. This agreement is $68.8 million below the amount approved by the Senate when it passed its version of the foreign assistance appropriations bill on September 22. The conference agreement is $1,252,729,000 below the administration's request. This represents a reduction below the request of over 12 percent. The recommendation should surely place the administration on notice, as I stated in my remarks when the Senate first considered this legislation, that so long as important domestic programs are held down so too must our foreign aid be held down.

Mr. President, even though this recommendation for foreign aid represents a severe cut in the administration's request, it is, I believe, one of the best foreign aid bills to come out of Congress in several years. The United States will continue to be very generous in exercising its responsibilities to the developing countries of the world under this legislation. Much of the funds in this legislation do provide needed assistance to the poor and starving people of the world. The United States need not take a back seat to anyone in this effort.

AID TO SYRIA

Mr. President, one of the many difficult issues the conference dealt with was aid to Syria. This particular item consumed a great deal of time in the conference. The House of Representatives, by floor amendment and before Camp David, had cut out the $90 million in security-supporting assistance requested by the administration. The Senate included the full amount. This was a particularly difficult issue, because all of us were concerned over recent actions by the Syrian Government in Lebanon. I think it could be safely said that had we considered the aid for Syria as an unrelated item, the House position would have prevailed. However, due to the recent breakthroughs at Camp David and the delicate negotiations for peace in the Middle East which continue even today in Washington, the conferees felt it was necessary at this time to provide the Syrian aid. In doing so, however, the conferees recommend that this funding be used only if the President believes that their use will serve the process of peace in the Middle East.

U.S. REFUGEE PROGRAM

Mr. President, another difficult issue the conferees struggled with is the overall status and management of the U.S. refugee assistance program. The issue was not funding, but rather the overall direction, management and administration, or lack of it, of the U.S. refugee effort. Under the leadership of the Senator from Hawaii, it was agreed that our refugee program should be consolidated, rather than continuing the present mishmash of programs operated through several different, overlapping, competing, and duplicating programs. The conference report calls for the consolidation of these programs, which is a badly needed reform. The controversy over this proposition centered around which agency or department might be the best one to handle this reorganized effort. The House conferees, and I agreed with them, felt that the Agency for International Development could more properly and efficiently administer this program. The Senate report, reflecting our distinguished chairman's views, called for the consolidation to be under the Office of Migration and Refugee Assistance at the Department of State. The chairman at the conference, however, indicated that he could live with whatever agency the administration determined would be best, and his main concern was to secure the reform of the program, with which I strongly concur. The conference report directs that the administration present its plan to consolidate overseas refugee programs managed, budgeted, and justified by AID, though if it should decide that AID was not equipped to do so it could prepare an alternate plan. Mr. President, this was an issue that held up the filing of the report, because of the differing recollections of the conference action. However, as is entirely proper, and usual, the conferees themselves came to an agreement regarding this language.

INTERNATIONAL FINANCIAL INSTITUTIONS

Mr. President, one of the major items that has concerned Congress lately has been the size and way in which commitments have been made by the United States to fund our share in the International financial institutions. Past practice was for the administration to present its commitment to us, or fait accompli, and then demanding that that commitment be filled. Over the last year and a half we have been able to change that system. Last year, through an amendment offered by the chairman (Senator INOUYE), and cosponsored by me on authorizing legislation for the IFI's, the law now states that any commitments made for funding these institutions are made expressly subject to the appropriation of funds. In addition, on this legislation we are now considering, the House accepted my amendment which states the sense of the Congress regarding specific percentage shares for future U.S. funding of these institutions.

This makes it clear we will not consider any percentage contributions which exceed the levels stated in this bill, which we regard as proper for these institutions.

Both of these amendments go a long way toward reforming the method by which we commit funds for the IFI's.

WITTEVEEN FACILITY

Mr. President, the House accepted the amendment offered by the Senate appropriating full funding for the so-called Witteven facility of the International Monetary Fund. This Witteven facility of the International Monetary Fund. This represents the final action of an effort I initiated on the authorizing legislation which requires that our participation in this IMF facility be wholly subject to the appropriation of funds.

HIGH 1-YEAR RETIREMENT

Mr. President, the only item in the bill that was taken back to the House in true disagreement was a provision the Senate Committee added which attempts to overturn an action by the House/Senate conference committee on the State Department authorizing legislation which provided that foreign service personnel otherwise eligible for retirement could base their annuity on their high year of salary, rather than the high 3 years which is the practice in all other Federal departments and agencies as well as the Congress. It should be pointed out that this high-year provision was enacted into law without either House specifically voting on the issue. The Senate provision was an atttempt to correct this outrageous action. I know of no private retirement plan, and I tried to find one, that provides an annuity based on a high 1-year principal. The House sent over a bill not too long ago which would have provided such a high 1-year retirement for Members of Congress, a provision which our committee rightly defeated. So, Mr. President, I compliment the chairman for his efforts on this issue and I strongly support him. I might add that the President, himself, has indicated that he strongly opposes the high 1-year retirement provision.

Mr. President, before concluding my remarks I wish to express again my appreciation to the senior Senator from Hawaii for his outstanding cooperation and consideration throughout the deliberations of this legislation. I recommend that the Senate approve this conference report.

MARKETING OF PERISHABLE AGRICULTURAL COMMODITIES

Mr. TALMADGE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 976.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 976) entitled "An Act to amend the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That section 3(b) of the Perishable Agricultural Commodities Act (7 U.S.C. 499c(b)) is amended (1) in the second sentence by inserting immediately before the period at the end thereof, the phrase "and to be furnished thereafter"; and (2) in the third sentence by striking out "$100" and inserting in lieu thereof "$150 plus $50 for each branch or additional business location as defined by the Secretary. Total annual fees for any applicant shall not exceed $1,000 in the aggregate.".

SEC. 2. (a) Section 1 of such Act (7 U.S.C. 499a) is amended by adding in subsection (6)(C) thereof after the word "commodity" the phrase "other than potatoes".

(b) The amendment made by subsection (a) of this section shall become effective on the date of enactment of this Act. However, such amendment shall not apply to any person, who on the day before such date of enactment was buying potatoes for processing only within the State where such potatoes were grown, for such additional period of time, not to extend later than January 1, 1982, as the Secretary may upon application prescribe, if the Secretary finds that compliance with such amendment on its effective date would cause undue hardship to such person or would otherwise not advance the public interest.

SEC. 3. (a) Section 1 of such Act (7 U.S.C. 499a) is further amended by striking from subsection (6)(B) the figure "$100,000" and inserting in lieu thereof the figure "$150,000"; and by striking from subsection (7) the figure "100,000" and inserting in lieu thereof the figure "$150,000".

(b) The amendments made by this section shall become effective beginning with calendar year 1979.

SEC. 4. Section 13 of such Act (7 U.S.C. 499m) is amended by renumbering subsections (b) through (e) as subsections (c) through (f) and by adding a new subsection (b) as follows:

"(b) The Secretary or his duly authorized agents, in order to insure that the prompt payment provision of section 2(4) of the Act is being complied with, shall from time to time inspect the accounts, records, and memoranda of any commission merchant, dealer, or broker determined in a formal disciplinary proceeding pursuant to section 6(b) of the Act to have violated such provision. The Secretary may also require that any such commission merchant, dealer, or

broker furnish, maintain, and from time to time adjust a surety bond in form and amount satisfactory to the Secretary as assurance that such commission merchant's, dealer's, or broker's business will be conducted in accordance with this Act and that such commission merchant, dealer, or broker will pay all reparation awards, subject to its right of appeal under section 7(c): *Provided, however,* That if such surety bond is furnished, maintained, and adjusted as required by the Secretary, the Secretary shall not thereafter inspect the accounts, records, and memoranda, of such commission merchant, dealer, or broker pursuant to this subsection more than once a year. If any such commission merchant, dealer, or broker refuses to permit such inspection or fails or refuses to furnish, maintain, or adjust such surety bond, the Secretary may publish the facts and circumstances and/or, by order suspend the license of the offender until permission to make such inspection is given or such surety bond is furnished, maintained, or adjusted.".

Amend the title so as to read: "An Act to amend the Perishable Agricultural Commodities Act.".

UP AMENDMENT 2100

Mr. TALMADGE. Mr. President, I move that the Senate concur in the amendments of the House of Representatives with the following amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. TALMADGE) proposes an unprinted amendment numbered 2100.

Mr. TALMADGE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted by the House amendment, insert the following:

SECTION 1. (a) Effective January 1, 1979, section 1 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a), is amended by—

(1) in subsection (6), striking out "$100,000" and inserting in lieu thereof "$200,000"; and

(2) in subsection (7), striking out "$100,000" and inserting in lieu thereof "$200,000".

(b) Section 1 of the Perishable Agricultural Commodities Act, 1930, is further amended by inserting in subsection (6) immediately after "(C) no person buying any commodity" the following: "other than potatoes", except that no person buying potatoes for processing solely within the State where grown shall be deemed or considered to be a dealer under subsection (6) of section 1, as amended by this subsection, until January 1, 1982.

SEC. 2. Section 3(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499c(b)), is amended by—

(1) inserting immediately before the period at the end of the second sentence the following: "and to be furnished thereafter";

(2) striking out "$100" in the third sentence and inserting in lieu thereof the following: "$150, plus $50 for each branch or additional business facility operated by the applicant in excess of nine such facilities, as determined by the Secretary. Total annual fees for any applicant shall not exceed $1,000 in the aggregate";

(3) inserting immediately after "referred to above:" in the fourth sentence the following: "*Provided,* That the amount of money accumulated and on hand in the special fund at the end of any fiscal year shall not exceed 25 percent of the projected budget for the next following fiscal year:"; and

(4) inserting "*further*" immediately after "*Provided*" in the fourth sentence.

SEC. 3. Section 13 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499m), is amended by renumbering subsections (b) through (e) as subsections (c) through (f) and adding a new subsection (b) as follows:

"(b) The Secretary or the Secretary's duly authorized agents, in order to insure that the prompt payment provision of section 2 (4) of this Act is being complied with, shall from time to time inspect the accounts, records, and memoranda of any commission merchant, dealer, or broker determined in a formal disciplinary proceeding under section 6(b) of this Act to have violated such provision. The Secretary may also require that any such commission merchant, dealer, or broker furnish, maintain, and from time to time adjust a surety bond in form and amount satisfactory to the Secretary as assurance that such commission merchant's, dealer's, or broker's business will be conducted in accordance with this Act and that such commission merchant, dealer, or broker will pay all reparation awards, subject to its right of appeal under section 7(c) of this Act: *Provided,* That if such surety bond is furnished, maintained, and adjusted as required by the Secretary, the Secretary shall not thereafter inspect the accounts, records, and memoranda of such commission merchant, dealer, or broker under this subsection more than once a year. If any such commission merchant, dealer, or broker refuses to permit such inspection or fails or refuses to furnish, maintain, or adjust such surety bond, the Secretary may publish the facts and circumstances and, by order, suspend the license of the offender until permission to make such inspection is given or such surety bond is furnished, maintained, or adjusted.".

SEC. 4. Section 3(b) of the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2042(b)) is amended by—

(1) striking out "or" at the end of paragraph (8), striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and "or"; and

(2) adding at the end thereof a new paragraph (10) as follows:

"(10) any person who would be required to register solely because the person is engaged in any such activity solely for the purpose of supplying full-time students or other persons whose principal occupation is not farmwork to detassel and rogue hybrid seed corn or sorghum for seed and to engage in other incidental farmwork for a period not to exceed four weeks in any calendar year: *Provided,* That such students or other persons are not required by the circumstances of such activity to be away from their permanent place of residence overnight: *Provided further,* That such students or other persons, if under 18 years of age, are not engaged in providing transportation in vehicles caused to be operated by the contractor.".

Mr. TALMADGE. Mr. President, this amendment to the House amendment retains and restates important features of the original Senate bill to amend the Perishable Agricultural Commodities Act (PACA), but does make significant concessions to the concerns of the House Members.

The Perishable Agricultural Commodities Act is basically sound. Our most important concern in developing this legislation was to modify the license fee structure under PACA to respond to the changing economic conditions of the Nation. However, the Senate bill also contains provisions that respond to problems unrelated to the fee structure under PACA that are plaguing agriculture at this time. First is the amendment to the Farm Labor Contractor Registration Act of 1963 to exempt students on farms during the summer who work detasseling seed corn, and second is the extension of PACA to intra-State potato processors beginning January 1, 1982.

Let me briefly not the provisions of our amendment and the reasons for these provisions.

Both the Senate and the House provide for a $50 fee per outlet for additional outlets owned by a licensee, with a $1,000 limitation on the total fee. The House provision would impose this on all additional outlets, whereas the original Senate proposal would exempt the first 20 additional outlets from this additional fee.

As a compromise we are suggesting that we reduce the number of outlets exempted from the $50 fee to nine. Any firm that has from one to nine additional outlets will only be subject to the original license fee.

PACA now provides an exemption from its licensing requirements to retailers and frozen food brokers whose sales of the products that would be subject to PACA do not exceed $100,000. The Senate proposed raising this figure to $200,000 and the House proposed a $150,000 exemption. The reason the Senate chose the higher level was that the prices of fruits and vegetables have more than doubled since the $100,000 level was imposed. Therefore we are attempting to get back to where we started. The lower level in effect pushes the license requirement onto smaller and smaller businesses. This is not the purpose of PACA.

PACA does not now cover intra-State processing plants. There have been recent problems with intra-State potato processing plants and this has stimulated significant interest in extending the provisions of PACA to potato processors.

The Senate amendment would require licensing of these processors, but postpone the requirement until January 1, 1982, in line with the views of the Senators who are most closely acquainted with the factual situation. We feel we must honor this knowledge and concern for their States.

I would like to point out that the Department of Agriculture is going to be looking over the shoulder of the plants involved to determine whether or not they should be licensed in 1982. This will encourage them to be more responsive.

The desire of the House to move more quickly to extend PACA to potato processors is understandable. In this case, I believe it would complicate matters for the growers, who are the very people we are trying to protect.

Our other change is a technical change to the corn detasseling provision in the Senate bill to cover the associated operation of rogueing. This is part and parcel of the same field process.

Mr. President, I urge the Senate to return S. 976 to the House with the Senate amendment to the House amendments.

I ask unanimous consent that there be printed at this point in the RECORD a summary of S. 976, with the Senate amendment to the House amendment.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF S. 976

S. 976, with the *Senate* amendment to the *House* amendments, would amend the Perishable Agricultural Commodities Act, 1930, (PACA), to—

(1) Increase from $100,000 to $200,000 the value of fresh and frozen fruits and vegetables that retailers may purchase, and the value of transactions frozen food brokers may negotiate, annually before they become subject to PACA license requirements, effective January 1, 1979 (sec. 1(a));

(2) Make intrastate potato processors subject to licensing under PACA as "dealers" (except that no person buying potatoes for processing solely within the State where grown would be deemed to be a dealer until January 1, 1982) (sec. 1(b));

(3) Authorize the Secretary of Agriculture to require applicants for licenses under PACA to furnish information in addition to that contained in their applications (sec. 2(1));

(4) Increase the maximum annual license fee from $100 to $150, plus $50 for each branch or additional business facility in excess of 9, up to a total of $1,000 (sec. 2(2));

(5) Limit the amount of money that could be accumulated and held in the special fund for the administration of PACA at the end of each fiscal year to not more than 25 percent of the projected PACA budget for the next fiscal year (sec. 2(3)); and

(6) Require the Secretary from time to time to inspect the records of any commission merchant, dealer, or broker determined in the formal disciplinary proceeding under section 6(b) of PACA to have violated the prompt payment provision of section 2(4) of PACA. The Secretary would be authorized to require these persons to furnish surety bonds. If the Secretary requires that a surety bond be furnished, the Secretary could not thereafter inspect the records of the person more than once a year. The Secretary would be authorized to enforce this provision by publishing the facts and circumstances and suspending the license of any commission merchant, dealer, or broker who falls or refuses to permit inspection of its records, or to furnish, maintain, or adjust the required bond. (Sec. 3.)

The bill, with the Senate amendment, would also amend the Farm Labor Contractor Registration Act of 1963 by amending the definition of "farm labor contractor" as that term is used in the 1963 Act. The bill would exclude from the definition persons who supply full-time students or other persons whose principal occupation is not farmwork to detassel and rogue hybrid seed corn or sorghum for seed and to engage in other incidental farmwork for less than 4 weeks per year. (Sec. 4.)

Mr. TALMADGE. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TALMADGE. I move to reconsider the vote by which the motion was agreed to.

Mr. SCHWEIKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FOREIGN ASSISTANCE APPROPRIATIONS, 1979—CONFERENCE REPORT

The Senate continued with consideration of the conference report.

Mr. INOUYE. Mr. President, I move that the conference report be agreed to.

Mr. MELCHER. No, Mr. President.

Mr. President, before we move on the motion of the Senator from Hawaii, I point out to the Senate that section 611 was included in H.R. 12931, the act making appropriations for foreign assistance and related programs for fiscal year ending September 30, 1979, and for other purposes, as passed by the Senate. Section 611 was a limitation on the funds appropriated for Zambia under the economic support fund to purchases of materials and equipment for food production and shall not be made available until the State Department provides assurances to Congress that Zambia is meeting the conditions of the International Monetary Fund concerning Zambia's payments deficit, which is a condition of the International Monetary Fund loan of $322,600,000 to Zambia in March of 1979.

Mr. President, the language in section 611 was self-explanatory and went to the very heart of making certain that the loan of about one-third of a billion dollars from the International Monetary Fund would be treated in a businesslike way. And the reason for that, Mr. President, was that Zambia, with its Government-owned copper mines, continues to produce copper and sell it at less than the cost of production. Selling their copper on the world market, further depressed the copper prices for everyone, while, at the same time, digging themselves a deeper pit for their own national economy, and becoming more deficient in funds not only to operate their copper mines, but to operate the country. The very purpose of the loan from the International Monetary Fund was to correct the very tragic condition of this country which, without the loan of one-third of a billion dollars last March, would be bankrupt—absolutely bankrupt.

It is time that Government-owned copper mines in Zambia react to the real world price condition on copper. Some restraint has to be placed on the continuing flood of copper on the world market, further depressing or, at least, holding down a gradual return to a price for copper throughout the world that will permit mining ventures in various countries to be successful economically. Our country is involved, since we are heavy importers of Zambian copper, and because of that and other copper imports, our country's privately owned copper companies have had to cut back drastically on their own production, therefore requiring that American workers be laid off their jobs.

Section 611, in H.R. 12931, when it passed the Senate, was an effort on the part of the United States to take a position that before funds were made available for Zambia out of the economic support funds in the bill, certain conditions would have to be met by Zambia. However, that section was stricken from the bill. In lieu of that, the conferees agreed in the report accompanying this conference report that the conferees are of the opinion that the funds appropriated for Zambia under the economic support funds should be limited in use to the purchase of materials and equipment for food production.

Furthermore, the conferees believe that such funds should be made available to Zambia after the State Department is assured that Zambia is meeting the conditions of the standby agreement with the International Monetary Fund.

I ask the distinguished Senator from Hawaii just what influence or, to use the vernacular, what clout that language in the conference report has with Zambia, the State Department, or the International Monetary Fund.

Mr. INOUYE. The clout, as far as the nation of Zambia is concerned, may be limited.

The clout relating to the State Department will be an effective one, if I may assure my good friend.

I can assure the Senator, as chairman of the subcommittee, that I will insist that the statement set forth in the conference report be adhered to and followed by the State Department.

Mr. MELCHER. I thank the Senator for his response because, having become aware of the strength of the Senator from Hawaii, I believe he will have quite a bit of clout with the State Department, and I appreciate that very much.

Now, Mr. President, when we passed H.R. 12931 in the Senate, the Senate adopted some restrictive language on funds that would be available for Nicaragua for economic assistance.

I would like to inquire of the distinguished Senator from Hawaii, what is the outcome of that in the conference report we have before us, because the restrictive language we imposed on economic aid for Nicaragua was not contained in the bill as it passed the House.

Mr. INOUYE. Mr. President, I shall be pleased to respond.

First, as far as the military assistance is concerned, this was completely wiped out.

On economic assistance, there were two major items. One, the Peace Corps, approximately $1.1 million set aside for that.

The other was an item of some $4 million representing small loans to small farmers. This program is administered directly by AID officials.

At the time this bill originally came to the Senate floor, the people of Nicaragua were in open revolt. Nonetheless, the State Department strongly requested that these items not be deleted, in the hope that they could, in calmer times, be used to help the poor. At that time we were told that these programs would be

set aside temporarily and not be activated until the situation in Nicaragua would permit their use in assisting the poor directly.

Mr. MELCHER. May I further inquire of the distinguished Senator if it is his impression that none of the $4 million in loans to small farmers in Nicaragua, which would be handled under AID, will be used as long as Somoza is the ruler in Nicaragua?

Mr. INOUYE. There are continuing programs which are financed with prior year funds. They will wind down. I will, however, seek assurances from the appropriate officials in our Government that the intent of the Senate, as it was expressed in section 611 as it passed the Senate, will be carried out.

Mr. MELCHER. I thank the distinguished Senator.

Mr. President, I want to briefly state that I think it is extremely important that the programs of this nature for Nicaragua, the so-called assistance to small farmers, not be implemented during the time that Somoza remains as dictator of Nicaragua.

I believe, Mr. President, that we have arrived at a time in our lives in this Western Hemisphere when the United States must firmly establish for all of the people of Central America and South America a position of not collaborating with dictators which have taken unto themselves the ruling of a country, as Somoza has with Nicaragua, to the detriment of the people of that country.

It has become increasingly clear, at least to me, and I would hope to many others in this country, that the resistance to Somoza in Nicaragua by a broad cross section of the people in various walks of life, whether they are the poor farmers or the better class of farmers, or the middle-class merchant, the business people of Nicaragua, that Somoza has been propped up mainly by the United States.

His complete control of the National Guard in Nicaragua, which has been equipped with American military equipment, and whose officers, for the large part, have been indoctrinated through training here in the United States by American armed forces, has become the very image of the United States in that country. That is an image of bank-rolling and backing of the Somoza oppressive government, a government first and last for Somoza and his cronies at the expense of the freedom and rights of the people of Nicaragua. They know without us Somoza has no guns to kill them, no economic power or resource to crush their ambitions for a free and just government of their choosing in their own government.

By propping up Somoza, by providing military equipment for the national guard of Nicaragua, which is controlled by Somoza, by training substantial numbers of officers in the Nicaraguan national guard here in the United States, we have become, unfortunately, identified as one and the same with Somoza, as far as the great majority of the people of Nicaragua are concerned.

I find it a foolish, self-defeating, tragic policy when the United States has become embroiled within a country, not in a democratic fashion, working for the good of the people of that country, but actually aiding and abetting Somoza and his national guard, and the Government completely controlled by him in Nicaragua.

To the extent that Congress can enunciate a policy shift through this foreign aid appropriation bill by withholding the $4 million in economic funds until the time has come when Somoza steps aside or is voted out of office in a free election in Nicaragua, we will be starting back along the path that I believe we have to tread to create the image in Central America of our being a Government and a people that is for the ordinary people of Nicaragua and other countries who desire freedom and the opportunity to express themselves in their own country as to the manner in which they are to be governed.

It is a mockery of all we hold dear in our country, in our democratic form of Government, when we assist a small Central American neighbor by upholding and perpetuating the outrageous form of government that Somoza has forced upon the people of Nicaragua. What we have done in supporting Somoza's misrule is to use our strength for oppression in Nicaragua. We must change now to support not Somoza but support the people of Nicaragua.

I thank the distinguished Senator from Hawaii for his response. I am sure he will do all he can to make sure that the State Department adheres to the admonitions that have been cited in this conference report regarding this $4 million of economic assistance for small farmers in Nicaragua. Unless it is carried out diligently and with great care, the money will flow from the U.S. Treasury only to aid those farmers who are sympathetic to and in support of Somoza. I am sure that the handling of those funds, to whatever extent Somoza could control them, would be only for his friends. On that basis, it would be a tragedy with respect to accomplishing freedom for the Nicaraguan people under Somoza.

Mr. INOUYE. Mr. President, I most respectfully assure my colleague that I personally will monitor this program, to make certain that the intent of the Senate is fully carried out.

Mr. MELCHER. I thank the distinguished Senator.

When a sufficient number of Senators are in the Chamber, I will ask for the yeas and nays on this conference report.

Mr. INOUYE. Mr. President, I believe the Senator from North Dakota wishes to be recognized.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. YOUNG. Mr. President, I commend the distinguished Senator from Hawaii (Mr. INOUYE), the chairman of this subcommittee, and the ranking minority member, the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) for the excellent job they have done in handling this job. They cut more than $1 billion from a $10 billion bill.

It is still the biggest pork barrel bill that Congress has ever passed. It is loaded with pork barrel projects.

While President Carter was proposing to eliminate many water projects which millions of Americans wanted, especially in the West, he was advocating that Congress appropriate huge sums of money for public works projects all over the world.

Congress cut the President's foreign aid appropriations budget request of more than $10 billion to $9.1 billion. Even this represents a 35-percent increase over last year's appropriation.

President Carter's original budget calls for an 11 percent decrease in public works projects in the United States, but at the same time urges a 54-percent increase for the International Development Association and a 70-percent increase for the Inter-American Development Bank. Both institutions fund substantial public works projects all over the world.

In most of these foreign projects in which other countries have participated, the United States still pays about 30 percent of their cost. Many of these foreign public works projects help needy people; many of them can be justified. I cannot help but feel, however, that our first obligation for public works projects of this kind must be to American citizens.

One of the huge foreign projects in which we are involved is the reclamation-type project in Pakistan, the total cost of which is $1.2 billion. There are many other huge projects all over the world in which we are paying either the total cost or at least a major portion of the cost.

Mr. President, I will have to vote against this huge pork-barrel program. It is one we cannot afford. If we have this kind of money to spend, we should help our own people first.

THE UNITED STATES AND INTERNATIONAL DEVELOPMENT: CHALLENGE AND OPPORTUNITY FOR THE 96TH CONGRESS

Mrs. HUMPHREY. Mr. President, I would like to take this opportunity to make a few observations about U.S. foreign aid and the role of the United States in the international development process in the years ahead. It is an area about which Hubert cared most deeply and about which I care deeply as well. I believe very strongly that a priority item on the agenda of the next Congress should be the U.S. foreign assistance program. As Hubert and many others recognized, the time has come for a careful and critical examination of all phases of our foreign aid program.

The United States now stands on the threshold of the most comprehensive reassessment and reorganization of its foreign aid program since 1961.

U.S. foreign assistance programs presently operate under the Foreign Assistance Act of 1961, which has been amended and modified on numerous occasions since that time in an effort to reflect changing world conditions and a wide variety of congressional concerns. This legislation no longer contains the clear policy direction and the proper organizational structure to deal effectively with the complexity of our relations with the developing countries. Too often, the whole topic of foreign aid has been approached in a policy vacuum, involving theoretical discussions of purported resource needs of developing countries

and possible aid levels, without regard to American political realities and without regard to the question of why we should have a foreign aid program in the first place.

Legislation recently sent to the President, the International Development and Food Assistance Act of 1978, directs him to institute a strengthened and improved system of coordination of U.S. economic policies toward developing nations. The legislation also urges that the President consider a proposal Hubert Humphrey put forth late last year: The establishment of a new agency, the International Development Cooperation Administration, with considerably broader scope and responsibilities than the current Agency for International Development. This new agency would serve as the primary organization within the U.S. Government with responsibility for coordination of international development-related activities and, I hope, for careful consideration of international development as an integral part of U.S. foreign policy. This expanded and more powerful agency is to contain within its organizational framework the maximum possible range of U.S. Government offices and programs related to international development.

A report to the Congress on the implementation of these provisions is required to be submitted by the executive branch by February 1, 1979. Thus, in approximately 3 months' time, the Congress will review the President's proposals to reorganize and restructure our foreign assistance programs.

The fundamental premise underlying this proposal is that the complex process of international development—a process involving United States and Third World interests alike—should be addressed in a coordinated and consistent fashion by an agency authorized to deal with the entire range of economic questions involving our relations with the developing nations. The vast array of global economic questions that are bound to arise in the 1980's and beyond cannot be effectively addressed by an agency principally authorized to allocate foreign aid—a mere fraction of the total resource flow between developed and developing countries. International development can best be promoted not by foreign aid per se—important as this element is—but by coordinated and well-conceived international economic policy.

Under these circumstances, therefore, it might be useful to examine the elements of a successful international development program in the context of current U.S. relations with the Third World and past development experience. It seems abundantly clear that socioeconomic and political forces governing our relations with the Third World have changed dramatically since 1961. An efficient and effective development program must be adapted to the changing times as well.

CURRENT U.S. RELATIONS WITH THE THIRD WORLD

Here in the United States, we probably have the best appreciation of the humanitarian purpose of foreign aid: to provide help for natural disasters, famines, victims of wars, and to help fight the ravages of disease and malnutrition. In addition, we can readily appreciate the humanitarian interest in more developmental aspects of foreign aid to help the great majority of poor people in the Third World attain, through their own efforts, improved incomes and educational opportunities, healthier families, and the ability to contribute to the prosperity and development of their own countries. The instinctive sympathy of the American people for the less fortunate and our traditional sense of fair play was reflected in 1973 in the "New Directions" reforms of our foreign assistance legislation.

However, I believe it is of crucial importance to stress that humanitarian considerations are not the only reason why the United States should provide aid to developing nations. There are two significant reasons for increased and continuing U.S. involvement in the international development effort, not as widely or as well understood as they might be, which, it seems to me, complement the humanitarian purposes of our aid program: First, we live in an increasingly interdependent world; and second, the countries of the Third World are organizing to meet their many economic needs and they are insisting on an increased voice in their own economic destiny.

First. As the events of the past decade or two, but in particular the oil crisis, have brought home to us in the most unmistakable way, we live in an interdependent world. The size and complexity of the U.S. economy, and of the world, make it impossible for any country, even the United States, to go it alone. I think we all realize that our prosperity, indeed, the basic needs and comforts of our daily lives, are heavily dependent on the outside world. I wonder if we all realize the extent to which we are dependent on the developing countries as important markets for our goods and services, as the sources for much needed imports, and as places of mutually advantageous private investment.

In 1977, developing countries bought $42 billion (35 percent) of total U.S. exports. Forty percent of all U.S. exports of manufactured goods were bought by developing countries. We sell more manufactured goods to the developing countries than to Western Europe, Japan, and the Communist countries combined. The developing countries bought half or more of U.S. exports of industrial machinery, aircraft and motor vehicles, as well as 50 percent of our wheat exports, 60 percent of our cotton exports, and 70 percent of our rice exports.

Also in 1977, $34 billion or 22½ percent of total U.S. imports came from developing countries, in addition to $31 billion of oil imports from OPEC countries. We depend on these countries for all of our coffee, cocoa, and other tropical products, for over 50 percent of our own food imports, and over 25 percent of our raw materials, including the large bulk of our needs for bauxite, tin, and natural rubber.

Twenty percent of U.S. private direct investment overseas, or some $29 billion, was located in developing countries at the end of 1976, representing 47 percent of U.S. earnings from private foreign direct investment. The developing countries also account for substantial earnings from other forms of U.S. investment abroad and from the provision of services, such as construction and engineering, shipping, insurance and others.

Increasing development and prosperity in developing countries will inevitabliy mean greater production, jobs and incomes in developing countries, resulting in increased availability of goods and lower inflationary pressures. For example, during the 1975–76 recession, the willingness of the developing countries to maintain high import levels of goods and services from developed countries by drawing down foreign exchange reserves and increased borrowing had a perceptible impact on business trends in the advanced countries, as if increased demand had been stimulated within those countries themselves. The increased availability of goods, the sharp increases in demand for goods and services from America and the rest of the developed world, and the increased trade and prosperity arising from such greater demand can only result in benefits to all the countries in the world, advanced and developing alike, including the United States.

Second. Related to the question of global interdependence is the second key reason as to why the United States should provide aid to developing countries. As the majority of developing countries approach their third decade of political independence they are determined to increase their independence in the economic realm as well. The governments of these countries are becoming more aware of their problems, their strengths and their weaknesses, and they are becoming increasingly conscious of the need to develop their own resources on terms more favorable to them and their people and to obtain a fair price of those resources. They are also concerned about price inflation for the goods and services they obtain from advanced countries with which the prices they obtain for their own products have failed to keep pace. The oil crisis, and the sharp increases in the prices of fertilizer, food grains, coffee, gold, and other key commodities have made the entire world much more aware of the need for revamping the world's economic system so that all countries—the developed and the developing—can have an equitable share in that system, can feel that they have a stake in it, and will work towards strengthening and preserving it.

As we have come to learn in the recent past, a natural calamity can destroy a coffee crop in Brazil and cause a foreign exchange crisis there while it also leads to a quadrupling of the price of our breakfast coffee. Yet the inconvenience to us may mean disaster in a country heavily dependent on one or two crops for its income. The whole meaning of the North-South dialog and the formulation of what is called the New International Economic Order, with its call for a stronger voice for the raw material producer nations of the Third World, is a manifestation of this new awareness and spirit. An equitable world economic

system must also provide for orderly and fair exploitation of the resource wealth of the oceans, the sea bed and of other areas that are the common heritage of all the inhabitants of the planet Earth.

Within this complex picture, what is the significant and possible role for foreign aid and an international development agency?

It must be recognized that foreign aid constitutes only a small fraction of the total resource flow from the advanced countries to the Third World. The oil crisis of 1973 provided an especially vivid illustration of the fact that private economic transactions; for example, trade, private investment, technology, transfers, credit facilities, and so forth, have a far greater impact on economic growth and development in the Third World than foreign aid. In 1975, for example, private U.S. economic transactions with developing countries amounted to approximately $11.6 billion compared to $4.9 billion in aid (which included almost $1 billion of supporting assistance to the Middle Eastern countries).

It is for this reason that Senator Hubert Humphrey proposed the creation of a new, more powerful agency to coordinate the full range of our economic policies toward developing countries and to insure that such policies, as well as the various mechanisms through which U.S. aid is channeled—the Agency for International Development, the Peace Corps, Public Law 480, the international financial institutions, and the United Nations and other international agencies—do not work at cross purposes. This new agency would serve to insure that international development concerns are given full and adequate consideration in U.S. foreign and domestic policymaking.

The establishment of such an agency would represent an effort to establish a more comprehensive development strategy that addresses the needs of both the low-income and middle-income developing countries, with tools and measures that are appropriate to each situation. For middle-income countries, where concessional aid terms may not be appropriate, a better system for providing them with the assistance they need—access to world capital markets, availability of new technology, the means to provide sufficient employment, and better incomes and needed services for their poor, more and more of whom have been seeking their livelihood elsewhere, in particular in the United States.

PAST AID EXPERIENCE

The proposal to establish a new international development agency springs from the recognition that foreign aid is but one of many tools available to promote international development. Nevertheless it is an important and valuable element of any international development effort.

How can we insure that the aid we do provide is used most effectively and efficiently?

I will confine myself to a few general observations about our aid giving experience over the years. Elementary as they are, we have yet to identify ways to integrate the lessons of our past aid giving experience into current policy.

First. From the turmoil of the Vietnam experience and in other places in the world we have learned that an influx of U.S. resources, however well intentioned, cannot, by itself, promote progress and development in Third World countries in the absence of honest and enlightened leadership genuinely committed to such goals. The United States should stand ready to provide resources, guidance and, on occasion, leadership, where appropriate, but the mere provision of resources, even in increased amounts, cannot create for others a replica of the modern society we have attempted to create here at home. Only developing nations can do this for themselves. Ways should be sought out to promote self-reliance and self-help among indigenous peoples in all of our international development efforts.

Second. From our aid giving experience in the fifties and sixties we have learned that an exclusive focus on the use of our aid to accelerate economic growth rates failed to produce the significant impact on the lives of the great majority of the people that we had hoped for. The pursuit of rapid economic growth, as measured through favorable economic indicators, to the exclusion of other considerations, in most cases was producing development for the rich and continued deprivation for the poor.

We know now that development is not a mysterious process of providing resources and watching the economic indicators rise. Some of the biggest increases in GNP have occurred in oil rich states, which have not yet, however, been able to provide the benefit of the newly found riches to their people. In the case of countries that do not have billions of oil dollars or other sources of great riches, they must count on the resources they do have or can develop. For the most part, that means human skills, currently available or ones that can be developed right among their own people. Development cannot occur unless it involves widespread participation in the development process—the planning, as well as the programs and the benefits—by the people themselves. Development is not just a matter of resource transfers and economic indicators, but a question of improving people's lives over the short and long run.

Third. Time and time again as a result of sudden coups d'etat or threatened changes of government in countries that receive our aid, we have been confronted with an agonizing choice. Depending upon our perception of the new regime, shall we continue or discontinue aid—even if that aid has been recently programed to benefit the poor majority—because such assistance symbolizes U.S. support for the incumbent government?

Some mechanism should be established to distinguish between aid that is provided purely for political purposes and aid that is donated primarily for humanitarian reasons. Along these lines, consideration might be given to allocating a specific amount of aid through nongovernmental organizations, so as to avoid the question as to whether or not such assistance represents governmental support. The Inter-American Foundation has been providing assistance solely in this way since its establishment by Congress in 1969 and its success has been widely recognized in the development community.

Fourth. We have also learned much from the few development "success stories" scattered about the globe. These countries, while continuing to confront a wide array of economic and political difficulties, do nevertheless dramatically illustrate the importance of broad-based-participatory development strategies and offer convincing evidence that international development is not an impossible dream.

Taiwan is an example of one of the few developing countries that has made virtually unparalleled strides in agriculture. Over the past 30 years, Taiwan has had one of the highest increases in yields per acre in food grain production in the world, achieving almost total self-sufficiency in food (at present about 85 percent self-sufficient, aiming at 90 percent in 1981) despite the limited amount of arable land on the island (25 percent).

How was this achieved? In short, a land reform program initiated in the late forties provided a small plot to almost every family head on the island thereby creating an employed, small farmer class. Under the land reform program, a widespread pyramidal network of agricultural extension institutions increased the small farmer's participation in the agricultural development strategy. The results command attention. Taiwan is among the few developing countries in the world where the trend toward greater equalization of income is significant. According to World Bank data, in 1961, the poorest 20 percent of the population received 4.4 percent of the national income while the richest 20 percent received 51.8 percent. In 1972, by contrast, the poorest 20 percent of the population received 8.8 percent of the national income while the share of the richest 20 percent of the population had been reduced to 37.2 percent.

Like Taiwan, Egypt is another example of a developing country that has attempted to bring their small farmers into the modern economy. Egypt has broken up the large estates and, like Taiwan, has assisted small farmers in obtaining land and has organized agricultural extension programs, credit, marketing, and cooperative programs to which the small farmers have access. According to the United Nations Food and Agricultural Organization, per acre yield in Egypt of foodgrains is approximately 3,800 pounds, slightly higher than U.S. yields of 3,100 pounds per acre. Except for Taiwan, output of food grain per acre is the highest of any developing country. Even more importantly, the incomes of small farmers in Egypt have doubled in the last two decades.

In a similar vein, the country of Sri Lanka and the state of Kerala in India, while criticized for their inattention to the question of economic growth, have made great progress in meeting the needs of their people—in health, nutrition, and education. The poor in both Sri Lanka and Kerala are markedly better off than the poor in other developing countries.

All of these countries are not without their problems, but they are examples where significant progress has been made. Their strategies should be closely studied by developed and developing countries alike if we wish to achieve similar results elsewhere.

In recognition of many of the points raised above, Congress in 1973 undertook a serious effort to reform our bilateral aid program to promote development on the basis of growth with equity. Under this approach, aid was to be planned and administered in accordance with a strategy emphasizing four key concepts: Participation in self-help efforts, community and rural development, small scale production, and appropriate technology. Five years have elapsed since the initial 1973 redirection of foreign aid, yet far greater efforts are needed to create programs, mechanisms, and institutions to implement these concepts more effectively and comprehensively. This, I believe, should be a major task of any newly reorganized foreign assistance program.

In sum, we have before us a rare opportunity to reshape and redirect U.S. policy toward the developing world in a way that enhances the interests of the developed and the developing world alike. The economic realities that presently govern our relations with the Third World are vastly different and more complex than those of the early 1960's. We know now that the process of international development is no longer a priority concern solely of the underdeveloped countries of the globe. In an interdependent world, our jobs, our livelihood, our lifestyles—our very economic security—can all be affected by events thousands of miles away. For this reason, international development is—or should be—a concern of all citizens of the international community.

America is at its best when it brings together peoples and nations to solve the many global problems we face. We know that there are solutions to the most seemingly intractable problems of this planet—hunger, poverty, disease, and unemployment. The task before us now is to mobilize our best talent, our best skills, our best resources to solve these problems. I am confident that we can meet this challenge.

● Mr. HATCH. Mr. President, I am concerned about a particular item contained in the final version of H.R. 12931, the foreign aid assistance appropriation bill. At the time of the consideration of this bill I amended the bill to include funding for international relief organizations in Rhodesia. The amount that was appropriated for this relief was $5 million. I am concerned that the conference report will leave a loophole for those who oppose this relief, for what reason I cannot fathom for it is a humanitarian effort, and permit them to fund only a small portion of this amount. At the time of the amendment, the intention was clear that the full amount, $5 million, would be made available. To clear up this matter I would like to ask the floor manager of the bill a question.

Mr. President, with respect to amendment 32 in the bill, can the distinguished Chairman, Senator INOUYE, assure me that adding in the conference report "not more than" in front of the $5 million earmarked for refugee relief in Rhodesia accepted by the Senate September 22, 1978, represents only a procedural change and that it is the committee's intention that the full $5 million be available for the purpose.

Mr. INOUYE. Yes.●

Mr. HATCH. Mr. President, I would like to take a few moments to clear up a problem that may arise. During consideration of the foreign aid appropriation bill, H.R. 12931, I entered an amendment that would provide $5 million in refugee relief aid to be administered by international relief organizations. In the conference report three words were placed before the amount of money. These words, "not more than" are usually done as a matter of procedure. However, it has come to my attention that there may be an effort to use this language to prevent the full funding of the intention of the amendment. For this reason, I would like to pose a question to the manager of the bill.

Mr. President, with respect to amendment 32 in the bill, can the distinguished chairman, Senator INOUYE, assure us that adding in the conference report "not more than" in front of the $5 million earmarked for refugee relief in Rhodesia accepted by the Senate September 22, 1978 (CONGRESSIONAL RECORD, September 22, 1978, page S15813), represents only a procedural change (to avoid a possible point of order) and that it is the committee's intention that the full $5 million be available for the purpose?

Mr. INOUYE. Yes.

Mr. President, I move that the conference report be agreed to.

Mr. MELCHER. Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. LONG) and the Senator from North Carolina (Mr. MORGAN), are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The VICE PRESIDENT. Have all Senators voted?

The result was announced—yeas 60, nays 31, as follows:

[Rollcall Vote No. 490 Leg.]

YEAS—60

Anderson	Griffin	Metzenbaum
Baker	Hart	Moynihan
Bayh	Hatfield, Paul G.	Muskie
Bellmon	Hathaway	Packwood
Bentsen	Hayakawa	Pearson
Biden	Hodges	Pell
Brooke	Huddleston	Percy
Bumpers	Humphrey	Ribicoff
Case	Inouye	Riegle
Chafee	Jackson	Sarbanes
Chiles	Javits	Sasser
Church	Johnston	Schweiker
Clark	Kennedy	Sparkman
Cranston	Leahy	Stafford
Culver	Lugar	Stevens
Danforth	Magnuson	Stevenson
Durkin	Mathias	Stone
Eagleton	Matsunaga	Weicker
Ford	McGovern	Williams
Glenn	McIntyre	
Gravel		

NAYS—31

Abourezk	Goldwater	Randolph
Bartlett	Hansen	Roth
Burdick	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield, Mark O.	Stennis
Byrd, Robert C.	Helms	Talmadge
Cannon	Hollings	Thurmond
Curtis	Laxalt	Wallop
DeConcini	Melcher	Young
Dole	Nelson	Zorinsky
Eastland	Nunn	
Garn	Proxmire	

NOT VOTING—9

Allen	Heinz	Morgan
Domenici	Long	Scott
Haskell	McClure	Tower

So the conference report was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The clerk will report the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 16 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: $1,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: $210,375,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: $28,755,000.

Resolved, That the House recede from its

disagreement to the amendment of the Senate numbered 94 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 608. None of the funds appropriated or made available pursuant to this Act for direct foreign assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar or competing commodity.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 96 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: 610

Resolved, That the House insist on its disagreement to the amendment of the Senate numbered 63 to the aforesaid bill.

Mr. INOUYE. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 16, 40, 45, 94, and 96.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Hawaii.

The motion was agreed to.

Mr. INOUYE. Mr. President, I move that the Senate recede from its amendment numbered 63.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Hawaii.

The motion was agreed to.

FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978

The Senate continued with the consideration of the bill (H.R. 50).

Mr. ROBERT C. BYRD. Mr. President, may I have the attention of all Senators.

The distinguished Senators who have served on the ad hoc committee appointed by the distinguished minority leader and myself have met often, have met long, and have done their job well.

They have presented to me a unanimous-consent agreement which I shall propound, it representing a consensus among those ad hoc committee members as to what they feel would be a workable, reasonable time agreement on the Humphrey-Hawkins bill.

If the agreement is entered into, I would then ask unanimous consent that the cloture motion be vitiated, that the vote on the cloture motion be vitiated, and that the Senate proceed immediately to the consideration of the Humphrey-Hawkins bill.

The proposed agreement is as follows:

Mr. President, I ask unanimous consent that there be 4 hours on the bill, calendar order No. 1169, H.R. 50, to be equally divided between and controlled by Mr. NELSON and Mr. JAVITS;

Provided further, that there be 2 hours on the inflation goal amendment, the time to be equally divided in accordance with the usual form; 2 hours on the GNP share amendment, the time to be equally divided in accordance with the usual form; and 1 hour on the "may-shall" amendment (whether Congress shall or whether Congress may take a position on the goals proposed by the President);

Provided, that these three amendments be the first amendments in order, but not necessarily in the order that I have enumerated them;

Ordered further, that there be half hour on any amendment to any of those three amendments, and on any other amendment;

Provided further, that there be 15 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate;

Provided further, that no tabling motion would be in order on any of the three main amendments that I have specified, or on any amendment to any of the three main amendments;

Provided further, that the agreement be in the usual form, to preclude nongermane amendments and also as to the division and control of time.

Provided further, that if the agreement is entered into, the vote on the cloture motion will be vitiated and the Senate will immediately proceed to the consideration of calendar order No. 1169, H.R. 50.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the majority leader correctly states that for the last 3 days Senators on both sides of the aisle constituting an ad hoc committee appointed by him and by me have been trying to work out the details of such a proposed agreement as presented by the majority leader.

Before withdrawing my reservation, I might point out two or three relevant factors.

The first is that I believe there is general agreement that this is the best way to proceed. There is not, nor has there ever been as far as I am concerned, any effort to prevent the Senate from considering this measure. On the other hand, there are deep feelings and strong emotions that surround this issue, particularly in the form submitted to us by the House of Representatives.

What has been presented by the majority leader, I believe, is a careful design for the Senate's determination of the issues remaining in controversy, and a method by which the Senate can work its will in an orderly way I believe that this arrangement brings us to the place where we are likely to produce legislation this is generally acceptable to Members on both sides of the aisle.

I would hasten to add, however, that nothing in this agreement suggests that there is any obligation on the part of any Senator to support this measure after these issues are finally determined by the Senate.

I very much hope that this unanimous-consent request which is suggested by the majority leader—and I join him in making the request—will be agreed to. I very much hope that the substitute which is being submitted now in lieu of H.R. 50 will be favorably considered. I personally feel that I can support that substitute, assuming that the remaining issues are resolved satisfactorily.

I hope whatever we do, we will do by a substantial majority, so that there will be a firm consensus on the Senate's position on these issues.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. BAKER. I will in a moment.

Mr. President, this is a good request. I would like now, if I may, to yield to the Senator from Massachusetts for his question.

Mr. BROOKE. Just a brief question, and I thank the distinguished minority leader for yielding.

I do not believe the minority leader was on the floor at the time, and many Senators were not on the floor as well, but the amendment that I had put on the Humphrey-Hawkins bill I withdrew earlier this morning.

I think the Senate ought to be well aware and the majority and minority leaders should be well aware that I asked unanimous consent that the amendment pertaining to nondiscrimination against employees in the U.S. Senate be withdrawn, and it was withdrawn by unanimous consent.

Mr. BAKER. Mr. President, I thank the Senator from Massachusetts. I know how keenly he feels about that issue, and I know what a sacrifice it was for him to relinquish the procedural position on the matter. But I express to him my personal appreciation for doing it, because otherwise we could not have reached this point, and it would not have been possible to present a substitute leadership proposal.

Mr. BROOKE. I thank the minority leader. It was a very difficult decision for me to make, but I think Humphrey-Hawkins is such an important piece of legislation that I had to make that choice, and it was my choice to withraw that amendment so it would in no way impede Humphrey-Hawkins, and give every Senator an opportunity to vote for cloture, and hopefully to accept the compromise that the ad hoc committee has been working on for such a long period of time.

Mr. JAVITS. and Mr. YOUNG addressed the Chair.

Mr. BAKER. I yield to the ranking minority member of the committee.

Mr. JAVITS. Mr. President, I am pleased to yield to the Senator from North Dakota.

Mr. BAKER. I yield to the distinguished Senator from North Dakota.

Mr. YOUNG. Mr. President, I wonder if the leaders would agree to interrupt——

Mr ROBERT C. BYRD. Mr. President, could we have order?

The VICE PRESIDENT. The Senate will be in order.

Mr. YOUNG. I wonder if the leadership would interrupt the consideration of the Humphrey-Hawkins bill to take up appropriation bills and matters such as that. We have been going 12 to 16 hours a day. We had to pass our farm bill at 12 o'clock last night. I would rather wait until later in the evening to take up this, when I could go home. If we take it up now, I would hope we could interrupt it to get rid of our appropriations.

Mr. ROBERT C. BYRD. Mr. President, in answer to the Senator from North Dakota, the ranking Republican member on the Appropriations Committee, that has been our practice in the past. If appropriations bills are urgent, we try to clear with the managers of the bill and proceed with the appropriations bills, and we would like to do that in this instance.

Mr. YOUNG. If that means I would have to stay around until 12 or 1 o'clock at night to take up conference reports on appropriations bills, I would have to object.

Mr. ROBERT C. BYRD. The Senator has my assurance that that will be done.

Mr. BAKER. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I hope very much the Senate will agree to this. I would like to pay my tribute to the Members on the Republican side, who thoroughly disagree with Humphrey-Hawkins, and who yet have made this whole arrangement possible. There has been an extraordinary degree to statesmanship, and also an extraordinary demonstration of fidelity to the mission of the Senate. I know those Senators will feel free to vote against anything they please with respect to what we are doing, and they should; but the mere fact that we can be where we are is attributable heavily to them, and I think they are entitled to a major part of the credit for enabling this matter to be acted on.

Mr. President, in connection with the unanimous consent request, this bill is a joint product of the Human Resources Committee, of which I am the ranking member, and of the Banking Committee, where Senator BROOKE is the ranking member. So I think it should be understood that half my time will be available to him.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, until this request is agreed to, that the vote on the cloture motion be temporarily upheld. Otherwise, we will have to vote in 1 minute on cloture.

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object on the original unanimous consent request, what is the time limitation on the bill itself?

Mr. ROBERT C. BYRD. Four hours.

Mr. HARRY F. BYRD, JR. And what is the time limit on each amendment?

Mr. ROBERT C. BYRD. Two hours on certain amendments.

Mr. HARRY F. BYRD, JR. Leaving out the three principal amendments, what is the time limitation on other amendments?

Mr. ROBERT C. BYRD. One-half hour.

Mr. BAKER. Mr. President, reserving the right to object, I believe the Senator from North Dakota still has a reservation.

Mr. YOUNG. I have entered an objection.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator will not object. I know his concern, and I ask that he let me rephrase the agreement, and I will attempt to take care of his concern.

Mr. RANDOLPH. Mr. President, the Senate is not in order.

The VICE PRESIDENT. The Senate will be in order. The majority leader has the floor.

Mr. ROBERT C. BYRD. Mr. President, the Senate never is in order when we are trying to get a very difficult time agreement. It is most difficult to get these very controversial time agreements. I hope Senators will listen.

The VICE PRESIDENT. The Senator from West Virginia has the floor.

Mr. SCHMITT. Will the Senator yield?

Mr. ROBERT C. BYRD. May I modify the agreement and then Senators may reserve the right to object.

I modify the agreement in two ways. There is a substitute which may be offered by the distinguished Senator from Tennessee (Mr. BAKER) and myself, which will be called the leadership substitute. I will have to include in the request that that be the first amendment to be offered; that it be agreed to and considered as original text for the purpose of further amendments, and that no point of order be thereby waived.

May I say that the Humphrey-Hawkins bill can be set aside at any time for the consideration of an appropriations bill or appropriations conference report.

Mr. YOUNG. With that understanding, I withdraw my objection.

Mr. BAKER. Mr. President, reserving the right to object, I think it is important to make a couple of other points before we proceed to final consideration of the unanimous-consent request.

The first is, as I indicated at the beginning of my statement on a reservation, that this request represents the composite good faith effort of dedicated Senators on both sides of the aisle, and on both sides of the question. We have arrived at the so-called leadership substitute with great difficulty.

What we see here is a substitute that is vastly different from H.R. 50, and it is indeed different from S. 50. In my view, it is a significant improvement over those situations. I think most of the provisions opposed by Members in opposition to Humphrey-Hawkins have been eliminated or otherwise taken account of.

The three principal amendments identified by the majority leader are, in effect, a statement by the ad hoc committee on both sides that they were unable to resolve those issues among themselves, and those issues will be submitted to the Senate for its consideration. I think that is clear from the nature of the request, but I wanted to emphasize it for the purpose of clarity.

There is one other point, Mr. President, which should also be understood. I indicated earlier that by agreeing to this time limitation, no one is predetermining their vote on the bill as it may finally be enacted by the Senate. Each Senator is reserving the right to vote for or against it.

I very much hope that it is also understood, however, that if the leadership substitute is materially or significantly changed, it will greatly jeopardize the level of support it is likely to receive. As a matter of fact, I believe that if there are significant changes in the substitute, other than the determination of the issues spelled out in the unanimous-consent request, it is very unlikely that the bill will pass.

By the same token, Mr. President, I would also point out, as we all know, that this bill, presumably, will go to conference. If it goes to conference and returns with significant and material changes, I believe there is no likelihood that that conference report would be agreed to by the Senate at this time in the session.

This is not a threat; it is simply a statement of fact, Mr. President, that a great deal of effort, a huge amount of effort, has gone into trying to work out the difficulties in this bill to make it acceptable to the greatest number of people. I think we are at that point.

There is no absolute unanimity on the subject, and there remains opposition to the substitute. But I think we have reached the place where we can present this matter in an orderly way if we understand that any significant change in the substitute would destroy its chances for passage, in my judgment, and certainly would jeopardize the chances for the adoption of the conference report.

Mr. SCHMITT. Mr. President, reserving the right to object——

The VICE PRESIDENT. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I will reserve the right to object but will not object. I merely want to thank the ad hoc committee for their courtesy and diligence in considering several of the items of which I was one of the principal advocates along with my bipartisan colleagues on the Banking Committee which reported on S. 50. We felt very strongly about some of these provisions. We still feel strongly about them. I think the ad hoc committee has done an admirable job considering them and working out an agreeable arrangement by which we can deal with those particularly tough issues here on the floor in the Senate as Senators should. I again thank the Members for it, congratulate the leadership for instituting the ad hoc group, and seeing this matter now presented to the Senate.

The VICE PRESIDENT. The Senator from North Carolina.

Mr. HELMS. Reserving the right to object, and I do not intend to object, I think the unanimous-consent agreement is fine provided we can have an agreement that at the end of all of this scenario there will be no effort to substitute the House-passed bill. If we can write that into the unanimous-consent agreement, the Senator from North Carolina would have no objection. I do not want to spend 6 or 8 hours, I say to my friend from West Virginia, wrangling on this

floor only to be rolled in the last inning of the game.

Mr. ROBERT C. BYRD. Mr. President, nobody is going to be rolled in any inning of the game. There are no tricks in this bag. I do not think anybody intends to proceed in the manner which the Senator described.

Mr. HELMS. Will the Senator include that in the unanimous-consent agreement?

Mr. JAVITS. Will the Senator yield for a procedural point?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. I am sure Senator HELMS would not want to preclude the usual technique of substituting the Senate text for the House text so we can go to conference.

Mr. HELMS. No. The Senator knows what I am talking about.

If the leader will include that, there will be no objection from me.

Mr. ROBERT C. BYRD. I would oppose that if there is such an effort made.

Mr. BAKER. Do I understand that if there is an amendment offered which will substitute H.R. 50 after the Senate has proceeded with its consideration, that the Senator would oppose that?

Mr. ROBERT C. BYRD. Absolutely. There are Members of this side of the aisle who have worked hours and hours in trying to work out a substitute, with the minority leader joining me in the substitute. I am not going to go through all this scenario and then go against the consensus of the Senators who have spent hours on it. I have not spent hours on it but they have spent hours on it. I would oppose that. I do not think we need to include that in the agreement. I would oppose it and so would others. I assume Members who worked on the ad hoc committee would oppose that approach.

The VICE PRESIDENT. The Chair might observe that amending the substitute of the House text would entirely be out of order.

Mr. SARBANES. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. SARBANES. I would assure the Senator from North Carolina that the matter he just raised comes as entirely new matter to me. There is no intention, there is no plan reserved for the last inning of the ball game, to act that way.

Mr. HELMS. If the Senator will yield, I have the assurance of my friends from West Virginia, Maryland, the State of New York, and the minority leader. With that assurance of how they feel about it, I will not object.

Mr. ROBERT C. BYRD. The Senator can be assured that a point of order would be made against such an amendment.

I have to include one other proviso, that being that the amendment by Mr. Brooke and the amendment by Mr. Nelson be withdrawn .

Mr. PROXMIRE. I have an amendment to the amendment by Mr. NELSON. I will withdraw that.

Mr. ROBERT C. BYRD. And the amendment by Mr. PROXMIRE be withdrawn.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Reserving the right to object——

Mr. DOLE. Reserving the right to object——

The VICE PRESIDENT. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Reserving the right to object, may I ask the majority leader the time limitation on the bill and on amendments offered to the bill?

Mr. ROBERT C. BYRD. Yes. The time limitation on the bill would be 4 hours. The time limitation on certain specified amendments would be 2 hours on the inflation goal, 2 hours on the GNP share amendment, 1 hour on the "may-shall" amendment, and 30 minutes on any other amendment.

Mr. HARRY F. BYRD, JR. I have an amendment, Mr. President, which I believe will not take longer than 30 minutes. I would like to ask the Senator for 1 hour.

Mr. ROBERT C. BYRD. Will the Senator indicate what his amendment would do?

Mr. HARRY F. BYRD, JR. It has been printed. It would eliminate from the unemployment figures those who have been unemployed less than 5 weeks.

Mr. ROBERT C. BYRD. Is that amendment germane? I assume it would be.

Would the Senator want 1 hour equally divided?

Mr. HARRY F. BYRD, JR. One hour, equally divided.

Mr. ROBERT C. BYRD. I include that, Mr. President.

Mr. DOLE. Reserving the right to object, and I shall not object, I only said what the distinguished majority leader has said; it was a lot of work and I think it has all been a good-faith effort on the part of the Members of this body on both sides of the aisle. As I understand, the time would be equally divided and the time would be controlled by the distinguished Senator from Wisconsin and the distinguished Senator from New York. I am not suggesting that they both have the same view, but I guess that any of us who participated in the ad hoc committee, who may have a little different view from the Senator from New York and the Senator from Wisconsin, would have some share of that time.

Mr. JAVITS. Without any question, I shall be scrupulous about giving ourselves the least time.

Mr. BAKER. If the Senator will yield to me, I have been in this situation before and I know firsthand that the Senator from New York will be scrupulous in his fairness.

The Senator from Kansas is completely right, however. It is important, and I am sure the Senator from New York understands that and will appreciate that, that he in particular, and others who participated in the efforts of the ad hoc committee, have a first claim on the available time to speak on this matter.

Mr. JAVITS. Without any question.

The VICE PRESIDENT. Is there objection? The Chair hears none. It is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Chair recognize me?

The VICE PRESIDENT. The cloture motion is vitiated.

The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. If the Chair would have the clerk state the title, then I want to offer on behalf of Mr. BAKER and myself a substitute.

The VICE PRESIDENT. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 50) to translate into practical reality the right of all Americans who are able, willing, and seeking to work to full opportunity for useful paid employment at fair rates of compensation; to assert the responsibility of the Federal Government to use all practicable programs and policies to promote full employment, production, and real income, balanced growth, adequate productivity growth, proper attention to national priorities, and reasonable price stability; to require the President each year to set forth explicit short-term and medium-term economic goals; to achieve a better integration of general and structural economic policies; and to improve the coordination of economic policymaking within the Federal Government.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators for their cooperation and patience in helping secure this amendment, at least for an agreement, particularly those on the ad hoc committee.

UP AMENDMENT NO. 2101

I send to the desk on behalf of Mr. BAKER and myself a substitute amendment. I ask that the title of it be stated by the clerk.

The VICE PRESIDENT. The clerk will state the amendment by title.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) and the Senator from Tennessee (Mr. BAKER) propose an unprinted amendment numbered 2101.

Mr. ROBERT C. BYRD. I ask unanimous consent that further reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. This Act and the following table of contents may be cited as the "Full Employment and Balanced Growth Act of 1978".

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GENERAL FINDINGS

SEC. 2. (a) The Congress finds that the Nation has suffered substantial unemployment and underemployment, idleness of other productive resources, high rates of inflation, and inadequate productivity growth, over prolonged periods of time, imposing numerous economic and social costs on the Nation. Such costs include the following:

(1) The Nation is deprived of the full supply of goods and services, the full utilization of labor and capital resources, and the related increases in economic well-being that would occur under conditions of genuine full employment, production, and real income, balanced growth, a balanced Federal budget, and the effective control of inflation.

(2) The output of goods and services is insufficient to meet pressing national priorities.

(3) Workers are deprived of the job security, income, skill development, and productivity necessary to maintain and advance their standards of living.

(4) Business and industry are deprived of the production, sales, capital flow, and proproductivity necessary to maintain adequate profits, undertake new investment, create jobs, compete internationally, and contribute to meeting society's economic needs. These problems are especially acute for smaller businesses. Variations in the business cycle and low-level operations of the economy are far more damaging to smaller businesses than to larger business concerns because smaller businesses have fewer available resources, and less access to resources, to withstand nationwide economic adversity. A decline in small business enterprises contributes to unemployment by reducing employment opportunities and contributes to inflation by reducing competition.

(5) Unemployment exposes many families to social, psychological, and physiological costs, including disruption of family life, loss of individual dignity and self-respect, and the aggravation of physical and psychological illnesses, alcoholism and drug abuse, crime, and social conflicts.

(6) Federal, State, and local government budgets are undermined by deficits due to shortfalls in tax revenues and in increases in expenditures for unemployment compensation, public assistance, and other recession-related services in the areas of criminal justice, alcoholism and drug abuse, and physical and mental health.

(b) The Congress further finds that:

(1) High unemployment may contribute to inflation by diminishing labor training and skills, underutilizing capital resources, reducing the rate of productivity advance, increasing unit labor costs, and reducing the general supply of goods and services.

(2) Aggregate monetary and fiscal policies alone have been unable to achieve full employment and production, increased real income, balanced growth, a balanced Federal budget, adequate productivity growth, proper attention to national priorities, achievement of an improved trade balance, and reasonable price stability, and therefore must be supplimented by other measures designed to serve these ends.

(3) Attainment of these objectives should be facilitated by setting explicit short-term and medium-term economic goals, and by improved coordination among the President, the Congress, and the Board of Governors of of the Federal Reserve System.

(4) Increasing job opportunities and full employment would greatly contribute to the elimination of discrimination based upon sex. age, race, color, religion, national origin, handicap, or other improper factors.

(c) The Congress further finds that an effective policy to promote full employment and production, increased real income, balanced growth, a balanced Federal budget, adequate productivity growth, proper attention to national priorities, achievement of an improved trade balance, and reasonable price stability should (1) be based on the development of explicit economic goals and policies involving the President, the Congress, and the Board of Governors of the Federal Reserve System, with maximum reliance on the resources and ingenuity of the private sector of the economy, (2) include programs specifically designed to reduce high unemployment due to recessions, and to reduce structural unemployment within regional areas and among particular labor force groups, and (3) give proper attention to the role of increased exports and improvement in the international competitiveness of agriculture, business, and industry in providing productive employment opportunities and achieving an improved trade balance.

(d) The Congress further finds that full employment and production, increased real income, balanced growth, a balanced Federal budget, adequate productivity growth, proper attention to national priorities, achievement of an improved trade balance through increased exports and improvement in the international competitiveness of agriculture, business, and industry, and reasonable price stability are important national requirements and will promote the economic security and well-being of all citizens of the Nation.

(e) The Congress further finds that the United States is part of an interdependent world trading and monetary system and that attainment of the requirements specified in subsection (d) is dependent upon policies promoting a free and fair international trading system and a sound and stable international monetary system.

REPORT

SEC. 3. Not later than one year after the date of enactment of this Act, the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives each shall conduct a study and submit a report, including findings and recommendations, to the Committee on Rules and Administration of the Senate and the Committee on Rules of the House, respectively, on the subject of establishing a full employment goal in connection with the provisions of this Act.

NATIONAL EMPLOYMENT CONFERENCE

SEC. 4. (a) A national Employment Conference may be convened in the District of Columbia within a reasonable period of time after the date of enactment of the Full Employment and Balanced Growth Act of 1978. Responsibility for the organization and implementation of this conference shall rest with the President or the appropriate department or agency of the federal government, and the conference shall bring together leaders of small and larger business, labor, government, and all other interested parties.

(b) The subject of the conference shall be employment, with particular attention to structural unemployment and the plight of disadvantaged youth. The conference shall also focus on issues such as implementation of adequate and effective incentives for private sector employers to hire the hard-core unemployed. Special attention shall be given to the creation of jobs through the use of targeted employment tax credits, wage vouchers, and other incentives to private sector businesses.

TITLE I—ESTABLISHMENT OF GOALS AND GENERAL ECONOMIC POLICIES

STATEMENT OF PURPOSE

SEC. 101. It is the purpose of this title—

(1) to declare the general policies of this Act;

(2) to provide an open process under which economic goals and policies are proposed, reviewed, and established;

(3) to provide for yearly review of national economic policies to ensure their consistency with these goals to the maximum extent possible; and

(4) to strengthen and supplement the purposes and policies of the Employment Act of 1946.

DECLARATION OF POLICY

SEC. 102. Section 2 of the Employment Act of 1946 is amended to read as follows:

"SEC. 2. (a) The Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practicable means, consistent with its needs and obligations and other essential national policies, and wtih the assistance and cooperation of both small and larger businesses, agriculture, labor, and State and local governments, to coordinate and utilize all its plans, functions, and resources for the purpose of creating and maintaining, in a manner calculated to foster and promote free competitive enterprise and the general welfare, conditions which promote useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and promote full employment and production, increased real income, balanced growth, a balanced Federal budget, adequate productivity growth, proper attention to national priorities, achievement of an improved trade balance through increased exports and improvement in the international competitiveness of agriculture, business, and industry, and reasonable price stability as provided in section 5(b) of this Act.

"(b) The Congress further declares and establishes as a national goal the fulfillment of the right to full opportunities for useful paid employment at fair rates of compensation of all individuals able, willing, and seeking to work.

"(c) The Congress further declares that inflation is a major national problem requiring improved government policies relating to food, energy, improved and coordinated fiscal and monetary management, the reform of outmoded rules and regulations of the Federal Government, the correction of structural defects in the economy that prevent or seriously impede competition in private markets, and other measures to reduce the rate of inflation.

"(d) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1978 to improve the coordination and integration of the policies and programs of the Federal Government toward achievement of the objectives of such Act through better management, increased

efficiency, and attention to long-range as well as short-range problems and to balancing the Federal budget.

"(e) The Congress further declares that, although it is the purpose under the Full Employment and Balanced Growth Act of 1978 to seek diligently and to encourage the voluntary cooperation of the private sector in helping to achieve the objectives of such Act, no provisions of such Act or this Act shall be used, with respect to any portion of the private sector of the economy, to provide for Federal Government control of production, employment, allocation of resources, or wages and prices, except to the extent authorized under other Federal laws.

"(f) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1978 to maximize and place primary emphasis upon the expansion of private employment, and all programs and policies under such Act shall be in accord with such purpose. Toward this end, the effort to expand jobs to the full employment level shall be in this order of priority to the extent consistent with balanced growth—

"(1) expansion of conventional private jobs through improved use of general economic and structural policies, including measures to encourage private sector investment and capital formation;

"(2) expansion of private employment through Federal assistance in connection with the priority programs in such Act;

"(3) expansion of public employment other than through the provisions of section 206 of such Act, and

"(4) when recommended by the President under section 206 of such Act and subject to the limitations in such section, the creation of employment through the methods set forth in such section.

"(g) The Congress further declares that trade deficits are a major national problem requiring a strong national export policy including improved Government policies relating to the promotion, facilitation, and financing of commercial and agricultural exports, Government policies designed to reduce foreign barriers to exports through international negotiation and agreement, Federal support for research, development, and diffusion of new technologies to promote innovation in agriculture, business, and industry, the elimination or modification of Government rules or regulations that burden or disadvantage exports and the national and international competitiveness of agriculture, business, and industry, the reexamination of antitrust laws and policies when necessary to enable agriculture, business, and industry to meet foreign competition in the United States and abroad, and the achievement of a free and fair international trading system and a sound and stable international monetary order.

"(h) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1978 to achieve a balanced Federal budget consistent with the achievement of the medium-term goals specified in section 4.

"(i) The Congress further declares that it is the continuing policy and responsibility of the Federal Government, in cooperation with State and local governments, to use all practical means consistent with other essential considerations of national policy to provide sufficient incentives to assure meeting the investment needs of private enterprise, including the needs of small and medium sized businesses, in order to increase the production of goods, the provision of services, employment, the opportunity for profit, the payment of taxes, and to reduce and control inflation. To the extent it is reasonably possible to do so, private enterprise investments in depressed urban and rural areas should be promoted to reduce the high levels of unemployment that exists there."

ECONOMIC REPORT OF THE PRESIDENT AND SHORT-TERM ECONOMIC GOALS AND POLICIES

SEC. 103. (a) The heading preceding section 3 and section 3(a) of the Employment Act of 1946 are amended to read as follows:

"ECONOMIC REPORT OF THE PRESIDENT AND SHORT-TERM ECONOMIC GOALS AND POLICIES

"SEC. 3. (a) The President shall transmit to the Congress during the first twenty days of each regular session, with copies transmitted to the Governor of each State and to other appropriate State and local officials, an economic report (hereinafter in this Act referred to as the 'Economic Report') together with the annual report of the Council of Economic Advisers submitted in accord with section 11(c) of this Act, setting forth—

"(1) the current and foreseeable trends in the levels of employment, unemployment, production, capital formation, real income, Federal budget outlays and receipts, productivity, international trade and payments, and prices, and a review and analysis of recent domestic and international developments affecting economic trends in the Nation;

"(2)(A) annual numerical goals for employment and unemployment, production, real income, productivity, and prices for the calendar year in which the Economic Report is transmitted and for the following calendar year, designated as short-term goals, which shall be consistent with achieving as rapidly as feasible the goals of full employment and production, increased real income, balanced growth, a balanced Federal budget, adequate productivity growth, price stability, achievement of an improved trade balance, and proper attention to national priorities; and

"(B) annual numerical goals as specified in subparagraph (A) for the three successive calendar years, designated as medium term goals;

"(3) employment objectives for certain significant subgroups of the labor force, including youth, women, minorities, handicapped persons, veterans, and middle-aged and older persons; and

"(4) a program for carrying out the policy declared in section 2, together with such recommendations for legislation as the President may deem necessary or desirable.".

(b) Section 3 of the Employment Act of 1946 is amended by adding the following:

"(d) For the purposes of the Full Employment and Balanced Growth Act of 1978, the percentage rate of unemployment as a percentage of the civilian labor force as set forth by the Bureau of Labor Statistics in the Department of Labor as computed under the procedures in effect as of the date of enactment of this Act.

"(e) For the purpose of the Full Employment and Balanced Growth Act of 1978, the terms 'inflation', 'prices', and 'reasonable price stability' refer to the rate of change or level of the consumer price index as set forth by the Bureau of Labor Statistics, United States Department of Labor.".

FULL EMPLOYMENT AND BALANCED GROWTH: MEDIUM-TERM ECONOMIC GOALS AND POLICIES

SEC. 104. The Employment Act of 1946 is amended by redesignating sections 4 and 5 as sections 10 and 11, respectively, and by inserting a new section 4 as follows:

"FULL EMPLOYMENT AND BALANCED GROWTH: MEDIUM-TERM ECONOMIC GOALS AND POLICIES

"Sec. 4. (a) In each Economic Report after enactment of the Full Employment and Balanced Growth Act of 1978, the President shall incorporate (as part of the five-year numerical goals in each Economic Report) medium-term annual numerical goals specified in section 3(a)(2)(B), and in each President's Budget submitted immediately prior thereto, the President shall incorporate the programs and policies the President deems necessary to achieve such medium-term goals and a balanced Federal budget and to achieve reasonable price stability as rapidly as feasible as provided for in section 5(b) of this Act.

"(b) The medium-term goals in the first three Economic Reports and, subject to the provisions of subsection (d), in each Economic Report thereafter shall include (as part of the five-year goals in each Economic Report) interim numerical goals for—

"(1) reducing the rate of unemployment, as set forth pursuant to section 3(d) of this Act, to not more than 3 per centum among individuals aged twenty and over and 4 per centum among individuals aged sixteen and over within a period not extending beyond the fifth calendar year after the first such Economic Report; and

"(2) reducing the rate of inflation, as set forth pursuant to section 3(e) of this Act, to not more than 3 per centum with a period not extending beyond the fifth calendar year after the first Economic Report: *Provided*, That policies and programs for reducing the rate of inflation shall be designed so as not to impede achievement of the goals and timetables specified in clause (1) of this subsection for the reduction of unemployment.

For purposes of this subsection, the first Economic Report shall be the Report issued in the first calendar year after enactment of the Full Employment and Balanced Growth Act of 1978.

"(c)(1) Upon achievement of the 3 and 4 per centum goals specified in subsection (b)(1), each succeeding Economic Report shall have the goal of achieving as soon as practicable and maintaining thereafter full employment and a balanced budget.

"(2) Upon achievement of the 3 per centum goal specified in subsection (b)(2), each succeeding Economic Report shall have the goal of achieving by 1988 a rate of inflation of zero per centum: *Provided*, That policies and programs for reducing the rate of inflation shall be designed so as not to impede achievement of the goals and timetables specified in clause (1) of this subsection for the reduction of unemployment.

"(d) In the second Economic Report after enactment of the Full Employment and Balanced Growth Act of 1978, the President shall review the numerical goals and timetables for the reduction of unemployment and inflation, and the goal of balancing the Federal budget; report to the Congress on the degree of progress being made, the programs and policies being used, and any obstacles to achieving such goals and timetables; and, if necessary, propose corrective economic measures toward achievement of such goals and timetables: *Provided*, That beginning with the second Report and in any subsequent Reports, if the President finds it necessary, the President may recommend modification of the timetable or timetables for the achievement of the goals provided for in subsection (b) and the annual numerical goals to make them consistent with the modified timetable or timetables, and the Congress may take such action as it deems appropriate consistent with title III of the Full Employment and Balanced Growth Act of 1978.

"(e) If, after achievement of the 3 and 4 per centum goals specified in subsection (b), the unemployment rate for a year as set forth pursuant to section 3(d) of this Act is more than 3 per centum among individuals aged twenty and over or more than 4 per centum among individuals aged sixteen and over, the next Economic Report after such rate is set forth and each succeeding Economic Report shall include (as part of the five-year goals in each Economic Report) the interim numerical goal of reducing unemployment to not more than the levels specified in subsection (b)(1) as soon as practicable but not later than the fifth calendar year after the first such Economic Report, counting, as the first calendar

year the year in which such Economic Report is issued: *Provided*, That, if the President finds it necessary, the President may, under the authority provided in subsection (d), recommend modification of the timetable provided for in this subsection for the reduction of unemployment, and for the purposes of section 304 of the Full Employment and Balanced Growth Act of 1978, such recommendation by the President shall be treated as a recommendation made under subsection (d) of this section.

"(f)(1) In taking action to reduce unemployment in accord with the numerical goals and timetable established under section (b), every effort shall be made to reduce those differences between the rate of unemployment among youth, women minorities, handicapped persons, veterans, middle-aged and older persons and other labor force groups and the overall rate of unemployment which are caused by any improper factors with the ultimate objective of removing such differentials to the extent possible.

"(2) Insofar as the differences specified in the preceding paragraph are due to lack of training and skills, occupational practices, and other relevant factors, the Secretary of Labor shall—

"(A) take such action as practicable to achieve the objectives of this subsection;

"(B) make studies, develop information, and make recommendations toward remedying these differences in rates of unemployment, and include these in the annual Employment and Training Report of the President required under section 705(a) of the Comprehensive Employment and Training Act of 1973 (hereinafter in this Act referred to as 'CETA'); and

"(C) make recommendations, as deemed necessary. to the Congress related to the objectives of this paragraph.

"(g)(1) The term 'middle-aged and older persons' as used in this section includes any individual forty-five years of age or older.

"(2) For purposes of this subsection, the term 'veteran' shall mean the same as defined in section 2011(1) or (2)(A) of title 38, United States Code.

PROVISIONS APPLICABLE TO SHORT-TERM AND MEDIUM-TERM GOALS

SEC. 105. The Employment Act of 1946 is amended by adding a new section 5 as follows:

"PROVISIONS APPLICABLE TO SHORT-TERM AND MEDIUM-TERM GOALS

"SEC. 5. (a) To aid in determining the short-term and medium-term goals for employment, production, real income, and prices, analysis shall be presented in the Economic Report with respect to major aspects of the appropriate composition or structure of each goal, and as to the appropriate apportionment of total national production among its major components (private investment, consumer expenditures, and public outlays) as affected by relative income flows and other factors, in order to promote balanced growth and a balanced Federal budget, reduce cyclical disturbances, and achieve the other purposes of this Act and the Full Employment and Balanced Growth Act of 1978."

"(b) In choosing means to achieve the goal for the reduction of unemployment and choosing means to achieve the goal of reasonable price stability, those means which are mutually reinforcing shall be used to the extent practicable.".

NATIONAL PRIORITY POLICIES AND PROGRAMS REQUIRED FOR FULL EMPLOYMENT AND BALANCED GROWTH

SEC. 106. The Employment Act of 1946 is amended by adding a new section 6 as follows:

"NATIONAL PRIORITY POLICIES AND PROGRAMS REQUIRED FOR FULL EMPLOYMENT AND BALANCED GROWTH

"SEC. 6 To contribute to the achievement of the goals under the Full Employment and Balanced Growth Act of 1978, the President's Budget for each fiscal year beginning after the date of enactment of the Full Employment and Balanced Growth Act of 1978 shall include priority policies and programs, which shall include, to the extent deemed appropriate by the President, consideration of the following—

"(A) development of energy sources and supplies, transportation, and environmental improvement;

"(B) proper atention to the problems and needs of smaller businesses including (i) the availability of investment capital, management and technical expertise, and technology and labor needs, (ii) analysis of economic and social trends which may affect smaller businesses, (iii) government policies and programs (including agency regulations and excessive paperwork requirements) that may create undue hardship for or reduce the competitiveness of smaller bssinesses, and (iv) other policies and programs to remove barriers to competition and to strengthen and promote the creation and growth of smaller businesses;

"(C) development of a comprehensive national agricultural policy that assures—

"(i) production levels adequate to meet the nutritional needs of all Americans and respond to rising food requirements throughout the world;

"(ii) farm and ranch income at full parity levels that will improve opportunities for farm families, encourage production, provide for essential capital investment in farming, and provide for farm prices at full parity in the market place;

"(iii) renewed commitment to the protection and conservation of rural land and water through support for improved conservation practices and research, and attention to agricultural land use in the formulation of plans for energy, water and mineral resources, transportation, and commercial, industrial, and residential development; and

"(iv) support for programs and public services designed to respond to the unique economic and social conditions of rural communities;

"(D) proper attention to the relationship between Federal programs and policies and the problems and needs of urban areas, including inner cities and the employment problems of their residents, especially youths;

"(E) proper attention to the quality and quantity of health care, education and training programs, child care and other human services, and housing, essential to a full employment economy and to moving toward their availability for all individuals at costs within their means;

"(F) policies concerning Federal aid to State and local governments, especially for public investment and unemployment related costs;

"(G) national defense and other needed international programs;

"(H) proper attention to the relationship between Federal grants, contracts, and procurement and the closure of military bases and other Federal facilities and the distribution of jobs and income among different regions of the Nation, and among urban, suburban, and rural areas;

"(I) Proper attention to balancing the Federal budget;

"(J) proper attention to the dislocation of jobs caused by Federal laws, regulations, and policies;

"(K) policies and programs designed to increase exports and improve the international competitive position of agriculture, business, and industry, including measures to promote a free and fair international trading system, a sound and stable international monetary system and innovation in agriculture, business, and industry; and

"(L) such other priority policies and programs as the President deems appropriate.".

THE PRESIDENT'S BUDGET

SEC. 107. The Employment Act of 1946 is amended by inserting a new section 7 as follows:

"THE PRESIDENT'S BUDGET

"SEC. 7. (a) The President's Budget shall recommend levels of outlays and receipts which shall be consistent with the short-term economic goals of section 3(a)(2)(A).

"(b) The President's Budget shall provide five-year projections of outlays and receipts consistent with the medium-term goals of section 4(b).

"(c) The principal elements in the President's Budget shall be set forth briefly in each Economic Report, toward the end of making clear the relationship between the President's Budget and the goals and policies set forth in such Economic Report. Both the expenditure and revenue elements of the President's Budget shall be developed to promote the purposes, policies, and goals of the Full Employment and Balanced Growth Act of 1978. The size of the President's expenditure and revenue proposals, and the relationships between such proposals, shall be determined in a manner which gives cosideration to the needs of the economy and the people in the priority areas set forth in section 6, and the relationship between the President's expenditure and revenue proposals shall be guided accordingly.".

MONETARY POLICY

SEC. 108. (a) Section 2A of the Federal Reserve Act is amended by striking out the second and third sentences and inserting in lieu thereof the following: "In furtherance of the purposes of the Full Employment and Balanced Growth Act of 1978, the Board of Governors of the Federal Reserve System shall transmit to the Congress, not later than February 20 and July 20 of each year, independent written reports setting forth (1) a review and analysis of recent developments affecting economic trends in the Nation; (2) the objectives and plans of the Board of Governors and the Federal Open Market Committee with respect to the ranges of growth or diminution of the monetary and credit aggregates for the calendar year during which the report is transmitted, taking account of past and prospective developments in employment, unemployment, production, investment, real income, productivity, international trade and payments, and prices; and (3) the relationship of the aforesaid objectives and plans to the short-term goals set forth in the most recent Economic Report of the President pursuant to section 3(a)(2)(A) of the Employment Act of 1946 and to any short-term goals approved by the Congress. In addition, as a part of its report on July 20 of each year, the Board of Governors shall include a statement of its objectives and plans with respect to the ranges of growth or diminution of the monetary and credit aggregates for the calendar year following the year in which the report is submitted. The reports required under the two preceding sentences shall be transmitted to the Congress and shall be referred in the Senate to the Committee on Banking, Housing, and Urban Affairs, and in the House of Representatives to the Committee on Banking, Finance and Urban Affairs. The Board shall consult with each such Committee on the reports and, thereafter, each such Committee on the reports and, thereafter, each such Committee shall submit to its respective body a report to the Federal Reserve's in-

tended policies. Nothing in this Act shall be interpreted to require that the objectives and plans with respect to the ranges of growth or diminution of the monetary and credit aggregates disclosed in the reports submitted under this section be achieved if the Board of Governors and the Federal Open Market Committee determine that they cannot or should not be achieved because of changing conditions: *Provided,* That in the subsequent consultations with, and reports to, the aforesaid Committees of the Congress pursuant to this section, the Board of Governors shall include an explanation of the reasons for any revisions to or deviations from such objectives and plans.".

(b) The amendment made by subsection (a) takes effective on January 1, 1979.

OVERCOMING INFLATION

SEC. 109. The Employment Act of 1946 is amended by inserting a new section 8 as follows:

"OVERCOMING INFLATION

"SEC. 9. (a) The Congress hereby determines that the objective of achieving reasonable price stability as soon as feasible, as set forth in section 3(a)(3) and section 4(a), shall be pursued by the methods and subject to the requirements of section 5(b).

"(b) The Congress finds that sole dependence upon fiscal or monetary policies or both to combat inflation can exacerbate both inflation and unemployment. The Congress finds that the coordinated use of fiscal and monetary policies in conjunction with specific targeted policies are necessary to combat inflation.

"(c) The President shall initiate specific policies to reduce the rate of inflation, including recommendations to the Congress where necessary, and include recommendations within the Economic Report and the President's budget to the extent practicable. Structural policies to reduce the rate of inflation may include—

"(1) an effective information system to monitor and analyze inflationary trends in individual economic sectors, so that the President and Congress can be alerted to developing inflation problems especially those caused by bottlenecks inhibiting the flow of goods and services;

"(2) programs and policies for alleviating shortages of goods, services, labor, and capital, with practicular emphasis on food, energy, and critical industrial materials to aid in stabilizing prices;

"(3) the establishment of stockpiles of agricultural commodities and other critical materials to help stabilize prices, meet emergency needs, and promote adequate income to producers;

"(4) encouragement to labor and management to increase productivity within the national framework of full employment through voluntary arrangements in industries and economic sectors;

"(5) recommendations to increase competition in the private sector and to improve the economic climate for the creation and growth of smaller businesses, including recommendations to strengthen and enforce the antitrust laws, the patent laws, and the internal revenue laws and regulations;

"(6) removal of proper modification of such Government restrictions and regulations as add unnecessarily to inflationary costs;

"(7) increasing exports and improving the international competitive position of agriculture, business, and industry;

"(8) such other administrative actions and recommendations for legislation as the President deems desirable, to promote reasonable price stability.".

COUNCIL OF ECONOMIC ADVISERS

SEC. 110. (a) Section 10 of the Employment Act of 1946 (as redesignated by section 104 of this Act) is amended—

(1) in the second sentence of subsection (a), by inserting "full" immediately after "promote";

(2) in subsection (c)(4), by inserting "including small and larger business" immediately after "enterprise" and by inserting "full" immediately after "maintain";

(3) in subsection (e)(1), by inserting immediately before the semicolon a comma and the following: "and shall consult with the board or boards established under section 9"; and

(4) in subsection (e), by inserting after paragraph (2) the following:

In its work under this Act and the Full Employment and Balanced Growth Act of 1978, the Council is authorized and directed to seek and obtain the cooperation of the various executive and independent agencies in the development of specialized studies essential to its responsibilities.".

ADVISORY BOARD OR BOARDS

SEC. 111. (a) The Employment Act of 1946 is amended by inserting a new section 9 as follows:

"ADVISORY BOARD OR BOARDS

"SEC. 10. (a) An advisory board or boards (including regional advisory boards) may be established as the President deems appropriate, to advise and consult periodically with one or more of the following: The President, the Council of Economic Advisers, and such other departments and agencies of the executive branch of the Federal Government as the President shall determine.

"(b) Such advisory board or boards shall include appropriate representation of labor, small and larger businesses and industries, agriculture, consumers, State and local officials, and the public at large, and shall advise and consult with respect to matters related to this Act, the Full Employment and Balanced Growth Act of 1978, and other appropriate matters related to national economic programs and policies. The President shall, in accordance with applicable processions of law, take the steps necessary to provide appropriate compensation to the members of such advisory board or boards.".

TITLE II—STRUCTURAL ECONOMIC POLICIES AND PROGRAMS, INCLUDING TREATMENT OF RESOURCE RESTRAINTS

STATEMENT OF PURPOSE

SEC. 201. The Congress recognizes that general economic policies alone have been unable to achieve the goals set forth in this Act related to full employment, production, and real income, balanced growth, adequate growth in productivity, proper attention to national priorities, achievement of an improved trade balance through increased exports and improvement in the international competitiveness of agriculture, business, and industry, and achievement of reasonable price stability as provided for in section 5(b) of the Employment Act of 1946. It is, therefore, the purpose of this title to require the President to initiate, as the President deems appropriate, with recommendations to the Congress where necessary, supplementary programs and policies to the extent that the President finds such action necessary to help achieve these goals, including the goals and timetable for the reduction of unemployment. Insofar as feasible without undue delay, any policies and programs so recommended shall be included in the Economic Report.

COUNTERCYCLICAL EMPLOYMENT POLICIES

SEC. 202. (a) Any countercyclical efforts undertaken to aid in achieving the purposes of section 201 shall consider for inclusion the following programmatic entities:

(1) accelerated public works, including the development of standby public work projects;

(2) public service employment;

(3) State and local grant programs;

(4) the levels and duration of unemployment insurance;

(5) skill training in both the private and public sectors, both as a general remedy and as a supplement to unemployment insurance;

(6) youth employment programs as specified in section 205;

(7) community development programs to provide employment in activities of value to the States, local communities (including rural areas), and the Nation;

(8) Federal procurement programs which are targeted on labor surplus areas; and

(9) augmentation of other employment and training programs which would help to reduce high levels of unemployment arising from cyclical causes.

(b) In any countercyclical efforts undertaken, the President shall consider a triggering mechanism which will implement the program during a period of rising unemployment and phase out the program when unemployment is appropriately reduced, and incorporate effective means to facilitate individuals assisted under programs developed pursuant to this section to return promptly to regular private and public employment as the economy recovers.

COORDINATION WITH STATE AND LOCAL GOVERNMENT AND PRIVATE SECTOR ECONOMIC ACTIVITY

SEC. 203. (a) As an integral part of any counteryclical employment policies undertaken in accord with section 202, the President shall, to the extent the President deems necessary, set forth programs and policies, including recommended legislation where needed, to coordinate economic action among the Federal Government, regions, States, and localities, and the private sector to promote achievement of the purposes of this Act and the Employment Act of 1946 and an economic environment in which State and local governments and private sector economic activity and employment will prosper. In considering programs and policies related to the private sector, full consideration shall be given to promoting the growth and well-being of small businesses and employment training programs through private sector incentives.

(b) In any efforts under this section, the President shall endeavor to meet criteria that establish programs which are funded to take account of the fiscal needs and budget conditions of the respective States and localities and their own efforts, with special attention to the rate of unemployment in such States and localities.

REGIONAL AND STRUCTURAL EMPLOYMENT POLICIES

SEC. 204. (a) To the extent deemed appropriate by the President in fulfillment of the purposes of section 201, the President shall recommend legislation to the Congress if necessary, regional and structural employment policies and programs.

(b) In formulating the regional components of any such programs, the President shall encourage to the extent the President deems necessary, new private sector production and employment to locate within depressed localities and regions with substantial unemployment and to aid in stabilizing their economic base. To the extent feasible, such policies and programs shall foster the establishment and growth of smaller businesses in such localities and regions. Any regional employment proposal of the President shall also include an analysis of the extent to which Federal tax, expenditure (including procurement of goods and services), defense, transportation, energy, natural resources and employment policies have influenced the movement of people, jobs, and small and larger business and industries from chronic high unemployment regions and areas, and proposals designed to correct Federal policies that have an adverse economic impact upon such regions and areas.

YOUTH EMPLOYMENT POLICIES

SEC. 205. (a) The Congress finds and declares—

(1) That serious unemployment and economic disadvantage of a unique nature exist among youths even under generally favorable economic conditions;

(2) that this group constitutes a substantial portion of the Nation's unemployment, and that this significantly contributes to crime, alcoholism and drug abuse; and other social and economic problems; and

(3) that many youths have special employment needs and problems which, if not promptly addressed, will substantially contribute to more severe unemployment problems in the long run.

(b) To the extent deemed necessary in fulfillment of the purposes of this Act, the President shall improve and expand existing youth employment programs, recommending legislation where required. In formulating any such program, the President shall—

(1) include provisions designed to fully coordinate youth employment activities with other employment and training programs:

(2) develop a smoother transition from school to work;

(3) prepare disadvantaged and other youths with employability handicaps for regular self-sustaining employment;

(4) develop realistic methods for combining training with work; and

(5) develop provisions designed to attract structurally unemployed youth into productive full-time employment through incentives to private and independent sector businesses;

JOB TRAINING, COUNSELING AND RESERVOIRS OF EMPLOYMENT PROJECTS

SEC. 206. (a) Further to promote achievement of full employment under this Act and the Employment Act of 1946, the President, through the Secretary of Labor, shall develop policies and procedures and, as necessary, recommend programs for providing employment opportunities to individuals aged 16 and over in the civilian labor force who are able, willing, and seeking to work but who, despite serious efforts to obtain employment, remain unemployed.

(b) In meeting the responsibilities under subsection (a), the Secretary of Labor shall, as appropriate, fully utilize the authority provided under CETA and other relevant provisions of law to—

(1) assure the availability of counseling, training, and other support activities necessary to prepare persons willing and seeking work for employment (including use of section 110 of CETA when necessary);

(2) refer persons able, willing, and seeking to work to job opportunities in the private and public sectors through the existing public employment placement facilities and through the United States Employment Service of the Department of Labor, including job opportunities in any positions created under programs established pursuant to sections 202, 204, and 205 of this Act; and

(3) encourage flexi-time and part-time jobs for persons who are able, willing, and seeking employment but who are unable to work a standard workweek.

(c)(1) To the extent that individuals aged sixteen and over and able, willing, and seeking to work are not and in the judgment of the President cannot be provided with private job opportunities or job opportunities under other programs and actions in existence, in accord with the goals and timetables set forth in the Employment Act of 1946, the President shall, as may be authorized by law, establish reservoirs of public employment and private nonprofit employment projects, to be approved by the Secretary of Labor, through expansion of CETA and other existing employment and training projects or through such new programs as are determined necessary by the President or through both such projects and such programs.

(2) New programs as may be authorized by law after the date of enactment of this Act referred to in paragraph (c)(1)—

(A) shall not be put into operation earlier than two years after the enactment of this Act, nor without a finding by the President, transmitted to the Congress, that other means of employment are not yielding enough jobs to be consistent with attainment of the goals and timetables for the reduction of unemployment set forth in the Employment Act of 1946;

(B) shall be designed so that no workers from private employment are drawn into the reservoir projects thereunder;

(C) shall be useful and productive jobs;

(D) shall be mainly in the lower ranges of skills and pay, and toward this end the number of reservoir jobs under such new programs shall, to the extent practicable, be maximized in relationship to the appropriations provided for such jobs;

(E) shall be targeted on areas of high unemployment and on individuals who are structurally unemployed;

(F) shall be phased in by the President as necessary, in conjunction with the employment goals under section 3(a)(2) and 4(b) of the Employment Act of 1946.

(d) The Secretary, in carrying out the provisions of this section, shall establish regulations providing for—

(1) an initial determination of the job seeker's ability to be employed at certain types and duration of work, so that such individual may be appropirately referred to jobs, training, counseling, and other supportive services;

(2) compliance with the nondiscrimination provisions of this Act in accordance with section 401;

(3) appropriate eligibility criteria to determine the order of priority of access of any person to any new programs under subsection (c) as may be authorized by law including but not necessarily limited to (A) household income, duration of unemployment (not less than five weeks), and the number of people economically dependent upon such person; and (B) denial of access to any person refusing to accept or hold a job except for good cause, as determined by the Secretary of Labor, including refusal to accept or hold a job subject to reference under subsection (b) paragraph (2), in order to seek a reservoir project job under subsection (c); and

(4) such administrative appeal procedures as may be appropriate to review the initial determination of the abilities of persons willing, able, and seeking to work under paragraph (1) of this subsection and the employment need and eligibility under paragraph (3) of this subsection.

CAPITAL FORMATION—PRIVATE AND PUBLIC

SEC. 207. (a) The Congress finds that—

(1) promotion of full employment and balanced growth is in itself a principal avenue to high and sustained rates of capital formation;

(2) high rates of capital formation are necessary to ensure adequate rates of capacity expansion and productivity growth, compliance with governmental health, safety and environmental standards, and the replacement of obsolete production.

(3) the ability of our economy to compete successfully in international markets, the development of new technology, improved working conditions, expanding job opportunities, and an increasing standard of living depend on the availability of adequate capital at reasonable cost to commerce and industry;

(4) an important goal of national policy shall be to remove obstacles to the free flow of resources into new investment, particularly those obstacles that hinder the creation and growth of smaller businesses because general national programs and policies to aid and stimulate private enterprise are not sufficient to deal with the special problems and needs of smaller businesses; and

(5) while private business firms are, and should continue to be, the major source of investment, the investment activities of the Federal, State, and local governments play an important role in affecting the level of output, employment, and productivity and in achieving other national purposes.

(b) The Economic Report shall include an Investment Policy Report which shall, as appropriate, (1) review and assess existing Federal government programs and policies which affect business investment decisions, including, but not limited to, the relevant aspects of the tax code, Federal expenditure policy, Federal regulatory policy, international trade policy, and Federal support for research, development, and diffusion of new technologies; (2) provide an assessment of the levels of investment capital available, required by, and applied to small, medium and large business entities; (3) provide an analysis of current and foreseeable trends in the level of investment capital available to such entities; and (4) provide a description of programs and proposals for carrying out the policy set forth in section 102(1). In addition, the Economic Report shall include an assessment of the effect of the overall economic policy environment and the rate of inflation on business investment. The President shall recommend in the President's Budget, as appropriate, new programs or modifications to improve existing programs concerned with private capital formation. The President shall also transmit to the Congress as part of the President's Budget such other recommendations as the President may deem necessary or desirable to achieve the policy as set forth in section 102(1). The Investment Policy Report, when transmitted to the Congress, shall be referred to the Joint Economic Committee.

(c) The Economic Report referred to in subsection (b) shall review and assess Federal policies and programs which directly, or through grants-in-aid to State and local governments, or indirectly through other means, affect the adequacy, composition and effectiveness of public investments, as a means of achieving the goals of this Act and the Employment Act of 1946. The President shall recommend, as appropriate, new programs and policies or modifications to improve existing Federal programs affecting public investment.

TITLE III—POLICIES AND PROCEDURES FOR CONGRESSIONAL REVIEW

STATEMENT OF PURPOSE

SEC. 301. (a) The purposes of this title are to establish procedures for congressional review and action with respect to the Economic Report of the President (hereafter in this title referred to as the "Economic Report"), the report of the Board of Governors of the Federal Reserve System, and the other policies and provisions of this Act and the Employment Act of 1946.

(b) The Congress shall initiate or develop such legislation as it deems necessary to implement proposals and objectives pursuant to this Act and the Employment Act of 1946 after such modification in such proposals as it deems desirable. Nothing in this title shall be construed to prevent the Congress or any of its commodities from considering or initiating at any time legislative action in furtherance of the goals and purposes of this act.

COMMITTEE REVIEW

SEC. 302. (a) In conjunction with its review of the Economic Report, and the holding of hearings on the Economic Report under the Employment Act of 1946, the Joint Economic Committee shall review and

analyze the short-term and medium-term goals set forth in the Economic Report pursuant to sections 3(a)(2) and 4(b) of the Employment Act of 1946 (as amended by sections 103 and 104 of this Act).

(b) The Joint Economic Committee shall hold hearings on the Economic Report for the purpose of receiving testimony from Members of the Congress, and such appropriate representatives of Federal departments and agencies, the general public, and interested groups as the joint committee deems advisable. The joint committee shall also consider the comments and views on the Economic Report which are received from State and local officials.

(c) Within thirty days after receipt by the Congress of the Economic Report, each standing committee of the Senate and the House of Representatives, each other committee of the Senate and the House of Representatives which has legislative jurisdiction, and each joint committee of the Congress may submit to the Joint Economic Committee, for use by the Joint Economic Committee in conducting its review and analysis under subsection (a), a report containing the views and recommendations of the submitting committee with respect to aspects of the Economic Report which relate to its jurisdiction.

(d) On or before March 15 of each year, a majority of the members of the Joint Economic Committee shall submit a report to the Committees on the Budget of the Senate and the House of Representatives. Such report shall include findings, recommendations, and any appropriate analyses with respect and in direct comparison to each of the short-term and medium-term goals set forth in the Economic Report.

REVIEW OF ECONOMIC REPORT AS PART OF CONGRESSIONAL BUDGET PROCESS

SEC. 303. (a) Section 301(c) of the Congressional Budget Act of 1974 is amended—

(1) by inserting after the first sentence the following new sentences: "Each of the recommendations as to short-term and medium-term goals set forth in the report submitted by the members of the Joint Economic Committee under subsection (c) may be considered by the Committee on the Budget of each House as part of its consideration of such concurrent resolution, and its report may reflect its views thereon, and on how the estimates of revenues and levels of budget authority and outlays set forth in such concurrent resolution are designed to achieve any goals it is recommending"; and

(2) by inserting "also" after "shall" in the last sentence.

(b) Section 305(a) of such Act is amended—

(1) by inserting before the period at the end of the first sentence of paragraph (2) a comma and "plus such additional hours of debate as are consumed pursuant to paragraph (3)";

(2) by redesignating paragraphs (3) through (6) as paragraphs (6) through (9) respectively; and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) Following the presentation of opening statements on the first concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the House, there shall be a period of up to four hours for debate on economic goals and policies.

"(4) Only if a concurrent resolution on the budget reported by the Committee on the Budget of the House sets forth the economic goals (as described in sections 3(a)(2) and 4(b) of the Full Employment Act of 1946) which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.".

(c) Section 305(b) of such Act is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (6) and (7), respectively; and

(2) by inserting after paragraph (2) the following new paragraphs:

"(3) Following the presentation of opening statements on the first concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Commitee on the Budget of the Senate, there shall be a period of up to four hours for debate on economic goals and policies.

"(4) Only if a concurrent resolution on the budget reported by the Committee on the Budget of the Senate sets forth the economic goals (as described in sections 3(a)(2) and 4(b) of the Employment Act of 1946), which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.".

MODIFICATION OF TIMETABLE FOR ACHIEVING UNEMPLOYMENT GOALS

SEC. 304 (a) Section 301(a) of the Congressional Budget Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (5); and

(2) by renumbering paragraph (6) as (7) and inserting after paragraph (5) the following new paragraph:

"(6) if required by subsection (e), the calendar year in which, in the opinion of the Congress, the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946 should be achieved; and".

(b) Section 301 of such Act is amended by adding at the end thereof the following new subsection:

"(e) ACHIEVEMENT OF GOALS FOR REDUCING UNEMPLOYMENT.—

"(1) If, pursuant to section 4(c) of the Employment Act of 1946, as amended, the President recommends in the Economic Report that the goals for reducing unemployment set for in section 4(b) of such Act be achieved in a year after the close of the five-year period prescribed by such subsection, the first concurrent resolution on the budget for the fiscal year beginning after the date on which such Economic Report is received by the Congress shall set forth the year in which, in the opinion of the Congress, such goals can be achieved.

"(2) After the Congress has expressed its opinion pursuant to paragraph (1) as to the year in which the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946, as amended, can be achieved, if, pursuant to section 4(e) of such Act, the President recommends in the Economic Report that such goals be achieved in a year which is different from the year in which the Congress has expressed its opinion that such goals should be achieved, either in its action pursuant to paragraph (1) or its most recent action pursuant to this paragraph, the first concurrent resolution on the budget for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achived.

"(3) It shall be in order to amend the provision of such resolution setting forth such year only if the amendment thereto also proposes to alter the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution in germane fashion in order to be consistent with the economic goals (as described in section 3(a)(2) and 4(b) of the Employment Act of 1946) which such amendment proposes can be achieved by the year specified in such amendment.".

EXERCISE OF RULEMAKING POWERS

"SEC. 305. (a) The provisions of this title and the amendments made by such provisions are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House), at any time, in the same manner and to the same extent as in the case of any other rule of such House.

TITLE IV—GENERAL PROVISIONS

NONDISCRIMINATION

SEC. 401. (a) No person in the United States shall on the ground of sex, age, race, color, religion, national origin or handicap be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded pursuant to the implementation of this Act, including membership in any structure created by this Act.

(b) Whenever the Secretary of Labor determines that a recipient of funds made available pursuant to this Act has failed to comply with subsection (a), or an applicable regulation, the Secretary shall notify the recipient of the noncompliance and shall request such recipient to secure compliance. If within a reasonable period of time, not to exceed sixty days, the recipient fails or refuses to secure compliance, the Secretary of Labor may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); or

(3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever the Attorney General has reason to believe that a recipient is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in the appropriate United States district court for any and all appropriate relief.

(d) To assist and evaluate the enforcement of this section, and the broader equal employment opportunity policies of this Act, the Secretary of Labor shall include, in the annual Employment and Training Report of the President provided under section 705(a) of CETA, a detailed analysis of the extent to which the enforcement of this section achieves positive results in both the quantity and quality of jobs, and for employment opportunities generally.

LABOR STANDARDS

SEC. 402. (a) Any new program enacted and funded pursuant to the implementation of this Act shall, subject to any limitations on maximum annual compensation as may be provided in the law authorizing such programs, provide that persons employed are paid equal wages for equal work, and that such policies and programs create a net increase in employment through work that would not otherwise be done or are essential to fulfill national priority purposes.

(b) Any person employed in any reservoir

project enacted and funded pursuant to the implementation of section 206(c)(1), or in any other job created pursuant to implementation of this Act, shall, subject to any limitations on maximum annual compensation as may be provided in the law authorizing such programs, be paid not less than the pay received by others performing the same type of work for the same employer, and in no case less than the minimum wage under the Fair Labor Standards Act of 1938. No person employed in any reservoir project enacted and funded pursuant to implementation of section 206(c)(1) shall perform work of the type to which the Davis-Bacon Act (40 U.S.C. 276a—276a-5) applies, except as otherwise may be specifically authorized by law.

(c) Any recommendation by the President for legislation to implement any program enacted pursuant to the provisions of this Act, requiring the use of funds under this Act, and submitted pursuant to the requirements of this Act, shall contain appropriate wage provisions based upon existing wage standard legislation.

Mr. HARRY F. BYRD, JR. Mr. President, does the Senator yield for a question?

Mr. ROBERT C. BYRD. Mr. President, I yield the floor and ask Mr. Proxmire or someone to come to this desk.

The PRESIDING OFFICER (Mr. RIEGLE). Without objection, the amendment is agreed to as original text.

Mr. HARRY F. BYRD, JR. I would like somebody to yield for a question.

Are printed texts of the amendment available as sent to the desk?

Mr. NELSON. I did not hear the Senator.

Mr. HARRY F. BYRD, JR. I ask the Senator from Wisconsin, the Senator from West Virginia sent to the desk an amendment, new legislation in the form of an amendment introduced by himself and the Republican leader. Are there copies of that available where we can see what we are voting on?

Mr. NELSON. There are copies—yes, here is one. We just reached the understanding on the final form this morning, so we do not have enough for everybody at the moment.

Mr. HARRY F. BYRD, JR. This is a multitude of pages that we need to digest now to determine whether this is a good bill or a bad bill.

Mr. NELSON. Let me say to the distinguished Senator from Virginia—let me use a figure, 95 or 98 percent of what is in there is an amalgam of what was approved by the Banking Committee and what was approved by the Committee on Human Resources. We took some Banking Committee language, we took some Human Resources Committee language, but all of it was approved, I believe, by one committee or the other in the course of——

Mr. PROXMIRE. If the Senator will yield, also, this has been available in printed form.

Mr. NELSON. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Let me ask, please, that those standing find seats and that other conversations cease so this very important discussion can be heard by everyone in the Chamber.

Mr. NELSON. Mr. President, there is a continual undercurrent of conversation. Maybe if we asked all of the staff to leave, then we would find out that it is the Senators who are causing all the noise and we could ask them to leave, too.

Mr. PROXMIRE. If the Senator will yield, I was simply saying that the basic amendment that was filed by the majority and minority leaders was available—98 percent of it—available, printed and distributed 2 weeks ago.

Mr. NELSON. That was introduced last Saturday and printed.

Mr. PROXMIRE. And was introduced, as the Senator says, last Saturday and printed, so that has been available for 6 weeks. There were modifications that were agreed on by several Republicans and Democrats working together which have been put in here, which we shall be happy to call to the Senator's attention. They affect about three pages of this very voluminous document.

Mr. HARRY F. BYRD, JR. If the Senator from Wisconsin will yield, as I understand it, this is an amalgamation of two bills, one that came out of the Human Resources Committee, one that came out of the Banking Committee. As I understand those two bills, they were substantially different, one from the other.

Mr. NELSON. Not really all that different, but I would like to emphasize what the senior Senator from Wisconsin said: Almost all of the language in this proposal introduced by the leadership today was available 2 weeks ago and is in the language of the amendment that the Senator from Wisconsin introduced last Saturday.

The Human Resources Committee and the Banking Committee were really dealing, basically, with the same bill. The Banking Committee made a number of modifications, mainly within their jurisdiction, which were incorporated in the bill that was introduced last Saturday. So all of that has been available and hearings on it.

What was done today was to take the three controversial or what appeared to be, as far as we could tell, the three most controversial questions. One was the issue that was put in the Banking Committee bill of a 3-percent inflation goal to be achieved by 1983; the question of "shall" or "may" involving the Budget Committee on the review of the unemployment figure by the President; and the question of whether or not there should be a spending, GNP percentage spending, limitation.

Those three items ended up being the big controversy. This bill was introduced with the inflation goal in it, the GNP won out, the word "shall" instead of "may." The agreement is to have a time limitation and a vote on those. Those who want to strike out the inflation goal will move to strike it or modify it. We shall have a vote at the end of the time, and the process has been worked.

Those who want a GNP limitation in, a percentage, will have the burden of moving to add it to the bill. At the end, we shall vote and that settles that question.

Then someone who does not like the word "shall" that is in there will move to strike it. That will settle that question. Then we move to the bill.

Almost all of which, as the senior Senator from Wisconsin said, has been printed and available for quite some time.

Several Senators addressed the Chair.

Mr. CRANSTON. Mr. President, I am pleased to rise in support of the pending measure—the Humphrey-Hawkins Full Employment and Balanced Growth Act of 1978. This measure—which has been substantially revised since it was first put before us several years ago—is, in my opinion, a good one that we can and should all support.

As a member—I believe the only member—of all three of the committees which had contact with this legislation in the Senate —the Human Resources Committee, the Banking, Housing, and Urban Affairs Committee, and the Budget Committee as well as the ad hoc committee that has been working on it in this final phase, I am extremely pleased that we have been able, as a body, to consider this very important legislative item prior to the adjournment of the 95th Congress. As a member of the ad hoc committee, which led the final efforts to fashion the means of obtaining a time agreement that allowed us to take up the measure today, I am delighted by the spirit of cooperation and support for this measure that has generally pervaded this Chamber during the consideration of this landmark bill.

Mr. President, by enacting the Full Employment and Balanced Growth Act, we are making a commitment to all Americans. We are saying, "every American has the right to an opportunity for useful paid employment." After more than three decades, enactment of this measure will complete the commitment that was anticipated by the Employment Act of 1946.

Mr. President, I should point out that when earlier versions of the Humphrey-Hawkins bill were being considered, I had deep reservations about the wisdom of the approach. However, a major breakthrough occurred when the President and the sponsors were able to reach agreement on a revised version which I was pleased to cosponsor and support.

This bill now before us upon this evening, as oposed to earlier versions, makes clear that the Federal Government is not the "employer of last resort." It places strong and primary emphasis on the health of the private sector as the primary means by which to achieve full employment and seek to achieve rates of 3 percent adult unemployment and 4 percent overall unemployment by 1983. Only after maximum efforts to stimulate expansion in a freely operating private sector would the Federal Government consider public sector initiatives.

The real heart of Humphrey-Hawkins is the structure it establishes for the President and the Congress to work together to consider and formulate means of achieving full employment and balanced growth. This structure, which is heavily tied into the already functioning budget process, will allow us to consider in an orderly fashion, where we are, where we are going, and how we can get there.

Mr. President, enactment of this bill

will clearly not be a miracle cure for all the ills that afflict our Nation. It will do nothing in and of itself in terms of helping us reach the goals we are setting forth in the statute. It will take continued hard work and efforts by the Congress, the President, the private sector, business, and labor. It is not a panacea, but it is a step in the right direction.

Mr. President, I have worked hard, as have many of my colleagues, including particularly the most distinguished majority leader (Mr. BYRD) and the very able floor manager (Mr. NELSON), in order to make sure that the Humphrey-Hawkins Full Employment and Balanced Growth Act is fully considered on its merits and carefully developed in the Senate—as our dear friend and beloved colleague, the late Hubert H. Humphrey, would have wanted. In tribute to him, and in recognition of the rights of all Americans to have an opportunity to work, we now—finally—have pending before us a measure that will provide us with a reasonable and workable means of striving toward full employment and balanced growth.

It was a rare privilege to work on this measure once with Senator Hubert Humphrey, and now with Senator MURIEL HUMPHREY, and with my good friend from my own California, GUS HAWKINS, and all the others, in and out of Congress, who have dedicated so much to this cause.

Mr. President, I urge the Senate to approve the Humphrey-Hawkins Full Employment and Balanced Growth Act of 1978.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. If the Senator will yield just very briefly, I have some Senators on the floor and I would like to handle two other matters quickly. One is a conference report on the Department of Justice authorization.

I ask that the Senate proceed to that conference report for not to exceed 2 minutes and that the time not be charged against anyone on this bill.

Mr. PROXMIRE. Would the Senator permit me to reserve my right to the floor?

Mr. ROBERT C. BYRD. Yes, please do.

Mr. PROXMIRE. I thank the Senator.

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1979—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on S. 3151 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3151) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conference.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. PAUL G. HATFIELD. Mr. President, the conferees agreed to a substitute amendment which is set forth in the report. Under this bill, as amended, the Justice Department is authorized for appropriation of funds for fiscal year 1979. Basically, Mr. President, the House agreed to some additional authorization provided in the Senate bill for the Criminal Division, the Civil Rights Division and the Antitrust Division. Also, the conferees agreed to an additional $25 million dollars authorization to permit the hiring of additional assistant U.S. attorneys and deputy marshals required to handle increased court work once the new judges are appointed later in this fiscal year. The Senate conferees agreed to authorize an additional appropriation for the Immigration and Naturalization Service, as explained in the House report on this bill.

The Senator from South Dakota (Mr. ABOUREZK) requested the FBI to write him a letter, concerning FBI undercover operations.

Mr. ABOUREZK. Mr. President, the Justice authorization bill contains new authority for the FBI to engage in undercover operations. In order to assess the impact of this authority, I asked the Director to confirm his commitment to inform fully the appropriate committees of Congress concerning the implementation of this authority I ask unanimous consent that the letter from FBI Director Webster concerning the Justice Department authorization report be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 13, 1978.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, D.C.

DEAR TED: As you know the Senate will today consider the Department of Justice Authorization Bill. The Senate and House conferees have agreed to language that will allow the FBI to continue vital undercover operations. It is my understanding that the Conference Report may not contain language providing for reports to the Senate and House Judiciary Committees, and Senate and House Intelligence Committees regarding these undercover operations.

I want to reconfirm to you my commitment to make appropriate reports to these Committees concerning undercover investigative operations approved under the provisions of this Authorization Bill. I am committed to the principle of congressional oversight for the FBI.

I appreciate the efforts of you and your staff in helping to secure these necessary amendments.

Sincerely yours,

WILLIAM H. WEBSTER,
Director.

Mr. THURMOND. Mr. President, I rise in support of the conference report on S. 3151, the Department of Justice Appropriation Authorization Act for fiscal year 1979. This report is the combination of months of oversight review and consideration of the many functions of the Department of Justice by the House and Senate Judiciary Committees. Comprehensive hearings were held by the full Senate Judiciary Committee this spring. Similar hearings were also held in the House. This authorization bill, of course, marks the first time in which many functions of the Justice Department have been separately authorized, including the Federal Bureau of Investigation, the Litigation Divisions, the Community Relations Service, and the Immigration and Naturalization Service. In fact, only the Drug Enforcement Administration and the Law Enforcement Assistance Administration have been separately authorized in the past. Now, for the first time, the entire Justice Department has funding authority.

In general, Mr. President, the authorization bill follows very closely amounts already appropriated for the Justice Department in the State, Commerce, Justice appropriations bill which is now at the President's desk for signing into law. The authorization figures are not lavish by any standard. They represent, at most, only modest increases to perform the essential functions of the Justice Department. There are only three areas where there are significant increases over the appropriations bill. First, for U.S. attorneys and marshals, a $25 million increase has been authorized to accommodate the increased workload to be anticipated as a result of congressional passage of the Omnibus Judgeship Act. This new law now awaiting the President's signature, authorizes 152 new Federal judgeships, most of them at the district court level. These new judgeship positions will directly impact the work of the U.S. attorneys and U.S. marshals offices and so authority has been granted to allow for this expansion.

A second item is an increase for the Immigration and Naturalization Service. $299,350,000 appropriated has been increased in the authorization to a level of $320,722,000 as provided for by the House. The Senate conferees agreed with the House that the major offices of the Immigration Service are now literally swamped with work and that much more needs to be done in attempting to stem the flow of illegal aliens entering the United States. These additional funds, if appropriated, will help deal with these most urgent problems.

A third increase occurred in general legal activities where a total of $95,481,000 was approved by the conferees. This is less than the $98,081,000 provided in the Senate, but significantly higher than the $89,884,000 allowed by the House and $90,550,000 approved in the Appropriations Act. The two increases approved by the conference are in the Civil Rights Division and in the Criminal Division to handle sharply increased workloads.

The conferees also approved language which would authorize the Federal Bureau of Investigation to provide funding for its undercover "sting" operations. These activities have been unusually successful. This new authority authorizes the FBI to enter into leasing arrangements and establish bank accounts

to support these operations. This is authority which is already exercised by the Law Enforcement Assistance Administration in its support of Federal, State, and local "sting" activities, but now the Bureau has separate authority. It is expected that the new authority granted to the FBI will not result in any significant overlap with already existing "sting" programs. It is expected also that appropriate steps will be taken to coordinate the various "sting" activities where possible.

The Federal Bureau of Prisons has been authorized to submit a plan which would assure the closure of the U.S. penitentiary at McNeil Island, Wash. on or before January 1, 1982. Mr. President, I am particularly interested in this proviso since McNeil Island is an institution well over 100 years old. It has been seriously overcrowed and is in dire need of replacement. In addition, the Department also can negotiate with the Department of Defense to identify and develop plans for suitable Defense Department military installations surplus to the Department of Defense's needs that might be utilized by the Bureau of Prisons to deal with its severe overcrowding problems. Two such sites have already been identified and this authority will insure continuing negotiations.

The authorization also contains the authority for the sum of $2.6 million to be appropriated for the planning and site acquisition during the current fiscal year for the construction of a Federal detention center in Los Angeles County. Although this item was not sought by the administration, it is strongly endorsed by the California congressional delegation and there appears to be very real needs that such a facility could meet.

Also authorized is an increase in the number of supergrades available to the Department for senior attorney positions. There was a net increase of 13. I understand, as one of the conferees, that we agreed that these positions shall be used only for senior attorneys and not for administrative positions. I also understand that none of the supergrade positions currently utilized, from whatever source for attorney positions, will be eliminated or transferred for two other positions.

Mr. President, I want to extend my sincere thanks and appreciation to the members of the Senate and House Judiciary Committees and their staffs who worked so long and hard to bring this measure to its fruition. Particularly, the distinguished senior Senator from Mississippi, Mr. EASTLAND, and the distinguished senior Senator from Massachusetts Mr. KENNEDY, spent many hours studying the justifications in great detail.

Mr. GLENN. Mr. President, I support S. 3151, the Justice Department authorization conference report. I am particularly pleased that the conferees agreed to the provision jointly sponsored by my colleague from Ohio, Congressman SEIBERLING and myself relating to fighting the growing arson-for-profit epidemic.

The provision that I refer to is essentially S. 1882, the Arson Control Assistance Act of 1977, a bill that I introduced in July of 1977 that requires the FBI to classify arson as a major crime for the purpose of the FBI uniform crime reports.

Murder, forcible rape, robbery, assault, burglary, larceny, and auto theft are so classified and arson is not, even though human and property losses from arson often exceed those of these other major crimes. The quarterly FBI crime reports have become social indicators for the American public. They tell us what crimes are on the increase or decline, what pattern criminal activity is taking and so on they help mobilize the public. They help inform us as to what our crime-fighting priorities should be and how to deploy our resources. Since 1928, despite changes in circumstances, the development of newer, more sophisticated crime, no additions have been made to the major crime category in the UCR.

Consequently, arson does not appear on the list of crimes reported quarterly. It is no wonder then that our several sets of hearings in the Governmental Affairs Committee, the GAO, and others have found that the Federal law enforcement effort is totally uncoordinated with respect to arson fighting, assigns it a low priority and is totally lacking in statistical information with respect to arson.

I have been fighting to correct this and S. 3151 is a significant victory. Adding arson to the major crimes list will encourage greater deployment of arson specialists by local police. It will encourage greater cooperation by fire and police forces. This new statistical standard for arson will also stimulate development of more modern and uniform methods of crime reporting procedure with respect to arson. Most of all, providing the American public with accurate information on arson which now is commonly referred to as the "easiest and fastest growing crime" will help mobilize the public as to the need to assign high priority to efforts to combat it.

Mr. President, S. 3151 culminates a lengthy effort over the 95th Congress that I have undertaken on this issue. I ask unanimous consent to have printed in the RECORD a copy of my August 21, 1977 letter to Attorney General Bell along with a list of other activities in the arson fighting area. I am now working on a more comprehensive anti-arson measure that hopefully will complement this new direction and new priority that the conferees on S. 3151 have given the fight against arson. I commend my colleagues for their effort and urge that the report be adopted.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AUGUST 21, 1978.

Hon. GRIFFIN B. BELL,
Attorney General, Department of Justice, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: I am writing to strongly urge you to take immediate action to encourage the reclassification of arson as a major crime for the purpose of the FBI's Uniform Crime Reports.

As you are undoubtedly aware, arson is now the nation's fastest growing crime. The crime of arson is responsible for an estimated 1,000 deaths and 10,000 injuries annually. Insurance losses now exceed $3 billion per year. In New York's South Bronx alone 30,000 buildings have been destroyed by arson; these are roughly 3,000 fires per year, 8 per day, and 250 per month. In Ohio, arson has increased by at least 50% over the last two years. These devastating patterns are costing every homeowner and businessman in increased insurance premiums. Arson is also severely hurting the American taxpayer in that it undermines all federal community development and neighborhood revitalization efforts.

The quarterly FBI Crime Reports have become social indicators for the American public. They tell Americans what part 1 crimes are on the increase or decline, what pattern criminal activity is taking and so on. They help mobilize public opinion. They help us determine our crime-fighting priorities and the deployment of our anti-crime resources. Given GAO reports documenting the lack of arson data, rivalry between police and firemen and an overall inadequate uncoordinated federal effort, reclassification of arson is a logical first step to take in mounting an effective attack on what is becoming popularly known as "the easiest crime."

The "official" reasons given for categorizing arson with crimes such as vagrancy, curfew violations and public intoxication are unacceptable. There are supposedly four criteria for inclusion of an offense as a major crime: seriousness, high frequency of occurrence, the existence of uniform local reporting procedures, and the likelihood of the crime being reported to the police. It is clear that the crime of arson satisfies the first two criteria. With regard to the third, proper federal direction and coordination could solve any procedural discrepancies which now exist. As for the fourth, the likelihood of arson "reporting" is in large part predicated on the existence of an effective local arson investigative effort which would be made more likely nationally if arson were given major crime status.

I chaired two days of hearings last December on the arson problem and found the FBI's testimony on this matter unconvincing. Aside from the points mentioned, I also seriously question the overall procedure employed to categorize major crimes. In order to reclassify a crime as "major" an affirmative vote of the International Association of Chiefs of Police is required. It is tragic to note that not a single crime has been added to the major crimes list in 50 years by the police chiefs association despite the development of newer, more sophisticated crimes, changes in frequency and so on. This country has changed greatly since 1928, yet we're still logging crimes under Prohibition-era rules. This is a shocking, misleading practice that lulls the public into believing crime rates are going down even as their cities burn and their insurance rates soar. At a time when the government should be working to build confidence, FBI crime statistics become increasingly suspect. A criminal could steal a car in New York and drive it to New Jersey, and his crime would be noted in the FBI charts. But let that same criminal torch a house or business—causing untold property damage and ruined lives—and his crime of arson will never make the charts. That's a ridiculous situation. We'll never be able to mount an effective anti-arson effort until arson is categorized as a major crime.

The present obsolete procedure invites charges that the FBI and the police chiefs have a vested interest in *not* fully reporting a crime that has grown so tremendously and for which only nine persons are arrested, two convicted and 0.7 incarcerated per every 100 fires characterized as incendiary or suspicious. We have heard charges that if the full extent of arson appeared in the crime reports, the recent pictures of a "stable" or de-

creasing crime rate would be demolished. If these charges are true, this is disgraceful. I urge you to take all possible steps to develop a new, more comprehensive procedure for the collection of national crime statistics as well as immediately taking steps to reclassify arson under current procedures.

I hope that you will act quickly on these recommendations. These changes would provide us with a data base and increased awareness of this serious crime and would undoubtedly have the effect of stimulating law enforcement efforts in combating this crime. I am attaching a list of recent Senate legislative initiatives in this area to demonstrate the strong support that exists in the Senate for such a change. I intend to further explore the issue in some depth in our upcoming hearings on arson in the Permanent Subcommittee on Investigations.

Best regards.

Sincerely,

JOHN GLENN,
U.S. Senator.

Mr. PAUL G. HATFIELD. Mr. President, I move that the Senate agree to the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. PAUL G. HATFIELD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I am still reserving my right to the floor.

The PRESIDING OFFICER. The Senator reserves his right to the floor.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for not to exceed 1 minute on another matter, the time not to be charged against either side, without prejudice to the Senator from Wisconsin (Mr. PROXMIRE).

The PRESIDING OFFICER. Without objection, it is so ordered.

PAYMENT OF LOSSES FROM TRIS BAN

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1503.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1503) entitled "An Act to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

That (a) the Court of Claims shall have jurisdiction to hear, determine, and render judgment upon any claim for losses sustained by any producer, manufacturer, distributor, or retailer of children's sleepwear, or by any producer, converter, manufacturer, distributor, or retailer of fabric, yarn, or fiber contained in or intended for use in children's sleepwear, as a result of the actions taken by the United States under the Federal Hazardous Substances Act on April 8, 1977, and thereafter relating to apparel, fabric, yarn, or fiber containing Tris (2,3-dibromopropyl) phosphate: *Provided, however,* That such children's sleepwear and such fabric, yarn, or fiber contained in or intended for use in children's sleepwear was subject to the requirements of or for use in compliance with the mandatory Federal flammability standard, FF3–71, or FF5–74, at the time of its manufacture.

(b)(1) In determining the validity of any claim under this Act and the amount of the losses sustained for which such a claim is brought, the court shall consider the following factors:

(A) The degree to which reasonable alternatives to Tris (2,3-dibromopropyl) phosphate existed at the time the Federal Government established the applicable mandatory Federal flammability standard referred to in subsection (a).

(B) Whether it would have been feasible, or reasonable, for the claimant to have tested Tris (2,3-dibromopropyl) phosphate for chronic hazards at the time the Federal Government established such flammability standard.

(C) The degree to which the Federal Government, prior to establishing such flammability standard, tested Tris (2,3-dibromopropyl) phosphate for toxicity, or other health hazards, and disseminated the results of these tests.

(D) The degree of good faith demonstrated by a claimant in seeking to comply fully with such Federal flammability standard.

(E) The extent to which a claimant may have relied in good faith on assurances from suppliers that the products containing Tris (2,3-dibromopropyl) phosphate was safe.

(F) The degree to which a claimant acted reasonably in using Tris (2,3-dibromopropyl) phosphate for the time period that such substance was used.

(G) The degree to which a claimant, in good faith, complied with actions taken by the United States under the Federal Hazardous Substances Act on April 8, 1977.

(2) In determining the amount of the losses for which a claim is brought under this Act, the amount of such losses shall not include lost profits, proceeds from distress sales, attorney's fees, or interest on any such loss resulting to any producer, converter, manufacturer, distributor, or retailer of such children's sleepwear, or to any producer or manufacturer of fabric, yarn, or fiber.

(c)(1) The measure of losses for producers or manufacturers of children's sleepwear shall be the cost of producing or manufacturing the sleepwear garment plus the cost of the fabric, yarn, or fiber used for such production or manufacture, held in stock on the date of enactment of this Act, less the fair market value, if any, of the sleepwear garment or the fabric, yarn, or fiber.

If the sleepwear garment or the fabric, yarn, or fiber has been resold after April 8, 1977, but prior to such date of enactment, then the measure of losses shall be the cost of producing or manufacturing the sleepwear garment plus the cost of the fabric, yarn, or fiber less the proceeds from any such sale.

(2) The measure of losses for producers, converters, or manufacturers of fabric, yarn, or fiber shall be the cost of producing, converting, or manufacturing the fabric, yarn, or fiber plus the cost of the raw materials used for such production, converting, or manufacture, held in stock on the date of enactment of this Act, less the fair market value, if any, of the fabric, yarn, or fiber.

If the fabric, yarn, or fiber had been resold after April 8, 1977, but prior to such date of enactment, then the measure of losses shall be the cost of producing, converting, or manufacturing the fabric, yarn, or fiber plus the cost of the raw materials used for such production, converting, or manufacture less the proceeds from any such sale.

(3) The measure of losses for distributors and retailers shall be the distributor's or the retailer's purchase price for goods referred to in paragraphs (1) and (2) of this subsection, held in stock on the date of enactment of this Act, less the fair market value, if any, of such goods and less the amount of any reimbursement received.

(4) In addition to the losses determined under paragraphs (1), (2), and (3) of this subsection, a claimant may also be compensated for unreimbursed costs of transportation paid for the return of such sleepwear garments, fabric, yarn, or fiber.

(d) No claim under this Act may be brought as a class action nor may any claim under this Act be brought by two or more parties unless damages are claimed to be jointly recoverable or are disputed among the parties claimant.

(e) Upon payment of any claim under this Act, by court judgment or by settlement, the United States shall be subrogated to the claimant's rights to recover losses; or assert a claim against any person or organization relating to the subject matter of the claim paid by the United States. The claimant shall execute and deliver instruments and papers and take whatever steps are necessary to secure such rights in the United States in order to be entitled to the entry of a judgment by the Court and payment under this Act, and the failure of the claimant to perform such acts or take such steps shall constitute cause to deny the entry of such judgment and payment. The failure of the claimant to perform such acts or to take such steps shall not limit or adversely affect the right of the United States, to act as subrogee or assignee to the full extent of its payments under this Act. Any purported limitation on the right of the United States to act as assignee or to become subrogated to the rights of a claimant shall be without any effect, to the extent that the United States has made payments under the Act.

(f) Any claim under this Act shall be barred unless commenced within two years after the date of enactment of this Act.

Mr. THURMOND. Mr. President, I rise in support of S. 1503, a bill to provide for the payments of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber.

This legislation passed the Senate on January 20, 1978, and was sent to the House. It now returns from the House with amendments. I urge the Senate to concur in the House amendments and approve the bill.

Mr. President, this legislation would give to the Federal Court of Claims jurisdiction to render judgment upon any claim for losses sustained by any producer, processor, or manufacturer of children's sleepwear. The cause of those losses was the ban of Tris by the United States under the Federal Hazardous Substances Act on April 8, 1977. As a result of this ban, the actual losses that were incurred by manufacturers, processors and retailers is estimated to be more than $50 million, although some estimates run even higher.

Mr. President, by way of background, under the authority of the Flammable Fabrics Act, the Department of Commerce issued regulations in 1971 and again in 1974, imposing stringent standards of flammability of children's sleepwear. Nothwithstanding the expressed reservations of industry representatives

regarding potential health hazards, the sudden imposition of those standards necessitated the rapid development and use of flame-retardant chemicals. Tris became the most widely used of such flame-retardants.

However, a new test for mutagenicity was developed in 1976 and indicated that Tris might be toxic. Accordingly, the Consumer Product Safety Commission on April 7, 1977, banned the sale of all children's wearing apparel containing Tris and has ordered the producers of such wearing apparel to "repurchase" it from retailers and consumers.

This legislation would simply confer jurisdiction on the U.S. Court of Claims, to determine the dollar value and render judgment for losses sustained by producers, processors, manufacturers, distributors, or dealers, or other persons, as a result of actions taken by the Federal Government under the Hazardous Substances Act relating to the ban on apparel, fabric, yarn or fiber containing Tris. Lost profits would not be included. There would be a 2-year statute of limitations as provided in the Tort Claims Act. Other protections have been added by both the Senate and House to insure that no one will profit from this legislation.

Unless financial institutions and suppliers are reassured at an early date that apparel manufacturers will be able to meet the repurchase obligation, many more such firms will be forced out of business. This legislation can prevent that from happening.

Mr. President, the inequity involved here is readily apparent. Confidence in Government regulation must be restored in the American business community. I hope and believe that this proposal is one way to reinstill such confidence, and ask my colleagues for their support.

The following Senators are original cosponsors of this bill: Mr. HOLLINGS from South Carolina, Mr. EASTLAND from Mississippi, Mr. HELMS from North Carolina and Mr. TALMADGE from Georgia.

I urge my colleagues to adopt S. 1503, thereby clearing the measure for the President.

● Mr. KENNEDY. Mr. President, with the passage of S. 1503 the Congress takes an important step in rectifying a wrong done to the Nation's clothing manufacturers. This legislation would permit the court of claims to entertain jurisdiction over claims arising out of the manufacture of children's sleepwear containing the chemical Tris. I vigorously supported S. 1503 in the Senate Judiciary Committee and am gratified to learn that the House has similarly acted in providing the possibility of relief to local manufacturers. Although the House bill differs in some respects from the Senate-passed version I see no reason or need for a Senate-House conference; in providing new requirements that petitioners demonstrate loss from the use of Tris, the House bill is an improvement over its Senate counterpart. I therefore join with Senator THURMOND and others in urging Senate adoption of the House bill in its entirety.

The Senate bill was simply an indemnity bill; it permitted a cause of action in the court of claims. The House bill, however, is more of an adversarial bill; it requires that petitioners in the court of claims demonstrate that they acted reasonably in using Tris, that they made reasonable efforts to follow Government directives and guidelines concerning Tris and that they suffered loss as a result. The House bill in effect shifts the burden to the petitioner, where it belongs. In so doing it prevents the possibility of windfall gains for certain manufacturers who did not in fact rely wholly on Government declarations as to the value of Tris.

Mr. President, it is important to point out what S. 1503 does not do. The bill does not allow automatic recovery to those manufacturers who used Tris in the manufacture of sleepwear. It simply permits judicial resolution of the circumstances of each case.

Nor should the bill be viewed as a precedent for other manufacturers who have used other carcinogens (for example saccharin, cyclamates, red dye No. 2) to similarly sue in the court of claims. The Tris situation is unique; by all accounts it is clear that the manufacturers who suffered loss relied completely on Government regulations endorsing the safety and utility of Tris. For that reason I vigorously support this legislation and urge its enactment into law.●

Mr. President, I further ask unanimous consent that the Senate concur in the House amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the concurrence in the House amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978

The Senate continued with the consideration of the bill (H.R. 50).

UP AMENDMENT NO. 2102

(Purpose: To make the reduction of the rates of Federal outlays to the GNP a national economic goal)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask that it be stated.

THE PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE), for himself, Mr. THURMOND, and Mr. GRIFFIN, proposes an unprinted amendment numbered 2102 to amendment No. 2101.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 2 of the Employment Act of 1946, as amended by section 102, insert the following:

"(—) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1978 to rely principally on the private sector to lead the expansion of economic activity and to create new jobs for a growing labor force. Toward this end, the Congress further declares and establishes as a national goal the gradual reduction of the share of an expanding gross national product accounted for by Federal outlays."

In section 3(a)(2)(A) of the Employment Act of 1946, as amended by section 103, after "balanced growth," insert "the reduction of the share of on expanding gross national product accounted for by Federal outlays,".

At the end of section 4(b) of the Employment Act of 1946, as amended by section 104, strike out "and" at the end of the next to last numbered clause and insert "and" at the end of the last clause after the semicolon, and insert immediately below the last clause and above the last sentence the following new clause:

"(3) reducing the share of an expanding gross national product accounted for by Federal outlays to 21 per centum or less in the fiscal year 1981 and 20 per centum or less in the fiscal year 1983 and thereafter: *Provided*, That policies and programs for balancing the budget and for reducing the share accounted for by Federal outlays of an expanding gross national product shall be consistent with the goals and timetables specified in clause (1) of this subsection for the reduction of unemployment in accord with the purpose of encouraging the full use of productive resources.

and insert at the end of subsection (c) the following new paragraph:

"(3) Upon achievement of the 20 per centum goal specified in subsection (b)(A), each succeeeding Economic Report shall have the goal of maintaining the share of an expanding gross national product accounted for by Federal outlays at 20 per centum or less consistent with meeting national needs and priorities, *Provided:* That policies and programs for balancing the Federal budget and for constraining the share accounted for by Federal outlays of an expanding gross national product shall be consistent with the goals and timetables for the reduction of unemployment in accord with the purpose of the Full Employment and Balanced Growth Act of 1978."

Mr. PROXMIRE. Mr. President, this is one of the amendments on which 2 hours is provided, as I understand it, is that correct? This is the so-called GNP or spending amendment.

The PRESIDING OFFICER. The Chair advises that the Senator is correct.

Mr. PROXMIRE. Mr. President, I yield myself such time as I may require.

Mr. President, what this does is to limit the Federal spending in 1981 so it will be reduced to 21 percent of the gross national product, and in 1983 so it will be 20 percent of the gross national product.

So I think all Senators should realize that these are conservative figures, No. 1; and they should also recognize the fact that we have introduced a new element.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. ROBERT C. BYRD. I am sorry to interrupt.

Mr. President, I ask unanimous consent that the Humphrey-Hawkins bill, H.R. 50, everybody knows what H.R. 50 is, considered as, and is, the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, this amendment provides for a limitation on Federal outlays as a percentage of gross national product.

Now, almost exactly the same amendment, a very similar amendment, was passed by the Senate overwhelmingly 2 or 3 nights ago on the tax bill. That was the Nunn amendment.

The House instructed their conferees to vote for it, by a 2 to 1 margin.

This is a more moderate amendment than that was, as I will point out shortly.

Mr. President, I want to point out that this amendment provides that these spending restrictions will apply in an expanding gross national product.

I will read that part in the amendment. It says:

The Congress further declares and establishes as a national goal the gradual reduction of the share of an expanding gross national product accounted for by Federal outlays.

Further down in the amendment it provides:

The Employment Act of 1946, as amended by section 103, after "balanced growth," insert "the reduction of the share of an expanding gross national product."

Mr. President, the reason I stress expanding is that it would be economically counterproductive to provide a reduction in spending if we were in a recession, and the hold-down on spending I have suggested here recognizes the fact that we should apply that limitation on spending in such a way as to not impede our progress toward reducing unemployment.

Mr. President, the past 20 years has been a gradual and continued shift in the share of economic activities accounted for between private and public sector. I think few people realize that as recently as the late 1960's, only 18 percent of our GNP was accounted for by Federal spending.

The fact is that throughout the decade of the 1960's it was far below what it is now.

For instance, in 1959 it was 19.5 percent, 1960 it was 18.5 percent. 1961, it was 19.2 percent. In 1962, it was 19.5 percent. In 1963, it was 19.3 percent; and 19.2 percent; and so on. As recently as 1974 it was 19.8 percent.

So what I am talking about is a real figure, I would get down to 21 percent in 3 years, in 1981.

Furthermore, Mr. President, this is precisely what President Carter has indicated in his target.

He says we should get Federal spending as a proportion of the GNP to 21 percent by 1981.

Furthermore, he says we can get it down to 19.1 percent, which is substantially below what I am proposing here as a goal, by 1983.

So on the basis of our historic experience, on the basis of the assertion by President Carter, this is a moderate, limited goal.

Mr. President, if inflation is to be restrained, the Congress just has to find the discipline to reduce expenditures.

If spending is brought under better control, the Federal Government will become less prominent as a borrower in the credit markets, and that would have two beneficial effects. First, more credit would become available to other sectors of the economy, such as housing and business. Second, the Federal Reserve would have an easier time controlling the growth of money and credit.

I point out, Mr. President, that the present chairman of the Federal Reserve Board has urged that we adopt this kind of amendment. In a recent statement, he said that he thought we could reduce the shares well within the goals specified in this amendment.

People might say, "Well, we offered a similar amendment on the tax bill. Why do we have to have it on the Humphrey-Hawkins bill?"

After all, the purpose of the Humphrey-Hawkins bill is to commit this country to a job for every American, eventually, and to a very low level of unemployment. This is precisely why we need a balanced economic policy.

This is not simply an unemployment bill, although that is the highest priority, and it should have the highest priority. This is the most important economic policy statement that Congress will have made since 1946, when we adopted the Employment Act of 1946.

We should recognize that we have experienced in the past 5 or 6 years an inflation such as this country had not suffered in peacetime before. Even in 1946, when inflation was a far less urgent issue, we specified in that Employment Act that there should be price stability as well as maximum employment and minimum unemployment. So it was a symmetrical act.

Now I am saying, as we amend the Employment Act of 1946 and provide for the kind of economic policy we should follow over the next 5 years, that we should recognize that inflation continues to be a vital issue, and all indications are that the overwhelming majority of American people say it is the No. 1 issue facing this country.

I got a questionnaire back from 10,000 Wisconsin constituents which indicated that they thought inflation was the No. 1 issue; 91 percent said they thought it was the No. 1 issue. The second issue, incidentally, was crime; and unemployment was far down the line—a tiny percentage of those who thought inflation was No. 1.

Obviously, if we are going to combat inflation, we have to do our best to hold down Government spending.

As I say, this is an amendment that allows the President the flexibility to recommend modifications of the goal timetable for reducing outlays as a percentage of GNP, in the same manner he can recommend modification of the employment goal timetable.

Mr. President, this amendment was offered in the Senate Banking, Housing, and Urban Affairs Committee, and it was adopted by a majority of the committee, a bipartisan majority. I think it is an amendment which is realistic. It is an amendment which is based on our historic experience. It is an amendment which squares right on with what President Carter states are his goals. It is an amendment which has been affirmed, in effect, by the Senate as recently as 3 or 4 days ago. It is an amendment which certainly should be considered at a time when we are changing the fundamental economic policy of this country by modifying the most important provision we have in the law with respect to economic policy—to wit, the Employment Act of 1946—and it would do so in a way that does not walk away from the inflation standards we established in 1946, but maintains them on the same basis. That is what this amendment does.

It is to provide that we will achieve a low level of unemployment, which I support enthusiastically. But then to ignore the effect of Federal spending, which is going to have a disrupting effect in the private sector, I think is wrong.

One other point occurs to me, and I call it to the attention of the Presiding Officer, the Senator from Michigan (Mr. RIEGLE). He said that the great genius of this bill is that it is one that asks the private sector to do the job. We have taken the public sector out of it, and I think that is right. The private sector must do the job.

I say to the distinguished Presiding Officer that this amendment would assure that the responsibility would be in the private sector. We modestly, moderately, gently reduce the share of the Federal Government in the GNP in an expanding economy and leave the responsibility where it belongs—in the private sector.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield

Mr. HARRY F. BYRD, JR. How does the legislation before the Senate accomplish the objective of having the unemployment rate reduced by the private sector? What is in this bill that does that?

Mr. PROXMIRE. What is in the bill that does that is, in the first place, that it sets the goal. In the second place, it calls on the President to come forward in his economic report annually with policies that will achieve the goal.

We have taken out of the bill the fact that the Government is the employer of last resort. If the President is to do this, he has to do it with a tax policy that would encourage and stimulate activity in the private sector. In my judgment, he can do that as easily and effectively with a stimulated tax policy.

We also provide that the Federal Reserve Board's monetary policy shall be keyed to achieve the objectives of this measure. Obviously, a monetary policy that stimulates the economy through moderating insurance rates and making credit easier is going to stimulate the private sector, as distinguished from the public sector.

The act does not specify specific policies and call for appropriations and that kind of thing. It sets broad, general goals, and it calls on the President and Congress to try to adopt policies—as I say, particularly tax policies and monegoals.

tary policies—that will achieve those

Mr. HARRY F. BYRD, JR. The Pres-

ident has been opposed to tax policies that would accomplish that result.

Mr. PROXMIRE. I do not think so. I think President Carter has been very interested in reducing taxes, although we may dispute that.

Whether this President does or not, what this amendment does is to call on the President to achieve a low level of unemployment. Obviously, he can only achieve that in an expanding economy.

Mr. HARRY F. BYRD, JR. He can achieve it by advocating more Government programs, and that is what is going to happen.

Mr. PROXMIRE. That may happen, and that is one reason why this amendment would be a salutary amendment. It would prevent simply trying to solve the problem by having the Federal Government employ more people.

Mr. HARRY F. BYRD, JR. I support the amendment. I am sure it is a sound amendment. I am not sure the bill is a sound bill. I think this will do exactly what Congress and this Government have been doing the last 30 years—try to settle all our problems by spending more money; and the more we do that, the worse off we all are.

Mr. PROXMIRE. I am delighted that the Senator makes that point, because that is precisely what this amendment is addressed to. Without this amendment, I think the Senator might have a very strong point. With the amendment, however, at least it provides the limitation which would encourage the President to concentrate on expanding the economy in the private sector.

Mr. HARRY F. BYRD, JR. I support the amendment. My impression of the bill is this: Less than a half-hour ago, I queried both Senators from Wisconsin with regard to this bill, and I was informed that this bill is virtually the same as the two bills—one which came from the Human Resources Committee and one which came from the Banking Committee—and this bill is sort of an amalgamation of the two.

When the majority leader introduced the bill we are working on now, he said it is vastly different from the other two bills.

Mr. PROXMIRE. Let me try to reconcile those two apparently disparate views.

The amendment is similar so far as most of what it says is concerned. But on the important issues, the fundamental issues, such as the inflation issue and the monetary policy issue, both of which are vital and central, this bill did modify the Human Resources Committee bill.

Mr. HARRY F. BYRD, JR. I do not know who is right or who is wrong. All I know is that the majority leader said that this is vastly different from either S. 50 or H.R. 50.

Mr. PROXMIRE. I believe the majority leader was referring to the House bill, H.R. 50.

Mr. HARRY F. BYRD, JR. He said it was vastly different from the legislation that previously had been before the Senate, that had been considered by the Senate.

We have very little time to consider a bill of this magnitude. The text of the bill is not even available yet. One of the members of the ad hoc committee gave the Senator from Virginia the text, and I understand it is now being xeroxed. So eventually we will have some xerox copies here, less than 24 hours before we adjourn sine die.

Mr. PROXMIRE. I appreciate the observations of the Senator from Virginia, but I do have a limited amount of time, and I will have to reserve the remainder of my time.

Mr. President, I ask unanimous consent that the names of Senator NUNN and Senator BELLMON be added as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. They sponsored a similar amendment the other night, and they wanted to sponsor this one.

Mr. President, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE addressed the Chair.

Mr. PROXMIRE. Who yields time to the Senator from Maine?

Mr. NELSON. Mr. President, how much time do we have on our side?

The PRESIDING OFFICER. The time has been divided. There is 1 hour to each side.

Mr. NELSON. How much time does the Senator from Maine desire?

Mr. MUSKIE. Ten minutes.

Mr. NELSON. I yield 10 minutes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 10 minutes.

Mr. MUSKIE. Mr. President, I have not seen the language of this amendment so I hope I do not find myself guilty of misstating it, but as I understand it what it does are these things:

One, it establishes a national goal of gradual reduction in the share of gross national product accounted for by Government outlays. That goal has been the stated objective of the Senate Budget Committee for all of the years that the Budget Committee has been in existence, and our most recent statement of that objective was 19.9 percent by 1983. But may I suggest, Mr. President, that it is one thing to state that as the objective of a process that we have in place and another thing to try in 1978 to pinpoint the precise date when you can achieve a precise share, for reasons that I will try to get into.

I have these same reservations about trying to pick the precise date when we can achieve a precise numerical inflation rate or the precise date when we can achieve a precise unemployment rate.

I will never forget the first year that the budget process was in existence. We were created in August 1974. The new President, President Ford, at that time assembled an economic conference and he declared that in the next fiscal year we were to achieve a balanced budget. In the fiscal year just ended we had come very close to achieving a balanced budget. So he declared in August or September of that year we would achieve a balanced budget in the next fiscal year. So come January what had happened? The bottom had fallen out of the economy and the unemployment rate was flirting with 10 percent. Within a period of months the Nation's GNP had declined sharply. Inflation, of course, was out of control with the rest of it.

Mr. PROXMIRE. Mr. President, will the Senator yield on that point?

Mr. MUSKIE. I wish to finish and then I will yield. I wish to finish my point.

So within a matter of less than 6 months the President's optimistic guesses as to what would happen just went out the window. They were no longer relevant and he was projecting not a balanced budget for the next fiscal year but a budget deficit of $50 billion. With that kind of drop of GNP the Government share of GNP rose precipitately to something like 23 percent.

Then I have this year's experience in mind. In January of this year the President projected a budget deficit of $60 billion, outlays of $500 billion, and budget authority of about $570 billion. This was just a few months ago.

So that was his recommendation in light of his assumptions about the performance of the economy of this year and next year. So what happened? Congress has just completed the Second Budget Resolution in which the deficit has been reduced to $38.8 billion, in which outlays have been cut by $12.7 billion, and in which budget authority has been cut by $12.5 billion. The unemployment rate has dropped below what we projected in January. So the picture is rosier than we expected just a few months ago. So now we are in the process of predicting not a few months ahead but a few years ahead as to precisely what we expect to achieve by a certain date.

Second, this amendment requires the President each year to set 5-year goals for the share of GNP accounted for by Government outlays. The amendment specifies that those goals should be 21 percent or less by 1981, 20 percent or less by 1983 and thereafter. That 20 percent compares with a Budget Committee projection for 1983 of 19.9 percent, and we also projected figures for 1979, 1980, 1981, and 1982.

So we have 5-year projections in this year's Senate Budget Committee report, and they are not inconsistent with those that the amendment of the distinguished Senator from Wisconsin, I gather, would mandate by law.

Now, what troubles me about putting these fixed numbers in the budget resolution, and we would have to if we disagreed because of changes in economic conditions, we whould have to put fixed numbers here; then those numbers would be subject to debate in the Chamber. What would be the response? I can just hear it because I have been presiding over this process for 4 years. Senators will be competing with each other to add a number to the budget resolution that was the most politically attractive one they could get, whether or not it made economic sense at all in the economic climate of the day in which that number would be subject to debate in the Chamber.

It is argued that this amendment is consistent with the administration's

position. The President has set a goal of reducing the Federal share of GNP to 21 percent by 1981. The President has not set any other GNP share goals. The sponsors of this amendment derive the 20 percent goal for 1983 from the President's budget by calculating the share based on out-year estimates for outlays and GNP, but those outlay estimates are current services, not policy base budget estimates. The GNP figures are assumptions not forecasts. Therefore, the 20 percent share calculated by the sponsors is not an administration forecast of where the economy is likely to be or where the administration would like it to be.

In short, the administration has no goal of a 20-percent GNP share by 1983, and has the same reservations about stating a formal goal in the statute this far in advance that I have, and I have the same commitment——

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. MUSKIE. I have the same commitment to that goal and to that trend in budget-making that the Senator from Wisconsin has.

I share the goal of 4 percent unemployment. I share the goal of 3 percent to 0 inflation, but I have had to live with the reality of trying to accommodate what we do with the Federal budget to changing pictures of the state of the economy.

I have rarely found an economist who boasts about his forecasts of a year ago. But they are always certain about what is going to happen a year ahead of us, and that is what I find difficulty with in all of these proposals to put the specific numbers and specific years into a piece of legislation.

I had the same difficulty with the Nunn-Bellmon-Roth-Chiles amendment to the tax bill. To pretend, after the experience I have had that you can, in effect, write a congressional budget resolution for 4 or 5 years in advance is simply unreal, and it raises expectations that can only lead to further distrust of Government if the expectations are not met.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. MUSKIE. We have a process for achieving exactly what this amendment and the other amendments are talking about, and we have made it clear that those are the trends we are seeking to achieve.

But when you tie our hands and put us on the defensive, when economic circumstances over which we have no control arise, then I have serious questions about that.

Yes, I yield to the Senator.

The PRESIDING OFFICER (Mr. ABOUREZK). The time of the Senator from Maine has expired.

Mr. PROXMIRE. I yield myself 5 minutes.

The PRESIDING OFFICER. The Sentor from Wisconsin.

Mr. PROXMIRE. The Senator knows how highly I respect him and how much I admire the remarkable job he has done in the Budget Committee, and I would vote against my own amendment if it tied his hands and if he convinced me that it did, and I would do so. But I think this is a very flexible amendment.

In the first place, the Banking Committee, in acting on this amendment, said the following:

> The Banking Committee recognized in adopting this amendment to reduce Federal outlays as a percentage of GNP that the goal would have to be flexible, especially in cases of national emergency or other type of cataclysmic event. It was agreed that if the goal becomes counterproductive such as might happen during the time of a national emergency then it certainly would not and should not be followed.

Here is what we have done to write that into the language of the statute. We provide—if the Senator has a copy of the amendment——

Mr. MUSKIE. I do not have it.

Mr. PROXMIRE. I apologize. I thought the Senator had that in his hands. On page 2, halfway down, subsection 3, we say:

> Reducing the share of an expanding gross national product accounted for by Federal outlays to 21 per centum or less in the fiscal year 1981 and 20 per centum or less in the fiscal year 1983 and thereafter: *Provided*, That policies and programs for balancing the budget and for reducing the share accounted for by Federal outlays of an expanding gross national product shall be consistent with the goals and timetables specified in clause (1) of this subsection for the reduction of unemployment in accord with the purpose of encouraging the full use of productive resources.

That makes the reduction of spending as a percentage of GNP subordinate to the unemployment goal.

Furthermore, we provide in the bill itself that the President can change the timetables, and there is no veto on the part of the Congress, if he thinks he is unrealistic.

So we accommodate to the fact that we know this is an economy in which we can go into a recession, we know it would be counterproductive to try to achieve this, the objective in this amendment, in the event of a recession, if it cannot be done or if they tried to do it and it would be very damaging and greatly increase unemployment.

We subordinate that to the unemployment objective which is the fundamental purpose of the Humphrey-Hawkins bill and, furthermore, I might say to my good friend from Maine that any objection here would lie also to an objection to our trying to achieve the inflation goal and the unemployment goal by 1983. They also are specific, only the unemployment goal is given priority, and I think should be.

Mr. MUSKIE. Was that a question?

Mr. PROXMIRE. On my time I was making a statement, and I was responding to my good friend from Maine.

Mr. MUSKIE. I take it the Senator would like me to respond to that?

Mr. PROXMIRE. All right, go ahead.

Mr. President, will the Senator from Wisconsin (Mr. NELSON) yield the time?

Mr. MUSKIE. I do not want to use up all the Senator's time.

Mr. NELSON. No. What time does the Senator want?

Mr. PROXMIRE. I reserve the remainder of my time.

Mr. MUSKIE. Why does not the Senator reserve the remainder of his time, and if he has time to give me later, some more time toward the end of the debate on this amendment, I will be glad to respond to the Senator from Wisconsin's amendment. But half an hour is a short time.

Mr. NELSON. The Senator from Wisconsin has 50 minutes. The distinguished Senator from New York would desire time. Will the distinguished Senator from Maryland desire some time out of the 50 minutes?

Mr. SARBANES. At some point.

Mr. NELSON. Would the distinguished Senator from Minnesota desire some time?

Mrs. HUMPHREY. No.

Mr. NELSON. I yield 5 minutes to the distinguished Senator from Michigan (Mr. RIEGLE).

Mr. RIEGLE. I thank the Senator for yielding.

Let me direct a question to my friend, the Senator from Wisconsin, the author of the amendment, if I could just have his attention.

When the Senator says "expanding gross national product" the thing that troubles me is that it is not very precise. What do we mean by expanding—to what extent? What if the gross national product year to year is greater, say, by $100 million or one-tenth of 1 percent or some very small fractional amount but, in fact, the economy in reality is essentially standing still? How does the Senator define "expanding"?

Mr. PROXMIRE. Well, it is obviously up to the judgment of the President.

The Senator from Michigan makes a very good point. You can have an expanding economy, as we have had in past years, where it has expanded 2 percent or 3 percent or less than 3 percent, I should say, and unemployment has increased.

Obviously, when you have that kind of a situation it would be wrong not to permit the Federal Government to meet the needs of the unemployed, and you cannot do that with a declining share of the gross national product.

But I would point out to the Senator that in most of the past 30 years, we have had periods of expansion of better than 3 percent, often at better than 4 percent, and during those periods the amendment would have full force.

Mr. RIEGLE. Would the Senator have any objection to saying that? Would the Senator have any objection to saying expanding at a rate of 3 percent or more so that we do not get caught in this bind where we actually have——

Mr. PROXMIRE. I respect very much the Senator from Michigan, and that certainly is my intent, but I think if I tried to put in 3 percent or 2.5 percent, 4 per-

cent—I think we are making history now, and as the author of the amendment I would certainly feel we should recognize that you can have a growth recession. We have had it in the past, we have had stagnation. What I am talking about here is an economy that expands at a rate which is sufficent to keep unemployment level or reduce it.

Mr. RIEGLE. Is the Senator talking in terms of real expansion, in other words, better than inflation? The Senator is just not talking here about——

Mr. PROXMIRE. Oh, absolutely real terms, no question about it. Yes, indeed.

Mr. RIEGLE. What if we said—if the figure of 3 percent is what you really basically have in mind or something greater than that, what if we said "strongly expanded?"

Mr. PROXMIRE. Well, I think it is best under these circumstances to leave it up to the President of the United States. I thing it is clear that the President would understand that in a year like 1960 or 1961 when we had 2.3, 2.5, certainly in a year like 1970 when we had a declining real gross national product, we would need not apply this.

Mr. RIEGLE. Just in terms of the legislative history when it is fair to say that the intent that the Senator has here would be of real growth, something on the order of 3 percent or greater when the Senator says "expanding economy?" Is that a fair summary?

Mr. PROXMIRE. The Senator is correct.

Mr. RIEGLE. If I may, let me just quickly ask one other question. I notice at the end of the Senator's amendment he says in the last three lines, "shall be consistent with the goals and timetables for the reduction of unemployment in accord with purposes" of the remainder of this act.

Now that is different language, I might say, than we find on page 120 of the bill where we say in that area where we are talking about the inflation rate, we use as a conditioner, we use this language "shall be designed so as not to impede achievement" of the goals and timetables specified earlier on. That makes a reference, of course, to the unemployment goal.

I am wondering if the Senator would not be just satisfied with using that language which would keep us consistent and substitute it so that at the end of the Senator's amendment we would be saying, "shall be designed so as not to impede achievement of the goals," rather than to say "shall be consistent with."?

Do you have any problem with that change? I would agree that is a minor change, but I think it is important in terms of making clear the primacy of the unemployment goal here.

Mr. PROXMIRE. Well, I appreciate the Senator's suggestion. The Senator from Michigan has given this matter a great deal of attention, and I will be delighted to consider it, and may modify my amendment a little later. The yeas and nays have not been ordered, so I am free to do so. But I would like to have staff get into that, and find out what the total implications are, and why we put in "consistent with" instead of the language the Senator from Michigan suggests.

What he suggests certainly reflects my intentions, but there may be a reason why we did modify this language.

Mr. RIEGLE. I appreciate that. I think it is important that we stick with the language we were using earlier on. I do not think we should use two sets of language to make the same points, and I thought perhaps we could use that earlier language I suggested.

The PRESIDING OFFICER. The Senator from Michigan's 5 minutes have expired.

Mr. PROXMIRE. Mr. President, I yield the Senator from Indiana 10 minutes of my time on the bill.

(Mr. JOHNSTON assumed the chair.)

Mr. LUGAR. I thank the Senator from Wisconsin.

Mr. President, the amendment offered by the Senator from Wisconsin is one of three goals that we have been considering during the recent deliberations on the Humphrey-Hawkins bill. The three goals are those of reducing unemployment, limiting Federal spending, and limiting inflation in our country.

I make this point, Mr. President, because as the Humphrey-Hawkins legislation began its evolution, its basic thrust was clearly to reduce unemployment. This remains the basic, underlying thought of this legislation. I do not think this oversimplifies the matter; I think many of my colleagues will agree that this remains our basic aim.

The legislation we are taking a look at today aims at zero unemployment in our country—zero in the sense that ideally every individual man and woman, would find work in this country, that everyone who is looking for work will find a job.

Our goal ought not to be 3 percent unemployment or 4 percent, or 5 or 6 percent; it ought to be zero percent unemployment, with everyone who is voluntarily looking for work finding it.

Why, then, would we vote explicit goals such as 3 percent or 4 percent at this point? Because we recognize that there are, in our economy, a good many men and women who are not voluntarily looking for work from day to day. Sometimes economists call this fictional unemployment; others call it voluntary unemployment. Economists estimate that at least 3 percent of our population is in this category; and the basic thrust of the Humphrey-Hawkins legislation has been to recognize that, after subtracting the 3 to 4 percent, we are looking for conditions in which every American can be employed.

Why state it at 3 percent or 4 percent? And why put a year on the process at all? Why not legislate that we are for zero percent unemployment as soon as practicable or feasible, or when it works out best? Some have said that the Full Employment Act of 1949 gives a mandate in that direction, and that that ought to be good enough for us. Essentially, Mr. President, we are debating today whether we should be explicit about our goals. Many of us believe we should be specific. But, there are two other aspects to this question.

First, we must deal with the level of Federal spending that will help to bring about conditions of full employment. Second, we must help to bring about these conditions in such a way that inflation will not erode the value of the wages of men and women who do obtain jobs. All of these goals must be considered together, or we are indeed involved in a hoax. In a country in which full employment is sought, but inflation is rampant and Federal spending is out of bounds, the odds of obtaining full employment are nil. One can have the goal, but one will not attain it.

Mr. President, the spending situation we are looking at in this amendment is one that is important to consider carefully, because there are strong emotions about this. I am aware, Mr. President, that there are many well-meaning people in this country, who are opposed to explicit limits on Federal spending. I have heard this sentiment expressed by members of organized labor unions as well as by the leadership of the unions. I have heard from members of the Black Caucus as well as black citizens not affiliated with any group, who say simply that they are afraid of spending limitations. They are afraid that in some way limitations will frustrate potential programs for social good in the future, and specifically that limitations on Federal spending will threaten the creation of new jobs. They are frightened that the unemployment goal will be undermined by an explicit spending limitation.

Mr. President, it is possible to understand the fears of these people without agreeing with them about the causes or the remedies of unemployment. At this point, we need limits on Federal spending precisely in order to encourage a dynamic economy in which the gross national product grows, and grows quickly. It is a percentage of that growth that must provide the margin for additional social programs. If we do not have growth, then we are going to be strapped, Mr. President, with regard to all of the real or implied promises we make here. So it is important to say that we are today undertaking a package which we believe will lead to a stronger economy for our country, which will sustain more jobs, higher wages, real value, lower inflation, and higher productivity. These are not contradictory goals; they are all necessary and mutually supporting goals.

Mr. President, either we define these goals clearly and specifically, or we allow them to remain vague hopes, little likely to be attained because little well understood. If we are serious about looking at our economy on a coordinated basis, and most of us are who support this legislation, then we ought to have well-defined goals.

We ought not to approach these important aspects of the health of our

economy in an ad hoc fashion, one bill at a time, one day at a time. It is the entire thrust, the coordination, the leadership possibilities in this comprehensive legislation which are appealing. In my judgment, Mr. President, if we have goals that the President must adhere to, we will have something in this bill.

Therefore, I support the amendment proposed by the Senator from Wisconsin (Mr. PROXMIRE) and hope that we shall retain explicit goals in this legislation.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I yield 10 minutes to the Senator from Utah.

Mr. HATCH. Before I get into the amendment I want to pay my respects to Senator PROXMIRE and the members of the Banking Committee for coming up with what I think is a very good amendment to this House bill; also, for the work that Senator PROXMIRE, Senator WILLIAMS, Senator NELSON, and others have done to try to reach a good resolution of this bill and getting a final vote so that the folks who have anguished so much over this bill may have the opportunity of having it if a majority of the Senators in the Chamber feel so on this particular bill.

I will be very grieved, after working as hard as we have worked to make this an acceptable bill to both sides, if the Proxmire amendment is not passed.

There is no question that it is an important amendment.

The amendment would establish a national goal of gradual reduction in the share of gross national product accounted for by Government outlays. It would require the President each year to set 5-year goals for the share of GNP accounted for by Government outlays, and it specifies that the goals for the gross national product share would be: No. 1, 21 percent or less by 1981; No. 2, 20 percent or less by 1983, and thereafter. I think this amendment fits all of the guidelines laid down by our President, Jimmy Carter, and the administration's position, because the President has set a goal of reducing the Federal share of GNP to 21 percent by 1981. That is precisely the goal here.

I can say this, that I have not seen any other gross national product share goals. As a matter of fact, it is my understanding that the sponsors of this amendment derived the 20-percent goal for 1983 from the President's budget by calculating the share based on one year estimates for outlays in gross national product. The outlay estimates are current services, not policy-based budget estimates. The gross national product figures are assumptions, not forecasts. Therefore, the 20-percent share calculated by the sponsors is not an administration forecast of where the economy is likely to be or where the administration would like it to be.

Therefore, I think we can all say that, assertions to the contrary notwithstanding, the administration has no goal of a 20-percent GNP share by 1983 and does not support formal or informal establishment of such a goal.

I do think this: I agree with the distinguished Senator from Indiana, and I would like to associate myself with his remarks. What we need in order to solve our inflation and other problems, including unemployment, is a dynamic, not a static, economy. There are those who subscribe to the Keynesian theory of economics, and it does work during the period of tight money and no inflation. But these theories of spending our way to prosperity, spending our way out of a slump, and deficit financing, do not seem to work during these periods of runaway inflation and loose money which are afflicting us today and buffeting us between stagnation and inflation.

Therefore, many of the Keynesianists believe, and they project in almost all economic projections, on the basis of a static economy, and I think all administration economists are guilty of this.

We have programs which will have to lead us to a dynamic economy where we can outproduce inflation. I think that is the only way we will solve these problems.

This goal recognizes, it seems to me, that if we will put the incentives in the private sector where they belong and strive for a dynamic economy, the 21 percent of the gross national product by 1981 would be a whopping amount of dough, and 20 percent by 1983 and thereafter in a dynamic economy would be more than adequate to solve the problems of the Federal Government.

So I support this amendment and thank the distinguished Senator, the chairman of the Banking Committee, and others, who have worked so hard to come up with what I think is a very important amendment. I hope the Senate will support it here today.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. I yield 10 minutes to the distinguished Senator from New York (Mr. MOYNIHAN).

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I thank the Senator for yielding.

Mr. President, it has never been my experience to rise in the Senate at a time when it seems so clear that a profound choice of directions is being taken in American government.

It is part of the retrospective ratification of most events in one's own mind that most things that happen seem natural, as if they were inevitable and were going to happen all along. I suggest that what may happen today was not going to happen all along. We approach the moment of final enactment of the symbol of commitment to the goals of common provision which were set forth by Franklin D. Roosevelt, and which were almost enacted in the Employment Act of 1946, about which there is considerable literature already. (That bill was originally called the Full Employment Act of 1946, but committed the Nation to seeking goals rather than actually establishing them.) Then for a good generation of politics the notion persisted, how could we bring about the political consensus that would finally implement what almost happened in 1946?

It emerged, at the end of a great rising crescendo in the Congress of political activism and of social commitment, in the Humphrey-Hawkins bill. And yet I see before us the possibility, at just this culminating moment when the Humphrey-Hawkins bill might be adopted, to see that bill transmuted into the very opposite of the purposes for which it is intended.

I mean no jest, and obviously it is a statement of respect for all involved, that in the lobbies this is already being referred to as the Humphrey-Hawkins-Hatch bill.

The essence of it is that this document, which is meant to assert a commitment to fulfilling the goals of full employment and a decent provision, should have at its heart two profoundly constrictive proposals, the first of which is the one I am discussing just now.

May I first say, as one shall have to say continuously in these debates, that I do not think the Federal proportion or the public sector of the GNP should indefinitely expand.

Four years ago, I was a member of a commission which then Governor Rockefeller established, called the Commission on Critical Choices for Americans, and was asked to write a paper on the quality of life. I said it seemed to me there were two critical choices Americans had to face concerning the quality of life for the years ahead. The first was how much government did we want; the second was how much growth did we want.

I said that for almost a generation we have consistently opted for more government and less growth and that, clearly, there would come a time when that would be a very self-defeating pattern.

We must recognize the ceiling effects which are already encountering—and I have, more than once on this floor, referred to the fact that the President, in his Economic Report, for the first time this year, spoke of holding the Federal sector to a limited proportion of GNP. He suggested that we reduce it to 21 percent from the present figure. That is one thing. But to build this into legislational which nominally has the purpose of expanding of social commitments to Americans who need them most, seems to me to be a travesty that verges on the perverse. What a symbol—to have taken the bill that was to culminate in an era of expanding social concern in America and to transform it into the beginning of the long march away from those commitments.

I should like to make one point about the Federal budget as a proportion of gross national product. It has grown somewhat over the postwar period, but not much—and certainly not so much as some would have us believe. In 1958, the Federal outlays were 18-plus percent of gross national product. Last year it was 22-plus percent. In a full political gener-

ation, from the time of Eisenhower to the time of Carter, we have added 4.1 percentage points to that proportion. This can hardly be called a wild increase in growth.

What does that represent? Does that represent expanding government? First of all, it does not represent an expansion of defense spending at all. In terms of constant dollars, our proportion of defense expenditures today is almost exactly what it was in 1958. The great fourfold increase in our expenditure has come in transfer payments, principally those to individuals.

The proportion of GNP of the Federal Government outlays largely reflects the the growing service component of the American economy.

I should like to repeat that in the hope that, somewhere, it might be recorded that such a thing was said during this debate.

Over the past 30 years, what has most characterized the American economy is a huge increase in what might be called its service component, and a steady decline in older sectors of production: mining, manufacturing, agriculture, et cetera. The number of white collar workers long ago surpassed that of the blue collar workers. We scarcely can remember a time—not 40 years ago—when there were more than a million coal miners in America. There are now about a quarter of a million. The whole realm of service has grown because its growth is economically sound. It was a sector of the modern economy that was waiting for technology and that has expanded—the computer and the electric typewriter being only the most recent examples and symbols.

I should like to say that the expansion of public outlays in the Federal budget as a proportion of GNP in part simply parallels the expansion of the service sector and the information sectors of the private economy. It lags it, in actual fact, but the Federal Government provides the same kinds of services, the software kinds of services, we associate with that phenomenon in the private sector.

To see that expansion as a symbol of how Government is getting too big or going wrong is not to understand the sources of growth in the modern economy.

Now, mind you, what I have said is subject to an analysis of the actual components the growth in the Federal sector is made up of, but I think you will find it is made up in considerable portion of that kind of service function, which contributes significantly to economic growth. If we artificially restrain and restrict this sector, as we did the other night in the Nunn-Chiles amendment, and as we are as likely as not to do this afternoon in Senator PROXMIRE's amendment, then, far from being a bill to expand growth, this will be a bill for decline; far from being a bill for full employment, it will be a bill for creating a permanent condition of the underutilization of our work force and our capital plant.

Mr. President, these are strange times. I thank the Senators for their courteous attention.

Mr. JAVITS. Mr. President, I yield myself 10 minutes in opposition to the amendment.

No one knows better than I how popular is this idea. When one speaks of the proposition 13 concept, this is what it is: fixing numerical limits on the theory that by some legerdemain, if the limit is fixed, it will just be self-executing.

Nothing could be farther from the truth. A numerical limit like this is just as likely to be a noose around our necks. The mere fact that this is a bill for planning, essentially, all the way, what it will do is make us break the very ideas which we are undertaking to carry through in good faith. It is really self-defeating in terms of our purpose, because there is no way that we can predict our own situation so that it is compatible with what we here outline.

I say that because the committee which offered this idea itself says that. In their report on this bill, the Banking Committee says—this is Full Employment and Balanced Growth Act of 1977, Committee on Banking, S. 50. It is their report, which was issued when they reported that bill, which is the essence of what we are debating. On page 105, they say:

It was agreed that if the goal—

That is this goal as to the percentage of GNP in Federal expenditures:

It was agreed that if the goal becomes counterproductive such as might happen during the time of a national emergency then it certainly would not and should not be followed.

They say that themselves.

Next point: They say themselves, in defining what is a balanced Federal budget—and by the way, those commitments are here, too: A balanced Federal budget and a reduction of inflation to 3 percent by 1983 and to zero percent by 1988. That will take more than this limitation on what you spend on the gross national product, except that in the interim, until 1983 or until 1988, you have the flexibility to deal with whatever faces you; whereas, if you tie this around your neck, you are bound to violate it if there is any difficulty.

Let me read to the Senate what the committee itself says about what they mean by a balanced Federal budget. At page 104 of the same report:

Moreover, flexibility is given to the President to modify the balanced budget goal if it becomes a matter of necessity to do so. The Banking Committee recognized that a balanced budget may be counterproductive at times; for example, during periods of recession or at times of national emergency, such as when there is a need for new and expanded military expenditures. The Banking Committee agreed that in times of national emergency, such as wars or other events, there may be good reason for the balanced budget goal to be set aside temporarily.

That is a much more religiously held doctrine, the balanced budget.

Finally, Mr. President, the Congressional Budget Office picked this up right away. In a letter to GUS HAWKINS, the HAWKINS of this particular bill, the Humphrey-Hawkins bill, dated August 21, 1978, it deals with this very situation.

This is what the Budget Office under Robert A. Levine, Deputy Director, said in the letter to HAWKINS:

As you requested, we analyzed the economic impact if federal spending had been held at approximately 20 percent of GNP during the last recession.

This last recession, as we know, concentrated itself in the year 1974 and began in November 1973 when we fell off a precipice, according to all the economic figures, literally, just 1 month, down we went, as if we had fallen off a cliff.

He went on to say:

Federal spending as a percent of actual GNP increased from 20.4 percent for fiscal year 1974 to 22.9 percent in 1976. (Federal spending as a percent of potential GNP increased from approximately 20.1 percent in fiscal year 1974 to 21.3 percent in 1976.)

There was a 5 percent increase. That is our econometric simulation, the CBO:

The simulations—which assume no other compensating change in spending or tax rates—suggest that real GNP would have been from 7 to 19 percent lower by the end of 1976, the level of employment 3.1 to 7.4 million lower, and the unemployment rate 2.4 to 5.7 percentage points higher.

We would have had an unemployment rate on that basis of something like 15 percent at the height of the recession:

The price level would have been from 1.0 to 2.3 percent lower by the end of 1976.

There would have been less inflation, but look at the cost, Mr. President.

Now, we decided that is where we quit. In other words, if we are not going to have an enormous unemployment in this country, even if it does get some abatement of the inflation rate.

So if we had 20-percent limitation we could not have met the recession without cataclysmic social upheavals in this country.

The author of the amendment himself realizes that. He is not blind. So he puts in a lot of caveats. He says that we are going to limit our expenditures to 20 percent of the gross national product, beginning in 1983, provided that it is consistent—now, hear this—provided that it is consistent with the goals and timetables specified in clause 1 of this subsection for reduction of unemployment in accord with the purposes of increasing the full use of productive resources, and so forth.

That is as wide open as a barn door, Mr. President, because of the other commitments which are undertaken in respect of this particular bill.

If we are going to leave it that wide open, why not include in there war and recession, though we would assume that under unemployment recession is subsumed. But why not say it? And if we say it, why have it when we know we cannot do it if anything untoward arises?

Mr. President, the history of humankind is that the best kind of discipline is not engendered by an inflexible man-

date. We have got mandates in here about inflation, that has a relationship to the productive facility of the country, to the state of the world, to our own productivity, and to many other factors.

Good. I am all for it, and I will be for it, and we have got a balanced budget objective.

All of that is fine. But to put this around our neck respecting a percentage of expenditures to GNP, it is going to tax who?

Mr. President, it is going to tax the poor, the old, the lame, and the blind. We know, when it comes to that kind of cutting, who gets cut.

Mr. President, it seems to me contrary to the morality of what we are trying to do in this planning concept to make that promise to the American people and to ourselves for the reasons which I have stated.

For those reasons, Mr. President, I hope very much the amendment will be defeated.

It is not going to add anything, not going to make us more virtuous than we are, but will give us something to tie around our necks. But come any untoward event, we are going to have to break. We have plenty of restrictions, restraints, and objectives, completely consistent with what we want to do, without this particular limitation.

Mr. President, I yield 5 minutes on the bill.

Mr. PROXMIRE. Mr. President, it is my understanding the Senator from New York will yield 5 minutes and I will yield 5 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I think it is fair to say at the outset that there probably are many of our colleagues who never believed they would deal with this issue in this session of the Congress.

Some may have hoped they would not deal with it in this session of the Congress and some probably were hoping we might have dealt with it many months ago.

But the point is that after several days of discussion, and I think very fair negotiations by men of good will and the distinguished Senator from Minnesota (Mrs. HUMPHREY), we were able to at least put together a compromise that if properly dealt with on the floor of the Senate could mean passage of this legislation with a very substantial bipartisan margin.

I do not know of anyone who is opposed to the unemployment goals, or the other goals, contained in the legislation.

There are strong feelings with reference to inflation. There are very strong feelings with reference to percentage GNP.

There are some of us who feel we have added some language that might at least recognize the input of American agriculture by suggesting a laudable market will be full parity for farmers in the marketplace.

So I think we can look at the legislation and suggest that there is a great deal of good that can come from it.

We understand that some may look at it as symbolic. That is not this Senator's view, that it is only symbolic.

Some may look at it as totally partisan legislation.

It is not this Senator's view that it is partisan legislation. But a lot of legislation has been considered over the years that would guarantee a job, at fair rates of compensation, for every person seeking work.

No doubt about it—the thrust of this legislation deals with unemployment and the unemployment rates. So we are considering this legislation in the spirit of compromise, a compromise which many of us believe will stick. However, whether or not it sticks depends upon the disposition of certain amendments. I do not think it is any secret that if one side won all three points and the other side lost all three points, there probably would not be any legislation.

The Senator from Kansas is not certain of that case, but it seems to me that that is probably a fair assumption.

Under the unanimous-consent agreement, amendments could be offered, with 30-minute time limitations on any amendment; and, of course, amendments and amendments and amendments could be offered, until such time as the majority leader might decide that enough time has been spent on the matter.

But that is not the desire off the so-called ad hoc committee. It is not the desire of anyone in this body.

We have an opportunity here to pass meaningful legislation. I suggest to those who have opposed the legislation that they look at some of the changes that have been made—changes by the Banking Committee, under the able leadership of its chairman, Senator PROXMIRE; the help and assistance of Senator BROOKE, Senator GARN, Senator SCHMITT, and others.

I say to those businessmen who have been writing letters for the past couple of years, saying, "Vote against Humphrey-Hawkins," that if they have read it, they should read it again. Changes have been made, changes that address some of the concerns of all Americans—not just men and women in business—concerns about a Federal balanced budget, concern about the rate of inflation, concern about Federal expenditures and their relationship to the gross national product, concern about fair farm prices.

Properly so, the emphasis is on the unemployment rate, particularly the unemployment rate for young Americans. This legislation does not create a new agency. It does not create any new programs. It does not add to the bureaucracy. But it provides, in effect, a mechanism whereby we might be able, as we look down the road, to help stimulate the economy and stimulate the private sector, stimulate jobs, and try to achieve some of the things we hope can be accomplished.

There is no doubt that if this measure passes, we have to thank those who have worked long and hard, and we have to pay tribute to our late friend and distinguished colleague Hubert Humphrey for his endless contributions, and to Representative HAWKINS for his efforts and his interest and his concern—also for his willingness in the last few days to listen to compromise and to understand some of the real problems perceived not only by Republicans but also by some others who hold a different view with reference to the legislation.

I do not think anybody wants to kill the legislation. That never was a serious threat. I think some of us felt some changes were necessary.

So I hope we will debate, as we are debating, expressing our points of view as we are, supporting amendments such as the amendment of the distinguished Senator from Wisconsin, which I think makes a great deal of sense. But I also understand—to be very candid about it—that maybe the Senator should lose and we should win the next one, and then we should decide the "may or shall" question, and that might determine the fate of the legislation.

Perhaps that is the reason why the distinguished chairman of the Budget Committee, Senator MUSKIE, and Senator JAVITS and others have proposed an amendment to the amendment of the Senator from Wisconsin, in an effort to clarify in their view of what the amendment might do.

I am speaking at this time just to indicate that I hope the agreement we have sort of put together will hold; that by 6 o'clock we will have passed the Humphrey-Hawkins bill in a form that will be acceptable to 80 percent of the membership, or more.

I would think that on our side of the aisle—if anyone really cares what I think—if we keep some of the provisions with reference to inflation, with reference to agriculture, with reference to action by Congress, whether it is "may" or "shall," and some recognition of the relationship between expenditures and the gross national product in an expanding economy, Republicans would consider very seriously voting for it, in large numbers. We do not have too large a number, but we are making progress—slowly.

It seems to me that if all these amendments remain in the bill—an amendment by the distinguished Senator from Illinois; an amendment by the distinguished Senator from Tennessee, the minority leader, Senator BAKER; and other amendments offered by Republicans as well as many good suggestions by Democrats—we have put together a fairly sensible piece of bipartisan legislation, which should win unanimous support of all Members of the Senate.

I yield back the remainder of my time.

Mr. SARBANES. I yield myself 3 minutes.

Mr. President, I think I would be remiss at this point if I did not state for the RECORD the constructive contribution which the distinguished Senator from Kansas has made to the consideration of this legislation.

I expect that the Senator from Kansas and I are going to differ on the substance of amendments that we are going to consider on the floor of the Senate in the course of this afternoon. Of course, the consent agreement that was entered into preserved that possibility and that option for all Senators. I do want to say that I think the Senator from Kansas played an important role in helping to fashion terms of consideration which preserve that option to every Member of the Senate.

I do not want to overpersonalize this issue, but I know of the close ties and strong friendship between the Senator from Kansas and our former colleague from Minnesota, Senator Humphrey, even though on many issues they were on opposing sides. In recognition of that, I do want to acknowledge the effort the Senator from Kansas has put forth in trying to shape the consideration of this legislation.

Also, Mr. President, I would like to speak for a moment on the substance of the amendment offered by the Senator from Wisconsin, the chairman of the Banking Committee.

We considered it in the Banking Committee. I opposed it there; I oppose it now.

I think it would be a bad mistake for Congress to write into legislation specific percentage shares of GNP in terms of public outlays. I have no quarrel with the objective of trying to hold public outlays to the lowest level that is consistent with meeting our national needs and objectives. What those needs and objectives are is dependent in part on what the condition of the economy is. They depend in part on other fundamental decisions we may make about programs for our people.

It is important to underscore that if this legislation is read carefully, it represents a very strong reaffirmation and commitment by the Senate of the importance of the private sector in the functioning of our economic system. Even without this amendment, the other language in this legislation, on which there is general agreement, clearly represents a very strong reaffirmation of the important role which the private sector is to play.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. SARBANES. I yield myself an additional 3 minutes.

So those who have had concerns about the legislation, and who perceived earlier drafts of it as in some ways undercutting or casting doubt on the important role of the private sector in our economy, I think should be greatly reassured by the legislation that is before us.

I have an additional strong objection to this amendment, because I think that in a very fundamental way it tends to render the Budget Committee irrelevant.

One of the major responsibilities we gave to the Budget Committee in the Budget Act was to focus on just this question. I submit to the Senate that if there is any committee of this body which has discharged its responsibilities in an effective way it is the Budget Committee, in terms of the process it has established over the past 4 years, in terms of the judgments it has made in exercising that process, and in terms of the discipline and the consistency that it has brought to Federal fiscal policy.

The Budget Committee is in the posture of receiving the recommendations from all of the authorizing committees, and the chairman of the Banking Committee knows as well as I do that we have on occasion sent to them authorizations which they were not prepared to accept fully in the budget resolution, because these authorizations went beyond what they thought was reasonable after they had balanced all of the requests received from all different directions.

They hold the vantage point for making those judgments. They have the recommendations of every authorizing committee with their respective judgments as to what should be done, and they then engage in the process of weighing these judgments, making determinations as to our economic conditions, what the level of Federal expenditures should be, projecting revenue levels, and giving us a budget that makes sense.

Until very recently we never had this in the Congress. We spent years here enacting 13 separate appropriation bills that have no relationship to one another and there was no requirement that Members make hard decisions on priorities, and build on the premise that if they were going to spend more on housing they could not spent as much on health or if they are going to spend more on——

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. SARBANES. I yield myself additional time.

Of if they were going to spend more on defense they would not be able to do more for the environment, or for energy resources, or for something.

The Budget Committee has brought all of that together and they have that responsibility, and they have exercised it well. Most people do not appreciate that in the 4 years of their operation the Budget Committee in every one of the second concurrent resolutions has arrived at a figure less than the budget submitted by the President to Congress at the beginning of that year for the next fiscal year. I believe I am correct. If I could have his attention for a second, perhaps the chairman of the Budget Committee could respond to the point I am making? I believe, is it not correct, that in each of the 4 years since the Budget Committee began functioning under the Budget Act the second concurrent resolution setting the levels of Federal spending the committee has finally recommended to Congress and which we have adopted, has set a total level of Federal spending below the levels contained in the budgets submitted by the President or the executive branch at the beginning of the congressional consideration of the budget?

Mr. MUSKIE. I believe that to be true, yes.

Mr. SARBANES. I think that is an extraordinary accomplishment. I think it reflects the point that I have been trying to make about the skill with which the Budget Committee has been carrying out its responsibilities. I do not think we should place the committee in the rigid mold which this amendment would do by specifying a specific percentage share of GNP for public outlays. I have no quarrel with the objective of the lowest share when that meets our needs, our priorities, and our policies.

But to place the specific numbers in legislation is misleading: it may in fact be an inaccurate guide; under some circumstances it may be too high, rather than too low; and under other circumstances too low rather than too high. But the one thing it would insure is that if this amendment setting out specific figures is adopted, then the range of decisionmaking open to the Budget Committee—in its deliberations; in receiving all the recommendations from the authorizing committee, including the committee of which the author of the amendment is the chairman; in making judgments on them dealing with the budget resolution—will have been very severely restricted.

The committee may in fact reach a decision that corresponds with or is even less than these figures, but we should not now bind the hands of the Budget Committee so that they do have the range of choice which I think is essential to them in carrying out their job, which they have been doing in an extraordinarily successful way.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. SARBANES. I yield to the Senator.

Mr. MUSKIE. The argument may be made that these are simply goals established in the law, not self-enforcing. May I add there is nothing in the amendment that makes them reviewable either. These numbers are just put into the law, if we put them in in 1978, and it would take an amendment of the law to change them.

The argument is made that the Budget Committee can change them simply by issuing its budget resolution. What that puts us in the position of doing or what that would put us in the position of doing is to violate, not in any criminal sense, but violate a policy that is written into law, and no one likes to do that.

There are many, many circumstances, I am sure, that would suggest higher priorities in a given year than the priority suggested in this amendment. A recession, for example, which automatically makes outlays a higher percentage of GNP, because GNP drops, because Goverment outlays expand, because of the needs of unemployment and other needs such as a recession automatically sends the GNP share up. I think it reached a peak of 23 percent in the recent recession.

In addition, Congress must constantly consider new needs and priorities that

may emerge. National health insurance, for example, is very much in the public dialog at the moment. I do not think it is possible to consider putting national health insurance into place in this year's budget or next year's budget given the state of the budget.

But if Congress should decide, with the support of a President, that a program of national health insurance is indeed a high public priority, that would represent an enormous additional investment of public resources and affect this GNP share number.

If we are going to put a number into law, with an open understanding that it is not going to mean anything, that is one thing. But if we are going to put numbers in the law with the intent that they shall be a strong influence, if not a binding influence upon budgetary policy for the years into the future, then we may well exclude many such options that the public interest may require us to consider in 1980, 1981, 1982, 1983, or some year in the future.

Congress' function is to consider emerging public needs as well as those which we now serve.

So the GNP share to me is a tool, a budgetary tool. It is a useful budgetary tool. It is one we have tried to emphasize very heavily, we in the Budget Committee, to the Senate as we present our budgets. We have said explicitly that our objective is to reduce the GNP share of Federal outlays, pointing toward 19.9 percent in 1893, and that is our intent.

But our intent may well have to be modified if circumstances such as those two that I have mentioned should arise, and we ought not to put the Budget Committee in a defensive position when that happens.

If you put these numbers in the law, you should not at the same time say to us, "Well, disregard them when, in your judgment, you need to." If that is what you are doing, then why put the numbers in?

Mr. RIEGLE. Mr. President, will the Senator yield?

Mr. MUSKIE. If you want the numbers to be binding, then you really tie our hands in a way that might be against the public interest.

Mr. MOYNIHAN. Mr. President, will the Senator yield for just a quick observation?

Mr. MUSKIE. I yield.

Mr. MOYNIHAN. I spoke earlier, when the Senator was unable to be on the floor, about the growth of Federal outlays as a percentage of GNP over the last generation. There has been a very small growth: from about 18 percent in 1958, to about 22 percent today. In this period our true GNP has quintupled, and the American economy has been transformed from a basically blue collar, manufacturing economy to a white collar information economy. This is sometimes also called a service economy.

But it would be wrong to imagine that such a service economy, reflects a mere increase in consumption as against production. Rather, it reflects technological revolution and a change in the character of production—symbolized by the computer and the electric typewriter, if you will.

Finally, the industrial revolution came to office work, and office work grew in size and importance. This because it was economically desirable for office work to grow. General Motors may one day find itself with more white collar workers than blue collar workers, because it makes more money that way. GM may not have reached that point, but many other industrial companies have reached the same point.

What we call the public sector falls largely into what I am here defining as the service sector, and the service sector of the public sector has grown in parallel to the growth of the service sector in the private economy. When we talk about GNP, when we talk about unemployment, when we talk about inflation rates, what do we talk about except the product of economic services which Government provides to the Nation? Who tells us how many people are working, where they are working, what they are making, how much money they made last year, and how much they expect to make this year? Who tells us the level of our gross national product, who produces the highly technical amalgam of thousands of calculations done in the Department of Commerce, provided as a service to anybody who wants to use it, as a priceless asset in making estimates of whether you should make more cars next year or fewer cars next year, whether you should buy zinc, or sell gold? These are all services—but who would deny that they are economically productive? Of course, there is such a thing as an increase in the public sector which is not productive, and which represents consumption—even wasteful consumption.

But there are other aspects of the growth of the public sector which are integral to an expanding economy, and if we say we will not expand those services, then we are saying we will let the economy itself decline. Such cuts in Government expenditures would have just the opposite effect on levels of employment and the use of productive capacity that this bill is supposed to have. This is why I very much support the Senator's amendment.

But could I ask the Senator, who is so knowledgeable about these matters: Does he accept the point that the public sector, that Federal Government expenditures, increase out of the same causes that have brought about increases in the service sector of the private economy?

Mr. MUSKIE. That is correct. They are a reflection of the needs of our total economy. Now, to a certain extent—and this is what prompts this amendment, the Proxmire amendment—they also reflect Government waste.

Mr. MOYNIHAN. That is right.

Mr. MUSKIE. But they also may reflect private waste.

Mr. MOYNIHAN. But that requires you to discriminate between useful and nonuseful information. But merely to say no more increase is foolish. For example, I was Assistant Secretary of Labor under President Kennedy when we doubled the size of the panel that produces the monthly report of our unemployment index. Did we spend more money? Yes. We doubled the public sector with respect to unemployment data; we got quadruple the information. Today nobody would dream of saying, "Go back to the old unreliable information that we used to get with a fourth of the present staff."

Mr. MUSKIE. The Senator makes a good point.

Mr. MOYNIHAN. I thank the Senator.

Mr. RIEGLE. Mr. President, will the Senator yield to me?

Mr. MUSKIE. I yield.

Mr. RIEGLE. I appreciate the Senator from Maine yielding. I want to associate myself with the thrust of his remarks and the remarks of the Senator from Maryland (Mr. SARBANES) and say not only does the Budget Committee have an opportunity year by year to exercise its responsibilities to weigh these questions and make judgments, but the Senate as a whole has an opportunity to act upon your recommendations, so there are really two steps to the process.

We rely on the specialists who are on the Budget Committee but, in turn, we all have an opportunity to be a part of ratifying or modifying in some way the judgments that you reach.

I think it is also important to point out the reason in the past why we have not set a fixed percentage is because we cannot see the future. The chairman of the Appropriations Committee, Senator MAGNUSON, said to me just a few moments ago that over the last 17 years, the percentage of GNP allocated to Federal spending has worked within a range of about 18 percent to something close to 23 percent, but that range has been a relatively constant range. But all kinds of different factors arise that have caused us to move back and forth within that range.

So to try to predict ahead of time where we need to be in that range for some future year really violates commonsense. That is not the way we have behaved in the past, and I do not think that is the way we can behave now. There are just too many factors, and the way we are tied into the world scene, to the extent that we are, there are factors beyond our control like an oil embargo, a war breaking out in another part of the world that might not directly involve the United States but have an impact that no one can possibly begin to foresee even 2 months ahead of time, let alone 4 or 5 years ahead of time.

So I would hope we would retain for ourselves the right to make these adjustments, these decisions, year by year as we go along. It seems to me we are in a much stronger position if we do that.

Mr. MUSKIE. The Senator is exactly on point, and I am in total agreement with his analysis.

Does the floor manager of the bill wish to pick up his time?

Mr. NELSON. Did the Senator want more time?

Mr. MUSKIE. No, I do not need more time. At the appropriate time I will have an amendment subsequently to offer. I am not quite ready.

Mr. NELSON. Does the distinguished Senator from Wisconsin wish to speak further?

Mr. PROXMIRE. May I say to my colleague that I do have more. I understand the Senator from Maine has an amendment to offer that he cannot offer until all time has expired on this amendment. So I would like to wind up if I could. If the Senator from Wisconsin, my colleague from Wisconsin, has other requests for time, I will wait. I do not have any request so far as I know at the moment.

Mr. NELSON. There are no pending requests with me for time. Has the distinguished Senator from Maine used all the time he desires on this amendment, the pending amendment?

Mr. MUSKIE. Yes, indeed. I have 30 minutes that I do not expect to use anyway on my amendment, so I do not need any more time at this point.

Mr. NELSON. We do not have anybody on this side who needs any more time. I may speak for 3 minutes at the end.

Mr. PROXMIRE. Why does not the Senator go ahead.

Mr. KENNEDY. Mr. President, will the Senator yield 2 or 3 minutes on the bill?

Mr. NELSON. We have time on the amendment.

The PRESIDING OFFICER. Fifteen minutes remain.

Mr. KENNEDY, Maybe 7 minutes.

Mr. NELSON. Make it eight.

Mr. KENNEDY. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise at this time in full support of the legislation which is before us. I support the legislation and the Muskie amendment to modify the Federal share of GNP goal.

Mr. President, all of us in this body know that Senator Hubert Humphrey was a forward-looking, forward-thinking, visionary man. I think he understood one of the most basic and fundamental tenets of our democratic society: that we need a sound economy for the great range of programs which concerned him so deeply; that we were not going to be able to look after the needs of the elderly, or to educate the young, or to provide decent health for the people of this Nation, or to have the type of national security which this country requires; that we could not extend the arm of friendship and humanitarian concern abroad, or exert leadership to the world, unless we are going to have a sound economy.

He brought to bear his full energies in focusing on the importance of bringing together the monetary and fiscal policy of this Nation, and recognized, as a skilled legislator, the extraordinary importance and impact on the economy of the role of the legislature.

Those of us who had the good fortune of serving with and listening to Senator Humphrey on the Joint Economic Committee, as he chaired those hearings day after day, and wrestled with the macroeconomic issues know how deeply he cared about and thought about the thrust of this type of legislation. He knew how we had to exert discipline, so that the executive branch together with the Federal Reserve, and the mechanism which has been selected by Congress, the budget process, could insure that we were going to create a wide range of economic options for the people of this Nation; and that at the top of his priorities were the issue of jobs and the issue of inflation.

I understand that it was not just what happened in a local community that determined whether a factory would close or expand, that it was not going to just be private or State action that would make the decision, as important as private and State action are but that Federal economic policy that would mean the difference between whether people were actually going to be employed or unemployed in so many sectors of our economy; and to make that difference would require the kind of foresight and discipline that this legislation requires and the kind of goals that it sets.

I think that the development of this legislation was the incarnation of Senator Humphrey's leadership and concern about these issues.

I had the good fortune to be a sponsor of this legislation when it was initially introduced, and have closely followed its progress in our Human Resources Committee. I welcome the opportunity for the Senate to address itself to this legislation. I think it is a matter of considerable importance, and all of us are mindful, I think, that the extraordinary service of Senator Humphrey to this body and to this Nation in so many different areas has continued and will continue through successful implementation of this legislation.

So I welcome the opportunity to be one of those who support this legislation, and I believe deeply in it. We can reach the goals that have been set for us. In the early part of the 1960's, when we saw a reduction from about 7.1 percent unemployment to some 3.5 percent unemployment, with virtual price stability—at one point a 2-percent average increase in the Consumer Price Index for some 4 years. We can have economic growth, full employment, and price stability; and I think our best prospect of achieving these goals will be through the implementation of this legislation. I think this is a sound program, and I add my voice in support of it.

Finally, Mr. President, I want to underscore what the Senator from Maine has said mentioned on the issue of the relationship between the Federal share of the GNP and our other goals.

The PRESIDING OFFICER (Mr. CHILES). The Senator's 8 minutes have expired.

Mr. KENNEDY. One more minute.

Mr. NELSON. I yield the Senator 1 minute.

Mr. KENNEDY. We discussed and debated this measure at some length the other evening, when none of the amendments were before us. I think we are interested in permitting Congress to exercise its full responsibility for the development of our economy and meeting all our other national goals. We cannot preclude the flexibility which is essential to meeting all our responsibilities and in fulfilling the constitutional process. This body has the responsibility to redouble our efforts if unemployment should begin to ascend; we have a responsibility in a broad range of social and economic areas which we must be able to meet if necessary—Congress cannot tie its hands for the future, it must be sensitive to ongoing developments as it chooses, each year, the mix of programs and policies which make our people strong and our Nation strong.

Mr. President, a more formal statement follows and I ask that it be printed immediately following these remarks.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR KENNEDY

The full employment and balanced growth act has come to the Senate in its own right. Now, for the sake of our economy and for the sake of our workers, we must enact it. I strongly urge my colleagues to adopt the Humphrey-Hawkins Act.

The Humphrey-Hawkins Act is not a magic cure-all, nor was it ever intended to be. But it is an act which provides the framework within which this country can provide jobs to those who need them, lower the deficit and hold the line against inflation. We are putting some direction in our economic policy, establishing goals for it and establishing a procedure by which we can measure how well we are achieving those goals. We are taking account in a cohesive, explicit way of the fact that the Federal Government is a major factor in the economic arena. It has the responsibility to direct its policies to meeting the need for a strong economy, one which keeps our people at work. This must be the aim of the President, it must be the aim of the Federal Reserve Board and it must be the aim of Congress.

Mr. President, the number one issue in the land—the first priority on the agenda of economic justice—is providing jobs for American workers. We are a great nation and much of the greatness has been due to the sacrifices, the struggles and the courage of our working men and women. If we are to turn this nation back on its historic path, we must provide every American with the will to work an opportunity to work.

For, full employment is the key to achieving so many of our goals. It is, of course, an end in itself, for it is the luck and genius of this country that people want to work and would prefer working to getting a dole. Full employment is the key to a better economy: for we then reap the bounty of productive hands and minds. And full employment saves us the billions of dollars that we otherwise disgorge on welfare and unemployment compensation and gain for us the billions which otherwise never materialize because of lowered tax revenues.

The bill offered today sets a goal of a 4 percent unemployment rate within five years after enactment. It also sets a goal for controlling inflation. It requires the president to submit an annual economic report to show how Federal policies are being set to meet these goals, it requires a report on the plans of the Federal Reserve Board and it requires congressional review aimed at meeting these goals.

I believe that we can meet the goal of full employment while reducing and controlling inflation. Both the unemployment and inflation problems can be conquered. We need not ravage the worker to keep down the inflation rate. We can have an unemployment rate which is lower than our current rate and we can have an inflation rate which is lower than our current inflation rate.

In the sixties, the economic policies of Presidents Kennedy and Johnson brought the unemployment rate down from 6.7 percent to 3.6 percent, while the Consumer Price Index averaged just 2.4 percent a year, dropping as low as 1.2 percent.

I believe that we can meet the goal of full employment without incurring huge deficits. For, in the long run it is unemployment itself which leads to the deficit—the combination of support disbursements, lower productivity and lower contributions to the Federal Treasury. A stable economy with low unemployment is the surest way to move us away from huge deficits.

So, I think that there is little question but that the mechanisms and goals in the Humphrey-Hawkins bill should be enacted into law. For many years, we in Congress have tried to provide the tools to combat unemployment. In the last few years several of my colleagues and I have sponsored major pieces of legislation aimed at reducing the shamefully high unemployment rate. We have just reauthorized the CETA job programs, and have passed youth employment programs and public works projects. We have proposed tax reform and tax reductions. But the unemployment rate remains too high. We need to undertake a full scale attack on this problem.

Mr. President, a strong, full employment economy is the greatest social program America has ever had. Only with a strong economy can we provide better education for our children, decent housing for our families, dignity for our elderly and quality health care for all Americans.

The Senate must pass Humphrey-Hawkins. It is time for this country to coordinate its policies in the service of a strong, full employment economy.

Mr. KENNEDY. I thank the Senator from Wisconsin for the opportunity to speak.

Mr. NELSON. Mr. President, I yield myself 3 minutes.

Since there does not seem to be any request on this side for additional time, I will be prepared shortly to yield back the remainder of my time.

In opposition to the amendment, I should like to say that I oppose it for a number of reasons that have been stated on this floor by the distinguished Senator from New York and the distinguished Senator from Maine in particular, in the remarks they made, but for another reason also.

I do not believe it is a necessary part of this legislation, even for those who believe the concept is correct, as many do, including, of course, the author.

My objection at this point is that if it becomes part of this legislation, I do not think there will be a Humphrey-Hawkins bill that will pass, and, as important as this item is in the minds of those who advocate it—and I am not advocating that it is an unimportant matter; it is an important matter, and there is legitimate dispute as to whether we should have this rigidity in the Humphrey-Hawkins proposal. But that has been fairly and openly debated here.

My concern is that it will, in my judgment, mean that we cannot get the Humphrey-Hawkins bill passed this year. My judgment might be wrong, of course, but that is what my best judgment is, and for that reason I oppose the amendment.

Is my senior colleague from Wisconsin prepared to yield back the remainder of his time?

Mr. PROXMIRE. No, I want to speak after the Senator finishes, to wind up.

Mr. NELSON. Go ahead.

Mr. PROXMIRE. First, Mr. President, I ask unanimous consent that the name of the Senator from Utah (Mr. GARN) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Second, Mr. President, I sent to the desk a modification of the amendment. It is a modification suggested by the Senator from Michigan (Mr. RIEGLE). It is one which I am happy to accept. I have given it to the minority and majority managers of the bill, and they find it acceptable. I will read it, very briefly.

This is a proviso which indicates that the limitation on Federal spending would be modified under certain circumstances, one of the circumstances being:

That policies and programs for balancing the Federal budget and for constraining the share accounted for by the Federal outlays of an expanding gross national product shall be designed so as not to impede achievement of the goals and timetables specified in clause (1) of subsection (b) for the reduction of unemployment.

I am happy to ask unanimous consent that that modification, which occurs in subparagraph (3) in two places, be accepted.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

on page 116k, after subsection i insert the following:

"( ) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1978 to rely principally on the private sector to lead the expansion of economic activity and to create new jobs for a growing labor force. Toward this end, the Congress further declares and establishes as a national goal the gradual reduction of the share of an expanding gross national product accounted for by Federal outlays.".

On page 118, the first line, after "balanced growth," insert "the reduction of the share counted for by Federal outlays,".

On page 120 strike out "and" at the end of clause (1). On page 120A change the "." the first time it appears to ";" and insert "and" after the semicolon, and insert immediately thereafter the following new clause:

"(3) reducing the share of an expanding gross national product accounted for by Federal outlays to 21 per centum or less in the fiscal year 1981 and 20 per centum or less in the fiscal year 1983 and thereafter: *Provided*, That policies and programs for balancing the budget and for reducing the share accounted for by Federal outlays of an expanding gross national product shall be designed so as not to impede the achievement of the goals and timetables specified in clause (1) of this subsection for the reduction of unemployment."

On page 120A insert at the end of subsection (c) the following new paragraph:

"(3) Upon achievement of the 20 per centum goal specified in subsection (b)(A), each succeeding Economic Report shall have the goal of maintaining the share of an expanding gross national product accounted for by Federal outlays at 20 per centum or less consistent with meeting national needs and priorities, *Provided:* That policies and programs for balancing the Federal budget and for constraining the share accounted for by Federal outlays of an expanding gross national product shall be designed so as not to impede achievement of the goals and timetables specified in clause (1) of subsection (b) for the reduction of unemployment."

Mr. PROXMIRE. Now, Mr. President, I have listened to some of the most eloquent Members of the Senate, men who have always been able to persuade me on almost anything, Senators MUSKIE, NELSON, JAVITS, KENNEDY, RIEGLE, and others, and they are normally most persuasive.

They are usually enormously persuasive. But I must say, having listened to them today, I do not think they have really come to grips with what this amendment does and does not do.

In the first place, what this bill is all about is the specification of numerical goals. That is why we have it. We already have, in the Employment Act of 1946, a commitment by this country to have maximum employment, minimum unemployment, and stable purchasing power. What we are doing here is we found in the past they did not mean very much. It was rhetoric. Now we are making it specific.

Mr. President, we are told we can set a goal for unemployment, but we cannot set a goal for something we have complete control over and that is Federal spending, Federal outlays. How ironic can you get? We have goals for housing, We cannot control what happens in the private sector on housing. We have a goal for it. You say we cannot have a goal for Federal spending? Ridiculous. This is the one area where we do have control.

Mr. President, as we pointed out, this is not rigid. As I pointed out in my amendment here, and it is clear in the overall amendment, in the event of a recession, in the event the economy is not expanding, then it is clear that we do not expect to be able to reduce the Federal expenditures as a percentage of the gross national product. We make that clear.

Mr. NUNN. Will the Senator yield for a friendly question?

Mr. PROXMIRE. Yes, indeed.

Mr. NUNN. What percent does the Senator have in terms of reduction each year?

Mr. PROXMIRE. As the Senator knows, the last figure we have firm is for fiscal 1978. The Government spending was 22.6 percent over the gross

national product. We provide that by 1981 it would be 21 percent and by 1983 it would be 20 percent. That is above the figure that President Carter said he thinks we should move to. It is above the figure that the Budget Committee indicates for their projections. So it is a moderately limited goal. It is a realistic goal.

Mr. NUNN. The Senator from Georgia completely agrees with the Senator from Wisconsin. It is a goal that, in the year 1983, is within five-tenths of a percent of what we had set in the so-called Nunn-Chiles-Roth-Bellmon amendment, which also provided for tax relief along that line. We have done a considerable amount of analysis on that. The goal is a realistic goal that the Senator is setting, a meaningful goal, an important goal. I just want to commend the Senator for his amendment. I wholeheartedly support it.

Mr. PROXMIRE. I thank the Senator from Georgia. I might point out that his amendment not only passed the Senate overwhelmingly, but it has been confirmed in the House by instructions to the conferees on the House bill to accept the amendment by a 2 to 1 vote.

My good friend from New York (Mr. JAVITS), certainly one of the most intelligent and thoughtful Members has said that, "The history of human kind knows that discipline is not engendered by mandates."

I could not disagree more. That is what it is engendered by, whether it is a mandate to yourself that you will achieve certain goals, whether it is a mandate we impose on ourselves as Senators, and impose on the House and the Senate both, and on the President of the United States that we are going to move in the direction of slowing down the Federal growth in the economy.

Mr. President, just look at the statistics. The fact is that throughout the decade from 1959 to 1967, there was no year in which the share of the Federal spending as a percent of gross national product was as high as 21 percent. It was below that during every single year.

During that period, we had declining unemployment. We moved down, as a matter of fact, in 1964 to 3.8 percent unemployment, 3.6 in 1965, and 3.5 in 1966. And we had a growth, a steady growth, of the economy at the same time.

Well, Mr. President, we have had a growth, a steady growth, year after year, not only in the size of our Federal spending but in the percentage it represents of our whole economy of the gross national product. As I pointed out, it was 22.6 last year, a steady increase. We hope it will be a little less this year, but in spite of the fact we had big increases in the gross national product, big growth in the economy, even still the immense growth in Federal spending overwhelmed that.

Now, Mr. President, finally, I ask my colleagues to recognize the fact that it is not inconsistent to argue that we should provide more jobs, stimulate the economy overall, while at the same time reducing Federal spending. As a matter of fact, any businessman will tell you, and many economists will tell you, that a real drag on the economy is the excess of Federal spending.

Reducing Federal spending can stimulate the private sector in many ways. For one thing, it reduces the national debt, it reduces the deficit, it reduces the amount of borrowing, and it tends to reduce interest rates. It means that taxes can be reduced because there is less Federal spending. And it means that we can get the kind of permanent jobs, efficient jobs, in the private sector that are much more permanent, much more satisfying, than to create jobs in the public sector.

Mr. President, I hope that for all these reasons this moderate amendment, one which is very similar to the amendment which the Senate has already favorably acted upon just a few days ago, and one that is closely related to this bill because after all this is a bill which provides for the basic economic policies that this country is expected to follow over the next 5 years, the most significant change in our economic policy program in 32 years—I hope under these circumstances that this amendment, which is preeminently an amendment which would emphasize the private sector, can be accepted.

Mr. PERCY. Will the Senator yield?

Mr. PROXMIRE. I am happy to yield to my friend from Illinois.

Mr. PERCY. Mr. President, I would like to ask a few questions of the Senator to make legislative history. They may be somewhat redundant and overlapping with other statements which have already been made by the distinguished Senator, but I would like in chronological order to mention a few things to have in one place his response to the concerns that have been expressed by some of our colleagues.

The first question would be, would the Proxmire amendment lock us in, in case of recession, when it was determined that expanded Federal spending would be required to get the economy moving upward again? Does the Senator see that in any way it puts us in a straitjacket, that it would bind our hands, or impede our ability to respond rapidly to a declining economic situation that might temporarily require increased spending to stimulate the economy?

Mr. PROXMIRE. No, indeed. As the Senator knows this goal can be altered by the President. He is free to alter it.

Furthermore, we say, and say very clearly, that a national goal is the gradual reduction of the Federal share of an expanding gross national product. I have made it clear that if we move into a recession and the economy is not expanding, then we cannot expect the President to reduce the Federal spending as a proportion of the gross national product.

Furthermore, we indicate the policies to be followed to achieve this shall be designed so as not to impede the achievement of goals and timetables with the reduction of unemployment. That is given primacy and priority. He has to work within that limitation. This is still fundamentally a full employment bill. That is the priority established clearly in my amendment.

Mr. PERCY. Second, it is a perfectly obvious question related to times of war and national emergency: Does the Senator feel that there are adequate sections throughout the Humphrey-Hawkins bill to provide all the flexibility that we need so that in time of war or national emergency we are not any way bound by a goal which obviously would not be in the national interests?

Mr. PROXMIRE. Absolutely. I agree wholeheartedly with that. There is no question that in the event of a military emergency, it would be impossible for any President of the United States to greatly expand our spending, which we had in the Vietnam war, the Korean war, and particularly in World War II. There is no way to avoid that. That is perfectly clear.

Mr. JAVITS. Will the Senator yield on my time, because it bears on this particular matter?

Mr. PERCY. Surely.

Mr. JAVITS. For me, this debate is not a forensic exercise for scoring debating points. I think it is a basic, essential outline of potential purpose and design in this planning effort, so I want to clarify this particular point.

I am the most disturbed about the fact that with the limitation, if we are going to be honest about it, it is going to come out of the backs of those who need our help as a Federal Government because of defense. What the Senator says about war, and that is what I would like to ask him—I know what he is going to answer, but we are going to have it clear on the record because it is helpful to our country, whatever happens on the debating points, as I say.

The modern way of war is not going to be decided by war. It is going to be decided like moves on a chessboard. They can eliminate us in 30 seconds; we can eliminate them in 1 minute, so they have us and we are going to do what they want. We are not going to have to put it to the test, in my opinion. I may not be here when it happens.

What I would like the Senator to address himself to, and as I say, I know what he is going to say: It is not only in war, but where the exigencies of our national situation require and enhance defense expenditures, I hope that that balance, even if he carries, will be maintained.

(Mr. MELCHER assumed the chair).

Mr. PROXMIRE. The Senator could not be more correct. May I say to the Senator we have a President of the United States who indicates that he expects to increase not only the dollar spending but the real spending on defense over the next few years and he has projected his share of Federal spending in relation to the gross national product at a lower rate than I have in these goals.

Mr. JAVITS. I hope the Senator will forgive me, because this is so important: If we get into that kind of jam, it just is not going to come out of the backs of those who look to the Federal Government for various types of assistance and relief; but also, if we have to go over 20 percent, it is going to be because we wish to do honestly by them—what I call the

young, the lame, the halt, the blind, the old—and enhance national defense needs dictated by the international situation.

Mr. PROXMIRE. The Senator is correct.

Mr. JAVITS. I thank my colleagues.

Mr. PERCY. Senator JAVITS has gotten into the area that was the subject of my third question.

Mr. JAVITS. I am so sorry.

Mr. PERCY. I appreciate very much an amplification of the second point on war because of the careful thought the Senator from New York has given to this problem of waging war in a world in which we never really wage war, but we go to war by a gradual process, many times.

The unequivocal answer, as I hear it from the Senator from Wisconsin, is that there is no way his amendment would bind the U.S. Government in times of national emergency or war.

Mr. PROXMIRE. The Senator from Illinois is correct.

Mr. PERCY. The third question would simply require an amplification of the response made to remarks by Senator JAVITS. He said that programs for the disadvantaged, in his judgment, would be be the first to be cut by the Proxmire amendment if the Proxmire amendment were enacted. I should like my distinguished colleague to respond in that regard. It is true that the programs for the disadvantaged would be a matter of high priority for cutting in the event that we approach too closely these overall goals of Federal revenue against GNP?

Mr. PROXMIRE. Of course, this is a decision that Congress and the President will have to make, but I am convinced, and I am sure the Senator from Illinois is, too, that there is enormous waste. There are areas where we can cut down. That is why the President and the Budget Committee projected our ability to reduce the share of Federal spending with respect to the gross national product.

I agree wholeheartedly that when we make those value judgments on the basis of the clear record of Republicans and Democrats in the past, we have, and should have, great consideration for the poor and disadvantged.

Mr. PERCY. I share that opinion. This morning, some of us, including Senator Javits, were over with the President when he signed the civil service reform bill. I tend to think that, out of the $46 billion being spent on our civil service personnel, the waste is enormous. The opportunity for getting a greater cost-effectiveness for the taxpayers' dollars spent is great now. As of this moment, every department head, every agency head has the ability to merit-fire as well as merit-hire, so long as there is substantial evidence that a person is not performing in according with reasonable standards. We should be able to wring billions of dollars of waste out of that expenditure.

In addition, I think we have further hope for savings with the passage of sunset legislation, and great credit should go to Senators MUSKIE, ROTH, and others who worked on that bill. The Senate has also passed regulatory reform, S. 600, which I introduced with the cosponsorship of Senators BYRD and RIBICOFF, among others, to wring out of our regulatory process the billions and billions of dollars that are now entailed because Government regulation adds a tremendous increment of cost.

The Government Accountability Act which we adopted just a few days ago in the Senate should provide the basis for cutting out programs that are not working any more. There is no adequate mechanism for cutting them out of the Federal expenditure now. Once the President is able to list the priority of programs—rates those that are excellent and those that are unsatisfactory—we shall have the potential for reducing tremendously and dramatically Federal expenditures.

To establish goals in the bill that have already proven to be consistent with the 5-year projection made by the Budget Committee, I think is offering a goal that is not unachievable. It simply reinforces what the Budget Committee has taken upon itself to say: this is a logical projection of Federal revenue and expenditure that can be achieved in, as Humphrey-Hawkins says, an expanding economy.

Mr. PROXMIRE. I cannot thank the Senator from Illinois enough. What he has done is show how reasonable and realistic this amendment is. He has shown that we can provide for our military needs, we can provide for our social needs, and we can do so within reasonable limitations.

He has indicated very clearly some specific areas where we can make these substantial savings.

Mr. MAGNUSON. Will the Senator from Illinois yield?

Mr. PROXMIRE. I have the floor and I am yielding to the Senator from Illinois.

Mr. MAGNUSON. Will the Senator from Illinois yield to me?

Mr. PERCY. Yes, I am very happy to yield.

Mr. MAGNUSON. The Senator from Illinois has suggested there is no way to cut out Federal programs. Of course, there is a way to cut them out. We do not have to appropriate the money for them. But I do not get much help from Senators when we cut back on programs.

We are going to have about $112 billion in appropriations for defense, despite all the pressures in the Appropriations Committee to meet social needs. Believe me, it has been some job, has it not?

Mr. PROXMIRE. Yes, indeed.

Mr. MAGNUSON. Sure, we can reduce spending, and if you leave it to the Senator from Wisconsin and me to make the decision, we would make cuts. But every time we suggest that we cut something out, Senators come down in droves to the Appropriations Committee downstairs, crying, "Oh, this is a good program, we cannot do it."

What we have had to do is go along and chip and chip at them until we get them down. We have them down this year. I think we have one of the finest records in the Appropriations Committee this year of any year in the past 15 or 16 years.

Mr. PROXMIRE. I could not agree with the Senator more. He has done a superb job on that committee.

Mr. PERCY. I thank my colleague and I thank Senator MAGNUSON for his interjection at that point, which is very valuable indeed.

Mr. President, the next question relates to the Budget Committee itself, because the Senator from Illinois has tried in every way possible to be supportive of this process we worked so hard to achieve.

The immense respect the Senator from Illinois has for the Senator from Maine (Mr. MUSKIE), who has been chairman of that committee, and the Senator from Oklahoma (Mr. BELLMON), is great, indeed. It is a tremendous partnership. Here, for one of the rare times, we see Senator BELLMON and Senator MUSKIE taking opposite positions on a particular amendment affecting the budget. But maybe it does not affect the budget process.

My question is, Is there anything in the Senator from Wisconsin's amendment that in any way undercuts the budget process, diminishes its authority and responsibility? Or does he consider it consistent with the objectives and goals pointed out by the Budget Committee on page 27 of the second concurrent resolution of the budget, the report of the Committee on the Budget?

Mr. PROXMIRE. As the Senator from Maine said so well and so clearly earlier today, any time we set goals, in unemployment, inflation, or Federal spending, it does have, obviously, an effect, and it may have a difficult effect in the Budget Committee.

But I think we have done our very best to provide as much flexibility as we can. We want to do everything we can to avoid anything that would in any way—what the Senator from Maine and the Senator from Oklahoma and others have done, a superb job as well as the remarkable——

The PRESIDING OFFICER (Mr. CHILES). All the time of the Senator from Wisconsin (Mr. PROXMIRE) has expired.

Mr. PERCY. Could I ask the Senator from Wisconsin if it is possible to ask a question, or could my distinguished colleague from New York take 5 or 10 minutes of time from the bill?

Mr. JAVITS. We do not have that much. I will give the Senator 5 minutes.

Mr. NELSON. I have some time left on the amendment.

The PRESIDING OFFICER. The Senator from Wisconsin has 4 minutes left.

Mr. MAGNUSON. Will the Senator yield for a further question?

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Five minutes on the bill.

Mr. PERCY. Five minutes on the bill.

Mr. MAGNUSON. Just one question.

As the Senator from Illinois knows, the Budget Committee, I think, has done a good job, and I go along with them.

But we are way under the budget in expenditures. We are way under the congressional budget and we are way under the President's budget. But not all of us hear the bottom line. Every time we get the outgo close to the ingo down here nobody can rest. The minute we get close

to it, it is like a game of tag, "Oh, these fellows cut expenditures, they are down now, they are manageable, way under budget, this is the time to cut the input." And we never catch up with the fellows that want all these.

If we did have a tax bill this year, we would be close to a balanced budget. Does the Senator know that? We would be close to it.

The theory, as I understand, particularly on this side of the aisle, on the other side of the aisle, that if we cut taxes, because we are cutting down, that more will come in.

I hope that is true, and maybe we finally will put these two things together.

But I do not want anyone to imply that the real fault lies always with the expenditures, and then people vote for entitlements, uncontrollables, that have to be appropriated for.

Maybe if we stopped doing that——

Mr. PERCY. Perhaps some other time we can continue this discussion. I have 3 minutes now.

Mr. MAGNUSON. I will yield the Senator some time on my time.

Mr. President, I would like to say that I am satisfied the Senator from Wisconsin is not trying to put us in a straightjacket; There would be flexibility, and the legislative history we have developed shows that.

No one could question his closeness to people. No one is closer to people than the Senator from Wisconsin. The Senator from Wisconsin has been endorsed by every labor union, to the best of my knowledge, for many years. So his devotion to labor and the working person cannot be subject to question.

What I think he is concerned with is what we are doing to the working people of this country by constantly increasing the percentage of the GNP taken up by Federal expenditures. Will we be starting to go the way of Britain?

The Senator from Illinois feels that the focus of this bill must be kept on the unemployed. This is the whole essence of Humphrey-Hawkins—jobs—work, not welfare.

The Senator from Illinois can remember back vividly to the days of the depression when my own father, day after day, week after week, month after month was looking for work, along with 17 million other people.

I can never forget his despair, his despondency, his feelings of inadequacy and helplessness. This is what the Humphrey-Hawkins bill is designed to eradicate. I would never support any amendment that would weaken this central fabric of the bill.

But it is terribly important we balance out this focus with our concern for the inflation threat which George Meany has already said is even a greater threat to the working people of this country than unemployment.

Second, this focus must be balanced with our concern that we do not undermine the strength of our country by suddenly adding to the Federal load.

As a member of the Republican side of the coalition that has helped work out this bill and get it to the floor today for a vote, I wish to commend my distinguished colleagues: Senators LUGAR, DOLE, HATCH, and BAKER, who have found a way to accommodate themselves and their own particular views to see that this bill did get on the floor, with a time agreement for a vote, in the short time remaining to us in the session.

It is almost a miracle that by tonight we will vote on the Humphrey-Hawkins bill without the possibility of a filibuster. They have subordinated their own concerns to let the Senate have an up-or-down vote on this important legislation.

One of the bases on which they did it, and we did it as Republicans, was to see we do have a goal in the bill for the Federal expenditure as part of GNP, and we have a goal for inflation, the equal enemy of poor people, along with unemployment.

For those reasons, I find myself compelled to support the existing amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NELSON. Mr. President, I would like to address just one comment to my good friend from Illinois on the amendment.

I know that the Senator from Illinois and my senior colleague from Wisconsin want a Humphrey-Hawkins bill.

But if this amendment is adopted, it endangers seriously the chance of any bill, because it will be, in my judgment, strongly opposed by some of the most important proponents.

So, adoption of the amendment, I think, will defeat the goal that we all seek together.

I wish, though this is an important issue, and we will deal with it on the floor of the Senate, and have a week ago, that we would not seriously, if not fatally, diminish the chance of passing this bill by adding this amendment.

Mr. PERCY. Will the distinguished Senator yield 1 minute?

Mr. NELSON. Yes.

Mr. PERCY. I think the key to the whole matter is the Senator from Wisconsin's words "wrongly opposed," that this amendment is wrongly opposed by those who perceive it to be something different.

The whole purpose we have had in this colloquy is to explain to them that their perception of this amendment is wrong.

It is no straitjacket. It does not bind anyone. It does not undercut the budgetary committee and the budget process.

It is simply a symbol and a goal, already affirmed by the Budget Committee. But it will make us work harder to get out the fat, to get out the inefficiency, to get out the bureaucracy, that does not contribute to the national welfare and well-being, that does not contribute to the unemployed, that really takes money away from the impoverished, poor, handicapped, and others in need.

I say this to my friends in the business community: They had best look at what we have now. Humphrey-Hawkins has been opposed vigorously.

Senator Humphrey and Representative HAWKINS said the the public—and stood alongside them as they answered questions—"We fully support it, to bring down unemployment, but consistent with bringing down inflation." They said Hubert Humphrey would have supported the inflation aspects that have been built into this measure.

So the business community had best now look at this bill in its final draft form, with the Proxmire amendment, with the inflation amendment, with the work done by Senator HATCH, Senator LUGAR, and others who have worked intimately with us, to see and understand that this bill is now something we can all unite on.

We could get the NAM support, but we should have the support on the other side, of Common Cause and the labor unions, who realize they cannot have the original version of Humphrey-Hawkins. Those days are gone forever.

If we are to get a Humphrey-Hawkins bill, it has to be a balanced bill. It never would happen were it not for the willingness of my distinguished colleagues on this side of the aisle to say that we will look at certain provisions and build in certain provisions.

This can be a bill on which we can build a national consensus and balance out all those things that can give us a vigorous, strong economy.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NELSON. I yield myself 2 minutes on the bill.

I wish to make clear that I do not know of anyone, in the years I have been here, who has fought more vigorously, more effectively, for balanced budgets and control of inflation than has Senator PROXMIRE. There is nobody here who has put in more time on these concerns. I have the highest respect for him.

I recognize that there are arguments on both sides of the aisle as to the merits—by the Senator from Maryland, my colleague from Wisconsin, the Senator from Illinois, and the Senator from Indiana. All I am saying is that we have 24 hours and we are done with this session, and we have come a long, long way.

I think the first hearings I held on Humphrey-Hawkins legislation were 3 or 4 years ago, and we have come a long way since that time. For several days now, we have had a very cooperative, fruitful, and mutually respectful effort involving people from this side of the aisle and people from the other side of the aisle. The Senator from Illinois has participated in this process.

I am just saying that in my political judgment, if we introduce this factor into the bill at this time, it makes it most difficult—if not, I fear, impossible—to pass it. That is my concern.

We can deal with this other question by amendments in future years, if it seems necessary, or by bills on the floor of the Senate, through the budget process—there are a variety of ways.

What I am pleading for is that we do not adopt something that may make it almost impossible to get the support of those we need in order to get it back from the House on a unanimous-consent agreement. If the proponents of this legislation oppose it in the House, it never will come back.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NELSON. I yield myself 1 additional minute.

Whereas you would have had your victory on this point, you have destroyed the whole bill and our chance. That is why I am pleading with the rest, at least: Do not vote for this modification, as important as you believe it to be.

I do not denigrate in any way the importance of the issue. I repeat that nobody has done more in this issue than has Senator PROXMIRE—on balanced budgets and inflation—and I am not critical of his efforts. I am making a political assertion on a political issue that is very delicate. This is the issue I am talking to, not the merits on both sides.

Senator MUSKIE and Senator PROXMIRE have studied this issue in greater depth than I have. I do not feel qualified to discuss it with any authority, but I feel I have some qualification because I have been involved in the Humphrey-Hawkins legislation for the past 3 or 4 years. I have conducted hearings on it and have discussed it. I feel that I have some qualification for making a judgment on what the political situation is, and I think this Federal spending amendment is a very dangerous modification to make.

Mr. President, has all time expired?

The PRESIDING OFFICER. The time has expired on the amendment.

Mr. BELLMON. Mr. President, this amendment is similar to a provision of the coalition amendment to the Finance Committee tax bill H.R. 13511, passed overwhelmingly only 2 days ago. In fact, both the House and Senate have given 2-to-1 mandates for such a provision. Despite the fact that this provision is somewhat weaker than the restraint imposed in the coalition amendment—for example a 19.5 percent ratio of expenditure to GNP in 1983 rather than the 20 percent in this amendment—I believe it is a necessary and proper addition to this bill.

The Congress, reflecting the demands of the voters, has indicated its insistance upon a reduced Federal sector. The second budget resolution in its 5-year projections this year provides a 1983 proportion of expenditures to GNP of 19.9 percent. It is a feasible and responsible goal. In 1958 the proportion was 18.7 percent, in 1968 21.5 percent and 23.2 percent in 1978. The budget resolution this Congress has adopted promises a reduction to 21.5 percent in 1979—so the direction is proper. We have found in our budget process that planning especially long-range planning, is the key to a well-functioning budget process; 20 percent is only a return to the average proportion of the last decade. It is not a radical goal or idle wishful thinking.

The amendment to the tax bill which the coalition introduced would:

First. Hold outlays to no more than a 1-percentage point rate of growth above the Nation's rate of inflation;

Second. Reduce the relative size of the Federal sector to 19.5 percent in successive steps by 1983 from its present 21.5-percent level, and

Third. Provide a balanced budget by fiscal year 1982.

Thus, Mr. President, I am not only concerned about the share of Federal Government spending in GNP, but also bringing the budget into balance. Nevertheless, I am told by economists that inflation alone could balance the budget by shoving taxpayers into higher and higher tax brackets. Balance could be at 20, 25, 30, or even 50 percent of GNP—depending upon the rate of inflation. I feel strongly, Mr. President, that balance at the cost of an increased Federal sector is not what Congress or the American people want.

When I was Governor of Oklahoma, we, like many other States, passed a law requiring our budget—except for capital improvement items—to be balanced each year. It worked. I came to Washington 10 years ago hopeful that we could do the same here. I was, and still am, convinced that constant yearly deficits erode fiscal discipline and promise inefficient and inflationary Government activities. Similarly, they force the Federal Reserve System into the dilemma of having to expand the Nation's money supply with its inflationary consequences.

The budget has been balanced only twice in the last 20 years—1960 and 1969. Cumulative deficits total $311.7 billion over that time period while surpluses amount to only $3.5 billion. Whether or not the deficit was needed on a yearly basis at the time, it is inflationary for the Treasury and Federal Reserve to have to refinance such staggering amounts of debt.

Mr. President, I would point out that the converse of a growing Federal sector is a shrinking private sector. In these times when inflationary pressures are rampant and when more and more knowledgeable people are pointing their fingers at the Federal sector as a prime culprit, it impels us to send a clear message to the American people that we are working to expand the private sector.

UP AMENDMENT NO. 2103

(Purpose: To establish the appropriate share of an expanding gross national product accounted for by Federal outlays)

Mr. MUSKIE. Mr. President, I call up my amendment, on behalf of myself, Mr. NELSON, Mr. JAVITS, and others.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine (Mr. MUSKIE) for himself, Mr. NELSON, Mr. JAVITS, and others, proposes an unprinted amendment numbered 2103.

Mr. MUSKIE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted on page 116A, insert at the appropriate point the following new subsection:

"(j) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1978 to rely principally on the private sector for expansion of economic activity and creation of new jobs for a growing labor force. Toward this end, it is the purpose of this Act to encourage the adoption of fiscal policies that would establish the share of the gross national product accounted for by Federal outlays at the lowest level consistent with national needs and priorities.".

In lieu of the matter proposed to be inserted on page 118 insert: "fiscal policies that would establish the share of an expanding gross national product accounted for by Federal outlays at the lowest level consistent with national needs and priorities, and strike all the remaining language."

Mr. MUSKIE. Mr. President, for the past few days, I have had to live on the floor, listening to Senator after Senator complaining about the rigidities of the budget process. Some of those arguments have been very emotional, very vigorous, to the point that I wondered whether or not the budget process could survive if the Senate were asked to vote today on its discontinuance.

Yet, here we are, considering proposals to fix public policy in place which will limit the options which the Budget Committee can consider for presentation to the Senate.

The Budget Committee does consider itself bound by law, if that law means anything.

I have listened with a great deal of interest to the colloquy between Senator PROXMIRE and Senator PERCY. In effect, they have tried, by colloquy, to amend the Proxmire amendment to a meaningless piece of rhetoric. If all the questions raised by the Senator from Illinois with the Senator from Wisconsin are indeed an accurate interpretation of the Proxmire language, then, in effect, the Proxmire language does not mean anything more than I think it should mean—a pious wish.

I said earlier this afternoon that either those numbers in the Proxmire amendment mean something or they do not. If they mean something, they can limit our options severely at a time when we might regard those limitations with great regret. If they are meaningless—if all those options are open to us, whatever those numbers—then why do we need it?

We have the same numbers in the report of the Senate Budget Committee this year, and I ask unanimous consent that the table on page 27 of the Senate Budget Committee report be printed at this point in the Record.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

A 5-YR PROJECTION OF THE FISCAL YEAR 1979 BUDGET

[In billions of dollars]

	Fiscal year—				
	1979	1980	1981	1982	1983
Outlays	487.5	536	575	623	669
Revenues	448.7	500	572	649	726
Fiscal policy changes projected for later years (tax reductions or spending increases, cumulative)		8	27	39	54
Surplus (+) or deficit (−)	−38.8	−44	−30	−13	+3
Outlays/GNP (percent)	21.6	21.5	20.9	20.5	19.9

Mr. MUSKIE. Mr. President. those numbers are better than the Proxmire numbers, and they represent a commitment by the Budget Committee. But they are based on the assumption that moderate expansion will continue without break through 1983, and that there will be a resurgence in the private sector beyond what is now evident in those later years. The Proxmire amendment makes no such qualifications. This is the path we intend to follow, if economic circumstances permit. If they do not, then the budget process gives us the flexibility to respond to the changes and circumstances.

If the Proxmire amendment means what it does by those numbers, it deprives us of that flexibility. If it does not, as a result of the colloquy between the Senator from Illinois and the Senator from Wisconsin, we do not need it. It is as simple as that.

My amendment reads very simply. It says this:

The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1978 to rely principally on the private sector for expansion of economic activity and creation of new jobs for a growing labor force. Toward this end, it is the purpose of this Act to encourage the adoption of fiscal policies that would establish the share of the gross national product accounted for by Federal outlays at the lowest level consistent with national needs and priorities.

Mr. President, I submit that the Budget Committee has followed that kind of policy from the beginning. In our first year, at the bottom of the recession, outlays as a share of gross national product were 22.4 percent, if one did not include the off budget agencies, and 23 percent, if one included off-budget agencies, of which the biggest is the Federal Financing Bank, which is under the jurisdiction of the committee chaired by the Senator from Wisconsin.

His amendment does not tell us whether his numbers include the Federal Financing Bank or not. But in any case, from a high of 22.4 percent we have steadily reduced the outlay share of GNP until in fiscal 1978 it is 22 percent, in the fiscal 1979 budget it will be 21.6 percent, and I have already put in the record our target for 1983 of 19.9 percent. That would mean a reduction from 22.4 percent in fiscal 1975 to 19.9 percent in fiscal 1983.

Surely, that record that we have been writing and that commitment we have been making is as solid an assurance as this Senate can give on the economic future of the country in the next 5 years, without the Proxmire amendment and especially if the Proxmire amendment admits of the kind of flexibility that he assured Senator PERCY and admitted of. I read the Proxmire amendment, and I do not see any such kind of flexibility. Now he can argue that there is no enforcement mechanism and that is true, except that as chairman of the Budget Committee when something is written into law that seems definite the enforcement mechanism is my conscience. He admits of no flexibility there. He admits to no flexibility to the President. There is no review mechanism there. There is no authority for the President to change those numbers. Those numbers are in the amendment with now the one flexibility that he has written in with respect to meeting the unemployment goal of the Humphrey-Hawkins bill.

So, Mr. President, I submit my amendment, as chairman of the Budget Committee, with our record of commitment to precisely the goals of the Proxmire amendment, but with the advantage that the Budget Committee and the Senate as a whole by adopting this substitute has the flexibility to meet that great range of unanticipated exigencies, emergencies, and needs that the government of a country and an economy as complex as ours has. To try to write a 5-year economic plan for this economy into fixed law, either it is fixed or not—I am not sure what Senator PROXMIRE intends at this point—but in a fixed law, and that is what those numbers look like to me. makes no commonsense at all especially when we have a process in place that clearly on the the record is moving us toward the same objective, the same goals, with the added advantage of flexibility to change course when the national interest requires that we change course.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield to the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Maine.

ORDER FOR RETURN OF PAPERS ON H.R. 12929

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to request the House of Representatives to return the papers on H.R. 12929.

The PRESIDING OFFICER. Without objection, it is so ordered.

FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978

The Senate continued with the consideration of H.R. 50.

Mr. MUSKIE. Mr. President, I reserve the remainder of my time.

Mr. PROXMIRE. Mr. President, will the Senator from New York yield?

Mr. JAVITS. We yield time in opposition to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank my good friend from New York.

Mr. President, obviously a vote for the Muskie amendment is a vote against the amendment that I have put up. It is a vote for providing a specific goal for inducing a goal that we point out is moderate, limited, and well within what the President and Budget Committee both indicated we can do by 1981 and 1983.

Furthermore, it is a vote against a specific limit on spending that means anything.

Read the language of the Muskie amendment. The first sentence is exactly the same and puts the emphasis on that the same as it was in my amendment. After that it says:

Toward this end, it is the purpose of this Act to encourage the adoption of fiscal policies that would establish the share of the gross national product accounted for by Federal outlays at the lowest level consistent with national needs and priorities.

That is nice. We all would like to do that. We have been saying that for years. We have been saying it in the Chamber. The Presidents say that all the time. But it does not mean anything unless there is a specific goal one can measure it against. I do not mean a region.

Mr. MUSKIE. Mr. President, will the Senator yield on my time?

Mr. PROXMIRE. I yield on the Senator's time.

Mr. MUSKIE. It is backed by more than that. It is backed by our 4 years of budget process that laid out these goals and stuck to them.

Mr. PROXMIRE. All right.

Mr. MUSKIE. And stuck to them. That is the record and the support behind the langage I have introduced.

Mr. PROXMIRE. Now, Mr. President, I wish to come to that.

This reminds me of the old story about the boxer who is getting clubbed all around the ring. He is bloody, bowed, and knocked down four or five times and staggers to his corner and his manager says:

"He didn't lay a glove on you." And the boxer turns to the manager and said "Keep an eye on the referee because somebody is beating the dickens out of me."

I tell that story because look what happened. The Budget Committee has done a good job under all the circumstances. As I said over and over again, I have great admiration for them. But up until 1975 when we authorized the Budget Committee spending in any peacetime year had not been above 20.5 percent and most of the time it was well below that.

Since then, in 1965 it was 22.4 percent; in 1976, 22.5 percent; and in 1977, it went down a little bit to 21.9 percent; and in 1978 it was 22.6 percent.

Of course, this year we do not know as yet but it is roughly the same level.

I say that unless we do something specific and definite, unless we set standards against which we can measure their performance, we can always say we are fiscally responsible, we are trying to hold down spending and we aim to hold down spending and are going to try our best to do it. Unless one measures it some way, unless one has a standard against which he can say the President and Congress is not doing a good job or is doing a good job, it simply will not mean very much.

Mr. President, under those circumstances, I do hope Senators will recognize what they are doing when they vote on the Muskie amendment. They are voting in favor of providing a goal for unemployment, a goal for inflation, but the one area over which we really have control, Federal outlays, the one area which is our responsibility, not the responsibility of the economy as a whole or what happens over in Europe or what happens with respect to oil or what happens with climbing food prices, but our responsibility, the Federal outlays, they say:

No, we cannot do it. No, we cannot do it. We cannot accept that because it is too rigid.

Mr. President, if there is any area where we should set goals and where those goals will be effective, where they will be useful, where we can measure our performance against the standard we have set, it is in this area.

Mr. President, I reserve the remainder of my time.

Mr. MUSKIE. Mr. President, I wish to take note on this occasion that if my information is correct, Senator PROXMIRE's vote on my amendment will be his 6,000th consecutive vote, which means 12 years without missing a vote. I think that is a remarkable record. It is too bad that his 6,000th vote is going to be the wrong one.

[Laughter.]

But, nevertheless, I had not realized that his record had climbed to such astronomical proportions.

I would say this in tribute to him, that every one of those 6,000 votes has been a reflection of his own intellectual ability, his commitment to the public interest, and his own conscience. I cannot remember a Senator who has been more conscientious not only to meeting the schedule of the Senate but also to the issues which confront him.

I could not resist using my amendment as a chance to congratulate him on that.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. DOLE. I think it would be a tragedy if he did not win the 6,000th vote.

Mr. PROXMIRE. I cannot thank the Senator enough. What the Senator from Maine could really do if he really means, and I am sure he means the affection, to show his affection is to vote against his own amendment. That would be marvelous and he would show he really recognizes the 6,000 consecutive vote.

Incidentally, I beat the record of his distinguished former colleague, Margaret Chase Smith, and so there is a Maine element in here, too. But let us really put the icing on the cake.

Mr. MUSKIE. The real trouble is I do not want to break my record of never having been wrong.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. SARBANES. I think it is very important in view of the colloquy that has just taken place that on the next vote the Senator from Wisconsin lose, because we would then prove that we have the ability in the Senate to separate the substance of an issue on which we may disagree very strongly from the profound respect which we have for a particular individual and for his role in this body. Therefore, the best way to prove in this instance the enormous affection and respect we have for the Senator from Wisconsin and this incredible 6,000-vote record, is to defeat him on the amendment and demonstrate our affection and respect for him as an individual. We would not want anyone to think that our judgment on the substance of this amendment was influenced by our ability to respect one of our colleagues as an individual.

Mr. NELSON. Mr. President, on that very thoughtful note, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. PROXMIRE. I yield back my time. I ask for the yeas and nays.

The PRESIDING OFFICER. All time is yielded back. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine. The clerk will call the roll.

(Mr. ZORINSKY assumed the Chair.)

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN) the Senator from Colorado (Mr. HASKELL), and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Idaho (Mr. MCCLURE), the Senator from New Mexico (Mr. SCHMITT), the Senator from Virginia (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. Have all the Senators voted?

The result was announced—yeas 56, nays 34, as follows:

[Rollcall Vote No. 491 Leg.]

YEAS—56

Anderson	Gravel	Melcher
Bayh	Hart	Metzenbaum
Bentsen	Hatfield, Paul G.	Moynihan
Brooke	Hathaway	Muskie
Bumpers	Hodges	Nelson
Burdick	Humphrey	Pearson
Byrd, Robert C.	Inouye	Pell
Cannon	Jackson	Randolph
Case	Javits	Ribicoff
Church	Johnston	Riegle
Clark	Kennedy	Sarbanes
Cranston	Leahy	Sasser
Culver	Long	Sparkman
DeConcini	Magnuson	Stafford
Durkin	Mathias	Stennis
Eagleton	Matsunaga	Stevenson
Eastland	McGovern	Talmadge
Ford	McIntyre	Weicker
Glenn		Williams

NAYS—34

Baker	Goldwater	Nunn
Bartlett	Griffin	Packwood
Bellmon	Hansen	Percy
Biden	Hatch	Proxmire
Byrd, Harry F., Jr.	Hatfield, Mark O.	Roth
Chafee	Hayakawa	Schweiker
Chiles	Helms	Stevens
Curtis	Hollings	Stone
Danforth	Laxalt	Thurmond
Dole	Lugar	Wallop
Garn	Morgan	Young
		Zorinsky

NOT VOTING—10

Abourezk	Heinz	Scott
Allen	Huddleston	Tower
Domenici	McClure	
Haskell	Schmitt	

So the amendment (UP No. 2103) was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NELSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I have two very important technical matters I need to take a minute or two on. On Tuesday evening——

The PRESIDING OFFICER. Will the Senator from West Virgina suspend? The Senate is not in order. Will Senators please clear the well, so that the Senator from West Virginia may be heard? Senators will please take their conversations to the cloakrooms, or please be seated. The Senate will be in order.

When the Senate comes to order, we can proceed. Until then, we will suspend.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, is action now in order on the amendment of the Senator from Wisconsin, as amended by the Senator from Maine?

The PRESIDING OFFICER. That is the pending question.

Mr. JAVITS. Will the Chair put the question?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin, as amended.

The amendment, as amended, was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. SARBANES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, by inadvertency, the word "may" was written into the substitute on page 156. It should have been the word "shall."

I ask unanimous consent that that word may be changed to "shall."

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 2104

Mr. BELLMON. Mr. President, I have an amendment at the desk, amendment No. 2104. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON), for himself and Mr. CHILES, proposes an unprinted amendment numbered 2104.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 155, line 13, strike "shall" and insert in lieu thereof "may".

On Page 156, line 4, strike "shall" and insert in lieu thereof "may".

Mr. BELLMON. Mr. President, this amendment is very simply to change the word "shall" on page 155, line 13, to "may." On page 156, line 4, the same change is made, the world "shall" is stricken and the word "may" is inserted.

Mr. NELSON. Mr. President, may we have order? I wish to say that although

this involes only one word, it is an important word with important consequences within the bill. I believe the Members who are here and who wish to understand the issue would like to be able to hear about it. I would hope Senators would listen to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Wisconsin is correct. The Senate is not in order. Will the Senators please retire to the cloakrooms for private conversations? Those Senators remaining in the Chamber will please give their undivided attention to the Senator from Oklahoma.

The Senator from Oklahoma.

Mr. BELLMON. I thank the Chair, and I thank my friend from Wisconsin.

Mr. President, the effect of this amendment is to leave the exercise of the authority provided in section 304 to the discretion of Congress rather than making it mandatory. We are changing the word "shall" to "may" so that some discretion can be used rather than being forced to take an action which the Congress may not wish to take.

As it presently stands, section 304 of the compromise says that, in the event that the President recommends in his economic report that the unemployment goal established in section 4 cannot be achieved, until after the 5-year period in the bill, the Budget Committee shall—and that is the word we are concerned about—include in the first concurrent resolution on the budget the year in which the goal can be attained—in the estimation of the Budget Committee. The proposed amendment would change that "shall" to "may."

Mr. President, making this provision mandatory would inevitably lead to a situation where we would all be confronted with having to vote on whether full employment should be achieved in, say, 1984 or 1988.

To me, this is a ridiculous situation. We all want full employment as quickly as we can get it. Forcing the Senate and individual Members to vote on a year 5 years in the future or 7 years in the future really does not make any sense. Such a vote could not conceivably be based upon factual alternatives.

Members of the Senate, whether we like to face it or not, are all politicians. We are not university economists, and a vote in the Senate for either choice would not necessarily bear the slightest relation to the real ability of the Congress or the country to effect the desired outcome.

Given such a choice, which of us, if we thought only of political considerations, could risk a vote for any year other than the earliest year that is offered?

It is like the argument we had earlier about whether or not we really need to debate what is a proper level of unemployment. We are all in favor of the lowest unemployment we can get, and we are all in favor of getting there just as quickly as we can. So this requirement which would touch off such a debate would produce, in my opinion, a very unhealthy and almost meaningless confrontation.

But that is not all. Another provision of this act—which, ironically enough, was intended to protect the budget process from this kind of political gymnastics—would require that any proposed revisions of goals also include the changes in the actual budget numbers necessary to achieve those goals.

Mr. President, it takes little imagination to conceive of the lunacy that would inevitably result as politically-motivated amendments to goals would also force revisions of the numerical totals included in the resolution. If the issue at hand was going on record as having to chose between 1984 and 1988 as the proper time when our Nation should achieve full employment, who are we to let something so trivial as mere numbers prevent us from opting for the earlier date? Why not just slash $3, $5 or $10 billion from the national defense function, for example, and shift it to the employment function? After all, the Budget Committee would have spent a whole year in balancing questions of all national priorities in order to determine functional numbers that reflect carefully calculated budget choices, on the basis not only of their judgment but also on recommendations made by every standing committee of the Senate, and the President as well.

The numbers in the budget resolution, and the goals that those numbers reflect, are not tools to be manipulated only to suit our political whims. This is not to say, of course, that they are to be carved in stone and never altered by this body. But proposed changes should reflect serious consideration of the economic, social and budgetary consequences, as well as the political ones.

Mr. President, we should adopt this amendment. If we do not adopt this amendment, the result could be the total subversion of our congressional budget process. And I would remind my colleagues that this process belongs to the whole Congress, not just the Budget Committee. It is our sole means of systematically reviewing and ordering national goals and national priorities. It is one sole means of coordinating the vast range of Federal programs and policies with those goals and priorities. If we of our own volition, in an irresponsible sacrifice to unbashedly selfish political concerns, destroy that process, then this Congress will have suffered a shameful, humiliating loss.

So, Mr. President, my reason for joining with the distinguished Senator from Florida in offering this amendment is to avoid a meaningless debate that would turn strictly on political considerations and not upon facts, and which I believe would do great damage to the budget process, which seems to have been making some progress through the action of the Congress this year.

I strongly urge the adoption of this amendment.

I am happy to yield to the Senator from Florida.

Mr. CHILES. I thank the distinguished Senator from Oklahoma.

Mr. President, I am delighted to have this opportunity to associate myself with the remarks of the Senator from Oklahoma. We are cosponsors of this amendment. I believe the thrust of what we are trying to do in this amendment, in changing the world "shall" to "may," is to recognize that under these provisions it is the President who is called upon to meet the unemployment goals.

It is the President that is called upon, if he decides that he cannot meet those goals in the requisite period of time, to submit that in a message to the Congress and say that he cannot meet those goals within that period of time. That message will come to the Budget Committee and it should be up to the Budget Committee to determine how they want to handle that change that he has made; how they wish to respond to it. To make the word "shall," to say that the Budget Committee "shall," really is to take away the flexibility of the Budget Committee and of Congress to determine how they should handle that.

Certainly, giving us the right to be able to respond and to make any comments is fine, but I do not think we should carve that in stone and make that a requirement that we must. Again, I think it takes some of the flexibility and some of the authority, even, away from the President, because this is supposed to be a planning device.

This is supposed to be goals that we are setting. We are not tying a veto in, or we should not be tying in a veto. The President should feel free, if he feels he cannot make those goals within that period of time, we want him to be able to feel free, and he should, to tell the Congress that he cannot, to tell the American people that he cannot. But if we are locking in a device that appears that we are building a confrontation—that if he says he cannot make it, then the Budget Committee is going to come down and castigate him as to why he says he cannot make this—we are then locking this into stone. We are moving away from some kind of planning device. We are perhaps going to require more, perhaps the President will start fudging more, that in effect he is making it, so we can change some of the terms.

We do not want that at all. What this is supposed to be is a means by which we are supposed to get information out and have the American people understand what we are trying to do. We are going to have the President and Congress working in this regard. If we are going to do that, if we are going to have that kind of meeting of the minds, then I do not think we want to lock in this confrontation device by putting the word "shall" in. I think we would be much better off if we had that "may," rather than "shall."

I thank the Senator from Oklahoma for yielding to me. I yield the floor.

Mr. RIEGLE. Mr. President, will the Senator yield to me?

Mr. JAVITS. Mr. President, I am going to claim the time in opposition. I am happy to yield.

Mr. RIEGLE. If the Senator from New York wants to go next, that is all right with me. I want to speak in opposition, too.

Mr. JAVITS. How much time does the Senator want?

Mr. RIEGLE. Five minutes.

Mr. JAVITS. I yield.

Mr. RIEGLE. I want to direct my comments to the Senator from Florida who just spoke, and the Senator from Oklahoma, who is the sponsor of the amendment. I am astonished that the Budget Committee would not want to accept this responsibility. In effect, by going from "shall" to "may," the Budget Committee is really walking away from the opportunity to make an independent judgment on this number. In effect, it is rubberstamping by not acting, by electing to deal ourselves out. It is, in effect, rubber stamping ahead of time whatever the President might choose to do.

Let me say to my friend from Oklahoma, in his opening statement, he commented to the effect, if I understood him correctly, of concern about whether Congress would withstand political pressure and whether we have enough character to be able to make a dispassionate judgment on what year we would try to meet the unemployment goal. The suggestion was there that, somehow or other, the President would be in a stronger position or more independent or more able to withstand that pressure to make that judgment. I want to say I reject that proposition.

I do not see any reason to believe that Congress would somehow be more susceptible to political pressures in pulling that percentage in closer than the President of the United States would be. As a matter of fact, I think we have just as much character and just as much independence of mind and ability to address that question as the President does. If we are going to argue to the contrary, why do we even need a budget process? Why not just let the President do that as well? Why are we even in the act if, in effect, we are not here to render our own independent judgment?

I think we are capable of making a kind of measured, reasoned decision as to whether or not changing the target year for the unemployment goal make sense. The President is not always going to be right.

I must say, I am very troubled about deciding now to take ourselves out of that process and to say, whatever he does we are satisfied with, that we are going to rubberstamp it, because we are not even going to deal with it, we are just going to cede that responsibility totally.

We do not do it in other areas. We do not do it in the budget area, or in terms of national spending priorities. Once we set this goal, as we are doing here, it troubles me very much to think that we are, in effect, going to walk away from the responsibility of being part of that decision to change that goal if it is to be changed.

I might say further there is a reason why 1983 was picked rather than 1982 or 1981 or 1980. There was implicit in selecting 1983, in the judgment of the two committees of jurisdiction, that that gives us sufficient time to take steps to work ourselves toward an unemployment goal of 3 percent for adults at that particular time. We think that is reasonable. That reflects a judgment. We might have said some other year. We might have said 1980. We did not say that, we said 1983. That is an effort to set a goal, looking forward, that we think can be met.

If we are going to give the President at the outset the ability to move that goal down the line some years in the future without even participating in it, we are, in effect, walking away today from the very judgment we are putting down on paper. That just does not make sense to me.

I think it runs counter to everything I have heard about the budgetary process, because the people on the Budget Committee, who, I think, have done excellent work, normally have stepped up to responsibility, not walked away from it. It seems to me that anything as significant as changing this goal that we have established, is something the Congress ought to bear equal responsibility for, along with the President. The only way we can do that is to tie ourselves into that process now.

That is why committing ourselves to participate in that decision, to look at it, crosscheck, whoever is President, the judgment of that President with our own judgment, is the only responsible way to go.

I hope that, thinking about this, the sponsor of the amendment might see that side of the argument.

Mr. BELLMON. Mr. President, before I respond, I ask unanimous consent that the distinguished Senator from Maine (Mr. MUSKIE) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, the Senator from Michigan makes a good point. We in Congress, certainly those in the Budget Committee, do have a responsibility shared with the President in this area of setting goals. We try to do that.

The argument I was making was that when we are talking about something far into the future which does not relate directly to the budget resolution, which does not relate directly to the numbers which make up the resolution, to me, it would be an almost irresistible political temptation to vote for the most promising of the various proposals before us.

Not many of us are going to want to go home and say that we are not optimistic about the future, that we are going to have a difficult time getting to the level of unemployment that has been set in the act within the shortest time possible.

Maybe I am not as politically stalwart as others, but I would think when we are talking about something as nebulous as this kind of propcsition, you may as well go head and vote for the most promising, the most optimistic proposition. Then if it turned out better, or turned out that you were not right by the time they finally arrived, not too many would remember.

To me, this whole thing is intended, the purpose of the bill is to give us some guidelines. Those guidelines are not going to be binding anyway, so we may just as well go ahead and use the word "may" instead of "shall". On the last vote, the vote of government spending as a percentage of GNP, it was won by those who favored flexibility rather than those who wanted a fixed number. The Senator from Michigan was one of those who voted for flexibility. Here we are trying to keep this same policy by giving us flexibility by changing the word "shall" to "may." I really feel this is an important change in the bill and will not do violence to the objective of those who authorized this legislation.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I yield myself 5 minutes from the time in opposition.

Mr. President, I hope Members will listen to this discussion carefully. I think it is well worthy of it.

The difference between "may" and "shall," in my judgment, is the whole difference between the Budget Committee, as I conceived it, and I was one of those originators, and it now seems to be conceived from this amendment by my colleague.

The question before the Senate is this, shall we, the Senate, be the final word, or shall the Budget Committee be the final word?

That is the issue. Because if the word "may" remains, then if the committee chooses to bring the question of timetables for achievement of numerical goals for unemployment to the floor, then we are the arbiters, but if they choose not to, then the President's word is final.

May I repeat that, because that is the essence of this controversy, if the Budget Committee chooses to bring this question of timetables to the floor when the President fixes it, then it becomes our opportunity. We can make it, we can unmake it. But if they choose not to, that is the end of it. There is no appeal. The President's word on the question of objective, which we hope will counter the general thrust of the Federal Government's Establishment, is final.

My concept of the Budget Committee was that we expected it to do an excellent staff job, but not to run the Senate. We have the final word. As a matter of fact, the Senate voted overwhelmingly that way the other night upon Senator LONG'S issue, precisely that way. We felt that in the final analysis, we have the last word. This would deprive us of the last word. So I think it is very important. The numerical goal and timetable here is the ball game.

What is this Humphrey-Hawkins bill all about? It is how much we are willing to accept in the way of unemployment in order to plan our Federal Government operations.

There are no authorizations in this bill for programs. I went through it with a fine tooth comb myself and saw that every one was eliminated. There are no authorizations for appropriations except the irrelevant cost of running this particular operation, which is not great.

So that is all out of it. It is essentially a planning bill, a bill of concept and intention.

Here, we would be deprived with this one little word, which can be very important, of our opportunity to run it.

By the way, there is no doubt about the fact that we are very proud of Sen-

ator MUSKIE and Senator BELLMON and what they have done with the Budget Committee. I do not want a single word of what I say to intrude in that. I think they have done a great job. Almost every time I have had a close question, I have backed them. There is no doubt about that.

But I am coming now to this particular purpose, which people like myself have had such a hand in crafting, and let us remember the word "shall" is in here. We had a group, a real blend of the Senate, we had people considered liberal, we had people considered conservative, we had people considered moderate, who finally got together on this, and the word "shall" is in the bill. What the amendment proposes is to change it. So let us remember that.

One last point. I have copied the words. I hope Senator BELLMON will correct me if I am wrong, but he said, "an irresistible political temptation." That is, it would be an irresistible political temptation to take a lower goal sooner, even though it may not be economically sound.

Mr. President, it used to be said around here that it was an irresistible political temptation to vote all kinds of appropriations, for all kinds of groups. But now, the irresistible political temptation is to hold things down and to put a very sound roof on them.

So, the irresistible political temptation is what the people elected us to deal with here.

One might call it an irresistible political temptation and another man might call it a way in which to save the Union.

In short, we were sent here in order to take the responsibility and have the brains to do what we are supposed to do.

If we are going to assume that the way to resist temptation is to put things beyond our power, we ought to be recalled by every one of our constituents. We would simply be forfeiting our responsibility to the President of the United States.

The whole concept of Humphrey-Hawkins is that the Congress and the President will fix the goals and timetables of the Nation, not the President alone, not the Congress alone.

Therefore, I believe, Mr. President, really deeply, and this is a very serious one, that this will vitiate everything we are trying to do, not only in this measure, but the whole concept of the Budget Committee and how it operates. We are the final one, in the Senate.

Again, I repeat, as I began, if we write the word "may," it means it is up to the committee whether they will give us a crack at it or not, or just let it lie where it is with the President's decision.

Mr. President, that is what I do not want, and I deeply believe the Senate should not want.

Mr. CASE. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. CASE. Mr. President, I want to say that I have never heard a better speech on this floor. If the Senator from New York did nothing else all year than make that speech, his presence would have been justified.

He has done many things more than make that speech. But it was a magnificent summation, analysis, of a point which seems to me essential and points up exactly what the function of the Senate and of the Congress must be in this instance.

Mr. JAVITS. I thank my colleague.

Mr. MUSKIE. Will the Senator yield?

Mr. BELLMON. How much time does the Senator request?

Mr. MUSKIE. Five minutes.

Mr. BELLMON. Mr. President, I yield whatever time the Senator wishes.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, the fact is that I come down in between the Senator from Oklahoma and the Senator from New York. Having participated in administering the Budget Act for 5 years, I do not see any difference in practice between "shall" and "may."

I agreed to cosponsor this amendment with my good friend from Oklahoma, and with others who have cosponsored it, because they are sensitive to what they perceive is a difference.

Now, one looks at any one of our Senate Budget Committee reports and one finds heavy emphasis, especially the opening chapters on fiscal policy, on the economy, on the relationship between the budget and full employment, on economic objectives and assumptions, on unemployment rates, on inflation, and the impact of this on revenues.

We view our committee, and always have, not as simply a bookkeeping committee to add up the numbers on the budget, but as an economic force, as the Congress economic voice.

In view of that, and the role of the Senate in other matters, it is the same. We have never tried to conceal the economic assumptions upon which the budget is based.

But some of our Members are sensitive about putting numbers on the face of the budget resolution, especially when we are asked to consider not just an unemployment number, but an inflation number, an outlay GNP ratio number. Putting all those numbers on the face of the budget resolution posed for most of us the specter of Senators voting for the most politically attractive number, whether it made economic sense or not, and whether all those numbers related to each other in a real way in terms of the economic circumstances of that particular year.

I repeat that I was willing to work with either "shall" or "may." But I do not expect the performance of the Budget Committee to be any less sensitive to the fact that we are the servants of the full Senate and not the dictators of the full Senate.

I expect that practice to continue, and I know that Senator BELLMON and Senator CHILES expect that practice to continue. So I have no difficulty with either word.

I think that if the President acts to suspend whatever numbers he is given authority to act on under this bill, the Budget Committee will exercise its responsibility to evaluate the President's action and to submit its evaluation to the Senate. I do not have any doubt about that at all.

The word "may" is insisted upon for the same reason we objected to the Proxmire amendment—that it excludes the possibility that unforeseen circumstances, unanticipated circumstances may suggest a change in the way in which we react to the President's action or a change in the way we react to the numbers.

For that reason, I join Senator BELLMON on this amendment and strongly urge the Senate to support the amendment, with the assurance that I back up, with whatever credibility I have, that we will not try to isolate the Senate from our own views or from the action of the President or from the change in the numbers that are contained in the resolution. We just want full freedom to do so in ways that are consistent with economic realities in which our decision will remain. That is all there is to it.

To some extent, I regard it as a matter of semantics rather than reality, but I know how seriously Senator JAVITS feels about it. I do not denigrate at all what he has said, but I try to put my view in some kind of context that I hope is understandable.

Mr. JAVITS. Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I hope we will not spend much more time on this amendment. I think it has been pretty well explored.

Some of us would like to pass the bill. I am not suggesting that it might fall on one word, but it seems to me that we are not conferring any additional power on the Budget Committee. On the contrary, by the use of the word "shall," we sort of preclude action by anybody else. We do not lose any options in Congress by the word "may." A simple resolution, a joint resolution—we have all the options we need.

Getting back to the spirit of what we hope will be a successful day, this was discussed in the Budget Committee, and the vote was 13 to 3 to support the use of the word "may." I would guess that had a vote been taken in our coalition group, it would have been "may," but we deferred to the distinguished Senator from California (Mr. CRANSTON), who felt strongly about the use of the words.

I think we might be able to dispose of it on a voice vote. In any event, I do not believe we do any violence by removing the word "shall" and inserting the word "may" in the two places suggested.

Mr. JAVITS. Mr. President I yield 2 minutes to the Senator from Michigan.

Mr. RIEGLE. I thank the Senator for yielding.

Mr. President, I emphasize again the fact that I have great confidence in the Budget Committee, and that is why I would like to repose this responsibility very directly in the Budget Committee.

In terms of responding to political pressure, I have more confidence in the Budget Committee resisting those temptations than I do in looking back at the

history of the four Presidencies I have seen in the time I have been in Congress.

As to the worry about someone who is going to set this number doing it in a political fashion and for political reasons, I think that may actually apply more to people in the White House than people here, especially since we are talking about a 1983 goal. There is going to be a 1984 Presidential election, and I would rather have the collective judgment of Republicans and Democrats in the Senate, on the Budget Committee, looking at something as important as changing that unemployment goal, which is the whole purpose of this bill, than I would in setting up a situation in which, in effect, we can sidestep that responsibility and hand it over to whoever is President. I would like us to lock it in.

I have much more confidence in the Budget Committee's ability to do that job, if it understands that that is part of its job, and I think it should be. Quite frankly, I think we violate the partnership idea if we do not see that that is done.

If we allow a President to shift that goal and we make it elective as to whether or not the Budget Committee participates, I think we are walking away from the most important part of our responsibility, to see that these goals are met.

So, frankly, I think it is a contradiction, because everything I have seen on the floor of the Senate in the last few days has been for the Budget Committee to reach for and accept responsibility; and this is the first occasion I have seen in which he Budget Committee has had an opportunity to have an important responsibility that it seems to be walking away from. I have to say that I am surprised at it. As one who supports the Budget Committee, it does not make good sense to me.

Mr. JAVITS. I yield myself 2 minutes, and then I will yield to the Senator from Oklahoma.

Mr. President, I took down the words of Senator MUSKIE, whom I regard with the greatest affection and respect. He said:

> We are the servants of the Senate, not the dictators of the Senate.

I say to the Senator that there is a difference, if he will forgive me, in these two words in that statement, for this reason: If the word "may" appears, then you may simply decide not to do anything about what the President says. If the word "shall" appears, as Senator RIEGLE says, you have to do something about it. Then the Senate is able to do something about it.

It seems to me, therefore, that instead of leaving that question to chance, personal volition, whoever happens to be chairman of the Budget Committee, whoever happens to be the ranking minority member—I am sure Senator MUSKIE and Senator BELLMON feel exactly the same—if we keep the word "shall," we are mandating what I understood was going to be our function when I served on the first organization meeting of the Budget Committee: to wit, we would do superbly well the staff function for the Senate, but we would not make the final decision. I do not see how you can get away from that.

I am a lawyer, as I think everyone knows, and the word "may" means you may or you may not. The word "shall" means that is your duty; you will report it to the Senate. I think that is especially so in a matter such as this.

I repeat: The matter of irreversible political temptation was mentioned earlier. What are we here for? We might as well give up everything to the President, if we are not going to test ourselves on irreversible political temptation and working to try to discipline ourselves by not giving ourselves the power of decision. Why were we sent here—to be vote computers?

Mr. President, it seems to me that this is the key to the exercise in which we are engaged; and with the greatest respect for both men, who are marvelous servants of the people and great Senators, I deeply feel that this amendment should be rejected.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MUSKIE. Mr. President, I cannot conceive of the Budget Committee not exercising a responsibility that the committee and, for too long, no one outside the committee was willing to concede was a committee responsibility, and that is responsibility for economic policy. I cannot conceive, whichever word is used, that the committee would not aggressively assert its view of what economic policy should be, not only in the abstract, but also with respect to goals that Congress lays down in policy at any time.

I think the word "may" would be honored with a positive response from the committee in every conceivable instances I can anticipate.

Perhaps I cannot be as candid on the floor as I would be if I were talking to the Senate outside, but I assure him that he is going to get the same result in either case.

The Senator will say—and I know how good a lawyer he is, because I have had the privilege of working with him on some important legislation—that it is better to nail it down. I suggest that in this instance we can anticipate the same result, that the practice will nail it down and that there is nothing to fear from it.

I am not asking the Senator to give me a blank check or anything such as that, but I give him that assurance.

He and I do not really disagree. I think the Budget Committee has a positive responsibility, whether or not the law says so, to advise the Senate on this point. If for no other reason than that I like the committees I chair to be something, I would assert that. I know that the Senator knows that.

Beyond that, I suppose I cannot be more definite. I hope I have conveyed something to the Senator.

Mr. JAVITS. Mr. President, I say to the Senator that I feel about this, without protracting the debate, like I feel about life. We live every day as if we were going to live forever. We have to legislate every bill as if it were a bill for the ages.

That is why I argued as I did.

I thank my colleague. I am prepared to yield back my time.

Mr. BELLMON. I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Oklahoma. The yeas and nays have been ordered.

Mr. JAVITS. Mr. President, does the Senator want a voice vote?

Mr. NELSON. I have no preference.

Mr. JAVITS. Mr. President, I ask unanimous consent that the request for the yeas and nays may be vacated.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. I object, Mr. President.

Mr. JAVITS. All right.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the amendment of the Senator from Oklahoma.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Colorado (Mr. HASKELL), and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Idaho (Mr. MCCLURE), the Senator from New Mexico (Mr. SCHMITT), the Senator from Virginia (Mr. SCOTT), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

Mr. GOLDWATER. Regular order, Mr. President.

The PRESIDING OFFICER (Mr. MELCHER). Have all Senators in the Chamber voted?

The result was announced—yeas 50, nays 40, as follows:

[Rollcall Vote No. 492 Leg.]

YEAS—50

Baker	Ford	Morgan
Bartlett	Garn	Moynihan
Bellmon	Goldwater	Muskie
Bentsen	Gravel	Nunn
Biden	Griffin	Packwood
Brooke	Hansen	Pearson
Bumpers	Hart	Percy
Burdick	Hatch	Proxmire
Byrd, Harry F., Jr.	Hathaway	Roth
Cannon	Hayakawa	Sasser
Chafee	Helms	Stennis
Chiles	Hollings	Stevens
Curtis	Inouye	Stone
Dole	Johnston	Talmadge
Eagleton	Laxalt	Thurmond
Eastland	Lugar	Weicker
	Metzenbaum	Zorinsky

NAYS—40

Abourezk	Hatfield,	Nelson
Anderson	Paul G.	Pell
Bayh	Hodges	Randolph
Byrd, Robert C.	Humphrey	Ribicoff
Case	Jackson	Riegle
Church	Javits	Sarbanes
Clark	Kennedy	Schweiker
Cranston	Leahy	Sparkman
Culver	Long	Stafford
Danforth	Magnuson	Stevenson
DeConcini	Mathias	Wallop
Durkin	Matsunaga	Williams
Glenn	McGovern	
Hatfield,	McIntyre	
Mark O.	Melcher	

NOT VOTING—10

Allen	Huddleston	Tower
Domenici	McClure	Young
Haskell	Schmitt	
Heinz	Scott	

So the amendment (UP No. 2104) was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANOTHER MILESTONE IS REACHED

Mr. ROBERT C. BYRD. Mr. President, the Senate has just passed another milestone. Senator WILLIAM PROXMIRE of Wisconsin has answered his 6,000th—6,001—consecutive rollcall vote in this body. He not only completed 6,000, but he is one vote on his way to the 7,000th.

I add that not only is the accomplishment of this feat noteworthy; it is characteristic of the career of one of the most dedicated public servants in the Senate. I congratulate Senator PROXMIRE on achieving this record today, and I thank him for his conscientious attention to all his duties among us.

Senator PROXMIRE was elected to the Senate in 1957. Over the 21 years that he has represented the citizens of Wisconsin in Congress, WILLIAM PROXMIRE has forged a solid legislative record as a champion of pragmatism, thrift, and service by the Federal Government. In election after election, he has won the increasing support of the voters of Wisconsin, as they have expressed their appreciation to him for the caliber of his representation and leadership in the Senate. Moreover, his tenacity and dedication to principle have won him wide admiration and respect throughout this Nation.

A native of Illinois, Senator PROXMIRE adopted Wisconsin as his home State after earning academic degrees at Yale and Harvard, and following a valuable career in the U.S. Army during World War II. He subsequently worked as a reporter and political analyst for a Madison newspaper, and was elected to the State assembly in 1950.

Senator PROXMIRE is widely known for his personal commitment to physical fitness and for presenting the Golden Fleece Awards. But he is winning added respect among his colleagues and the citizens of this Nation for the meticulous skill that he has brought to his chairmanship of the Committee on Banking, Housing, and Urban Affairs. He exemplifies a devotion to duty in the attention that he gives to issues great and small. Further, he realizes that, too often, otherwise good programs fail because of a lack of attention given to determining the details of their implementation. No one knows how much money and frustration Senator PROXMIRE has saved the citizens of this country through the exercise of his keen powers of analysis and the application of his broad practical experience in the fulfillment of his Senate duties.

Mr. President, it has been a pleasure for me to serve in the Senate with Senator PROXMIRE during the past two decades.

And I thank the people of the beautiful State of Wisconsin for sharing two of their finest resources with us by sending WILLIAM PROXMIRE and GAYLORD NELSON to represent them in the Senate.

This record of 6,001 rollcalls is an all-time record. Even though we may live to see the millennium it will never be equaled, in my judgment.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I wish to finish my statement.

[Laughter.]

Mr. PROXMIRE. Be my guest.

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. PROXMIRE. May I say the last part of the Senator's speech was magnificent, one of the best speeches I heard in many, many years. The first part of the speech, however, I must say did not measure up to the last.

FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978

The Senate continued with the consideration of H.R. 50.

Mrs. HUMPHREY obtained the floor.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Minnesota yield me 2 minutes?

Mrs. HUMPHREY. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a 2-minute time limitation on the CETA conference report, which I am about to submit.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS OF 1978—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on S. 2570 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2570) to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 11, 1978.)

Mr. NELSON. Mr. President, the conference was handled by the Senator from New Jersey (Mr. WILLIAMS) and the Senator from New York (Mr. JAVITS). If Senator JAVITS wishes to make a comment, I yield to him.

Mr. JAVITS. Mr. President, I urge my colleagues to give their strong support to the conference report on the Comprehensive Employment and Training Act.

The bill the Senate conferees bring back from the conference is in its concept essentially as the bill passed by the Senate on August 25. Considerable changes are to be effected in the CETA program as a result of the conference agreement. In general, eligibility for participation in CETA programs—both job and training positions—will be limited to those who are economically disadvantaged and who are the long term unemployed. In both titles II and VI, special consideration will be afforded for those who are on public assistance.

Most importantly, the conferees have agreed to establish in title II, part D, a new targeted employment program, called "Transitional Employment Opportunities for the Economically Disadvantaged." This new program will be targeted on the hardest to employ and upon those areas of our country which suffer most severely from the problem of endemic structural unemployment; $3 billion is the authorized level in fiscal year 1979 for the new part D program which will, for the first time, couple training and employability development with public job positions. This is why the emphasis is placed upon transitional employment opportunities. The intent is that the structurally unemployed are to be moved from unemployment to unsubsidized employment as a result of their participation in this title II–D program.

The CETA bill that I introduced in January of this year provided for the same clear distinction between employment programs for the structurally unemployed and those for the cyclically unemployed as does the agreement we bring back from the conference. We estimate that some 325,000 transitional employment opportunities will be available as a result of the $3 billion authorization provided in the bill for part D. It has been my feeling for some time that the key to solving the unemployment problems of the economically disadvantaged was through the provision of a job program that was coupled with needed training, so that instead of make-work for the poor we would have work-study; work-training that would move the unemployed to economic independence and human dignity.

The conference agreement for title VI would provide for a countercyclical pub-

lic service employment program which would provide employment positions for those unemployed during periods of less than full employment. Senate conferees agreed to the trigger provision included in the House bill which would trigger up and down the authorized number of public service job slots as the national unemployment rate rises and falls. Under the conference agreement, Federal jobs will be authorized for 20 percent of the unemployed above 4 percent unemployment.

At my urging the conferees agreed to change the trigger rate if the unemployment rate exceeds 7 percent. Thus, jobs would be authorized for 25 percent of the unemployed above 4 percent unemployment when the unemployment rate exceeds 7 percent. On this basis, at 5 percent unemployment, 200,000 jobs would be authorized; at 6 percent, 400,000 jobs; at 7 percent, 600,000 jobs. At 7½ percent unemployment, 875,000 jobs and, at 8 percent, 1 million jobs. The conferees recognized, therefore, that the 20 percent target was adequate when the unemployment rate was under 7 percent. Above 7 percent we are in an entirely different and very severe labor market situation, and this justifies a higher standard: one which authorizes public service jobs for 25 percent of the unemployment above 4 percent.

The decision by the conference will insure that a number of public service jobs are available for the unemployed when they are needed most, to wit: During periods of serious economic distress.

I might add at this point, Mr. President, that the conference agreement respecting the distinction between the title II transitional employment program and the title VI countercyclical employment program was based upon a compromise package that I put forward during the conference. Under the provisions of that compromise package title II–D remains essentially as in the Senate bill, except that minimum percentage amounts are mandated for training in fiscal years 1979 through 1982 and that we provide that not more than 60 percent of the total appropriation for title II can be used for title II–D purposes.

With respect to the title VI program, the conferees agreed in principle with the House provisions, except that eligibility would be for those unemployed 10 of the last 12 weeks or on welfare, which was in the Senate bill, and that special consideration would be provided for public assistance recipients, which was also in the Senate bill.

Mr. President I wish to discuss briefly the formula on money authorizations which was agreed to by the conferees on the basis of a proposal which was put forward with the Senator from Wisconsin (Mr. NELSON). The conferees agreed that for title II, parts A, B, and C—the training component—in fiscal year 1979, funds will be allocated on the basis of the formula for the training part included in the Senate bill, to wit: 50 percent on the basis of prior year funding; 37½ percent on the basis of total unemployment (annual average); 12½ percent on the basis of the number of low income adults. In fiscal year 1980 and beyond, for the title II training provisions, the House bill approach will be followed, to wit: 66⅔ percent on the basis of the above factors; and 33⅓ percent on the basis of the number unemployed in areas of substantial unemployment.

For title II–D, the transitional employment opportunities program, the formula will be as included in the original Senate bill, except for a modification proposed by Congressman PERKINS to include a low income adult factor. Thus, the four factors will be divided into four equal parts as follows: 25 percent, total number of unemployed (annual average): 25 percent, excess number of unemployed over 4½ percent (annual average); 25 percent, number unemployed in the areas of substantial unemployment (high 3 consecutive months basis in fiscal year 1979, annual average thereafter); and 25 percent, number of low income adults.

For title VI, the conferees agreed to the provisions of the House formula, which are: 50 percent, total number unemployed (annual average); 25 percent, excess number unemployed over 4½ (annual average); 25 percent, number unemployed in the areas of susbtantial unemployment (high 3 consecutive months basis in fiscal year 1979, annual average thereafter).

The definition of an "Area of Substantial Unemployment," therefore, will be as in the Senate bill, to wit: high consecutive 3 months in fiscal year 1979, annual average thereafter. The only exception to this will be for purposes of title II—parts A, B, and C, (training), where the ASU will be defined on the high 3 consecutive months basis for the life of the bill—4 years. The annual average basis for defining ASU will be used for calculating allocations after fiscal year 1979, therefore, for programs under title II—part D and title VI. Of course, the annual average basis will be used for calculating all other formula factors in the bill—total unemployed, excess unemployed, etc.—beginning with fiscal year 1979 and continuing through 1982.

Mr. President, I am especially gratified that this legislation also incorporates a separate bill embodying authority that I believe to be of great importance in helping to bring about a new era of cooperation between labor and management. This bill, the Labor-Management Cooperation Act of 1978, was adopted unanimously by the Human Resources Committee, accepted by the Senate, and agreed upon by the conferees.

This act amends the National Labor Relations Act (NLRA) to authorize the Federal Mediation and Conciliation Service (FMCS) to encourage and assist joint labor-management cooperative committees established at the plant level and on an area and industry-wide basis. This bill is a modification of an earlier bill, S. 533, which I introduced in the Senate and which was introduced by Representative LUNDINE in the House. That bill was previously reported favorably by the House Banking Committee.

There is a growing recognition that labor-management committees, dozens of which now operate successfully across the country, can bring a new and important dimension to labor-management relations. Such joint committees can do much to enlarge the community of interests between workers and management and assist both in recognizing mutually beneficial solutions to common problems. They can constitute an enormously useful form for addressing problems such as alcoholism and drug abuse, work hazards, obsolescent job skills, and production bottlenecks, and can help to improve communications by establishing a dialog between labor and management.

The Labor-Management Cooperation Act offers a practical framework to involve workers more directly in developing solutions to problems encountered in or affecting their work environment. Genuine worker participation is fundamental to greater utilization of our human resources which must be achieved in the face of rising costs, energy and material shortages, greater foreign competition, and increasing technological sophistication. Improving the quality of working life in this context can mean real advantages to workers and management alike and the U.S. economy as a whole.

Joint labor-management committees can also help to improve the labor-management climate in a particular area and thus contribute to the process of regional economic development. This has been our experience in New York, where the Jamestown Area Labor-Management Committee has been cited as a major factor in the reversal of a decade-long period of economic decline. The Jamestown experience is not an isolated one. The recent Commerce Department funded report of the Academy for Contemporary Problems, "Revitalizing the Northeastern Economy," contains many references to the importance of labor-management committees. In the chapter entitled "Perfecting Northeastern Labor Markets," the authors point out:

> The survey found strong sentiment among business and labor for a regional "umbrella" leadership organization of top labor and business leaders under whose sponsorship, a wide range of cooperative activities in the interest of both parties might be undertaken.

The Federal Mediation and Conciliation Service is in a unique position to administer Federal involvement in such a program, in both the private and public sectors. The FMCS has long and extensive experience in assisting labor-management committees. Equally important, it has in place a network of trained mediators who enjoy the confidence of labor and management representatives across the country. The daily involvement of the Service and its field staff in labor-management negotiations sensitized it both to the importance of protecting the collective bargaining process from encroachment and to the need

for alternatives to collective bargaining for exploring common problems of labor and management.

The Labor-Management Cooperation Act incorporates proper safeguards for the integrity of the collective bargaining process. By its terms assistance to labor-management committees at the plant level is authorized only where employees of that plant are represented by a labor organization and where there is a collective bargaining agreement in effect. Similarly, the FMCS is to provide financial assistance to labor-management committees established on an area or industry-wide basis so long as labor organizations which represent employees of participating employers are included among the participants. Employers whose employees are not represented by a labor organization may also participate in such area or industry-wide labor-management committees.

It is thus the purpose of this act to permit assistance to such committees whose membership is compromised of both organized and unorganized employers. However, in this respect section 8(a)(2) of the National Labor Relations Act must be borne in mind and care must be taken to be sure that no labor-management committee activity will provide any efforts of employers intended to bring about actual domination or control of any labor organization or interfere with any rights protected by the NLRA.

Mr. President, the Comprehensive Employment and Training Act and conference report deserves strong support of all of our colleagues. We have made substantial improvements in the current law to deal with the problems that have plagued this program recently. I believe we will have a vastly improved CETA program targeted on the people and areas of our country that are in greatest need of employment and employability development assistance. CETA will not be a make-work program; CETA will not a job development program. Training, which has always been my biggest interest, will be an integral part of the job development programs that occur in CETA in the next 4 years. I am confident it will work and that this bill will represent a major endeavor in dealing with the scourge of unemployment that is so deeply disturbing to us all.

I commend the conference report to the Senate.

As I say, Mr. President, the fundamental concept of the Senate bill was followed by the conferees. The salient factor was that we would apportion the public service jobs to the unemployment situation, and we continued, therefore, the old target of 20 percent of unemployment until unemployment got to 7 percent. In that case above 7 percent, it was upped to 25 percent of the unemployed above 4 percent.

The only other point was that the view of the Senate was accepted respecting training, which becomes a heavy component of what is done, and for the first time we effectively separated the structurally unemployed, including many youth and minorities, from the cyclically unemployed, which separation is represented in the so-called title VI of the bill.

There are many other very important details in this large bill, but I think I have given the Senate the fundamental thrust of what divided us, and how we compromised.

Mr. BELLMON. Mr. President, will the Senator yield me 1 minute?

The PRESIDING OFFICER. All time on the conference reports has expired.

Mr. JAVITS. I yield the Senator from Oklahoma 1 minute on the bill.

Mr. BELLMON. Mr. President, I have been convinced for sometime that we must redirect CETA away from so-called countercyclical jobs to services for those most in need of employment and training assistance, and I congratulate the conferees on the success they have had in moving in that direction.

As overall unemployment declines, CETA should increasingly serve the structurally unemployed—the hard core, minority youth, and welfare recipients. The bill before us, Mr. President, will largely accomplish that redirection.

When the Senate passed S. 2570, I offered an amendment to tighten eligibility in the CETA program. The tighter eligibility rules the Senate adopted—when my amendment was accepted—are preserved virtually intact in this conference agreement.

The conference report also preserves the hard work of the Human Resources Committee—and the Senate as a whole—in dealing with the issue of fraud and abuse in the CETA program. This bill will require tighter management controls, and impose stiff penalties on those who would operate outside the law and the regulations.

As a result of this bill and the appropriations decisions we are making this week, the CETA program will be more effective than in the past, even though the overall level of CETA public service jobs will be smaller than it has been in the recent past.

Finally, Mr. President, this conference agreement places a high priority on placement in private sector employment for those whom the program serves. We must be concerned about jobs for people—when they leave the CETA program—and we all know that most jobs are in the private sector. This bill will result a much higher emphasis on private sector involvement in CETA and I believe that bodes well for the future.

Again, Mr. President, I want to congratulate the conferees. Their task was not easy, but they have done well. I am pleased to be able to support the CETA reauthorization in this bill.

● Mr. STAFFORD. Mr. President, as a member of the Human Resources Committee, I strongly recommend to the Senate the passage of the conference report on S. 2570, which extends the Comprehensive Employment and Training Act for another 4 years.

The members of the committee and the Senate listened carefully to the criticisms and assessments that were made of CETA and we have acted to improve the program in response to those criticisms. Penalties for fraud have been tightened; the emphasis has been shifted from public service employment to improved training. This will enable participants to advance themselves into permanent employment in the private sector as well as into regular, traditional government jobs.

The managers of the legislation have described it fully. However, I do want to express my great satisfaction over the special emphasis which the new design of CETA gives to the problems of young people.

The scattered programs targeted on youth in the existing CETA have been brought together under one title—title IV—of S. 2570.

I have an author's pride particularly in regard to subpart 2, part A, of title IV. This is the section authorizing Youth Community Conservation and Improvement Projects. The particular beneficiaries of this provision are young persons aged 16 to 19 who are unemployed. All benefit under this provision: the young people who are given work and good training; their communities who benefit from the practical work done to renovate public buildings, improve public lands, provide insulation and other weather protection for the housing of poverty-level citizens; and the taxpayer whose investment in these young people of high school age will be rewarded by the training of good citizens capable of public treasury.

I am glad that my colleagues agreed with me not to place an incomes limitation on the eligibility of participants. Other portions of the youth programs are targeted on the poor. This section I designed to cope with the particular problems of high school dropouts, especially in our more rural communities. This social problem cuts across all economic lines. In rural areas, the income disparities among this group are not likely to be very great anyway.

So, Mr. President, we have tightened, and improved CETA. I recommend it wholeheartedly to my colleagues and, although I am a member of minority, am confident in giving the Senate my assurance that the Committee on Human Resources will be maintaining close oversight throughout the continued life of CETA.●

● Mr. CRANSTON. Mr. President, I am pleased to support the conference report on the Comprehensive Employment and Training Amendments of 1978.

This measure, which is based on a proposal submitted by the administration in February and which I was pleased to cosponsor in the Senate as S. 2570, would revise and reauthorize for 4 fiscal years—through fiscal year 1982—the Comprehensive Employment and Training Act of 1973 (CETA), as amended.

Mr. President, CETA, is an integral part of this Nation's employment strategy. In its first 5 years of operation, it has served literally millions of persons in need of jobs and job-training assistance. This reauthorization measure has been carefully developed and designed to provide for the continuation of this valuable initiative that attempts to meet the employment needs of economically disadvantaged, unemployed, and underemployed individuals through a wide variety of employment and training oppor-

tunities administered primarily by those most familiar with local needs.

GENERAL BACKGROUND

Mr. President, before I discuss particular provisions of the conference agreement now before the Senate, I would like to make some general comments about the measure.

First, and most important, this measure is much tougher and stricter in some respects than the original 1973 amendments; the 1974 amendments, which added the title VI public service jobs program; and the 1976 amendments which expanded the title VI program and added "targeted" public service jobs—a provision which I authored.

Mr. President, new provisions—some of which I will briefly outline in a few moments—will serve to curb some of the abuses that have, unfortunately, occurred in the implementation of the program in the past.

Clearly, Mr. President, the individual success stories made possible as a result of CETA largely outweigh—in human terms—those abuses that may, in some cases, have been distorted out of proportion and may not be as widespread as they appear. But those of us responsible for making the law cannot close our eyes to the abuses and problems that have occurred. The people of California, in approving proposition 1^, have told public officials that fat, fraud, waste, and unresponsiveness in Government must be cut out.

That is precisely what we have tried to do in designing this extension legislation. Certainly, there are a number of provisions in this bill that will not be popular with those who administer and are responsible for local programs. Some provisions in this bill will drastically change the nature of the program, will place restrictions on participation and eligibility that never existed previously, and will set ceilings on wages that never before were limited.

But, Mr. President, I firmly believe that if compassionate people in Government—especially those of us in Congress—are unable or unwilling to cut the fat, fraud, waste, and unresponsiveness, then others who care nothing about the needy or about programs to meet their needs, will rush in to cut the muscle and the good things in Government right along with the bad. There is so much of value in the CETA program that it is imperative that we deal honestly and constructively—as this bill does—with the problems and take action to preserve the integrity, cost-effectiveness, and purpose of CETA: To serve those who need society's help and can benefit from training and employment programs.

Second, Mr. President, we have tried to coordinate in this bill the administration of the program at all levels. CETA has developed rather like a "patch-work quilt." First, there was the Comprehensive Employment and Training Act of 1973. Then, as the Nation moved toward a recession, the Emergency Jobs and Unemployment Assistance Act of 1974. In 1976, as the recession deepened, we enacted the Emergency Jobs Programs Extension Act of 1976. In 1977, because of the new administration's need to examine the program, we extended it for 1 year by enacting the Comprehensive Employment and Training Act of 1977—a simple 1-year extension. Finally, last year, in a major new spirit of commitment to the unemployment problems of our Nation's youth, we had the Youth Employment and Demonstration Projects Act of 1977. After 5 years, the resulting statute is unnecessarily complicated and, in many cases, a duplicative maze of provisions—further complicated by regulations implementing the law—that do little to enhance effective administration of the program at the local level.

What we have tried to do in revising the legislation is to try to make the program more manageable for responsible local officials and those who are involved with CETA at all levels by eliminating unneceessary paperwork and reporting requirements; standardizing criteria for the programs; consolidating and clarifying provisions applicable to the entire act in a new title I; and incorporating new complaint and sanction provisions for prime sponsors. In addition, we have more clearly defined the distinction between services for structurally and cyclically unemployed persons.

These improvements should make the administration of the program more effective, more responsive, and less complicated. In so doing, unnecessary redtape and regulations which are both costly and frustrating for those associated with the CETA program should be reduced.

DESCRIPTION OF BILL

Mr. President, I would like to outline a number of provisions of the bill which I believe are noteworthy.

COMPREHENSIVE EMPLOYMENT AND TRAINING SERVICES

Since all administrative and general provisions have been consolidated into a new title I, programs previously conducted under that title would be conducted under a new title II—comprehensive employment and training services. The valuable initiatives now carried out by prime sponsors such as job counseling, skill training, work experience programs, OJT, and countless others, will now be conducted under title II–B of the act. We have tried to strengthen provisions that would serve more effectively the needs of disabled individuals, older workers, and youths.

A new title II–C—upgrading and retraining—would, for the first time, permit prime sponsors to provide financial assistance to public and private employers for the costs of occupational upgrading programs. This new initiative is designed to serve individuals in entry-level positions or in jobs with little or no opportunity for advancement.

Title II–D is one of the two public service job divisions in the bill. This program of public service employment would serve those individuals who are structurally unemployed, that is, those who are, primarily because of lack of skills and experience, unlikely to be able to compete effectively in the labor market. Jobs under this part would be coupled with appropriate training and supportive services to enhance the future employability of participants.

SPECIAL FEDERAL RESPONSIBILITIES

Mr. President, title III of the bill, special Federal responsibilities, would revise the current title III which authorizes the Secretary to use funds, at his discretion, to meet the employment-related needs of persons who face particular disadvantages in the labor market. The new provisions would retain the authority of the Secretary to conduct special programs for persons with limited English-language proficiency—a provision which I authored in the original 1973 act. In addition, it retains the authority for Native-Americn and migrant and seasonal farmworker programs—two initiatives which are of longstanding concern to me.

DISPLACED HOMEMAKERS

The measure also adds a new authority that I authored in the Senate which will require the Secretary to fund programs which provide employment opportunities and related training and support services for displaced homemakers. The language of the provision is based upon an amendment I introduced to S. 2570—amendment No. 1716 to S. 2570—on March 9, with the cosponsorship of Senators BAYH, RIEGLE, HATHAWAY, ANDERSON, and MCGOVERN. The provisions of my amendment were derived from legislation which had been sponsored by Senator BAYH and 21 others early in the 95th Congress as S. 418, the proposed Displaced Homemaker Act.

Mr. President, in September 1977, the Subcommittee on Employment, Poverty, and Migratory Labor held 2 days of hearings, chaired by Senator RIEGLE, on the needs of displaced homemakers. During those hearings, testimony was presented that showed displaced homemakers—individuals in their middle and older years who have been absent from the labor force and have been working in the home for a substantial number of years—have unique needs and difficulties when they find themselves "displaced" from their family role as a result of the death of a spouse, a divorce, or the disability of the primary wage earner.

These individuals suddenly find themselves thrust into the job market and facing special problems in trying to enter the workforce and become economically self-sufficient. They are often ineligible for social security benefits either, because of age or the 10-year marriage requirement. They are ineligible for Federal welfare, because they are neither aged, disabled, nor have children under 18 years of age. They are ineligible for unemployment insurance, because they were engaged solely in unpaid labor in the home. They are ineligible, in many cases, for jobs targeted for "older workers"—those over 55 years of age—because they fail to meet the income criteria or may be too young.

While the exact number of displaced

homemakers cannot be pinpointed, Mr. President, recent census data shows there are more than 3,164,000 widows, aged 35 to 64 and 2,435,000 divorced women. In the past decade, female-headed households have grown 10 times as fast as two-parent families. Statistical evidence indicates that women are entering the labor force in increasing numbers for basic economic reasons. Women, particularly older women, are often ill-prepared to enter the job market. If they do breach the barriers of age and sex discrimination, they are still likely to be employed at low-level occupations that provide only marginal income. This cycle can be broken only by supplementing the inadequacies of earlier education and training and their lack of recent work experience with counseling, training, and job programs designed to provide better-paying opportunities.

Mr. President, it is clear that these women have skills that can be transferred to the paid-work environment. Providing a means for them to become employed contributes to tax revenues at all levels, may save welfare costs, and addresses a vital community need. But the displaced homemaker needs to gain self-confidence, before she can be prepared for employment. She needs to be shown that her years as a homemaker have produced skills which can be transferred to a paying job. She needs "job-readiness training" as well as job training.

I believe that increased assistance and service to this identifiable segment of the population is needed. The participation of women in CETA has been historically low and it is suspected—although there are no firm statistics to confirm this—that when women are served, they tend to be younger, and consequently easier to place. In addition, it is likely that women are generally placed in jobs or job training slots traditionally held by female workers—such as clerical or secretarial opportunities—rather than developing more nontraditional jobs for these women. The special needs of these displaced homemakers—particularly for identifying and enhancing those skills they have acquired in the home and translating those skills to experience of value in the labor market—require more time and individualized attention than is generally available under programs operated under other titles of CETA.

Mr. President, the Subcommittee on Employment, Poverty, and Migratory Labor heard testimony during the CETA reauthorization hearings from both Arthur Flemming, Chairman of the U.S. Commission on Civil Rights, and Tom Bradley, of the Employment Task Force of the Ad Hoc Coalition of National Organizations Concerned With Older Americans, pointing out the very low levels of service presently being provided under CETA to older workers—particluarly older women. Specifically, Dr. Flemming noted:

> The Comprehensive Employment and Training Act Training and Public Service Employment Programs restrict participation of older persons because these programs rely for their "success" on the public and private employment markets, which often discriminate in employment on the basis of age, and which often maintain compulsory retirement policies which encourage discrimination in employment on the basis of age.

In addition, a study by the Women's Equity Action League on the job-related problems of women over age 40 found that from January to November 1975, out of 14,284 participants under the CETA title I programs, only 3 percent were older workers, either male or female, over the age of 40. The report also found that while 13 percent of those running CETA programs considered older women in a positive way, 73 percent either had no contact with them or described them as people very difficult to place in jobs after training.

Mr. President, the provisions establishing the displaced homemaker program have been developed so as to focus primarily on the employment aspects of the problem and to enhance the employability of those it is designed to serve. However, this does not mean that other, more general training and support services would not be provided. These services are an integral part of making permanent placements of these individuals in meaningful and productive jobs that will substantially improve their lives and livelihoods.

In addition, the program is designed to avoid duplication of existing services and initiatives in the community. I believe these projects can function best if they are a well-integrated component of the larger structure and take maximum advantage of available community resources. Thus, the provision gives the Secretary great flexibility in determining who will run projects—prime sponsors, public agencies, or private nonprofit organizations. In this way, the Secretary can determine—based on the merits of each applicant through a competitive process—what the best structure is for the community being served. I believe the Secretary should consider funding projects run by a mix of entities—experimenting to see which are more successful and applying that experience in making subsequent funding decisions.

However, Mr. President, recent experiences in dealing with the employment problems of displaced homemakers has demonstrated great success through the establishment of displaced homemakers centers, such as the one in Baltimore, Md. The Maryland Center, open since 1976, has served close to 400 persons, 90 percent of whom now have incomes under $6,000 a year. Those who have run this successful program feel that its effectiveness has been due in no small part to the fact that it is a centralized place where the displaced homemaker can obtain a variety of services.

In addition, the experience in my own State of California, largely through the Alliance for Displaced Homemakers, is of particular interest. The first project of the alliance was to work for enactment of California legislation, S.B. 825, the Nation's landmark displaced homemakers bill—which was introduced in the California State Senate on April 10, 1975. It called for setting up one multipurpose center geared to meet the needs of older women who had found all existing programs ineffective and particularly deficient in job placement. The bill called for testing a theory of creating new jobs within communities—jobs that would fill unmet community needs. A provision for a well-women health clinic was added, since preventive care during middle year cuts down the incidence of illnesses often termed chronic in old age.

The California 2-year test program was to be funded for a total of $200,000, a figure based not on experience, since there was no precedent for this innovative legislation, but on the practical "we'll make do" philosophy of these former homemakers who had dealt with tight budgets all their married lives.

S.B. 825 was passed in California by a nearly unanimous decision in each of the committees, by a large majority in the assembly, and unanimously in the full senate. In 121 working days after its introduction, S.B. 825 was signed by Governor Brown on September 25, 1975.

On May 15, 1976, the first center opened on the campus of Mills College in Oakland, Calif. The average age of women served by the center is 52. Workshops such as money management, skills assessment, divorce counseling, assertiveness training, and job hunting are offered.

Women who have found employment through the Mills College program include a divorced woman who is developing a job for herself as a lay advocate guiding persons going through divorce, a twice-widowed woman who has an internship at a gerontology institue, a woman with mechanical skills who is now apprenticed to a printer, and a woman, 65, who is a community worker in the California Department of Social Services.

Since the start of the Mills College program, displaced homemakers legislation has been introduced in 28 State legislatures. However, there are now still only about 10 operating programs throughout the country.

Mr. President, the conference agreement contains a set-aside of 2 percent of title III funds for the establishment of a displaced homemaker program. In addition, Assistant Secretary for Employment and Training Ernest Green, during full committee consideration of the legislation, indicated that the Department plans to make available $5 million in fiscal year 1979 for funding displaced homemaker programs, including some multipurpose centers.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point the committee transcript of the exchange that occurred between members of the committee and Assistant Secretary Green on May 11.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

Assistant Secretary GREEN. Mr. Chairman, the Administration wants to make it known that the Employment Training Administration, in connection with the Women's Bureau, is in the process of setting up a task force and we will make available next year out of discretionary money amounts in the amount of $5 million to run demonstration projects. This would be title III funding. We expect that this will be both demonstration projects as well as offering technical assistance to the private funds activities in funding these programs.

Senator NELSON. You have set it up?

Assistant Secretary GREEN. We have set up a special task force in the Department.

Senator NELSON. What is the function?

Assistant Secretary GREEN. The function is to coordinate the title III programs in this category and monitor them as well as to the members of the prime sponsors.

Senator CRANSTON. What use will the Department make of multipurpose centers?

Assistant Secretary GREEN. We have not selected the programs that will operate. We would expect some of them would request funding and we look forward to supporting them.

Mr. CRANSTON. Mr. President, I want to point out that, although the measure does not set certain age requirement or give priority to individuals over a certain age, the Committee on Human Resources does believe that the needs of older individuals are particularly acute. The committee stated on page 32 of its report—Senate Report No. 95-891—that in implementing the program:

The Secretary should take into account and give special attention to the needs of older women who are displaced homemakers. The Committee did not wish to deny access to any displaced homemaker solely on account of age. However, it is particularly concerned about the needs of all individuals in their middle-years who are experiencing unique difficulties in gaining access to the labor market because of age. In this regard, the Committee expects that, in prescribing regulations pursuant to section 301(b), the Secretary will recognize the special problems which may be associated with age, luck of education or training, household support obligations, and prospects for employment.

Mr. President, I hope also that in addition to the establishment of a displaced homemaker program under title III, this segment of the potential labor force is designated in title I for special emphasis in programs conducted by prime sponsors under all other titles of the act. In this regard, it was our intent that opportunities under title III will supplement, and not be in lieu of, activities to be made available for displaced homemakers by the prime sponsors.

YOUTH PROGRAMS

Mr. President, title IV of CETA as revised by this extension would pull together a number of existing authorities designed to meet the employment needs of youth.

Included in this title are the provisions of the Youth Employment and Demonstration Projects Act of 1977 (Public Law 95-93) enacted last year. At that time, it was designed only as a 1-year program that would give us a base of experience upon which to build an effective program for youth. However, due to a number of factors—including enactment of the measure only last August—the implementation of the new authorities was slower than anticipated and, even though almost 230,000 youths are currently enrolled in programs under the new law, we have extended the program for an additional 4 years with slight modifications. In this way, we will be able to examine the results of experiences and learn from the successes and failures of the program so that the Congress can undertake to develop quality legislation in this area.

Mr. President, I would like to make special note of section 439 of the conference report. This provision represents an amendment which I was pleased to cosponsor in committee with the distinguished junior Senator from California (Mr. HAYAKAWA) and Senator HATCH. It would require the Secretary of Labor to carry out a demonstration program to test, in not more than 10 areas throughout the United States, the efficacy of providing incentives for private industry to establish additional employment opportunities for youths who do not have significant previous employment experience.

The authority will allow the Department of Labor, through the prime sponsor system established by CETA, to test the concept of wage subsidies for youth—an idea which has been largely rejected in recent years as unworkable based on experiences in the early 1960's. However, its value in the significantly different labor market of today has not been fully explored.

The highlights of the provisions are as follows:

First, it is targeted on youths between the ages of 16 through 21 who are economically disadvantaged—with family income less than 70 percent of the BLS lower living standard—about $7,000 nationwide.

Second, the program would be tested in up to 10 areas selected by the Secretary. In selecting the areas and employers to carry out demonstration programs, the Secretary would give priority to urban poverty areas where the State or local government provide for special tax treatment for employers locating or expanding operations in such area, and to employers establishing new facilities in an urban poverty area.

Third, the "bonus," which could be as much as $2,500, would only be paid if:

First, the employer hires at least five eligible youths for not less than 1 year the Secretary, in special circumstances, could allow payment after 9 months;

Second, the employer offers each youth appropriate training, support services, and counseling;

Third, the youth is paid not less than the prevailing wage, the Federal minimum wage, or the State minimum wage, whichever is higher; and

Fourth, the jobs held by youths are in addition to jobs the employer already provides; are not in low-wage industries; provide meaningful training and employment opportunities; and do not result from layoffs of other employees.

Fourth, the "bonus" is paid to the employer only after the employer and employee successfully fulfill the requirements of the program for a year. Thus, if the program does not work, no bonus is paid.

Fifth, the program is to be coordinated with other Federal Government programs providing incentives and/or credits for hiring economically disadvantaged youths and a report is required after 3 years on the results of this program in comparison to these other programs.

Sixth, funding for the program would be from the Secretary's discretionary moneys available under the Youth Employment and Demonstration Projects Act of 1977—which would become part of title IV of CETA as a result of the reauthorization legislation. The Department estimates that about $50 million is available under this discretionary authority, some of which would be made available for this demonstration program.

Mr. President, I believe this is an important new addition to existing authorities in the law to deal with youth unemployment. The unemployment rates for minority youths in inner-city areas, despite declines in rates for national and other subgroup unemployment, are still outrageously high. In the second quarter of 1978, the rate for black youths in poverty pockets was 47.4 percent. Bearing in mind that this figure includes only those who are actually seeking jobs, and not those who have given up looking, the immense proportions of the problem are overwhelming.

This new authority should provide the Congress with additional and important experience on which to base future decisions.

Also included in title IV, Mr. President, is the authority for the Job Corps and summer youth programs, of which I have been a strong supporter.

TITLE VI—PUBLIC SERVICE EMPLOYMENT PROGRAM

Mr. President, title VI is the second part of the bill that deals with public service employment. This title is primarily designed to serve cyclically unemployed persons—those who are out of work as a result of cyclical activity in the economy. These jobs, although still required to be accompanied by appropriate training and supportive services as are those in title II-D, would probably not entail the same degree of such services.

Both titles II-D and VI—unlike current law—are "targeted" in a variety of ways that are designed to insure that services are made available to those most in need and, in so targeting, reduce substitution and abuses in the program. In this regard, Mr. President, I would like to comment on some of the specifics of the targeting provisions of title II-D and VI which are based on provisions I authored in 1976.

Under title II-D, eligibility would be restricted to those individuals who have been unemployed for 15 or more weeks or who are in receipt of public assistance. In addition, the individual's family income could be no greater than 70 percent of the BLS lower living standard

budget adjusted regionally—now about $7,200 nationwide.

Under title VI, eligible individuals would have to have been unemployed 10 out of the last 12 weeks or be in receipt of public assistance. The individual's family income could be no greater than 100 percent of the lower living standard budget.

In addition, Mr. President, the length of an individual's participation in either titles II-D or VI would be limited to 18 months. However, the Secretary is empowered to provide temporary extensions of this time—for up to 12 months—in those areas where unemployment rates exceed 7 percent.

Mr. President, I am hopeful that these expanded targeting provisions will help to deal with the problems of abuse and substitution that have occurred in the past.

The reauthorization legislation will require that at least 50 percent of the jobs provided under title VI be in projects of no more than 18 months duration. Importantly, however, the measure makes provision for the renewal of worthwhile projects that the prime sponsor may, after review, determine are effective and need to be continued.

I should like to make special note, Mr. President, that the Senate was able to prevail in conference with respect to the provisions relating to contributions to retirement funds for CETA participants. Thus, the measure permits a distinction within a job classification between public service employees and regular employees for purposes of the participation in retirement plans and provides that equal treatment for CETA employees shall not be deemed to require contributions to a pension plan.

Furthermore, the measure provides that, effective July 1, 1979, no funds under CETA may be used for a contribution to a retirement plan unless the contribution bears a reasonable relationship to the cost of providing benefits to participants.

This is, I know, a long-awaited resolution of this issue. I am hopeful that, upon enactment, States—like my own State of California—will move promptly to make the necessary modifications in State law in order to comply with this provision.

TITLE VII—PRIVATE SECTOR INITIATIVES

Under a new title VII, Mr. President, the conference measure will add a new authority for an innovative concept designed to develop a cooperative relationship between prime sponsors and the business community through the establishment of private industry councils—PIC's. The PIC's would be established by the prime sponsors and would be composed of local business, industry, labor, and community representatives. This new undertaking is intended to help shift the emphasis in aiding unemployed persons from subsidized public sector jobs to employment in the private sector. The program would encourage private business organizations to take advantage of public funds for hiring and training persons in private sector jobs.

I am generally pleased with the conferee action in this regard. It is imperative that we seek to find ways of creating more jobs in the private sector where five out of every six jobs are located. The ties between CETA and private enterprise must be strengthened, and I believe this title holds great promise for doing so.

My only reservation with respect to this title is the composition of the PIC's. In committee, I offered an amendment to mandate representation of those who are served by this program on the PIC's because I believe that input from them would be important in designing initiatives under this new concept. However, the committee did not accept this mandate but, instead, adopted language that allows representation of persons eligible to participate in activities under the new title. This provision is reflected in the conference agreement.

Additionally, the conference agreement incorporates my amendment that requires the chairpersons, or a designee, of the prime sponsor's planning council to serve as an ex officio, nonvoting member of the PIC and the chairperson, or a designee, of the PIC to serve in the same capacity on the planning council. This is intended to provide for a substantial cross-fertilization between these two entities resulting, I hope, in an effective partnership to develop and carry out successful private sector programs that will enhance the transition of CETA participants into unsubsidized jobs.

Mr. President, because we believe it will be necessary to review the experience of this program prior to 1982, the authority for title VII is only a 2-year authority. I expect to be watching the implementation of this program carefully to see what, if any, adjustments and improvements may be needed, including improvements in the composition of the PIC's.

PAPERWORK AND REPORTING REQUIREMENTS

Mr. President, during the CETA conference, I raised the difficulties posed by a series of provisions dealing with paperwork, generally. As a result of my efforts, the conferees made a number of modifications from a tentative conference decision reached at the outset.

First, rather than having both a requirement that each prime sponsor submit in its annual plan its proposed budget for the program year, a detailed summary of expenditures made during the preceding year, results achieved, and changes made in the annual plan for the program year, plus a requirement that each prime sponsor also include a list of the specific contracts from the previous year with those institutions providing training programs, including information on the rate of job placement for those who have completed such programs, these two provisions have been merged into one requirement.

Second, rather than both requiring from each prime, on an annual basis, a description of the number of handicapped individuals who were served during each of the preceding 2 years, the types of training or employment in which they were placed, and the number of such individuals who were moved into unsubsidized employment, as well as requiring the Secretary in each annual report to include an evaluation of the conduct of and achievements in outreach, training, placement, and advancement practices with respect to handicapped individuals over the past 3 years, the conference measure would require these data on an annual basis from the prime sponsors, without reference to prior years, and that the report of the Secretary would compare only 2 years experience. This eliminates the submission of a lot of duplicative paperwork but still, I believe, allows us to make a clear assessment of where CETA stands with respect to services to handicapped individuals.

Let me digress at this point to make another point about handicapped individuals. At my suggestion, the conference report retains the definition of "handicapped individuals" passed by the Senate. That is, "handicapped individual" means any individual who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment.

This is, I believe, significant since the House provision would have added language that would have required that a handicapped individual "can be reasonably expected to benefit, in terms of employability, from services provided pursuant to this act."

Mr. President, I opposed very strongly the additional standard which handicapped individuals would have been required to meet under the House language. As I interpreted that provision, a handicapped individual, in addition to meeting other eligibility requirements, would have been required to demonstrate that he or she would have reasonably been expected to benefit in terms of employability as a result of participation in CETA.

The practical result of such requirement could have been, Mr. President, that CETA's already poor track record with respect to employment of handicapped individuals would worsen. I believe that such an additional standard created another barrier; and handicapped individuals currently have to overcome too many barriers in order to work.

If two similarly situated individuals are applying for the same position—one handicapped and the other able-bodied—under the House provision, it was quite possible that the handicapped individual would not be selected, because for him or her—but not the able-bodied—there would have been a "test" by the prime sponsor that he could reasonably be expected to benefit in terms of employability from the services to be provided.

All CETA participants should be expected to benefit in terms of employability—not just handicapped individuals. That is why I argued so forcefully in favor of the Senate definition.

Third, returning to paperwork requirements, the House-passed version of the CETA bill contained the requirement that no funds provided under this act would be paid to any nongovernmental

organization for the conduct of programs unless it has a written plan that has been reviewed and evaluated by the prime sponsor. The problem here was the impact that this requirement of a written plan would have had on the new title VII programs. I was concerned about what the private sectors' reaction would have been if—in order to participate in activities under title VII—a written plan had to be furnished to the prime sponsor, especially since the PIC must submit a plan to the prime sponsor and both the PIC and the prime must agree to it. I believe that if it is truly our intent to encourage private sector participation under this title, we ought to eliminate Government redtape. The conferees accepted my proposal that programs under title VII and other OJT programs be exempted from the requirement of a written plan and that the Secretary be directed to issue regulations for those programs with a minimum burden on the recipients.

Finally, rather than requiring a report four times a year from the Secretary—in consultation with OMB—on efforts being taken to reduce paperwork and reporting, the conferees agreed with me that this report be submitted only once a year. In addition, the measure gives the Secretary the authority to combine reports the Department is required to make where feasible.

VETERANS PROVISIONS

Mr. President, I would now like to turn to a discussion of the provisions in this conference report that will affect very directly and immediately our Nation's veterans. The measure includes a number of provisions designed to enhance the participation of qualified disabled and Vietnam-era veterans in programs conducted under CETA.

THE PROBLEM

Although the employment picture for many Vietnam-era veterans has brightened from a year ago, there still remains an unacceptably high incidence of structural unemployment and underemployment among members of this group. The continuing problems of disabled and Vietnam-era veterans seeking meaningful jobs and job training opportunities are still evidenced by the high rates of unemployment for young and young minority group veterans—12.0 percent and 23.9 percent in the third quarter of 1978, respectively—substantially higher than the national rate of unemployment of 6.0 percent during the third quarter of 1978. Although statistics are not available from the Bureau of Labor Statistics on disabled veterans, estimates of unemployment rates for severely or catastrophically disabled veterans may range well over 50 percent, according to surveys conducted by various veterans organizations. Unemployment rates for Native-American Vietnam-era veterans are also estimated to be well over 50 percent.

Thus, in continuing recognition of the serious employment problems of these individuals, the conference measure incorporates in CETA provisions to reflect and, in some cases, expand current policy and law with respect to disabled veterans—as defined in section 2011(1) of title 38, United States Code, to be 30-percent service-connected disabled—and Vietnam-era veterans under the age of 35—as defined in section 2011(2)(A) of title 38, United States Code, to be those who served during the Vietnam era, August 5, 1964, through May 7, 1975, and were discharged with other than a dishonorable discharge—with a special emphasis on those who served in the Indochina theater.

DISCUSSION OF SPECIFIC PROVISIONS

Specifically, these provisions include:

A requirement that the prime sponsor's annual, unified employment and training plan include a description of specific services for certain target groups who are experiencing severe handicaps in obtaining employment. The groups include disabled and Vietnam-era veterans. In addition, the annual plan must set forth services to be provided and the performance and placement goals (including such goals as the prime sponsor may establish with respect to any target groups).

A requirement that, with respect to public service jobs under title II and VI, prime sponsors give special consideration to disabled and Vietnam-era veterans in accordance with procedures established by the Secretary, with special emphasis on those Vietnam-era veterans who served in the Indochina theater. Special attention is to be given to the development of jobs which will utilize, to the maximum extent feasible, the skills which veterans acquired while in the military.

In addition, with respect to all public service employment and all job training opportunities under all titles of CETA, the Secretary is directed to take appropriate steps to provide for increased participation of disabled and Vietnam-era veterans, with special emphasis on those who served in the Indochina theater. Such appropriate steps would include "such employment, training, supportive services, technical assistance, and training support for community based veterans programs, and maintenance and expansion of private sector veterans employment and training initiatives as are necessary to serve the unique readjustment, rehabilitation and/or employment needs of veterans".

I believe the objective of increased participation in employment and job training programs supported under the act, can be facilitated by the implementation of the "appropriate steps" provision of the act, and the Secretary should, in consultation with the Deputy Assistant Secretary for Veterans Employment, explore new procedures and initiatives in order to meet the intent of this provision.

With respect to all CETA programs, special efforts by prime sponsors are required to acquaint disabled and Vietnam-era veterans with employment and training opportunities available and to coordinate efforts with activities under chapter 41 of title 38, United States Code, job counseling, training, and placement service for veterans.

The prime sponsors would also be required to provide appropriate arrangements to promote maximum feasible use of apprenticeship and other OJT opportunities under the GI bill provided for in title 38. This also would apply to all activities conducted by prime sponsors under CETA, including those under the new title VII, private sector initiative program. In addition, the prime sponsor's master plan, which is submitted one time, would be required to include a description of how the prime sponsor proposes to utilize OJT and apprenticeship training programs authorized by title 38. In this regard, it is imperative that the Secretary monitor closely the plans submitted by each prime sponsor to insure that congressional intent is served and that prime sponsors are fully aware of and responsive to the increased job opportunities available from this important source.

Mr. President, as stressed by the former Committee on Labor and Public Welfare in its report to accompany H.R. 12987, the Emergency Jobs Program Extension Act of 1976 (S. Rept. No. 94–833), the promotion by both the Department of Labor and prime sponsors of VA apprenticeship and OJT opportunities would be beneficial to and productive for both eligible veterans and prime sponsors. Under the VA–OJT program, an approved employer promises a permanent job to an eligible veteran upon successful completion of the OJT program. During the training program, the employer pays the veteran less than the full wage, while the VA supplements this for up to 24 months with a training allowance paid directly to the veteran, beginning for the first 6 months at $226 a month for a veteran with no dependents. The amount of the VA–OJT benefit is contingent upon the number of the veteran's dependents and the length of time the veteran has been in training.

Mr. President, in this regard, I believe this new measure provides a great opportunity to develop innovative means to serve veterans under CETA. I regard linkages with the VA apprenticeship and OJT training program with training programs developed under the private sector initiative program as particularly promising possibilities for the achievement of increased participation of disabled and Vietnam-era veterans in job training opportunities supported under the act.

The Governor's coordination and special services plan is required to include activities to assist the Secretary in carrying out responsibilities under the mandatory listing/affirmative action provisions of chapter 42 of title 38.

The Secretary is directed to consult and coordinate with the Administrator of Veterans' Affairs in carrying out all of the Department's responsibilities to veterans under CETA, specifically those relating to steps to provide for their increased participation.

Representatives of veterans' organizations are added as permanent members of prime sponsors' planning councils and State employment and training councils. Public members of the National Commission on Employment and Training Policy are required to be broadly representative of veterans, among other groups. In the membership of the VA

Administrator is continued on the Commission.

Mr. President, on each of these three entities, veterans had been added as temporary members by section 305(a)(2) of Public Law 95-93, the Youth Employment and Demonstration Projects Act of 1977. I have been very deeply concerned with the Department's lack of responsiveness in this area. Other than the issuance of regulations on September 30, 1977, to require veteran participation on State and local employment and training councils, no steps have been taken even to determine to what extent prime sponsors have complied. In addition, no arrangements have been made—more than 1 year after enactment of Public Law 95-93—for an invitation to appropriate veterans' representatives to serve on the National Commission, an entity under direct Secretarial supervision. I urge the Department to move rapidly to fulfill its statutory responsibilities under the provisions of the reauthorization legislation.

The Secretary is directed, in consultation and cooperation with the Administrator of Veterans' Affairs and the Secretary of Health, Education, and Welfare, to provide for an outreach and public information program to exercise maximum efforts to develop jobs and job training opportunities for disabled and Vietnam-era veterans, and inform veterans about employment, job training, on-the-job training, and educational opportunities under CETA, under title 38, United States Code, and under other provisions of law. In addition, the Secretary is to inform prime sponsors, Federal contractors and subcontractors, Federal agencies, educational institutions, labor unions, and employers of their statutory responsibilities toward veterans, and provide technical assistance in meeting those responsibilities. This requirement comes verbatim from section 104(b) of Public Law 93-567, the Emergency Jobs and Unemployment Act of 1974. The reauthorization measure, by incorporating this freestanding provision of law into title III of CETA as a special Federal responsibility, gives it, for the first time, a clearly defined source of funding.

Finally, the conference report retains in title IV the requirement that appropriate efforts be made to insure that youths participating in activities under the youth community conservation and improvement projects and youth employment and training programs are those experiencing severe handicaps in obtaining employment, including those who are veterans of military service.

Mr. President, the conference agreement does not contain the provision contained in section 301(d) of current law. In 1973, the Senate-passed version of the CETA legislation (S. 1559) contained an amendment I authored that included as a special responsibility of the Secretary the effective implementation of provisions of title 38, United States Code, regarding veteran's employment representatives and special employment emphasis under Federal contracts. My amendment directed the Secretary to utilize funds available under CETA to carry out fully and effectively his responsibilities under title 38, United States Code.

The conference agreement on that bill accepted the direction to the Secretary that he should carry out fully and effectively his responsibilities under the law, but the joint explanatory statement noted, that the conferees "expect the Secretary to use funds available under other statutes than CETA in carrying out his responsibilities under title 38, United States Code" (S. Report 93-636, p. 62).

Thus, Mr. President, the impact of the prior conference report was to make nugatory a provision which was designed to counter the failure of the Department of Labor at that time to assign one Assistant Veterans' Employment Representative for each 250,000 veterans residing in each State pursuant to section 2003 of title 38, United States Code, and to carry out the special emphasis—which became affirmative action in 1974—and mandatory listing requirements of section 2012 of title 38. In this regard, I note that, as of May 28, 1974, the Department had met its responsibilities under section 2003 and that affirmative action regulations promulgated pursuant to section 2012 became effective in July, 1976.

Therefore, the bill does not continue this provision.

CARTER ADMINISTRATION PROGRAM

Mr. President, a series of initiatives under the CETA authority have been undertaken to fulfill the Carter administration's commitment to address the plight of the jobless disabled and Vietnam-era veterans as a high priority. On January 27, 1977, immediately following his swearing in at the White House, Secretary of Labor Marshall unveiled a three-part program designed to help bring these veterans back into the mainstream of America's economic life.

The Department is currently conducting two parts of this program under the present CETA very broad, title III authority in current law to provide services to meet the needs of persons whom the Secretary determines are in special need: HIRE—help through industry retraining and employment—and DVOP—disabled veteran outreach program. I have been assured by the Department that the authority to continue these programs continues under the provisions of sections 301 and 305 of the conference agreement.

HIRE

Mr. President, the HIRE I program was launched by President Carter—after a delay of almost 6 months—in June 1977 to provide 100,000 private sector job and training opportunities for veterans—specifically disabled and Vietnam-era veterans—and other eligible (disadvantaged) individuals by enlisting the Nation's larger corporations to make jobs available.

There were two parts to the HIRE I program, voluntary and reimbursable. Employers who participate in the voluntary program sign a pledge indicating they will employ individuals eligible for the program at no cost to the Government. In the reimbursable portion of the program, employers receive payments from the Federal Government to cover costs associated with training of hired individuals. HIRE I has been administered as a national office program of the Employment and Training Administration, under a contact with the National Alliance of Businessmen—(NAB)—to spearhead the efforts to elicit private sector participation in the program.

To date, the reimbursable portion of the HIRE I program has met with very limited success. The Congress appropriated $140 million in fiscal year 1978 for the HIRE program to pay for extraordinary costs associated with training eligible individuals. Of that $140 million, only $40 million has been obligated for placements in the HIRE I program. On the basis of the most recent figures available—as of July 15, 1978—107,600 industry HIRE job pledges had been submitted by 842 employers under the reimbursable program. However—as of June 30, 1978—only 2,865 persons had been placed in jobs under the reimbursable HIRE I program, and of that number, only 134 were disabled veterans, and only 771 were Vietnam-era veterans. Under the voluntary HIRE program, out of a total of 62,541 persons placed in jobs, only 793 were disabled veterans, and 44,102 were Vietnam-era veterans.

In an effort to improve HIRE program effectiveness, Mr. President, the Department has made two changes: First, last fall it announced that the initial requirement that companies provide at least 100 jobs to participants was reduced to as few as 15 jobs, and a requirement that companies provide training in more than one geographic area was eliminated. Second, the Department has enlisted CETA prime sponsors in the marketing of the reimbursable through a redesigned HIRE II program. Under this approach, $90 million of current HIRE funds is being made available to CETA prime sponsors for obligation. The guidelines for the program have been significantly modified so as to improve the program's effectiveness in meeting the employment needs of veterans. Importantly, the following changes have been made:

The eligibility criteria are revised to limit the program to jobless veterans and unemployed persons entitled to veterans preference. First priority is given to disabled and Vietnam-era veterans. Two other previously eligible groups (disadvantaged youth and the long-term unemployed) may no longer participate in the program. Moreover, the revised guidelines require referral agencies to actively seek out disabled veterans before referring others, and to give priority to minorities. These adjustments stem from a recent review by Administration officials of services for veterans.

Prime sponsors can now use their Title I methodology to compute reimbursement to HIRE II employers. For primes who elect to use their Title I system, this change eliminates the 6-month limitation on the duration of reimbursable training. It will also simplify administration of the program, and make it more comparable to Title I activities.

The deadline for obligating HIRE II funds has been pushed back to March 31, 1979, from September 30, 1978. The change was made as a result of Congressional action in the appropriations process that provided a 1-year extension of the obligation authority of HIRE II monies.

To ensure sufficient resources for job development, the amount of funds available for administration and services to participants has been raised from 15 to 20 percent

of a prime sponsor's total grant. If a sponsor uses funds for outreach through local veterans organizations, up to 25 percent may be spent for these purposes.

Mr. President, I am very pleased with and fully support the administration's decisions in this regard. I am hopeful that HIRE II will be implemented and monitored in such a way as to provide maximum assistance to veterans.

DVOP

Mr. President, part two of the administration's package—the disabled veteran outreach program (DVOP)—has enjoyed a much greater degree of success. The program now employs in public service jobs 2,000 disabled Vietnam-era veterans who, working in local employment service offices in 100 of the Nation's largest cities, provide outreach and job development placement services to disabled veterans. The projected planned cumulative ES placements through the first quarter of fiscal year 1979 and the achievements actually made by DVOP units are as follows:

	Base plan	DVOP increase	Total plan	Actual
4th quarter fiscal year 1977	35,000	5,000	40,000	41,516
1st quarter fiscal year 1978	8,500	6,000	14,500	14,000
2d quarter fiscal year 1978	17,000	12,500	29,500	36,700
3d quarter fiscal year 1978	26,000	19,500	45,500	.....
4th quarter fiscal year 1978	35,000	27,000	62,000	.....
1st quarter fiscal year 1979	8,500	8,000	16,500	.....
DVOP program total	.....	40,000	.....	.....

Mr. President, 70 of the disabled veterans hired into DVOP positions, have subsequently been hired into permanent State employment security agencies staff positions. Another 110 have obtained permanent, unsubsidized employment. Based on data furnished by the Department, as of August 1977, the average age of DVOP personnel hired was 32.4. The severity of disability of veterans hired, indicates that 55 percent of DVOP staff have disabilities of 30 percent or more. DVOP staff have contributed to the placement of 26,000 disabled veterans into jobs during the first half of 1978. This represents an increase of more than 40 percent over the number of disabled veterans placed by the Employment Service during the same period last year.

Mr. President, although there have been serious problems in monitoring DVOP, I am pleased that Labor Department regional offices are now conducting reviews of all DVOP sites where implementation problems have surfaced. Continuing compliance monitoring should be vigorously undertaken to assure that DVOP personnel are not diverted to nonveteran responsibilities.

The Department had been considering a phasedown of the DVOP program gradually over the next 4 years since it was not intended to be a permanent program. Early this year, I urged the Department not to phase this program back, and the success of the program has prompted the Congress to instruct the Department—in connection with the Labor-HEW Appropriations Act for 1979—and the Department has agreed that the program will be continued at its current level of 2,000 DVOP staff through fiscal year 1979.

PSE PLACEMENTS

Mr. President, as the third portion of his program, the President proposed the provision of increased opportunities for these disabled and young Vietnam-era veterans in public services jobs funded under CETA. The enactment of the Economic Stimulus Appropriation Act (Public Law 95-29) provided funds for an additional 415,000 public service jobs under CETA through fiscal year 1978. The President's proposed 1977 legislation for a 1-year extension of CETA included a provision to require that, in employing individuals to fill these new PSE jobs, a preference be given to certain qualified unemployed disabled and young Vietnam-era veterans, with a proposed national goal that 35 percent of all new CETA PSE hires be these veterans.

However, both Houses of Congress rejected a strict preference concept and the provision eventually enacted last year as section 305 of Public Law 95-93 did not provide a statutory preference. Instead, the provision, which I authored, was designed to provide ample latitude and flexibility—without hamstringing prime sponsors or others involved in the delivery of job and job training opportunities—while at the same time giving the Secretary a clear mandate to serve the needs of these especially hard-hit groups of unemployed veterans. The Secretary was directed to take steps to serve the employment needs of veterans, including providing for individual prime sponsors to develop their own local goals (taking into account the number of eligible veterans in the area served by the prime sponsors and the number of eligible persons in other significant segments) for the placement of such eligible disabled and Vietnam-era veterans in job vacancies in PSE programs.

Although some complaints have been received from prime sponsors regarding their inability to meet a 35-percent goal for disabled and Vietnam-era veterans, it is important to stress that the provisions enacted last year did not accept any particular mandated local goal for Vietnam-era and disabled veterans—35 percent or otherwise—but required prime sponsors to develop their own local goals, based on the needs within the areas they serve. Furthermore, despite the Department's commitment to achieve a 35-percent hiring goal for these two groups of veterans, it failed by more than 27 percentage points to achieve its national goal. Although veterans of all wars—including World War II and Korea—represented 22.6 percent of the enrollments in title II and 24.9 percent of the enrollments in title VI, the rates for disabled and Vietnam-era veterans under the age of 35 represented only 6.4 percent and 7.5 percent of the enrollments in titles II and VI, respectively. For disabled veterans, the rates were 0.8 percent and 0.5 percent, respectively.

IMPLEMENTATION OF 1977 ACT PROVISIONS

Mr. President, specifically, the following represents the sequence of events with respect to implementation of the provision enacted in Public Law 95-93:

First. Following the Department's announcement of the national goal, the Secretary sent a letter in February 1977, to the chief elected officials of the prime sponsors requesting their commitment to assist in achieving a 35-percent national hiring goal for veterans in new PSE jobs.

Second. On May 12, 1977, General Administration Letter (GAL) No. 31-77 was released requesting that State employment security agencies (SESA's) intensify their efforts to locate veterans by screening ES/JS work registration files and to establish locally determined hiring claims records. The memorandum stated in part:

> The thrust . . . is to increase the prime sponsors' level of effort in serving veterans and to establish *locally* determined hiring goals that will achieve the national target of 35 percent. (Emphasis added.)

Third. On May 13, 1977, Field Memorandum (FM) No. 273-77 was issued reemphasizing to Regional Administrators the need to reach the national 35 percent veteran participation goal for newly created public service jobs under titles II and VI of CETA; and urging regional staff to monitor and provide technical assistance to SESA's and prime sponsors to attain this goal.

Mr. President, in keeping with the basic tenet of the entire CETA legislation—that is, self-determination by the prime sponsor of its local needs—nothing in the conference report authorizes the Secretary to establish hiring or participation goals for this particular segment of the labor force. Indeed, section 121(b)(a)(A) specifically precludes the Secretary from establishing such goals. But, I want to stress most strongly, however, that this does not diminish in any way the prime sponsors' responsibilities to serve qualified disabled and Vietnam-era veterans as required under CETA.

RECENT PRESIDENTIAL MESSAGE

Mr. President, on Tuesday, President Carter submitted to the Congress a message on the progress of veterans of the Vietnam era. It describes the actions he will take to respond to the special needs of those who served during the war we seem, too often, too willing to forget. These actions include improvement in the areas of employment opportunities, educational opportunities, other veterans' services and benefits, and military status. A number of items related to issues I have outlined are discussed in this message, including HIRE, DVOP, and veterans participation in CETA.

Mr. President, during the 96th Congress the Senate Veterans' Affairs Committee, which I chair, will be focusing priority attention on this area, and I would like my colleagues to have an opportunity to review this message in full. Mr. President, I ask unanimous consent that the text of President Carter's message be printed at this point in the RECORD.

There being no objection, the message from the President was ordered to be printed in the RECORD, as follows:

To the Congress of the United States:

I am submitting this Message to report on the progress of Veterans of the Vietnam-

era, and to describe the actions I will take to respond to the special problems a number of these Veterans still face.

Veterans of World War I, World War II and Korea have received the recognition and gratitude they deserve. They are honored and remembered as men and women who served their country. This has not always been the case for those who served during the War in Vietnam. In many ways, their service was more painful than in other eras: the selection process was often arbitrary; the war was long and brutal; the changes in warfare and innovations in medicine meant that fewer soldiers were killed than in other wars, but a far greater percentage survived with disabling injuries.

Because the war did not have the full backing of the American public, neither did those who fought in Vietnam. Many civilians came to confuse their view of the war with their view of those who were called upon to fight it. They confused the war with the warrior. Yet I know that all Americans join me in stating that the courage and patriotism of those who served in Vietnam have earned them full measure of honor and respect.

It is a tribute to the caliber of those who served that most Vietnam-era Veterans have already adjusted very successfully to civilian life. Still, in many ways, the effects of the war in Vietnam linger on. We have only begun to understand the full impact of the conflict. As part of healing its wounds, we have recognized our obligation to forget many harsh words and rash acts, and to forgive those who resisted the war. Of even greater importance is our determination to recognize those who did serve and to show our appreciation for the sacrifices they made.

I have directed the Secretary of Defense to honor the memory of all those who fought and died as well as those who are missing in action in Southeast Asia in ceremonies this fall at Arlington Cemetery.

As for those who did return, our review has found their personal and family median incomes are substantially higher than similar-aged non-Veterans, and their unemployment rates have been lowered. For the third quarter of 1978, Vietnam-era Veterans aged 20–34 had a 4.7% unemployment rate as compared to a 6.7% rate for the third quarter of 1977. Although rates vary from month to month, it is fair to say that most Vietnam-era Veterans have moved into the mainstream of economic life. Vietnam-era Veterans are making comparable or better use of their Veteran benefits than Veterans of previous wars. To date, nearly 65% have utilized their GI Bill benefits, which is far greater than under the World War II or Korean programs. We should not fail to recognize the hard work and determination that typify most Vietnam-era Veterans who have been successful in their military to civilian transition.

But for many Veterans—especially minority and disadvantaged Veterans— the transition to civilian life has led to unemployment, poverty and frustrations. The key to making our Veterans' programs successful—and efficient—is to target them carefully on those who continue to need help. By using our resources more skillfully and coordinating our efforts more closely, we can aid those ex-servicemen and women who are most in need of government assistance.

In my written State of the Union message to you last January, I indicated that my Administration would undertake a government-wide review of the status of the Vietnam-era Veteran and the programs designed to serve them. Since that time, the Veterans Administration, the Department of Labor, the Department of Defense, the Department of Justice, the Department of Health, Education, and Welfare, the Community Services Administration, the Council of Economic Advisors, the Office of Management and Budget, and the Domestic Policy Staff have reviewed the status of these ex-servicemen and women and have prepared recommendations for improved government performance. On the basis of that policy review, I have ordered improvements in four areas of Veteran affairs:

Employment opportunities.
Educational opportunities.
Other veterans services and benefits.
Military status.

In order to implement my descisions in these areas and improve delivery of services to veterans, I have established an interagency Veterans Federal Coordinating Committee, composed of representatives of eight agencies, operating under the direction of the Executive Office of the President.

I am also conferring upon the Veterans Administration the status of a Cabinet Agency, for the purpose of attending Cabinet meetings. The Veterans Administration is a large and important part of our government. Its presence at Cabinet meetings will be useful for other departments with overlapping responsibilities, and for the Veterans Administration itself, which will have a stronger voice.

To better understand some of the issues that will continue to confront the Vietnam-era Veteran, I am instituting a survey of public attitudes toward those Veterans. This study will help us identify the real areas of concern, as well as accurately portray the public's overall support of Veterans' benefit programs generally.

I. EMPLOYMENT OPPORTUNITIES

Most Vietnam-era Veterans are now doing better economically than non-veterans of the same age and background. In 1977, Vietnam-era Veterans aged 20–39 had median personal incomes of $12,860 compared to $9,820 for similar-aged non-veterans. When compared by family income, the figures are $15,040 and $12,850 respectively. For Vietnam-era Veterans aged 20–34, the unemployment rate of 7.4% for September one year ago declined to 4.9% in September, 1978. As in all other sectors, unemployment rates for Veterans are substantially lower than they were when this Administration took office. We have hired nearly 98,000 Vietnam-era Veterans in public service jobs as part of the Administration's Economic Stimulus Package. Jobs and training assistance for Veterans became a top domestic priority when the Administration took office; the results are now clearly visible.

But if the overall employment picture for Vietnam-era Veterans is encouraging, the unemployment problems of minority, disabled, and disadvantaged Vietnam-era Veterans are cause for continued concern and attention. Black Vietnam-era Veterans, a significant percentage of whom saw active combat, face unemployment rates of 11.2% for the third quarter of 1978 compared to 15.9% for the third quarter of 1977. For the more seriously disabled Veterans, the unemployment rate is estimated to range as high as 50%. We have made great strides in every area of employment since the beginning of my Administration, but these jobless rates are still far too high. There is a clear need to better coordinate employment and employment assistance programs so that they are targeted on those Veterans most in need.

With that in mind, I have ordered a comprehensive review of the overall system for delivery of employment services to veterans. The review will yield further suggestions for improvement, but I have already initiated action to:

Improve the participation of Veterans in all Comprehensive Employment and Training Act (CETA) programs. We have designed a number of ways of making sure CETA prime sponsors take account of the special needs of Veterans. They include: inspecting grant plans and monitoring local prime sponsor systems to assure consideration of the Vietnam-era Veteran and seeking to have better Veterans representation on prime sponsor councils.

Continue operation of a national Help Through Industry Retraining and Employment (HIRE) program at a $40 million level, and supplement it with a $90 million HIRE II program, paid for with carry-over funds from the original HIRE effort. HIRE I is a national contract program operated through State Employment Services across the country, and through the National Alliance for Business. It hires and trains Veterans, members of Veterans' families eligible for Veterans' preference, and disadvantaged non-veteran youth for jobs in the private sector. HIRE II will decentralize sponsors to contract for and operate it in cooperation with State Employment Security agencies. HIRE II will be available exclusively for Veterans. Participants will also have access to all of the training, public employment and outreach services available through other CETA programs.

Secure from Congress authority to spend in Fiscal 1979 HIRE funds appropriated in 1977. Without this extension the unobligated funds would have reverted to the Treasury.

Continued support will be given for the special outreach programs for Veterans operated by the National Alliance for Business and selected community organizations. One of the most important contributions government can make to Vietnam-era Veterans is to support outreach programs. They extend Veterans services to those who are unaware of the availability of assistance or intimidated by the idea of seeking it. We have extended our outreach efforts through HIRE II program and Veterans organizations. The National Alliance for Business and 13 other private programs funded by the Department of Labor must have continued backing.

maintain current funding levels for the Disabled Veterans Outreach Program (DVOP). DVOP was originally funded as part of the economic stimulus package, but the program deserves to continue at its current level of $30 million. DVOP employs 2,000 disabled Veterans to help find jobs for other disabled Veterans. So far, 26,000 disabled Veterans have found work through the program and it continues to be targeted at those Veterans with the severest employment problems.

improve coordination between Department of Labor and Veterans Administration employment programs. These programs will become more efficient as departmental policy links are clarified by a new high-level joint committee appointed by the Secretary of Labor and the Veterans Administrator. Money-wasting duplication of effort will be ended.

order all Federal agencies to make greater use of the Veterans Readjustment Appointment (VRA) authority to bring Vietnam-era Veterans, especially the disabled, into government service. I have already submitted legislation to liberalize and extend the authority to June 30, 1980. The bill has passed both Houses of Congress and is now in conference.

II. EDUCATIONAL OPPORTUNITIES

Vietnam-era Veterans are in the process of becoming the best educated group of Veterans in our history. Already, 65% of Vietnam-era Veterans have taken advantage of the GI Bill. That compares to a final rate of some 51% for World War II Veterans and 43% for Veterans of the Korean War. The Nation has spent nearly $25 billion on the GI Bill for Vietnam-era Veterans compared with $14 billion for those who served in World War II and $4.5 billion for Veterans of the Korean conflict.

But these readjustment assistance benefits

often have not been utilized by those Vietnam-era Veterans who need them the most. Many members of minority groups and those lacking a high school diploma have not taken full advantage of the GI Bill. For them, outreach efforts must be intensified and eligibility expanded. At present, eligibility for most benefits under the GI Bill generally ends ten years after discharge. Although these provisions are more liberal than for Veterans of previous wars, we will:

Submit legislation to the Congress that would extend eligibility beyond ten years for these Veterans the Veterans Administration defines as in need or educationally disadvantaged.

Continue a VA program called "Operation Boost" designed to seek out Veterans who are unaware of the time limit that is fast approaching for many of them.

III. OTHER VETERANS SERVICES AND BENEFITS

In general, Veterans benefits have been generous for Vietnam-era Veterans, but these and other benefits to which they are entitled need to be targeted better on those who really need them. Among those benefits and services requiring improvement are ones relating to:

Disabled Veterans.

Incarcerated Veterans.

Readjustment counseling and substance abuse treatment.

DISABLED VETERANS

Individuals with service-connected disabilities than Veterans of any other war. Alance from the government. That is particularly true for Vietnam-era Veterans, who suffered a 300% greater loss of lower extremities than Veteransof any other war. Altogether, 512,000 have sustained some kind of disability.

Our vocational rehabilitation programs must reflect our paramount concern for those Veterans who have service-connected disabilities. The current VA program is based on a 1943 model and requires major updating. I will submit legislation to the next Congress that will modernize and improve that program.

READJUSTMENT COUNSELING AND SUBSTANCE ABUSE TREATMENT

The frequent image of the Vietnam Veteran as unbalanced, unstable and drug-dependent is simply not borne out by available information. Most Veterans have adjusted well and the incidence of drug abuse, although greatly increased while in service, has for the most part declined to pre-Vietnam levels or lower. Nevertheless, there is evidence that suggests a significant minority of Vietnam Veterans have experienced problems of readjustment which continue even today.

Vietnam-era Veterans under age 34 have a suicide rate 23% higher than non-Veterans of the same age group. The number of hospitalized Vietnam-era Veterans identified as alcoholics or problem drinkers more than doubled from 13% in 1970 to 31% in 1977. And, although the drug abuse problem has declined, Vietnam-era Veterans account for 39% of all inpatients and 55% of all outpatients being treated by the VA for drug dependence problems.

The government is addressing these concerns, but more must be done:

The Administration has already proposed legislation which would authorize psychological readjustment counseling to Vietnam-era Veterans and their families. The proposal is aimed at those Veterans who are not classified as mentally ill but nevertheless need some kind of counseling. I urge Congress to enact this proposal prior to adjournment.

The Administration also requested legislative authority to contract for halfway houses in the treatment of Vietnam-era Veterans with substance abuse problems. This authority, together with the activation of 20 new VA substance abuse treatment units in this coming fiscal year, should provide needed resources to treat those with continuing alcohol and drug abuse problems.

Finally, more research needs to be done into the problems of Vietnam-era Veterans. I am directing both the Veterans Administration and the National Institute of Mental Health to initiate studies in this area. A major study contracted for by the Veterans Administration to be submitted next year should enable us to better identify the nature and extent of problems being experienced by Vietnam-era Veterans.

INCARCERATED VETERANS

Like Veterans of all wars, a certain percentage of Vietnam-era Veterans end up in prison after returning home. Available data suggest that there are about 29,000 Vietnam-era Veterans in State and Federal prisons. Many of these Veterans received discharges which entitle them to VA benefits. Unfortunately, we lack comprehensive information about imprisoned Veterans.

I have directed the Law Enforcement Assistance Administration (LEAA) to compile accurate data about incarcerated Veterans. I have also asked the LEAA and the Bureau of Prisons to develop an information dissemination program for criminal justice system officials aimed at informing Veterans of the benefits available to them.

IV. MILITARY STATUS

Ninety-seven percent of all Vietnam-era Veterans received discharges under honorable conditions after completing service. It is only fair that those few individuals with discharges under other than honorable conditions be presented with the fullest possible justification for the action taken against them. Because of the serious harm such a discharge can do to a Veteran seeking a responsible place in society, the government must assure that discharge review is readily available to insure fair and humane treatment.

In this connection the Administration will:

Grant assistance to Veterans seeking discharge review. The Department of Defense has agreed to provide indices of discharge review/correction board cases to selective regional offices of the VA.

Submit legislation to modify the provisions of PL 95-196 which automatically barred VA benefits for combat Veterans discharged because of unauthorized absences of 180 days or more.

CONCLUSION

No steps we take can undo all the damage done by the war. There is no legislation that can bring those who died back to life, nor restore arms, legs, eyes to those who lost them in service. What we can do is to acknowledge our debt to those who sacrificed so much when their country asked service of them, and to repay that debt fully, gladly, and with a deep sense of respect.

JIMMY CARTER.

THE WHITE HOUSE, *October 10, 1978.*

Mr. CRANSTON. Mr. President, much success can be achieved by the Secretary of Labor through vigorous implementation, enforcement, and monitoring of compliance, with the consultation and support of the Office of the Deputy Assistant Secretary for Veterans' Employment.

REFORM OF WAGNER-PEYSER ACT

Mr. President, the conference report also includes an amendment I authorized to require the Secretary of Labor to submit a report to the Congress concerning the reform of the Wagner-Peyser Act, together with recommendations for legislation, by February 1, 1979.

The Wagner-Peyser Act and the Federal, State employment service system it established have not been comprehensively examined in the Senate for more than 8 years.

Mr. President, the Committee on Human Resources, in considering this CETA reauthorization legislation, refrained from making changes which might alter the relationship between the CETA prime sponsor system and the employment service. Although we recognized the need for legislation to make appropriate reforms in the law to foster a productive linkage between these two systems, we also felt that the complexity of the issue called for careful study and consideration.

Thus, my amendment is designed to insure that next year, when the committee undertakes consideration of this issue, we will have before us the recommendations and the suggestions of the Secretary for reform.

This report, along with other material that will be considered by the committee, will give us a good base upon which to begin our examination of the system of delivery of an entire spectrum of employment and training services. In this regard, Mr. President, I am pleased to learn that the Department has already begun to explore this area, and I look forward to working on this with them on this issue next year.

CONCLUSION

Mr. President, I would like to take this opportunity to express my deepest appreciation to the distinguished chairman of the Subcommittee on Employment, Poverty, and Migratory Labor (Mr. NELSON), the ranking minority member of the Committee on Human Resources (Mr. JAVITS), the chairman of the Committee on Human Resources (Mr. WILLIAMS), the distinguished Senator from Michigan (Mr. RIEGLE), and my other colleagues on the Human Resources Committee for their efforts in developing and working to enact this important legislation. They and their staffs worked many long and hard hours in putting together what I believe is reasonable and well-designed extension of a valuable program. I would like especially to note the contributions of Scott Ginsburg, Joan Hunziker, Brad Mims, Jackie Washington, and Marianne Benson of Senator NELSON'S subcommittee staff; Jim O'Connell and Diane Kamino of Senator JAVITS' committee staff; Martin Jensen and Tom Lindsey of Senator WILLIAMS' full committee staff; Stephanie Smith of Senator RIEGLE'S staff, and Bobette Polzer for me. In addition, I would like to thank the staff of the Department of Labor who provided technical expertise and assistance in putting this measure together: Dick Johnson, Nik Edes, Sandy Kisla, Jim Marion, and Stu Sirkin. A special thanks is also owed to the members and staff of the House Education and Labor Committee's Equal Opportunity Subcommittee, chaired by my good friend and distinguished fellow Californian, Mr. HAWKINS. It took a great deal of hard work, but I believe we can all be proud of the results.

Mr. President, I fully support the conference agreement on the Comprehensive

Employment and Training Amendments of 1978.●

Mr. DOLE. Mr. President, I am pleased to learn that the conference report on the CETA reauthorization bill included four of my Senate-passed amendments. I believe these amendments will contribute significantly to the improved effectiveness of the CETA program.

Very simply, Mr. President, my amendments will provide that, first, workers who quit private-sector jobs without good cause be ineligible for public service employment under CETA; second, insure representation of community-based organizations on title VII private industry councils; third, insure representation of handicapped individuals on the prime sponsor's planning council; and fourth, insure representation of handicapped individuals on the State employment and training councils.

While I believe all of my amendments will contribute to the efforts in alleviating the serious national problem of unemployment, I want to emphasize the particular importance of my amendment which addresses community-based organization representation of the private industry councils.

The proven effectiveness of community-based organizations clearly indicates that their participation would only serve to aid the efforts of the business community in alleviating a very serious structural unemployment situation. This particular amendment would simply insure the important participation of the private industry councils of community-based organizations, such as Ser-Jobs for Progress, NAACP, OIC, Urban League, and others. These groups, with their experience and expertise in unemployment problem solving in their respective and unique communities can provide critical input to these councils. Their involvement will significantly enhance the effectiveness of the private industry councils.

Mr. President, I want to commend the members of the Joint Conference Committee for their efforts in bringing us legislation which will take major steps toward reducing unemployment in this great country.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. NELSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978

The Senate continued with the consideration of H.R. 50.

UP AMENDMENT NO. 2105

Mrs. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Minnesota (Mrs. HUMPHREY), for herself and Mr. MUSKIE, proposes an unprinted amendment numbered 2105.

Mrs. HUMPHREY. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend the amendment in the nature of the substitute offered by Mr. BYRD and Mr. BAKER as follows:

On pages 120 and 120A, strike clause (2) and the last sentence of subsection (b) and all of subsection (c) and insert in lieu thereof the following:

"(2) reducing the rate of inflation, as set forth pursuant to section 3(e) of this Act, to not more than 3 per centum at the earliest possible time: *Provided*, That this objective shall in no way qualify or alter the goals and timetables for the reduction of unemployment or the goal of full employment and shall be pursued in a manner that reinforces rather than conflicts with those goals and timetables. For purposes of this subsection, the first Economic Report shall be the Report issued in the first calendar year after enactment of the Full Employment and Balanced Growth Act of 1978.

"(c)(1) Upon achievement of the 3 and 4 per centum goals specified in subsection (b)(1), each succeeding Economic Report shall have the goal of achieving as soon as practicable and maintaining thereafter full employment and a balanced budget.

"(2) Upon achievement of the 3 per centum goal specified in subsection (b)(2), each succeeding Economic Report shall have the goal of further reducing the rate of inflation: *Provided*, That this objective shall in no way qualify or alter the goals and timetables for the reduction of unemployment or the goal of full employment and shall be pursued in a manner that reinforces rather than conflicts with those goals and timetables."

Mrs. HUMPHREY. Mr. President, this amendment is being offered by myself and the Senator from Maine (Mr. MUSKIE). It establishes an inflation goal of 3 percent at the earliest possible time, and the goal of further reducation of inflation after the 3-percent goal is achieved.

The inclusion of a specific long-term numerical inflation goal as in the Byrd amendment is opposed by the administration, a number of prominent economists, and sponsors and supporters of the bill.

I am opposed to an arbitrary inflation goal that is now simply hung on the Humphrey-Hawkins bill and not accompanied by a comprehensive anti-inflation policy and program that can credibly be approved by Congress as sufficient to reach the goal that is proposed.

Unlike the unemployment goal in this bill, which is accompanied by a detailed strategy for its achievement, and required action to achieve it, the inflation goal is simply proposed as an appendage to the existing bill. I believe that it is incumbent on anyone who would add such a goal to the Humphrey-Hawkins bill to provide the comprehensive program needed for its achievement as part of the provisions of this bill with at least as much specificity as is the case for the unemployment goal.

Such a comprehensive anti-inflation policy should be developed with great care, and an inflation goal consistent with such a program should then be proposed. This requires extensive development, discussion, debate, and consideration by the administration and each House of Congress on its own merit. And, this exact procedure wil be followed under the other provisions included in the Humphrey-Hawkins bill as amended in the House and by the Senate committees.

Frankly, I am afraid that including this arbitrary goal of 3 percent in 1983 will give the impression of a significant action to reduce inflation, when none has, in fact, been taken.

Furthermore, Mr. President, we all know that today inflation is running at a double-digit rate. But we need to consider very carefully any operation of radical surgery to push that rate all the way down to 3 percent in only 5 years. One clear answer is to impose wage and price controls, and that is a policy I reject.

At no time in history, aside from when we were headed for a severe recession, have we ever witnessed a slowing of inflation such as is envisaged by the present version of the bill. At the present time, the only way we can reasonably expect inflation to slow to 3 percent by 1983, is wage and price controls. I view a vote against this amendment as a vote for those controls.

Finally, Mr. President, many of the causes of inflation appear to be beyond the reach of domestic economic policies. By contrast, the unemployed workers whom Humphrey-Hawkins is designed to help are all within our borders. Moreover, over 20 years of experience indicate that policies and programs of the Federal Government can have a direct and positive impact on the problem of unemployment.

But our experience on the prices side is quite different. OPEC pricing decisions on energy supplies, or weather conditions affecting the size of the grain harvest in the Soviet Union or Canada, to use just two examples, can have a tremendous inflationary impact on our economy and one over which we appear to have very little control at present. Furthermore, the Federal Government's experience in dealing with such inflationary pressures in recent years gives us little reason for confidence that we now have an effective approach to preventing inflationary pressures from such sources.

For those reasons, I urge my colleagues to support this amendment.

I yield to the Senator from Maine.

Mr. PROXMIRE. Will the Senator yield to the Senator from Massachusetts?

Mrs. HUMPHREY. Yes. I yield to the Senator from Massachusetts.

Mr. BROOKE. Mr. President, I thank the distinguished Senator from Minnesota for yielding.

PERSONAL PRIVILEGE

Mr. BROOKE. Mr. President, I rise on a matter of personal privilege.

Mr. WEICKER. Mr. President, can we have order?

Mr. SARBANES. Mr. President, I ask

unanimous consent that the Senator from Massachusetts be able to speak to his point of personal privilege without the time being charged on the bill or on the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. May I ask that the Chair maintain conditions here in the Chamber so that the Senator can be heard? I do not know what he will say, but it is an important matter if it is a matter of personal privilege.

The PRESIDING OFFICER. Without objection, the time of the Senator from Massachusetts will not be charged under the amendment or the bill.

Mr. BROOKE. I thank the Senator from Mississippi and the Senator from Maryland.

Mr. President, this is a difficult moment in my life. As my colleagues know, I have, in the last year, been through a very painful and very tragic experience; namely, the dissolution of my family, a divorce which took place in my State of Massachusetts between my wife and me after many years of marriage and after the birth of two daughters.

In the course of the divorce proceedings one of the Boston newspapers brought out certain allegations based upon documents that were filed in the nature of depositions that were not to be entered into court, and were not entered into court, but were to be used by our counsel in an effort to work out an equitable settlement of our real and personal problems.

The media, in addition to that particular newspaper, picked this up, and the country was subjected to almost daily allegations of one sort or another resulting from that tragic divorce.

I immediately wrote a letter to the Senate Ethics Committee and asked the Senate Ethics Committee to make an inquiry to determine under the rules whether I had, one, violated any rule of the Senate, which I love and respect; and, two, whether I had been guilty of any conduct which would be in any way detrimental to the best interests of the U.S. Senate.

Mr. President, I take very seriously my responsibility as a U.S. Senator. I have loved my job and my experience here, the 12 years which I have served.

I wanted the Ethics Committee, which I indeed had a part in forming, in drafting the legislation which established it, and on which I had sat in its prior years, to look into that matter and, hopefully as soon as possible, resolve it.

But in the course of events, further allegations were made as the newspapers began to go back further and further into my personal life and my personal business transactions, many of which had been looked into before by investigative teams of newspapers, by the IRS, and the like.

I said it was a tragic experience. To my colleagues, I say it was a nightmare. I pray to God that none of you will ever have to go through what I have gone through in this last year.

I do not say that to ask for your sympathy because I do not want your sympathy, but I want your understanding as to why I am going to make a certain request tonight.

During the course of the Ethics Committee inquiries, I have never once discussed these matters with any member of that committee. I, myself, was a former attorney general for two terms in the Commonwealth of Massachusetts. I have been a prosecutor. I was also in the private practice of law and in my private practice days have been a defense attorney.

I thought I would never compromise, even though we in the Senate are in a very unique position because we are sitting as peers in judgment upon one another, that I would never in any way say anything to compromise any of the Members whose fortune or misfortune it was to sit on the Ethics Committee.

As time went on, demands were made of my records, voluminous records, all of my bank accounts, all of the stubs, all of the ledgers, any contract into which I had entered. You just cannot believe, and I cannot tell you, the volume of material that I have had to turn over to the Ethics Committee.

The Ethics Committee appointed special counsel, and that special counsel took over the job of collecting this voluminous material.

I employed counsel, because I have always believed that even though you are a lawyer, you should not represent yourself. So I employed very able counsel. Immediately, my counsel told me that the counsel the Ethics Committee had obtained was antagonistic and saw this as an adversary proceeding, rather than one of factfinding. Being the man that I am and believing as I do, I said, "Well, don't prejudge that, just cooperate as fully as you can."

Those have always been my instructions to my counsel. My counsel advised me that the committee was going—or, rather, the counsel that was retained by the committee—was going far beyond the scope of the original inquiry or any of the other allegations that followed.

My advice to them was, "Even though there is no legal basis for their demands of certain documents and records and books and the like, it is my recommendation that you give it to them because I have nothing to hide."

There has never been an allegation, Mr. President, that I ever stole any money from the public, that I ever violated my public trust, that I ever stole any money from my wife or from any individual or anything of that nature whatsoever. There have been no allegations of crime. There have been allegations of poor recordkeeping or erroneous filing of reports with the Secretary of the Senate, and with GAO.

Mr. President, I must confess that I do not keep my own books and my own records. I guess during the course of my service in the U.S. Senate, and even before, I was so involved in the public's service that I just never had time for my own personal matters. My office manager used to prepare the reports, usually in the last minutes, and bring them to me and I would sign them and they would be filed. I really did not know, sometimes, or ever, really, what was in the reports, though I am responsible, and I absolve myself of no responsibility.

During the course of the divorce, there was, through this newspaper, a statement made after a report had been filed with the Senate that reports in the Senate did not jibe, or were in conflict with records that were held and made in the depositions to which I have alluded.

I went before the public at a press conference in Boston and I said that I made a mistake—not in a material sense, but I made a mistake. I asked the public to forgive me for making that mistake.

Then, we went about our work trying to collect the material, going up into the attic where old boxes were from years ago, trying to find materials to turn over to the Ethics Committee.

Apparently, the counsel believed that at one time, because of their differences with my counsel on what was available or should be available to them, believed that there was a delay on our part. Mr. President, I deny that at any time I ever intended, ever wanted to, nor did I ever, in fact, try to delay the work of the Senate Ethics Committee. In fact, it was to my benefit to have the Senate Ethics Committee do its work and do it as promptly as possible.

I was engaged in the early stages in a very difficult primary fight in my own party and it hurt to have this shadow hanging over me. I suffered through it, but I worked it and I won. Now I am engaged in another very tough battle for reelection to the U.S. Senate.

Why do I ask for this special privilege today? Today, at 3:05 I received a call from my office, from the same newspaper, that they have information pertaining to the resignation of special counsel. They knew it and they said to me, "You have 15 minutes within which to make an answer, or we are going to press." Fifteen minutes, Mr. President, to respond to the statements that were made by counsel to the Ethics Committee that resigned and a statement made by the Ethics Committee through its chairman.

I want to read that statement. I ask you to bear with me and I appreciate your listening and your sensitivity to this very personal matter. The counsel's name is Richard J. Wertheimer; the letter was dated October 11, 1978.

Hon. ADLAI E. STEVENSON,
Chairman, U.S. Select Committee on Ethics, Washington, D.C.

DEAR MR. CHAIRMAN: I hereby resign as special counsel to the Senate Ethics Committee in connection with its initial review of matters relating to Senator Edward W. Brooke. The vice chairman of the Ethics Committee has informed the public that the committee has no reason to suspect that Senator Brooke has tried to delay the completion of the initial review. I believe otherwise and have so informed the committee.

The facts which I have placed before the committee demonstrate, in my judgment, that Senator Brooke's representatives in this matter have sought to delay and frustrate the committee's initial review by opposing and delaying the production of documents requested by the committee, by failing to turn over documents requested by the committee, and by altering documents turned over to the committee. I regret that the public has been given an erroneous impression of the facts.

Sincerely,

RICHARD J. WERTEIMER.

Mr. President, I do not think any one of my colleagues fails to understand the significance of what is written in this page that I have read to you. No. 1, as I have said to you, I have not delayed the work of the Senate Ethics Committee. I think there was some legitimate disagreement between my counsel and the committee's counsel as to the scope of the inquiry. But even prior to the resolution of that problem, I directed my counsel to turn over all documents which the committee wanted. And to the best of my knowledge and belief, and I checked on it again before I came into this Chamber this afternoon, every document that was requested by the committee has been turned over with the exception of tapes recently taken by the Boston Globe.

No. 2. The charge of altering documents turned over to the committee—now, I said to you that I have been a former attorney general. But even more, I am a lawyer and a member of the bar, and even more, a Member of the U.S. Senate. Never in my life have I ever altered, given permission to alter, or would I alter any document that would be given to any investigative committee.

Now, I was informed 2 weeks ago when the Boston Globe came down here, and I even had to leave the floor of the Senate, go out here to two reporters, on tape, because that is the kind of country in which we live today, and to testify before them, not under oath, not a court of law, which I did, that there was an error made in listing a loan when it should have been listed as a return on investment.

The newspaper asked me if they could question the young lady who is my office manager, who keeps the records, and I said, "Yes, of course, you can." And they did. They questioned her. I was not present. I do not know exactly what was said.

But at any rate, it was reported to me that she said that she had made an error. She subsequently called my attorney in Boston, not the attorney in Washington who represented me before the committee, told of her experience and said to them, "What should I do? I made an error."

He said to her, "Correct it and initial it." And she did.

But the committee had on file the original document themselves. So it was not a question of trying to conceal or mislead, though she indicated the correction was made, and I said, "Did you date it?" They said, "No." And I have affidavits to this effect, and the committee counsel knew about this when this letter was written to the Ethics Committee.

Now, I am not going to bother you with all the details. You have read more about it than I am sure you wanted to know. I hope I never have to read about any of your personal lives or you have to expose yours as much as I have had to expose mine.

I hope some day our system will be perfected better than this to give protection to those Members who serve in the U.S. Senate.

There have been consistent leaks from that committee. Every time there was a leak, there was a report in the paper back in my State. I have been fighting it day after day, week after week, month after month, and, seemingly, to me, year after year.

Now , I demand that the Senate Ethics Committee immediately hold a meeting and give me an opportunity, together with my counsel, face to face with this counsel who has resigned, Mr. Wertheimer, an opportunity to review everything he said in this letter of resignation.

If there are any documents that have not been provided, I want to know about them and I want to provide them. But I assure you there are none.

And any alterations, if there have been any, I want to know about them, and I assure you there are none.

I want to have that meeting immediately and I think I am entitled to it.

I will go back to Massachusetts and I will run for reelection to the U.S. Senate on my record, of which I am proud, and I am not going to be run out of office by allegations and misstatements and misconceptions. I think the constituency of my State and the people of this Nation are entitled to know the facts, and that is all I want them to know. The facts, and nothing but the facts, and nothing less than the facts.

I am not an irrational man, as my colleagues know. I have never been since I have served in this U.S. Senate. I do not think there is one among you who would differ with that.

I have respected you, as you have respected me, as a man. And when I tell you what I tell you today, I tell it to you as the gospel truth.

All I want is to have this committee to act on this. Whether I serve in the U.S. Senate again or I do not, I am going to live in this country and I want to live with dignity and self-respect. I think I am entitled to do it, and, if I am wrong, then I want to pay the penalty for that wrong. And if I have not done wrong, then I want it to be proved that I am not wrong. That is the American system.

I could have been the worst demagog in this country. I have tried to live and work within this system, and that is the system of fairness and justice to all, and that is all I am asking for.

I did not cry when the press did what they did to me. They went down to St. Martin's and they asked everyone—one member of the press came up and said, "Oh, the people down there like you." I asked if they expected them not to like me.

Whenever they found out some lead led them wrong, it looked like they were sorry they found out they were wrong.

What is happening in the country? Some say it is the result of the Watergate problem. I do not know what it is.

I do not stand for corruption in government. I fought it. No one has any better record in my State, and they know it, as the attorney general of that Commonwealth, for fighting corruption, and never one smear in my whole term of office.

So it is not that question at all.

Where there is wrong, there is wrong. You take your chance. If you commit a wrong, then you pay the price.

But this kind of investigative reporting we are going through today, without even looking at the facts and not even wanting to look at the facts, is wrong. It is not going to only hurt ED BROOKE, it is going to hurt every Member that ever serves in this U.S. Senate or any other legislative body in the country, and it has got to stop.

I am not fighting the press. They have got their job to do. They have done some excellent work.

But I say to you most respectfully, Mr. President, this is a dangerous precedent, and I call it to the attention of my colleagues.

All I ask for, Mr. President, is this meeting, and I want it to be open. I want the public to know what I have done and what I have not done.

As I said, it was a tragic and painful divorce. But I am not going to spend the rest of my life like this, Mr. President, and I do not think that God and the law demands it.

For giving me your attention, I want you to know that I am profoundly grateful.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, the duties and the responsibilities of the Senate of the United States are myriad and difficult and complex. But they are never more difficult than when we are dealing with the reputation and standing of one of our Members.

I have been through a lot of that in the course of my career, beginning first with the Ethics Committee proceeding against one of our Members, the late Senator Dodd. I have seen the stress it imposes on the Senate and on its Members. I have seen other inquiries that have been conducted by the Senate, some very well done, and others perhaps not so well done. But, Mr. President, I believe there is an underlying sense of fairness in this body that transcends partisan considerations and requires that simple justice be done to each Member.

I have enormous respect for my colleague from Massachusetts. I listened with care to the outpouring of his anguish and his concern and, finally, his request for his day. I have had the opportunity to visit and confer with the Senator from Massachusetts on occasion because, as he pointed out, he preferred not to speak directly to members of the Ethics Committee for fear there might be some suggestion of the impropriety in that respect. I can vouch for the fact that he has indicated to me that he has tried, and will continue to try, to cooperate in every respect to insure that this inquiry is conducted in an orderly, thorough, and appropriate way.

The distinguished majority leader, and I, under the rules of the Senate, have the obligation to appoint the members of the Ethics Committee. We have chosen, and I believe we have chosen well. I have no authority or jurisdiction beyond the appointment of those Members, except to add the weight of my recommendation to that of other Members when I say that this man, our colleague, is entitled to his opportunity to make his

presentation before that committee or, indeed, before the Senate. I will request that the Ethics Committee accede to his request. He is entitled to that.

I believe in him. I believe that he will make a thorough and complete disclosure of all the relevant facts in this matter, as he has represented to me he has tried to do in the past.

So, Mr. President, while I do not see either the chairman or the vice chairman of the committee on the floor, I am certain by this record or otherwise they will know and hear of my request and take account of it, for whatever it is worth. This is a difficult matter, and I believe it must be dealt with promptly. I am sure it will be dealt with, as the Senate is capable of dealing with these problems, in a proper way.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. RIBICOFF. Mr. President, the letter that was written by the distinguished Senator from Massachusetts first came to my attention a short time ago, when the Senator from Massachusetts showed it to me on the floor.

I think the request he makes is a proper one and should be complied with by the Ethics Committee.

The chairman and the vice chairman are not on the floor. Because of the timing and the man's reputation and his future being involved the way it is, I, as one member of the Ethics Committee, would be more than willing to accord the distinguished Senator from Massachusetts that opportunity; and I hope the chairman of the committee will call the committee together accordingly.

Mr. BROOKE. I thank the distinguished Senator from Connecticut, and I thank my distinguished minority leader. I would like to make one more statement.

This is already in the Boston Globe. This is the headline that is already on the street. It could not possibly have been there had there not been a leak to the paper. It is already on the street. It is being read now: "Senator BROOKE's Prober Resigns"—and I do not know what else the story says. I have not had time to read it. But that, obviously, indicates a little of what I am talking about.

I make no charge against a member of that committee, and I do not know the staff of the committee, but obviously it is not secret. It is not one that would protect the rights of an individual.

When I was an attorney general and we had a grand jury, we did everything we could to protect the rights of people, innocent people, people who had not been tried for anything. There were no leaks out of our grand juries, and that is the way it should be in our Ethics Committee. Otherwise, what I am saying to my colleagues is that anybody could make any statement about any one of us, at any time. It would then become the subject of inquiry by the Ethics Committee, and leaks could be put out such as this, and conceivably it could go all over the country.

Some of you have already been victimized by similar circumstances. Need I say more? I think not.

I thank the Chair.

(Mr. HARRY F. BYRD, JR., assumed the Chair.)

Mr. BIDEN. Mr. President, I am not on the Ethics Committee. I am on a committee that does have to deal with issues of some consequence, as we all are, and particularly the Intelligence Committee.

Having dealt with the way in which staff tends to operate around this place on occasion, although we have no direct jurisdiction—the Ethics Committee, I do not believe has any direct jurisdiction over the conduct of staff—I think not only do we have an absolute obligation to comply with Senator BROOKE's request immediately, but also, I think we should consider, regardless of whether or not the allegation made by the staff member is correct, the question of whether or not the ethics of staff, in releasing the letter beforehand, is in fact, in and of itself, reprehensible.

It worries the heck out of me, as a U.S. Senator, as an individual, that we seem to be falling into a situation where we can be tried in the press, we can be tried outside the normal channels of jurisdiction of both the Senate and the courts of law in this counrty, without ever having an opportunity to really make the shot.

I do not know what I would do if today the headline in a newspaper in Delaware said about me what it said about Senator BROOKE in Massachusetts. How do you, in any way, pull all that back?

I trust Senator BROOKE when he says that when he goes before the Ethics Committee—as I am sure we are going to insist he have the opportunity to do—he is going to prove his case. But how do they retract that headline? How do they retract what already has been done? I am not talking about the newspaper. I am talking about this chief counsel.

We lawyers, in most States, submit to an ethics committee. Our ethics have to be looked into, to determine whether or not we should be at the bar. It seems to me that if what transpired is as it appears—that a chief counsel would resign by way of a letter and that letter somehow gets to the press before it gets to the Senator in question and/or to this body—that, in and of itself, is reprehensible action.

It seems to me that all the special counsel we appoint think they are Leon Jaworski. All see themselves as though somehow they are about to be knighted for uncovering great corruption.

It seems to me that there is a need for a little level-headed commonsense, that the staff conduct themselves in a way that is proper. After this is all over, and when Senator BROOKE is exonerated, as he says he will be—and I have no reason to believe otherwise—I hope this body will consider, in the next session, how long a leash the investigative staff should or should not have here, and what obligations they have and do not have.

It is probably out of order for me, as a junior Member, to speak on this question; but I cannot imagine the anguish the Senator from Massachusetts is going through as a consequence of this kind of occurrence. I just hope we give him his day in court, the court we can convene immediately, as long as he wants it, and to say whatever he has to say, and to confront the counsel; because, otherwise, it seems to me that we have developed in this Chamber a new version of the star chamber. I do not think that is what anybody here intends.

Mr. STEVENSON. Mr. President, it was the Senate which created an ethics committee and established the procedures by which that committee exercises and performs its duties. The members of this new committee have done their duty to the Senate, and that duty is not to investigate with halfway measures when evidence of possible impropriety comes to its attention.

So far, in the experience of this infant committee, Members of the Senate have cooperated. They have cooperated fully. They have cooperated for the sake of the integrity of this institution. They have cooperated, also, I believe, because they know that it is in their own best interests to do so.

Mr. President, this committee cannot maintain the integrity of the Senate and it will not maintain the credibility of its reports to the American people by conducting anything less than the inquiries it was mandated to conduct by the rules of this body, and as long as I am its chairman, it will not neglect that duty.

I say to my friends and colleagues that this is not an enviable office. It is not an office I sought. It is an office which I accepted for 2 years, and frankly it is an office which I wished now I had not accepted.

But with it goes a responsibility, and we have tried our best to do our duty. And for as long as we are members of that committee we will continue to do it no matter what toes we step on.

This is a very unpleasant occasion for me because I have the greatest affection for my colleague from Massachusetts. I serve with him on one committee. We have worked well together. We have been friends on that committee. We have cooperated. I have also acquired since I came to this body affection and respect for the Senator from Massachusetts.

Mr. President, I do not rise to in any way criticize the Senator from Massachusetts or to suggest, or imply, that he deserves the criticism of this committee or anyone else. I have not done that. No member of this committee has done that, and the committee at the present time has no intention of doing that, and I hope it never will.

What brings this matter before the Senate is the action of its special counsel for the initial review with respect to certain allegations affecting the Senator from Massachusetts, and what brings me to my feet is no desire or any intention of criticizing that Senator. What brings me to my feet is a duty to defend my committee. I will do so briefly and then I, too, hope the facts will be made public so the public and Members of this body can judge them.

A brief summary of relevant facts are:

As far as I know there have been no leaks from the Ethics Committee, and if anyone has evidence to the contrary, he

should make it available to the Ethics Committee.

The facts are that not all documents requested in the course of this initial review have been turned over as requested to the Ethics Committee.

The facts are, Mr. President, that the distinguished Senator from Massachusetts may not have within his possession and his knowledge the information upon which to base his assertion that there have been no alterations of materials except for the one he mentioned.

Mr. President, every Senator has at any time a right to appear before the Ethics Committee. That right and opportunity was made known to the Senator from Massachusetts on August 3. I regret that my vice chairman is not here, because he shares this responsibility with me and a special responsibility for the members on the other side of the aisle, but on that date the members of the Ethics Committee requested the Senator from New Mexico to make it clear to the Senator from Massachusetts that he had an opportunity any time to appear before this committee, and it was not until tonight that I have received a request for such a meeting since that date.

Mr. President, I emphasize that I make no accusations. I intend to imply none against my friend and my colleague from Massachusetts.

Based on everything that I know about him and feel in my bones about that man he is an honorable man.

What I do propose to do is, first, convene the committee in order to afford the Senator the opportunity which he has just indicated he wants. I will do all in my power to obtain the presence of the resigned counsel and beyond that I will also seek the authority of my committee with which to enter in the CONGRESSIONAL RECORD a summary, a neutral, straight, factual summary and in chronological order of all the efforts by this committee and its staff to obtain information, information which the counsel of this committee twice, supported by the full committee, has requested of the representatives of the Senator. And that summary of all of these events will have, if my committee approves, attached to it the relevant documentation, the letters which went forward seeking documentation and their responses.

This will not be a full recital of the facts, but it will be a large recital of the facts and one upon which I believe the public and the Members can make a fair judgment upon that question raised, not by me, but by the counsel who has recently resigned.

Let me repeat, in conclusion, Mr. President, what he said:

> The facts which I have placed before the committee demonstrate, in my judgment, that Senator BROOKE's representatives in this matter have sought to delay and frustrate the committee's initial review by opposing and delaying the production of documents requested by the committee, by failing to turn over documents requested by the committee, by altering documents turned over to the committee.

Mr. President, the record, if I am permitted to enter it, will, I believe, indicate that that statement by counsel is not without foundation.

Finally I say to my good friend, and to the Members, that statement has nothing to do with him. It refers to his representatives, and in no way is intended to suggest that he has been a party to any delay or any other impropriety.

Mr. BROOKE. Mr. President, if the Senator will yield, certainly this is not the place for us to have an exhaustive hearing on this matter, particularly in the waning days of this Congress, and there is much business important to the Nation which is to be conducted.

I talked with the distinguished chairman of the Ethics Committee prior to my request for a statement of privilege and, at that time, I said to the chairman that at no time had I ever been contacted by counsel, never questioned, and never had had an opportunity to talk to the committee.

At the time I made that statement I believed it to be true. In fact, I still believe it to be the truth because as late as August 3, when he instructed or asked Senator SCHMITT to speak to me, I do recall a conversation with Senator SCHMITT when he said, "Ed, at any time you want to come before us," because that was the time when counsel was debating the question of the scope of authority, I think my remark to him was, "At any time, but please tell me what you want, what issue you want to talk about."

By that time I think there were 9 or 10 allegations where first there was one. You will remember my press conferences where I said there was a lust for blood; that everybody got in on the act, and everybody was making allegations, and even my dear mother was brought into the matter, as you will recall.

So I said at that time—

> Yes, I would like to talk to the committee at any time. But I certainly would like to know, Harrison, what specific item we can talk about, hoping you would take them at least one by one.

The counsel has been interrogating everyone else and has never sought to talk with me. I have never seen him. I would not know him if he walked into the Senate Chamber today. Maybe that is not necessary, but I can tell you that is a fact.

I can give you other evidences of leaks, but I am not complaining about the leaks. I am so accustomed to that now, I do not think there has been anybody more investigated than the Senator from Massachusetts.

If there is anything else that they can find out let them tell me. I would like to know it myself. So I am not complaining about that. Let them continue to do that. That is not my problem. My only problem is I am asking you, and I am grateful that you have agreed, if I can interpret you correctly, Mr. Chairman, if I may have your attention, I take it what you are saying is that you are agreeable to calling the committee and using your influence in having Mr. Wertheimer appear at that committee and giving me an opportunity, together with my counsel and your counsel, to confront him face to face.

It seems to me that if counsel were going to resign he ought to have made a report. Those of us who are lawyers understand that. You do not resign and put out a press statement. You resign and you make a report. I do not see that a report has been made. Maybe a report has been made, I do not know. But, at any rate, I do not want to prolong the Senate.

I also know as a fact that one of my files was secret, which was not to be opened by the committee, and was opened by someone within the jurisdiction of the committee.

I also know that no one knows who opened it, is that not correct, Mr. Chairman?

Mr. STEVENSON. The Senator is correct.

Mr. BROOKE. I did not raise a question about that. I just want the chairman to know that at no time have I tried to fight with the committee. I was the one asking the committee to make this inquiry.

The chairman said there were no leaks. The chairman was not on the floor at the time I made my statement. I have never accused the committee of any leaks. But, as I said today, here we have a headline in the Boston Globe already. When I showed it, it took some time to get down here. It was in there prior to the time that I even got notice from the committee, official notice, of the resignation of special counsel, and his statement, and of the chairman's statement.

So there are leaks. I do not know where they are. I am not making any charge. I certainly know the honorable chairman of the committee and the honorable members of the committee would not indulge in leaking information to the press.

But what I am saying to the chairman most respectfully is that somewhere there must be a leak, based upon that evidence. You could not get a headline printed in Boston that quickly, with telecommunications as they are. It could not have possibly been done; it was humanly impossible to have been done.

All I wanted to know from the Senator from Illinois, and I think he has answered the question, is that he will call a meeting of his committee and let us get this matter resolved. That is all I am asking for, and I am grateful to the Senator from Illinois for what he has said.

Mr. STEVENSON. Mr. President, I am grateful to the Senator for his clarification of what I had understood to be the import of his remarks with respect to leaks. I share his frustration about leaks. This place is hemorrhaging, but I know of no evidence of any leaks within the committee of which I am chairman.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. STEVENSON. Let me say there is no report for the obvious reason, which I will not repeat, but is the reason which has been mentioned by special counsel.

Finally, I will say again, and as has been, I believe and earnestly hope, stated to the Senator on earlier occasions, certainly since August 3, yes, of course. He is again invited, and he will be afforded an opportunity at his convenience and as soon as I can assemble the other members, and also obtain the presence of the special counsel, who is now resigned, yes, of course.

Mr. MATHIAS. Mr. President, if the Senator will yield?

Mr. STEVENSON. I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland (Mr. MATHIAS).

Mr. MATHIAS. The distinguished Senator from Illinois, the chairman of the Ethics Committee, and the Senator from Massachusetts have made several references to the role which the vice chairman of the Ethics Committee has played, and from what both of them have said it has been a central role and a very positive role in this matter.

I know it will be matter of great regret to him when this matter came to the floor that he was necessarily absent from the Capitol and from the city. But I am advised that he will be back in the Senate later this afternoon or later in the early evening, so that if a meeting could be arranged even as early as that he would be present, and I think he would be a very necessary party to any such meeting. I think we need to concentrate on the steps ahead of us now, and I am glad, as a member of the committee, to have the assurance of the chairman that that is what we will be doing.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

Mr. JAVITS. Mr. President, if the Senator will withhold that, what is the parliamentary situation?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota (Mrs. HUMPHREY) to H.R. 50.

Mr. JAVITS. Mr. President, will the Senator yield me 1 minute?

Mrs. HUMPHREY. Yes, I yield to the Senator from New York.

JOINT ECONOMIC COMMITTEE SPECIAL STUDY ON ECONOMIC CHANGE

Mr. JAVITS. Mr. President, I report to my colleagues on the progress of a major project in process of the Joint Economic Committee, on which I am privileged to sit as the ranking minority member. This project, known as the Special Study on Economic Change, will chart for the first time since the TNEC of the 1930's the major changes in our economy and analyze their implications for policymakers. The special study was established by a concurrent resolution in July 1977, and is expected to continue through calendar year 1980—in the interim it will publish several dozen technical papers and summary reports. The resolution states that we are to investigate "past and prospective changes in the United States and world economies and the impact of such changes on the economies of the United States and other nations," and make recommendations for policy.

The study is based upon the premise that in critical watershed periods in our economic history, like the present, we need to reexamine the bases upon which we formulate economic policy to enable us to meet the issues of the times. This is not to say that the laws are often deeply affected by changing political, social and economic values and prevailing modes of thought. More specifically, they are affected by emerging political-economic developments, such as the decline of colonialism, the establishment of an international oil cartel, floating exchange rates and a world-wide persistence of unemployment and inflation.

In addition, there are emerging problems which may not even hit us for a number of years but to which we should be turning our attention now—witness our failure to heed the warnings on imports of oil before 1973. Demographic trends, for example, tell us that our whole system of pensions in the United States may become substantially more expensive through the end of this century and into the 21st century. In the area of raw materials supplies, we may also be setting the stage now for crises in later years which are decades away.

The Special Study on Economic Change has already assigned, or is in the process of negotiating for, approximately 50 technical papers on the subject covered by our mandate. These papers fall into 10 general areas which I shall describe briefly:

First. With regard to human resources and demographics, we are looking into the changing work ethic and changing work attitudes, productivity issues and also the effects of recent labor force changes on our economic future.

Second. With regard to materials and energy, we will be looking at the macroeconomic impact of energy price increases since 1973, supplies of nonenergy materials in the future, and the structure of the needed national energy system.

Third. In the field of research and innovation, we have embarked on an ambitious research agenda which would, among other things, identify where our technology has fallen behind that of our trading competitors and point out how we can improve the process of innovation in our domestic industries.

Fourth. With regard to the important issue of concurrent high inflation and high unemployment, we are looking into the ultimate causes of inflation coupled with high unemployment (stagflation) and how these can be identified and corrected.

Fifth. Another area of the Special Study on Economic Change concerns the impact of Government in the economy. How we are examining such sectors as energy, financial institutions and health care; we are also looking into the role Government regulation may play in the location of industries, which we know has had a dramatic impact on regional growth in this country; and we are taking a close look at the economics of regulatory reform.

Sixth. In the area of Federal finance, we are taking a close and critical look at Government's spending programs and trying to assess whether they are doing the job they are supposed to be doing. In addition, we are looking at the ways in which the effects of fiscal policy may have been diluted because of the changing structure of the budget and the fact that we are a more open economy now than in previous decades.

Seventh. We have contracted for studies on State and local finance which examine the impact of recent changes in the national economy on State and local governments, and which examine in detail the labor and capital investment problems of urban businesses.

Eighth. With regard to private and public pension systems, we are attempting to assess the future economic size of pensions into the 21st century, and to analyze the relationship between private pensions and social security.

Ninth. The international sector is the one which the Special Study on Economic Change has devoted much of its resources, for the international sector has been the focus of the most significant changes in our economy over the past decade. Papers for which we have contracted include an analysis of the competitive position of U.S. industry in international markets, changes in international trade and commodities, changing patterns of international direct investment (including the impact of multinational corporations on investment and trade), and changes in our balance of payments, including the decline of the dollar in international exchange markets.

Tenth. A 10th area on "Discontinuities in Trends" will attempt to assess the social and societal changes and pressures whose impact on economic phenomena is especially pronounced and how these changes might be dealt with.

In addition to this effort, the Joint Economic Committee, itself, has held hearings in 2 of the 10 areas of the Special Study: demographics and inflation coupled with unemployment. At those hearings, lasting 13 days, we heard from 44 experts on such subjects as employment and productivity· the employment problems of black teenagers, illegal aliens and older workers; the very serious phenomenon of our declining rate of productivity; the labor management aspects of this phenomenon; the causes of inflation and the complex interrelationship between growth and inflation; the interactions between inflation and capital formation, technological change and other efforts to increase productivity; and the possible linkages between our tax system and our inflationary economy. A committee print, published last month, contains a useful and interesting summary of those hearings. The SSEC plans hearings in 1979 in the other eight areas.

While we have as much as possible sought out the services of congressional and executive branch agencies, we have also relied on outside contractors where this was essential; the costs associated with such contracting comprise almost half of our present $900,000 budget. The SSEC is fortunate to have been able to secure the services of some of the country's outstanding experts, with extensive academic and governmental experience in their respective specialties.

Over the coming months, as the papers for which we have contracted become finalized, we should begin to see the answers to some of the problems facing us today. I expect that this study will set our sights in the right direction and give us an accurate and up-to-date base on which to form economic policy. Surely we face challenging and difficult times. Unemployment and inflation are too

high, the dollar has suffered greatly in international exchange markets, confidence is impaired, the Federal budget is in trouble; levels of investment in plant and equipment are too low, and work attitudes are not what they should be and the level of productivity in our economy—which is the mainspring of economic growth—has badly deteriorated. The Special Study on Economic Change is aware of these problems and has shaped a study agenda to fit them.

Furthermore, a substantial part of the special study will be devoted to translating the results of the technical papers being written at the present time into integrated analyses and policy options addressed to the Congress. I appreciate the support which my colleagues have given this project by voting for the concurrent resolution, and I hope that the study may continue to enjoy your confidence as we start to publish its results.

ANNUAL REPORT TO THE STATE OF NEW YORK ON THE STATE OF THE UNION

Mr. JAVITS. Mr. President, the 95th Congress, the first Congress in America's third century, is completing its work.

Two major developments dominate the international sphere: the long-awaited agreements resulting from the Camp David Summit respecting the Middle East, and the erosion of the strength of the dollar in the international market.

At home, the Senate made landmark decisions in approving the Panama Canal treaties and the New York City loan guarantees and made progress in the development of a cohesive energy program, while at the same time, grappling with a disturbing and dangerous inflationary spiral and still serious unemployment.

As I have done for the past 30 years, I am reporting to my constituents of the State of New York and to the Nation on my work in the second session of the 95th Congress.

LABOR AND JOBS

WORKERS' COMPENSATION

Our Nation has a commitment to assure that workers will not have to work under conditions that pose hazards to their safety and health. Yet, when preventive efforts fail and the result is disability or death, they are left with a compensation system that has been found by knowledgable representatives of business, labor and insurors to be in general neither adequate nor equitable. The National Workers' Compensation Standards Act of 1978, which I introduced this year, establishes much needed reforms in the State workers' compensation system.

In too many States the maximum benefit a totally disabled worker can receive is below poverty standards. And, too often, workers who have developed cancer or other serious illness as the result of workplace exposure to hazardous substances receive no compensation at all. At least 20 percent of all cancer cases are now believed, by scientific experts, to be occupationally related.

My bill, S. 3060, proposes a novel approach to Federal reform by establishing a set of minimum workers' compensation standards guaranteed to every worker, and at the same time keeps the long-established State system in place. No Federal administration will be required.

The Human Resources Committee on which I am ranking member, conducted 3 days of intensive hearings on this bill, which will be reflected in an improved bill which I will introduce early next year with a view toward prompt Senate consideration.

SEX DISCRIMINATION

S. 995, which I introduced in the Senate, was enacted to prohibit employment discrimination against women on the basis of pregnancy. Under this law, employers will simply be required to treat pregnancy-related disabilities on the same basis as they treat any other disabling condition with regard to leave policies and employee benefits such as medical insurance. My efforts to enact this law were based on my belief that it promotes both family stability and the full opportunity of women to participate in the job market on an equal basis with men.

LABOR LAW REFORM

This year the Human Resources Committee focused its attention on the need to reform the National Labor Relations Act which for more than 40 years has governed the right of workers to organize for the purpose of collectively bargaining with their employers. We found that in recent years some employers were able to take unfair advantage of loopholes to frustrate the ability of the National Labor Relations Board to carry out effectively its mandate to referee the conduct of labor and management under the Act. In the proposed labor law reform bill, which I cosponsored, changes were recommended to bring about more prompt resolution of issues and stronger remedies against both unions and businesses found to have violated existing law.

The bill contained nothing to alter the bargaining or contractual rights of labor or management nor did it give either side any new substantive powers. Yet the adversaries of the trade union movement found it convenient to use the bill to attack the Nation's system of free collective bargaining, misrepresenting its provisions and purposes to generate business opposition. This opposition enabled a minority of Senators to prevent Senate consideration of the bill on its merits before adjournment.

The critical problems of inflation and unemployment cannot be resolved unless the capacities of American labor and management are fully utilized. I counsel both sides to seek greater understanding and cooperation at Federal, State, and local levels and get back to the task of improving the quality of working life for all wage earning men and women.

EMPLOYMENT POLICY

In January 1978 I introduced a three-point omnibus manpower action program, much of which was incorporated in the new CETA law.

Under the new law, New York State should receive a greater proportion of Federal CETA funds than the over $1 billion it received in fiscal year 1978.

My youth employment tax credit bill was cosponsored in the House by Representative CHARLES B. RANGEL and a similar bill was reported favorably by the House Ways and Means Committee and the Senate Finance Committee. As in my own proposal, the bill enacted by Congress and signed into law by the President provides for a tax credit of up to $3,000 for employers who hire unemployed youth. This will be an incentive to involve the private sector—which employs four out of every five voters in our country—more actively in the hiring and training of unemployed youth. I am hopeful that this new law will help improve the transition process of disadvantaged, unemployed youth into productive and meaningful careers in the private sector.

Finally, my proposal to create a special demonstration program to explore possible new approaches to the employment and training of public assistance recipients, youth, veterans, and older workers, particularly in the private sector, was included in the Economic Opportunity Act Amendments of 1978 recently signed into law by President Carter.

I am confident as we look forward to 1979 and the 1st session of the 96th Congress that we have made great strides in relieving the problems of unemployment among those persons and places least able to bear that burden: in engaging the private business sector more fully in addressing the problems of unemployment; and in placing greater emphasis in our Federal manpower programs on job training as the key to employability development, independence, and human dignity.

THE HUMPHREY-HAWKINS BILL

In January of this year I joined with Senator MURIEL HUMPHREY in introducing a revised version of the Full Employment and Balanced Growth Act. While several earlier versions of the bill had been unacceptable to me personally because of their possible inflationary implications, which I felt actually could impede the achievement of full employment, I agreed that the 1978 version could be a basis for an acceptable bill.

This was principally due to the fact that the genesis of the new bill was the 1975 bill the late Senator Hubert Humphrey and I had coauthored to establish an indicative and prospective planning process for formulating national economic goals and coordinating our economic policies.

In the Human Resources Committee I worked to further improve S. 50 and to frame a bill which I believed deserved the affirmative vote of a majority in the Senate. As a principal cosponsor and, indeed, coauthor of the committee reported bill, I sought bipartisan support for the Humphrey-Hawkins bill, and urged my colleagues to consider the bill favorably both as an expression of our commitment to equal employment opportunity for all and because the new planning process is critical to the achievement of full employment and balanced economic growth in our time.

In my judgment, the Humphrey-

Hawkins bill deserves to be enacted by Congress because it will help to focus national attention and national planning on the critical need to achieve full employment. S. 50 is a bill our country can be proud of and is a lasting memorial to one of America's great sons.

ANTIPOVERTY

In 1978 I continued my long personal association and identification with the war on poverty. I am fully aware of the fact that many have despaired that the poverty syndrome can ever be broken fully in our country and that some have even talked of abandoning our commitment to achieving a society of full equality of opportunity for all. I have rejected the counsel of despair and have continued to press for needed improvements in the design and funding arrangements for our Nation's antipoverty programs.

I was a principal cosponsor and coauthor of the Economic Opportunity Act Amendments of 1978 which was passed by Congress in the closing days of the second session. Programs reauthorized in this act include: The local initiative community action programs; the Head Start and Follow Through programs; and the title VII community economic development programs.

In respect of the latter program, New York City boasts of two highly successful Community Development Corporations (CDC), in Bedford-Stuyvesant, Brooklyn and Harlem. The principle behind the CDC program, which the late Bob Kennedy and I coauthored in 1967, is that the poor themselves can organize and mobilize local resources in order to stimulate community economic development by leveraging Federal funds to save, expand or attract private businesses in poverty areas. This principle has been upheld very successfully in our New York CDC's.

In addition, I was instrumental in obtaining agreement on a modification of the existing Federal-local matching arrangement for the community action program, from 60/40 to 80/20, which should relieve the burden which has been placed on local CAP's to raise local funds to satisfy the matching requirement.

Finally, and as I referred to above, I am particularly pleased that the Senate and the House approved my proposal to establish a new special emphasis jobs and training program for poor youth, public assistance recipients, older workers and veterans. It is generally agreed that we have not yet found the answer to severe and endemic unemployment, especially in poverty areas, so we need to design some innovative new approaches to the problem.

LABOR-MANAGEMENT COOPERATION

One of my top priorities for 1978 was to have enacted into law a Federal program to encourage representatives of labor and management to enter into a continuing dialog in a form apart from the normal collective bargaining process. The idea was incorporated in my bill to establish a program to encourage and assist in the formation of joint labor-management cooperative committees, organized on a plant, area or industry-wide basis.

The major provisions of this bill were incorporated in the Senate CETA bill approved on August 25 and were accepted in conference with the House of Representatives.

There has been growing recognition that joint labor-management committees can bring a new and important dimension to labor-management relations. Committees can do much to enlarge the community of interests between workers and management and can be a useful forum for addressing work-related problems.

Joint labor-management committees can also help to stabilize the labor relations climate and structure in a particular area and thus contribute to the process of regional economic development. This has been the experience in Jamestown, N.Y., where the labor-management committee was a major factor in the reversal of a decade-long state of economic decline.

I am very pleased that this vital new initiative has become law and am hopeful it will help to harmonize the relationship between labor and management in the workplace; to improve worker morale; to reduce job tensions; enhance worker participation in enterprise and, thus, to improve the dignity of U.S. workers.

PENSION REFORM

As principal author of the private pension reform law (ERISA), I have been deeply concerned about the act's implementation. On May 1, I introduced the ERISA Improvements Act of 1978 (S. 3017) which contains comprehensive proposals for expanding the pension coverage and protections of American workers and for making the law more effective.

My bill would expand the joint and survivor annuity protection of present law, and would prohibit any decrease of disability benefits paid under a welfare plan because of an increase in social security benefits.

I am very troubled about the adverse effect of inflation on private pensioners who must live on fixed incomes. My bill would require an in-depth study of the feasibility of requiring pension plans to provide cost-of-living adjustments to benefits payable under such plans.

The Labor Subcommittee, of which I am the ranking minority member, held 3 days of hearings on S. 3017 in August. We received testimony from many different interest groups and are optimistic that major ERISA amendments will be enacted into law in 1979.

WELFARE

Despite efforts by myself and other Senators, this Congress did not achieve the comprehensive welfare reform so vital to New Yorkers and the rest of the Nation.

Other aspects of social service legislation were more successful in this session. Congress passed a bill, which I cosponsored, to increase the ceiling on Federal moneys for social services under title XX of the Social Security Act from $2.5 billion to $2.9 billion.

TRANSPORTATION

This year I supported legislation to improve all facets of transportation for New Yorkers. The Surface Transportation Act of 1978, which authorizes funds for highway and mass transit programs, contains an amendment offered by me on the Senate floor to relieve States of the requirement of repaying the Federal match when interstate highways are abandoned. This will save New York State $13 million. It also incorporates a bill, which I cosponsored, to increase substantially Federal funding for bridge repairs.

To encourage alternative modes of transportation, I strongly supported the mass transit portion of the Surface Transportation Act. It includes a new formula for operating subsidies for mass transit, giving increased assistance to the largest urban areas.

In conjunction with other Senators from New England, I took action this year on two pressing problems in rail transportation for New York. The financial stability of the Delaware and Hudson Railroad was of continuing concern. Congress did provide $2.7 million in interim relief, but the issue of viability of the Delaware and Hudson will be a high priority of mine in the next Congress. The Senate did authorize, however, $9 million dollars for the reconstruction of the Poughkeepsie Bridge. Not only will this improve rail service in New York if enacted, but it will also provide much-needed jobs in Poughkeepsie.

Congress this year took an important step in air transportation in passing legislation to decrease Federal regulation of airlines. The measure will increase competition and thereby should improve service and reduce fares. Although some small communities might be affected by service diminutions by the major carriers, I feel the legislation contains sufficient safeguards to insure adequate alternative service.

Congress failed to pass the aircraft noise reduction legislation which I feel was equally as important as the regulatory reform measure. I shall work next year for legislation that would assist the airlines and the airports to reduce noise for the many New Yorkers who are burdened by aircraft noise.

HOUSING

The Housing and Community Development Act of 1978, passed in the closing days of the Congress, contains amendments of mine offered on the Senate floor. One amendment raised the mortgage limits for multifamily apartment buildings built by nonprofit organizations. This will permit these organizations to participate once again in the multifamily housing program, a field restricted to them in recent years because of low mortgage limits.

The Housing Act also contains a number of measures that I cosponsored. Among these are: a substantially increased program for rehabilitation of multifamily rental dwellings occupied by low and moderate income families; a program of supportive services for the frail elderly to permit them to live in a noninstitutional environment; programs for improved management and increased

tenant participation in troubled multifamily housing projects; and moneys for innovative programs for public housing security.

NUTRITION

Nutrition legislation in the second session of this Congress included two important measures that I strongly supported. Funding for the WIC program for women, infants, and young children who are in danger of malnutrition was greatly increased. This program is a vital element in breaking the poverty cycle.

Incentives were added by this Congress to expand the school breakfast program for needy children. New York has been a leader in this important program. This year's legislation will encourage other States to follow suit as well as provide additional moneys for the New York programs.

This year I also worked with participants in the summer lunch program in New York City to improve the administration of the program so that needy children could be more adequately served. Although problems still remain, I am committed to further efforts to solve this difficult situation.

TAXES

U.S. tax policy should reflect people's concern about the effect of inflation and increased social security taxes on their take home pay and business uncertainty about the future investment climate. To meet these concerns I introduced with Senator DANFORTH a comprehensive tax package: first, to offset the effects on individuals of inflation and increased social security taxes over the next 3 years by widening the tax brackets and increasing the standard deduction, personal exemption, and earned income tax credit by 6 percent per year, and second, to increase business investment through a reduction in the corporate rate and increases in the investment tax credit and the acceleration of depreciation. I believe these business cuts are an essential element in making the U.S. economy sufficiently productive to increase jobs for Americans.

The Revenue Act of 1978 contained several provisions that I authored or cosponsored. The reduction of the maximum corporate tax rate from 48 to 46 percent is a modification of the corporate rate reduction of the Danforth-Javits package. The Employee Education Assistance Act, introduced by Senator PACKWOOD and me, will make education paid for by an employer exempt from taxation for an employee. This removes the job-related test that has served as an obstacle to lifelong learning, especially among women, minorities, and those in less-skilled jobs. The act also substantially reduces the taxation of capital gains, a concept that I supported.

AGING

As an original sponsor of the Older Americans Act of 1965, and as a sponsor of every subsequent extension, I was pleased to cosponsor the Comprehensive Older Americans Act Amendments of 1978, which passed the Senate on July 24 of this year. This legislation reauthorizes programs under the Older Americans Act for 3 years, and will substantially improve the broad range of programs serving our older population by consolidating and streamlining the administration of these programs at the Federal, State and area agency level.

MANDATORY RETIREMENT

On April 6 of this year, the President signed into law the Age Discrimination in Employment Act Amendments of 1978. A floor manager of the Senate bill and a participant in the Senate-House conference on these amendments, I was very pleased that Congress raised the mandatory retirement age for private, State and local governmental employees from 65 to 70. I have had a special interest in age discrimination legislation for many years, having introduced my first such bill in 1951 as a Member of the House of Representatives.

EDUCATION

Educational opportunity for all has been a central goal of mine throughout my tenure in Congress. The Federal Government plays a critical role in our progress toward this goal, and this year there was much Federal legislation which affects every sector of education.

The Congress, in 1978, worked on many major pieces of education legislation: first, complete revision of the Elementary and Secondary Education Act; second, expansion of student financial aid for colleges; third, strengthening the education and training aspects of CETA, the largest Federal program to combat unemployment; and fourth, reorganization of the Federal Government's education agencies.

As the ranking minority member of the Human Resources Committee, which deals with education and manpower programs, and a senior member of the Government Affairs Committee, which deals with Government organization I had the opportunity to be a principal author of each of these measures.

The vast Elementary and Secondary Education Act was extended for 5 years and was revised to include a number of my ideas to provide more aid to those urban and rural school systems which educate many low-income children, cut down paperwork and administrative red-tape, and increase the services to children in nonpublic, as well as in public, schools. I sponsored the College Opportunity Act, a major step forward in extending present financial assistance on the college level to middle income families who need help but have not previously been eligible.

CETA, the comprehensive employment bill, includes my amendments to improve linkages between education and work and thereby enhance job prospects for young people. The proposed new Department of Education may give greater emphasis to Federal assistance to education programs.

URBAN SCHOOL AID

The financial plight of New York City is well known, but there are hundreds of urban and rural communities outside of New York whose resources are insufficient to meet the educational needs of their young people.

In order to target Federal aid to those students who are in the greatest need of strengthened educational programs, I sponsored three amendments which direct additional funds to New York and other school districts with the highest numbers and proportions of children from low-income families.

I also revised the impact aid program, which compensates school districts for property taxes lost due to the presence of nontaxable Federal property, to increase the amount of funds for school districts serving children who live in federally supported public housing, and to limit expenditures to districts which do not need this assistance.

NONPUBLIC SCHOOL CHILDREN

I have long been committed to the belief that children in nonpublic schools should receive the same benefits from Federal education programs as do children in public schools, to the extent that this is constitutionally permissible.

Existing programs reflect this belief with many of my provisions to extend services to nonpublic school children. Unfortunately, such children still remain underserved in many instances. To insure that they receive their fair share of services, I sponsored numerous amendments adopted by the Congress in the elementary and secondary education bill.

EDUCATION OF GIFTED AND TALENTED CHILDREN

This year the Congress adopted my suggestions for building upon the program for gifted and talented children which I authored in 1974. These children are one of our most precious yet most neglected resources. The time has come to give new emphasis to their education, and my program as approved would expand and refine the existing State and Federal role in this area.

ADULT EDUCATION

My proposals for expanding basic educational programs for adults were adopted by the Congress this year. I sponsored the Federal adult education program in 1966, and since that time the program has afforded millions of Americans the opportunities to achieve economic and social advancement through its emphasis on improving basic literacy and providing high school equivalency. Although the funding has been less than needed, the program has proven to be highly effective, and is therefore expanded by my amendment to increase its outreach to an even greater number of adults.

I also authored a new provision to help meet the special educational needs of adult immigrants. Thousands of immigrants in New York require language and skill training as well as counseling.

BILINGUAL EDUCATION

Federal aid for programs of bilingual education continues to be a vital factor in the education of large numbers of students whose native or home language is not English. I advocated this year a significant increase in the amount of Federal funds to support demonstration projects which seek the most effective ways of teaching children the language skills they require to participate in the English-speaking classroom.

COLLEGE OPPORTUNITY ACT

To offset the burden of spiraling college tuition costs. I cosponsored the College Opportunity Act passed by the Senate and which I hope will receive House approval (House action was pending at

the time this report went to press). This measure has the strong support of the Carter administration.

Existing programs of Federal aid to college students have focused on the lowest income families, but I recognize that middle income families as well are finding that college costs now surpass the capacities of their pocketbooks. I therefore supported three provisions to broaden the categories of income-eligibility for tuition assistance.

EDUCATION IN CETA

The Comprehensive Employment and Training Act (CETA) is being reshaped this year to reflect my deep concern for improving the educational, training, work-study and guidance aspects of local CETA programs in order to aid the transition to unsubsidized employment for CETA participants. Several major new provisions strengthen the linkages between local and State education agencies and manpower authorities. Funds are to be reserved for the governor to encourage coordination and establish linkages between prime sponsors and educational agencies and institutions. I believe these improvements will foster the kind of cooperation between manpower authorities and education agencies necessary to reduce structural unemployment and provide participants with the opportunity for productive careers.

DEPARTMENT OF EDUCATION

A bill to consolidate many education programs now distributed among several Federal agencies into a single Department of Education passed the Senate this year and is awaiting House action. As a strong advocate of Federal support for education, and of measures which produce meaningful benefits school districts. I supported this bill.

HEALTH

As ranking minority member of the Human Resources Committee and a senior member of the Health Subcommittee, I considered numerous pieces of legislation this past year that addressed issues affecting the cost quality and accessibility of health care services. Disease prevention and health promotion were major themes in many health bills. As we learn more about the importance of the factors which contribute to healthy lives, the Congress is devoting an increasing proportion of health resources to health programs which go beyond the concept of sickness treatment.

I have authored a number of health measures during this session of the Congress, which were enacted into law in the closing weeks of the 95th Congress.

CLINICAL LABS

One of the most important of these bills is S. 705, the Clinical Laboratory Improvement Act (CLIA). CLIA was passed unanimously by the Senate over a year ago and has been awaiting action by the House of Representatives ever since.

The bill contains provisions which require the licensing of all clinical laboratories engaged in medical testing; which establish national standards to improve the quality and performance of these facilities; and which prohibit and penalize fraud and abuse. Every American is entitled to high quality, accurate laboratory testing, for such tests are often the basis for diagnosis and treatment. Because evidence suggests that many of our clinical laboratories fall short of these expectations and standards, I believe this legislation would implement many of the reforms necessary to achieve this important goal.

PRIMARY HEALTH CARE

An important measure I introduced earlier this year attempts to alleviate problems in primary health care, problems which people face in this first contact with health care services. The Primary Health Care Act of 1978—now incorporated into the Health Services Extension and Primary Health Care Act of 1978—contains several provisions directed at improving the quality and availability of primary health care services throughout the country, but particularly in medically underserved areas.

GENETIC DISEASES

The original National Genetic Diseases Act (enacted in 1976) provided for a national program of voluntary screening, testing, counseling, information, and education for all genetic conditions. It is currently estimated that at least 15 million people in our country suffer from genetic-related diseases, that 80 percent of all mental retardation is genetically associated, and that at least 40 percent of all infant deaths stem from genetic factors. I introduced the bill which extends and revises the programs authorized by the National Genetic Diseases Act for 3 years. Enactment of this measure will provide essential services to families who risk or suffer from inherited diseases.

I believe that the need for this legislation is unquestionable, as the overwhelming support for the legislation in the Senate shows, and I intend to introduce the bill once again in the 96th Congress.

In addition, I was a cosponsor of the Health Planning Amendments, S. 2410, to extend and improve the law which assists in carrying out health planning and resources development. The measure was not enacted and will be reintroduced during the next Congress.

VENEREAL DISEASE

Venereal disease is a critical health problem facing a growing number of Americans; it is perhaps the leading health problem among young people. Today it is estimated that there are a total of 10 million cases of venereal disease in this country. Of these, adolescent venereal disease accounts for fully 25 percent; this means that one out of every eight adolescents has venereal disease. To combat this growing problem, I introduced the Venereal Disease Prevention and Control Act Amendments of 1978 which extend and improve existing venereal disease prevention and control programs. The amendments enacted place a major new emphasis on VD education and information, a critically important weapon for fighting this disease.

HYPERTENSION

Until very recently, it was estimated that 23 million Americans have hypertension or high blood pressure; new data suggests, however, that as many as 35 million people are hypertensive. Of these, only 7 million (20 percent) are thought to be adequately treated for this disease.

During this year, I sponsored provisions in S. 2474 which extend for 3 years Federal programs which provide funds to States for programs directed at the screening, diagnosis, detection, prevention, and referral for treatment of hypertension.

NURSE TRAINING

Another major piece of legislation I authored is the Nurse Training Amendments of 1978. This bill extends existing Federal programs in nursing education for 2 years. I will continue to do all that I can to assure appropriate continued Federal support of nursing education programs as long as such funding is warranted.

OTHER LEGISLATION COSPONSORED

In addition, I cosponsored several measures which have also been enacted:

S. 2910, the Adolescent Health, Services, and Pregnancy Prevention and Care Act of 1978. This bill is designed to address the needs of adolescent girls who become pregnant.

S. 2579, the President's Commission for the Protection of Human Subjects of Biomedical and Behavioral Research Act of 1978. This legislation establishes a Presidential Commission charged with the responsibility of reviewing research projects conducted by any Federal agency to assure that human subjects participating in such research projects are adequately protected.

I was also the author of an amendment to the Fiscal Year 1978 Supplemental Appropriations Bill (PL 95-355) which provides funds under section 1625 of the Public Health Service Act for grants to public hospitals. The money would be used to make necessary physical improvements to the hospital in order to remedy safety hazards or to avoid noncompliance with State or voluntary licensure or accreditation standards.

S. 3116, the Disease Prevention and Health Promotion Act of 1978. This bill further promotes the concept of prevention by providing Federal support to State programs in childhood immunization, fluoridation, lead-based paint poisoning prevention, physical fitness, comprehensive public health services, and others.

Two important pieces of legislation did not become law during this session of Congress. Both measures passed the Senate, but were not considered by the House of Representatives due to the crush of legislation in the final days of the legislative session.

NATIONAL HEALTH INSURANCE

I have long supported passage of a national health plan. Because of growing fiscal constraints, I concluded almost 4 years ago that in order to achieve my long-standing goal of universal comprehensive national health plan, we should design a program which phases in different segments of our population over a period of time. Enough time should be allowed to enable Congress

and the administration to monitor closely and control the program, both fiscally and administratively. Consequently, I developed and introduced in both the 94th and 95th Congresses the National Health Insurance for Mothers and Children Act—a bill designed to provide comprehensive health care services to all children up to the age of 18 and to all pregnant women. I selected this segment of the population as a starting point because I believe it represents the wisest investment of our health care dollars in the future health and well-being of the citizens of this country.

Finally, I have become increasingly concerned with the growing problem of divided congressional committee jurisdiction over issues relating to the financing and delivery of health care services. Today there are four major committees in the Congress which share jurisdiction over health issues. This jurisdictional division has led to lengthy, and in my judgment unjustified, delays in the consideration and passage of numerous health measures.

Therefore, I introduced Senate Concurrent Resolution 100—a bill which would establish a Joint House-Senate Committee on National Health Insurance. This committee would combine the jurisdictions of the four major health committees in the House and Senate and would have exclusive jurisdiction over all bills and resolutions relating to the establishment and implementation of a national health insurance program.

REFORM OF FDA'S DRUG REGULATORY PROCESS

The system by which FDA permits medications to be available to the public is one of the most critically important health responsibilities of the Federal Government. Each decision whether or not to make a drug available to the public affects the health and lives of millions of Americans.

As the public becomes more sophisticated about the risks and benefits associated wi'h medications, their confidence in how the agency operates has become diminished.

Early in this Congress, I introduced a major consumer protection bill—the Comprehensive Drug Amendments of 1977 which proposed a major overhaul of FDA's drug regulatory scheme.

In this last session, many of my colleagues and the administration joined me in developing another far-reaching FDA reform bill based in large part on my earlier bill.

Both measures would not only guarantee better decisions for the public health, but would for the first time make sure these decisions would no longer be made secretly. The bills would provide the public an opportunity to participate in this deliberative process.

As with many major and comprehensive reforms of regulatory agencies, it takes time, in hearings and committee sessions, to assure that the proposals are carefully designed and that the desired impact will actually occur. I have spent a significant amount of time refining these proposals in the committee process and will introduce early next session a new bill incorporating many new ideas and proposals, which will achieve the same goals.

HANDICAPPED

Issues facing our Nation's handicapped citizens have long been of paramount importance to me. S. 2600, the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978, which passed the Senate on September 21, will greatly expand critical services for the handicapped and developmentally disabled, by providing new programs for severely handicapped individuals, reader services for the blind, interpreter services for the deaf, and a National Institute of Rehabilitation Research. One of the major features of this legislation is of particular relevance to me: an expansion of the State system to protect and advocate the rights of the developmentally disabled established through the bill of rights for the developmentally disabled I authored in 1974.

MEDICAID ASSISTANCE

I also introduced this session S. 2505, a bill which will enable severely disabled persons who are capable of gainful employment to receive medicaid assistance. Employable disabled persons in our country are victims of an intolerable situation: the medicaid program, designed to help people, often places employable severely handicapped individuals instead in a very real "life or death" dilemma which has the effect of requiring them to go on public assistance.

CHILD AND HUMAN DEVELOPMENT
VOLUNTARY FAMILY PLANNING

The Voluntary Family Planning Services, Population Research, and Sudden Infant Death Syndrome Amendments of 1978, which I cosponsored, and which passed the Senate June 7, 1978, will significantly improve federally supported programs of family planning and population research by increasing the opportunity of individuals to receive voluntary family planning services. Perhaps most importantly, it authorizes a new and essential program to provide family planning services to adolescents who wish to avoid unwanted pregnancy.

DOMESTIC VIOLENCE

Domestic violence is a pervasive and increasing problem in our Nation. Such violence is not restricted to any one segment of our society, but affects the whole spectrum of American economic and social life. To help alleviate the horrors of this problem I cosponsored legislation, S. 2759, the Domestic Violence Prevention and Service Act, which was passed by the Senate on August 1.

This bill provides assistance to States and local communities in their efforts to protect and care for victims of domestic violence.

VETERANS

Today's GI bill, unlike the World War II law, does not take into account relative differences among States in educational costs and, as a result, far too few New York veterans take advantage of their GI bill opportunities. To this end, I introduced, with Senator MOYNIHAN, an amendment to S. 2384, the Veterans Pension and Survivors Improvement Act, passed by the Senate July 31, which would remove State matching requirements from the tuition acceleration provisions of the GI Bill Improvement Act of 1977. This amendment would remove a provision in the 1977 legislation that tied veterans' benefits for education to a home State's ability to pay for GI bill benefits. Under that provision, financially-pressed States such as New York would be required to match Federal GI bill assistance with scarce State funds. I firmly believe that my amendment will permit proper Federal assistance to those Vietnam veterans who, through honorable service, have earned GI benefits from a grateful Nation.

EQUAL RIGHTS AMENDMENT

In the last weeks of the Congress, the Senate voted to extend the period of time by which the States could ratify the equal rights amendment. I was a major cosponsor of this resolution and took an active role in informing my colleagues of the legal and constitutional issues involved in such action.

I believe that the long struggle, begun in Seneca Falls, N.Y., well over a century ago must be continued until women have equality under the law.

No one wants to be treated as a stereotype, nor should they. We are a society of individuals—each with our strengths and weaknesses. I believe that the equal rights amendment provides an opportunity for each individual regardless of his or her sex, to be treated as an individual.

FOREIGN RELATIONS

There were a number of historic foreign policy developments in 1978. The momentous breakthrough for peace in the Middle East achieved at the Camp David summit; Senate advice and consent to the ratification of the Panama Canal Treaties; lifting of the Turkish arms embargo; continued strains with the Soviet Union respecting developments in Africa and human rights; progress on Strategic Arms Limitations Talks and numerous other developments affecting U.S. interests throughout the world. As a member of the Senate Foreign Relations Committee I took an active part in the Senate's actions respecting responsibilities in these issues. As a member of the Senate Foreign Relations Committee, I visited Panama in January and I also traveled to Greece and Turkey, Europe and the Middle East to investigate first hand the situations there.

THE MIDDLE EAST

The dramatic peace breakthrough achieved by President Carter, Prime Minister Begin and President Sadat at the Camp David summit was probably the most significant foreign policy development of the year. As a result of Camp David there is a real chance for a lasting peace in the Middle East. I strongly support the agreement and will do everything I can to help establish peace. The decision of the Israeli Knesset to relinquish the Israeli settlements on the Sinai was a most constructive and courageous step in that direction.

Earlier in the year I helped lead the opposition to the Carter administration decision linking the sale of sophisticated military aircraft to Israel to the simul-

taneous sale of weapons to Saudi Arabia and Egypt as a package deal. On the other hand, I helped to obtain $1 billion in security assistance to Israel, and three-quarters of a billion dollars in economic assistance to both Israel and Egypt.

LATIN AMERICA

The major development this year respecting Latin America was the ratification of the Panama Canal treaties. I supported these vital treaties approved by the Senate with a two-thirds majority. With my support the treaties were amended by the Senate to a significant degree to assure that U.S. rights to keep the canal open, neutral, secure and operating (with force if necessary) and to allow U.S. warships expeditious ("head of the line") passage in the event of an emergency. I strongly supported these amendments as a precondition for Senate approval of the basic treaties.

I also supported a United States-Bolivia Prisoner Exchange Treaty—now in force—to bring U.S. citizens in Bolivian jails under terrible conditions to finish their sentences in U.S. institutions—an agreement very similar to that which we have with Canada and Mexico.

GREECE AND TURKEY

I travelled to Greece and Turkey (two important NATO allies) for the Foreign Relations Committee in March to make a first hand inquiry into the disputes between these two allies about the ongoing crisis on Cyprus and the Aegean territorial dispute. My findings led me to continue to support the imposition of an arms embargo against Turkey for its violations of U.S. law respecting the use of U.S. supplied arms on Cyprus. However, a majority of Congress voted to lift the arms embargo through an amendment to the International Security Assistance Act of 1978. I will continue to watch the situation there very closely.

UNITED STATES-U.S.S.R. RELATIONS

Despite its obligation under the Helsinki agreement respecting fundamental human rights—especially the right to emigrate and to reunite families—the U.S.S.R. continued its violations of the Helsinki Agreements by the persecution of Soviet citizens seeking to insure Soviet compliance with the Helsinki Agreement. Prominent Soviet dissenters such as Uri Orlov, Anatoly Shcharansky, Viktoras Petkus, Alexander Ginzburg and others and even a U.S. citizen were the victims of alleged "trials" in the Soviet Union which broadcast to the world blatant Soviet disregard for basic human rights and decency.

An issue of fundamental importance in our relations with the U.S S.R. is strategic arms limitation talks (SALT). I have watched closely the progress of the SALT negotiations, which are expected to be concluded by the end of this year. When an agreement is signed it will be submitted to the Senate and I will give very close scrutiny to the entirety of its provisions to be sure that it protects U.S. security interests and helps to stem the arms race and maintains strategic stability.

ASIA

Especially following my visit to Seoul in December 1977, I have had serious reservations regarding President Carter's plan to withdraw U.S. ground forces from South Korea. North Korea remains hostile, aggressive, and heavily armed. I believe that the presence of U.S. forces constitutes a deterrence to North Korean aggression and thus remains a vital component for peace and stability in northern Asia, including Japan.

Moreover U.S. actions in Korea will affect the perception in Asia of the will of the United States to fulfill its security commitment. Accordingly, I supported an amendment which is now law to insure that the withdrawal of troops from South Korea will not endanger security in the region and will be implemented in consultation with Congress.

I have welcomed the efforts of the past three administrations to make normalization of relations possible with the People's Republic of China; it has been long overdue. However, such "normalization" must not come at the expense of our support for the integrity of the Republic of China on Taiwan with which we have a mutual defense treaty. Accordingly, I cosponsored an amendment to the International Security Assistance Act, to require prior consultation with Congress on any measures which would affect our mutual defense treaty with Taiwan.

AFRICA

Focus on Africa centered on the conflict in Rhodesia where the Smith regime reached agreement with three major black leaders to initiate majority rule in Rhodesia. I coauthored a provision which is now law to lift the U.S. embargo of Rhodesia once fair elections have been held and on condition that a good faith effort is made to reach a negotiated solution to the struggle with the outside black guerrilla forces.

OTHER LEGISLATIVE INITIATIVES

I sponsored an amendment to the International Security Assistance Act of 1978 to require the President to submit annually to Congress a comprehensive plan for all proposed arms sales for each fiscal year. This procedure will enable comprehensive coordinated review of U.S. arms sales abroad by the President and Congress, rather than the ad hoc, disjointed procedure which has been followed until now.

I coauthored legislation to effect comprehensive Federal Government policies and programs to combat international terrorism and to implement rigorous sanctions against countries that support terrorists. This far-reaching legislation made considerable progress through Congress this year, and I will work hard to achieve its enactment in the new Congress in 1979.

DEFENSE

I supported President Carter's veto of the Defense authorization bill which resulted in the exclusion of a fifth nuclear aircraft carrier at a cost of more than $2 billion. Earlier I supported an amendment in the Senate to prevent funding of the expensive F–18 Navy fighter aircraft program which could not adequately perform the fleet defense mission as well as the existing F–14 aircraft. Unfortunately, this amendment was defeated.

I also have worked hard to have stationed at Fort Drum, N.Y., the Second Infantry Division as it is withdrawn from South Korea. This would bring economic benefit to New York State and would help to balance the disproportionate distribution of defense facilities in the Southern States—an imbalance which has aggravated New York's poor financial situation. A decision by President Carter on where to base the Second Infantry Division has been pending since July.

INTERNATIONAL ECONOMY

STATE OF THE WORLD ECONOMY

The two most critical issues facing the international economy today are the sharp decline in the dollar and the need for new markets for the exports of the United States and the other industrialized countries. These two issues are closely related—as long as the industrialized countries focus their exports primarily on each other's markets, their currencies will be unstable, exacerbating their overall political relations.

The rapid and dramatic decline of the dollar's value is not only a problem with international effects but also has harsh consequences for the American people. The falling dollar contributes to higher inflation in the United States, erodes confidence in the future of the country, places extraordinary pressure on our trading partners to erect barriers to U.S. exports, and dampens the international free flow of capital by hampering investment decisions. There is also the danger that the OPEC countries, who are concerned that the dollars they are receiving for their oil are declining in value, will raise the price of oil.

It is critical that the U.S. display strong leadership and take decisive action to curb the dollar's further deterioration. In numerous discussions with President Carter and other world leaders and in speeches on the floor of the Senate, I have urged the swift adoption of a three-part program to deal with:

The short-term problem of increasing the resources available to the United States to intervene adequately in the foreign exchange markets when necessary. By continuing to tighten credit, the Federal Reserve Board can also demonstrate concern for the international position of the dollar.

The medium-term problem by reducing our trade deficit through a vigorous export expansion effort, cutting our oil imports, and dealing aggressively with inflation. We must also take steps to improve U.S. productivity, which is at the root of our declining international competitiveness.

The long-term structural problem facing the world economy by supplementing the present exclusive reliance on the dollar as the key reserve asset by a reliance on a combination of the currencies of the major industrialized countries.

We must also insure that the world's markets are sufficiently large to permit the resultant expansion of trade. This expansion of markets is closely related to continued economic growth in the developing countries of the world. To foster this growth, a coordinated international effort is required to channel adequate levels of capital to the LDC's.

A growth development fund, as I have put forward in S. Res. 441, made up of contributions from the OPEC and OECD countries, would be a mechanism to make available funds to the LDC's for productive investment in rational agriculture, industrial development and trade that take into account the total needs of the international economic system.

U.S. PRODUCTIVITY

I continue to be deeply concerned about the stagnation in productivity that has characterized our country in recent years. In what is a most ominous and insidious development, the United States has fallen from first place to last place in productivity growth among our major international competitors. More importantly, stagnant productivity is one of the principal causes of our deteriorating world trade position, the recurrence of severe inflation in the United States and the erosion in our standard of living. There is no question that the productivity problem in the United States has exacerbated the problems of inflation and unemployment and has set the stage for the resumption of what may now be a new inflationary spiral.

I intend to concentrate my efforts in the 96th Congress on developing significant new legislative initiatives to deal with the problem of stagnant U.S. productivity and hope we will be able to reverse the decline before it is too late.

MAJOR LEGISLATION

Public Law 95–424, the International Development and Food Assistance Act, authorizes appropriations of $1.86 billion for fiscal year 1979 for bilateral assistance, international disaster assistance programs, and voluntary U.S. contributions to international organizations. Two provisions of the act, which I sponsored, provide debt relief to the poorest developing countries—which is an important step toward improving the relationship between the developing and the developed world—and directs AID to emphasize energy conservation in its development activities.

Senate Resolution 440, which was passed by the Senate, calls on the President to undertake discussions with the industrialized countries as a first step toward developing a common approach to the serious problems of the international monetary system. Senate Resolution 441 puts forward the concept of a growth development fund made up of contributions from the OPEC and OECD countries for productive investment in the developing countries.

Public Law 95–268 authorizes the extension of the Overseas Private Investment Corporation. I was instrumental in focusing the legislation on OPIC's central purpose of facilitating investment in the developing countries while insuring that U.S. small business has access to OPIC programs and minimizing the possibility of lost U.S. employment.

Public Law 95–435 authorizes $18 billion for the U.S. contribution to the Witteveen Facility of the International Monetary Fund. I strongly supported Public Law 95–435, which will enable member countries to redress their balance of payments difficulties, thereby increasing the stability of the international economic system.

S. 3077 extends and expands the operating authority of the Export-Import Bank by providing export financing and makes a substantial contribution to our ability to compete in the international marketplace.

OVERSEAS TRIPS

In July, I traveled to Paris to meet with President Giscard d'Estaing of France to discuss matters requiring attention at the Economic Summit in Bonn. In addition I discussed these issues with Japanese Prime Minister Fukuda, British Prime Minister Callaghan, and German Chancellor Schmidt during their visit to the United States in the spring.

TRADE PROBLEMS

I worked for the passage of H.R. 11711, the Trade Adjustment Assistance Act, which improves and expands the operation of adjustment assistance programs for workers and firms whose industries have been adversely affected by imports. This bill corrects many of the serious flaws in the operation of the present adjustment assistance programs.

In response to a sudden and heavy increase in the volume of imported steel coming into the United States from European producers, I urged the Special Trade Representative to undertake serious discussions with our European trading partners in order to prevent the recurrence of such a surge in steel imports. In addition, on numerous occasions I have communicated to Ambassador Strauss and other members of the administration my concern that U.S. exports, of particular interest to New York State producers, have open and fair access to the markets of our trading partners.

INTERNATIONAL BANKING

In August 1966, I introduced legislation to establish Federal regulation over foreign banking corporations doing business in the United States and its territories.

Then, as now, we must have Federal supervision of the foreign banks because of the degree of knowledge and expertise required to evaluate various applications as well as to examine and regulate foreign institutions. Because these activities constitute such a small proportion of the supervisory functions of any State, required State specialization in the international banking field has not been developed.

In August 1978, 12 years later, the International Banking Act of 1978 was cleared by both Houses of Congress and sent to the President for his signature. This new law accomplished the objectives of my original legislation.

ANTITRUST COMMISSION

In June of this year, I was sworn in as one of the 22 members of the National Commission for the Review of U.S. Antitrust Laws and Procedures. Establishment of this Commission by Presidential Executive order was the culmination of a 16-year effort on my part to convene a legal body to review our antitrust laws.

The Commission resulted from legislation I introduced in May 1977 proposing a major examination of U.S. antitrust laws to determine whether the statutes, now more than 80 years old, are fully appropriate to the problems of the contemporary American economy.

As a member of the Commission, I have sought particularly to direct the attention of the Commissioners to the international aspects of antitrust laws as they affect the competitiveness of U.S. exporters in overseas markets where they must compete against foreign firms not subject to the stringencies of U.S. antitrust laws and philosophy.

ENERGY

In 1978 the Congress faced one of its most arduous tasks—the development of a national energy policy. Although passage of the separate provisions of the national energy plan was not accomplished until late in the session, I believe that the outcome will result in both increased production and conservation of our scarce energy resources.

In light of this fact, I supported passage of the energy conservation, utility rate reform, energy tax, and coal conversion portions of the national energy plan, in addition to the natural gas compromise. Passage of these bills will help lead the United States toward energy self-sufficiency at a time when we are still importing over half of our petroleum. A national focus on ways to cut back these oil imports through conservation and increased production was of singular interest this year in Congress.

CONSERVATION AND PRODUCTION

Conservation is an essential ingredient in the energy policy formula for two reasons. First, it will reduce consumption and, therefore, lessen our reliance on foreign imports. Second, it will encourage the development of alternate energy technologies as we look toward a future based on secure and clean energy sources.

Switching from one energy source to another is a costly undertaking, and incentives that will help ease the economic burdens imposed by experimentation with new and innovative technologies, are essential.

Aware of this initial capital investment problem, I was instrumental in helping enact the solar energy tax credits and homeowner's insulation tax credit. The solar tax credits will rebate to consumers who have installed solar energy devices in their homes up to $2,200 based on a percentage formula of investment.

The insulation credits will encourage homeowners to insulate better by rebating 15 percent of any expenses of the costs associated with weatherization, up to a maximum rebate of $300. Both of these tax credits are retroactive to April 1977.

Further, I supported legislation designed to promote the use of solar energy in Federal buildings, and I have cosponsored a bill which will provide guidelines for the establishment of solar access rights. In addition, I was an active supporter of Sun Day, May 3, 1978, a day devoted to the education of the public regarding advances in solar technology.

To lessen our dependency on foreign sources of energy, I have cosponsored legislation that would encourage development of new alternative sources of energy: S. 2400 and S. 2533. The former would establish a National Alcohol Fuels

Commission to fund research on gasohol and other alcohol-based fuels. The latter would require the blending of one percent ethanol with gasoline during a ten year pilot project. Neither of these bills was enacted.

Alcohol fuels, derived from agricultural surpluses, municipal wastes and timber, among other sources, can be easily integrated into our present transportation system with few modifications. Indeed, alcohol fuels have great potential for replacing natural gas and oil for other uses, such as in utility peak turbines.

NUCLEAR

Nuclear energy can provide us with a short-term solution to some of our current energy demands. However, it is important that first we find a solution to the problem of nuclear waste before advocating an energy policy based on atomic energy. At present there is no national management system for the safe disposal of nuclear wastes. As ranking minority member of the Energy Subcommittee of the Governmental Affairs committee, I actively participated in hearings designed to address this issue. These hearings explicitly delineated the national objective of formulating an effective nuclear waste program and addressed the problems facing States which have such nuclear waste repositories.

Also, I was an original cosponsor of the Nuclear Non-Proliferation Act (Public Law 95–241), which was signed into law this year. This legislation represents one of the first attempts to control the proliferation of nuclear materials throughout the world by imposing strict regulations on the sale of nuclear materials.

ENVIRONMENT

In response to the critical health threat posed by disposed hazardous wastes in the Love Canal near Niagara, Falls, I authored an amendment to the HUD-Independent Agencies appropriation bill, H.R. 12936, which provides up to $4 million to New York State for the purposes of detoxifying the Love Canal. The amendment was adopted by Congress and has been signed into law by the President.

During consideration of the Navigation Development Act, I cosponsored an amendment that would have authorized the Federal Government to finance the annual cost of operation and maintenance of the New York State Barge Canal. This canal was financed in its entirety by the citizens of New York in the 19th century. Today it remains as the only major inland waterway system not maintained by the Federal Government.

GOVERNMENTAL AFFAIRS

As a senior member of the Governmental Affairs Committee, I supported passage of S. 2971, the Lobbying Reform Act; H.R. 7700 the Postal Service Amendment Act of 1978; S. 991, the Department of Education Act; House Joint Resolution 554, a constitutional amendment for District of Columbia representation in Congress; and, H.R. 2852, the antirecession and supplemental fiscal assistance legislation.

All of these bills, with the exception of S. 2971 and H.R. 7700, have passed the Senate, although they did not pass the House. The resolution granting District of Columbia residents a right to send voting representatives to Congress passed both Houses and was sent to the 50 States for ratification as an amendment to the U.S. Constitution.

I was also a cosponsor of S. 518, the Federal Employee Part-Time Career Employment Act and S. 517, the Federal Employees Flexible and Compressed Work Schedule Act.

In addition to the above legislation, I introduced S. 3450, the Privacy Act Amendments of 1978. This bill is designed to protect the patient from disclosure of his medical records to unauthorized persons, and would also give patients a right of access to their own records, a right they do not currently have.

CIVIL SERVICE REFORM

As a senior member of the Senate-House conference committee to resolve the differences between the Senate- and House-passed civil service bills, I supported and helped develop the most comprehensive reform of the Federal civil service ever undertaken.

While recognizing the unique contributions of thousands of dedicated and able civil servants, the legislation makes it easier to punish incompetence and to reward hard work, creativity and outstanding performance.

BANKING REORGANIZATION

With Senators RIBICOFF and PROXMIRE, I introduced legislation to consolidate the three Federal bank regulatory agencies into a single Federal Bank Commission. S. 2750 is predicated upon the proposition that the present tripartite structure leads to inconsistent regulation.

The bill would facilitate the achievement of the basic goals of bank regulation, that is, to insure safe and sound banking practices and to encourage competition and innovation within the Nation's banking system.

CRIME AND CRIMINAL JUSTICE

During the second session of the 95th Congress, the Senate passed and sent to the House a major overhaul of the Federal Criminal Code. This bill was the result of an extraordinary legislative process begun in 1966, when Congress established the National Commission on the Reform of the Federal Criminal Laws. I introduced amendments and played an active role in two important areas of reform.

Having testified before the House and Senate Judiciary Committees, I was particularly pleased that the Senate adopted significant revisions of the current law in the areas about which I have expressed concern for years: sentencing reform and marihuana decriminalization.

REFORM ON PENALTIES REGARDING MARIHUANA

Cosponsored by myself, Senators CRANSTON, BROOKE, and NELSON and endorsed by the Carter administration, the marihuana reform bill would reconcile Federal law with the reality of Federal policy that such cases are no longer prosecuted. It would stand for the proposition that laws on this subject should no longer define millions of otherwise law-abiding citizens as criminals.

SENATE ETHICS STATUTE

As a principal cosponsor of S. 555, which was finally enacted into law in 1978, I am pleased to report that it will have a direct and significant impact on Government integrity and accountability. It provides for meaningful public financial disclosure by top Government decisionmakers in all three branches of the Federal Government and for a strengthened mechanism for investigation and prosecution of official corruption.

SUNSET

Sunset legislation has the potential of significantly improving the Federal Government's performance. My purpose has been to assure that the final version of sunset legislation will achieve the goals intended without producing unanticipated difficulties. The present version of sunset meets this purpose, and is awaiting final Senate action.

EXPLOSIVES TAGGING

As part of comprehensive antiterrorism legislation introduced by Senator RIBICOFF and myself, I have proposed a broad program to deal with the increasingly serious problem of criminal and terrorist misuse of explosives.

NATURAL RESOURCES AND RECREATION

I cosponsored the Urban Recreation and Recovery Act for 1978. All people, including those living in cities, desire conveniently located recreation areas. The Senate approved legislation I copsonsored that would aid in the funding and establishment of parks that are close to where the majority of the people live.

NEW YORK STATE

FEDERAL GRANTS

I took a leading role in obtaining urban development action grant funds for New York State. When the rate of UDAG contracts was slowed to a crawl at the Department of Housing and Urban Development because of inadequate staffing, I telephoned HUD Secretary Patricia Harris to urge immediate action on New York State contracts and the elimination of the UDAG backlog. Secretary Harris responded quickly to my request and the UDAG money began to flow from HUD.

AIR SERVICE

The cut back of air service to upstate New York has also caused me deep concern and I have worked with community leaders, the airlines, the Civil Aeronautics Board and the Federal Aviation Administration to find ways to provide adequate air service so necessary to the economic health of upstate New York.

HOUSING

Adequate housing continues to be one of my major concerns. When the Department of Housing and Urban Development allocated only 120 section 8 rental subsidy units for use by the Farmers Home Administration in rural New York, I was successful in obtaining an additional 100 units from HUD, along with a promise from Secretary Harris to provide a satisfactory level of assistance in fiscal year 1979.

ECONOMIC DEVELOPMENT

Federal assistance for economic development is essential in New York State,

both to retain present industry and attract new employers. I have worked closely and successfully in this area with a number of organizations, especially the Erie County Industrial Development Agency, the Technical Assistance Center at the State University in Plattsburgh, the Black River-St. Lawrence Development District, and the Mohawk Valley Economic Development District.

When funds allocated for trade adjustment assistance from the Economic Development Administration (EDA) ran out midway through the fiscal year, I persuaded EDA to transfer money from another category to keep the extremely important trade adjustment loans coming. These loans are made to firms which have been adversely affected by unfair foreign competition and have been vital in saving many New York State businesses and thousands of jobs.

URBAN POLICY

Earlier this year I introduced legislation to establish an Urban Service Corps in the Action Agency. This proposal was designed to encourage urban residents, particularly older and younger individuals together, to take part in volunteer efforts to halt and reverse the decline of social services and the deterioration of their own neighborhoods.

I was encouraged by the great successes of the Citizens Committee for New York, which I had caused to come into being, and which had inspired thousands of New Yorkers to volunteer to help maintain the quality of life in their city. I have continued to maintain that an active spirit of citizen voluntarism exists in our cities and that people are ready to step forward and do what they can.

I am pleased that my proposal was approved unanimously by the Human Resources Committee, and has been included in the Domestic Volunteer Service Act Amendments of 1978 which was approved by the Senate on July 21.

NATIONAL BANK FOR CAPITAL CONSERVATION

Along with Senator GEORGE MCGOVERN, I recently introduced a proposal to establish a new, special purpose Federal lending facility—a National Bank for Capital Conservation—to extend loans to cities to assist them in the preservation of their necessary physical resources.

FEDERAL FUNDS FOR NEW YORK

I have vigorously pursued those actions necessary to increase the Federal Government's responsiveness to tax burdens facing New Yorkers and all Americans, as well as to promoting effective and efficient use of Federal funds.

During 1978, the Congress developed the Federal budget for fiscal year 1979. I am pleased to note that this budget reduces the proposed Federal deficit in fiscal 1979 by approximately $45 billion below the President's original request. This accomplishment is further enhanced by the fact that this same budget allows for more than adequate funding for necessary and important Federal activities. This is particularly true for Federal funding that meets directly the needs of New York citizens.

NEW YORK CITY CONCERNS

New York City's financial plight has been at the forefront of my concerns this year. I believe that my efforts were pivotal in persuading Congress that the city must have long-term financing if it was to put itself on a solid footing and to avoid thereafter a need for returning to the Federal Government. The New York City Loan Guarantee Act of 1978 authorized up to $1.65 billion in Federal loan guarantees for New York City. It was a key element in securing support for State and pension fund authorities, as well as city financial institutions in order to complete the $4.5 billion financial package which the city will need for the next 4 years. With the passage of this bill, the city now has the opportunity to attain financial viability and to be again the great national and world metropolis which is its true character and role. The regeneration of New York City has been and will continue to be my high priority.

NEW YORK CITY HOUSING

Battery Park City will be a new town—in town and will offer balanced residential and commercial community which will stem the exodus of businesses from lower Manhattan. It will provide an attractive place to live within walking distance of the 450,000 jobs in lower Manhattan.

I contacted Secretary of HUD Patricia Harris and urged her to authorize a Federal Housing Administration mortgage insurance commitment for the first 1,642 housing units of Battery Park City. This authorization was obtained, and in September, Battery Park City was the subject of favorable action by the New York City Board of Estimate, enabling construction to begin in October.

Renovation of New York City's aged housing stock is of prime importance to the maintenance of the city's overall vitality. I urged the Department of Housing and Urban Development to approve New York City's application for housing rehabilitation funds under the neighborhood strategy areas program. Ten neighborhoods were designated eligible for this assistance.

NEW YORK CITY CRIME

Crime remains one of New York City's greatest problems. I was pleased to be instrumental in obtaining $4,076,701 in funding from the Law Enforcement Assistance Administration for 18 community anticrime programs located in every borough of New York City.

NEW YORK CITY HANDICAPPED

I have a deep commitment to the disabled. In New York City 275,000 handicapped people live below the poverty level. At my urging the Legal Services Corporation awarded $270,616 to the Handicapped Persons Legal Support Unit of Community Action for Legal Services, to establish a special staff, in accessible premises, to provide legal services to this heretofore underserved group.

CASEWORK

Helping people with their problems in order to make their lives a little easier has always been for me one of the great satisfactions of public service. I therefore take pride in the fact that my offices assisted more than 15,000 citizens with the problems they were having in their dealings with Federal agencies.

[*In percent*]

HEW, social security, medicare and medicaid, State social services	40
Visa and immigration	22
Military and veterans	21
Miscellaneous, post office, civil service SBA, etc	17

This year I intend to have an outreach program so that each one of my constituents will be aware that these services are available in all my offices.

CONCLUSION

The 95th Congress accomplished much, but much remains to be done. Complex problems do not lend themselves to easy solution, as the energy legislation, tax reform, environmental issues, and myriad welfare legislation readily attest. But there have been substantial accomplishments: the approval of New York City loan guarantees and the Panama Canal treaties; and the extension of the deadline for the equal rights amendments and others.

The 96th Congress will face many of the same issues. Our paramount concern will be to insure that the purchasing power of each American's take-home pay is not eroded by inflation. We will address this concern on a variety of fronts.

The next Congress will have to balance the priorities of demand for Government services against the necessity to reduce the cost of Government. While our economy demands increased amounts of available capital with which to increase productivity, important Government programs also require funding. The 96th Congress will be facing these hard decisions.

New York, America's Empire State for so many aspects of our culture and development, remains my primary concern. With your help, I will continue to seek more effective ways to serve you.

I thank my colleague.

FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978

The Senate continued with the consideration of H.R. 50.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mrs. HUMPHREY. Mr. President, I have a letter from a number of distinguished economists on the subject of inflation and the effect of the Humphrey-Hawkins bill. I would like to read a paragraph from that letter:

> The Senate Banking Committee added a provision which sets the goal 0 percent inflation by 1983. Others have proposed a goal of 3 percent inflation by 1983. We are convinced that such specific numerical inflation goals with these deadlines would be illusory and ineffective weapons against inflation and would actually tend to be counter-productive.
>
> We submit that empirical evidence in the modern American economy and the current condition of the economy make it clear that the goal of 0 is impractical and unattainable.

The names on this letter are Gardner Ackley, who is a former chairman of the Presidents' Council of Economic Advisers; Robert Eisner; Walter Heller, also a former chairman of the Presi-

dent's Council of Economic Advisers; Leon Keyserling, a former chairman of the President's Council of Economic Advisers; Charles Killingsworth; Lawrence Klein; Robert Nathan; Arthur M. Okun; James Tobin; and Lester C. Thurow.

Mr. President, I ask unanimous consent that the letter in its entirety be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 18, 1978.

We are very much interested in the contents of S. 50, the Humphrey-Hawkins "Full Employment and Balanced Growth Act of 1978". This legislation would establish a process of economic policy coordination, goals for the reduction of unemployment, a new process and tools to combat inflation, and a framework for a focused and flexible attack on joblessness. We are especially concerned about the provisions related to overcoming inflation, and want to share our views about these issues.

Humphrey-Hawkins includes major anti-inflation provisions far stronger than current law or policy. It declares the purpose of attaining price stability as rapidly as feasible. More specifically, the bill requires that the President set forth each year, in his Economic Reports, annual numerical goals for prices for that year and for the next year. In addition, the bill provides an annual process for the appropriate Committees of the Congress and the Congress as a whole to review the numerical goals and timetables set by the President and modify them. The bill also sets forth a number of specific policies to be initiated by the President to combat inflation.

The Senate Banking Committee added a provision which sets the goal at 0% inflation by 1983. Others have proposed a goal of 3% inflation by 1983. We are convinced that such specific numerical inflation goals with these deadlines would be illusory and ineffective weapons against inflation and would actually tend to be counter-productive.

We submit that empirical evidence in the modern American economy and the current condition of the economy make it clear that the goal of 0 is impractical and unattainable. An empty promise on so vital an issue would impair the credibility of government. Significantly, the bill does not set the goal of zero unemployment; it sets the goal of 4 percent unemployment overall and 3 percent for adults within 5 years, which we believe to be obtainable. Apart from the unreality of this goal, many economists believe that a moderately rising price level over the years is more conducive to optimum economic performance, constructive price-making by our system of business enterprise, collective bargaining and wise adjustment of price trends to changing conditions both in the United States and overseas, than an absolutely stable price level.

Even if an absolutely stable price level maintained over the years had some elements of advantage, its attainment would require a degree of Government intervention in the market economy antithetical to the felt and expressed views of industry and labor, the American people and their government. It would require destructive attempts to substitute through universal and massive direct controls a straight-jacketed economy, in lieu of the preservation of the market economy to which we attach high value.

We believe the proposed inflation goal of 3% by 1983 is undesirable on substantially similar grounds. This proposal has been already rejected by the House and is strongly opposed by the Carter Administration, Chairman of the Council of Economic Advisers, Charles Schultze, Inflation Advisor Robert Strauss, as well as the National Association of Manufacturers, the AFL–CIO and a broad group of other organizations.

A specific inflation goal with a specific timetable could set up in the public mind a trade-off between efforts to combat inflation and reduce joblessness. It could provide an excuse to suspend efforts to reach full employment, even the causes of inflation have little or nothing to do with employment policies. A specific inflation goal with the 1983 timetable would encourage policies based on the simplistic and fallacious concept of a direct trade-off between inflation and unemployment. High unemployment and lost productivity contribute to inflation. We also know that a targeted attack on structural unemployment—a central feature of Humphrey-Hawkins—poses few risks of inflation by itself.

Combatting inflation will require sensible monetary and fiscal policies, specific actions to stem cost and price pressures in many sectors of the economy, and at least some good luck. The job will not be enhanced by establishing unrealistic and inflexible inflation goals and timetables. A far better course is the process of policy coordination, and annual inflation targets already contained in this legislation.

A similar goal for reducing to 20% by 1983 the ratio of federal outlays to Gross National Product has been included by the Banking Committee. For many of the same reasons, we urge the Senate to reject this specific proposal. Such a provision may deny the federal government the tools necessary to combat recession and may undermine the process established by the Congressional Budget Act of 1974.

The addition of these specific numerical goals and timetables to the Humphrey-Hawkins Bill may have some superficial political appeal. However, these proposals do not make economic sense. By their specificity, their unreality, and their inflexibility, they will make the development of rational and effective economic policies more difficult.

Sincerely,

Gardner Ackley, Henry Carter Adams University Professor of Political Economics, University of Michigan; Former Chairman, President's Council of Economic Advisers (1964–1968); Former Member, President's Council of Economic Advisers (1962–1964).

Robert Eisner, William R. Kennan Professor of Economics, Northwestern University.

Walter W. Heller, Regents Professor of Economics, University of Minnesota; Former Chairman, President's Council of Economic Advisers (1961–1964); Past President, American Economic Association (1974).

Robert Nathan, President, Robert Nathan and Associates; Chairman, Planning Committee, War Production Board (1942–1943).

Arthur M. Okun, Senior Fellow, Brookings Institution; Former Chairman, President's Council of Economic Advisers (1964–1969).

Leon Keyserling, President, Conference on Economic Progress; Former Chairman, President's Council of Economic Advisers (1949–1953); Former Member, President's Council of Economic Advisers (1946–1949).

Charles Killingsworth, University Professor, Michigan State University; Chairman, National Council on Manpower Policy.

Lawrence Klein, Benjamin Franklin Professor, University of Pennsylvania; Past President, American Economic Association (1975).

James Tobin, Professor of Economics, Yale University; Former Member, President's Council of Economic Advisers (1961–1962); Past President, American Economic Association (1971).

Lester C. Thurow, Professor of Economics and Management, Massachusetts Institute of Technology.

Mrs. HUMPHREY. Mr. President, I yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, I am proud to join Senator HUMPHREY in sponsoring this amendment. We have had long years of association together in joint ventures, one of which, in 1968, I shall never forget; and I shall never forget the economic numbers that the economy was favored with in that year.

The unemployment rate was around 3.5 percent, and the inflation rate was about 4.5 percent; and we faced criticism wherever we campaigned that that was not good enough. I suspect all of us would glady exchange today's numbers for those numbers of 1968. But in any case, that is a bit of nostalgia, and I think our fellow Senator is right. That is what prompted me to join her in this amendment.

As I understand the pending bill, it will mandate that we achieve 3 percent unemployment by 1983 and 0 percent inflation by 1988. No one in this Chamber would disagree with those as objectives and goals. Moreover, we wish we could enjoy either one of them, as of last week, or last year, or 5 years ago.

But the question of achieving that rate of inflation and setting it as a goal are two separate things. Senator HUMPHREY'S amendment reads in part as follows:

Reduction the rate of inflation, as set forth pursuant to section 3(e) of this Act, to not more than 3 per centum at the earliest possible time: *Provided*, That this objective shall in no way qualify or alter the goals and timetables for the reduction of unemployment or the goal of full employment and shall be pursued in a manner that reinforces rather than conflicts with those goals and timetables. For purposes of this subsection, the first Economic Report shall be the Report issued in the first calendar year after enactment of the Full Employment and Balanced Growth Act of 1978.

Upon achievement of the 3 and 4 per centum goals specified in subsection (b)(1), each succeeding Economic Report shall have the goal of achieving as soon as practicable and maintaining thereafter full employment and a balanced budget.

Upon achievement of the 3 per centum goal specified in subsection (b)(2), each succeeding Economic Report shall have the goal of further reducing the rate of inflation: *Provided*, That this objective shall in no way qualify or alter the goals and timetables for the reduction of unemployment or the goal of full employment and shall be pursued in a manner that reinforces rather than conflicts with those goals and timetables."

Mr. President, I think the debate we had earlier on the Proxmire amendment, which undertook to establish the Government's outlay share of the gross national product, highlights the difficulty of achieving particular inflation goals in particular years. It was repeated over and over again in support of the Proxmire amendment that all he was shooting for was something that the Senate Budget Committee had already established as a goal in the Budget Committee's report on the Second Concurrent Budget Resolution, and that was true: that for 1983, we had established the goal of an outlay GNP share of 19.9 percent.

If that is a valid target for 1983, what did that projection show for potential unemployment in that year? It showed unemployment at 4.5 percent, following the underlying economic plan of the

budget resolution—4.5 percent in 1983, not the 4 percent that we are talking about in Humphrey-Hawkins for 1981, but 4.5 percent in 1983.

What did those projections say about inflation? Inflation—that is, the rate of change of the Consumer Price Index—in 1983 would be 5.9 percent. Not 0 percent, not 3 percent, but 5.9 percent.

Those three figures, Mr. President, have indentified the difficulties of achieving the maximum with respect to unemployment, inflation, and the government share of the GNP in accordance with pre-established goals.

The Proxmire amendment was argued in terms of the outlay share of the GNP, and this report was cited as authority for the reasonableness of that goal. Yet here we are, faced with a target in the bill of 3 percent unemployment in 1983, when this same report, following the moderate economic plan which established 19.9 percent goal for the outlay share of GNP, tells us that 5.9 percent inflation is the best we can expect to achieve in 1983.

With those kinds of interrelationships, Mr. President, what sense does it make for us, in 1978, to say that at one and the same time, in one and the same year, we are going to get 19.9 percent outlay GNP, we are going to get 4 percent unemployment or better, and we are going to get 3 percent inflation or better, when sensible economic projections tell us that is not possible?

To me, this demonstrates the difficulty and the irrationality of trying at this point to tie dates, unemployment rates, and inflation rates.

The Humphrey-Muskie amendment establishes 3 percent as a desirable goal at the earliest possible date, and we all prayerfully hope for it; we all certainly will prayerfully work for it. Why can we not do it more simply than that? Well, because not all the factors influencing the inflation rate are under our control or even under the Government's control. Budget deficits are an influence, depending upon the state of the economy. We are achieving that point in the expansion when continued Government deficits are a definite threat of inflation.

So we do have the obligation of undertaking to control budget deficits. I think the record this year demonstrates that we have done remarkably well considering the pessimism with which many of us approached that challenge. We must do better. The Budget Committee is committed to doing better. But to try to pick the year and the date at one and the same time to meet all three of these goals is unrealistic in the extreme.

Mr. President, it is particularly difficult to set and achieve inflation goals because inflation is affected by many factors over which we have no control.

OPEC is one example. What will OPEC do with prices? We know they quadrupled energy prices 4 years ago. We know they have considered raising prices still more in the intervening period. We know that the declining value of the dollar is undoubtedly an incentive for them either to base their prices on other currencies than the dollar or to raise their prices. So OPEC action on oil prices is a key factor in the inflation outlook that we cannot predict or control.

Farm prices are another example. We have learned over the last 4 or 5 years the effect that farm prices have on the rate of inflation.

Weather, both here and in other parts of the globe, affects crops which in turn have a major impact on inflation. Yet, weather is another factor over which we have no control.

To pretend to the American people that we can pass a law today that will achieve 3 percent inflation by 1983 and zero percent inflation by 1988 is to hold out expectations that we have no basis for believing. Maybe for dreaming, but not for believing that we can achieve these rates by that date.

The committee projections that I have already discussed indicate that inflation will slow to a rate below 6 percent, but the best that we can expect by 1983 is 5.9 percent. That is not the goal we would like to achieve. It may not be a sufficiently ambitious goal. But it is a realistic goal.

Right now, no one knows—no one knows—how we could reach a 3-percent goal without, of course, having a deep and long depression. A good goal for the present is to get inflation below 6 percent and to keep it below 6 percent as we move toward our unemployment goal.

I have often been asked, because I am chairman of the Budget Committee and I am supposed to have all the answers, "Senator, why can we not do better than 6 percent?"

Well, the economists tell me, and I have to depend upon economists—theoretically, I am a lawyer, but I have forgotten how to be a good lawyer again, and I am not sure that I am even a good Senator——

Mr. SARBANES. If the Senator will yield, I will not speak of him as a lawyer, althought I have no doubt he is first-rate in that area but clearly the Senator is extraordinarily able as a U.S. Senator.

Mr. MUSKIE. I thank the Senator.

What I have heard from the economists about inflation is this, that for the last 2 or 3 years at least we have had what they refer to as underlying inflation. That underlying inflation comes from the inclination of people, all people, to recover the income they lost to last year's inflation. Everybody wants to do that, whether he or she is a social security beneficiary, a Senator trying to live on a Senator's salary in high-cost Washington, or lower middle income people back home in my State working in the textile mills and shoe factories. Everybody would like to recover the loss attributable to last year's inflation. In many cases they are able to recover that loss because their income is indexed. Social security benefits are indexed; other Government programs are indexed. But even with respect to programs that are not indexed, people still, in labor-management contracts or in the prices they set for their goods, try to recover last year's loss of income attributable to erosion.

The net effect of all of that effort, which is almost universal, is a guarantee, almost a guarantee, of 6 to 6.5 percent inflation even if we have ample crops, even if OPEC does not increase energy prices, even if there is not some sudden surge of price increases due to some unanticipated event. We have been getting 6 to 6.5 percent inflation that nobody, no economist who has come before our committee, has an answer to.

If we tell people that their attempt to recover last year's loss attributable to inflation in itself contributes to inflation, they are aghast. "How can it possibly be inflationary for me to recover what I lost to inflation last year?" Yet the fact is if all of us recovered what we lost to inflation last year, this year's inflation would be running at a minimum of 6 to 6.5 percent. That is what we call underlying inflation, and it is a serious problem.

Then when you have special circumstances coming in, like food prices this year, then inflation begins to jump above the underlying inflation. We are up to 6, 7, 8, and there are those who say we are close to double-digit inflation again because of unexpected events which have triggered higher inflationary pressures.

Well, with that kind of a situation, we have an enormous problem. It may well be that the President, as he develops wage-price guidelines, will find a way to get each of us in on the fight against inflation. It may be that we may have to get wage and price controls.

I was a price administrator in the Korean war for 1½ years; controls worked for a short time. But inevitably after controls end there is another surge of inflation. We may need that kind of a shock. I am not advocating it. But to get to 3 percent inflation by 1983, and putting that as a national goal against which we must balance these others, could well be counterproductive, as I see it.

So I think it is much wiser to adopt the Humphrey formulation in which we definitely set 3 percent or better inflation as a national goal and not pick the exact date, but try to pick the earliest date possible. That gives us flexibility in our budget process. It gives us flexibility in the Senate when we want to influence monetary policy, or whatever, to get an earlier result. We can do that. But to try to put these kinds of figures into these kinds of specific dates I think is really to raise expectation beyond what is realistic.

The difference between myself and my good friend from Wisconsin really seems to be a matter of means rather than objectives. I never challenge his motivation on means. I know he has his own reasons for his position.

I guess it is about time I yielded so he could give us his reasons.

Mr. PROXMIRE. I thank my good friend from Maine.

Mr. President, I yield myself such time as I may require. I shall not take very long in this.

Mr. President, this amendment, instead of providing that we shall reach a 3 percent inflation goal by 1983, says we shall reach the 3 percent inflation goal at the earliest possible time.

Meaning when? It means not in 1983. Does it mean 1993, the year 2000, 100

years from now? It does not mean anything. It is like saying I intend to take off 10 pounds, but when? I am going to stop smoking, but I am not going to tell you when I am going to do it.

If you have a goal without a timetable, it has absolutely no meaning whatsoever; it is just like rhetoric. You might as well say we are going to try to hold down prices, but we will not tell you how much.

To show the effect of this amendment, I challenge the supporters of this bill to apply the same language to what the Senator from Maine suggested—unemployment. Let us make the unemployment goal 4 percent but not set the date. Can you imagine the reaction of labor and the coalition to that? They would be outraged. They would think it was the worst betrayal they ever heard of. And they would be right, because it would not mean anything. A 4-percent goal sometime out in the distant future, whenever we get around to it, would be something that they cannot possibly support.

Mr. HATCH. Will the Senator yield on that point?

Mr. PROXMIRE. I shall in just a minute.

What is wrong with a 3-percent goal by 1983? The Senator from Maine has made a very strong case that economists say you cannot achieve it. I think those economists simply have not looked at the figures. The fact is that in every year from 1959 to 1967, we were below 3 percent inflation. Were those years of recession? They were the years of the longest continuing expansion and growth this economy has ever had—ever had. Continuous.

What was unemployment during that period? It declined consistently.

Was it below 4 percent? You bet it was.

In 1964, it was 3.8 percent. In 1965, 3.6 percent. In 1966, it was 3.5 percent.

So here we had growth, which we want to achieve, we had inflation below 3 percent, we had unemployment below 4 percent. What we are asking is simply to be able to work toward that historical record we have already achieved.

Mr. President, this is an issue which is overwhelmingly supported by the American people. Every poll—every poll, whether it is Gallup, Harris, your own questionnaire—indicates that the majority of the people feel the most important question facing this country today is not unemployment, which has been improving, but inflation. People are deeply worried about inflation. The latest poll says the majority of the American people feel that is the most important. George Meany, 3 weeks ago, said inflation was the most important economic problem facing this country today.

Mr. President, if we adopt this amendment, will it hurt our progress toward achieving the unemployment goal? I have worked this out and I have talked to Leon Keyserling, who is the author of the Employment Act of 1946. He agrees that the tradeoff is taken care of here.

We provide that policies and programs for reducing the rate in inflation share be designed so as not to impede achievement of the goals and timetables for the reduction of unemployment. The goal of full employment shall be pursued in a manner that reinforces rather than conflicts with those goals.

Mr. President, we have provided here that the priorities shall be for unemployment to be reduced first. That is what we provide in the bill. But we also provide that there shall be a numerical goal that the President of the United States has to meet when he recommends policies to the Congress, that Congress has to meet when we adopt policies to reduce unemployment.

Mr. President, for all that has been said about how we are doing well, this is one area where we are doing very poorly indeed. We have reduced unemployment somewhat. We have had a reasonable growth in this country in the last few years. But inflation is a raging, serious problem. What we have done so far has not begun to meet the seriousness of the inflation that we suffer. We obviously need to adopt policies that will do so.

Mr. President, the Senator from Utah wanted me to yield.

Mr. HATCH. Yes, I did.

Mr. PROXMIRE. Does he want me to yield time or yield for a question?

Mr. HATCH. Perhaps the Senator will yield some time, and I shall take some time on this and make some points to follow up on his statement.

Mr. PROXMIRE. I yield 5 minutes.

Mr. HATCH. I am very grateful to the distinguished Senator from Wisconsin.

Mr. President, I am very concerned with this amendment, because literally, this amendment, if it is voted up, takes away one of the most important aspects of the work that has been done for the last 3½ days—I might add work that I have put an awful lot of time and sweat and pain into.

If we stop and think about it, if it is only right to do away with the timetables on inflation which put some balance into this bill, then why do we not do away with the timetables on unemployment and those goals? Why do we not be fair both ways? Because everybody knows that that is what this bill is involved with.

There are some of us who want the bill to work, but work realistically. I, for one, want there to be a vote on this bill. There are too many people who deserve to have a vote, who are anguished over this bill, and who feel that it will do them some good—and it may, especially if we keep the spirit of what we have been working on the last few days.

I do not see how we can with this amendment. I am not sure that I can see how we can if we do not keep this provision in this bill.

The vote on the other amendment has taken away the limitation cn Federal spending as a percentage of gross national product. I am willing to abide by the will of the Senate with regard to that, even though I am tremendously disappointed that that has been taken away because I think it is a very realistic and fine amendment and approach to this bill.

Last evening, I talked with almost every important person who wants this bill and some today, and not one said they could not live with this provision in this leadership amendment. In fact, they all said they could live with that. They all complained to me about the limitation on spending as a percentage of gross national product because they felt if that were allowed in this bill, that would be used against certain programs they would like to have next year or the year after, or sometime in the future.

But not one said they could not live with this provision as it is stated in toto in the leadership amendment which has, as I said before, taken an awful lot of sweat and pain and work by the people to whom I pay tribute, those who did sweat and pain and work on this. What little I can contribute, I did my best to contribute.

If we are going to just treat cavalierly the concept that we should have inflation goals in this bill, which has been a bottom-line approach to this whole debate, to this whole consideration of having a time limit on this agreement, then I think it is wrong. I think we ought to well think it through.

I do not want to take any more time. I am just terribly disappointed with this amendment under the circumstances. I ask my colleagues to honor the work that a number of us did in putting this amendment in this leadership amendment. That is all I can ask for. I hope that my colleagues on the floor will recognize what we have tried to do and that they will give us some credit for doing it by voting this amendment down and then retaining, thereby retaining, the language that has taken so much effort and so much compromise on the part of all of us to obtain.

The PRESIDING OFFICER (Mr. HODGES). The Senator's time has expired.

Mr. HATCH. I yield the Senator from Indiana 10 minutes.

Mr. LUGAR. I thank the distinguished Senator.

Mr. President, let me review for just a moment what some of us hope might come from this act and why we believe that it might be important.

I stress the word "might" because there are three elements that are very important as the President takes a look at our economy. They include jobs for every American who wants to work. They include Federal spending. They include inflation.

My colleagues will note we have knocked out the Federal spending limitation with what some of us believe are simply bland assurances. Although we have been specific on jobs, we can only hope for the best with regard to Federal spending.

As the distinguished Senator from Wisconsin has pointed out, of all the elements in the Humphrey-Hawkins bill, Federal spending is the one over which we do have control and it has been the one in which this Congress has not exercised the control that it should. We all bear responsibility for that and the American people want us to cut it out.

They want spending limited, and they are sending that message loud and clear.

Our colleague from New York (Mr. MOYNIHAN) pointed out so well this

morning when he said, "proposition 13 is a debate on how much of the wealth in this country ought to be utilized by Government as opposed to private individuals who are trying to make choices for themselves."

The public is voting for us as individuals, not for us as public servants to spend more.

Yes, even in this body today, we have said we know proposition 13 is out there somewhere, but we do not recognize it in a central act of economic planning which we are prescribing for the Nation, for the President, for ourselves. So be it. But we come now to the third element, and that is inflation.

The distinguished Senator from Maine has said it well. Economists are baffled about inflation. They are not certain how we can control it.

In fact, the distinguished Senator from Minnesota has listed the distinguished economists who are uncer'ain whether zero inflation is possible. Some would say 3 percent inflation might be very difficult.

But I would simply say to my colleagues that the gist of this bill must say clearly to working Americans that if we have jobs for all people, we had better make certain the wages they earn are worth something.

What a cruel hoax, to have a full-employment bill and to give the impression that somehow a job in an economy in which inflation runs at 10 percent annually, compounded forever, somehow is going to work out to economic success, stability, and happiness for those individuals. That is nonsense.

Some will say, and I would be among them, that the goal of 3 percent inflation may very well be impossible. It may very well be that not only would the permission given the President to alter the goal be necessary, it may almost be a fact of life as time goes on.

One redeeming feature of the American scene is the demographics, which means simply that young people coming into the economy in coming years will be fewer in number, and perhaps the whole situation will do well to solve itself, if we do not bungle it in Government.

It is conceivable that the private economy, without harassment by Government, might employ individuals and bring a lower standard of unemployment. But inflation is not going to cure itself that easily.

We have as a central focus in front of us today, whether we are serious, truly serious, in government about inflation.

It is so easy to say that rising expectations of inflation fuel inflation. It is easy to say the OPEC nations must have been responsible, that bankers do not know what to do, that someone seeing 10-percent inflation will ask for an 11-percent raise. All these things are true and are totally to the mark on what we are trying to take a look at here, and also to anything that can be done by the Federal Government to contribute to the demise of inflation.

What we are saying is, "Not very much," as a matter of fact. But we are saying that we anticipate it is going to be the same old stuff. It is going on and on. Therefore, rather than clutter up a bill on economic planning with inflation, let us have a pious sentiment that full employment ought to come about in the country and hope that will happen. This bill suggests that we do not even make certain that happens in a particular year, because we admit that if we cannot control our own spending, and cannot attack inflation, it is very unlikely we shall do much about employment, either.

Either this bill means something, or it is a hoax, and I would say we are coming down to the bottom line on this amendment.

If this body is unable or unwilling to set a goal on inflation that is equally as rigorous as on jobs, in my judgment, this bill will not make a whole lot of difference to anybody, and that is a sad comment.

It has been made already by many Americans, a shell of a bill, a hoax.

Some of us have tried to turn it into a bill that means something, and it could mean something if we said that 3-percent inflation by 1983 and zero by 1988 shall be our goal, in the same way we say zero unemployment shall be our goal by 1983 with 3 percent in frictional unemployment.

That is a parallel course.

Both may be unattainable, but both are dreams worth pursuing.

I trust the chairman of the Budget Committee, the distinguished Senator from Maine, because he does have, with the distinguished Senator from Oklahoma, a track record of 4 years of maybe doing better than the guideline earlier in this draft on spending.

Maybe we must rely upon that track record, which is a strong one. But the track record on inflation——

Mr. MUSKIE. Will the Senator yield?

Mr. LUGAR. I am happy to.

Mr. MUSKIE. It is a little ironic my track record is held up as a promise for the future, yet my own evaluation of that track record is not accepted as worth very much.

I just have not found it possible, and the committee report to which I referred indicated it is not possible, to set a specific date for all these goals that ought to be achieved at one and the same time. It just is not possible.

I can juggle one ball in the air, and maybe if I am rested I can juggle two, but when you give me three, they all fall to the ground.

I guess, in a sense, I prefer to rest on the budget process to achieve what we need to achieve. We all know that we need to get down to 4 percent or 4½ percent unemployment, or better, if we can. We need to get down to 3 percent or better inflation. We need to get Government spending down to 20 percent, or even 19 percent. We all know that.

I think, frankly, that together, and it had to be together, we have made remarkable progress, especially this year. I was disappointed before this year, somewhat. But we have made remarkable progress.

If we are to set some goals, I would like, to the extent possible, to make it sufficiently realistic so that we do not raise expectations beyond what we, ourselves, believe can be achieved.

I am not sure how far apart the Senator and I are; but with respect to the difficulty of achieving all this, I think he and I are probably looking at the same goals.

I just wanted to make those observations. I am not an ideologue in this whole field at all.

I am sorry if I have used up too much of the Senator's time.

Mr. LUGAR. Mr. President, will the Senator yield me 3 minutes?

Mr. PROXMIRE. I yield 3 minutes to the Senator.

Mr. LUGAR. Mr. President, I appreciate the comments of the distinguished Senator from Maine. I suspect that we are not all that far apart in our analysis.

However, the difficulty with this bill is that it mandates that we set goals. Maybe it is difficult to do so in one area; maybe more difficult and compounded by trying to do two or three at the same time. I do not deny that.

We have knocked out at least one category, so we are left with two.

I suggest that while we are setting goals and national ideals—and I tried to insist upon this in the debate we have had among some colleagues this week—to set a goal of even 3-percent inflation as ideal would be unfortunate, in my judgment. It means we are consigning the people to a so-called rolling inflation, at a low level, but still there for the rest of our lifetime; that we feel we are resigned to the fact that that is the best we can do.

I think we have to aim for zero inflation for real value in buying power. It is a very difficult thing to do. I believe that, under some circumstances, 3-percent unemployment is going to be very difficult—and possibly impossible, too.

The idealism of this act is that we are committed formally to try beyond the normal dialog that each of us would have about our economic difficulties.

My support of this legislation is based upon the thought that, in several ways that are fundamental, we shall try. I appreciate the politics of the situation, external, and internal. Some who feel that this bill is an unemployment bill feel that the intrusion of the Federal spending item or of the inflation item is unwarranted; that if we want to deal with these matters, we should try another bill, at another time.

The virtue of this bill, it seems to me, is that we are determined to say that there are relationships between employment and inflation and spending; that a President must look at all three of those, and many more, and at the same time must make a decision in national planning by looking at them at the same time.

To look at them piecemeal—the budget one day, jobs another, inflation on another occasion—will not do. It may be that a President, using this bill, will still go piecemeal, and maybe Congress will go willynilly in many directions. But if there is virtue in this bill, it comes in the discipline of looking at these issues at the same time, having ideals for each of these categories, and having a parallel,

as I see it, of zero unemployment, plus the frictional factor as it may be, and the ideal of zero inflation down the pike, with all the qualifiers that the legislation gives us.

I appreciate the Senator yielding, and I yield the floor.

Mr. RIEGLE. Mr. President, will the Senator from Minnesota yield 5 minutes to me in support of the amendment?

Mrs. HUMPHREY. I yield to the Senator from Michigan.

Mr. RIEGLE. I thank the Senator for yielding.

Mr. President, I support the amendment of our distinguished colleague from Minnesota.

I think the goal of achieving a 4-percent unemployment rate in 5 years is a reasonable goal that we can achieve.

I think we have mapped out here the machinery we need to have to do it.

Much as I want to be able to see us achieve a minimum level of inflation—3 percent in 5 years, or even lower than that—I see that in a different category, in terms of our ability to control the variables that compose inflation.

As we well know, a lot of the inflation we have experienced in the last 5 years and are experiencing today has come from the OPEC monopoly pricing of oil. The cost of energy, the administered price increases we have been absorbing, not just for energy directly but also in transportation costs, fertilizer costs, and so forth, still are haunting us. We have found that those are costs and administered inflation that we have not been able to get hold of.

That is just one example. It is the largest, but there are many others we can look at, which indicate to us that a large part of the inflation problem is a worldwide problem which extends beyond our shores, and is not something we can control as readily as I think we can control the task of finding enough jobs for the people in this country.

The question of a 3-percent inflation goal in 5 years is one thing. I hope we can get there. Perhaps we can get there sooner. I would be happy if we could get their sooner.

I do question the practicality of the next step, endeavoring to go to a zero percent level in steps beyond that, in inflation—not the desirability of it, but whether or not, in practical terms, it is something we realistically can hope to accomplish.

It should be noted that those of us who have argued for a target for unemployment have at no time suggested a zero unemployment level. That is not practically achievable, not just because of people in transition, but because you never will be able to have a perfect answer, hard as we might strive to get there.

We have tried to aim for realistic targets over realistic timeframes. To talk about a zero level at a fixed point in time whether for inflation or unemployment is not realistic and probably is misleading to people, in suggesting that it is something that can be done.

It is important to note that in this bill we have some very important and strong anti-inflation provisions, far stronger than we have in current law or earlier.

First, we require the President to set annual numerical goals for prices in his economic report for that year and the following year.

Second, we devote a full section of this bill, section 109, to spelling out anti-inflation measures. This section sets forth a number of specific policies to combat inflation that can be initiated by the President.

I believe that one additional point is important to stress, and it is this: I hope that by putting in a fixed inflation target at a fixed point in time, the sponsors of that approach are not implicitly saying that they are willing to accept whatever it takes to get that job done. I hope, for example, they are not saying that price and wage controls or a full-blown managed economy, in terms of Federal intervention—if that is what it would take to achieve that goal—is something they would agree to, even as a last resort. I would question whether they intend that, and I would have reservations about that.

I do not want to see massive governmental intervention in this area, and I think it can be avoided.

If we lock ourselves in, ahead of time, to a fixed result at a fixed time, on something that is only partially within our control and within our own borders, we face the prospect of having to apply medicine we are not prepared to take.

For these reasons, among others, I support the amendment sponsored by the Senator from Minnesota and the Senator from Maine.

Before yielding, I want to acknowledge the tremendous leadership that Senator MURIEL HUMPHREY has given to this effort today and all the days leading up to today, to allow us to be at the point we are, coming down the home stretch on this vital legislation. I think she, more than any other person in the Chamber, has been the driving force in bringing this issue to a conclusion—and I hope to a successful conclusion. I applaud that leadership and acknowledge it at this time.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I yield 5 minutes to the distinguished majority leader.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. PROXMIRE. Mr. President, I am managing the bill and I am opposing the amendment, so I ask unanimous consent that the time may come out of the bill, not out of the time on the amendment.

Mr. SARBANES. Mr. President, Mrs. HUMPHREY asked me to manage the time for her on the amendment. I yield 5 minutes of her time on the amendment to the Senator from West Virginia.

Mr. ROBERT C. BYRD Mr. President, I support the amendment of the distinguished Senator from Minnesota, Mrs. HUMPHREY, because I am concerned that the Humphrey-Hawkins bill as currently drafted may not adequately address the problem of inflation.

First, I am not at all convinced that the achievement of zero percent inflation by 1988 or 3 percent inflation by 1983 is realistic. Too many of the inflationary pressures in our society derive from worldwide economic forces over which we have little if any control over the short run.

Second, I question whether the achievement of zero percent inflation would be sound economically. Many economists maintain that an absolutely stable price level could prove to be counterproductive in that it may not allow for adjustment in prices to reflect changing economic conditions.

For these reasons, I believe that the amendment regarding inflation offered by Senator HUMPHREY should receive the support of the Senate. While it places the responsibility on the Congress and the administration of working to achieve a reduction in inflation, it also recognizes that economic conditions may affect the actual timetable. Accordingly, the amendment specifies a numerical target of 3 percent inflation to be achieved at the earliest date possible.

Mr. President, we should not lose sight that even without a numerical inflation target the Humphrey-Hawkins bill is tough on inflation. It does not call for lowering the rate of joblessness without regard to inflation. It establishes the commitment of the Federal Government to curtailing inflation and achieving full employment. Toward these ends, it establishes that the means to achieve low rates of unemployment and inflation should be mutually reenforcing.

Mr. President, I ask unanimous consent that a letter signed by some of our Nation's leading economists on the points I mentioned be printed in the RECORD at this point. They submit "that empirical evidence in the modern American economy and the current condition of the economy make it clear that the goal of zero is impractical and unattainable." I urge support of the Humphrey amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 18, 1978.

We are very much interested in the contents of S. 50, the Humphrey-Hawkins "Full Employment and Balanced Growth Act of 1978". This legislation would establish a process of economic policy coordination, goals for the reduction of unemployment, a new process and tools to combat inflation, and a framework for a focused and flexible attack on joblessness. We are especially concerned about the provisions related to overcoming inflation, and want to share our views about these issues.

Humphrey-Hawkins includes major anti-inflation provisions far stronger than current law or policy. It declares the purpose of attaining price stability as rapidly as feasible. More specifically, the bill requires that the President set forth each year, in his Economic Reports, annual numerical goals for prices for that year and for the next year. In addition, the bill provides an annual process for the appropriate Committees of the Congress and the Congress as a whole to review the numerical goals and timetables set by the President and modify them. The bill also sets forth a number of specific policies to be initiated by the President to combat inflation.

The Senate Banking Committee added a provision which sets the goal 0 percent inflation by 1983. Others have proposed a goal of 3 percent inflation by 1983. We are convinced that such specific numerical inflation goals with these deadlines would be illusory and ineffective weapons against inflation and would actually tend to be counterproductive.

We submit that impirical evidence in the modern American economy and the current condition of the economy make it clear that the goal of 0 is impractical and unattainable. An empty promise on so vital an issue would impair the credibility of government. Significantly, the bill does not set the goal of zero unemployment; it sets the goal of 4 percent unemployment overall and 3 percent for adults within 5 years, which we believe to be obtainable. Apart from the unreality of this goal, many economists believe that a moderately rising price level over the years is more conducive to optimum economic performance, constructive price-making by our system of business enterprise, collective bargaining and wise adjustment of price trends to changing conditionals both in the United States and overseas, than an absolutely stable price level.

Even if an absolutely stable price level maintained over the years had some elements of advantage, its attainment would require a degree of Government intervention in the market economy antithetical to the felt and expressed views of industry and labor, the American people and their government. It would require destructive attempts to substitute through universal and massive direct controls a strait-jacketed economy, in lieu of the preservation of the market economy to which we attach high value.

We believe the proposed inflation goal of 3 percent by 1983 is undesirable on substantially similar grounds. This proposal has been already rejected by the House and is strongly opposed by the Carter Administration, Chairman of the Council of Economic Advisers, Charles Schultze, Inflation Advisor Robert Strauss, as well as the National Association of Manufacturers, the AFL–CIO and a broad group of other organizations.

A specific inflation goal with a specific timetable could set up in the public mind a trade-off between efforts to combat inflation and reduce joblessness. It could provide an excuse to suspend efforts to reach full employment, even the causes of inflation have little or nothing to do with employment policies. A specific inflation goal with the 1983 timetable would encourage policies based on the simplistic and fallacious concept of a direct trade-off between inflation and unemployment. High unemployment and lost productivity contribute to inflation. We also know that a targeted attack on structural unemployment—a central feature of Humphrey-Hawkins—poses few risks of inflation by itself.

Combatting inflation will require sensible monetary and fiscal policies, specific actions to stem cost and price pressures in many sectors of the economy, and at least some good luck. The job will not be enhanced by establishing unrealistic and inflexible inflation goals and timetables. A far better course is the process of policy coordination, and annual inflation targets already contained in this legislation.

A similar goal for reducing to 20 percent by 1983 the ratio of federal outlays to Gross National Product has been included by the Banking Committee. For many of the same reasons, we urge the Senate to reject this specific proposal. Such a provision may deny the federal government the tools necessary to combat recession and may undermine the process established by the Congressional Budget Act of 1974.

The addition of these specific numerical goals and timetables to the Humphrey-Hawkins Bill may have some superficial political appeal. However, these proposals do not make economic sense. By their specificity, their unreality, and their inflexibility, they will make the development of rational and effective economic policies more difficult.

Sincerely,

Gardner Ackley, Henry Carter Adams University Professor of Political Economics, University of Michigan; Former Chairman, President's Council of Economic Advisers (1964–1968), Former Member, President's Council of Economic Advisers (1962–1964).

Robert Eisner, William R. Kennan Professor of Economics, Northwestern University.

Walter W. Heller, Regents Professor of Economics, University of Minnesota, Former Chairman, President's Council of Economic Advisers (1961–1964), Past President, American Economic Association (1974).

Leon Keyserling, President, Conference on Economic Progress; Former Chairman, President's Council of Economic Advisers (1949–1953), Former Member, President's Council of Economic Advisers (1946–1949).

Charles Killingsworth, University Professor, Michigan State University; Chairman, National Council on Manpower Policy.

Lawrence Klein, Benjamin Franklin Professor, University of Pennsylvania; Past President, American Economic Association (1975).

Robert Nathan, President, Robert Nathan and Associates; Chairman, Planning Committee, War Production Board (1942–1943).

Arthur M. Okun, Senior Fellow, Brookings Institution; Former Chairman, President's Council of Economic Advisers (1964–1969).

James Tobin, Professor of Economics, Yale University; Former Member, President's Council of Economic Advisers (1961–1962), Past President, American Economic Association (1971).

Lester C. Thurow, Professor of Economics and Management, Massachusetts Institute of Technology.

Mr. PROXMIRE. Mr. President, the Senator from Kansas wanted time on this amendment.

How much time does the Senator from Kansas want?

Mr. DOLE. Ten minutes or so.

Mr. PROXMIRE. I yield 10 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, no doubt about it. This is the key amendment. What happens on this amendment may decide what happens with reference to the legislation before us.

Mr. President, I wonder if we may have order?

The PRESIDING OFFICER (Mr. McGOVERN). Will the Senate be in order so that the Senator from Kansas may be heard?

Mr. DOLE. It is not so much the Senator from Kansas wants to be heard.

I think this is a very important amendment for those who strongly support the Humphrey-Hawkins legislation and those who oppose it. I do not know of anyone who is against bringing down inflation. But we are being asked to adopt some language that does not mean anything.

For some reason, even though the polls show that 78 percent of the American people are concerned about inflation, we do not want to address the problem of inflation. I do not understand it. I do not believe anyone is really opposed to what we have in the bill. We spent a long time trying to work it out, and it would seem to me that we have the authority for the President to change the timetables—it is provided in the amendment; it is provided in the compromise. We recognize the difficulty of fixing stated goals, but if there are those who are not concerned about inflation, I would like to know who they are.

We are talking about realistic goals on unemployment. Some may not think they are realistic. I suggest that we have tried to be realistic in our efforts to at least address the problem of inflation.

It does not really matter how much time we spend trying to work it out. It would seem to me if we want the Humphrey-Hawkins bill to survive then we should at least consider what we have been working on the last 3 days.

Maybe it is possible to have it both ways. We had a choice, some of us who opposed parts of the original provision. We could have had it our way. No doubt about it. We could have had it our way.

But it was our feeling that we should try to work it out. We did not have to work it out. Time was on our side. And everyone knew that time was on our side. It also seemed to me that commonsense was on our side.

The Banking Committee adopted inflation goals. Someone suggested "We cannot make it zero." So the distinguished Senator from Indiana devised a formula, again a goal, to make it possible by 1988. That may not be realistic. So we provided a little escape valve. It is all right there in the amendment.

Maybe we should read the amendment before we rush to judgment. It says:

(b) The medium-term goals in the first three Economic Reports and, subject to the provisions of subsection (d), in each Economic Report thereafter shall include (as part of the five-year goals in each Economic Report) interim numerical goals for—

(1) reducing the rate of unemployment, as set forth pursuant to section 3(d) of this Act, to not more than 3 per centum among individuals aged twenty and over and 4 per centum among individuals aged sixteen and over within a period not extending beyond the fifth calendar year after the first such Economic Report; and

Now, is that unrealistic? I assume there are some who think it is unrealistic. So that is fine. Let us try to do it. That is the goal we should try to achieve. People are out of work.

Subparagraph 2(b)(2), reducing the rate of inflation:

(2) reducing the rate of inflation, as set forth pursuant to section 3(e) of this Act, to not more than 3 per centum within a period not extending beyond the fifth calendar year after the first such Economic Report: *Provided*, That policies and

The primary emphasis again is on unemployment. We all understand the emphasis of the Humphrey-Hawkins bill.

We also suggest that:

For purpose of this subsection, the first Economic Report shall be the Report issued in the first calendar year after enactment of the Full Employment And Balanced Growth Act of 1978.

But we go even further. We say:

(2) Upon achievement of the 3 per centum goal specified in subsection (b)(2),

That is the inflation goal:

each succeeding Economic Report shall have the goal of achieving by 1988 a rate of inflation of zero per centum: *Provided*, That policies and programs for reducing the rate of inflation shall be designed so as not to impede achievement of the goals and timetables specified in clause (1) of this subsection for the reduction of unemployment.

Again the emphasis is on reducing unemployment, which is really what the Humphrey-Hawkins bill is all about.

Then we go even further in subparagraph (d). We say:

In the second Economic Report after enactment of the Full Employment and Balanced Growth Act of 1978, the President shall review the numerical goals and timetables for the reduction of unemployment and inflation, and the goal of balancing the Federal budget; report to the Congress on the degree of progress being made, the programs and policies being used, and any obstacles to achieving such goals and timetables; and, if necessary, propose corrective economic measures toward achievement of such goals and timetables: *Provided*, That beginning with the second Report and in any subsequent Reports, if the President finds it necessary,

And this is the important part:

The President may recommend modification of the timetable or timetables for the achievement of the goals provided for in subsection (b) . . .

And again that addresses unemployment and inflation.

So it just seems to me—and then we go on and repeat it in the subparagraph (e):

Provided, That, if the President finds it necessary, the President may, under the authority provided in subsection (d),

And so on.

I think we have left all the loopholes we should have to leave.

I certainly, as I said this morning in the meeting of the Senate, have nothing but the highest regard for the distinguished Senator from Minnesota, and I had nothing but the highest regard for our late friend, Hubert Humphrey. I have heard Senator Humphrey stand on this floor and make speech after speech on the evils of inflation. What it was doing to the American people and those on fixed incomes, primarily the poor, because he was a champion of the poor and he understood what devastated the poor in this country was inflation.

It seems to me we do a disservice to everyone who supports this legislation. I cannot believe we have reached a point where we say we cannot change or cannot cross a "t" or dot an "i" because somebody might object, it may not fit somebody's pattern.

Well, I hope that we will have a chance, as I said earlier this morning, to rally behind this legislation. I hope there is going to be broad bipartisan support on passage, if we get to final passage, and I suggest we are going to get to final passage very quickly tonight if this amendment is defeated.

Certainly I would not construe that as any indication of lack of dedication on the part of the sponsor of the amendment. But it does seem to me we have our responsibility, and our responsibility is to address the problem today, next year, 1983, 1988. But I am not certain how many will be in this body who are here today. Maybe we are unrealistic. Maybe 3 or 4 percent unemployment is unrealistic. I am not certain that the American people are so concerned about all the charts and figures we throw out. They would like to see inflation stopped, and they would like to see some action by the Congress of the United States.

The Senator from Utah and the distinguished Senator from Indiana suggested that a lot of people who violently oppose this legislation, ought to read it again, because we are addressing balanced budgets and inflation and parity for farmers and other matters that I think make it a very balanced piece of legislation. One we can stand up as Republicans and say very loudly that we supported the Humphrey-Hawkins bill. So what? It is not a partisan measure. It bears the name of two outstanding Democrats, a former Member of this body, and a present Member of the House of Representatives.

We are proud of that. We are not hiding from that as Republicans. We can also stand up and tell those who may be critical, "Read it."

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. PROXMIRE. I yield 2 more minutes.

Mr. DOLE. "Read it, look at the inflation provision. If you are concerned about agriculture, look at the parity provisions."

It seems to me that we put together a pretty good package. The first round was won by those who did not want the percentage of the GNP, and they were successful. I cannot say—in fact, I can say I am glad they were successful because they kept it alive.

Then we fought over one word "may" or "shall."

It is not a very big battle but we did it anyway.

I just suggest this is the critical one. I do not know of anyone, whether it is Mr. HAWKINS or whether it is Leon Keyserling or anybody, who really opposes the language in the compromise or so-called compromise.

I just hope that after this amendment has been considered and voted upon—and I hope it is defeated—I say that in a very positive sense because I would like to make one more statement tonight just before passage indicating strong support, and urging my colleagues on this side of the aisle to vote for it. I think not that that would persuade anybody, but at least I would have my vote.

Mr. MUSKIE. Mr. President, would the Senator yield?

Mr. DOLE. Yes.

Mr. MUSKIE. I listened with great care to what the Senator had to say. I simply want to compliment him for his attitude and for the commitment he makes to his views on this bill. We may disagree about particular provisions in this case, but I am impressed by what he has had to say, and I compliment him.

Mr. DOLE. I thank the Senator.

Several Senators addressed the Chair.

Mr. SARBANES. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. I appreciate the comments which the Senator from Kansas and the Senator from Indiana have made but I disagree with them very strongly concerning the substance of this amendment.

I strongly support the amendment of the distinguished Senator from Minnesota, Mrs. HUMPHREY, who has done so much to move this legislation forward. I commend her for the outstanding work she has done which reflects the long-standing Humphrey commitment to full employment for all Americans.

I think taking an inflation rate of 3 percent, which I am very anxious to get to and tying it to a set time period, a fixed year, as the language that is in the pending substitute would do, raises a couple of dangers. One is that the fixed date will become a pressure or constraint for moving toward wage-price control measures, even though there are provisions elsewhere in this bill specifically prohibiting that. However, the fixed date creates a pressure for such control policies and I am frank to say I think that is a mistake. I do not favor those kinds of wage-price control policies except in the most extreme emergencies.

Second, I think the problem of inflation is going to be brought under control by a gradual deceleration over a period of time, and that we can probably plan how to do that and how to achieve it better if we are not within the specific time constraint we are placed in when we have a date specified in the legislation.

Now, some say we specify a date on the unemployment; but we really have had more experience with policies that deal with unemployment and moving the unemployment rate down than we have had with policies designed to move inflation downward; and, as the very distinguished Senator from Minnesota (Mrs. HUMPHREY) pointed out in her very thoughtful statement following the introduction of this amendment, we do not really have an anti-inflation program set in place for moving us down toward this level on a fixed schedule.

The Senator from Maine pointed out his work in the Budget Committee, which deals with this matter, and it seems to me that the language for accomplishing these inflation goals at the earliest practicable time provides us an incentive without placing us within an artificial constraint. We realize the issue that is being put is one that requires the careful attention of the Members of the Senate, but I would hope that upon reflection they will support the amendment by the Senator from Minnesota and the Senator from Maine.

Mr. President, I think we probably are prepared to go to a vote at this point.

Mr. NELSON. Mr. President, will my colleague yield?

Mr. PROXMIRE. Yes; I am happy to yield to my colleague from Wisconsin.

Mr. NELSON. How much time is available?

Mr. PROXMIRE. We have plenty of time.

Mr. NELSON. Five minutes?

Mr. PROXMIRE. Mr. President, I yield 5 minutes to my colleague from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 5 minutes.

Mr. NELSON. Mr. President, I rise to speak against the pending amendment.

I understand the strong feelings on both sides, and I am not in any way qualified—nor is anyone else, I guess, that I know of—to be an arbiter of what words mean, or words in association with each other, or phrases. The reason that people frequently end up having very strong feelings on different sides of an issue, which appears on its face to read very simply, is because they interpret what it means differently from persons on the other side. That goes on all the time. There is a great deal of subjectivity in the interpretation of what any phrase means.

Now, I understand the feelings of those—and I have discussed this with my very good friends, of whom I have many in the labor movement—who are strongly against the 3-percent inflation goal to be reached by 1983. The President would have the authority, when we arrive at 1983, if the inflation goal has not been achieved, not to change the goal, but to advise the country and Congress that the goal cannot be achieved in 1983, as had been hoped. The President could then propose to move the goal 2 years or 3 years forward.

I can understand how some people looking at the inflation goal, and based upon past history, feel that the only way low inflation will be achieved is by having a great big labor surplus. So it is felt that the only way low inflation will be accomplished is at the expense of labor. I guess this has been the historical pattern.

However, a very fine economist of national renown, and a great friend of labor, very carefully drafted the language so as to make clear that the goal of low unemployment takes precedence over any other goal in the bill. Everybody that has been associated with this on both sides of the aisle, the Republicans and the Democrats, including the Senator from Indiana (Mr. LUGAR) who spoke on it the other day in our conference, have all agreed that the unemployment goal takes precedence over any other goal, and that we tell the President, "You do not—you do not—adopt any policy that puts the inflation goal ahead of the unemployment goal."

Now, who can complain about that? As I said to my friends who are advocates of the bill, and have been my greatest supporters, and I would not be here without them, "How would you like to go to your membership, and say to them, 'Would you like to have zero inflation and zero unemployment?' "

Everyone would vote for it. They would all vote for it. My constituents would all vote for it. I would vote for it; we all would vote for it.

Well, what is the quarrel about? Well, it is a question of semantics. I am not saying they would not interpret it differently from me; they certainly would. And there are Members on the other side who interpret it differently from those on this side. That is all very understandable.

But I have looked at it very hard, backward and forward, and my constituency is on the other side of this issue. Those who have always supported me are on the other side. I just think that my interpretation of it is the correct one, and they think their interpretation is the correct one.

Given what I feel about the inflation goal, I honestly think the bill is better with it. You cannot go to your constituents, put a referendum on the ballot, and say "Let us have zero inflation and zero percent unemployment"—if you did that, you could not get 1 percent of the people to vote against it. So why not say it?

Some people say you should not say it because you cannot achieve it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PROXMIRE. I yield the Senator 2 more minutes.

Mr. MUSKIE. Mr. President, will the Senator yield one moment to me?

Mr. NELSON. Whose side is the Senator from Maine on?

Mr. MUSKIE. The Senator knows which side I am on.

Mr. NELSON. Well, then, I will not yield.

I yield to the Senator for a question.

Mr. MUSKIE. The Senator from Maine's reservations about this bill include the Senator from Wisconsin. I mean I was persuaded by the Senator from Wisconsin that it could be tailored to a realistic approach to the problems we are trying to address. I must say I am not particularly persuaded by the Senator's argument now, because he earlier had persuaded me otherwise.

Mr. NELSON. Well, this is a different day, I must say to the Senator from Maine. I do not recall what the Senator is referring to.

But what I say about this is that the goals are what we all want to achieve; why not have them in there?

Senator PROXMIRE has produced a chart which I am sure he discussed; I had to be off the floor for some other matters and did not hear the earlier part of the debate. For years, a good many years, 8 or 9 or 10, during the 2-year period from 1949 to 1970, we had 2 percent and less than 2 percent inflation, with lower unemployment than we have now, and better growth than we have now.

If we could do it then—10 years ago 2.8 percent inflation, 4.9 percent unemployment; in 1965, 1.7 percent inflation, 3.6 percent unemployment, and almost 6 percent growth, 5.9 percent—why can we not do it now?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NELSON. May I have 2 more minutes?

Mr. PROXMIRE. I yield.

The PRESIDING OFFICER (Mr. MCGOVERN). The Senator is making a great speech.

Mr. NELSON. That is what we ought to aspire to, given the careful language of the bill, and I repeat, otherwise I would not support it. The language of the bill makes it clear that the unemployment goal takes precedence over any other goal in here. So if at any time it appears that it is necessary to do something about unemployment and sacrifice some of the inflation goals, that is what happens, not vice versa.

So I am going to hope that this amendment will not prevail. I think that it is a good one, and I think again, as I said earlier this morning on the gross national product limitation, I thought it jeopardized the bill's support. We agreed on these three amendments, however, that we would live with whoever won or lost; we would lay it out, and we would vote. But one constituency out there in Wisconsin was unlikely, in my judgment, to support the bill at all if the GNP number limitation was in the bill, and I am happy it did not get in there.

I think this one should get in there. I think it helps the bill, and I hope the amendment will not be adopted.

I thank my colleague from Wisconsin.

Mr. PROXMIRE. Mr. President, I will be very brief. I know Senators are prepared to vote, but I would like to close by pointing out that if Senators would simply read the amendment in the bill, and realize what the Humphrey amendment would knock out, they would vote "no" on this amendment.

The statements in this letter on the bill are so reasonable, they are so consistent with the objectives of organized labor. I am going to read it.

I am going to read it. The trouble is that so many of these things people vote on by guess, because somebody else does, or because there is pressure from some group. They do not read what is before us. What does it say?

(2)—Reducing the rate of inflation, as set forth pursuant to section 3(e) of this Act, to not more than 3 per centum within a period not extending beyond the fifth calendar year after the first such Economic Report: *Provided*, That policies and programs for reducing the rate of inflation shall be designated so as not to impede achievement of the goals and timetables specified in clause (1) of this subsection for the reduction of unemployment.

What is wrong with that? That is what you knock out if you vote "aye" on the pending amendment. What is in the bill is not only fair to those who believe inflation is a big issue, the fundamental issue, the primary issue before us, but it is also fair to those who believe that unemployment should be the primary purpose of the bill. It preserves that. I have not talked to anyone, a Senator or a representative of labor, who has listened to that who will not agree that is the case. They always change the subject after we point that out. What do they want? We are saying that unemployment shall be, No. 1 that the policies to achieve our inflation goals shall be such as not to impede progress toward reducing unemployment.

Now, Mr. President, I think we also ought to recognize what has gone on. Before the first vote we had, when we were talking about limiting spending, it was saying that, "If you pass that amendment and put that in the bill and put a lid on spending, you kill the bill, because the supporters of the bill in the

House will not vote for it. They will take it down. They will be opposed to it. There is no way you will get the bill passed."

What have we done? We killed that. That was my amendment but we killed it. What was before the ad hoc committee, and I was a member of that committee and I sat through virtually every session, was that we ought to get a balance in this bill, and for a while we all agreed that we ought to have provisions making both subordinate to unemployment as our principal goal. The Senate has spoken and the Senate has knocked out the limitation on spending.

I submit if you also knock out the inflation goal, then you will have a possibility, and a very strong possibility, that you will not get any Humphrey-Hawkins bill at all. That was told us on the other one and that could happen this time because there are Senators here, and I respect their right and they have every right to do so, who have not one amendment or two amendments but hundreds of amendments, and even though this is a unanimous-consent agreement they can talk, a lot longer than on cloture. There is no limit to the number of germane amendments that I could design and others could design to delay.

Maybe they will not do that. If they do that, what do you have? You have a situation of killing, bypassing, this amendment that knocks out for any effective meaning the inflation goal. You have a bill that will make the business community, the small business community and the big business community, really angry, and they would have reason to be angry. They would feel that this bill is a one-sided bill that places no limitation on spending in the first place and that says, "We will not even put an inflation goal in the bill."

So, Mr. President, I do hope that Senators will consider what we are offering here. I do think we are being very fair. As has been pointed out over and over again by Senator DOLE and others, the labor people when they looked at this, when they came to our meetings, they said they could live with this. The principal author in the House, GUS HAWKINS, said they could live with this. They recognize the trade-off is eliminated here.

Under these circumstances I do hope the Senators will vote no on the pending amendment and give us an opportunity to have the balanced bill.

Mr. MUSKIE. Will the Senator yield?

Mrs. HUMPHREY. I yield.

Mr. MUSKIE. Mr. President, I have heard this amendment read twice, and I know what it says, and I am still opposed to it. There are two justifications that the Senator offers: One, that it really is not as rigid as I would make it out to be.

Well, if it is not, my answer is the same as my answer to his first amendment, that we do not need it. If it really does not tie us down in 1983 to 3 percent and in 1988 to 0 percent, if that is all just a lot of rhetoric that we can dream about, why put it in here? I think it is in here because it is intended to tie our hands.

The other reason why it is in here is that there is the possibility that we will be faced with a lot of amendments to the bill unless we defeat this amendment. I do not know anything about that. I was not part of this ad hoc group. I had no expectation to be drawn into this debate this afternoon. I had no amendments prepared. As a matter of fact, I thought it was a bad bill when it was introduced years ago. My effort this afternoon has been to try to improve it so that we would have a viable, flexible, economic policy that would serve the objectives of unemployment, reduction in inflation, and reduction in the Government share of GNP. Those are my goals and have been for 4 years as chairman of the Budget Committee.

So much of this debate implies that we have done nothing about those things. Well, I challenge that. I challenge that vehemently. I said this afternoon that the budget process is on the same track that the advocates of this bill and the opponents of these amendments say they are on.

I do not take a back seat to their commitment whatsoever. All I am saying to the Senate is that I have been exposed to the making of economic policy long enough to know that you cannot write it into law several years in advance with targets that you are mandated to meet. If you are not mandated to meet them, what have you done? What have you done? Except to raise expectations beyond what is realistic.

I am for legislative compromise. I have been engaged in it for 25 years.

Mr. PROXMIRE. Will the Senator yield?

Mr. MUSKIE. I did not ask the Senator from Wisconsin to yield and I am going to finish my thought. It will not take 30 seconds to finish what is on my mind.

I have listened to this all afternoon, and I have heard it said of me all the time that if I offer this amendment I am not against inflation. Well, who cut the deficit by $22 billion since January? Who cut outlays by $12.7 billion since January? Who cut budget authority $12.5 billion since January? The distinguished chairman of the Appropriations Committee and the Budget Committee.

I reject the assertion that by offering this amendment I am not for controlling inflation.

To suggest that the only way to control inflation is to vote for this piece of rhetoric which on the one hand the sponsors and supporters say means something and on the other hand they say it does not mean anything if you cannot meet it.

To what extent are we prepared to fool ourselves? If we do not believe what we are writing here, what are we bothering with it for?

Mr. President, I strongly support the amendment of my good friend and old associate, Senator HUMPHREY, and I hope the Senate will join me in doing so.

Mr. PROXMIRE. Is the Senator from Minnesota ready to yield back her time?

Mrs. HUMPHREY. I yield back——

Mr. JAVITS. May I ask the Senator not to yield back?

The PRESIDING OFFICER (PAUL G. HATFIELD). Who yields time?

Mr. JAVITS. Mr. President, I yield myself 5 minutes on the bill.

Mr. President, it is probably very well known that this is an extremely difficult vote, especially for me. I am comanager of the bill, and I am very proud to be a comanager of this particular bill. I have not been so honored for a long time.

I suppose I was as close to Hubert Humphrey as a friend as any Member on the Republican side could be. I know this was one of the most dearly held objectives in his life.

The basis of this bill is the planning bill which he and I introduced. Finally, as it is now before us, it has gotten down to just about that planning bill and nothing else.

I am fairly competent in this field of domestic and international economics. I am no economist but I have lived with it most of my life, and I know a good deal about it. I would be the first to say that these goals of 3 percent and zero—especially the latter—with all respect, make no sense at all. You may get to the 3, even though I doubt that. We have had an endemic rate of inflation here of 2 percent for many years, long before we got hot about the inflation problem. And even in 10 years, and I agree with Senator LUGAR, it is a very long time, a decade, I doubt that you will get that one through the Senate.

I doubt that we are going to be able to get down to 2 percent. But, Mr. President, these are goals and I am not going to redebate what Senator MUSKIE, I think, feels so strongly about, and very properly: That is, what is the real meaning of the effort to divide this particular provision from the policies and programs and goals and timetables which relate to reducing the rate of unemployment? It is being made very clear that nothing should be done about inflation which will impede the unemployment goal. I understand that, he understands that.

I am faced with a somewhat different problem and I think the Senate is faced with it. That is why I am willing to speak. I hesitated for some while as to whether I would speak at all. I would be less than honest with myself and with the Senate if I did not tell you that, having looked into this situation very thoroughly, it is my belief that there will be no Humphrey-Hawkins bill in this Congress if these provisions are not in this bill. I agree that it is unrealistic and I could make the case worse for myself by referring to the fact that when we reported out the bill in the Committee on Human Resources and thereafter, I said a lot of things about the fact that inflation goals did not belong in this particular bill, which was directed toward unemployment and employment goals, not inflation goals.

But, Mr. President, I have learned around here the very hard way for many years, especially when you are managing a bill, that if you believe in the bill, you may have to take some bitter pills in order to get the bill made into law. Mr. President, I shall not play-act with the Senate. It is my belief, and I have really checked it out thoroughly, that there will be no Humphrey-Hawkins bill in this Congress if this amendment succeeds. Somehow, somewhere, it is going

to slip on a banana peel and not be with us when the President gets the bills on his desk to sign.

For that reason, because I am a manager of the bill, because I think I believe in Hubert Humphrey as much as anybody here, I believe that this does not spoil basically—I will not even say substantially. It is not good, I shall not pretend it is. It is not very good. It is a very unhappy one for me. But I believe I must vote to keep the provision in the bill for the reasons which I have stated. Let every other Member consult his own conscience. I have consulted mine and that is my decision.

Mr. PROXMIRE. So the Senator would vote "no"——

Mr. DANFORTH. Will the Senator from New York yield to me for 1 minute for the purpose of asking him a question?

Mr. JAVITS. Surely.

Mr. DANFORTH. Does not the bill in its present form, with fixed percentages for both unemployment rates and rates of inflation, and very low percentages for both at the same time—does that not. in effect, mandate a policy of wage and price controls? Is not the only way to achieve these two percentage goals to do them artificially?

My view is that maybe the amendment is the way to go, given the fixed percentages on unemployment, because unless we say, "Well, we shall do the best we can on inflation," to go along on these very rigid percentage goals on both tracks at the same time, that there is only one conceivable way to accomplish that, and that is through wage and price controls.

Mr. JAVITS. I yield myself another 20 minutes on this bill, Mr. President.

I cannot answer that question in the affirmative for the following reasons: In the first place, there are no rigid levels in this bill. Everything is goals, and there are lots of reasons and they are stated in the bill, why the goals may or may not be attained. But one thing stands out in the bill, which is the makeweight factor with me and why I said what I did. That is that the first and preeminent goal is the unemployment goal. That, to me, is the key to the bill.

Does it lead to wage and price controls necessarily? My answer to that would be no, for this reason: remember this is a rifle shot at unemployment. The unemployment situation is that we have had endemic unemployment since about early 1974, which is composed 50 to 50 of structural unemployment and cyclical unemployment. I believe that, insofar as the unemployment goal is concerned, we can make such progress—and remember, we just put through a CETA conference report tonight—on structural unemployment as to meet or come very close to meeting—and that is all we can hope for in all these things—that goal without wage and price controls.

That does not mean that I am as leery of wage and price controls as many other people. They have been imposed, they have had their problems, they have dammed up adjustment, but they have worked, even when Nixon imposed them, when we really needed them. If we really needed them, I would be for it. But I do not think that necessarily, this bill, with these built-in goals—not rigidities, because it does not have those rigidities—leads to that result.

So my answer is in the negative.

Mr. PROXMIRE. Mr. President, I am ready to yield back my time if the Senator from Minnesota is ready to yield back her time.

Mrs. HUMPHREY. I yield back my time. I ask for the yeas and nays on this.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered.

All time having been yielded back, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. EASTLAND. Mr. President, I have a pair with the senior Senator from Massachusetts (Mr. KENNEDY). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "no." I withhold my vote.

Mr. MELCHER (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Colorado (Mr. HASKELL). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "no." I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Idaho (Mr. MCCLURE), the Senator from New Mexico (Mr. SCHMITT), the Senator from Virginia (Mr. SCOTT), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. SCHMITT) would vote "nay."

The PRESIDING OFFICER. Is there any Senator in the Chamber who has not voted and wishes to vote?

Have all Senators voted?

The result was announced—yeas 41, nays 45, as follows:

[Rollcall Vote No. 493 Leg.]

YEAS—41

Abourezk	Danforth	Magnuson
Anderson	Durkin	Matsunaga
Bayh	Ford	Metzenbaum
Biden	Glenn	Morgan
Brooke	Gravel	Moynihan
Bumpers	Hathaway	Muskie
Burdick	Heinz	Pell
Byrd, Robert C.	Hodges	Randolph
Cannon	Humphrey	Riegle
Case	Inouye	Sarbanes
Church	Jackson	Sasser
Clark	Johnston	Talmadge
Cranston	Leahy	Williams
Culver	Long	

NAYS—45

Baker	Chafee	Garn
Bartlett	Chiles	Goldwater
Bellmon	Curtis	Griffin
Bentsen	DeConcini	Hansen
Byrd, Harry F., Jr.	Dole	Hart
	Eagleton	Hatch
Hatfield, Mark O.	Mathias	Roth
Hatfield, Paul G.	McGovern	Schweiker
Hayakawa	McIntyre	Stafford
Helms	Nelson	Stennis
Hollings	Nunn	Stevens
Javits	Packwood	Stone
Laxalt	Pearson	Thurmond
Lugar	Percy	Wallop
	Proxmire	Weicker
	Ribicoff	Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Eastland, against.
Melcher, against.

NOT VOTING—12

Allen	Kennedy	Sparkman
Domenici	McClure	Stevenson
Haskell	Schmitt	Tower
Huddleston	Scott	Young

So the amendment (UP No. 2105) was rejected.

Mr. EAGLETON. Mr. President——

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, am I recognized in my own right?

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, not all of us have had the benefit of hearing the full debate on perhaps one of the most important bills in this session of Congress. We are all assigned to other duties——

The PRESIDING OFFICER. Who yields time to the Senator from Missouri?

Mr. JAVITS. I yield the Senator 5 minutes.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 5 minutes.

Mr. EAGLETON. We all have a multiplicity of duties and other assignments, conference committees, and the like. But there is no bill——

Mr. ROBERT C. BYRD. Mr. President, is there not time on debatable motions?

The PRESIDING OFFICER. No motion has been made.

Mr. EAGLETON. Mr. President, I move to reconsider the vote.

Mr. PROXMIRE. I move to lay that motion on the table.

Mr. EAGLETON. I move to reconsider the vote, and I wish to speak on my motion. I voted in the negative, and I move to reconsider the vote.

We are in the closing days of this session. A multiplicity of issues are still before us. But there is no issue, Mr. President, that is more important to the economic well-being and the economic viability of this country than the issue of unemployment.

To some it may be an abstract case. To some, who are safely secure in their own livelihood, safely secure in their jobs, where their tenure and longevity are such that they have no particular problem—to an individual so safe and so secure, the question of unemployment is an abstract concept. Maybe to those who are safe in their employment, there are other economic issues that are paramount in their minds.

We all are the products of our own environment. We all view life in terms of how things relate to us and to our fami-

But to millions of other people, Mr. President, who are jobless and—for all practical purposes as they face the fu-

ture will remain jobless—there is no issue that is more transcendent, no issue that is more important than the question of employment. What Humphrey-Hawkins seeks to do, at least as I read it is to cause us, as a nation, to put our eyes in better focus; to direct our attention to those things that will make life not only better for those who are doing reasonably well, but to make life better for those who are not partaking in the bounty and the assets of life.

I know that some say this bill is a mere symbol. But, Mr. President, this country was built on a few things that were mere symbols.

The notion of the Declaration of Independence was a symbol. It was a symbol for which many brilliant and courageous people gave their lives, because they believed that its symbol was a pretty important one—freedom.

Later in the history of this country, after the Constitution was adopted there was another symbol called the Bill of Rights, the first 10 amendments to the Constitution. I daresay that, back in the time when those constitutional amendments were emerging from Congress, as they had to under our system, there were those who said, "Why are we talking about such abstractions as freedom of speech, freedom of the press, freedom of religion, the right to be immune from unreasonable search and seizure?" All of these treasured symbols have made life in the the United States that which it is, and made life in this country as we want it to be.

I am not, in a moment of instant dramatization, trying to equate Humphrey-Hawkins with the Constitution or the Bill of Rights. But I am trying to suggest, by historical analogy, that symbols are very important. It is sometimes true that a symbol says more about a person, or a body politic, than the substance of some profound piece of legislation.

Mr. HART. May we have order so we can hear the Senator?

The PRESIDING OFFICER. Will the Senator please suspend? There will be order in the Chamber.

Mr. EAGLETON. So it is that Humphrey-Hawkins is a symbol. It was detoothed, if that be a legitimate ad hoc verb. It was detoothed many months ago. The operational sections of the original Humphrey-Hawkins bill were removed. Quite frankly, to be as candid as I can with my colleagues, I thought it was right to take out some of those "triggers" which mandated action on the part of the Government because I, like many Members of this body, was very impressed with the testimony of then private citizen Brookings Institution Economist Charles Schultze.

When he testified before, I believe, Senator Humphrey's committee—I believe he was presiding over the Joint Economic Committee, Charles Schultze, now no longer private citizen Charles Schultze, but Chairman of the Board of the Council of Economic Advisers of the President—Charles Schultze, testified that the original version of Humphrey-Hawkins was by its inherent interworking mechanism inflationary and grievously so.

Some say it was the testimony of Mr. Schultze, being identified as "a liberal economist" that did more to defang, in the opinion of those who opposed the bill, the original version of Humphrey-Hawkins than the testimony of any other witness.

But something remains of Humphrey-Hawkins, Mr. President, something that maybe is just as meaningful as the trigger mechanisms and the targets that were originally placed in the bill. What remains, Mr. President, of Humphrey-Hawkins is a ray of hope, a ray of hope for many Americans who have fallen by the wayside. My home city, Mr. President, is St. Louis, Mo.

The PRESIDING OFFICER. The time of the Senator from Missouri has expired.

Mr. PROXMIRE addressed the Chair.

Mr. EAGLETON. Mr. President, I have the floor. I ask unanimous consent that I have an additional 10 minutes to at least complete my train of thought with respect to the position that I have taken on Humphrey-Hawkins.

Mr. PROXMIRE. Mr. President, reserving the right to object, we have had a very extensive debate and the hour is late. I understand I am in charge of the time against the motion. I will be happy to yield back my time or yield part of my time to him but I do think we should get a vote as soon as possible.

Mr. EAGLETON. I think 10 minutes is almost as soon as humanly possible. I ask the indulgence of my colleagues.

Several Senators addressed the Chair.

Mr. EAGLETON. Mr. President, what is the parliamentary situation? When I am recognized to speak on my motion to reconsider, do I not have the floor?

The PRESIDING OFFICER. The Senator had 7½ minutes which had expired.

Mr. EAGLETON. Under the unanimous consent agreement, if we are operating under one, and I take it we are, a parliamentary inquiry: Was it specified in that unanimous consent that on a motion to reconsider there was a 15-minute, or a 7½-minute, or some kind of time limit with respect to a motion to reconsider?

The PRESIDING OFFICER. Any debatable motion had a 15-minute limit that was divided.

Mr. BAKER. Regular order, Mr. President.

Mr. EAGLETON. Time was to be equally divided.

The PRESIDING OFFICER. The Senator is correct.

Mr. EAGLETON. I see.

The PRESIDING OFFICER. The Senator from Wisconsin has 7½ minutes.

Mr. PROXMIRE. Mr. President, I am not going to speak on this. I think Senators would like to vote. However, I say to the Senator from Missouri—I want to be fair with him—how about 5 minutes?

Mr. EAGLETON. I will take 5 minutes. That is fair.

Mr. PROXMIRE. I will give the Senator 5 minutes. I yield the Senator 5 minutes.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 5 minutes.

Mr. EAGLETON. I shall constrain myself to the 5 minutes.

As I was saying, Mr. President, before the time limit expired—and I thank my colleagues, Senator PROXMIRE, and others, for their graciousness in this respect—I come from a city called St. Louis, Mo. In 1910, Mr. President, St. Louis was the seventh largest city in the United States with a population of close to a million people. Today I do not know where we rank. We are way below 20th. Our population is below 600,000.

Half of the population of St. Louis City now, Mr. President, is black. From Martin Luther King Avenue North is a solid black area in St. Louis, and if you drive through that area, Mr. President, you see the lack of hope, the lack of opportunity, the lack of employment that is indigenous to half of what used to be a thriving metropolitan area. Then cross the river to East St. Louis, Ill., and know that there are old men and women, middle-aged men and women, young men and women, who, under the current scheme of things, will perhaps never be able to attain gainful employment. With the miracles of medical science, the youngsters probably will live to the age of 80 or 85, so great is that genius of medical science. You tell the people of North St. Louis, Mo., and of East St. Louis, Ill., that Humphrey-Hawkins does not mean anything. You tell them that it is an irrelevancy whether this Congress passes it or not. You tell them that this Congress does not care or is not mightily concerned about whether people are employed or not. You tell them those things, Mr. President, and you are taking from them the last tiny ray of hope that may be theirs for the rest of their lives.

This bill may not create one new job; but if we do not proceed with this bill, and if this Congress adjourns without final action on Humphrey-Hawkins, you will have snuffed out for all practical purposes the lives of many young citizens in those two cities. This is the ray of hope. To defeat this bill is the implicit recognition that, in what is called, sometimes I think mistakenly, the greatest deliberative body on Earth, the 100 solons—as some of the journalists say—do not give much of a blank about people who are not employed.

I do not know what will be the result on the amendment before us and on the vote to reconsider. I know there are good friends of mine who voted both ways on this motion. But this issue is so central to the question of whether we truly believe that unemployment is the No. 1 disease on this country; that 6 percent unemployment—and we give President Carter and others great credit for bringing it down roughly to that figure—is not good enough; that a country that can do all of the great things that we do economically, industrially, commercially, agriculturally, can still have the indigenous unemployment in St. Louis, in New York, in Cleveland, in Buffalo, and

in Los Angeles; that cities of this country in which joblessness is an inherited and inherent way of life are to be accepted.

Mr. ABOUREZK. Mr. President, can we have order?

The PRESIDING OFFICER (Mr. HODGES). The Senator will withhold a moment. The Senate is not in order.

Mr. EAGLETON. For us not to act on this bill——

The PRESIDING OFFICER. Will the Senator withhold for a moment. The Senate is not in order and the Senator from Missouri is entitled to be heard.

Mr. EAGLETON. For us not to act on this bill, or for us to dilute the major focus of this bill—a focus on unemployment—I think would be a great disservice to those in our society who definitely and desperately need help.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOLE. Mr. President, I ask for the yeas and nays on the motion to reconsider.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second?

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I yield whatever time I have remaining.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which the amendment was rejected. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DANFORTH (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from North Dakota (Mr. YOUNG). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. EASTLAND (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Massachusetts (Mr. KENNEDY). If he were not unavoidably absent, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Idaho (Mr. MCCLURE), the Senator from New Mexico (Mr. SCHMITT), the Senator from Virginia (Mr. SCOTT), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER (Mr. FORD). Have all Senators in the Chamber voted?

The result was announced—yeas 39, nays 46, as follows:

[Rollcall Vote No. 494 Leg.]

YEAS—39

Abourezk	Eagleton	Metzenbaum
Anderson	Glenn	Moynihan
Bayh	Gravel	Muskie
Biden	Hathaway	Pell
Brooke	Heinz	Randolph
Burdick	Hodges	Ribicoff
Byrd, Robert C.	Humphrey	Riegle
Cannon	Inouye	Sasser
Case	Jackson	Sparkman
Church	Johnston	Stevenson
Clark	Leahy	Williams
Cranston	Magnuson	
Culver	Matsunaga	
Durkin	McGovern	

NAYS—46

Baker	Hart	Nunn
Bartlett	Hatch	Packwood
Bellmon	Hatfield,	Pearson
Bentsen	Mark O.	Percy
Bumpers	Hatfield,	Proxmire
Byrd,	Paul G.	Roth
Harry F., Jr.	Hayakawa	Schweiker
Chafee	Helms	Stafford
Chiles	Hollings	Stennis
Curtis	Javits	Stevens
DeConcini	Laxalt	Stone
Dole	Lugar	Talmadge
Ford	Mathias	Thurmond
Garn	McIntyre	Weicker
Goldwater	Melcher	Zorinsky
Griffin	Morgan	
Hansen	Nelson	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Danforth, for.
Eastland, against.

NOT VOTING—13

Allen	Long	Tower
Domenici	McClure	Wallop
Haskell	Sarbanes	Young
Huddleston	Schmitt	
Kennedy	Scott	

So the motion to reconsider was rejected.

The PRESIDING OFFICER. The Senator from Virginia.

Will the Senator suspend?

Will Senators please take their seats? The Senate will come to order. Clear the well. The Senate will please come to order so that we might proceed. The Chair would like to recognize the distinguished Senator from Virginia if the Senate will come to order.

Will Senators please clear the aisles? The Senator from Virginia.

AMENDMENT NO. 4528

(Purpose: To revise the basis for calculating the unemployment rate for the purposes of this legislation)

Mr. HARRY F. BYRD, JR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Virginia (Mr. HARRY F. BYRD, JR.) proposes on amendment numbered 4528:

On page 65, line 8, after "Labor" strike the punctuation, replace it with a comma and insert "reduce by not counting as unemployed those unemployed less than five weeks.".

The PRESIDING OFFICER. There is 1 hour on this amendment to be equally divided.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 15 minutes. Could we have order?

The PRESIDING OFFICER. Will the Senator suspend? Will Senators please clear the aisles? If Senators have discussions, please retire to the cloakrooms. The Chair will not allow the Senate to proceed until we have order.

The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, first let me say I think it is very unfortunate that legislation of this magnitude has been brought up so late in this session. I realize the great pressure from the White House to push this legislation. I realize the pressure from the national labor union leaders. I note that even the Republican leadership of the Senate joined in bringing this legislation before the Senate.

In noting the situation which exists in the Senate tonight, I plan to discuss this amendment, but plan to withdraw it. I have seen enough of the attitude of the Senate to know that no amendment of any substance is going to be added to this bill.

The amendment which I have now called up is designed to put the Humphrey-Hawkins bill on a realistic basis.

Quite simply, it alters the method of computing the unemployment rate for the purposes of this legislation. In calculating the rate of unemployment, persons who have been out of work for less than 5 weeks would not be counted.

Mr. STENNIS. Mr. President, I insist on order. There is no excuse for all these people walking around, cutting off the speaker. We cannot hear.

The PRESIDING OFFICER. The Senator is absolutely correct. The Chair has been endeavoring to get order in the Senate. Apparently, when all Senators leave we will have order.

Mr. HARRY F. BYRD, JR. Under the terms of the legislation as it now stands, the President is directed to orient a vast array of Government policies toward the achievement within 5 years of an unemployment rate of 4 percent for the total civilian labor force and 3 percent for that portion of the labor force aged 20 and over.

To see what that target means, I believe that we must first put it into historical context. Let us look at what has happened in the area of unemployment in the United States since the Depression of the 1930's.

During the 38-year span since 1940, unemployment in the civilian labor force has undergone many fluctuations. It stood at 14.6 percent in 1940, when the effects of the depression were still being felt and wartime production had not geared up. The following year it dropped to 9.9 percent, then to 4.7 percent in 1942.

It was not until 1943, at the very peak of World War II, that unemployment fell below 4 percent. The rate for that year was 1.9 percent. The rate remained very low for the rest of the war and stayed below 4 percent through 1948 as pent-up wartime demand stimulated civilian production and absorbed the returning veterans into the work force.

In 1949 and 1950, the unemployment rates were 5.9 and 5.3 percent, respectively.

Then came the Korean war, and another mobilization effort pushed unemployment down to the 3 percent range for 1951 through 1953.

From 1954 through 1965, the unem-

ployment rate did not once drop to 4 percent.

It was not until 1966, with yet another war being fought, that the United States experienced unemployment of less than 4 percent. The rates for 1966 through 1969 were 3.5 and 3.8 percent.

But in 1970, with the Vietnam war still in progress, unemployment reached 4.9 percent and has not again fallen to the level of 4 percent.

Looking over these data for the past 38 years, we see that our Nation has not known unemployment of 4 percent or less in a single normal peacetime year, except for the post-World War II expansion. Every decline in the rate to 4 percent or less has been associated with a war.

It seems to me extremely unwise to direct the President to achieve a wartime level of unemployment in time of peace—and thereby hold out a promise to the American people which I sincerely believe cannot be kept.

But the historical view of unemployment is not the only context in which we must consider what we are attempting to do in this legislation.

A second context in which we must look at the pending legislation is that of the total state of the economy.

In that regard, I believe there is near-universal agreement, among economists and laymen alike, that our No. 1 economic problem is inflation. Even George Meany will agree to that. We are hovering in the double-digit inflation range right now, and we dare not undertake policies which would worsen that situation or, indeed, weaken our chances to bring the inflation rate sharply downward.

Now what would be the effect of all-out pursuit of a 4-percent unemployment rate upon inflation?

Many economists of widely differing persuasions warn that the targets in the Humphrey-Hawkins bill would be highly inflationary.

Rather than cite these economists, let me quote instead from a strong advocate of the Humphrey-Hawkins bill, Secretary of Labor F. Ray Marshall. Secretary Marshall wrote this in a message accompanying the employment and training report of the President for 1978.

> The Humphrey-Hawkins bill will commit us to the goal of a 4-percent unemployment rate in 1983. Experts agree that this rate is unattainable without adding to inflation unless the structure of the labor market is changed. However, there is little agreement over the magnitude of the change needed and over the effectiveness of various proposals to bring about those changes.
>
> In particular, there is disagreement over the rate of unemployment at which inflationary pressures can be expected to emerge in labor markets in the absence of structural improvements. Current estimates range between 5 and 6 percent.

The Secretary goes on to say that he expects a lower rate to be attainable by 1983, without further inflation, but he admits this is a personal estimate.

The point is that Mr. Marshall concedes that, under present conditions, inflation will worsen at an unemployment rate somewhere between 5 and 6 percent, without structural improvements.

I realize that the proponents of Humphrey-Hawkins will say that this is what the bill is all about: that it will produce the "structural improvements" needed to generate full employment without inflation.

But I submit that so long as the bill is geared to the total unemployment rate for the entire civilian labor force, it is not truly targeted at structural unemployment.

I agree with the proponents of this legislation that we need to frame policies to reduce structural unemployment. But I maintain that this bill, as written, is the wrong instrument to achieve that goal.

I believe that economists agree that we do not really have a satisfactory statistical measure of structural unemployment. But I think we can safely say that the kind of unemployment which we want to reduce, when we are talking in terms of structural improvements, is characteristically unemployment of considerable duration.

It is not the office worker who quits one job, gambling on getting a better one by devoting a few weeks to a full-time job hunt.

It is not the teenage son of a suburban family looking for money to buy gasoline for his new automobile.

It is not chronic job-shifters who always affords himself or herself a few weeks on unemployment compensation between positions.

These persons are not unemployed by virtue of the structure of the economy. Even some persons who are fired are not structurally unemployed in the true sense; because they have marketable skills they are not out of work for any great period.

One of the great obstacles which we face in framing economic policies to deal with the unemployment problem is the enormous variations in circumstances which are masked by the overall unemployment statistics.

That national unemployment rate, to which the Humphrey-Hawkins bill is geared, records equally the unemployment of the most casual job-hunter and the debt-ridden, desperate worker who has spent long months trying to save himself and his family from financial ruin.

All unemployment is not equal.

The Bureau of Labor Statistics in the Department of Labor, the source of our data on unemployment, recognizes that its array of statistical measures does not constitute an estimate of economic hardship. Recently, it undertook an effort to supplement its usual compilations, and it came up with a highly significant finding:

In the first quarter of 1976, the Bureau found, nearly 60 percent of the total number of unemployed persons lived in families where at least one other person was employed.

Of course, we cannot say that everyone who is a member of a family with a breadwinner escapes all hardship. But there is a vast difference between the household with no earned income and one with at least one person on the job.

Certainly, it is startling to learn that more than half of our unemployment is accounted for by members of families which include employed workers.

We need more refined statistical measures to frame more intelligent policies in this field. But in the meantime, we must make do with what we have.

On the basis of information that is available, it seems to me that the area upon which we should focus is long-term unemployment. This is now recorded regularly: The Bureau of Labor Statistics breaks down the unemployed into those out of work less than 5 weeks, 5 to 6 weeks, 7 to 10 weeks, 11 to 14 weeks, 15 to 26 weeks, and 27 weeks and over. So the figures on length of unemployment are available now. No new statistics need be collected to establish these measures.

I believe that it would be wise to focus on those with truly long terms of unemployment—say 15 weeks or more—but I have chosen only to eliminate from the measure used in this legislation those out of work for less than 5 weeks. Indeed, that, I think, is a relatively short period of time.

The rate of unemployment for those out of work 5 weeks or more at the present time is in the neighborhood of 3 percent, and has been there for some time. Thus, my amendment would make unnecessary any vast policy changes at the present time.

In framing policies to deal with the future, to avoid the calamitous unemployment levels that we experienced in 1975, the President thus would be directed to focus attention on the long-term rate, namely, the unemployed of a duration of greater than 5 weeks. He would be encouraged to undertake sound, long-range measures that will encourage solid economic growth and avoid the wild fluctuations which we have experienced in the all too recent past.

During consideration of H.R. 50 in the House, Congressman PIKE of New York offered an amendment far more drastic than the one I am proposing to the Senate. The Pike amendment would have excluded from computation of the unemployment rate those unemployed less than 4 weeks, plus strikers, those not actively seeking full-time work and those who left their last jobs.

Congressman PIKE's amendment was defeated by a margin of only 204 to 199—just five votes.

Mr. President, as I said in the beginning of my remarks, I realize that the Senate is not in any mood to accept any fundamental change in the legislation before the Senate tonight.

This legislation is before the Senate just 24 hours before the Senate will adjourn.

I shall vote against the Humphrey-Hawkins bill when the vote comes at a later hour. The bill before the Senate now is either cosmetic—and if it is cosmetic, it will deliberately mislead many segments of our population. If, on the other hand, it is not cosmetic, if, on the other hand, the actions envisioned by the pending legislation are put into effect, then it will be highly inflationary.

Inflation, incidentally, is the cruelest tax of all, hitting hardest those on fixed

income and those in the lower economic brackets.

I regret to see a bill like this being considered by the Senate, one which, in my judgment, will mislead many of our fellow citizens throughout our Nation. It is not going to do the job unless vast sums of American tax dollars are spent to accomplish what the legislation envisions.

I think people are cynical enough about Government right now. I think one of the great problems in our country today is the cynicism on the part of the American people toward Government. We need more confidence in Government, not less.

But I am convinced that a bill such as we are considering now will mislead many of our fellow citizens, and thus will be doing a disservice in that respect. The attitude of the Senate is, let's put something in lawbooks—good or bad—just so it is called Humphrey-Hawkins.

The PRESIDING OFFICER. The Senator's 15 minutes which he yielded to himself have expired.

The Senator has an additional 5 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, much has been said about this being a private sector bill. Well, to some extent there is accuracy in that. To a considerable extent, there is not.

It does use language to say that the private sector shall be utilized first. But then it goes on with a long list of public sector activities that will be encouraged and permitted under this legislation.

I was much impressed with the first vote taken today on this bill. The Senate refused to accept the Proxmire amendment, which would put a limitation on Federal spending as a percentage of gross national product. The majority of the Senators who voted that proposal down knew what they were doing, because this bill is going to be a very expensive bill for the American taxpayer, or else it is going to be purely a cosmetic bill and helpful to no one—except, perhaps, the politicians and the labor union leaders.

Mr. President, I will withdraw the amendment which I have presented, although I think that it would make the bill a more realistic piece of legislation were it adopted.

Mr. President, I ask unanimous consent that I may have printed in the RECORD at this point a compilation of the many programs in the Humphrey-Hawkins bill before the Senate tonight dealing with the public sector and the potential for great cost to the American taxpayer.

There being no objection, the compilation was ordered to be printed in the RECORD, as follows:

HUMPHREY-HAWKINS BILL: PUBLIC SECTOR MENTIONED IN ROBERT C. BYRD-BAKER VERSION

PUBLIC SECTOR

Expansion of public employment through means other than CETA public service jobs.

Expansion of public service jobs under CETA.

(Note: the above 2 items listed as lower priority than private sector expansion.)

Secretary of Labor to take "such action as practicable" to achieve employment goals.

Secretary of Labor to make studies and develop information toward eliminating unemployment differentials.

One hundred percent parity for farmers.

Programs for urban areas.

Programs for health care, education and training, child care, human services, housing.

Policies concerning federal aid to state and local governments, "especially for public investment and unemployment-related costs."

"National defense and other needed international programs."

Attention to federal contracts, grants and procurement, and military base closing, and their impact on regions, urban-rural-suburban areas, "with particular attention to meeting the needs of labor surplus areas."

Government information system to monitor inflationary trends and threats.

Programs to alleviate shortages of goods, services, labor and capital.

Establishment of stockpiles of agricultural commodities and other critical materials.

Advisory boards, (including regional boards) may be established by President.

POSSIBLE COUNTERCYCLICAL PROGRAMS

Accelerated public works.

Public service employment.

State and local grant programs.

Skill training in public sector.

Unemployment insurance programs.

Federal programs targeted on labor surplus areas.

Augmentation of training programs.

Youth employment programs.

Community development programs.

Regional and structural employment policies.

Counseling, training and support activities under CETA.

"Reservoirs" of public employment and private nonprofit employment projects for those otherwise unemployable.

Mr. STENNIS. Would the Senator yield me 2 minutes, if he has it left?

Mr. HARRY F. BYRD, JR. I yield 5 minutes to the Senator from Mississippi.

Mr. STENNIS. I thank the Senator.

Mr. President, I want to commend the Senator from Virginia for the work he has put into this speech, for the bringing of the facts that he portrays, and the logic that he presents.

I certainly want, and I am willing with my vote, to try to make some contribution to the conditions that we are faced with here in connection with unemployment.

No one could be indifferent to this problem. But I think it is going to continue at varying degrees in spite of what can be done, until a better plan can be adopted. It is not a passing matter, I mean.

But I just do not see where we can be satisfied with a program that is less than demanding, rather severe and meaningful requirements of those that are going to have these jobs.

In many places, the present jobs are a joke. I have supported, of course, some of those many billions of dollars that we have in the present plan for the unemployed. I think the whole problem will fail of solution until we follow a systematic year-to-year, permanent training of our youth, with the teaching that goes along with it, that it is their duty as a citizen not only to learn a skill, but to earn his own living and take pride in it. More than that, we must let them know they will be expected to earn their own way. That is the proper rule in the American system. Also, that is the only rule to happiness, as I see it.

I think we have failed in that respect during the last few years.

So, going along with unemployment, I would have a real, meaningful program of this kind. We did it once in the Depression, to a degree, the CCC camps they were called then, instilled into those youngsters' minds a concept that is not the concept they are getting now, that they be expected to work, expected to earn their own way, and they are going to be given a chance to train, just as much training and just as good a job as they will put the effort into it, and receive the rewards themselves, and live the American way.

I would also support rather liberal payments to industry to pay them a sizable part of that training. In industry, that is where the jobs are. Industry creates the jobs. They have the machinery; they have the know-how; they have the system; they have the management.

Government does not do those things and can hardly be successful in operating industry.

I think, and this is a mature thought, in my case, because I have seen this thing grow over the years, that we must have a system somewhere in the neighborhood of what I have outlined. This would include extensive training for jobs among the unemployed both youths and adults, and also temporary jobs for unemployed. Some kind of effort, some kind of return, must be required for the wages paid.

It is easy to say those things, and I do not say them in criticism of this plan. But I am just, regretfully, saying I do not believe this plan and the meager requirements in it, have the support of the people. They have to pay the taxes to support the plan and they expect some return. They have enough of sheer waste.

When we meet these points of the plan, we will be on our way.

Again I thank the Senator and think he made a real contribution.

Mr. HARRY F. BYRD, JR. I thank the Senator from Mississippi.

(There was a disturbance in the gallery.)

The PRESIDING OFFICER (Mr. FORD). The galleries will be in order. The Senator will suspend.

The galleries will be in order.

The Senator will suspend until the Sergeant at Arms has restored order in the gallery.

The Senator may proceed.

Mr. HARRY F. BYRD, JR. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. HARRY F. BYRD, JR. I yield myself 1 minute.

Mr. President, there is no individual in the entire Congress who is indifferent to unemployment. It is a terrible problem for those who have faced and are facing unemployment. It is one of the great problems of our country. That is why I regret that this bill was brought up in the last hours of this session, as it has been brought up.

I am convinced in my own mind that the Humphrey-Hawkins proposal now before the Senate is either cosmetic or inflationary, and it is a piece of legislation that I cannot support.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Virginia is withdrawn.

Are there further amendments?

UP AMENDMENT NO. 2106

(Purpose: To include Americans of Hispanic origin in all regular reports and publications by the Bureau of Labor Statistics containing labor force data)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk for myself and the distinguished Senator from New Mexico (Mr. SCHMITT).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mr. SCHMITT, proposes an unprinted amendment numbered 2106.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the substitute, insert the following:

"To promote further the achievement of full employment under this Act, and in furtherance of the policies, programs, and priorities thereof, all regular reports and publications by the Bureau of Labor Statistics and by all other Federal agencies containing estimated rates of unemployment and other characteristics of the labor force or subpopulations thereof (which reports and publications have previously included statistics distinguishing among racial groups) shall by January 1, 1983, report such statistics for persons of Hispanic origin in any case in which the population being described includes 50,000 or more persons of Hispanic origin. State and local agencies which publish such reports and publications are urged to comply with the provisions of the preceding sentence.".

The PRESIDING OFFICER. There are 30 minutes on the amendment, 15 minutes to a side.

Mr. DOLE. Mr. President, I will take about 3 or 4 minutes. I will explain the amendment quickly, and I will withdraw the amendment.

Mr. President, the amendment I am proposing to the so-called Humphrey-Hawkins Full Employment Act addresses a long-time Hispanic concern over the inadequacies of past and current statistics on unemployment and other characteristics of the Hispanic labor force.

CONSTITUTIONAL MANDATE

Mr. President, full and complete enumeration of the population of the United States is a constitutionally mandated process whereby political representation in Congress is distributed. In addition, census data are used to calculate the allocation of almost $15 billion annually to State and local governments for Federal assistance programs, to insure equal employment opportunities and to protect voting rights.

Racial and ethnic data collected by various agencies are essential tools with which to combat discrimination and monitor affirmative action programs to remedy past discrimination. The collection and analysis of this data is the most effective and accurate means of measuring Federal program impact on minority beneficiaries and for assuring that equal employment opportunity policies are working effectively. With regard to programs on Federal assistance in general, data on race and ethnic origin of persons eligible for, applying for, or receiving Federal assistance are fundamental tools for measuring the extent of equitable distribution of benefits.

THE U.S. COMMISSION ON CIVIL SERVICE RIGHTS REPORT

The U.S. Commission on Civil Rights recently charged the U.S. Department of Labor was negligent in complying with Public Law 94–311. This law, enacted in June 1976, recognized that the Federal departments within the executive branch were ignoring the need for adequate information about the Hispanic population. Moreover, the law mandates each Federal department to increase its data collection activities regarding the Hispanics. In its report to the President, the Civil Rights Commission points out that the Department of Labor's efforts to comply with Public Law 94–311 could be greatly improved. It has been more than 2 years since the enactment of this law and most of the Department's efforts are still in the planning stages and it is not known when it will publish the expanded data called for in its plans. Also, it does not plan to publish Hispanic unemployment data monthly, as it does for blacks and whites. Instead, it plans to publish separate Hispanic unemployment data for only a very few States and no local areas with a large Hispanic population. Mr. President, my amendment would change this. My amendment would require that all regular reports and publications by the Bureau of Labor Statistics and all other Federal agencies which report estimated rates of unemployment and other such characteristics of the labor force include statistics for persons of Hispanic origin in any case in which the population being described includes 50,000 or more persons of Hispanic origin.

REASONABLE TIME FOR IMPLEMENTATION

Mr. President, my amendment calls for a January 1, 1983, deadline. I wish to make clear that I have taken into consideration the time needed by the Bureau of Labor Statistics, after the 1980 census, to gear up for the inclusion of Hispanics in the general reporting of labor statistics. Mr. President, only by defining the American of Hispanic origin or descent labor data can we expect to include Americans of Hispanic origin or descent to benefit from this full employment and balanced growth policy statement. Mr. President, only by defining the Spanish-origin population to the greatest degree of accuracy possible can we assure that Government programs adequately serve the second largest minority in the United States.

I believe that my amendment would serve as a vehicle for amelioraitng the critical unemployment in the Hispanic community.

Mr. President, I know that there are some who have reluctance to accept the amendment or to extend the debate tonight. The amendment would correct an inadequacy in the current labor work force statistics. It would expand and build on Public Law 94–311, signed by the President in June of 1976.

It could address a matter of deep concern to all Americans of Hispanic origin or descent.

I understand the concern, and I understand the lateness of the hour. I will only say this: It would not require the quarterly and annual reports of labor statistics, currently done for whites and blacks, until June 1, 1983. The 1983 date takes into consideration the time needed by the Government with respect to the 1980 census.

I hope that sometime early next year I might enlist the help of some of my colleagues from States with Hispanic population, and perhaps we can address this matter of concern to them. It does not cost anything. It does mean a great deal to them. I hope that early next year we might address the problem.

Mr. HART. Will the Senator yield?

Mr. DOLE. I yield.

Mr. HART. Mr. President, I congratulate the Senator from Kansas for his concern here. I think it is a real and genuine concern, and he deserves our support in this effort. I would like to work with him in the future.

Mr. DOLE. I thank my colleague.

FULL PARITY FOR FARMERS AND THE HUMPHREY-HAWKINS BILL

Mr. DOLE. Mr. President, included in the Humphrey-Hawkins bill are national priority policies and programs required for full employment and balanced growth.

The bill says that to contribute to the achievement of the goals under the Full Employment and Balanced Growth Act of 1978, the President's budget for each fiscal year beginning after the date of enactment of the Full Employment and Balanced Growth Act of 1978 shall include priority policies and programs, which may include consideration of several items, one of which is the development of a comprehensive national agricultural policy.

At my suggestion, language was added to the bill to make full parity income for farmers a part of any national agricultural policy. I believe any such policy should assure farm and ranch income at full parity levels.

My addition to the bill said the agricultural policy should include a goal to assure, "farm and ranch income at full parity levels that will improve opportunities for farm families, encourage production, provide for essential capital investment in farming, and provide for farm product prices at full parity in the marketplace."

This means that when the President sets his policies, both in operating the Federal Government and how it affects the private sector of the economy, he will take into consideration reaching the goal of full parity at the same time as we reach the goal of 4 percent unemployment.

What this means is that we will give

farmers an opportunity to have a better income. Right now when we look at farm incomes around 65 percent of parity, this is the lowest we have seen farm income since 1933 when we were in the worst part of the depression. Full parity is not an unattainable goal at all, because in 1973 we did reach full parity. In fact, 106 percent of parity in August of 1973.

Mr. President, we have seen during this session of Congress people in the American agriculture movement here on the farm strike in the Halls of Congress, I have talked to hundreds of them and they have told me they have gone into most senatorial offices.

I have said to them that the problem is that there are not enough people in Congress from the rural part of the country. They report that some Senators say, "we are for parity."

I say we will give them an opportunity to vote for full parity in this legislation. This legislation is setting economic goals for the country at large, and we ought to be setting agricultural goals if unemployment goals are set.

I suggest we look at some of the Federal policies that are made, policies of increasing production of palm oil in foreign countries in competition with soybean farmers. The President ought to take that into consideration and not support that competition.

Let us look at the importation of live beef to the American market, coming in from Canada. That was not counted in the beef quota last year and it had a detrimental effect on the price of beef in this country. The beef industry has been down for years. The President and the Congress will have to take a look at that and govern accordingly so farmers will secure full parity in the marketplace.

There are policies that are made in the use of insecticides and pesticides which enable farmers to raise more for the needs of the people not only of this country, but all over the world. Are we going to deny the use of those chemicals insofar as they are not proven to be unhealthy to human beings, in the protection of agricultural products? These are the policy decisions that will have to be made in light of adding full parity for farmers to this bill.

Mr. President, I believe policy decisions made by the President and the Congress should plan for improved farm income reaching full parity in the marketplace.

Mr. President, I said about 3 hours earlier that I would have the opportunity to say in the last minute that I think we should vote for this bill. I am proud to say now that we should vote for the Humphrey-Hawkins bill.

I believe it is a tribute to our late friend, Senator Humphrey, and certainly to the present Senator HUMPHREY, to have this opportunity.

We have had our battle this afternoon. We win some and lose some, and I learned in 1976 that it is a lot more fun to win.

I believe that we have a good document. It is not perfect. Neither side received all it wanted. It is the result of compromise and a lot of work by some Members who perhaps even now may not be able to vote for the bill. I hope every Republican will vote for the bill. It is not partisan. We are proud of the name it bears—Humphrey-Hawkins.

I thank all those Senators who worked on the ad hoc committee to obtain a bill that could be passed. Senators LUGAR, NELSON, PROXMIRE, RIEGLE, SARBANES, HATCH, HUMPHREY, WILLIAMS, CRANSTON, KENNEDY, PERCY, BAKER, BYRD of West Virginia, all participated in the discussions. Their cooperation was essential to the bill that was presented here today.

We have had give and take, and changes have been made—only goals, yes, we understand. We understand the first priority is employment. It has to be the first priority. We understand that jobs are the first priority. But I think we should address—and we did address—the question of spending, the question of inflation, the problem of agriculture, and other problems that have been raised by my colleague on the floor.

So, as my last words to those in the business community who have not read the bill, I say they should read it. They might find that they like it. Those in the labor force who are opposed to perhaps one amendment should read it very carefully; because we made it very clear in the inflation amendment that it was secondary to meeting certain obligations in unemployment, trying to help the unemployment picture.

We also gave the President the time to change certain timetables in the legislation.

So it is a good, sound piece of legislation. It addresses the problems we have all across America—Republicans, Democrats, Independents, blacks, whites, Hispanics.

What may have been an impossible dream for Mrs. Humphrey a few days ago is now about to be a reality. I hope she is not offended by the fact that some of us disagreed with the amendment she offered. We felt very strongly about it, and we voted against her with our fingers crossed. We wanted to win, and we did prevail. I am not certain that we won, but we did prevail. I hope that in that competitive time we have not in any way diminished the importance of this legislation.

Mr. LUGAR. Mr. President, will the Senator yield me time on his amendment?

Mr. DOLE. I withdraw the amendment.

The PRESIDING OFFICER (Mr. BIDEN). The amendment is withdrawn.

Mr. PROXMIRE. Mr. President, I yield the Senator 2 minutes on the bill.

Mr. LUGAR. Mr. President, I appreciate this moment, in what I presume and hope is the conclusion of the debate, to encourage Republicans to vote for the Humphrey-Hawkins bill.

I simply want to pay tribute to many who have worked on this effort and whose good faith—at least in terms of all the conversations that preceded this debate—were very instrumental in my feeling that this is an important piece of legislation. We have done a reasonably good job in trying to make certain that it is constructive.

I am very grateful that Senators took time to think through the three objectives, have debated them well, and now I hope we move on to implementation.

We have a responsibility in Congress as will the President to make this work.

Those of us who have through the discipline of taking a look at what is in Humphrey-Hawkins and have come to learn more of it, appreciate the process and what it can mean for this country.

I pay special tribute to the manager of the bill on our side, the distinguished Senator from New York, whose eloquent statement prior to the last vote I am certain was an important factor in the success of the legislation; likewise, to both the Senators from Wisconsin whose faithful consideration of all of the conversations, arrangements, agreements we have had were certainly instrumental in bringing about my support.

I thank the Chair.

Mr. JAVITS. Mr. President, I yield 7 minutes to the Senator from Illinois (Mr. PERCY).

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I thank my distinguished colleague.

Mr President, I do rise in support of the Humphrey-Hawkins legislation, as amended. I join my distinguished colleague from Indiana urging Republicans to be for this bill.

Neither Government economic planning for the private sector nor an endless stream of make-work public service jobs have a place in our economy.

Mr. PROXMIRE. Mr. President, will the Senator yield to let us have the yeas and nays on passage?

Mr. JAVITS. The yeas and nays, Mr. President.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. PERCY. Mr. President, therefore I opposed from the beginning the original version of the Full Employment and Balanced Growth Act and pointed out to my distinguished colleagues who were supporting that version why I opposed it, why I felt it was impractical, why I felt it would never be adopted by this Congress.

But I do believe in the importance of establishing goals for ourselves as a Nation. I believe also that the new Humphrey-Hawkins bill will provide a useful and effective framework of economic policy goals within which policy decisions can be made by the President, Congress, business and labor working together.

Therefore, I am pleased to support this bill and was proud to serve on the coalition that helped shape the final version of the bill.

Working with Senators JAVITS, DOLE, LUGAR, HATCH, NELSON, PROXMIRE, WILLIAMS, SARBANES, CRANSTON, HUMPHREY, and KENNEDY, and occasionally with others, and with the support and help of Senator BAKER and Senator ROBERT C. BYRD, I think that this effort has been a noble one. Every single Senator could,

of course, not endorse every feature and provision of it. Many of us had other provisions we might have liked to have seen in it, and certainly the bill has not made everyone happy; even the original supporters of the Humphrey-Hawkins concept are unhappy about certain phases of this bill.

However, I do believe very strongly that this bill as it now stands is as effective a compromise as can be worked out and implemented in this Congress.

As a businessman for 25 years, I have never once begun a new year without first working with my fellow officers and directors to develop a plan and a set of goals for the immediate year.

In my 12 years in the Senate, my staff and I have continued this procedure. In those 12 years, a good deal of my time has been spent in trying to bring this and other sound business practices into the Federal Government. The Budget Reform Act, now law, sunset, the Government Accountability Act, and the Regulatory Reform Act, are good examples of congressional efforts to provide a commonsense framework for policy decisions. All have now been adopted by the Senate.

Certainly, I know that there has been legitimate and honest concern about whether there is too much planning and whether there should be planning in the Federal Government. But I would say that any organization the Senator from Illinois has worked with, whether it be a charitable organization, whether it be a philanthropic organization, whether it be universities, whether it be corporations, they all plan ahead. They have looked back from whence they have come. They have planned for the present and they have looked and thought into the future. There is no reason why the Federal Government should not do the same thing.

The Humphrey-Hawkins bill, can perform valuable functions in the area of economic policy planning and the coordination of all Government machinery related to economic policy. It builds on the foundation provided by the Employment Act of 1946, the last major statement of economic policy written into law in this country. In 32 years, however, our economic tools, our aspirations for ourselves and our families, and our capabilities as a nation have increased. The Employment Act must be modernized to reflect these changes and our present deep concerns about inflation and taxes that are a disincentive rather than providing an incentive for adequate capital formation to back up necessary growth of private sector jobs.

I am absolutely committed to reducing unemployment in this country, particularly among minority youth, as so many of my colleagues have eloquently expressed during the course of the day.

The continuing high jobless rate among people in this group is tragic and alarming. But inflation has surpassed unemployment as our nation's number one problem. Both have taken their toll on the American people in recent years, particularly those on the bottom rung of the economic ladder. Both problems must be dealt with at once.

The cost of full employment need not be inflationary and the price of fighting inflation need not be unemployment.

We can and must make a firm national commitment to fight both. Unemployment is a problem in itself, as well as a symptom of a broader economic malaise. Incorporating an anti-inflation commitment into this bill broadens our ability to respond to a whole range of factors which affect unemployment.

The central thrust of this bill is and remains unemployment.

Unemployment can be reduced without aggravating inflation.

Unemployment can be reduced without aggravating inflation, if we increase productivity, eliminate costly and unnecessary Government regulations, and expand the amount of private sector capital available to business for the creation of new jobs. I am pleased to see that all three of these concerns—but particularly the latter—will now be part of the Humphrey-Hawkins bill.

And I was very appreciative of the coalition for accepting the insertions that I have made into the bill dealing with the formation of capital necessary to create private sector jobs. After all, it was Hubert Humphrey and I cosponsored with him as the principal Republican cosponsor the Investment Policy Act of 1977. It was Hubert Humphrey who had the genius to see that private capital formation was essential to create the 9 out of 10, 7 out of 8, or whatever it may be, private sector jobs that must be created to combat unemployment.

I believe that at least 80 percent of new jobs in our economy should be in the private sector. Therefore, although there had been a capital formation provision in the bill, I believed that our commitment to the expansion of private investment capital should be strengthened to emphasize even more the primary importance and desirability of private sector employment. I am delighted that this bill now incorporates such a strong commitment. I would add here that the investment policy language in the bill is taken from language drafted by Hubert Humphrey himself and introduced as a bill, the Investment Policy Act, by Senator HUMPHREY and myself in the last two Congresses. It is a fitting tribute to Hubert that this has been incorporated into the one bill closest to his heart.

Passage of the Humphrey-Hawkins bill is an important step toward marshalling the resources of the Federal Government in the fight against unemployment and inflation. And on behalf of a more stable economy.

I cannot conclude my remarks, Mr. President, without a reference to my friend Ralph Metcalfe, our recently deceased congressional colleague from Illinois, whose funeral I will be attending tomorrow. As a member of the Black Caucus, and as a human being sensitive to the needs of others—particularly the unemployed—he was an active supporter of the bill.

A few months before his death, he made this statement about the bill:

> Achieving a state of equality for all Americans requires a transition from a movement for equal rights for an oppressed minority to a movement for economic and social justice for Blacks, minorities, and all the poor. The economic issues that form the present agenda for racial progress are less dramatic than the struggle for the right to sit at a lunch counter or the struggle for the right of every citizen to vote. The brutality is less visible when Black teenagers cannot find work than the brutality when a civil rights marcher is set upon by dogs. You and I know that the damage is just as real.
>
> The economic agenda requires a continuing, all-out, unrelenting policy for full employment in this country. I can proudly say that I co-sponsored the Humphrey-Hawkins Full Employment and Balanced Growth Bill, which passed the House this year.

Earlier today I mentioned the human tragedy we all witnessed during the depression, many of us with members of our own family, our own fathers who week after week, month after month, were unable to find employment. What this did to the human soul was just impossible to describe. What we are saying is this is a symbol of hope for the future; that the full force and might of our entire economy is going to be put to work on this problem.

Mr. President, I am proud to follow in Ralph Metcalfe's footsteps as a supporter of this legislation.

It is a wonderful tribute to him, and to our beloved friend Hubert Humphrey. My vote for this bill is my personal tribute to them as well as an expression of my support for the principles in the bill.

Mr. JAVITS. I yield a minute to the Senator from Utah.

Mr. HATCH. I thank the Senator from New York.

Mr. President, if ever there was a time begging for a thoroughgoing reconsideration of both the theory and practice of economic policymaking, this is it. If results mean anything, then the philosophy and economic policymaking which have prevailed since the 1960's have been a national disaster. We have achieved what during the Eisenhower years, for example, was thought unachievable—we have brought about through clever Federal economic manipulation both high rates of inflation and high rates of unemployment. These have been accompanied by other fruits of Federal policymaking: Specifically, a national productivity slowdown; subpar gains in real wages; and a sharp drop in the international exchange value of the dollar. Economically, we have become a poorer and weaker nation.

If the legislation we are asked to consider, H.R. 50 as adopted and modified by the Senate really represents a departure from this masochistic trend in Federal economic policymaking, I would be among the first to welcome it. I believe we need drastic change, and I would certainly support and do all that I physically could to promote a bill promising to return us to sounder economic principles. But this legislation, this Humphrey-Hawkins bill, to the extent that it is based on the belief that we have now accumulated the wisdom to create a wholly new framework for economic policymaking which, we may confidently expect, will lead to better results in the future, it merely substitutes a new illusion for the old.

Actually, H.R. 50 is not quite either of

these two alternatives. It has relatively little to say about the substance of economic policy, and that little is not very new. The suggestions for policies to be considered in improving the state of the economy are mainly reworked versions of policies that have been tried, without much success, during the past decade.

This point is not raised with the intention of urging that a large new substantive economic content should be added to the proposed legislation. We clearly are not ready for that. Events have given all of us an extensive and valuable economic education during the past decade. But it has been mainly education of a negative kind. We have learned a lot about economic programs and policies that do not work and that is hardly a firm basis for establishing in law a bold new program for the conduct of economic affairs.

The bill is devoted mainly to establishing new intragovernmental procedures for the development of economic policy. These new procedures are elaborate and, one has to say, cumbersome. Some doubt is justified that this is the way to get to the heart of the economic problems that plague us.

Intellectual modesty is appropriate for all of us, in and out of Government, who are concerned with the formulation of economic policy. The events of recent years have given us so much to be modest about. I wish that evidence of such modesty were more visible but, in any case, modesty is not a satisfactory base for radical revision of our fundamental legislative guide to the development of economic policy.

The objection may be raised that, like it or not, since existing procedures for policy development have not achieved the desired result, we have no choice but to develop a brand new approach to the problem. But present law—the Employment Act of 1946—allows plenty of leeway for shifts in the approach to policy formulation as conditions change and experience accumulates. It is the proposed new legislation, H.R. 50, that threatens to lock us into a new rigidity.

Perhaps the most serious danger involved in H.R. 50 is not that it offers so much in the way of fundamental change in how Government carries out its economic responsibilities but that on its fact at least, it does so little to change the unsuccessful practices of the past. Somehow the public has obtained the opposite impression—high hopes have been built up that this legislation will usher in a new economic era in which all problems will be solved. It is widely described in the press as "landmark legislation." Since these expectations are bound to be disappointed, the end result could be severe damage to the national morale, constant pressure for more extremist policies, and further deterioration of the econmy.

For these, and other reasons which will be explained in what follows, I must urge that Congress not enact legislation of this character. I hope it will be clear that my opposition is not based on a generalized aversion to innovations in governmental policy. To the contrary, new departures from the practices which have prevailed in recent years are desperately needed. But it is not the limitations of the Employment Act of 1946 which has impeded us in finding and adopting new approaches. It is H.R. 50 and related bills which would create a new orthodoxy and solidify an elaborate set of policy-making procedures that will further impede the search for new directions.

MULTIPLE ECONOMIC GOALS IN H.R. 50

In its general statement of national economic goals H.R. 50 takes a somewhat broader view than the original Employment Act of 1946. This is neither objectionable nor surprising, since the 1946 act was rather narrowly focused on fears of a return to the special conditions prevailing in the decade of subpar economic performance preceding World War II. Our problems in the 1970's have turned out to be less severe, but more diverse and just as intractable.

Where the original act simply directed Government to "promote maximum employment, production and purchasing power," H.R. 50 would change "maximum employment" to "full employment" and add as additional goals "real income, balanced growth, adequate productivity growth, proper attention to national priority needs and reasonably stable prices." At other points, H.R. 50 calls for: "better management, increased efficiency, and attention to long-range as well as short-range problems" in the policies and programs of government; and "high rates of capital formation." A number of other goals are scattered through the text of H.R. 50.

There is little in this list of general goals that can be regarded as exceptionable, in the sense that anyone would find attainment of any of these as undesirable. A minor quibble can be raised regarding inclusion of "balanced growth," which seems to have become a popular cliché with no clearly defined meaning.

The major question posed by the goals set forth in H. R. 50 is why anyone should think it necessary or helpful to set them down in legislative language. These have been the de facto if not the de jure aims of national economic policy for many years. Any of our recent President's would surely have been happy to go down in history as the man who finally reconciled low levels of unemployment with low levels of inflation, with or without a legislative directive for doing so.

Enactment into law of these general goals might make sense if at lease one of the following two conditions prevailed:

First. The economic means for attaining these goals were well understood and generally agreed upon, and all that had been lacking was a will on the part of government for undertaking the job.

Second. A breakthrough in economic wisdom had suddenly occurred which made attainable what was previously unattainable.

Neither of these conditions holds.

PROCEDURAL REQUIREMENTS

Having described general economic goals, H.R. 50 turns over to the President the problem of how to achieve them. At least, it is left up to him to take the first step in converting the general goals into numerical targets and program proposals.

I wonder what is gained by such a legislative directive to the President. Any President who was confident that he knew how to attain all the good things mentioned in the Act would hardly keep his knowledge concealed. The only real effect of the requirement is to compel a President who does not know how to reach the Act's goals nevertheless to propose a program for doing so.

As things stand, the annual economic reports of the President, and of his Council of Economic Advisers, do almost invariably discuss the subjects listed in H.R. 50 as goals and to the extent feasible, suggests ways of dealing with them.

Numerical projections for future years are made of the major indicators of economic performance and, since these are in accord with what the President hopes to achieve by the programs he has recommended, they are, in a realistic sense, targets. These procedures are well established by custom and the fact that they are less formal than those required in H.R. 50 is an advantage rather than the reverse.

The procedures within Congress, as established in H.R. 50 are complex and multilayered. The President's report is to be forwarded to all the standing committees of both Houses, which are to report on their reactions to it to the Joint Economic Committee. The members of the Joint Committee from the Senate, and those from the House, are then, separately, each to recommend a concurrent resolution on the subject to their own branch of Congress. The House and the Senate, separately, is each to consider and act on its own version of the concurrent resolution. The whole process is to culminate in a conference report reconciling the two versions of the concurrent resolution, and both Houses will have to act on it. All this is to be done every year.

In this legislation Congress would be imposing an enormous body of additional work upon itself. Perhaps Congress is willing to assume that burden, but the real question is what kind of economic policy would emerge. If a camel is a horse designed by a committee, what kind of monstrosity would this multilayered operation produce?

THE 3 TO 4 PERCENT UNEMPLOYMENT TARGET

For the most part, H.R. 50 leaves to the President the conversion of its general goals into specific numerical targets and programs. The notable exception is the setting forth in the act itself of numerical targets for reduction of the unemployment rate: The President is required to set this unemployment objective at 3 percent for adults and 4 percent for the civilian labor force as a whole, in or before the fifth calendar year after the first Presidential report under the act.

True, the President may recommend modifications in these numerical goals, beginning with his third economic report after enactment, and Congress may then "* * * take such action as it sees fit." But any such modification would surely

be a traumatic political event, especially since the 3 to 4 percent goal would have been allowed to stand for a period of more than 3 and possibly almost 4 years. After that length of time the public would surely regard modification of the employment goal as betrayal of a promise.

One can, of course, take the attitude that all the act commands is the setting of targets; it does not command that the targets be attained, or impose any penalties for failure to do so. I trust, however, that Members of Congress will not take any such cynical attitude toward their legislative responsibilities. There is little point, and grave danger, in enacting into the law of the land an unemployment target if it is virtually impossible of attainment, or possible of attainment only under unacceptable conditions of inflation.

It is not clear what, if any, analytical basis exists for the choice of 3 to 4 percent as the unemployment goal—instead of, say, 2 to 3 percent or 4 to 5 percent. Have the authors of this bill simply seized upon figures which look good in print, have a tradition of acceptability, and seem to have become popular in public discussion?

A further complication arises from the fact that a national commission, established by Congress, is now at work considering the need for a revision of the concepts and methodology used in computing the unemployment and manpower statistics. Their assignment is a wide one and it will be surprising if they do not recommend important changes. We are quite likely to find, sometime in the future, the 3 or 4 percent measures of unemployment have an entirely different significance than they have at present.

Leaving that complication aside, it does not appear that 4 percent unemployment in the civilian labor force is a realistic goal for noninflationary unemployment, or that it ever was during the past quarter century. In the 1955–57 period unemployment did get down to the neighborhood of 4 percent, but only to the accompaniment of an accelerating inflation, which, however, now appears as a minor inflationary incident in the light of subsequent experience. In the late 1960's unemployment held below 4 percent for a period of 4 years—during which the inflation rate accelerated alarmingly. Since then, unemployment has never got even close to 4 percent. It did get, briefly and barely, below 5 percent in 1973—the onset of double-digit inflation.

Progressively, over the entire period since the Korean war, demographic trends—and other developments—have been against us in efforts to reconcile 4 percent unemployment—total-labor force—with reasonable price stability. Our prospects for attaining the numerical objectives of S. 50 have reached the vanishing point.

THE RELATION BETWEEN UNEMPLOYMENT AND INFLATION

Crude conceptions of a calculable trade-off between unemployment and inflation, prevalent a decade or so ago, are now in disfavor but they did much damage while they lasted. Toleration for inflation, as a means of holding unemployment down, has been a losing game and we have wound up losing ground in both respects. It is not that Government officials, consciously and explicitly, advocated accepting inflation as the price to pay for high employment, but there was a tendency to take all the risks on one side.

Hopefully, that era is now over, but it would be a mistake to assume there is no connection whatever between unemployment rates and inflation rates. A deeper penetration of the subject now indicates that there is such a relationship, but that it functions rather as a limitation on what can be achieved by economic policy, than as an option which gives us scope for policy choices.

The connection between the unemployment rate and the inflation rate is more subtle than had previously been supposed. We cannot simply read off a chart, with reasonable accuracy, what particular rate of inflation we must tolerate in order to achieve a specified unemployment rate. The relationship is between the acceleration in the rate of inflation, and the level of the unemployment rate. In other words, once unemployment is pushed and maintained below some trigger rate, the inflation begins to become more rapid each year than the year before.

This is, of course, precisely in accord with our experience of recent years. It also puts an entirely different face on the matter. Toleration of inflation as a means of lowering unemployment can no longer be regarded as a practical option for policymakers. Although opinions may differ as to what rate of inflation is tolerable as the price to pay for lower unemployment, an inflation which is allowed to grow continuously more rapid must eventually exceed anyone's limit of toleration.

What is the trigger rate of unemployment that sets off an accelerating inflation? Although the experts have approached the question in widely differing ways, there is a surprising degree of consensus in their findings. The "safe" rate of unemployment—the lowest rate which does not set off an accelerating inflation—lies in the range of 5.5 to 6.0 percent. Later in this speech I intend to discuss in greater detail the research that has led to this stunning discovery.

In this light, the 4 percent unemployment goal—total civilian labor force—set forth in this bill is entirely unrealistic. In fact, with unemployment at 6 percent last month, we are already at the upper edge of the zone of inflationary tightness in the labor market.

I do not mean to imply that the 5.5 to 6 percent "safe" range of unemployment is an unalterable limitation imposed on us for all time. In fact, it is clear that the noninflationary rate of unemployment has changed by about 2 percentage points over the past quarter century—unfortunately in the wrong direction. It is reasonable to hope that in the future we will be able, both through more favorable demographic trends and through deliberate action, to reconcile a substantially lower rate of unemployment with reasonable price stability than is now possible. But the changes in underlying conditions necessary for that to happen occur slowly and the time required must be measured in decades rather than years.

In principle, an effort to create and maintain unemployment rates as low as those set in H.R. 50 would set off an accelerating inflation that would finally become astronomical. I do not, however, think that things will work out precisely that way. My expectation is that, in the foreseeable future, we are not likely to get either the 3 to 4 percent unemployment stated in the act or the astronomical inflation a persistent effort to achieve them would bring. Rather we are likely, if this act is passed, to see a repetition of the stop-go economic policies of the past dozen years—with both inflation and unemployment getting progressively worse with each turn of the cycle. Surely, our painfully acquired economic experience since the mid-1950's should have taught us to do better than that.

STRUCTURAL ECONOMIC POLICIES

In H.R. 50 there is a heavy emphasis on "structural" economic policies. This is to be welcomed as a healthy shift from the previous emphasis on aggregate-demand management as the key to creating and maintaining prosperity. If ever we are to create conditions in which unemployment levels substantially below the present limitation of 5.5 to 6 percent are feasible, sustainable, and compatible with price stability, it will be through changes in the structure of society and the labor market.

In the act, and in common parlance, the term "structural" has taken on a broad meaning, referring to all aspects of economic policy except the management of aggregate demand. Perhaps our academic brethren can refine the semantics for us but, for present purposes, I accept this broad interpretation.

There is, however, danger that we may be encouraged to expect too much too soon from this new attention to structural factors. There are limitations on what government, in a free society, can do to influence the underlying social structure we have to deal with. Demographic trends must largely be taken as given. Basic attitudes, which affect employability, change in ways that are only dimly understood and which usually surprise us when they occur.

Government can, presumably, make a contribution to the improvement of basic education and practical skills, although there is little on the record which encourages us to believe that we know how to do this on any large scale. In any case, the results of even successful efforts of this nature are likely to be achieved on a time scale to be measured in generations rather than years.

H.R. 50 outlines a number of employment programs, governmental, and/or governmentally financed. There is not much that is basically new in these programs although new vocabulary and new administrative procedures are introduced.

Clearly these programs are meant to be

a means for improving the employability of individuals, rather than to be a major ongoing form of job creation. There is substantial danger that they might become the latter, but leaving that aside there is a more basic problem with such governmental efforts. Too much government assistance to an individual is likely to detract from, rather than add to, his employability. It is an entirely different thing to hold a job because of a general government policy which asserts that it is desirable that we should have one, than to hold a job because a specific employer needs us and finds we are worth what we cost. The individual himself knows that and prospective future employers know it.

The act directs that the reservoir jobs created under it shall be "useful and productive." This forthright declaration is welcome but—is there any adequate test of usefulness and productivity outside the free market place?

The conclusion has to be that, while employment programs of the type described in title II of H.R. 50 should continue to be experimented with, great caution should be exercised if they are not to be counterproductive in our effort to achieve a better reconciliation between high employment and price stability. Whatever they may eventually contribute to the goals of H.R. 50, they cannot have much impact over the timescale contemplated therein.

A PERSPECTIVE ON ECONOMIC ACTIVISM

Since H.R. 50 is a major reopening of the fundamental legal guide to economic policymaking, a broad-gage comment may be appropriate. The whole spirit of this legislative proposal is that government should "take charge" of the economy and so direct it that it will achieve the goals government chooses to set for it. In other words, it is a call for continued and intensified government activism in the economic field.

History has provided those of us who are empirically minded with, in effect, a controlled experiment on the effects of economic activism. The quarter-century since the Korean war divides itself rather neatly into two periods: the "limited-role-for-government period," extending from 1953 to 1964; and the "intense-economic-activism" period of 1964 to the present.

The year 1964 is a natural breaking point between the two eras. It was the year of the war against poverty, and the Gulf of Tonkin resolution which started us on our guns-and-butter approach to Vietnam war financing. Above all, it was the year of the new economics—the belief that management of aggregate demand through fiscal and monetary policy was the means of steering the economy along a steady course between recession and inflation. You will remember the chorus of self-congratulation in 1964 to the effect that "We now know how to manage a modern economy." As events cast doubt on this confident assertion, the aggregate-demand approach was supplemented by an abortive "guidepost" policy in the 1960's, and a near disastrous experiment with wage-price controls in the early 1970's. The fundamentals of demand management were nevertheless preserved throughout this interval. Hardly a year goes by without a new call for economic stimulation. The proposal of new forms of "incomes policy" has become a year-round pastime. It has been an era of constant new initiatives in economic policy.

By contrast, the period from the Korean war to 1964 was one in which relatively little happened in new governmental initiatives. The philosophy and practice of that time envisioned a much more limited economic role for government.

This makes it natural to compare economic performance in the two eras. The results are striking. In the period 1953–64 the unemployment rate was lower, consumer prices increased at a 1.4 percent annual rate, economic output grew 3.2 percent a year, and productivity increased 3.1 percent a year. During the intense economic activist period from 1964 to the present the unemployment rate has averaged 5.8 percent a year, consumer prices have grown 5 percent annually, economic output has grown only 2.8 percent annually, and productivity has been cut in half. By practically every significant economic criterion, performance in the limited-role-for-government period was markedly superior to performance in the intense economic-activist period.

Thus, it is hard facts rather than ideological prejudice which leads me to question the desirability of a high degree of government involvement in economic affairs. We have more to fear from excessive government attention than from government neglect. The Humphrey-Hawkins approach is based on the assumption that more—government—involvement is better, while experience keeps proving the opposite. Changes should be made in the basis for ongoing formulation of national economic policy, but H.R. 50 does both too much and too little in that respect. It offers the public false hopes which will surely lead to disappointment, confusion, contention and governmental hyperactivism. It is far better to leave changes in our methods for economic policy to a natural development, and the prospects are now excellent that this will lead to better results in the future.

Earlier I said that analysis by some of the Nation's most respected economists and by the Council of Economic Advisers indicates that the bill's unemployment goal is achievable only at the cost of severe inflationary consequences. Since this conclusion casts doubts on our ability to achieve the goals of Humphrey-Hawkins I would like to review their analysis and findings.

All the studies I will review are attempts to determine the noninflationary rate of unemployment (NIRU). NIRU is defined as a critical rate of unemployment such that, as long as unemployment does not fall below it, inflation can be expected to decelerate; if unemployment does not fall below it, inflation can established by the Government. If the unemployment rate equals this level there will be no change in the inflation rate. In other words, NIRU is the "lowest rate of unemployment attainable, under the existing institutional structure, that will not result in accelerated inflation."

Another employment concept that should be mentioned is the full-employment/unemployment rate. This is simply the target rate of unemployment that is established by the Government. If the Humphrey-Hawkins bill becomes law, it will set a full-employment/unemployment rate of 4 percent, which is far below the NIRU. This, as indicated in the NIRU definition above, means that attempts to achieve the full employment goal will lead to accelerating inflation.

It should be made clear at this point that this does not mean that the pursuit of an unemployment goal below the noninflationary rate should be given up as an aim of policy. Specific programs directed toward the structure of the labor market may indeed prove useful in reducing the unemployment rate consistent with nonaccelerating inflation. These programs may improve the mobility of the labor force or possibly increase the educational level or productivity of workers. These programs, however, may take many years to perfect and it may be perhaps, decades before their employment impact is realized. Thus, the utility of these programs for reducing unemployment in the short period provided in the Humphrey-Hawkins legislation is severely limited. Recourse to aggregate demand policies or inefficient make-work programs, however, will only reduce unemployment below the critical NIRU level at the cost of accelerating inflation.

Conscientious research reveals that NIRU changes over time and that 1957 was the last year in which the 4 percent full-employment unemployment rate established by Humphrey-Hawkins was compatible with NIRU. More precisely, NIRU has increased every year since 1957. Research indicates that this constant increase is attributable to such demographic factors as changes in the composition of the labor force and to such legal provisions as changes in the minimum wage level and changes in welfare and unemployment benefits. Practically all attempts to measure NIRU place it in the 5.5 to 6.0 percent range.

As mentioned above many factors have been cited as contributors to the constantly increasing NIRU and several methodologies have been employed in an attempt to measure NIRU. It is noteworthy that all these endeavors have come up with parallel estimates of NIRU. Mention should be made here of the factors that have increased NIRU and the various methodologies used by researchers to estimate it.

The dominant cause of an ever rising noninflationary unemployment rate is the changing composition of the labor force due to an influx of women and young workers. The proportion of women in the labor force has increased from 31 percent in 1956 to 42 percent in March 1978. This is reflected in a rise in their participation rate from 37 to 49 percent. The proportion of young workers—16 to 24 years old—has increased from 17 percent in 1956 to 23 percent in March 1978. Women and young workers tend to have higher unemployment rates as they

enter, leave, and reenter the labor force and shift between jobs. The higher participation rates and unemployment rates of these groups makes for a higher overall unemployment rate. Estimates of the impact of women and young workers on NIRU have ranged from 0.5 to 1 percent.

Changes in the cost of being unemployed have also impacted on the NIRU. The cost of being unemployed is the difference between the market wage rate and transfer payments, that is, food stamps, in-kind transfers, unemployment compensation, and welfare payments received by the unemployed. Evidence indicates transfer payments have been increasing relative to market wages in the last 10 years. As the cost of being unemployed declines the incentive or urgency to find work declines. The unemployed stay jobless longer and the unemployment rate rises. Estimates are that this factor has increased NIRU by 0.3 to 0.5 percentage points.

In 1972, Congress required mothers receiving welfare who were able to work to register for employment. This swelled the unemployment rolls and added an estimated 0.2 percentage points in NIRU.

Finally, the ever higher minimum wages have also increased NIRU. Employers are less inclined to hire young and marginally skilled workers whose productivity is not sufficient to make them attractive as employees at the higher minimum wage. The increased minimum wage, in addition to the greater coverage of the minimum wage laws, has added an estimated 0.7 percentage points to NIRU since 1956.

The above are the major demographic and legal factors that are cited as reasons for the rising noninflationary rate of unemployment. All told these factors have added approximately 2 percentage points to NIRU. Other factors, such as, increased manpower programs have reduced NIRU by 0.2 percentage points. The net change then, is an addition of about 1.8 percentage points to NIRU.

Most researchers agree that the 1956 unemployment rate of 4.1 percent was the NIRU of the time. If the 1.8 percentage point increase in the full employment rate is added to the 1956 NIRU we find that the present NIRU is almost 6 percent.

Three distinctive methodologies have been utilized in an attempt to estimate a current NIRU. These methodologies are outlined below.

One scheme that has been used is basically the same as that which was outlined above. This procedure attempts to determine the NIRU at some point in time, usually 1956, and then calculate how much this "base" figure has increased over time in order to arrive at a current NIRU. The 1956 unemployment rate is usually chosen as the "base" figure because the period 1955 through 1959 seems to illustrate a classical example of NIRU. In this period the Nation experienced accelerating inflation as the unemployment rate fell towards 4.1 percent; as the unemployment rate leveled off at about 4.1 percent the Nation experienced no change in the inflation rate; and in subsequent years as the unemployment rate rose above the critical 4.1 percent rate, inflation decelerated. Hence, most researchers adopt an unemployment rate of 4.1 to 4.3 percent as the 1956 NIRU.

The demographic and legal factors listed above that have increased the unemployment rate since 1956 are then added to the base figure of 4.1 percent to get an updated NIRU of almost 6 percent.

The Council of Economic Advisers has made a similar calculation and arrived at a comparable estimate of NIRU:

> Using available data on labor force composition and unemployment rates, and adjusting for the increased proportion of young persons in the labor force and for the increase in their unemployment rate relative to adults, the CEA has estimated that the NIRU equivalent to 4 percent in 1955 is now 4.9 percent.

Furthermore the CEA stated:

> The effects of many of the other factors which are believed to influence NIRU are much more difficult to quantify, but it is likely that they have raised NIRU even higher than the current estimate, perhaps closer to 5.5 percent.

Finally, the CEA said:

> The current benchmark estimates incorporate only the effects for which evidence is substantial. As further evidence becomes available the current estimate of NIRU might be even further refined.

To summarize then, several economic researchers using distinct methodologies have come to very similar conclusions concerning a noninflationary rate of unemployment. All have found this value to lie in the 5.5- to 6-percent range. The conclusion that should be drawn from this is obvious.

Attempts to achieve a full employment goal which is almost 2 percentage points below NIRU will touch off an accelerating inflation that will have a devastating impact on the entire economy. Given our present economic wisdom, the goals of 4 percent unemployment and reasonable price stability are clearly incompatible and should be rejected.

Mr. President, in my judgment this bill will not work because of its fatal flaws and that is the reason for my opposition. I will admit that the leadership substitute, which the ad hoc negotiating group of Senators so diligently put together, represents an improvement over the Human Resources Committee version of its House counterpart. The substitute, which I was privileged to have a vote in shaping, is a far more balanced and fair approach to our national problems of unemployment and inflation and lends greater credibility to the concepts envisioned by Senator Humphrey and Congressman HAWKINS. Despite these improvements which I have every reason to believe the House will accept, it is a bill which holds out promises and hopes for millions which can never be realized.

I ask unanimous consent that a recent Washington Post editorial denouncing this bill be printed now at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

HUMPHREY-HAWKINS, AGAIN

The Humphrey-Hawkins bill, which sets a firm target of a 4 percent unemployment rate, to be attained by 1983, provides a nice illustration of the political dilemma that will dog President Carter over the next couple of years. As he tries to lead the country toward fiscal rigor and a lower inflation rate, he cannot help treading painfully on his party's traditional inclinations and sensitivities.

Any sustained drive to get unemployment down to 4 percent would be wildly inflationary. Mr. Carter understands that point perfectly, and he responds by dancing back and forth around it. On some days he describes the fight against inflation as his top priority, and on other days he renews his endorsement of Humphrey-Hawkins. This performance feeds the accusation that the administration has not established any clear and comprehensible direction in its economic policies.

The bill is being pushed mainly by the Congressional Black Caucus in response to a genuine and grievous social malaise. Unemployment rates among blacks run generally about twice as high as among whites, and the rates for blacks in their teens run around 40 per cent. Black politicians believe that the only effective strategy is to force unemployment for the whole country so low that the rates for blacks will necessarily be drawn into the tolerable ranges.

Unfortunately, it won't work. The unemployment rate in August was 5.9 percent. If it were to fall much below 5.5 per cent, it would begin to generate a great surge of wage inflation. Why? Because employers will bid against each other for skilled manpower before they will hire the unskilled. Unemployment in this country today is not a simple matter of not enough jobs. It is, above all, the threshold difficulty of entering, or reentering, a sophisticated and demanding economy.

The inflationary implications of the bill have brought it to a standstill in the Senate. It now exists there in three versions. One, reported by the Banking Committee, adds a requirement that, as unemployment descends, the inflation rate must also be brought to zero by 1983. There you have the dilemma. If the bill is passed in the House version, in deference to the Black Caucus and Democratic Party tradition, it threatens to undercut the new and urgent necessity to reduce inflation. If the bill is passed with the zero-inflation requirement, it becomes merely absurd. The chance of a zero rate of inflation within five years is as remote as, unfortunately, a 4 percent unemployment rate.

In either case, Congress would try to establish goals by legislation that are obviously unattainable in reality. Humphrey-Hawkins is a bad bill for a fundamental reason: The U.S. government ought not make promises that it cannot keep, and that it knows it cannot keep.

Mr. PROXMIRE. Mr. President, I yield such time as she may require to the distinguished Senator from Minnesota, the author of the bill who has done such a fine job.

Mrs. HUMPHREY. Mr. President, I want to thank the distinguished Senators on both sides for their cooperation, their long hours of hard work, tough decisions which were made, and which take a long time, and a lot of consideration for the people at home, for their political feelings on both sides. I know what it takes.

It was a hard workout for me and for a good many of the others. I know now what it is to truly work as a Senator who can be involved in something that you care a great deal about. But at long last we worked out a compromise so that we now have, I feel, a Humphrey-Hawkins bill on the floor of the Senate.

I am always sorry that I get so emotional about these things. I have to apol-

ogize to my fellow Senators for this because it is a late hour. I do not ever mean to do that but it happens now and then.

I also want to thank the majority leader and the majority whip, especially, for their invaluable help in working with me and then encouraging all of us to sit down and come to a workable solution.

I thank the minority leader for his special help in all of this background work.

I also thank the leaders and the full membership of the groups of the coalition for this bill to obtain full employment. Without their support and cooperation, we would not be where we are today. Seven years have gone into the formation of the Humphrey-Hawkins bill as it now comes before us. The House of Representatives passed H.R. 50 on March 16. The vote was 257 to 152. It so happened that I was on the floor of the House at the time when that vote was taken and the bill was passed. It was one of the most exciting things and thrilling, satisfying, and meaningful events in this eventful year for me.

It was I felt a very emotional time for a good many of the Congressmen and it certainly was one for me.

As a result of that I have been working ever since in helping to create and pull together a workable, good bill that we could all feel proud of when we passed it here in the Senate.

Mr. President, the Full Employment and Balanced Growth Act of 1978 is one of the most important pieces of legislation the Senate will act on this year. I believe it should occupy this position because it makes the goal of achieving full employment with price stability, the permanent centerpiece of national economic policy.

Mr. President, there has been much debate about what this bill does. For the convenience of my colleagues. I would like to briefly review what it will accomplish.

The bill would affirm in law, for the first time, the right of every American willing and able to work, to useful employment paying decent wages.

It would commit the Federal Government to the goal of reducing overall unemployment to 4 percent—3 percent for workers 20 years old and older—within 5 years following enactment and to further reduce unemployment thereafter.

It requires the President to annually propose to Congress the short and medium-term employment, production, productivity, and real income goals, together with the comprehensive, coordinated fiscal, and monetary policy and program mix, aimed at achieving these objectives within the framework of the 5-year unemployment goal of the bill.

This legislation would require the Federal Reserve to report annually its intended monetary policy for the years ahead and estimate its impact on the numerical economic goals presented by the President.

It places first emphasis on creating and sustaining the kind of economic climate that will promote maximum activity and job opportunities in the private sector. And it states a clear prohibition against interference with private business activity.

The Full Employment and Balanced Growth Act would recognize in law a fundamental reality of our economy today; namely, that unemployment and inflation feed upon each other and that, as a result, methods must be used to reach our goals that reinforce their achievement and do not sacrifice progress on one in the name of achieving the other.

Finally, the bill would require that the Federal Budget be directed toward the achievement of the economic goals provided under the bill and be fully supportive of these goals.

Mr. President, the heart of the Humphrey-Hawkins bill can be summed up in the following question: Do we continue to stumble from recession to recession and accept the appalling burden such circumstances impose on millions of Americans, or do we embark on the coordinated effort prescribed in the bill and use its goals to define the direction in which we must move and the progress we make in doing so?

As challenging as they are, I believe the goals set forth in the bill can be reached. The real question, I believe, is whether the Government of this Nation has the will and the courage to make the effort. If the Senate passes this legislation, it will have gone a long way toward answering that question in the affirmative, and in charting a new course of full employment, full utilization of all our resources, and reasonably stable prices for America for decades to come.

I have two quotes from a speech that Hubert gave on the Hubert Humphrey-Hawkins bill. It is hard to say it without having "Hubert" in there first.

I just do want to say that one of the reasons, the main reason I think, one of the main reasons, at least, that I accepted my position when it was offered to me as a Senator, was to carry on the work that Hubert had done to obtain this ideal of his that he had worked so hard for over the years. His quote is:

> Can we ask several million of our fellow citizens to stand quietly in line year after year without hope or even the knowledge that their government will do whatever it takes to satisfy their fundamental human right to a means of earning their livelihood? Can we ask a permanent underclass of unemployed Americans to bear the heavy burden of our nation's economic failures?
>
> The Humphrey-Hawkins bill is a first step, but an indispensable one, toward an era of full employment, steady economic growth and reasonable price stability. It is no panacea. It is no miracle cure. With it, national economic policy will be required to be directed toward achieving specific, measurable economic goals. Without it, we are likely to continue to flounder, bounding from recession to slow growth and back to recession again, with all of the tragic waste that such a future holds for all Americans.

I thank the Senate very much. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, first let me congratulate Senator HUMPHREY on the very moving and excellent speech that she has made. It may very well be her last speech in this body, by her own choice. We regret that she chose not to run to retain the seat which she has so effectively and so graciously held.

All of us revered Hubert Humphrey and all of us realize that he will continue to be thought of as one of the truly great Senators of all time. But Senator MURIEL HUMPHREY has filled that spot in a very special way. She has been most gracious in her work with other Senators, extremely cooperative with the leadership of the Senate, and always untiring and delightful to work with. She ought to be given tremendous credit for this bill which is about to pass the Senate. The bill would not have been brought up, in my judgment, if it had not been for Senator MURIEL HUMPHREY.

The amendment which she offered earlier this afternoon, and which almost carried—it lost by a tie vote—would not have received as many votes if it had not been offered by Senator MURIEL HUMPHREY. I am glad that she has had this opportunity to see the bill which carries the name of Hubert Humphrey, and now, with her continuing noble effort carries her name as well, come to this stage of soon-to-be-passed in the Senate. It is a great tribute to her and to her dedication and unswerving devotion, not only to her late husband but to the cause which both he and she have served. In her own right, she has ably served as a U.S. Senator, and the Senate will never be the same without a HUMPHREY.

It will never be the same without Hubert Humphrey, and it will never be the same without MURIEL HUMPHREY. She has continued to remind us of Hubert Humphrey, as she has continued to speak for the ideals which he fought for so long and so effectively during his lifetime.

If I may, just let me close by saying to MURIEL:

> You may break, you may shatter
> The vase, if you will,
> But the scent of the roses
> Will hang round it still.

We will not forget you.

Mr. JAVITS. Mr. President, I yield myself such time as I may use, just to join in the beautiful tribute of the majority leader to Mrs. HUMPHREY.

I think we all knew Hubert so well that one can almost see his beaming countenance tonight as we stand on the threshold of voting the Hubert Humphrey-Augustus Hawkins bill. I know how he felt about it; it was literally the consummation of everything he desired.

I say to MURIEL, I hope you will not be dismayed by the loss of that amendment. Let us never miss the forest for the trees. What is behind us when we pass this bill, and it passes the House, is signed by the President, and becomes law is much more important than that matter of inflation, for this reason—and now I speak to you in the same kind of spirit in which your husband would have spoken to you: The struggle in this country has been between inflation and unemployment. Which comes first, the chicken or the egg? What is in this bill is the affirmation that the human consideration of employment comes first. Even that part of the bill which you do not like and which I do not like contains that paramountcy for the human equation first; and may I say in all fairness to my col-

leagues who labored so hard to consummate this arrangement which results in tonight's passage, Senator HATCH, who gave it everything he had, Senator LUGAR, Senator PERCY, and the majority and minority leaders: I am sure that none of them misunderstood what the passage of this bill means. They knew it and they accepted it, notwithstanding their deep feelings about Government expenditures, inflation, and so forth.

This is accepted as the paramount goal, and I know of no monument that Hubert Humphrey would have preferred to this victory. So, I feel this is truly a night to be remembered, in his memory and in his name.

UP AMENDMENT NO. 2107

Mr. PROXMIRE. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 2107:

On page 125, strike line 2.

Mr. PROXMIRE. Mr. President, I might just explain that all this amendment does is delete an excess line from unprinted amendment No. 2101. I have cleared it with the minority manager, and it is technical.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

UP AMENDMENT NO. 2108

Mr. PROXMIRE. Mr. President, I send to the desk another technical amendment. This is the last amendment I have.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 2108:

On page 145, insert "equipment" before the period at the end of section 207(a)(2).

Mr. PROXMIRE. Mr. President, this amendment simply puts into the amendment (UP No. 2101) a word which was inadvertently omitted. I have cleared this with the minority.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. PROXMIRE. Mr. President, I am prepared for third reading.

Mr. CRANSTON. Mr. President——

Mr. PROXMIRE. Could we have third reading, if the Senator will permit?

Mr. JAVITS. Mr. President, before we have third reading, I just wanted to add to the names of those Senators on the other side who participated in this matter in a very honored way the name of the Senator from Kansas (Mr. DOLE).

● Mr. BAKER. Mr. President, I wish to reiterate my admiration and thanks for the extraordinary job done by the ad hoc committee of Senators from both parties who fashioned the pending leadership compromise on the so-called Humphrey-Hawkins bill. I believe that this proposal represents the essence of legislative compromise, and I am pleased that such an agreement could be reached.

No one wishes to deny the right of every able-bodied American to have a job. The original intent of the Humphrey-Hawkins bill was to guarantee that right. It established the Federal Government as the employer of last resort for those unable to find work in the private sector.

The problem with that proposal was not the goal of full employment, to which we all aspire, but rather the manner in which the bill's sponsors sought to achieve it. In the midst of ever-increasing demands upon the Federal budget, and growing resentment of the burden of taxation upon Americans, we simply cannot afford the cost of providing the public-sector jobs required to employ all of those out of work. The expense of such a commitment on the part of the Government would further increase the already excessive budget and lead directly to increased inflation.

For that reason, Mr. President, it makes very little sense to me to pursue the goal of full employment in the absence of a goal to reduce inflation. A high rate of inflation would not only minimize the benefits of employment for those put to work, but would have a seriously adverse effect upon those already employed and now staggering under a heavy tax burden. Thus, I consider it more appropriate for the debate on Humphrey-Hawkins to include the dual consideration of employment and inflation.

The virtues of this compromise are several. They include the establishment of a goal of 3 percent unemployment for those over 20 years of age, and 4 percent for those under 20. Also, it includes a goal of 3 percent inflation by 1983, and 0 percent by 1988. The bill also establishes the goal of a balanced budget and a limitation of Federal expenditures to 20 percent of the Gross National Product by 1981. These are goals which can and must be pursued simulaneously.

This bill does not authorize the creation of any jobs, but rather establishes goals for the U.S. Government. I support this compromise not only because of the goals affecting both employment and inflation, but also because it states a clear preference for employment in the private sector.

Last year, over 4 million jobs were created in the private sector as a result of the continuation of our economic recovery. All of our best efforts here in Washington cannot compare to the capacity of the private sector to generate new jobs in an expanding economy. That is why it is in the best interest of the employed and unemployed alike that we pursue policies as a government which will contribute to an expanding, uninflationary economy.

Even in an expanding economy, however, there are those whom businesses are reluctant to employ for a variety of reasons. That is why I have long supported, and have on several occasions introduced, proposals designed to provide important incentives to private-sector employers to hire the hard-to-employ. Now that the Senate has passed a targeted employment tax credit as part of the Revenue Act of 1978, I believe that it is essential that appropriate steps be taken to guarantee the success of that and other proposals aimed at reducing structural unemployment.

In that regard, I proposed that a National Employment Conference be held in Washington at the earliest possible time. The purpose of that conference would be to bring together leaders of business—small and large—labor, Government, and all other interested parties in an effort to discuss employment in general, and structural employment in particular. I am pleased that this proposal was included as part of the leadership compromise, because I am convinced that it will afford an excellent opportunity for those involved in the creation of jobs to discuss that subject and give special attention to the use of targeted tax credits, wage vouchers, and other incentives to private-sector business.

I hope that this proposal will become law; but, if not, I urge the President to hold a National Employment Conference of the nature I have described.

In summary, Mr. President, I am pleased to cosponsor the leadership compromise as a balanced and fiscally responsible effort to deal with the twin problems of inflation and unemployment. I hope it is adopted and I urge my colleagues to support it.●

● Mr. BAYH. Mr. President, I rise in support of the Humphrey-Hawkins Full Employment Bill. Not only do I support this very important piece of legislation, but I am proud to be one of the original cosponsors. As this Congress moves toward adjournment, I think there could be no greater final tribute to the 95th Congress than the passage of the Humphrey-Hawkins Full Employment Bill. Passage of this legislation would indicate to all Americans that this Congress is willing to take on the real hard issue of unemployment and do something about that serious problem.

Mr. President, this legislation is important because it addresses a problem that our country has been struggling with for years. There is nothing that is less acceptable to the American people than unemployment. It is a basic tenet of our capitalist system that all our citizens have a right to a job. It is not acceptable for many of our citizens to go month after month and oftentimes, year after year, without a job. That is why this bill is probably one of the most important pieces of legislation that this Congress will have acted upon during this session.

Let me stress the fact that this is not, in and of itself, a jobs bill. To the contrary, it is a bill which establishes a mechanism by which to measure and control unemployment within the economic sector. It would commit the Federal Government to the goal of reducing the overall unemployment to 4 percent. In order to reach the 4 percent unemployment level, this bill would require the President to annually propose to Congress the short and medium term unemployment production and real income goals, together with the comprehensive, coordinated fiscal and monetary policy and program mix aimed at

achieving the objectives of the bill within the 5 year framework. Furthermore, S. 50 would require that the Federal Reserve Board report annually its intended monetary policy for the 5-year period and estimate its impact on the numerical economic goals presented by the President.

One of the more important aspects of this bill is that it recognizes the importance of the private sector in achieving a 4 percent unemployment level. Specifically, it would place primary emphasis on creating and sustaining an economic climate conducive to promoting maximum activity and job opportunities in the private sector, and prohibits against interference with private business activities. The Humphrey-Hawkins full employment bill would temporarily utilize the existing public works, employment and job training programs to fill the gap between private sector employment and establish employment targets until the time when the private sector can effectively deal with this problem.

I think it is important to note that this bill does leave the President with considerable flexibility in meeting his goals. In the event of unforeseen circumstances, the President would be allowed to propose modifications in the 5-year employment goal. Let us hope that such modifications will not be necessary. But just in case they are, the President will have the flexibility to deal with them.

Mr. President, one of the major concerns of the opponents of this bill is its effects on inflation. And I might add that this is a legitimate concern shared by all Americans. It does no good for us to pass legislation creating jobs for Americans, if inflation creates a situation in which our citizens' earned dollars will not buy a decent meal for their families. In fact, Mr. President, I think we should always be cognizant of the effects of any major piece of legislation in inflation. But even with our concern for that ever-present nemesis, inflation, we must not lose track of the ethical and moral responsibility we have to assure all Americans a decent living. It seems to me Mr. President, that as a means to create jobs, targeted employment programs would not be as inflationary as would some broad fiscal and monetary policies. As a matter of fact, such jobs programs could be designed to be counterinflationary by putting people to work producing goods in short supply or training people in skills where shortages exist.

In response to the criticism that this bill is no more effective than the original 1946 Employment Act and therefore is not necessary, let me point out three specific differences. The first one is that this bill sets specific, measurable economic goals. Second, it requires that the national economic policy be directed toward these goals. And finally, it changes the way the Federal Government makes economic policy so that full employment will be central and continuing concern of the President and the Congress.

So in conclusion, Mr. President, let me assure my colleagues that from its inception the thrust of Humphrey-Hawkins has never been to create government-paid job, but rather to establish procedures for insuring that all Federal economic decisions are coordinated for the purpose of achieving full employment, I hope my colleagues will agree that we owe at least that much to the thousands of Americans who unfortunately find themselves without work in the most prosperous country the world has ever known.●

● Mr. DANFORTH. Mr. President, the latest unemployment rates for the United States show that the country is now experiencing 5.8 percent unemployment. Thankfully, Missouri is more fortunate. There the statewide unemployment rate is 5.2 percent. Still, these figures mask the hardship borne by the people of St. Louis, where the unemployment rate is known to be at least 6.7 percent. These figures say nothing of the unemployment experienced in Washington and Crawford Counties, Mo., where 15.2 percent and 13.7 percent of the workforce, respectively, is unemployed. They do injustice to the people of Wayne County where unemployment is 13.2 percent, of Bollinger County where unemployment is 10.2 percent, of Oregon, Ripley, Pemiscot, Dunklin, St. Francois, Morgan, and Petits Counties, where unemployment stands at 7 percent or worse. Finally, as all of my colleagues are well aware, however much we may rejoice at the recent decline in the national unemployment rate, we cannot deny the serious, pervasive, and persistent problem of teenage unemployment—estimated at 15 percent nationally—34 percent for black teenagers. An entire generation of young people is growing up with little or no job experience whatsoever. This is a serious social problem—and it is not going to go away by itself.

Anyone who has walked the streets of north St. Louis, and who has talked with the people who live there, and visited them in their homes and churches, as I have, cannot help but be moved by the terrible poverty that afflicts that city. No one who knows my State, and knows how its industries have been victimized by unfair trade policies, and has visited the small towns devastated by plant closings, and has talked with the people who live in those towns, as I have, can come away from that experience without a renewed appreciation for what it means to be unemployed in one of the most prosperous nations in the world. Finally, no one who lives in rural Missouri, as I do, can ignore what is perhaps the single most ignored social problem plaguing this country: rural poverty, poverty which exists not so much because there are no jobs, but rather because, in fact, there is no work.

There is another serious economic problem, however, in which the entire Nation shares. That, of course, is the problem of inflation—now estimated at 8 percent. Inflation hurts us all, but most of all it hurts consumers, farmers, small businessmen, and people on fixed incomes. It drives up rents. It evaporates life savings. And, whereas the person who is unemployed knows that somehow, somewhere, he can find work if he only strives hard enough, trains hard enough, wants it bad enough, the small businessman, the farmer, the pensioner knows just as well that there is nothing he can do by himself—nothing—to turn back the tide of inflation.

Mr. President, 5.8 percent unemployment is too much. Eight percent inflation is too much. And it is because I am firmly convinced that this Government must set itself to the primary task of addressing these serious economic problems that I have decided to vote for the Humphrey-Hawkins bill.

I have not been considered a supporter of the Humphrey Hawkins bill. When it was first introduced by the late Senator from Minnesota, I opposed it—for many reasons, chief among them its reliance upon the Government as an employer of last resort. When it was reworked in consultation with the White House and reintroduced, reworked again by the House, and again by the Senate Committee on Human Resources, and again by the Senate Committee on Banking—I remained skeptical. Quite frankly, I am skeptical whenever Congress makes promises to the American people. The American people have heard an awful lot of promises in the last quarter century and, in my opinion, they are more than a little tired of it—and with good reason. But, the promises made by this bill—promises to work toward the goals of full employment and price stability—are promises we can keep.

I am not one of those persons who believes that there is no role for the Government to play in formulating and directing the economic policies of this country. Indeed, throughout the debate on the Tax Reform Act I tried to emphasize—again and again—and again—that the tax laws of this country can and should be used to encourage production, investment, and capital formation, to develop job opportunities in the private sector for the hard-core unemployed, for welfare recipients, and for disabled persons. I have been deeply involved in the effort to develop a fair trade policy for this country—a policy which assures markets for American exports and protects American business and American jobs from exploitation by cheap and unfairly traded imports. I have been deeply involved as well in the debate over the regulatory policies of this country, in the effort to expand new business opportunities—and opportunities for jobs—by easing the regulations which now strangle American industry. I have also been involved in the effort to stem inflation by cutting back on Government spending, by trimming budgets and abandoning unnecessary spending programs.

So when someone asks me if I have an idea how this country can deal with the problem of inflation—and how this country can deal with the problem of unemployment—my answer, of course, is that I do have some ideas on solutions for these problems. The solutions I would propose differ, I am certain, from those which some of my colleagues might suggest. I doubt for example, that I will ever be persuaded that the best way to get people back to work is for the Government to hire them. Some of my colleagues will certainly disagree with me on that score. But that is to be expected.

The point is that these issues deserve debate. I submit that is why we are here—to put together, as best we can, an economic program that gets people back to work, that assures some semblance of price stability, and allows real opportunities for increased productivity, increased investment, and increased growth in the gross national product. I want that debate.

The Humphrey-Hawkins bill gives us the opportunity to have that debate. It creates no jobs. It authorizes no spending programs. It merely creates a framework for debating the important issues of unemployment and inflation—issues which are now addressed, when addressed, in a haphazard, piecemeal fashion that defies coordination. Where it makes any recommendation at all it places emphasis where it should be placed, in my opinion, on creating jobs in the private sector. This makes sense to me.

But just as important as the debate which will be generated by the Humphrey-Hawkins bill is the fact that this bill commits this Nation to the goal of achieving full employment and price stability. These are worthy goals. As one Senator with a deep interest in the economic future of this country, I support these goals. And for the sake of the people throughout my State who are out of work, and the people throughout my State who have seen their savings diminished and their paychecks ravaged by inflation, I promise here and now that I will work as hard as I know how to achieve these goals.●

● Mr. MARK O. HATFIELD. Mr. President, first of all, I would like to commend the Senators of the ad hoc committee for their diligent efforts in reaching a compromise on the Humphrey-Hawkins bill. Indeed, what we have before us today is a compromise measure, a symbol of the original Humphrey-Hawkins bill as first introduced in 1974. There have been many modifications and revisions made in the past 4 years to arrive at this 11th hour legislation.

While I recognize that this is a shadow of the original bill, I have deep concern for its consequences. My concern is an outgrowth of the expansion of the Federal Government I have witnessed in my 12 years with this body. We all recognize that this is a shell of the original text, but will this be the first step along the expansionist Humphrey-Hawkins road? Will the sponsors of this legislation return next year or the year following with revisions designed to replace some of the provisions removed from the original bill?

We all know that the growth of the Federal Government is cellular. Starting with a small program or budget, Federal programs have a tendency to grow to gargantuan proportions. Once they have started, we seem to be powerless or unwilling to check their growth. It is for precisely that reason that I strongly supported the "sunset" legislation approved earlier this week. Every day I get complaints from my constituents about the massiveness of the Federal Government. I challenge the proponents of this legislation to be honest with themselves and with the American public about their future intentions to expand upon the provision of this compromise bill.

By the same token, the Nation's unemployed are being led to believe that this is a bill that will employ all Americans. Mention "Humphrey-Hawkins" to the unemployed and the immediate response is that this bill guarantees a job for every American. That objective was embodied in the 1974 legislation, but we are told today that we are working with a bill that is a symbol.

Its provisions have been gutted, amended or deleted so that it bears a faint resemblance to the bill that is envisioned by the Nation's unemployed. Are we being honest with the Nation's youth and minority populations when we speak of this bill? If we are not, we are deceiving them. We are participating in a cruel hoax and we will soon encounter their dismay and disillusionment.

I also have a great concern for the burden that the Humphrey-Hawkins bill will place on the world's renewable and nonrenewable resources. As can be seen in the two present primary sources of energy, oil and natural gas, the United States is facing a period of additional imports from foreign sources. Oil imports presently compose approximately 50 percent of the Nation's total petroleum use. Approximately 70 percent of the natural gas in my region of the country is imported from Canada. The world is growing, both in population and energy needs, and these factors will place a greater stress on these resources which the United States has become accustomed to enjoying.

Heating up the American economy for the purpose of creating jobs will require additional natural resources, resources which are not readily available within the borders of this country or the cost of which is considered prohibitive by many Americans. This bill needs to take into account U.S. dependence on foreign sources of energy, worldwide demands, leadtime for development, the inflationary impacts of obtaining the resources required to meet the needs of the economy or the environmental impacts of increased production.

The Senate has taken many commendable steps this session to encourage development of renewable and nonrenewable resources. With the Natural Gas Policy Act the Senate created the environment for development in the natural gas field to meet the Nation's future natural gas needs. Development of these resources at an economical level is several years away.

Efforts are being made to pass tax credit measures to encourage development of oil reserves. However, these reserves are not easily obtained and are going to have high costs of extraction. Nuclear fusion energy contributes about 10 percent of the Nation's energy needs, but leadtime for nuclear fusion reaction development is at least 8 to 10 years. Nuclear fission is not expected to be viable commercially until the 21st century and renewables, such as solar or geothermal, are also several years away from commercial application.

The Northwest is also tremendously blessed with some of the country's finest yielding forests. The beauty of these forests is breathtaking, but could be threatened by this measure. These forests are presently being managed and reforestation is constantly occurring, but there is a lead time involved in the growth of a tree. I stress again, we cannot take these resources for granted.

There is now every indication that in a few decades this country will be facing serious shortages in many resources that up until now have been taken for granted. The cost of energy will continue to rise either to import energy from foreign sources or make new sources competitive with our traditional sources of fossil energy. A policy of rapid development would leave the economy of this Nation wide open to the economic consequences of such unpredictable factors as another oil embargo, wars, the weather or the formation of cartels for other scarce resources. We have seen the impact of such aberrations in the economy as an oil embargo and the ensuing double digit inflation. This is a prospect that is considered unacceptable and undesirable by all Americans.

As can be seen, we are faced with the challenge of finite resources as we tackle the problems of unemployment, inflation or our future energy needs. The handling of any one of these problems cannot be dealt with in a vacuum. The Nation is facing a great challenge of how to manage these natural resources, without raping the forests, ravaging the rangelands or dotting the countryside with oil derricks. There is a need to combat the problem of unemployment, but the Nation must break with traditional 5-year approaches and look beyond the scope of this bill.

Therefore, I encourage my colleagues to take a serious look at the bill before us today. Consider its implications for the world's renewable and nonrenewable resources, and the vulnerability of the American economy to an unexpected event, such as the 1973 oil embargo. Consider as well, the perceptions of the public and the potential for expansion of the bill before us today. Are we dealing with a symbol or the first step toward reconstructing the original bill as introduced in 1974? If it is a symbol, then we are playing a cruel hoax on the Nation's unemployed who are being led to believe that this is the original 1974 version. If it is not, then we are taking the first step on the Humphrey-Hawkins road toward expanded government. I ask my colleagues to consider these questions.●

● Mr. WILLIAMS. Mr. President, we have traveled a long and difficult and extremely controversial road in reaching this point in the consideration of the Full Employment and Balanced Growth Act of 1978.

Along the way, we as a Nation endured the worst recession in 40 years—a recession that leached the structure of our economy and cut deeply into the vitality of the American labor force.

But it also demonstrated the great and determined spirt of the people to see their way through the worst of times.

And, paradoxically, those dark days in 1975 and 1976 shed new light not only on our economic problems, domestically and in the world, but on serious weaknesses in our system for alleviating joblessness and protecting working Americans against its painful results.

We were unprepared to deal with the gathering storm, because we had no comprehensive, integrated framework for spotting economic problems in advance and dealing with them in the broad context of Federal economic policy.

Today, as we consider this important legislation, we must not forget the human suffering that was felt in so many families during those dark days, and the lessons we learned should be borne fully in mind today.

We saw that joblessness itself could generate significant inflationary pressures. We confirmed that underutilized plant capacity generates inflationary pressures, as well. We proved that broad, unselective Federal efforts to constrain inflation had the effect not only of cooling overheated segments of the economy, but also of squelching those segments that were already struggling for air.

We demonstrated that high unemployment and high inflation can occur at the same time with a double-barreled impact, hopefully laying to rest forevermore the notion that the way to fight inflation is to permit some level of unemployment.

And we saw so clearly that public income support programs, which can deal with even very high unemployment for short periods of time, are woefully insufficient to provide jobless workers the financial protection they need for more than a few months.

Those are some of the most vivid lessons we learned. There are literally thousands of others. We learned too late.

Not so with our great friend Hubert Humphrey and our distinguished colleague in the House of Representatives, Congressman AUGUSTUS HAWKINS.

Their foresight, their intimate understanding of cross currents in the economy, and their compassionate grasp of the personal tragedies that joblessness imposes gave birth to the Humphrey-Hawkins bill.

They and their proposed legislation were dedicated to the simple proposition that every American who is able, willing, and seeking to work must have the opportunity to do so in a meaningful job at fair compensation.

They were of the conviction that no humane society can sacrifice jobless workers and their families in a headlong effort to control inflation or solve any other domestic problem, however severe.

They believed that the private sector of the economy must be revitalized, so that it is able to assume a larger and growing share of the responsibility for strong economic health.

They continuously advised us that, unless the Federal Government gets its economic policies in order—following a single guidepost and developing a concrete plan for its own participation in the economy—the private sector would never obtain the clear background it needs for gaging its own plans from year to year.

They recognized that inflation and unemployment were not mainly the result of a massive dislocation in the economy, but of an accumulation of relatively small problems and bottlenecks that cannot be resolved effectively unless they are attacked directly and in a targeted way.

And they knew, as I am sure we all know, that a concrete, comprehensive, complete picture of the Federal Governments plans is impossible, unless the Congress, the States, the private sector, and the people all join in partnerhip with the President and his administration in making those plans.

I came to share those beliefs with Hubert Humphrey and GUS HAWKINS, and that is why I joined with them as a principal sponsor of the Full Employment and Balanced Growth Act of 1976 when it was introduced in March of that year.

Since then, this vital legislation has been honed and improved and readied for consideration by the Senate.

It reached the Calendar of the House of Representatives in September of 1976 upon the recommendation of the Committee on Education and Labor. That version of the bill was introduced in the 95th Congress, and the Committee on Human Resources, which I have the privilege to chair, began to work on it.

Late in 1977, an improved and streamlined version of the bill was endorsed by President Carter, after extensive negotiations with Senator Humphrey and Congressman HAWKINS.

As a cosponsor of this version, I was gratified that it was endorsed and recommended for passage by the Human Resources Committee on May 3 of this year.

The bill then moved to the Committee on Banking, Housing, and Urban Affairs, of which I am a member, and I had the opportunity on that committee to share in making further improvements in the legislation, although I opposed some elements of the Banking Committee's bill.

Mr. President, at this juncture, I believe it would be important for me to point out that, in three respects, I was strongly opposed to the Banking Committee's version. So that you may understand the objections I had and the reasons for them, I ask unanimous consent that my supplemental views, in which I was joined by the Senator from California (Mr. CRANSTON) and the Senator from Maryland (Mr. SARBANES), be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit I.)

Mr. WILLIAMS. Today, the Senate has before it a further refined version of the Humphrey-Hawkins bill. It is a version that merges the best features of the legislation as reported by my committee and the Banking Committee, with a single exception. I refer to the provision in the pending Byrd-Baker substitute for an inflexible 3-percent inflation-rate goal to be achieved by 1983.

The Senate, in its debate, has resolved this issue, and I am willing to accept the outcome, although I do so without enthusiasm.

Over the past 4 days, I have worked with a contingent of proponents and opponents of H.R. 50 to forge the compromise that is before us. The negotiations have been blunt and forthright, but they have been productive.

We could not be here now, under a unanimous consent agreement to consider this bill, if it were not for the willingness of all Senators involved in the negotiation to produce legislation that would be acceptable to a majority of our colleagues.

We have done that, and I wish to thank those Senators who participated with us in this effort, particularly Senators NELSON, CRANSTON, PROXMIRE, and HATCH, who worked so hard to bring about the agreement.

And I wish to make known my gratitude to the distinguished majority and minority leaders for providing the momentum and the initiative for bringing us to this point.

My expressions of gratitude would not be complete without taking special note of the monumental contributions that Dr. Leon Keyserling has made, in an effort that dates back over 40 years of distinguished public service, to develop the legislation.

As a former Chairman of the Council of Economic Advisers under President Truman, Leon Keyserling espoused the principles that under this bill.

His expertise in economics, his meticulous research, and his astounding capacity for seeing beyond the horizon in all directions at once have inspired us in our efforts to draft this legislation.

I feel—as I know he feels—that we should write it into law.

Whatever the final outcome of our debate today, Dr. Keyserling would say that the Congress has come to the brink of enactment of the most important, useful, and far-reaching economic legislation in more than a generation.

The bill is not perfect, nor without some provisions that I and others do not like, but in the spirit of fair compromise, which is a hallmark of the congressional process, we have a bill which I believe all Senators can find consistent with their own best judgments and finest sentiments.

To delay or defeat its passage now would waste 4 years of laborious effort. It would provide another important indiciation that our institutions are too cumbersome to meet vitally urgent problems adequately and promptly.

The problem of mass unemployment is not behind us. It still looms before us.

And because it does, it is absolutely vital that we establish now, without delay, a national commitment to drive unemployment down to no more than 4 percent over the next 5 years.

This commitment is so fundamentally important because so many economic policymakers have come to accept too easily the ominous and unfortunate notion that we must live with high levels of unemployment for the indefinite future.

To define full employment as 6 percent—or even 5.5 or 5 percent—is a confession of either national failure or national insensitivity.

We are not an insensitive people in our concerns for the plight of jobless and disadvantaged Americans. Neither are we willing to acknowledge failure in our efforts to provide every American, in justice, the chance to earn his way.

Plateaus of 8 percent, or 7 percent, or even the 6 percent level have devastating social and personal consequences, particularly among those who are least able to bear the deprivation.

In the employment and training report of the President for 1978, Secretary of Labor Ray Marshall described the impact of cyclical economic swings on minority groups and young workers:

The problem of cyclical swings in the economy has been compounded by the extreme uneveness that has always characterized unemployment in the United States. Minority groups and young workers suffer disproportionately higher rates of unemployment than does the workforce in general. Unemployment and underemployment are particularly high in a large number of depressed urban and rural communities. For these groups in our society and people who live in the affected localities, lack of adequate job opportunities has a permanent, structural character that persists in good times and bad.

And since the Second World War, each recession has gouged the topsoil of our labor base and left in its place a sediment of unemployment, idleness, and underproduction. The problem Secretary Marshall described has been growing steadily worse, and its ramifications for our economic life have become greater. During the last recession this Nation failed to realize up to a full third of its current plant capacity, and today, over 40 months into the recovery, we are still producing well short of our total capacity.

When he introduced the Full Employment and Balanced Growth Act of 1976, in March 1976, Senator Hubert Humphrey expressed his deep concern for the pattern of our economic underdevelopment:

Six recessions have beset the Nation's economy since the end of World War II. In each case, the response of Government consisted of scattering "emergency" band-aids when effective curative and preventive economic medicine was needed. Taken as a whole, these recessions display a frightening trend toward deeper troughs and shallower recoveries.

Unemployment reached a high of 7.9 percent in October 1949 and a low of 2.5 percent 28 months later.

It peaked at 6.1 percent in December 1954 and bottomed out at 3.7 percent 19 months later.

In July 1958 joblessness went up to 7.5 percent and was reduced to 4.8 percent during a period of equal length.

An unemployment high of 7.1 percent was reached in May 1961 and a low of 3.4 percent 33 months later.

In August 1971 joblessness reached a high of 6.1 percent and went down to 4.7 percent 26 months later.

Unemployment rose to a postdepression record high of 9 percent in May 1975 and has dropped to only 6.3 percent 32 months later.

Mr. President, underlying that regressive course is the grinding pattern of stagnation that crosses the heart of our cities and extends to our rural areas. These social consequences, however, bear not only upon those who suffer directly from joblessness. The Nation as a whole bears a staggering loss. Had this Nation been able to match the productive levels of our Western and Japanese allies between 1956 and 1976, we could have realized an additional $3.8 trillion in GNP, and an additional $750 billion in tax revenues. In 1976, our entire GNP was $1.76 trillion—so it appears that we have thrown away 1 year on national product in each of the last two decades. Translated into per capita loss, that amounts to $800 a year for every American.

Despite the widespread acknowledgement that, as a Nation engaged in a world economy, we must do better, the question of whether and in what ways the Federal Government should promote the full use of our national resources has remained a subject of bitter controversy. The full employment standard to which the proponents of S. 50 would adhere defines our national potential as judicious use and development of vital resources by a fully developed and skilled labor force employing a given level of technology.

To put the essence of full employment most simply, when people willing, able, and seeking to work are able to contribute to the economy, the benefits of their full contribution accrue to the entire Nation.

This reasoning is the basis for S. 50's statutory mandate of 3-percent adult unemployment and 4-percent overall unemployment by 1983—unemployment levels chosen with great care based upon decades of experience with interpretations of full employment, and based upon the achievability of these goals.

Interests opposed to an economic policy based upon full employment advertise a belief that full employment invites wholesale Federal intervention into the private economy. They also hold that the reduction of unemployment to 4 percent would raise the Federal budget deficit and result in greater inflation.

Mr. President, the Full Employment and Balanced Growth Act of 1978 is no reckless mandate to reach the statutory employment goals at any cost. This legislation mandates policies, and not programs. It sets forth a framework for coordinating policy with a coherent and a reliable system.

I can assure my colleagues that nothing proposed in H.R. 50 contemplates or could trigger the sweeping changes in labor-management relations to undermine the vitality of an untrammeled private economy. H.R. 50 recognizes the economic primacy of the private sector, and where it requires discipline, it requires it of the Federal Government in the effort to abet, promote, and encourage private sector development and employment. No program designed to establish full employment could long endure that failed to recognize the mutual needs and interests of both labor and management.

The design of H.R. 50 may serve to illustrate what the bill seeks to accomplish. The bill is divided into three major titles. Title I establishes pathways to full employment on a 5-year timetable. The central guiding principle of these pathways is the establishment of 3-percent adult and 4-percent overall levels of unemployment by 1983. Pathways may be modified to account for basic national priorities that deserve careful scrutiny in developing a final consensus on what our economic goals should be. Balancing the Federal budget, establishing appropriate international economic policies, reducing untenably high rates of unemployment among disadvantaged groups in our population, exploring structural policies that reduce unemployment and promote price stability all become permanent components of our full-employment pursuit.

Title II of the legislation categorizes current structural programs for beginning the march toward full employment. This title heavily emphasizes the need to identify obstacles to full labor and resource utilization and to respond to these in direct and targeted fashion. Macroeconomic policies and monetary policies, because they are incapable of bringing us to full employment alone, must be supplemented with such structural programs.

In debating this legislation, we have heard it said that the Federal Government should not make promises it can not keep, and that the statutory goals mandated by this bill are unachievable. We are told that we have too many problems and too many obstacles to overcome, both on the domestic and international fronts, to seriously think of returning to levels of unemployment traditionally associated with full employment.

Mr. President, title II of this legislation requires the President to get down to the specifics of our problems. He must look not only at the Federal budget, but at labor market problems that exist throughout the country. He must review the impact of Government action and regulation upon the private sector, and consider the side effects.

Far from a massive intrusion into the private marketplace, title II represents the commitment of the Federal Government to discipline itself with respect to the private sector—and it invites the greatest degree of cooperation from business that business may wish to give. Breaking supply bottlenecks, improving trade balances, upgrading the skills of the labor force and expanding the pool of labor most valuable to private enterprise are strategies for new business opportunities rather than greater control by the Government.

Thus, title II is a checklist to serve the framework of the legislation. It is a checklist to be debated and considered. It mandates no programs or authorizations, and can serve as a benchmark against which future programs may be regarded and measured.

Title III of S. 50 establishes congressional review of pathways first recommended in the President's Economic Re-

port, and tied into the President's budget. As the Congress considers the first concurrent budget resolution, it will determine the economic and structural policies for establishing a pathway to full employment. Title III also would set forward a means by which Congress could modify the 5-year pathways it previously prescribed. In other words, the Congress does not lock itself into any course of action. The constraint of a full employment goal, therefore, would simply require the Congress to determine the year in which, given a new policy mix, the statutory unemployment goals could be achieved.

As with any framework for a policy system, this legislation creates a set of expectations and agendas for policymakers. The most important expectation is that the Federal Government will actively pursue full use of our resources and labor ptoential in a manner consistent with the development of a strong private economy. The effort would be based upon targeted, coordinated, and comprehensive structural policies. And upon a commitment to solving our problems without negative side effects for business and for people. Clearly, this commonsense approach contains nothing that is radically new, and much that is long overdue with respect to the performance of the Federal Government.

Mr. President, for the past 21 months, the Carter administration has recommended, adopted, and pursued policies and programs for the rapid reduction of unemployment. The administration has placed special emphasis on the structurally unemployed. Provision for expanded training and skill development has been a high priority for the President. Since the President took office 20 months ago, unemployment has been reduced by 2 million, with employment growing by over 6 million.

The Committee on Human Resources, to which the Senate has entrusted responsibility for employment policy, has endorsed the initiatives and moved them into effect.

The efforts of the Carter administration to establish full employment demonstrate that progress can be made in areas of great difficulty. Labor market problems are not insoluble, and in the development of job-ladder opportunities, the foundation of a just social and economic system is laid. The reduction of unemployment has served as a guidepost for policy, and the President has fashioned his response to inflation, international trade problems and currency instabilities in a manner that does not sacrifice jobs or the long range strength of the economy.

There is no single course that will assure the achievement of the unemployment goal, and the administration should be credited for developing innovative and often far-reaching proposals. Unfortunately, neither the President nor the Congress has found a way to shortcut the full gestation period that consideration of these proposals require. In judging the administration's full employment strategy, I would caution my colleagues to bear in mind the timelag between program development, congressional consideration and agency implementation.

On November 14, 1977, Mr. Carter fully endorsed the revised version of the Humphrey-Hawkins bill negotiated with Senator Humphrey and Congressman HAWKINS. On numerous occasions thereafter, the President reaffirmed his commitment to this bill, while pursuing many of the policies and programs recommended in it. Therefor, any inference that the administration has turned its attention from its commitment to full employment is unwarranted. The President, in seeking policies to curb inflation, bolster the sagging dollar abroad, and insure adequate energy supplies in the future, has consistently maintained that none of these policies can be pursued at the cost of higher unemployment.

Mr. President, leading economists have told us that to achieve the unemployment goals of this legislation, we must substantially reduce the differentials in the rates of unemployment experienced by minority and nonminority groups as well as among adults, youth and women.

The Congressional Budget Office and the Department of Labor concurs that macroeconomic policies alone cannot reduce unemployment to levels targeted for 1983 without inflaming inflation. Assistant Seretary of Labor, Arnold Packer, testified before the House Committee on the Budget on March 22, 1978 and reported on the administration's use of structural employment programs:

Before I go on to the question of whether the Administration's structural employment programs are adequate to reduce the overall unemployment rate the rest of the way to the 4 percent goal (from 4.75% unemployment via macroeconomics) I would like to draw attention to several aspects of the unemployment rate chart. Even at 4.75% overall unemployment, the rate for nonwhite adults are more than double those for whites. The rate for nonwhite male teenagers is about double the rate for white male teenagers. The unemployment rate for nonwhite female teenagers is much more than double that of white female teenagers.

Now, suppose for a moment that we had programs in place which could reduce these rates to 1.5 times the corresponding white rates. Our analysis indicates the impact of this on the overall unemployment rate would reduce the unemployment rate from 4.75% to just over 4.3%. A program to halve the differential between white men and women would reduce unemployment by another two-tenths to 4.1%. This illustrates the kind of reduction in historical unemployment rate differentials that effective structural programs may make.

In summary, the Administration's current proposals appear sufficient to generate the required number of jobs to allow us to achieve the Humphrey-Hawkins goal. But while structural employment programs are necessary, they alone are not sufficient to achieve the Humphrey-Hawkins goal. We also require a macroeconomic policy which will maintain the 4.5 to 5 percent economic growth rate required to get us to 4.75% unemployment, a solution to the undocumented worker problem, and a solution to the problem of inadequate economic growth in the international economy. If we can solve these problems, we are confident that the structural programs already proposed can achieve the goals set forth in the Humphrey-Hawkins bill.

From the response to the Humphrey-Hawkins bill of minority groups, church groups, groups representing youth and women, it is obvious that they regard this analysis as true, and as a basis for hope. This is not a hope based upon the perception that the Government will hand out jobs as an alternate form of relief—they look to the Federal Government as a conduit for access to permanent, gainful employment. Training, counseling, placement, and work experience must ready the disadvantaged to compete in the labor market for jobs in the private sector where possible, and in regular public employment where possible.

Martin Luther King, Jr. saw the struggle for minority unemployment as perhaps the highest stage of attainment in the development of civil rights. He knew that jobs represented economic freedom for his people, and that without that freedom, the hard-won civil rights gains between 1964 and 1968 would be reduced to paper. "What is the use of sitting at a lunch counter and ordering a sandwich," he used to say, "if you don't have a job so that you can afford to pay for it?"

The struggle for full employment is a continuing struggle for equality, and perhaps that is why it makes some people uncomfortable. Dependency, feelings of inferiority among the unemployed, deprive us all of the political and economic contributions of our fellow citizens. Full employment is a means by which we, as a nation, can seek to break the cycle of dependency that has burdened sectors and groups in our population. Full employment can only be achieved, in other words, by structural programs that directly impact upon pockets of group unemployment.

I share the sentiments expressed by my colleague, Senator NELSON, who observed that it would be well not to look back 10 years from now at a wasteland of deterioration, and ask ourselves why we failed to act when the need was so clear.

EXHIBIT 1

SUPPLEMENTAL VIEWS OF SENATORS HARRISON A. WILLIAMS, JR., ALAN CRANSTON, AND PAUL S. SARBANES

The Committee on Banking, Housing and Urban Affairs, in reporting its version of S. 50, the Full Employment and Balanced Growth Act of 1978, has improved the legislation in certain respects, but in others, the committee has recommended amendments that would evacuate much of the strength and promise of the original bill.

The basic design of S. 50, as introduced by Senator Muriel Humphrey on February 23, 1978 has been endorsed by President Carter, by the House Committee on Education and Labor, by the House of Representatives, and by the Senate Committee on Human Resources.

That design, however, would be significantly altered by certain Banking Committee amendments that would compromise the commitment and undermine the essential principles of the original legislation.

Those essential principles are aptly stated in the text of the bill, particularly in section 2 (General Findings) and section 102 (Declaration of Policy).

THE FULL EMPLOYMENT COMMITMENT

Foremost among them, of course, is the establishment "as a national goal the fulfill-

ment of the right to full opportunities for useful paid employment at fair rates of compensation of all individuals able, willing, and seeking to work."

This national commitment to full employment is buttressed by a commitment "to use all practicable means" to create and maintain conditions that promote "full production, increased real income, balanced growth, adequate productivity growth, proper attention to national priorities and reasonably price stability . . ."

STRENGTHENING THE CORNERSTONE

The design of S. 50 was prompted by the deficiencies in the Employment Act of 1946 which, as the report of the Banking Committee notes, has been the cornerstone of economic policymaking in the United States for the last 32 years. Since its enactment, however, the Employment Act has not been substantively amended. Its inadequacies have not been addressed despite the persistently demonstrated need for a systematic national effort and commitment to pursue a full employment economy.

The most significant weakness of the Employment Act, in our view, is its lack of focus, direction, or compulsion to confront and resolve economic problems. The general and diffuse language of the act extolls the virtues of "maximum employment, production and purchasing power," but does not make a "full" commitment to these objectives. It contains no central, singular guidepost by which the various segments of the economy may gauge whether and ask what pace they are marching toward a common destination.

The 1946 act suffers also from the lack of anything more than incidental devices for coordinating the thousands of economic-impact decisions that are made throughout the Federal Government each month. It created a Council of Economic Advisers in the executive branch and required the Council to submit a report each year. And it created a Joint Economic Committee in the Congress and required it to review and comment on the Council's report each year. But it provided no substantial linkages either between the executive and legislative branches or among the many policy formulating institutions within the Congress. Its coordinating mandate to the Congress consists mainly of an instruction to the Joint Economic Committee to scout around for ways to interrelate the annual economic report with fiscal, monetary, and programmatic policies for addressing structural blockages and weaknesses in the economy.

S. 50, as reported by the Human Resources Committee, seeks to correct the significant deficiencies in the 1946 act. The bill would elevate our national commitment from "maximum" to "full" employment, production, and purchasing power, and it would add balanced growth, increased productivity, national priority concerns, and price stability to the list of major, general objectives of Federal economic policy.

Most important, however, S. 50 as originally designed would make full employment the paramount objective of Federal economic policy through the establishment of quantified goals and a specific timetable for the reduction of unemployment. This provision would establish the single, central guidepost and focal point—lacking in the Employment Act of 1946—for the effective coordination of the myriad of Federal economic decisions.

COMPROMISING THE PARAMOUNT OBJECTIVE

It is in regard to this paramount objective that our colleagues on the Banking Committee have made their most serious errors, inserting provisions that fragment and weaken the "magnetic north" provided in the original bill and establishing two additional guideposts at different points on the compass.

Our most strenuous disagreement is with the Banking Committee's proposed mandate to pursue an unrealistic goal of zero percent inflation within 5 years. With this amendment, adopted by an 8 to 7 vote, the committee has converted the commitment of the original bill from "full employment with reasonable price stability" to one of full employment or reasonable price stability.

The second provision of the Banking Committee's version to which we object is the mandate to reduce Federal outlays to no more than 20 percent of the gross national product by 1983.

Achieving control over inflation and the rate of Federal outlays are constructive objectives with which we concur in principle. Our concern, however, is based upon the fact that the Banking Committee would elevate them to essentially coequal status with the unemployment goal by assigning them a specific numerical value and requiring them to be met on a specific timetable. With three legislated goals to pursue, often in necessarily conflicting directions, policymakers throughout the Federal establishment would be free to choose the guidepost they wish to follow. Too often and too easily, the paramount commitment to reducing unemployment would be suspended and the hope of jobless Americans for rewarding employment would be traded off whenever inflation increased or Federal outlays rose.

Our third major concern is an amendment that would permit the President, in the first Economic Report following enactment of S. 50, to modify the unemployment goal or timetable, or both. This provision virtually invites immediate modification of the bill's basic commitment to unemployed Americans, casting justified doubt on the determination of Congress to fulfill the promise of this historic legislation. This weakening provision is especially damaging when combined with the Banking Committee's recommendation that the President's alteration of the goal becomes effective unless both Houses of the Congress disapprove it. President Carter has endorsed the original provisions which would not permit him to revise the unemployment goal until the third Economic Report following enactment, and we greatly prefer this alternative.

CONSEQUENCES OF AN INFLATION-RATE GOAL

We share with our Banking Committee colleagues a deep and profound concern about inflation and a determination to bring it under control. But we believe it to be unwise and unnecessary to enact the committee's proposed mandate to achieve a zero-percent inflation rate within 5 years. We oppose this unrealistic and inflexible provision for the following reasons:

1. Inflation, unlike unemployment, does not yield readily to domestic policy remedies. Inflation is much more the product of external events in the international economy which are often beyond our reach altogether.

2. A zero-percent goal is virtually unachievable on any timetable. Historically, zero inflation has not been achieved, even during periods of relatively full employment, since 1929. The credibility of this legislation and, indeed, of the Congress in considering it rests upon the achievability of the goals it welds into law. A 2-percent reduction in the inflation rate confounds the current state of the art.

3. Reaching and maintaining a stable price level at zero over the years inevitably would require a degree of government intervention in private market decisions that is fundamentally antithetical to the views of business, labor, and the American people. Moreover, it would permanently shackle the economy to levels of real growth that would stifle incentive and fall far short of our national potential.

4. Reduced inflation is a natural byproduct of a full employment economy. With negligible unemployment and full production, budget outlays for transfer payments shrink, government revenues rise in step with accelerated economic activity, supply markets expand, unit labor costs decline, and competition from increased demand prompts prices to stabilize or recede.

5. A legislated inflation-rate goal of any number, enacted in whatever style, would be readily regarded as a wage and price standard. Individual price and wage decisions in the private sector would be measured against this statutory standard, constituting an ad hoc but powerful instrument for asserting government control over private businesses, even in the absence of formal wage and price controls which are prohibited by the bill. In contrast, the legislated unemployment-reduction goal cannot be applied practicably to individual employers; it is applicable only to the economy in the aggregate.

6. Because of the extreme difficulties in enforcing a specific inflation-rate goal and the mandate to do so within a set time period, fiscal and monetary policy would resort almost certainly to broad, macroeconomic, unselective measures that apply restraint not only where it is needed, but also where it is not, damaging declining sectors of the economy that are struggling for survival.

7. Resort to macroeconomic devices to constrain inflation by constricting aggregate demand is incredibly costly and damaging. For every 1-percent reduction in inflation through this means, 2.5 million jobs, $100 billion of annual production are lost, according to the Council on Wage and Price Stability. In addition, $320 billion in annual tax revenues are lost, discouraging efforts to reduce tax rates.

8. The bill, without the Banking Committee amendment, would require the President to set annual inflation targets and to establish inflation goals over a 5-year period. This flexible, year-by-year approach would avoid the other pitfalls of a legislated specific inflation rate with a specific timetable.

9. The bill, without the Banking Committee amendment, contains a strong anti-inflation commitment and specific tools for combating inflation, including potential remedies for structural weaknesses and blockages as they appear. The President would be required to propose comprehensive policies and specific programs each year to deal with inflation and to reach the annual goals. And he would be required to consider the specific anti-inflation measures spelled out in the legislation. These provisions are more comprehensive than in any previous legislation except during time of war, and they fill a complete void in the Employment Act of 1946.

CONSEQUENCES OF A SPECIFIC FEDERAL OUTLAYS GOAL

The Banking Committee's recommendation for a fixed numerical goal for Federal outlays, as a share of gross national product, is also unwise and unnecessary in our view.

A reduction in the proportion of Federal outlays to 20 percent or less would be another natural byproduct of a fully employed economy. Historically, Federal outlays have remained below 20 percent of GNP in peacetime. Even during the peak of the Vietnam war in the last half of the 1960's, Federal outlays averaged just over 20 percent of GNP.

The proportion rose markedly only as a result of the recessions of 1971–72 and 1975–78, during which unemployment compensation outlays nearly tripled to almost $20 billion in 1976, and other transfer payments increased to provide income maintenance and health, housing, and food assistance to the jobless and the poor. It reached its peak

of about 23 percent in fiscal year 1978 and is expected to decline to near 22 percent in fiscal year 1979. President Carter has already proposed further reduction to 21 percent or less by fiscal year 1981.

Enactment of such an inflexible standard with a fixed timetable for achievement would arbitrarily interfere with short-term policies that hold promise of long-run payoffs, and it would intrude upon the responsibilities of the Congress, particularly the Budget and Appropriations Committees, to set fiscal policy under the Budget Control Act of 1974.

Finally, this provision would offer economic policymakers another excuse for suspending the unemployment-reduction goal and for steering the economy in the wrong direction.

THE MAJOR ELEMENTS OF S. 50

The Banking Committee amendments that we find objectionable in this legislation arise from a profound and legitimate concern over serious contemporary economic problems. A host of them still confront us, requiring unrelenting attention and determined efforts to resolve them.

Far from ignoring or slighting these serious problems, S. 50 as reported by the Committee on Human Resources provides a new and comprehensive framework for addressing them. When the mechanics of the bill are combined with its essential principles, a clear picture emerges of the economic policy formulation system as originally designed, as approved by the House of Representatives, and as endorsed by the Senate Human Resources Committee. From this perspective, the bill has a sensible and practical relationship among its major elements:

1. To serve as the "magnetic north," the bill provides an explicit, permanent but flexible, numerical goal for reducing the rate of unemployment to 4 percent total, 3 percent adult, within 5 years. The singularity of this guidepost as the only national goal with a specific numerical value and timetable is indispensable to the coherent system that would be established by the bill.

2. To serve as periodic checkpoints on our course, the bill requires annual numerical goals for employment, unemployment, production, real income, productivity, and prices to be proposed by the President and considered by the Congress in the context of the Federal budget each year for the ensuing 5-year period.

3. To insure safe passage, the bill requires that we be fully alert and give full attention to general objectives of overwhelming importance, including national priority needs, balanced growth, detection and correction of structural weaknesses and blockages in the economy, and such other vital objectives as balancing the Federal budget and correcting deficiencies in our international trade accounts.

The bill also would establish a systematic method of collecting the views of State and local governments, representatives of the private sector, and members of the general public; integrating those views with the President's annual economic goals and proposals as contained in his Economic Report and his annual budget; developing a congressional consensus on policy alternatives; and coordinating that consensus with fiscal and programmatic decisions that are made annually by the Congress.

This system would be a vast improvement in the manner in which the Federal Government plans its participation in the economy, providing all of the other sectors of the economy with a more reliable background against which to make their own plans.

THE CENTRAL ISSUE FOR THE SENATE

The nucleus of the issue that a bare majority of the Banking Committee membership has put before the Senate is: Should the Congress establish a national commitment to pursue full employment with reasonable price stability through a comprehensive policy development system that is guided by a single, central principle? Or should we establish a system with several conflicting guideposts that allow a choice of directions to fragment our efforts and permit the essential full employment goal to be sidetracked to deal with other economic problems?

We greatly prefer the former course and urge the Members of Senate to join us in support of it. S. 50 has been honed through 4 years of intensive, open debate and discussion to provide the tools that we do not now have for coordinating economic policy. The times will test our ability to use those tools in formulating new solutions and in measuring their results. We urge the enactment of S. 50 without damaging amendments so that we may be fully equipped to pursue a full employment goal.●

Mr. MATSUNAGA. Mr. President, unemployment poses a great adverse impact on our national economy. In hearings before the House Banking, Currency, and Housing Committee, testimony indicated that each 1 percent of unemployment creates a loss of more than $16 billion in Federal revenues and another $4 billion expended in unemployment compensation. In addition, unemployment has a devastating social effect. For example, many of Hawaii's young people are presently being forced to leave the Islands, because of the lack of jobs. Furthermore, thousands of Americans, including many minority members are frustrated and despondent over the inability to find meaningful employment. Also, a continually rising crime rate is clearly linked to unemployment.

For these reasons, I joined as a cosponsor of S. 50, the Humphrey-Hawkins full employment and balanced growth bill of 1978. Under this bill, the Congress would place the responsibility on the Federal Government to use all practical means, including anti-inflation devices, to promote full employment, production, and purchasing power.

Since the initial introduction of the bill in the 93d Congress, the measure has been substantially revised. However, the modified bill retains the major policy and goal commitments to full employment and stable growth. It also provides a flexible process for the President and the Congress to pursue these goals.

The most essential provisions establish an annual review among the executive branch, the Congress, the Federal Reserve Board, and Citizens Advisory Groups, of fiscal and monetary policies. The President would annually submit an economic report to the Congress. The report would include consideration of short as well as medium termed policies, program, numerical employment, production, and real income goals. For the first time there would be a comprehensive review and coherent program to reduce overall unemployment.

Pursuant to the bill, the Congress could authorize specific structural programs to reduce unemployment among ethnic minorities, women, and young people in relation to the overall rate of unemployment as soon as practicable.

I remember vividly the deep compassion the late Senator Hubert Humphrey had for people, especially the downtrodden—those desperate for honest work but unsuccessful in finding a job. Hubert Humphrey truly felt for these people and he strongly believed that we as a Nation should have an established policy to provide full employment for our citizens. Hubert was a warm, sensitive, kind man with lofty ideals.

I ascribe to his ideals—ideals embodied in this bill. I urge my colleagues to put these ideals into law and establish them as our national policy, and a living memorial to the late Hubert Horatio Humphrey.

Mr. THURMOND. Mr. President, I am pleased that I can support this particular version of the Humphrey-Hawkins bill, that is, the leadership substitute of the Full Employment and Balanced Act of 1978.

Mr. President, first of all I want to say that I would like nothing better than to see unemployment of 3 percent or less throughout this country. However, I have long been concerned with setting unrealistic goals of unemployment if a crippling level of inflation and a multibillion-dollar deficit follows it.

Mr. President, this so-called leadership substitute to the bill, which is essentially the Banking Committee version, in my belief, is a measure that attempts to address the serious problem of unemployment in our country from a fiscal and monetary policy perspective.

Mr. President, to pretend that we can reach 3-percent unemployment now, next year, or in the near future is to grossly ignore the realities of this issue. This employment goal is to be achieved by declaring that everyone has a right to employment at fair rates of compensation.

Mr. President, I do not believe that our unemployment problem can be solved by declaring on open ended commitment on the Federal budget and the American taxpayer.

I, for one, want to note that Congress, Republicans in particular, are often accused of being insensitive to the problems of the disadvantaged when considerations of the budget and of Government finances are concerned. Mr. President, this is simply not true. Between those who raise these factors and those who dismiss them exists a difference of method and theory, not a difference of compassion and concern.

Mr. President, to ignore the inevitable economic relations between employment, inflation, budget deficits, and Government activity, in pursuit of a simple objective, is to invite, if not insure, failure to achieve and sustain the full employment objective.

It is because of these concerns that I have decided to support this bill. I believe this bill will insure the long needed attention our unemployment situation deserves, with certain key provisions that will also insure a check on inflation and Federal spending.

Mr. President, I want to commend those Senators who worked very hard to bring this "compromise" before the Senate. It is because of the bipartisan effort

and good-faith negotiation of responsibility resolve the differences that we will undoubtedly witness the passage of this bill tonight.

Mr. President, I urge the adoption of the bill.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may yield to the Senator from Utah (Mr. GARN) 1 minute, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, in spite of all the talk otherwise, the current form of the Humphrey-Hawkins bill is not an empty gesture in symbolism. It is neither meaningless nor void of harmful effect. I fail to believe that anyone is going to build the frame of a house 1 day without coming back later to complete and fill out the structure. What we have been able to take out of the bill this time around future Congresses will come back and put back in on the grounds of what has already been passed. This bill will be the excuse for putting back in all of the noxious parts that we have so far succeeded in taking out.

Some would contend that all of the teeth have been taken out of the bill. What we are creating, though, is a mouth, and just a little down the road, when the President is not able to achieve the unemployment goals, Congressmen are going to be clamoring to put the teeth back in. And this bill will be used as the precedent. They will be saying that we have passed this Humphrey-Hawkins bill, claiming to provide full employment, and the goals are not being achieved. We need to do this, this, and this, and need those and these spending programs so that the pledges of the Government to the American people do not become meaningless.

We saw this happen with the Clean Air Act; we saw it with the Clean Water Act. The income tax was a flat 2 percent when it was enacted. Now its one of the most confusing, convoluted leviathans of this Government, filled with incentives, disincentives, inequities, overequities—and no one in the Government knows what else. Each year we talk of tax reform, and no one knows even where to begin. Candidates even campaign on solving the Nation's problems, and one of the problems that they list is the problem of income taxes, and that is something that the Government created, when it was just a simple measure, a flat 2 percent. And what the Congress does not add to toothless measures, the courts often find a way of adding for us.

This bill is letting another camel slip his nose under the tent; I suggest that we step on his nose before he gets in any further. It is crowded enough already in here.

There is more to it than just precedent that is noxious in this bill. The bill begins to erode the authority of the Banking Committee. Already consideration of the bill has seen conflicts between the Banking and the Human Resources Committees, over questions of overall economic policy, which has generally been the major concern of the Banking Committee. With this bill that jurisdiction will be blurred.

Not just the Banking Committee has been threatened, but the bill has also lead to attempted raids on the authority of the Budget Committees and the integrity of the budget-making process. Throughout the consideration of this bill there have been jurisdictional squabbles affecting the Budget Committees and the Joint Economic Committee.

Perhaps worst of all, the bill in its very spirit advocates Government economic planning, and it does this in an insidious way: its wording takes it for granted that general national economic planning is a good and desirable thing and intimates that the lack of such planning is the cause of the Nation's economic woes. Maybe we should listen to some of the Soviet economists; they would tell us that just the opposite—too much government economic planning—is causing the problems in the Soviet economy. And here we have a bill establishing 5-year economic plans. Does that sound familiar?

This bill is loaded with irony. It is ironic that just as the Soviets are moving away from national planning the Congress of the United States of America is adopting a measure that will move us closer to it. It is ironic that just as general unemployment is decreasing and action is needed to aid the private sector expand and provide jobs for the structurally unemployed, the Congress is considering passing a measure that will lead to the expansion of Government. It is ironic that while inflation is increasing and threatening to achieve a double-digit level the Congress is considering passing a bill that will threaten spurring inflation even more, inflation goal or no inflation goal. I cannot believe that anyone, labor, business, anyone can be better off for long in that environment.

What is perhaps most ironic of all is that the Congress is even considering this bill, and considering passing it. We are legislators, not soothsayers. We are supposed to pass laws, not pass the buck. Humphrey-Hawkins, like Marie Antoinette, says, "Let them eat cake"—but leaves it up to the President to discover the recipe and bake it, even while the Congress is destroying the oven.

The bill is, indeed, a cruel hoax. It is a hoax upon those whom it claims to help, and it is a hoax to assert that the bill will be ultimately innocuous.

Mr. PROXMIRE. I ask unanimous consent to yield to the Senator from California (Mr. CRANSTON) without losing my right to the floor.

Mr. CRANSTON. I thank the Senator.

Mr. President, I wish to join in the outpouring of admiration for MURIEL HUMPHREY and for Hubert Humphrey. It has been a very great privilege to work on this measure, first with Hubert and now with MURIEL. All of us have, I know, great and profound feelings of love and respect for MURIEL and the way she has carried on Hubert's work in this Chamber.

I also want to thank all the others who have worked so hard, and in particular to express gratitude for my opportunity to work with GUS HAWKINS of my own State of California on this measure over a long period of time.

Mr. BELLMON. Mr. President, will the Senator yield me 1 minute?

Mr. PROXMIRE. I yield 1 minute to the Senator from Oklahoma (Mr. BELLMON) under the same conditions.

Mr. BELLMON. Mr. President, no one wants to vote against something called the Full Employment and Balanced Growth Act of 1978, but this bill, the so-called Humphrey-Hawkins bill, has undergone more changes than the National Visitors Center. It is a bill whose consequences are open to an unusual amount of conjecture. At best, it might be merely an unnecessary bill whose time has passed, while at worst it could be a budgetary, economic, and bureaucratic snafu.

Conceived in the aftermath of our Nation's worst postwar recession, the bill looks best in that context. It was designed to confront the urgent problems that then beset us and basically prescribed three things: calling to the attention of Congress our most serious economic ills, making general recommendations regarding possible policy alternatives, and establishing a procedure for assessing and coordinating Federal priorities, policies, and programs relating to those economic ills.

However, over 2 years have passed since then, and the Humphrey-Hawkins bill has proved unnecessary.

Neither the Congress nor the President needed this legislation to call attention to the disastrous state of the economy—the alarming unemployment and inflation figures themselves were sufficient to accomplish that task.

Likewise, neither the Congress nor the President needed the recommendations in this legislation to formulate effective policies and programs to aid the economy. Countercyclical efforts undertaken in the past 3 years have helped bring the unemployment rate down from its 9.1 percent peak in May 1975, to the current level of 5.9 percent, an improvement of over 33 percent. Even since March 1976, when Senator Humphrey and Representative HAWKINS first introduced this bill, the unemployment rate has dropped 1.6 points, while an incredible 8 million jobs have been created. The number of jobholders is now at an all-time high, and this has been done without the guidance of any national economic planning.

Recognizing that our goals have not yet been fully achieved—that 6 percent unemployment is not satisfactory—Congress has responded to the changing nature of the unemployment problem by establishing programs to aid those people out of work due to structural inadequacies in our system, as well as those unemployed due to cyclical factors. The following is a sampling of the Federal programs currently in effect that are

working to assist the structurally unemployed:

First. Training programs, including classroom training, on-the-job training, work experience, and so forth, under title I of CETA;

Second. Public service employment, under titles II and VI of CETA;

Third. Job Corps;

Fourth. Young Adult Conservation Corps;

Fifth. Summer program for economically disadvantaged youth;

Sixth. Other youth programs under CETA;

Seventh. National office contract programs, under title III of CETA, including NABS JOBS, migrant programs, programs for Native Americans, ex-offenders programs, etc.;

Eighth. Supported work (demonstration project to employ welfare recipients in the private sector);

Ninth. Work incentive program (WIN);

Tenth. Vocational education;

Eleventh. Vocational rehabilitation;

Twelfth. Older workers employment programs, under title IX of the Older Americans Act.

Thirteenth. Employment and training programs operated under grants from the Community Services Administration;

Fourteenth. Local public works (countercyclical) which are supposed to be labor intensive, focused on areas with high unemployment, and are supposed to give preference to hiring residents of the areas in which the projects are located;

Fifteenth. Community block grant program administered by the Economic Development Administration are supposed to have as a goal the generation of net increases in job opportunities for the residents of the areas in which the projects are located;

Sixteenth. Training, employment, day care, and other social service programs under title XX of the Social Security Act are frequently justified in terms of the necessity for such services if the hard-core unemployed are to go to work;

Seventeenth. The labor exchange operated by State employment security agencies;

Eighteenth. Adult basic education; and

Nineteenth. Basic education opportunity grants, supplemental grants, and federally guaranteed student loans, designed to allow children from poor families to attend even the most expensive trade schools, colleges, and universities.

In addition, as evidence of the growing commitment of Congress to achieve full employment, the counterstructural portion of CETA was recently expanded from a $2 billion level for fiscal year 1978 to a $5 billion level for fiscal year 1979.

Finally, Congress did not need this legislation to develop an effective procedure for setting short- and medium-term economic goals and coordinating Federal policies, programs, and priorities. The congressional budget process, still new when this bill was first introduced, has matured to a degree that the sponsors of this bill could scarcely have foreseen. Though still adjusting to sophisticated innovations, it has facilitated the formulation of rational fiscal policy and has provided an effective means of fostering economic growth and stability.

This legislation, however, is not merely obsolete. It also holds the potential for causing several serious problems, possibly reversing some of the very gains which I have just described.

One possible consequence could very well be a shift of authority to initiate policies and programs from the Congress to the President. Title II of this bill empowers the President to implement several programs and to take various actions that can now be undertaken only with specific authorizations from the Congress.

Furthermore, considerable confusion could result from conflicting economic goals and other provisions which affect the relationships between Congress, the President, and the Federal Reserve Board, which might needlessly impair the formulation of Federal economic policy.

Last, but far from least, is the possible result that I find most troubling. Mr. President, I believe that adoption of this bill could very well be this country's first step toward centralized economic planning.

Without overdramatizing this point, I would merely like to remind my colleagues that the unprecedented economic success of the United States has been attributable to the principle of the freedom of the individual.

In our economy, each person is free—and at the same time, inevitably driven—to act in his or her own "enlightened self-interest." Through this system, we have far outstripped those nations that subscribe to a system where the State alone dictates the goals and the means to achieve them.

Clearly the United States does not want to start down the path which has led countries with centrally planned economies to shortages, low productivity, and economic chaos.

Congress has already demonstrated its ability and willingness to deal with such difficult problems as structural unemployment. The recognition and analysis of such problems requires far better understanding and far more tightly designed goals than these broadly described in this bill.

A good example can be found in the attention Congress has devoted to solving youth, and especially minority youth, unemployment.

Need I remind my colleagues of the many substantive programs and policies that this Congress has enacted to combat unemployment, many of which I enumerated only a few minutes ago? Some of these are brandnew. Most are still being developed, and all are constantly being revised and improved.

Mr. President, the Congress has done a great deal in the past few years to establish meaningful opportunities for the unemployed—young and old, skilled and unskilled, poor and not-so-poor. Obviously, there is more that we can and should do. Perhaps we need more programs, or perhaps we merely need to make greater efforts to educate potential beneficiaries about the opportunities that already exist.

But one thing is certain, Mr. President, we should not enact a piece of legislation that only detracts from our truly noteworthy achievements, the kind of achievements that we as public servants can look upon with pride and a rare feeling of satisfaction.

Mr. President, I will vote against this bill. I urge my colleagues to do so as well.

Mr. PROXMIRE. Mr. President, I will be very brief. I do not know if Senators know this, but this is the only major bill I have seen since I have been in the Senate when there was no opening statement. That was because there were so many managers that no one prepared one.

I would like to say what the bill does. In the first place, this bill is not symbolic. People have said this is symbolic. Not at all. Anyone who says this is a symbol will wake up with a surprise. There are definite requirements in this bill that will change the face of the economic policies in this country dramatically. For the first time in our history we have a specific numerical employment goal, 4 percent; we have a time to reach that goal, within 5 years.

In the second place, we give unemployment a clear priority. It has a priority over inflation; it has a priority over any other economic policy in this country.

In the third place, Mr. President, we have an anti-inflation goal for the first time. We have never had that before. It is a specific goal of reducing the rule of inflation to 3 percent within 5 years, and to zero in 10 years. This is something new.

Mr. President, for the first time we provide coordination of monetary and fiscal policy. Here is how we do it: We require the Federal Reserve Board to make a report twice a year to the Banking Committees. In the report the Federal Reserve would explain the relationship of their monetary policy to the objectives of the Employment Act and to the short-term goals in the President's Economic Report and of this bill we are passing now. We have never done that before. It is a profound change. For the first time we are going to have monetary policy and fiscal policy coordination.

Let me just say, Mr. President, in conclusion, that in addition to that, we have not only numerical goals for unemployment and inflation, but every year the President must come down with annual goals for each of the next 5 years for employment and unemployment growth, numerical goals for growth, for productivity, for production, for real income and for prices. The President of the United States has never been required to do that. In very few cases have they done that specifically.

Furthermore, Mr. President, we require the President to take into consideration in setting his goals international trade and international payments. That has never been required. It is a profound and great change.

Mr. President, as the Senator from Kansas reminds us, we also for the first

time have an expression of determination to give the farmer parity in the marketplace, which he richly deserves.

Now let me say in conclusion, Mr. President, that I would agree wholeheartedly that if only our departed colleague, Senator Hubert Humphrey, could be here he would be elated, and nobody could be more elated than Senator Humphrey. I think he was about the most vital, funny, charming, marvelous human being that I can recall. How he would have enjoyed this moment, and how proud he would have been of his remarkable wife, MURIEL, and the splendid job she has done for him.

I think all of us, whether we agreed or disagreed with Senator Humphrey, loved him and loved him dearly. I am positive, as Senator JAVITS has said, that there is no action we could take for which he would be more grateful and for which he would be more proud than passing the Humphrey-Hawkins bill, on which he felt so deeply.

Mr. JAVITS. Mr. President, I yield myself such time as I may require to conclude the debate. I shall be very brief.

Mr. President, just for the information of my colleague, there is an opening statement which I gave on October 10 in the opening of the debate. It does lay out the details of the bill.

There is one added point, and I will not at all repeat: this is the first time the Congress will have been committed to planning, national planning, of an indicative character. That is the real big thing that Hubert did. He and I joined in the Balanced Growth and Economic Planning Act of May 1975, which was the beginning of what we now have.

That is critical because every major enterprise in the world worthy of the name looks down the road 5 to 10 years. We have never done it. Now we begin. It is a very auspicious time for our country which will save us many of the pitfalls like, for example, the pitfall into which we have fallen on energy.

So, Mr. President, I hope very much the Senate will now resoundingly approve this act.

Mr. GOLDWATER. Will the Senator yield for 1 minute?

Mr. JAVITS. I yield.

Mr. GOLDWATER. Mr. President, I will cast my vote against this bill. There is nothing new about this concept. I remember debating this 50 years ago in college. I am afraid that it cannot work without the complete domination of the Federal Government over the enterprise sector. It may not at first, but there is no way we can achieve the employment goals that we are seeking, as worthy as they are. One, we do not even know what unemployment is yet. We get so many false figures out of the Department of Labor that we do not know what we are confronted with.

Inflation at the rate we are talking about is normal, but we are not going to reach it without the full cooperation of the Congress, and I see no indication by this Congress that we are ever going to reach it.

I hate to make this statement, but I am afraid this is probably the most dangerous piece of legislation ever passed by the Congress against the free enterprise system, and I will resist it.

Mr. JAVITS. Mr. President, I want to say a word about Senator NELSON, the occupant of the chair, Senator WILLIAMS, Senator PROXMIRE, Senator BROOKE and his committee, and the staffs of both committees, to thank them for superhuman effort, great endurance, and patience in respect of this bill.

Mr. ROBERT C. BYRD. Mr. President, I want to add my commendation to the Senator from Wisconsin (Mr. PROXMIRE), to the Senator from Wisconsin (Mr. NELSON), to the Senator from New York (Mr. JAVITS), to the Senator from Massachusetts (Mr. BROOKE), and to the Senator from New Jersey (Mr. WILLIAMS) for the leadership they have all demonstrated in bringing this bill to its present status.

I also want to compliment those who have so very ably presented their opposing views. They did it well and they made a great contribution in helping to shape and mold the bill to its present form.

To both sides, my congratulations.

Mr. NELSON. Will the Senator yield?

Mr. PROXMIRE. I yield 1 minute.

Mr. NELSON. I just wanted to say that in these negotiations over quite a long period of time, I think everybody was conscientious in their objective. On the Republican side Senators JAVITS, LUGAR, HATCH, PERCY, and DOLE were there every single day with an attitude of attempting to work out something so that we could pass a bill.

I want to say that I enjoyed working with them. Their interest and cooperation made it possible to have a bill. I think this is an historic event. As an old, old friend of Hubert Humphrey since 1948, I believe, when I first met him, I want to say that this is a wonderful night in his memory.

I commend Senator HUMPHREY for her participation in this. I believe this is a major and important step forward.

Mr. PROXMIRE. I yield 1 minute to the Senator from Delaware.

Mr. BIDEN. I will only take 30 seconds. I will cast my vote against this bill, but I want to make clear that the reason is totally different from the reason stated by the Senator from Arizona.

I do not think Government ought to make promises it cannot keep. I do not know how we can keep the promises made in this bill. That is the reason I am going to vote against the bill.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Idaho (Mr. MCCLURE), the Senator from New Mexico (Mr. SCHMITT), the Senator from Virginia (Mr. SCOTT), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER (Mr. SARBANES). Are there any Members of the Senate who have not voted and desire to vote?

The result was announced—yeas 70, nays 19, as follows:

[Rollcall Vote No. 495 Leg.]

YEAS—70

Abourezk	Gravel	Morgan
Anderson	Griffin	Moynihan
Baker	Hart	Muskie
Bayh	Hatfield, Paul G.	Nelson
Bentsen	Hathaway	Nunn
Brooke	Heinz	Packwood
Bumpers	Hodges	Pearson
Burdick	Hollings	Pell
Byrd, Robert C.	Humphrey	Percy
Cannon	Inouye	Proxmire
Case	Jackson	Randolph
Chafee	Javits	Ribicoff
Chiles	Johnston	Riegle
Church	Leahy	Sarbanes
Clark	Long	Sasser
Cranston	Lugar	Schweiker
Culver	Magnuson	Stafford
Danforth	Mathias	Stevenson
DeConcini	Matsunaga	Stone
Dole	McGovern	Talmadge
Durkin	McIntyre	Thurmond
Eagleton	Melcher	Williams
Ford	Metzenbaum	Zorinsky
Glenn		

NAYS—19

Bartlett	Garn	Helms
Bellmon	Goldwater	Laxalt
Biden	Hansen	Roth
Byrd, Harry F., Jr.	Hatch	Stennis
Curtis	Hatfield, Mark O.	Stevens
Eastland	Hayakawa	Wallop
		Weicker

NOT VOTING—11

Allen	Kennedy	Sparkman
Domenici	McClure	Tower
Haskell	Schmitt	Young
Huddleston	Scott	

So the bill (H.R. 50), as amended, was passed.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICE. The Senator from West Virginia.

Will the Senator suspend momentarily until we get a little order in the Chamber, please?

Will Members please take seats and clear the aisles? Members will please clear the aisles.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Humphrey-Hawkins bill as passed by the Senate today be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECTION 1. This Act and the following table of contents may be cited as the "Full Employment and Balanced Growth Act of 1978".

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GENERAL FINDINGS

SEC. 2. (a) The Congress finds that the Nation has suffered substantial unemployment and underemployment, idleness of other productive resources, high rates of inflation, and inadequate productivity growth, over prolonged periods of time, imposing numerous economic and social costs on the Nation. Such costs include the following:

(1) The Nation is deprived of the full supply of goods and services, the full utilization of labor and capital resources, and the related increases in economic well-being that would occur under conditions of genuine full employment, production, and real income, balanced growth, a balanced Federal budget, and the effective control of inflation.

(2) The output of goods and services is insufficient to meet pressing national priorities.

(3) Workers are deprived of the job security, income, skill development, and productivity necessary to maintain and advance their standards of living.

(4) Business and industry are deprived of the production, sales, capital flow, and productivity necessary to maintain adequate profits, undertake new investment, create jobs, compete internationally, and contribute to meeting society's economic needs. These problems are especially acute for smaller businesses. Variations in the business cycle and low-level operations of the economy are far more damaging to smaller businesses than to larger business concerns because smaller businesses have fewer available resources, and less access to resources, to withstand nationwide economic adversity. A decline in small business enterprises contributes to unemployment by reducing employment opportunities and contributes to inflation by reducing competition.

(5) Unemployment exposes many families to social, psychological, and physiological costs, including disruption of family life, loss of individual dignity and self-respect, and the aggravation of physical and psychological illnesses, alcoholism and drug abuse, crime, and social conflicts.

(6) Federal, State, and local government budgets are undermined by deficits due to shortfalls in tax revenues and in increases in expenditures for unemployment compensation, public assistance, and other recession-related services in the areas of criminal justice, alcoholism and drug abuse, and physical and mental health.

(b) The Congress further finds that:

(1) High unemployment may contribute to inflation by diminishing labor training and skills, underutilizing capital resources, reducing the rate of productivity advance, increasing unit labor costs, and reducing the general supply of goods and services.

(2) Aggregate monetary and fiscal policies alone have been unable to achieve full employment and production, increased real income, balanced growth, a balanced Federal budget, adequate productivity growth, proper attention to national priorities, achievement of an improved trade balance, and reasonable price stability, and therefore must be supplemented by other measures designed to serve these ends.

(3) Attainment of these objectives should be facilitated by setting explicit short-term and medium-term economic goals, and by improved coordination among the President, the Congress, and the Board of Governors of the Federal Reserve System.

(4) Increasing job opportunities and full employment would greatly contribute to the elimination of discrimination based upon sex, age, race, color, religion, national origin, handicap, or other improper factors.

(c) The Congress further finds that an effective policy to promote full employment and production, increased real income, balanced growth, a balanced Federal budget, adequate productivity growth, proper attention to national priorities, achievement of an improved trade balance, and reasonable price stability should (1) be based on the development of explicit economic goals and policies involving the President, the Congress, and the Board of Governors of the Federal Reserve System, with maximum reliance on the resources and ingenuity of the private sector of the economy, (2) include programs specifically designed to reduce high unemployment due to recessions, and to reduce structural unemployment within regional areas and among particular labor force groups, and (3) give proper attention to the role of increased exports and improvement in the international competitiveness of agriculture, business, and industry in providing productive employment opportunities and achieving an improved trade balance.

(d) The Congress further finds that full employment and production, increased real income, balanced growth, a balanced Federal budget, adequate productivity growth, proper attention to national priorities, achievement of an improved trade balance through increased exports and improvement in the international competitiveness of agriculture, business, and industry, and reasonable price stability are important national requirements and will promote the economic security and well-being of all citizens of the Nation.

(e) The Congress further finds that the United States is part of an interdependent world trading and monetary system and that attainment of the requirements specified in subsection (d) is dependent upon policies promoting a free and fair international trading system and a sound and stable international monetary system.

REPORT

SEC. 3. Not later than one year after the date of enactment of this Act, the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives each shall conduct a study and submit a report, including findings and recommendations, to the Committee on Rules and Administration of the Senate and the Committee on Rules of the House, respectively, on the subject of establishing a full employment goal in connection with the provisions of this Act.

NATIONAL EMPLOYMENT CONFERENCE

SEC. 4. (a) A national Employment Conference may be convened in the District of Columbia within a reasonable period of time after the date of enactment of the Full Employment and Balanced Growth Act of 1978. Responsibility for the organization and implementation of this conference shall rest with the President or the appropriate department or agency of the Federal Government, and the conference shall bring together leaders of small and larger business, labor, government, and all other interested parties.

(b) The subject of the conference shall be employment, with particular attention to structural unemployment and the plight of disadvantaged youth. The conference shall also focus on issues such as implementation of adequate and effective incentives for private sector employers to hire the hard-core unemployed. Special attention shall be given to the creation of jobs through the use of targeted employment tax credits, wage vouchers, and other incentives to private sector businesses.

TITLE I—ESTABLISHMENT OF GOALS AND GENERAL ECONOMIC POLICIES

STATEMENT OF PURPOSE

SEC. 101. It is the purpose of this title—

(1) to declare the general policies of this Act;

(2) to provide an open process under which economic goals and policies are proposed, reviewed, and established;

(3) to provide for yearly review of national economic policies to ensure their consistency with these goals to the maximum extent possible; and

(4) to strengthen and supplement the purposes and policies of the Employment Act of 1946.

DECLARATION OF POLICY

SEC. 102. Section 2 of the Employment Act of 1946 is amended to read as follows:

"SEC. 2. (a) The Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practicable means, consistent with its needs and obligations and other essential national policies, and with the assistance and cooperation of both small and larger businesses, agriculture, labor, and State and local governments, to coordinate and utilize all its plans, functions, and resources for the purpose of creating and maintaining, in a manner calculated to foster and promote free competitive enterprise and the general welfare, conditions which promote useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and promote full employment and production, increased real income, balanced growth, a balanced Federal budget, adequate productivity growth, proper attention to national priorities, achievement of an improved trade balance through increased exports and improvement in the international competitiveness of agriculture, business, and industry, and reasonable price stability as provided in section 5(b) of this Act.

"(b) The Congress further declares and establishes as a national goal the fulfillment of the right to full opportunities for useful paid employment at fair rates of compensation of all individuals able, willing, and seeking to work.

"(c) The Congress further declares that inflation is a major national problem requiring improved government policies relating to food, energy, improved and coordinated fiscal and monetary management, the reform of outmoded rules and regulations of the Federal Government, the correction of structural defects in the economy that prevent or seriously impede competition in private markets, and other measures to reduce the rate of inflation.

"(d) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1978 to improve the coordination and integration of the policies and programs of the Federal Government toward achievement of the objectives of such Act through better management, increased efficiency, and attention to long-range as well as short-range problems and to balancing the Federal budget.

"(e) The Congress further declares that, although it is the purpose under the Full Employment and Balanced Growth Act of 1978 to seek diligently and to encourage the voluntary cooperation of the private sector in helping to achieve the objectives of such Act, no provisions of such Act or this Act shall be used, with respect to any portion of the private sector of the economy, to provide for Federal Government control of production, employment, allocation of resources, or wages and prices, except to the extent authorized under other Federal laws.

"(f) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1978 to maximize and place primary emphasis upon the expansion of private employment, and all programs and policies under such Act shall be in accord with such purpose. Toward this end, the effort to expand jobs to the full employment level shall be in this order of priority to the extent consistent with balanced growth—

"(1) expansion of conventional private jobs through improved use of general economic and structural policies, including measures to encourage private sector investment and capital formation;

"(2) expansion of private employment through Federal assistance in connection with the priority programs in such Act;

"(3) expansion of public employment other than through the provisions of section 206 of such Act; and

"(4) when recommended by the President under section 206 of such Act and subject to the limitations in such section, the creation of employment through the methods set forth in such section.

"(g) The Congress further declares that trade deficits are a major national problem requiring a strong national export policy including improved Government policies relating to the promotion, facilitation, and financing of commercial and agricultural exports, Government policies designed to reduce foreign barriers to exports through international negotiation and agreement, Federal support for research, development, and diffusion of new technologies to promote innovation in agriculture, business, and industry, the elimination or modification of Government rules or regulations that burden or disadvantage exports and the national and international competitiveness of agriculture, business, and industry, the reexamination of antitrust laws and policies when necessary to enable agriculture, business, and industry to meet foreign competition in the United States and abroad, and the achievement of a free and fair international trading system and a sound and stable international monetary order.

"(h) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1978 to acheive a balanced Federal budget consistent with the achievement of the medium-term goals specified in section 4.

"(i) The Congress further declares that it is the continuing policy and responsibility of the Federal Government, in cooperation with State and local governments, to use all practical means consistent with other essential considerations of national policy to provide sufficient incentives to assure meeting the investment needs of private enterprise, including the needs of small and medium sized businesses, in order to increase the production of goods, the provision of services, employment, the opportunity for profit, the payment of taxes, and to reduce and control inflation. To the extent it is reasonably possible to do so, private enterprise investments in depressed urban and rural areas should be promoted to reduce the high levels of unemployment that exist there.".

ECONOMIC REPORT OF THE PRESIDENT AND SHORT-TERM ECONOMIC GOALS AND POLICIES

SEC. 103. (a) The heading preceding section 3 and section 3(a) of the Employment Act of 1946 are amended to read as follows:

"(j) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1978 to rely principally on the private sector for expansion of economic activity and creation of new jobs for a growing labor force. Toward this end, it is the purpose of this Act to encourage the adoption of fiscal policies that would establish the share of the gross national product accounted for by Federal outlays at the lowest level consistent with national needs and priorities.

"ECONOMIC REPORT OF THE PRESIDENT AND SHORT-TERM ECONOMIC GOALS AND POLICIES

"SEC. 3. (a) The President shall transmit to the Congress during the first twenty days of each regular session, with copies transmitted to the Governor of each State and to other appropriate State and local officials, an economic report (hereinafter in this Act referred to as the 'Economic Report') together with the annual report of the Council of Economic Advisers submitted in accord with section 11(c) of this Act, setting forth—

"(1) the current and foreseeable trends in the levels of employment, unemployment, production, capital formation, real income, Federal budget outlays and receipts, productivity, international trade and payments, and prices, and a review and analysis of recent domestic and international developments affecting economic trends in the Nation;

"(2)(A) annual numerical goals for employment and unemployment, production, real income, productivity, and prices for the calendar year in which the Economic Report is transmitted and for the following calendar year, designated as short-term goals, which shall be consistent with achieving as rapidly as feasible the goals of full employment and production, increased real income, balanced growth, fiscal policies that would establish the share of an expanding gross national product accounted for by Federal outlays at the lowest level consistent with national needs and priorities, a balanced Federal budget, adequate productivity, growth, price stability, achievement of an improved trade balance, and proper attention to national priorities; and

"(B) annual numerical goals as specified in subparagraph (A) for the three successive calendar years, designated as medium term goals;

"(3) employment objectives for certain significant subgroups of the labor force, including youth, women, minorities, handicapped persons, veterans, and middle-aged and older persons; and

"(4) a program for carrying out the policy declared in section 2, together with such recommendations for legislation as the President may deem necessary or desirable.".

(b) Section 3 of the Employment Act of 1946 is amended by adding the following:

"(d) For the purposes of the Full Employment and Balanced Growth Act of 1978, the percentage rate of unemployment as a percentage of the civilian labor force as set forth by the Bureau of Labor Statistics in the Department of Labor as computed under the procedures in effect as of the date of enactment of this Act.

"(e) For the purpose of the Full Employment and Balanced Growth Act of 1978, the terms 'inflation', 'prices', and 'reasonable price stability' refer to the rate of change or level of the consumer price index as set forth by the Bureau of Labor Statistics, United States Department of Labor."

FULL EMPLOYMENT AND BALANCED GROWTH: MEDIUM-TERM ECONOMIC GOALS AND POLICIES

SEC. 104. The Employment Act of 1946 is amended by redesignating sections 4 and 5 as sections 10 and 11, respectively, and by inserting a new section 4 as follows:

"FULL EMPLOYMENT AND BALANCED GROWTH: MEDIUM-TERM ECONOMIC GOALS AND POLICIES

"SEC. 4. (a) In each Economic Report after enactment of the Full Employment and Balanced Growth Act of 1978, the President shall incorporate (as part of the five-year numerical goals in each Economic Report) medium-term annual numerical goals specified in section 3(a)(2)(B), and in each President's Budget submitted immediately prior thereto, the President shall incorporate the programs and policies the President deems necessary to achieve such medium-term goals and a balanced Federal budget and to achieve reasonable price stability as rapidly as feasible as provided for in section 5(b) of this Act.

"(b) The medium-term goals in the first three Economic Reports and, subject to the provisions of subsection (d), in each Economic Report thereafter shall include (as part of the five-year goals in each Economic Report) interim numerical goals for—

"(1) reducing the rate of employment, as set forth pursuant to section 3(d) of this Act, to not more than 3 per centum among individuals aged twenty and over and 4 per centum among individuals aged sixteen and over within a period not extending beyond the fifth calendar year after the first such Economic Report; and

"(2) reducing the rate of inflation, as set forth pursuant to section 3(e) of this Act, to not more than 3 per centum within a period not extending beyond the fifth calendar year after the first such Economic Report: *Provided*, That policies and programs for reducing the rate of inflation shall be designed so as not to impede achievement of the goals and timetables specified in clause (1) of this subsection for the reduction of unemployment. For purposes of this subsection, the first Economic Report shall be the Report isued in the first calendar year after enactment of the Full Employment and Balanced Growth Act of 1978.

"(c)(1) Upon achievement of the 3 and 4 per centum goals specified in subsection (b)(1), each succeeding Economic Report shall have the goal of achieving as soon as practicable and maintaining thereafter full employment and a balanced budget;

"(2) Upon achievement of the 3 per centum goal specified in subsection (b)(2), each succeeding Economic Report shall have the goal of achieving by 1988 a rate of inflation of zero per centum: *Provided*, That policies and programs for reducing the rate of inflation shall be designed so as not to impede achievement of the goals and timetables

specified in clause (1) of this subsection for the reduction of unemployment.

"(d) In the second Economic Report after enactment of the Full Employment and Balanced Growth Act of 1978, the President shall review the numerical goals and timetables for the reduction of unemployment and inflation, and the goal of balancing the Federal budget; report to the Congress on the degree of progress being made, the programs and policies being used, and any obstacles to achieving such goals and timetables; and, if necessary, propose corrective economic measures toward achievement of such goals and timetables: *Provided*, That beginning with the second Report and in any subsequent Reports, if the President finds it necessary, the President may recommend modification of the timetable or timetables for the achievement of the goals provided for in subsection (b) and the annual numerical goals to make them consistent with the modified timetable or timetables, and the Congress may take such action as it deems appropriate consistent with title III of the Full Employment and Balanced Growth Act of 1978.

"(e) If, after achievement of the 3 and 4 per centum goals specified in subsection (b), the unemployment rate for a year as set forth pursuant to section 3(d) of this Act is more than 3 per centum among individuals aged twenty and over or more than 4 per centum among individuals aged sixteen and over, the next Economic Report after such rate is set forth and each succeeding Economic Report shall include (as part of the five-year goals in each Economic Report) the interim numerical goal of reducing unemployment to not more than the levels specified in subsection (b)(1) as soon as practicable but not later than the fifth calendar year after the first such Economic Report, counting as the first calendar year the year in which such Economic Report is issued: *Provided*, That, if the President finds it necessary, the President may, under the authority provided in subsection (d), recommend modification of the timetable provided for in this subsection for the reduction of unemployment, and for the purposes of section 304 of the Full Employment and Balanced Growth Act of 1978, such recommendation by the President shall be treated as a recommendation made under subsection (d) of this section.

"(f)(1) In taking action to reduce unemployment in accord with the numerical goals and timetable established under section (b), every effort shall be made to reduce those differences between the rates of unemployment among youth, women minorities, handicapped persons, veterans, middle-aged and older persons and other labor force groups and the overall rate of unemployment which are caused by any improper factors with the ultimate objective of removing such differentials to the extent possible.

"(2) Insofar as the differences specified in the preceding paragraph are due to lack of training and skills, occupational practices, and other relevant factors, the Secretary of Labor shall—

"(A) take such action as practicable to achieve the objectives of this subsection;

"(B) make studies, develop information, and make recommendations toward remedying these differences in rates of unemployment, and include these in the annual Employment and Training Report of the President required under section 705(a) of the Comprehensive Employment and Training Act of 1973 (hereinafter in this Act referred to as 'CETA'); and

"(C) make recommendations, as deemed necessary, to the Congress related to the objectives of this paragraph.

"(g)(1) The term 'middle-aged and older persons' as used in this section includes any individual forty-five years of age or older.

"(2) For purposes of this subsection, the term 'veteran' shall mean the same as defined in section 2011(1) or (2)(A) of title 38, United States Code.

PROVISIONS APPLICABLE TO SHORT-TERM AND MEDIUM-TERM GOALS

SEC. 105. The Employment Act of 1946 is amended by adding a new section 5 as follows:

PROVISIONS APPLICABLE TO SHORT-TERM AND MEDIUM-TERM GOALS

"SEC. 5. (a) To aid in determining the short-term and medium-term goals for employment, production, real income, and prices, analysis shall be presented in the Economic Report with respect to major aspects of the appropriate composition or structure of each goal, and as to the appropriate apportionment of total national production among its major components (private investment, consumer expenditures, and public outlays) as affected by relative income flows and other factors, in order to promote balanced growth and a balanced Federal budget, reduce cyclical disturbances, and achieve the other purposes of this Act and the Full Employment and Balanced Growth Act of 1978.

(b) In choosing means to achieve the goal for the reduction of unemployment and choosing means to achieve the goal of reasonable price stability, those means which are mutually reinforcing shall be used to the extent practicable.".

NATIONAL PRIORITY POLICIES AND PROGRAMS REQUIRED FOR FULL EMPLOYMENT AND BALANCED GROWTH

SEC. 106. The Employment Act of 1946 is amended by adding a new section 6 as follows:

"NATIONAL PRIORITY POLICIES AND PROGRAMS REQUIRED FOR FULL EMPLOYMENT AND BALANCED GROWTH

"SEC. 6. To contribute to the achievement of the goals under the Full Employment and Balanced Growth Act of 1978, the President's Budget for each fiscal year beginning after the date of enactment of the Full Employment and Balanced Growth Act of 1978 shall include priority policies and programs, which shall include, to the extent deemed appropriate by the President, consideration of the following—

"(A) development of energy sources and supplies, transportation, and environmental improvement;

"(B) proper attention to the problems and needs of smaller businesses including (i) the availability of investment capital, management and technical expertise, and technology and labor needs, (ii) analysis of economic and social trends which may affect smaller businesses, (iii) government policies and programs (including agency regulations and excessive paperwork requirements) that may create undue hardship for or reduce the competitiveness of smaller businesses, and (iv) other policies and programs to remove barriers to competition and to strengthen and promote the creation and growth of smaller businesses;

"(C) development of a comprehensive national agricultural policy that assures—

"(i) production levels adequate to meet the nutritional needs of all Americans and respond to rising food requirements throughout the world;

"(ii) farm and ranch income at full parity levels that will improve opportunities for farm families encourage production, provides for essential capital investment in farming, and provide for farm prices at full parity in the market place;

"(iii) renewed commitment to the protection and conservation of rural land and water through support for improved conservation practices and research, and attention to agricultural land use in the formulation of plans for energy, water and mineral resources, transportation, and commercial, industrial, and residential development; and

"(iv) support for programs and public services designed to respond to the unique economic and social conditions of rural communities;

"(D) proper attention to the relationship between Federal programs and policies and the problems and needs of urban areas, including inner cities and the employment problems of their residents, especially youths;

"(E) proper attention to the quality and quantity of health care, education and training programs, child care and other human services, and housing, essential to a full employment economy and to moving toward their availability for all individuas at costs within their means;

"(F) policies concerning Federal aid to State and local governments, especially for public investment and unemployment related costs;

"(G) national defense and other needed international programs;

"(H) proper attention to the relationship between Federal grants, contracts, and procurement and the closure of military bases and other Federal facilities and the distribution of jobs and income among different regions of the Nation, and among urban, suburban, and rural areas;

"(I) Proper attention to balancing the Federal budget;

"(J) proper attention to the dislocation of jobs caused by Federal laws, regulations, and policies;

"(K) policies and programs designed to increase exports and improve the international competitive position of agriculture, business, and industry, including measures to promote a free and fair international trading system, a sound and stable international monetary system and innovation in agriculture, business, and industry; and

"(L) such other priority policies and programs as the President deems appropriate.".

THE PRESIDENT'S BUDGET

SEC. 107. The Employment Act of 1946 is amended by inserting a new section 7 as follows:

"THE PRESIDENT'S BUDGET

"SEC. 7. (a) The President's Budget shall recommend levels of outlays and receipts which shall be consistent with the short-term economic goals of section 3(a)(2)(A).

"(b) The President's Budget shall provide five-year projections of outlays and receipts consistent with the medium-term goals of section 4(b).

"(c) The principal elements in the President's Budget shall be set forth briefly in each Economic Report, toward the end of making clear the relationship between the President's Budget and the goals and policies set forth in such Economic Report. Both the expenditure and revenue elements of the President's Budget shall be developed to promote the purposes, policies, and goals of the Full Employment and Balanced Growth Act of 1978. The size of the President's expenditure and revenue proposals, and the relationships between such proposals, shall be determined in a manner which gives consideration to the needs of the economy and the people in the priority areas set forth in section 6, and the relationship between the President's expenditure and revenue proposals shall be guided accordingly.".

MONETARY POLICY

SEC. 108. (a) Section 2A of the Federal Reserve Act amended by striking out the second and third sentences and inserting in lieu thereof the following: "In furtherance of the purposes of the Full Employment and Balanced Growth Act of 1978, the Board of Governors of the Federal

Reserve System shall transit to the Congress, not later than February 20 and July 20 of each year, independent written reports setting forth (1) a review and analysis of recent developments affecting economic trends in the Nation; (2) the objectives and plans of the Board of Governors and the Federal Open Market Committee with respect to the ranges of growth or diminution of the monetary and credit aggregate for the calendar year during which the report is transmitted, taking account of past and prospective developments in employment, unemployment, production, investment, real income, productivity, international trade and payments, and prices; and (3) the relationship of the aforesaid objectives and plans to the short-term goals set forth in the most recent Economic Report of the President pursuant to section 3(a)(2)(A) of the Employment Act of 1946 and to any short-term goals approved by the Congress. In addition, as a part of its report on July 20 of each year, the Board of Governors shall include a statement of its objectives and plans with respect to the ranges of growth or diminution of the monetary and credit aggregates for the calendar year following the year in which the report is submitted. The reports required under the two preceding sentences shall be transmitted to the Congress and shall be referred in the Senate to the Committee on Banking, Housing, and Urban Affairs, and in the House of Representatives to the Committee on Banking, Finance and Urban Affairs. The Board shall consult with each such Committee on the reports and, thereafter, each such Committee shall submit to its respective body a report containing its views and recommendations with respect to the Federal Reserve's intended policies. Nothing in this Act shall be interpreted to require that the objectives and plans with respect to the ranges of growth or diminution of the monetary and credit aggregates disclosed in the reports submitted under this section be achieved if the Board of Governors and the Federal Open Market Committee determine that they cannot or should not be achieved because of changing conditions: *Provided*, That in the subsequent consultations with, and reports to, the aforesaid Committees of the Congress pursuant to this section, the Board of Governors shall include an explanation of the reasons for any revisions to or deviations from such objectives and plans.".

(b) The amendment made by subsection (a) takes effect on January 1, 1979.

OVERCOMING INFLATION

SEC. 109. The Employment Act of 1946 is amended by inserting a new section 8 as follows:

"OVERCOMING INFLATION

"SEC. 9. (a) The Congress hereby determines that the objective of achieving reasonable price stability as soon as feasible, as set forth in section 3(a)(3) and section 4(a), shall be pursued by the methods and subject to the requirements of section 5(b).

"(b) The Congress finds that sole dependence upon fiscal or monetary policies or both to combat inflation can exacerbate both inflation and unemployment. The Congress finds that the coordinated use of fiscal and monetary policies in conjunction with specific targeted policies are necessary to combat inflation.

"(c) The President shall initiate specific policies to reduce the rate of inflation, including recommendations to the Congress where necessary, and include recommendations within the Economic Report and the President's budget to the extent practicable. Structural policies to reduce the rate of inflation may include—

"(1) an effective information system to monitor and analyze inflationary trends in individual economic sectors, so that the President and Congress can be alerted to developing inflation problems especially those caused by bottlenecks inhibiting the flow of goods and services;

"(2) programs and policies for alleviating shortages of goods, services, labor, and capital, with particular emphasis on food, energy, and critical industrial materials to aid in stabilizing prices;

"(3) the establishment of stockpiles of agricultural commodities and other critical materials to help stabilize prices, meet emergency needs, and promote adequate income to producers;

"(4) encouragement to labor and management to increase productivity within the national framework of full employment through voluntary arrangements in industries and economic sectors;

"(5) recommendations to increase competition in the private sector and to improve the economic climate for the creation and growth of smaller businesses, including recommendations to strengthen and enforce the antitrust laws, the patent laws, and the internal revenue laws and regulations;

"(6) removal or proper modification of such Government restrictions and regulations as add unnecessarily to inflationary costs;

"(7) increasing exports and improving the international competitive position of agriculture, business, and industry;

"(8) such other administrative actions and recommendations for legislation as the President deems desirable, to promote reasonable price stability.".

COUNCIL OF ECONOMIC ADVISERS

SEC. 110. (a) Section 10 of the Employment Act of 1946 (as redesignated by section 104 of this Act) is amended—

(1) in the second sentence of subsection (a); by inserting "full" immediately after "promote";

(2) in subsection (c)(4), by inserting "including small and larger business" immediately after "enterprise" and by inserting "full" immediately after "maintain";

(3) in subsection (e)(1), by inserting immediately before the semicolon a comma and the following: "and shall consult with the board or boards established under section 9"; and

(4) in subsection (e), by inserting after paragraph (2) the following.

"In its work under this Act and the Full Employment and Balanced Growth Act of 1978, the Council is authorized and directed to seek and obtain the cooperation of the various executive and independent agencies in the development of specialized studies essential to its responsibilities.".

"ADVISORY BOARD OR BOARDS

SEC. 111. (a) The Employment Act of 1946 is amended by inserting a new section 9 as follows:

ADVISORY BOARD OR BOARDS

"SEC. 10 (a) An advisory board or boards (including regional advisory boards) may be established as the President deems appropriate, to advise and consult periodically with one or more of the following: The President, the Council of Economic Advisers, and such other departments and agencies of the executive branch of the Federal Government as the President shall determine.

"(b) Such advisory board or boards shall include appropriate representation of labor, small and larger businesses and industries, agriculture, consumers, State and local officials, and the public at large, and shall advise and consult with respect to matters related to this Act, the Full Employment and Balanced Growth Act of 1978, and other appropriate matters related to national economic programs and policies. The President shall, in accordance with applicable processions of law, take the steps necessary to provide appropriate compensation to the members of such advisory board or boards.".

TITLE II—STRUCTURAL ECONOMIC POLICIES AND PROGRAMS, INCLUDING TREATMENT OF RESOURCE RESTRAINTS

STATEMENT OF PURPOSE

SEC. 201. The Congress recognizes that general economic policies alone have been unable to achieve the goals set forth in this Act related to full employment, production, and real income, balanced growth, adequate growth in productivity, proper attention to national priorities, achievement of an improved trade balance through increased exports and improvement in the international competitiveness of agriculture, business, and industry, and achievement of reasonable price stability as provided for in section 5(b) of the Employment Act of 1946. It is, therefore, the purpose of this title to require the President to initiate, as the President deems appropriate, with recommendations to the Congress where necessary, supplementary programs and policies to the extent that the President finds such action necessary to help achieve these goals, including the goals and timetable for the reduction of unemployment. Insofar as feasible without undue delay, any policies and programs so recommended shall be included in the Economic Report.

COUNTERCYCLICAL EMPLOYMENT POLICIES

SEC. 202. (a) Any countercyclical efforts undertaken to aid in achieving the purposes of section 201 shall consider for inclusion the following programmatic entities:

(1) accelerated public works, including the development of standby public works projects;

(2) public service employment;

(3) State and local grant programs;

(4) the levels and duration of unemployment insurance;

(5) skill training in both the private and public sectors, both as a general remedy and as a supplement to unemployment insurance;

(6) youth employment programs as specified in section 205;

(7) community development programs to provide employment in activities of value to the States, local communities (including rural areas), and the Nation;

(8) Federal procurement programs which are targeted on labor surplus areas; and

(9) augmentation of other employment and training programs which would help to reduce high levels of unemployment arising from cyclical causes.

(b) In any countercyclical efforts undertaken, the President shall consider a triggering mechanism which will implement the program during a period of rising unemployment and phase out the program when unemployment is appropriately reduced, and incorporate effective means to facilitate individuals assisted under programs developed pursuant to this section to return promptly to regular private and public employment as the economy recovers.

COORDINATION WITH STATE AND LOCAL GOVERNMENT AND PRIVATE SECTOR ECONOMIC ACTIVITY

SEC. 203. (a) As an integral part of any countercyclical employment policies undertaken in accord with section 202, the President shall, to the extent the President deems necessary, set forth programs and policies, including recommended legislation where needed, to coordinate economic action among the Federal Government, regions, States and localities, and the private sector to promote achievement of the purposes of this Act and the Employment Act of 1946 and an economic environment in which State and local governments and private sector economic activity and employment will prosper. In considering programs and policies related to the private sector, full consideration shall be given to promoting the growth and well-being of small businesses and employment training programs through private sector incentives.

(b) In any efforts under this section, the President shall endeavor to meet criteria that establish programs which are funded to take account of the fiscal needs and budget conditions of the respective States and localities and their own efforts, with special attention to the rates of unemployment in such States and localities.

REGIONAL AND STRUCTURAL EMPLOYMENT POLICIES

SEC. 204. (a) To the extent deemed appropriate by the President in fulfillment of the purposes of section 201, the President shall recommend legislation to the Congress if necessary, regional and structural employment policies and programs.

(b) In formulating the regional components of any such programs, the President shall encourage to the extent the President deems necessary, new private sector production and employment to locate within depressed localities and regions with substantial unemployment and to aid in stabilizing their economic base. To the extent feasible, such policies and programs shall foster the establishment and growth of smaller businesses in such localities and regions. Any regional employment proposal of the President shall also include an analysis of the extent to which Federal tax, expenditure (including procurement of goods and services), defense, transportation, energy, natural resources and employment policies have influenced the movement of people, jobs, and small and larger business and industries from chronic high unemployment regions and areas, and proposals designed to correct Federal policies that have an adverse economic impact upon such regions and areas.

YOUTH EMPLOYMENT POLICIES

SEC. 205. (a) The Congress finds and declares—

(1) That serious unemployment and economic disadvantage of a unique nature exist among youths even under generally favorable economic conditions;

(2) that this group constitutes a substantial portion of the Nation's unemployment, and that this significantly contributes to crime, alcoholism and drug abuse, and other social and economic problems; and

(3) that many youths have special employment needs and problems which, if not promptly addressed, will substantially contribute to more severe unemployment problems in the long run.

(b) To the extent deemed necessary in fulfillment of the purposes of this Act, the President shall improve and expand existing youth employment programs, recommending legislation where required. In formulating any such program, the President shall—

(1) include provisions designed to fully coordinate youth employment activities with other employment and training programs;

(2) develop a smoother transition from school to work;

(3) prepare disadvantaged and other youths with employability handicaps for regular self-sustaining employment;

(4) develop realistic methods for combining training with work; and

(5) develop provisions designed to attract structurally unemployed youth into productive full-time employment through incentives to private and independent sector businesses;

JOB TRAINING, COUNSELING AND RESERVOIRS OF EMPLOYMENT PROJECTS

SEC. 206. (a) Further to promote achievement of full employment under this Act and the Employment Act of 1946, the President, through the Secretary of Labor, shall develop policies and procedures and, as necessary, recommend programs for providing employment opportunities to individuals aged 16 and over in the civilian labor force who are able, willing, and seeking to work but who, despite serious efforts to obtain employment, remain unemployed.

(b) In meeting the responsibilities under subsection (a), the Secretary of Labor shall, as appropriate, fully utilize the authority provided under CETA and other relevant provisions of law to—

(1) assure the availability of counseling, training, and other support activities necessary to prepare persons willing and seeking work for employment (including use of section 110 of CETA when necessary);

(2) refer persons able, willing, and seeking to work to job opportunities in the private and public sectors through the existing public unemployment placement facilities and through the United States Employment Service of the Department of Labor, including job opportunities in any positions created under programs established pursuant to sections 202, 204, and 205 of this Act; and

(3) encourage flexi-time and part-time jobs for persons who are able, willing, and seeking employment but who are unable to work a standard workweek. (c)(1) To the extent that individuals aged sixteen and over and able, willing, and seeking to work are not and in the judgment of the President cannot be provided with private job opportunities or job opportunities under other programs and actions in existence, in accord with the goals and timetables set forth in the Employment Act of 1946, the President shall, as may be authorized by law, establish reservoirs of public employment and private nonprofit employment projects, to be approved by the Secretary of Labor, through expansion of CETA and other existing employment and training projects or through such new programs as are determined necessary by the President or through both such projects and such programs.

(2) New programs as may be authorized by law after the date of enactment of this Act referred to in paragraph (c)(1)—

(A) shall not be put into operation earlier than two years after the enactment of this Act, nor without a finding by the President, transmitted to the Congress, that other means of employment are not yielding enough jobs to be consistent with attainment of the goals and timetables for the reduction of unemployment set forth in the Employment Act of 1946;

(B) shall be designed so that no workers from private employment are drawn into the reservoir projects thereunder;

(C) shall be useful and productive jobs;

(D) shall be mainly in the lower ranges of skills and pay, and toward this end the number of reservoir jobs under such new programs shall, to the extent practicable, be maximized in relationship to the appropriations provided for such jobs;

(E) shall be targeted on areas of high unemployment and on individuals who are structurally unemployed;

(F) shall be phased in by the President as necessary, in conjunction with the employment goals under sections 3(a)(2) and 4(b) of the Employment Act of 1946.

(d) The Secretary, in carrying out the provisions of this section, shall establish regulations providing for—

(1) an initial determination of the job seeker's ability to be employed at certain types and duration of work, so that such individual may be appropriately referred to jobs, training, counseling, and other supportive services;

(2) compliance with the nondiscrimination provisions of this Act in accordance with section 401;

(3) appropriate eligibility criteria to determine the order of priority of access of any person to any new programs under subsection (c) as may be authorized by law including but not necessarily limited to (A) household income, duration of unemployment (not less than five weeks), and the number of people economically dependent upon such person; and (B) denial of access to any person refusing to accept or hold a job except for good cause, as determined by the Secretary of Labor, including refusal to accept or hold a job subject to reference under subsection (b) paragraph (2), in order to seek a reservoir project job under subsection (c); and

(4) such administrative appeal procedures as may be appropriate to review the initial determination of the abilities of persons willing, able, and seeking to work under paragraph (1) of this subsection and the employment need and eligibility under paragraph (3) of this subsection.

CAPITAL FORMATION—PRIVATE AND PUBLIC

SEC. 207. (a) The Congress finds that—

(1) promotion of full employment and balanced growth is in itself a principal avenue to high and sustained rates of capital formation;

(2) high rates of capital formation are necessary to ensure adequate rates of capacity expansion and productivity growth, compliance with governmental health, safety and environmental standards, and the replacement of obsolete production equipment.

(3) the ability of our economy to compete successfully in international markets, the development of new technology, improved working conditions, expanding job opportunities, and an increasing standard of living depend on the availability of adequate capital at reasonable cost to commerce and industry;

(4) an important goal of national policy shall be to remove obstacles to the free flow of resources into new investment, particularly those obstacles that hinder the creation and growth of smaller businesses because general national programs and policies to aid and stimulate private enterprise are not sufficient to deal with the special problems and needs of smaller businesses; and

(5) which private business firms are, and should continue to be, the major source of investment, the investment activities of the Federal, State, and local governments play an important role in affecting the level of output, employment, and productivity and in achieving other national purposes.

(b) The Economic Report shall include an Investment Policy Report which shall, as appropriate, (1) review and assess existing Federal government programs and policies which affect business investment decisions, including, but not limited to, the relevant aspects of the tax code, Federal expenditure policy, Federal regulatory policy, international trade policy, and Federal support for research, development, and diffusion of new technologies; (2) provide an assessment of the levels of investment capital available, required by, and applied to small, medium and large business entities; (3) provide an analysis of current and foreseeable trends in the level of investment capital available to such entities; and (4) provide a description of programs and proposals for carrying out the policy set forth in section 102(j). In addition, the Economic Report shall include an assessment of the effect of the overall economic policy environment and the rate of inflation on business investment. The President shall recommend in the President's Budget, as appropriate, new programs or modifications to improve existing programs concerned with private capital formation. The President shall also transmit to the Congress as part of the Persident's Budget such other recommendations as the President may deem necessary, or desirable to achieve the policy as set forth in section 102(i). The Investment Policy Report, when transmitted to the Congress, shall be referred to the Joint Economic Committee.

(c) The Economic Report referred to in subsection (b) shall review and assess Federal policies and programs which directly, or through grants-in-aid to State and local governments, or indirectly through other means, affect the adequacy, composition and effectiveness of public investments, as a means of achieving the goals of this Act and the Employment Act of 1946. The President shall recommend, as appropriate, new programs and policies or modifications to improve existing Federal programs affecting public investment.

TITLE III—POLICIES AND PROCEDURES FOR CONGRESSIONAL REVIEW

STATEMENT OF PURPOSE

SEC. 301. (a) The purposes of this title are to establish procedures for congressional review and action with respect to the Economic Report of the President (hereafter in this title referred to as the "Economic Report"), the report of the Board of Governors of the Federal Reserve System, and the other policies and provisions of this Act and the Employment Act of 1946.

(b) The Congress shall initiate or develop such legislation as it deems necessary to implement proposals and objectives pursuant to this Act and the Employment Act of 1946 after such modification in such proposals as it deems desirable. Nothing in this title shall be construed to prevent the Congress or any of its committees from considering or initiating at any time legislative action in furtherance of the goals and purposes of this act.

COMMITTEE REVIEW

SEC. 302. (a) In conjunction with its review of the Economic Report, and the holding of hearings on the Economic Report under the Employment Act of 1946, the Joint Economic Committee shall review and analyze the short-term and medium-term goals set forth in the Economic Report pursuant to sections 3(a)(2) and 4(b) of the Employment Act of 1946 (as amended by sections 103 and 104 of this Act).

(b) The Joint Economic Committee shall hold hearings on the Economic Report for the purpose of receiving testimony from Members of the Congress, and such appropriate representatives of Federal departments and agencies, the general public, and interested groups as the joint committee deems advisable. The joint committee shall also consider the comments and views on the Economic Report which are received from State and local officials.

(c) Within thirty days after receipt by the Congress of the Economic Report, each standing committee of the Senate and the House of Representatives, each other committee of the Senate and the House of Representatives which has legislative jurisdiction, and each joint committee of the Congress may submit to the Joint Economic Committee, for use by the Joint Economic Committee in conducting its review and analysis under subsection (a), a report containing the views and recommendations of the submitting committee with respect to aspects of the Economic Report which relate to its jurisdiction.

(d) On or before March 15 of each year, a majority of the members of the Joint Economic Committee shall submit a report to the Committee on the Budget of the Senate and the House of Representatives. Such report shall include findings, recommendations, and any appropriate analyses with respect and in direct comparison to each of the short-term and medium-term goals set forth in the Economic Report.

REVIEW OF ECONOMIC REPORT AS PART OF CONGRESSIONAL BUDGET PROCESS

SEC. 303. (a) Section 301(c) of the Congressional Budget Act of 1975 is amended—

(1) by inserting after the first sentence the following new sentences: "Each of the recommendations as to short-term and medium-term goals set forth in the report submitted by the members of the Joint Economic Committee under subsection (c) may be considered by the Committee on the Budget of each House as part of its consideration of such concurrent resolution, and its report may reflect its views thereon, and on how the estimates of revenues and levels of budget authority and outlays set forth in such concurrent resolution are designed to achieve any goals it is recommending."; and

(2) by inserting "also" after "shall" in the last sentence.

(b) Section 305(a) of such Act is amended—

(1) by inserting before the period at the end of the first sentence of pargaraph (2) a comma and "plus such additional hours of debate as are consumed pursuant to paragraph (3)";

(2) by redesignating paragraphs (3) through (6) as paragraphs (6) through (9) respectively; and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) Following the presentation of opening statements on the first concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the House, there shall be a period of up to four hours for debate on economic goals and policies.

"(4) Only if a concurrent resolution on the budget reported by the Committee on the Budget of the House sets forth the economic goals (as described in sections 3(a)(2) and 4(b) of the Full Employment Act of 1946) which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to differ to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.".

(c) Section 305(b) of such Act is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (6) and (7), respectively; and

(2) by inserting after paragraph (2) the following new paragraphs:

"(3) Following the presentation of opening statements on the first concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the Senate, there shall be a period of up to four hours for debate on economic goals and policies.

"(4) Only if a concurrent resolution on the budget reported by the Committee on the Budget of the Senate sets forth the economic goals (as described in sections 3(a)(2) and 4(b) of the Employment Act of 1946), which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.".

MODIFICATION OF TIMETABLE FOR ACHIEVING UNEMPLOYMENT GOALS

SEC. 304 (a) Section 301(a) of the Congressional Budget Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (5); and

(2) by renumbering paragraph (6) as (7) and inserting after paragraph (5) the following new paragraph:

"(6) if required by subsection (e), the calendar year in which, in the opinion of the Congress, the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946 should be achieved; and".

(b) Section 301 of such Act is amended by adding at the end thereof the following new subsection:

"(e) ACHIEVEMENT OF GOALS FOR REDUCING UNEMPLOYMENT.—

"(1) If, pursuant to section 4(c) of the Employment Act of 1946, as amended, the President recommends in the Economic Report that the goals for reducing unemployment set for in section 4(b) of such Act be achieved in a year after the close of the five-year period prescribed by such subsection, the first concurrent resolution on the budget for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

"(2) After the Congress has expressed its opinion pursuant to paragraph (1) as to the year in which the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946, as amended, can be achieved, if, pursuant to section 4(e) of such Act, the President recommends in the Economic Report that such goals be achieved in a year which is different from the year in which the Congress has expressed its opinion such goals should be achieved, either in its action pursuant to paragraph (1) or its most recent action pursuant to this paragraph, the first concurrent resolution on the budget for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

"(3) It shall be in order to amend the provision of such resolution setting forth such year only if the amendment thereto also proposes to alter the estimates, amounts, and levels (as described ih section 301(a)) set forth in such resolution in germane fashion in order to be consistent with the economic goals (as described in sections 3(a)(2) and 4(b) of the Employment Act of 1946) which such amendment proposes can be achieved by the year specified in such amendment.".

EXERCISE OF RULEMAKING POWERS

SEC. 105. (a) The provisions of this title and the amendments made by such provisions are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House), at any time, in the same manner and to the same extent as in the case of any other rule of such House.

TITLE IV—GENERAL PROVISIONS

NONDISCRIMINATION

SEC. 401. (a) No person in the United States shall on the ground of sex, age, race, color, religion, national origin or handicap be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded pursuant to the implementation of this Act, including membership in any structure created by this Act.

(b) Whenever the Secretary of Labor determines that a recipient of funds made available pursuant to this Act has failed to comply with subsection (a), or an applicable regulation, the Secretary shall notify the recipient of the noncompliance and shall request such recipient to secure compliance. If within a reasonable period of time, not to

exceed sixty days, the recipient fails or refuses to secure compliance, the Secretary of Labor may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); or

(3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever the Attorney General has reason to believe that a recipient is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in the appropriate United States district court for any and all appropriate relief.

(d) To assist and evaluate the enforcement of this section, and the broader equal employment opportunity policies of this Act, the Secretary of Labor shall include, in the annual Employment and Training Report of the President provided under section 705(a) of CETA, a detailed analysis of the extent to which the enforcement of this section achieves positive results in both the quantity and quality of jobs, and for employment opportunities generally.

LABOR STANDARDS

SEC. 402. (a) Any new program enacted and funded pursuant to the implementation of this Act shall, subject to any limitations on maximum annual compensation as may be provided in the law authorizing such programs, provide that persons employed are paid equal wages for equal work, and that such policies and programs create a net increase in employment through work that would not otherwise be done or are essential to fulfill national priority purposes.

(b) Any person employed in any reservoir project enacted and funded pursuant to the implementation of section 206(c)(1), or in any other job created pursuant to implementation of this Act shall, subject to any limitations on maximum annual compensation as may be provided in the law authorizing such programs, be paid not less than the pay received by others performing the same type of work for the same employer, and in no case less than the minimum wage under the Fair Labor Standards Act of 1938. No person employed in any reservoir project enacted and funded pursuant to implementation of section 206(c)(1) shall perform work of the type to which the Davis-Bacon Act (40 U.S.C. 276a—276a-5) applies, except as otherwise may be specifically authorized by law.

(c) Any recommendation by the President for legislation to implement any program enacted pursuant to the provisions of this Act, requiring the use of funds under this Act, and submitted pursuant to the requirements of this Act, shall contain appropriate wage provisions based upon existing wage standard legislation.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed—I do this on behalf of Mr. LONG—to the consideration of Calendar Order No. 1199, H.R. 7108, on page 21.

SEVERAL SENATORS. Reserving the right to object——

The PRESIDING OFFICER. Reservation is heard to the unanimous-consent request.

The Senator from Oregon.

Mr. MARK O. HATFIELD. Mr. President, I wonder if we could have a listing of these numbers by the title.

Mr. ROBERT C. BYRD. Yes. This is an act to amend the tariff schedules of the United States in order to suspend the duty on Yankee Dryer Cylinders until the close of December 31, 1981.

Several Senators addressed the Chair.

Mr. HEINZ. I object.

Mr. WEICKER. I object.

The PRESIDING OFFICER. Objection is heard to the unanimous-consent request.

Mr. ROBERT C. BYRD. I yield to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS addressed the Chair.

The PRESIDING OFFICER. Will the Members clear the aisles? The Chair will ask the Members and the Senator from New Jersey to suspend until we get order in the Chamber.

I think if we could get a semblance of order, we could proceed expeditiously with our business at this late hour.

Will Members please take their seats? Will the conversations be moved to the rear of the Chamber or the cloakroom?

The Chair would point out that the conversations taking place immediately in front of the Senate should cease.

The Senator from New Jersey.

PREGNANCY DISABILITY—CONFERENCE REPORT

Mr. WILLIAMS. Mr. President, I submit a report of the committee of conference on S. 995 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 995) to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

Mr. STEVENS. Mr. President, will the Senator yield for an inquiry?

Mr. WILLIAMS. I yield.

Mr. STEVENS. Is the minority manager of the bill present?

Mr. WILLIAMS. Senator Javits is on the floor, yes.

Mr. JAVITS. Mr. President, I am the ranking minority Member, and I was told that there was a hold, one or more, on this side of the aisle—at least three. We thought we had dispelled one of them, but only the attachés can tell us the situation with respect to the others.

Mr. WILLIAMS. May I respond?

Mr. STENNIS. Mr. President, I have to make a point of order. We cannot hear what is going on. Until order can be restored, I ask the Chair to suspend.

The PRESIDING OFFICER. The Senator from Mississippi is absolutely correct, and the Chair appreciates his making the point.

We do not have order in the Chamber. Will Senators please clear the aisles?

The Senator from New Jersey.

Mr. WILLIAMS. I yielded to the Senator from Alaska for a question.

Mr. STEVENS. There was an understanding that there was no time agreement and that the matter had been objected to, on this side, with respect to being taken up at this time. Unless I am mistaken, there is no unfinished business, and this becomes the pending business, without a time agreement. We should establish it right now, with so many people feeling strongly about this.

Mr. WILLIAMS. Will the Senator yield?

Mr. STEVENS. I yield.

Mr. WILLIAMS. There were three reservations on this. I have spoken to two Members who had reservations, and they have told me that they have no objection to bringing it up. The third is a host of an activity close by, and I understood that he was being talked to about this and that his reservation was as the other two were—it was not a reservation that would delay consideration of this conference report.

Mr. STEVENS. I thank the Senator for his courtesy. I do think this is going to lead us to longer hours. I had hoped we might get a time agreement.

I thank the Senator for his courtesy.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. STEVENS. There is no unanimous-consent request; is there?

Mr. ROBERT C. BYRD. The Senator asked to lay the matter before the Senate.

Mr. STEVENS. I thought it was a privileged matter.

Mr. ROBERT C. BYRD. But there can be an objection.

Mr. STEVENS. It is my understanding that there is no pending business.

Mr. ROBERT C. BYRD. If there is an objection, it is not debatable.

Mr. JAVITS. Mr. President, may I make a suggestion? It concerns a Member who is across the hall. Could we wait 10 minutes, and I will talk to him?

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina.

INTERNATIONAL MARITIME SATELLITE TELECOMMUNICATIONS ACT

Mr. HOLLINGS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 11209.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House recede from its disagreement to the amendment of the Senate to the bill (H.R. 11209) entitled "An Act to provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services", and concur therein with the following amendment:

In lieu of the matter inserted by the said amendment, insert:

That the Communications Satellite Act of 1962 is amended by adding at the end thereof the following new title:

"TITLE V—INTERNATIONAL MARITIME SATELLITE TELECOMMUNICATIONS

"SHORT TITLE

"SEC. 501. This title may be cited as the 'International Maritime Satellite Telecommunications Act'.

"DECLARATION OF POLICY AND PURPOSE

"SEC. 502. (a) The Congress hereby declares that it is the policy of the United States to provide for the participation of the United States in the International Maritime Satellite Organization (hereinafter in this title referred to as 'INMARSAT') in order to develop and operate a global maritime satellite telecommunications system. Such system shall have facilities and services which will serve maritime commercial and safety needs of the United States and foreign countries.

"(b) It is the purpose of this title to provide that the participation of the United States in INMARSAT shall be through the Communications Satellite Corporation, which constitutes a private entity operating for profit, and which is not an agency or establishment of the Federal Government.

"DESIGNATED OPERATING ENTITY

"SEC. 503. (a)(1) The Communications Satellite Corporation is hereby designated as the sole operating entity of the United States for participation in INMARSAT, for the purpose of providing international maritime satellite telecommunications services.

"(2) The corporation also shall have authority to participate in any other maritime satellite telecommunications system on an interim basis to serve the maritime commercial and safety needs of the United States through an interim operating arrangement in accordance with subsection (b).

"(3) The corporation may participate in and is hereby authorized to sign the operating agreement or other pertinent instruments of INMARSAT as the sole designated operating entity of the United States.

"(b)(1) The corporation may participate in any maritime satellite telecommunications system under subsection (a)(2) only if—

"(A) the corporation signs the operating agreement of INMARSAT before beginning such participation;

"(B) such participation is in the nature of an interim operating arrangement remaining in effect only until INMARSAT begins its operations; and

"(C)(i) in the case of participation which may be undertaken only pursuant to a treaty or executive agreement, such treaty or executive agreement is in effect; or

"(ii) in any case in which participation does not require any treaty or executive agreement, the President does not disapprove such participation during the period of 60 calendar days after the corporation notifies the President of such proposed participation.

"(2) If the corporation participates in an interim operating arrangement with a maritime satellite telecommunications system under this subsection, the provisions of this title relating to participation of the corporation in INMARSAT also shall apply to such interim participation.

"(3) Any disapproval by the President under paragraph (1)(C)(ii) shall be published in the Federal Register as soon as practicable after the date of such disapproval.

"(c) The Corporation—

"(1) may own and operate satellite earth terminal stations in the United States;

"(2) shall interconnect such stations, and the maritime satellite telecommunications provided by such stations, with the facilities and services of United States domestic common carriers and international common carriers, other than any common carrier or other entity in which the corporation has any ownership interest, as authorized by the Commission;

"(3) shall interconnect such stations and the maritime satellite telecommunications provided by such stations, with the facilities and services of private communications systems, unless the Commission finds that such interconnection will not serve the public interest; and

"(4) may establish, own, and operate the United States share of the jointly owned international space segment and associated ancillary facilities.

"(d) The corporation shall be responsible for fulfilling any financial obligation placed upon the corporation as a signatory to the operating agreement or other pertinent instruments, and any other financial obligation which may be placed upon the corporation as the result of a convention or other instrument establishing INMARSAT. The corporation shall be the sole United States representative in the managing body of INMARSAT.

"(e)(1) Any person, including the Federal Government or any agency thereof, may be authorized, in accordance with paragraph (2) or paragraph (3), to be the sole owner or operator, or both, of any satellite earth terminal station if such station is used for the exclusive purposes of training personnel in the use of equipment associated with the operation and maintenance of such station, or in carrying out experimentation relating to maritime satellite telecommunications services.

"(2) If the person referred to in paragraph (1) is the Federal Government or any agency thereof, such satellite earth terminal station shall have been authorized to operate by the executive department charged with such responsibility.

"(3) In any other case, such satellite earth terminal station shall have been authorized by the Commission.

"(f) The Commission may authorize ownership of satellite earth terminal stations by persons other than the corporation at any time the Commission determines that such additional ownership will enhance the provision of maritime satellite services in the public interest.

"(g) The Commission shall determine the operational arrangements under which the corporation shall interconnect its satellite earth terminal station facilities and services with United States domestic common carriers and international common carriers, other than any common carrier, system, or other entity in which the corporation has any ownership interest, and private communications systems when authorized pursuant to subsection (c)(3) for the purpose of extending maritime satellite telecommunications services within the United States and in other areas. The initial determination of operational arrangements shall be made by the Commission no later than 6 months after the effective date of this title, and the Commission shall thereupon transmit to the Congress a report relating to such determination.

"(h) Notwithstanding any provision of State law, the articles of incorporation of the corporation shall provide for the continued ability of the board of directors of the corporation to transact business under such circumstances of national emergency as the President or his delegate may determine would not permit a prompt meeting of the number of directors otherwise required to transact business.

"IMPLEMENTATION

"SEC. 504. (a) The Secretary of Commerce shall—

"(1) coordinate the activities of Federal agencies with responsibilities in the field of telecommunications (other than the Commission), so as to ensure that there is full and effective compliance with the provisions of this title;

"(2) take all necessary steps to ensure the availability and appropriate utilization of the maritime satellite telecommunications services provided by INMARSAT for general governmental purposes, except in any case in which a separate telecommunications system is required to meet unique governmental needs or is otherwise required in the national interest;

"(3) exercise his authority in a manner which seeks to obtain coordinated and efficient use of the electromagnetic spectrum and orbital space, and to ensure the technical compatibility of the space segment with existing communications facilities in the United States and in foreign countries; and

"(4) take all necessary steps to determine the interests and needs of the ultimate users of the maritime satellite telecommunications system and to communicate the views of the Federal Government on utilization and user needs to INMARSAT.

"(b) The President shall exercise such supervision over, and issue such instructions to, the corporation in connection with its relationships and activities with foreign governments, international entities, and INMARSAT as may be necessary to ensure that such relationships and activities are consistent with the national interest and foreign policy of the United States.

"(c) The Commission shall—

"(1) institute such proceedings as may be necessary to carry out the provisions of section 503 of this title;

"(2) make recommendations to the President for the purpose of assisting him in his issuance of instructions to the corporation;

"(3) grant such authorizations as may be necessary under title II and title III of the Communications Act of 1934 to enable the corporation—

"(A) to provide to the public, in accordance with section 503(c)(2) of this title, space segment channels of communication obtained from INMARSAT; and

"(B) to construct and operate such satellite earth terminal stations in the United States as may be necessary to provide sufficient access to the space segment;

"(4) grant such other authorizations as may be necessary under title II and title III of the Communications Act of 1934 to carry out the provisions of this title;

"(5) establish procedures to provide for the continuing review of the telecommunications activities of the corporation as the United States signatory to the operating agreement or other pertinent instruments; and

"(6) prescribe such rules as may be necessary to carry out the provisions of this title.

"(d) The Commission is authorized to issue instructions to the corporation with respect to regulatory matters within the jurisdiction of the Commission. In the event an instruction of the Commission conflicts with an instruction of the President pursuant to subsection (b), the instructions issued by the President shall prevail.

"STUDY OF STRUCTURE AND ACTIVITIES OF COMMUNICATIONS SATELLITE CORPORATION

"SEC. 505. (a) The Commission shall conduct a study of the corporate structure and operating activities of the corporation, with a view toward determining whether any changes are required to ensure that the corporation is able to effectively fulfill its obligations and carry out its functions under this Act and the Communications Act of 1934.

"(b) The Commission shall transmit a report to the Congress not later than 18 months after the effective date of this title relating to the study of the corporation conducted under subsection (a). Such report shall contain a detailed statement of the findings and conclusions of such study, any action taken by the Commission related to such findings and conclusions, and any recommendations of the Commission for such legislative or other action as the Commission considers necessary or appropriate.

"STUDY OF PUBLIC MARITIME COAST STATION SERVICES

"SEC. 506. (a) The Commission shall conduct a study of public maritime coast station services, with particular emphasis on high seas services, with a view toward determining whether the rules and regulations of the Commission and the assignment of licenses and radio frequencies in effect on the effective date of this title should be subject to any alteration in order to establish a systematic approach for the provision of modern and effective maritime telecommunications systems.

"(b) The Commission shall transmit a report to the Congress not later than 12 months after the effective date of this title relating to the study of public maritime coast station services conducted under subsection (a). Such report shall contain a detailed statement of the findings and conclusions of such study, any action taken by the Commission related to such findings and conclusions, and any recommendations of the Commission for such legislative or other action as the Commission considers necessary or appropriate.

"STUDY OF RADIO NAVIGATION SYSTEMS

"SEC. 507. (a) The President, in conjunction with Government agencies which will or may be affected by the development of a Government-wide radio navigation plan, shall conduct a study of all Government radio navigation systems to determine the most effective manner of reducing the proliferation and overlap of such systems. The objective of such study shall be the development of such a plan.

"(b) The President shall transmit a report to the Congress no later than 12 months after the effective date of this title relating to the study conducted under subsection (a) of this section. Such report shall contain a detailed statement of the findings and conclusions of such study, any action taken by the President related to such findings and conclusions, and any recommendations of the President for such legislation or other action as the President considers necessary or appropriate for implementation of a Government-wide radio navigation plan.

"DEFINITIONS

"SEC. 508. For purposes of this title—

"(1) the term 'person' includes an individual, partnership, association, joint stock company, trust, or corporation;

"(2) the term 'satellite earth terminal station' means a complex of communications equipment located on land, operationally interconnected with one or more terrestrial communications systems, and capable of transmitting telecommunications to, or receiving telecommunications from, the space segment;

"(3) the term 'space segment' means any satellite (or capacity on a satellite) maintained under the authority of INMARSAT, for the purpose of providing international maritime telecommunications services, and the tracking, telemetry, command, control, monitoring, and related facilities and equipment required to support the operation of such satellite; and

"(4) the term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.".

Mr. STEVENS. Mr. President, there is no objection. The matter has been cleared, and I hope the Senate will proceed expeditiously.

Mr. HOLLINGS. Mr. President, H.R. 11209 provides for the establishment, ownership, operation, and regulation of international maritime satellite telecommunications services. It designates COMSAT as the U.S. participant in the international maritime satellite organization (INMARSAT) which is likely to be created to develop and operate an international maritime satellite system.

H.R. 11209 as passed by the House, and as originally amended by the Senate, were different in several respects but both bodies have now reached a compromise agreement. The compromise agreement accomplishes the following objectives: First, declares the intent of Congress to be the U.S. participant through a private entity in INMARSAT to serve the maritime commercial and safety needs of the United States and foreign countries; second, designates the Communications Satellite Corporation (COMSAT) as the U.S. entity to provide maritime satellite communications as a participating carrier; third, authorizes COMSAT to be the sole owner and operator of any satellite Earth terminal stations in the United States unless the FCC decides that ownership by others as well proves to be in the public interest; fourth, requires COMSAT to serve as a participating common carrier subject to the Communications Act of 1934 and connect its facilities with other domestic, and international carriers; fifth, requires COMSAT to connect its facilities with those of private communications system unless the FCC finds that such interconnection will not serve the public interest; sixth, authorizes the President to issue instructions to COMSAT, with respect to its dealings with foreign entities and INMARSAT, or matters relating to foreign policy and the national interest; seventh, authorizes the Secretary of Commerce to undertake several responsibilities including coordination of the activities of Federal agencies with responsibilities in the field of telecommunications; and eighth, requires the Commission to initiate proceedings necessitated by the bill and to conduct certain studies. The navigation study is not intended to preclude consideration of any possible methods of providing navigation assistance, but rather to insure the most effective, coordinated and efficient system.

This bill represents a bipartisan effort between the minority and majority Members, and between the House and the Senate, to reach an accommodation without need for a conference. It is a good effort to balance competition and monopoly in the public interest. The bill is needed soon so that the United States can sign the operating agreement and assist in the formation of the INMARSAT organization.

Mr. President, I yield to our distinguished friend on the minority side, who really was the moving party in our Commerce Committee on this international maritime satellite.

Mr. STEVENS. Mr. President, I join with gratitude in the kind comments of the Senator from South Carolina. I join him in supporting the version of the bill that is before the Senate now, and I urge its adoption.

Mr. HOLLINGS. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

PREGNANCY DISABILITY—CONFERENCE REPORT

The Senate continued with the consideration of the Conference Report on S. 995.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. STEVENS. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. I thank the Senator from New Jersey for his courtesy. It is my understanding that the matter has been resolved. I appreciate his delaying the matter so that it could be resolved.

Mr. WILLIAMS. Thank you. We will now proceed with the conference report on S. 995.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. WILLIAMS. Mr. President, it is with considerable pride and pleasure that I bring before the Senate the conference report on the pregnancy disability bill (S. 995). As my colleagues know, this legislation will amend title VII of the Civil Rights Act of 1964 to overcome the decision of the Supreme Court in the Gilbert against General Electric case.

In that decision, the Court held that the Civil Rights Act did not prohibit employers from denying equal health insurance and disability benefits to women who became medically disabled as a result of pregnancy or related conditions.

That decision was contrary to what I believe was the intended effect of title VII of the Civil Rights Act—to protect all individuals from sex discrimination in employment—including women with medical disabilities resulting from pregnancy or related medical conditions.

Because of the Supreme Court's decision in the Gilbert case, this legislation is necessary to provide fundamental protection against sex discrimination for our Nation's 42 million working women. This protection will go a long way toward insuring that American women are permitted to assume their rightful place in our Nation's economy.

In addition to providing protection to working women with regard to fringe benefit programs, such as health and disability insurance programs, this legislation will prohibit other employment policies which adversely affect pregnant workers.

These policies include: Refusal to hire or promote pregnant women, termination of pregnant women; mandatory leave for pregnant women arbitrarily established at a certain time during their pregnancy and not based on their inability to work: Reinstatement rights, including credit for previous service and accrued retirement benefits; and accumulated seniority. Some of these rights have already

been accorded women in cases decided under the present language of the Civil Rights Act. Regarding seniority, for example, the Supreme Court recently held in the Satty case that denying seniority to absent pregnant employees during leaves as well as denying competitive seniority for job bidding when they return, does impose a substantial burden on women and is, therefore, prohibited by title VII. This legislation, then, will insure that favorable decisions such as the decision with regard to seniority in the Satty case, will be preserved, as well as insuring that other forms of sex discrimination against women affected by pregnancy will not be permitted.

On the other hand, I would like to emphasize that employers will not be required to discontinue programs which recognize, on a nondiscriminatory basis, necessary adjustments which families must make in their living and working schedules on the arrival of new children in the family. Several employers have made inquiries to the committee regarding the validity of voluntary maternity leaves, which permit women to take leaves of absence from work for the purposes of preparing for and caring for their infants. These practices are certainly beneficial to American families, and we would not like to see them unnecessary curtailed.

The legislation would require only that the opportunity to take a parenthood leave to meet the requirements of childcare during early infancy be provided on a nondiscriminatory basis. Thus, it would be equally as valid to permit a man to take a voluntary leave for the purposes of childcare as it would be to permit a woman who had recently given birth to take a voluntary leave for that purpose.

The most difficult issue which arose in the consideration of this legislation concerned the issue of medical insurance coverage for abortion procedures. The House-passed bill included a provision which would have excluded health insurance benefits, sick leave benefits, and disability leave benefits for abortions altogether, except where the life of the mother would be endangered if the fetus were carried to term, or in case of complications. The legislation which passed this body included no such provision.

After lengthy debate and discussion of this difficult issue, the conferees have adopted a compromise which requires the provision of sick leave and disability benefits in connection with an abortion on the same basis as for any other illness or disabling condition.

On the other hand, employers are not in any case required to provide health insurance benefits for the performance of the abortion procedure itself, except where the life of the mother would be endangered if the fetus were carried to term, or except where medical complications have arisen from an abortion.

I have been very sensitive to the deep concern voiced by opponents of abortion, that some employers might be required by this legislation to pay for an abortion procedure under circumstances where it would be contrary to their religious beliefs. Shortly after I introduced this legislation last year, I received correspondence from the National Conference of Catholic Bishops expressing their view that an amendment was necessary to protect church agencies from being forced by the amendment to support or provide abortion services in violation of their religious tenets and conscience convictions.

We have also heard from other groups, and numerous individuals, with deeply held beliefs which are inconsistent with the provision of benefits for abortion procedures.

It was in response to these communications that the conference committee adopted language which will not require employers to pay for health insurance benefits for abortion in violation of their religious beliefs. And it is with a deep understanding and concern for these fundamentally held beliefs on this issue of abortion that I urge my Senate colleagues to support and adopt the conference report on this legislation.

I have received many, many communications from womens' groups and other civil rights groups who support this legislation in its present form, regardless of their views on the abortion issue itself.

The view is practically unanimous that this legislation is of tremendous importance to our effort to insure equal employment opportunity for women in this country. Thus, although there is not complete agreement on the abortion issue, there is nearly unanimous agreement that this legislation should be enacted as it has been reported by the conference committee.

In final effect, Mr. President, this legislation will restore to our working women a very basic and fundamental protection against sex discrimination. This protection is important not only to our 42 million working women but also to their families and to American industry itself. I am confident that this legislation will advance us substantially toward our goal of full participation in our economic system by American women, and that we shall all benefit in the long run from the result.

Mr. JAVITS. Mr. President, I am pleased that the House-Senate conferees today completed action on S. 995, a bill I cosponsored in March 1977 to prohibit sex discrimination in employment on the basis of pregnancy, and I urge my colleagues to adopt the report.

This bill became necessary in light of the Supreme Court's decision in *Gilbert* v. *General Electric Co.*, 426 U.S. 125 (1976), which held that the exclusion of pregnancy and related conditions from otherwise comprehensive disability insurance plans did not constitute sex discrimination in violation of title VII of the Civil Rights Act of 1964. This interpretatien of title VII was not in keeping with the original congressional intent, and enactment of legislation to clarify the intent of Congress to prohibit pregnancy discrimination became imperative.

S. 995 thus makes it clear that title VII prohibits all sex discrimination in the workplace, including discrimination based on pregnancy. Ths bill requires those employers who provide disability coverage to treat pregnancy disability the same as any other disability with regard to benefits and leave policies, and to treat pregnant women who are able to work the same as other workers physically capable of working.

S. 995 was thoroughly considered by both the House and the Senate. The Senate Human Resources Committee held extensive hearings. We heard testimony from the administration, labor groups, civil rights organization, women's groups, and pro-life organizations who strongly endorsed the bill. In addition, it is noteworthy that approximately 25 States have already, either through legislation or by administrative action, prohibited discrimination in employment against women based on pregnancy. S. 995 would serve to make uniform this protection for women workers who become pregnant.

The bill represents only basic fairness for women employees. Without it, women workers would face serious obstacles to continuing their pregnancy and maintaining their jobs at the same time. Many women disabled by pregnancy would be unable to pay for medical care and hospitalization. Other women would be fired or stripped of seniority rights when they were in fact able to work. Women workers must not be made to bear such an unfair burden, especially since more than 60 percent of working women need to work to support their families.

The only real difference between the House and Senate bill, and which sharply divided the conferees, was over the abortion issue. The final bill, as adopted by the House-Senate conferees restricts the House-passed amendment which permitted employment discrimination as to health insurance, sick leave, and temporary disability on the basis of disabilities arising from an abortion. Any such restriction, in my judgment, is an unfortunate and unwarranted limitation on a critically important legislative measure to guarantee sexual equality for working women. This discriminatory element of the bill intrudes upon the constitutional right of any woman, as held by the Supreme Court in *Roe* v. *Wade*, 410 U.S. 113 (1973), to terminate a pregnancy.

However, since it is clear that the House and Senate differences on this issue could not be resolved fully in favor of the Senate version, which contained no abortion provision, I am pleased that we at least limited and clarified the House abortion amendment. The proviso adopted by the conferees specifically confines the abortion exemption solely to health insurance benefits, and only to the employer who funds those benefits. Further limitations are that health insurance benefits for an abortion must still be provided where the life of the mother would be endangered if the fetus were carried to term, or where there are any medical complications related to an abortion procedure. And, of course, all employers are free to provide full abortion benefits through health insurance as a matter of general policy, and such

benefits derived through collective bargaining agreements are not affected.

Finally, since the abortion proviso specifically addresses only health insurance, the proviso in no way affects an employee's right to sick pay or disability benefits or, indeed, the freedom from discrimination based on abortion in hiring, firing, seniority, or any condition of employment other than medical insurance itself. The agreement of the conferees nevertheless preserves the argument of proponents for an abortion exemption that employers with religious objections to abortions should not be required to finance the abortion procedure itself, and at the same time it leaves sick pay and disability benefits to be provided on the same basis as any other condition requiring an absence from work.

It is fitting that the conferees were finally able to resolve the deadlock on this bill shortly after the Congress reaffirmed its commitment to equality for women by voting to extend the time deadline for ratification of the equal rights amendment. This vote confirmed our country's dedication to equal opportunity for women. ERA will affect numerous State laws which discriminate against women and set a new climate in our Nation which will result in an expanded role for women in every facet of our society and in any activity women may wish to pursue.

Mr. President, in keeping with the spirit evinced by the ERA extension, I am confident that we will again reaffirm our commitment to equality. We now have the opportunity to amend title VII to make clear that prohibited sex discrimination includes classifications based on pregnancy. I strongly urge my colleagues to approve the conference report on S. 995.

Mr. PERCY and Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I do not want to shut off Members who wish to——

Mr. JAVITS. Let us finish this conference report. We have not finished.

Mr. ROBERT C. BYRD. I did not realize that.

Mr. JAVITS. I yield to the Senator from Vermont.

Mr. STAFFORD. Mr. President, I am gratified to have had a part in the writing of S. 995. This measure, developed in the Subcommittee on Labor, on which I serve, would amend the Civil Rights Act of 1964. It would remove a major source of discrimination unjustly afflicting working women in America. As an indication of the importance of the legislation to the country, I point out that women now comprise more than 45 percent of the work force in the United States.

Under the terms of S. 995, pregnancy would be treated as a disability entitled to the same benefits as other disabilities covered by an employer's benefits program.

In my opinion, Congress in 1964, when I was serving in the other body, intended to prohibit discrimination in employment on the basis of pregnancy when it enacted the original Civil Rights Act. However, on December 7, 1976, the U.S. Supreme Court, in the Gilbert case, held otherwise and ruled that employers need not provide disability benefits for pregnant workers. As a result, this legislation became necessary. It will clarify beyond all doubt the intention Congress had in 1964.

This measure, as agreed to by the conferees representing the two bodies, does not require employers to provide disability benefits, only that where they elect to do so, men and women workers must be treated equally.

No employer would be required to provide benefits for the costs of abortions although the law will permit them to do so. Complications developing from abortions, however, would have to be covered under disability plans.

This measure is to go into effect on the date of enactment except, where a fringe benefit or fund or insurance program is in effect on the date of enactment, the legislation provides a period of transition of 180 days.

I want to salute my colleagues on the Human Resources Committee and those Members of the other body who worked so hard to bring this measure to fruition in these final days of the 95th Congress.

It represents a great and long overdue advance in the civil rights of American women.

Mr. JAVITS. Mr. President, I commend the conference report to the Senate. The conferees, in working out the abortion proviso, did the best they could to sustain the Senate provision, and I think it carries out the purpose of the legislation, which is to get recognition for women in respect of such disability or illness, as well as from pregnancy or incidents related thereto.

I hope the Senate will approve the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield briefly to the Senator from New Jersey.

Mr. President, I yield.

Mr. WILLIAMS. Mr. President, the working men and women of this country have had certain disappointments within the 2 years of this Congress on measures that were not enacted, and some that were changed, some laws that were changed in administration through appropriations.

Tonight we passed the Humphrey-Hawkins bill, we passed the Pregnancy Disability Act. I hope that the working people of this country will recognize that we continue to be very sensitive to their concerns, to their needs, and are ever mindful of ways and opportunities we can have legislatively to make the lives of working people more secure and lives that are fuller as we can advance that through legislation.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Maryland without losing my right to the floor.

Mr. WILLIAMS assumed the chair.

CONGRATULATIONS TO DR. DANIEL NATHANS AND DR. HAMILTON O. SMITH

Mr. MATHIAS. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 591) to congratulate Dr. Daniel Nathans and Dr. Hamilton O. Smith.

The PRESIDING OFFICER. Is there objection to the present consideration?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MATHIAS. Mr. President, this resolution merely congratulates Dr. Nathans and Dr. Smith as being the first active members of the Johns Hopkins University faculty to win a Nobel Prize, and I hope the Senate will adopt the resolution unanimously.

Mr. SARBANES. Mr. President, the Johns Hopkins University has long been regarded as one of the finest research and teaching facilities in the Nation, if not the world. Further proof of this comes with the announcement yesterday that two professors at Hopkins, Drs. Daniel Nathans and Hamilton O. Smith, have been awarded the Nobel prize, the highest recognition of excellence in medical research.

The two Baltimore scientists were cited by the Nobel Committee for their research and discovery of the use of restrictive enzymes—chemicals that dismantle genetic materials at specific points—in aiding the eventual elimination of genetic malformations and diseases. A member of the Nobel committee commented that the choice of the two men, along with a third Swiss scientist working in the same field, was a quick and easy choice, since their work stood out among the significant medical research that has been done.

Dr. Smith, professor of microbiology, is a graduate of the Hopkins Medical School, where he now teaches. Dr. Smith is credited with discovering the first restrictive enzyme, found in a form of influenza bacterium.

Dr. Smith's discovery led Dr. Nathans to the possibility of using that restrictive enyme to cut up DNA, much like digestive enzymes break up protein in food.

Dr. Nathans, who has been on the Hopkins faculty since 1962, has been using this restrictive enzyme to break up DNA cancer cells. Such research may

allow scientists in the future to discover how cancer cells operate, and how such cells may be eliminated or changed into normal cells. Such research may also lead to the eventual discovery of techniques to reduce drastically the number of genetic malformations and diseases in humans.

I know I speak for all Marylanders when I express my congratulations to Drs. Smith and Nathans. Their research has brought much-deserved recognition and reward to themselves and to the entire Hopkins faculty, and has significantly advanced the cause of medical research throughout the world.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 591) was agreed to, as follows:

Resolved, That (a) whereas Dr. Daniel Nathans and Dr. Hamilton O. Smith of Johns Hopkins University were awarded the Nobel Prize in Medicine for research which led to the discovery and use of restriction enzymes and their application to genetics; and

(b) whereas their research demonstrated how these enzymes could be used to cut the DNA molecule for further study and thus analyze the structure of genes; and

(c) whereas this work will aid in the research toward understanding the gene function in cancer and various hereditary diseases; and

(d) whereas they are the first members of the active faculty at Johns Hopkins ever to receive the Nobel Prize for Medicine: Therefore be it

(e) *Resolved*, That the Senate congratulates both Dr. Nathans and Dr. Smith for this accomplishment and contribution to medicine and mankind and so congratulates John Hopkins University for sustaining the scientific and academic community within which this research could have occurred, and for maintaining the standard of excellence that has characterized the university since its founding.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RESOLUTION RELATIVE TO THE DEATH OF REPRESENTATIVE GOODLOE E. BYRON, OF MARYLAND

Mr. SARBANES. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives.

The PRESIDING OFFICER. The clerk will read the message from the House.

The legislative clerk read as follows:

Resolved, That the House has heard with profound sorrow of the death of the Honorable GOODLOE E. BYRON, a Representative from the State of Maryland.

Resolved, That a committee of 20 Members of the House with such Members of the Senate as may be joined be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That is a further mark of respect the House do now adjourn.

Mr. SARBANES. Mr. President, there is a resolution pending at the desk concerning our former colleague, Congressman GOODLOE E. BYRON, and we ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 592) relative to the death of Representative GOODLOE E. BYRON, of Maryland.

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable GOODLOE E. BYRON, late a Representative from the State of Maryland.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Representative.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The question is on agreeing to the resolution.

The resolution was agreed to.

The PRESIDING OFFICER. The Chair appoints the Senators from Maryland (Mr. SARBANES and Mr. MATHIAS) as members of the committee required by the resolution.

Mr. SARBANES. I thank the Senators.

UNANIMOUS-CONSENT REQUEST—H.R. 7108

Mr. ROBERT C. BYRD. Mr. President, a little earlier I tried to call up a bill at the request of Mr. LONG. There was objection.

I wonder if those who objected may have by this time become apprised of the nature of the bill. I hope there will not be any objections.

I ask unanimous consent again that the Senate proceed to the consideration of Calendar Order No. 1199, H.R. 7108, an act to amend the tariff schedule of the United States in order to suspend the duty on Yankee dryer cylinders.

Mr. HEINZ. Mr. President, reserving the right to object, I have tried to ascertain for what purpose the distinguished chairman of the Finance Committee, Mr. LONG, wants to bring up this bill. I have not, I am sorry to say, been able to find the Senator.

The text of this bill is in fact the Sugar Act which we passed last night. Title IV is the countervailing duty extension that we changed a little bit and passed last night.

So, without knowing what the purpose of the chairman of the Finance Committee is, I would be reluctant to agree to the unanimous-consent request.

I am, however, confident that the chairman of the Finance Committee has a perfectly legitimate purpose in mind and one I probably would not object to. But I cannot, I say to my good friend from West Virginia, agree without knowing in advance what we are going to do.

So, I will reluctantly object.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Pennsylvania.

Mr. LONG had indicated, and he will later be here to speak for himself. He assured some other Senators that he would call this measure up. Senator ROTH was one of the Senators. Senator MORGAN was one of the Senators. Senator KENNEDY was one of the Senators. And there were others, that he would call this bill up in order that they might be able to offer certain amendments that they are interested in to the bill.

The Senator has objected. So I will not persist at this time.

Mr. HEINZ. Mr. President, will the majority leader yield for one further word?

Mr. ROBERT C. BYRD. I yield.

Mr. HEINZ. I want to make it clear that I trust all Members that the chairman had some other purpose. I do not intend to obstruct him or stand in his way. I just cannot seem to get anyone on his staff to tell me what the purpose is.

Mr. ROBERT C. BYRD. Sure. At this time, of course, he is in the conference on the tax bill and his staff people are there also so he is not in a position nor are members of his staff. So I will not persist at this time in the effort to call up that matter.

NOMINATION

Mr. ROBERT C. BYRD. Mr. President, there is a nomination on the calendar that has been on the calendar since September 13. It is the nomination of John Warren McGarry of Massachusetts who has been nominated to be a member of the Federal Election Commission for a term expiring April 30, 1983. There have been some Senators who wanted that nomination held up and the leadership has tried to honor those holds, but the time has come when the leadership feels constrained to attempt to get the nomination up and get the Senate to act on it.

I do not believe there is any justification for continuing to honor holds on this nomination. It was reported from the Rules Committee a good many weeks ago, and I believe the Senate ought to work its will on it up or down.

I, therefore, Mr. President, ask unanimous consent that the Senate go into executive session to consider the nomination of Mr. John Warren McGarry.

Mr. MARK O. HATFIELD. Mr. President, reserving the right to object, I would like to ask the majority leader if this unanimous-consent agreement is honored or granted without objection,

what would be the next parliamentary requirement to then move to the full discussion and debate on the nomination?

Mr. ROBERT C. BYRD. I beg the Senator's pardon?

Mr. MARK O. HATFIELD. I ask the majority leader if this unanimous-consent request to go into executive session is granted, what is the next parliamentary requirement to get to the actual nomination before the Senate?

Mr. ROBERT C. BYRD. The Senate would be on the nomination at that point.

Mr. MARK O. HATFIELD. Mr. President, parliamentary inquiry.

Mr. ROBERT C. BYRD. I yield for that purpose.

Mr. MARK O. HATFIELD. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes; I do.

The PRESIDING OFFICER (Mr. SARBANES). The Senator will state his parliamentary inquiry.

Mr. MARK O. HATFIELD. Mr. President, as I understand, the majority leader has coupled, in effect, two requests here. He has coupled, as I understand it, the request for an executive session, and then he has stated in that same request the purpose for that executive session to consider the nomination of Mr. McGarry. My inquiry is if one is to object to that unanimous-consent request, then what is the parliamentary move that has to be made to get the matter before the Senate?

Mr. ROBERT C. BYRD. A motion which would be nondebatable would get the matter before the Senate.

Mr. MARK O. HATFIELD. I am advised that the request to go into executive session is the only thing the majority leader can do.

Mr. ROBERT C. BYRD. That is not all I can do. I can go into executive session to consider the nomination, and when we get into executive session we are on that nomination.

Mr. MARK O. HATFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MARK O. HATFIELD. Is it appropriate to couple the request for an executive session with the item to be taken up in executive session?

The PRESIDING OFFICER. It is appropriate for the Senator to make such a unanimous-consent request.

Mr. MARK O. HATFIELD. I would have to object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate go into executive session to consider the nominations on the Executive Calendar beginning with John Warren McGarry.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

Mr. MARK O. HATFIELD addressed the Chair.

The PRESIDING OFFICER. All those in favor "aye." Opposed, "no." The "ayes" have it.

Mr. MARK O. HATFIELD. Mr. President, I believe I was seeking recognition before the Chair announced the vote.

The PRESIDING OFFICER. The Senator is correct.

Mr. MARK O. HATFIELD. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. MARK O. HATFIELD. I understand this motion is nondebatable, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. MARK O. HATFIELD. Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho, (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from New Mexico (Mr. SCHMITT), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Have all Senators in the Chamber recorded their votes?

The result was announced—yeas 50, nays 25, as follows:

[Rollcall Vote No. 496 Leg.]

YEAS—50

Abourezk	Cannon	Glenn
Anderson	Chiles	Gravel
Bayh	Clark	Hatfield, Paul G.
Bentsen	Cranston	Hathaway
Bumpers	Culver	Hodges
Burdick	DeConcini	Hollings
Byrd, Harry F., Jr.	Durkin	Inouye
Byrd, Robert C.	Eagleton	Jackson
Johnston	Moynihan	Sasser
Leahy	Muskie	Stennis
Long	Nelson	Stevenson
Magnuson	Nunn	Stone
Matsunaga	Pell	Talmadge
McGovern	Proxmire	Williams
Melcher	Randolph	Zorinsky
Metzenbaum	Riegle	
Morgan	Sarbanes	

NAYS—25

Baker	Hansen	Packwood
Bartlett	Hatch	Percy
Bellmon	Hatfield, Mark O.	Roth
Chafee	Hayakawa	Schweiker
Curtis	Heinz	Stevens
Danforth	Javits	Thurmond
Dole	Lugar	Wallop
Garn	Mathias	Weicker
Griffin		

NOT VOTING—25

Allen	Haskell	Ribicoff
Biden	Helms	Schmitt
Brooke	Huddleston	Scott
Case	Humphrey	Sparkman
Church	Kennedy	Stafford
Domenici	Laxalt	Tower
Eastland	McClure	Young
Goldwater	McIntyre	
Hart	Pearson	

So the motion was agreed to, and the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The clerk will report the first nomination on the executive calendar.

FEDERAL ELECTION COMMISSION

The second assistant legislative clerk read the nomination of John Warren McGarry, of Massachusetts, to be a member of the Federal Election Commission.

Mr. PELL. Mr. President, on August 25, 1978, by an overwhelming vote of 7 to 2, the Committee on Rules and Administration reported favorably to the Senate the nomination of John Warren McGarry of Massachusetts to the Federal Election Commission. This action climaxed the committee's 11-month consideration of this nomination, involving an extensive and detailed examination of the nominee's complex financial background.

COMMITTEE CONSIDERATION

On September 27, 1977, President Carter nominated John McGarry for a term expiring April 30, 1983, on the Federal Election Commission, in place of Neil Staebler, whose term had expired on April 30 of last year, but who has continued to sit on the Commission, as allowed by statute.

After the nominee responded to the committee's questionnaire, hearings were held on November 2 and 4. There was not sufficient time for McGarry's testimony, due to the presence of a number of congressional witnesses and limited time available to the committee.

On November 10, Senator BAKER requested that the committee conduct an additional investigation into John McGarry's finances before proceeding further. Supplemental questions were submitted to Mr. McGarry in preparation for a staff hearing with the nominee, held on December 14.

From that hearing, several other questions arose which were addressed to the nominee. Mr. McGarry answered those questions in time for the committee hearing which had been scheduled for

January 24. However, the nomination, which had lapsed at the end of the first session, had not been resubmitted by the President, so hearings could not be held.

On January 24, Senator BAKER sent a letter to then-Chairman CANNON enclosing a copy of an anonymous letter, addressed to columnist William Safire, which Senator BAKER had received earlier. The writer of the anonymous letter claimed that the owners of the Boston Half Shell Restaurant had engaged in a practice of "skimming" from one of the restaurant's cash registers during the period of Mr. McGarry's ownership.

Senator CANNON immediately referred this letter to White House Counsel Robert Lipshutz, who asked the FBI to look into the allegations. Nothing more was heard until April 10 when the White House resubmitted the McGarry FEC nomination. A letter from Mr. Lipshutz accompanying the nomination stated that the IRS had not looked into the charges, but that the White House was convinced that the nomination should be resubmitted because Mr. McGarry's personal tax returns had been audited by the IRS each and every year he owned the Half Shell; the questioning Mr. McGarry received from the committee staff on December 14 had been extensive; the skimming charge was contained in an anonymous letter, and, as such, did not justify initiating elaborate procedures needed to conduct an IRS investigation. Also, Mr. McGarry unequivocally denied the allegations in a letter to the committee dated April 20, 1978.

Some members of the committee considered the White House response to Senator CANNON's letter inadequate, and pressed for an independent GAO or committee investigation of the matter. Most members preferred to give the White House another opportunity to look into the skimming charges, along with other matters that had been brought to the committee's attention. So, on May 1, I wrote Presidential Counsel Lipshutz asking him to direct the appropriate executive agencies to inquire into charges contained in the anonymous letter and additional matters. A request from Senator HATFIELD concerning a White House investigation into other issues followed on May 5. In addition, the majority and minority submitted further questions to Mr. McGarry in an effort to understand and clarify questions about the nominee's complicated finances.

Answers to all committee questions were submitted by Mr. McGarry and Mr. Lipshutz in mid-July. Those responses resolved many of the committee's concerns, but several other issues, particularly tax issues, remained unanswered.

Due to the complexity of Mr. McGarry's finances and tax returns, the committee sought the assistance of tax counsel from the General Accounting Office. Mrs. Reka Hoff, an experienced tax lawyer who was assigned to work with the committee, filed three separate analyses of Mr. McGarry's tax returns. The nominee filed two responses to the tax consultant in an exchange that helped clarify the complex tax issues presented.

Additional days of hearings were held by the committee on July 27, August 15, August 22 and August 23. Testimony was taken from Mr. McGarry and his tax advisers, and from Mrs. Hoff.

After receipt of information from the Internal Revenue Service on August 24 concerning IRS audits of Mr. McGarry's Federal tax returns, the committee agreed that no further hearings were necessary. The next day, the committee met and discussed the nomination, then voted 7 to 2 to report the nomination favorably to the Senate.

COMMITTEE TREATMENT OF CONFIDENTIAL MATERIAL

The committee's consideration of the McGarry nomination, and all other nominations, has been guided by its policy that information involving nominees' personal finances and income tax returns is confidential. Accordingly, such information is not released to the public except by order of the committee.

With respect to the McGarry nomination, all financial information was made available to the committee members and their staffs, as were all written materials submitted by Mr. McGarry, and information contained in the transcript of the meeting between Mr. McGarry and committee staff on December 14, 1977. The nominee's tax returns were not disseminated to committee members, but rather were made available for inspection by committee members and their staffs at the Rules Committee office. This procedure has been strictly followed in nominations before the committee to protect the confidentiality of this particularly private information.

With respect to committee hearings, rule 2 of the committee's rules of procedure prescribes that open hearings take place, except under certain circumstances. I ask unanimous consent that rule 2 be printed in the RECORD at this point.

There being no objection, the rule was ordered to be printed in the RECORD, as follows:

COMMITTEE ON RULES AND ADMINISTRATION

(Adopted February 4, 1971, Pursuant to Section 133B of the Legislative Reorganization Act of 1946, as Amended. Readopted Without Amendment January 17, 1973, and January 22, 1975. Readopted with Amendments March 2, 1977)

2. Meetings of the committee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the committee on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the committee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(A) Will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) Will relate solely to matters of committee staff personnel or internal staff management or procedure;

(C) Will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) Will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) Will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(1) An Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) The information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) May divulge matters required to be kept confidential under other provisions of law or Government regulations. (Paragraph 7(b) of rule XXV of the Standing Rules of the Senate, as amended by S. Res. 9, 94th Cong., Nov. 5, 1975.)

Mr. PELL. Of course, the manner in which nominees have conducted their financial affairs can have a direct bearing on their statutory qualifications for office. Thus, on occasions when the committee wishes to question nominees about financial matters, or other matters protected under rule 2, such questioning may be conducted in closed session upon vote of the committee.

At the July 27 hearing, Mr. McGarry was informed by Senator HATFIELD that his questioning would entail a discussion of the confidential financial information the nominee had supplied the committee. The nominee was given the opportunity to have these confidential matters discussed in closed session, according to rule 2. Mr. McGarry, however, waived his right to a closed hearing on such matters, and welcomed a chance to discuss his record publicly. Since the material to be discussed dealt with matters confidential to Mr. McGarry alone, and violated no other provision of rule 2, the committee acceded to the nominee's wishes.

The committee greatly appreciates Mr. McGarry's candor and willingness to unveil publicly his financial background. His doing so demonstrates his interest in full disclosure which, I believe, will carry over to his work on the Federal Election Commission.

The Rules Committee's 6 days of hearings were only the conclusion of a thorough effort by the committee and its staff to examine carefully and understand properly the nominee's complex financial background. This effort involved the submission of hundreds of detailed questions to the nominee, all of which were answered. Mr. McGarry submitted over 200 pages of responses to the committee's questions, and has been helpful in opening his financial background to the prying eyes of the committee and the press. At enormous personal expense, he brought in his tax lawyer and CPA to

assist the committee and answer its members' questions. Throughout this process, Mr. McGarry has been patient and understanding, and is to be commended for his cooperation with the committee.

I am not going to discuss at this point each of the issues dealt with by the committee during its consideration of the McGarry nomination. However, I ask unanimous consent that the financial and other issues discussed in Senate Executive Report 95–28 be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FINANCIAL ISSUES CONSIDERED

Throughout the Committee's consideration of the McGarry nomination, attention was necessarily given to gathering information to understand properly the nominee's complex financial background. Through initial staff work, and from McGarry's responses to written questions submitted by the Committee, the issues of concern to Members of the Committee were narrowed substantially. By the time hearings were held in July and August 1978, the following issues concerning the nominee's financial background remained for review:

1. AUDITS BY THE INTERNAL REVENUE SERVICE

Issue

Whether McGarry's tax returns for the years 1971–1976 had been audited, and, if so, the nature and extent of these audits.

Discussion

The Committee's tax law consultant questioned whether audits of McGarry's tax returns had been conducted for the years 1971, 1972, 1975 and 1976. She also was concerned over the extent of audits for 1973 and 1974. To resolve this matter, the nominee authorized the IRS to release information concerning audits of his tax returns for 1971 through 1976. This information revealed that McGarry's individual income tax returns for 1971–1976 were examined; and that these examinations were field audit examinations.

Copies of IRS Audit Workpapers (Form 4518) for the years involved were also presented to the Committee. [Form 4518 indicates the items on a tax return which are reviewed by the IRS examining officer.] The Workpapers covered the return for 1973, which was accepted as filed; for 1974 which was examined and on which corrections were made resulting in adjustments to McGarry's 1971 and 1972 returns, which were also examined; and for 1975 and 1976, which were examined and on which adjustments were made as a result of audits of the Boston Half Shell Restaurant during the period of McGarry's ownership.

The Committee's scrutiny of these Audit Workpapers helped resolve several issues surrounding McGarry's federal income tax returns. For example, questions concerning travel expense deductions, McGarry's basis in the California Half Shell Restaurant, and computer depreciation deductions were shown to have been received by the examining agents and accepted. See Issue 2–4, infra.

2. TRAVEL EXPENSE DEDUCTIONS

Issue

Whether McGarry should have been allowed deductions for his travel expenses between Boston and Washington, D.C., while working full-time for the U.S. House of Representatives.

Discussion

According to the Committee's tax law consultant, the cost of traveling between Boston and Washington, D.C., while the nominee worked full-time for the House of Representatives, was a commuting expense, disallowable as a deduction. However, Mr. McGarry's working situation was quite unusual during that period. Until December 1973, his position as Chief Counsel to the House Special Committee to Investigate Campaign Expenditures entailed approximately five months work every two years, as that Committee conducted oversight activities of House elections. Under such part-time employment, the nominee was clearly allowed deductions for his travel between Washington and Boston because he was traveling between a regular place of employment and a distant place of temporary or part-time employment. In December 1973, McGarry was asked to come to Washington for an indefinite period of time to assist the Committee on House Administration as it considered legislation to amend the Federal Election Campaign Act of 1971. In his capacity as Special Counsel to that Committee, McGarry assumed that he would be returning to Boston after a short period of time. He therefore arranged for another attorney to handle his law practice during his absence, while he continued to pay the bills. This situation lasted until passage of the Federal Election Campaign Act Amendments of 1974 in October of that year.

Shortly thereafter, McGarry was embroiled in several House election controversies. In his position as Special Counsel to the Committee on House Administration, he was in charge of reviewing contested elections, a task which consumed a greater portion of 1975.

In January of 1976, the Supreme Court struck down provisions of the 1974 Federal Election Campaign Act Amendments in the case of *Buckley* v. *Valeo*, throwing great uncertainty into the Presidential campaign of that year. Immediate congressional action was required to restructure the Federal Election Commission, and to establish a constitutional framework for conducting federal election campaigns. McGarry was again called in to work on this effort, which further disrupted his plans for the year 1976.

Thus, although being paid as a full-time House employee for those years, McGarry did not know from one week to the next whether he would remain in his capacity as Special Counsel. Clearly, his employment was temporary. He incurred additional traveling expenses and his life was considerably disrupted, as he explained in a lengthy examination of this matter conducted on December 14, 1978, by staff of the Committee on Rules and Administration; and again in his testimony before the Committee on August 23, 1978.

Moreover, the Internal Revenue Service examined his returns for all the years in question, and did not disallow these deductions. In 1973, the examiner went into great detail, requiring the nominee to provide a list of his travel and entertainment expenses, produce hotel receipts and bills, along with airline flight schedules. In 1975, the examining agent appears to have relied on the thoroughness of previous audits, and accepted the explanation given for the deductions. Given the IRS examination and the nominee's open discussion of his deductions with Committee Members and staff, the Committee believes further questioning on this point would serve little purpose.

3. BASIS IN CALIFORNIA HALF SHELL RESTAURANT

Issue

Whether McGarry reduced the basis in his stock in California Half Shell by the losses he had previously taken on his 1975 and 1976 tax returns.

Discussion

In 1974, McGarry, his three partners in the Boston Half Shell, and others, opened the California Half Shell in Los Angeles. McGarry had a 43 percent interest and listed $169,508 as the amount of his investment

The restaurant lost money and, because it was a Subchapter S corporation, McGarry reported flow-through losses of $27,846 in 1975 and $23,318 in 1976.

In 1976 McGarry sold his interest in the restaurant to one of his partners for $2,500. On his tax return, he listed his basis in the stock as $163,178. Having sold the stock for $2,500, he listed his loss as $160,678 on his tax return.

At the August 23rd hearing, McGarry's tax lawyer, Mr. James Linnehan, stated that he had checked with McGarry's CPA and those records revealed that McGarry had made other contributions to capital of the restaurant, giving him a total investment of $214,342. His total investment was thus reduced by the $51,164 in losses he took for 1975 and 1976, which made his basis in the property $163,178.

The IRS examined this item in detail during a field audit of McGarry's 1975 and 1976 tax returns, and accepted the basis as proper. The examining agent verified these transactions based on the accountant's records. Despite the questions initially raised on this issue, the Committee is satisfied that it was handled properly.

4. COMPUTER DEPRECIATION

Issue

Whether the $67,500 depreciation deduction McGarry took in 1974 on his computer allowable.

Discussion

In 1974, McGarry purchased a Honeywell computer from FINALCO Corporation for $450,000, financed with an investment of $67,500 and assumption of a $382,500 bank debt. He leased the computer to the Midland-Ross Corporation. In the first year of ownership, McGarry deducted $67,500 under an accelerated depreciation plan. The $67,500 figure was arrived at by the use of a method known as the "half-year averaging convention." The tax consultant contends that such a method was not proper because it is prohibited by the tax code whenever a distortion of income results. She states that under the correct method, the allowable depreciation would be $22,500. The difference between $67,500 and $22,500 depreciation would thus indicate a distortion of income. There is support in the Code and Regulations for the method of depreciation chosen by McGarry, and for the method favored by the consultant. The chief counsel of FINALCO appeared at the Committee's August 23 hearing and testified in support of the nominee's position, pointing out that the convention was allowable because the computer was listed as a multiple asset account, rather than a single item account, as presumed by the tax consultant. In any event, 1974 was a loss year, so the size of the deduction would not have affected the nominee's tax liability in that year.

The IRS Audit Workpapers reviewing McGarry's returns for 1974 state that the method of depreciation chosen was "found to be properly filed and in compliance with regulations." The Committee sees no reason to challenge this conclusion by the audit examiner. If there are problems with the method chosen, suffice it to say that they are not between this Committee and John McGarry.

5. MAXIMUM TAX ON EARNED INCOME

Issue

Whether the income McGarry received from Kenmore Management Company in 1973 was earned income, and thus includible in his earned income tax basis, or investment income.

Discussion

From 1971 to 1974, McGarry owned a 37-percent interest in Kenmore Management Company, a partnership which operated the Kenmore Club in Boston. In 1973, he received

$35,554 from Kenmore Management. This sum was included in his earned income base against which he applied the maximum 50 percent tax on earned income. According to the Committee's tax law consultant, McGarry's income was from an investment and should not have been included in his earned income tax base. McGarry, on the other hand, cites authority for the treatment of his interest as carrying on a trade or business.

Relying on the advice of a firm of certified public accountants which prepared his income tax return, McGarry classified his income as earned income. The IRS did not question this transaction during examination of McGarry's 1973 tax return. Even if McGarry's listing of the income as earned income is incorrect, this Committee has difficulty in penalizing the nominee five years later when the IRS audit of his tax returns did not find the method at fault.

6. LOSS ON COMMUNICATIONS DISTRIBUTORS, INC.

Issues

Whether losses of $10,000 in 1972, and $4,093 in 1973, which McGarry took on the worthlessness of stock in Communications Distributors, were allowable deductions.

Discussion

Communications Distributors, a firm which sold and leased communications equipment, was owned by McGarry and his law partner, Irving Sheff. On his 1972 and 1973 tax returns, McGarry claimed losses of $10,000 and $4,093 respectively.

The 1973 agreement dissolving the Sheff and McGarry law partnership stated that any loss from the worthlessness of stock in Communications Distributors is and has been reflected entirely and solely in Sheff's distributive share of the partnership.

McGarry contends that no agreement signed in September, 1973, could affect losses already taken on his 1972 tax return, and that, in any event, such deductions are allowable because agreed to by Sheff. In support of this contention, Mr. McGarry provided the Committee with a letter signed by Irving Sheff stating:

I have reviewed the language in the Sheff and McGarry partnership dissolution agreement, dated September 29, 1973, especially Paragraph 14 entitled, "Communications Distributors, Inc." and wish to state categorically that it was not the intention of the parties, despite the somewhat ambiguous language in the agreement, to make the provision retroactive.

Further, from the date of incorporation of Communications Distributors, Inc., until the dissolution of partnership, losses, in Communications Distributors, Inc., were distributed evenly between Mr. John McGarry and me.

Thus, despite the language of the termination agreement, McGarry's law partner, Irving Sheff, agreed that McGarry could take the losses in 1972 and 1973. The IRS did not question this transaction during the examination of McGarry's 1972 or 1973 tax returns.

Relying on the letter from Mr. Sheff, as well as the IRS examination of the tax returns, the Committee has no further questions on this matter.

7. SELF-EMPLOYMENT TAXES

Issue

Whether McGarry incorrectly computed his self-employment (SECA) taxes in 1972, 1975 and 1976, resulting in an underpayment.

Discussion

SECA tax is the self-employment tax paid by individuals in lieu of the FICA (Social Security) tax. McGarry listed as "other income" (which is not computed in the determination of SECA tax) several payments which the Committee's tax law consultant claims should have been included in the SECA tax computation. These payments were a $10,000 payment McGarry received in 1976 from Melo-Tone Vending Company; a $5,000 payment McGarry received in 1974, a $10,000 payment he received in 1975, and a $70,000 payment he received in 1976—all from Irving Sheff, his former law partner.

The Committee's tax law consultant also states that one payment McGarry added to his SECA tax base—the $35,554 payment from Kenmore Management in 1973—did not have to be included. Overall, she claims that SECA tax was underpaid by $1,803.33. McGarry's computation shows an over payment of $590.

McGafry has testified that the $10,000 Melo-Tone payment was included in "other income" to be consistent with Melo-Tone's method of reporting, and that he so listed it to facilitate the IRS' identification of the payment. He states that the $85,000 received from Irving Sheff in 1974–76 was paid pursuant to a covenant not to compete with his former law partner, and thus not includible in the SECA tax computations.

Although there is language in the partnership termination agreement with Sheff indicating that the money was to be paid out of fees from the law firm, McGarry testified that the agreement must be examined in its entirety. Overall, the agreement prohibits McGarry from competing with Sheff for a period of three years from September 29, 1973. As such, any payments from Sheff in return for McGarry's covenant not to compete would be properly treated as "other income," and not as payment for legal services, which would be includible in the SECA tax base.

The $70,000 payment in 1976 has been the subject of much attention. That payment resulted from settlement of *Gill* v. *Perini*, a large case handled by the Sheff and McGarry partnership. Although the partnership termination agreement states that such an accelerated payment would be made by Sheff on completion of that case, McGarry testified that he provided no legal services in connection with that case during his term as a senior partner in the law firm. Thus, the payment could not have been made for McGarry's legal services, but only for his covenant not to compete.

The Committee has no further questions concerning the nominee's SECA tax computations.

8. RED BOOT, INC. AND ROCKY POINT AMUSEMENT PARK

Issues

(1) Whether McGarry's part ownership of stock in the Red Boot, Inc. should have been reflected on his tax returns for 1971 through 1974; and (2) Whether McGarry's 1974 sale of his 50 percent interest in Red Boot, Inc. should have been reflected on his tax return for that year, especially since the Red Boot had become a 40 percent owner of a large amusement park and entertainment center during the time of his ownership.

Discussion

In 1971, McGarry bought a 75 percent interest in Red Boot from his nephew, Bernard McGarry, Jr., for $1 and assumption as a guarantor of the Red Boot debt. Later, the Red Boot issued additional stock (thus diluting McGarry's stock) to James Callahan, who had bought out the 25 percent owner, Herbert Pindari. Thus, John McGarry and James Callahan each owned a 50-percent interest in the restaurant.

In 1973, the Red Boot, as a corporate entity, bought a 40-percent interest in Rocky Point Amusements, Inc., which ran an amusement park and entertainment center in Warwick, Rhode Island. The Warwick Beacon reported that the total purchase price of Rocky Point was $3 million, although McGarry testified that the amount reported was incorrect.

McGarry sold his interest in Red Boot to Callahan in 1974 for $1 and release from his position as guarantor of more than $200,000 in corporate debt. McGarry stated at the August 23rd hearing that the Red Boot was not a profitable operation and that he sold it for what he paid for it.

Thus, (1) McGarry's tax returns would not have shown any dividend income from Red Boot for the years 1971 through 1974 unless the restaurant had been profitable; and (2) the sale of his 50 percent interest in Red Boot would not have been reflected on his 1974 tax return unless there was an increase in the basis of his stock between 1971 and 1974.

OTHER ISSUES CONSIDERED

1. HOUSE OF REPRESENTATIVES DISCLOSURE FORMS

For the years 1973–1976, rule XLIV of the Rules of the House of Representatives required that Members, officers, principal assistants to Members and officers, and professional staff members of Committees file a report disclosing certain financial interests to the Committee on Standards of Official Conduct. Because FEC Commissioners are charged with ruling on the sufficiency of candidate, party and PAC disclosure statements, the Committee on Rules and Administration believed that examination of McGarry's own House Disclosure forms would be a good indication of the nominees' personal record on public disclosure. During the course of this examination, the following questions were raised and discussed with the nominee:

(a) The House Disclosure Form, Part A, Question 3(b) requires the reporting of the source of "Any capital gain from a single source exceeding $5,000, other than from the sale of a residence, received during the preceding calendar year."

On his 1973 form, McGarry answered "not applicable," although in 1973 he received $15,000 from his former law partner, Irving Sheff, upon the dissolution of their partnership. The payment was for McGarry's share in the capital assets (library, etc.) of the firm.

McGarry testified that the $15,000 was received in September, 1973, and that he did not begin full-time House employment until December of that year. Thus, the money was not received during the period of his employment and was not required to be reported.

(*b*) Question 2 of the House Disclosure Form requires the filer to list the name, address and type of practice of any professional organization from which more than $10,000 in income was derived during the preceding year. McGarry left this question unanswered on the 1975 and 1976 forms.

McGarry received $10,000 in 1975 and $70,000 in 1976 from Irving Sheff, according to the terms of their partnership dissolution agreement. McGarry stated that the monies, which he received as payments for his covenant not to compete, were paid by Sheff as an individual, and were not from a professional organization. Therefore, he was not required to list these payments on his House Disclosure Forms for the years involved. Moreover, the 1975 payment did not have to be reported because it was not "more than $10,000."

(*c*) Question 3(a) requires reporting of the source of "any income from a single source for services rendered."

On the 1975 House Disclosure Form, McGarry listed: $10,224 from prior years when not with the U.S. Government." The source of the payment, Melo-Tone Vending Company, was not listed.

McGarry also received a $10,000 payment from Melo-Tone which he listed on his 1976 tax return for services rendered in the past. He did not disclose this payment on this 1976 form. However, McGarry did report the payment on his 1977 form, and testified that although Melo-Tone made the payment in

1976, he did not receive it until January 1977.

(d) Question 3(b) requires the listing of the source of "any capital gain from a single source exceeding $5,000, other than from the sale of a residence." On the 1975 form, in response to this question, McGarry listed $20,193 from sale of stock." The source of the payment, from the sale of his Kenmore Club stock, was not included.

The Committee was justifiably concerned about the nominee's method of reporting income on his House Disclosure Forms for the years 1973 through 1976. In fairness to the nominee, however, standards of reporting in both Houses of Congress were not so strict at that time.

The Committee was impressed by the nominee's thorough reporting on his 1977 House Disclosure Forms, and believes that Mr. McGarry is aware of the seriousness with which the Committee views the issue of public disclosure. More importantly, the nominee testified about the necessity for full public disclosure of campaign financing information, and is cognizant of its importance in the electoral process.

2. ALLEGATIONS CONCERNING THE BOSTON HALF SHELL

The allegations of "skimming" at the Boston Half Shell Restaurant were resolved to the Committe's satisfaction and were not an issue at the hearings. Nevertheless, the matter has received widespread circulation in the press, and has caused Mr. McGarry unneeded embarassment. In November 1977, an anonymous letter forwarded to Senator Baker alleging that Mr. McGarry and his business partners in the Boston Half Shell Restaurant engaged in an operation to "skim" the proceeds of one of the cash registers in the restaurant. The anonymous allegation had also been sent to a nationally syndicated columnist.

On January 24, 1978, Senator Baker brought the letter to the attention of then-Chairman Cannon who forwarded it to the White House with a request that the matter be examined. There was particular concern about initiating a federal investigation based solely on an anonymous letter, in addition to considerations of privacy of Mr. McGarry's business partners who were not, of course, being considered for federal appointment. After resolving these serious policy and privacy questions, the White House requested the Federal Bureau of Investigation to conduct an investigation of the charge.

The investigation revealed no evidence of tax evasion or "skimming," as described in the anonymous letter. The FBI investigators interviewed numerous employees of the Boston Half Shell Restaurant, including those in the chain of custody of daily restaurant receipts during the period in question. Several employees stated that the bookkeeping system was such that it would have been almost impossible for such an operation to have gone undetected, and everyone interviewed stated that he or she had no knowledge of such activity ever having taken place. Many spoke highly of Mr. McGarry, while pointing out that he took no active role in the management of the restaurant and was rarely present. Given the thoroughness of the FBI investigation, and the absence of any evidence other than the anonymous letter, the Committee is satisfied that the accusation was untrue.

3. POSSIBLE CONFLICTS OF INTEREST

Several Committee Members questioned whether the nominee would be able to monitor impartially the campaign activities of Members of Congress for whom he had worked, or with whom he had been associated. McGarry expressed no reservation about his ability to act with fairness and impartiality in his role as Commissioner. He cited as proof the support his nomination had elicited from former Minority Counsels with whom he had worked and from Minority Members of Congress, as well as his record in conducting inquiries into contested House elections. He did state, however, that there may be cases before the FEC from which he might have to recuse himself; but that he would judge each case individually.

Mr. McGarry has divested himself of many business interests over the past few years, so that he currently has on investments requiring his attention or supervision. He has retained an interest in certain real estate investments, but only as a limited partner or investor with no managerial responsibilities. None of these interests would conflict with his duties as a Commissioner. Nor does the nominee have any outside interests which would interfere with his full-time commitment to the job.

The Committee is satisfied that the nominee is sensitive to the duties of FEC Commissioner, and the need for avoiding conflicts of interest. Such impartiality is essential for public confidence in the Commission's activities, and the federal election process.

Mr. PELL. Mr. President, the committee's recommendation of John McGarry is not only a defense of charges made against him. It is also an affirmative statement of his qualifications for office. An examination of his experience in the field of election law is a clear demonstration of those qualifications. I ask unanimous consent that the nominee's biographical background and his answer to the Rules Committee "Outline of Information Requested of Nominees" be printed in the RECORD at this point.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

BIOGRAPHICAL BACKGROUND ON JOHN WARREN MCGARRY

Re: Federal Election Commission

John Warren McGarry was born in Boston, Massachusetts on June 11, 1922. He was the youngest of eight children born to Thomas S. McGarry and Anna F. Galvin. Both parents and two brothers are deceased. Five sisters live in the Greater Boston area.

Mr. McGarry attended Boston Public Schools and served in the United States Navy in the Pacific in World War II. After the war he was graduated from Holy Cross College, did graduate work at Boston University and earned a law degree at Georgetown Law Center.

Having worked on the floor of Congress while in law school, Mr. McGarry continued in government service as Assistant Counsel and then Counsel for the Committee on Government Operations for the U.S. House of Representatives.

In 1959, he was appointed Assistant Attorney General for the Commonwealth of Massachusetts and served in that capacity for four years. Mr. McGarry then combined private practice with service as Chief Counsel for the Special Committee to Investigate Campaign Expenditures which was created as a temporary unit for approximately 5 months every 2 years until 1972, to oversee House elections.

In 1973, Mr. McGarry was appointed Special Counsel to the Committee on House Administration for the U.S. House of Representatives.

On February 11, 1977, Mr. McGarry married attorney Marietta M. Ethier. Ms. Ethier is Assistant General Counsel for Digital Equipment Corporation.

Title: Special Counsel on Elections, U.S. House of Representatives.

Address: Committee on House Administration, U.S. Capitol, H-326, Washington, D.C.

Education

Holy Cross College (1948-1952)—B.S. Degree.

Boston University (1952-1953)—Graduate School.

Georgetown University Law Center (1953-1956)—Juris Doctorem Degree.

Background

1957-58: Counsel, U.S. House of Representatives, Committee on Government Operations.

1959-62: Assistant Attorney General, Commonwealth of Massachusetts.

1962-73: Chief Counsel, U.S. House of Representatives, Special Committee to Investigate Campaign Expenditures.

1973 to date: Special Counsel, U.S. House of Representatives, Committee on House Administration.

Summary

For the past 15 years, John McGarry has been involved in all election matters for the House and compiled an election pamphlet for every House election containing all Federal election laws and a summary of State election laws.

From 1958 to 1973 he was in private practice as a trial attorney and appeared at all levels of State and Federal courts, including the Supreme Court of the United States.

COMMITTEE ON RULES AND ADMINISTRATION

OUTLINE OF INFORMATION REQUESTED OF NOMINEES

A. Biographical

Q1. Name: (Include any former names used).

A1. John Warren McGarry.

Q2. Address: (Include current residence address and mailing address).

A2. 92 Parker Road, Wellesley, Mass.

Q3. Date and place of birth.

A3. June 11, 1922; Boston, Mass.

Q4. Marital status: (Include maiden name of wife or husband's name).

A4. Married; Marietta Margaret Ethier.

Q5. Names and ages of children.

A5. None.

Q6. Education: List institution(s), dates attended, degree received and date degree granted.

A6. South Boston High School, Boston, Mass., September 1936 to June 1939; diploma received in June 1939.

Holy Cross College, Worcester, Mass., September 1948 to June 1952; B.S. received in June 1952.

Boston University, Boston, Mass., September 1953 to June 1954.

Georgetown Law School, Washington, D.C., September 1954 to January 1956; J.D. received in March 1956.

Q7. Employment record: List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

A7. Clerk on floor of House for U.S. House of Representatives, September 1954 to October 1956.

Attorney for Committee on Government Operations, U.S. House of Representatives, January 1957 to January 1959.

Assistant Attorney General, Commonwealth of Massachusetts, Boston, Mass., January 1959 to July 1962.

Chief Counsel, Special Committee to Investigate Campaign Expenditures, U.S. House of Representatives, July 1962 to July 1973. (This Special Committee was formed for approximately 5 months every 2 years.)

Special Counsel, Committee on House Administration, U.S. House of Representatives, December 1973 to date.

Self-employed attorney at 1 State Street, Boston, Mass., January 1959 to September 1965.

Senior Partner in Boston law firm of Sheff & McGarry, September 1965 to September 1973.

Q8. Government experience: List any experience in, or association with, federal, state or local governments, including any advisory, consultative, honorary or other part-time service or positions.

A8. Clerk on floor of House for U.S. House of Representatives, September 1954 to October 1956.

Attorney for Committee on Government Operations, U.S. House of Representatives, January 1957 to January 1959.

Assistant Attorney General, Commonwealth of Massachusetts, Boston, Mass., January 1959 to July 1962.

Chief Counsel, Special Committee to Investigate Campaign Expenditures, U.S. House of Representatives, July 1962 to July 1973. (This Special Committee was formed for approximately 5 months every 2 years.)

Special Counsel, Committee on House Administration, U.S. House of Representatives, December 1973 to date.

Q9. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, charitable and other organizations.

A9. American Bar Association, Massachusetts Bar Association, American Trial Lawyers, Alpha Sigma Nu (Jesuit Scholastic Honor Society), Knights of Columbus.

Q10. Political affiliations and activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last ten years.

A10. Member of Democratic Party.

Q11. Honors and Awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievement.

A11. B.S. Degree—Cum Laude, Holy Cross College; Alpha Sigma Nu, Jesuit Scholastic Honor Society.

Q12. Published writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

A12. For every Congress since 1962, I have participated in the preparation of an election pamphlet entitled "Information of Importance to Candidates for the United States House of Representatives". From 1962 to 1973 I was the author of a biannual report setting out various election cases that had been before the House of Representatives and also recommendations for remedial legislation.

Q13. Speeches: Identify each speech which you have given during the past 3 years, the organization to which the speech was given, and supply two copies of each speech.

A13. None.

Q14. Qualifications: State what, in your opinion, qualifies you to serve in the particular position to which you have been nominated.

A14. During the past fifteen years, I have been directly involved in every facet of the Federal election process as Chief Counsel of the Special Committee to Investigate Campaign Expenditures and more recently as Special Counsel on Elections for the Committee on House Administration in the U.S. House of Representatives. My work in those positions covered the totality of the House's involvement with elections including but not limited to: participation in the drafting and clearing for passage of the various election bills, amendments thereto and regulations arising therefrom; the investigation of complaints and contested election cases, participation in hearings, and the drafting and compilation of reports. This experience, in my opinion, qualifies me to serve as a member of the Federal Election Commission, in the event that I am confirmed by the United States Senate.

B. Future Employment Relationships

Q1. Will you sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate?

A1. Yes.

Q2. Do you have any plans after completing government service to resume employment affiliation or practice with your previous employer, business firm association or organization?

A2. No.

Q3. Has anybody made a commitment to employ your services in any capacity after you leave government service?

A3. No.

Q4. If confirmed, will you serve your full term of office?

A4. Yes.

Q5. If confirmed, will you be engaged in any business, vocation, employment or outside activities other than related to your duties as a Commissioner?

A5. No.

C. Potential Conflicts of Interest

Q1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

A1. Aside from my interest in the Boston Half Shell, Inc. and McGarry Investment Trust, both of which will be liquidated within the next year, if I am confirmed, my other holdings beside stocks and bonds, are real estate investments. I play no role whatever in these activities and they are nothing more than investments.

Q2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interests in the position to which you have been nominated.

A2. None.

Q3. Describe any business relationship, dealing or financial transaction which you have had during the last ten years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

A3. None.

Q4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

A4. As Special Counsel on Elections for the Committee on House Administration, I have been directly involved with all election bills.

Q5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

A5. In my opinion, my responses will reflect that I am not involved in any conflict of interest, current or potential. However, should the Committee conclude otherwise, I will be prepared to comply with any reasonable directive the Committee may set forth to resolve such conflict.

D. Testifying Before Congress

Q1. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

A1. Yes.

Q2. Are you willing to provide such information as is requested by such Committees?

A2. Yes.

Mr. PELL. As can be seen from his employment background, there are few people in this country with John McGarry's experience in Government and election law. He has served as Counsel to the House Committee on Government Operations; as an Assistant Attorney General of the Commonwealth of Massachusetts; as Chief Counsel for 12 years of the House Special Committee to Investigate Campaign Expenditures; and from 1973 to the present, as Special Counsel to the Committee on House Administration, specializing in election law.

For every Congress since 1962, Mr. McGarry has participated in the preparation of an election guidebook for the House of Representatives. As the Chief Counsel to the Special Committee to Investigate Campaign Expenditures, he wrote a biennial report on election cases before the House, and made recommendations for remedial legislation.

During the past 15 years, Mr. McGarry has been involved in every facet of the Federal election process, including staffing and drafting the Federal Election Campaign Act of 1971 and its amendments of 1974 and 1976; review of regulations to these statutes; investigation of complaints and contested election cases; participation in hearings, and the drafting and compilation of reports.

His performance as an election adviser has received praise from Members of Congress with whom he has worked—both majority and minority—and from counsel of both parties.

Mr. President, as chairman of the Senate Committee on Rules and Administration, I believe the committee did an excellent job in examining this complex nomination; with the cooperation shown by the White House staff in attempting to answer our questions; and with Mr. McGarry's assistance and patience during a most difficult period. Having observed him, and grown to know him during this process, I believe he has exhibited the requisite statutory qualifications of maturity, experience, and impartiality to carry out his responsibilities on the Commission.

As has been pointed out, there are few people in Government who have a greater mastery of election law and the problems of elections than does John Warren McGarry.

Consequently, I urge his nomination by the Senate.

Mr. MARK O. HATFIELD. Mr. President, I ask unanimous consent that Martin Gold, Tom Getman, and Steve Crow of my staff be granted the privilege of the floor during discussion and votes on this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MARK O. HATFIELD. Mr. President, first of all, I should like, for the benefit of my colleagues, to indicate that there will be a very extended period now for the discussion of this particular issue. I feel that it is very important to bring before the Senate the issue as we now have it presented, not on the merits of Mr. McGarry, because I was one of the people who voted for Mr. McGarry's confirmation on the committee. My two colleagues on the Republican side (Mr. BAKER and Mr. GRIFFIN) voted no on Mr. McGarry's nomination. So I am not tonight going into the issues relating to Mr. McGarry's qualifications,

but rather as to the procedure that is being followed here on the floor of the Senate tonight.

Let us recall that when Congress set up the Federal Elections Commission, they wanted it to be totally bipartisan because the rulings of that Commission were to apply equally to Democratic candidates as well as to Republican candidates and to independent candidates and third-party candidates Therefore, the Commission was organized on a 3–3 basis, three Democrats and three Republicans.

In order not only to give the appearance but to make sure the Commission was truly bipartisan, the minority leader of the House of Representatives (Representative RHODES) and the minority leader of the Senate (Mr. BAKER) had a conference with the President of the United States in which they understood the President to agree that he would select the Republican nominee from a list given by the leadership of the Congress, the Republican leadership. There ensued disagreement as to exactly what was understood to be the conditions upon which the President would make this appointment. So we have had, on that basis and other bases which I shall go into, a long delay.

Now, Mr. President, what we have here tonight is an attempt to uncouple the Republican nominee from the Democratic nominee. The Democratic nominee, Mr. McGarry, has been heard——

Mr. ROBERT C. BYRD. Will the Senator yield on that point? I may be able to help him.

Mr. MARK O. HATFIELD. Yes, I will.

Mr. ROBERT C. BYRD. I should be very glad to ask unanimous consent that the Committee on Rules be discharged from further consideration of the Republican nominee and bring that nomination to the floor and vote on it tonight.

Mr. MARK O. HATFIELD. I know that proposal—I am happy to have yielded to the majority leader for that comment. But let me say that comment and that proposal would be rejected by this Senator for a basic principle.

I remind the Senate of the United States that we got into a little difficulty on a quickie kind of confirmation on a very important part of the President's official family earlier in this administration. That committee of the Senate went on television more or less to undo the things they had not done in the first place.

I want to say that even though this happens to be a Republican nominee whom I have personally known—I think he is of the highest qualification—I am not going to violate what I consider the duty of the Rules Committee to put him through the same hearing process that we put every other nominee through, Democrat and Republican. We have not yet even had the FBI report made available to the members of the committee.

The nominee for the Republican slot was sent up to the Senate on Wednesday of this week. The chairman of the Rules Committee has attempted twice to get a quorum. We held a meeting this morning with Mr. Friedersdorf with only four persons—two Republicans, two Democrats—twice the number on the minority side as showed up on the majority side to create a quorum. We were minus a quorum. We went through a preliminary questioning with Mr. Friedersdorf. To say to bring that name to the Senate tonight without the benefit of the review of the FBI report or the members of that committee to see the financial report or to put to him the same questions we put to other nominees I think would not be upholding the duty and responsibility of the Rules Committee.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. MARK O. HATFIELD. I am happy to yield.

Mr. ROBERT C. BYRD. I recognize the validity of the reasoning that the Senator has expressed. I simply want to assure him that there is no effort here to decouple the two. As far as I am concerned, we can bring that nomination out by unanimous consent and couple the two. That is the thing I was suggesting.

Mr. PELL. Will the Senator yield on the same point?

Mr. MARK O. HATFIELD. I am happy to yield.

Mr. PELL. As chairman of the Committee on Rules, I would have supported the thought of the majority leader. I thought we had a good hearing this morning. Mr. Friedersdorf's financial holdings were of a singularly open and uncomplicated nature. As a general matter of custom, when the nomination comes from the White House, the White House is adequately satisfied from the security viewpoint, from the viewpoint of the FBI check. Personally, I should be more than willing to couple the two together at this time. I just want to make that point as well.

Mr. MARK O. HATFIELD. I appreciate the comments from the chairman of the committee. I want to say that, as much as I would like to have Mr. Friedersdorf confirmed tonight, as much confidence and trust as I have in the record and performance of Mr. Friedersdorf, I think, again, that we are establishing bad precedent that we shall come to rue if we short circuit the normal hearing process that we have created and established for confirmation purposes of the other nominations of the President.

Again, I want to emphasize that this in no way casts any reflection upon Mr. Friedersdorf, but I can just conceive of the situation arising because we yielded to, say, the request to couple them in order to get both of them confirmed tonight—one with a hearing, one without a hearing. We only had a preliminary hearing today. We still did not have the FBI report, so it was an inadequate, incomplete hearing.

To do that at this time, I can see down the road when a nomination appears up here on the Hill and somebody says, this is very important to get this nomination confirmed quickly, let us not go through the normal process, let us hold it at the desk and let us confirm it—I can see all kinds of problems on that precedent that we would be establishing.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MARK O. HATFIELD. Yes.

Mr. ROBERT C. BYRD. I do not quarrel with the Senator's feelings on that point. I think it might well be that one could meet himself coming back down some future road. I agree with the Senator that adequate testimony should be adduced and hearings should be held. I simply want to say and say again that as far as the decoupling is concerned, we could cure that quickly. But it would not reach the basic objection which the Senator has so ably expressed.

Let me say this: Why do we not vote on this nomination—it has been on the calendar now over a month; it was reported out of committee—and let the Senate work its will on the nomination? Then when Mr. Friedersdorf's nomination comes along, we shall take care of that.

I want to say one more thing: I did what I can do and I think I was of some assistance in getting the President to send up the nomination. I personally talked with the President about this matter some time ago.

I assisted the minority leader in this respect, because I felt that there was some justification for the position that was being taken by the able minority leader in the Senate and able minority leader in the House. I felt there was going to be a Republican nomination, there is going to be a Republican nomination to be filled; I thought those two leaders ought to be given some consideration as to the nominee and as to their choice of the nominee. I made that plea to the President.

Now, Mr. President, having said that, I feel that it is only fair to give this nominee—do not couple the two. Let each stand on its own merits, and vote up or down on this nominee and quit holding him here on the calendar and letting that nomination die at the end of the session.

I do not think that is fair to the nominee. I say this with all due respect to the distinguished Senator from Oregon, because he did vote to report out this nominee.

Mr. MARK O. HATFIELD. I also say further to the majority leader that I really do not consider that the offer to couple tonight is really an option, because, to me, the principle of maintaining the integrity of the procedures we have set forth for the previous nominees do not really offer us an option. We must maintain that.

I would also say further that I participated in the hearings of Mr. McGarry.

Again, I think that the chairman would have to say that there were many days when it was the minority side that provided the quorum, even for a hearing purpose. So, we have done everything to expedite that.

But if I could finish my opening remarks, as the chairman of the committee had been permitted to open his remarks, I think I could lay a foundation for the reasons why I am very determined tonight to not have this nomination voted on.

Mr. PELL. Will the Senator yield?

Mr. MARK O. HATFIELD. But I would like to have the privilege of laying my foundation for this principle.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. MARK O. HATFIELD. Mr. President, as I was expressing my concern about maintaining the bipartisan character of the Federal Elections Commission, I wanted to also lay out the situation that could, in effect, make difficult, at least, if not impossible, to maintain that bipartisanship by uncoupling these two nominations.

We have here a Democratic nominee who has had a long and very detailed hearing. As I recall, we just got the nominee for the Republican vacancy this Wednesday, which has not given the committee the opportunity for a proper hearing.

Now, the majority leader and the chairman of the Rules Committee have suggested to let us go ahead and confirm or to vote on the confirmation of Mr. McGarry, the Democratic nominee, tonight, and in due time we will take up the Republican nominee.

Mr. President, what we are asked to do is to confirm the Democrat and leave the Republican on the beach.

We are moving to a closing of this session. We have tried for three days to get a quorum in the Rules Committee. It was obvious we would not have the possibility of getting the Republican nominee up here in this session of the Congress.

So where do we go? I do not know where we would go.

There are various options open to the President. He could have a recess appointment. He could make a recess appointment which would take place under article 2, section 2 of the Constitution, which would mean that the recess appointment would fill out that period of time that would involve the first year of the new Congress, the entire first year, provided we resubmit the name within 40 days after the reconvening of the new Congress.

But this is where we lose the bipartisan character of this Commission, because we do not have the two nominations together.

That is why I feel this is important procedure that we maintain, that we have followed, and which I feel we should continue to follow.

Mr. President, I would urge the Senate, therefore, in the spirit of fairness, spirit of equity, spirit of bipartisanship, to consider that we must maintain that bipartisan character of this whole procedure by having both names at the time we vote on one. We vote on both of them.

Now, what does this do to the Commission? There are six members of the Commission. Those members will serve until a candidate is confirmed and qualified. So there is no void in the Comission at this time which creates any problem on the workload. There are people still serving on the Commission who the two nominees will eventually replace, whatever and whoever the nominees might be.

So we are not putting the Commission under any kind of problem, or we are not creating any kind of problem for the Commission. The Commission is functioning and it will continue to function with a full complement of Commissioners until two new ones are confirmed and qualified.

Second, as to the alternatives we have before us, as I indicated, on the Republican nominee, the President could make recess appointments on both nominations. He could make a recess appointment, for instance, McGarry, he could make a recess appointment of Mr. Friedersdorf, and in so doing he would have the two men he has, in some form or another, brought to the Senate, or sent to the Senate, one recommended by the Rules Committee and one yet to have a hearing.

Therefore, those two persons could serve in that position through the first year of the new session, if we saw fit to resubmit their names within 40 days after the reconvening of the new session.

In the meantime, when that happens, we can have a Rules Committee meeting and we can have the regular procedures for hearing we had on the others, in this case, whoever the Republican nominee might be. In the case of Mr. Friedersdorf, then we could proceed with Mr. Friedersdorf.

So, in order to put this into proper context, I would like to suggest that we look a little bit at some of the recent history of this because there has been some discussion that perhaps the Rules Committee has been dilatory or the Rules Committee has not diligently pursued this responsibility with all great speed.

Well, Mr. President, more than a year ago President Carter first nominated John Warren McGarry for membership on the Federal Election Commission.

Now, the McGarry nomination has been mired in controversy ever since it was sent to the Hill. Its history has been a litany of frustrating delays and what I consider, at least, as needless confusion, almost from the start.

Now, as this debate and the discussion in the next 3 or 4 hours will establish, many serious doubts about Mr. McGarry's fitness for office still persist in the minds of at least two members of the committee.

I anticipate, Mr. President, that several of my colleagues will eventually allow their substantive financial disclosures of tax problems which continue to cloud this nomination in their thinking. But for my part, I will set forth the reasons why John McGarry's nomination has been left pending before the Senate for so long.

McGarry's nomination was originally submitted to the Senate on September 27, 1977. Hearings were held before the Rules Committee on November 2 and 4, 1977, but they terminated before the nominee was able to testify.

By reason of Senate rule XXXVIII, nominations not acted upon during the first session of a Congress can only be held over until the second session by unanimous consent. No such unanimous-consent agreement was achieved.

So, the McGarry nomination lapsed.

Now, in anticipation that McGarry's name should be resubmitted, however, the Rules Committee staff, both majority and minority—and, Mr. President, the staff has been, I think, extraordinarily diligent in all of this activity. They have performed in a most able fashion, both majority and minority staff working in a very harmonious fashion.

They continued their research into the background of the nominee.

Now, on December 14, 1977, the staff and McGarry met for several hours and he furnished written responses to certain questions that had been mailed to him in prior weeks and also submitted to earlier inquiries.

I think it is very important at this point for the Senate to hear the hearing record. So I shall proceed to recite the hearing record on the particular point of McGarry's nomination:

The staff of the Committee on Rules and Administration met in Room 301 of the Russell Senate Office Building at 2:06 p.m. with the nominee, John Warren McGarry, Mr. Hall presiding.

Present: Edwin K. Hall, Counsel (Elections); James F. Schoener, Minority Counsel (Elections); William M. Cochrane, Staff Director; Chester H. Smith, Chief Counsel; Larry E. Smith, Minority Staff Director; Martin B. Gold, Minority Counsel; Carol Darr, Assistant Counsel (Elections); Rob Mosbacher (Senator Baker's staff); Andrew Lowie (Senator Clark's staff); Thomas Hughes (Senator Pell's staff).

Mr. HALL. I have just got a short statement I would like to make at the very beginning. This is a meeting authorized by the Chairman of the Committee on Rules and Administration between the Committee staff and John McGarry, whose nomination to be a member of the Federal Election Commission is presently before this Committee.

For the record, and as an assistance to the reporter who is present to record our discussions, I would like to identify everyone present. Myself, Edwin Hall, counsel to the Committee; John McGarry, nominee to the Federal Election Commission; Chet Smith, chief counsel to the Rules Committee; Rob Mosbacher from Senator Baker's staff; Tom Hughes from Senator Pell's staff; Larry Smith, Minority staff director to the Committee; Martie Gold, Minority counsel to the Committee; James Schoener, Minority counsel for elections to the Committee; Andy Lowie from Senator Clark's staff; and Carol Darr, assistant counsel to the Rules Committee; and Mary Daley and Bill Cochrane, staff director to the Rules Committee.

This meeting was called to give the Committee staff an opportunity to discuss with John McGarry questions pertaining to his nomination to be a member of the Federal Election Commission. In order that our discussions and the material which will consequently become part of the Committee's records may be put in their proper context, I would like to review briefly the events leading up to the meeting.

Mr. McGarry's nomination was referred to the Committee on September 27, 1977, and in response to a request from Chairman Howard Cannon of that date.

Mr. PELL. Mr. President, will the Senator yield?

Mr. MARK O. HATFIELD. Not at this point. I want to complete this particular presentation.

Mr. PELL. The question is whether it is a confidential hearing or not. Mr. McGarry has waived all his rights in this whole hearing.

Mr. MARK O. HATFIELD. The ques-

tion is well taken, but Mr. McGarry, in three hearings, waived all confidentiality, waived every right he had for executive sessions, to discuss his matters—financial and other such matters.

Mr. PELL. But he never waived this particular hearing and was not asked to.

Mr. MARK O. HATFIELD. Mr. President, there is no classification to this. As I say, Mr. McGarry, in three open meetings, waived all such rights for executive discussion of his business.

Now, Mr. McGarry's nomination was referred to the committee on September 27, 1977, and in response to a request from Chairman Howard Cannon on that date—

That was when Mr. CANNON, by the way, was chairman of the Rules Committee:

Mr. McGarry provided the Committee with answers to a detailed questionnaire regarding his personal and public career to date.

These were submitted to the Committee on October 4 and 6, 1977, with the understanding that personal financial data and income tax returns would not be made available outside the Committee unless so ordered by the Committee. These materials were made available to Committee members and staff. And during meetings and telephone conversations with Committee staff prior to the initial hearings held on November 2 and 4, Mr. McGarry provided background information on some of the matters made available to the Committee. And if everyone would indulge me for a few minutes longer, I would like to briefly refer to some of those items so that the record and the material that we have to date may be as complete as possible. And if what I relate is in any way inaccurate or needs further explanation, I would request Mr. McGarry to interrupt me at that particular point. There are about seven items I wish to refer to.

The following were received for the record:

Number one, the 129 shares of stock in the Half Shell California corporation, reflected on Schedule D of Mr. McGarry's 1976 income tax return,

I remind the chairman of the committee that these were specific items that are in the record that we went over, item by item, point by point, in the open record.

shown to have been sold on February 28th, 1976, at a loss of $160,678, was his interest in a California corporation. This California restaurant operation was a separate and distinct legal entity from his interest in the Half Shell, Inc., listed in his financial statement to the Committee, which is a Massachusetts corporation.

A second item. Mr. McGarry informed us that the valuation of his investment in Half Shell, Inc., Massachusetts, of $538,000 is based on an agreement to sell his interest for that amount to two partners.

Mr. MCGARRY. May I interrupt just on that point?

Mr. HALL. Please.

Mr. MCGARRY. The Massachusetts corporation redeemed my stock. The net result would be the same, because there are two partners, two associates, who will remain with the entity, so the net result is the same, but technically the corporation redeemed my stock.

Mr. HALL. Mr. McGarry reported that he was to be paid in installments over an eleven-year period with a large balloon payment in the eleventh year, and that these payments would be dependent on the continuing success of the restaurant business and the personal guarantees of the two purchasers.

And the third item, John McGarry provided the Committee with a copy of the agreement pursuant to which he terminated his law partnership in 1973. A total of $100,000 was paid to him under the agreement, $15,000 in 1973, $5,000 in 1974, $10,000 in 1975, and $70,000 in 1976. All payments under the agreement have been made due to an acceleration of the payment schedule, resulting from the occurrence of the events referred to in paragraph 5 of that agreement. All payments were taxed to Mr. McGarry as ordinary income.

The fourth item. Mr. McGarry informed the Committee that he had received payments in the past five years from individual clients unrelated to his partnership practice with Mr. Sheff, which reflected professional services rendered prior to December 1973, when he assumed full duties as special counsel to the Committee on House Administration. The amounts are as follows and are reflected on the income tax returns submitted to the Committee: in 1976 that was $3,668; in 1975 that was $10,224; in 1974 it was $16,021; in 1973 it was $14,268; and in 1972 it was $3,050.

Item No. 5. In regard to Mr. McGarry's 1974 income tax return, Schedule C of that return reflects $6,235 for salary and $4,763 of other business and professional expenses in 1974. He indicated that a substantial portion of this reflected the expenses of a law office at 739 Boylston Street which he set up in late 1973 after the termination of his partnership with Mr. Sheff. When Mr. McGarry left Boston in 1973, in December, to assume duties with the House Administration Committee, an attorney by the name of Jerry Rovner, R-o-v-n-e-r, ran that office to conduct his own law practice. But for 1974, all of the expenses were paid by Mr. McGarry. Mr. McGarry performed no legal services in 1974, and, as indicated,

Mr. President, I may want to read transcript from the regular committee hearing as well, to underscore it, as this report is being given now. That would be at a much later time:

received no fees for legal services except for those services rendered prior to the end of 1973. Although not particularly exhaustive, the above items set forth the additional information that had been provided to the Committee prior to the November 2 and 4 hearing dates which explained or expanded upon John McGarry's answers to the Committee questionnaires. And I believe it was all distributed to the Committee members and staff at that time.

As we are all aware, the Committee was unable to complete the hearings and hear from either of the nominees during this session.

On November 10, 1977, Senator Howard Baker requested the Chairman to authorize the Committee staff to obtain more detailed information regarding the financial data submitted to the Committee by John McGarry, which brings us up to this meeting.

A series of questions has been provided Mr. McGarry to assure that he would have an opportunity to review his records and bring whatever data he felt might be helpful. These were sent to him on Wednesday, November 23, in Wellesley, Massachusetts, but not received until November 28, after his return from a previously planned vacation with his wife.

A supplemental series of questions relating to his income tax returns was sent to him on November 28, requesting that he bring with him written answers to these questions to be made part of the record with his income tax returns.

I believe that it goes without saying that we are all agreed that should any matters we discuss today require the review of additional records for a more complete answer or explanation of a question or situation, Mr. McGarry will be able to submit the pertinent information to the Committee in writing after that review.

And one final point. The Chairman of the Committee has directed that the matters discussed here today, and the material submitted by Mr. McGarry, are not to be discussed or made available to anybody outside of the Committee.

Mr. McGarry has provided written answers to the November 28th questions related to the income tax returns. A copy of that has been made available to everybody here today.

I interrupt myself for just a moment to underscore again that what I am reading here. Even though the chairman had made that directive to the committee all of these items in fuller discussion even than this committee report were brought into our open hearing as a part of the official record plus a GAO report that was made independent of the committee staff bringing forth even in greater detail all of these same items. So we have two public documents that have already been in published form as far as the public is concerned available to the press, and so forth, to which all of these matters in this particular report referred.

I shall try not to interrupt myself further and delay:

He has also provided answers to the first set of written questions, and a copy of that has also been distributed to everybody at the meeting.

The questions which were submitted to Mr. McGarry in the November 23 letter are divided into a number of fairly specific categories. And I believe it would be best if we could just take up each categody one at a time.

And that is what I plan to do even now.

So, to start with, I would like to review the questions in each category, and then give John McGarry an opportunity to provide us with the answers and information that he has put together.

I interrupt myself again, Mr. President, because I think this key is again a key to the whole procedure. Mr. McGarry was given every opportunity to provide the committee with information, with questions, that were asked and answered that he would provide with counsel or without counsel, in written form, varbally, and I say that Mr. McCarry as far as I am concerned cooperated in a most satisfactory manner with the committee.

Mr. McGarry on one occasion I remember was not feeling well. He had had some difficulty with his neck. He was in a very great state of discomfort and yet he sat through a long period of time waiting for the committee to begin and responded in a very courteous, gentlemanly fashion to these questions that were propounded to him. As he indicated, he had been through many of these questions with the staff and then he was through with these questions with the committee and he had been through them with the GAO investigator. In spite of all the repetitious character of these questions and the answers which he was giving, he maintained a great sense of dignity and decorum, and I feel he deserves the credit of all Members, even those who voted against him.

I reiterate again that my vote was in support of Mr. McGarry, and the procedure I am following here is only to protect the rights of the minority and to

maintain the bipartisan character of the Federal Elections Commission.

I am returning now to the record. I have reached page 8 of 140 pages of the first volume:

After that the staff members can ask any follow-up or additional questions related to these categories, if they wish to do so, and then we can go into the next category and follow the same procedure.

Now, discussion will be limited to those financial matters referred to in the written questions and any related matters which may arise from Mr. McGarry's answers. Any other matters that may come up or may occur will have to be deferred for now, and take them up either at a later time in writing or at another meeting that we might have, or a Committee meeting itself when the Committee resumes its hearings.

Larry, do you have anything?

Mr. L. SMITH. Yes, just a couple of points. To reiterate, the proceedings of today are to be kept in strict confidence to the Committee staff and that we are not to discuss it with anyone outside of the Committee, any members of the media, but it is for the use of the Committee members in the deliberations for this nomination.

This material, Mr. President, was to be made available which it was to the Members for their deliberations and the nomination and those deliberations took place in public. They were not executive sessions. Mr. McGarry on three occasions yielded any right that he wanted to impose or to call upon for an executive session. So this material, again let me emphasize is in greater, even greater detail than I am reading here tonight in two public documents; namely, the hearing record of the committee and the GAO report.

Now, I am going to continue again on page 8:

And just one point, in following up your last point—I would think that if anyone has any questions that maybe were not strictly covered in the written questions, they certainly could ask Mr. McGarry those questions today and give him time to submit his responses at a later time, particularly if they apply to the income tax forms, where there are questions. I think some of us have come up with questions after the time the written questions were submitted that maybe we would like to bring them up.

Mr. HALL. Well, there may be a situation, too, where after reviewing the material and the transcript there would be other questions, and after that, at that time, submit them to John over the holidays.

What I would like to do then is start with the first category which is a series of questions relating to Half Shell, Inc., and I will run through the questions that were submitted and then give Mr. McGarry an opportunity to provide the answers to them, and we can go on from that point.

In regard to the Half Shell, Inc., questions were essentially as follows: When was it formed? When did you invest in it and how much did you invest? Who were the partners at the time, and who are the present partners in Half Shell, Inc.? Who is purchasing your interest and how was the price determined? How many restaurants were opened by the corporation and where were they located? Which ones are still operating and what has happened to the others?

That provides the basis of the general questions that were submitted and at this time I would just let John McGarry go ahead and take the floor. It's all yours.

Mr. MCGARRY. Thank you. The Half Shell, Inc.—the exact legal name of that Massachusetts corporation is Boston Half Shell, Inc. This entity, a Massachusetts corporation, was formed in July 1938. I invested in it in July 1971; the amount of my investment was $57,470.

My partners then and throughout my relationship with that entity were Harold Buchhalter of 770 Boylston Street, Boston, Massachusetts; Lester J. Grant, 3301 N. E. 39th Street, Fort Lauderdale, Florida; Barry Hoffman, 404 Grove Street, Westwood, Massachusetts. The corporation has redeemed my stock the end of November, and at the time its redeemed my stock my partners were the same as I just recited to you.

As I pointed out, the corporation has redeemed my stock. The price was determined, for the most part, on the value of the corporation resulting from a management contract entered into by the corporation with a third party.

As for the number of restaurants opened by this Massachusetts entity, there was only one, and that is the one at 743 Boylston Street, Boston, Massachusetts.

Mr. GRIFFIN. Mr. President, will the the Senator from Oregon yield?

Mr. MARK O. HATFIELD. I did not understand.

Mr. GRIFFIN. Would the Senator from Oregon care to yield briefly?

Mr. MARK O. HATFIELD. Yes.

Mr. GRIFFIN. Maybe by unanimous consent.

Mr. MARK O. HATFIELD. Mr. President, I ask unanimous consent to yield without losing my right to the floor.

Mr. METZENBAUM. For what purpose does the Senator from Oregon yield? I would like to get out of here.

Mr. MARK O. HATFIELD. I would be very glad to say goodnight to the Senator from Ohio and wish him well.

Mr. GRIFFIN. If the Senator from Ohio cares to object that would be fine.

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MARK O. HATFIELD:

However, two other restaurants, operating under the name Half Shell, were opened by two other separate entities, separate business entities with different principals, in Denver, Colorado, and Los Angeles, California.

Mr. GRIFFIN. Mr. President, would the Senator from Oregon yield for a question?

Mr. MARK O. HATFIELD. I would be happy to yield for a question without losing my right to the floor.

Mr. GRIFFIN. I wonder if the Senator from Oregon has had the opportunity to read the Wall Street Journal article of October 3, which article reads as follows:

DID CARTER NOMINEE TO ELECTION BOARD VIOLATE ETHICS RULES?

(By Jerry Landauer)

WASHINGTON—The strict "post-Watergate morality" that politicans always talk about these days will be tested in the Senate this week.

That test will come when the Senate considers President Carter's nomination of Democrat John Warren McGarry to a seat on the Federal Election Commission, a six-member agency that is supposed to supervise political fund raising.

As I say, this is an article that appeared October 3 in the Wall Street Journal written by Jerry Landauer, who is a very well-known and distinguished journalist. Continuing:

Mr. McGarry, a longtime congressional staffer, owes his nomination largely to his friendship with House Speaker Thomas "Tip" O'Neill. President Carter and the six Democrats on the Senate committee that backed Mr. McGarry's nomination have glossed over the nominee's failure to comply with the House code of ethical conduct by neglecting to disclose certain outside moneymaking activities.

Mr. McGarry wants to serve on the FEC to cap a career on Capitol Hill that began 24 years ago as a clerk on the House floor. His numerous friends, including Republicans such as Rep. Samuel Devine of Ohio, think he is well qualified to administer fund-raising and other election laws.

A NET WORTH OF $1.5 MILLION

Mr. McGarry doesn't need another government job for the money. While working part time or full time for the House, he practiced law on the side, negotiated business mergers, bought and leased a $450,000 computer, and invested in three profitable real-estate partnerships. He also invested in four corporations operating seafood restaurants, discotheques and other enterprises that were formed under the tax code's subchapter S, which allows investors special tax treatment.

But now Mr. McGarry's financial statement shows a net worth approaching $1.5 million. In recent years, his annual income, excluding a congressional salary of $36,000 to $40,000, generally exceeded $100,000, and in two of the last four years he wasn't required to part with a dime in federal taxes; one $5,000 investment yielded tax write-offs totaling $176,000.

Nothing in the House ethics rules, which were tightened last year, prohibited Mr. McGarry's sideline activities. And the Internal Revenue Service is satisfied with his tax deductions.

But it is Mr. McGarry's way of combining government service with other careers that is noteworthy. For one thing, he continued living in Boston even while working full time as special counsel for the House Administration Committee, a post he still holds. That job began in December 1973. Yet for tax purposes, he still regards the job as "temporary," and he has deducted up to $7,500 a year for air travel, hotels, restaurants and other costs of commuting between Boston and Capitol Hill.

LIMITING PUBLIC DISCLOSURE

In addition, Mr. McGarry has interpreted House ethics rules in a way that reduced public knowledge of his investments, business ventures and finances.

Some examples:

—In 1975, Mr. McGarry reported a capital gain of $20,193 "from sale of stock." He failed to identify the source of this gain, as the ethics rules required.

—Also in 1975, Mr. McGarry listed income of $10,224 "owed from prior years when not with the U.S. government." Again he didn't name the source, Melo-Tone Vending Co. On his tax returns for 1976—but not on the House disclosure form filed in April 1977—Mr. McGarry reported receiving $10,000 more from Melo-Tone Vending for legal services. This second fee didn't appear on House records until 1978, after President Carter had tapped him for appointment to the Federal Election Commission. Mr. McGarry's explanation: Although paid on the last days of 1976, the $10,000 check didn't arrive until early 1977.

—In 1973, Mr. McGarry rang up a $15,000 capital gain from the sale of his half-interest in a two-partner law firm. For 11 months that year, he worked in the House as a part-time contractor, and for one month he worked as a full-time employe. He didn't disclose the $15,000 gain, Mr. McGarry says, because he wasn't an employe of the House when it occurred.

No provision in the ethics rules supports that interpretation. On the contrary, the House Ethics Committee expects disclosure

of transactions occurring in the year "prior to the service of the person reporting."

—Besides the $15,000 paid in 1973, Mr. McGarry's former law partner paid him $85,000 as ordinary income from 1974 to 1976. Again Mr. McGarry failed to disclose, contending that he received this income not for previous legal services but for promising that he wouldn't compete against his partner for certain future business.

The agreement dissolving the partnership does contain a covenant against competition. But it states: "The sums to be paid to (Mr.) McGarry . . . are for his release of all claims to his proportionate share of contingent fees in pending litigation, fees due from clients for past legal services rendered and for unrealized receivables and uncollected fees.

(Mr. McGarry and his partner also agreed in writing to file a final tax return "no later than the date due." No return was filed. The IRS didn't squawk.)

—Besides working in the two-man partnership, Mr. McGarry also earned legal fees as a sole practitioner. Under the ethics rules, a Congressman or employe receiving more than $1,000 in any one year from a "professional organization" must tell the public. Mr. McGarry's annual receipts ranged up to $16,000, but he didn't disclose them. His reason: A sole practitioner isn't a "professional organization."

By this reasoning, scores of lawyers in the House, including Mr. McGarry's boss, Democrat Frank Thompson of New Jersey, could have accepted undisclosed legal fees without bumping against the ethics rules. Rep. Thompson has reported fees earned as a sole practitioner: "There isn't any question" that such income must be reported, says Mr. Thompson, who supports Mr. McGarry's nomination.

Yet the six Democrats on the Senate committee that sent Mr. McGarry's nomination to the Senate floor (Oregon Republican Mark Hatfield also endorsed him) say it isn't fair to nit-pick at Mr. McGarry's disclosure forms. In earlier years, rigid adherence to ethics codes wasn't deemed so essential, the Senators suggest, saying that "standards of reporting in both houses of Congress weren't so strict at that time."

Mr. McGarry, acknowledging some disclosure lapses, agrees with such defenses. "There's a whole new mood and attitude in the House now than there was back a few years ago," he contends.

If confirmed to the Election Commission, Mr. McGarry says, he would move from Boston to the capital, surrender outside ventures that conceivably could pose a conflict of interest, and insist on strict public disclosure of who is giving and getting campaign cash.

He adds: "I think the public has not only a right to know, but they should have the ability to find out easily."

I would say to the distinguished Senator from Oregon that I thought this article was important, and is at least some beginning of the discussions that will later ensue as far as this Senator is concerned, and perhaps speaking also for Senator BAKER, who was opposed to the nomination; and I wondered if the Senator from Oregon had had the opportunity to see that article. That was my question.

Mr. MARK O. HATFIELD. Yes, I have had the opportunity to read that some time back, but it was good to have my memory refreshed as to the theses that the Senator from Michigan, as well as the Senator from Tennessee, will carry on at a later point in our debate.

I recall those hearings. They were very long and tedious, as the Senator from Michigan knows. I suppose in some ways I was disadvantaged, again not being a lawyer, in following some of the questioning on these legal points, and perhaps did not have the same appreciation for the importance of some of these legal points that the Senator from Michigan had, which brought us to different conclusions as to the actual effect on the nomination of Mr. McGarry.

But I certainly know of the diligence with which the Senator from Michigan pursued those questions, in which he analyzed the documents, such as a copy of the contract agreement not to compete in the future; and they did raise some interesting questions that I suppose tended to confuse at least me, as a nonlawyer, more than to enlighten me.

But I assume that those who could understand had, of course, like in most of these questions of opinion, access to locate and lift from a given set of documents and circumstances——

Mr. METZENBAUM. Mr. President, will the Senator yield? I did not mean to interrupt the Senator's answer to the Senator from Michigan.

Mr. MARK O. HATFIELD. I would only say that I appreciate the Senator asking the question, and I reiterate my answer, that I have not read it of late, but it does put into a rather succinct manner what entailed a rather long discussion, and I shall get to that, hopefully, sometime tonight in this particular volume of the hearings.

Mr. GRIFFIN. I thank the Senator for yielding for that question.

Mr. METZENBAUM. Will the Senator from Oregon yield for a question?

Mr. MARK O. HATFIELD. Without losing my right to the floor, for a question.

Mr. METZENBAUM. Of course, the Senator from Ohio is very much concerned about the Senator from Oregon's voice holding out. The Senator from Ohio would like to inquire of the Senator from Oregon, why would you not be willing to bring up both of these nominations at the same time, since it is my understanding that it has been indicated and I am told that there is a willingness to bring Mr. Friedersdorf's nomination out on to the floor for confirmation promptly, because the hour is late and work is to be done.

I thought the Senator from Oregon had a point if they were only going to take up this one nomination and be unwilling to bring the other one up; but why, under the circumstances, since there is willingness to bring both of them up, is the Senator unwilling to follow that procedure?

Mr. MARK O. HATFIELD. I am really very happy that the Senator from Ohio posed the question. We did go over this particular point a little earlier in the evening with the majority leader, who very graciously made the proposal to discharge the Rules Committee and report the Republican nomination, that of Mr. Friedersdorf, directly to the floor, and also Chairman PELL had earlier in the day, when we failed to get a quorum in the committee, suggested that might be possible.

Now, I take that at face value, and that was certainly an effort, I think a very sincere effort, on the part of both Chairman PELL and the majority leader (Mr. ROBERT C. BYRD) to try to dispose of this once and for all; and I would personally like to do that very much. I would say to the Senator from Ohio. I would reiterate that I voted to report the nomination of Mr. McGarry out to the floor. Mine was one of those seven votes to two margin that Mr. McGarry's nomination was reported by.

But I said that I would have to object to the proposal to discharge the Rules Committee and short-circuit the normal hearing process. I would say to the Senator from Ohio that the Senate has charged the Rules Committee with the responsibility to investigate and to hold a hearing, to ask questions, to probe, and to get satisfactory answers on candidates whose names are submitted by the President to require confirmation through the Rules Committee process.

Now, I would say to the Senator from Ohio that no such hearing has been held on Mr. Friedersdorf, the Republican candidate. There was a preliminary type cursory hearing that we started this morning, that we could not complete, because it came to the hour where we could no longer meet, plus the fact that we did not have the FBI report, and we had just received the materials on Mr. Friedersdorf himself, and we did not have time to go through the questions that I had propounded to each of the other nominees, because we had not only had the hearing on Mr. McGarry, we had had a hearing on Mr. Zagoria, the previous Republican nominee, whose nomination was withdrawn by the President.

Therefore, I cite again, without going into detail, the example of when a committee of the Senate used that short-circuit method before, because they said, "Oh, we all know him."

Well, he was well known to many Senators, and that hearing then had to be repeated, in a sense, before the television cameras, because of the difficulties that they ran into on down the road, after his confirmation had been quickly pushed through the Senate.

Mr. METZENBAUM. Would the Senator from Oregon, then, be good enough to apprise me, because I did not know anything about this issue? I thought both men could be confirmed if the Rules Committee reports them out. Does the Senator from Oregon desire to preclude the U.S. Senate from confirming both of these nominations before we adjourn, or is the Senator from Oregon merely insisting that the Rules Committee convene a meeting and go through the process with respect to Mr. Friedersdorf, and then bring his matter back to the Senate? Obviously, the constraints of time would not provide much allowance for a full hearing under those circumstances. What is the Senator's wish?

Mr. MARK O. HATFIELD. I would say to the Senator from Ohio that if the committee had been able to fulfill its basic responsibility of not going through a charade, but going through an intensive hearing, as we have on other nominees, I would be very happy.

I support Mr. Friedersdorf. This is very difficult, because he is the Republican

nominee, whom I have known; I consider him a personal friend, and I highly commend the President for making this selection.

But I believe the integrity and the responsibility of the Rules Committee cannot be circumvented in order to expedite a confirmation process here on the floor.

I would also say that we had a meeting this morning. We had a meeting yesterday, I would say to my good friend the Senator from Ohio. We came to the floor and asked the majority leader to ask unanimous consent for the Rules Committee to meet off the floor 2 days ago, and there were two objections raised from the Democratic side of the aisle. We could only get four members of that Rules Committee to a meeting today.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MARK O. HATFIELD. I am happy to yield without losing my right to the floor.

Mr. ROBERT C. BYRD. I will be glad to help the chairman and the Senator get a quorum of that Rules Committee tonight after the Senate goes out, or tomorrow morning, for the purpose of considering and reporting the nomination of Mr. Friedersdorf.

Mr. MARK O. HATFIELD. Well, I am very delighted with the majority leader's cooperation. I would only say we have tried three times in 3 days to get a quorum, meeting at rather decent hours, at 9 and 10 in the morning, and offering to meet off the floor in the afternoon.

Let me say to the Senator from West Virginia, let us lay all the cards out here on the table.

Mr. ROBERT C. BYRD. Would the Senator like——

Mr. MARK O. HATFIELD. Let me finish, if I may. One reason that a quorum has not been established in the Rules Committee is because of another happening in the Rules Committee.

That issue is the funding of the Select Committee on Indian Affairs. I want to say for the RECORD, as I did to the committee today, that we were establishing a bad precedent to design a lack of quorum on one issue, because that is what was creating the problem on Mr. Friedersdorf on a separate issue entirely.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. MARK O. HATFIELD. I will be glad to yield without losing my right to the floor.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senator be able to yield without losing his right to the floor.

Mr. GRIFFIN. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. GRIFFIN. Maybe the majority leader will tell me what the request is. We are in a filibuster and the majority is playing hard ball.

Mr. ROBERT C. BYRD. We are not playing hard ball.

Mr. GRIFFIN. What does the Senator want to do?

Mr. ROBERT C. BYRD. I ask unanimous consent, Mr. President, that the Rules Committee be granted consent to meet during the session of the Senate tomorrow for the purpose of considering and reporting the nomination of Mr. Friedersdorf.

Mr. MARK O. HATFIELD. Mr. President, I reserve the right to object.

Mr. GRIFFIN. I object.

The PRESIDING OFFICER. Objection is heard by the Senator from Michigan.

Mr. METZENBAUM. I was asking some questions, and I would like to continue. I really am trying only to move forward so that I can get to some issues that I really would like to contest, which I think have significant merit, which are substantive issues. It is not too difficult to prolong this session, but if it is the intent of the Senator from Oregon, and if the Senator from Michigan joins in that intent, to kill both of these nominations in this session, then I think we ought to be apprised of that fact. Then, of course, it is up to the leadership as to which road they are going to go.

If that is not the intent, then it is quite obvious that the majority leader is prepared to help convene a meeting of the Rules Committee in order that the processes may be followed in order to confirm Mr. Friedersdorf and this present member who is up for confirmation.

All I am trying to find out is this: I am not trying to tell the Senator which way to go, but if he wants to kill them both, at least let us know that is his intent so I can go home and go to sleep. I think his objective can be reached in short order. If he wants to confirm them both, I think that can be achieved. If he wants to kill them both, I think that can be achieved. But I think we are entitled to at least a candid answer on that. I do not take issue with whatever position the Senator takes.

Mr. MARK O. HATFIELD. I would be very happy to respond to the Senator from Ohio as I did earlier in the evening as to my exact intent. My intent is to bring this nomination down. That is a candid response, is it not?

Mr. METZENBAUM. Yes.

Mr. MARK O. HATFIELD. My basic objective was to have had both of these candidates confirmed, because I support both of them. But I am not going to permit, if I can stop it through parliamentary procedure, the uncoupling of these two candidates, and I will not accept the proposition that we couple them on the basis of circumventing the normal hearing procedure of the Committee on Rules.

Mr. METZENBAUM. But if I may say to my friend from Oregon, as I understand the leader's statement and the statement of the chairman of the Rules Committee, they are not asking to circumvent. They are saying they will convene a meeting of the Rules Committee. I have no authority to speak for the leader, but I speak as a Member of the Senate. That is, it would seem to me the Senator could put this nomination aside until the Rules Committee had met with respect to Mr. Friedersdorf's nomination. After that was disposed of, when the Rules Committee met and there was a quorum, and assuming the Senator recommended them both, could not the Senator bring them both back to the floor? Would not that be simple?

Mr. MARK O. HATFIELD. I wish it were that simple. Let me say the FBI report is not here, or I have not seen it if it has come. No FBI report has been given to the committee with respect to Mr. Friedersdorf. When the Senator suggests a hearing on Mr. Friedersdorf, that would only be a partial hearing. There are many questions I would like to put to him.

We could go through that procedure. But if the FBI report is not here, then that hearing is not complete. Therefore, what good does it do to convene a hearing which cannot be completed when we have tried for 3 days to get a quorum and we have not been able to get a quorum?

I would not agree to a unanimous-consent procedure which would restrict the Rules Committee. We have other business we might want to take up, and we would take up, as far as my efforts, on the Indian question. That is the very thing that I could not acquiesce to on a unanimous-consent agreement, of limiting the subject upon which the Rules Committee would be convened. I do not think any committee ought to have a contravention established in the procedure of issues they should take up and have not taken up, because of a failure to get a quorum.

Mr. METZENBAUM. The Senator from Oregon understands, I know, that I have not taken issue with him on any issue at all. As I understand what the Senator is now saying, it is that he thinks neither of these men can be confirmed during this session of the Senate and that they ought to be put over until January. Is that a correct interpretation?

Mr. MARK O. HATFIELD. I would say that the Senator must remember it has taken us 1 year to get Mr. McGarry to this point, 1 year. Now the Senator is suggesting that in 2 days we get the Republican candidate up. It is really flattering, in one sense, I suppose. It does not take much investigation of a Republican but it takes a long time for the Democrats.

Mr. METZENBAUM. It shows what the Democrats are willing to do for the minority party. What more? If we did it the other way around, the Senator would object to that. Here they took 1 year for McGarry and they are willing to take Friedersdorf in 2 days. The Senator is objecting to that?

Mr. MARK O. HATFIELD. Yes.

Mr. METZENBAUM. Is the Senator suggesting that both candidates be put off until January?

Mr. MARK O. HATFIELD. Let me say this: It does not have to be put off until January. I recited earlier article II, section 2 of the Constitution, which provides the President with ample authority, power, and direction to make recess appointments. Recess appointments would carry through the whole first year of the new session of the Congress if he resubmitted them within 40 days after the convening of the new Congress.

The President could put these two names in a recess appointment and have them serving on the Federal Elections Commission. But I shall not be a party to a quicky kind of hearing that denies to Mr. Friedersdorf the procedures that we have set up for all the other candi-

dates. He has the right to that kind of a hearing. I do not think it puts the Senate in a very good position to set a precedent of pushing through a candidate in the last 2 days of the session, even though he is a Republican. I shall not be a party to it.

Mr. METZENBAUM. Will the Senator from Oregon agree that it would be far worse to do what he is suggesting, to have the President appoint somebody to sit on the Federal Elections Commission for a period of a year, I think the Senator said the appointment could be made, when we are out of session, without that FBI investigation? Would it not be far better for the Rules Committee to go forward with the hearing without the FBI investigation and at least be able to inquire of Mr. Friedersdorf afterwards in that situation? Or if the Senator does not like that, would it not be far better to put the two men aside and wait until January and not have the two vacancies on the Federal Elections Commission?

I for one would not like to think that somebody was sitting on that Federal Elections Commission who had not been screened by the FBI, making decisions, making precedents, making new rules.

I really have difficulty in understanding how, in the Senator's desire to get the Rules Committee to follow the normal procedures, he is now suggesting a procedure for the President to circumvent the FBI.

Mr. MARK O. HATFIELD. The Senator has totally misread my comment, totally misunderstood it. Let me reiterate and restate it, please. I do not want this confusion to continue. I did not make any recommendation to the President. I merely said, in answer to the Senator's question what are the options, there is an option.

I am not suggesting or recommending to the President that he go this route. The President does not have to make any appointments. Let me remind the Senator, the people who are there now will continue to serve on the Elections Commission until a new person is qualified. So we are not holding up the power or the responsibilities and activities of the commission, and we are not pressing against a situation where there is a vacancy meaning the person is not in a position of service.

Those people are in positions of serving tonight and they will continue to do so whether it is tomorrow we confirm, next month we confirm, in January, or if we do not confirm; they will still be in those positions of serving.

I do not care what the President does. I am only saying, No. 1, I support Mr. McGarry; No. 2, I support Mr. Friedersdorf. But No. 3, I will not be a party to uncoupling these two, leaving the Republican on the beach and putting the Democratic candidate in position, nor will I be a party to a quickie, shortcircuited charade of a hearing that is all we have had. If the Senator from Ohio thinks he can get a quorum at our Rules Committee when the chairman has not been able to for 13 days in a row, I would be very happy to hear Mr. Friedersdorf, I would be happy to call Mr. Friedersdorf and have him here in 20 minutes if I could get him here.

I am ready to do business. But I will not be a party to letting this body confirm the Democratic candidate, as I say, and leaving the Republican candidate on the beach for the next Congress.

Mr. METZENBAUM. I understand the position of the chairman of the Rules Committee and the majority leader. They are not suggesting the uncoupling. As a matter of fact, they are suggesting that there be a hearing of the Rules Committee or, absent that, that they bring Friedersdorf to the floor by suspending the rules.

I cannot get a quorum of the Rules Committee, but I say that the leader of the U.S. Senate can get a quorum of the Rules Committee together.

Has the Senator from Oregon now indicated that if there is a quorum of the Rules Committee and Mr. Friedersdorf is brought out, then the Senator from Oregon will be satisfied, or will he only be satisfied if there is an FBI report?

Mr. MARK O. HATFIELD. I shall only be satisfied if we follow the regular procedures that that committee has set for all the other nominees, which includes an FBI report.

Mr. METZENBAUM. Is it a fact, I ask the Senator from Rhode Island, that the FBI report is not presently available?

Mr. PELL. As a general rule, we do not receive the FBI reports unless we ask for them. As far as the other appointees to the Commission, Mrs. Aikens, Tiernan, Harris, Springer, Thompson, Staebler—I remember the day of their hearings and I do not recall—maybe the ranking minority member will correct me—I do not recall that any of those hearings took much more than 5 minutes of questions.

I also point out that in connection with this morning's hearing, it was not a charade. To have a hearing, all you need is a quorum of one and we had four. The questions were fairly deep and satisfactory, as long, as I said earlier, as some of the hearings on people we have had before.

From the security viewpoint, Mr. Friedersdorf has his top secret security clearance in his capacity as a director of the Republican Policy Committee.

It is a most peculiar position. We Democrats are carrying water on our shoulders to do all we can in order to help the director of the Republican Policy Committee receive a Federal appointment. The Republicans, by the same token, are seeking to uncouple a marriage of convenience—this alliance of the two. I think the situation is very much like Alice in Wonderland.

Mr. METZENBAUM. I thank the Senator from Rhode Island.

Mr. MARK O. HATFIELD. Mr. President, I was on page 10 of the first volume.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MARK O. HATFIELD. I am very happy to yield to the majority leader without losing my right to the floor.

CONSENTING TO AMENDMENT OF THE CONSTITUTION OF THE STATE OF NEW MEXICO

Mr. ROBERT C. BYRD. Mr. President, as in legislative session, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of House Joint Resolution 757 and that the Senate proceed to its immediate consideration. This has been cleared on both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

The clerk will state the resolution by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 747) to consent to an amendment of the constitution of the State of New Mexico to provide a method for executing leases and other contracts for the development and operation of geothermal steam and waters on lands granted or confirmed to such State.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the resolution.

The resolution (H.J. Res. 747) was considered and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

POSTPONEMENT OF CALENDAR ITEM

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that consideration of Calendar Order No. 1100, S. 50 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIVE HAWAIIAN EDUCATION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1123.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 857) to amend the Indian Education Act and certain other related education assistance programs to provide Federal financial assistance to Hawaiian Natives, and for other purposes, which had been reported from the Select Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Native Hawaiian Education Act".

CONGRESSIONAL FINDINGS

SEC. 2. (a) The Congress finds that—

(1) striking similarities exist between Native Hawaiians and other Native American peoples with regard to their historic and political relationships with the United States and their present day circumstances;

(2) like other Native Americans, Native Hawaiians rank among the lowest in level of educational attainment and per capita income; and

(3) existing Federal assistance in the field of education fails to address the basic and special needs of Native Hawaiians.

DECLARATION OF POLICY

SEC. 3. (a) The Congress hereby recognizes the need to develop a uniform Federal policy with respect to the eligibility of Native Hawaiians for special Federal assistance commensurate with their status as Native Americans.

(b) The Congress declares its commitment to providing the quantity and quality of educational services and opportunities which Native Hawaiians need and desire.

PART A—REVISIONS OF IMPACTED AREAS PROGRAM AS IT RELATES TO NATIVE HAWAIIAN CHILDREN

SEC. 4. The Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by redesignating title IV as title V, by redesignating sections 401 through 403 and references thereto as sections 501 through 503, respectively, and by adding after title III the following new title:

"TITLE IV—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF NATIVE HAWAIIAN CHILDREN

"SHORT TITLE

"SEC. 401. This title may be cited as the 'Native Hawaiian Elementary and Secondary School Assistance Act'.

"PROGRAM AUTHORIZED

"SEC. 402. The Commissioner shall carry out a program of making grants to local educational agencies in accordance with the provisions of this title.

"GRANTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 403. (a) For the purpose of computing the amount to which a local educational agency is entitled under this title for any fiscal year ending prior to October 1, 1983, the Commissioner shall determine the number of Native Hawaiian children who were enrolled in the schools of a local educational agency, and for whom that agency provided free public education, during that fiscal year.

"(b)(1) The amount of the grant to which a local educational agency is entitled under this title for any fiscal year shall be an amount equal to (i) the average per pupil expenditure for that agency (as determined under subparagraph (2)) multiplied by (ii) the sum of the number of children determined under subsection (a).

"(2) For the purposes of this subsection, the average per pupil expenditure for a local educational agency shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all the local educational agencies in the State in which that agency is located, plus any direct current expenditures by that State for the operation of those agencies (without regard to the sources of funds from which either of those expenditures are made), divided by the aggregate number of children who were in average daily enrollment for whom those agencies provided free public education during that preceding fiscal year.

"(c) In addition to the sums appropriated for grants to local educational agencies under this title, there is authorized to be appropriated for any fiscal year an amount not to exceed 10 per centum of the amount appropriated for payments computed under subsection (b) for that fiscal year. From the amount appropriated for the purpose of this section, the Commissioner is authorized to provide financial assistance to schools which are not local educational agencies or have not been local educational agencies for more than three years.

"USES OF FEDERAL FUNDS

"SEC. 404. (a) Grants under this title may be used, in accordance with applications approved under section 405, for—

"(1) planning for and taking other steps leading to the development of programs specifically designed to meet the special educational needs of Native Hawaiian children, including pilot projects designed to test the effectiveness of plans so developed; and

"(2) the establishment, maintenance, and operation of programs including minor remodeling of classrooms or other space used for these programs and acquisitions of necessary equipment, specially designed to meet the special educational needs of Native Hawaiian children.

"(b) A program or project assisted under this part may include the participation of non-Native Hawaiian children where that participation does not frustrate or inhibit the achievement of the purpose of the program as set out in subsection (a).

"APPLICATIONS FOR GRANTS; CONDITIONS FOR APPROVAL

"SEC. 405. (a) A grant under this title, except as provided in section 403(c), may be made only to a local educational agency or agencies, and only upon application to the Commissioner at such time or times, in such manner, and containing or accompanied by such information as the Commissioner deems necessary. Such application shall—

"(1) provide that the activities and services for which asssitance under this title is sought will be administered by or under the supervision of the applicant;

"(2) set forth a program for carrying out the purposes of section 404, and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

"(3) in the case of an application for payments for planning, provide that (A) the planning was or will be directly related to programs or projects to be carried out under this title and has resulted, or is reasonably likely to result, in a program or project which will be carried out under this title, and (B) the planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this title;

"(4) provide that effective procedures, including provisions for appropriate objective measurement of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs and projects in meeting the special educational needs of Native Hawaiian students;

"(5) set forth policies and procedures which will ensure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds from local, State, and other Federal sources that would, in the absence of Federal funds under this title, be made available by the applicant for the education of Native Hawaiian children and in no cost supplant such funds;

"(6) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title; and

"(7) provide for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of Native Hawaiian students in the area served, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

"(b) An application by a local educational agency or agencies for a grant under this title may be approved only if it is consistent with the applicable provisions of this title and—

"(1) meets the requirements set forth in subsection (a);

"(2) provides that the program or project for which application is made—

"(A) will utilize the best available talents and resources (including persons from the Hawaiian Native community) and will substantially increase the educational opportunities of Native Hawaiian children in the area to be served by the applicant; and

"(B) has been developed—

"(i) in open consultation with parents of Native Hawaiian children enrolled in the applicant's schools, teachers of those children, and, where applicable, Native Hawaiian secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

"(ii) with the participation and approval of a committee composed of, and selected by, parents of Native Hawaiian children enrolled in the applicant's schools, teachers of those children, and, where applicable, Native Hawaiian secondary school students with such parents constituting a majority of the committee. In the State of Hawaii there shall be seven such committees created in accordance with the boundaries of existing school board districts as set out in title 18, section 296-7 of Hawaii Revised Statutes (1968) except that no committee shall be created to serve any at-large district. The participation and approval of each such committee representing an area to be served by the applicant shall be required.

"(C) sets forth such policies and procedures as will insure that the program for which assistance is sought will be operated and evaluated in consultation with, and the involvement of, parents of the Native Hawaiian children and representatives of the area to be served, including the committee established for the purposes of clause (2)(B)(ii).

"(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulations, be subject to approval in the same manner as original applications.

"PAYMENTS

"SEC. 406. (a) The Commissioner shall, subject to the provisions of section 407, from time to time pay to each local educational agency which has had an application approved under section 405, an amount equal to the amount expended by such agency in carrying out activities under its application.

"(b)(1) No payments shall be made under this title for any fiscal year to any local educational agency in a State which has taken into consideration payments under this title in determining the eligibility of that local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

"(2) No payments shall be made under this title to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year.

"ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

"SEC. 407. (a) If the sums appropriated for any fiscal year for making payments under this title are not sufficient to pay in full the total amounts which all local educational agencies are eligible to receive under this title for that fiscal year, the maximum amounts which all such agencies are eligible to receive under this title for that fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year, during which the first sentence of this subsection is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"(b) In the case of any fiscal year in which the maximum amounts for which local edu-

cational agencies are eligible have been reduced under the first sentence of subsection (a), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the second sentence of such subsection, the Commissioner shall fix dates prior to which each local educational agency shall report to him on the amount of funds available to it, under the terms of section 406(a) and subsection (a) of this section, which it estimates, in accordance with regulations of the Commissioner, that it will expend under approved applications. The amounts so available to any local educational agency, or any amount which would be available to any other local educational agency if it were to submit an approvable application therefor, which the Commissioner determines will not be used for the period of its availability, shall be available for allocation to those local educational agencies, in the manner provided in the second sentence of subsection (a), which the Commissioner determines will need additional funds to carry out approved applications, except that no local educational agency shall receive an amount under this sentence which, when added to the amount available to it under subsection (a) exceeds its entitlement under section 403.".

PART B—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR NATIVE HAWAIIAN CHILDREN

AMENDMENT TO TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 5. (a) Title VIII of the Elementary and Secondary Education Act of 1965 is amended by adding to the end thereof the following new section:

"IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR NATIVE HAWAIIAN CHILDREN

"SEC. 813. (a) The Commissioner shall carry out a program of making grants for the improvement of educational opportunities for Native Hawaiian children—

"(1) to support planning, pilot, and demonstration projects, in accordance with subsection (b), which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for Native Hawaiian children;

"(2) to assist in the establishment and operation of programs, in accordance with subsection (c), which are designed to stimulate (A) the provisions of educational services not available to Native Hawaiian children in sufficient quantity or quality, and (B) the development and establishment of exemplary educational programs to serve as models for regular school programs in which Native Hawaiian children are educated;

"(3) to assist in the establishment and operation of preservice and inservice training programs, in accordance with subsection (d), for persons serving Native Hawaiian children as educational personnel; and

"(4) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Native Hawaiian children.

"(b) The Comissioner is authorized to make grants to State and local educational agencies, and Native Hawaiian organizations to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for Native Hawaiian children, including—

"(1) innovative programs related to the educational needs of educationally deprived children;

"(2) bilingual and bicultural education programs and projects;

"(3) special health and nutrition services, and other related activities, which meet the special health, social, and psychological problems of Native Hawaiian children; and

"(4) coordinating the operation of other federally assisted programs which may be used to assist in meeting the needs of such children.

"(c) The Commissioner is also authorized to make grants to State and local educational agencies and to Native Hawaiian institutions and community organizations to assist and stimulate them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Native Hawaiian children. Grants may be used—

"(1) to provide educational services not available to such children in sufficient quantity or quality, including—

"(A) remedial and compensatory instruction, school health, physical education, psychological, and other services designed to assist and encourage Native Hawaiian children to enter, remain in, or reenter elementary or secondary school;

"(B) comprehensive academic and vocational instruction;

"(C) instructional materials (such as library books, text books, and other printed, published, or audiovisual materials) and equipment;

"(D) comprehensive guidance, counseling, and testing services;

"(E) special education programs for handicapped and gifted and talented Native Hawaiian children;

"(F) early childhood programs;

"(G) bilingual and bicultural education programs; and

"(H) other services which meet the purposes of this subsection; and

"(2) for the establishment and operation of exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Native Hawaiian children.

"(d) The Commissioner is also authorized to make grants to institutions of higher education and to State and local educational agencies in combination with institutions of higher education, for carrying out programs and projects—

"(1) to prepare persons to serve Native Hawaiian children as teachers, teachers aides, counselors, social workers, and ancillary educational personnel; and

"(2) to improve the qualifications of such persons who are serving Native Hawaiian children in such capacities.

Grants for the purposes of this subsection may be used for the establishment of fellowship programs leading to an advanced degree, for institutes and, as part of a continuing program, for seminars, symposia, workshops, and conferences.

"(e) The Commissioner is also authorized to make grants to and contract with, public agencies, and institutions and Native Hawaiian organizations for—

"(1) the dissemination of information concerning education programs, services, and resources available to Native Hawaiian children, including evaluations thereof; and

"(2) the evaluation of the effectiveness of federally assisted programs in which Native Hawaiian children may participate in achieving the purposes of such programs with respect to such children.

"(f) Application for a grant under this section shall be submitted at such time, in such manner, and shall contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applications shall—

"(1) set forth a statement describing the activities for which assistance is sought;

"(2) in the case of an application for the purposes of subsection (c), subject to such criteria as the Commissioner shall prescribe, provide for the use of funds available under this section, and for the coordination of other resources available to the applicant, in order to insure that, with the scope of the purpose of the project, there will be a comprehensive program to achieve the purposes of this section;

"(3) in the case of an application for the purposes of subsection (c), make adequate provision for the training of the personnel participating in the project; and

"(4) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Commissioner shall not approve an application for a grant under subsection (b) or (c) unless he is satisfied that such application, and any documents submitted with respect thereto, show that there has been adequate participation by the parents of the children to be served in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project.

"(g) For the purpose of making grants under this section there are hereby authorized to be appropriated $4,000,000 for the fiscal year ending September 30, 1981, and $5,000,000 for each of the two succeeding fiscal years.".

SPECIAL EDUCATION TRAINING PROGRAMS FOR TEACHERS OF NATIVE HAWAIIAN CHILDREN

SEC. 6. (a) The Commissioner is authorized to make grants and enter into contracts with institutions of higher education, and Native Hawaiian organizations, for the purpose of preparing individuals for teaching or administerng special programs and projects designed to meet the special educational needs of Native Hawaiian children and to provide inservice training for persons teaching in such programs. In carrying out his responsibilities under this section, the Commissioner is authorized to award fellowships and traineeships to individuals and to make grants to, and to enter into contracts with, institutions of higher education and Native Hawaiian organizations, for cost of education allowances.

(b) In the case of traineeships and fellowships, the Commissioner is authorized to grant stipends to, and allowances for, dependents of persons receiving traineeships and fellowships.

(c) There is authorized to be appropriated $500,000 for the fiscal year ending September 30, 1981, and for each of the three succeeding fiscal years to carry out the provisions of this section.

FELLOWSHIPS FOR NATIVE HAWAIIAN STUDENTS

SEC. 7. (a) During the fiscal year ending September 30, 1981, and each of the three succeeding fiscal years, the Commissioner is authorized to award not to exceed one hundred fellowships to be used for study in undergraduate, graduate and professional programs at institutions of higher education. Such fellowships shall be awarded to Native Hawaiian students in order to enable them to pursue a course of study of not more than four academic years leading toward a professional or graduate degree in medicine, law, education, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields. In addition to the fellowships authorized to be awarded in the first sentence of this subsection, the Commissioner is authorized to award a number of fellowships equal to the number previously awarded during any fiscal year under this subsection but vacated prior to the end of the period during which they were awarded, except that each fellowship so awarded shall be only for a period of study not in excess of the remainder of the period of time for which the fellowship it replaces was awarded, as the Commissioner may determine.

(b) The Commissioner shall pay to per-

sons awarded fellowships under this subsection such stipends (including such allowances for subsistence of such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(c) The Commissioner shall pay to the institution of higher education at which the holder of a fellowship under this subsection is pursuing a course of study, in lieu of tuition charged such holder, such amounts as the Commissioner may determine to cover the cost of education for the holder of such a fellowship.

(d) There is authorized to be appropriated $500,000 for the fiscal year ending September 30, 1981, and for each of the three succeeding fiscal years to carry out the provisions of this section.

PART C—SPECIAL PROGRAMS TO ADULT EDUCATION FOR NATIVE HAWAIIANS

AMENDMENT TO THE ADULT EDUCATION ACT

SEC. 8. [Title III of the Elementary and Secondary Education Amendments of 1966.] The Adult Education Act is amended by redesignating sections 315 and 316, and all references thereto, as section 316 and 317, respectively, and by adding after section 314 the following new section:

"IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT NATIVE HAWAIIANS

SEC. 315. (a) The Commissioner shall carry out a program of making grants to State and local education agencies, and to Native Hawaiian institutions and organizations, to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for providing adult education for Native Hawaiians—

"(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Native Hawaiians;

"(2) to assist in the establishment and operation of programs which are designed to stimulate (A) the provision of basic literacy opportunities to all nonliterate Native Hawaiian adults and (B) the provision of opportunities to all Native Hawaiian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

"(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

"(4) to provide for basic surveys and evaluations thereof to define accurately the extent of the problems of illiteracy and lack of high school completion among Native Hawaiians;

"(5) to encourage the dissemination of information and materials relating to, and the evaluation of, the effectiveness of educational programs which may offer opportunities to Native Hawaiian adults.

"(b) The Commissioner is also authorized to make grants to, and contracts with, public agencies, and institutions, and Native Hawaiian organizations for—

"(1) the dissemination of information concerning educational programs, services, and resources available to Native Hawaiian adults, including evaluations thereof; and

"(2) the evaluation of the effectiveness of federally assisted programs in which Native Hawaiian adults may participate in achieving the purposes of such programs with respect to such adults.

"(c) Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applications shall—

"(1) set forth a statement describing the activities for which assistance is sought;

"(2) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Commissioner shall not approve an application for a grant under subsection (a) unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that there has been adequate participation by the individuals to be served in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project.

"(d) For the purpose of making grants under this section there are hereby authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1981, and $2,000,000 for each of the two succeeding fiscal years.".

SEC. 9. Section 441 of the Indian Education Act is amended by redesignating subsection (b) of such section, and all references thereto, as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) The Office of Indian Education shall have further responsibility for administering the provisions of title IV of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), section 813 of title VIII of the Elementary and Secondary Education Act of 1965, and section 315 of title III of the Adult Education Act.".

ADVISORY COUNCIL ON NATIVE HAWAIIAN EDUCATION

SEC. 10. (a) There is hereby established the Advisory Council on Native Hawaiian Education (referred to in this title as the Council), which shall consist of seven members who are Native Hawaiians appointed by the President of the United States. Such appointments shall be made by the President from lists of nominees furnished, from time to time, by Native Hawaiian organizations.

(b) The Council shall—

(1) advise the Commissioner of Education with respect to the administration (including the development of regulations, administrative practices, and policies) of any program in which Native Hawaiian children or adults participate from which they can benefit, including title IV of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, and section 813, title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act and with respect to adequate funding thereof;

(2) review applications for assistance under title IV of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, section 813 of title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act, and section 315 of the Adult Education Act, as added by this Act, and make recommendations to the Commissioner regarding their approval;

(3) evaluate program and projects carried out under any program of the Department of Health, Education, and Welfare in which Native Hawaiian children or adults can participate or from which they can benefit and disseminate the results of such evaluations;

(4) provided technical assistance to local educational agencies and to Native Hawaiian organizations to assist them in improving the education of Native Hawaiian children;

(5) assist the Commissioner is developing criteria and regulations for the administration and evaluation of grants made under section 403(b) of the Act of September 20, 1950 (Public Law 874, Eighty-first Congress); and

(6) to submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Native Hawaiian children and adults participate, or from which they can benefit, which report shall include a statement of the Council's recommendations to the Commissioner with respect to the funding of any such programs.

(c) With respect to functions of the Council stated in clauses (2), (3), and (4) of subsection (b), the Council is authorized to contract with any public or private nonprofit agency, institution, or organization for assistance in carrying out such functions.

(d) From the sums appropriated pursuant to section 400(c) of the General Education Provision Act which are available for the purposes of section 411 of such Act and for part D of such Act, the Commissioner shall make available such sums as may be necessary to enable the Council to carry out its functions under this section.

DEFINITIONS

SEC. 11. For the purposes of this Act—

(a) the term "Native Hawaiian" means any individual whose ancestors were natives of the area which consisted of the Hawaiian Islands prior to 1778;

(b) the term "Native Hawaiian organization" shall include Native Hawaiian nonprofit institutions and agencies as well as Native Hawaiian community organizations; and

(c) the term "parent" includes a legal guardian or other person standing in loco parentis.

UP AMENDMENT NO. 2109

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. INOUYE, I send an amendment to the desk and ask that the clerk state it.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr ROBERT C. BYRD), for Mr. INOUYE, proposes an unprinted amendment numbered 2109.

On page 8, line 9, strike out "The" and insert in lieu thereof "Beginning with the fiscal year 1980, the".

On page 8, beginning on line 15, strike out "ending prior to October 1, 1983" and insert in lieu thereof "during the period beginning October 1, 1980, and ending September 30, 1983".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill to amend the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) to provide education programs for Native Hawaiians, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

POSTPONEMENT OF CERTAIN CALENDAR ITEMS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 1189, S. 3078, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

MILLER ACT AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1233.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (H.R. 3185) to amend the act commonly known as the Miller Act to raise the dollar amount of contracts to which such act applies from $2,000 to $25,000.

● Mr. HEINZ. Mr. President, I rise in strong support of H.R. 3185. This bill is substantially identical to my bill, S. 3359. Both bills have the Miller Act Bonding threshold from $2,000 to $25,000.

Mr. President, the Miller Act, in its present form, requires that all contractors post performance and payment bonds for any contract over $2,000. A performance bond guarantees that the contractor will complete the contract or the Government will be indemnified so that it will be able to finish the project by contracting with someone else. The payment bond guarantees that suppliers and workmen will be paid by the contractor.

The guarantors of these bonds are surety companies who screen potential contractors to insure that they have the ability to complete the contract. The Miller Act bonding threshold of $2,000, however, has the effect of screening out all new firms.

As ranking minority member of the Governmental Affairs Subcommittee on Federal Spending Practices, I was privileged to hold 1 day of hearings in Pittsburgh, Pa., last June on the problems of small and minority contractors in obtaining surety bonding. Witnesses at that hearing, which included contractors and other representatives of the minority business community, were unanimous in their call for changes in the Federal Miller Act.

To them, the Miller Act is a thorn in the side of the minority contractor. Over the past few years the Congress and the Executive have initiated a number of programs to promote and encourage the development of viable minority businesses. Such initiatives include:

The section 8(a) minority business set-aside program;

The local public works 10 percent minority business allocation;

H.R. 11318, which recently passed the Senate, requires that all contracts of less than $10,000 be set aside for small and minority contractor; and

Requirements that all Government procuring agencies establish small and minority business contracting goals.

A sizeable number of these contracts can be expected to go to minority construction companies. But the Miller Act requires that all construction contracts of greater than $2,000 be bonded and minority construction firms just cannot get bonding.

The effect of the Miller Act bonding threshold, then, is to exclude a sizeable number of firms from benefitting from the very programs set up to help them. With one hand the Government gives, and with the other it takes away. This is the thorn in the side of the minority contractors in Pittsburgh.

In testimony before the subcommittee in Florida and Pittsburgh, the Office of Minority Business Enterprise, Department of Commerce, called bonding the No. 1 need of the minority contractor. In support of raising the Miller Act bonding limit, OMBE cited the following reasons:

First. The current application of the act often precludes the average small or minority construction firm from participating in Federal construction;

Second. Because of the nature of the surety bonding business, surety companies are reluctant to write bonds for small contracts; the administrative costs are the same as those for large contracts, but the revenue is much less since it is based on a flat rate which does not vary according to the degree of risk;

Third. Inflation has spiraled the cost of construction;

Fourth. The Miller Act does not provide any alternatives to bonding for a contractor who is denied a bond arbitrarily, or by discrimination or for purposes beneficial to another contractor; and

Fifth. The existing inspection procedures, completion of approvals, withholding of retainage, et cetera, and the built-in cost to the Government of administering these safeguards appear to add unnecessarily to the total job cost when coupled with the bond premiums paid.

In testimony, the Small Business Administration called the Miller Act, in its present form, outmoded. SBA further stated that the burden to bond contractors cannot continue to be the sole responsibility of the sureties. They particularly cited the 8(a) program where a contract can be offered with relative ease, but that there can be exasperating difficulties in obtaining a surety bond.

The Miller Act was passed in 1935, when $2,000 meant a large contract. Today, it is a barrier to the small and minority contractor. Raising the limit to at least $25,000, as proposed in S. 3359, is consistent with the intent of the Miller Act but more realistic in the face of general inflation. That limit is also supported by the administration and the American Insurance Association, whose members account for 70 percent of the total surety bond premiums earned, in testimony before the House Judiciary Subcommittee on Administrative Law and Government Relations.

S. 3359 is a modest step to insure that the small and minority contractor is not locked out of Government contracts and I strongly urge that the Senate pass this bill.

Mr. President, when I cosponsored H.R. 3185 with my distinguished colleague, the Senator from the State of Florida (Mr. CHILES), I also offered an amendment to that bill to raise the Miller Act threshold even further, to $50,000. As the bill was reported from the Governmental Affairs Committee, all contracts for the construction, repair, and alteration of Government buildings or public works costing $25,000 or less would be exempt from the Miller Act. My amendment proposed that all contracts of $50,000 or less be exempt from the bonding requirement.

Approximately 40 percent of all construction contracts are for less than $25,000. But those 40 percent account for less than 7 percent of the total Federal dollars spent on construction. On the other hand, 53 percent of all contracts are for less than $50,000 which account for less than 14 percent of all Federal contract dollars.

In view of the restrictive nature of the Miller Act, I was persuaded that a $50,000 threshold would be needed to insure that small and minority contractors are not locked out of Federal construction contracts. Witnesses at the hearing before the Subcommittee on Federal Spending Practices in Pittsburgh were unanimous in their call for at least a $50,000 threshold. This level, they felt, would provide them the real stimulus they needed to insure that they would obtain construction contracts and the proper base from which they could exhibit real performance.

However, I believe it is most important to insure that the restrictions in the Miller Act are loosened. Therefore, rather than offer my amendment at this time, I am supporting H.R. 3185 as reported by the Governmental Affairs Committee.

But the problems with surety bonding experienced by the small and minority contractor will not go away with the passage of this bill. Surety bonding is a fact of life in the construction industry. To survive and prosper the small and minority contractor must eventually be able to get bonding. Whether, the Miller Act threshold is $25,000 or $50,000 is not very important if that threshold is a ceiling to the contractor who cannot get bonding at all.

Therefore, I have asked, and Senator CHILES has agreed, that the Subcommittee on Federal Spending Practices will hold additional hearings on the whole subject of surety bonding and Federal contracts. We need to explore real solutions to the problems and I know Senator CHILES would agree with me on this. With these assurances of additional hearings, I have decided not to offer my amendment to H.R. 3185.●

Mr. STEVENS. Mr. President, I urge rapid approval of H.R. 3185, which amends the Miller Act. The Miller Act was designated to protect the Government from construction contractors defaulting on their contracts by requiring a bond in the amount of one-half the contract cost. The act, however, has created a hardship on minority contractors who cannot produce the bond. Presently, the act only applies to contracts in excess of $2,000. Senate bill 3359 raises the exemption to $25,000.

Mr. President, these days $2,000 contracts are very few. In my State of Alaska, where costs are 25 percent higher than elsewhere in the country, $2,000 contracts are virtually unheard of. It seems ironic that the Federal Government has initiated numerous programs designed to help minority contractors and then indirectly cuts off their opportunities by requiring surety bonds for Federal contracts. Contractors under

$25,000 still represent a small percentage of construction revenues, but I believe this bill takes a necessary step to encourage minority opportunities and to give everyone a fair shot at winning contracts.

The bill as ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I ask unanimous consent that Calendar Order No. 1191 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

DUTY ON 2-METHYL-4-CHLORO-PHENOL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1221.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (H.R. 5551) to suspend until the close of June 30, 1980, the duty on 2-methly-4-chlorophenol, which had been reported from the Committee on Finance with amendments as follows:

On page 1, line 5, strike "immediately before item 907.80" and insert "in numerical sequence";

On page 1, following line 6, strike "907.78 2-methyl, 4-chlorophenol" and insert "907.08 2-Methyl-4-chlorophenol";

On page 2, beginning with line 1, strike through and including line 4, and insert in lieu thereof the following:

"SEC. 2. DEFINITION OF MIXED FEEDS.

Headnote 1(b) of the headnotes to schedule 1, part 15, subpart C of the Tariff Schedules of the United States is amended to read as follows:

"(b) the terms 'mixed feeds' and 'mixed-feed ingredients' in item 184.70 embrace products which are admixtures of grains (of products, including byproducts, obtained in milling grains) or of soybeans (or products, including byproducts, obtained in processing soybeans) with molasses, oil cake, oil-cake meal, or other feedstuffs (except that there shall not be included in the terms 'mixed feeds' and 'mixed-feed ingredients' in items 184.70 products which are admixtures of soybeans or soybean products with other soybean products, or of soybeans or soybean products with milk products, or with products containing milk or milk derivatives) and which consist of not less than 6 percent by weight of said grains or grain products or of said soybeans or soybean products."

SEC. 3. EFFECTIVE DATES.

The amendments made by this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Will the leader be good enought to advise what this is? Is this a measure to be brought up in order to add something on to it?

Mr. ROBERT C. BYRD. Mr. President, I am advised that it is just precisely what the title states and the Budget Committee had cleared it.

Mr. METZENBAUM. Does it have significant financial impact?

Mr. ROBERT C. BYRD. Apparently, the Budget Committee did not consider it such and Senator Proximire felt the same about it.

Mr. METZENBAUM. I have no objection.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

An act to suspend until the close of June 30, 1980, the duty on 2-methyl-4-chlorophenol, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I note now that the notation on my calender has been removed, so we have no objection and I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 574, which is at the desk, the Budget Waiver Resolution to Calendar Order 1123, S. 859, the Hawaiian Natives Education Assistance bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

The resolution (S. Res. 574) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to consideration of S. 857, a bill to amend the act of September 30, 1950 (Public Law 874, Eighty-first Congress), to provide for education programs for Native Hawaiians, and for other purposes, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of S. 857, a bill to amend the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), to provide education programs for Native Hawaiians, and for other purposes. This waiver is necessary in view of the committee's inadvertence in providing an effective authroization date for the program authorized in section 4 of S. 857. The committee intended fiscal year 1980 to be the effective authorization date. Such waiver will permit consideration of an amendment to section 4 of S. 857 to correct this oversight.

CONSIDERATION OF CERTAIN RELIEF BILLS

Mr. ROBERT C. BYRD. Mr. President, there are various private relief bills. They have all been reported without exception, I understand, from Judiciary and Armed Services. I ask unanimous consent that the following bills be considered and adopted en bloc:

S. 1631, H.R. 1392, H.R. 1396, H.R. 1400, H.R. 1402, H.R. 1406, H.R. 1428, H.R. 1446, H.R. 1449, H.R. 1450, H.R. 1748, H.R. 1750, H.R. 1753, H.R. 1775, H.R. 1777, H.R. 1779, H.R. 1787, H.R. 1798, H.R. 1931, H.R. 1936, H.R. 1938, H.R. 1940.

H.R. 2253, H.R. 2256, H.R. 2259, H.R. 2291, H.R. 2292, H.R. 2369, H.R. 2553, H.R. 2558, H.R. 2658, H.R. 2662, H.R. 2758, H.R. 2759, H.R. 2939, H.R. 2940, H.R. 2944, H.R. 3090, H.R. 3217, H.R. 3613, H.R. 3625, H.R. 3835, HR. 4404, H.R. 4530, H.R. 4535, H.R. 4875.

H.R. 5163, H.R. 5230, H.R. 5933, H.R. 6664, H.R. 6801, H.R. 6934, H.R. 7387, H.R. 7419, H.R. 7550, H.R. 7604, H.R. 7653, H.R. 7795, H.R. 8192, H.R. 8308, H.R. 8751, H.R. 8810, H.R. 8927, H.R. 9352, H.R. 9568, H.R. 9611, H.R. 9613, H.R. 10407, H.J. Res. 489.

The distinguished minority leader has a list of these measures. I understand they have been cleared, but I yield to the distinguished minority leader.

Mr. BAKER. Mr. President, I thank the majority leader for yielding.

I do have that list. It has been cleared on this side. They are all relief bills. We have no objection to proceeding to consider them en bloc, as I understand it.

Mr. THURMOND. Could I ask a specific question?

Mr. METZENBAUM. Nothing more in these than that?

Mr. ROBERT C. BYRD. Correct.

Mr. THURMOND. I understand S. 1393 is not on that list. I just want to make sure. That is the institutionalized bill that gives the Attorney General——

Mr. ROBERT C. BYRD. That is a different type bill.

Mr. BAKER. Mr. President, I already advised the Senator from South Carolina that number is not on the list.

Mr. THURMOND. S. 1393.

Mr. BAKER. It is not on the list.

The PRESIDING OFFICER. The Chair would inform the Senator that the bill to which he referred is on the calendar.

Mr. ROBERT C. BYRD. That bill is not included in the list, may I say to the distinguished Senator from South Carolina.

CHAKRAPANI SETHUMADHAVAN

The bill (S. 1631) for the relief of Chakrapani Sethumadhavan, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Chakrapani Sethumadhavan shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by

one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraph (1) through (8) of section 203(a) of the Immigration and Nationality Act.

MARIA MIRAFLOR CARABBACAN

The bill (H.R. 1392) for the relief of Maria Miraflor Carabbacan was considered, ordered to a third reading, read the third time, and passed.

MRS. SUN POK WINER

The bill (H.R. 1396) for the relief of Mrs. Sun Pok Winer was considered, ordered to a third reading, read the third time, and passed.

STEFAN KOWALIK

The bill (H.R. 1400) for the relief of Stefan Kowalik was considered, ordered to a third reading, read the third time, and passed.

ROSARIO A. CALVIN

The bill (H.R. 1402) for the relief of Rosario A. Calvin was considered, ordered to a third reading, read the third time, and passed.

LILIA ARUJO

The bill (H.R. 1406) for the relief of Lilia Arujo was considered, ordered to a third reading, read the third time, and passed.

MRS. ANGELITA SHORT

The bill (H.R. 1428) for the relief of Mrs. Angelita Short was considered, ordered to a third reading, read the third time, and passed.

LESTER BRUCE PRIDAY

The bill (H.R. 1446) for the relief of Lester Bruce Priday was considered, ordered to a third reading, read the third time, and passed.

GEOFFREY PARNHAM

The bill (H.R. 1449) for the relief of Geoffrey Parnham was considered, ordered to a third reading, read the third time, and passed.

HILDEGARD G. BLAKELEY

The bill (H.R. 1450) for the relief of Hildegard G. Blakeley was considered, ordered to a third reading, read the third time, and passed.

CARMELA SOUDIERI

The bill (H.R. 1748) for the relief of Carmela Soudieri was considered, ordered to a third reading, read the third time, and passed.

ANTHONY ROGERS

The bill (H.R. 1750) for the relief of Anthony Rogers was considered, ordered to a third reading, read the third time, and passed.

MARINA HOUGHTON

The bill (H.R. 1753) for the relief of Marina Houghton was considered, ordered to a third reading, read the third time, and passed.

KARIN EHARD

The bill (H.R. 1775) for the relief of Karin Ehard was considered, ordered to a third reading, read the third time, and passed.

CATHY GEE YUEN

The bill (H.R. 1777) for the relief of Cathy Gee Yuen was considered, ordered to a third reading, read the third time, and passed.

GILBERTO TANEO GILBERSTADT

The bill (H.R. 1779) for the relief of Gilberto Taneo Gilberstadt was considered, ordered to a third reading, read the third time, and passed.

PAZ A. NORONA

The bill (H.R. 1787) for the relief of Paz A. Norona was considered, ordered to a third reading, read the third time, and passed.

KWONG LAM YUEN

The bill (H.R. 1798) for the relief of Kwong Lam Yuen was considered, ordered to a third reading, read the third time, and passed.

JUANA TODD ATHERLEY

The (H.R. 1931) for the relief of Juana Todd Atherley was considered, ordered to a third reading, read the third time, and passed.

LEE SO RYUNG

The bill (H.R. 1936) for the relief of Lee So Ryung was considered, ordered to a third reading, read the third time, and passed.

SANTOS MARQUEZ ARELLANO

The bill (H.R. 1938) for the relief of Santos Marquez Arellano was considered, ordered to a third reading, read the third time, and passed.

DIMITRIOS, ANGELIKI, AND GEORGIOS PANOUTSOPOULOS

The bill (H.R. 1940) for the relief of Dimitrios Panoutsopoulos, Angeliki Panoutsopoulos, and Georgios Panoutsopoulos, was considered, ordered to a third reading, read the third time, and passed.

RUBEN P. DIN

The bill (H.R. 2253) for the relief of Ruben P. Din was considered, ordered to a third reading, read the third time, and passed.

EDMUNDO ALFREDO OREIRO ESPINUEVA

The bill (H.R. 2256) for the relief of Edmundo Alfredo Oreiro Espinueva was considered, ordered to a third reading, read the third time, an passed.

ROGELIO M. ENCOMIENDA

The bill (H.R. 2259) for the relief of Rogelio M. Encomienda was considered, ordered to a third reading, read the third time, and passed.

CARMEN CECILIA BLANQUICETT

The bill (H.R. 2291) for the relief of Carmen Cecilia Blanquicett was considered, ordered to a third reading, read the third time, and passed.

BOULOS STEPHAN

The bill (H.R. 2292) for the relief of Boulos Stephan was considered, ordered to a third reading, read the third time, and passed.

NATIVIDAD AND MYRNA CASING

The bill (H.R. 2369) for the relief of Natividad Casing and Myrna Casing was considered, ordered to a third reading, read the third time, and passed.

YOUNG GUN KIM

The bill (H.R. 2553) for the relief of Young Gun Kim was considered, ordered to a third reading, read the third time, and passed.

DR. JOHN ALEXIS L. S. TAM AND YEUT SHUM TAM

The bill (H.R. 2558) for the relief of Doctor John Alexis L. S. Tam and Yeut Shum Tam was considered, ordered to a third reading, read the third time, and passed.

NORA L. KENNEDY

The bill (H.R. 2658) for the relief of Nora L. Kennedy was considered, ordered to a third reading, read the third time, and passed.

CHRISTOPHER ROBERT WEST

The bill (H.R. 2662) for the relief of Christopher Robert West was considered, ordered to a third reading, read the third time, and passed.

CARMEN PRUDENCE HERNANDEZ

The bill (H.R. 2758) for the relief of Carmen Prudence Hernandez was considered, ordered to a third reading, read the third time, and passed.

SEALIE VON KLEIST HERNANDEZ

The bill (H.R. 2759) for the relief of Sealie Von Kleist Hernandez was considered, ordered to a third reading, read the third time, and passed.

DERRICK MARIANO TAN

The bill (H.R. 2939) for the relief of Derrick Mariano Tan was considered, ordered to a third reading, read the third time, and passed.

DANIEL CROWLEY

The bill (H.R. 2940) for the relief of Daniel Crowley was considered, ordered to a third reading, read the third time, and passed.

RICKY LEE TRAUTVETTER

The bill (H.R. 2944) for the relief of Ricky Lee Trautvetter was considered, ordered to a third reading, read the third time, and passed.

FIDEL GROSSO-PADILLA

The bill (H.R. 3090) for the relief of Fidel Grosso-Padilla was considered, ordered to a third reading, read the third time, and passed.

MEEJA SA FOSTER

The bill (H.R. 3217) for the relief of Meeja Sa Foster was considered, ordered to a third reading, read the third time, and passed.

IRMA VICTORIA BOLARTE ALVARADO

The bill (H.R. 3613) for the relief of Irma Victoria Bolarte Alvarado was considered, ordered to a third reading, read the third time, and passed.

PETER NEAL SMITH

The bill (H.R. 3625) for the relief of Peter Neal Smith was considered, ordered to a third reading, read the third time, and passed.

PECE D. VAN ARSDOL

The bill (H.R. 3835) for the relief of Pece D. Van Arsdol was considered, ordered to a third reading, read the third time, and passed.

SUSAN SPURRIER

The bill (H.R. 4404) for the relief of Susan Spurrier was considered, ordered to a third reading, read the third time, and passed.

ELISABETTA BASSO GALLIZIO

The bill (H.R. 4530) for the relief of Elisabetta Basso Gallizio was considered, ordered to a third reading, read the third time, and passed.

KAZUKO NISHIOKA DOWD

The bill (H.R. 4535) for the relief of Kazuko Nishioka Dowd was considered, ordered to a third reading, read the third time, and passed.

ELIZABETH D. YEE KRAUS

The bill (H.R. 4875) for the relief of Elizabeth D. Yee Kraus was considered, ordered to a third reading, read the third time, and passed.

MARINELLE KHRISTY CRUZ

The bill (H.R. 5163) for the relief of Marinelle Khristy Cruz was considered, ordered to a third reading, read the third time, and passed.

JUNG IN BANG

The bill (H.R. 5230) for the relief of Jung In Bang was considered, ordered to a third reading, read the third time, and passed.

JONATHAN WINSTON MAX

The bill (H.R. 5933) for the relief of Jonathan Winston Max was considered, ordered to a third reading, read the third time, and passed.

LILY LIRIO GALINDO

The bill (H.R. 6664) for the relief of Lily Lirio Galindo was considered, ordered to a third reading, read the third time, and passed.

HYE JIN WILDER

The bill (H.R. 6801) for the relief of Hye Jin Wilder was considered, ordered to a third reading, read the third time, and passed.

DONNA MARIANNE BENNEY

The bill (H.R. 6934) for the relief of Donna Marianne Benney, was considered, ordered to a third reading, read the third time, and passed.

NOEL ABUEG EMDE

The bill (H.R. 7387) for the relief of Noel Abueg Emde was considered, ordered to a third reading, read the third time, and passed.

VASILIOS GEORGIOS VALCANOS

The bill (H.R. 7419) for the relief of Vasilios Georgios Valcanos was considered, ordered to a third reading, read the third time, and passed.

JOHANNE LAPOINTE

The bill (H.R. 7550) for the relief of Johanne Lapointe was considered, ordered to a third reading, read the third time, and passed.

MARGARET SOMERVILLE JEFFERIS

The bill (H.R. 7604) for the relief of Margaret Somerville Jefferis was considered, ordered to a third reading, read the third time, and passed.

JACKSON ORMISTON EDWARDS CUFFY AND MERLE CLEOPATRA EDWARDS CUFFY

The bill (H.R. 7653) for the relief of Jackson Ormiston Edwards Cuffy and Merle Cleopatra Edwards Cuffy, was considered, ordered to a third reading, read the third time, and passed.

VERONICA JUDITH HUDSON

The bill (H.R. 7795) for the relief of Veronica Judith Hudson was considered, ordered to a third reading, read the third time, and passed.

ANDREE MARIE HELENE McGRIFFIN

The bill (H.R. 8192) for the relief of Andree Marie Helene McGriffin was considered, ordered to a third reading, read the third time, and passed.

JAE KEUN CHRISTIANSON

The bill (H.R. 8308) for the relief of Jae Keun Christianson was considered, ordered to a third reading, read the third time, and passed.

FRANCESCO GIUTTARI

The bill (H.R. 8751) for the relief of Francesco Giuttari was considered, ordered to a third reading, read the third time, and passed.

KIM IN YUNG

The bill (H.R. 8810) for the relief of Kim In Yung was considered, ordered to a third reading, read the third time, and passed.

MONIKA GRANTZ

The bill (H.R. 8927) for the relief of Monika Grantz was considered, ordered to a third reading, read the third time, and passed.

JAMES WILLIAM DIBBEN

The bill (H.R. 9352) for the relief of James William Dibben was considered, ordered to a third reading, read the third time, and passed.

RENATE IRENE McCORD

The bill (H.R. 9568) for the relief of Renate Irene McCord was considered, ordered to a third reading, read the third time, and passed.

CRAIG DAY

The bill (H.R. 9611) for the relief of Craig Day was considered, ordered to a third reading, read the third time, and passed.

EUSTACE JOHN D'SOUZA

The bill (H.R. 9613) for the relief of Eustace John D'Souza was considered, ordered to a third reading, read the third time, and passed.

LING-YUNG KUNG

The bill (H.R. 10407) for the relief of Ling-Yung Kung was considered, ordered to a third reading, read the third time, and passed.

PERMANENT RESIDENCE TO CERTAIN ALIENS

The joint resolution (H.J. Res. 489) granting the status of permanent residence to certain aliens, was considered, ordered to a third reading, read the third time, and passed.

ANTHONY CASAMENTO

The bill (H.R. 3307) for the relief of Anthony Casamento, was considered, ordered to a third reading, read the third time, and passed.

RECALCULATION OF CERTAIN RETIRED PAY

The bill (H.R. 10343) to provide for recalculation of the retired pay of individuals who served as sergeant major of the Marine Corps before December 16, 1967, was considered, ordered to a third reading, read the third time, and passed.

RETURN OF WORLD WAR II SEIZED PAINTINGS

The bill (H.R. 11945) to authorize the Secretary of the Army to return to the Federal Republic of Germany 10 paintings of the German Navy seized by the U.S. Army at the end of World War II, was considered, ordered to a third reading, read the third time, and passed.

U.S. MILITARY ACADEMY STRUCTURE

The bill (H.R. 13416) to amend title 10, United States Code, to modernize the permanent faculty structure at the U.S. Military Academy, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

The PRESIDING OFFICER. Without objection, the bills will be considered en bloc.

Without objection, changes in the titles thereto will be considered en bloc and adopted.

Without objection, the bills as amended, if any thereto, are considered and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider en bloc the votes by which the various measures were adopted.

The PRESIDING OFFICER. Without objection, the motion is in order.

Mr. ROBERT C. BYRD. Mr. President, I make that motion.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO HOLD BILLS AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 13336 and H.R. 11545 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXCHANGE STABILIZATION FUND

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2093.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 2 and 3 to the amendment of the House to the bill (S. 2093) entitled "An Act to provide that the Exchange Stabilization Fund shall not be available for payment of administrative expenses; and for other purposes."

Resolved, That the House agree to the amendment of the Senate numbered 1 to the amendment of the House to the aforesaid bill with an amendment as follows:

Page 1, of the Senate engrossed amendment, strike out all after line 4, over to and including line 19, page 2, and insert:

SEC. 3. (a)(1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place at GS–16, GS–17, and GS–18, no more than 61 positions of the positions subject to the limitation of the first sentence of section 5108(a) of such title.

(2) A person may be appointed to a position placed at GS–16, GS–17, or GS–18 under the authority of paragraph (1) only if such person, immediately before the effective date of this Act, held a position or has reemployment rights to a position—

(A) the duties of which were comparable to those of the position to which he is to be appointed; and

(B) for which the compensation derived from the stabilization fund established under section 10 of the Gold Reserve Act of 1934 (31 U.S.C. 822a).

Appointments made under this paragraph may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Civil Service Commission of appointments to GS–16, GS–17, and GS–18.

(3) The Secretary's authority under this subsection with respect to any position shall cease when the person first appointed to such position under paragraph (2) leaves such position.

(b) The first sentence of section 5108(a) of title 5, United States Code, is amended by striking out "3301" and inserting in lieu thereof "3362".

(c) For purposes of determining the aggregate number of positions which may be placed in GS–16, GS–17, or GS–18 under sections 5108(a) of title 5, United States Code, a position established under subsection (a) shall be deemed a GS–16 position.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment to S. 2093.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

H.R. 13989—AN ACT TO AMEND SECTION 1445(b) OF THE FOOD AND AGRICULTURE ACT OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent on behalf of Mr. LEAHY that the Chair lay before the Senate a message from the House on H.R. 13989.

The PRESIDING OFFICER laid before the Senate H.R. 13989, an act to amend section 1445(b) of the Food and Agriculture Act of 1977 to modify the formula for distribution of funds authorized thereunder for agricultural research.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read twice and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. LEAHY. Mr. President, H.R. 13989, an administration request bill, would modify the formula in the Food and Agriculture Act of 1977 for allocation of agricultural research moneys to the 1890 land-grant colleges. Any funds that are appropriated up to the level of funding that existed in fiscal year 1978 would be distributed among the eligible institutions in the same proportion as existed in fiscal year 1978. Funds appropriated in excess of the 1978 level would be distributed under a formula similar to the formula for distribution of Federal extension funds to the 1890 colleges contained in the 1977 act.

On October 6, 1978, the Committee on Agriculture, Nutrition, and Forestry considered S. 3380, an identical bill to H.R. 13989. In approving the provisions of S. 3380, the committee agreed to recommend that the Senate accept the House-passed bill.

Failure to enact H.R. 13989 would result in some of the 1890 colleges having a sharp reduction in the amount of funds they would be receiving and could destroy the agricultural research program we are trying to develop. While it will not result in any additional funds, it will assure that Federal funds are appropriated in a manner that will assure effective agricultural research at the 1890 land-grant colleges.

The committee has received communications from all of the 1890 colleges expressing support of H.R. 13989. The Department of Agriculture recommends the enactment of the legislation.

I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that there be printed in the RECORD a summary of H.R. 13989.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF H.R. 13989

H.R. 13989 amends section 1445(b) of the Food and Agriculture Act of 1977, which provides a formula for the distribution of Federal appropriations to 1890 land-grant col-

leges for agricultural research beginning in fiscal year 1979.

The bill would substitute a new formula in lieu of the formula under the 1977 Act. Under the new formula—

(1) Three percent of appropriated funds would be available to the Secretary of Agriculture to administer the agricultural research program for 1890 colleges; and

(2) The remainder would be allotted among the 1890 colleges as follows—

(A) Funds up to the total amount the colleges received for agricultural research in fiscal year 1978 would be distributed among the colleges in the same proportion as funds were distributed in 1978; and

(B) Funds in excess of the total amount the colleges received in 1978 would be distributed among the colleges as follows: (i) 20 percent in equal shares; (ii) 40 percent in shares based on the relative rural populations of the States in which the colleges are located; and, (iii) the remainder in shares based on the relative farm populations of the States in which the colleges are located.●

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

H.R. 11861—AN ACT TO AMEND THE MERCHANT MARINE ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 11861 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

Mr. METZENBAUM. Reserving the right to object, and I do not intend to object——

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

H.R. 11861, an act to amend the Merchant Marine Act, 1936, to direct the Secretary of Commerce to cooperate with the Secretary of the Navy and the maritime industry in establishing an adequate and well-balanced fleet.

The PRESIDING OFFICER. Is there a reservation heard to the unanimous-consent request?

Mr. METZENBAUM. Yes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

● Mr. INOUYE. Mr. President, H.R. 11861 would amend section 210 of the Merchant Marine Act, 1936, by adding a provision to require quarterly meetings between Secretaries of the Navy and Commerce and representatives of the maritime industry. It also requires submission, by the Secretaries, of an annual report to Congress and the President regarding their responsibilities under section 210.

The purpose of the bill is to formalize the cooperation between the Secretary of Commerce and the Secretary of the Navy as required by section 210 of the Merchant Marine Act, 1936, and to insure regular input from maritime industry representatives in order to achieve an adequate and well-balanced merchant fleet as required by section 101 of that act.●

The bill was ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSERVATION OF THE ANTARCTIC FLORA AND FAUNA

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House on H.R. 7749. the Antarctic conservation bill.

The Chair laid before the Senate a message from the House on H.R. 7749, an act to implement the agreed measures for the conservation of the Antarctic flora and fauna, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 2110

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. INOUYE, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for the Senator from Hawaii (Mr. INOUYE), proposes an unprinted amendment numbered 2110.

The amendment is as follows:

At the appropriate place in the bill insert the following:

SEC. 14. (a) The first section of the Fishermen's Protective Act of 1967 (22 U.S.C. 1971) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other law, the documentation or certification of any such vessel shall not be considered to be affected, for the purposes of this Act, in any manner or to any extent if at any time during any voyage for the purpose of fishing beyond the fishery conservation zone (as defined in section 3(8)) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802(8)), the vessel is commanded by other than a citizen of the United States."

(b) The amendment made by subsection (a) shall take effect January 1, 1978.

● Mr. INOUYE. Mr. President, H.R. 7749 would enable fulfillment of the obligation of the United States as a member of the Antarctic Treaty.

The 13 nations including the United States who together constitute the Antarctic Treaty consultative parties have adopted the collective responsibility through the treaty to insure that the Antarctic region is used exclusively for peaceful purposes. Protection of the unique ecological character of Antarctica is a part of this responsibility.

In fulfillment of the need to protect the ecological character of Antarctica the consultative parties to the treaty adopted a detailed set of proposed actions which were called the agreed measures for the conservation of Antarctic flora and fauna. These measures were adopted at a meeting of the treaty parties in 1964, just 3 years after the treaty itself became effective. During the ensuing 14 years the agreed measures have been formally adopted by all but three of the Antarctic Treaty consultative parties: Australia, Japan, and the United States.

H.R. 7749 constitutes the necessary legislation for formal adoption of the agreed measures by the United States and provides statutory authority to enforce compliance of U.S. citizens with the terms of the agreed measures.

In accordance with the agreed measures H.R. 7749 would regulate certain activities of any U.S. citizen in Antarctica. These acts would include taking of any native mammal or bird within Antarctica, collection of any native plant within designated specially protected areas, introduction of any animal or plant to Antarctica which is not indigenous, discharge or disposal of any pollutant within Antarctica, and entry into any specially protected area or site of special scientific interest. Such acts would be unlawful unless specifically authorized by a regulation adopted or a permit issued pursuant to this act.

The Director of the National Science Foundation, the agency with primary responsibility for U.S. activities in Antarctica, is directed to issue regulations and establish a permit system to implement the necessary controls on the covered activities of U.S. citizens.

The system of regulations would designate species native to Antarctica, specify those actions necessary for the protection of each designated species, designate as a pollutant any substances which would create human health hazards or harm to marine or terrestrial living resources, specify action necessary to prevent or control discharge of such pollutants, and designate nonindigenous species which may, or may not be introduced to Antarctica. In addition the regulations would identify specially protected areas and designate any specially protected species which are approved for such status under the agreed measures. Regulations would also identify sites of special scientific interest which have unique value for scientific investigation and needing protection from interference. Such areas would be those approved by the United States in accordance with recommendation VIII–3 of the eight Antarctic Treaty consultative meeting held in 1976 and a management plan would be established for each.

The permit system that would be established under H.R. 7749, would authorize taking species, and entry into specially protected areas or areas of scientific interest only under certain specified circumstances. Native mammals or birds could be taken by permit for scientific study or for public display, education, or cultural institutions only if they are not specailly protected species and only outside of the specially

protected areas. The numbers of such mammals or birds taken must be sufficiently small that they can be replaced by natural reproduction within a year and that the balance of the ecosystem is maintained.

Permits for the taking of specially protected species may be issued only if there is a compelling scientific reason and if the ecosystem or species survival will not be jeopardized.

Permits authorizing entry into specially protected areas may be issued only for compelling scientific purposes which cannot be carried out elsewhere and if entry will not jeopardize the ecosystem. In addition such permits must not authorize the operation of surface vehicles in the specially protected areas.

Sites of special scientific interests may only be entered with a permit issued if the activity in question is consistent with the management plan for that site established in accordance with recommendation VIII–3.

The effect of the various provisions of H.R. 7749 which I have described will be to insure that the United States and our citizens fulfill our international obligations to protect the unique Antarctic ecosystem, to preserve selected unique regions of Antarctica in true wilderness condition, and to insure that the many unique untouched sites in Antarctica that are of immense scientific interest and importance are not subjected to influences which may destroy their usefulness.

Mr. President, my amendment relates to the Fishermen's Protection Act of 1967.

Under that act, if a vessel of the United States is seized by a foreign country on the basis of claims in territorial waters or on the high seas which are not recognized by the United States or if a vessel of the United States is seized by a foreign country on the basis of any general claim of any foreign country to exclusive fishery management authority which is recognized by the United States and such seizure is based on conditions and restrictions which are more restrictive or more onerous than conditions or restrictions that the United States would impose on foreign vessels fishing within waters under its jurisdiction, the Secretary of Treasury is required to reimburse to the owner of any such seized vessel the amount of any fines, fees, and other direct charges that are required to be paid to obtain release of the vessel and its crew. The act also requires the Secretary of Commerce to pay such vessel owners for other losses incurred as a result of such illegal seizures if the vessel owners have previously entered into agreements with the Secretary of Commerce to provide for such payments.

Since January 1978, approximately 15 shrimp vessels owned by citizens of the United States have been seized by the country of Brazil while supposedly fishing within the territorial waters of that nation under conditions which are not recognized by the United States. The Department of State, which is required to make a certification to the Secretary of Treasury as to the amount of fines, fees, and other direct charges actually paid by such vessel owners to obtain release of these vessels, has raised a question as to whether the vessel owners are entitled to be reimbursed since at the time of the seizure of such vessels they were commanded by foreign captains rather than U.S. citizens.

For the purposes of this act, the term "vessel of the United States" is defined to mean any private vessel documented or certificated under the laws of the United States. This definition makes it clear that so long as such a vessel is owned by a U.S. citizen and is documented or certificated then it should be reimbursed for any fines and fees paid by such owner unless the documentation or certification of such vessel had been revoked prior to the time of any seizure. Since none of such vessels seized by Brazil had had its documentation revoked, the committee is of the opinion that their documentations are still valid, and that the owners of such vessels are entitled to be reimbursed according to the provisions of the Fishermen's Protective Act.

However, in view of the fact there is still some question on the part of the Department of State as to whether a vessel is still considered to be documented for such purposes when it has on board a foreign captain, the language of the amendment to the Fishermen's Protective Act will make it clear that the documentation or certification of any such vessel of the United States would not be considered to be affected in any manner or to any extent if at any time during any voyage for the purpose of fishing beyond the 200-mile fishery zone of the United States, such vessel is commanded by other than a U.S. citizen.

The amendment would take effect January 1, 1978, and it would have the affect of providing for reimbursement of future claims submitted under the Act which fall within the purview of this section and of all prior claims which originated after January 1, 1978. It is our further understanding that the total pending claims range between $200,000 and $300,000 and they include the payments to be made under section 3 as well as section 7 of the act.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRESERVATION OF AND PUBLIC ACCESS TO OFFICIAL RECORDS OF THE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 13500.

The Chair laid before the Senate a message from the House on H.R. 13500, an act to amend title 44 to insure the preservation of and public access to the official records of the President, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read twice and that the Senate proceed to its immediate consideration.

UP AMENDMENT NO. 2111

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I send to the desk three amendments on behalf of the distinguished senior Senator from Illinois (Mr. PERCY), and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for the Senator from Illinois (Mr. PERCY), proposes an unprinted amendment numbered 2111.

The amendment is as follows:

On page 4, line 3, after the word "relating", insert the word "exclusively".

On page 7, line 2, after "President." insert the following:

"The Archivist shall have an affirmative duty to make such records available to the public as rapidly and completely as possible consistent with the provisions of this Act."

On page 10, line 20, insert "(1)" after "(C)".

On page 10, line 23, after "Code," insert the following: "except that paragraph (b)(5) of that section shall not be available for purposes of withholding any presidential record,".

On page 11, after line 2 insert the following:

"(2) Nothing in this Act shall be construed to confirm, limit, or expand any constitutionally-based privilege which may be available to an incumbent or former President."

● Mr. PERCY. The legislation we are considering today will for the first time assert public ownership and custody of the records of future Presidents, Vice-Presidents, and their staffs.

These papers, which have immense historical value, are not now covered by the Freedom of Information Act and have traditionally been removed by the President at the end of his term to be released at his discretion. Historians and archivists have long been concerned about the loss of valuable information which has resulted from this approach. Indeed, the Supreme Court recently underscored the inadequacy of this method by stating that:

> An incumbent President should not be dependent on happenstance or the whim of a prior President when he seeks access to records of past decisions that define or channel current governmental obligations. Nor should the American people's ability to reconstruct and come to terms with their history be truncated * * * Congress can legitimately act to rectify the hit-or-miss approach that has characterized past attempts to protect these substantial interests * * *

Judge Richey offered another of the many compelling arguments for this legislation when he noted that, "It is a general principle of law that that which is generated, created, produced, or kept by a public official in the administration and performance of the powers and

duties of a public office belongs to the Government and may not be considered the private property of the individual."

Yet while it is crucial to protect the public interest in these papers, we must also protect the constitutional rights of the individuals involved. In addition, we must not interfere with the effective functioning of the White House by "chilling" the free flow of advice or by imposing a heavy administration burden.

H.R. 13500 deals with these concerns by exempting truly personal papers and by allowing the President to restrict access to sensitive information for up to 12 years after leaving office. Papers which are not sensitive or are no longer subject to restriction will be governed by the Freedom of Information Act.

In considering this legislation, Senator RIBICOFF, Senator NELSON, and I relied heavily on the recommendations of the National Study Commission Records and Documents of Federal Officials. Indeed, we are indebted to Senator NELSON—who was a member of the Study Commission—for his excellent work in this field without which we would not be here today. In addition we have worked closely with our colleagues in the House and with the administration to arrive at workable legislation which could be brought to enactment this year. For the most part, I believe that the House-passed bill create a viable scheme which protects the interests of both the public and the Presidency. However, there are three amendments—which are acceptable to the administration—which we believe are needed to clarify certain important aspects of the bill as passed by the House.

Mr. President, the first of these amendments to the House bill addresses the definition of personal records with respect to materials relating to the President's own election. The House bill could have been interpreted to allow the classification as personal of all records which relate to the President's own election activities, regardless of whether or not such papers also involve the President's officials duties. It is the position of the House that section 2201 (3)—which states that personal records must be "of purely private or nonpublic character" and "do not relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President"—clearly states the congressional intent that political papers which also involve official duties may not be classified as personal. While we agree with the House that this language applies to 2201(3)(C), we felt that a further clarification was needed to avoid the possibility of any confusion on this question.

This amendment would accomplish this by stating that papers and portions of papers which relate to the President's own reelection could be classified as personal only if they relate "exclusively" to that subject. Thus, for example, a memorandum suggesting that if the President supports certain legislation he will gain the support of a particular interest group for his reelection would not relate exclusively to the President's election concerns, and would, therefore, be deemed to be a Presidential record for the purposes of this act. Similarly, if the President agrees to act in his official capacity on behalf of or in the interest of an individual who agrees to further the President's election prospects, any documents concerning the matter would be considered Presidential records. In short, no document may be construed as relating exclusively to the President's election activities if it also relates to or affects the President's official duties.

The remaining amendments seeks to clarify the operation of the bill's access provisions. The legislation provides that the outgoing President may restrict access to records or segregable portions of records which contain information falling into one or more of the categories set forth in the bill (national security; trade secrets; material prohibited by statute from disclosure; material relating to Federal appointments; confidential communications; or personnel or medical files) for a period not to exceed 12 years. After the period of restriction is over, access to those Presidential records remaining closed will be governed by the Freedom of Information Act and its exemptions.

Mr. President, in this legislative scheme, the end of the period of mandatory restriction should represent a bright, discernible line to historians, archivists, journalists and the public. If after the period of Presidentially imposed restrictions there were another period of potentially far-reaching restrictions, asserted by the Archivist using the exemptions of FOIA, the bright promise of this legislation might not be realized. Rather, the legislation should provide researchers and the public with maximum assurance that at the end of the restricted period documents will be opened as fully and completely as possible.

I believe that the House intended precisely such a result. In this regard, I note that Representative BROOKS, floor manager of the legislation, stated that after the period of Presidentially imposed restriction, which could last up to 12 years for certain documents, "the withholding provisions of the Freedom of Information Act come into play, charging the Archivist with an affirmative duty to make any records which had not been previously opened, available to the public as rapidly and completely as possible." Nevertheless, this goal assumes sufficient importance to warrant statutory clarification.

Accordingly, the second amendment to the House-passed bill would state that "the Archivist shall have an affirmative duty to make such records available to the public as rapidly and completely as possible consistent with the provisions of this act." This amendment clarifies the congressional intent that once the period of Presidentially imposed restrictions has run, the Archivist should open up the remaining materials as fully and completely as possible, without waiting for requests for specific documents by particular researchers. If it were clear that serious harm would result from the release of a particular document, because it contains vital classified information or should remain closed for another compelling reason embodied by an FOIA exemption, the Archivist would assert the exemption.

One exemption to the FOIA which should not be available to the Archivist is the (b)(5) exemption. This exemption has been interpreted to protect from release all internal deliberative policy and advice memoranda which form the basis for an agency decision. However, this legislation provides ample protection for such communications by giving the outgoing President the right to impose restrictions on all materials which are "confidential communications requesting or submitting advice, between the President and his advisers, or between such advisers." This potential exemption is fully adequate to protect the confidentiality of executive communications. After the 12-year period, a document might be withheld by the Archivist because, for example, it is classified, or contains a trade secret, or opens up a medical file constituting a clearly unwarranted invasion of privacy. But no document should be withheld simply because it contains confidential materials; such a result would undermine a basic purpose of the legislation. Consequently, the (b)(5) exemption has no place in this statutory scheme. For these reasons, the third amendment provides that while the FOIA will govern access after the restricted period, "paragraph (b)(5) * * * shall not be available for purposes of withholding any presidential record."

At the same time, of course, while we can prohibit the Archivist from withholding documents, after the restricted period, on the basis of the (b)(5) exemption, we cannot prevent a former or incumbent President from arguing, even after the 12-year period, that a particular confidential communication between the President and an adviser should not be released. To what extent the concept of "executive privilege" protects the confidentiality of a former or incumbent President's communications with his advisers is a open question. If some future President believes that the 12-year closure period does not suffice, that President could object to the release of some document in the 13th or 15th or 20th year. This legislation does not resolve the outcome of such a legal action; the issue would be resolved by the courts. The fourth amendment would make it explicit that "nothing in this Act shall be construed to confirm, limit or expand any constitutionally based privilege which may be available to an incumbent or former President."●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

● Mr. NELSON. Mr. President, I am proud today to support H.R. 13500, the Presidential Records Act of 1978. This bill is the product of 2 years of intensive work and negotiation. Congressmen PREYER, BRADEMAS, and ERTEL, Chairmen BROOKS and THOMPSON of the House Government Operations and Administration Committees, and Senator PERCY and Chairman RIBICOFF of the Senate Governmental Affairs Committee all deserve enormous credit for bringing this

bill to its present state of readiness for passage.

On February 27, 1978, I introduced S. 2596 and on September 12, 1978, I, along with Senator PERCY, introduced S. 3494. Both of these bills, like the legislation before us today, would assert public ownership of the documentary materials created or received by future Presidents and their staffs and established procedures governing retention of these documents and access to them and would have taken effect in January of 1981.

Traditionally, Presidential papers have belonged to the President in whose administration they were created. They became the former President's private property, to dispose of as he saw fit.

The need for legislation to alter this state of affairs has been evident to the public since the Nixon-Sampson agreement, in 1974, in which the Ford administration acknowledged former President Nixon to be the owner of the tapes and papers of his administration and gave him great license concerning the control and disposition of 42 million pages of documents and 880 tape recordings created during his White House years.

Under the agreement, Mr. Nixon could have ordered the destruction of these vital historical materials. Our knowledge of an extraordinary historical period could have been irreparably harmed. Evidence vital to ongoing criminal investigations could have been permanently lost. For these reasons, I, along with Senator Sam Ervin, introduced the bill which became the "Presidential Recordings and Materials Preservation Act," (P.L. 93-526), which overrode the Nixon-Sampson agreement. The act directed the Administrator of General Services to take custody of Mr. Nixon's Presidential tapes and papers, and to promulgate regulations providing for the orderly archival processing of the materials for the purpose of returning to Mr. Nixon those items which were personal in nature, and determining the conditions upon which the public might eventually obtain access to those remaining in the Government's possession.

In passing the Materials Preservation Act, Congress recognized that Mr. Nixon's agreement with the Ford administration posed basic questions about the ownership and disposition of vital historical materials which had remained unresolved far too long. The Nixon-Sampson agreement became possible because of that long-standing tradition that the papers created by the President and his advisers are the property of the President. Historians and archivists had long decried the loss of valuable historical materials resulting from the tradition of private ownership, but it took the Nixon-Sampson agreement to bring home the absurdity and danger of the practice.

For this reason, in title II of the Materials Preservation Act, Congress established the National Study Commission on Records and Documents of Federal Officials to study the problems involved in the ownership and disposition of records and documents of all Federal officials and recommend appropriate legislation and rules.

The Commission included representatives of Congress; the White House; the Federal Judiciary; the Departments of State, Defense, and Justice; professional archivists and historians; and the Librarian of Congress and the Archivist of the United States. It was chaired by former Attorney General Herbert Brownell. Senator WEICKER and I represented the Senate. The Commission reported to Congress in April of 1977 and this legislation as well as my previous two bills draws heavily on its recommendation respecting Presidential papers.

At the time when I introduced S. 1596, I spoke at some length on the need for legislation to provide for public ownership of Presidential papers.

I reviewed the past practices of Presidents under the system of private ownership of Presidential papers, the recommendations of the National Study Commission on Records and Documents of Federal Officials, upon which I served, and the constitutional issues which must be dealt with when legislating in this area.

My conclusions were that legislation to assert public ownership was essential, but that the legislation must be carefully drawn to insure protection of the President's constitutional rights to privacy and freedom of association and to safeguard the confidentiality of the White House decisionmaking process. I believe that the legislation which I am supporting today meets these criteria and is worthy of the support of all who believe that the documentary materials of future Presidencies should be preserved and should find their way into the public domain under the rule of law.

The legislation would divide "Presidential papers" into two categories. "Personal records," as defined in the bill, would remain the personal property of those who create them. "Personal records" are defined as all documentary materials of a purely private or nonpublic character which do not relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President. Diaries, journals, personal notes, and materials relating to private political associations of the President or his aides would be included under this definition.

Also, materials relating to purely private political associations of the President and those exclusively relating to the President's campaign for election to the Presidency would be considered personal records under the act.

It is hoped that allowing former Presidents considerable leeway in the definition of "personal records" will encourage those Presidents to make available those records after a reasonable length of time.

"Presidential records," which the legislation defines as documentary materials created or received by the President, his immediate staff, or a unit or individual of the Executive Office of the President whose function it is to advise and assist the President in carrying out of his official duties, would become public property. "Presidential records" would include any documentary materials relating to the political activities of the President or members of his staff, but only if such activities related to or had a direct effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of the President. At the conclusion of a President's term of office, the Archivist of the United States would assume control over these records.

The line between "personal" and "Presidential" records cannot be drawn with absolute certainty. The bill's definitions provide guidance to the Archivist in making individual determinations, but leave the necessary flexibility which allows for the exercise of informed professional judgment.

The bill grants to the outgoing President the right to impose restrictions on access to the Presidential records of his administration for a period not to exceed 12 years within one or more of the following categories:

(1) (a) Records specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (b) in fact properly classified pursuant to such Executive order;

(2) Records relating to appointments to executive or judicial positions;

(3) Records specifically exempted from disclosure by statute (other than the Freedom of Information Act), provided that such statute (A) requires that the material be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of material to be withheld.

(4) Records containing trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Records concerning confidential communications requesting or submitting advice, between the President and his advisors, or between such advisors; or

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The legislation provides that a former President could waive a previously imposed restriction and that restrictions would be lifted on a Presidential record placed in the public domain by publication by a former President or his "agents," who are defined as persons operating on behalf, or with the approval of, the former President.

Any Presidential record which is left unrestricted by an outgoing President would be exempt from disclosure until the earlier of (A) the date which is 5 years after the date on which the Archivist obtains custody of such records, or (B) the date on which the Archivist completes the processing and organization of such records.

The legislation's essential concern is with the treatment of Presidential records once a President leaves office. However, the condition of these records will depend on the manner in which the President maintains the records of his administration while in office. The degree to which outsiders can or should interfere with White House recordkeeping while a President is in office has been a source of considerable controversy

among those concerned with the question of Presidential papers.

The approach to this problem chosen in this legislation is reasonable and just. The legislation provides that the President may dispose of his records which no longer have administrative, historical, informational, or evidentiary value if the President gets the written permission of the Archivist.

It is within the power of the Archivist to notify the relevant committees of Congress if he believes that valuable Presidential records may be disposed of. If Congress takes no action within 60 days after receiving notice from the Archivist, the President will again be free to dispose of the records. I believe that this approach effectively balances the reasonable interests of the President, the Congress, and the public.

During the period of restricted access, the legislation provides that decisions concerning the proper classification of documents shall be made by the Archivist, though the former President may challenge any decision of the Archivist in U.S. district court. Here again, the intent is to provide for a sensible balance between the public interest and the rights of the former President.

At the conclusion of the period of restricted access, Presidential records shall be administered as agency records under the terms of the Freedom of Information Act, 5 United States Code section 552. Under the terms of the FOIA, properly classified materials pertaining to national security would continue to be protected from disclosure until the need for their classification had lapsed.

Also, after the 12 years were concluded, the Archivist would retain discretion under the FOIA to prevent the disclosure of materials whose disclosure would violate other statutes and could maintain the confidentiality of trade secrets, investigatory records and the like.

This revised legislation now provides that during the period of administration under the FOIA, the exemption ordinarily provided by 5 U.S.C. section 552(b)(5) for internal deliberative documents would not be available to the former President. However, this provision would not in any way be intended to impinge on whatever constitutional Presidential privilege the incumbent or the former President might assert.

Further, the bill before us today places a clear duty on the Archivist to make available those Presidential documents which can be made available within his discretion during the period of FOIA administration.

Mr. President, this legislation is fair to all parties concerned and will insure the creation of a fully documented, rich historical record of all future Presidencies. It will also contribute to the achievement of greater governmental accountability to the people than presently exists. It is landmark legislation, a bill of which the Congress and the country can be proud.●

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay the motoin on the table.

The motion to lay on the table was agreed to.

CIBOLA NATIONAL FOREST, N. MEX.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a mesage from the House of Representatives on S. 553.

The PRESIDING OFFICER laid before the Senate the following message from the House of Represntatives:

Resolved, That the bill from the Senate (S. 553) entitled "An Act to enlarge the boundary of the Cibola National Forest," do pass with the following amendments:

Strike out all after the enacting clause, and insert: That the exterior boundary of the Cibola National Forest in New Mexico be modified to include the following described lands:

A tract of land containing that part of the land described in the Elena Gallegos Grant, illustrated on maps on file with the Chief of the Forest Service, Department of Agriculture and the Director of the Bureau of Land Management, Department of the Interior, lying east of a line described as beginning at the closing corner between sections 35 and 36 of township 11 north, range 4 east on the south boundary of said grant and extending north 2,700 feet; thence east 1,515 feet; thence north 1,260 feet; thence east 755 feet; thence north 11,386 feet; thence south 89 degrees 56 minutes 15 seconds west, 2,286.41 feet; thence north 0 degrees 3 minutes 45 seconds west, 4,164.89 feet to the closing corner between sections 13 and 14 of the north boundary of said grant of said township; thence south 81 degrees 30 minutes east, 2,316.42 feet along the boundary of said grant to a point on the north boundary of said grant, which point lies north 81 degrees 30 minutes west, approximately 150 feet from the 7½-mile corner of said grant; consisting of 7,461.34 acres, more or less: *Provided, however*, That the tract of land described in this section shall not be included within the Cibola National Forest until the Secretary of Agriculture determines that the City of Albuquerque, New Mexico, has acquired a tract of land containing approximately 640 acres located immediately to the west of such tract for open space or city park use.

SEC. 2. (a) The following tract of land consisting of approximately 6,423 acres is hereby designated as "Intended Wilderness": a tract of land containing that part of the land described in section 1 lying east of a line beginning at the closing corner between sections 35 and 36 of township 11 north, range 4 east, on the south boundary of such grant and extending north 2,700 feet; thence east 1,515 feet; thence north 1,260 feet; thence east 3,160 feet; thence north 4,125 feet; thence north 42 degrees east, 4,480 feet; thence north 1,710 feet; thence west 3,235 feet; thence north 19 degrees west, 2,350 feet; thence west 1,400 feet; thence north 3,820 feet to a point on the north boundary of such grant; thence south 81 degrees 30 minutes east, 150 feet along the boundary of such grant to the 7½-mile corner.

(b) Interests in the tract of land designated as "Intended Wilderness" in subsection (a) shall, when acquired be part of the Sandia Mountain Wilderness as designated by section 2 of the Endangered American Wilderness Act of 1978 (92 Stat. 40; 16 U.S.C. 1132 note), and the Secretary shall publish a notice of such classification in the Federal Register. The portion of Sandia Mountain Wilderness added by this Act shall be administered by the Secretary of Agriculture in accordance with applicable provisions of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131 et seq.), except that any reference to the effective date of such Act shall be deemed to be a reference to the date of the enactment of this Act.

SEC. 3. For the purposes of section 7 of the Act of September 3, 1964 (78 Stat. 903, as amended; 16 U.S.C. 4601-9) the boundary of the Cibola National Forest, as modified by section 1 of this Act, shall be treated as if it were the boundary of that Forest on January 1, 1965.

SEC. 4. (a) Subject to valid existing rights, lands owned by the United States in the tracts of land described in section 1 are hereby added to the Cibola National Forest and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

(b) Land acquired by the Secretary of the Interior within the boundaries of Cibola National Forest as extended by this Act shall be transferred to the Secretary of Agriculture, shall be added to the Cibola National Forest, and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

SEC. 5. Effective October 1, 1979, there are authorized to be appropriated not more than $12,000,000 from the Land and Water Conservation Fund for the acquisition of lands added to the Cibola National Forest by section 1 of this Act.

Amend the title so as to read: "An Act to amend the boundary of the Cibola National Forest, designate an intended wilderness area, and for other purposes.".

UP AMENDMENT NO. 2112

Mr. DOLE. Mr. President, I move that the Senate concur in the amendments of the House with an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), on behalf of Mr. DOMENICI and Mr. SCHMITT, proposes an unprinted amendment numbered 2112.

The amendment is as follows:

On page 2, line 17, strike all of section 2 through line 18 on page 3. Redesignate the following subsections accordingly.

The PRESIDING OFFICER. Without objection, the motion of the Senator from Kansas is agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent to have printed in the RECORD by the distinguished senior Senator from New Mexico (Mr. DOMENICI).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. DOMENICI

Protection of the irreplaceable lands northeast of Albuquerque, New Mexico, has long been part of the master plan for Albuquerque that has guided city planners and other city officials for many years.

A bill to provide this protection, S. 553, concerning the Elena Gallegos Grant, passed this body earlier this Congress. I was proud to be the author of this legislation.

The House of Representatives has amended this bill, to indicate that the lands in question will eventually be made part of wilderness. Since I understand that wilderness designation is a separate process, and would come after extensive public hearings and long after this proposed land transfer, I am willing to accept deletion of the House language involving wilderness designation. However, I have discussed this matter with my distinguished colleague, Senator Jackson, Chair-

man of the Senate Energy and Natural Resources Committee, and he assures me that designation of the Elena Gallegos Grant as wilderness can be considered next Congress. That is my intent.

The most immediate question is the land transfer. I believe the House and Senate bills, without any reference to eventual wilderness designation, transfers the land into a more protected status and is the critical first step in giving Albuquerque residents the assurance they deserve that this precious area will be preserved.

Therefore, I urge adoption of this measure.

BEST WISHES TO SENATOR DEWEY F. BARTLETT—SENATE RESOLUTION 593

Mr. DOLE. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 593) extending best wishes to Senator Dewey F. Bartlett.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the resolution.

Mr. DOLE. Mr. President, our distinguished colleague from Oklahoma, Mr. BARTLETT has demonstrated remarkable dedication to his Senate duties during these last several months. He certainly has the admiration of every Member of the Senate for his quiet determination and indomitable will.

The resolution which I propose expresses that admiration and extends our heartfelt best wishes to our esteemed colleague.

As we know, the Senator decided against running for reelection this year. His retirement will be a great loss for the Senate, for the people of Oklahoma, and for the Nation.

Mr. President, I urge adoption of this resolution as a fitting tribute to one who has contributed so much to the Senate. His proud courage and dedication serves as an inspiration to each and every one of us.

Mr. METZENBAUM. Mr. President, will the Senator from Kansas be willing to accept a cosponsor of the resolution?

Mr. DOLE. I would be happy to. The distinguished majority leader and the distinguished minority leader are cosponsors.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all Senators may be allowed to cosponsor this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The cosponsors of the resolution are as follows:

Abourezk, Allen (Mrs.), Anderson, Baker, Bayh, Bellmon, Bentsen, Biden, Brooke, Bumpers, Burdick, Byrd, Harry F., Va., Byrd, Robert C., W. Va., Cannon, Case, Chafee, Chiles, Church, Clark, Cranston, Culver, Curtis, Danforth, DeConcini, Domenici, Durkin, Eagleton, Eastland, Ford, Garn, Glenn, Goldwater, Gravel, Griffin, Hansen, Hart, Haskell, Hatch, Hatfield, Mark O., Oreg., Hatfield, Paul G., Mont., Hathaway, Hayakawa, Heinz, Helms, Hodges, Hollings, Huddleston, Humphrey (Mrs.), Inouye, Jackson, Javits, Johnston, Kennedy, Laxalt, Leahy, Long, Lugar, Magnuson, Mathias, Matsunaga, McClure, McGovern, McIntyre, Melcher, Metzenbaum, Morgan, Moynihan, Muskie, Nelson, Nunn, Packwood, Pearson, Pell, Percy, Proxmire, Randolph, Ribicoff, Riegle, Roth, Sarbanes, Sasser, Schmitt, Schweiker, Scott, Sparkman, Stafford, Stennis, Stevens, Stevenson, Stone, Talmadge, Thurmond, Tower, Wallop, Weicker, Williams, Young, Zorinsky.

The resolution (S. Res. 593) was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 593

Whereas Senator Dewey F. Bartlett has made major contributions to the work of the Senate and to the welfare of the Nation;

Whereas the distinguished Senator from Oklahoma has demonstrated outstanding dedication to his Senate duties and tremendous personal courage in the face of adversity; and,

Whereas Senator Bartlet will soon be leaving the Senate, as he has decided not to run for re-election: Now, therefore be it

Resolved, That the Senate hereby expresses its admiration, appreciation, and high regard for Senator Dewey F. Bartlett, and extends its sincere and heartfelt best wishes.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to Senator Dewey F. Bartlett.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, everything thus far is as in legislative session.

I ask unanimous consent that there be a period for the transaction of routine morning business, as in legislative session, with Senators allowed to speak up to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE NATIONAL CREDIT UNION ADMINISTRATION—MESSAGE FROM THE PRESIDENT—PM 230

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

I hereby transmit to the Congress the Annual Report of the Administrator, National Credit Union Administration and an addendum, entitled "Annual Report 1977, for the calendar year 1977." This report contains additional information on unsecured loans as requested by the Committee on Banking, Finance and Urban Affairs, House of Representatives, during its consideration of Depository Institutions Amendments of 1977 (Public Law 95-22).

JIMMY CARTER.

THE WHITE HOUSE, *October 13, 1978.*

REPORT ON THE ADMINISTRATION OF THE FEDERAL RAILROAD SAFETY ACT—MESSAGE FROM THE PRESIDENT—PM 231

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

I transmit herewith the Seventh Annual Report on administration of the Federal Railroad Safety Act of 1970 (84 Stat. 971, 45 U.S.C. 421 et seq.) as required by that Act. This report has been prepared in accordance with Section 211 of the Act, and covers the period January 1, 1977 through December 31, 1977.

JIMMY CARTER.

THE WHITE HOUSE, *October 13, 1978.*

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on today, October 13, 1978, he approved and signed the following act:

S. 2640. An act to reform the civil service laws.

MESSAGES FROM THE HOUSE

At 10:19 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 11545. An act to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes.

The message also announced that the House has agreed to House Resolution 1430, on the death of the Honorable GOODLOE E. BYRON, a Representative from the State of Maryland.

At 12:20 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the amendments of the Senate to H.R. 9518, an act to amend the Shipping Act, 1916, to provide for a 3-year period, to reach a permanent solution of the rebating practices in the U.S. foreign trade.

The message also announced that the House agrees to the amendments of the Senate to H.R. 6803, an act to provide a comprehensive system of liability and compensation for oilspill damage and

removal costs, and for other purposes, with amendments in which it requests the concurrence of the Senate.

At 2:49 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the amendments of the Senate to the amendment of the House to S. 791, an act to authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 10239. An act to amend the Internal Revenue Code of 1954 to clarify the status of certain industrial development bonds issued to provide facilities for the furnishing of water, including water used to cool facilities for generating electric energy by steam;

H.R. 13336. An act to amend the Internal Revenue Code of 1954 to provide an exemption from withholding of tax on nonresident aliens for ship suppliers in respect of certain commissions paid to nonresident aliens; and

H.R. 13758. An act to amend the Internal Revenue Code of 1954 to provide the same treatment, with respect to determination of sources of income, for interest paid by foreign branches of domestic banks and interest paid by foreign branches of domestic savings and loan institutions.

At 3:59 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House agrees to the amendment of the Senate to H.R. 12509, an act to amend the Immigration and Nationality Act to exclude from admission into, and to deport from, the United States all aliens who persecuted any person on the basis of race, religion, national origin, or political opinion, under the direction of the Nazi government of Germany, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the amendment of the House to S. 2399, an act to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 11686. An act to authorize appropriations for the Department of Energy for national security programs for fiscal year 1979, and for other purposes;

H.R. 13418. An act to amend the Small Business Act by transferring thereto those provisions of the Domestic Volunteer Service Act of 1973 affecting the operation of volunteer programs to assist small business, to increase the maximum allowable compensation and travel expenses for experts and consultants, and for other purposes; and

H.R. 13635. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. EASTLAND).

At 5:32 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House agrees to the amendment of the Senate to H.R. 8533, an act to amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax.

The message also announced that the House agrees to the amendments of the Senate numbered 1, 2, and 4 to H.R. 10898, an act to amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the U.S. Railway Association for fiscal year 1979; that the House agrees to the amendments of the Senate numbered 3 and 5, each with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House has passed S. 3081, an act to amend the Federal Railroad Safety Act of 1970 to provide the Secretary of Transportation a longer period within which to assess civil penalties for certain violations, to extend authorizations of appropriations for fiscal years 1979 and 1980 for the rail safety program, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House has passed S. 2981, an act to amend the Department of Transportation Act as it relates to the local rail services assistance program, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 12846. An act to amend the Internal Revenue Code of 1954 to clarify the application of the investment tax credit to certain single purpose enclosures or structures for raising poultry or hogs or for use as greenhouses; and

H.R. 13047. An act to amend the Internal Revenue Code of 1954 with respect to the treatment of redemption of discount coupons.

At 6:50 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House recedes from its disagreement to the amendment of the Senate to H.R. 11209, an act to provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services, and concurs therein with an amendment in which it requests the concurrence of the Senate.

At 9:40 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House has passed S. 3595, an act to amend section 202(d) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act to extend the deadline for filing a report of rulemaking procedures, without amendment.

The message also announced that the House agreed to the amendments of the Senate to H.R. 5029, an act to amend title 38 of the United States Code in order to authorize contracts with the Republic of the Philippines for the provision of hospital care and medical services to Commonwealth Army veterans and new Philippine Scouts for service-connected disabilities; to authorize the continued maintenance of a Veterans' Administration office in the Republic of the Philippines; and for other purposes, with amendment in which it requests the concurrence of the Senate.

The message further announced that the House has passed H.R. 8930, an act to confer U.S. citizenship posthumously upon Leopoldine Marie Schmid, in which it requests the concurrence of the Senate.

The message also announced that the House disagrees to the amendment of the Senate to H.R. 13750, an act to implement the International Sugar Agreement, 1977, between the United States and foreign countries, to protect the welfare of consumers of sugar and of those engaged in the domestic sugar industry, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. FOLEY, Mr. ULLMAN, Mr. POAGE, Mr. ROSTENKOWSKI, Mr. VANIK, Mr. CORMAN, Mr. GIBBONS, Mr. DE LA GARZA, Mr. NOLAN, Mr. AKAKA, Mr. JOHNSON of Colorado, Mr. FRENZEL, Mr. STEIGER, and Mr. MOORE were appointed managers of the conference on the part of the House.

At 10:15 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the amendment of the Senate to H.R. 12874, an act to provide for an accelerated program of research, development, and demonstration of solar photovoltaic energy technologies leading to early competitive commercial applicability of such technologies to be carried out by the Department of Energy, with the support of the National Aeronautics and Space Administration, the National Bureau of Standards, the General Services Administration, and other Federal agencies.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 12605, an act to amend the Communications Act of 1934 to extend and improve the provisions of such act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes.

The message further announced that, pursuant to a request of the Senate, H.R. 12929, an act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes, together with all acompanying papers, is returned to the Senate.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 12846. An act to amend the Internal Revenue Code of 1954 to clarify the application of the investment tax credit to certain

single purpose enclosures or structures for raising poultry or hogs or for use as greenhouses; to the Committee on Finance.

H.R. 13047. An act to amend the Internal Revenue Code of 1954 with respect to the treatment of redemptions of discount coupons; to the Committee on Finance.

HOUSE BILLS HELD AT THE DESK

The following bill was read by title and held at the desk, by unanimous consent:

H.R. 11545. An act to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes.

H.R. 13336. An act to amend the Internal Revenue Code of 1954 to provide an exemption from withholding of tax on nonresident aliens for ship suppliers in respect of certain commissions paid to nonresident aliens.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on October 12, 1978, he presented to the President of the United States the following enrolled bills:

S. 1081. An act to amend certain laws relating to the Osage Tribe of Oklahoma, and for other purposes;

S. 2358. An act to declare that the United States holds in trust for the Pueblo of Zia certain public domain lands;

S. 2588. An act to declare that the United States holds in trust for the Pueblo of Santa Ana certain public domain lands;

S. 3259. An act to authorize the permanent establishment of a system of Federal information centers; and

S. 3486. An act to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation of the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads to authorize appropriations for civil defense, and for other purposes.

The Secretary of the Senate also reported that on today, October 13, 1978, he presented to the President of the United States the following enrolled bills:

S. 1185. An act to regulate interstate commerce with respect to parimutuel wagering on horseracing to maintain the stability of the horseracing industry, and for other purposes;

S. 1318. An act to permit the State of Hawaii to use the proceeds from the sale, lease, or other disposition of certain real property for any public purposes;

S. 1626. An act to clarify the status of certain legislation and judicial officers under the provisions of title 5, United States Code, relating to annual and sick leave, and for other purposes;

S. 2411. An act to amend chapter 315 of title 18, United States Code, to authorize payment of transportation expenses for persons released from custody pending their appearance to face criminal charges before that court, any division of that court, or any court of the United States in another Federal judicial district; and

S. 3373. An act to amend title 10, United States Code, to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with International World Friendship Events or Troops on Foreign Soil meetings, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

H.R. 1396. An act for the relief of Mrs. Sun Pok Winer (Rept. No. 95–1336).

H.R. 1400. An act for the relief of Stefan Kowalik (Rept. No. 95–1137).

H.R. 1402. An act for the relief of Rosario A. Calvin (Rept. No. 95–1338).

H.R. 1428. An act for the relief of Mrs. Angelita Short (Rept. No. 95–1339).

H.R. 1446. An act for the relief of Lester Bruce Priday (Rept. No. 95–1340).

H.R. 1449. An act for the relief of Geoffrey Parnham (Rept. No. 95–1341).

H.R. 1748. An act for the relief of Carmela Soudieri (Rept. No. 95–1342).

H.R. 1750. An act for the relief of Anthony Rogers (Rept. No. 95–1343).

H.R. 1753. An act for the relief of Marina Houghton (Rept. No. 95–1344).

H.R. 1775. An act for the relief of Karin Ehard (Rept. No. 95–1345).

H.R. 1777. An act for the relief of Cathy Gee Yuen (Rept. No. 95–1346).

H.R. 1779. An act for the relief of Gilberto Taneo Gilberstadt (Rept. No. 95–1347).

H.R. 1787. An act for the relief of Paz A. Norona (Rept. No. 95–1348).

H.R. 1798. An act for the relief of Kwong Lam Yuen (Rept. No. 95–1349.)

H.R. 1931. An act for the relief of Juana Todd Atherley (Rept. No. 95–1350).

H.R. 1936. An act for the relief of Lee So Ryung (Rept. No. 95–1351).

H.R. 1938. An act for the relief of Santos Marquez Arellano (Rept. No. 95–1352).

H.R. 1940. An act for the relief of Dimitrios Panoutsopoulos, Angeliki Panoutsopoulos, and Georgios Panoutsopoulos (Rept. No. 95–1353).

H.R. 2253. An act for the relief of Ruben P. Din (Rept. No. 95–1354).

H.R. 2256. An act for the relief of Edmundo Alfredo Oreiro Espinueva (Rept. No. 95–1355).

H.R. 2259. An act for the relief of Rogelio M. Encomienda (Rept. No. 95–1356).

H.R. 2291. An act for the relief of Carmen Cecilia Blanquicett (Rept. 95–1357).

H.R. 2292. An act for the relief of Boulos Stephan (Rept. No. 95–1358).

H.R. 2369. An act for the relief of Natividad Casing and Myrna Casing (Rept. No. 95–1359).

H.R. 2553. An act for the relief of Young Gun Kim (Rept. No. 95–1360).

H.R. 2558. An act for the relief of Doctor John Alexis L. S. Tam and Yeut Shum Tam (Rept. No. 95–1361).

H.R. 2658. An act for the relief of Nora L. Kennedy (Rept. No. 95–1362).

H.R. 2662. An act for the relief of Christopher Robert West (Rept. No. 95–1363).

H.R. 2758. An act for the relief of Carmen Prudence Hernandez (Rept. No. 95–1364).

H.R. 2759. An act for the relief of Sealie Von Kleist Hernandez (Rept. No. 95–1365).

H.R. 2939. An act for the relief of Derrick Mariano Tan (Rept. No. 95–1366).

H.R. 2940. An act for the relief of Daniel Crowley (Rept. No. 95–1367).

H.R. 2944. An act for the relief of Ricky Lee Trautvetter (Rept. No. 95–1368).

H.R. 3090. An act for the relief of Fidel Grosso-Padilla (Rept. No. 95–1369).

H.R. 3217. An act for the relief of Meeja Sa Foster (Rept. No. 95–1370).

H.R. 3613. An act for the relief of Irma Victoria Bolarte Alvarado (Rept. No. 95–1371).

H.R. 3625. An act for the relief of Peter Neal Smith (Rept. No. 95–1372).

H.R. 3835. An act for the relief of Pece D. Van Arsdol (Rept. No. 95–1373).

H.R. 4404. An act for the relief of Susan Spurrier (Rept. No. 95–1374).

H.R. 4530. An act for the relief of Elisabetta Basso Gallizio (Rept. No. 95–1375).

H.R. 4535. An act for the relief of Kazuko Nishioka Dowd (Rept. No. 95–1376).

H.R. 4875. An act for the relief of Elizabeth D. Yee Kraus (Rept. No. 95–1377).

H.R. 5163. An act for the relief of Marinelle Khristy Cruz (Rept. No. 95–1378).

H.R. 5230. An act for the relief of Jung In Bang (Rept. No. 95–1379).

H.R. 5933. An act for the relief of Jonathan Winston Max (Rept. No. 95–1380).

H.R. 6664. An act for the relief of Lily Lirio Galindo (Rept. No. 95–1381).

H.R. 6801. An act for the relief of Hye Jin Wilder (Rept. No. 95–1382).

H.R. 6934. An act for the relief of Donna Marainne Benney (Rept. No. 95–1383).

H.R. 7387. An act for the relief of Noel Abueg Emde (Rept. No. 95–1384).

H.R. 7419. An act for the relief of Vasilios Georgios Valcanos (Rept. No. 95–1385).

H.R. 7550. An act for the relief of Johanne Lapointe (Rept. No. 95–1386).

H.R. 7604. An act for the relief of Margaret Somerville Jefferis (Rept. No. 95–1387).

H.R. 7795. An act for the relief of Veronica Judith Hudson (Rept. No. 95–1388).

H.R. 8192. An act for the relief of Andree Marie Helen McGiffin (Rept. No. 95–1389).

H.R. 8308. An act for the relief of Jae Keun Christianson (Rept. No. 95–1390).

H.R. 8751. An act for the relief of Francesco Giuttari (Rept. No. 95–1391).

H.R. 8810. An act for the relief of Kim In Yung (Rept. No. 95–1392).

H.R. 8927. An act for the relief of Monika Grantz (Rept. No. 95–1393).

H.R. 9352. An act for the relief of James William Dibben (Rept. No. 95–1394).

H.R. 9568. An act for the relief of Renate Irene McCord (Rept. No. 95–1395).

H.R. 9611. An act for the relief of Craig Day (Rept. No. 95–1396).

H.R. 9613. An act for the relief of Eustace John D'Souza (Rept. No. 95–1397).

H.R. 10407. An act for the relief of Ling-Yung Kung (Rept. No. 95–1398).

H.R. 1450. An act for the relief of Hildegard G. Blakeley (Rept. No. 95–1399).

H.J. Res. 489. A joint resolution granting the status of permanent residence to certain aliens (Rept. No. 95–1400).

H.R. 1406. An act for the relief of Lilia Araujo (Rept. No. 95–1401).

S. 1631. A bill for the relief of Chakrapani Sethumadhavan (Rept. No. 95–1402).

H.R. 7653. An act for the relief of Jackson Ormiston Edwards Cuffy and Merle Cleopatra Edwards Cuffy (Rept. No. 95–1403).

H.R. 1392. An act or the relief of Maria Miraflor Carabbacan (Rept. No. 95–1404).

S. 3395. A bill for the relief of Jan Kutina (Rept. No. 95–1405).

S. Res. 388. A resolution to refer the bill (S. 2477), for the relief of John L. Shane and Beatrice Rosenus Oakland, to the Chief Commissioner of the United States Court of Claims (Rept. No. 95–1406).

By Mr. LONG, from the Committee on Finance, with an amendment and an amendment to the title:

H.R. 9628. An act to suspend until the close of June 30, 1980, the duty on certain nitrocellulose (Rept. No. 95–1407).

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 574. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to consideration of S. 857, a bill to amend the act of September 30, 1950 (Public Law 874, 81st Congress), to provide education programs for Native Hawaiians, and for other purposes (Rept. No. 95–1408).

S. Res. 589. A resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to consideration of the conference report to accompany H.R. 11733, the Surface Transportation Act of 1978 (Rept. No. 95-1409).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

Report pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 95-1410).

By Mr. STENNIS, from the Committee on Armed Services, without amendment:

H.R. 3307. An act for the relief of Anthony Casamento.

H.R. 10343. An act to provide for recalculation of the retired pay of individuals who served as sergeant major of the Marine Corps before December 16, 1967.

H.R. 11945. An act to authorize the Secretary of the Army to return to the Federal Republic of Germany 10 paintings of the German Navy seized by the U.S. Army at the end of World War II.

H.R. 13416. An act to amend title 10, United States Code, to modernize the permanent faculty structure at the U.S. Military Academy, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STENNIS, from the Committee on Armed Services:

Maj. Gen. Pat Williams Crizer, U.S. Army, to be lieutenant general.

Lt. Gen. Charles James Simmons, U.S. Army, to be lieutenant general.

The following-named officers of the U.S. Navy for permanent promotion to rear admiral:

Almon C. Wilson, J. William Cox, Medical Corps;

Shirley D. Frost, Gerald J. Thompson; Supply Corps;

William M. Zobel, Civil Engineer Corps; and

John B. Holmes, Dental Corps.

Mr. STENNIS. Mr. President, as in executive session, I also report favorably sundry nominations in the Air Force, Army, Navy, and Marine Corps which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 25, September 26, October 2, and October 6, 1978, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By MR. THURMOND:

S. 3598. A bill for the relief of Mustafa A. Shamsedin; to the Committee on the Judiciary.

By Mr. SCHMITT (for himself, Mr. GOLDWATER and Mr. HAYAKAWA):

S. 3599. A bill entitled "The National Space and Aeronautics Policy Act of 1978"; to the Committee on Commerce, Science, and Transportation.

By Mr. WALLOP:

S. 3600. A bill to amend the Internal Revenue Code of 1954 to exempt from Federal income taxation a trust established by a taxpayer for the purpose of providing care for certain mentally and physically incompetent relatives of the taxpayer, and for other purposes; to the Committee on Finance.

By Mr. SPARKMAN:

S. 3601. A bill for the relief of Borislav Subotic; to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 3602. A bill for the relief of Eurith Lloyd; to the Committee on the Judiciary.

S. 3603. A bill for the relief of Ioan Iosif and his wife Eugenia Iosif; to the Committee on the Judiciary.

S. 3604. A bill for the relief of Romulo Cayetano and his wife Erlinda Cayetano; to the Committee on the Judiciary.

By Mr. STENNIS:

S. 3605. A bill for the relief of Sidsel Hansen; to the Committee on the Judiciary.

By Mr. BURDICK:

S. 3606. A bill for the relief of Doris Olyai, Amineh Olyai, Samira Olyai, and Mohammad Olyai; to the Committee on the Judiciary.

By Mr. HEINZ:

S. 3607. A bill for the relief of Sang Sun Russo; to the Committee on the Judiciary.

S. 3608. A bill for the relief of Maxine Ann Fricioni; to the Committee on the Judiciary.

By Mr. ABOUREZK:

S. 3609. A bill to authorize the Blackfeet and Gros Ventre Tribes of Indians to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes; to the Committee on the Judiciary.

S. 3610. An act to recognize the boundaries of the Lake Traverse Reservation; to the Committee on the Judiciary.

By Mr. BAYH:

S. 3611. A bill entitled the "Constitution Bicentennial Commission Act"; to the Committee on the Judiciary.

By Mr. BARTLETT:

S. 3612. A bill to amend the Indian Financing Act of 1974, as amended; to the Select Committee on Indian Affairs.

By Mr. KENNEDY (by request):

S. 3613. A bill to amend section 17 of the act of July 5, 1946, as amended, entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes"; to the Committee on the Judiciary.

By Mr. McGOVERN (for himself and Mr. MATHIAS):

S. 3614. A bill to facilitate the economic adjustment of communities, industries, and workers to civilian-oriented initiatives, projects, and commitments when they have been affected by reductions in defense or aerospace contracts, military facilities, and arms export which have occurred as a result of the Nation's efforts to pursue an international arms control policy and to realine defense expenditures according to changing national security requirements, and to prevent the ensuing dislocation from contributing to or exacerbating recessionary effects; to the Committee on Governmental Affairs.

By Mr. KENNEDY (by request):

S. 3615. A bill to amend the fee provisions of the U.S. patent and trademark laws; to the Committee on the Judiciary.

By Mr. HATCH (for himself and Mr. GARN):

S. 3616. A bill to permit the Secretary of the Interior to use the chemical compound sodium monofloracetate for the purpose of controlling the population of coyotes on public lands, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCHMITT (for himself, GOLDWATER and Mr. HAYAKAWA):

S. 3599. A bill entitled "The National Space and Aeronautics Policy Act of 1978; to the Committee on Commerce, Science, and Transportation.

NATIONAL SPACE AND AERONAUTICS POLICY ACT OF 1978

● Mr. SCHMITT. Mr. President, the President has now announced his view of what our future space policy should be. Many in this country, particularly many young Americans, feel his view is far too limited with respect to their view of the future and to the realities of world leadership. I am introducing a bill today with my colleagues Mr. GOLDWATER and Mr. HAYAKAWA which would establish general guidelines by which we may pursue a long-term national space policy. This bill defines some broad goals, but more importantly, some specific objectives by which in time these goals can be achieved. It sets forth a much needed policy that seems to be missing in the areas of space and aeronautics since the early seventies and from the administration's recent statements.

The hope of the free world's ability to prevent long-term Soviet dominance of the planet Earth is the technology of space. From the monitoring of compliance with international arms control agreements, to the defense against military space systems, to the control of our own defense systems, the preservation of our civilization of freedom on Earth is increasingly dependent on our expansion of activities in space.

This country, and Americans, need to flex their muscles and their motivation against all the frontiers of human endeavor, against both the risks and the benefits of those frontiers.

A SPACE POLICY FOR CIVILIZATION

If we were to imagine a space policy that would carry this country, and the civilization of freedom we lead, into space and into the 21st century, upon what factors should such a policy rest?

Let me suggest the following essential criteria:

First. The policy must present a sense of direction and continuity for all present and future generations who must implement the policy.

Second. The policy must have flexibility that can take advantage of new science and technology as well as adapt to rapidly changing goals which events may dictate.

Third. The policy must have clearly identifiable significance to the direct or indirect solutions of the major terrestrial problems of hunger, disease, unemployment, and lack of knowledge.

Fourth. The policy must integrate budgetary requirements between the various elements of the policy, and between the governmental and private sectors, so that the demands on the taxpayer are both reasonable and consistent from year to year.

WORLD INFORMATION

The decade of the 1980's, a world information decade, should have programs

aimed at permanent, eventually self-financing, services for worldwide communications, weather and ocean forecasting, Earth resources discovery monitoring, societal services, and prediction of natural events of disastrous human consequences or broad scale economic impact.

The collection and distribution of information on a worldwide basis via satellite has provided a distinct change in the course of human history. The most graphic demonstration of this change came when, on Christmas Eve, 1968, hundreds of millions of human beings throughout the world, simultaneously had a new thought about a familiar object in the night sky—the Moon. The men of Apollo 8 were there, and the Moon would never be the same for anyone. Now, we realize that the world will never be the same; that there are solutions to the age-old problems of the human condition on Earth—hunger, disease, poverty, and lack of knowledge.

A World Information decade is a much more aggressive and comprehensive approach than the space policy outlined by the Carter administration for the 1980's. Of particular interest is the capability such a decade will provide in our assistance to those developing countries of the world who wish to move with us, as free nations, into the technological 21st century. The benefits of the high technology of space will be available to them without the need to invest alone in its creation.

ORBITAL CIVILIZATION

The decade of the 1990's, an orbital civilization decade, should emphasize the progressive creation of permanent facilities in near-Earth space. Such facilities will utilize and augment this unique research, service, and manufacturing environment. The weightlessness, the vacuum, the unique view of Earth, Sun, and stars provide unparalleled opportunities for research, education, space power production, manufacturing, health care, Earth power generation and recreational activities.

Permanent facilities in orbit will provide capabilities that relate directly to current and growing problems facing this Nation. For example, the creation of new export commodities and the supply of inexhaustible energy are needs that cannot be ignored by this generation nor denied to future generations. In addition, the now real possibility of research, education, health care, and recreation in space has caught the imagination of millions of young Americans. Let us not disappoint them or the future.

As with a world information system, the management of the development of an orbital civilization should be rapidly assumed by largely nongovernmental groups. In most cases, it is anticipated, the facilities will be economically self-sustaining, except for continual Federal involvement in high-risk improvement in technology.

SOLAR SYSTEM EXPLORATION

In the first decade of the 21st century, a space policy for our civilization should reach a major culmination of excitement with the initiation of a second solar system exploration decade. This is the decade about which most of the very young have their dreams. Bases and settlements on the Moon, missions of exploration to Mars and Venus, and the beginnings of the establishment of a Martian settlement, all are the ingredients goals are made of.

A research and test base on the Moon would provide the opportunity to develop and test the systems necessary to sustain a permanent mining, agricultural, and research settlement. Equipment required for long duration mobile exploration of Mars also can be developed and tested in this environment. It may be that the Mars and Venus missions themselves would be most economically staged from the Moon.

It is the idea, however, of a permanent settlement on Mars that seems most intriguing to the young people of today. They can visualize taking part in this next great expansion of the human race and its civilization. As on the Moon, the ingredients for self-sustaining settlements on Mars appear to already exist; particularly near the polar caps.

There is little technical distance between us and Martian habitations, compared to that which faced us when we began to race to the Moon. Now, the challenge is to develop the motivation to proceed.

SUSTAINING SCIENCE AND TECHNOLOGY

In order to sustain the technological and scientific requirements for these three decades of space activity, a significant level of basic research must be maintained, and development programs must be phased in to support the major programmatic efforts.

Of particular significance are the continued development of basic transportation systems, units and structures for space facilities, heavy capacity boosters, deep space boosters, and new power and communication systems; particularly those utilizing lasar and other advanced technologies.

The Space Shuttle concept, for economical and convenient access to the near-Earth environment and its resources, must be continued through additional phases. The chances are that both the development of an orbital civilization and the extended exploration of the solar system will demonstrate the need for expanded shuttle concepts. Also, a Moon Shuttle capability will obviously be required in the nineties to establish a Moon base and then conduct physical two-way transport between a Moon settlement and Earth.

New power and booster concepts must be developed to accomplish the civilization and exploration goals economically. New engineering concepts for space construction, and maintenance of large weightless planetary structures, also must mature in parallel with the mission demands.

These efforts in space science and technology will be the well from which will come new products and technologies for direct terrestrial applications. The systems, components, and materials developed, as well as the ideas, will, as always, produce unanticipated benefits of value far beyond their costs. This will continue to be true in space as it has always been for basic research and exploration on Earth.

A major design philosophy behind this policy is to undertake largely those activities in the world information and orbital civilization decades which would eventually sustain themselves without Federal support. It is also assumed that the settlement activities on the Moon, and eventually on Mars, will be in part, if not largely, supported by commercial interests, and will be self-sufficient after a decade or less.

The technology base exists for our world information decade of the 1980's. The technology base is being created for our orbital civilization decade of the 1990's, but it is being created much too slowly. Whereas the technology base for initiating our second solar system exploration decade is not yet adequate, we have an understanding of what we need for this effort and that makes our technical base accessible.

Thus, the challenge for a space policy that will sustain the movement of the civilization of freedom into space is to create the technology base by which future leadership can move in directions dictated by events. The Tom Jeffersons, the Teddy Roosevelts, and the John Kennedys will appear. We must begin to create the tools of leadership which they, and their young frontiersmen, will require to lead us onward and outward. Mr. President, I ask unanimous consent that the bill be printed in the RECORD together with a section-to-section analysis.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3599

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DECLARATION OF POLICY

SEC. 101. Findings. The Congress finds and declares that—

(1) The activities of the United States related to the explorations and utilization of the space environment have vastly increased our knowledge of the Earth, its history, its future resources and its future limitations.

(2) The scientific and technical advancements resulting from the activities of the United States in space and aeronautics are contributing in ever-increasing ways to the improvement of life on Earth, particularly in the areas of health, education, food production, environment, protective resource utilization, defense, energy production and conservation, communications, transportation, and protection from natural hazards.

(3) The entrenchment in the space and aeronautical activities of the United States since the early 1970's has resulted in a serious threat to our economic progress, our national defense and to our leadership role in the movement of human civilization into space.

(4) The gradual acceleration of well-managed space and aeronautics activities by the United States, governments, institutions, and industry will further benefit the nation far beyond the cost of such activities.

(5) The future potential of automated satellites in orbit which collect and distribute many kinds of information around the Earth, include major improvements in telecommunications, weather and ocean forecasting, earth resources sensing, communications services and hazard predictions.

(6) The activities of the United States in the space environment have demonstrated

the great potential for the beneficial application of weightlessness, infinite volumes of vacuum and the orbital view of the Earth, Sun and stars.

(7) The future potential of the permanent manned and automated facilities for civilizations in orbit around the Earth include research, education, power production, manufacturing, and health care.

(8) The continued exploration and eventual settlement of other places in the solar system, including the Moon and Mars, is important to many present and future generations of Americans and should be a long-time goal of the space activities of the United States.

(9) The future space and aeronautical activities of the United States must be sustained by a variety of interrelated research, development and demonstration programs which create the knowledge and capability necessary to maintain leadership in such activities.

(10) The future space and aeronautical activities of the United States must encourage the cooperative participation of commercial, institutional and international interests in all appropriate undertakings.

(11) It is in the national interest to establish a United States space and aeronautics policy directed toward the implementation of:

(a) a World Information System during the 1980's which consists of permanent, generally self-financing services in telecommunications, weather and ocean forecasting, earth resources sensing, communication services and natural hazard predictions;

(b) an Orbital Civilization during the 1990's which consists of permanent, generally self-financing facilities for research, education, power production, manufacturing, and health care.

(c) a Solar Systems Exploration capability during the first decade of the 21st Century which provides the options for moon bases, manned missions to Mars, a Moon settlement, manned missions to Venus and a Mars settlement;

(d) space technology development necessary to support the World Information Systems, Orbital Civilization and Solar System Exploration set out in (a), (b), and (c).

(e) space research and applications on a sustaining basis in planetary sciences, basic space sciences, astronomy, solar sciences and engineering;

(f) and aeronautical technology development necessary to support general and commercial aviation, lighter-than-air and supersonic aviation, hydrogen fuel, aircraft propulsion, and appropriate new flight concepts.

SEC. 102. Purpose.

It is the purpose of this Act to establish a comprehensive National Civilian Space and Aeronautics Policy that will provide the framework for a World Information System, an Orbital Civilization, Exploration of the Solar System and the development of other space and aeronautical activities in order to preserve and expand the leadership of the United States in the movement of mankind's civilization into space.

TITLE II—NATIONAL SPACE AND AERONAUTICS POLICY

SEC. 201. National Space and Aeronautics Policy.

The Congress declares that the United States is committed to the expansion of the peaceful civilization of the space and atmospheric environments for the benefit of the National and all of mankind and pursuant thereto establishes the following national space and aeronautics principles:

(1) The United States is committed to the peaceful expansion of the benefits of free institutions and the civilization based on free institutions into space.

(2) The United States is committed to the peaceful use of the environments of space and the atmosphere.

(3) The United States is committed to the allocations of an appropriate and consistent fraction of its gross national product, but no less than one-half of one percent, to the development of space and aeronautical capabilities and to the support of appropriate sustained activities in space and the atmosphere.

(4) The United States is committed to the establishment of direction and continuity in space and aeronautical policy for present and future generations.

(5) The United States is committed to flexibility in space and aeronautics so that new scientific, technological, economic and political developments can appropriately influence this policy.

(6) The United States is committed to a space and aeronautics policy that includes clearly identifiable significance to the direct or indirect alleviation of the major human adversities of hunger, disease, poverty and lack of knowledge.

(7) The United States is committed to a space and aeronautics policy that integrates budgetary requirements between all elements of the policy and between governmental, private and international participants in related activities.

(8) The United States is committed to the encouragement and continued establishment to the maximum extent practicable, self-financing non-federal institutional or commercial enterprises in space and aeronautics.

(9) The United States is committed to the expansion of scientific knowledge and wisdom through the utilization of space and aeronautical resources and capabilities.

(10) The United States is committed to the transfer of space and aeronautical technologies to other private, governmental and international applications.

(11) The United States is committed to the maintenance and expansion of its world leadership in space and aeronautical technology as a principal means of insuring the free world economic and political strength.

(12) The United States rejects any claim of *a priori* national appropriation over outer space, including the moon and other celestial bodies, or any position therof, and any limitation on the fundamental right to freely acquire and distribute data from space.

(13) The United States recognizes that the facilities, bases or settlements of any nation or international organization are the property of such nation or international organization and have the right of passage through and operations in space without interference, and that purposeful interference with such systems shall be viewed as an infringement on sovereign rights.

(14) The United States is committed to conducting cooperative international space activities that provide economic, scientific, technological, political, and other benefits to the United States and mankind.

(15) The United States is committed to conducting national and international activities in space with the maximum possible attention given to the safety of participants in that activity, the safety of people and facilities on Earth, the efficient use of the common heritage resources of space and the atmosphere, and the protection of the terrestrial, atmospheric and space environment.

TITLE III—PROGRAM

SEC. 301. To assure the timely achievement of the policy and purpose of this Act, the National Aeronautics and Space Administration, in cooperation with appropriate private, governmental and international groups, shall pursue aggressive research and systems development in space and aeronautics science and technology. Such activities shall include, but not be limited to, the following programs:

(1) The creation of an operational World Information System by the year 1990 that would include, but not be limited to, the following elements:

(A) An expanded telecommunications network that makes maximum efficient use of the frequency and orbital position resources in near-Earth space;

(B) an expanded weather and oceans forecasting network that provides all peoples with short-term assistance in preparing for weather and ocean phenomena;

(C) an operational Earth resources monitoring system that collects and makes available data necessary for maximum efficiency and environmentally sound utilization of natural and agricultural resources on Earth.

(2) The development of the basic facilities and capabilities by the year 2000 necessary to create an Orbital Civilization in near-Earth space which would include, but not be limited to, the following elements:

(A) research in basic science and engineering that makes use of the unique characteristics of the space environment;

(B) education in disciplines that can benefit from instruction and research in the space environment and with the space perspective;

(C) space power availability sufficient to support the in-orbit requirements of other facilities;

(D) manufacturing that makes use of the unique characteristics of the space environment;

(E) health care that makes use of the unique physiological and psychological characteristics of human beings in the space environment;

(F) space to earth power capability that is economically competitive with power generation on earth; and

(G) space recreation opportunities for as broad a spectrum of human beings as possible.

(3) The development of the capabilities by the year 2010 to undertake further solar system exploration by mankind that would include, but not be limited to, the following elements:

(A) a base for research and test activities on the Moon;

(B) manned missions of exploration to Mars;

(C) a permanent settlement on the Moon;

(D) manned missions of exploration to Venus; and

(E) a permanent settlement on Mars.

(4) The development of economical and reliable space technology necessary to carry out the programs defined by paragraphs 301 (1), (2), and (3) to include, but not be limited to, the following elements:

(A) Earth to near-Earth space transportation systems;

(B) modern habitation and work units necessary to construct orbital facilities;

(C) high power production and transmission systems for use in orbit and from orbit;

(D) large space structures;

(E) large capacity earth to orbit booster systems;

(F) utility booster system for orbit to orbit transfer;

(G) earth to moon and return transportation system;

(H) deep space booster system for manned solar system exploration; and

(I) planetary surface structures for habitation and work.

(5) The establishment and maintenance of research and application programs that would include, but not be limited to, activities in the following areas:

(A) planetary sciences;

(B) basic space sciences, including physics, chemistry and biology;

(C) astronomy and astro-physics;

(4) solar sciences; and

(E) engineering.

(6) The establishment and maintenance of aeronautical technology programs that

would include, but not be limited to, the following elements:

(A) general aviation;
(B) commercial aviation;
(C) lighter-than-air transportation;
(D) hydrogen fuel propulsion;
(E) supersonic transportation; and
(F) new flight concepts at the frontiers of aviation technology.

SEC. 302. Thirty-Year Plan.

The Administrator of the National Aeronautics and Space Administration, together with the Director of the Office of Science and Technology Policy, and after consultation with appropriate Federal agencies, shall develop and submit to the Congress for review and comment no later than 180 days after the enactment of this Act, a preliminary thirty year plan, including proposed annual funding requirements and a detailed research and development schedule. No later than one year after the date of enactment of the Act, the Administrator shall submit a final thirty year plan. Status reports and revisions to the Plan shall be submitted to the Congress on an annual basis in conjunction with the submission of budget request beginning with the third fiscal year after enactment of this Act.

SEC. 303. Authorization for Appropriations.

Beginning with the third fiscal year after its enactment, the provisions of this Act shall be the general basis for authorizations of funds for the National Aeronautics and Space Administration consistent with the provisions of the National Aeronautics and Space Act of 1958, as amended.

SECTION-BY-SECTION ANALYSIS

TITLE I—DECLARATION OF POLICY

Section 101. Findings: It is recognized that the United States has greatly benefited from the activities of the space exploration activities. These activities have vastly increased human knowledge; resulted in scientific and technical advancements contributing in numerous ways to the improvement of life on Earth; demonstrated the future potential of automated satellites including telecommunications, weather and ocean forecasting, earth resources sensing and hazard predictions; demonstrated the potential for beneficial application of weightlessness, infinite volumes of vacuum and the orbital view of the Earth, Sun and stars. The great potential which the space environment offers in all these areas, and many yet unknown, create a need for a comprehensive space and aeronautics policy that would be implemented in three phases: a World Information System; an Orbital Civilization; and a second Solar System Exploration capability. Additionally, it will be necessary to sustain space research and applications in the basic sciences and sustain development of aeronautical technology.

Section 102. Purpose: This Act establishes a comprehensive National Civilian Space and Aeronautics Policy which provides the framework for a long-term policy in space and aeronautics activities and to preserve and expand the leadership of the United States in the movement of mankind's civilization into space.

TITLE II—NATIONAL SPACE AND AERONAUTICS POLICY

Section 201. National Space and Aeronautics Policy: The United States is committed to the peaceful use and expansion of the benefits of the environments of space and the atmosphere. This includes funding levels of no less than one-half of one percent of the gross national product for the development of space and aeronautical capabilities. In order to sustain a slow and steady acceleration of these activities at a reasonable cost, this bill encourages, to the maximum extent practicable, self-financing, non-federal institutional or commercial enterprises in space and aeronautics.

TITLE III—PROGRAM

Section 301: By 1990, the creation of a World Information System would include but not be limited to expanded or new networks for telecommunications, weather and ocean forecasting and earth resources monitoring.

By the year 2000, the option to create Orbital Civilization facilities would be available for such activities as education, health care, manufacturing, and orbit-to-orbit and space-to-earth power capability.

By the year 2010, the United States would have the capabilities to undertake a second Solar System Exploration program which includes a base for research and test activities on the moon, space settlements, and exploration missions to other bodies in our solar system.

During this time frame, the United States would be committed to the development of economical and reliable space technology to achieve the capabilities to carry out the programs.

NASA would submit a thirty-year plan to Congress, which would be updated and revised on an annual basis in conjunction with the submission of budget request beginning with the third fiscal year after enactment.●

By Mr. ABOUREZK:

S. 3609. A bill to authorize the Blackfeet and Gros Ventre Tribes of Indians to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes; to the Committee on the Judiciary.

BLACKFEET AND GROS VENTRE TRIBES

● Mr. ABOUREZK. Mr. President, today I am introducing legislation to authorize the Blackfeet and Gros Ventre Tribes of Indians to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution. The bill would rectify past injustices by authorizing the U.S. Court of Claims to hear and decide whether the taking of their land in 1874 was in violation of the fifth amendment of the U.S. Constitution, so as to entitle them to interest. A previous judgment awarded the tribes damages for the taking of their lands, but the court did not decide or even address the constitutional issue. Later, when the tribes sought to have their day in court on this issue, they were turned down on the grounds of res judicata. The bill does not necessarily mean that the Blackfeet and Gros Ventre Tribes will win their claim; it only authorizes the Court of Claims to hear the claim on the merits and decide whether the taking was indeed in violation of the fifth amendment. The tribes only want their day in court on this issue.

In this matter, the Blackfeet and Gros Ventre Tribes seek the same relief as was granted to the Sioux Nation by Public Law 95-243, 92 Stat. 153.

BACKGROUND OF THE CLAIM

A. THE ORIGINAL CASE

On July 10, 1925, the Blackfeet and Gros Ventre Tribes, who shared a common reservation at the time the claims arose, but now reside separately on the Blackfeet and Fort Belknap Reservations, filed a petition in the Court of Claims pursuant to a special jurisdictional act passed on March 13, 1924 (43 Stat. 21), which reads in pertinent part as follows:

(J)urisdiction is hereby conferred upon the Court of Claims . . . to consider and determine all legal and equitable claims against the United States of the Blackfeet, Blood, Piegan, and Gros Ventre Nations or Tribes of Indians—for land or hunting rights claimed to be existing in all said Nations or tribes . . . which land and hunting rights are alleged to have been taken from the said Indians by the United States. . . .

In their petition, the Blackfeet and Gros Ventre Tribes sought damages against the United States for the failure to protect buffalo and other game from destruction, for the wrongful removal of wood for agency, school, and personal uses, and for the taking of certain lands without consent or the payment of compensation in violation of the treaty of October 17, 1855 (11 Stat. 657).

With respect to the taking claims, the Court of Claims held (81 Ct. Cl. 101 (1935)) that the Blackfeet and Gros Ventre Tribes had recognized title to a large reservation in Montana by virtue of the treaty of October 17, 1855, and that 15,289,344 acres had been taken from the tribes and made a part of the public domain by virtue of the act of April 15, 1874 (18 Stat. 28), and the Executive order of August 19, 1874.

Due to certain additions of about 3,000,000 acres to the reservation, the Court found the net loss from the original reservation to be 12,261,749.76 acres and further found that no compensation had been paid to the Blackfeet and Gros Ventre Tribes for the taking. Based upon a valuation of $.50 per acre, the Court awarded the tribes $6,130,874.88 in damages less $5,508,409.31 in offsets, leaving a net award of $622,465.57. The Court did not discuss whether the taking was in violation of the fifth amendment and did not award interest to the tribes. In fact, the Court never even mentioned interest anywhere in its opinion. The tribe did not ask for interest, perhaps because of a misunderstanding of the state of the law. See, *Blackfeet and Gros Ventre Tribes* v. *United States*, 127 Ct.Cl. 807, 820 (1954) (Madden, J., dissenting). However, when "just compensation" is awarded for a fifth amendment taking, the interest component "attaches itself automatically to the right for an award of damages," and thus, to specifically demand interest is superfluous. Given jurisdiction to award damages for a fifth amendment taking, and given that such a taking is proven, interest is automatic, and not even Congress can prevent its award. *Shoshone Tribe* v. *United States*, 299 U.S. 476, 497 (1937); see, *United States* v. *Klamath Tribe*, 304 U.S. 119, 123 (1938).

B. THE INDIAN CLAIMS COMMISSION CASE

Following the passage of the Indian Claims Commission Act, 60 Stat. 1049, 25 U.S.C. section 70, the Blackfeet and Gros Ventre Tribes raised the interest issue. They filed a petition with the Commission asserting, among other things, that as a result of the taking of their lands recited in the 1935 Court of Claims decision, they were entitled to the payment of just compensation by the United States under the fifth amendment. They sought simple interest at the rate of 5

percent per year from the date of taking—1874—to the date of payment—1935.

The Indian Claims Commission dismissed the interest claim in 1952 on the ground that the Court of Claims in the 1935 case had jurisdiction to award interest as a part of just compensation and, thus, the question of whether or not interest could be recovered was now foreclosed. The award of money for the land, therefore, became res judicata as to any claim for interest. (2 Ind. Cl. Comm. 302).

The Blackfeet and Gross Ventre Tribes appealed this decision and it was affirmed by the Court of Claims (127 Ct.Cl. 807 (1954)). The Court acknowledged that:

> The (Tribes') right to the designated territory granted to them by the treaty of 1855 represented a property right protected by the Fifth Amendment. . . . A right arose in (the Tribes) for just compensation under the Fifth Amendment when the United States in exercising the power of eminent domain took their property for public use. (127 Ct.Cl. at 881).

Yet, the 1954 Court ruled that even though the 1935 Court never mentioned interest in that case, the tribes' claim for interest under the Indian Claims Commission Act was barred by res judicata. The tribes sought Supreme Court review, but certiorari was denied. 348 U.S. 863 (1954).

Having exhausted their legal remedies, the Blackfeet and Gros Ventre Tribes' only recourse is to ask Congress to waive the Government's defense of res judicata and permit a judicial determination on the merits as to whether the takings of their land were indeed fifth amendment takings such that interest is due them.

The Blackfeet and Gros Ventre Tribes should be allowed to have their fifth amendment claim heard.

In Indian claims interest is the exception; most awards are not accompanied by interest increments. However, there is one well-established class of cases where interest is allowed—in fifth amendment just compensation cases; that is, where:

First. The Indian title is acquired by treaty, statute, or other congressional recognition—not merely by aboriginal use or Executive order;

Second. The Indians' property is taken without their consent—not as part of an agreement with the Indians or as an act of management of trust property; and

Third. The taking is authorized or ratified by Congress.

In such cases, the compensation to which the Indians are entitled automatically bears interest as a constitutionally mandated element of the award. Although the list of cases in which the Indians have won interest is small, it forms a well-established class. For a tribe to have a case such as this one, which falls into the established class, and not recover interest is to unfairly deprive that tribe of part of what it is entitled to and to foster a feeling of injustice. The Indians are left with an abiding sense that they have been denied justice. They say, "We did not wish to give up our reservation lands and, yet, they were taken from us without our consent. Why do we not receive what the law entitles us to and what other tribes have received?"

It may be that the Blackfeet and Gros Ventre Tribes do not meet the requirements for a fifth amendment taking, but they have never had the fundamental fairness of having their claim decided in court. Instead, they are told that an earlier case where their claim was not passed upon but supposedly could have been is a bar to their claim forever.

The tribes' entitlement to interest was ignored by the Court of Claims even though it is supposed to be an automatic part of any award for a fifth amendment taking. Then the tribes' claim was denied by the Indian Claims Commission on the ground that the Court of Claims should have awarded it. Yet, a report by the House managers of the bill that became the Indian Claims Commission Act stated:

> Where an Indian tribe has already recovered for the value of land taken from it, the Commission will be permitted to entertain a claim for just compensation where no claim was actually litigated by the tribe. Again, *the previous assertion of a claim for interest, which could not be awarded because of existing provisions of law, shall not preclude the claimant from hereafter raising before the Commission a claim for interest as a part of just compensation in the constitutional sense on the principal sum already obtained.* (92 Cong. Rec. App. A4923-24 (1946); emphasis added).

The Blackfeet and Gros Ventre Tribes brought this report to the attention of the Court of Claims, but the court refused to rely upon it, saying that it represented the views of the House managers and not necessarily those of Congress as a whole (127 Ct. Cl. at 817-18).

The Blackfeet and Gros Ventre Tribes seek only the right to be heard in court on whether the takings of their land were in violation of the fifth amendment such that their award should have included interest from the date of taking to the date of payment. They are in essentially the same position as the Sioux Nation which was successful in obtaining legislation from this Congress (P.L. 95-243, 92 Stat. 153) to rectify a virtually identical injustice.

It is not possible to predict how the court might compute the interest if it holds that there was an unconstitutional taking, but if interest is computed in the usual manner at the customary rate of 5 percent—simple, based upon the gross judgment of $6,130,875 from 1874 until 1935, the interest would be 61 x .05 x $6,130,875=$18,699,158.

The Sioux sought to have the bar of res judicata lifted so they could present their claim that they were entitled to interest on the taking of their Black Hills land in violation of the fifth amendment.

The Sioux sought to have the bar of under a special jurisdictional act and it was dismissed. The claim was subsequently filed with the Indian Claims Commission and, on appeal, the Court of Claims held that it was barred by res judicata because of the prior lawsuit. Congress recognized the injustice of this situation and lifted the bar of res judicata.

In considering the Sioux claims, Congress was properly mindful of the possible "floodgates problem" with other similar claims, and asked the Justice Department and the Indian Claims Commission how many other cases were similarly filed with the Indian Claims Commission and held to be barred by res judicata. Significantly, the interest claim of the Blackfeet and Gros Ventre Tribes appeared on both lists.

The original lists of the Justice Department and the Indian Claims Commission included many cases involving takings which clearly did not rise to the level of fifth amendment takings. These claimants were, therefore, legally not entitled to interest. The true list of cases involving a likely fifth amendment claim subsequently held by the Indian Claims Commission to be barred by the doctrine of res judicata was narrowed to five by the counsel for the Sioux Nation. This was also the number used by Mr. Raymond V. Butler, testifying on behalf of the Interior Department before the House Public Lands and Indian Affairs Subcommittee in this Congress. Significantly, the Blackfeet and Gros Ventre Tribes were included on both of these lists as well. Thus, the Justice Department, the Interior Department, and the Indian Claims Commission have all recognized that the Blackfeet and Gros Ventre Tribes are in the same situation as the Sioux, and there are really only four other tribes who are similarly situated with respect to their probable fifth amendment claims.

The history of the Sioux Black Hills claim was rife with injustice, but so is the history of the Blackfeet and Gros Ventre Tribes' fifth amendment claim. Instead of having their claim completely dismissed as the Sioux did, the Blackfeet and Gros Ventre Tribes actually prevailed on the merits and were awarded the bare land value of the property taken. However, the Court failed to say whether a fifth amendment taking had occurred and it failed to award them, or even mention, the interest that any litigant is supposedly entitled to automatically when a fifth amendment taking is proven.

Furthermore, the Sioux received a basic award of $17.1 million without any reduction for offsets on their Black Hills claims, largely because Congress passed a special law (P.L. 93-494, 88 Stat. 1499) designed primarily for them, to the effect that expenditures received from the United States by the Sioux in the form of food, rations, and provisions would not be deemed to be "payments on the claim" for offset purposes as they had been in other cases. By contrast, the award to the Blackfeet and Gros Ventre Tribes of $6.1 million was reduced by $5.5 million, or 90 percent, due to offsets, many of which were food, rations, and provisions, which at that time were allowable. To make matters worse, however, the Court of Claims took the opportunity 11 years later in one of its Sioux cases to admit that a substantial amount of the offsets in the Blackfeet and Gros Ventre Tribes' case, as well as several other cases, had been improperly allowed. In *Sioux Tribe* v. *United States*,

105 Ct. Cl. 725, 793, (1946), the Court stated:

In certain cases heretofore before the court on the question of legal and equitable offsets including gratuities, allowable to the Government against the Indians as deductions from such amount as was determined to be due the tribe concerned, the court, without full and adequate presentation and consideration of the historical origin and background of Indian agents and agencies, allowed as offsets in favor of the Government pay and expenses of Indian agents and all other agency expenses as non-treaty obligations of the Government and as gratuitous expenditures from public funds for the benefit of the Indians. *See, Blackfeet et al. Nations v. United States,* 81 Ct. Cl. 101, 136, 137, 138; *Shoshone Tribe of Indians v. United States,* 82 Ct. Cl. 23 and 85 Ct. Cl. 31. However, *further study* of the matter in the light of those treaties as they were evidently understood and intended by the parties, and in the light of their background and conditions existing at the time they were made, *convinces us that salaries of agents, agency employees, agency expenses and transportation of treaty supplies and annuities were not proper legal and equitable charges or gratuities* properly to be offset against the Indians. (Emphasis added).

The offsets which the Court admitted were improper—albeit too late—totaled about $1,000,000.

Finally, it should be noted that the maximum liability of the Government for interest on the Sioux claim is approximately $85 million. By contrast, the maximum liability of the Government for interest on the Blackfeet and Gros Ventre Tribes' claim is $18.7 million, and a court could well find reasons to allow less.●

By Mr. ABOUREZK:

S. 3610. An act to recognize the boundaries of the Lake Traverse Reservation; to the Committee on the Judiciary.

LAKE TRAVERSE INDIAN RESERVATION RECOGNITION ACT

● Mr. ABOUREZK. Mr. President, I am introducing S. 3610 to reestablish the boundaries of the Lake Traverse Reservation which is the home of the Sisseton-Wahpeton Sioux Tribe. The reservation boundaries were originally established by article III of the treaty of February 19, 1867 (15 Stat. 505). The reservation is V-shaped and lies in the northeast corner of South Dakota with a small portion in the southeast corner of North Dakota. This area contains 918,779.32 acres.

The intent of this legislation is to offer a remedy to a situation brought about by a 1975 Supreme Court decision in the case of *DeCoteau* v. *District County Court,* 420 U.S. 425 (1975). In this case, the Supreme Court, in a divided opinion, held that the Lake Traverse Reservation was terminated by an 1891 act of Congress and that all lands within the reservation for which a fee patent has been issued ceased to be a part of Indian country. As a consequence of this decision, only those parcels of land within the original boundaries of the reservation which are held by the United States in trust for the tribe or its members are considered a part of the Indian country and subject to Federal or tribal jurisdiction. There is no substantial unit of contiguous Indian land and what has previously been regarded by the Congress and the executive as a reservation has been reduced to a "crazy quilt" pattern of individual tracts of land.

The DeCoteau decision represents a step backward from rules of interpretation laid down by the Supreme Court as early as 1909 in the case of *U.S.* v. *Celestine,* 215 U.S. 278 (1909); a rule adopted by Congress in 1948 (act of June 25, 1948; 62 Stat. 757; 18 U.S.C. 1151); and reaffirmed most recently in *Mattz* v. *Arnett,* 412 U.S. 481 (1973) following *Seymour* v. *Superintendent,* 368 U.S. 351 (1961).

Whether or not the Court correctly applied the principles of law previously established should not be the concern of Congress in considering this legislation. The important concern is to correct the harm that this decision causes the Sisseton-Wahpeton Tribe.

The majority of the Court stressed the history of dealings between the Sisseton-Wahpeton Tribe which led to the 1891 statute; the three dissenting Justices disagreed with this historical analysis and stressed the chaos and tragedy the majority decision inflicted upon this tribe and government within this area. Both analyses are relevant and when fully examined lead to the inescapable conclusion that justice and commonsense require that the boundaries of the reservation defined in article III of the 1867 treaty must be reestablished.

The treaty of 1867 with the Sisseton-Wahpeton Tribe without any means of the United States to honor its obligations to this band of friendly Indians. As a result of the Sioux outbreak of 1862, Congress confiscated all the Sioux annuities and reservations. The Sisseton-Wahpeton Band did not join in these hostilities but rather served the United States in the capacity of scouts.

The confiscation left the Sisseton-Wahpeton tribe without any means of support and forced them to be "homeless wanderers, frequently subject to intense suffering from want of subsistence and clothing to protect them from the rigors of a high northern latitude, although at all times prompt in rendering service when called upon to repel hostile raids and to punish depredations committed by hostile Indians upon the persons and property of whites." (Treaty with the Sisseton and Wahpeton Sioux, 1867).

It was argued in the Supreme Court and accepted by the majority that within 24 years this tribe "willingly" and with full "consent" gave up its reservation in an arms length transaction with every intention that its reservation should be terminated. Without question the written word in the negotiations, the agreement and the statute recite willingness and consent. But the facts set forth in the Supreme Court decision indicate only that the band made the best of a very bad situation.

Only 20 years earlier in 1871 Congress determined that it would no longer deal with Indian tribes through treaty negotiations. (Act of March 3, 1871, ch. 120, Sec. 1, 16 Stat. 566.) In 1887 Congress enacted the General Allotment Act (Act of Feb. 8, 1887, ch. 119, 24 Stat. 388) which provided that Indian reservations would be allotted and opened for settlement by non-Indians. Under the terms of this statute 160 acres were to be allotted to the head of every Indian household and the remaining land was to be declared surplus and offered for sale to non-Indian settlers, the proceeds of sale to be paid to the tribe occupying the reservation thus broken up. The record in the Sisseton-Wahpeton case as reflected in the Supreme Court decision shows that the tribe extracted from the Federal negotiators provision that every member of the tribe, whether the head of a household or not, would receive 160 acres; and that a premium price—that is, $2.50/acre vis-a-vis $1.60/acre—would be paid. In addition compensation for scout services arising from performance in the 1862 uprising were also to be paid. For over 20 years the tribe had claimed this payment but the United States turned a deaf ear.

This tribe, negotiating from the standpoint of poverty; from nonpayment of claims it believed to be due from its 1862 services as scouts; and from the inevitable consequence spelled out in the 1887 Dawes Act, extracted the best it could from an impossible situation. The record may well indicate a "willing" transaction, but the facts suggest otherwise.

As noted by the majority opinion, the jurisdictional history of this reservation is not wholly clear. The court notes that the State of South Dakota has always asserted jurisdiction over those lands within the reservation held in fee patent status. From 1891 to 1908 the Lake Traverse Reservation was eliminated from maps published by the Commissioner of Indian Affairs. After 1908 some Government maps included the area as an "open" or "former" reservation, while more recent maps have characterized it simply as a "reservation." Exactly why the Lake Traverse Reservation was restored to the maps in 1908 is not made clear in the DeCoteau decision. However, it is a fact that the annual reports of the Indian agent at Sisseton for the period from 1891 through 1908 are replete with complaints that the State and county courts refused to accept jurisdiction over Indian cases. This casts some doubt over the extent to which the State asserted jurisdiction within this area.

In 1946 the Sisseton-Wahpeton tribe adopted a constitution asserting jurisdiction over Indian owned land lying within the original reservation boundaries. In 1963 the Eighth Circuit Court of Appeals held that the 1891 act had terminated the Lake Traverse Reservation. (*DeMarrias* v. *South Dakota,* 319 F. 2d 845 (8th Cir., 1963). However, in 1966, with the approval of the Commissioner of Indian Affairs, the tribe adopted a new constitution asserting jurisdiction over all lands within the original 1867 boundaries of the reservation. In 1972 a field solicitor for the Department of the Interior rendered an opinion that the 1891 act had not extinguished tribal jurisdiction within this reservation. And in 1973, in the DeCoteau case, the eighth circuit overruled its earlier 1963 opinion holding that the reser-

vation had in fact survived the 1891 act. It was this decision which the Supreme Court reversed.

Approximately 3,000 members of the Sisseton-Wahpeton tribe live within the 1867 boundaries of the Lake Traverse Reservation. Only a small percentage of these tribal members live within the "closed" portion of the reservation—that portion which the Court found to constitute the remaining Indian country. Approximately 15 percent of the land within the 1867 boundaries is held in trust by the United States for individual Indians or for the tribe itself. The office of the local Bureau of Indian Affairs is at Sisseton which is not in the "closed" part of the reservation. Federal services to members of the tribe extend to those residing on land opened to settlement as well as to those on trust allotments.

The dissenting opinion notes that:

> The tribe has a police force and a court. The tribe provides rental housing of 240 units. It provides fire protection. It is the major employer. It operates the only garbage collection and disposal. It is the major governmental entity within the reservation boundaries, servicing Indians and non-Indians. (420 U.S. at 465.)

The extent of Federal services provided the members of this tribe as well as the capacity of the government of the tribe to operate are imperiled by the DeCoteau decision. Many services performed by the Bureau of Indian Affairs are limited to tribal members living on a reservation or on trust land near a reservation. If the Bureau were to strictly apply the findings of the DeCoteau decision, many members of the Sisseton-Wahpeton tribe would be denied benefits they are presently receiving. Many other Federal programs such as CETA, housing, child welfare, et cetera, are geared to a reservation base. Statutes relating to acquisition of land and protection of natural resources are also generally limited to lands within reservation boundaries. In addition to disruption of normal governmental services, the DeCoteau decision threatens all of these programs.

The impact of this decision on Federal, State, and tribal government is best summarized in the dissenting opinion:

> (T)he Federal Government and the tribal government have no jurisdiction when an act takes place in a homesteaded spot in the checkerboard; and South Dakota has no say over acts committed on "trust" lands. . . . Jurisdiction dependent on the "tract book" promises to be uncertain and hectic. Many acts are ambulatory. In a given case, who will move—the State, the tribe, or the Federal Government? The contest promises to be unseemly, the only beneficiaries being those who benefit from confusion and uncertainty. . . . Checkerboard jurisdiction cripples the United States in fulfilling its fiduciary responsibilities of guardianship and protection of Indians. It is the end of tribal authority for it introduces such an element of uncertainty as to what agency has jurisdiction as to make modest tribal leaders abdicate and aggressive ones undertake the losing battle against superior state authority. 420 U.S. 467.

The bill will assure the continuity of Federal program delivery to this very deserving tribe and it will restore to the tribe the capacity to govern its own people.

Mr. President, I realize that it is too late in this session of Congress for any action to be taken on this bill. I introduce it today in order that it may be considered and discussed in the interim by the people who will be affected.

Finally, I would note that I have, in this session of Congress, introduced legislation which will enable this tribe and the State and local authorities to reach compatible solutions on jurisdictional issues they may confront after passage of reservation restoration bill I introduce today. I refer to S. 2502, the Tribal-State Compact Act, which has received wide support and which I expect to see enacted early next year. The leaders of the Sisseton-Wahpeton Tribe are interested in entering into such cooperative agreements with State and local governments on jurisdictional issues. I believe the leaders of the surrounding non-Indian communities will find that their interests will also be served through such agreements. In the absence of a proper reservation, however, I fail to see any basis for development of such agreements. It is my hope that this legislation will serve the common interests of both the Indian and the non-Indian in the Lake Traverse area.

I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 360

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Lake Traverse Indian Reservation Recognition Act."

SEC. 2. For the purpose of enabling the tribe of Indians known as the Sisseton-Wahpeton Sioux Indian Tribe of North and South Dakota to promote the integrity of the Tribe, to secure the historical inheritance of the Tribe, and to improve the social, cultural and economic life of its members, the Lake Traverse Indian Reservation in the States of North Dakota and South Dakota is restored as a Federal reservation set aside for the use and benefit of the Sisseton-Wahpeton Sioux Indian Tribe.

SEC. 3. Notwithstanding the provisions of the Act of March 3, 1891 (26 Stat. 989) or any other law to the contrary, the external boundaries of the Lake Traverse Reservation are hereby recognized to be those boundaries described in Article III of the Treaty of February 19, 1867 (15 Stat. 505), provided that nothing in this Act shall be deemed to authorize civil or criminal jurisdiction by the Tribe over non-Indians or non-trust property, but the authority of the Tribe to exercise jurisdiction over tribal members within the boundaries of this reservation is hereby recognized.

SEC. 4. Except as provided in section 3, all laws of general application to Indians because of their status as Indians and all laws of general application to lands and natural resources within Federally recognized Indian reservations shall extend to the Lake Traverse Reservation as defined in this Act.

SEC. 5. Nothing contained in this Act shall alter any existing rights or obligations, or any contractual rights or obligations, or affect any action or proceeding over which a court has already assumed jurisdiction.●

By Mr. BAYH:

S. 3611. A bill entitled the "Constitution Bicentennial Commission Act"; to the Committee on the Judiciary.

CONSTITUTION BICENTENNIAL COMMISSION ACT OF 1978

Mr. BAYH. Mr. President, today I am introducing the American Constitution Bicentennial Commission Act of 1978. In doing so I hope that persons who have an interest in the commemoration of our Constitution's 200th anniversary may have an opportunity to review and comment on this proposed legislation. As chairman of the Judiciary Subcommittee on the Constitution, it is my intention to begin a series of hearings on December 7 to explore this and other proposals designed to commemorate the Bicentennial of the American Constitution. As I am sure some of my colleagues know, it was on December 7, 1787, that the first State ratified the Constitution. That State was Delaware.

The crucial importance of the Constitution is sometimes taken for granted for the simple reason that it seems almost anticlimactic by comparison with the mighty, ringing phrases of the Declaration of Independence, and the heroic struggles of the Revolution. It is, after all, not so much a great statement of principle as a blueprint for the formation and conduct of our form of government, a blueprint that continues to serve as surpassingly well nearly two centuries later.

Mr. President, few Americans understand the long and difficult struggle that the new United States of America faced even after peace had been concluded with Great Britain under the Treaty of Paris in 1783. Many of the colonists had joined the Revolution in order to restore State autonomy rather than to form a new national government. Opinion in Europe was that the new country would quickly succumb to its international differences and many agreed with Frederick the Great of Prussia when he said: "little by little, colony by colony, province by province," America would "rejoin England and their former footing."

The Articles of Confederation were adopted by the Congress at the beginning of the Revolutionary War in 1777. The articles were finally approved by the States in 1781. The Articles of Confederation reflected the colonists' fears of a strong central government. Under the articles the Government could only request funds from the States, could not regulate interstate commerce, had no executive branch, and was run largely by committees. Each State received 1 vote in Congress with 9 of the 13 votes required for passage of any measure.

During the war the Continental Army was constantly plagued by the ineffectiveness of this system, especially when it came to paying the troops or requesting supplies. Many times during the war troops from one State would refuse to cross State lines when the campaign no longer was being waged for their immediate protection.

With the signing of a treaty with England, problems with the articles continued to plague the new country. Secretary of Foreign Affairs, John Jay, was constantly frustrated in his attempts to have British troops removed from the Northwest territories. The British were enraged that in violation of the treaty

some States continued to confiscate Tory property and in some cases lynched British loyalists. The Congress was powerless to end these abuses. There was constant trouble along the border with Spanish Florida and again the ineffectiveness of the U.S. Government was sorely apparent.

United States merchants were the victims of discriminatory trade legislation by some European countries who could rest assured that no retaliation would be taken, because the Congress could not regulate trade. Merchant ships were the victims of piracy in the Mediterranean. In 1787 the United States "purchased" a treaty with Morocco to pay off these pirates, because no strong Navy existed to protect our shipping.

Internally there was a great deal of confusion over boundary lines between States. Virginia and Pennsylvania even exchanged shots over their boundaries. Many of the territories claimed by different States were seeking to form new States. This situation finally became so serious that even the independently minded States saw the necessity of yielding their claims to the Congress. The Congress responded by enacting the most effective measure of the Confederation government—the Northwest Ordinance. This ordinance set up a blueprint for admitting new States. My own State of Indiana was admitted to the Union under this plan.

Problems continued to mount upon the Congress. A war debt of $40 million had been amassed during the Revolution. Attempts to request funds from the States to pay off this debt fell far short. At a call from Congress for $3 million the States would send only $10,000 in one instance.

The American economy reflected these circumstances. Commodity prices continued to fall year after year. Many States attempted to bolster their sagging economies by enacting duties on goods brought in from other States. States started to issue their own money which many merchants were understandably very reluctant to accept.

Massachusetts farmers enraged at seeing so many farms foreclosed for debts, attempted to shut down the courts. These desperate men rallied around Daniel Shays and finally rebelled against the government of Massachusets. The rebellion was put down with little bloodshed but Shay's Rebellion proved that discontent was getting dangerously high and that a more effective central government was critically needed.

George Washington was the catalyst who started the process of writing a new framework for the American Government. As the head of the Potomac Navigation Co., Washington invited commissioners from Maryland to talk about his proposal to build a canal on both sides of the Potomac River. It was agreed to call a larger meeting at which more States could be present to discuss the problems of commerce. Finally James Madison suggested that a convention was needed to amend the Articles of Confederation. Congress agreed to this proposal and the Philadelphia Convention was scheduled for May 25, 1787, to which all the States would be invited.

The Philadelphia Convention was composed largely of men who saw the necessity of forming a strong central government. The purpose of the convention quickly enlarged from an attempt to amend the Articles of Confederation to an attempt to replace it. Most of the brightest minds of the new country were present in Philadelphia including George Washington, Benjamin Franklin, Alexander Hamilton, James Madison, George Mason, Edmund Randolph, and Gouverneur Morris.

Mr. President, the Senate is sometimes referred to as the greatest deliberative body in the world, but it is quite likely that this gathering in Philadelphia was the greatest deliberative body in the history of government. The delegates hammered out a legal document which was able to preserve liberty and the Union at the same time. Through an elaborate series of checks and balances, separation of powers and specifically enumerated responsibilities the framers devised a system of government which was strong enough to serve the people, but not strong enough to oppress them. The great William Gladstone, Prime Minister of Great Britain, noted:

> The American Constitution is the most wonderful work ever struck off at a given time by the brain and purpose of man.

Today, that Constitution endures. The principles agreed to on September 17, 1787, remain viable. A document drawn up to serve the needs of a small, agrarian society of some 2½ million people, clustering together for survival on the Atlantic coast, continues to function in a country of 250 million citizens—or approaching that amount—of diverse backgrounds, living across an entire continent and vast stretches of Alaska and the scenic shores of Hawaii.

The Constitution is both the legacy of our past and our hope for the future. It has survived the War Between the States, economic depression, two World Wars, the shock of Presidential assassination, and Presidential resignation.

Justice Robert H. Jackson in his book "The Struggle for Judicial Supremacy," said:

> The greatest expounders of the Constitution, from John Marshall to Oliver Wendell Holmes, have always insisted that the strength and vitality of the Constitution stem from the fact that its principles are adaptable to changing events.

Mr. President, it will be the task of the American Constitution Bicentennial Commission to study the forces which have shaped the formation of the Constitution, not only its evolution but, also, the qualities of flexibility and endurance which have allowed it to remain contemporary in our rapidly changing society. The Commission will be empowered to investigate the Constitution's continuing capacity for meeting the new challenges of our Nation.

I am offering this bill for comment at this time in order to explore whether, indeed, a Federal commission is the best instrument for carrying out these tasks or whether we should look solely to private institutions. For example, Project 87 is sponsored by the American Historical Association and the American Political Science Association and has already undertaken to plan the commemoration of the Bicentennial of the Constitution.

This ambitious project proposes a three-stage preparation for 1987's activities. The first is scheduled to begin immediately and to last through 1980. It will be devoted primarily to scholarly research and program planning, to lay a solid foundation for the work of public education that follows. In the second, for which planning has already begun, new teaching materials will be developed for the schools, and the project will help to produce programs for public television relating to the Constitution. By the mid-1980's a third stage will begin, during which the project will seek to promote a better public understanding of the constitutional tradition and its prospects under modern conditions.

Mr. President, we have much to consider in terms of our alternatives. However, it is with dedication to the belief that the anniversary of our Constitution should be a time of reflection upon its principles and its endurance as well as a time of celebration, that I present this bill now for consideration and comment.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3611

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Constitution Bicentennial Commission Act of 1978.

SEC. 2. For the period beginning October 1, 1979, and ending September 30, 1989, there shall be established a Commission to be called the American Constitution Bicentennial Commission, the goals of which shall be—

(a) to encourage the scholarly examination of the evolution of our Constitution and its capacity to meet new challenges in the years leading to the Bicentennial of the Constitution;

(b) to stimulate the development and dissemination of educational material on constitutional issues for general public consumption; and

(c) to devise, plan and implement appropriate activities to commemorate the Bicentennial of the American Constitution during the years 1987 and 1988.

SEC. 3. The American Constitution Bicentennial Commission shall—

(a) under the provisions of Section 7 of this Act, award federal grants-in-aid or federal matching funds in such amounts and to such individuals or institutions for research and development of such programs or projects which the Commission determines meet the criteria necessary to aid in the attainment of its goals as set forth in Section 2 of this Act;

(b) implement a national series of annual town meetings for the purpose of sharing information on the projects or programs carried out under its supervision;

(c) publish and otherwise encourage the dissemination of the results of the projects and programs assisted by the Commission including any educational material developed under its supervision;

(d) cooperate with other public and private organizations and groups in meeting the goals set forth in section 2 of this Act; and,

(e) establish such advisory committees within States as it deems advisable. The Commission may consult with governors, judges, attorneys general, and other representatives of State and local governments, and private organizations, as it deems advisable.

SEC. 4. The Commission shall be composed of the following 24 members—

(a) four members to be selected from among the members of the Congress—

1. Two to be selected from among the members of the Senate by the President Pro Tempore of the Senate upon the advice of the majority and minority leaders of that body, to serve as long as they shall be members of the Senate, and

2. Two to be selected from among the members of the House of Representatives by the Speaker of the House upon the advice of the majority and minority leaders of that body, to serve as long as they shall be members of the House.

(b) four members to be selected from among the members of the President's Cabinet, including—

1. The Secretary of State;

2. The Attorney General; and,

3. Two nominees to be selected by the President from among members of his Cabinet to serve for the duration of the President's term in office or the length of their terms as members of the Cabinet, whichever shall end first;

(c) four members to be selected from among the members of the Federal and State Judiciary, including:

1. The Chief Justice of the United States, and

2. Three members of the Judiciary selected by the Chief Justice upon the advice of the Judicial Conference.

(d) twelve members to be selected from among private citizens who, by reason of their knowledge, expertise, and diversity of experience, are particularly qualified for service of the Commission, four to be appointed by the President, four to be appointed by the Chief Justice, two to be appointed by the President Pro Tempore of the Senate upon the advice of the majority and minority leaders of that body, and two to be appointed by the Speaker of the House upon the advice of the majority and minority leaders of that body.

SEC. 5. The Chairman of the Commission shall be elected by the Commission from among its members at the opening session of its first meeting and shall serve at the pleasure of the Commission.

SEC. 6. The Commisison shall be authorized to employ a staff, including the following—

(a) a project director appointed by the Commission, and

(b) such additional staff as the project director, in consultation with the Commission, shall deem necessary.

SEC. 7. Grants by the Commission under Sec. 3 of this Act shall be awarded upon applications submitted in the form and manner prescribed by the Commission—except that—

(a) no part of any grant will inure to the financial benefit of any private profitmaking corporation or entity;

(b) no part of any grant will be used other than for the project or program for which it was granted; and

(c) no part of any grant shall be used to fund any program which discriminates on the basis of race, religion, sex, age, national origin, or handicap.

(d) as used in this section, the term "handicap" means, with respect to an individual, a circumstance that would make that individual a handicapped individual as defined in the second sentence of section 7 (6) of the Rehabilitation Act of 1973 (29 U.S.C. 706 (6)).

SEC. 8. If, after receipt of a grant under this Act and reasonable notice and opportunity for hearing, the Commission determines that the recipient has not complied with provisions of Sec. 7 of this Act, then the amount of such grant shall be a debt owing to the United States, and the Commission shall so notify the recipient.

SEC. 9. The Commission may accept, use, and dispose of donations of money, property, or personal services to assist it in carrying out the purposes of this Act.

SEC. 10. There are authorized to be appropriated such sums as may be necessary to carry out the functions of the Commission for the fiscal year beginning October 1, 1979, and for each of the nine fiscal years thereafter.●

By Mr. BARTLETT:

S. 3612. A bill to amend the Indian Financing Act of 1974, as amended; to the Select Committee on Indian Affairs.

INDIAN FINANCING ACT AMENDMENTS OF 1978

● Mr. BARTLETT. Mr. President, today I am introducing a bill to make more effective an existing program designed to enable Native Americans to develop skills and resources both individually and collectively.

In 1974, the Congress enacted the Indian Financing Act (25 U.S.C. 1486) which provides for guaranteed loans and grants to Indians and Indian tribes for economic development purposes. The program is intended to provide the necessary capital that Native Americans need to achieve economic self-sufficiency. In order to meet the credit needs of Indian tribes and individuals, the act allows for a guarantee of up to 90 percent of loans made by regulated financial institutions.

It has recently come to my attention that through an oversight in the drafting of the Indian Financing Act of 1974, credit unions were omitted as eligible lenders under this program. The bill I am introducing today will correct this oversight and make this additional financial resource available for the important and worthwhile purposes of the act.

While the bill is only a minor amendment to the act, its importance is not minor. Research has identified at least 22 credit unions in 11 States that have Indian groups as their primary field of membership. These 11 States are Alaska, Arizona, California, Florida, Minnesota, Montana, New Mexico, North Carolina, Oklahoma, South Dakota, and Wisconsin. Also, many thousands of Indians are served by other credit unions.

In addition to the above provision, the bill amends the 1974 act to, first, permit the guarantee or insuring of loans to members of all tribes, regardless of whether the tribe has a credit program; second, preserve the loan guarantee and insurance fund from depletion due to defaults; third, make clear that the Federal Government stands behind the loan guarantees and insurance and the interest subsidy agreements; fourth, permit the use of debt service subsidies as well as interest subsidies and limit them to $10 million annually; fifth, extend the appropriation authority for Indian business development grants through 1981; and sixth, modernize the "Levitt Act" provision in 25 United States Code 386a to avoid the problem of Indian debt adjustments by the Secretary of the Interior not becoming effective promptly, because of the Senate's infrequent changes in their "legislative days."

These provisions of the bill address and are designed to resolve problem areas that have surfaced in implementing the act since its enactment in 1974. The enactment of this legislation will greatly enhance the prospects of the 1974 act achieving its stated purposes; making Indian tribes economically self-sufficient, I, therefore, urge my colleagues' attention to this matter and seek their support.

I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3612

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Indian Financing Act Amendments of 1978.

SEC. 2. Section 201 of the Indian Financing Act of 1974 (88 Stat. 77, 79; 25 U.S.C. 1481) is amended by deleting "who are not members of or eligible for membership in an organization which is making loans to its members".

SEC. 3. (a) Section 206 of the Indian Financing Act of 1974 (88 Stat. 77, 80; 25 U.S.C. 1486) is amended to read as follows:

"Loans made by any agency or instrumentality of the Federal Government or by an organization of Indians from funds borrowed from the United States, and loans (other than loans by credit unions without capital stock organized and operated for mutual purposes and without profit) the interest on which is not included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954, as amended, shall not be eligible for guarantee or insurance hereunder".

(b) Section 209 of the Indian Financing Act of 1974 (88 Stat. 77, 80; 25 U.S.C. 1489) is amended by deleting "or insurance company" and inserting in lieu thereof "insurance company, or credit union".

SEC. 4. Subsection (b) of section 217 of the Indian Financing Act of 1974 (88 Stat. 77, 82; 25 U.S.C. 1497) is amended by adding the following two sentences at the end thereof:

"The full faith and credit of the United States is pledged to the fulfillment of such obligations. There are authorized to be appropriated from time to time for deposit in the fund such sums as may be necessary for losses and expenses incurred in fulfilling the obligations with respect to loans guaranteed or insured under this title".

SEC. 5. (a) Section 301 of the Indian Financing Act of 1974 (88 Stat. 77, 82; 25 U.S.C. 1511) is amended to read as follows:

"The Secretary is authorized, under such rules and regulations as he may prescribe, to contract to pay and to pay interest or debt service subsidies on loans which are guaranteed or insured under title II of this Act in amounts which are necessary to reduce the interest or debt service rate payable to that determined under section 104 of this Act for loans by the Secretary. The aggregate of such subsidies which the Secretary is obligated to pay in any one fiscal year shall not exceed $10,000,000. On and after October 1, 1979, the Secretary shall only enter into such contracts, or amendments to such contracts increasing the amount of subsidy payable, to the extent authorized in appropriation Acts.

(b) Section 302 of the Indian Financing Act of 1974 (88 Stat. 77, 82; 25 U.S.C. 1512) is amended by adding the following new sentence at the end thereof:

"There are authorized to be appropriated not to exceed $10,000,000 per annum in fiscal

year 1980 and each fiscal year thereafter for payment of interest and debt service subsidies under contracts entered into pursuant to section 301 of this Act. The full faith and credit of the United States is pledged to the payment of the interest and debt service subsidies under such contracts".

(c) Upon enactment of this Act, funds previously obligated pursuant to section 301 of the Indian Financing Act of 1974 (88 Stat. 77, 82; 25 U.S.C. 1511) for interest subsidy payments to be made in fiscal year 1980 and subsequent years shall be deobligated and restored to the unobligated balance of the Indian Loan Guarantee and Insurance Fund created by section 217 of such Act (88 Stat. at 82; 25 U.S.C. 1497).

SEC. 6. Section 403 of the Indian Financing Act of 1974 (88 Stat. 77, 83; 25 U.S.C. 1523), as amended by the Act of July 20, 1977 (Public Law 95-68; 91 Stat. 272), is further amended by deleting "fiscal years 1978 and 1979" and inserting in lieu thereof "each of fiscal years 1978 through 1981", such sums to remain available until expended".

SEC. 7(a) The Act of July 1, 1932 (47 Stat. 564, 25 U.S.C. 386a) is amended by deleting the second and third provisos and by adding the following two sentences at the end thereof:

"An annual report shall be made to the Congress not later than the first Monday in December, showing all such adjustments or eliminations of charges and debts during the preceding fiscal year. Such adjustment or elimination shall be effective at the end of the sixty-day period (excluding days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) beginning on the day such plan is submitted to the Congress, unless during such sixty-day period either House adopts a resolution disapproving such action".

(b) The effectiveness of the adjustments and eliminations of charges and debts made during fiscal year 1977 and earlier years which were duly reported to the Congress pursuant to said Act of July 1, 1932, is hereby confirmed.

SECTION BY SECTION ANALYSIS—INDIAN FINANCING ACT AMENDMENTS OF 1978

Section 1 provides the above short title.

Section 2 would amend section 201 of the Indian Financing Act of 1974 to remove a restriction that precludes the Bureau of Indian Affairs from guaranteeing or insuring loans made by private lenders to those individual Indians who are members of tribes having a tribal credit program.

Section 3 would amend sections 206 and 209 of the Act to permit the guarantee or insurance of loans to Indians by credit unions on the same terms applicable to loans from other lenders.

Section 4 would amend section 217(b) of the Indian Financing Act to expressly provide that the loan guarantees and insurance by the Bureau of Indian Affairs are backed by a pledge of the full faith and credit of the United States. It would also authorize appropriations to replenish the Loan Guarantee and Insurance Fund established by the 1974 Act to the extent of losses and expenses in connection with fulfilling Federal obligations under such loan guarantee or insurance.

Section 5 would revise the interest subsidy provision in section 301 of the Indian Financing Act. The revision would authorize either an interest subsidy or a debt service subsidy by the BIA and would limit the aggregate annual amount of such payments to $10 million. The full faith and credit of the United States would be expressly pledged to the making of the payments contracted for by the Secretary.

Section 6 would amend section 403 of the Indian Financing Act to extend the appropriations authorization for the Indian Business Development Program Grants through fiscal year 1981 and to authorize such appropriations to remain available until expended.

Section 7 would revise the Act of July 1, 1932 provision codified in 25 U.S.C. 386a to modernize the portion of the provision relating to the period which must elapse before an adjustment or elimination by the Secretary of charges and debts owed by Indians under the Indian Financing or other Acts becomes effective. The proposed provision is based on 1973 Indian Judgement Funds Distribution Plan Act codified in 25 U.S.C. 1405. In addition, the effectiveness of adjustments or eliminations made during fiscal years 1977, and earlier, would be confirmed.●

By Mr. KENNEDY (by request):

S. 3613. A bill to amend section 17 of the act of July 5, 1946, as amended, entitled "An act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes"; to the Committee on the Judiciary.

● Mr. KENNEDY. Mr. President, at the request of the Secretary of Commerce, I introduce a bill to amend section 17 of the act of July 5, 1946, as amended, entitled "An act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes."

The Trademark Trial and Appeal Board is an administrative panel within the Patent and Trademark Office authorized by law to decide trademark appeals and inter partes trademark proceedings. Section 17 of the Trademark Act of 1946, as amended, provides that the membership of the Board shall include "such Patent Office employees, designated by the Commissioner and whose qualifications have been approved by the Civil Service Commission."

The principal purpose of the bill I am introducing today is to amend the Trademark Act to provide that persons competent in the field of trademark law may be appointed as members of the Board without regard to whether they are employed by the Patent and Trademark Office at the time of their selection. The legislation also provides for several other related changes in existing law.

Mr. President, I ask unanimous consent that the bill, along with Secretary Kreps' letter of transmittal, the statement of purpose and need in support of the measure and the section-by-section analysis, be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3613

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17 of the Act of July 5, 1946 entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes" (60 Stat. 434), as amended August 8, 1958 (72 Stat. 540), and January 2, 1975 (88 Stat. 1949), 15 U.S.C. 1067, is amended by deleting the second sentence and substituting therefore:

"The Trademark Trial and Appeal Board shall include the Commissioner, the Deputy Commissioner, the Assistant Commissioners, and other persons competent in trademark law who shall be appointed as members."

SEC. 2. This amendment shall become effective on the date of its enactment. Members of the Trademark Trial and Appeal Board on the date of enactment shall continue to be members under and in accordance with the provisions of section 17 of the Act of July 5, 1946, as amended, in effect immediately preceding the date of enactment.

WASHINGTON, D.C.,
August 29, 1977.

Hon. WALTER M. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are six copies of a draft bill: "To amend section 17 of the Act of July 5, 1946, as amended, entitled 'An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes.' "

The Department has determined that this proposed legislation does not constitute a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949, and OMB Circular A-107.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our draft bill to the Congress from the standpoint of the Administration's program.

Sincerely,

JUANITA M. KREPS.

STATEMENT OF PURPOSE AND NEED

The enclosed bill would amend the second sentence of section 17 of the Lanham Trademark Act of 1946, as amended (15 U.S.C. 1067) relating to the composition of the Trademark Trial and Appeal Board (hereinafter TTAB), an administrative panel within the Patent and Trademark Office, which hears and determines trademark appeals and trademark inter partes proceedings (i.e., oppositions, interferences, cancellations and concurrent use proceedings). The second sentence of section 17 is the only part of the Trademark Act governing the composition of the TTAB.

The TTAB was established on October 31, 1958, pursuant to the enactment of the Public Law 85-609 on August 8, 1958 (72 Stat. 540), which amended section 17, among other sections of the Trademark Act, for the primary purpose of consolidating the hearing of appellate and inter partes proceedings in the Patent and Trademark Office.

Prior to 1958 all inter partes trademark proceedings were initially heard by "examiners of interferences," whose decisions could be appealed to the Commissioner of Patents and then to the courts. The "examiners of interferences" were organizationally part of the Office of Interferences, which, besides having jurisdiction over inter partes trademark proceedings, also heard and decided patent interference matters under section 135 of title 35. Shortly after the Trademark Act was amended by the enactment of Public Law 85-609, the Office of Interferences was abolished and two new boards, the Board of Patent Interferences and the TTAB, were created as a replacement (23 Fed. Reg. 8561 (1958)).

In addition to inter partes proceedings, the TTAB was given hearing and decisional responsibility over ex parte appeals from final refusals by trademark examiners to allow the registration of trademarks. These ex parte appeals had been previously heard and decided by an Assistant Commissioner pursuant to a delegation from the Commissioner of Patents. The purpose of this change was to enable the Assistant Commissioner to devote more time to the handling of adminis-

trative responsibilities relating to the trademark operations of the Office.

Under existing section 17, the members of the TTAB are designated by the Commissioner and their qualifications approved by the Civil Service Commission. The Commissioner and Assistant Commissioners (including the Deputy Commissioner, formerly named the First Assistant Commissioner) are ex officio members and may participate in hearing and deciding cases if time permits.

This proposed amendment to section 17 is primarily concerned with the composition of the TTAB and with the filling of vacancies. The amendment is designed to authorize the filling of a vacancy on the TTAB with any person qualified in the field of trademark law, regardless of where that person is employed at the time of selection.

The need for this amendment arises because of the existence of an ambiguity in the statutory language of section 17. Until 1975, all individuals appointed to the TTAB had been employees of the Patent and Trademark Office at the time of their selection. In 1975, the selection of a person who was not an employee of the Office brought the present ambiguity to the forefront. An exchange of correspondence between the Chairman of the Subcommittee on Patents, Trademarks and Copyrights of the United States Senate Committee on the Judiciary, and the Commissioner of Patents and Trademarks (attached hereto as Appendix A), details the nature of this ambiguity.

As stated in the Commissioner's letter, dated June 4, 1976, the desire of the Patent and Trademark Office is to fill vacancies on its boards with the best qualified people available, whether selected from the ranks of employees within the Office or from the outside. There can be little question that persons qualified in the field of trademark law may acquire their special qualifications by various means, including experience as a trademark attorney in the private sector.

However, the Deputy Comptroller General concluded, in an opinion dated August 11, 1976 (attached hereto as Appendix B), that the appointment of a person not employed by the Patent and Trademark Office was beyond the Commissioner's authority. Based on that opinion, the Commissioner separated the concerned person from the TTAB. In the interest of avoiding further controversy, it would be desirable to remove any ambiguity and authorize the Commissioner to consider and select persons having trademark law expertise from all possible sources. Appointment of these persons would be made pursuant to section 3 of Title 35 which governs the appointment of all officers and employees of the Patent and Trademark Office.

Three additional changes the bill would effect are of a "housekeeping" nature. First, the bill would eliminate the reference in the statute which requires that a person appointed to the TTAB have qualifications adequate for appointment "to the position of examiner in charge of interferences". This qualification was intended to assure that only persons qualified in the area of trademark law would be appointed to the TTAB. Since the position of examiner in charge of interferences is outdated in that it no longer exists, the proposed amendment would directly refer to the relevant qualification of competency in trademark law.

The second "housekeeping" change would add the words "the Deputy Commissioner" to the second sentence, confirming that the person holding that office is among those officers of the Patent and Trademark Office entitled to sit on the TTAB. This change corrects an error in Public Law 93-601 (January 2, 1965, 88 Stat. 1956) which, among other things, amended section 3 of title 35 to redesignate the First Assistant Commissioner as the Deputy Commissioner. While Public Law 93-601 amended section 7 of title 35 to reflect this redesignation by naming the Deputy Commissioner as a member of the Patent and Trademark Office "Board of Appeals", section 17 of the Trademark Act was not similarly amended. The proposed bill corrects this error of omission by making the appropriate corresponding change in the language of section 17.

The third "housekeeping" change would eliminate the requirement that the Civil Service Commission approve the qualifications of a candidate. Such approval is not considered necessary and is not required in the case of any other positions of the same grade level (GS 15) in the Patent and Trademark Office. As in the past, it is the intention of the Patent and Trademark Office to continue to fill vacancies on the TTAB in accordance with the principles of the Merit Promotion Plan.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill amends the second sentence of section 17 of the Lanham Trademark Act of 1946, as amended (15 U.S.C. 1067) in four particulars.

First, the words "the Deputy Commissioner", are added to the second sentence, confirming that the person holding that office is one of the ex officio members of the Trademark Trial and Appeal Board. This change makes the language of section 17 of the Trademark Act consistent with section 3 of title 35, which was amended on January 2, 1975, with the enactment of Public Law 93-601 (88 Stat. 1956) to, among other things, redesignate the First Assistant Commissioner as the Deputy Commissioner.

Second, the phrase "such Patent and Trademark Office employees" is replaced by the phrase "other persons". This change authorizes the filling of a vacancy on the Trademark Trial and Appeal Board with any qualified person, regardless of that person's employment at the time of selection. Of course, any candidate for appointment to the Board who is not an employee of the Patent and Trademark Office would become an employee of the Office as of the effective date of appointment.

Third, the words "as being adequate for appointment to the position of examiner in charge of interferences" and "competent in trademark law who shall be appointed as members" are added after the words "other persons". The qualification of being "competent in trademark law" is intended to be consistent with the intent of existing section 17, which is to assure that only persons qualified in the area of trademark law are appointed to the Trademark Trial and Appeal Board. The reworded qualification would remain a precondition to appointment and could not be satisfied subsequent to the date of appointment on the basis of experience as a Trademark Trial and Appeal Board member.

Fourth, the words "and whose qualifications have been approved by the Civil Service Commission" are deleted. Such approval is not considered necessary and is not now required for any other position of the same level (GS 15) in the Patent and Trademark Office.

Section 2 provides that the Act shall take effect upon enactment and that memebrs of the Board, on the date of enactment, shall continue to be members under and in accordance with the provisions of section 17 of the Trademark Act in effect immediately preceding the date of enactment.●

By Mr. McGOVERN (for himself and Mr. MATHIAS):

S. 3614. A bill to facilitate the economic adjustment of communities, industries, and workers to civilian-oriented initiatives, projects, and commitments when they have been affected by reductions in defense or aerospace contracts, military facilities, and arms export which have occurred as a result of the Nation's efforts to pursue an international arms control policy and to realine defense expenditures according to changing national security requirements, and to prevent the ensuing dislocations from contributing to or exacerbating recessionary effects; to the Committee on Governmental Affairs.

DEFENSE ECONOMIC ADJUSTMENT ACT

● Mr. McGOVERN. Mr. President, I introduce a bill for appropriate reference entitled the "Defense Economic Adjustment Act."

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3614

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Defense Economic Adjustment Act".

DECLARATION OF PURPOSE AND POLICY

SEC. 2. (a) The Congress finds and declares that the United States during the past two and one-half decades made heavy economic, scientific, and technical commitments for defense; that these commitments led to the development of specialized skills and business practices not directly applicable in the civilian sector of the economy; that as these commitments are modified to take account of changing requirements for national security and domestic needs, careful preparation is necessary if serious economic dislocations are to be avoided; and that the economic ability of the Nation and of management, labor, and capital to adjust to changing security needs is consistent with the general welfare of the United States.

(b) It is the purpose of this Act to provide the means through which the United States can promote orderly economic adjustment which will (1) minimize the dislocation of workers, communities, and industries, (2) assure that the dislocations do not compound recessionary trends, and (3) encourage conversion of technologies and managerial and worker skills developed in defense production to the service of projects in the civilian sector.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Council" means the Defense Economic Adjustment Council established under section 101 of this Act.

(2) "Defense agency" means the Department of Defense, the Energy Research and Development Administration, or the National Aeronautics and Space Administration.

(3) "Defense contract" means any contract entered into between a person or nonprofit organization, including subcontractors, component manufacturers, suppliers, service contractors and service suppliers, and a defense agency to furnish defense material or services to such agency, and any contract entered into between a person or nonprofit organization, including subcontractors, component manufacturers, suppliers, service contractors and service suppliers, and any foreign country or person acting on behalf of a foreign country to furnish defense material or services to or for such country pursuant to the Arms Export Control Act, or similar Act.

(4) "Defense contractor" means any facility engaged in the furnishing of defense material pursuant to the terms of the defense contract or subcontract, including any contract under negotiation.

(5) "Defense facility" means any private plant or other establishment (or part there-

of) used under a defense contract or engaged in the production, repair, modification, storage, or handling of defense material, or any Government-owned or Government-leased facility, including bases, forts, shipyards, and depots.

(6) "Defense material" means any item of weaponry, munitions, equipment, or specialized supplies or services intended for use by a defense agency or for sale to or for the use of a foreign country which has primarily military application.

(7) "Defense service" means the research, development, production, test, inspection, or repair of any defense material for use by a defense agency or pursuant to a defense contract.

(8) "Displace" or "displacement" means with respect to any worker, including all Federal civilian employees of the Defense Department, civilian employees of the National Aeronautics and Space Administration, and all civilian employees engaged in defense and space-related production, the separation, on a permanent or temporary basis, of such worker from employment with such facility or agency.

(9) "Fund" means the Workers Economic Adjustment Reserve Trust Fund established by title III of this Act.

(10) "Person" means any corporation, firm, partnership, association, individual, or other entity.

(11) "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and all United States territories.

(12) "State agency" means the agency of a State which administers its unemployment compensation law, approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954.

(13) "Substantially and seriously affected" means with respect to any community a community in which a substantial part of the labor force is directly employed by a defense facility or defense contractor in furnishing specialized materials or services under a defense contract as determined by the Director of the Defense Economic Adjustment Council.

TITLE I—DEFENSE ECONOMIC ADJUSTMENT COUNCIL ESTABLISHMENT

SEC. 101. (a) There is established in the Executive Office of the President the Defense Economic Adjustment Council which shall be composed of—

(1) the Secretary of Commerce;

(2) the Secretary of Labor;

(3) the Secretary of Health, Education, and Welfare;

(4) the Secretary of Housing and Urban Development;

(5) the Secretary of Transportation;

(6) the Secretary of Defense;

(7) the Secretary of Energy;

(8) the Director of the Office of Management and Budget;

(9) the Administrator of the General Services Administration;

(10) the Chairman of the Council of Economic Advisers;

(11) six representatives of the business-management community who represent non-defense business to be appointed by the President; and

(12) six representatives of labor union organizations to be appointed by the President.

(b) The Secretaries of Commerce and Labor shall be co-Chairmen of the Council, shall preside over meetings of the Council, and shall designate a member of the Council to preside in the absence of the Chairman.

(c)(1) An Office of Economic Adjustment shall be established within the Executive Office of the President to provide necessary staff support for the Council. The Office shall be headed by a Director who shall be appointed by the President and who shall be compensated at the rate provided for grade 18 of the General Schedule under section 5332 of title 5, U.S.C.

(2) The members of such staff and any task force established by the Council shall include marketing specialists, production engineers, plant layout experts, urban planning experts, and representatives of professional engineers and trade unions. At the request of the Council, the staff and any task force established by the Council shall carry out such duties as the Council may prescribe.

(3) The Council may appoint and fix the compensation of such personnel as it deems advisable. The Council may procure temporary and intermittent services to the same extent as authorized by section 3109 of title 5, U.S.C.

(4) The Council is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics to carry out this Act, and each such entity shall furnish such information, suggestions, estimates, and statistics directly to the Council upon request made by the Chairman.

(d) Members of the Council who are officers or employees of the Federal Government shall receive no additional compensation by virtue of membership on the Council. Other members appointed to the Council shall receive compensation at the rate of not to exceed $135 per diem when engaged in the performance of duties of the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, U.S.C.

DUTIES

SEC. 102. (a) The Council shall—

(1) disseminate information furnished by the Secretary of Defense under subsection (b) to the appropriate Federal, State, and local agencies or authorities and Alternative Use Committees as soon as the proposed or pending change described in such notice is known;

(2) solicit, direct, and coordinate concrete plans for civilian-oriented and public projects addressing vital areas of national interest, taking state and local concerns into account;

(3) develop and coordinate information on priority, federally funded projects; Agency programs and funding possibilities, loans and loan guarantees; and oversee administration of these programs during the conversion process;

(4) monitor existing Job Services information bank in the Department of Labor and provide information on projected levels of employment;

(5) determine criteria for eligibility for assistance and rule on eligibility appeals;

(6) review and approve the Alternative Use Plans developed by the local Alternative Use Committees;

(7) carry out studies on problems of economic adjustment and conversion, including studies on necessary adjustment assistance and retraining programs, and the economic impact of a reduction in defense spending;

(8) prepare and distribute a Conversion Guidelines Handbook;

(9) make full use of the provisions of section 15(d) of the Small Business Act;

(10) perform such other duties as are imposed upon the Council by this Act.

(b) (1) The Secretary of Defense shall notify the Council one year in advance of a pending or proposed change in defense spending (or as soon as possible prior to such proposed change) that would affect employment in the defense industry, to include reduction, technical changes or elimination of a program by Congress, the Secretary of Defense, the Office of Management and Budget, or the President; the termination or slowdown of a research and development or procurement contract; and the proposal to close a military base; and

(2) the Secretary of Defense shall furnish the Council with projected future defense spending levels and contract progress reports.

CONVERSION GUIDELINES HANDBOOK

SEC. 103. (a) The Conversion Guidelines Handbook shall be prepared and distributed as required by section 102(a)(8) which shall—

(1) include a discussion of the basic issues involved in the retraining, reorientation, and reorganization of personnel (managerial technical, administrative, and production), trade union rights and collective bargaining contracts, and the redirection of physical plants for efficient, civilian-oriented productive activity;

(2) outline the basic requirements of programs for professional retraining of managerial personnel in order to reorient them to the management of civilian, market-oriented enterprise;

(3) outline the basic requirements for a program of professional retraining of technical personnel in order to effectively reorient them to the prevailing conditions of research, product design, and production operations within civilian-oriented facilities;

(4) outline the basic requirements for the length and nature of occupational retraining for production workers and junior level administrative employees;

(5) include illustrative case studies of successful conversion to efficient civilian-oriented production, or references thereto;

(6) prepare suggestive lists, by geographic region and area of specialization, of organizations and individual consultants in fields such as marketing, facilities design, organization, production engineering, and engineering economy whose major professional experience has been in civilian-oriented activity, and furnish such lists to local Alternative Use Committees upon their request, without explicit or implicit endorsement of the personnel so listed;

(7) provide a checklist of critical points requiring attention at each stage of the conversion process;

(8) contain an annotated bibliography of conversion related works, and

(9) be revised, as necessary, every two years.

RULES

SEC. 104. (a) The Defense Economic Adjustment Council shall promulgate such regulations as may be necessary to carry out the provisions of this Act.

TITLE II—ALTERNATIVE USE COMMITTEE ESTABLISHMENT

SEC. 201. (a) There shall be established at every defense facility employing at least 100 persons with business resulting from a defense contract or contracts, separate Alternative Use Committees representing management and labor (to include representatives of union bargaining units and democratically elected representatives of unorganized workers), to undertake economic conversion planning and preparation for the employment of the personnel and utilization of the facilities in the event of a reduction or elimination of any defense facility or the curtailment, conclusion, or disapproval of any defense contract.

(b) In the case of a defense facility that is a Government military installation, an Alternative Use Committee shall be established to represent the base management, the members to be designated by the base commander, and an Alternative Use Committee shall be established to represent the civilian employees of the installation, including representatives of respective bargaining units and representatives of unorganized civilians.

(c) In the case of a defense facility that

is not a governmental military installation, and of any defense contractor subject to subsection (a), there shall be included in each defense contract provisions to assure that Alternative Use Committees are established in accordance with the provisions of this subsection.

(d) The chief executive officer of the local community government may appoint representatives of the local community, not including any individuals employed at the facility, to participate in activities of the Alternative Use Committees in an advisory capacity.

(e) The representatives of the unorganized civilian workers shall be democratically elected, have their rights protected and a guarantee of no reprisals from management for their participation in the Committee. Provision must be made for adequate notice of elections.

(f) The reasonable cost of performing the planning and reporting requirements imposed by this section, including market research, independent studies, and the employment of specialized personnel may be included as part of the cost of performing the the contract. These funds are to be shared equally by the two Committees.

PENALTIES

SEC. 202. (a) Each contractor which fails to submit an alternative use plan or refuses or fails to carry out the provisions of a plan approved by the Council shall lose eligibility for future contracts for a period of 3 years, lose contract termination payments, and lose eligibility for tax credits.

FUNCTIONS OF THE ALTERNATIVE USE COMMITTEES

SEC. 202. (a) The Alternative Use Committees shall—

(1) evaluate the assets of the defense facility and the resources and requirements of the local community in terms of physical property, manpower skills and expertise, accessibility, environment, and economic needs;

(2) develop and review at least once every two years detailed plans for the conversion of the facility to efficient, civilian-oriented productive activity to be carried out in the event the facility is affected by a Government decision to reduce, modify, or close the facility, conclude any defense contracts, or disapprove a license to sell or export defense materials to nongovernmental parties;

(3) send periodic reports at 6 month intervals on the progress of their alternative use plans to the Council. As soon as they receive notification as provided in section 102(a) of a proposed change in defense spending that would affect employment in their facility, or the facilities of their subcontractors or suppliers, they shall submit a completed plan(s) to the Council;

(4) provide occupational retraining and reemployment counseling services for all employees to be displaced by the implementation of a conversion plan or closing of the facility as soon as the date of commencement of the implementation of that plan or the permanent closing of that facility is known as provided for in section 102(a)(1);

(5) dissolve and return all assets to the control of the management of the facility immediately upon final completion of the conversion.

ADMINISTRATIVE PROVISIONS

SEC. 204. (a) The Alternative Use Committees may hire staff personnel as well as any specialists it may determine necessary.

(b) Office space shall be provided by the management of the facility without charge.

(c) The Alternative Use Committees are authorized to obtain a complete and detailed inventory of all land, buildings, capital equipment, and other equipment, including its condition, and are authorized to obtain information of a general nature regarding the occupations and skills of civilian employees, and information concerning existing collective bargaining contracts.

CONVERSION PLANS

SEC. 205. (a) The conversion plans shall—

(1) be so designed as to maximize the extent to which the personnel required for the efficient operation of the converted facility can be drawn from personnel with the types and levels of skill approximating skill levels and types possessed by civilian personnel employed at the defense facility prior to its conversion;

(2) specifiy the numbers of civilian personnel, by type and level of skill, employed at the facility prior to conversion, whose continued employment is not consistent with the efficient operation of the civilian-oriented converted facility;

(3) specify the numbers of positions, by level and type of skill, if any, that will be needed at the converted facility because personnel employed at the pre-converted facility do not possess the levels or types of skills required;

(4) indicate in detail what new plant and equipment and modifications to existing plant and equipment are required for the converted facility;

(5) include an estimate of financing requirements and a financial plan for the conversion; and

(6) provide for completion of the entire conversion process within a period not to exceed two years;

(7) no plan shall be approved unless the plan continues wages and other benefits under the appropriate contract.

TITLE III—ECONOMIC ADJUSTMENT FUND

FUND ESTABLISHED

SEC. 301. There is hereby established in the Treasury of the United States a trust fund to be known as the Workers Economic Adjustment Reserve Trust Fund.

DEPOSITS INTO THE FUND

SEC. 302. (a)(1) The Federal Government shall not enter into any contract with any person to furnish defense material or services to a defense agency, nor shall it permit the sale of such defense material or services to or on behalf of any country, unless the contract requires the contractor to pay into the Fund an amount equal to 1¼ per centum per year of the value of the contractors gross revenue on such sales. Payments pursuant to this section shall be computed in such manner, and paid at such time as the Council, after consultation with the Comptroller General, shall by regulation prescribe. In no case shall payments required pursuant to this section be considered as a cost item in the negotiating or bidding of any defense contract, or in determining profit for purposes of this section or any provisions of law relating to the renegotiation of defense contracts.

(2) Amounts paid by the defense contractor pursuant to this section shall be deposited in the fund.

(b) The Secretary of the Treasury shall determine the projected savings in defense spending as a result of cancellation or cutback of a program or contract and shall deposit 10 per centum of the projected savings in the Fund.

(c) Contract termination payments withheld pursuant to section 202(a) shall be deposited in the Fund.

(d) There is authorized to be appropriated to the Fund such amounts as may be necessary to enable the Secretary of the Treasury to make the payments and other disbursements authorized by this Act.

MANAGEMENT OF THE FUND

SEC. 303. (a) It shall be the duty of the Secretary of the Treasury to invest such portion of the moneys in the Fund as is not, in the judgment of the Secretary, required to meet current withdrawal requirements. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(b) Any obligations acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be reduced at par plus accrued interest.

TITLE IV—ECONOMIC ADJUSTMENT ASSISTANCE FOR WORKERS

CERTIFICATION

SEC. 401. (a) All displacements affecting workers employed by a defense contractor attributable, in whole or part, to a reduction of the volume of defense work in such facility shall upon certification by the local Alternative Use Committees be reported by the management of the firm or government facility to the Defense Economic Adjustment Council and the State employment office acting as agent for the administration of the employees benefit program.

(b) Any worker displaced 6 months or less prior to the final termination date shall be eligible for benefits.

(c) Any worker employed by a facility not required to have Alternative Use Committees as provided in section 201(a) shall be eligible for benefits.

ENTITLEMENTS TO BENEFITS

SEC. 402. (a) Any worker certified pursuant to section 401 of this Act as eligible for adjustment benefits by reason of such worker's displacement from a defense contractor shall be entitled, for the two-year period following displacement, to whichever of the following benefits are applicable:

(1) Compensation, on a weekly basis, sufficient, when added to any benefits which such worker receives or is entitled to receive for such weekly period under any Federal or State unemployment compensation program (or any plan of such worker's employer providing for such benefits) by reason of such worker displacement, and any earnings during such weekly period from other employment, to maintain an income at a level equal to 90 per centum of the first $20,000 per year and 50 per centum of the next $5,000 in excess of $20,000 for that year, of that worker's regular annual wages (based on a forty-hour workweek, or, in the event a defense contractor has a regular workweek payable at straight-time wage rates other than forty

hours, for such regular workweek) prior to that worker's displacement.

(2) Vested pension credit under my applicable pension plan maintained by the defense contractor from which such worker was displaced, for the period of that worker's employment with such facility, and the two-year period following that worker's displacement, during which two-year period, for the purpose of the Employee Retirement Income Security Act of 1974 and the corresponding provisions of the Internal Revenue Code of 1954 (relating to a qualified plan) such worker shall be treated as if such worker were employed by such contractor on the same basis as such worker was employed on the day preceding such worker's displacement; except that pension credit during such two-year period shall be reduced to the extent of vested pension credit earned with another employer during such two-year period.

(3) Maintenance of any hospital, surgical, medical, disability, life (and other survivor) insurance coverage which such individual (including members of such individual's family) had by reason of employment by a defense contractor prior to such displacement; except that if such worker so displaced is otherwise employed during such two-year period, such worker shall be entitled to receive benefits under this paragraph to the extent necessary to provide such worker with the same protection described in this paragraph as such worker (including family members) would have had if such worker had not been displaced.

(4)(A) Retraining for civilian work providing pay and status comparable to the employment from which such worker was displaced which is approved by the Secretary of Labor or, in the case of a worker in a State which has entered into a contract with the Council pursuant to section 403 of this Act, by the State agency.

(B) Workers shall be eligible for a job search allowance under the same terms, conditions, and amounts as provided in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(5) Reimbursement for reasonable relocation expenses as specified in regulations prescribed by the Secretary of Labor incurred by such worker in moving to another location in order to take advantage of an employment opportunity to which such worker is referred, or which is determined to be suitable, by the Secretary of Labor or, in the case of a State which has entered into a contract with the Council pursuant to section 403 of this Act, by the State agency.

(b) All managerial and technical employees who have spent more than 50 per centum of the ten years preceding implementation of the conversion plan working in defense-related industry or at military bases must participate in or have completed a program of professional retraining meeting the requirements specified in the Conversion Guidelines Handbook of the Defense Economic Adjustment Council in order to be eligible for the special financial assistance, relocation aid, and special job information services provided by this Act. All other employees may elect to enter such a program.

STATE AGREEMENTS

SEC. 403. (a) The Council is authorized to enter and shall, on behalf of the United States, enter into an agreement with a State, or with any agency administering the unemployment compensation law of any State approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954, which—

(1) as agent of the Council, shall upon certification and other determinations required in section 401 of this Act, make such payments and provide such benefits as are authorized by section 402 of this Act, on the basis provided for in this Act, and shall otherwise cooperate with the Council and other State agencies in carrying out the provisions of this Act; and

(2) shall be reimbursed for all benefits paid pursuant to such agreement and all administrative costs incurred in carrying out such agreement.

(b)(1) There shall be paid to each State agency which has an agreement under this section, either in advance or by way of reimbursement, as may be determined by the Council, such sum as the Council estimates the agency will be entitled to receive under such agreement for each calendar month, reduced or increased, as the case may be, by any sum by which the Council finds that its estimates for any prior calendar month were greater or less than amounts which should have been paid to the agency. Such estimates may be made upon the basis of statistical sampling, or other method as agreed upon by the Council and the State agency.

(2) The Council shall from time to time certify to the Secretary of the Treasury for payment to each State agency which has an agreement under this section sums payable to such agency under paragraph (1) of this subsection. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the agency, in accordance with such certification, from the Fund.

(3) All money paid a State agency under any such agreement shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned, at the time specified in such agreement, to the Treasury.

(c) In any case involving a worker entitled to benefits under section 402 who is in a State with respect to which there is no agreement pursuant to this section, the Secretary of Labor shall, under regulations prescribed by the Secretary, administer such benefits on behalf of such worker. The Secretary of Labor, in administering such benefits, shall, from time to time, certify to the Secretary of the Treasury for payment to such worker the amounts of such benefits to which such worker and the Secretary of the Treasury shall make payments to such worker, in accordance with such certification, from the Fund.

LIMITATION ON BENEFITS

SEC. 404. In no case shall any displaced worker be eligible for benefits under section 402(a) of this Act unless such worker agrees (1) to maintain, on a current basis, during the period of his displacement, an active registration with the Secretary of Labor or an appropriate State employment agency, as the case may be, and (2) to accept any employment determined by the Secretary of Labor or agency, as the case may be, to be of the same skill or work of a similar nature at the same pay as such worker was receiving before such worker was displaced. No such benefits shall be paid under this Act to any worker who fails to maintain such registration or to accept such employment.

TREATMENT OF UNEMPLOYMENT COMPENSATION

SEC. 405. In no case shall any adjustment benefits paid pursuant to this Act be taken into consideration in determining eligibility for unemployment compensation under any Federal or State unemployment compensation law or in determining the amount of entitlement thereunder.

TERMINATION OF BENEFITS

SEC. 406. Adjustment benefits shall terminate when a worker eligible for benefits obtains employment providing 90 per centum of the first $20,000 per year and 50 per centum of the next $5,000 in excess of $20,000 for that year of that worker's previous wages or two years after displacement, whichever occurs sooner.

TITLE V—COMMUNITY ECONOMIC ADJUSTMENT PLANNING ELIGIBILITY

SEC. 501. (a) Each community which is substantially and seriously affected by reduction or elimination of Government military facilities or curtailment or conclusion of military contracts shall be eligible for Federal assistance for planning for economic adjustment to avoid substantial dislocations and for economic adjustment assistance should such dislocation occur. The Defense Economic Adjustment Council shall have the authority to determine and earmark an adequate portion of the economic development funds of the Economic Development Administration, the Department of Housing and Urban Development, and other Federal agencies which administer economic development funds for this purpose.

(b) The Council shall develop guidelines by which the criteria for eligibility for planning assistance are to be applied. To the fullest extent practicable, the Council shall utilize data and reports available from other agencies for statistical and other information, required to develop the guidelines. The Council may, during the first 6 months of its existence, recommend to the Congress such refinements of the criteria as it deems necessary in order that assistance is directed to the category of communities which are most vulnerable economically to reductions in defense expenditures. The Congress shall have 30 legislative days in which to disapprove any refinement submitted.

(c) The Council shall publish listings of communities currently and potentially eligible for such assistance not less than twice yearly. Communities not included may petition the Council for inclusion on the list. The Council shall make such determination within one month of receipt of the petition.

EXCESS PROPERTY PROVISION

SEC. 502. (a) Any capital property or facilities declared excess by the defense agency in conjunction with a government-owned facility reduction or closure shall be appraised for purposes of resale to the affected community. The defense agency shall take into account the cost of modernization and of improving abandoned facilities up to minimum safety and environmental standards in determining a fair price for the facility. Such property may be sold to the community at a public benefit discount.

(b) Whenever there is a dispute as to the fair public benefit discount price, the defense agency shall submit such a dispute to the Defense Economic Adjustment Council for resolution.

TITLE VI—INDUSTRIAL ECONOMIC ADJUSTMENT

SEC. 601. (a) In order to assist any eligible contractor to carry out an approved alternative use plan to convert a plant or facility to civilian purposes, the Secretary of the Treasury is authorized to make or guarantee low-interest, long-term loans for that purpose.

(b) The Defense Economic Adjustment Council shall prescribe such terms and conditions on assistance provided under this section as may be necessary to protect the interests of the United States and insure the success of the plan.

TITLE VII—USE OF CERTAIN RESEARCH FUND AMENDMENT TO PUBLIC LAW 91-441

SEC. 701. (a) Section 203(a) of the Act of October 7, 1970 (Public Law 91-441), is amended by—

(1) inserting "or, in the opinion of the Defense Economic Adjustment Council, a potential relationship to an urgent national requirement in a designated non-defense sector," after "function or operation";

(2) inserting "or the Defense Economic

Adjustment Council" after "Department of Defense" in paragraph (1); and

(3) adding at the end of such section 203 the following: "(f) The Defense Economic Adjustment Council shall be required to define urgent national requirements for non-defense sectors of the economy, and shall be required to include in the designation, any areas so defined by the Congress. Research and development related to energy and fuel efficiency shall be considered a designated area.".

(b) Section 204 of such Act is amended by inserting "or, in the opinion of the Defense Economic Adjustment Council, a potential relationship to an urgent national requirement in a designated non-defense sector of the economy" after "military function or operation".

TITLE VIII—AUTHORIZATION OF APPROPRIATIONS

APPROPRIATIONS AUTHORIZED

SEC. 801. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. KENNEDY (by request):

S. 3615. A bill to amend the fee provisions of the United States patent and trademark laws; to the Committee on the Judiciary.

● Mr. KENNEDY. Mr. President, at the request of the Secretary of Commerce, I introduce a bill to amend the fee provisions of the U.S. patent and trademark laws.

The legislation I am introducing today would repeal the current statutory fees for patent and trademark assignments, certificates and copies, and would grant the Commissioner of Patents and Trademarks authority to establish such fees at a level to recover the actual cost of providing these products and services to the public. The funds received from these operations would be credited to the Patent and Trademark Office appropriations.

The bill would also make trademark fees applicable to Government departments and agencies as well as to private trademark applicants. The present law already contains a similar provision regarding patent fees.

Mr. President, I ask unanimous consent that the bill, together with the Secretary's letter of transmittal, the statement of purpose and need in support of the measure and the sectional analysis, be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3615

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Subsection 41(a)(9) of title 35, United States Code, is amended to read as follows:

"§ 41 (a) . . .

(9) Uncertified printed copies of specifications and drawings of patients, as available and if in print, shall be provided for libraries specified in section 13 of this title at the special rate of $50 per year. The Commissioner may, without charge, provide applicants with copies of specifications and drawings of patents when referred to in a notice under section 132."

SEC. 2. Subsections 41(a)(10) and 41(a)(11) of title 35, United States Code, are repealed.

SEC. 3. Section 41(b) of Title 35, United States Code, is amended to read as follows:

"§ 41(b)(1) The Commissioner shall prescribe by regulations the fees which shall be charged for the supplying of copies of records, furnishing of publications, other products or services provided by the Patent and Trademark Office, and any other matters set forth in this title or in the Trademark Act of 1946 (60 Stat. 427), as amended, for which a fee is not specified by statute. All fee adjustments and new fees shall be announced in the Federal Register thirty days prior to their coming into effect.

(b)(2) All fees prescribed in accordance with subsection (b)(1) of this section shall be credited to the Patent and Trademark Office appropriation, and may be made available to pay directly the cost of such products or services, to repay or make advances to appropriations or funds which do or will initially bear all or part of such costs, or to refund excess sums when necessary, the provisions of section 6 of the Act of June 26, 1934 (31 U.S.C. 725e) notwithstanding. Such amounts shall be available for these purposes only to the extent provided in appropriation acts."

SEC. 4. Section 41(c) of Title 35, United States Code, is amended to read as follows:

"§ 41(c) The fees prescribed by or under the authority of this section and the Trademark Act of 1946 (60 Stat. 427), as amended, shall apply to any other Government department or agency, or officer thereof, except that the Commissioner may waive the payment of any fee for services or materials in cases of occasional or incidental requests of a Government department or agency, or officer there: *Provided*, That nothing herein shall affect the authority to register trademarks without charge under Section 2 of the Act of August 27, 1935 (49 Stat. 891) (25 U.S.C. 305a), as amended."

SEC. 5. Section 42 of title 35, United States Code is amended to read as follows:

"§ 42 All fees shall be paid to the Commissioner who, except as provided in Sections 361(b) and 376(b) of this title, shall deposit the same in the Treasury of the United States, and the Commissioner may refund from the appropriate account any sum paid by mistake or in excess of the prescribed fee."

SEC. 6. Subsections 31(a)(9), 31(a)(11), and 31(a)(12) of the Trademark Act of 1946 (60 Stat. 427), as amended, are repealed. Subsection 31(a)(10) is renumbered as 31(a)(9), and subsection 31(a)(13) is renumbered as 31(a)(10).

SEC. 7. Section 31(b) of the Trademark Act of 1946 (60 Stat. 427), as amended, is amended to read as follows:

"§ 31(b) Trademark fees not specified in subsection (a) of this section shall be prescribed by the Commissioner under the authority of section 41 of Title 35, United States Code."

SEC. 8. In the second sentence of section 7(c) of the Trademark Act of 1946 (60 Stat. 427), as amended, the phrase "fee herein provided" is amended to read "prescribed fee".

SEC. 9. In section 7(e) of the Trademark Act of 1946 (60 Stat. 427), as amended, the phrase "fee required by law" is amended to read "prescribed fee".

SEC. 10. The effective date of this Act shall be six months after the date of enactment.

NOVEMBER 18, 1977.

HON. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are six copies of a draft bill, "To amend the fee provisions of the United States patent and trademark laws," together with a statement of purpose and need in support thereof and a section-by-section analysis.

The Department has determined that this proposed legislation does not constitute a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949, and OMB Circular A-107.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our draft bill to the Congress from the standpoint of the Administration's program.

Sincerely,

JUANITA M. KREPS.

AUTHORITY TO REIMBURSE APPROPRIATIONS FROM FUNDS RECEIVED FOR CERTAIN PATENT AND TRADEMARK SERVICES

STATEMENT OF PURPOSE AND NEED

Background

Under present law, all patent and trademark fees are deposited in the general fund of the Treasury. The Patent and Trademark Office depends upon annual appropriations; the fees recovered are not available to pay for the cost of the services provided. Unexpected demands for certain services must be met at the expense of other activities, and some requests for services cannot be met. Performance of certain Patent and Trademark Office functions would be greatly facilitated by obtaining authority to utilize fees received to pay for the costs of the services offered.

Authority to reimburse appropriations was given to the Department of Commerce in 1970 by Public Law 91-412. However, in view of other existing laws, it is not clear whether Congress intended to permit the Patent and Trademark Office to utilize this authority. For instance, the provisions of the Act of June 26, 1934 (31 U.S.C. 725e) require all receipts of the Office to be deposited into the Treasury of the United States as miscellaneous receipts. In addition, the fee provisions of section 41 of Title 35, United States Code, could be interpreted to restrict the ability of the Office to use the Department's authority for those activities which might be most conveniently handled through that authority. The objective of this Act is to clarify existing law by expressly granting the Patent and Trademark Office authority similar to Public Law 91-412. Nothing contained in this Act is intended to limit the scope of Public Law 91-412.

NEED FOR AUTHORITY TO REIMBURSE APPROPRIATIONS

A principal advantage of having authority to utilize fees collected is that it will enable the Office to be more responsive to public demands for increased services. Approximately 10 million patent and trademark copies were furnished for public sale and other uses in fiscal year 1976 compared with 7.2 million in 1950. In view of the increasing number of patent and trademark applications, the Patent and Trademark Office expects a continuing growth in demand for copies of patents and trademarks and other documents and services.

In the past, the Patent and Trademark Office was not able to meet unexpected demand for certain services because appropriations had not been made for such expenditure. For example, the Office has been unable to supply cross references in classified patent files on a subscription basis. Similarly, requests for microfilm copies of certain records have been refused. In other cases, such as the furnishing of printed patent copies on an individual order basis, the demand has been met by using funds which otherwise would have been available for supporting the examining operations.

With the authority to reimburse appropriations from fees received for services, the Office could provide additional service as the demand warrants without curtailing other activities. Thus, authority to so utilize fees from services such as patent and other document sales, copy certifications, and the recording of assignments is desirable.

The proposed bill is somewhat similar to

the reimbursement to appropriation authority contained in S. 2255, the patent law revision bill passed by the Senate on February 26, 1976. Such authority was also contained in sections 41(d), 41(e) and 42 of S. 2504 and S. 1308, the Administration's patent law revision bills, submitted to the 93rd and 94th Congresses respectively. However, awaiting the passage of a general patent law revision to confer the reimbursement authority on the Patent and Trademark Office may seriously delay the Office's ability to provide services and products to the public as demand requires.

The justification for the authority explained above is not applicable to the examining operation. Nor is it applicable to activities which convey benefits to the public at large, such as: maintenance of a public search room; basic printing costs; and patent copies furnished to foreign countries under section 12, to libraries under section 13, or to applicants with examiner's actions under section 132 of Title 35. Appropriations would continue to be required to support such services because a sharing of these costs between applicants and the public is considered reasonable in view of the substantial benefits received by the general public as well as by the individual applicant.

For the foregoing reasons, the present bill contains a limited provision authorizing the reimbursement of appropriations only for fees charged for services of the Patent and Trademark Office other than those related to patent and trademark examining and those beneficial to the public at large.

PRINCIPAL FEATURES OF THE BILL

The proposed bill would repeal the present statutory fees for patent and trademark assignments, certificates and copies. Fees for these services and other patent and trademark services for which no statutory fee is specified would be established by the Commissioner of Patents and Trademarks on the basis of the actual costs of providing these services. The establishment of such fees would be in line with generally understood principles for user charges such as those outlined in OMB Circular A-25. The bill also would require all fee changes to be announced in the Federal Register at least thirty days prior to coming into effect, in order to insure ample notice to the public.

The fees collected for patent and trademark services for which no statutory fee is specified would be credited to the Patent and Trademark Office appropriations. The fees thus credited would be used to pay the costs of the products or services for which the fees are charged or to repay appropriations.

The bill would make trademark fees applicable to government agencies as well as to private trademark applicants. The existing patent fee statute, in section 41(c) of Title 35, United States Code, provides that patent fees apply to other government agencies. Extension of this provision to trademark fees will provide a uniform policy on Patent and Trademark Office fees. The change will have little effect on other government agencies, since very few applications for trademark registrations are filed by the government.

AUTHORITY TO REIMBURSE APPROPRIATIONS FROM FUNDS RECEIVED FOR CERTAIN PATENT AND TRADEMARK SERVICES

SECTIONAL ANALYSIS

Section 1 of the proposed bill would amend subsection 41(a)(9) of Title 35 of the United States Code by repealing the statutory fees for printed copies of patents, design patents, and plant patents in color. The special rate for libraries of $50. for patents issued in one year would be retained, since these copies should be provided at less than cost. The present statutory authorization would be retained for the Commissioner to provide copies of patents without charge to applicants in connection with the examination of applications.

Section 2 of the bill would repeal the fees for certificates and assignments in patent cases, specified in subsections 41(a)(10) and 41(a)(11) of Title 35 of the United States Code.

Section 3 of the bill would add several provisions to section 41(b) of Title 35, United States Code, which presently authorizes the Commissioner to establish fees for services when no fee is fixed by statute. Subsection (b)(1) would continue the authorization for the Commissioner to establish fees and would provide that all fee adjustments be announced in the Federal Register at least thirty days prior to their coming into effect. Subsection (b)(2) concerns the disposition of fees charged pursuant to subsection (b)(1) for products and services of the Patent and Trademark Office other than statutory fees. These fees would be credited to the Patent and Trademark Office appropriations. Money thus credited could be used to pay directly the costs of products or services for which fees are charged or to repay or make advances to appropriations or funds bearing such costs. The amount of such credit would be limited to the extent provided for in appropriation acts.

Section 4 of the proposed bill would amend section 41(c) of Title 35, United States Code. Existing section 41(c) states that patent fees apply to other government departments and agencies. E.g., a government agency filing a patent application in the Patent and Trademark Office ordinarily must pay the same fees as a private applicant. Proposed section 41(c) would broaden existing law to cover trademark fees as well. However, the proviso at the end of the subsection retains the established authority of the Department of the Interior to register without charge trademarks for Indian products.

Section 5 of the bill would make minor changes in the language of section 42 of Title 35 to make it consistent with amended section 41. The primary change would be to "patent fees" thus bringing fees arising in connection with the Trademark Act of 1946 within the operation of section 42. Under section 42, fees prescribed pursuant to section 41(b) would be credited to the Patent and Trademark Office appropriation as directed in subsection 41(b)(2). Other fees, except for those provided for in sections 361(b) and 376(b), would be deposited in the miscellaneous receipts of the Treasury.

Section 6 of the bill would amend section 31 of the Trademark Act of 1946, by repealing subsections 31(a)(9), 31(a)(11) and 31(a)(12) which specify fees for certificates, printed copies of registered marks and trademark assignments. Subsections (10) and (13) would be renumbered.

Section 7 would amend section 31(b) of the Trademark Act to reflect that amended section 41 of Title 35 provides the authority for the Commissioner to establish trademark fees not specified in section 31(a) of the Trademark Act. Thus, the amendment makes clear that both trademark and patent fees established by the Commissioner would be credited to the Patent and Trademark Office appropriation. Further, the amendment would make clear that section 41 of Title 35 covers both the "copies of records, publications, or services" specified in present law in the services for which existing statutory fees would be abolished by section 6 of the bill.

Sections 8–9 of the bill would make minor changes in the languages of the Trademark Act to take into account that certain fees will be prescribed by the Commissioner rather than fixed by statute.

Section 10 of the bill would provide for an effective date six months after enactment.●

By Mr. HATCH (for himself and Mr. GARN):

S. 3616. A bill to permit the Secretary of the Interior to use the chemical compound sodium monofloracetate for the purpose of controlling the population of coyotes on public lands, and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. HATCH. Mr. President, JAKE GARN and I are introducing today a bill which would reinstate the use of compound 1080 on public lands. This compound, sodium monofloroacetate—commonly known as compound 1080—was used for years on public lands by trained fish and wildlife agents as an effective means of controlling coyote predation on sheep herds especially in the western United States. This compound was used without restriction until 1968 when, pressured by the surge of environmentalists and the relatively new ideas concerning the protection of our environment, its use slowly began to be curtailed. In January of 1972 an Executive order was issued which banned the use of all toxicants on public lands. Subsequently, due to continued pressure from the environmental movement, the Environmental Protection Agency realizing that compound 1080 could still be used on private and State lands ordered that registration to all manufacturers be taken away and made it illegal to ship 1080 in interstate commerce.

Since the Executive order in 1972 the coyote population across the West has steadily increased to the point where some ranchers are experiencing a 15-percent to 20-percent loss of their crop. Sheep ranchers losses from coyote predation reflect a relationship that is directly proportional to the increase in the coyote population. The sheep and wool industry has been on a steady decline for years and while not all of the losses are attributable to predation, the added losses by coyotes are sufficient to drive many ranchers out of business. Recently, one western rancher sold 7,000 head of sheep which his family had owned for three generations citing lack of predator control as the reason for selling the last of his flock.

The western rangeland resource is an asset to sheepmen in producing high quality lambs at relatively low cost. With the sheepman's dependence on ranges also comes a dependence on the Federal Government since the vast majority of western land is owned and managed by them. Western ranchers are specifically dependent on the practices and policies of the Federal land managers on public land. Some of these policies have been detrimental to the sheep industry over the years. One in particular, that of predator control, has been devastating.

As provided in this bill, compound 1080 would not be handled, nor should it be handled, by incompetent or inexperienced hands. The use of this compound would only be by trained personnel of the U.S. Fish & Wildlife Service under the direction of the Secretary of Interior. Its use would be restricted solely to public lands. I should point out that this chemical toxicant is an extremely

selective agent. When it is administered in the proper dosage, its effects are lethal only to coyotes. Other species of the canine family such as dogs, wolves, and foxes have a different lethal tolerance level. When environmentalists first lobbied against compound 1080 they suggested that it may be damaging to other species of animals found in the same food chain as coyotes. Studies since that time have revealed that for an eagle to die from eating the meat directly as treated and laid out, he would have to ingest 13 to 19 pounds of meat which is physically impossible for the species. There have been no known fatalities from 1080 to noncanine animal families or humans. The closest incident related to humans took place in Alaska where a group of people stranded due to inclement weather came across some baited meat and ingested it. The result was a mild case of diarrhea. When compound 1080 is used in the appropriate dosage for coyote predation it is safe to other animals and humans.

Until the Presidential banning of this compound no one really knew how quickly the coyote population would increase. Its growth has been exponential over the past few years. The current methods being used to curtail the killing of sheep by coyotes, specifically rudimentary steel trapping techniques and helicopter work, are both extremely slow and inefficient from a cost-benefit standpoint.

Mr. President, much could be said about the need for this compound by sheepmen everywhere. I have yet to see any evidence to show why 1080 should not be used to prevent depredation of the sheep industry. I believe that the ban was a move to quell the newly formed environmental fires without giving credence to the real benefits of this chemical agent. Evidence of its need can readily be seen in the form of thousands of sheep carcasses which dot the western landscape. I am pleased to introduce this legislation and ask my colleagues to give it thoughtful consideration.●

ADDITIONAL COSPONSORS

S. 1571

At the request of Mr. WALLOP, his name was added as a cosponsor of S. 1571, a bill to grant a charter to the National Ski Patrol.

S. 2867

At the request of Mr. GOLDWATER, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 2867, a bill to remove residency requirements and acreage limitations applicable to land subject to reclamation law.

S. 3262

At the request of Mr. BENTSEN, the Senator from Hawaii (Mr. INOUYE), the Senator from North Dakota (Mr. BURDICK), the Senator from Nebraska (Mr. CURTIS), the Senator from Louisiana (Mr. LONG), the Senator from Utah (Mr. GARN), the Senator from California (Mr. HAYAKAWA), the Senator from Arkansas (Mr. HODGES), the Senator from Montana (Mr. PAUL G. HATFIELD), the Senator from Wyoming (Mr. HANSEN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Utah (Mr. HATCH), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. GRAVEL), and the Senator from Louisiana (Mr. JOHNSTON) were added as cosponsors of S. 3262, a bill to establish a procedure to reduce by a goal of 25 percent over a 50-year period the costs of compliance with rules and regulations of Federal executive departments and independent agencies.

S. 3422

At the request of Mr. WALLOP, the Senator from Tennessee (Mr. BAKER), the Senator from Kentucky (Mr. FORD), the Senator from Oregon (Mr. PACKWOOD), the Senator from Alabama (Mr. SPARKMAN), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S. 3422, a bill to establish a congressional awards program.

SENATE CONCURRENT RESOLUTION 68

At the request of Mr. CURTIS, the Senator from Kansas (Mr. DOLE) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of Senate Concurrent Resolution 68, expressing the sense of the Senate relative to the Baltic States.

AMENDMENTS SUBMITTED FOR PRINTING

GRAND JURY REFORM ACT OF 1978—S. 3405

AMENDMENT NO. 4736

(Ordered to be printed and referred to the Committee on the Judiciary.)

Mr. ABOUREZK submitted an amendment intended to be proposed by him to S. 3405, a bill to establish certain rules with respect to the appearance of witnesses before a grand jury in order to protect the constitutional rights of such witnesses under the fourth, fifth, and sixth amendments to the Constitution; to require periodic reports to Congress, and for other purposes.

● Mr. ABOUREZK. Mr. President, I submit an amendment in the nature of a substitute to the Grand Jury Reform Act of 1978, S. 3405. During the month of August, 3 days of hearings were held on the subject of grand jury reform based on S. 3405. Witnesses came from every group affected by the grand jury process. On the first day, we heard from Congressmen EILBERG and CONYERS, my colleagues on the House side who have taken the leading role in grand jury reform, and from several lawyers representing groups long involved in the effort to reform grand jury practices. On the second day of hearings, we heard from the Justice Department, the National District Attorney's Association, the American Bar Association and a panel of scholars who spoke on the relationship between the grand jury and constitutional rights. On the third day, we heard from several individuals who had been the victims of grand jury harassment, and from a coalition of groups formed for the specific purpose of reforming the grand jury system to eliminate its abusive aspects.

During the hearings a great deal of information was amassed, and among other things, we learned a great deal about the problems individuals have when confronted by a summons from the grand jury; we were apprised of the present policies of the Department of Justice regarding suggested reforms of grand jury practices; and we dealt with the substance of the principles regarding grand jury reform adopted by the American Bar Association.

As a result of the information gathered and testimony given during the hearings, S. 3405 has been amended in some areas, most notably presence of counsel in the grand jury room and immunity of grand jury witnesses.

The following is a discussion and explanation of the major changes in the bill. First is the issue of the presence of counsel in the grand jury room. The American Bar Association terms this as the "crux of pending grand jury reform proposals" and notes that the grand jury is the last critical stage in the criminal justice process at which a person who wants a lawyer present is denied his or her constitutional rights; and that the present procedure of having witnesses leave the grand jury room repeatedly to consult with counsel is awkward and affirmatively prejudicial.

It is clear that the presence of counsel in the grand jury room is a necessary requirement to carry out constitutional due process mandates. Twelve States have enacted statutes which allow counsel to accompany the witness and advise him or her on any questions which the witness does not understand or objects to. This State experience has been nothing short of excellent. For example, in his testimony, the Honorable Francis X. Bellotti, the Attorney General of Massachusetts stated that the practice, far from being disruptive has made the grand jury process more efficient: No longer is the witness perceived to be a "bouncing ball," moving in and out of the grand jury room each time he has a question.

When something is confusing, the witness merely turns to consult with counsel, who is at his or her side. And the advisory nature of the process does not contravene the historical format of the grand jury—that is, it does not turn the procedure into a mini-trial which would, in the context of the investigatory aspect of the grand jury, be disruptive.

In his testimony, Assistant Attorney General Philip Heymann of the Department of Justice stated, "Counsel for the witness will act inevitably even if not intentionally, in a manner that will disrupt and delay the grand jury's investigation." This simply has not been the experience in the States. And the Justice Department, when asked to provide data and statistics to support this contention, cannot.

Rather, the presence of counsel aids the ultimate factfinding goals of the grand jury; it discourages the prosecutor from an overly zealous style of dealing with the witness, as well as giving the witness a sense that he is not exposed to

an attack he cannot cope with. In the hearings, some of those who had been victims of grand jury abuse said that they had been confused and afraid when brought in front of 23 strangers and a prosecutor who was clearly biased. With counsel present, the rights of the individual will be protected, and this loophole in the criminal process where the individual is not presently protected will be closed.

S. 3405 originally gave counsel an unrestricted right to represent his or her client in the grand jury room. However, the success of the States experiments has convinced me that at the present time, counsel in the grand jury should have the more limited role of advising the witness rather than actively participating in the grand jury process.

Immunity is another critical issue in the effort toward grand jury reform. One point of view is that use immunity, which was first adopted in 1970 and which is the current type of immunity being granted, is sufficient to protect the witness and to encourage him or her to speak out. Use immunity means that nothing the witness testifies to can be used against him. However, under use immunity, the witness may be prosecuted for crimes which arise out of testimony not specifically articulated by the witness.

A more expansive view is that the witness should be allowed to reject the offer of immunity, should he or she decide to remain silent; that a witness' presence may not be compelled, even to assert the right against self-incrimination is in itself a violation of that right, and harkens back to the very earliest days of the grand jury in England where there was no compelled testimony.

There is, in addition, a middle ground, known as transactional immunity. In this situation, when immunity is granted—or imposed as it is in actuality—the immunity inheres to any and all transactions arising from the testimony elicited during the grand jury, and the witness cannot be prosecuted for any crimes discovered as a result of his testifying.

Originally, S. 3405 had adopted the more expansive view toward the immunity grant. However, I feel that at this time the more desirable approach is that of reinstituting transactional immunity in the Federal grand jury. There is wide support for transactional immunity in the criminal justice community: it is backed unanimously by the Executive Council of the Criminal Justice Section of the American Bar Association which represents all segments of the criminal justice communtiy, and is now in use in 31 States. No Federal agency has been able to furnish statistics or data to show that use immunity, as opposed to transactional immunity, especially promotes the efforts of law enforcement.

It is clear, however, that a transactional immunity grant is more protective of the fifth amendment right against self-incrimination, and it makes it easier for the prosecutor to work with this particular grant in that he does not have the burden to show as he does with use immunity, that he has not obtained prosecution evidence from the witnesses' grand jury testimony.

I have also redrafted the bill to include a provision that immunity shall be granted in camera.

In addition, in the section entitled "Rights and Duties of Grand Jurors and Attorney for the Government; Independent Inquiry," I have added several subsections which deal with exculpatory evidence and unlawfully seized evidence. An affirmative duty of the grand jury will be to inquire about the use of such evidence as part of the indictment in order to prevent illegally seized evidence from being a part of the indictment, and in order to insure that all exculpatory evidence is presented during the grand jury process.

Additionally, there is an affirmative responsibility on the part of the attorney for the Government to present all exculpatory evidence to the grand jury and to refrain absolutely from presenting any illegally obtained evidence to the grand jury. If it is found that the grand jury or the attorney for the Government did not exercise their responsibilities with respect to the two types of evidence, the indictment may be quashed.

The Justice Department and the American Bar Association both support the principle that exculpatory evidence should be presented to the grand jury and that illegally obtained evidence should not. The language of S. 3405 makes concrete those principles. Only with specific legislative language can we be certain that there will be no prejudice to the witness during his or her appearance before the grand jury.

It is my hope that this final language, which is a result of the experience of the hearings and further research, will provide a basis for the much needed action toward reforming the grand jury in the next Congress.

Mr. President, I ask unanimous consent that the text of the amendment in the nature of a substitution and a letter to Mr. Philip B. Heymann, Assistant Attorney General of the Criminal Division of the Department of Justice be printed in the RECORD.

There being no objection, the amendment and letter were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 4736

Strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Grand Jury Reform Act of 1978".

SEC. 2. The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Uncooperative witnesses.
Sec. 4. Unauthorized disclosure of grand jury information.
Sec. 5. Rights and duties of grand jurors and attorney for the government; independent inquiry.
Sec. 6. Immunity.
Sec. 7. Rights of grand jury witnesses.
Sec. 8. Recording, transcribing, and availability of grand jury proceedings.
Sec. 9. Preliminary examination.
Sec. 10. Reports concerning grand jury investigations.
Sec. 11. Effect on other laws and rules.

UNCOOPERATIVE WITNESSES

SEC. 3. (a)(1) Chapter 119 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1827. Recalcitrant grand jury witnesses

"(a)(1) Whenever a witness in any proceeding before or ancillary to any grand jury of the United States refuses without just cause shown to comply with an order of the court to testify or provide other information, including any book, paper, document, record, recording, or other material, the attorney for the Government may apply to the court for an order directing the witness to show cause why the witness should not be held in contempt.

"(2) After submission of such application and a hearing at which the witness is entitled to be represented by counsel, the court may, upon a finding that such refusal was without just cause, hold the witness in contempt and order the witness to be confined. Such confinement shall be at a suitable Federal correctional institution, if one is located within fifty miles of the court ordering confinement, unless the witness waives that right. Upon a showing of need or hardship, the court ordering confinement may grant a request by the witness to be imprisoned at a suitable correctional institution near the place of residence or employment of the witness, or the witness' family or relatives or the attorney of the witness.

"(3) Confinement under this section may continue until such time as the witness is willing to give such testimony or provide such information. No period of such confinement shall exceed the term of the grand jury, including extensions, before which such refusal to comply with the court order occurred, and in no event shall such confinement exceed six months.

"(4) No hearing shall be held under this subsection unless five days' notice is given to the witness who has refused to comply with the court order. A witness may be given a shorter notice of not less than forty-eight hours if the court, after a hearing and upon a showing of special need by the attorney for the Government, so orders.

"(b) No person who has been confined under this section for refusal to testify or provide other information concerning any transaction, set of transactions, event, or events may be again confined under this section or under section 401 of title 18, for a subsequent refusal to testify or provide other information concerning the same transaction, set of transactions, event, or events.

"(c) Any person confined pursuant to this section shall be admitted to bail or released in accordance with the provisions of chapter 207 of title 18, pending the determination of an appeal taken by him from the order of his confinement, unless it affirmatively appears that the appeal is frivolous or taken for delay. Any appeal from an order of confinement under this section shall be disposed of as soon as practicable, pursuant to an expedited schedule, and in no event more than thirty days from the filing of such appeal.

"(d) In any proceeding conducted under this section, including all necessary appeals, counsel may be appointed in the same manner as provided in section 3006A of title 18, for any person financially unable to obtain adequate representation.

"(e) A refusal to answer a question or provide other information before a grand jury of the United States shall not be punishable under this section or under section 401 of title 18 if the question asked or the request for other information is based in whole or in part upon evidence seized or otherwise obtained by an unlawful act or in violation of the witnesses' constitutional rights or of rights established or protected by any statute of the United States.".

(2) The table of sections for chapter 119 of title 28, United States Code, is amended by adding at the end thereof the following:

"1827. Recalcitrant grand jury witnesses.".

(b) (1) Section 1826 (a) of title 28, United States Code, is amended—

(A) by striking out "or grand jury" in the first sentence; and

(B) by amending the second sentence to read as folows: "No period of such confinement shall exceed the life of the court proceeding before which such refusal to comply with the court order occurred, but in no event shall such confinement exceed eighteen months.".

(2) The heading for section 1826 of such title is amended by inserting "court" immediately before "witnesses".

(3) The table of sections for chapter 119 of such title is amended in the item relating to section 1826 by inserting "court" immediately before "witnesses".

(c) Chapter 21 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 403. Refusal of a witness to testify in a grand jury proceeding

"No person who has been imprisoned or fined by a court of the United States under section 401 of this title for refusal to testify or provide other information concerning any transaction, set of transactions, event, or events in a proceeding before a grand jury (including a special grand jury summoned under section 3331 of this title) impaneled before any district court of the United States may again be imprisoned or fined under section 401 of this title or under section 1826 of title 28 for a subsequent refusal to testify or provide other information concerning the same transaction, set of transactions, event, or events.".

(d) The table of sections for chapter 21 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"403. Refusal of a witness to testify in a grand jury proceeding.".

UNAUTHORIZED DISCLOSURE OF GRAND JURY INFORMATION

SEC. 4. (a) Chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1512. Violations of grand jury secrecy.

"(a) Whoever knowingly discloses any evidence introduced, statement made, or other matter occurring before any grand jury summoned or impaneled by a court of the United States shall be fined not more than $500 or imprisoned not more than six months, or both.

"(b) Whoever knowingly discloses any evidence introduced, statement made, or other matter occurring before any grand jury summoned or impaneled by a court of the United States, with the intent to secure compensation therefor, to affect the actions of or any decisions by that jury, to affect further legal proceedings against any witness, or to affect further legal proceedings as to the subject matter of any investigation by that jury, shall be fined not more than $20,000 or imprisoned not more than five years, or both.

"(c) This section shall not apply to—

"(1) disclosure to or by an attorney for the Government in the performance of his duties if a record is presented to the court of the date and purpose of each disclosure and of the name of the person to whom the disclosure is made;

"(2) disclosure directed or permitted by a court;

"(3) disclosure by a witness who has appeared before such grand jury, or disclosure by his attorney, with the written permission of the witness, of any matter about which the witness has testified or produced before the grand jury; or

"(4) disclosure by any representative of the press, broadcasting, or information media, acting in his professional capacity.

"(d) Subsection (a) shall not apply to disclosure by any person other than a person present at the grand jury proceeding.

"(e) As used in this section—

"(1) 'attorney for the Government' means the Attorney General, an authorized assistant of the Attorney General, and a United States attorney;

"(2) 'disclosure by a witness' includes disclosure by others of matters the witness has previously disclosed when made as a consequence of such disclosure by the witness.

"(f) Nothing contained in this section may be construed as affecting the power of the court to punish any person for contempt for violation of any rule or order of the court.".

(b) The table of sections for chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1512. Violations of grand jury secrecy.".

RIGHTS AND DUTIES OF GRAND JURORS AND ATTORNEY FOR THE GOVERNMENT; INDEPENDENT INQUIRY

SEC. 5. (a) Chapter 215 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 3329. Rights and duties of grand jury and attorney for Government

"(a) Upon impanelment of each grand jury before a district court of the United States, the court shall give adequate and reasonable oral and written notice to the grand jury of, and shall assure that the grand jury reasonably understands—

"(1) its duty to inquire into offenses against the criminal laws of the United States alleged to have been committed within that district.

"(2) its rights, authority, and powers with respect to an independent inquiry under section 3330 of this title;

"(3) its right to call and interrogate witnesses;

"(4) its right to request the production of documents or other evidence;

"(5) the subject matter of the investigation;

"(6) the criminal statute involved, if such statute is known at the time the grand jury is impaneled;

"(7) the necessity of legally sufficient evidence to form the basis of any indictment as provided under this title;

"(8) the duty of the grand jury to determine that the indictment is not based on illegally seized or obtained evidence;

"(9) the duty of the grand jury to determine that the prosecutor has presented all exculpatory evidence known to him;

"(10) the duty of the grand jury by an affirmative vote of twelve or more members of the grand jury to determine, based on the evidence presented before it, whether there are sufficient grounds for issuing indictments and to determine the violations to be included in any such indictments;

"(11) the obligation of secrecy and that it is a criminal offense to disclose to any person any information concerning any grand jury proceeding; and

"(12) such other duties and rights as the court deems advisable."

The court's failure to instruct the grand jury as directed in this section shall be just cause within the meaning of section 1827 of title 28, United States Code, for a witness' refusal to testify or provide other information before such grand jury, until such time as the court instructs the grand jury in accordance with this section.

"(b)(1) Any person, including a witness who has previously testified or produced books, records, or documents, may make a written request to the attorney for the Government, or a special attorney appointed pursuant to this title, and request to testify in an inquiry before a grand jury, or to produce books, records, or documents, or to appear before a grand jury and request that the grand jury proceed in accordance with its powers under section 3330 of this title.

"(2) The attorney for the Government, or the special attorney—

"(A) shall forward any request under this subsection to the grand jury and may make a recommendation as to such request;

"(B) shall take reasonable steps to notify any person of his intention to present evidence against the person and request a presentment or indictment and of the person's right to testify or present evidence under this subsection and such notice shall be given a reasonable time in advance of any request for such presentment or indictment unless the attorney for the Government or the special attorney can prove to the satisfaction of the court that notice would result in the flight of the persons, would endanger other witnesses, would unduly delay the investigation and prosecution, or would result in the destruction of the evidence; and

"(C) shall establish a public record of all requests and the action taken on each such request.

"(3) The grand jury shall not be required to hear any witness, or consider any book, record, or document, but shall consider all requests forwarded to it by the attorney for the Government or the special attorney. Unless the grand jury, upon an affirmative vote of a majority of its members, refuses to hear the testimony or consider the documents offered by a person under this subsection, the attorney for the Government or the special attorney shall subpena the evidence or witness offered. If the grand jury refuses to hear the testimony or consider the documents offered, the attorney for the Government or the special attorney shall notify in writing the person making such request of the refusal.

"(4) Upon appearance pursuant to a subpena, such person shall be permitted to testify, only upon submission of a waiver of immunity, as to relevant and competent matters upon consideration by the jury and shall be subject to examination by the attorney for the Government or the special attorney.

"(c) The attorney for the Government or the special attorney shall not bring before the grand jury any witness who has given written notice in advance of the witness' appearance that such witness intends to exercise his privilege against self-incrimination, nor bring to the attention of the jurors, in any way, the invocation of the privilege by such witness, unless such witness has been given a grant of immunity.

"(d) The attorney for the Government or a special attorney shall not initiate, and a grand jury shall not conduct, an inquiry into a transaction or event, if any other grand jury has failed to return an indictment based on the same transaction or event, unless the court finds, upon a proper showing, that additional evidence relevant to such witness and previously unavailable to the Government has been discovered.

"(e) The attorney for the Government or the special attorney shall not present to the grand jury any evidence seized, derived from, or otherwise obtained by an unlawful act or in violation of the witness' constitutional rights or of rights established or protected by any statute of the United States.

"(f) The attorney for the Government or the special attorney shall present to the grand jury all evidence in such attorney's possession which he has reason to know will tend to negate the guilt of the person under investigation.

"§ 3330. Independent grand jury inquiry

"(a)(1) Any grand jury impaneled before any district court (including a special grand jury summoned under section 3331) may, after giving notice to the court, inquire upon

its own initiative into offenses against the criminal laws of the United States alleged to have been committed within that district. Such grand jury may request the attorney for the Government to assist the grand jury in such inquiry.

"(2) The grand jury shall serve for a term of eighteen months after giving notice to the court under paragraph (1) unless an order for its discharge is entered earlier by the court or upon a determination of the grand jury by an affirmative vote of twelve or more members that its business has been completed. If, at the end of such term or any extension thereof, the district court determines the business of the grand jury has not been completed, the court may enter an order extending such term for an additional period of six months. No grand jury term so extended shall exceed thirty-six months from the date on which notice to the court was given under paragraph (1).

"(3) If a district court within any judicial circuit fails to extend the term of a grand jury engaged upon an independent inquiry under this section or enters an order for the discharge of such grand jury before such grand jury determines that it has completed its business, the grand jury by an affirmative vote of twelve or more members may apply to the chief judge of the circuit for an order for the continuance of the term of the grand jury. Upon the making of such an application by the grand jury, the term thereof shall continue until the entry by the chief judge of the circuit of an appropriate order upon such application. No grand jury term so extended shall exceed twenty-four months.

"(b)(1) In the event that the attorney for the Government is unable to impartially assist, refuses to assist or hinders or impedes the grand jury in the conduct of any inquiry under subsection (a), or whenever the grand jury determines that the appointment of a special attorney would be appropriate, the grand jury may, upon the affirmative vote of twelve or more of its members, request at the inception and at any other point in such inquiry that the court appoint a special attorney in lieu of the attorney for the Government, to assist the grand jury in the conduct of any independent inquiry referred to in subsection (a). Such special attorney, with the approval of the court, may appoint and fix the compensation of such assistants, investigators, and other personnel as he deems necessary. The special attorney and his appointees shall be appointed without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the special attorney and any appointees shall be paid at a reasonable rate to be determined by the court. The special attorney shall be reimbursed for actual expenses incurred by him and his appointees in the performance of duties pursuant to this section.

"(2) Notwithstanding sections 516, 518, and 519 of title 28, United States Code, or any other provision of law, a special attorney appointed under this section shall carry out the functions of an attorney for the Government and shall—

"(A) assist in the conduct of independent grand jury investigations under this section,

"(B) prepare and sign any indictment returned by a grand jury pursuant to such inquiry in lieu of any attorney for the Government, and

"(C) conduct all other phases of any criminal prosecution arising out of such inquiry (including the argument of appeals in the United States court of appeals and the United States Supreme Court).

"(3) A special attorney appointed under this section is authorized to obtain from any department or agency of the United States any files, records, documents, or other materials which he deems necessary or appropriate in the carrying out of his functions under this section.".

(b) The Administrator of General Services shall furnish offices, equipment, supplies, and services to a special attorney appointed under section 3330 of title 18, United States Code, in the same manner as such items are furnished to agencies and departments of the United States.

(c) Section 524 of title 28, United States Code, is amended by adding at the end thereof the following new sentence: "Such appropriations shall also be available for payment of the compensation and other expenses of the special attorney appointed under section 3330 of title 18 to assist a grand jury in the conduct of an independent investigation.".

IMMUNITY

SEC. 6. (a) Chapter 119 of title 18, United States Code, is amended by inserting immediately after section 2513 the following new section:

"§ 2514. Immunity of witnesses

"(a) In any proceeding before or ancillary to a grand jury impaneled before a district court of the United States, the attorney for the Government shall submit an application to the court for an order that a witness shall testify or produce books, papers, or other evidence subject to the provisions of this section if—

"(1) there is an affirmative finding by twelve or more of the members of the grand jury that such testimony or the production of books, papers, or other evidence by the witness is necessary to the public interest; and

"(2) the Attorney General approves such application.

"(b) Whenever in the judgment of an attorney for the Government the testimony of any witness, or the production of books, papers, of other evidence by any witness, in any proceeding before or ancillary to a grand jury impaneled before a district court of the United States, is necessary to the public interest, such attorney for the Government, upon the approval of the Attorney General, may make application to the court for an order granting the witness immunity so that the witness shall testify or produce evidence subject to the provisions of this section.

"(c) The proceeding with respect to any application to the court for a grant of immunity shall be in camera. A transcript shall be made of the proceeding which shall not be released until after the indictment, if any, by the grand jury.

"(d) Pursuant to subsections (a) and (b) of this section, upon the court's order granting immunity, such witness shall not be excused from testifying or from producing books, papers, or other evidence on the ground that the testimony or evidence required of such witness may tend to incriminate her or him or subject her or him to a penalty or forfeiture, and no such witness shall be prosecuted or subjected to any penalty or forfeiture on account of any transaction, matter, or thing concerning which she or he is compelled, after having claimed her or his privilege against self-incrimination, to testify or produce evidence. Testimony so compelled shall not be used as evidence in any criminal proceeding (except in a proceeding described in the next sentence) against such witness in any court. No witness shall be exempt under this section from prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion as provided in this section.".

(b) The table of sections for chapter 119 of such title is amended by inserting immediately after the item relating to section 2513 the following:

"2514. Immunity of witnesses.".

(c) Section 6002 of title 18, United States Code, is amended in paragraph (1) by striking "or grand jury".

(d)(1) Section 6003 of title 18, United States Code, is amended—

(A) by striking out "and grand jury" in the section heading; and

(B) by striking out "or a grand jury of the United States" in subsection (a).

(2) The table of sections of part V of title 18, United States Code, is amended by striking out "and grand jury" in the item relating to section 6003.

RIGHTS OF GRAND JURY WITNESSES

SEC. 7. (a) Chapter 215 of title 18, United States Code, is further amended by adding at the end thereof the following:

"§ 3330A. Counsel

"(a) Every witness subpenaed to appear and testify before a grand jury impaneled before a district court or to produce books, papers, documents, or other objects before such grand jury shall be entitled to the assistance of counsel, including assistance during such time as the witness is questioned in the grand jury room.

"(b) Such counsel may be retained by the witness or shall be appointed as provided in section 3006A of this title in the case of any person financially unable to obtain legal representation. Notwithstanding any rule contained in the Federal Rules of Criminal Procedure, such witness' counsel is authorized to disclose matters with the written permission of the witness which occur before the grand jury while such counsel is in the grand jury room.

"(c) Such counsel shall be allowed to be present in the grand jury room only during the questioning of the witness and shall be allowed to advise the witness. Such counsel shall not be permitted to address the grand jurors or otherwise take part in the proceedings before the grand jury.

"(d) The court shall have the power to remove such attorney, and order the witness to obtain new counsel, when it finds that the attorney has violated subsection (c) of this section or that such removal and replacement is necessary to insure that the activities of a grand jury are not unduly delayed or impeded. Nothing in this subsection shall affect the power of the court to punish for contempt or impose other appropriate sanctions.

"§ 3330B. Subpenas

"(a) In the case of any proceeding before a grand jury impaneled before a district court, except with the consent of the witness or when the court, after a hearing and upon a showing by the attorney for the Government or a special attorney appointed under this title, finds special need, no subpena may require any witness to testify or produce other information at such proceeding at any time before the expiration of the one-week period beginning on the date of service of the subpena. In no event may a subpena be issued less than forty-eight hours prior to the intended date for the testimony.

"(b) Upon the service of any subpena requiring any witness to testify or produce other information at any proceeding before a grand jury impaneled before a district court, the witness shall be given adequate and reasonable notice of—

"(1) his right to counsel as provided in section 3330A of this title;

"(2) his privilege against self-incrimination;

"(3) the subject matter of the grand jury investigation;

"(4) whether his own conduct is under investigation by the grand jury;

"(5) the substantive criminal statute, violation of which is under consideration by the grand jury, if such statute is known at the time of issuance of the subpena;

"(6) his or her rights regarding immunity; and

"(7) any other rights and privileges which the court deems necessary or appropriate.

"(c)(1) The district court which issued a subpena, or the district court for the district in which the person resides or is served shall have concurrent jurisdiction to hear, and take appropriate action with respect to any motion relating to, including any motion to quash, such subpena.

"(2) A motion relating to a subpena may be made at any time prior to, during, or when appropriate, subsequent to the appearance of any witness before a grand jury. Any motion made during or subsequent to the appearance of the witness before the grand jury may be made only in the district in which the grand jury is impaneled.

"(3) If a motion is made under this section before the day on which the person subpenaed has been ordered to appear or books, records, or documents have been ordered to be produced, the appearance of such person, or the production of such documents, shall, upon appropriate application, be stayed until the court has ruled on such motion.

"(d) Upon proper motion, the court may quash a subpena and take other appropriate sanctions when it finds that—

"(1) a primary purpose or effect of requiring such person to so testify or to produce such objects to the grand jury is or will be to secure testimony for trial or to secure other information regarding the activities of any person who is already under indictment by the United States, a State, or any subdivision thereof for such activities, or of any person who is under formal accusation for such activities by any State or any subdivision thereof, where the accusation is by some form other than indictment;

"(2) the witness has not been advised of his rights, as specified in subsection (b);

"(3) the evidence sought is not relevant to the grand jury investigation properly conducted within the grand jury's jurisdiction;

"(4) compliance with the subpena would be unreasonable or oppressive, as such subpena would require unnecessary appearances by the witness, would lead to testimony or other information that is unnecessary or privileged, would be primarily for punitive purposes or would involve other like circumstances; or

"(5) a primary purpose of the issuance of the subpena is to harass the witness, to induce the witness to commit perjury or false utterance, or to place the witness in contempt.

"(e) Upon proper motion, the court shall quash a subpena and take other appropriate sanctions when it finds that—

"(1) the witness has already been confined, imprisoned, or fined under section 1827 of title 28, United States Code, or section 401 of this title for his refusal to testify before any grand jury investigating the same transaction, set of transactions, event, or events;

"(2) the witness has given written notice that such witness intends to exercise his privilege against self-incrimination, unless a grant of immunity has been obtained; or

"(3) the grand jury is inquiring into the same transaction or event that was under consideration by another grand jury which failed to return an indictment based on such transaction or even, unless a court finds upon a hearing that there is additional, newly discovered evidence relevant to such witness which was previously unavailable to the Government.

"(f)(1) A grand jury impaneled to conduct an inquiry into an offense against the criminal laws of the United States may be convened only in a district in which it is believed criminal conduct may have occurred which is an element of such offense, except that when a grand jury is to be convened to conduct an inquiry into both violations of substantive criminal statutes and violations of statutes forbidding conspiracy to violate substantive criminal statutes, the grand jury may not be convened before a district court in a district in which the only criminal conduct alleged to have occurred in that district is conspiracy to commit the substantive criminal act.

"(2) The district court may quash a subpena or transfer any grant jury proceedings or investigation into any other district where it might properly have been convened if the court finds that a witness' appearance would impose a substantial and unnecessary hardship on such witness or his family because of the location of the proceeding. In considering whether such hardship exists, the court shall take into consideration all the relevant circumstances, including the distance of the grand jury investigation from the places of residence of witnesses who have been subpenaed, financial and other burdens placed upon the witnesses, and the existence and nature of any related investigations and court proceedings.

"§ 3330C. Evidence presented to the grand jury

"(a) The attorney for the Government shall not be permitted to present to the grand jury any evidence seized, derived from, or otherwise obtained by any unlawful act or in violation of the witness' constitutional rights or of rights established or protected by any statute of the United States.

"(b) An attorney for the Government shall present to the grand jury all evidence in such attorney's possession which he has reason to know will tend to negate the guilt of the person under investigation.

"(c) A grand jury may indict a person for an offense when (1) the evidence before such grand jury is legally sufficient to establish that such offense was committed, and (2) competent and admissible evidence before such grand jury provides reasonable cause to believe that such person committed such offense. An indictment may be based on summarized or hearsay evidence alone only upon showing of good cause to the court which impaneled the grand jury.

"(d) The district court before which a grand jury is impaneled shall dismiss any indictment of the grand jury if such district court finds that—

"(1) the evidence before the grand jury was legally insufficient to establish that the offense for which the indictment was rendered was committed;

"(2) there was not competent and admissible evidence, or summarized or hearsay evidence allowed by the court upon a showing of good cause, before the grand jury to provide reasonable cause to believe that the person indicted committed such offense;

"(3) the attorney for the Government has not presented to the grand jury all evidence in his or her possession which the attorney knows will tend to negate the guilt of the person indicted; or

"(4) the attorney for the Government has submitted to the grand jury evidence seized or otherwise obtained by an unlawful act or in violation of the witness' constitutional rights or of rights established or protected by any statute of the United States.".

(b) Section 3006A (a) of title 18, United States Code, is amended—

(1) by striking out "or," before "(4)" in the first sentence thereof; and

(2) by inserting before the period at the end of the first sentence thereof: ", or (5) who is a witness before a grand jury impaneled before the district court".

RECORDING, TRANSCRIBING, AND AVAILABILITY OF GRAND JURY PROCEEDINGS

SEC. 8. (a) Chapter 215 of title 18, United States Code, is further amended by adding at the end thereof the following new sections:

"§ 3330D. Recording of grand jury proceedings

"(a) A complete and accurate stenographic or electronic record of all grand jury proceedings shall be kept, except that the grand jury's secret deliberations and consultations between witnesses and their counsel shall not be recorded.

"(b) Such record shall include—

"(1) the court's notice to the grand jury of its rights and duties and all other comments or charges by the court to the jury at any time;

"(2) all introductory comment, or other comments, directives, and other utterances made by attorneys for the Government or special attorneys to the grand jury, witnesses and their counsels;

"(3) all questioning of and testimony of witnesses; and

"(4) all interchanges between the grand jury and attorneys.

"§ 3330E. Availability of grand jury transcripts and other statements

"(a) Any person summoned to testify or provide other information before a grand jury impaneled before a district court shall be entitled, prior to testifying or providing other information, to examine and copy any statement in the possession of the United States which he has made and which relates to the subject matter under inquiry by the grand jury. Such examination and copying may be made by the attorney for such person if such person gives his written approval. As used in this subsection, the term 'statement' has the meaning provided by section 3500 (e).

"(b) Any witness who testifies before a grand jury, or his attorney with such witness' written approval, shall, upon request and under such conditions as the court deems reasonable, be entitled to examine and copy a transcript or electronic recording of the record for the period of such witness' own appearance before the grand jury, and if a witness is proceeding in forma pauperis, he shall be furnished, upon request, a copy of such transcript. Such transcript shall be made available for inspection and copying not later than forty-eight hours after the conclusion of such witness' testimony, unless, for cause shown, more time is required to prepare such transcript. After examination of such transcript, a witness may request permission to appear before the grand jury again to explain his testimony. Additional testimony given under this subsection shall become part of the official transcript and shall be shown to the members of the grand jury.

"(c) A reasonable time prior to trial, and after the return of an indictment or the filing of an information, a defendant shall, upon request and under such conditions as the court deems reasonable, be entitled to examine and copy a transcript or electronic recording of—

"(1) the grand jury testimony of all witnesses to be called at trial;

"(2) all statements to the grand jury by the court and the attorney for the Government or special attorney, relating to the defendant's case;

"(3) all grand jury testimony or evidence which in any manner could be considered exculpatory; and

"(4) all other grand jury testimony or evidence which the court may deem material to the defense.".

(b) Section 3500(e), title 18, United States Code, is amended—

(1) by inserting "or" at the end of paragraph (1);

(2) by striking out "; or" and inserting a period at the end of paragraph (2); and

(3) by striking out paragraph (3).

(c) The table of sections for chapter 215 of title 18, United States Code, is amended by adding at the end thereof the following new items:

"3329. Notice to grand jury of its rights and duties.
"3330. Independent grand jury inquiry.
"3330A. Counsel.
"3330B. Subpenas.
"3330C. Evidence presented to the grand jury.
"3330D. Recording of grand jury proceedings.
"3330E. Availability of grand jury transcripts and other statements.".

PRELIMINARY EXAMINATION

SEC. 9. (a) Chapter 217 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3368. Preliminary examination

"(a) A defendant is entitled to a preliminary examination, unless waived, when charged with any offense, other than a petty offense, which is to be tried by a judge of the district court.

"(b) Such preliminary examination may be held prior to, or within a reasonable time following, the filing of an indictment or information in the district court.".

(b) The table of sections for chapter 217 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3368. Preliminary examination.".

REPORTS CONCERNING GRAND JURY INVESTIGATIONS

SEC. 10. Section 522 of title 28, United States Code, is amended by striking out "The Attorney General" and inserting in lieu thereof "(a) The Attorney General" and by adding at the end thereof the following new subsection:

"(b)(1) The Attorney General, at the beginning of each regular session of Congress, shall report to the Congress and to the Administrative Office of the United States Courts with respect to the last preceding fiscal year on—

"(A) the number of investigations undertaken in which a grand jury or a special grand jury was utilized together with a description of the nature of each investigation undertaken;

"(B) the number of requests by United States grand juries to the Attorney General for approval to apply to the court for an order compelling testimony under section 2514 of title 18, and the number of such requests approved by the Attorney General:

"(C) the number of applications to district courts for orders granting immunity under title 18;

"(D) the number of applications to district courts for orders granting immunity under title 18 that were approved and the nature of the investigations for which the orders were sought;

"(E) the number of instances in which witnesses in the investigations described in paragraph (1) were held in contempt and confined, and the date and lengths of such confinement;

"(F) the number of arrests, indictments, no-bills, trials, and convictions resulting from testimony obtained under orders granting immunity, the offenses for which the convictions were obtained, and a general assessment of the importance of the immunity;

"(G) a description of data banks and other procedures by which grand jury information is processed, stored, and used by the Department of Justice; and

"(H) other appropriate information concerning grand jury activity during such year.

"(2) The matters contained in the report required to be made by this section shall be set forth according to judicial district.".

EFFECT ON OTHER LAWS AND RULES

SEC. 11. (a) The enumeration of this Act of any rights and privileges of grand jury witnesses shall not affect any other rights and privileges to which such witnesses may be entitled under any other law or rule of law.

(b) Notwithstanding section 3771 of title 18, United States Code, no rule contained in the Federal Rules of Criminal Procedure shall apply to the extent that such rule is inconsistent with the provisions of this Act.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., September 20, 1978.

Hon. PHILIP B. HEYMANN,
Department of Justice,
Washington, D.C.

DEAR MR. HEYMANN: I would like to take this opportunity to thank you again for your appearance on August 22 before the Subcommittee during the Grand Jury Reform hearings.

I have reviewed the testimony from the hearings, and request that the Department inquire into the following items raised by the witnesses. It would be most helpful if we could receive a detailed written report from you by October 9.

1. Several incidents last month involving the FBI questioning people ostensibly in relation to a renewed investigation of Katherine Power were cited by the Coalition to End Grand Jury Abuse.

Ellen Grusse, New Haven, Connecticut, was questioned by an FBI agent on August 17. It is my understanding that when Ms. Grusse refused to answer the agent's questions, he threatened her with a grand jury subpoena. Three years ago, Ellen Grusse was jailed for refusing to testify before a grand jury on what was then the Susan Saxe-Katherine Power investigation.

Gail Cohee, Lexington, Kentucky, was questioned about the whereabouts of Jill Raymond by FBI agent Wayne McDonald on August 22. Ms. Cohee had also been questioned during the Saxe-Power investigation approximately four years ago by the same FBI agent. (Jill Raymond spent 14 months in jail for her refusal to testify before the grand jury during the initial investigation. She is presently working for the American Civil Liberties Union in Washington, D.C., and was a witness at the Subcommittee's grand jury reform hearings on August 28.)

On August 22, FBI agents went to Dover, Delaware to question a woman who had become acquainted with Gail Cohee and some other women in the Lexington area only during the past three years. Apparently, since the FBI questioned not only her, but her family, colleagues and friends, she has been ostracized in the Dover community. To this day she has never been told the purpose of the investigation, or why she was being questioned.

Finally, I have been told that also on August 22, FBI agents questioned the same people questioned four years ago who were involved with the Susan Saxe Defense Committee in Boston, Massachusetts.

This series of events seems to indicate a revival of an unsuccessful investigation concluded some time ago. Many of the same persons who refused to testify before, and who were jailed for contempt, are again being threatened with yet another grand jury subpoena.

These incidents, if accurate, raise a number of questions about the government's conduct. What information prompted these renewed activities by the Bureau? Has a formal investigation been undertaken? If so, under whose direction? An FBI field office? A U.S. Attorney's Office? What specific crime or crimes are being investigated? Why are FBI agents threatening witnesses with grand jury subpoenas? If a formal investigation has not been authorized, why and under what authority have these individuals been interviewed?

2. During the course of your testimony, we discussed the activities of Guy Goodwin, who is presently the head of the Special Prosecutions Unit in the General Crimes Section of the Criminal Division of the Justice Department. Between 1971 and 1976 Mr. Goodwin was Chief of the Internal Security Section of the Justice Department, and a Special Assistant to Attorney General John Mitchell.

Although the extent of his activities is not known, many articles have been written describing Goodwin's travels around the country convening grand juries. In the overwhelming number of cases the subjects were political dissenters and activists. It is estimated that Mr. Goodwin personally convened over 100 grand juries in 36 states. Only 400 indictments were returned, and of the 200 which eventually went to trial, only 10 percent resulted in convictions, many on reduced charges. Every "major" case was lost.

It is my understanding that although some U.S. Attorneys lodged complaints with the Department about Mr. Goodwin's conduct when he appeared in their jurisdictions, no action was ever taken on any of these complaints. One such complainant was Rodney Sager, former Senior Assistant United States Attorney, Eastern District of Virginia. Mr. Sager has actively tried to pursue within the Justice Department the complaint he made approximately two years ago about Mr. Goodwin's behavior. It is Mr. Sager's contention that his charges against Mr. Goodwin have never been properly investigated by an impartial Departmental office.

Therefore, I request that your office open an official inquiry into Mr. Sager's complaint, as well as all other complaints which have been made against Mr. Goodwin. The Subcommittee is specifically interested in receiving a full report of his role in convening and conducting grand juries for the Department of Justice. Additionally, if there have been any prior Justice Department investigations of Mr. Goodwin, please identify each such investigation, who conducted it and what were the results. We would also request a copy of any final report.

Finally, substantive perjury allegations have been made against Mr. Goodwin in the Briggs Case. In view of these allegations, what is Mr. Goodwin's current status? Has any Departmental investigation of Mr. Goodwin's specific conduct in this case been made? If not, why not? If such an investigation has yet to take place, I request that it be undertaken at this time and that a final report be sent to the Subcommittee at the completion of the investigation.

3. The Subcommittee found during the hearings that there have been few studies in the area of federal grand jury practice. As a result, many, if not most, of the arguments raised by the Departments against proposed reforms are merely speculation. In April 1978, the ABA submitted to the Office for Improvements in the Administration of Justice, a proposal to study the issue of counsel in the Grand Jury room. The proposal was turned down apparently because issues related to Grand Jury reform are not a priority of the Justice Department. In view of your own expression of interest in receiving more empirical data on Grand Jury reform issues, I would request that the ABA's proposal, entitled "Proposal For Study Of Factors Involved In The Grand Jury Room Of Attorneys For Witnesses Called Before The Grand Jury" be reconsidered and if found to have merit, be funded as soon as possible.

I look forward to your responses concerning these matters.

Sincerely,

JAMES ABOUREZK,
Chairman.●

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT—H.R. 39

AMENDMENT NO. 4737

(Ordered to be printed and to lie on the table.)

Mr. HART (for himself, Mr. CHURCH, Mr. DURKIN, Mr. EAGLETON, Mrs. HUMPHREY, Mr. LEAHY, Mr. MCINTYRE, Mr. NELSON, and Mr. RIEGLE) submitted an amendment to H.R. 39, an act to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, Wild and Scenic Rivers and National Wilderness Preservation Systems, and for other purposes.

FULL PROTECTION FOR ALASKA'S WILDLIFE

● Mr. HART. Mr. President, on behalf of myself and eight of my distinguished colleagues I plan to offer an amendment to H.R. 39, the Alaska National Interest Lands Conservation Act, which has been reported by the Committee on Energy and Natural Resources.

Clearly, this Alaska legislation presents us with the single most significant land and wildlife conservation opportunity of our generation. I have been following this issue with particular interest, recognizing that we in the Senate are called upon to exercise our greatest foresight and highest vision if we are to fully meet this landmark conservation challenge. Here, on Federal lands in Alaska, we can use our wisdom and our foresight to protect key parklands, wilderness, and wildlife habitat before patterns of development are fixed. We can create unique parks, refuges, and wilderness areas, before the land itself has been seriously compromised. This is not an opportunity which can last indefinitely, so our wisdom and foresight—and the bitter and costly lesson of our past—should counsel that we act promptly and well to preserve the people's natural heritage on the people's land in Alaska.

Unfortunately, my review of the decisions which have been made by the Energy and Natural Resources Committee leads me to feel that we must go further if the national interest in these Alaskan lands is to be fully and adequately protected. The bill coming from the committee is a step backward from the scale of conservation units and the degree of protection proposed by the administration and so overwhelmingly approved by the House of Representatives.

As an early cosponsor of the strongest Alaska lands bill, S. 1500/amendment No. 2176, my concerns touch every element of the committee bill: The parks, the refuges, the wilderness, and the policies governing nonconforming uses. However, as a member of the Committee on Environment and Public Works and its Subcommittee on Resource Protection—which has full jurisdiction over our National Wildlife Refuge System—I am particularly concerned about the impacts of the Energy Committee's many and serious alterations of the Administration-proposed and House-passed wildlife refuge units.

Today I am introducing an amendment I intend to offer when the Energy Committee's Alaska lands bill is considered by the full Senate. The effect of my amendment is to restore 19.9 million acres of the 43 million acres that the Senate committee dropped from national wildlife refuge designation. This would designate and restore acreage to the Alaska Peninsula, Copper River, Nowitna, Yukon Flats, Arctic Togiak, and Yukon Delta national wildlife refuges.

Also, I am including an additional provision calling for a study of the protection needed for the bald eagles in the Chilkat River Valley in southeast Alaska. This is the wintering area for the largest gathering of bald eagles in the world. My amendment would further restore certain key provisions of the House-passed bill which includes the establishment of a barren-ground caribou study for Alaska's internationally significant caribou herd.

For the most part, the committee bill deals with the same lands which my amendment will place in the national wildlife refuge system. But there is a major difference. Under the committee bill, these lands are divided into a maze of fragments, and the fragments are assigned to three different Federal management agencies. Only about one-half of the acreage covered in my amendment would be national wildlife refuges under the committee bill. Instead of a unified and cohesive system of wildlife refuges, the committee bill would give us a multitude of smaller, gerrymandered administrative units, with no overall logic. Instead of stable and coordinated management of all this wildlife habitat by one expert agency, the committee bill would have the Bureau of Land Management and the Forest Service, as well as the Fish and Wildlife Service, managing adjacent fragments of a single natural unit of wildlife habitat. The committee bill also deletes some critical wildlife lands entirely from the Federal boundaries, leaving them open to selection, ownership and development by the State of Alaska for local purposes.

In contrast, the administration has recommended, and the House of Representatives has passed, an Alaska lands bill which would establish a wildlife refuge system similar to what I propose. The professionals in the Interior Department are in agreement that the great wildlife populations of Alaska can best be protected in a unified, comprehensive system of refuges. Two committees of the House considered this refuge system and rejected the notion that Alaska's outstanding habitat should be administered by the U.S. Forest Service or the Bureau of Land Management. The House voted to accept the work of the scientists in the administration and the joint product of the two committees. It passed H.R. 39 by a vote of 277 to 31, an overwhelming bipartisan majority.

The bill passed as it did because it makes sense. It puts the wildlife habitat under the jurisdiction of the agency with the experience and expertise to manage it. A great part of these refuge lands are wetland nesting areas for waterfowl, for geese, swans, and ducks that migrate from Alaska to nearly every State. In the other States, the Fish and Wildlife Service has primary responsibility for the Federal lands on which these same birds winter. It is only reasonable to put these species under the jurisdiction of a single agency, both winter and summer, regardless of which Federal lands they may occupy at the moment. We are looking at the whole ecosystem, recognizing that these birds migrate and have particular needs at each stage of their life cycle.

My amendment places whole ecosystems within refuge boundaries to the maximum extent possible. In areas such as the Yukon Flats and the Yukon Delta, for example, (some of Alaska's best wildlife lands) the refugees cover not only the wetland waterfowl nesting areas themselves, but also the drainages which supply pure water to this critical habitat. These boundaries protect biological systems, not just tracts of land. That is why this amendment is so important.

For the first time, we are planning for our Federal lands before development takes place. We have the opportunity, this one final time, to benefit from our past experience. Now, I believe, we have the wisdom to understand how to live with our natural environment, and Alaska gives us the opportunity to act on our understanding.

In Alaska we can plan ahead. My amendment says that where we have critical wetland breeding grounds, we shall not put mines and other incompatible developments on the streams which drain into those fragile wetlands. It says that whenever possible we shall extract and harvest our resources away from the wildlife areas, such as the extremely sensitive calving areas of our last great caribou herds. Most of Alaska's mineral and oil resources are located away from these areas, and these are out side the boundaries of this amendment and may be developed. Simple logic should tell us that we should turn to those places for development—not to the very places where conflicts with wildlife values are the greatest. Neither the administration nor the House of Representatives are unaware of this Nation's resource needs, but their proposals, and my amendment, provide ample room for development in the rest of Alaska, while also assuring full protection, on a total ecosystem basis, for Alaska's critical wildlife areas.

My amendment will minimize redtape by putting the Federal wildlife lands together in a single agency. It maximizes wildlife preservation because this agency is the Fish and Wildlife Service, the organization with the mandate, the experience, and the expertise for ecological management. It looks ahead, avoiding expensive future problems by incorporating whole ecosystems.

Assigning Alaskas best Federal wildlife habitat lands to the Fish and Wildlife Service is not only simple and reasonable. It follows precedent already set by this body. Prior to the recent amendments to the National Wildlife Refuge Administration Act, several of our refuges across the country were managed not only by the Fish and Wildlife Service, but also by the Bureau of Land Management. We in Congress decided that this joint administration was costly, duplicative, and counterproductive, and we did away with it. The Congress decided that the Fish and Wildlife Service was the

single proper agency to manage these nationally important wildlife habitats.

As the Senate committee report on the National Wildlife Refuge Administration Act amendments explains,

> Clearly, the record of the BLM's (Bureau of Land Management's) wildlife management has not been an encouraging one. The reason for this undoubtedly arises from the fact that BLM has a number of other import missions such as mining, logging, livestock grazing, and fossil fuels development which often conflict with wildlife management. In performing these conflicting missions, BLM is unable to devote sufficient attention to the needs of wildlife. In short, its mission is not wildlife protection or enhancement.
>
> In contrast to the BLM, the Fish and Wildlife Service has as its basic mission the protection and enhancement of wildlife. The agency's entire resources are directed towards this goal.

I am disappointed that the Energy Committee version of the Alaska lands bill does not follow this clear precedent. Instead of assigning Alaska's best wildlife habitat to the Fish and Wildlife Service, it divides these lands among that agency, the BLM, the Forest Service, and the State of Alaska. The Energy Committee has drawn artificial lines across single areas of important wetlands and caribou range, dividing these areas into portions to be administered by three and more agencies.

Instead of one agency planning and managing a waterfoul nesting ground, or for a caribou wintering area, we shall have two, or three, or four. Instead of one team of biologists planning for these animals, we shall have several—some capable and professional, the others perhaps not so capable since they work for agencies with primary missions other than wildlife. These managers will be housed in separate offices, rented separately by the Government, reporting to separate layers of supervisory personnel. They will be conversing with each other on phone lines leased by the Government. When a citizen wishes to learn about Government regulations for these lands, or to express an opinion on how they should be managed, the citizen will have to make two, three, or more separate inquiries of the bureaucracy.

All this costs money. It is complicated. It is inefficient. It is unnecessary. It is bad for the taxpayer, it is bad for people who use these lands—and most certainly it is bad for the wildlife.

There is a rising tide of concern in the Nation for efficiency in Government. We all know the people are sending a message to this Congress, that they will no longer tolerate waste in Government, unnecessary duplication of Government services, and pyramiding expenses by redundant bureaucratic agencies. In great part, this concern is about people's ability to pay taxes, but it is more than that. It has to do with red tape and Government regulation as well. We are hearing that Government must be simplified, both to reduce expense and to make it possible for the people to deal effectively with government.

I fear that the Alaska lands bill emerging from the Energy Committee takes us precisely in the wrong direction.

My fears are borne out when I look at the details of the committee bill. Specifically, the Energy Committee has cut 43 million acres from the national wildlife refuges designated by the House-passed bill. Some units were slashed from the refuge system altogether—the Alaska Peninsula (Alaska's most rich and diverse habitat), Tojiak, Nowitna, and North Slope.

In other areas, the integral, ecosystem-based refuges passed by the House were carved up among the agencies in a way that makes no sense. The results may please administrators in these agencies seeking to aggrandize bureaucratic fiefdoms, but the boundaries are unworkable for resource management.

For example, a major reason for expanding the Arctic National Wildlife Range is to protect the porcupine caribou herd—the Nation's largest remaining herd. The Energy Committee carved the range of the herd into a refuge, a Bureau of Land Management multiple-use area, a national forest (the area has no commercially harvestable timber), and a zone for State selection and development. This is an international herd, affecting both the United States and Canada. International negotiations are necessary to coordinate management. Under the Energy Committee bill these negotiations would be complicated by involving three separate Federal agencies plus Alaska state land managers as well.

The Yukon Flats is one of the most productive waterfowl nesting areas in the world. It is considered to have the highest sustained rate of waterfowl production in North America—birds which migrate to all parts of the lower States, Canada, and Mexico. The Energy Committee put a chunk of the Yukon Flats into a national forest. This national forest would contain 25 to 33 percent of the area's waterfowl production, but not a single tree that could conceivably be logged for national markets. Another half million acres in the eastern Yukon Flats were assigned for selection by the State of Alaska. In addition, the drainages which supply essential pure water to the wetlands were sliced off and given to the Bureau of Land Management. The Fish and Wildlife Service got what was left to operate as a refuge.

The Senate can do a better job than this. The House, acting on the professional advice of administration biologists, has passed a good bill and we can do at least as well.

In 1971 we in the Congress instructed the Interior Department to study Alaska and make recommendations to us for the preservation of its nationally important resources, including wildlife. For fully 7 years since then the Department of the Interior has been studying potential Alaska refuges. Their professional recommendation is a pattern of national wildlife refuges, managed by the Fish and Wildlife Service. We in Congress established the Fish and Wildlife Service and gave it an unqualified mandate to put wildlife conservation as first priority. We decided to give that Agency sole jurisdiction over our Nation's wildlife refuges. The professionals we assigned to the job have done their work. Now it is up to the Senate to confirm the recommendations of the Administration and the actions of the House, and to put Alaska's critical wildlife habitat under unified management in the refuge system.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 4737

TITLE I

In Title I, section 101—"Purposes"—insert a new subsection (c) as follows and renumber the subsequent subsection accordingly:

"(c) ECOSYSTEM INTEGRITY AND COMPREHENSIVE MANAGEMENT FOR FISH AND WILDLIFE. To achieve the intent of maintaining sound populations of, and habitat for, wildlife species of inestimable value to the citizens of Alaska and the Nation, it is the purpose of this Act, and particularly of Title III hereof, to establish a pattern of single large land management units as National Wildlife Refuges embracing areas of key habitat for outstanding wildlife resources on the federal lands of Alaska. Such lands are to be administered by the Fish and Wildlife Service, Department of the Interior, the federal agency most suited by established policy of the Congress and by professional expertise for the management of fish and wildlife resources and habitat. The pattern of boundaries herein established for these National Wildlife Refuges is, to the maximum extent practicable, intended to embrace natural terrain units and to assure that the integrity of natural ecosystems is recognized and protected so that—

(1) habitat requirements for migratory and non-migratory birds are fully protected, including upland watersheds critical to the preservation of natural water quality and quantity and to nutrient flows, all essential for wetland nesting and feeding areas;

(2) lands utilized in migration by wildlife species (including calving, post-calving, migration and wintering areas for barren-ground caribou) are protected within units under single and comprehensive management, not disrupted by fragmentation among different management agencies subject to differing policies;

(3) habitat requirements for large mammals which utilize extensive range (such as the grizzly bear, wolf, Dall sheep, and numerous marine mammals) are embraced within single management units; and

(4) migration and spawning habitat conditions and associated water quality essential for anadromous and freshwater fish species are fully protected."

Strike out all of Title III and insert the following:

TITLE III—NATIONAL WILDLIFE REFUGE SYSTEM

DEFINITIONS

SEC. 301. For purposes of this title—

(1) The term "conserve" means to use, and the use of, such methods and procedures which are necessary to ensure to the maximum extent practicable, the health, preservation, and enhancement of fish and wildlife and plants, their habitats, and the ecological systems of which they form a constituent element for the ecological, educational, esthetic, cultural, recreational, and scientific enrichment of mankind. Such methods and procedures may include any activity associated with modern scientific fish and wildlife management, such as research, censuses, monitoring, law enforcement, the acquisition, maintenance, and enhancement of habitat, information and education, extension services, propagation, hunting, fishing, trapping, and transplantation.

(2) The term "existing", if used in referring to any unit of the National Wildlife Refuge System in the state, means the unit as it exists on the day before the date of the enactment of the Alaska Native Claims Settlement Act.

(3) The term "refuge" means—

(A) any unit of the National Wildlife Refuge System established by section 304;

(B) any existing unit of the National Wildlife Refuge System not included within any unit referred to in subparagraph (A); or

(C) any unit of the National Wildlife Refuge System established in the State after the date of the enactment of this Act.

PURPOSES OF REFUGE

SEC. 302. The major purposes of each refuge are—

(1) to conserve the fish and wildlife within the refuge which are designated in section 304 as significant fish and wildlife resources, as well as to conserve the other fish and wildlife, and plants, within the refuge;

(2) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and plants;

(3) to provide, in a manner consistent with the purposes set forth in paragraphs (1) and (2) above, the opportunity for continued subsistence uses by local residents;

(4) to ensure, to the maximum extent practicable, and in a manner consistent with the purpose set forth in paragraph (1), water quality and water quantity within the refuge; and

(5) to protect, maintain, or enhance, in a manner consistent with the purpose set forth in paragraph (1), any special value of the refuge specified in section 304, as well as the wilderness character and any other archaeological, cultural, ecological, educational, geological, historical, paleontological, recreational or scenic or scientific value of the refuge.

ADMINISTRATION OF REFUGES

SEC. 303. (a) IN GENERAL.—The Secretary shall administer each refuge, subject to valid existing rights, to achieve the general purposes set forth in section 302 and the purposes of the individual refuge set forth in section 304, and in accordance with the laws governing the administration of units of the National Wildlife Refuge System, the laws governing the conservation and protection of fish and wildlife and plants, and this Act.

(b) USES PERMITTED WITHIN REFUGES.—(1) In applying section 4(d) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. S668dd(d)) with respect to each refuge, the Secretary may not permit any use, or grant any easement for any purpose, unless the use (including any oil and gas leasing) or purpose is compatible with the general purposes of this title set forth in section 302 and the purposes of the individual refuge set forth in section 304. The Secretary may issue regulations, and impose terms and conditions upon uses and easements, as necessary and appropriate to ensure that any uses permitted, or easements granted, by the Secretary are so compatible.

(2) All public lands in each refuge in Alaska are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws. The Secretary, however, may permit oil and gas leasing on such lands, except in designated wilderness areas, consistent with the National Wildlife Refuge Administration Act of 1966 and paragraph (1) of this subsection.

(c) REFUGE CONSERVATION PLANS.—(1) The Secretary shall prepare, and from time to time revise, a comprehensive conservation plan (referred to in this subsection as the "plan") for each refuge.

(2) Before developing a plan for each refuge, the Secretary shall identify and describe—

(A) the populations and habitats of the significant fish and wildlife resources of the refuge and of the other important fish and wildlife within the refuge;

(B) the special values of the refuge, as well as any other archaeological, cultural, ecological, geological, historical, paleontological, recreational, mineral, scenic, or wilderness values of the refuge;

(C) areas within the refuge that are suitable for use as administrative sites or visitor facilities, or for visitor services, as provided for in sections 1305 and 1306;

(D) present and potential requirements for access with respect to the refuge, as provided for Title XI; and

(E) significant problems which may adversely affect the populations and habitats identified and described under subparagraph (A).

(3). Each plan shall—

(A) based upon the identifications and the descriptions required to be made under paragraph (2)—

(i) designate areas within the refuge according to their respective resources and values,

(ii) specify the programs for conserving fish and wildlife, and the programs relating to the values referred to in paragraph (2)(B), proposed to be implemented within each such area, and

(iii) specify the uses within each such area which may be compatible with the major purposes of, and the opportunity for subsistence uses within, the refuge; and

(B) set forth those opportunities which will be provided within the refuge for recreation, ecological research, environmental education, and interpretation of refuge resources and values, if such recreation, research, education, and interpretation is compatible with the major purposes of the refuge.

(4) In preparing a plan for a refuge for which the Secretary has entered into a cooperative management agreement under section 305, the Secretary may consider the current and projected conditions of and activities on land that is within, near, or adjacent to the refuge.

(5) In preparing each plan and revision thereto, the Secretary shall consult with the appropriate State agencies and Native representatives, and shall hold public hearings in such locations in the State as may be appropriate to ensure that residents of Native villages and political subdivisions of the State which will be primarily affected by the administration of the refuge concerned have opportunity to present their views with respect to the plan of revisions.

(6) Before adopting a plan for any refuge, the Secretary shall publish notice of the proposed plan in the Federal Register, make copies of the plan available at each regional office of the United States Fish and Wildlife Service, and provide opportunity for public views and comment on the plan.

(7) The Secretary shall by regulation implement each plan prepared under this subsection.

(8) With respect to refuges established or redesignated by section 304, the Secretary shall prepare plans for—

(A) not less than five refuges within three years after the date of the enactment of this Act;

(B) not less than ten refuges within five years after such date; and

(C) all refuges within seven years after such date. With respect to any refuge established in the State after the date of the enactment of this Act, the Secretary shall prepare a plan for the refuge within two years after the date of its establishment.

ESTABLISHMENT OF NEW AREAS

SEC. 304. The following areas are hereby established as units of the National Wildlife Refuge System and shall, subject to valid existing rights, be administered by the Secretary pursuant to the provisions of law governing the administration of such units and under the provisions of this Act:

(1) Alaska Maritime National Wildlife Refuge, containing approximately two million nine hundred and eighty thousand acres consisting of existing units of the National Wildlife Refuge System specified in this paragraph and an addition thereto of approximately four hundred and sixty thousand acres of other public lands, as generally depicted on a map entitled "Alaska Maritime National Wildlife Refuge", dated April 1978, which shall be managed to maintain the wilderness character and diversity of natural values of the area and also for the following purposes, among others: to protect internationally significant marine birds, other migratory birds, marine mammals, and the land, water, and other marine resources on which they rely; to perpetuate other indigenous fish and wildlife resources of the coastal marine environment; to provide for national and international research on marine resources; to provide the opportunity for continuation of the traditional subsistence uses of local residents; to protect archaeological resources; and to participate in cooperative management programs with adjacent landowners. The Alaska Maritime National Wildlife Refuge shall consist of the public lands of the following specifically described units consisting of named and unnamed islands, islets, rocks, reefs, designated headlands, capes, and spires in the coastal water and adjacent seas of Alaska:

(A) Chukchi Sea unit—including Cape Lisburne, Cape Thompson, and the existing Chamisso National Wildlife Refuge;

(B) Bering Sea unit—including the existing Bering Sea National Wildlife Refuge, Hagemeister Island, Fairway Rock, Sledge Island, Bluff Unit, Besboro Island, Punik Islands, and Egg Island, and all other such public lands;

(C) Aleutian Islands unit—including the existing Aleutian Islands and Bogoslof National Wildlife Refuges, and all other public lands in the Aleutian Islands;

(D) Alaska Peninsula unit—including the existing Simeonof and Semidi National Wildlife Refuges, and all public lands on islands, islets, rocks, reefs, spires, spits and capes south of Katmai National Park to False Pass; and

(E) Gulf of Alaska unit—including the existing Forester Island, Hazy Islands, Saint Lazaria, and Tuxedni National Wildlife Refuges, the Barren Islands, Latax Rocks, Harbor, Pye, Middleton, Granite, and Chiswell Islands, and all islands, islets, rocks, reefs, spires, spits, and capes and submerged public lands surrounding Kodiak and Afognak Islands and all other similarly located offshore public lands (except lands within the National Forest System), including any such public lands reserved for purposes of classification under section 17(d)(1) of the Alaska Native Claims Settlement Act.

(2) Alaska Peninsula National Wildlife Refuge containing approximately one million eight hundred and eighty-two thousand acres of public lands, as generally depicted on map entitled "Alaska Peninsula National Wildlife Refuge", dated April 1978, which shall be managed to maintain the wilderness character and the diversity of natural values of this area and also for the following purposes, among others: to perpetuate the Alaska Peninsula caribou herd, significant brown bear, moose, sea otter and other marine mammal populations, American bald eagles, peregrine falcons, shorebirds, waterfowl, and migratory birds; to maintain supporting habitat including spawning habitat for salmon and sport fish species; to maintain adequate water quality and quantity; to preserve the free-flowing nature of numerous rivers and streams; to protect geologic features, including active volcanoes, Pavlov Mountains, Nelson Lagoon, coast-

lines; to provide opportunities for scientific research and interpretive and environmental education uses and fish and wildlife oriented recreational uses; to provide the opportunity for continuation of the traditional subsistence uses of local residents; and to participate in cooperative management programs with adjacent landowners.

(3) Copper River National Wildlife Refuge—The Copper River National Wildlife Refuge shall consist of the approximately one million two hundred thousand acres of public lands generally depicted on the map entitled "Copper River National Wildlife Refuge", dated April 1978, which shall be managed to maintain the wilderness character and the diversity of natural values of the area and also for the following purposes, among others: to perpetuate the internationally significant waterfowl, shorebirds, other migratory birds, and mammal populations utilizing the lands and waters of the area; to protect salmon migration and spawning habitats; to maintain other fish resources and wildlife populations and their supporting habitats; to maintain natural water quality and quantity; to provide opportunities for scientific research and interpretive and environmental education uses and fish and wildlife oriented recreation uses; to protect wilderness and scenic qualities; and to participate in cooperative management programs with adjacent landowners.

(4) Becharof National Wildlife Refuge, containing approximately one million ninety thousand acres of public lands, as generally depicted on a map entitled "Becharof National Wildlife Refuge," April 1978, which shall be managed to maintain the wilderness character and the diversity of natural values of the area and also for the following purposes, among others: to perpetuate significant brown bear, other large mammal, fishery, and migratory bird resources of the area; to protect the habitats supporting fish and wildlife populations, including the beardenning islands of Becharof Lake, and the unique geophysical characteristics of the area; to maintain adequate water quality and quantity; to provide opportunity for scientific research and interpretive and environmental education uses and fish and wildlife oriented recreational uses; to provide the opportunity for continuation of the traditional subsistence uses of local residents; and to participate in cooperative management programs with adjacent landowners.

(5) Innoko National Wildlife Refuge, containing approximately three million eight hundred and fifty thousand acres of public lands, as generally depicted on a map entitled "Innoko National Wildlife Refuge," dated September 1978, which shall be managed to maintain the wilderness character and the diversity of natural values of the area and also for the following purposes, among others; to perpetuate the nationally significant waterfowl, other migratory birds, furbearer, and mammal and fish populations and supporting habitats; to provide opportunities for scientific research and interpretive and environmental education uses and fish and wildlife oriented recreational uses; to protect historic values such as the Iditarod Trail; to provide the opportunity for continuation of the traditional subsistence uses of local residents; and to participate in cooperative management programs with adjacent landowners.

(6) Kanuti National Wildlife Refuge, containing approximately one million four hundred and twenty thousand acres of public land, as generally depicted on a map entitled "Kanuti National Wildlife Refuge", dated September 1978, which shall be managed to maintain the wilderness character and the diversity of natural values of the area and also for the following purposes, among others: to perpetuate nationally significant migratory waterfowl, other migatory birds, furbearer and mammal populations utilizing the lands and waters of the area; to protect the geologic features, including Sithylenkat Lake and the Kanuti Canyon; to provide opportunities for scientific research and interpretive and environmental education uses and fish and wildlife oriented recreational uses; to maintain adequate water quality and quantity; to provide the opportunity for continuation of the traditional subsistence uses of local residents; and to participate in cooperative management programs with adjacent landowners.

(7) Kodiak National Wildlife Refuge, consisting of all public lands within the existing Kodiak National Wildlife Refuge, generally depicted on a map entitled, "Kodiak National Wildlife Refuge," dated September 1978, which shall be managed to maintain the wilderness character and the diversity of natural values of the area and also for the following purposes, among others; to perpetuate the significant fish and wildlife of the refuge, including Kodiak brown bears, salmon, marine mammals, and migratory birds.

(8) Koyukuk National Wildlife Refuge, containing approximately three million five hundred and thirty five thousand acres of public lands, as generally depicted on a map entitled, "Koyukuk National Wildlife Refuge", dated September 1978, which shall be managed to maintain the wilderness character and the diversity of natural values of the area and also for the following purposes, among others: to perpetuate nationally significant waterfowl and other migratory bird and fish resources utilizing the lands and waters of the area; to maintain significant furbearing and other mammal populations and supporting habitats; to protect the Nogahabara Dunes as a unique ecological feature; to provide opportunities for scientific research and interpretive and environmental education uses and fish and wildlife oriented recreational uses; to maintain adequate water quality and quantity; to provide the opportunity for continuation of the traditional subsistence uses of local residents; and to participate in cooperative management programs with adjacent landowners.

(9) Nowitna National Wildlife Refuge, containing approximately one million five hundred and sixty thousand acres of public lands, as generally depicted on a map entitled "Nowitna National Wildlife Refuge", dated April 1978, which shall be managed to maintain the wilderness character and the diversity of natural values of the area and also for the following purposes, among others: to perpetuate the nationally significant waterfowl, other migratory bird, and mammal populations utilizing the lands and waters of the area; to maintain fish resources and wildlife populations and supporting habitats; to maintain natural water quality and quantity; to provide opportunities for scientific research and interpretive and environmental education uses and fish and wildlife oriented recreational uses; to provide the opportunity for continuation of the traditional subsistence uses of local residents; and to participate in cooperative management programs with adjacent landowners. That segment of the Nowitna Wild River, as established by this Act, which lies outside of the refuge, shall be managed as part of the refuge.

(10)(A) Selawik National Wildlife Refuge, containing approximately two million one hundred and fifty thousand acres of public lands, as generally depicted on a map entitled "Selawik National Wildlife Refuge", dated September 1978, which shall be managed to maintain the wilderness character and the diversity of natural values of the area and also for the following purposes, among others: to protect habitat for, and populations of, migratory birds, shee fish, caribou, and other fish and wildlife utilizing lands and waters within the area; to provide opportunities for scientific research and interpretive and environmental education uses and fish and wildlife oriented recreational uses; to maintain natural water quantity and water quality; to protect archaeological and paleontological resources; to provide the opportunity for continuation of the traditional subsistence uses of local residents; and to participate in cooperative management programs with adjacent landowners.

(B) Subject to such reasonable regulations as the Secretary may prescribe, reindeer grazing, including necessary facilities and equipment, shall be permitted within existing grazing lease units in the refuge.

(C) The Selawik River shall be managed as a wild river from its headwaters to the Kugarak River.

(11) (A) Tetlin National Wildlife Refuge, containing approximately seven hundred and sixty-five thousand acres of public lands, as generally depicted on a map entitled "Tetlin National Wildlife Refuge", dated September 1978, which shall be managed to maintain the wilderness character and the diversity of natural values of the area and also for the following purposes, among others: to perpetuate and provide habitat for internationally significant migratory birds which utilize the area as well as all other forms of fish and wildlife; to maintain water quality and quantity; to provide the opportunity for continuation of the traditional subsistence uses of local residents; to provide a variety of opportunities for scientific research and interpretive and environmental education uses; and to participate in cooperative management programs with adjacent landowners.

(B) Regardless of any requirement that a study be conducted of areas within the Tetlin National Wildlife Refuge in accordance with sections 3(c) and 3(d) of the Wilderness Act: the Secretary may authorize and grant a right-of-way for a pipeline and other facilities that may be required pursuant to section 9 of the Alaska Natural Gas Transportation Act of 1976.

(12) Yukon Flats National Wildlife Refuge containing approximately ten million and ten thousand acres of public lands, as generally depicted on a map entitled "Yukon Flats National Wildlife Refuge", dated October 1978, which shall be managed to maintain the wilderness character and the diversity of natural values of the area and also for the following purposes, among others: to perpetuate internationally significant waterfowl and other migratory bird resources that utilize the lands and waters of the Yukon Flats; to protect salmon migration and spawning habitats; to maintain mammal populations and supporting habitats; to provide opportunities for scientific research and interpretive and environmental education uses and fish and wildlife oriented recreational uses; to maintain adequate water quality and quantity; to protect the watershed values of the Hodzana Uplands and the White Mountains; to provide the opportunity for continuation of the traditional subsistence uses of local residents; and to participate in cooperative management programs with adjacent landowners.

Sec. 305. The following units of the National Wildlife Refuge System are hereby expanded or redesignated:

(1) Arctic National Wildlife Range by the addition of an area containing approximately nine million, nine hundred thousand acres of public lands, as generally depicted on a map entitled "Arctic National Wildlife Refuge," dated April 1978, which shall be managed to maintain wilderness character and the diversity of natural values of the area and also for the following pur-

poses, among others: to maintain the environmental integrity of the area for use by the internationally significant population of caribou and migratory birds; to perpetuate other migratory and resident fish and wildlife populations and their habitats; to protect representative Arctic life zones and the natural character of these habitats; to provide opportunities for scientific research and interpretive and environmental education uses and fish and wildlife oriented recreational uses to maintain natural water quality and quantity; provide the opportunity for continuation of the traditional subsistence uses of local residents; and to participate in cooperative management programs with adjacent landowners.

(2) Cape Newenham National Wildlife Refuge by addition of an area containing approximately three million, one hundred thirty-five thousand acres of public lands, as generally depicted on a map entitled "Togiak National Wildlife Refuge", dated May 19, 1978; furthermore, the Cape Newenham National Wildlife Refuge is hereby redesignated the Togiak National Wildlife Refuge which shall be managed to maintain wilderness character and the diversity of natural values of the area and also for the following purposes, among others: to perpetuate the significant marine bird and mammal, migratory bird, and fishery resources of the mountain, river, and marine habitats of the Togiak area; to restore large mammal populations historically inhabiting the area; to protect the watershed of Bristol and Kuskokwim Bays; to maintain natural water quality and quantity; to provide opportunities for scientific research and interpretive and environmental uses and fish and wildlife oriented recreational uses; and to provide the opportunity for continuation of the traditional subsistence uses of local residents, and to participate in cooperative management programs with adjacent landowners.

(3)(A) Clarence Rhode National Wildlife Range and Hazen Bay and Nunivak National Wildlife Refuges by the addition of an area containing thirteen million, eight hundred and fifty thousand acres of public lands, as generally depicted on a map entitled "Yukon Delta National Wildlife Refuge", dated April 1978; furthermore, the Clarence Rhode National Wildlife Range and Hazen Bay and Nunivak National Wildlife Refuges are hereby redesignated as specified units of the Yukon Delta National Wildlife Refuge which shall be managed to maintain wilderness character and the diversity of natural values of the area and also for the following purposes, among others: to perpetuate the internationally significant migratory bird, marine mammal, fish, and wildlife resources utilizing the lands and waters of the Yukon-Kuskokwim Delta and Andreafsky Hills area and habitat supporting fish and wildlife oriented recreational uses, to maintain adequate water quality and quantity; to provide the opportunity for continuation of the traditional subsistence uses of local residents; and to participate in cooperative management programs with adjacent landowners.

(B) Subject to such reasonable regulations as the Secretary may prescribe, reindeer grazing, including necessary facilities and equipment, shall be permitted in the refuge within areas which are, and in a manner which is, compatible with the major purposes of the refuge set forth in section 302 (1) and (2).

(C) The Secretary shall administer the refuge to assure the continuation of commercial fishing activities on the Yukon and Kuskokwim Rivers and their tributaries.

(4) Izembek National Wildlife Refuge. (A) The significant fish and wildlife resources of the Izembek National Wildlife Range (hereby redesignated as the Izembek National Wildlife Refuge), are migratory birds, brown bears, and salmonoids. Izembek Lagoon is a special feature of the refuge.

(5) Kenai National Wildlife Refuge, by addition of approximately two hundred and fifty thousand acres of public lands, as generally depicted on a map entitled "The Kenai National Wildlife Refuge," dated April 1978; furthermore, the Kenai National Moose Range is hereby redesignated the Kenai National Wildlife Refuge which shall be managed to maintain the wilderness character at designated wilderness areas within the refuge and the diversity of natural values of the area and also for the following purposes, among others: to perpetuate a nationally significant population of moose and the habitat and population of indigenous mammal, waterfowl, other migratory and nonmigratory bird, and fishery resources; to maintain adequate water quality and quantity; to protect the recreational values of the Swan Lake-Swanson River canoe system; to provide land management training opportunities for the public, and to provide opportunities for scientific research and interpretive and environmental education uses and fish and wildlife oriented recreational uses.

BARREN-GROUND CARIBOU STUDY

SEC. 306. The Congress finds that barren ground caribou are a migratory species deserving special protection and that the Western Arctic and the Porcupine herds of such caribou are of national and international significance. The Secretary shall conduct, and the Governor of Alaska is urged to cooperate with the Secretary in conducting an ecological study of the barren-ground caribou herds north of the Yukon River including, but not limited to, a determination of the seasonal migration patterns, reproduction and mortality rates, and habitat use (particularly calving grounds) that are critical to their natural stability and continued productivity, and the effects on the herds of development by man, predation, and disease. The Secretary, acting through the Secretary of State and in consultation with the Governor, shall initiate negotiations with the Government of Canada as soon as possible for the purpose of entering into a treaty to protect the Porcupine caribou herd and its habitat.

BALD EAGLE STUDY

SEC. 307. The Congress finds that the bald eagle is a migratory species deserving special protection and that the Chilkat River population of such eagles is of great national and international significance. The Secretary shall conduct and the Governor of Alaska is urged to cooperate with the Secretary in conducting a study of the bald eagles of the Chilkat River in order to determine habitat use (including nesting, roosting and feeding areas), and seasonal movement patterns that are critical to their natural stability and continued productivity, and the effects of human development and natural disease. The study should provide for the preparation and implementation of a comprehensive and systematic management plan agreed to by the United States and the State—

(1) To conserve bald eagles, fish, and other wildlife within the region;

(2) To ensure that any use within the region is carried out in a manner compatible with the conservation of such eagles, fish, and other wildlife; and

(3) To provide for such exchange of land among the Federal Government, the State, and other public or private owners or the purchases of land by the Federal Government to facilitate the carrying out of paragraphs (1) and (2).

ILIAMA RESTRICTIONS

SEC. 308. With respect to the area of the Iliama watershed, described as those lands and waters generally depicted on the map numbered FWS 71-00-1601 and dated March 1978, which map shall be on file and available for public inspection in the Office of the Director, United States Fish and Widlife Service and Alaska offices of the Secretary, it is the express intent of the Congress that the lands and waters be permanently retained in State and federal ownership and be managed for the protection of watershed and fish and wildlife habitat. The Secretary is authorized to enter into a cooperative agreement with the State of Alaska so that the United States and the State may effectively coordinate the management of their lands in this area for such purposes. Except for those lands to which State is entitled pursuant to Public Law 89 Stat. 1145, all Federal lands within such area are hereby withdrawn from further selection by the State under the Alaska Statehood Act, under the Alaska Mental Health Enabling Act, or under the Act of March 4, 1915 (38 Stat. 1214), and the Secretary shall not make any conveyance of such lands to the State unless and until he determines that the State, by appropriate legislation has authorized, and is ready, willing, and able to implement, a plan for protection and management of the watershed and the fish and wildlife resources consistent with the intent of the Congress expressed above. Federal lands within such area shall not be conveyed to the State except for the purpose of exchanging under the provisions of section 1201(f) State lands located within the external boundaries of conservation systems units. If the Secretary thereafter finds that the management and use of the area is inconsistent with such intent of Congress, and following notice in writing to the Governor and a ninety-day period thereafter in which to correct such management and use, he may establish by appropriate order one or more units of the National Wildlife Refuge System within the area referred to on such map.

MISCELLANEOUS PROVISIONS

SEC. 309. All proclamations, Executive Orders, public land orders, and other administrative actions in effect on the day before the date of the enactment of this Act with respect to units of the National Wildlife Refuge System in the State shall remain in force and effect except to the extent that they are inconsistent with this Act or the Alaska Native Claims Settlement Act, and, in any such case, the provisions of such Acts shall prevail. All public land within the boundaries described or depicted in any such action shall, if the unit of the National Wildlife Refuge System concerned is incorporated within any refuge established or redesignated by section 304, be included within such refuge.

(2) All funds available on such date of enactment for administration of any refuge shall remain available for the administration of such refuge.

NOTICE OF HEARING

SUBCOMMITTEE ON CITIZENS AND SHAREHOLDERS RIGHTS AND REMEDIES

● Mr. METZENBAUM. Mr. President, the Subcommittee on Citizens and Shareholders Rights and Remedies, of the Committee on the Judiciary, will hold 2 days of hearings, November 21 and November 22, 1978, on the impact of pension fund investment policies on individual contributors. The hearings will begin at 9 a.m., in room 2228, Dirksen Senate Office Building, on both days.●

INDIAN OCEAN NAVAL ARMS LIMITATION

Mr. BARTLETT. Mr. President, Great Britain's 1968 announcement that it would divest itself of holdings east of the Suez signaled the end of 300 years of British control of the Indian Ocean. At the time, many analysts feared that the superpowers would rush into the re-

sulting power vacuum, thus creating a spiraling naval arms race.

The Soviet Union seemed to confirm these apprehensions when it dispatched a naval squadron to the Indian Ocean in March of that same year. The squadron called on 10 ports in eight countries around the littoral. Moreover, calls at Bombay and Madras in India initiated an Indo-Soviet naval relationship which enhanced Soviet influence in the Indian Ocean. Even though relations between New Delhi and Moscow have cooled since the downfall of Indira Gandhi, the Soviets still remain visible and active.

Russian interest in the Indian Ocean region has a long history. The quest for warm water ports with direct access to a major ocean predates the Communist revolution and was reflected in the last century by an intense Anglo-Russian rivalry in the Near East and South Asia. The value of a warm water port was illustrated by the Allied supply effort in World War II. An arms pipeline to the Soviet Union from the Indian Ocean, crossing Iran, proved vital to the Russian war effort. Indeed, a post-World War II Soviet occupation of part of Iran was ended only after great pressure from the United States and Great Britain.

From that time to the present, the United States has maintained its Middle East Force in the Indian Ocean as a political and military symbol of American interest and resolve in the area. That force consists of a flagship and two destroyers, a feeble armada at best when considering the size and importance of the Indian Ocean.

The United State has two major goals in the Indian Ocean area; namely, guaranteeing the supplies of petroleum upon which the industrial West stakes its livelihood and maintaining peaceful relations with the nations on the littoral so that our many interests will not be endangered.

Since the 1973 oil embargo, Mideastern oil has been the major issue focusing American attention on the Indian Ocean. Thirty-five percent of the oil we consume travels the cape route, around the southern tip of Africa. In the same manner, 62 percent of French industry's energy demands are met by Mideastern oil as are 50 percent of Germany's energy requirements. Via sealanes to the east and through the Malaccan Straits, Japan, the world's third largest industrial nation, receives 70 percent of her energy requirements.

The Russian Navy and especially land-based Soviet Naval Aviation (SNA) are a major threat to Western oil sources in the Persian Gulf. Since Britain's announced divestiture in 1968, Soviet ship days in the Indian Ocean have increased fourfold relative to the U.S. naval presence. More recently, the U.S.S.R. has deployed the Backfire bomber with its Navy. In the last decade, the Soviet Union has enjoyed close relations with India, Iraq, South Yemen, Libya, Ethiopia, Somalia, and Mozambique. Somalia has, for the time being, left the Soviet fold, and Indo-Soviet relations are less warm. However, the Soviet Navy has been able to acquire supplemental anchorages at Socotra, Mauritius, and the Seychelles which have somewhat ameliorated the loss of their base at Berbera in Somalia.

There can be no doubt of the Soviet Union's interest in the Indian Ocean area. Soviet objectives in the Indian Ocean and its littoral appear to be to establish a shipping outlet to the south to undermine Western influence, to isolate the Chinese, to exclude U.S. military forces, particularly strategic nuclear forces, to support friendly regimes and revolutions, and to obtain leverage against Western oil sources.

Since 1968, the Soviet Union has maintained a naval presence in the Indian Ocean virtually on a permanent basis. The presence includes some 6 to 10 surface combatants, 1 or 2 submarines and perhaps a dozen supply and auxiliary vessels. Clearly, this force, even though it is less than the French naval detachment in the Indian Ocean, has a considerably greater capability than our token Middle East Force.

Therefore, at regular intervals the Pacific 7th Fleet has dispatched a supplemental force, often in the form of a carrier with escorts to conduct maneuvers in the Indian Ocean. In certain crisis situations, such as the Indo-Pakistani War in 1971 and the Yom Kippur War of 1973, a special carrier detachment was dispatched in the event that American leverage might work to end hostilities. It is interesting to note that, in response to each American increase, the Soviet Union increased its own naval deployment. This behavior by the Soviets is consistent with what has plainly become Soviet naval strategy, sea denial in opposition to our Navy's force projection and sea control.

In 1977, the United States and the Soviet Union began negotiations designed to limit their military forces in the Indian Ocean. These talks reflect the fact that, after 10 years of cautious maneuvering, each superpower realizes that limiting the military activities of the other may be as useful as gaining an advantage through intense naval competition in the region.

Proposals for an Indian Ocean agreement have come in two basic forms Those favoring total demilitarization of the Indian Ocean and those calling for a negotiated ceiling for naval forces in the area.

The issue of a demilitarized "zone of peace" in the Indian Ocean was brought before the United Nations in 1971. The proposal failed to deal with the geopolitical realities of the Middle East, and there were 60 abstentions on the vote, all coming from nations who possessed substantial navies or had significant security interests in the area. Given the historical instability of the Middle East and the considerable national security interests which are at stake for industrial nations, it would be folly for a nation not to give itself the option of protecting those interests. Certainly, it has been clear that our friends in the Middle East and South Pacific want us to maintain some presence. In fact, there are many indications that the current governments of Indian and Sri Lanka which formerly opposed any American naval presence may now favor some such presence.

It was with great dismay, then, that most political observers viewed the 1977 announcement by President Carter that he favored a completely demilitarized Indian Ocean. To the great relief of many, Mr. Carter altered that proposal 1 week later and announced a desire to "seek to establish Soviet willingness to reach agreement with us on mutual military restraint in the Indian Ocean." That is basically the status at present; the United States and Russia looking to bilateral negotiations, in which the goals and strengths of each will be bargained against those of the other.

Naturally, the advantages that either side possess in this matter will characterize the bargaining position assumed. In the view of most observers, debate will center on bases such as U.S. operated Diego Garcia and a ship count formula based on the type of ship and its length of stay in the Indian Ocean.

The issue of Diego Garcia has been discussed in this Chamber before and most of my colleagues should be familiar with its history. It was leased from Great Britain with the intention of establishing a facility to counter the growing permanent Soviet presence in the Indian Ocean. First as a communication station and now as a logistics support base, the acquisition and improvement of Diego Garcia can be heralded as one of America's few positive strategic decisions in recent years.

The tremendous strategic value of Diego Garcia lies in its location in the Indian Ocean. It lies centered, and relatively equidistant to all major land masses on the littoral. India lies nearest, 1,000 miles to the north, Somalia is 1,800 miles to the west northwest and Australia lies 3,000 miles to the east. Obviously the location lends this single facility tremendous flexibility in meeting emergency situations that might occur over the broad expanse of an entire ocean. Unfortunately, it is still 2,200 miles from the Persian Gulf and the Horn of Africa and, therefore, is less able to influence events there than are Soviet facilities with "Main Street" locations such as Ethiopia.

When the current phase of construction is completed, Diego Garcia will be equipped with a 12,000-foot runway, fuel storage, and will be capable of admitting fleet warships. It will have logistics support facilities able to extend the life of a carrier force on maneuvers in the Indian Ocean by 30 days.

Naturally, the Soviet Union has repeatedly expressed its displeasure over the presence of American naval forces at Diego Garcia and will surely seek our withdrawal in arms limitation negotiations. This is particularly true since the Soviets lost their multipurpose base at Berbera, Somalia.

During my 1975 visit to the Soviet base at Berbera, I found abundant evidence of major Soviet military capability. Facilities included an improved runway able to accommodate combat aircraft, a deepwater port, troop barracks, and missile storage buildings. The Soviet Union has not yet been able to establish

a base of similar magnitude elsewhere in the littoral, but the activities once at Berbera are being continued elsewhere in the region. And one should also remember that the matter of Berbera is not closed. Somalia may yet be returned to the Russian fold.

In future negotiations, the value of Diego Garcia cannot be underestimated. It is a bargaining chip that should not be easily surrendered. The base already exists and its removal via negotiations or by an altruistic unilateral move could be dangerous. Such a move might be taken as signaling a lack of resolve on the part of the United States and might encourage further Soviet increases in the Indian Ocean, or in Africa and the Near East. Second, in light of the withdrawal of the Middle East Force from Bahrain, that American flotilla will have no permanent basing. Without Diego Garcia, American presence along the Indian Ocean sealanes would seem but a fleeting memory. Third, the current facility at Diego Garcia lends itself to efficiency and economy in military deployments. Finally, the base's greatest value lies in its potential uses. Due to the instability of the Indian Ocean area, it is highly desirable for the interests of the industrial West to have a military facility of guaranteed permanence.

There is a third phase to the development of Diego Garcia—its development into a multipurpose base with a troop staging capability. I would suggest that this development be continued. Although, at present there are great diplomatic advantages to using the base as little as possible, its potential should be developed both as a bargaining chip and as a needed capability.

A formula to determine allowable ceilings for vessel deployment is certain to be the other major issue in future negotiations. In this matter, a compromise between ship days and ton days per year will be the key to an equitable ceiling.

An aircraft carrier, when present, clearly gives the military advantage to U.S. forces in the Indian Ocean. It would be to our clear advantage, then, to argue for ceilings based on the ship days per year, or, the amount of time expended by "x" number of vessels in the Indian Ocean area during a year's time. A one-for-one ceiling equating an American aircraft carrier with a Soviet destroyer would weight an agreement in our favor. However, the Soviets would undoubtedly reject this. The Soviets can be expected to seek either a ban on aircraft carriers, or in lieu of a carrier ban, deployment ceilings founded on a ton-day basis.

A ton-day formula if applied identically to both sides, might well preclude the dispatch of an American carrier to the Indian Ocean. An 80,000-ton Nimitz-class carrier, spending 30 days in the Indian Ocean, would have an equivalent ton-day rating as a Kresta II missile cruiser spending 11 months. This proposal would obviously favor the Soviet Union, in terms of its visibility and intelligence gathering abilities.

A third general area certain to be discussed is that of verification of any treaty agreements. The Soviets are likely to seek a complete ban on submarines. Such a provision would be extremely difficult to verify, particularly by "national technical means."

Also, the Soviet Union has argued that state owned fishing vessels and space event support ships (SESS) should be exempted from any military vessel count. Nevertheless, there is no doubt that such vessels also perform military duties. An intelligence gathering and/or antisubmarine warfare (ASW) capacity is included in many Soviet vessels whose outward appearance is ostensibly civilian in nature. Not to count such veiled military or paramilitary activities in an agreement relating to military ceilings would be a severe oversight on our part.

Mr. President, there are other factors relating to any future negotiations which in time will carry significant weight in the equity of an Indian Ocean agreement: The definition of the area involved; the matter of a nuclear free zone; the question of arms supply to littoral states; the counting of other western naval forces; protocol arrangements; and even such issues normally confined to the strategic arena, such as the Backfire bomber or our cruise missiles, are bound to be discussed in negotiations on arms limitations in the Indian Ocean.

According to former Adm. Elmo Zumwalt, "The Indian Ocean has become a region where the risk of seeing important changes in the balance of power in the next 10 years is greatest." I believe he is correct. Our negotiators at any future Indian Ocean arms limitation talks must not jeopardize our national security interests in this important region.

ALL-VOLUNTEER FORCES AND DOD MINUTEMAN STUDY

Mr. BARTLETT. Mr. President, with the end of the draft in 1973, the United States initiated the grand experiment of trying to raise and maintain a peacetime military of 2.1 million persons through voluntary service. Since then, endless studies of the successes and failures of the All-Volunteer Forces (AVF) have been conducted. As might be expected, findings concerning the performance and quality of recruits in the field vary in their conclusions. This is to be expected, because quality is often a subjective determination and measures of performance have changed.

However, studies concerning the ability of AVF to get numbers have consistently emphasized one major problem, namely, a consistent inability to fill the ranks of both the active duty and Reserve units and Reserve manpower pools. Numerical projections for the AVF into the eighties are worse, even to the point of forecasting the demise of the whole All-Volunteer Force system.

Because manpower turnover rates have significantly increased in the AVF, as many as 400,000 new recruits are needed annually instead of the originally projected 265,000. As of April 1977, the Army and Navy had consistently fallen 12,000 and 15,000 short of their respective congressionally authorized manpower levels which, in turn, have been lower. The Selected Reserve, containing those Reserve units which would mobilize first in the event of war, are 72,000 below their authorized floor. In the Individual Ready Reserve (IRR), the primary reserve pool of trained personnel, the situation is much worse. The Army alone is 276,000 below mobilization levels.

The AVF is failing to recruit a representative cross section of American social strata. In 1977, only 44 percent of those persons enlisting in the Army held high school diplomas, compared to 75 percent of the civilian population and 67 percent in the group of civilian unemployed of the same age. An estimated 35 percent of new inductees into the Army are either black or Hispanic, with another trend showing the proportion of black high school graduates exceeding that of whites. Clearly, these figures highlight a situation which is most undesirable. The fact that the Army's ranks are progressively being filled by relatively less educated recruits and a disproportionately high number of minorities raises concerns both about our military capabilities and social justice.

Clearly the problem lies in the AVF not being able to compete even in the best of times with the private sector for a sufficient number of qualified recruits. And in the next 10 years demographics and the economy do not promise to be as accommodating to the All-Volunteer Force.

From 1973 to 1976, active duty manpower declined by 200,000. The population of 18- to 24-year-olds grew by 2 million, unemployment grew from 5.6 to 8.3 percent (with teenage unemployment over 20 percent) and military pay rose significantly. However, by 1990, the 18- to 24-year-old population will drop by a half million, economic forecasts for the mid-1980's expect a decline in unemployment with corresponding drops in the unemployment rate for teenagers, and businesses will continue to open opportunities for minorities and women.

Where now the AVF currently needs to attract one in three "qualified and available" male youths, by the mideighties the AVF will be faced with recruiting one out of every two to meet its needs. Monetary incentives can no longer be expanded, and any further reduction of standards for admission would certainly spell disaster for the AVF and raise valid questions of performance and ability. Increased funding and improved efficiency of the recruiting effort will not be able to meet this challenge.

In my opinion, the demise of the AVF is a foregone conclusion unless we try a wholly new approach which might produce a significant turnaround.

I would like to outline one such approach being investigated in the Minuteman studies which are being conducted by the Department of Defense.

The proposal I have in mind would offer paid basic training to young men and women during the summer between their junior and senior years of high school, or during the summer immediately after graduation. In exchange, each individual would take on an obligation to

remain in the Individual Ready Reserve for 6 years. The Individual Ready Reserve is simply a list of civilians with military obligations who could be called to service in the event of war. No reserve unit training is involved although members of the Individual Ready Reserve can volunteer for active duty or reserve unit assignment. Minuteman program modifications such as refresher training, advanced training, and even promotion incentives might also be considered if early pilot projects proved successful.

The Minuteman approach offers a number of significant advantages to current programs, which would work to the benefit of the All-Volunteer Force and the recruit. Most importantly, the Individual Ready Reserve would possess a pool of trained manpower ready to augment Active and Reserve units if needed. This pool of standy reservists would fill the major crisis, before the slow-moving machinery of a reconstructed draft could be engaged.

To the young recruit, the capacity not to be frozen into a 2-year active tour of duty or a 6-year assignment to a Reserve unit, would allay fears of premature restrictions or inflexibility in weighing career opportunities. Further, the Minuteman program would serve as a familiarization program, having the appearance of a paid summer vacation program for youth with a military flavor. This characterization would go a long way in helping students to overcome misconceptions about and adversity toward the military. In that manner, an indirect assist would be given to other recruiting programs.

The alternatives to the Minuteman study proposal, or other proposals offering fundamentally new approaches to recruiting, may not be quite so attractive. Extremely high recruiting costs, the return of the draft or universal military service are our other main options.

Mr. President, I would suggest that next year, while the All-Volunteer Force is still afloat, Congress should insist that novel approaches from the Minuteman studies be initiated as an experiment to see if the all-volunteer military can be made to work. Otherwise, the press of rapidly worsening demographic changes would compel the serious consideration of a national service program.

I do not believe a draft, other than as an interim standby program, will be adopted.

NEW ALCHEMISTS COME TO WASHINGTON

Mr. PERCY. Mr. President, the New Alchemists are a group of scientists dedicated to helping save humanity from certain of its less sensible devices. Since the organization's founding in 1970, this small banti of innovators and visionaries has worked to develop food and energy systems which are ecologically balanced and small in scale.

When New Alchemy first got underway, "appropriate technology" had yet to become a catchword in Government and public interest circles. Even among active environmentalists, interest in promoting local self-sufficiency was not widespread.

The energy crisis of 1973 resulted in a dramatic change in American public opinion. Faced with precipitously rising foreign oil prices and no readily available domestic substitute, policymakers and citizens began to recognize the grave liabilities of an energy policy so dependent on a single, largely nondomestic source of fuel. While some attention since 1973 has rightfully focused on augmenting our native supplies of fossil fuels, many Americans have begun to see the need for more fundamental changes in our resource management policies. Research, development, and commercialization of technologies using renewable sources of energy have become a priority.

Accompanying the interest in renewable energy sources has been a growing awareness of the important role which locally based, and even household-scale resource planning can play. We have awakened to the advantages of neighborhood-scale energy schemes such as industrial cogeneration, small-scale hydroelectric plants, wind generators, solar systems, and energy conservation.

Groups such as the New Alchemists can be of great help to policymakers and concerned citizens. Whereas decentralized, renewable resource planning is a new field to most Americans, John and Nancy Todd and their coworkers at New Alchemy have been building experiments along these lines for nearly a decade. They have research institutes on Cape Cod and Prince Edward Island, Canada, and an experimental farm in Costa Rica.

The Prince Edward Island experiment is located in a northern climate, where year-round agriculture is difficult and energy needs for heating are considerable. Heating accounts for about 55 percent of Canada's energy consumption.

In this rather inhospitable setting, the New Alchemists have built an "ark"—a fitting name for a structure which provides most of the energy and food needs of its inhabitants. The ark is a single, large building which contains a family-sized residential unit, a vegetable greenhouse, an indoor fishery, a tree nursery, a waste purifying system, a small barn, and a research laboratory.

Even in the coldest winter months, a passive solar system provides most of the necessary heating for the ark. As sun streams into the south-facing greenhouse areas, much of its heat is captured by water contained in vertical fiber glass cylinders—20,000 gallons in all. Once trapped in the water, the solar heat gradually escapes into the indoor atmosphere.

A windmill generates electricity for the ark, and also supplements the local utility network. When the wind is weak, the building draws power from the island utility. When the wind is strong, the ark feeds its surplus electricity into the local grid.

The New Alchemists are also working on plans for village-scale "bioshelters." These units would operate according to the same principles of ecological balance and resource self-sufficiency as the ark, but their scale would be larger. John Todd suggests that a village bioshelter could provide part of its winter heating needs by capturing summer sun in large, well-insulated solar ponds.

The village bioshelter concept will be the subject of a colloquium here in Washington, on October 23. At this meeting, New Alchemy's codirector, John Todd, will discuss possible solar village designs. The meeting will be held at the Appalachian Regional Commission, 1028 Connecticut Avenue NW., in the fifth floor conference room. For more information, call J. B. Bleckley at 673–7822.

This meeting, sponsored by the Friends of Appropriate Technology, promises to be interesting and informative.

SELECTION OF THE NEW POPE

Mr. PERCY. Mr. President, as the College of Cardinals prepare to meet Sunday for the second time within a 2-month period to select a new Pope, and as one of the representatives of the largest Archdiocese in the United States, I want to share with my colleagues my thoughts concerning this upcoming selection that has great significance and meaning for the entire world.

It was truly a sad day for all the world when Pope John Paul passed on during his short, yet promising reign. Every act of his 34-day pontificate won more hearts and worked to unite the diverse Catholic community that has been struggling with change and tradition for the last two decades.

With his contagious smile and spontaneous joy, he embodied a new warmth and respect for that position. He spoke so all could understand him—young and old alike. And he removed the shackles of protocol that he felt kept the Pope from being close to the people.

Simply by watching him on television—which helped all of us to experience John Paul's warm and folksy manner—I felt, as millions did, that he was the uniquely right person to head the Roman Catholic Church.

He combined the most outstanding characteristics of the previous two Popes—such as John XXIII's warmth and love and Paul's VI's utter devotion to world peace. Yet, John Paul possessed a saint-like quality all his own.

The wisdom of the Cardinals in selecting a man rich in pastoral experience is an enlightening sign and proved to be John Paul's most respected quality.

I sincerely hope that such characteristics and qualities can be found in the next Pope. Subsequently, as the bridge between change and tradition, he will fulfill the dreams that the faithful had hoped for Pope John Paul.

The Roman Catholic Church is one of the most enduring institutions in the history of mankind. To Catholics and non-Catholics alike, this institution is a symbolic pillar of strength. It has survived tumultuous times and challenges to its tradition and beliefs from within. While millions of people look to the pontiff for spiritual guidance, he is also considered an influential world leader, particularly in the area of world peace. And that is why the selection of the 264th Pope is of paramount importance to us all.

During this period of questioning and soul-searching it is the hope of many that the head minister of the world's 600

million Catholics not tip this delicate balance.

I know that as the College of Cardinals gather this week to select a new Pope, they will take into consideration the unique qualities Pope John possessed and are cognizant of the inspiration he gave to all mankind, Catholic and non-Catholic alike.

FIRST MEETING OF THE PRESIDENT'S COMMISSION ON THE COAL INDUSTRY

Mr. PERCY. Mr. President, on May 26, President Carter formed the President's Commission on the Coal Industry. He gave the Commission 1 year to prepare a report assessing the current state and future prospects of the coal industry.

In the months since its formation, the Commission has made considerable progress toward making that assessment. A diverse and committed group of 13 Commission members has been selected, and a highly capable staff is being assembled. The Commission is chaired by Gov. John D. Rockefeller IV of West Virginia, and includes myself and my distinguished colleagues, JENNINGS RANDOLPH and WALTER HUDDLESTON.

The Commission held its first meeting on September 29. That meeting was very successful, and will provide a firm foundation for future efforts. The meeting gave Commission members an opportunity to make general comments about our work, and to discuss a detailed outline of the issues which we expect to address in the coming months. We discussed our proposed hearing and site visit schedule, and decided to hold hearings in Charleston, W. Va., on October 20, and Denver, Colo., on October 26. Also, we were privileged to hear remarks from Mr. Robert Lipshutz, counsel to the President; Mr. Arnold Miller, president of the United Mine Workers; Mr. Joseph Brennan, president of the Bituminous Coal Operators Association (BCOA); and Mr. Stonie Barker, vice chairman of the BCOA.

The issues which we plan to address are among the most significant facing the coal industry today. They include labor relations, the impact of Federal regulations on the coal industry, the living conditions of miners and their families, and the outlook for coal and the future of the coal industry.

While the Commission will not limit itself to these issues, we believe that they should be the main focus of our efforts. We made a number of comments on and additions to the outline of those issues in our meeting, and we will probably continue to modify it somewhat in the future. We are eager to receive comments on it from the public, the industry, and its employees, and members of Government. I will include an unrevised draft of the outline at the end of this statement (Attachment I).

The enthusiasm of Commission members for the task ahead is striking. We all share Governor Rockefeller's desire to work diligently to produce a truly useful report, and to avoid becoming "just another commission." Governor Rockefeller's opening remarks at the meeting provide a good sense of the attitude of Commission members toward our work. I will include his comments at the end of this statement (Attachment II), together with the comments I made at the meeting (Attachment III).

In view of the relatively short period of time in which we have to prepare our report, I asked the Congressional Research Service of the Library of Congress to prepare a background study for the members of the Commission. That study has just been completed, and will be printed and made available in the near future. The study will provide Commission members with information on the issues referred to above, together with additional background information which may identify other problem areas requiring our attention. I wish to express my appreciation to CRS for the fine work they have done.

In sum, the Commission has identified in detail the areas where we believe we can make our most valuable contributions. The CRS study will provide a good starting point for our evaluation of those areas, and our hearings will put us in touch with public attitudes toward them. While our task will be difficult and potentially controversial, it is clear that the Commission has both the resources and the will to undertake it successfully.

Mr. President, I ask unanimous consent that Attachments I, II, and III referred to earlier be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ATTACHMENT I

SUGGESTED ISSUES TO BE ADDRESSED BY THE PRESIDENT'S COMMISSION ON THE COAL INDUSTRY

I. The outlook for coal and issues related to the future of the industry:

American coal reserves are vast. However, this coal is of varying quality, accessibility and distance from markets. The future of coal is not assured by its geological abundance but rather by:

cost relative to other fuels
dependability as a fuel resource
strategic considerations
new uses and markets

In assessing the outlook for coal and in providing an independent determination of the extent to which the United States reasonably should be able to rely on coal in meeting energy requirements, the Commission could:

1. Current assumptions: Review and assess existing energy supply and demand projections, with particular attention to their assumptions of the role of coal.

2. Strategic considerations: Review and assess the strategic considerations in decreasing dependence on foreign energy sources through increased coal production and utilization.

3. Technology: Review and assess the practicality of new coal uses and production methods given technical and economic realities.

4. World Market: Review and assess the competitive position and outlook of United States coal in the world market.

5. Cost factor: Review and assess the following factors as they affect the cost and, hence, future demand for coal as a competitive fuel:

(a) Capital requirements, availability and costs.

(b) Labor costs, productivity, and the availability of trained labor and management.

(c) Governmental regulations which affect the mining, transportation, and utilization of coal.

6. Transportation: Review and assess the adequacy of the transportation system required to support realistic coal utilization levels.

7. Dependability: Review and assess the relative dependability of coal as a factor in limiting demand.

8. Structure of industry: Review and assess the changing structure of the industry as it affects the efficiency of the industry, the price of coal, the competitive position of coal with respect to other fuels, and the future of the coal industry.

II. Labor relations issues:

A. Review and assess the history of labor relations in the coal industry compared with other major industries.

B. Review and assess changing labor force characteristics of the coal industry in comparison with other major industries.

C. Review and assess compensation patterns in the coal industry in comparison with other major industries.

D. Review and assess health and safety in the coal industry with other major industries.

E. Review and assess the role of and extent of labor management training programs in the coal industry in comparison with other industries.

F. Review and assess current grievance and arbitration procedures reinforcing what is already underway through seminars and training.

G. Review and assess the role of training programs in improving current and future relations between labor and management. Special emphasis could be given to:

1. Supervisory training in leadership skills and in contract administration.

2. Union officer and committeeman training in leadership skills and in contract administration.

3. Safety training, looking especially at joint efforts over the last two contracts.

H. Review and assess administrative impediments to the health care benefits program under the current Bituminous Coal Wage Agreement.

I. Undertake a review and assessment relating to:

1. Compensation Systems.
2. Supervisory Training.
3. Absenteeism.
4. Contract Administration.
5. Job Safety.

J. Review and assess issues relating to collective bargaining.

III. Living conditions of miners and their families:

The growth of coal production will bring increased pressure on existing coal communities in the Eastern areas and new rapid growth problems in the West. These new pressures are part of the social and human costs of coal expansion and influence the miner's attitude toward his work, his life, and his place in American society.

Commission work in this area could:

1. Review and assess the adequacy of housing opportunities:

Land availability.
Credit availability.
Construction availability.

2. Review and assess the adequacy of roads, transportation.

3. Review and assess the adequacy of water and sewer systems.

4. Review and assess the health, welfare, and social services in coal communities.

5. Review and assess the recreational and cultural opportunities.

6. Review and assess impacts on community strength and cohesion.

IV. Government regulations as they affect the production and use of coal:

More than thirty organizational units in at least twelve federal departments and agencies are engaged in activities affecting coal production, transportation and use.

The more important of those units and their program authorities are listed below:

Department or agency and regulatory/program authority:

Department of Energy: Conversion to coal use by utilities and industry through regulation. Leasing of publicly-owned lands (with Interior). Regulation of electrical utilities.

Department of Interior: Classification of public lands. Regulation of operations on leased coal lands. Regulation of surfacing mining. Regulation of surface effects of underground mining. Leasing and operations of publicly-owned mines (with DOE).

Department of Agriculture: Leasing and leasing operations on publicly-owned lands controlled by the Department (Forest Service).

Department of Labor: Regulation of coal mine health and safety (MHSA).

Environmental Protection Agency: Air quality standards and regulations. Water quality standards and regulations. Toxic materials regulations.

Corps of Engineers: Dredge and fill operations in navigable waters.

Interstate Commerce Commission: Regulation of railroads and coal slurry pipelines.

Not included in this list, but just as important, are branches of the Executive Office of the President which formulate and coordinate Administration policies (especially the Council on Environmental Quality which overseas compliance with statutory requirements for environmental impact statements under the National Environmental Policy Act); Department of Treasury (tax policy); Justice (antitrust and other litigation); and departments, agencies, or elements of these which comment upon environmental impact statements which may impact upon coal related federal actions.

Many now argue that the national price to be paid in terms of inflation, unemployment, declining productivity, and strategic dependence upon foreign sources of energy, requires a hard look at the cumulative impacts on the coal industry of federal policies, programs, procedures and regulations.

These impacts can be generally classified under one or more of the following categories:

1. Those intended to increase production and utilization of coal—such as research and development toward new uses or improved methods for existing uses, and regulatory policies which would force, or tax policies that would provide incentives for, existing users of other fuels to convert to coal.

2. Those which, because they increase the cost involved in the production, transportation, and utilization of coal—such as environmental standards under the Clean Air Act and Surface Mining Control and Reclamation Act—may affect its competitive position relative to other fuels.

3. Those which may cause excessive delays or uncertainties for potential users of coal—such as permit procedures for opening of mines or constructing electric generating facilities. While the delays may be translated into additional costs for using coal, the uncertainty of delay imposes an additional burden, which may in the end be more damaging than increased cost.

4. Those which mandate an outright ban on the production or use of coal.

With respect to the effect that public sector laws, regulations, incentives and disincentives have or may have on coal's potential as a future energy source the Commission could:

1. Review and assess the cumulative impact of government policy on the availability, cost, and use of coal as a future energy source.

2. Recommend, as appropriate, changes in laws, regulations, administrative structure and procedure that would allow for greater reliance on coal as a future energy source, consistent with meeting other national objectives.

3. Identify, as appropriate, those areas in which there may be conflict between increased utilization of coal, on the one hand, and other national objectives on the other, and recommend ways of resolving these conflicts.

4. Review and assess the potential contributions that R&D and new technologies and processes might make in reducing the impact of government policy on coal utilization.

It should be noted that regulations under the Clean Air Act amendments of 1977 and the Surface Mining Control and Reclamation Act of 1977, which will have an impact on the production and utilization of coal, will be formulated during the life of the Commission. The Commission may wish to:

1. Provide input into the process on those matters consistent with its mandate under Executive Order 12062, or

2. For practical, and strategic considerations, take a longer term perspective and hold all recommendations until its final report.

ATTACHMENT II

REMARKS OF GOV. JOHN D. ROCKEFELLER IV

This obviously is going to be a very tough, difficult, controversial and important year for coal in this country. One year from today we will present our findings and recommendations as a Commission to the President and to the Secretaries of Energy and Labor.

It is very clear that the energy crisis transcends virtually all other crises for this nation. The President has recognized this in declaring the energy crisis the moral equivalent of war. We desperately need to cut down on oil imports. Coal is the best way to do that. We have a great deal of coal, and the President has asked us to double its production. Yet with all of this emphasis on coal, I think it is fair to say that there is no major industry in this country which faces greater problems.

Therefore, as a Commission we have an historic opportunity to help clarify some issues and to point the way on others. No one else, really, since the mid-1920's has tried to take on this problem in the way that I think we can.

What is totally clear is that unless multiple interests—business, finance, labor, federal and state government, environmentalists, people from the east, people from the west, union members, non-union members, miners and operators themselves—put a greater effort on cooperation in the realization of our shared interest in the future of coal, this country is going to be severely let down, and painfully so.

I, as Chairman, want to make it very clear that I fully understand that we will be walking on controversial ground, and that we will be getting into areas which have been either off-bounds or have not been touched or probed for a generation or two. But I am utterly determined that this Commission will make a difference, that we will help the future of coal and those who mine it, and that we will therefore essentially be helpful to the interests of the people of this country.

As a Commission we will be tough. We will be probing. We will be fair. We will be non-ideological. We will be practical. We will be concerned for the safety and the living conditions of miners as much as for the enhancement of the investment dollar. We will try to be fair on all issues, as between east and west, between surface mining and deep mining, union and non-union, BCOA and independent, large operator and small, production and safety, production and environment, production and the human dimension.

I do want all to understand realistically that we have no authority as a Commission, that we have no absolute power as a Commission, except as we are persuasive to the national purpose. I want, therefore, all to understand that I, as Chairman, recognize our limits. We will have less than $1.5 million, less than 20 people, only one year, and a history of conflict and bitterness and mutual intransigence to deal with.

I choose to look to the present and to the future, and I choose, as I am sure you do, to be utterly sincere, committed, and intense in our efforts, with our hearts full of hope and full of determination.

This will not be, under my chairmanship, just another commission. My purpose and our purpose is positive. I, along with you, want to be able to enhance the position of coal in our nation's future, and to enhance the opportunities for both labor and capital, and, most important of all, to enhance the possibility for this nation to meet its responsibilities to its citizens.

ATTACHMENT III

REMARKS OF SENATOR CHARLES H. PERCY

Mr. Chairman, fellow members of the Commission, ladies and gentlemen. It is an honor for me to be here today as we begin our evaluation of the U.S. coal industry. I would like to express my appreciation at being appointed to this Commission. I am looking forward to working with such a distinguished and diverse panel of experts.

This Commission can make significant contributions towards clarifying many of the confusing and frustrating problems now facing the industry, its employees, and the thousands of other Americans whose life it affects. The six Congressional members of the Commission are acutely aware of the need to come to grips with those problems. The five States which we represent—Alabama, Illinois, Kentucky, Pennsylvania and West Virigina—accounted for 58% of this nation's coal production in 1977. We thus represent thousands of Americans whose lives have been directly affected by the mining and processing of coal. Many of them have paid dearly in terms of illness, injury and personal sacrifice in order to supply us with a vital form of energy. Their concerns about the future of the industry and its present problems must be answered.

In order for the Commission's work to be successful, our investigations should be broad in scope and open to public input. We must be as sensitive to the prospective mine developer in Wyoming confronted by a lengthy and frustrating permit issuing process as we are to the Appalachian miner in need of decent housing for his family. We must listen to both sides of every issue, and work to bring ourselves in touch with the realities of the industry. This Commission should not operate on a pedestal.

As I look at the coal industry today, I see several areas where the Commission can make especially significant and timely contributions. One of the most important of these is labor-management relations. We seem to have entered a period in which there is a growing realization in the coal industry of the potential value of increased cooperation between labor and management. There is hope that several provisions of the 1978 UMWA contract, such as improved grievance procedures and voluntary bonus plans for increased productivity and safety, will work to reduce traditional hostilities.

It is vital that the Commission moniter and evaluate the progress being made in this area. One way we can do that is by cooperating closely with the Joint UMWA-Industry Development Committee, which was established by the 1978 contract. The Committee consists of three representatives from coal industry management and three from labor, including my friend Ken Dawes, president of the UMWA District 12 in Illinois. It is becoming an important forum for the discussion of issues of concern to both labor

and management, and this Commission should try to work closely with it.

The Commission can make another important contribution by evaluating the effects of government regulations on the industry. The past decade has witnessed an outpouring of new laws and regulations. While these regulations have vitally important objectives, they have at times been poorly administered and unnecessarily difficult to comply with. The costs of inefficient regulations weigh heavily on the industry and its employees, and ultimately on consumers as well. We must identify ways to improve the regulatory process without compromising its important objectives.

A third area which I believe the Commission should investigate is the problem of crime in the coal industry. Recent federal and state investigations of the coal industry have revealed an alarmingly high incidence of crimes involving fraud. Those crimes are often highly sophisticated and interstate in nature. Hardest hit have been small independent coal producers, although insurance and loan companies have been victimized as well. The Commission could make a valuable contribution by estimating the total costs of coal industry crime, and by identifying the nature of its impact on the industry. It should also review the adequacy of current federal and state investigatory efforts.

Lastly, I would like to suggest that the Commission try to get input from Sir Derek Ezra, Chairman of the National Coal Board of Great Britain. During his thirty-one years with the Board, Sir Derek has confronted many of the problems common to both the British and American coal mining industries. He is also knowledgeable about the international coal market, which has serious implications for certain segments of our industry. His firsthand experience with these problems could prove to be an invaluable resource to the Commission.

In conclusion, I am pleased at having been given this challenging opportunity to serve the coal industry and the Nation. When I sponsored a conference on the future of coal in Carbondale, Illinois last December, I received great satisfaction from working closely with coal operators, equipment manufacturers, labor representatives from District 12 of the UMWA, and other industry leaders. The opportunity to work with the members of this Commission is equally exciting, and I am looking forward to it with enthusiasm.

REFORM BILL STARTED IN FORD ADMINISTRATION

Mr. PERCY. Mr. President, I am pleased to rise in support of the passage of the conference committee report on the Air Transportation Regulatory Reform Act of 1978. It has been a long, hard, uphill struggle to reach this historic vote. Many individuals and organizations deserve credit.

First among them is President Ford. Basically regulatory reform has been a Republican idea that was spawned and nurtured by former Secretary of Transportation William T. Coleman, Jr., and former Civil Aeronautics Board Chairman John Robson.

Their early successes in implementing reform were amplified and expanded upon by President Carter and Civil Aeronautics Board Chairman Alfred Kahn. There is little question that Fred Kahn has proven to be one of the most outstanding appointments of the Carter administration. Without waiting for the passage of this legieslation, he has boldly and courageously encouraged competition among the airlines by approving new routes expeditiously and permitting the airlines to lower fares to virtually any level they deem fit.

Chairman Kahn's initiatives and those of his predecessor John Robson demonstrated to critics of a less regulated airline environment that the marketplace was a far better judge of what kind of airline service we wanted in this country than the Civil Aeronautics Board that was sitting as some sort of super board of directors.

We all know the results of less regulation: Record profits for the airlines, the lowest air fares in years for the travelling public, and a booming aircraft manufacturing industry.

Virtually every poll indicates that inflation—as it should—is the No. 1 issue on the minds of the American public. Many of us have contended that the heavy hand of Government regulation has been a major contributor to the inflationary spiral. And, here, we have proof that with less Government regulation airline fares have dropped dramatically despite significant increases in fuel and labor costs to the airlines.

In terms of framing airline reform into meaningful legislation, credit should be given to Senator HOWARD CANNON, Senator JAMES PEARSON, and Senator EDWARD KENNEDY. All of them played a key role in leading to the vote. Additionally, United Airlines and Sears, Roebuck & Co. were early and enthusiastic supporters of reform.

The skies above the horizon look brighter with the passage of this conference committee report. In my own city of Chicago, the first major interstate airline certificated by the CAB since 1938 is now drawing up final plans to begin low-fare service from Midway Airport to three Midwestern cities next spring—and without special restrictions or capacity limitations.

I ask unanimous consent that an excerpt from a recent Civil Aeronautics Board decision supporting additional service at Midway Airport be printed in the RECORD. It deserves careful reading because of its superb analysis of why the marketplace is a better regulator of the airline business than the Government.

There being no objection, the decision was ordered to be printed in the RECORD, as follows:

CAB DECISION

The fundamental theory of our national life is that, in most situations where sellers are prepared to sell and buyers are prepared to buy a service or commodity, both the greatest satisfaction of consumer desires and the most efficient use of resources will take place where sellers are left free to compete in offering their wares or services and buyers are left free to select the wares or services which most appeal to them at prices which both buyers and sellers find acceptable, with the government keeping out of the way except to prevent violence, fraud, deceit, monopoly, predatory practices, and avoidable threats to life and health. This is "the market" at work. To be sure, there are a small minority of situations where "the market" does not operate satisfactorily, most often because the buyers in a particular area have access to only a single seller and it is difficult or impossible for new sellers to enter. In these situations the government—usually by means of an administrative agency—intervenes to prevent the seller from abusing his monopoly power. But outside of these exceptional situations it has not been our national philosophy that any group of government officials, however well intentioned, should substitute their judgment for that of the individual buyers and sellers in the marketplace.

In 1938, in the wake of the Great Depression, the Congress thought it discerned a danger that the infant air transportation industry, then heavily subsidized through mail pay, would fall into a condiiton of destructive competition that would end either in the failure of all the competitors, so that the public would receive no air service at all, or in the monopoly domination of the market by one or a few carriers. To avert this danger, and to administer subsidy more fairly than before, Congress set up this Board and endowed it with extensive powers over which carriers would be allowed to enter the marketplace, where they would be allowed to fly, what services they would be allowed to offer, and what prices they would be allowed to charge. This Board has labored mightily for forty years, keeping most newcomers (except those flying small airplanes) out of the market, choosing "the best" one or two or three from among the established carriers to serve each route, and preventing the carriers from either raising or lowering their prices more than the Board thought reasonable at the time. In the process, the Board has interfered pretty extensively with the consuming public's freedom to choose the air services it liked best; but it was all done in the name of what was then viewed to be the higher public good.

Today, however, air transportation is no longer a struggling infant industry, but a mature giant hundreds of times larger than in 1938. Subsidy is no longer a central feature of the system; the major carriers receive none, and even the remaining subsidized carriers for the most part receive only a small fraction of their revenues from this source. Rather, the driving force of the system is consumer demand. We have reassessed our policies, we have studied the present-day economics of the industry, and we find that, in the Midway and Oakland markets at least, and in a number of other markets we have investigated, there is no discernible danger of the kind of destructive competition Congress feared in 1938. In the light of Congress's own express mandate for competition in section 102 of the Act, and the broad discretion the Act gives us, is it not then our plain duty to get out of the way as much as we can and let the consumers in these markets select the air transportation services they prefer, as they select the hotels and resorts and automobiles and newspapers and soft drinks and toothpaste which most appeal to them? And must we stick to our old practices simply because of the possibility that the public's choice of air carriers and air services may turn out to be different than ours would have been? What warrant have we to assert that our choice would be "better" than theirs?

TAXES

Mr. PERCY. Mr. President, I am pleased by the action of the Senate in defeating an attempt to repeal the deferral of taxes on foreign source income.

In my opinion, the decision on the foreign tax "deferral" system that the U.S. Senate should make should turn on only one factor: What will be the consequences?

Let us face it, the facts have been in dispute.

First are the basic facts on American foreign investment. There was a theory that American companies invested over-

seas to ship goods back into the United States. The Senate Finance Committee was very concerned about this in the past. It called upon the Tariff Commission, now the International Trade Commission, to conduct an exhaustive study on those allegations, and published its report in 1973. I think its conclusions have been upheld ever since. Here is what the Commission concluded:

> Industries characterized by heavy overseas investment in productive facilities appear also to be those which not only contribute most heavily to U.S. exports but also have the least impact on the upsurge of U.S. imports.

Now we have official studies and private estimates showing that from one-fourth to nearly one-half of total U.S. exports go to foreign affiliates of U.S. firms. Secretary Vance said in February of this year that nearly 10 million American jobs depend on U.S. exports. This means that between 2.5 million and 5 million American workers are producing exports to foreign affiliates of American companies.

To me, that settles the question of whether or not we should support our country's private foreign investments. Of course, we should. U.S. overseas investments do not produce many imports to the United States, they generate billions in badly needed exports.

What is more, every year they bring in billions of dollars of earnings from abroad. This is a big plus factor in our balance of payments. In 1977, the net amount brought home was $11.5 billion over the outgo. In the past decade this positive contribution has amounted to $65.4 billion.

What about foreign tax "deferral"? Business spokesmen have consistently said that they needed this system to stay competitive with foreign companies. They have also argued that if it were ended, U.S. companies would have to pay higher taxes, but that the additional taxes would end up in foreign treasuries because foreign governments collect extra tax on earnings that leave their countries. These are called withholding taxes.

Even the U.S. Treasury agreed. On June 29, 1976, there was a letter in the R53*84 to Senator Brock from the Treasury saying that the gains on paper of $365 million to the U.S. Treasury if deferral were ended could turn into a $375 million loss if companies acted in their best interests by incurring higher foreign withholding taxes.

This year, Arthur Anderson & Co. did a study using actual tax records of 88 companies for the year 1976. This was a rich sample. The participating companies are estimated to account for 37 percent of U.S. foreign manufacturing profits.

It is true that business sponsored this study, but the reputation of Arthur Andersen & Co. for objectivity needs no defense.

The results show that the U.S. Treasury would only obtain increased revenues if everything stayed the same. The companies would then have paid $206 million more in U.S. taxes. But, if they acted in their best bottom-line interests, the results would be far different. The U.S. Treasury would collect $153 million less while foreign governments would have a windfall in withholding taxes of $377 million.

These facts were not available to the experts in the Departments of State, Treasury, and Commerce when they prepared options papers for the administration on foreign tax deferral but the experts guessed that companies would change their repatriation patterns in their best interests and the experts advised against changing the deferral system.

Now we have better facts. Understandably, the Treasury is seeking to defend the administration's position by questioning the finality of the Arthur Andersen & Co. study. In doing so, they are casting doubts on their own previous judgments and on commonsense.

No study is perfect or even the last word. But I think at long last we have the facts we need to know that deferral is still the best bet for helping our companies compete and for maximizing U.S. tax revenues from foreign source income.

AIR REFORM BILL STARTED IN FORD ADMINISTRATION

Mr. PERCY. Mr. President, shortly, the Senate will join the House in passing the conference committee report on the Air Transportation Regulatory Reform Act of 1978. It has been a long, hard, uphill struggle to reach this historic vote. Many individuals and organizations deserve credit.

First among them is President Ford. Basically regulatory reform has been a Republican idea that was spawned and nurtured by former Secretary of Transportation William T. Coleman, Jr., and former Civil Aeronautics Board Chairman John Bobson.

Their early successes in implementing reform were amplified and expanded upon by President Carter and Civil Aeronautics Board Chairman Alfred Kahn. There is little question that Fred Kahn has proven to be one of the most outstanding appointments of the Carter administration. Without waiting for the passage of this legislation, he has boldly and courageously encouraged competition among the airlines by approving new routes expeditiously and permitting the airlines to lower fares to virtually any level they deem fit.

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Virtually every poll indicates that inflation—as it should—is the No. 1 issue on the minds of the American public. Many of us have contended that the heavy hand of Government regulation has been a major contributor to the inflationary spiral. And, here, we have proof that with less government regulation airline fares have dropped dramatically despite significant increases in fuel and labor costs to the airlines.

Because of their persistent efforts and foresight, much credit should be given to Senator HOWARD CANNON, Senator JAMES PEARSON, and Senator EDWARD KENNEDY. All of them played a key role in leading to the vote by patiently building support for this legislation by arranging for an impressive set of hearings that documented the need for reform. Additionally, United Airlines and Sears, Roebuck & Co. were early and enthusiastic supporters of reform.

The skies above the horizon look brighter with the passage of this conference committee report. In my own city of Chicago, the first major interstate airline certificated by the CAB since 1938 is now drawing up final plans to begin low-fare service from Midway Airport to three Midwestern cities next spring—and without special restrictions or capacity limitations.

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marketplace, where they would be allowed to fly, what services they would be allowed to offer, and what prices they would be allowed to charge. This Board has labored mightily for forty years, keeping most newcomers (except those flying small airplanes) out of the market, choosing "the best" one or two or three from among the established carriers to serve each route, and preventing the carriers from either raising or lowering their prices more than the Board thought reasonable at the time. In the process, the Board has interfered pretty extensively with the consuming public's freedom to choose the air services *it* liked best; but it was all done in the name of what was then viewed to be the higher public good.

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EXPORT CONTROLS

Mr. PERCY. When I first came to the Senate 12 years ago I began work on the Banking Committee to revise and update a law then called the Export Control Act to bring it into line with our true national interest. The essence of our changes at that time were to scale down drastically the strategic test by permitting American companies to sell product to Communist countries if such product was available from other sources besides the United States.

Mr. President, on September 26 the President announced his export promotion program. It was one that had been eagerly awaited by many, because of the continuation of our balance-of-payments deficit. Although export incentive programs have been revealed by previous administrations, there is particular urgency to the implementation of a meaningful program now. The dollar is at new lows in the foreign exchange markets, because of our hefty trade deficit. This is in turn exacerbating inflation at home.

In announcing his export program, the President outlined many steps he felt could be taken to place a higher priority on our export sector. He noted that he was "directing the Departments of Commerce, State, Defense, and Agriculture to take export consequences fully into account when considering the use of export controls for foreign policy purposes. Weight will be given to whether the goods in question are also available from countries other than the United States."

The business community has for some time suggested that some of the restrictions on our exports did little to accomplish the aims of the restrictions. At times, it has even appeared that the restrictions were counterproductive.

Mr. President, this is an important area of concern for Congress and I am pleased that the Senate Banking Committee has taken the initiative to undertake hearings on the use of export controls for foreign policy purposes.

One of several witnesses who appeared before the committee on October 10 was the chairman of the Board of the Hewlett-Packard Co., David Packard. Mr. Packard has raised a number of valuable points in his testimony and I would like to commend it to my colleagues for consideration.

Mr. President, I ask unanimous consent that the statement of David Packard be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF DAVID PACKARD

Mr. Chairman and Members of the Committee: I appreciate the opportunity to appear before you today to discuss the use of U.S. export controls and export credits for foreign policy purposes. This is a subject of great importance to our country today not simply because of the direct effect of our export policies abroad, but also because they have a significant impact, on a continuing basis, on our balances of trade and payments. This in turn has an effect on inflation and economic growth here at home and on our credibility with our friends and allies around the world.

I am appearing before you today as an individual, not as a representative of any group, although I believe my views on this subject are shared by a majority of people in the U.S. business community. The Hewlett-Packard Company, of which I am Chairman of the Board, is a major manufacturer of high technology electronics products. Our sales this year will be in the range of $1.6 billion, with about half outside the United States. We estimate that over 8,500 of our employees in this country owe their livelihood to our international business.

In this statement I will confine my remarks to three areas: first, the traditional use of export constraints for national security and foreign policy purposes with respect to the Communist countries; second, their more recent and generalized use for foreign policy purposes with respect to the other countries of the world; and last, after indicating how more consistent and stable arrangements will better serve our national interest, some recommendations on how an improved trade policy might be achieved.

EXPORT CONSTRAINTS WITH RESPECT TO THE COMMUNIST COUNTRIES

I want to emphasize before discussing the use of export constraints with respect to the Communist countries, principally the Soviet Union and the People's Republic of China, that I claim no special expertise in this matter despite my long interest and involvement. The major lesson I learned during the three years I was with the Defense Department is that this is a very complex as well as an important subject and it deserves carefully developed policies and procedures.

I assume that there is basic agreement that important national security aspects take precedence over the general U.S. policy to support and encourage trade on a world wide basis. In the case of the USSR and the PRC, export controls for national security purposes have been based largely on the fact that the United States has a considerable technical superiority in terms of military weapons capabilities. This is much more important in relation to the USSR than it is with the PRC because the Soviet Union has built up its military capabilities extensively and continuously over the last ten years or more. We have, as you know, recently followed the same general export control guidelines with respect to both of these countries regarding transactions which might jeopardize U.S. technical superiorities.

There is quite a range of opinion as to how far we should go in exporting high technology products to the USSR and the PRC. Some people take a very hard line and would limit the export of any such products, even those which are clearly useful only for domestic, non-military requirements. Their theory is that the need to provide such products would force these countries to divert more of their resources, both economic and scientific, from their military build-up.

Others feel we should relax our controls because the USSR and the PRC will be able to obtain whatever they need in the way of high technology products anyway. This view holds that at best our tight export controls only slow up the military programs of these countries, and we might find compensatory benefits in the way of reduced tensions from a more relaxed policy.

I believe the way in which we currently apply export controls to national security issues is about right, but I believe we are missing a very important point. Let me describe this to you.

The export of specific high technology products such as computers is, in my view, not as serious a problem as it is often made out to be. In some cases, the Soviets can obtain comparable equipment through commercial channels from other countries. If this proves difficult they can always obtain a sample or two including key technical information through other means. Thus the question is not whether we can really prohibit them from obtaining the advanced technical products and knowledge they seek, but rather whether we make the process easier or harder for them. I have no trouble with a control policy which makes it more difficult for the Soviets to obtain key technical products and knowledge, but we should understand that when we make export licensing decisions on this basis that this is all we are able to do.

There is another national security aspect that I do not believe is very well understood. The USSR has in fact very high technical capabilities. Over the years their scientists have made many contributions to the advancement of knowledge, and most basic technical information not already in the Soviet Union is readily available to their scientists from Western sources through publications, conferences, and private exchanges among scientists.)

The USSR does, however, have a serious weakness in its general ability to put its scientific knowledge to use in practical applications. This can be done fairly well in high priority areas such as in military and space projects. The Soviets, for example, were first to put a satellite in space, not because they had any edge in scientific knowledge, but rather because they decided it was desirable to do and we did not. We were able to catch up very quickly and put a man on the moon while they have not yet done so.

We are ahead of the Soviets in this and in other important areas, not because our scientific knowledge is superior, but because we have a substantial superiority in reducing scientific knowledge to practice. Scientific

and political leaders in the USSR recognize this inherent weakness in their system and are anxiously seeking improvements. One of the ways is to try to get high technology companies from the West to build "turn-key" plants which would make high technology products in the Soviet Union. Our company has been approached as have many others. I believe there are good business reasons why it is not desirable for a U.S. company to consider building such a plant in the Soviet Union, or for that matter elsewhere in Eastern Europe. There are even more important national security reasons why this should not be done. I for one would like to see us move toward more restrictive controls over this and other types of technology transfer which would help the Soviets put their scientific knowledge to practical use. If we had more effective controls in the area of technology transfers, I believe we could liberalize to some degree the export of high technology products.

As we move away from a consideration of national security issues, I think we have a wider range of options in regard to the use of export controls and export credits in our national interest.

Economic considerations should have a very high priority. U.S. exports support many jobs here at home, and inflation is fueled by our inability to keep our exports and imports in better balance. I believe encouraging trade in peaceful goods and services with the USSR, the Socialist countries of Eastern Europe, and the PRC is an important way to increase U.S. jobs and fight inflation. U.S. exports to the USSR increased from about $120 million in 1970 to slightly over $1.6 billion in 1977, while our imports have increased from $72 million to $234 million during the same period. This contributed a net $1.4 billion to the positive side of our balance of trade in 1977, and if we include trade with the countries of Eastern Europe and the PRC, a net of about $2.6 billion was generated to support the positive side of our trade balance in 1977. For 1978 the positive net contribution to the U.S. trade balance is estimated to be $1.7 billion for the USSR and $2.6 billion for all the nonmarket countries as a group.

Despite large percentage gains, however, we have not been able to develop our trade with the USSR and most of the other Communist countries to anywhere near its real potential. Some of the reasons for this are the withholding of "most favored nation" treatment from the USSR and restrictions placed on export credits both of which, as you know, by congressional action. More recently, and most notably in the denial of a computer system to the news agency TASS, the Administration has also used export controls in an effort to influence Soviet behavior in the area of human rights.

No one can quarrel with the lofty goals underlying these actions; but I for one do not believe they have achieved a useful purpose. In fact, they probably have had a counter-productive influence on Soviet attitudes and actions.

There is no doubt that our constraints have caused a loss of export business for the United States. Soviet officials I have talked with have stated this clearly, and most U.S. companies who made long-term plans and investments to increase exports to the USSR—in our case this included opening a Moscow office—have been disappointed in the progress they have been able to make. There has clearly been an economic cost to the use of these constraints in terms of lost jobs and further deterioration in our balance of trade.

There is another cost which, although difficult to quantify, is nevertheless of considerable importance to our national interest. This is the fact that our use of these constraints has clearly raised the level of Soviet mistrust and encouraged attitudes of hostility.

I am quite certain the leaders of the Soviet Union understand our rationale for controlling exports which involve real national security issues. They would do the same thing if they were in a position to do so. However, they clearly resent our attempts to influence matters which they consider to be their own internal affairs.

Now, I do not believe any level of trade would do much to resolve the basic differences between the free world and the Communist world. Certainly not in any short period of time. Further, I cannot find much historical support for the theory that trade among nations reduces conflict or helps to avoid war. Never before, however, has there been such awesome military power in the possession of two nations, the U.S. and the USSR, each with the ability to destroy each other and neither possessing useful defense capabilities. It seems to me that this extremely dangerous situation puts a very high premium on *any* action which will keep tensions at the lowest possible levels and minimize unnecessary conflicts.

Trade, by helping keep communications open, encouraging better twoway understanding, and developing personal friendships, may help to reduce tensions and minimize conflicts. For these reasons I believe increased trade in non-strategic goods and services is vitally important and should be kept firmly in mind whenever we apply or consider applying export controls and other constraints to the USSR and the other Communist countries. I believe that outside the realm of national security we should reduce the constraints on trade—export controls and limitations on export credits—to the Communist countries and extend "most favored nation" status to the Soviet Union.

EXPORT CONSTRAINTS WITH RESPECT TO OTHER COUNTRIES

Let me turn now to a more generalized consideration of the use of export controls and export credits to influence the policies and behavior of other countries.

Until the present Administration took office little was attempted, outside our relations with the Communist countries, to use export constraints to harness the international activities of U.S. business for foreign policy purposes. However, President Carter, making good his campaign promise to "restore the moral authority of this country in the conduct of foreign policy," has included use of these constraints in an activist foreign policy with a strong emphasis on human rights.

The Congress has generally supported and sometimes even been in advance of the Administration's efforts to inject a greater moral emphasis into U.S. foreign policy. At the present time, for example, congressionally mandated concern for human rights is expressed in a number of measures including those suporting Foreign Assistance, various international financial institutions, the Overseas Private Investment Corporation, and Public Law 480.

Within the past eighteen months or so a number of restrictions for U.S. foreign and domestic policy purposes have been placed on U.S. private commercial activities with various Western countries. To name a few: the development and implementation of a comprehensive set of anti-boycott measures; further restrictions on the ability of U.S. firms to do business with South Africa; the denial of heavy duty trucks to Libya; the denial of Ex-Im financing for various programs, most notably and recently the long delayed off-again, on-again decision relating to electric generating equipment for an Argentine hydro-electric project; lengthy licensing delays and denials of various transactions to Argentina, Chile, and other countries the Administration has identified as gross human rights violators, etc.

I don't think such unilateral constraints are effective in changing the policies or the behavior of the target countries. In fact, I think about the only thing they can be guaranteed to do is lose business for the United States.

First, since our foreign policies reflect our sense of values, others are likely to resent them as being highly subjective. In the area of human rights, for example, not all nations agree with our emphasis on personal rights; a number consider economic and social rights more important. Also, U.S. policies are not applied consistently. We have little economic leverage over some of the worst offenders, and complain very little about some of them because of their overriding strategic importance to the United States. For these and other reasons, I'm sure it appears to many that U.S. human rights policies mainly affect the poorer countries, countries that are neither economically nor strategically important to the United States.

Second, our country is not a unique source of supply these days, so once U.S. exports are denied the target country usually can and will obtain comparable products and services elsewhere. In addition, denial or threat of denial builds suspicion and resentment. Under the circumstances, even if we relax our constraints, the reputation of U.S. firms as "unreliable suppliers" will continue and much of the business will likely remain in the willing hands of our foreign competitors. This is particularly true if the country fears we might reimpose restraints, and especially if the products are high technology items requiring skilled servicing and U.S. parts and components.

The reputation of U.S. firms as being "unreliable suppliers" is likely to spread to other countries which feel they may be hit next with U.S. constraints. To avoid potential disruption, I think such countries will place their business elsewhere. The "ripple" effect that results could easily snowball into a major detriment to U.S. exports and, of course, U.S. employment.

Another problem that U.S. business faces is that the people in the Administration charged with deciding foreign policy cases—particularly human rights cases—are not very sensitive to the economic consequences of their decisions. The State Department sees a denial or threatened denial of a commercial transaction as a way of "signaling" another country to change its behavior. Changes, if they occur, take time, so State is in no hurry to make a final licensing decision, and further, fearing that such changes doesn't want to say much of anything about its successes or failures.

All the businessmen I know want to avoid this kind of a fluid situation. We want a degree of certainty and firm, predictable rules before we invest time, money and effort into marketing abroad. Businessmen are very sensitive to real or perceived impediments, so the "signal" we are likely to get from denials, threatened denials, or long licensing delays is that "it's all a political game", a game in which we are likely to be the losers. Under the circumstances, who can blame us if e shift our attention away from exports and other international activities. And all this at a time when our country vitally needs increased exports to provide U.S. jobs and to correct an even-worsening balance of trade!

RECOMMENDATIONS

I am pleased that the President in his September 26, 1978, statement on U.S. export policy recognized some of the difficulties involved in using export constraints for foreign policy purposes. In this statement he directed ". . . the Departments of Commerce, State, Defense and Agriculture to take export consequences fully into account when considering the use of export controls for foreign policy purposes." The President added, significantly I hope, that "weight will be given to whether the goods in question are also available from countries other than the United States."

I am convinced that our national interest would be better served with more consistent and more stable trading policies. The development of these policies should involve the Defense, State, Commerce and Treasury Departments and should also involve, in some form, the White House and the Congress. I think it would be desirable to establish an arrangement whereby the four Executive departments I have mentioned and the appropriate committees of the Congress could thoughtfully and unemotionally review and provide advice on all policies and policy changes before they are implemented. It may not be feasible to accomplish this with specific legislation, but perhaps this committee could help by making some appropriate suggestions to the parties concerned.

I also think that the Congress should consider the damage export constraints can do and face squarely up to its own support of the unilateral use of these devices for foreign policy purposes. After reviewing the problems I think the Congress should include some strong guidelines in the Export Administration Act when it comes up for amendment and extension next year.

For example, I think the Act should clearly state the opinion of the Congress that any decision to use export controls for foreign policy purposes should be undertaken only: (a) to support clearly defined major U.S. foreign policy objectives, (b) when based on an adequate amount of factual information, (c) when the likelihood of such unilateral action will cause a desirable change in behavior in the target country, (d) where the commodities cannot be obtained readily from . . .

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OUR REGULATORY AGENCIES: COMPREHENSIVE "SUNSET" REVIEW NEEDED

Mr. PERCY. Mr. President, much of this Senate session has reflected an overriding concern on the part of the American public with our regulatory bureaucracies. We are responding to the cries of citizens who feel that their Government has become an obstacle and an adversary instead of an aid.

Last Wednesday, we passed the Sunset bill. I was pleased that the Senate accepted my amendment which included regulatory agencies in the Sunset review process in such a manner as to insure a comprehensive evaluation and review of their continuing role and performance. The amendment was based on a measure, S. 600, which I introduced early in the 95th Congress together with Majority Leader ROBERT BYRD and Governmental Affairs Committee Chairman ABE RIBICOFF. Under my amendment, regulatory agencies will be subject to review every 10 years, beginning with an assessment and legislative plan submitted by the President. This will allow us to eliminate wasteful regulatory programs which burden both the Federal budget and the American taxpayer.

Mr. President, allow me to insert in the RECORD a fine article from last Sunday's Chicago Tribune, entitled "The Bureaucrats Who Shape Our Lives," by Raymond Coffey. I hope that it will serve as both an encouragement and a warning to us. The public and the press are as alert as we are to the pervasiveness of Government influence and the problems of administering large bureaucracies.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

[From the Chicago Tribune, Oct. 8, 1978]

THE BUREAUCRATS WHO SHAPE OUR LIVES

(By Raymond Coffey)

WASHINGTON.—In 1789, in the first year of the first term of the first President, George Washington, that American sage Benjamin Franklin wrote "in this world nothing is certain but death and taxes."

It would be hard to get an argument on that even now, nearly 200 years later. The Internal Revenue Service is the government institution that has the strongest and surest impact on the lives of Franklin's countrymen.

But through the years and through the rollcall of Presidents, the number and variety of government agencies has bloomed and multiplied to the point where the current President won his way into the White House by attacking the size of government and its interference in people's lives.

That same President who promised to tame and reduce the "bloated bureaucracy" has now created a new Department of Energy and is trying to create a new and separate Department of Education.

He has also promised, President Carter has, to keep his Agriculture Department spending millions of dollars to keep farmers growing tobacco while at the same time his Health, Education and Welfare Department is spending millions more to get people to quit smoking tobacco.

For all the public outcry about wanting to get government off its back, most people still would seem to find most government agencies hard to live without in these increasingly complex times.

These are some of the government agencies which, while not so inevitable as death and the IRS, most directly, immediately, and constantly affected Americans in their everyday lives:

POLLUTION CONTROL

The Environmental Protection Agency [EPA] recently launched an investigation to determine if miscarriages suffered by 10 women in a tiny Oregon mountain town were caused by herbicide spraying in nearby forests.

The investigation resulted from a letter written to the EPA by schoolteacher Bonnie Hill and seven other women in Alsea, Ore., which claimed there was an "incredibly close correlations" between the dates of their and other women's miscarriages and the dates between 1973 and 1977 when the forests were sprayed.

This case illustrates the close and detailed impact the EPA is having on American life in the few years since the nation became acutely aware of and concerned about its environment and the impact of technology upon it.

The EPA was created in 1976 to protect and enhance the nation's natural environment, to control and abate pollution in the areas of air, water, waste, noise, radiation and toxic substances.

Nationwide, it employes 2,317 men and women. Its annual budget: $73 million.

The investigation of the Oregon miscarriages is one of its more limited, local concerns.

On a grander scale, the EPA has also recently handed nuclear power advocates an important victory by rejecting environmentalists' arguments that the open cooling system of a proposed nuclear power plant at Seabrook, N.H., would have a seriously adverse effect on the nearby ocean. This EPA verdict cleared the way for the Nuclear Regulatory Commission to reinstate a construction permit for the Seabrook plant.

In the other direction, the EPA also has recently, for the first time, forbidden the construction of a conventional power plant on grounds that the smoke and fumes it would produce would pollute the air of a nearby clean-air area. The decision was rendered against the Montana Power Company on a complaint brought by the nearby Northern Cheyenne Indian Reservation, and it is expected to result in a major court battle.

FOOD AND DRUGS

The Food and Drug Administration (FDA), in the vast Department of Health, Education and Welfare, is charged with protecting the nation's health against impure and unsafe foods, drugs, cosmetics and other potential hazards.

So noble and necessary a purpose, it might be supposed, would almost surely make the FDA itself immune to controversy and criticism. It hasn't.

Anyone paying even the remotest attention to the headlines and the TV news in recent times will realize that the FDA has been at the epicenter of many of the country's most controversial policy earthquakes.

It banned laetrile as a anti-cancer drug; banned, and later modified the ban on saccharin as a sugar substitute; approved the birth control pill, and later qualified that approval with warnings that the pill might be dangerous in some circumstances; banned the enormously popular aerosol sprays with fluorocarbon propellants; virtually wiped out the booming "liquid protein" diet industry with its warnings of hazard; is now involved in the touchy issue of what to do about nitrites, the substance used as a safety preservative in pork and other products but which also has been identified as a cancer causing agent.

Even more emotionally tough, the FDA is currently considering whether to change the tolerable level of aflatoxin in peanut butter—and how much closer to the bedrock of American life can government get—from 20 parts per billion to 15 parts per billion.

This is because aflatoxin, a poison produced by mold which sometimes grows on grains, fruits, and vegetables stored in damp places at certain temperatures, is a powerful cancer-causing agent—and it shows up in peanut butter.

The FDA, among its many functions, approves the licensing of manufacturers of biological products, regulates their distribution in interstate commerce, develops policy with regard to the safety, effectiveness, and labeling of all drugs for human use; conducts research on and develops standards on the composition, quality, nutrition, and safety values of foods, cosmetics, food additives; develops standards for safe limits of radiation exposure (X-rays, for example).

The agency is one of the largest in the federal bureaucracy, with 8,032 employes and a budget of $289 million.

WORKER SAFETY

The occupational Safety and Health Administration [OSHA], in the Department of Labor, is another of the intensely controversial agencies that impact immediately on people's daily lives.

It was set up in 1970 to develop and promulgate safety and health standards in the factories, shops, offices, and other places where people work.

Its agents number 2,847 throughout the country, operating on an annual budget of $139 million.

While strongly supported by the labor union movement, OSHA has become a favorite target of business groups that complain about excessive government interference. This is largely because of the thousands upon thousands of regulations OSHA has issued in its brief existence, including rules on the design of toilet seats and the permissible size of knotholes in the side struts of wooden stepladders.

President Carter last year praised OSHA for wiping out "in a single day" some 1,100 of its alleged nitpicking and obsolete regulations.

But it turned out recently that most of those regulations are still on the books and that OSHA itself has found it easier to make rules than un-make them.

Its major project now is an effort to tighten restrictions on some 2,000 chemical and other substances which are now used in workplaces and which are OSHA says, suspected of causing cancer.

DISCRIMINATION

The Equal Employment Opportunity Commission [EEOC], was created under the historic 1964 Civil Rights Act, and is part of the "Great Society" heritage of the Lyndon B. Johnson administration.

Its purposes are to end discrimination based on race, color, religion, sex, or national origin in hiring, promotion, wages, job testing, training, apprenticeships and all other conditions of employment, and to promote voluntary action programs by employers, unions, and community organizations to make equal employment opportunity a reality in American life.

Carrying out these duties are 2,539 employes, many of them lawyers, working with a budget of $77 million.

The EEOC has had some notable successes in its relatively brief existence.

For example, United Air Lines agreed to pay more than $1 million in back pay to settle discrimination complaints brought by the EEOC on behalf of women and minority group employes of UAL.

However, the EEOC has also had a rocky and controversial administrative existence that has made it the target of fierce and continuing criticism even from friends of the principles on which it operates. Eleanor Holmes Norton, appointed by President Carter, is the seventh chairman the EEOC has had in its brief history.

The EEOC has also had 10 different executive directors in 14 years, and has taken on average at least two years to settle a discrimination case brought to it. And its bewildering bureaucratic maze has stuck the EEOC with a seemingly irreducible backlog of 130,000 pending cases.

HIGHWAY SAFETY

The National Highway Traffic Safety Administration [NHTSA], part of the Department of Transportation, was established only eight years age, but is already one of the most controversial government agencies and one that has constant and immediate impact on the lives of most Americans.

NHTSA is in charge of administering the national 55 mile per hour speed limit. It prescribes safety standards for motor vehicles, develops mandatory fuel economy (miles per gallon) standards for cars, keeps track of people who have had their driver licenses revoked, and runs a big research and testing program for traffic safety.

The agency employs 878. Its annual budget: $54 million.

NHTSA is currently headed by Joan Claybrook, a former colleague of consumer champion Ralph Nader. One of her first big decisions last year was to order airbags installed as safety devices in cars beginning in the early 1980s.

Claybrook now is also in the middle of the fight over allegations that Firestone 500 radial tires are not safe. In her first year on the job Claybrook also ordered the recall of some 12.9 million cars for safety reasons—more than twice the number recalled in 1976.

MONOPOLIES

The Federal Trade Commission (FTC) was designed, in the words of the United States Government Manual, to "prevent the free enterprise system from being stiffled, substantially lessened or fettered by monopoly or restraints on trade, or corrupted by unfair or deceptive trade practices. In brief, the commission is charged with keeping competition both free and fair."

That objective takes in a lot of territory, and the FTC's manifold activities include preventing price-fixing agreements, boycotts, illegal combinations of competitors, dissemination of false or deceptive advertising of a wide range of products, and mergers that may tend toward monopoly.

The FTC also regulates packaging and labeling of certain commodities, supervises some aspects of American export trade, and requires true credit-cost disclosures by finance companies and other consumer creditors.

The commission's 1,762 employes will spend $62 million this year on these chores.

Its wide and varied jurisdiction may, perhaps, best be demonstrated by examples. This year, for one, the FTC ordered an end to restrictions on the advertising of eyeglasses in order to foster competition.

Legislatures and professional groups in more than 40 states had limited the publication of prices for eyeglasses and contact lenses. The FTC found that this limited competition and cost consumers as much as $400 million a year.

The FTC also scored a notable victory this year when the U.S. Supreme Court let stand a decision under which the FTC had, for the first time, exercised its claimed power to compel an advertiser to run so-called "corrective ads" to straighten out previous allegedly unfounded claims.

This FTC victory came in a long-running battle with the makers of Listerine mouthwash. The FTC ordered that future Listerine ads and commercials include admissions that the product will not, as previously claimed, "help prevent colds or sore throats or lessen their severity."

COMMUNICATIONS

The Federal Communications Commission (FCC), created in 1934, regulates interstate and foreign communications by radio, television, wire and cable; it licenses radio and TV stations; approves rates for telephone and telegraph services; regulates radio services for aviation, marine, police, fire, taxicabs and the recently popular Citizens Band (CB radio).

Carrying out these duties are 2,196 men and women working on an annual budget of $64 million.

One thing the FCC does not have much to do with, though a lot of people seem to think it does, is the quality of television programming. Former FCC chairman Newton Minnow of Chicago became famous back in the early 1960s for his widely quoted description of TV programming as a "vast wasteland."

But in fact the FCC can't do much about it, and doesn't want to anyway. It tries generally to stay out of any "censorship" issues that might involve it in First Amendment free speech issues. The Supreme Court this year, though did uphold the FCC in its censure of a New York City radio station for broadcasting a George Carlin comedy album that included "seven dirty words."

The FCC has been increasingly criticized during the years for the slow pace at which it reaches decisions, for excessive coziness with the broadcasting interests it is supposed to regulate, and for a general lack of purpose and direction.

That criticism has now culminated in an effort in Congress to completely rewrite the laws on communications policy and revamp the structure and authority of the FCC.

CONSUMER GOODS

The Consumer Product Safety Commission [CPSC], created only four years ago, has been a major disappointment even to its most ardent original supporters. It was established to reduce deaths and injuries associated with more than 10,000 consumer products. It has, in its brief history, issued some 600 recall orders involving a total of more than seven million products already in the market.

Last month, for example, it ordered the recall of a half-million stuffed toys imported from South Korea because ink used to print the names of the toys on the sweaters they were dressed in had a lead content higher than that allowed under the law designed to protect children from lead poisoning.

However, the commission generally has flailed around aimlessly and gotten itself involved, as its new chairman, Susan King, says, with "too broad a range of projects." It was severely criticized, for example, for moving too slowly to remove from the market children's clothing treated with Tris, which is highly flammable.

Because of widespread disappointment with the commission, Congress seriously considered abolishing it.

But President Carter and Congress eventually gave CPSC a new three-year lease on life and directed it to shape up or face extinction.

King says she now intends to concentrate CPSC's $40 million annual budget and 900 employees on only 24 of the "most serious safety and health hazards," including asbestos and benzene, which have been linked to cancer when inhaled, skateboarding which has become a major source of injuries among children, potential fire hazards in cellulose home insulation, and public playground equipment.

INVESTMENTS

The Securities and Exchange Commission [SEC], created in 1934 in the depths of the Great Depression, was set up to protect investors and the public against shady practices in the financial and securities markets and to make sure the investing public gets the fullest possible disclosure about the ventures it is asked to invest in.

It also acts as adviser to U.S. courts, under the bankruptcy laws, in proceedings to reorganize corporations that go broke.

Recently the SEC has been pressing corporations to disclose more to investors about the salaries and perquisites given their top executives.

It has also been pushing a plan for linking the country's six major stock exchanges in a single highly competitive system.

The SEC also regulates brokerage firms and their employes. Not so long ago, for example, it fined Merrill Lynch, Pierce, Fenner and Smith, the world's largest stock broker, $1.6 million for misleading 4,000 of its customers about a Texas computer company.

After a lengthy investigation it also accused former Mayor Abe Beam and other New York City officials last year of deceiving public investors about New York's near-bankruptcy in order to sell another $4 billion in city securities.

It was also the SEC, along with the comptroller of the currency, that early this year filed complaints of civil fraud and numerous banking law violations against Bert Lance, President Carter's Georgia friend and former head of the Office of Management and the Budget in the Carter administration.

TRANSPORTATION

The Interstate Commerce Commission (ICC), currently embroiled in a budding scandal involving influence peddling and assorted other forms of venality and corruption, regulates all interstate surface transportation—trains, trucks, buses, inland waterway and coastal shipping, freight forwarders, and express companies.

This includes ruling on rate changes that help determine the price of everything you buy that is moved in interstate commerce.

ICC investigators not long ago, for example, secretly filmed some moving company employes in San Jose, Cal., as they loaded bricks into a truck before having their load weighed, and thus overcharged the customer by the weight of the bricks.

It subsequently charged Mayflower Van Lines with more than 21,000 violations involving alleged overcharges to customers and

officials said customers of moving companies were being bilked out of "tens of millions of dollars a year."

The ICC also recently ordered Southern Railway to continue operating its "Southern Crescent" passenger train between Washington, Atlanta, and New Orleans, though the railroad claimed it was suffering heavy losses on the service.

The commission employs 2,301 people nationwide. Its budget for this year is $63 million.

LABOR RELATIONS

The National Labor Relations Board (NLRB), also a product of FDR's "New Deal" during the Depression, was created in 1935 to protect workers' rights to organize in labor unions, to prevent and remedy unfair labor practices, and to conduct elections in which workers decide if they want to be represented by a union and by which one.

It handled a total of more than 52,000 cases last year, and more than 30 million votes have been cast in NLRB union representation elections since the board was created.

Last year the NLRB itself was accused by its own attorneys' union of unfair labor practices involving their employment conditions. A Labor Department administrator dismissed three of the charges but found the union had a "reasonable basis" for one of its complaints.

Organized labor and President Carter fought a major campaign on Capitol Hill this year for what they called a "labor law reform" bill that would have strengthened labors' hand in NLRB elections. They lost.

FOREIGN OWNERSHIP OF ILLINOIS FARMLAND: DIMENSION OF PROBLEM BEING EXPLORED

Mr. PERCY. Mr. President, foreign ownership of U.S. farmland is an issue of tremendous importance to the farmers of our Nation, and to the citizens of Illinois in particular. They, rightfully, want answers to questions relating to land ownership which neither the State nor the Federal Government presently have the capability of answering.

In Illinois, the No. 1 agricultural exporting State in the Nation, approximately 81 percent of its 35 million acres of land are classified as farmland. In the past several years, several large Illinois farms have been sold to foreign investors. Yet, it is unknown how much of this fertile farmland is foreign owned.

Along with others in Congress representing major agricultural States, I recognized the woeful lack of data which existed on this issue and began to take coordinated action.

In February, the Senate Committee on Agriculture, Nutrition, and February requested the General Accounting Office to conduct a 3-month investigation of the subject. The data developed in the initial GAO report was, to quote the report:

"Fragmentary and inconclusive."

Consequently, the Senate committee announced, on June 12, that the GAO would "enlarge and intensify" its study of the foreign ownership issue. Nine States were chosen to be included in the investigation. Illinois was not among the States selected.

Accordingly, based upon Illinois' worldwide agricultural importance, I subsequently urged GAO to include Illinois in the investigation. On July 3, the Comptroller General of the United States, Elmer B. Staats, notified me that the GAO had agreed to focus upon Illinois in the study.

The investigation is expected to take slightly less than a year to complete and a report will be submitted by June 1979. In each of the 10 States under examination, 11 randomly selected counties are being investigated to determine the extent of foreign acquisitions in an 18-month period, from January 1977 through June 1978.

In cooperation with the ongoing GAO study in Illinois, my own office has initiated certain related projects which we expect will shed light on this admittedly obscure, albeit important subject.

The most significant project we have undertaken is an attempt to determine the extent to which foreign nationals have used Illinois banking institutions as a means of concealing their identities. We have now received responses from all of the banks we contacted and are analyzing the responses. The GAO investigators working in Illinois have asked to be briefed on our findings upon completion of this analysis. We will certainly do that in the coming weeks.

In the interim, the Congress recently has taken an important step to gain a thorough understanding of the foreign ownership issue. A foreign ownership registration bill, the Agricultural Foreign Investment Information Act of 1978, was passed by both Houses and sent to the President for his signature. The bill will require all foreign citizens and corporations who either presently own, or purchase in the future, U.S. farm and timber land to supply to the Secretary of Agriculture: Their names; addresses and countries of origin; type of business; amount of land purchased; price paid; and intended use of the land.

I strongly support this legislation and believe that its pasage, along with the other initiatives which I have described, will provide the Congress in the near future with the hard data necessary to formulate a responsible and comprehensive policy keyed to the magnitude of the problem at hand.

I firmly believe that these steps have been the correct ones. Rather than enacting a highly restrictive foreign ownership law—as some have urged—without sufficient data to support such a policy, I believe we must act with dispatch to obtain first those needed facts concerning the magnitude and scope of this problem. Preliminary reports from the GAO investigation in Illinois have uncovered a surprisingly small amount of farmland purchased by foreigners.

To act precipitously and blindly, to deny foreigners the right to own property in this country could invite retribution. We should always, and only, act on the basis of solid information which we do not now have. Inclusion of Illinois in the GAO study. combined with the special investigative initiatives taken by my office, and the passage of the Agricultural Foreign Investment Information Act of 1978, will allow the Congress, and the Illinois General Assembly, to responsively assess the foreign ownership picture in its broad context. If it is shown that foreign purchases are economically harmful to the American agricultrual community, appropriate measures can and will then be swiftly taken.

Mr. President, I ask unanimous consent that the following be printed in the RECORD at this point: An exchange of letters between myself and Elmer B. Staats of the GAO; a letter sent to Senator HERMAN TALMADGE, chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, accompanying the GAO report; and an excellent, well-researched article authored by R. C. Longworth and published in the Chicago Tribune, which discusses the broad question of "Who Owns the Land?" and the ramifications of that issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
June 21, 1978.

Hon. ELMER B. STAATS,
Comptroller General of the United States,
General Accounting Office,
Washington, D.C.

DEAR MR. STAATS: I read with great interest your June 12 report titled "Foreign Ownership of U.S. Farmland—Much Concern, Little Data." As you know, the subject of alien ownership of American farmland is an issue of great interest in my own state of Illinois. With approximately 81 percent of its 35 million acres classified as farmland, Illinois ranks as one of the most productive agricultural areas in the United States. For the past three years, Illinois has been the number one agricultural exporting state in the nation—$2.5 billion worth of commodities were exported last year alone. In addition, for the past three years, Illinois has ranked number one in the production and exportation of corn, soybean and feed grain.

The key to Illinois' high level of agricultural productivity lies in its soil. Illinois has literally millions of acres of the most fertile soils in the world. Understandably, the quality of the soil has made Illinois farmland exceptionally desirable to domestic and foreign investors alike. In 1976, the Northern Bank and Trust Company of Chicago, acting on behalf of an Italian family, reportedly paid $17.5 million for the 12,000 acre Norris Farms in Fulton County. The previous year, Continental Illinois National Bank and Trust Company paid approximately $6 million for two tracts of land in Wayne County, totaling over 7,500 acres. The purchase was reported to have been made for two German groups. Increased foreign sales, usually made by blind trust land holding companies to protect the beneficiaries' identity, have motivated the Illinois House of Representatives to recently pass a bill altogether forbiding farmland purchases by individual, non-resident aliens and corporations in which aliens have interests greater than 10 percent.

However, no one has been able to measure how much Illinois farmland has actually been purchased by foreign investors.

I have been informed that the Senate Committee on Agriculture, Nutrition and Forestry has requested that GAO enlarge and intensify its investigation of foreign ownership of U.S. farmland. More specifically, nine states have been targeted by the Committee for investigation. Because of the vital role Illinois plays internationally in agricultural productivity, along with the confirmed interest taken in Illinois farmland by foreign investors, I request that the General Accounting Office either include Illinois in its upcoming investigation, or, in the alternative, conduct a special survey because of the unique role Illinois plays in the nation's agricultural picture. In either event, the study should in-

clude, but not be limited to, consideration of the following questions:

(1) Of the 28 million acres of Illinois farmland, how much is foreign-owned?

(a) Has there been an influx of foreign investment in Illinois farmland in the past 10 years? 5 years? 2 years? If so, why?

(b) Has the number of farms and acreage of farmland purchased by foreign investors been increasing annually?

(c) If no legislative action is taken on the state or federal level, is there reason to believe that foreign ownership of Illinois farmland will significantly increase? If so, at what rate?

(2) (a) In what counties of the state is the largest percentage of foreign investment taking place?

(b) Why have these counties in particular attracted foreign capital? What variables do these counties share in common (e.g., similar crops, soil quality, land value, size of tracts purchased, availability of water, condition of the farms prior to purchase)?

(3) In what countries do most of the foreign owners reside or have their citizenship?

(a) Why are investors from these nations interested in Illinois farmland?

(b) Do most foreign owners of Illinois farmland represent themselves, or do they represent or are they represented by a foreign, domestic or multinational entity? If the latter, please describe some of the principal entities.

(c) Are most of the foreigners absentee landlords? What percent are personally farming the land they purchase?

(d) By way of defending foreign ownership of American agriculture, it has been argued that wealthy foreign owners have, in some cases, increased the productivity of the land by investing in costly or sophisticated farm technology and soil conservation programs. Please ascertain whether the Illinois farms purchased by foreigners increased, decreased, or remained the same in agricultural production? Do foreign owners invest heavily in capital improvements for their farms?

(e) On the average, how long do foreign owners maintain ownership of their Illinois farms? To what degree is land speculation taking place in the foreign farm purchases?

(f) What is the average annual rate of return foreign owners are receiving on their farms? Is the return greater, less than, or the same as what family farmers receive? As the return American corporate farms receive? If there is a differential between the return received by foreign owners and that of American owners, to what is the difference attributable?

(4) What, typically, is the procedure used by foreigners to purchase Illinois farmland?

(a) Are the purchases usually made by the actual owners, or are the transactions usually handled by financial institutions or other representatives?

(b) Specifically, which financial institutions are most heavily involved in the purchasing of Illinois farmland for foreign clients?

(c) Outline the procedure followed by financial institutions in the purchase of farmland? How are the financial institutions paid for their services (i.e., do they receive a commission, flat fee, etc.)?

(a) Have any laws been broken in any of the foreign purchases investigated?

(e) Are the laws governing blind land trust companies adequate or should revisions be made to more closely monitor the transactions of such companies?

(5) What has been the overall impact on the state of foreign ownership of Illinois farms?

(a) What has been the specific effect on the market price of land?

(b) Are "family farmers" being priced out of Illinois agriculture? Are the number of family farms declining in Illinois? Is the average size of farms increasing in acreage? If so, is this attributable in any way to the influence of foreign ownership of Illinois farms?

(c) The large majority of the Midwest agricultural states has laws that prohibit or severely restrict foreign ownership of farmland. Does this suggest that Illinois farmland will increasingly be the target of foreign capital?

(d) Are the laws adequate governing foreign ownership of Illinois farmland or should further revisions be made? If so, would federal or state legislation be most appropriate?

Should you have any questions concerning this request, please contact me or have your staff contact Rick Shapiro of my staff at 224–1115.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

WASHINGTON, D.C., *July 3, 1978.*

Hon. CHARLES H. PERCY,
U.S. Senate,

DEAR SENATOR PERCY: Further reference is made to your June 21, 1978, request that the General Accounting Office include the State of Illinois as part of its further investigation to identify the extent of foreign ownership in American farmland. As you know, the Senate Committee on Agriculture, Nutrition, and Forestry has requested GAO to investigate the extent of foreign ownership in farmland in nine states not including Illinois. As noted in your request, however, Illinois is one of our nation's most productive agricultural states and for that reason would be well worthwhile including in our review.

Therefore, our staff, in cooperation with the Senate Committee on Agriculture, Nutrition, and Forestry and the objectives identified in their request, will make every effort to incorporate in our overll review the State of Illinois. Our Community and Economic Development Division staff handling this work will be in touch with your office in the near future to discuss the scope and timing of GAO's review effort.

Sincerely yours,

ELMER B. STAATS.
Comptroller General of the United States.

WASHINGTON, D.C.

Hon. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate.

DEAR MR. CHAIRMAN: By letter dated February 28, 1978 (app. VII), you asked us to (1) obtain information on State laws that place constraints or require reporting on ownership of farmland by nonresident aliens, (2) obtain any data collected as a result of State reporting requirements or available from other sources on foreign ownership of land, and (3) provide observations on possible approaches or follow-on initiatives for obtaining nationwide data on purchases of U.S. farmland by foreigners. You also asked us to determine whether any information was available at the county level to indicate the magnitude of foreign investment in farmland. The Chairman of the Subcommittee on Agriculture, Rural Development and Related Agencies, Senate Committee on Appropriations, expressed a similar interest (app. VIII).

Before receiving your request, we had made some preliminary inquiries on the subject of foreign investment in U.S. farmland. As we reported to you on March 17, 1978, very little aggregate data exists about the ownership of U.S. real estate; there is no national system for obtaining such information; and, although some Federal studies have been made and other efforts are underway, the data produced to date is very fragmentary and inconclusive. The results of our preliminary inquiries are included as appendix VI in this report.

In response to your request, we solicited information from each State's Governor; visited six States (California, Georgia, Illinois, Kansas, Missouri, and Oklahoma) and 25 counties; talked with legislators, State and county officials, lawyers, brokers, farmers, and other agricultural experts; and reviewed various State and county records. We also held discussions with various Federal officials. A detailed description of the scope of our work is in appendix I.

The results of our review are summarized below and are discussed in more detail in appendixes II through V.

LIMITED IMPACT OF STATE LAWS ON FOREIGN INVESTMENT IN U.S. FARMLAND

In the aggregate, State laws do not significantly inhibit foreign ownership of land. The laws range from general prohibitions on such ownership to a total absence of provisions dealing with this subject. There are so many different provisions, exceptions, and stipulations that even classifying the laws into general categories is difficult. These differences seem to mirror the diversity of State perceptions as to whether foreign ownership of land constitutes a present or potential problem in the State.

CLASSIFICATION OF STATE LAWS

As of May 1978, 25 States had laws that placed some constraints on aliens acquiring or holding farmland. As summarized below and discussed in more detail in appendix II, some of these laws had more than one type of restriction or requirement. Also, 13 States had laws that placed restrictions on corporate ownership of U.S. farmland.

	Number of States
Restrictions on alien ownership of U.S. farmland	25
General prohibition or major restrictions on nonresident alien ownership of land	9
Restrictions on size of landholdings or duration of ownership	11
Restrictions on inherited land	9
Restrictions on acquisition of State property	4
Other minor restrictions on ownership	6
No restrictions on alien ownership of U.S. farmland	25
Restrictions on corporate ownership of U.S. farmland	13

Some of the restrictions were major, while others were minor and seemed to be of little practical importance in deterring alien investment in U.S. land.

The nine States that have laws that generally prohibit, or restrict in a major way, individual alien investors residing outside the United States from owning real estate in their names are Connecticut, Indiana, Kentucky, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, and Oklahoma. Most of these States have some exceptions to the general provisions on nonresident aliens, and some have limitations on ownership or land by resident aliens.

Five States have laws that limit the total acreage that aliens can acquire or hold. These are Iowa, Missouri, Pennsylvania, South Carolina, and Wisconsin. The limits range from 5 acres to 500,000 acres. Six States (Illinois, Indiana, Kentucky, Mississippi, Nebraska, and Oklahoma) have laws that restrict aliens from owning land for more than a specified time. Illinois permits aliens to acquire land, either by purchase or inheritance, but requires them to dispose of it within 6 years. The other five States require aliens to dispose of all or part of their landholdings within specified times if they do not become U.S. citizens or, in the case of Oklahoma, U.S. citizens or residents of the State.

The laws of the 13 States that restrict corporate ownership of real estate vary in complexity and degree of severity—some apply to all corporations (regardless of whether aliens are involved); others apply only to corporations that have alien interests behind them.

Pertinent excerpts from and citations to the laws of individual States are shown in appendix V.

Ten States (Alabama, California, Georgia, Illinois, Iowa, Kansas, Nebraska, Ohio, Oklahoma, and Wisconsin) told us of proposed legislation, at the time of our review, that would place additional constraints on foreign ownership of their land or would require periodic reporting of such landholdings. Most of these States already have laws containing some restrictions on foreign ownership of land.

Even recognizing the proposed additional legislation, our overall impression is that effective control or monitoring of foreign investments in U.S. farmland through State legislation is a long way off.

DATA COLLECTED BY STATES

The States have collected very little data on foreign ownership of farmland. Only two States (Iowa and Minnesota) require nonresident aliens to file annual reports on their agricultural landholdings. These two States and Nebraska also require corporations with agricultural landholdings to file annual reports identifying the names and addresses of alien shareholders. Vermont also provided some information on the amount of farmland purchased by nonresident aliens in certain counties. Data obtained from these four States is as follows.

Iowa reported that 23 nonresident aliens owned about 7,000 acres in 1977, and that 6 of 13 corporations with at least 5-percent alien ownership owned about 2,100 acres. (Data was not available for the other seven corporations.) The 9,100 acres represents 0.03 percent of Iowa's farmland.

Minnesota reported that about 28,200 acres (0.09 percent of Minnesota's farmland) were owned or leased in 1976 by nonresident aliens or by business entities with at least 10-percent alien ownership.

A Nebraska official said that no landholdings were reported under its requirement.

Based on a limited survey, Vermont reported that nonresident aliens bought 951 acres, or about 20 percent, of the 4,746 acres of farmland that were sold in 4 or its 14 counties during 1976 and 1977.

There is no basis for concluding whether the above data provides a good clue as to the nationwide situation.

HOW FOREIGN INVESTMENT IN U.S. FARMLAND IS PERCEIVED BY STATE GOVERNMENTS

We asked the State Governors whether their States consider foreign investment in farmland to be an actual or potential problem and the reasons for this belief. The results of this survey are summarized below and discussed in more detail in appendix II.

	Number of States
Not an actual or potential problem	18
Could become a problem in the future	10
Is a problem (or limited problem) at this time	2
No official position—but some legislators and citizens are concerned	7
Mixed views	2
Not enough information for opinion or no response	11
Total	50

States that viewed foreign investment in their farmland as a potential problem generally cited one or more of the following reasons.

Foreign investors might drive up the price of farmland beyond the reach of local residents.

Too much foreign investment could eventually enable foreign interests to gain some control of the available farmland, especially prime agricultural lands. They could then gain some control over food production and possibly food prices.

Too much foreign investment could adversely affect the future of small family farms.

Most of the States that did not consider foreign investment to be a current or potential problem did not provide any insight into the reasons for their belief.

Others said that:

Data was lacking or that available data did not indicate a problem,

Foreign investment could benefit agriculture expansion,

The matter was primarily an emotional issue,

The issue has been blown out of proportion, and

Farmland prices were being driven up by farmers bidding against each other just as much as by foreigners bidding for land.

DIFFICULTY OF FINDING OUT WHAT IS HAPPENING IN COUNTIES

We visited 25 counties in 5 States to see what kind of information was available on foreign land purchases and to obtain data on the extent of such purchases in those counties. The results of these visits are discussed in appendix III. We came away with the opinion that, generally, county public records are not a useful source of information on foreign investment in county farmland. We were able to obtain some information on the subject from other sources and check it out through various means; however, the completeness of the information is uncertain and its collection depended largely on the knowledge and coeration of various private and public firms, agencies, and officials.

In trying to obtain information about recent purchases of farmland by nonresident aliens, we talked with persons who, because of their jobs or positions, we thought would be knowledgeable about their county in general and farmland transactions within that county in particular. These persons included county court clerks and tax assessors; members of county committees involved with certain Department of Agriculture activities; real estate agents, brokers, and appraisers; bankers and employees of other types of lending institutions; title insurance companies; local farmers; and others.

We asked these persons for any information they had on specific instances of farmland purchases within their respective counties by nonresident aliens since January 1976. We tried to verify any information obtained by reviewing available public records. We had no means of checking the completeness of the information obtained and therefore cannot say what proportion of all purchases or of all foreign purchases of land in each county was identified.

Also, in cases where the owners of record were corporations or other business entities, we could not identify the beneficial owners of the farmland (for example, the stockholders of a corporation). We therefore considered such farmland to be foreign owned if the corporations were either incorporated in a foreign country or listed foreign addresses for one or more officers or directors. Included in this category were corporations listing addresses in places with significant tax advantages such as the Netherlands Antilles. It is possible, however, that some of these corporations may be totally owned by U.S. citizens.

IDENTIFICATION OF FARMLAND OWNED BY NONRESIDENT ALIENS IN SELECTED COUNTIES

The information we obtained for the selected counties is summarized below by State and is discussed in more detail in appendix III.

State	Number of counties	Total farmland acres in counties	Information indicates foreign ownership: Number of acres	Information indicates foreign ownership: Percent of total acres
California	3	7,367,730	8,786	0.1
Georgia	11	1,611,010	24,239	1.5
Kansas	3	771,000	2,678	.3
Missouri	3	1,055,143	9,013	.8
Oklahoma	5	5,342,872	0	0
Total	25	16,147,755	44,716	.3

Further information on these transactions and on additional scattered land transactions in these States is presented starting on page 25 of appendix III.

Because information is not available for determining whether the above data is representative of foreign investments in the counties visited, the information we were able to gather could be only the "tip of the iceberg"; on the other hand, it could represent a conservative approximation of the situation in the counties involved.

IMPACT ON LAND PRICES

We also acquired or developed some data on the prices nonresident aliens paid for farmland in several counties, but we could not determine to our satisfaction whether these prices were on target or were considerably higher or lower than prevailing market prices for comparable property in those locations. Sales prices generally were not recorded on the property deeds we reviewed. For some sales in Georgia, we estimated sales prices on the basis of the transfer tax and other information shown on property deeds.

For example, the estimated prices paid by nonresident aliens for 17,400 of the acres we identified in six counties in east central Georgia ranged from $305 to $717 an acre. According to county sources, the average price of farmland in these counties ranged from $300 to $500 per acre—the better land costing more. Elsewhere in Georgia, prices paid for about 6,000 acres by nonresident aliens ranged from $925 to $3,155 an acre, compared with average prices ranging from $600 to $1,000 an acre. Another example showed domestic investors paying about $150 an acre less for comparable land than a foreigner.

In one case in Kansas where we could determine the price of foreign owned farmland, the price per acre was about $40 less than the average price paid by domestic purchasers in eight sales of generally comparable land.

OPINIONS OF LOCAL AUTHORITIES AND OTHERS REGARDING FOREIGN OWNERSHIP OF FARMLAND

Local authorities and others expressed differing views about the implications of nonresident aliens purchasing farmland. Some were concerned that foreign purchases might pose a potential problem; some believed that problems already have surfaced; and others said that such investment was beneficial. Nearly all of the persons we talked with had heard rumors about nonresident aliens purchasing farmland, either in their areas or elsewhere, but none of them knew the extent of such investment in their particular localities. More information on local views is presented starting on page 36 of appendix III.

OBSERVATIONS ON CURRENT EFFORTS AND ALTERNATIVE INITIATIVES

There is virtually unanimous agreement among persons at all levels of government and in the private sector that, currently, there is no reliable data on the amount of U.S. farmland owned by nonresident aliens

or on recent trends of such ownership. Such information would be very helpful to the Congress if it wishes to formulate and implement a national policy on nonresident aliens owning farmland in the United States. Clearly, efforts need to be started now to produce useful and meaningful information.

FEDERAL EFFORTS

Several Federal efforts touching on this subject have been started or planned. They are summarized below and discussed in more detail in appendix IV.

A planned Department of Agriculture feasibility study of ways to obtain nationwide land ownership data. (This has still not gotten off the ground because of funding problems.)

A Department of Agriculture questionnaire type survey designed to obtain data on the characteristics of landowners and land uses.

A Department of Commerce effort (by its Office of Foreign Investment in the United States) to identify all types of foreign investments in the United States, including those in the agriculture area.

A Department of Commerce effort (by its Bureau of Economic Analysis) to require all nonresident alien firms and individuals owning or leasing at least 200 acres of real estate to report the particulars of such landholdings.

A Department of Commerce effort (by its Bureau of the Census) to obtain information on nonresident alien owners of farmland through the 1979 Agriculture Census.

The results of Federal ongoing and planned efforts for obtaining useful data on foreign investment in U.S. farmland are not encouraging.

RECOMMENDATION

The effort planned by the Department of Commerce's Bureau of Economic Analysis to identify certain real estate owned or leased by nonresident alien firms and individuals will not separately identify the amount of farmland acres included in the total acreage reported. We suggested to Commerce officials that such a breakout of data would be useful to the Congress, but the officials told us that they do not plan to do this. We therefore recommend that your Committee request the Department of Commerce (1) to adjust its reporting requirements to specifically identify farmland and (2) include such information in its report to the Congress.

ALTERNATIVE NEW APPROACHES

Following are some observations on various approaches that have been suggested for obtaining information on nonresident alien investment in U.S. farmland. Before any system is instituted, a number of related legal, procedural and coordination issues need to be addressed. These are discussed below and in appendix IV.

1. As a condition for any individual or entity receiving any benefits through Federal rural/agricultural programs, they could be required to first register their alien status and the acreage they own or lease at the county Agricultural Stabilization and Conservation Service office. This approach has the advantage of being an all-Federal system which should reduce legal and coordination difficulties. It also has a built-in compliance factor for those benefiting or planning to benefit from such programs. A disadvantage would be that all foreign owners of farmland may not participate in, and some may choose to disassociate themselves from, such Federal programs.

2. As part of a mandatory process of recording land transfer transactions at the county level, new land owners or their agents could be required to identify on a data processing card the alien status and acreage of such ownership. This information could be routed through the States to a central Federal point for tabulation and annual reporting. This would not provide data on existing land ownership. It would require close cooperation of all States and counties, changes in State laws and county ordinances, and uniform data collection and reporting systems. A major advantage would be that information would automatically be generated on all purchases by foreigners.

3. Another approach would be to require that all parties customarily involved in real estate transfers report on any land acquisitions involving foreign interests. Major drawbacks would include uncertainty that all foreign acquisitions have been identified, the large number of data collection points, the probability of much duplication, and the probable strong opposition from nearly everyone concerned in collecting the data. Also this would not provide data on existing land ownership.

4. Periodic and extensive surveys, using scientific sampling techniques and centralized controls, might provide data that could be projected on a nationwide basis. The design and implementation of such an approach could present serious problems, and the resulting data may not be entirely satisfactory.

5. Of the alternatives considered, the most feasible and simplest approach may be to federally legislate a nationwide registration system for foreign owners of U.S. land. Such a system could be generally similar to the alien resident registration system currently used by the Immigration and Naturalization Service—which requires card-type reports to be submitted annually by resident aliens through post offices to a central Federal point. Such a system would place the reporting burden on the landowners (or their agents), would require relatively little involvement by State or county governments, would be conceptually simple, and would provide data on current ownership, rather than only subsequent farmland transfers. The usefulness of such a system would depend on the completeness of the information reported.

Any system used would require the resolution of any problems caused by constitutional and legal issues, and also should include the following:

Standard definitions of terms and clear reporting criteria.

Stipulations that only data on foreign investments in farmland would be collected.

Criteria as to the minimum number of acres to be reported.

Use of a standard card-type form to facilitate data processing.

Meaningful incentives or penalties to insure submission of full and accurate data.

We trust the foregoing information will be useful to your Committee. We plan to consult further with your Committee to decide on a future role for our Office in this area of concern.

To expedite reporting, we did not follow our normal practice of obtaining formal agency comments on the matters discussed in this report.

As arranged with your office, we are furnishing copies of this report to interested congressional committees, Members of Congress, and others.

Sincerely yours,

Acting Comptroller General of the United States.

[From the Chicago Tribune, Aug. 6, 1978]

WHO OWNS THE LAND?

(By R. C. Longworth)

We Americans go through life impaled on statistics. Governments count us, credit companies rate us, professors watch us, pollsters catalog our moods. Daily and hourly, we are sorted, punched, spindled, coded, and filed.

But there is a gap in this mass of data and it's a big one. No one knows who owns America.

City governments keep a block-by-block, house-by-house record of urban property ownership.

But outside the cities lie more than 2 billion acres of American countryside—farms and forests, parks and wilderness, rivers and roads—and no one really knows for sure who owns much of them.

Of the nation's 2 billion acres, the federal government owns 762 million, nearly 40 percent, most of it in the West. This includes not only parks and public areas but vast tracts of land rich in minerals and timber, most of it leased to big corporations.

That leaves some 1.4 billion acres in private hands. The evidence indicates that a startling amount of it is owned by the same relatively few corporations.

But no one—reformers fighting for the family farmer, state and federal officials trying to collect taxes, agriculture experts planning price supports and other aids—can point to precise statistics.

"Who owns this land?" populist land expert Peter Barnes has written. "What are the social, economic and environmental consequences of present ownership patterns?

"Few questions are more important for the future of America's land and people, yet there are no government reports, and almost no academic studies, that provide adequate answers."

The issue is receiving fresh attention now because of the controversy over the suspected purchase of American farmland and other real estate by foreigners—not only Arabs but West Europeans, Japanese, and South Americans seeking a stable haven for their money.

Congress is demanding studies to define how much of America is in foreign hands. Some congressmen want laws to limit buying. The Agriculture and Commerce departments and the General Accounting Office all are probing the issue. Several Midwestern states have passed laws requiring disclosure of land ownership, largely because of the foreign issue, and a bill before the Illinois legislature would ban any ownership at all by nonresident aliens.

The outcry over foreign ownership may be a red herring. Government surveys, admittedly incomplete, indicate that foreigners own less than half of 1 per cent of American farmland. The Federal Reserve Bank of Chicago said foreigners accounted for less than 1 per cent of recent farm sales in its Midwestern district.

Iowa's land reporting law, one of the best, turned up only 7,000 acres owned by nonresident aliens last year [including 2,000 acres owned by the Metternich family of Germany].

By contrast, there is a single 6,000-acre farm near Odebolt, Iowa—the biggest and most important farm in the area—that is owned by a Detroit trucking executive named William O. Bridge. Bridge has owned the farm for a decade but has never moved to Odebolt.

And this, according to critics of the current pattern of U.S. land ownership, is the whole point.

The sturdy, independent family farmer—the Grant Wood figure prying a hard but good living from his own soil—is a dying breed, they say. Instead, a huge and growing part of America is owned by giant corporations, unfeeling conglomerates and absentee landlords.

The critics argue that Americans—who have demanded for years that underdeveloped nations institute land reform—could use some of it themselves, for lots of good reasons:

The U.S. Agriculture Department says we will need another 98 million acres in production by 1985 to meet our food needs. Instead,

productive acreage has been shrinking by 1 million acres per year, largely because farms are sold to speculators and turned into subdivisions.

Corporation farming leads to reduced competition which leads to higher prices. Four companies now control 90 per cent of U.S. cereal output. Cereal prices doubled in the last five years.

Small farmers are being driven out. There are half as many American farms now as in 1950. And the death of every six small farms means the closing of one small-town business. Tenneco, the energy giant, farms 1.8 million acres and buys its tractors straight from its subsidiary, J. I. Case, Inc.—not from nearby small-town tractor dealers.

A concentration of land ownership means a concentration of political power, both local and national. Two former secretaries of agriculture have been directors of the Ralston Purina Corporation. Corporate farms and mining companies literally rule whole counties in California, Appalachia, and elsewhere, controlling local taxing bodies and the rates they set. A single firm, American Association, owns 90 per cent of the coal reserves and 17 per cent of the land in Claiborne County, Tenn., but pays only 3 per cent of the county's taxes.

Tax laws—especially regarding capital gains and inheritances—are driving families out of agriculture and encouraging corporate or absentee farming by permitting farms to be used as tax losses. In 1968, more than two-thirds of the 66,000 wealthiest persons reporting farm income claimed a net farm loss.

Absentee landlordism is rife. Eighty percent of Maine is owned by absentee landlords. A pilot study by the Agriculture Department in Virginia's Rappahannock County found that 53 per cent of the county's landowners lived outside its boundaries and only 5 per cent of the owners were primarily farmers.

According to available statistics, the eight largest energy companies own 64.6 million acres [larger than the total size of West Germany] plus leases on untold energy reserves—mostly on federal lands leased to them by Washington. This concentration gives them a lock on the nation's energy future—not only in oil but in coal and uranium, too.

Ecologically, present policies often are disastrous. Absentee mining companies have stripped away whole landscapes. Short-sighted corporate farms have poisoned land with too many insecticides and chemicals.

Railroads were given 131 million acres—an area almost as big as California—in federal land grants in the 19th Century. The purpose was to encourage them to build lines west to open the nation up to settlement. The rules required the railroads to sell the land cheap to settlers. They were ordered to forfeit lands not used for railway building and forbidden to use the lands for mineral prospecting.

Despite this, the railways still hold an estimated 20 million acres—estimates of the exact amount vary widely—ranking them just behind the energy and timber companies as land moguls. The St. Louis & San Francisco Railway, for instance, owns surface or mineral rights to 1.4 million acres in Arizona and New Mexico, although it runs no trains there.

Santa Fe Industries, parent of the Atchison, Topeka & Santa Fe Railway, owns huge reserves of coal, uranium, oil, and timber in the West. According to company president John J. Schmidt, "We're going to squeeze as much blood as we can from the turnip."

"Ownership and control of the land has become more and more concentrated," says Joseph Fugere of Rural America, a Washington-based research and political action group.

Rural America is one of dozens of small groups around the nation trying to work on this problem. Between them, they have come up with many of the statistics cited above.

But all are hampered by the same problem—a lack of information or, rather, a lack of the broad, nationwide data that could spur Congress to action. The instances cited above are symptoms of deep trouble, but are not complete enough to form the basis of a new policy.

The U.S. Department of Agriculture conducted a recent survey that is now conceded to be incomplete and unreliable. The department is currently doing another national study, asking landowners in every county of the nation about the size of their holdings, how they use them, and other questions.

"But it's a voluntary survey," says James Lewis, one of the experts at work on it. "There is no way to force people to give information. I'm not very optimistic about our survey producing information on non-resident ownership or corporate ownership. If people don't volunteer this information to us, we just won't get it."

Twelve states require regular reports on land ownership, but most also lack the manpower or laws to penetrate smokescreens or to force recalcitrant corporations to cooperate. In Nebraska, spot checks indicated one-third of landowning corporations failed to comply with state reporting laws.

"In Illinois, there is no law saying you have to disclose ownership," says Ray Lett, assistant director of the state department of agriculture. "You don't even have to record a deed. So trying to find out who buys property can be an impossible task if the buyer wants to hide it."

Land problems affect more people than farmers. A University of Alabama study, for instance, showed that one-fourth of that state's land area is owned by major corporations, a development which has forced thousands of small farmers—mostly poor blacks—off the land and into the overcrowded cities.

"This land problem is the source of our urban problem," says Washington lawyer Charles Morgan Jr., a former director of the American Civil Liberties Union. "All these displaced farmers came north and crowded into the cities.

"Every liberal I know worries about urban housing, without thinking where this urban crisis comes from.

"This nation can't have an urban policy without a land policy."

But before it can have a land policy, it needs firm land data.

"For example, if we want to know how a farm subsidy really affects a community, we need to know about the structure of land ownership," says Gene Wunderlich, director of the Rappahannock County survey.

Even in California, where some of the most vigorous public interest research organizations operate, land information is hard to come by.

"No statewide compilation of 'who owns California' exists," admits Robert C. Fellmeth, writing in a Ralph Nader-sponsored report.

"The California Public Utilities Commission keeps no formal records of land ownership by utilities," Fellmeth says. "Banks, savings and loan associations, and insurance companies have formed holding companies which enable them to enter into direct land speculation, ownership, and development in spite of laws designed to prohibit such activities on the part of organized financial interests. The state departments designed to regulate these interests do not have adequate ownership information to deal with this 20th Century loophole."

Available statistics show that California's top 25 landowners—including Southern Pacific Co., Tenneco, Standard Oil, and Boise Cascade—hold 58 per cent of the state's land. Actual holdings may be even greater.

The Securities and Exchange Commission requires corporations to report holdings of subsidiaries that bring in 15 per cent or more of their gross income. But anything less than this is considered insignificant and so escapes reporting rules.

Some of these subsidiaries can be agriculturally significant. Kaiser grows avocados. Dow Chemical raises lettuce. And RCA is a turkey farmer.

None of this information is necessarily secret, but neither is it generally known to the public. Most of it comes in bits and pieces from the work of Nader-type activists pouring over SEC records, assessors' rolls, and legal documents.

Sometimes these groups force action. National Land For People, Inc., representing small farmers in the Westlands Water District in California, filed a suit that resulted in a Carter administration order that, if implemented, will return more than a half million acres of federally irrigated farmland to family farmers.

Among the corporations and absentee owners that could be forced to sell is Southern Pacific, which would lose 83,000 of its 109,000 acres.

But more often, the necessary litigation costs too much for individuals of public interest groups to tackle. A Wyoming man took a mining firm to court in 1976 to try to stop a proposed strip mine. The company countersued for $14 million and the man, outgunned, dropped his case.

The solution lies in a national survey of land ownership by the federal government, with laws to guarantee cooperation among land holders. A National Conference on Rural America called for a "National Land Inventory" that would reveal ownership and also supply technical data on land use and potential.

"There's a new interest in this," Peter Barnes says. "It's a coalescing of environmental concerns, a recognition of urban overcrowding, and the result of dumb land policies and a lot of people being ripped off."

But the first step has yet to be taken.

"Land is probably the most important resource we have," says Richard H. Lehman, a legislator from a California farming district, "and we do not have the necessary tools to find out who owns it."

GROWING OLD

Mr. PERCY. Mr. President, growing old in America and all of the problems therewith has taken on far more serious aspects than a decade ago.

Persons over 65 will soon be the fastest growing segment of the U.S. population and their fears and problems have increasing importance for all of us.

In our grandfathers days, old people simply went to live with their children. Not so today. Generally, the elderly live in their own home until they are no longer able to take care of themselves. Then to a nursing home or a mental institution. There is almost no security or feeling for those growing old in America. In many States a person may be committed with very little notice and upon the request of a member of the persons family.

Illinois is one of only eight States where an elderly person cannot be found incompetent by a court until that court has first appointed a temporary guardian to look into the case.

I ask unanimous consent to print in the RECORD an article in a series reported by Ray Mosely of the Chicago Tribune which describes in great detail the problems of the elderly and especially those with mental or prospective mental problems. It is both informative and provoca-

tive for those who are interested in the problems of the mentally, elderly ill. This article is from the Tribune of Saturday, October 7, 1978.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IN INCOMPETENCY HEARINGS, YOU NEEDN'T BE THERE TO LOSE

(Nature abhors the old, and old age seems the only disease; all others run into this one.)—Ralph Waldo Emerson.

In the 4th Century B.C., the sons of the Greek dramatist Sophocles decided the old man had become dotty because he insisted on writing plays instead of tending to business matters.

The sons went to court in an attempt to have him declared an imbecile and to have the management of his property transferred to them.

Sophocles appeared before the jury, read his latest work, "Oedipus at Colonus," and asked whether it seemed the work of an imbecile. The jury found in his favor.

In the United States, he might never have had the chance to appear in court. The laws of most states permit a court to declare an elderly person mentally incompetent without his being present or even represented by an attorney.

Once such a judgment is issued, the elderly person loses his power to sue, to charge a purchase, to sign a contract, to deed property, to marry or divorce, to open a bank account, and to vote.

His house can be sold by a court-appointed guardian or conservator without his knowledge or consent.

"The penalty can be much more severe than the penalty for murder," said Dean Jost, an attorney in Chicago's Uptown neighborhood for the Legal Assistance Foundation of Chicago, who has dealt with many cases in which elderly persons have been declared incompetent.

The Tribune Task Force examined the problems of elderly persons with mental illness as part of a six-month investigation of old age in America.

The laws under which people can be found incompetent represent just one example of the discrimination and hardship that society imposes on the elderly who are mentally ill.

Medicare's laws also discriminate against those suffering from mental illness, and in recent years state governments have taken thousands of mental patients out of state hospitals and put them in nursing and boarding homes to shift the cost of their care to the federal government.

Other old persons may suffer because some doctors mistakenly diagnose a variety of health problems as senility and fail to give them proper treatment.

Experts estimate that 3 million to 4 million of America's 23 million old people have significant mental problems. According to this estimate, two of every three persons who have such problems are not receiving any mental health care.

The likelihood of mental illness tends to increase with age because of the psychological strains that may come with retirement from productive work, loss of income, loss of spouse, departure of children, and increased physical impairments.

The elderly account for 25 per cent of the suicides in the United States, although they constitute only 11 per cent of the population. The highest suicide rates occur among white males in their 80s.

In seeking to protect the mentally incompetent, state laws provide for appointment of guardians, who have responsibility for personal welfare of the individual, or of conservators, whose responsibility is for the person's finances.

Such laws are considered necessary to help mentally impaired old people to make decisions in personal matters and to avoid their being victimized by the unscrupulous.

But many legal authorities believe the laws are too sweeping and do not provide enough safeguards of individual rights.

"The protective service law is a two-headed creature, part Santa Claus and part ogre," two legal experts wrote in a study prepared last year for the Senate Committee on Aging.

Illinois recently reformed its laws to give greater protection to the right of the mentally ill.

Under bills signed by Gov. Thompson on Sept. 5, a person cannot be found incompetent by a court until the judge has first appointed a temporary guardian to look into the case.

The temporary guardian must present recommendations on whether the person should retain all control over his affairs, partial control, or none.

"This will allow the person to retain his dignity as well as have his rights protected," said Jerome Goldberg, who served as executive director of the Governor's Commission for Revision of the Mental Health Code.

But it remains to be seen, he said, whether the temporary guardian "will be a real guardian or one in name only."

Illinois is one of only eight states that have enacted such reform legislation, according to a spokesman for the American Bar Association. The others are California, Idaho, Kentucky, Maine, North Carolina, Texas, and Washington.

In most other states, the proceedings in such cases are usually a mere formality. Often, the family of the old person initiates the action by asking the family doctor to certify that the person is mentally incompetent.

The person whose competence is questioned may be given as little as three days' notice of the legal proceedings and often does not appear in court or have legal representation, according to John Lamb, co-director of the Mental Disability Legal Resource Center of the bar association.

The doctor who has pronounced someone incompetent does not have to appear in court. In most cases, only those seeking to have an old person ruled legally incompetent are present, and the judge enters a judgment in default.

The bar association is preparing model legislation designed to put safeguards in such proceedings.

"People tend to be overprotective of old people," said Karen Lewis, a paralegal aide with the Senior Legal Aid Project at the University of Southern California.

"They want to put them in a nursing home and take away all of their rights just because they may not be able to totally handle all of their affairs."

Lewis told of an elderly woman in California who had gone into a nursing home after a fall in a bathtub. Then her daughter died, and the elderly woman lapsed into depression.

A state guardian was appointed. After a few years, the woman recovered. She was running errands for the nursing home and helping with other patients, but still she was without any legal rights.

The state guardian agreed to go to court with Legal Aid on her behalf, and her rights were restored.

In another California case, a young woman had been appointed guardian of her father. The state welfare department charged she was siphoning off his money through such devices as billing the estate for $100 worth of groceries and delivering only $30 worth to her father.

Legal Aid went to court and got the guardianship switched to a niece, but it took six months to get a hearing.

"Many times, the person involved dies before a problem gets a hearing," said Gary Rowse, project director of the Senior Citizens Legal Service at the University of Southern California. "It is bad for everyone and the confusion and strain on the elderly person are probably harmful."

Prof. John J. Ragan of the University of Maryland Law School and Georgia Springer, staff attorney for the National Council of Senior Citizens, have proposed changes in the laws in guardianship and civil commitment to give more protection to old people.

Except in emergencies, they suggest, courts should be required to order that the elderly person be screened by a psychiatrist and social worker to determine the most appropriate kind of assistance.

They also recommend that the elderly person be assured the right to be present in court, to be represented by a lawyer, and to cross-examine witnesses.

Another problem area for the old who are mentally ill involves Medicare, the federal health insurance program for the elderly.

An elderly person may receive hospital care for physical ailments as often as necessary, provided there is a 60-day break between hospital stays. But there is a lifetime limit of 190 days of coverage for treatment in a psychiatric hospital.

An old person with a physical ailment pays an initial deductible fee on doctor's bills, and Medicare covers 80 per cent of reasonable bills after that. But a mental patient, after paying the deductible, gets coverage for only 50 per cent of his bills, up to a limit of only $250.

"This is blatant discrimination against the mentally ill, and it was written into law by the U.S. Congress," said Hilda Robbins, president of the National Association for Mental Health.

The U.S. Civil Rights Commission, in a report on discrimination against the elderly in federally supported programs, said, "The area of mental health services represents one of the most glaring examples of discrimination on the basis of age."

The commission studied 328 community health centers. It found that people over 65 constituted 9.9 per cent of the populations served by the centers but only 4.1 per cent of the patients.

An additional finding was that the centers devoted only 5 per cent of staff hours to consultation with agencies that serve older persons.

"On result is that older persons do not have an opportunity to learn what preventive measures they can take to maintain good mental health," the commission said.

A further problem for the elderly mentally ill has been the "dumping" of patients from state hospitals into nursing and boarding homes, where psychiatric services are rarely available.

The reason is financial: It costs about $21,000 a year in state money to keep a patient in a mental hospital. In nursing and boarding homes, the federal government picks up the bill for the elderly under the Supplementary Security Income program, at an average cost of about $2,000 a year.

The number of patients in state hospitals has dropped more than 62 per cent in the last nine years. In Illinois, the percentage of elderly in state hospitals has declined 87 per cent, with an estimated 13,000 residents having been moved into Chicago's Uptown area, where nursing and boarding homes proliferate.

Dr. Jack Weinberg, director of the Illinois State Psychiatric Institute and past president of the American Psychiatric Association, said the dumping of mental patients into nursing homes is "devastating," both for them and for the mentally healthy patients already in the homes.

"In mental hospitals, we didn't provide enough money, so they became snake pits," he said. "Then we send the mentally ill into

the community, and again we do not provide enough money. The guilt is all of ours."

Weinberg said one of the strains that may help induce mental illness in the elderly is that they are "a people without a future."

"It's subversive to the American way of life," he said. "In our society, we value the future more than anything else. The elderly can't enjoy retirement because they are planning for the future, and it's bleak. The hope for a better tomorrow is a mirage in the twilight of life."

Society must get away from "the stereotype that the elderly are useless," Weinberg said, and the elderly individual must do a great deal himself to maintain his mental health.

"The secret of mental health is to have a multiplicity of sources of gratification—work, an interest in the community, recreation, education, church, and the family," he said.

Another problem of the elderly was highlighted recently by a group of medical experts who spoke at a National institute of Health conference on treatable diseases of the elderly.

They said that 300,000 to 600,000 elderly persons who show symptoms of brain failure have been mistakenly labeled "senile" and often go untreated in nursing homes and mental hospitals.

These experts said a number of treatable physical diseases are often undiagnosed and can cause temporary brain dysfunction, giving the appearance of senility.

Such ailments include heart disease, strokes, certain infections, anemia, nerve disease, brain tumors, kidney or liver failure, diabetes, nutritional deficiencies, reactions to tranquilizers and other drugs, and alcoholism.

"The failure to treat and diagnose reversible brain syndromes is widespread," said Dr. Robert N. Butler, director of the National Institute on Aging.

President Carter's Commission on Mental Health has estimated that 20 to 30 per cent of those diagnosed as senile have conditions that are preventable or reversible if treated early.

MODERN CZECHOSLOVAKIA

Mr. PERCY. Mr President, October 28, 1978, marks the 60th anniversary of the birth of modern Czechoslovakia. Over the years my staff and I have often had occasion to work closely with the Czechoslovak National Council of America, and I would like to join my Czechoslovak-American friends in celebrating this day. October 28 is, for me, an occasion of tempered joy and remembrance. I have a deep appreciation for the heroism and richness of the Czechoslovak tradition and culture. I felt great personal sadness and outrage when the Communists first toppled the democratic and independent Czechoslovak state in 1948, and again in April 1968 when the human face of the Dubcek regime was forcibly cast into the iron mask of Soviet communism.

Czechoslovak history has been characterized by modernism, enlightenment, high ideals and social achievement. The kingdom of Bohemia was possibly the brightest spot in Europe during the so-called Dark Ages. The Czech Reformation, which occurred a century before Luther's time, reflected the widespread literacy and the strongly held religious and nationalist sentiments of the people. The Hussite movement clearly demonstrated that the people of Bohemia were motivated by the forces of modernism and enlightenment, forces not yet felt by the rest of central Europe.

Two centuries of struggle and three of Hapsburg domination could not destroy the people's profound spirit of self-determination. Czech soldiers made important contributions to the Allied side during World War I. The Czechoslovak First Republic, founded by Prof. Thomas Masaryk, was unquestionably the strongest democracy in central Europe during the interwar period. The fundamental civil rights of all citizens were constitutionally guaranteed and were genuinely respected in practice.

The Third Republic, under President Benes, was to be a neutral intermediary between the political and economic systems of the East and West. The Communists, who could never gain control through the legitimate political practices, turned to the use of terror and outright force to bring the Czechoslovak Republic into the Soviet orbit. But two decades of Communist control could not extinguish the strong aspirations of self-determination. The 550,000 troops of the Warsaw Pact countries which occupied Czechoslovakia in April 1968 and the five divisions of Soviet soldiers still stationed in Czechoslovakia could not snuff out the spirit later shown in Charter 77. The Czechoslovak people have shown time and time again that force, that military occupation, has never proved equal to the tenacity and determination of the people. Absolutism has historically been no match for the vitality of the national identity and love of freedom.

The Czechoslovak Declaration of Independence, which brought the First Republic into existence, was signed by Thomas Masaryk in Independence Hall in Philadelphia. The Constitution of the First Republic is in many important respects similar to our own Constitution.

All Americans were horrified by the events of April 1968. We shared the agony of the Czechoslovak people. And all Americans were inspired by the courage of the signers of Charter 77. We share, and will always share and support, the aspirations for self-determination which have characterized the Czechoslovak national character throughout history.

CRIME LAB LEADS FIGHT OF SUBURBAN CRIME

Mr. PERCY. Mr. President, today's criminal is becoming an increasingly sophisticated operator. No longer limiting their activities to urban areas, criminals are branching out to the suburbs. Nowhere is this more apparent than suburban Cook County, Ill., where in the last year we have seen an alarming growth in crime. The Chicago Crime Commission reported in early September that, despite a 3 percent decrease in crime nationwide in the first 6 months of 1978 and a 7.5 percent decline in serious crime in the city of Chicago in the same period, crime in the Chicago suburbs rose 10 percent. Officials, noting large increases in the numbers of murders, robberies, aggravated assaults, and rapes, attributed this significant rise in part to a lack of cooperation and coordination on the part of suburban police officials.

The Northern Illinois Crime Laboratory is an example of what suburban police can do to increase cooperation. Located in the northern suburb of Highland Park, the lab was formed in 1968 to aid suburban police forces collect and evaluate evidence found at the scene of the crime.

Law enforcement officials across the country have learned that their efforts can be greatly aided by good crime lab work. Crime-scene searches, and quick, thorough analysis and identification of materials found at the scene are essential in assisting in the successful resolution of crimes. Information obtained in lab processes is also vital to crime prevention efforts. Accordingly, law enforcement agencies in many cities are taking steps to develop and to use sophisticated collection, detection, and examination equipment, utilizing the latest in technological innovations.

The Northern Illinois Crime Laboratory is just such a facility. Started through the combined efforts of the Highland Park police chief, Michael F. Bonamarte, and a former Chicago police chemist, Andrew Principe, the laboratory is a vital component in police attempts to reduce increasingly sophisticated suburban crime. The lab utilizes $1 million of the most advanced equipment available, including: a gas chromagraph-mass spectrometer system, used to identify organic compounds; an X-ray fluorescence spectrometer system, used to analyze soil, paint, and hair samples; and other devices which can analyze drugs, pesticides, poison, and flammable materials.

The laboratory is unique in that it is organized as a nonprofit corporation to serve Chicago suburban law enforcement agencies. In its decade of operation, it has grown from a small lab serving seven northern Chicago communities to a well-equipped facility serving 668,500 people in 45 suburban municipalities. It is financed as a cooperative undertaking of the member communities, and employs 11 specially trained and skilled technicians.

The Northern Illinois Crime Laboratory is a triumph of ingenuity and enterprise on the part of two farsighted police officers. It is also a shining example of how communities can work together to solve crimes, and is a big step toward reduction of the surburban Chicago crime problem.

On September 21, the Chicago Tribune ran an article by Patricia Leeds on the lab's director, Andrew Principe, entitled "Northern Suburb Crime Lab Is His Pride And Joy." The piece details Principe's role in the lab's growth and development over the past 10 years. I ask unanimous consent that this article be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NORTHERN SUBURB CRIME LAB IS HIS PRIDE AND JOY

(By Patricia Leeds)

The Northern Illinois Crime Laboratory, the only one of its kind, was born of the

frustration of a small town police chief and the determination and know how of a dynamic Chicago policeman.

The Northern Illinois laboratory will celebrate its 10th anniversary Oct. 1.

It began when Michael F. Bonamarte, chief of the Highland Park Police Department, complained to Andrew Principe, a friend he knew from Principe's years with the Chicago Crime Lab.

"What's the matter with your Chicago Crime Lab? They won't take our cases," he said. "They said they were too busy with their own!"

Principe replied, "That's right—they're overloaded with work, not only their own, but from the suburbs. Why don't you start your own lab? You're a wealthy community."

At that time, Principe, a chemist, had taken a leave from the department to work for the Illinois Racing Commission, making sure horses were not being doped.

"I didn't like it nearly as well as the crime lab, and Bonamarte called me the next morning and said, 'I've been thinking about what you said. We ought to start our own crime lab.' "

"I became enthused and agreed, 'Why don't we?' "

"From then on we were on our way."

At first there was just Andy Principe and one small office in the Highland Park police station and only the very basic equipment.

"I couldn't have made it without the help of the Chicago Crime lab," Principe is quick to emphasize. "They helped me with equipment and with their expertise on the subjects I wasn't trained in, like ballistics, toolmarks, and such."

Between Principe's enthusiasm and Bonamarte's assistance, it was only a matter of months before Lake Forest, Libertyville, Highwood, Lake Bluff, Deerfield and the Lake County sheriff's office joined.

Each municipality was assessed according to population. The quarters were expanded to four rooms in the back of the police station, and Principe began to acquire a staff.

Now, 45 municipalities are members, and the lab has 11 employes and about a million dollars worth of equipment. It occupies the entire second floor of the police building, which formerly was used for courtrooms.

It is organized under Illinois statutes as a nonprofit corporation to serve law enforcement agencies in the area. As far as is known, it is the only regional crime laboratory organized, financed, and governed as a cooperative undertaking by several small communities.

Municipalities in northern Illinois and Lake County previously relied on the Chicago Crime Detection Laboratory. It served all municipalities free of charge and offered two services: collection and evaluation at scenes of major crimes, and scientific examination.

In June of 1968 the Chicago crime lab officials decided it could no longer serve communities outside Cook County due to the rising crime rate in the city and suburbs, and the increase in arrests for narcotics offenses.

The lab also faced an increased number of court appearances for testimony, and more demands by defense attorneys and prosecutors for laboratory services.

The outlying police departments still could use the State of Illinois laboratory or the Federal Bureau of Investigation laboratory, but neither of those makes crime-scene searches.

This can be the most important part of an investigation. Skilled technicians were needed to collect, preserve, and transport evidence to ensure its acceptability in court.

Principe started a program for training evidence technicians fashioned after Chicago's.

Two men from each of the member departments are trained to search crime scenes, not just for fingerprints, but for such evidence as footprints, hair, fibers, or traces of blood or mud. They are called the "task force."

In the event of a major crime, the local police secure the crime scene and await the mobile unit and the task force.

The laboratory uses the latest in technology, and its million dollars worth of equipment includes a gas chromagraph mass spectrometer system—one of only 20 to 30 in the country—which identifies organic compounds. An X-ray fluorescence spectrometer system analyzes samples of soil, paint, and hair for trace elements.

This sophisticated equipment can analyze drugs, pesticides, poisons, and flammable materials—all important in narcotics, homicide, and arson cases.

The new superbly equipped lab started out with a $20,000 donation from a private citizen for the first purchase of equipment when Principe and Bonamarte weren't sure where the money would come from for their undertaking. The city of Highland Park donated a panel truck to be equipped and used as a mobile unit truck, and the Chicago Crime lab filled in with their assistance in those early days.

"They taught me everything I know," Principe acknowledges, "especially in forensic science."

He likes to tell how he came to be in this highly specialized field.

"I was working as a chemist for Armour & Co. on soap research. One day, one of my friends who had joined the police department and used to tell me all kinds of exciting stories about his job and invited me to come down and tour the crime laboratory," he relates.

"Before the tour was over I knew that was the kind of work I wanted to do," he said.

He told the late John Ascher, who was director of the laboratory, "I'd like to work here."

"You're not a policeman—you can't," Ascher told him.

The next day, Principe signed up for the next police exam. He took it and passed and was sworn in. He immediately went to see Ascher.

"I'm a policeman now," he told Ascher.

"So what?" Ascher replied.

"I'd like to work for you now."

Ascher answered, "Not until you get some experience."

He had him assigned to the Fillmore District, then one of the busiest, toughest districts in the city. An officer could learn more there in one year than you could in some others in 10 years, they used to say around the department.

And after one year Principe was assigned to the crime lab.

"I'm grateful for that year at Fillmore, it helped me understand a lot more than I would have about forensic science if I hadn't been there."

He worked in the crime lab for 10 years, where his knowledge about chemistry helped solve many important cases.

In 1965, he took his leave from the department and he is still on leave.

He hired two of the policemen who he considered among his best teachers. Irwin Haviland (microscopy) and John Stauffer (ballistics expert) after they retired from the Chicago Crime lab. Stauffer recently died, but Haviland is his chief aide.

Principe is proud of his son, Charles, who is his document examiner. "And a darned good one," Principe boasts.

From member municipalities, a seven-man board of trustees is elected to govern the laboratory. Four members must be chiefs of police and the other three city managers or mayors.

The laboratory serves 668,500 people and the member municipalities are assessed $249,990 a year. It handles an average of 20 cases a day. Non-member towns are charged $50 an hour for analytical work and $100 a day for testimony. They have given free service to the U.S. Army, Navy, Illinois State Department of Public Safety, and the Illinois State Police.

These cases have involved homicide, fatal hit-and-run, rape, narcotics, arson, and bombing.

Before checking out for the day, Principe checks the computer, which in the flick of an eye tells him the exact time a case was recorded, the police department and officer, the evidence obtained, and what followup action has been taken.

Principe is as sure today as the day he first saw the Chicago Crime lab that there's nothing in the world he'd rather do than what he's doing.

A CAUSE FOR CAUTIOUS OPTIMISM: THE DEPARTMENT OF LABOR UPGRADES ITS EFFORTS TO COMBAT LABOR-MANAGEMENT RACKETEERING

Mr. PERCY. Mr. President, the new Office of Special Investigation (OSI) of the Department of Labor began operations on October 1. OSI will assume the Labor Department's responsibility to assist the Department of Justice strike forces' organized crime program. Labor investigators from OSI will be expected to scrutinize the operations of national and local labor unions, with the aim of rooting out organized criminal influence within the labor movement.

Labor has assigned 90 full-time personnel to the new office, which will be headed by Mr. Rocco DeMarco. That number includes 83 criminal investigators and 7 clerical personnel. Two investigators will hold supervisory roles here in Washington. The remaining 81 compliance officers will be assigned to work with Justice Department strike forces in various cities, as follows: For New York City, 22; for Chicago, 9; for Cleveland and Miami, 7 apiece; for Philadelphia, 6; for Boston 4; 3 each for Buffalo, Detroit, Kansas City, Los Angeles, New Orleans, and San Francisco; 2 for Newark; and 1 apiece for Atlanta, Las Vegas, Camden, Phoenix, Puerto Rico, and Tampa.

Organized crime has exerted its sinister influence over a small, but significant number of this country's labor organizations, thwarting all efforts of government and law enforcement to prevent it. Billions of dollars of pension, and health and welfare funds stand vulnerable to crime syndicates, which are eager to seize these vast sums through bribery, kickbacks, fraudulent loans, extortion, and violence.

The establishment of OSI signals the beginning of a long-overdue fulfillment of a promise from the Labor Department to take the lead in the fight against labor-management racketeering. This is good news, but for the moment I will reserve my applause. In the past few years, the Labor Department has repeatedly ducked its congressionally-mandated responsibility to tackle labor corruption.

In hearings held April 24 and 25 of this year, the Permanent Subcommittee

on Investigations sought to determine why Labor had, until that time, stubbornly refused to beef up its sagging criminal investigative efforts against labor racketeering. No one can doubt the seriousness of the problem. The subcommittee heard convincing testimony from no less than nine Justice Department strike force attorneys that there has been a dramatic upsurge in labor racketeering across the country.

The panel of prosecutors—from New York, Chicago, Miami, San Francisco, Cleveland, Philadelphia, Newark, Buffalo, and Atlanta—told us that organized crime now dominates entire international unions. In some instances, the leaders of these corrupt unions are themselves lieutenants in organized crime families. According to one experienced Justice Department prosecutor quoted in U.S. News & World Report, "Organized crime in labor is probably the most serious problem in the criminal field."

The chilling conclusion of Robert C. Stewart, strike force chief in Newark, N.J. and Buffalo, N.Y. was that—

> Little or no progress has been made to control labor racketeering over the past 20 years, despite some rather good legislation. The same schemes and the same faces and the same tyranny dominate the field of labor racketeering today as they did during the original McClellan Committee hearings.

Criminal investigations of labor-management racketeering are detailed and complex. They may take years to complete. Frequently, they center on a laborious review of the union financial records. The expertise of Labor Department compliance officers is, therefore, crucial to the success of such operations.

Moreover, the Congress has given Labor Department compliance officers broad access to union records. This access is the key to the success or failure of any probe into labor-management racketeering. Crimes which go undetected cannot, of course, be investigated and prosecuted. Access to the evidence of corruption has been given to the Labor Department by Congress. If we are witnessing a significant upsurge in labor-management racketeering, the onus must fall on those who are supposed to detect the wrongdoing, and who have failed to do so.

Combining traditional strong-arm tactics and violence with sophisticated financial schemes, corrupt labor racketeers rob the union rank-and-file of their hard-earned rights and benefits. They force American consumers to pay a duty tax to racketeers for essential goods and services. In effect, consumers and laborers alike are being forced to subsidize organized crime.

The Labor Department's critical failure has been its unwillingness to assign sufficient manpower to work on labor-management racketeering. In reports to the Congress, the Department has consistently exaggerated its level of commitment to the organized crime program. For instance, although Congress approved Labor's fiscal year 1978 budget request, allotting 125 positions to the organized crime program, the Justice Department actually received only 28 man-years of assistance.

In light of this poor record, it was almost unbelievable when Assistant Secretary of Labor Francis X. Burkhardt revealed last February to the House Appropriations Committee that the Labor Department intended to curtail its participation drastically, limiting Labor's organized crime program assistance to 15 "liaison" officers, one for each strike force. Under criticism from the Justice Department and from the Congress, Labor Secretary Marshall sought to rectify the situation. He met on March 31 with Attorney General Bell, at which time a new agreement was reached.

The Labor Department agreed to create an Office of Special Investigations (OSI) the head of which would report directly to the Secretary. Participation in the organized crime program would be taken away from Mr. Burkhardt's supervision in Labor Management Standards Administration and placed under OSI. It was further agreed that the number of compliance officers working with the strike forces would be substantially increased and that they would be full time.

The subcommittee's April hearings left me troubled that the Labor Department leadership still seemed less than fully committed to the organized crime program. To a man, the strike force panel agreed that a paper commitment would accomplish nothing unless vigorously supported by top Labor Department officials. Most distressing was Secretary Marshall's seeming reluctance to give credence to compelling testimony—unanimous on the part of the nine strike force attorneys—that racketeering is a dangerous and growing menace to the American labor movement. When the strike force panel assured us that organized crime's hold on certain labor unions is stronger than ever, Mr. Marshall responded that he "simply has not seen the evidence" of this.

Following the hearings, at my suggestion, Secretary Marshall met personally with strike force prosecutors to discuss current trends in labor union corruption and possible strategies to cope with it. The exchange of views was useful in that it allowed the Secretary to hear suggestions from field experts with a close understanding of the problem.

Secretary Marshall's personal interest, along with OSI's commencement of operations, bodes well for the future of the organized crime program's anti-racketeering drive. However, the Subcommittee on Investigations intends to continue its oversight in this area and intends to work cooperatively with the Department of Labor. There is no question that the Labor Department can make a valuable contribution. The only question is whether it will keep up its interest and intensive activity. I am hopeful that reports of improvement in the Government's battle against labor-management corruption will soon be forthcoming.

Mr. President, Mr. Martin Steinberg, currently head of the Buffalo strike force and a former member of the Miami strike force was one of the nine panel members who testified before the subcommittee last April. He has handled more than 40 major criminal prosecutions, including the convictions of Bernard Rubin and Seymour Gopman, Florida racketeers both extensively involved in union embezzlements, extortion, and kickback schemes. The Rubin case in 1975 was instrumental in renewing subcommittee interest in the field of labor racketeering.

Mr. Steinberg recently published an article entitled "Proposals to Assist in Ending the Abuse of Employee Welfare and Benefit Plans," in the July 1978 issue of Journal of Pension Planning and Compliance. Mr. Steinberg's article proposes several possible solutions to criminal plundering of pension and benefit funds. One proposal advanced is to amend the union and trust fund criminal statutes (29 U.S.C. 501 and 18 U.S.C. 664), including provisions to restrict access to funds by indicted union officials and to allow civil recovery of funds upon conviction.

Mr. Steinberg's well-informed article deserves the attention of anyone concerned about the danger posed by organized crime to billions of dollars in employee benefit funds. His legislative proposals represent ideas worthy of consideration by the Congress. I ask unanimous consent that Mr. Steinberg's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PROPOSALS TO ASSIST IN ENDING THE ABUSE OF EMPLOYEE WELFARE AND PENSION BENEFIT PLANS

(By Marty Steinberg)

Instead of halting the misuse of union trust fund assets with the enactment of ERISA, the abuse of trust fund assets has skyrocketed. More and more union members are finding their pension and health and welfare benefits have been plundered and depleted.

The most common methods of depletion of union trust fund assets are (1) multiple billings; (2) false and fraudulent loans; (3) inflated service contracts; (4) fraudulent insurance schemes; (5) kickbacks to labor racketeers; and (6) conversion of delinquency collections on contributions.

THE PROBLEM AREAS

I. Multiple billings

In many instances, the union trustee or union trust fund counsel sits on a number of labor union trust funds. These trust funds sent trustees and counsel to educational conferences in various parts of the world. The expenses for the trustee and counsel are either advanced or reimbursed. In the case of Bernard Rubin, officer of various labor union locals and the District Council, and trustee on six union trust funds, Rubin would seek full expense allowances from each trust fund and bill each union he represented for the same expenses. This multiple-billing scheme resulted in a $50,000 loss to the funds in a short period of time. See *United States* v. *Rubin*, 559 F.2d 975 (5th Cir. 1977). Counsel for the same fund and many others used almost the same scheme to bilk union trust funds of $50,000–$100,000 in the case of *United States* v. *Gopman*, 77–470–Cr–JE, United States District Court, Southern District of Florida. In both cases neither the trustee nor the attorney informed each board of trustees that they were receiving

expenses from other sources nor did the boards of trustees inquire into the payment of expenses. Since no other trustee sat on all of the other trust funds, the individual trustees would have no knowledge of this multiple billing.

An example of this abuse is illustrated by a multiple-billing scheme concerning a trust fund conference in San Francisco, California. The highest amount of expense money any trustee received as expenses to attend that conference was $2,500 (which was more than sufficient to cover expenses and was estimated as first-class air fare, hotel, and $150 per day. Seymour Gopman, trust fund counsel, received $15,600 from twelve different trust funds as expense allowances for this trip. In addition, his law firm specifically paid most of his actual expenses. Over a period of years the amount of money obtained from this method of conversion can be substantial.

II. False and fraudulent loans

In many cases labor union trust funds are a target for false and fraudulent loan practices. Usually the union trustee or attorney will recommend a loan to a private company and assure the trustees that the loan is a good investment with sound collateral. This "initiator" is usually the recipient of a substantial kickback, which will be discussed later.

Generally the loans will be characterized by the following:

1. Little or no actual collateral.
2. No safeguards on disbursements by the borrower.
3. A second or third position relative to any enforcement on the loan.
4. Unrecorded or misrecorded collateral documents.
5. Collateral documents which reflect collateral already pledged elsewhere.
6. A cursory, if any, financial examination of the borrower.
7. No repayment of the loan by the borrower.
8. A kickback to the initiator. (Because of the power they wield and because the employer-trustees wish to appease the union trustee, the union trustee or attorney bulldozes the phoney loan through the board of trustees for approval.) In *United States* v. *Gopman*, 77–470–Cr–JE, several such loans were charged and the defendant pleaded guilty to receiving a kickback with relation to at least one such loan.

III. Inflated service contracts

As with the fraudulent loan, above, service contract providers who wish to "sell" their services to the trust fund usually approach the influential union trustee or attorney. A deal is worked out whereby the service provider is "guaranteed' a contract with the trust fund. There is no competitive bidding for this contract, nor is there any real inspection of the ability of the service provider to execute the contract. The rate of premium charged to the trust fund is exorbitant and the "initiator," once again, receives a kickback for his services.

IV. Fraudulent insurance schemes

Masters of the fraudulent insurance schemes, having been convicted in various Justice Department investigations and having been the subject of Senate Subcommittee investigations concerning fradulent insurance practices, have "sold" their insurance programs to union trust funds throughout the country. *United States* v. *Hauser*, No. 76–1331, C.D. of Calif. 1977; also see Hearings Before the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs of the United States Senate, Ninety-Fifth Congress, First Session, 1977, *"Labor Union Insurance"; United States* v. *Rubin*, Bond Revocation Hearing Oct. 1977. 75–377–Cf–PF, S.D. Fla. aff'd 559 F. 2d 975 (5th Cir. 1977); Staff Study of the Severance Pay-Life Insurance Plan of Teamsters Local 295————. Permanent Subcommittee on Investigations of the Committee on Governmental Affairs of the United States Senate, Ninety-Fourth Congress, Second Session 1976; *United States* v. *Ostrer*, 422 F. Supp. 93 (S.D.N.Y. 1976); 422 F. Supp. 103 (S.D.N.Y. 1976).

The schemes are generally run as follows:

The insurance fraud artist contacts an "initiator" [usually a union trustee or counsel who is willing (in exchange for gratuities or a kickback) to "vouch" for the insurance program and push it through the board of trustees]. The insurance schemes are marked by having (1) no competitive bidding; (2) high costs, i.e., whole life premiums as opposed to term premiums or some similar provision; (3) exorbitant commissions; (4) paper companies and shell companies which transfer premium payments back and forth in a maze of financial transactions, while hiding substantial sums of money; (5) lack of any method to guarantee the availability of funds to the beneficiaries; (6) bankruptcy or other financial dissolution within a short period of time; (7) a kickback to the "initiator."

These fraudulent insurance schemes have siphoned off literally millions of dollars of union trust fund assets.

V. Kickbacks

In all of the aforementioned areas, the kickback to the union trustee or counsel is the key to buying the influence of the "initiators." Kickbacks have included boats, condominiums, expenses, annuities, cash, interest in companies and any other thing of value that is capable of satisfying the wishes of the "initiator." The *Rubin*, *Gopman*, and *Hauser* cases have shown a wide variety of kickbacks. The receipt of a kickback, fee or commission for the use of influence in trust fund affairs is a violation of 18 U.S.C. 1954. Moreover, the inflated values of contracts, premiums and services to generate money to pay the kickback is a violation of 18 U.S.C. 664.

The kickback may be paid directly to the initiator; it may be held in trust for corrupt union trustees; or it may be funneled through fake companies as "payment" for alleged "services rendered." The kickback arrangement made in connection with the manipulation of union trust fund money is a classic example of union corruption.

VI. Conversion of delinquency collections on contributions

When employer contributors to employee benefit plans become delinquent, the need for a delinquency collection program occurs. These delinquency collection programs are usually unsupervised efforts by union business agents and counsel to collect delinquent funds. The programs are marked by (1) lack of accountability to the trustees and the fund administrator; (2) lack of adequate records; (3) no safeguards on the funds collected; (4) escrow accounts in various names into which delinquency collections are deposited; and (5) massive embezzlement and conversion of the delinquent employers' contributions.

POSSIBLE SOLUTIONS

I. The fund administrator

The fund administrator acts as the fund bookkeeper and is usually the first "outside" party to see the disposition of trust fund assets. These companies, because of their delicate position as "banker" for the trust funds, should be awarded a contract only after sealed competitive bidding. This would help prevent corrupt union trustees from picking a "friendly" company which would not monitor the disbursements of the trust funds.

Also, similar to the type of government-approved list of bonding companies, the government could have an approved list of fund administrators. Criteria could easily be developed to obtain certification and simple audit procedures could be employed to inspect the companies. This would be further assurance that reputable companies are handling trust fund money.

The administrator should be bonded in case of misuse of funds. Moreover, there should be a requirement that the fund administrator submit reports to the government concerning its financial status, assets, subsidiaries, stockholders, conflicts (that is, if the company or its principals deal with the trust fund in any other capacity), any dealings with union officers or counsel, disbursements and reasonableness of fees.

Neither the trust fund administrator nor any of its principals should be permitted to engage in business with the trust fund in any other capacity. This would discourage the corrupt trustee or counsel from dangling lucrative contracts in front of the fund administrator to guarantee his "cooperation."

The fund administrator should be designated by statute to be a fiduciary with respect to the trust fund. Moreover, any company administering trust fund money should be subject to periodic random audit by the government. This would give the government a tool to keep the administrator honest.

Finally, there should be criminal liability on the part of fund administrators for disbursing union trust funds, even at the request of the trustee, when they knew or should have known that the disbursement was improper. This, coupled with a criminal penalty for any failure to inform the government about trust fund improprieties, will be invaluable aids in insuring the honesty of trust fund administrators.

II. The trust funds

The trust funds should be required either to hire a wholly independent attorney or to be represented by a union attorney *and* a management attorney. Too many abuses have occurred in trust funds which only have union counsel as attorney for the fund.

Trustees should be elected by secret ballot of the union members and the contributing employers. The officers of any particular union should no longer automatically be trustees of union trust funds. In fact, the better practice would be to insure that union officers who have access to and control over union funds should not have access to and control over union trust funds.

Given the amounts of money involved and the gross misuse in the past, it would be a reasonable expenditure of trust fund money to hire an independent monitor (i.e., either a government agency or a well respected bank) to oversee disbursements. This would overcome the problem of the management trustee's hesitancy to object to disbursements for fear that the union trustee will affect his business in the future. Many management trustees have stated that, although they have equal voting rights, they feel powerless because of possible retribution for their votes. In this respect, it should be a criminal offense to threaten a trustee or take action against a trustee because of his objection to or failure to ratify a disbursement from the fund. It should likewise be a criminal violation to exert economic or personal pressure on a trustee to influence his vote.

The trust funds should be required to submit full certified audits every six months. Each audit should specifically be aimed at detecting embezzlements, conversions, poor loan or investment practices, and should include examination of all service contracts. The auditing procedures encountered on most trust funds are deplorable. Usually the auditor is a "friend" or a trustee or counsel and his audits are not certified nor do they examine the records for defalcation.

The trustees should be required to file financial disclosure reports with the government. These reports should include disclosure of any interest in or association with

any company or any individual who deals with the trust fund or its service providers. Moreover, the trust funds should not be permitted to deal with convicted felons as service providers. Persons convicted of ripping-off trust fund assets still deal with trust funds because of a lack of adequate legislation.

In fact, there should be a criminal penalty for any trustee, counsel or administrator who pursues such a conflict of interest for financial gain. This would mean that no trustee, counsel or administrator should be able to benefit financially, either directly or indirectly, from the actions of the trust funds.

For any trust fund investment, loan or disbursement over $1,000 there should be a requirement of: (1) full financial disclosure by the person or entity seeking the funds; (2) inspection and report by an independent certified appraiser as to the value of the collateral; (3) a recommendation by a government-certified investment firm, monitor or bank as to the feasibility of the loan or investment; (4) disclosure of any relationship the person or entity has with any trustee, counsel or administrator; and (5) a requirement concerning the type of allowable investment or loan.

The better practice would be to enact legislation only allowing union trust funds to invest money in certain items such as municipal bonds. If the ability to take money out or loan it to associates is eliminated, the union trust fund will not attract the type of individual who will try to abuse his position.

All trust funds should be required to have three signatures on all checks; two signatures should be trustees (one management and one union) and one signature should be that of an independent monitor with veto power.

Any expenses for the trustees or counsel should be actual expenses only, with proper documentation. No trustee or counsel should be permitted to draw expenses on multiple funds unless it is prorated among the funds.

Any delinquency collection program should be monitored carefully. No one individual should be given the authority to "collect" delinquent contributions for the fund. Any money collected should go directly to the fund and the person providing the collection service should bill the fund for his services.

No one should be permitted to "escrow" delinquency collections for any reason. Also, exact records of which employers paid, how much was paid, and other detailed financial records should be required.

Any union or employer trustee or counsel who is indicted for a felony should be suspended immediately from his position as trustee. In the case of *United States* v. *Rubin, supra*, the government attempted in 1975 to have Rubin removed from his union and trust fund positions pending the outcome of his appeals after his conviction for embezzling close to $500,000 from unions and trust funds. The government was unsuccessful in its efforts until October of 1977, when the government offered proof at Rubin's bond revocation hearing that since his conviction he had embezzled another $2,000,000, mainly from union trust funds. There is simply no reason this abuse has to occur and the law should be changed accordingly.

III. The trust attorney

As previously stated, the trust attorney should either be wholly independent (i.e., neither labor nor management) or there should be an attorney for labor and one for management.

No union trust fund attorney should be permitted to personally represent any trustee in a criminal investigation or case. The trust attorney should use all of his energies and abilities for the fund. His job is not to protect or represent any individual trustee, but his job is to represent the fund itself. See *United States* v. *Gopman*, 531 F.2d 262 (5th Cir. 1976) for a similar proposition with respect to union counsel.

Trust fund attorneys should be required by law to take every action possible to make the funds whole after misuse is discovered. This includes recovery bonds, suing trustees, applying for trusteeship, removing trustees, and a host of other remedies.

A fund counsel should have no independent ability to cause the dispersal of trust fund money. Nor should he be a financial advisor or investor. His sole function should be legal advice.

The trust attorney should not be given carte blanche authority with respect to delinquency collections. He should be required to keep detailed financial reports on his collection program; he should not be allowed to escrow funds, but should be required to tell all employers to send any money directly to the trust fund; and he should only receive money for services rendered by way of an appropriate billing to the trust fund.

IV. Statutory relief

In addition to the suggestions made above, statutory relief is necessary immediately with respect to the union and trust fund criminal statutes (29 U.S.C. 501 and 18 U.S.C. 664). Those statutes should be amended to contain provisions (1) for restraining orders and injunctive relief to terminate dissipation of funds upon indictment; (2) for automatic suspension of the union officer, employee, trustee or attorney indicted; and (3) for civil recovery after conviction upon the initiation of the government, including such relief as treble damages.

If the laws are tightened up to make it difficult to abuse trust fund assets, the labor racketeer will look for greener pastures. The allure of the unions and trust funds to those who would abuse their positions has historically been that they are "easy pickings." If new laws are enacted which safeguard the funds adequately, those persons who wish only to use unions and trust funds for their own purposes will have to look elsewhere for "easy pickings."

This very problem has been addressed by the Senate Permanent Investigating Committee in Hearings held on April 24 and 25, 1978.

TAXES AND SPENDING LETTERS

Mr. THURMOND. Mr. President, I recently received several hundred letters from South Carolinians concerned with rising taxes and huge spending by the Federal Government. These letters, authored originally by Mr. Martin O'Brien of Greenville, S.C., were published in the Greenville News and were cut out, signed, and sent to either Senator HOLLINGS or myself by concerned citizens. By taking the time to cut out a letter and mail it to one of their Senators, South Carolinians were able to voice their unhappiness about how the Federal Government spends their tax dollars.

Mr. President, I believe that a sample of these letters reflects the attitude of countless Americans, and, in order to share it with my colleagues, I ask that it be printed in the RECORD.

The letter follows:

Senator STROM THURMOND,
Senator ERNEST HOLLINGS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: We, the hard working and independent people of South Carolina, are deeply concerned over the way you are spending our money. We have been silent too long. We have finally come to the conclusion that the only way to get the federal government under control and to get our government back in the hands of the people who are paying the bills is to demand a limit on spending and taxes by law.

1. We want you to run our federal government like we have to run our families and businesses. We want laws that prohibit the U.S. Congress from spending this country into bankruptcy. Every time you engage in deficit spending, you are taking away from every one of us. Our common sense tells us that if Congress continues to spend more than they collect, our economic system will collapse.

2. A Constitutional Amendment to prohibit the U.S. Congress from spending more than they collect in taxes.

3. A simple tax system with a 10% minimum tax on everyone regardless of exemptions, tax shelters, loopholes, or whatever. We are tired of hearing about people and businesses who pay no tax.

4. A maximum tax of 25% on all personal and business income and business profits simply because it is fair, reasonable, and workable.

We want a strong national defense, an economic environment to let us succeed or fail on our own and little else from our federal government.

The free enterprise system has made this country what it is. Government cannot improve it. Government can, however, destroy it, along with the initiative and ingenuity of a great people. We want to turn away from the socialistic direction we are taking, and return to the principles of individual freedom before it is too late.

America is freedom to the rest of the world. If our economy fails, freedom will fail and Nikita Khrushev's boast "We will bury you" will come true, because we will destroy ourselves!

MARTIN F. O'BRIEN.

CONCERNING THE DEATH OF MR. O. M. EDWARDS

Mr. THURMOND. Mr. President, Mr. O. M. Edwards, a distinguished South Carolinian and the father of my State's Governor, passed away on September 1.

Mr. Edwards graduated from the University of Kentucky where he excelled as an athlete. While he was a student he was heavyweight wrestling champion for 4 years.

After graduating from college, Mr. Edwards began a career in education which lasted 50 years. His work in education carried him from Kentucky to Florida and finally to South Carolina. He taught public speaking and coached a national public speaking winner and a national essay winner from South Carolina.

Besides his interest in education, Mr. Edwards was active in agriculture and was said to be responsible for bringing the first centipede grass into South Carolina. He also wrote extensively on beekeeping, and contributed to several textbooks on the subject.

Mr. Edwards also has a long interest in politics and was a mayor of Hawthorne, Fla. This interest in politics extended to his family as his son is the present Governor of South Carolina and his great nephew, Julian Carroll, is the present Governor of Kentucky.

My deepest sympathy is extended to Mr. Edwards' wife Bertie Hieronymus at this time of sadness; also to his three daughters, Mrs. F. Douglas Pinckney,

Mrs. J. T. Melcher, Jr., and Mrs. Lucius P. Varn; and his two sons, Dr. M. Thomas Edwards, and Dr. James B. Edwards, presently Governor of South Carolina. They can take genuine solace, however, from the lifelong benefits gained by sharing this close family association.

Mr. President, in order to share newspaper articles and a press release concerning the death of Mr. Edwards with my colleagues, I ask that they be printed in the RECORD.

The articles follow:

GOVERNOR'S FATHER DIES AT 90

O. M. Edwards, 90, of Mt. Pleasant, father of Gov. James B. Edwards, died Friday at an Orangeburg nursing home after a long illness.

Born in 1888 in Falls of Rough, Ky., Mr. Edwards was the son of the late Harrison Thomas and Francis Patterson Edwards.

He was a graduate of the University of Kentucky, where he was a heavyweight wrestling champion for four years. He spent 50 years in educational work in Kentucky, Florida and South Carolina. Active in agricultural work, Mr. Edwards was said to be responsible for bringing the first centipede grass into South Carolina. He taught public speaking and coached a national public speaking winner and a national essay winner from South Carolina during his career.

Mr. Edwards wrote extensively on beekeeping, contributing to several textbooks on the subject.

He was a member of Hibben United Methodist Church, Mr. Pleasant, and was a master Mason.

Surviving are his widow, Bertie Hieronymus Edwards; three daughters, Mrs. F. Douglas Pinckney of Mt. Pleasant, Mrs. J. T. Melchers Jr. of Atlanta, Ga., and Mrs. Lucius P. Varn of Orangeburg; two sons, Dr. M. Thomas Edwards of Greenville and Gov. Edwards; 19 grandchildren and 7 great grandchildren.

Services will be 3 p.m. today at Hibben United Methodist Church in Mt. Pleasant, conducted by the Rev. George R. Cooper and Ed Bradham.

Pallbearers will include R. D. Schroder, G. W. Fricks, Charles Shealy, Creighton Frampton, Cmdr. Arthur Johnson and C. W. Carraway.

Friends may call at 651 McCants Drive in Mt. Pleasant or Stuhr's Funeral Home, downtown chapel, Charleston.

The family suggests that those who wish may make memorials to the Hibben United Methodist Church building fund.

STATEMENT FROM THE OFFICE OF GOVERNOR JAMES B. EDWARDS

The office of Governor James B. Edwards announced Friday that the Governor's father, O. M. Edwards of Mt. Pleasant, died early Friday after a lengthy illness.

Mr. Edwards died at an Orangeburg Nursing Home where he had been a long-time resident. He was 90 and had been in declining health for several years.

Funeral services will be held Saturday, September 2, at the Hibben United Methodist Church in Mt. Pleasant, at 3:00 p.m. with graveside services to follow. The services will be performed by the Reverend George R. Cooper, pastor of Hibben United Methodist Church, and the Reverend Ed Bradham, of the Isle of Palms.

Mr. Edwards was born in 1888 in Falls of Rough, Kentucky, the son of Harrison Thomas Edwards and Frances Patterson Edwards. He was a member of Hibben United Methodist Church in Mount Pleasant. He was a graduate of the University of Kentucky where he was heavyweight wrestling champion for 4 years.

He spent 50 years in educational work in Kentucky, Florida, and South Carolina. He was active in agricultural work and was responsible for bringing the first centipede grass into South Carolina. Mr. Edwards taught public speaking and coached a national public speaking winner and a national essay winner from South Carolina during his career.

He wrote extensively on the subject of beekeeping and contributed to several national textbooks on that subject, and he was a master mason.

He is survived by his wife, Bertie Hieronymous Edwards; three daughters, Mrs. F. Douglas Pinckney of Mt. Pleasant, Mrs. J. T. Melchers, Jr. of Atlanta, Georgia, and Mrs. Lucius P. Varn of Orangeburg; two sons, Dr. M. Thomas Edwards of Greenville, and Governor James B. Edwards of Columbia, 19 grandchildren and 7 great-grandchildren.

Friends may call at the home in Mt. Pleasant at 651 McCants Drive or at Stuhr's Funeral Home, Downtown Chapel, Charleston.

[From the Post Courier, Charleston, S.C., Sept. 2, 1978]

O. M. EDWARDS, GOVERNOR'S FATHER, DIES AT AGE 90

The office of Governor James B. Edwards announced Friday that the governor's father, O. M. Edwards of Mount Pleasant, died early Friday after a lengthy illness.

Mr. Edwards died in an Orangeburg nursing home where he had been a long-time resident. He was 90 and had been in declining health for several years.

A spokesman for the governor said the governor's plans to travel to Europe on an industry-hunting trip would be postponed until after his father's funeral. The governor was scheduled to leave for Switzerland and Belgium on Saturday, but the spokesman said Edwards would leave late Sunday instead.

The funeral will be Saturday at 3 p.m. at Hibben United Methodist Church in Mount Pleasant, directed by Stuhr's Funeral Home, with a graveside service to follow.

Mr. Edwards was born in 1888 in Falls of Rough, Ky. a son of the late Harrison T. Edwards and Mrs. Frances Patterson Edwards. He was a graduate of the University of Kentucky where he was a heavyweight wrestling champion. He was a member of Hibben United Methodist Church.

Mr. Edwards spent 30 years in educational work in Kentucky, Florida and South Carolina. He was active in agricultural work and was reponsible for bringing the first centipede grass into South Carolina.

He taught public speaking and coached a national public speaking winner and national essay winner from South Carolina. He wrote extensively on the subject of bee keeping and contributed to several textbooks on that subject. He was a master Mason.

Also surviving are his widow, Mrs. Bertie Hieronymus Edwards; three daughters, Mrs F. Douglas Pinckney of Mount Pleasant, Mrs. J. T. Melchers Jr. of Atlanta and Mrs. Lucius P. Varn of Orangeburg; another son, Dr. M. Thomas Edwards of Greenville, 19 grandchildren and seven great-grandchildren.

DEATH OF MR. PHILIP A. BUCHHEIT OF SPARTANBURG, S.C.

Mr. THURMOND. Mr. President, an outstanding journalist, Mr. Philip A. Buchheit of Spartanburg, S.C., passed away on September 24, 1978.

I knew Mr. Buchheit for many years, and he was a man of distinction and integrity. He was dedicated and sincere in everything that he understood and was an inspiration to all those around him.

Mr. Buchheit was editor-in-chief of the Spartanburg Herald Journal, president of the Newspaper Management and Production Co., and president of Mid-South Management Co. which publishes a number of daily and weekly newspapers in several southeastern States. He was also a founder of General Advertising Service in Atlanta, Ga.

He began his newspaper experience on a small newspaper in Georgia, and worked his way up through several Georgia newspapers until he became general manager of the Macon, Ga., Telegraph and News.

Mr. Buchheit came to Spartanburg in 1946 to become publisher of the Spartanburg Herald-Journal. In Spartanburg he was active in religious, educational, and civic activities. His energetic work and his selfless dedication to his community will long be remembered by the countless people he helped.

My deepest sympathy is extended to Mr. Buchheit's wife, Mrs. Vena Buchheit; his daughter, Mrs. Phyllis Babb; his son, Mr. William Buchheit; his three stepdaughters, Mrs. Mary Herrin, Mrs. James Mynatt, and Mrs. Steve Skaggs; his stepson, Mr. Robert Daly; and to his grandchildren and other relatives at this time of sadness. They can take genuine solace, however, from the life-long benefits gained by sharing this close family association.

Mr. President, in order to share two of the newspaper articles concerning the death of Mr. Buchheit with my colleagues, I ask that they reprinted in the RECORD.

The articles follow:

BUCHHEIT, HERALD-JOURNAL CHIEF EXECUTIVE, DIES AT 71

Philip A. (Phil) Buchheit, editor-in-chief of the Spartanburg Herald-Journal died Sunday at 2:20 p.m. at General Hospital following a long illness.

He was 71.

Well known to most Spartans, Buchheit was president of Newspaper Management and Production Co., the operating company for the Herald-Journal. He came to Spartanburg in 1946 to publish the Spartanburg newspapers.

He was also president of Mid-South Management Co. which publishes a number of daily and weekly newspapers in several southeastern states. He was a founder of General Advertising Service in Atlanta.

Mr. Buchheit was born in 1907, son of the late John Quincy and Katherine Mobley Buchheit. He was a Methodist.

Surviving are: his wife, Vena Daly Buchheit of Spartanburg; one daughter, Mrs. Phyllis Babb and one son, William C. Buchheit, both of Spartanburg; three stepdaughters, Mrs. Mary Herrin of Birmingham, Ala., Mrs. James Mynatt of Atlanta and Mrs. Steve Skaggs of Goldsboro, N.C.; a stepson, Robert W. Daly of Florence, Ala.; three brothers, Edwin of Charleston, Tenn., Jack of Chamblee, Ga. and Fred Buchheit of Spartanburg; five grandchildren, Philip J. and Andrew Babb of Spartanburg, Mrs. Laurene Burnett of LaGrange, Ga., Philip G. and William C. Buchheit of Spartanburg.

Graveside services will be held at 4 p.m. Tuesday at Greenlawn Memorial Gardens by Drs. Harry Chandler, John Wood Robison and James Barrett.

The family requests that flowers be omitted and that contributions be made instead to the Phil Buchheit Scholarship Fund at Spartanburg Methodist College or to the charity of choice.

The family is at the home of Mrs. Phyllis Babb at 1036 Glendalyn Circle.

A native of Savannah, Ga., Mr. Buchheit attended public schools in Sylvania, Ga., the Georgia Institute of Technology Evening School and the Georgia School of Business Administration.

His first newspaper experience came when he worked as a youth on the weekly newspaper in Sylvania. He began daily newspaper work as an apprentice printer with the Savannah Morning News. He later worked for the Savannah Press, the Atlanta Journal and the Atlanta Georgian as a journeyman printer and linotype operator.

He also worked in Atlanta for awhile as an advertising copy writer for Davison-Paxon Department Store.

He was advertising manager, business manager and general manager at the Macon, Ga. Telegraph and News from 1941–46. Prior to that he served in advertising capacities for the Wilmington, N.C. Star-News and the Greenville News-Piedmont.

Mr. Buchheit came to Spartanburg in 1946 to become publisher of the Spartanburg Herald-Journal.

Mr. Buchheit took an active and leadership role in educational, religious and civic activities in Spartanburg.

He founded the Edgar Gwynne Education Fund for deserving college students and the Buchheit Nursing Fund at the University of South Carolina in Spartanburg; was a member of the Board of Trustees of Spartanburg Methodist College for 15 years, five of them as chairman. He headed the $3 million building Fund Campaign for SMC in recent years and the administration building at the college was named in his honor.

He also served on the Converse College Board of Associates, the Board of Visitors at Columbia College and the Board of Trustees of Georgia State College.

In April of this year, 28 business associates created in his honor the Phil Buchheit Scholarship at Spartanburg Methodist College with an endowment of $20,000. Proceeds from the fund are to be used for deserving students at the college.

In the 1960's, Mr. Buchheit headed the funds campaign for $1,350,000 to build the YMCA Family Center on Pine Street. He served as a director and president of the YMCA.

He created the Goodfellows Fund in 1948 to aid the needy at Christmas time. The fund has annually provided food and necessities to poor families in the community through donations from citizens, businesses and various civic and social groups.

Mr. Buchheit received many honors and awards in recognition of his contributions to his community and his profession.

Wofford College presented him the Citizens Distinguished Service Award in 1977; he received the Sertoma International Club's Service to Mankind award in 1970; an award of Special Merit from the Spartanburg Jaycees for the years 1959, 1960 and 1961; an award of Special Merit for service as president of the Spartanburg Chamber of Commerce, 1953–55; and an Award of Excellence as president of the United Fund in 1961.

As a member on the Board of Governors of the Bureau of Advertising of the American Newspaper Publishers Association, he was awarded a Distinguished Service Award. He served on the Board of Southern Newspaper Publishers Association and was active in the South Carolina Press Association.

He was a member of the Spartanburg Rotary Club, the Sixth Naval District National Defense Executive Advisory Board and had served on a number of community interest boards in Spartanburg, including the Spartanburg County Foundation Board.

Mr. Buchheit was a member of Central United Methodist Church and was a member of its Board of Trustees and had served on the Administrative Board. A former member of Trinity Methodist Church, he served there on the Board of Stewards.

In Macon, prior to coming to Spartanburg, Mr. Buchheit was active in the business and civic life of that community. He received the Outstanding Citizen of the Year award from the Macon Exchange Club; was a member of the Chamber of Commerce and Merchants Association; a director of the Macon YMCA and a director and president of the Macon Boys Club. He also served as a president of the Georgia-Alabama Advertising Managers Association.

PHIL BUCHHEIT: MAN OF LOVE

Phil Buchheit loved The Herald-Journal and the employees of The Herald-Journal loved him.

Next to his family, they were the most important people in his life. When he walked through the newspaper building, there was always a hello, a joke, a pat on the back, a smile for everyone—position or status meant nothing.

Every single employee of The Herald-Journal was his friend, and, in turn, he was their friend. When they had a problem, Herald-Journal employees knew they could turn to Phil Buchheit for advice, a kind word or material aid. Phil Buchheit started life out as a poor Georgia boy and he knew the importance of a helping hand.

One of the biggest joys in Phil Buchheit's life was the Christmas season. It was a time when his normal goodness overflowed a hundredfold.

He loved the annual newspaper Christmas parties where he was able to share his good fortune with his fellow workers. He passed out more than a million dollars as Christmas gifts to the people who helped him bring The Herald-Journal to Spartanburg homes since 1947.

Goodfellows was his pride and joy. His heart, his soul and his body went into this opportunity to bring joy to the less fortunate in Spartanburg County during the Christmas season.

He enjoyed the greatest gift of all—he was loved.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. The Chair informs the Senator that there are no such orders.

Mr. ROBERT C. BYRD. I thank the Chair.

SPECIAL ORDER ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders are recognized under the standing order on tomorrow, Mr. PROXMIRE be recognized, as in legislative session, for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, reserving the right to object, will Mr. PROXMIRE be recognized as in legislative session?

Mr. ROBERT C. BYRD. Yes, because we still will be in executive session when we come back.

Mr. BAKER. I have no objection.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, does any Senator wish to seek recognition? I am about to move to recess.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, in executive session I move in accordance with the order previously entered, and as a further mark of respect to the memory of the deceased Hon. Goodloe E. Byron, late a Representative from the State of Maryland, that the Senate stand in recess until 9 o'clock this morning.

The PRESIDING OFFICER. Without objection, the Senate will stand in recess until 9 a.m. today in memory of former Representative Goodloe E. Byron.

At 12:19 a.m. the Senate recessed until Saturday, October 14, 1978, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 13, 1978:

IN THE AIR FORCE

The following-named officers for promotion in the Regular Air Force, under the appropriate provisions of chapter 835, title 10, United States Code, as amended. All officers are subject to physical examination required by law:

LINE OF THE AIR FORCE

First lieutenant to captain

Aaron, Gregory J., [redacted].
Aaser, Donald F., [redacted].
Abrams, Daniel W., [redacted].
Adams, John R., [redacted].
Adams, Theodore D., [redacted].
Adamski, John, [redacted].
Adamson, Douglas E., [redacted].
Adriance, Gary R., [redacted].
Agosto, Jose R., [redacted].
Agrella, William, [redacted].
Ahern, Bruce D., [redacted].
Ainslie, Gregory L., [redacted].
Albani, Louis R., [redacted].
Albers, Alan K., [redacted].
Albin, Timothy S., [redacted].
Albritton, James E., [redacted].
Alchian, Allen A., [redacted].
Alderman, Stephen D., [redacted].
Allen, Craig E., [redacted].
Allen, Francis C., [redacted].
Allen, Lyle E., [redacted].
Allen, Ralph E., [redacted].
Alley, Russell D., [redacted].
Alloway, Lee C., [redacted].
Almassy, Richard J., [redacted].
Alt, John J., [redacted].
Alvey, Wallace R., [redacted].
Ambrose, Dean H., [redacted].
Amelung, Martin D., [redacted].
Anderson, Carl E., [redacted].
Anderson, David A., [redacted].
Anderson, Donald C., [redacted].
Anderson, Eric A., [redacted].
Anderson, Gregory J., [redacted].
Anderson, Hebert K., Jr., [redacted].
Anderson, James R., [redacted].
Anderson, Jesse J., [redacted].
Anderson, John P., [redacted].
Anderson, Robert H., Jr., [redacted].
Andrew, Thomas L, [redacted].
Andrews, Charles R., III, [redacted].
Andrews, Steven H., [redacted].
Andrews, Thomas R., [redacted].
Andrus, James C., [redacted].
Anglin, Rufus C., Jr., [redacted].
Appleton, Robert J., [redacted].
Arce, Martin F., [redacted].
Archer, Michael D., [redacted].
Archey, Kenneth J., [redacted].
Archibald, Richard C., [redacted].
Armstrong, John M., [redacted].
Arnold, Brian A., [redacted].
Arnold, Gregory L., [redacted].
Arnott, Neil J., [redacted].
Arns, Thomas G., [redacted].
Artman, William D., [redacted].

Asbury, Clinton J., III, [redacted].
Ashcraft, John B., [redacted].
Ashleman, Eddie F., Jr., [redacted].
Ashley, Gary M., [redacted].
Ashton, David J., [redacted].
Askins, Robert D., [redacted].
Aslakson, Robert D., [redacted].
Aslett, Linda S., [redacted].
Audley, David R., [redacted].
Augenstein, Paul M., [redacted].
Augustenborg, Jay M., [redacted].
Avary, Harold T., [redacted].
Averitt, Donald W., [redacted].
Avila, Walter B., [redacted].
Avirett, William U., [redacted].
Avon, Joseph G., [redacted].
Ayers, Freddie A., [redacted].
Ayers, Louis M., Jr., [redacted].
Ayres, Richard L., [redacted].
Babbitt, Harold L., [redacted].
Babiak, Nicholas J., [redacted].
Bagby, Deana M., [redacted].
Bailey, Jack L., Jr., [redacted].
Bailey, James D., [redacted].
Bailey, Michael L., [redacted].
Bailey, Richard L., [redacted].
Bailey, Wade H., Jr., [redacted].
Baird, Richard R., [redacted].
Baker, Christopher J., [redacted].
Baker, Francis J., Jr., [redacted].
Baker, John R., [redacted].
Baker, Joseph W., [redacted].
Baker, Richard J., [redacted].
Baker, Stephen L., [redacted].
Ball, Jo Ann, [redacted].
Ball, Ronald D., [redacted].
Ballard, Robert L., [redacted].
Bandi, Raymond L., [redacted].
Bangert, Berthold T., Jr., [redacted].
Banghart, George R., [redacted].
Banister, John H., Jr., [redacted].
Bankey, Daniel E., [redacted].
Banks, Robert J., [redacted].
Bannon, Michael T., [redacted].
Barbee, Leonard F., [redacted].
Barber, Brian R., [redacted].
Barber, Ronald L., [redacted].
Barger, Phillip O., [redacted].
Barker, Kenneth R., Jr., [redacted].
Barksdale, Barry W., [redacted].
Barnett, Jeffery R., [redacted].
Barnoski, John J., [redacted].
Baron, George C., Jr., [redacted].
Barr, Richard E., Jr., [redacted].
Barr, Thomas L., [redacted].
Barrier, Richard D., [redacted].
Barris, Bernard C., [redacted].
Barry, Craig L., [redacted].
Barry, James [redacted].
Barry, James R., Jr., [redacted].
Bartel, Danny J., [redacted].
Bartol, Thomas J., [redacted].
Barton, Joseph S., [redacted].
Barton, Kenneth E., [redacted].
Barton, Raymond O., III, [redacted].
Barton, William H., Jr., [redacted].
Bassa, Jaul, Jr., [redacted].
Batten, Albert L., [redacted].
Baugh, David E., [redacted].
Baxter, Gary D., [redacted].
Bayman, Bradley, F., [redacted].
Bays, Kent J., [redacted].
Bean, Keith W., [redacted].
Beard, Richard E., Jr., [redacted].
Beard, Roderick A., [redacted].
Beasley, Everett L., Jr., [redacted].
Beaty, Billie L., [redacted].
Beaumont, Edward I., [redacted].
Beck, Roger A., [redacted].
Beck, William C., II, [redacted].
Beckenhauer, Charles D., [redacted].
Becker, Richard J., [redacted].
Beckett, Richard A., [redacted].
Bedard, Morris D., [redacted].
Beechel, William R., [redacted].
Beermann, Robert R., [redacted].
Beers, David G., [redacted].
Behler, Robert F., [redacted].
Behrens, Carl R., [redacted].
Bein, Peter J., [redacted].
Bell, David E., [redacted].
Bell, Glenn E., [redacted].
Bell, Robert A., Jr., [redacted].
Benedict, Wallis M. Jr., [redacted].
Benfield, Gerald R., [redacted].
Benjamin, Clayton L., [redacted].
Benner, Robert C., [redacted].
Bennett, Larry E., [redacted].
Benton, William D., [redacted].
Bentson, Kirk D., [redacted].
Berardino, Joseph J., [redacted].
Berendt, Steven E., [redacted].
Berg, Allen E., [redacted].
Berg, Harold E., [redacted].
Berg, Michael G., [redacted].
Berg, Robert G., [redacted].
Bergeron, Gerald R., [redacted].
Berland, William L., [redacted].
Berlin, Frank B., [redacted].
Berlin, Rodney J., [redacted].
Bernard, John E., [redacted].
Bernstein, Steven C., [redacted].
Berry, Robert L., [redacted].
Bethards, Daniel E., [redacted].
Beulke, Norman H., [redacted].
Bevins, Barbara J., [redacted].
Bibby, Thomas M., [redacted].
Bielski, James L., [redacted].
Bienvenue, Robert C., [redacted].
Biggs, John E. Jr., [redacted].
Biggs, Michael N., [redacted].
Bilak, Mark J., [redacted].
Billings, Lynn K., [redacted].
Bina, David A., [redacted].
Binn, Brian A., [redacted].
Bird, David C., [redacted].
Birkett, Edward F. III., [redacted].
Birkhimer, John D., [redacted].
Bishop, Stephen G., [redacted].
Bisognano, Joseph P., Jr., [redacted].
Bizzell, James W., [redacted].
Bjorklund, Raymond C., [redacted].
Black, Steven B., [redacted].
Blackmer, Douglas A., [redacted].
Blackwell, Larry W., Sr., [redacted].
Blair, Robert J., Jr., [redacted].
Blaisdell, Franklin J., [redacted].
Blank, Gary F., [redacted].
Blankenship, Pierce, [redacted].
Blanton, Hoy M., [redacted].
Blatt, Ronald W., [redacted].
Blaufarb, Peter N., [redacted].
Blauvelt, John C., [redacted].
Bledsoe, Jim A., [redacted].
Bledsoe, Robert M., [redacted].
Bliss, Ronald K., [redacted].
Blue, David V., [redacted].
Boatright, Donald L., [redacted].
Bobrowski, Paul M., [redacted].
Bock, Larry K., [redacted].
Boeck, John T., Jr., [redacted].
Boehme, Michael P., [redacted].
Bogenrief, James D., [redacted].
Boggie, Douglas A., [redacted].
Bogumill, Michael P., [redacted].
Bohannon, Frank B., [redacted].
Bolander, Ralph E., [redacted].
Boles, Lyman M., [redacted].
Boley, Nicholas D., [redacted].
Bolling, Michael J., [redacted].
Bolt, Russell T., [redacted].
Bone, James R., [redacted].
Bonewitz, Joel D., [redacted].
Bontly, William A., [redacted].
Boozer, John W., III, [redacted].
Bordelon, John H., Jr., [redacted].
Borenstein, Richard D., [redacted].
Borysewicz, Michael D., [redacted].
Boss, William D., [redacted].
Bossen, Dennis A., [redacted].
Bourdon, Donald J., [redacted].
Bouris, Harry L., [redacted].
Boutin, Donald R., [redacted].
Bowden, Joseph A., [redacted].
Bowen, Charles A., [redacted].
Bowen, Clayton P., [redacted].
Bowen, William R., Jr., [redacted].
Bowman, David M., [redacted].
Bowser, Allen B., [redacted].
Box, Alan V., [redacted].
Boyd, Anne W., [redacted].
Boyer, Charles A., [redacted].
Boyer, Franklin M., Jr., [redacted].
Boyette, Ronald G., [redacted].
Boylan, Gary D., [redacted].
Boyle, Andrew J., II, [redacted].
Boyle, Gary S., [redacted].
Boyle, James B., [redacted].
Boyle, Johnnie E., [redacted].
Boyle, Robert E., Jr., [redacted].
Boyle, Walter F., [redacted].
Bradford, Stuart W., Jr., [redacted].
Brandenburg, Paul L., [redacted].
Brandon, William H., Jr., [redacted].
Brannick, Michael R., [redacted].
Branson, Terry W., [redacted].
Braselman, William W. R., Jr., [redacted].
Braswell, Ralph M., III, [redacted].
Braswell, Thomas S., [redacted].
Brazie, Tommy L., [redacted].
Bream, Brian B., [redacted].
Brechtel, Donald L., [redacted].
Bredwell, Thomas E., [redacted].
Breed, John A., [redacted].
Brennan, Kevin B., [redacted].
Brewer, Rommie G., [redacted].
Bridges, James T., [redacted].
Brier, Robert B., [redacted].
Briggs, David R., [redacted].
Briggs, Gerald R., [redacted].
Briggs, Hugh C., [redacted].
Briggs, Lewis W., [redacted].
Briski, David F., [redacted].
Britton, Edward J., [redacted].
Britton, Vernon C., [redacted].
Brockner, Charles R., [redacted].
Broda, Kenneth F., [redacted].
Broderick, Michael D., [redacted].
Brooks, Douglas J., [redacted].
Brooks, Michael E., [redacted].
Brooks, Peggy F., [redacted].
Brooks, Randall E., [redacted].
Broussard, Robert E., [redacted].
Brower, Douglas R., [redacted].
Brown, Bruce A., [redacted].
Brown, Charles D., [redacted].
Brown, David J., [redacted].
Brown, Edward M., [redacted].
Brown, Kathryn A., [redacted].
Brown, Kenneth R., [redacted].
Brown, Kenneth S., [redacted].
Brown, Martin J., Jr., [redacted].
Brown, Michael F., [redacted].
Brown, Philip N., [redacted].
Brown, Ralph B., Jr., [redacted].
Brown, Richard B., [redacted].
Brown, Richard J., [redacted].
Brown, Robert M., [redacted].
Brown, Robert W., [redacted].
Brown, Roy W., III, [redacted].
Brown, Thomas E., [redacted].
Browning, James D., [redacted].
Browning, Ronald K., [redacted].
Broyles, Danny R., [redacted].
Bruce, Christopher D., [redacted].
Bruening, William S., [redacted].
Brumlik, Thomas A., [redacted].
Brumlow, Ronald L., [redacted].
Bruner, Charles D., [redacted].
Brust, Terry J., [redacted].
Bryce, Walter F., Jr., [redacted].
Buchanan, John W., [redacted].
Buchanan, Rickey L., [redacted].
Buchanan, Walter E. L., III, [redacted].
Bucher, Warren E., [redacted].
Buck, Richard L., [redacted].
Buckley, Raynor L., II, [redacted].
Buebendorf, Charles J., [redacted].
Bugg, Catherine N., [redacted].
Buley, Stephan L., [redacted].
Bullington, Jay A., [redacted].
Bullock, Joan G., [redacted].
Bullock, Martin, [redacted].
Bumpas, Michael L., [redacted].
Bunch, John G., [redacted].
Bunner, Randle K., [redacted].
Buresh, James A., [redacted].
Burg, Jerome W., [redacted].
Burgar, John D., [redacted].
Burho, James F., [redacted].
Burk, Donna L., [redacted].
Burke, Patrick J., Jr., [redacted].
Burkhart, John S., [redacted].
Burnette, Bennie H., Jr., [redacted].

Burroughs, David M., XXX-XX-XXXX.
Burt, Earl D., Jr., XXX-XX-XXXX.
Burton, David H., Jr., XXX-XX-XXXX.
Busby, Stephen M., XXX-XX-XXXX.
Buschmann, Richard W., XXX-XX-XXXX.
Bush, John L., XXX-XX-XXXX.
Buss, William D., XXX-XX-XXXX.
Butler, Gerald J., XXX-XX-XXXX.
Butler, Jeffrey C., XXX-XX-XXXX.
Butler, Thomas R., XXX-XX-XXXX.
Buttry, Jimmy E., XXX-XX-XXXX.
Byrd, Larry L., XXX-XX-XXXX.
Byrne, William A., XXX-XX-XXXX.
Cady, Steven E., XXX-XX-XXXX.
Cafiero, Mario S., XXX-XX-XXXX.
Caisse, Eugene J., XXX-XX-XXXX.
Calcutt, Harry M., Jr., XXX-XX-XXXX.
Caldwell, Ronald E., XXX-XX-XXXX.
Callaghan, Michael D., XXX-XX-XXXX.
Callen, Monte H., Jr., XXX-XX-XXXX.
Callender, Ronald S., XXX-XX-XXXX.
Caltagirone, Andrew T., XXX-XX-XXXX.
Calvert, Paul H., XXX-XX-XXXX.
Camalick, John J., XXX-XX-XXXX.
Camann, Stephen P., XXX-XX-XXXX.
Cameron, Hugh C., XXX-XX-XXXX.
Cameron, Jeffrey A., XXX-XX-XXXX.
Campbell, John H., XXX-XX-XXXX.
Cannan, David M., XXX-XX-XXXX.
Cannistraci, Biagio E., XXX-XX-XXXX.
Cannon, James P., XXX-XX-XXXX.
Cantwell, Francis X., XXX-XX-XXXX.
Carey, Bernard P., III, XXX-XX-XXXX.
Carlson, Kent C., XXX-XX-XXXX.
Carlton, James W., XXX-XX-XXXX.
Carpenter, John R., XXX-XX-XXXX.
Carpenter, Michael F., XXX-XX-XXXX.
Carpenter, Richard F., XXX-XX-XXXX.
Carrato, Anthony L., XXX-XX-XXXX.
Carrigan, Thomas E., XXX-XX-XXXX.
Carroll, Clarence D., XXX-XX-XXXX.
Carroll, Oscar F., Jr., XXX-XX-XXXX.
Carroll, Stephan R., XXX-XX-XXXX.
Carroll, Stephen W., XXX-XX-XXXX.
Carroll, Will H., Jr., XXX-XX-XXXX.
Carroll, William B., XXX-XX-XXXX.
Carson, Richard T., XXX-XX-XXXX.
Carter, Dale K., XXX-XX-XXXX.
Carter, Linda D., XXX-XX-XXXX.
Cartwright, Chester R., XXX-XX-XXXX.
Casdorph, Thomas R., XXX-XX-XXXX.
Caspers, Joseph R., XXX-XX-XXXX.
Cassanova, Eugene, III, XXX-XX-XXXX.
Casto, Stephen R., XXX-XX-XXXX.
Cavendish, Ronald L., XXX-XX-XXXX.
Cavin, Glynn W., Jr., XXX-XX-XXXX.
Chadwick, Larry M., XXX-XX-XXXX.
Chaffin, David E., XXX-XX-XXXX.
Chamberlin, Kurt T., XXX-XX-XXXX.
Champagne, Joseph S., XXX-XX-XXXX.
Champion, Marvin C., XXX-XX-XXXX.
Chance, Freddie H., XXX-XX-XXXX.
Chandler, Michael R., XXX-XX-XXXX.
Channave, Francis R., XXX-XX-XXXX.
Chapman, Frederick W., Jr., XXX-XX-XXXX.
Chapman, Robert M., Jr., XXX-XX-XXXX.
Chapuran, Robert C., XXX-XX-XXXX.
Chayer, Linwood N., XXX-XX-XXXX.
Chedister, Robert W., XXX-XX-XXXX.
Cheeseman, Daniel F., XXX-XX-XXXX.
Chester, Thomas M., XXX-XX-XXXX.
Chiabotti, Michael J., XXX-XX-XXXX.
Chiabotti, Stephen D., XXX-XX-XXXX.
Childress, John S., XXX-XX-XXXX.
Childress, Robert E., Jr., XXX-XX-XXXX.
Chisholm, Heighan K., XXX-XX-XXXX.
Chisholm, Robert K., XXX-XX-XXXX.
Choate, Stanley D., XXX-XX-XXXX.
Chu, William L., XXX-XX-XXXX.
Church, John R., XXX-XX-XXXX.
Ciaccia, Paul, XXX-XX-XXXX.
Ciembronowicz, David T., XXX-XX-XXXX.
Cignatta, John V., XXX-XX-XXXX.
Cimino, Michael B., XXX-XX-XXXX.
Cizan, Clifford L., Jr., XXX-XX-XXXX.
Clark, Horace P., XXX-XX-XXXX.
Clark, Jack II, XXX-XX-XXXX.
Clark, Kenneth B., XXX-XX-XXXX.
Clark, Richard B., Jr., XXX-XX-XXXX.
Clark, Samuel T., XXX-XX-XXXX.
Clark, Steven P., XXX-XX-XXXX.
Clawson, Robert E., Jr., XXX-XX-XXXX.
Clayton, Charles B., XXX-XX-XXXX.
Clayton, William S., XXX-XX-XXXX.
Clements, Howard L., III, XXX-XX-XXXX.
Clifford, Jerome R., XXX-XX-XXXX.
Clouse, William K., XXX-XX-XXXX.
Clouser, Andrew V., XXX-XX-XXXX.
Cluskey, Gerald R., Jr., XXX-XX-XXXX.
Cobb, John C., XXX-XX-XXXX.
Cobb, Richard S., XXX-XX-XXXX.
Cochran, Danny E., XXX-XX-XXXX.
Cochrane, Marvin A., XXX-XX-XXXX.
Coker, Stanley G., XXX-XX-XXXX.
Colarco, Richard F., XXX-XX-XXXX.
Cole, Douglas L., XXX-XX-XXXX.
Cole, Timothy P., XXX-XX-XXXX.
Cole, Welsey D., Jr., XXX-XX-XXXX.
Cole, William H., XXX-XX-XXXX.
Cole, William S., Jr., XXX-XX-XXXX.
Coleman, Dennis K., XXX-XX-XXXX.
Coleman, Sidney C., XXX-XX-XXXX.
Colenda, Frank B., XXX-XX-XXXX.
Collins, Dennis R., XXX-XX-XXXX.
Collins, Ross D., XXX-XX-XXXX.
Colmer, William J., XXX-XX-XXXX.
Colvin, Gregory B., XXX-XX-XXXX.
Colwell, William S., XXX-XX-XXXX.
Compton, Arthur O., XXX-XX-XXXX.
Conkle, Larry G., XXX-XX-XXXX.
Conklin, Jeffrey C., XXX-XX-XXXX.
Conley, Douglas P., XXX-XX-XXXX.
Conley, Michael G., XXX-XX-XXXX.
Conlin, John C., III, XXX-XX-XXXX.
Connell, Bernard J., Jr., XXX-XX-XXXX.
Connell, Joseph R., XXX-XX-XXXX.
Conner, Albert G., XXX-XX-XXXX.
Cook, Dale J., XXX-XX-XXXX.
Cook, Harry F., XXX-XX-XXXX.
Cook, Paul J., XXX-XX-XXXX.
Cook, Robert W., XXX-XX-XXXX.
Cook, Robert W., XXX-XX-XXXX.
Cook, Sharla J., XXX-XX-XXXX.
Cooke, Boyce D., XXX-XX-XXXX.
Cooke, Cindy, L., XXX-XX-XXXX.
Coolidge, Jerome H., XXX-XX-XXXX.
Cooper, James L., Jr., XXX-XX-XXXX.
Cooper, James R., XXX-XX-XXXX.
Cooper, Larry H., XXX-XX-XXXX.
Cooper, Rhett T., XXX-XX-XXXX.
Cope, David M., XXX-XX-XXXX.
Copenhafer, Robert C., Jr., XXX-XX-XXXX.
Copps, Richard D., XXX-XX-XXXX.
Corgill, James N., III, XXX-XX-XXXX.
Corkran, Norman H., III, XXX-XX-XXXX.
Cornwall, Charles L., XXX-XX-XXXX.
Corradetti, John J., Jr., XXX-XX-XXXX.
Correll, Basil H., Jr., XXX-XX-XXXX.
Cosby, Mark R., XXX-XX-XXXX.
Costa, Eugene J., XXX-XX-XXXX.
Cote, Brian J., XXX-XX-XXXX.
Cotten, James M., XXX-XX-XXXX.
Cottingham, William O., III, XXX-XX-XXXX.
Coulter, Dennis M., XXX-XX-XXXX.
Cowart, Jimmy L., XXX-XX-XXXX.
Cowing, Jerry R., XXX-XX-XXXX.
Cox, Leland D., XXX-XX-XXXX.
Cox, Timothy A., XXX-XX-XXXX.
Coy, Gary L., XXX-XX-XXXX.
Coyle, Neal D., XXX-XX-XXXX.
Crackel, Michael L., XXX-XX-XXXX.
Craddock, William R., XXX-XX-XXXX.
Craig, John W., XXX-XX-XXXX.
Crane, Randall L., XXX-XX-XXXX.
Craton, Allen G., XXX-XX-XXXX.
Craw, Charles A., Jr., XXX-XX-XXXX.
Crawford, Arth C., Jr., XXX-XX-XXXX.
Crawford, Charles J., XXX-XX-XXXX.
Crawford, Robert D., XXX-XX-XXXX.
Crawford, Thomas M., III, XXX-XX-XXXX.
Crawford, Walter T., XXX-XX-XXXX.
Creveling, John A., XXX-XX-XXXX.
Crim, Colin J., XXX-XX-XXXX.
Cripe, Richard A., Jr., XXX-XX-XXXX.
Croft, John R., XXX-XX-XXXX.
Crook, Thomas E., XXX-XX-XXXX.
Cross, William P., XXX-XX-XXXX.
Croston, John C., XXX-XX-XXXX.
Crotty, Patrick H., XXX-XX-XXXX.
Crouch, Jimmie E., Jr., XXX-XX-XXXX.
Crouch, Richard L., XXX-XX-XXXX.
Crowe, Lowell R., XXX-XX-XXXX.
Crowley, James M., XXX-XX-XXXX.
Crumbo, Ronald E., XXX-XX-XXXX.
Crumm, William L., XXX-XX-XXXX.
Crupi, Michael J., XXX-XX-XXXX.
Cruse, Gary W., XXX-XX-XXXX.
Cuddihee, Michael A., XXX-XX-XXXX.
Cumings, Darryl C., XXX-XX-XXXX.
Cummings, Michael A., XXX-XX-XXXX.
Cunningham, Joseph R., XXX-XX-XXXX.
Cunningham, Sarah L., XXX-XX-XXXX.
Currey, Daniel A., XXX-XX-XXXX.
Curtin, Terence A., XXX-XX-XXXX.
Curtis, Thiery G., XXX-XX-XXXX.
Curtis, William E., XXX-XX-XXXX.
Cush, Edward B., XXX-XX-XXXX.
Cusimano, George J., XXX-XX-XXXX.
Cusumano, Thomas J., XXX-XX-XXXX.
Czajkowski, Kenneth R., XXX-XX-XXXX.
Czypinski, Gary D., XXX-XX-XXXX.
Dahle, Lee J., XXX-XX-XXXX.
Dailey, Robin N., XXX-XX-XXXX.
Daily, James L., XXX-XX-XXXX.
Dalton, Ronald H., XXX-XX-XXXX.
Damron, Robert A., XXX-XX-XXXX.
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Darner, David L., XXX-XX-XXXX.
Dauria, Michael J., XXX-XX-XXXX.
Davidson, Nolan R., XXX-XX-XXXX.
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Davis, William R., XXX-XX-XXXX.
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Debates, Robert P., XXX-XX-XXXX.
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Debee, Louis E., Jr., XXX-XX-XXXX.
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Decapua, Michael L., XXX-XX-XXXX.
Decker, Allen B., XXX-XX-XXXX.
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Defeo, Robert G., XXX-XX-XXXX.
Defilippo, Peter M., XXX-XX-XXXX.
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Demel, Steven M., XXX-XX-XXXX.
Denig, William W., XXX-XX-XXXX.
Dennett, Armando A., Jr. XXX-XX-XXXX.
Dennis, David T., XXX-XX-XXXX.
Dennis, Russell, Jr., XXX-XX-XXXX.
Denton, Rosemary A., XXX-XX-XXXX.
Dera, Thomas E., XXX-XX-XXXX.
Dereadt, Donald L., XXX-XX-XXXX.
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Derrington, William T., XXX-XX-XXXX.
Descoteaux, Louis L., XXX-XX-XXXX.
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Ellis Charles R., [redacted].
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Gillis, Matthew P., III, [redacted].
Gilloth, Vaden R., [redacted].
Gilmore, Timm, [redacted].
Girdharry, Reginald E., [redacted].
Gladden, Michael L., [redacted].
Glass, William A. III, [redacted].
Glaze, Robert L., [redacted].
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Hypes, Terry L., [redacted].
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Nelson, Porter E., XXX-XX-XXXX.
Nelson, William A., XXX-XX-XXXX.
Nemcek, Walter F., XXX-XX-XXXX.
Nemcik, John R., XXX-XX-XXXX.
Nemitz, Paul F., XXX-XX-XXXX.
Neugebauer, Hans J., XXX-XX-XXXX.
Neugebauer, Susan B., XXX-XX-XXXX.
Neuhofer, Carl M., XXX-XX-XXXX.
Newark, David L., XXX-XX-XXXX.
Newbold, Tom M., XXX-XX-XXXX.
Newell, Robert T., III, XXX-XX-XXXX.
Newhouse, Jeffery L., XXX-XX-XXXX.
Newill, David B., XXX-XX-XXXX.
Newkirk, Kenneth A., XXX-XX-XXXX.
Nichols, Warren G., Jr., XXX-XX-XXXX.
Nicholson, Michael E., XXX-XX-XXXX.
Nickell, Arthur M., XXX-XX-XXXX.
Nickols, Philip G., XXX-XX-XXXX.
Nichol, James M., XXX-XX-XXXX.
Niehoff, Gregory R., XXX-XX-XXXX.
Nield, George C., IV, XXX-XX-XXXX.
Nielsen, Mark F., Jr., XXX-XX-XXXX.
Nielsen, Paul D., XXX-XX-XXXX.
Nielsen, Steven R., XXX-XX-XXXX.
Nielson, Dan W., XXX-XX-XXXX.
Niemi, Gary G., XXX-XX-XXXX.
Nistico, George T., Jr., XXX-XX-XXXX.
Noble, Richard W., XXX-XX-XXXX.
Nogues, William J., XXX-XX-XXXX.
Norman, Larry Y., XXX-XX-XXXX.
Norris, Johnny F., Jr., XXX-XX-XXXX.
Norris, Robert S., XXX-XX-XXXX.
Norton, Jeffery J., XXX-XX-XXXX.
Notario, Larry J., XXX-XX-XXXX.
Novak, Leonard J., Jr., XXX-XX-XXXX.
Novellino, Anthony, XXX-XX-XXXX.
Novy, Steven D., XXX-XX-XXXX.
Nowak, Thomas R., XXX-XX-XXXX.
Nunnallee, Thomas L., XXX-XX-XXXX.
Nystrom, Carl H., XXX-XX-XXXX.
Nystrom, Jan V., XXX-XX-XXXX.
Oakes, Kenton F., XXX-XX-XXXX.
Obear, Reed M., XXX-XX-XXXX.
O'Brien, James R., Jr., XXX-XX-XXXX.
O'Brien, Robert J., Jr., XXX-XX-XXXX.
O'Connell, Marjorie A., XXX-XX-XXXX.
O'Connor, Kevin J., XXX-XX-XXXX.
O'Day, Peter R., XXX-XX-XXXX.
O'Day, Terence L., XXX-XX-XXXX.
Odgers, Everett G., XXX-XX-XXXX.
Offen, Steven C., XXX-XX-XXXX.
Oiness, Mark A., XXX-XX-XXXX.
Ojala, James V., XXX-XX-XXXX.
Oldenburg, Willia J., XXX-XX-XXXX.
O'Leary, James P., XXX-XX-XXXX.
Oles, David L., XXX-XX-XXXX.
Oliver, Lonnie W., XXX-XX-XXXX.
Olivier, Louis F., XXX-XX-XXXX.
Olsen, George A., Jr., XXX-XX-XXXX.
Olson, Arthur S., Jr., XXX-XX-XXXX.
O'Neill, Robert, Jr., XXX-XX-XXXX.
O'Neill, Timothy R., XXX-XX-XXXX.
Ordess, Mark S., XXX-XX-XXXX.
Ordzie, Edmund A., XXX-XX-XXXX.
O'Reilly, John M., Jr., XXX-XX-XXXX.
O'Riordan, Thomas A., XXX-XX-XXXX.
O'Rourke, John G., XXX-XX-XXXX.
Orr, Horace A., XXX-XX-XXXX.
Otero, Enrique, XXX-XX-XXXX.
Ottino, John D., XXX-XX-XXXX.
Outlaw, Glen R., XXX-XX-XXXX.
Ovbey, Thomas W., Jr., XXX-XX-XXXX.
Owens, Stephen L., XXX-XX-XXXX.
Pace, Roger A., XXX-XX-XXXX.
Pacini, Philip M., XXX-XX-XXXX.
Padgett, Frederick G., XXX-XX-XXXX.
Padilla, Joseph E., XXX-XX-XXXX.
Paholski, Larry A., XXX-XX-XXXX.
Painter, Edward H., XXX-XX-XXXX.
Palagi, Martin G., XXX-XX-XXXX.
Palko, Robert T., XXX-XX-XXXX.
Palmer, Cecil E., III, XXX-XX-XXXX.
Pancoast, James L., XXX-XX-XXXX.
Pandolfo, Alexander W. F., XXX-XX-XXXX.
Pantsari, Russell J., XXX-XX-XXXX.
Pappas, Victor W., XXX-XX-XXXX.
Parker, Alonzo C. III, XXX-XX-XXXX.
Parker, Hugh A., XXX-XX-XXXX.
Parker, Melvin J., XXX-XX-XXXX.
Parkhurst, Dennis B., XXX-XX-XXXX.
Parkin, Bond L., XXX-XX-XXXX.
Parks, Donald L., XXX-XX-XXXX.
Parks, Reginald D., XXX-XX-XXXX.
Parmentier, Richard D., XXX-XX-XXXX.
Parrington, Alan J., XXX-XX-XXXX.
Parson, Theod W., Jr., XXX-XX-XXXX.
Partain, David W., XXX-XX-XXXX.
Pasker, Charles J., XXX-XX-XXXX.
Passaro, George J., Jr., XXX-XX-XXXX.
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Pence, Christopher F., XXX-XX-XXXX.
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Penrod, Michael R., XXX-XX-XXXX.
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Peter, Russell N., XXX-XX-XXXX.
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Pinkston, Charles M., XXX-XX-XXXX.
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Pollard, George D., XXX-XX-XXXX.
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Ponder, Edward A., XXX-XX-XXXX.
Pooler, Marcia J., XXX-XX-XXXX.

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Pope, Ray G., Jr., [redacted].
Popkess, John C., [redacted].
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Portz, James A., [redacted].
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Primera, Miguel E., [redacted].
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Probst, Kevin F., [redacted].
Proper, Louis W., Jr., [redacted].
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Przybylowicz, Thomas J., Jr., [redacted].
Puels, Carl H., Jr., [redacted].
Puissegur, Bryce F., [redacted].
Pulliam, Douglas L., [redacted].
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Raines, Robert M., [redacted].
Rakestraw, David L., [redacted].
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Rollins, Leon, [redacted].
Rollman, Robert J., Sr., [redacted].
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Romes, Charles S., [redacted].
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Rooney, Patrick G. B., [redacted].
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Rumph, Richard E., [redacted].
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Runft, Wendell J., [redacted].
Runnels, Hampton E., [redacted].
Rupert, Donald W., [redacted].
Russell, John H., [redacted].
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Sasser, Richard L., [redacted].
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Strom, Robert B., [redacted].
Stroup, Robert J., [redacted].
Stubben, Mark A., [redacted].
Stubbs, David C., [redacted].
Stubbs, Stephen M., [redacted].
Stucki, Carla M., [redacted].
Stumme, Daniel D., [redacted].
Sturgill, George S., [redacted].
Sublett, John L., [redacted].
Sudderth, William H., Jr., [redacted].
Suhar, John C., [redacted].
Sullivan, Billy F., [redacted].
Sullivan. Charles R. II, [redacted].
Sullivan, John P., [redacted].
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Sundy, John R., [redacted].
Sutay, John G., [redacted].
Sutherland, Richard H., [redacted].
Sutta, Paul B., [redacted].
Sutter, Richard R., [redacted].
Sutton, Jeanne C., [redacted].
Sutton, Leroy D., Jr., [redacted].
Sutton, Peter U., [redacted].
Swanson, Jon M., [redacted].
Sweeney, John S., [redacted].
Swenson, Hilmer W. S., Jr., [redacted].
Swettman, William P., Jr., [redacted].
Swomley, Mark E., [redacted].
Szczur, Lawrence G., [redacted].
Szymczak, Michael A., [redacted].
Tackett, Homer L., [redacted].
Takos, James M., [redacted].
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Talty, Patrick K., [redacted].
Tamez, Thomas V., [redacted].
Tanner, Glen R., [redacted].
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Tapaszi, Robert W., Jr., [redacted].
Tarpley, Mark L., [redacted].
Tascione, Thomas F., [redacted].
Tashima, Alan I., [redacted].
Tate, Ben R., III, [redacted].
Tate, Harold M., [redacted].
Tauer, Truman N., [redacted].
Taylor, Allen S., Jr., [redacted].
Taylor, Earl V., [redacted].
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Taylor, Roy J., Jr., [redacted].
Teague, Charles B., Jr., [redacted].
Teasley, Alton L., [redacted].
Teel, Scott C., [redacted].
Teeter, Robert W., [redacted].
Teevens, John J., [redacted].
Tegtmeyer, Glenn H., [redacted].
Teigen, James D., [redacted].
Tellefsen, Ralph D., [redacted].
Tepe, William A., [redacted].
Terbeek, Douglas G., [redacted].
Terry, Robert B., [redacted].
Trewiel, John A., [redacted].
Teter, John F. [redacted].
Thames, Monte A., [redacted].
Tharp, David C., [redacted].
Thetford, Kenny M., [redacted].
Thibault, Thomas N., [redacted].
Thiel, Wiliam E., [redacted].
Thomas, David W., [redacted].
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Thomason, Jimmie D., [redacted].
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Thourot, Frederick G., III, [redacted].
Thurlow, Ronald L., [redacted].
Thurman, John A., [redacted].
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Tinney, Sandra K., [redacted].
Titus, Gerald T., [redacted].
Tobin, John T. [redacted].
Toda, Frank K., [redacted].
Toland, Val C., [redacted].

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Tomb, Jack E., [redacted].
Tommasi, Paul V., [redacted].
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Tooley, Nick T., [redacted].
Topp, Susan K., [redacted].
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Toth, James A., [redacted].
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Townsend, Helen L., [redacted].
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Trafton, Cary R., [redacted].
Trapp, Peter D., [redacted].
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Treiber, George M., [redacted].
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Tucker, Edward L., [redacted].
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Tuggle, Timothy R., [redacted].
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Tumino, David [redacted].
Turner, Larry A., [redacted].
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Twardowski, Thomas J., [redacted].
Tweed, Robert B., [redacted].
Twitty, Bert J., [redacted].
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Tylski, Craig A., [redacted].
Tyrrell, John A., Jr., [redacted].
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Uebelacker, Robert C., Jr., [redacted].
Ullrich, Rainer C., [redacted].
Underwood, Thomas J., [redacted].
Unrein, Gerard A., III, [redacted].
Uttenweiler, William L., [redacted].
Vaaler, John L., [redacted].
Valentino, George J., [redacted].
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Vanarsdale, David D., [redacted].
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Vanburen, David M., [redacted].
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Vanderford, Michael E., [redacted].
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Vanderveen, Linn L., [redacted].
Vanderweert, Ronald [redacted].
Vandevorde, Richard E., [redacted].
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VanOrman, Brian L., [redacted].
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VanVelzer, Michael J., [redacted].
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Vaubel, Gail E., [redacted].
Vaughn, Larry E., [redacted].
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Vender, John T. IV, [redacted].
Venteicher, Gerald J., [redacted].
Vera, Jose R., [redacted].
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Verzola, Michael W., [redacted].
Vetterlein, Jon M., [redacted].
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Violet, William J., [redacted].
Vitkus, Raymond A., [redacted].
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Vollmar, Virgil F., [redacted].
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Widder, Roy L., [redacted].
Wigginton, John L., [redacted].
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Wilson, Terry L., [redacted].
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Wingard, George B., [redacted].
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Winterberger, Gary A., [redacted].
Winters, Harry L., [redacted].
Winters, Michael P., [redacted].
Wiseman, Robert E., [redacted].
Witte, Richard P., [redacted].
Wittenberg, Gustav D., [redacted].
Wittler, Richard F., [redacted].
Woessner, James K., [redacted].
Wojdyla, Richard A., [redacted].
Wolf, David B., [redacted].
Wolfson, Sheri L., [redacted].
Wood, Garey T., [redacted].
Woodham, Bruce, [redacted].
Woods, David A., III, [redacted].
Woods, David R., [redacted].
Woodside, Robert E., [redacted].
Wooley, Michael W., [redacted].
Wools, Richard R., [redacted].
Woon, Eden Y., [redacted].
Wright, David K., [redacted].
Wright, Edward N., [redacted].
Wright, Keith C., [redacted].
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Wulf, Stephen E., [redacted].
Wurster, Henry J., [redacted].
Wyatt, Linda S., [redacted].
Wypiszynski, Steven, [redacted].
Yablonski, Robert [redacted].
Yanke, Michael A., [redacted].
Yarc, Carol M., [redacted].
Yates, Charles D., [redacted].
Yates, Farris F., [redacted].
Yates, Harvey, [redacted].
Yeilding, Richard P., II, [redacted].
Ylikopsa, Thomas G., [redacted].
Yoakum, Richard D., [redacted].
Yoh, Raymond B., Jr., [redacted].
Yon, Michael C., [redacted].
Yost, Raymond A., [redacted].
Young, James E., [redacted].
Young, Michael J., [redacted].
Young, Rodney W., [redacted].
Youngberg, Alan R., [redacted].
Youngblood, John P., [redacted].
Youngman, Neil A., [redacted].
Youngquist, Charles D., [redacted].
Youngquist, Robert A., [redacted].
Younkin, Ross H., [redacted].
Youther, Charles F., [redacted].
Yowell, Kenneth E., [redacted].
Zamorski, Edward J., [redacted].
Zborowski, Stanley H., [redacted].
Zechender, Raymond P., [redacted].
Zekoski, Joseph, [redacted].
Zeuty, Edward J., Jr., [redacted].
Zichterman, Jack A., [redacted].
Zickrick, Karl F., [redacted].
Zlotkowski, Mark E., [redacted].

CHAPLAIN CORPS

Callaway, James H., Jr., [redacted].
Flood, Peter J., [redacted].
Goff, David E., [redacted].
Larkin, James K., [redacted].

Potter, Lorraine K., xxx-xx-xxxx.
Pruss, Rodney Lee A., xxx-xx-xxxx.
Scott, Phillip H., xxx-xx-xxxx.
Sobin, Roger M., xxx-xx-xxxx.
Stephenson, Patrick C., xxx-xx-xxxx.
Suhoza, John E., xxx-xx-xxxx.
Thomason, Billy G., xxx-xx-xxxx.
Wood, John R., xxx-xx-xxxx.

DENTAL CORPS

Bullard, David E., xxx-xx-xxxx.
Granda, Francisco M., xxx-xx-xxxx.
Hatfield, John H., xxx-xx-xxxx.
Howard, Clinton W., III, xxx-xx-xxxx.
Joyner, Harry N., III, xxx-xx-xxxx.
Kaplan, Paul, xxx-xx-xxxx.
Kubinski, Eddie A., xxx-xx-xxxx.
Malloy, Charles M., xxx-xx-xxxx.
Morgan, Richard A., xxx-xx-xxxx.
Panzek, John T., xxx-xx-xxxx.
Peterzen, Robert M., xxx-xx-xxxx.
Pratt, Gregory F., xxx-xx-xxxx.
Sanchez, Vincent C., xxx-xx-xxxx.
Stilley, John F., xxx-xx-xxxx.
Weaver, Timothy J., xxx-xx-xxxx.
Yarbrough, Steven L., xxx-xx-xxxx.

JUDGE ADVOCATE

Acton, Foster N., xxx-xx-xxxx.
Ash, George W., xxx-xx-xxxx.
Bentz, Curtis L., xxx-xx-xxxx.
Breidenbach, Mark A., xxx-xx-xxxx.
Cavallucci, Eugene S., xxx-xx-xxxx.
Craig, Robert M., III, xxx-xx-xxxx.
Dodge, Frank S., xxx-xx-xxxx.
Donnelly, Michael, xxx-xx-xxxx.
Finlayson, Mark L., xxx-xx-xxxx.
Fiscus, Thomas Joseph, xxx-xx-xxxx.
Gabig, Jerome S., Jr., xxx-xx-xxxx.
Grunick, Gary A., xxx-xx-xxxx.
Harry, Peter J., xxx-xx-xxxx.
Humphries, John G., xxx-xx-xxxx.
Jayne, H. Martin, xxx-xx-xxxx.
Johnson, John W., xxx-xx-xxxx.
Kerber, David W., xxx-xx-xxxx.
Lee, Robert T., xxx-xx-xxxx.
Lockwood, Willard K., xxx-xx-xxxx.
McDonald, Michael, xxx-xx-xxxx.
McIlwain, Merrell S., II, xxx-xx-xxxx.
Pearson, Clinton C., xxx-xx-xxxx.
Pulis, Frank D., xxx-xx-xxxx.
Quinn, Edward J., Jr., xxx-xx-xxxx.
Reish, Andrew F., xxx-xx-xxxx.
Rhaney, Mahlon C., Jr., xxx-xx-xxxx.
Sharrar, Larry L., xxx-xx-xxxx.
Thomasson, Samuel M., III, xxx-xx-xxxx.
Winborn, Erik L., xxx-xx-xxxx.

MEDICAL CORPS

Artim, Richard A., xxx-xx-xxxx.
Brank, Hence F., Jr., xxx-xx-xxxx.
Brichta, Robert F., xxx-xx-xxxx.
Buttino, Louis, Jr., xxx-xx-xxxx.
Carius, Michael L., xxx-xx-xxxx.
Chevalier, Jimmy E., xxx-xx-xxxx.
Delagarza, Carlos A., xxx-xx-xxxx.
Doyle, John E., III, xxx-xx-xxxx.
Duke, John M., xxx-xx-xxxx.
Emhoff, Timothy A., xxx-xx-xxxx.
Gaede, Gary L., xxx-xx-xxxx.
Gerber, William R., xxx-xx-xxxx.
Greer, Willis A., xxx-xx-xxxx.
Griffith, John L., xxx-xx-xxxx.
Holm, Peter F., xxx-xx-xxxx.
Jones, Kenneth Allan, xxx-xx-xxxx.
Kitchen, Robert H., Jr., xxx-xx-xxxx.
Knutson, Clark J., xxx-xx-xxxx.
Krauth, Lee E., xxx-xx-xxxx.
Meredith, Keith S., xxx-xx-xxxx.
Metz, Karl W., xxx-xx-xxxx.
Neuland, Michael E., xxx-xx-xxxx.
North, Phillip T., xxx-xx-xxxx.
Parmet, Allen Jeffrey, xxx-xx-xxxx.
Perkins, Edward W., xxx-xx-xxxx.
Quinton, Ronald R., xxx-xx-xxxx.
Ramsay, John D., xxx-xx-xxxx.
Rice, Robert A., xxx-xx-xxxx.
Rodgers, Lee P., xxx-xx-xxxx.
Roe, John P., xxx-xx-xxxx.
Romett, Joseph L., xxx-xx-xxxx.
Rugh, Kenneth S., xxx-xx-xxxx.
Schafer, Klaus O., xxx-xx-xxxx.
Sellers, Alfred O., xxx-xx-xxxx.
Slade, John B., Jr., xxx-xx-xxxx.
Steel, Maxwell W., III, xxx-xx-xxxx.
Stone, Kenneth A., xxx-xx-xxxx.
Strickland, Daniel M., xxx-xx-xxxx.
Strohmeyer, Gerald L., xxx-xx-xxxx.
Twedt, Gordon H., xxx-xx-xxxx.
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Ables, William F., xxx-xx-xxxx.
Alberque, Kathleen E., xxx-xx-xxxx.
Alexaitis, Judy M., xxx-xx-xxxx.
Alvarez, Irene M., xxx-xx-xxxx.
Annie, Mary V., xxx-xx-xxxx.
Bach, Marian R., xxx-xx-xxxx.
Behl, Donna F., xxx-xx-xxxx.
Behler, Naomi A., xxx-xx-xxxx.
Bergefurd, Diana M., xxx-xx-xxxx.
Bisping, Phyllis M., xxx-xx-xxxx.
Blackwell, Harold D., xxx-xx-xxxx.
Blair, Laura, xxx-xx-xxxx.
Bostock, Ruth A., xxx-xx-xxxx.
Brennan, Kathy E., xxx-xx-xxxx.
Brinkman, Linda A., xxx-xx-xxxx.
Brosche, Linda., xxx-xx-xxxx.
Bryant, Marcia M., xxx-xx-xxxx.
Bush, Jacqueline A., xxx-xx-xxxx.
Bush, Marian A., xxx-xx-xxxx.
Carlton, Helen M., xxx-xx-xxxx.
Chadbourne, Gretchen A., xxx-xx-xxxx.
Chesnick, Florence M., xxx-xx-xxxx.
Clark, Mary A., xxx-xx-xxxx.
Close, Kathryn L., xxx-xx-xxxx.
Craig, Barbara K., xxx-xx-xxxx.
Crawley, Robert W., Jr., xxx-xx-xxxx.
Crompton, Cynthia L., xxx-xx-xxxx.
Dallemolle, Barbara A., xxx-xx-xxxx.
Devers, Joseph, xxx-xx-xxxx.
Duncan, Cecelia A., xxx-xx-xxxx.
Dylla, Rebecca A., xxx-xx-xxxx.
Egan, Constance M., xxx-xx-xxxx.
Erickson, Peggy L., xxx-xx-xxxx.
Eros, Janice K., xxx-xx-xxxx.
Estes, Carole A., xxx-xx-xxxx.
Feinour Pamela A., xxx-xx-xxxx.
Flory, Joellen S., xxx-xx-xxxx.
Ford, Marjel L., xxx-xx-xxxx.
Fryman, Mary K., xxx-xx-xxxx.
Gaberel, Carol A., xxx-xx-xxxx.
Gendron, Leo A., xxx-xx-xxxx.
Gombert, Deborah E., xxx-xx-xxxx.
Gomes, Christine A., xxx-xx-xxxx.
Gonzalez, Norma A., xxx-xx-xxxx.
Grenchik, Therese R., xxx-xx-xxxx.
Griffith, Carol A., xxx-xx-xxxx.
Hamilton, Bonita K., xxx-xx-xxxx.
Hanson, Judith I., xxx-xx-xxxx.
Harrington, Karen K., xxx-xx-xxxx.
Hart, Angela W., xxx-xx-xxxx.
Hartley, Elizabeth A., xxx-xx-xxxx.
Heffner, Bonita J., xxx-xx-xxxx.
Helms, Sherrie J., xxx-xx-xxxx.
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Herndon, Joe P., xxx-xx-xxxx.
Hoffman, Darrell R., xxx-xx-xxxx.
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Hughes, Maureen F., xxx-xx-xxxx.
Jacobson, Diane E., xxx-xx-xxxx.
Jeske, Kathlynn J., xxx-xx-xxxx.
Johnson, Karen L., xxx-xx-xxxx.
Johnston, Sherry K., xxx-xx-xxxx.
Jost, Michael J., xxx-xx-xxxx.
Katz, Venita K., xxx-xx-xxxx.
Keene, Edward A., xxx-xx-xxxx.
Keir, Brenda J., xxx-xx-xxxx.
Kwitkowski, Janet M., xxx-xx-xxxx.
Lambert, Martin E., xxx-xx-xxxx.
Lawrence, Barbara J., xxx-xx-xxxx.
Liebe, Linda S., xxx-xx-xxxx.
Lowe, Julie, xxx-xx-xxxx.
Lusher, Sharon A., xxx-xx-xxxx.
Mackenzie, Robert T., xxx-xx-xxxx.
Malane, Susan L., xxx-xx-xxxx.
Martinie, Mary A., xxx-xx-xxxx.
Maslanka, Marilyn A., xxx-xx-xxxx.
Matta, Mary A. A., xxx-xx-xxxx.
Maynard, Dianne L., xxx-xx-xxxx.
McBride, June, xxx-xx-xxxx.
McConnell, Sharon L., xxx-xx-xxxx.
McFarland, Linda E., xxx-xx-xxxx.
McNeal, Grace H., xxx-xx-xxxx.
Mehargue, Susan L., xxx-xx-xxxx.
Miller, Charlene E., xxx-xx-xxxx.
Miller, Nancy, xxx-xx-xxxx.
Miller, Shirley A., xxx-xx-xxxx.
Morgan, Brenda S., xxx-xx-xxxx.
Mosher, Carol A., xxx-xx-xxxx.
Mullins, Maxine, xxx-xx-xxxx.
Musgrave, Barbara A., xxx-xx-xxxx.
Myers, Joseph B., Jr., xxx-xx-xxxx.
Neff, Beverly J., xxx-xx-xxxx.
Nolen, Judith A., xxx-xx-xxxx.
Nou, Josephine S., xxx-xx-xxxx.
Odea, Judith A., xxx-xx-xxxx.
O'Donnell, Brenda S., xxx-xx-xxxx.
O'Rourke, Marilyn L., xxx-xx-xxxx.
Parkin, Emily J., xxx-xx-xxxx.
Pease, Deborah S., xxx-xx-xxxx.
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Repaal, Lorena J., xxx-xx-xxxx.
Reynolds, Janet B., xxx-xx-xxxx.
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Richardson, Monica G., xxx-xx-xxxx.
Rightmyer, Margaret A., xxx-xx-xxxx.
Robinson, Linda M., xxx-xx-xxxx.
Salter, Barbara B., xxx-xx-xxxx.
Sandrock, Lynnette C., xxx-xx-xxxx.
Santiago, Myriam, xxx-xx-xxxx.
Saxton, Mary E., xxx-xx-xxxx.
Schade, Kathryn A., xxx-xx-xxxx.
Schermerhorn, Jan B., xxx-xx-xxxx.
Selle, Helen L., xxx-xx-xxxx.
Slaght, Michael J., xxx-xx-xxxx.
Smith, Cheryl A., xxx-xx-xxxx.
Smith, Paul E., xxx-xx-xxxx.
Smyers, Richard S., xxx-xx-xxxx.
Starkey, Maria A., xxx-xx-xxxx.
Steimel, Eloise L., xxx-xx-xxxx.
Stephens, Kenneth W., xxx-xx-xxxx.
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Stiely, Vivian J., xxx-xx-xxxx.
Striler, Marsha L., xxx-xx-xxxx.
Tate, Marcia R., xxx-xx-xxxx.
Taylor, Diane W., xxx-xx-xxxx.
Thomas, Sharon K., xxx-xx-xxxx.
Thompson, Adella M., xxx-xx-xxxx.
Thornton Nancy J., xxx-xx-xxxx.
Vanvechten, Linda A., xxx-xx-xxxx.
Washington, Barbara J., xxx-xx-xxxx.
Waters, Mary L., xxx-xx-xxxx.
Wegner, Mary C., xxx-xx-xxxx.
Williams, Sarah J., xxx-xx-xxxx.
Williamson, Claudette L., xxx-xx-xxxx.
Woods, Sharyn K., xxx-xx-xxxx.
Yingling, Sue E., xxx-xx-xxxx.

MEDICAL SERVICE CORPS

Anderson, Michael C., xxx-xx-xxxx.
Brown, Jimmy C., xxx-xx-xxxx.
DeGracia, Daniel P., xxx-xx-xxxx.
Devall, Richard A., xxx-xx-xxxx.
Dewberry, James L., xxx-xx-xxxx.
Dewoody, Stephen P., xxx-xx-xxxx.
Farmer, Joseph E., xxx-xx-xxxx.
Ford, Philip L., xxx-xx-xxxx.
Garner, Scott H., xxx-xx-xxxx.
Gilbert, Neal E., xxx-xx-xxxx.
Gunderson, Eugene G., xxx-xx-xxxx.
Hamilton, Maurice R., xxx-xx-xxxx.
Janes, Lawrence G., xxx-xx-xxxx.
Johnson, Eric L., xxx-xx-xxxx.
Johnson, Ray L., xxx-xx-xxxx.
Johnson, Ronald R., xxx-xx-xxxx.
Lopez, Alfred Jr., xxx-xx-xxxx.
Lorenzen, Peter R., xxx-xx-xxxx.
McHail, William A., xxx-xx-xxxx.
McLemore, Johnny J., xxx-xx-xxxx.
Morgan, Timothy M., xxx-xx-xxxx.
O'Brien, William F., xxx-xx-xxxx.
Pease, Alan T., xxx-xx-xxxx.
Reay, James D., xxx-xx-xxxx.
Rhodes, Arvin M., xxx-xx-xxxx.
Rowen, Philip J., xxx-xx-xxxx.
Rupp, Thomas A., xxx-xx-xxxx.

Scavetto, Ronald J., xxx-xx-xxxx.
Schroeder, Richard E., xxx-xx-xxxx.
Scott, Richard F., xxx-xx-xxxx.
Sexton, William P., xxx-xx-xxxx.
Sutterer, Larry J., xxx-xx-xxxx.
Syron, Edward P., xxx-xx-xxxx.
Weltzin, Richard F., Jr., xxx-xx-xxxx.
White, Thomas J., xxx-xx-xxxx.

VETERINARY CORPS

Bukala, Christopher J., xxx-xx-xxxx.
Schaerdel, Arthur D., xxx-xx-xxxx.
Solana, Richard P., xxx-xx-xxxx.

BIOMEDICAL SCIENCES CORPS

Awalt, Suzanne J., xxx-xx-xxxx.
Banias, Bruce B., xxx-xx-xxxx.
Bishop, Edward C., xxx-xx-xxxx.
Bradley, William P., xxx-xx-xxxx.
Brockett, Royce M., III, xxx-xx-xxxx.
Brownley, Dennis D., xxx-xx-xxxx.
Butler, John F., xxx-xx-xxxx.
Caldwell, Michael H., xxx-xx-xxxx.
Cerha, James P., xxx-xx-xxxx.
Chicilo, Thomas J., xxx-xx-xxxx.
Clackler, John D., xxx-xx-xxxx.
Dixon, James Patrick, xxx-xx-xxxx.
Doherty, Thomas F., xxx-xx-xxxx.
Dorris, Wayne L., xxx-xx-xxxx.
Duhon, Roland E., xxx-xx-xxxx.
Engebretson, Kenneth A., xxx-xx-xxxx.
Goldstein, Frank L., xxx-xx-xxxx.
Gookin, Michael D., xxx-xx-xxxx.
Gossman, Gregory W., xxx-xx-xxxx.
Graham, John G., xxx-xx-xxxx.
Grant, Thomas M., xxx-xx-xxxx.
Hayashi, Maurice M., xxx-xx-xxxx.
Hindelang, Robert D., xxx-xx-xxxx.
Hull, Terry A., xxx-xx-xxxx x..
Kitaoka, Rosemary K., xxx-xx-xxxx.
Korn, Sidney H., xxx-xx-xxxx.
Krym, Robert M., xxx-xx-xxxx.
Kupferer, Thomas E., xxx-xx-xxxx.
Laub, Elaine F., xxx-xx-xxxx.
Lott, Linda M., xxx-xx-xxxx.
Merritt, Gerald J., xxx-xx-xxxx.
Morgan, Thomas R., xxx-xx-xxxx.
Moser, Arthur P., xxx-xx-xxxx.
Murphy, Kathy G., xxx-xx-xxxx.
Ostraat, Randall C., xxx-xx-xxxx.
Patterson, Wayne R., xxx-xx-xxxx.
Pedley, James S., xxx-xx-xxxx.
Renoudet, Virginia V., xxx-xx-xxxx.
Rooney, James G., xxx-xx-xxxx.
Runyan, Daniel L., xxx-xx-xxxx.
Seethaler, Lawrence W., xxx-xx-xxxx.
Shirtz, John J., xxx-xx-xxxx.
Siefke, Richard W., xxx-xx-xxxx.
Stankus, Joseph C., xxx-xx-xxxx.
Taylor, Wiley, xxx-xx-xxxx.
Tuttle, Gerard R., xxx-xx-xxxx.
Valentine, Walter W., xxx-xx-xxxx.
Varmecky, James R., xxx-xx-xxxx.
Vermulen, Erik K., xxx-xx-xxxx.
Wilson, Valerie B., xxx-xx-xxxx.
Yoshii, Dan O., xxx-xx-xxxx.

IN THE ARMY

The following named officer as a permanent professor of the U.S. Military Academy, under the provisions of title 10, United States Code, sections 4331 and 4333:

To be professor of electrical engineering

Reinhart, Stanley E., Jr., xxx-xx-xxxx.

The following-named officer for reappointment in the active list of the Regular Army of the United States, from the Temporary Disability Retired List, under the provisions of title 10, United States Cod, section 1211:

To be major, regular Army and major, Army of the United States

Beam, Ida M., xxx-xx-xxxx.

The following-named officers for appointment in the Regular Army of the United States, in the grade specified, under the provisions of title 10, United States Code, sections 3284 through 3294 and 3311:

To be lieutenant colonel

Miyazawa, Kunio, xxx-x...

To be major

Surti, Nergesh R., xxx-xx-xxxx.

To be captain

Anderson, Bruce C., xxx-xx-xxxx.
Baker, John C., xxx-xx-xxxx.
Bond, Robert D., xxx-xx-xxxx.
Caldwell, William J., xxx-xx-xxxx.
Cochard, Charlotte, xxx-xx-xxxx.
Cochard, Gary C., xxx-xx-xxxx.
Crayer, Steven E., xxx-xx-xxxx.
Cromar, Robert J., xxx-xx-xxxx.
Culwell, William P., xxx-xx-xxxx.
Galloway, Archibald II, xxx-xx-xxxx.
Gerot, Edwin L., xxx-xx-xxxx.
Grevencamp, Theodore R., xxx-xx-xxxx.
Hix, Alan D., Jr., xxx-xx-xxxx.
Holmes, Arthur L., Jr., xxx-xx-xxxx.
Houlihan, Daniel P., xxx-xx-xxxx.
Kahlert, Thomas A., xxx-xx-xxxx.
Kindred, Samuel L., xxx-xx-xxxx.
Koetz, Kenneth A., xxx-xx-xxxx.
Leseman, John D., xxx-xx-xxxx.
Link, Glenn J., xxx-xx-xxxx.
Lorkowski, Judith A., xxx-xx-xxxx.
Mahlum, Richard J., xxx-xx-xxxx.
McBride, Ronald H., xxx-xx-xxxx.
McGill, Brian F., xxx-xx-xxxx.
Rogalski, Robert W., xxx-xx-xxxx.
Schultz, Fayrene J., xxx-xx-xxxx.
Shackelford, John S., xxx-xx-xxxx.
Smyser, James O., xxx-xx-xxxx.
Taylor, Richard P., xxx-xx-xxxx.
Turpin, Johnny G., xxx-xx-xxxx.
Woolford, Farrel J., xxx-xx-xxxx.
Worthington, Ronald T., xxx-xx-xxxx.

To be first lieutenant

Altenburg, John D., Jr., xxx-xx-xxxx.
Bornhorst, David A., xxx-xx-xxxx.
Faul, Timothy K., xxx-xx-xxxx.
Hennessey, David L., xxx-xx-xxxx.
Kurowski, Raymond A., II, xxx-xx-xxxx.
Stafford, Wesley W., xxx-xx-xxxx.

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., section 3370:

ARMY NURSE CORPS

To be colonel

Akin, Elizabeth A., xxx-xx-xxxx.
Brennan, Lauretta M., xxx-xx-xxxx.
Duval, Elinor M., xxx-xx-xxxx.
Flynn, Rosemary A., xxx-xx-xxxx.
Fuchs, Rose M., xxx-xx-xxxx.
Green, Vendetta M., xxx-xx-xxxx.
Hickman, Joan J., xxx-xx-xxxx.
Hoppe, Jeanne, xxx-xx-xxxx.
Hovey, Thomas C., Sr., xxx-xx-xxxx.
Jones, Janet, xxx-xx-xxxx.
Koch, Dorothy J., xxx-xx-xxxx.
Koonz, Frances P., xxx-xx-xxxx.
Lasset, Josephine, xxx-xx-xxxx.
Miller, Arlean V., xxx-xx-xxxx.
Modigh, Amie, xxx-xx-xxxx.
Nunley, Gloria J., xxx-xx-x...
Sloan, Barbara J., xxx-xx-xxxx.
Sosnicki, Marie T., xxx-xx-xxxx.
Spivack, Marie D., xxx-xx-xxxx.
Veazie, Ylene, xxx-xx-xxxx.
Wilkins, Mary J., xxx-xx-xxxx.

DENTAL CORPS

To be colonel

Blanch, Garth M., xxx-xx-xxxx.
Bradford, Thomas G., xxx-xx-xxxx.
Bridenhager, Charles, xxx-xx-xxxx.
Brown, Paul R., Jr., xxx-xx-xxxx.
Bunch, James P., xxx-xx-xxxx.
Darling, Roy G., xxx-xx-xxxx.
Deegan, Alan E., xxx-xx-xxxx.
Douglas, John H., xxx-xx-xxxx.
Ducklow, Robert G., xxx-xx-xxxx.
Goldsby, Joel W., III, xxx-xx-xxxx.
Gruber, Adrian J., xxx-xx-xxxx.
Johnson, Robert D., xxx-xx-xxxx.
Jones, Melvin T., xxx-xx-xxxx.
Maxwell, Charles W., xxx-xx-xxxx.
McKinney, Ralph V., xxx-xx-xxxx.
Moseley, Durwood L., xxx-xx-xxxx.
Nelson, Roy, Jr., xxx-xx-xxxx.
Robinson, Daniel J., xxx-xx-xxxx.
Rose, Junius H., Jr., xxx-xx-xxxx.
Signorella, Arthur, xxx-xx-xxxx.
Singer, Eugene I., xxx-xx-xxxx.
Volatile, Michael T., xxx-xx-xxxx.
Wise, Donald G., xxx-xx-xxxx.

MEDICAL CORPS

To be colonel

Bacon, William L., xxx-xx-xxxx.
Beitia, Jose, xxx-xx-xxxx.
Carter, James H., xxx-xx-xxxx.
Cohen, Harvey M., xxx-xx-xxxx.
Colom, Sebastian A., xxx-xx-xxxx.
Davis, George B., Jr., xxx-xx-xxxx.
Dossett, B. E., Jr., xxx-xx-xxxx.
Ellis, Richard E., xxx-xx-xxxx.
Gutierrez, Jorge R., xxx-xx-xxxx.
Hammel, Donald A., xxx-xx-xxxx.
Hennessy, William J., xxx-xx-xxxx.
Hyder, Nat E., Jr., xxx-xx-xxxx.
Jackman, Frederick, xxx-xx-xxxx.
Kichler, Jack, xxx-xx-xxxx.
Littell, Delvin E., xxx-xx-xxxx.
Littleton, Leonidas, xxx-xx-xxxx.
Litwin, Martin S., xxx-xx-xxxx.
McCarville, John E., xxx-xx-xxxx.
Mosley, Everett C., xxx-xx-xxxx.
Pfoertner, George B., xxx-xx-xxxx.
Pitkethly, David T., xxx-xx-xxxx.
Richardson, Don A., xxx-xx-xxxx.
Shane, Frederick L., xxx-xx-xxxx.
Smith, Joseph A., xxx-xx-xxxx.
Stark, Donald B., xxx-xx-xxxx.
Sternhagen, Charles, xxx-xx-xxxx.
St. Louis, Joseph A., xxx-xx-xxxx.
Suckow, George R., xxx-xx-xxxx.
Swan, Kenneth G., xxx-xx-xxxx.
Thomas, Gordon G., xxx-xx-xxxx.

MEDICAL SERVICE CORPS

To be colonel

Araneo, Vincent M., xxx-xx-xxxx.
Bertke, Eldridge, xxx-xx-xxxx.
Blomquist, Calvin B., xxx-xx-xxxx.
Clardy, James D., xxx-xx-xxxx.
Cox, Russell K., xxx-xx-xxxx.
Dicenzo, Edward F., xxx-xx-xxxx.
Donlan, David A., xxx-xx-xxxx.
Ervasti, Marlyn K., xxx-xx-xxxx.
Finley, James E., xxx-xx-xxxx.
Fodero, Severio D., xxx-xx-xxxx.
Hanson, Philip J., xxx-xx-xxxx.
Hemecker, Ralph C., xxx-xx-xxxx.
Holmes, Roy J., xxx-xx-xxxx.
Josehart, Harold E., xxx-xx-xxxx.
Leitch, Richard L., xxx-xx-xxxx.
Machlan, Edward F., xxx-xx-xxxx.
Moussa, Moufield A., xxx-xx-xxxx.
Muirhead, James A., xxx-xx-xxxx.
O'Brien, Leo J., xxx-xx-xxxx.
Pappas, Louis P., xxx-xx-xxxx.
Prough, James K., xxx-xx-xxxx.
Roisum, Robert C., xxx-xx-xxxx.
Roseman, Arnold S., xxx-xx-xxxx.
Ryder, Donald A., xxx-xx-xxxx.
Stillings, Richard, xxx-xx-xxxx.
Strannigan, Dale L., xxx-xx-xxxx.
Walter, Robert A., xxx-xx-xxxx.
Ward, William S., xxx-xx-xxxx.
Welch, Clyde E., xxx-xx-xxxx.
Woodruff, John I., xxx-xx-xxxx.
Ziegler, H. E., Jr., xxx-xx-xxxx.

ARMY MEDICAL SPECIALIST CORPS

To be colonel

Abbot, Wiliam Y., xxx-xx-xxxx.
Daniel, Alfred N., xxx-xx-xxxx.
Haag, Charles M., xxx-xx-xxxx.
Hartman, Charles W., xxx-xx-xxxx.
Miller, Clara L., xxx-xx-xxxx.

VETERINARY CORPS

To be colonel

Mock, James F., xxx-xx-xxxx.
Sawyer, John C., xxx-xx-xxxx.

The following-named officers for promotion in the Reserve of the Army of the

United States, under the provisions of title 10, U.S.C., sections 3366 and 3367;

ARMY PROMOTION LIST

To be lieutenant colonel

Bishop, Bobby J., [redacted].
Bowman, William L., [redacted].
McKeithan, Henry H., [redacted].
Paige, William D., [redacted].
Shuman, John E., [redacted].

ARMY NURSE CORPS

To be lieutenant colonel

Barker, Shirey S., [redacted].
Borden, Jean S., [redacted].
Brua, Nancy J., [redacted].
Charney, Robert A., [redacted].
Cherasaro, Samuel T., [redacted].
Collier, Gene E., [redacted].
Colonmelendez, Mila, [redacted].
Davis, Dale A., [redacted].
Davis, Marilyn L., [redacted].
Davis, Marion L., [redacted].
Edgington, Carol L., [redacted].
Faris, Toby E., [redacted].
Ford, Nancy I., [redacted].
Green, Dolores, [redacted].
Haag, George P., [redacted].
Hart, Sylvia K., [redacted].
Haven, Meta S., [redacted].
Hendershot, Russell, [redacted].
Hinson, Norwood, [redacted].
Holland, Maureen, [redacted].
Hollingsworth, A., [redacted].
Jones, Marsha M., [redacted].
Klapinski, B. A., [redacted].
Kultoljinda, T., [redacted].
Lavarn, Emery A., [redacted].
Martin, Norma L., [redacted].
McDaniel, Ethel M., [redacted].
Mennega, Wubbina A., [redacted].
Miller, Evelyn S., [redacted].
Musacchio, M. J., [redacted].
Norwood, Zona M., [redacted].
Peterson, Dolores P., [redacted].
Policare, Rocco J., [redacted].
Rank, Michael, [redacted].
Reneau, Jaunita F., [redacted].
Resko, Carolyn B., [redacted].
Ripple, Helen B., [redacted].
Rosadootero, Adolfo, [redacted].
Scanlon, Sally D., [redacted].
Staubin, Robina S., [redacted].
Stephens, Claire E., [redacted].
Stevenson, Judith N., [redacted].
Stofer, Patricia R., [redacted].
Story, Mary F., [redacted].
Szczecinski, Severi, [redacted].
Vess, Bernarda L., [redacted].
Wall, Phyllis Z., [redacted].
Wieczorek, Chester, [redacted].
Wiggin, Carol J., [redacted].
Wrench, William R., [redacted].
Young, David, [redacted].

DENTAL CORPS

To be lieutenant colonel

Alexander, K. V., [redacted].
Allmon, Harry B., [redacted].
Ayers, George W., [redacted].
Baumgarten, Richard, [redacted].
Bell, William A., [redacted].
Bentley, Billy C., [redacted].
Birkholz, Howard, [redacted].
Daigle, Albert R., Jr., [redacted].
Davis, Lavanda L., [redacted].
Desjardins, Ronald, [redacted].
Edwards, Theodore P., [redacted].
Fritz, Andrew J., [redacted].
Gage, Raymond W., [redacted].
Garrett, James S., [redacted].
Gaskill, Billy W., [redacted].
Grantham, Gregory P., [redacted].
Guiberteau, James J., [redacted].
Johnson, David G., [redacted].
Jones, John C., [redacted].
King, William P., [redacted].
Kinsey, Richard S., [redacted].
Lainson, Phillip A., [redacted].
Lesmeister, Warren, [redacted].
Natiella, Joseph R., [redacted].
Olcchowski, G. W., [redacted].
Perry, Leland R., [redacted].
Rafferty, Robert G., [redacted].
Riggie, Brian M., [redacted].
Tuggle, Dewey H., [redacted].
Varn, Miles H., [redacted].
Walgren, William J., [redacted].
Weigt, Frederick C., [redacted].
Whiteside, Edwin R., [redacted].
Wolfgang, Lawrence, [redacted].
Zagami, Angelo M., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Babcoke, Gary A., [redacted].
Baker, Charles J., [redacted].
Baumann, John A., [redacted].
Beck, Theodore M., [redacted].
Bendana, Roberto J., [redacted].
Board, John P., Jr., [redacted].
Brown, Joseph D., III, [redacted].
Coil, James A., Jr., [redacted].
Delvalle, Francisco, [redacted].
Dugan, William M., [redacted].
Dupourque, Daniel, [redacted].
Ferrell, Donald P., [redacted].
Forrest, Peter E., [redacted].
Forsythe, James W., [redacted].
Grossman, Joshua B., [redacted].
Hardy, Ronald G., [redacted].
Henderson, John P., [redacted].
Kistler, Henry E., Jr., [redacted].
Krober, Marvin S., [redacted].
Livingston, Billy B., [redacted].
Musetti, Robert W., [redacted].
Negroncuevas, F., [redacted].
Neshat, Amir A., [redacted].
Nesman, Lawrence, [redacted].
Norfleet, Robert G., [redacted].
Paa, David F., [redacted].
Quesada, Manuel F., [redacted].
Raia, Theodore J., [redacted].
Rudd, George H., [redacted].
Soroosh, Farhang, [redacted].
Vargas, Jose Del C., [redacted].
Willis, Isaac, [redacted].

MEDICAL SERVICE CORPS

To be lieutenant colonel

Adams, John Q., [redacted].
Amato, Carmen F., [redacted].
Armstrong, Julian W., [redacted].
Baldwin, Robert E., [redacted].
Bean, Donald J., [redacted].
Bertrand, Rober E., [redacted].
Bills, Harry E., [redacted].
Bird, George C., [redacted].
Bivens, Rolland N., [redacted].
Boyles, Derwood R., [redacted].
Bratland, Gary L., [redacted].
Bretland, Nathan N., [redacted].
Britton, Bill G., [redacted].
Brown, Stephen W., [redacted].
Budd, Ivan B., [redacted].
Burdette, Richard E., [redacted].
Burkett, Samuel L., [redacted].
Butke, William J., [redacted].
Bynum, James A., [redacted].
Cohen, Leonard L., [redacted].
Czachowski, Robert, [redacted].
Day, John D., [redacted].
Declue, R. L., Jr., [redacted].
Diazdones, Bolivar, [redacted].
Dingman, Dennis A., [redacted].
Doceka, Edward G., [redacted].
Donohue, Hubert V., [redacted].
Elmore, Joseph L., [redacted].
Ewing, William T., [redacted].
Foster, Catherine, [redacted].
Freiheit, Gene A., [redacted].
Fujimoto, Richard I., [redacted].
Fulfer, Jesse K., [redacted].
Goudcahux, Leopold, [redacted].
Greenwald, Max B., [redacted].
Harp, Anthony R., [redacted].
Holmes, Jasper F., [redacted].
Holmes, William B. I., [redacted].
Johnson, Donald G., [redacted].
Johnston, Frederick, [redacted].
Kacir, Charles J., [redacted].
Kittrell, Herbert O., [redacted].
Klein, Gary S., [redacted].
Kraucunas, Wayette C., [redacted].
Lasalvia, Anthony J., [redacted].
Lauricella, Salvato, [redacted].
Lawrence, William C., [redacted].
Leet, Charles F., [redacted].
Lindahl, James H., [redacted].
Loetell, Joseph W., [redacted].
Long, Robert B., [redacted].
Lyons, Gerard A., [redacted].
MacDowell, Edward R., [redacted].
Magee, Michael C., [redacted].
Mark, Gunter, [redacted].
Mason, Wilbert W., [redacted].
Matushoneck, T. J., [redacted].
McKee, Terry L., [redacted].
McNabb, Michael T., [redacted].
McNeil, Daniel J., [redacted].
Mengenhauser, James, [redacted].
Metcalf, William R., [redacted].
Mori, Nobuo, [redacted].
Nelson, Jerald O., [redacted].
Nissen, Thomas R., [redacted].
Overall, Robert L., [redacted].
Patterson, Larry G., [redacted].
Pennington, Vernon, [redacted].
Perka, Chester E., [redacted].
Perrino, Carl A., [redacted].
Piette, Harvey J., Jr., [redacted].
Prescott, Paul W., [redacted].
Pridemore, Alvin D., [redacted].
Priest, Frank, Jr., [redacted].
Regrut, Andrew J., [redacted].
Russell, Gerald E., [redacted].
Sedinger, James D., [redacted].
Shafer, Thayer C., [redacted].
Shain, Walter E., [redacted].
Shearer, William E., [redacted].
Simmons, David E., [redacted].
Slayton, Ronald M., [redacted].
Smith, Jimmy L., [redacted].
Snow, Clair E., [redacted].
Stewart, Michael O., [redacted].
Stirling, Richard D., [redacted].
St. Pierre, Wayne A., [redacted].
Strnad, George J., [redacted].
Tosatti, George S., [redacted].
Tulp, Orien L., [redacted].
Vertino, Michael P., [redacted].
Vig, Byron O., [redacted].
Watts, Robert K., [redacted].
Wells, Floyd L., [redacted].
White, Jerry D., [redacted].
Wislosky, William, [redacted].

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

Clemons, Billy V., [redacted].
Dabill, Fern A., [redacted].
Graves, James P., [redacted].
Guest, Wendell L., [redacted].
Hart, James C., Jr., [redacted].
Hewitt, Marjorie A., [redacted].
Marshall, Sandra J., [redacted].
Sinha, Awadhesh K., [redacted].
Whittington, R., [redacted].

VETERINARY CORPS

To be lieutenant colonel

Sautter, James F., [redacted].

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., sections 591, 593, and 594:

DENTAL CORPS

To be lieutenant colonel

Edmonds, Peter P., [redacted].
Morrison, Alvin S., [redacted].
Rodriguez, Lino E., [redacted].
Tabor, Herbert A., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Addams, Horace W. [redacted].
Bonado, Pompeyo Q., [redacted].
Boulware, John M., [redacted].
Breitenstein, Byrce D., [redacted].

Caughron, John R., XXX-XX-XXXX.
Chaffee, Bruce A., XXX-XX-XXXX.
Claude, John L., XXX-XX-XXXX.
Cramer, Earl H., XXX-XX-XXXX.
Dodson, Albertus F., XXX-XX-XXXX.
Dos, Serge J., XXX-XX-XXXX.
Fairfax, Walter A., XXX-XX-XXXX.
Gerber, Robert A., XXX-XX-XXXX.
Glenchur, Harry, XXX-XX-XXXX.
Goodloe, Samuel, Jr., XXX-XX-XXXX.
Grossling, Sergio F., XXX-XX-XXXX.
Gutierrez, Oscar F., XXX-XX-XXXX.
Harris, John A., XXX-XX-XXXX.
Hebert, Emmett L., XXX-XX-XXXX.
Hook, Robert H., XXX-XX-XXXX.
Jeffress, Jessie E., XXX-XX-XXXX.
Jereb, John A., XXX-XX-XXXX.
Kahn, Patricia J., XXX-XX-XXXX.
Khatami, Morteza, XXX-XX-XXXX.
Leslie, James, XXX-XX-XXXX.
Lithgow, William C., XXX-XX-XXXX.
Loken, Kenneth, XXX-XX-XXXX.
Lopez, Ulpiano F., XXX-XX-XXXX.
Lyster, Sturgis, XXX-XX-XXXX.
Mara, Francis J., XXX-XX-XXXX.
Martinez, Dionisio F., XXX-XX-XXXX.
Mitchell, Michael, XXX-XX-XXXX.
Myers, William D., XXX-XX-XXXX.
O'Loughlin, John M., XXX-XX-XXXX.
Packard, Artenas, XXX-XX-XXXX.
Plymate, Stephen R., XXX-XX-XXXX.
Pories, Walter J., XXX-XX-XXXX.
Weaver, Clyde M., XXX-XX-XXXX.
Widrow, Sidney H., XXX-XX-XXXX.
Wilemon, William K., XXX-XX-XXXX.

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under promotions of title 10, U.S.C., section 3385:

ARMY PROMOTION LIST

To be colonel

Acosta-Rasario, Rafael, XXX-XX-XXXX.
Alberson, Billy F., XXX-XX-XXXX.
Allen, Leslie E., XXX-XX-XXXX.
Byington, Dallas M., XXX-XX-XXXX.
Carr, Hale D., XXX-XX-XXXX.
Crumrine, Lawrence G., XXX-XX-XXXX.
D'Alessandro, Joseph, XXX-XX-XXXX.
Hamilton, John F., XXX-XX-XXXX.
Hapner, James D., XXX-XX-XXXX.
Hengel, Milton J., XXX-XX-XXXX.
Ianni, Robert C., XXX-...
Lennan, Richard G., XXX-XX-XXXX.
Mann, Robert T., XXX-XX-XXXX.
McCurry, Asben A., Jr., XXX-XX-XXXX.
Oelrich, Frederick C., XXX-XX-XXXX.
Reeves, Stanley G., XXX-XX-XXXX.

CHAPLAIN

To be colonel

Lorber, Albert B., XXX-XX-...

ARMY PROMOTION LIST

To be lieutenant colonel

Beretta, Ronald J., XXX-XX-XXXX.
Carter, Richard O., XXX-XX-XXXX.
Darley, Fred W., Jr., XXX-XX-XX...
Davila-Rodriguez, J., XXX-XX-XXXX.
Gaffney, John R., XXX-XX-XXXX.
Gilley, Talmadge B., XXX-XX-XXXX.
Hagan, Robert A., XXX-XX-XXXX.
Halliday, James P., XXX-XX-XXXX.
Haney, James O., XXX-XX-XXXX.
Hoeke, John J., XXX-XX-XXXX.
Liston, William M., XXX-XX-XXXX.
McCann, Thomas M., XXX-XX-XXXX.
McQue, Robert R., Sr., XXX-XX-XXXX.
Moore, Billie F., XXX-XX-XXXX.
Paden, John M., XXX-...
Porter, Gerald W., XXX-XX-XXXX.
Sanchez, Reynaldo, XXX-XX-XXXX.
Steele, Gilbert R., Jr., XXX-XX-XXXX.
Wurtele, Ronald M., XXX-XX-...

ARMY NURSE CORPS

To be lieutenant colonel

Colench, James H., XXX-XX-XXXX.
Hammer, Karol A., XXX-XX-XXXX.

DENTAL CORPS

To be lieutenant colonel

Carbone, John W., XXX-XX-XXXX.

MEDICAL CORPS

To be lieutenant colonel

Campbell, Mike C., XXX-XX-XXXX.
Lentz, Ronald J., XXX-XX-XXXX.
Miech, Michael J., XXX-XX-...
Ortiz, Miguel A., XXX-XX-XXXX.
Pate, Samuel R., XXX-XX-XXXX.
Spear, Merritt F., XXX-XX-XXXX.
Stetz, Joseph J., Jr., XXX-XX-XXXX.
Voight, Gustav C., XXX-XX-XXXX.
Widrow, Sidney H., XXX-XX-XXXX.

MEDICAL SERVICE CORPS

To be lieutenant colonel

Sullivan, Paul J., XXX-XX-XXXX.

IN THE NAVY

The following-named (Naval Reserve Officers Training Corps candidates) to be permanent ensigns in the line or staff corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

Adrienne M. Baker
Adrienne M. Baker
Dewey F. Deeds
Gregory B. Duck
Richard W. Durham
* Steven J. Farsaci
David W. Fergus
Mary S. Freeman
Calvin C. Hicks
John M. Landon, II
Ellen A. Rourke
Lee T. Shrader
Myron J. Thiessen
James R. Walter
Margaret L. White

The following-named Navy Enlisted Scientific Education Program candidates to be permanent ensigns in the line or staff corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

Kenneth F. Abasolo
Michael J. Alfonso
John M. Anderson
Jurgen J. Arnold
Robert T. Baker
Gregg A. Balzer
Dale A. Beard
David K. Bell
Stephen G. Benigni
Jeffrey P. Bennett
David J. Berry
Ralph M. Berry
Michael J. Bevins
Robert T. Biskine
Linda S. Bowlby
David B. Bowman
Harold D. Boyd
Joe D. Brannan
Mark A. Brown
Randal E. Brown
Arland D. Buchanan
William T. Butler
Fred D. Carozzo
Michael R. Casteel
Michael A. Chase
Thomas E. Clark
Larry R. Cooper
Edgar J. Cortes
Steven A. Creech
Terrance L. Crowley
Jeffrey Crutchfield
William R. Deihs
Maria J. Delsignore
Patrick S. Dipaola
Harry M. Dorman
Stephen E. Ellefson
Dale C. Farnsworth
Michael L. Ferguson
Michael P. Ferguson
David C. Fritsch
Michael W. Gainok
Dennis K. Gonyier
Bruce M. Gray
Len E. Gray
Alvin E. Grimmig
James E. Hamilton
William E. Hardine
Thomas E. Heterich
Bruce A. Hoselton
Kevin L. Hostbjor
John A. Hunt
Kent P. Irwin
Steven C. Joachim
Scott L. Jones
Kevin M. Kelly
Guy S. Kemp
Donald Kirkley
Peter Koenie
Richard A. Larsen
Thomas Latiolais

* Appointment sent out Ad Interim (during the recess of the Senate). Senate recessed on 25 August 1978–6 September 1978.

David A. Lawrence
James L. Lewandowski
William K. Lunn
Michael T. Lybarger
Thomas R. McCool
James T. McDaniel
Allen D. McDonald
Jeffrey B. McDonnell
William S. McGee
Stephen M. McManus
David W. McShane
Gary A. Mercer
James A. Mette
Benjamin K. Miller
David L. Minnich
Douglas A. Mining
Kenneth C. Mitchell
Joseph R. Montgomery
Carter D. Moore
Bruce V. Muir
Richard D. Nowell
Jack W. Ogg
Edward C. Ohlson
Edward D. Olsen
John W. Patterson
Donald J. Piela
Barbara S. Purtell
Roy A. Reinhold
Mark C. Rhoads
Michael L. Roy
Michelle E. Rychak
George A. Seaver
Grant T. Shawcroft
Paul K. Shellenberger
James E. Smit
Terry D. Sprosty
Walter Starkley
Henry S. Steinfeld
Walter R. Strebeck
John S. Szabat
Charles M. Taberski
Richard M. Takasugi
Donald E. Taylor
Thomas J. Valentine
James D. Wender
James R. Wilhite
Christopher C. Whitehead
Michael D. Williams
Steven M. Wiliams
Thomas M. Wolter
Harry M. Wright
Robert A. Young
Ronald W. Zaperback

The following-named (U.S. Navy officer (ret.)) to be reappointed from the temporary disability retired list as a permanent Captain in the Nurse Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

Capt Eva M. Gagnon, NC, USN (ret.).

The following-named (U.S. Navy officer (Ret.)) to be reappointed from the temporary disability retired list as a permanent lieutenant commander in the line of the U.S. Navy, subject to the qualifications therefor as provided by law:

Lcdr Jerry E. Henderson, USN (ret.).

The following-named (U.S. Navy officer (Ret.)) to be reappointed from the temporary disability retired list as a permanent lieutenant commander in the U.S. Navy, for limited duty, in the classification indicated, subject to the qualifications therefor as provided by law:

SUPPLY CORPS

Lcdr James L. Mullen, SC, USN (ret.).

The following-named (Ex-U.S. Navy officers) to be appointed temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Calvin T. Jewell
Robert S. Kollen
*Sidney R. Sewell
*David L. Wishart

* Appointment sent out Ad Interim (during the recess of the Senate). Senate recessed on 25 August 1978—6 September 1978.

The following-named (Ex-U.S. Naval Reserve officers) to be appointed temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

*William G. Bruce
*James W. Murphree
*John B. Noll

The following-named (U.S. Army Reserve officer) to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

*Thomas L. Weatherly

The following-named (Ex-U.S. Air Force officers) to be appointed temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

*Earl H. Cramer
*Thomas P. Lowry

The following-named (civilian college graduate) to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

*Theodore R. Bledsoe

The following-named (Ex-U.S. Naval Reserve officer (Ret.)) to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

*Donald E. Fisher

The following-named (U.S. Naval Reserve officer) to be appointed a temporary commander in the Dental Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

*Lcdr James C. Yeargin, DC, USNR

*Appointment sent out Ad Interim (during the recess of the Senate). Senate recessed on 25 August 1978–6 September 1978.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 13, 1978:

TENNESSEE VALLEY AUTHORITY

Richard Merrell Freeman, of Illinois, to be a member of the Board of Directors of the Tennessee Valley Authority for the term expiring May 18, 1987.

CALIFORNIA DEBRIS COMMISSION

Col. John Miley Adsit, [redacted], U.S. Army, to be a member of the California Debris Commission, under the provisions of section 1 of the Act of Congress approved 1 March 1893 (27 Stat. 507) (33 U.S.C. 661).

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Friday, October 13, 1978*

The House met at 10 a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Not by might, nor by power, but by my Spirit, says the Lord of Hosts.—Zechariah 4: 6.

Eternal God, our Father, grant unto us insight and inspiration for the living of these days. Touch our minds with Your wisdom and our hearts with Your love that we may be wise in our decisions and understanding in our relationships with one another. Help us to realize that if these days are to be radiant in spirit we must cultivate the larger life of faith and learn to be obedient to the touch of Your hand upon us. Help us to walk in wholesome ways and be ready to step forward in our efforts to build on Earth a world where truth and right shall reign and love and peace shall triumph over hatred and strife.

Again, death has invaded this House and has taken from our midst our beloved Goodloe E. Byron. We remember his splendid character, his concern for his people, his loyalty to our country, and his determination to do his best to lift our Nation to higher levels of living. Bless his wife and children with the assurance of Your presence and give them strength and courage for this day and for the days to come. We pray in spirit of Him who is the Way, the Truth, and the Life. Amen.

CALL OF THE HOUSE

Mr. ASHBROOK. Mr. Speaker, under rule I, clause 1, of the rules of the House, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 908]

Ambro	Delaney	Harrington
Ammerman	Dellums	Harsha
Andrews, N.C.	Derrick	Heckler
Archer	Derwinski	Hillis
Ashley	Dickinson	Hollenbeck
Badham	Dicks	Hyde
Beard, R.I.	Diggs	Ireland
Beilenson	Dornan	Jacobs
Buchanan	Early	Johnson, Colo.
Burke, Calif.	Eckhardt	Kasten
Burton, John	Edgar	Kemp
Caputo	Erlenborn	Keys
Carr	Ertel	Kostmayer
Cavanaugh	Evans, Colo.	LaFalce
Cederberg	Flowers	Lehman
Chappell	Fountain	Lujan
Chisholm	Frey	McCloskey
Clawson, Del	Garcia	McDonald
Cochran	Gephardt	Marlenee
Conyers	Giaimo	Marriott
Crane	Goldwater	Mathis
D'Amours	Hall	Mazzoli
Meeds	Pritchard	Skelton
Mikva	Quie	Solarz
Milford	Risenhoover	Stark
Moffett	Roncalio	Steed
Moss	Rosenthal	Stokes
Murphy, Ill.	Rudd	Taylor
Myers, Gary	Runnels	Teague
Neal	Ruppe	Tucker
Nedzi	Russo	Udall
Nix	Skubitz	Ullman
Nolan	Santini	Vander Jagt
Patterson	Sarasin	Wiggins
Pattison	Scheuer	Wilson, Bob
Pease	Schulze	Wilson, Tex.
Pepper	Seiberling	Wirth
Pettis	Shipley	Young, Alaska
Pike	Shuster	Young, Tex.
Pressler	Sikes	

The SPEAKER. On this rollcall 311 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On October 10, 1978:

H.R. 1445. An act conferring jurisdiction upon the United States Court of Claims to hear, determine, and render judgment upon the claim of Commander Edward White Rawlins, United States Navy (retired);

H.R. 9214. An act to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund;

H.R. 10126. An act to amend title 5, United States Code, to establish a program to increase part-time career employment within the civil service;

H.R. 10581. An act relating to judgment funds awarded by the Indian Claims Commission to certain Indian tribes, and for other purposes;

H.R. 11005. An act to provide authorization of appropriations for the U.S. International Trade Commission for fiscal year 1979;

H.R. 11400. An act to authorize the appropriation of specified dollar amounts for each of the National Science Foundation's major program areas (and certain subprograms), and to provide requirements relating to periods of availability and transfers of the authorized funds;

H.R. 12930. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year September 30, 1979, and for other purposes;

H.R. 12934. An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1979, and for other purposes; and

H.R. 13349. An act to repeal certain sections of title III of the Immigration and Nationality Act, and for other purposes.

On October 11, 1978:

H.R. 12026. An act to create the Indian Peaks Wilderness Area and the Arapaho National Recreation Area, to authorize the Secretary of the Interior to study the feasibility of revising the boundaries of the Rocky Mountain National Park, and to add certain lands to the Oregon Islands Wilderness; and

H.R. 13125. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes.

On October 12, 1978:

H.R. 8588. An act to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes; and

H.R. 9945. An act to amend the act creating the Indian Claims Commission to repeal the provision limiting the activities of Commissioners during the two years following their terms of office.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15) entitled "An act to extend and amend expiring elementary and secondary education programs, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13635) entitled "An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes," the message also announced that the Senate agrees to House amendments to Senate amendments numbered 2, 4, 6, 10, 12, 27,

42, 44, 49, 51, 58, 60, 65, 74, 76, 77, 84, 85, and 89, to the foregoing bill.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3595. An act to amend section 202(d) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act to extend the deadline for filing a report of rulemaking procedures.

NATIONAL PARKS AND RECREATION ACT OF 1978

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 791) to authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho, with Senate amendments to the House amendment thereto, and concur in the Senate amendments to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendment as follows:

(1) Delete section 301(4) in its entirety.

(2) Amend section 301(12) by adding the following new sentence at the end thereof: "Furthermore, notwithstanding any other provision of law to the contrary the Secretary may, if he determines that to do so will not have a substantial adverse affect on the preservation of the fossil and other resources within the remainder of the monument, convey approximately 60 acres acquired by the United States for purposes of the monument in exchange for non-Federal lands within the boundaries of the monument, and, effective upon such conveyance, the boundaries of the monument are hereby revised to exclude the lands conveyed."

(3) Amend section 309(a) by deleting "570" and inserting in lieu thereof, "450".

(4) Amend section 309(b) by inserting the following new proviso at the end thereof:

"*Provided further*, That the Secretary is directed to study the possible reconstruction of the historic remains of Ft. Union, and the Secretary is further directed to transmit to the Congress, within one year of the enactment of this bill, a recommendation on the reconstruction of the Fort based on historic documentation."

(5) Delete section 314(h) in its entirety and insert the following in its place:

"(h) The Congress recognizes that the Mineral King Valley area has outstanding potential for certain year-round recreational opportunities, but the development of permanent facilities for downhill skiing within the area would be inconsistent with the preservation and enhancement of its ecological values."

(6) Amend section 315(c) by deleting "$7,000,000" and by inserting in its place "$13,000,000".

(7) Delete section 322(b) in its entirety, and inserting in its place the following new subsection:

"(b) The authority of the Secretary to condemn undeveloped tracts within the Dune District as depicted on map entitled 'Fire Island National Seashore' numbered OGP-0004 dated May, 1978, is suspended so long as the owner or owners of the undeveloped property therein maintains the property in its natural state. Undeveloped property within the Dune District that is acquired by the Secretary shall remain in its natural state."

(8) Delete section 502 in its entirety and insert the following new section:

SEC. 502. (a) The Congress finds that—

(1) the Pinelands area in New Jersey, containing approximately 1,000,000 acres of pine-oak forest, extensive surface and ground water resources of high quality, and a wide diversity of rare plant and animal species, provides significant ecological, natural, cultural, recreational, educational, agricultural, and public health benefits;

(2) there is a national interest in protecting and preserving these benefits for the residents of and visitors to the area;

(3) a primary responsibility for protecting and enhancing these benefits resides with the State of New Jersey and the various local units of government having jurisdiction over the area;

(4) in view of the longstanding Federal practice of assisting the States in creating, protecting, preserving, and enhancing areas of significant regional and urban importance, and in view of the national significance of this resource, the Federal Government has an interest in assisting the State of New Jersey and its local units of government in fulfilling their responsibilities and in avoiding adverse Federally approved or assisted impacts before these responsibilities can be undertaken;

(5) the State of New Jersey and its local units of government have authority to prevent or minimize adverse uses of the land and water resources of the Pinelands area and can, to a great extent, protect the health, safety, and general welfare by the use of such authority; and

(6) there is a demonstrated need to protect, preserve and enhance the land and water resources of the Pinelands area through a new program which combines the capabilities and resources of the local, State and Federal governments and the private sector and provides an alternative to large-scale direct Federal acquisition and management in cases where such acquisition and management is inappropriate.

(b) The purposes of this section are—

(1) to protect, preserve and enhance the significant values of the land and water resources of the Pinelands area;

(2) to encourage and assist the State of New Jersey and its units of local government in the development of a comprehensive management plan for the Pinelands area in order to assure orderly public and private development in the area consistent with the findings of this section;

(3) to provide, during the development of this comprehensive plan, Federal financial assistance for the acquisition of lands in the Pinelands area that have critical ecological values which are in immediate danger of being adversely affected or destroyed;

(4) to encourage and assist the State and its units of local government in developing governmental mechanism to implement this comprehensive plan, and to provide Federal financial assistance for the acquisition of lands consistent with the comprehensive plan;

(5) to encourage adequate coordination of all government programs affecting the land and water resources of the Pinelands area.

(c) There is hereby established the Pinelands National Reserve which shall consist of the approximately 1,000,000-acre area generally depicted on the map entitled "Pinelands National Reserve Boundary Map" numbered NPS/80,011 A and dated September 1978. Within the Pinelands National Reserve, there is hereby established the Federal Project Review Area, which shall consist of the approximately 486,000 acre area also depicted on the map. The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, and in the offices of the State of New Jersey planning entity established pursuant to subsection (d), and in locations throughout the Pinelands National Reserve as determined by the planning entity.

(d) Within thirty days after the date of enactment of this section, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall request the Governor of the State of New Jersey to establish, within ninety days of such request, a planning entity to develop a comprehensive management plan for the Pinelands National Reserve. In order to carry out the purposes of this section, such planning entity shall be composed of fifteen members to be appointed as follows: one member appointed by the Secretary; one member from each of the seven counties in the Pinelands National Reserve to be appointed by the respective governing bodies of each county; and seven members to be appointed by the Governor. The membership of the planning entity shall include residents of the Pinelands National Reserve who represent economic activities such as agriculture in the area, as well as residents of New Jersey who represent conservation interests. The Secretary shall provide technical assistance and grants to the State for the development of the plan or revisions thereof: *Provided*, That such grants shall not exceed 75 percent of the cost of developing the plan, shall be made only upon application of the Governor, on behalf of the planning entity, and shall be subject to such other conditions as the Secretary may deem appropriate to assure state and local interim protection of the area.

(e) During the development of the management plan, the planning entity shall:

(1) consult with appropriate officials of any local government or State or Federal agency which has jurisdiction over lands and waters within the area;

(2) consult with the officials of any local government which has jurisdiction over lands and waters within areas delineated in accordance with subsection (f)(2)(B);

(3) consult with interested professional, scientific and citizen organizations;

(4) consult with a citizens advisory committee which may be established by the Governor; and

(5) conduct public hearings at places within the area, and at such other places as may be appropriate, for the purpose of providing interested persons with an opportunity to express their views with respect to matters covered by the management plan.

(f) The comprehensive management plan for the Pinelands National Reserve shall include, but need not be limited to—

(1) A resource assessment which:

(A) determines the amount and type of human development and activity which the ecosystem can sustain while still maintaining the overall ecological values described in this section with special reference to (i) ground and surface water supply and quality; (ii) natural hazards, including fire, (iii) endangered, unique and unusual plants and animals and biotic communities; (iv) ecological factors relating to the protection and enhancement of blueberry and cranberry production and other agricultural activity; (v) air quality; and (vi) other appropriate considerations affecting the ecological integrity of the area; and

(B) includes an assessment of scenic, aesthetic, cultural, open space, and outdoor recreation resources of the area together with a determination of overall policies required to maintain and enhance these resources.

(2) A map showing the detailed boundary of the Pinelands National Reserve, such map to delineate:

(A) major areas within the boundary which are of critical ecological importance;

(B) major areas and resources adjacent to the boundary that have significance to the ecological integrity of the Pinelands National Reserve; and

(C) areas of scenic, open space, cultural, and recreational significance.

(3) A land use capability map and a comprehensive statement of policies for land use management of the area which:

(A) consider and detail the application of a variety of land and water protection and management techniques, including but not limited to, zoning and regulation derived from State and local police powers, development and use standards and permit systems, acquisition of conservation easements and other interests in land, public access agreements with private landowners, purchase of land for resale or lease-back, fee acquisition of public recreation sites and ecologically sensitive areas and any other method of land and water protection and management which will help meet the goals and carry out the policies of the management plan;

(B) include a policy for the use of State and local police power responsibilities to the greatest extent practicable to regulate the use of land and water resources in a manner consistent with the purposes of this section; and

(C) recognize existing economic activities within the area and provide for the protection and enhancement of such activities as farming, forestry, proprietary recreational facilities, and those indigenous industries and commercial and residential developments which are consistent with the findings and purposes of this section.

(4) A coordination and consistency component which details the ways in which local, State and Federal programs and policies may best be coordinated to promote the goals and policies of the management plan, and which details how land, water and structures managed by governmental or nongovernmental entities in the public interest within the area may be integrated into the management plan.

(5) A public use component including, among other items, a detailed program to educate the public concerning appropriate uses of the area.

(6) A financial component, together with a cash flow timetable, which:

(A) details the cost of implementing the management plan, including, but not limited to, payments in lieu of taxes, general administrative costs, and any anticipated extraordinary or continuing costs; and

(B) details the sources of revenue for covering such costs, including, but not limited to, grants, donations and loans from local, State, and Federal departments and agencies, and from the private sector.

(7) A program to provide for the maximum feasible local government and public participation in the management of the Pinelands National Reserve.

(8) A program for State and local governmental implementation of the comprehensive management plan in a manner that will insure the continued, uniform, consistent protection of this area in accord with the purposes of this section.

(9) In conjunction with existing State programs and planning processes, a plan to implement the provisions of the Clean Water Act and the Safe Drinking Water Act which pertains to the surface and ground waters of the Pinelands National Reserve.

(g)(1) The State of New Jersey, through the planning entity, shall adopt and submit to the Secretary a comprehensive management plan within eighteen months after the date that funds are first provided for its preparation under subsection (d). In the event the State fails to submit the plan within such time period, the Secretary may obtain reimbursement or offset from the State of all Federal funds previously granted under this section. The Secretary shall, within 90 days after the date the plan is submitted to him, either approve or disapprove the plan. Should the Secretary fail to act on the proposed plan within 90 days, the plan shall be regarded as approved. Upon approval, the Secretary shall submit the plan to the Congress for a period of 90 days prior to implementation.

(2) In determining whether or not to approve the management plan, the Secretary shall consider whether:

(A) the planning entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation and review of the plan, and whether such review and comment thereon were considered in the plan or revision as presented to him;

(B) he has received adequate assurances from appropriate State officials that the recommended implementation program identified in the plan will be initiated within a reasonable time after the date of approval of the plan and such program will insure effective implementation of the State and local aspects of the plan;

(C) provision is made for the participation of a Federal representative in the implementation program;

(D) the plan requires the exercise of police power responsibilities to the greatest extent practicable to regulate the use of land and water resources in a manner consistent with the purposes of this section;

(E) the plan, if implemented, would adequately protect the significant natural, ecological, agricultural, scenic, cultural and recreational resources of the Pinelands National Reserve and, consistent with such protection, provide adequate and appropriate outdoor recreational opportunities and economic activities within the area;

(F) the plan provides for the Governor of the State of New Jersey to exercise effective and continuing oversight over its implementation; and

(G) after consultation with the Secretary of Defense, the national defense mission of the military installations within, contiguous or adjacent to the Pinelands National Reserve has been adequately provided for.

(3) If the Secretary disapproves the management plan or a revision thereof, he shall, within 60 days after the date of such disapproval, advise the planning entity in writing of the reasons therefor, together with his recommendations for revision. The State of New Jersey, through the planning entity shall, within 120 days after receipt by the planning entity of notification of such disapproval, revise and resubmit the plan to the Secretary who shall approve or disapprove a proposed revision within 60 days after the date it is submitted to him. Should the Secretary fail to act on a proposed revision within 60 days, the revision shall be considered as approved.

(4) The Secretary shall consider a plan revision in accordance with the procedure set forth in paragraph (2). Such revisions must be consistent with the purposes of this section.

(5) In the event that the planning entity fails to obtain approval of the plan by the Secretary within thirty-six months after the date funds are first provided under subsection (d) for development of the plan, the Secretary shall terminate all Federal assistance for and participation in the development of such plan, and may obtain reimbursement or offset from the State of New Jersey of all Federal funds previously granted under this section.

(6) The Secretary shall provide technical assistance for and monitor at periodic intervals the implementation of the approved management plan. A local jurisdiction or the State shall obtain the approval of the Secretary prior to any modification of the approved plan. The Secretary shall consider a plan revision in accordance with the procedure set forth in paragraph (2). Such revisions must be consistent with the purposes of this section. Any jurisdiction that implements changes to the approved management plan, or adopts or acquiesces in changes to laws, regulations, or policies adopted to implement such plan, without approval of the Secretary, may be liable for reimbursement or offset of all Federal funds previously granted to it under this section without regard to such additional terms and conditions or other requirements of law that may be applicable to such grants.

(h)(1)(A) During the development of the management plan, the Secretary is authorized to make grants to the State of New Jersey for the acquisition of lands and waters or interests therein within the Pinelands National Reserve that he determines, in consultation with the State planning entity, have critical ecological values which are in immediate danger of being adversely affected or destroyed.

(B) The grants authorized by subsection (h)(1)(A) together with the grants made under paragraph (4) of this subsection, shall (i) be made in a manner consistent with the requirements of the Land and Water Conservation Fund Act; (ii) not exceed 75 percent of the total cost of all property acquired by the State pursuant to this subsection; (iii) be supplemental to any other Federal financial assistance for any other program; and (iv) be subject to such additional terms and conditions as the Secretary may deem necessary to effectuate the purposes of this section.

(2) In the event the State elects not to make acquisitions as authorized under subsection (h)(1), the Secretary, during the development of the management plan, is authorized to acquire such lands, waters or interests therein by donation, purchase with donated or appropriated funds, exchange, or otherwise, and to administer such property under the laws generally applicable to units of the National Park System or National Wildlife Refuge System in a manner to carry out the purposes of this section.

(3) After his approval of the management plan, the Secretary (A) is authorized to convey property acquired pursuant to subsection (h)(2) to State or local authorities in accordance with the management plan, under such terms and conditions as he may deem appropriate, which shall include (i) a requirement that where the Secretary transfers land acquired with appropriated funds, the State or local government shall repay not less than 25 percent of the cost of such lands to the Secretary under such terms and conditions as he may deem appropriate, and (ii) a retention of a right of reversion of title to the United States, and (B) shall accept from the State those lands acquired pursuant to subsection (h)(1), which are identified in the management plan as being appropriate for Federal ownership and management: *Provided*, that the Secretary shall reimburse to the State such sums as are necessary to (i) cover 100 percent of the original cost of acquisition as to each parcel of land so transferred and (ii) assure that as to the remainder of lands acquired pursuant to subsection (h)(1) not transferred under this subsection, the total Federal land acquisition cost does not exceed 75 percent of the purchase price of such lands.

(4) Upon approval of the management plan, the Secretary is authorized to make grants for the acquisition within the Pinelands National Reserve of lands and waters or interests therein in a manner consistent with the management plan. All applications for such grants shall be made within ten years from the date of implementation of the management plan.

(i) During the development of the management plan for the Pinelands National Reserve, all applications for Federal assistance under programs covered by Part I of OMB Circular A-95 and direct Federal actions covered by Part II of OMB Circular A-95 within the Federal Project Review Area generally depicted on the map referred to in subsection (c) which involve the construction of hous-

ing, industrial parks, highways, or sewage or water treatment facilities shall be reviewed by the planning entity, upon receipt from the New Jersey State A–95 Clearinghouse (hereinafter referred to as the Clearinghouse). If the planning entity finds that such application or proposed action would have no adverse impact on the resources and ecological values of the Federal Project Review Area, the planning entity shall so notify the Clearinghouse. If the planning entity does not so find, Congress authorizes the planning entity to notify the Clearinghouse and other affected parties that such application or proposed action shall not proceed pending further review, and the planning entity shall forward such application or notice of proposed action to the Secretary. Any such application or proposed action which the Secretary determines would be significantly adverse to the purposes of this section shall not proceed while the management plan is being developed. The review process established under this subsection, shall begin upon the appropriation of funds under subsection (k).

(j) Nothing in this section shall be construed to limit or prohibit any Federal action ordered by a court of competent jurisdiction or directed by a Federal agency as essential for the protection of public health or safety, for national security or defense, or for the maintenance of environmental values within the Pinelands National Reserve or the Federal Project Review Area.

(k) There is authorized to be appropriated not to exceed $26 million to carry out the provisions of this section. Not to exceed $3 million shall be available for planning: *Provided*, That any funds not used for planning shall be available for land acquisition; *Provided further*, that $23 million shall be made available for land acquisition, as authorized by this section. Such appropriations may be made from the general fund of the Treasury or from revenues due and payable to the United States under the Outer Continental Shelf Lands Act, as amended, which would otherwise be credited to miscellaneous receipts.

(9) Amend section 401(7) by deleting map reference "numbered 157–20, 001–A and dated January 1978," and by inserting in lieu thereof "157–20,001–B and dated October 1978,".

(10) Amend section 505(e) by inserting "as appropriate" between "directed" and "to".

(11) Amend section 505(e) by adding the following new sentence at the end thereof: "For the purposes of this section, native Hawaiians are defined as any lineal descendants of the race inhabiting the Hawaiian Islands prior to the year 1778."

(12) Delete section 512 in its entirety and insert the following new section:

CROW CREEK VILLAGE ARCHEOLOGICAL SITE

"SEC. 512. (a) The Secretary shall prepare and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives within two years from the date of enactment, a feasibility/suitability study of the Crow Creek Village archeological site, Buffalo County, South Dakota, as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation and maintenance, as well as any feasible alternatives for the administration and protection of the area, including, but not limited to, Federal financial and technical assistance to the State of South Dakota, Buffalo or other suitable entity.

(b) Notwithstanding any other provision of law, the Secretary of the Army is directed to take such actions as may be necessary to preserve and protect such site from any adverse impact on the site and to refrain from any activities which might cause such impact until two years from the date of submission of the study by the Secretary."

(13) Delete section 551 in its entirety and insert the following new section:

Subtitle B—Trails

SEC. 551. The National Trails System Act (82 Stat. 919; 16 U.S.C. 1241), as amended, is further amended as follows:

(1) In section 2(a) after promote insert the preservation of,; and after outdoor areas insert and historic resources".

(2) In section 2(a) delete (ii) and the remainder of the sentence and insert (ii) secondarily, within scenic areas and along historic travel routes of the Nation, which are often more remotely located.

(3) In section 2(b) delete and scenic and insert scenic and historic.

(4) In section 3 redesignate subsection (c) as (d), and insert a new subsection (c) as follows:

(c) National historic trails, established as provided in section 5 of this Act, which will be extended trails which follow as closely as possible and practicable the original trails or routes of travel of national historical significance. Designation of such trails or routes shall be continuous, but the established or developed trail, and the acquisition thereof, need not be continuous on site. National historic trails shall have as their purpose the identification and protection of the historic route and its historic remnants and artifacts for public use and enjoyment. Only those selected land and water based components of an historic trail which are on federally owned lands and which meet the national historic trail criteria established in this Act, are established as initial Federal protection components of a national historic trail. The appropriate Secretary may subsequently certify other lands as protected segments of an historic trail upon application from State or local governmental agencies or private interests involved if such segments meet the national historic trail criteria established in this Act and such criteria supplementary thereto as the appropriate Secretary may prescribe, and are administered by such agencies or interests without expense to the United States.

(5) In the new section 3(d) delete or national scenic and insert national scenic or national historic.

(6) Change the title of section 5 to read NATIONAL SCENIC AND NATIONAL HISTORIC TRAILS.

(7) In section 5(a), insert in the first sentence after the word scenic the words and national historic and change the second sentence to read: There are hereby established the following National Scenic and National Historic Trails:.

(8) In section 5(a)(1), in the first sentence, after the word Appalachian, insert National Scenic, and in section 5(a)(2), in the first sentence, after Pacific Crest, insert National Scenic.

(9) In section 5(a), delete paragraph (3) and insert in lieu the following new paragraphs:

(3) The Oregon National Historic Trail, a route of approximately two thousand miles extending from near Independence, Missouri, to the vicinity of Portland, Oregon, following a route as depicted on maps identified as Primary Route of the Oregon Trail 1841–1848, in the Department of the Interior's Oregon Trail study report dated April 1977, and which shall be on file and available for public inspection in the office of the Director of the National Park Service. The Trail shall be administered by the Secretary of the Interior.

(4) The Mormon Pioneer National Historic Trail, a route of approximately one thousand three hundred miles extending from Nauvoo, Illinois, to Salt Lake City, Utah, following the primary historical route of the Mormon Trail as generally depicted on a map, identified as "Mormon Trail Vicinity Map, figure 2" in the Department of the Interior Mormon Trail study report dated March 1977, and which shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.

(5) The Continental Divide National Scenic Trail, a trail of approximately thirty-one hundred miles, extending from the Montana-Canada border to the New Mexico-Mexico border, following the approximate route depicted on the map, identified as "Proposed Continental Divide National Scenic Trail" in the Department of the Interior Continental Divide Trail study report dated March 1977 and which shall be on file and available for public inspection in the office of the Chief, Forest Service, Washington, D.C. The Continental Divide National Scenic Trail shall be administered by the Secretary of Agriculture in consultation with the Secretary of the Interior. Notwithstanding the provisions of section 7(c), the use of motorized vehicles on roads which will be designated segments of the Continental Divide National Scenic Trail shall be permitted in accordance with regulations prescribed by the appropriate Secretary.

(6) The Lewis and Clark National Historic Trail, a trail of approximately three thousand seven hundred miles, extending from Wood River, Illinois, to the mouth of the Columbia River in Oregon, following the outbound and inbound routes of the Lewis and Clerk Expedition depicted on maps, identified as "Vicinity Map, Lewis and Clark Trail" study report dated April 1977. The map shall be on file and available for public inspection in the Office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.

(7 The Iditarod National Historic Trail, a route of approximately two thousand miles extending from Seward, Alaska, to Nome, Alaska, following the routes as depicted on maps identified as "Seward-Nome Trail", in the Department of the Interior's study entitled "The Iditarod Trail (Seward-Nome Route) and other Alaskan Gold Rush Trails" dated September 1977. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.

(10) In section 5(b) after "national scenic" wherever it appears insert "or national historic"; in the first sentence after the phrase "Secretary of the Interior," insert "through the agency most likely to administer such trail," delete the third sentence; and delete that portion of the fourth sentence which precedes the numerical listing, and insert in lieu the following: "The studios listed in subsection (c) of this section shall be completed and submitted to the Congress, with recommendations as to the suitability of trail designation, not later than three complete fiscal years from the date of enactment of their addition to this subsection, or from the date of enactment of this sentence, whichever is later. Such studies, when submitted, shall be printed as a House or Senate document, and shall include, but not be limited to:".

(11) In section 5(b)(3) after the semicolon add "and in the case of national historic trails the report shall include the recommendation of the Secretary of the Interior's National Park System Advisory Board as to the national historic significance based on the criteria developed under the Historic Sites Act of 1935 (49 Stat. 666; U.S.C. 461);

(12) In section 5(b)(8) delete the word and at the end of the sentence; in section 5(b)(9) change the period at the end of the

sentence to a semicolon; and at the end of section 5(b) add the following new paragraphs:

(10) the anticipated impact of public outdoor recreation use on the preservation of a proposed national historic trail and its related historic and archeological features and settings, including the measures proposed to ensure evaluation and preservation of the values that contribute to their national historic significance; and

(11) to qualify for designation as a national historic trail, a trail must meet all three of the following criteria:

(A) It must be a trail or route established by historic use and must be historically significant as a result of that use. The route need not currently exist as a discernible trail to qualify, but its location must be sufficiently known to permit evaluation of public recreation and historical interest potential. A designated trail should generally accurately follow the historic route, but may deviate somewhat on occasion of necessity to avoid difficult routing through subsequent development, or to provide some route variation offering a more pleasurable recreational experience. Such deviations shall be so noted on site. Trail segments no longer possible to travel by trail due to subsequent development as motorized transportation routes may be designated and marked on-site as segments which link to the historic trail.

(B) It must be of national significance with respect to any of several broad facets of American history, such as trade and commerce, migration and settlement, or military campaigns. To qualify as nationally significant, historic use of the trail must have had a far-reaching effect on broad patterns of American culture. Trails significant in the history of native Americans may be included.

(C) It must have significant potential for public recreational use or historical interest based on historic interpretation and appreciation. The potential for such use is generally greater along roadless segments developed as historic trails, and at historic sites associated with the trail. The presence of recreation potential not related to historic appreciation is not sufficient justification for designation under this category.

(13) In section 5(c), add the following at the end thereof:

(20) Overmountain Victory Trail, extending from the vicinity of Elizabethton, Tennessee, to Kings Mountain National Military Park, South Carolina.

(14) In section 5 delete subsection (d), and insert a new section 5(d) to read as follows:

(d) The Secretary charged with the administration of each respective trail shall, within one year of the date of the addition of any national scenic or national historic trail to the System, and within sixty days of the enactment of this sentence for the Appalachian and Pacific Crest National Scenic Trails, establish an advisory council for each such trail, each of which councils shall expire ten years from the date of its establishment. The appropriate Secretary shall consult with such council from time to time with respect to matters relating to the trail, including the selection of rights-of-way, standards for the erection and maintenance of markers along the trail, and the administration of the trail. The members of each advisory council, which shall not exceed thirty-five in number, shall serve for a term of two years and without compensation as such, but the Secretary may pay, upon vouchers signed by the chairman of the council, the expenses reasonably incurred by the council and its members in carrying out their responsibilities under this section. Members of each council shall be appointed by the appropriate Secretary as follows:

(i) a member appointed to represent each Federal department or independent agency administering lands through which the trail route passes, and each appointee shall be the person designated by the head of such depart or agency;

(ii) a member appointed to represent each State through which the trail passes, and such appointments shall be made from recommendations of the Governors of such States;

(iii) one or more members appointed to represent private organizations, including corporate and individual landowners and land users, which in the opinion of the Secretary, have an established and recognized interest in the trail, and such appointments shall be made from recommendations of the heads of such organizations: *Provided*, That the Appalachian Trail Conference shall be represented by a sufficient number of persons to represent the various sections of the country through which the Appalachian Trail passes; and

(iv) the Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.".

(15) In section 5 add two new subsections (e) and (f) as follows:

(e) Within two complete fiscal years of the date of enactment of legislation designating a national scenic trail, except for the Continental Divide National Scenic Trail, as part of the system, and within two complete fiscal years of the date of enactment of this subsection for the Pacific Crest and Appalachian Trails, the responsible Secretary shall, after full consultation with affected Federal land managing agencies, the Governors of the affected States, the relevant advisory council established pursuant to section 5(d), and the Appalachian Trail Conference in the case of the Appalachian Trail, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan for the acquisition, management, development, and use of the trail, including but not limited to, the following items:

(1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved (along with high potential historic sites and high potential route segments in the case of national historic trails), details of anticipated cooperative agreements to be consummated with other entities, and an identified carrying capacity of the trail and a plan for its implementation;

(2) an acquisition or protection plan, by fiscal year, for all lands to be acquired by fee title or lesser interest, along with detailed explanation of anticipated necessary cooperative agreements for any lands not to be acquired; and

(3) general and site-specific development plans, including anticipated costs.".

(f) Within two complete fiscal years of the date of enactment of legislation designating a national historic trail or the Continental Divide National Scenic Trail as part of the system, the responsible Secretary shall, after full consultation with affected Federal land managing agencies, the Governors of the affected States, and the relevant Advisory Council established pursuant to section 5(d) of this Act, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan for the management, and use of the trail, including but not limited to, the following items:

(1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved, details of any anticipated cooperative agreements to be consummated with State and local government agencies or private interests, and for national scenic or national recreational trails an identified carrying capacity of the trail and a plan for its implementation; and

(2) the process to be followed by the appropriate Secretary to implement the marking requirements established in section 7(c) of this Act.".

(16) In section 6 in the first sentence delete ", or national scenic" and insert "national scenic or national historic", and in the second sentence delete ", or scenic" and insert "national scenic, or national historic."

(17) In section 7(a) in the first sentence delete "National Scenic Trails" and insert "national scenic and national historic trails"; in two instances in subsection (b), and in the first sentence of subsection (c), after "scenic", insert "or national historic"; in subsection (c) in the second proviso, after "recreation" delete "or scenic" and insert ", national scenic, or national historic"; and in the fifth sentence after "recreation" delete "and scenic" and insert ", national scenic, and national history"; in subsection (d) after "recreation" delete "or scenic" and insert ", national scenic, or national historic"; in subsection (e) after "scenic" in both instances where it appears insert "or national historic"; in subsection (h) in the first sentence after "recreation" delete "or scenic" and insert ", national scenic, or national historic", and in the second sentence after "scenic" insert "or national historic"; in subsection (i) after "recreation" delete "or scenic" and insert ", national scenic, or national historic".

(18) In section 7(c) at the end of the fourth sentence insert the following: "Where a national historic trail follows existing public roads, developed rights-of-way or waterways, and similar features of man's nonhistorically related development, approximating the original location of a historic route, such segments may be marked to facilitate retracement of the historic route, and where a national historic trail parallels an existing public road, such road may be marked to commemorate the historic route.".

Other uses along the historic trails and the Continential Divide National Scenic Trail, which will not substantially interfere with the nature and purposes of the trail, and which, at the time of designation, are allowed by administrative regulations, including the use of motorized vehicles, shall be permitted by the Secretary charged with the administration of the trail.

(19) In section 7(e), in the first proviso, delete within two years.

(20) In section 7(g), delete the second proviso entirely.

(21) At the end of subsection 7(g) add the following new sentence: "For national historic trails, direct Federal acquisition for trail purposes shall be limited to those areas indicated by the study report or by the comprehensive plan as high potential route segments or high potential historic sites.".

No land or site located along a designated national historic trail or along the Continental Divide National Scenic Trail shall be subject to the provisions of section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)) unless such land or site is deemed to be of historical significance under appropriate historical site criteria such as those for the National Register of Historic Places.

(22) In section 8 in the first sentence of subsection (a) after "establishing park, forest, and other recreation" insert "and historic" and after "administered by States, and recreation" insert "and historic"; and at the end of the first sentence insert the following: "The Secretary is also directed to encourage States to consider, in their comprehensive statewide historic preservation plans and proposals for financial assistance for State, local, and private projects submitted pursuant to the Act of October 15, 1966 (80 Stat.

915), as amended, needs and opportunities for establishing historic trails."

(23) In section 10, strike "(a)(1)" and insert in lieu thereof "(a)", strike "the subsequent fiscal years": strike the paragraph numbered "(2)" in its entirety; and add a new "subsection (c)" as follows:

"(c) There is hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this Act relating to the trails designated by paragraphs 5(a), (3), (4), (5), (6), and (7): *Provided*, That no such funds are authorized to be appropriated prior to October 1, 1979: *And provided further*, That notwithstanding any other provisions of this Act or any other provisions of law, no funds may be expended for the acquisition of lands or interests in lands for the Continental Divide National Scenic Trail, the Oregon National Historic Trail, the Mormon Pioneer National Historic Trail, the Lewis and Clark National Historic Trail, and the Iditarod National Historic Trail "."

(14) Delete Section 603 in its entirety and insert the following new section:

Sec. 603(a) the Act of June 27, 1960 (74 Stat. 220) as amended May 24, 1974 (88 Stat. 174, 176; 16 U.S.C. 469) is amended as follows:

(b) In section 7(b), delete the "and" following "1977;", change the period at the end of the sentence to a semicolon; and add the following words: "$500,000 in fiscal year 1979; $1,000,000 in fiscal year 1980; $1,500,000 infi scal year 1981; $1,500,000 in fiscal year 1982; and $1,500,000 in fiscal year 1983.".

(c) In section 7(c), delete the "and" following "1977;", change the period at the end of the sentence to a semicolon, and add the following words: "$3,000,000 in fiscal year 1979; $3,000,000 in fiscal year 1980; $3,500,000 in fiscal year 1981; $1,500,000 in fiscal year 1982; and $4,000,000 in fiscal year 1983.".

(d) Add the following new subsection "(d)" to section 7:

"(d) Beginning fiscal year 1979, sums appropriated for purposes of section 7 shall remain available until expended."."

(15) Delete section 701 in its entirety and insert the following new language:

Sec. 701. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

(16) Pere Marquette, Michigan.—The segment downstream from the junction of the Middle and Little South Branches to its junction with United States Highway 31 as generally depicted on the boundary map entitled 'Proposed Boundary Location, Pere Marquette Wild and Scenic River,'; to be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public, the Secretary shall take such action as is provided for under subsection (b) with respect to the segment referred to in this paragraph within one year from the date of enactment of this paragraph. Any development or management plan prepared pursuant to subsection (b) shall include (a) provisions for the dissemination of information to river users and (b) such regulations relating to the recreational and other uses of the river as may be necessary in order to protect the area comprising such river (including lands contiguous or adjacent thereto) from damage or destruction by reason of over use and to protect its scenic, historic, esthetic and scientific values. Such regulations shall further contain procedures and means which shall be utilized in the enforcement of such development and management plan. For the purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated not more than $8,125,000 for the acquisition of lands or interests in lands and $402.000 for development.

(16) Delete section 753(b) in its entirety.

(17) In section 762, delete "permits, Federal assistance and other Federal actions".

(18) Delete section 908(a) and insert in lieu thereof the following new section:

"Sec. 908. (a) There is authorized to be appropriated, to carry out the provisions of this Title, not to exceed $50,000,000 from the Land and Water Conservation Fund for acquisition of lands, waters, and interests therein and such sums as necessary for the development of essential facilities."

(19) Amend that portion of section 1005(a) following the third sentence as follows: "Such criteria shall be based upon factors which the Secretary determines are related to deteriorated recreational facilities or systems, and physical and economic distress."

(20) Amend section 1005(c)(2) to read as follows: "condition of existing recreation areas and facilities;"

(21) Amend section 1009 to read as follows:

MATCHING REQUIREMENTS

Sec. 1009. The non-Federal share of project costs assisted under this title may be derived from general or special purpose State or local revenues. State categorical grants, special appropriations by State legislatures, donations of land, buildings, or building materials and/or in-kind construction, technical, and planning services. No monies from the Land and Water Conservation Fund (77 Stat. 49), as amended, or from any other Federal grant program other than general revenue sharing and the community development block grant programs shall be used to match Federal grants under this program. Reasonable local costs of action program development to meet the requirements of section 1007(a) of this title may be used as part of the local match only when local applicants have not received program development grants under the authority of section 1007(c) of this title. The Secretary shall encourage States and private interests to contribute, to the maximum extent possible, to the non-Federal share of project costs.

(22) At the end of section 317(a) insert the following new sentence:

"Notwithstanding any other provision of this Act, the Secretary shall not acquire the Marin County Assessor's parcels numbered 199–181–01, 199–181–06, 199–181–08, 199–181–13, and 199–181–14, located in the Muir Beach portion of the recreation area."

(23) Delete section 729 in its entirety and insert in its place the following section:

"DESIGNATION OF ALLEGHENY RIVER FOR STUDY

"Sec. 729. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

'(67) Allegheny, Pennsylvania.—The main stem from Kinzua Dam downstream to East Brady.'."

(24) Amend section 732(70) to read as follows:

"(70) Myakka, Florida—The segment south of the southern boundary of the Myakka River State Park."

(25) Insert the following proviso preceding the period at the end of the third sentence of section 507(c): *Provided, however*, that the value of any lands acquired by the Secretary under the exception in this sentence shall be deducted from the amount of monies available for grants to the State under subsection (n) of this section.

(26) Delete the proviso in section 507(o).

(27) Add a new title XIII to read as follows:

Sec. 1301. Within 90 days from enactment of this Act, the Secretary of Agriculture shall report to the Committee on Interior and Insular Affairs in the House of Representatives, and the Committee on Energy and Natural Resources of the Senate, the nature and extent of the progress of any proposal to exchange lands owned by the Burlington Northern Railroad on either the Beaverhead or Gallatin National Forests in the State of Montana for lands owned by the United States elsewhere in the State of Montana. Such report shall also discuss any study or appraisal work done by any agency of the Federal Government concerning the feasibility, impact, or cost of any such an exchange between the Burlington Northern Railroad and the Federal government, including the sharing of cost of such study. The Department of Agriculture shall not proceed with the processing of any exchange of more than 6,400 acres until and unless authorized to do so by a Concurrent Resolution of the Congress."

(28) Add a new title XIII as follows:

HAMPTON NATIONAL HISTORIC SITE

Sec. 1301. (a) In order to preserve, as part of the Hampton National Historic Site, lands and buildings historically associated with Hampton Mansion, the exterior boundaries of such historic site are hereby revised to include the following described lands:

All that certain tract or parcel of land lying and being situated in Baltimore County, Maryland, and being more particularly described as follows:

Beginning at a point on the Northwest side of Hampton Lane (50 feet wide), said corner being common to the lands now or formerly of Hampton Village, Inc. and the lands of Gertrude C. Ridgely, et al; thence, with the Northern right-of-way line of said Hampton Lane, the two following courses and distances:

North 69° 19' 40" East, 188.75 feet; and

Easterly by a line curving toward the right having a radius of 408.59 feet for a distance of 196 feet (the chord bearing of North 83°04'12" East, 194.12 feet); thence, leaving said Hampton Road, North 14°20'20" East, 1,095.18 feet to the westernmost corner of Lot No. 1 as shown on Plat "D" of Hampton and filed for record in Plat Book G.L.B. No. 20, Folio 32; thence, running along the southerly line of the lots fronting on St. Francis Road (as shown on said Plat) on a line parallel to and 200 feet from said street, South 68°25'30" West, 777.75 feet to a point on the easterly side of a 40 feet wide road; thence, with said road, North 21°34'30" West, 200.00 feet to a point on the southerly right-of-way line of St. Francis Road; thence, leaving said 40 feet wide road and with said St. Francis Road, South 68°25'30" West, 40.00 feet to a point on the westerly side of said 40 feet wide road; thence, leaving said St. Francis Road and with said 40 feet wide road, South 21°34'30" East, 200.00 feet to a pipe; thence, leaving said 40 foot wide road, South 68°25'30" West, 200.00 feet to a corner common to said Hampton Village, Inc. and the lands of subject owner; thence, with said Hampton Village, Inc., South 21°29'33" East, 835.03 feet to the point of beginning.

Containing 14.02 acres, more or less.

(b) The Secretary of the Interior (hereinafter referred to as the "Secretary") in furtherance of the purposes of this section, is authorized to acquire by donation, purchase, or exchange lands and interests in lands described in subsection (a) of this section.

(c) The Secretary shall administer lands acquired under the authority of this section as part of the Hampton National Historic Site in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented and the Act of August 21, 1935 (49 Stat. 666).

(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous

consent that the Senate amendments to the House amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, and I do so only to ask the gentleman from California (Mr. PHILLIP BURTON) if he would briefly explain the changes that have been made in this Omnibus Park bill.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, as the gentleman from California knows, this bill is virtually identical to the House-passed version a few days ago. The House position is virtually in all respects protected. This is approved by the executive department, and I am quite pleased with the result.

Mr. Speaker, any list of participants who deserve particular credit for enactment of this legislation must include MATT MCHUGH and JOE MCDADE, our colleagues from the Appropriations Committee. During his service on the Interior and Insular Affairs Committee, Representative MCHUGH authored the section of the bill designating the Upper Delaware River as a component of the National Wild and Scenic Rivers System. His persistence and hard work have brought forth an innovative solution to this river which will preserve its character with a maximum of local public involvement.

Representative JOE MCDADE offered invaluable assistance and his unwavering support throughout the development of this proposal.

Representative JOHN BURTON has spent uncounted hours in pursuit of the expansions of both Point Reyes National Seashore and Golden Gate National Recreation Area. His unflagging effort to resolve a host of land use and preservation issues associated with these additions has resulted in the addition of some 6,000 acres to these beautiful and heavily visited recreation areas.

Another expansion of an existing area is the Cuyahoga Valley National Recreation Area in Ohio. During the 93d Congress, Representatives JOHN SEIBERLING and RALPH REGULA succeeded in their effort to establish this new recreation area in close proximity to the major populations of the Greater Cleveland-Akron area. They have authorized the section of this measure which rounds out the boundaries of the recreation area and provides the initial major authorization for the visitor facilities that have been planned.

The progress of this legislation was shaped and assisted by many of our colleagues in the Senate. While I will not attempt to mention all those who have played an important role in this enterprise, I must offer my personal thanks to the subcommittee chairman, JAMES ABOUREZK, and the ranking minority member of the Senate Energy and Natural Resources Committee, Senator CLIFF HANSEN, as well as their capable and effective staff members, who labored mightily to produce this result. JIM ABOUREZK and CLIFF HANSEN are closing their careers in the U.S. Senate and this legislation is but one further testament to their dedicated and effective leadership in preserving our country's natural and historic heritage.

Chairman HENRY M. JACKSON of the Senate Committee again demonstrated his long-standing interest in these issues and his work in shepherding the measure through its final stages was superb.

Senator ALAN CRANSTON played the key role in pressing forward to include the bill on the priority list for Senate passage, and was instrumental in securing the debate time necessary to pass this measure.

A joint Senate and House effort led to the inclusion of the magnificent New River Gorge in this measure. Senators ROBERT BYRD and JENNINGS RANDOLPH worked in close cooperation with Representative NICK JOE RAHALL to develop the consensus that has made this project a reality.

In deliberating a long and complex measure such as S. 791, the continued interest and hard work of many committee members is vital. Representatives LAMAR GUDGER and PAUL TSONGAS lent their efforts in the formative stages of this legislation and worked selflessly to insure that the committee reported a well-constructed measure. Their continuing assistance has been crucial to the success of this matter.

Representative BRUCE VENTO also contributed mightily to this effort and deserves our thanks for his time and effectiveness.

I believe it is fair to say that one of the strengths of S. 791 is the bipartisan effort which led to its enactment. Our ranking minority member on the subcommittee, Representative KEITH SEBELIUS, has been a most constructive force in guiding the substance and progress of this effort.

Representative JOE SKUBITZ, who is closing his career as ranking minority member of the House Committee on Interior and Insular Affairs, can look back with pride at this capstone to his long efforts to protect and preserve these important areas.

Many Members have assisted the committee by bringing to our attention meritorious projects which could be considered in this omnibus measure. Representative JAMES BROYHILL joined by Representative LAMAR GUDGER championed a study of the Overmountain Victory Trail, an important route related to our American Revolution. Representative JAMES QUILLEN has worked for and succeeded in increasing the development authorization for the Andrew Johnson National Historic Site. Through the efforts of Representative DEL LATTA, vitally needed funding has been authorized to repair and restore the facilities at Perry's Victory and International Peace Memorial.

Representative JAMES FLORIO worked until quite literally the 11th hour of this legislation to develop and refine the optimum language for a framework to conserve the Pine Barrens area of New Jersey, joined by his colleagues, Representatives HUGHES and FORSYTHE.

Another joint House-Senate effort is surely the urban park and recreation recovery program contained in S. 791. Representatives JONATHAN BINGHAM and JOHN SEIBERLING have again demonstrated their unflagging commitment to improving these programs and Senator HOWARD METZENBAUM and his staff refined this product to its final form.

The magnificent Rio Grande River in Texas will now be preserved in our National Wild and Scenic Rivers System, thanks to the efforts of Representative BOB ECKHARDT.

Representative TOM DOWNEY has been steadfast in his resolve to insure full protection for Fire Island National Seashore. His hard work has resulted in provisions that will maintain the fragile dunes of this barrier island free from further development.

The measure reflects Representative GEORGE MILLER'S continuing efforts for the upgrading of the John Muir National Historic Site. Representative AL ULLMAN who shepherded the John Day Fossil Beds National Monument into reality in the 93d Congress has continued his work in this measure to adjust the boundaries of this area to afford better protection to its important values.

A major increase in the land acquisition for the Sawtooth National Recreation Area is due to the good work of Representative NORMAN DICKS and STEVE SYMMS in conjunction with Senator FRANK CHURCH.

A fortunate addition to the list of wild and scenic river designations is that of the American River in northern California, thanks to the personal interest and continued work of Representative HAROLD (BIZZ) JOHNSON. And a special bow should go to Representative BILL GRADISON whose long standing interest in the preservation of the superlative Red River Gorge in Kentucky led to its inclusion for study as a potential wild and scenic river.

Hawaii's two House Members, DANIEL AKAKA and CECIL HEFTEL, both freshmen, successfully pressed their case that Kaloko-Honokohau National Historical Park be established in order to preserve from extinction certain historical and cultural areas and traditions of ancient Hawaiians. Thanks to these two Members' efforts, Native Hawaiians and all their descendants will have continuing access to their "roots."

A segment of the Missouri River, from Gavins Point Dam, S. Dak., to Ponca State Park., Nebr., has been designated as a wild and scenic river because of Virginia Smith from Nebraska, Hess Dyas from Nebraska, and Tom Daschle from South Dakota. the Contributions of the latter to the successful inclusion of this provision in the bill are particularly noteworthy because they are not yet in the Congress. Hess Dyas is a candidate for Congress from the First District of Nebraska and Tom Daschle is running for a seat from the First District of South Dakota. If their lobbying efforts are any indication of their potential effectiveness as House Members, their would-be con-

stituents should look forward to two very effective and dynamic Congressmen.

St. Paul's Church, Eastchester, in Mount Vernon, N.Y., will be preserved and protected for present and future generations thanks to DICK OTTINGER's untiring efforts to include this in the omnibus parks bill.

Without JOSH EILBERG's dedication to bringing this about, the bill as sent to the White House might not have contained the section authorizing the establishment of the Edgar Allen Poe National Historic Site.

Additional land has been added to the Oregon Caves National Monument in Oregon, due to the efforts of our colleague, JIM WEAVER, the outstanding Member from that State. As a member of the House Interior Committee, JIM's contributions to the cause of conservation are continuous and substantive.

In particular I want to single out for my heartfelt thanks and unstinting praise the hard working members of our subcommitee. All of them, Democrats and Republicans alike, made important contributions to the omnibus parks bill. They are: BOB KASTENMEIER, TONY WON PAT, RON DE LUGO, JIM FLORIO, DAWSON MATHIS, JOHN KREBS, PETER KOSTMAYER, AUSTIN MURPHY, LAMAR GUDGER, BALTASAR CORRADA, JONATHAN BINGHAM, BOB ECKHARDT, PAUL TSONGAS, MO UDALL, KEITH SEBELIUS, JOE SKUBITZ, DON CLAUSEN, PHIL RUPPE, BOB BAUMAN, and BOB LAGOMARSINO. Our late beloved colleague, Goodloe Byron, should also be cited here for his numerous contributions right up to his untimely death this week. I am convinced that no other subcommittee chairman has such a fine group of intelligent, energetic, creative and committed members as I can boast of the membership of the House Interior Subcommitee on National Parks and Insular Affairs.

As one who introduced the bill unsuccessfully many years ago when I first came to Congress, I want to express my appreciation and admiration to my friend and colleague, the gentleman from California, JOHN KREBS, who was the successful author of the Mineral King component of this legislation. His leadership will make it possible for countless Americans to enjoy the unique beauty of this scenic alpine valley, yet provide appropriate protection from the threat of commercialization.

Georgians can thank Bo GINN and DAWSON MATHIS, their two able House Members, for the increase in the authorized development limitation for Andersonville National Historic Site. With this increased authorization, the construction of an information center, roads and parking, reconstruction of part of the prison stockade and other parts of the park can now be funded.

LINDY BOGGS, our colleague from Louisiana, and our friend, BENNETT JOHNSTON, the Senator from the same State, are responsible for the inclusion in the bill of Jean Lafitte National Historical Park. They were assisted in their efforts by Jerry Huckaby. This park, long sought after by the people of Louisiana, will now become a reality thanks to these three fine Members of Congress.

With the final approval of S. 791, the beauty and recreational benefits of the Santa Monica Mountains area will be preserved forever for people not only from the State of California, but from everywhere in this great country. And all those people who take advantage of these benefits in future can thank in particular three House Members and one Senator who relentlessly worked to bring this recreation area into being. TONY BEILENSON, BARRY GOLDWATER, JR., BOB LAGOMARSINO, and Senator ALAN CRANSTON are to be applauded for their outstanding efforts. Generations to come will benefit from their refusal to give up their willingness to negotiate, their ability to put partisan feelings aside for the betterment of their constituents.

Mr. Speaker, I want to clarify that the Melcher amendment in the Senate committee amendment to the omnibus bill was accepted by the House with the clear and unambiguous understanding that it applied exclusively to the exchange of lands owned by the Burlington Northern Railroad on either the Beaver Head or the Gallatin National Forest in the State of Montana.

This understanding on behalf of the House is based on the expressed assurance by the distinguished senior Senator from the State of Montana, Mr. MELCHER, to this Member.

Devotees of Carl Sandburg owe LAMAR GUDGER a debt of thanks for his successful efforts to increase the authorized development limitation at Carl Sandburg National Historic Site in order to permit construction of a visitor orientation facility and various other improvements needed on the property.

The Boston National Historical Park will be enriched by the addition of Dorchester Heights. The Member who played the vital role in securing this extra land for the park was our colleague from Boston, JOE MOAKLEY. Additionally, it was JOE who led the effort in the Rules Committee to secure a favorable rule for the bill.

The Palo Alto Battlefield in Texas has been designated a national historic site because of KIKO DE LA GARZA's effective efforts to bring this about.

The compelling leadership of PETER KOSTMAYER, from Pennsylvania, was displayed when he was joined by his colleagues, ANDY MAGUIRE, HELEN MEYNER, and MILLICENT FENWICK (three Members from New Jersey), to bring about a favorable disposition of the Tocks Island controversy. He is responsible for the middle segment of the Delaware River being designated as a wild and scenic river and protected from the building of the controversial dam on the Tocks Island site heretofore selected for this dubious distinction. People from the surrounding areas with frequent access to the Delaware Gap National Recreation Area can thank those four Members for saving this beautiful area with all of its wildlife, recreational facilities, archeological treasures, and other assets from the devastation of flooding.

Credit for bringing about the inclusion of Friendship Hill as a national historical site in Pennsylvania goes to AUSTIN MURPHY, the dedicated first-term Member from the 22d District.

There are innumerable people, both in Washington, D.C. and around this country who have given of their time and energies to contribute to the success of this effort. No list of them could be complete. But here is a small sample with my thanks to those many others who can measure, in terms of their own satisfaction, their personal contributions that made enactment of the National Parks and Recreation Act of 1978 possible:

Pete Lafen.
Mary Anne Thompson.
Carol Barrett.
Mae Barringer.
Dudley Gilbert.
Gary Patterson.
Rick Walnut.
Diane Graves.
Elmer Rowley.
Paul Bea.
Jack Vandenberg.
Marsha Wolfe.
Dave Conrad.
Brock Evans.
Bill Lienesch.
Eileen Barthelmy.
Maitland Sharpe.
John McComb.
Chuck Clusen.
Destry Jarvis.
Howard Brown.
Debbie Sease.
David Foreman.
Randy Snodgrass.
Linda Billings.
Cathy Smith.
Kathy Barton.
Bob Dennis.
Patricia Goggin.
Barry Tindall.
Margot Fuer.
Bill Richardson.
Hal Lockwood.
Bunty Gomoroy.
George Whitmore.
Joe Fontaine.
Mary Ann Ericksen.
Brent Blackwelder.
Thoron Lane.
Linda Lewis.
Howard Saxion.
John Baker.
Linda Lewis.
Barbara Wadsworth.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I want to compliment the gentleman from California (Mr. PHILLIP BURTON) for steering this bill through a very intricate legislative maze. I think he has done a real service to this House on this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California that the Senate amendments to the House amendment be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER. Is there objection to the first request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

A DEFEAT FOR THE PUBLIC SAFETY

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, on September 12, the House acted responsibly in passing by voice H.R. 11622, the Fuels Transportation Safety Amendments Act of 1978.

That bill, coauthored by Energy and Power Subcommittee Chairman JOHN DINGELL and myself, mandated strict new national safety standards in the transportation and storage of natural gas, liquified natural gas (LNG) and liquified petroleum gas (LPG).

As our hearing record and the debate on the House floor clearly demonstrated, this legislation is essential to prevent accidents and save lives.

Shortly after House passage of our bill, Columnist Jack Anderson reported in the Washington Post of September 23:

> Gas industry lobbyists are trying to scuttle a congressional effort to protect the public from dangerous pipeline accidents . . . The House passed tighter safety standards for pipeline operators. But a private memo prepared for Rep. John D. Dingell warns of "an aggressive, behind-the-scenes effort to pressure senators to emasculate the House version."

I regret to have to inform my colleagues that on Friday, September 29, those predictions were borne out and this crucial measure was gutted on the Senate floor. Why the other body chose to do this I certainly do not know nor understand.

Mr. Speaker, we may have been stymied for this session, but I want to assure you and my colleagues that Chairman DINGELL and I will not desist from this battle. Perhaps next year the other body will find the time to consider the public safety.

In the meantime, I pray that we are spared any catastrophes in the transportation and storage of these extraordinarily hazardous materials. I suspect that those who have succeeded in killing this essential legislation will be praying with equal vigor.

TRIBUTE TO ROY LAWRENCE OF FLINT, MICH., ON RETIREMENT

(Mr. KILDEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KILDEE. Mr. Speaker, I want to bring to the attention of my colleagues in the Congress a brief description of the career of union leadership that is being capped by the retirement of Roy Lawrence of Flint, Mich. Mr. Lawrence is retiring this year after 44 years with General Motors Corp., the last 27 of those years as an active member of the United Auto Workers, serving for many years as a union officer.

During his years in the UAW, Mr. Lawrence has served as alternate, district and shop committeeman. Upon his retirement, he was on the publicity committee and served as editor of the union newspaper at UAW Local 651 at the AC Spark Plug plant in Flint. He also was chairman of the shop committee before becoming publicity committee chairman.

Mr. Lawrence is a native of Hancock, Mich., but Flint has been his home since he was 10 years old, except for the 1942–46 period when he served his country in the Armed Forces during World War II. He began working at a Chevrolet plant in Flint in 1934, and started working at AC Spark Plug on August 29, 1940. He and his wife, Evelyn, have three children. I extend my best wishes to them for a happy and productive retirement.

Members of the United Auto Workers can take pride in the knowledge that theirs is a progressive union that is universally recognized for its social leadership as well as for its dedication to the well-being of its members. This reputation is due to the leadership of people like Roy Lawrence.

MIKHAIL PRESSMAN

(Mr. TRAXLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAXLER. Mr. Speaker, as part of my contribution to "A Vigil for Freedom" this morning, I wish to bring to the attention of my colleagues the matter of Mikhail Pressman and his wife, Galina.

Mikhail Pressman is an economist and city planner from Kiev. But as soon as he applied for a visa in 1976, he also lost his job. He now works in a jewelry factory, sweeping floors. His wife, Galina, accepts the hardship of the refusniks' daily struggle for she continues to hope for the day when she will be reunited with her sister in Israel.

On September 29, 1977, the Pressmans planned to commemorate the 36th anniversary of the massacre at Babi Yar by saying Kaddish, a special memorial prayer, at the site where about 100,000 persons, mainly Jews, were killed by the Nazis. The Jews of Kiev had applied to authorities for permission to lay wreaths and hold a memorial service.

Not only was the request turned down, but Jews who planned to show their respect from all over the Soviet Union were prevented from traveling to Kiev on that day. Because the monument erected on the site in July 1976 fails to mention the Jews who were slaughtered there, Babi Yar has become almost a holy place. In the words of an activist:

> Our yearly pilgrimage to the site signifies a protest to all injustice and brutality.

Babi Yar must never happen again.

POOR SCHEDULING IN LAST DAYS OF SESSION

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, I want to appeal to the majority leadership of the House to consider the importance of scheduling matters in these closing hours of this session with a greater eye to the integrity and reputation of the House of Representatives. We are just about to take up a string of suspensions headed by two resolutions dealing with South Africa, which will probably not be read beyond the liberal parlors of New York City. If they do come up these matters will probably be debated for an hour or more.

Yet, most of us have not had a chance to read these voluminous reports that have only been available for a matter of hours on three of our colleagues who are about to be either reprimanded or censured by the House of Representatives. There has to be serious misjudgment of the schedule on the next-to-last day of the session when minor matters of little import are accorded this kind of precedence as business of the House, and does not allow the House the time to consider the most important matters of all.

THE CASE OF THE BALBARER FAMILY WHO ARE DETAINED IN RUSSIA

(Mr. BROWN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. BROWN of Michigan. Mr. Speaker, I am pleased to join my colleagues in the "Vigil for Freedom" on behalf of Soviet Jewish families and individuals who are being detained in the U.S.S.R. as a result of the Soviet Union's repressive emigration policies which are in disregard of the human rights provisions of the 1975 Helsinki Final Act.

Boris Balbarer is a pediatrician living in Kishinev. He is married and has 1 child. In 1971, he was discharged from the army where he had served as a physician. When, shortly thereafter, he applied for a visa, he was refused because of "secrets" acquired during military service. And, while more than 5 years have passed since the demobilization of his army group—a time usually considered sufficient for forgetting such "secrets"—he still remains separated from his parents, a victim of Soviet bureaucracy.

Balbarer was a principal organizer of the Kishinev seminar of Jewish Cultural Affairs which is one of the most successful outside the major cities. But, in May 1977 he was questioned for 7 hours by the KGB. Authorities tried to force him to sign a statement that his seminar activities were "causing division among the Soviet people." He was then told that he would have to wait another 5 years for an exit visa.

Meanwhile, his elderly and ill parents are appealing for his release. It was promised to them, before they left the U.S.S.R. for Israel in 1972, that their son would be able to emigrate to Israel when the 5-year period since his army service expired. His father, aged 67, has been suffering from high blood pressure and a heart condition, while his 60-year-old mother suffers from an acute form of diabetes.

Numerous appeals to Soviet authorities by his parents have brought no results. It is my earnest hope that this "Vigil for Freedom" will result in early issuance of an emigration visa so that the Balbarer family might be reunited.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 666, ALLOWING FEDERAL EMPLOYMENT PREFERENCE TO CERTAIN EMPLOYEES OF BUREAU OF INDIAN AFFAIRS AND INDIAN HEALTH SERVICE

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1781), on the resolution (H. Res. 1431) providing for consideration of the Senate bill (S. 666) to allow Federal employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of, certain Federal laws allowing employment preference to Indians, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF REPORTS FROM COMMITTEE ON RULES

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1426 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1426

Resolved, That it shall be in order at any time during the remainder of the second session, Ninety-fifth Congress, up to and including October 15, 1978, to consider reports from the Committee on Rules as provided in clause 4(b), rule XI, except that the provision requiring a two-thirds vote to consider said reports is hereby suspended during said period.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, last week by direction of the Committee on Rules I called up a procedural resolution which dealt with certain of the House powers granted to the Speaker at the end of a session, and this week I call up another one which in effect does the same kind of thing as that procedural resolution did.

This resolution provides that a privileged resolution from the Committee on Rules will require only a majority vote by the House when called up on the same day on which it is reported and the question of consideration may not be raised. In a sense this is a little bit academic, because a rule of the House already provides for that to happen on the last 3 days of the session. We know as a practical matter that we are trying to finish this session tomorrow night, so for all practical purposes, if we had the precedent of passing a sine die resolution, we would be under the rules of the House doing this already, but since for a variety of practical reasons we do not perform in that fashion this is the only substitute method to make it possible for the House to use that technique to advance its business and finish it, as often happens, through adopting a resolution from the Rules Committee on the same day.

Mr. Speaker, I must say that there was some confusion and misunderstanding in the Rules Committee and on the floor on the filing of this resolution, but I hope that is behind us and the facts as I have stated are precise—I know they are precise—and I hope, therefore, there will be very little controversy on this matter.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER. The gentleman from Illinois (Mr. ANDERSON) is recognized for 30 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, an effort has just been made to portray this House Resolution 1426 as simply a housekeeping resolution, but it seems to me that rather than being a simple housekeeping resolution that is needed in order to conclude this 2d session of the 95th Congress, it is really an example of what the Washington Post referred to editorially yesterday as bad housekeeping, and according to that editorial this current House has set for itself two very dubious records this year. One of those records is for the most rollcalls in a single year and the other—and I quote—is the most yeas and nays cast without any clear idea of what the vote is about.

I would submit that this resolution would guarantee us that the second dubious distinction would indeed characterize the final closing actions of this session of Congress, because this resolution would permit the same day, indeed, the very same hour consideration by the House of reports from the Committee on Rules, reports that of course determine the order of our business and may waive all manner of germaneness and other rules of the House. Or, to put it another way, if ignorance is bliss, this resolution ought to make one absolutely ecstatic.

The suggestion has been made by my distinguished colleague that this resolution is much ado about nothing, because under House rule XI, clause 4(b), there is already a provision that waives the requirements of a two-thirds vote on the same day consideration of the rule during the last 3 days of the session.

We are very blithely assured that we are, after all, in the last 3 days of this 2d session of the 95th Congress. But we really have no clear assurances that such is the case.

I happened to walk over to the Chamber of the House a few minutes ago with counsel for the Committee on Ways and Means who assured me that there are more than 75 outstanding differences that have to be reconciled—major differences—that have to be reconciled between the House and the Senate on what is undoubtedly one of the most important bills of this Congress, the bill dealing with taxes, so that there is clearly the likelihood that this session could very well stretch into Monday, Tuesday, and even Wednesday of next week.

So there is no clear assurance without the adoption of a sine die resolution that we are in the posture where we can blithely assume that we should be taking up the rules on the same day without requiring a two-thirds vote.

Let me suggest something else as a rationale for rejecting this resolution. When we finish this rule, or when we proceed to the final consideration of the matter now before us, we have on the Calendar some 15 suspensions, 15 bills on which suspensions have been requested. We are going to be asked to suspend the rules. Well, we are not seeking to change the rules and suggest that we could adopt any of those 15 suspensions by a simple majority vote. We are still requiring, even in what may be the last 2 or 3 days of this session of the Congress, we are still requiring observance of the rule that those matters be decided on the basis of a two-thirds vote.

So I would point out that the same logic ought to obtain with respect to any rule that we consider in the closing days of this Congress.

I cannot think of any rule, frankly, that ought to be so controversial, any rule coming before this body in the final 2 or 3 or 4 or 5 days, whatever it may turn out to be, that would be so controversial that it cannot get the required two-thirds that our rules now require.

So, lacking any specific information to the contrary, I think that we ought to keep this blanket waiver of the rules of the House under cover. And if Confucius did not say it, he should have. That he who flies blind deserves to be a lame duck.

And I would urge a "no" vote on this particular bit of quackery.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I do hope that the House will heed the advice of my senior colleague, the gentlemen from Illinois (Mr. ANDERSON) and reject this resolution.

Mr. Speaker, martial law usually is only declared when a government collapses or is about to collapse, and this resolution constitutes the last step in full martial law in the House of Representatives.

But, let me embellish somewhat on the suggestions the gentleman from Illinois (Mr. ANDERSON) has made, about how this power could be used.

I think anyone who has a particular interest in pending matters in the House, whether it is the tax-cut bill mentioned or the energy bill, should be greatly concerned about the same day consideration by less than two-thirds vote of actions that could be brought out of the Com-

mittee on Rules. At this point in any session the Committee on Rules may do just about anything. We do know that there has been a consistent attempt throughout by the leadership to force the Members to swallow whole all of the bittersweet parts of the lump that is the energy bill, for example. Certainly the power granted by this resolution would facilitate whatever action might now require a two-thirds vote, although what happened yesterday in the Committee on Rules showed an amazing although momentary display of independence.

Therefore, I would suggest that with all of the oxen which could be gored in the next 48 hours, those who have some concern about the direction of the Congress would at least help the Nation generally by retaining this two-thirds requirement and rejecting this resolution.

Mr. ANDERSON of Illinois. Mr. Speaker, I have no further requests for time. I reserve the balance of my time.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I would just like to remind my colleagues that this is a standard procedure which quite frequently has been followed in the closing days of a Congress.

If there had been any desire on the part of the majority to cram anything down the throats of the minority, this would have been asked for long ago. We have 2 days, today and tomorrow. There are numerous bills in conference. To refuse this rule would be to require that nothing could come up; none of those conference committee reports could come up if they required a rule, and many of them will require a rule; nothing could come up unless we mustered a two-thirds vote.

Mr. Speaker, that gives to a minority, it gives to one-third, however, it might be put together, the right to stop this House from considering a conference report on a bill which has already passed the House, already passed the Senate, on which differences already have been reconciled in the conference committee. It would give to one-third, a minority, the right to estop consideration of vital legislation.

It conceivably might result in our not being able to complete our schedule tomorrow night.

Mr. Speaker, this is a simple thing. The Committee on Rules is not asking for any grasp of power. All it asks is that in these last 2 days a rule granted by the Committee on Rules may be brought up on the same day. That is all it asks. The rule still would have to be adopted by a majority vote.

Let me just suggest two or three thoughts to the Members. Think about the tax bill. I do not know what is going to happen to the tuition tax credits which were voted to be sent back to the committee yesterday. That is not a two-thirds matter. Bear in mind, those of you who are interested in the tuition tax credits, that you did not have two-thirds to insist on that position.

Stop and think about the question of capital gains taxation. That is not necessarily a two-thirds position.

To deny the Committee on Rules and the Speaker this simple right to bring rules accompanying conference committee reports up on the same day on which the Committee on Rules reports them will be to do one of two things: Either to deny this House the right to complete its business today and tomorrow, or to give to the hands of a minority, one-third—whether they be one-third from this side of the aisle or from that side of the aisle—the tyrannical right to deny this House the opportunity to vote on important unfinished business.

Mr. Speaker, I cannot imagine anyone's opposing this simple request. It is just a procedural matter. There is no seizing of power. I think the Members on the Republican side of the aisle realize that we have been fair with them in the scheduling of legislation. We have talked with them every step of the way. We have advised them in advance daily of what we intended to bring up and the order in which we intended to schedule it. I think they will agree that we have kept those commitments we have made.

Let us not deny to the Speaker and to the Committee on Rules the right to bring to this House rules for bills and conference committee reports which are not yet finished. Some of them will not be finished until tomorrow. If we deny this request, we will end up tomorrow in the hands of the minority, one-third, which will have the right to stymie consideration by this House of any legislation that it does not want considered. That is not democracy.

This is a very modest request, one that has been made year by year at the time of adjournment. So I plead with all of my colleagues at least to demonstrate such confidence in the leadership as to let us have the flexibility to bring bills and conference committee reports requiring rules on the same day that the Committee on Rules grants them.

Mr. WAGGONNER. Mr. Speaker, would the distinguished gentleman from Texas yield?

Mr. WRIGHT. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. I thank the gentleman for yielding.

Mr. Speaker, I want to say to my friend, the majority leader, that I concur in his approach to the adoption of this rule. I would agree completely with him that there is no way to adjourn this Congress unless the leadership has this authority. But I do want to stress one point. Adopting this rule will not in any way prevent the democratic process from working here in the House, because the majority will prevail on each and every issue, and we can judge the issues on the basis of their merit. That is the democratic way.

Mr. WRIGHT. The gentleman is precisely right. The majority of the Members still will have to agree to any rule that is presented.

Mr. ANDERSON of Illinois. Mr. Speaker, I have one additional request for time, I will say to the gentleman from Missouri (Mr. BOLLING). I yield 1 minute to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I am somewhat surprised at the description of the gentleman from Texas (Mr. WRIGHT) of what this rule allows. This rule does not allow any conference reports to be brought up under any different circumstances than they are brought up now. Right now the House has the right of same-day consideration of all conference reports. That was granted last week. The only prohibition, I believe, is the 2-hour written requirement of the so-called Burton rule.

Mr. BOLLING. Mr. Speaker, will the gentleman yield to me?

Mr. BAUMAN. I yield to the gentleman.

Mr. BOLLING. I thank the gentleman for yielding.

I heard the majority leader indicate that he was talking about conference reports that required a rule. Virtually everything in the way of conference reports that we are getting that is very important does require a rule. They do require a rule.

Mr. BAUMAN. I readily concede that, but the gentleman talked about tuition tax credits. Without the power the pending resolution grants, that conference report could have been considered yesterday.

Mr. BOLLING. I do not want to argue with the gentleman. If the gentleman would yield further, the clear impression I got was that he was talking about conference reports.

Mr. BAUMAN. The clear impression I got was he was trying to obfuscate the issue to get the votes for this resolution. The only time this rule will be used will be to bring up matters in extraordinary situations which will force the House to vote on them. It will, for instance, waive the 2-hour printed requirement so Members will not have written copies. That has been done in the past under this rule. It could be used to bring up many different matters, lump them into one, and try to bring them before the House as one matter.

I would hope that we would reject this resolution.

Mr. BOLLING. Mr. Speaker, the obfuscation has not come from this side, in my opinion. This is a simple housekeeping matter, essential to the final adjournment of this Congress tomorrow or early the next morning. It should be adopted, and it should be adopted with votes from both sides.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 260, nays 134, not voting 36, as follows:

[Roll No. 909]

YEAS—260

Addabbo	Foley	Natcher
Akaka	Ford, Mich.	Neal
Alexander	Ford, Tenn.	Nedzi
Anderson, Calif.	Fowler	Nichols
Andrews, N.C.	Fuqua	Nolan
Annunzio	Gammage	Nowak
Applegate	Garcia	Oakar
Ashley	Gaydos	Oberstar
Aspin	Gephardt	Obey
AuCoin	Gibbons	Ottinger
Baldus	Ginn	Panetta
Barnard	Glickman	Patten
Baucus	Gonzalez	Patterson
Beard, R.I.	Gore	Pease
Bedell	Gudger	Pepper
Bellenson	Hall	Perkins
Benjamin	Hamilton	Pickle
Bennett	Hannaford	Pike
Bevill	Harkin	Poage
Biaggi	Harris	Preyer
Bingham	Hawkins	Price
Blanchard	Hefner	Rahall
Blouin	Heftel	Rangel
Boggs	Hightower	Reuss
Boland	Holland	Richmond
Bolling	Holtzman	Risenhoover
Bonior	Howard	Roberts
Bonker	Hubbard	Rodino
Bowen	Huckaby	Roe
Brademas	Hughes	Rogers
Breaux	Ichord	Rooney
Breckinridge	Jenkins	Rose
Brinkley	Jenrette	Rosenthal
Brodhead	Johnson, Calif.	Rostenkowski
Brooks	Jones, N.C.	Runnels
Brown, Calif.	Jones, Okla.	Russo
Burke, Mass.	Jones, Tenn.	Ryan
Burleson, Tex.	Jordan	Santini
Burlison, Mo.	Kastenmeier	Satterfield
Burton, John	Kazen	Scheuer
Burton, Phillip	Keys	Seiberling
Carney	Kildee	Sharp
Carr	Kostmayer	Simon
Cavanaugh	Krebs	Sisk
Chappell	Krueger	Skelton
Chisholm	LaFalce	Slack
Clay	Le Fante	Smith, Iowa
Collins, Ill.	Lederer	Solarz
Conyers	Leggett	Spellman
Corman	Lehman	St Germain
Cornell	Levitas	Staggers
Cornwell	Lloyd, Calif.	Stark
Cotter	Lloyd, Tenn.	Steed
D'Amours	Long, La.	Steers
Daniel, Dan	Long, Md.	Stokes
Danielson	Luken	Stratton
Davis	Lundine	Studds
de la Garza	McCormack	Stump
Delaney	McFall	Thompson
Dellums	McKay	Thornton
Dent	Maguire	Traxler
Derrick	Mahon	Tsongas
Dicks	Mann	Tucker
Dingell	Markey	Udall
Dodd	Mathis	Ullman
Downey	Mattox	Van Deerlin
Drinan	Mazzoli	Vanik
Duncan, Oreg.	Meeds	Vento
Early	Meyner	Volkmer
Eckhardt	Mikulski	Waggonner
Edwards, Calif.	Mikva	Walgren
Eilberg	Milford	Watkins
English	Miller, Calif.	Waxman
Ertel	Mineta	Weaver
Evans, Colo.	Minish	Weiss
Evans, Ga.	Mitchell, Md.	White
Evans, Ind.	Moakley	Whitley
Fary	Moffett	Whitten
Fascell	Mollohan	Wilson, Tex.
Fisher	Montgomery	Wirth
Fithian	Moorhead, Pa.	Wolff
Flippo	Motti	Wright
Flood	Murphy, Ill.	Yates
Florio	Murphy, N.Y.	Yatron
Flowers	Murphy, Pa.	Young, Mo.
Flynt	Murtha	Zablocki
	Myers, Michael	Zeferetti

NAYS—134

Abdnor	Brown, Mich.	Clawson, Del
Anderson, Ill.	Brown, Ohio	Cleveland
Andrews, N. Dak.	Broyhill	Cohen
	Buchanan	Coleman
Archer	Burgener	Collins, Tex.
Armstrong	Burke, Fla.	Conable
Ashbrook	Butler	Conte
Bafalis	Carter	Corcoran
Bauman	Cederberg	Coughlin
Beard, Tenn.	Clausen, Don H.	Cunningham
Broomfield		Daniel, R. W.
Derwinski	Kasten	Regula
Devine	Kelly	Rhodes
Dornan	Kemp	Rinaldo
Duncan, Tenn.	Kindness	Robinson
Edgar	Lagamarsino	Rousselot
Edwards, Ala.	Latta	Ruppe
Edwards, Okla.	Leach	Sawyer
Emery	Lent	Schroeder
Erlenborn	Livingston	Shuster
Evans, Del.	Lott	Skubitz
Fenwick	McClory	Smith, Nebr.
Findley	McCloskey	Snyder
Fish	McDade	Spence
Forsythe	McDonald	Stangeland
Fountain	McEwen	Stanton
Frenzel	McKinney	Steiger
Gilman	Madigan	Stockman
Goodling	Marks	Symms
Gradison	Marlenee	Taylor
Grassley	Marriott	Thone
Green	Martin	Treen
Guyer	Michel	Trible
Hagedorn	Miller, Ohio	Vander Jagt
Hammer-schmidt	Mitchell, N.Y.	Walker
	Moore	Walsh
Hansen	Moorhead, Calif.	Wampler
Harsha		Whalen
Heckler	Myers, Gary	Whitehurst
Hillis	Myers, John	Wilson, Bob
Holt	O'Brien	Wilson, C. H.
Horton	Pritchard	Winn
Hyde	Pursell	Wydler
Jacobs	Quayle	Wylie
Jeffords	Quillen	Young, Alaska
Johnson, Colo.	Railsback	Young, Fla.

NOT VOTING—36

Ambro	Goldwater	Quie
Ammerman	Hanley	Roncalio
Badham	Harrington	Roybal
Burke, Calif.	Hollenbeck	Rudd
Caputo	Ireland	Sarasin
Cochran	Lujan	Schulze
Crane	McHugh	Sebelius
Dickinson	Moss	Shipley
Diggs	Nix	Sikes
Fraser	Pattison	Teague
Frey	Pettis	Wiggins
Giaimo	Pressler	Young, Tex.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. JONES of Tennessee. Mr. Speaker, I rise this morning to make a correction in a vote I cast yesterday, October 12. On the motion by my colleague, Mr. CONABLE, to instruct House conferees on the bill H.R. 13511, I recorded my vote as "Nay."

I want to take this opportunity to admit an error on my part and ask that it be inserted in today's RECORD that my vote should have been "Yea."

I regret this error and just wanted to take this opportunity to let the conferees on the Revenue Act of 1978 know that I support the Conable motion pertaining to said bill.

RESTAURANT HOURS

(Mr. JONES of Tennessee asked and was given permission to address the House for 1 minute.)

Mr. JONES of Tennessee. Mr. Speaker, I have an announcement I would like to make. This is in the way of an apology. I know that last evening a large number of Members were disturbed because the dining room closed at 9 p.m. I regret very much that this error was made. I accept the reason for it having been closed, because there was a misunderstanding between the people who operate the restaurant and my staff.

Tonight, and until we have finished these long sessions that we are in the process of holding, the restaurant will remain open until 9 p.m. for regular dinners. Members can order their steaks and whatever they like until 9 p.m. Following 9 p.m. we are going to let part of the work force go home, and from then until the end of the legislative business we will serve sandwiches and soups, desserts, and beverages.

Mr. Speaker, I hope that will meet with the approval of the Members of the House.

F. EDWARD HÉBERT'S 77TH BIRTHDAY

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, yesterday was the birthday of a great American, F. Edward Hébert.

Eddie Hébert represented the First Congressional District of Louisiana in the House of Representatives for 34 years, a record for service in the House by a Louisianian. His career in Congress spanned three wars, the assassination of a President, and, for the first time, the forced resignation of a President.

Daniel Rapoport, in his book "Inside the House," summed up Eddie's career as follows:

> Hébert is the prototype of a vanishing breed . . . the last of the Titans . . . shrewd in combat, flamboyant in style and comfortable with power. Other men in the House of Representatives still had these traits, but Hébert was the only one who possessed all of them.

In his book, "The Prophet," Kahlil Gibran said:

> You give but little when you give your possessions. It is when you give of yourself that you truly give.

Eddie Hébert constantly gave of himself, as a member and as chairman of the Armed Services Committee, to make this country great, and I am proud to be numbered among his many friends and admirers.

Mr. TREEN. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Speaker, I just want to join in sending congratulations to F. Edward Hébert on his 77th birthday. There was a time, about a year and a half ago, when we thought Mr. Hébert was "a vanishing breed." His health was poor and his life was in jeopardy. I saw him 3 weeks ago, and he is in good health, robust and irreverent as ever!

I join with the gentleman from New York in extending our best wishes to Mr. Hébert's 77th anniversary.

Mr. STRATTON. I thank the gentleman.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I might also add that I had the pleasure of speaking with my predecessor, Chairman Hébert, yesterday morning, and I

wished him a happy birthday. He is doing well. He extends his warm wishes to all the Members of the House, and I appreciate the gentleman from New York extending his best wishes to Mr. Hébert.

Mr. STRATTON. I thank the gentleman. I am sure we all wish the gentleman from Louisiana a long life.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions, to be determined by "non-record" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

IRC AMENDMENTS FOR STATE-OPERATED BINGO GAMES (LOCK AND DAM 26)

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1432) providing that the bill, H.R. 8533, together with the Senate amendment thereto, be, and the same is hereby taken from the Speaker's table to the end that the Senate amendment is agreed to.

The Clerk read as follows:

H. RES. 1432

Resolved, That immediately upon the adoption of this resolution, the bill, H.R. 8533, to amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax, together with the Senate amendment thereto, be, and the same is hereby taken from the Speaker's table to the end that the Senate amendment is agreed to.

The SPEAKER. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered?

Mr. ASHBROOK. Mr. Speaker, I object, and on that I demand tellers.

Tellers were ordered, and the Speaker appointed as tellers Mr. ASHBROOK and Mr. ULLMAN.

The House divided, and the tellers reported that there were—yeas 105, nays, 7.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 374, nays 4, not voting 52, as follows:

[Roll No. 910]

YEAS—374

Abdnor	Edwards, Okla.	Livingston
Addabbo	Eilberg	Lloyd, Calif.
Akaka	Emery	Lloyd, Tenn.
Alexander	Erlenborn	Long, La.
Anderson, Calif.	Ertel	Long, Md.
Anderson, Ill.	Evans, Colo.	Lott
Andrews, N.C.	Evans, Del.	Luken
Andrews, N. Dak.	Evans, Ga.	Lundine
Annunzio	Evans, Ind.	McClory
Applegate	Fary	McCloskey
Archer	Fascell	McCormack
Armstrong	Fenwick	McDade
Ashley	Findley	McEwen
Aspin	Fish	McFall
AuCoin	Fisher	McKay
Bafalis	Fithian	McKinney
Baldus	Flippo	Madigan
Barnard	Flood	Maguire
Baucus	Florio	Mahon
Bauman	Flynt	Mann
Beard, R.I.	Foley	Markey
Beard, Tenn.	Ford, Mich.	Marks
Bedell	Ford, Tenn.	Marlenee
Bellenson	Forsythe	Marriott
Benjamin	Fountain	Martin
Bennett	Fowler	Mathis
Bevill	Fraser	Mattox
Biaggi	Frenzel	Mazzoli
Bingham	Gammage	Meeds
Blanchard	Garcia	Meyner
Blouin	Gaydos	Michel
Boggs	Gephardt	Mikulski
Boland	Gibbons	Milford
Bolling	Gilman	Miller, Calif.
Bonior	Ginn	Miller, Ohio
Bonker	Glickman	Mineta
Bowen	Goldwater	Mitchell, N.Y.
Brademas	Gonzalez	Moakley
Breaux	Goodling	Moffett
Breckinridge	Gore	Mollohan
Brinkley	Gradison	Montgomery
Brodhead	Grassley	Moore
Brooks	Green	Moorhead, Calif.
Broomfield	Guyer	Moorhead, Pa.
Brown, Calif.	Hagedorn	Mottl
Brown, Ohio	Hall	Murphy, Ill.
Broyhill	Hamilton	Murphy, N.Y.
Buchanan	Hammer-schmidt	Murphy, Pa.
Burgener	Hannaford	Murtha
Burke, Fla.	Hansen	Myers, John
Burke, Mass.	Harkin	Myers, Michael
Burleson, Tex.	Harris	Natcher
Burlison, Mo.	Harsha	Neal
Burton, Phillip	Hawkins	Nedzi
Butler	Heckler	Nichols
Carney	Hefner	Nix
Carr	Heftel	Nolan
Carter	Hightower	Nowak
Cavanaugh	Hillis	O'Brien
Chappell	Holland	Oakar
Chisholm	Holt	Oberstar
Clawson, Del	Holtzman	Ottinger
Cleveland	Horton	Panetta
Cohen	Howard	Patten
Coleman	Hubbard	Patterson
Collins, Ill.	Huckaby	Pattison
Collins, Tex.	Hughes	Pease
Conable	Hyde	Pepper
Conte	Ichord	Perkins
Corcoran	Ireland	Pickle
Corman	Jacobs	Pike
Cornell	Jeffords	Poage
Cornwell	Jenkins	Preyer
Cotter	Jenrette	Price
Coughlin	Johnson, Calif.	Pritchard
Cunningham	Johnson, Colo.	Pursell
D'Amours	Jones, N.C.	Quayle
Daniel, Dan	Jones, Okla.	Quillen
Daniel, R. W.	Jones, Tenn.	Rahall
Danielson	Jordan	Railsback
de la Garza	Kasten	Rangel
Delaney	Kazen	Regula
Dellums	Kelly	Reuss
Dent	Kemp	Rhodes
Derrick	Keys	Richmond
Derwinski	Kildee	Rinaldo
Devine	Kindness	Risenhoover
Dicks	Kostmayer	Roberts
Drinan	Krebs	Robinson
Dodd	Krueger	Rodino
Dornan	Lagomarsino	Roe
Downey	Latta	Rogers
Duncan, Oreg.	Le Fante	Roncalio
Duncan, Tenn.	Leach	Rooney
Early	Lederer	Rose
Eckhardt	Leggett	Rostenkowski
Edgar	Lehman	Rousselot
Edwards, Ala.	Lent	Roybal
	Levitas	Runnels
	Ruppe	Steed
	Russo	Steers
	Ryan	Steiger
	Satterfield	Stokes
	Sawyer	Stratton
	Scheuer	Studds
	Schroeder	Stump
	Sebelius	Symms
	Sharp	Taylor
	Shuster	Thompson
	Sikes	Thone
	Simon	Thornton
	Sisk	Traxler
	Skelton	Treen
	Skubitz	Trible
	Slack	Tsongas
	Smith, Iowa	Tucker
	Smith, Nebr.	Udall
	Snyder	Ullman
	Solarz	Van Deerlin
	Spellman	Vander Jagt
	Spence	Vanik
	St Germain	Vento
	Staggers	Volkmer
	Stangeland	Waggonner
	Stanton	Walgren
		Walker
		Walsh
		Wampler
		Watkins
		Weaver
		Weiss
		Whalen
		White
		Whitehurst
		Whitley
		Whitten
		Wilson, C. H.
		Wilson, Tex.
		Winn
		Wirth
		Wolff
		Wydler
		Wylie
		Yates
		Yatron
		Young, Alaska
		Young, Fla.
		Young, Mo.
		Young, Tex.
		Zablocki
		Zeferetti

NAYS—4

Ashbrook	Myers, Gary
McDonald	Wilson, Bob

NOT VOTING—52

Ambro	Edwards, Calif.	Obey
Ammerman	English	Pettis
Badham	Flowers	Pressler
Brown, Mich.	Frey	Quie
Burke, Calif.	Fuqua	Rosenthal
Burton, John	Gialmo	Rudd
Caputo	Gudger	Santini
Cederberg	Hanley	Sarasin
Clausen, Don H.	Harrington	Schulze
	Hollenbeck	Seiberling
Clay	Kastenmeier	Shipley
Cochran	LaFalce	Stark
Conyers	Lujan	Stockman
Crane	McHugh	Teague
Davis	Mikva	Waxman
Dickinson	Minish	Wiggins
Diggs	Mitchell, Md.	Wright
Dingell	Moss	

Mr. GARY A. MYERS changed his vote from "yea" to "nay."

So a second was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. KAZEN). The gentleman from Oregon (Mr. ULLMAN) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this matter of locks and dam 26 and waterway user fuel tax has been debated fully before the House and in the various committees for a long period of time. We have had a bill, the navigation development bill, H.R. 8309, that had incorporated in it the locks and dam 26 and the basic tax structure that we have in this bill that has been added to somewhat by the Senate.

Mr. Speaker, on October 10 the Senate passed H.R. 8533 with an amendment in the nature of a substitute. The Senate amendment reflects a compromise agreement on certain provisions which had been passed by both Houses as part of H.R. 8309, the navigation development bill.

This amendment has four principal objectives:

First, to authorize replacement of locks and dams 26 on the Mississippi River;

Second, to provide for development of

a management plan for the upper Mississippi River system;

Third, to provide for imposition of an excise tax on fuel used by commercial cargo vessels on specified inland waterways, together with establishment of an inland waterways trust fund; and

Fourth, to provide for a comprehensive study with respect to inland waterway user taxes and charges, to be submitted to the Congress.

Mr. Speaker, I understand that all interests having a strong concern with this legislation—the administration, the barge operators who use the waterways, others who depend on efficient movement of goods along the Mississippi, and groups having environmental interests—support this compromise.

This amendment is as fair and reasonable a compromise as can be achieved. It is essential to enact this legislation now, in light of the totally inadequate facilities of present locks and dam 26 and the resulting costly delays in moving food, fuel, and other goods along the Mississippi River System.

Mr. Speaker, I will now describe in more detail the provisions of the Senate-passed amendment to H.R. 8533.

LOCKS AND DAM 26

The amendment authorizes replacement of locks and dam 26 at Alton, Ill., with a new dam and single lock, at an estimated cost of $421 million. An identical provision was passed by both the House and Senate as part of H.R. 8309.

In addition, the amendment authorizes the replacement of certain wildlife habitat flooded as a result of constructing the new dam and lock, and also authorizes certain project-related recreation development in a specified surrounding area.

UPPER MISSISSIPPI MASTER PLAN

The amendment provides for a master plan to be developed by the Upper Mississippi River Basin Commission for the management of the upper Mississippi River system, and authorizes appropriations of $12 million for this purpose. The plan is to be submitted to the Congress by January 1, 1982, and will become effective only if approved by an act of Congress.

Until congressional approval of a master plan, the Secretary of the Army is prohibited from undertaking any replacement, construction, or rehabilitation of locks, dams, or channels which would expand the navigation capacity of the upper Mississippi River system, except for replacement of locks and dam 26 and except for necessary operating and maintenance activities.

FUEL EXCISE TAX AND TRUST FUND

Both the House and Senate versions of H.R. 8309 impose a retailers excise tax on diesel and other liquid fuels used by commercial cargo vessels on those inland or intracoastal waterways of the United States which are specified by name and description in the legislation.

Under the amendment, the tax begins October 1, 1980, at 4 cents per gallon for 1 year, and then increases to 6 cents per gallon beginning October 1, 1981. After 2 years at the 6-cent rate, the tax rises to 8 cents per gallon beginning October 1, 1983; 2 years later, beginning October 1, 1985, the tax increases to 10 cents per gallon.

The waterways fuel tax under the amendment is estimated to produce revenue collections of $30 million in fiscal year 1981, $58 million in fiscal year 1982, and rising to $101 million in fiscal year 1985.

The operation of the fuel tax provision can be briefly summarized as follows. In the case of a commercial cargo vessel, only fuel consumed on the specified inland waterways is subject to tax. The 26 waterways listed in the amendment include the Mississippi River upstream from Baton Rouge, the Mississippi's tributaries, and the Gulf and Atlantic Intracoastal Waterways.

These waterways are primarily used by commercial shallow-draft vessels and generally involve substantial and recurring Federal expenditures for navigation improvement.

This tax will not apply to deep-draft, ocean-going vessels, which generally do not make substantial use of the inland waterways. Also, the tax will not apply to recreational vessels, most of which are already subject to gasoline or other fuel taxes, or to noncargo vessels such as passenger vessels and fishing boats.

In addition, the amendment exempts from the tax the use of fuel by tugs in moving "Lash" and "Seabee" ocean-going barges carrying international cargoes. This exemption is necessary to avoid imposition of foreign taxes with respect to these barges moving U.S. goods on inland waterways or other countries.

The amendment also establishes an inland waterways trust fund, to be managed by the Secretary of the Treasury. Revenues from the new excise tax will be transferred periodically to the trust fund.

The amendment provides that amounts in the trust fund will be available—but only as provided by authorization and appropriation acts—for making construction and rehabilitation expenditures for navigation on the inland and intracoastal waterways which are the subject of the tax. The amendment does not authorize any expenditures for projects not otherwise authorized by law.

USER CHARGE STUDY

The amendment requires the Secretaries of Transportation and Commerce, in consultation with the heads of other specified agencies, to conduct a comprehensive study with respect to inland waterway user taxes and charges. Both the House and Senate versions of H.R. 8309 call for such a comprehensive study.

The final report of the study is to be submitted to the Congress by September 30, 1981. The amendment authorizes appropriations of up to $8 million to carry out the study.

Mr. FRENZEL. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise in support of H.R. 8533 as amended by the Senate so as to responsibly solve the impasse associated with the waterway user charge issue. While the diesel fuel tax rate embodied here goes considerably beyond the level which the Ways and Means Committee and the House of Representatives recommended in H.R. 8309, I believe that we should accept these terms. Certainly, they are substantially preferable to the markedly higher levels which some interests have advocated.

The adoption of this legislation will also authorize the construction of the new dam and lock at Alton, Ill., to replace the outmoded and deteriorating structures now there. Timely work on this project is absolutely essential to the flow of commerce in the Midwest.

The imposition of this fuel tax will mean that the barge industry will begin to contribute directly to the costs of our extraordinarily valuable inland waterway system. This fuel tax represents a significant departure from our Nation's historic policy, under which the waterways have been available to shippers without charge. It is extremely important that any break with this tradition should be a gradual one so as to avoid interference not only with the affected transportation industry, but with the commerce that relies upon that mode.

Mr. Speaker, I concur in the description of the pending bill which was given by the distinguished chairman of the Committee on Ways and Means.

In my judgment, the toll that has been extorted by the building of Lock and Dam 26—and that is ultimately to be a tax of 10 cents a gallon on diesel fuel—is extreme, but it is terribly important that Lock and Dam 26 be begun. For that reason, those of us from areas which are absolutely reliant on that lock and dam to move our agricultural produce to market have agreed that the bill will be acceptable.

I would note, however, Mr. Speaker, that if the lock and dam is not completed for any reason, such as an attack through the judicial system, it would certainly be my intention that these taxes not go into effect. It would be ridiculous to pay the ransom for the kidnapping and then not get the child back. So I hope that all the Members are aware that that is the intention here, that the lock and dam will go forward and will be accompanied by the increased users' tax on fuel.

I urge that bill be promptly passed.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, I urge my colleagues to vote for the motion to suspend the rules on this bill.

The Mississippi River has become the natural and indispensable artery for moving the enormous amount of commodities that we send to overseas markets from America's farmlands. It is also of vital importance and is becoming increasingly important as a means of moving coal and other commodities that are literally the lifeblood of the entire Nation.

Even though lock and dam 26 is located at Alton, Ill., and obviously has great economic importance to that community, its importance goes also to the entire Nation. In this past year we are

shipping about $25 billion worth of food products abroad, and much of that is in the form of grain. The railroads simply cannot handle the enormous volume of grain, and there is no prospect that in the future they will be able to handle it entirely on their own. We need a balanced merchandising system in order to serve efficiently the growing demands of customers abroad.

This is vital to earning foreign exchange which is vital to the welfare of every citizen, not just the farm population. It is very true the user fee which is part of this measure will add to the cost of shipping grain and other commodities. It will be viewed by some people perhaps only as a cost, but I view it as a gain, even for the farmer whose price might be slightly less than otherwise.

I say it is a gain, because the efficient movement of grain will help to improve market prices at harvest time.

We are now in the process of merchandising the most enormous crop of corn this Nation has even seen. The backup has already begun at the barge lines, at the elevators, and at everyplace else in our system. This backup causes a depression in prices. This depression in prices will be lessened as we improve the system for merchandising grain on the rivers. And by all accounts, the lock and dam 26 at Alton is the bottleneck of the entire river barge system. It will take some time to build the new structure, but when it is built we will have a still better system for merchandising grain, and farmers and all other citizens of the country will benefit from this improvement.

There is resistance, of course, to the idea of imposing a user fee on the operation of barges. But just as we need a balanced system for handling merchandise, we also need a balanced system for financing the various aspects of this transportation system.

The replacement of lock and dam 26 on the Mississippi River at Alton will be a great benefit to Illinois, the Midwest, and the Nation. The old lock and dam has become a bottleneck that restricts the flow of commerce on an important waterway. The locks on the Mississippi River to both the north and south of Alton are of larger capacity. They allow barge traffic to pass efficiently only to become backed up at Alton.

The old lock and dam have become structurally weak. During a recent period a runaway barge tore a hole in a portion of the lead-in to the lock, necessitating a closing of the facility for sevral days of repair.

When river traffic it stopped because of the inadequacy or failure of this vital link, the entire Nation's economy suffers. Farmers depend on river transportation to get their product to market. And the U.S. balance of payments benefits as we can efficiently ship American farm products down the river and to foreign markets. Much of the fuel used to heat homes, factories, and schools comes to the Midwest by river transport. The well-being of our people during could winters depends on efficient functioning on the lock and dam at Alton.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Ohio (Mr. HARSHA), the ranking minority member on the Committee on Public Works and Transportation.

Mr. HARSHA. Mr. Speaker, I rise in reluctant support of the compromise offered by the Senate on the replacement of Locks and Dams 26 and waterway user charges. I do not believe that the establishment of a waterway trust fund is the direction we should be moving towards, however, I will not impose my personal objections to a trust fund on this compromise.

Section 102 of this bill authorizes the Corps of Engineers to replace Locks and Dam 26. As part of the decision to authorize this project we have reviewed and approved the recommendations of the Chief of Engineers in his report on the project, dated July 31, 1976. The committee specifically considered the information contained in the environment impact statement. The statement is sufficient and our decision has been based upon the information contained therein.

Mr. Speaker, I would also like to point out that the language of the bill relating to the Upper Mississippi Basin Study specifically prohibits expansion of the navigational capacity of the Upper Mississippi until such time as the study has been completed and Congress has acted upon those recommendations. However, the provision specifically permits normal operation and maintenance activities to maintain the existing navigation capacity during this period. This means, for example, that if a miter gate needs to be replaced at any lock the Corps is expected to go ahead and provide a new, modern replacement gate and not replace the equipment with outdated equipment. We further expect the corps will not wait until a crisis occurs before acting, but rather will anticipate replacement needs and schedule their activities in advance of the occurrence of a problem.

Additionally, Mr. Speaker, it is expected that efforts to maintain and enhance the safety aspects of navigation will continue. This includes safety improvements at locks such as the traveling kavells and other aids to navigation carried out by the Coast Guard in the channel as well as at the locks.

Finally, Mr. Speaker, I should point out that while the amendment specifically limits the navigation depths of the Upper Mississippi to 9 feet, this means that the existing practices to maintain a 9-foot depth will be preserved—that is the Corps is expected to continue the practice of dredging to a depth deeper than 9 feet during routine maintenance in order to prevent the occurrence of shoaling prior to the next scheduled dredging of the channel.

Mr. Speaker, the chance to resolve the controversy surrounding the replacement of Locks and Dam 26 is before us. I urge my colleagues to take this opportunity to solve this problem and vote to send this bill to the President.

Mr. FRENZEL. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, this bill started out in the House as a bill to assist bingo operations of veterans' organizations and charitable organizations. There was an attempt to amend that bill in the Senate to add this lock and dam 26 bili to it. By mistake, the bingo bill lies slain on the floor of the Senate since the amendment was in such form as it eliminated the original intent of the bill. Sometime in the next 24 or 48 hours I would hope that the bingo bill would reappear, and I hope the Members of the House will be gracious and allow us to go forward with the bill.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Michigan.

Mr. TRAXLER. I thank the gentleman for yielding.

Mr. Speaker, I wish to commend the gentleman from Minnesota (Mr. FRENZEL) and the chairman of the full committee for their concern over the original House bill. We recognize, as my colleague stated, it is an inadvertent error, it is very difficult to correct it at this time, and this amendment that the Senate put on is of great interest and importance to all Members of this House.

The SPEAKER pro tempore. The time of the gentleman from Minnesota (Mr. FRENZEL) has expired.

Mr. FRENZEL. Mr. Speaker, I yield myself 1 additional minute.

Mr. TRAXLER. Mr. Speaker, I know that the gentleman from Minnesota (Mr. FRENZEL) shares my view as to the importance of the original House bill, the bingo bill. Realizing it is of great importance to veterans' organizations, service organizations, and so forth, I would hope that, in the event it might get tidied up in some fashion tomorrow or tonight, the chairman and the ranking minority Member will lend their firm and diligent support. It is great importance to my State and other States.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for his contribution. I can assure the gentleman that he will have my complete cooperation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, I want to recognize the diligent work over a period of years by the gentleman from Texas (Mr. ROBERTS) and by the gentleman from Ohio (Mr. HARSHA). The consideration of the lock and dam 26 question has been very complicated, it has been very demanding, and I for one appreciate very much the leadership these Members have provided.

Mr. FRENZEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ULLMAN. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Subcommittee of the Committee on Public Works and Transportation, the gentleman from Texas (Mr. ROBERTS), who has, as the gentleman from Illinois has indicated, taken leadership in the development of locks and dam 26 through the years.

Mr. ROBERTS. Mr. Speaker, I rise in support of the bill. The provisions of the bill relating to the replacement of Locks and Dam 26 and the imposition of a waterway user charge are essentially the same as those which the House passed earlier in H.R. 8309, the Navigation Development Act. The principle of user charges in the form of a tax has been accepted by the House. The level established in this bill is reasonable, and the study of the impacts of user charges which the bill calls for will provide us with the necessary information to determine whether any changes of the level and type of charges need to be made.

The replacement of Locks and Dam 26 at an early date is essential. The facility, now 40 years old, is in a deteriorated condition. In addition, the small size of its locks causes many costly delays in the movement of barges.

Much concern has been expressed over the possibility of increased environmental damage which may result from additional barge traffic on the Upper Mississippi River. The potential damage is associated with bottom silt materials which are stirred up as the barge tows move along the river. The concern is that as the materials resettle, damage may be caused to bottom organisms.

The possibility of environmental damage is due not so much to construction of a single 1,200-foot lock, but rather to the construction of a second lock thereafter if deemed desirable and if authorized by the Congress.

The study of the need for, feasibility of, and effects of a second lock, which study is included in the authorization of the replacement project, together with the great study authorized in the Water Resources Development Act of 1976, will provide the answers to these very important questions. Any decision made as to a second lock will have the benefit of the information developed in these studies including the environmental impact study which will accompany any recommendation for a second lock.

I wish to concur with my distinguished chairman, the gentleman from California (Mr. JOHNSON) with regard to the final environmental impact statement accompanying the report of the Chief of Engineers on a replacement for Locks and Dam 26. We reviewed the impact statement very carefully, and we consider it to provide adequate information for Congress to make a decision with respect to the recommended project, and to be in full compliance with the requirements of the National Environmental Policy Act.

Mr. Speaker, I urge enactment of the bill.

There is a full analysis of the EIS in Public Works Report on the original bill H.R. 8309.

Mr. ULLMAN. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on Public Works and Transportation, the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Speaker, I rise in support of the bill. The authorization of a replacement for Locks and Dam 26, and the waterway user charge provision represent a reasonable and workable compromise, and I urge my colleagues to support it.

Locks and Dam 26 is located on the Mississippi River at Alton, Ill. Above it are the upper Mississippi River navigation system and the Illinois waterway. Below it are found the remainder of the Mississippi River, the Ohio River navigation system which feeds into the Mississippi River and the gulf intracoastal waterway. It is one of the most vitally located of the inland waterway projects. All waterborne commerce shipped between the upper Mississippi and Illinois Rivers and the Ohio River, the lower Mississippi River and the gulf intracoastal waterway must pass through this facility.

The present 9-foot channel on the upper Mississippi River was authorized by the River and Harbor Act of 1930. Locks and Dam 26 at Alton, Ill., one of the last in the system, was completed in 1938. It is now almost 40 years old. Its physical condition has deteriorated, and it cannot efficiently serve current traffic without delays.

The early replacement of this project is essential to the continued efficient operation of our inland waterway system.

Mr. Speaker, the report and the recommendations of the Chief of Engineers, and the final environmental impact statement accompanying the report of the Chief of Engineers to the Congress have been reviewed very carefully by our committee in its consideration of the authorization of a replacement for Locks and Dam 26. This environmental impact statement is considered by the committee to provide adequate information for Congress to make a decision with respect to the recommended project, and to be in full compliance with the requirements of the National Environmental Policy Act.

The bill before us also provides for the preparation of a comprehensive master plan for the management of the upper Mississippi River system by the Upper Mississippi River Basin Commission. In developing this plan the Commission would perform a number of studies.

The Secretary of the Interior and the Secretary of the Army would study the carrying capacity of the upper Mississippi River system, including long- and short-term ecological impacts of present and projected navigation capacity and operation and maintenance programs. The Commission would also study the need for a second lock at Alton, Ill. since the recommendations of the Chief of Engineers in accordance with which the replacement of Locks and Dam 26 would be authorized, provides for the study of the need for a second lock, our committee expects that the Commission will assign the Chief of Engineers the responsibility of performing for it the Commission's study of a second lock so as to avoid unnecessary duplication of effort. We also expect that the Commission will utilize the Corps of Engineers in conducting the dredge spoil disposal study called for by the legislation.

With regard to the provision in the legislation that the project depth in the upper Mississippi River shall not exceed 9 feet, I would like to point out the meaning of the phrase "project depth." This phrase includes the allowances required for advance maintenance dredging, dredging tolerances, squat and trim for the class of vessels for which the project was designed, wave action, shoaling rates, and other overdepth allowances necessary to afford safe navigation for vessels with a draft of 9 feet.

I wish to point out that replacement of Locks and Dam 26 and the imposition of a waterway user charge are inextricably linked. Our committee acquiesced in the user charge provision with the understanding construction of the replacement for Locks and Dam 26 would be commenced at an early date.

The legislation provides that new replacement construction, or rehabilitation that expands the navigation capacity of locks, dams, and channels should not be undertaken by the Secretary of the Army until the master plan for the upper Mississippi River has been approved by the Congress. This does not prevent the replacement of inefficient or deteriorated components of the lock structure such as mitre gates. It is designed only to prevent physical expansion of the dimensions of the lock facilities to enable them to handle larger tows.

Mr. Speaker, I urge passage of the bill.

Mr. ULLMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma (Mr. JONES), who has been very helpful in developing this bill.

Mr. JONES of Oklahoma. Mr. Speaker, I thank the chairman for yielding. I rise in support of this legislation, and I urge the House to suspend the rules and adopt this bill. I think this is an acceptable compromise, and it is very near to what the House approved by an overwhelming majority earlier this year.

The purpose of this legislation is to require that commercial transportation users pay a fair share of the use of this transportation system. The tax that is called for is roughly equivalent to that imposed on other forms of transportation, such as the trucking industry.

Now, some would want to hinder the development of water transportation by forcing this mode to pay a much higher tax to pay for the entire cost of the operation and development of the inland waterways. What I would like to clarify with the chairman is to make sure that the record shows that from the beginning of this bill in the House Ways and Means Committee through the debate in the House and up to today, that the intention was not to have this trust fund be responsible for the full recovery of all the costs of operation, maintenance, and development of inland waterways.

Mr. ULLMAN. If the gentleman will yield, of course there really is no such connection. There is no intent to set up a trust fund to pay for all Federal inland waterway expenditures.

Mr. JONES of Oklahoma. I thank the chairman.

Mr. ULLMAN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Speaker, I thank the chairman, and certainly commend him and the other members of the conference who worked on this valuable compromise with a very difficult subject matter.

There is one point I would like to cover with the gentleman. There is implicit linkage in this bill between user's fees and building of Locks and Dam 26. Obviously, from the previous colloquy, it is clear that that linkage will be decided at a later time, and the exact extent of that linkage will be decided at a later time. But my concern as expressed by the gentleman from Minnesota is that we have a trigger on this bill for the imposition of a tax. That is October 1980, but we do not have a definite date for the starting of Locks and Dam 26. Lawsuits on the environment and other matters can impose difficulties between now and when that dam is started.

I want to make it clear that it is possible for us to come back in at a later date if there are reasons the dam is not started, and on equitable grounds ask the Congress to suspend the imposition of the tax until Locks and Dam 26 is actually started.

Mr. ULLMAN. If the gentleman will yield, the tax will not go into effect, at the initial 4-cent rate, until October 1, 1980.

The SPEAKER pro tempore. The time of the gentleman from Missouri (Mr. GEPHARDT) has expired.

Mr. ULLMAN. Mr. Speaker, I yield the gentleman 1 additional minute.

Mr. GEPHARDT. I thank the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, I agree that although there is no legal connection in the bill between Locks and Dam 26 and the waterway user fuel tax, the intent is to authorize replacement of Locks and Dam 26 and to impose the tax. The Congress certainly could look at this tax again in light of the status of Locks and Dam 26 at some future time.

Mr. GEPHARDT. I thank the chairman very much.

Mr. ULLMAN. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Speaker, I thank the gentleman from Oregon for yielding.

Mr. Speaker, I, too, wish to commend the chairman (Mr. ULLMAN) and the genleman from Minnesota (Mr. FRENZEL), along with the gentleman from Texas (Mr. ROBERTS) and also my colleague from across the Mississippi River, the gentleman from Illinois (Mr. FINDLEY), for the long hours of work they have put into this bill. I urge my colleagues to vote favorably on this measure and adopt it unanimously in this House.

I would like to ask a question of the chairman. That is, I do not find in the bill where the projects are in any way connected or that they have to be necessarily funded from the trust fund. Is that correct, that the project is not tied in any way and does not have to be funded from the trust fund?

Mr. ULLMAN. That is correct.

Mr. VOLKMER. Also I would join with my friends from St. Louis, the gentlemen from Missouri (Mr. YOUNG and Mr. GEPHARDT), to urge that this body will look again at the fuel tax trust fund and the imposition of this fuel tax if this project, Locks and Dam 26, does not begin by 1980.

Mr. ULLMAN. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. BEDELL).

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I ask that I may reclaim my time. I was not aware of the fact at that time that opponents of the bill wanted to be heard and, although I have no sympathy with their position on this measure, being a member of the minority party, I have some sympathy with the minority, and I ask to reclaim my time.

The SPEAKER pro tempore. The gentleman from Minnesota still has his time.

Mr. FRENZEL. In that case Mr. Speaker, I yield 4 minutes to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, I thank the gentleman for yielding me this time.

This compromise measure before us now is yet another litmus test of Congress dedication to responsible spending in Government programs. The bill would authorize the construction of a new Locks and Dam 26 as well as initiate other action to improve on our inland waterways system. I want to stress the fact that I have no opposition to Locks and Dam 26. In fact, I support either the rehabilitation or the replacement of Locks and Dam 26. However, I do have great concern over the user charge which is proposed in this bill, because I think it is completely inadequate.

A recent Congressional Budget Office study has found that American taxpayers are subsidizing barge traffic at a rate of up to 42 percent of total barge industry revenues.

For railroads, Federal subsidization is 3 percent. For trucks, it is 1 percent. In spite of this glaring imbalance, H.R. 8533 simply calls for a 4-cent-per-gallon fuel tax escalating to 10 cents per gallon, at which level the barge industry will still receive Federal subsidies over 20 percent. After 1985, the proposed fuel tax may raise $100 million, while the Federal Government would spend $500 million per year on the construction, rehabilitation, operation, and maintenance of the Inland Waterway system.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, I think the point the gentleman from Iowa has made is well taken, but I support the bill because we have. for the first time. a users' fee inaugurated. I do not happen to join my colleague, the gentleman from Missouri (Mr. GEPHARDT) and one other colleague who objected to inaugurating the fee. Even though Lock and Dam 26 may not be started, there ought to be a users' fee. The point the gentleman from Iowa (Mr. BEDELL) has made is well taken and I hope we keep it in mind for future legislation.

Mr. BEDELL. I thank the gentleman.

Mr. Speaker, when this bill first came before the House, I went to the Committee on Rules asking for a rule that would provide us with an opportunity to consider an amendment which would have mandated 25 percent recovery of the cost of operation and maintenance and construction. Unfortunately, that request was denied.

Let me tell you one especially telling reason why I believe there should be a percentage users' fee. When this bill first came to the House it called for two 1,200-foot locks, the second of which would have cost the taxpayer an additional $100 million. Everybody agrees at this time that we do not need two, but there was little incentive for anybody to try to keep us from building that second lock. However, I submit that if the users had had to pay for 25 percent of the cost, they would have been the first ones in here to say "Don't waste that $100 million to build the second lock." That is why I urge you to vote down H.R. 8533 so we can obtain a user fee that will transform the users themselves into watchdogs to monitor every project's cost-effectiveness.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Speaker, we have a bill here that reminds me of the song that my children sing. That song is "Bingo Is Its Name."

We have a bill that is labeled a bingo bill that happens to be a users' fee bill, and a bill to construct Lock and Dam No. 26.

Mr. Speaker, I believe we are all for adequate users' fees on our waterways, as has been indicated. In almost every study since Franklin Roosevelt was President of the United States users' fees have been advocated.

But, I believe that the users' fees placed in this particular piece of legislation are, as my colleague, the gentleman from Iowa indicated, woefully inadequate.

Let me just place a few figures before my colleagues.

First, the construction of Lock and Dam No. 26 is conservatively estimated to cost around $421 million. We conservatively spend between $400 million to $500 million a year on construction, rehabilitation, maintenance, and operation of our system of waterways.

We have reasonable users' fees in the

trucking industry. We have reasonable users' fees in the railroad industry. We have zero users' fees on the waterways.

It seems to me if we are really going to go in the direction of waterway users' fees, we ought to go back to the administration's original proposal which was to recover 100 percent of the operation and maintenance costs phased in over a period of time, and 50 percent of the construction costs necessary to maintain our waterways.

It is my personal belief that we can disguise this legislation and we can say it is a compromise, but really it is a pork barrel project that is being funded at just about 100-percent funding by the Federal Government with a very minimal waterway users' fee being placed on it. I would hope my colleagues can vote down this bill under suspension and send it back and then hopefully, in the next Congress, the 96th Congress, we can bring back a bill that reasonably addresses the need of waterway users' fees, and responds to at least recovering 100 percent of the cost of operations and 50 percent of the cost of construction.

Mr. Speaker, I am in strong opposition to H.R. 8533, legislation which authorizes the construction of a new $421 million lock and dam at Alton, and which establishes a token user tax for fuel used on on the inland waterway system.

I could support construction of a new lock and dam if the user tax would recover a substantial portion of the hundreds of millions of taxpayers dollars which are expended annually to benefit this mode of transportation. I have no quarrel with the view that such taxes should be phased in to minimize the economic dislocation which would occur with an immediate full recovery program. I lauded the administration for its support of a program which would eventually recover 100 percent of operations and maintenance costs and 50 percent of construction costs attributable to commercial inland waterway navigation.

Unfortunately, I find now that the administration has backed away and now supports this bill. This bill has become convenient for the politicians to support. But if the taxpayers knew what we were proposing today, I think they would be more outraged than they were about the last public works-energy research appropriation bill.

Mr. Speaker, both in 1976 and 1977, I introduced an amendment in the House Public Works and Transportation Committee to impose a phased-in waterway user charge. In my view, continuing to subsidize the barge industry at the expense of the taxpayers, and at the expense of other modes of transportation, is unjustifiable. Establishing a system of user charges, in the same way we have done for virtually every other commercial mode, is something which should be done on its own merits, not as a price for authorizing the construction of a $421 million lock and dam.

Since July of 1977, when it was clear that even those who vehemently opposed user charges knew that they were inevitable in some form, I testified before three House committees urging support for a 10-year program phasing in user charges or taxes which would eventually recover 100 percent of operating and maintenance expenditures and 50 percent of capital costs. This schedule was approved at one time during this Congress by the full Senate, and did receive courageous support by the administration. The phased-in approach recognizes the economic chaos which could result for the barge industry if immediate recovery were imposed. Yet the magnitude of recovery is sensitive to the results and conclusions of nearly a score of major reports and studies which indicate that this massive subsidy to a single mode distorts our transportation policy, and subverts the national interest.

Every administration since Franklin Roosevelt has endorsed recovery of what today amounts to more than $400 million annually for the construction, rehabilitation, maintenance, and operation of our inland waterway system. The barge industry is the only mode which gets a free ride at taxpayers' expense.

The user tax proposed in this bill is a step in the right direction. It would allow for a 4-cent fuel tax beginning in October of 1980, increasing to 6 cents the following year, 8 cents by October of 1983, and 10 cents by October of 1985. Such a tax will recover perhaps $90 million annually by then. However, Federal expenditures for the inland waterway system are expected to increase also by 1985, and a 10-cent tax, while better than nothing, is no more than a token of the fair share of costs.

On October 11, 1977, when this legislation was first debated in the House, I shared with my colleagues the reasons why the arguments against a tax do not hold water. I urge my colleagues to review my remarks at this time.

Mr. Speaker, the American taxpayer is playing a bingo game today with no chance of winning. The prize can only go to the barge industry, much of which is more profitable than every other commercial mode. I urge my colleagues to strike down this bill and come back during the next Congress with a more substantial waterway user tax or charge.

Finally, Mr. Speaker, I wish to point out that the authorization of Locks and Dam 26 is not intended to affect in any manner the litigation which is currently ongoing in the U.S. District Court for the District of Columbia—Atchison, Topeka Santa Fe Railway, and others against Alexander, and others. The Congress does not intend by this authorization of the project to circumscribe the full scope of judicial review, including a review of all alternatives of the project. This authorization is not intended to restrict the rights of the plaintiffs in that litigation or to affect the judicial review of the actions of the Corps of Engineers in planning and proposing Locks and Dam 26.

Mr. ULLMAN. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. BRODHEAD).

Mr. BRODHEAD. Mr. Speaker, I thank the chairman for yielding.

I would like to propound an inquiry to the chairman, if I might. As the chairman knows, I was a sponsor of this original bill, and we are told by staff that it was a clerical error that the original bill was stricken here.

I wonder whether we could get some assurances from the chairman that if we are able to work out the process in the Senate with respect to my original bill, H.R. 8533, that he will undertake to have it considered before we go home here this week.

Mr. ULLMAN. If the gentleman will yield, Mr. Speaker, I was as surprised as the gentleman was when this transpired. It was an error, clearly an error, and one which they are trying to recover from at the present time. In the process, they have a Member of the Senate who has been opposing it. Otherwise, long ago they would have sent us back the bill in which the gentleman is interested. However, it is my understanding that later today they will be able to, hopefully, accomplish that purpose and get the bill back here.

Mr. BRODHEAD. If the bill does come back, will we then have the cooperation of the chairman of the Committee on Ways and Means?

Mr. ULLMAN. As an urgent priority matter, yes, I will say to the gentleman.

Mr. BRODHEAD. I thank the chairman.

Mr. ULLMAN. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. YOUNG).

Mr. YOUNG of Missouri. Mr. Speaker, I rise to express my support for this compromise legislation which authorizes a new Locks and Dam 26 and creates a system of waterway user taxes.

This landmark measure was passed in a similar form by the House almost exactly 1 year ago. The only differences between the House version and this new version are that this bill authorizes somewhat higher user taxes for waterway carriers and establishes a waterway trust fund for those fuel taxes.

The heart of this legislation—the replacement of the crumbling locks and Dam 26 on the Mississippi River—remains the same as the House version, which was developed by the Committee on Public Works and Transportation.

This project is extremely important to the economic health of the St. Louis area, the Mississippi River Valley, and ultimately to the entire Nation. The growth and prosperity of the region around Locks and Dam 26 depends on efficient transportation—and the replacement of this bottleneck with a larger lock is vital to such efficient, energy-saving transportation.

Mr. Speaker, this bill would authorize the replacement of a 40-year-old facility which has serious structural problems. The dam has two locks which were designed in the 1930's for small packet boats—not the large barge tows that are now on the Mississippi River. Because of the small size of the locks—one 600-foot and one 360-foot lock—more than 60 percent of the river tows are forced to

break into sections when they go through the facility.

That has contributed to delays at Locks and Dam 26 that averaged 12 hours per tow in 1976 and have been growing longer since that time. The losses caused by delays at this facility run into millions of dollars per year.

There is no question that the facility must be repaired or replaced, and a study by the U.S. Army Corps of Engineers showed that rehabilitating and enlarging the present Locks and Dam 26 would cost about $40 million more than constructing the new facility. That study, and many others, led the Public Works Committee to report legislation authorizing a new locks and dam 2 miles downstream from the present one.

It is important that we act today on this bill. Even if construction on the new locks and dam began today, it would not be completed until 1988 or later. And the tonnage carried on the river is increasing at such a pace that it will exceed the economic capacity of Locks and Dam 26 by the mid-1980's. Every month of delay will add to the cost of the construction and to the losses sustained because of delays in the late 1980's.

Mr. Speaker, this compromise bill has been worked out to satisfy most of the parties involved. The Senate has already approved this compromise, the Ways and Means Committee supports it, the Public Works Committee supports it, the administration is backing it. I urge my colleagues to support this legislation.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished minority whip, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I take this time only to say that having teamed up several years ago with the gentleman from Illinois (Mr. MIKVA), I think we were the ones responsible, on an unsuspecting afternoon, for scuttling Lock and Dam 26 at that time simply because we had some very grave reservations about the manner in which it was coming about, with no discussion by Members of this body or the other body.

Now we have had that extended discussion, in both Houses, and I for one am glad we have finally broken the ice, so to speak, on the principle of a user fee for the barge lines. I have always been wedded to the proposition that there ought to be a user fee commensurate with those in our other modes of transportation. While this bill is still a far cry from what we ought to be requiring as a user fee, we are really under the gun for we have to begin work on a new lock as soon as possible. Furthermore under the circumstances, we need a two-thirds vote for passage under suspension of the rules.

Therefore, Mr. Speaker, I certainly want it to be known and spread upon the record that I intend to vote for the legislation and hope we can muster the sufficient two-thirds of our Members present later in the day.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, I urge the adoption of this legislation today.

About 2 years or 2½ years ago, here in the House the Members voted down an opportunity to go ahead with Lock and Dam 26. It is going to cost at least $75 million more in construction costs because the project did not go ahead at that time, but that is only a small part of the cost of not going ahead several years ago.

Farmers in southeast Iowa right now are getting 15 to 25 cents more for their corn than they get in northwest Iowa and in central Iowa. It is because we do not have adequate transportation in this country. Railroads are not furnishing enough cars or fast enough turn around time at any price.

So what happened to cause the delay? The railroads were really slick. They really know how to lobby. They hoodwinked some gullible environmentalists into thinking they had a stake in this bill. One of the prominent Senators received a call from a prominent environmentalist who wanted to come in and talk to him about it. When they arrived, in walked one environmentalist and six railroad attorneys.

Who are these railroads? Illinois Central-Gulf is one of them. What kind of business are they in? They are part of a conglomerate which includes the oil business, they are building apartment houses in Chicago and they are in about 50 different kinds of businesses. I have been a strong supporter of railroads and railroad loans and subsidies but I thoroughly disagree with their opposition to other transportation systems. They want to stop other systems from providing needed transportation which they are not furnishing adequately for farmers and small businesses.

They want to hold farmers transportation needs hostage while they pay more attention to other enterprises and fail to provide enough service.

Mr. Speaker, I say we need balanced transportation in this country. A lot of this talk we hear around here about user fees and all of these things is a lot of hogwash. What some of the railroads want is to have a monopoly on the farmers' demand for transportation, even though they do not provide an adequate transportation service in this country.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Speaker, may I ask the gentleman this question: Does the gentleman feel subsidizing barges 42 percent of their revenues and subsidizing railroads 3 percent of their revenues is a reasonable way in which to operate our transportation?

Mr. SMITH of Iowa. We are subsidizing the railroads to the tune of billions of dollars in appropriations.

Mr. ULLMAN. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. BLOUIN).

Mr. BLOUIN. Mr. Speaker, I want to take this time to commend not only the chairman of the Committee on Ways and Means, but my colleague, the gentleman from Texas (Mr. ROBERTS), for the fine work that they have done in reaching a fair and acceptable compromise. Like the majority of the Members of this body, I was originally opposed to that proposition put forth on this floor about 3 years ago because of a lack of attention to user fees and a lack of attention to environmental concerns.

This bill, however, has the basic ingredients of the amendment that was adopted on the floor of this House earlier this year that I proposed—a prohibition on even studying the 12-foot channel, the study of the upper Mississippi River system and its role as part of our entire transportation network, and the environmental consequences of its development, as well as the construction of a long overdue new lock and dam facility at Alton. There is also the imposition of user fees at a fair level that establish the beginnings of some kind of parity among transportation systems.

I commend all of the Members involved and hope this is passed.

Mr. FRENZEL. Mr. Speaker, I yield myself 1 minute.

I do want to compliment the Committee on Public Works and Transportation for its splendid work on this bill and the hard work it has done over the years. And I want to remind the body here that this is a compromise approved overwhelmingly in the Senate, and approved by the administration. I hope that it is promptly passed.

I again, and finally, yield back the balance of my time.

Mr. ULLMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. BALDUS).

Mr. BALDUS. Mr. Speaker, sometimes my district is called a river district because the district is along the river.

I want to commend the chairmen of the committees, and the ranking minority Members in both Houses for their patience in working this through the conference. I certainly support the proposition.

● Mr. RAILSBACK. Mr. Speaker, I wholeheartedly support the construction of a new Lock and Dam 26 at Alton, Ill. I support the use of barges to move goods on the Mississippi River, just as I have supported our Nation's railroads and particularly the railroads in my own district, the 19th of Illinois. I think it is most important in this time of concern for energy that we utilize all available modes of transportation, including rail, truck, and the barge lines to the fullest extent possible.

The 19th District of Illinois is a very large agricultural area, with a lot of excellent farmland. We do a great deal of exporting, of soybeans and grain primarily. But I am concerned that at some point in the future the expense of transportation will plague agriculture.

Beside my concern over agricultural transportation, I am very concerned about energy. There is a serious energy shortage. In 20 or 30 years we are not going to have enough gas or oil to use readily. I conclude that it is in the best

national interest—not just that of the Midwest—to develop alternative modes of transportation. To the extent that we use less petroleum based fuels in the Midwest, there is that much more available for use in areas of the country where river transportation is not feasible.

Getting back to the necessity of this means of conveyance, it is expected that by 1981, 73 million tons of goods will move through this facility. Lock and Dam 26 now handles approximately 55 million tons per year, both agricultural goods going to foreign ports and materials, coal, other fuels, not to mention a host of raw materials for manufacturing traveling up and down the river.

In 1975–76, $22.27 billion in agricultural goods were sold for export. The forecast for 1976–77 was $24 billion. Our trade deficit in 1976 was $5.9 billion.

In that same year our oil expenses were $30 billion. The forecast for oil expenses was at least $32 billion. The $24 billion projection for agricultural goods will somewhat offset the added expense for oil. The indications were that the 1977 crop will nearly total the highest agricultural production this country has ever had.

Where does that leave us? That makes it clear to me that construction of the new Lock and Dam 26 will alleviate our balance-of-payments deficit by decreasing our needs for oil and increasing our ability to trade abroad.

I hope that the issue of user fees will not present an insurmountable obstacle. I consider those fees a necessary price to pay for this essential project.●

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution under consideration, House Resolution 1432.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and agree to the resolution (House Resolution 1432).

The question was taken.

Mr. EDGAR. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

TAX TREATMENT OF BONDS ISSUED FOR WATER FACILITIES

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10239) to amend the Internal Revenue Code of 1954 to clarify the tax status of certain industrial development bonds issued to provide facilities for the furnishing of water including water used to cool thermal generating plants or to generate hydroelectric energy, as amended.

The Clerk read as follows:

H.R. 10239

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subparagraph (G) of section 103(b)(4) of the Internal Revenue Code of 1954 (relating to certain exempt activities) is amended to read as follows:

"(G) facilities for the furnishing of water (including water to be used for cooling purposes in connection with a facility for generating electric energy by steam)."

(b) The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. ULLMAN) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, H.R. 10239, extends the tax-exempt treatment provided under the Tax Code to the interest received on State or local bonds issued to finance facilities for furnishing water used for cooling purposes in connection with a facility for generating electric energy by steam.

Presently, the IRS views the facilities covered by the bill as electric facilities, the result of which being that the bonds are exempt only if they are for the "local furnishing" of electricity. This is further interpreted to mean that the electricity cannot be furnished to more than two contiguous counties.

Present law provides tax exemption for water facility bonds only if the water facilities are to be "available on reasonable demand to members of the general public." The IRS has narrowly interpreted this requirement. The bill eliminates this requirement. In addition, the bill insures that bonds issued to finance facilities for furnishing water to be used in cooling electric-steam generating facilities would no longer be required to meet the "local furnishing" requirement applicable to electricity bonds.

Mr. Speaker, I urge the adoption of this bill.

Mr. FRENZEL. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I rise in support of H.R. 10239 concerning the treatment of interest paid on certain industrial development bonds.

Currently, interest paid on bonds issued by State and local governments will generally be exempt from tax unless the bonds are "industrial development bonds." However, interest paid on certain industrial development bonds will be exempt from tax if the bonds proceeds are used in connection with facilities that furnish water and meet certain technical requirements of the Internal Revenue Code, including the requirement that, in general, the water be available to members of the general public.

Internal Revenue Service interpretations have made it difficult for many State and local governments to issue bonds, whose proceeds will be used for the furnishing of water, to comply with current tax exemption requirements.

The bill extends the current exemption for water facility industrial development bonds to include bonds whose proceeds are used to provide facilities for the furnishing of water—including water to be used for cooling purposes in connection with a facility for generating electric energy by steam. Thus, the interest on these bonds would be tax-exempt.

Mr. Speaker, this is a bill of our departing colleague, the gentleman from Texas (Mr. BURLESON).

I concur in the description of the distinguished chairman of the Committee on Ways and Means.

There is no objection on this side. I hope the bill is promptly passed.

Mr. Speaker, I have no further requests for time. I yield back the balance of my time.

Mr. ULLMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. BURLESON).

Mr. BURLESON of Texas. Mr. Speaker, I thank the gentleman for yielding. I simply want to ask a question of the chairman to clarify the intent of the legislation.

As I understand it, the bill, H.R. 10239, merely extends the authority in present law for tax-exempt treatment of interest paid on industrial development bonds issued by State or local government units to provide facilities for furnishing water to include facilities where the water furnished is used for cooling purposes in connection with a facility for generating electric energy by steam?

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, the gentleman from Texas is correct.

Mr. BURLESON of Texas. There is no intent whatsoever in this legislation to restrict present law?

Mr. ULLMAN. The gentleman is correct. The bill merely seeks to extend present law to cover this additional situation.

Mr. Speaker, I have no further requests for time.

Mr. FRENZEL. Mr. Speaker, I have no further requests for time. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 10239, as amended .

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Internal Revenue Code of 1954 to clarify the status of cer-

tain industrial development bonds issued to provide facilities for the furnishing of water, including water used to cool facilities for generating electric energy by steam.".

A motion to reconsider was laid on the table.

TAX EXEMPTIONS FOR CERTAIN NONRESIDENT ALIEN COMMISSIONS

Mr. ULLMAN. Mr. Speaker, I move to suspened the rules and pass the bill (H.R. 13336) to amend the Internal Revenue Code of 1954 to provide an exemption from withholding of tax on nonresident aliens for ship suppliers in respect of certain commissions paid to nonresident aliens, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1441(c) of the Internal Revenue Code of 1954 is amended by inserting after paragraph (8) the following new paragraph:

"(9) CERTAIN COMMISSIONS IN RESPECT OF SALES TO FOREIGN VESSELS.—No deduction or withholding under subsection (a) shall be required in the case of commissions paid by a ship supplier to a non-resident alien individual who is employed by another nonresident alien individual, a foreign partnership, or foreign corporation in the operation of a ship or ships documented under the laws of a foreign country if such commissions relate to the sale of supplies to be used in connection with the operation of such ship or ships."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to commissions paid after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. ULLMAN) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

The bill, H.R. 13336, exempts from U.S. withholding tax certain commissions paid by U.S. ship chandlers to nonresident alien individuals employed by foreign persons on ships of foreign registry.

Crew members of foreign-flag ships often receive commissions from ship chandlers from whom they buy supplies. Generally, payments made to a nonresident alien for services in the United States are subject to a 30-percent withholding tax. There are de minimis exceptions to this rule, but the IRS has asserted that the exceptions do not apply to these commissions.

In most cases, the final U.S. income tax liability of the nonresident alien crew member, with respect to which the tax is to be withheld, is small or nonexistent. Ways and Means Committee believes that the complexity and ill will engendered by withholding is not warranted by the small revenue involved.

The bill exempts from U.S. withholding tax commissions paid by U.S. ship Chandlers to nonresident alien individuals employed by foreign persons on ships of foreign registry if the commissions relate to the sale of supplies to be used in connection with the operation of the ship.

The bill applies to commissions paid after the date of enactment. The Ways and Means Committee estimates that this provision will reduce budget receipts fiscal years 1979 through 1983.

Mr. Speaker, I urge the adoption of H.R. 13336.

Mr. Speaker, I reserve the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 13336 concerning the withholding of taxes on certain payments to nonresident alien individuals.

In general, withholding is required on payments received by nonresident aliens for services performed in the United States. However, it is not entirely clear how this and certain related rules apply to commission payments received by nonresident alien individuals, employed on ships of foreign registry, from individuals selling supplies to the ship.

Over the years, the proper treatment of these payments has depended on various factors, including the payments legality, or whether the ship's owner knew and approved of the payments.

H.R. 13336 removes the current uncertainty and provides that commissions received by nonresident aliens, employed by a foreign resident on a ship of foreign registry, will not be subject to withholding, if the commissions are paid in connection with the sale of supplies that are used in the ship's operations.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. WAGGONNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 13336, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TAX TREATMENT OF FOREIGN BRANCHES OF U.S. SAVINGS AND LOANS

Mr. WAGGONNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13758) to amend the Internal Revenue Code of 1954 to provide the same treatment, with respect to determination of sources of income, for interest paid by foreign branches of domestic banks and interest paid by foreign branches of domestic savings and loan institutions, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subparagraph (F) of section 861(a)(1) of the Internal Revenue Code of 1954 (relating to income from sources within the United States) is amended to read as follows:

"(F) interest—

"(i) on deposits with a foreign branch of a domestic corporation or a domestic partnership if such branch is engaged in the commercial banking business, and

"(ii) on amounts satisfying the requirements of paragraph (2) of subsection (c) which are paid by a foreign branch of a domestic corporation or a domestic partnership,".

(b) The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. WAGGONNER) will be recognized for 20 minutes, and the gentleman from Minnesota will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill, H.R. 13758, makes it clear that interest received from Puerto Rican branches of U.S. savings and loan associations is to be treated as Puerto Rican source income and will thus qualify for the special treatment afforded Puerto Rican source income received by Puerto Rican residents and possessions corporations.

Generally, interest received from a U.S. corporation is treated entirely—or, in some cases, partially—as U.S. source income and thus does not qualify for the special tax treatment for Puerto Rican income. However, interest on deposits with a foreign branch of a U.S. commercial bank, including a branch located in Puerto Rico, is treated as income from sources within that foreign locality. As a result, interest paid by Puerto Rican branches of a U.S. commercial bank generally qualifies for the special treatment provided Puerto Rican residents and possessions corporations. This exception for foreign branches of U.S. banks does not extend to similar branches of U.S. savings and loan associations. The exception would be extended to the savings and loans by the bill.

The bill is effective for taxable years after enactment. The Committee on Ways and Means estimates that H.R. 13758 will reduce budget receipts by less than $5 million annually for fiscal years 1979 through 1983. The Treasury Department does not oppose the bill, and a similar provision is included in the Senate version of the Revenue Act of 1978.

Mr. Speaker, I urge the adoption of H.R. 13758.

Mr. FRENZEL. Mr. Speaker. I yield myself such time as I may consume.

Mr. Speaker. I rise in support of H.R. 13758 concerning the treatment of certain interest payments.

Interest paid by foreign branches of U.S. commercial banks is treated as foreign source income and eligible for special treatment when paid by a branch of a U.S. commercial bank located in Puerto Rico. This special treatment is not available if the interest is paid by a foreign branch of a U.S. savings and loan association.

The bill removes this distinction and provides that interest paid by a foreign branch of a U.S. savings and loan association will be treated as foreign source income. Interest paid by a Puerto Rican branch of a U.S. savings and loan association would thus be eligible for the same special treatment as interest paid by a Puerto Rican branch of a U.S. commercial bank.

Mr. WAGGONNER. Mr. Speaker, I yield such time as he may use to the gentleman from Puerto Rico, the Resident Commissioner (Mr. CORRADA).

Mr. CORRADA. Mr. Speaker, I rise in support of H.R. 13758, a bill which would provide the same treatment, with respect to the determination of sources of income, for interest paid by foreign branches of domestic banks and interest paid by foreign branches of domestic savings and loan institutions.

Section 102(a)(2) of the Foreign Investors Tax Act of 1966, treats interest earned on deposit with foreign branches of a domestic corporation or a domestic partnership, if such branches are engaged in the commercial banking business, as income from sources without the United States. In effect this provision would allow such income to be treated as foreign source income and thus free from U.S. income taxes when paid to nonresident aliens and foreign corporations.

The Internal Revenue Code ("The Code") treats Puerto Rico corporations as foreign corporations for purposes of U.S. income taxation. In addition, subsection 936(a)(1) of the Code allows a so-called possessions corporation to qualify for a tax credit equal to 100 percent of the Federal tax liability on income derived from qualified possession source investment income.

Interest received on deposits with Puerto Rican commercial banks qualifying under the definition of code section 861(a)(1)(F) would appear to qualify as possession source investment income and therefore would be eligible for the tax credit provided by code section 936. However, because code section 961(a)(1)(F) does not specifically mention federally chartered savings and loan associations, it would appear that the interest paid by such associations does not fall with the rubic of the term "qualified possession source investment income." This situation places the federally chartered savings and loan industry in Puerto Rico at a competitive disadvantage with commercial banks operating in the same jurisdiction. There is no justification for such discrimination.

As a matter of fact, an examination of Senate report—Finance Committee—No. 1707 of October 11, 1966, accompanying H.R. 13103, which subsequently was enacted into law as the Foreign Investors Tax Act of 1966, reveals that the committee felt that the above discrimination should not be allowed. Said report states, and I quote—United States Code, Congressional and Administrative News, 89th Congress, 2d session 1966, volume 3, page 4456:

Your committee also agrees with the House that, as long as bank deposit interest is to be treated as foreign source income, there is no justification for denying similar treatment for interest paid by savings and loan institutions generally as well as interest earned on the proceeds of an insurance policy which are left on deposit with an insurance company. These all represent interest income received on deposits and, therefore, it is believed that the competing businesses should be treated in the same manner for tax purposes.

Because such was the intent of Congress, savings and loan associations in Puerto Rico have accepted deposits from section 936 corporations and interest paid thereon has been treated by such corporations as qualified possession source investment income subject to the appropriate tax credit. H.R. 13758 would in effect recognize the intent of Congress in 1966 and would correct this anomaly by providing for similar treatment for interest paid by both commercial banks and by federally chartered savings and loan institutions.

I urge my colleagues to support this bill.

Mr. WAGGONNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FRENZEL. Mr. Speaker, I have no requests, for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. WAGGONNER) that the House suspended the rules and pass the bill H.R. 13758, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TAX TREATMENT OF REDEMPTIONS OF DISCOUNT COUPONS

Mr. WAGGONNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13047) to amend the Internal Revenue Code of 1954 to provide for a special tax accounting rule for the redemption of trading stamps and coupons, as amended.

The Clerk read as follows:

H.R. 13047

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. QUALIFIED DISCOUNT COUPONS REDEEMED AFTER CLOSE OF TAXABLE YEAR.

(a) GENERAL RULE.—Subpart C of part II of subchapter E of chapter 1 of the Internal Revenue Code of 1954 (relating to taxable year for which deductions taken) is amended by adding at the end thereof the following new section:

"SEC. 466. QUALIFIED DISCOUNT COUPONS REDEEMED AFTER CLOSE OF TAXABLE YEAR.

"(a) ALLOWANCE OF DEDUCTION.—At the election of a taxpayer whose taxable income is computed under an accrual method of accounting, the deduction allowable under this chapter for the redemption costs of qualified discount coupons shall be an amount equal to the sum of—

"(1) such costs incurred by the taxpayer with respect to coupons—

"(A) which were outstanding at the close of the taxable year, and

"(B) which were received by the taxpayer before the close of the redemption period for the taxable year, plus

"(2) such costs (other than costs properly taken into account under paragraph (1) for a prior taxable year) incurred by the taxpayer during the taxable year.

"(b) QUALIFIED DISCOUNT COUPONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified discount coupon' means a discount coupon which—

"(A) was issued by the taxpayer.

"(B) is redeemable by the taxpayer, and

"(C) allows a discount on the purchase price of merchandise or other tangible personal property.

"(2) METHOD OF ISSUANCE NOT TAKEN INTO ACCOUNT.—The determination of whether or not a discount coupon is a qualified discount coupon shall be made without regard to whether the coupon was issued through a newspaper, magazine, or other publication, by mail, on the pack or in the pack of merchandise, or otherwise.

"(3) DISCOUNT ON ITEM CANNOT EXCEED $5.—A coupon shall not be a qualified discount coupon if—

"(A) the face of such coupon is more than $5, or

"(B) such coupon may be used with other coupons to bring about a price discount of more than $5 with respect to any item.

"(4) THERE MUST BE REDEMPTION CHAIN.—A coupon shall not be a qualified discount coupon if the issuer directly redeems such coupon from the person using the coupon to receive a price discount. For purposes of the preceding sentence, corporations which are members of the same controlled group of corporations (within the meaning of section 1563(a)) as the issuer shall be treated as the issuer.

"(5) REDEEMABLE BY TAXPAYER.—A coupon is redeemable by the taxpayer if the terms of the coupon require the taxpayer to redeem the coupon when presented for redemption in accordance with its terms.

"(c) REDEMPTION COSTS; REDEMPTION PERIOD.—For purposes of this section—

"(1) REDEMPTION COSTS.—The term 'redemption cost' means, with respect to any coupon—

"(A) the lesser of—

"(i) the amount of the discount provided by the terms of the coupon, or

"(ii) the amount incurred by the taxpayer for paying such discount, plus

"(B) the amount incurred by the taxpayer for a payment to the retailer (or other person redeeming the coupon from the person receiving the price discount), but only if the amount so payable is stated on the coupon.

"(2) REDEMPTION PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the redemption period for any taxable year is the 6-month period immediately following the close of the taxable year.

"(B) TAXPAYER MAY SELECT SHORTER PERIOD.—The taxpayer may select a redemption period which is shorter than 6 months.

"(C) CHANGE IN REDEMPTION PERIOD.—Any change in the redemption period shall be treated as a change in the method of accounting.

"(d) QUALIFIED DISCOUNT COUPONS TO WHICH SECTION APPLIES.—

"(1) ELECTION OF BENEFITS.—This section shall apply to qualified discount coupons if and only if the taxpayer makes an election under this section with respect to the trade or business in connection with which such

coupons are issued. An election under this section may be made without the consent of the Secretary. The election shall be made in such manner as the Secretary may by regulations prescribe and shall be made for any taxable year not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

"(2) SCOPE OF ELECTION.—An election made under this section shall apply to all qualified discount coupons issued in connection with the trade or business with respect to which the taxpayer has made the election.

"(3) PERIOD TO WHICH ELECTION APPLIES.—An election under this section shall apply to the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(4) TREATMENT AS METHOD OF ACCOUNTING.—Except to the extent inconsistent with the provisions of this section, for purposes of this subtitle, the computation of taxable income under an election made under this section shall be treated as a method of accounting.

"(e) SUSPENSE ACCOUNT.—

"(1) IN GENERAL.—In the case of any election under this section which (but for this subsection) would result in a net decrease in taxable income under section 481(a)(2), in lieu of applying section 481, the taxpayer shall establish a suspense account for the trade or business for the taxable year for which the election is made.

"(2) INITIAL OPENING BALANCE.—The initial opening balance of the account described in paragraph (1) for the first taxable year to which the election applies shall be the amount by which—

"(A) the largest dollar amount which would have been taken into account under subsection (a)(1) for any of the 3 immediately preceding taxable years if this section had applied to such 3 preceding taxable years, exceeds

"(B) the sum of the increases in income (and the decreases in deductions) which (but for this subsection) would result under section 481(a)(2) for such first taxable years.

This subsection shall be applied by taking into account only amounts attributable to the trade or business for which such account is established.

"(3) ADJUSTMENTS IN SUSPENSE ACCOUNT.—At the close of each taxable year, the suspense account shall be—

"(A) reduced by the excess (if any) of—

"(i) the opening balance of the suspense account for the taxable year, over

"(ii) the amount deducted for the taxable year under subsection (a)(1), or

"(B) increased (but not in excess of the initial opening balance) by the excess (if any) of—

"(i) the amount deducted for the taxable year under subsection (a)(1), over

"(ii) the opening balance of the suspense account for the taxable year.

"(4) INCOME ADJUSTMENTS.—

"(A) REDUCTIONS ALLOWED AS DEDUCTION.—In the case of any reduction under paragraph (3)(A) in the account for the taxable year, an amount equal to such reduction shall be allowed as a deduction for such taxable year.

"(B) INCREASES ADDED TO GROSS INCOME.—In the case of any increase under paragraph (3)(b) in the account for the taxable year, an amount equal to such increase shall be included in gross income for such taxable year.

If the amount described in paragraph (2)(A) exceeds the dollar amount which would have been taken into account under subsection (a)(1) for the taxable year preceding the first taxable year for which the election is effective if this section had applied to such preceding taxable year, then an amount equal to the amount of such excess shall be included in gross income for such first taxable year.

"(5) SUBCHAPTER C TRANSACTIONS.—The application of this subsection with respect to a taxpayer which is a party to any transaction with respect to which there is nonrecognition of gain or loss to any party to the transaction by reason of subchapter C shall be determined under regulations prescribed by the Secretary.

"(f) 10-YEAR SPREAD OF ANY NET INCREASE IN TAXABLE INCOME UNDER SECTION 481(a)(2).—In the case of any election under this section which results in a net increase in taxable income under section 481(a)(2), under regulations prescribed by the Secretary, such net increase shall (except as otherwise provided in such regulations) be taken into account by the taxpayer in computing taxable income in each of the 10 taxable years beginning with the year for which the election is made."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by adding at the end thereof the following new item:

"Sec. 466. Qualified discount coupons redeemed after close of taxable year."

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by section 1 of this Act shall apply to taxable years ending after December 31, 1978.

(b) APPLICATION TO CERTAIN PRIOR TAXABLE YEARS.—

(1) IN GENERAL.—If—

(A) the taxpayer makes an election under section 466 of the Internal Revenue Code of 1954 for his first taxable year ending after December 31, 1978, and

(B) for a continuous period of 1 or more taxable years each of which ends on or before December 31, 1978, the taxpayer used a method of accounting with respect to any type of discount coupons which was reasonably similar to the method of accounting provided by section 1.451–4 of the Income Tax Regulations,

then the taxpayer may make an election under this subsection to have the method of accounting which he used for such continuous period treated as a valid method of accounting with respect to each such type of discount coupons for such period for purposes of the Internal Revenue Code of 1954. A taxpayer may make an election under this subsection with respect to only one such continuous period.

(2) CERTAIN AMOUNTS TO WHICH METHOD OF ACCOUNTING APPLIES.—An accounting method which the taxpayer used for the period described in paragraph (1) may include—

(A) costs of the type permitted by section 1.451–4 of the Income Tax Regulations to be included in the estimated average cost of redeeming coupons, plus,

(B) any amount designated or referred to on the coupon payable by the taxpayer to the person who allowed the discount on a sale by such person to the user of the coupon.

(3) SUSPENSE ACCOUNT NOT REQUIRED IN CERTAIN CASES.—A taxpayer whose election under this subsection applies to all types of discount coupons which he issued during the continuous period referred to in paragraph (1)(B) shall not be required to establish a suspense account under section 466(e) of the Internal Revenue Code of 1954.

(4) RULES RELATING TO ELECTION UNDER THIS SUBSECTION.—An election under this subsection may be made only before the expiration of the period for making an election under section 466 of the Internal Revenue Code of 1954 for the taxpayer's first taxable year ending after December 31, 1978. An election under this subsection shall be made in such a manner and form as the Secretary of the Treasury or his delegate may by regulations prescribe. For purposes of the Internal Revenue Code of 1954, such an election shall be treated as a method of accounting, except that the approval of the Secretary of the Treasury or his delegate to the making of the election may not be required.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. WAGGONNER) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 13047 amends the Internal Revenue Code to provide a special tax accounting rule under which certain taxpayers may claim a limited deduction for the cost of redeeming qualified discount coupons redeemed after the close of the taxable year in which they are issued.

Presently, there is some confusion regarding the correct tax accounting rule for discount coupons. The IRS and taxpayers disagree as to how an existing income tax regulation applies to discount coupons. The rapid increase in the use of discount coupons in recent years has led the committee to conclude that definitive rules in this area are needed.

Under the bill, an issuer of qualified discount coupons generally would be allowed to elect to deduct for the taxable year the cost of redeeming the discount coupons received by the taxpayer within 6 months after the close of the taxable year. The bill also provides an election under which taxpayers may validate, to a limited extent, certain methods of accounting employed in prior years for discount coupons. This election, if made, would "protect" a qualified method of accouting employed by the taxpayer in prior years from IRS challenge.

Mr. Speaker, this bill establishes tax accounting rules needed to provide certainty and administrability to the tax accounting for discount coupons. I urge the House to approve H.R. 13047.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

These types of coupons, are these the type that are used usually in retailing, by taxpayers, for retailing merchandise?

Mr. WAGGONNER. They are.

Mr. VOLKMER. And the accounting method, as I understand it, is being improved, or will be improved after the bill is passed, and that even though the coupon had been redeemed at the retail store where the manufacturer or the distributor—whoever is redeeming the coupons from the retailer—would pay it within 6 months after their taxable year closes, whether it is fiscal or calendar, that they could then include that

in that prior fiscal year, if done within 6 months; is that correct?

Mr. WAGGONNER. The gentleman is correct.

Mr. VOLKMER. The issuer is the taxpayer; is that correct?

Mr. WAGGONNER. That is correct.

Mr. VOLKMER. Now, there is one thing that concerns me a little bit, and I would like to have someone explain to me how this can occur. The present law is that it has to be redeemed in the taxable year by the taxpayer, who is also the issuer.

Mr. WAGGONNER. That is right, according to the Internal Revenue Service.

Mr. VOLKMER. How do we arrive at the reduction of $103 million in revenues in 1980 and then additional revenues the following years? What is the causation of that? Can the gentleman explain that to me?

Mr. WAGGONNER. Well, there is just that much coupon business. About $100 million of the $103 million is attributable to fiscal years prior to 1980, as far back as 1972. This assumes the IRS position is correct.

Mr. VOLKMER. I understand there is coupon business. But if an issuer redeems presently in the current year and, say, within 6 months of his prior year, then under the present law is he not permitted to deduct that in his current year?

Mr. WAGGONNER. The provision allows retroactive protection of the accounting method used by some taxpayers in prior years and there is a revenue cost to that.

Mr. VOLKMER. In other words, we are going to let some of the issuers, taxpayers, then go back into prior years, or at least 1 prior year, for coupons redeemed in, say, the current year; is that correct?

Mr. WAGGONNER. They would be protected from IRS challenge.

Mr. VOLKMER. For prior years. In other words, where they, in their accounting method, had included the redemptions that actually occurred following their fiscal or taxable year, as a deduction IRS is disallowing it, and this would permit them to take that?

In other words, they have already done it in their return.

Mr. WAGGONNER. That is correct.

Mr. VOLKMER. We are saying, "You don't have to pay the tax because what you did is all right."

Mr. WAGGONNER. That is correct.

Mr. VOLKMER. I thank the gentleman.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. I am happy to yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, I have no opposition to this particular bill, I would call attention to something that could create a problem in future fiscal years, however, this ballooning effect. I do not know what is going to happen in the tax conference. but the Senate tax bill, while it has limited impact on fiscal year 1979, has major impact when we start with fiscal year 1980.

There have been a whole series of bills that have been moving through the House and Senate that have major impact starting in succeeding fiscal years, and this is one of that series. I simply call to the attention of my colleagues the fact that we are creating some long-range problems.

Now, this bill involves a $103 million loss in 1980 and somewhat less in succeeding years. It is not that major a thing, but when we start adding up $103 million, a few billion here and a few billion there, we could be creating some problems for ourselves. I simply call that to the attention of my colleagues.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 13047, a bill designed to clarify the tax treatment of discount coupons.

The bill establishes the proper tax accounting practices for issuers of discount coupons. Discount coupons are those commonplace newspaper coupons which are clipped out and entitle the person to a certain amount of "cents-off" on the purchase of a product. Also included in the definition are so-called pak/on pak coupons. These are the coupons contained within or on the package of a product. For example, a box of breakfast cereal may contain a coupon entitling the person to a discount on the subsequent purchase of the same or a different product.

H.R. 13047 elaborates the acceptable tax accounting methods for accrual basis coupon issuers. It allows the issuer to deduct the cost of coupons redeemed up to 6 months after the close of the taxable year. The cost of coupons includes the face amount of the coupon plus the handling fees payable to the retailer and redeeming agent.

The bill also addresses the transition for taxpayers between their current accounting practices and the procedures in this legislation. It assures that the transition will be orderly and contains safeguards to prevent any distortion of income by manipulating accounting periods.

Mr. Speaker, discount coupons provide business with a valuable marketing tool for promoting their products. In addition, consumers benefit from the savings which the coupons give. H.R. 13047 will help business adopt workable accounting methods for coupons and will help consumers to control their living expenses in this period of high inflation.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio (Mr. GRADISON).

Mr. GRADISON. Mr. Speaker, I thank the gentleman for yielding, and I rise to compliment those members of the committee who have been active in working out this legislation, especially the gentleman from Louisiana and the gentleman from Minnesota.

I know, because of problems faced by some of my constituents, that one of the principal problems that has existed for years, but especially in recent times, in connection with this issue is the uncertainty which has arisen because of the Internal Revenue Service approach and its attempt to go back into earlier years. It is not entirely clear how this legislation will affect particular companies, whether it will be beneficial or harmful in terms of the tax impact, but I think the great virtue of the legislation is that it resolves longstanding disputes and should prevent such disputes in the future. It removes a continuing source of argument which has taken quite unnecessarily a great deal of time, not only of the Revenue Service, but also the individual companies that are affected.

I support the legislation, and very much hope that it will be overwhelmingly approved by the House.

Mr. FRENZEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAGGONNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. WAGGONER) that the House suspend the rules and pass the bill H.R. 13047, as amended.

The question was taken.

Mr. SIMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order is considered as withdrawn.

IRC AMENDMENTS FOR INVESTMENT TAX CREDIT

Mr. WAGGONNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12846) to amend the Internal Revenue Code of 1954 to clarify the application of the investment tax credit to certain enclosures or structures used for the housing, raising, or feeding of poultry or their produce as amended.

The Clerk read as follows:

H.R. 12846

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (1) of section 48(a) of the Internal Revenue Code of 1954 (defining section 38 property) is amended by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", or" and by inserting after subparagraph (C) the following new subparagraph:

"(D) single purpose agricultural or horticultural structures."

by designating subsection (1) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(1) SINGLE PURPOSE AGRICULTURAL OR HORTICULTURAL STRUCTURE DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'single purpose agricultural or horticultural structure' means—

"(A) a single purpose poultry or hog structure, and

"(B) a single purpose greenhouse.

"(2) SINGLE PURPOSE POULTRY OR HOG STRUCTURE.—The term 'single purpose poultry or hog structure' means any enclosure or structure specifically designed, constructed, and used—

"(A) for housing, raising, and feeding poultry or hogs and their produce, and

"(B) for housing the equipment (including any replacements) necessary for the

housing, raising, and feeding referred to in subparagraph (A).

(3) SINGLE PURPOSE GREENHOUSE.—The term 'single purpose greenhouse' means a greenhouse specifically designed, constructed and used for the commercial production of plants.

"(4) STRUCTURES WHICH INCLUDE WORK SPACE.—An enclosure or structure which provides work space shall be treated as a single purpose agricultural or horticultural structure only if such work space is solely for—

"(A) the stocking, caring for or collection of poultry, hogs, or plants (as the case may be) or their produce,

"(B) the maintenance of the enclosure or structure, and

"(C) the maintenance or replacement of the equipment or stock enclosed or housed therein.

"(5) SPECIAL RULE FOR APPLYING SECTION 47—For purposes of section 47, any single purpose agricultural or horticultural structure shall be treated as meeting the requirements of this subsection for any period during which such structure is held for the use under which it qualified under this subsection.

"(6) Hogs.—The term 'hogs' includes pigs."

(c)(1) Paragraph (3) of section 1245(a) of such Code (defining section 1245 property) is amended by striking out "or" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(E) any single purpose agricultural or horticultural structure (as defined in section 48(1))."

(2) Paragraph (2) of section 1245(a) of such Code (defining recomputed basis) is amended by striking out "or" at the end of subparagraph (C), by inserting ", at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) with respect to any property referred to in paragraph (3)(E), its adjusted basis recomputed by adding thereto all adjustments attributable to periods after December 31, 1978."

(d) The amendments made by subsections (a) and (b) shall apply to taxable years ending after August 15, 1971. The amendments made by subsection (c) shall apply to adjustments attributable to periods after December 31, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. WAGGONNER) will be recognized for 20 minutes and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. I yield myself such time as I may consume.

Mr. Speaker, H.R. 12846 concerns the investment tax credit for certain agricultural structures. The bill clarifies the present law treatment of greenhouses and other special purpose structures and enclosures which are used to raise and feed poultry and hogs.

Present law provides the investment credit for special purpose structures but does not allow the credit for buildings, such as factories and office buildings. The Internal Revenue Service takes the position that unitary hog and poultry facilities and greenhouses are buildings and are not eligible for the credit. The poultry, egg, and hog producer and the plant and flower grower must take the IRS to court in order to establish their right to the credit. Although the taxpayers have been successful in most of the court cases, it is both expensive and troublesome to do so, particularly for the farmer whose credit may be little more than it costs to contest the IRS before the courts.

As I have stated, the bill does no more than clarify present law. Under its provisions, poultry and hog structures and greenhouses are specifically eligible for the investment credit if the structures are specifically designed, constructed and used for the housing, raising, and feeding of poultry or hogs or for the commercial production of plants and plant produce. These special purpose productive facilities cannot be used for other purposes. Because the bill reflects how the law was intended to be interpreted when the investment credit was restored by the Congress on August 15, 1971, it will apply to taxable years ending after that date.

In addition, the bill makes these structures subject, on a prospective basis, to the same depreciation treatment as is provided generally for property subject to the investment credit under present law. The revenue loss under this bill is estimated to be $53 million for fiscal year 1979 and approximately $30 million for subsequent years. However, this estimate presumes that the IRS position is correct, an assumption which is not borne out by the court cases.

Mr. Speaker, I urge adoption of H.R. 12846.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill H.R. 12846, which has been accurately described by our distinguished colleague, the gentleman from Louisiana, and which clarifies the applicability of the investment tax credit.

The investment tax credit does not apply to buildings and structural components except in specified cases. Over the last several years, there has been a great deal of controversy over whether certain types of structures are included in these exceptions. The controversies have for the most part involved the applicability of the investment tax credit to "single purpose agricultural structures" such as unitary hog-raising facilities, greenhouses, or facilities used for the production of eggs or poultry.

The bill clarifies the issue by making the investment tax credit specifically applicable to certain greenhouses, hog-raising and poultry facilities. The legislation will end unnecessary litigation and save the Government and taxpayers the legal expenses they would otherwise incur.

I urge the bill's immediate adoption.

I have no further requests for time.

I reserve the balance of my time.

Mr. WAGGONNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, I thank the gentleman from Louisiana (Mr. WAGGONNER) for yielding to me.

Mr. Speaker, I would inquire of the distinguished gentleman from Louisiana (Mr. WAGGONNER) that, under present law there are structures primarily designed and used as an integral part of manufacturing, part of the production process, and these structures presently qualify for the credit. I want to make certain and to clarify that the intention of the managers and of the House is that no inference should be drawn from this particular legislation with respect to the qualification of other types of properties.

In other words, properties, special purpose facilities, that qualify for the credit under existing law, will continue to qualify. And it is intended that this legislation does not narrow the scope of existing law.

Is that the understanding of the gentleman?

Mr. WAGGONNER. That is the understanding of the gentleman from Louisiana now speaking.

Mr. JONES of Oklahoma. I thank the gentleman for yielding.

Mr. WAGGONNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 12846, investment credit for certain agricultural or horticultural structures. This bill has unfortunately gotten some questionable publicity—the press has managed to get a few laughs out of referring to it as the "tax break for the greenhousing of America." However this is not a laughing matter to the florists, the hog raisers, and the poultry raisers involved. The whole thing resulted from the Revenue Act of 1971 that made some general changes to the investment tax credit, including a change in the available credit in respect to the term "building." The Senate report clearly indicates that it was not intended to include a structure which houses property used as an integral part of a manufacturing or production activity. I quote from the Senate report.

The committee also desires to make it clear that the term "building" is not intended to include a structure which houses property used as an integral part of a manufacturing or production activity (or other activity referred to in sec. 48(a)(1)(B)(i)) if the use of the structure is so closely related to the use of the equipment it houses that the structure clearly can be expected to be replaced when the property it houses is replaced. Factors which would tend to indicate that a structure is closely related to the use of the equipment include the fact as to whether the structure has been specifically designed to provide for the stress and other demands of the equipment which the structure houses and the fact as to whether the structure could not be economically used for other purposes.

One example of a type of structure closely related to the product it houses which was called to the attention of the committee is a unitary system for raising hogs which includes automatic feed systems, special airflow units, slatted flooring, pens and parti-

tions. The structure which can be added to according to the number of hogs raised, is no more than a cover and way of tying together the specially designed pens, automatic feeding systems, etc. There is no other practical use for the structure and it can, therefore, be expected to be used only so long as the equipment it houses is used. Such a structure would be eligible for an investment credit. S. Rep. No. 437, 92d Cong., 1st Sess. (1971), 1972–1 C.B. 575.)

The courts have ruled time and again that poultry housing facilities were eligible for the investment tax credit. *Melvin Satrum*, 623 T.C. 413 (1974) and most recently on August 8, 1978 in *Walter Sheffied Poultry Company, Inc.*, Petitioner v. *Commissioner of Internal Revenue*, T.C. Memo. 1978–308. Yet the Internal Revenue persists in harrassing these poultry producers so that they must go to court every time to prove that their housing facilities are, in fact, eligible for the investment tax credit.

This bill has already been added in the Senate version of H.R. 13511 the Tax Revenue Act of 1978. I urge you to pass this bill which merely clarifies the existing law with reference to buildings that are an integral part of the production process.

Mr. WAGGONNER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. PIKE).

Mr. PIKE. Mr. Speaker, I thank the gentleman for yielding. I also thank him for the courtesy of handing me a copy of the bill, which they do not seem to have back there by our cloakroom.

This bill refers to certain enclosures or structures used for the housing and raising or feeding of poultry, is that all this legislation is about? Is that what the legislation is limited to at this time, or does this include the so-called unitary hog raising facilities?

Mr. WAGGONNER. This bill has a committee amendment which includes, among other things, the hog raising facilities to which the gentleman refers. In addition to that, so that there will not be any misconception, there is only one other thing, and that has to do with greenhouses used for the commercial production of plants.

Mr. PIKE. The unitary hog raising facility, is that a unit of production which sometimes is more colloquially known as a pigpen? Is that a fair statement?

Mr. WAGGONNER. Well, I guess some people call them pigpens just like some people refer to special purpose poultry structures as chicken coops.

Mr. PIKE. That was my next question.

So what we are doing here is providing the investment tax credit for pigpens and chicken coops. I just want to make sure that I understand what we are doing.

Mr. WAGGONNER. What we are doing here is trying to clarify, because differences of opinion do exist, on what the present law was intended to be when the credit was restored on August 15, 1971. As a result of this confusion there has been a great deal of litigation, most of which has been decided in favor of the taxpayer.

There is this confusion, and oftentimes investment-credit litigation is probably, in many instances, more expensive than what the investment credit is worth. Therefore, what we are really trying to do is to clarify the intent of the 1971 law in the instance of these special-purpose structures.

Mr. PIKE. If the gentleman will yield further, I heard everything the gentleman said, but I want to make sure that I understand it. Are we in essence clarifying it so that we can give an investment tax credit to pigpens and chicken coops?

Mr. WAGGONNER. No, we are clarifying it with Treasury's approval so the taxpayer receives the investment credit when he builds these special-purpose structures without having to go to court for it.

Mr. PIKE. And the special-purpose structure is a pigpen or a chicken coop; is that a fair statement?

Mr. WAGGONNER. The gentleman is streetwise in New York. I hope I am streetwise down in hog and chicken country. Sometimes we jokingly refer to them as "chicken coops" and "pigpens."

Mr. PIKE. When the gentleman is not jokingly referring to them, does he really call them "unitary hog-raising structures"?

Mr. WAGGONNER. They really are.

Mr. PIKE. And that is the way the people refer to them in their normal day-to-day conversation down in Louisiana, "unitary hog-raising structures"?

Mr. WAGGONNER. One has to do that when he is discussing it on a serious basis with somebody like the IRS, which does not understand.

Mr. PIKE. Mr. Speaker, I yield to the gentleman's expertise. I yield to his semantics, and I have no further questions.

Mr. WAGGONNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Speaker, several months ago I introduced with my colleague JAKE PICKLE of Texas this bill to provide a clarification of the law with respect to the application of the investment tax credit to certain single purpose enclosures or structures for raising of poultry. Our bill comes to the floor today with an amendment of the Committee on Ways and Means providing the identical clarification of law for unitary hog raising structures and greenhouses. The amendment is a good one and the entire bill should be enacted into law.

The legislative history and intent of the Congress that the tax credit apply to these unitary structures is well known and has been well recited by my colleagues who have spoken on behalf of this bill. For years the Internal Revenue Service has issued rulings that these facilities were not eligible for the investment tax credit. I refer to *Rev. Rul.* 63–39, 1966–2 C.B. 16 and *Rev. Rul.* 66–89, 1966–1 C.B. 7, mod'f. by *Rev. Rul.* 72–222, 1972–1 C.B. 17. Judicial decisions have disputed the Service's position. The case of *Melvin Satrum*, 62T.C. 413 (1974), app. dism. 9th Cir., 1975, is an example of a court ruling on poultry houses which rejects the Service's position.

Nevertheless, small chicken and hog farmers continue to be confused by the Internal Revenue Service's unyielding position and the contrary judicial rulings. It has produced a bad situation where small farmers can claim the investment tax credit for their investment in these depreciable structures only if willing and able to spend enormous sums in attorney's fees to litigate with the Internal Revenue Service.

The struggle of small farmers across the Nation to survive in the farming business is well known to us. Clearly, this Congress should lift this burden where the poultry and hog farmer are entitled by law to an investment tax credit but the tax collector refuses to allow it without an expensive legal battle. This legislation is, indeed, a test for this Congress to protect the interests of our citizens against unreasonable bureaucratic intrusion.

I urge passage of this bill.

Mr. WAGGONNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. WAGGONNER) that the House suspend the rules and pass the bill H.R. 12846, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Internal Revenue Code of 1954 to clarify the application of the investment tax credit to certain single purpose enclosures or structures for raising poultry or hogs or for use as greenhouses."

A motion to reconsider was laid on the table.

IMMIGRATION AND NATIONALITY ACT AMENDMENTS

Ms. HOLTZMAN. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 12509) to amend the Immigration and Nationality Act to exclude from admission into, and to deport from, the United States all aliens who persecuted any person on the basis of race, religion, national origin, or political opinion, under the direction of the Nazi Government of Germany, and for other purposes.

The Clerk read the Senate amendment as follows:

Strike out all after the enacting clause and insert:

TITLE I

SEC. 101(a). Section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182 (a)), relating to general classes of aliens ineligible to receive visas and excluded from admission, is amended—

(1) by striking out the period at the end of paragraph (32) and inserting in lieu thereof a semicolon; and

(12) by adding immediately after paragraph (32) the following new paragraph:

"(33) Any alien who during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

"(A) the Nazi government in Germany,

"(B) any government in any area occupied by the military forces of the Nazi government of Germany,

"(C) any government established with the assistance or cooperation of the Nazi government of Germany, or

"(D) any government which was an ally of the Nazi government of Germany,

ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion."

SEC. 102. Section 212(d)(3) of such Act (8 U.S.C. 1182(d)(3)), relating to waiver of exclusions for certain non-immigrants, is amended by striking out "(27) and (29)" and inserting in lieu thereof "(27), (29), and (33)" each place it appears.

SEC. 103. Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251 (a)), relating to general classes of deportable aliens, is amended—

(1) by striking out "or" at the end of paragraph (17);

(2) by striking out the period at the end of paragraph (18) and inserting in lieu thereof "; or"; and

(3) by adding immediately after paragraph (18) the following new paragraph:

"(19) during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

"(A) the Nazi government of Germany,

"(B) any government in any area occupied by the military forces of the Nazi government of Germany,

"(C) any government established with the assistance or cooperation of the Nazi government of Germany, or

"(D) any government which was an ally of the Nazi government of Germany,

ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion."

SEC. 104. Section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)), relating to withholding of deportation, is amended by inserting "(other than an alien described in section 241(a)(19))" after "The Attorney General is authorized to withhold deportation of any alien".

SEC. 105. Section 244(e) of the Immigration and Nationality Act (8 U.S.C. 1254(e)), relating to voluntary departure of aliens under deportation proceedings, is amended by striking out "or (18)" and inserting in lieu thereof "(18), or (19)".

TITLE II

SEC. 201. Section 2(b) of the Indochina Migration and Refugee Assistance Act of 1975 is amended to read as follows:

"None of the funds authorized to be appropriated by subsection (a) may be available for obligation after September 30, 1979".

SEC. 202. The amendments made by this title shall take effect on October 1, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from New York (Ms. HOLTZMAN) and the gentleman from New York (Mr. FISH) will be recognized for 20 minutes each.

The Chair recognizes the gentlewoman from New York (Ms. HOLTZMAN).

Mr. BURKE of Massachusetts. Mr. Speaker, will be gentlewoman yield?

Ms. HOLTZMAN. I am happy to yield to my distinguished colleague from Massachusetts.

PARLIAMENTARY INQUIRY

Mr. BURKE of Massachusetts. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BURKE of Massachusetts. Mr. Speaker, item No. 9 on suspension was supposed to come up next. May I ask what the program calls for?

The SPEAKER pro tempore. The Chair will advise the distinguished gentleman that that legislation is no longer on the suspension list.

Mr. BURKE of Massachusetts. It is no longer on the calendar?

The SPEAKER pro tempore. That is correct.

Mr. BURKE of Massachuetts. And it will not be on the calendar for the rest of the day?

The SPEAKER pro tempore. The Chair is not advised. All the Chair knows is the schedule which is before it.

That item has been taken off this particular schedule.

Mr. BURKE of Massachusetts. I thank the Speaker.

Ms. HOLTZMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Senate amendment to H.R. 12509 makes no change in the provisions of the bill as passed by the House. The amendment adds a second title to the bill which continues for 1 year full funding for the Indochinese refugee assistance program.

Mr. Speaker, adoption of this Senate amendment is necessary in order to continue 100 percent Federal reimbursement to States and local governments for their costs of providing assistance to Indochina refugees. If the authorization is not extended, the present program will automatically phase-down to 75 percent for fiscal year 1979. This funding reduction would also be applicable to those refugees now being admitted under the current Indochina refugee admission program. This would have the effect of imposing an added burden on those States in which large numbers of refugees are settling and inevitably on property taxpayers in those States.

In my judgment, it would be unreasonable for the Federal Government to provide funding for this new group of refugees at a level lower than it has provided for past groups of refugees.

Mr. Speaker, adoption of this amendment would extend the program at the 100-percent reimbursement level for fiscal year 1979 only.

It is my firm hope that early in the first session of the next Congress the administration will present the Congress with a long-overdue, comprehensive and coordinated Indochina refugee program which will tie together the closely related issues of refugee admission and resettlement funding.

I should also advise my colleagues that the amendment under consideration has been brought to the attention of the Budget Committee which has expressed no opposition to its consideration in this manner.

The temporary extension of this program at its present 100-percent level is strongly supported by the State governments, the private voluntary agencies responsible for resettling refugees, and by the administration.

Mr. Speaker, we should not allow the failure on the part of the administration to come up with a coherent and well-reasoned response to the critical Indochina refugee situation or refugee problems in general to work a hardship on States and localities as well as on refugees themselves who currently participate in the program. Rather, the most reasonable action which we can take now is to agree to this Senate amendment, thereby extending for a year the current program, and then concentrate on the development of a comprehensive and permanent refugee program.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the motion to suspend the rules and pass the bill, H.R. 12509, with the Senate amendment. As you recall, the House passed title I of this bill on September 26, 1978. Now, the Senate has added a title II, dealing with Federal funding of the Indochinese refugee program. Public Law 95–145 presently provides a 75-percent Federal participation for fiscal 1979.

The Senate amendment to this bill in the form of title II replaces the three remaining years of the program, which is funded in part by the Federal Government, with a 1-year program which is funded in full by the Federal Government.

When we established the 4-year program involving reduced Federal participation in each of the last 3 years, 130,000 Indochinese refugees who had escaped after the fall of Saigon were here and resettled. However, Vietnamese continue to risk their lives by sailing from Vietnam through the South China Sea to refugee camps in Thailand and other neighboring countries. Four exercises of parole by the Attorney General in 1976, 1977, and 1978 will result in the admission of an additional 55,000 refugees by May 1979. Refugees continue to stream out of Cambodia and the Congress last week included in the Department of Justice appropriation bill a sense of the Congress that the Attorney General parole into the United States 15,000 Cambodian refugees.

It is clear, Mr. Speaker, that the Indochinese refugee population in this country is not static but is growing. Therefore, it would be fair to the States not to reduce Federal participation in a program addressed to aid an increasing population. Another advantage of a 1-year program will be that the administration and the Congress will be required next year to seek long-term solutions in the establishment of a long-term refugee policy for our country.

The senior Senator from California, a prime sponsor of this amendment, agrees that passage of this bill "makes imperative an overall review of U.S. refugee policy early next year." I agree that such a review is necessary, and I

fully support the motion to suspend the rules and pass this bill as amended.

Mr. Speaker, I reserve the remainder of my time.

Ms. HOLTZMAN. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the subcommittee, the gentleman from Pennsylvania (Mr. EILBERG).

Mr. EILBERG. I thank the gentlewoman for yielding.

Mr. Speaker, I wish to commend the gentlewoman for her great work in connection with the bill which originally passed the House and also in providing the information to the Members as to what the Senate amendment provides.

Mr. Speaker, adoption of this amendment is essential to avoid severe impacts on States and local welfare costs, and to prevent a cutoff in needed assistance and services to refugees. This program enables all States to provide cash and medial assistance and social services to refugees and prevents any locality from being overburdened by these costs.

Mr. Speaker, I had hoped that we could phase-down this program this year however, it is clear that due to the continuing admission of Indochinese refugees, an immediate phase-down is not now possible. The extension proposed today will continue full funding for 1 year only. All funds for the program will terminate after fiscal year 1979. This termination date will force the administration to confront this continuing problem in a comprehensive manner. I say to you that I will not support another stopgap funding program. This country must have a comprehensive, coordinated policy for the admission and resettlement of refugees which clearly defines the respective responsibilities of the States, the Federal Government, and the refugees themselves.

Mr. Speaker, I have repeatedly called for such a policy and intend to insist upon it. I communicated this view to the President in a letter of August 7, 1978, in which I state that—

> . . . the Administration is now asking the Congress to once again extend the Indochina Migration and Refugee Assistance Program: in a limited, "stopgap" manner. In my judgment it is unreasonable and inefficient to propose such an extension and at the same time support a continuing admissions program of 25,000 Indochina refugees per year.

Mr. Speaker, the Senate Human Resources, and Foreign Relations Committees also, in their report on a bill to extend this program noted that this extension can only be viewed as an interim measure until a sensible resettlement policy is more developed.

Mr. Speaker, although a long-range policy must be developed, we must now meet the needs of needy refugees who are arriving on our shores. We must approve this 1-year extension to provide for their immediate needs. We should not deny to them the same benefits which have been available to all other Indochina refugees.

Mr. Speaker, it is my fervent hope that adoption of this amendment will at once make clear our concern for the refugees and the localities which receive them and emphasize our determination to insist on the submission of a sensible refugee policy by the administration in the next session of Congress.

Ms. HOLTZMAN. Mr. Speaker, I wish to commend the gentleman from Pennsylvania for his tireless efforts in respect to the basic bill that the House passed and that we are reviewing today.

I yield now 2 minutes to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I rise in strong support of this measure to extend full Federal funding of the Indochina refugee assistance program for 1 additional year.

Mr. Speaker, I want to thank the honorable chairman of the Judiciary Subcommittee on Immigration, Citizenship, and International Law and my colleague, Ms. HOLTZMAN, for their efforts in bringing this needed legislation to the floor.

The continuation of full Federal funding of the Indochina refugee assistance program has my strong support. Parole authority has recently been granted to 25,000 Indochinese refugees who reached the United States during fiscal year 1979. They will be in addition to the 22,000 refugees who entered this country during the fiscal year 1978.

In light of this great number of refugees who are still entering the United States for resettlement, it is my strong feeling that 100 percent Federal funding must be retained for 1 additional year under the Indochina Refugee Assistance Program (IRAP). I testified before Chairman EILBERG's subcommittee last year in support of a rapid phase-down of the program. At that time, however, it was assumed that the number of refugees would remain around 150,000. This assumption, on which we based the extension of IRAP, has now been rendered invalid by virtue of recent actions with regard to refugee admission. We must act to insure that our States and counties are not forced to bear the cost of these unanticipated Federal actions.

As you know, Public Law 95–145 presently limits Federal reimbursement in fiscal year 1979 to 75 percent of the State's fiscal year 1978 costs. Based on HEW estimates, the Federal share in fiscal year 1979 could be no more than $67,500,000, or 75 percent of the estimated $90 million cost in fiscal year 1978. However, due to the admission of 25,000 additional refugees, it is estimated that the total cost in fiscal year 1979 will be in the vicinity of $126 million. Because of these increases, the State and local share of the IRAP could be more than 50 percent larger than originally anticipated.

This problem is further aggravated due to the delay in the fiscal year 1978 appropriation for IRAP. The supplemental appropriations bill was not passed until March of this year. Consequently, States made great efforts to hold down all controllable costs during the 5 months of fundlessness. Therefore, it is probable that the final costs for fiscal year 1978 on which the phase-down is based will be artificially low and not reflect the true cost of the program. If this is the case, the burden of our States and counties will be proportionately greater.

The legislation before us today is fiscally responsible and reasonable. It will allow us to seriously review during the next session our over-all approach to refugee policy in other than a crisis atmosphere. I urge my colleagues to support it.

Mr. FISH. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman for yielding.

I merely take the time to ask a couple questions.

We all want the objectives, but sometimes it is strange how concerns on constitutional and civil rights liberties are lessened when we get to a subject we all agree on.

I had personal knowledge of a case, I would have to say in all honesty I do not know the man. I do not know what the true situation is; but in checking it out, I find the only charge against this man was an unsubstantiated charge made in an East European country, forwarded to this Government to followup. In other words, the man was not confronted by his accuser. There was no opportunity for cross-examination.

I was a little bit surprised when I learned from the file that the Justice Department proceeded to bring a man in to ask questions on the basis of unsubstantiated allegations made in Eastern Europe behind the Iron Curtain.

I just point that out to ask either of my colleagues from New York whether this bill would envision that wide latitude being given to officials in this country to determine whether or not a person is in fact a Nazi sympathizer or a person who engaged in Nazi activities in the past. There is something about this bill that concerns us a little bit. If we all of a sudden suspend what otherwise would be constitutional liberties while in pursuit of somebody who is obviously a bad guy, where do you draw the line?

I would ask the gentlewoman from New York whether such a situation could happen under this bill. I have to admit I am concerned about it.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I am glad to yield to the gentlewoman.

Ms. HOLTZMAN. Mr. Speaker, I would like to assure the gentleman that the full panoply of constitutional rights will be brought to bear with respect to any person who would come within the purview of this bill. No one could be deported from this country without hearings, without confrontation of witnesses and so forth.

I will assure the gentleman there is no intent in any respect to—nor could we—abridge anyone's constitutional rights.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague from New York. I think we all agree that the most despicable person under our system deserves his constitutional rights to prevent arbitrary action and prevent an injustice from occurring. I know the gentlewoman agrees we do not want one injustice to be wiped out, in effect, by propounding another injustice.

I have seen at least one case that smells a little. As I say, I do not know the man. He may be dead guilty, but for the

Justice Department to proceed on an unsubstantiated allegation when the accusing person is not even in this country, at least raises a red flag.

Mr. Speaker, I certainly appreciate receiving that assurance from my colleague, the gentlewoman from New York.

● Mr. COTTER. Mr. Speaker, on September 26, 1978, the House passed H.R. 12509, a bill to amend the Immigration and Nationality Act. This measure provides grounds for exclusion, and direct authority for deportation, of any alien who, under direction of, or in association with the Nazi government of Germany or its allies, persecuted any person, because of race, religion, national origin, or political opinion.

Although our permanent immigration law has never expressly excluded from admission into the United States aliens who have participated in persecution, similar provisions have appeared in special legislative enactments providing for the admission of refugees and certain other displaced persons after World War II. Section 13 of the Displaced Persons Act of 1948 prohibited the admission of aliens under that act who advocated or assisted in the persecution of any person because of race, religion, or national origin. The Refugee Relief Act of 1953, another postwar refugee statute, similarly prohibited the admission of such aliens. Thus, the enactment of H.R. 12509 would establish, within the permanent U.S. immigration law, a provision which has appeared previously in special refugee measures.

Mr. Speaker, it is my understanding that the Senate passed H.R. 12509 on Tuesday, October 10, including in the legislation an ungermane unprinted amendment involving Indochina migration.

I believe that clearing this measure for the President is of utmost importance, and I urge you to immediately request a conference and appoint conferees so that this bill can be acted upon prior to the sine die adjournment of the 95th Congress.

My office has been investigating the case of Valerian Trifa, a Romanian Orthodox bishop and naturalized citizen of the United States who allegedly participated in the Romanian Iron Guard's abortive coup against the military government of Gen. Ion Antonescu. During the Iron Guard coup, thousands of Romanian Jews were massacred. We became involved in this case at the request of Dr. Charles H. Kremer, president of the Committee to Bring Nazi War Criminals to Justice in the United States of America.

Bishop Trifa is now under investigation by the Immigration and Naturalization Service. The charge against him is that he obtained U.S. citizenship illegally by concealing his association with the Iron Guard. My last contact with Immigration and Naturalization officials indicated that the complaint against Bishop Trifa was filed in May of 1975. Since that time, it has gone through two assistant U.S. attorneys and some pretrial discovery. On March 6 of this year, the case was transferred to the Washington office, and I assume is still undergoing analysis.

The presence of Nazi war criminals in the United States cannot be tolerated, and as a democracy committed to the idea of human rights and dignity, it is imperative that our immigration laws include the provisions of H.R. 12509. I urge your immediate action on this legislation.●

● Mr. ANDERSON of California. Mr. Speaker, I would like to call our colleagues, attention to, and solicit support for, two important measures we will be voting on today; H.R. 12509, and the conference report on H.R. 15.

They are related. Both contain provisions pertaining to Indochina refugees. It has been generally recognized that many of these individuals are in need of certain Government services. There are, of course, special problems which all immigrants face. But Indochinese refugees have additional problems in adapting to American society. Generally speaking, they leave their native countries under less than ideal circumstances. They have left their homes hurriedly and secretively, leaving behind their money and possessions. Many of them have spent their entire lives under conditions of war. They have known only chaos. Educational opportunities have been limited. The conditions they are accustomed to are totally alien to what they are experiencing in America. Some have never before seen indoor plumbing or electric lights. That some level of government should provide assistance to lessen this culture-shock, is clear.

Demographic studies make it equally clear that most of these refugees have settled in a few geographic areas. Should these areas assume the financial burden of providing services the need for which stems from a national policy? It is the Federal Government which has, justifiably, opened its doors to these refugees. If we had not, these refugees might still be languishing under the Communist regime in Vietnam, or the terrorist group which has captured control in Cambodia. Some might have been floating on the open seas, without a home, or have been swallowed up by those seas. The national policy of allowing these refugees into our country is corollary to our belief in human rights, and is in the same spirit with which we have welcomed immigrants since the birth of the Nation.

Under similar circumstances during World War II, we were not always so accommodating to Jewish refugees wishing to leave Europe. Like other nations at the time, we refused to allow many of these refugees into the country. The consequences are known. We must allow Indochinese refugees into the United States.

This national policy, however, creates grave fiscal problems in those States and localities where the refugees have settled. Washington has recognized this in the past, and assumed responsibility for financing those services needed by the refugees. H.R. 12509, and the conference report on H.R. 15 will continue such financing.

H.R. 12509 will continue 100 percent Federal financing of Indochinese refugee assistance programs (IRAP). H.R. 15, amending the Elementary and Secondary Education Act, includes Senate provisions continuing Federal assistance for the education of Indochinese refugees.

I have been active in urging that these actions be taken, and am gratified to see them brought to the floor today. Reason demands that we pass these bills, and send them to the President for his approval.

Mr. Speaker, I would like to include in the RECORD the most recent letter I have written regarding IRAP, and a copy of the letter I sent to each of the House conferees on H.R. 15.

CONGRESS OF THE UNITED STATES,
Washington, D.C., September 13, 1978.

Hon. JOSHUA EILBERG,
Chairman, Subcommittee on Immigration, Citizenship and International Law, Rayburn Building, Washington, D.C.

DEAR CHAIRMAN EILBERG: The basic premise behind the Indochina Refugee Assistance Program was that the federal government, which determines immigration policies, should finance state and local programs helping out newly arrived refugees. The need for this arose when demographic data clearly indicated that the Indochinese refugees were concentrating themselves in certain areas of the country.

Now, this federal assistance to lower levels of government is being phased out, on the assumption that the refugees are becoming settled and are in less need of special programs. Yet the federal government is continuing to let new refugees in, and these newcomers are settling in the same areas as their predecessors. The conditions necessitating 100% federal financing of programs for these refugees still exist, yet this financing is being phased down. Because these conditions still exist, the federal government should continue its 100% financing.

The Subcommittee has before it legislation continuing federal support that IRAP costs at the current 100%. I would urge that the Subcommittee give this issue its prompt attention.

Sincerely,

GLENN M. ANDERSON,
Member of Congress.

CONGRESS OF THE UNITED STATES,
Washington, D.C., September 15, 1978.

Hon CARL D. PERKINS,
U.S. House of Representatives, Washington, D.C.

DEAR REPRESENTATIVE PERKINS: As a conferee on H.R. 15, amendments to the Elementary and Secondary Education Act, you will have an opportunity to help thousands of new citizens make greater contributions to America in the years that lie ahead.

Federal assistance to help educate Southeast Asian refugee students under P.L. 94–405, is fast running out. The Senate has amended ESEA to give this program new life for the next five years. It would be a terrible blow if the House did not concede on this point to the Senate conferees.

It would be a blow to students who have been participating in programs under P.L. 94–405, but who are not yet "up to speed." It would be a blow to newly arriving refugees who will not have had the opportunity to ever participate in these programs. It will hit hard at our local school districts which will be trying to help these students without federal assistance, despite the fact that it was federal policy to admit these refugees into the country. And finally, it will leave us all wondering what achievements many of these youngsters would one day accomplish if only the federal government had provided this assistance.

Like all children, the talents and aptitudes of these refugees are wideranging; some are brilliant, some appear hopelessly backward

from years of educational and social deprivation. Some will undoubtedly make it in America without this assistance. Others will survive in American society only with federal assistance in the future, such as welfare and food stamps. Our dollars will be better spent educating these children now, than feeding their children tomorrow.

I urge you to support the five-year continuation of these important programs.

Sincerely,

GLENN M. ANDERSON,
Member of Congress.●

Mr. FISH. Mr. Speaker, I have no further requests for time. I yield back the balance of my time.

Ms. HOLTZMAN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Ms. HOLTZMAN) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 12509.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. HOLTZMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment to the bill H.R. 12509, just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

PSYCHOTROPIC SUBSTANCES ACT OF 1978

Mr. ROGERS. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the House amendment to the Senate bill (S. 2399) to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes; as amended.

The clerk read the Senate amendments to the House amendment as follows:

Page 1, after line 3, of the House engrossed amendment, insert:

"TITLE I—ENABLING PROVISIONS FOR THE CONVENTION ON PSYCHOTROPIC SUBSTANCES".

Page 1, line 4, of the House engrossed amendment, strike out "2." and insert "101.".

Page 3, line 9, of the House engrossed amendment, strike out "3." and insert "102.".

Page 11, line 17, of the House engrossed amendment, strike out "4." and insert "103.".

Page 11, line 23, of the House engrossed amendment, strike out "5." and insert "104.".

Page 12, line 17, of the House engrossed amendment, strike out "6." and insert "105.".

Page 13, line 1, of the House engrossed amendment, strike out "7." and insert "106.".

Page 13, line 18, of the House engrossed amendment, strike out "8." and insert "107.".

Page 14, line 9, of the House engrossed amendment, strike out "9." and insert "108.".

Page 15, line 8, of the House engrossed amendment, strike out "10." and insert "109.".

Page 15, line 16, of the House engrossed amendment, strike out "11." and insert "110.".

Page 15, line 22, of the House engrossed amendment, strike out "12." and insert "111.".

Page 16, line 4, of the House engrossed amendment, strike out "13." and insert "112.".

Page 16, line 4, strike out "Act" and insert "title".

Page 16, line 5, strike out "Act" and insert "title".

Page 16, after line 7, of the House engrossed amendment, insert:

TITLE II—PCP CRIMINAL PENALTIES AND PIPERIDINE REPORTING

SEC. 201. Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended—

(1) by inserting ", except as provided in paragraphs (4) and (5) of this subsection," after "such person shall" in the first sentence of subsection (b)(1)(B);

(2) by adding after paragraph (4) of subsection (b) the following new paragraph:

"(5) Notwithstanding paragraph (1)(B) of this subsection, any person who violates subsection (a) of this section by manufacturing, distributing, dispensing, or possessing with intent to manufacture, distribute, or dispense, except as authorized by this title, phencyclidine (as defined in section 310(c)(2)) shall be sentenced to a term of imprisonment of not more than 10 years, a fine of not more than $25,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under paragraph (1) or this paragraph, or for a felony under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or pressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine of not more than $50,000, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment."; and

(3) by adding after subsection (c) the following new subsection:

"(d) Any person who knowingly or intentionally—

"(1) possesses any piperidine with intent to manufacture phencyclidine except as authorized by this title, or

"(2) possess any piperidine knowing, or having reasonable cause to believe, that the piperidine will be used to manufacture phencyclidine except as authorized by this title,

shall be sentenced to a term of imprisonment of not more than 5 years, a fine of not more than $15,000, or both.".

SEC. 202. (a) Part C of the Controlled Substances Act is amended (1) by inserting "; PIPERIDINE REPORTING" at the end of its heading, and (2) by adding after section 309 (21 U.S.C. 829) the following new section:

"PIPERIDINE REPORTING

"SEC. 310. (a)(1) Except as provided under paragraph (3), any person who distributes, sells, or imports any piperidine shall report to the Attorney General such information, in such form and manner, and within such time period or periods (of not less than 7 days), concerning the distribution, sale, or importation as the Attorney General may require by regulation, and the person shall preserve a copy of each such report for 2 years. The Attorney General may include in the information required to be reported the following:

"(A) The quantity, form, and manner in which, and date on which, the piperidine was distributed, sold, or imported.

"(B)(i) In the case of the distribution or sale of piperidine to an individual, the name, address, and age of the individual and the type of identification presented to confirm the identity of the individual.

"(ii) In the case of the distribution or sale of piperidine to an entity other than an individual, the name and address of the entity and the name, address, and title of the individual ordering or receiving the piperidine and the type of identification presented to confirm the identity of the individual and of the entity.

"(2) Except as provided under paragraph (3), no person may distribute or sell piperidine unless the recipient or purchaser presents to the distributor or seller identification of such type, to confirm the identity of the recipient or purchaser (and any entity which the recipient or purchaser represents), as the Attorney General establishes by regulation.

"(3) Under such conditions and to such extent as the Attorney General establishes, paragraphs (1) and (2) shall not apply to—

"(A) the distribution of piperidine between agents or employees within a single facility (as defined by the Attorney General), if such agents or employees are acting in the lawful and usual course of their business or employment;

"(B) the delivery of piperidine to or by a common or contract carrier for carriage in the lawful and usual course of its business, or to or by a warehouseman for storage in the lawful, and usual course of its business; but where such carriage or storage is in connection with the distribution, sale, or importation of the piperidine to a third person, this subparagraph shall not relieve the distributor, seller, or importer from compliance with paragraph (1) or (2); or

"(C) any distribution, sale, or importation of piperidine with respect to which the Attorney General determines that the report required by paragraph (1) or the presentation of identification required by paragraph (2) is not necessary for the enforcement of this title.

"(b) Any information which is reported to or otherwise obtained by the Department of Justice under this section and which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) thereof shall be considered confidential and shall not be disclosed, except that such information may be disclosed to officers or employees of the United States concerned with carrying out this title or title III or when relevant in any proceeding for the enforcement of this title or title III.

"(c) For purposes of this section, section 401(d), and section 402(a)(9):

"(1) The term 'import' has the meaning given such term in section 1001(a)(1).

"(2) The term 'phencyclidine' means 1-(1-phenylcyclohexyl) piperidine, its salts, or any immediate precursor, homolog, analog, or derivative (or salt thereof) of 1-(1-phenylcyclohexyl) piperidine that is included in schedule I or II of part B of this title.

"(3) The term 'piperidine' includes its salts and acyl derivatives.".

(b)(1) Section 402(a) of such Act (21 U.S.C. 842 (a)) is amended—

(A) by striking out "or" at the end of paragraph (7);

(B) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(C) by adding after paragraph (8) the following new paragraph:

"(9) to distribute or sell piperidine in violation of regulations established under

section 310(a)(2), respecting presentation of identification.".

(2) Section 402(c)(2) of such Act (21 U.S.C. 842(c)(2)) is amended by adding after subparagraph (B) the following new subparagraph:

"(C) Subparagraphs (A) and (B) shall not apply to a violation of subsection (a)(5) with respect to a refusal or failure to make a report required under section 310(a) (relating to piperidine reporting).".

(3) Section 403(a)(4) of such Act (21 U.S.C. 843(a)(4) is amended—

(A) by inserting "(A)" after "(4)", and lowing: ", or (B) to present false or fraudulent identification where the person is receiving or purchasing piperidine and the person is required to present identification under section 310(a)".

(c) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended—

(1) by inserting "; PIPERIDINE REPORTING" at the end of the item relating to part C, and

(2) by adding immediately after the item relating to section 309 the following new item:

"Sec. 310. Piperidine reporting.".

SEC. 203. (a)(1) Except as provided under paragraph (2), the amendments made by this title shall take effect on the date of the enactment of this Act.

(2) Any person required to submit a report under section 310(a)(1) of the Controlled Substances Act respecting a distribution, sale, or importation of piperidine during the 90 days after the date of the enactment of this Act may submit such report any time up to 97 days after such date of enactment.

(3) Until otherwise provided by the Attorney General by regulation, the information required to be reported by a person under section 310(a)(1) of the Controlled Substances Act (as added by section 202(a)(2) of this title) with respect to the person's distribution, sale, or importation of piperidine shall—

(A) be the information described in subparagraphs (A) and (B) of such section, and

(B) except as provided in paragraph (2) of this subsection, be reported not later than 7 days after the date of such distribution, sale, or importation.

(b) The Attorney General shall—

(1) first publish proposed interim regulations to carry out the requirements of section 310(a) of the Controlled Substances Act (as added by section 202(a)(2) of this title) not later than 30 days after the date of the enactment of this Act, and

(2) first promulgate final interim regulations to carry out such requirements not later than 75 days after the date of the enactment of this Act, such final interim regulations to be effective with respect to distributions, sales, and importations of piperidine on and after the ninety-first day after the date of the enactment of this Act.

(c) The Attorney General, after consultation with the Secretary of Health, Education, and Welfare, shall analyze and evaluate the impact and effectiveness of the amendments made by this title, including the impact on the illicit manufacture and use of phencyclidine and the impact of the requirements imposed by such amendments on legitimate distributions and uses of piperidine. Not later than March 1, 1980, the Attorney General shall report to the President and the Congress on such analysis and evaluation and shall include in such report such recommendations as the Attorney General deems appropriate.

(d) On January 1, 1981, section 310, subsection (d) of section 401, paragraph (9) of section 402(a), subparagraph (C) of section 402(c)(2), and clause (B) of section 403(a)(4) of the Controlled Substances Act (as added by this title) are repealed.

TITLE III—FORFEITURE OF PROCEEDS OF ILLEGAL DRUG TRANSACTIONS

SEC. 301. (a) Section 511 of the Comprehensive Drug Abuse Prevention and Control Act (21 U.S.C. 881) is amended—

(1) by adding at the end of subsection (a) the following new paragraph:

"(6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this title, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this tile, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.";

(2) in subsection (e)(2) by striking out ", but the proceeds" and all that follows through "court costs"; and

(3) by adding at the end of subsection (e) the following new sentence: "The proceeds from any sale under paragraph (2) and any moneys forfeited under this title shall be used to pay all proper expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs. The Attorney General shall forward to the Treasury of the United States for deposit in the general fund of the United States Treasury any amounts of such moneys and proceeds remaining after payment of such expenses.".

(b) The second sentence of section 1015 of such Act (21 U.S.C. 965) is amended by inserting "or 511" after "510" each place it appears.

The SPEAKER pro tempore. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. ROGERS) will be recognized for 20 minutes and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Speaker, I am pleased to present to the House for consideration the Senate amendment to the House amendment to S. 2399, the Psychotropic Substance Act of 1978 and urge all Members to join me in concurring in the Senate amendment. This amendment has been cleared on both sides of the aisle.

Mr. Speaker, on September 18 of this year, the House passed H.R. 12008, the Psychotropic Substance Act of 1978 by voice vote under suspension of the rules. As you know, that legislation amends the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to prescribe administrative procedures for the United States to meet its obligations under the 1971 Convention on Psychotropic Substances upon its ratification of that international agreement. The convention is an international agreement aimed at halting the illicit distribution and abuse of mind-altering substances including LSD, PCP, and other hallucinogens and tranquilizers. The United States is currently not a party to the convention although 49 other countries have ratified it or acceded to it.

Earlier this year the Senate passed S. 2399, comparable legislation to H.R. 12008 as passed by the House. In addition to the provisions of title I of the Senate-passed bill which are intended to implement the Convention on Psychotropic Substances, the Senate bill contains two additional titles not included in the House-passed bill. Title II of the Senate bill increases the penalties for violations of the controlled substances laws respecting the abusable drug, PCP and requires reporting of sales and distributions of piperidine, a chemical used in the manufacture of PCP. Title III of the Senate bill authorizes the seizure and forfeiture of moneys, negotiable instruments, securities, and other things of value furnished in exchange for illicit drugs as well as the seizure and forfeiture of proceeds of such drug transactions.

During the past 3 weeks, I, joined by other members of the Interstate and Foreign Commerce Committee and the Select Committee on Narcotics Abuse and Control, have been consulting with Members of the Senate responsible for these additional provisions in the Senate bill. We agreed with the general intent of these provisions but differed in some respects with the manner in which this intent was to be carried out. We have resolved those differences in language which is embodied in a Senate amendment which passed the Senate on October 7 after the Senate agreed to the language of the House amendment for the implementation of the Convention on Psychotropic Substances.

Title II of the Senate amendment which is now before the House differs from the comparable provision in the original Senate-passed bill in several respects. First, the amendment is designed to provide the Attorney General with greater flexibility in administering its piperidine transaction reporting requirements. He may exempt piperidine transactions from all or part of its reporting requirements and he may prescribe different reporting frequencies for different types of piperidine sale and distributions as he deems appropriate for the administration and enforcement of its provisions.

Second, the Senate amendment revises the provisions of the Senate-passed bill, which prohibits certain transfers of piperidine, to more specifically delineate the prohibited conduct involving the possession of piperidine in relationship to its illicit use in the manufacture of PCP, distinguished from its possession for legitimate purposes. Specially, the Senate

amendment prohibits the knowing or intentional possession of piperidine by a person with the intent to unlawfully manufacture PCP or having reasonable cause to believe that piperidine will be used to unlawfully manufacture PCP.

Third, it revises the procedural provisions of the Senate-passed version to assure that trade secrets and confidential business information are protected in accordance with the exemptions from disclosure of such information under the Freedom of Information Act. It also revises the procedures for providing that the piperidine reporting requirements are self-executing upon the date of enactment and for assuring that interim and final regulations are promulgated within a specific time period and in accordance with administrative procedures guaranteeing an opportunity for interested parties to have input in the early stages of the rulemaking process.

The Senate amendment revises the 3-year sunset provisions in the Senate-passed bill to a 2-year sunset of its provisions pertaining to piperidine reporting and related sanctions respecting the illicit possession of piperidine and the failure to file or improper filing of reports of piperidine transactions.

Finally, it requires the Attorney General's report to the President and Congress on the effectiveness of the piperidine reporting requirements to be prepared after consultation with the Secretary of Health, Education, and Welfare. It requires the report to include an assessment of the impact of the reporting requirements on the illicit use of PCP in addition to the provision of the Senate-passed bill which requires an assessment of the impact of those requirements on the illicit manufacture of PCP. The report is also required to assess the impact of the reporting requirements on legitimate distributions and uses of piperidine.

Mr. Speaker, I wholeheartedly support the revised version of title II of the Senate amendment which is intended to help stem the rapid increase in the abuse of PCP. Testimony at several hearings held by the House Select Committee on Narcotics Abuse and Control, the Senate Judiciary Committee's Subcommittee on Juvenile Delinquency, and our Subcommittee on Health and the Environment have established that the abuse of PCP is a serious and growing problem in the United States, especially among the youth. The National Institute on Drug Abuse, NIDA, estimated that approximately 7 million young people have used PCP during the past 5 years. A study of PCP use supported by NIDA and based on a 1976–77 survey of 2,750 youthful drug abuse clients representing 97 drug abuse treatment programs, reported that over 31 percent of the subjects reported current or past use of this drug. The data of this study suggested that PCP users tend to be multiple substance users who, on the average, take twice as many different substances as other youthful drug users, that half of the PCP users reported using the drug one or more times weekly over the course of a 3-month period, and that PCP users were more likely than non-PCP users to report difficulties involving toxic reactions, self destructive acts, and prior treatment episodes.

In addition, recent data collected by NIDA and the Drug Enforcement Administration, DEA, indicates a dramatic increase in PCP use. Emergency room reports of the drug abuse warning network, DAWN, system show a major increase in injuries or problems relating to the use of PCP alone, or in combination with other drugs, during the last 2 years. These PCP reports increased from 795 in 1975 to 3,069 in 1977. Although the Drug Enforcement Administration is currently reviewing the 1975 reports of PCP use, because it believes they may have been understated, NIDA officials still estimate the increase in PCP use at 100 percent during the last 2 years and indicate that this trend shows no signs of diminishing. Between 1975 and 1977 deaths from PCP have increased about 60 percent—from 22 in 1975 to 36 in 1977. Of all deaths in 1975 from hallucinogens, 76 percent involved the use of PCP. In 1977, 97 percent of all such deaths involved the use of PCP. Although the number of deaths from PCP does not currently comprise a substantial portion of total drug-related deaths in the United States, there is still reason for serious concern, because unlike most other frequently abused substances, its use can cause death.

Mr. Speaker, I am optimistic that the increased penalties and reporting requirements embodied by the Senate amendment will be effective in reducing the illicit manufacture and use of PCP. The study on the effectiveness of these requirements and the 2-year sunset provisions on these requirements will assure appropriate and timely administrative and legislative review of their effectiveness before the end of the next Congress. I sincerely hope they help curb or significantly reduce the abuse of this extremely dangerous and unpredictable drug.

Title III of the Senate amendment which is now before the House also differs from the original Senate-passed version in several respects.

First, it provides for the seizure and forfeiture of moneys, negotiable instruments and securities if they are used or intended to be used to facilitate any violation of controlled substances laws not just those violations involving an illegal exchange of controlled substances. It also makes minor clarifying changes in the provisions of the Senate-passed bill respecting the seizure and forfeiture of moneys and property furnished or intended to be furnished in exchange for illicit controlled substances and of the proceeds traceable to such exchanges.

Second, it expands the rights of innocent parties who own or have an interest recognized by the law in the seized property, to assert their claim in court to the extent of their interest in that property by establishing that the illicit use of the property was without their knowledge or consent.

Finally, it provides that moneys forfeited or derived from the sale of forfeited property shall be used to pay all proper expenses of the Government involved in proceedings for forfeiture and sale of this property in accordance with and in same manner as moneys derived from the sale of forfeited vessels, aircraft, and vehicles used in transporting illegal drugs, are now disposed under existing law. The Senate amendment further provides that amounts of such moneys and proceeds remaining after payment of these expenses must be forwarded for deposit in the general fund of the U.S. Treasury.

The purpose of title III of the Senate amendment is to provide Federal drug law enforcement officials with the ability to strike at the profits of illicit trafficking abusable controlled substances. The Drug Enforcement Administration estimates that the value of the illicit drugs sold in the United States each year ranges between $18 to $20 billion. Under current law, however, money or property bartered in exchange for illicit drugs or used to facilitate drug law violations must be returned to the individuals arrested and convicted of these violations. Existing law, however, provides for the seizure and forfeiture of illicit drugs and raw materials and equipment used to manufacture or deliver illicit drugs, vessels, aircraft, and vehicles used to facilitate the transportation, sale, receipt, possession, or concealment of such illicit drugs, and certain written or graphic materials used in violation of the controlled substance laws. It is, therefore, appropriate to extend the seizure and forfeiture laws to include monetary and other property forms used in illegal drug transactions.

Mr. Speaker, I want to take this opportunity to thank the Chairman of the full Committee, Mr. STAGGERS, for his support of this legislation aimed at curbing drug trafficking. I particularly want to thank the distinguished ranking minority member of the subcommittee, Dr. Carter, for his leadership and efforts in bringing the legislation to the floor of the House and all the other members of the Subcommittee on Health and the Environment—Mr. SATTERFIELD, Mr. PREYER, Mr. SCHEUER, Mr. FLORIO, Mr. MAGUIRE, Mr. MARKEY, Mr. WALGREN, Mr. BROYHILL, Mr. MADIGAN, and Mr. SKUBITZ—for their work on the legislation. I want to give special thanks to Chairman WOLFF, Mr. GILMAN, and the other members of the Select Committee on Narcotics Abuse and Control who have assisted our committee by holding hearings on PCP abuse and by helping in the formulation of this legislation. Finally, I want to thank and commend Senators CULVER, BENTSEN, NUNN, BAYH, MATHIAS, WALLOP, and many other Members of the Senate for their leadership and cooperation in formulating this amendment.

I believe passage of the Senate amendment and ratification of the Convention on Psychotropic Substances by the United States is vital to our efforts aimed at controlling the trafficking and abuse of dangerous drugs at home and abroad. The President has requested us to enact titles I and III of this legislation in his message to Congress on drug abuse and his White House Domestic Council and Office of Management and Budget Advisors, Secretary Califano, Attorney

General Bell, and Secretary Vance unanimously support all the provisions of the Senate amendment. I want to thank the heads and staff members of the following offices and agencies for their assistance on this legislation: The Office of Drug Abuse Policy and Domestic Policy Staff of the White House, the Drug Enforcement Administration of the Justice Department, the National Institute on Drug Abuse and the Food and Drug Administration of the Department of Health, Education, and Welfare and the Office of International Narcotic Control Matters of the State Department.

In conclusion, Mr. Speaker, I urge all Members of the House to join me in support of and concurrance with the Senate amendment which will provide the United States with strong new domestic and international controls over the illicit trafficking and abuse of drugs.

Mr. Speaker, I include the joint House-Senate explanation of the Senate amendment be printed at this point in the RECORD:

JOINT HOUSE-SENATE EXPLANATION OF SENATE AMENDMENT

TITLE II—PCP CRIMINAL PENALTIES AND PIPERIDINE REPORTING

Section 201 of the Senate amendment amends section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) to increase the penalties for unlawfully manufacturing, distributing, or dispensing phencyclidine (PCP) and the penalties for possessing phencyclidine with the intent to unlawfully manufacture, distribute or dispense it. Specifically, it increases the current maximum penalty of five years imprisonment and/or a $15,000 fine to a maximum penalty of ten years imprisonment and/or a fine of $25,000. Similarly, it increases the current penalty for any person who has previously been convicted of a felony offense under Federal drug laws from a maximum of ten years imprisonment and/or a $30,000 fine to a maximum of twenty years imprisonment and/or a $50,000 fine.

The increases in the penalties for offenses involving the unlawful distribution of PCP are intended to respond to the alarming increase in the illicit availability and abuse of this harmful substance. Although legislating penalties on a substance-by-substance basis presents some practical difficulties particularly as once-popular abusable drugs become obsolete as the drug of choice of abusers and new "fad drugs" appear on the scene, penalties for illicit distribution of PCP warrant special attention because it can be extremely harmful to humans and because it can be easily manufactured. It is recognized that ultimately the penalties for offenses involving the illicit distribution of all non-narcotic drugs in Schedules I and II of the Controlled Substances Act should be increased to make them comparable to those for narcotic drugs in Schedules I and II of the Act. It is well recognized that some psychotropic drugs can be as harmful and as subject to abuse as narcotic drugs.

Section 201 also imposes a special parole term of at least two years on any person sentenced to a term of imprisonment under section 401(b) of the Act for unlawfully manufacturing, distributing, dispensing or possessing phencyclidine. In the case of any person who has previously been convicted of a felony offense under Federal drug laws, it increases the special parole term to a minimum of four years.

For the purpose of section 401(b) of the Controlled Substances Act the term "phencyclidine" includes any salt, immediate precursor, homolog, analog or derivative (or salt thereof) of phencyclidine that is included by legislation or regulation in Schedule I or II of the Act.

Section 201 of the Senate amendment provides that it is unlawful for any person to knowingly or intentionally (1) possess piperidine (a chemical used in making phencyclidine) with intent to unlawfully manufacture phencyclidine or (2) possess piperidine, knowing or having reasonable cause to believe that the piperidine will be used to unlawfully manufacture phencyclidine. It provides a penalty for these violations of a term of imprisonment of up to five years and/or a fine of up to $15,000.

Section 202 of the Senate amendment adds a new section 310 to the Controlled Substances Act. This new section establishes the requirement that anyone who distributes, sells or imports piperidine (a chemical used in making phencyclidine) must report such transactions to the Attorney General. It should be emphasized, however, that this new section is solely intended to establish a reporting system for piperidine transactions. It is not intended as a new regulatory system or as an expansion of the Controlled Substances Act to cover precursor substances beyond those now covered. It is rather intended to be implemented as a pilot program to study and determine whether it can be effective in reducing the illicit manufacture, distribution, and use of PCP.

Specifically, proposed new subsection 310(a)(1) of the Act requires any person who distributes, sells or imports piperidine to report information respecting these transactions to the Attorney General in such form and manner as the Attorney General may require. It specifies that this information may include

—the quantity, form, date, and manner in which the piperidine was distributed, sold, or imported; and

—the name, address, age, title and identification presented by the individuals and/or entities involved in the transactions.

It is the intent of these provisions to reach only that information that is necessary to prevent the illicit diversion of piperidine and to enforce other provisions of the Act. Since this information will vary greatly depending on the transaction, the Attorney General is authorized to add or subtract from this list.

Proposed new subsection 310(a)(1) of the Act also permits the Attorney General to vary the time period or periods in which these transactions are required to be reported. Thus, the Attorney General may set one time period for reporting transactions that are not likely to result in illicit diversion and a shorter time period for other transactions. In no event, however, is the Attorney General authorized to require reports under subsection 310(a)(1) to be submitted within a period of less than seven days. Of course, the parties to these transactions may voluntarily file their reports in less than seven days, and in fact they are encouraged to do so.

Proposed new subsection 310(a)(2) of the Act prohibits any person from distributing or selling piperidine to another unless the recipient or purchaser presents to the distributor or seller such identification as the Attorney General may require. Once again, the Attorney General is authorized to require different types of identification for different transactions depending upon the parties and entities involved, the form of the transaction, and the likelihood of any illicit diversion of piperidine.

Since this legislation is not intended to place any undue burden on legitimate uses of piperidine, proposed new subsection 310(a)(3) of the Act requires the Attorney General to exempt certain transactions in piperdine from all or part of the reporting requirements in subsection 310(a)(1) and the identification requirements in subsection 310(a)(2). Specifically, it requires the Attorney General to exempt, under such conditions and to such extent as he may require—

(1) transactions in piperidine which he determines do not need to be reported for the enforcement of section 310.

(2) distributions of piperidine between agents or employees within a single facility if the agents or employees are acting in the lawful and usual course of their business or employment; and

(3) deliveries of piperidine to or by common or contract carriers or warehousemen in the lawful and usual course of their business or employment.

Proposed new subsection 310(b) of the Act places certain restrictions on the disclosure of information that is reported to or otherwise obtained by the Department of Justice under that section to assure its confidentiality. Specifically, the new subsection provides that any trade secrets or confidential commercial or financial information that is exempt from disclosure under 5 U.S.C. 552(a)(b)(4) shall be considered confidential and shall not be disclosed. The only exceptions to this rule are disclosure of this information—

(1) to officers and employees of the United States concerned with carrying out the Controlled Substances Act and the Controlled Substances Import and Export Act; and

(2) when relevant in any enforcement proceedings under the Controlled Substances Act or the Controlled Substances Import and Export Act.

Under section 1905 of Title 18 of the United States Code any disclosure of trade secrets or certain confidential commercial or financial data by an officer or employee of the United States that is not authorized by law is punishable by a maximum fine of $1,000 and/or a maximum term of imprisonment of one year and loss of his office and employment.

In implementing this section it should be remembered that there are relatively few manufacturers, distributors and users of piperidine in the United States. Therefore the Attorney General is instructed to take particular care not to reveal proprietary commercial information which individually or cumulatively, would cause substantial harm to the competitive position of such parties. Such proprietary information would include inter alia, customer lists, price lists, and respective market shares.

Proposed new subsection 310(c) of the Act defines several terms. First, it defines "piperidine" to include any salts or acyl derivatives of piperidine. It also defines "phencyclidine" to include any salts, immediate precursors, homologs, analogs, or derivatives (or salts thereof) of phencyclidine that are included (by legislation or regulation) in Schedule I or II of the Controlled Substances Act.

Subsection 202(b)(1) of the Senate amendment amends section 402 of the Controlled Substances Act (21 U.S.C. 842) to provide penalties for violations of reporting and identification requirements in proposed new section 310(a) of the Act. Specifically it provides that anyone who distributes, sells or imports piperidine in violation of section 310(a) is subject to a maximum civil penalty of $25,000.

Subsection 202(b)(2) of the Senate amendment amends section 403 to provide criminal penalties for the knowing and intentional presentation of false or fraudulent identification by any person receiving or purchasing piperidine. It provides a penalty for such violations of a maximum term of imprisonment of four years and/or a maximum fine of $30,000. It should also be noted that the existing language in section 403(a)(4) would apply similar penalties to anyone who knowingly and intentionally furnished false or fraudulent material information in/or omits such information from, any applica-

tion, report, record, or sales document required to be made, kept, or filed under proposed section 310.

Section 203 of the Senate amendment establishes a mechanism for implementing the piperidine reporting requirements prior to the promulgation of final regulations by the Attorney General. Specifically section 203(a)(1) provides that the amendments made by Title II of the Senate amendment shall take effect on the date of enactment. Under the provisions of section 203(a)(2), however, anyone required to submit a report on a piperidine transaction during the first 90 days after enactment is not required to submit these reports until 97 days after enactment. Of course, these transactions could be reported at an earlier date on a voluntary basis. Under subsection 203(a)(3), all reports are required to contain the quantity, form, date and manner in which the piperidine was distributed, sold, or exported and the type of identification used to confirm the identity of any person and entities that purchase or receive the piperidine.

In order to assure that the Attorney General has promulgated regulations to govern transactions in piperidine at the end of this ninety day period, subsection 203(b) of the Senate amendment requires him to promulgate proposed interim regulations not later than 30 days after the date of enactment. After a suitable comment period, it requires him to promulgate final interim regulations not later than 75 days after the date of enactment, and provides that these final interim regulations shall take effect on the ninety-first day after enactment.

It is intended that the Attorney General will proceed to promulgate final regulations to govern transactions in piperidine in accordance with all of the requirements of the Administrative Procedures Act and applicable Executive Orders. Whenever these final regulations take effect, they should supercede the final interim regulations promulgated under subsection 203(b)(2).

Subsection 203(c) of the Senate amendment requires the Attorney General, after consulting with the Secretary of Health, Education and Welfare, to analyze and evaluate the impact and the effectiveness of the amendments made by Title II of the Senate amendment. This analysis and evaluation specifically includes the impact of the reporting requirements on the illicit manufacture and use of phencyclidine and on legitimate use of piperidine. It requires the Attorney General, not later than March 1, 1980, to submit a report to the President and the Congress containing this analysis and evaluation and any recommendations he deems appropriate.

Subsection 203(d) of the Senate amendment contains a two-year "sunset" provision which provides that all of Title II except for the provisions respecting increased criminal penalties for the illicit manufacture, distribution, dispensing or possession of phencyclidine, shall be repealed on January 1, 1981, unless Congress enacts legislation to continue such provisions before that date. This provision reflects the view that Title II of the Senate amendment is intended to be implemented as a pilot program to study and determine whether the reporting of chemical precursors of a controlled substance can be effective in reducing the illicit manufacture, distribution and use of that controlled substance.

TITLE III—FORFEITURE OF PROCEEDS OF ILLEGAL DRUG TRANSACTIONS

Section 301 of the Senate amendment amends section 511 of the Controlled Substances Act (21 U.S.C. 1881), which currently provides for the forfeiture of certain types of property if such property is used, or intended for use, in the manufacture or distribution of illegal drugs or used or intended to be used to facilitate certain violations of the Act. The types of property covered under the current law includes illicit abusable drugs, raw materials and equipment used in manufacturing such drugs, property used to contain or conceal such drugs, vehicles used to facilitate the transportation of such drugs, and any records, books, or formulas used in violation of Federal illicit drug laws.

The Senate amendment expands section 511 of the Act to provide for the forfeiture of the following additional types of property:

(1) All monies, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for illicit controlled substances,

(2) All proceeds traceable to such an exchange for illicit controlled substances, and

(3) All monies, negotiable instruments, and securities used or intended to be used to facilitate any controlled substance law violations.

Due to the penal nature of forfeiture statutes, it is the intent of these provisions that property would be forfeited only if there is a substantial connection between the property and the underlying criminal activity which the statute seeks to prevent. Specifically, the Senate amendment provides for the forfeiture of property exchange or intended to be exchanged in an illegal drug transaction. In addition it provides for forfeiture of property which is the proceeds of an illegal drug transaction only if there is a traceable connection between such property and the illegal exchange of controlled substances. Thus if such proceeds were, for example, comingled with other assets, involved in intervening legitimate transactions, or otherwise changed in form; they would still be subject to forfeiture, but only to the extent that it could be shown that a traceable connection to an illegal transaction in controlled substances existed. Similarly, any moneys, negotiable instruments, or securities that were used or intended to be used to facilitate any violation of the Controlled Substances Act would be forfeitable only if they had some substantial connection to, or were instrumental in, the commission of the underlying criminal activity which the statute seeks to prevent.

Finally it should be pointed out that no property would be forfeited under the Senate amendment to the extent of the interest of any innocent owner of such property. The term "owner" should be broadly interpreted to include any person with a recognizable legal or equitable interest in the property seized. Specifically the property would not be subject to forfeiture unless the owner of such property knew or consented to the fact that:

1. the property was furnished or intended to be furnished in exchange for a controlled substance in violation of law,

2. the property was proceeds traceable to such an illegal exchange, or

3. the property was used or intended to be used to facilitate any violation of Federal illicit drug laws.

The Senate amendment also provides that any monies forfeited under the Controlled Substances laws and the proceeds from any sale of property forfeited under these laws shall be used to pay all proper expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs in the same manner as currently required for proceeds from the sale of other forfeited property under section 511 of the Act. Any amounts of such monies or proceeds remaining after the payment of such expenses are required to be forwarded to the Treasurer of the United States for deposit in the general fund of the United States Treasury.

Subsection 301(b) of the Senate amendment amends section 1015 of the Controlled Substance Import and Export Act (21 U.S.C. 905) to provide further clarification that section 511 of the Controlled Substances Act is applicable to forfeitures for violations of the Controlled Substances Import and Export Act.

Mr. STAGGERS. Mr. Speaker, I am pleased to move that the House concur in the Senate amendment to the House amendment to S. 2399, the Psychotropic Substance Act of 1978 and urge all Members to join me in supporting it.

Mr. Speaker, earlier this year, the House passed H.R. 12008, the Psychotropic Substance Act of 1978 by voice vote under suspension of the rules. That legislation amends Federal drug control laws to prescribe administrative procedures for the United States to meet the requirements of the International Convention on Psychotropic Substances. The convention is a treaty aimed at halting the illicit distribution and abuse of dangerous mind-altering drugs such as LSD and PCP. Our Nation, is currently not a party to that treaty although 49 other countries have ratified it. The United States is, however, a party to several treaties for the control of narcotics drugs.

Earlier this year the Senate passed similar legislation to the psychotropic substances bill which passed the House. The Senate bill also contained two additional titles not included in the House-passed bill. Title II of the Senate bill increases the penalties for violations of drug laws involving the illegal possession and distribution of PCP. It also requires the reporting of transactions involving a chemical used in the manufacture of PCP. Title III of the Senate bill provides for the seizure and forfeiture of moneys, securities, and other things of value furnished in exchange for illicit drugs.

During the past 3 weeks, the members of our committee have consulted with Members of the Senate who worked on the Senate bill. We agreed with the general intent of their provisions except for some revisions. Those revisions are included in the Senate amendment now before the House. The Senate agreed to the language of the psychotropic substances legislation which was reported by our committee.

Mr. Speaker, title II of the Senate amendment is intended to help stem the rapid increase in the abuse of PCP. Testimony at hearings held by our committee established that the abuse of PCP is a serious problem among the youth of our Nation. The National Institute on Drug Abuse estimated that approximately 7 million young people have used PCP during the past 5 years. In addition, recent data collected by the Drug Enforcement Administration from emergency rooms across the country indicate a dramatic increase in PCP related injuries. Drug treatment officials estimate the increase in PCP use at 100 percent during the last 2 years and indicate that this trend shows no signs of diminishing.

In addition, deaths from PCP have increased about 60 percent between 1975 and 1977. These figures are cause for serious concern because the use of PCP can cause injury and death.

Mr. Speaker, I believe the Senate amendment will help curb the illegal manufacture and abuse of this dangerous drugs and urge Members to support it.

In addition, the Senate amendment will enable the Drug Enforcement Administration to strike at the profits of illicit drug trafficking. The Drug Enforcement Administration estimates that the value of the illicit drugs sold in the United States each year ranges between $18 to $20 billion. Currently, the DEA cannot seize moneys used in illegal drug transactions or seize the proceeds of those transactions.

I believe passage of the Senate amendment and ratification of the convention on psychotropic substances by our Nation is vital to our efforts aimed at controlling the trafficking and abuse of dangerous drugs at home and abroad. The President and the Federal agencies all support this legislation as do minority leaders of the committee.

Therefore, Mr. Speaker, I urge the House to concur in this Senate amendment aimed at the illicit trafficking and abuse of drugs.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the other body has amended the House amendment to the Psychotropic Substances Act of 1978 with three provisions which I believe are worthy of our support.

First, the Senate has proposed new penalties for trafficking in phencylidine, called PCP for "angel dust." Specifically, the current maximum penalty of 5 years imprisonment and/or a $15,000 fine is increased to a maximum penalty of 10 years imprisonment and/or a $25,000 fine for trafficking, or possession with intent to traffic.

The Senate has also proposed to impose reporting requirements on businesses which distribute, sell, or import piperidine—the major chemical used in formulating PCP. The provision gives the Attorney General the power to waive the reporting requirements so that legitimate businesses will not have unnecessary reports required of them.

Finally, the Senate amendment expands section 511 of the Controlled Substances Act to require the forfeiture of all moneys or other things of value which are substantially connected to a criminal violation of our drug control laws. In other words, Mr. Speaker, the Senate amendment simply requires the drug pusher to give up his ill-gotten gains.

I strongly believe that the House should support these beneficial additions to the Controlled Substances Act. Let me point out to my colleagues that the use of PCP in this country in recent years has been truly alarming. In fact, some drug abuse experts term PCP our No. 1 drug abuse problem. An estimated 7 million individuals between the ages of 12 and 25 have reportedly used PCP a drug which can cause unpredictable behavior, irrational, and violent actions, delusions of grandeur and persecution, distorted perceptions, and catatonic rigidity. This drug can even cause death.

Moreover, this drug is extremely easy to manufacture, and is often produced in basement laboratories for very little money. Mr. Speaker, the problems we face in controlling the abuse of this dangerous drug are serious, and that is why I would urge my colleagues to support this Senate amendment.

● Mr. GILMAN. Mr. Speaker, I rise in support of S. 2399, the Psychotropic Substances Act of 1978 whose fourfold purpose: First, would conform U.S. law to administratively implement the 1971 Convention on Psychotropic Substances which this Nation has signed but has not ratified; second, would increase the maximum penalties under the Comprehensive Drug Abuse Prevention and Control Act of 1970 for the unlawful manufacture, distribution, or dispensing of phencyclidine, commonly known as PCP or "angel dust," from 5 years and/or a $15,000 fine to 10 years and/or a $25,000 fine; third, would establish a reporting mechanism to monitor the distribution, sale or importation of piperidine, the major ingredient in the manufacture of PCP, the most dangerous hallucinatory drug on the market to date; and fourth, would require the forfeiture of the proceeds of illegal drug transactions.

I commend the distinguished chairman of the Subcommittee on Health and the Environment, the gentleman from Florida (Mr. ROGERS), whose dedication on this and other related issues will be missed in the 96th Congress, and the ranking minority member of the subcommittee, the gentleman from Kentucky (Mr. CARTER), as well as the distinguished chairman of the parent committee—the Interstate and Foreign Commerce Committee—the gentleman from West Virginia (Mr. STAGGERS), and the ranking minority member, the gentleman from Ohio (Mr. DIVINE) for their leadership in bringing this important measure before the House today. I also commend Senators CULVER, BENTSEN, HATHAWAY, and NUNN for their leadership in obtaining support for this measure that unanimously passed the Senate on October 7, 1978.

Mr. Speaker, S. 2399 is not a controversial measure. Rather it is designed to regulate the unlawful manufacture or sale of the most dangerous drug on the market to date and an hallucinatory drug that is so widely used by our Nation's youth. This measure has been carefully studied by the House Subcommittee on Health and the Environment. The House Select Committee on Narcotics Abuse and Control, of which I am a member, held extensive hearings on PCP abuse as did the Senate Subcommittee on Juvenile Delinquency (chaired by Senator CULVER) and the Senate Subcommittee on Alcoholism and Drug Abuse (chaired by Senator HATHAWAY). And I have had the opportunity to assist in formulating this legislative proposal which I believe is a step in the right direction to regulate the unlawful trafficking of PCP.

After listening to the abundant testimony that was presented to the Narcotics Select Committee, I am still puzzled why so many of our Nation's youth—an estimated 7 million, mostly between the ages of 12 and 15—escape into this debilitating drug whose unpredictable reactions can induce psychotic-schizophrenic behavior that last year sent a reported 4,000 users to hospital emergency rooms and was responsible for an untold number of bizarre suicides, homicides, and self-inflicted injuries.

Mr. Speaker, I urge my colleagues to support this important measure. It regulates the unlawful manufacture and distribution of PCP, and requires those who distribute, sell, or import piperidine to report such information to the Attorney General. This measure strikes at the coffers of the traffickers of this deadly drug by requiring the forfeiture of the proceeds from illicit drug transactions. It is urgently needed if this Nation is to regulate the king cobra of hallucinatory drugs.●

● Mr. WOLFF. Mr. Speaker, I rise in support of S. 2399, the Psychotropic Substances Act. I commend the distinguished chairman of the Health Subcommittee for his tireless efforts in working on this legislation and bringing it to the floor before the end of the session.

The Psychotropic Substances Act is an extremely important piece of legislation. Title I conforms U.S. law to meet the requirements of the Convention on Psychotropic Substances which will enable the United States to become a party to that document. There is no question that illicit trafficking in psychotropic drugs is the greatest single drug abuse problem in the United States today. Title I will bring these drugs under closer international scrutiny and should be significant in reducing the diversion of these drugs into illicit channels.

Title II of this bill addresses the pressing matter of the newly popular drug phencyclidine—known on the streets as PCP. The Select Committee on Narcotics Abuse and Control, which I have the privilege to chair, recently held hearings on this dangerous drug. Not only does this title increase criminal penalties for the unlawful possession of PCP, but it establishes a reporting mechanism designed to monitor the distribution of piperidine—the key ingredient in manufacturing PCP. I believe this to be a crucial part of this bill.

Title III of the bill amends the Controlled Substances Act to expand the forfeiture provisions to include moneys, negotiable instruments, and securities used or intended to be used for the purchase of illicit drugs. In addition, and perhaps more importantly, title III subjects to forfeiture the traceable proceeds of illegal drug transactions. This provision, which is almost identical to a legislative recommendation of the Select Committee, is an extremely important weapon against the financial backers of illegal drug trafficking since it reaches them where it hurts the most. No longer will the big-money men of illegal drugs be able to hide their ill-gotten profits with impunity.

This legislation is critical if we are to continue to fight the war against drugs. I cannot too strongly urge my colleagues to support and approve this bill.●

Mr. ROGERS. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and concur in the Senate amendments to the House amendment to the Senate bill, S. 2399, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the Senate amendments to the House amendment

to the Senate bill, as amended, were concurred in.

A motion to reconsider was laid on the table.

RAILWAY SAFETY AUTHORIZATIONS

Mr. ROONEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12577) to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12577

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Railroad Safety Authorization Act of 1978".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 2. Section 212 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441) is amended to read as follows:

"SEC. 212. AUTHORIZATION FOR APPROPRIATIONS

"(a) There are authorized to be appropriated to carry out the provisions of this Act not to exceed $37,725,000 for the fiscal year ending September 30, 1979, and not to exceed $37,725,000 for the fiscal year ending September 30, 1980.

"(b) The amounts appropriated under subsection (a) of this section for a fiscal year shall be available for expenditure in such fiscal year as follows:

"(1) For the Office of Safety, including salaries and expenses for not more than (A) 600 safety inspectors, (B) 45 signal and train control inspectors, and (C) 125 clerical personnel, not to exceed $20,725,000. Such funds shall be available for travel expenses of safety inspectors for not less than 20 days per month.

"(2) To carry out the provisions of section 206(d) of this Act, relating to State safety programs, not to exceed $3,500,000.

"(3) For the Federal Railroad Administration, for salaries and expenses not otherwise provided for, not to exceed $3,500,000.

"(4) For conducting safety research and development activities under this Act, not to exceed $10,000,000.

Sums appropriated under this section for research and development, automated track inspection, and the State safety grant program are authorized to remain available until expended.".

LIMITATIONS ON FUNDING

SEC. 3. Not less than 50 percent of the funds appropriated to the Secretary of Transportation for any fiscal year to conduct railroad research and development programs under the Federal Railroad Safety Act of 1970 or any other Act shall be available for safety research, improved track inspection and data acquisition technology, improved rail freight service, and improved rail passenger systems.

HOURS OF SERVICE OF SIGNAL SYSTEM EMPLOYEES

SEC. 4. (a) Section 3A(a) of the Hours of Service Act (45 U.S.C. 63a(a)) is amended by adding at the end thereof, without paragraph indention, the following:

"Whenever the time on duty of an individual is broken or interrupted by any period of time off duty of less than eight consecutive hours, such individual may be on duty for not more than twelve hours during a twenty-four-hour period, if such individual has had at least eight consecutive hours off duty immediately before reporting for duty, or, where required by paragraph (1) of this subsection, at least ten consecutive hours off duty immediately before so reporting. After an individual has been on duty for a total of twelve hours during a period of twenty-four hours as permitted by the foregoing sentence, or at the end of such twenty-four-hour period, whichever occurs first, such individual shall not be required or permitted to continue on duty or to go on duty until he has had at least eight consecutive hours off duty. For purposes of this subsection, a twenty-four-hour period shall begin when an individual reports for duty immediately after he has had at least eight consecutive hours off duty or, where required by paragraph (1) of this subsection, at least ten consecutive hours off duty.".

(b) Section 3A(c) of the Hours of Service Act (45 U.S.C. 63a(c)) is amended to read as follows:

"(c) For purposes of this section, time on duty shall commence when an individual reports for duty and terminate when an individual is finally released from duty, except that—

"(1) time spent in travel on return from a trouble call, whether directly to the individual's residence or by way of the individual's headquarters, shall be considered neither time on duty nor time off duty, except that up to sixty minutes of such time on return from the final trouble call of a period of continuous or broken service shall be considered time off duty;

"(2) if, at the expiration of scheduled duty hours, an individual has not completed the trip from the final outlying worksite of the duty period to the individual's headquarters or from the final outlying worksite directly to the individual's residence, then the time spent in travel outside the scheduled duty hours which is required to complete the trip to such headquarters or directly to such residence, as the case may be, shall be considered neither time on duty nor time off duty;

"(3) if an individual is released from duty at an outlying worksite prior to the end of such individual's scheduled duty hours in order to comply with this section, the period of time required for the trip from the outlying worksite to the individual's headquarters, or the period of time required for the trip from the outlying worksite direct to the individual's residence, as the case may be, shall be considered neither time on duty nor time off duty;

"(4) all time spent in transportation on an ontrack vehicle, including time referred to in paragraphs (1), (2), and (3) of this subsection, shall be considered time on duty; and

"(5)(A) regularly scheduled meal periods and other release periods of thirty minutes or more up to sixty minutes shall be considered time off duty but shall not break an individual's continuity of service for purposes of this section, and (B) release periods of more than one hour shall be considered time off duty and shall break an individual's continuity of service for purposes of this section.".

(c) The amendments made by this section shall be effective as of July 8, 1976, except that no action or conduct which occurred during the period beginning on such date and ending on the date of enactment of this Act and which was lawful under the Hours of Service Act as in effect on July 8, 1976, shall be deemed to be unlawful under such Act as amended by this Act.

HOURS OF SERVICE ACT; INTERSTATE COMMERCE REQUIREMENT

SEC. 5. Subsection (a) of the first section of the Hours of Service Act (45 U.S.C. 61(a)) is amended to read as follows: "(a) this Act shall apply to any common carrier engaged in interstate or foreign commerce by railroad.".

DESIGNATED TERMINAL

SEC. 6. Subsection (b) of the first section of the Hours of Service Act (45 U.S.C. 61(b)) is amended by adding at the end thereof the following new paragraph:

"(4) The term 'designated terminal' means the home terminal and the away from home terminal for the assignment of a particular crew. Time on duty shall not include interim rest periods of four or more hours between designated terminals where the employee is prevented from reaching his or her designated terminal by act of God, track obstruction, casualty, derailment or major disabling equipment failure, which derailment or disabling equipment failure was the result of a cause not known to the carrier or its officer or agent in charge of the employee at the time such employee left the designated terminal, and which could not have been foreseen, and only then at a place where suitable facilities for food and lodging are available.".

ASSESSMENT OF PENALTIES

SEC. 7. (a) Section 6 of the Act of March 2, 1893 (45 U.S.C. 6) is amended by inserting "assessed by the Secretary of Transportation and" immediately after "shall be liable to a penalty of not less than $250 and not more than $2,500 for each and every such violation, to be".

(b) Section 4 of the Act of April 14, 1910 (45 U.S.C. 13) is amended by inserting "assessed by the Secretary of Transportation and" immediately after "shall be liable to a penalty of not less than $250 and not more than $2,500 for each and every such violation, to be".

(c) Section 9 of the Act of February 17, 1911 (45 U.S.C. 34) is amended by inserting "assessed by the Secretary of Transportation and" immediately after "shall be liable to a penalty of not less than $250 and not more than $2,500 for each and every such violation, to be".

(d) Section 25(h) of part I of the Interstate Commerce Act (49 U.S.C. 26(h)), is amended by inserting "assessed by the Secretary of Transportation and" immediately after "shall be liable to a penalty of not less than $250 and not more than $2,500 for each and every day such violation, refusal, or neglect continues, to be".

NOTICE OF VIOLATIONS

SEC. 8. The first sentence of section 207 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 436) is amended to read as follows: "In any case in which the Secretary has failed to assess the civil penalty applicable under section 209 of this title, or no civil action has been commenced to obtain injunctive relief under section 210 of this title, with respect to a violation of any railroad safety rule, regulation, order, or standard issued under this title, within 90 days after the date on which notification was received by the Secretary from a State agency participating in investigative and surveillance activities under the provisions of section 206 of this title, that State agency may apply to the district court of the United States within the jurisdiction of which the violation occurred for the enforcement of such rule, regulation, order, or standard.".

ROLE OF DEPARTMENT OF TRANSPORTATION IN RAILROAD ACCIDENT INVESTIGATIONS; LIABILITY OF DEPARTMENT OF TRANSPORTATION'S AGENTS

SEC. 9. Section 208 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437) is amended—

(1) by striking out subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively, and

(2) by amending subsection (b), as so redesignated, to read as follows:

"(b) To carry out the Secretary's responsibilities under this title, officers, employees,

or agents of the Secretary are authorized to enter upon, inspect, and examine rail facilities, equipment, rolling stock, operations, and pertinent records at reasonable times and in a reasonable manner. Such officers, employees, or agents shall display proper credentials when requested, and during the course of such inspection or examination shall be considered employees of the Federal Government for purposes of chapter 171 of title 28 of the United States Code.".

RAIL TRANSPORTATION SAFETY AND EFFICIENCY STUDY

SEC. 10. (a) The Secretary of Transportation shall conduct a study and evaluation concerning the safety and efficiency of rail transportation. Such study and evaluation shall include—

(1) a determination of the relationship of the size, weight, and length of railroad cars (other than those contained in unit trains) to the safety and efficiency of rail transportation; and

(2) a determination of the effect of the exclusive ownership and control of rights-of-way by individual railroads on the safety and efficiency of rail transportation, considering, among other things, whether or not such rights-of-way might be better employed under new structures of ownership or other conditions for joint usage.

(b) Within one year after the date of enactment of this Act, the Secretary of Transportation shall complete the portion of the study described in subsection (a)(1) of this section.

Within two years after the date of enactment of this Act, the Secretary of Transportation shall complete the portion of the study described in subsection (a)(2) of this section and submit a report to the Congress setting forth the results of such study, together with recommendations for such legislative or other action as the Secretary deems appropriate.

The SPEAKER pro tempore. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. ROONEY) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my amendment in the nature of a substitute contains parts of H.R. 12577 as reported and S. 3081, as passed by the Senate. The substitute is a 2-year authorization for the Federal Railroad Administration. The substitute authorizes $37,725,000 for fiscal years 1979 and 1980 and authorizes an additional 100 safety inspectors. I believe these additional safety inspectors should begin to make inroads on the disturbingly high number of accidents and derailments on our Nation's rails. The substitute retains the provision contained in the House-passed bill which limits the Secretary to committing not less than 50 percent of appropriated funds to research and development programs for safety research, improved track inspection, and data acquisition technology, improved rail freight service, and improved rail passenger systems.

The substitute amends section 5 of H.R. 12577, which section deals with the designated terminal provisions under the Hours of Service Act. This amendment has been agreed upon by rail labor and the Association of American Railroads.

The amendment is designed to clarify the meaning of the term "designated terminal" as used in the Hours of Service Act. The amendment achieves this goal by providing a specific definition of the term.

The Hours of Service Act established limitations on the number of hours during which certain classes of railroad employees may remain on duty. The act specifies that "time on duty" shall include "interim periods available for rest at other than a designated terminal". The 1969 amendments to the act did not define "designated terminal." Uncertainty about the term's meaning has generated considerable litigation. FRA has stated that because of the different interpretations given by the courts, it will be forced to decline enforcement of additional alleged violations involving certain improper points of release until Congress defines the term.

To correct this situation and to prevent further litigation the amendment provides that a place shall be considered a designated terminal only if that place is the "home" or "away from home" terminal for the particular crew assignment involved. However, it is the intent of the amendment to permit, but not require, the carrier and employee representatives to mutually agree upon other release points as "designated terminals." To be valid, any such agreement would, of course, have to clearly indicate that the parties intended to establish the point in question as a "designated terminal" for purposes of the Hours of Service Act.

The amendment permits employees to be released for rest periods of 4 hours or more at points which are not designated terminals only if: First, such a point has suitable food and lodging available, and second, the employees are prevented from reaching their "designated terminal" within the time requirements of this act by act of God, track obstruction, casualty, derailment or major disabling equipment failures. The "act of God, track obstruction, casualty, derailment, or major disabling equipment failure" are the only conditions which permit carriers to release crews at other than a designated terminal. That is, the railroads under this amendment may release a crew at interim points under the following circumstances for 4 or more hours and it shall not be counted as time on duty.

Track obstruction, such as that caused by a highway grade crossing accident, but not other traffic ahead of the train (unless that traffic is itself affected by a cause identified in the amendment, such as a derailment).

Casualties: Act of God which is intended to include floods, washouts, snowstorms, hurricanes, et cetera.

Derailments: Major disabling equipment failures, which are intended to include conditions such as broken wheels, engine failures, journal failures, broken rail which halts traffic, track which is out of alignment and halts traffic, complete signal or electrical system failure, and other conditions where corrections cannot be made in time for the crew to complete its trip to the designated terminal within the time requirements of the act. This provision does not include minor malfunctions such as broken air hoses, pulled drawbars, train separations, slow orders or individual signal (or electrical) failures. Also, yard congestion is not a condition which would permit the railroad to release the crew at an interim release point under this amendment.

Furthermore, a derailment or major disabling equipment failure will justify releasing an employee between designated terminals only if it is the result of a cause not known to or foreseeable by the carrier or its officer or agent in charge of the employee at the time that employee left the designated terminal. Title 45 U.S.C. 64 a(d) contains a similar requirement.

The above five conditions are the only ones under which a carrier could release a crew at other than a designated terminal. Under all circumstances, if a condition can be corrected, and the crew can reasonably be expected to reach the designated terminal within the time requirements of the act, then the carrier shall not relieve the crew at the interim release point.

Some of the terms in the amendment are similar to terms employed in 45 U.S.C. 64 a(d). But the purpose of the latter section—total lifting of the requirements of the Hours of Service Act—is quite different from the much more limited purpose of the new paragraph 1(b)(4). It is the intent that the new paragraph 1(b)(4) be given a common sense interpretation geared to its purpose and that it be interpreted independently of the decisions construing section 64 a(d). Thus, for example, whereas some court decisions have held that section 64a(d) does not come into play where a relief crew can be dispatched, that consideration would not be relevant to the application of paragraph 1(b)(4).

The phrase "a place where suitable facilities for food and lodging are available" at other than a designated terminal requires as a minimum:

First. Where reasonably available, single occupancy sleeping rooms, containing adequate furniture and accessories, temperature controls, and toilet and shower facilities.

Second. Transportation will be furnished where lodging is located an unreasonable walking distance from the on and off duty points and will also be furnished to a restaurant if no restaurant is within reasonable walking distance from the lodging facility. Provisions defining reasonable distance in the respective collective bargaining agreements will govern where applicable. Otherwise, reasonable distance takes into consideration not only distance per se, but such factors as time, location, weather, and safety.

If the release point is at a "designated terminal" for other crews, the lodging facilities accepted as suitable for such other crews will likewise be considered as

suitable for interim rest periods. Transportation will be furnished as provided for such other crews.

Finally, this amendment is not intended in any way to affect the other provisions of the hours of service law relating to maximum hours an employee may be on duty.

The substitute amends section 7 of H.R. 12577 which provides for a study of rail transportation safety and efficiency. That section now requires, among other things, that the Secretary of Transportation conduct a study relating to, first, size, weight, and length of cars and trains as well as, second, the effect of exclusive ownership and control of rights-of-way by railroads on safety.

The Association of American Railroads and the Railway Labor Executives Association have requested that the aforesaid studies be amended and limited to, first, the size, weight, and length of railroad cars only, and second, whether the railroad right-of-way might be better employed under new structures of ownership or other conditions for joint usage. They have also requested that the cars contained in unit trains be excluded entirely from that portion of the study dealing with car size, weight, and length.

The substitute amendment I am proposing would accomplish what rail labor and the Association of American Railroads have requested. I know of no opposition to the amendment in the nature of a substitute and urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the amendment in this bill is virtually the same as one to the Senate version of this legislation, S. 2981, offered by the junior Senator from my State, the honorable WENDELL FORD.

The only changes were minor ones to clarify the first paragraph and to add a clause ensuring that notice be given of any Interstate Commerce Commission hearing under this provision.

These nonsubstantive changes were made with the knowledge of Senator FORD, and he concurs with them.

The background of this amendment lies in a critical situation in two of the eastern Kentucky coalfields in the area I represent.

Because of either the inability or the refusal of the single railroad serving the Harlan and Hazard coalfields to provide adequate service, the entire coal industry there is being jeopardized because the railroad is unable to move but a fraction of the coal being produced.

The economic disruption wrought by the failure of the railroad to provide safe and adequate service to the coal shippers in eastern Kentucky has widespread ramifications.

It endangers the economy of Kentucky—which is inextricably linked to coal—and it endangers this country's energy future by holding down production of coal in the country's leading coal-producing State.

Under this amendment, if the ICC were to find that a railroad had failed to provide safe and adequate service as it is required by law to do—then the ICC would have the means to compel the railroad to make investments in facilities or equipment sufficient to allow the railroad to live up to its statutory obligations.

The amendment has been carefully worked out to protect against ICC action bankrupting a railroad by mandating investments which are neither prudent nor reasonable.

However, where a railroad could provide safe and adequate service at recoverable cost—but fails to do so to the detriment of the shippers—then the shippers harmed by the railroad's inadequate service could go before the ICC to seek relief.

No railroad which is properly executing its obligation to the public—and which is being run in a businesslike fashion with proper attention to adequate investment in facilities, equipment, or maintenance in order to maintain adequate service—should fear this legislation.

I have received a letter from the Chairman of the ICC, A. Daniel O'Neil, in which he endorses this amendment.

I should like to quote a portion of it at this time.

Chairman O'Neal has written:

> Passage of this legislation would give the Commission greater powers to deal with rail car shortages than exist under present law. I believe that the amendment would give the Commission an important tool to deal with problems of rail car shortage and utilization, and I fully support its adoption.

Mr. SKUBITZ. Mr. Speaker, I rise in support of the Rooney amendment to H.R. 12577.

This amendment changes the bill as reported by the Interstate and Foreign Commerce Committee in the following ways:

First. It makes the authorization for 2 years rather than one to conform with the action previously taken by the other body.

Second. It substitutes language for the "designated terminal" definition contained in the bill reported by the Interstate and Foreign Commerce Committee to reflect a negotiated agreement between railroad management and the brotherhoods.

Third. It substitutes language for two study provisions relating to railroad car and train sizes and Government ownership of railroad rights-of-way to reflect agreement reached by committee members, railroads, and rail labor organizations.

Fourth. It contains a number of technical amendments contained in the Senate bill and requested by the Department of Transportation.

Mr. Speaker, I include a full explanation of the "designated terminal" provisions and the study provisions in my remarks:

The amendment is designed to clarify the meaning of the term "designated terminal" as used in the Hours of Service Act. The amendment achieves this goal by providing a specific definition of the term.

The Hours of Service Act establishes limitations on the number of hours during which certain classes of railroad employees may remain on duty. The act specifies that "time on duty" shall include "interim periods available for rest at other than a designated terminal." The 1969 amendments to the act did not define "designated terminal." Uncertainty about the term's meaning has generated considerable litigation. FRA has stated that because of the different interpretations given by the courts, it will be forced to decline enforcement of additional alleged violations involving certain improper points of release until Congress defines the term.

To correct this situation and to prevent further litigation the amendment provides that a place shall be considered a designated terminal only if that place is the "home" or "away from home" terminal for the particular crew assignment involved. However, it is the intent of the amendment to permit, but not require, the carrier and employee representatives to mutually agree upon other release points as "designated terminals." To be valid, any such agreement would, of course, have to clearly indicate that the parties intended to establish the point in question as a "designated terminal" for purposes of the Hours of Service Act.

The amendment permits employees to be released for rest periods of 4 hours or more at points which are not designated terminals only if: First, such a point has suitable food and lodging available; and second, the employees are prevented from reaching their "designated terminal" within the time requirements of this act by act of God, track obstruction, casualty, derailment, or major disabling equipment failure. The "act of God, track obstruction, casualty, derailment, or major disabling equipment failure" are the only conditions which permit carriers to release crews at other than a designated terminal. That is, the railroads under this amendment may release a crew at interim points under the following circumstances for 4 or more hours and it shall not be counted as time on duty.

Track obstruction, such as that caused by a highway grade crossing accident, but not other traffic ahead of the train (unless that traffic is itself affected by a cause identified in the amendment, such as a derailment).

Casualties: Act of God which is intended to include floods, washouts, snowstorms, hurricanes, and so forth.

Derailment: Major disabling equipment failure, which are intended to include conditions such as broken wheels, engine failures, journal failures, broken rail which halts traffic, track which is out of alinement and halts traffic, complete signal or electrical system failure, and other conditions where corrections cannot be made in time for the crew to complete its trip to the designated terminal within the time requirements of the act. This provision does not include minor malfunctions such as broken air hoses, pulled drawbars, train separations, slow orders or individual signal—or electrical—failure. Also, yard congestion is not a condition which would permit the railroad to release the crew at an interim release point under this amendment.

Furthermore, a derailment or major disabling equipment failure will justify releasing an employee between designated terminals only if it is the result of a cause not known to or foreseeable by the carrier or its officer or agent in charge of the employee at the time that employee left the designated terminal. Title 45 United States Code 64a(d) contains a similar requirement.

The above five conditions are the only ones under which a carrier could release a crew at other than a designated terminal Under all circumstances, if a condition can be corrected, and the crew can reasonably be expected to reach the designated terminal within the time requirements of the act, then the carrier shall not relieve the crew at the interim release point.

Some of the terms in the amendment are similar to terms employed in 45 U.S.C. 64a(d). But the purpose of the latter section—total lifting of the requirements of the Hours of Service Act—is quite different from the much more limited purpose of the new paragraph 1(b)(4). It is the intent that the new paragraph 1(b)(4) be given a commonsense interpretation geared to its purpose and that it be interpreted independently of the decisions construing section 64a(d). Thus, for example, whereas some court decisions have held that section 64a(d) does not come into play where a relief crew can be dispatched, that consideration would not be relevant to the application of paragraph 1(b)(4).

The phrase "a place where suitable facilities for food and lodging are available" at other than a designated terminal requires as a minimum—

First. Where reasonably available, single occupancy sleeping rooms, containing adequate furniture and accessories, temperature controls and toilet and shower facilities.

Second. Transportation will be furnished where lodging is located an unreasonable walking distance from the on and off duty points and will also be furnished to a restaurant if no restaurant is within reasonable walking distance from the lodging facility. Provisions defining reasonable distance in the respective collective bargaining agreements will govern where applicable. Otherwise, reasonable distance takes into consideration not only distance per se, but such factors as time, location, weather, and safety.

If the release point is at a "designated terminal" for other crews, the lodging facilities accepted as suitable for such other crews will likewise be considered as suitable for interim rest periods. Transportation will be furnished as provided for such other crews.

Finally, this amendment is not intended in any way to affect the other provisions of the Hours of Service law relating to maximum hours an employee may be on duty.

Third. Mr. Speaker, this amendment will provide funding for the assurance of a continued railroad safety program and clears up the definition of "designated terminal" used in the Hours of Service Act. I urge its adoption and the passage of the bill.

Fourth. I should add, however, that we will not achieve significant improvements in our railroad safety record until we change our basic approach from our present haphazard regulatory system to one based on performance standards and certified safety plans submitted by each railroad. Mr. MADIGAN and I have introduced a bill today, the Rail Safety Incentive Act of 1980, which embodies a better approach to railroad safety. I hope that the next Congress will give our new approach to this very old problem careful consideration.

Fifth. At this time, Mr. Speaker, I urge support of the pending amendment which will provide money for railroad safety programs in fiscal years 1979 and 1980 and initiate important railroad safety related studies and provide certainty for the term "designated terminal under the Hours of Service Act.

● Mr. STAGGERS. I rise in support of H.R. 12577; the Federal Railroad Safety Act of 1978, as amended. This bill authorizes appropriations of $37.725,000 for each of fiscal years 1979 and 1980 to implement and enforce the Federal Railroad Safety Act of 1970. That act is administered by the Federal Railroad Administration within the Department of Transportation. The bill increases the number of authorized safety inspectors from 500 to 600 and requires that at least 50 percent of the funds available to the Secretary of Transportation for railroad research and development programs be expended in specific programs directly related to improved rail safety.

The bill also clarifies the meaning of the term "designated terminal" used in the Hours of Service Act, which governs maximum permissible employees' hours for certain classes of railroad employees. That act specifies that computation of time on duty shall include interim rest periods of less than 4 hours at a designated terminal and interim rest periods not spent at a designated terminal. The term is not defined in the Hours of Service Act, and confusion about its meaning has arisen.

Two studies concerning the safety and efficiency of rail transportation to be conducted by the Secretary of Transportation are also mandated by the bill. One study entails a determination of the safety impact of the size, weight, and length of certain railroad cars. The other study involves a determination of the safety impact of the exclusive ownership of railroad rights-of-way by the individual railroads and whether other forms of ownership might improve safety.

These compromise amendments defining "designated terminals" and requiring studies to be conducted by the Secretary of Transportation are the product of lengthy negotiations between rail labor and rail management, and represents a constructive approach to solving serious rail safety problems.

Finally, the bill also makes minor and technical amendments to existing law to enhance the administration and enforcement of the railroad safety program and improve railroad safety generally.

Mr. Speaker, the growing dimensions of the railroad safety problem are of considerable national concern. This bill is essential if we are to address those problems and solve them, and I strongly urge the passage of the bill.●

Mr. CONABLE. Mr. Speaker, it was my intention to offer an amendment to the Railway Safety Act legislation correcting a provision in the companion Safety Appliances Act which now hampers timely repair of railroad cars. This unfortunate provision contributed to the drastic shortage last year of railroad cars for hauling the products of the salt mine in my area. As a result, shipping of the salt was hampered severely in one of the worst winters on record, when cities in the Northeast had a need for larger than ever supplies of road salt.

The Safety Appliances Act and court interpretations of almost 40 years ago require that repair of safety appliances on rail cars must be provided on the railroad which has possession of the cars at the time the defect is discovered, even though a connecting railroad may have the facilities, the time, and willingness to repair those cars much more promptly. However, such cars cannot be interchanged with the connecting carrier under present restrictions. This is particularly ironic when the cars must be transported long distances to repair shops when the facilities of a connecting line are available nearby. This requirement caused serious delays in repairs and added to shortages of cars in western New York last year.

It has been my intention to offer an amendment today to correct this defect in the Safety Appliances Act. This would bring these kinds of safety defects into the same kind of repair program as presently authorized for the repair of major defects, such as bad wheels or axles under the Railway Safety Act. The Railway Safety Act has recognized the practical necessity of interchanging cars in order to get them repaired in a timely manner and enhance car utilization.

Because we are late in the session and realize that amendments can jeopardize the final passage of any piece of legislation, I discussed the amendment with all the parties involved in an effort to obtain agreement on it. Congressman FRED ROONEY, chairman of the Subcommittee on Commerce and Transportation, agreed that this is a matter requiring correction and that my amendment was very much in order. He agreed to accept it during the consideration of the bill. A check was made with representatives of the Association of American Railroads, who felt it would be a good step toward increasing car utilization throughout the national rail system. However, a representative of the United Transportation Union expressed concern about an amendment at this late hour. He indicated a willingness to cooperate in resolving the problem but did not wish to jeopardize in any way final passage of the Railway Safety Act. Rather than proceeding with the amendment at this time, he suggested instead that the concerned parties meet with the Federal Railroad Administration to work out this problem administratively, and he offered support. If that is unsuccessful, he agreed to cooperate on seeking passage of appropriate legislation in the next Congress.

Because I understand the concern for the passage of the Railway Safety bill, I have agreed not to offer my amendment today. I pledge that I will seek to have this problem resolved administratively with the help of all the parties; if we find this impossible, however, I will seek correction of this defect by Congress next year. I appreciate the cooperation of Chairman ROONEY on this issue. His concern for improving rail transportation is clear and I look forward to working with him to resolve this issue.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY) that the House suspend the rules and pass the bill H.R. 12577 as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. ROONEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table a similar Senate bill (S. 3081) to amend the Federal Railroad Safety Act of 1970 to provide the Secretary of Transportation a longer period within which to assess civil penalties for certain violations, to extend authorizations of appropriations for fiscal year 1979 and 1980 for the rail safety program, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3081

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Railroad Safety Act Amendments Act of 1978".

NOTICE OF VIOLATIONS

SEC. 2. The first sentence of section 207 of the Federal Railroad Safety Act of 1970 (hereinafter in this Act referred to as the "Safety Act") (45 U.S.C. 436) is amended to read as follows: "In any case in which the Secretary has failed to assess the civil penalty applicable under section 209 of this title, or no civil action has been commenced to obtain injunctive relief under section 210 of this title, with respect to a violation of any railroad safety rule, regulation, order, or standard issued under this title, within 90 days after the date on which notification was received by the Secretary from a State agency participating in investigative and surveillance activities under the provisions of section 206 of this title, that State agency may apply to the district court of the United States within the jurisdiction of which the violation occurred for the enforcement of such rule, regulation, order or standard.".

ROLE OF DEPARTMENT OF TRANSPORTATION IN RAILROAD ACCIDENT INVESTIGATIONS; LIABILITY OF DEPARTMENT OF TRANSPORTATION'S AGENTS

SEC. 3. Section 208 of the Safety Act (45 U.S.C. 437) is amended—

(1) by deleting subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c) respectively; and

(2) by amending newly designated subsection (b) to read as follows:

"(b) To carry out the Secretary's responsibilities under the title, officers, employees, or agents of the Secretary are authorized to enter upon, inspect, and examine rail facilities, equipment, rolling stock, operations and pertinent records at reasonable times and in a reasonable manner. Such officers, employees, or agents shall display proper credentials when requested, and during the course of such inspection or examination shall be considered employees of the Government for the purposes of the Federal Tort Claims Act (28 U.S.C. 2671 et seq.).".

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. Section 212 of the Safety Act (45 U.S.C. 441) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 212. There are authorized to be appropriated to carry out the provisions of this Act not to exceed $35,000,000 for the fiscal year ending September 30, 1979, and not to exceed $35,000,000 for the fiscal year ending September 30, 1980. Sums appropriated for research and development, automated track inspection and the State safety grant program shall remain available until expended.".

HOURS OF SERVICE ACT; INTERSTATE COMMERCE REQUIREMENT

SEC. 5. Subsection (a) of the first section of the Act of March 4, 1907, as amended (45 U.S.C. 61), is amended to read as follows:

"(a) This Act shall apply to any common carrier engaged in interstate or foreign commerce by railroad.".

SEC. 6. (a) Section 4 of the Act of April 14, 1910, as amended (45 U.S.C. 13), and section 9 of the Act of February 17, 1911, as amended (45 U.S.C. 34), are each amended by inserting "assessed by the Secretary of Transportation and" after "shall be liable to a penalty of not less than $250 and not more than $2,500 for each and every such violation, to be", where those words appear in the respective sections.

(b) Section 25(h) of part I of the Interstate Commerce Act (49 U.S.C. 26(h)), is amended by inserting "assessed by the Secretary of Transportation and" after "shall be liable to a penalty of not less than $250 and not more than $2,500 for each and every day such violation, refusal, or neglect continues, to be".

AMENDMENTS TO THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

SEC. 7. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended by (a) striking the last sentence of subsection (d)(3) thereof; and (b) striking "purchase under this title after September 30, 1978," and inserting in lieu thereof ", after September 30, 1979, make commitments to purchase under this title" in subsection (e) thereof.

MOTION OFFERED BY MR. ROONEY

Mr. ROONEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROONEY moves to strike out all after the enacting clause of the Senate bill, S. 3081, and insert in lieu thereof the text of H.R. 12577, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 12577) was laid on the table.

LOCAL RAIL SERVICE ASSISTANCE ACT OF 1978

Mr. ROONEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11979) to amend section 5 of the Department of Transportation Act, relating to local rail service assistance, as amended.

The Clerk read as follows:

H.R. 11979

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—LOCAL RAIL SERVICE ASSISTANCE

SHORT TITLE

SEC. 101. This title may be cited as the "Local Rail Service Assistance Act of 1978".

EXPANSION OF ASSISTANCE

SEC. 102. Section 5(f) of the Department of Transportation Act (49 U.S.C. 1654(f)) is amended—

(1) in paragraph (2), by striking out "purchasing a line of railroad or other rail properties" and inserting in lieu thereof "acquiring, by purchase, lease, or in such other manner as the State considers appropriate, a line of railroad or other rail properties, or any interest therein,";

(2) in paragraph (3), by striking out "and" immediately after the semicolon;

(3) in paragraph (4), by striking out the period and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new paragraph:

"(5) the cost of constructing rail or rail related facilities (including new connections between two or more existing lines of railroad, intermodal freight terminals, sidings, and relocation of existing lines) for the purpose of improving the quality and efficiency of rail freight service.".

COST SHARING

SEC. 103. Section 5(g) of the Department of Transportation Act (49 U.S.C. 1654(g)) is amended to read as follows:

"(g) The Federal share of the costs of any rail service assistance program shall be 80 per centum, except that the Federal share of costs for financial assistance under paragraph (1) of subsection (f) of this section for any project described in subsection (k)(1) of this section shall be 80 per centum for the first and second years such project is conducted and 70 per centum for the third year such project is conducted. The State share of the costs may be provided in cash or through any of the following benefits, to the extent that such benefits would not otherwise be provided: (1) forgiveness of taxes imposed on a common carrier by railroad or on its properties; (2) the provision by the State or by any person or entity on behalf of such State, for use in its rail service assistance program, of real property or tangible personal property of the kind necessary for the safe and efficient operation of rail freight service; (3) trackage rights secured by the State for a common carrier by railroad; or (4) the cash equivalent of State salaries for State public employees working in the State rail service assistance program, but not including overhead and general administrative costs. If a State, or any person or entity on behalf of a State, provides more than such State's percentage share of the cost of its rail service assistance program during any fiscal year, the amount in excess of such share shall be applied toward such State's share of the costs of its program for subsequent fiscal years.".

FORMULA ALLOCATION

SEC. 104. Section 5(h) of the Department of Transportation Act (49 U.S.C. 1654(h)) is amended to read as follows:

"(h)(1) For the period beginning October 1, 1978, and ending September 30, 1979,

each State which is eligible to receive rail service assistance under this section is entitled to an amount equal to the total amount authorized and appropriated for such purposes, multiplied by a fraction the numerator of which is the rail mileage in such State which was eligible for rail service assistance under this section prior to October 1, 1978, and the denominator of which is the rail mileage in all of the States which was eligible for rail service assistance under this section prior to such date. Notwithstanding the provisions of the preceding sentence, the entitlement of each State shall not be less than 1 percent of the funds appropriated

"(2) Effective October 1, 1979, each State which is eligible to receive rail service assistance under this section is entitled annually to a sum from available funds as determined pursuant to this subsection. Available funds are funds appropriated for rail service assistance for that fiscal year and any funds to be reallocated for that fiscal year in accordance with this subsection. Subject to the limitations set forth in paragraph (3) of this subsection, the Secretary shall calculate each State's entitlement as follows:

"(A) two-thirds of the available funds, multiplied by a fraction (i) the numerator of which is the sum of the rail mileage in the State which, in accordance with section 1a(5)(a) of the Interstate Commerce Act (49 U.S.C. 1a(5)(a)), is either 'potentially subject to abandonment' or with respect to which a carrier plans to submit, but has not yet submitted, an application for a certificate of abandonment or discontinuance, and (ii) the denominator of which is the total of such rail mileage in all the States; and

"(B) one-third of available funds, multiplied by a fraction (i) the numerator of which is the rail mileage in the State with respect to which the Interstate Commerce Commission, within 3 years prior to the first day of the fiscal year for which funds are allocated or reallocated under this section, has found that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, such rail mileage (including, until September 30, 1981, the rail mileage which was eligible for assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762), and all rail mileage in the State which has, prior to October 1, 1978, been included for formula allocation purposes under this section); and (ii) the denominator of which is the total rail mileage in all the States eligible for rail service assistance under this section which the Interstate Commerce Commission has made such a finding (including, until September 30, 1981, the rail mileage in all the States which was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762), and the rail mileage in all the States which has, prior to October 1, 1978, been included for formula allocation purposes under this section).

Notwithstanding the preceding provisions of this paragraph, the entitlement of each State in a fiscal year shall not be less than 1 percent of the funds appropriated for such fiscal year.

"(3)(A) For purposes of paragraphs (1) and (2) of this subsection, rail mileage shall be measured by the Secretary as of the first day of each fiscal year. In making calculations under this subsection, no rail mileage shall be included more than once in either the numerator or the denominator of a fraction.

"(B) Entitlement funds are available to a State during the fiscal year for which the funds are appropriated. In accordance with the formula stated in this subsection, the Secretary shall reallocate, to each State which is eligible to receive rail service assistance under this section, a share of any entitlement funds which have not been the subject of an executed grant agreement between the Secretary and the State before the end of the fiscal year for which the funds were appropriated. Reallocated funds are available to the State for the same purpose and for the same time period as an original allocation and are subject to reallocation if not made the subject of an executed grant agreement between the Secretary and the State before the end of the fiscal year for which the funds were reallocated. Funds appropriated in fiscal year 1978 and prior years which are not the subject of an executed grant agreement as of October 1, 1978, shall remain available to the States during fiscal year 1979.

"(4) Two or more States which are eligible to receive rail service assistance under this section may, where not in violation of State law, enter into an agreement to combine any portion of their respective Federal entitlements under this subsection for purposes of conducting any project which is eligible for assistance under subsection (k) of this section and which will benefit each State which is a party to such agreement.".

PLANNING ASSISTANCE

SEC. 105. Section 5(i) of the Department of Transportation Act (49 U.S.C. 1654(i)) is amended to read as follows:

"(i) During each fiscal year, a State may expend not to exceed $100,000, or 5 percent, whichever is greater, of its annual entitlement under subsection (h) of this section to meet the cost of establishing, implementing, revising, and updating the State rail plan required by subsection (j) of this section.".

STATE ELIGIBILITY

SEC. 106. (a) Paragraph (2) of section 5(j) of the Department of Transportation Act (49 U.S.C. 1654(j)(1)) is amended—

(1) by inserting "(A)" immediately after "(2)"; and

(2) by adding immediately before the semicolon at the end thereof the following: ", and (B) such State plan includes, as soon as practicable after the date of enactment of the Local Rail Service Assistance Act of 1978, a methodology for determining the ratio of benefits to costs of projects which are proposed to be initiated after such date of enactment and which are eligible for assistance under paragraphs (2) through (4) of subsection (k) of this section".

(b) During the period prior to the inclusion in a State rail plan of the methodology referred to in the amendment made by subsection (a) of this section, the Secretary of Transportation shall continue to fund projects on a case-by-case basis where he has determined, based upon analysis performed and documented by the State, that the public benefits associated with the project outweigh the public costs of such project.

PROJECT ELIGIBILITY

SEC. 107. Section 5(k) of the Department of Transportation Act (49 U.S.C. 1654(k)) is amended to read as follows:

"(k)(1) A project is eligible for financial assistance under paragraph (1) of subsection (f) of this section only if—

"(A)(i) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to the project; or (ii) the line of railroad or related project was eligible for assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762); and

"(B) the line of railroad or related project has not previously received financial assistance under paragraph (1) of subsection (f) of this section for more than 36 months, except that a line of railroad or related project which was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) or under this section prior to October 1, 1978, shall be eligible only until September 30, 1981.

"(2) A project is eligible for financial assistance under paragraph (2) of subsection (f) of this section only if—

"(A) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad related to the project;

"(B) the line of railroad related to the project is listed for possible inclusion in a rail bank in part III, section C of the Final System Plan issued by the United States Railway Association under section 207 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717); or

"(C) the line of railroad related to the project was eligible to be acquired under section 402(c)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(c)(3)), except that a line of railroad or related project which was eligible for financial assistance under such section 402 or under this section prior to October 1, 1978, shall be eligible only until September 30, 1981.

"(3) A project is eligible for financial assistance under paragraphs (3) and (5) of subsection (f) of this section only if—

(A) the line of railroad related to the project is certified by the railroad as having carried 3 million gross ton miles of freight or less per mile during the prior years;

"(B) the line of railroad related to the project is certified by the railroad as having carried less than 5 million gross ton miles of freight per mile during the prior year and the Secretary has determined that the project is essential to carry out proposals made under authority of subsections (a) through (e) of this section;

"(C) an application for a certificate of abandoment or discontinuance with respect to the line of railroad related to the project has been filed with the Interstate Commerce Commission prior to January 1, 1979 (whether or not such application has been granted);

"(D) the line of railroad related to the project is listed for possible inclusion in a rail bank in part III, section C of the Final System Plan issued by the United States Railway Association under section 207 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717); or

"(E) the line of railroad related to the project was eligible to be acquired under section 402(c)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(c)(3).

Any project involving a line of railroad described in subparagraph (C), (D), or (E) of this paragraph shall only be eligible for financial assistance until September 30, 1981.

"(4) A project is eligible for financial assistance under paragraph (4) of subsection (f) of this section only if—

"(A) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to the project; or

"(B) the line of railroad or related project was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762), except that a line of railroad or related project which was eligible for assistance under such section 402 or under this section prior to October 1, 1978, shall be eligible only until September 30, 1981.

"(5) On or before August 1 of each year, each common carrier by railroad subject to part I of the Interstate Commerce Act shall prepare, update, and submit to the Secretary

a listing of those rail lines of such carrier which, based on level of usage, carried 3 million gross ton miles of freight or less per mile during the prior year.".

REHABILITATION ASSISTANCE

SEC. 108. Section 5 of the Department of Transportation Act (49 U.S.C. 1654) is amended by redesignating subsection (o) as subsection (p), and by inserting immediately after subsection (n) the following new subsection:

"(o) A State shall use financial assistance provided under paragraph (3) of subsection (f) of this section in accordance with the following provisions:

"(1) The financial assistance shall be used to rehabilitate or improve rail properties in order to improve rail freight service within the State.

"(2) The State shall, in its discretion, grant or loan funds to the owner of rail properties or operator of rail service related to the project.

"(3) The State shall determine all financial terms and conditions of a grant or loan, except that the timing of all advances with respect to grants in and under this subsection shall be in accordance with Department of Treasury regulations.

"(4) The State shall place the Federal share of repaid funds in an interest-bearing account or, with the approval of the Secretary, permit any borrower to place such funds, for the benefit and use of the State, in a bank which has been designated by the Secretary of the Treasury in accordance with section 10 of the Act of June 11, 1942 (12 U.S.C. 265). The State shall use such funds and all accumulated interest to make further loans or grants under paragraph (3) of subsection (f) of this section in the same manner and under the same conditions as if they were originally granted to the State by the Secretary. The State may, at any time, pay to the Secretary the Federal share of any unused funds and accumulated interest. After the termination of a State's participation in the rail service assistance program established by this section, such State shall pay the Federal share of any unused funds and accumulated interest to the Secretary."

TECHNICAL AMENDMENTS

SEC. 109. (a) Section 5 of the Department of Transportation Act (49 U.S.C. 1654) is amended—

(1) in subsection (g), subsection (m)(1), and the first sentence of subsection (p) (as redesignated by section 108 of this title), by striking out "(o)" each place it appears and inserting in lieu thereof "(p)"; and

(2) by amending the third sentence of subsection (p) (as so redesignated) to read as follows: "In addition, any appropriated sums ranging after the repeal of section 402 of the Regional Rail Reorganization Act of 1973 and of section 810 of the Railroad Revitalization and Regulatory Reform Act of 1976 are authorized to remain available to the Secretary for purposes of subsections (f) through (p) of this section.". (c)(1) Section 810 of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1653a) is repealed.

(2) The table of contents for title VIII of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by striking out "Sec. 810. Rail bank.".

EFFECTIVE DATE

SEC. 110. The provisions of this title shall take effect on October 1, 1978.

TITLE II—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 201. Section 304(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)) is amended—

(1) by striking out the comma at the end of paragraph (4)(B) and inserting in lieu thereof "; or"; and

(2) by adding immediately after paragraph (4)(B) the following new subparagraph:

"(C) offers a rail service continuation payment, pursuant to subsection (c)(2)(A) of this section and regulations issued by the Office pursuant to section 205(d)(5) of this Act, for the operation of rail passenger service provided under an agreement or lease pursuant to section 303(b)(2) of this title or subsection (c)(2)(B) of this section where such offer is made for the continuation of the service beyond the period required by such agreement or lease, except that such services shall not be eligible for assistance under section 17(a)(2) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613(a)(2)),"; and

(3) by adding at the end thereof the following new paragraphs:

"(7)(A) If a State (or a local or regional transportation authority) in the region offers to provide payment for the provision of additional rail passenger service, the Corporation shall undertake to provide such service pursuant to this subsection (including the discontinuance provisions of paragraph (2) of this subsection). An offer to provide payment for the provision of additional rail passenger service shall be made in accordance with subsection (c)(2)(A) of this section and under regulations issued by the Office pursuant to section 205(a)(5) of this Act, and shall be designed to avoid any additional costs to the Corporation arising from the construction or modification of capital facilities or from any additional operating delays or costs arising from the absence of such construction or modification. The State (or local or regional transportation authority) shall demonstrate that it has acquired, leased, or otherwise obtained access to all rail properties, other than those designated for conveyance to the National Railroad Passenger Corporation pursuant to sections 206(c)(1)(C) and 206(c)(1)(D) of this Act and to the Corporation pursuant to section 303(b)(1) of this title, necessary to provide the additional rail passenger service and that it has completed, or will complete prior to the inception of the additional rail service, all capital improvements necessary to avoid significant costs which cannot be avoided by improved scheduling or other means on other existing rail services (including rail freight service) and to assure that the additional service will not detract from the level and quality of existing rail passenger and freight service.

"(B) As used in this paragraph, the term 'additional rail passenger service' means rail passenger service (other than rail passenger service provided pursuant to the provisions of paragraphs (2) and (4) of this subsection), including extended or expanded service and modified routings, which is to be provided over rail properties conveyed to the Corporation pursuant to section 303(b)(1) of this title, or over (i) rail properties contiguous thereto conveyed to the National Railroad Passenger Corporation pursuant to this Act, or (ii) any other rail properties contiguous thereto to which a State (or local or regional transportation authority) has obtained access.

"(C) Notwithstanding any other provision of this paragraph, the Corporation shall not be required to operate additional rail passenger service over rail properties leased or acquired from or owned or leased by a profitable railroad in the region.

"(8) The Secretary shall, in consultation with the Association, conduct a study to determine the best means of compensating the Corporation for liabilities which it may incur for damages to persons or property, resulting from the operation of rail passenger service required to be operated pursuant to this subsection or section 303(b)(2) of this title, which are not underwritten by private insurance carriers or are not indemnified by a State (or local or regional transportation authority). Such study shall identify the nature of the risks to the Corporation, the probable degree of uninsurability of such risks, and the desirability and feasibility of various indemnification programs, including subsidy offers made pursuant to this section, self insurance through a passenger tax or other mechanism, or government indemnification for such liabilities. Within one year after the date of enactment of this paragraph, the Secretary shall prepare a report with appropriate recommendations and shall submit such report to the Congress. Such report shall specify the most appropriate means of indemnifying the Corporation for such liabilities in a manner which shall prevent the cross-subsidization of passenger services with revenues from freight services operated by the Corporation.".

TITLE III—AMENDMENTS TO THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976; RELATED PROVISIONS

INCREASE IN FUNDING LIMITATION ON PURCHASE OF TRUSTEE CERTIFICATES; EXTENSIONS OF AUTHORITY TO ISSUE AND SELL FUND ANTICIPATION NOTES

SEC. 301. (a) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(1) in subsection (d)(3), by striking out the last sentence; and

(2) in subsection (e), by striking out "purchase under this title after September 30, 1978," and inserting in lieu thereof ", after September 30, 1979, make commitments to purchase under this title,".

(b) Sections 507(a) and 507(d) of the Railroad

Revitalization and Regulatory Reform Act of 1976 (7 U.S.C. 827(a) and (d)) are amended by striking out "1978" and inserting in lieu thereof "1979".

(c) Section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is amended by striking out "March 31" each place it appears and inserting in lieu thereof "September 30".

SECURITY FOR TRUSTEE CERTIFICATES

SEC. 302. Section 505(d)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(d)(2)) is amended—

(1) in the last sentence of subparagraph (B), by striking out "No certificate" and inserting in lieu thereof "Except as provided in subparagraph (C) of this paragraph, no certificate"; and

(2) by adding at the end thereof the following new subparagraph:

"(C) The Secretary may purchase certificates under this section without making the finding referred to in clause (iii) of subparagraph (B) only if such certificates are senior in rights to all outstanding capital stock, common and preferred, of the debtor corporation, and all unsecured debt incurred before the date of commencement of railroad reorganization proceedings pursuant to section 77 of the Bankruptcy Act, but subordinate to all senior debt of the debtor corporation whenever such senior debt is incurred. As used in this subparagraph, the term 'senior debt' means—

"(i) all costs of administration, incurred or to be incurred by a trustee, and secured debt assumed by a trustee, in connection with the reorganization proceedings and the operation of a debtor's business by a trustee during the pendency of such proceedings; and

"(ii) all secured debt incurred before the date of commencement of railroad reorganization proceedings pursuant to section 77 of the Bankruptcy Act and determined by the court to be a proper claim against the estate and an obligation of the debtor corporation.".

FRA REVIEW

SEC. 303. The Federal Railroad Administration shall promptly review the condition of the Chicago, Milwaukee, and Saint Paul Railroad and consider assisting such railroad with loans for roadbed and track improvement.

TITLE IV—AMENDMENTS TO THE INTERSTATE COMMERCE ACT RENEWAL

SEC. 401. (a) Section 15(8)(c) of the Interstate Commerce Act (49 U.S.C. 15(8)(c)) is amended—

(1) in clause (i), by striking out "within 2 years after the date of the enactment of this subdivision" and inserting in lieu thereof "prior to July 1, 1980";

(2) in clause (ii), by inserting "and" after the semicolon; and

(3) by striking out clauses (iii) and (iv) and inserting in lieu thereof a new clause (iii) to read as follows:

"(iii) the aggregate of increases or decreases in any rate filed pursuant to clause (i) or (ii) of this subdivision during any calendar year is not greater than 7 per centum of the rate in effect on January 1 of that year.".

(b) The last sentence of section 15(8)(d) of the Interstate Commerce Act (49 U.S.C. 25(8)(d)) is amended by striking out "clauses (iii) or (iv)" and inserting in lieu thereof "clause (iii)".

CAR SERVICE

SEC. 402. Section 1(14) of the Interstate Commerce Act (49 U.S.C. 1(14)) is amended by redesignating subdivision (b) as subdivision (c), and by inserting immediately after subdivision (a) the following new subdivision:

"(b) If the Commission finds, upon the petition of an interested party and after notice and a hearing on the record, that a common carrier by railroad subject to this part has materially failed to furnish safe and adequate car service as required by paragraph (11) of this section, the Commission may require such carrier to provide itself with such facilities and equipment as may be reasonably necessary to furnish such service, if the evidence of record establishes, and the Commission affirmatively finds, that—

"(i) the provision of such facilities or equipment will not materially and adversely affect the ability of such carrier to otherwise provide safe and adequate transportation services;

"(ii) the expenditure required for such facilities or equipment, including a return which equals such carrier's current cost of capital, will be recovered; and

"(iii) the provision of such facilities or equipment will not impair the ability of such carrier to attract adequate capital.".

The SPEAKER pro tempore. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. ROONEY) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to explain why I have introduced this substitute and also give a brief explanation as to its contents.

Although I am offering a substitute, in essence the differences between this amendment and the bill reported by the committee are not overwhelmingly significant. The substitute that I am offering represents a consensus of all parties interested in the original bill. That is, due to the fact that we will be adjourning shortly, and do not have time to have formal conferences with the Senate, I have attempted to work out a compromise bill with my counterparts in the Senate as well as with the administration, the Association of American Railroads, the Railway Labor Executives Association, the National Industrial Traffic League, State representatives and others. I am pleased to state that all of these parties wholeheartedly endorse the substitute bill I am offering.

In order to best utilize Government funds, the bill approved by the committee provided that branch lines would be eligible for assistance if they had been scheduled for abandonment, or were potentially subject to abandonment. The Senate bill, on the other hand, provided that all branch lines which carried 5 million gross tons of freight or less per mile during the preceding year, would be eligible for assistance. A compromise has now been reached which is acceptable to all parties, whereby a branch line will be eligible for assistance if it carried 3 million gross tons of freight or less per mile during the preceding year. Also with regard to eligibility, a compromise was reached whereby all abandoned or discontinued lines receive assistance for 3 years, except for lines excluded by the United States Railway Association from ConRail which will receive assistance through fiscal year 1981.

I would also like to assure my friend from Kentucky, Dr. CARTER, that the substitute that I am offering includes the provision which he intended to offer as an amendment to the committee bill.

Dr. CARTER was rightfully concerned that certain railroads have failed to furnish safe and adequate car service as required by the Interstate Commerce Act. I would like to call to his attention that section 402 of this substitute pertains to the amendment that he intended to offer. This section permits the ICC to require railroads to use safe and adequate facilities and equipment as determined by the ICC.

Another change in the bill pertains to the formula for allocating the available funds. As I stated during the general debate, emphasis is now to be placed on rehabilitation of lines, rather than operating subsidies for abandoned lines. Therefore, commencing in fiscal year 1980, two-thirds of the funds available will be allocated on the basis of a State's percentage of rail mileage which is potentially subject to abandonment or which carriers plan to abandon. That is, the so-called categories 1 and 2. One-third of the funds will be allocated on the basis of the State's percentage of rail mileage which has been authorized for abandonment, or excluded from the ConRail system.

Nevertheless, each State will continue to be entitled to a minimum of 1 percent of the funds appropriated, notwithstanding the foregoing formulas.

Understandably, the change in the allocation formula will have different effects among the various States. The exact amount of differences are not known at the present time, because there can be variations in the number of miles summitted by various railroads. Nevertheless, the administration has furnished a fairly accurate estimate. Moreover, in order to compensate for the reduction in funds that some States may realize as a result of this formula change, and in addition, in an effect to expedite the rehabilitation program, the administration has promised that commencing with fiscal year 1980, it will request an appropriation increase of $23 million. That is, the current appropriation for fiscal year 1979 is $67 million, and they have indicated that they will request $100 million. In this way, those States which would receive a smaller amount due to the change in the formula allocation, due to the increased total funding would receive approximately the same amount of funds.

Other than these changes, in my opinion, there are no other material differences between the substitute and the bill reported by the committee. I would like to assure you that the bill contains no nongermane, no additional funding, nor does it contain any special interest matters.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the genleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

Does the substitute which the gentleman is now proposing to the House contain any language on recyclable materials?

Mr. ROONEY. Will the gentleman repeat the question?

Mr. VOLKMER. Does it contain any language or provision with regard to cyclable materials?

Mr. ROONEY. No, it does not.

Mr. VOLKMER. So that is a matter that still would have to be considered by the committee next year?

Mr. ROONEY. That is correct.

Mr. VOLKMER. What is the difference between the substitute the gentleman now offers and the bill as reported out of committee? Will the gentleman tell me briefly the actual changes that were made?

Mr. ROONEY. As I said in my explanatory remarks, one of the principle differences in the substitute pertains to eligibility. In order to best utilize the Government funds, the bill approved by the committee provided that branch lines would be eligible for assistance if they were scheduled for abandonment or potentially subject to abandonment. The Senate bill, on the other hand, provided that all branch lines which carried 5 million gross tons of freight or less per mile during the preceding year would be eligible. The compromise follows the Senate provision except that it reduces the tonnage to 3 million gross tons of freight or less per mile during the preceding year

Mr. VOLKMER. Is this assistance also in the gentleman's substitute providing for 80 percent?

Mr. ROONEY. Yes.

Mr. VOLKMER. That does not vary

from the bill, but the gentleman took the Senate language instead of the House language, is that correct?

Mr. ROONEY. No. We compromised, as I originally stated.

Mr. VOLKMER. What is the compromise? Does it mean that we have both provisions in, or either one, on a local branch line?

Mr. ROONEY. We went from 5 million to 3 million gross tons of freight.

Mr. VOLKMER Then the gentleman is using the Senate language with a 3 million figure instead of a 5 million figure as to those branch lines that would qualify for assistance?

Mr. ROONEY. That is correct.

Mr. VOLKMER. So that if the branch line was somewhat under that figure——

Mr. ROONEY. It is 3 million or less.

Mr. VOLKMER. So if it is a little bit over the figure but is scheduled for reduction in service or taken off altogether, it would not be eligible for assistance?

Mr. ROONEY. Yes, it would be eligible if, as the substitute provides in section 107, the Secretary has determined that this project is essential to carry out proposals made under authority of subsections (a) through (e) of this section.

If it satisfies this additional criteria.

Mr. VOLKMER. If it is on their list it would still be eligible for assistance. I thank the gentleman.

Mr. ROONEY. I would also like to again assure my friend and colleague from Kentucky (Mr. CARTER) that the substitute bill I am offering includes a provision which he intended to offer as an amendment to the committee amendment. The gentleman may recall that I assured him that I would take care of this provision in the committee, and I certainly thank him for his cooperation.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I want to thank the gentleman for his cooperation in this matter. It certainly will be helpful to some of the smaller branch lines there in the district I represent. I thank him very kindly.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I will be happy to yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman from Pennsylvania for yielding, and for all the interest he has shown in the rail problems nationally, and in those in the Delmarva Peninsula of Delaware, Maryland, and Virginia.

Having testified before his committee many times, most recently a few months ago, I know that he is aware of the great concern expressed by the short line operators in the Delmarva Peninsula. They have said that changes in the funding formula could take place to their disservice, substantially reducing not only the amount of support they might have, but also their ability to operate at all since they are existing lessees of the Penn Central successor companies and not yet in a profitable situation.

What has the compromise done in a general sort of way to meet these concerns that were expressed to the gentleman's committee?

Mr. ROONEY. Well, understandably the change in the application formula will have significant effect upon the various States, of which the Delmarva Peninsula is a part.

The exact amount of the differences at this time are not known because there may be variations in the number of miles submitted by the various railroads, but nevertheless the administration has promised to request an appropriation in the amount of $100 million next year—an increase of $23 million—for this program. Thus, hopefully, we will be able to work out this problem.

Mr. BAUMAN. Am I correct that there will be no change for the coming year in the funding levels now in the law?

Mr. ROONEY. That is correct. These changes take effect commencing in fiscal year 1980.

Mr. BAUMAN. So that at the very least this will give us an additional 12 months to try to work out the problems the short line operators now have?

Mr. ROONEY. That is correct.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, since we are on railroad legislation, let me mention one thing I have discussed with the gentleman from Pennsylvania (Mr. ROONEY) before and that is the ponderously slow movement of the Federal Railroad Administration toward moving on safety devices. I am specifically talking about strobe lights or oscillating lights to be required on the front of locomotives. There have been three studies which have been made by the FRA which have indicated that such things will save lives and save money for the railroads. We are—I hope—gradually getting there, but I am unimpressed by the way they move so slowly. I hope we can get some assistance from the chairman of the subcommittee in moving them in the right direction.

Mr. ROONEY. Know the gentleman's concern and I commend him for his interest in safety on railroads. I have been informed by the FRA that regulations on this matter should be issued this fall which will satisfactorily resolve the matter.

Mr. CARTER. Mr. Speaker, I yield such time as he may consume to the ranking minority member of the subcommittee, the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, I deeply appreciate that.

Mr. Speaker, the gentleman from Pennsylvania (Mr. ROONEY) has done an excellent job explaining this bill to the House. I know that everybody is happy with it.

Mr. Speaker, if my distinguished colleague, the gentleman from Kentucky (Mr. CARTER), will yield to the distinguished gentleman from Massachusetts (Mr. CONTE), I will appreciate it.

Mr. CARTER. Mr. Speaker, since the gentleman from Kansas has been such a close friend of mine over the years and the gentleman from Massachusetts is also quite a good friend, I yield to the gentleman from Massachusetts such time as he may consume.

Mr. CONTE. Mr. Speaker, at the outset I want to take this opportunity to commend the gentleman from Pennsylvania (Mr. ROONEY) not only for his leadership on this particular legislation but also for his leadership down through the years on railroad legislation. He has been one who has done his homework well, studied the problems, and knows the problems of the railroads in our country. He has come forth with monumental railroad legislation which will benefit this Nation for many, many years. Also I would commend the gentleman from Kansas (Mr. SKUBITZ), my good friend the ranking minority member of the subcommittee, who will no longer be with us after this Congress adjourns sine die. He has been a bulwark of strength here not only on the subcommittee but also in the Congress, and also on my baseball team. Many years ago he was one of the finest baseball players I ever coached on the congressional baseball team on the Republican side.

Mr. ROONEY. If the gentleman will yield, was the gentleman from Kansas an active player or a back bench one?

Mr. CONTE. He was a really outstanding player and an active player and a guy with a hell of a glove. If I ever were to award the golden glove to anybody, it would be to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Speaker, if the gentleman will yield, I appreciate those kind remarks, but as I recall that was the first and the last time that the Republicans lost and I think it was my presence on the field that brought about that defeat.

Mr. CONTE. Mr. Speaker, we are going to miss the gentleman from Kansas. As he said in the fine letter he sent to some of his colleagues, we are not saying goodbye because we are going to have the gentleman back here in the next decade or two and we want him to come back because we love him and respect him and we are going to miss him greatly.

Mr. Speaker, I am pleased to rise in support of this legislation. It will make a major improvement in the State rail assistance program and it is in the interests of better transportation throughout the nation.

In the past I have, at times, been critical of the Federal Railroad Administration because of the relative slowness with which funds were committed to the Nation's railroads. However, I am convinced that the Federal Railroad Administration officials were very sincere in their efforts to administer the program in the interests of the overall transportation program of the Nation. I have been particularly impressed with the efforts of the FRA in recent weeks to conclude agreements with a number of railroads and to commit practically all of their appropriated funds before the end of the fiscal year. They worked hard and long to assure that the funds available to them were put into critical track projects throughout the nation.

I was particularly pleased, of course, that their negotiations with the Boston & Maine Railroad were concluded in a $26 million trustee certificate for important trackwork on the B. & M. main line. Much of the work to be performed under this funding will be in my congressional district and will create new jobs, not only on the railroad, but in industries served by the railroad as well. The FRA showed great flexibility and concern in their efforts in dealing with difficult problems involved in the B. & M.'s present position of reorganization under the bankruptcy courts.

Today the bill which is before us contains language which I very strongly support which will give the FRA additional room for flexibility for dealing with railroads such as the Boston & Maine. This language will allow them to waive the "liquidation finding" when a project which is clearly in the public interest is pegged in the hierarchy of debt of a bankrupt corporation in such a way as to give the Government adequate security. This amendment is a greatly scaled-down version of a fine proposal put forth by Congressman MARTIN RUSSO. It is not as presently a cure-all for all of the administrative problems faced by bankrupt carriers and at least one of them, the Rock Island, feels that it will not be applicable to resolving their difficulties in seeking Federal financing. However, the Boston & Maine feels that it potentially could be of great assistance in resolving their own security position with the FRA. I believe it could potentially also be of assistance to the Milwaukee and to the Delaware & Hudson as well, should they be forced to declare bankruptcy in the future. It gives the FRA additional flexibility and, given the indications we have received of their willingness to work hard to get money into track projects, I believe that it will be helpful in working with applications of bankrupt carriers. I understand that this language has been checked with the Federal Railroad Administration and, while they do not officially endorse it, it is completely consistent with the capital needs report released by the FRA report earlier this week.

Mr. CARTER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Montana (Mr. MARLENEE) and, in addition, I yield the balance of my time to the ranking member, the gentlman from Kansas (Mr. SKUBITZ).

Mr. MARLENEE. Mr. Speaker, I rise in order to make it known that my vote in favor of this bill in no way lessens my enthusiasm for the amendment that I had planned to offer, designed to provide up to $135 million in loans for the Milwaukee Railroad, to be used for rehabilitation of the roadbed west of Minneapolis, Minn. I regret that the chairman has decided to bring this bill up under suspension of the rules.

At a meeting held yesterday in Montana, the trustee of the railroad stated that the line cannot operate in its present condition and that there is no money to rehabilitate it in the manner it should be. The importance of this transcontinental railroad cannot be overstated. The Milwaukee Railroad is currently considering the abandonment of its Pacific coast extension which runs from Minneapolis to the west coast. The economic potential of the agricultural States through which the Milwaukee runs with their huge, untapped energy resources, will be severely limited should the railroad be allowed to deterioriate and eventually be abandoned. In Montana alone it is estimated the coal reserves are over 100 billion tons—one-third of the Nation's supply. The most efficient way to move that coal is by train.

Jobs, more than 2,000 railroad employees of all classes and crafts, will be lost if the railroad is not financially helped. Hundreds of shippers in cities and towns completely dependent on continued rail service will be adversely impacted unless something is done immediately.

Present and future economic considerations must be realized for the seven States directly affected, as well as the rest of the Nation. The Milwaukee provides a vital link between the food and fuel of the northern tier and the rest of the country.

I hope that the importance of the Milwaukee is not lost sight of and that it will be able to remain a potent transportation route. I firmly believe the continuation of the Milwaukee is an important factor for the Nation's transportation, industry, agricultural, and future energy needs.

Mr. SKUBITZ. Mr. Speaker, I yield back the balance of my time.

Mr. ROONEY. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, the primary purpose of H.R. 11979 is to improve existing financial assistance programs to enable the States to preserve and enhance essential rail freight services within their borders. The bill does not contain any new authorizations.

Mr. Speaker, in many instances, it is uneconomical for private railroads to continue service to shippers on light density branch lines, although these lines are essential to shippers as an outlet to markets and to the economic health and employment stability of the communities served. With infusion of financial assistance in appropriate forms, many deteriorated branch lines in a poor financial posture can be successfully rehabilitated, both physically and financially. The Federal branch line assistance program, established on a cost-sharing basis with the States, encourages the States to make responsible decisions about the allocation of finite resources to address their branch line problems This bill gives the States additional flexibility within defined guidelines to deal with those problems.

Under existing law, financial assistance can only be channeled into abandoned and similar lines. This bill permits rehabilitation assistance to be used for lines, which, although not yet abandoned, appear to be likely candidates for abandonment. Timely infusion of assistance can prevent further deterioration, while a permanent solution to a particular branch line problem is set in motion. Often, these solutions will involve cooperation among States, communities, shippers, and carriers, all of whom will benefit by revitalized service.

The bill also extends for 1 year the railroad rehabilitation and improvement financing fund established in the Railroad Revitalization and Regulatory Reform Act of 1976 and liberalizes certain restrictive funding conditions in existing law. Additionally, the bill amends the Interstate Commerce Act to renew until July 1, 1980, an expired provision in existing law permitting railroad ratemaking flexibility within a 7-percent zone of reasonableness.

Mr. Speaker, this bill makes many important improvements to programs that are vital to many communities and shippers dependent on rail service. It will materially assist in solving many pressing problems confronting these communities and shippers. Therefore, I urge the passage of the bill.

Mr. BEDELL. Mr. Speaker, I rise in support of H.R. 11979, the Local Rail Service Assistance Act of 1979, and ask permission to revise and extend my remarks.

Mr. Speaker, in testimony presented last July before the Subcommittee on Transportation and Commerce, I voiced my strong support for the key provisions embodied in H.R. 11979. I firmly believed then, as I still do today, that the changes made by this bill will do much to remedy some of the critical problems which plague railroad rehabilitation today. These changes include: Streamlining procedures by which States receive Federal funding for railroad branch line rehabilitation, giving the States greater flexibility in allocating these funds to prioritize projects by minimizing Federal involvement, and allowing the distressed lines to remain under private ownership.

In that same testimony, I also urged the subcommittee to rectify a major shortcoming in the Local Rail Assistance Act of 1979 by adding a provision to broaden the scope of the project eligibility criteria in order to allow States more discretion in utilizing Federal funds on branch lines that are economically viable and that have not gone through abandonment or been classified as category 1 or 2 lines. I am pleased that, after much delicate negotiating by the principals involved, this needed change has been made in the final version of H.R. 11979, and I would like to take this opportunity to commend both the distinguished chairman of the committee, Mr. STAGGERS, and the chairman of the Transportation Subcommittee, Mr. ROONEY, for their diligent effort in making its inclusion a reality.

Under current law, only the most debilitated and least-needed lines can be assisted. H.R. 11979, as originally drafted, acknowledged the need for expansion in project eligibility criteria, but it did not go far enough in meeting this need. The bill which we are considering today has been improved by allowing the States to

use Federal funds on lines other than category 1 and 2 lines that carry up to 3 million gross ton-miles of freight annually. The measure would further provide that such eligibility could be expanded up to 5 million gross ton-miles—which is what the Senate version contains—if the Secretary of Transportation were to determine that it was in the public interest.

Let me take a moment at this point to explain why such a provision is so badly needed, A good example comes from my own State of Iowa which, I am proud to say, has one of the most progressive and capable State departments of transportation in the Nation. The Iowa rail system plan has identified nearly 1,200 miles of branch line track as priority projects for branch line rehabilitation. The estimated price tag of these projects is $52 million. Had the provision to expand branch line eligibility criteria not been included in this bill, virtually none of these projects could have been funded because none have been designated as either category 1 or 2 lines. Such a development would have been a terrible waste, since the opportunity to prevent further deterioration of these branch lines, before the cost effectiveness of salvaging them is severely reduced, would have been lost.

Simply put, Mr. Speaker, the new eligibility expansion language makes operative the old adage, "an ounce of prevention is worth a pound of cure." And, it is significant to note, the new language would not result in any increase or shift in the allocation of appropriated funds. It merely allows the States to use these funds more wisely.

This Nation is finding out the hard way that its rail industry is a vital cog in the national economic machine. We are now paying for years of abuse and benign neglect. Legislation like H.R. 11979 signals our readiness to reverse that ill-advised approach and to get down to the business of making our railroads responsive to the demands being placed upon them.

I urge my colleagues to support this important piece of legislation.

● Mr. ABDNOR. Mr. Speaker, I wish to associate myself with the remarks made earlier by Messrs. ROONEY, SKUBITZ, and MADIGAN in support of H.R. 11979, the Local Rail Service Assistance Act of 1978.

Earlier this year I testified before the Interstate and Foreign Commerce Subcommittee on Transportation and Commerce. At that time I stressed the importance of continued Federal assistance to the States so that they may make full use of the provisions stated in the Railroad Revitalization and Regulatory Reform Act of 1976.

In order to maximize the benefits accrued from the 4–R Act, more flexibility is needed to allow individual States to funnel funds into lines they deem as top priority. This is important because of the emphasis placed on rehabilitation of branch lines before they have deteriorated to a point at which abandonment becomes necessary.

The 4–R Act resulted in the establishment of State railroad planning offices. These offices have developed a good working relationship between Federal, State, and local units of government, as well as the railroads and shippers. State rail plans have been formulated to implement this program. I am proud to note that my State of South Dakota was the first in the Nation to accomplish its State rail plan.

Mr. Speaker, this legislation modifies the 4–R Act to provide for a more efficient means of implementing a good local rail program. H.R. 11979 provides flexibility to the States, allowing distressed lines to remain under private ownership.

Funds for rehabilitation projects will be available on an 80–20 basis—the same as highway and urban mass transit funds.

Mr. Speaker, now is the time for enactment of this legislation. Recently, the trustee for the bankrupt Milwaukee Railroad announced the possibility of the abandonment of all lines running west from Minneapolis to the Pacific coast. Its operation affects seven northern-tier States whose communities depend on rail transportation. In South Dakota, more than 1,500 miles of track, representing 51 percent of the total trackage, is classified as potentially subject to abandonment. If all Milwaukee lines in my State are abandoned, these figures will escalate tremendously.

The Local Rail Service Assistance Act will save many of these lines from being abandoned. Economic assistance must be available early enough to avoid deterioration of service. As a result, railroads will continue to provide a fast, economical and energy-efficient method of transportation.●

● Mr. FLORIO. Mr. Speaker, there is a serious problem which threatens our Nation's rail transportation which we cannot ignore. From July 10, 1978, until September 27, 1978, the Brotherhood of Railway and Airline Clerks struck the Norfolk & Western Railroad after failing in nearly 2 years of negotiations, to reach an agreement.

This strike had a disasterous economic result in the 17 States through which the Norfolk & Western runs. Eventually, the strike expanded to nearly all railroads in the country other than ConRail, Amtrak, and a few others. It was only after the strike paralyzed our Nation's rail traffic that the administration quickly intervened. The administration first attempted marathon, round the clock bargaining, which failed, and finally, President Carter named a Presidential Emergency Board to deal with the dispute.

It has been alleged that one of the reasons the Norfolk & Western did not reach agreement was because the railroad was receiving $800,000 per day under an insured mutual aid pact. The pact is called a "service interruption policy" and is financed by 73 railroads. Its effect is to not only shield a struck carrier against loss, but they also receive economic benefits during a work stoppage. A carrier under the "service interruption policy" can receive payments for 400 some days. Whereas workers strike benefits are limited to 130 days during a benefit year. Since the creation of the Presidential Emergency Board there is now a 60-day cooling-off period, covering 30 days of emergency board proceedings and an additional 30 day status quo period thereafter. But the Board so far has not settled the dispute. If the strike resumed after the 60-day cooling-off period the Norfolk and Western would be able to obtain its $800,000 per day in mutual aid pact benefits for approximately 320 additional days. This could impede the parties from agreeing to the recommendations of the Board, which are not binding, and we could be back to a nationwide rail strike at a time when Congress probably will not be in session—late November or early December.

Mr. ROONEY, chairman of the Transportation and Commerce Subcommittee scheduled hearings for September 29 on the ramifications of the railroad mutual aid pact. However, hearings were postponed since most of the scheduled witnesses were tied up in the strike action in one way or another and could not testify. It is my judgment that even if we are adjourned sine die at the time the chairman may want to schedule hearings to answer the many questions we have as to the effect of the mutual aid pacts.●

● Mr. RUSSO. Mr. Speaker, I concur with the remarks of the gentleman from New Jersey (Mr. FLORIO) about the national rail strike.

Through more than 2 months, there were more than 25,000 people out of work directly as a result of the Norfolk & Western strike, and 100,000 other workers—mine workers, construction workers, and automobile workers—were laid off. When the strike went nationwide, millions of workers—including 500,000 railroad workers—were not working. In addition, the effect on the economy of our Nation and the railroad industry, which is so vital to our Nation's recovering economy demands we take some action to learn more about this mutual aid pact; and then, armed with the facts, we can decide what if anything should be done about it.

I have received information that BRAC strikers received large benefits from unemployment compensation and union strike funds. I would like to examine this in light of the rail mutual aid pact.

The strikers did receive railroad unemployment benefits of $25 a day, as well as an additional $20 per week in strike benefits from the union. The law provides these unemployment benefits do not begin until the eighth day of a strike. Rail labor, some time ago, negotiated with the carriers and presented to Congress a package providing for the $25 per day unemployment benefits. This was an increase over the previous $12.50 per day. The Interstate and Foreign Commerce Committee presented H.R. 8714 to the 94th Congress, in July of 1975. The committee stated the package was the result of collective bargaining between rail unions and the carriers. The unions negotiated these unemployments for their members in lieu of other benefits such as wages and other fringes. It should be noted that H.R. 8714 passed this body by a recorded vote of 420 yeas to 0 nays.

And lastly, these strike benefits are not paid unless a strike is legal. I think it is

also important to point out, by the way, as I did in connection with an amendment offered by Congressman OBERSTAR dealing with the mutual aid pact in the airline industry, that comparing these two types of benefits is like a comparison of apples and oranges. The apples being the ability of a large corporation to continue during a strike to make a profit; and the oranges being an individual head of household who must meet basic food and housing needs, and must dip into his savings to exist. This difference in apples and oranges has severely complicated collective bargaining in both the railroad and airline industries.

The airline industry, during the pre-mutual-aid-pact era, averaged strikes of only 15 days. Now the average is more than double that amount. In fact, the last strike against Northwest Orient Airlines lasted 109 days.

It was unfortunate that the Subcommittee on Transportation and Commerce did not conduct their hearings as scheduled. However, I suggest that the chairman, Mr. ROONEY, may still want to schedule hearings for the subcommittee to determine whether such pacts should be permitted to exist or should be modified; and the effect they have on collective bargaining.●

Mr. ROONEY. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY) that the House suspend the rules and pass the bill H.R. 11979, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend section 5 of the Department of Transportation Act, relating to rail service assistance, and for other purposes."

A moton to reconsider was laid on the table.

Mr. ROONEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2981) to amend the Department of Transportation Act as it relates to the local rail services assistance program, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Local Rail Services Act of 1978".

DECLARATION OF POLICY

SEC. 2. It is declared to be the policy of Congress in this Act that the Government shall assist in the provision of adequate transportation service to shippers and communities now served by light density lines. Federal funds shall be used to assist transportation services where such assistance provides economic benefits to the affected communities without placing a financial drain on the carriers providing that service.

Congress believes, however, that the parties benefiting from a Federal investment on a light density line must act to preserve the benefits of the Federal investment. Accordingly, Congress expects the States and local communities, shippers, and all elements of the railroad industry to commit themselves to long-term solutions which will enable the continued provision of adequate transportation service after the completion of the federally assisted projects.

EXPANSION OF ASSISTANCE

SEC. 3. Section 5(f) of the Department of Transportation Act (hereinafter referred to as the "DOT Act") (49 U.S.C. 1654(f)) is amended—

(1) by striking "purchasing a line of railroad or other rail properties" in paragraph (2) and inserting in lieu thereof "acquiring, by purchase, lease or in such other manner as the State considers appropriate, a line of railroad or other rail properties or any interest therein";

(2) by striking "and" immediately after the semicolon in paragraph (3);

(3) by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(4) by adding the following new paragraphs at the end thereof:

"(5) the cost of constructing rail- or rail-related facilities (including new connections between two or more existing lines of railroad, intermodal freight terminals, and sidings), for the purpose of improving the quality and efficiency of local rail freight service; and

"(6) the cost of developing, administering, and evaluating innovative experimental programs that are designed to improve the quality and efficiency of service on lines of railroad eligible for assistance under this section and which involve cooperative action between State and local communities and railroad industry representatives or shippers.".

COST SHARING

SEC. 4. Section (5)(g) of the DOT Act (49 U.S.C. 1654 (g)) is amended to read as follows:

"(g) The Federal share of the costs of any rail service assistance program for any fiscal year is 80 percent. The State share of the costs may be provided in cash or through the following benefits, to the extent the benefit would not otherwise be provided: (1) forgiveness of taxes imposed on a common carrier by railroad or on its properties; (2) the provision by the State or by any person or entity on behalf of a State, for use in its rail service assistance program, of realty or tangible personal property of the kind necessary for the safe and efficient operation of rail freight service by the State; or (3) the cash equivalent of State salaries for State public employees working in the State rail services assistance program, but not including overhead and general administrative cost. If a State provides more than 20 percent of the cost of its rail service assistance program during any fiscal year, the amount in excess of the 20 percent contribution shall be applied toward the State's share of the costs of its program for subsequent fiscal years.".

FORMULA ALLOCATION

SEC. 5. Section 5(h) of the DOT Act (49 U.S.C. 1654(h)) is amended to read as follows:

"(h)(1) For the period October 1, 1978, through September 30, 1979, each State which is, pursuant to subsection (j) of this section, eligible to receive rail service assistance is entitled to an amount equal to the total amount authorized and appropriated for such purposes, multiplied by a fraction whose numerator is the rail mileage in such State which is eligible for rail service assistance under this subsection and whose denominator is the rail mileage in all of the States which are eligible for rail service assistance under this subsection. Notwithstanding the provisions of the preceding sentence, the entitlement of each State shall not be less than 1 percent of the funds appropriated. For purposes of this subsection, rail mileage shall be measured by the Secretary, in consultation with the Interstate Commerce Commission. For the purpose of calculating the formula under this subsection, the rail mileage which is eligible shall be that for which the Commission has found that (A) the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to such project; or (B) the line of railroad or related project was eligible for assistance under title IV of the Regional Rail Reorganization Act of 1973; and such line or related projects has not previously been the subject of Federal rail service assistance under this section for more than 5 fiscal years.

"(2) Effective October 1, 1979, every State which is eligible to receive rail service assistance pursuant to subsection (j) of this section is entitled annually to a sum from available funds as determined pursuant to this subsection. Available funds are funds appropriated for rail service assistance for that fiscal year and any funds to be reallocated for that fiscal year in accordance with this paragraph. Subject to the limitations contained in paragraph (3) of this subsection, the Secretary shall calculate each State's entitlement as follows:

"(A) two-thirds of the available funds multiplied by a fraction whose numerator is the sum of the rail mileage in the State which, in accordance with section 1a(5)(a) of the Interstate Commerce Act (49 U.S.C. 1a(5)(a)), is either 'potentially subject to abandonment' or with respect to which a carrier plans to submit, but has not yet submitted, an application for a certificate of abandonment or discontinuance; and whose denominator equals the total of such rail mileage in all the States; and

"(B) one-third of available funds remaining after completion of the calculations under paragraph (1)(A) of this subsection multiplied by a fraction whose numerator equals the rail mileage in the State for which the Interstate Commerce Commission, within 2 years prior to the first day of the fiscal year for which funds are allocated or reallocated under this section, has found that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the rail mileage, and including, until September 30, 1981, (1) the rail mileage which was eligible for assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) and (2) all rail mileage in the State which has, prior to October 1, 1978, been included for formula allocation purposes under this section; and whose denominator equals the total rail mileage in all the States eligible for rail service assistance under this section for which the Interstate Commerce Commission has made such a finding and including, until September 30, 1981, (1) the rail mileage in all the States which was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) and (2) the rail mileage in all the States which had been, prior to the enactment of this amendment, included for formula allocation purposes under this section. For purposes of the calculation directed by this paragraph, no rail mileage shall be included more than once in either the numerator or the denominator. Notwithstanding the provisions of this subsection, each State is entitled to receive pursuant to this subsection not less than 1 percent of the total appropriation under subsection (q) of this section for that fiscal year.

"(3) For purposes of paragraphs (1) and (2) of this subsection, rail mileage shall be measured by the Secretary as of the first day of each fiscal year. Entitlement funds are available to a State during the fiscal year for which the funds are appropriated. In accordance with the formula stated in this subsection, the Secretary shall reallocate to each State eligible to receive rail service assistance under subsection (j) of this section a share of any entitlement funds which have not been the subject of an executed grant agreement between the Secretary and the State before the end of the fiscal year for which the funds were appropriated. Reallocated funds are available to the State for the same purpose and for the same time period as an original allocation and are subject to reallocation if not made the subject of an executed grant agreement between the Secretary and the State before the end of the fiscal year for which the funds were reallocated. Funds appropriated in fiscal year 1978 and prior years which are not the subject of a grant agreement when this bill becomes effective will remain available to the States during fiscal year 1979.".

PLANNING ASSISTANCE

SEC. 6. Section 5(i) of the DOT Act (49 U.S.C. 1654(i)) is amended to read as follows:

"(i) During each fiscal year, a State may expend not to exceed $100,000, or 5 percent, whichever is greater, of it annual entitlement under subsection (h) of this section to meet the cost of establishing, implementing, revising, and updating the State rail plan required by subsection (j) of this section.".

PROJECT ELIGIBILITY

SEC. 7. Section 5(k) of the DOT Act (49 U.S.C. 1654(k)) is amended to read as follows:

"(k)(1) On August 1 of each year, each carrier by railroad subject to part I of the Interstate Commerce Act, shall prepare, update, and submit to the Secretary a listing of those rail lines which, based on a level of usage, carried 5 million gross tons of freight or less per mile during the prior year.

"(2) A project is eligible for financial assistance under paragraph (1) of subsection (f) of this section only if—

"(A)(i) the Interstate Commerce Commission has found. since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to the project; or (ii) the line of railroad or related project was eligible for assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762); and

"(B) the line of railroad or related project has not previously received financial assistance under paragraph (1) of subsection (f) of this section for more than 36 month: *Provided, however,* That a line of railroad or related project which was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) or under this section prior to October 1, 1978, is eligible only until September 30, 1981.

"(3) A project is eligible for financial assistance under paragraph (2) of subsection (f) of this section only if—

"(A)(i) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad related to the project; or (ii) the line of railroad related to the project is listed for possible inclusion in a rail bank in part III, section C of the Final System Plan issued by the United States Railway Association under section 207 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717); or (iii) the line of railroad related to the project was eligible to be acquired under section 402(c)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(c)(3)). A line of railroad or related project which was eligible for financial assistance under such section 402 or under this section prior to October 1, 1978, is eligible only until September 30, 1981; and

"(B) the Secretary finds that the project satisfies benefit/cost criteria developed by the Secretary under subsection (o) of this section.

"(4) A project is eligible for financial assistance under paragraphs (3) and (5) of subsection (f) of this section only if—

"(A) the line of railroad related to the project is contained in the most recent submission under paragraph (1) of this subsection, and the project has been approved by the affected railroad; and

"(B) the Secretary finds that the project satisfies benefit/cost criteria developed by the Secretary under subsection (o) of this section.

"(5) A project is eligible for financial assistance under paragraph (4) of section (f) of this section only if—

"(A)(i) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to the project; or (ii) the line of railroad or related project was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762): *Provided,* That a line of railroad or related project which was eligible for assistance under this section or such section 402 prior to October 1, 1978, shall remain eligible for financial assistance only until September 30, 1981; and

"(B) the Secretary finds that the project satisfies benefit/cost criteria developed by the Secretary under subsection (o) of this section.

"(6) A project is eligible for financial assistance under paragraph (6) of subsection (f) of this section only if—

"(A) there is a reasonable likelihood that it will improve the quality and efficiency of local rail freight service by increasing operating efficiency, reducing the cross subsidization of unprofitable portions of a system by profitable portions of a system, or increasing productivity of workers; and

"(B) the cooperative action project shall not exceed 18 months in duration.".

TECHNICAL AMENDMENTS

SEC. 8. (a)(1) Section 5(o) of the DOT Act (49 U.S.C. 1654(o)) is redesignated as section 5(q).

(2) The first sentence of subsection (m)(1) of section 5 of the DOT Act (49 U.S.C. 1654(m)(1)) is amended by striking "(o)" and inserting in lieu thereof "(q)".

(b) The third sentence of subsection (q) of section 5 of the DOT Act, as redesignated by subsection (a) of this section, is amended to read as follows: "In addition, any appropriated sums ranging after the repeal of section 402 of the Regional Rail Reorganization Act of 1973 and of section 810 of the Railroad Revitalization and Regulatory Reform Act of 1976 are authorized to remain available to the Secretary for purposes of subsections (f) through (q) of this section.".

(c) Section 810 of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1653a) is repealed.

BENEFIT-COST CRITERIA

SEC. 9. Section 5 of the DOT Act (49 U.S.C. 1654) is further amended by adding after subsection (n) thereof a new subsection (o) as follows:

"(o) The Secretary, in cooperation with representatives chosen by the States, shall, within 60 days of the effective date of this subsection, promulgate regulations establishing criteria to be used by the Secretary to determine the ratio of benefits to costs of proposed projects eligible for assistance under paragraphs (2) through (5) of subsection (k) of this section. During the period prior to the Secretary's promulgation of such a methodology, the Secretary shall continue to fund projects on a case-by-case basis where he has determined, based upon analysis performed and documented by the States, that the public benefits associated with the project outweigh the public costs of that project.".

REHABILITATION ASSISTANCE

SEC. 10. Section 5 of the DOT Act (49 U.S.C. 1654) is further amended by adding after subsection (o), as added by section 9 of this Act, a new subsection (p) as follows:

"(p) A State shall use financial assistance provided under paragraph (3) of subsection (f) of this section as follows:

"(1) The funds shall be used to rehabilitate or improve rail properties in order to improve local rail freight service within the State.

"(2) The State, in its discretion, shall grant or loan funds to the owner of rail properties or operator of rail service related to the project.

"(3) The State shall determine the financial terms and conditions of a grant or loan.

"(4) The State shall place the Federal share of repaid funds in an interest-bearing account, or with the approval of the Secretary, permit any borrower to place such funds for the benefit and use of the State, in a bank which has been designated by the Secretary of the Treasury, in accordance with section 265 of title 12, United States Code. The State shall use such funds and all accumulated interest to make further loans or grants under paragraph (3) of subsection (f) of this section in the same manner and under the same conditions as if they were originally granted to the Secretary. The State may at any time pay to the Secretary the Federal share of any unused funds and accumulated interest. After the termination of a State's participation in the local rail service assistance program established by this section, it shall pay the Federal share of any unused funds and accumulated interest to the Secretary.".

COMBINATION OF ENTITLEMENTS

SEC. 11. Section 5 of the DOT Act (49 U.S.C. 1654) is further amended by adding after subsection (q) as redesignated by section 8 of this Act, a new section (r) as follows:

"(r) Two more States that are eligible for local rail assistance under this section may, subject to agreement between or among them, combine their respective Federal entitlements under subsection (h) of this section in order to improve rail properties within their respective States or regions. Such combination of entitlements, where not violative of State law, shall be permitted, except that—

"(A) combined funds may be expended only for purposes listed in this section; and

"(B) combined funds that are expended in one State subject to the agreement entered into by the involved States, and which exceed what the State could have expended absent any agreement, must be found by the Secretary to provide benefits to eligible rail services within one or more of the States which is party to the agreement.".

AMENDMENTS TO THE INTERSTATE COMMERCE ACT

SEC. 12. (a) Section 1(14) of the Interstate Commerce Act (49 U.S.C. 1(14)) is amended—

(1) by designating subsection (b) thereof as subsection (c); and

(2) by adding a new subsection (b), as follows:

"(b) The Commission may, upon petition and after a hearing on the record, and upon

finding that a carrier by railroad subject to this part has materially failed to furnish safe and adequate car service as required by subsection 1(11), require such railroad to provide itself with such facilities or equipment as may be reasonably necessary to meet such obligation, provided the evidence of record establishes, and the Commission affirmatively finds, that—

"(1) The provision of such facilities or equipment will not materially and adversely affect the railroad's ability to otherwise provide safe and adequate transportation services;

"(2) The expenditure required for such facilities or equipment, including a return which equals or exceeds the railroad's current cost of capital, will be recovered; and

"(3) The provision of such facilities or equipment will not impair the railroad's ability to attract adequate capital.".

(b) Section 1a(4) of the Interstate Commerce Act (49 U.S.C. 1a(4)) is amended by adding at the end thereof the following new sentence: "The terms and conditions referred to in subsection (b) of this paragraph may include a direction, where the Commission finds it to be in the public interest to do so, awarding trackage rights to another common carrier by railroad or to a State, or a political subdivision thereof, over all or any portion of the lines of the applicant's railroad, solely for the purpose of moving equipment and crews in nonrevenue service between any lines operated by such other carrier, State, or political subdivision. In making such determination, the Commission shall consider the views of any State or other party directly affected by such abandonment or discontinuance and shall fix just and reasonable compensation, in accordance with section 3(5) of this part, for such trackage rights.".

AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 13. Section 304(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)) is amended—

(1) by—

(A) striking the comma at the end of paragraph (4)(B), and inserting in lieu thereof "; or"; and

(B) adding the following new subparagraph after paragraph (4)(B):

"(C) offers a rail service continuation payment, pursuant to subsection (c)(2)(A) of this section and regulations issued by the Office pursuant to section 205(d)(5) of this Act, for the operation of rail passenger service provided under an agreement or lease pursuant to section 303(b)(2) of this title or subsection (c)(2)(B) of this section where such offer is made for the continuation of the service beyond the period required by such agreement or lease: *Provided*, That such services shall not be eligible for assistance under section 17(a)(2) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613(a)(2), as amended;"; and

(2) by adding at the end thereof the following new paragraphs:

"(7) If a State (or a local or regional transportation authority) in the region offers to provide payment for the provision of additional rail passenger service (as hereinafter defined), the Corporation shall under take to provide such service pursuant to this subsection (including the discontinuance provisions of paragraph (2) hereof). An offer to provide payment for the provision of additional rail passenger service shall be made in accordance with subsection (c)(2)(A) of this section and under regulations issued by the Office pursuant to section 205(d)(5) of this Act, and shall be designed to avoid any additional costs to the Corporation arising from the construction or modification of capital facilities or from any additional operating delays or costs arising from the absence of such construction or modification. The State (or local or regional transportation authority) shall demonstrate that it has acquired, leased, or otherwise obtained access to all rail properties other than those designated for conveyance to the National Railroad Passenger Corporation pursuant to sections 206(c)(1)(C) and 206(c)(1)(D) of this Act and to the Corporation pursuant to section 303(b)(1) of this title necessary to provide the additional rail passenger service and that it has completed, or will complete prior to the inception of the additional rail service, all capital improvements necessary to avoid significant costs which cannot be avoided by improved scheduling or other means on other existing rail services, including rail freight service and to assure that the additional service will not detract from the level and quality of existing rail passenger and freight service. As used in this section, "additional rail passenger service" shall mean rail passenger service (other than rail passenger service provided pursuant to the provisions of paragraphs (2) and (4) of this subsection) including extended or expanded service and modified routings, which is to be provided over rail properties conveyed to the Corporation pursuant to section 303(b)(1) of this title, or over (A) rail properties contiguous thereto conveyed to the National Railroad Passenger Corporation pursuant to this Act or (B) any other rail properties contiguous thereto to which a State (or local or regional transportation authority) has obtained access. Any provision of this paragraph to the contrary notwithstanding, the Corporation shall not be required to operate additional rail passenger service over rail properties leased or acquired from or owned or leased by a profitable railroad in the region.

"(8) The Secretary, in consultation with the Association, shall undertake a study to determine the best means of compensating the Corporation for liabilities which it may incur for damages to persons or property resulting from the operation of rail passenger service required to be operated pursuant to this subsection, or section 303(b)(2) of this title which are not underwritten by private insurance carriers or are not indemnified by a State (or local or regional transportation authority). The study shall identify the nature of the risk to the Corporation, the probable degree of uninsurability of such risks, the desirability and feasibility of various indemnification programs including subsidy offers made pursuant to this section, self insurance through a passenger tax or other mechanism or government indemnification for such liabilities. Within one year of the date of enactment of this paragraph, the Secretary shall prepare a report with appropriate recommendations and shall submit the report to Congress. Such report shall specify the most appropriate means of indemnifying the Corporation for such liabilities in a manner which shall prevent the cross-subsidization of passenger services with revenues from freight services operated by the Corporation.".

CHICAGO, MILWAUKEE, AND SAINT PAUL RAILROAD, REVIEW OF

SEC. 14. The Federal Railroad Administration is required to promptly review the condition of the Chicago, Milwaukee, and Saint Paul Railroad and to consider assisting the railroad in loans for roadbed and track improvement.

EFFECTIVE DATE

SEC. 14. This Act shall take effect on October 1, 1978.

MOTION OFFERED BY MR. ROONEY

Mr. ROONEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROONEY moves to strike out all after the enacting clause of the Senate bill S. 2981, and insert in lieu thereof provisions of H.R. 11979, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed and a motion to reconsider was laid on the table.

The title was amended so as to read: "A bill to amend section 5 of the Department of Transportation Act, relating to rail service assistance, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11979) was laid on the table.

AMENDING SENATE AMENDMENTS TO USRA AUTHORIZATION

Mr. ROONEY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1433), to provide that the bill (H.R. 10898) to amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the United States Railway Association for fiscal year 1979, with the Senate amendments thereto, be taken from the Speaker's table, and that the Senate amendments be agreed to with amendments.

The Clerk read as follows:

H. RES. 1433

Resolved, That upon the adoption of this resolution, the bill (H.R. 10898) to amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the United States Railway Association for fiscal year 1979, with the Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table to the end that—

(1) Senate amendments numbered 1, 2, and 4 be, and the same are hereby, agreed to;

(2) Senate amendment numbered 3 be, and the same is hereby agreed to with an amendment as follows:

In lieu of the matter inserted by Senate amendment numbered 3, insert the following:

SEC. 3. (a) Section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this section, in the case of a loan made under subsection (a) of this section to a railroad in the region, the Association may, upon the request of such railroad—

"(1) continue to make advances to such railroad pursuant to such loan, up to the total pirncipal provided, as of the date of enactment of this sentence, under the agreement between such railroad and the Association under this section, upon finding only that (A) a good faith effort has been commenced by such railroad toward the establishment of an employee stock ownership plan, and (B) such continued advances will permit the continuation of rail service determined by the Association, in the Final System Plan or under the goals of this Act, to be desirable; and

"(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $2,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection and such railroad has in effect an employee stock ownership plan which has been approved by the Association.

"The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1979.".

(b) Section 3(a) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)) is

amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this section, the Secretary, in guaranteeing certificates under this section, is authorized to waive the findings required by paragraphs (1), (5), and (6) of this subsection upon a finding that the guarantee of certificates is necessary in order for a railroad which has received continued loan advances, pursuant to section 211(d)(1) of the Regional Rail Reorganization Act of 1973, to maintain rail services in the region (as such term is defined in section 102(15) of such Act). The Secretary may not make any waiver under the preceding sentence after December 31, 1979."; and

(3) Senate amendment numbered 5 be, and the same is hereby, agreed to with an amendment as follows:

In lieu of the matter inserted by Senate amendment numbered 5, insert the following:

SEC. 5. Section 17(9)(f)(1) of the Interstate Commerce Act (49 U.S.C. 17(9)(f)(1)) is amended to read as follows:

"(1) a majority of the Commissioners, by public vote, agree to such further extension; and".

SEC. 6. (a) The Secretary of Transportation shall conduct an investigation and study for purposes of determining equitable rates to be charged for the rental of Alaska Railroad lands. In carrying out such investigation and study, the Secretary shall consider—

(1) the per centum increase in such rates proposed after 1977 as compared with rates in effect on January 1, 1977;

(2) the services and the quality thereof provided by the rentors of such land and the services and the quality thereof received by such rentors from such railroad;

(3) the burden on commerce which may result from such proposed rate increase; and

(4) such other factors as may be appropriate.

The Secretary shall report the results of such investigation and study to the Congress not later than one year after the date of enactment of this Act.

(b) Prior to 180 days after the date on which the Secretary's report pursuant to subsection (a) is received by the Congress, rental charges on lands rented by the Alaska Railroad shall not be increased by more than 100 per centum of the amount charged for such land on January 1, 1977.

The SPEAKER pro tempore. Is a second demanded?

Mr. SKUBITZ. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. ROONEY) and the gentleman from Kansas (Mr. SKUBITZ) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when the House passed the USRA authorization, it included an amendment designed to assist the Delaware & Hudson Railroad. The U.S. Railway Association had determined that it was unable to permit an additional drawdown of funds on a previously approved loan because in its opinion, the railroad was unable to satisfy the criteria for such loans included in section 211 of the Regional Rail Reorganization Act of 1973.

The House, in an effort to provide sufficient funds to the D. & H. while the Federal Railroad Administration completes its section 401 study and for the USRA and the New England Regional Commission to complete their study, amended the 3–R Act to permit USRA to modify the findings in section 211 so as to allow the D. & H. to make further drawdowns of the funds. The Senate, however, provided that Secretary of Transportation could guarantee trustee certificates for a bankrupt railroad in the region to maintain services until December 31, 1979.

The Department of Transportation stated at the Transportation and Commerce Subcommittee's hearing on August 15, 1978, that in the event the D. & H. filed a petition for bankruptcy, it would be unable to provide it with funds from the Emergency Rail Services Act of 1970, because this act also contained a provision which would preclude assistance to the D. & H.

The amendment has now been drafted to provide that a railroad in the region which has been loaned funds pursuant to section 211(a) may request USRA to continue payments of such loan, but not to exceed the existing loan commitment, if USRA finds only that a good faith effort has been commenced to establish an employee stock ownership plan by such railroad and such continued payments will permit the continuation of rail service determined by the USRA in the final system plan in order for the goals of the 3–R Act to be desirable. This provision permits USRA to continue payments under the original loan commitment without making the findings heretofore required in section 211 (e) and (f), however, still subject to the necessary prerequisite in section 210(b). USRA may still provide an additional $2 million to such railroad upon its request, if USRA makes the same finding as in section 211(d)(1)(B), and such railroad has in effect an employee stock ownership plan.

The second part of the amendment provides that the Secretary of Transportation, in guaranteeing trust certificates, may waive the findings in paragraphs (1), (5), and (6), if he finds that the guarantee of certificates is necessary in order for a railroad which has received continued payments of a loan under section 211(d)(1) of the 3–R Act to maintain services in the region, until December 31, 1979.

In short, the amendment that I am proposing basically includes the provisions both of the House bill and the Senate bill, with the added condition that an Employee Stock Ownership Plan be established. In this way, the railroad and the USRA board will have an option to attempt to solve the railroad's financial problems in the best available means at the time the funds are required. The amendment does not mandate that the railroad file for bankruptcy before becoming eligible for assistance. By the same token, the USRA is not obliged to provide further drawdowns of the loan funds. Rather, what Congress is doing is removing the barriers in the 3–R Act and the Emergency Rail Services Act which the USRA and the Department indicated prevented providing assistance to the D. & H.

I believe that this arrangement is eminently fair in that it provides the mechanism for the best chance for the railroad to continue the services which are essential to the region it serves.

Mr. Speaker, I would like to take a moment to thank my colleagues on both sides of the aisle for the assistance they have rendered in preparing this legislation, in particular Representatives HANLEY, STRATTON, MCDADE, and CONTE, who provided my staff and me invaluable time and effort on this important legislation.

Mr. SKUBITZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 10898, the authorization for U.S. Railway Association.

As you know this bill passed the House on August 17 with an amendment. The amendment was a simple provision that would have facilitated additional money for the Delaware & Hudson Railroad.

At that time it was pointed out that the Delaware & Hudson had become involved in Government-originated expansion as a result of the final system plan.

In short the Delaware & Hudson had doubled its operating territory while falling prey to a considerable loss in bridge traffic as a result of the elimination of the Erie Lackawanna & Lehigh Valley Railroads once they were folded into ConRail.

The Senate passed the bill on September 14—but instead of accepting the House amendment to assist the Delaware & Hudson Railroad—the Senate substituted an amendment which would make loans easier under the Emergency Rail Services Act.

Unfortunately, loans under the Emergency Rail Services Act can be made only to bankrupt railroads. At this point in time, the Delaware & Hudson Railroad is not bankrupt.

Mr. Speaker, during the last several weeks, numerous discussions have been held with the other body and an amendment agreeable to the leadership of both the House committee and the Senate committee has been worked out.

Simply stated, the amendment will include—both the House provision and the Senate provision, with slight modification.

The modification in the House provision will be that a ceiling will be put on the amount of money the D. & H. can receive from USRA.

That ceiling will be the remaining loan commitment payment of $2.7 million and a possible additional $2 million.

In addition, there will be conditions precedent to the payment of either amount.

With respect to the first amount of $2.7 million, the D. & H. must show that they have begun the establishment of an employee stock option plan. With respect to the second amount of $2 million, the Delaware & Hudson must demonstrate that the stock option plan has been set up and that there is a reasonable expectation that it will be undertaken.

Finally, Mr. Speaker, there is also a provision in the bill relating to the payment of moving expenses for the new president of the Alaska Railroad.

The Federal Railroad Administration, the railroad itself, and the Department of Transportation had made a commitment to pay moving expenses only to find that present law precludes such payment for an employee entering the Federal service.

The provision in this bill which originated in the other body is just and equitable and while involving only a few thousand dollars eliminates an unwarranted hardship for the gentleman who relied upon the commitments made to him before moving from St. Louis to Alaska.

I believe that the agreements worked out with respect to this bill are good ones and urge the passage of this bill as it will be amended by the chairman of the subcommittee.

● Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of the substitute amendment.

Mr. Speaker, the section of the substitute was drafted by Senator STEVENS, the gentleman from Pennsylvania (Mr. ROONEY), the gentleman from Kansas (Mr. SKUBITZ) and myself. It would authorize the Secretary of Transportation to recommend to Congress equitable rates to be charged for the rental of Alaska Railroad lands.

The Federal Government owns the Alaska Railroad, with direct responsibility for the railroad vested in the Federal Railroad Administration of the Department of Transportation. Many Alaskan businesses presently lease lands from the railroad.

In May 1977, the railroad notified its leaseholders of rental rate increases ranging from 100 to 1,800 percent. Although the railroad allowed proration of these increases over a 3-year period, the leaseholders face annual rental rate increases ranging from 33 to 500 percent.

These rental rate increases threaten the viability of the many businesses that lease land from the railroad. Some of these businesses operate under long-term contracts with fixed costs. Others must compete with businesses outside of Alaska. These leaseholders cannot pass along the rate increases to their customers. Facing increased operating costs, these leaseholders may be forced to cease doing business in Alaska. The Alaska Railroad would then suffer the loss of freight revenue that it presently receives from this source.

A few businesses that lease from the Alaska Railroad could pass along the increased operating costs to their customers. Although these businesses may continue doing business in Alaska, the consumer would bear the burden of the inflationary rate increases.

While the leaseholders demand relief from these increases, the Comptroller General has recognized that the rates effective prior to the May 1977 increases were below the rental rates for comparable Alaska lands. To resolve the dilemma faced by the railroad and the leaseholders, this amendment authorizes the Secretary to recommend an equitable rental rate schedule. It includes protection against inflationary rate increases pending congressional consideration of the Secretary's recommendations. Total increases are limited to only 100 percent of pre-1977, rents. This seems an entirely fair approach until the Secretary has had a chance to make his study. No refunds of rents paid would be issued. Rent increases in excess of the limit set out in the amendment would be reduced as of the next payment period.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY) that the House suspend the rules and agree to the resolution (H. Res. 1433).

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROONEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 1433 and the other bills just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order: House Resolution 1432 by the yeas and nays, and H.R. 13047, de novo.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

IRC AMENDMENTS FOR STATE-OPERATED BINGO GAMES (LOCK AND DAM 26)

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution (H. Res. 1432).

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and agree to the resolution (H. Res. 1432) on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 287, nays 123, not voting 20, as follows:

[Roll No. 911]

YEAS—287

Abdnor
Akaka
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bennett
Bevill
Bingham
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Butler
Caputo
Carney
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Coleman
Collins, Ill.
Conable
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Cunningham
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Devine
Dicks
Dornan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Findley
Fish
Fisher
Fithian
Flippo
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Gammage
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Harkin
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Horton
Howard
Hubbard
Huckaby
Hyde
Ichord
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kindness
Krueger
LaFalce
Lagomarsino
Latta
Leach
Lederer
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Lott
Luken
McClory
McCloskey
McCormack
McEwen
McFall
McKay
McKinney
Madigan
Mann
Marks
Marriott
Martin
Mazzoli
Meeds
Michel
Mikulski
Milford
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Myers, John
Myers, Michael
Natcher
Neal
Nichols
Nolan
Nowak
O'Brien
Oberstar
Obey
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Pike
Poage
Pressler
Preyer
Price
Quayle
Rahall
Railsback
Reuss
Rhodes
Roberts
Robinson
Roe
Rogers
Roncalio
Rose
Rousselot
Roybal
Runnels
Ruppe
Ryan
Santini
Satterfield
Sawyer
Sebelius
Sharp
Shuster
Sikes
Simon
Sisk
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spellman
Spence
St Germain
Stangeland
Stanton
Steed
Steiger
Stokes
Stratton
Stump
Taylor
Thone
Traxler
Treen
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vento
Volkmer
Waggonner
Walker
Walsh
Wampler
Watkins
Whalen
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wright
Wylie
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—123

Addabbo	Gaydos	Nix
Ambro	Hanley	Oakar
Applegate	Hannaford	Ottinger
Armstrong	Hansen	Pattison
Bedell	Harrington	Pickle
Beilenson	Harris	Pritchard
Benjamin	Heckler	Pursell
Biaggi	Holt	Quillen
Blanchard	Holtzman	Rangel
Bonior	Hughes	Regula
Brodhead	Jacobs	Richmond
Brown, Mich.	Johnson, Colo.	Rinaldo
Burleson, Tex.	Kildee	Rodino
Burton, John	Kostmayer	Rooney
Burton, Phillip	Krebs	Rosenthal
Carr	Le Fante	Rostenkowski
Cavanaugh	Long, La.	Russo
Cleveland	Long, Md.	Scheuer
Cohen	Lundine	Schroeder
Collins, Tex.	McDade	Seiberling
Conte	McDonald	Skubitz
Conyers	McHugh	Solarz
D'Amours	Maguire	Staggers
Dellums	Mahon	Stark
Dent	Markey	Steers
Derrick	Marlenee	Stockman
Derwinski	Mattox	Studds
Dingell	Meyner	Symms
Dodd	Mikva	Thompson
Downey	Miller, Calif.	Thornton
Drinan	Minish	Tsongas
Early	Moakley	Tucker
Edgar	Moffett	Vanik
Edwards, Calif.	Moore	Walgren
Evans, Ga.	Moss	Waxman
Fenwick	Mottl	Weaver
Flood	Murphy, Ill.	Weiss
Florio	Murphy, Pa.	Wirth
Ford, Mich.	Murtha	Wydler
Fuqua	Myers, Gary	Yates
Garcia	Nedzi	Yatron

NOT VOTING—20

Ammerman	Frey	Risenhoover
Badham	Ireland	Rudd
Burke, Calif.	Leggett	Sarasin
Cochran	Lujan	Schulze
Crane	Mathis	Shipley
Dickinson	Pettis	Teague
Diggs	Quie	

The Clerk announced the following pairs:

Mr. Ammerman with Mr. Sarasin.
Mrs. Burke of California with Mr. Quie.
Mr. Shipley with Mr. Dickinson.
Mr. Teague with Mr. Lujan.
Mr. Leggett with Mr. Crane.
Mr. Ireland with Mr. Badham.
Mr. Mathis with Mr. Frey.
Mr. Risenhoover with Mr. Cochran of Mississippi.
Mr. Diggs with Mr. Rudd.
Mr. Schulze with Mrs. Pettis.

Ms. OAKAR, Mr. FLORIO, Mrs. HOLT, and Messrs. FORD of Michigan, COHEN, HANSEN, and SYMMS changed their vote from "yea" to "nay."

Messrs. FOUNTAIN, ZEFERETTI, BUCHANAN, and PEASE changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TAX TREATMENT OF REDEMPTIONS OF DISCOUNT COUPONS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 13047, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. WAGGONNER) that the House suspend the rules and pass the bill H.R. 13047, as amended.

The question was taken.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of redemptions of discount coupons."

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION EN BLOC OF CONFERENCE REPORTS ON H.R. 4018, H.R. 5146, H.R. 5037, H.R. 5289, AND H.R. 5263, ENERGY LEGISLATION

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1782) on the resolution (H. Res. 1434) providing for the consideration en bloc of conference reports on the bills H.R. 4018, H.R. 5146, H.R. 5037, H.R. 5289, and H.R. 5263, on energy legislation, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORTS ON H.R. 4018, H.R. 5146, H.R. 5037, H.R. 5289 (AND H.R. 5263 IF FIRST ADOPTED BY THE SENATE)

Mr. BOLLING. By the direction of the Committee on Rules I call up House Resolution 1434 and ask for its immediate consideration.

H.R. 1434

Resolved, That upon the adoption of this resolution, any rule of the House to the contrary notwithstanding, it shall be in order in the House to consider en bloc the conference reports on the bills H.R. 4018, H.R. 5146, H.R. 5037, H.R. 5289 (and H.R. 5263 if first adopted by the Senate), and all points of order against said conference reports are hereby waived. After debate in the House on said conference reports, which shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Ad Hoc Committee on Energy, the first hour of which shall be confined solely to the conference report on the bill H.R. 5289, the previous question shall be considered as ordered on said conference reports to one vote on their final adoption, and the vote on said conference reports shall not be subject to a demand for a division of the question or to a motion to reconsider.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON) and, pending that, Mr. Speaker, I yield myself such time as I may consume.

I consider this the most important rule that I have ever handled. I do so because I have been concerned about the problem of energy in the United States ever since I read the Paley report many years ago. I have had the privilege or the responsibility of presiding over the House in the Committee of the Whole during the consideration of most of the energy bills out of the Committee on Interstate and Foreign Commerce. And I have had the privilege of serving on the ad hoc Committee on Energy.

I also am the chairman of the Joint Economic Committee, which makes me a way station for all of the visiting firemen from all over Europe where our allies are, and from Japan. Everyone that has come to see me in the last 2 years has expressed his concern about America's will, about America's ability to deal with this problem of energy, which is a much more crucial problem in other countries even than it is here.

This rule is enormously controversial. It is no wonder that the Committee on Rules had great diffculty in coming to a resolution, and it finally did this morning.

We reported out a rule that would put together all of the work of the House on energy, and which follows exactly what we did in the beginning when we had the ad hoc committee's bill on the floor of the House.

We are finishing as we began, dealing with the matter in whole as the various parts survive.

Mr. Speaker, I know there is great controversy over this rule; and having presented what I believe to be the salient point of the rule, that all the available conference reports will be dealt with in one vote, I am going to reserve the balance of my time in order to be able to continue in the debate at a later time.

Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. LONG).

Mr. LONG of Louisiana. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker and Members of the House, none of us can argue with the position taken by the gentleman from Missouri (Mr. BOLLING) that this is an important rule and that the legislation which this rule pertains to is important legislation.

The basic question involved in the argument before the Committee on Rules and in the controversy which exists here today with respect to this rule is whether or not the matter of the natural gas conference report should be entitled to a separate vote. If it is as important as the gentleman from Missouri feels it is; as I feel it is; as many Members of this House feel it is; as the President of the United States feels it is; as many people all over the country feel it is, is it not then important enough that with respect to its most important aspect that the House of Representatives have an opportunity to express its opinion? Not on just one occasion, not on just two occasions, but on three occasions in considering this particular legislation the other body had an opportunity to express its opinion on the question of the regulation of natural gas.

Mr. Speaker, it was a strange combination of people; representing perhaps the most diverse group which ever supported a major controversial proposal in the House of Representatives advocating that the House was entitled to have a separate vote on that provision pertaining to the control or regulation of natural gas. That was and remains my position.

Mr. Speaker, the question really boils down just to that. If the question is as important as the gentleman from Missouri (Mr. BOLLING) says it is, it seems to me, again, that is is even more important that we be entitled to a separate vote with respect to this question.

Let me tell the Members what happened in the Committee on Rules.

The gentleman from Missouri moved that there be possibly as many as five reports included—if all were passed by the other body in sufficient time, and that these would be treated by one vote rather than as individual conference reports.

I know the argument has been made, and with some validity, that all of these things have an interrelationship. However, nearly everything we deal with here in the House of Representatives is related one part to another to something. That argument is not valid.

Mr. Speaker, the Members will recall that when the matter was before us previously, we had separate votes on the various parts of the rule, and we had separate votes on the various parts of the legislation.

Now the legislation, and particularly that which relates to natural gas, has been changed substantially by the other body. Why would be be more entitled to a vote on it at that time, a separate vote, and we are not entitled to a separate vote on it at this time?

Mr. Speaker, in the Committee on Rules I offered an amendment to the motion of the gentleman from Missouri that would entitle us to a separate vote with respect to the conference report dealing with natural gas.

That amendment was not agreed to by an 8-to-8 vote. Then, upon the motion of the gentleman from Missouri, again by an 8-to-8 vote, no rule was granted because of the lack of a majority. So, consequently, that meant that ordinary procedure of the House of Representatives would be followed and each of the conference reports would be voted upon as separate conference reports.

The SPEAKER. The time of the gentleman has expired.

Mr. BOLLING. I yield 1 additional minute to the gentleman from Louisiana.

Mr. LONG of Louisiana. I thank the gentleman.

This morning in the Committee on Rules my amendment was not accepted, and a new resolution of the gentleman from Missouri was voted out.

I think all fairness dictates and the importance of the matter dictates that we have a separate vote with respect to the natural gas conference report. I urge my colleagues to so vote.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, the issue that confronts us this afternoon is, indeed, one of the most serious importance on both procedural and substantive grounds. It has to do not only with the nature of the very controversial Natural Gas Policy Act but with the very nature and content of our legislative process here in the House of Representatives.

I can agree with the gentleman from Missouri that the energy problem is such that it is the moral equivalent of war, but I would suggest that we do not do battle with the energy crisis by beginning with a surrender of our legislative prerogatives here in the House of Representatives.

We are told that we have to engage in this unusual precedent because it is late in the session and these conference reports are so intricately interwoven and intertwined that we thereby expedite the business of this House. I suppose, Mr. Speaker, that, using that kind of logic, we could suggest that one way to unclog the courts of our land is to permit a single verdict on several defendants at the same time on the ground that they had all something in common: they were accused of a crime. While that might expedite the judicial process, I think that no one in this Chamber would suggest that that would be anything but a denial of due process and equity and essential justice and fairness. I, frankly, consider the resolution that is before us this afternoon just that, a breach of justice and fairness with this body, a confession by the leadership—a confession by the leadership and by the administration—that at least one component of the energy package, the Natural Gas Policy Act, is too weak to stand on its own merits. While I think the administration is quite correct in that belief, that certainly does not justify lumping it together with the more viable portions of that energy package.

This is bad legislation. Even the President's own adviser on inflation rates it no better than a C minus, and I suspect that that mark would be even lower objectively if he were not grading his boss' paper. Yet we hear the exhortation to Members of this body that we should vote for this entire package because we need a national energy policy, no matter how bad and counterproductive those provisions may be. I do not think that the people who trade in dollars on the international currency markets are going to be impressed with bad legislation. We are not going to halt the precipitous decline in the value of the dollar by adopting policies, as the gentlewoman from New York (Mrs. CHISHOLM) pointed out in the Committee on Rules just today, that can very well lead to the consumption of more oil as people flee from high prices for natural gas and turn to oil instead.

I think it is incredible when you look at the list of organizations that are arrayed against this bill. The list that was sent around by my friend, the gentleman from New Jersey (Mr. MAGUIRE) ranges from the AFL–CIO and the United Auto Workers to the Chamber of Commerce, to the National Rural Electric Co-ops, to the Farmers Union, Americans for Democratic Action, and I could go on and take all my time reciting the prestigious national organizations that are in all-out flat opposition to this legislation. Yet we are being told, as a proud legislative body, that we should swallow this whole indigestible mass with one single up or down vote.

Well, Mr. Speaker, I am aware that the clock has been ticking now for much too long, as the President and the Congress and consumers have haggled to literally the 13th hour over what is an appropriate energy policy; but my friends, I do not think that we are going to be satisfied in our hearts if we go home having adopted legislation that could result in, as was pointed out earlier in the Committee on Rules, transferring literally billions of dollars from the pockets of consumers to producers without even giving the Members of this House of Representatives a chance to register a vote on that important question.

I think it would be in dereliction of the very oath that we take at the beginning of each session of Congress, if we were to engage in that kind of procedure.

So I urge that we defeat the previous question and if we do that, I will offer a substitute resolution which will provide for a separate vote on the natural gas conference report and give us a chance for at least an hour of debate and at least one up or down vote.

I told the Speaker of the House of Representatives just minutes ago, "At least you gave us that opportunity last August. We had a single energy package before us then; but at least you gave us that much dignity and honor that we could have a vote on that very important issue that has divided this country for literally a quarter of a century."

I hope very much that you will be faithful to your responsibility this afternoon and vote down that previous question so that we can conduct the business of this Chamber in a responsible manner.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I would like to talk about a different issue right now. I have heard about natural gas, but let us talk about tax credits, because the only way we are going to get an option to vote on two different tax credit propositions is to vote against the previous question and to vote for the substitute rule.

We have now at the desk H.R. 112, which is a much better tax credit package than the one that is now resting over in the Senate. It has passed rules. It has passed the Senate. It need only be taken up, passed, and sent to the President. If we agree to the substitute rule, then tomorrow we will have a chance to vote on that opinion. This will occur because the substitute rule will require a vote today on the energy conference reports that have passed the Senate. The tax credit bill will not pass until tomorrow, if at all. Thus we will have a choice. What is the option? Why is it better than the conference committee version.

I come from an area where the situation is such that I am not directly affected by the natural gas part of this bill because we get ours from Canada. I have nothing to gain or lose in the matter of natural gas, but I am concerned about the low-income and middle-income people in Vermont who are trying to face the energy crisis. Their alternatives are very limited. They cannot afford elaborate solar devices. They are limited to trying to get new boilers and new furances. Most have very old and inefficient systems. Yet they have limited funds to purchase new systems. Due to these problems their only other option is to purchase less expensive wood stoves. These people need help. Only by waiting will we be able to give them a tax credit, meaningful help. The experts say that help here will be very productive and will result in savings of 500,000 barrels of oil a day by 1985. Compared to the rest of the package this will be one of the most important provisions.

Also H.R. 112 lives up to the promise of a 20-percent tax credit, not the lower 15 percent in the conference report, for insulation.

So if we want to help our low- and middle-income people, if we want to live up to the promise we gave of a 20-percent tax credit for insulation versus a 15-percent tax credit, then we must vote no on the previous question.

Tomorrow we will then have the option to do what we promised we would do to help the low- and middle-income people, those who really need help.

In addition to that, the solar energy credits and other tax credits that we have in H.R. 112 are better. That bill gives us tax credits for solar heat pumps, passive solar and other credits that we will not have in the package that will be presented to us if we do not vote down the previous question.

So if we want to help our people who are struggling, the ones whose only choice is to use wood stoves, the ones who want desperately to buy new furnaces and boilers but need help, then it is critically important to vote no to get the best deal in tax credits.

Mr. Speaker, I urge the Members to vote no on the previous question.

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. CHISHOLM).

Mr. ANDERSON of Illinois. Mr. Speaker, I also yield 2 minutes to the distinguished gentlewoman from New York (Mrs. CHISHOLM).

The SPEAKER. The gentlewoman from New York (Mrs. CHISHOLM) is recognized for 4 minutes.

Mrs. CHISHOLM. Mr. Speaker, the natural gas package is one of the most controversial parts of this entire energy legislation. I think it is very important that we as the peoples' representatives have the opportunity to debate this issue and have a separate vote on said issue in the same manner that the Members of the U.S. Senate did.

We are speaking about the creation of a natural gas policy which should lead ultimately to the diminution of the importation of oil to this country. I think that if most of us had the courage to say it, we would recognize that what has happened is that the bill really involves a subsidy to the natural gas industry and, as such, will cause the escalation of the switching of many industries from natural gas to oil. Once that switch occurs it will really mean then that we will have to revert to the importation of more oil, although it was originally purported that one of the reasons why we were moving in this direction was to lessen our dependency on the oil market.

What is even more important is the fact that every one is talking about the fact that the "hour is late" and that there is a necessity for a national energy policy, but nobody speaks about the inevitability of what will happen to the consumers in this country.

This point seems to be an issue that is at the very bottom of everybody's priorities. All we hear about is the fact that we must have a natural gas policy. And that means, to many of us, a natural gas policy at any cost.

Second, nobody is discussing ultimately what will happen to the consumers of this country. You know and I know that, inevitably, the disproportionate increases will be affecting the consumers of this Nation.

I think it is very important that the will of the House on this particular issue should be worked on by the people's representatives and that we should not have all of these conference reports which had different conferees lumped together and presented to us at the zero hour and have a kind of veiled threat, in terms of the fact that if we do not do thus and thus, so and so is going to happen. I think we should show a profile in courage and stand up this afternoon; let us vote down the previous question and have the opportunity to really debate this issue in the way that it should be debated.

Mr. Speaker, I want to thank the membership for this opportunity to share this time with them; I ask that the Members vote down the previous question.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Speaker, given what has been said and the articulate spokesmen who have appeared here there is very little more that can be added.

I must add that I approach this not from any position in opposition to the natural gas bill, or the fact that I signed the tax portion of the conference report, or that I signed the conservation portion of the report. I rather approach this on the basis as to whether or not the House has the integrity to do what is right, in terms of this institution.

There is simply no other way to look at this vote on the previous question than to judge whether or not we as an institution, we as Members of this body, are going to have the kind of guts and honesty that I think is required in terms of speaking to our constituents, and the only way we can retain that integrity is to vote down the previous question and adopt a different rule.

Mr. Speaker, I yield back the balance of my time.

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, as I see it, what we are involved here with is a basic denial of democracy and a serious transgression of the procedures of this House.

The leadership of this House simply does not trust you. It does not trust you to be able to exercise your discretion on legislation which will transfer $200 billion from the consumers of this country to the producers, on legislation which may result in our greater dependence on imported oil, on legislation that has been controversial in this House for many years. And they are saying they do not trust you to pass on that legislation; they are going to insist that that legislation be combined with other parts of this package which they think are sweeteners so that you cannot avoid voting for an energy bill.

I respect the Speaker and the rest of our leadership, but I think they have made a terrible mistake. In fear that a bad gas bill will not stand on its own merits, the leadership has decided to run roughshod over our rules and our Members. They refuse to allow us to exercise our democratic prerogatives with respect to the gas bill. Through this extraordinary rule they will permit only one vote, up or down, on vastly disparate pieces of legislation. I think that is an horrendous transgression on our prerogatives, a transgression on the orderly procedure of this House that we should not tolerate.

Mr. Speaker, I hope my colleagues will resoundingly say that we deserve the right to vote on this most important legislation, we are going to vote on it, we are going to exercise our congressional prerogatives as representatives of our people, we are going to vote against the previous question.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I suppose many must wonder—because they have asked me—what kind of an issue would bring BUD BROWN, TOBY MOFFETT, JOE WAGGONNER, FRANK HORTON, JOHN ANDERSON, ANDREW MAGUIRE, SHIRLEY CHISHOLM, and BOB BAUMAN together. The answer, I think, is a sense of outrage about the process by which we have been asked to consider the most massive piece of legislation that many of us will have the opportunity to vote on while we serve in the U.S. Congress.

The natural gas bill is a "fraud", and the opportunity for us to look at that bill separately is what this argument is all about. Let me just say that the rule offered by the gentleman from Missouri will require the four energy-related conference reports to be considered en bloc,

and under this rule we do not have the opportunity to consider each part or any one part separately. If ordinary procedures were followed, each of these conference reports would have been separately dealt with and would have required a separate rule. Each of them is a magnum opus, a major piece of work that we should have opportunity to look at. The Senate did exactly that. They took them up one by one and gave each of them the consideration they were due.

Over a year ago this mismatched collection of energy legislation was presented to the House under a closed rule, but even at that time we were given the opportunity to have a separate vote on the natural gas bill, because even then simple equity demanded it. Whether you agree or disagree with the fact that the natural gas bill is a problem, the importance of this issue of bringing them all together transcends that argument.

To put that issue into proper perspective, it is really not whether or not we should enact the natural gas bill or whether the energy package will or will not positively contribute to the enactment of an equitable and workable energy approach in our country, but rather how we want this body to operate. Now, in the future, do we want to bring public works bills and military construction acts together, because they both have something to do with impact on the economy? I think not.

If we allow the leadership to force us to consider four energy conference reports as one, with a single vote on the entire package, what will we face in the future in this body? It seems to me that it is obvious that we should vote down the rule.

Let me just say something to the Members about why I worry about the natural gas part of the bill. Yesterday in the Rules Committee, when we had under consideration the rule on this issue, one of our colleagues offered an addition to the rule which would have provided for a concurrent resolution that had about four pages of modifications of the conference report in it, and that concurrent resolution was going to follow the adoption of the legislation. We were going to change the conference report, in effect, by concurrent resolution after it was passed. That should tell you something about how bad this bill is.

Let me just show the Members something else, a 16-page document that was put into the RECORD last night, a statement of Representative JOHN DINGELL, on filing of the natural gas conference report on H.R. 5289. It is a closely typed, explanatory statement of all the various parts of that conference report. Now, is that legislative history modifying the conference report? I think not, but I have not had the chance to read it, and Members cannot read it either, because that part of the RECORD has not been printed. It was in the RECORD late last night. I do not think that is the way for us to legislate on anything that vital.

I would just say to my colleagues that no matter how they feel about the various parts of this bill, if they cannot sustain the logical, sensible operation of this body so that we have a chance to look at and be responsible for what we vote on, for our action, then I wonder where we are headed. I am also offended at the arm twisting and the kind of coercion that has been used by the administration; the fact that one of the rooms over here was occupied last night, as I understand it, by the Secretary of Energy doing his number, on some of the Members. Maybe I am naive in thinking that the administration should not be permitted to do that, but I do think it has brought us to a relatively low estate when we are jerked around on legislation in this way without the opportunity to exercise our responsibilities and vote on it separately.

I know we want to get home for that campaign, but we ought to go home with some pride, at least.

Mr. BOLLING. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. SHARP).

Mr. SHARP. Mr. Speaker, I appreciate this opportunity to address what I consider one of the most important questions the country has faced in my brief career in Congress. I know each of us has had a struggle in his or her own mind to define our individual responsibility. I have a lot of respect for some of the individuals who just spoke against the rule. I worked side by side with the gentleman from Connecticut for some of the consumer provisions in the bill, and even though he does not like the gas bill—and I understand that—nevertheless I think it is a better bill, because of the work he did on it.

This rule is not something we have discovered new this afternoon. The fact is when the President of the United States submitted his recommendations to the Congress, they came as a whole, as one package. They were introduced in the House of Representatives as one bill. With the great enthusiasm of many Members, we established one committee, the ad hoc committee, so we could treat the bill as a whole and bring together its various parts.

We went to conference as a whole, not as separate conferees. Separation was the Senate approach from first to last. It still is. We went with the same conferees on the tax matters, on the regulatory matters, on the utility matters, and on the natural gas matters. We have treated the bill as a whole, and we are now about to finish the process of considering it as a whole.

It is not something new. It is something many of us enthusiastically endorsed. I hope we will endorse it. We endorsed it in the beginning, because we knew the issues were interrelated and also because we understood the critical importance of forging a majority decision. That is the point we are at today, the question whether or not we are capable of bringing about a majority decision in this country on the tough and crucial issue of energy.

Some in this House have dealt with the natural gas problem for the first time in their careers. I have dealt with it for the second time. Some people here have dealt with it for 20 years. The same afflictions arise each time. We all know we need a national market which is ultimately best for the consumer and for the country. We are deeply divided on how we get there. This division has plagued the Congress for 20 years and it will continue to plague the Congress if we do not break the deadlock this year.

Mr. Speaker, the question is whether we are able to build a majority decision. Whether we are able to temporarily set aside our strong advocacy for long held positions, but positions which remain minority positions.

Yes, the compromise is opposed by those who fervently believe in immediate deregulation, who believe there ought to be even more producer incentive. And they are here to fight the rule and the bill.

Yes, it is opposed by those who fervently oppose any kind of deregulation effort, who would like to solve the problem by regulating intrastate markets, and those who fervently hope, and I think it is the most false of all hopes that somehow the Federal Regulatory Commission can solve the gut issue. The issue is in our hands to solve and the people are going to know whether we were decisive or not. Let us make the tough decision.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 minute to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of the rule which would package together the various provisions of the energy legislation currently under consideration. I do so, because I feel that to vote on each provision individually could greatly endanger the most important provision left in the pending energy legislation, which is the natural gas pricing provision worked out by the Senate and House conferees.

I think that there is no question but that the vote on this rule is a vote for or against the gas pricing compromise. Left in a total energy package, the compromise stands a good chance of passage with the other provisions. But I fear that if the gas compromise is taken out and voted on separately, its chances of enactment will diminish.

Without the gas pricing compromise, the energy legislation passed by this Congress would accomplish little in the way of meeting our goals of reducing our dependence on foreign oil. With the provision, new sources of domestic natural gas, especially Alaskan natural gas, will find their way to the U.S. market.

The most important means by which this is accomplished is in a section in the compromise which allows for the construction of a natural gas pipeline from the North Slope oil and gas field. This section sets a wellhead price for Prudhoe Bay gas at $1.45 per million Btu's plus inflator, and also institutes a "rolled-in" pricing mechanism which insures the marketability of the gas by averaging the cost of transportation into consumer gas prices.

These two provisions will have a tremendous effect on U.S. energy supplies in the coming decade. Alaskan supplies constitute a significant percentage of total domestic known sources of natural gas. The pipeline from Prudhoe Bay alone will deliver 26 trillion cubic feet of gas, and according to the President's decision and report to Congress, this gas promises to compare favorably in terms of supply reliability with other possible sources of gas such as SNG and LNG.

By paving the way for private financing for the pipeline, construction on the transportation system could begin by 1980–81. Once the gas is on line, annual delivery rates will reach 0.8 trillion cubic feet of gas per year.

It is not difficult to foresee the beneficial effects such supplies will have on our now-faltering world trade position. This supply of gas promises to reduce our dependence on foreign oil by over 150 million barrels of oil per year. This amount, calculated at current oil prices, will reduce our mammoth balance-of-trade deficit by $2 billion a year.

And as we all know, new sources of domestic energy will help strengthen our world position in terms of national security. It was only a few short years ago that we saw what the potential for disaster was when a couple of foreign leaders decided to stop selling us oil. I would think, then, that few would disagree that it would be wise to enact legislation to enhance securing a new steady domestic supply of natural gas.

Without congressional action, the responsibility for setting a pricing mechanism for North Slope gas lies in the hands of the Federal Energy Regulatory Commission (FERC). I am told that since the FERC has been awaiting congressional action, they have delayed consideration of this issue themselves. It would be at least a year before a final decision could be reached, and since a number of parties are expected to contest any decision, court action could easily delay final action considerably beyond that.

With inflation increasing the potential costs of construction for each month that the startup date is delayed. It is critical that we act before it is too late. Furthermore, with the lead time necessary before supplies can come on line, the longer we delay the decision, the closer we come to serious natural gas shortages.

With this in mind, congressional negotiators have worked closely with the financing experts on Wall Street and in the banking community to set up a mechanism that makes it attractive enough for private interests to invest in the pipeline. It appears that the provision for a wellhead price on North Slope gas and the "rolled-in" pricing mechanism will do much to assure the banking community that the Federal Government intends to see to it that the gas is marketable and that the rate of return on the investment will be sufficient. Current uncertainties surrounding pricing preclude that assurance, especially when combined with investors' fear of possible litigation and the accompanying added costs of construction resulting from delay.

Probably the most serious argument that detractors of this legislation make is that this new energy will cost more to the consumer. The fear is strong that the negative effect of the increase in cost will more than offset the positive effect of new sources of energy.

And yet, short of Federal subsidy for energy sources, it is simply not possible to get at the new energy without spending more of the consumer dollar to do so. The Prudhoe Bay gas is a good example. Gathering and processing of North Slope gas for delivery to the lower 48 States is more expensive and complex than preparing gas for transportation elsewhere. The facilities required for this process will be expensive. The cost must be factored into consumer prices for gas, which is why Congress chose the "rolled-in" and incremental methods of pricing. This will require that only consumers of gas pay for the increased cost instead of all taxpayers regardless of their personal consumption of gas.

I cannot overemphasize to my colleagues the importance of the natural gas supply issue. Natural gas supplies are dropping at the rate of 5 to 10 percent a year, and shortages among high priority industrial users of gas will arise with increasing frequency. By 1985, severe disruptions in the market will be felt as nonconvertible users are forced to shut down, because of shortages. The economic consequences could be serious.

While North Slope gas is not the final solution to the problem, the pipeline does promise to deliver up to 5 percent of all known domestic gas reserves to the market. Furthermore, the construction of this pipeline should spark new exploration efforts into seven other sedimentary basins in Alaska which have supply potential. Early indications are that this potential exists in areas such as the Beaufort Sea, the Arctic Wildlife Range, and the Pet-4 Field. Such areas will be of critical importance to our long-term energy supply capabilities, and with the lead time necessary to develop new fields, anything that the Congress can do to expedite such exploration should be beneficial.

For these reasons, it is crucial that we enact the gas pricing compromise provision as part of the complete energy package. None of the alternatives before us is without certain disadvantages, but the Nation has reached the point where it is going to have to swallow a bitter pill in some form before a sound national energy program can be developed. And in voting for the energy package as a whole, with the gas pricing compromise included, Congress can take an opportunity to take a real as well as a symbolic step forward toward minimizing the adverse economic and environmental effects of the energy crunch to come.

Mr. BOLLING. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Speaker, as we all know, there are five parts of the national energy plan: Energy conservation, coal conversion, electric utility rate reform. natural gas prices, and energy incentives and penalties.

These parts, these conference reports-Mr. Speaker, are interrelated and interconnected. Taken together, not separately, but taken together, they do represent a framework for a national energy policy. Taken together they will add up to a substantial savings in our use of imported petroleum, they will help to cut our balance-of-payments problem, and they will help to solve the very distressing weaknesses that our dollar has been confronted with in the international exchange markets.

Mr. Speaker, I submit that it is logical and consistent to require a vote on this energy package as a package.

These components of the national energy program came to us as a package. They were acted upon in this body as a package and we should send them back to the White House for the President's signature as a package.

Yes, the rule before us does call for a single up or down vote on the components of H.R. 8444, the National Energy Act. The reason for this is that the reports before us are really one conference report of four parts, because the House conferees were the same for each part, they simply continued meeting as one part yielded to another.

The energy package in these conference reports before us today, Mr. Speaker, is a solid, logical, platform on which to build for the future. It does give us a start in coping with our energy problem. It demonstrates our resolve to enact an energy policy which may be a little painful, to be sure, to some areas and to some special interests; but it is one which serves the overall national interest. It demonstrates to our citizenry, to our friends overseas, and to those who may not be our friends, that we are willing, we in this body and in this Congress, to make a start in coping with this critical problem which surely lies ahead.

Let me conclude, Mr. Speaker, by saying that the energy future of the United States is very much at stake in what we do in this hour on this floor. If we vote down the previous question, let there be no question about it, there will not be an energy program this year. What we will be inviting, Mr. Speaker, as we well know, is the prospect of a legislative stalemate emanating from the Congress of the United States on the most important issue facing the country today.

Mr. Speaker, that is what is at stake in this procedural vote on the previous question, so Mr. Speaker, with all of the sincerity that I can summon, I urge that the previous question be sustained and that we vote for the rule and get on with the business of this Nation.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. HORTON).

Mr. HORTON. Mr. Speaker and Members of the House, the first vote that I

cast in the House of Representatives was a very important vote. Sixteen years ago the burning question was, Shall the Committee on Rules be expanded?

The Republicans wanted it kept at the number that it was. Perhaps I did not know any better, but I cast my vote to expand the Committee on Rules.

The minority leader came back to me in the back of the room, and he said, "Young man, you made a mistake, did you not?"

I said, "No sir, I did not," whereupon he just walked away.

Mr. Speaker, I did not make a mistake, because I felt at that time, as I do here as I stand in the well, that the will of the House ought to be the determining factor as to what happens in the House of Representatives. That is the issue which is involved here.

It is incredible, in my mind, that five conference reports can be considered with one up-or-down vote. That is not the same thing we had when the ad hoc committee made its report, because then we had a chance to vote on the question of natural gas. We had a chance to vote on vanpooling, because that was an amendment I sponsored, and we had a chance to vote on other matters.

In this instance, we do not have a chance to vote for anything, except up or down under this rule.

Now it is also different, because when we came in with the ad hoc committee report, we had a chance to vote on those separate items. Then we went to conference, and I was one of the conferees. We had five separate conferences with five separate groups of conferees from the Senate. Changes, substantial changes, were made in those bills and particularly in the natural gas bill.

Mr. Speaker, I urge the Members to vote down the previous question and give the House of Representatives a chance to exercise its will.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, we must be fair today, and the best way to be fair is to vote down this previous question. We must be reminded as we look back on our own experience in energy at what happened in 1973. Congress had the emergency oil bill at that time. America was faced with an energy crisis. We acted too quickly, and Congress did not act deliberately. In 1972 this country was importing $5 billion in oil. This year we are going to import $50 billion in oil. The oil emergency bill did not provide a successful solution. All we did was increase the oil imports.

The oil bill created a dollar crisis. The oil bill created a deficit, a tremendous import deficit problem. Congress did not solve anything, and we certainly did not solve the energy problem.

I want to repeat what happened. Today over one-half of the oil used in America is imported. We went from $5 billion in imports to $50 billion, because of the emergency oil bill. Let us vote down this previous question today.

Mr. ANDERSON of Illinois. I yield 2 minutes to the distinguished gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, coalitions are not all bad. There was some reference made a moment ago to the diversity of opinion represented in the opposition to this rule. Every now and then even a blind hog will snout up a truffle, and maybe the House collectively has stumbled upon a key to what is happening here today. That is that there are producers, and there are consumers, and there are liberals and conservatives, and Democrats and Republicans, who want to solve the energy crisis just as much as does Jimmy Carter, or the Speaker, or the gentleman from Missouri (Mr. BOLLING). I think we all give each other credit for that good intention. But the extraordinary parliamentary situation in which we find ourselves today is almost unequaled. We are being told by the presentation of this restrictive rule that we are no better than children.

The other day the majority leader of this House called the President's action in vetoing the public works bill a use of the House as a scapegoat. Yes, in his usual elegant fashion he called us a scapegoat for the President. The Speaker stood before us and talked about the true issue on that veto being the dignity and the integrity of the proceedings of the House. I have never seen the proceedings of the House, in my 25 years around this floor, being abused as it is today. And why is it being abused? Why is this extraordinary before us? We all know why. It is not because we do not want to solve the energy problem. It is because the solution before us in five conference reports lumped together is absolutely inadequate. We are forced to take the sexy with the plain, the good with the bad, the abysmal with the passable, perhaps, and there is only one reason: The natural gas section of this entire matter cannot stand on its own, because it will harm this country. It will not produce more gas. It will drive up the prices of natural gas. So they will not let us vote separately on this important issue.

We are being made scapegoats. We do want an energy solution, but we want a correct solution. For that reason and for the sake of the integrity of our proceedings, I urge the Members today to vote down this previous question and to support the rule the gentleman from Illinois will offer that will allow a separate vote, and we can go back to the people saying, "Yes, we are the House of Representatives, and we voted for your best interests on this matter in a free and open fashion."

Mr. ANDERSON of Illinois. I yield 1 minute to the gentleman from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. Mr. Speaker, I rarely differ to any extent with my good friend and colleague, the gentleman from Ohio (Mr. ASHLEY), but I have to disagree with him today, because I do not think that we can say the natural gas bill is an energy program. The only reason that someone would vote for the rule today is because he is afraid that if the rule is not adopted and a separate vote occurs on the natural gas bill, it will be defeated and, therefore, the energy program will be defeated.

I remember way back when we first started talking about having an energy program. From the White House emanated the words that conservation, coal conversion, and the crude oil equalization tax, those three things, were the real guts of the energy program. The COET, the crude oil equalization tax, has been referred to as the cornerstone, the centerpiece, the heart and soul of the energy program, and there is no COET tax in this legislation.

I respectfully suggest, Mr. Speaker, that we can have an energy program, and it is not essential to have the natural gas bill. Therefore, we should vote against the previous question.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. KRUEGER).

Mr. KRUEGER. Mr. Speaker, I have on many occasions supported rules when I intended to vote against a bill, because I wanted to see the matter receive open and fair discussion. In 1976 when we considered the question of natural gas policy, we were presented, through the Committee on Rules, with a set of alternatives that allowed us to choose between various approaches to natural gas policy. The rule allowed Members to make clear choices; and to fulfill our roles properly as representatives of the people, we need to be allowed to make clear choices, following clear discussion. In 1977 again we were presented with a set of alternatives and we had an opportunity to discuss them.

On this occasion, we are asked to bunch together five disparate pieces of legislation and to pretend that somehow they form a unity which cannot be sundered, when our logic, and any sort of clear thinking shows to us they ought, in fact, to be considered separately. We are now told that the natural gas section of this bill is the centerpiece of the administration's energy plan. But previously, the crude oil equalization tax, now thrown out by the Congress, was the centerpiece. The truth is that there is no centerpiece and no center to the bill. As William Butler Yeats says:

> The center cannot hold. Mere anarchy is loosed upon the world.

This legislation should not be loosed upon the world. And the gas legislation should be considered separately from the sections dealing with coal conversion, electric utility rates, and conservation.

Now, there is simply no logic to that position, and genuine respect for us as a body and genuine respect for freedom of discussion in this Chamber would urge that we vote against this rule in order that a natural gas policy might be considered on its own merits.

This particular approach is going to combine in the natural gas bill the worst of all worlds. It will immediately increase costs to consumers. In my own State the current price received for intrastate natural gas by producers is about $1.70. If this bill is passed, the new price will be-

gin above $2; so the consumers in my own State, which produces more natural gas than any other, will see an immediate price increase. At the same time, we are told by no less than the Congressional Budget Office and the Department of Energy, and every other supporter of this bill, that the bill will elicit no significant new gas production.

I would say with Hamlet:

We would rather bear those ills we have, than fly to others that we know not of.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I wish that I had obtained my time from my own side; but I realize fully that there are a good number of Members who want to share in this discussion.

I voted for the energy bill as it left the House. I did not like all of it, but I did think it provided a reasonable framework to see if this problem could be resolved. I probably would vote for four of the five elements of this package if I were permitted to do so.

There are just two thoughts that tend to dominate my view at this moment. The first one is that I am a little reminded of a vote I had to cast in May of 1965, when my own President asked us to fund the war in Vietnam, a proposal that was interwoven with crippled children's services, with helping the elderly and so forth. It was just sugarcoating to avoid tasting the bitterness of the pill.

It is no accident that every single group that represents consumers in this country shares my view that the deregulation aspect of this bill is an outrage. My colleagues on this side of the aisle are kidding themselves if they think this vote is the only way to achieve an energy bill. When the price of energy goes up to the poor, the small homeowners and the workers of this land, those who support this rule will rue their vote.

● Mr. YOUNG of Missouri. Mr. Speaker, I rise in opposition to the special rule combining the four major energy bills into a package for a single vote.

Under normal parliamentary procedure, Members of the House would have the right to vote on each conference report. In fact, there are very few precedents in our history for this kind of a rule.

The energy plan came to us as a package last year, and we voted on it as a package at that time. But as soon as the energy plan went to conference, it was divided into five sections and sent to different conference committees.

Each section was considered independently of the others. Some major provisions of the House plan were deleted, and others were altered dramatically.

The five conference reports emerged one by one over a period of months. The Senate voted on each report separately and sent it to the House.

We have not been given a package this time. We have been given five separate bills. These bills contain major policy changes, some of which we never agreed to before.

The Members of the House should be free to consider each bill on its own merits. The rule combining the bills would deprive us of this freedom. More importantly, it would deprive the American people of their right to fair representation on each of several major policy decisions.

I strongly urge my colleagues to vote against this rule.●

● Mr. OBERSTAR. Mr. Speaker, I rise in support of the rule, not because I support the energy package. On the contrary, I shall vote against the package because, in my judgment the harm of natural gas deregulation outweighs whatever good the other four parts of this package may achieve.

We have to look at the vote on this procedural motion in the light of the whole history of House action on the energy program

The House leadership, working together with the administration, acted responsibly and decisively, early in the 95th Congress, establishing the Ad Hoc Committee on Energy to deal exclusively with the diverse components of the energy program.

The Members of this House voted to establish that committee. The committee spent weeks debating the program and did a most commendable service to the Nation and reflected credit on the House.

After several days of floor consideration of the committee's product, this House voted out a national energy program—as a single package. We should now consider the conference report in the same manner: as a package.

We have before us a national energy program—it is a unit. We should not act on such a program on a piecemeal basis. We should vote the package as a whole up or down on its merits. The President does not have the luxury of "item" veto authority; we should not arrogate unto ourselves that luxury; that would amount to giving ourselves an escape valve.

I will vote against the energy package; the merits, or should I say disadvantages leave me no other choice.

The interests of corporate energy producers and other proponents of deregulation must not be allowed to override the rights of the consumers—the American people—whom we represent in this House.

It is vitally important to continue controls on natural gas. Deregulation would do a great disservice to the American people and would provide unconscionable windfall profits to the corporate energy giants.

These profits will come from the pockets of the needy, the elderly, the retired, people living on fixed incomes. I have been opposed to deregulation for this reason. It is not the answer to our Nation's energy needs, and we should not—cannot—pass a package with this measure as the centerpiece.

Yet, in all fairness, the ad hoc committee, the House leadership, and the administration deserve the opportunity to submit this package to the House for consideration, in its entirety, and on the merits. To separate it into its constituent parts would be a "cop out," a failure to exercise our responsibility to weigh the whole energy program—the good with the bad—and to accept or reject it, on balance, not piecemeal.

If we cannot stand the heat of a "no" vote on the whole package, then, paraphrasing Harry Truman, we ought to get out of this legislative kitchen.

I urge my colleagues to be consistent with the previous action of the House: vote "yes" on the previous question, then be fair with the consumers and vote "no" on the package.●

● Mr. SKUBITZ. Mr. Speaker, so there is no misunderstanding concerning my position on the energy bill, I take this time to make my position crystal clear. I shall vote for the previous question and for the bill.

We who are Americans can be proud that we are Americans. We can be thankful that we live in the greatest country on Earth. But it can be destroyed from within as it can from without. Unless we find an answer to the energy problem—unless we stop the inflation that hounds us, catastrophe and chaos will be our lot.

For months the respective committees of the House and Senate have labored and dawdled around in an effort to find a solution to our energy problem. Unprecedented pressures have been exerted not only on the members of the committees but upon all of us, in an effort to influence our decision.

That the problems involved are complicated, complex and difficult, no one will deny. But that in itself is no excuse for men of good will—with the national interest at heart—to be deterred in their effort to come forth with a vehicle upon which we can take at least one step forward in finding a solution to our problem.

I know this is easier said than done. I know that the scent of large profits have excited the nostrils of some. I know that many small operators are being used as pawns in this chess game for high stakes. On the other extreme, are those who look at profit as a "dirty word"—at business as the villain in our economic system—that the primary goal of business is to gouge the public. This I cannot accept.

I happen to believe that under the free enterprise system the objective of Government should be to create a climate that would encourage growth but at the same time Government should act as an umpire to see that all the players and the public receive equitable treatment. For without business growth there can be no progress and no jobs. I happen to believe that in between the two extremes, "The truth is often sandwiched in between."

I have grave doubts with respect to certain provisions in this bill. I question whether they will achieve in practice all that is claimed for them. I don't know whether they will produce more energy, but I do know if we do nothing—energy production will not go up and energy prices will go up.

I do know that if we sit here after 18 months and do nothing—our indecision will make a decision for us and that decision will solidify in the public mind—

that this Congress does not have the competency or the courage to act. When the winter chill brings higher prices and less energy—the public indignation will accelerate. Fortunately for some of you the election will be over, but the image of Congress will have sunk to a new low.

About 40 years ago, the transportation system of this country had reached the breaking point. At that time the Honorable Senator Burton K. Wheeler was chairman of the Senate Committee on Interstate Commerce. The committee had reached a hopeless impasse. I remember it as if it were only yesterday. I remember the Senator taking his cigar out of his mouth and in a serious voice saying:

Gentleman—this problem is with us—it won't go away—we can't sweep it under the rug. I don't know whether this will work or not. But we are not leaving this room without a bill. If it is wrong we can change it—if we do nothing chaos will result.

Legislation was introduced and passed. It has been changed many times since, but the railroads were kept in operation.

Wheeler's advice was good then; I repeat it to you today. The Congress cannot adjourn without at least making an effort to solve the energy problem. I do not know that it is the best. Maybe it is not—but it can be changed by the next Congress. I doubt that any discussion in this body can do any better job than is provided in the bill before us.

I shall, therefore, support the rule, vote for the previous question and vote favorably for the legislation. I pray I am right. If I am wrong—it has been an honest mistake.●

● Mrs. COLLINS of Illinois. Mr. Speaker, I rise in opposition to the proposed rule on the conference report to accompany H.R. 8444, the National Energy Act, which would require an all-or-nothing vote on five separate pieces of legislation, each of which will have an enormous impact on the availability and cost on energy supplies for our Nation and the world for the foreseeable future.

It has been 14 months since the House voted in support of H.R. 8444. During this interval the bill has gone to the Senate and to conference where it has been, disassembled, dismembered and virtually disembodied such that it is now hardly recognizable as the same piece of legislation. The Natural Gas Act, for example (H.R. 5289) which is now both the centerpiece of the legislation and the center of controversy is a complete turnabout from the bill passed by the House last year which, unlike the present measure, was not a blatant piece of special interest legislation, but rather an earnest effort to increase gas supplies without placing new burdens on the consumer. It is obvious that the new version as reported from conference has a completely different purpose, and therefore, must be considered on its own merits.

Mr. Speaker, I am aware of the fact that a great deal depends upon our country's adoption of a national energy plan that will increase productivity, conserve resources and lessen our dangerous dependence on foreign suppliers. Some of the bills before us do indeed address these urgencies, and I intend to vote for such measures. However, other aspects of this legislation such as the natural gas bill will, I am afraid, have quite the opposite effect, even contributing to an increase in our oil imports as well as creating an intolerable burden for some of our indigent and elderly citizens. I cannot see how we, as legislators, can gloss over these contradictions in the name of expediency. I, therefore, urge my colleagues to vote against this rule and to decide the various issues before us on their respective merits.●

● Mr. WEISS. Mr. Speaker, formulation of an effective and equitable national energy policy is perhaps the most important task facing this Congress. The conference committee report incorporating the key energy proposals deserves careful and close consideration by the House.

I believe it essential that the major components of the energy policy proposal be debated and voted on separately. One particular provision—the natural gas pricing proposal—should certainly be considered on its own merits and not be held hostage to the obvious need for a broad, coherent energy policy.

For this reason, I will vote against the rule which would require the House to consider natural gas pricing as but one component of an omnibus energy bill. And I will also vote against the so-called compromise on natural gas prices, whether or not this specific provision is detached from the overall conference committee report.

The anticonsumer legislation which this "compromise" represents bears very little resemblance to the original proposal advanced by President Carter and subsequently approved by the House. That measure would have permitted gradual, moderate and basically fair increases in the price of natural gas while retaining Federal controls over the interstate market.

But the conference committee report sanctions steep and sudden hikes in the price to consumers and industry of this widely used energy resource. The "compromise" would likewise remove nearly all interstate price controls by 1985.

The existing law governing natural gas pricing is superior to the conference report in every respect. The House will be acting courageously, wisely and in the best interests of our Nation if it votes to detach the natural gas pricing provision from the overall energy bill and then defeats this attempt to transfer billions of dollars from consumers to the energy corporations.

The regressive nature of this proposal has become quite clear to many organizations and to the American people. Only a very few groups are supporting the conference committee report while a broad array of coalitions and analysts are strongly opposing it. Among the organizations urging defeat of the natural gas "compromise" are the U.S. Chamber of Commerce, the AFL–CIO, the National Farmers Union, the National Coalition of Senior Citizens, and the Consumer Federation of America.

One of the major rationales being offered by the Carter administration for enactment of this provision is that Congress must produce some sort of comprehensive energy package in order to impress European money markets and thus strengthen the dollar.

Enacting a balanced and reasonable energy policy may well aid the dollar abroad, but the natural gas proposal is likely to quicken the rate of inflation and thereby further damage our economy and currency. The Wall Street firm of Smith Barney Harris Upham & Co. observes that the conference committee proposal will actually increase our Nation's dependence on oil imports by about 2 million additional barrels a day in 1983. The astronomical price increases permitted under the proposal are thought likely to discourage industrial use of natural gas and boost reliance on oil.

The U.S. Energy Information Administration estimates that the price of natural gas will increase by at least $29 billion over the next 7 years through enactment of the conference committee report. And this huge increase in consumer and industrial utility bills will occur prior to 1985 when the vast interstate market becomes almost totally deregulated. There are simply no reliable estimates of what prices will be charged by the energy conglomerates when they are free to set whatever price they like.

In New York State, consumer costs for natural gas will leap $2 billion between 1978 and 1985 under this proposal, according to the State's energy office. Mr. Speaker, my constituents and those of many of my colleagues from New York already pay indefensibly high utility bills. This "compromise" measure will drive natural gas prices beyond the reach of many lower income and older New Yorkers and will severely strain the budgets of moderate wage earners.

And what will we get in return for this profit windfall to be handed over to the energy giants? According to Department of Energy statistics, we will be rewarded with a declining rate of production. By giving the energy corporations a multibillion dollar blank check, we will experience a 16-percent decrease in natural gas production rates.

What about the assertions that we need this legislation if we are to avoid natural gas shortages like those that occurred last winter?

Again, Wall Street provides a convincing rejoinder to these claims. Highly respected firms like Wertheim & Co., and Merrill Lynch are now forecasting a surplus of natural gas in coming years. Not only the traditionally overstocked intrastate market, but also the larger and currently regulated interstate market are expected to experience an oversupply of natural gas.

Two recent Supreme Court decisions also empower the Department of Energy to shift intrastate supplies on to the interstate market when the need arises. The far-reaching implications of one of these cases was not even considered by the conference committee prior to adoption of its report.

Despite the enormous profits which this proposal would provide to the energy corporations, the largest natural

gas producers are less than enthusiastic in their appraisal of the legislation. They have concluded that the conference committee report would worsen, not alleviate, one of their major problems with natural gas pricing mechanisms: the complexity and amount of paperwork required by the Federal bureaucracies.

Indeed, the Federal Energy Regulatory Commission has described the conference proposal as "so complex, ambiguous and contradictory that it would be virtually impossible for this commission to enforce it in a conscientious and equitable manner."

Independent natural gas producers are meanwhile among the staunchest opponents of the measure. They fear—and with good reason—that the legislation would drive them out of business, further accelerating the trend toward monopolization of the energy industry.

If the House passes this legislation, inflation in our country will be given enormous impetus. The price of practically every manufactured product will rise as the cost of natural gas to industrial users soars.

From every perspective, I believe this to be ill-advised and unnecessary legislation that will harm our economy, wreck consumers' budgets, do nothing to increase energy supplies and weaken the dollar abroad. I sincerely hope that the proposal will be rejected.●

● Mr. MIKVA. Mr. Speaker, I am voting for the rule to provide for consideration of H.R. 8444, the National Energy Act. I did not vote to move the previous question on this rule because I think the natural gas pricing provision is an issue of such importance that it deserved to be considered separately from the other provisions of the National Energy Act package.

By the same token, however, I think it is essential that we take the first step toward formulating a national energy policy. Adoption of the rule will permit the Congress to consider whether the elements of the National Energy Act, taken together, represent the proper first step of a comprehensive policy.

I think the energy package with its provisions for coal conversion, utility rate reform, conservation measures, and tax credits is a positive step, and although I would have preferred to vote separately on the natural gas pricing provisions I intend to vote for the package. I am announcing my intention to vote for the package today, Mr. Speaker, because I will be attending the funeral and burial services for Congressman Ralph Metcalfe tomorrow when the package is before the House, and in light of that and other commitments, I may not be able to return to the House in time for the vote.●

Mr. BOLLING. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Texas, the majority leader (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, the Members of this Congress will cast no more important vote for the future of America than the vote we are called upon to cast very shortly. This is the most important crisis that confronts us. For too long we have done nothing. We now have the opportunity to do something.

In 1973, when the Arab oil embargo should have shocked us out of our lethargy and into action, this country imported some $7 billion worth of foreign petroleum, and we thought that was bad.

Last year we imported $45 billion worth of foreign petroleum, more than six times the dollar drain.

This year we probably will import $50 billion worth of foreign petroleum, more than seven times the dollar volume of only 5 years ago.

This Nation is hemorrhaging in dollars. Take that $45 billion worth of imports which occurred because of our shameful reliance upon foreign sources and our unwillingness to do anything about it, and lay that $45 billion up against the $26 billion deficit in our balance of payments last year. Does it not become crystal clear? The overriding reason for the deficit in our balance of payments and the decline in the value of the dollar—and to a considerable extent, therefore, the inflation that rages in the country—is our unwillingness to do the two things we absolutely must do if we are to show the necessary self-discipline as a Nation to come to grips with this most central economic problem of our time.

Those two things: Waste less, and produce more. If we do not do both of them, then not only shall we not have solved the problem, we will not even have addressed the problem.

To suggest that we can answer the problem only by conservation is to fall far short of an answer; it is to give to the future of America no answer at all.

Conservation is necessary, of course, and this bill contains incentives for conservation. It contains incentives for better insulation, for more fuel-efficient automobiles, for the conversion of industrial usage from scarce fuels to more abundant fuels, and all of that is important. But it is far from enough. It does not constitute a complete, or even a balanced, program.

If all we did were to conserve, we would be consigning future generations to a steadily declining standard of living. Historically, every percentage point of economic growth has been accompanied by a 1-percent growth in the use of energy. By stringent conservation we may be able to reduce that usage side of the equation to perhaps six-tenths of a percent. But we will never have the capacity to maintain a continually growing economy unless we address the supply side as well—unless we find and produce more energy from our own sources.

If I did not believe earnestly that this natural gas bill compromise will produce more gas, I would not be working for it; I would not be standing here pleading with the Members on both sides to abandon their more petty, parochial concerns and the special pleadings of those economic interests that are clamoring at us. But I do believe the gradual deregulation embodied in this bill will result in more exploration and more domestic discovery. It is on that basis that I do ask you to reject the polarized pleaders, some of them saying, "Oh, we must have immediate, total deregulation," and others of them insisting, "We must never have any deregulation ever."

We should recognize that the Congress has done its best in 20 months of deliberation, resulting in this bill. Then we must face the question: Do we want this Congress to go into adjournment without having addressed this problem?

Each of us can find something in a bill this complex and comprehensive with which to disagree. From no individual point of view is it a perfect bill. But it clearly is the best this Congress can produce. Sure, I think I could write a better bill if left to my own devices. Probably every Member here thinks he could write a better bill. But it is obvious that this Congress as a whole cannot.

Consider the chair that is set in front of this table before me. It has four legs. Each one of them is essential, an integral part of the whole structure. Cut off any one of them, and it has no balance. Thus it is with the program before us.

Throughout the world every leader of a foreign country with whom I have talked in the last year or two has asked first of all, "What are you going to do about energy?" I discern a gnawing apprehension among our country's friends throughout the world. They share an unspoken concern that we may have become too fat and self-indulgent and too petty, polarized, and quarrelsome to assert the self-discipline to lay aside our regional differences and come together as one nation to face and subdue this central problem of our energy shortage.

Let us give the answer to them that our leadership is still worthy of confidence in the world, and that we are capable of facing this problem for the sake of the future of America and of generations yet to come.

Mr. Speaker, let us vote aye on the previous question, aye on the rule, and aye on the bill.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield the remaining time on this side of the aisle to the minority leader, the distinguished gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I must remind the distinguished majority leader that this chair next to me in the well has four legs, but what we are asked to vote on has five legs. Four legs stand a lot better than five, and I think it is time to take one of them off.

Actually this is not a good bill. I agree with the majority leader when he says it is absolutely necessary for us to do something about producing more energy in the continental United States. There is no doubt about it. But this bill does not do it.

If we pass this bill, it will have no effect whatsoever on our balance of payments, which is just as horrendous as the majority leader says it is.

So I suggest to the Members that we vote down the previous question, that we amend the bill, and that we knock out this horrendous natural gas section and then come back in the next Congress and get a bill which will really do something about the drain of dollars we are experiencing. Let us get a bill which will really

do something about producing more energy for the United States of America.

That is what the people want. That is what they need. And that is what we are here to do.

So let us vote "no" on the previous question and vote "no" on the bill when it comes up.

Mr. BOLLING. Mr. Speaker, I yield myself the balance of my time.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the measure now being considered.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. BOLLING. Mr. Speaker, it has all been said very well on both sides. And it is the kind of thing that makes one feel good about the House and, at the same time, wonder how the system has survived. I mean that quite seriously, because we are a system of divided powers. And within those powers, we divide ourselves. I think it is terribly important to remember that this is not a House bill coming from a committee to the floor. This is a conference report which, after months, has come through the mill, through the grinding mill of two very, very different institutions. This is the Congress and not just the House. The Senate has already dealt with these matters in its way. And we seek to deal with them in our way. It is terribly important to remember that as we sit here this is our country, not just 435 districts. We are acting together. This is a matter of the national interest, not the sum of all of the special interests. The special interests do not add up to the national interest. The reason for this bill, in the face of this coalition of old enemies—the AFL–CIO and Chamber of Commerce—is the dilemma of the democratic process in the United States. How do we act together for the national interest? And sometimes the only way we can do that is by putting together complicated things that are better liked in one region than in others, and worse hated in one region than in another. This bill is that product—the product of the enormous effort of talented men and women on both sides.

Mr. Speaker, it is time for us to act. We have delayed over and over again in our bickering and bitter battles between interests to serve the national interest. I beg the Members to vote for the previous question, to vote for the rule, so that we may make a real step forward in achieving an effective energy program.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

Mr. ANDERSON of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 207, nays 206, answered "present" 1, not voting 16, as follows:

[Roll No. 912]

YEAS—207

Addabbo	Ford, Tenn.	Neal
Akaka	Fountain	Nedzi
Alexander	Fowler	Nichols
Ambro	Fuqua	Nix
Anderson, Calif.	Garcia	Nolan
Andrews, N.C.	Gaydos	Nowak
Annunzio	Gephardt	Oberstar
Ashley	Giaimo	Obey
Aspin	Gibbons	Panetta
AuCoin	Ginn	Patten
Baldus	Glickman	Patterson
Barnard	Green	Pease
Baucus	Gudger	Pepper
Beard, R.I.	Hamilton	Pickle
Beilenson	Hanley	Pike
Bennett	Hannaford	Poage
Bevill	Harrington	Preyer
Biaggi	Hawkins	Price
Bingham	Hefner	Rahall
Blanchard	Heftel	Rangel
Blouin	Holland	Richmond
Bolling	Hollenbeck	Risenhoover
Bonker	Howard	Rodino
Bowen	Hubbard	Roe
Brademas	Hughes	Rogers
Breckinridge	Ichord	Roncalio
Brinkley	Ireland	Rooney
Brodhead	Jacobs	Rose
Brooks	Jenkins	Rostenkowski
Brown, Calif.	Jenrette	Roybal
Buchanan	Johnson, Calif.	Russo
Burlison, Mo.	Jones, N.C.	Ryan
Carney	Jones, Tenn.	Scheuer
Carr	Kazen	Sharp
Cavanaugh	Keys	Sikes
Conte	Krebs	Simon
Corman	LaFalce	Sisk
Cornwell	Le Fante	Skelton
Cotter	Lederer	Skubitz
D'Amours	Leggett	Slack
Daniel, Dan	Lehman	Smith, Iowa
Danielson	Levitas	Solarz
Delaney	Lloyd, Calif.	Staggers
Dent	Lloyd, Tenn.	Steed
Derrick	Long, Md.	Stratton
Dicks	Lundine	Stump
Dingell	McCormack	Thompson
Dodd	McFall	Thornton
Downey	McHugh	Traxler
Duncan, Oreg.	McKay	Tsongas
Early	Mann	Tucker
Eckhardt	Mathis	Udall
Edwards, Calif.	Mattox	Ullman
English	Mazzoli	Van Deerlin
Ertel	Meeds	Walgren
Evans, Colo.	Milford	Weaver
Evans, Del.	Mineta	Whitley
Evans, Ga.	Minish	Whitten
Evans, Ind.	Moakley	Wilson, C. H.
Fary	Mollohan	Wilson, Tex.
Fascell	Montgomery	Wirth
Fisher	Moorhead, Pa.	Wolff
Fithian	Mottl	Wright
Flippo	Murphy, Ill.	Yatron
Flood	Murphy, N.Y.	Young, Alaska
Flowers	Murphy, Pa.	Young, Tex.
Flynt	Murtha	Zablocki
Foley	Myers, Gary	Zeferetti
Ford, Mich.	Myers, Michael	
	Natcher	

NAYS—206

Abdnor	Burton, Phillip	Derwinski
Anderson, Ill.	Butler	Devine
Andrews, N. Dak.	Caputo	Dornan
Applegate	Carter	Drinan
Archer	Cederberg	Duncan, Tenn.
Armstrong	Chappell	Edgar
Ashbrook	Chisholm	Edwards, Ala.
Bafalis	Clausen, Don H.	Edwards, Okla.
Bauman	Clawson, Del	Eilberg
Beard, Tenn.	Clay	Emery
Bedell	Cleveland	Erlenborn
Benjamin	Cohen	Findley
Boggs	Coleman	Fish
Boland	Collins, Ill.	Florio
Bonior	Collins, Tex.	Forsythe
Breaux	Conable	Fraser
Broomfield	Conyers	Frenzel
Brown, Mich.	Corcoran	Gammage
Brown, Ohio	Cornell	Gilman
Broyhill	Coughlin	Goldwater
Burgener	Cunningham	Goodling
Burke, Fla.	Daniel, R. W.	Gore
Burke, Mass.	Davis	Gradison
Burleson, Tex.	de la Garza	Grassley
Burton, John	Dellums	Guyer
Hall	Markey	Schulze
Hammer-schmidt	Marks	Sebelius
Hansen	Marlenee	Seiberling
Harkin	Marriott	Shuster
Harris	Martin	Smith, Nebr.
Harsha	Meyner	Snyder
Heckler	Michel	Spellman
Hightower	Mikulski	Spence
Hillis	Mikva	St Germain
Holt	Miller, Calif.	Stangeland
Holtzman	Miller, Ohio	Stanton
Horton	Mitchell, Md.	Stark
Huckaby	Mitchell, N.Y.	Steers
Hyde	Moffett	Steiger
Jeffords	Moore	Stockman
Johnson, Colo.	Moorhead, Calif.	Stokes
Jones, Okla.	Moss	Studds
Jordan	Myers, John	Symms
Kasten	O'Brien	Taylor
Kastenmeier	Oakar	Thone
Kelly	Ottinger	Treen
Kemp	Pattison	Trible
Kildee	Perkins	Vander Jagt
Kindness	Pressler	Vanik
Kostmayer	Pritchard	Vento
Krueger	Pursell	Volkmer
Lagomarsino	Quayle	Waggonner
Latta	Quillen	Walker
Leach	Railsback	Walsh
Lent	Regula	Wampler
Livingston	Reuss	Watkins
Long, La.	Rhodes	Waxman
Lott	Rinaldo	Weiss
Luken	Roberts	Whalen
McClory	Robinson	White
McCloskey	Rosenthal	Whitehurst
McDade	Rousselot	Wiggins
McDonald	Runnels	Wilson, Bob
McEwen	Ruppe	Winn
McKinney	Santini	Wydler
Madigan	Satterfield	Wylie
Maguire	Sawyer	Yates
Mahon	Schroeder	Young, Fla.
		Young, Mo.

ANSWERED "PRESENT"—1

Fenwick

NOT VOTING—16

Ammerman	Diggs	Rudd
Badham	Frey	Sarasin
Burke, Calif.	Gonzalez	Shipley
Cochran	Lujan	Teague
Crane	Pettis	
Dickinson	Quie	

The Clerk announced the following pairs:

On this vote:

Mrs. Fenwick for, with Mr. Crane against.

Mrs. Burke of California for, with Mr. Ammerman against.

Mr. Badham for, with Mr. Rudd against.

Mr. Gonzalez for, with Mr. Cochran against.

Until further notice:

Mr. Shipley with Mr. Frey.

Mr. Teague with Mr. Quie.

Mr. Diggs with Mr. Dickinson.

Mr. Sarasin with Mr. Lujan.

Mr. AMBRO changed his vote from "nay" to "yea."

Mrs. FENWICK changed her vote from "yea" to "present."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12931) entitled "An act making appropriations for Foreign Assistance and

related programs for the fiscal year ending September 30, 1979, and for other purposes."

The message also announced that the Senate agrees to House amendments to Senate amendments Nos. 16, 40, 45, 94, 96. The message also announced that the Senate recedes from amendment No. 63 to the foregoing bill.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 14279. An act to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 5285) entitled "An act to amend the Tariff Schedules of the United States with respect to the tariff treatment accorded to film, strips, sheets, and plates of certain plastics or rubber," request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. NELSON, Mr. DOLE, and Mr. PACKWOOD to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 13750) entitled "An act to implement the International Sugar Agreement, 1977 between the United States and foreign countries, to protect the welfare of consumers of sugar and of those engaged in the domestic sugar industry, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. MATSUNAGA, Mr. BENTSEN, Mr. CURTIS, and Mr. DOLE to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the amendment of the House to the bill (S. 2566) entitled "An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and borrowings from the U.S. Treasury for further implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes," request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. ABOUREZK, Mr. METZENBAUM, Mr. CHURCH, Mr. JOHNSTON, Mr. BUMPERS, Mr. MATSUNAGA, Mr. ANDERSON, Mr. LAXALT, Mr. MCCLURE, Mr. WEICKER, and Mr. HATFIELD of Oregon to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 113. Concurrent resolution relating to H.R. 13511.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, has the question on the passage of the rule been put?

The SPEAKER. The Chair will state that the Chair has put the question and announced that the ayes had it and the resolution was agreed to and that the motion to reconsider was laid on the table.

The gentleman from Maryland must be fully aware of what took place.

Mr. BAUMAN. Mr. Speaker, the gentleman from Maryland was listening for the question and failed to hear it.

The SPEAKER. The Chair will state that the Chair waited and nobody asked for a vote on the rule.

Mr. BAUMAN. Mr. Speaker, the gentleman from Maryland was on his feet and did not hear the question being put. I wish to ask for the yeas and nays.

The SPEAKER. The gentleman was given ample time to ask for a vote on the rule. The Chair has been nothing but patient.

The House appreciates the seriousness of the pending motions and would appreciate having the Members take their seats.

The Chair recognizes the gentleman from Georgia (Mr. FLYNT).

IN THE MATTER OF REPRESENTATIVE CHARLES H. WILSON OF CALIFORNIA

Mr. FLYNT. Mr. Speaker, I call up a privileged resolution (H. Res. 1414) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1414

Resolved, That the House of Representatives adopt the report by the Committee on Standards of Official Conduct dated October 6, 1978, in the matter of Representative Charles H. Wilson of California.

The SPEAKER. The Chair recognizes the gentleman from Georgia (Mr. FLYNT) for 1 hour.

Mr. FLYNT. Mr. Speaker, for purposes of debate only, I yield 20 minutes to the gentleman from South Carolina (Mr. SPENCE). For purposes of debate only, I yield 20 minutes to the gentleman from California (Mr. CHARLES H. WILSON). I reserve 20 minutes for myself, and I now yield myself 6 of those minutes.

Mr. Speaker, in early 1977 near the beginning of the 1st session of the 95th Congress, at the unanimous direction of the House, the House directed the Committee on Standards of Official Conduct to pursue and conduct a "full and complete inquiry and investigation to determine whether Members of the House of Representatives, their immediate families, or their associates accepted anything of value, directly or indirectly, from the Government of the Republic of Korea or representatives thereof."

House Resolution 252 further directed this committee to recommend to the House what actions it should take as a result of any misconduct by any Member discovered in the investigation. It was pursuant to that unanimous directive of the House of Representatives that I call up this resolution at this time, and that subsequently I shall call up two additional resolutions.

Let me say that I am confident that the gentleman from South Carolina (Mr. SPENCE) will support the position the committee has taken and will support the chairman of this committee in the statement I have made and which I am about to make.

What few disagreements developed in our committee were on no occasion divided along partisan lines.

Let me say that in the investigation, in the deliberations and in the votes, that I found my colleagues on this committee to be men and women of fair, objective, impartial, judicious temperament. We had one of the most difficult assignments and one of the most difficult mandates ever handed to a committee of this House by a House vote which was unanimous.

We have undertaken that mandate and we believe that we have carried it out without fear, favor, affection, reward, or the hope thereof.

Let me say that in this case we have made every effort to hear all sides of each issue presented to us. When the committee voted that there was probable cause to proceed in the manner which resulted in the matter of CHARLES H. WILSON of California, House Resolution 1414, we proceeded with what we believed was absolute fairness and objectivity. When the public hearings were held, I found occasion to compliment all parties concerned and counsel for the respondent as well as counsel for the committee, on the personal and professional manner in which every person had carried out his and her assigned tasks.

This violation charged against my colleague and my friend, CHARLES H. WILSON of California, is that he acted in a manner that did not reflect creditably on the House of Representatives, in that he made a statement in writing to the committee in response to a questionnaire, whether he had received anything of value over $100 from Tongsun Park.

When Mr. WILSON responded, he said that he had not. Subsequently, he told the committee, and let me say that it is to his credit that he did so, that he had previously received a wedding gift, on the occasion of his marriage in the Republic of Korea, from Tongsun Park. Ordinarily the committee would have accepted that at full value and let it have gone at that; but there were other matters involved in it which indicated that while there was no question of honor or integrity of this House concerned, that Mr. WILSON knew and reasonable persons would have believed that he knew that when he filled in and responded to that questionnaire, that he was aware then and thereof the fact that he had been offered Korean currency of the value of $1,000 and had subsequently accepted $600 in American currency and $400, or the equivalent of, in Korean currency. He says that he gave the $400—and we believe it—to members of his family in Korea to use for charitable purposes in that country. We do not quarrel with that, but we do quarrel with the fact that

he could receive a pair of chopsticks as a wedding gift from this same man and yet could not remember having been offered the equivalent of $1,000 in American currency and having received, by his own subsequent admission, $600 in American currency.

The committee felt, and the committee voted by a vote of 8 to 1, that a reasonable person would believe that Mr. WILSON then and there knew his answer to be incorrect. He is not charged with making such statement under oath because in his sworn appearance before the committee, to the best of my knowledge, Mr. WILSON spoke the truth. He told us that at the time he filled it out he did not remember, but we believe that a reasonable person looking at it purely objectively would come to the same conclusion that the committee came to, that he should have remembered it, and that he did in fact remember it.

Let me say that we are living in the year 1978, that we are not living in the decades of the 1950's or the 1960's or even the early part of the decade of the 1970's. We are living in the year 1978, when, rightly or wrongly, the eyes of a Nation and the eyes of a free world are focusing themselves upon the conduct of public officials, and we who serve in this body are not exempt from that spotlight under which we and other public officials find ourselves.

Mr. Speaker, I ask for an affirmative vote when the question is put by the Speaker on House Resolution 1414, and I reserve the balance of my time.

The SPEAKER. Does the gentleman from Georgia (Mr. FLYNT) yield 20 minutes to the gentleman from South Carolina (Mr. SPENCE)?

Mr. FLYNT. Mr. Speaker, for the purposes of debate only, I yield 20 minutes to the gentleman from South Carolina (Mr. SPENCE), and for the purposes of debate only, I yield 20 minutes to the gentleman from California (Mr. CHARLES H. WILSON).

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the chairman has stated, the decision and recommendations of this committee are based on the facts and only on the facts—facts contained in the report which have been made available to you. There is more to the development of these facts, however, than is apparent from the reports. The committee's staff has labored to uncover the facts for almost a year and a half. Tens of thousands of documents have been obtained and analyzed. Hundreds of interviews have been conducted, hundreds of depositions have been taken. I personally have presided at the taking of 47 depositions.

When we started this investigation, few thought we would ever obtain the truthful testimony of Tongsun Park concerning the money which he paid to Members of Congress. When this investigation began, he was beyond the territorial jurisdiction of the United States and, by the time he was indicted, he had gone to Korea, a country with which we have no extradition treaty. Through the joint efforts of the commitee, its Special Counsel, the Department of Justice and the Department of State, Tongsun Park returned to this country and testified fully—first in executive session, and then in open session—about his payments to Members of Congress. Due in large measure to the exceptionally thorough preparation done by our staff, it became apparent, to a reasonable degree of certainty, that Mr. Park had told us of every payment which he made to a Member of Congress. The result was that we established, as untrue, press reports that 115 Members of Congress were involved in this so-called Korean influence affair. Instead, it was established that Mr. Park had a clearly corrupt relationship with a few ex-members of Congress; and had made payments of questionable propriety to a few sitting Members. The committee continued its work and cleared all but four of the sitting Members. I issued reports to that effect in July 1978. As to four, Congressman MCFALL, ROYBAL, WILSON, and PATTEN. Statements of alleged violation were filed. This was done after months of intensive investigation by the staff and days of agonizing deliberation by the committee.

After giving to the respondents, or their lawyers, all the information they needed for their defense; and after hearing their motions to dismiss the charges filed against them, the committee decided to hold public hearings to resolve the charges. After the hearings, one Member, Mr. PATTEN, was exonerated, unanimously. The other three are the subject of reports which the committee puts before this House today. These three have been separated from the others based on the facts—facts which have been painstakingly gathered by the staff, presented to the committee, sifted at several stages by the committee, and the committee has sustained the charges against these three Members.

The facts have been considered by the committee without partisanship, and without fear of, or favor to, anyone. As we have been guided solely by our judgment of the facts, so we expect our work to be judged by the public and by our colleagues on the basis of the facts. If the facts contained in these House reports do not support our findings and recommendations, then the reports should be disapproved. If, on the other hand, the facts do support our findings and recommendations, then the reports should be adopted by the full House. This will not, in a spirit of hysteria, wrongly accuse its Members of misconduct, but that we will—when the facts are there—not hesitate to express our disapproval of the conduct of a colleague.

It is extremely difficult for a Member of this institution, like myself, to sit in judgment of another Member. It is even more difficult to find that charges have been sustained, and to recommend punishment. None of us have enjoyed the assignment. I believe we have performed it conscientiously, and I am completely confident that the recommendations in these three cases merit the agreement of the full House.

In the case of the first report, the facts support our findings that Mr. WILSON deliberately made a false statement to the committee on his questionnaire when he denied receiving anything over $100 in value from Tongsun Park. In fact, as it later was revealed to the committee, Mr. WILSON received a wedding gift from Tongsun Park in the Chosun Hotel in Seoul, Korea, of $1,000 in cash—partly in U.S. currency and partly in Korean currency. The questionnaire was not answered under oath, and consequently, Mr. WILSON's conduct does not rise to the level of perjury. However, the questionnaire was an important fact gathering tool for the committee. And the making of a deliberate false statement in an official document, relating to a central issue in an important investigation, is a very serious matter. He conducted himself in a manner which did not reflect creditably on the House of Representatives and is thereby in violation of Rule 1 of the Code of Conduct.

The punishment recommended by the committee reflects the seriousness of the offense.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER. The gentleman from California (Mr. CHARLES H. WILSON) is recognized for 20 minutes.

Mr. FLYNT. Mr. Speaker, will the gentleman yield to me to correct a statement which I made in my opening statement?

Mr. CHARLES H. WILSON of California. I yield to the gentleman from Georgia.

Mr. FLYNT. Mr. Speaker, it was called to my attention that I said that the matter of the chopsticks were not reported, that they were reported earlier than the currency. It has been called to my attention, and I accept that correction, that the chopsticks and currency were both reported at the same time.

Mr. CHARLES H. WILSON of California. Mr. Speaker and my fellow colleagues. I stand before you today to face the report of the Committee on Standards of Official Conduct which has voted that acceptance of its report shall constitute a reprimand to me. This results from my failure to report to the committee the fact that I had received a perfectly lawful and, in the circumstances, proper wedding present from Tongsun Park on the occasion of my marriage to my lovely wife in Korea in 1975. I want to emphasize that it is not the wedding present which forms the basis of the committee's report. It is, rather, my inadvertent failure to originally report the wedding present in response to a committee's questionnaire in July 1977. Even though I later corrected my error, it is the original omission which constitutes the grounds upon which the committee has recommended that I be reprimanded.

I have already informed the House of my decision not to contest the committee's recommendation that acceptance of its report shall constitute a rep-

rimand. I stand by that decision. It is the most difficult decision I have ever had to make in my public life, which spans nearly a quarter of a century. I want to take this opportunity to explain to you, my colleagues, why I made this decision not to contest the committee's report. I think that my action has fundamental importance to the well-being of this institution which I am proud to serve.

My decision was extraordinarily difficult for several reasons. My action may be considered by some as an admission of guilt. This is not the case. I assure you that I now believe, as I have throughout, that I am innocent. I freely admit that my wife and I received a cash wedding present from Tongsun Park. But there was nothing improper in this. The committee itself has found that the receipt of that present violates no statute or rule of this House. I have told the committee, and I tell you now, that I regret having accepted the wedding present. I should have refused it the second time as I did when it was first offered to me. But that is a purely personal judgment. The committee has found that the wedding present was lawful and my decision to accept it was appropriate.

I also admit that I neglected to report the fact of that innocent wedding present when I responded to the committee's questionnaire in July 1977. I am deeply disappointed that the committee was unwilling to accept the fact that I had completely forgotten about the present when I answered the questionnaire. I swear to you that when I originally answered, I did not know that my answer was incomplete; I did not deliberately suppress information; and I did not ever intend to deceive or mislead the committee or this House. My oversight was genuinely innocent.

And, I corrected my omission voluntarily and freely as soon as I became aware of it. I was the first to report to the committee the fact of the wedding present. I seriously doubt that the wedding present would be known to this day if I had not come forward. I do not regret that action.

I believe that I am entirely, absolutely innocent of wrongdoing. I believe I am innocent even of the technical violation which the committee found. Nevertheless, I have chosen not to contest the committee's finding that a technical violation of the rules of the House has occurred.

My decision not to contest this matter was also made extremely difficult because the sanction which has been imposed is harsh. The committee's recommendation is the mildest form of penalty which our code of conduct provides. I think that this, in itself, reveals the committee's recognition that my violation, if there was one, was of a highly technical nature. I still believe that even this mild rebuke is cruel. It fails to discriminate between an innocent mistake such as mine, and affirmative misconduct. I am deeply troubled that our standards of conduct do not make the more complete distinctions of punishment which are necessary. Our code does not permit the punishment, if there is to be one, to fit the crime. If there has been one.

The question is why? I believe I am truly innocent of even technical wrongdoing. I know that the penalty for my conceded failure to originally report the wedding present is harsh. Why then have I chosen not to dispute the committee's recommendation?

The answer is relatively simple. I have decided this: that there is some meaning, some broad long-range lesson, some teaching, which will benefit this House to be derived from my ordeal; and that, therefore, unjust and unfair as it may be, I should not contest the action of my colleagues on the committee.

This experience has been a long and difficult ordeal. It is never pleasant to be viewed with suspicion; it is especially trying to be accused of having submitted a false statement when you yourself corrected it. It is baffling to be placed under suspicion, to be examined, cross-examined, deposed and ultimately found to have committed a technical error, when the wedding present itself was entirely innocent.

There is no question that the long ordeal has taken its toll on me personally. Despite it, I have attempted to the best of my ability to perform my duties to my constituents and to this House. I have carried out my committee assignments scrupulously. I have voted on matters which I believe to be important, without seeking or expecting favor. I have spoken out on issues without regard to personal consequences. In a word, I have attempted throughout it all to perform the important office to which the citizens of California have elected me. I believe that my record throughout confirms that I have succeeded in this.

I decided, then, that there is some purpose to be served, in the interests of this great institution by my decision. There are, I believe, two lessons for us all to be drawn from my experience.

My decision teaches that we in the House of Representatives are prepared to accept ethical standards for ourselves which are higher than those imposed upon any other citizen. I have long been resentful of the view that a person elected to Congress is, by definition, corrupt, venal, unethical. That is not true. I think my willingness to accept the committee's recommendation demonstrates the falsity of this opinion. The committee found there was no criminal misconduct in my acceptance of the gift or in my original failure to report it. The committee found that I voluntarily and freely came forward to correct the omission. Nevertheless, the committee has recommended a reprimand. This, I believe, sets a standard of behavior higher than that which would be imposed upon any other citizen.

My decision not to dispute the committee's report endorses this principle that Congressmen are held to a high standard of behavior; indeed, higher than that which we expect of anyone else. I certainly mean to endorse that principle. In so doing, however, I do not intend to suggest that our existing code of conduct is perfect. On the contrary, I believe it is desperately in need of reform. Those standards make it impossible to excuse a technical lapse such as the one I am charged with having made.

I truly believe this: we all must recognize that the committee's recommendation constitutes the establishment of an extremely high standard of conduct. If so, my decision not to contest the committee's action will have been worthwhile. It will serve as a guide so that we can go forward and improve our code of conduct. We can make it one which is just, but is also tempered with mercy. I trust also that my action will silence the cynics and critics who suggest that this institution is venal and incapable of managing its own affairs. Then, my decision will have been worth it.

Second, I take the committee's action as a personal reminder in the performance of my duties as a member of this body. It is a reminder which I think all of us need to share. The committee's action essentially exonerates me of serious wrongdoing. But it is also a reminder that I must be vigilant and careful in my efforts to be completely candid with my colleagues. This is no easy task. There are terrific pressures under which we, as public officials, live. Careless mistakes, no matter how innocent, occur. I made one. The committee has now recommended that I at least be chided for it. You may be sure that I will never forget that. I am determined to redouble my efforts. I will do my utmost to prevent in the future any occurrence, even of the most innocent or trivial nature, which could lead anybody to the conclusion that I am less than candid. With humility, I suggest that this is a lesson from which all of my colleagues can profit.

I came here today not to apologize, but to explain. I believe that I have very little to apologize for. Undeniably, I made mistakes in connection with this matter. I should have refused the present the second time as I did when it was first offered to me. I should have answered the questionnaire more promptly and with greater care. I made an error. I wish I had remembered and corrected my response sooner than I did.

At the same time, there are things for which I have no apology. I was a champion of our support and aid—military and economic—to Korea long years before Tongsun Park was ever heard of. I will continue to urge that support for as long as that policy seems to me to be needed. I have no apology for my marriage to a lovely woman who happens to be of Korean birth. I would make that wedding trip again today. I have no regrets for my decision to rectify the omission in my original response to the committee's questionnaire, although it has caused me more difficulty and anguish than the incident would warrant.

Above all, I have no regrets for my action today in deciding not to contest the committee's report. I deeply believe that this action can serve the fundamental purposes which I have described—as a reference point by which meaningful reformation of our code of conduct can

be achieved; and as a reminder to us all of the need for absolute care and candor. Then, although it has unquestionably cost me dearly, this experience will have been a price worth paying.

In the spirit that the committee's investigation has made it possible for this House to be restored to the confidence of the American people, in the spirit that my decision has served an important purpose, I will not contest the report. I assure you that I will continue in the future to serve the interests of this House and our great country. I will do so openly, fairly and to the best of my ability. I trust that, for as long as I am privileged to serve among you, you will treat me in the same spirit.

Mr. CLAY. Mr. Speaker, will the gentleman yield?

Mr. CHARLES H. WILSON of California. I will be happy to yield such time as he may consume to the gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Mr. Speaker, Charles Dickens wrote:

> It was the best of times, it was the worst of times, it was an age of wisdom, it was an age of foolishness, it was an epoch of belief, it was an epoch of incredulity, it was the spring of hope, it was the winter of despair.

Mr. Dickens could well have been describing the mood of this House today. The fear, tension, hypocrisy permeating this body concerning allegations of wrongdoing is unbelievable. The present climate takes on epic proportions to the same degree as that of the great Holy Wars. The heathens must be sought out and destroyed; the pagans chastised, disciplined, converted. And all of this must come to pass so that pseudo-knights in tainted armor, waving bloody flags might triumphantly return to their districts as conquering heroes.

Mr. Speaker, it is a time of incredulity when lifelong cowards become overnight heroes. It is the worst of times when the House of Representatives becomes a battleground upon which passion and appetite wage war against reason and justice. It is the winter of despair when men and women of common decency must recoil in indignation to see so many called to dance to the music but so few chosen to pay the piper.

Only three of our colleagues are marched into this coliseum to face the lions and cheering mobs while bloodthirsty scribes sit perched ahigh in the press gallery awaiting the carnage. Two years ago those same scribes proclaimed that at least 115 Members of this distinguished body participated in a scheme involving millions of dollars to influence votes in behalf of a foreign nation.

Mr. Speaker, here we are today at the grand finale, having spent over a million dollars of the taxpayers money investigating those wild, reckless, irresponsible allegations, having looked at tens of thousands of documents, hundreds of hours of testimony. Here we are today contemplating the censure of one Member and the reprimand of two others. What began as possibly 115 Members has now dwindled to only three. What began as alleged influence at the top echelons of Government has now fizzled to three relatively inconspicuous Members, not one a committee chairman. What began as $9 million in graft and bribes has shrunk to $4,600. What began as visions of another Teapot Dome scandal has diminished to visions of sugar plums dancing in someone's head.

Mr. Speaker, what began as a noble investigation to rid this body of possibly 115 public servants betraying their public trust has now degenerated into an inquisition to suppress the heresy of three Members. It is indeed an age of foolishness because overnight heroes and overzealous crusaders have become more concerned about how this Congress is perceived by the public than they are about how Congress itself perceives the public. Apparently, we view the public with utter contempt. It is the spring of hope to think the degradation and embarassment of CHARLES WILSON, ED ROYBAL, and JOHN MCFALL will improve our image. Have we taken sabbatical leave from our sense of equity and fairplay? Why is it necessary to inflict such myopic embarrassment? These men are not accused of any illegality and certainly the accusation of impropriety is far less than that of some who are not being judged today.

Mr. Speaker, to those genuinely concerned about chopsticks and how the public views this Congress, let me assure them that these proceedings are perceived as a farce, a sham, a charade, our boast of justice merely an unholy license, our sanctimonious conduct a hollow mockery. The Byzantine mentality pervasive in this Chamber is one more concerned with image than equity; one more concerned with the appearance of justice than justice itself. To discipline three Members based on such paltry evidence is not a profile in courage. Let history not record the 95th Congress as the one which discarded values of the past to create an image in the present so as to protect its selfish interest in the future. Whether CHARLES WILSON contests the report or not—simply justice dictates that a person not be treated in such a shoddy manner—I urge defeat of the motion.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, with all due respect to my friend, the gentleman from Missouri (Mr. CLAY), I must disagree with him about this being a star chamber or a court of inquisition or that this is a coliseum.

I do not serve on the gentleman from Georgia's committee, and I am not familiar with all of the charges; but I really feel that the gentleman does a disservice to the quality of the committee's investigation and, I think, to the whole issue of why we are here today, with a great number of our people present to listen to the evidence.

I would only say to my friend, with whom I have served on another committee, that I think he may have inadvertently, perhaps, cast aspersions on this entire proceeding.

Mr. CLAY. I would say to the gentleman that quite a number of Members have shown up to hear the arguments today; but I venture to say that 95 percent of them have not read the report and they do not know what they are voting on, because the report was just issued this morning.

I would venture to say that the gentleman has not read the report. It is an inquisition, and we have panicked because the members of the press have said that somebody did wrong in this Congress. Every time the members of the mighty press accuse a Member of this body of a wrong, we immediately rush to the defense of the press to prove that the press is right.

What happened to the 115 Members which the Washington Post and the New York Times put on the front page of their newspapers 2 years ago, saying that $9 million had passed hands?

Mr. MAZZOLI. If the gentleman will yield further, Mr. Speaker, I place my trust in the gentleman from Georgia (Mr. FLYNT) and his distinguished committee.

Mr. ICHORD. Mr. Speaker, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Speaker, I am shocked to hear the gentleman from Kentucky (Mr. MAZZOLI) say on the floor of this House that he is over here to listen to the "evidence."

It goes against my grain and my training as a lawyer. Does the gentleman call what is being presented on the floor of the House now "evidence" We are not hearing evidence. We are listening to arguments.

I am not condemning the gentleman from Georgia (Mr. FLYNT), the distinguished chairman of the Committee on Standards of Official Conduct. I am not condemning the gentleman from South Carolina (Mr. SPENCE), the ranking minority member of the committee. They had a job to do and they have done their job in an admirable manner. Their task has indeed been a difficult one.

But how does the gentleman from Kentucky say that this is evidence? The only people who could have possibly heard the evidence were the members of the Committeee on Standards of Official Conduct. All anyone is reading when he reads the report and all anyone is hearing when people stand up and speak on the floor of this House is strictly hearsay evidence. I would not describe these proceedings with the eloquent rhetoric and perhaps exaggerated characterization of the gentleman from Missouri (Mr. CLAY) but what he has said gives me reason to stop and think more seriously about what we are about to do.

But I will state this to the gentleman from Missouri (Mr. CLAY) and the Members of this House, that every Member of this House should consider disqualifying himself as I am considering so doing by voting present on these resolutions. I am greatly bothered by the fact that I am asked to judge innocence and guilt without the benefit of hearing the evidence and also under the pressure of elections just 3 weeks away.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Just in answer to what the gentleman from Missouri (Mr. ICHORD) said, if the gentleman from Kentucky used the wrong language, let me certainly apologize. We are here today to hear the debate. As I stated it, I used the term "evidence" in a too-legal sense, maybe.

Mr. ICHORD. The gentleman from Kentucky should apologize; if the gentle man from Missouri (Mr. CLAY) will yield further, I will state to the gentleman from Kentucky, because he was not present to listen to the inflection in the voices of witnesses. He was not present at the hearing to see the demeanor of the witnesses. And the gentleman from Missouri (Mr. CLAY) is right. Ninety percent of the Members have not even read the report.

Mr. MAZZOLI. If the gentleman from Missouri (Mr. CLAY) will yield, this is not a star-chamber; this is not an inquisition; this is not a coliseum. I would continue to insist.

Mr. ICHORD. I will state to the gentleman from Kentucky, we cannot describe this as hearing evidence on the floor of the House.

Mr. MAZZOLI. If the gentleman from Kentucky is wrong in that regard, he is not wrong in stating this is not a coliseum in which people are being thrown to the lions.

Mr. RISENHOOVER. Mr. Speaker, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from Oklahoma.

Mr. RISENHOOVER. I would like to associate myself with the gentleman's remarks. As a member of the media profession, as a publisher who has taken as much hide off of politicians, I guess, as anyone in my short career in the media, I would just like to say from a point of personal experience that if the people the gentleman described, the media who brought all of this about, maintained just half the level of moral, legal, and ethical standards that the Members of this body maintain, the world would be a lot better place, and a lot of them would not be there.

Mr. CLAY. I thank the gentleman for his comments.

Mr. DELLUMS. Mr. Speaker, will my colleague yield to me?

Mr. CLAY. I yield to the gentleman from California.

Mr. DELLUMS. I thank my distinguished colleague, the gentleman from Missouri, for yielding to me.

I truly rise reluctantly, because I think that any time we set about to judge our peers, it is a very serious moment, serious, indeed, whether we serve on juries in our local communities or whether we serve in this body to judge our colleagues.

My colleague, the gentleman from Kentucky (Mr. MAZZOLI) raised a question about the gentleman from Missouri's challenging this process. A few moments ago I was sitting with one of my colleagues who said, "You know, if you are really going to challenge this, you are going to have to take on the whole system." I am not a kamikaze, but for a minute I would like to take on this whole system because this entire thing to me stinks to high heaven.

If the Members will give me a moment, I would like to point out, first, I challenge not the personalities who serve here but the process itself, the structure of the institution. I first challenge the fact that this committee held no judicial proceedings whatsoever—none—with no rules to guide them that are judicial rules.

Second, I would say to my colleagues that I hope those of us who come back next time never allow the development of an Ethics Committee that does not represent all of the people in this body. For those of you who went up there, there were nine men and one woman—no blacks, no Chicanos. We are here, Mr. Speaker, and members of the committee, and we demand to be part of the process. If we are going to have an Ethics Committee next year, then let it represent all the people.

The next point: My colleague, the gentleman from Missouri, raised some statistics I think of critical importance. This was supposed to be Koreagate. I was ready for hell to break loose. So the criminality of 115 Members came down now to 3 Members of the House. The $870,000 is now down to $4,600, and these are not illegal crimes.

We all started out here trying to investigate serious felonious charges. No one has been brought here with any illegal charges. I am concerned about why that did not happen, and no one has told me what has happened to this investigation to water it down to this level.

Next, somebody on the floor tell me if I am wrong, but I thought receiving money from a foreign agent was illegal. Now I find that if one reported it properly, it was not illegal. What are the criteria? We have allowed several Members of our body to never have to face any public charges. Two of our white colleagues are brought down here to be slapped on the wrist. And one of my brown brothers is down here to be totally wiped out in the process.

Where is the justice? Where is the equity? Where is the proper procedure? When we look around this country, people are saving the only person who got ripped off in this process was a brown man with no power except his ability to push a button and vote.

I am concerned, and if you want to ask me am I raising the question, did the investigation go far enough? Yes. I am raising that and I am questioning the whole process, because I think these whole proceedings stink to high heaven.

Mr. CAPUTO. Mr. Speaker, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from New York.

Mr. CAPUTO. Mr. Speaker, did the gentleman read Tongsun Park's testimony?

Mr. CLAY. I did not have to read Tongsun Park's testimony.

Mr. CAPUTO. Mr. Speaker, I take back my time.

Mr. CLAY. The gentleman does not have the time. It is my time. I will reclaim my time.

Mr. CAPUTO. Did the gentleman read Tongsun Park's testimony?

Mr. CLAY. Does the gentleman just want a yes or no answer?

Mr. CAPUTO. Yes.

Mr. CLAY. Mr. Speaker, I reclaim my time.

Mr. Speaker, I yield to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I want to congratulate the gentleman from Missouri and the gentleman from California for their comments. Their comments, I think, exceed the narrow issue on the floor today. They are talking about a philosophy and a standard of conduct that has frustrated me since my youth, the double standard that people apply to every walk of life.

I would hope that in this Chamber, at least, I did when I came here initially, that double standards would not permeate this area. I was disappointed. Time after time those double standards have manifested themselves.

I, for one, will not vote for the resolution on the committee report. I will not go any further into the criticism of the entire report but I very closely associate myself with the remarks of the gentleman in the well and the gentleman from California. The gentleman from California characterized this proceeding in a very earthy fashion. I do not think it could have been done more appropriately.

Mr. Speaker, I yield back the balance of my time.

Mr. SPENCE. Mr. Speaker, if I could reclaim my time, I yield 5 minutes to the gentleman from New York (Mr. CAPUTO).

Mr. CAPUTO. Mr. Speaker, I respect the right of everyone to feel differently about this matter; but some of us went to Korea to hear Tongsun Park. I do not know if you had a chance to read his testimony. I gather a lot of you did not. He testified that he made $850,000 in payments to some 34 Members of the House and the Senate. A lot of them are no longer Members of the House. Some of them are Members of the Senate. That is why all are not here today facing charges.

Second, a former Member of the House was indicted and convicted. Let me read to you from his conviction:

> It was further part of said conspiracy that Tongsun Park, with knowledge and under the direction of the Korean Central Intelligence Agency, would corruptly provide money to various Members of the Congress and the Senate.

POINT OF ORDER

Mr. SISK. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state the point of order.

Mr. SISK. Mr. Speaker, I make a point of order that the gentleman is not speaking on the subject under consideration. At the present time we are hearing a situation in connection with our colleague from California (Mr. CHARLES H. WILSON). We are not discussing the whole Korean episode from start to finish.

I think the gentleman is talking out of

line in connection with something he is raising. I do not think he is in order.

The SPEAKER. The gentleman will speak on the subject matter before us, which is House Resolution 1414, concerning Mr. CHARLES H. WILSON of California.

Mr. CAPUTO. Yes, sir; I was confused by the last five or six speakers about the scope of this discussion.

Let me return to the matter before us. There was some discussion that this was a mere technical violation that you are asked to pass judgment on. We know that a U.S. court found that Tongsun Park was involved in a conspiracy with the Korean Central Intelligence Agency and other parts of the Korean Government to make illegal payments in $1,000 increments to Members of Congress.

The committee found that the Member before you did what he admitted to doing. He took $1,000 from Tongsun Park.

Mr. RANGEL. Mr. Speaker, will the gentleman yield on that point just for clarification?

Mr. CAPUTO. Yes, I yield.

Mr. RANGEL. Because I would not want to be sitting too close to any Member of Congress that has been influenced by a foreign agent.

My question to the gentleman is: If Tongsun Park was indeed a foreign agent, did our U.S. Government know this, and was the Member in question advised by our Government that the moneys he received from Tongsun Park, who was very well-known in legislative and executive party circles, were in fact coming from an agent of a foreign country? I ask that because that to me would make the case.

Mr. CAPUTO. I believe our Government knew it and that several Members of Congress were advised of it, but not the Member in question.

Mr. RANGEL. Mr. Speaker, let me try to ask it again.

If it is proven that Park was a foreign agent and it was proven the Member took $1,000, my question is, Did the Government advise the Member that Park was a foreign agent?

Mr. CAPUTO. I will answer that, and then I am going to have to reclaim my time because I have a limited amount of time.

Mr. Speaker, I believe our Government knew it, I believe our Government advised several Members of the gifts, but not Mr. WILSON, whom we are discussing right now.

Mr. WILSON testified that he did not know Tongsun Park; he had met him for about 1 minute the day before he received $1,000 in cash from Tongsun Park; that Park was a stranger who gave him a $1,000 in cash.

Now, the committee made some decisions about how we would treat that kind of incident. There is no question that Tongsun Park was an agent of a foreign government in my mind, or in the mind of Mr. Jaworski, or in the mind of many of us. We have direct evidence of that agency relationship, and we have direct evidence of several $1,000 payments by Tongsun Park to Members of Congress and direct evidence that those payments were intended to influence the opinions and actions of recipient Members. And in the case where a Member had no direct knowledge of the true source and purpose of payments received from any source, the committee wrote an opinion. Let me read it to the Members:

> Even if a Member of Congress did not have actual knowledge of a donor's ties to the Korean Government, for example, or did not actually know of any corrupt motivation underlying the gift offer, the Member should still be subject to at least some sanction if the circumstances place that Member on notice that the gift was tendered in an attempt by a foreign government to influence his present or future actions and he took no action or insufficient action to attempt to discover the true nature and purpose of the gift; that is, if all the circumstances should have alerted a responsible Member concerned about both the letter and spirit of the law to hesitate and inquire before acting, the failue of a Member to learn the truth should not be an excuse.

Mr. Speaker, I am not suggesting that we have an expulsion offense here. I am suggesting to the Members that there was a very real conspiracy, and that Mr. WILSON, perhaps unwittingly was caught up in it and indeed was a direct target of one of these $1,000 payments, and that Mr. WILSON failed to do what a reasonable Member would have done: Find out who this stranger was that gave him $1,000 in cash.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. CAPUTO. Not at this point.

Mr. RANGEL. Mr. Speaker, will the gentleman yield just to clarify that point?

Mr. CAPUTO. Not at this time. The gentleman can get some time of his own. I have several other points I wish to make.

Mr. WILSON asserts he committed a mere technical infraction, meaning there was nothing illegal, nothing criminal, nothing improper, about what he did. The gentleman was asked by the committee: "Did you ever get anything from Tongsun Park?"

He was asked by a committee of Congress in a formal document at a time when there was a good deal of publicity surrounding that question and those questionnaires, and he said, "No."

I can believe he could have misunderstood the questionnaire or the seriousness of the questionnaire, but he subsequently changed his answer at exactly the time when some of us were in Korea asking Tongsun Park questions about who he gave money to, when, where, and why. Press reports had started coming back to the United States describing how freely Park was testifying. And it was exactly at that time that the gentleman in question decided to change his testimony and indicate that he had indeed received $1,000 from Tongsun Park.

I do not think that is an expulsion offense. I do not think that is a criminal offense, and because that statement was not under oath it is not perjurious. But I think if we take this body seriously, as I know the Members do, that was an offense against this body.

It strains credulity. I think the vote was nearly unanimous in the committee—although I do not recall—that Mr. WILSON knew at the time he filled out the questionnaire that he got $1,000 from Tongsun Park. And it was only at the point in time that Mr. WILSON began to fear that his untruthful statement was being exposed by the only person who could expose it, that Mr. WILSON recanted and decided to tell the truth to the Congress. It is not a mere technical offense. It was not a minor conspiracy that Mr. WILSON was caught up in. It was a major conspiracy. He was a minor player in a corrupt effort to subvert the U.S. Congress, an effort which has led to convictions, indictments and other penalties of former Members of this body.

The SPEAKER. The time of the gentleman from New York (Mr. CAPUTO) has expired.

Mr. SPENCE. Mr. Speaker, I yield 1 additional minute to the gentleman from New York.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. CAPUTO. I will yield on the gentleman's time. I just do not have the time. I am sorry, Mr. GONZALEZ.

Mr. Speaker, I want to close with my sense of the gravity of this matter and explain why the respondent's conduct warrants reprimand. Tongsun Park said he gave $850,000 to Members of Congress. Hancho Kim was indicted for giving $600,000 for the explicit purpose of making payments to Members of Congress. Leon Jaworski, whose legal skills exceed most, said that he thought 8 sitting Members had criminal problems. I do not think we have an absence of scandal here. We may well have a want of a diligent investigation.

You may disagree. You may think Tongsun Park's payments were proper. But before you reach that conclusion, I hope you take as much time as I have to read the testimony, to read the indictments, and to understand what was said by whom, with what kind of evidence. We do not have time to present it to you here now. You had an opportunity to read it all. I think this is a serious matter. Mr. WILSON was involved in to a minor degree, which is why a minor penalty is recommended.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

The SPEAKER. The time of the gentleman from New York (Mr. CAPUTO) has expired.

The gentleman from Georgia (Mr. FLYNT) has 11 minutes remaining.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. FLYNT. Mr. Speaker. I will yield to the gentleman from Maryland, but first I yield such time as he may consume to the gentleman from Virginia (Mr. DAN DANIEL).

Mr. DAN DANIEL. I thank the gentleman for yielding.

Mr. Speaker, this Member participated in a discussion in Korea with the Ambassador, our Ambassador, Mr. Sneider, and CHARLES WILSON, the Honorable CHARLES WILSON, in the second week of November 1977, which I think might have some bearing on this matter before us. We were in Korea on a mission under the jurisdiction of the Committee on Armed Services.

The Members will recall that at that time our Government was attempting to persuade Tongsun Park, and others, to return to the United States to give testimony on influence peddling charges. Mr. WILSON and I were having lunch with our Ambassador, and during the course of that meal Mr. WILSON was asked by our Ambassador if he would pay a visit to President Park of Korea in an attempt to impress upon him the importance of complete cooperation in our Government's effort to get Tongsun Park to return to this country. Mr. WILSON agreed to so do. And, Mr. Speaker, it appears to me that this act of cooperation should be taken into account in consideration of the matter before us.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. FLYNT. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Speaker, I have a question from one who has tried to read all the reports in the time available to us. It seems central to the defense of the gentleman from California (Mr. WILSON), as evidenced by the statement that he presented here this afternoon, that he mistakenly made a statement in response to a questionnaire and subsequently sought to amend that statement. The committee apparently did not accept that amended statement which was submitted several months later. I have had alleged to me by various Members of the House who claim to have knowledge that other Members of the House who stood accused before the gentleman's committee were permitted to amend their original statements and, thus, avoid punishment.

Could the gentleman from Georgia tell me whether or not any other Member who was accused or in any way implicated was allowed to amend his statement so as to avoid punishment?

Mr. FLYNT. The gentleman from Maryland may wish he had not asked the gentleman from Georgia that question. But the gentleman from Georgia is going to answer it.

It became public knowledge that Mr. Tongsun Park had testified under oath in Seoul before representatives of the Department of Justice and one member of this committee.

The general contents of that testimony became publicly known. The specific contents of that testimony did not become publicly known. At the time that the amendatory letter amending the statement, the answer to the questionnaire filed in July of 1977 which the committee found was made knowing it to be inaccurate to say the least; false to say the most, and that 3 days before the amendment to the questionnaire was filed the gentleman from California, Mr. CHARLES H. WILSON, had been served with a notice of intention to take his deposition under oath. The date of that deposition was the 19th of January, 1978.

This question was raised. The defense which the effort to exonerate was made by the gentleman from California before the committee, just as it was made here today. The committee seriously and carefully considered that defense. The committee came to a conclusion by a vote of 8 to 1 that the circumstances surrounding the serving of the notice to take the deposition under oath, coupled with the fact that it became known that Tongsun Park had testified under oath before officials of the U.S. Department of Justice and a member of this committee, was responsible entirely for the amendment to the false statement, the inaccurate statement to say the least, which was filed in July of 1977.

Mr. BAUMAN. If the gentleman will yield further, I think he has made an important point, but my question has not been fully answered. Since the gentleman from California was not permitted to amend his first statement, was any other Member accused before the committee permitted to make such amendments to previous statements so as to avoid being charged, reprimanded, or censured? I think the same standard should be applied to all Members.

Mr. FLYNT. The Chair has inquired of the Chief Counsel if there were any other instances in which an amended answer to the questionnaire was filed. The chairman of the committee has been advised that there were none of this specific nature.

Mr. BAUMAN. Was there any later change in testimony from previous testimony by any Member? You can see the implication of my questions; any change permitted a Member that would allow him to avoid a charge seems to me to be relevant to the defense the gentleman from California has given us.

Mr. FLYNT. The gentleman from Georgia will respond to the gentleman from Maryland further by saying that he has now been advised specifically that there were some who changed their statements with regard to trips, but there were none who changed their statements with regard to having received anything of value.

Mr. BAUMAN. Would the changes have avoided a reprimand or a censure, any changes in previous testimony? That certainly seems central to the question to me.

Mr. FLYNT. In each case the decision was made, based upon whether or not the committee found as a matter of fact that the original statement was made knowing it to be inaccurate and false at the time that it was made. There was no other such instance in the records of the committee.

Mr. BAUMAN. I thank the gentleman for his response, but I must say I am deeply troubled by the information the gentleman has given the House.

Mr. RANGEL. Mr. Speaker, will the gentleman yield?

Mr. FLYNT. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Speaker, my colleague from New York (Mr. CAPUTO) made certain statements which I did not have enough time to respond to, but he was speaking allegedly on behalf of the committee. I hope the chairman might be able to clarify some of the things on whether in fact this was the committee's view. It is my understanding that he said that while people in the Government knew that Tongsun Park was a foreign agent, and while there was no testimony to prove that Congressman WILSON knew that Tongsun Park was a foreign agent, that inasmuch as Mr. WILSON received $1,000 from a Korean during a wedding in which he was marrying a Korean girl, that the committee reached a conclusion that he should have looked beyond the gift and make a reasonable conclusion that Tongsun Park was not a Korean friend of his bride, but was, in fact, a foreign agent.

Is that a statement that is consistent with what Mr. CAPUTO said as to what responsibility this Member had in determining whether or not he was subject to an influence peddler or whether or not a Korean giving a present to him because they both had the same nationality as his wife?

Mr. FLYNT. I will at this time yield to the gentleman from New York for the purpose of responding to the question of his colleague from New York.

Mr. CAPUTO. Yes, that is about what I said.

Mr. RANGEL. You made it a lot easier for me.

Mr. CAPUTO. I meant to call you the gentleman from New York. Sorry.

Mr. RANGEL. I am just saying that you are saying that Mr. WILSON at this wedding with his Korean bride, in receiving a gift from a Korean for $1,000, had the responsibility to determine whether or not the gift came from a friend of the bride or whether or not it came from an agent of a foreign country, right? You have answered. Thank you.

Mr. FLYNT. If I may reclaim my time I will further attempt to answer the question of the gentleman from New York (Mr. RANGEL) by saying this:

There is nothing in this allegation of alleged violation that says that the receipt of the gift constituted a wrong action. What the allegation does say and what this committee has found and now asks this House to approve is that a reasonable man would believe that any other reasonable man would remember receiving $1,000 in a gift from a man whom he had only met the day before and then only for a minute or two of time. That is what we are saying, that the gentleman from California knew at the time he filed his information and answered the questionnaire in July, 1977, that he omitted a material fact.

Mr. RANGEL. That is quite different from what the gentleman from New York said, but he said—and I am assuming the chairman is rejecting that—that Mr. WILSON had the responsibility to investigate as to whether or not the donor was in fact an agent of a foreign government, and I say that is different. I thank the gentleman.

Mr. ROUSSELOT. Will the gentleman yield?

Mr. FLYNT. For purposes of debate only I gladly yield to the gentleman from California.

Mr. ROUSSELOT. To pursue the line of questioning of my colleague from Maryland (Mr. BAUMAN), could the gentleman tell us how many did alter or anywhere change the material that had been given to them to respond to?

Mr. FLYNT. I would say less than half a dozen.

Mr. ROUSSELOT. Less than half a dozen.

Mr. FLYNT. Yes.

Mr. ROUSSELOT. Can we know who those were or is that secret material?

Mr. FLYNT. At this point in time the gentleman from Georgia cannot respond specifically.

Mr. ROUSSELOT. Is there a reason for that?

Mr. FLYNT. No; there is no reason. There is no reason. But let me say this: that the staff has computerized and studied and physically examined it.

The SPEAKER. The time of the gentleman from Georgia has expired.

The gentleman from South Carolina has 7 minutes.

Mr. ROUSSELOT. May I have 2 additional minutes?

Mr. SPENCE. I yield 2 minutes to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman yielding.

If 12 or 10 or so were allowed to alter it.

Mr. FLYNT. I did not say 12; I said 7 or less.

Mr. ROUSSELOT. I stand corrected, a half dozen. I am so used to dealing in billions here.

If a half a dozen or so were allowed to in some way alter or change these questionnaires or other material sent to them—and I think the gentleman mentioned the gentleman from Maryland—that something about the term intentional, that he felt that if the individuals had not inntentionally misled the committee, they were allowed to alter their various reports.

Mr. FLYNT. Will the gentleman yield?

Mr. ROUSSELOT. Yes; I certainly yield.

Mr. FLYNT. What the gentleman from Georgia said was that none of the others to the best of the knowledge of the gentleman from Georgia had anything to do with the receipt of cash or anything in value in excess of $100, that they related to the trip or to the date and place and time of the trip.

Mr. ROUSSELOT. So these individuals were in no way considered to be in violation.

Mr. FLYNT. And if the gentleman would yield further, the gentleman from California (Mr. WILSON) himself amended his response with respect to trips.

But there was no charge made against him relating to that.

The only charge—if the gentleman from California would yield?

Mr. ROUSSELOT. Yes.

Mr. FLYNT. The only charge against the gentleman from California (Mr. WILSON) is that he falsely replied to the questionnaire. Because the committee believes, and asks the House of Representatives to sustain the committee, that a reasonable man would have remembered a gift of $1,000 in currency from almost a total stranger whom he had met only the day before.

The SPEAKER. The time of the gentleman has expired.

The gentleman has 5 minutes remaining.

Mr. SPENCE. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

CALL OF THE HOUSE

Mr. CORMAN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 913]

Alexander	Flood	Pressler
Ammerman	Frey	Pursell
Andrews, N.C.	Gibbons	Quie
Armstrong	Hammer-schmidt	Rostenkowski
Badham	Harrington	Rudd
Bedell	Harsha	Santini
Beilenson	Hyde	Sarasin
Boggs	Ireland	Scheuer
Brinkley	Krueger	Seiberling
Burke, Calif.	LaFalce	Shipley
Cochran	Lujan	Skubitz
Conyers	McCloskey	Smith, Nebr.
Crane	McDonald	Solarz
D'Amours	McEwen	Stark
Delaney	Mahon	Teague
Dent	Marlenee	Udall
Derrick	Milford	Volkmer
Dickinson	Miller, Calif.	Waxman
Diggs	Moss	Whitehurst
Drinan	Pettis	Young, Alaska
Evans, Del.		

The SPEAKER. On this rollcall 369 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

IN THE MATTER OF REPRESENTATIVE CHARLES H. WILSON OF CALIFORNIA

Mr. FLYNT. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. FLYNT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 329, noes 41, answered "present" 29, not voting 31, as follows:

[Roll No. 914]

AYES—329

Abdnor	Bingham	Caputo
Addabbo	Blanchard	Carr
Ambro	Blouin	Carter
Anderson, Ill.	Boland	Cavanaugh
Andrews, N.C.	Bolling	Cederberg
Andrews, N. Dak.	Bonior	Chappell
Annunzio	Bonker	Clausen, Don H.
Applegate	Bowen	Cleveland
Archer	Brademas	Cohen
Ashley	Breaux	Coleman
Aspin	Breckinridge	Collins, Tex.
AuCoin	Brinkley	Conable
Bafalis	Brodhead	Conte
Baldus	Brooks	Conyers
Barnard	Brown, Mich.	Corcoran
Baucus	Brown, Ohio	Cornell
Bauman	Broyhill	Cornwell
Beard, R.I.	Buchanan	Cotter
Beard, Tenn.	Burgener	Coughlin
Bedell	Burke, Fla.	Cunningham
Benjamin	Burleson, Tex.	D'Amours
Bennett	Burlison, Mo.	Daniel, R. W.
de la Garza	Butler	Kelly
Derrick	Kemp	Quillen
Devine	Keys	Rahall
Dicks	Kildee	Railsback
Dodd	Kindness	Regula
Dornan	Kostmayer	Reuss
Downey	Krebs	Rhodes
Drinan	Krueger	Richmond
Duncan, Tenn.	LaFalce	Rinaldo
Early	Lagomarsino	Roberts
Eckhardt	Latta	Robinson
Edgar	Le Fante	Rodino
Edwards, Ala.	Leach	Roe
Edwards, Okla.	Lehman	Rogers
Emery	Levitas	Rooney
English	Livingston	Rose
Erlenborn	Lloyd, Calif.	Rosenthal
Ertel	Lloyd, Tenn.	Rostenkowski
Evans, Colo.	Long, La.	Rupe
Evans, Ga.	Long, Md.	Russo
Evans, Ind.	Lott	Santini
Fary	Luken	Satterfield
Fascell	Lundine	Sawyer
Fenwick	McCloskey	Scheuer
Findley	McCormack	Schroeder
Fish	McDade	Schulze
Fisher	McDonald	Sebelius
Fithian	McEwen	Seiberling
Flippo	McHugh	Sharp
Florio	McKay	Shuster
Flowers	McKinney	Simon
Flynt	Madigan	Skelton
Foley	Maguire	Slack
Ford, Tenn.	Mahon	Smith, Iowa
Forsythe	Mann	Snyder
Fountain	Markey	Solarz
Fowler	Marriott	Spence
Fraser	Martin	St Germain
Frenzel	Mathis	Staggers
Fuqua	Mattox	Stangeland
Gammage	Mazzoli	Stanton
Gaydos	Meeds	Steed
Gephardt	Mevner	Steers
Giaimo	Michel	Steiger
Gibbons	Mikulski	Stockman
Gilman	Mikva	Stratton
Ginn	Milford	Studds
Glickman	Miller, Ohio	Stump
Goldwater	Mineta	Symms
Goodling	Minish	Taylor
Gore	Mitchell, N.Y.	Thompson
Gradison	Moakley	Thone
Grassley	Moffett	Thornton
Green	Mollohan	Traxler
Gudger	Montgomery	Treen
Guyer	Moore	Trible
Hagedorn	Moorhead, Calif.	Tsongas
Hall	Moorhead, Pa.	Tucker
Hamilton	Mottl	Udall
Hanley	Murphy, Ill.	Ullman
Hannaford	Murphy, Pa.	Vander Jagt
Hansen	Myers, Gary	Vanik
Harkin	Myers, John	Vento
Harris	Natcher	Volkmer
Harsha	Neal	Walgren
Heckler	Nedzi	Walker
Hefner	Nichols	Walsh
Heftel	Nolan	Wampler
Hightower	Nowak	Watkins
Hollenbeck	O'Brien	Weaver
Holtzman	Oakar	Weiss
Horton	Oberstar	Whalen
Howard	Obey	White
Hubbard	Panetta	Whitley
Huckaby	Patterson	Whitten
Hughes	Pattison	Wiggins
Ichord	Pease	Winn
Ireland	Pepper	Wirth
Jacobs	Perkins	Wolff
Jeffords	Pickle	Wright
Jenkins	Pike	Wydler
Johnson, Colo.	Poage	Wylie
Jones, N.C.	Pressler	Yates
Jones, Tenn.	Preyer	Yatron
Jordan	Pritchard	Young, Fla.
Kasten	Pursell	Young, Mo.
Kastenmeier	Quayle	Zablocki
Kazen		Zeferetti

NOES—41

Ashbrook	Gonzalez	Myers, Michael
Bevill	Hawkins	Nix
Burke, Mass.	Hillis	Rangel
Clawson, Del	Holland	Risenhoover
Clay	Holt	Roncalio
Collins, Ill.	Jenrette	Rousselot
Corman	Jones, Okla.	Roybal
Daniel, Dan	Lederer	Sisk
Davis	Lent	Stokes
Delaney	McClory	Waggonner
Derwinski	Marks	Wilson, Bob
Dingell	Mitchell, Md.	Wilson, Tex.
Ford, Mich.	Murphy, N.Y.	Young, Alaska
Garcia	Murtha	

ANSWERED "PRESENT"—29

Akaka	Burton, Phillip	Miller, Calif.
Alexander	Carney	Ottinger
Anderson, Calif.	Chisholm	Price
	Danielson	Runnels
Beilenson	Dellums	Ryan
Biaggi	Duncan, Oreg.	Sikes
Boggs	Edwards, Calif.	Spellman
Broomfield	Harrington	Stark
Brown, Calif.	Johnson, Calif.	Van Deerlin
Burton, John	Leggett	Wilson, C. H

NOT VOTING—31

Ammerman	Flood	Quie
Armstrong	Frey	Rudd
Badham	Hammer-schmidt	Sarasin
Burke, Calif.		Shipley
Cochran	Hyde	Skubitz
Crane	Lujan	Smith, Nebr.
Dent	McFall	Teague
Dickinson	Marlenee	Waxman
Diggs	Moss	Whitehurst
Eilberg	Patten	Young, Tex.
Evans, Del.	Pettis	

Mr. AKAKA changed his vote from "aye" to "present."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 2466, HEALTH SERVICES RESEARCH, HEALTH STATISTICS, AND HEALTH CARE TECHNOLOGY ACT OF 1978

Mr. STAGGERS submitted the following conference report and statement on the Senate bill (S. 2466) to amend the Public Health Service Act to extend and revise the assistance programs for health services research and health statistics; to establish the Office of Health Technology, and for other purposes:

CONFERENCE REPORT (H. REPT. 85–1783)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2466) to amend the Public Health Service Act to extend and revise the assistance programs for health services research and health statistics; to establish the Office of Health Technology, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE, REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Services Research, Health Statistics, and Health Care Technology Act of 1978".

(b) Whenever in this Act (other than in sections 12 and 13) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

EXTENSION OF AUTHORIZATIONS

SEC. 2. (a) Section 308(1)(1) is amended—

(1) in the first sentence (A) by striking out "and" after "1976,", and (B) by inserting before the period a comma and the following: "$35,000,000 for the fiscal year ending September 30, 1979, $40,000,000 for the fiscal year ending September 30, 1980, and $45,000,000 for the fiscal year ending September 30, 1981"; and

(2) by striking out the second sentence and inserting in lieu thereof the following: "At least 20 per centum of the amount appropriated under the preceding sentence for any fiscal year or $6,000,000, whichever is less, shall be available only for health services research, evaluation and demonstration activities directly undertaken through the National Center for Health Services Research, and at least 5 per centum of such amount or $1,000,000, whichever is less, shall be available only for dissemination activities directly undertaken through such Center.".

(b) Section 308(1)(2) is amended (1) by inserting "and epidemiological" after "statistical", (2) by striking out "and" after "1976,", and (3) by inserting before the period a comma and the following: "$50,000,000 for the fiscal year ending September 30, 1979, $65,000,000 for the fiscal year ending September 30, 1980, and $70,000,000 for the fiscal year ending September 30, 1981".

GENERAL AUTHORITY

SEC. 3. (a) Subsection (a) of section 304 is amended to read as follows:

"(a)(1) The Secretary, acting through the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology, shall conduct and support research, demonstrations, evaluations, and statistical and epidemiological activities for the purpose of improving the effectiveness, efficiency, and quality of health services in the United States.

"(2) In carrying out paragraph (1), the Secretary shall give appropriate emphasis to research, demonstrations, evaluations, and statistical and epidemiological activities respecting—

"(A) the accessibility, acceptability, planning, organization, distribution, utilization, and financing of systems for the delivery of health care,

"(B) alternative methods for measuring and evaluating the quality of systems for the delivery of health care.

"(C) the collection, analysis, and dissemination of health related statistics,

"(D) alternative methods to improve and promote health statistical and epidemiological activities,

"(E) the safety, efficacy, effectiveness, cost effectiveness, and social, economic, and ethical impacts of health care technologies,

"(F) alternative methods for disseminating knowledge concerning health and health related activities,

"(G) the special health problems of low income and minority groups and the elderly to insure that these problems are assessed on a periodic regular basis.

"(H) the prevention of illness, disability, and premature deaths in the United States,

"(I) health care costs, increases in such costs, and the reasons for such increases, and

"(J) the impact of the environment on individual health and on health care.

"(3) The Secretary shall, through the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology and using National Research Service Awards and other appropriate authorities, undertake and support training programs to provide for an expanded and continuing supply of individuals qualified to perform the research, examination, and demonstration projects set forth in sections 305, 306, and 309.".

(b) Paragraph (1) of section 304(b) is amended (1) by inserting ", when appropriate," before "enter into contracts", and (2) by striking out all after "entities and individuals" the second time it appears and inserting in lieu thereof a period.

(c) Subsection (c) of section 304 is amended to read as follows:

"(c)(1) The Secretary shall coordinate all health services research, evaluations, and demonstrations, all health statistical and epidemiological activities, and all research, evaluations, and demonstrations respecting the assessment of health care technology undertaken and supported through units of the Department of Health, Education, and Welfare. To the maximum extent feasible such coordination shall be carried out through the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology.

"(2) The Secretary shall coordinate the health services research, evaluation, and demonstrations, the health statistical and (where appropriate) epidemiological activities, and the research, evaluations, and demonstrations respecting the assessment of health care technology authorized by this Act through the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology.".

(d) Section 304(d)(3) is amended (1) by striking out "experts and", (2) by inserting "but in accordance with section 3109 of title 5, United States Code" after "advisable", and (3) by adding at the end the following: "The Secretary may, for the purpose of carrying out the functions set forth in sections 305, 306, and 309, obtain (in accordance with section 3109 of title 5 of the United States Code, but without regard to the limitation in such section on the number of days or the period of service) for each of the centers the services of not more than fifteen experts who have appropriate scientific or professional qualifications.".

(e) The heading for section 304 is amended to read as follows:

"GENERAL AUTHORITY RESPECTING RESEARCH, EVALUATIONS, AND DEMONSTRATIONS IN HEALTH STATISTICS, HEALTH SERVICES AND HEALTH CARE TECHNOLOGY".

NATIONAL CENTER FOR HEALTH SERVICES RESEARCH

SEC. 4. Subsection (b) of section 305 is amended—

(1) by striking out "may undertake and support" and inserting in lieu thereof "shall undertake and support";

(2) by striking out "construction," in paragraph (3);

(3) striking "and" at the end of paragraph (2);

(4) striking the period in paragraph (3) and inserting in lieu thereof ", and"; and

(5) adding at the end thereof the following new paragraph:

"(4) the uses of computer science in health services delivery and medical information systems.".

NATIONAL CENTER FOR HEALTH STATISTICS

SEC. 5. (a) Subsection (b) of section 306 is amended (1) by striking out "may", (2) by inserting "shall" after "(1)" and after "(2)", (3) by striking out "and" at the end of paragraph (1), (4) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon, and (5) by adding after paragraph (2) the following:

"(3) may undertaken and support by grant or contract) epidemiological research, demonstrations, and evaluations on the matters referred to in paragraph (1); and

"(4) may collect, furnish, tabulate, and analyze statistics, and prepare studies, on matters referred to in paragraph (1) upon request of public and nonprofit private entities under arrangements under which the entities will pay the cost of the service provided.

Amounts appropriated to the Secretary from payments made under arrangements made under paragraph (4) shall be available to the Secretary for obligation until expended.".

(b) Section 306(c) is amended by—

(1) inserting "and epidemiological" after "statistical" each place it occurs; and

(2) striking "Labor and Public Welfare" and inserting in lieu thereof "Human Resources".

(c)(1) Subsection (e) of section 306 is amended to read as follows:

"(e) For the purpose of producing comparable and uniform health information and statistics, there is established the Cooperative Health Statistics System. The Secretary, acting through the Center, shall—

"(1) coordinate the activities of Federal agencies involved in the design and implementation of the System;

"(2) undertake and support (by grant or contract) research, development, demonstrations, and evaluations respecting the System;

"(3) make grants to and enter into contracts with State and local health agencies to assist them in meeting the costs of data collection carried out under the System; and

"(4) review the statistical activities of the Department of Health, Education, and Welfare to assure that they are consistent with the System.

States participating in the System shall designate a State agency to administer or be responsible for the administration of the statistical activities within the State under the System. The Secretary, acting through the Center, shall prescribe guidelines to assure that statistical activities within States participating in the system produce uniform and timely data and assure appropriate access to such data.".

(2) Paragraph (4)(D) of subsection (1) of section 306 is amended by inserting before the semicolon the following: ", with respect to the Cooperative Health Statistics System established under subsection (e), and with respect to the standardized means for the collection of health information and statistics to be established by the Secretary under subsection (j)(1)".

(d) The first sentence of subsection (f) of section 306 is amended by inserting ", acting through the Center," after "the Secretary".

(e)(1) Section 306(1)(1) is amended by striking out "United States".

(2) Paragraph (2)(A) of section 306(1) is amended by inserting "health planning," after "health statistics,".

(f) Section 306 is amended by redesignating subsection (1) as subsection (k) and by inserting after subsection (h) the following new subsections:

"(1) The Center may provide to public and nonprofit private entities engaged in health planning activities technical assistance in the effective use in such activities of statistics collected or compiled by the Center.

"(j) In carrying out the requirements of section 304(c) and paragraph (1) of subsection (e) of this section, the Secretary shall coordinate health statistical and epidemiological activities of the Department of Health, Education, and Welfare by—

"(1) establishing standardized means for the collection of health information and statistics under laws administered by the Secretary;

"(2) developing, in consultation with the National Committee on Vital and Health Statistics, and maintaining the minimum sets of data needed on a continuing basis to fulfill the collection requirements of subsection (b)(1);

"(3) after consultation with the National Committee on Vital and Health Statistics, establishing standards to assure the quality of health statistical and epidemiological data collection, processing, and analysis;

"(4) in the case of proposed health data collections of the Department which are required to be reviewed by the Director of the Office of Management and Budget under section 3509 of title 44, United States Code, reviewing such proposed collection to determine whether they conform with the minimum sets of data and the standards promulgated pursuant to paragraph (2) and (3), and if any such proposed collection is found not to be in conformance, by taking such action as may be necessary to assure that it will conform to such sets of data and standards, and

"(5) periodically reviewing ongoing health data collections of the Department, subject to review under such section 3509, to determine if the collections are being conducted in accordance wtih the minimum sets of data and the standards promulgated pursuant to paragraphs (2) and (3) and, if any such collection is found not to be in conformance, by taking such action as may be necessary to assure that the collection will conform to such sets of data and standards not later than the ninetieth day after the date of the completion of the review of the collection.".

NATIONAL CENTER FOR HEALTH CARE TECHNOLOGY; NATIONAL COUNCIL ON HEALTH CARE TECHNOLOGY

SEC. 6. (a) Section 309 is amended—

(1) by amending the section heading to read as follows:

"HEALTH CONFERENCES AND HEALTH EDUCATION INFORMATION";

(2) by inserting "(a)" before "A conference"; and

(3) by striking out "309" and inserting in lieu thereof "310".

(b) Section 310 (as in effect before the date of the enactment of this Act) is amended—

(1) by striking out the section heading; and

(2) by striking out "SEC. 310." and inserting in lieu thereof "(b)".

(c) Part A of title III is amended by adding after section 308 the following new section:

"NATIONAL CENTER FOR HEALTH CARE TECHNOLOGY; NATIONAL COUNCIL ON HEALTH CARE TECHNOLOGY

"SEC. 309. (a) There is established in the Department of Health, Education, and Welfare the National Center for Health Care Technology (hereinafter in this section referred to as the 'Center') which shall be under the direction of a Director who shall be appointed by the Secretary and supervised by the Assistant Secretary for Health (or such other officer of the Department as may be designated by the Secretary as the principal adviser to him for health programs).

"(b)(1) The Secretary, acting through the Center, shall undertake and support (by grant or contract) assessments of health care technology. Such assessments shall take into acount the safety, effectiveness, and cost effectiveness of, and the social, ethical, and economic impact of health care technologies.

"(2) The Secretary, acting through the Center, shall encourage, undertake, and support (by grant or contract) research, demonstrations, and evaluations respecting—

"(A) the factors that affect the use of health care technologies in the United States;

"(B) methods for diseminating information on health care technologies; and

"(C) the effectiveness, cost effectiveness, and social, ethical, and economic impacts of particular medical technologies.

"(3) The Secretary, acting through the Center, shall encourage and support (by grant or contract) research, evaluations, and demonstrations respecting the safety and efficacy of particular health care technologies.

"(4) The Secretary, acting through the Center and in consultation with the National Council on Health Care Technology, shall establish priorities for the activities prescribed by paragraphs (1), (2), and (3). In determining if an activity respecting a particular health care technology should be given priority, emphasis shall be place on—

"(A) the actual or potential risks and the actual or potential benefits to patients associated with the use of the technology,

"(B) the actual or potential cost of the technology,

"(C) the actual or potential rate of its use, and

"(D) the stage of development of the technology.

"(5) The Center may make recommendations to the Secretary respecting health care technology issues in the administration of the laws under the Secretary's jurisdiction, including recommendations with respect to reimbursement policy.

"(c)(1) The Secretary, acting through the Center, shall, by grant or contract, assist public and private nonprofit entities in meeting the costs of planning and establishing new centers, and operating existing and new centers, for assessments, multidisciplinary research evaluations, and demonstrations respecting the matters referred to in paragraphs (1) and (2) of subsection (b). To the extent practicable, the Secretary shall take such actions, in accordance with the requirements of this subsection and section 308, to assure that three such centers shall be operational by September 1, 1981.

"(2)(A) No grant or contract may be made under this subsection for planning and establishing a center unless the Secretary, acting through the Center, determines that when it is operational it will meet the requirements listed in subparagraph (B), and no payment shall be made under a grant or contract for operation of a center unless the center meets such requirements.

"(B) Each center shall meet the following requirements:

"(i) There shall be a full-time director of the center who possesses a demonstrated capacity for sustained productivity and leadership in asssesments, research, demonstrations, and evaluations respecting the matters referred to in paragraphs (1) and (2) of subsection (b), and there shall be such additional professional staff as may be appropriate.

"(ii) The staff of the center shall have expertise in the various disciplines needed to conduct assessments, multidisciplinary research, evaluations and demonstrations repecting the matters referred to in paragraphs (1) and (2) of subsection (b).

"(iii) The center shall be located within an established academic or research institution with departments and resources appropriate to the programs of the center.

"(iv) Each center shall meet such additional requirements as the Secretary may by regulation prescribe.

"(d) Any grant or contract under subsection (b) or (c), the direct cost of which will exceed $35,000, may be made or entered into only after appropriate review for scientific merit by peer review groups composed of experts in the relevant fields and only after the National Council on Health Care Technology has had an opportunity to review the project with respect to which the grant or contract is to be made or entered into.

"(e) To assist in carrying out this section, the Secretary, acting through the Center, shall cooperate and consult with the National Institutes of Health, the Veterans' Administration, and any other interested Federal departments or agencies and with State and local health departments and agencies.

"(f)(1) There is established the National Council on Health Care Technology (hereinafter in this subsection referred to as the 'Council'). The Council shall—

"(A) advise the Secretary and the Director of the Center with respect to the perform-

ance of the functions prescribed by this section;

"(B) review applications for grants and contracts under this section in excess of $35,000 and provide the Secretary its recommendation respecting the approval of such applications;

"(C) after consultation with appropriate public and private entities, advise the Secretary respecting the safety, efficacy, effectiveness, cost effectiveness, and the social and economic impacts of particular health care technologies;

"(D) after consultation with appropriate public and private entities, develop, when appropriate and to the extent practicable exemplary standards, norms, and criteria concerning the use of particular health care technologies; and

"(E) promptly publish, disseminate, and otherwise make available, through the National Library of Medicine, standards, norms, and criteria developed under subparagraph (D).

"(2) The Council shall consist of—

"(A) the Director of the National Institutes of Health, the Chief Medical Officer of the Veterans' Administration, the Assistant Secretary for Health and Environment of the Department of Defense, the Chairman of the National Professional Standards Review Council, a member of the National Council on Health Planning and Development (established under section 1503), the Director of the Office of Science and Technology Policy, the head of the Food and Drug Administration (or the successor to such entity) who head of the Center for Disease Control (or the successor to such entity), and the head of the Health Care Financing Administration (or the successor to such entity), the (or their designees) shall be ex officio members, and

"(B) eighteen members appointed by the Secretary.

The Secretary shall make his initial appointments to the Council within one hundred and twenty days of the date of the enactment of this section. Six of the appointed members shall be selected from individuals who are distinguished in the fields of medicine, engineering, or science (including social science). Of such six members, at least two shall be selected from individuals who are representatives of business entities engaged in the development or production of health care technology. Two of the appointed members shall be physicians, two of the appointed members shall be selected from individuals who are hospital administrators, two of the appointed members shall be selected from individuals who are distinguished in the field of economics, two of the appointed members shall be selected from individuals who are distinguished in the field of law, one of the appointed members shall be selected from individuals who are distinguished in the field of ethics, and three of the appointed members shall be selected from members of the general public who represent the interests of consumers of health care.

"(3)(A) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(ii) of the members first appointed after the date of the enactment of this section, four shall be appointed for a term of four years, four shall be appointed for a term of three years, four shall be appointed for a term of two years, and four shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

"(B) Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(4) The Council shall annually elect one of its apointed members to serve as Chairman until the next election.

"(5) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"(6) The Director of the Center shall (1) designate a member of the staff of the staff Center to act as Executive Secretary of the Council, and (2) make available to the Council such staff, information, and other assistance as it may require to carry out its functions.

"(7) The Council shall be subject to the Federal Advisory Committee Act except that the Council shall terminate September 30, 1981.

"(g) The Director of the National Institutes of Health, the head of the Food and Drug Administration (or the successor to such entity), the head of the Center for Disease Control (or the successor to such entity), the head of the Health Care Financing Administration (or the successor to such entity), and the head of any other entity of the Department of Health, Education, and Welfare designated by the Secretary shall each make available annually to the Center and the Council a listing of all health care technologies of which he is aware that are under development and appear likely to be used in the practice of medicine.

"(h) For purposes of this section, the term 'health care technology' means any discrete and identifiable regimen or modality used to diagnose and treat illness, prevent disease, maintain patient well-being, or facilitate the provision of health care services.

"(i) There are authorized to be appropriated to carry out this section $15,000,000 for the fiscal year ending September 30, 1979, $25,000,000 for the fiscal year ending September 30, 1980, and $33,000,000 for the fiscal year ending September 30, 1981. Not less than 15 per centum of the amount appropriated for the fiscal year ending September 30, 1981, shall be obligated for assessments, research, demonstrations, and evaluations directly undertaken from the Center under paragraph (1) or (2) of subsection (b).".

(d)(1) Subsection (a)(1) of section 308 is amended (A) by inserting "and section 309" after "307", and (B) by striking out "health statistics" and inserting in lieu thereof ", health statistics, and health care technology".

(2) Subsection (b)(1) of such section is amended by striking out "or 307" and inserting in lieu thereof "307, or 309".

(3) Subsection (d) of such section is amended (A) by striking out "or 307" and inserting in lieu thereof "307, or 309", and (B) by inserting "or epidemiological" after "statistical" in clause (1).

(4) Subsection (e) of such section is amended by striking out "or 307" each place it occurs and inserting in lieu thereof "307, or 309".

(5) Subsection (f) of such section is amended by striking out "or 306" and inserting in lieu thereof "306, or 309".

(6) Subsection (g)(2) of such section is amended by striking out "and 306" and inserting in lieu thereof "306, and 309".

(7) Subsection (h)(1) of such section is amended by striking out "or 306" each place it occurs and inserting in lieu thereof "306, or 309".

(8) The heading for such section is amended by striking out "AND 307" and inserting in lieu thereof "307, AND 309".

STUDY OF COSTS OF DISEASES AND ADVERSE EFFECTS ON HUMANS WHICH ARE ENVIRONMENTALLY RELATED

SEC. 7. Section 304 (as amended by section 3(d)) is amended by adding at the end the following:

"(e)(1) The Secretary and the National Academy of Sciences (acting through the Institute of Medicine and other appropriate units) shall, jointly and in cooperation with the Administrator of the Environmental Protection Agency, the Secretary of Labor, the Consumer Product Safety Commission, the Council of Economic Advisers, the Council on Wage and Price Stability, the Council on Environmental Quality, and other entities of the Federal Government which the Secretary determines have the expertise in the subject of the study prescribed by this paragraph, conduct, with funds appropriated under section 308(i)(2), an ongoing study of the present and projected future health costs of pollution and other environmental conditions resulting from human activity (including human activity in any place in the indoor or outdoor environment, including places of employment and residence). In conducting the study, the Secretary and the National Academy of Sciences (hereinafter in this subsection referred to as the 'Academy') shall, to the extent feasible—

"(A) identify the pollution (and the pollutants responsible for the pollution) and other environmental conditions which are, or may reasonably be anticipated to be, responsible for causing, contributing to, increasing susceptibility to, or aggravating human diseases and adverse effects on humans;

"(B) identify each such disease and adverse effect on humans and specifically determine whether cancer, birth defects, genetic damage, emphysema, asthma, bronchitis, and other respiratory diseases, heart disease, stroke, and mental illness and impairment are such a disease or effect;

"(C) identify (on a national, regional, or other geographical basis) the source or sources of such pollutants and conditions and estimate the portion of each pollutant and the extent of each condition which can be traced to a specific type of source;

"(D) ascertain (i) the extent to which the pollutants and conditions identified under subparagraph (A) are, or may reasonably be anticipated to be, responsible, individually or collectively, for causing, contributing to, increasing susceptibility to, or aggravating the diseases and effects identified under subparagraph (B), and (ii) the effect upon the incidence or severity of specific diseases and effects of individual or collective, as appropriate, incremental reductions in the pollutants and changes in such conditions; and

"(E) quantify (i) the present and projected future health costs of the diseases and effects identified under subparagraph (B), and (ii) the reduction in health costs which would result from each incremental reduction and change referred to in subparagraph (D)(ii).

"(2) The Secretary shall enter into appropriate arrangements with the Academy under which the Secretary shall be responsible for expenses incurred by the Academy in connection with the study prescribed by paragraph (1).

"(3) The first report on the study prescribed by paragraph (1) shall be made to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives by the Secretary and the Academy not later than eighteen months after the date of the enactment of this subsection.

Subsequent reports on the study shall be made by the Secretary and the Academy every two years after the date the first report is submitted. Each report shall (A) identify deficiencies and limitations in the data on the matters considered in the study and recommend actions which may be taken to eliminate such deficiencies and limitations, (B) include such recommendations for legislation as the Secretary determines appropriate, (C) include recommendations for facilitating studies of the effects of hazardous substances on humans, and (D) include a description of any administrative action proposed to be taken by the Secretary, the Administrator of the Environmental Protection Agency, the Secretary of Labor, and the Consumer Product Safety Commission to reduce the costs which have been quantified under paragraph (1)(E)(i). In conducting the study, the Secretary and the Academy shall seek assistance from public and private health financing entities in securing the data needed for the study.

"(4) For purposes of paragraph (1), the term 'health costs of pollution and other environmental conditions' means the costs of human diseases and other adverse effects on humans which pollution and other environmental conditions are, or may reasonably be anticipated to be, responsible for causing, contributing to, increasing susceptibility to, or aggravating, including the costs of preventing such diseases and effects, the costs of the treatment, cure, convalescence, and rehabilitation of persons afflicted by such diseases, costs reasonably attributable to pain and suffering from such diseases and effects, loss of income and future earnings resulting from such diseases and effects, adverse effects on productivity (and thus increases in production costs and consumer prices) resulting from such diseases and effects, loss of tax revenues resulting from such decreases in earnings and productivity, costs to the welfare and unemployment compensation systems and the programs of health benefits under titles XVIII and XIX of the Social Security Act resulting from such diseases and effects, the overall increases in costs throughout the economy resulting from such diseases and effects, and other related direct and indirect costs.".

INFORMATION ON EFFECTS ON HEALTH OF THE ENVIRONMENT AND EMPLOYMENT CONDITIONS

SEC. 8. (a) Section 306 (as amended by section 5) is amended by inserting after subsection (k) the following new subsection:

"(l)(1) The Secretary, acting through the Center, shall develop a plan for the collection and coordination of statistical and epidemiological data on the effects of the environment on health. Such plan shall include a review of the data now available on health effects, deficiencies in such data, and methods by which existing data deficiencies can be corrected. The Secretary shall submit such plan to the Congress not later than January 1, 1980.

"(2)(A) The Secretary, acting through the Center, shall establish, not later than two years after the date of the enactment of this subsection, guidelines for the collection, compilation, analysis, publication, and distribution of statistics and information necessary for determining the effects of conditions of employment and indoor and outdoor environmental conditions on the public health. Guidelines established under this subparagraph shall not (i) authorize or require the disclosure of any matter described in section 552(b)(6) of title 5, United States Code, and (ii) authorize or require the disclosure of any statistics or other information which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of such section. The guidelines shall be reviewed and, if appropriate, revised at least every three years after the date they are initially established. Guidelines shall take effect on the date of the promulgation of the regulation establishing or revising the guidelines or such later date as may be specified in the guidelines.

"(B) The guidelines shall be designed—

"(i) to improve coordination of environmental and health studies, statistics, and information, and to prevent overlap and unnecessary duplication with respect to such sudies, statistics, and information;

"(ii) to assure that such studies, statistics, and information will be available to executive departments responsible for the administration of laws relating to the protection of the public health and safety or the environment;

"(iii) to encourage the more effective use by executive departments of such studies, statistics, and information;

"(iv) to improve the statistical validity and reliability of such studies, statistics, and information; and

"(v) to assure greater responsiveness by the Department of Health, Education, and Welfare and other executive departments in meeting informational and analytical needs for determining the effects of employment and indoor and outdoor environmental conditions on public health.

"(C) In establishing and revising guidelines under subparagraph (A), the Secretary shall take into consideration the plan developed pursuant to paragraph (1).

"(D) The Center shall serve as a clearinghouse for statistics and information with respect to which guidelines have been established under subparagraph (A) and shall assist executive departments in obtaining such statistics and information for purposes of administering laws under their jurisdiction relating to environmental health protection or the safety and health of employees.

"(E)(i) Each executive department shall comply with the substantive and procedural requirements of the guidelines.

"(ii) The President shall by Executive order require each executive department to comply with requests, made in accordance with the guidelines, by the Secretary, the Administrator of the Environmental Protection Agency, the Consumer Product Safety Commission, or the Secretary of Labor for statistics and information.

"(iii) The President may by Executive order exempt any executive department from compliance with a requirement of the guidelines respecting specific statistics or other information if the President determines that the exemption is necessary in the interest of national security.

"(F) In carrying out his duties under this paragraph, the Secretary, acting through the Center, shall, insofar as practicable, provide for coordination of his activities with those of other Federal agencies and interagency task forces relating to the collection, analysis, publication, or distribution of statistics and information necessary for determining the effects of conditions of employment and indoor and outdoor environmental conditions on the public health.".

'('G) For purposes of this paragraph, the term 'guidelines' means the guidelines, either as initially established or as revised, in effect under this paragraph.

(b) The first sentence of subsection (d) of section 308 is amended by inserting after "unless authorized" the following: "by guidelines in effect under section 306(l)(2) or".

"(3) The Secretary, acting through the Center, shall conduct a study of the issues respecting, and the recommendations for, establishing a Federal system to assist, in a manner designed to avoid invasion of personal privacy, Federal, State, and other entities in locating individuals who have been or may have been exposed to hazardous substances to determine the effect on their health of such exposure and to assist them in obtaining appropriate medical care and treatment. In conducting such study, the Secretary may consult with any public and private entity which it determines has expertise on any matter to be considered in the study. Not later than one year after the date of the enactment of this subsection, the Secretary shall complete the study and report to the Congress the results of the study and any recommendations for legislation or administrative action.

"(4) In carrying out paragraphs (1), (2), and (3), the Secretary shall consult with and take into consideration any recommendations of the Task Force on Environmental Cancer and Heart and Lung Disease, the Administrator of the Environmental Protection Agency, the Secretary of Labor, the Consumer Product Safety Commission, the Council on Environmental Quality, the National Committee on Vital and Health Statistics, and the National Academy of Sciences (including the Institute of Medicine and any other unit of the Academy)."

TASK FORCE ON ENVIRONMENTAL CANCER AND HEART AND LUNG DISEASE

SEC. 9. The Director of the National Center for Health Statistics and the head of the Center for Disease Control (or the successor to such entity) shall each serve as members of the Task Force on Environmental Cancer and Heart and Lung Disease established under section 402 of Public Law 95–95.

MINE WORKERS STUDY

SEC. 10. The Secretary, acting through the National Center for Health Services Research, shall arrange for the conduct of a study to evaluate the impact upon the utilization of health services by and the health status of members of the United Mine Workers and their dependents as a result of changes in the United Mine Workers' collective-bargaining agreements of March 1978, that require copayments for health services. Such study and a report thereon shall be completed and submitted to the Secretary, the Committee on Human Resources, the Committee on Appropriations, and the Committee on Finance of the Senate, and the Committee on Ways and Means, the Committee on Appropriations, and the Committee on Interstate and Foreign Commerce of the House of Representatives no later than thirty months after the date of enactment of this section. Not more than $1,000,000 of the sums authorized to be appropriated for health services research, evaluation, and demonstration activities by section 308(l)(1) of the Public Health Service Act shall be made available for such study.

AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 11. (a) Subsection (g) of section 208 is amended (1) by striking out "one hundred and fifty-five" and inserting in lieu thereof "one hundred and seventy-nine", (2) by striking out "and not less than" and inserting in lieu thereof ", not less than", and (3) by inserting after "alcoholism," the following: "not less than ten shall be for the National Center for Health Services Research, not less than twelve shall be for the National Center for Health Statistics, and not less than seven shall be for the National Center for Health Care Technology,".

(b) Part K of title III is repealed.

(c) Section 453 is amended by adding at the end the following: "The Secretary, through the Institute, may, effective October 1, 1978, and without regard to section 405, carry out a program of grants for public

and nonprofit private vision research facilities.".

(d)(1) Section 472(a)(1)(A) is amended—

(A) by striking out "and" at the end of clause (iii),

(B) by redesignating clause (iv) as clause (vii),

(C) by inserting after clause (iii) the following:

"(iv) research at the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology,

"(v) training at such Centers to undertake such research,

"(vi) research on the matters set forth in section 304(a)(2) at public institutions and at nonprofit private institutions, and", and

(D) by striking out "such research" in clause (vii) (as so redesignated) and inserting in lieu thereof "biomedical and behavioral research and the research described in clause (vi)".

(2) Section 472(a)(1)(B) is amended by striking out "such research" and inserting in lieu thereof "biomedical and behavioral research and the research described in subparagraph (A)(vi)".

(e) Title V is amended by adding at the end the following:

"CONTRACT AUTHORITY

"SEC. 514. The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

(f)(1) The second sentence of subsection (a) of section 705 is amended to read as follows: "Such records shall include records which fully disclose (A) the amount and disposition by such entity of the funds paid to it under such grant, loan, loan guarantee, interest subsidy, or contract, (B) the total cost of the project or undertaking for which such grant, loan, loan guarantee, interest subsidy, or contract is made, (C) the amount of that portion of the cost of the project or undertaking received by or allocated to such entity from other sources, and (D) such other records as will facilitate an audit conducted in accordance with generally accepted auditing standards.".

(2) Subsection (b) of section 705 is amended to read as follows:

"(b) Each entity which received a grant or entered into a contract under this title shall provide for a biennial financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of the funds received under such grant or contract and such other funds received by or allocated to the project or undertaking for which such grant or contract was made. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted in accordance with such requirements concerning the individual or agency which conducts the audit, and such standards applicable to the performance of the audit, as the Secretary may by regulation provide. A report of each such audit shall be filed with the Secretary at such time and in such manner as he may require.".

(g) Section 771(d) is amended by adding at the end the following:

"(5) The Secretary may waive (in whole or in part) application to a school of dentistry of the requirement of any paragraph of this subsection if the Secretary determines, after receiving the written recommendation of the appropriate accreditation body or bodies (approved for such purpose by the Commissioner of Education) that compliance by such school with such requirement will prevent it from maintaining its accreditation.".

HEALTH PROFESSIONS REPORTS AND PROGRAMS

SEC. 12. (a) Section 708(d) of the Public Health Service Act is amended (1) by striking out "not later than September 1 of each year", and (2) by inserting at the end the following: "Such report shall be submitted biennially, and the first such report shall be due not later than October 1, 1979.".

(b) Section 709(b) of such Act is amended by striking out "January 1, 1979" and inserting in lieu thereof "February 1, 1980".

(c) Section 751(i) of such Act is amended by striking out "December" and inserting in lieu thereof "March".

(d) Section 771(b)(2)(B) of such Act is amended by striking out "45 days after the date for which the determination is made" and inserting in lieu thereof "the first December 31 occurring after the date for which the determination is made".

(e) Section 782(c) of such Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "March 1, 1980".

(f) Section 788(b)(6) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 1, 1979".

(g) Section 793(c) of such Act is amended (1) by striking out "annually" and inserting in lieu thereof "biennially", and (2) by striking out "December 1, 1978" and inserting in lieu thereof "October 1, 1979".

(h) Section 951(b) of the Nurse Training Act of 1975 is amended by striking out "Not later than February 1, 1977, and February 1 of each succeeding year" and inserting in lieu thereof "Not later than October 1, 1979, and October 1 of each odd-numbered year thereafter".

(i)(1) Section 702(d) of the Health Professions Educational Assistance Act of 1976 is amended by striking out "not later than two years after the date of enactment of this Act" and inserting in lieu thereof "not later than October 1, 1979".

(2) Section 903(a)(2) of the Health Professions Educational Assistance Act of 1976 is amended by striking out "January 1, 1979" and inserting in lieu thereof "April 1, 1979".

(j) Section 772(e) of the Public Health Service Act is amended by inserting before the period a comma and the following: "except that a student who, for other than academic reasons, withdraws from a year class before the end of an academic year or does not complete an academic year shall not be considered as having been enrolled in a year class in that academic year".

MISCELLANEOUS

SEC. 13. (a)(1) Section 111(h) (42 U.S.C. 7411) of the Act of July 14, 1955, as amended by Public Law 95-95, is amended by adding the following at the end thereof:

"(5) Any design, equipment, work practice, or operational standard, or any combination thereof, described in this subsection shall be treated as a standard of performance for purposes of the provisions of this Act (other than the provisions of subsection (a) and this subsection).".

(2) Subsections (d)(1)(A) and (g)(4)(B) of such section are each amended by striking out "under subsection (b)" and inserting in lieu thereof "under this section".

(3) Subsection (j) of such section is amended by striking out "subsection (b) of" in paragraphs (1)(A) and (2)(A) thereof.

(b) Section 112(e) of such Act (42 U.S.C. 7412) is amended by adding the following at the end thereof:

"(5) Any design, equipment, work practice, or operational standard, or any combination thereof, described in this subsection shall be treated as an emission standard for purposes of the provisions of this Act (other than the provisions of this subsection)."

(c) Section 117(c)(3) of such Act (42 U.S.C. 7417) is amended by striking out "(b)(1)(B)" in each place it appears.

(d) Section 317(a)(1) of such Act (42 U.S.C. 7617) is amended by striking out "(b)".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID SATTERFIELD,
RICHARDSON PREYER,
JAMES H. SCHEUER,
TIM LEE CARTER,
JAMES T. BROYHILL,
Managers on the Part of the House.

EDWARD KENNEDY,
GAYLORD NELSON,
CLAIBORNE PELL,
WILLIAM D. HATHAWAY,
HARRISON A. WILLIAMS, JR.,
RICHARD S. SCHWEIKER,
J. K. JAVITS,
JOHN CHAFEE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2466) to amend the Public Health Service Act to extend and revise the assistance programs for health services research and health statistics; to establish the Office of Health Technology, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE; REFERENCE TO ACT

The Senate bill provided that the Act may be cited as the "National Institutes of Health Care Research Act of 1978."

The House amendment provided that the Act may be cited as the "Health Service Research, Health Statistics, and Health Care Technology Act of 1978."

The conference substitute conforms to the House amendment.

NATIONAL CENTER FOR HEALTH CARE TECHNOLOGY

Both the Senate bill and the House amendment established an entity to conduct assessments of and other activities with respect to health technology.

Under the Senate bill, the entity was named the Office of Health Technology.

Under the House amendment, the entity was named the National Center for Health Care Technology.

The conference substitute conforms to the House amendment.

GENERAL AUTHORITY OF THE SECRETARY

The Senate bill provided that, in carrying out his responsibilities under section 304 of the Public Health Service Act, the Secretary was to give appropriate emphasis to (1) the

accessibility, acceptability, planning, organization, distribution, utilization, and financing of systems for the delivery of health care; (2) alternative methods for measuring and evaluating the quality of systems for the delivery of health care; (3) the collection, analysis and dissemination of health-related statistics; (4) alternative methods to improve and promote health statistical and epidemiological activities; (5) the safety, efficacy, effectiveness, cost effectiveness, and social, economic and ethical impacts of medical technologies; (6) alternative methods for disseminating knowledge concerning health and health-related activities; (7) the special problems of low-income and minority groups and the elderly; and (8) the prevention of illness, disability and premature deaths in the United States.

The House amendment provided that, in addition to his existing responsibilities under section 304, the Secretary is to give appropriate emphasis to health care costs, increases in such costs and the reasons for such increases.

The conference substitute combines the provisions of the Senate bill and the House amendment.

MANPOWER TRAINING PROGRAMS

The Senate bill required the Secretary (through National Research Service Awards) to undertake and support manpower training programs to provide for an expanded and continuing supply of individuals qualified to support research, evaluation and demonstration projects with respect to health services research, health statistics and health care technology.

The House amendment required that the health services research and health statistics training authorized to be conducted under section 304 of the Public Health Service Act be conducted through the National Center for Health Services Research and the National Center for Health Statistics.

Under the provisions of the conference substitute, the Secretary is required, through the National Center for Health Services Research, the National Center for Health Statistics and the National Center for Health Care Technology and using National Research Service Awards and other appropriate authorities, to undertake and support manpower training programs to provide for an expanded and continuing supply of individuals qualified to perform the research, evaluation and demonstration projects with respect to health services research, health statistics and health care technology.

EXPERTS AND CONSULTANTS

The Senate bill authorized the Director of the National Center for Health Services Research and the Director of the National Center for Health Statistics each to obtain the services of not more than 15 experts or consultants who have appropriate scientific or professional qualifications.

The House amendment contained no comparable provision.

The conference substitute conforms to the provisions of the Senate bill, with a technical amendment.

COORDINATION OF ACTIVITIES

Existing law requires that all health services research, evaluation, demonstration and health statistical activities undertaken and supported through units of the Department of Health, Education, and Welfare be coordinated by the Secretary. In addition, existing law requires that, to the maximum extent feasible, such coordination should be carried out through the National Center for Health Services Research and the National Center for Health Statistics.

The Senate bill retained the provisions of existing law except that it included epidemiological activities and required that the coordination also be carried out through the proposed Office of Health Technology, as well as the two existing Centers.

The House amendment changed existing law to require coordination of health services research, evaluation, demonstration and health statistical activities through the two existing Centers, but only those activities authorized by the Public Health Service Act.

The conference substitute combines the provisions of the Senate bill and the House amendment.

In directing the Secretary to coordinate activities in the area of health services research, health statistics, epidemiology, and the assessment of health care technologies, the conferees do not intend to prevent other agencies within the Department from pursuing programs which are directly relevant to their mandates. The conferees feel strongly that the Secretary should provide sufficient direction through the Centers to reduce to a minimum any overlap and duplication in the areas of health services research, health statistics, epidemiology and the evaluation of health care technologies. However, the conferees recognize fully that the National Institutes of Health, the Food and Drug Administration, the Center for Disease Control, and the Health Care Financing Administration, among other agencies, must pursue research and demonstration activities necessary to administer their individual programs and to fulfill legislative mandates. The Secretary will naturally have to exercise careful judgement in determining where such activties should be better coordinated and where the individual agencies should be granted substantial independence. For example, the conferees would not find it appropriate for the National Center for Health Statistics to coordinate epidemiological activities undertaken at the National Institutes of Health, unless the Secretary finds that the NIH lacks the capacity to perform that coordinating role for itself.

AMENDMENTS WITH RESPECT TO THE NATIONAL CENTER FOR HEALTH SERVICES RESEARCH

The Senate bill (1) deleted the authority for the National Center for Health Services Research to support research with respect to technology, (2) authorized the Center to conduct research with respect to the uses of computer science and health services delivery and medical information systems.

Under the House amendment (1) the Center was required, as opposed to authorized, to undertake and support research activities, (2) the existing authority to conduct research with respect to construction was deleted, and (3) no application for a grant or contract for health services research under a law administered by the Secretary of HEW could be approved before the National Center and the Health Care Financing Administration had been given a reasonable opportunity to review the application for technical competence.

Under the conference substitute, the Center is afforded authority to conduct research with respect to computer science and its authority to support research with respect to technology is retained. In addition, the conference substitute includes the provision of the House amendment which requires certain research to be conducted as well as the provision which deletes authority with respect to construction. The conference substitute does not include the requirement with respect to review of applications by the Center and the Health Care Financing Administration.

In retaining the mandate of the National Center for Health Services Research to undertake and support experiments and demonstrations respecting the "technology" of health services and systems, the conferees wish to make clear that they do not intend the NCHSR to compete with the new National Center for Health Care Technology in conducting assessments, research, evaluations and demonstrations respecting the efficacy, safety, effectiveness, cost-effectiveness and social, economic and ethical impacts of health care technologies. The conferees intend, rather, to make certain that the National Center for Health Services Research can continue to undertake and support development programs concerning new technologies directly relevant to the organization and delivery of health care services. The NCHSR should be free to undertake and support work relevant to designing, developing, and demonstrating such new technologies. The NCHSR should also have authority to evaluate the results of studies concerning the design, development, and demonstration of these technologies.

Evaluating and assessing the effectiveness, cost-effectiveness, social, ethical and economic implications of health care technologies should be the primary responsibility of the National Center for Health Care Technology. The conferees recognize that distinguishing the precise boundaries of the activities of the National Center for Health Services Research and the National Center for Health Care Technology may be difficult in some situations and expect the two centers to work closely together to minimize duplication of effort.

AMENDMENTS WITH RESPECT TO THE NATIONAL CENTER FOR HEALTH STATISTICS

The Senate bill (1) authorized the Secretary to undertake and support epidemiological research, demonstrations and evaluations, (2) required that surveys provided to relevant committees of Congress include epidemiological surveys, (3) changed the reference to the Senate Committee on Labor and Public Welfare to the Senate Committee on Human Resources, (4) formally named the Cooperative Health Statistical System, (5) correctly named the National Committee on Vital and Health Statistics and (6) required that the Secretary, in consultation with the National Committee on Vital and Health Statistics, maintain needed minimum sets of data and establish standards to assure the quality of health statistics and epidemiological data collection, and properly coordinate data collections.

The House amendment (1) required as opposed to existing law's permissive authority, the Center to collect statistics and to undertake and support certain activities, (2) authorized the Center to collect statistics and prepare studies upon request of pubic and non-profit private entities under arrangements under which the entities will pay the cost of the services provided, (3) required the establishment of standardized means for the collection of health information and statistics in laws administered by the Secretary of Health, Education, and Welfare, (4) formally established the Cooperative Health Statistical System and delineated the activities of the Center with respect to the system, (5) specified that the unit of HEW which is to cooperate with other Federal agencies in carrying out statistical activities is to be the Center, (6) added health planning as a field from which persons may be appointed to the National Committee on Vital and Health Statistics, and (7) authorized the Center to provide to public and non-profit private entities engaged in health planning activities, technical assistance in the effective use in such activities of statistics selected or compiled by the Center.

The conference substitute includes the provisions of both the Senate bill and the House amendment.

HEALTH CARE TECHNOLOGY

Duties of the National Center for Health Technology

The Senate bill required the Secretary, acting through the proposed Office of Health

Technology, to: 1) establish priorities for research, demonstrations, and evaluations of medical technologies; 2) undertake and support, by grant or contract, research, demonstrations, and evaluations concerning the safety, efficacy, effectiveness, cost-effectiveness, and social and ethical impacts of medical technologies; and 3) undertake and support similar studies respecting the factors that affect the utilization of medical technologies, alternative methods for disseminating information on medical technologies, alternative methods for measuring the quality of health services, and other matters.

The House amendment required the Secretary, acting through the Center, to undertake and support comprehensive assessments of health care technology. In determining if the assessment of a particular technology should be given priority, the Center was to consider a number of factors including the actual or potential risks and the actual or potential benefits to patients associated with the use of the technology, the actual or potential cost of the technology, the actual or potential rate of its use, and the stage of development of the technology.

The conference substitute combines provisions of House and Senate bills. The Secretary is required, acting through the Center, to undertake and support assessments of health care technology. In addition, the Secretary is required, acting through the Center, to undertake and support research in, and demonstrations and evaluations of 1) the factors that affect the use of health care technologies in the United States; 2) methods for disseminating information on health care technologies; and 3) the effectiveness, cost-effectiveness, and social, ethical and economic impacts of particular medical technologies. The Secretary is also required to encourage and support research evaluations, and demonstrations respecting the safety and efficacy of particular medical technologies. In determining if an activity respecting a particular technology is to be given priority, the Secretary is instructed to place emphasis on those factors which were emphasized in the House amendment.

The conferees feel that the National Center for Health Care Technology should have at least two primary missions. First, it should stimulate increased scrutiny of new and existing health care technologies to insure that their safety, efficacy, cost-effectiveness, social, ethical and economic impacts are more completely explored. Secondly, and just as important, the new Center should encourage the rapid dissemination of newly developed health care technologies which have proved their worth in terms of safety, efficacy, cost-effectiveness. The work of the Center and its Council should act, therefore, both to identify those health care technologies which have been insufficiently evaluated and to spur more rapid adoption of practices, procedures and devices whose usefulness has been demonstrated. The conferees feel strongly that the Center should be even-handed and balanced in fulfilling these two missions.

COOPERATION

Under the Senate bill, the Secretary was required to cooperate and consult with the National Institutes of Health, the Veterans Administration and any other interested Federal department with respect to health care technology.

The House amendment contained no comparable provision.

The conference substitute conforms to the Senate bill.

ESTABLISHMENT OF CENTERS TO ASSESS HEALTH CARE TECHNOLOGY

The Senate bill required the Secretary to assist public and private non-profit entities in meeting the costs of planning and establishing new, and operating existing and new, centers for research, evaluation and demonstrations respecting health care technologies. The Senate bill established the following requirements with respect to each such center: (1) a full-time Director and additional professional staff, (2) a staff with expertise in the various disciplines needed to conduct multi-disciplinary research, (3) location with an established academic or research institution, and (4) such additional requirements as may be prescribed by regulation.

The House amendment authorized the Secretary to assist public and private non-profit entities in meeting the costs of planning, establishing, and operating centers to assess health care technology.

The conference substitute conforms to the provisions of the Senate bill.

REVIEW OF GRANTS AND CONTRACTS

Under the House amendment, any grant or contract awarded for research, demonstrations and evaluation of health care technology, the direct cost of which would exceed $35,000, could only be made or entered into after appropriate review for scientific merit by peer review groups composed by experts in the relevant fields.

The Senate bill required the National Council for the Evaluation of Medical Technology to review and approve any grant or contract the direct cost of which exceeded $35,000.

The conference substitute includes the provision of the House amendment but also provides that no grant or contract in excess of $35,000 may be made or entered into unless it has first been reviewed by the National Council on Health Care Technology and the Council's recommendations respecting approval has been provided to the Secretary.

RECOMMENDATIONS RESPECTING HEALTH CARE TECHNOLOGY ISSUES

Under the House amendment, the National Center for Health Care Technology was required to make recommendations to the Secretary respecting health care technology issues in the administration of laws under the Secretary's jurisdiction including recommendations with respect to reimbursements under Titles XVIII and XIX of the Social Security Act.

The Senate bill contained no comparable provision.

Under the conference substitute, the Center is authorized to make recommendations to the Secretary respecting health care technology issues in the administration of the laws under the Secretary's jurisdiction, including recommendations with respect to reimbursement policy.

REPORTS

The Senate bill required the Secretary to include in his annual report to the Congress on the administration of section 304 through 307 and the current state and progress of health services research and health statistics, comparable information respecting health care technology.

Under the House amendment, the Secretary of HEW was required, not later than December 1 of each year, to report to Congress a comprehensive description of the activities of the Center for Health Care Technology during the preceding fiscal year.

The conference substitute conforms to the provisions of the Senate bill.

SPECIAL REPORT

The House amendment included a provision, not contained in the Senate bill, which required the Secretary of HEW, within two years after the date of the enactment of the proposed legislation, to submit a report to the relevant Committees of Congress describing the various types of activities undertaken and supported for the assessment of health care technology, describing recommendations and action taken with respect to reimbursement policy, and describing any additional authority or organizational changes necessary to more effectively carry out functions of the Center.

The Senate bill did not include a comparable provision and the conference substitute conforms to the Senate bill.

NATIONAL COUNCIL FOR THE EVALUATION OF MEDICAL TECHNOLOGY

The Senate bill established a National Council for the Evaluation of Medical Technology consisting of employees of government, and members of the public. Such Council was authorized to consult with and make recommendations to the Secretary with respect to the safety, efficacy, effectiveness, cost effectiveness, and the social and economic impacts of particular medical technologies and, when appropriate, after consultation with appropriate public and private entities, develop standards, norms and criteria concerning the utilization of particular medical technologies. In addition, the Council was required to disseminate the standards, norms and criteria it had developed.

Under the House amendment, a Health Care Technology Advisory Committee, consisting of governmental and private members, was established. The Committee was to advise the Secretary and the Director of the Center for Health Care Technology with respect to health care technology functions, including the establishment of priorities for assessments to be undertaken or supported by the Center.

The conference substitute conforms to the provisions of the Senate bill, with technical amendments.

The managers did not limit the Council to developing standards, norms and criteria based solely on assessments undertaken by the Center. But not doing so, however, it is not the intent of the conferees that the work of the Council not be closely tied to the activities of the Center. Thus, the conferees would expect the Council, wherever practicable, to use assesments undertaken or supported by the Center in developing standards, norms, and criteria respecting health care technology.

AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL CENTER FOR HEALTH SERVICES RESEARCH

The Senate bill provided the following authorizations for health services research, evaluation, and demonstration activities undertaken or supported by the National Center for Health Services Research: $32,600,000 for fiscal year 1979, $35,000,000 for fiscal year 1980, and $40,000,000 for fiscal year 1981. In addition, at least 15 percent of such funds or $6,000,000, whichever is less, was required to be made available only for activities directly undertaken by the Center, and at least 5 percent of such funds or $1,000,000, whichever is less, was to be made available only for dissemination activities directly undertaken by the Center.

Under the House amendment, appropriations of $36,000,000 for fiscal year 1979, $44,000,000 for fiscal year 1980 and $49,000,000 for 1981 were authorized for the health services research, evaluation, and demonstration activities undertaken by the Center. In addition, at least 20 percent of the amount appropriated for any fiscal year or $6,000,000 whichever is less, was required to be made available for health services research and demonstration activities directly undertaken by the Center. The House amendment also authorized $2,000,000 for fiscal year 1979, $4,000,000 for fiscal year 1980, and $4,000,000 for 1981 for health services research training.

Under the conference substitute, the following authorizations of appropriations are

made for health service research, evaluation, and demonstration activity undertaken or supported by the National Center for Health Services Research: $35,000,000 for fiscal year 1979, $40,000,000 for fiscal year 1980, and $45,000,000 for fiscal year 1981. At least 20 percent of the amount appropriated for any fiscal year or $6,000,000, whichever is less, is required to be made available only for activities directly undertaken by the Center. At least 5 percent of the amount appropriated in any fiscal year or $1,000,000, whichever is less, is required to be made available only for dissemination activities directly undertaken by the Center. The conference substitute contains no line-item authorization for health services research training.

AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL CENTER FOR HEALTH STATISTICS

Under the Senate bill, the following authorizations of appropriations were made for health statistical activities: $43,400,000 for fiscal year 1979, $47,000,000 for fiscal year 1980, and $50,000,000 for fiscal year 1981. Of the funds appropriated for any fiscal year, at least 15 percent was required to be available only for health statistical and epidemiological activities directly undertaken by the Center.

Under the House amendment, authorizations of appropriations for health statistical activities of the Center were as follows: $60,000,000 for fiscal year 1979, $75,000,000 for fiscal year 1980, and $80,000,000 for fiscal year 1981. In addition, under the House amendment, of the amount appropriated, at least $1,000,000 in fiscal year 1979, $2,000,000 in fiscal year 1980, and $2,000,000 in fiscal year 1981 was required to be made available for health statistics training.

Under the conference substitute, the following appropriations are authorized for health statistical activities undertaken or supported by the National Center for Health Statistics: $50,000,000 for fiscal year 1979, $65,000,000 for fiscal year 1980, and $70,000,000 for fiscal year 1981. The conference substitute does not include a requirement that a certain percentage of funds must be made available only for activities undertaken by the Center, nor does it contain an earmark of funds for health statistics training.

AUTHORIZATIONS OF APPROPRIATIONS FOR RESEARCH, DEMONSTRATIONS AND EVALUATIONS BY THE NATIONAL CENTER FOR HEALTH CARE TECHNOLOGY

Under the Senate bill, the following appropriations were authorized for activities respecting health care technology: $15,000,000 for fiscal year 1979, $25,000,000 for fiscal year 1980, and $30,000,000 for fiscal year 1981. Beginning in fiscal year 1981, of such funds, at least 15 percent was required to be made available only for activities directly undertaken by the Center.

Under the House amendment, the following appropriations were authorized for the Center for Health Care Technology: $15,000,000 for fiscal year 1979, $25,000,000 for fiscal year 1980, and $35,000,000 for fiscal year 1981. Beginning in fiscal year 1981, not less than 20 percent of amounts appropriated was to be obligated for assessments directly undertaken by the Secretary.

Under the conference substitute the following appropriations are authorized for the Center for Health Care Technology: $15,000,000 for fiscal year 1979, $25,000,000 for fiscal year 1980, and $33,000,000 for fiscal year 1981. Beginning in fiscal year 1981, not less than 15 percent of amount appropriated is to be obligated for assessments directly undertaken through the Center.

NATIONAL RESEARCH SERVICE AWARDS

Under the Senate bill, the authority of the Secretary to provide National Research Service Awards was extended to authorize research at the National Center for Health Services Research, the National Center for Health Statistics and the Center for Health Care Technology, as well as training at such centers.

The House amendment contained no comparable provision.

The conference substitute conforms to the Senate bill.

TECHNOLOGIES UNDER DEVELOPMENT

Under the Senate bill, the Director of the National Institute of Health, on an annual basis, was required to make available to the proposed Office of Health Technology and its Council a list of all technologies which the Director is aware are under development and that appear likely to be used in medical practice in the near future.

The House amendment contained no comparable provision.

The conference substitute includes the provisions of the Senate bill, with technical amendments.

HEALTH STATUS OF THE MEMBERS OF UNITED MINE WORKERS

Under the Senate bill, the Secretary, acting through the National Center for Health Services Research, was required to arrange for a study to evaluate the impact upon the utilization of health services by and the health status of members of the United Mine Workers and their dependents as a result of changes in the United Mine Workers collective-bargaining agreements of March 1978.

The House amendment contained no comparable provision.

The conference substitute conforms to the Senate bill.

EFFECT OF THE ENVIRONMENT ON HEALTH

The Senate bill required the Secretary to develop a plan for the collection and coordination of statistical and epidemiological data on the effects of the environment on health.

The House amendment required the Secretary to establish guidelines for the collection, compilation, analysis, publication and distribution of statistics and information necessary for determining the effects of conditions of employment and indoor and outdoor environmental conditions on the public health.

In addition, the House amendment required the Secretary to conduct a study focusing on the costs of environmentally related diseases.

The conference substitute combines and integrates the provisions of the Senate bill and the House amendment. Although the form of the Senate bill was altered slightly, the conferees agreed with the Senate's intent that the study should be undertaken in close cooperation with the Administrator of the Environmental Protection Agency and the Secretary of Labor.

HEW PATENT POLICY

Under the Senate bill, the Assistant Secretary for Health was granted responsibility for (1) developing the policies of the Department of HEW with respect to the rights to inventions of its employees, grantees and contractors; (2) issuing invention and patent administration policies and procedures; (3) administering the receipt and processing of invention reports by employees, grantees, and contractors of the Department; (4) making determinations of rights to inventions and patents involving inventions of employees, grantees and contractors of the Department; and (5) making determinations with respect to applications for licenses, under patent applications and patents owned by the United States. In addition, all functions of the Office of the General Counsel relating to patent administration and administration of invention reports were transferred to the Office of Health Technology. However, all legal services and functions relating to patent inventions were to remain in the Office of the General Counsel.

The House amendment contained no comparable provision, and the conference substitute conforms to the House amendment.

The conferees strongly urge the Department to review the manner in which patents are currently administered within the Department. The conferees are aware of expressed dissatisfaction with the pace at which patent applications are currently processed within HEW. Unnecessary delays in determining rights to inventions developed with Federal dollars deprive taxpayers of the potential benefits of research and development financed with Federal monies. The conferees wish to note that they intend to give a thorough review to patent proceedings in the near future.

STUDY OF HAZARDOUS SUBSTANCES ON HUMANS

The House amendment contained a provision, not included in the Senate bill, that required the Committee on Vital and Health Statistics to conduct a study of the issues respecting establishing a Federal system to facilitate studies of the effects of hazardous substances on humans and to assist Federal, State and other entities in locating individuals who have been exposed to hazardous substances to determine the effect on their health of such exposure and to assist them in obtaining appropriate medical care.

The conference substitute conforms essentially to the House amendment, except that (1) the study is incorporated into the larger study of costs of environmentally related diseases and is to be conducted by the Secretary of HEW, acting through the National Center for Health Statistics; (2) a consolidated consultation provision has been included; and (3) the National Committee on Vital and Health Statistics is included among those groups which must be consulted.

POSITIONS FOR SPECIALLY QUALIFIED PERSONNEL

The House amendment authorized the establishment of twenty-four new positions within the Public Health Service for specially qualified scientific, professional and administrative personnel. These positions were to be for the National Center for Health Services Research, the National Center for Health Statistics and the National Center for Health Technology.

The Senate bill contained no comparable provision.

The conference substitute conforms to the House amendment.

VISION RESEARCH FACILITIES

The House amendment authorized the Secretary to carry out a program of grants for public and non-profit private vision research facilities.

The Senate bill contained no comparable provision.

The conference substitute conforms to the House amendment.

INTERAGENCY TASK FORCE ON ENVIRONMENTAL CANCER HEART AND LUNG DISEASE

The House amendment to the Senate bill contained provisions expanding the membership of the Interagency Task Force established by P.L. 95–95 and directing it to study and make recommendations on environmental data guidelines.

The conference substitute retains the membership expansion provision. In light of the consultation provision requiring the Secretary of HEW to cooperate with the Task Force in developing its guidelines, the conference substitute deleted the second part of the House provision as redundant.

AMENDMENTS TO OTHER LAWS

The House amendment contained technical and minor substantive amendments to the Health Professions Educational Assistance Act of 1976, and to P.L. 95-95.

The Senate bill contained no comparable provisions.

The conference substitute conforms to the House amendment.

HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID SATTERFIELD,
RICHARDSON PREYER,
JAMES H. SCHEUER,
TIM LEE CARTER,
JAMES T. BROYHILL,
Managers on the Part of the House.

EDWARD KENNEDY,
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WILLIAM D. HATHAWAY,
HARRISON A. WILLIAMS, JR.,
RICHARD S. SCHWEIKER,
J. K. JAVITS,
JOHN CHAFEE,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 2534, HEALTH MAINTENANCE ORGANIZATION AMENDMENTS OF 1978

Mr. STAGGERS submitted the following conference report and statement on the Senate bill (S. 2534) to revise and extend the provisions of title XIII of the Public Health Service Act relating to health maintenance organizations:

CONFERENCE REPORT (H. REPT. NO. 95-1784)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2534) to revise and extend the provisions of title XIII of the Public Health Service Act relating to health maintenance organizations, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE, REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Maintenance Organization Amendments of 1978".

(b) Whenever in this Act (other than in section 14) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

EXTENSION OF PROGRAM

SEC. 2. (a) Section 1304(j) is amended (1) by striking out "may be made through September 30, 1978;", and (2) by striking out "1979" and inserting in lieu thereof "1981".

(b) Section 1305(d) is amended by striking out "1980" and inserting in lieu thereof "1981".

(c) Section 1309(a) is amended (1) by striking out "and" after "1977,", and (2) by striking out the semicolon and all that follows in that section and inserting in lieu thereof the following: ", $31,000,000 for the fiscal year ending September 30, 1979, $65,000,000 for the fiscal year ending September 30, 1980, and $68,000,000 for the fiscal year ending September 30, 1981.".

INITIAL DEVELOPMENT

SEC. 3. (a) The first sentence of section 1304(b)(2) is amended by striking out "includes" and inserting in lieu thereof "means the establishment of a health maintenance organization, the expansion of the services of a health maintenance organization, or the".

(b)(1) The first sentence of section 1304(b)(3) is amended by striking out "in the one-year period beginning on" and inserting in lieu thereof "incurred in a period not to exceed three years from".

(2) The second sentence of such section is repealed.

(c)(1) Subparagraph (A) of section 1304(f)(2) is amended to read as follows:

"(A) $1,000,000 through September 30, 1979, and $2,000,000 thereafter, or".

(2) Section 1304(f) is amended—

(A) by striking out "The amount" in paragraph (2) and inserting in lieu thereof "Except as provided in paragraph (3), the amount";

(B) by striking out "(except as provided in paragraph (3))" in paragraph (2); and

(C) by inserting after "(3)" in paragraph (3) the following: "The cumulative total of grants made to, contracts entered into with, and principal of loans guaranteed for, a health maintenance organization under subsection (b) of this section may not exceed $1,000,000 through September 30, 1979, or $2,0000,000 thereafter.".

(d) The amendments made by this section shall only be effective for fiscal years beginning on or after October 1, 1978.

INITIAL OPERATING LOANS AND LOAN GUARANTEES

SEC. 4. (a) Section 1305(b)3(1) is amended by—

(1) striking out "$2,500,000" and inserting in lieu thereof "$2,500,000 (or $4,000,000 if the Secretary makes a written determination that such loans or loan guarantees are necessary to preserve the fiscally sound operation of the health maintenance organization and to protect against the risk of insolvency of the health maintenance organization and, within 30 days of the making of such loans or loan guarantees, furnishes the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives with written notification of the making of the loans or loan guarantees and a copy of the written determination made with respect to the loans or loan guarantees and the reasons for the determination) through September 30, 1979, and $4,000,000 thereafter"; and

(2) striking out "$1,000,000" and inserting in lieu thereof "$1,000,000 (or $2,000,000 if the Secretary makes a written determination that such disbursements are necessary to preserve the fiscally sound operation of the health maintenance organization and protect against the risk of insolvency of the health maintenance organization and, within 30 days of such disbursement, furnishes the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives with written notification of the making of the disbursement and a copy of the written determination made with respect to it and the reasons for the determination) through September 30, 1979, and $2,000,000 thereafter".

(b)(1) Section 1305(a) is amended by striking out "operating costs" each place it occurs and inserting in lieu thereof "costs of operation".

(2) The second sentence of section 1305(b)(1) is amended by striking out "any fiscal year" and inserting in lieu thereof "any twelve-month period".

(3) The title of section 1305 is amended by striking out "OPERATION COSTS" and inserting in lieu therof "COSTS OF OPERATION".

(c)(1) Section 1308 is amended by adding at the end the following new subsection:

"(f) The Secretary may take such action as he deems appropriate to protect the interest of the United States in the event of a default on a loan made or guaranteed under this title, including taking possession of, holding, and using real property pledged as security for such a loan or loan guarantee."

(2)(A) Subsection (d) of section 1308 is amended (i) by inserting before the period in the first sentence of paragraph (1) the following: "and to take the action authorized by subsection (f)", and (ii) by inserting after "under this title" in the first sentence of paragraph (2) the following: "and to take the action authorized by subsection (f)".

(B) The first sentence of subsection (e) of section 1308 is amended by inserting before the period the following: "and to take the action authorized by subsection (f)".

(d) The amendments made by this section shall only be effective for fiscal years beginning on or after October 1, 1978.

LOANS AND LOAN GUARANTEES FOR ACQUISITION AND CONSTRUCTION OF AMBULATORY HEALTH CARE FACILITIES

SEC. 5. (a) Title XIII is amended by inserting after section 1305 the following new section:

"LOANS AND LOAN GUARANTEES FOR ACQUISITION AND CONSTRUCTION OF AMBULATORY HEALTH CARE FACILITIES

"SEC. 1305A. (a) The Secretary may—

"(1) make loans, from the fund established under section 1308(e), to public and nonprofit private health maintenance organizations for projects for the acquisition or construction of ambulatory health care facilities and for the acquisition of equipment for facilities acquired or constructed under a loan made under this paragraph; and

"(2) guarantee to—

"(A) non-Federal lenders for their loans to nonprofit private health maintenance organizations for projects described in paragraph (1) and to private health maintenance organizations for such projects which will serve medically underserved populations, and

"(B) the Federal Financing Bank for its loans to nonprofit private health maintenance organizations for projects described in paragraph (1) and to private health maintenance organizations for such projects which will serve medically underserved populations,

the payment of principal and interest on such loans.

"(b)(1) Except as provided in paragraph (2), the aggregate amount of principal of loans made or guaranteed, or both, under subsection (a) for an ambulatory health care facility may not exceed $2,500,000.

"(2) The cumulative total of the principal of the loans outstanding at any time which have been directly made or with respect to which guarantees have been issued under subsection (a) may not exceed such limitations as may be specified in appropriation Acts.

"(3) The authority of the Secretary to make loans under subsection (a) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(c) For purposes of this section—

"(1) the term 'ambulatory health care facility' means a health care facility for the provision of diagnostic, treatment, and prevention services to ambulatory patients; and

"(2) the term 'construction' means the (A) construction of new facilities, (B) alteration, expansion, remodeling, replacement, and renovation of existing facilities, (C) cost of offsite improvements in connection with an

activity described in clause (A) or (B), and (D) cost of the acquisition of land in connection with an activity described in clause (A), (B), or (C).".

(b) Section 1313(4) is amended by inserting before the period the following: "or in meeting the costs of such organizations in acquiring or constructing ambulatory health care facilities".

CONTINUING DEVELOPMENT ASSISTANCE

SEC. 6. Section 1304(b) is amended by adding after paragraph (3) the following new paragraph:

"(4) A health maintenance organization which is a qualified health maintenance organization within the meaning of section 1310 (d) may receive, in accordance with paragraph (1), a grant, contract, or loan guarantee for the expansion of its services or the significant expansion of its membership or the area served by it.".

TRAINING AND TECHNICAL ASSISTANCE

SEC. 7. (a) Title XIII is amended by adding at the end thereof the following new section:

"TRAINING AND TECHNICAL ASSISTANCE

"SEC. 1317. (a)(1) The Secretary shall establish a National Health Maintenance Organization Intern Program (hereinafter in this subsection referred to as the 'Program') for the purpose of providing training to individuals to become administrators and medical directors of health maintenance organizations or to assume other managerial positions with health maintenance organizations. Under the Program the Secretary may directly provide internships for such training and may make grants to or enter into contracts with health maintenance organizations and other entities to provide such internships.

"(2) No internship may be provided by the Secretary and no grant may be made or contract entered into by the Secretary for the provision of internships unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be in such form and contain such information, and be submitted to the Secretary in such manner, as the Secretary shall prescribe. Section 1306 does not apply to an application submitted under this section.

"(3) Internships under the Program shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the recipients of the internships as the Secretary deems necessary. An internship provided an individual for training at a health maintenance organization or any other entity shall also provide for payments to be made to the organization or other entity for the cost of support services (including the cost of salaries, supplies, equipment, and related items) provided such individual by such organization or other entity. The amount of any such payments to any organization or other entity shall be determined by the Secretary and shall bear a direct relationship to the reasonable costs of the organization or other entity for establishing and maintaining its training programs.

"(4) Payments under grants under the Program may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

"(b) The Secretary shall provide technical assistance (1) to entities in connection with projects for which assistance is being provided under section 1303 or 1304, (2) to entities intending to become a qualified health maintenance organization within the meaning of section 1310(d), and (3) to health maintenance organizations. The Secretary may provide such technical assistance through grants to public and nonprofit private entities and contracts with public and private entities.

"(c) The authority of the Secretary to enter into contracts under subsections (a) and (b) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

(b) Section 1309(a) is amended by striking out "and 1304(b)" and inserting in lieu thereof "1304(b), and 1317".

(c) The amendments made by this section shall only be effective for fiscal years beginning on or after October 1, 1978.

EMPLOYEE HEALTH BENEFIT PLANS

SEC. 8. (a) Section 1310(c) is amended by adding at the end the following: "Each employer which provides payroll deductions as a means of paying employees' contributions for health benefits or which provides a health benefits plan to which an employee contribution is not required and which is required by subsection (a) to offer his employees the option of membership in a qualified health maintenance organization shall, with the consent of an employee who exercises such option, arrange for the employee's contribution for such membership to be paid through payroll deductions.".

(b) Clauses (1) and (2) of section 1310(b) are amended to read as follows:

"(1) one or more of such organizations provides basic health services through physicians or other health professionals who are members of the staff of the organization or a medical group (or groups), and

"(2) one or more of such organizations provides basic health services through (A) an individual practice association (or associations), or (B) a combination of such association (or associations), medical group (or groups), staff, and individual physicians and other health professionals under contract with the organization,".

FINANCIAL DISCLOSURE; ENROLLMENT PROTECTION

SEC. 9. (a) Title XIII as amended by section 7 is amended by adding at the end the following new section:

"FINANCIAL DISCLOSURE

"SEC. 1318. (a) Each health maintenance organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

"(1) Such information as the Secretary may require demonstrating that the health maintenance organization has a fiscally sound operation.

"(2) The information required to be reported under section 1124 of the Social Security Act by disclosing entities and the information required to be supplied under section 1902(a)(38) of such Act.

"(3) A description of transactions, as specified by the Secretary, between the health maintenance organization and a party in interest. Such transactions shall include—

"(A) Any sale or exchange, or leasing of any property between the health maintenance organization and a party in interest;

"(B) any furnishing for consideration of goods, services (including management services, but excluding health services provided to members by staff, medical group (or groups), individual practice association (or associations), or any combination thereof), or facilities between the health maintenance organization and a party in interest; and

"(C) any lending of money or other extension of credit between a health maintenance organization and a party in interest.

The Secretary may require that information reported respecting a health maintenance organization which controls, is controlled by, or is under control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

"(b) For the purposes of this section the term 'party in interest' means:

"(1) any director, officer, partner, or employee of a health maintenance organization, any person who is directly or indirectly the beneficial owner of more than 5 per centum of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 per centum of the health maintenance organization, and, in the case of a health maintenance organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

"(2) any entity in which a person described in paragraph (1)—

"(A) is an officer or director;

"(B) is a partner (if such entity is organized as partnership);

"(C) has directly or indirectly a beneficial interest of more than 5 per centum of the equity; or

"(D) has a mortgage, deed of trust, note, on other interest valuing more than 5 per centum of the assets of such entity:

"(3) any person directly or indirectly controlling, controlled by or under common control with a health maintenance organization; and

"(4) any member of the immediate family of an individual described in paragraph (1).

"(c) Each health maintenance organization shall make the information reported pursuant to subsection (a) available to its enrollees upon reasonable request.

"(d) The Secretary shall, as he deems necessary, conduct an evaluation of transactions reported to the Secretary under subsection (a)(3) for the purpose of determining their adverse impact, if any, on the fiscal soundness and reasonableness of charges to the health maintenance organization with respect to which they transpired. The Secretary shall evaluate the reported transactions of not less than five, or if there are more than twenty health maintenance organizations reporting such transactions, not less than one-fourth of the health maintenance organizations reporting any such transactions under subsection (a)(3).

"(e) The Secretary shall file an annual report with the Congress on the operation of this section. Such report shall include—

"(1) an enumeration of standards and norms utilized to make the evaluations required under subsection (d):

"(2) an assessment of the degree of conformity or nonconformity of each health maintenance organization evaluated by the Secretary under subsection (d) with such standards and norms;

"(3) what action, if any, the Secretary considers necessary under section 1312 with respect to health maintenance organizations evaluated under subsection (d).

"(f) Nothing in this section shall be construed to confer upon the Secretary any authority to approve or disapprove the rates charged by any health maintenance organization.

"(g) Any health maintenance organization failing to file with the Secretary the annual financial statement required in subsection (a) shall be ineligible for any Federal assistance under this title until such time as such statement is received by the Secretary and shall not be a qualified health maintenance organization for purposes of section 1310.

"(h) Whoever knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any statement filed pursuant to this section shall be guilty of a felony and upon convic-

tion thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.".

(b) Section 1301(c)(3) is amended (1) by inserting "(A)" after "(3)", and (2) by inserting before the semicolon a comma and the following: "and (B) carry out enrollment of members who are entitled to medical assistance under a State plan approval under title XIX of the Social Security Act in accordance with procedures approved under regulations promulgated by the Secretary".

ORGANIZATION REQUIREMENTS

SEC. 10. (a) Section 1301(b) is amended (1) by inserting "except in the case of basic health services provided a member who is a full-time student (as defined by the Secretary) at an accredited institution of higher education," after "(C)" in paragraph (1), and (2) by inserting "unless the supplemental health services payment is for a supplemental health service provided a member who is a full-time student (as defined by the Secretary) at an accredited institution of higher education," after "community rating system" in the second sentence of paragraph (2).

(b) Section 1301(c)(1) is amended (1) by inserting "(A)" after "(1)", and (2) by inserting before the semicolon a comma and the following: "and (B) have administrative and managerial arrangements satisfactory to the Secretary".

(c) Section 1301(c)(6) is amended (1) by striking out "(6)" and inserting in lieu thereof "(6)(A) in the case of a private health maintenance organization,", (2) by redesignating clauses (A) and (B) as subclauses (i) and (ii), respectively, and (3) by inserting before the semicolon a comma and the following: "and (B) in the case of a public health maintenance organization, have an advisory board to the policymaking body of the public entity operating the organization which board meets the requirements of clause (A) of this paragraph and to which may be delegated policymaking authority for the organization."

REQUIREMENTS FOR THE PROVISION OF SERVICES

SEC. 11. (a) Paragraph (3) of section 1310(b) is amended to read as follows:

"(3)(A) Except as provided in subparagraph (B), the services of a physician which are provided as basic health services shall be provided through—

"(i) members of the staff of the health maintenance organization,

"(ii) a medical group (or groups),

"(iii) an individual practice association (or associations),

"(iv) subject to subparagraph (C), physicians or other health professionals who have contracted with the health maintenance organization for the provision of such services, or

"(v) any combination of such staff, medical group (or groups), individual practice association (or associations), or physicians or other health professionals under contract with the organization.

"(B)(i) Subparagraph (A) does not apply to the provision of the services of a physician—

"(I) which the health maintenance organization determines, in conformity with regulations of the Secretary, are unusual or infrequently used, or

"(II) which are provided a member of the organization in a manner other than that prescribed by subparagraph (A) because of an emergency which made it medically necessary that the service be provided to the member before it could be provided in a manner prescribed by subparagraph (A).

"(ii) In the forty-eight-month period beginning after the month in which a health maintenance organization becomes a qualified health maintenance organization (within the meaning of section 1310(d)), the organization may provide the services of physicians through an entity which but for the requirement of section 1302(4)(C)(i) would be a medical group for the purposes of this title. After the expiration of such period, the organization may provide physician services through such an entity only if authorized by the Secretary in accordance with regulations which take into consideration the unusual circumstances of such entity.

"(C) After the expiration of the first four fiscal years of a health maintenance organization beginning after the month in which it became a qualified health maintenance organization (within the meaning of section 1310(d)), the organization may not enter into contracts with physicians other than members of staff, medical groups, or individual practice associations if the amounts paid under such contracts for basic and supplemental health services provided by physicians exceed 15 per centum of the total estimated amount to be paid in such fiscal year by the health maintenance organization to physicians for the provision of basic and supplemental health services by physicians, or, if the health maintenance organization principally serves a rural area, 30 per centum of such amount, except that this subparagraph does not apply to the entering into contracts for the purchase of physician services through an entity which, but for the requirements of section 1302(4)(C)(i), would be a medical group for the purposes of this title.

"(D) Contracts between a health maintenance organization and health professionals for the provision of basic and supplemental health services shall include such provisions as the Secretary may require (including provisions requiring appropriate continuing education).

"(E) For purposes of this paragraph the term 'health professional' means physicians, dentists, nurses, podiatrists, optometrists, and such other individuals engaged in the delivery of health services as the Secretary may by regulation designate.".

(b) Section 1301(b)(1) is amended by adding at the end the following: "The requirements of this paragraph respecting the basic health services payment shall not apply to the provision of basic health services to a member for an illness or injury for which the member is entitled to benefits under a workmen's compensation law or an insurance policy but only to the extent such benefits apply to such services. For the provision of such services for an illness or injury for which a member is entitled to benefits under such a law, the health maintenance organization may, if authorized by such law, charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law, the insurance carrier, employer, or other entity which under such law is to pay for the provision of such services or, to the extent that such member has been paid under such law for such services, such member. For the provision of such services for an illness or injury for which a member is entitled to benefits under an insurance policy, a health maintenance organization may charge or authorize the provider of such services to charge the insurance carrier under such policy or, to the extent that such member has been paid under such policy for such services, such member.".

(c) The second sentence of section 1301(b)(4) is amended to read as follows: "A member of a health maintenance organization shall be reimbursed by the organization for his expenses in securing basic and supplemental health services other than through the organization if the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition.".

(d) Section 1301(b) is amended by adding at the end the following new paragraph:

"(5) To the extent that a natural disaster, war, riot, civil insurrection, or any other similar event not within the control of a health maintenance organization (as determined under regulations of the Secretary) results in the facilities, personnel, or financial resources of a health maintenance organization not being available to provide or arrange for the provision of a basic or supplemental health service in accordance with the requirements of paragraphs (1) through (4) of this subsection, such requirements only require the organization to make a good-faith effort to provide or arrange for the provision of such service within such limitation on its facilities, personnel, or resources.".

(e) Section 1302(1) is amended by inserting before the second sentence the following: "Such term does not include a health service which the Secretary, upon application of a health maintenance organization, determines is unusual and infrequently provided and not necessary for the protection of individual health. The Secretary shall publish in the Federal Register each determination made by him under the preceding sentence.".

ADMINISTRATION OF PROGRAM

SEC. 12. (a)(1) Subsection (h) of section 1310 is repealed.

(2) Subsection (c) of section 1312 is repealed.

(b) Section 1306(b)(2) is amended by inserting "in the case of an application for assistance under section 1304, 1305, or 1305A," before "he determines".

(c) Section 1306(b) is amended by adding at the end the following new sentence: "In determining, for purposes of paragraph (2), whether an applicant would be able to complete a project or undertaking without the assistance applied for, the Secretary shall not consider any asset of the applicant the obligation of which for such undertaking or project would jeopardize the fiscal soundness of the applicant.".

PROGRAM MANAGEMENT EVALUATION

SEC. 13. Section 1314 is amended by adding at the end thereof the following new subsection:

"(d) The Comptroller General shall evaluate the adequacy and effectiveness of the policies and procedures of the Secretary for the management of the grant and loan programs established by this title and the adequacy of the amounts of assistance available under such programs and shall report to the Congress the results of such evaluation not later than May 1, 1979.".

AMENDMENTS TO THE SOCIAL SECURITY ACT

SEC. 14. (a)(1) Section 1902(a)(4) of the Social Security Act is amended (A) by striking out "and" at the end of clause (A), and (B) by inserting before the semicolon a comma and the following: "and (C) that each State or local officer or employee who is responsible for the expenditure of substantial amounts of funds under the State plan, each individual who formerly was such an officer or employee, and each partner of such an officer or employee shall be prohibited from committing any act, in relation to any activity under the plan, the commission of which, in connection with any activity concerning the United States Government, by an officer or employee of the United States Government, an individual who was such an officer or employee, or a partner of such an officer or employee is prohibited by section 207 or 208 of title 18, United States Code.

(2)(A) Except as provided in subparagraph (B), the amendments made by paragraph (1) shall take effect one hundred and eighty days after the date of the enactment of this Act.

(B) In the case of a State plan for medical

assistance under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the requirement added by the amendments made by paragraph (1), such amendments shall not apply with respect to such State plan before ninety days after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(b) Section 1122 of the Social Security Act is amended—

(1) by striking out "or health maintenance organization" each place it occurs.

(2) by striking out "or health maintenance organizations" each place it occurs, and

(3) by striking out "or organization, or of any facility of such organization," in subsection (d)(2).

(c) Section 1903(m)(1)(B) of the Social Security Act is amended by striking out "shall be administered through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and the administration of such duties and functions".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID SATTERFIELD,
RICHARDSON PREYER,
JAMES H. SCHEUER,
TIM LEE CARTER,
JAMES T. BROYHILL,
Managers on the Part of the House.

EDWARD KENNEDY,
GAYLORD NELSON,
CLAIBORNE PELL,
WILLIAM D. HATHAWAY,
HARRISON A. WILLIAMS, Jr.,
RICHARD S. SCHWEIKER,
JACOB K. JAVITS,
JOHN CHAFEE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2534) to revise and extend the provisions of title XIII of the Public Health Service Act relating to health maintenance organizations, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

EXTENSION OF PROGRAM

The Senate bill provides for extension of authorizations for appropriations of $35 million for fiscal year 1979, $65 million for fiscal year 1980, and $70 million for fiscal year 1981 (section 8).

The House amendment provides authorizations of appropriations of $25 million for fiscal year 1979, $63 million for 1980 and $63 million for 1981 (sections 2 and 15).

The conference substitute as a compromise specifies that authorizations of appropriations shall be available at a level of $31 million for fiscal year 1979, $65 million for 1980 and $68 million for 1981. Loan authority is extended through fiscal year 1981 (section 2).

INITIAL DEVELOPMENT

The Senate bill amends section 1304(f)(2)(a) to increase the maximum dollar limit for initial development project grants, contracts, and loan guarantees from $1 million to $2 million effective September 30, 1979. It also deletes the provision of existing law regarding increased assistance for health maintenance organizations (HMO's) providing services in additional service areas (section 3(a)).

The House amendment modifies the support available to organizations for initial development by providing that an HMO would continue to be eligible to receive up to $1 million to support its establishment and it would be eligible to receive up to $600,000 to support each significant expansion of membership or areas served. A grant awarded under this section would be available for up to three years (section 5 (b) and (c)).

The conference substitute conforms to the Senate amendment with the added provision that a grant awarded under this section would be available for up to three years (section 3).

INITIAL OPERATING LOANS AND LOAN GUARANTEES

The Senate bill amends section 1305(b)(1) to increase the aggregate dollar limit for HMO operating loans and loan guarantees from $2.5 million to $5 million with a secretarial certification of need required for its use prior to September 30, 1979. The bill also increases the amount of operating loans which may be dispensed to an HMO in any one year from $1 million to $2 million with similar restrictions (section 3(b)).

The House amendment expands the support which may be provided to an HMO for its initial costs of operation to an aggregate $4 million. The support would include capital costs such as the costs of acquiring equipment. In any one year an HMO would be limited to $2 million of loan or loan guarantee support. The Secretary is authorized to take such actions as he deems appropriate to protect the interests of the United States in the event of a default on a loan made or guaranteed.

The conference substitute as a compromise specifies that the total amount available for the costs of operation would be increased to $4.5 million in total and $2 million annually, to be provided with the Secretarial certification in the Senate bill during fiscal year 1979. It also includes a provision related to the Secretary's authority to protect the interest of the United States (section 4).

LOANS AND LOAN GUARANTEES FOR ACQUISITION AND CONSTRUCTION OF AMBULATORY HEALTH CARE FACILITIES

The Senate bill adds a new authority for loans and loan guarantees to assist an HMO in meeting the cost of equipping, constructing, acquiring, or renovating ambulatory care facilities for HMO's and entities intending to become HMO's. No dollar limitation would be applied to the assistance to be provided for ambulatory care facility under this provision. (Section 4(a) and (b)).

The House amendment adds a new section after section 1305 to provide loans and loan guarantees to qualified HMO's for the acquisition and construction of ambulatory care facilities and for the acquisition of equipment for facilities acquired or constructed. The Secretary may make loans to public and non-profit private HMO's; the Secretary may also guarantee the payment of principal and interest on loans for private HMO's for projects which serve medically underserved areas. The aggregate amount of principal of loans made or guaranteed under this section may not exceed $2.5 million (section 9).

The conference substitute conforms to the House amendment with a loan limitation of $2.5 million for each health care facility (section 5).

CONTINUING DEVELOPMENT ASSISTANCE

The Senate bill contains a provision, not included in the House amendment, which expands the purposes for which assistance for initial development projects may be made to include "improvement of services." Such assistance may be provided only to entities which demonstrate the capability of maintaining continued fiscal soundness (section 7).

The conference substitute as a compromise specifies that initial development grants, contracts, and loan guarantees be provided for expansion of services. Conferees note that support under this program should be provided an HMO for the addition of a new service being directly provided by the HMO and not for routine adjustment in services (section 6).

TRAINING AND TECHNICAL ASSISTANCE

Training

The Senate bill creates a new section which requires the Secretary to establish a National Health Maintenance Organization Intern Program for the purpose of training qualified HMO administrators and managerial personnel. The Secretary may award payments for internships or for the costs of internship to:

(1) an individual with approved application; or

(2) an HMO or other entity which submits and has approved an application for a grant under this section. Payments to HMO's or other entities can be used only to cover the costs of the internship limited to such amounts as the Secretary finds necessary to cover the costs incurred by the HMO or other entity under the internship program. Payments to individuals receiving training in the internship program are limited to a maximum of $2,000 per month, per individual, excluding relocation costs, and the term of individual internship payments is limited to 12 months. Authorizations for the National HMO Intern Program are $2 million for fiscal year 1979; $2 million for fiscal year 1980; $3 million for fiscal year 1981 (section 9).

The House amendment creates a new section which requires the Secretary to establish a National Health Maintenance organization Intern Program for the purpose of providing training to individuals to become administrators and medical directors of health maintenance organizations or to assume other managerial positions with health maintenance organizations. The Secretary may provide these internships directly or may make grants to or enter into contracts with health maintenance organizations and other entities to provide the internships. The program will provide stipends and allowances for the recipients of the internships and grants and contracts to health maintenance organizations and other entities for the cost of support services provided to recipients of the internships by the organization or the entity. The amount of any payment to an organization or an entity shall be determined by the Secretary and shall bear direct relationship to the reasonable cost of the organization or entity for establishing and maintaining the training program. Funds for these internships are provided in the authorizations of appropriations in section 1309(a). This provision shall be effictive for fiscal years on or after October 1, 1979 (section 10(a)).

The conference substitute conforms to the House amendment, except that the authorization for the program will begin in fiscal year 1979 (section 7(a)). The conferees note that the purpose of the training is to enable the individual who participates to as-

sume an administrative position within an HMO, or to improve capabilities and skills in their current position with an HMO.

Technical assistance

The Senate bill amends section 1307 to authorize the Secretary to make grants to public or nonprofit private entities and to enter into contracts with private entities for (1) the provision of technical assistance to projects and HMO's and (2) assistance in making determinations under sections 1308 (general provisions relating to loan guarantees and loans), 1310 (employees health benefit plan), and 1312 (regulation of HMO's) (section 11(b)).

The House amendment creates a new section which requires the Secretary to provide directly or through contracts or both technical assistance to (1) entities engaged in surveys or other activities to determine the feasibility of developing and operating or expanding the operation of health maintenance organizations; (2) entities engaged in the planning for the initial development of health maintenance organizations; (3) entities engaged in the initial development of health maintenance organizations and (4) health maintenance organizations in connection with their operation (section 10).

The conference substitute requires the Secretary to provide technical assistance, through grants to public and nonprofit private entities and contracts with private entities, (1) to entities in connection with projects for which assistance is being provided under section 1303 or 1304, (2) to entities intending to become a qualified health maintenance organization within the meaning of section 1310(d), and (3) to health maintenance organizations (section 7(b)).

EMPLOYMENT HEALTH BENEFIT PLANS

Payroll deductions for HMO premiums

The Senate bill requires each employer participating in the dual choice program required under the law to arrange for the deduction of HMO premiums from an employee's salary providing the employee consents to this arrangement and the employer has the demonstrated capability of making payroll deductions (section 6(a)).

The House amendment provides that each employer which provides payroll deductions as a means of paying employees' contributions for health benefits or which provides a health benefit plan to which an employees' contributions is not required and which is required to offer his employee the option of membership in a qualified health maintenance organization would be required to arrange, upon the request of the employee who exercises such option, for the employee's contribution for such membership to be paid through payroll deductions (section 7).

The conference substitute conforms to the House amendment; however, consent, and not the request, of an employee is required (section 8(a)).

Clarifying amendments for dual choice program

The Senate bill contains a provision, not included in the House amendment, which amends section 1310 to clarify the distinction between the two kinds of qualified HMO's an employer must offer his employees as an option under the dual choice programs if one or more qualified HMO's provides services in the area in which the employees' reside (section 6(b) and (c)).

The conference substitute conforms to the Senate bill (section 8(b)).

FINANCIAL DISCLOSURE; ENROLLMENT PRACTICES

Financial disclosure

The Senate bill creates a new section 5 which requires each HMO to file annually with the Secretary financial information in such form as the Secretary may require and, if an organization is related to the HMO by common ownership or control, a consolidated financial statement must be filed. The financial information to be filed must include:

(1) Information, as required by the Secretary demonstrating that the HMO has a fiscally sound operation.

(2) a description of transactions, as specified by the Secretary, between the HMO and a party in interest. The term "party-in-interest" is defined as: (1) any director, officer, employee, partner, person who is directly or indirectly the beneficial owner or more than five percent of the equity, or person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than five percent of the assets (and in the case of a HMO organized as a nonprofit corporation, an incorporator or member of such corporation under the applicable State corporation law) of the HMO;

(2) any entity in which any director, officer, employee, partner, person who is directly or indirectly the beneficial owner of more than five percent of the equity, or person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than five percent of the assets (and in the case of an HMO organized as a nonprofit membership corporation, an incorporator or member of such corporation under the applicable State corporation law) of the HMO:

(a) is an officer or director;

(b) is a partner (if such entity is organized as a partnership);

(c) has directly or indirectly a beneficial interest of more than five percent of the entity; or

(d) has a mortgage, deed or trust, note, or other interest valuing more than five percent of the assets of such entity;

(3) any person directly or indirectly controlling, controlled by, or under common control with the HMO. Each HMO must make available to its enrollees, upon reasonable request, the contents of its annual financial information statement. The Secretary must, as he deems necessary, conduct an evaluation of reported transactions between HMO's and parties-in-interest for the purpose of determining their adverse impact, if any, on the fiscal soundness and reasonableness of charges to the HMO. The reported transactions of at least five HMO's, or if there are more than 20 HMO's reporting such transactions, at least one-fourth shall be evaluated. The Secretary must file an annual report to Congress which includes:

(1) An enumeration of standards and norms used to make required evaluations under section 1318;

(2) An assessment of the extent to which each HMO evaluated by the Secretary conforms to such standards and norms; and

(3) Any actions the Secretary considers necessary, under his authority to regulate HMO activities under section 1312, with respect to those HMO's evaluated under this section.

Nothing in this section can be construed to give the Secretary the authority to approve or disapprove the premium rates charged by any HMO. Failure to file the annual financial information statement shall result in being ineligible to receive any Federal assistance under title XIII.

The House amendment amends section 1310(d) to provide that all qualified health maintenance organizations (1) must provide the Secretary with ownership and related information, (2) must provide the Secretary with assurances satisfactory to the Secretary that the terms of each transaction between the health maintenance organization and a party in interest will be at least as favorable to the health maintenance organization as if the transaction was between the health maintenance organization and a person who was not a party in interest, and (3) must make available to its members the information reported by the organization pursuant to (1) and (2). The ownership information required is identical to that required by section 1124 and 1902(a)(38) of the Social Security Act (added by P.L. 95-142, the Medicare-Medicaid Anti-Fraud and Abuse Amendments). The related information which may be required by the Secretary, at such time as the Secretary shall prescribe, is information (1) to demonstrate that the health maintenance organization has a fiscally sound operation and (2) respecting any transaction between the health maintenance organization and a party in interest. The term "party in interest" means (1) a person with an ownership or control interest (as defined in section 1124(a)(3) of the Social Security Act) in the health maintenance organization, (2) a managing employee (as defined in section 1126(b) of the Social Security Act) of the organization, (3) any entity with respect to which an individual described in (1) or (2) is a person with an ownership or control interest (as so defined) or managing employee (as so defined), and (4) any member of the immediate family of an individual who is a person described in (1) or (2). This section also requires the Secretary to include in the annual report required by section 1315 a summary of evaluations made of the information and a description of any action taken as a result of such evaluation. The section also amends section 1306(b) to require that an application for a grant, contract, loan or loan guarantee under Title XIII contain assurances satisfactory to the Secretary that the organization will comply with the requirements added to section 1310(d) by section 12 of the bill. The section also amends section 1312(a) to require the Secretary to take the actions authorized by section 1312(b) if he determines that an entity which received a grant, contract, loan or loan guarantee under Title XIII as a health maintenance organization or which was included in the health benefits plan offered to employees pursuant to section 1310(d) by this section (section 12).

The conference substitute conforms to the Senate bill with modifications in the frequency when information must be filed and the definition of "party in interest." It also includes the House requirement for the submission of ownership information (section 9(a)).

Enrollment practices

The Senate bill requires the HMO to provide the Secretary with assurances satisfactory to him that no membership enrollment shall occur at an individual's place of residence (section 2(c)).

The House amendment provides that an HMO shall carry out enrollment of members who are entitled to medical assistance under State plan approved under Title 19 of the Social Security Act in accordance with procedures approved under regulations promulgated by the Secretary (section 4(c)).

The conference substitute conforms to the House amendment (section 9(b)).

ORGANIZATION REQUIREMENTS

Experience rating for students

The House amendment contains a provision not included in the Senate bill which modifies section 1301(b) by allowing the HMO to provide services to full time students at an accredited institution of higher education for a payment that is not fixed under a community rating system (section 4(a)).

The conference substitute conforms to the House amendment (section 10(a)).

Administrative arrangements

The House amendment contains a provision not included in the Senate bill which requires that an HMO has certain adminis-

trative and managerial arrangements and capabilities (section 4(b)).

The conference substitute as a compromise specifies that an HMO shall have administrative and managerial arrangements satisfactory to the Secretary (section 10(b)).

Requirements for public HMO's

The House amendment contains a provision, not included in the Senate bill, which amends section 1301(c)(6) to exclude public HMO's from the requirement that at least one third of the membership of the policymaking body of an HMO be members of the organization and that the body include equitable representation from medically underserved populations served by the organization. Under the amendment a public HMO must have an advisory board which meets these requirements and this board may be delegated policymaking authority for the organization (section 4(d)).

The conference substitute conforms to the House amendment.

Waiver of policymaking body requirements

The House amendment contains a provision, not included in the Senate bill, which amends section 1310(d) to include as a qualified health maintenance organization certain entities which have received a waiver of the requirements of section 1301(c)(6) and which meet all other requirements prescribed by section 1301(b) and (c) and the reporting requirements prescribed by section 1310(d). The Secretary of HEW may, upon application, grant a waiver to such entities upon such terms and conditions as the Secretary may determine appropriate. Entities eligible to apply for this waiver must notify the Secretary of their intent to apply before the expiration of 180 days after the date of the enactment of this bill and must make their application before the expiration of 18 months after the enactment of this bill. An entity which receives this waiver may not receive a grant, contract, loan or loan guarantee under title XIII. Entities eligible to apply for a waiver are health maintenance organizations (as defined in regulations promulgated under section 1122 of the Social Security Act and in effect on the day before the date of enactment of this bill) (1) which are operated (but not as a separate legal entity) either by a commercial insurance carrier or a nonprofit carrier which provides hospital service benefits or medical or surgical benefits, or both, (2) with respect to which Federal financial assistance has not been provided under Title XIII, and (3) which on January 1, 1974 were engaged in providing basic health services (as defined in regulations promulgated under section 1122) to the organization's members. As a condition of approving the entity as a qualified health maintenance organization, the Secretary may alter the application of section 1310(b) to the service area of the entity. The Secretary may require the health benefits plan of each employer subject to section 1310(a) which has at least 25 employees residing in the service area of the entity (which is the qualified health maintenance organization) to include in their employee's health benefits plan at least two qualified health maintenance organizations which provide service in the same service area in the same manner when at least two such organizations are willing to be included in the employee's health benefits plan (section 14).

The conference substitute conforms to the Senate bill.

REQUIREMENTS FOR THE PROVISION OF SERVICES

Physicians' services

The Senate bill would modify provisions of existing law and limit contracting for health services by the health maintenance organization only to physician services and not to the services of all health professional services. It provides that an HMO, can not, in any of its fiscal years after the end of its fourth fiscal year of operation, enter into contracts with physicians other than members of staff, medical groups or individual practice associations (IPA's), if amounts paid for contract physician services exceed 15 percent of the total estimated amount to be paid by an HMO to physicians for the provision of physician services, or 30 percent of such amounts if the HMO principally serves a rural area. The bill also specifies that an HMO may, during the 36 month period beginning with the month following the month in which the HMO becomes qualified, provide physician services through an entity which would be a medical group except for certain requirements in law defining the amount of time the group has to devote to delivering services to HMO members (section 2(a)).

The House amendment would allow an HMO up to five years to reduce its reliance on contracts with physicians other than staff physicians or those who are not in medical groups or individual practice associations. At any time the amount paid to such physicians could not exceed 50 percent of the total amount paid for services of physicians and in the fifth and succeeding years the amount could not exceed the 15 percent (30 percent in rural areas). The amendment specifies that an HMO may, during a 48th month period, beginning with the month following qualification, provide physician services through an entity which would be a medical group except for certain requirements in the law defining the amount of time the group has to vote to delivering services to HMO members (section 3(b)).

The conference substitute conforms to the Senate bill; however, it contains the provision in the House amendment which would allow an HMO up to 48 months to use medical groups that do not meet the requirements defining the amount of time the group has to devote to delivering services to HMO members. The conferees intend that the Secretary in reviewing the application of an entity for qualification as a health maintenance organization carefully consider that organization's ability to reduce its reliance on contracting for physician services in other than the manner prescribed by law within its first four fiscal years (section 11(a)).

Workmen's compensation and other insurance

The Senate bill amends section 1301 to authorize reasonable limitations and exclusions with respect to benefits and the financial liability for care for illness, injury or conditions covered by a workmen's compensation statute. (Section 5).

The House amendment amends section 1301(b)(1) to permit the HMO to seek reimbursement for the cost of services provided to a member who is entitled to benefits under a workmen's compensation law or an insurance policy (section 3(a)).

The conference substitute conforms to the House amendment (section 11(b)).

Services provided by other than the HMO

The Senate bill specifies that HMO members will be reimbursed by the HMO for expenses incurred in securing emergency health services not provided by the HMO if it was medically necessary that those services be provided before the member could secure them through the HMO (section 2(b)).

The House amendment amends section 1301(b)(4) by removing the financial responsibility of an HMO for services provided by another organization to a member of the HMO if the member intentionally left the area served by the HMO for the purpose of securing those services (section 3(c)).

The conference substitute as a compromise specifies that a member of an HMO shall be reimbursed by the organization for his expenses in securing basic health services other than through the organizations if services were medically necessary and immediately required because of unforeseen illness, injury or condition (section 11(c)).

Limitation and exclusion of benefits

The Senate bill amends section 1301(b) to authorize reasonable limitations and exclusions with respect to the services which HMO's are not able to deliver because of natural disasters, war or insurrection (section 5).

The House amendment provides that a health maintenance organization is only required to make a good faith effort to provide health services in the event that major disaster, war, riot, civil insurrection, or any other event not reasonably within the control of the HMO results in the facilities, personnel, or financial resources of the HMO not being available to provide or arrange for the provision of health services to members (section 3(d)).

The conference substitute conforms to the House amendment; however, the provision would be limited to natural disaster, war, riot, civil insurrection or any other similar event not within the control of the HMO (section 11(d)). The conferees note that labor disputes are not intended to be included in the limitations and exclusions under this provision.

Unusual and infrequent services

The Senate bill would allow an HMO to exclude benefits with respect to unusual and infrequent medical services or procedures not necessary to protect the health of the member (section 5).

The House amendment provides that an HMO is not required to provide services which the Secretary determines, upon the application of an HMO, to be unusual or infrequently provided and are not necessary for the protection of individual health (section 3(e)).

The conference substitute conforms to the House amendments (section 11(e)).

ADMINISTRATION OF PROGRAM

Program organization

The Senate bill repeals section 1310(h) which provides that the duties and functions of the Secretary in making determinations as to whether an organization is a qualified HMO shall be administered through the Assistant Secretary for Health in the Office of the Assistant Secretary for Health and the administration of such duties and functions shall be integrated with the administration of section 1312(a), and 1312(c) which provides that the Secretary, acting through the Assistant Secretary of Health, shall administer sections 1312(a) and 1312(b) in the Office of the Assistant Secretary for Health (section 11 (c) and (d)).

The House amendment repeals section 1312(c) and amends section 1310(h) to delete the requirement that the qualification and compliance functions be located in the Office of the Assistant Secretary for Health (section 11(a) and (b)).

The conference substitute conforms to the Senate bill (section 12(a)).

Application requirement

The Senate bill repeals section 1306(b)(2) which provides that the Secretary may not approve an application for a grant, contract, loan, or loan guarantee under this title unless he determines that the applicant making the application would not be able to complete the project or undertaking for which the application is submitted without the assistance requested (section 11(a)).

The House amendment would allow grants and contracts for HMO feasibility studies regardless of the financial position of the applicant; all other support would be provided to organizations only if the applicant would not be able to complete the project without Federal assistance (section 5(a)).

The conference substitute as a compromise conforms to the House amendment and in

addition amends section 1306(b) by providing that the Secretary, in determining for purposes of section 1306(b)(2) whether an applicant would be able to complete a project or undertaking without the assistance applied for, will not consider any asset of the applicant the obligation of which for such undertaking or project would jeopardize the fiscal soundness of the applicant. The additional sentence clarifies that in approving applications for grants, contracts, loans, and loan guarantees under sections 1304 and 1305, the Secretary may not require an applicant to use all available assets for the project if that requirement would jeopardize the fiscal soundness of the applicant (section 12(b) and (c)).

PROGRAM MANAGEMENT EVALUATION

The Senate bill requires the Comptroller General to evaluate the adequacy and effectiveness of the policies and procedures for the management of the grant and loan programs in Title XIII and the adequacy of the amount of assistance available under Title XIII and to report to the Congress the results of the evaluation not later than May 1, 1979 (section 12).

The House amendment has no similar provision.

The conference substitute conforms to the Senate bill (section 13).

AMENDMENTS TO THE SOCIAL SECURITY ACT

Conflict of interest

The House amendment contains a provision not included in the Senate bill, which extends the prohibitions of sections 207 and 208 of title 18, United States Code, State or local officers or employees who are responsible for the expenditure of substantial amounts of Medicaid funds, to each individual who formerly was such an officer or employee and to each partner of such an officer or employee. (section 13(a)).

The conference substitute conforms to the House amendment (section 14(a)).

Section 1122 review

Section 1122 of the Social Security Act provides for review by State Health Planning Agencies of capital expenditures proposed to be made by health care facilities (such as hospitals and nursing homes) and health maintenance organizations. The coverage of health maintenance organizations includes its establishment and the development of its outpatient facilities and services.

The House amendment contains a provision not included in the Senate bill, which amends section 1122 to provide that the establishment of an HMO will not be covered and that the development of outpatient facilities and services will be covered only to the extent that a health care facility would be covered for the same activity (section 13(b)).

The conference substitute conforms to the House amendment so that HMO's will be covered equally with other health care facilities (section 14(b)).

Conforming amendments

The House amendment contains a provision, not included in the Senate bill, which makes conforming changes in section 1903(M)(1)(B) of the Social Security Act regarding the administration of the HMO program within HEW (section 13(c)).

The conference substitute conforms to the House amendment (section 14(c)).

FUNDING UNDER OTHER AUTHORITIES FOR THE PROVISION OF HEALTH SERVICES ON A PREPAID BASIS

Section 1313 of the Public Health Service Act limits to title XIII the source of funding for health maintenance organizations and other entities which provide, directly or indirectly, health services to a defined population on a prepaid basis.

The House amendment contains a provision not included in the Senate bill, which provides that section 1313 does not prohibit the use of funds appropriated under section 319 or 330 of the Public Health Service Act for grants to an entity, other than a health maintenance organization, for the planning and development of health services to be provided on a prepaid basis or for the provision of health services on a prepaid basis (section 8).

The conference substitute conforms to the Senate bill.

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JAMES H. SCHEUER,
TIM LEE CARTER,
JAMES T. BROYHILL,
Managers on the Part of the House.

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GAYLORD NELSON,
CLAIBORNE PELL,
WILLIAM D. HATHAWAY,
HARRISON A. WILLIAMS, Jr.,
RICHARD S. SCHWEIKER,
JACOB K. JAVITS,
JOHN CHAFEE,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 2416, NURSE TRAINING AMENDMENTS OF 1978

Mr. STAGGERS submitted the following conference report and statement on the Senate bill (S. 2416) to amend title VIII of the Public Health Service Act to extend for 2 fiscal years the program of assistance for nurse training:

CONFERENCE REPORT (H. REPT. No. 95-1785)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2416) to amend title VIII of the Public Health Service Act to extend for 2 fiscal years the program of assistance for nurse training having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

TITLE I—NURSE TRAINING

SEC. 101. (a) This Act may be cited as the "Nurse Training Amendments of 1978".

(b) Whenever in this Act (other than section 204) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 102. Section 801 (relating to authorizations for construction grants) is amended by inserting after "for fiscal year 1978" the following: "and for each of the next two fiscal years".

SEC. 103. (a) Subsections (a) and (b) of section 805 (relating to loan guarantees and interest subsidies) are each amended by striking out "1978" and inserting in lieu thereof "1980".

(b) Subsection (e) of such section is amended by inserting after "in fiscal year 1978" the following: "and in each of the next two fiscal years".

SEC. 104. Subsection (f) of section 810 (relating to capitation grants) is amended by inserting after "fiscal year 1978" the following: "and for each of the next two fiscal years".

SEC. 105. The first sentence of subsection (d) of section 820 (relating to special project grants and contracts) is amended by striking out "and" after "1977," and by inserting before the period the following: ", $20,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980".

SEC. 106. Subsection (b) of section 821 (relating to advanced nurse training programs) is amended by inserting after "for fiscal year 1978" the following: "and for each of the next two fiscal years".

SEC. 107. Subsection (e) of section 822 (relating to nurse practitioner programs) is amended by striking out "for fiscal year 1978" and inserting in lieu thereof "for the fiscal year ending September 30, 1978, and for each of the next two fiscal years".

SEC. 108. Subsection (b) of section 830 (relating to traineeships) is amended by inserting before the period "and for each of the next two fiscal years".

SEC. 109. (a) Subsection (b)(4) of section 835 (relating to loan agreements) is amended by striking out "1978" and inserting in lieu thereof "1980".

(b) Section 837 (relating to authorizations for student loan funds) is amended (1) by inserting before the period in the first sentence "and for each of the next two fiscal years", (2) by striking out "fiscal year 1979 and inserting in lieu thereof "the fiscal year ending September 30, 1981", and (3) by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1980".

(c)(1) Subsection (a) of section 839 (relating to distribution of assets) is amended by striking out "September 30, 1980, and not later than September 30, 1977" and inserting in lieu thereof "September 30, 1981, and not later than December 30, 1983".

(2) Paragraph (1) of such subsection is amended by striking out "1980" and inserting in lieu thereof "1983".

(3) Subsection (b) of such section is amended by striking out "1980" each place it occurs and inserting in lieu thereof "1983".

SEC. 110. (a) Subsection (b) of section 845 (relating to scholarship grants) is amended (1) by striking out "next two fiscal years" in the first sentence and inserting in lieu thereof "next four fiscal years", (2) by striking out "1979" and inserting in lieu thereof "1981", and (3) by striking out "1978" and inserting in lieu thereof "1980".

(b) Subsection (c)(1) of such section is amended (1) by striking out "next two fiscal years" in subparagraph (A) and inserting in lieu thereof "next four fiscal years", (2) by striking out "1978" in subparagraph (B) and inserting in lieu thereof "1980", and (3) by striking out "1979" in such subparagraph and inserting in lieu thereof "1981".

SEC. 111. Subpart I of part B of title VIII (relating to traineeships) is amended by adding after section 830 the following new section:

"TRAINEESHIPS FOR TRAINING OF NURSE ANESTHETISTS

"SEC. 831. (a)(1) The Secretary may make grants to public or private nonprofit institutions to cover the costs of traineeships for the training, in programs which meet such requirements as the Secretary shall by regulation prescribe and which are accredited by an entity or entities designated by the Commissioner of Education, of licensed, registered nurses to be nurse anesthetists.

"(2) Payments to institutions under this

subsection may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments may be used only for traineeships and shall be limited to such amounts as the Secretary finds necessary to cover the costs of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainees.

"(b) For the purpose of making grants under subsection (a), there are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1979, and $3,000,000 for the fiscal year ending September 30, 1980.".

SEC. 112. Section 836(b)(3) (relating to student loans) is amended (1) by inserting after "(3)" the following: "in the case of a student who received such a loan before the date of enactment of the Nurse Training Amendments of 1978,", and (2) by striking out "any such loan" and inserting in lieu thereof "any such loan made before such date".

SEC. 113. (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall arrange, in accordance with subsection (b), for the conduct of a study to determine the need to continue a specific program of Federal financial support for nursing education, taking into account—

(1) the need for nurses under the present health care delivery system and under that system as it may be changed by the enactment of legislation for national health insurance,

(2) the cost of nursing education, and

(3) the availability of other sources of support for nursing education, including support under general programs of Federal financial support for postseconday education, under State and other public programs, and from private sources.

(b)(1) The Secretary shall first request the National Academy of Sciences (hereinafter in this section referred to as the "Academy"); acting through the Institute of Medicine, to conduct the study, required by subsection (a), under an arrangement whereby the actual expenses incurred by the Academy directly related to the conduct of such study will be paid by the Secretary. If the Academy agrees to such request, the Secretary shall enter into such an agreement with the Academy.

(2) In the Academy declines the Secretary's request to conduct such study under such an arrangement, then the Secretary shall enter into a similar arrangement with another appropriate public or nonprofit private entity to conduct such study.

(3) Upon completion of the study, the entity conducting the study shall report the results of it to the Secretary and shall include in such report any recommendations for legislation which the entity determines are appropriate.

(4) Any arrangement entered into under paragraph (1) or (2) of this subsection for the conduct of a study shall require that such study be completed and reports thereon be submitted within such period as the Secretary may require to meet the requirements of subsection (c).

(c) Not later than October 1, 1979, the Secretary shall report to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives the results of the study conducted pursuant to subsection (a) together with such recommendations for legislation as the Secretary determines are appropriate.

(d) The authority of the Secretary to enter into any contract for the conduct of the study under this section shall be effective (1) only on and after October 1, 1978, and (2) for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE II—OTHER HEALTH PROFESSIONS PROGRAMS

SEC. 201. Section 729(a) (relating to limits on Federal loan insurance and insured loans) is amended—

(1) by inserting before the period in the first sentence a comma and the following: "except that in the case of loans to students in schools of medicine, osteopathy, and dentistry, the Secretary may increase the total of such loans which may be covered by Federal loan insurance to $15,000 if he determines that the costs of education at such schools requires such increase"; and

(2) by inserting before the period in the second sentence a comma and the following: "except that the Secretary may increase such amount for borrowers who are or were students in schools of medicine, osteopathy, and dentistry to $60,000 if he determines that the costs of education at such schools requires such increase".

SEC. 202. Section 752(b)(5)(A) (relating to service requirements for National Health Service Corps scholarships) is amended by striking out "(not to exceed three years)" and inserting in lieu thereof "(not to exceed three years or such greater period as the Secretary, consistent with the needs of the Corps, may authorize)".

SEC. 203. Section 781(c) (relating to requirements for participation of schools in area health education center programs) is amended by adding after and below paragraph (4) the following:

"The requirement of paragraph (3) shall not apply to a medical or osteopathic school participating in an area health education center program if another such school participating in the same program meets the requirement of that paragraph.".

SEC. 204. Section 802(a) of the Health Professions Educational Assistance Act of 1976 (relating to transitional provisions on area health education centers) is amended—

(1) by striking out "for the next fiscal year" and inserting in lieu thereof "for the next three fiscal years";

(2) by striking out "no payment shall be made to an entity under such a contract" and inserting in lieu thereof "no payment under such a contract shall be made to an entity which had not first entered into such a contract before October 12, 1976, (1)"; and

(3) by inserting before the period at the end thereof the following: ", or (2) for any fiscal year beginning after September 30, 1979".

SEC. 205. For the purpose of awarding grants under section 748 of the Public Health Service Act for the fiscal year ending September 30, 1978, to any school of public health or other institution, the Secretary of Health, Education, and Welfare shall consider an individual who received a traineeship under section 312 of such Act (as in effect on September 30, 1977) for the school year 1977–78 and who is enrolled in such school or institution in the school year with respect to which the grant under such section 748 is to be made to be an individual described in subsection (b)(3) of such section.

SEC. 206. Subparagraph (B) of section 788(e)(2) is amended by striking out "$5,000,000" and inserting in lieu thereof "$10,000,000".

And the House agree to the same.

HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID E. SATTERFIELD,
RICHARDSON PREYER,
JAMES H. SCHEUER,
TIM LEE CARTER,
JAMES T. BROYHILL,
Managers on the Part of the House.

EDWARD KENNEDY,
GAYLORD NELSON,
CLAIBORNE PELL,
WILLIAM D. HATHAWAY,
HARRISON A. WILLIAMS, Jr.,
RICHARD S. SCHWEIKER,
JACOB K. JAVITS,
JOHN CHAFEE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2416) to amend title VIII of the Public Health Service Act to extend for two fiscal years the program of assistance for nurse training, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

FINANCIAL DISTRESS GRANTS FOR HEALTH PROFESSIONS SCHOOLS

The Senate-passed bill contained a provision, not included in the House amendment, which amended section 788(e)(2)(B) of the Public Health Service Act (hereinafter referred to as "the Act") relating to the maximum amount of funds authorized under section 788(e)(1) which may be obligated for financial distress grants for schools of the health professions. The Senate provision increased the amount from $5 million to $10 million in each of fiscal years 1978 and 1979.

The conference substitute conforms to the Senate-passed bill except that the increase in the allocation would also apply in fiscal year 1980.

TRAINEESHIPS FOR TRAINING OF NURSE ANESTHETISTS

The House amendment contained a provision, not included in the Senate-passed bill, which added a new section 831 to the Act authorizing the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") to make grants to cover the costs of traineeships for the training of nurse anesthetists.

The conference substitute conforms to the House amendment.

The managers recognize the current need for providing support for the training of nurse anesthetists. However, adoption of this grant program at this time is intended to serve only as a short-term mechanism for the provision of financial assistance to these health practitioners. In two years, when this bill expires, it is the managers' intent that this grant program be subjected to the same

review and possible revision as all other nurse training authorities.

STUDY OF FEDERAL SUPPORT FOR NURSING EDUCATION

The House amendment contained a provision, not included in the Senate-passed bill, which required the Secretary to arrange for a study to determine the need to continue a specific program of federal financial support for nursing education. The Secretary was first to request that the National Academy of Sciences, acting through the Institute of Medicine, undertake the study. If the Academy declined the request, the Secretary was to enter into a similar arrangement with another appropriate public or nonprofit private entity to conduct the study. The results of the study were to be submitted to the Secretary who would report such results together with any recommendations for legislation which he determined were appropriate to the Senate Committee on Human Resources and the House Committee on Interstate and Foreign Commerce by October 1, 1979.

The conference substitute conforms to the House amendment except that the results of the study undertaken by the National Academy of Sciences (for other entity in the event the Academy refuses the Secretary's requests) are to include such recommendations for legislation as are determined to be appropriate.

The managers are aware that studies on this same issue are currently under way in both HEW and within the nursing profession. The purpose for authorizing yet another study stems from the managers' awareness of the long-standing—and thus far unresolved—controversy between the nursing profession and the Department of HEW over the need for federal support of nursing education programs. While all available data and recommendations regarding possible revisions to the Nurse Training Act authorities will be considered when this legislation expires, this independent study will be a particularly valuable source of information as it represents an objective assessment of the problem. The results of this study should be of enormous value to the Congress during consideration of the nurse training authorities in the 96th Congress.

It is the managers' intent that the negotiations surrounding the formal agreement between the Secretary and the Academy (or other entity, in the event the Academy declines the Secretary's request) not be protracted. In view of the short time frame within which assessment must be completed, the conferees expect the agreement to be formalized within 60 days from the date of enactment of the proposed legislation, and would urge the two parties to reach agreement within a month of the date of enactment.

AUTHORIZATIONS FOR THE NATIONAL HEALTH SERVICE CORPS

The House amendment contained a provision not included in the Senate-passed bill which would have increased the authorization of appropriations under section 338 of the Act for the National Health Service Corps program from $57 million to $63 million for fiscal year 1979.

The conference substitute conforms to the Senate-passed bill.

HEALTH PROFESSIONS GUARANTEED STUDENT LOAN PROGRAM

The House amendment contained three amendments to the health professions guaranteed student loan program (under Part C of title VII of the Act), not included in the Senate-passed bill. First, the House amendment authorized the Secretary to increase the maximum annual loan to a student in a school of medicine, osteopathy, or dentistry which could be guaranteed under the program from $10,000 to $15,000, if the Secretary determined that the cost of education at such schools required such an increase. Second, the House amendment authorized the Secretary to increase the total amount such students could borrow under the program from $50,000 to $60,000.

The conference substitute conforms to the House amendment.

Third, the House amendment amended the provision which limits the number of students in a school who could participate in the program to not more than 50 percent in each class, to provide that not more than 50 percent of the students enrolled in the school would be eligible to participate.

The conference substitute does not include the provision of the House amendment.

By raising the ceiling on the annual and overall limits on federal loan insurance and insured loans under the health professions guaranteed student loan program, the managers hope to accomplish two objectives: first, we hope to alleviate the problem of inadequate sources of funding faced by some students enrolled in medical schools whose tuition rate has risen beyond the current limits on these loan programs. Secondly, and more importantly, we hope to achieve a more equitable distribution in National Health Service Corps awards throughout the medical schools of this country. Current data suggests that a disproportionate number of these scholarships have been awarded to students enrolled in medical schools where the tuition rates are the highest in the country, simply because no other sources of financial assistance are available to these students. The Congress, however, never intended the NHSC scholarship program to be a vehicle for the subsidization of expensive medical schools. By making these additional loan funds available, we intend for the Secretary to make the awarding of future NHSC scholarships consistent with the objectives of the NHSC program.

DEFERRAL OF SERVICE OBLIGATIONS FOR NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP RECIPIENTS

The House amendment contained a provision not included in the Senate-passed bill which amended section 752(b)(5)(A) of the Act regarding the period of time which the Secretary at the request of a scholarship recipient is required to defer the service obligation of such recipient to enable him to complete an internship, residency, or other advanced clinical training. Existing law limits the period of deferral to a period not to exceed three years. The House amendment authorized the Secretary to extend the period of deferral beyond three years.

Under the conference substitute, the Secretary would be authorized to extend the period of deferral for an individual beyond three years consistent with the needs of the Corps.

AREA HEALTH EDUCATION CENTERS AMENDMENTS

The House amendment contained two amendments with respect to the Area Health Education Centers (AHEC) program which were not included in the Senate-passed bill.

First, the House amendment amended section 781(c) of the Act (relating to requirements for participation of schools in area health education center programs) to provide that if one medical or osteopathic school participating in the program conducted a program for the training of nurse practitioners or physician assistants, any other such participating school would not be required to conduct such a program. Existing law requires each participating medical and osteopathic school to conduct such a program.

The conference substitute conforms to the House amendment.

Second, the House amendment amended section 802(a) of the Health Professions Educational Assistance Act of 1976 (P.L. 94–484) to provide that those AHEC programs which were first funded under section 774 of the Act prior to October 12, 1976 would continue to be eligible for federal support through fiscal year 1981 without meeting the new AHEC requirements of section 781 of the Act as added by P.L. 94–484.

The conference substitute conforms to the House amendment.

TRAINEESHIPS FOR STUDENTS IN SCHOOLS OF PUBLIC HEALTH

Section 748 of the Act as added by Public Law 94–484 requires a school of public health in order to receive a grant to provide traineeships to its students to provide assurances satisfactory to the Secretary that, for school year 1978–79, 45 percent of the grant funds will go to individuals who had previously received a post-baccalaureate degree or had three years of work experience in health services and who were pursuing a course of study in a specified field. The House amendment contained a provision not included in the Senate-passed bill which required the Secretary for the purposes of determining that a school meets the percentage requirement to consider an individual who had received a traineeship for school year 1977–78 under section 312 of the Act (which was superseded by section 748) to be an individual who meets the requirements of new section 748, whether or not such an individual meets the new requirements.

The conference substitute conforms to the House amendment except that it makes it clear that the individual who received a traineeship under section 312 must be enrolled in the institution for school year 1978–79 in order to be eligible to be counted.

The necessity for this amendment grew out of the apparent disregard or at the very least a lack of awareness by a majority of the schools of public health for the provisions contained in P.L. 94–484. Although a two-year interim period was built in between the date of enactment of the Act and the effective date of this provision in order to give the schools sufficient time to make the appropriate adjustments in their enrollment policies, almost 250 students around the country were admitted to schools of public health and awarded traineeships in school year 1977–78 who were destined to be ineligible under the new criteria. Because these students are, in reality, the victims of the school's noncompliance, this amendment authorizes a one-year "grandfather" provision for the affected students. It is not the intent of the managers to enact any similar amendments in the future; accordingly, the schools should conform their admissions policies to the provisions of the law in order to avoid future problems of this nature.

HARLEY O. STAGGERS,
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JACOB K. JAVITS,
JOHN CHAFEE,
Managers on the Part of the Senate.

VACATING PROCEEDINGS ON AND RECONSIDERATION OF H.R. 11209, INTERNATIONAL MARITIME TELECOMMUNICATIONS ACT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to vacate the proceedings of October 12, 1978, with respect to the bill (H.R. 11209) to provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services, so that the House may again consider the bill H.R. 11209, the Senate amendment thereto and the House amendment to the Senate amendment.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman is just correcting an error? A page was left out?

Mr. STAGGERS. That is correct. There is one page that did not get included.

Mr. BAUMAN. Mr. Speaker, that will happen at this time of the year.

I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia.

There was no objection.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11209) to provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Strike out all after the enacting clause and insert: That this Act may be cited as the "International Satellite Telecommunications Act".

SEC. 2. The Communications Act of 1934, as amended (47 U.S.C. 151 et seq.), is further amended by adding at the end thereof the following new title:

"TITLE VII—INTERNATIONAL MARITIME SATELLITE TELECOMMUNICATIONS

"DECLARATION OF POLICY AND PURPOSE

"SEC. 701. (a) The Congress hereby declares that it is the policy of the United States to provide for the participation of the United States in an organization which is established or empowered to develop and operate an international maritime satellite telecommunications system (hereinafter in this title referred to as 'the organization'). Such participation shall be in either the International Maritime Satellite Organization or another international maritime satellite telecommunications organization. Such system shall have facilities and services which will serve maritime commercial and safety needs of the United States and foreign countries.

"(b) It is the purpose of this title to provide that the participation of the United States in the organization specified in subsection (a) of this section shall be through the Communications Satellite Corporation, which constitutes a private entity operating for profit, and which is not an agency or establishment of the Federal Government.

"DEFINITIONS

"SEC. 702. For purposes of this title—

"(1) the term 'common carrier' has the meaning given it in section 3(h) of this Act;

"(2) the term 'corporation' means the Communications Satellite Corporation incorporated on February 1, 1963, under section 301 of the Communications Satellite Act of 1962;

"(3) the term 'satellite earth terminal station' means a complex of communications equipment located on land, operationally interconnected with one or more terrestrial communications systems, and capable of transmitting telecommunications to, or receiving telecommunications from, the space segment;

"(4) the term 'space segment' means any satellite or capacity on a satellite maintained under the authority of the organization, for the purpose of providing international maritime telecommunications services and the tracking, telemetry, command, control, monitoring, and related facilities and equipment required to support the operation of such satellite or capacity;

"(5) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and

"(6) the term 'person' includes an individual, partnership, association, joint stock company, trust, or corporation.

"DESIGNATED OPERATING ENTITY

"SEC. 703. (a)(1) The Communications Satellite Corporation is hereby designated as the sole operating entity of the United States for participation, for the purpose of providing international maritime satellite telecommunications services, in the organization.

"(2) The corporation may participate in and is hereby authorized to sign the operating agreement or other like instruments of the organization as the sole designated operating entity of the United States.

"(b) The corporation—

"(1)(A) subject to the provisions of subsection (d) of this section, shall be the sole owner and operator of any satellite earth terminal station in the United States; and

"(B) shall interconnect such stations, and the maritime satellite telecommunications provided by such stations, with the facilities and services of United States domestic common carriers and international common carriers, other than any common carrier, system, or other entity in which the corporation has any ownership interest, as authorized by the Commission; and

"(2) may establish, own, and operate the United States share of the jointly owned international space segment and associated ancillary facilities.

"(c) The corporation shall be responsible for fulfilling any financial obligation placed upon the corporation as a signatory to the operating agreement or other pertinent instruments, and any other financial obligation which may be placed upon the corporation as the result of a convention or other instrument establishing the organization. The corporation shall be the sole United States representative in the managing body of the organization.

"(d) Any person, including the United States Government or any agency thereof, may be authorized, in accordance with paragraph (1) or (2) of this subsection, to be the sole owner or operator, or both, of any satellite earth terminal station if such station is used for the exclusive purposes of training personnel in the use of equipment associated with the operation and maintenance of such station, or in carrying out experimentation relating to maritime satellite telecommunications services: Provided, That—

"(1) if such person is the United States Government or any agency thereof, such satellite earth terminal station shall have been authorized to operate by the executive department charged with such responsibility; or

"(2) in all other cases, such satellite earth terminal station shall have been authorized by the Commission.

"(e) The Commission shall determine the operational arrangements under which the corporation shall interconnect its satellite earth terminal station facilities and services with United States domestic common carriers and international common carriers, other than any common carrier, system, or other entity in which the corporation has any ownership interest, for the purpose of extending maritime satellite telecommunications services within the United States and beyond. The initial determination shall be made by the Commission no later than 6 months after the date of the enactment of this title, and the Commission shall thereupon transmit to the Congress a report relating to such determination.

"(f) Notwithstanding any provision of State law, the articles of incorporation of the corporation shall provide for the continued ability of the board of directors of the corporation to transact business under such circumstances of national emergency as the President or his delegate may determine would not permit a prompt meeting of the number of directors otherwise required to transact business.

"IMPLEMENTATION OF POLICY

"SEC. 704. (a) The Secretary of Commerce shall—

"(1) exercise such supervision over the corporation as may be necessary to ensure that the activities of the corporation are consistent with the national interest of the United States;

"(2) coordinate the activities of Federal agencies with responsibilities in the field of telecommunications (other than the Commission), so as to ensure that there is full and effective compliance with the provisions of this title;

"(3) take all necessary steps to ensure the availability and appropriate utilization of the telecommunications services provided by the organization for general governmental purposes, except in any case in which a separate telecommunications system is required to meet unique governmental needs or is otherwise in the national interest; and

"(4) exercise his authority in a manner which seeks to obtain coordinated and efficient use of the electromagnetic spectrum and orbital space, and to ensure the technical compatibility of the space segment with existing communications facilities in the United States and in foreign countries.

"(b) The President is authorized to issue instructions to the corporation in connection with its relationships and activities with foreign governments and international entities and other organizations (including the organization) as may be necessary to ensure that such relationships and activities are consistent with the foreign policy of the United States.

"(c) The Commission shall—

"(1) institute such proceedings as may be necessary to carry out the provisions of sections 703(b) and 703(e) of this title;

"(A) the Secretary of Commerce, for the purpose of assisting the Secretary in supervising the corporation pursuant to subsection (a)(1) of this section; and

"(B) the President, to assist the President in his issuance of instructions to the corporation pursuant to subsection (b) of this section;

"(3) grant such authorizations as may be necessary under title II and title III of this Act to enable the corporation—

"(A) to provide to the public, pursuant to section 703(b)(1)(B) of this title, space segment channels of communication obtained from the organization; and

"(B) to construct and operate such satellite earth terminal stations in the United States as may be necessary to provide sufficient access to the space segment;

"(4) establish procedures to provide for the continuing review of the telecommunications activities of the corporation as the United States signatory to the operating agreement or other like instruments; and

"(5) prescribe such rules as may be necessary to carry out the provisions of this title.

"(d) The Commission is authorized to issue such instructions to the corporation with respect to regulatory matters within the jurisdiction of the Commission.

"STUDY OF STRUCTURE AND ACTIVITIES OF COMMUNICATIONS SATELLITE CORPORATION

"SEC. 705. (a) The Commission shall conduct a study of the corporate structure and operating activities of the corporation, with a view toward determining whether any changes are required to insure that the corporation is able to fulfill its obligations and carry out its functions under this title, this Act, and the Communications Satellite Act of 1962.

"(b) The Commission shall transmit a report to the Congress no later than 12 months after the date of the enactment of this title relating to the study of the corporation conducted under subsection (a) of this section. Such report shall contain a detailed statement of the findings and conclusions of such study, any action taken by the Commission related to such findings and conclusions, and any recommendations of the Commission for such legislative or other action as the Commission considers necessary or appropriate.

"STUDY OF PUBLIC MARITIME COAST STATION SERVICES

"SEC. 706. (a) The Commission shall conduct a study of public maritime coast station services, as that term is defined in 47 CFR Part 81, with particular emphasis on high seas services, with a view toward determining whether the rules and regulations of the Commission and the assignment of licenses and radio frequencies in effect on the date of the enactment of this title should be subject to any alteration in order to establish a systematic approach for the provision of modern and effective maritime telecommunications systems.

"(b) The Commission shall transmit a report to the Congress no later than 18 months after the date of the enactment of this title relating to the study of public maritime coast station services conducted under subsection (a) of this section. Such report shall contain a detailed statement of the findings and conclusions of such study, any action taken by the Commission related to such findings and conclusions, and any recommendations of the Commission for such legislative or other action as the Commission considers necessary or appropriate.

"STUDY OF RADIO NAVIGATION SYSTEMS

"SEC. 707. (a) The President, in conjunction with Government agencies which will or may be affected by the development of a Government-wide radio navigation plan, shall conduct a study of all Government radio navigation systems to determine the most effective manner of reducing the proliferation and overlap of such systems. The objective of such study shall be the development of such a plan.

"(b) The President shall transmit a report to the Congress no later than 12 months after the date of the enactment of this title relating to the study conducted under subsection (a) of this section. Such report shall contain a detailed statement of the findings and conclusions of such study, any action taken by the President related to such findings and conclusions, and any recommendations of the President for such legislative or other action as the President considers necessary or appropriate for implementation of a Government-wide radio navigation plan.".

The Clerk read the House amendment to the Senate amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That the Communications Satellits Act of 1962 is amended by adding at the end thereof the following new title:

"TITLE V—INTERNATIONAL MARITIME SATELLITE TELECOMMUNICATIONS

"SHORT TITLE

"SEC. This title may be cited as the 'International Maritime Satellite Telecommunications Act'.

"DECLARATION OF POLICY AND PURPOSE

"SEC. 502. (a) The Congress hereby declares that it is the policy of the United States to provide for the participation of the United States in the International Maritime Satellite Organization (hereinafter in this title referred to as 'INMARSAT') in order to develop and operate a global maritime satellite telecommunications system. Such system shall have facilities and services which will serve maritime commercial and safety needs of the United States and foreign countries.

"(b) It is the purpose of this title to provide that the participation of the United States in INMARSAT shall be through the Communications Satellite Corporation, which constitutes a private entity operating for profit, and which is not an agency or establishment of the Federal Government.

"DESIGNATED OPERATING ENTITY

"SEC. 503. (a)(1) The Communications Satellite Corporation is hereby designated as the sole operating entity of the United States for participation in INMARSAT, for the purpose of providing international maritime satellite telecommunications services.

"(2) The corporation also shall have authority to participate in any other maritime satellite telecommunications system on an interim basis to serve the maritime commercial and safety needs of the United States through an interim operating arrangement in accordance with subsection (b).

"(3) The corporation may participate in and is hereby authorized to sign the operating agreement or other pertinent instruments of INMARSAT as the sole designated operating entity of the United States.

"(b)(1) The corporation may participate in any maritime satellite telecommunications system under subsection (a)(2) only if—

"(A) the corporation signs the operating agreement of INMARSAT before beginning such participation;

"(B) such participation is in the nature of an interim operating arrangement remaining in effect only until INMARSAT begins its operations; and

"(C)(i) in the case of participation which may be undertaken only pursuant to a treaty or executive agreement, such treaty or executive agreement is in effect; or

"(ii) in any case in which participation does not require any treaty or executive agreement, the President does not disapprove such participation during the period of 60 calendar days after the corporation notifies the President of such proposed participation.

"(2) If the corporation participates in an interim operating arrangement with a maritime satellite telecommunications system under this subsection, the provisions of this title relating to participation of the corporation in INMARSAT also shall apply to such interim participation.

"(3) Any disapproval by the President under paragraph (1)(C)(ii) shall be published in the Federal Register as soon as practicable after the date of such disapproval.

"(c) The corporation—

"(1) may own and operate satellite earth terminal stations in the United States;

"(2) shall interconnect such stations, and the maritime satellite telecommunications provided by such stations, with the facilities and services of United States domestic common carriers and international common carriers, other than any common carrier or other entity in which the corporation has any ownership interest, as authorized by the Commission;

"(3) shall interconnect such stations and the maritime satellite telecommunications provided by such stations, with the facilities and services of private communications systems, unless the Commission finds that such interconnection will not serve the public interest; and

"(4) may establish, own, and operate the United States share of the jointly owned international space segment and associated ancillary facilities.

"(d) The corporation shall be responsible for fulfilling any financial obligation placed upon the corporation as a signatory to the operating agreement or other pertinent instruments, and any other financial obligation which may be placed upon the corporation as the result of a convention or other instrument establishing INMARSAT. The corporation shall be the sole United States representative in the managing body of INMARSAT.

"(e)(1) Any person, including the Federal Government or any agency thereof, may be authorized, in accordance with paragraph (2) or paragraph (3), to be the sole owner or operator, or both, of any satellite earth terminal station if such station is used for the exclusive purposes of training personnel in the use of equipment associated with the operation and maintenance of such station, or in carrying out experimentation relating to maritime satellite telecommunications services.

"(2) If the person referred to in paragraph (1) is the Federal Government or any agency thereof, such satellite earth terminal station shall have been authorized to operate by the executive department charged with such responsibility.

"(3) In any other case, such satellite earth terminal station shall have been authorized by the Commission.

"(f) The Commission may authorize ownership of satellite earth terminal stations by persons other than the corporation at any time the Commission determines that such additional ownership will enhance the provision of maritime satellite services in the public interest.

"(g) The Commission shall determine the operational arrangements under which the corporation shall interconnect its satellite earth terminal station facilities and services with United States domestic common carriers and international common carriers, other than any common carrier, system, or

other entity in which the corporation has any ownership interest, and private communications systems when authorized pursuant to subsection (c)(3) for the purpose of extending maritime satellite telecommunications services within the United States and in other areas. The initial determination of operational arrangements shall be made by the Commission no later than 6 months after the effective date of this title, and the Commission shall thereupon transmit to the Congress a report relating to such determination.

"(h) Notwithstanding any provision of State law, the articles of incorporation of the corporation shall provide for the continued ability of the board of directors of the corporation to transact business under such circumstances of national emergency as the President or his delegate may determine would not permit a prompt meeting of the number of directors otherwise required to transact business.

"IMPLEMENTATION POLICY

"SEC. 504. (a) The Secretary of Commerce shall—

"(1) coordinate the activities of Federal agencies with responsibilities in the field of telecommunications (other than the Commission), so as to ensure that there is full and effective compliance with the provisions of this title;

"(2) take all necessary steps to ensure the availability and appropriate utilization of the maritime satellite telecommunications services provided by Inmarsat for general governmental purposes, except in any case in which a separate telecommunications system is required to meet unique governmental needs or is otherwise required in the national interest;

"(3) exercise his authority in a manner which seeks to obtain coordinated and efficient use of the electromagnetic spectrum and orbital space, and to ensure the technical compatibility of the space segment with existing communications facilities in the United States and in foreign countries; and

"(4) take all necessary steps to determine the interests and needs of the ultimate users of the maritime satellite telecommunications system and to communicate the views of the Federal Government on utilization and user needs to Inmarsat.

"(b) The President shall exercise such supervision over, and issue such instructions to, the corporation in connection with its relationships and activities with foreign governments, international entities, and INMARSAT as may be necessary to ensure that such relationships and activities are consistent with the national interest and foreign policy of the United States.

"(c) The Commission shall—

"(1) institute such proceedings as may be necessary to carry out the provisions of section 503 of this title;

"(2) make recommendations to the President for the purpose of assisting him in his issuance of instructions to the corporation;

"(3) grant such authorizations as may be necessary under title II and title III of the Communications Act of 1934 to enable the corporation—

"(A) to provide to the public, in accordance with section 503(c)(2) of this title, space segment channels of communication obtained from Inmarsat; and

"(B) to construct and operate such satellite earth terminal stations in the United States as may be necessary to provide sufficient access to the space segment;

"(4) grant such other authorizations as may be necessary under title II and title III of the Communications Act of 1934 to carry out the provisions of this title;

"(5) establish procedures to provide for the continuing review of the telecommunications activities of the corporation as the United States signatory to the operating agreement or other pertinent instruments; and

"(6) prescribe such rules as may be necessary to carry out the provisions of this title.

"(d) The Commission is authorized to issue instructions to the corporation with respect to regulatory matters within the jurisdiction of the Commission. In the event an instruction of the Commission conflicts with an instruction of the President pursuant to subsection (b), the instructions issued by the President shall prevail.

"STUDY OF STRUCTURE AND ACTIVITIES OF COMMUNICATIONS SATELLITE CORPORATION

"SEC. 505. (a) The Commission shall conduct a study of the corporate structure and operating activities of the corporation, with a view toward determining whether any changes are required to ensure that the corporation is able to effectively fulfill its obligations and carry out its functions under this Act and the Communications Act of 1934.

"(b) The Commission shall transmit a report to the Congress not later than 18 months after the effective date of this title relating to the study of the corporation conducted under subsection (a). Such report shall contain a detailed statement of the findings and conclusions of such study, any action taken by the Commission related to such findings and conclusions, and any recommendations of the Commission for such legislative or other action as the Commission considers necessary or appropriate.

"STUDY OF PUBLIC MARITIME COAST STATION SERVICES

"SEC. 506. (a) The Commission shall conduct a study of public maritime coast station services, with particular emphasis on high seas services, with a view toward determining whether the rules and regulations of the Commission and the assignment of licenses and radio frequencies in effect on the effective date of this title should be subject to any alteration in order to establish a systematic approach for the provision of modern and effective maritime telecommunications systems.

"(b) The Commission shall transmit a report to the Congress not later than 12 months after the effective date of this title relating to the study of public maritime coast station services conducted under subsection (a). Such report shall contain a detailed statement of the findings and conclusions of such study, any action taken by the Commission related to such findings and conclusions, and any recommendations of the Commission for such legislative or other action as the Commission considers necessary or appropriate.

"STUDY OF RADIO NAVIGATION SYSTEMS

"SEC. 507. (a) The President, in conjunction with Government agencies which will or may be affected by the development of a Government-wide radio navigation plan, shall conduct a study of all Government radio navigation systems to determine the most effective manner of reducing the proliferation and overlap of such systems. The objective of such study shall be the development of such a plan.

"(b) The President shall transmit a report to the Congress no later than 12 months after the effective date of this title relating to the study conducted under subsection (a) of this section. Such report shall contain a detailed statement of the findings and conclusions of such study, any action taken by the President related to such findings and conclusions, and any recommendations of the President for such legislation or other action as the President considers necessary or appropriate for implementation of a Government-wide radio navigation plan.

"DEFINITIONS

"SEC. 508. For purposes of this title—

"(1) the term 'person' includes an individual, partnership, association, joint stock company, trust, or corporation;

"(2) the term 'satellite earth terminal station' means a complex of communications equipment located on land, operationally interconnected with one or more terrestrial communications systems, and capable of transmitting telecommunications to, or receiving telecommunications from, the space segment;

"(3) the term 'space segment' means any satellite (or capacity on a satellite) maintained under the authority of INMARSAT, for the purpose of providing international maritime telecommunications services, and tracking, telemetry, command, control, monitoring, and related facilities and equipment required to support the operation of such satellite; and

"(4) the term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.".

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3151) entitled "An act to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979, and for other purposes."

The message also announced that the Secretary of the Senate be directed to request the House of Representatives to return to the Senate the bill (H.R. 12929) entitled "An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes," together with all accompanying papers.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 11002. An act to provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies; and

H.R. 13650. An act to authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting residual radioactive material at existing sites, to provide for the regulation of uranium mill

tailings under the Atomic Energy Act of 1954, and for other purposes.

CONFERENCE REPORT ON S. 995, PREGNANCY DISABILITY

Mr. HAWKINS (on behalf of Mr. PERKINS) filed the following conference report and statement on the Senate bill (S. 995) to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy:

CONFERENCE REPORT (H. REPT. NO. 95–1786)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 995) to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That section 701 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new subsection:

"(k) The terms 'because of sex' or 'on the basis of sex' include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in section 703 (h) of this title shall be interpreted to permit otherwise. This subsection shall not require an employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term, or except where medical complications have arisen from an abortion: *Provided*, That nothing herein shall preclude an employer from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion.".

SEC. 2. (a) Except as provided in subsection (b), the amendment made by this Act shall be effective on the date of enactment.

(b) The provisions of the amendment made by the first section ot this Act shall not apply to any fringe benefit program or fund, or insurance program which is in effect on the date of enactment of this Act until 180 days after enactment of this Act.

SEC. 3. Until the expiration of a period of one year from the date of enactment of this Act or, if there is an applicable collective-bargaining agreement in effect on the date of enactment of this Act, until the termination of that agreement, no person who, on the date of enactment of this Act is providing either by direct payment or by making contributions to a fringe benefit fund or insurance program, benefits in violation with this Act shall, in order to come into compliance with this Act, reduce the benefits or the compensation provided any employee on the date of enactment of this Act, either directly or by failing to provide sufficient contributions to a fringe benefit fund or insurance pogram: *Provided*, That where the costs of such benefits on the date of enactment of this Act are apportioned between employers and employees, the payments or contributions required to comply with this Act may be made by employers and employees in the same proportion: *And provided further*, That nothing in this section shall prevent the readjustment of benefits or compensation for reasons unrelated to compliance with this Act.

And the House agree to the same.

CARL D. PERKINS,
AUGUSTUS F. HAWKINS,
JOHN H. DENT,
EDWARD P. BEARD,
MICHAEL O. MYERS,
JOSEPH A. LE FANTE,
BALTASAR CORRADA,
ALBERT A. QUIE,
RONALD A. SARASIN,
JAMES M. JEFFORDS,
CARL D. PURSELL,
Managers on the Part of the House.

HARRISON WILLIAMS,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
GAYLORD NELSON,
DON RIEGLE,
J. K. JAVITS,
RICHARD S. SCHWEIKER,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 995) to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House to the text of the bill with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

AMENDMENTS TO CIVIL RIGHTS ACT OF 1964

Senate bill

The Senate bill amended section 701 of the Civil Rights Act of 1964 by adding a new subsection (k) which broadens the definition of sex discrimination in the Act to include discrimination on the basis of pregnancy, childbirth, or related medical conditions. It also made clear that fringe benefit programs must treat women affected by these conditions equally to other employees on the basis of their ability or inability to work; and that nothing in section 703(h) of the Act may be interpreted to permit otherwise.

House amendment

The House amendment was the same as the Senate bill, except that the House amendment included a provision allowing employers to deny health, disability, and sick leave benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term. The House amendment also expressly permitted employers to provide abortion benefits, and bargaining agreements providing abortion benefits were preserved by the House amendment.

Conference substitute

The Senate recedes with an amendment. The amendment contained in the conference substitute retains the provisions of the Senate bill which add a new subsection (k) to section 701 of the Civil Rights Act of 1964. The amendment provides that this new subsection shall not require an employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term, or except where medical complications have arisen from an abortion; provided that nothing in the subsection shall preclude an employer from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion.

Because the conference substitute applies to all situations in which women are "affected by pregnancy, childbirth, and related medical conditions," its basic language covers decisions by women who chose to terminate their pregnancies. Thus, no employer may, for example, fire or refuse to hire a woman simply because she has exercised her right to have an abortion.

The exclusion of abortion benefits from the conference substitute is intended to be limited to benefits for the abortion itself. If a woman suffers complications from an abortion, medical payments and disability or sick leave benefits for the treatment of the complications would be covered.

EFFECTIVE DATE

Senate bill

The Senate bill specified an immediate effective date for the prohibition of discrimination on the basis of pregnancy, childbirth, or related medical conditions. The Senate bill also specified an effective date of 180 days after the date of enactment for the receipt of equal benefits under fringe benefit programs.

House amendment

The House amendment was the same as the Senate bill.

Conference substitute

The conference substitute contains the provisions of the Senate bill.

REDUCTION OF BENEFITS

Senate bill

The Senate bill prohibited the reduction of benefits as means of compliance with the Act for a period of 1 year after the date of enactment, or until the expiration of any applicable collective bargaining agreement. The Senate bill also made clear the fact that the cost of increasing benefits may be apportioned between employers and employees, if present costs are apportioned, and that benefits may be reduced at any time for reasons other than compliance with this legislation.

House amendment

The House amendment was the same as the Senate bill.

Conference substitute

The conference substitute contains the provisions of the Senate bill.

CARL D. PERKINS,
AUGUSTUS F. HAWKINS,
JOHN H. DENT,
EDWARD P. BEARD,
MICHAEL O. MYERS,
JOSEPH A. LE FANTE,
BALTASAR CORRADA,
ALBERT H. QUIE,
RONALD A. SARASIN,
JAMES M. JEFFORDS,
CARL D. PURSELL,
Managers on the Part of the House.

HARRISON WILLIAMS,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
GAYLORD NELSON,
DON RIEGLE,
J. K. JAVITS,
RICHARD S. SCHWEIKER,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

IN THE MATTER OF REPRESENTATIVE JOHN J. McFALL

Mr. FLYNT. Mr. Speaker, I offer a privileged resolution (H. Res. 1415) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1415

Resolved, That the House of Representatives adopt the Report by the Committee on Standards of Official Conduct dated October 6, 1978. In the Matter of Representative JOHN J. McFALL of California.

The SPEAKER. The gentleman from Georgia (Mr. FLYNT) is recognized for 1 hour.

Mr. FLYNT. Mr. Speaker, for the purposes of debate only, I yield 20 minutes to the gentleman from South Carolina (Mr. SPENCE) and also for the purposes of debate only, I yield 20 minutes to the gentleman from California (Mr. McFALL) and pending that I yield myself such time as I may consume.

The SPEAKER. The gentleman is recognized.

Mr. FLYNT. Mr. Speaker, this resolution relates to the matter of Representative JOHN J. McFALL, a Representative from the State of California.

On the basis of evidence which has been gathered by the committee, and which is set forth in length in the committee report accompanying this resolution, and which had been painstakingly reviewed by the committee in open session, the committee filed a Statement of Alleged Violation against Mr. McFALL on July 12 of this year. The Statement of Alleged Violation contained three counts. After Mr. McFALL's lawyer received full discovery of materials relevant to his case, after hearing arguments from Mr. McFALL's attorney in support of a motion to dismiss the charges, and after hearing from Mr. McFALL himself, the committee voted to hold a public hearing to resolve the charges. At the hearing, Mr. McFALL was ably represented by counsel, was permitted, through counsel, to cross examine witnesses called by the staff and was permitted to subpena, and in fact did subpena, witnesses to testify on his behalf.

After the close of the hearing, and after receiving both written and oral arguments from counsel on both sides, the committee determined, by a vote of 8 to 3, that one of the three counts in the Statement of Alleged Violation had been sustained by clear and convincing evidence. The committee decided, in its findings of fact, that Mr. McFALL did receive a $3,000 campaign contribution from Mr. Tongsun Park in October 1974 which he did not report as a campaign contribution as the law in existence at that time required. The committee found that the other two charges were not sustained.

The committee then voted, 8 to 3, that Mr. McFALL should be reprimanded and that the adoption of this report shall constitute such reprimand. The facts relating both to the count which was sustained and the counts which were not sustained are clearly and succinctly set forth in the report and in the sworn testimony. Summaries of those facts prepared by the special staff and by the attorneys for Representative McFALL, are contained in appendices A and B of this report.

The testimony that this $3,000 was a campaign contribution is made clear by the testimony of him who gave it and the testimony of him who received it and by the testimony of him on whose behalf it was received.

Mr. Ray Barnes, at that time administrative assistant to Mr. McFALL, on one of his later appearances before the committee told the committee that he had requested from the messenger of Mr. Park, one John Gibbons, permission to change this from a contribution in the nature of a campaign contribution and asked if it could be used in Mr. McFALL's then existing office account.

Mr. John Gibbons of whom Mr. Ray Barnes testified he had asked that question, testified that he had no recollection of Mr. Ray Barnes or of anyone else, either directly or indirectly, asking him for permission to change the nature of the campaign contribution.

Mr. Ray Barnes then subsequently testified that perhaps he had talked with somebody else in the office of Mr. Tongsun Park and of Mr. John Gibbons, but no such person's name was ever given to the committee, and no such person was ever brought to testify that this was other than a campaign contribution, and that Mr. McFALL and Mr. Ray Barnes assumed that they had the right to change the nature of the contribution from that which the donor intended, as clearly expressed by a note in writing, saying, "Good luck in your campaign," or "Good luck in the upcoming election," or words to that effect.

Let me say, Mr. Speaker, that the committee found that the allegations in Count 1 had been sustained.

Mr. Speaker, let me say that JACK McFALL is a man with whom I have served in this body for most of my service here and for all of his service here. He is a man with whom I proudly served on the Committee on Appropriations of the House of Representatives, and a man next to whom I sat on the Subcommittee on Defense of the Committee on Appropriations. Let me say that I consider JACK McFALL the same good friend of mine that he has always been during the period of our service. I commend him for his services to his district, to his State, and to our Nation, which we both love. However, if campaign expenditure reporting acts of the United States of America are going to mean anything, Mr. Speaker, I submit that it is the responsibility of those who receive them to report them, to turn them back, or to get clear and unmistakable authority from him who gave them to change them from the nature of a campaign contribution.

In asking the House of Representatives to sustain the recommendations of this committee, let me say clearly, as Mr. McFALL has said so many times, that he appreciates the fact that the committee itself dismissed the two charges which would have reflected adversely on his honor, his honesty, and his integrity. The committee found, by a majority vote, that the last two charges had not been sustained. The committee found, by a vote of 8 to 3, that the charges contained in the statement of alleged violations in count 1 had been sustained by clear and convincing evidence.

Mr. Speaker, based upon the testimony which appears in the report, which, if necessary, I could relate by chapter and verse, paragraph and line here today, but for reasons of compassion I choose not to do so, Mr. Speaker, I ask that the House of Representatives sustain the Committee on Standards of Official Conduct in the recommendation that Mr. McFALL, the respondent in this matter, be reprimanded and that by the adoption of this resolution, the reprimand be considered as having been administered.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER. The Chair recognizes the gentleman from South Carolina (Mr. SPENCE).

Mr. SPENCE. I yield myself 3 minutes.

Mr. Speaker, as I have said before, this is not an easy task. We did not ask for this job, but it has to be done. We spent months and months and months compiling the evidence which is contained within this publication. We did not expect today to come before the Members and lay all of this out. We simply do not have the time, and I doubt very seriously if many would be here to hear it. We have had public hearings open for anyone to come and spend as much time as he or she wanted to obtain the answers to any of these questions that you may now have. The evidence is here in this report for all of you to read.

As I stated earlier, our decisions have been based on the facts contained within these reports. I believe the facts compel the conclusion reached by eight members of our committee that the gentleman from California (Mr. McFALL) received $3,000 as a cash campaign contribution from Tongsun Park in October 1974, and he did not report this as the law requires. We find that the gentleman from California (Mr. McFALL) has conducted himself in a manner which did not reflect creditably on the House of Representatives and is, therefore, guilty of a violation of rule 1 of the Code of Conduct.

The SPEAKER. The Chair recognizes the gentleman from California (Mr. McFALL) for 20 minutes.

Mr. McFALL. Mr. Speaker, today the Members of this House are asked to consider the recommendation of the Com-

mittee on Standards of Official Conduct that I receive a reprimand for failing to report a campaign contribution.

The committee—after an investigation that began February 9, 1977—has made its determination that a $3,000 donation to me from Tongsun Park constituted a campaign contribution for which I was bound by the Federal Election Campaign Act to report—rather than a donation to my office account, which I was not required to report.

It is this finding of the committee that forms the basis for its bringing a recommendation for reprimand.

The violation of statute as cited by the committee is a civil violation—one that heretofore has been adjudicated administratively by the Federal Election Commission.

Nevertheless, I am ready to accept the decision of the House.

Each of us who serve in the Congress has been chosen by the people to be the lawmakers for all.

As you and every other individual in our country, I am required to abide by the laws we make.

Consequently, I accept full responsibility for any violation by me of any law or rule of this House.

Throughout the past 2 years that the news media, then the Department of Justice, and subsequently the Committee on Standards of Official Conduct have been investigating the Korean matter, I have been forthright and candid with them and the people I am privileged to serve. Voluntarily and readily, I have provided all information, files and related documents, and answered any and all questions that would assist in arriving at the truth.

I know first hand the degree to which the committee has diligently pursued its directive under House Resolution 252.

As I stated to the committee in open hearing and to my constituents many times, I welcomed the investigation and the opportunity it provided me to place the record in full view for all to examine and judge.

Following its lengthy investigation, the committee has judged me innocent of involvement in any situation of real or apparent influence in the performance of my governmental duties.

Furthermore, it has judged me innocent of misusing funds donated to me for my office account.

In this regard, the committee has affirmed my honesty and integrity, and has rejected any allegation that I participated in any situation involving improper influence.

For this I am grateful.

The committee, however, has decided that a $3,000 donation should have been reported as a campaign contribution.

It should be borne in mind that the $3,000 had been legally and properly placed in my office account, whether or not it had been reported as a campaign contribution.

As the evidence showed, there was confusion in 1974 in the interpretation of the campaign law on this point. Whether or not the donation was in fact a reportable campaign contribution is a question about which reasonable men and women can—and still do—disagree. However, after lengthy deliberations the committee resolved this legal question against me.

The committee decided that I made a mistake, even though I believed at the time that my actions were in full compliance with the law and rules of the House.

I am thankful that in 1978, the Congress has clearer laws and regulations to guide us all in the handling of contributions. These rules will protect all candidates and help to assure confidence in our electoral system.

I accept their determination that I made a mistake, and say to you and the people I represent that I am sincerely sorry for having made it.

I respect this House, and hold the trust of the people in me to be the highest honor that can be bestowed by one person upon another.

I look to the future in the hope that I can continue to serve the people and this House.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. SISK).

Mr. SISK. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, I take this time and I will try to make this very brief, but I want to say this, that there is no Member of this House that I hold in higher regard than I do JOHN MCFALL. JOHN and I have served side by side in the great valley of California for 22 years. I have been here 24 years.

I first met JOHN in 1956. We represent almost identical interests. Having observed my colleagues in California and in the kind of jobs they are doing, I simply want the RECORD to show that as one who has represented an adjoining district and has dealt day in and day out, year in and year out, with the same people that JOHN MCFALL has dealt with, that his integrity has been beyond question in dealing with those people. He has represented that district in a superlative manner. In fact, in my opinion, no district in this Nation has received more full, more complete attenion, than that which JOHN has rendered to the people of Stanislaus and San Joaquin Counties and what is now a part of my district, Merced County.

I sat in many meetings. I have been in positions where he and I were under great pressure. I am here to say simply, Mr. Speaker, on this occasion, irrespective of what this committee may have found or what the charges may have been, that I am firmly convinced in my own mind that JOHN MCFALL did that which he believed to be the honorable thing.

In my own experience, he has never varied from the truth or from the integrity on which I think he sets a very high standard.

So, Mr. Speaker, as one who has lived very close to JOHN, his good wife, and his family, I want to say that I do not buy for 1 minute this interpretation. And here I am not indicting my good friend, the gentleman from Georgia (Mr. FLYNT) with whom I have served throughout my 24 years in Congress. He knows the high respect in which I hold him.

But I have had an opportunity to read the report which the committee has been kind enough to make available to me, and I am completely and thoroughly convinced that Mr. MCFALL conducted himself beyond reproach, and at no point and at no time did he feel that he was being dishonest, not only with the people of his district but with the Members of the House.

So I for one want to commend him on the outstanding job he has done, and certainly my hope and my prayer is that the people of his district see fit to return him because of the high quality and the outstanding service that he has rendered.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to my colleague, the gentleman from Texas.

Mr. ECKHARDT. Mr. Speaker, I have not heard in this discussion from the committee any refutation of the proposition that the funds received were used in fact in the office account. I have not heard anything that would refute that proposition.

I would ask if perhaps the gentleman would yield to the chairman of the committee to confirm that proposition.

Mr. FLYNT. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to my colleague, the gentleman from Georgia.

Mr. FLYNT. Mr. Speaker, I will respond to the question of the gentleman from Texas (Mr. ECKHARDT) by saying, as I said in my earlier statement, that this $3,000 was delivered on behalf of Tongsun Park by John Gibbons in an envelope with a note saying, "Good luck in your campaign" or "Good luck in the election" or words to that effect.

Let me tell the Members, if the gentleman will yield further—and if he needs more time, I can give it to him—the reason why I say, "Good luck in your campaign" or "Good luck in the election" or, quoting myself, "words to that effect" is because after this election got started, that note was destroyed.

Let me further answer the gentleman from Texas (Mr. ECKHARDT) by saying that Ray Barnes, acting in behalf of JOHN MCFALL, told the investigators on his fifth appearance before them, not during his first, not during his second, not during his third, and not during his fourth appearance before the committee and the committee staff—and I say this was the committee and committee staff both—but on the fifth time that he appeared before his committee that he asked John Gibbons for permission to convert it or change it from a campaign contribution, which everybody conceded it was, a campaign contribution which had to be reported, and to use it in his

office account, which did not have to be reported.

Now, if the gentleman will yield further, let me tell him what happened after that.

Mr. ECKHARDT. Mr. Speaker, would the gentleman first yield to me for just a moment?

Mr. SISK. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Speaker, I was not really raising a question about the committee's determination on that point. The only thing I had asked was if there was any evidence whatsoever that the money was not in fact deposited in the office account and expended properly through the office account. That is the only question I had.

Mr. FLYNT. All right, I will answer that question, if the gentleman will yield further.

Let me say this: this contribution, for whatever purpose it came, did not come in dribbles; it came in one lump cash sum of $3,000.

But how was it deposited, and how was it used? It was deposited, $500, $500, $500 all on different dates, then $500 more, and $500 more, and then $300. Now, what happened to the other $200, I do not know.

Mr. ECKHARDT. In what account?

Mr. FLYNT. I do not recall. And at that time the gentleman knows that there was no accounting to anybody in Government, in the House, or on the face of the Earth except the Member's own conscience for what he did with those office accounts, which the House of Representatives in its good judgment has outlawed.

I just wish that this committee had undertaken to outlaw them long before they were.

Mr. McFALL. Mr. Speaker, will the gentleman yield to me?

Mr. SISK. If I can make one more comment, then I certainly will yield to the gentleman.

Mr. Speaker, let me just say, as I said to my good friend, the gentleman from Georgia, I am not indicting the gentleman, nor am I indicting the committee. I appreciate the courage of my colleague, the gentleman from California (Mr. McFALL) and the committee on the fact that they did dismiss several of the charges. I think the gentleman knows my regard for him.

Mr. FLYNT. And if the gentleman will yield, the gentleman from California (Mr. McFALL) knows my regard for him.

Mr. SISK. I know that.

I simply took the floor on this occasion to verify, after 22 years of close association in all variety of circumstances and cases, the honesty and the integrity of my good friend, JOHN McFALL.

Mr. Speaker, let me just close my remarks—and then I will yield to you, JOHN—on the statement that, if my colleague, the gentleman from Georgia (Mr. FLYNT), and others, will remember, during the late 1960's and early 1970's there was lots of talk about office accounts. Some people had offices accounts. Some people did not. I happen to never have had an office account. I had a little discussion with a competitor of mine one time, who I unseated, by the way, because he had one, and I criticized the ethics of his office account. But again, it was totally legal. And, so far as that goes, it was generally concluded to be ethical. And I think in 1974 we came to that period of time during which really I think there is a gray area there. Let me say that I am not here to indict or condemn the committee. I recognize the terrible responsibility and the job that my colleagues, the gentleman from North Carolina (FLOYD SPENCE), and the gentleman from Georgia (JACK FLYNT), have. It is a job I would not want. Thank God, you fellows have got it and I have not. So I do not want my colleagues to infer that this is critical. But I simply wanted to verify, because I think no one knows JOHN much better than I do.

JOHN, I yield to you for any further comment you want to make.

Mr. McFALL. Mr. Speaker I thank my colleague for yielding.

I just want to answer the question asked by the gentleman from Texas (Mr. ECKHARDT). No, this money was not used for campaign purposes. It was placed in the office account and used for proper purposes, for my office account.

No. 2, with reference to the comment made by the gentleman from Georgia, there was in existence a law passed by the House in October 1974, the Campaign Act of 1974, which required the Federal Elections Commission to make rules and regulations concerning the reporting of office accounts. So there was a law in existence at that time. I just wanted the record to show that.

Mr. SISK. Mr. Speaker, I yield back the balance of my time.

Mr. SPENCE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. CAPUTO).

Mr. CAPUTO. I thank the gentleman for yielding.

Mr. Speaker, I just wanted to talk briefly on the question of the use of money that was given to Mr. McFALL for campaign purposes but was put in an office account.

If you turn to exhibit M15, on page 403 of your committee report, there is a copy of the ledger of that office account, and you will see there that there were several interest-free loans to Mr. McFALL, to members of his staff, and to members of his family. The total amount loaned was $6,600. Perhaps most pertinent to this case is a loan to Mr. McFALL from the office account of $1,500 shortly after the last installment of Mr. Park's contribution was put into the account. As indicated, that loan was used to finance the purchase of an auto for Mr. McFALL's daughter so that she would not have to pay higher interest rates. The loan was interest free.

Mr. McFALL. Mr. Speaker, would the gentleman yield?

Mr. CAPUTO. Yes, sir.

Mr. McFALL. You know, the gentleman is citing evidence in the charge that was rejected by the committee.

Mr. CAPUTO. I am referring to an exhibit.

Mr. McFALL. You are referring to an exhibit. You are also referring to a charge that was rejected by the committee. Does the gentleman from New York consider that fair and relevant?

Mr. CAPUTO. I think, without raising a new charge against you, would not be fair and not be relevant. But I am referring to an exhibit, not a new charge. It seems to me this point at this——

Mr. McFALL. If the gentleman would yield, there are a lot of exhibits in there that have to do with the two charges that were rejected by the committee.

Mr. CAPUTO. I will be happy to yield a little further. Let me just finish my point. I think the exhibit is relevant and fair because the central issue was—since you conceded that you got a campaign contribution and put it into an office account—what you did with the money after it got in the office account.

If I were convinced that you had used it for congressional purposes, I might have a different view of this case. But I think the exhibit tends to show that you used it for noncongressional purposes, that indeed you used it for personal purposes.

Mr. McFALL. Will the gentleman yield again?

Mr. CAPUTO. Yes, sir.

Mr. McFALL. Did not the committee charge me with conversion of the funds and improperly borrowing it from the account, and was that not rejected by the committee?

Mr. CAPUTO. That is right.

Mr. McFALL. And does it now become relevant to cite all this evidence of a charge which has been rejected by the committee?

Mr. CAPUTO. I was trying to pursue——

Mr. McFALL. The gentleman is a lawyer. Does he think that the court would allow him to make that kind of a statement to the jury about evidence that had been rejected?

Mr. CAPUTO. We have questions there.

Mr. FLYNT. Mr. Speaker, will the gentleman yield to me at that point?

Mr. CAPUTO. OK.

Mr. FLYNT. Let me say, Mr. Speaker, let me say in all fairness and objectivity, that on the time—neither on the time of Mr. SPENCE nor on my time—was the question of how this office account money was used brought up. As a matter of fact, if Mr. Speaker will recall, the Chair stated, the chairman of this committee stated in the well of this House that he was not going to relate all of the evidence relating even to count one, and that he was going to do so out of compassion and out of an effort, an objective effort, to be as fair about this thing as is humanly possible, but when questions were asked that allows the chairman of this committee to respond to, the chairman of this committee felt compelled to respond.

The SPEAKER. The time of the gentleman from New York has again expired.

Mr. FLYNT. Mr. Speaker, I yield 2 additional minutes to the gentleman from New York.

Mr. CAPUTO. I would like to respond to the questions that were put to me. I continue to think exhibit M15 is relevant and probably would be admissible as probative of the motive you had in failing to report that as a campaign contribution. I feel further that we are not in a court of law and not bound by the rules of evidence.

It seems the thread of the discussion was this: assuming you used a campaign contribution for your office account, could not that be excused because it is used for legitimate congressional purposes. I do not know about office accounts, but I understand they were used for mailings to constituents and for transportation to see constituents, and although that is not a campaign purpose it is quite arguably a totally ethical purpose.

It is relevant therefore to show that there is some rather specific evidence that you used the Park money not for a campaign purpose and also not for a congressional purpose, but for personal purpose. It is precisely on that point, your personal use of the money from Tongsun Park, that I think the reprimand lies.

Mr. McFALL. Will the gentleman yield?

Mr. CAPUTO. I yield.

Mr. McFALL. The gentleman's point was rejected by the committee by a vote of 9 to 2. Under what kind of reasoning does he bring it up when he—and I will not say who voted, but I assume the gentleman did, and his position was rejected 9 to 2. If the gentleman had been at the hearings—which he was not—he would have known that the law was changed effective January 1, 1975, which said that leftover campaign funds put into an office account could be used for any lawful purpose, and that was undoubtedly the reason that this charge was rejected by a vote of 9 to 2.

And so, what you do is, you bring up evidence of a charge that is completely rejected by your committee, and it seems to me that it bears every resemblance of an attempt at a political smear.

Mr. CAPUTO. I will say to the gentleman from California (Mr. McFALL), I am sorry he reacts that way. It is not my intention to make a politically discrediting comment. I do have the right in front of the full House to bring up any charge that was rejected by the committee. I elected not to do that. It was the gentleman from Texas (Mr. ECKHARDT) who brought up the charge.

The SPEAKER. The time of the gentleman from New York has expired.

Mr. CAPUTO. Mr. Speaker, may I have 1 additional minute?

Mr. SPENCE. I yield the gentleman 1 additional minute.

Mr. ECKHARDT. Mr. Speaker, the gentleman from New York has used my name. Will he yield to me?

Mr. CAPUTO. I do not have the time and I will not yield.

Mr. ECKHARDT. Whoever has the time, will he yield?

Mr. CAPUTO. I will not yield.

It seems to me the gravamen of the charge is whether or not the gentleman acted with judgment that reflects creditably on the House when he received $3,000 from a man of questionable reputation as a campaign contribution and then put that money in an office account, both of which were probably legal actions, but then elected to use the money for an obviously personal expenditure.

We have some direct evidence on how that money in this office account was used. It was used for a patently personal purpose. That may have been the motive for jailing to report the contribution and therein may lie the basis for reprimand.

I am not introducing a new charge. Let us not go over that again. I am not trying to go beyond the scope of this charge. I address evidence of why the gentleman might have failed to report a campaign contribution.

Mr. SPENCE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FLYNT. Mr. Speaker, I promised to yield 2 minutes to the gentleman from Massachusetts (Mr. BURKE), and I do so for purposes of debate only.

Mr. BURKE of Massachusetts. Mr. Speaker, this is a really troublesome problem to most of the Members of this House. I have been in legislative service a long time. I served 10 years in the Massachusetts legislature and 20 years in the U.S. Congress.

What we are dealing with here today is the reputation of three Members of the U.S. Congress. I do not think there is anything nearer or dearer to any person than his own reputation. I voted "no" on the first proposal here, and I intend to vote "no" on this proposal and the next one, because what we are dealing with here is hearsay evidence.

I recall back a short time ago when I was the only Member of the House who voted "present" on the acceptance of a committee report that dealt with a Member of this House, and I was scorched in the newspapers. I was attacked all over the area. In fact, a political huckster in my district from California spread my picture on a political circular with the names of three people who were indicted and convicted and he said: "We have to fight corruption."

But the reason I voted against that was because we had no report before the House. I went to the back of the House Chamber and asked for a copy of the report and they were tied up in bundles. We had 15 minutes before we would vote. I untied one of those bundles and got a report. It contained over 546 pages. One could not digest that report in 3 weeks if he wanted to, and yet we were asked to vote in 15 minutes on the acceptance of that report, and I voted "present."

And I intend to vote "no" today because this is no court of law. We are not operating under the rules of evidence. I am not a lawyer, but I have studied the rules of evidence and I know about the laws of searches and seizures and the rest are and what the constitutional rights of a citizen are.

I say when we deal with a man's reputation here that we have a real obligation. I know there are some Members of this House that want to be on record as being opposed to sin. I know a lot of people who would like to vote against this proposal.

The SPEAKER. The time of the gentleman from Massachusetts has expired.

Mr. FLYNT. Mr. Speaker, I yield the gentleman from Massachusetts 1 additional minute.

Mr. BURKE of Massachuetts. I am retiring this year, but I go back several years ago when I voted against the expulsion of a Member from New York City, and I was scorched for that. But the U.S. Supreme Court upheld my vote at that time.

I do not think this is the place to discuss these problems. We have in the Government the courts, and the executive branch and the legislative branch. We are here to make the laws, and if the law is broken then let it be taken into the proper arena, right into the courts. That is where it should be and not before this House here 3 weeks before an election when every Member here that is running for election is concerned with the image he creates back home.

I voted "present" just a few weeks before a primary the last time because I felt we had no evidence before us, and who has any evidence here today? It is just hearsay. That is what it is.

I think we should vote the right way and protect the reputations of these men who are charged here today. I think it is grossly unfair and I think it is unfair to the gentleman from New York who brings here an exhibit which I believe is a smear on the reputation of the gentleman from California.

I think it is grossly unfair to do it, despite what the news media say. I think we ought to have the courage to vote on the matter when we have the evidence before us. We do not have evidence. We have only hearsay evidence before us.

I do not believe it is a fair way to handle the reputations of Members of the U.S. Congress,

Mr. FLYNT. Mr. Speaker, for the purpose of debate only, I yield 3 minutes to the gentleman from Alabama (Mr. FLOWERS), a member of the committee.

Mr. FLOWERS. I thank the chairman, the gentleman from Georgia (Mr. FLYNT) for yielding me this time.

I do not really have a lot to offer, but it seems to me like in all of these proceedings today that the central issue is whether we are going to continue to operate with a Committee on Standards of Official Conduct made up of Members in whom, I hope, we have trust. I occupied a seat on the Committee this year, not by choice, and the Speaker of the House knows that better than anybody else because he volunteered me for the assignment. But the gentleman from Georgia (Mr. FLYNT) is deserving of the best wishes, the warm respect and the grateful appreciation of every one of us in this House today. And we ought to be, everyone of us, thanking our lucky stars that we did not have to do the job that he has had to do these last 2 years. Because, let me tell you, it has

been a labor of hard and tedious work, and there was not any love in it at all for him or any of us.

Do you think that he has enjoyed for 1 minute having to pour over, on a daily basis, these things? There is no fun in it. There is no fun in it for any of us.

We have had disagreements on the Ethics Committee. Some of us do not agree with some of the tactics of others, and maybe you may not agree with me. I do not know. But let me say this, in the last couple of months I did not have time to participate as fully as I did in the first year and a half, but there were untold hours spent by these committee Members, untold hours spent unselfishly where the central purpose on everybody's mind was to protect the Members by being fair and impartial and yet protect the public interest, too.

What do you expect us to do? I have the greatest respect for the gentleman from Massachusetts and, Lord knows, I love the gentleman from California and the other gentlemen from California, and everybody who has had their name roasted in the press—my name even got in the press on this because I went to one silly party that Tongsun Park gave, and I became one of the 115, as many other Members are. However, the issue is whether you want to let the Ethics Committee or the Standards Committee operate as it has in the past.

There is no way on God's green earth you can haul in here and stack up 50,000 pages of testimony and have the trial carried on here in the House Chamber.

Do you want to do that? No, you want to adjourn this year. You can do what we have done these last 2 years, you can find seats on the committee, because somebody is going to have the opportunity of taking my place next year, and I doubt if there will be very many volunteers, Mr. Speaker, but, just think of what we have tried to do, we have tried to be fair.

The gentleman from Georgia (Mr. FLYNT) is one of the fairest minded men I have ever known in my life. I commend him from the bottom of my heart for his labors because he has worked hard and diligently and I know his interest is in the individual reputations of the Members and in serving the public.

That is why I am standing up, Mr. Chairman, is to thank you on behalf of WALTER FLOWERS for being the man that you are.

I think we are trying to be fair here. If there is a light stroke being administered by the chairman in presenting these charges, or the ranking member—and, incidentally, I would like to reiterate everything that I have said about the chairman to the ranking member of the committee, the gentleman from South Carolina.

FLOYD, you have done a highly commendable job in working in tandem. However, if there has been a light stroke administered, it is because that is the way they want to do it. They are not in here to make out the worst case possible against these Members, because we do not feel that it is substantiated by the evidence. I think the people charged understand that.

If we were down here as prosecuting attorneys, there would be a different scene in this Chamber today. We are not looking for anybody's blood. We are trying to present a fair, moderate, middle-of-the-road case which we think represents a reasonable approach by reasonable people on the Committee on Standards of Official Conduct, and I think the House ought to accept it.

Mr. Speaker, I intend to vote "aye" myself.

Mr. FLYNT. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. ECKHARDT) for purposes of debate only.

Mr. ECKHARDT. Mr. Speaker, I was only trying to establish what the committee found. I do not reflect on their findings. I accepted them on the last vote, and I intend to accept them on this one.

However, as I understand, the committee found that there was no evidence to sustain misuse of the funds which Mr. MCFALL used for his office fund. Therefore, we must conclude on the committee's own finding that those funds were used properly.

My other question was whether or not the money actually went to the office fund, and I understand the answer was yes.

That is all I sought to find out.

Mr. FLYNT. Mr. Speaker, I have no further requests for time.

Mr. SPENCE. Mr. Speaker, I have no further requests for time.

Mr. MCFALL. Mr. Speaker, I have no further requests for time.

Mr. FLYNT. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

IN THE MATTER OF REPRESENTATIVE EDWARD R. ROYBAL

Mr. FLYNT. Mr. Speaker, I offer a privileged resolution (H. Res. 1416) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1416

Resolved, That Representative EDWARD R. ROYBAL be censured and that the House of Representatives adopt the Report of the Committee on Standards of Official Conduct dated October 6, 1978, In the matter of Representative EDWARD R. ROYBAL.

IN THE MATTER OF REPRESENTATIVE EDWARD R. ROYBAL

Mr. FLYNT. Mr. Speaker, I offer a privileged resolution (H. Res. 1416) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. ASHBROOK. Mr. Speaker, my parliamentary inquiry is directed toward the rules and the precedents of the House. I would propound a question to the Chair in my parliamentary inquiry as to whether the resolution is divisible when it comes to a vote.

The SPEAKER. The Chair will state that the gentleman will have to indicate how he wanted to divide the vote.

Mr. ASHBROOK. Mr. Speaker, the resolution says, "That Representative EDWARD R. ROYBAL be censured," which would seem to be divisible under the precedents of the House. The resolution calls upon the House of Representatives to adopt the report and to censure Mr. ROYBAL. I wonder whether or not the resolution can, therefore, be divided into two questions, one being censure and the second being the adoption of the report, which could be by separate votes.

The SPEAKER. The gentleman's rights will be protected. The Chair will examine the precedents with regard to the gentleman's point.

Mr. ASHBROOK. Mr. Speaker, I thank the Chair for that consideration.

The SPEAKER. The gentleman from Georgia (Mr. FLYNT) is recognized for 60 minutes.

Mr. FLYNT. Mr. Speaker, for purposes of debate only, I yield 20 minutes to the gentleman from South Carolina (Mr. SPENCE). For purposes of debate only, I yield 20 minutes to the gentleman from California (Mr. EDWARD R. ROYBAL). Pending that, Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I yield myself 11 minutes and ask that I may be notified when I have used 11 minutes.

Mr. Speaker, let me say again that as chairman of the Committee on Standards of Official Conduct, as a Representative from the State of Georgia, as an individual, and as a compassionate and hopefully merciful human being, the gentleman from Georgia now in the well takes no pleasure, indeed, it is a traumatic and painful experience, to come into the well of the House by direction of a majority of the total membership of the Committee on Standards of Official Conduct to carry out the rules of the House generally and carry out the mandate of House Resolution 252 of the 1st session of the 95th Congress. We do so in compliance with the mandate that this committee shall hold public hearings, not star chamber private proceedings but public hearings, where all who will may attend and see and hear the witnesses testify under oath, hear the counsel for the respondent cross-examine the witnesses for the staff, and hear the counsel for the staff cross-examine witnesses for the respondent, and if the respondent elects to make a sworn statement or give testimony under oath, to cross-examine that respondent also.

Mr. Speaker, this resolution relates to the Honorable EDWARD R. ROYBAL, a Representative from California. He is charged in three counts. He is charged in count 1 in that he did conduct himself in a manner which at all times did not reflect creditably on the House of Representatives and that he did re-

ceive from Tongsun Park a $1,000 campaign contribution on or about August 22 for the purpose of his reelection campaign and failed within 5 days after receipt thereof, or at any later time, to make an accounting thereof to the treasurer of his campaign, including the name of his contributor, or to file a report himself with the Clerk of the House of Representatives including the name of the contributor.

In count 2 the committee found that it had been established by clear and convincing evidence that the campaign contribution which EDWARD R. ROYBAL had received, he did not turn in to his campaign committee, to the treasurer thereof or the chairman thereof, but, indeed, he converted it to his own use and never made any accounting or reporting of it at all.

Mr. Speaker, we come now to count 3.

Count 3 is that he did then and there on four separate occasions when asked if he had received anything of value from Tongsun Park, he replied under oath, after being duly sworn, he replied under oath that he had not.

When asked if he had received anything from a Korean, he responded under oath that he had not.

When asked if he had received anything from an oriental, he testified that he had not.

Tongsun Park testified under oath, and as far as this member of the committee recalls, his testimony was not shaken on cross-examination, that in the office of former Representative Otto Passman, after having been introduced to Mr. EDWARD R. ROYBAL, that he did on or about the 22d of August 1974, give to EDWARD R. ROYBAL "a campaign contribution" to be used in furtherance of Mr. ROYBAL'S campaign.

Mr. ROYBAL has been asked about this on at least four different occasions. He testified that everybody—these are his words—knew Tongsun Park, that he was well known as a lobbyist, that the staff knew him, that everybody in the corridors of the House of Representatives office buildings knew him. Yet when asked if he had received anything of value from him, he replied under oath that he had not.

Mr. Speaker, as the loom that developed this case by the fabric and the cloth came together, it developed that Mr. ROYBAL subsequently admitted that he received from or through Otto Passman, from or through Tongsun Park, a contribution of $1,000, and when asked what he did with it he said that he gave it to one of his secretaries who was serving as campaign treasurer.

Upon examination under oath, this individual testified that no such contribution had been turned over to her in August of 1974,

Mr. Speaker, she did testify that she had received from Mr. ROYBAL in February of 1974, $1,200, representing cash contributions.

The chairman of Mr. ROYBAL'S campaign committee, a businessman of California, testified under oath before this committee that at no time during his chairmanship of that campaign committee did he receive from Mr. ROYBAL any amount of cash representing a contribution from Tongsun Park. He denied having received it, under oath in August of 1974. He said he thought he received it in February of 1974.

Mr. Park was asked searching questions as to how and why he remembered the circumstances of delivering the campaign contribution. He said that he did it, because in rapid succession he made a cash contribution of a $1,000, not to one Member of Congress but to two, in the office of former Representative Otto Passman.

The SPEAKER. The time of the gentleman from Georgia (Mr. FLYNT) has expired.

Mr. FLYNT. Mr. Speaker, I yield myself 4 additional minutes.

When asked if he was sure about the date, whether it was in August or whether it was in February, Mr. Park said two things indelibly impressed it upon his mind that it was August. No. 1, it was either on or within a day or two of Korean National Day, the major holiday of the Korean people. He also said that he knew it was in August, because it was about the time of the Louisiana Democratic primary, and he was interested in his friends in Louisiana who were candidates in that Democratic primary.

He said he further remembered its being in August, because in the week following the 22d of August 1974 he received a letter from the other Member of Congress acknowledging in writing his help in his campaign, and he further stated that he hoped he would see him again next time he was in Washington.

Mr. Speaker, the mandate given to the Committee on Standards of Official Conduct was not and is not and during the life of the 95th Congress will not be a pleasant task or a pleasant assignment. But, Mr. Speaker, as God is our witness, this committee felt that we could do no more and no less than to find that the statements of alleged violations on these three counts had been sustained by clear and convincing evidence, and we recommended, not on the basis of failing to report a campaign contribution, not on the basis of putting it in some other account other than a campaign account, but on the basis of knowingly stating under oath, after having been duly sworn, that he had not received such a contribution. And on four separate occasions he denied it, and then he finally admitted it and tried to explain it by saying that it was in February and not in August when not one word, not one jot or tittle of either his own testimony, the testimony of his own employee who served as campaign treasurer, and the testimony of his friend and constituent, the chairman of his congressional campaign, supported his position.

There is not one word of evidence in this entire report which sustains the position to which Mr. ROYBAL testified under oath four times.

Mr. Speaker, we respectfully ask that the House sustain the recommendation made by the Committee on Standards of Official Conduct.

Mr. RANGEL. Mr. Speaker, will the gentleman yield for one question?

Mr. FLYNT. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Speaker, could the committee chairman share with the House the criteria used after the committee reached its evidentiary conclusions as to what sanction would be given to that Member?

Mr. FLYNT. Mr. Speaker, I will do so, but I must say that I do not do it gladly. I do so reluctantly, because again this is a matter which the gentleman from Georgia did not bring up.

The first motion made was not a motion to reprimand, it was not a motion to censure. The first motion made was to expel. And I say to the gentleman from New York who raises this question, Mr. Speaker, that the Member now speaking did not make the motion, and had it not been for the persuasion by the chairman of that committee, the first motion, which was a motion to expel, would have been sustained.

Mr. RANGEL. That was my question, Mr. Chairman. I can understand why, in the atmosphere in which we are judging each other's conduct, that expulsion certainly would be one, I having followed Adam Clayton Powell to this Congress.

The SPEAKER. The time of the gentleman from Georgia (Mr. FLYNT) has expired.

Mr. FLYNT. Mr. Speaker, I yield myself 1 additional minute.

Mr. RANGEL. If the gentleman will yield further, my only question is not what motions were made, but are there any standards in the report that I can review to determine what criteria were used to expel, reprimand, censure, or does each Member just decide how they feel, what motions they can make, and what motions can carry? I am just asking if there are any standards in the rules of the committee to determine how you reach the determination. Is it just by vote?

Mr. FLYNT. Mr. Speaker, I will respond to the gentleman from New York (Mr. RANGEL) by saying that there is a spectrum of sanctions which could be recommended by the committee to the House or which could be done by the House on its own intiative upon the introduction of a privileged resolution by any single Member of the House.

Mr. RANGEL. I thank the gentleman.

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I stated earlier, our decision on Mr. ROYBAL'S case, as the others, was based solely on the facts and the evidence presented. That evidence is set forth in this report. As I have said earlier, too, many, many hours and days of work went into this report—thousands of hours of investigation by some of the best investigators ever assembled in this city. You cannot imagine the work that was done. This cannot be laid out before you here today at this time. I do not really think anybody expects it to be. But just please bear with us. It is here. We have a difficult job. I do not relish it. I do not know how many of you would like to be standing right here in this place, and I do not know what you would do if you were. You will have your chance next year.

There will be three vacancies on each side. If you want to do the job, put in for it.

The evidence established clearly and convincingly in the mind of every member of the committee who was present that Mr. ROYBAL has committed three offenses of increasing severity. I regret that the offenses took place, but I cannot ignore the facts. Mr. ROYBAL failed to report a $1,000 cash campaign contribution from Tongsun Park. He converted that contribution to his personal use, and he deliberately gave false testimony under oath to this committee when he denied that he ever received a contribution from Mr. Park.

This is a far more serious case than those involved before. Mr. ROYBAL had taken a solemn oath to tell the truth before this committee, and he broke it. This constitutes perjury. Moreover, whereas Mr. WILSON ultimately told the committee the true facts, Mr. ROYBAL told the committee four different versions of the facts. Also, the things Mr. ROYBAL tried to conceal through his false testimony were very serious violations in and of themselves. Mr. ROYBAL tried to conceal from us the fact that he had ever received a contribution which he failed to report and which he converted to his own use.

These actions by a Member, especially the giving of false testimony under oath, tend to bring this institution into disrepute. The public has a right to expect that when a Member of Congress testifies under oath about his own conduct, he will tell the truth. This institution will be brought into more serious disrepute if we do not as an institution express our strong disapproval.

I believe that the facts compel the conclusion that Mr. ROYBAL should be censured. Censure is a very serious punishment for the House to inflict upon one of its Members. Although some may think that we are not dealing harshly enough with these offenders, censure is in fact the most severe form of disapproval short of expulsion with which this House can condemn the action of one of our Members. The House has not censured anyone in over 50 years.

The committee concluded, however, that censure was the minimum punishment appropriate to the charges which were sustained against Mr. ROYBAL. At stake here today is the ability of this institution to judge the conduct of its Members and to discipline them for misconduct. With the issuance of these reports, the committee's work has ended. The responsibility now shifts to each and every one of you, the full House of Representatives. It is your burden now.

We have had it long enough. It is you who will be answerable to the people of this country for your action on these reports. We have made our recommendations and we adhere to them. Now, it is up to you.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield?

Mr. SPENCE. Yes, sir, I will be happy to yield.

Mr. MITCHELL of Maryland. I thank the gentleman for yielding. There are just two troublesome areas for me in this issue that is before us. We are all saddened by what it transpiring today.

The first—and let me preface my remarks by saying, as I have said before this committee when I appeared there very briefly—I do not question the integrity or the sense of morality of any member of the committee, but from time to time when we have investigations into very serious matters there are attempts made or thought about by perhaps some investigators who, in their zeal, in their pursuit of truth, do some things that perhaps are not in consonance with the way that the members of the committee would want to proceed.

My specific first question is, were you as a member of the committee given a report from Sergeant Stevens of the U.S. Capitol Police regarding a suspicious incident of September 30, 1970, involving what appeared to be the tampering of the locks in the private office of Congressman ROYBAL? Was that report ever submitted to the committee?

Mr. SPENCE. That is the first I have heard of that.

Mr. MITCHELL of Maryland. Well, I will submit this report. Apparently there was a suspicious incident and the Capitol Hill Police were called in. In addition to that, there was some work done by the FBI, and I shall turn this report over to you.

The reason I raise that question is that very often you have investigators who, in their zeal, do things that are far more damaging in terms of the dignity of this House than the conduct of any Member who is being charged by your committee. I would urge—I would urge that in all fairness we not vote on this censure until such time as this incident has been fully investigated, because it may well be that something untoward happened by persons not known to you, but on whom you have to rely.

Mr. CAPUTO. Mr. Speaker, if the gentleman will yield, what is the date of that report or would the gentleman give the date of that incident?

Mr. MITCHELL of Maryland. September 30, 1978, and I will give it to the chairman as of now.

Until this is cleared up in my mind, then there is some doubt regarding all that has transpired up to this point—I am not accusing anyone. I just want to make sure that I am clear. That is the first question.

The second question is, my colleague, the gentleman from New York, raised the question as to what were the criteria used for determining the kind of punishment to be meted out.

Was it just a kind of whim, a vibration that one got? I want to follow up on that, because I have a letter from the League of Latin American Citizens, and I am reading from paragraph 3 specifically:

> We feel Roybal is being subjected to a double standard of justice. Those congressmen who received far larger amounts of money and gifts and who voted on behalf of Tongsun Park's interests have received recommendations of less disciplinary action or escaped entirely any kind of action. It should be noted Congressman Roybal has consistently voted against Park's interest and that his record in his private and public life is impeccable.

I do not take that as statement of facts in this case, but it seems to me unless we have some objective criteria by means of which we attempt to assess what punishment should be meted out, then this has the appearance of evil. The action taken becomes the appearance of evil in the minds of a whole lot of people in this country. What were the criteria used to determine the degree of punishment?

Mr. SPENCE. Obviously we cannot sit down and set down the criteria, saying that those people who received this amount of funds or money shall be dealt with this way, we cannot do it ahead of time and set down all the possibilities. There are just too many of them. So what happens on each individual case is that the motions are made affecting the whole range of possibilities in any case, and they are voted on, and the consensus of the committee comes out in the vote. Charges were dismissed in some cases and in others the counts were stricken. As a matter of fact, in a good many instances the criminal violation part of these counts were stricken, and the only violation remaining would be the one wherein the person violated rule I of the Code of Conduct, we could have sent them over to the Department of Justice. All these possibilities were considered.

Mr. MITCHELL of Maryland. I thank the gentleman for answering, but it does not help my dilemma or the dilemma of the Hispanics who will say a person of a darker color—I am not accusing anyone of racism, I am not—but I am saying the action could be perceived that way.

Mr. SPENCE. If I could answer that, because I am sure members of the committee had received letters from various people all during the time the investigation was going on. As a matter of fact, recently I have received letters suggesting that some people were dealt with more harshly than others, suggesting that some people were not dealt with at all, and favoritism was shown.

My answer always was, and I make it today, and I have made it all along. If there is anyone abroad in this land, or in this body, or in this world who has any evidence of a mitigating nature to bring forth in behalf of any one of these Members, we will be very happy to receive it.

On the other hand, if anyone has any evidence on anyone else who has not been charged, I have been calling for them to come forth for days and days and days, and at this point I continue to call for people to come forward if they have any evidence—not just rumors or innuendo, but evidence.

Mr. MITCHELL of Maryland. I thank the gentleman but it does not solve my problem, because of the lack of specification of criteria by which we meted out sentences, the perception is there that disproportionate punishment was meted out to this colleague.

Mr. SPENCE. We had to deal with what we had before us, and this body today has to deal with what this body has before it.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield, I think my colleague has raised a question that has concerned a number of people in various communities and in the country at large. The specific question properly deserves an answer, which is, I assume, at any time collectively or individually in the gentleman's judgment was there any ethnic or racial consideration given so far as the determination of guilt or innocence or involvement of any Member? Perhaps the chairman himself would like to respond.

Mr. SPENCE. I will answer it, whether there was or not, and emphatically it is "No."

Mr. BAUMAN. That seemed to be the question, growing out of many people's concern, and I am pleased to hear the answer which was already apparent to me.

Mr. MITCHELL of Maryland. That was not my question.

Mr. BAUMAN. That is as I interpreted his question.

Mr. SPENCE. We had the job. We have done the best we can.

I thank the gentleman.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. SPENCE. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding to me.

I would like to say that the incident, which I think we have all heard of for the first time concerning the breakin, occurred 3 days after consideration of the case was finished and the decisions had been made. So, certainly, it was not part of any investigation of ours.

Also I would like to discuss the issue of racism which has been suggested. I have not been here very long, but surely many members of the committee have, and does anyone really think that there is a serious question concerning the motives and the methods of the members of the committee?

Is there no human trust left? Can anybody think that the members of this committee, whom you have known for years—I cannot claim that much—but can the committee really be accused or suspected of anything so loathsome as a racial or ethnic bias in matters of this kind, concerning in particular matters of a member's honor and reputation? I think that is a suggestion that would have to be most indignantly rejected. I do not do it indignantly, of course, because I know my colleagues did not present it in that vein.

Mr. MITCHELL of Maryland. Mr. Speaker, I know that this is most unusual, but would the gentleman please give me an opportunity so that I can respond to that?

I intended to make it abundantly clear that I was not making those accusations.

We live in a world in which there are things which happen which are perceived differently by one group as opposed to another group.

The point I wanted to make was that, in the absence of criteria upon which you determine the amount of the sentence to be meted out, it appears that this punishment distorts the perception in a negative way.

Mrs. FENWICK. Let me suggest to my distinguished colleague, since he has no doubt as to the objectivity, the dispassion and compassion of the committee, that he then respond to these letters and tell those people who are troubled in the community, and who have these mistaken impressions, that he can correct them, and assure them that such was not the case here.

Mr. MITCHELL of Maryland. I cannot do it, because I am not on the committee, and there were no specific criteria considered.

Mrs. FENWICK. You know the committee.

Mr. MITCHELL of Maryland. Yes, but I do not have the specific criteria.

Mr. GARCIA. Mr. Speaker, if the gentleman would yield. Because I think this is a matter of absolute importance, I would like to suggest to my colleagues, that it may, in fact be that the good gentleman from the State of Alabama, when he was speaking prior to this, spoke honestly about the work of his committee; and I do not, as well, doubt the sincerity of the chairman, the gentleman from Georgia.

But the fact of the matter is that although I have been in this body only 7 months, I am not new to politics. I am as well, of the same ancestry and background as ED ROYBAL who stands before you today. And it seems to me that the treatment that has been given to ED ROYBAL at this particular moment in the history of this body is different than it has been for the others.

I will go back even further, and mention a man who was expelled from this body, and who happened to be black. I am the son of a minister, and I ask you to let the good Lord be our judge in what we do. And I ask you for each of the 21 million Hispanic people who live in this country who are watching this look to see this vote as they see it. For to them this vote to censure does look quite differently, and I ask you to remember that as you cast your vote.

Mr. ECKHARDT. Mr. Speaker, if the gentleman will yield, just for a little correction, Adam Clayton Powell was not expelled from this body, he was wrongfully and unconstitutionally denied his seat. That is what the Supreme Court held.

Mr. SPENCE. Mr. Speaker, I just have one further comment to make, and I do not know how my time is holding out, because it has been used up by other Members.

However, I think the criteria we have to look at is just simply this: We have three cases before us. In the first two there was one charge in each case, and the recommendation was that of reprimand.

In this particular case there are three different charges. All have been sustained, and the severity of them is that they are three times that of the others. Therefore, that accounts for the difference in the recommendation of the committee.

Mr. CAPUTO. Mr. Speaker, will the gentleman yield?

Mr. SPENCE. I yield to the gentleman from New York.

Mr. CAPUTO. Mr. Speaker, I was going to say something very close to what the gentleman from South Carolina (Mr. SPENCE) just said.

It seems to me that there are four kinds of offenses under consideration: One, a failure to report a campaign contribution, as required by law; second, a failure to tell the complete truth, in the first instance, on a questionnaire sent by a committee of Congress to Members. There are two more which are more serious and rise to the level of criminality: Deliberate failure to tell the truth under oath before a committee of the Congress, and personal use of funds given for a political or congressional purpose.

Mr. MCFALL was found by the committee and subsequently by the full House to have done only one of those, the most minor, failure to report. Mr. CHARLES H. WILSON of California was found by the House to have done two of those, failure to report a campaign contribution—he was accused of that, to be more accurate—and found not to have told the full truth on the questionnaire, in the first instance.

However, Mr. ROYBAL has been accused—whether or not he has done those things remains to be seen; that is up to the full House—of doing all four.

I cannot show the Members why that leads to censure instead, or reprimand, but is is clear that what Mr. ROYBAL is accused of doing is substantially more serious. Mr. ROYBAL is accused of four types of offenses instead of one; three formal charges instead of one, and two charges which are clearly more reprehensible than any done by the other two Members considered today.

Mr. FLYNT. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, first, I have an uneasy feeling that my dear friend and our great colleague, ED ROYBAL, would be the last person whose conduct should be measured here in the proposed action of other Members.

However, I have a more fundamental and complete conviction. I have known ED for 25 years. I know of his political career, I know of his background, and I know of his political enemies.

Mr. Speaker, in my district we have a way of putting it: "You can't buy ED ROYBAL for money, marbles, or chalk." I think perhaps in our section of the country one might say that he is a man of total personal integrity.

Mr. Speaker, there is one thing we learn, and that is that there are occasions when we just have to ask ourselves, Is this an honest person or is this not?

If there is any dispute as to the facts at all, it must be reconciled on the side of the person whom one has known intimately. EDWARD R. ROYBAL beyond any doubt is one of complete honor, complete integrity, and complete conviction and commitment to the public interest, and I am going to plant my flag on the side of ED ROYBAL and give him all the support I can during the course of the deliberations this evening.

The SPEAKER. The Chair recognizes the gentleman from California (Mr. ROYBAL) for 20 minutes.

Mr. ROYBAL. Mr. Speaker, history is being made on a daily basis in the Halls

of Congress, but the history that is being made on this Friday, the 13th of October of 1978, will long be remembered by Americans who place high value on justice, fairness, and equality.

Before addressing myself to the question at hand, I would like to express my appreciation to the gentleman from Georgia (Mr. FLYNT), for the courtesies which he has extended to me and for his fairness in insisting that at least a quorum of the committee be present at the time that my testimony was given. I am also grateful to the committee who completely exonerated me of a charge of making a false statement. I was going to read this whole statement, and I will, but I really resent the fact that anyone can accuse me of making a false statement with regard to my knowledge of Tongsun Park. I challenge the vast majority of men and women in this Chamber to tell me that they knew who Tongsun Park was in 1974.

I went to Mr. Passman's office at his request and received a campaign contribution from a friend of his, and after that was over, it never dawned on me that the man there was someday going to be the much-publicized Tongsun Park that we now know as a rich playboy socialite, and as the man who at the present moment has been given and is enjoying complete immunity to testify against Members of Congress. These are facts that have not been mentioned but should be considered.

When I gave my first deposition, I did so after completely getting the facts, as to my knowledge, and that of my staff with regard to Tongsun Park, and when that testimony was given, it was truthful testimony, based on what I truly believed to be the facts.

I can stand before the Members of this House as I stand before my constituents, and as I will stand in the pages of today's Journal, and tell you honestly that I did not convert Park's campaign contribution to my personal use. I firmly believed that the money was part of a cash deposit to my campaign account and used it to invite senior citizens to my banquet. But I was unable to prove that to the committee with documentary evidence since I did not personally attend to these matters but delegated them to volunteers.

The Korean influence investigation established the fact that the contribution was not solicited by me, that Park never called or visited my office, nor I his, that I never attended any of his parties, that I never wrote a letter on his behalf, and that neither I nor any member of my family was ever involved in a business venture with him. Park himself confirmed this under cross-examination, making false the sensationalized aspects of Koreagate—that of bribery and influence peddling. All of this resulted from leaks to the press.

It is also a well documented fact reflected by my voting record that I constantly voted against military aid to Korea. This aid has been a windfall to officials of that country who continue to support and imprison their people and exploit their poor in blatant violation of individual and human rights.

Present day scholars and historians of the future will study the involvement of one and all named in the Korean influence investigation They will ask questions and perhaps get answers and reach conclusions when they examine the facts. Perhaps they will even evaluate the benefits derived from our huge expenditure of funds.

I believe that we as a body have, in fact, benefited from this experience. I, for one, have learned that I must be more vigilant in overseeing how my campaign funds are handled, to make sure that all contributions are properly reported.

I am convinced that we must continue to have a House Committee on Official Conduct and make sure that Members who serve on it receive our understanding and our support. In all fairness to the members of this committee we must, if we authorize another inquiry of any kind, make sure that we establish proper procedural guidelines with every consideration given to the rights of due process and individual civil rights.

For example, it is undisputed that before I gave my first deposition I asked the chief counsel if I needed an attorney, and he informed me that he did not think so, causing me to give testimony without the advice of counsel.

We must also structure legislation in a way that does not result in the relinquishing of congressional responsibility and authority to staffers who may in the name of ethics become arrogant with the power delegated to them, putting them in danger of betraying the trust placed in them by this House. We all know that the committee rules of procedure forbid committee or staff members commenting on evidence relative to the proceedings. The committee has rightfully concluded that such comments might undermine or even attempt to undermine its impartiality.

Still, on April 7 of 1978 one of the prosecutors assigned to the Korean influence investigation did, in fact, discuss my case at a cocktail party in Bozeman, Mont. An attorney who attended the party has submitted an affidavit for the record describing that event.

Leaks to the press of executive sessions should not be a common practice and unnamed investigators should not be quoted in Time or any other magazine or newspaper, giving the public the impression that a verdict has already been rendered even before the trial has been held. In fact, a member of this committee complained that I and three Members of Congress had been named in the press as being under investigation before the committee itself was notified. This is a practice that must be prevented for the sake of all concerned and everything possible must be done to prevent a trial and verdict by the news media before all the facts are known.

Because time does not permit me to do so now, I will later submit other recommendations for the record, for I believe that a Member's rights must not be violated and that these recommendations will also be a tremendous help to those Members of the House who will serve on and run the Committee on Standards of Official Conduct.

May I thank my colleagues, Mr. SISK, Mr. CORMAN, and Mr. SANTINI, for their tremendous effort in trying to convince the committee that censure in this case is cruel and unusual punishment.

I thank Congressman GONZALEZ of the Texas delegation, Congressman MITCHELL of the Congressional Black Caucus, Congressman GARCIA of the New York delegation, and others who joined with a committee of the California delegation in supporting me.

May I also particularly thank my wife and my two daughters and my son and members of my staff, who sit in the balcony of this arena awaiting your decision.

I thank also my constituents, the different minorities and people from all walks of life who sent telegrams and letters to the Members of the House, joining a united Hispanic community in their plea for equal justice.

This is the first time in the history of this Nation that a united Hispanic community has spoken out, through their own individual organizations, perhaps, but in one thunderous voice. Americans of Puerto Rican, Mexican, and Cuban descent, along with other Hispanics, joined hands and walked the Halls of this Congress, each on their own, but still together and in one voice, articulate their great concern about the strain of unfairness that permeated the investigatory phase of this matter.

What happens here today will have a great impact, not only on a group of Americans who no longer will remain silent and forgotten, but also on the rights of the Members of this House.

The matter is now in the hands of this body, and what the Members will do will be recorded in the Journal of this House and in the minds of millions of Americans who believe in justice and in the Constitution of the United States.

I hope that we will have time to go into some of the merits of the case to dispute some of the allegations that have been made so that we will know what it was that motivated individuals to do certain things. I refer not to members of the committee, but to some members of the staff.

Mr. SISK. Mr. Speaker, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from California.

Mr. SISK. Mr. Speaker, I appreciate my colleague's yielding.

Let me say as one who has known and worked with ED ROYBAL for 25 years that I stake my reputation on his honesty and integrity. I campaigned with him in 1954 when he was our candidate for Lieutenant Governor in the great State of California.

I join completely in the statements made by the gentleman from California (Mr. PHILLIP BURTON) on the honesty, the integrity, and the absolute fairness of this gentleman, who has served in many capacities over a wide range and for a number of years in public service.

I want to commend you, ED, on an excellent statement.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the gentleman from California for yielding.

Mr. Speaker, I believe that we ought to emphasize something—and I am afraid I did not do this quite properly before—in an attempt to persuade the committee to have even-handed justice. It is obvious that there is a discrepancy, and that discrepancy has not been addressed.

We know that before the bar of American justice a man is presumed to be innocent until he is proved guilty by due process. Thus he can present evidence in his own right and his behalf; he can call witnesses to testify in his behalf, if he has the resources for it; he can refute evidence against him; he can cross-examine hostile witnesses; and, above all, he has the right of appeal.

There is no such principle or even procedural rights to protect the Member of Congress on trial in a legislative body or before what I call the court of public opinion. There is no equivalent of due process. At least it has not developed up until now. This is what is really involved at this point in our legislative development. In fact, a man may be utterly destroyed in the public eye; his image may be ruined irretrievably before he even knows what is happening to him. Rumor put into print becomes the truth. He is powerless to fight back.

The statements of the gentleman from New York (Mr. CAPUTO) a few minutes ago on the two previous resolutions dramatically illustrate this as nothing else has thus far.

The Supreme Court, in a most recent case—and this was about 5 years ago or less, I believe—sets forth what still confronts us here in the Brewster case, referring to disciplinary procedures when Congress has said that a Member "is at the mercy of the almost unbridled discretion of the charging body."

It is still true that we are in an evolving process.

I understand there will be a motion to recommit with instructions offered later in an attempt to bring justice, in an attempt to correct an obvious discrepancy where we have three different disciplinary actions recommended but only one singled out, and that is censure, which, as the gentleman said awhile ago, is very serious.

But who is interested in justice at this late hour? The gentleman from South Carolina (Mr. SPENCE) said awhile ago, "Oh, we don't have time. I wish we had. I wish we could present the evidence."

What evidence? A report? I have read the report because I bothered to get the report that was submitted to the House for printing.

I also bothered to get the other reports, but there is no committee print that has the transcript of proceedings in which the judgments were made, in which the fine nuances of judgmental value-making devices were being made. You cannot obtain it. It is not obtainable. It is nonexistent, so far as I can tell. What we are confronted with is the resolution, the likes of which we have not seen in 57 years in the House, one that certainly calls for careful and deliberate study. Who is willing to act judiciously at this point? Who has even had time to read the reports, as has been brought out ad nauseam, let alone reflect upon them.

We are given three cases, two of which are remarkably alike because they involve lies. But even God does not make that differentiation that you are trying to make here in this committee recommendation. For if we learn religion from God, there is no such thing as a venal lie or a mortal lie. It is a lie. A lie is a lie. Yet in one case, reprimand; in this case, censure.

You read the report itself and you realize that the gentleman from California has been given short shrift even by the accounts related here by the committee members. They referred to the meeting, which was the first for the gentleman from California with Tongsun Park. On page 261 of the report you will read the significant part that says that Tongsun Park himself does not have a clear recollection. By his own admission, the meeting was brief, no more than 2 or 3 minutes. He was not sure himself 4 years later. Was it ROYBAL or not? He did say yes, he found out it was. But the impression given earlier was that Tongsun Park had a clear, indelible recollection.

Mr. Speaker, I address myself to that portion of the report, and I wish the Members would read it, and that both men, then, on reflection, charged with lying, came back, gave a truthful account, according to the report, but the result is so different in the recommendation. One is considered to have committed a greater ethical sin. What is the quantum of the graver sin? It has not been brought out. The committee has to justify this to the American people. The gentleman keeps saying we have to justify to the American people our behavior. Of course, we do. But so does the committee. The committee has to reconcile the imbalance in its recommendations in this case.

Let me close by asking this question: Who is to say that we have justice at this late hour? I would like to remind the Members that we are all either children of God or we are all stepchildren of God, but it cannot be both. It has to be that we are the same and treated the same and fairly, or we are going to have the kind of selective justice that this report recommends.

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from California.

Mr. DANIELSON. I thank the gentleman for yielding.

Mr. Speaker, we have very little time. I am going to try to make 2 points and 2 points only.

First of all, those of you who are lawyers will know that evidence of reputation for truth and honestly and character are admissible in any proceedings in which they are an issue. I have known ED ROYBAL since the early 1950's—I do not know how long—25, 28 years. I live in the same community in which he lives. For 16 years in the State legislature and in the Congress we have served overlapping districts and due to reapportionment we served the same areas from time to time. I know his reputation for truth and honesty in the community in which he lives and in which he has lived for 25 years. I can attest that it is very good. It is the highest. And you are entitled to consider that evidence of reputation.

My second point is this: I still live in that community. Perception is reality. It has been discussed here tonight: what does the public perceive?

Ladies and gentleman, Mr. Speaker, I can tell you that in the community which I represent, in which there is more than 40 percent Spanish surnames, the people are incensed. The people are outraged by the fact that a charge of censure has been brought against our good friend ED ROYBAL as compared with the other charges that have been brought. Mass meetings have been held; the Federal Building in Los Angeles has been picketed; funds have been raised. The community which he represents and which he identifies with is absolutely incensed. That is the perception which is clear, and if we are trying to have America perceive American justice as being fair and even-handed, we ought to recognize that as a fact.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from New York.

Mr. BIAGGI. I thank the gentleman.

Mr. Speaker, I appreciate what the gentleman from California (Mr. DANIELSON) said, but we are in the House of Representatives and the people being incensed should play no part in our deliberations, although I understand their anger.

My concern today is Mr. ROYBAL. Now, I have been here 10 years, and in those 10 years I have come to know the gentleman quite closely and intimately. Since this subject was brought forth, I listened very carefully to the appraisals of most of the Members of this House, and I have yet to hear one untoward remark about the gentleman in the well. They all say the same thing about his integrity, his compassion, his sensitivity. This unanimity is not without basis. I have not heard one unkind remark, about his integrity.

Now, we are talking about this quasi-judicial body, and I think that it is a flattering comment about the process that is going on today, the charge has been made, we sit in judgment. You and I know that judges have sat in judgment before and have been confronted with serious matters, the most heinous of crimes, and one of the most important things that they consider is their consideration of the man that confronts them. We have seen the variances of sentences. and we have seen some fellows who were sentenced for long periods and others who have committed the same crime given suspended sentences. Not without good reason—the past record—attitude and a host of factors are considered.

What I am saying here is that you should consider one very critical element, the man's integrity, the man's ability, the total man, and whether or not if there is an offense, what good will be accomplished by destroying the indi-

vidual. And yes, the perception of unequal justice raises its ugly specter again in our community.

I say as we sit in judgment, think in terms of what you are doing to a man. Do not think in terms of your personal interest out on the hustings looking for election, because the timing is most inappropriate and unfortunate. If these hearings on this report were to be considered after the election in December, I am willing to suggest to you that a more favorable outcome would be assured. Think in terms of what you are doing to a man, a family, a people.

Mr. DUNCAN of Oregon. Mr. Speaker. will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Speaker, I have the greatest respect and affection for the chairman of the committee and for the complexities of the task of that committee. I believe firmly that Members of Congress must be held to a higher standard than other citizens. I believe that truth is essential to the survival of our society. let alone the survival of this institution. But, the thing that disturbs me about this resolution, and particularly a resolution of this severity, is that so much of it is based upon the recollection of one of our Members of events which had transpired 4 years before the questions were asked.

I am well aware of the frailties and fallibility of my own recollection of conversations and events of only a couple of days ago. I have watched witnesses in trials in lawsuits for years, many of whom never testified as to what the facts were but only two of them in 20 years were actually making a false statement intentionally.

I have known ED ROYBAL since 1963. I agree with the analysis of his character that others of our colleagues have made. Mistaken ED might have been in some statements that he made. In error ED might have been in some statements he made, but ED ROYBAL does not deserve the punishment that is embodied in this resolution, and I intend to vote against it.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. I thank the gentleman for yielding.

What troubles me, and I think what troubles most of us, is that a man being tried for his political life before a jury, that has to be worried about what impact its vote will have on its jobs. What man would ever want to go into a court before a jury subject to that kind of menace, with the press glaring down as it deliberates?

I am also troubled by the lack of graduated criteria by which to decide what the severity of the sentence should be. The verdict becomes entirely a subjective thing. Since no criteria have been cited repeated efforts to determine that we have all got to use what commonsense we have.

We have to ask, did ED ROYBAL commit such a serious offense that he should be the second man in over a half century to be subjected to a vote of censure? I ask you, gentlemen.

The SPEAKER. The time of the gentleman from California has expired.

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that the gentleman from California (Mr. ROYBAL) be given 5 additional minutes.

The SPEAKER. The gentleman from California is entitled to 5 minutes and the gentleman from Georgia is entitled to 5 minutes.

There being no objection, the gentleman from California is given 5 additional minutes.

There was no objection.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield further?

Mr. ROYBAL. I yield to the gentleman from Maryland for a closing statement, but I have others I must yield to.

Mr. LONG of Maryland. Mr. Speaker, I have known ED ROYBAL a long time. I have seen no reason to believe that he is the kind of man on whom this kind of sentence ought to be imposed in this kind of court without any objective criteria of what the sentences should be and I intend, if the sentence is not reduced from censure to reprimand, along with the others. to vote "No."

Mr. ANDERSON of California. Mr. Speaker, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, I would feel very remiss if I did not get up and tell you what I think about our colleague and my friend ED ROYBAL. I am in my 38th year of public life. If I had to name one person in public life whom I felt had the greatest integrity, I would consider ED ROYBAL a top candidate for that particular choice. I have known ED as a personal friend for more than a quarter of a century. I have known him in the business world. And I have known him in various levels of government. ED was our nominee for Lieutenant Governor 4 years before I was elected. As you perhaps know, I served in that position in California 8 years. During that time I was able to watch ED perform on the city council in Los Angeles. He did an outstanding job.

ED ROYBAL is a man whose reputation for integrity is without question, as our colleague, the gentleman from California (Mr. PHILLIP BURTON), said a moment ago. ED is our next-door neighbor and has been for the past 8 years. We have worked together constantly. There is not in my opinion a dishonest bone in ED ROYBAL.

He could have forgotten, he might have been confused on what happened 4 years ago, I do not know, but as far as integrity or doing anything wrong, my feeling is that ED is just not capable of doing anything dishonest.

I think, as somebody mentioned earlier, the people are watching and we should not be influenced by that, but I talked to my son the other night; he is a businessman, and he said: "They must be crazy to consider ED ROYBAL as a dishonest person."

I want to agree with the other speakers. I do not know what comes out of this. I hope we can reduce the charge to a reprimand, but whatever the charge is, I feel I have to vote against it because I consider ED one of the finest men who has ever represented California in the U.S. Congress.

Mr. SANTINI. Mr. Speaker, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Speaker, I merely want to join those who have spoken in recognition of the integrity and esteem and quality of this gentleman. I invite that as a fair consideration in deciding what punishment we are considering here. It is allowed as a relevant factor in every other punishment arena: You can and should consider his background and integrity. And if you can find one man or woman who has worked with ED ROYBAL who can specify one specific incident of lack of integrity, I would be willing to withhold my endorsement of the quality of this man. I say that because we are now considering the most devastating punishment this body has ever imposed on one of its Members in 57 years.

I invite the Members to include a second consideration. We are asked to make a judgment about whether this man lied, whether this man who is confronted with an incident that transpired 4 years previously spontaneously lied to his questioners. The gentleman from Oregon enunciated the pragmatic dilemma quite well. ED ROYBAL was asked to dredge from his memory something that took place in a 2- or 3-minute episode. Do you have a specific recollection of a fleeting episode involving a man you never saw before or since? We are all people who deal with this rule of human probability on a day-to-day basis. We must consider what is the most reasonable response that this man could make. I submit it is that the event did not happen. Had he offered another response or another thought, I think that would have been the indication of deceit, deception, or evasion. The fact that he did not remember is the demonstration, I feel, that this man is telling the absolute truth.

I believe that to the core of my soul. Please realize that this esteemed body has got to live with itself and be responsible for what it does in imposing final judgment in this case.

Let me add that I have been a justice of the peace and a district court judge. I have made my own fair share of errors, human errors. Our dedicated Ethics Committee is subject to the same human frailty in their decisionmaking. In our deliberation we will make a final decision that can destroy ED ROYBAL's professional and personal life. We are sitting here in judgment of one of our Members that must stand the scrutiny of successive Congresses. I urge you let us not err on the side of destroying his life.

The SPEAKER. The time of the gentleman has expired.

The gentleman from Georgia has 5 minutes remaining.

Mr. FLYNT. Mr. Speaker, I am glad to yield 1 minute to the gentleman from California (Mr. PANETTA) for the purposes of debate only.

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, this is a difficult task for this House and for each Member. Our responsibility, though, is twofold: It is to confirm the violation and findings recommended by the committee, and it is also to confirm the sentence that has been recommended by the committee. It is difficult to confirm the violation. The findings are contained in the report. It is impossible for us in this procedure to look at all of the evidence, or to have the time to do so. We must rely by necessity on the work of the committee. Thus let us assume the findings are correct.

But on the sentence we do have the freedom to look at what mitigating circumstances there are and what is a just punishment. I think there are three matters that should be considered: First, we should consider the issues raised by all of these cases today. They are similar cases; they all involve lies in varying degrees; they all involve receipt of funds from one man; they all involve misuse of money in one way or another. I think we ought to remember these are all similar in that respect, and thus a similar punishment should be provided to each.

Further, there is the fact that Mr. ROYBAL in no way used or misused his position in the Congress for Korea, or exchanged votes or favors in return for funds. There is absolutely no evidence of such misconduct.

Third, Mr. ROYBAL is a leader in his community. He has been an excellent Member of the Congress. He has a fine reputation.

I think those are all mitigating circumstances that must be considered; that demand that we should lower the sentence from censure to a reprimand. I urge the Members of the House in the name of justice to vote for the motion to recommit.

Mr. FLYNT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Speaker, I have served in this House for 18 years. I once had a responsibility similar to those who serve on this Ethics Committee. We looked at the case of Adam Clayton Powell for some 6 weeks.

I ask you now and I plead with you to consider carefully the motion to recommit to reduce the penalty in this case from one of censure to one of reprimand. I ask you to base that not just on what has been done here today but on what this Congress has done over the past more than half a century. We have not censured a Member since 1921.

The committee recommended censure in the case of Adam Clayton Powell. I can tell you that the findings of the offenses in that case went way beyond anything that has been suggested in this case.

I personally cannot accept the findings of the committee, but for those who do, I ask you to look very carefully at the horrendously severe punishment of censure.

Let us ask ourselves this question: In the three cases in which we have reprimanded and in the finding of fact of violations by Mr. ROYBAL, how can we possibly say that his offense is that much more serious than the other three which we have acted on during the past two Congresses?

Mr. Speaker, when a motion is made to recommit to reduce the penalty, I urge my colleagues to search their consciences and to vote for that motion.

Mr. Speaker, I thank the chairman for yielding me this time.

Again, I urge my colleagues to support the motion to reduce the punishment in this case.

Mr. FLYNT. Mr. Speaker, I yield myself the 2 minutes which I have remaining so as to close debate before I move the previous question.

In response to my good friend, the gentleman from Oregon, let me read count 3:

> Having taken an oath before a competent tribunal, the respondent, Edward R. Roybal, did make the following false statements on material matters, which he then and there believed to be false:
>
> Q. Did Tongsun Park ever make a gift to you?
>
> A. No.
>
> Q. Did he ever offer to make a gift to you?
>
> A. No.
>
> Q. Did he ever make a contribution to any of your campaigns, either directly to you or to one of the committees which supported you?
>
> A. He never made a contribution directly to me; and if a contribution was made to my campaign, it would show up in the reports which I have given you.

Now, Mr. Speaker, let us come down to the hearing upon which Mr. ROYBAL, on cross-examination, was asked these questions:

> Q. Mr. Roybal, have you ever received any other contribution in cash as large as $1,000?
>
> A. No, sir.
>
> Q. Then this was the only occasion on which you received a contribution of that size?
>
> A. To my memory, that is true.
>
> Q. All the other contributions which you received had been duly reported, according to your testimony?
>
> A. Yes, sir.
>
> Q. A $1,000 cash contribution from a person you do not know is an event which would stand out in your mind, would it not?
>
> A. Yes, it would.

Mr. Speaker, those answers came from the respondent himself.

These statements, Mr. Speaker, I submit, form the basis, first, for the finding of fact, and second, for the recommendation which the committee made to the House of Representatives that the respondent, the gentleman from California (Mr. ROYBAL), be censured by the House.

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. ASHBROOK. Mr. Speaker, earlier I propounded a parliamentary inquiry to the Speaker as to whether or not, under the rules and precedents of the House, House Resolution 1416, as it stands, would be divisible.

The SPEAKER. The Chair is ready to respond to the gentleman.

Mr. ASHBROOK. I appreciate that, Mr. Speaker.

The SPEAKER. The gentleman from Ohio (Mr. ASHBROOK) has requested an opinion as to whether the question on House Resolution 1416 may be divided.

To be the subject of a division of the question under the precedents of the House, a proposition must constitute two or more separate substantive propositions so that if one of the propositions is removed, the remaining proposition constitutes a separate and distinct question, and that test must work both ways.

In the opinion of the Chair, the questions are substantially equivalent questions. For that reason, the Chair holds that House Resolution 1416 is not subject to a demand for a division of the question.

Mr. ASHBROOK. I thank the Chair.

Mr. FLYNT. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

MOTION TO RECOMMIT

Mr. BOB WILSON. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the resolution?

Mr. BOB WILSON. I am.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. BOB WILSON moves to recommit the resolution, House Resolution 1416, to the Committee on Standards of Official Conduct with instructions to report the same back forthwith with the following amendment. Strike all after the resolving clause and insert:
>
> That EDWARD R. ROYBAL be and he is hereby reprimanded.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

PARLIAMENTARY INQUIRY

Mr. CAPUTO. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CAPUTO. Is time allowed for debate?

The SPEAKER. The motion is not debatable.

The question is on the motion to recommit with instructions.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FLYNT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mrs. FENWICK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 219, nays 170, answered "present" 1, not voting 40, as follows:

[Roll No. 915]

YEAS—219

Addabbo	Goldwater	Panetta
Akaka	Gonzalez	Patterson
Alexander	Gradison	Pease
Anderson, Calif.	Green	Pepper
	Gudger	Perkins
Andrews, N.C.	Hall	Pickle
Annunzio	Hanley	Poage
Ashbrook	Hannaford	Price
Ashley	Harrington	Pursell
Beard, R.I.	Harris	Railsback
Beilenson	Hawkins	Rangel
Benjamin	Heftel	Reuss
Bevill	Hightower	Rhodes
Biaggi	Holland	Richmond
Bingham	Hollenbeck	Risenhoover
Boggs	Holt	Roberts
Boland	Holtzman	Rodino
Bowen	Horton	Roe
Breaux	Hubbard	Roncalio
Breckinridge	Huckaby	Rooney
Brooks	Ichord	Rose
Broomfield	Johnson, Calif.	Rosenthal
Brown, Calif.	Jones, N.C.	Rostenkowski
Burgener	Jordan	Rousselot
Burke, Fla.	Kastenmeier	Runnels
Burke, Mass.	Kazen	Russo
Burleson, Tex.	Kemp	Ryan
Burton, John	Krebs	Santini
Burton, Phillip	Krueger	Satterfield
Carney	LaFalce	Scheuer
Carter	Lagomarsino	Schroeder
Cederberg	Le Fante	Seiberling
Chappell	Lederer	Sikes
Chisholm	Leggett	Simon
Clausen, Don H.	Lloyd, Calif.	Sisk
	Long, Md.	Skubitz
Clawson, Del	Luken	Slack
Clay	McCloskey	Smith, Iowa
Collins, Ill.	McHugh	Solarz
Collins, Tex.	McKay	Spellman
Conte	McKinney	St Germain
Corman	Mahon	Staggers
Cotter	Markey	Stanton
Daniel, Dan	Marks	Stark
Danielson	Mattox	Steed
de la Garza	Meyner	Steiger
Delaney	Mikulski	Stokes
Dellums	Miller, Calif.	Symms
Dent	Mineta	Thompson
Dingell	Mitchell, Md.	Traxler
Dornan	Mitchell, N.Y.	Udall
Drinan	Moakley	Ullman
Duncan, Oreg.	Moffett	Van Deerlin
Early	Mollohan	Vander Jagt
Eckhardt	Moorhead, Calif.	Vanik
Edwards, Calif.		Vento
Ertel	Moorhead, Pa.	Waggonner
Evans, Colo.	Murphy, Ill.	Walsh
Evans, Ga.	Murphy, N.Y.	Wampler
Fary	Murphy, Pa.	Wayman
Findley	Murtha	Weaver
Fish	Myers, John	Weiss
Flippo	Myers, Michael	White
Florio	Natcher	Whitley
Ford, Mich.	Nedzi	Whitten
Ford, Tenn.	Nichols	Wilson, Bob
Fountain	Nix	Wilson, C. H.
Fraser	Nolan	Wilson, Tex.
Fuqua	Nowak	Wolff
Gammage	O'Brien	Wright
Garcia	Oakar	Yates
Gaydos	Oberstar	Young, Mo.
Giaimo	Obey	Zablocki
Gilman	Ottinger	Zeferetti

NAYS—170

Abdnor	Brown, Ohio	Edwards, Ala.
Ambro	Broyhill	Edwards, Okla.
Anderson, Ill.	Burlison, Mo.	Emery
Andrews, N. Dak.	Butler	English
	Caputo	Erlenborn
Archer	Carr	Evans, Del.
Aspin	Cavanaugh	Evans, Ind.
AuCoin	Cleveland	Fascell
Bafalis	Coleman	Fenwick
Baldus	Conable	Fisher
Barnard	Corcoran	Fithian
Baucus	Cornell	Flowers
Bauman	Coughlin	Flynt
Beard, Tenn.	Cunningham	Foley
Bedell	D'Amours	Forsythe
Bennett	Daniel, R. W.	Fowler
Blanchard	Davis	Frenzel
Blouin	Derrick	Gephardt
Bolling	Derwinski	Gibbons
Bonior	Devine	Ginn
Bonker	Dicks	Glickman
Brademas	Dodd	Goodling
Brinkley	Downey	Gore
Brodhead	Duncan, Tenn.	Grassley
Brown, Mich.	Edgar	Guyer
Hagedorn	McCormack	Rogers
Hamilton	McDade	Ruppe
Harkin	McDonald	Sawyer
Harsha	McEwen	Schulze
Heckler	Madigan	Sebelius
Hefner	Maguire	Sharp
Hillis	Mann	Skelton
Hughes	Marriott	Snyder
Jacobs	Martin	Spence
Jeffords	Mathis	Stangeland
Jenkins	Mazzoli	Steers
Jenrette	Meeds	Stockman
Johnson, Colo.	Michel	Stratton
Jones, Okla.	Mikva	Studds
Jones, Tenn.	Milford	Stump
Kasten	Miller, Ohio	Taylor
Kelly	Minish	Thone
Keys	Montgomery	Thornton
Kildee	Moore	Treen
Kindness	Mottl	Trible
Kostmayer	Myers, Gary	Tsongas
Latta	Neal	Volkmer
Leach	Pattison	Walker
Lehman	Pike	Watkins
Lent	Pressler	Whalen
Levitas	Preyer	Wiggins
Livingston	Pritchard	Winn
Lloyd, Tenn.	Quayle	Wirth
Long, La.	Quillen	Wydler
Lott	Rahall	Wylie
Lundine	Regula	Yatron
McClory	Rinaldo	Young, Alaska

ANSWERED "PRESENT"—1

Eilberg

NOT VOTING—40

Ammerman	Frey	Robinson
Applegate	Hammer-schmidt	Roybal
Armstrong		Rudd
Badham	Hansen	Sarasin
Buchanan	Howard	Shipley
Burke, Calif.	Hyde	Shuster
Cochran	Ireland	Smith, Nebr.
Cohen	Lujan	Teague
Conyers	McFall	Tucker
Cornwell	Marlenee	Walgren
Crane	Moss	Whitehurst
Dickinson	Patten	Young, Fla.
Diggs	Pettis	Young, Tex.
Flood	Quie	

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. FLYNT

Mr. FLYNT. Mr. Speaker, pursuant to the instructions of the House, I report the resolution back to the House with an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLYNT: Strike all after the resolving clause and insert: That EDWARD R. ROYBAL be and he is hereby reprimanded.

The amendment was agreed to.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

SOLAR PHOTOVOLTAIC ENERGY RESEARCH, DEVELOPMENT AND DEMONSTRATION ACT OF 1978

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 12874) to provide for an accelerated program of research, development, and demonstration of solar photovoltaic energy technologies leading to early competitive commercial applicability of such technologies to be carried out by the Department of Energy, with the support of the National Aeronautics and Space Administration, the National Bureau of Standards, the General Services Administration, and other Federal agencies, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Solar Photovoltaic Energy Research, Development, and Demonstration Act of 1978."

FINDINGS AND POLICY

SEC. 2(a) The Congress hereby finds that—

(1) the United States of America is faced with a finite and diminishing resource base of native fossil fuels, and as a consequence must develop as quickly as possible a diversified, pluralistic national energy capability and posture;

(2) the current imbalance between supply and demand for fuels and energy in the United States is likely to grow for many years;

(3) the early demonstration of the feasibility of using solar photovoltaic energy systems for the generation of electricity could help to relieve the demand on existing fuel and energy supplies;

(4) the national security and economic well-being of the United States is endangered by its dependence on imported energy supplies which are subject to resource limitations, artificial pricing mechanisms which do not accurately reflect supply and demand relationships and supply interruptions;

(5) the early development and widespread utilization of photovoltaic energy systems could significantly expand the domestic energy resource base of the United States, thereby lessening its dependence on foreign supplies;

(6) the establishment of sizable markets for photovoltaic energy systems will justify private investment in plant and equipment necessary to realize the economies of scale, and will result in significant reductions in the unit costs of these systems;

(7) the use of solar photovoltaic energy systems for certain limited applications has already proved feasible;

(8) there appear to be no insoluble technical obstacles to the widespread commercial use of solar photovoltaic energy technologies;

(9) an aggressive research and development program should solve existing technical problems of solar photovoltaic systems; and, supported by an assured and growing market for photovoltaic systems during the next decade, should maximize the future contribution of solar photovoltaic energy to this Nation's future energy production;

(10) it is the proper and appropriate role of the Federal Government to undertake research, development, and demonstration programs in solar photovoltaic energy technologies and to supplement and assist private industry and other entities and thereby the general public, so as to hasten the general commercial use of such technologies;

(11) the high cost of imported energy sources impairs the economic growth of many nations which lack sizable domestic energy supplies or are unable to develop these resources;

(12) photovoltaic energy systems are economically competitive with conventional energy resources for a wide variety of applications in many foreign nations at the present time, and will find additional applications with continued cost reductions;

(13) the early development and export of solar photovoltaic energy systems, consistent with the established preeminence of the United States in the field of high technology products, can make a valuable contribution to the well-being of the people of other nations and to this Nation's balance of trade;

(14) the widespread use of solar photovoltaic energy systems to supplement and replace conventional methods for the generation of electricity would have a beneficial effect upon the environment;

(15) to increase the potential application of solar photovoltaic energy systems in remote locations, and to minimize the need for backup systems depending on fossil fuel, programs leading to the development of inexpensive and reliable systems for the storage of electricity should be pursued as part of any solar photovoltaic energy research, development, and demonstration program;

(16) evaluation of the performance and reliability of solar photovoltaic energy technologies can be expedited by testing of prototypes under carefully controlled conditions;

(17) commercial application of solar photovoltaic energy technologies can be expedited by early commercial demonstration under practical conditions;

(18) photovoltaic energy systems are currently adaptable on a life cycle, cost-justified basis for certain of the energy needs of the Federal Government, and will find additional applications as continued refinements improve performance and reduce unit costs;

(19) the Federal Government can stimulate innovation and economic efficiency in the production of photovoltaic energy systems through the development and implementation of policies to promote diversity and maximum competition between firms engaged in the research, manufacture, installation, and/or maintenance of these systems;

(20) innovation and creativity in the development of solar photovoltaic energy components and systems can be fostered through encouraging direct contact between the manufacturers of such systems and the architects, engineers, developers, contractors, and other persons interested in utilizing such systems; and

(21) it is contemplated that the ten-year program established by this Act will require the expenditure of $1,500,000,000 by the Federal Government.

(b) It is therefore declared to be the policy of the United States and the purpose of this Act to establish during the next decade an aggressive research, development, and demonstration program involving solar photovoltaic energy systems and in the long term, to have as an objective the production of electricity from photovoltaic systems cost competitive with utility-generated electricity from conventional sources. Further, it is declared to be the policy of the United States and the purpose of this Act that the objectives of this research, development, and demonstration program are—

(1) to double the production of solar photovoltaic energy systems each year during the decade starting with fiscal year 1979, measured by the peak generating capacity of the systems produced, so as to reach a total annual United States production of solar photovoltaic energy systems of approximately two million peak kilowatts, and a total cumulative production of such systems of approximately four million peak kilowatts by fiscal year 1988;

(2) to reduce the average cost of installed solar photovoltaic energy systems to $1 per peak watt by fiscal year 1988; and

(3) to stimulate the purchase by private buyers of at least 90 per centum of all solar photovoltaic energy systems produced in the United States during fiscal year 1988.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) a "solar photovoltaic energy system" is a system of components which generates electricity from incident sunlight by means of the photovoltaic effect, and which shall include all components, including energy storage devices where appropriate, necessary to provide electricity for individual, industrial, agricultural, or governmental use;

(2) the term "solar photovoltaic energy system" may be used interchangeably with the term "photovoltaic system";

(3) a "hybrid solar photovoltaic energy system" is a system of components that generates electricity from incident sunlight by means of the photovoltaic effect and, in conjunction with electronic and, if appropriate, optical, thermal and storage devices, provides electricity as well as heat and/or light for individual, commercial, industrial, agricultural, or governmental use;

(4) "photovoltaic effect" refers to the physical phenomenon exhibited under certain circumstances by some materials in which a portion of the light energy striking the material is directly converted to electrical energy;

(5) "facility" means any building, agricultural, commercial or industrial complex or other device constructively employing photovoltaic systems; and

(6) "Secretary" means the Secretary of Energy.

RESEARCH, DEVELOPMENT, AND DEMONSTRATION OF SOLAR PHOTOVOLTAIC ENERGY SYSTEMS

SEC. 4. The Secretary is directed to establish immediately and carry forth such research, development, and demonstration programs as may be necessary to meet the objectives of this Act as set forth in section 2(b), and as a part of any such program shall—

(a) conduct, and promote the coordination and acceleration of, research, development, and demonstrations relating to solar photovoltaic energy systems and components thereof, and

(b) conduct, and promote the coordination and acceleration of, research, development, and demonstrations for systems and components to be used in applications that are dependent for their energy on solar photovoltaic energy systems.

SEC. 5. (a) In carrying out the provisions of section (4), the Secretary is authorized—

(1) to establish procedures whereby any public or private entity wishing to install solar photovoltaic components and systems in any new or existing facility may apply for Federal assistance in purchasing and installing, in such facility, photovoltaic components or systems;

(2) to select, as soon as he deems it feasible, a number of the applicants under paragraph (1) and enter into agreements with them for the design, purchase, fabrication, testing, installation, and demonstration of photovoltaic components and systems. Such selection shall be based on the need to obtain scientific, technological, and economic information from a variety of such systems under a variety of circumstances and conditions; and

(3) to arrange, as part of any agreement entered into under paragraph (2), to provide up to 75 per centum of the purchase and installation costs of photovoltaic components or systems, taking into account relevant considerations involving the relative stage of consumer and industry interest and development at the time of the financial assistance action. Such arrangements shall be contingent upon terms and conditions prescribed by the Secretary, including an express agreement that the entity with whom the agreement is entered into shall, in such manner and form and on such terms and conditions as the Secretary may prescribe, observe and monitor (or permit the Secretary or his agents to observe and monitor) the performance and operation of such system for a period of five years, and that such entity (including any subsequent owner of the property) shall regularly furnish the Secretary with such reports thereon as the agreement may require.

(b) The Secretary shall, as he deems appropriate, undertake any projects or activities (including demonstration projects) to further the attainment of the objectives of this section.

SEC. 6. (a) The Secretary is authorized to select on the basis of open competitions—

(1) a number of readily available photovoltaic components and systems;

(2) a number of design concepts for various types of applications which demonstrate adaptability to the utilization of photovoltaic components and systems; and

(3) a number of designs for applications selected under paragraph (2), so that each design includes specific provisions for the utilization of solar photovoltaic components and systems selected under paragraph (1).

(b) The Secretary, in accordance with the applicable provisions of sections 7, 8, and 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.) and with such program guidelines as the Secretary may establish, shall—

(1) enter into such contracts and grants as may be necessary or appropriate for the development for commercial production and utilization of photovoltaic components and systems, including any further planning and design which may be required to conform with the specifications set forth in any applicable criteria;

(2) select, as being compatible with the design concepts chosen under subsection (a) (2) of this section, a reasonable number of photovoltaic components and systems; and

(3) enter into contracts with a number of persons or firms for the procurement of photovoltaic components and systems, including adequate numbers of spare and replacement parts for such systems.

(c) The Secretary is authorized to award contracts for the design integration between the application concepts and the photovoltaic systems procured by the Secretary under subsection (b) (3), and for the demonstration of prototype solar photovoltaic systems, and, when appropriate for the utilization of such systems in existing facilities. Title to and ownership of the facilities so constructed and of photovoltaic systems installed hereunder may be conveyed to purchasers of such facilities under terms and conditions prescribed by the Secretary, including an express agreement that any such purchaser shall, in such manner and form and on such terms and conditions as the Secretary may prescribe, observe and monitor (or permit the Secretary to observe and monitor) the performance and operation of such systems for a period of five years, and that such purchaser (including any subsequent owner) shall regularly furnish the Secretary with such reports thereon as the agreement may require.

(d) The Secretary, in consultation with the Administrator of General Services or the Secretary of Defense or both (as may be appropriate) shall enter into arrangements with appropriate Federal agencies concurrently with the conduct of the programs under this section and section 7 of this Act to carry out such projects and activities (including demonstration projects), with respect to Federal buildings and facilities, as may be appropriate for the demonstration of photovoltaic systems suitable and effective for use in such applications.

(e) The Secretary shall, as he deems appropriate, undertake any periods of activities (including demonstration projects) to further the attainment of the objectives of this section.

TEST PROCEDURES AND PERFORMANCE CRITERIA

SEC. 7. (a) The Secretary shall conduct a testing program for photovoltaic systems to assist in the development and demonstration of prototype photovoltaic systems, including collectors, controls, power conditioning, and energy storage systems.

(b) Data obtained from the testing program under subsection (a) shall be evaluated and used in establishing performance criteria. These performance criteria shall be used in the demonstration program described in sections 4, 5, and 6 of this Act.

(c) The Secretary shall determine, prescribe, and publish in the Federal Register, at a time which he determines to be feasible and justified—

(1) performance criteria for photovoltaic components and systems to be used in appropriate applications, and procedures whereby manufacturers of photovoltaic components and systems shall have their products tested in order to provide certification that such products conform to the performance criteria established under this paragraph; and

(2) revised performance criteria for photovoltaic components and systems to be used in appropriate applications, and procedures whereby manufacturers of photovoltaic components and systems shall have their products tested in order to provide certification that such products conform to the performance criteria established under this paragraph. Such criteria may be annually revised by the Secretary, as he deems appropriate.

(d) Any photovoltaic component or system procured or installed by the Federal Government or procured or installed with Federal assistance under section (5) or section (6) shall meet appropriate performance criteria prescribed under this section, if such performance criteria have been prescribed.

COORDINATION MONITORING, AND LIAISON

SEC. 8. (a) The Secretary, in coordination with such Government agencies as may be appropriate, shall—

(1) monitor the performance and operation of photovoltaic systems installed under this Act;

(2) collect and evaluate data and information on the performance and operation of pholtovoltaic systems installed under this Act; and

(3) from time to time carry out such studies and investigations and take such other actions, including the submission of special reports to the Congress when appropriate, as may be necessary to assure that the programs for which the Secretary is responsible under this Act effectively carry out the policy of this Act.

(b) In the development of the performance criteria and test procedures required under section 7 of this Act, the Secretary shall work closely with the appropriate scientific, technical, and professional societies and industry representatives in order to assure the best possible use of available expertise in this area.

(c) The Secretary shall also maintain continuing liaison with related industries and interests, and with the scientific and technical community, during and after the period of the programs carried out under this Act, in order to assure that the projected benefits of such programs are and will continue to be realized.

SOLAR PHOTOVOLTAIC ENERGY ADVISORY COMMITTEE

SEC. 9. (a) There is hereby established a Solar Photoboltaic Advisory Committee, which shall study and advise the Secretary on—

(1) the scope and pace of research and development with respect to solar photovoltaic energy systems;

(2) the need for and timing of solar photovoltaic energy systems demonstration projects;

(3) the need for change in any research, development, or demonstration program established under this Act; and

(4) the economic, technological, and environmental consequences of the use of solar photovoltaic energy systems.

(b) The Committee shall be composed of thirteen members, including eleven members appointed by the Secretary from industrial organizations, academic institutions, professional societies or institutions, and other sources as he sees fit, and two members of the public appointed by the President. The Chairman of the Committee shall be elected from among the members thereof.

(c) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Committee in carrying out the requirements of this section, and shall furnish to the Committee such information as the Committee deems necessary to carry out this section.

(d) Section 624 of the Department of Energy Organization Act shall be applicable to the Committee, except as inconsistent with this section.

DISSEMINATION OF INFORMATION AND OTHER ACTIVITIES TO PROMOTE PRACTICAL USE OF SOLAR PHOTOVOLTAIC TECHNOLOGIES

SEC. 10. (a) The Secretary shall take all possible steps to assure that full and complete information with respect to the demonstrations and other activities conducted under this Act is made available to Federal, State, and local authorities, relevant segments of the economy, the scientific and technical community, and the public at large, both during and after the close of the programs under this Act, with the objective of promoting and facilitating to the maximum extent feasible the early and widespread practical use of photovoltaic energy throughout the United States. Any trade secret or other proprietary information shall be exempted from such mandatory disclosure, as otherwise specified in law applicable to research, development and demonstration programs of the Department of Energy, including, but not limited to, section 17 of the Federal Non-Nuclear Energy Research and Development Act of 1974, Public Law 93-577, as amended.

(b) The Secretary shall—

(1) study the effect of the widespread utilization of photovoltaic systems on the existing electric utility system at varying levels of photovoltaic contribution to the system;

(2) study and investigate the effect of utility rate structures, building codes, zoning ordinances, and other laws, codes, ordinances, and practices upon the practical use of photovoltaic systems;

(3) determine the extent to which such laws, codes, ordinances, and practices should be changed to permit or facilitate such use, and the methods by which any such changes may best be accomplished; and

(4) determine the necessity of a program of incentives to accelerate the commercial application of photovoltaic technologies.

(c) The Secretary is authorized and directed, within one year of the date of enactment of this Act, to make recommendations to the President and to the Congress for Federal policies relating to barriers to the early and widespread utilization of photovoltaic systems in order to realize the goals set forth in section 2. These recommendations shall include but not be limited to—

(1) the potential for integration of electricity derived from photovoltaic energy systems into the existing national grid system, including the potential of photovoltaic-generated electricity to meet the peak-load energy needs of electric utilities, load management and reliability implications of the utilization of photovoltaic electricity by utilities, the implications of utility ownership of photovoltaic components leased to others primarily for decentralized applications, the impacts of utility use of electricity derived from photovoltaic energy systems on utility rate structures, and the potential for reducing or obviating the need for energy storage components for photovoltaic systems through utility interface;

(2) the extent of competition between firms currently engaged in the fabrication and installation of photovoltaics components and systems as it affects the character and growth potential of the American photovoltaics industry, and the likelihood that small photovoltaic firms will have reasonable opportunities to compete and participate in the various programs authorized by this Act;

(3) the need to identify legal alternatives to ensure access to direct sunlight for photovoltaic energy systems, the appropriate methods of encouraging the adoption of such alternatives, and the implications of widespread utilization of photovoltaic energy systems for land use and urban development;

(4) the availability of private capital at reasonable interest rates for individuals, businesses and others desiring to establish commercial enterprises to manufacture, market, install, and/or, maintain photovoltaic components and systems, or purchase and install such systems for private, industrial, agricultural, commercial or other uses;

(5) the need for industry-wide warranty and reliability standards for photovoltaic energy components and systems for private sector applications, and, if appropriate, the mechanisms for establishing such standards; and

(6) the attainability of the goals specified in subsection 2(b), and any modification of such goals which the Secretary proposes for consideration by Congress, with supporting analyses.

(d) In carrying out his functions under this section, the Secretary shall consult with the appropriate government agencies, industry representatives, and members of the scientific and technical community having expertise and interest in this area. The Secretary also shall ensure that any study or report prepared pursuant to this section is fully coordinated with and reflective of any analyses or reports prepared pursuant to the requirements in section 208 of the Department of Energy Act of 1978—Civilian Applications, Public Law 95-238, and in the President's Solar Energy Domestic Policy Review. The Secretary, as appropriate, may merge any continuing or on-going studies under section 208 or the Domestic Policy Review with those required by this section or avoid any unnecessary duplication of effort or funding. The separate report requirements of section 208 and this section, however, shall remain in force.

INTERNATIONAL PARTICIPATION AND COOPERATION

SEC. 11. (a) Within one year after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of State, the Administrator of the Agency for International Development, the Director of ACTION, the Director of the Export/Import Bank and other appropriate Federal officials, shall submit to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources a plan for demonstrating applications of solar photovoltaic energy systems and facilitating their widespread use in other nations, especially those with agreements for scientific cooperation with the United States.

(b) The Secretary is authorized to encourage, to the maximum extent practicable, international participation and cooperation in the development and maintenance of programs established under this plan. The Secretary, in consultation and cooperation with the Federal officials specified in subsection (a), shall insure to the maximum extent possible that the plan submitted under subsection (a) and any other international activities under this section are consistent with and reflective of any similar activities or requirements under any other Federal statute, specifically including any of the several pro-

grams under other agencies and Departments involving United States international cooperation and assistance in nonnuclear energy technology, and will not duplicate activities under such programs. The plan required in subsection (a) shall specifically identify all such programs and statutes and describe how the activities under this section will be consistent with such programs, will be coordinated with them, and will avoid duplication of activities under such programs.

ENCOURAGEMENT AND PROTECTION OF SMALL BUSINESS

SEC. 12. In carrying out his functions under this Act, the Secretary shall take steps to assure that small-business concerns will have realistic and adequate opportunities to participate in the programs under this Act to the maximum extent practicable, and the Secretary is directed to set aside at least 10 per centum of the funds authorized and appropriated for the participation of small business concerns.

PRIORITIES

SEC. 13. The Secretary shall set priorities, as far as possible consistent with the intent and operation of this Act, in accordance with the following criteria:

(1) The applications utilizing photovoltaic systems which will be part of the research, development, and demonstration program and testing and demonstration programs referred to in sections 4, 5, 6, and 7 shall be located in a sufficient number of different geographic areas in the United States to assure a realistic and effective demonstration of the use of photovoltaic systems and of the applications themselves, in both rural and urban locations and under climatic conditions which vary as much as possible.

(2) The projected costs of commercial production and maintenance of the photovoltaic systems utilized in the testing and demonstration programs established under this Act should be taken into account.

(3) Encouragement should be given in the conduct of programs under this Act to those projects in which funds are appropriated by any State or political subdivision thereof for the purpose of sharing costs with the Federal Government for the purchase and installation of photovoltaic components and systems.

SEC. 14. Nothing in this Act shall be construed to negate, duplicate, or otherwise affect the provisions of title V (Federal Initiatives), part 4 (Federal Photovoltaic Utilization), National Energy Conservation Policy Act, H.R. 5037, 95th Congress, if and when that Act becomes enacted by the Ninety-fifth Congress, and such part 4 shall be exempted fully from the provisions of this Act and any regulations, guidelines, or criteria pursuant thereto.

AUTHORIZATION OF APPROPRIATIONS

SEC. 15. There is hereby authorized to be appropriated to the Secretary, for the fiscal year ending September 30, 1979, $125,000,000, inclusive of any funds otherwise authorized for photovoltaic programs, (1) to carry out the functions vested in the Secretary by this Act, (2) to carry out the functions in fiscal year 1979, vested in the Secretary by part 4 of title V of H.R. 5037, 95th Congress, if enacted by the 95th Congress, and (3) for transfer to such other agencies of the Federal Government as may be required to enable them to carry out their respective functions under this Act. Funds appropriated pursuant to this section shall remain available until expended: *Provided*, That any contract or agreement entered into pursuant to this Act shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts. Authorizations of appropriations for fiscal years after fiscal year 1979 shall be contained in the annual authorization for the Department of Energy, except for those funds authorized for fiscal years 1980 and 1981 contained in part 4 of title V of H.R. 5037, Ninety-fifth Congress, if enacted by the Ninety-fifth Congress.

Mr. McCORMACK (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. GIAIMO). Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so to ask the gentleman from Washington exactly what the request is, and secondly, specifically whether there are any nongermane amendments that have been attached by the other body?

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Washington.

Mr. McCORMACK. In the first place, the bill is the Solar Photovoltaic Research, Development, and Demonstration Act of 1978, which passed this House on June 28 by a vote of 385 to 14. There are no nongermane amendments in the bill.

Mr. BAUMAN. This request is to concur in a Senate amendment?

Mr. McCORMACK. This request is to concur in a Senate amendment.

Mr. BAUMAN. I thank the gentleman.

Mr. GOLDWATER. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Speaker, I rise in support of H.R. 12874, the Solar Photovoltaic Energy Research, Development, and Demonstration Act of 1978. The excellent summary of this bill provided by the chairman of our subcommittee, the Honorable MIKE McCORMACK of Washington, most clearly indicates the benefits of this legislation. In working with the gentleman from Washington, it was apparent to me that he has done a very fine job in formulating this piece of legislation. His qualities of leadership are certainly evident in the bill now before us. This legislation represents an outstanding example of a case where both the majority and minority sides of Congress have worked together in forging a legislative mandate to help direct our Nation's energy efforts.

At the same time, I would also like to commend the Senator from Hawaii, Mr. MATSUNAGA, for his work in moving this legislation through the other body. His dedication is certainly noteworthy. Were it not for his efforts, we would not be able to be in a position to send this bill to the President today. We should be greatly appreciative of his efforts and the efforts of Senators HATFIELD, DOMENICI, and MATHIAS, who cosponsored this bill in the other body, in helping our Nation direct its efforts to alleviate our dependence on foreign oil supplies.

Solar photovoltaic energy technology shows great potential for contributing to our future energy needs in an environmentally acceptable manner. The bill before us provides for a focused, goal-oriented research, development, and demonstration program that will lead to the development of cost-competitive solar photovoltaic energy systems. These systems can be used in both central and dispersed applications, supplying energy for such diverse purposes as satellites, small communities, homes, and irrigation pumps.

As ranking minority member of the subcommittee which considered this bill, and as a cosponsor of the measure, I urge my colleagues to agree to the Senate amendment and allow the bill to be sent to the President. Although the bill originally passed by the House would have provided what I feel would have been a more focused program, I am pleased to see that the other body has provided some beneficial refinements to the program established by this legislation.

For example, I am particularly pleased to see that they have recognized the need to insure meaningful small business participation in this program. Small business concerns will certainly play a major role in any effort to commercialize solar photovoltaic energy technologies on a widespread scale. While I am not sure that the numerical set-aside provision for small businesses as now provided is the best approach to guarantee this participation, it is necessary to insure that these concerns are given a realistic and adequate opportunity to participate in the program. I, therefore, support the Senate amendment to this legislation, and urge my colleagues to do the same.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield further?

Mr. BAUMAN. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Speaker, H.R. 12874, the "Solar Photovoltaic Energy Research, Development and Demonstration Act of 1978" was passed by the Senate last Tuesday evening, October 10. The Senate incorporated several changes in this legislation, which the House passed on June 28 by a vote of 385 to 14.

Since Tuesday evening, Congressmen TEAGUE, FUQUA, GOLDWATER, and I, with the assistance of our committee staff, have painstakingly sifted through and reviewed the changes made in H.R. 12874 by the Senate. With only a few qualifications, we have concluded that these changes are acceptable to the House sponsors and we urge this body to accept them, thereby sending this important piece of solar energy legislation to the President for signature.

The basic philosophy undergirding this bill is that the time has come to develop a focused, goal-oriented solar photovoltaic research, development and demonstration program that is based on a cooperative effort between the Federal Government and private industry. The program set forth in H.R. 12874 assures that a realistic attempt will be made to make solar photovoltaics a viable, practical, cost-effective energy conversion technology, having wide applications in this country and abroad, before the end of this century.

The bill dedicates the Nation to a 10-year program in solar photovoltaic en-

ergy technologies. It sets clear goals relating to advances in this technology, including reductions in the cost of photovoltaic systems.

H.R. 12874 calls for the annual doubling of the total U.S. production of photovoltaic systems for 10 years starting in 1979. Doubling production each year will constitute an unusually aggressive program. It will result in photovoltaic production in 1988 being 1,000 times larger than it is today. Thus, the production in that year alone will be 2 million peak kilowatts of photovoltaic capacity, with a cumulative total of 4 million peak kilowatts capacity in photovoltaic systems produced during that 10-year period.

The bill also sets as an unusually ambitious goal, reduction in the cost of photovoltaic systems to $1.00 per peak watt sometime late in this century.

In the initial years of the program, funding will be heavily weighted toward research and development. A major research and development effort is necessary to solve technical problems that are presently hindering the attainment of the cost-reduction and market-development goals I have just described. This effort includes R. & D. on all components and types of photovoltaic systems that show promise.

The Department of Energy is also directed to undertake research and development on equipment that would effectively utilize photovoltaic systems as a source of electricity. Such R. & D. is to be done as needed. For instance, we need a variable-speed, direct-current pump for irrigation systems powered by photovoltaic systems.

As the program evolves in subsequent years, the funding for research and development will gradually diminish while funding for market development demonstrations will be increased. These demonstration activities will be in both the public and private sectors, with the Federal Government providing up to 75 percent of the cost of purchase and installation of photovoltaic systems, during the first phases of the 10-year program. The market-development demonstration in the private sector should be targeted toward those applications that may be marginally cost effective as photovoltaic systems at the time of the demonstration. As the cost of photovoltaic systems declines, the demonstration activity should be shifted to those new applications that have become marginally cost effective as a result of the lowered system costs. Thus, we will be establishing an expanding market in the private sector that we hope will be self-sustaining at the conclusion of this 10-year program.

The demonstration of photovoltaic systems in Federal applications is spelled out in detail in the National Energy Act which we are debating in this body in the closing days of the 95th Congress. It was this body's intention when we sent the bill to the Senate in June that the statutory language in the National Energy Act pertaining to Federal purchases and demonstration of photovoltaics in Federal applications shall take precedence over language in this legislation on that subject. The Senate added section 14 to clarify this possible point of confusion and I commend them for taking that action.

I take this opportunity to explain to this body a few of the changes made by the other body during its deliberations on this legislation. Changes in the findings, inserted in the bill by the other body, alter the tone of the bill, implying that photovoltaic electricity may or will be competitive with conventional electricity within a decade. While we would be most happy with such a development, honesty demands that it is not realistic to expect it; and misleading to hold it out as a possibility to the people of this country or the world.

In addition to some rather optimistic findings, the Senate added a long-term objective of having photovoltaics competitive with utility grid electricity. While we would all like to see this technology attain this objective, it is unrealistic to expect that this will happen by the end of the program, or even by the end of the century. The goals in the bill and the aggressive program in the bill should bring the production level up, and the cost down, to the point where photovoltaic systems will be competitive for some applications in areas of this country where electricity is otherwise unavailable or expensive; and also in other countries in the world where there are virtually no electrical energy supply systems at all.

Even if photovoltaic generation of electricity is not economically competitive with conventional grid electricity, however, there may be instances, especially in areas such as the Southwest where there is high solar insolation at the same time there is a high demand for air conditioning and irrigation systems, where mass produced, lower cost photovoltaic systems will be appropriate for peaking power.

We must keep in mind that even at our eventual very optimistic goal of $1 per peak watt for photovoltaic systems, the electricity thus produced will cost 10 to 12 cents per kilowatt hour. This is more expensive than almost any baseload electricity being sold today in this country. Unfortunately, attaining our ambitious goal for photovoltaics give us no better than the highest price we find in this country today for utility grid electricity.

We must keep some facts in perspective. It is not necessary for photovoltaic electricity to be competitive with utility grid electricity for the program to be successful. We will have created an industry with international and domestic sales of several billion dollars per year, even if photovoltaic electricity does not compete with conventional utility grid electricity. We will also be providing solar electricity for several million of the world's rural inhabitants; and we will have created the industrial base necessary to take us to the next milestone.

In the other body several new findings were inserted in the bill which we find excessive and unrealistic. Finding No. 5, for instance, says that "the early development and widespread utilization of photovoltaic energy systems could significantly expand the domestic energy resource base of the United States, thereby lessening its dependence on foreign supplies."

Unfortunately, this is not true. Even the continued production of 1,000 peak megawatts per year of photovoltaic systems would provide, by the end of the century, less than the equivalent of 200,000 barrels of oil a day as compared to a consumption at that time of about 60 million barrels a day. Saving 200,000 barrels a day of oil is a meaningful contribution which is well worth all the effort planned in this bill, but it would not significantly relieve the desperate need for this Nation to dramatically increase the production of electricity from conventional sources such as coal and nuclear fission.

Finding No. 12 states that "photovoltaic energy systems are economically competitive with conventional energy resources for a wide variety of applications in many foreign nations at the present time, and will find additional applications with continued cost reductions." Unfortunately, this is a gross exaggeration. The fact is that photovoltaic systems are today economically competitive only with some very expensive small scale facilities for the generation of electricity in remote areas of some foreign nations. We expect that photovoltaic systems will become more competitive as the program moves forward.

We would strike finding No. 19 as being confusing and unnecessary.

I am disappointed that this body was denied the opportunity to work with the Senate in regard to the 10 percent small business set-aside added by that body. Though small business participation in the photovoltaic program is presently running at approximately 20 percent, it may become difficult in the later years of the program when the emphasis is on market development to find enough small business manufacturers to utilize 10 percent of the funds. While we recommend accepting the Senate language, the Committee on Science and Technology will address this subject during oversight hearings next year.

Mr. Speaker, I take this opportunity to commend the efforts of Senators JACKSON, MATSUNAGA, and DURKIN in getting H.R. 12874 through the crowded legislative calendar in the other body. This is an important piece of energy legislation which will take the technology of solar photovoltaic energy conversion out of the laboratories and into the marketplace where it can contribute to the energy needs of our Nation.

Once again, I urge my colleagues to concur with the amendments made by the other body and send this bill to the President for signature.

● Mr. FUQUA. Mr. Speaker, I support H.R. 12874, the Solar Photovoltaic Energy Research, Development and Demonstration Act of 1978, and urge my colleagues to concur with the Senate amendments.

This bill provides for a focused, goal-oriented research, development and demonstration program over the next decade relating to solar photovoltaic energy systems. The bill was reported from the Committee on Science and Technology by unanimous vote and was passed by the House on June 28 by the overwhelming margin of 385 to 14.

This legislation has been strongly supported and passed by the other body. The amendments offered by the other body are acceptable to the House sponsors of this bill.

I would like to congratulate Congressman MIKE MCCORMACK, the chairman of the Subcommittee on Advanced Energy Technologies and Energy Conservation Research, Development and Demonstration, and Congressman BARRY GOLDWATER, JR., ranking minority member of this subcommittee, for the fine work they have done in formulating this legislation and guiding it through the House. I also would like to compliment Chairman OLIN E. TEAGUE for his strong support and leadership on behalf of this legislation.

This bill is part of the continuing effort of the Committee on Science and Technology to introduce responsible, forward-looking legislation for energy research, development and demonstration. These energy programs are of great importance to the Nation, involving all of our States, including my own home State of Florida.

Again, I urge my colleagues to support this bill as amended and send it to the President for his signature.●

GENERAL LEAVE

Mr. MCCORMACK. Mr. Speaker, I ask unanimous consent that all Members may have general leave to revise and extend their remarks on the legislation under consideration anytime between now and adjournment sine die.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington to dispense with further reading of the Senate amendment?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Washington?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous matter with respect to the omnibus park bill which passed earlier today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REQUEST FOR APPOINTMENT OF CONFEREES ON S. 2566, PENNSYLVANIA AVENUE DEVELOPMENT PLAN

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 2566) to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and borrowings from the U.S. Treasury for further implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes, with a Senate amendment to the House amendment thereto, disagree to the Senate amendment to the House amendment and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BENNETT. Mr. Speaker, reserving the right to object—and I may object—the reason I am reserving the right to object is because this is a bill to develop the Pennsylvania Avenue area, and it has had added to it in the Senate a measure over there to end the cross Florida barge canal. The cross Florida barge canal is probably the most important project in the State of Florida, certainly the most important in any district. It is approved by the laws of the State of Florida, enacted by the legislature of the State of Florida. It has a good cost-benefit ratio, and it has good environmental impact statements. I thoroughly approve this project.

The Federal Government itself has put about $60 million into this project. My own constituents have put perhaps $10 million or $15 million into this project.

And to cavalierly add an amendment on the Senate side to this effect—and I never knew about it until a few minutes ago—and the Senator from Florida never even notified me he was adding that to this bill.

Therefore, Mr. Speaker, I am going to have to reserve the right to object.

Mr. CHAPPELL. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Florida (Mr. CHAPPELL).

Mr. CHAPPELL. Mr. Speaker, are there any nongermane amendments added to this?

Mr. PHILLIP BURTON. If the gentleman will yield, I have been advised the answer to that is there are not nongermane amendments.

I say to my colleagues from Florida, this is not a House initiative. We have very legitimate concerns about the San Antonio missions, and the other body in its infinite wisdom added this to the bill.

I do not know whether we can say we have been very successful, marginally successful, or just partially successful with the Senate in this subject area. I am going to do all I can to see that the House position is sustained. I cannot affirm what the result will be, given the realities of the last two weeks in this policy area.

I might note that some evidence of the other body's determination is that I was forced to yield on a matter of intimate concern to me, on a park I personally established in our city that was virtually universally supported, so I can just do the best I can.

I am determined to bring back, if I can, the San Antonio Missions bill and if there is an objection I will move we be permitted to go to conference.

Mr. CHAPPELL. Mr. Speaker, further reserving the right to object, it is my understanding the particular project to which my colleague has alluded is a project which has jurisdiction in the Public Works Committee, and as I understand it there have been no hearings in either the Interior Committee or in the Public Works Committee. Is that correct?

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, without giving in to the jurisdictional interpretation, the gentleman is correct, our committee has never had a hearing. I am unaware that our House Public Works Committee has ever had a hearing on this matter. I suspect they have not, but there may be other members of the Public Works Committee that can attest to that. I gather from the reaction of some of my colleagues that the Public Works Committee has not had a hearing.

This amendment is not in any way a House initiative. This is something the House has been handed and we have to go to conference because we do have items in the bill that represent House initiatives.

Particularly I make reference to the San Antonio Missions.

Mr. CHAPPELL. Mr. Speaker, reserving further the right to object, do I understand the gentleman will hold to the House position with reference to that amendment, which I perceive to be nongermane, and attempt to sustain the House position on that particular proposition?

Yes, I will hold to it, but my primary concern is that the San Antonio Missions be approved by both Houses.

And I am not sure how wise it is to discuss this matter in this context, but the primary concern must be the San Antonio Missions and I do not know what other balancing considerations will be engaged in. I simply cannot anticipate that.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. Further reserving the right to object, I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding, I must state in the record at this point that the Members from Florida certainly are not all in agreement about this project. My own position is that this project has to be deauthorized to eliminate any vestige of doubt that it might in some way be resurrected. The project has not been funded for some considerable length of time. Very serious decisions have been made in the State of Florida both by the Governor and the cabinet in strong opposition to this project. Many steps have been taken to stop the project and reverse the environmental and other damage.

I advise the chairman, the gentleman from California, Mr. PHILLIP BURTON, who is asking to go to conference, there are many persons, organizations, governmental units, and Members of both the House and Senate who support deauthorization of this project, the Cross Florida Barge Canal.

Mr. McCORMACK. Mr. Speaker, if the gentleman will yield, we have been checking on the Committee on Public Works and Transportation, and we understand there have been no hearings held on this at all.

Mr. BENNETT. I may add that I think also there is no departmental report adverse to this. In other words, it has not had hearings, and the Federal Government has invested over $60 million in it, and my local constituents have invested about $10 to $15 million.

Mr. FITHIAN. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Indiana.

Mr. FITHIAN. Mr. Speaker, I have asked the gentleman to yield for the purpose of engaging the chairman in a colloquoy.

Does the bill, as now drafted, contain an addition to the Indian Dunes National Lakeshore Park?

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, let me respond to the question of the gentleman from Indiana. The answer is yes. The Senate provision contains an addition to the Indiana Dunes National Laqeshore Park.

Mr. FITHIAN. Mr. Speaker, I thank the gentleman for his comments. It is my understanding that these are the provisions which were in the House-passed bill 2 years ago.

I urge the gentleman to support the inclusion of the Indiana Dunes National Lakeshore Park, and would urge further that if, for whatever reason, the conference fails to include the addition to the Indiana Dunes the gentleman and his committee will take this up at the earliest opportunity next year.

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield further, if I may respond, the committee staff informs me this is the same proposal that passed 2 years ago. We did have any hearings on the gentleman's bill with respect to the Indiana Dunes National Lakeshore Park this year, the committee deciding that that was beyond the priorities for this year.

I could not say, in all candor to the gentleman that we will accept this amendment, certainly, if that does not happen, because of the decision the committee has made in its earlier judgment, it would be my intention to give this matter the earliest possible priority next year.

Mr. FITHIAN. I thank the gentleman for his comments and urge the conferees to retain the amendment included in the Senate-passed bill.

Mr. BENNETT. Mr. Speaker, further reserving the right to object, I said when I started off that I probably would object, but I did want to get this information before the Congress. My own feeling is that the Senate should not be allowed to add on, and never tell the House Members who are involved. This project of course runs through two or three congressional districts and all the Members of Congress in the areas involved vigorously support this project. We have been taxing ourselves now for 10 or 15 years to provide for it.

I was not informed by the Senator from Florida that he was going to add this on.

Mr. PHILLIP BURTON. Mr. Speaker, the gentleman from California was not informed either that it would be added to this bill.

Mr. BENNETT. Mr. Speaker, the easiest thing for me to do is just to object. Therefore, I object.

The SPEAKER pro tempore. Objection is heard.

CONFERENCE REPORT ON H.R. 12050, TUITION TAX CREDIT ACT OF 1978

Mr. ULLMAN submitted the following conference report and statement on the bill (H.R. 12050) to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition:

CONFERENCE REPORT (H. REPT. No. 95–1790)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12050) to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tuition Tax Credit Act of 1978".

SEC. 2. CREDIT FOR CERTAIN TUITION.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"SEC. 44C. CERTAIN TUITION.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 35 percent of the tuition paid by him for the calendar year in which such taxable year begins to one or more eligible educational institutions for himself, his spouse, or any of his dependents (as defined in section 152).

"(b) MAXIMUM DOLLAR AMOUNT.—The maximum dollar amount allowable as a credit under subsection (a) with respect to tuition for any individual shall not exceed the applicable amount determined under the following table:

"Calendar year:	Applicable amount in case of— Student at secondary school	Student at postsecondary school
1978	$50	$100
1979	100	150
1980 or 1981	100	250

"(c) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(d) PAYMENTS TAKEN INTO ACCOUNT.—

"(1) WHEN PAYMENTS MUST BE MADE AND EDUCATION FURNISHED.—Payments shall be treated as paid for any calendar year—

"(A) FOR 1978.—In the case of calendar 1978, only if such payments—

"(i) are made on or after August 1, 1978, and before February 1, 1979, and

"(ii) are for education furnished on or after August 1, 1978, and before January 1, 1979, or

"(B) FOR 1979 OR THEREAFTER.—In the case of any calendar year after 1978, only if such payments—

"(i) are made during such calendar year or during the 1-month period before or the 1-month period after such year, and

"(ii) are for education furnished during such calendar year.

"(2) TUITION MUST BE FOR GENERAL COURSE OF INSTRUCTION.—

"(A) IN GENERAL.—Tuition attributable to a course of instruction which is not a general course of instruction shall not be taken into account under subsection (a).

"(B) GENERAL COURSE OF INSTRUCTION DEFINED.—For purposes of subparagraph (A), the term 'general course of instruction' means a course of instruction—

"(i) which is offered by a secondary school, or

"(ii) for which credit is allowable toward a baccalaureate or associate degree by an institution of higher education, or a certificate of required course work at a vocational school,

but does not include any course of instruction which is part of the graduate program of the individual.

"(3) INDIVIDUAL MUST BE FULL-TIME STUDENT OR (FOR CALENDAR YEARS AFTER 1979) A QUALIFIED HALF-TIME STUDENT.—

"(A) IN GENERAL.—Amounts paid for the education of an individual shall be taken into account under subsection (a)—

"(i) for calendar year 1978 or 1979, only if such individual is a full-time student for such calendar year, or

"(ii) for any calendar year after 1979, only if such individual is a full-time student or a qualified half-time student for such calendar year.

"(B) FULL-TIME AND QUALIFIED HALF-TIME STUDENT DEFINED.—For purposes of this section—

"(i) The term 'full-time student' means any individual who, during any 4 calendar months during the calendar year, is a full-time student at an eligible educational institution.

"(ii) The term 'qualified half-time student' means any individual who, during any 4 calendar months during the calendar year, is a half-time student (determined in accordance with regulations prescribed by the Secretary) at an eligible educational institution. Regulations prescribed for purposes of the preceding sentence with respect to the determination of whether an individual is a half-time student shall not be inconsistent with regulations prescribed by the Commissioner of Education under section 411(a)(2)(A)(ii) of the Higher Education Act of 1965 for purposes of part A of title IV of such Act.

"(C) INDIVIDUAL WHO ATTENDS BOTH SECONDARY AND POSTSECONDARY INSTITUTION DURING SAME CALENDAR YEAR.—In the case of an individual who is a full-time student or a qualified half-time student at an eligible educational institution for any calendar year, for purposes of this section—

"(i) if such individual is a full-time student or a qualified half-time student for such year determined by taking into account only his status as a student at a postsecond-

ary institution, he shall be treated as a full-time student or a qualified half-time student (as the case may be) at such an institution, or

"(ii) if clause (i) does not apply, he shall be treated as a full-time student or a qualified half-time student (as the case may be) at a secondary school for such calendar year.

"(e) TUITION DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'tuition' means tuition and fees required for the enrollment or attendance of a student at an eligible educational institution, including required fees for courses.

"(2) CERTAIN AMOUNTS NOT INCLUDED.—The term 'tuition' does not include any amount paid, directly or indirectly, for—

"(A) books, supplies, or equipment for courses of instruction,

"(B) meals, lodging, transportation, or similar personal, living, or family expenses, or

"(C) education below the ninth-grade level.

"(3) AMOUNTS NOT SEPARATELY STATED.—If an amount paid for tuition includes an amount for any item described in subparagraph (A), (B), or (C) of paragraph (2) which is not separately stated, the portion of such amount which is attributable to such item shall be determined under regulations prescribed by the Secretary.

"(f) ELIGIBLE EDUCATIONAL INSTITUTION.—For purposes of this section—

"(1) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means—

"(A) an institution of higher education,

"(B) a postsecondary vocational school, or

"(C) a secondary school.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution described in section 1201(a) or 491(b) of the Higher Education Act of 1965 (as in effect on January 1, 1978).

"(3) POSTSECONDARY VOCATIONAL SCHOOL.—The term 'postsecondary vocational school' means—

"(A) an area vocational education school as defined in subparagraph (C) or (D) of section 195(2) of the Vocational Education Act of 1963 (as in effect on January 1, 1978), which

"(B) is located in any State.

"(4) SECONDARY SCHOOL.—The term 'secondary school' means any school which provides education at one or more of the ninth, tenth, eleventh, or twelfth-grade levels and which is privately operated but only if it is—

"(A) accredited or approved under State law (or, in the case of a school in a State which has no procedure for the accreditation or approval of privately operated schools, which meets the requirements of State law relating to compulsory school attendance), and

"(B) exempt from taxation under section 501(a) as an organization described in section 501(c)(3).

The term 'secondary school' includes facilities which offer education for individuals who are physically or mentally handicapped as a substitute for public secondary education.

"(5) POSTSECONDARY INSTITUTION.—The term 'postsecondary institution' means an institution of higher education or a postsecondary vocational school.

"(6) MARITAL STATUS.—The determination of marital status shall be made under section 143.

"(g) Special Rules.—

"(1) TREATMENT OF CERTAIN SCHOLARSHIPS AND VETERANS' BENEFITS.—

"(A) OFFSET AGAINST TUITION DOLLAR FOR DOLLAR.—For purposes of this section, any amount received as a nontaxable scholarship or educational assistance allowance for any period shall be treated—

"(i) as used for tuition attributable to such period, and

"(ii) as tuition not paid by the taxpayer.

"(B) NONTAXABLE SCHOLARSHIP OR EDUCATIONAL ASSISTANCE ALLOWANCE DEFINED.—For purposes of subparagraph (A), the term 'nontaxable scholarship or educational assistance allowance' means—

"(i) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) or similar award which is not includible in gross income, and

"(ii) an educational assistance allowance under chapter 32, 34, or 35 of title 38, United States Code.

"(2) TAXPAYER WHO IS A DEPENDENT OF ANOTHER TAXPAYER.—No credit shall be allowed to a taxpayer under subsection (a) for amounts paid for any calendar year for tuition for the taxpayer if such taxpayer is a dependent of any other person for a taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

"(3) SPOUSE.—No credit shall be allowed under subsection (a) for amounts paid for any calendar year for tuition for the spouse of the taxpayer unless—

"(A) the taxpayer is entitled to an exemption for his spouse under section 151(b) for the taxable year beginning in such calendar year, or

"(B) the taxpayer files a joint return with his spouse under section 6013 for such taxable year.

"(h) DISALLOWANCE OF CREDITED EXPENSES AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed under any other section of this chapter for any amount paid for tuition for any individual except to the extent that such amount exceeds the amount necessary for the allowance of the maximum amount which may be allowed under this section for tuition for such individual for the taxable year. The preceding sentence shall not apply to any amount paid for tuition by any taxpayer who, under regulations prescribed by the Secretary, elects not to apply the provisions of this section with respect to such tuition for the taxable year.

"(i) TERMINATION.—No credit shall be allowed under this section for education furnished after December 31, 1981."

(b) LIMITATION ON EXAMINATION OF BOOKS AND RECORDS.—Section 7605 of such Code (relating to time and place of examination) is amended by adding at the end thereof the following new subsection:

"(d) EXAMINATION OF BOOKS AND RECORDS OF CHURCH-CONTROLLED SCHOOLS.—Nothing in section 44C (relating to credit for tuition) shall be construed to grant additional authority to examine the books of account, or the activities, of any school which is operated, supervised, or controlled by or in connection with a church or convention or association of churches (or the examination of the books of account or religious activities of such church or convention or association of churches) except to the extent necessary to determine whether the school is an eligible educational institution within the meaning of section 44C(f)(1)."

(c) TAX CREDIT NOT TO BE CONSIDERED AS FEDERAL ASSISTANCE TO INSTITUTION.—Any educational institution which enrolls a student for whom a tax credit is claimed under this Act shall not be considered to be a recipient of Federal assistance under this Act.

(d) EXPEDITED REVIEW OF CONSTITUTIONALITY OF TUITION CREDIT.—

(1) CERTIFICATION OF QUESTIONS OF CONSTITUTIONALITY.—In any action brought in a district court of the United States, including an action for declaratory judgment or injunctive relief, concerning the constitutionality of any provision of section 44C of the Internal Revenue Code of 1954 (relating to credit for certain tuition) or any other provision of such Code relating to such section, the district court shall certify immediately all questions of constitutionality of such provision to the United States Court of Appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) APPEAL TO SUPREME COURT.—Notwithstanding any other provisions of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought no later than 20 days after the decision of the Court of Appeals.

(3) EXPEDITED CONSIDERATION.—It shall be the duty of the Court of Appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).

(4) SEPARABILITY.—If any provision of section 44C of the Internal Revenue Code of 1954 (or any other provision of such Code relating to such section), or the application thereof to any person or circumstances, is held invalid, the remainder of such provisions, and the application of such provisions to other persons or circumstances, shall not be affected.

(e) DISREGARD OF REDUCTION OF TAX LIABILITY.—Any reduction in the income tax liability of any individual by reason of section 44C of the Internal Revenue Code of 1954 (relating to credit for certain tuition) shall not be taken into account for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program of educational assistance or under any State or local program of educational assistance financed in whole or in part with Federal funds.

(f) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting immediately before the item relating to section 45 the following:

"Sec. 44C. Certain tuition."

(2) Subsection (c) of section 56 of such Code (defining regular tax deduction) is amended by striking out "credits allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, and 43."

(3) Subsection (b) of section 6096 of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 of this Act shall apply to taxable years ending on or after August 1, 1978, with respect to amounts paid on or after such date for education furnished on or after such date.

And the Senate agree to the same.

AL ULLMAN,
JAMES A. BURKE,
DAN ROSTENKOWSKI,
CHARLES A. VANIK,
BARBER B. CONABLE, JR.,
Managers on the Part of the House.

RUSSELL B. LONG,
ABRAHAM RIBICOFF,
PATRICK MOYNIHAN,
BOB PACKWOOD,
BILL ROTH,
BOB DOLE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the

disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12050) to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition, submit the following joint statement to the House and the Senate in explanation of the effect of the action (other than action of a technical nature) agreed upon by the managers and recommended in the accompanying conference report.

ELIGIBLE EDUCATION INSTITUTIONS

House bill

The House bill provided that only tuition paid to an eligible educational institution is eligible for the credit. The term "eligible educational institution" was defined in the House bill to mean (1) an institution of higher education, (2) a postsecondary vocational school, (3) a secondary school, and (4) an elementary school.

Senate amendment

The Senate amendment provides that only educational expenses paid to institutions of higher education and postsecondary vocational schools are eligible for the credit.

Conference agreement

The conference agreement provides that only tuition paid to institutions of higher education, postsecondary vocational schools, and secondary schools is eligible for the credit.

PERCENTAGE OF TUITION PAYMENTS ELIGIBLE FOR CREDIT

House bill

The House bill provided a nonrefundable credit against income tax for an amount equal to 25 percent of the tuition paid by the taxpayer for the calendar year in which the taxable year begins to one or more eligible educational institutions for himself, his spouse, or any of his dependents.

Senate amendment

The Senate amendment is generally the same as the House provision except that the credit is for an amount equal to 50 percent of the educational expenses paid by the taxpayer during the taxable year.

Conference agreement

The conference agreement provides a nonrefundable credit against income tax for an amount equal to 35 percent of the tuition paid by the taxpayer for the calendar year in which the taxable year begins to one or more eligible educational institutions for himself, his spouse, or any of his dependents.

MAXIMUM AMOUNT OF CREDIT

House bill

The House bill provided two sets of dollar limits on the maximum amount of credit for each calendar year to which the new section 44C applied. One set, which applied to institutions of higher education and postsecondary vocational schools, provided a maximum credit of $100 for 1978, $150 for 1979, and $250 for 1980. The other set, which applied to elementary and secondary schools, provided for a maximum credit of $50 for 1978, $100 for 1979, and $100 for 1980. Generally, under the House bill, payments were to be taken into account for purposes of determining the maximum amount of credit if they were made during the calendar year (or during the month before or after the calendar year) for education furnished during such calendar year.

Senate amendment

In general, the Senate amendment provides for a maximum credit of $250 for expenses allocable to education furnished before October 1, 1980, and $500 for expenses allocable to education furnished after September 30, 1980.

Conference agreement

The conference agreement provides, with respect to institutions of higher education and postsecondary vocational schools, a maximum credit of $100 for 1978, $150 for 1979, $250 for 1980, and $250 for 1981. The conference agreement also provides, with respect to secondary schools, a maximum credit of $50 for 1978, $100 for 1979, $100 for 1980, and $100 for 1981. Tuition payments are to be taken into account for purposes of determining the maximum credit if they are made during the calendar year (or during the month before or after the calendar year) for education furnished during such calendar year.

DEFINITION OF TUITION

House bill

The House bill provided that the term "tuition" means tuition and fees required for enrollment or attendance of a student at an eligible educational institution, including required fees for courses. Under the House bill, tuition did not include amounts paid, directly or indirectly, for books, supplies, or equipment, for meals, lodging, transportation, or similar personal living or family expenses, or for education below the first-grade level (or for attendance at a kindergarten or nursery).

Senate amendment

The Senate amendment uses the term "educational expenses", but reaches results consistent with those reached by the term "tuition" in the House bill.

Conference agreement

The conference agreement provides that the term "tuition" means tuition and fees required for enrollment or attendance of a student at an eligible educational institution, including required fees for courses. Under the conference agreement, tuition does not include amounts paid, directly or indirectly, for books, supplies, or equipment, or for meals, lodging, transportation, or similar personal living or family expenses. With respect to secondary schools, the term "tuition" only takes into account tuition for education at grades 9 through 12. Where an amount paid for tuition includes any amount (not separately stated) for an item which is not tuition, the portion attributable to such item is to be determined under regulations.

Under the conference agreement, as under the House bill and the Senate amendment, tuition attributable to education which is part of the graduate program of the individual shall not be taken into account.

ELIGIBLE STUDENTS

House bill

The House bill provided that payments may be taken into account only with respect to full-time and qualified part-time students. Under the House bill, a qualified part-time student was one who is taking, during any 8 months of the calendar year, at least one-half of the course of instruction required of a full-time student.

Senate amendment

The Senate amendment provides that payments may be taken into account only with respect to full-time and half-time students. Under the Senate amendment a half-time student is one who, during any 4 months of the calendar year, is a half-time student determined in accordance with regulations prescribed by the Secretary of the Treasury. The Senate amendment provides that such regulations shall not be inconsistent with regulations prescribed by the Commissioner of Education for purposes of part A of title IV of the Higher Education Act of 1965. Under the Senate amendment expenses of a half-time student may not be taken into account unless paid or incurred after September 30, 1980.

Conference agreement

The conference agreement provides that tuition payments may be taken into account only with respect to full-time and half-time students. Under the conference agreement a half-time student is one who, during any 4 months of the calendar year, is a half-time student determined in accordance with regulations prescribed by the Secretary of the Treasury. The conference agreement provides that such regulations shall not be inconsistent with regulations prescribed by the Commissioner of Education for purposes of part A of title IV of the Higher Education Act of 1965. Under the conference agreement tuition payments with respect to a half-time student may not be taken into account unless paid or incurred for education furnished after December 31, 1979.

The conference agreement provides a special rule for individuals who attend both secondary and postsecondary institutions during the same year.

OFFSETS FOR SCHOLARSHIPS AND EDUCATIONAL ASSISTANCE ALLOWANCES

House bill

The House bill provided that any amount received as a nontaxable scholarship or educational assistance allowance was to be treated as used on a ratable basis for all expenses of the recipient for which such scholarship or allowance may be used, with the amount so used for tuition treated as an amount not paid by the taxpayer.

Senate amendment

The Senate amendment reduces the expenses which are eligible for the credit by the amount received as a nontaxable scholarship of educational scholarship or educational assistance allowance. The reduction under the Senate amendment is on a dollar-for-dollar basis so that each dollar of such a scholarship or allowance reduces the eligible expenses by $1.

In addition, the Senate amendment reduces the amount of the credit for amounts received under subpart 1 or 2 of part A of title IV of the Higher Education Act of 1965.

Conference agreement

The conference agreement provides that the amount taken into account for tuition payments is to be offset on a dollar-for-dollar basis for the amount received as a nontaxable scholarship or educational assistance allowance.

DISALLOWANCE OF EXPENSES AS DEDUCTION OR ANOTHER CREDIT

House bill

The House bill provided that, unless the taxpayer elected not to have the credit for tuition apply for the taxable year, no deduction or credit was to be allowed for amounts paid for tuition except to the extent that such amounts exceeded the amount necessary for the maximum amount which may be allowed under the credit for tuition.

Senate amendment

The Senate amendment contains a similar provision.

Conference agreement

The conference agreement includes the House provision.

TAXPAYER WHO IS A DEPENDENT OF ANOTHER TAXPAYER

House bill

The House bill provided that no credit was to be allowed for tuition paid for a taxpayer if the taxpayer is a dependent of another person.

Senate amendment

The Senate amendment contains a similar provision.

Conference agreement

The conference agreement includes the House provision.

CREDIT NOT TO BE CONSIDERED AS FEDERAL ASSISTANCE TO INSTITUTION

House bill

The House bill provided that an educational institution which enrolls a student for whom this credit is claimed is not to

be considered to be a recipient of Federal assistance by reason of this credit.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House provision.

EXAMINATION OF BOOKS AND RECORDS

House bill

The House bill provided that the new credit for tuition was not tc be construed as granting the Internal Revenue Service additional authority to examine the books and records of certain religious organizations.

Senate amendment

The Senate amendment contains the same provision as the House bill.

Conference agreement

The conference agreement includes this provision.

JUDICIAL REVIEW

House bill

The House bill provided a special procedure for testing the constitutionality of this credit for tuition.

Senate amendment

The Senate amendment contains the same provision as the House bill.

Conference agreement

The conference agreement includes this provision.

SEPARABILITY

House bill

No provision.

Senate amendment

The Senate amendment contains a separability provision with respect to this new credit.

Conference agreement

The conference agreement follows the Senate provision.

REPORTS TO CONGRESS

House bill

No provision.

Senate amendment

The Senate amendment provides for two reports to be made to the Congress with respect to the effectiveness of the Internal Revenue Service's enforcement of policies against racial and other discrimination in private education.

Conference agreement

The conference agreement does not include the Senate amendment.

EFFECTIVE DATE

House bill

The House bill provided that this credit was to apply to taxable years ending on or after August 1, 1978, with respect to amounts paid on or after such date for education furnished on or after such date.

Senate amendment

The Senate amendment provides the same effective date as the House bill.

Conference agreement

The conference agreement includes the House provision.

TERMINATION DATE

House bill

The House bill provided that no credit was to be allowed for any taxable year beginning after December 31, 1980.

Senate amendment

The Senate amendment provides that no credit is to be allowed for any taxable year beginning after December 31, 1983.

Conference agreement

The conference agreement provides that no credit is to be allowed for education furnished after December 31, 1981.

PARTICIPATION OF PRIVATE SCHOOL CHILDREN IN ELEMENTARY AND SECONDARY EDUCATION ACT

House bill

No provision.

Senate amendment

The Senate amendment provides for increases in the participation of private school students in programs under titles I and IV of the Elementary and Secondary Education Act of 1965, expands the bypass mechanism, and requires the Comptroller General to study and report on the impact which Federal assistance for, and tuition tax credits with respect to, private elementary and secondary schools may have on public elementary and secondary schools.

Conference agreement

The conference agreement does not include the Senate amendment.

AL ULLMAN,
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RUSSELL B. LONG,
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BOB PACKWOOD,
BILL ROTH,
BOB DOLE,
Managers on the Part of the Senate.

VETERANS' PROGRAMS EXTENSION ACT OF 1978

Mr. SATTERFIELD. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5029) to amend title 38 of the United States Code in order to authorize contracts with the Republic of the Philippines for the provision of hospital care and medical services to Commonwealth Army veterans and new Philippine Scouts for service-connected disabilities; to authorize the continued maintenance of a Veterans' Administration office in the Republic of the Philippines; and for other purposes, with Senate amendments thereto, and concur in the Senate amendments with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Veterans' Programs Extension Act of 1978".

TITLE I—EXTENSION OF CERTAIN PROGRAMS IN THE REPUBLIC OF THE PHILIPPINES

SEC. 101. Section 230(b) of title 38, United States Code, is amended by striking out "June 30, 1978." and inserting in lieu thereof "September 30, 1981.".

SEC. 102. (a) Section 624(c) of title 38, United States Code, is amended by striking out "Veterans Memorial Hospital" and inserting in lieu thereof "Veterans Memorial Medical Center".

(b) Section 632 of such title is amended by—

(1) striking out "Veterans Memorial Hospital" each time it appears and inserting in lieu thereof "Veterans Memorial Medical Center";

(2) striking out "June 30, 1978," and inserting in lieu thereof "September 30, 1983," in the material preceding clause (1) of subsection (a);

(3) inserting "furnished prior to October 1, 1979," after "care" the first time it appears in clause (2) of subsection (a);

(4) inserting before the semicolon at the end of clause (3) of subsection (a) "and paid or to be paid for by the United States under this subsection";

(5) inserting before the semicolon at the end of clause (4) of subsection (a) a comma and "except that, in cases in which hospitalization was not primarily for a service-connected disability, the United States may not provide for such payments for nursing home care furnished after September 30, 1979";

(6) striking out "July 1, 1978," in subsection (b) and inserting in lieu thereof "October 1, 1983,"; and

(7) striking out "five years" and "June 30, 1978" in the material preceding clause (1) of subsection (d) and inserting in lieu thereof "period" and "September 30, 1980", respectively.

TITLE II—BENEFITS PAYABLE TO PERSONS RESIDING OUTSIDE THE UNITED STATES

SEC. 201. Paragraph (4) of section 101 of title 38, United States Code, is amended by—

(1) inserting "(A)" before "The" and redesignating clauses (A), (B), and (C) within such paragraph as clauses (i), (ii), and (iii), respectively; and

(2) inserting at the end thereof the following new subparagraph:

"(B) For purposes of subparagraph (A) of this paragraph, in the case of an adoption under the laws of any country other than the United States (including the possessions, territories, and Commonwealths of the United States)—

"(i) a person residing outside any of the States during the lifetime of a veteran (including for purposes of this subparagraph a Commonwealth Army veteran or 'New' Philippine Scout, as defined in section 1766 of this title) shall not be considered a legally adopted child of such veteran unless such person—

"(I) was less than eighteen years of age at the time of adoption;

"(II) is receiving one-half or more of such person's annual support from such veteran;

"(III) is not in the custody of such person's natural parent, unless such natural parent is such veteran's spouse; and

"(IV) is residing with such veteran (or in the case of divorce following adoption, with the divorced spouse who is also an adoptive or natural parent) except for periods during which such person is residing apart from such veteran (or such divorced spouse) for purposes of full-time attendance at an educational institution or during which such person or such veteran (or such divorced spouse) is confined in a hospital, nursing home, other health-care facility, or other institution; and

"(ii) a person shall not be considered to have been a legally adopted child of a veteran as of the date of such veteran's death and thereafter unless—

"(I) at any time within the one-year period immediately preceding such veteran's death, such veteran was entitled to and was receiving a dependent's allowance or similar monetary benefit under this title for such person; or

"(II) for a period of at least one year prior to such veteran's death, such person met the requirements of clause (i) of this subparagraph.".

SEC. 202. Section 107 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(c) Notwithstanding the provisions of subsections (a) and (b) of this section and, notwithstanding the provisions of subchapter VII of chapter 35 of this title, no benefits under chapter 11, 13, or 35 of this title shall be paid to any person by virtue of the provisions of either such subsection or such subchapter on the basis of a claim by such person for initial eligibility for any such

benefits filed on or after October 1, 1979, if, on the basis of prior claims filed by such person, such initial eligibility had been disallowed more than once.".

SEC. 203. (a) The Administrator of Veterans' Affairs shall carry out a comprehensive study of benefits payable under the provisions of title 38, United States Code, to persons who reside outside the fifty States and the District of Columbia. The Administrator shall include in such study—

(1) an analysis of the issues involved in the payment of such benefits to persons who reside outside the fifty States and the District of Columbia, together with analyses of such aspects of the economy of each foreign country and each territory, possession, and Commonwealth of the United States in which a substantial number of persons receiving such benefits reside as are relevant to such issues (such as the rate of inflation, the standard of living, and health care, educational, housing, and burial costs);

(2) an analysis of the issues involved in the payment of such benefits as the result of adoptions under laws other than the laws of any of the fifty States or the District of Columbia;

(3) an analysis of the amounts and method of payment of benefits payable to persons entitled, by virtue of sections 107 and 1765 of such title, to benefits under chapters 11, 13, and 35 of such title;

(4) estimates of the present and future costs of paying monetary benefits under such title to persons described in clauses (1) and (3) of this subsection;

(5) an evaluation of the desirability of continuing to maintain the Veterans' Administration Regional Office in the Republic of the Philippines, taking into consideration (A) the current and expected future workloads of such office, (B) the estimated cost in fiscal years 1981 through 1985 of continuing to maintain such regional office, (C) the feasibility and desirability of transferring appropriate functions of such regional office to the United States Embassy in the Republic of the Philippines, and (D) a provisional plan, which the Administrator shall develop, for the closing of such office and so transferring such functions, together with cost estimates for fiscal years 1981 through 1985 for the implementation of such plan assuming that such office is closed prior to October 1, 1981; and

(6) an evaluation of the effects of the amendments to such title made by sections 201 and 202 of this Act.

(b) Not later than February 1, 1980, the Administrator shall report to the Congress and the President on the results of such study together with the Administrator's recommendations for resolving the issues to be analyzed and evaluated in such study.

TITLE III—HEALTH CARE AMENDMENTS

SEC. 301. Subclause (v) of clause (C) of section 601(4) of title 38, United States Code, is amended to read as follows: "(v) hospital care, and medical services which will obviate the need for hospital admission, for veterans in a State not contiguous to the forty-eight contiguous States, except that the annually determined hospital patient load and incidence of the provision of medical services to veterans hospitalized or treated at Veterans' Administration expense in Government and private facilities in each such noncontiguous State (except in the Commonwealth of Puerto Rico and in the Virgin Islands) shall be consistent with the patient load or incidence of the provision of medical services for veterans hospitalized or treated by the Veterans' Administration within the forty-eight contiguous States, but authority under this subclause shall expire on December 31, 1980, in the case of each noncontiguous State (except Alaska and Hawaii).".

SEC. 302. Clause (3) of section 612(i) of title 38, United States Code, is amended by inserting "(including the conduct of an examination to determine eligbility for service-connected compensation under chapter 11 of this title)" before the period.

SEC. 303. (a) Subchapter IV of chapter 17 of title 38, United States Code, is amended by redesignating section 634 as 635 and inserting after section 633 the following new section:

"§ 634. Hospital and nursing home care and medical services in the United States

"The Administrator, within the limits of Veterans' Administration facilities, may furnish to a Commonwealth Army veteran or new Philippine Scout hospital and nursing home care and medical services for the treatment of a service-connected disability of such veteran or Scout.".

(b) The table of sections at the beginning of Chapter 17 of such title is amended by striking out

"634. Definitions."

and inserting in lieu thereof

"634. Hospital and nursing home care and medical services in the United States.
"635. Definitions.".

SEC. 304. (a) Not later than October 1, 1979, the Administrator of Veterans' Affairs shall submit to the Congress and the President a report on the furnishing by the Veterans' Administration of hospital care and medical services in the Commonwealth of Puerto Rico and in the Virgin Islands. The Administrator shall include in such report—

(1) a comprehensive assessment of the health-care needs of veterans in the Commonwealth of Puerto Rico and in the Virgin Islands;

(2) a detailed report on the hospital care and medical services which were furnished or are planned to be furnished to veterans there during fiscal years 1975 through 1981, with breakdowns according to the numbers of veterans being treated, the facilities at which such care and services are furnished, and the extent to which such care and services are furnished for the treatment of service-connected disabilities and to veterans with service-connected disabilities rated as 50 per centum or more; and

(3) recommendations as to how such health-care needs can best be addressed within the existing authority of the Veterans' Administration and what additional authority, if any, is necessary and desirable to meet such needs.

Recommendations under clause (3) of this subsection shall be made only after taking into consideration—

(A) the extent of poverty in the Commonwealth of Puerto Rico and in the Virgin Islands;

(B) alternative sources of health-care services that would be available to such veterans being furnished such services there by the Veterans' Administration if the services so furnished by the Veterans' Administration for non-service-connected disabilities were substantially reduced;

(C) the equitable distribution of Veterans' Administration health-care resources; and

(D) the priority attaching to the care and treatment of service-connected disabilities.

(b) Not later than March 1, 1979, and annually thereafter, the Chief Medical Director of the Veterans' Administration shall submit to the appropriate committees of the Congress, through the Administrator of Veterans' Affairs, a full report on the implementation of section 601(4)(C)(v) of title 38, United States Code (as amended by section 301 of this Act), including the numbers of veterans provided contract treatment (and the average cost and duration thereof) in each State (as defined in section 101(20) of title 38, United States Code) in the categories described in the following provisions of such title: sections 601(4)(C)(v) (as so amended), 610(a), 612(a), 612(f)(1)(A), 612(f)(1)(B), 612(f)(2), and 612(g).

SEC. 305. Section 6(a)(2) of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94–123; 89 Stat. 669), as amended, is amended by striking out "September 30, 1978." and inserting in lieu thereof "September 30, 1979.".

SEC. 306. Section 5082 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(c) There is further authorized to be appropriated for fiscal year 1979 for carrying out the programs authorized under this chapter such sums as may be necessary (1) to make to institutions with which the Administrator has entered into agreements under subchapter I of this chapter supplemental grants for which the Administrator had, prior to May 1, 1978, approved applications from such institutions, and (2) to meet fully the commitments made by the Administrator prior to May 1, 1978, for grants and applications approved under authority of this subchapter and subchapters III and IV of this chapter, except that no funds appropriated under this subsection may be used for grants and applications approved under this subchapter and such subchapters III and IV until the full amounts for which applications had been so approved have been obligated under such subchapter I.".

SEC. 307. Section 611 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(c) The Administrator may, in the discretion of the Administrator, enter into a contract with any organization recognized under section 3402 of this title to furnish, on a reimbursable basis, as prescribed by the administrator, emergency medical services at a national convention of such organization to individuals attending such convention except that reimbursement shall not be required to the extent that eligible veterans receiving such services would otherwise be eligible for medical services from the Veterans' Administration under this chapter.".

TITLE IV—VETERANS READJUSTMENT APPOINTMENTS AND PENSION REFORM IMPLEMENTATION

SEC. 401. Section 2014 of title 38, United States Code, is amended by—

(1) amending subsection (b) to read as follows:

"(b) To further this policy, veterans of the Vietnam era shall be eligible, under the terms and conditions specified in Executive Order Numbered 11521 (March 26, 1970) and in accordance with regulations which the Civil Service Commission (or successor authority) shall prescribe, for veterans readjustment appointments, and subsequent career-conditional appointments, except that such an appointment (1) may be made in the case of any veteran of the Vietnam era up to and including the level GS–7 or its equivalent, (2) may be made in the case of any veteran of the Vietnam era who is a disabled veteran without limitation as to completion of more than fourteen years of education, and (3) may be made at any time prior to October 1, 1981.";

(2) striking out all after "subsection (b) of this section and" in subsection (d) and inserting in lieu thereof a comma and "with breakdowns for disabled and other veterans, the following information: The number and grade levels of such appointments; the number of appointees converted or terminated, with a breakdown according to categories of causes for termination; the number of such terminations initiated by the department, agency, or instrumentality and by the veteran; descriptions of the education and training programs in which appointees under subsection (b) of this section are participating; and the results of the plans required under subsection (c) of this section."; and

(3) inserting "subsections (a) and (c) of" after "in" in subsection (f).

SEC. 402. For the purpose of enabling the Administrator of Veterans' Affairs to carry out, with maximum efficiency, during the first one-year period following the date of its enactment, any Act enacted after June 1, 1978, with an effective date prior to October 1, 1979, establishing a new program of benefits under chapter 15 of title 38, United States Code, including the conduct of a program of public information designed to advise fully and fairly all persons who may be affected by the provisions of such Act of its implications for them, without impairing the efficiency of the Veterans' Administration in carrying out its other programs and responsibilities, there is authorized to be appropriated $5,000,000 for fiscal year 1979.

SEC. 403. (a) For the purposes of carrying out the studies required under sections 203 and 304 of this Act, there is authorized to be appropriated $350,000 for fiscal year 1979.

(b) Sums appropriated pursuant to subsection (a) of this section shall remain available until expended.

Amend the title so as to read: "An Act to amend title 3 of the United States Code to authorize contracts with the Republic of the Philippines for the provision of health-care services for Commonwealth Army veterans and new Philippine Scouts, to authorize the continued maintenance of a Veterans' Administration office in the Republic of the Philippines, to impose new requirements with respect to claims by certain persons residing outside the United States, to modify the circumstances under which contract hospital care and medical services may be furnished outside of the contiguous States; to authorize the provision of care in the United States for the treatment of the service-connected disabilities of certain Filipino veterans, to increase the authorization of appropriations for grants to assist certain health manpower training institutions, and to extend and improve the program of veterans readjustment appointments in the Federal Government; to extend the Veterans' Administration authority in Public Law 94–123, as amended, to enter into special-pay agreements with physicians and dentists; to require certain studies to be undertaken; and for other purposes.".

Mr. SATTERFIELD (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the House amendments to the Senate amendments, as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

That this Act may be cited as the "Veterans' Administration Programs Extension Act of 1978".

SEC. 2. Section 230(b) of title 38, United States Code, relating to the Veterans' Administration office in the Republic of the Philippines, is amended by striking out "June 30, 1978" and inserting in lieu thereof "September 30, 1981".

SEC. 3. (a) Section 624(c) of title 38, United States Code, relating to the veterans medical center in the Republic of the Philippines, is amended by striking out "Veterans Memorial Hospital" and inserting in lieu thereof "Veterans Memorial Medical Center".

(b) Section 632 of such title is amended—

(1) by striking out "Veterans Memorial Hospital" each place it appears in such section and inserting in lieu thereof in each such place "Veterans Memorial Medical Center";

(2) in the matter in subsection (a) preceding clause (1)—

(A) by striking out "a contract" and inserting in lieu thereof "contracts"; and

(B) by striking out "June 30, 1978" and inserting in lieu thereof "September 30, 1981";

(3) by striking out "July 1, 1978" in subsection (b) and inserting in lieu thereof "October 1, 1981"; and

(4) by striking out "during the five years beginning July 1, 1973, and ending June 30, 1978—" in subsection (d) and inserting in lieu thereof "occurring during the period beginning July 1, 1973, and ending September 30, 1981—".

SEC. 4. Section 6(a)(2) of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94–123; 89 Stat. 669), relating to the expiration of authority to enter into special pay agreements, is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1981".

SEC. 5. Section 601(4)(C) of title 38, United States Code, relating to contract-care medical facilities, is amended by striking out "(v) hospital care" and all that follows through "December 31, 1978" and inserting in lieu thereof "(v) hospital care, or medical services that will obviate the need for hospital admission, for veterans in a State not contiguous to the forty-eight contiguous States, except that the annually determined hospital patient load and incidence of the provision of medical services to veterans hospitalized or treated at the expense of the Veterans' Administration in Government and private facilities in each such noncontiguous State shall be consistent with the patient load or incidence of the provision of medical services for veterans hospitalized or treated by the Veterans' Administration within the forty-eight contiguous States, but the authority of the Administrator under this subclause (except with respect to Alaska and Hawaii) shall expire on December 31, 1981, and until such date the Administrator may, if necessary to prevent hardship, waive the applicability to the Commonwealth of Puerto Rico and to the Virgin Islands of the restrictions in this subclause with respect to hospital patient loads and incidence of provision of medical services".

SEC. 6. (a) Section 2012(b) of title 38, United States Code, relating to veterans' employment emphasis under Federal contracts, is amended by inserting after "veterans" a comma and "or if any veteran who is entitled to disability compensation under the laws administered by the Veterans' Administration believes that any such contractor has discriminated against such veteran because such veteran is a handicapped individual within the meaning of section 7(6) of the Rehabilitation Act of 1973 (29 U.S.C. 706(6))".

(b)(1) Subsection (b) of section 2014 of such title, relating to veterans readjustment appointments within the Federal Government, is amended to read as follows:

"(b)(1) To further the policy stated in subsection (a) of this section, veterans of the Vietnam era shall be eligible, in accordance with regulations which the Civil Service Commission shall prescribe, for veterans readjustment appointments, and for subsequent career-conditional appointments, under the terms and conditions specified in Executive Order Numbered 11521 (March 26, 1970), except that—

"(A) such an appointment may be made up to and including the level GS–7 or its equivalent;

"(B) a veteran of the Vietnam era shall be eligible for such an appointment without any time limitation with respect to eligibility for such an appointment; and

"(C) a veteran of the Vietnam era who is entitled to disability compensation under the laws administered by the Veterans' Administration or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty shall be eligible for such an appointment without regard to the number of years of education completed by such veteran.

"(2) In this subsection, the term 'veteran of the Vietnam era' has the meaning given such term in section 2011(2)(A) of this title.

"(3) No veterans readjustment appointment may be made under authority of this subsection after September 30, 1981.".

(2) Subsection (d) of such section is amended (A) by striking out "thereof" in the second sentence and inserting in lieu thereof "of this section", and (B) by adding at the end of such subsection the following new sentence: "Each report under the preceding sentence shall include in the specification of the use and extent of appointments made under subsection (b) of this section the following information (shown for all veterans and separately for veterans described in subsection (b)(1)(C) of this section and other veterans):

"(1) The number of appointments made under such subsection since the last such report and the grade levels in which such appointments were made.

"(2) The number of individuals receiving appointments under such subsection whose appointments were converted to career conditional appointments, or whose employment under such an appointment has terminated, since the last such report, together with a complete listing of categories of causes of appointment terminations and the number of such individuals whose employment has terminated falling into each such category.

"(3) The number of such terminations since the last such report that were initiated by the department, agency, or instrumentality involved and the number of such terminations since the last such report that were initiated by the individual involved.

"(4) A description of the education and training programs in which individuals appointed under such subsection are participating at the time of such report.".

(3) Subsection (f) of such section is amended by inserting "subsection (a) of" after "as used in".

SEC. 7. Section 5082 of title 38, United States Code, relating to authorizations of appropriations, is amended by adding at the end thereof the following new subsection:

"(c) There is authorized to be appropriated for fiscal year 1979 to carry out the programs authorized under this chapter such sums as may be necessary (1) to make to institutions with which the Administrator has entered into agreements under subchapter I of this chapter supplemental grants for which the Administrator had, before May 1, 1978, approved applications from such institutions, and (2) to meet fully the commitments made by the Administrator before May 1, 1978, for grants and applications approved under authority of this subchapter and subchapters III and IV of this chapter, except that no funds appropriated under this subsection may be used for grants and applications approved under this subchapter and such subchapters III and IV until the full amounts for which applications had been so approved have been obligated under such subchapter I.".

SEC. 8. (a) Not later than February 1, 1980, the Administrator of Veterans' Affairs shall submit a report to the Congress and to the President on the furnishing by the Veterans' Administration of hospital care and medical services in the Commonwealth of Puerto Rico and in the Virgin Islands. The Administrator shall include in such report—

(1) a comprehensive assessment of the health-care needs of veterans in the Commonwealth of Puerto Rico and in the Virgin Islands;

(2) a detailed report on the hospital care and medical services furnished or to be furnished to such veterans during fiscal years 1975 through 1981, with information in such report shown with respect to the number of veterans treated or to be treated, the facilities at which such care and services are furnished or to be furnished, and the extent to which such care and services are furnished or are to be furnished for the treatment of veterans for the service-connected disabilities of any degree and of veterans with service-connected disabilities rated at 50 per centum or more; and

(3) recommendations as to how the health-care needs of such veterans can best be addressed within the existing authority of the Administrator of Veterans' Affairs and what additional authority, if any, is necessary and desirable to meet such needs.

(b) In making recommendations under subsection (a)(3), the Administrator shall take into consideration—

(1) the state of the economy in the Commonwealth of Puerto Rico and in the Virgin Islands;

(2) alternative sources of health-care services that would be available to veterans in the Commonwealth of Puerto Rico and in the Virgin Islands if the health-care services furnished by the Veterans' Administration for non-service-connected disabilities were substantially reduced;

(3) the desirability of equitable distribution of Veterans' Administration health-care resources; and

(4) the higher priority established by law for the care and treatment of service-connected disabilities.

SEC. 9. There is authorized to be appropriated for fiscal year 1979 the sum of $5,000,000 to enable the Administrator of Veterans' Affairs to implement the Veterans' and Survivors' Pension Improvement Act of 1978. Amounts appropriated pursuant to the preceding sentence shall remain available during the one-year period beginning on the date of the enactment of such Act and may be used to carry out a program of public information and advertising designed to advise fully all persons who may be affected by the provisions of such Act of the provisions of such Act, including the manner in which such Act may affect them and any rights they may have under such Act.

In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to extend certain expiring programs of the Veterans' Administration, to extend and improve the program of veterans readjustment appointments in the Federal Government, and for other purposes.".

Mr. SATTERFIELD (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Virginia?

Mr. HAMMERSCHMIDT. Reserving the right to object, Mr. Speaker, and I do not plan to object, in fact, I rise in support of this amendment. Each of the provisions in this bill are essential to the well-being of a large segment of our veteran population. An objection by a Member to this legislation would be tantamount to depriving vital services to large numbers of veterans.

At the same time, however, I would like to register my disappointment in this amendment in its present form. Mr. Speaker, this amendment contains only the most absolutely essential portion of a very comprehensive bill which the Veterans' Affairs Committees of both the House and Senate spent many weeks developing. The version originally intended for this body's vote included a provision that would have given mental and psychological readjustment counseling to Vietnam-era veterans. It had another provision establishing a pilot program for treatment of veterans with alcohol or drug problems, and another pilot program for preventive health care for certain disabled veterans. It contained another very important provision that would have given the Veterans' Affairs Committee jurisdiction to approve, and thus control, certain costly construction programs.

It appears that these provisions were eliminated because of the objection of one individual member of the majority party to the section relating to construction. In order to prevent an almost certain objection because of jurisdictional concerns as to which committee should have this function, the veterans of our country have been deprived of an important protection. I deeply regret this, Mr. Speaker, and I wish to record my strong disappointment in this matter even though I do endorse the provisions now before us.

This amendment, Mr. Speaker, will extend for 3 additional years the authority of the Administrator of Veterans' Affairs to enter into agreements with physicians and dentists to provide incentive pay in addition to basic salary for service in the Veterans Administration's Department of Medicine and Surgery. Members will recall that Public Law 94–123 enacted in 1975 authorized a 1-year period during which the Administrator could enter into agreements to provide incentive or bonus pay for physicians and dentists. It was then anticipated that the administration would recommend legislation to provide an equitable and uniform pay system for all physicians and dentists employed by the Federal Government. Despite two extensions of the authority, the legislative recommendations of the administration on this subject have not yet been received.

We are hopeful that the Congress itself will be able to work out a permanent solution to this problem prior to the expiration of the 3-year extension of the temporary arrangement authorized by this measure.

If the Veterans' Administration hospital system is to continue recruiting and retaining qualified physicians and dentists, it is essential that the levels of pay be increased.

Also scheduled to expire this year is the authority of the Veterans' Administration to operate a regional office in the Republic of the Philippines and a modest grant program which assists the Philippine Government in operating a veterans' memorial hospital.

Mr. Speaker, this amendment will extend for 3 years both the authority to continue a Veterans' Administration regional office in the Republic of the Philippines as well as a 3-year extension of the annual grant of $2.1 million to operate the hospital.

The distinguished chairman of the Subcommittee on Medical Facilities and Benefits and I visited this facility and the regional office early this year. I can assure Members that the hospital provides a high level of quality care and the need for financial assistance to this hospital still exists.

In addition, the tremendous number of veterans and widows with Veterans' Administration claims, either pending or in an active status, dictates the need for the continued operation of the regional office.

Under existing law, the President may appoint certain Vietnam-era veterans to positions at grade 5 levels in the Federal Government without regard to civil service laws and regulations. Scheduled to expire this year, this amendment will extend the President's authority for 3 additional years and increase the authority to cover positions at the grade 7 level. Service-connected disabled veterans are given special consideration under this provision.

Another provision of current law scheduled to expire on December 31, 1978, is the authority to provide contract hospital care for non-service-connected disabilities to veterans residing in States or possessions of the United States that are not contiguous to the 48 contiguous States. This amendment will extend this authority to December 31, 1981, for all territories while eliminating any expiration date for Alaska and Hawaii. Medical services to obviate the need for hospitalization are also authorized under this amendment, as well as a report on the health care needs of veterans in Puerto Rico and the Virgin Islands.

Finally, the bill will authorize the appropriation of such sums as are necessary to meet shortfalls in the grant program for health manpower training institutions. This program permits the Veterans' Administration to make grants to States for the establishment of new medical schools and to existing medical schools for expansion and improvements. Additionally, the bill authorizes the appropriation of $5 million in fiscal year 1979 to enable the Veterans' Administration to implement the Veterans' and Survivors' Pension Improvement Act of 1978.

These, Mr. Speaker, are the major provisions of the amendment. I urge that it be approved.

Mr. HAMMERSCHMIDT. Further reserving the right to object, Mr. Speaker, I yield to the distinguished chairman of the subcommittee, the gentleman from Virginia (Mr. SATTERFIELD) for an explanation of what his request is.

Mr. SATTERFIELD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the bill H.R. 5029 passed

the House on April 4, 1977 by a voice vote. As passed by the House, the bill would have authorized for 1 year the continuation of Veterans' Administration payments to reimburse the Veterans' Memorial Center in Manila for furnishing health-care services to Commonwealth Army Veterans and New Philippine Scouts. The House-passed measure also extended for 1 year the authority of the Administrator of Veterans Affairs to operate a regional office in Manila. This office adjudicates claims against the United States for service-connected veterans, pay compensation to Commonwealth Army Veterans and New Philippine Scouts, operates an outpatient clinic and administers VA programs for U.S. veterans residing in the Republic of the Philippines.

H.R. 5029 as passed by the Senate would have extended the authority to provide such health-care services as follows:

First, until September 30, 1983 (a 5-year extension), for hospital care, nursing home care, and outpatient services for the treatment of service-connected disabilities; second, until September 30, 1979 (a 1-year extension), for hospital and nursing home care for the treatment of non-service-connected disabilities; and third, until September 30, 1981, for grants for education and training of health service personnel and for replacement and upgrading of equipment in rehabilitating the physical plant and facilities of the hospital.

Mr. Speaker, the Senate amendments to H.R. 5029 are not acceptable by the House Committee on Veterans Affairs; however, in recent days we have had some discussions with the other body on the proposed House amendments to the Senate amendments, and I feel that they are acceptable to the other body.

The proposed amendments are as follows:

To extend to the Administrator the authority to operate a regional office in Manila, Republic of the Philippines, for an additional 3 years or until September 30, 1981.

To change the name of the Veterans Memorial Hospital, Republic of the Philippines, in chapter 17 of title 38 to that of the Veterans Memorial Medical Center.

To extend the authority of the President to authorize the Administrator to enter into contracts with the Veterans Memorial Medical Center, Republic of the Philippines, for the hospital care or medical services for Commonwealth Army Veterans and New Philippine Scouts from June 30, 1978 to September 30, 1981.

To extend the grant program to the Republic of the Philippines for the purpose of making payments for the care of Commonwealth Army Veterans and New Philippine Scouts of $2 million per fiscal year for 3 additional years or until October 1, 1981.

To extend the authority for making a grant of $50,000 per year to the Veterans Memorial Medical Center for education and training of health service personnel and $50,000 for making grants to the Veterans Memorial Medical Center for the purpose of assisting the Republic of the Philippines for replacing and upgrading of equipment and rehabilitating the physical plant and facilities of the medical center until September 30, 1981, or for a period of 3 additional years.

To extend the expiration date of Public Law 94–123, the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 from September 30, 1978 to September 30, 1981 or for a period of 3 additional years. This extension is necessary, Mr. Speaker, if the medical program of the Veterans' Administration is to continue to attract and retain qualified physicians and dentists to provide quality medical services to sick and disabled veterans. We had been hopeful that by this time the administration would have presented proposed legislation to us that would resolve this problem across the board for Federal physicians and dentists. No such proposal has been received and the word we receive is that the executive branch is nowhere near a solution or legislation on this matter. The Committee on Veterans' Affairs has, therefore, requested its staff to work with the other body and the other committee involved in an effort to arrive at some permanent solution to this Government-wide problem on or before the expiration of this authority.

To amend chapter 17 of title 38, section 601, to eliminate the delimiting date for the provision of contract care for veterans in the noncontiguous States of Alaska and Hawaii. This amendment also provides an extension of the current delimiting date for veterans residing in territories, possessions, or commonwealths until September 30, 1981. Authority has been included to grant the Administrator of Veterans' Affairs discretionary authority to waive the requirement that the Administrator annually determine the average hospital patient load per thousand veteran patients hospitalized at VA expense in Government and private facilities in the Commonwealth of Puerto Rico and the Virgin Islands. Mr. Speaker, this latter discretionary authority to waive this requirement has been placed in this measure in order to give the Administrator, as well as the legislative and oversight committees in both Houses, the opportunity to review the unique needs of veterans residing in these two localities. Currently the number of veterans hospitalized in these localities exceeds the annually determined average. This amendment will permit the Administrator to make an exception at his discretion until the needs of these veterans can be more thoroughly studied and solutions developed.

To extend the veterans readjustment appointment authority until September 30, 1981. In April 1970 President Nixon issued an Executive Order, No. 11521, to provide assistance by the Federal Government to help in the readjustment of Vietnam veterans who were returning to civilian life in large numbers from service in the Armed Forces in Southeast Asia. Because so many lacked the skills and education needed to compete in the then tight labor market, the Executive order was promulgated to help Vietnam veterans to obtain employment with the Federal Government, and provide training and education to enable them to assume a productive and successful role in civilian life.

Executive Order 11521, dated March 26, 1970, established a special appointing authority for veterans readjustment appointments in a noncompetitive excepted appointment to a position in the competitive service in grades 1 through 5 (both GS and wage grade) combined with a training program. Under the Executive order, Vietnam-era veterans who had not completed more than 14 years of formal schooling were eligible for a veterans readjustment appointment during the first year following their discharge or separation. For the veteran appointed under the Executive order to be converted to a career status, that is, a career conditional appointment in the U.S. Civil Service, the veteran must have participated in a program of training or education agreed to at the time of the appointment. Following the 2-year period of combined work and education or training, the appointment was converted to career or career conditional.

In 1974, the 93d Congress passed Public Law 93–508 which incorporated into law (title 38, U.S.C. 2014B) the special appointing authority contained in Executive Order No. 11521. Public Law 93–508 made an exception to the rule that the VRA must be used within 1 year after separation for veterans who are hospitalized immediately following their separation. In these cases, the 1 year after separation did not begin until the date of release from the hospital.

Another exception to the 1-year rule after separation provided in Public Law 93–508 was in those cases where veterans enrolled in a program of education under the GI bill within a year after their separation. In these cases, the period of eligibility for a veterans readjustment authority appointment was extended by the time spent in the qualifying GI bill course of training or education.

Because the program was due to expire on June 30, 1978, the administration, in a letter to the chairman of the House Committee on Veterans' Affairs, requested that legislation be introduced to extend the program to September 30, 1980. Subsequently, H.R. 10398 was introduced by Mr. TEAGUE, chairman of the Subcommittee on Education and Training, on December 15, 1977. H.R. 10398 proposed to extend the period of eligibility for veterans readjustment appointments in the Federal Government for veterans of the Vietnam-era to September 30, 1980, and restore Vietnam-era veterans' eligibility by eliminating the 1-year time limit for eligibility for a veteran who was eligible for a readjustment appointment under the order of April 9, 1970.

The primary purpose of the veterans readjustment authority, as provided in Public Law 93–508, is to assist Vietnam and disabled veterans to develop skills through a program combining employment and education and training. A vet-

erans readjustment appointment is to be made only under a training or education program developed by a Federal department or agency in accordance with guidelines established by the Civil Service Commission.

Despite legislation such as Public Law 93–508, authorizing the Federal Government to make VRA appointments to certain veterans, the hiring of Vietnam veterans, under this program, did not materialize as contemplated. We do know from the four semiannual reports submitted to the Congress by the Civil Service Commission, as required by Public Law 93–508, that over the 2-year period of the reports that the total Government-wide hiring under the VRA, about two-thirds of all veterans readjustment appointments hiring has been done by the Veterans' Administration and the Department of Defense, and more than half of the agencies averaged less than 1 percent of its new hires as veterans readjustment appointments.

However, the VRA program has resulted in more than 100,000 veterans being employed under the authority created.

Ending this program would not be in keeping with our national policy to extend every effort to help Vietnam-era and disabled veterans find satisfactory training and employment. Many Vietnam-era veterans did not have an opportunity to take advantage of the VRA program within 1 year from the date of their discharge. Extending the VRA, should be extremely helpful in lowering the unemployment rate among Vietnam and disabled veterans.

With this background, the Subcommittee on Education and Training held hearings on H.R. 10398 on April 5 and 6, 1978. The leadoff witness was Chairman Campbell speaking for the Administration, followed by Mr. Richard D. Brady, Personnel Officer of the Veterans' Administration; Mr. Austin E. Kerby, Director for Economics, and Mr. Edward J. Lord, assistant director, National Legislative Commission, the American Legion; Mr. Donald H. Schwab, director, National Legislative Service, Veterans of Foreign Wars; Mr. Ronald W. Drach, national director of employment, Disabled American Veterans; Mr. Gerald Jones, legislative director, Paralyzed Veterans of America, Inc.; and Mr. Len Gilmer, director of employment, National Association of Concerned Veterans. All testified in support of legislation to extend the veterans readjustment appointment (VRA) authority.

On April 20, 1978, the Veterans' Affairs Committee ordered reported H.R. 12353, a bill similar to H.R. 10398, but with amendments recommended by the administration. H.R. 12354, a bill identical to H.R. 12353, was also introduced by Mr. TEAGUE, chairman of the Subcommittee on Education and Training. Twenty-six members of the Committee on Veterans' Affairs cosponsored these two bills.

The reported bill, H.R. 12353, proposed to extend the period of eligibility for VRA appointments from June 30, 1978, to September 30, 1980. In addition, it proposed to raise the maximum grade level from GS–5 to GS–7 and eliminate the 1-year limit, thereby giving a second chance to Vietnam-era veterans to obtain a VRA appointment and recognize the fact that many veterans have obtained the necessary education and experience to qualify for a higher grade. Finally, it proposed to waive the 14-year education limit for VRA appointments for disabled veterans.

The Administration and all of the veterans' organizations fully supported the reported bill.

On May 22, 1978, H.R. 12353 was considered and passed unanimously by the House by the overwhelming majority of 338 to 0. On May 23, H.R. 12353 was referred to the Senate Committee on Veterans' Affairs. The Senate has not acted on H.R. 12353.

On May 26, 1978, the Senate passed H.R. 5029, with amendments. One of the amendments proposed to extend veterans readjustment appointments and make other amendments to the program as provided in section 401 of the amended H.R. 5029.

Clause (1) of section 401 of H.R. 5029 would extend the VRA authority until September 30, 1981, the time during which VRA appointments may be made; extend eligibility to any Vietnam-era veteran (a veteran whose active service included duty between August 5, 1964, and May 7, 1975) by opening up appointments to those who served before April 10, 1969, and eliminating entirely the restriction generally limiting appointments to the first year after separation; authorize VRA's to be made up to and including the level GS–7 or its equivalent; and eliminate for any disabled veteran of the Vietnam era the 14-year maximum number of completed years of education in order to be eligible.

Clause (2) of section 401 would expand the existing reporting authority to include the following information, broken down according to disabled and other veterans: The number and grade levels of VRA's; the number of appointees converted to terminated; the causes for such terminations; the number of terminations initiated by the employer and by the veteran; and a description of the education and training programs in which the appointees are participating.

Clause (3) of section 401 makes the definitions of "veteran" and "disabled veteran" as used in civil service law regulations applicable only to subsections (A) and (C) of section 2014, thus making the definitions of these terms in title 38 (sec. 101(2) ("veteran") section 2011(1) ("disabled veteran") applicable for the remainder of section 2014).

The agreement reached with the Senate on extending the veterans readjustment authority program contains the following provisions:

First. Makes veterans of the Vietnam era who served between August 5, 1964 and May 7, 1975, eligible for readjustment appointments under the terms and conditions specified in Executive Order No. 11521 up to and including the level of GS–7, or its equivalent;

Second. Makes eligible a veteran of the Vietnam era for such an appointment without any time limitations with respect to eligibility for such an appointment;

Third. Makes a disabled veteran of the Vietnam era entitled to disability compensation under the laws administered by the Veterans' Administration, or was discharged or released from active duty also for a disability incurred or aggravated in line of duty, eligible for a VRA appointment without regard to the amount of education of such a veteran;

Fourth. Extends the readjustment authority to September 30, 1981;

Fifth. In the semiannual report by the Civil Service Commission, in its review and evaluation of the implementation of the veterans readjustment authority program, and other activities required under 38 U.S.C. 2014, the Commission shall expand its reporting requirements to include in the specifications of the use and extension of the VRA appointments the following information to be shown separately for disabled and nondisabled veterans.

The number of appointments made since the last such report, and the grade levels in which such appointments were made.

The number of veterans receiving VRA appointments, which appointments were converted to career conditional appointments, or in the alternative, employment under the VRA appointment was terminated, together with a complete list of the categories of causes of the termination of VRA appointments, and the number of such veterans terminated.

The number of terminations of VRA appointments that were initiated by the department, agency, or instrumentality involved, and the number of VRA terminations initiated by the veteran.

A description of the education and training program in which veterans appointed under the veterans readjustment authority participated at the time of such report.

Sixth. A House amendment has added a provision to section 2012(b) veterans' employment emphasis under Federal contracts which provides that a disabled veteran may file a complaint under the provisions of the Rehabilitation Act of 1973, in addition to filing a complaint with the Veterans' Employment Service of the Department of Labor. A disabled veteran is defined as any veteran who is entitled to disability compensation from the Veterans' Administration, or who was discharged or released from active duty for a disability incurred or aggravated in the line of duty. This provision is intended to strengthen the law to help all disabled veterans who believe they have been discriminated against by Federal contractors who refuse to hire them because of their service-connected disabilities.

Copies of pertinent sections of the Rehabilitation Act of 1973, as codified in 29 U.S.C. 793 follow:

Under 29 U.S.C. 706(6), the term "handicapped individual" means any individual who: First, has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment and, second, can reasonably be expected to benefit in terms of employability from vocational rehabilitation services provided pursu-

ant to subchapters I and III of this chapter. For the purposes of subchapters IV and V of this chapter, such term means any person who: First, has a physical or mental impairment which substantially limits one or more of such person's major life activities, second, has a record of such an impairment, or third, is regarded as having such an impairment.

Under 29 U.S.C. 793(b), if any handicapped individual believes any contractor has failed or refuses to comply with the provisions of his contract with the United States, relating to employment of handicapped individuals, such individual may file a complaint with the Department of Labor. The Department shall promptly investigate such complaint and shall take such action thereon as the facts and circumstances warrant, consistent with the terms of such contract and the laws and regulations applicable thereto.

On October 10, 1978, the President submitted a message to the Congress to report on the progress of veterans of the Vietnam era and describe the actions the President will take to respond to the special problems a number of these veterans still face.

I am very encouraged that one of the actions already taken by the President is the issuance of an order that all Federal agencies make greater use of the Veterans Readjustment Authority (VRA) to bring Vietnam-era veterans, especially the disabled, into Government service. I have every hope this Presidential order will result in a sharp increase in the utilization of the VRA program, which to date has not materialized as contemplated by Congress. There follows a memorandum for the heads of departments and agencies issued by the President urging greater utilization of the VRA program:

THE WHITE HOUSE,
Washington, D.C.

MEMORANDUM FOR THE HEADS OF DEPARTMENTS AND AGENCIES

A major goal of this Administration has been to insure that employment opportunities for Veterans are concentrated on those areas where there is the most need—Vietnam-era and disabled Veterans.

As you are aware, since 1970, Federal agencies have had the authority to appoint certain Vietnam-era Veterans—generally with less than 14 years formal education and within one year after separation from active duty—to jobs at levels up through GS-5. In turn, these appointments can be converted to career-conditional positions. Administration supported legislation now pending in House-Senate conference would further extend and liberalize this authority by allowing appointments up to GS-7 and by removing the education limitation for disabled Veterans.

In 1974, the Congress charged the Civil Service Commission with responsibility for the evaluation of this program as it is implemented by your agencies. The Commission is mandated with obtaining, on at least a semi-annual basis, reports from Federal agencies with respect to their records on these Veterans' readjustment appointments and resulting conversions to career-conditional positions.

I am concerned with the wide disparity between agencies in the utilization of Veterans readjustment and resulting career-conditional conversion appointments. While some agencies have done a commendable job others have virtually ignored the Veterans readjustment and career-conditional appointment program. Access to Federal employment can be enhanced for Vietnam-era and disabled Veterans with fuller utilization of the Veterans readjustment appointment authority outlined in 38 U.S.C. section 2014.

I have directed the Chairman of the Civil Service Commission to contact each agency with a request for a specific plan of action to include goals and timetables for the implementation of the Veterans readjustment program. I expect your full cooperation on this matter.

JIMMY CARTER.

To amend section 5082 to authorize the appropriation of such sums as may be necessary in fiscal year 1979 to carry out the grant provisions of subchapters I, III, and IV, of chapter 82 of title 38 to institutions with which the Administrator has entered into agreements before May 1, 1978.

To require the Administrator of Veterans' Affairs to submit to the Congress and the President a comprehensive report not later than February 1, 1980, on the furnishing of hospital care and medical services to eligible veterans in the Commonwealth of Puerto Rico and in the Virgin Islands and on the number of patients receiving such care and medical services in these localities in order to determine the unique needs, if any, of these veterans. The provision requires that the study take into consideration the economy of these localities and any alternative sources available to provide such medical care.

To authorize the appropriation of $5 million for fiscal year 1979 to enable the Administrator of Veterans' Affairs to effectively establish and implement the new veterans pension program including the conduct of a program of public information desired to advise all persons who may be affected by the new pension program of its provisions and its implications for the individual.

Mr. Speaker, all of these amendments, particularly those extending certain dates that have expired or will expire in the near future, are essential to the continued effective provision of services to eligible veterans and to the operation of Veterans' Administration activities. The maximum cost of the provisions of the proposed House amendments will not exceed $18.5 million, and I assure Members that this is well within the amount of any new entitlements or authorizations in the second concurrent budget resolution. Mr. Speaker, I urge all of my colleagues to support this essential measure for veterans who are entitled to receive these benefits.

Mr. HAMMERSCHMIDT. Mr. Speaker, I thank the gentleman for his explanation.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. President, I just want to ask the gentleman from Virginia whether there are any nongermane amendments here which were adopted by the other body.

Mr. SATTERFIELD. If the gentleman will yield, Mr. Speaker, there are in the proposal that we have two amendments which do not specifically deal with the health jurisdiction of our committee.

The first one is an amendment to extend the Vietnam veterans' readjustment authority. The House has already passed this provision in a separate bill.

The last one I mentioned, which was a $5 million authorization in connection with the implementation of the pending pension reform measure, was an amendment the Senate added to our bill. The particular provision was not contained in H.R. 10173, the pension reform bill which we went to conference on. This merely would implement the pension measure should it be approved. If not, the provision has no application at all.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman.

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Virginia?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SATTERFIELD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the legislation just considered and that I be permitted to revise and extend my remarks and include extraneous matter on the legislation just considered.

The SPEAKER prc tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

AMENDING FEDERAL TRADE COMMISSION IMPROVEMENT ACT TO EXTEND DEADLINE FOR FILING REPORT OF RULEMAKING PROCEDURES

Mr. ECKHARDT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3595) to amend section 202(d) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act to extend the deadline for filing a report of rulemaking procedures and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BROYHILL. Reserving the right to object, Mr. Speaker, and I have no intention to object because I feel that this is needed, but all it does is to extend the deadline for two studies that the administrative conference is making of Federal Trade Commission rulemaking. It extends that deadline for those studies for 1 year. This is noncontroversial. I would point out that it does not call for any Federal expenditures because the administrative conference and the Federal Trade Commission will complete the studies out of existing appropriated funds.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Texas.

Mr. ECKHARDT. That is correct. The

only reason we use this means is because we passed a bill that was noncontroversial out of the subcommittee, and we simply did not have time to get it to the floor.

What does the bill do? It merely extends the deadline for submission of a study of the new Federal Trade Commission rulemaking processes mandated under the Magnuson-Moss Warranties Act in 1975. The reason the extension is needed is that the Commission's rulemaking is taking longer than originally expected and there has only been one rule issued under the new procedures. That is not enough for a thorough study.

Will one additional year be enough? It should be. The Commission has issued one rule on prescription eyeglass advertising, and there are 10 more on which hearings have been completed. Those 10, or some of them, should be issued over the next few months.

What is the need for the study? The Magnuson-Moss Warranty Act of 1975, on which Mr. BROYHILL and I did very much work on as subcommittee members, established new and rather formal procedures under which the Commission's consumer rulemaking is now conducted. In addition to the requirements of traditional rulemaking for notice in the Federal Register and comment by interested parties, the Magnuson-Moss procedures require a written record of the proceedings, a right to oral comment, limited cross-examination, processes to narrow and define issues, and court review on the basis of substantial evidence rather than the general "arbitrary and capricious" standard.

These procedures are the first of their kind, designed to give those affected by rulemaking a more formalized opportunity to participate. But because of the novelty of the procedures, the act provided that the administrative conference and the Federal Trade Commission each conduct a study and submit it to Congress.

What will this cost? There is no additional appropriation for this activity, since it is done out of existing funds already appropriated to the administrative conference and the Commission.

The staff-time costs for both the conference and the Commission should run in the neighborhood of $100,000—but, of course, that is money not spent on this earlier.

Is there a comparable House bill on this? Yes. H.R. 12563 was considered by my subcommittee and reported to the full Interstate and Foreign Commerce Committee late this summer. Unfortunately, there was not time in the end-of-the-Congress rush to bring the bill up in full committee.

Mr. BROYHILL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, I would also like to ask the gentleman about any nongermane amendments adopted by the other body.

Mr. ECKHARDT. If the gentleman will yield, there are none.

Mr. BAUMAN. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202(d) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act is amended by striking out "July 5, 1978", and inserting in lieu thereof "June 30, 1979".

The Senate bill was ordered to be read a third time, and was read the third time and passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ECKHARDT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 13750, SUGAR STABILIZATION ACT OF 1978

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 13750) to implement the International Sugar Agreement, 1977 between the United States and foreign countries, to protect the welfare of consumers of sugar and of these engaged in the domestic sugar industry, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman explain to us what this is all about?

Mr. FOLEY. Mr. Speaker, will the gentleman yield to me?

Mr. ROUSEELOT. I will be delighted to yield to the gentleman.

Mr. FOLEY. I thank the gentleman for yielding.

I will advise the gentleman that the Senate acted yesterday or early this morning with respect to the sugar legislation by adopting an amendment which has been attached to the House bill striking everything after the enacting clause of the House-passed bill and inserting the Senate amendment therein. It has now reached the desk, and I have asked unanimous consent to take it up and concur in the Senate's request for a conference.

Mr. ROUSSELOT. So we are not in any way giving approval to anything that they may have added; we are just going to conference, period.

Mr. FOLEY. We are not by this action doing anything except to concur in the Senate's request for a conference on the disagreeing views of the House and the Senate with respect to H.R. 13750, and this action does not commit the House to any position with regard to this legislation other than agreement to go to conference.

Mr. ROUSSELOT. I thank the gentleman for his explanation.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I thank the gentleman for yielding.

May I have the attention of the chairman. So that the House may anticipate the difficulties that we might have in the conference, I will ask the chairman are there Senate amendments that are nongermane to the Sugar Act?

Mr. FOLEY. If the gentleman will yield, the gentleman is correct. The Senate has included amendments dealing with the waiver of countervailing duties. That is correct.

Mr. DERWINSKI. That does not at this point cause any technical complication for the conferees as yet?

Mr. FOLEY. Not as yet. We have not appointed the conferees.

Mr. DERWINSKI. I mean when the conferees meet, though, they are in the situation where they are working from the House-passed sugar bill?

Mr. FOLEY. Yes.

Mr. DERWINSKI. And then they have matters that under normal circumstances would call for conferees and other committees?

Mr. FOLEY. I will advise the gentleman that the conferees who would be appointed by the Speaker, in the event that this unanimous-consent request is agreed to, include members of the Committee on Ways and Means that has jurisdiction over the countervailing duty amendments that are involved as nongermane amendments to this matter. Half of the conferees who will be appointed, if no objection is made to this request, will be members of the Committee on Ways and Means. The other half will be members of the Committee on Agriculture. The Senate jurisdiction in both matters lies with the Committee on Finance.

Mr. DERWINSKI. If I may then rephrase my question, the chairman has a positive attitude toward producing an acceptable sugar bill before we adjourn?

Mr. FOLEY. Indeed, I do.

Mr. ROUSSELOT. I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington? The Chair hears none, and without objection, appoints the following conferees: Messrs. FOLEY, ULLMAN, POAGE, ROSTENKOWSKI, VANIK,

CORMAN, GIBBONS, DE LA GARZA, NOLAN, AKAKA, JOHNSON of Colorado, FRENZEL, STEIGER, and MOORE.

There was no objection.

CONFERRING U.S. CITIZENSHIP POSTHUMOUSLY UPON LEOPOLDINE MARIE SCHMID

Mr. EVANS of Georgia. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8930) to confer U.S. citizenship posthumously upon Leopoldine Marie Schmid.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 8930

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Leopoldine Marie Schmid, late of San Mateo, California, and formerly of Zurich, Switzerland, shall be held and considered to have been a citizen of the United States at the time of her death.

Mr. EVANS of Georgia. Mr. Speaker and Members—I have watched the progression of this legislation from its inception. We had extensive discussions on the bill in the Judiciary Subcommittee on Immigration, Citizenship and International Law, of which I am a member. The bill was passed out of committee with widespread support.

Simply stated, the bill will confer citizenship posthumously on one Leopoldine Schmid, an immigrant to this country over 20 years ago whose single dream was to become a U.S. citizen. She and her husband completed the required studies and passed the examination. But Mrs. Schmid's dream of becoming a citizen was never realized because 15 days after the examination she was murdered, the victim of an attempted robbery by two gunmen who were never found.

This bill will not cost the Federal Government a nickel. However, it will be a priceless treasure to a man who lost his wife in the most tragic of circumstances.

We do not set precedent casually in this Chamber. But in this case we are not setting precedent. We have posthumously restored citizenship to Robert E. Lee (Public Law 94–67), and just last month the House passed the bill restoring citizenship posthumously to Jefferson Davis (S.J. Res. 16). Furthermore, we have granted honorary citizenship to Winston Churchill (Public Law 88–6). If we can do it for the famous, I feel strongly that we should do it for the not so famous as well. The passage of this bill would help to build an impression of a Congress able to consider and respond in a sympathetic fashion to the innocent needs of an individual.

I urge my colleagues to support this bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

COMMUNICATION FROM THE SECRETARY OF THE SENATE

The SPEAKER pro tempore laid before the House the following communication from the Secretary of the Senate:

Ordered, That the Secretary of the Senate be directed to request the House of Representatives to return to the Senate the bill (H.R. 12929) entitled "An Act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes", together with all accompanying papers.

Mr. MICHEL. Mr. Speaker, reserving the right to object, I wonder if I might have a little bit of explanation from our distinguished chairman just what it is that is going on here.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the distinguished gentleman.

Mr. MAHON. Mr. Speaker, yesterday, we, of course, considered the conference report on the Labor-HEW appropriation bill. It was sent back to the Senate, the other body.

The Senate adopted and suggested that the present law with respect to abortion be embodied in the bill and they took action late yesterday, but as a result of a technical error the Senate provided in their report to us the House language, the so-called Hyde language, and they also provided the language in the present law which was approved last year with respect to the HEW continuing resolution; so there is no way to resolve the problem.

It is contradictory in its present form. I understand the other body has requested that the papers be returned. In view of the fact it was a technical error, as a matter of comity and good faith, it would seem that the Senate is entitled to make the correction of the material that was in error.

Mr. MICHEL. Mr. Speaker, so if I understand correctly from the distinguished chairman, that in the Labor-HEW bill as it comes back to the House, we not only have the original House language, but we have the language to which the Senate agreed to, but to which the House did not agree, two sets of language to govern us on the issue of abortion. That is quite interesting.

Mr. MAHON. Mr. Speaker, the gentleman is precisely correct. It is a contradictory kind of thing brought about by some sort of technical error.

Mr. MICHEL. What would be the situation if we just refused to send those papers back? Would we not just have our way then and have our position sustained?

Mr. MAHON. I think it would be sort of a chaotic situation. I have been in touch with the other body, and they feel as a matter of comity between the bodies that they are entitled to get the papers back and make the correction of an error which was technical in nature.

Mr. MICHEL. Mr. Speaker, in deference to the chairman of my committee, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the Senate?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I would say to the gentleman from Texas (Mr. MAHON) it appears to the gentleman from Maryland that there is more than just a matter of comity involved in this request. The other body in its wisdom, having made this mistake, has presented us with the papers in a fashion which is obviously contradictory on the issue of abortion, but if we send the papers back and they amend this, it will come back here and there will be another fight on the issue of abortion.

I assume and hope we will uphold the original House position, as we did by a healthy margin the other day. If we do not return the papers the battle will be prolonged for at least 24 hours, but the other body already has in its possession a continuing resolution containing the compromise language.

I have a great deal of concern for the feelings of the Members of the other body and their pride and their printer's pride, as well as their staff's pride, but why are we extending the battle over this issue when it could be resolved by having these papers retained right on the desk?

Mr. MAHON. Mr. Speaker, I do not view this as a tragedy or a vehicle to continue the controversy over the issue of abortion. It is just a matter of sending papers back upon request of the other body.

I say in all sincerity I personally do not know what the other body will do with the papers when we send them back. It is an intolerable situation to have them here, and what will be done when we send them back to the Senate, I do not know. They may correct the error and send the papers back to us, in which case they will recommend that in the HEW appropriation bill we provide the language that is in the current law which was adopted last year.

That may be done or it may not be done, I do not know. I would assume possibly that would happen, but I have no assurance it will happen. I have no assurance what the House would do with respect to the matter.

As far as I am personally concerned, I thought the matter was settled yesterday, but after all this parliamentary process, the other body did have the right and the opportunity to take the action it undertook to take but mistakenly did not take.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I understand all that, and most of all, I agree with the gentleman's statement that it is impossible to predict what the other body will do. That is always done. All I am saying is that we could shorten this whole battle considerably if we did not send the papers back tonight and they passed the continuing resolution.

Mr. Speaker, I, therefore, do object.

The SPEAKER pro tempore. Objection is heard.

The question is on the request of the Senate.

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—yeas 28, nays 3.

So the request of the Senate was agreed to.

PROVIDING FOR CONSIDERATION OF H.R. 11153, RECLAMATION SAFETY OF DAMS ACT OF 1978

Mr. MEEDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1424 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1424

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11153) to authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. EVANS of Colorado). The gentleman from Washington (Mr. MEEDS) is recognized for 1 hour.

Mr. MEEDS. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Maryland (Mr. BAUMAN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1424 is the rule providing for the consideration of the bill H.R. 11153, Safety of Federal Reclamation Dams.

This is a simple 1-hour open rule with no waivers of points of order. It provides for the consideration of the bill, H.R. 11153, to authorize appropriations to the Secretary of Interior and the Bureau of Reclamation. The purpose of this authorization is that the Bureau of Reclamation may perform structural modification to dams and related facilities under their jurisdiction to assure the safety of those facilities from failure.

Mr. Speaker, I support the rule and urge the adoption of House Resolution 1424 in order that H.R. 11153 may be considered.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1424 provides 1 hour of debate for the consideration of H.R. 11153. This piece of legislation authorizes the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes. This bill establishes a program and will authorize appropriations by means of which the Secretary of the Interior, acting through the Bureau of Reclamation, may perform structural modifications to dams and related facilities under the jurisdiction of the Bureau of Reclamation to assure their safety from failure. The Rules Committee has granted an open rule for the consideration of this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. MEEDS. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 12533, INDIAN CHILD WELFARE ACT OF 1978

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1374 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1374

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12533) to establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and said substitute shall be read for amendment by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 12533, the Committee on Interior and Insular Affairs shall be discharged from the further consideration of the bill S. 1214 and it shall then be in order in the House to move to strike out all after tne enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 12533 as passed by the House.

The SPEAKER pro tempore. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Maryland (Mr. BAUMAN), pending which I yield myself such time as I may consume.

Mr. Speaker, H.R. 12533 establishes minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes and institutions.

This is an open rule providing for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs. It shall be in order to consider the amendment in the nature of a substitute recommended by the committee on Interior and Insular Affairs. It also provides for one motion to recommit with or without instruction.

The rule also provides that after the passage of the bill (H.R. 12533) it will be in order to call up the companion bill referred from the other body (S. 1214) and insert the text of the House-passed bill. This is a routine procedural motion, normally handled by unanimous consent, which expedites conference considerations of the legislation. In addition, the rule provides that the bill be read for amendment by titles instead of by sections.

Mr. Speaker, the purpose of this bill, H.R. 12533, is to protect the interest of Indian children. The bill promotes the stability and security of Indian tribes and families by establishing minimum Federal standards for the removal of Indian children from their families and the placement of children in foster or adoptive homes or institutions. The unique values of Indian culture will be reinforced and preserved by allowing children to remain with their own people.

The separation of Indian children from their families is perhaps the most tragic and destructive aspect of American Indian life. Indian children are being removed from their families to be placed in adoptive care, foster care, special institutions and Federal boarding schools at rates grossly disproportionate to non-Indian rates. Studies conducted by the Assocation of American Indian Affairs conclude that 25 to 35 percent of all Indian children are now separated from their families. My colleagues, the problem is getting worse and the figures are shocking.

Mr. Speaker, this particular piece of legislation was originally considered in 1974. The 93d, 94th and the 1st session of the 95th Congress convened and adjourned, thus leaving American Indian children to suffer the hardship of displacement.

Mr. Speaker, I strongly believe that this resolution before us is both extremely necessary and constitutional. The Indian welfare crisis will continue until we as legislators begin to realize and appreciate the importance of preserving American Indian culture. We can no longer neglect or ignore the cultural values and social norms of American Indians who are continuously struggling to "save the children."

Mr. Speaker, I request that we adopt the rule for House Resolution 1374 so that we may proceed with the consideration of the Indian Child Welfare Act.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from California has given his usual excellent elucidation on this rule.

Mr. Speaker, House Resolution 1374 is an open rule which provides 1 hour of

general debate for the consideration of H.R. 12533. H.R. 12533 establishes standards for the placement of Indian children in foster or adoptive homes and seeks to prevent the breakup of Indian families.

The rule further provides that the committee amendment is in order as an original bill for the purpose of amendment. According to the rule the bill is also to be read for amendment by titles instead of by sections. Additionally, the rule provides for one motion to recommit with or without instructions.

Finally, House Resolution 1374 provides that after the passage of H.R. 12533, the Committee on Interior and Insular Affairs shall be discharged from further consideration of the bill S. 1214. It shall then be in order in the House to move to strike out all after the enacting clause of S. 1214 and insert in lieu thereof the provisions contained in H.R. 12533 as passed by the House.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 12605, LONG-TERM FINANCING FOR CORPORATION FOR PUBLIC BROADCASTING

Mr. VAN DEERLIN. Mr. Speaker, I call up the conference report on the bill (H.R. 12605) to amend the Communications Act of 1934 to extend and improve the provisions of such act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes. The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of October 12, 1978.)

The SPEAKER pro tempore. Under the rule previously adopted, the conference report is considered as having been read.

The gentleman from California (Mr. VAN DEERLIN) will be recognized for 30 minutes, and the gentleman from California (Mr. MOORHEAD) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. VAN DEERLIN).

Mr. VAN DEERLIN. Mr. Speaker, I yield myself such time as I may consume. I am pleased to bring to the House a conference report on the bill H.R. 12605 relating to long-term financing for the Corporation for Public Broadcasting and relating to certain other grant programs for public telecommunications. The conference report leaves intact almost all of the provisions of H.R. 12605 as passed by the House. This includes authorization ceilings for the Corporation for Public Broadcasting of $180 million in fiscal year 1981, $200 million in fiscal year 1982, and $220 million in fiscal year 1983. The 3-year advance authorization represents a reaffirmation of the congressional commitment to long-term funding of the public broadcasting system.

In addition, the conferees agreed to the reduction in the matching formula which was passed by the House. The current formula provides that for every $2.50 in non-Federal support raised by public broadcasting entities, the Federal Government will contribute $1, up to the authorization level. The House bill, and now the conference report, would lower the match to $2—non-Federal—to $1—Federal. The purpose of lowering the match is to alleviate the stations' local fund-raising burden while maintaining the incentive for increasing local support.

The conferees also agreed to the House provision that recognized the growing needs of our public radio system. Until just recently, the educational broadcast facilities program allocated a very small portion of its funds to radio expansion and development with the result that public radio now reaches only about 40 percent of American homes. In order to improve this record, the House bill required that 25 percent of the facilities funds be available for radio expansion, and that the Corporation for Public Broadcasting increase its contribution to radio accordingly. The conference report replaces the specific percentage requirement with the words "a substantial amount" since the conferees believed that the administrators of the facilities program should have some discretion in the allocation of funds. However, the explanatory statement of the managers does make it clear that we expect that radio will continue to receive approximately the percentage that it has received for the last 2 years; in other words, about 25 percent.

The conferees also agreed to:

First. The House provision limiting the salaries of officers of CPB, PBS, and NPR to not more than that of Cabinet level officers, with an amendment grandfathering the salaries of current officers;

Second. The House provision requiring CPB to use panels of experts to evaluate program proposals, to the extent practicable;

Third. The House provision requiring the stations to establish community advisory boards;

Fourth. The House provision permitting the stations to include a limited portion of volunteer services as non-Federal income for purposes of the match, following the adoption of valuation standards by the corporation; and

Fifth. The House provision requiring that CPB allocate a significant portion of its funds to program production and acquisition, and reserve a substantial amount for distribution to independent producers.

The conferees adopted strong compromise provisions pertaining to open meetings, financial management and audits, and EEO requirements. For the most part, these provisions track those passed by the House, but clarify the applicability and terms of the provisions.

The conferees also agreed to several provisions contained in the Senate amendment to the House bill. These include provisions which extend the authorization for the HEW telecommunications demonstration program for 3 years, require NTIA to submit an annual report to Congress, and require each facilities grant recipient to keep a complete and itemized inventory of all telecommunications facilities under its control.

The conference agreement does not include two provisions that were contained in the House bill. The first provision added five new criteria for determining the amount of the incentive portion of the community service grants that CPB gives directly to public television stations. The new criteria included the encouragement of community responsiveness, cost efficiencies, volunteer programs, training programs for women and minorities, and innovative approaches to reaching new audiences. The conferees felt that although the criteria represented laudable goals for the system to achieve, they might be difficult to apply uniformly as a matter of law, in determining the amount of funds to be distributed to each station. The proposed criteria are cited in the statement of managers as goals for the system.

The conference committee also agreed to the deletion of the provision in the House-passed bill which would have eliminated the current ban on editorializing by public broadcast stations, and the existing requirement that stations keep audiotapes of programs in which issues of public importance are discussed. The House bill replaced these provisions with a more narrow prohibition against support or opposition of political candidates by public broadcasters. I would like to emphasize that the House conferees only agreed to maintaining the existing requirement pertaining to editorializing and taping because it was clear to us that the Senate was firmly opposed to elimination of these provisions at this time. Indeed, the Senate conferees had been instructed by the Senate not to accept the House provision. Therefore, in order to insure that the other important provisions of the bill could be acted upon prior to the adjournment of the Congress, the House conferees agreed to the deletion of our provision. We are nonetheless committed to securing full first amendment freedoms for public broadcasters, and will continue to argue strenuously for the detention of the taping requirement and the editorializing ban in future legislation.

Mr. MOORHEAD of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the bill has been improved slightly in the conference committee over what it was when it passed the House. Most of the major differences were decided in favor of the House version, but there were some of the criteria for eligibility that had been written in great detail in the House version that would have been difficult for stations throughout the country to follow that were taken out.

I ask for an aye vote.

● Mr. STAGGERS. Mr. Speaker, H.R. 12605, the Public Telecommunications Act of 1978, is an important bill for public telecommunications. The initiative for this bill came from President Carter's legislative proposal (H.R. 9620) which I introduced on October 18, 1977.

I have been deeply interested in broadcasting during my years in Congress. In presenting the first public broadcasting bill on the floor of the House in 1967, I commented that:

When all the factors that have made the 20th century such a great century have been considered and entered on the ledger books of history and a balance struck, I believe that the peculiar mark of this century will be that of wireless broadcasting. Without it, I believe we would be living in an entirely different world today, without a great many of the advances that we have made.

I still believe that today, 11 years later. The conferees preserved many of the substantive points that appeared in the House bill. The conferees report on H.R. 12605, is a fair one from the standpoint of the House and I hope the House will unanimously approve it.●

● Mr. WAXMAN. Mr. Speaker, I am pleased to join the distinguished chairman of the Subcommittee on Communications, Representative LIONEL VAN DEERLIN, in urging adoption of the conference report on H.R. 12605, the Public Telecommunications Financing Act. It is an exceptionally good bill which greatly strengthens our Nation's public broadcasting system.

We have provided more money than public broadcasting has ever had before, with $220 million authorized by 1983. We have made it substantially easier for the stations to receive Federal funds by lowering the nonpublic fund match requirement from 2.5:1 to 2:1, and by providing a limited credit for services performed by volunteers. Within 5 years, total income for public broadcasting will exceed half a billion dollars.

Coupled with our reiteration of the system's commitment to programing as its highest priority, public broadcasting's audiences can look forward to substantial improvements in the quality and diversity of their television and radio programs.

We have also made a special effort to assist public radio. It can expect to receive $10 million per year to build new radio stations and expand existing ones. This special dedication of facilities funding is to be accompanied by a commensurate increase in money from the Corporation for Public Broadcasting (CPB) for public radio programing. This formula is designed to extend the reach and listener support of public radio to the entire country within 5 years.

This conference report also addresses the longstanding problem of lack of access to the public broadcasting system—at both the national and local level—by independent producers. We expect that no less than $27 million per year will be awarded by CPB to independent producers—both large and small—for programs for the system by 1983. In so doing, the Congress is on record as recognizing the distinctive achievements of the abundance of creative talent in our Nation.

We have also acted to limit the potential for political interference by CPB in programing decisions by requiring its board, which is composed of political appointees, to use outside peer review panels to evaluate programing grants. This procedure will further insulate this most sensitive process from political abuse. As such, it is a significant reform from current practices.

We have also taken major steps to make the system, and particularly the stations, accountable to the communities they serve. We have required open meetings at all levels—in the national organizations and in the stations. We have directed the imposition of uniform accounting procedures and a requirement that pertinent financial records be open for public inspection. We have also required the formation of community advisory boards, which will give grassroots guidance to the stations on their judgments as to how to best serve their audiences.

In short, this legislation makes public broadcasting truly public.

The essential questions of structural reform of public broadcasting—the ultimate role of the Corporation for Public Broadcasting, the Public Broadcasting Service, National Public Radio, and the executive branch—are not addressed in this bill. Further steps must be taken, in my judgment, to reduce the bureaucratic overlap and inefficiency in the system, and to provide a greater degree of insulation for both its funding sources and programing decisions. As this legislation is silent on these issues, it must be considered an interim measure.

I therefore look forward to our continuing debate over the proposed title VI of the Communications Act of 1978, and the impending report of the Carnegie Commission for a resolution of these critical matters.

Mr. Speaker, I wish to express my sincere appreciation to all my colleagues on the subcommittee for their work on this bill, and especially to my chairman, Mr. VAN DEERLIN, who provided outstanding leadership. It was a pleasure to work with him, and he should be extremely proud of his achievement.

I urge adoption of this conference report.●

Mr. VAN DEERLIN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VAN DEERLIN. Mr. Speaker, I ask unanimous consent that all Members may have up to the sine die adjournment date in which to revise and extend their remarks and to include extraneous matter on the subject of the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNUAL REPORT OF ADMINISTRATOR, NATIONAL CREDIT UNION ADMINISTRATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Banking, Finance and Urban Affairs:

To the Congress of the United States:

I hereby transmit to the Congress the Annual Report of the Administrator, National Credit Union Administration and an addendum, entitled Annual Report 1977, for the calendar year 1977. This report contains additional information on unsecured loans as requested by the Committee on Banking, Finance and Urban Affairs, House of Representatives, during its consideration of Depository Institutions Amendments of 1977 (Public Law 95–22).

JIMMY CARTER.

THE WHITE HOUSE, *October 13, 1978.*

SEVENTH ANNUAL REPORT ON ADMINISTRATION OF FEDERAL RAILROAD SAFETY ACT OF 1970—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I transmit herewith the Seventh Annual Report on administration of the Federal Railroad Safety Act of 1970 (84 Stat. 971, 45 U.S.C. 421 et. seq.) as required by that Act. This report has been prepared in accordance with Section 211 of the Act, and covers the period January 1, 1977 through December 31, 1977.

JIMMY CARTER.

THE WHITE HOUSE, *October 13, 1978.*

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2570) entitled "an act to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 7971. An act to validate the conveyance of certain land in the State of California by the Southern Pacific Transportation Co.; and

H.R. 11409. An act to make permanent the existing temporary suspension of duty on certain dyeing and tanning materials.

The message also announced that the Senate agrees to the amendment of the House to the Senate amendment to a bill of the House of the following title:

H.R. 11092. An act to increase the authorization of appropriations under the act of December 22, 1974 (88 Stat. 1712).

The message also announced that the Senate agrees to the amendment of the House to the Senate amendment to a bill of the House of the following title:

H.R. 4319. An act to amend subchapter III of chapter 83 of title 5, United States Code, to provide that employees who retire after 5 years of service, in certain instances, may be eligible to retain their life and health insurance benefits, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the amendment of the Senate to a bill of the House of the following title:

H.R. 5646. An act to amend the Regional Rail Reorganization Act of 1973 to require ConRail to make premium payments under certain medical and life insurance policies, to provide that ConRail shall be entitled to a loan under section 211(h) of such act in an amount required for such premium payments, and to provide that such premium payments shall be deemed to be expenses of administration of the respective railroads in reorganization.

The message also announced that the Senate agrees to the amendments of the House with an amendment to a bill of the Senate of the following title:

S. 976. An act to amend the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3946) entitled "An act to suspend for a temporary period the rate of duty on wool not finer than 46s," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. MOYNIHAN, Mr. CURTIS, and Mr. HANSEN to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2253. An act to amend title 28 of the United States Code to encourage prompt, informal, and inexpensive resolution of civil cases by use of arbitration in U.S. district courts, and for other purposes.

HEALTH SERVICES AMENDMENTS OF 1978

Mr. ROGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 12370) to amend the Public Health Service Act and related health laws to revise and extend the programs of financial assistance for the delivery of health services, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 327, navs 6, answered "present" 1, not voting 96, as follows:

[Roll No. 916]

YEAS—327

Abdnor	Dornan	Kemp
Akaka	Downey	Keys
Ambro	Drinan	Kildee
Anderson, Calif.	Duncan, Tenn.	Kostmayer
Anderson, Ill.	Edgar	Krebs
Andrews, N.C.	Edwards, Ala.	Krueger
Andrews, N. Dak.	Edwards, Okla.	LaFalce
Annunzio	Emery	Lagomarsino
Archer	English	Latta
Ashbrook	Erlenborn	Le Fante
Ashley	Ertel	Leach
Aspin	Evans, Colo.	Lederer
AuCoin	Evans, Ga.	Lent
Bafalis	Evans, Ind.	Levitas
Baldus	Fary	Livingston
Barnard	Fascell	Lloyd, Tenn.
Baucus	Fenwick	Long, La.
Bauman	Findley	Long, Md.
Beard, R.I.	Fish	Lundine
Bedell	Fisher	McClory
Bellenson	Fithian	McCloskey
Benjamin	Flippo	McCormack
Bennett	Flood	McDade
Bevill	Florio	McEwen
Biaggi	Flynt	McHugh
Blanchard	Foley	McKay
Blouin	Ford, Mich.	Madigan
Boggs	Ford, Tenn.	Maguire
Boland	Forsythe	Mahon
Bonker	Fountain	Markey
Bowen	Fraser	Marks
Brademas	Frenzel	Marriott
Breaux	Fuqua	Martin
Breckinridge	Gammage	Meyner
Brinkley	Garcia	Michel
Brodhead	Gaydos	Mikulski
Brooks	Gephardt	Miller, Ohio
Broomfield	Gibbons	Mineta
Brown, Ohio	Gilman	Minish
Broyhill	Ginn	Mitchell, N.Y.
Buchanan	Glickman	Moakley
Burgener	Goldwater	Mollohan
Burke, Fla.	Gonzalez	Montgomery
Burke, Mass.	Gore	Moore
Burleson, Tex.	Gradison	Moorhead, Calif.
Burlison, Mo.	Grassley	Moorhead, Pa.
Butler	Green	Mottl
Caputo	Gudger	Murphy, Ill.
Carr	Guyer	Murphy, N.Y.
Carter	Hagedorn	Murphy, Pa.
Cavanaugh	Hall	Murtha
Cederberg	Hamilton	Myers, Gary
Chappell	Hammer-schmidt	Myers, John
Chisholm	Hanley	Myers, Michael
Clausen, Don H.	Hannaford	Natcher
Cleveland	Hansen	Neal
Coleman	Harkin	Nedzi
Collins, Ill.	Harris	Nix
Collins, Tex.	Harsha	Nolan
Conable	Hefner	Nowak
Conte	Hightower	O'Brien
Corcoran	Hillis	Oakar
Corman	Holland	Oberstar
Cornell	Hollenbeck	Obey
Cornwell	Holt	Ottinger
Cotter	Holtzman	Panetta
Coughlin	Horton	Patterson
Cunningham	Hubbard	Pattison
D'Amours	Hughes	Pease
Daniel, Dan	Ichord	Perkins
Daniel, R. W.	Jacobs	Pike
Danielson	Jeffords	Poage
de la Garza	Jenkins	Pressler
Dellums	Jenrette	Preyer
Dent	Johnson, Calif.	Price
Derrick	Jones, N.C.	Pritchard
Derwinski	Jones, Okla.	Pursell
Devine	Jones, Tenn.	Quayle
Dicks	Jordan	Quillen
Dingell	Kasten	Rahall
Dodd	Kastenmeier	Rangel
	Kazen	Regula
	Kelly	Reuss
	Rhodes	Skelton
	Richmond	Smith, Iowa
	Rinaldo	Snyder
	Roberts	Solarz
	Roe	Spence
	Rogers	St Germain
	Roncalio	Staggers
	Rose	Stangeland
	Rosenthal	Stanton
	Rostenkowski	Stark
	Rousselot	Steed
	Roybal	Steers
	Runnels	Steiger
	Ruppe	Stockman
	Ryan	Stokes
	Santini	Studds
	Satterfield	Stump
	Sawyer	Symms
	Scheuer	Taylor
	Schroeder	Thompson
	Schulze	Thone
	Sebelius	Thornton
	Seiberling	Traxler
	Sharp	Treble
	Sikes	Tsongas
	Simon	Udall
	Sisk	Ullman
		Van Deerlin
		Vander Jagt
		Vanik
		Vento
		Volkmer
		Waggonner
		Walker
		Wampler
		Watkins
		Waxman
		Weiss
		Whalen
		White
		Whitley
		Whitten
		Wilson, Tex.
		Wirth
		Wolff
		Wright
		Wydler
		Wylie
		Yates
		Yatron
		Young, Alaska
		Young, Mo.
		Zablocki

NAYS—6

Lloyd, Calif.	McDonald	Mitchell, Md.
Luken	Mattox	Wilson, Bob

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—96

Addabbo	Flowers	Pepper
Alexander	Fowler	Pettis
Ammerman	Frey	Pickle
Applegate	Giaimo	Quie
Armstrong	Harrington	Railsback
Badham	Hawkins	Risenhoover
Beard, Tenn.	Heckler	Robinson
Bingham	Heftel	Rodino
Bolling	Howard	Rooney
Bonior	Huckaby	Rudd
Brown, Calif.	Hyde	Russo
Brown, Mich.	Ireland	Sarasin
Burke, Calif.	Johnson, Colo.	Shipley
Burton, John	Kindness	Shuster
Burton, Phillip	Leggett	Skubitz
Carney	Lehman	Slack
Clawson, Del	Lott	Smith, Nebr.
Clay	Lujan	Spellman
Cochran	McFall	Stratton
Cohen	McKinney	Teague
Conyers	Mann	Treen
Crane	Marlenee	Tucker
Davis	Mathis	Walgren
Delaney	Mazzoli	Walsh
Dickinson	Meeds	Weaver
Diggs	Mikva	Whitehurst
Duncan, Oreg.	Milford	Wiggins
Early	Miller, Calif.	Wilson, C. H.
Eckhardt	Moffett	Winn
Edwards, Calif.	Moss	Young, Fla.
Eilberg	Nichols	Young, Tex.
Evans, Del.	Patten	Zeferetti

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 12370, with Mr. MURTHA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, October 11, 1978, all time for general debate on the bill had expired.

Mr. ROGERS. Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The bill is as follows:

H.R. 12370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Services Amendments of 1978".

(b) Whenever in this Act (other than in sections 6, 7, and 9) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

HEALTH INCENTIVE GRANTS FOR COMPREHENSIVE PUBLIC HEALTH SERVICES

SEC. 2. (a)(1) Section 314(d)(7)(A) is amended by striking out "and" after "1977," and inserting before the period a comma and the following: "and $103,500,000 for the fiscal year ending September 30, 1979".

(2) Section 314(d)(7)(B) is amended by striking out "and" after "1977," and inserting before the period a comma and the following: "and $25,000,000 for the fiscal year ending September 30, 1979".

(b)(1) The Congress finds and declares that—

(A) individual health status can be effectively and economically improved through an adequate investment in community public health programs and services;

(B) the Federal Government and the States and their communities share in the financial responsibility for funding public health programs;

(C) the Federal contribution to funds for public health programs should serve as an incentive to an additional investment by State and local governments;

(D) existing categorical programs of Federal financial assistance to combat specific public health problems should be supplemented by a national program of stable generic support for such public health activities as the prevention and control of environmental health hazards, prevention and control of diseases, prevention and control of health problems of particularly vulnerable population groups, and development and regulation of health care facilities and health services delivery systems; and

(E) the States and their communities, not the Federal Government, should have primary responsibility for identfying and measuring the impact of public health problems and the allocation of resources for their amelioration.

(2) Effective October 1, 1979, section 314(d) is amended to read as follows:

"COMPREHENSIVE PUBLIC HEALTH SERVICES

"(d)(1) The Secretary shall make grants to State health authorities to assist in meeting the costs of providing comprehensive public health services.

"(2) No grant may be made under paragraph (1) to the State health authority of any State unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary may require, and shall contain or be supported by assurances satisfactory to the Secretary that—

"(A) the comprehensive public health services which will be provided within the State with funds under a grant under paragraph (1) will be provided in accordance with the State health plan in effect under section 1524(c);

"(B) funds received under grants under paragraph (1) will—

"(i) be used to supplement the level of non-Federal funds that would otherwise be made available for the comprehensive public health services for which the grant funds are provided, and

"(ii) not be used to supplant such non-Federal funds,

except that the Secretary may in exceptional circumstances waive clause (i) or (ii) or both clauses;

"(C) the State health authority for which the application is submitted will—

"(i) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds received under grants under paragraph (1);

"(ii) from time to time, as prescribed by the Secretary, report to the Secretary (through a uniform national reporting system and by such categories as the Secretary may prescribe) a description of the comprehensive public health services provided in the State in the fiscal year for which the grant applied for is made and the amount and source of funds expended in that fiscal year and in the preceding fiscal year for the provision of each such category of services; and

"(iii) make such other reports (in such form and containing such information as the Secretary may prescribe) as the Secretary may reasonably require and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports; and

"(D) the State health authority for which the application is submitted will have in effect a method satisfactory to the Secretary which will assure equitable distribution of funds under grants under paragraph (1) among State and local public health entities within the State which have made expenditures which may be used under paragraph (4) to compute the amount of such grants and which method provides that within the limit of the amount of funds received by the State health authority under such grants—

"(i) each local public health entity which makes such expenditures shall receive from such funds in the fiscal year for which grants are made an amount which is equal to the lesser of—

"(I) the product of the total amount of such expenditures in such fiscal year and the applicable grant computation percentage, or

"(II) the product of $1.50 and the population of the area served by such entity (as such population and area may be determined pursuant to guidelines established by the Secretary); and

"(ii) amounts which a local public health entity would receive under clause (i)(I) which are in excess of the applicable amount computed under clause (i)(II) shall be distributed for comprehensive public health services within communities which have the greatest need for such services as determined by the State health authority pursuant to guidelines established by the Secretary.

For purposes of subparagraph (D)(i)(I), the term 'applicable grant computation percentage' means the percentage applicable under paragraph (4)(A)(i)(II) to the computation of the amount of a grant under paragraph (1).

"(3)(A) The Secretary shall review annually the activities undertaken by each State health authority with an approved application under this subsection to determine if the authority complied with the assurances provided with the application. The Secretary may not approve an application submitted under paragraph (2) if the Secretary determines—

"(i) that the State health authority for which the application was submitted did not comply with assurances provided with a prior application under paragraph (2), and

"(ii) that he cannot be assured that the authority will comply with the assurances provided with the application under consideration.

"(B) Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State health authority of a State, finds that, with respect to funds paid to the authority under a grant under paragraph (1), there is a failure to comply with assurances provided under paragraph (2) with respect to the receipt of such grant, the Secretary shall notify the authority that further payments will not be made to it under such grant (or in his discretion that further payments will not be made to it from such grant for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no payment to such authority from such grant or shall limit payment under such grant to activities in which there is no such failure.

"(4)(A) The total amount of grants received by a State health authority under paragraph (1) in any fiscal year shall be the greater of the amount determined under clause (i) or (ii) as follows:

"(i) The total amount of grants to a State health authority in a fiscal year shall be the lesser of—

"(I) the product of $1.50 and the population of the State served by such authority, or

"(II) in the case of the fiscal year ending September 30, 1980, 10 percent of the amount of State and local expenditures for comprehensive public health services within the State in the State's fiscal year which ended on or before July 1, 1979, in the case of the fiscal year ending September 30, 1981, 15 percent of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1980, and in the case of the fiscal year ending September 30, 1982, 20 percent of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1981.

"(ii) The total amount of grants to a State health authority in a fiscal year may not be less than the greater of—

"(I) the total amount of grants recieved by such authority under paragraph (1) for the fiscal year ending September 30, 1979, or

"(II) the product of $1 and the population of the State served by such authority.

Notwithstanding clause (ii), if for any fiscal year the amount appropriated for that fiscal year under paragraph (6) is less than the amount needed to make grants in that fiscal year in accordance with such clause to all State health authorities with approved applications, the total amount of grants in that fiscal year for a State health authority shall not be less than an amount which bears the same ratio to the amounts determined for such authority in accordance with such clause as the amount appropriated under such paragraph bears to the amount needed to make grants in accordance with such clause in such fiscal year to all State health authorities with approved applications.

"(B) The Secretary, at the request of a State health authority, may reduce the amount of the grants to it under paragraph (1), by—

"(i) the fair market value of any supplies (including vaccines and other prevention agents) or equipment furnished the State health authority, and

"(ii) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State health authority and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of the State health authority and for the purpose of carrying out a program with respect to which its grant under paragraph (1) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be

deemed to have been paid to the State health authority.

"(C) For purposes of subparagraph (A)(i)(II), the term 'State and local expenditures for comprehensive public health services' means expenditures by State and local public health authorities for public health services designated by the Secretary, but excludes by such authorities—

"(i) specifically required by Federal statutory law as a condition to the receipt of Federal financial assistance, or

"(ii) for operating inpatient care facilities, construction, or mental health programs.

"(D) For purposes of subparagraph (A) and paragraph (2)(D), populations shall be determined on the basis of the latest figures available from the Department of Commerce.

"(5) The Secretary may make payments under grants under paragraph (1) on the basis of such estimates and in such installments as appropriate with adjustments for any previous overpayments or underpayments.

"(6)(A) For the purpose of making grants under this subsection there are authorized to be appropriated $250,000,000 for the fiscal year ending September 30, 1980, $275,000,000 for the fiscal year ending September 30, 1981, and $300,000,000 for the fiscal year ending September 30, 1982.

"(B) Of the amount appropriated under subparagraph (A) for any fiscal year, the Secretary shall obligate not more than $1,000,000 for the uniform national health program reporting system referred to in paragraph (2)(C)(ii).

"(7) Regulations (including substantive amendments to regulations) under this subsection shall be promulgated by the Secretary after consultation with a conference of State health authorities. The Secretary shall consult with such conference prior to the publication of proposals for such regulations or amendments.".

DISEASE CONTROL PROGRAMS

SEC. 3. (a) Subsection (d)(1) of section 317 is amended by striking out "public and nonprofit private entities" and inserting in lieu thereof "State health authorities, health authorities of political subdivisions of States, other public entities, and nonprofit private entities".

(b)(1) Subsection (g)(1)(A) of such section is amended by inserting before ", there are authorized" the following "and for the purpose of grants under such subsection for the fiscal year ending September 30, 1979, for disease control programs to immunize individuals against influenza".

(2) Subsection (g)(1)(B) of such section is amended by striking out "for disease control programs for diseases borne by rodents" and inserting in lieu thereof "for rodent control programs".

(c)(1) Subsection (g)(1)(A) of such section is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$51,000,000 for the fiscal year ending September 30, 1979, $40,250,000 for the fiscal year ending September 30, 1980, and $46,280,000 for the fiscal year ending September 30, 1981".

(2) Subsection (g)(1)(B) of such section is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$15,000,000 for the fiscal year ending September 30, 1979, $17,300,000 for the fiscal year ending September 30, 1980, and $19,900,000 for the fiscal year ending September 30, 1981".

(3) Subsection (g)(1)(C) of such section is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: $5,800,000, for the fiscal year ending September 30, 1979, $6,700,000 for the fiscal year ending September 30, 1980, and $7,700,000 for the fiscal year ending September 30, 1981".

PREVENTION AND CONTROL OF VENEREAL DISEASES

SEC. 4. (a)(1) Subsection (f) of section 318 is repealed and subsections (g) and (h) of such section are redesignated as subsections (f) and (g), respectively.

(2) Subsection (g)(2) of section 317 is amended by striking out "Except as provided in section 318, no funds" and inserting in lieu thereof "No funds".

(b)(1) Subsection (d)(1) of section 318 is amended by inserting after "(1)" the following: "For the purpose of making grants under subsections (b) and (c) there are authorized to be appropriated $45,000,000 for the fiscal year ending September 30, 1979, $53,000,000 for the fiscal year ending September 30, 1980, and $62,000,000 for the fiscal year ending September 30, 1981. For grants under subsection (b) in any fiscal year, the Secretary shall obligate not less than 5 per centum of the amount appropriated for such fiscal year under the preceding sentence."

(2) Subsection (b) of such section is amended by striking out "(1)" and paragraph (2).

(3) Subsection (c) is amended (A) by striking out paragraph (2), (B) by striking out "(1)", and (C) by redesignating subparagraphs (A), (B), (C), (D), and (E) of paragraph (1) as paragraphs (1), (2), (3), (4), and (5), respectively.

FAMILY PLANNING

SEC. 5. (a) Section 1001(a) is amended by striking out "family planning methods (including natural family planning methods)" and inserting in lieu thereof "family planning methods and services (including natural family planning methods, infertility services, and services for adolescents)".

(b)(1) Section 1001(c) is amended (A) by striking out "and" after "1977;", and (B) by inserting before the period a semicolon and the following: "$200,000,000 for the fiscal year ending September 30, 1979; $230,000,000 for the fiscal year ending September 30, 1980; and $264,500,000 for the fiscal year ending September 30, 1981".

(2) Section 1003(b) is amended (A) by striking out "and" after "1977;", and (B) by inserting before the period a semicolon and the following: "$3,100,000 for the fiscal year ending September 30, 1979; $3,600,000 for the fiscal year ending September 30, 1980; and $4,100,000 for the fiscal year ending September 30, 1981".

(3) Section 1004(b)(1) is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$105,000,000 for the fiscal year ending September 30, 1979, $120,800,000 for the fiscal year ending September 30, 1980, and $138,900,000 for the fiscal year ending September 30, 1981".

(4) Section 1005(b) is amended (A) by striking out "and" after "1977;", and (B) by inserting before the period a semicolon and the following: "$700,000 for the fiscal year ending September 30, 1979; $805,000 for the fiscal year ending September 30, 1980; and $926,000 for the fiscal year ending September 30, 1981".

GENETIC DISEASES, HEMOPHILIA PROGRAMS, AND SUDDEN INFANT DEATH SYNDROME

SEC. 6. (a) Section 402 of the Health Research and Health Services Amendments of 1976 is amended by striking out "including" and inserting in lieu thereof "such as".

(b) The first sentence of section 1104(a) is amended by striking out "such information" and inserting in lieu thereof "such information (including assurances for an evaluation whether performed by the applicant or by the Secretary)".

(c)(1) Part A of title XI is amended by adding after section 1106 the following new section:

"APPLIED TECHNOLOGY

"SEC. 1107. The Secretary, acting through an identifiable administrative unit, shall—

"(1) conduct epidemiological assessments and surveillance of genetic diseases to define the scope and extent of such diseases and the need for programs for the diagnosis, treatment, and control of such diseases, screening for such diseases, and the counseling of persons with such diseases;

"(2) on the basis of the assessments and surveillance described in paragraph (1), develop for use by the States programs which combine in an effective manner diagnosis, treatment, and control of such diseases, screening for such diseases, and counseling of persons with such diseases; and

"(3) on the basis of the assessments and surveillance described in paragraph (1), provide technical assistance to States to implement the programs developed under paragraph (2) and train appropriate personnel for such programs.

In carrying out this section, the Secretary may, from funds appropriated under section 1101(b), make grants to or contracts with public or nonprofit private entities (including grants and contracts for demonstration projects).".

(2) Section 1101(b) is amended by inserting "and section 1107" after "this section".

(d)(1) Section 1101(b) is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$20,000,000 for the fiscal year ending September 30, 1979, $23,000,000 for the fiscal year ending September 30, 1980, and $26,500,000 for the fiscal year ending September 30, 1981".

(2) Section 1121(b)(5) is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$3,500,000 for the fiscal year ending September 30, 1979, $4,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981".

(3) Section 1131(f) is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$3,500,000 for the fiscal year ending September 30, 1979, $4,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981".

(4) Section 1132(e) is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$2,500,000 for the fiscal year ending September 30, 1979, $3,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981".

HOME HEALTH SERVICES

SEC. 7. (a) Part A of title III is amended by inserting after section 311 the following new section:

"HOME HEALTH SERVICES

"SEC. 312. (a)(1) For the purpose of demonstrating the establishment and initial operation of home health agencies (as defined in section 1861(o) of the Social Security Act) which will provide home health services (as defined in section 1861(m) of the Social Security Act) in areas in which such services are not otherwise available, the Secretary may, in accordance with the provisions of this section, make grants to public and nonprofit private entities to meet the initial costs of establishing and operating such agencies and expanding the services available through existing agencies, and to meet the costs of compensating professional and paraprofessional personnel during the initial operation of such agencies or the expansion of services of existing agencies.

"(2) In making grants under this subsection, the Secretary shall consider the relative needs of the several States for home health services and preference shall be given to areas within a State in which a high percentage of the population proposed to be served is

composed of individuals who are elderly, medically indigent, or both.

"(3) Applications for grants under this subsection shall be in such form and contain such information as the Secretary shall by regulation prescribe.

"(4) Payments under grants under this subsection may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(5) There are authorized to be appropriated for grants under this subsection $14,000,000 for the fiscal year ending September 30, 1979, $16,100,000 for the fiscal year ending September 30, 1980, and $18,500,000 for the fiscal year ending September 30, 1981.

"(b)(1) The Secretary may make grants to public and nonprofit private entities to assist them in demonstrating the training of professional and paraprofessional personnel to provide home health services (as defined in section 1861(m) of the Social Security Act).

"(2) Applications for grants under this subsection shall be in such form and contain such information as the Secretary shall by regulation prescribe.

"(3) Payments under grants under this subsection may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(4) There are authorized to be appropriated for grants under this subsection $2,000,000 for the fiscal year ending September 30, 1979, $2.500.000 for the fiscal year ending September 30, 1980, and $3,000,000 for the fiscal year ending September 30, 1981.".

(b) Effective October 1, 1978, section 602 of Public Law 94–63 is repealed.

HYPERTENSION PROGRAMS

SEC. 8. (a) Part A of title III is amended by adding after section 312 (added by section 7 of this Act) the following new section:

"HYPERTENSION PROGRAMS

"SEC. 313. (a) The Secretary may make grants to State health authorities to assist them in meeting the costs of providing programs for screening for, and the detection, diagnosis, prevention, and control (including referral for treatment) of, hypertension.

"(b) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide—

"(1) a complete description of the type and extent of the program which is to be provided by or through the applicant with a grant under subsection (a);

"(2) assurances satisfactory to the Secretary that the program to be provided under the grant applied for will be provided in accordance with the State health plan in effect under section 1524(c);

"(3) assurances satisfactory to the Secretary that the applicant will make such reports respecting the program as the Secretary may require; and

"(4) such other information as the Secretary may by regulations prescribe.

"(c) The Secretary shall determine the amount of any grant made under subsection (a). Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursements, with necessary adjustments on account of underpayments or overpayments, and in such installments, and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(d)(1) Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of grants under subsection (a) that are pertinent to such grants.

"(e) The Secretary may provide technical assistance to State health authorities in connection with the operation of their hypertension programs.

"(f) The Secretary shall submit annually to the Congress a report (1) on the extent of the problems presented by hypertension, and (2) on the effectiveness of the activities assisted under grants under subsection (a).

"(g) There are authorized to be appropriated for grants under subsection (a) $28,800,000 for the fiscal year ending September 30, 1980, $33,000,000 for the fiscal year ending September 30, 1981, and $38,000,000 for the fiscal year ending September 30, 1982."

(b) Section 317(f) is amended by striking out "hypertension,".

LEAD-BASED PAINT POISONING PREVENTION PROGRAMS

SEC. 9. (a) Part A of title III is amended by adding after section 314 the following new section:

"LEAD-BASED PAINT POSIONING PREVENTION PROGRAMS

"SEC. 315. (a)(1) The Secretary may make grants to agencies of units of general local governments and to private nonprofit entities to assist them in meeting the costs of providing lead-based paint poisoning prevention programs.

"(2) For purposes of this section—

"(A) the term 'lead-based paint poisoning prevention program' means any program which provides for—

"(i) educational programs intended to communicate to parents, educators, and local health officials the health danger and prevalence of lead-based paint poisoning among children;

"(ii) the development and carrying out of intensive community testing programs designed to detect incidents of lead-based paint poisoning among community residents and to insure prompt medical treatment for such afflicted individuals;

"(iii) the development and carrying out of intensive followup programs to insure that identified cases of lead-based paint poisoning are protected against further exposure to lead-based paints in their living environment;

"(iv) the establishment of centralized laboratory facilities for analyzing biological and environmental lead specimens; and

"(v) any other actions which will reduce or eliminate lead-based paint poisoning; and

"(B) the term 'units of general local government' means (i) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, (ii) any combination of units of general local government in one or more States, (iii) an Indian tribe, and (iv) with respect to lead-based paint poisoning elimination activities, in their urban areas, and territories and possessions of the United States.

"(b) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide—

"(1) a complete description of the type and extent of the lead-based paint poisoning prevention program which is to be provided by or through the applicant with a grant under subsection (a);

"(2) assurances satisfactory to the Secretary that the program to be provided under the grant applied for will be provided in accordance with the State health plan in effect under section 1524(c);

"(3) assurances satisfactory to the Secretary that the applicant will make such reports respecting the program as the Secretary may require; and

"(4) such other information as the Secretary may by regulation prescribe.

"(c) The Secretary shall determine the amount of a grant made under subsection (a). Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(d)(1) Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and recods of the recipient of grants under subsection (a) that are pertinent to such grants.

"(e) The Secretary may provide technical assistance to recipients of grants under subsection (a) in connection with the operation of their lead-based paint poisoning prevention programs.

"(f) The Secretary shall submit annually to the Congress a report (1) on the extent of the problems presented by lead-based paint, and (2) on the effectiveness of the programs assisted under grants under subsection (a).

"(g) There are authorized to be appropriated for grants under subsection (a) $14,000,000 for the fiscal year ending September 30, 1979, $16,100,000 for the fiscal year ending September 30, 1980, and $18,500,000 for the fiscal year ending September 30, 1981.".

(b) Effective October 1, 1979, titles I and II and sections 504 and 505 of the Lead-Based Paint Poisoning Prevention Act are repealed, and section 506 of such Act is redesignated as section 504.

EFFECT OF LEAD ON CHILD DEVELOPMENT

SEC. 10. The Secretary of Health, Education, and Welfare shall conduct a study to determine the long-term effect on child development of various levels of lead in blood. The Secretary shall report the results of such study to the Congress together with recommendations for such legislation as the Secretary determines is appropriate.

EMERGENCY MEDICAL SERVICES SYSTEMS

SEC. 11. (a) Section 1203(c) is amended (1) effective June 30, 1975, by striking out the first sentence of paragraph (2), (2) by striking out paragraph (3), and (3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(b) Effective June 30, 1975, the first sentence of section 1204(b)(1) is repealed.

(c) Subparagraph (B) of section 1206(b)(1) is amended to read as follows:

"(B) No applicant may receive more than a total of five grants, contracts, or grants and contracts under this part, except that in determining the number of grants and con-

tracts which an applicant received under this part, the Secretary shall not include any grant or contract received under section 1202(b)(1) or 1205.".

(d)(1) Section 1207(a)(1) is amended by striking out "sections 1203 and 1204" and inserting in lieu thereof "sections 1202, 1203, and 1204".

(2) Section 1207(a)(5) is amended by striking out "for the succeeding fiscal year" and inserting in lieu thereof "for each of the two succeeding fiscal years".

SELECT PANEL FOR THE PROMOTION OF CHILD HEALTH

SEC. 12. (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall establish within the Office of the Secretary a Select Panel for the Promotion of Child Health (hereinafter in this section referred to as the "panel").

(b)(1) The panel, after reviewing all the significant medical, scientific, behavioral, and epidemiological studies concerning the promotion of child health and the prevention of childhood diseases and concerning the efficacy and efficiency of child health programs, shall—

(A) formulate specific goals with respect to the promotion of the health status of United States;

(B) develop a comprehensive national plan for achieving these goals and otherwise promoting the health of children in the United States;

(C) transmit to the Secretary, to the Committee on Interstate and Foreign Commerce of the House of Representatives, and to the Committee on Human Resources of the Senate, not later than eighteen months after the date of the enactment of this Act, a report detailing the comprehensive national plan it has developed and recommendations for such administrative, legislative, and other actions as it deems appropriate to implement this plan and to otherwise promote the health of children in the United States.

(2) The panel shall include in its comprehensive national plan (developed under paragraph (1)(B)) recommendations with respect to—

(A) the appropriate type and quantity of preventive health care and other health services needed by children in general and by particular types of children at risk;

(B) the appropriate methods (and providers) for delivering and financing the delivery of such services;

(C) the appropriate methods for coordinating and consolidating, within an agency and between agencies, the administration of child health promotion programs;

(D) the need for research into the delivery of such services and the promotion of child health;

(E) the appropriate methods for instructing children and parents in methods of maintaining their health;

(F) the encouragement of innovative programs to promote child health;

(G) the appropriate methods (including demonstration programs) for applying research findings to delivery of health services to children and otherwise to promoting the health of children;

(H) the appropriate relationship between child health promotion programs and health planning organizations;

(I) the appropriate support of training of health personnel for child health promotion programs; and

(J) the appropriate technical assistance to States to implement child health promotion programs.

(c)(1) The panel shall be composed of the Assistant Secretary for Health and the Assistant Secretary for Planning and Evaluation, who shall serve as ex officio members, and of fifteen other members who shall be appointed by the Secretary not later than sixty days after the date of the enactment of this Act. Among members of the panel appointed by the Secretary, the Secretary shall appoint not less than three, nor more than five, individuals employed by the Department of Health, Education, and Welfare, and shall appoint representatives from the scientific, medical, allied health, mental health, preventive health, public health, and education professions, as well as consumers and representatives from State and local health agencies.

(2) The Secretary shall designate, at the time of appointment of members of the panel, one member to serve as chairperson and another to serve as vice chairperson of the panel.

(3) Members of the panel shall serve for the life of the panel and the Secretary shall appoint individuals to fill vacancies on the panel as they may arise.

(4) Each member of the panel (who is not a full-time officer or employee of the United States) shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of duties vested in the panel. All the members of the panel shall be allowed, while away from their homes or regular places of business in the performance of service for the panel, travel expenses (including per diem in lieu of subsistence) in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d)(1) Upon the request of the panel, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the panel to assist the panel in carrying out its functions.

(2) The Secretary shall provide the panel with such administrative services and facilities as may be required to carry out its functions.

(e)(1) The panel may, for purposes of carrying out its functions, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and appoint such advisory committees at it may deem advisable.

(2) The panel may secure directly from any department or agency of the United States information necessary to carry out its functions. Upon request of the chairperson of the panel, the head of each such department or agency shall, to the extent permitted by law, furnish the information and otherwise cooperate with the panel.

(f) The panel shall cease to exist ninety days after the date of submittal of the report described in subsection (b)(1)(C).

(g) There is authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1979, to carry out this section. Sums appropriated under this subsection shall remain available for expenditure until the date the panel ceases to exist.

AMENDMENT OFFERED BY MR. ROGERS

Mr. ROGERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROGERS: Page 11, strike out lines 11 through 14 and insert the following: "$218,000,000 for the fiscal year ending September 30, 1980, and $257,000,000 for the fiscal year ending September 30, 1981."

Mr. ROGERS. Mr. Chairman, this amendment, coupled with one other Dr. CARTER and I will offer, has the effect of reducing the total authorizations in this bill by $388 million, or nearly 15 percent—14.5 percent.

We have reduced fiscal year 1980 authorizations for the health incentive grant program by $32 million; fiscal year 1981 authorizations for that program by $18 million; and have deleted the fiscal year 1982 authorizations of $300 million. In addition, we have deleted the fiscal year 1982 authorization of $38 million for programs of hypertension.

Mr. Chairman, I would urge adoption of the amendment.

Mr. CARTER. Mr. Chairman, I strongly support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. ROGERS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROGERS

Mr. ROGERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROGERS: Page 23, line 6, insert "and" after "1980,", and beginning in line 7 of that page strike out ", and $38,000,000 for the fiscal year ending September 30, 1982".

Mr. ROGERS. Mr. Chairman, this is a companion amendment to the prior one to complete the reduction of funds for fiscal year 1982. This amendment reduces authorizations by $38 million.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. ROGERS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. THORNTON

Mr. THORNTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THORNTON: Page 8, strike out lines 9 and 10 and insert in lieu thereof the following:

"(I) an amount determined by the Secretary which may not be less than the product of $1.00 and the population of the State served by such authority or more than the product of $1.50 and such population, or

Page 8, insert after line 22 the following:

In determining the amount of a grant to a State health authority under subclause (I), the Secretary shall take into account the financial need of such State and the relative level of State and local expenditures for comprehensive public health services (as defined in subparagraph (C)). In determining the financial need of a State, the Secretary shall consider, as major factors, the proportion of the State's population whose income level is below the poverty income level established by the Secretary and the proportion of its population which is living in medically underserved areas.

Mr. THORNTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. THORNTON. Mr. Speaker, I want to commend the chairman of the subcommittee, the gentleman from Florida, (Mr. ROGERS) for the fine work he has done in managing this important piece of legislation. I strongly support the programs authorized in this bill, and believe that the health care of all of our citizens will be improved because of this legislation.

While I support the services which this bill will provide, I am concerned about the way in which these services will be funded. The current funding formula for comprehensive public health services (as defined in section 314(d) of the Public Health Service Act) provides that the Federal share for each State would be based on that State's population and financial need. The proposed funding formula in H.R. 12370 deletes any reference to financial need; thus; the poorer and less populated States like Arkasnas will not receive as much money as the more populous, wealthy States.

This is especially disturbing to me because those of us living in rural America experience a more acute shortage of physicians and health services than our urban neighbors. According to recent HEW statistics, approximately 51 million people, representing 25 percent of the total U.S. population, reside in medically underserved areas. Thirty million, or roughly 60 percent, are rural residents. While one out of two rural residents live in a medically underserved area, only 1 out of 7 urban residents live in such an area.

The basis for identifying these medically underserved areas is an index which is composed of four criteria: ratio of primary care physicians to population; infant mortality rate; percentage of the population which is 65 years of age or older; and percentage of the population with family income below the poverty level. An assessment of need is made by assigning weights to each of these measures and applying them on a county-by-county basis in rural areas and on a census tract—by census tract in urban areas. The Public Health Service has declared 23 counties in Arkansas as medically underserved areas. It is not unusual for my constituents to travel 20 miles to see a doctor or a dentist, and we have all felt the frustration and helplessness of driving 20 to 30 miles to a hospital in an emergency situation.

While rural areas account for 60 percent of the Nation's medically underserved population, they receive less than 25 percent of the available funding. Under the Community Health program, HEW currently spends more than $7.50 for every medically underserved urban resident, but only about $1 for every rural person residing in a medically underserved area. Although the Rural Health Initiative program was established to address the special needs of rural areas, the 260 rural health projects which were funded under this program operated on a total budget of less than $23 million, while the 160 or so predominantly urban community health centers received approximately $185 million.

Low population density, high proportions of the elderly and the poor, inadequate transportation, and an acute shortage of physicians all combine to make access to health care in rural communities very difficult. In the absence of adequate health personnel in rural areas, public health has filed the gap by providing many medical services that would normally have been carried out by a private physician. In many counties, the health department is the only provider of health services; in other counties, the health department is the only provider for poor people because the private providers refuse to care for medicaid patients.

Therefore, I think it is extremely important that we take into account the medical services available to a community when we develop a formula for the allocation of Federal funds for comprehensive health services.

The amendment which I am proposing will not decrease the present level of allocation for any State, nor will it take away the incentive for States to contribute to the funding. It will, however, attempt to distribute funds more equitably in relation to need by giving attention to the numbers of medically underserved and people living below the poverty level, as well as the total population in each State.

Mr. Chairman, this amendment reflects the importance of recognizing the factor of need in determining the amount of grants to the States. This has been accomplished in the Senate because of the leadership of my colleagues from Arkansas, Senator BUMPERS and Senator HODGES.

I want to congratulate them on their leadership in the matter, and urge the adoption of this amendment.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. THORNTON. I will be pleased to yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, we have looked at the gentleman's amendment on this side. I know he has had it also looked at on the other side. The gentleman from Kentucky (Dr. CARTER) might want to comment.

We have no objection on this side.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. THORNTON. I will be pleased to yield.

Mr. CARTER. Mr. Chairman, this is a great effort for the rural areas and I certainly support the amendment.

Mr. THORNTON. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I ask that the amendment be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas (Mr. THORNTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CARTER

Mr. CARTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CARTER: Page 14, line 11, insert "(1)" after "SEC. 5. (a)".

Page 14, after line 16, add the following:

(2) Section 1006 is amended by adding at the end thereof the following new subsection:

"(d) (1) A grant may be made or a contract entered into under section 1001 or 1005 only upon assurances satisfactory to the Secretary that informational or educational materials developed or made available under the grant or contract will be suitable for the purposes of this title and for the population or community to which they are to be made available, taking into account the educational and cultural background of the individuals to whom such materials are addressed and the standards of such population or community with respect to such materials.

"(2) In the case of any grant or contract under section 1001, such assurances shall provide for the review and approval of the suitability of such materials, prior to their distribution, by an advisory committee established by the grantee or contractor in accordance with the Secretary's regulations. Such a committee shall include individuals broadly representative of the population or community to which the materials are to be made available."

Mr. CARTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. CARTER. Mr. Chairman, the purpose of this amendment is to provide a reasonable review process for educational and informational materials that are developed or made available with family planning funds.

It is intended to address the concern that I and other Members have had about the improper use of Federal dollars under title X—namely to support materials that are in poor taste and inappropriate.

Specifically this amendment would require the recipient of family planning funds to provide assurances, satisfactory to the Secretary, that informational or educational materials developed or made available under this title will be suitable for the purposes of this title and for the population or community in which they are to be made available.

This amendment also require grantees to establish an advisory committee to review and approve the suitability of such materials before they are distributed. This advisory committee shall include individuals who are broadly representative of the population or community where the materials are to be distributed.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I am happy to yield to the distinguished chairman.

Mr. ROGERS. Mr. Chairman, I think the amendment that the gentleman from Kentucky is offering has great merit. I know there are some Members who are concerned about materials that some 3 years ago were published by some family planning programs.

Mr. Chairman, this amendment will get to that problem, and I think the gentleman is correct in offering the amendment. I would urge its adoption.

Mr. CARTER. Mr. Chairman, I thank the chairman of the subcommittee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. CARTER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER: Page 15, add after line 17 the following:

(5) Section 1006 is amended by adding at the end the following new subsection: "(d) No program or project which directly or indirectly receives funds under this title may prescribe or dispense any prescription drug or device used for birth control purposes, to an unemancipated child under the age of 16 unless the parent or guardian of such child is notified of the intent to prescribe or dispense such drugs or devices."

Mr. VOLKMER. Mr. Chairman, this amendment is for the purpose of providing that in Family Planning Services, when they intend to and do provide prescriptions, that is, dispense and prescribe prescription drugs or devices to a minor of the age of 15 or under, that they are to notify the parents that they intend to prescribe or dispense such drugs or devices.

Now, what brings this about? This amendment is brought about by the concern of many parents in this Nation that, contrary to their beliefs both as to their social beliefs and to their moral beliefs, that their children are being provided such contraceptive devices without their knowledge or information. They have great concern of this, since many of them feel that it is both morally and socially wrong. They object strenuously to their tax dollars being used for such purposes. This amendment does not prevent the Family Planning Center from providing such information and prescription; it just means that the parents would have to be notified that they intend to provide such.

Recently, a case in Michigan held—and I think it is constitutionally good law—that a parent does have a constitutional right to be notified; that a parent, as the head of a family, is an underlying part of our society and our structure. The right of parents to the custody, care, and religious and moral education of their children is firmly established in the traditions and laws of this Nation.

The right of parents and the family are now being invaded by the family planning. We are not talking about anything other than prescription drugs and devices. A lot of people perhaps will think there is nothing wrong with the pill. The pill in the hands of an 11- or 12-year-old can do injury to the health of a youngster.

The FDA on their labeling requirement gives quite a few warnings about the use of the pill, and I believe that the members of the committee surely know that if there are scanty or irregular periods or a young woman is without a regular cycle, she should use another method of contraception, because if she uses the pill—and so forth.

There is no question that this is being done at the present time. Not too long ago I was back in my district after I had had this amendment printed in the RECORD. I was visited by family planning in my district in St. Louis County, and we discussed my amendment and the purpose of it. The basic purpose is to uphold the rights of the parents just to know—just to know—what is happening concerning their children that are of tender age.

We are not talking about the 16- or 17- or 18- or 19-year-old child; we are talking about the 11-year-old or the 12-year-old or the 13-year-old or the 14-year-old, or the 15-year-old child.

I feel in my opinion, as the court said in Michigan, that the parents do have a constitutional right to know. This amendment was offered in the Senate and adopted at that time by agreement of the managers in the Senate. I believe that it makes sound policy. I urge the Committee to adopt the amendment.

Mr. ROGERS. Mr. Chairman, I reluctantly must rise to oppose the amendment, and I think we do need to look at this and think it through. It is very appealing on its first face. I think all Members should know that each year in this Nation there are 1 million adolescent females who become pregnant—1 million a year. If these young people are sexually active—and any amendment we pass will not change that—is it not better for them to have the proper information so that they could avoid pregnancies and avoid the need for an abortion? That is what this bill is trying to do.

I agree that family planning programs should encourage adolescents to discuss their sexual activities with their parents, but many simply will not come in if we require such a discussion. And what will happen to them? They risk becoming pregnant and we risk spending $4.5 billion a year in welfare costs for adolescent mothers and their dependent children.

So I do think we need to be reasonable in the approach and certainly it is the intent of the committee that all of the family planning programs should encourage adolescents to discuss their sexual activities with their parents.

So the gentleman I know means well and we share his concern, but the committee has thought this through and I would urge the Members to be practical, to be realistic, and to vote down this amendment.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman.

Mr. VOLKMER. There is only one thing—and I know we have various differences of opinion.

Mr. ROGERS. Yes.

Mr. VOLKMER. On this matter.

Mr. ROGERS. Yes.

Mr. VOLKMER. But I think we should clarify one thing that was said.

Mr. ROGERS. All right.

Mr. VOLKMER. And that is that they would not be able to give information under this amendment. The gentleman knows the amendment does not stop them from providing any information or pamphlets or anything else they want to. All it does is say they could not dispense, unless they notify the parents, the devices and prescription drugs, that is all.

They can give all the information they want. And I think they should be able to.

Mr. ROGERS. This amendment does not stop them from going to any drug store in this country to get what they want. The gentleman says that in a family planning setting we are saying, "We are not going to tell you anything, or to let you know anything unless you tell your parents."

Mr. VOLKMER. No, it does not.

Mr. ROGERS. If the gentleman will permit me to continue, that is exactly what it says; they are not going to be given any of these devices unless they go and tell their parents. But they can go to the drug store where they do not even know what they are getting, where they are not instructed properly, and they will become pregnant, and you will have these parents wanting an abortion and you will be building on to the $4.5 billion in the welfare program.

I would urge the defeat of the amendment.

The CHAIRMAN pro tempore (Mr. FLIPPO). The question is on the amendment offered by the gentleman from Missouri (Mr. VOLKMER).

The question was taken; and on a division (demanded by Mr. VOLKMER), there were—ayes 10, noes 45.

Mr. DORNAN. Mr. Chairman, I demand a recorded vote, and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. DORNAN. Mr. Chairman, I renew my demand for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN pro tempore. Are there other amendments to the bill?

AMENDMENT OFFERED BY MR. DORNAN

Mr. DORNAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN: Page 15, insert after line 17 the following: (C) section 1001 (a) is amended by inserting "(1)" after "operation of", and (2) by inserting before the period a comma and the following: "or (2) projects which provide

counseling respecting the alternatives to abortion."

Mr. DORNAN. Mr. Chairman, I have five amendments, and I will try to go through these as quickly as possible. I will not take the well. I may or may not ask for a record vote on each one. I will make my explanation comprehensive and brief.

This amendment addresses itself to a situation of inequality in the way title X funds are distributed to counseling organizations which assist women who are in a distressful pregnancy situation. In this particular amendment we can do something for the stress and loneliness of these young women. It's effect would be to help couples who desire to adopt children. It would enable groups which specialize in alternatives to abortion to receive title X funding without all the counseling encumbrances that HEW currently places on them as an eligibility precondition to title X grants or contracts.

Why fault groups like Birthright or Alternatives to Abortion, Inc.? Why? They help girls through a crisis pregnancy. If these groups do not wish to get into areas of counseling abortion or sterilization. Which in their judgment is not in the best interest of the young girls they counsel, that is their business. I do not see any reason why they should be denied a share in some of these tax funds we are authorizing.

The language is very simple and straightforward. That is my position.

Mr. ROGERS. Mr. Chairman, here again I regretfully must oppose the amendment. I am sure the gentleman means well, and I know his strong feelings, but to adopt this amendment would simply change the whole concept of family planning. Family planning occurs before pregnancy. If the gentleman wants to set up a specific program of counseling after pregnancy in some other program, I would see nothing wrong with it. But the need is too great for family planning before pregnancy, and that is when we want to be able to do something to prevent the need for abortion. If people become pregnant, as we would under the gentleman's amendment, then what happens?

We are trying to say let us do something before pregnancy occurs. That is what family planning is about.

As I say, I know the gentleman means well. I salute him for his interest, but I must say this is contra. This amendment should be defeated because we have 3.5 million poor women that are presently unserved that we can help to prevent pregnancy, not wait until they get pregnant and then say, "Well, we will counsel you a little bit." Then it is too late. Spend the money where it will do the most good and prevent that welfare bill from going up to $4 or $5 billion.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. DORNAN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. DORNAN

Mr. DORNAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN: Page 15, insert after line 17 the following: (C) Section 1006 is amended by adding at the end the following new subsection: "(d) The Secretary may not deny an application for a grant or contract under this title on the basis that the applicant does not provide abortion services, sterilization, or counseling respecting contraception."

Mr. DORNAN. Mr. Chairman, in this particular amendment, I refer to the distinguished gentleman from Florida's own words about the expressed congressional intent of this program, to prevent unwanted pregnancy. Here we have again unfairness. Natural family planning education programs are prejudiced against because they simply do not provide abortion service, sterilization or counseling respecting artificial contraception.

Why is this fertility method regulation that has been discussed world-wide, and has received great attention just in the recent year alone, why is it no NFP considered eligible to receive direct Federal funding, as do other family planning methods, so that it would be protected under his amendment?

Mr. Chairman, I simply rest on that.

Mr. ROGERS. Mr. Chairman, I oppose this amendment. For instance, here he says that title X funds cannot be used for abortion. Of course not, because under our law you cannot use title X funds for abortion. It cannot be done. There is a strict prohibition in this law.

Now, counseling respecting contraception is a basis for voluntary family programs. That is the whole thesis, to try to prevent a pregnancy. To say that we are going to pay somebody who does not provide necessary information, well, you will be wasting your money.

Mr. CARTER. Mr. Chairman, I rise to oppose the amendment, reluctantly. I feel that most of it is already covered in the bill, because abortion is not permitted in this legislation. Of course, information about contraception, and contraceptive methods certainly is provided. This is a part of family planning.

Mr. Chairman, I oppose the amendment of the gentleman from California.

Mr. DORNAN. Mr. Chairman, will the gentleman yield for one minute?

Mr. CARTER. I yield to the gentleman.

Mr. DORNAN. Mr. Chairman, I did not take a full 5 minutes on my amendment, so I thank the gentleman for yielding.

Is this Congress going on record, then, as giving a sort of second-class citizenship to those groups that believe in natural family planning, those groups that for reasons of conscience or ethics do not want to get into counseling methods they find offensive?

I would refer particularly to use of the birth control pill on which we are now getting "early warning" vibrations from HEW that the pill may be totally condemned in the next 2 or 3 years as unsafe for health. In younger teenage girls, for instance, whose bones are still forming, those under 17 years of age, there is strong medical evidence that 52 negative changes can take place in a young woman who is on the birth control pill.

What is this bias against natural family planning?

Mr. CARTER. I will say, Mr. Chairman, that certainly we have no bias against other natural means of family planning. In particular, I suppose the gentleman is referring to the rhythm method which relies upon use of a thermometer at a certain time of the month to predict ovulation. Actually, natural family planning is already covered in the legislation.

If the gentleman would read section 1001 of title X, he would know that the Secretary is authorized to make grants to entities which provide a broad range of family planning methods, not just one, but many. I believe the gentleman's intent is already covered and is already part of the law.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, the gentleman from Kentucky (Mr. CARTER) is entirely correct. I am sure the gentleman from California (Mr. DORNAN) would like to know that we expressly require in the law that natural family planning methods shall be provided. The gentleman's intent is covered in the law already.

Mr. Chairman, I urge the defeat of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. DORNAN).

The question was taken; and on a division (demanded by Mr. DORNAN) their were—ayes 8, noes 49.

Mr. COUGHLIN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from California (Mr. DORNAN) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. DORNAN

Mr. DORNAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN: page 15, insert after line 17 the following:

(C) Section 1006 is amended by adding at the end the following: "No grant or contract authorized by this title may be made or entered into with an entity which directly or indirectly provides abortion, abortion counseling, or an abortion referral services."

Mr. DORNAN. Mr. Chairman, if I may point out to the distinguished chairman and to the distinguished minority member, we are now into an amendment that will reinforce the assurances the gentlemen have already given us, namely, that none of the money under this title X funding measure will be used in the family planning area for abortion, abortion counseling, or abortion referral in any way whatsoever. I have here a letter from the Department of HEW, dated April 19, 1974, Office of the General Counsel, signed by Joel M. Mangel.

He says in the second paragraph:

On the basis of section 1008 and the attendant legislative history, it is the Department's policy that Federal funds may not be expended to perform, encourage, or promote abortions.

But, it has come to my attention there are at least 117 hospitals and clinics receiving title X family planning money where abortion is a method of family planning and is used both to referral and counsel abortion as a very basic approach, even with very young pregnant women.

If I may come back to the Dingell wordage, which goes all the way back to 1970. I have the wordage before me from the CONGRESSIONAL RECORD of that year. This language has never been removed from the law and it says very simply:

None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning.

If I may quote from the distinguished gentleman from Florida, he said:

The law is very clear as to the design and content of programs funded under title X of the Public Health Services Act. None of the funds appropriated under title X may be used in programs where abortion is a method of family planning.

This provision would not merely prohibit the support of any program in which abortion counseling or abortion referral services are offered.

This wordage therefore prohibits use of funds for family planning in any program in which abortion counseling or abortion services are offered. So, when there are abuses in this area, I suggest to the distinguished chairman and the distinguished ranking minority member, that since this would only affect 3 to 4 percent of the grantees under title X, this would assure us that abuses will not take place in the future.

Mr. ROGERS. I reluctantly oppose the amendment, Mr. Chairman.

This is an unneeded amendment. We have a specific prohibition in the law that says no funds—none—in title X may be used for abortion as a method of family planning. That means none. Absolutely no funds could be used.

There are some 1,700 local health departments, 650 public and private hospitals, 173 Planned Parenthood affiliates, and 600 voluntary agencies that are under the prohibition of using any title X funds for abortion.

Abortion is not a method of family planning. Abortion comes after pregnancy—after pregnancy. And the gentleman misses the point of what we are doing in title X. It is before—before. It is to let people know how to avoid pregnancy. We cannot use any funds for abortion. The amendment is not needed. I urge its defeat.

Mr. DORNAN. Mr. Chairman, will the gentleman yield for one question?

Mr. ROGERS. Certainly I yield to the gentleman from California.

Mr. DORNAN. What about the 117 organizations at a minimum that are abusing these funds?

Mr. ROGERS. They are not using title X funds for abortion as a method of family planning. It is simply not done. It is not permitted under the law.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield for a further question?

Mr. ROGERS. Certainly.

Mr. VOLKMER. Do any of these people that come to the family planning clinics, do the records show that any of them when they come there are pregnant?

Mr. ROGERS. Oh, sure, some are indeed pregnant. Also you may have a hospital that may be running a family planning section in one wing and maybe they do an abortion in that hospital to save the life of the mother. It is a legal procedure. If the doctors there do not want to do it, they do not have to do it. We have already said if it is against their conscience they do not have to do it. But you mean to say, here is a good institution and they cannot run a family planning clinic because somewhere down the hallway—somewhere in an operating room—they might have at some time or other performed an abortion, or they might perform an abortion?

I would say the amendment offered by the gentleman from California (Mr. DORNAN) should be defeated.

Mr. VOLKMER. I am not saying that.

Mr. ROGERS. That is silly.

I urge that the amendment be defeated.

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from Florida (Mr. ROGERS), on a number of occasions has engaged in discussions on this issue with me. For example, we discussed the existing provision against abortions, the so-called Dingell amendment already in the law. Since that law was adopted a problem has arisen which was discussed during the general debate on this bill some days ago.

I do believe that the amendment offered by the gentleman from California (Mr. DORNAN) addresses this problem. Put simply, a number of groups, Planned Parenthood, included, that do promote abortions and also promote family planning are receiving large amounts of Federal funds.

In certain instances some of the moneys that have gotten into their hands have been used to promote abortions, not just to promote family planning. These groups are able to redirect the funds that they would otherwise use to the promotion of abortions. I know that it is difficult to segregate funds given to these groups, but the gentleman from California (Mr. DORNAN) has suggested the manner in which to deal with it, and that is to allow no Federal funding to such groups.

I personally feel that this is a reasonable request. I do not think it is out of order to offer this amendment. It ought to be adopted as a supplement to the existing provision of law.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. DORNAN).

The question was taken; and on a division (demanded by Mr. DORNAN) there were—ayes 13, noes 56.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. DORNAN

Mr. DORNAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN: (C) Section 1006 is amended by adding at the end the following new subsection:

"(d) an application for a grant or contract under section 1001, 1002, or 1003 shall contain assurances satisfactory to the Secretary that each physician who provides services under the program or project for which the grant or contract is applied for will comply with applicable requirements of state law respecting the reporting of pregnancy of an unwed minor."

Mr. DORNAN. Mr. Chairman, this is, again, a very easy-to-understand amendment.

I have before me a letter from the office of Evelle J. Younger, attorney general in the State of California. Jack R. Winkler, chief assistant attorney general, wrote to State candidate for Governor there; Senator John Stull (38th district) on March 29, 1978. He says:

In your letter of December 27, 1977, you correctly note that a minor female cannot lawfully consent to sexual intercourse. Given that state of the law, you have asked us for an informal discussion of (several) questions.

Is there not a responsibility upon the doctor to report such an incident, similar to his responsibility to report all gunshot wounds?

The answer is as follows:

As to your second question, it would appear that section 11161.5 of the Penal Code imposes a responsibility upon a physician to report an incidence of pregnancy in an unwed minor to local police authorities and the juvenile probation department, or in the alternative, to the county welfare department or county health department. If it appears to a physician that a minor that he is examining or treating has been "sexually molested," section 11161.5 requires the physician to report his observations to local authorities. Pregnancy in an unwed minor is evidence of unlawful sexual intercourse which is a violation of Penal Code section 261.5. It might therefore be concluded that a physician is obligated to report an incidence of pregnancy in an unwed minor. To this point, however, the courts have not been called upon to determine whether section 11161.5 imposes this duty upon a physician.

Mr. Chairman, all I am asking for in this amendment is that all Federal family planning programs comply with the applicable requirements of State law respecting the reporting of pregnancies of unwed minors.

Mr. ROGERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, what the amendment says is that if there is a State law requiring physicians to report the pregnancy of an unwed minor, then they must comply with that law and the Federal Government is going to make them comply.

Mr. Chairman, this is certainly a new theory. States enforce State laws. The Federal Government enforces Federal law. If there is such a State law, then the State should enforce it.

Mr. Chairman, I do not know the purpose of this amendment. I would strongly urge that the amendment be defeated.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. DORNAN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. DORNAN

Mr. DORNAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN: Page 14, line 19, strike out "before the period a semicolon" and all that follows through line 23 and insert in lieu thereof the following "the following: ', and $136,400,000 for the fiscal year ending September 30, 1979'."

Page 15, line 1, strike out "a semicolon" and all that follows through line 4 and insert in lieu thereof the following: "the following: ', and $3,000,000 for the fiscal year ending September 30, 1979'."

Page 15, line 7, strike out "before the period a comma" and all that follows through line 11 and insert in lieu thereof the following: "the following: ', and $68,500,000 (for the fiscal year ending September 30, 1979'."

Page 15, line 14, strike out "before the period a semicolon" and all that follows through line 17 and insert in lieu thereof the following: "the following: ', and $600,000 for the fiscal year ending September 30, 1979'."

Mr. DORNAN. Mr. Chairman, my colleagues have been most gracious tonight, and I would ask for their indulgence in offering this final and fifth amendment. I did have six amendments, and my own personal sensitivity leads me to indicate to my colleagues who have been supporting me here that we were successful in removing this important piece of legislation from the suspension process. I was proud to be one of the Members. Along with other hard working colleagues who brought to the attention of the distinguished ranking minority member the incredible sleazy, soft-core pornography books that were used in a number of title X family planning centers and programs which I detailed in the CONGRESSIONAL RECORD for October 11, 1978, on pages 35613–35614.

The suggestion to amend title X to avoid this pornography was graciously accepted by both the chairman and ranking minority member. I intend to bring some of these amendments back in the future at the committee level where they will be won at the committee level, rather than on the floor at a very late hour.

I offer this amendment because this is a bill controversial enough to have been removed overwhelmingly from the suspension calendar. This will reauthorize title X for 1 year at last year's funding level until we can work out some of these problems with porn and section 1008 and other violations. The number of years that are usually asked for in these expensive programs, I think, go beyond the spirit of what Congress really wants, and what the American people want in the process of monitoring. So, with that, I will yield back the remainder of my time.

Mr. ROGERS. Mr. Chairman, I oppose the amendment. This simply cuts 1979 authorizations to the 1978 level. There would be no family planning program in 1980 and 1981, and for people who want to do something to prevent abortion, this is the best way to do it. So I would urge this amendment be defeated.

I want to say the gentleman has been gracious in working with us. We have tried to accede to his demand on any material that was proper. We put in such an amendment. We tried to work with him, and we appreciate his cooperation.

This amendment would be totally devastating to the whole program.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to my distinguished colleague, the ranking minority member.

Mr. CARTER. I thank the gentleman for yielding.

I, too, reluctantly oppose this amendment. This is money which is spent to prevent pregnancy. The gentleman's amendment would extend it only for 1 year and at last year's level, without taking into account the inflation factor. Not only that, for the second 2 years funding would be discontinued under this amendment. Mr. Chairman, I think that this program's money is best spent for prevention of pregnancy and, therefore, prevention of abortions.

I strongly oppose the amendment and move the previous question on the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. DORNAN).

The amendment was rejected.

● Mr. PREYER. Mr. Chairman, I rise in opposition to the Volkmer amendment. I believe very strongly that, if we are to encourage family planning and a reduction in teenage pregnancy, we ought to devise legislation which will accomplish our purpose.

Family planning is a sensible, logical way to avoid the unhappy consequences of abortion on the one hand and unwanted children on the other. This is not to say that the Federal Government ought to force anyone into acceptance of family planning—only that the option of contraceptive use should be readily available to those who choose it. Consequently, sex education is extremely important, and family planning centers provide a great service by supplying contraceptive information to those who seek it.

I think we could all agree that unwanted children are unfortunate victims of a situation over which they had no control. The sort of deprived life that many lead is a tragedy. This tragedy is compounded when emotionally immature teenage girls, with no financial means, give unplanned birth.

If we are going to put some clout behind the intent of this legislation, we must think first and foremost about what can be done to prevent teenage pregnancies. We cannot ignore the fact that two-thirds of teenage pregnancies are unplanned.

And if these teenagers, with the capacity to behave physically as adults, but emotionally as children, have to seek parental consent for contraception, the whole intent of this legislation will be undermined.

I agree that it would be wonderful if children could confide in their parents on sexual matters. Some do.

But, for the purpose of this bill, many do not. And the consequence of this lack of communication is unwanted children for young girls and boys.

I do not condone children keeping secrets from parents. But this is not the issue here. The question is whether children will be required to get parental consent. I believe that this requirement is unrealistic and unfair for the children, the parents, and all of society.

I urge a "no" vote on the Volkmer amendment.●

● Mr. WEISS. Mr. Chairman, I rise in strong support of H.R. 12370, the Health Services Amendments of 1978. However, as one of the cosponsors of H.R. 11007, the major provisions of which have been incorporated into this legislation, I am strongly opposed to proposed amendments which would seriously affect family planning programs and limit the rights to full medical care and counseling of millions of American women.

One thing which has been repeated time and time again during the long struggle over the abortion issue is the necessity of finding alternatives; providing preventive services so that the need for abortion is diminished. The title X program directly addresses this matter through an increase in the authorization for programs of family planning services and research. These programs benefit not only individuals who desire to prevent an unplanned pregnancy, but allow for significant economic savings as well.

In testimony before the Select Committee on Population, Dr. Kristin Moore emphasized that payments to teenage mothers constituted half of the Nation's bill for aid to families with dependent children. This came to a total of $4.65 billion in 1976. It is reasonable to assume that if such pregnancies were postponed until the parents were better able to support their child, this figure would be greatly reduced.

An innovative aspect of the legislation is the assistance which it provides to couples suffering from infertility. For the first time since its enactment, the bill authorizes title X funding specifically for treatment of this problem; demonstrating that family planning programs do not have as their sole focus the prevention of unwanted pregnancy.

The proposed amendments are based upon the assumption that the extension of the voluntary family planning program constitutes a proabortion policy. This, however, is absolutely false. Section 1008 of title X specifically prohibits the use of these funds in any program where abortion is a method of family planning. What title X has done is avert an estimated 1 million unwanted pregnancies since its inception in 1970, thus becoming a significant factor in our efforts to avoid abortion. Those who oppose abortion

should closely examine the intent and history of this legislation. Title X has made family planning services available to many teenagers and low- and moderate-income women who had not had access to them before. There is no evidence that even one abortion has been performed with title X money. I do not understand how those who decry abortion can at the same time fail to provide counseling and educational services which are the very things able to help prevent an unwanted pregnancy.

I believe that passage of these amendments would so restrict and impair effective programs, that the opposite of the desired effect will occur—there will be an increase of unplanned and unwanted pregnancies and thus a rise, rather than a decrease, in the incidence of abortion. I urge my colleagues to join me in preventing this tragic occurrence by defeating the proposed amendments.●

The CHAIRMAN pro tempore. Are there further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NATCHER) having assumed the chair, Mr. FLIPPO, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12370) to amend the Public Health Service Act and related health laws to revise and extend the programs of financial assistance for the delivery of health services, and for other purposes, pursuant to House Resolution 1408, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mr. DORNAN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. DORNAN. Yes, Mr. Speaker, I am opposed to the bill.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DORNAN of California moves to recommit the bill, H.R. 12370, to the Committee on Interstate and Foreign Commerce with instructions to report it back forthwith with the following amendment:

On page 15, insert after line 17 the following:

(C) Section 1006 is amended by adding at the end the following: "No grant or contract authorized by this Title may be made or entered into with an entity which directly or indirectly provides abortion, abortion counseling, or a abortion referral services."

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Mr. Speaker, I would like to take this opportunity to express my gratitude for the graciousness extended to me by the chairman and by the distinguished ranking minority member, the gentleman from Kentucky, Dr. CARTER.

I would like to say I have been most impressed in this first term of mine with the aggressive way that both of these gentlemen have pursued excellence in health care for all Americans.

I have been particularly impressed with the gentleman from Florida (Mr. ROGERS) in the Select Committee on Narcotics. Especially the way in which the gentleman has pursued those doctors who overprescribe and tranquilize American women in an ugly chauvinistic way, and then use a wholly different approach with the men of this country.

I hope the gentleman did not think I was mischievous or obstructing the committee in any way. I hope I have as fine a career in the health area, as the gentleman from Florida has had.

I merely want to register by this recommital motion with instructions, that these areas I have brought up tonight constitute fatal flaws in what otherwise is an excellent approach to the health services of our country. And that it all.

I do feel somewhat sad that this very important type of legislation comes up on a Friday night, when most of us had expected a week ago to be going to our districts in an election eve period. I hope similar measures next year come up earlier, and at a decent hour when we are not competing with other distractions such as the very excellent world series baseball game in the cloakrooms.

I have already discussed the language in the fourth amendment that I offered, which is embodied in this recommital motion.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DORNAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 137, nays 232, not voting 61, as follows:

[Roll No. 917]

YEAS—137

Abdnor	Bevill	Brown, Ohio
Ambro	Biaggi	Burke, Mass.
Andrews, N. Dak.	Blouin	Cavanaugh
	Boggs	Cederberg
Archer	Bonior	Clausen, Don H.
Ashbrook	Breaux	
Bafalis	Brinkley	Coleman
Bauman	Broomfield	Collins, Tex.
Benjamin	Brown, Mich.	Conte
Corcoran	Kazen	Pressler
Cornell	Kelly	Regula
Coughlin	Kemp	Rhodes
Cunningham	Kildee	Rinaldo
D'Amours	Kindness	Robinson
Daniel, Dan	Lagomarsino	Roe
Daniel, R. W.	Leach	Rooney
de la Garza	Lederer	Rousselot
Delaney	Lent	Runnels
Dent	Livingston	Ruppe
Derwinski	Lloyd, Tenn.	Russo
Devine	Long, La.	Santini
Dornan	Lott	Satterfield
Edwards, Okla.	Luken	Schulze
Eilberg	McDade	Skelton
Emery	McDonald	Snyder
English	McEwen	Spence
Erlenborn	McKay	Stangeland
Evans, Ga.	Marriott	Stanton
Evans, Ind.	Mazzoli	Stump
Flood	Miller, Ohio	Symms
Gammage	Minish	Taylor
Gaydos	Mitchell, N.Y.	Thone
Gephardt	Moakley	Traxler
Goldwater	Montgomery	Treen
Grassley	Moore	Vander Jagt
Guyer	Moorhead, Calif.	Volkmer
Hagedorn		Waggonner
Hall	Mottl	Walker
Hammer-schmidt	Murphy, Pa.	Walsh
	Murtha	Watkins
Hansen	Myers, Gary	Wilson, Bob
Harsha	Natcher	Winn
Heckler	Nichols	Yatron
Holt	O'Brien	Young, Alaska
Hubbard	Oakar	Young, Mo.
Huckaby	Oberstar	Zablocki
Ichord	Pease	Zeferetti

NAYS—232

Addabbo	Findley	Long, Md.
Akaka	Fish	Lundine
Anderson, Calif.	Fisher	McClory
	Fithian	McCloskey
Anderson, Ill.	Flippo	McCormack
Andrews, N.C.	Florio	McHugh
Annunzio	Flowers	McKinney
Ashley	Foley	Madigan
Aspin	Ford, Mich.	Maguire
AuCoin	Ford, Tenn.	Mahon
Baldus	Forsythe	Mann
Barnard	Fountain	Markey
Baucus	Fowler	Marks
Beard, R.I.	Fraser	Martin
Beard, Tenn.	Frenzel	Mattox
Bedell	Fuqua	Meyner
Beilenson	Garcia	Michel
Bennett	Gibbons	Mikulski
Bingham	Gilman	Mikva
Blanchard	Ginn	Mineta
Boland	Glickman	Mitchell, Md.
Bonker	Gonzalez	Moffett
Bowen	Goodling	Mollohan
Brademas	Gore	Moorhead, Pa.
Breckinridge	Gradison	Murphy, Ill.
Brodhead	Green	Murphy, N.Y.
Brooks	Gudger	Myers, Michael
Brown, Calif.	Hamilton	Neal
Broyhill	Hanley	Nedzi
Buchanan	Hannaford	Nix
Burgener	Harkin	Nolan
Burlison, Mo.	Harris	Nowak
Burton, John	Hawkins	Obey
Butler	Hefner	Ottinger
Carr	Heftel	Panetta
Carter	Hightower	Patterson
Chappell	Hillis	Pattison
Chisholm	Holland	Pepper
Cleveland	Hollenbeck	Perkins
Collins, Ill.	Holtzman	Pickle
Conable	Horton	Pike
Corman	Howard	Poage
Cornwell	Hughes	Preyer
Cotter	Jacobs	Price
Danielson	Jeffords	Pritchard
Davis	Jenkins	Pursell
Dellums	Jenrette	Quayle
Derrick	Johnson, Calif.	Quillen
Dicks	Johnson, Colo.	Rahall
Dingell	Jones, N.C.	Railsback
Dodd	Jones, Okla.	Rangel
Downey	Jones, Tenn.	Reuss
Drinan	Jordan	Richmond
Duncan, Oreg.	Kasten	Risenhoover
Duncan, Tenn.	Kastenmeier	Roberts
Early	Keys	Rodino
Eckhardt	Kostmayer	Rogers
Edgar	Krebs	Roncalio
Edwards, Ala.	Krueger	Rose
Edwards, Calif.	LaFalce	Rosenthal
Ertel	Leggett	Rostenkowski
Evans, Del.	Lehman	Roybal
Fascell	Levitas	Ryan
Fenwick	Lloyd, Calif.	Sawyer

Scheuer	Steers	Weaver
Schroeder	Steiger	Weiss
Seiberling	Stockman	Whalen
Sharp	Stokes	White
Sikes	Studds	Whitley
Simon	Thompson	Whitten
Sisk	Thornton	Wiggins
Smith, Iowa	Trible	Wilson, Tex.
Solarz	Udall	Wirth
Spellman	Van Deerlin	Wolff
St Germain	Vanik	Wright
Staggers	Vento	Wylie
Stark	Wampler	Yates
Steed	Waxman	

NOT VOTING—61

Alexander	Fary	Rudd
Ammerman	Flynt	Sarasin
Applegate	Frey	Sebelius
Armstrong	Giaimo	Shipley
Badham	Harrington	Shuster
Bolling	Hyde	Skubitz
Burke, Calif.	Ireland	Slack
Burke, Fla.	Latta	Smith, Nebr.
Burleson, Tex.	Le Fante	Stratton
Burton, Phillip	Lujan	Teague
Caputo	McFall	Tsongas
Carney	Marlenee	Tucker
Clawson, Del	Mathis	Ullman
Clay	Meeds	Walgren
Cochran	Milford	Whitehurst
Cohen	Miller, Calif.	Wilson, C. H.
Conyers	Moss	Wydler
Crane	Myers, John	Young, Fla.
Dickinson	Patten	Young, Tex.
Diggs	Pettis	
Evans, Colo.	Quie	

The Clerk announced the following pairs:

On this vote:

Mr. Hyde for, with Mr. Stratton against.

Mrs. Smith of Nebraska for, with Mr. Alexander against.

Mr. Young of Florida for, with Mrs. Burke of California against.

Mr. Rudd for, with Mr. Tsongas against.

Mr. Lujan for, with Mr. Harrington against.

Mr. Quie for, with Mr. Fary against.

Mr. Crane for, with Mr. Sarasin against.

Until further notice:

Mr. Burleson of Texas with Mr. Frey.

Mr. Flynt with Mr. Whitehurst.

Mr. McFall with Mr. Wydler.

Mr. Giaimo with Mr. Shuster.

Mr. Walgren with Mr. Skubitz.

Mr. Ullman with Mr. Latta.

Mr. Miller of California with Mr. Sebelius.

Mr. Patten with Mr. Marlenee.

Mr .Slack with Mr. John T. Myers

Mr. Conyers with Mr. Dickinson.

Mr. Charles H. Wilson of California with Mr. Cohen.

Mr. Carney with Mr. Caputo.

Mr. Phillip Burton with Mr. Burke of Florida.

Mr. Diggs with Mr. Del Clawson.

Mr. Ammerman with Mr. Cochran of Mississippi.

Mr. Clay with Mr. Evans of Colorado.

Mr. Applegate with Mr. Ireland.

Mr. Mathis with Mr. Milford.

Mr. Meeds with Mr. Milford.

Mr. Teague with Mr. Shipley.

Mr. Moss with Mr. Tucker.

Mr. SIMON changed his vote from "yea" to "nay."

Mrs. HECKLER changed her vote from "present" to "yea."

Mr. CONTE changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. GUYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 343, nays 27, answered "present" 1, not voting 59, as follows:

[Roll No. 918]

YEAS—343

Abdnor	Edwards, Okla.	Lloyd, Tenn.
Addabbo	Eilberg	Long, La.
Akaka	Emery	Long, Md.
Ambro	English	Lott
Anderson, Calif.	Erlenborn	Lundine
	Ertel	McClory
Anderson, Ill.	Evans, Del.	McCloskey
Andrews, N.C.	Evans, Ga.	McCormack
Andrews, N. Dak.	Evans, Ind.	McDade
	Fascell	McEwen
Annunzio	Fenwick	McHugh
Archer	Findley	McKay
Ashley	Fish	McKinney
Aspin	Fisher	Madigan
AuCoin	Fithian	Maguire
Bafalis	Flippo	Mann
Baldus	Florio	Markey
Barnard	Flowers	Marks
Baucus	Foley	Marriott
Beard, R.I.	Ford, Mich.	Martin
Beard, Tenn.	Ford, Tenn.	Mathis
Bedell	Forsythe	Mattox
Beilenson	Fountain	Mazzoli
Benjamin	Fowler	Meyner
Bennett	Fraser	Michel
Bevill	Frenzel	Mikulski
Biaggi	Fuqua	Mikva
Bingham	Gammage	Miller, Ohio
Blanchard	Garcia	Mineta
Blouin	Gaydos	Minish
Boggs	Gilman	Mitchell, Md.
Boland	Ginn	Mitchell, N.Y.
Bonior	Glickman	Moakley
Bowen	Goldwater	Moffett
Brademas	Gonzalez	Mollohan
Breaux	Goodling	Montgomery
Breckinridge	Gore	Moore
Brinkley	Gradison	Moorhead, Pa.
Brodhead	Grassley	Mottl
Brooks	Green	Murphy, Ill.
Broomfield	Gudger	Murphy, N.Y.
Brown, Calif.	Guyer	Murphy, Pa.
Brown, Mich.	Hagedorn	Murtha
Brown, Ohio	Hall	Myers, Michael
Broyhill	Hamilton	Natcher
Buchanan	Hammer-schmidt	Neal
Burgener		Nedzi
Burke, Mass.	Hanley	Nichols
Burlison, Mo.	Hannaford	Nix
Burton, John	Harkin	Nolan
Butler	Harris	Nowak
Caputo	Harsha	O'Brien
Carr	Heckler	Oakar
Carter	Hefner	Oberstar
Cavanaugh	Heftel	Obey
Cederberg	Hightower	Ottinger
Chappell	Hillis	Panetta
Chisholm	Holland	Patterson
Clausen, Don H.	Hollenbeck	Pattison
	Holt	Pepper
Clay	Holtzman	Perkins
Cleveland	Horton	Pickle
Coleman	Howard	Poage
Collins, Ill.	Hubbard	Pressler
Conable	Huckaby	Preyer
Conte	Hughes	Price
Corcoran	Ireland	Pritchard
Corman	Jacobs	Pursell
Cornell	Jeffords	Quayle
Cornwell	Jenkins	Quillen
Cotter	Jenrette	Rahall
Coughlin	Johnson, Colo.	Railsback
Cunningham	Jones, N.C.	Rangel
D'Amours	Jones, Okla.	Regula
Daniel, Dan	Jones, Tenn.	Reuss
Danielson	Jordan	Rhodes
Davis	Kasten	Richmond
de la Garza	Kastenmeier	Rinaldo
Delaney	Kazen	Risenhoover
Dellums	Kemp	Robinson
Dent	Keys	Rodino
Derrick	Kildee	Roe
Derwinski	Kindness	Rogers
Devine	Kostmayer	Roncalio
Dicks	Krebs	Rooney
Dingell	Krueger	Rose
Dodd	LaFalce	Rosenthal
Downey	Lagomarsino	Rostenkowski
Drinan	Leach	Roybal
Duncan, Oreg.	Lederer	Runnels
Duncan, Tenn.	Leggett	Ruppe
Early	Lehman	Russo
Eckhardt	Lent	Ryan
Edgar	Levitas	Santini
Edwards, Ala.	Livingston	Satterfield
Edwards, Calif.	Lloyd, Calif.	Sawyer
Scheuer	Steiger	Waxman
Schroeder	Stockman	Weaver
Schulze	Stokes	Weiss
Seiberling	Stratton	Whalen
Sharp	Studds	White
Sikes	Thompson	Whitley
Simon	Thone	Whitten
Skelton	Thornton	Wiggins
Smith, Iowa	Traxler	Wilson, Tex.
Snyder	Trible	Winn
Solarz	Tucker	Wirth
Spellman	Udall	Wolff
Spence	Van Deerlin	Wright
St Germain	Vander Jagt	Wylie
Staggers	Vanik	Yates
Stangeland	Vento	Yatron
Stanton	Walker	Young, Alaska
Stark	Walsh	Zablocki
Steed	Wampler	Zeferetti
Steers	Watkins	

NAYS—27

Ashbrook	Latta	Rousselot
Bauman	Luken	Stump
Collins, Tex.	McDonald	Symms
Daniel, R. W.	Mahon	Taylor
Flood	Milford	Treen
Gephardt	Moorhead, Calif.	Volkmer
Hansen		Waggonner
Ichord	Myers, Gary	Young, Mo.
Johnson, Calif.	Pease	
Kelly	Pike	

ANSWERED "PRESENT"—1

Dornan

NOT VOTING—59

Alexander	Fary	Rudd
Ammerman	Flynt	Sarasin
Applegate	Frey	Sebelius
Armstrong	Giaimo	Shipley
Badham	Gibbons	Shuster
Bolling	Harrington	Sisk
Bonker	Hawkins	Skubitz
Burke, Calif.	Hyde	Slack
Burke, Fla.	Le Fante	Smith, Nebr.
Burleson, Tex.	Lujan	Teague
Burton, Phillip	McFall	Tsongas
Carney	Marlenee	Ullman
Clawson, Del	Meeds	Walgren
Cochran	Miller, Calif.	Whitehurst
Cohen	Moss	Wilson, Bob
Conyers	Myers, John	Wilson, C. H.
Crane	Patten	Wydler
Dickinson	Pettis	Young, Fla.
Diggs	Quie	Young, Tex
Evans, Colo.	Roberts	

The Clerk announced the following pairs:

Mr. Alexander with Mr. Sarasin.

Mrs. Burke of California with Mrs. Smith of Nebraska.

Mr. Burleson of Texas with Mr. Rudd.

Mr. Carney with Mr. Sebelius.

Mr. Phillip Burton with Mr. Hyde.

Mr. Evans of Colorado with Mr. John T. Myers.

Mr. Giaimo with Mr. Marlenee.

Mr. Flynt with Mr. Badham.

Mr. Roberts with Mr. Frey.

Mr. Fary with Mr. Quie

Mr. Moss with Mr. Cohen.

Mr. Le Fante with Mr. Del Clawson.

Mr. Miller of California with Mr. Lujan.

Mr. Hawkins with Mr. Shuster.

Mr. Gibbons with Mr. Whitehurst.

Mr. Diggs with Mr. Crane.

Mr. Ullman with Mr. Bob Wilson.

Mr. Charles H. Wilson of California with Mr. Dickinson.

Mr. Slack with Mr. Cochran of Mississippi.

Mr. Tsongas with Mr. Burke of Florida.

Mr. Walgren with Mr. Skubitz.

Mr. Sisk with Mr. Wydler.

Mr. Shipley with Mr. Young of Florida.

Mr. Applegate with Mr. McFall.

Mr. Bonker with Mr. Patten.

Mr. Ammerman with Mr. Harrington.

Mr. Conyers with Mr. Meeds.

Mr. Teague with Mr. Armstrong.

Mr. DORNAN changed his vote from "yea" to "present."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 12370.

The SPEAKER per tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Speaker, pursuant to the provisions of House Resolution 1408, I call up from the Speaker's table the Senate bill (S. 2522) to amend title X and part B of title XI of the Public Health Service Act to extend appropriations authorizations for 5 fiscal years for voluntary family planning and population research programs and for sudden infant death syndrome programs, and to make improvements in the provisions governing such programs and research with respect to such syndrome; and for other purposes and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. ROGERS

Mr. ROGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROGERS moves to strike out all after the enacting clause of S. 2522, and insert in lieu thereof sections 5 and 6(d)(2) of H.R. 12370 as passed by the House, as follows:

That (a) section 1001(a) of the Public Health Service Act is amended by striking out "family planning methods (including natural family planning methods)" and inserting in lieu thereof "family planning methods and services (including natural family planning methods, infertility services, and services for adolescents)".

(b)(1) Section 1001(c) of such Act is amended (A) by striking out "and" after "1977;", and (B) by inserting before the period a semicolon and the following: "$200,000,000 for the fiscal year ending September 30, 1979; $230,000,000 for the fiscal year ending September 30, 1980; and $264,500,000 for the fiscal year ending September 30, 1981".

(2) Section 1003(b) of such Act is amended (A) by striking out "and" after "1977;", and (B) by inserting before the period a semicolon and the following: "$3,100,000 for the fiscal year ending September 30, 1979; $3,600,000 for the fiscal year ending September 30, 1980; and $4,100,000 for the fiscal year ending September 30, 1981".

(3) Section 1004(b)(1) of such Act is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$105,000,000 for the fiscal year ending September 30, 1979, $120,800,000 for fiscal year ending September 30, 1980, and $138,900,000 for the fiscal year ending September 30, 1981".

(4) Section 1005(b) of such Act is amended (A) by striking out "and" after "1977;", and (B) by inserting before the period a semicolon and the following: "$700,000 for the fiscal year ending September 30, 1979; $805,000 for the fiscal year ending September 30, 1980; and $926,000 for the fiscal year ending September 30, 1981".

SEC. 2. Section 1121(b)(5) of the Public Health Service Act is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$3,500,000 for the fiscal year ending September 30, 1979, $4,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981".

Amend the title so as to read: "An Act to extend the programs of assistance under title X and part B of title XI of the Public Health Service Act.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "to amend the Public Health Service Act and related health laws to revise and extend the programs of financial assistance for the delivery of health services, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 12370, was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2522

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill (S. 2522) and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida? The Chair hears none and without objection appoints the following conferees: Messrs. STAGGERS, ROGERS, SATTERFIELD, PREYER, SCHEUER, CARTER, and BROYHILL.

There was no objection.

Mr. ROGERS. Mr. Speaker, pursuant to House Resolution 1408, I call up from the Speaker's table the Senate bill (S. 2474) to amend the Public Health Service Act to extend through the fiscal year ending September 30, 1981, the assistance program for community health centers and migrant health services; assistance to veneral disease programs; genetic diseases programs; hemophilia programs; home health progams; and to extend through the fiscal year ending September 30, 1979, the assistance programs for comprehensive public health services; hypertension programs; disease control programs; lead-based paint poisoning programs; and to establish hospital-affiliated primary care centers; to provide for research and demonstration projects in primary health care; and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. ROGERS

Mr. ROGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROGERS moves to strike out all after the enacting clause of S. 2474 and insert in lieu thereof the text of H.R. 12370 (except sections 5 and 6(d)(2) and the text of title I of H.R. 12460 as passed by the House, as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Health Centers and Health Services Amendments of 1978".

TITLE I—HEALTH CENTERS

SHORT TITLE; REFERENCE TO ACT

SEC. 101. (a) This title may be cited as the "Health Centers Amendments of 1978".

(b) Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

MIGRANT HEALTH CENTERS

SEC. 102. (a)(1) Subsection (a)(1) of section 319 is amended by inserting after "as may be appropriate for particular centers" in subparagraphs (D) and (E) the following: "(as determined by the centers)".

(2) Subparagraph (G) of such subsection is amended to read as follows:

"(G) information on the availability and proper use of health services and services which promote and facilitate optimal use of health services, including, if a substantial number of the individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of such individuals,".

(3) Subparagraph (F) of subsection (a)(6) of such section is amended to read as follows:

"(F) pharmaceutical services.".

(4) Subsection (a)(7) of such section is amended—

(A) by amending subparagraph (F) to read as follows:

"(F) dental services (including preventive dental services);",

(B) by amending subparagraph (K) to read as follows:

"(K) social services (including counseling, referral to assistance, and followup services for patients for the social and other nonmedical needs which affect their health status);",

(C) by amending subparagraph (M) to read as follows:

"(M) health education services (including nutrition education).", and

(D) by striking out subparagraphs (I) and (N), by inserting "and" at the end of subparagraph (L), and by redesignating subparagraph (J), (K), (L), and (M) as subparagraphs (I), (J), (K), and (L), respectively.

(b) The second sentence of subsection (b)(1) is amended by inserting a comma before the period and the following: "except that no area which is not a high impact area and in which the number of migratory agricultural workers and the members of their families residing is less than one thousand shall be assigned a priority over a high impact area".

(c)(1) Subparagraph (B) of subsection (d)(1) is repealed and subparagraph (C) of such subsection is redesignated as subparagraph (B).

(2) Paragraph (2) of subsection (d) is amended by striking out "or (1)(B)".

(3) Paragraphs (1) and (3) of subsection (f) are each amended by striking out "(d)(1)(C)" and inserting in lieu thereof "(d)(1)(B)".

(4) Subsection (h)(2) is amended by striking out "(d)(1)(C)" each place it occurs and inserting in lieu thereof "(d)(1)(B)".

(d) Paragraph (3) of subsection (d) of such section is amended to read as follows:

"(3)(A) The amount of any grant made in any fiscal year under subparagraph (A) of paragraph (1) to a health center shall be determined by the Secretary, but may not exceed the amount by which the projected costs of operation of the center in such fiscal year exceed the total of—

"(i) the State, local, and other funds, and

"(ii) the fees, premiums, and third-party reimbursements

which the center may reasonably be expected to receive for its operations in such fiscal year. In determining the amount of such a grant for a center, the Secretary, if funds have been requested for a service described in subparagraph (D) or (E) of subsection

(a)(1) or a supplemental health service described in subparagraph (B), (F), (J), or (L) of subsection (a)(7), shall include (in an amount determined by the Secretary) funds for such service unless the Secretary makes a written finding that such service is not needed and provides the applicant with a copy of such finding.

"(B) Payments under grants under subparagraph (A) of paragraph (1) shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary and adjustments may be made for overpayments or underpayments, except that if in any fiscal year the sum of—

"(i) the total of the amounts described in clauses (i) and (ii) of subparagraph (A) of this paragraph received by a center in such fiscal year, and

"(ii) the amount of the grant to the center in such fiscal year,

exceeded the costs of the center's operation in such fiscal year because the amount received by the center from fees, premiums, and third-party reimbursements was greater than expected, adjustment in the grant to the center in the succeeding fiscal year shall be made in such a manner that the center may retain one-half of the amount by which such sum exceeded such cost but only for the purpose of enabling the center to expand and improve its services, to increase the number of persons it is able to serve, to construct and modernize its facilities, to improve the administration of its service programs, and to establish the financial reserve required for the furnishing of services on a prepaid basis.".

(e) Subsection (f) of such section is amended by redesignating paragraph (2) as paragraph (3) and by adding after paragraph (1) the following:

"(2) An application for a grant under subparagraph (A) of subsection (d)(1) for a migrant health center shall include (A) a description of the need in the center's catchment area for each of the health services described in subparagraphs (D) and (E) of subsection (a)(1) and in subparagraphs (B), (F), (J), and (L) of subsection (a)(7), (B) if the applicant determines that any such services is not needed, the basis for such determination, and (C) of the applicant does not request funds for any such service which the applicant determines is needed, the reason for not making such a request. In considering an application for a grant under subparagraph (A) of subsection (d)(1), the Secretary may require as a condition to the approval of such application assurance that the applicant will provide any specified health service described in subsection (a) which the Secretary finds is needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided the applicant.".

(f)(1)(A) Subparagraph (G) of paragraph (3) (as so redesignated) of subsection (f) of such section is amended by striking out clause (ii) and inserting in lieu thereof the following: "(ii) selects the services to be provided by the center, schedules the hours during which such services will be provided, approves the center's annual budget, approves the selection of a director for the center, and, except in the case of a governing board of a public center, establishes general policies for the center; and if the application is for a second or subsequent grant for a public migrant health center, the governing body of the center has approved the application or if the governing body has not approved the application, the failure of the governing body to approve the application was unreasonable;".

(B) The change in the governing board requirements for migrant health centers made by the amendment made by subparagraph (A) to section 319(f)(3)(G)(ii) of the Public Health Service Act shall not apply with respect to any public migrant health center which met the governing board requirements in effect under such section before October 1, 1978.

(2) Subparagraph (H) of such paragraph is amended (A) by striking out "and (IV)" and inserting in lieu thereof "(IV)", and (B) by inserting before the semicolon at the end ", and (V) expenditures made from any amount the center was permitted to retain under subsection (d)(3)(B)".

(g)(1)(A) The first sentence of subsection (h)(1) of such section is amended by striking out "and" after "1977", and by inserting before the period a comma and the following: '$2,200,000 for the fiscal year ending September 30, 1979, $2,500,000 for the fiscal year ending September 30, 1980, and $2,900,000 for the fiscal year ending September 30, 1981".

(B) The second sentence of such section is amended by striking out "two fiscal years" and inserting in lieu thereof "five fiscal years".

(2)(A) The first sentence of subsection (h)(2) of such section is amended by (i) by striking out "other than" and inserting in lieu thereof "including", (ii) striking out "and" after "1977,", and (iii) by inserting before the period a comma and the following: "$38,800,000 for the fiscal year ending September 30, 1979, $44,600,000 for the fiscal year ending September 30, 1980, and $51,300,000 for the fiscal year ending September 30, 1981".

(B) The third sentence of such section is amended by striking out "fiscal years ending September 30, 1977, and September 30, 1978" and inserting in lieu thereof "any fiscal year".

(3) Section 319(h)(3) is amended to read as follows:

"(3) In any fiscal year, the Secretary shall obligate for payments under grants and contracts in such fiscal year under subsection (d)(1) for the provision of inpatient and outpatient hospital services not less than 10 per centum of the amount appropriated in such fiscal year under paragraph (2) and not more than $5,000,000.".

(h) The amendments made by this section shall apply with respect to grants and contracts made under section 319 of the Public Health Service Act from appropriations for the fiscal years ending after September 30, 1978.

COMMUNITY HEALTH CENTERS

SEC. 103. (a) Subsection (a) of section 330 is amended by striking out "as may be appropriate for particular centers" in paragraph (4) and inserting in lieu thereof "as may be appropriate for particular centers (as determined by the centers)".

(b) Subsection (b)(1) of such section is amended by amending subparagraph (F) to read as follows:

"(F) pharmaceutical services.".

(c) Paragraph (2) of subsection (b) of such section is amended—

(1) by amending subparagraph (F) to read as follows:

"(F) dental services (including preventive dental services);",

(2) by striking out subparagraph (I),

(3) by amending subparagraph (K) to read as follows:

"(K) social services (including counseling, referral to assistance, and followup services for patients for the social and other nonmedical needs which affect their health status);",

(3) by amending subparagraph (M) to read as follows:

"(M) health education services (including nutrition education); and",

(4) by striking out "outreach workers" in subparagraph (N) and inserting in lieu thereof "appropriate personnel", and

(5) by redesignating subparagraphs (J) through (N) as subparagraphs (I) through (M), respectively.

(d) Paragraph (4) of subsection (d) of such section is amended to read as follows:

"(4)(A) The amount of any grant made in any fiscal year under paragraph (1) to a community health center shall be determined by the Secretary, but may not exceed the amount by which the projected costs of operation of the center in such fiscal year exceed the total of—

"(i) the State, local, and other funds, and

"(ii) the fees, premiums, and third-party reimbursements

which the center may reasonably be expected to receive for its operations in such fiscal year. In determining the amount of a grant for a center, the Secretary, if funds have been requested for an environmental health service described in subsection (a)(4) or a supplemental health service described in subparagraph (B), (F), (J), (L), or (M) of subsection (b)(2), shall include (in an amount determined by the Secretary) funds for such service unless the Secretary makes a written finding that such service is not needed and provides the applicant with a copy of such finding.

"(B) Payments under grants under paragraph (1) shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary and adjustments may be made for overpayments or underpayments, except that if in any fiscal year the sum of—

"(i) the total of the amounts described in clauses (i) and (ii) of subparagraph (A) received by a center in such fiscal year, and

"(ii) the amount of the grant to the center in such fiscal year,

exceeded the costs of the center's operation in such fiscal year because the amount received by the center from fees, premiums, and third-party reimbursments was greater than expected, adjustment in the grant to the center in the succeeding fiscal year shall be made in such a manner that the center may retain one-half of the amount by which such sum exceeded such cost but only for the purpose of enabling the center to expand and improve its services, to increase the number of persons it is able to serve, to construct and modernize its facilities, to improve the administration of its service programs, and to establish the financial reserve required for the furnishing of services on a prepaid basis.".

(e)(1) Subsection (e) of such section is amended by redesignating paragraph (2) as paragraph (3) and by adding after paragraph (1) the following:

"(2) An application for a grant under subsection (d) for a community health center shall include (A) a description of the need in the center's catchment area for each of the health services described in subsection (a)(4) and in subparagraphs (B), (F), (J), (L), and (M) of subsection (b)(2), (B) if the applicant determines that any such service is not needed, the basis for such determination, and (C) if the applicant does not request funds for any such service which the applicant determines is needed, the reason for not making such a request. In considering an application for a grant under subsection (d), the Secretary may require as a condition to the approval of such application assurance that the applicant will provide any specified health service described in subsection (a) or (b) which the Secretary finds is needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided the applicant.".

(2)(A) Subparagraph (G) of paragraph (3) (as so redesignated) of such subsection is amended by striking out clause (ii) and inserting in lieu thereof the following: "(ii) meets at least once a month, selects the services to be provided by the center, sched-

ules the hours during which such services will be provided, approves the center's annual budget, approves the selection of a director for the center, and, except in the case of a governing board of a public center, establishes general policies for the center; and if the application is for a second or subsequent grant for a public center, the governing body has approved the application or if the governing body has not approved the application, the failure of the governing body to approve the application was unreasonable;".

(B) The change in the governing board requirements for public community health centers made by the amendment made by subparagraph (A) to section 330(e)(3)(G)(ii) of the Public Health Service Act shall not apply with respect to any public community health center which met the governing board requirements in effect under such section before October 1, 1978.

(3) Subparagraph (H) of such pragraph is amended (A) by striking out "and (IV)" and inserting in lieu thereof "(IV)", and (B) by inserting before the semicolon at the end ", and (V) expenditures made from any amount the center was permitted to retain under subsection (d)(4)(B)".

(4) Subsection (e) is amended by adding at the end the following:

"(4) The Secretary shall approve applications for grants under subsection (d) for community health centers which have not received a prior grant under such subsection or which have applied for such a grant to expand their services in such a manner that the ratio of the medically underserved populations in rural areas which may be expected to use the services provided by such centers to the medically underserved populations in urban areas which may be expected to use the services provided by such centers is not less than two to three or greater than three to two.".

(f)(1) Paragraph (1) of subsection (g) of such section is amended by striking out "and" after "1977," and by inserting before the period a comma and the following: $6,300,000 for the fiscal year ending September 30, 1979, $7,500,000 for the fiscal year ending September 30, 1980, and $9,000,000 for the fiscal year ending September 30, 1981".

(2) Paragraph (2) of such subsection is amended by striking out "and" after "1977," and by inserting before the period a comma and the following: "$359,700,000 for the fiscal year ending September 30, 1979, $431,500,000 for the fiscal year ending September 30, 1980, and $518,000,000 for the fiscal year ending September 30, 1981".

(g) The amendments made by this section shall apply with respect to grants made under section 330 of the Public Health Service Act from appropriations for fiscal years ending after September 30, 1978.

TECHNICAL ASSISTANCE GRANTS AND ASSESSMENT OF CONTINUING EDUCATION

SEC. 104. (a) Part A of title III is amended by adding after section 314 the following new section:

"TECHNICAL ASSISTANCE GRANTS

"SEC. 315. (a)(1) The Secretary may make grants to entities of State governments and to nonprofit private entities (other than schools of the health professions) to assist such entities in meeting their costs of providing technical assistance to entities engaged in the planning, development, or operation (or in any combination of such activities) of migrant health centers under section 319, community health centers under section 330, or any other centers for the delivery of primary health care. The technical assistance with respect to which a grant may be made under this paragraph includes—

"(A) assistance in the selection of sites for such centers,

"(B) assistance in the selection of governing boards for such centers,

"(C) assistance in the management of the service programs of such centers,

"(D) assistance in the recruitment, selection, and retention of personnel (including members of the National Health Service Corps) for such centers,

"(E) assistance in financial management, and

"(F) assistance in the procurement of facilities, equipment, and supplies for such centers.

"(2) In making grants under paragraph (1), the Secretary shall, to the extent feasible, make such grants to—

"(A) entities which will provide technical assistance on a statewide basis for the planning, development, and operation of centers to provide primary health care in urban and rural areas.

"(B) entities which will provide technical assistance solely for the planning, development, and operation of centers to provide primary health care in large, densely populated areas,

"(C) entities which will provide technical assistance solely on a statewide basis for the planning, development, and operation of centers to provide primary health care in rural areas, and

"(D) entities which will provide technical assistance on a regional basis in large States.

Grants under paragraph (1) to nonprofit private entities may only be made to such entities to provide technical assistance in the States in which they are primarily engaged in business.

"(b)(1) No grant may be made under subsection (a) unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary may require by regulation.

"(2) The amount of any grant under subsection (a) shall be determined by the Secretary, except that no grant to an entity in any fiscal year may exceed $500,000. Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(c) The Secretary shall establish a Primary Health Care Advisory Committee (hereinafter in this subsection referred to as the 'Committee') to make recommendations respecting—

"(1) the capabilities of applicants for grants under subsection (a) to effectively carry out the projects for which the grants would be made;

"(2) the renewal of grants under such subsection; and

"(3) the evaluation to be made under section 104(b) of the Health Centers Amendments of 1978.

The Committee shall consist of five members appointed by the Secretary, in accordance with section 222, from individuals who are not officers or employees of the Federal Government and who because of their expertise in providing technical assistance to primary health care centers are particularly qualified to serve on the Committee. Section 208(c) shall apply to compensation and allowances for members of the Committee.

"(d) For the purpose of carrying out this section, there are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1979, $3,000,000 for the fiscal year ending September 30, 1980, and $3,000,000 for the fiscal year ending September 30, 1981.".

(b) Not later than January 1, 1981, the Secretary of Health, Education, and Welfare shall submit a report to the Congress on—

(1) the effectiveness of the entities assisted with grants under section 315 of the Public Health Service Act in—

(A) establishing centers which meet the requirements of sections 319 and 330 of the Public Health Service Act,

(B) improving the acceptability, in the communities served, of migrant health centers, community health centers, and other centers engaged in the delivery of primary health care,

(C) improving the ability of such centers in attracting and retaining health professions personnel,

(D) assisting such centers in reducing their dependence on public funding;

(2) the effect of the effectiveness of entities assisted under grants under such section 315 of (A) the type of area to be served by the centers for which planning, development, and operation assistance was provided by such entities, and (B) the organizational structure of such entities.

(c) The Secretary of Health, Education, and Welfare shall conduct an assessment of the various types of continuing education programs available for health professions personnel in medically underserved areas and the effect such types of programs have on the retention of such personnel by centers engaged in the delivery of primary health care in such areas. The Secretary shall report the results of such assessment to the Congress not later than January 1, 1980.

DEMONSTRATION PROJECTS IN RURAL MEDICALLY UNDERSERVED AREAS

SEC. 105. The Secretary of Health, Education, and Welfare may make grants to—

(1) public and nonprofit private entities which received grants from appropriations made for the fiscal year ending September 30, 1978, to carry out demonstration projects under section 1110 of the Social Security Act related to health services in rural medically underserved areas, and which before September 30, 1978, had applications approved by the Secretary under such section for grants for the fiscal year ending September 30, 1979, and

(2) to any other public and nonprofit private entity which before September 30, 1978, had an application approved by the Secretary under such section for a grant for the fiscal year ending September 30, 1979,

to enable such entities to carry out demonstration projects under such applications in the fiscal year ending September 30, 1979. For the purpose of the grants under this section, there is authorized to be appropriated $13,500,000 for the fiscal year ending September 30, 1979.

TITLE II—HEALTH SERVICES EXTENSIONS

SHORT TITLE; REFERENCE TO ACT

SEC. 201. (a) This title may be cited as the "Health Services Extension Act of 1978".

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

HEALTH INCENTIVES GRANTS FOR COMPREHENSIVE PUBLIC HEALTH SERVICES

SEC. 202. (a)(1) Section 314(d)(7)(A) is amended by striking out "and" after "1977," and inserting before the period a comma and the following: "and $103,500,000 for the fiscal year ending September 30, 1979".

(2) Section 314(d)(7)(B) is amended by striking out "and" after "1977," and inserting before the period a comma and the following: "and $25,000,000 for the fiscal year ending September 30, 1979".

(b)(1) The Congress finds and declares that—

(A) individual health status can be ef-

fectively and economically improved through an adequate investment in community public health programs and services;

(B) the Federal Government and the States and their communities share in the financial responsibility for funding public health programs;

(C) the Federal contribution to funds for public health programs should serve as an incentive to an additional investment by State and local governments;

(D) existing categorical programs of Federal financial assistance to combat specific public health problems should be supplemented by a national program of stable generic support for such public health activities as the prevention and control of environmental health hazards, prevention and control of diseases, prevention and control of health problems of particularly vulnerable population groups, and development and regulation of health care facilities and health

(E) the States and their communities, not the Federal Government, should have primary responsibility for identifying and measuring the impact of public health problems and the allocation of resources for their amelioration.

(2) Effective October 1, 1979, section 314 (d) is amended to read as follows:

"COMPREHENSIVE PUBLIC HEALTH SERVICES

"(d) (1) The Secretary shall make grants to State health authorities to assist in meeting the costs of providing comprehensive public health services.

"(2) No grant may be made under paragraph (1) to the State health authority of any State unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary may require, and shall contain or be supported by assurances satisfactory the Secretary that—

"(A) the comprehensive public health services which will be provided within the State with funds under a grant under paragraph (1) will be provided in accordance with the State health plan in effect under section 1524(c);

"(B) funds received under grants under paragraph (1) will—

"(i) be used to supplement the level of non-Federal funds that would otherwise be made available for the comprehensive public health services for which the grant funds are provided, and

"(ii) not be used to supplant such non-Federal funds,

except that the Secretary may in exceptional circumstances waive clause (i) or (ii) or both clauses;

"(C) the State health authority for which the application is submitted will—

(i) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds received under grants under paragraph (1);

"(ii) from time to time, as prescribed by the Secretary, report to the Secretary (through a uniform national reporting system and by such categories as the Secretary may prescribe) a description of the comprehensive public health services provided in the State in the fiscal year for which the grant applied for is made and the amount and source of funds expended in that fiscal year and in the preceding fiscal year for the provision of each such category of services; and

"(iii) make such other reports (in such form and containing such information as the Secretary may prescribe) as the Secretary may reasonably require and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports; and

"(D) the State health authority for which the application is submitted will have in effect a method satisfactory to the Secretary which will assure equitable distribution of funds under grants under paragraph (1) among State and local public health entities within the State which have made expenditures which may be used under paragraph (4) to compute the amount of such grants and which method provides that within the limit of the amount of funds received by the State health authority under such grants—

"(i) each local public health entity which makes such expenditures shall receive from such funds in the fiscal year for which grants are made an amount which is equal to the lesser of—

"(I) the product of the total amount of such expenditures in such fiscal year and the applicable grant computation percentage, or

"(II) the product of $1.50 and the population of the area served by such entity (as such population and area may be determined pursuant to guidelines established by the Secretary); and

"(ii) amounts which a local public health entity would receive under clause (i)(I) which are in excess of the applicable amount computed under clause (i)(II) shall be distributed for comprehensive public health services within communities which have the greatest need for such services as determined by the State health authority pursuant to guidelines established by the Secretary.

For purposes of subparagraph (D)(i)(I), the term 'applicable grant computation percentage' means the percentage applicable under paragraph (4)(A)(i)(II) to the computation of the amount of a grant under paragraph (1).

"(3)(A) The Secretary shall review annually the actiivties undertaken by each State health authority with an approved application under this subsection to determine if the authority complied with the assurances provided with the application. The Secretary may not approve an application submitted under paragraph (2) if the Secretary determines—

"(i) that the State health authority for which the application was submitted did not comply with assurances provided with a prior application under paragraph (2), and

"(ii) that he cannot be assured that the authority will comply with the assurances provided with the application under consideration.

"(B) Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State health authority of a State, finds that, with respect to funds paid to the authority under a grant under paragraph (1), there is a failure to comply with assurances provided under paragraph (2) with respect to the receipt of such grant, the Secretary shall notify the authority that further payments will not be made to it under such grant (or in his discretion that further payments will not be made to it from such grant for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no payment to such authority from such grant or shall limit payment under such grant to activities in which there is no such failure.

"(4)(A) The total amount of grants received by a State health authority under paragraph (1) in any fiscal year shall be the greater of the amount determined under clause (i) or (ii) as follows:

"(i) The total amount of grants to a State health authority in a fiscal year shall be the lesser of—

"(I) the product of $1.50 and the population of the State served by such authority, or

"(II) in the case of the fiscal year ending September 30, 1980, 10 percent of the amount of State and local expenditures for comprehensive public health services within the State in the State's fiscal year which ended on or before July 1, 1979, in the case of the fiscal year ending September 30, 1981, 15 percent of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1980, and in the case of the fiscal year ending September 30, 1982, 20 percent of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1981.

"(ii) The total amount of grants to a State health authority in a fiscal year may not be less than the greater of—

"(I) the total amount of grants received by such authority under paragraph (1) for the fiscal year ending Setpember 30, 1979, or

"(II) the product of $1 and the population of the State served by such authority. Notwithstanding clause (ii), if for any fiscal year the amount appropriated for that fiscal year under paragraph (6) is less than the amount needed to make grants in that fiscal year in accordance with such clause to all State health authorities with approved applications, the total amount of grants in that fiscal year for a State health authority shall not be less than an amount which bears the same ratio to the amounts determined for such authority in accordance with such clause as the amount appropriated under such paragraph bears to the amount needed to make grants in accordance with such clause in such fiscal year to all State health authorities with approved applications.

"(B) The Secretary, at the request of a State health authority, may reduce the amount of the grants to it under paragraph (1), by—

"(i) the fair market value of any supplies (including vaccines and other prevention agents) or equipment furnished the State health authority, and

"(ii) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State health authority and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of the State health authority and for the purpose of carrying out a program with respect to which its grant under paragraph (1) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the State health authority.

"(C) For purposes of subparagraph (A)(i)(II), the term 'State and local expenditures for comprehensive public health services' means expenditures by State and local public health authorities for public health services designated by the Secretary, but excludes expenditures by such authorities—

"(i) specifically required by Federal statutory law as a condition to the receipt of Federal financial assistance, or

"(ii) for operating inpatient care facilities, construction, or mental health programs.

"(D) For purposes of subparagraph (A) and paragraph (2)(D), populations shall be determined on the basis of the latest figure available from the Department of Commerce.

"(5) The Secretary may make payments under grants under paragraph (1) on the basis of such estimates and in such installments as appropriate with adjustments for any previous overpayments or underpayments.

"(6)(A) For the purpose of making grants under this subsection there are authorized to be appropriated $250,000,000 for the fiscal year ending September 30, 1980, $275,000,000 for the fiscal year ending September 30, 1981, and $300,000,000 for the fiscal year ending September 30, 1982.

"(B) Of the amount appropriated under subparagraph (A) for any fiscal year, the Secretary shall obligate not more than $1,000,000 for the uniform national health program reporting system referred to in paragraph (2)(C)(ii).

"(7) Regulations (including substantive amendments to regulations) under this subsection shall be promulgated by the Secretary after consultation with a conference of State health authorities. The Secretary shall consult with such conference prior to the publication of proposals for such regulations or amendments.".

DISEASE CONTROL PROGRAMS

SEC. 203. (a) Subsection (d)(1) of section 317 amended by striking out "public and nonprofit private entities" and inserting in lieu thereof "State health authorities, health authorities of political subdivisions of States, other public entities, and nonprofit private entities".

(b)(1) Subsection (g)(1)(A) of such section is amended by inserting before ", there are authorized" the following "and for the purpose of grants under such subsection for the fiscal year ending September 30, 1979, for disease control programs to immunize individuals against influenza".

(2) Subsection (g)(1)(B) of such section is amended by striking out "for disease control programs for diseases borne by rodents" and inserting in lieu thereof "for rodent control programs".

(c)(1) Subsection (g)(1)(A) of such section is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$51,000,000 for the fiscal year ending September 30, 1979, $40,250,000 for the fiscal year ending September 30, 1980, and $46,280,000 for the fiscal year ending September 30, 1981".

(2) Subsection (g)(1)(B) of such section is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$15,000,000 for the fiscal year ending September 30, 1979, $17,300,000 for the fiscal year ending September 30, 1980, and $19,900,000 for the fiscal year ending September 30, 1981".

(3) Subsection (g)(1)(C) of such section is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$5,800,000, for the fiscal year ending September 30, 1979, $6,700,000 for the fiscal year ending September 30, 1980, and $7,700,000 for the fiscal year ending September 30, 1981".

PREVENTION AND CONTROL OF VENEREAL DISEASES

SEC. 204. (a)(1) Subsection (f) of section 318 is replealed and subsections (g) and (h) of such section are redesignated as subsections (f) and (g), respectively.

(2) Subsection (g)(2) of section 317 is amended by striking out "Except as provided in section 318, no funds" and inserting in lieu thereof "No funds".

(b)(1) Subsection (d)(1) of section 318 is amended by inserting after "(1)" the following: "For the purpose of making grants under subsections (b) and (c) there are authorized to be appropriated $45,000,000 for the fiscal year ending September 30, 1979, $53,000,000 for the fiscal year ending September 30, 1980, and $62,000,000 for the fiscal year ending September 30, 1981. For grants under subsection (b) in any fiscal year, the Secretary shall obligate not less than 5 per centum of the amount appropriated for such fiscal year under the preceding sentence."

(2) Subsection (b) of such section is amended by striking out "(1)" and paragraph (2).

(3) Subsection (c) is amended by (A) by striking out paragraph (2), (B) by striking out "(1)", and (C) by redesignating subparagraphs (A), (B), (C), (D), and (E) of paragraph (1) as paragraphs (1), (2), (3), and (4), and (5), respectively.

GENETIC DISEASES, HEMOPHILIA PROGRAMS, AND SUDDEN INFANT DEATH SYNDROME

SEC. 205. (a) Section 402 of the Health Research and Health Services Amendments of 1976 is amended by striking out "including" and inserting in lieu thereof "such as".

(b) The first sentence of section 1104(a) is amended by striking out "such information" and inserting in lieu thereof "such information (including assurances for an evaluation whether performed by the applicant or by the Secretary)".

(c)(1) Part A of title XI is amended by adding after section 1106 the following new section:

"APPLIED TECHNOLOGY

"SEC. 1107. The Secretary, acting through an identifiable administrative unit, shall—

"(1) conduct epidemiological assessments and surveillance of genetic diseases to define the scope and extent of such diseases and the need for programs for the diagnosis, treatment, and control of such diseases, screening for such diseases, and the counseling of persons with such diseases;

"(2) on the basis of the assessments and surveillance described in paragraph (1), develop for use by the States programs which combine in an effective manner diagnosis, treatment, and control of such diseases, screening for such diseases, and counseling of persons with such diseases; and

"(3) on the basis of the assessments and surveillance described in paragraph (1), provide technical assistance to States to implement the programs developed under paragraph (2) and train appropriate personnel for such programs.

In carrying out this section, the Secretary may, from funds appropriated under section 1101(b), make grants to or contracts with public or nonprofit private entities (including grants and contracts for demonstration projects).".

(2) Section 1101(b) is amended by inserting "and section 1107" after "this section".

(d)(1) Section 1101(b) is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$20,000,000 for the fiscal year ending September 30, 1979, $23,000,000 for the fiscal year ending September 3, 1980, and $26,500,000 for the fiscal year ending September 30, 1981".

(2) Section 1131(f) is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$3,500,000 for the fiscal year ending September 30, 1979, $4,000,000 for the the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981".

(3) Section 1132(e) is amended (A) by striking out "and" after "1977.", and (B) by inserting before the period a comma and the following: "$2,500,000 for the fiscal year ending September 30, 1979, $3,000,000 for the fiscal year ending September 30, 1980, and $3,500,000 for the fiscal year ending September 30, 1981".

HOME HEALTH SERVICES

SEC. 206. (a) Part A of title III is amended by inserting after section 311 the following new section:

"HOME HEALTH SERVICES

"SEC. 312. (a)(1) For the purpose of demonstrating the establishment and initial operation of home health agencies (as defined in section 1861(o) of the Social Security Act) which will provide home health services (as defined in section 1861(m) of the Social Security Act) in areas in which such services are not otherwise available, the Secretary may, in accordance with the provisions of this section, make grants to public and nonprofit private entities to meet the initial costs of establishing and operating such agencies and expanding the services available through existing agencies, and to meet the costs of compensating professional and paraprofessional personnel during the initial operation of such agencies or the expansion of services of existing agencies.

"(2) In making grants under this subsection, the Secretary shall consider the relative needs of the several States for home health services and preference shall be given to areas within a State in which a high percentage of the population proposed to be served is composed of individuals who are elderly, medically indigent, or both.

"(3) Applications for grants under this subsection shall be in such form and contain such information as the Secretary shall by regulation prescribe.

"(4) Payments under grants under this subsection may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(5) There are authorized to be appropriated for grants under this subsection $14,000,000 for the fiscal year ending September 30, 1979, $16,100,000 for the fiscal year ending September 30, 1980, and $18,500,000 for the fiscal year ending September 30, 1981.

"(b)(1) The Secretary may make grants to public and nonprofit private entities to assist them in demonstrating the training of professional and paraprofessional personnel to provide home health services (as defined in section 1861(m) of the Social Security Act).

"(2) Applications for grants under this subsection shall be in such form and contain such information as the Secretary shall by regulation prescribe.

"(3) Payments under grants under this subsection may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(4) There are authorized to be appropriated for grants under this subsection $2,000,000 for the fiscal year ending September 30, 1979, $2,500,000 for the fiscal year ending September 30, 1980, and $3,000,000 for the fiscal year ending September 30, 1981.".

(b) Effective October 1, 1978, section 602 of Public Law 94-63 is repealed.

HYPERTENSION PROGRAMS

SEC. 207. (a) Part A of title III is amended by adding after section 312 (added by section 206 of this title) the following new section:

"HYPERTENSION PROGRAMS

"SEC. 313. (a) The Secretary may make grants to State health authorities to assist them in meeting the costs of providing programs for screening for, and the detection, diagnosis, prevention, and control (including referral for treatment) of, hypertension.

"(b) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide—

"(1) a complete description of the type and extent of the program which is to be provided by or through the applicant with a grant under subsection (a);

"(2) assurances satisfactory to the Secretary that the program to be provided under the grant applied for will be provided in accordance with the State health plan in effect under section 1524(c);

"(3) assurances satisfactory to the Secretary that the applicant will make such reports respecting the program as the Secretary may require; and

"(4) such other information as the Secretary may by regulation prescribe.

"(c) The Secretary shall determine the amount of any grant made under subsection (a). Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(d)(1) Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of grants under subsection (a) that are pertinent to such grants.

"(e) The Secretary may provide technical assistance to State health authorities in connection with the operation of their hypertension programs.

"(f) The Secretary shall submit annually to the Congress a report (1) on the extent of the problems presented by hypertension, and (2) on the effectiveness of the activities assisted under grants under subsection (a).

"(g) There are authorized to be appropriated for grants under subsection (a) $28,800,000 for the fiscal year ending September 30, 1980, $33,000,000 for the fiscal year ending September 30, 1981, and $38,000,000 for the fiscal year ending September 30, 1982.".

(b) Section 317(f) is amended by striking out "hypertension,".

"LEAD-BASED PAINT POISONING PREVENTION PROGRAMS

SEC. 208. (a) Part of title III is amended by adding after section 314 the following new section:

"LEAD-BASED PAINT POISONING PREVENTION PROGRAMS

"SEC. 315. (a)(1) The Secretary may make grants to agencies of units of general local governments and to private nonprofit entities to assist them in meeting the costs of providing lead-based paint poisoning prevention programs.

"(2) For purposes of this section—

"(A) the term 'lead-based paint poisoning prevention program' means any program which provides for—

"(i) educational programs intended to communicate to parents, educators, and local health officials the health danger and prevalence of lead-based paint poisoning among children;

"(ii) the development and carrying out of intensive community testing programs designed to detect incidents of lead-based paint poisoning prompt medical treatment for such insure prompt medical treatment for such afflicted individuals;

"(iii) the development and carrying out of intensive followup programs to insure that identified cases of lead-based paint poisoning are protected against further exposure to lead-based paints in their living environment;

"(iv) the establishment of centralized laboratory facilities for analyzing biological and environmental lead specimens; and

"(v) any other actions which will reduce or eliminate lead-based paint poisoning; and

"(B) the term 'units of general local government' means (i) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, (ii) any combination of units of general local government in one or more States, (iii) an Indian tribe, and (iv) with respect to lead-based paint poisoning elimination activities, in their urban areas, the territories and possessions of the United States.

"(b) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide—

"(1) a complete description of the type and extent of the lead-based paint poisoning prevention program which is to be provided by or through the applicant with a grant under subsection (a);

"(2) assurances satisfactory to the Secretary that the program to be provided under the grant applied for will be provided in accordance with the State health plan in effect under section 1524(c);

"(3) assurances satisfactory to the Secretary that the applicant will make such reports respecting the program as the Secretary may require; and

"(4) such other information as the Secretary may by regulation prescribe.

"(c) The Secretary shall determine the amount of a grant made under subsection (a). Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(d)(1) Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipent of grants under subsection (a) that are pertinent to such grants.

"(e) The Secretary may provide technical assistance to recipients of grants under subsection (a) in connection with the operation of their lead-based paint poisoning prevention programs.

"(f) The Secretary shall submit annually to the Congress a report (1) on the extent of the problems presented by lead-based paint, and (2) on the effectiveness of the programs assisted under grants under subsection (a).

"(g) There are authorized to be appropriated for grants under subsection (a) $14,000,000 for the fiscal year ending September 30, 1979, $16,100,000 for the fiscal year ending September 30, 1980, and $18,500,000 for the fiscal year ending September 30, 1981.".

(b) Effective October 1, 1979, titles I and II and sections 504 and 505 of the Lead-Based Paint Poisoning Prevention Act are repealed, and section 506 of such Act is redesignated as section 504.

EFFECT OF LEAD ON CHILD DEVELOPMENT

SEC. 209. The Secretary of Health, Education, and Welfare shall conduct a study to determine the long-term effect on child development of various levels of lead in blood. The Secretary shall report the results of such study to the Congress together with recommendations for such legislation as the Secretary determines is appropriate.

EMERGENCY MEDICAL SERVICES SYSTEMS

SEC. 210. (a) Section 1203(c) is amended (1) effective June 30, 1975, by striking out the first sentence of paragraph (2), (2) by striking out paragraph (3), and (3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(b) Effective June 30, 1975, the first sentence of section 1204(b)(1) is repealed.

(c) Subparagraph (B) of section 1206(b)(1) is amended to read as follows:

"(B) No applicant may receive more than a total of five grants, contracts, or grants and contracts under this part, except that in determining the number of grants and contracts which an applicant received under this part, the Secretary shall not include any grant or contract received under section 1202(b)(1) or 1205.".

(d)(1) Section 1207(a)(1) is amended by striking out "sections 1203 and 1204" and inserting in lieu thereof "sections 1202, 1203, and 1204".

(2) Section 1207(a)(5) is amended by striking out "for the succeeding fiscal year" and inserting in lieu thereof "for each of the two succeeding fiscal years".

SELECT PANEL FOR THE PROMOTION OF CHILD HEALTH

SEC. 211. (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall establish within the Office of the Secretary a Select Panel for the Promotion of Child Health (hereinafter in this section referred to as the "panel").

(b)(1) The panel, after reviewing all the significant medical, scientific, behavioral, and epidemiological studies concerning the promotion of child health and the prevention of childhood diseases and concerning the efficacy and efficiency of child health programs, shall—

(A) formulate specific goals with respect to the promotion of the health status of children and expectant mothers in the United States;

(B) develop a comprehensive national plan for achieving these goals and otherwise promoting the health of children in the United States; and

(C) transmit to the Secretary, to the Committee on Interstate and Foreign Commerce of the House of Representatives, and to the Committee on Human Resources of the Senate, not later than eighteen months after the date of the enactment of this Act, a report detailing the comprehensive national plan it has developed and recommendations for such administrative, legislative, and other actions as it deems appropriate to implement this plan and to otherwise promote the health of children in the United States.

(2) The panel shall include in its comprehensive national plan (developed under paragraph (1)(B)) recommendations with respect to—

(A) the appropriate type and quantity of preventive health care and other health services needed by children in general and by particular types of children at risk;

(B) the appropriate methods (and providers) for delivering and financing the delivery of such services;

(C) the appropriate methods for coordinating and consolidating, within an agency and between agencies, the administration of child health promotion programs;

(D) the need for research into the delivery of such services and the promotion of child health;

(E) the appropriate methods for instructing children and parents in methods of maintaining their health;

(F) the encouragement of innovative programs to promote child health;

(G) the appropriate methods (including demonstration programs) for applying research findings to delivery of health services to children and otherwise to promoting the health of children;

(H) the appropriate relationship between child health promotion programs and health planning organizations;

(I) the appropriate support of training of health personnel for child health promotion programs; and

(J) the appropriate technical assistance to States to implement child health promotion programs.

(c)(1) The panel shall be composed of the Assistant Secretary for Health and the Assistant Secretary for Planning and Evaluation, who shall serve as ex officio members, and of fifteen other members who shall be appointed by the Secretary not later than sixty days after the date of the enactment of this Act. Among members of the panel appointed by the Secretary, the Secretary shall appoint not less than three, nor more than five, individuals employed by the Department of Health, Education, and Welfare, and shall appoint representatives from the scientific, medical, allied health, mental health, preventive health, public health, and education professions, as well as consumers and representatives from State and local health agencies.

(2) The Secretary shall designate, at the time of appointment of members of the panel, one member to serve as chairperson and another to serve as vice chairperson of the panel.

(3) Members of the panel shall serve for the life of the panel and the Secretary shall appoint individuals to fill vacancies on the panel as they may arise.

(4) Each member of the panel (who is not a full-time officer or employee of the United States) shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for Grade GS–18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of duties vested in the panel. All the members of the panel shall be allowed, while away from their homes or regular places of business in the performance of service for the panel, travel expenses (including per diem in lieu of subsistence) in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d)(1) Upon the request of the panel, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the panel to assist the panel in carrying out its functions.

(2) The Secretary shall provide the panel with such administrative services and facilities as may be required to carry out its functions.

(e)(1) The panel may, for purposes of carrying out its functions, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and appoint such advisory committees as it may deem advisable.

(2) The panel may secure directly from any department or agency of the United States information necessary to carry out its functions. Upon request of the chairperson of the panel, the head of each such department or agency shall, to the extent permitted by law, furnish the information and otherwise cooperate with the panel.

(f) The panel shall cease to exist ninety days after the date of submittal of the report described in subsection (b)(1)(C).

(g) There is authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1979, to carry out this section. Sums appropriated under this subsection shall remain available for expenditure until the date the panel ceases to exist.

Amend the title so as to read: "An Act to amend the Public Health Service Act and related health laws to revise and extend the programs of financial assistance for the delivery of health services, the provision of preventive health services, and for other purposes.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To amend the Public Health Service Act and related health laws to revise and extend the programs of financial assistance for the delivery of health services, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill H.R. 12370 was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2474

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill (S. 2474) and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida? The Chair hears none and, without objection, appoints the following conferees: Messrs. STAGGERS, ROGERS, SATTERFIELD, PREYER, SCHEUER, CARTER, and BROYHILL.

There was no objection.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished majority leader as to whether he has any further plans calculated to keep honest Members of the House from their beds at this late hour?

Mr. WRIGHT. Mr. Speaker, will the distinguished minority leader yield?

Mr. RHODES. I would be glad to yield to my colleague, the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, we have thought well of the diversions that are available and have come up with a few. First, we would hope to go immediately to at least one conference committee report on which clearance has been received on all sides, and promises elicited, that the debate will be very brief. Nobody, surely, will ask for a recorded vote; that being a conference report on the District of Columbia Retirement Reform Act, which is noncontroversial.

Then, if papers which seem to have been lost, strayed or stolen can be relocated, we will act on three conference reports which similarly have been cleared around and about relating to health bills which the gentleman from Florida can identify, if the gentleman wants their specific identification, are located and if they in turn can be serially approved with a minimum of delay and debate, we would hope to get them on the floor, assuming the papers have been located.

Thereafter it would be our purpose to return to and complete consideration of the Amateur Sports Act, S. 2727, following which we would hope to take up the Endangered Species Act, H.R. 14104, on which I happily have been advised that all parties, including but not limited to the gentleman from Tennessee (Mr. BEARD), are happy about and on board.

Mr. DUNCAN of Tennessee. Mr. Speaker, if the gentleman will yield, we are not all on board. I have an amendment to that bill.

Mr. WRIGHT. The gentleman from Tennessee would fully qualify to offer an amendment.

If I have been properly informed, we perhaps could hope to conclude that much this evening. It is not anticipated that we would have debate on the Middle-Income Student Assistance Act tonight. If it would be permitted, we would appreciate being able to get a rule on it tonight, but we will not go into any debate on that bill tonight.

If there would be general cooperation all the way around, perhaps we could get that far.

Then it would be my purpose, immediately following this colloquy, to ask unanimous consent that when we adjourn tonight, we adjourn until 12 o'clock tomorrow. Then I would want to ask unanimous consent, out of respect for our two deceased colleagues, since their funerals are tomorrow, that any recorded votes on legislation arising between 12 o'clock and 4 o'clock shall be postponed until after 4 o'clock.

Mr. RHODES. Mr. Speaker, did I understand the distinguished majority leader to indicate that the rule on MISA would be brought up tonight? That is the Middle-Income Students Assistance Act.

Mr. WRIGHT. We would like to bring up the rule.

Mr. RHODES. I am advised from my side that there is serious opposition to that rule. It would be our hope that it would not be brought up tonight.

Mr. WRIGHT. All right.

Mr. RHODES. As far as the rest of the program is concerned, the extent to which peace has been made in areas which have been very controversial reminds me a lot of Camp David. The spirit is great, and I suggest we proceed to take care of all these salutary bills and then adjourn as soon as we possibly can.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, I think I get the drift. In the spirit of the lamb and the lion who shall lie down together.

Let us agree that we can finish the Endangered Species Act tonight, all things going well, and that we shall not seek to go further on the program this evening.

Mr. RHODES. Mr. Speaker, I congratulate the majority leader for his usual wisdom.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. Yes, of course, I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, I have asked the gentleman to yield so I could ask the distinguished majority leader a question.

I understand very forcefully from my constituents that the Senate has amended some kind of a bill dealing with film strips that we had sent over there yesterday, and they put a hospital cost containment bill on it in the Senate.

Can the distinguished majority leader tell us when we are going to take that bill up and who is going to handle it, so that we will know ahead of time when it is coming up?

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, I am sorry that I cannot respond with any intelligence to my colleague, the gentleman from Texas, because this is the first I had heard of that. It does not surprise me, however, because the so-called natural gas compromise bill, now having been

embodied into the total energy package, and appropriately so, comes under the name of a bill for the relief of one Jose Garcia, I believe. Some of these bills are a little hard for me to identify.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I thank the gentleman for yielding.

Mr. Speaker, I would like to get some explanation. I am sure that the distinguished minority leader is informed that the Members of his party on the committee who are all cosponsors and members of the committee handling the Middle-Income Student Assistance Act are in favor of acting on the legislation. Do I understand someone not on the committee is objecting to proceeding with it?

Mr. RHODES. Yes. Two of the Members on our side have just informed me that they have serious opposition to the rule on that bill.

Mr. FORD of Michigan. Can they not vote against the rule?

Mr. RHODES. Well, I guess anybody can vote against the rule, but the problem is that there is intensive opposition at this hour of the night. It takes time, and time is golden right now.

Mr. FORD of Michigan. If the gentleman will yield further, we reached this stage last night, and we are reaching it again tonight. I wonder if the gentleman would consider it to be out of order if we are able to arrange with the leadership to take up the rule the first thing tomorrow.

Mr. RHODES. I have no way of knowing what the majority leadership intends to take up the first thing in the morning, but I do not think there is any feeling on the part of anybody on our side to prevent permanently this bill from coming up. Of course, the gentleman is aware of the ground rules which the majority leader has laid down so far as the business of the House from 12 o'clock to 4 o'clock is concerned.

Mr. FORD of Michigan. Yes, I am fully aware of that. But this is a piece of legislation which has many cosponsors.

Mr. ERLENBORN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

Mr. Speaker, it is my understanding that there are several conference reports and two bills that have no controversy connected with them at the present time that might become quite controversial and time consuming should the rule be brought up.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield further?

Mr. RHODES. I yield to the gentleman.

Mr. FORD of Michigan. Mr. Speaker, I think I understood what my friend just said, that what he really is saying to us now is that if we attempt to get to the Middle-Income Student Assistance Act we will have trouble with other legislation not connected with it that will delay the adjournment of the House. I am saddened to hear that, after all of the years we have served together on the committee, because I think we should decide these things on the merits. But I am happy the gentleman yielded to me so that we can make it abundantly clear to the people of America and those concerned with this legislation just how it is being handled.

HOUR OF MEETING ON TOMORROW

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12 o'clock noon tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so only for one reason, and that is that some of us on the Committee on Rules will have to attend these funerals and wish to. I would hope that there would be no meetings of the Committee on Rules. I do know the gentleman has some vague connection with the activities of that committee.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION TO POSTPONE VOTES TOMORROW

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that any votes otherwise in order on legislation between the hours of 12 o'clock noon and 4 o'clock p.m. on tomorrow may be postponed until after 4 o'clock on tomorrow.

The SPEAKER pro tempore. The gentleman means rollcall votes?

Mr. WRIGHT. Rollcall recorded votes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I assume that the majority leader means substantive issues and not procedural issues.

Mr. WRIGHT. If the gentleman will yield, that is correct.

Mr. ASHBROOK. That is the general understanding.

Mr. WRIGHT. That was the understanding we had last week.

Mr. ASHBROOK. And it worked very well, as the gentleman well knows.

Mr. Speaker, further reserving the right to object, during this period of respect we are going to be in session. Does the majority leader know what we will be handling during that period, what business of the House?

Mr. WRIGHT. If the gentleman will yield, Mr. Speaker, I would rather not give a specific list of everything that is coming up, because I do not know the order in which we are going to treat the schedule tomorrow. I want to leave the Speaker some flexibility.

Mr. ASHBROOK. Further reserving the right to object, could we have a guess?

Mr. WRIGHT. Yes, I could guess. There are a lot of things still on the schedule. There are three general debates yet to be concluded, and there are conference committee reports which are listed on the sheet known as "Tentative 11." There is general debate to be concluded on the Federal Reclamation Dams Safety Act, the Indian Child Welfare Act.

The conference report on the National Energy Act must be addressed tomorrow, and we hope that a conference report on the Tax Reduction Act will be available for us tomorrow. Then, there are other things that remain uncompleted on the program of unfinished business, but the precise order of these matters just is not available to me at this moment. I should like to postpone answering the gentleman's question because I do not want to mislead him.

Mr. ASHBROOK. Further reserving the right to object, I think we have been in the fortunate position in the last few weeks of never being misled. I think we want to keep it that way. Specifically, is it the intention of the leadership to bring up the energy conference report during that period of time?

Mr. WRIGHT. It is the intention of the leadership that the energy conference report shall not be voted upon in any event until after 4 o'clock. I think it would be foolish to complete all of the general debate and then postpone a vote, but I cannot tell the gentleman anything except that there will not be any vote on it until after 4 o'clock, and until after 4 o'clock there will not be a vote on anything else, I would hope not even on procedural motions. I recognize the rules provide certain rights to all Members, and Members have those rights available to them.

Mr. ASHBROOK. Further reserving the right to object, there will be a few of us here, and I think we will try to work to make sure there are no votes. During the last 5 days when we were home, we were very successful and there were no votes on the floor. Everything flowed very well. It would be my hope that we could do that tomorrow.

I would like a little more specificity, but understanding the problems of the majority leader during these last hours of the session, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 2584, NUCLEAR REGULATORY COMMISSION AUTHORIZATIONS

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2584) to authorize appropriations for the Nuclear Regulatory Commission for fiscal year 1979, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona? The Chair hears none, and without objection, appoints the following conferees: Messrs. UDALL, BINGHAM, SHARP, STAGGERS, DINGELL, BAUMAN, and BROWN of Ohio.

There was no objection.

CONFERENCE REPORT ON H.R. 6536, DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

Mr. DELLUMS. Mr. Speaker, I call up the conference report on the bill (H.R. 6536) to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of October 4, 1978.)

The SPEAKER pro tempore. Under the rule previously adopted, the conference report is considered as having been read.

The gentleman from California (Mr. DELLUMS) will be recognized for 30 minutes, and the gentleman from Connecticut (Mr. MCKINNEY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Speaker, I yield myself such time as I may consume.

The House and Senate have reached agreement in conference on a thorough reform of the District of Columbia pension system for police officers, firefighters, judges, and teachers. The bill is a landmark in municipal pension reform.

The purposes of the bill are: First, to establish an actuarially sound retirement fund for policemen, firemen, teachers, and judges of the District of Columbia; second, to correct abuses of the system; third, to establish a retirement board to provide sound management to protect the benefits of participants and beneficiaries of the plans; fourth, to require the retirement board to comply with reporting and disclosure requirements similar to those found in the Employee Retirement Income Security Act of 1974 (ERISA); and fifth, to provide Federal assistance to the District of Columbia to finance the unfunded pension liabilities incurred before the establishment of home rule for the District.

In order to reduce pension costs the bill eliminates for present employees as well as new hires the aggravation clause for off-duty injuries. This provision, much abused in recent years, allows a member with an injury incurred prior to becoming a policeman or fireman to retire on full disability if his or her injury is "aggravated" by his or her duty. In addition to eliminating the aggravation clause the bills require more strict accounting for aggravation claims for on-duty injuries. With this action we have stopped the most significant area of abuse regarding District of Columbia pensions. Currently, because of previous Federal legislative and executive branch inaction, there exists a $2.1 billion unfunded pension fund liability. This massive debt seriously jeopardizes the District of Columbia. This conference bill authorizes $65 million annually for 25 years. This Federal funding will put the system on a firm actuarial basis.

A feature of the bill, developed in conference, is a mechanism that automatically triggers a significant reduction in the Federal authorization if the costs exceed a strict set limit. This assures tight management controls. Further, the General Accounting Office has been mandated to monitor the system and report to Congress.

These significant achievements have been made without seriously jeopardizing the established benefits of current employees. The bill is a stringent bill that eliminates abuses. It assures the workers a sound and assured pension program. It contains the changes and safeguards that assure the taxpayers that the system is well-managed. I strongly urge my colleagues to support this conference report.

Mr. Speaker, I would like to conclude by thanking the distinguished chairman of the full committee, the gentleman from Michigan (Mr. DIGGS), and my distinguished colleague, the Delegate from the District of Columbia (Mr. FAUNTROY), and my distinguished colleague, the gentleman from Kentucky (Mr. MAZZOLI), and certainly we appreciate the extraordinary work of my colleagues on the other side of the aisle, the gentleman from Connecticut (Mr. MCKINNEY) and the gentleman from Ohio (Mr. WHALEN).

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for yielding.

I would like to take this moment to commend my chairman, the gentleman from California (Mr. DELLUMS), for the tremendous leadership he has shown. Let me make mention of my friend, the distinguished gentleman from Kentucky (Mr. NATCHER), who had a big part to play in bringing about the fact that we are here tonight with this bill. I would like to publicly thank my colleague for his work. I believe the gentleman from California and the gentleman from Kentucky and the gentleman from Connecticut are responsible for this bill being here tonight.

Mr. Speaker, I rise in favor of the conference report to accompany H.R. 6536, the District of Columbia Retirement Reform Act.

First, I would like to acknowledge the outstanding work done on this bill by my distinguished colleague, Mr. DELLUMS, chairman of the Subcommittee on Fiscal Affairs. His prompt scheduling of hearings and expeditious conduct of the subcommittee markup and his skillful handling of our conference with the Senate has greatly improved this bill and brought it before the House in its final form.

I hope that the full House will approve this bill today so that appropriations for funding these programs can be requested early next year.

Action this year is important, because each year's delay in starting the funding adds about $170 million to the unfunded liability.

I would now like to take a few minutes to explain the major provisions of this bill.

H.R. 6536—a product of 3 years of research and hearings—is designed to relieve the pressure that spiraling pension costs will place on the District's budget. With a declining population and a dwindling tax base, the District cannot afford the rapidly escalating pay-as-you-go costs of its pension plans.

At present, police and firemen's pension costs are $50 for every $100 of active payroll. By the early 2000's pension payments will exceed payroll. We must act now, for as I noted earlier every year's delay adds $170 million to the unfunded liability.

The funding method in this bill is a modified net normal cost method virtually identical to the method in the Senate bill.

Under this system, the Federal Government will pay slightly over $65 million per year for 25 years to fully liquidate the unfunded liability as of October 1, 1978, for employees retired before January 1, 1975, the starting date of home rule.

These payments are much less than the over $80 million per year in the Senate bill, but somewhat higher than the nearly $50 million per year contained in the House bill.

However, the important point about this payment amount is not that it "splits the difference," but that it is based on an actuarially sound formula. At the end of the 25-year period of Federal funding, the District will have a financially sound pension system.

Congress created the District's pension system, but did not fund it. Then at the time of home rule, it turned over a staggering $2 billion liability to the District government. This conference report—by liquidating most of that liability and requiring that the District keep the fund solvent—discharges an important Federal responsibility for the financial soundness of the District.

This legislation has also been carefully drafted to prohibit conflict of interest and to insure proper fund management. To guard against pressure to invest in potentially risky local ventures, the bill provides that no funds may be invested in bonds, real estate, or agencies of the District of Columbia, Maryland, or Virginia. These provisions were endorsed by pension management experts as a necessary safeguard.

Further, the conference report creates an independent board of trustees composed of five members appointed by the District government and six members elected by active and retired employees. Pension plan participants and beneficiaries have a majority on the board to insure that the funds held in trust for their retirement will be well invested.

Also, the Pension Board operates under strict reporting and disclosure and fiduciary standards similar to those contained in ERISA for private sector pension plans. These restrictions insure that the pension funds will be managed only in the best interests of the retired employees.

Finally, because of the excessively high cost of the District's retirement system, the bill makes a number of changes in benefits.

The primary reason for the runaway costs of the District's pension plans is the inordinate number of disability retirements. During 1969 disability retirements were 98 percent of total retirements, these rates have dropped to

around 50 percent but are still exhorbitant compared to other cities including New York.

Most of these so-called disability retirements were based on the aggravation of an injury sustained during off-duty hours. This type of retirement is entirely eliminated by the conference report.

Also, new employees will retire under a percentage-of-disability system, and will have their disability annuities reduced based on outside earned income. These changes will remove the economic incentive for employees to "beat the system."

However, to be effective, these new controls must be effectively administered. To insure this, the conference report drastically reduces the Federal funding if the District's management of the disability retirement programs allows the cost of these programs to rise above 102 percent of the tougher cost standards of percentage-of-disability retirements.

Finally, to reduce the cost of regular retirement the conference report eliminates—for new employees—the 20 year and out retirement in favor of 25 years of service at 50 years of age.

These changes have helped us hold down the cost of this conference report while moving the District toward an actuarially sound system.

All in all, Mr. Speaker, I believe that this is a good bill and I urge the House to adopt the conference report.

Mr. DELLUMS. Mr. Speaker, I thank my colleague, the gentleman from Kentucky.

Had it not been for the gentleman's sponsorship of this bill, we might never have had it.

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Speaker, in the interest of time I will content myself with saying I support the conference report.

I compliment the gentlemen for the fine work they have done.

This solves a problem which has been hanging over the District of Columbia for a long time.

I urge my colleagues to support the conference report.

Mr. DELLUMS. I thank my colleague, the gentleman from Virginia (Mr. HARRIS).

Mr. Speaker, I yield back the balance of my time.

Mr. McKINNEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report to accompany H.R. 6536 and urge its adoption.

This conference report represents a substantial effort on the part of the conferees to come to terms with the various differences contained in the House bill and the other body's amendment to that bill. Several of the differences encountered were major and the conferees worked diligently to produce a conference report that would be acceptable to both Houses.

One of the major differences that had to be wrestled with concerned the applicability of certain retirement benefit reforms to current employees. The House conferees were firm in stressing that the applicability of such reforms to current employees was of questionable legal and moral efficacy. On the other hand, a majority of the conferees of the other body was just as steadfast in its stance that the reforms should apply to current employees to preserve the integrity of the system by stemming the tide of what they felt is continuing abuse of the retirement benefits provided. This particular difference was so great that, at times, it threatened to scuttle the entire conference. However, not wanting to lose the opportunity at hand to reform the very liberal pension programs that we created for the District of Columbia; programs that, unchecked, threaten to push this city to the very brink of bankruptcy, we swallowed hard and we came up with the "great compromise."

That compromise, which you have already heard discussed, would enable current employees to receive the benefits that they bargained for when initially accepting employment with the District of Columbia government but, at the same time, place the burden of careful administration of the system upon the city government, where it rightfully belongs, to prevent additional abuse. Furthermore, the compromise that the conferees arrived at produced a bill that is very supportable. It gave both groups of conferees a peg upon which to hang their hats. The majority group from the other body, so concerned about continued abuse, felt comfortable about the controls placed on the system that the compromise afforded. Our own conferees, concerned about the justice of changing a benefits contract unilaterally in midstream, felt comfortable about the continuance of benefits to current employees that the compromise made possible.

In sum, Mr. Speaker, your conferees and the conferees of the other body worked long and hard to resolve those major differences that existed between the two Houses. There is no question that we have made some concessions, but I earnestly believe that we have defended and abided by the intent and the desires of this House. This conference report is full of compromises similar to the one I have just described, but they are compromises that have been reached only through long and careful deliberation. Like any compromise, there will be some who are displeased by it and others who will be pleased, but, considered in its totality, the conference report provides a sound and feasible approach to the reform of the District of Columbia's pension systems for police, firefighters, teachers, and judges.

Finally, I would like to attest to the diligence and hard work of the Members in conference and their respective staffs. Reform of the city's pension systems was an extremely difficult subject to deal with and I wish to pay tribute to all of those who participated in the conference.

● Mr. DELLUMS. Mr. Speaker, this bill represents a significant milestone in defining Federal and District responsibilities in the post-home-rule era. It establishes a partnership between the Federal and District Governments in solving a serious financial problem that easily might have driven the city to the brink of bankruptcy sometime in the next generation. These problems are the result of literally decades of inadequate funding and overly generous benefits that were established by acts of Congress long before their full effects were recognized. With this legislation, Congress sets the record straight, rightfully accepting responsibility for the sorry financial state of the retirement systems inherited by the District government under home rule. The Federal Government will discharge that responsibility by financing the pensions of employees who retired before home rule. For its part, the District will be responsible for benefits earned by employees on the payroll at the start of home rule, as well as for all new participants coming into the retirement system in the years ahead.

One of the most important features of this bill is the strong financial incentive it gives the District to tighten its administration of disability claims involving police officers and firefighters currently on the payrolls. If the actuary determines that disability costs are higher than they would be under a partial disability system, the District will lose Federal contributions and will have to make up the losses out of the city budget. This mechanism not only provides a clear goal to the District, but also expresses, in terms that are not in the least bit ambiguous, the will of Congress that the District must do what is necessary to bring disability costs within that standard.

Senate and House managers of this bill designed this penalty provision to put the District on notice that it must end the disability abuses that have dominated the headlines and eroded public confidence in the retirement system. For too long, the disability provisions of current law have been construed too liberally with little regard for their financial consequences or for the repeated concerns of Congress to reduce the number of disability claims. My colleague from Kentucky, the chairman of the Subcommittee on District of Columbia Appropriations, shares these concerns and has taken stringent budgetary action to force reforms in the disability system.

The penalty provisions of this bill repeat the same message Congress gave the city in the fiscal year 1979 Appropriations Act. In adopting these penalty procedures, however, we also recognize that complex actuarial formulas and assumptions will have a significant bearing on whether the Federal authorization will be reduced in any given year. Let me state for the record that our intent here is to make the present system more accountable, not to subject the District to an actuarial "Catch-22." The District should not be penalized for events it cannot control, but only if its performance in controlling disability claims falls short of the mark. If the penalty formula does not fulfill our expectations, it will be changed. I personally hope we will be able to do away with the penalty provisions altogether at some future point when the District shows convincingly that the disability program is no longer being abused.●

Mr. McKINNEY. I have no requests for time, Mr. Speaker, and I yield back the balance of my time.

Mr. DELLUMS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DIRECTING CLERK OF THE HOUSE TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 6536—D.C. RETIREMENT REFORM ACT

Mr. DELLUMS. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 749) directing the Clerk of the House of Representatives to make corrections in the enrollment of the bill H.R. 6536, D.C. Retirement Reform Act, and ask unanimous consent for its immediate consideration.

The SPEAKER. Is there objection to the request from the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 749

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 6536) to establish an actuarilly sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits, the Clerk of the House of Representatives shall make the following corrections:

(1) In the item relating to section 126 in the table of contents of the bill, insert "the" before "Funds".

(2) In the item relating to section 145 in the table of contents of the bill, strike out "Contribution for Excessive Costs of Police Officers and Fire Fighters' Disability Retirement" and insert in lieu thereof "contribution for excessive costs of police officers and fire fighters' disability retirement".

(3) In the item relating to section 181 in the table of contents of the bill, strike out "responsibility" and insert in lieu thereof "responsibilities".

(4) In the item relating to section 186 in the table of contents of the bill, strike out "of" and insert in lieu thereof "on".

(5) In the item relating to section 206 in the table of contents of the bill, strike out "Survivor's" and insert in lieu thereof "Survivors' ".

(6) In section 101(a) of the bill, insert a comma after "a result".

(7) In section 101(b)(3) of the bill, strike out "and" the first place it appears and insert in lieu thereof a comma.

(8) In section 102(7)(A) of the bill, strike out the fourth comma.

(9) In section 102(7)(B) of the bill, strike out "title II" and insert in lieu thereof "title 11".

(10) In section 102(19) of the bill, strike out the third comma.

(11) In section 122(a)(1) of the bill, strike out "Firemens' " and insert in lieu thereof "Firemen's".

(12) In section 123(b)(1)(C) of the bill, insert a comma after "31–725(b)(1)(ii))".

(13) In section 123(b)(1)(D) of the bill, insert a comma after "31–729(a))".

(14) In section 123(b)(1)(F) of the bill, insert a comma after "31–737)".

(15) In section 142(a)(1)(A) of the bill, strike out "were" and insert in lieu thereof ", if" and insert a comma after "retirement program".

(16) In section 142(b)(1)(D) of the bill, strike out "10 years" and insert in lieu thereof "ten fiscal years".

(17) In section 144(e)(1) of the bill, strike out "or" the first place it appears and insert in lieu thereof "and".

(18) In section 145(a)(1) of the bill, strike out "Police" the first place it appears and insert in lieu thereof "Policemen".

(19) In section 145(a)(2) of the bill, strike out "Police" and insert in lieu thereof "the Policemen".

(20) In section 145(b)(2) of the bill, strike out "calculation" and insert in lieu thereof "statement".

(21) In section 145(c) of the bill, strike out "lump sum" and insert in lieu thereof "lump-sum".

(22) In section 164(c) of the bill, strike out "the retirement program" and insert in lieu thereof "a retirement program",

(23) In the section headings of section 165 of the bill, strike out "PARTICIPANT'S" and insert in lieu thereof "PARTICIPANTS' ".

(24) In section 181(f)(3) of the bill, strike out "and" after "such fund".

(25) In section 187(a)(3)(B)(i) of the bill, strike out "violations" and insert in lieu thereof "violation",

(26) In section 187(b) of the bill, strike out "the amount" and insert in lieu thereof "an amount",

(27) In subsection (g)(5)(B)(iii) of the Policemen and Firemen's Retirement and Dis-Act, as proposed by section 204(b)(2) of the bill, insert "shall be" after "his annuity".

(28) In subsection (j)(3) of the Policemen and Firemen's Retirement and Disibility Act, as proposed by section 205(a)(2)(B) of the bill. strike out "(C)(i)" and insert in lieu thereof "(E)(i)".

(29) In the section heading of section 206 of the bill, strike out "SURVIVOR'S" and insert in lieu thereof "SURVIVORS' ".

(30) In the section heading of section 252 of the bill, strike out "JUDGE'S" and insert in lieu thereof "JUDGES' ".

(31) In section 253(a)(1) of the bill, strike out "(1) in the" and insert in lieu thereof "(A) in the", strike out "(2)" and insert in lieu thereof "(B)", strike out "(A)" and insert in lieu thereof "(i)", strike out "(i)" and insert in lieu thereof "(I)", strike out "(ii)" and insert in lieu thereof "(II)", and strike out "(B)" and insert in lieu thereof "(ii)".

(32) In section 253(b) of the bill, strike out "(A)" and "(B)" and insert in lieu thereof "(1)" and "(2)", respectively.

(33) In section 254(a) of the bill, insert "title 11 of" after "chapter 15 of" and insert a comma after "(9)(C)", after "(10)(C)", and after "11–1569(c)".

(34) In sections 206(b), 207(b), 208(b), 209(b), 253(c), and 254(c) of the bill, strike out "90" each place it appears and insert in lieu thereof "ninety".

(35) Amend the title so as to read "An Act to establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits.".

Mr. DELLUMS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the concurrent resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 2416, NURSE TRAINING AMENDMENTS OF 1978

Mr. ROGERS. Mr. Speaker, I call up the conference report on the Senate bill (S. 2416) to amend title VIII of the Public Health Service Act to extend for 2 fiscal years the program of assistance for nurse training and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

(For conference report and statement, see proceedings of the House of today, October 13, 1978.)

The SPEAKER pro tempore. The gentleman from Florida (Mr. ROGERS) will be recognized for 30 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report would amend title VIII of the Public Health Service Act to extend for 2 fiscal years the program of assistance for nurse training.

The legislation, which, in large measure, conforms to the House-passed bill, has four principal purposes.

First, it would extend the authorities of existing law with respect to nurse training including authorizations for construction grants, loan guarantees and interest subsidies, capitation grants, advanced nurse training programs and traineeships, nurse practitioner programs, and student loans and scholarships at the 1978 authorization level. It would increase the authorization of appropriations for special project grants by $5 million and allow the existing authority for financial distress grants, which has not been funded for 4 years, to lapse.

Second, it would add new authority to provide traineeships to professional nurses in training to become nurse anesthetists.

Third, it would require the conduct of a study and report to the Congress with respect to the need to continue the program of Federal financial support for nursing education.

Finally, it would encourage an increase in the supply of nurses in medically underserved areas by providing that loan forgiveness would only be authorized for nurses who agree to practice in underserved areas. Existing law authorizes loan forgiveness for virtually all practicing nurses regardless of location of employment.

In addition, the measure before us today includes one technical and three minor, substantive amendments.

First, it contains an amendment to section 113 of the bill to conform that section to the provisions of the Budget Control and Impoundment Act of 1974 to make it clear that any funds obligated to implement the section are limited by amounts available under an appropriation act and that no such funds could be obligated prior to October 1, 1978.

Second, it includes an amendment to section 781 of the Public Health Service Act—relating to the area health education centers program—which would amend the existing requirements that each medical and osteopathic school participating in an AHEC program conduct a program for the training of physician assistants or nurse practitioners. Under the amendment, only one such school within an AHEC program would have to conduct such a training program.

Third, it contains an amendment to section 802 of the Health Professions Educational Assistance Act of 1976 (Public Law 94-484) which would enable area health education centers which first received funding under section 774 of the Public Health Service Act before October 12, 1976, to continue to be eligible to receive support through fiscal year 1981 without meeting the new requirements for area health education centers under new section 781 of the act. This extension of eligibility for gradually diminishing Federal funding will provide the 11 original AHEC programs with a sufficient period of time in which to find alternative sources of State and local support.

Finally, it includes a minor amendment to the authority under section 748 of the Public Health Service Act—relating to traineeships for students in schools of public health—to permit students in schools of public health who received traineeship support during school year 1977-78 under the authority of old section 312 of the act to continue to be eligible for such support for school year 1978-79 whether or not they meet the new requirements of new section 748.

Under section 748 of the act, 45 percent of the traineeship funds awarded to a school of public health must be used to provide traineeships to individuals who have either a postbaccalaureate degree or 3 years work experience in a health services field and who intend to pursue a specified course of study. Unfortunately, in school year 1977-78, several schools made awards under the old authority to some 242 students beginning a 2-year course of study who do not meet the requirements of section 748 which superseded section 312. The amendment will enable these students to complete their education.

Mr. Speaker, I commend this conference report to my colleagues and urge its immediate adoption.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I would just like to know when this conference report was filed.

Mr. ROGERS. This conference report was filed at 4 o'clock today.

Mr. VOLKMER. It has been filed since 4 o'clock?

Mr. ROGERS. Yes, it has been.

Mr. VOLKMER. Has it been printed?

Mr. ROGERS. Yes, it has.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the Senate amendment to the House amendment to S. 2416—the Nurse Training Amendments of 1978.

This legislation continues Federal support for the training of nurses for 2 years. Funds are authorized for:

Nurse practitioner programs;

Scholarships;

Loans and interest subsidies;

Advanced nurse training;

Special projects;

Traineeships for nurse anesthetists; and

Construction.

The bill retains the main provisions of the House-passed version—except for a few perfecting and technical amendments.

Mr. Speaker, the nursing profession is a committed and dedicated group of individuals whose services are essential to the provision of high quality health care.

We must do all we can to insure that our people have access to that care—and that there is an adequate supply of nurses in all parts of the country.

At the present time—there are still millions of Americans living in medically underserved areas—who lack access to nurses as well as doctors.

This legislation will help address that need by continuing Federal support for the training of various fields of nurse education.

I strongly urge adoption of this conference report.

Mr. BAUMAN. Would the gentleman yield?

Mr. CARTER. I yield to the gentleman from Maryland.

Mr. BAUMAN. Could we just ask, as a matter of passing interest, what the amount of money is in this bill?

Mr. ROGERS. If the gentleman will yield, certainly. The amount of money is $208 and $209 million. Actually it comes back to the House $6 million less than when it passed the House on a two-thirds vote.

Mr. BAUMAN. All of that is for nurses training and there are no other nonrelated amendments involved?

Mr. ROGERS. That is for nurses training.

Mr. BAUMAN. I thank the gentleman.

Mr. ROGERS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 2466, HEALTH SERVICES RESEARCH, HEALTH STATISTICS, AND HEALTH CARE TECHNOLOGY ACT OF 1978

Mr. ROGERS. Mr. Speaker, I call up the conference report on the Senate bill (S. 2466) to amend the Public Health Service Act to extend and revise the assistance programs for health services research and health statistics; to establish the Office of Health Technology, and for other purposes.

The Clerk read the title of the Senate bill.

(For conference report and statement see proceedings of the House of today, Friday, October 13, 1978.)

The SPEAKER pro tempore. The gentleman from Florida (Mr. ROGERS) will be recognized for 30 minutes and the gentleman from Kentucky (Mr. CARTER) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this report modifies and extends for a period of 3 years the authority of the National Center for Health Statistics and the National Center for Health Services Research at a funding level lower than those already approved by this body in adopting the House bill. It combines the provisions of the two measures that improved existing law with respect to the two centers.

In addition, it in effect splits the difference between the House and Senate provisions with respect to health care technology.

Specifically, the Senate bill authorized the establishment of an Office of Health Technology within HEW to conduct assessments of technology and provide recommendations based on those assessments. The House amendment authorized the establishment of a Center for Health Care Technology for similar purposes. The conference report conforms to the House amendment.

The Senate bill established a National Council on Health Care Technology to advise the Secretary on technology issues, conduct peer review of grant and contract authority, and disseminate criteria with respect to health care technology. The House amendment established an advisory council with similar responsibilities. The conference report establishes a national council, and combines the authorities afforded it by the Senate bill and those afforded the advisory committee in the House amendment.

In addition, the House amendment authorized a study of costs of environmentally related diseases and the establishment of guidelines on the effects on health of the environment and employment conditions. These provisions have been agreed to.

The conferees agreed to a Senate provision authorizing a mine workers study and to House technical and minor nonsubstantive provisions, principally with respect to the Health Professions Educational Assistance Act.

Mr. Speaker, this bill combines the best features of both bills. I urge its adoption.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report accompanying S. 2466, the Health Services Research, Health

Statistics, and Health Care Technology Act of 1978. The House and Senate bills closely resembled each other, and so this conference report closely parallels the original House bill. I would especially like to point out to my colleagues that this conference report authorizes a lower level of expenditures than the bill approved by the House. In fact, the total authorization is $51 million less.

Moreover, Mr. Speaker, the conference bill provides strong language to coordinate all of the health services research, health statistics, and health care technology assessment activities of the Federal Government to insure that duplication is curbed. In my opinion, this provision should insure that the funds expended under this bill are spent as effectively as possible.

In short, I believe that the conference report represents a good compromise, one which adheres closely to the bill already approved by the House. For this reason I would urge my colleagues to support this conference report.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman from Florida yield?

Mr. ROGERS. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, can the gentleman tell us how much this bill will cost?

Mr. ROGERS. Yes. This bill was $40 million less than the amount was when it passed the House. The bill as it passed the House was for $429 million. The bill is now $388 million for 3 years, spread over 3 years.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I am delighted to yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Speaker, there seems to be a discrepancy in the figures which were given by the gentleman from Florida (Mr. ROGERS), who gave a figure of $41 million less, and the figure of the gentleman from Kentucky (Mr. CARTER), which was $51 million less. May I ask which is correct?

Mr. ROGERS. Mr. Speaker, I will yield to the gentleman from Kentucky to answer that.

Mr. CARTER. Mr. Speaker, I thank the gentleman for yielding.

My figures seem to be correct. I would say that they are.

Mr. MILLER of Ohio. They are both correct?

Mr. CARTER. It is $51 million less.

Mr. MILLER of Ohio. $51 million less is the correct figure?

Mr. CARTER. That is right.

Mr. ROGERS. I will accept that figure.

Mr. MILLER of Ohio. Mr. Speaker, I thank the gentleman.

Mr. ROGERS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 2534, HEALTH MAINTENANCE ORGANIZATION ACT AMENDMENTS OF 1978

Mr. ROGERS. Mr. Speaker, I call up the conference report on the Senate bill (S. 2534) to revise and extend the provisions of title XIII of the Public Health Service Act relating to health maintenance organizations, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

(For conference report and statement see prior proceedings of the House today.)

The SPEAKER pro tempore. The gentleman from Florida (Mr. ROGERS) will be recognized for 30 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the Members are aware, the Health Maintenance Organization Amendments of 1978 passed this body on September 25, 1978, by a vote of 327 to 60. I am pleased to report to my colleagues that conferees have met and have agreed on a conference report which will strengthen and extend Federal assistance for the establishment and operation of health maintenance organizations.

This conference agreement retains all aspects of the House amendment which encourages the continued development of health maintenance organizations and which assure that all HMO's which are qualified by the Department of Health, Education, and Welfare are providing the required services in a manner prescribed by law. The agreement also combines several provisions of the Senate bill; but all of these provisions are consistent with the House amendment and all of them involve matters which have been considered by the House.

Mr. Speaker, if we are to effectively deal with the problem of rising health care costs, we must alter the structure of the present health care delivery system so that consumers and providers have incentives to control health care costs. Such incentives are basic to the operation of health maintenance organizations.

The legislation before us provides for the extension of and needed changes in the HMO program. It promotes the further development of HMO's, but it also includes provisions to help insure that federally assisted HMO's will become financially self-sufficient and that any fraud or abuse by HMO's will be detected.

The following is a brief explanation of the major provisions of the report:

HEALTH MAINTENANCE ORGANIZATION AMENDMENTS OF 1978—AGREEMENT OF CONFERENCE ISSUES

EXTENSION OF PROGRAM

The following authorizations are recommended for HMO feasibility, planning, initial development, training and technical assistance grants or contracts:

(In millions)

Fiscal year:	
1979	$31
1980	65
1981	68

INITIAL DEVELOPMENT

The Secretary is authorized to make grants up to $1,000,000 through September 30, 1979 and $2,000,000 thereafter for the initial development of a health maintenance organization. Initial development is defined to include the establishment of an HMO, the expansion of the services of an HMO, and the significant expansion of the membership of or the area served by an HMO.

INITIAL OPERATING LOANS

The total amount of loans available to an HMO for the costs of operation would be increased from the current limits of $2.5 million in total and $1 million per year to $4.5 million in total and $2 million per year in FY 1980. During FY '79 the Secretary may increase the current loans limits to the FY 1980 limits if he makes a written determination that such additional loans are necessary to preserve the fiscal soundness of the operation and to protect it against the risk of insolvency. If the Secretary makes such a determination, he must notify within thirty days the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of his decision.

The Secretary is authorized to take such action as he deems appropriate to protect the interest of the United States in the event of a default on a loan made or guaranteed under Title XIII.

LOANS FOR AMBULATORY CARE FACILITIES

New loan authority is created to allow the Secretary to make loans for projects for the acquisition or construction of an ambulatory health care facility. A limit of $2.5 million for each ambulatory health care facility of an HMO is established.

CONTINUING DEVELOPMENT ASSISTANCE

Activities for which grants for initial development may be made are expanded to include the expansion of services of an HMO.

MANAGEMENT TRAINING AND TECHNICAL ASSISTANCE

An HMO intern training program is established beginning in fiscal year 1979. No separate authorization for the program is provided. Authority for a technical assistance program is also provided.

EMPLOYEE HEALTH BENEFIT PLANS

Certain employers must arrange, with employee consent, for the employee's contribution for HMO membership to be paid through payroll deductions. Those employers include all employers which provide payroll deductions for employees' contributions for health benefits or provide a health benefit plan to which no employee contribution is required.

Clarifying language is included regarding the types of health maintenance organizations which must be offered by an employer.

FINANCIAL DISCLOSURE AND ENROLLMENT PRACTICES

Financial information, including a consolidated financial statement where the HMO is related to an organization by common ownership or control, and information regarding the ownership of a health maintenance organization must be filed at such times as the Secretary prescribes. The Secretary will evaluate the information reported to him and report to the Congress on the actions he considers necessary with respect to that information. Penalties are provided for failure to file the information.

The Secretary will promulgate regulations regarding the enrollment of members who are entitled to Medicaid.

ORGANIZATION REQUIREMENTS

Students who are full time at an accredited institution of higher education may be enrolled for a payment that is not fixed under a community rating system.

HMO's will be required to have administrative and managerial arrangements satisfactory to the Secretary.

A public HMO will be permitted to have an advisory board to which it may delegate policymaking authority. The advisory board must be composed so that at least one third of its membership will be members of the HMO and so that it includes equitable representation from medically underserved populations served by the HMO.

REQUIREMENTS FOR THE PROVISION OF SERVICES

An HMO may, during its first four fiscal years, enter into contracts with physicians other than members of its staff, a medical group or an individual practice association without limitation as to the amount of the contracts. In the fifth fiscal year the amounts paid for physicians services under such contracts may not exceed 15% of the total estimated amount to be paid to physicians for the provision of physicians' services (30% in rural areas).

An HMO will be permitted to seek reimbursement for the cost of services provided to a member who is entitled to benefits under a workmen's compensation law or an insurance policy.

A member of an HMO shall be reimbursed by the organization for his expenses in securing basic health services other than through the organization if services were medically necessary and immediately required because of unforeseen illness, injury or condition.

An HMO will be required to make a good faith effort to provide health services in the event of a natural disaster or riot, civil insurrection or any other similar event not within the control of the HMO.

An HMO will not be required to provide services which the Secretary determines, upon the application of an HMO, to be unusual or infrequently provided, and not necessary for the protection of an individual's health.

SOCIAL SECURITY ACT AMENDMENTS

The prohibition in Federal law regarding conflicts of interest of active and former officers and employees of the Federal government will be extended to State or local officers or employees who are responsible for the expenditure of substantial amounts of the Medicaid fund and to each individual who formally was such an officer or employee and to each partner of such an officer or employees.

Section 1122 of the Social Security Act which provides for review by State Health Planning Agencies of capital expenditures proposed to be made by health care facilities is modified to provide that the development of facilities and services of an HMO is covered in the same manner as other health care facilities and organizations.

ADMINISTRATION OF THE PROGRAM

The current requirements relating to the administrative locations within HEW of the HMO program are repealed.

PROGRAM MANAGEMENT EVALUATION

The Controller General will evaluate the policies and procedures for the management of the grant and loan programs and the amounts of assistance available under such programs and report to the Congress not later than May 1, 1979.

APPLICATION REQUIREMENT

The Secretary is authorized to make grants and contracts for HMO feasibility studies regardless of the financial position of the applicant. In providing all other support the Secretary will not require the applicant to sue all available assets for the project if such a requirement would jeopardize the fiscal soundness of the applicant.

WAIVER OF POLICYMAKING BODY REQUIREMENTS

There will be no waiver of policymaking body requirements for HMO's which have been operated since January 1, 1974 by a commercial insurance carrier or by a nonprofit carrier which provides hospital service benefits or medical surgical benefits or both.

FUNDING UNDER OTHER AUTHORITIES FOR THE PROVISION OF HEALTH SERVICES ON A PREPAID BASIS

Authority for the use of funds under sections 319 (Migrant Health) and 330 (Community Health Centers) will be addressed in the Health Services Extension Act of 1978 (S. 2474).

Mr. Speaker, it is my belief that this conference report includes the best features of the House amendment and the Senate bill. I recommend it to the House without reservation.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report accompanying S. 2534, the health maintenance organization amendments of 1978. This report closely parallels the original House bill except in a few instances. In fact, most of the Senate amendments accepted by the conferees are designed to strengthen the administration of the HMO program.

For example, the Senate bill included a provision which put a ceiling on the amount an individual HMO could receive in initial development grants. This conference report contains that provision.

Another Senate amendment on HMO's requires the comptroller general to evaluate the adequacy and effectiveness of the policies and procedures used by HEW to provide loans to HMO's. Again, the conference report contains this provision.

I am also happy to report that the report retains an amendment which I offered which requires HEW to assure that HMO's are competently managed before providing grants and loans to them. I believe that this is a significant improvement in the HMO program.

In an effort to avoid abuses which have unfortunately occurred in the past, the report includes provisions from both the House and Senate bills which require HMO's to meet financial reporting requirements similar to those included in the medicare-medicaid fraud and abuse amendments approved last year. The report also includes provisions authorizing the secretary to regulate the marketing practices of HMO's as well.

Mr. Speaker, I believe that this conference report represents a reasonable response to the problems of the HMO program and these amendments will go a long way to insure that the program is prudently managed. For these reasons, I would urge favorable consideration of this conference report.

Thank you, Mr. Speaker.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman from Florida yield?

Mr. ROGERS. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, can the gentleman from Florida (Mr. ROGERS) tell us how much this bill is?

Mr. ROGERS. Yes. Actually we had $177 million in the Senate bill and $151 million in our bill. The conference bill comes out at $164 million, which is split.

Mr. ROUSSELOT. It is $164 million?

Mr. ROGERS. Yes.

Mr. ROUSSELOT. A year?

Mr. ROGERS. Three years.

Mr. ROUSSELOT. It is spread over the 3 years?

Mr. ROGERS. That is right, over the 3 years.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DERWINSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Members will record their votes by electronic device.

Mr. DERWINSKI. Mr. Speaker, I withdraw my point of order.

The SPEAKER pro tempore. The Chair will advise the gentleman that the request comes too late. The Chair has announced the vote. In the absence of a quorum, the vote is automatic.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 309, nays 33, not voting 88, as follows:

[Roll No. 919]

YEAS—309

Addabbo	Davis	Harsha
Akaka	de la Garza	Hawkins
Alexander	Dellums	Heckler
Ambro	Dent	Hefner
Anderson, Calif.	Derrick	Heftel
	Derwinski	Hightower
Anderson, Ill.	Dicks	Holland
Andrews, N.C.	Dingell	Hollenbeck
Andrews, N. Dak.	Dodd	Holtzman
	Dornan	Horton
AuCoin	Downey	Howard
Bafalis	Drinan	Hubbard
Baldus	Duncan, Oreg.	Huckaby
Barnard	Duncan, Tenn.	Hughes
Baucus	Early	Jacobs
Beard, R.I.	Eckhardt	Jeffords
Beard, Tenn.	Edgar	Jenkins
Bedell	Edwards, Ala.	Jenrette
Bellenson	Edwards, Calif.	Johnson, Calif.
Benjamin	Emery	Johnson, Colo.
Bevill	English	Jones, N.C.
Bingham	Erlenborn	Jones, Okla.
Blanchard	Ertel	Jones, Tenn.
Blouin	Evans, Del.	Kasten
Boggs	Evans, Ga.	Kastenmeier
Boland	Evans, Ind.	Kazen
Bonior	Fascell	Kemp
Bonker	Fenwick	Keys
Bowen	Findley	Kildee
Brademas	Fish	Kindness
Breaux	Fisher	Kostmayer
Breckinridge	Fithian	Krebs
Brinkley	Flippo	Krueger
Brodhead	Flood	Lagomarsino
Brooks	Flowers	Leach
Brown, Calif.	Flynt	Lederer
Brown, Mich.	Foley	Lehman
Brown, Ohio	Ford, Mich.	Lent
Broyhill	Ford, Tenn.	Levitas
Buchanan	Fountain	Lloyd, Calif.
Burgener	Fowler	Lloyd, Tenn.
Burke, Mass.	Fraser	Long, La.
Burlison, Mo.	Frenzel	Long, Md.
Butler	Fuqua	Luken
Caputo	Gammage	Lundine
Carr	Garcia	McClory
Carter	Gaydos	McCloskey
Cavanaugh	Gephardt	McCormack
Chappell	Gilman	McDade
Chisholm	Ginn	McEwen
Clausen, Don H.	Glickman	McHugh
	Gonzalez	McKay
Cleveland	Goodling	McKinney
Collins, Ill.	Gore	Maguire
Conable	Gradison	Mahon
Conte	Grassley	Mann
Corcoran	Green	Markey
Corman	Gudger	Marks
Cornell	Guyer	Marriott
Cornwell	Hall	Martin
Cotter	Hamilton	Mattox
Coughlin	Hanley	Mazzoli
Cunningham	Hannaford	Meyner
D'Amours	Harkin	Michel
Danielson	Harris	Mikulski

Mikva	Quillen	Steers
Milford	Rahall	Steiger
Mineta	Railsback	Stokes
Minish	Rangel	Stratton
Mitchell, N.Y.	Regula	Studds
Moakley	Reuss	Thompson
Moffett	Rhodes	Thone
Mollohan	Richmond	Thornton
Montgomery	Rinaldo	Traxler
Moore	Risenhoover	Trible
Moorhead, Calif.	Rodino	Udall
	Roe	Van Deerlin
Moorhead, Pa.	Rogers	Vander Jagt
Mottl	Roncalio	Vanik
Murphy, Ill.	Rooney	Vento
Murphy, N.Y.	Rose	Walker
Murphy, Pa.	Rosenthal	Walsh
Murtha	Rostenkowski	Wampler
Myers, Michael	Roybal	Watkins
Natcher	Ruppe	Weaver
Nedzi	Satterfield	Weiss
Nichols	Sawyer	Whalen
Nix	Scheuer	White
Nolan	Schroeder	Whitley
Nowak	Schulze	Whitten
O'Brien	Seiberling	Wiggins
Oakar	Sharp	Wilson, Bob
Oberstar	Simon	Winn
Obey	Sisk	Wirth
Ottinger	Skelton	Wolff
Panetta	Smith, Iowa	Wright
Pattison	Snyder	Wylie
Pease	Solarz	Yates
Perkins	Spellman	Yatron
Pickle	Spence	Young, Alaska
Pike	St Germain	Young, Mo.
Poage	Staggers	Zablocki
Preyer	Stangeland	Zeferetti
Pritchard	Stark	
Pursell	Steed	

NAYS—33

Abdnor	Forsythe	Miller, Ohio
Archer	Goldwater	Myers, Gary
Ashbrook	Hammer-schmidt	Robinson
Bauman		Rousselot
Bennett	Hansen	Stump
Clawson, Del	Holt	Symms
Coleman	Ichord	Taylor
Collins, Tex.	Kelly	Treen
Daniel, Dan	Latta	Volkmer
Daniel, R. W.	Livingston	Waggonner
Devine	Lott	
Edwards, Okla.	McDonald	

NOT VOTING—88

Ammerman	Glaimo	Roberts
Annunzio	Gibbons	Rudd
Applegate	Hagedorn	Runnels
Armstrong	Harrington	Russo
Ashley	Hillis	Ryan
Aspin	Hyde	Santini
Badham	Ireland	Sarasin
Biaggi	Jordan	Sebelius
Bolling	LaFalce	Shipley
Broomfield	Le Fante	Shuster
Burke, Calif.	Leggett	Sikes
Burke, Fla.	Lujan	Skubitz
Burleson, Tex.	McFall	Slack
Burton, John	Madigan	Smith, Nebr.
Burton, Phillip	Marlenee	Stanton
Carney	Mathis	Stockman
Cederberg	Meeds	Teague
Clay	Miller, Calif.	Tsongas
Cochran	Mitchell, Md.	Tucker
Cohen	Moss	Ullman
Conyers	Myers, John	Walgren
Crane	Neal	Waxman
Delaney	Patten	Whitehurst
Dickinson	Patterson	Wilson, C. H.
Diggs	Pepper	Wilson, Tex.
Eilberg	Pettis	Wydler
Evans, Colo.	Pressler	Young, Fla.
Fary	Price	Young, Tex.
Florio	Quayle	
Frey	Quie	

The Clerk announced the following pairs:

Mr. Pepper with Mr. Marlenee.
Mr. Annunzio with Mr. Skubitz.
Mrs. Burke of California with Mrs. Smith of Nebraska.
Mr. Delaney with Mr. Whitehurst.
Mr. Eilberg with Mr. Stockman.
Mr. Burleson of Texas with Mr. Stanton.
Mr. Evans of Colorado with Mr. Badham.
Mr. Fary with Mr. Sebelius.
Miss Jordan with Mr. Cederberg.
Mr. Glaimo with Mr. Hagedorn.
Mr. Charles Wilson of Texas with Mr. John T. Myers.
Mr. Teague with Mr. Hillis.
Mr. Shipley with Mr. Pressler.
Mr. Russo with Mr. Rudd.
Mr. Stark with Mr. Quie.
Mr. Charles H. Wilson of California with Mr. Shuster.
Mr. Roberts with Mr. Quayle.
Mr. Gibbons with Mr. Broomfield.
Mr. John L. Burton with Mr. Cochran of Mississippi.
Mr. Carney with Mr. Burke of Florida.
Mr. Ullman with Mr. Cohen.
Mr. Sikes with Mr. Lujan.
Mr. Diggs with Mr. Crane.
Mr. Neal with Mr. Meeds.
Mr. Phillip Burton with Mr. Frey.
Mr. Miller of California with Mr. Madigan.
Mr. Patterson of California with Mr. Patten.
Mr. Mitchell of Maryland with Mr. Moss.
Mr. Mathis with Mr. LaFalce.
Mr. Ashley with Mr. Conyers.
Mr. Biaggi with Mr. Hyde.
Mr. Aspin with Mr. Clay.
Mr. Price with Mr. Tsongas.
Mr. Ammerman with Mr. Dickinson.
Mr. Walgren with Mr. Wydler.
Mr. Florio with Mr. Waxman.
Mr. Applegate with Mr. Sarasin.
Mr. McFall with Mr. Young of Florida.
Mr. Ireland with Mr. Leggett.
Mr. Ryan with Mr. Le Fante.
Mr. Santini with Mr. Tucker.
Mr. Runnels with Mr. Harrington.

Mr. HARSHA changes his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMATEUR SPORTS ACT OF 1978

Mr. DANIELSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill (S. 2727) to promote and coordinate amateur athletic activity in the United States, to recognize certain rights for U.S. amateur athletes, to provide for the resolution of disputes involving national governing bodies, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. DANIELSON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill (S. 2727), with Mr. KREBS in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. When the Committee rose on Wednesday, October 11, 1978, all time for general debate on the bill had expired.

Pursuant to the rule, the bill considered as having been read for amendment under the 5-minute rule.

The bill is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Amateur Sports Act of 1978".

"SEC. 103. As used in this Act, the term—

"(1) 'amateur athlete' means any athlete who meets the eligibility standards established by the national governing body for the sport in which the athlete competes;

"(2) 'amateur athletic competition' means a contest, game, meet, match, tournament, regatta, or other event in which amateur athletes are permitted to compete;

"(3) 'amateur sports organization' means a not-for-profit corporation, club, federation, union, association, or other group organized in the United States which sponsors or arranges any amateur athletic competition;

"(4) 'Corporation' means the United States Olympic Committee;

"(5) 'international amateur athletic competition' means any amateur athletic competition between any athlete or athletes representing the United States, either individually or as part of a team, and any athlete or athletes representing any foreign country;

"(6) 'National governing body' means an amateur sports organization which is recognized by the Corporation in accordance with section 201 of this Act; and

"(7) 'sanction' means a certificate of approval issued by a national governing body.".

OBJECTS AND PURPOSES OF THE CORPORATION

SEC. 204. Section 104 of the Act, as redesignated by section 201 of this Act, is amended to read as follows:

"SEC. 104. The objects and purposes of the Corporation shall be to—

"(1) establish national goals for amateur athletic activities and encourage the attainment of those goals;

"(2) coordinate and develop amateur athletic activity in the United States in order to foster productive working relationships among sports-related organizations;

"(3) exercise exclusive jurisdiction, either directly or through its constituent members or committees, over all matters pertaining to the participation of the United States in the Olympic Games and in the Pan-American Games, including the representation of the United States in such games, and over the organization of the Olympic Games and the Pan-American Games when held in the United States;

"(4) obtain for the United States, either directly or by delegation to the appropriate national governing body, the most competent amateur representation possible in each competition and event of the Olympic Games and of the Pan-American Games;

"(5) promote and support amateur athletic activities involving the United States and foreign nations;

"(6) promote and encourage physical fitness and public participation in amateur athletic activities;

"(7) assist organizations and persons concerned with sports in the development of amateur athletic programs for amateur athletes;

"(8) provide for the swift resolution of conflicts and disputes involving amateur athletes, national governing bodies, and amateur sports organizations, and protect the opportunity of any amateur athlete, coach, trainer, manager, administrator, or official to participate in amateur athletic competition;

"(9) foster the development of amateur athletic facilities for use by amateur athletes and assist in making existing amateur athletic facilities available for use by amateur athletes;

"(10) provide and coordinate technical information on physical training, equipment design, coaching, and performance analysis;

"(11) encourage and support research, development, and dissemination of information in the areas of sports medicine and sports safety;

"(12) encourage and provide assistance to amateur athletic activities for women; and

"(13) encourage and provide assistance to amateur athletic programs and competition for handicapped individuals, including, where feasible, the expansion of opportunities for meaningful participation by handicapped in-

dividuals in programs of athletic competition for able-bodied individuals.".

POWERS OF THE CORPORATION

SEC. 205. Section 105 of the Act, as redesignated by section 201 of this Act, is amended to read as follows:

"SEC. 105. (a) The Corporation shall have perpetual succession and power to—

"(1) serve as the coordinating body for amateur athletic activity in the United States;

"(2) represent the United States as its national Olympic committee in relations with the International Olympic Committee and the Pan-American Sports Organization;

"(3) organize, finance, and control the representation of the United States in the competitions and events of the Olympic Games and of the Pan-American Games, and obtain, either directly or by delegation to the appropriate national governing body, amateur representation for such games;

"(4) recognize eligible amateur sports organizations as national governing bodies for any sport which is included on the program of the Olympic Games or the Pan-American Games;

"(5) facilitate, through orderly and effective administrative procedures, the resolution of conflicts or disputes involving any amateur athlete, coach, trainer, manager, administrator, official, national governing body, or amateur sports organization;

"(6) sue and be sued;

"(7) make contracts;

"(8) acquire, hold, and dispose of real and personal property as may be necessary for its corporate purposes;

"(9) accept gifts, legacies, and devises in furtherance of its corporate purposes;

"(10) borrow money to carry out its corporate purposes, issue notes, bonds, or other evidences of indebtedness therefor, and secure the same by mortgage, subject in each case to the laws of the United States or of any State;

"(11) provide financial assistance to any organization or association, other than a corporation organized for profit, in furtherance of the purposes of the Corporation;

"(12) approve and revoke membership in the Corporation;

"(13) adopt and alter a corporate seal;

"(14) establish and maintain offices for the conduct of the affairs of the Corporation;

"(15) publish a newspaper, magazine, or other publication consistent with its corporate purposes; and

"(16) do any and all acts and things necessary and proper to carry out the purposes of the Corporation.

"(b) The Corporation shall adopt and may amend a constitution and bylaws not inconsistent with the laws of the United States, except that the Corporation may amend its constitution only if it—

"(1) publishes in its principal publication and in the Federal Register a general notice of the proposed alteration of the constitution, including the substantive terms of the alternation, the time and place of the Corporation's regular meeting at which the alteration is to be decided, and a provision informing interested persons that they may submit materials as authorized in subparagraph (2); and

"(2) gives to all interested persons, prior to the adoption of any amendment, an opportunity to submit written data, views, or arguments concerning the proposed amendment for a period of at least 30 days after the date of publication of the notice in the Federal Register.".

MEMBERSHIP IN THE CORPORATION

SEC. 206. Section 106 of the Act, as redesignated by section 201 of this Act, is amended by—

(a) inserting "(a)" immediately before "Eligibility" therein; and

(b) adding at the end thereof the following new subsection:

"(b) In its constitution and bylaws, the Corporation shall establish and maintain provisions with respect to its governance and the conduct of its affairs for reasonable representation of:

"(1) amateur sports organizations recognized as national governing bodies in accordance with section 201 of this Act;

"(2) amateur athletes who are actively engaged in amateur athletic competition or who have represented the United States in international amateur athletic competition within the preceding 10 years;

"(3) amateur sports organizations which conduct a national program or regular national amateur athletic competition in two or more sports which are included on the program of the Olympic Games or the Pan-American Games on a level of proficiency appropriate for the selection of amateur athletes to represent the United States in international amateur athletic competition; and

"(4) individuals not affiliated or associated with any amateur sports organization who in the Corporation's judgment represent the interests of the American public in the activities of the Corporation.".

USE OF OLYMPIC DESIGNATIONS

SEC. 207. Section 110 of the Act, as redesignated by section 201 of this Act, is amended to read as follows:

"SEC. 110. (a) Without the consent of the Corporation, any person who—

"(1) falsely or fraudulently represents to be a member or a representative of the Corporation or of one of its constituent organizations for the purpose of soliciting, collecting, or receiving money or material;

"(2) wears or displays the emblem of the Corporation for the purpose of inducing the mistaken belief that such person is or has been a member or a representative of the Corporation or of one of its constituent organizations; or

"(3) uses for the purpose of trade, to induce the sale of any goods or services, or to promote any theatrical exhibition, athletic performance, or competition—

"(A) the emblem of the International Olympic Committee, consisting of five interlocking rings;

"(B) the emblem of the Corporation, consisting of an escutcheon having a blue chief and vertically extending red and white bars on the base with five interlocking rings displayed on the chief;

"(C) any other Olympic trademark, trade name, sign, symbol, or insignia made or colored in imitation of, or confusingly similar to, the emblem, trade name, or any trademark of the International Olympic Committee or of the Corporation; or

"(D) the words 'Olympic', 'Olympian', 'Olympiad', 'Citius Altius Fortius', or any combination, simulation, or confusingly similar derivative thereof tending to cause confusion, to cause mistake, to deceive, or to falsely suggest a connection with the Corporation or any Olympic activity;

shall be liable subject to suit in a civil action by the Corporation for the remedies provided in subsection (c) of this section. However, any person who actually used, or whose assignor actually used, such trademark, trade name, emblem, sign, symbol, insignia, or words for any lawful purpose prior to September 21, 1950, shall not be deemed forbidden by this lawfully prior to September 21, 1950.

"(b) The district courts of the United States shall have original jurisdiction and the courts of appeal of the United States shall have appellate jurisdiction of all actions arising under subsection (a) of this section, without regard to the amount in controversy or to diversity or lack of diversity of the citizenship of the parties.

"(c) When a violation of any provision of this section is established in any civil action arising under this section, the Corporation shall be entitled to—

"(1) obtain injunctive relief upon such terms as the court considers reasonable to prevent a violation or threatened violation of this section;

"(2) recover the profits which the defendant accrued as a result of such violation;

"(3) recover any damages sustained by the Corporation; and

"(4) recover costs of the action, including, at the discretion of the court, the amount of reasonable attorney's fees.

"(d) The Corporation may authorize contributors and suppliers of goods or services to use the trade name of the Corporation as well as any Olympic trademark, symbol, insignia, or emblem of the International Olympic Committee or of the Corporation in advertising that the contributions, goods, or services were donated, supplied, or furnished to or for the use of, approved, selected, or used by the Corporation or United States Olympic or Pan-American team or team members.".

ANNUAL REPORT

SEC. 208. Section 113 of the Act, as redesignated by section 201 of this Act, is amended to read as follows:

"SEC. 113. The Corporation shall, on or before the first day of June in each year, transmit simultaneously to the President and to the Congress a detailed report of its operations for the preceding calendar year, including an accounting of the financial status of the Corporation and a comprehensive description of the activities and accomplishments of the Corporation during the preceding year. The report may include recommendations for additional legislation or other action which the Corporation considers necessary or desirable for attaining its objectives. Copies of the report shall be made available to interested persons at a reasonable cost.".

ATHLETE'S OPPORTUNITY TO PARTICIPATE

SEC. 209. Title I of the Act, as amended by this Act, is further amended by adding at the end thereof the following new section:

"SEC. 114. In its constitution and bylaws, the Corporation shall establish and maintain provisions for the swift and equitable resolution of disputes involving the opportunity of an amateur athlete, coach, trainer, manager, administrator, or official to participate in the Olympic Games, the Pan-American Games, world championship competition and any other amateur athletic competition which may be designated by the Corporation.".

NATIONAL GOVERNING BODIES

SEC. 210. The Act, as amended by section 1 of this Act, is further amended by adding at the end thereof the following new title:

"TITLE II—NATIONAL GOVERNING BODIES

"SEC. 201. (a) For any sport which is included on the program of the Olympic Games or the Pan-American Games, the Corporation is authorized to recognize as a national governing body an amateur sports organization which files an application and is eligible for such recognition, in accordance with the provisions of subsection (b) of this section. The Corporation shall recognize only one national governing body for each sport for which an application is made and approved. Prior to the recognition of a national governing body under the authority granted under this title and in accordance with the procedures and requirements of this section, the Corporation shall hold a hearing opening to the public on the application for such recognition. The Corporation shall publish notice of the time, place, and nature of the hearing. Publication shall be made in a regular issue of the Corporation's principal publication at

least 30 days, but not more than 60 days, prior to the date of the hearing.

"(b) No amateur sports organization is eligible to be recognized or is eligible to continue to be recognized as a national governing body unless it—

"(1) is incorporated under the laws of any of the several States of the United States or the District of Columbia as a not-for-profit corporation having as its purpose the advancement of amateur athletic competition, and has the managerial and financial capability to plan and execute its obligations;

"(2) submits an application for recognition, in such form as the Corporation shall require, as a national governing body and, upon application, submits a copy of its corporate charter and bylaws and any additional information as is considered necessary or appropriate by the Corporation;

"(3) agrees to submit, upon demand of the Corporation, to binding arbitration by American Arbitration Association in any controversy involving its recognition as a national governing body, as provided for in section 205 of this title, or involving the opportunity of any amateur athlete, coach, trainer, manager, administrator or official to participate in amateur athletic competition, as provided for in the Corporation's constitution and bylaws;

"(4) demonstrates that it is autonomous in the governance of its sport, in that it independently determines and controls all matters central to such governance, does not delegate such determination and control, and is free from outside restraint, and demonstrates that it is a member of no more than one international sports federation which governs a sport included on the program of the Olympic Games or the Pan-American Games;

"(5) demonstrates that its membership is open to any individual who is an amateur athlete, coach, trainer, manager, administrator, or official active in the sport for which recognition is sought, or to any amateur athlete, coach, trainer, manager, administrator, or official active in the sport for which recognition is sought, or to any amateur sports organization which conducts programs in the sport for which recognition is sought, or to both;

"(6) provides an equal opportunity to amateur athletes, coaches, trainers, managers, administrators, and officials to participate in amateur athletic competition, without discrimination on the basis of race, color, religion, age, sex, or national origin, and with fair notice and opportunity for a hearing to any amateur athlete, coach, trainer, manager, administrator, or official before declaring such individual ineligible to participate;

"(7) is governed by a board of directors or other such governing board whose members are selected without regard to race, color, religion, national origin or sex, except that, in sports where there are separate male and female programs, it provides for reasonable representation of both males and females on such board of directors or other such governing board;

"(8) demonstrates that its board of directors or other such governing board includes among its voting members individuals who are actively engaged in amateur athletic competition in the sport for which recognition is sought or who have represented the United States in international amateur athletic competition in the sport for which recognition is sought within the preceding 10 years, and that the membership and voting power held by such individuals is not less than 20 percent of such membership and voting power held in that board of directors or other such governing board;

"(9) provides for reasonable representation on its board of directors or other such governing board for any amateur sports organization which, in the sport for which recognition is sought, conducts, on a level of proficiency appropriate for the selection of amateur athletes to represent the United States in international amateur athletic competition, a national program or regular national amateur athletic competition, and ensures that such representation shall reflect the nature, scope, quality, and strength of the programs and competitions of such amateur sports organization in relation to all other such programs and competitions in such sport in the United States;

"(10) demonstrates that none of its officers are also officers of any other amateur sports organization which is recognized as a national governing body;

"(11) provides procedures for the prompt and equitable resolution of grievances of its members;

"(12) does not have eligibility criteria relating to amateur status which are more restrictive than those of the appropriate international sports federation; and

"(13) demonstrates, if it is an amateur sports organization seeking recognition as a national governing body, that it is prepared to meet the obligations imposed on a national governing body under section 202 of this Act.

"(c)(1) Except as provided in paragraph (2), any amateur sports organization which on the date of enactment of this title is recognized by the Corporation to represent a particular sport shall be considered to be the national governing body for that sport. Such an organization is exempt for a period of 2 years from the date of enactment of this title from meeting the requirements of subsection (b) of this section, and during the 2-year period shall take the necessary actions to meet such requirements if it desires to retain its recognition. After the expiration of the 2-year period, such an organization shall continue as the national governing body for that sport unless the Corporation determines that such organization is not in compliance with the requirements of subsection (b) of this section, in which event the Corporation shall—

"(A) suspend the recognition of such national governing body;

"(B) revoke the recognition of such national governing body; or

"(C) extend the 2-year period for not longer than 1 year, if the national governing body has proven by clear and convincing evidence that, through no fault of its own, it needs additional time to comply with such requirements.

If, at the end of the extension period referred to in subparagraph (C) of this paragraph, the national governing body has not complied with such requirements, the Corporation shall revoke the recognition of such national governing body. Any such national governing body aggrieved by the Corporation's determination under this subsection may submit a demand for arbitration in accordance with section 205(c) of this title.

"(2) Notwithstanding the provisions of paragraph (1), the Corporation may suspend or revoke the recognition of a national governing body during the 2-year period if such suspension or revocation is for the same reason as the Corporation could have revoked or suspended such national governing body prior to the date of the enactment of this title.

"(d) Within 61 days after recognizing an amateur sports organization as a national governing body, in accordance with subsection (a) of this section, the Corporation shall recommend and support in any appropriate manner such national governing body to the appropriate international sports federation as the representative of the United States for that sport.

"SEC. 202. (a) For the sport which it governs, a national governing body is under duty to—

"(1) develop interest and participation throughout the United States and be responsible to the persons and amateur sports organizations it represents;

"(2) minimize, through coordination with other amateur sports organizations, conflicts in the scheduling of all practices and competitions;

"(3) keep amateur athletes informed of policy matters and reasonably reflect the views of such athletes in its policy decisions;

"(4) promptly review every request submitted by an amateur sports organization or person for a sanction (A) to hold an international amateur athletic competition in the United States; or (B) to sponsor United States amateur athletes to compete in international amateur athletic competition held outside the United States, and determine whether to grant such sanction, in accordance with the provisions of subsection (b) of this section;

"(5) allow an amateur athlete to compete in any international amateur athletic competition conducted under its auspices or that of any other amateur sports organization or person, unless it establishes that its denial was based on evidence that the organization or person conducting the competition did not meet the requirements stated in subsection (b) of this section;

"(6) provide equitable support and encouragement for participation by women where separate programs for male and female athletes are conducted on a national basis

"(7) encourage and support amateur athletic sports programs for handicapped individuals and the participation of handicapped individuals in amateur athletic activity;

"(8) provide and coordinate technical information on physical training, equipment design, coaching, and performance analysis; and

"(9) encourage and support research, development, and dissemination of information in the areas of sports medicine and sports safety.

"(b) As a result of its review under subsection (a)(4) of this section, if a national governing body does not determine by clear and convincing evidence that holding or sponsoring an international amateur athletic competition would be detrimental to the best interest of the sport, the national governing body shall promptly grant to an amateur sports organization or person a sanction to—

"(1) hold an international amateur athletic competition in the United States, if such amateur sports organization or person—

"(A) pays to the national governing body any required sanctioning fee, if such fee is reasonable and nondiscriminatory;

"(B) demonstrates that—

"(i) appropriate measures have been taken to protect the amateur status of athletes who will take part in the competition and to protect their eligibility to compete in amateur athletic competition,

"(ii) appropriate provision has been made for validation of records which may be established during the competition,

"(iii) due regard has been given to any international amateur athletic requirements specifically applicable to the competition,

"(iv) the competition will be conducted by qualified officials,

"(v) proper medical supervision will be provided for athletes who will participate in the competition, and

"(vi) proper safety precautions have been taken to protect the personal welfare of the athletes and spectators at the competition, and

"(C) submits to the national governing body an audited or notarized financial report of similar events, if any, conducted by the amateur sports organization or person; or

"(2) sponsor United States amateur athletes to compete in international amateur athletic competition held outside the United States, if such amateur sports organization or person—

"(A) pays to the national governing body any required sanctioning fee, if such fee is reasonable and nondiscriminatory;

"(B) submits a letter from the appropriate entity which will hold the international amateur athletic competition certifying that—

"(i) appropriate measures have been taken to protect the amateur status of athletes who will take part in the competition and to protect their eligibility to compete in amateur athletic competition,

"(ii) appropriate provision has been made for validation of records which may be established during the competition,

"(iii) due regard has been given to any international amateur athletic requirements specifically applicable to the competition,

"(iv) the competition will be conducted by qualified officials,

"(v) proper medical supervision will be provided for athletes who will participate in the competition, and

"(vi) proper safety precautions have been taken to protect the personal welfare of the athletes and spectators at the competition; and

"(C) submits a report of the most recent trip, if any, to a foreign country which the amateur sports organization or person sponsored for the purpose of having United States amateur athletes compete in international amateur athletic competition.

"SEC. 203. For the sport which it governs, a national governing body is authorized to—

"(1) represent the United States in the appropriate international sports federation;

"(2) establish national goals and encourage the attainment of those goals;

"(3) serve as the coordinating body for amateur athletic activity in the United States;

"(4) exercise jurisdiction over international amateur athletic activities and sanction international amateur athletic competition held in the United States and sanction the sponsorship of international amateur athletic competition held in the United States;

"(5) conduct amateur athletic competition, including national championships, and international amateur athletic competition in the United States, and establish procedures for the determination of eligibility standards for participation in such competitions, except for that amateur athletic competition specified in section 206 of this title;

"(6) recommend to the Corporation individuals and teams to represent the United States in the Olympic Games and the Pan-American Games; and

"(7) designate individuals and teams to represent the United States in international amateur athletic competition (other than the Olympic Games and the Pan-American Games) and certify, in accordance with applicable international rules, the amateur eligibility of such individuals and teams.

"SEC. 204. The Corporation may review all matters relating to the continued recognition of a national governing body and may take such action as it considers appropriate, including, but not limited to, placing conditions upon the continued recognition of the national governing body. The district courts of the United States shall have authority to enjoin the commission of any act of a national governing body which is inconsistent with the requirements of sections 201(b) and 202 of this title. The Corporation shall have standing to apply for an injunction, except to the extent that the conferral of such standing is inconsistent with the Constitution of the United States.

"SEC. 205. (a)(1) Any amateur sports organization or person which belongs to or is eligible to belong to a national governing body may seek to compel such national governing body to comply with the requirements of sections 201(b) and 202 of this title by filing a written complaint with the Corporation. Such organization or person may take such action only after having exhausted all available remedies within such national governing body for correcting deficiencies, unless it can be shown by clear and convincing evidence that those remedies would have resulted in unnecessary delay. The Corporation shall establish procedures for the filing and disposition of complaints received under this subsection. A copy of the complaint shall also be served on the applicable national governing body.

"(2) Within 30 days after the filing of the complaint, the Corporation shall determine whether the organization has exhausted its remedies within the applicable national governing body, as provided in paragraph (1) of this subsection. If the Corporation determines that any such remedies have not been exhausted, it may direct that such remedies be pursued before the Corporation will further consider the complaint.

"(3)(A) Within 90 days after the filing of a complaint under paragraph (1) of this subsection, if the Corporation determines that all such remedies have been exhausted, it shall hold a hearing to receive testimony for the purpose of determining if such national governing body is in compliance with the requirements of sections 201(b) and 202 of this title.

"(B) If the Corporation determines, as a result of the hearings conducted pursuant to this subsection, that such national governing body is in compliance with the requirements of sections 201(b) and 202 of this title, it shall so notify the complainant and such national governing body.

"(C) If the Corporation determines, as a result of hearings conducted pursuant to this subsection, that such national governing body is not in compliance with the requirements of sections 201(b) and 202 of this title, it shall—

"(i) place such national governing body on probation for a specified period of time, not to exceed 180 days, which it considers necessary to enable such national governing body to comply with such requirements, or

"(ii) revoke the recognition of such national governing body.

"(D) If the Corporation places a national governing body on probation pursuant to this paragraph, it may extend the probationary period if the national governing body has proven by dear and convincing evidence that, through no fault of its own, it needs additional time to comply with such requirements. If, at the end of the period allowed by the Corporation, the national governing body has not complied with such requirements, the Corporation shall revoke the recognition of such national governing body.

"(b)(1) Any amateur sports organization may seek to replace an incumbent as the national governing body for a particular sport by filing with the Corporation a written application for such recognition. Such application shall be filed (A) within the 1-year period after the final day of any Olympic Games, in the case of a sport for which competition is held in the Olympic Games or in both the Olympic and Pan-American Games; or (B) within the 1-year period after the final day of any Pan-American Games, in the case of a sport for which competition is held in the Pan-American Games and not in the Olympic Games. If two or more organizations file applications for the same sport, such applications shall be considered in a single proceeding.

"(2) Any application filed under this subsection shall be filed with the Corporation by registered mail. The Corporation shall establish procedures for the filing and disposition of applications received under this subsection. A copy of any such application for recognition shall also be served on the applicable national governing body. The Corporation shall inform the applicant for recognition that its application has been received.

"(3) Within 180 days after receipt of an application filed under this subsection, the Corporation shall conduct a formal hearing to determine the merits of the application. The Corporation shall publish notice of the time and place of such hearing in a regular issue of its principal publication at least 30 days, but not more than 60 days, prior to the date of the hearing. In the course of such hearing, the applicant and the national governing body shall be given a reasonable opportunity to present evidence supporting their respective positions. During such hearing, the applicant amateur sports organization must establish by a preponderance of the evidence that it meets the criteria for recognition as a national governing body under section 201(b) of this title, and that—

"(A) the national governing body does not meet the criteria of section 201(b) or 202; or

"(B) it more adequately meets the criteria of section 201(b), is capable of more adequately meeting the criteria of section 202, and provides or is capable of providing a more effective national program of competition, than the national governing body in the sport for which it seeks recognition.

"(4) Within 30 days of the close of the hearing required under this subsection, the Corporation shall—

"(A) uphold the right of the national governing body to continue as the national governing body for its sport;

"(B) revoke the recognition of the national governing body and declare a vacancy in the national governing body for that sport;

"(C) revoke the recognition of the national governing body and recognize the applicant as the national governing body; or

"(D) decide to place the national governing body on probation of not to exceed 180 days, pending the compliance of the national governing body, if such national governing body would have retained recognition except for a minor deficiency in one of the requirements of section 201(b) or 202 of this title.

If the national governing body does not comply within the prescribed time period, the Corporation shall revoke the recognition of the national governing body and either recognize the applicant as the national governing body, or declare a vacancy in the national governing body for that sport.

"(5) Within 61 days after recognizing an amateur sports organization as a national governing body, in accordance with this subsection, the Corporation shall recommend and support in any appropriate manner such

national governing body to the appropriate international sports federation as the representative of the United States for that sport.

"(c)(1) The right to review by any party aggrieved by a determination of the Corporation under the requirements of this section or section 201(c) shall be to any regional office of the American Arbitration Association. Such demand for arbitration shall be submitted within 30 days of the determination of the Corporation. Upon receipt of such a demand for arbitration, the Association shall serve notice on the parties to the arbitration and on the Corporation, and shall immediately proceed with arbitration according to the commercial rules of the Association in effect at the time of the filing of the demand, except that—

"(A) the arbitration panel shall consist of not less than three arbitrators, unless the parties to the proceeding mutually agree to a lesser number;

"(B) the arbitration hearing shall take place at a site selected by the Association, unless the parties to the proceeding mutually agree to the use of another site; and

"(C) the arbitration hearing shall be open to the public.

"(2) The arbitrators in any arbitration are empowered to settle any dispute arising under the provisions of this Act prior to making a final award, if mutually agreed to by the parties to the proceeding and achieved in a manner not inconsistent with the constitution and bylaws of the Corporation.

"(3) Each contesting party may be represented by counsel or by any other duly authorized representative at the arbitration proceeding. The parties may offer any evidence which they desire and shall produce any additional evidence as the arbitrators believe necessary to an understanding and determination of the dispute. The arbitrators shall be the sole judges of the relevancy and materiality of the evidence offered. Conformity to legal rules of evidence shall not be necessary.

"(4) The arbitrators shall have the authority to issue subpenas to compel the attendance and testimony of witnesses and the production of documents, if the arbitrators reasonably believe them to be necessary or advisable for a better understanding of the dispute. In case of contumacy or refusal to obey such a subpena, the district courts, upon petition of the arbitrators, shall have jurisdiction to issue to such person an order requiring compliance with such subpena. Failure to obey such an order is punishable by such court as a contempt of court.

"(5) All decisions by the arbitrators shall be by majority vote unless the concurrence of all is expressly required by the contesting parties.

"(6) Final decision of the arbitrators shall be binding upon the involved parties, if such award is not inconsistent with the constitution and bylaws of the Corporation.

"(7) The hearings may be reopened, by the arbitrators upon their own motion or upon the motion of any contesting party, at any time before a final decision is made, except that, if any contesting party makes such a motion, all parties to the decision must agree to reopen the hearings if such reopening would result in the arbitrators' decision being delayed beyond the specific period agreed upon at the beginning of the arbitration proceedings.

"(8) The district courts of the United States shall have jurisdiction to enforce decisions of the arbitrators. Such action may be brought by any party to the final decision.

"SEC. 206. Any amateur sports organization which conducts amateur athletic competition, participate in which is restricted to a specific class of amateur athletes (such as high school students, college students, members of the Armed Forces, or similar groups or categories), shall have jurisdiction over such competition. If such an amateur sports organization wishes to conduct international amateur athletic competition to be held in the United States, or sponsor international amateur athletic competition to be held outside the United States, it shall obtain a sanction from the appropriate national governing body.".

FINANCIAL ASSISTANCE

SEC. 211. (a) The Secretary of Commerce (hereinafter in this section referred to as the "Secretary") is authorized to award grants to the Corporation to assist in the development of amateur athletics in the United States. The Corporation may apply to the Secretary for funds available under this section, and shall use such funds consistent with the provisions of the Act. The Secretary shall approve any application which meets the requirements of this section, and award grants to the Corporation, in a total sum not exceeding (1) $18,000,000 to finance the development and operation of any programs approved by the Corporation and consistent with the provisions of this Act; and

(2) $12,000,000 to finance feasibility studies to assist in determining appropriate locations for training centers, to finance the administration and operation of such centers, and to finance an information retrieval service for the analysis and dissemination of sports medicine information.

As used in this section, the term "training centers" means sites selected by the Corporation for use in furthering amateur sports development, research, and education across a broad range of sports, including the collection, analysis, and dissemination of technical sports information.

(b) Each application for funds available under this section shall be in such form as the Secretary provides and shall contain provisions to assure that such funds are disbursed in accordance with the provisions of this section. For the purpose of review or audit, the Secretary shall have access to any books, documents, papers, and records which are relevant to any grant received under this section.

(c) Consistent with the purposes of the Act, the use of the funds available under this section shall be at the full discretion of the Corporation, except that not more than 20 percent of such funds may be provided to organizations which are not members of the Corporation.

(d) There are authorized to be appropriated to the Secretary not to exceed $30,000,000 in fiscal year 1979, such sums to remain available until expended.

(c) The Secretary shall conduct a feasibility study to determine the cost of, need for, and most appropriate means of providing continuing funding to the Corporation for the construction and operation of training centers and sports medicine research facilities. The Secretary shall submit to the Congress the results of the study, together with his recommendations, within 6 months after the date of enactment of this Act.

TRANSFER OF PROPERTY

SEC. 212. Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949, as amended, the Administrator of General Services is authorized to transfer excess real property to the United States Olympic Committee without compensation. The Committee may accept and shall administer such property in the furtherance of amateur athletic activities. If any such property ceases to be utilized by the United States Olympic Committee for the conduct of such activities, it shall be returned to the United States, to be utilized or disposed of as the Administrator of General Services shall determine.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

Mr. DANIELSON. Mr. Chairman, I ask unanimous consent that the committee amendments be considered en bloc, except for the committee amendment striking lines 8 through 21, on page 19, and adding a new section 113 to the charter in lieu thereof.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Clerk will report the committee amendments en bloc.

The Clerk read the committee amendments as follows:

Committee amendments: Page 2, lines 1 through 24; page 3, lines 1 through 24;

Page 4, lines 1 through 24; page 5, lines 1 through 14:

Strike all of title I of the bill on pages 2, 3, and 4; and the language of title II of the bill through page 5, line 14, and insert:

OLYMPIC COMMITTEE REORGANIZATION

SECTION 1. (a) The Act entitled "An Act to incorporate the United States Olympic Association", approved September 21, 1950 (36 U.S.C. 371 et seq.), hereinafter in this Act referred to as "the Act", is amended in the first section—

(1) by striking out "That the following persons, to wit:" and inserting in lieu thereof the following:

TITLE I—CORPORATION

"SEC. 101. The following persons, to wit:";

(2) in the first sentence by striking out "corporation" before the period and inserting in lieu thereof "Corporation"; and

(3) by amending the last sentence thereof to read as follows: "The Corporation shall maintain its principal offices and national headquarters in such place in the United States as is determined by the Corporation, and may hold its annual and special meetings in such places as the Corporation shall determine."

(b) The Act is further amended by striking out sections 2 through 12 and inserting in lieu thereof the following:

"SEC. 102. A majority of the persons named in section 101 of this Act, or their successors, are hereby authorized to meet to complete the organization of the Corporation by the adoption of a constitution and bylaws, the election of officers, and by doing all things necessary to carry into the effect the provisions of this Act."

Page 5, line 22: Strike "are permitted to".

Page 6, line 15: Strike "body.'." and insert "body."

Page 6, lines 16 through 18: Strike the language contained in lines 16 through 18 of page 6 of the bill.

Page 6, line 24: Strike "in order" and insert "directly relating to international amateur athletic competition, so as".

Page 8, line 20: Strike "individuals.'." and insert

individuals; and

(14) encourage and provide assistance to amateur athletes of racial and ethnic minorities for the purpose of eliciting the participation of such minorities in amateur ath-

letic activities in which they are underrepresented.

Page 8: Strike lines 21, 22 and 23 of the bill.

Page 9, line 2: Strike "States;" and insert: "States directly relating to international amateur athletic competition;"

Page 9, line 19: Strike "involving" and insert "which involve any of its members and".

Page 9, line 21: Strike "organization;" and insert:

organization and which arise in connection with their eligibility for and participation in the Olympic Games, the Pan-American, world championship competition, or other protected competition as defined in the constitution and by-laws of the Corporation;

Page 10, line 23: After "States" insert "or of any State".

Page 10, line 25, Page 11, line 1: Strike "and in the Federal Register".

Page 11, line 6: Strike "sub-".

Page 11, line 11: Strike "30" and insert "60".

Page 11, lines 12 and 13: Strike "in the Federal Register."."

Page 11, lines 14 through 20: Strike the language in lines 14 through 20 of page 11 and insert:

SEC. 106. (a) Eligibility for membership in the Corporation shall be determined in accordance with the constitution and bylaws of the Corporation.

Page 11, line 24: Strike "of:" and insert "of-".

Page 12, line 18: Strike "Corporation."." and insert

Corporation.

SEC. 107. The Corporation shall be nonpolitical and, as an organization, shall not promote the candidacy of any person seeking public office.

SEC. 108. The Corporation shall have no power to issue capital stock or to engage in business for pecuniary profit or gain.

SEC. 109. The Corporation may acquire any or all of the assets of the existing unincorporated association, known as "The United States Olympic Association", upon discharging or satisfactorily providing for the payment and discharge of all the liabilities of such unincorporated association.

Page 12, lines 19 through 25; page 13, lines 1 through 25; and page 14, lines 1 and 2: Strike the language in lines 19 through 25 of page 12, lines 1 through 25 of page 13 and lines 1 and 2 of page 14, and insert:

SEC. 110. (a) Without the consent of the Corporation, any person who uses for the purpose of trade, to induce the sale of any goods or services, or to promote any theatrical exhibition, athletic performance, or competition—

(1) the symbol of the International Olympic Committee, consisting of five interlocking rings;

(2) the emblem of the Corporation, consisting of an escutcheon having a blue chief and vertically extending red and white bars on the base with five interlocking rings displayed on the chief;

(3) any trademark, trade name, sign, symbol, or insignia falsely representing association with, or authorization by, the International Olympic Committee or the Corporation; or

(4) the words "Olympic", Olympiad", "Citius Altius Fortius", or any combination or simulation thereof tending to cause confusion, to cause mistake, to deceive, or to falsely suggest a connection with the Corporation or any Olympic activity;

Page 14, line 3: Strike "liable" and insert "subject to suit".

Page 14, line 4: Strike "subsection (c) of this section." and insert: "the Act of July 5, 1946 (60 Stat. 427; popularly known as the Trademark Act of 1946)."

Page 14, lines 5 through 24, and page 15, lines 1 through 7: Strike the language after "used" in line 5 of page 14 through "ney's fees." in line 7 of page 15, and insert:

the emblem in subsection (a)(2), or the words, or any combination thereof, in subsection (a)(4) for any lawful purpose prior to September 21, 1950, shall not be prohibited by this section from continuing such lawful use for the same purpose and for the same goods or services. In addition, any person who actually used, or whose assignor actually used, any other trademark, trade name, sign, symbol, or insignia described in subsections (a)(3) and (4) for any lawful purpose prior to enactment of this Act shall not be prohibited by this section from continuing such lawful use for the same purpose and for the same goods or services.

Page 15, line 8: Strike "(d)" and insert "(b)".

Page 15, line 10: Strike "Olympic"

Page 15, line 16: Strike "members.'." and insert:

members.

(c) Corporation shall have exclusive right to use the name "United States Olympic Committee"; the symbol described in subsection (a)(1); the emblem described in subsection (a)(2); and the words "Olympic", "Olympiad", "Citius Altius Fortius" or any combination thereof subject to the preexisting rights described in subsection (a).

Page 15, following line 16, insert:

SEC. 111. As a condition precedent to the exercise of any power or privilege granted or conferred under this Act, the Corporation shall file in the office of the secretary of state, or similar office, in each State the name and post-office address of an authorized agent of the Corporation in such State upon whom local process or demands against the Corporation may be served.

SEC. 112. The right to alter, amend, or repeal this Act at any time is hereby expressly reserved.

Page 16, lines 7 through 10: Strike the language in lines 7 through 10 of page 16.

Page 10, line 13: After "involving" insert "any of its members and relating to".

Page 16, lines 17 and 18: Strike the language in lines 17 and 18 and insert: "or other such protected competition as defined in such constitution and bylaws."

Page 16, line 20: Strike "210." and insert "2.", and after "by" insert "section 1".

Page 18, line 13: Strike "by" and insert "conducted in accordance with the commercial rules of".

Page 20, line 11: After "reasonable" insert "direct".

Page 24, line 17: After "activity" insert:

, including, where feasible, the expansion of opportunities for meaningful participation by handicapped individuals in programs of athletic competition for able-bodied individuals".

Page 29, lines 4 through 10: Strike the language after "body." in line 4 through "States." in line 10.

Page 35: lines 22 through 25, page 36, lines 1 through 6: Strike the language in lines 22 on page 35 through line 6 on page 36.

Page 36, line 7: Strike "(5)" and insert "(4)".

Page 36, line 10: Strike "(6)" and insert "(5)".

Page 36, line 13: Strike "(7)" and insert "(6)".

Page 36, lines 21, 22, 23: Strike the language in lines 21, 22, and 23 of page 36.

Page 37, line 3: After "have" insert "exclusive".

Page 37, line 11: Strike "Commerce" and insert "the Treasury".

Page 37, lines 20 through 25, page 38, lines 1 through 9: Strike "exceeding—" in line 20, and the language in lines 21 of page 37 through line 9 of page 38, and insert:

exceeding $30,000,000 to finance the development and operation of any programs approved by the Corporation consistent with section 104 of the Act as amended by this Act.

Page 38, lines 17 through 25, page 39, lines 1 through 7: Strike the language of subsections (c), (d), and (e) of the bill in lines 17 of page 38 through line 7 of page 39, and insert:

(c) There are authorized to be appropriated to the Secretary not to exceed $30,000,000 in fiscal year 1980, such sums to remain available until expended.

Page 39, lines 8 through 19: Strike all of the language contained in lines 8 through 19 of page 39.

Mr. DANIELSON (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DANIELSON. Mr. Chairman, with respect to the amendments which I have mentioned, they were discussed in quite some detail in general debate. These are largely amendments to the charter of the U.S. Olympic Commission. There is no dispute on them that I am aware of, and I urge the adoption of these amendments.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I appreciate my colleague yielding. Actually, the amendments which we are called on to adopt conform the bill to precisely that bill which was voted on on September 26, the week before last, by the House, by a vote of 244 to 158. That is to say, that was the vote previously on the amendments which the gentleman has just offered as the committee amendments.

Mr. DANIELSON. The gentleman's comment, I believe, is correct. I do not remember the vote, but we did have this bill up before under suspension and there was a majority of the vote in favor of passage of the bill, but not a two-thirds majority. I do not remember the vote, but otherwise the statement is correct in all respects.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I thank the gentleman for yielding. As the gentleman knows, the basic controversy in this bill is the authorization for $30 million. The other day the gentleman from Ohio (Mr. KINDNESS) proposed that

there be a new ordering of the way in which this fund is to be distributed in the U.S. Olympic Committee, and that did not prevail.

I wonder if the chairman of the subcommittee from the Committee on the Judiciary, the manager of this bill, would explain precisely what these $30 million will be used for when under the bill they will be transferred directly and openly to the U.S. Olympic Committee, a private group.

Mr. DANIELSON. I thank the gentleman for raising this question. I respectfully request that he defer until we get to the financial section. The only portion pending before the committee at the moment is other parts of the bill that have nothing to do with the financial aspects of the bill.

The gentleman will recall that in my request I asked that we consider the amendments en bloc except for certain amendments that we are not yet talking about, the financial amendments.

Mr. DRINAN. If the gentleman will yield further, will there be opportunity in the deliberations for a motion to strike the $30 million?

Mr. DANIELSON. There not only will be such an opportunity, but I understand such an opportunity will be taken.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

The CHAIRMAN. The Clerk will read the remaining committee amendment.

The Clerk read as follows:

Committee amendment: Page 15, lines 17 through 24, and page 16, lines 1 through 6: Strike the language of lines 17 through 24 of page 15, and lines 1 through 6 of page 16 and insert:

SEC. 113. The Corporation shall, on or before the first day of June in each year, transmit simultaneously to the President and each House of Congress a detailed report of its operations for the preceding calendar year, including a full and complete statement of its receipts and expenditures and a comprehensive description of the activities and accomplishments of the Corporation during the preceding year. Copies of the report shall be made available by the Corporation to interested persons at a reasonable cost.

AMENDMENT OFFERED BY MR. MICHEL TO THE COMMITTEE AMENDMENT

Mr. MICHEL. Mr. Charman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. MICHEL to the committee amendment: In the language proposed to be inserted by the committee amendment insert "(a)" immediately following "Sec. 113." and immediately following the words "reasonable cost." add the following new subsection:

"(b) The Corporation shall, on or before the first day of June in each year, transmit simultaneously to the Speaker of the House of Representatives and to the President of the Senate a detailed report of those grants authorized to the Corporation pursuant to the provisions of section 211 of the Act and a full and complete statement of the expenditures of such funds made available. The report shall be referred to the Committee on Appropriations of each House and shall include a detailed and comprehensive description of those programs which the Corporation anticipates it will finance during the next fiscal year out of such funds made available pursuant to the provisions of section 211 of the Act. The Corporation shall continue to transmit the report required under this subsection (b) until the total sums made available under secion 211 of the Act have been expended."

Mr. MICHEL. Mr. Chairman, I offer this amendment to the committee amendment for two reasons:

First, it will give assurance to those who have raised concerns—and, I think, legitimate concerns—about the possibility of tax dollars being unwisely spent. Under my amendment, the Congress will receive a "detailed report" of all grants made to the Corporation pursuant to the provisions of section 211 of the act and a full and complete statement of the expenditure of such funds will be made available. Furthermore, we will learn not only how the Corporation has spent the funds—but also how they plan to spend the funds during the next fiscal year. In short, it is a "watch-dog" amendment. The Committee on Appropriations of each House will receive a copy of this report and Members can be assured these committees will make certain that the provisions of the act are adhered to.

The second reason I offer this amendment is to demonstrate the willingness on the part of those of us who support this bill to do all we can to make it work. Perhaps this is, after all, as important as the watch-dog function itself. All too often we see bills introduced, debated, voted on, passed, and then allowed to live a life of their own, almost totally free of congressional oversight.

Mr. KINDNESS. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Chairman, I commend the gentleman from Illinois for offering this amendment.

I would urge adoption of the amendment offered by the gentleman from Illinois (Mr. MICHEL). I think it adds responsibility to a piece of legislation that needs an added measure of responsibility, and I think it is the only responsible action for us to take at this point.

I urge its adoption.

Mr. DANIELSON. Mr. Chairman, I have no objection to the amendment. I think it assists in improving an otherwise very bad part of the bill and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MICHEL) to the committee amendment.

The amendment to the committee amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER: On page 41, strike line 10 and all that follows through line 23.

On page 42, strike line 12 and all that follows through line 21.

Mr. VOLKMER. Mr. Chairman, this amendment strikes the provision for the financial assistance, the total amount of $30 million. It will leave nothing in the bill for the funding for the Olympic amateur athletics.

I know that many of you personally feel that we really should provide the funding they are requesting, and I believe there are also recommendations for additional funds, and even though I know many Members are strong supporters of not only professional but amateur athletics in this country, you run into, at least I do, the conflicting principle, the question of whether this Congress should go into funding a private organization with taxpayers funds, such as this, and for this purpose, and what it will lead to.

I am not going to take a lot of time because we discussed this subject when we were under suspension of the rules. But I know that the taxpayers, at least my taxpayers, or many of them, are quite concerned with how their taxpayers' money is being used. I question, and I think you can ask yourselves the question, if you would actually ask your taxpayers if they were willing to pay that little extra money, whatever it may be, for this purpose, I question whether they would say yes at this time.

I also question the principle of the Congress beginning to get more and more involved in our amateur athletics.

You know, with some people—and I have seen the bumper stickers back home, and some people have talked to me about the Post Office and how it is run, and then when you talk about the national health care, and then they say, look what they are doing to the postal service, and I am wondering what Congress will eventually do to the Olympics and amateur athletics, if we start down this road.

I also wonder what will happen to the private funding which the Olympic Committee has lived on and done well with in the past? I wonder what will happen when it becomes known that Congress gives $30 million this year and why can they not give $50 million next year, and I wonder whether the same people who contributed before will continue to contribute as they have in support of the Olympic Committee, or will they say, oh, well, let the Congress do it from now on. Or, if we go to the full funding, eventually, then I wonder what they are going to say.

Should we also not have a lot to say about amateur athletics in this country?

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding.

I rise in strong support of the gentleman's amendment. He and I serve on the same committee; and of course, that bill came through our committee. I think the gentleman has hit the nail right on the head, and that is that this is $30 million this year, and it is going to be $50 million or $75 million. There are going to be magnificent sums of money in the future.

Mr. Chairman, I think the gentleman and I and probably every Member of the House, in watching the Olympians on television, vicariously live out every one of their deeds and have the gooseflesh that comes when the Star Spangled Banner is played at the end of the victorious performance. However, that does not mean, that type of national feeling on our part, that we have to be patsies to this, in a sense, robbing of the national treasury. That is what it simply amounts to.

Mr. Chairman, I understand the feelings of the House. I very seldom take the well to speak on any kind of issue. I would say that this is a very important matter; and if constituents of those Members who are yelling "Vote" were to be confronted with a $30 million tax bill, I would suspect that those Members would not be screaming for a vote.

Mr. Chairman, let me just suggest that the gentleman from Missouri (Mr. VOLKMER) can improve the bill by his amendment. We will have a bill which will solve some of the jurisdictional problems, but get away from the basic difficulty of adding all this Federal taxpayer money to this bill.

Mr. Chairman, I commend the gentleman from Missouri.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I, too, commend the gentleman.

I would want to shorten this matter. I am not going to delay it. It is midnight, and we want to have a vote on this question.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. VOLKMER) has expired.

Mr. VOLKMER. Mr. Chairman, I ask unanimous consent to be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

Mr. LLOYD of California. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ASHBROOK. Mr. Chairman, under the rules of the House, I understand that a Member must stand in order to object.

The CHAIRMAN. The Chair will state that the gentleman from California (Mr. LLOYD) did stand at the time.

Mr. ASHBROOK. Fine. I thank the Chair.

Mr. WRIGHT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had not expected to enter this debate, but I have in my hand a copy of a speech which was prepared for delivery on October 6, 1 week ago today, by our colleague, the late Ralph Metcalfe.

With your permission, Mr. Chairman, I simply want to read a few pages from the speech which probably was the last public statement prepared for delivery by our late colleague.

In the course of that speech, Mr. Metcalfe said the following:

> This Commission came into being because it was obvious to anyone even remotely acquainted with amateur sports that incessant, petty disputes among sports bodies were severely hampering our athletes performances in the Olympics and other international competition. Our declining performances in international competition does not reflect well for the image this country has abroad. Our prestige in the Olympic arena is waning, while the prestige of countries which subsidize their athletes is beginning to surpass ours.
>
> Concern has been expressed about the one-time only $30 million authorization contained in this bill. This one-time only $30 million authorization is inseparable from the purposes of this bill. Without this money, the bill is rendered meaningless. Without this modest amount, the delicately achieved compromises worked out among rival sports bodies will unravel and be lost.
>
> $18 million of this money would be used for comprehensive reorganization and reform of the U.S. Olympic Committee. $12 million of this money will be used to implement a sports medicine information system and to help finance the operation and maintenance of training centers.
>
> Frankly, these monies will by no means be sufficient for the U.S. Olympic Committee to carry out its expanded mandate. However, at least the monies will give the U.S. Olympic Committee a start. I, therefore, urge my colleagues to oppose any amendments to delete or reduce this critical one-time funding.
>
> My distinguished colleagues: This is a landmark bill for the development and improvement of amateur sports in our country. For the first time in over fifty years, we are presented with the opportunity to end the bitter jurisdictional disputes among rival sports organizations. These disputes have hurt the innocent party, the amateur athlete, and have resulted in declining performances by our athletes in olympic and other international amateur competition.

As I say, I had not intended to get in the debate, but I simply felt, out of respect and honor for our colleague, that I should report to the Members what he had prepared to say in this immediate connection and what he would have said had he been with us this evening.

Mr. KEMP. Mr. Chairman, would the majority leader yield?

Mr. WRIGHT. Of course, I yield to my friend, the gentleman from New York.

Mr. KEMP. I appreciate the gentleman's yielding. I also appreciate his reading the remarks of our colleague, Ralph Metcalfe.

I had the privilege of serving on the President's Commission on U.S. Olympic Sports with the gentleman from Illinois, Mr. Metcalfe, and our colleagues, the gentleman from Illinois (Mr. MICHEL) and the gentleman from California (Mr. MINETA). The gentleman from Illinois, Mr. Metcalfe, served on that Commission with a great deal of distinction and a great deal of effort, and he took quite seriously, as well as painfully, this dispute that has gone on for so long between the AAU and the NCAA.

I assume that my colleagues remember that General MacArthur in the 1950's tried to mediate the dispute between the AAU and the NCAA, and it failed. Also Attorney General Robert Kennedy in the mid-1960's tried to mediate it, and that failed. Then Labor Negotiator Ted Kheel referred the dispute in the late 1960's, and that failed.

As the gentleman pointed out, and as our colleague, the gentleman from Illinois, Mr. Metcalfe, worked so long to accomplish, this is the chance to bring these two governing bodies under the jurisdiction of a national governing body. That is the U.S. Olympic Committee, and I think it is, as the gentleman has pointed out, a one-shot opportunity to bring about a climate in our country where we might not only have better competition in terms of international competition, but we might provide, as the gentleman points out not only in his letter but from the well, more opportunity for minorities, for women, for handicapped sports competition.

I strongly support the gentleman's taking the well and bringing to the attention of our colleagues the very profound statement of our friend and colleague, the late Honorable Ralph Metcalfe. I thank the gentleman from Texas (Mr. WRIGHT) for bringing it up.

Mr. WRIGHT. I thank the gentleman for his comments.

Mr. KINDNESS. I move to strike the requisite number of words.

Mr. Chairman, I have before me the budget summary submitted by the U.S. Olympic Committee to the subcommittee of the Committee on the Judiciary showing how they would intend to spend the $30 million. We have now heard enough of general expressions of how wonderful the purposes are for which this money is going to be spent. Let us be a little more specific as to what is really intended and see if the Members agree with what is intended by the U.S. Olympic Committee with respect to the use of this money. The $750,000 out of $18 million is to be spent for a management improvement program over a 4-year period, the initial survey to cost $300,000, the follow-up in the second year to cost $150,000, the follow-up and evaluation in the third year, $150,000 more, and the evaluation in the fourth year, $150,000.

Administration—note this: computer systems. Hardware in the first year, $1 million; software in the first year, $300,000, in the second year, $200,000, for a total of a half million dollars. Paid staff: a total of $6.6 million over the 4-year period—$1.2 million the first year, and $1.8 million each of the other three years.

U.S. Olympic Committee support services, $600,000 in the first year, and $200,000 in each of the three succeeding years.

Now for development—about which we have heard so much: for the athletes, $367,000 in the first year, and maintenance of approximately evening out to about $750,000 a year in the three following years; the same approximately for coaches and the same approximately for officials.

There is $18 million we are talking about. The other $12 million was aimed, according to their budget, at sports medicine and general equipment requirements and fixed operating expenses.

That in the version of the bill passed by the other House is turned around to be used for feasibility studies to determine how many training centers there are going to be and where they are going to be.

I submit to you, we do not know what the money is really going to be used for if the bill is left in its present form.

I would submit that the amendment of the gentleman from Missouri has a certain amount of merit to it. I do not really expect that the House is going to adopt that approach. I will be offering a perfecting amendment which would strike this financial assistance section and substitute completely language that would direct the money toward the national training centers. As to their development and their expenses for salaries and administrative costs, it would be directed more closely to the athletes, the coaches, the trainers and health personnel in the operation and maintenance of those training centers where we are going to get closer to helping the athletes themselves. If there is any place we belong with the taxpayers' money, that is it.

So I would urge, there is another choice to be made. You can support the amendment of the gentleman from Missouri (Mr. VOLKMER) or this other approach, but either way we have got to do something better than currently we are doing.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I appreciate the gentleman's remarks, if he does want to develop at least national training centers to provide more competition and more opportunity for people to take part in those Olympic sports; but I want to remind the gentleman that there are 35 separate Olympic and Pan American sports games. Each one would be autonomous under this national U.S. Olympic Committee. Much of the money is going to set up 35 separate autonomous sports committees that would help govern themselves under the umbrella organization, as the gentleman from Illinois (Mr. MICHEL) pointed out in his remarks just a couple weeks ago; so when the gentleman talks about staff, this staff is not going to burgeon into the bureaucracy of the U.S. Olympic Committee. It is going to develop the opportunity to grow into Olympic sports, 35 of those Pan American sports; so it will provide what the gentleman wants to accomplish by governing those sports and elevating those sports to international competition.

Mr. KINDNESS. Mr. Chairman, I think there is a difference as to how close we really are to helping our potential enemies.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment of the gentleman from Missouri.

Mr. Chairman, I know the hour is late. I am just as tired as anybody here.

You know, this is really a comical situation. Some of the same people who have been saying, "Let's get the Federal bureaucracy off our backs. Let us not spend money on any new programs. Let us not invade areas which are in the private sector," are now advocating not only spending $30 million on amateur athletics, which is something that the Federal Government has never traditionally spent money on, but they are trying to restructure this corporation, the U.S. Olympic Committee, so it will become the tzar of all amateur athletic activities in the United States.

If you do not believe me, turn to page 10 of the bill.

It says:

The Corporation—

That is the U.S. Olympic Committee—

shall have perpetual succession and power to—

"(1) serve as the coordinating body for amateur athletic activity in the United States directly relating to international amateur athletic competition;

Well, that sounds innocent enough. It is just relating to international amateur competition.

Then go on to paragraph (5):

"(5) to facilitate, through orderly and effective administrative procedures, the resolution of conflicts or disputes which involve any of its members and any amateur athlete, coach, trainer, manager, administrator, official, national governing body, or amateur sports organization * * *

Then we go over to the section that deals with the so-called autonomous body, starting on page 20. This is all the governing bodies of all these different sports associations.

And it says:

No amateur sports organization is eligible to be recognized or is eligible to continue to be recognized as a national governing body unless it—

And then there is a long series, page after page, of all the conditions that it is going to have to meet to be recognized. If it is not recognized, then it is not going to get any of this $30 million we are so generously contributing out of the taxpayers' pockets.

Let me suggest that I certainly agree with the gentleman from Ohio (Mr. KINDNESS) that maybe as an afterthought it would be good to specify what this money ought to go for, but let us be honest. It is only an afterthought. Nobody started to do anything about this until the bill lost when it was up on suspension.

I suggest to the Members that if we really mean it, we should be serious about cutting spending so we can have the kind of tax cuts the gentleman from Buffalo, N.Y., wants.

Mr. MICHEL. Mr. Chairman, will the gentleman yield for a correction?

Mr. SEIBERLING. Yes, I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Chairman, that budget came down from the Olympic Committee before that. It did not come down after the bill was defeated; it was here before.

Mr. SEIBERLING. Mr. Chairman, the gentleman is absolutely right, but that is not the budget the gentleman from Ohio (Mr. KINDNESS) intends to offer. The budget that the Olympic Committee has offered now has $18 million in it to implement reorganization of the national governing bodies as autonomous and effective entities. How autonomous are they going to be when the price of getting any of this $30 million kitty is that they have to meet all the conditions specified in this nice bureaucratic boondoggle?

Mr. MCKINNEY. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Connecticut.

Mr. MCKINNEY. Mr. Chairman, does the gentleman have any idea how autonomous they are now? Does the gentleman have any idea of what one has to have to be accepted in amateur sports?

Mr. SEIBERLING. All I am looking at is the bill.

Mr. MCKINNEY. Does the gentleman know?

Mr. SEIBERLING. That has nothing to do with how autonomous they are now. This is what we are dealing with now.

Mr. MCKINNEY. Is the gentleman claiming that if they are autonomous now, they are a controlled monopoly?

Mr. SEIBERLING. I am claiming that the U.S. Olympic Committee is not the czar of amateur athletics in the United States.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague for his statement. I agree with him. I think it is a little strange for them to come in and expect the sentinels on the door of the Treasury Department will open it up for $30 million whenever professional sports or something of that type comes along.

I think this is a particularly interesting thing, because we keep hearing that if the $30 million is not there, the entire agreement falls apart. We can only ask ourselves what kind of an agreement they have if it takes the cement of $30 million to put it together.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman.

I merely ask all the Members, are they going to go back home and say to their voters in 3 weeks that we voted $30 million for something that is useless and unnecessary to the people of the United States, as this bureaucratic monstrosity is?

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(On request of Mr. VENTO, and by unanimous consent, Mr. SEIBERLING was allowed to proceed for 2 additional minutes.)

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, one of the strengths we have had in amateur athletics has come really from the grassroots of the country and not from the top down. That is what the bill proposes to do. I do not

think anyone would deny that it is in some respects a monopoly.

There are some organizations that do organize along various lines of activities in this country today, but the essence of those organizations is excellence and it is quality. It is not on the basis of whether or not they fill the requirements set out in this bill. It is not based on the requirement, for instance, on page 40 of the bill that "Any amateur sports organization which conducts amateur athletic competition, participation in which is restricted to a specific class of amateur athletes . . . shall have exclusive jurisdiction over such competition."

It is based on competition. One can go out and start his own organization if he does not like what is going on. To some extent it is a monopoly, but we do not have this in the United States Code today, and I do not think we ought to put it there.

Someone implied earlier that there is an agreement between the AAU, the NCAA, and all these other organizations, that they agree about this. Some may agree, but not all of them agree. There is not complete agreement with this.

Mr. Chairman, I think we ought to take the money out of this bill, and, frankly, I think we ought to defeat this bill and come back with something we can agree on.

Mr. Chairman, S. 2727, the Amateur Sports Act of 1978, pursues a laudable goal—the strengthening of our Nation's Olympic program. Many of the concepts embodied in this legislation would greatly contribute to the development of our Nation's amateur athletes and our successes on the international playing fields. I commend my colleagues for the time and efforts that they have spent on this issue and support their continued attention to this important matter. However, in the efforts to build a strong Olympic program, an essential cornerstone has been omitted—the rights of the amateur athlete.

Mr. Chairman, the rights of the amateur athlete are crucial to any comprehensive sports program. American amateur athletics is replete with examples of amateur athletes who unwittingly run afoul with a faceless bureaucracy and as a result find their athletic careers destroyed. We are all aware of the many cases of athletes who are declared ineligible for some alleged violation and who have no recourse to appeal the decision. Such instances are not limited to any one athletic organization and unless we move to insure some protection for the amateur athlete, these examples will increase. As my colleagues are aware, the Interstate and Foreign Commerce Subcommittee on Oversight and Investigations has held oversight hearings on NCAA practices. While I do not wish to single out the examples on NCAA abuses, I do feel that some of the testimony presented during these hearings is representative of the plight of the amateur athlete and underlines the need for an amateur athlete's bill of rights. The subcommittee heard story after story of student athletes who had been accused of some minor violation; had been threatened or misinformed during the investigation; had been denied the right to be represented by counsel; had been denied the right to face and cross-examine his accusers and denied access to their testimony; and who faced a punishment that had been determined by the NCAA and not the institution that conducts the investigation. We would be remiss in not correcting this abuse.

The athlete's rights is further restricted by section 206 of the act. Under this provision, the NCAA, the AAU, the YMCA or any amateur sports organization would have complete control over its members. Any athlete who wished to participate in a different organization's event would in effect be denying the "exclusive jurisdiction" of his member organization and undoubtedly would incur their wrath for his "independence".

Mr. Chairman, the desire to improve our Olympic program is a commendable effort. To do so at the expense of the individual student athlete is wrong and should not occur. Before Congress makes any commitment to our amateur athletes' program, we must insure that the rights of the athlete are protected. For this reason I urge my colleagues to oppose S. 2727.

Mr. SEIBERLING. Mr. Chairman, to show how autonomous they are, under this bill the organizations have to agree to submit to binding arbitration on any topic either external or internal in order to get any support from this organization.

Mr. McKINNEY. Mr. Chairman, I will be very brief. I just want to say that following JACK KEMP, or anyone else, here is a guy who can barely walk across the floor without tripping across a board. I am not an athlete, but I spent a great deal of time trying to help the Olympic ski team and the Olympic riding team. I will tell the Members something. We are sitting here talking about a Nation that is laughed out of the sport's field in this world. Not only do we not give our kids a chance in the Olympics, but we have built bureaucratic monstrosities. Talk to the athletes. I am not one. Do not talk to the organizations. They do not allow independent athletes to participate. These are monopolies that are bigger than any monopoly we have ever discussed in this entire Congress.

Some are not a member of the club. That is a personal remark. Sure, if you go to the right university, you may be acknowledged. But ask the universities, some of the Catholic Jesuit colleges. It could be they are being recognized, but just as likely not. We have kids in this country who can never participate in the Olympics because they are outsiders. These are harsh words. But I want anyone from one of these organizations to come into my office and tell me that we give kids in this country a fair break in the Olympics, for training, and a fair break in organized sports. These organizations are worse than country clubs that we used to argue about giving equal opportunity.

In sports today, if you are in you are in, if you are out—quit—you will never pass the rules of the club.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from New York.

Mr. KEMP. I appreciate the gentleman's yielding.

Mr. Chairman, the gentleman has made an outstanding point and that is that the athletes themselves, the vast majority of them, are in support of this bill. There have been some telegrams to us, a telegram from John Naber, a 1976 Olympic swimmer winner, from Micki King Rogue, a member of the AAU Diving Committee, Kenneth Moore, a member of the AAU Men's Track and Field Committee, Doris Brown Heritage, Athlete Member, AAU Women's Track and Field Committee. They all say the AAU athletes support passage of this bill. They go on to point out that the "AAU officials do not represent views of athletes," as my friend, the gentleman from Connecticut, pointed out. "The fact that these AAU officials convey to Congress their own personal views and not those of athletes underlines the importance of passage of the Amateur Sports Act. A major objection of the bill is to give athletes more representation."

I heartily concur with what the gentleman said, and I appreciate his bringing this to the attention of the Members.

Mr. McKINNEY. Mr. Chairman, I thank the gentleman for his remarks and I urge the body to support full funding.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I will try to speak in less than 1 minute, and I simply want to advise the House that my concern about this amendment has nothing to do with the purpose. I think we ought to be supporting amateur athletics, and I think we ought to be supporting it fully and not stint in any respect. But this bill gives $30 million, without any standards, without any requirements. The Secretary of the Treasury is being mandated—not given discretion, but mandated—to fulfill any grant application. There are no standards as to what the money can be spent on. It can be spent wholly on salary, it can be spent wholly on travel, it can be spent on something that will not advance amateur athletics. That is my concern. I do not think we would ever vote $30 million on any bill without any kind of guidelines. I would hope that the Members of the House would recognize that that is the objection we have.

Mr. HEFTEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would hope that if we were going into business tonight with $30 million of our money that we would have a better conception of what we were going to do and how we were going to do it. I do not think at 12:30 this morning we are qualified to spend $30 million of anybody's money for what I have heard so far. I would hope that we would take a noble position and put it to work in another session of this Congress to do it as though it makes sense, and that we will be proud of what we have done.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. VOLKMER).

The question was taken, and on a division (demanded by Mr. MICHEL) there were—ayes 54; noes 42.

So the amendment was agreed to.

The CHAIRMAN. If there are no further amendments under the rule Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. KREBS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 2727) to promote and coordinate amateur athletic activity in the United States, to recognize certain rights for U.S. amateur athletes, to provide for the resolution of disputes involving national governing bodies, and for other purposes, pursuant to House Resolution 1413, he reported the Senate bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks with respect to the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CONTRACT DISPUTES ACT OF 1978

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11002) to provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Contract Disputes Act of 1978".

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term "agency head" means the head and any assistant head of an executive agency, and may "upon the designation by" the head of an executive agency include the chief official of any principal division of the agency;

(2) the term "executive agency" means an executive department as defined in section 101 of title 5, United States Code, an independent establishment as defined by section 104 of title 5, United States Code (except that it shall not include the General Accounting Office): a military department as defined by section 102 of title 5, United States Code, and a wholly owned Government corporation as defined by section 846 of title 31, United States Code, the United States Postal Service, and the Postal Rate Commission;

(3) the term "contracting officer" means any person who, by appointment in accordance with applicable regulations, has the authority to enter into and administer contracts and make determinations and findings with respect thereto. The term also includes the authorized representative of the contracting officer, acting within the limits of his authority;

(4) the term "contractor" means a party to a Government contract other than the Government;

(5) the term "administrator" means the Administrator for Federal procurement Policy appointed pursuant to the Office of Federal Procurement Policy Act;

(6) The term "agency board" means an agency board of contract appeals established under section 8 of this Act; and

(7) The term "misrepresentation of fact" means a false statement of substantive fact, or any conduct which leads to a belief of a substantive fact material to proper understanding of the matter in hand, made with intent to deceive or mislead.

APPLICABILITYY OF LAW

SEC. 3. (a) Unless otherwise specifically provided herein, this Act applies to any express or implied contract (including those of nonappropriated fund activties described in sections 1346 and 1491 of title 28, United States Code) entered into by an executive agency for—

(1) the procurement of property, other than real property in being;

(2) the procurement of services;

(3) the procurement of construction, alteration, repair or maintenance of real property; or,

(4) the disposal of personal property.

(b) With respect to contracts of the Tennessee Valley Authority, the provisions of this Act shall apply only to those contracts which contain a disputes clause requiring that a contract dispute be resolved through an agency administrative process. Notwithstanding any other provision of this Act, contracts of the Tennessee Valley Authority for the sale of fertilizer or electric power or related to the conduct or operation of the electric power system shall be excluded from the Act.

(c) This Act does not apply to a contract with a foreign government, or agency thereof, or international organization, or subsidiary body thereof, if the head of the agency determines that the application of the Act to the contract would not be in the public interest.

MARITIME CONTRACTS

SEC. 4. Appeals under paragraph (g) of section 8 and suits under section 10, arising out of maritime contracts, shall be governed by the Act of March 9, 1920, as amended (41 Stat. 525, as amended; 46 U.S.C. 741–752) or the Act of March 3, 1925, as amended (53 Stat. 1112, as amended; 46 U.S.C. 781–790) as applicable, to the extent that those Acts are not inconsistent with this Act.

FRAUDULENT CLAIMS

SEC. 5. If a contractor is unable to support any part of his claim and it is determined that such inability is attributable to misrepresentation of fact or fraud on the part of the contractor, he shall be liable to the Government for an amount equal to such unsupported part of the claim in addition to all costs to the Government attributable to the cost of reviewing said part of his claim. Liability under this subsection shall be determined within 6 years of the commission of such misrepresentation of fact or fraud.

DECISION BY THE CONTRACTING OFFICER

"SEC. 6. (a) All claims by a contractor against the govenment relating to a contract shall be in writing and shall be submitted to the contracting officer for a decision. All claims by the government against a contractor relating to a contract shall be the subject of a decision by the contracting officer. The contracting officer shall issue his decisions in writing, and shall mail or otherwise furnish a copy of the decision to the contractor. The decision shall state the reasons for the decision reached, and shall inform the contractor of his rights as provided in this Act. Specific findings of fact are not required, but, if made, shall not be binding in any subsequent proceeding. The authority of this subsection shall not extend to a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another Federal agency is specifically authorized to administer, settle, or determine. This section shall not authorize any agency head to settle, compromise, pay, or otherwise adjust any claim involving fraud.

(b) The contracting officer's decision on the claim shall be final and conclusive and not subject to review by any forum, tribunal, or Government agency, unless an appeal or suit is timely commenced as authorized by this Act. Nothing in this Act shall prohibit executive agencies from including a clause in government contracts requiring that pending final decision of an appeal, action, or final settlement, a contractor shall proceed diligently with performance of the contract in accordance with the contracting officer's decision.

(c)(1) A contracting officer shall issue a decision on any submitted claim of $50,000 or less within sixty days from his receipt of a written request from the contractor that a decision be rendered within that period. For claims of more than $50,000, the contractor shall certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of his knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the contractor believes the government is liable.

(2) A contracting officer shall, within sixty days of receipt of a submitted certified claim over $50,000—

(A) issue a decision; or

(B) notify the contractor of the time within which a decision will be issued.

(3) The decision of a contracting officer on submitted claims shall be issued within a reasonable time, in accordance with regulations promulgated by the agency, taking into account such factors as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the contractor.

(4) A contractor may request the agency board of contract appeals to direct a contracting officer to issue a decision in a specified period of time, as determined by the board, in the event of undue delay on the part of the contracting officer.

(5) Any failure by the contracting officer to issue a decision on a contract claim within the period required will be deemed to be a decision by the contracting officer denying the claim and will authorize the commencement of the appeal or suit on the claim as otherwise provided in this Act. However, in the event an appeal or suit is so commenced in the absence of a prior decision by the contracting officer, the tribunal concerned may, at its option, stay the proceedings to obtain a decision on the claim by the contracting officer.

CONTRACTOR'S RIGHT OF APPEAL TO BOARD OF CONTRACT APPEALS

SEC. 7. Within ninety days from the date of receipt of a contracting officer's decision under section 6, the contractor may appeal such decision to an agency board of contract appeals, as provided in section 8.

AGENCY BOARDS OF CONTRACT APPEALS

SEC. 8. (a)(1) Except as provided in paragraph (2) an agency board of contract appeals may be established within an executive agency when the agency head, after consultation with the Administrator, deter-

mines from a workload study that the volume of contract claims justifies the establishment of a full-time agency board of at least three members who shall have no other inconsistent duties. Workload studies will be updated at least once every three years and submitted to the Administrator.

(2) The Board of Directors of the Tennessee Valley Authority may establish a board of contract appeals for the Authority of an indeterminate number of members.

(b)(1) Except as provided in paragraph (2), the members of agency boards shall be selected and appointed to serve in the same manner as hearing examiners appointed pursuant to section 3105 of title 5 of the United States Code, with an additional requirement that such members have had not fewer than five years' experience in public contract law. Full-time members of agency boards serving as such on the effective date of this Act shall be considered qualified. The chairman and vice chairman of each board shall be designated by the agency head from members so appointed. The chairman of each agency board shall receive compensation at a rate equal to that paid a GS–18 under the General Schedule contained in section 5332, United States Code, the vice chairman shall receive compensation at a rate equal to that paid a GS–17 under such General Schedule, and all other members shall receive compensation at a rate equal to that paid a GS–16 under such General Schedule. Such positions shall be in addition to the number of positions which may be placed in GS–16, GS–17, and GS–18 of such General Schedule under existing law.

(2) The Board of Directors of the Tennessee Valley Authority shall establish criteria for the appointment of members to its agency board of contract appeals established in subsection (a)(2), and shall designate a chairman of such board. The chairman of such board shall receive compensation at a rate equal to the daily rate paid a GS–18 under the General Schedule contained in section 5332, United States Code for each day he is engaged in the actual performance of his duties as a member of such board. All other members of such board shall receive compensation at a rate equal to the daily rate paid a GS–16 under such General Schedule for each day they are engaged in the actual performance of thier duties as members of such board.

(c) If the volume of contract claims is not sufficient to justify an agency board under subsection (a) or if he otherwise considers it appropriate, any agency head shall arrange for appeals from decisions by contracting officers of his agency to be decided by a board of contract appeals of another executive agency. In the event an agency head is unable to make such an arrangement with another agency, he shall submit the case to the Administrator for placement with an agency board. The provisions of this subsection shall not apply to the Tennessee Valley Authority.

(d) Each agency board shall have jurisdiction to decide any appeal from a decision of a contracting officer (1) relative to a contract made by its agency, and (2) relative to a contract made by any other agency when such agency or the Administrator has designated the agency board to decide the appeal. In exercising this jurisdiction, the agency board is authorized to grant any relief that would be available to a litigant asserting a contract claim in the Court of Claims.

(e) An agency board shall provide to the fullest extent practicable, informal, expeditious, and inexpensive resolution of disputes, and shall issue a decision in writing or take other appropriate action on each appeal submitted, and shall mail or otherwise furnish a copy of the decision to the contractor and the contracting officer.

(f) The rules of each agency board shall include a procedure for the accelerated disposition of any appeal from a decision of a contracting officer where the amount in dispute is $50,000 or less. The accelerated procedure shall be applicable at the sole election of only the contractor. Appeals under the accelerated procedure shall be resolved, whenever possible, within one hundred and eighty days from the date the contractor elects to utilize such procedure.

(g)(1) The decision of an agency board of contract appeals shall be final, except that—

(A) a contractor may appeal such a decision to the Court of Claims within one hundred twenty days after the date of receipt of a copy of such decision, or

(B) the agency head, if he determines that an appeal should be taken, and with the prior approval of the Attorney General, transmits the decision of the board of contract appeals to the United States Court of Claims for judicial review, under section 2510 of title 28, United States Code, as amended herein, within one hundred and twenty days from the date of the agency's receipt of a copy of the board's decision.

(2) Notwithstanding the provisions of paragraph (1), the decision of the board of contract appeals of the Tennessee Valley Authority shall be final, except that—

(A) a contractor may appeal such a decision to a United States district court pursuant to the provisions of section 1337 of title 28, United States Code within one hundred twenty days after the date of receipt of a copy of such decision, or

(B) The Tennessee Valley Authority may appeal the decision to a United States district court pursuant to the provisions of section 1337 of title 28, United States Code, within one hundred twenty days after the date of the decision in any case.

(h) Pursuant to the authority conferred under the Office of Federal Procurement Policy Act, the Administrator is authorized and directed, as may be necessary or desirable to carry out the provisions of this Act, to issue guidelines with respect to criteria for the establishment, functions, and procedures of the agency boards; (except for a board established by the Tennessee Valley Authority); and

(i) Within one hundred and twenty days from the date of enactment of this Act, all agency boards, except that of the Tennessee Valley Authority, of three or more full time members shall develop workload studies for approval by the agency head as specified in section 8(a)(1).

SMALL CLAIMS

SEC. 9. (a) The rules of each agency board board shall include a procedure for the expedited disposition of any appeal from a decision of a contracting officer where the amount in dispute is $10,000 or less. The small claims procedure shall be applicable at the sole election of the contractor.

(b) The small claims procedure shall provide for simplified rules of procedure to facilitate the decision of any appeal thereunder. Such appeals may be decided by a single member of the agency board with such concurrences as may be provided by rule or regulation.

(c) Appeals under the small claims procedure shall be resolved, whenever possible, within one hundred twenty days from the date on which the contractor elects to utilize such procedure.

(d) A decision against the Government or the contractor reached under the small claims procedure shall be final and conclusive and shall not be set aside except in cases of fraud.

(e) Administrative determinations and final decisions under this section shall have no value as precedent for future cases under this Act.

(f) The Administrator is authorized to review at least every three years, beginning with the third year after the enactment of the Act, the dollar amount defined in section 9(a) as a small claim, and based upon economic indexes selected by the Administrator adjust that level accordingly.

ACTIONS IN COURT: JUDICIAL REVIEW OF BOARD DECISIONS

SEC. 10. (a)(1) Except as provided in paragraph (2), and in lieu of appealing the decision of the contracting officer under section 6 to an agency board, a contractor may bring an action directly on the claim in the United States Court of Claims, notwithstanding any contract provision, regulation, or rule of law to the contrary.

(2) In the case of an action against the Tennessee Valley Authority, the contractor may only bring an action directly on the claim in a United States district court pursuant to section 1337 of title 28, United States Code, notwithstanding any contract provision, regulation, or rule of law to the contrary.

(3) Any action under paragraph (1) or (2) shall be filed within twelve months from the date of the receipt by the contractor of the decision of the contracting officer concerning the claim, and shall proceed de novo in accordance with the rules of the appropriate court.

(b) In the event of an appeal by a contractor or the Government from a decision of any agency board pursuant to section 8, notwithstanding any contract provision, regulation, or rules of law to the contrary, the decision of the agency board on any question of law shall not be final or conclusive, but the decision on any question of fact shall be final and conclusive and shall not be set aside unless the decision is fraudulent, or arbitrary, or capricious, or so grossly erroneous as to necessarily imply bad faith, or if such decision is not supported by substantial evidence.

(c) In any appeal by a contractor or the Government from a decision of an agency board pursuant to section 8, the court may render an opinion and judgment and remand the case for further action by the agency board or by the executive agency as appropriate, with such direction as the court considers just and proper, or, in its discretion and in lieu of remand it may retain the case and take such additional evidence or action as may be necessary for final disposition of the case.

(d) If two or more suits arising from one contract are filed in the Court of Claims and one or more agency boards, for the convenience of parties or witnesses or in the interest of justice, the Court of Claims may order the consolidation of such suits in that court or transfer any suits to or among the agency boards involved.

(e) In any suit filed pursuant to this Act involving two or more claims, counterclaims, cross-claims, or third-party claims, and where a portion of one such claim can be divided for purposes of decision or judgment, and in any such suit where multiple parties are involved, the court, whenever such action is appropriate, may enter a judgment as to one or more but fewer than all of the claims, portions thereof, or parties.

SUBPENA, DISCOVERY, AND DEPOSITION

SEC. 11. A member of an agency board of contract appeals may administer oaths to witnesses, authorize depositions and discovery proceedings, and require by subpena the attendance of witnesses, and production of books and papers, for the taking of testimony or evidence by deposition or in the hearing of an appeal by the agency board. In case of contumacy or refusal to obey a subpena by a person who resides, is found, or transacts business within the jurisdiction of a United States district court, the court, upon application of the agency board through the Attorney General, or upon application by the board of contract appeals of the Tennessee Valley Authority, shall have jurisdiction to issue the person an order requiring him to

appear before the agency board or a member thereof, to produce evidence or to give testimony, or both. Any failure of any such person to obey the order of the court may be punished by the court as a contempt thereof.

INTEREST

SEC. 12. Interest on amounts found due contractors on claims shall be paid to the contractor from the date the contracting officer receives the claim pursuant to section 6(a) from the contractor until payment thereof. The interest provided for in this section shall be paid at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41 (85 Stat. 97) for the Renegotiation Board.

APPROPRIATIONS

SEC. 13. (a) Any judgment against the United States on a claim under this Act shall be paid promptly in accordance with the procedures provided by section 1302 of the Act of July 27, 1956, (70 Stat. 694, as amended; 31 U.S.C. 724a).

(b) Any monetary award to a contractor by an agency board of contract appeals shall be paid promptly in accordance with the procedures contained in subsection (a) above.

(c) Payments made pursuant to subsections (a) and (b) shall be reimbursed to the fund provided by section 1302 of the Act of July 27, 1956, (70 Stat. 694, as amended; 31 U.S.C. 724a) by the agency whose appropriations were used for the contract out of available funds or by obtaining additional appropriations for such purposes.

(d)(1) Notwithstanding the provisions of subsection (a) through (c), any judgment against the Tennessee Valley Authority on a claim under this Act shall be paid promptly in accordance with the provisions of section 9(b) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831(h)).

(2) Notwithstanding the provisions of subsection (a) through (c), any monetary award to a contractor by the board of contract appeals for the Tennessee Valley Authority shall be paid in accordance with the provisions of section 9(b) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831(h)).

AMENDMENTS AND REPEALS

SEC. 14. (a) The first sentence of section 1346(a)(2) of title 28, United States Code, is amended by inserting before the period a comma and the following: "except that the district courts shall not have jurisdiction of any civil action or claim against the United States founded upon any express or implied contract with the United States or for liquidated or unliquidated damages in cases not sounding in tort which are subject to sections 8(g)(1) and 10(a)(1) of the Contract Disputes Act of 1978".

(b) Section 2401(a) of title 28, United States Code, is amended by striking out "Every" at the beginning and inserting in lieu thereof "Except as provided by the Contract Disputes Act of 1978, every".

(c) Section 1302 of the Act of July 27, 1956, as amended (70 Stat. 694, as amended; 31 U.S.C. 724a), is amended by adding after "2677 of title 28" the words "and decisions of boards of contract appeals".

(d) Section 2414 of title 28, United States Code, is amended by striking out "Payment" at the beginning and inserting in lieu thereof "Except as provided by the Contract Disputes Act of 1978, payment".

(e) Section 2517(a) of title 28, United States Code, is amended by striking out "Every" at the beginning and inserting in lieu thereof "Except as provided by the Contract Disputes Act of 1978, every".

(f) Section 2517(b) of title 28, United States Code, is amended by inserting after "case or controversy" the following: ", unless the judgment is designated a partial judgment, in which event only the matters described therein shall be discharged,".

(g) There shall be added to subsection (c) of section 5108 of title 5, United States Code, a paragraph (17) reading as follows:

"(17) the heads of executive departments or agencies in which boards of contract appeals are established pursuant to the Contract Disputes Act of 1978, and subject to the standards and procedures prescribed by this chapter, but without regard to subsection (d) of this section, may place additional positions, not to exceed seventy in number, in GS-16, GS-17, and GS-18 for the independent quasi-judicial determination of contract disputes, with the allocation of such positions among such executive departments and agencies determined by the Administrator for Federal Procurement Policy on the basis of relative case load."

(h)(1) Section 2510 of title 28, United States Code, is amended by—

(A) inserting "(a)" immediately before such section; and

(B) adding the following new subsection at the end thereof:

"(b)(1) The head of any executive department or agency may, with the prior approval of the Attorney General, refer to the Court of Claims for judicial review any final decision rendered by a board of contract appeals pursuant to the terms of any contract with the United States awarded by that department or agency which such head of such department or agency has concluded is not entitled to finality pursuant to the review standards specified in section 10(b) of the Contracts Disputes Act of 1978. The head of each executive department or agency shall make any referral under this section within one hundred and twenty days of the receipt of a copy of the final appeal decision.

"(2) The Court of Claims shall review the matter referred in accordance with the standards specified in section 10(b) of the Contracts Disputes Act of 1978. The Court shall proceed with judicial review on the administrative record made before the board of contract appeals on matters so referred as in other cases pending in such court, shall determine the issue of finality of the appeal decision, and shall, as appropriate, render judgment thereon, take additional evidence, or remand the matter pursuant to the authority specified in section 1491 of this title.".

(2)(A) The section heading of such section is amended to read as follows:

"§ 2510. Referral of cases by the Comptroller General or the head of an executive department or agency.".

(B) The item relating to section 2510 in the table of sections for chapter 165 of title 28, United States Code, is amended to read as follows:

"2510. Referral of cases by the Comptroller General or the head of an executive department or agency.".

(i) Section 1491 of title 28, United States Code, is amended by adding the following sentence at the end of the first paragraph thereof: "The Court of Claims shall have jurisdiction to render judgment upon any claim by or against, or dispute with, a contractor arising under the Contract Disputes Act of 1978.".

SEVERABILITY CLAUSE

SEC. 15. If any provision of this Act, or the application of such provision to any person or circumstances, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

EFFECTIVE DATE OF ACT

SEC. 16. This Act shall apply to contracts entered into one hundred twenty days after the date of enactment. Notwithstanding any provision in a contract made before the effective date of this Act, the contractor may elect to proceed under this Act with respect to any claim pending then before the contracting officer or initiated thereafter.

Mr. DANIELSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. YATES. Mr. Speaker, reserving the right to object, I do so to ask the gentleman from California what this bill does.

Mr. DANIELSON. Mr. Speaker, if the gentleman will yield, the Senate amendment to this bill simply reinstates existing law on the burden of proof on an appeal from a contract disptue.

Mr. YATES. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California to dispense with further reading?

Mr. KINDNESS. Mr. Speaker, further reserving the right to object, would the gentleman from California agree that the workmanship in the bill passed by the other body perhaps does not measure up to the workmanship of the bill that came out of the gentleman's subcommittte, but that indeed it is a step in the right direction, and while failing in some respects to be quite such a perfect product, we are at that point in the legislative session when it is necessary to move ahead with what we have that the other body has already adopted, and he would recommend the agreement to his request on the basis that maybe it is not as perfect but it is very close to what needs to be done?

Mr. DANIELSON. Mr. Speaker, I agree with the gentleman's statement and urge adoption of the measure.

Mr. HARRIS. Mr. Speaker will the gentleman yield?

Mr. KINDNESS. Mr. Speaker, I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Speaker, I agree with the gentleman's comments. This offers a statutory basis for the resolution of contract disputes. I compliment the gentleman on the work done by the committee and I am pleased to join with him in asking for the granting of this unanimous-consent request tonight.

Mr. KINDNESS. Mr. Speaker, I agree with the gentleman from Virginia and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California to dispense with further reading?

There was no objection.

The SPEAKER. Is there objection to the first request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 3084, HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978

Mr. ASHLEY submitted the following conference report and statement on the Senate bill (S. 3084) to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95-1792)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3084) to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Housing and Community Development Amendments of 1978".

TITLE I—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION

REHABILITATION LOANS AND LOAN INSURANCE

SEC. 101. (a) Section 312 of the Housing Act of 1964 is amended—

(1) by striking out the undesignated paragraph which follows subsection (a)(3) and inserting in lieu thereof the following new undesignated paragraph:

"The Secretary shall, in making loans under this section, give priority to applications by low and moderate income persons who own the property to be rehabilitated and will occupy such property upon completion of the rehabilitation, including applications by condominiums and cooperatives in which the residents are principally of low and modern income. For the purpose of the preceding sentence, the term 'low and moderate income' means income which does not exceed 95 per centum of the median income for the area.";

(2) by striking out subsection (c)(3) and inserting in lieu thereof the following:

"(3) The loan shall bear interest at such rate as the Secretary determines to be appropriate, but not to exceed 3 per centum per annum for loans to families with adjusted incomes of not more than 80 per centum of the median income for the area. For loans to families with adjusted incomes above 80 per centum of the median income for the area, as determined by the Secretary, the Secretary may establish interest rates based on adjusted family income, ranging from above 3 per centum to a rate determined by the Secretary, but in no case may any such rate exceed the current average market yield on outstanding marketable securities of the United States with remaining periods to maturity comparable to the terms of loans made pursuant to this section, adjusted to the nearest one-eighth of 1 per centum. The Secretary may prescribe such other charges adequate in the judgment of the Secretary to cover administrative costs and possible losses under the program.";

(3) by inserting the following before the semicolon at the end of subsection (c)(4)(A): ", or if such refinancing is deemed necessary by the Secretary to minimize displacement of existing tenants of a multifamily property";

(4) by striking out "$50,000" in subsection (c)(4)(B) and inserting in lieu thereof "$100,000";

(5) by striking out "and not to exceed $60,000,000 for the fiscal year beginning on October 1, 1977" in subsection (d) and inserting in lieu thereof "not to exceed $60,000,000 for the fiscal year beginning on October 1, 1977, and not to exceed $245,000,000 for the fiscal year beginning on October 1, 1978";

(6) by adding at the end of subsection (d) the following: "Of the amounts available for loans under this section during the fiscal year beginning October 1, 1978, the Secretary may utilize not more than $60,000,000 for rehabilitation loans for multifamily properties."; and

(7) by adding at the end thereof the following new subsection:

"(i) The Secretary may not, after 270 days following the date of the enactment of this subsection, make any loan under this section with respect to any property unless the Secretary has determined that the improvements to such property, upon completion of the rehabilitation, will meet cost-effective energy conservation standards prescribed by the Secretary.".

(b) Section 312 of such Act is amended by adding at the end thereof the following:

"(i) Rehabilitation loans under this section for multifamily properties shall be subject to the following additional limitations and conditions:

"(1) The property must meet the requirements of subsection (a) and—

"(A) be located in a low- or moderate-income neighborhood; or

"(B) have a majority of tenants of low and moderate income

All such loans must be consistent with an overall community development strategy developed pursuant to title I of the Housing and Community Development Act of 1974.

"(2) The property must have fewer than 100 units, except where the Secretary determines that a loan under this section is essential to meet the community development needs of a neighborhood and alternative sources of financing are not available.

"(3) The Secretary shall enter into an agreement with the investor-owner of a multifamily property which is to be rehabilitated with a loan under this section to limit, for a period of at least five years, the increased rent caused by the rehabilitation.

"(4) The Secretary shall minimize involuntary displacement caused by rehabilitation loans under this section with respect to multifamily properties.

"(j) In conjunction with the annual report required under section 113(a) of the Housing and Community Development Act of 1974, the Secretary shall submit to the Congress a report on the rehabilitation loan program under this section. Such report shall include a summary of the use of funds under this section, particularly with regard to the types of neighborhoods and persons aided under this section, and an evaluation of progress made toward community development goals under this section. As soon as feasible, but not later than December 1, 1979, the Secretary shall submit to Congress an interim report evaluating the use of funds under this section for multifamily properties, with legislative recommendations for improving the overall effectiveness of Federal assistance for the rehabilitation of multifamily properties.".

(c)(1) Section 203(k) of the National Housing Act is amended to read as follows:

"(k)(1) The Secretary may, in order to assist in the rehabilitation of one- to four-family structures used primarily for residential purposes, insure and make commitments to insure rehabilitation loans (including advances made during rehabilitation) made by financial institutions on and after 180 days following the date of the enactment of the Housing and Community Development Amendments of 1978. Such commitments to insure and such insurance shall be made upon such terms and conditions which the Secretary may prescribe and which are consistent with the provisions of subsections (b), (c), (e), (i), and (j) of this section, except as modified by the provisions of this subsection.

"(2) For the purpose of this subsection—

"(A) the term 'rehabilitation loan' means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit, made for the purpose of financing—

"(i) the rehabilitation of an existing one- to four-unit structure which will be used primarily for residential purposes;

"(ii) the rehabilitation of such a structure and the refinancing of the outstanding indebtedness on such structure and the real property on which the structure is located; or

"(iii) the rehabilitation of such a structure and the purchase of the structure and the real property on which it is located; and

"(B) the term 'rehabilitation' means the improvement (including improvements designed to meet cost-effective energy conservation standards prescribed by the Secretary) or repair of a structure, or facilities in connection with a structure, and may include the provision of such sanitary or other facilities as are required by applicable codes, a community development plan, or a statewide property insurance plan to be provided by the owner or tenant of the project.

"(3) To be eligible for insurance under this subsection, a rehabilitation loan shall—

"(A) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount which does not exceed, when added to any outstanding indebtedness of the borrower which is secured by the structure and the property on which it is located, the amount specified in subsection (b)(2); except that, in determining the amount of the principal obligation for purposes of this subsection, the Secretary shall establish as the appraised value of the property and amount not to exceed the sum of the estimated cost of rehabilitation and the Secretary's estimate of the value of the property before rehabilitation;

"(B) bear interest at a rate permitted by the Secretary for mortgages insured under this section; except that the Secretary may permit a higher rate of interest to be applied to the loan with respect to the period beginning with the making of the loan and ending with the completion of the rehabilitation or such earlier time as the Secretary may determine;

"(C) be an acceptable risk, as determined by the Secretary; and

"(D) comply with such other terms, conditions, and restrictions as the Secretary may prescribe.

"(4) Any rehabilitation loan insured under this subsection may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional amount or term which exceeds the maximum provided for in this subsection.

"(5) All funds received and all disbursements made pursuant to the authority established by this subsection shall be credited or charged, as appropriate, to the General Insurance Fund, and insurance benefits shall be paid in cash out of such Fund or in debentures executed in the name of such Fund. Insurance benefits paid with respect to loans insured under this subsection shall be paid in accordance with paragraphs (6) and (7) of section 220(h), except that any reference to 'this subsection' in such paragraphs shall be construed as referring to this subsection.".

(2) Section 203(c) of such Act is amended—

(A) by striking out "subsection (n) is" in the first proviso and inserting in lieu thereof "subsections (n) and (k) are"; and

(B) by inserting "or (k)" after "subsection (n)" the second time it appears in such proviso.

(3) The proviso in the first sentence of section 302(b)(1) of such Act is amended by inserting "or section 203(k)" after "title VIII" in clause (3).

URBAN HOMESTEADING

SEC. 102. (a) Section 810(f) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting "and the Administrator of Veterans' Affairs" after "Secretary" the first place it appears; and

(2) by inserting "or the Administrator" after "Secretary" the second place it appears.

(b) The first sentence of section 810(g) of such Act is amended—

(1) by striking out "and" immediately following "fiscal year 1977,"; and

(2) by inserting the following before the period at the end thereof: ", and not to extend $26,000,000 for the fiscal year 1979".

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM AMENDMENTS

SEC. 103. (a) Section 104(a)(4)(A) of the Housing and Community Development Act of 1974 is amended by inserting "owners of homes requiring rehabilitation assistance," after "large families,".

(b) Section 104(a)(4)(B)(i) of such Act is amended by inserting "including existing rental and owner occupied dwelling units to be upgraded and thereby preserved," after "existing dwelling units,".

(c) Section 104(a) of such Act is amended by inserting after "expected to reside in the community" in paragraphs (3)(C) and (4)(A) the following: " "as a result of existing or projected employment opportunities in the community (and those elderly persons residing in or expected to reside in the community), or as estimated in a community accepted State or regional housing opportunity plan approved by the Secretary,".

(d) Section 104(c) of such Act is amended by adding the following new sentence at the end thereof: "The Secretary may not disapprove an application on the basis that such application addresses any one of the primary purposes described in paragraph (3) to a greater or lesser degree than any other, except that such application may be disapproved if the Secretary determines that the extent to which a primary purpose is addressed is plainly inappropriate to meeting the needs and objectives which are consistent with the community's efforts to achieve the primary objective of this title.".

(e) Section 105(a)(11) of such Act is amended to read as follows:

"(11) relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate to the community development program;".

(f) The last sentence of section 107(a)(8) of such Act is amended to read as follows: "The Secretary may also provide, directly or through contracts, technical assistance under this paragraph to such governmental units, or to a group designated by such a governmental unit for the purpose of assisting that governmental unit to carry out its Community Development Program.".

(g) Section 119(c) of such Act is amended—

(1) by striking out "and" at the end of clause (4);

(2) by striking out the period at the end of clause (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(6) include a statement analyzing the impact of the proposed urban development action program on the residents, particularly those of low and moderate income, of the residential neighborhood, and on the neighborhood, in which the program is to be located.".

(h) Section 119(e) of such Act is amended by inserting before "and feasibility" the following: "impact of the proposed urban development action program on the residents, particularly those of low and moderate income, of the residential neighborhood, and on the neighborhood, in which the program is to be located;".

(i) Title I of such Act is amended by adding at the end thereof the following new section:

"FAIR PARTICIPATION FOR SMALL COMMUNITIES

"SEC. 120. No community shall be barred from participating in any program authorized under this title solely on the basis of population, except as expressly authorized by statute.".

EFFECTIVE DATE

SEC. 104. The amendments made by this title shall become effective October 1, 1978.

TITLE II—HOUSING ASSISTANCE PROGRAMS

OPERATING ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS

SEC. 201. (a) The purposes of this section are to provide assistance to restore or maintain the financial soundness, to assist in the improvement of the management, and to maintain the low- to moderate-income character of certain projects assisted or approved for assistance under the National Housing Act or under the Housing and Urban Development Act of 1965.

(b) The Secretary of Housing and Urban Development (hereinafter referred to in this section as the "Secretary") may make available, and contract to make available, to such extent and in such amounts as may be approved in appropriation Acts, financial assistance to owners of rental or cooperative housing projects meeting the requirements of this section. Such assistance shall be made on an annual basis and in accordance with the provisions of this section.

(c) A rental or cooperative housing project is eligible for assistance under this section only if such project—

(1)(A) is assisted under section 236 or the proviso of section 21(d)(5) of the National Housing Act, or under section 101 of the Housing and Urban Development Act of 1965; except that, in the case of any such project which is not insured under the National Housing Act such assistance may not be provided before October 1, 1979; or

(B) met the criteria specified in subparagraph (A) of this paragraph before the acquisition of such project by the Secretary and has been sold by the Secretary, subject to a mortgage insured or held by the Secretary and subject to an agreement (in effect during the period of assistance under this section) which provides that the low- and moderate-income character of the project will be maintained; except that, with respect to projects sold after October 1, 1978, assistance shall be available for a period not to exceed three years; and

(2) meets such other requirements consistent with the purposes of this section as the Secretary may prescribe.

(d) No assistance may be made available under this section unless the Secretary has determined that—

(1) such assistance, when considered with other resources available to the project, is necessary and, in the determination of the Secretary, will restore or maintain the financial soundness of the project and maintain the low- and moderate-income character of the project;

(2) the assistance which could reasonably be expected to be provided over the useful life of the project will be less costly to the Federal Government than other reasonable alternatives by which the Secretary could maintain the low- and moderate-income character of the project;

(3) the owner of the project, together with the mortgagee in the case of a project not insured under the National Housing Act, has provided or has agreed to provide assistance to the project in such manner as the Secretary may determine;

(4) the project is or can reasonably be made structurally sound, as determined on the basis of information obtained as a result of an onsite inspection of the project;

(5) the management of the project is being conducted by persons who meet minimum levels of competency and experience prescribed by the Secretary; and

(6) the project is being operated and managed in accordance with a management-improvement-and-operating plan which is designed to reduce the operating costs of the project, which has been approved by the Secretary, and which includes the following: (A) a detailed maintenance schedule; (B) a schedule for correcting past deficiencies in maintenance, repairs, and replacements; (C) a plan to upgrade the project to meet cost-effective energy efficiency standards prescribed by the Secretary; (D) a plan to improve financial and management control systems; (E) a detailed annual operating budget taking into account such standards for operating cost in the area as may be determined by the Secretary; and (F) such other requirements as the Secretary may determine.

(e) Prior to making assistance available to a project, the Secretary shall consult with the appropriate officials of the unit of local government in which such project is located and seek assurances that—

(1) the community in which the project is located is or will provide essential services to the project in keeping with the community's general level of such services;

(2) the real estate taxes on the project are or will be no greater than would be the case if the property were assessed in a manner consistent with normal property assessment procedures for the community; and

(3) assistance to the project under this section would not be inconsistent with local plans and priorities.

(f)(1) The Secretary may, with respect to any year, provide assistance under this section, and make commitments to provide such assistance, with respect to any project in any amount which the Secretary determines is consistent with the project's management-improvement and operating plan described in subsection (d)(6) and which does not exceed the sum of—

(A) an amount determined by the Secretary to be necessary to correct deficiencies in the project which exist at the beginning of the first year with respect to which assistance is made available for the project under this section, which were caused by the deferral of regularly scheduled maintenance and repairs or the failure to make necessary and timely replacements of equipment and other components of the project, and for which payment has not previously been made;

(B) an amount determined by the Secretary to be necessary to maintain the low- and moderate-income character of the project by reducing deficiencies, which exist at the beginning of the first year with respect to which assistance is made available for the project under this section and for which payment has not previously been made, in the reserve funds established by the project owner for the purpose of replacing capital items; and

(C) an amount not greater than the amount by which the estimated operating expenses (as described in paragraph (2) of this subsection) for the year with respect to which such assistance is made available exceeds the estimated revenues to be received (as described in paragraph (2) of this subsection) by the project during such year.

(2) The estimated revenues for any project under paragraph (1)(C) of this subsection with respect to any year shall be equal to the sum of—

(A) the estimated amount of rent which is to be expended by the tenants of such project during such year, as determined by the Secretary without regard to section 236(f)(1) of the National Housing Act;

(B) the estimated amount of rental assistance payments to be made on behalf of such tenants during such year, other than assistance made under this section;

(C) the estimated amount of assistance payments to be made on behalf of the owner of such project under section 221(d)(5) or section 236 of the National Housing Act during such year; and

(D) other income attributable to the project as determined by the Secretary;

except that—

(E) in computing the estimated amount of rent to be expended by tenants, the Secretary shall provide that (i) at least 25 percent (or such lesser percentage as is provided for under any other Federal housing assistance program in which such tenant is participating) of the income of each such tenant is included, or (ii) in the case of a tenant paying his or her own utilities, a percentage of income which is less than 25 percent and which takes into account the reasonable costs of such utilities; except that no amount shall be provided for any tenant under clause (i) or (ii) which exceeds the fair market rental charge as determined pursuant to section 236(f)(1) of the National Housing Act for such tenant; and

(F) in computing the estimated amount of rent to be expended by tenants and the estimated amount of rental assistance payments to be made on behalf of such tenants, the Secretary may permit a delinquency-and-vacancy allowance of not more than 6 per centum of the estimated amount of such rent and payments computed without regard to such allowance; except that, with respect to the first three years in which assistance is provided to a project under this section, the Secretary may permit such allowance for such project to exceed such 6 percent by an amount which the Secretary determines is appropriate to carry out the purposes of this section.

For purposes of computing estimated operating expenses of any such project with respect to any year, the Secretary shall include all estimated operating costs which the Secretary determines to be necessary and consistent with the management-improvement-and-operating plan for the project for such year, including, but not limited to, taxes, utilities, maintenance and repairs (except for maintenance and repairs which should have been performed in previous years), management, insurance, debt service, and payments made by the owner for the purpose of establishing or maintaining a reserve fund for replacement costs. The Secretary may not include in such estimated operating expenses any return on the equity investment of the owner in such project.

(3) In order to carry out the purposes of this section, the Secretary may, notwithstanding the provisions of section 236(f)(1) of the National Housing Act, provide that, for purposes of establishing a rental charge under such section, there may be excluded from the computation of the cost of operating a project an amount equivalent to the amount equivalent to the amount of assistance payments made for the project under this section.

(4) Any assistance payments made pursuant to this section with respect to any project shall be made on an annual basis, payable at such intervals, but at least quarterly, as the Secretary may determine, and may be in any amount (which the Secretary determines to be consistent with the purpose of this section), except that the sum of such assistance payments for any year may not exceed the amount computed pursuant to paragraph (1) of this subsection. The Secretary shall review the operations of the project at the time of such payments to determine that such operations are consistent with the management-improvement-and-operating plan.

(g) The Secretary is authorized to issue such rules and regulations as may be necessary to carry out the provisions and purposes of this section, including regulations requiring the establishment of a project reserve or such other safeguards as the Secretary determines to be necessary for the financial soundness of any project for which assistance payments are provided.

(h) There is authorized to be appropriated, for the purpose of providing financial assistance under this section, an amount (in addition to any amount appropriated for use under this section pursuant to section 236(f)(3)(B) of the National Housing Act) not to exceed $74,000,000 for the fiscal year 1979. Any amounts appropriated under this section shall remain available until expended.

(i) Effective October 1, 1978, section 236 of the National Housing Act is amended—

(1) in subsection (f)(3)—

(A) by inserting "(A)" after "(3)";

(B) by striking out "The" in the second sentence and inserting in lieu thereof "For each fiscal year prior to the fiscal year 1979, the"; and

(C) by adding at the end thereof the following:

"(B) The Secretary shall utilize amounts credited to the fund described in subsection (g) on or after October 1, 1978, for the sole purpose of carrying out the purposes of section 201 of the Housing and Community Development Amendments of 1978. No payments may be made from such fund unless approved in an appropriation Act. No amount may be so approved for any fiscal year beginning after September 30, 1979."; and

(2) by striking out the third and fourth sentences of subsection (g).

TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS

SEC. 202. (a) The purpose of this section is to recognize the importance and benefits of cooperation and participation of tenants in creating a suitable living environment in multifamily housing projects and in contributing to the successful operation of such projects, including their good phsyical condition, proper maintenance, security, energy efficiency, and control of operating costs. For the purpose of this section, the term "multifamily housing project" means a project which is eligible for assistance as described in section 201(c) of this Act.

(b) The Secretary shall assure that—

(1) where the Secretary's written approval is required with respect to an owner's action and the Secretary deems it appropriate, tenants have adequate notice of, reasonable access to relevant information about, and an opportunity to comment on such actions (and in the case of a project owned by the Secretary, any proposed disposition of the project) and that such comments are taken into consideration by the Secretary;

(2) project owners not interfere with the efforts of tenants to obtain rent subsidies or other public assistance;

(3) leases approved by the Secretary provide that tenants may not be evicted without good cause or without adequate notice of the reasons therefor and do not contain unreasonable terms and conditions; and

(4) project owners do not impede the reasonable efforts of tenants to organize.

(c) The Secretary shall promulgate regulations to carry out the provisions of this section not later than 90 days after the date of enactment of his Act.

MANAGEMENT AND PRESERVATION OF HUD-OWNED MULTIFAMILY HOUSING PROJECTS

SEC. 203. (a) It is the policy of the United States that the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall manage and dispose of multifamily housing projects which are owned by the Secretary in a manner consistent with the National Housing Act and this section. The purpose of the property management and disposition program of the Department of Housing and Urban Development shall be to manage and dispose of projects in a manner which will protect the financial interests of the Federal Government and be less costly to the Federal Government than other reasonable alternatives by which the Secretary can further the goals of—

(1) preserving the housing units so that they can remain available to and affordable by low- and moderate-income families;

(2) preserving and revitalizing residential neighborhoods;

(3) maintaining the existing housing stock in a decent, safe, and sanitary condition;

(4) minimizing the involuntary displacement of tenants; and

(5) minimizing the need to demolish projects. The Secretary, in determining the manner by which a project shall be managed or disposed of, may balance competing goals relating to individual projects in a manner which will further the achievement of the overall purpose of this section.

(b) The Secretary is authorized, in carrying out this section—

(1) to dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low- and moderate-income character of the project and the requirements of subsection (a) of this section, to a purchaser determined by the Secretary to be capable of (A) satisfying the conditions of the disposition; (B) implementing a sound financial and physical management program; (C) responding to the needs of the tenants and working cooperatively with resident organizations; (D) providing adequate organizational, staff and financial resources to the project; and (E) meeting such other requirements as the Secretary may determine; and

(2) to contract for management services for a multifamily housing project, owned by the Secretary, on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of (A) implementing a sound financial and physical management program, (B) responding to the needs of the tenants and working cooperatively with resident organizations, (C) providing adequate organizational, staff, and other resources to implement a management program determined by the Secretary, and (D) meeting such other requirements as the Secretary may determine.

(c) Except where the Secretary has determined on a case-by-case basis that it would be clearly inappropriate, given the manner by which an individual project is to be managed or disposed of pursuant to subsection (a) of this section, the Secretary shall seek to—

(1) maintain all occupied multifamily housing projects owned by the Secretary in a decent, safe, and sanitary condition; and

(2) to the greatest extent possible, maintain full occupancy in all multifamily housing projects owned by the Secretary.

(d)(1) Whenever tenants will be displaced as a result of the disposition of, or repairs to, a multifamily housing project owned by the Secretary, the Secretary shall identify tenants who will be displaced, and shall notify all such tenants of their pending displacement and of any relocation assistance which may be available.

(2) The Secretary shall seek to assure the maximum opportunity for any such tenant—

(A) to return, whenever possible, to a repaired unit;

(B) to occupy a unit in another multifamily housing project owned by the Secretary;

(C) to obtain housing assistance under the United States Housing Act of 1937; or

(D) to receive any other available relocation assistance as the Secretary determines to be appropriate.

(e) Notwithstanding any other provision of law, whenever the Secretary is requested to accept assignment of a mortgage insured by the Secretary which covers a multifamily housing project, and the Secretary determines that partial payment would be less costly to the Federal Government than other reasonable alternatives for maintain-

ing the low- and moderate-income character of the project, the Secretary may request the mortgagee in lieu of assignment, to accept partial payment of the claim under the mortgage insurance contract and to recast the mortgage, under such terms and conditions as the Secretary may determine. As a condition to a partial claim payment under this section, the mortgagor shall agree to repay to the Secretary the amount of such payment and such obligation shall be secured by a second mortgage on the property on such terms and conditions as the Secretary may determine.

(f) For the purpose of this section, the term "multifamily housing project" means a multifamily project which is, or prior to acquisition by the Secretary was, assisted under section 236, the proviso of section 221(d)(5) of the National Housing Act, or section 101 of the Housing and Urban Development Act of 1965, and which is insured under the National Housing Act.

(g) The Secretary shall issue such rules and regulations as may be necessary to carry out the provisions of this section within 90 days after the date of enactment of this Act.

HOUSING ACCESS

SEC. 204. The Secretary shall require any purchaser of a multifamily housing project owned by the Secretary which is sold on or after October 1, 1978, to agree not to refuse unreasonably to lease a vacant dwelling unit in the project which rents for an amount not greater than the fair market rent for a comparable unit in the area as determined by the Secretary under section 8 of the United States Housing Act of 1937 to a holder of a certificate of eligibility under that section solely because of such prospective tenant's status as a certificate holder.

HOUSING FOR THE HANDICAPPED

SEC. 205. (a) Section 202 of the Housing Act of 1959 is amended by adding at the end thereof the following new subsection:

"(h) Of the amounts made available in appropriation Acts for loans pursuant to subsection (a)(4)(C) for the fiscal year commencing on October 1, 1978, not less than $50,000,000 shall be available for loans for the development of rental housing and related facilities specifically designed to meet the needs of handicapped (primarily nonelderly) persons. The Secretary shall take such steps as may be necessary to assure that—

"(1) funds made available pursuant to this subsection will be used to support innovative methods of meeting the needs of handicapped persons by providing a variety of housing options, ranging from small group homes to independent living complexes; and

"(2) housing and related facilities assisted under this subsection will provide handicapped persons occupying units within such housing with an assured range of services specified under subsection (f) and the opportunity for optimal independent living and participation in normal daily activities, and will facilitate access by such persons to the community at large and to suitable employment opportunities within such community.".

(b) The second sentence of section 202(a)(4)(C) of such Act is amended—

(1) by striking out "in any fiscal year" immediately after "under this section"; and

(2) by striking out "for such year" immediately after "authority established".

(c) Section 202(d)(3) of such Act is amended by inserting "the cost of moveables necessary to the basic operation of the project as determined by the Secretary," immediately after "related facilities,".

(d) Section 202(d)(2) of such Act is amended to read as follows:

"(2) The term 'corporation' means any incorporated private institution or foundation—

"(A) no part of the net earnings of which insures to the benefit of any member, founder, contributor, or individual;

"(B) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such project is located and (ii) which is responsible for the operation of the housing project assisted under this section; and

"(C) which is approved by the Secretary as to financial responsibility.".

LOW-INCOME HOUSING

SEC. 206. (a) Section 5(c) of the United States Housing Act of 1937 is amended—

(1) by striking out "and" immediately after "October 1, 1976," in the first sentence;

(2) by inserting immediately after "on October 1, 1977," in the first sentence the following: "and by $1,195,043,000 on October 1, 1978";

(3) by striking out the second and fourth sentences; and

(4) by inserting "and on and after October 1, 1978," immediately after "October 1, 1976," in the third sentence.

(b) Section 5(c) of such Act is amended by inserting after the fourth sentence the following: "Of the additional authority to enter into contracts for annual contributions provided on October 1, 1978, and approved in appropriation Acts, the Secretary shall make available not less than $50,000,000 for modernization of low-income housing projects.".

(c) Section 3(2)(D) of such Act is amended by striking out "10" in the first proviso and inserting in lieu thereof "15".

(d) (1) Section 8 of such Act is amended by adding at the end thereof the following new subsection.

"(i) In entering into contracts under this section with respect to substantially rehabilitated dwelling units, the Secretary shall provide that—

"(1) the maximum monthly rent permitted for the assisted units be not greater than the amount permitted under subsection (c) or a lesser amount which the Secretary determines is appropriate taking into consideration the investment of the owner in the assisted units and such other factors as the Secretary determines to be relevant;

"(2) the assisted units be rehabilitated to a level which meets but does not exceed applicable codes and standards for decent, safe, and sanitary housing which are prescribed by the Secretary;

"(3) all the dwelling units in the housing structure in which the assisted units are located meet applicable codes and standards prescribed by the Secretary for decent, safe, and sanitary housing;

"(4) the term of any such contract does not exceed the maximum term permitted under subsection (e)(1) or a shorter term which the Secretary determines is appropriate taking into consideration the amount of investment of the owner in the assisted units and such other factors as the Secretary determines to be relevant; and

"(5) the assisted units meet cost-effective energy efficiency standards prescribed by the Secretary.".

(2) The amendment made by this subsection shall become effective with respect to contracts entered into on or after 270 days following the date of enactment of this Act.

(e) Section 8(e) of such Act is amended by adding at the end thereof the following:

"(5) For the purpose of upgrading and thereby preserving the Nation's housing stock, the Secretary is authorized to make assistance payments under this section directly or through public housing agencies pursuant to contracts with owners or prospective owners who agree to upgrade housing so as to make and keep such housing decent, safe, and sanitary through upgrading which involves less than substantial rehabilitation, as such upgrading and rehabilitation are defined by the Secretary. The Secretary is authorized to prescribe such terms and conditions for contracts entered into under this section pursuant to this paragraph as the Secretary determines to be necessary and appropriate, except that such terms and conditions, to the maximum extent feasible, shall be consistent with terms and conditions otherwise applicable with respect to other dwelling units assisted under this section. The Secretary is also authorized to make assistance available under this section pursuant to this paragraph to any unit in a housing project which, on an overall basis, reflects the need for such upgrading.".

(f) Section 8 of such Act is amended by adding at the end thereof the following new subsection:

"(j)(1) The Secretary may enter into annual contributions contracts under this subsection for the purpose of assisting lower income families by making rental assistance payments with respect to real property on which is located a mobile home which is owned by any such family and utilized by such family as its principal place of residence. In carrying out this subsection, the Secretary may (A) enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make such assistance payments to the owners of such real property, or (B) enter into such contracts directly with the owners of such real property.

"(2) Contracts entered into pursuant to this subsection shall establish the maximum monthly rent (including maintenance and management charges) which the owner is entitled to receive for each space on which a mobile home is located and with respect to which assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically (but not less than annually) with respect to the market area for the rental of real property suitable for occupancy by families assisted under this subsection. The provisions of subsection (c)(2) of this section shall apply to the adjustments of maximum monthly rent under this subsection.

"(3) The amount of any monthly assistance payment with respect to any family assisted under this subsection shall be the difference between 25 per centum of one-twelfth of the annual income of such family and the sum of—

"(A) the monthly payment made by such family to amortize the cost of purchasing the mobile home;

"(B) monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and

"(C) the maximum monthly rent permitted with respect to the real property which is rented by such family for the purpose of locating its mobile home;

except that in no case may such assistance exceed the total amount of such maximum monthly rent.

"(4) Each contract entered into under this subsection shall be for a term of not less than one month and not more than 180 months.

"(5) The Secretary may prescribe other terms and conditions which are necessary for the purpose of carrying out the provisions of this subsection and which are consistent with the purposes of this subsection.".

(g) Section 9(c) of such Act is amended—

(1) by striking out "and" immediately following "on or after October 1, 1976,"; and

(2) by inserting immediately before the period at the end thereof the following: ", and not to exceed $729,000,000 on or after October 1, 1978".

(h) The amendments made by this section, except the amendment made by section (d), shall become effective on October 1, 1978.

PUBLIC HOUSING SECURITY

SEC. 207. (a) This section may be cited as the "Public Housing Security Demonstration Act of 1978".

(b) (1) The Congress finds that—

(A) low-income and elderly public housing residents of the Nation have suffered substantially from rising crime and violence, and are being threatened as a result of inadequate security arrangements for the prevention of physical violence, theft, burglary, and other crimes;

(B) older persons generally regard the fear of crime as the most serious problem in their lives, to the extent that one-fourth of all Americans over 65 voluntarily restrict their mobility because of it;

(C) crime and fear of crime have led some residents to move from public housing projects;

(D) an integral part of successfully providing decent, safe, and sanitary dwellings for low-income persons is to insure that the housing is secure;

(E) local public housing authorities may have inadequate security arrangements for the prevention of crime and vandalism; and

(F) action is needed to provide for the security of public housing residents and to preserve the Nation's investment in its public housing stock.

(2) It is, therefore, declared to be the policy of the United States to provide for a demonstration and evaluation of effective means of mitigating crime and vandalism in public housing projects, in order to provide a safe living environment for the residents, particularly the elderly residents, of such projects.

(c) (1) The Secretary of Housing and Urban Development shall promptly initiate and carry out during the fiscal year beginning on October 1, 1978, to the extent approved in appropriation Acts, a program for the development, demonstration, and evaluation of improved, innovative community anticrime and security methods, concepts and techniques which will mitigate the level of crime in public housing projects and their surrounding neighborhoods.

(2) In selecting public housing projects to receive assistance under this section, the Secretary shall assure that a broad spectrum of project types, locations and tenant populations are represented and shall consider at least the following: the extent of crime and vandalism currently existing in the projects; the extent, nature and quality of community anticrime efforts in the projects and surrounding areas; the extent, nature and quality of police and other protective services available to the projects and their tenants; the demand for public housing units in the locality, the vacancy rate, and extent of abandonment of such units; and the characteristics and needs of the public housing tenants.

(3) In selecting the anticrime and security methods, concepts and techniques to be demonstrated under this section, the Secretary shall consider the improvement of physical security equipment for dwelling units in those projects, social and environmental design improvements, tenant awareness and volunteer programs, tenant participation and employment in providing security services, and such other measures as deemed necessary or appropriate by the Secretary. Particular attention shall be given to comprehensive community anticrime and security plans submitted by public housing authorities which (i) provide for coordination between public housing management and local law enforcement officials, or (ii) coordinate resources available to the community through programs funded by the Law Enforcement Assistance Administration, the Department of Health, Education, and Welfare, the Department of Labor, the Community Services Administration, and ACTION, or other Federal or State agencies.

(4) In carrying out the provisions of this section, the Secretary shall coordinate and jointly target resources with other agencies, particularly the Law Enforcement Assistance Administration, the Department of Health, Education, and Welfare, the Department of Labor, the Community Services Administration, and ACTION.

(d) The Secretary shall initiate and carry out a survey of crime and vandalism existing in the Nation's public housing projects. The survey shall include the nature, extent and impact of crime and vandalism and the nature and extent of resources currently available and employed to alleviate crime and vandalism in public housing.

(e) The Secretary shall report to the Congress not later than eighteen months after the date of enactment of this Act. Such report shall include the results of the survey on crime and vandalism in public housing; findings from the demonstration and evaluation of various methods of reducing the level of crime; and legislative recommendations, if appropriate for (A) a comprehensive program to increase security in public housing projects and (B) increasing the coordination between anticrime programs of other State and Federal agencies that may be used by public housing authorities. Any recommendations shall include estimated costs of such programs.

(f) Of the additional authority approved in appropriation Acts with respect to entering into annual contributions contracts under section 5(c) of the United States Housing Act of 1937 for the fiscal year beginning on October 1, 1978, the Secretary may utilize up to $12,000,000 of such authority in the fiscal year beginning on October 1, 1978, for the establishment of the public housing security demonstration program authorized by this section.

SECTION 8 HOUSING FOR LARGE FAMILIES

SEC. 208. (a) The Secretary of Housing and Urban Development shall conduct a study for the purposes of examining alternative means of encouraging the development of housing to be assisted under section 8 of the United States Housing Act of 1937 for occupancy by large families which reside in areas with a low-vacancy rate in rental housing.

(b) The Secretary shall report to the Congress, no later than one year after the date of enactment of this Act, for the purpose of providing legislative recommendations with respect to the study described in subsection (a).

SOLAR ENERGY SYSTEMS

SEC. 209. (a) It is the purpose of this section to promote and extend the application of viable solar energy systems as a desirable source of energy for residential single-family and multifamily housing units.

(b) (1) The Secretary, in carrying out programs and activities under section 312 of the Housing Act of 1964, section 202 of the Housing Act of 1959, and section 8 of the United States Housing Act of 1937, shall permit the installation of solar energy systems which are cost-effective and economically feasible.

(2) For the purpose of this Act, the term "solar energy system" means any addition, alteration, or improvement to an existing or new structure which is designed to utilize wind energy or solar energy either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Secretary of Energy.

(c) In carrying out subsection (b), the Secretary shall take such steps as may be necessary to encourage the installation of cost-effective and economically feasible solar energy systems in housing assisted under the programs and activities referred to in such subsection taking into account the interests of low-income homeowners and renters, including the implementation of a plan of action to publicize the availability and feasibility of solar energy systems to current or potential recipients of assistance under such programs and activities.

(d) The Secretary shall, in conjunction with the Secretary of Energy, transmit to the Congress, within eighteen months after the date of enactment of this Act, a report setting forth—

(1) the number of solar units which were contracted for or installed or which are on order under the provisions of subsection (b) (1) of this section during the first twelve full calendar months after the date of enactment of this Act; and

(2) an analysis of any problems and benefits related to encouraging the use of solar energy systems in the programs and activities referred to in subsection (b).

TITLE III—PROGRAM AMENDMENTS AND EXTENSIONS

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

SEC. 301. (a) Section 2(a) of the National Housing Act is amended by striking out "November 1, 1978" in the first sentence and inserting in lieu thereof "October 1, 1979".

(b) Section 217 of such Act is amended by striking out October 31, 1978" and inserting in lieu thereof "September 30, 1979".

(c) Section 221(f) of such Act is amended by striking out "October 31, 1978" in the fifth sentence and inserting in lieu thereof "September 30, 1979".

(d) Section 235(m) of such Act is amended by striking out "October 31, 1978" and inserting in lieu thereof "September 30, 1979".

(e) Section 236(n) of such Act is amended by striking out "October 31, 1978" and inserting in lieu thereof "September 30, 1979".

(f) Section 244(d) of such Act is amended—

(1) by striking out "October 31, 1978" in the first sentence and inserting in lieu thereof "September 30, 1979"; and

(2) by striking out "November 1, 1978" in the second sentence and inserting in lieu thereof "October 1, 1979".

(g) Section 245 of such Act is amended by striking out "October 31, 1978" in the third sentence and inserting in lieu thereof "September 30, 1979".

(h) Section 809(f) of such Act is amended by striking out "October 31, 1978" in the second sentence and inserting in lieu thereof "September 30, 1979".

(i) Section 810(k) of such Act is amended by striking out "October 31, 1978" in the second sentence and inserting in lieu thereof "September 30, 1979".

(j) Section 1002(a) of such Act is amended by striking out "October 31, 1978" in the second sentence and inserting in lieu thereof "September 30, 1979".

(k) Section 1101(a) of such Act is amended by striking out "October 31, 1978" in the second sentence and inserting in lieu thereof "September 30, 1979".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

SEC. 302. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the

National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended, is amended by striking out "November 1, 1978" and inserting in lieu thereof "October 1, 1979".

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

SEC. 303. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "November 1, 1978" and inserting in lieu thereof "October 1, 1979".

COMPREHENSIVE PLANNING

SEC. 304. (a) The second sentence of section 701(e) of the Housing Act of 1954 is amended by striking out "and not to exceed $75,000,000 for the fiscal year 1978" and inserting in lieu thereof "not to exceed $75,000,000 for the fiscal year 1978, and not to exceed $57,000,000 for the fiscal year 1979".

(b) The second sentence of section 701(c) of such Act is amended by striking out "biennially" and inserting in lieu thereof "triennially".

(c) Section 701(d)(2) of such Act is amended by striking out "biennially" and inserting in lieu thereof "at least triennially" and by striking out "two" and inserting in lieu thereof "three".

(d) Section 701(m) of such Act is amended by adding at the end thereof the following:

"(5) The term 'Indian tribal group or body' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or under the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512).".

RESEARCH AUTHORIZATIONS

SEC. 305. (a) Title V of the Housing and Urban Development Act of 1970 is amended by striking out in the second sentence of section 501 "and not to exceed $60,000,000 for the fiscal year 1978" and inserting in lieu thereof "not to exceed $60,000,000 for the fiscal year 1978, and not to exceed $62,000,000 for the fiscal year 1979".

(b) Such title is further amended by adding at the end thereof the following new section:

"CONVERSIONS

"SEC. 510. In carrying out activities under section 501, the Secretary is authorized to conduct demonstrations to determine the feasibility of expanding homeownership opportunities in urban areas and encouraging the creation and maintenance of decent, safe, and sanitary housing in such areas by utilizing techniques including, but not limited to, the conversion of multifamily housing properties to condominium or cooperative ownership by individuals and families.".

(c) The Secretary of Housing and Urban Development shall conduct a study of the feasibility of underground construction of residential housing and changes in housing codes and financing which may be necessary as the result of the adoption of this construction method. The Secretary shall transmit a final report no later than one year after the date of enactment of this Act to the Congress containing the findings and conclusions made as a result of such study, along with any legislative recommendations which the Secretary determines should be enacted with respect to the subject of such study.

NEW COMMUNITIES

SEC. 306. Section 720(a) of the Housing and Urban Development Act of 1970 is amended by striking out "November 1, 1978" and inserting in lieu thereof "October 1, 1979".

EXTENSION OF CRIME INSURANCE AND RIOT REINSURANCE PROGRAMS

SEC. 307. (a) Section 1201 of the National Housing Act is amended—

(1) by striking out, in subsection (b)(1), "October 31, 1978" and inserting in lieu thereof "September 30, 1980";

(2) by striking out, in subsection (b)(1)(A), "October 31, 1981" and inserting in lieu thereof "September 30, 1983"; and

(3) by striking out, in subsection (b)(2), "October 31, 1978" and inserting in lieu thereof September 30, 1981".

(b) Section 1211 of such Act is amended by adding the following new subsection at the end thereof:

"(c) At least one-third of the voting members of every board of directors, board of governors, advisory committee, and other governing or advisory board or committee for each plan described in subsection (b) shall be individuals who are not employed by, or otherwise affiliated with, insurers, insurance agents, brokers, producers, or other entities of the insurance industry.".

(c) Section 1211(b) of such Act is amended by striking out "and" at the end of paragraph (9), by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and", and by adding the following new paragraph at the end thereof:

"(11) Notwithstanding any other provision of this section, on and after January 31, 1979, no risk within the plan shall be insured at a rate higher than the rates or advisory rates set by the principal State-licensed rating organization for essential property insurance in the voluntary market; except that this provision shall not be deemed to prohibit the application to any such risk, on a nondiscriminatory basis, of condition charges for substandard physical conditions within the control of the applicant for insurance as set by the principal State-licensed rating organization for the voluntary market.".

EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM

SEC. 308. (a) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "October 31, 1978" and inserting in lieu thereof "September 30, 1980".

(b) Section 1336(a) of such Act is amended by striking out "October 31, 1978" and inserting in lieu thereof "September 30, 1980".

FLOOD INSURANCE STUDIES

SEC. 309. Section 1376(c) of the National Flood Insurance Act of 1968 is amended by striking out "and not to exceed $108,000,000 for the fiscal year 1978" and inserting in lieu thereof the following: ", not to exceed $108,000,000 for the fiscal year 1978, and not to exceed $114,000,000 for the fiscal year 1979.".

FEDERAL HOUSING ADMINISTRATION GENERAL INSURANCE FUND

SEC. 310. Section 519(f) of the National Housing Act is amended by inserting the following before the period: ", which amount shall be increased by $165,000,000 on October 1, 1978".

MULTIFAMILY MORTGAGE INSURANCE

SEC. 311. (a) The last sentence of section 207(c) of the National Housing Act is amended by striking out "eight" and inserting in lieu thereof "five".

(b) Section 241(d) of such Act is amended by adding at the end thereof the following: "At any sale under foreclosure of a mortgage on a project or facility which is not insured under this Act but which is senior to a loan assigned to the Secretary pursuant to subsection (c), the Secretary is authorized to bid, in addition to amounts authorized under section 207(k), any sum up to but not in excess of the total unpaid indebtedness secured by such senior mortgage, plus taxes, insurance, foreclosure costs, fees, and other expenses. In the event that, pursuant to subsection (c), the Secretary acquires title to, or is assigned, a loan covering a project or facility which is subject to a mortgage which is not insured under this Act, the Secretary is authorized to make payments from the General Insurance Fund on the debt secured by such mortgage, and to take such other steps as the Secretary may deem appropriate to preserve or protect the Secretary's interest in the project or facility.".

MORTGAGE INSURANCE FOR NONRESIDENT CARE FACILITIES

SEC. 312. (a) Section 232(a) of the National Housing Act is amended—

(1) by inserting the following immediately before the period at the end of paragraph (1): ", including additional facilities for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day"; and

(2) by inserting the following immediately before the period at the end of paragraph (2): ", including additional facilities for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day".

(b) Section 232(b)(2) of such Act is amended by inserting immediately after "nursing services;" in the first sentence the following: "(3) a 'nursing home' or 'intermediate care facility' may include such additional facilities as may be authorized by the Secretary for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day;".

CONDOMINIUM MORTGAGE INSURANCE

SEC. 313. (a) The first sentence of section 234(c) of the National Housing Act is amended by inserting immediately after "less units" in the proviso of clause (2) the following: ", or twelve or more units in the case of a multi-family project the construction of which was completed more than a year prior to the application for mortgage insurance,".

(b) The third sentence of section 234(c) of such Act is amended by inserting "(100 per centum if the mortgagor is a veteran as defined under section 203(b)(2) of this Act)" after "centum" in clause (A)(i).

PURCHASE OF FEE SIMPLE TITLE

SEC. 314. Section 240(c)(2) of the National Housing Act is amended by adding "($30,000, if the property is located in Hawaii)" immediately after "$10,000".

NATIONAL NEIGHBORHOOD POLICY ACT

SEC. 315. The National Neighborhood Policy Act is amended by striking out "one year in section 204(c) and inserting in lieu thereof "fifteen months".

HOUSING AND URBAN DEVELOPMENT DAY CARE CENTER FACILITIES

SEC. 316. Section 7(n) of the Department of Housing and Urban Development Act is amended to read as follows:

"(n) Notwithstanding any other provision of law, the Secretary is authorized by contract or otherwise to establish, equip, and operate a day care center facility or facilities, or to assist in establishing, equipping, and operating interagency day care facilities for the purpose of serving children who are members of households of employes of the Department. The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be chargeable against the Department of Housing and Urban Development employees or others who

are beneficiaries of services provided by any such day care center. In addition, limited start-up costs may be provided by the Secretary in an amount limited to 3 per centum of the first year's operating budget, but not to exceed $3,500.".

SALE OF SURPLUS FEDERAL LAND FOR HOUSING

SEC. 317. (a) The first and second sentences of section 414(a) of the Housing and Urban Development Act of 1969 are amended to read as follows: "Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949, any Federal surplus real property within the meaning of such Act may, in the discretion of the Administrator of General Services, be transferred to the Secretary of Housing and Urban Development at the Secretarys request for sale or lease by the Secretary at its fair value for use in the provision of housing to be occupied predominantly by families or individuals of low and moderate income, assisted under a Federal housing assistance program administered by the Secretary or under a State or local program found by the Secretary to have the same general purpose, and for related public commercial or industrial facilities approved by the Secretary. Prior to any disposition of Federal surplus real property to an entity other than a public body, the Secretary shall notify the governing body of the locality where such property is located of the proposed disposition and no such disposition shall be made if the local governing body, within ninety days of such notification, formally advises the Secretary that it objects to the proposed disposition, unless the Secretary determines (1) that the proposed disposition would be consistent with any approved housing assistance and community development plans developed by such body pursuant to the Housing and Community Development Act of 1974, or (2) in cases where such plans are not available, that there is a need for low- and moderate-income housing taking into consideration any applicable State housing plans, and that there is or will be available in the area public facilities and services adequate to serve any housing proposed in conjunction with the proposed disposition.".

(b) Subsection (b) of section 414 of such Act is amended to read as follows:

"(b) As a condition of any disposition by the Secretary of Federal surplus real property under this section to an entity other than a public body, the Secretary shall obtain such undertakings as the Secretary may consider appropriate to assure that the property will be used, to the maximum practicable extent, in the provision of housing and related facilities to be occupied by families or individuals of low and moderate income for a period of not less than thirty years. If during such period the property is used for any purpose other than the purpose for which it was disposed of, it shall revert to the United States (or, in the case of leased property, the lease shall terminate) unless the Secretary and the Administrator, after the expiration of the first twenty years of such period, have approved the use of the property for such other purposes.".

INCREASE IN GOVERNMENT NATIONAL MORTGAGE ASSOCIATION MORTGAGE PURCHASE AUTHORITY AND LIMITS

SEC. 318. (a) The third clause of the proviso in section 302(b)(1) of the National Housing Act is amended by striking "if the original principal obligation thereof exceeds or exceeded $33,000 (or such higher amount not in excess of $38,000 as the Secretary may by regulation specify in any geographical area where he finds that cost levels so require), for each family residence or dwelling unit covered by the mortgage (plus an additional $2,500 for each such family residence or dwelling unit which has four or more bedrooms)" and inserting in lieu thereof "if the original principal obligation thereof exceeds or exceeded $55,000 in the case of property upon which is located a dwelling designed principally for a one-family residence; or $60,000 in the case of a two- or three-family residence; or $68,750 in the case of a four-family residence; or, in the case of a property containing more than four dwelling units, $38,000 per dwelling unit (or such higher amount not in excess of $45,000 per dwelling unit as the Secretary may by regulation specify in any geographical area where the Secretary finds that cost levels so require) for that part of the property attributable to dwelling use".

(b) Section 305(c) of such Act is amended by striking out "and by $2,000,000,000 on July 1, 1969" and inserting in lieu thereof "by $2,000,000,000 on July 1, 1969, and subject to approval in an appropriation Act, by $500,000,000 on October 1, 1978".

NATIONAL INSTITUTE OF BUILDING SCIENCES

SEC. 319. Section 809(h) of the Housing and Community Development Act of 1974 is amended by inserting after "1978" the following: ", and any amounts not appropriated in fiscal years 1977 and 1978 may be appropriated in any fiscal year through 1982".

TITLE I HOME IMPROVEMENT LOANS FOR MULTIFAMILY DWELLINGS

SEC. 320. The first sentence of section 2(b) of the National Housing Act is amended by striking out "$25,000", "$5,000", and "twelve years" in the third proviso in clause (3) and inserting in lieu thereof "$37,500", "$7,500", and "fifteen years", respectively.

AMENDMENTS TO THE FEDERAL HOME LOAN MORTGAGE CORPORATION ACT

SEC. 321. (a) Paragraph (1) of subsection 305 of the Federal Home Loan Mortgage Corporation Act is amended by inserting the following before the period at the end of the first sentence thereof: "or from any mortgagee approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act".

(b) Paragraph (1) of subsection (a) of section 305 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof the following new sentences: "The Corporation may establish requirements, and impose charges or fees, which may be regarded as elements of pricing, for different classes of sellers or services, and for such purposes the Corporation is authorized to classify sellers or servicers according to type, size, location, assets, or, without limitation on the generality of the foregoing, on such other basis or bases of differentiation as the Corporation may consider necessary or appropriate to effectuate the purposes or provisions of this Act. The Corporation may specify requirements concerning, among other things, (A) minimum net worth; (B) suprevisory mechanisms; (C) warranty compensation mechanisms; (D) prior approval of facilities; (E) prior origination and servicing exeprience with respect to different types of mortgages; (F) capital contributions and substitutes; (G) mortgage purchase volume limits; and (H) reduction of mortgage purchases during periods of borrowing. With respect to any particular type of seller, the Corporation shall not be required to make available programs involving prior approval of mortgages, optional delivery of mortgages, and purchase of other than conventional mortgages to an extent greater than the Corporation elects to make such programs available to other types of eligible sellers. Any requirements specified by the Corporation pursuant to the preceding three sentences must bear a rational relationship to the purposes or provisions of this Act, but will not be considered discriminatory solely on the grounds of differential effects on types of eligible sellers. Insofar as is practicable, the Corporation shall make reasonable efforts to encourage participation in its programs by each type of eligible seller.".

(c) The amendments made by this section shall become effective at the end of the two hundred and ten calendar days after enactment of this Act, but not before January 31, 1979, or on such earlier date as the Federal Home Loan Mortgage Corporation may prescribe.

SALE OF ACQUIRED PROPERTY TO COOPERATIVES

SEC. 322. Section 246 of the National Housing Act is amended to read as follows:

"SALE OF ACQUIRED PROPERTY TO COOPERATIVES

"SEC. 246. In any case which the Secretary sells a multifamily housing project acquired as the result of a default on a mortgage which was insured under this Act to a cooperative which will operate it on a nonprofit basis and restrict permanent occupancy of its dwellings to members, or to a nonprofit corporation which operates as a consumer cooperative as defined by the Secretary, the Secretary may accept a purchase money mortgage, or upon application of the mortgagee, insure a mortgage under this section upon such terms and conditions as the Secretary determines are reasonable and appropriate, in a principal amount equal to the value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of property when operated on a non-profit basis after payment of all operating expenses, taxes, and required reserves; except that the Secretary may add to the mortgage amount an amount not greater than the amount of prepaid expenses and costs involved in achieving cooperative ownership, or make such other provision for payment of such expenses and costs as the Secretary deems reasonable and appropriate. Prior to such disposition of a project, funds may be expended by the Secretary for necessary repairs and improvements.".

"SECONDARY MORTGAGES ON INSURED PROPERTIES

SEC. 323. Title V of the National Housing Act is amended by adding at the end thereof the following new section:

"SECONDARY MORTGAGES ON INSURED PROPERTIES

"SEC. 528. In carrying out the provisions of title II of this Act with respect to insuring mortgages secured by a one- to four-family dwelling unit, the Secretary may not deny such insurance for any such mortgage solely because the dwelling unit which secures such mortgage will be subject to a secondary mortgage or loan made or insured, or other secondary lien held, by any State or local governmental agency or instrumentality under terms and conditions approved by the Secretary.".

LEGISLATIVE REVIEW

SEC. 324. Section 7 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following new subsection:

"(o)(1) Notwithstanding any other provision of law, the Secretary shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives an agenda of all rules or regulations which are under development or review by the Department. Such an agenda shall be transmitted to such Committees within 30 days of the date of enactment of this subsection and at least semiannually thereafter.

"(2)(A) Any rule or regulation which is on any agenda submitted under paragraph (1) may not be published for comment prior to or during the first period of 15 calendar days of continuous session of Congress which occurs after the date on which such agenda was transmitted. If within such period, either Committee notifies the Secretary in writing that it intends to review any rule or regulation or portion thereof which appears on the agenda, the Secretary shall submit to both Committees a copy of any such rule or regulation, in the form it is intended to be proposed, at least 15 calendar days of continuous session prior to its being published for comment in the Federal Register.

"(B) Any rule or regulation which has not been published for comment before the date of enactment of this subsection and which does not appear on an agenda submitted under paragraph (1) shall be submitted to both such Committees at least 15 calendar days of continuous session of Congress prior to its being published for comment.

"(3) No rule or regulation may become effective until after the first period of 20 calendar days of continuous session of Congress which occurs after the day on which such rule or regulation is published as final. If within such 20-day period, either Committee has reported out or been discharged from further consideration of a joint resolution of disapproval or other legislation which is intended to modify or invalidate the rule or regulation or any portion thereof, the rule or regulation or portion thereof so addressed shall not become effective for a period of 90 calendar days from the date of Committee action or discharge unless the House to which such Committee reports has rejected such resolution or legislation, in which case the rule or regulation may go into effect only after the expiration of the 20 calendar days described in the first sentence of this paragraph if the other House does not have such a resolution or legislation pending or adopted, and if the requirements of section 553 of title 5, United States Code, are met.

"(4) The provisions of paragraphs (2) and (3) may be waived upon the written request of the Secretary, if agreed to by the Chairmen and Ranking Minority Members of both Committees.

"(5) Congressional inaction on any rule or regulation shall not be deemed an expression of approval of the rule or regulation involved.

"(6) For purposes of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die;

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of calendar days of continuous session of Congress; and

"(C) the term 'rule or regulation' does not include the setting of interest rates pursuant to section 3 of Public Law 93-301.".

INCREASED MORTGAGE CEILINGS FOR MORTGAGE INSURANCE PROGRAMS

SEC. 325. (a) Section 221(d)(3)(ii) of the National Housing Act is amended—

(1) by striking out "$16,860", "$18,648", "$22,356", "$28,152", and "$31,884" and inserting in lieu thereof "$21,563", "$24,662", "$29,984", "$38,379", and "$42,756", respectively; and

(2) by striking out "$19,680", "$22,356", "$26,496", "$33,120", and "$38,400" and inserting in lieu thereof "$22,692", "$26,012", "$31,631", "$40,919", and "$44,917", respectively.

(b) Section 221(d)(4)(ii) of such Act is amended by striking out "$18,450", "$20,625", "$24,630", "$29,640", and "$34,846", in the matter preceding the first semicolon and inserting in lieu thereof "$19,406", "$22,028", "$26,625", "$33,420", and "$37,870", respectively.

FHA-INSURED MORTGAGE REFINANCING OF HOSPITALS

SEC. 326. Section 223(f) of the National Housing Act is amended by—

(1) inserting before the period at the end of the first sentence thereof the following: "or the refinancing of existing debt of an existing hospital.";

(2) striking out "property" in the second sentence and inserting in lieu thereof "multifamily housing project"; and

(3) adding at the end thereof the following new sentence:

"In the case of refinancing of an existing hospital the Secretary shall prescribe such terms and conditions as the Secretary deems necessary to assure that—

"(A) the refinancing is employed to lower the monthly debt service costs (taking into account any fees or charges connected with such refinancing) of such existing hospital;

"(B) the proceeds of any refinancing will be employed only to retire the existing indebtedness and pay the necessary cost of refinancing on such existing hospital;

"(C) such existing hospital is economically viable; and

"(D) such existing hospital has received such certifications from a State agency designated in accordance with section 604(a)(1) or section 1521 of the Public Health Service Act for the State in which the hospital is located as the Secretary deems necessary and appropriate and comparable to the certification required for hospitals insured under section 242 of this Act and that such State agency additionally certify that the services being provided by such existing hospital at the time of refinancing are appropriate as determined pursuant to section 1523(a)(6) of the Public Health Service Act.".

TITLE IV—CONGREGATE SERVICES

SHORT TITLE

SEC. 401. This title may be cited as the "Congregate Housing Services Act of 1978".

FINDINGS

SEC. 402. The Congress finds that—

(1) congregate housing, coordinated with the delivery of supportive services, offers an innovative, proven, and cost-effective means of enabling temporarily disabled or handicapped individuals to maintain their dignity and independence and to avoid costly and unnecessary institutionalization;

(2) a large and growing number of elderly and handicapped residents of public housing projects and of nonprofit projects for the elderly and handicapped face premature and unnecessary institutionalization because of the absence of or deficiencies in the availability, adequacy, coordination, or delivery of the supportive services required for the successful development of adequate numbers of congregate housing projects; and

(3) supplemental supportive services, available on a secure and continuing basis, are essential to a successful congregate housing program.

DEFINITIONS

SEC. 403. For the purpose of this title—

(1) the term "congregate housing" means (A) low-rent housing which, as of January 1, 1979, was built or under construction, with which there is connected a central dining facility where wholesome and economical meals can be served to such occupants; or (B) low-rent housing constructed after, but not under construction prior to, January 1, 1979, connected with which there is a central dining facility to provide wholesome and economical meals for such occupants;

(2) the term "congregate services programs" means programs to be undertaken by a public housing agency or a nonprofit corporation to provide assistance, including personal assistance and nutritional meals, to eligible project residents who, with such assistance, can remain independent and avoid unnecessary institutionalization;

(3) the term "elderly" means sixty-two years of age or over;

(4) the term "eligible project resident" means elderly handicapped individuals, nonelderly handicapped individuals, or temporarily disabled individuals, who are residents of congregate housing projects administered by a public housing agency or by a nonprofit corporation;

(5) the term "handicapped" means having an impairment which (A) is expected to be of long-continued and indefinite duration, and (B) substantially impedes an individual's ability to live independently unless the individual receives supportive congregate services; such impairment may include a functional disability or frailty which is a normal consequence of the human aging process;

(6) the term "personal assistance" means service provided under this title which may include, but is not limited to, aid given to eligible project residents in grooming, dressing, and other activities which maintain personal appearance and hygiene;

(7) the term "professional assessment committee" means a group of at least three persons appointed by a local public housing agency or a nonprofit corporation and shall include qualified medical professionals and other persons professionally competent to appraise the functional abilities of elderly or permanently disabled adult persons, or both, in relation to the performance of the normal tasks of daily living;

(8) the term "temporarily disabled" means an impairment which (A) is expected to be of no more than six months' duration, and (B) substantially impedes an individual's ability to live independently unless the individual receives supportive congregate services; and

(9) the term "nonprofit corporation" means any corporation responsible for a housing project assisted under section 202 of the Housing Act of 1959.

AUTHORIZATION TO ENTER INTO CONTRACTS

SEC. 404. The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to enter into contracts with local public housing agencies under the United States Housing Act of 1937 (hereinafter referred to as "public housing agencies") and with nonprofit corporations, utilizing sums appropriated under this title, to provide congregate services programs for eligible project residents in order to promote and encourage maximum independence within a home environment for such residents capable of self-care with appropriate supportive congregate services. Each contract between the Secretary and a public housing agency or nonprofit corporation shall be for a term of not less than three years or more than five years and shall be renewable at the expiration of such term. Each public housing agency or nonprofit corporation entering into such a contract shall be reserved a sum equal to its total approved contract amount from the moneys authorized and appropriated for the fiscal year in which the notification date of funding approval falls.

CONGREGATE SERVICES PROGRAM

SEC. 405. (a) Congregate services programs assisted under this title must include full meal service adequate to meet nutritional

needs, and may also include housekeeping aid, personal assistance, and other services essential for maintaining independent living.

(b) No services funded under this title may duplicate services which are already affordable, accessible, and sufficiently available on a long-term basis to eligible project residents under programs administered by or receiving appropriations through any department, agency, or instrumentality of the Federal Government or any other public or private department, agency, or organization.

(c) A public housing agency or nonprofit corporation applying for assistance shall consult with the Area Agency on Aging (or, where no Area Agency on Aging exists, with the appropriate State agency under the Older Americans Act of 1965) in determining the means of providing services under this title and in identifying alternative available sources of funding for such services.

(d) Prior to the submission of a final application for either new or renewed funding under this title, a public housing agency and a nonprofit corporation shall present a copy of a proposed application to the Area Agency on Aging (or, where no Area Agency on Aging exists, to the appropriate State agency under the Older Americans Act of 1965) for review and comment. Such agency and nonprofit corporation shall consider such review and comment in the development of any final application for either new or renewed funding under this title.

(e)(1) When nonelderly handicapped individuals are included among the eligible project residents, the public housing agency and nonprofit corporation shall consult with the appropriate local agency, if any, designated by applicable State law as having responsibility for the development, provision, or identification of social services to permanently disabled adults, for the purpose of determining the means of providing services under this title and of identifying alternative available sources of funding for such services.

(2) Such public housing agency and nonprofit corporation shall also, prior to the submission of a final application for either new or renewed funding under this title, present a copy of the proposed application to such appropriate local agency for review and comment. The public housing agency and nonprofit corporation shall consider such review and comment in the development of any final application for either new or renewed funding under this title.

(f) Any nonprofit corporation or public housing agency receiving assistance under this title may provide congregate services directly to eligible project residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(g) Nonprofit corporations and public housing agencies receiving assistance for congregate services programs under this title shall be required to maintain the same dollar amount of annual contribution which they were making, if any, in support of the provision of services eligible for assistance under this title before the date of the submission of the application for such assistance unless the Secretary determines that the waiver of this requirement is necessary for the maintenance of adequate levels of services to eligible project residents. If any contract or lease entered into by a public housing agency or nonprofit corporation pursuant to subsection (f) of this section provides for adjustments in payments for services to reflect changes in the cost of living, then the amount of annual contribution required to be maintained by such public agency or nonprofit corporation under the preceding sentence shall be readjusted in the same manner.

(h) Each nonprofit corporation and public housing agency shall establish fees for meal service and other appropriate services provided to eligible project residents. These fees shall be reasonable, may not exceed the cost of providing the service, and shall be calculated on a sliding scale related to income which permits the provision of services to such residents who cannot afford meal and service fees. When meal services are provided to other project residents, fees shall be reasonable and may not exceed the cost of providing the meal service.

(i) The Secretary shall establish standards for the provision of services under this title, and, in developing such service standards, the Secretary shall consult with the Secretary of the Department of Health, Education, and Welfare and with appropriate organizations representing the elderly and handicapped, as determined by the Secretary.

ELIGIBILITY FOR SERVICES

SEC. 406. (a) The identification of project residents eligible to participate in a congregate services program assisted under this title, and the designation of the services appropriate to their individual functional abilities and needs, shall be made by a professional assessment committee. Such committee shall utilize procedures which insure that the process of determining eligibility of individuals for services under this title shall accord such individuals fair treatment and due process and a right of appeal of such determination of eligibility, and shall also assure the confidentiality of personal and medical records.

(b) Other residents may participate in a congregate meal service program assisted under this title if the local public housing agency or nonprofit corporation determines that the participation of these individuals will not adversely affect the cost-effectiveness or operation of the program.

(c) Any public housing agency or nonprofit corporation receiving assistance under this title shall notify the Secretary of any change in the membership of the professional assessment committee within thirty days of such change. Such notification shall list the names and professional qualifications of new members of the committee.

(d) Procedures shall be established to insure that changes in the membership of the professional assessment committee are consistent with the requirements of section 403 (7) of this title.

APPLICATION PROCEDURES

SEC. 407. (a) An application for assistance under this title shall include—

(1) a plan specifying the types and priorities of the basic services the public housing agency or nonprofit corporation proposes to provide during the term of the contract; such plan must be related to the needs and characteristics of the eligible project residents and, to the maximum extent practicable, provide for the changing needs and characteristics of all project residents; such plan shall be determined after consultation with eligible project residents and with the professional assessment committee;

(2) a list of names and professional qualifications of the members of the professional assessment committee;

(3) the fee schedule established pursuant to section 405(h) of this title;

(4) any comment received in connection with any review of a proposed application pursuant to section 405(d) or 405(e)(2); and

(5) a statement affirming (A) that the nonprofit corporation or public housing agency has followed the consultation procedures required in subsections (c), (d), and (e) of section 405, and (B) that such application complies with subsection (b) of such section.

(b) The Secretary shall establish appropriate deadlines for each fiscal year for the submission of applications for funding under this title and shall notify any public housing agency and nonprofit corporation applying for assistance under this title of acceptance or rejection of its application within ninety days of such submission.

(c) Within twelve months prior to the submission of an application for renewed funding under this title, each nonprofit corporation and public housing agency shall review the performance, appropriateness, and fee schedules of their congregate services program with eligible project residents and with the professional assessment committee. The results of such review shall be included in any application for renewal and shall be considered in the development of the application for renewal by the nonprofit corporation or public housing agency and in its evaluation by the Secretary.

EVALUATION OF APPLICATION AND PROGRAMS

SEC. 408. (a) In evaluating applications for assistance under this title, the Secretary shall consider—

(1) the types and priorities of the basic services proposed to be provided, and the relationship of such proposal to the needs and characteristics of the eligible residents of the projects where the services are to be provided;

(2) how quickly services will be established following approval of the application;

(3) the degree to which local social services are adequate for the purpose of assisting eligible project residents to maintain independent living and avoid unnecessary institutionalization;

(4) the professional qualifications of the members of the professional assessment committee; and

(5) the reasonableness of fee schedules established for each congregate service.

(b) In evaluating programs receiving assistance under this title, the Secretary shall—

(1) establish procedures for the review and evaluation of the performance of nonprofit corporations and public housing agencies receiving assistance under this title, including provisions for the submission of an annual report, by each such nonprofit corporation and public housing agency, which evaluates the impact and effectiveness of its congregate services program; and

(2) publish annually and submit to the Congress, a report on and evaluation of the impact and effectiveness of congregate services programs assisted under this title. Such report and evaluation shall be based, in part, on the evaluations required to be submitted pursuant to paragraph (1).

FUNDING PROCEDURES

SEC. 409. (a) The Secretary shall establish procedures—

(1) to assure timely payments to nonprofit corporations and public housing agencies for approved assisted congregate services programs with provision made for advance funding sufficient to meet necessary startup costs;

(2) to permit reallocation of funds approved for the establishment of congregate services in existing public housing projects and projects assisted under section 202 of the Housing Act of 1959 if the services are not established within six months of the notification date of funding approval;

(3) to assure that where such funding has been approved for the establishment of congregate services for public housing projects and projects assisted under section 202 of the Housing Act of 1959 under construction or approved for construction, these services

shall be in place at the start of the project's occupancy by tenants requiring such services for maintaining independent living;

(4) to establish accounting and other standards in order to prevent any fraudulent or inappropriate use of funds under this title; and

(5) to assure that no more than 1 per centum of the funds appropriated under this title for any fiscal year may be used by public housing agencies and nonprofit corporations for evaluative purposes as required by section 408(b)(1).

(b) The Secretary shall establish a reserve fund, not to exceed 10 per centum of the funds appropriated in each fiscal year for the provision of services under this title, in order to supplement grants awarded to public housing agencies and nonprofit corporations under this title when, in the determination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services to eligible project residents.

MISCELLANEOUS PROVISIONS

SEC. 410. (a) Each public housing agency and nonprofit corporation shall, to the maximum extent practicable, utilize elderly and permanently disabled adult persons who are residents of public housing projects or projects assisted under section 202 of the Housing Act of 1959, but who are not eligible project residents, to participate in providing the services assisted under this title. Such persons shall be paid wages which shall not be lower than whichever is the highest of—

(1) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if he or she were not exempt under section 13 thereof;

(2) the State or local minimum wage for the most nearly comparable covered employment; or

(3) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

(b) No service provided to a public housing resident or to a resident of a housing project assisted under section 202 of the Housing Act of 1959 under this title, except for wages paid under subsection (a) of this section, may be treated as income for the purpose of any other program or provision of State or Federal law.

(c) Individuals receiving services assisted under this title shall be deemed to be residents of their own households, and not to be residents of a public institution, for the purpose of any other program or provision of State or Federal law.

(d) The Secretary may issue regulations to carry out the provisions of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 411. (a) To carry out the provisions of this title, there are authorized to be appropriated—

(1) for fiscal year 1979, not to exceed $20,000,000;

(2) for fiscal year 1980, not to exceed $25,000,000;

(3) for fiscal year 1981, not to exceed $35,000,000; and

(4) for fiscal year 1982, not to exceed $40,000,000.

(b) Sums appropriated pursuant to this section shall remain available until expended.

AMENDMENT TO THE UNITED STATES HOUSING ACT OF 1937

SEC. 412. Section 7 of the United States Housing Act of 1937 is amended by striking out the second sentence and inserting in lieu thereof the following: "As used in this section, the term 'congregate housing' means (1) low-rent housing which, as of January 1, 1979, was built or under construction, with which there is connected a central dining facility where wholesome and economical meals can be served to such occupants; or (2) low-rent housing constructed after, but not under construction prior to, January 1, 1979, connected with which there is a central dining facility to provide wholesome and economical meals for such occupants. Such occupants of congregate housing may also be provided with other supportive services appropriate to their needs under title IV of the Housing and Community Development Amendments of 1978."

TITLE V—RURAL HOUSING

AUTHORIZATIONS

SEC. 501. (a) Section 513(b) of the Housing Act of 1949 is amended by inserting after "October 31, 1978" the following: ", and not to exceed $48,000,000 for the fiscal year ending September 30, 1979."

(b) Section 513(c) of such Act is amended by inserting before the semicolon at the end thereof the following: ", and not to exceed $38,000,000 for the fiscal year ending September 30, 1979".

(c) Section 513 of such Act is amended by striking out clause (d) and inserting in lieu thereof the following: "(d) not to exceed $10,000,000 for research and study programs pursuant to subsections (b), (c), and (d) of section 506 for the fiscal year ending September 30, 1979;".

(d) Section 514 of such Act is amended by striking out "$25,000,000" in subsection (d) and inserting in lieu thereof "$38,000,000 (subject to approval in an appropriation Act)".

(e) Section 515(b)(5) of such Act is amended by striking out "October 31, 1978" and inserting in lieu thereof "September 30, 1979".

(f) Section 517(a)(1) of such Act is amended by striking out "October 31, 1978" and inserting in lieu thereof "September 30, 1979".

(g) Section 523(f) of such Act is amended—

(1) by striking out "November 1, 1978" and inserting in lieu thereof "October 1, 1979";

(2) by striking out "October 31, 1978"; and inserting in lieu thereof "September 30, 1979"; and

(3) by striking out "$10,000,000" and inserting in lieu thereof "$16,500,000".

(h) Section 523(g) of such Act is amended by inserting before the period at the end of the first sentence the following: ", and not to exceed $3,000,000 for the fiscal year ending September 30, 1979".

(i) Section 525(c) of such Act is amended by inserting after the first sentence the following new sentence: "There are also authorized to be appropriated for the fiscal year ending September 30, 1979, not to exceed $5,000,000 for the purpose of subsection (a) and not to exceed $5,000,000 for the purpose of subsection (b).".

RURAL HOUSING RESEARCH

SEC. 502. (a) Subsection (b) of section 506 of the Housing Act of 1949 is amended to read as follows:

"(b) The Secretary is further authorized and directed to conduct research, technical studies, and demonstrations relating to the mission and programs of the Farmers Home Administration and the national housing goals defined in section 2 of this Act. In connection with such activities, the Secretary shall seek to promote the construction of adequate farm and other rural housing, with particular attention to the housing needs of the elderly, handicapped, migrant and seasonal farmworkers, Indians, and other identifiable groups with special needs. The Secretary shall conduct such activities for the purposes of stimulating construction and improving the architectural design and utility of dwellings and buildings.".

(b) Section 506 of such Act is amended by adding the following new subsection at the end thereof:

"(f)(1) The Secretary shall conduct a study of housing which is available for migrant and settled farmworkers. In conducting such study, the Secretary shall—

"(A) determine the location, number, quality, and condition of housing units which are available to such farmworkers and the cost assessed such farmworkers for occupying such units;

"(B) recommended legislative, administrative, and other action (including the need for new authority for such action) which may be taken for the purpose of improving both the availability and the condition of such housing units; and

"(C) determine the possible roles which individual farmworkers, farmworker associations, individual farmers, farmer associations, and public and private nonprofit agencies can perform in improving the housing conditions of farmworkers.

"(2) The Secretary shall transmit the results of the study described in paragraph (1) to each House of the Congress within one year after the date of the enactment of this subsection.".

APPEALS PROCEDURES

SEC. 503. Section 510 of the Housing Act of 1949 is amended by redesignating paragraphs (g), (h), and (i) as paragraphs (h), (i), and (j), respectively, and by inserting the following new paragraph after paragraph (f):

"(g) issue rules and regulations which assure that applicants denied assistance under this title or persons or organizations whose assistance under this title is being substantially reduced or terminated are given written notice of the reasons for denial, reduction or termination and are provided at least an opportunity to appeal an adverse decision and to present additional information relevant to that decision to a person, other than the person making the original determination, who has authority to reverse the decision;".

DOMESTIC FARM LABOR HOUSING

SEC. 504. Section 514 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(g) The Secretary may waive the interest rate limitation contained in subsection (a)(2) and the requirement of section 501(c)(3) in any case in which the Secretary determines that qualified public or private nonprofit sponsors are not currently available and are not likely to become available within a reasonable period of time and such waiver is necessary to permit farmers to provide housing and related facilities for migrant domestic farm laborers, except that the benefits resulting from such waiver shall accrue to the tenants, and the interest rate on a loan insured under this section and for which the Secretary permits such waiver shall be no less than one-eighth of 1 per centum above the average interest rate on notes or other obligations which are issued under section 511 and have maturities comparable to such a loan.".

SPONSORS PRIORITY

SEC. 505. Section 516(e) of the Housing Act of 1949 is amended by adding at the end thereof the following: "The Secretary shall not give priority for funding under this section to any one of the groups listed in subsection (a) over any of the others so listed.".

ASSISTANCE TO PERSONS RECEIVING LOANS TO PROVIDE OCCUPANT-OWNED, RENTAL, AND COOPERATIVE HOUSING

SEC. 506. (a) Section 521(a)(1) of the Housing Act of 1949 is amended—

(1) by inserting "(A)" after "SEC. 521. (a) (1)";

(2) by striking out everything in the first sentence after "one-eighth of 1 per centum" and inserting in lieu thereof a period; and

(3) by inserting the following at the end thereof:

"(B) From the interest rate so determined, the Secretary may provide the borrower with assistance in the form of credits so as to reduce the effective interest rate to a rate not less than 1 per centum per annum for such periods of time as the Secretary may determine for applicants described in subparagraph (A) if without such assistance such applicants could not afford the dwelling or make payments on the indebtedness of the rental or cooperative housing.

"(C) For persons of low income under section 502 or 517(a) who the Secretary determines are unable to afford a dwelling with the assistance provided under subparagraph (B) and when the Secretary determines that assisted rental housing programs (as authorized under this title, the National Housing Act, and the United States Housing Act of 1937) would be unsuitable in the area in which such persons reside, the Secretary may provide additional assistance, pursuant to amounts approved in appropriation Acts and for such periods of time as the Secretary may determine, which may be in an amount not to exceed the difference between (i) the amount determined by the Secretary to be necessary to pay the principal indebtedness, interest, taxes, insurance, utilities, and maintenance, and (ii) 25 per centum of the income of such applicant.

"(D) With respect to borrowers under section 502 or 517(a) who have received assistance under subparagraph (B) or (C), the Secretary shall provide for the recapture of all or a portion of such assistance rendered upon the disposition or nonoccupancy of the property by the borrower. In providing for such recapture, the Secretary shall make provisions to provide incentives for the borrower to maintain the property in a marketable condition. Notwithstanding any other provision of law, any such assistance whenever rendered shall constitute a debt secured by the security instruments given by the borrower to the Secretary to the extent that the Secretary may provide for recapture of such assistance.

"(E) Except for Federal or State laws relating to taxation, the assistance rendered to any borrower under subparagraphs (B) and (C) shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to welfare and public assistance programs.

"(F) Loans subject to the interest rates and assistance provided under this paragraph (1) may be made only when the Secretary determines the needs of the applicant for necessary housing cannot be met with financial assistance from other sources including assistance under the National Housing Act and the United States Housing Act of 1937.

"(G) Interest on loans under section 502 or 517(a) to victims of a natural disaster shall not exceed the rate which would be applicable to such loans under section 502 without regard to this section.

"(H) The aggregate principal amount of loans made to borrowers receiving assistance pursuant to subparagraph (C) shall not exceed $440,000,000.".

(b) Section 517(j) of such Act is amended by striking out "(2)" in paragraph (4).

RURAL RENTAL ASSISTANCE

SEC. 507. Section 521(a)(2)(A) of the Housing Act of 1949 is amended—

(1) by striking out "the owners" in the first sentence and inserting in lieu thereof "public and private nonprofit owners";

(2) by inserting "congregate, or cooperative" after "rental" the second time it appears in the first sentence; and

(3) by inserting ", by a loan under section 514," immediately after "section 515 for elderly or handicapped housing" in clause (i) of the second sentence.

STUDY OF EMERGENCY POTABLE WATER AND SEWAGE PROGRAM

SEC. 508. (a) The Secretary of Agriculture shall—

(1) carry out a study to determine the approximate number of rural housing units without access to sanitary toilet facilities, potable water, or access to both sanitary toilet facilities and potable water, as defined under regulations established by the Secretary; and

(2) prepare a projection of the cost of implementing an emergency program to provide sanitary toilet facilities and potable water supplies for all such housing units over a two-year period.

(b) Not later than six months after the date of enactment of this Act, the Secretary of Agriculture shall report to the Congress the results of the study and projection under subsection (a).

STUDY OF PROBLEMS CAUSED BY REMOTE CLAIMS

SEC. 509. (a) The Secretary of Agriculture (hereafter referred to in this section as "Secretary") shall make a detailed study of the problems associated with obtaining title insurance by persons in rural areas with respect to real property encumbered by remote claims or other remote encumbrances which prevent such persons from receiving the full benefit of the use of such property, including the benefit of assistance provided under this title. The Secretary shall, in making such study, consider and develop findings and conclusions with respect to—

(1) the extent of such problems as they pertain to the lawful rights of such persons;

(2) the location and amount of land affected by such problems;

(3) the nature, extent, and effectiveness of remedies to such problems presently available, or proposed, under State law;

(4) the potential impact (with respect to existing Federal, State, and local laws) of such remote claims and encumbrances and of any reasonable remedies determined necessary for resolving the problems created for persons by such remote claims or encumbrances;

(5) the liability and losses which might accrue to the Federal Government as a result of each of the remedies considered in the study conducted under this section; and

(6) other issues which the Secretary determines shall be considered, after consulting with the Secretary of Housing and Urban Development.

(b) Not later than March 1, 1979, the Secretary shall transmit to the Congress an interim report on the study conducted under this section. In addition, the Secretary shall, not later than one year after the date of the enactment of this Act, transmit a final report to the Congress. Such final report shall contain the findings and conclusions of the Secretary with respect to the study made under this section. In addition, such final report shall include—

(1) recommendations for Federal legislative actions necessary to implement reasonable remedies to the problems studied under this section; and

(2) recommendations for legislative actions which may be undertaken by State and local governments for the purposes of providing such remedies.

TITLE VI—NEIGHBORHOOD REINVESTMENT CORPORATION

SHORT TITLE

SEC. 601. This title may be cited as the "Neighborhood Reinvestment Corporation Act".

FINDINGS AND PURPOSE

SEC. 602. (a) The Congress finds that—

(1) the neighborhood housing services demonstration of the Urban Reinvestment Task Force has proven its worth as a successful program to revitalize older urban neighborhoods by mobilizing public, private, and community resources at the neighborhood level; and

(2) the demand for neighborhood housing services programs in cities throughout the United States warrants the creation of a public corporation to institutionalize and expand the neighborhood housing services program and other programs of the present Urban Reinvestment Task Force.

(b) The purpose of this title is to establish a public corporation which will continue the joint efforts of the Federal financial supervisory agencies and the Department of Housing and Urban Development to promote reinvestment in older neighborhoods by local financial institutions working cooperatively with community poeple and local government, and which will continue the nonbureaucratic approach of the Urban Reinvestment Task Force, relying largely on local initiative for the specific design of local programs.

ESTABLISHMENT OF CORPORATION

SEC. 603. (a) There is established a National Neighborhood Reinvestment Corporation (hereinafter referred to as the "corporation") which shall be a body corporate and shall possess the powers, and shall be subject to the direction and limitations specified herein.

(b) The corporation shall implement and expand the demonstration activities carried out by the Urban Reinvestment Task Force.

(c) The corporation shall maintain its principal office in the District of Columbia or at such other place the corporation may from time to time prescribe.

(d) The corporation, including its franchise, activities, assets, and income, shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

BOARD OF DIRECTORS; ESTABLISHMENT

SEC. 604. (a) The corporation shall be under the direction of a board of directors made up of the following members:

(1) the Chairman of the Federal Home Loan Bank Board;

(2) the Secretary of Housing and Urban Development;

(3) a member of the Board of Governors of the Federal Reserve System, to be designated by the Chairman of the Board of Governors of the Federal Reserve System;

(4) the Chairman of the Federal Deposit Insurance Corporation;

(5) the Comptroller of the Currency; and

(6) the Administrator of the National Credit Union Administration.

(b) The Board shall elect from among its members a chairman who shall serve for a term of two years, except that the Chairman of the Federal Home Loan Bank Board shall serve as Chairman of the Board of Directors for the first such two-year term.

(c) Each director of the corporation shall serve ex officio during the period he holds the office to which he is appointed by the President.

(d) The directors of the corporation, as full-time officers of the United States, shall serve without additional compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as directors of the corporation.

(e) The directors of the corporation shall adopt such bylaws, policies, and administrative provisions as are necessary to the functioning of the corporation and consistent with the provisions of this title.

(f) The presence of a majority of the board members shall constitute a quorum.

(g) The corporation shall be subject to the provisions of section 552 of title 5, United States Code.

(h) All meetings of the board of directors will be conducted in accordance with the provisions of section 552b of title 5, United States Code.

OFFICERS AND EMPLOYEES

SEC. 605. (a) The board shall have power to select, employ, and fix the compensation and benefits of such officers, employees, attorneys, and agents as shall be necessary for the performance of its duties under this title, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates, except that no officer, employee, attorney, or agent of the corporation may be paid compensation at a rate in excess of the highest rate provided for GS–18 of the General Schedule under section 5332 of title 5, United States Code.

(b) The directors of the corporation shall appoint an executive director who shall serve as chief executive officer of the corporation.

(c) The executive director of the corporation, subject to approval by the board, may appoint and remove such employees of the corporation as he determines necessary to carry out the purposes of the corporation.

(d) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the corporation or of any recipient, or in selecting or monitoring any grantee, contractor, or person or entity receiving financial assistance under this title.

(e) Officers and employees of the corporation shall not be considered officers or employees of the United States, and the corporation shall not be considered a department, agency, or instrumentality of the Federal Government. The corporation shall be subject to administrative and cost standards issued by the Office of Management and Budget similar to standards applicable to non-profit grantees and educational institutions.

POWERS AND DUTIES

SEC. 606. (a) (1) The corporation shall continue the work of the Urban Reinvestment Task Force in establishing neighborhood housing services programs in neighborhoods throughout the United States, supervising their progress, and providing them with grants and technical assistance. For the purpose of this paragraph, a neighborhood housing services program may involve a partnership of neighborhood residents and representatives of local governmental and financial institutions, organized as a State-chartered non-profit corporation, working to bring about reinvestment in one or more neighborhoods through a program of systematic housing inspections, increased public investment, increased private lending, increased resident investment, and a revolving loan fund to make loans available at flexible rates and terms to homeowners not meeting private lending criteria.

(2) The corporation shall continue the work of the Urban Reinvestment Task Force in identifying monitoring, evaluating, and providing grants and technical assistance to selected neighborhood preservation projects which show promise as mechanisms for reversing neighborhood decline and improving the quality of neighborhood life.

(3) The corporation shall experimentally replicate neighborhood preservation projects which have demonstrated success, and after creating reliable developmental processes, bring the new programs to neighborhoods throughout the United States which in the judgment of the corporation can benefit therefrom, by providing assistance in organizing programs, providing grants in partial support of program costs, and providing technical assistance to ongoing programs.

(4) The corporation shall continue the work of the Urban Reinvestment Task Force in supporting Neighborhood Housing Services of America, a nonprofit corporation established to provide services to local neighborhood housing services programs, with support which may include technical assistance and grants to expand its national loan purchase pool and may contract with it for services which it can perform more efficiently or effectively than the corporation.

(5) The corporation shall, in making and providing the foregoing grants and technical and other assistance, determine the reporting and management restrictions or requirements with which the recipients of such grants or other assistance must comply. In making such determinations, the corporation shall assure that recipients of grants and other assistance make available to the corporation such information as may be necessary to determine compliance with applicable Federal laws.

(b) To carry out the foregoing purposes and engage in the foregoing activities, the corporation is authorized—

(1) to adopt, alter, and use a corporate seal;

(2) to have succession until dissolved by Act of Congress;

(3) to make and perform contracts, agreements, and commitments;

(4) to sue and be sued, complain and defend, in any State, Federal, or other court;

(5) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and appoint, employ, and fix and provide for the compensation of consultants, without regard to any other law, except as provided in section 608(d);

(6) to settle, adjust, and compromise, and with or without compensation or benefit to the corporation to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the corporation;

(7) to invest such funds of the corporation in such investments as the board of directors may prescribe;

(8) to acquire, take, hold, and own, and to deal with and dispose of any property; and

(9) to exercise all other powers that are necessary and proper to carry out the purposes of this title.

(c) (1) The corporation may contract with the Office of Neighborhood Reinvestment of the Federal home loan banks for all staff, services, facilities, and equipment now or in the future furnished by the Office of Neighborhood Reinvestment to the Urban Reinvestment Task Force, including receiving the services of the Director of the Office of Neighborhood Reinvestment as the corporation's executive director.

(2) The corporation shall have the power to award contracts and grants to—

(A) neighborhood housing services corporations and other nonprofit corporations engaged in neighborhood preservation activities; and

(B) local governmental bodies.

(3) The Secretary of Housing and Urban Development, the Federal Home Loan Bank Board of the Federal home loan banks, the Board of Governors of the Federal Reserve System and the Federal Reserve banks, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency, the National Credit Union Administration or any other department, agency, or other instrumentality of the Federal Government are authorized to provide services and facilities, with or without reimbursement, necessary to achieve the objectives and to carry out the purposes of this title.

(d) (1) The corporation shall have no power to issue any shares of stocks, or to declare or pay any dividends.

(2) No part of the income or assets of the corporation shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) The corporation may not contribute to or otherwise support any political party or candidate for elective public office.

REPORTS AND AUDITS

SEC. 607. (a) The corporation shall publish an annual report which shall be transmitted by the corporation to the President and the Congress.

(b) The accounts of the corporation shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(c) In addition to the anuual audit, the financial transactions of the corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States. The financial transactions of the corporation shall be audited by the General Accounting Office at least once during each three years.

(d) For any fiscal year during which Federal funds are available to finance any portion of the corporation's grants or contracts, the General Accounting Office, in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States, may audit the grantees or contractors of the corporation.

(e) The corporation shall conduct or require each grantee or contractor to provide for an annual financial audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the corporation.

AUTHORIZATION

SEC. 608. (a) There are authorized to be appropriated to the corporation to carry out this title not to exceed $12,500,000 for fiscal year 1979.

(b) Funds appropriated pursuant to this section shall remain available until expended.

(c) Non-Federal funds received by the corporation, and funds received by any recipient from a source other than the corporation, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds.

(d) The corporation shall prepare annually a business-type budget which shall be

submitted to the Office of Management and Budget, under such rules and regulations as the President may establish as to the date of submission, the form and content, the classifications of data, and the manner in which such budget program shall be prepared and presented. The budget of the corporation as modified, amended, or revised by the President shall be transmitted to the Congress as a part of the annual budget required by the Budget and Accounting Act, 1921. Amendments to the annual budget program may be submitted from time to time.

TITLE VII—NEIGHBORHOOD SELF-HELP DEVELOPMENT

SHORT TITLE

SEC. 701. This title may be cited as the "Neighborhood Self-Help Development Act of 1978".

FINDINGS AND PURPOSE

SEC. 702. (a) The Congress finds and declares that—

(1) existing urban neighborhoods are a national resource to be conserved and revitalized wherever possible, and that public policy should promote governmental and private programs and activities that further that objective;

(2) to be effective, neighborhood conservation and revitalization efforts must involve the fullest possible support and participation of those most directly affected at the neighborhood level; and

(3) an effective way to obtain such support and participation at the neighborhood level is through neighborhood organizations accountable to residents of a particular neighborhood with a demonstrable capacity for developing, assessing, and carrying out projects for neighborhood conservation and revitalization.

(b) Therefore, the purposes of this title are (1) to provide grants and other forms of assistance to qualified neighborhood organizations to undertake specific housing, economic or community development, and other appropriate neighborhood conservation and revitalization projects in low- and moderate-income neighborhoods, which are in need of preservation and revitalization, and (2) in the process of providing such assistance, to increase the capacity of neighborhood organizations to utilize and coordinate resources available from the public and private sectors and from the residents and neighborhoods themselves, in conserving and revitalizing such neighborhoods.

DEFINITIONS

SEC. 703. As used in this title—

(1) the term "neighborhood organization" means a voluntary, nonprofit organization which (A) is broadly representative of the neighborhood in which the project will be located (and may include representatives of local business, financial and other governmental and nongovernmental entities), (B) is accountable to neighborhood residents with respect to the project being proposed, (C) has as an objective the preservation and revitalization of such neighborhood, and (D) is found by the Secretary to have a proven record or demonstrable capacity for developing resources for, and effectively implementing neighborhood conservation and revitalization programs and projects;

(2) the term "neighborhood conservation and revitalization projects" includes, but is not limited to, (A) locally initiated programs for housing rehabilitation or the creative reuse or improvement of existing housing; (B) conservation and revitalization of neighborhood retail business areas and the recycling of vacant or underutilized industrial sites, public facilities, and privately owned businesses for the purpose of expanding employment opportunities and neighborhood economic development; and (C) energy conservation and weatherization projects; and

(3) the term "Secretary" means the Secretary of Housing and Urban Development.

AUTHORITY TO PROVIDE ASSISTANCE

SEC. 704. (a) The Secretary is authorized to make grants and to provide other forms of assistance to neighborhood organizations for effectively preparing and implementing specific housing, economic and community development, and other appropriate neighborhood conservation and revitalization projects within a particular neighborhood, and to assist such organizations in implementing such projects in partnership with local government and other public and private entities.

(b) Grants and other forms of assistance may be made available under this section only if—

(1) the assistance will be used for a specific project which is related to and supportive of a conservation or revitalization strategy for the neighborhood in which the project will be located;

(2) the project will, to the extent feasible, include a self-help component which involves a contribution of time or resources by neighborhood residents;

(3) the project will directly benefit the residents of a low- or moderate-income neighborhood;

(4) the project will, to the extent feasible, involve leveraging of resources available from the private sector;

(5) the project will, to the extent feasible, involve the coordination of resources available from the local, State, or Federal Government;

(6) the applicant demonstrates that the residents of the neighborhood where the project will be located, and particularly residents who will be directly affected by the project, have been actively involved in and supportive of the selection of the project, and will continue to be involved in project development, implementation, and evaluation through an effective and continuing participation mechanism; and

(7) the applicant provides evidence that identified funding sources support the project and can make funds available contingent on the progress of the project.

(c) Grants and other forms of assistance made available under this section shall be used primarily for preparing and the implementation of specific neighborhood housing, economic, and community development projects. No grant or other assistance or portion thereof shall be made available under this section for (1) planning functions which are not directly combined with project implementation, (2) a public works project such as street repair which is not associated with the specific project being funded under this section, (3) operation of a social service program which is not associated with the specific project being funded under this section, (4) an economic development project which will not primarily benefit the residents of the neighborhood in which it will be located, (5) operating costs of a community group which are not associated with the specific project being funded under this section, or (6) other purposes which the Secretary may determine are not consistent with the purposes of this title.

(d) Grants and other forms of assistance may be made available under this title only if the application contains a certification by the unit of general local government within which the neighborhood to be assisted is located that such assistance is consistent with, and supportive of the specific objectives of that unit of government including housing and community development, economic development, and neighborhood conservation or revitalization activities being carried out by such unit.

(e) The Secretary shall consult with the heads of other Federal departments and agencies having responsibilities related to the purposes of this title, including the Community Services Administration, with respect to (1) general standards, policies, and procedures to be followed in the administration of this title, and (2) particular assistance actions or approvals which the Secretary believes to be of special interest or concern to one or more of such departments and agencies. The Secretary shall ensure the close coordination of activities assisted under this title with other related Federal, State, and local assistance programs, including the programs of the community services Administration, and, with respect to particular assistance actions or approvals, ensure a maximum commitment by the neighborhood organization of its own financial and other resources toward the assisted project.

APPROPRIATIONS

SEC. 705. There are authorized to be appropriated for the purpose of carrying out this title not to exceed $15,000,000 for each of the fiscal years 1979 and 1980. Any amount appropriated pursuant to this section shall remain available until expended.

TITLE VIII—LIVABLE CITIES

SHORT TITLE

SEC. 801. This title may be cited as the "Livable Cities Act of 1978".

FINDINGS

SEC. 802. The Congress finds and declares—

(1) that artistic, cultural, and historic resources, including urban design, constitute an integral part of a suitable living environment for the residents of the Nation's urban areas, and should be available to all residents of such areas, regardless of income;

(2) that the development or preservation of such resources is a significant and necessary factor in restoring and maintaining the vitality of the urban environment, and can serve as a catalyst for improving decaying or deteriorated urban communities and expanding economic opportunities, and for creating a sense of community identity, spirit, and pride; and

(3) that the encouragement and support of local initiatives to develop or preserve such resources, particularly in connection with federally assisted housing or community development activities or in communities with a high proportion of low-income residents, is an appropriate function of the Federal Government.

PURPOSE

SEC. 803. The primary purpose of this title is to assist the efforts of States, local governments, neighborhood and other organizations to provide a more suitable living environment, expand cultural opportunities, and to the extent practicable, stimulate economic opportunities, primarily for the low and moderate income residents of communities and neighborhoods in need of conservation and revitalization, through the utilization, design or development of artistic, cultural, or historic resources.

DEFINITIONS

SEC. 804. For the purpose of this title—

(1) the terms "art" and "arts" include, but are not limited to, architecture (including preservation, restoration, or adaptive use of existing structures), landscape architecture, urban design, interior design, graphic arts, fine arts (including painting and sculpture), performing arts (including music, drama, and dance), literature, crafts, photography, communications media and film, as well as

other similar activities which reflect the cultural heritage of the Nation's communities and their citizens;

(2) the term "nonprofit organization" means an organization in which no part of its net earnings inures to the benefit of any private stockholder or stockholders, individual or individuals and, if a private entity, which is not disqualified for tax exemption under section 501(c)(3) of the Internal Revenue Code of 1954 by reason of attempting to influence legislation and does not participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office; such organizations may include States and units of local government (including public agencies or special authorities thereof), regional organizations of local governments and nonprofit societies, neighborhood groups, institutions, organizations, associations or museums;

(3) the term "project" means a program or activity intended to carry out the purposes of this title, including programs for neighborhood and community-based arts programs, urban design, user needs design, and the encouragement of the preservation of historic or other structures which have neighborhood or community significance;

(4) the term "Secretary" means the Secretary of Housing and Urban Development;

(5) the term "Chairman" means the Chairman of the National Endowment for the Arts;

(6) the term "Department" means the Department of Housing and Urban Development; and

(7) the term "Endowment" means the National Endowment for the Arts.

GRANTS TO OR CONTRACTS WITH ORGANIZATIONS

SEC. 805. (a) The Secretary is authorized to make grants to, or enter into contracts with, nonprofit organizations for the purpose of enabling such organizations to undertake or support in cities, urban communities, or neighborhoods, projects which the Secretary, in consultation with the Chairman, determines will carry out the purposes of this title and which—

(1) have substantial artistic, cultural, historical, or design merit,

(2) represent community or neighborhood initiatives which have a significant potential for conserving or revitalizing communities or neighborhoods, and for enhancing community or neighborhood identity and pride, and

(3) meet the criteria established jointly by the Secretary and the Chairman pursuant to this section.

(b) The Secretary and the Chairman shall establish jointly criteria and procedures for evaluating and selecting projects to be assisted under this title. Such criteria shall address, but need not be limited to—

(1) artistic, cultural, historical, or design quality;

(2) the degree of broadly based, active involvement of neighborhood residents, community groups, local officials, and persons with expertise in the arts with the proposed project;

(3) the degree of or the potential for utilization or stimulation of assistance or cooperation from other Federal, State, and local public and private sources, including arts organizations;

(4) the feasibility of project implementation, including the capability of the sponsor organization;

(5) the potential contribution to neighborhood revitalization and the creation of a sense of community identity and pride;

(6) the potential for stimulating neighborhood economic and community development, particularly for the benefit of persons of low and moderate income; and

(7) the potential of utilization of the project by neighborhood residents, particularly residents of low and moderate income, senior citizens, and handicapped persons.

(c) No assistance shall be made under this title except upon application therefor submitted to the Secretary in accordance with regulation and procedures established jointly by the Secretary and the Chairman.

(d) Prior to the approval of any application for assistance under this title, the Secretary shall consult with the Chairman and, in accordance with regulations and procedures established jointly by the Secretary and the Chairman, seek the recommendations of State and local officials and private citizens who have broad knowledge of or experience or expertise in, community and economic development and revitalization, and of such officials and citizens who have broad knowledge of, or expertise in, the arts.

(e) The Secretary, in cooperation with the Chairman, shall prescribe regulations which require that specific portions of the cost of any projects assisted under this title shall be provided from sources other than funds made available under this title. Such matching requirements may vary depending on the type of applicant, and the Secretary may reduce or waive such requirements solely in order to take account of the financial capacity of the applicant.

(f) Grants and other assistance may be made available under this title only if the application contains a certification by the unit of general local government in which the project will be located that the project is consistent with an supportive of the objectives of that government for the area in which the project is located.

(g) Funds made available under this title shall not be used to supplant other public or private funds.

(h) No more than 10 per centum of the funds appropriated for any fiscal year under section 807 shall be available for administrative expenses.

COORDINATION AND DEVELOPING OF PROGRAM WITH OTHER FEDERAL AND NON-FEDERAL PROGRAMS

SEC. 806. The Secretary shall coordinate the administration of the provisions of this title in cooperation with other Federal agencies and assure that projects assisted under this title are coordinated with efforts undertaken by State and local public and private entities, including arts organizations.

AUTHORIZATION OF APPROPRIATIONS

SEC. 807. There are authorized to be appropriated for carrying out the purposes of this title not to exceed $5,000,0000 for fiscal year 1979, and not to exceed $10,000,000 for fiscal year 1980. Any amounts appropriated under this section shall remain available until expended.

TITLE IX—MISCELLANEOUS

REPORT ON MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS

SEC. 901. (a) The first sentence of section 626(a) of the National Mobile Home Construction and Safety Standards Act of 1974 is amended—

(1) by striking out "March 1 of each year" and inserting in lieu thereof "July 1 of every other year beginning with calendar year 1978"; and

(2) by striking out "preceding calendar year" and inserting in lieu thereof "two preceding calendar years".

(b) The second sentence of section 626(a) of such Act is amended by striking out "such year" in clauses (1), (2), and (5) and "the year" in clause (6) and inserting in lieu thereof "such years" in each such clause.

STATEMENT OF POLICY AND STUDY ON HOUSING DISPLACEMENT

SEC. 902. The Congress declares that in the administration of Federal housing and community development programs, consistent with other program goals and objectives, involuntary displacement of persons from their homes and neighborhoods should be minimized. In furtherance of the objective stated in the preceding sentence, the Secretary of Housing and Urban Development shall conduct a study on the nature and extent of such displacement, and, not later than January 31, 1979, shall report to the Congress on recommendations for the formulation of a national policy to minimize involuntary displacement caused by the implementation of the Department's programs, and to alleviate the problems caused by displacement of residents of the Nation's cities due to residential and commercial development and housing rehabilitation, both publicly and privately financed. In carrying out such study, the Secretary shall (1) consult with representatives of affected public interest groups, government, and the development and lending industries; (2) provide data on the nature and scope of the displacement problem, both past and projected, and identify steps needed to improve the availability of such data; and (3) report fully on the current legal and regulatory powers and policies of the Department to prevent or compensate for displacement by its own programs.

REHABILITATION GUIDELINES

SEC. 903. Title V of the Housing and Urban Development Act of 1970 is amended by adding at the end thereof the following:

"REHABILITATION GUIDELINES

"SEC. 511. (a)(1) The Secretary shall develop model rehabilitation guidelines for the voluntary adoption by States and communities to be used in conjunction with existing building codes by State and local officials in the inspection and approval of rehabilitated properties.

"(2) Such guidelines shall be developed in consultation with the National Institute of Building Sciences, appropriate national organizations of agencies and officials of State and local governments, representatives of the building industry, and consumer groups, and other interested parties.

"(3) The Secretary shall publish such guidelines for public comment not later than one year after the date of enactment of this section, and promulgate them no later than eighteen months after such date of enactment.

"(4) The Secretary may furnish technical assistance to State and local governments to facilitate the use and implementation of such guidelines.

"(b) The Secretary shall report to Congress not later than thirty-six months after the date of enactment of this section regarding (1) actions taken by State and local governments to adopt guidelines or their equivalents, and (2) recommendations for further action.".

ALASKA HOUSING PROGRAM

SEC. 904. (a) Subsection (a) of section 1004 of the Demonstration Cities and Metropolitan Development Act of 1966 is amended to read as follows:

"(a) The Secretary of Housing and Urban Development (hereinafter referred to as the 'Secretary') may make loans and grants on the basis of need to the regional native housing authorities duly constituted under the laws of the State of Alaska for the purpose

of providing planning assistance, housing rehabilitation, and maintaining an adequate administrative structure in conjunction with the provision of housing and related facilities for Alaska residents.".

(b) Subsection (b) of such section is amended by inserting before the period at the end thereof the following: ", except that the Secretary may make a grant in excess of such limitation in any case, after consultation with State officials".

PAPERWORK REDUCTION

SEC. 905. (a) The Congress finds and declares—

(1) that various departments, agencies, and instrumentalities of the Federal Government with responsibilities involving housing and housing finance programs, require, approve, use or otherwise employ a variety of different forms as residential mortgages (or deeds of trust or similar security instruments) as notes secured by those mortgages, and for applications, appraisals and other purposes, and that such duplication of forms constitutes a paperwork burden that adds to the costs imposed on the Nation's homeowners and home buyers;

(2) that unnecessary paperwork impairs the effectiveness of Federal housing and housing finance programs;

(3) that both single-family and multifamily programs are affected; and

(4) that simplification of paperwork imposed by Federal housing and housing finance programs would contribute to achieving the Nation's housing goals by reducing housing costs.

(b)(1) Insofar as it is practicable and to the extent that such action would result in a reduction in paperwork and regulatory burden, the Department of Housing and Urban Development and the Veterans' Administration shall employ in their respective programs—

(A) uniform single-family and multifamily note and mortgage forms;

(B) a uniform application form for mortgage approval and commitment for mortgage insurance;

(C) a uniform form for computation of the monthly net effective income of applicants;

(D) a uniform property appraisal form;

(E) a uniform settlement statement which shall satisfy the requirements of the Real Estate Settlement Procedures Act; and

(F) such other consolidated or simplified forms, the consolidation or simplification of which the Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs mutually agree would contribute to a reduction in the paperwork and regulatory burden of housing and housing finance programs administered by the agencies.

(2) Each agency may employ riders, addenda, or similar forms of modification agreements to adapt such uniform forms to its respective programs and policies, consistent with the goals of minimizing the use and extent of such modification agreements and maximizing the suitability of such forms for the use of all participants, public and private.

(3) To the extent permitted by law, the President may require the Farmers Home Administration and the Administrator of the Farmers Home Administration to comply with the requirements of this section if such compliance will contribute to a reduction in the paperwork and regulatory burden of housing and housing finance programs administered by the agency.

(c) The Director of the Office of Management and Budget shall coordinate and monitor the development and implementation by Federal departments and agencies of the efforts required by subsection (b) and shall report to the Congress on such development and implementation as part of each report required under Public Law 93-556.

HOUSING PRODUCTION REPORT

SEC. 906. Section 1603 of the Housing and Urban Development Act of 1968 is amended to read as follows:

"REPORT ON GOALS

"SEC. 1603. Not later than January 20 of each year, the President shall transmit to the Congress a report which—

"(1) reviews the progress made in achieving housing production objectives during the preceding year, and in the event that proposed objectives are not achieved, identifies the reasons for the failure;

"(2) projects the level, composition, and general location of production and rehabilitation activity during the current year, and reassesses the availability of required resources;

"(3) specifies Federal programs and policies to be implemented or recommended in order to achieve the objective;

"(4) updates estimates of the housing needs of lower income families, analyzing these needs, insofar as possible, by type of household, housing need, including households with specialized needs, and general location, and in addition, reassesses the capacity of each Federal housing program to serve the needs identified;

"(5) reviews the progress made in achieving goals of conserving and upgrading older housing and neighborhoods, expanding homeownership and equal housing opportunities, and assuring reasonable shelter costs;

"(6) reports on progress made toward developing new methods for measuring and monitoring progress in achieving these goals; and

"(7) identifies legislative and administrative actions which will or should be adopted or implemented during the current year to support achievement of the goals.".

AMENDMENTS TO INTERSTATE LAND SALES FULL DISCLOSURE ACT

SEC. 907. (a) Section 1403(a) of the Interstate Land Sales Full Disclosure Act is amended—

(1) by inserting "condominium," after "commercial," in clause (3);

(2) by inserting after " 'adverse claims' do not refer to" in clause (10) the following: "United States land patents or Federal grants and reservations similar to United States land patents, nor to"; and

(3) by striking out the matter which precedes "when—" in clause (11) and inserting in lieu thereof the following:

"(11) the sale or lease of real estate which is zoned by the appropriate governmental authority for industrial or commercial development or which is restricted to such use by a declaration of covenants, conditions, and restrictions which has been recorded in the official records of the city or county in which such real estate is located,".

(b) Section 1403 of such Act is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) thereof the following:

"(b) Unless the method of disposition is adopted by the purpose of evasion of this title, the requirements of sections 1405 through 1400 shall not apply to the sale or lease of a lot which is located within a municipality or county where a unit of local government specifies minimum standards for the development of subdivision lots taking place within its boundaries, when—

"(1) the subdivision meets all local codes and standards and is either zoned for single family residences or, in the absence of a zoning ordinance, is limited exclusively to single family residences;

"(2) the lot is situated on a paved, public street or highway which has been built to a standard acceptable to the unit of local government in which the subdivision is located or a bond or other surety acceptable to the municipality or county in the full amount of the cost of the improvements has been posted to assure completion to such standards and the unit of local government has accepted or is obligated to accept the responsibility of maintaining the public street or highway;

"(3) at the time of closing, potable water, sanitary sewage disposal, and electricity have been extended to the lot or the unit of local government is obligated to install such facilities within 180 days. For subdivisions which do not have a central water or sewage disposal system, rather than installation of water or sewer facilities, there must be assurances that an adequate potable water supply is available year-round and that the lot is approved for the installation of a septic tank;

"(4) the contract of sale requires delivery of a warranty deed to the purchaser within 180 days after the signing of the sales contract;

"(5) a policy of title insurance is issued in connection with the transaction showing that, at the time of closing, title to the lot purchased or leased is vested in the seller or lessor subject only to such exceptions as may be approved in writing by the purchaser or lessee prior to recordation of the deed or execution of the lease;

"(6) each and every purchaser or spouse has made a personal, on the lot inspection of the lot purchased or leased, prior to signing of a contract to purchase or lease; and

"(7) there are no direct mail or telephone solicitations or offers of gifts, trips, dinners, or other such promotional techniques to induce prospective purchasers or lessees to visit the subdivision or to purchase or lease a lot.".

COST-BENEFIT ANALYSIS OF FIELD REORGANIZATIONS

SEC. 908. Section 7 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following:

"(p) A plan for the reorganization of any regional, area, insuring, or other field office of the Department of Housing and Urban Development may take effect only upon the expiration of 90 days after publication in the Federal Register of a cost-benefit analysis of the effect of the plan on each office involved. Such cost-benefit analysis shall include, but not be limited to—

"(1) an estimate of cost savings supported by background information detailing the source and substantiating the amount of the savings;

"(2) an estimate of the additional cost which will result from the reorganization;

"(3) a study of the impact on the local economy; and

"(4) an estimate of the effect of the reorganization on the availability, accessibility, and quality of services provided for recipients of those services. Where any of the above factors cannot be quantified, the Secretary shall provide a statement on the nature and extent of those factors in the cost-benefit analysis.".

And the House agree to the same.

HENRY REUSS,
THOMAS L. ASHLEY,
WILLIAM S. MOORHEAD,
FERNAND J. ST GERMAIN,
HENRY GONZALEZ,
PARREN J. MITCHELL,
LES AUCOIN,
JAMES J. BLANCHARD,
STAN LUNDINE,
GARRY BROWN,
J. W. STANTON,
CHALMERS P. WYLIE,
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN SPARKMAN,
HARRISON WILLIAMS,
THOMAS J. MCINTYRE,
EDWARD W. BROOKE,
JOHN TOWER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENTS OF COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3084) to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—COMMUNITY DEVELOPMENT
SECTION 312 REHABILITATION LOANS

Priorities

The Senate bill contained a provision to give priority in the section 312 rehabilitation loan program to families that meet section 8 income requirements. The House amendment provided that priority be given to low and moderate income owner occupants, and in condominium and cooperative projects, to persons principally of low and moderate income. The conference report contains the House provision with an amendment that specifically set the income threshold for these loans at 95 percent of the median income in the area.

Authorization

The Senate bill contained a provision authorizing for appropriation for section 312 rehabilitation loans an amount not to exceed $370 million for fiscal year 1979 and the same amount for fiscal year 1980. The House amendment contained a provision authorizing for appropriation an amount not to exceed $245 million for fiscal 1979 only. The conference report contains the House provision.

Energy conservation standards

The House bill contained a provision that was not contained in the Senate amendment requiring that 180 days after enactment of this Act that improvements made in properties assisted with section 312 rehabilitation loans must meet cost-effective, energy conservation standards. The conference report contains the House amendment with an amendment requiring such standards to be met 270 days after enactment of this Act.

Flexible interest rate

The Senate bill contained a provision authorizing the Secretary to set the rate for section 312 loans above 3 percent for families above 80 percent of median area income and limited the rate not to exceed the current Treasury borrowing rate plus one-eighth percent The Secretary was further authorized to maintain an interest rate no greater than 3 percent for families at 80 percent of median income or lower, and for multifamily housing. The House amendment was similar except that it provided that the Secretary may set the interest rate above 3 percent for persons whose income exceeds 95 percent of the median area income, but the rate cannot exceed a rate determined by the Secretary of the Treasury taking into consideration the current Treasury borrowing rate. It required, further, that the HUD Secretary, in setting the rate, shall consider the condition, location, and use of the property, the nature of the rehabilitation, the income of the applicant, and other factors deemed relevant. The conference report contains the Senate provision with an amendment which would permit section 312 multifamily loans to have interest rates above 3 percent.

The conferees intend that the Secretary will, as a general proposition, apply the higher rates to more affluent borrowers, but the Secretary may permit the lower rate where it is necessary to make the rehabilitation feasible, taking into account the borrower's ability to pay. For interest rates for multifamily loans, the conferees expect the Secretary to set such rates at a level necessary to make the rehabilitation of the property feasible at rents affordable by the prospective tenants of the property.

Refinancing

The Senate bill contained a provision not contained in the House amendment permitting the use of section 312 loans for refinancing existing indebtedness if Secretary determines such loan is necessary to minimize tenant displacement in multifamily housing. The conference report does not contain the Senate provision.

The conferees are aware that there may be instances where the rehabilitation of multifamily structures might lead to the displacement of low and moderate income tenants even though the Secretary exercises caution in selecting properties for rehabilitation such that displacement is minimized. In instances where displacement is expected to result from the inability of the low and moderate income tenants to pay the higher rents caused by the rehabilitation, the conferees would authorize the Secretary to use section 312 loans to refinance existing indebtedness in addition to financing the rehabilitation required. The conferees wish to stress, however, that they expect the Secretary to use this authority sparingly and that owners of such multifamily structures not be permitted to withdraw their equity. The conferees wish to emphasize that it is their intention that the Secretary shall utilize criteria in selecting multifamily structures for rehabilitation which will minimize displacement and may approve the use of section 312 loans for refinancing only if she is assured that the benefit of the subsidy fully accures to the tenants.

Set-asides

The Senate bill contained a provision designating that $175 million must be made available for multifamily rehabilitation, and $70 million for urban homesteading for each of fiscal year 1979 and fiscal year 1980. Additionally, the Senate provision allowed that the Secretary may alter these amounts in either year if necessary after consideration of (a) the needs for different types of rehabilitation and (b) the capacity of State and local governments to administer such programs. The conference report contains the Senate provision with an amendment directing the Secretary to make no more than $60 million of section 312 loans for multifamily housing provisions and that no funds be specifically set aside for urban homesteading. The conferees wish to make clear, however, that the Secretary should assure that sufficient section 312 funds are available for urban homesteading.

Additional section 312 multifamily limitations and conditions property location

Property location: The Senate bill would provide that a multifamily property, to receive a loan under this program, must be (a) in a low or moderate income neighborhood, as designated by a unit of local government for community development purposes, or (b) have a majority of low and moderate income tenants and be in a neighborhood characterized by substantial private investment and rising property values resulting in tenant displacement, and the loan be used to minimize displacement. The House had no provision.

The conference report contains the Senate provision with an amendment specifying that multifamily loans can be made only in low and moderate income neighborhoods or for buildings occupied by a majority of low and moderate income tenants, and clarifying that in either instance the property must be in an area already qualified for section 312 lending. The conferees expect that in making section 312 loans in other than low and moderate income neighborhoods the Secretary will give priority to multifamily properties in which the low and moderate income tenants would be displaced if section 312 financing were not available and that such financing would in fact prevent such displacement. The conferees wish to emphasize, however, that the Secretary, as a matter of general policy, is to employ criteria that will result in selecting projects whose rehabilitation will cause minimal involuntary displacement and she has determined that other rehabilitation approaches are unavailable or inappropriate for a particular project.

Community development strategy: The Senate bill contained a provision not contained in the House amendment requiring that multifamily loans must be consistent with a community development strategy principally benefiting low and moderate income persons. The conference report contains the Senate provision with an amendment specifying that for a section 312 multifamily loan to be made, the proposed rehabilitation would have to be consistent with a local community development strategy developed pursuant to title I of the Housing and Community Development Act of 1974.

Property size: The Senate bill contained a provision that was not contained in the House amendment, requiring that in order to be eligible for section 312 loan assistance the property must be fewer than 100 units, except where the Secretary determines that the loan is essential to community development needs, and there are no alternative sources of financing. The conference report contains the Senate provision.

Property size priorities: The Senate bill contained a provision that was not contained in the House amendment requiring that the

preponderence of 312 multifamily loans shall be for properties of 30 units or less, except that the Secretary must allow localities maximum flexibility in meeting needs identified in their HAPs. The conference report does not contain the Senate provision. The conferees, however, are interested in directing the use of these loans to multifamily properties of about 30 or fewer units in size which the conferees are aware as often being most in need of assistance, but which are sometimes not considered large enough to attract developers.

Section 8 tie-in: The Senate bill provided that where section 8 assistance is needed to minimize displacement, application for such assistance must be made in conjunction with the application for the section 312 multifamily loan; the Secretary shall make such assistance available to the maximum extent possible, and for as long as feasible; the Secretary may also contract with the investor-owner to assure that a unit so assisted will remain available for low and moderate income housing for as long a time period as is feasible. The House had no provision.

The conference report contains the Senate provision with an amendment requiring that whenever tenants will be displaced as a result of section 312 lending in multifamily structures the Secretary shall notify such low and moderate income tenants that they are to be displaced and that they may be eligible for relocation assistance. In addition, the Secretary shall seek to assure a maximum opportunity for such tenants to return to the rehabilitated unit; to occupy another unit owned or assisted by the Secretary; to obtain assistance under the United States Housing Act of 1937; or to receive other relocation assistance deemed appropriate by the Secretary. The conferees wish to clarify their intent that this amendment is directed toward meeting the needs of tenants who are involuntarily displaced after the Secretary has applied the criteria suggested by the conferees in selecting rehabilitation projects such to minimize displacement and after determining that the section 312 financing is appropriate for the project. The conferees are concerned that in providing that housing assistance under the United States Housing Act of 1937 may be used to assist tenants displaced as a result of section 312 loans, an inducement to owners of multifamily properties may be created. This would not be desirable, and the conferees expect the Secretary to take steps to prevent such inducement from occurring.

Rent restrictions: The Senate bill contained a provision that was not contained in the House amendment requiring that the Secretary must enter into an agreement with the owner of the multifamily property receiving a section 312 loan, to limit rent increases caused by the rehabilitation for at least 5 years. The conference report contains the Senate provision.

Provisions for sound management: The Senate bill contained a provision that was not contained in the House amendment requiring that prior to approval of a multifamily section 312 loan, the Secretary shall consider whether the owner is likely to provide sound management of the project and shall require an adequate plan for future management. The conference report does not contain the Senate provision. The conferees expect, however, that the Secretary will insure that in all multifamily properties assisted with section 312 loans that there will be an adequate plan for the sound management of the property. Additionally the conferees expect that the Secretary will assure that, over the life of the loan, the management plan is carried out.

Disclosure to tenants: The Senate bill contained a provision that was not contained in the House amendment requiring prior to approval of a section 312 multifamily loan, that the Secretary must be sure that there is a program for informing tenants of the terms of the loan, its possible effects on rents, and possible sources of rental assistance for eligible tenants. The conference report does not contain the Senate provision. The conferees, however, direct the Secretary to assure that tenants in multifamily properties assisted with section 312 loans will be informed of the terms of the loan and their effects on rents as well as the sources of possible rental assistance.

Assistance to investor-owners: The Senate bill contained a provision that was not contained in the House amendment requiring that the Secretary provide the maximum possible technical assistance to investor-owners, particularly small investor-owners of multifamily projects. The Senate provision is not contained in the conference report.

Tax syndication financing: The Senate bill contained a provision that was not contained in the House amendment requiring that the Secretary shall adopt measures to limit the use of a section 312 loan in conjunction with tax syndication financing, except where the combination is needed to assure the project's feasibility. The conference report does not contain the Senate provision. However, the conferees intend that the Secretary will, in determining the interest rate and the amount of the loan, take into consideration the amount of the equity and the value of the tax preference to assure that the return to the owners is reasonable.

Multifamily temporary displacement: The Senate bill contained a provision that was not contained in the House amendment requiring that the Secretary shall make the maximum effort to minimize displacement caused by multifamily section 312 loans. The conference report contains the Senate provision with an amendment requiring that the Secretary shall minimize involuntary displacement caused by multifamily section 312 loans. The conferees wish to make clear that in such efforts to minimize displacement, the Secretary should take displacement into account in selecting and approving multifamily properties for section 312 loan assistance.

Use of private funds: The Senate bill contained a provision that was not contained in the House amendment requiring the Secretary to encourage the use of private funds in conjunction with section 312 multifamily financing where such use is feasible and does not increase displacement. The Senate provision is not contained in the conference report. The conferees do intend that the Secretary should encourage, to the maximum feasible extent, the use of private capital in the multifamily rehabilitation and they expect the Secretary to limit section 312 multifamily loans to situations where it is necessary to cause the rehabilitation of the property to occur. In determining the amount of the loan and the interest rate, the conferees believe that the Secretary should also take into consideration the value of the tax preference items available to the owners, as well as their projected cash return on equity.

Additional terms: The Senate bill contained a provision that was not contained in the House amendment authorizing that the Secretary may impose additional limitations and conditions on availability and use of funds. The conference report does not contain the Senate provision.

Section 312 loans for urban homesteading

Fund allocation/demonstration program: The Senate bill contained a provision that was not included in the House amendment authorizing the Secretary to set aside a portion of the funds for urban homesteading for a demonstration program of homesteading involving multifamily properties on a national basis. The Senate provision is not contained in the conference report.

Limitation: The Senate bill contained a provision that was not contained in the House amendment limiting the use of section 312 funds for locally developed homesteading programs only to programs meeting the requirements of section 810(b) of the Housing and Community Development Act of 1972. The conference report does not contain the Senate provision.

Reports on section 312 loan program

The Senate bill contained a provision that was not contained in the House amendment requiring that in conjunction with the annual report on the community development block grant program, the Secretary must submit a report on section 312 program which includes a summary of the use of section 312 funds and an evaluation of the progress made toward community development goals. As soon as feasible, but not later than December 1, 1979, an interim report on the use of section 312 funds for multifamily properties with legislative recommendations for improving overall effectiveness must be submitted to the Congress. The conference report contains the Senate provision.

Program extension

The Senate bill contained a provision that was not contained in the House amendment extending the section 312 loan program for an additional year, through fiscal year 1980. The conference report does not contain the Senate provision.

REHABILITATION LOAN INSURANCE

Authority

The House amendment contained a provision, not contained in the Senate bill, which amended section 203(k) of the National Housing Act to provide the Secretary authority to insure rehabilitation loans made by financial institutions for the rehabilitation of one-to-four family structures used primarily for residential purposes. The conference report contains this provision in its entirety.

Definitions

The House amendment contained several definitions not contained in the Senate bill which have been retained in the conference report.

Rehabilitation loan

The House amendment contained a provision, not contained in the Senate bill, which is also contained in the conference report defining the term "rehabilitation loan" as a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit, made for the purpose of financing (1) the rehabilitation of an existing one-to-four unit structure (primarily used for residential purposes), (2) the rehabilitation of such structure and refinancing of the outstanding indebtedness on such structure and real property on which it is located, and (3) the rehabilitation of such structure and purchase of the structure and real property.

Rehabilitation

The House amendment contained another provision, not included in the Senate bill, which is also contained in the conference report defining "rehabilitation" as the improvement (including an improvement designed to meet energy conservation standards) or repair of a structure, or facility in connection with a structure, as required by applicable codes, community development plan, or statewide property insurance plan.

Eligibility

The House amendment, but not the Senate bill, provided that to be eligible for insurance, the rehabilitation loan shall involve a principal obligation that does not exceed, when added to any outstanding indebtedness of the borrower, the amounts specified in subsection 203(b)(2) of the National Housing

Act. The conference report contains this provision.

Interest rate

The House amendment contained a provision not included in the Senate bill, and contained in the conference report providing that the rehabilitation loan shall bear interest at the rate of mortgages under section 203, except, that a higher rate may be permitted during the rehabilitation period.

Acceptable risk and other conditions

The House amendment contained a provision not included in the Senate bill, providing that the Secretary must determine that the loan is an acceptable risk and that it complies with such other conditions and restrictions as the Secretary shall prescribe. The conference report contains this provision.

Refinancing

The House amendment contained a further provision not included in the Senate bill, which provided that a loan made under this section can be refinanced and extended, as the Secretary may prescribe, but in no event can the loan be extended longer than permitted under section 203(b). The conference report contains this provision.

General insurance fund and insurance premiums

The House amendment contained a provision, not contained in the Senate bill, which provided that all funds received, and disbursements made under this authority, shall be credited or charged to the General Insurance Fund; Insurance benefits shall be paid in cash or in debentures of the Fund; and that premium charges fixed for this section may be different from those fixed for mortgages under other provisions of 203, except they may not exceed 1 percent per year. The conference report contains this provision.

GNMA purchasing authority

The House amendment contains a provision not included in the Senate bill, but included in the conference report providing that GNMA may purchase rehabilitation loans insured under section 203(k), without existing GNMA limitations on principal obligations.

URBAN HOMESTEADING

Authorization

The Senate bill contained a provision that authorized an appropriation of not to exceed $26 million for fiscal year 1979, for section 810(g) of the Housing and Community Development Act of 1974, the Urban Homesteading Program. The House amendment contained a provision that authorized an appropriation of not to exceed $25 million for fiscal year 1979. The conference report contains the Senate provision.

Eligibility

Neighborhood: The Senate bill contained a provision that was not contained in the House amendment authorizing that the Secretary may provide for homesteading in areas not being upgraded, if appropriate, and if such action is requested by the State or local government unit or agency involved. The Senate provision is not contained in the conference report.

Veterans' Administration: The Senate bill contained a provision that was not contained in the House amendment to make Veterans' Administration properties eligible for homesteading and to require the Veterans' Administration to publish a list of all such eligible properties and, also, to authorize the Secretary to acquire for homesteading purposes such eligible property. The conference report contains the Senate provision.

Grants

Administrative costs: The Senate bill contained a provision that was not contained in the House amendment authorizing the Secretary to make grants to local governments or agencies participating in the Urban Homesteading Program of amounts not to exceed $60,000 each for administrative costs. The conference report does not contain the Senate provision.

The Senate bill contained a provision that was not contained in the House amendment permitting the Secretary to make grants to State and local units of government and agencies to pay off mechanics or tax liens on properties acquired by such units of government and agencies and to be used in an Urban Homesteading Program. The maximum amount of such a grant would be the lesser of $5,000 or the amount of the lien; however, the aggregate of such grants could not exceed $36 million. The conference report does not contain the Senate provision.

Authorization: The Senate bill contained a provision that was not contained in the House amendment that authorized an appropriation of an amount not to exceed $45 million in fiscal year 1979 in order to carry out the grant program. The conference report does not contain the Senate provision.

Section 312 funds for homesteading

Per property: The Senate bill contained a provision, not found in the House amendment, that established for each urban homesteading property, that an $8,000 section 312 rehabilitation loan must be made available by the Secretary out of the section 312 loan funds set-aside for urban homesteading. The conference report does not contain the Senate provision.

Fund availability: The Senate bill contained a provision, not found in the House amendment, that established that any amount of the proposed set-aside funds available and not used, shall remain available for not to exceed one year for the rehabilitation of other properties in accordance with this section. The conference report does not contain the Senate provision.

COMMUNITY DEVELOPMENT BLOCK GRANT AMENDMENTS

HAP categories

The Senate bill provided that in developing housing assistance plans communities must include the relative proportion of existing rental and owner-occupied units to be upgraded and thereby preserved. Owners of homes requiring rehabilitation assistance would be added by the Senate bill as a category of lower income persons to be assessed in the housing assistance plan. The House amendment provided that the housing assistance plans be expanded only to include the relative proportion of existing units to be upgraded and thereby preserved. The conference report adopts the Senate provision.

Expected to reside

The House amendment contains a provision not found in the Senate bill which defines the term "expected to reside" for purposes of the CDBG Housing Assistance Plan as those persons expected to reside as a result of existing or projected employment opportunities in the community.

The conference report contains the House provision amended to include the elderly who may be expected to reside in the community regardless of their employment status and to permit the term "expected to reside", alternatively, to mean those persons expected to reside in the community as reflected in a community approved state or regional housing allocation plan approved by the Secretary. The provision, as amended, is intended to clearly state the basis upon which a community can be required to develop its housing assistance goals. A community need not set the number of units under the expected to reside element of its housing assistance plan goals at a level greater than that which is needed to accommodate the existing or projected employment opportunities in the community and the elderly who may reasonably be expected to reside there. However, this provision is not intended to preempt a state or judicial requirement that a community undertake a greater share of the responsibility in meeting the housing needs of lower income families. If a community voluntarily accepts a higher level, pursuant to a state or regional housing opportunity plan which the Secretary has approved, that higher level also should be included in the HAP.

The conferees believe that the Secretary should encourage communities to participate in such housing opportunity plans through the use of incentive bonus allocations of section 8 authority, increased section 701 funding for the state or areawide agencies, community development block grant funds and other existing authorities. In particular, the conferees expect the Secretary to actively utilize the authority conferred by section 107(a)(2) of the Housing and Community Development Act of 1974 which provides that grants may be made "to states and units of general local government which join in carrying out housing and community development programs that are areawide in scope."

The conferees wish to emphasize that the amendment is in no way intended to diminish the Congressional commitment made in the Housing and Community Development Act of 1974 and in the Fair Housing Act of 1968 to promote fair housing opportunities in the administration of all housing and community development programs.

Application disapproval

The House amendment contained a provision that the Secretary may not disapprove an application because it stresses any one of the CDBG primary purposes of section 104(c)(3) to a greater or lesser degree than any other; the primary purposes would be of a coequal nature. The Senate bill had no provision. The conference report contains the House provision with an amendment which deletes the term "co-equal" and which provides that the Secretary may disapprove an application if she determines that the extent to which a primary purpose is addressed is plainly inappropriate to meeting the needs and objectives which are consistent with the community's efforts to achieve the primary objective of the Act.

The conferees agreed that the primary purposes were not to be considered as coequal in a quantitative sense, but that each could, in the light of the individual community's need, be the principal means for achieving the primary objective of the act.

The conferees wish to reaffirm that the primary objective of the CDBG program is the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Under the program, each applicant community has a clear responsibility to identify its housing and community development needs, and to develop a program which over a three-year period meets these needs, while principally benefiting low and moderate income persons.

As provided in the statute, the overall objective is to be achieved through activities which carry out three broad national purposes: activities which benefit low and moderate income families, aid in the prevention or elimination of slums or blight or meet particular urgent community development needs, as approved by the Secretary. The spending priorities identified in CDBG applications represent a strategic choice for a community based on its judgment as to which combination of approaches will best serve the overall objective of the program, subject to the Secretary's authority to determine whether the activities to be undertaken are plainly inappropriate in meeting the needs or objectives identified by the community.

The Secretary's responsibility in this process is statutorily defined. The community's application must be approved unless the Secretary finds one of three things:

(1) that a community's description of its community and housing needs is plainly inconsistent with generally available facts and data; or

(2) that the activities to be undertaken by the community are plainly inappropriate to meeting the needs and objectives identified by the community; or

(3) that the community's application does not comply with the act or other applicable laws.

There has, however, been some confusion over how the Secretary is to go about making these findings. The amendment is designed to make clear that a determination to disapprove cannot be made simply because an application gives greater or lesser weight to one spending priority in relation to the others, and that any percentage limitations on the level of funds to be allocated shall be strictly avoided, except for review purposes, in order to take account of unique community needs.

It is the position of the conferees that the Secretary's review of each application (in the context of the three tests listed above) is a review to determine whether the activities designated by the community in its three-year plan are designed to achieve the overall objective of the program. However, the amendment provides that the Secretary may disapprove an application if the extent to which a primary purpose is being addressed is plainly inappropriate to meeting the needs and objectives which are consistent with the community's efforts to achieve the primary objective of the Act. An application could be disapproved even though the activity was clearly eligible and fits a primary purpose if the Secretary determined in light of the primary objective of the Act that the activity is plainly inappropriate to meeting the community's identified needs or objectives.

UDAG

Neighborhood impact: The Senate bill contained a provision not found in the House amendment which would require UDAG applications to analyze, and the Secretary to use a UDAG selection criterion, the impact of the proposed UDAG program on the residents, particularly those of low and moderate income, of residential neighborhood and on the neighborhood, in which the program is to be located. The conference report contains the Senate provision.

UDAG Eligibility: The Senate bill contained a provision that was not contained in the House amendment to redefine the requirements of the Urban Development Action Grant (UDAG) program, in order to make eligible for grants under this program cities and urban counties that contain areas within them exhibiting conditions of severe economic and physical distress. The conference report does not contain the Senate provision. The conferees, however, are aware that many cities and urban counties that are not presently eligible to participate in the UDAG program do contain areas that are severely distressed both economically and physically. The conferees are also aware that there is concern over the redirection of UDAG funds from presently-eligible cities and urban counties to cities and urban counties that are not presently eligible to participate in the program.

The conferees, therefore, believe the Secretary of HUD should study these issues and report to the authorizing Committees of the Congress by no later than March 31, 1979. This study shall include, but not be limited to, a determination of the problems which presently ineligible cities have in meeting the needs of distressed areas, an analysis of the ability of such communities to meet these needs without additional Federal assistance, the need for special criteria which can be used to measure levels of economic and physical distress substantially comparable to those otherwise applicable for eligible cities in areas of cities and urban counties that are presently not eligible to participate in the UDAG program, and shall include specific recommendations to enable, if feasible, the UDAG program to meet the conditions in presently ineligible cities and urban counties containng areas of physical and economic distress.

Access to CD programs

The Senate bill provided that no community could be barred from participating in any program authorized under Title I of the Housing and Community Development Act of 1974 solely on the basis of population, except as expressly authorized by statute. The House amendment provided that the Secretary could not establish requirements that limit or exclude the access of any community from community development assistance based on the population of such community, except as expressly authorized by statute. The conference report adopts the Senate provision.

Technical assistance

The House amendment contained a provision not found in the Senate bill which provided that the technical assistance authorized by section 107(a)(8) of the Housing and Community Development Act of 1974, is to be provided by the Secretary, directly or through contracts, to units of government, or to a group designated by such a governmental unit for the purpose of assisting the governmental unit to carry out its community development program. The conference report contains the House provision.

Effective data

The House amendment provided that the provisions of Title I would become effective October 1, 1978; except the provisions concerning (1) the "expected to reside" clarification, (2) technical assistance to local governments, and (3) application disapproval, would become effective on the date of enactment of this Act. The Senate bill did not have a similar provision. The conference report contains the House provision.

TITLE II—HOUSING ASSISTANCE PROGRAMS

FINANCIAL ASSISTANCE TO TROUBLED ASSISTED HOUSING PROJECTS

Purpose

The Senate bill contained a provision which stated the purpose of this section as being to provide assistance to restore or maintain the financial soundness, and to maintain the low and moderate income character, of certain projects covered by mortgages insured or assisted under the National Housing Act. The House amendment was similar, except it also had as a purpose the improved management of these projects. The conference report adopts the Senate provision with the added purpose to assist in the improvement of the management of the projects.

Authority

The Senate bill authorized the Secretary to provide financial assistance to owners of rental and cooperative housing projects meeting this section's requirements. The House amendment was similar, except the Secretary's authority was subject to approval in appropriation acts. The conference report adopts the House provision.

Program eligibility

The Senate bill made projects initially assisted or approved for assistance under sections 236 or the proviso section 221(d)(5) of the National Housing Act, or section 101 of the HUD Act of 1965, eligible for assistance, except that projects not insured under the National Housing Act could not be provided assistance before October 1, 1979. The House amendment was similar, except there was no provision for those projects approved for assistance, nor that they meet these criteria only initially. The conference report adopts the House provision.

The House amendment also contained three conditions upon which assistance is predicated relating to local governmental relationships to the project: (1) the community in which the project is located has evidenced a commitment to providing essential services to the project; (2) the taxes on the project are no greater than if the project was assessed according to normal property assessment procedures for that community; and (3) the appropriate unit of local government had been consulted to insure that assistance to a project under this program was consistent with local plans. The conference report contains the House provisions amended so that these conditions would not be required to meet prior to funding, rather, the Secretary would be directed to consult with appropriate local officials and seek assurance that: (1) the community in which the project is located is or will provide essential service to the project in keeping with the general level of such services in the community; (2) the taxes on the project are or will be no greater than if the project was assessed according to the community's normal procedures; and (3) assistance under this program would not be inconsistent with local plans and priorities. The conferees expect that the Secretary will actively and affirmatively seek these assurances from the pertinent local officials. The conferees anticipate that the Secretary will receive these assurances prior to making assistance available unless there are extenuating circumstances.

Use of assistance

The Senate bill contained a provision authorizing the Secretary to provide assistance in an amount consistent with this program, not to exceed the difference between estimated operating costs and project income. The House amendment authorized assistance in any amount consistent with the management-improvement plan and which did not exceed (a) an amount necessary to correct deficiencies caused by the deferral of regular maintenance, (b) an amount necessary to maintain the low and moderate income character of the project by reducing capital item reserve funds, and (c) an amount not greater than the operating deficit. The conference report adopts the House provision.

Estimated project revenue

The Senate bill computed overall estimated project revenue as the sum of (a) the amount of the rent to be paid by tenants, (b) amount of rental assistance payments made on behalf of tenants, (c) the amount of subsidy to be paid to the owner (such assistance specifically included interest differentials or any other payments to a mortgagee), and (d) other income. The House amendment was similar, except (a) in estimating anticipated rental income, section 236(f) of the National Housing Act was to be disregarded, and (b) there was no specific identification in the estimate of assistance to owners of interest differentials. The conference report adopts the House provision.

Tenant contribution

The House amendment had a requirement, not included in the Senate bill, that in computing estimated rent, at least 25 percent of each tenant's income was to be included, or if the tenant pays his or her own utilities, a percentage less than 25 percent taking into account those utility costs, except the total rent could not be more than the fair market rent. The conference report adopts the House provision with an amendment which permits the Secretary to employ an amount less than 25 percent of income in the computation if that lesser amount is provided for under another federally assisted housing program in which the tenant is a participant. The purpose of this amendment is to assure

that the tenant's contribution is not over counted in the calculation of estimated rental income. The conferees also wish to make clear that the computation of the tenant contribution can be based on the most recent tenant income certification. It is not the intent of the conferees to require the Secretary to undertake a new income certification procedure.

Delinquency and vacancy allowance

The House amendment also required, though the Senate bill did not, that any delinquency and vacancy allowance not exceed six percent of the estimated rent, except that the Secretary could permit a higher level if she deemed it appropriate during the first two years in which a project receives assistance under the program. The conference report adopts the House provision amended to permit the Secretary to allow a vacancy and delinquency allowance of greater than six percent during the first three years of assistance rather than two years as in the House amendment. The conferees intend to monitor the use and workability of this provision and if difficulties are encountered they expect the Secretary to recommend appropriate legislative remedies.

Estimated project operating expenses

The House amendment included restrictions on the calculation of estimated project expenses not included in the Senate bill. It specifically excluded the return on the owner's equity as an operating expense, and also required that the operating costs be consistent with the management-improvement plan and provided for the inclusion of the owner's reserve fund as an expense. The conference report adopts the House provision.

Payment schedule

The Senate bill required that payments under this program be made on an annual basis. The House amendment further required that the assistance be payable in at least quarterly intervals, and that the Secretary review the project's management improvement and operating plan at the time of payment. The conference report adopts the House provision. The Secretary in reviewing the plan should take into account any unanticipated uncontrollable cost increases which occurred during the previous quarter and where she deems it appropriate to adjust the project's budget to reflect them. It is, however, the view of the conferees that such adjustments should be held to a minimum and made only where absolutely necessary.

Discretionary adjustments

The Senate bill had a provision, not included in the House amendment, authorizing the Secretary to make discretionary adjustments in the annual operating budget and the amount of assistance as necessary to reflect changes in the project's income and operating expenses. The conference report does not contain this provision.

Regulations

The Senate bill authorized the Secretary to issue regulations, and specified inclusion of regulations requiring establishment of a reserve fund or other similar safeguards of a project's financial soundness. The House amendment was similar, but did not specify regulations requiring a reserve fund. The conference report adopts the Senate provision.

Authorization

The Senate bill provided authorizations for appropriations of $74 million for fiscal year 1979 and $96 million for fiscal year 1980 in addition to funds made available out of the section 236 reserve fund and all appropriated funds were to remain available until expended. The House amendment provided only an authorization appropriations of $74 million for fiscal year 1979 in addition to funds made available out of the section 236 reserve fund. The conference report contains the House provision amended to provide that all appropriated funds will remain available until expended.

The Senate bill contained a provision which required that all excess rental charges credited to the section 236 reserve fund after September 30, 1977, be merged with and be in addition to any funds appropriated for the program and such excess rental charges collected after September 30, 1978, be credited to and be in addition to any appropriation for the program. The House amendment provided that the tax and utility subsidy program authorized by section 236 of the National Housing Act would be repealed effective October 1, 1978, and that all funds in the Section 236 reserve fund after October 1, 1978, could only be used, subject to approval in an appropriations act, for the program authorized by this section but that no such funds could be so approved for any fiscal year beginning after September 30, 1979. The conference report contains the House provision amended such that only funds credited to the section 236 reserve fund after October 1, 1978, would be limited to use in the program authorized by this section. The conferees adopted this amendment so as to not prejudice the pending dispute between the Department and a class of tenants over the previous lack of use of the section 236 tax and utility subsidy program. Should a disposition of the dispute be made which leaves unobligated funds in the section 236 reserve fund, the conferees expect that legislative action will be taken to make such funds available for the program authorized by this section.

TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS

Purpose

The Senate bill contained a provision not contained in the House amendment which stated a recognition of the importance and benefits of cooperation and participation of tenants in creating a suitable living environment and contributing to the successful operation of multifamily housing projects. The conference report contains the Senate provision.

Definition of multifamily housing projects

The Senate bill contained a provision, not in the House amendment, which defined a multifamily housing project as one which (1) is covered by a mortgage insured under the National Housing Act and assisted or approved for assistance under sections 236 or the proviso in section 221(d)(5) of the National Housing Act or under section 101 of the Housing and Urban Development Act of 1965, or (2) met the foregoing criterion and has been acquired and sold by the Secretary subject to a mortgage insured or held by the Secretary to a purchaser with whom, at the time of sale, there is an agreement to maintain the low-to-moderate income character of the project, or (3) is owned by the Secretary or covered by a mortage insured under the National Housing Act, or held by the Secretary, and is serving predominately low- and moderate-income tenants. The conference report contains the Senate provision amended to conform the definition of a multifamily housing project to that contained in the definition of an eligible project in section 201(c) of this act.

Program

The Senate bill contained a provision not in the House amendment which required the Secretary to adopt such measures as deemed appropriate to assure that: (1) tenants have adequate notice of, reasonable access to relevant information about, and an opportunity to comment on, major actions affecting rents, physical condition, or management of multifamily projects, and in the case of a HUD-owned project, disposition of the project; (2) owners cooperate in assisting tenants in obtaining rent subsidies or other assistance; (3) tenants are not evicted without good cause or adequate notice of the reasons therefor; and (4) owners cooperate with resident tenant organizations and do not interfere with the right of tenants to organize.

The conference report contains the Senate provision amended so that the Secretary shall assure that: (1) where the Secretary's written approval is required with respect to an owner's action, and the Secretary deems it appropriate, tenants have adequate notice of, reasonable access to relevant information about, and an opportunity to comment on such actions, and in the case of a HUD-owned project, disposition of the project and that such comments are taken into consideration by the Secretary prior to granting approval for the action; (2) owners not interfere with the efforts of tenants to obtain rent subsidies or other assistance; (3) leases approved by the Secretary provide that tenants may not be evicted without good cause or adequate notice of the reasons therefor, and do not contain unreasonable terms and conditions; and (4) owners do not impede the reasonable efforts of resident tenant organizations to represent their members or the reasonable efforts of tenants to organize.

The conferees recognize that tenants, together with owners, mortgagees and the Secretary of HUD must be concerned with the long-term physical and economic well-being of assisted multifamily housing projects. To better assure that the potential benefit of tenants' experience is reflected in the operation of a project, the Secretary has been directed to assure that with respect to those major actions of an owner for which the Secretary's written approval is required, and for which the Secretary believes that tenants have a significant contribution to make in assisting in the formulation of the Secretary's decision, tenants have an opportunity to provide such input to the Secretary and that the Secretary will consider the tenant comments in a timely manner and avoid delay. The conferees do not envision that the Secretary will require such input in all of the Secretary's decisions affecting a project, such as releases from residual receipts accounts, but only major actions such as rent increases, a change in ownership or management, a conversion of use, release of security, a demolition, or major physical alterations to the project.

With respect to rent subsidies or other public assistance, owners are to make available to residents any information prepared and distributed to the project by the Department of Housing and Urban Development regarding such programs and assistance.

Funding

The Senate bill contained a provision not in the House amendment which authorized the Secretary, in carrying out the other provisions of the section, to prescribe standards for compliance which might include approval of reasonable expenditures from project income to support resident tenants' organizations. The conference report does not contain this provision. The conferees believe that the Secretary now has authority to approve reasonable expenditures from project funds to pay for tenant activities related to the project. The conferees wish to indicate that this authority includes, for example, the approval of expenditures necessary to make meeting spaces available to tenants and representative tenant organizations in situations where charges are normally imposed for the use of such facilities. Clearly, project owners are not to be permitted to unreasonably withhold the use of such spaces when requested by representative tenant organizations.

Discretion

The Senate bill had a provision not found in the House amendment which authorized the Secretary to take such actions and prescribe such standards for compliance as the

Secretary deemed appropriate to effectuate the purposes of this section. The conference report does not contain this provision but does include language which postpones the effective date of the section for ninety (90) days following the effective date of this Act so as to permit the Secretary to prepare and promulgate regulations implementing this section.

MANAGEMENT AND PRESERVATION OF HUD-OWNED MULTIFAMILY HOUSING PROJECTS

Declaration of policy and objectives

The Senate bill contained a provision not in the House amendment providing that the goals of the property management and disposition program of HUD shall be to dispose of projects in the least costly fashion while still furthering the policy objectives of: preserving housing units available and affordable to low- and moderate-income families, revitalizing residential neighborhoods, maintaining existing housing stock, minimizing displacement and demolishing projects only as a last resort. The Secretary was authorized to balance these competing goals in a manner the Secretary deems will further the overall purpose of the section.

The conference report states that the purpose of the property management and disposition program of HUD shall be to manage and dispose of projects in a manner which will protect the financial interests of the federal government and be less costly to the federal government than other reasonable alternatives by which the Secretary can further the goals of:

(1) preserving the housing units so that they can remain available to and affordable by low- and moderate-income families;

(2) preserving and revitalizing residential neighborhoods;

(3) maintaining the existing housing stock in a decent, safe and sanitary condition;

(4) minimizing the involuntary displacement of tenants; and

(5) minimizing the need to demolish projects.

It also provides that the Secretary, in determining the manner by which a project shall be managed or disposed of, may balance competing goals in individual projects so as to further the achievement of the overall purpose of this section.

Authority and evaluation of potential purchasers and managers

The Senate bill contained a provision not in the House amendment which provided that notwithstanding the provisions of the Federal Property and Administration Services Act of 1949 or any other law, the Secretary would be authorized to: (1) dispose of HUD-owned multifamily projects on a negotiated, competitive bid or other basis to a qualified purchaser after considering the low- and moderate-income character of the project and the goals of this section; and (2) to contract for management's services on a negotiated, competitive bid, or other basis. The Senate bill also provided that in evaluating the qualifications of potential managers and purchasers of multifamily projects, the Secretary must consider, among other factors: (a) ability to implement sound financial management, (b) ability to provide sound physical management, (c) ability to respond to the economic and social needs of lower income tenants, and work cooperatively with resident organizations, (d) responsiveness of the proposed management plan to the needs of the property and the residents, (e) adequacy of organizational, staff and financial resources, and (f) the cost of services.

The conference report deletes the reference to the Federal Property and Administration Services Act or any other laws and provides that the Secretary is authorized to dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low- and moderate-income character of the project and the goals and requirements of this section, to a purchaser determined by the Secretary to be capable of (1) satisfying the conditions of the disposition; (2) implementing a sound financial and physical management program; (3) responding to the needs of the tenants and working cooperatively with resident organizations; (4) providing adequate organizational, staff and financial resources to the project; and (5) meeting any other requirements as the Secretary may impose.

In addition, the conference report provides that the Secretary is authorized to contract for management services for a HUD-owned multifamily housing project on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of satisfying the similar requirements as those imposed on a purchaser except there is no requirement dealing with the condition of disposition.

Secretary's maintenance duty and full occupancy

The Senate bill contained a provision not in the House amendment which provided that the Secretary shall maintain all occupied, HUD-owned multifamily projects in a decent, safe and sanitary condition, and that the Secretary maintain full occupancy in such projects.

The conference report contains these two provisions, but provides an exception to these obligations where the Secretary has determined on a case-by-case basis that such policies would be clearly inappropriate given the manner in which the Secretary has determined an individual project will be managed or disposed of pursuant to the goals of this section.

Tenant and neighborhood participation in project maintenance

The Senate bill contained a provision not contained in the House amendment requiring the Secretary to make reasonable efforts to encourage the employment and training of tenants of HUD-owned housing projects and residents of the neighborhcods in which these projects are located in the repairs and maintenance of these projects. The conference report does not contain this requirement; however, the conferees believe that substantial benefits may be obtainable from such efforts and that the Secretary is encouraged to maximize opportunities for such employment.

Technical assistance for developing cooperatives to purchase projects

The Senate bill contained a provision not contained in the House amendment which authorized the Secretary to consult with and furnish technical assistance to tenants and organizations for the purpose of developing nonprofit cooperatives which will purchase HUD-owned multifamily projects, and to develop tenant management capabilities. The conference report does not contain this provision. However, the conferees believe that the Secretary now has the authority to initiate such efforts and wish to encourage the use of the Department's existing technical assistance resources to assist in the conversion of HUD-owned projects to tenant ownership and in the development of tenant management capabilities.

Tenant displacement

The Senate bill contained provisions, not included in the House amendments, which provided that whenever tenants will be displaced as a result of the disposition of, or repairs to, a multifamily HUD-owned project, the Secretary shall notify such tenants of pending displacement and the relocation assistance to be provided. In addition, the Secretary would be required to seek to assure maximum opportunity for any displaced tenant to return to a repaired unit, to occupy a unit in another project owned by the Secretary, to obtain assistance under the U.S. Housing Act of 1937, or receive such relocation assistance as the Secretary deems appropriate.

The conference report contains these provisions. In determining the level of relocation assistance to be provided in specific instances, the Secretary should consider both the need and the income of the displaced tenants.

Alternatives to assignment of an insured mortgage

The Senate bill contained a provision not contained in the House amendment which provided that whenever the Secretary is requested to accept assignment of a mortgage insured by the Secretary covering certain types of multifamily housing projects, and the Secretary determined that partial payment of a claim would be least costly to the federal government than other reasonable alternatives for maintaining the low- and moderate-income character of the project, the Secretary could request the mortgagee, in lieu of assignment, to accept partial payment of the claim under the mortgage insurance contract, and recast the mortgage. The provision also provided that, as a condition of such partial payment, the mortgagor agree to repay the amount of such payment to the Secretary with this obligation secured by a second mortgage on the project. The Secretary was provided the authority to define the terms and conditions of both the recast first mortgage and the new second mortgage.

The conference report contains the Senate provision. The conferees believe that in limited instances this new authority may be a very useful additional tool which the Secretary might utilize to effectuate the overall goals of the National Housing Act and of the Congress as set forth in this section. The conferees wish to make explicit that a mortgagee's participation in such an arrangement would be purely voluntary and based on its determination that such an arrangement would be in its own best interest. The conferees expect that this authority will be used sparingly and direct the Secretary to consult with the appropriate committee of both the Senate and the House of Representatives on guidelines for its use, and at least, during the initial period of its use, to periodically report to the committee on those specific instances in which the authority is being utilized.

The conferees believe that this new authority, together with other policies of the Department with respect to troubled multifamily housing projects and the disposition of HUD-owned projects such as the assignment and modification of mortgagees, workout arrangement, and transfers of assets from nonprofit sponsors to limited dividend owners, must be coordinated and utilized in a consistent manner. The conferees accordingly direct the Secretary to take steps to assure that these activities and policies are consistent and effectively coordinated, and the conferees intend to carefully monitor and review policy development and implementation in these areas.

Definition of multifamily housing project

The Senate bill contained a provision defining "multifamily housing projects" for the purposes of this section as a multifamily project determined by the Secretary to be serving predominately low- and moderate-income tenants. The House amendment contained no such provision. The conference report defines this term to mean a multifamily project which is or prior to acquisition by the Secretary was assisted under section 236 or the proviso of section 221(d)(5) of the National Housing Act or under section 101 of the Housing and Urban Development Act of 1965, and insured under the National Housing Act.

Housing access

The Senate bill contained a provision, not included in the House amendment, providing that the Secretary require any purchaser of a HUD-owned multifamily project to agree not to refuse unreasonably to lease a vacant dwelling unit which rents for an amount not greater than the fair market rent for a comparable unit in the area, as determined under section 8 of the U.S. Housing Act of 1937 to a holder of a certificate of eligibility under that section solely because such prospective tenant is a certificate holder. The conference report contains the Senate provision with an amendment providing that this requirement pertains only to a project sold on or after October 1, 1978.

HOUSING FOR THE ELDERLY AND HANDICAPPED

The House amendment contained a provision not found in the Senate bill which provides that a corporation for purposes of the section 202 program must, in addition to existing requirements, have a governing board which has been selected so as to assure significant representation of the views of the community and that the board is responsible for the operation of the section 202 project. The conference report contains the House provision. This provision is intended to increase the involvement of local residents in the development and operation of section 202 housing projects, however, the conferees wish to make clear that this increase in local involvement is not intended to limit the participation of national nonprofit organizations in the program.

The conferees are aware that there has been some confusion over whether chronically mentally ill persons are eligible for section 202 housing. It is the view of the conferees that many chronically mentally ill persons could fulfill the statutory definition of handicapped and thus would be made eligible for section 202 housing. The conferees wish to make clear that it was never the intent of Congress to exclude chronically mentally ill persons from participating in the section 202 program. However, the conferees are aware that the housing needs of some chronically mentally ill persons may differ from those of other handicapped persons and that the Department has not heretofore had experience with providing housing for such persons. The conferees therefore expect that the Secretary will promptly develop criteria and standards for housing for the chronically mentally ill so that such persons can become active participants in the program. In this regard, the conferees believe that the current HUD demonstration can provide an ongoing useful basis for evaluating such criteria and standards.

LOW-INCOME HOUSING

Set-asides

The Senate bill required a set-aside from the annual contributions contract authority provided for fiscal year 1979 of at least $50 million for the modernization of conventional public housing projects and of $30 million for a new homeowner's rehabilitation assistance program. The House amendment deleted, as of October 1, 1978, the set-aside of funds from the annual contributions contract authority for the modernization of public housing projects. The conference agreement contains the Senate provision amended to delete the set-aside for the homeowner's rehabilitation assistance program.

The conferees are very concerned about the physical conditions of existing public housing projects and believe that increased amounts of funding must be directed to modernize and restore these projects to decent, safe and sanitary conditions. The conferees are concerned that the Department may be adopting an inconsistent position in urging communities to accept greater amounts of public housing while not making sufficient funds available to upgrade, preserve and modernize existing projects. In addition, while fully supporting the Department's efforts to upgrade some of the nation's largest, worst, but still salvageable projects, the conferees strongly believe that modernization funds should be made available to all existing projects which require these funds regardless of their size. It appears inconsistent for HUD to encourage the allocation of public housing units in smaller, scattered, and decentralized packages and not fully support the modernization of existing smaller projects.

Although the conference report does not contain the homeowners rehabilitation assistance program, the conferees wish to encourage the rehabilitation of one-to-four family dwelling units by persons of all incomes. To this end, the conferees have expanded the section 312 rehabilitation loan program and amended section 203(k) of the National Housing Act. In addition, community development funds are available if communities wish to utilize such funds for this purpose. Both section 235 of the National Housing Act and the low-rent public housing program provide authority to assist efforts by lower-income families to become homeowners. Efforts are also underway by the Neighborhood Reinvestment Corporation in supporting the Neighborhood Housing Services of America to address the problems of homeownership and neighborhood revitalization. In order that both Houses may consider recommendations for possible inclusion in next year's legislation, the conferees direct the Secretary to submit a report to Congress by March 15, 1979, which examines existing authorities and programs with a view toward increasing, maintaining, and coordinating opportunities for rehabilitation and homeownership by lower-income families. The report should include an examination of the desirability of a section 8 program of the type proposed in the Senate bill or other assisted housing programs, as well as counseling and special programs, as a means to assist lower-income homeowners. The Secretary may include in this report legislative recommendations which she believes necessary to carry out these objectives. The conferees agree that both bodies will review the Secretary's report in their hearings on housing legislation next year.

Consistency with Housing Assistance Plans (HAPs)

The House amendment contained a provision not included in the Senate bill which made applicable to additional annual contributions contract authority provided on or after October 1, 1978, the requirement that programs under the U.S. Housing Act of 1937 be administered to provide assistance for new, substantially rehabilitated and existing units to the maximum extent consistent with the allocation formula under section 213(d) of the 1974 Housing and Community Development Act and with communities' Housing Assistance Plans. The conference report contains this provision.

Notice to vacate

The House amendment contained a provision not included in the Senate bill which gave the owner of a section 8 project the right to give notice to vacate in accordance with such State and local laws as the Secretary has determined give adequate protection to the tenants, and in accordance with the determination of the public housing authority pursuant to review procedures approved by the Secretary. The conference report does not contain this provision.

Section 8 substantial rehabilitation

The House amendment contained a provision dealing with section 8 substantial rehabilitation that was not included in the Senate bill. The House amendment provided that the maximum rent could not be greater than the fair market rents for new or existing section 8 units, or a lesser amount that would be appropriate taking into consideration the owner's investment in the assisted units, and other relevant factors. The assisted units were to be rehabilitated to a level not beyond applicable codes and standards and had to meet cost-effective, energy efficiency standards. In addition, all units of the building in which the assisted units are located had to meet applicable codes and standards for decent, safe and sanitary housing as prescribed by the Secretary. The maximum term for assistance contracts on substantial rehabilitated units could not exceed the maximum established for new section 8 units under existing law or a shorter term if determined to be appropriate because of the owner's investment or other relevant factors. Finally, this subsection would be effective for contracts entered into or or after 180 days after enactment. The conference report contains the House provision amended so that the subsection would be effective 270 days after enactment.

Contracts to upgrade

The Senate bill contained a provision not included in the House amendment which (notwithstanding any other provision of section 8) authorized assistance payments to owners or prospective owners who agreed to upgrade housing and, thereby, preserve it through upgrading which is less than substantial rehabilitation; assistance could be made to any unit in a project which, overall, needed upgrading. The conference report contains this provision amended to delete the phrase "notwithstanding any other provision of section 855.

Percentage of nonelderly

The Senate bill contained a provision not included in the House amendment which under section 8 or public housing consists of a single person who is not disabled, displaced, the remaining member of a tenant family, nor 62 years of age or older, nor more than 20 percent of the units under the jurisdiction of any public housing agency should be occupied by such persons. The conference agreement contains this provision amended to change the percentage limitation to 15 percent.

Effective date

The House amendment contained a provision not included in the Senate bill which established that the amendments of this section, except for the subsection on section 8 assistance for substantial rehabilitation; became effective on October 1, 1978. The conference report contains this provision.

PUBLIC HOUSING SECURITY DEMONSTRATION

Findings

Both the Senate bill and the House amendment set forth Congressional findings that low-income and elderly public housing residents are being threatened as a result of inadequate security arrangements to prevent physical violence, theft, burglary and other crimes and that an integral part of successfully providing decent, safe and sanitary dwellings for low-income persons is to insure that the housing is secure. In addition, the Senate bill declared that living in an unsecure housing environment has forced these residents to restrict their lives and use of the environment because of concern about crime; that residents are abandoning public housing projects at a time when there is an increasing demand for public housing units; that higher vacancy rates and heavy financial losses of management in some cases have led to abandonment of public housing projects; that local public housing authorities have inadequate security arrangements for the prevention of crime and vandalism and lack specific operating funds to provide security; and that action is needed to provide for

the security of these residents and to preserve the Nation's investment in its public housing stock.

The House amendment declared that: older persons generally regard the fear of crime as the most serious problem in their lives; crime and the fear of crime have led some residents to move from public housing; and public housing authorities may have inadequate security arrangements for the prevention of crime and vandalism. The conference report includes the House provision amended to add a finding that action is needed to provide for the security of public housing residents and to preserve the Nation's housing stock.

Policy

Both the Senate bill and the House amendment declared that the policy of the United States is to provide for the demonstration and evaluation of more effective means of mitigating crime and vandalism in public housing projects. The Senate bill, in addition, established as a policy, the development of a comprehensive program for reducing crime and vandalism in all the Nation's public housing projects. The House amendment declared the purpose of the policy was to provide a safe living environment, particularly for the elderly residents of public housing projects. The conference report contains the House provision.

Program authority

The Senate bill directed the Secretary of HUD to initiate promptly a program for the development, demonstration, and evaluation of improved, innovative community anticrime and security methods to reduce crime in public housing projects and their surrounding neighborhoods. The House amendment is similar except it limits the Secretary to initiating and carrying out the program during the fiscal year beginning on October 1, 1978, and to the extent approval in appropriation Acts. The conference report includes the House provision.

Project selection

The Senate bill and the House amendment both provided that in selecting projects to receive assistance under this section, the Secretary must consider the extent of crime and vandalism, the nature and quality of community anticrime efforts in the projects and surrounding areas, the nature and quality of police and other protective services to the projects, the vacancy rate and demand for public housing in the locality, and the extent of abandonment of public housing units. In addition, the Senate bill stated that priority must be given to plans submitted by public housing authorities which provide for the restoration of abandoned dwelling units, coordination between public housing management and local government in providing security and social services to the projects and tenants, and maximum opportunity for tenant involvement and employment in the security programs. The House amendment required the Secretary to assure, in selecting projects, that a broad spectrum of project types, locations and tenant populations are represented. The conference agreement contains the House provision.

Coordination of resources

The Senate bill provided that the Secretary must make every effort to coordinate and jointly target resources with other agencies in carrying out this demonstration program—particularly the Law Enforcement Assistance Administration, the Department of Health, Education and Welfare, the Department of Labor, Community Services Administration, and ACTION. The House amendment directed the Secretary, in selecting anitcrime and security methods to be demonstrated, to give particular attention to comprehensive plans submitted by public housing authorities which provide for coordination between housing management and local law enforcement officials or coordination of resources available through LEAA, HEW, the Department of Labor, CSA, ACTION, or other State or Federal agencies. The conference agreement contains both the House and Senate provisions.

Survey and report

Both the Senate bill and the House amendment directed the Secretary of HUD to carry out a survey of crime in public housing projects in the Nation, and report to the Congress within 18 months after the date of enactment. The report must include information on the level of crime and vandalism, findings from the demonstration and evaluation of various methods of reducing crime levels, recommendations for a comprehensive program to provide increase security to all public housing projects, and the estimated costs of such program. In addition, the House amendment directed the Secretary to (1) survey the nature and extent of resources currently available and employed to alleviate crime and vandalism in public housing; and (2) make legislative recommendations for increasing the coordination between anticrime programs of other State and Federal agencies that may be used by public housing authorities. The conference report contains the House provision.

Authorization

The Senate bill authorized that not more than $10 million from fiscal 1979 funds appropriated for the public housing operating subsidy program be used for this program. The House amendment directed that not more than $12 million from fiscal 1979 funds appropriated for HUD's assisted housing contract authority be used for this program. The conference report contains the House provision. The conferees clearly intend that the $12 million be available only to provide single-year grants for fiscal year 1979 and are not to be used to fund long-term contracts under this demonstration program. The conferees further intend that (except for up to $1 million) the funds authorized for this program not be counted as a portion of the $50 million set-aside for modernization contracts.

SECTION 8 DEMONSTRATION

The House amendment contained a provision that was not contained in the Senate bill directing the Secretary to conduct a demonstration to determine new methods for improving the section 8 program to encourage owners to make wider use of it for low income families, especially those who have more than two children, in areas with low vacancy rates. The Secretary was permitted to use additional annual contributions contract authority, subject to appropriations, to carry out the proposed study; and was directed to report the results of the study to both Houses annually during the period in which it was being carried out. The conference report contains the House provision amended so that the Secretary is required to examine alternative means of encouraging section 8 housing development for large families in low vacancy areas, and to report to Congress with any legislative recommendations within a year.

SECTION 8 HOMEOWNERS' REHABILITATION ASSISTANCE

Set-aside

The Senate bill contained a provision not found in the House amendment which would authorize a set-aside of not less than $30 million in fiscal year 1979 from section 8 funds for assistance payments to lower income homeowners who obtain private rehabilitation loans. The conference report does not contain this provision.

Contract term

The Senate bill had a provision not found in the House amendment which provided that each contract entered into under this program must be for a term of not less than one month nor more than 180 months. The conference report does not contain this provision.

Program

Eligible units: The Senate bill had a provision not found in the House amendment which provided that the Secretary may contract with PHAs so that the PHAs may make assistance payments with respect to loans to finance the rehabilitation of one-to-four family units owned and occupied by lower income families where the rehabilitation is carried out in accordance with a plan for rehabilitation meeting requirements, or contained in, an applicable HAP. Where the local PHA has extended such assistance, the PHA, local government agency, or nonprofit neighborhood entity designated by the local government or the Secretary, would be required to provide homeowner counseling and monitoring concerning the extent of rehabilitation activities and the eligibility of contractors to conduct such rehabilitation. The conference report does not contain this provision.

Amount of assistance: The Senate bill contained a provision not found in the House amendment which provided that the amount of assistance would be the lesser of the monthly costs of principal, interest, and other amounts of repayment of the loan, or an amount equal to the difference between the contribution to monthly housing costs made by the homeowner pursuant to section 8(c)(3) of the U.S. Housing Act of 1937 and the total monthly housing cost. These assistance payments would be periodically paid to the lender in accordance with the Secretary's regulations. The conference report does not contain this provision.

Eligible types of loans: The Senate bill contained a provision not found in the House amendment which provided that no contract could be entered into except with respect to loans: (A) made by federally chartered or insured financial institutions, or other entities approved by the Secretary or by the applicable unit of local government in accordance with the Secretary's regulations; (B) which finance activities approved by the applicable unit of local government, or which could be financed under home improvement loans under Title I of the National Housing Act; (C) which finance rehabilitation activities by the owner, or by contractors approved by the applicable unit of local government; and (D) which have terms not in excess of those under Title I of the National Housing Act. The conference report does not contain this provision.

Regulations: The Senate bill contained a provision not found in the House amendment which authorized the Secretary to issue such regulations as are necessary to assure that the costs of rehabilitation would not exceed the costs necessary to meet local housing codes or other appropriate standards. The conference report does not contain this provision.

SOLAR UNITS

Purpose

The Senate bill contained a section that was not included in the House amendment which was designed to encourage the installation of solar energy systems in assisted residential housing projects. The Senate bill declared that the purpose of the section is to promote the application of viable solar energy installations as the most dependable, pollution-free, and desirable source of energy for residential housing units. The conference report includes the Senate provision amended to state that viable solar energy systems are a desirable source of energy for residential housing.

Authority

The Senate bill authorizes the Secretary of HUD to permit the installation of solar

units which are economically feasible in residential housing assisted through the section 312, section 202, and section 8 programs. The conference report amends the Senate provision to require that the solar energy systems be cost-effective, as well as economically feasible. Cost-effective means that over the useful life of the solar system, sufficient nonrenewable energy will be saved to pay for the cost of the system including financing costs. The conferees expect that HUD will develop guidelines to assist builders in determining what solar systems will be cost-effective given regional differences in climate and projected energy costs. In no event do the conferees expect fair market rent levels to be increased to cover the cost of solar energy systems.

Definitions

The Senate bill included the following items in the definition of solar units: active and passive solar thermal energy equipment; photovoltaic cells; devices or techniques which conserve energy by increasing the energy efficiency of existing equipment, methods of operation or systems which use fossil fuels and which are on the Energy Conservation Measures List of the Secretary of Energy; equipment whose primary purpose is the production of energy from wood, biological waste, grain or other biomass source, district heating equipment; hydroelectric power equipment, wind energy conversion equipment, or engineering, architectural, consulting or other professional services necessary for the use of the solar units. The conference agreement amends the Senate provision to define a "solar energy system" as any addition, alteration, or improvement to an existing or new structure which is designed to utilize wind energy or solar energy either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary of the Department of Housing and Urban Development in consultation with the Secretary of Energy.

Guidelines

The Senate bill also contained a provision directing the Secretary of HUD to develop within twelve months of enactment, guidelines to determine the long-term economic feasibility of solar units. The conference report does not contain this provision. The conferees expect that existing FHA minimum property standards, amended, if necessary, to cover solar energy systems as defined in this section, will provide adequate guidelines as to the quality of, and construction standards for, solar systems permitted under this section. However, the conferees expect that HUD will develop additional guidelines to assist builders in determining what solar systems will be cost-effective given regional differences in climate and projected energy costs.

Promotion

The Senate bill contained another provision directing the Secretary of HUD to take the steps necessary to promote the installation of economically feasible solar units in residential housing, taking into account the interests of low-income homeowners and renters. Those actions were to include publicizing the availability and feasibility of solar units to current or potential recipients of assistance from HUD. The conference agreement amends the Senate provision to direct the Secretary of HUD to encourage the installation of solar energy systems in residential housing assisted through the section 8, section 202, and section 312 programs.

Report

The Senate bill contained a requirement that within 18 months of enactment, the Secretary of HUD, in conjunction with the Secretary of Energy, should report to Congress regarding: (1) the number of solar units contracted for or installed as a result of this provision within the first 12 months of enactment; (2) the number of solar units projected to be contracted for or installed under all HUD programs by the end of calendar year 1985, and recommendations for increasing this number given a reasonable range of economic assumptions and specifying alternative Federal incentives that could be used; (3) recommendations regarding the most effective Federal incentive for increasing the affordability of solar units in residential housing during the first five years after the installation of such units; and (4) an analysis of the feasibility of using community-scale solar energy and other alternative energy approaches and then applicability to community development activities.

The conference report amends the Senate provision to require the Secretary of HUD, in conjunction with the Secretary of Energy, to report to Congress within 18 months of enactment regarding the effectiveness of this solar program. The report is to include the number of solar systems contracted for, installed, or under order within the section 8, section 202, and section 312 programs during the first 12 months after enactment and an analysis of any problems and benefits related to encouraging the use of solar systems in these programs.

TITLE III—PROGRAM AMENDMENTS AND EXTENSIONS

COMPREHENSIVE PLANNING ASSISTANCE

The Senate bill contained a provision authorizing an appropriation of not to exceed $57 million for fiscal year 1979 for section 701 comprehensive planning assistance. The House amendment contained a provision authorizing an appropriation of not to exceed $65 million for fiscal year 1979. The conference report contains the Senate provision.

FEASIBILITY STUDIES

The House amendment and the Senate bill contained a provision authorizing the HUD Secretary to conduct demonstrations to determine the feasibility of expanding homeownership opportunities in urban areas through the conversion of multifamily housing to condominium or cooperative ownership by individuals and families. The Senate bill contained an additional provision allowing for other techniques besides conversion to cooperatives and condominiums for expanding homeownership opportunities. The conference report contains this Senate provision.

The House amendment contained a provision authorizing the HUD Secretary to conduct a study of the feasibility of underground residential housing and changes in housing codes and financing which may therefore be necessary; a preliminary report to both Houses at the end of the first year after enactment and a final report within 2 years, with both findings and legislative recommendations. The Senate bill contained no provision. The conference report contains the House provision with an amendment deleting the preliminary report and reducing the period for the study to 1 year from 2 years.

CRIME INSURANCE AND RIOT REINSURANCE

The House amendment contained provisions authorizing the HUD Secretary to provide new crime insurance and riot reinsurance through September 30, 1979; to continue existing crime insurance and riot reinsurance coverage through September 30, 1982; and extending to September 30, 1979, the submission date for the Secretary's plan for liquidation of these insurance programs. The Senate bill authorized the HUD Secretary to provide new crime and riot reinsurance through September 30, 1981, extending existing crime and riot reinsurance coverage through September 30, 1984, and extending the submission date for the Secretary's plan for liquidation of these insurance programs until September 30, 1982.

The conference report contains the Senate provisions with an amendment providing for new crime and riot reinsurance through September 30, 1980, continuing existing crime and riot reinsurance coverage through September 30, 1983, and extending the submission date for the Secretary's plan for liquidation of these insurance programs through September 30, 1981.

FAIR PLAN RATES

The House amendment contained a provision not included in the Senate bill providing that on and after January 31, 1979, no risk insured under a FAIR plan shall be at a rate higher than the rates set by the principal State-licensed rating organization for essential property insurance in the voluntary market; except this provision does not prohibit the non-discriminatory application to any such risk of condition charges for substandard physical conditions within the control of the applicant as set by the principal State-licensed rating organization. The conference report contains the House provision.

FLOOD INSURANCE

The House amendment contained provisions authorizing the HUD Secretary to provide new flood insurance through September 30, 1979, and to provide subsidized flood insurance under HUD's emergency program in communities (for which no actuarial rates and elevation studies have yet been completed) through September 30, 1979. The Senate bill authorized the HUD Secretary to provide new flood insurance through September 30, 1980, and extended the emergency program through September 30, 1980. The conference report contains the Senate provisions.

NATIONAL NEIGHBORHOOD POLICY ACT

The Senate bill contained provisions authorizing the National Commission on Neighborhoods' study to be submitted within 15 months (rather than 1 year) from date when NNPA funds first became available and increasing from $1 million to $1,500,000 the authorization for the NNPA. The House amendment contained no provision. The conference report contains the Senate provision authorizing the additional time for the National Neighborhood Commission to complete its study, but contains no provision for additional funding authority.

HUD DAY CARE CENTERS

The Senate bill contained a provision authorizing the HUD Secretary to establish one or more day care center facilities as well as to participate in the establishment of interagency day care facilities for children of households of HUD employees, and to establish appropriate fees and charges, and also authorized the Secretary to provide limited start-up costs for any such facilities in an amount limited to 3 percent of the first years' operating budget, but not to exceed $3,500. The House amendment contained a similar provision but did not authorize the Secretary to provide limited start-up costs for such facilities. The conference report contains the Senate provision.

SALE OF SURPLUS LAND FOR HOUSING

The Senate bill contained a provision revising certain provisions of the Housing and Urban Development Act of 1969 so as to permit surplus Federal real property to the Secretary of HUD for sale or lease at its fair value for use as housing to be occupied by predominantly low and moderate income families or individuals assisted under a Federal housing program, a State or local program with the same general purpose, and for related public commercial or industrial facilities approved by the Secretary. Prior to any such disposition to a nonpublic body, the Secretary would be required to notify the local unit of government, and could not dis-

pose of the property if such disposition is objected to within 90 days by the local government. However, the Senate provision authorized the Secretary to override the objections of the local governing body if Secretary determines that (1) the proposed disposition would be consistent with any approved housing assistance and community development plans developed by the local body pursuant to the Housing and Community Development Act of 1974, or (2) in cases where such plans are not available, that there is a need for low- and moderate-income housing, taking into consideration any applicable State housing plans, and that there are or will be public facilities available in the area adequate to serve any housing project proposed in conjunction with the proposed disposition of Federal lands.

The House amendment contained a provision similar to the provision in the Senate bill, except that the provision in the House amendment contained no authority for the Secretary to override the objections of the local government.

The conference report contains the Senate provision. The conferees wish to make clear that the authority provided the Secretary to override the objections of the local government is limited and is intended to give the Secretary only the same authority which the Secretary now has to approve applications for assistance under various federally assisted housing programs pursuant to section 213 of the Housing and Community Development Act of 1974. In every instance where the disposition of federal surplus property is for the purpose of making land available for low and moderate income housing and where a housing assistance plan exists, such disposition must be pursuant to a housing assistance plan adopted by the particular community in which the property is located.

INCREASE IN GNMA PURCHASE AUTHORITY AND LIMITS

The House amendment contained provisions providing that the maximum original principal obligation of most mortgages which may be purchased by GNMA under section 305 of the National Housing Act would be increased to $50,000 for a one-family residence; $55,000 for a two- or three-family residence; $62,500 for a four-family residence, and for a property with more than four dwelling units, $38,000 per unit ($45,000 in high-cost areas).

The Senate bill contained provisions providing that the maximum principal mortgage obligation able to be purchased by GNMA is increased to $60,000 for a one-family residence; $65,000 for a two- or three-family residence; $75,000 for a four-family residence; and for a property with more than four dwelling units, $38,000 per dwelling unit ($45,000 in high-cost areas). The Senate bill further provided that the aggregate amount of purchasing authority for purchase of mortgages by GNMA is increased by $500 million, subject to approval in an appropriation act on October 1, 1978.

The conference report contains the Senate provisions with an amendment increasing the principal mortgage obligation able to be purchased by GNMA to $55,000 for a one-family residence, $60,000 for a two-to- three-family residence, and $68,750 for a four-family residence.

NATIONAL INSTITUTE OF BUILDING SCIENCES

The House amendment contained a provision providing authorizations for the National Institute of Building Sciences not appropriated for fiscal years 1977 and 1978 shall be available for appropriation through fiscal year 1979. The Senate bill contained a similar provision but provided that the amounts appropriated for fiscal year 1977 and fiscal year 1978 shall be available through fiscal year 1982. The conference report contains the Senate provision.

SECONDARY MORTGAGES ON INSURED PROPERTIES

The House amendment contained a provision amending title V of the National Housing Act by adding a new section: in carrying out title II of the Act with respect to insuring mortgages secured by a one-to-four family dwelling unit, the Secretary may not deny such insurance for any such mortgage solely because the dwelling unit will be subject to a secondary mortgage or loan, or other secondary lien, held by any State or local governmental agency under terms approved by the Secretary. The Senate amendment contained no provision. The conference report contains the House provision.

REGULATORY REVIEW PROCEDURE

Both the House and the Senate bills contained provisions related to the review of agency regulations.

The House amendment contained a provision not included in the Senate bill which gave either House of Congress the power to veto any rule or regulation of the Department of Housing and Urban Development. The provision required that simultaneous with prescribing any rule or regulation (except rules governing the FHA interest rate) the Secretary should transmit a copy to the Senate and the House; the regulation would not become effective if within 90 calendar days of continuous session of Congress after the date that the rule is prescribed, either House of Congress adopted a resolution disapproving the specific matter of the rule or regulation; if, at the end of 60 calendar days of continuous session after the date that the rule is prescribed, no committee of either House has reported or been discharged from further consideration of a resolution disapproving the regulation, and neither House has adopted such a resolution, the rule or regulation would go into effect immediately; congressional inaction on, or rejection of, a resolution of disapproval would not be deemed an expression of approval of the regulation involved.

The Senate bill contained a provision directing the Secretary of HUD, not later than January 1, 1979, and not later than such date in each year thereafter, to publish in the Federal Register an agenda of regulations expected to be considered in that fiscal year.

Prior to publication of a proposed regulation, the Secretary was required to conduct a thorough analysis of the regulation and its impact, including a cost-benefit analysis, an analysis of the extent the regulation duplicates or contradicts existing regulations and an assessment of any increased record keeping and reporting requirements caused by the new regulations. A summary of this analysis was to be included when the proposed regulation was published.

The conference agreement contains a substitute amendment which combines and modifies both the Senate and House provisions. The amendment would require the Secretary of HUD, within 30 days of enactment and at least every 6 months thereafter, to submit to the Banking Committees of both Houses an agenda of rules or regulations which are under development or review by the Department. If within 30 calendar days of continuous session of Congress after the agenda has been transmitted either Committee notifies the Secretary that it intends to review any rule or regulation, the Secretary shall submit to both Committees a copy of any such rule or regulation at least 15 calendar days of continuous session prior to its being published for comment in the Federal Register. No rule or regulation may become effective within 20 calendar days of continuous session. After the date on which such rule or regulation is published as final, if within such 20-day period, either Committee has reported out or has been discharged from further consideration of a resolution of disapproval or other legislation which is intended to modify or invalidate the rule or regulation or portion thereof, the rule or regulation shall not become effective for a period of 90 calendar days of continuous session from the date of the Committee action unless the House to which such Committee reports has rejected such resolution or legislation. In that case, the rule or regulation may go into effect any time after the expiration of the 20 calendar days in which the Committee is required to act, provided that the other House does not have such a resolution or legislation pending or adopted.

The submission of the rule or regulation to the Committees 15 days prior to its being published for comment in the Federal Register and the 20 days waiting period after the rule or regulation has been published as final may be waived upon written request of the Secretary, if agreed to by the Chairmen and Ranking Minority Members of both Committees.

Congressional inaction on any rule or regulation does not indicate Congressional approval of such rule or regulation. Rules or regulations establishing FHA interest rates are exempt from the requirements of this section. For purposes of this section, continuity of a session of Congress is broken only by an adjournment of Congress sine die and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of calendar days of continuous session of Congress.

In adopting this provision, the conferees did not include the principle of a legislative veto of administrative actions. Instead the amendment formalizes a procedure designed to assure a constructive consultative relationship between Congress and the Executive Branch.

The intent is to encourage cooperation and to develop a spirit of comity. The conferees expect that the formality of this procedure will not stand in the way of such cooperation but will increase it. The conferees also expect that the 90 day deferral provision will only be followed where either Committee believes that the proposed regulations violate the intent of Congress. Since the 15 day consultative period is designed to provide an opportunity for misinterpretations to be resolved, the conferees expect that the 90 day deferral period will rarely be invoked.

Each Committee will establish its own procedures regarding the method adopted for requesting submission of rules or regulations prior to publication for comment in the Federal Register. In addition, each Committee will determine whether or not a resolution or other legislation considered by that Committee is intended to modify or invalidate a rule or regulation.

However, in order to prevent a rule or regulation from going into effect, either the House or the Senate Committee must report out of Committee, within the initial 20 day period following the date on which such rule or regulation is published as final, a disapproving resolution or legislative modification. If subsequently one of the two Houses rejects a resolution or legislative provision designed to modify or invalidate a rule or regulation, that rule or regulation could go into effect on the date such action is taken or the effective date set forth in such final publication, if later, but not earlier than the required 20 day period, unless the Committee of the other House has reported out a resolution or other legislation affecting the same rule or regulation within the same initial 20 day period. In the case of a rule or regulation being deferred by action of either Committee, the period of deferral shall be continuous and does not begin again at the start of a new Congress.

Finally, the conferees want to clarify that when the Secretary determines a waiver from the review procedure for specified rules and regulations is necessary, the waiver becomes effective when the Committee Chairman and Ranking Minority Member of both Houses

indicate their concurrence with the Secretary's determination.

FHA MULTIFAMILY MORTGAGE LIMITS

Non-elevator section 221(d)(3)

The House amendment contained a provision increasing the mortgage limits for nonprofit, non-elevator structures insured under section 21(d)(3) of the National Housing Act from: $16,860 to $18,450 per family unit without a bedroom; $18,648 to $20,625 per family unit with one bedroom; $22,356 to $24,630 per family unit with two bedrooms; $28,152 to $29,640 per family unit with three bedrooms; $31,884 to $34,846 per family unit with four or more bedrooms.

The Senate bill increased these limits from: $16,860 to $20,601 per unit without a bedroom; $18,648 to $26,007 for a one bedroom; $22,356 to $31,768 for a two bedroom; $28,152 to $41,292 for a three bedroom; $31,884 to $45,392 for four or more bedrooms.

The conference report contains the Senate provision with an amendment increasing these limits as follows: $21,563 without bedroom; $24,662 for one bedroom; $29,984 for two bedrooms; $38,379 for three bedrooms: $42,756 for four or more bedrooms.

Elevator section 221(d)(3)

The House amendment contained a provision increasing the mortgage limits for projects of elevator-type structures from: $19,680 to $20,962 per family unit without a bedroom; $22,356 to $24,030 per family unit with one bedroom; $26,496 to $29,220 per family unit with two bedrooms; $33,120 to $37,800 per family unit with three bedrooms; $38,400 to $41,494 per family unit with four or more bedrooms.

The Senate bill contained a provision increasing the limits from: $19,680 to $23,268 per unit without a bedroom; $22,356 to $26,673 for a one bedroom unit; $26,496 to $32,434 for two bedrooms; $33,120 to $41,958 for three bedrooms; $38,400 to $46,058 for four or more bedrooms.

The conference report contains the Senate provision with an amendment increasing these limits as follows: $22,692 without bedrooms; $26,012 for one bedroom; $31,631 for two bedrooms; $40,919 for three bedrooms; $44,917 for four or more bedrooms.

Section 207 rental housing

The Senate bill contained a provision amending section 207(c)(3) of the National Housing Act to increase the mortgage limits attributable to dwelling use from: $19,500 to $21,900 per family unit without a bedroom; $21,600 to $24,600 per unit with one bedroom; $25,800 to $30,300 per unit with two bedrooms; $31,800 to $38,100 per unit with three bedrooms; $36,000 to $43,158 per unit with four or more bedrooms.

The House amendment contained no provision and none is contained in the conference report.

Section 213 cooperative housing

The Senate bill contained a provision amending section 231(b)(2) of the National Housing Act to increase the mortgage limits from: $19,500 to $21,900 per family unit without a bedroom; $21,600 to $24,600 per one bedroom unit; $25,800 to $30,300 per two bedroom unit; $31,800 to $38,100 per three bedroom unit; $36,000 to $43,158 per unit with four or more bedrooms.

The House amendment contains no provision and none is contained in the conference report.

Section 220(d)(3) rehabilitation and neighborhood conservation

The Senate bill contained a provision amending section 220(d)(3)(B)(iii) of the National Housing Act to increase mortgage limits from: $19,500 to $21,900 per unit without a bedroom; $21,600 to $24,600 per one bedroom unit; $25,800 to $30,300 per two bedroom unit; $31,800 to $38,100 per three bedroom unit; $36,000 to $43,158 per unit with four or more bedrooms.

The House amendment contains no provision and none is contained in the conference report.

Section 221(d)(4) profit oriented housing

The Senate bill contained a provision amending section 221(d)(4) of the National Housing Act to increase mortgage limits from: $18,450 to $20,362 per unit without a bedroom; $20,625 to $23,430 per one bedroom unit; $24,630 to $28,620 per two bedroom unit; $29,640 to $37,200 per three bedroom unit; $34,846 to $40,894 per unit with four or more bedrooms.

The House amendment contained no provision. The conference report contains the Senate provision with an amendment increasing the mortgage limits as follows: $19,406 without a bedroom; $22,028 for one bedroom; $26,625 for two bedrooms; $33,420 for three bedrooms; $37,870 for four or more bedrooms.

Section 231(c)(2) housing for elderly

The Senate bill contained a provision amending section 231(c)(2) of the National Housing Act increasing mortgage limits from: $18,450 to $20,362 per family unit without a bedroom; $20,625 to $23,430 per one bedroom unit; $24,630 to $28,620 per two bedroom unit; $29,640 to $37,200 per three bedroom unit; $34,846 to $40,894 per unit with four or more bedrooms.

The House amendment contained no provision and none is contained in the conference report.

Section 234(e)(3) condominimum housing

The Senate bill contained a provision amending section 234(e)(3) of the National Housing Act increasing mortgage limits from: $19,500 to $21,900 per family unit without a bedroom; $21,600 to $24,600 per one bedroom unit; $25,800 to $30,300 per two bedroom unit; $31,800 to $38,600 per three bedrcom unit; $36,000 to $43,158 per unit with four or more bedrooms.

The House amendment contained no provision and none is contained in the conference report.

FHA INSURED MORTGAGE REFINANCING

The Senate bill contained a provision providing that the existing debt of an existing hospital may be refinanced under the section 223(f) of the National Housing Act if the Secretary has determined that it is economically viable, and has received certification under section 604(a)(1) or 1521 of the Public Health Service Act (which the Secretary deems comparable to certification required for hospitals insured under section 242 of the National Housing Act). The provision also specifies that the existing requirements under section 223(f) with respect to refinancing of property located in older declining areas are applicable only in the case of refinancing multifamily housing projects.

The House amendment contained no provision. The conference report contains the Senate provision with an amendment specifying: that refinancing should only be employed to lower the debt service costs, taking into account any fees or charges connected with such refinancing of the existing hospital; that the proceeds of any refinancing will be employed only to repay the existing indebtedness; that the existing hospital is economically viable; and that such existing hospital has received certification from the appropriate State agency that the services being provided by the hospital at the time of refinancing are appropriate as determined pursuant to section 1523(a)(6) of the Public Health Service Act.

The Conferees intend that States shall carefully review the appropriateness of health services provided by hospitals seeking refinancing under this program at the time of refinancing. However, such review does not necessarily require a review de novo if that State determines that the services have been recently assessed.

The Conferees note that there has been a record of extensive coordination between HUD and HEW's Bureau of Health Planning and Resources Development in administering Sections 241 and 242 of this Act. The conferees expect that the hospital refinancing permitted by the language added to section 223(f) will be administered as consistently as possible with the procedures by which hospital loans or loan guarantees are administered under Titles VI and XVI of the Public Health Service Act. Such consistency should assist in the attainment of health planning and cost containment objectives.

TITLE IV—RURAL HOUSING

RURAL HOUSING AUTHORIZATIONS

The Senate bill contained a provision to increase FmHA authorizations by stipulating specific amounts for each program for each fiscal year. The House amendment provided for such increases by adding to the cumulative level of appropriations for such programs. The conference report contains the Senate provision.

Section 504 rehabilitation loans and grants

The Senate bill authorized an appropriation of $48 million for fiscal year 1979 for the section 504 rehabilitation program. The House amendment authorized a cumulative appropriations level of $150 million. The conference report contains the Senate provision.

Section 516 domestic farm labor housing

The Senate bill authorized an appropriation of $38 million for fiscal year 1979 for section 516 domestic farm labor housing grants. The House amendment authorized a cumulative appropriations level of $115 million. The conference report contains the Senate provision.

Section 506 research

The Senate bill authorized an appropriation of $5 million for fiscal year 1979 for section 506 research. The House amendment authorized an appropriation of $10 million. The conference report contains the House provision.

Section 525 counseling and technical assistance

The House amendment contained a provision that authorized for appropriation $5 million for section 525 counseling and $5 million for section 525 technical assistance. The Senate bill did not contain this provision. The conference report contains the House provision.

Section 523(g) self-help fund

The Senate bill authorized for appropriation an additional $3 million for fiscal year 1979 for the section 523(g) self-help development fund for loans with interest rates of below three percent. The House amendment did not contain such a provision. The conference report contains the Senate provision.

Section 514 farm labor housing loans

The Senate bill authorized an appropriation of $38 million for fiscal year 1979 for section 514 farm labor housing loans in any one fiscal year. The House amendment contained a similar provision but subjected the authorization to appropriation acts. The conference report contains the House provision.

RESEARCH

General authority

The House amendment contained a provision not in the Senate bill, directing the Secretary to conduct research, technical studies and demonstrations. The conference report contains the House provision with an amendment limiting the purpose of such research

to activities aimed at stimulating construction and improving architectural design and utility of dwellings and buildings. The conferees wish to make clear that the Secretary will address such factors as energy conservation in carrying out the research program authorized in this section.

Farm worker housing study

The Senate bill contained a provision requiring a study of migrant farm worker housing. The House amendment contained a provision requiring a study of migrant and settled farm worker housing and also requiring the Secretary to determine possible roles that individual farm workers and farmers, farm workers and farmer associations, and public and private nonprofit agencies can perform. The conference report contains the House provision.

NOTICE REQUIREMENT

The Senate bill contained a provision requiring the Secretary to provide an applicant who is denied FmHA assistance written notice as to the reason for such denial and additionally required an appeals procedure for applicants whose assistance was denied, reduced or terminated which included the following: (1) a written notice of the right to appeal an adverse decision, (2) an opportunity to appeal to an impartial official having the authority to reverse the decision, (3) an opportunity to inspect records pertaining to the decision, and have the decision of the appeals officer in writing, with reason, and (4) have the appeals decision reviewed by the Secretary; upon successful appeal, the appellant is entitled to receive all benefits withheld as a result of the original adverse decision. The House amendment provided only that an applicant denied assistance must receive written notice as to the reasons for such denial. The conference report contains the Senate provision amended to require the Secretary to issue rules and regulations assuring applicants who are denied assistance or persons and organizations whose assistance is substantially reduced or terminated, written notice of the reasons for such denial reduction or termination and an opportunity to appeal and to present additional information in support of such appeal to a person other than the person who made the original decision and who has the authority to reverse the adverse decision.

The conferees expect that the Secretary will insure that such appeals procedure will include at least a written notice of the ability to appeal an adverse decision, an opportunity to appeal to a person who had no role in making the original determination and who has the authority to reverse the decision, an opportunity to inspect agency records relevant to the initial decision, to present additional relevant information and to receive the reviewing official's final decision with supporting reasons in writing. This procedure should apply to all persons or organizations, including tenants in FmHA financed dwelling units, whose assistance has been denied, substantially reduced or terminated.

NOTICE PRIOR TO FORECLOSURE

The Senate bill contained a provision not in the House amendment requiring the Secretary prior to initiating a foreclosure or transfer action to provide the borrower with adequate notice and give consideration to the availability of a moratorium on payments. The conference report does not contain this provision. The conferees are concerned about the high rate of delinquencies in FmHA housing programs. Therefore, the Secretary is directed to improve the servicing of its loans, provide counselling to borrowers and take other measures to cure delinquencies before they become so serious as to require foreclosure or transfer.

ELIGIBILITY FOR RURAL RENTAL ASSISTANCE

The House amendment contained a provision that was not contained in the Senate bill to expand the eligibility for section 521 rural rental assistance to allow assistance to congregate and cooperative housing projects and projects financed only by section 514 loans. The conference report contains the House provision with an amendment limiting rural rental subsidies on projects financed only by section 514 loans to public and private not-for-profit owners.

HOMEOWNER SUBSIDIES

Insured loans

The Senate bill contained a provision establishing a new deep subsidy program for very low income homeowners who cannot afford FmHA one percent interest credit assistance. The House amendment contained a similar provision, but required the Secretary to provide such assistance only in areas found to be unsuitable for rental housing assistance. The conference report contains the House provision.

The conferees are concerned that homeowners subsidies meet the special housing assistance needs in rural areas where there is little or no prospect of very low income families in substandard housing being served by existing FmHA and HUD rental housing assistance programs. These are generally remote rural areas having widely dispersed populations of less than 2500 persons. The conferees wish to emphasize their intent that the purpose of the homeowner subsidies is primarily to meet the housing assistance needs of these families in these particular areas.

Accordingly, the conferees in adopting the House provision wish to make clear that in determining that an area is unsuitable for assisted rental housing the Secretary should base his findings on actual and current conditions in the area rather than on arbitrary, national criteria. The conferees expect that the Secretary shall make a determination as to whether or not assisted rental housing is feasible to build and manage in the area taking into consideration the density of the population, the adequacy of public facilities, the availability of public services and similar factors. Additionally, the conferees expect the Secretary to take into consideration the availability of public and private sponsors of assisted rental housing. While the conferees do not wish to arbitrarily restrict homeowner subsidies from being used where such entities are found by the Secretary to be available but unwilling to provide the needed assisted rental housing, they do expect that prior to using home ownership subsidies, the FmHA will show that it has made reasonable efforts toward developing an effective assisted rental housing delivery system in such areas. The conferees are concerned that rural homeowner subsidies not be used simply as a substitute for existing assisted rental housing programs.

Recapture of subsidy

The Senate bill contained a provision authorizing the Secretary to recapture the section 502 housing subsidies and to provide borrowers incentives and relocation allowances. The House amendment contained a similar provision, except it required recapture and did not authorize relocation allowances. The conference report contains the House provision.

The conferees do not intend that the recapture of assistance provisions for section 502 housing be retroactive. The Secretary, therefore, is directed to apply such recapture provisions only to loans made after the enactment of this Act.

The conferees also wish to make clear that the Secretary is expected to insure that recapture is possible when the property is refinanced or transferred. Accordingly, the Secretary is directed to use liens or other similar means for assuring such recapture. However, the conferees intend that recapture extend only to the value of the property and therefore the Secretary should not extend recapture to any other assets held by the borrower.

The conferees intend that the Secretary will always insure that there is an incentive to the borrower to maintain the property. Therefore in determining the extent of recapture, the Secretary is directed to permit the borrower to keep at least an amount determined to be an adequate incentive for maintaining the property in those instances where it has been demonstrated to the satisfaction of the Secretary that the borrower has adequately maintained the property. Accordingly, the conferees expect that there will be periodic inspections of the property and that borrowers will be notified of any deficiencies in satisfying their maintenance obligations.

Availability of assistance

The Senate bill contained a provision that would have made homeowner subsidy assistance available only when the housing needs of the applicant could not be met from other sources, including the section 235 and 236 programs. The House amendment contained a similar provision, except that it specified "other sources" as including the National Housing Act and the U.S. Housing Act of 1937. The conference report contains the House provision.

Additional requirements

The House amendment contained a provision not included in the Senate bill limiting to $440 million the aggregate principal amount of deep homeowner subsidy loans. The conference report contains the House provision.

WAIVER OF CREDIT REQUIREMENTS

The Senate bill contained a provision that would authorize the Secretary to waive the credit elsewhere requirement for farm labor housing loans and in such cases permitting the interest rate on such loans to be greater than one percent but no greater than the Treasury's cost of borrowing. The House bill did not contain this provision. The conference report contains the Senate provision with an amendment limiting the Secretary's authority to waive the credit elsewhere requirement to migrant farm worker housing in areas where no public or private nonprofit sponsor is available and the loan is necessary to provide such housing. It would also establish as the interest rate for such loans the Treasury borrowing rate and would require that the benefits accruing from such loans go to the tenants. The conferees are concerned that the principal underlying FmHA as a lender of last resort be upheld. They are aware, however, that in some instances much-needed housing for farm laborers would not be provided if the Secretary were not permitted to waive the credit elsewhere and below market interest rate restrictions in FmHA programs. These instances have been brought to the attention of the conferees and are the result of situations where, because of the seasonal nature of farm work, a stream of rents is not sufficiently available to satisfy private lenders. Consequently, working farm owners are required to pledge farm assets as security for farm labor housing loans if they wish to provide the much-needed housing. The conferees consider this to result in an undue burden on these particular farm owners whose income is derived primarily from operating farms. Accordingly, the conferees expect that the Secretary will waive the credit elsewhere and interest rate provisions where he finds these conditions to obtain. In doing so, however, the conferees are concerned that the Secretary insure that the full benefits of the below market rate be passed on to the tenants taking into consideration their wage and fringe benefit levels and not accrue to the owners. Furthermore, the conferees expect that in administering this program, the

instances wherein the waiver is provided by the Secretary will be largely the exception rather than the rule, in recognition of the fact that in many areas of the nation the demand for these limited funds is comprised of many public and not-for-profit sponsors ready and available to provide these housing accommodations.

SPONSOR PRIORITIES

The Senate bill contained a provision, not included in the House amendment, to require that the Secretary not give funding priority under section 516(e) to any one of the groups authorized to sponsor domestic farm labor housing. The conference report contains the Senate provision.

DEFINITION OF RURAL AREAS

The Senate bill contained a provision not contained in the House amendment which provided that, as of January 1, 1978, communities with populations between 10,000 and 20,000 no longer needed to be outside a SMSA for their residents to be eligible for FmHA assistance. The conference report does not contain the Senate provision. The conferees wish to make clear, however, that Farmers Home Administration is expected to interpret section 520 of the Housing Act of 1949 in a manner that would benefit residents of local communities and not administratively restrict their access to FmHA assistance. Accordingly, in defining the terms "rural" and "rural areas," the Farmers Home Administration is instructed to use the latest official United States Census data, except where the community presents more recent and reliable population counts.

Study of remote title claims

The Senate bill contained a provision that required the Secretary to conduct a study of remote title claims which prevent rural persons from the full use of their property and required that a report be submitted by March 1, 1979. The House amendment was similar, except the report was not due until one year after enactment of this Act. The conference report contains the House provision with an amendment requiring submission of an interim report on March 1, 1979, and a full report one year after enactment of this Act.

TITLE V—CONGREGATE SERVICES

FINDINGS

The Senate bill set forth congressional findings that: 1) innovative and comprehensive means are required to enable frail and handicapped individuals to remain in their homes; 2) congregate housing supplemented by supportive services is a proven, cost-effective means for preventing the unnecessary institutionalization of the elderly and these services can similarly assist handicapped persons; 3) in spite of existing statutes which encourage the Secretary of Housing and Urban Development to develop congregate housing for low-income persons, insufficient congregate housing has been built; 4) since the coordinated delivery of social services necessary for a successful congregate housing program has not occurred, increasing numbers of elderly public housing residents and younger handicapped persons may thus be unnecessarily and prematurely institutionalized; 5) to be a successful program and to meet the needs of the growing number of frail older Americans living in public housing projects, congregate housing and supportive services must be available as a coordinated package which receives secure and continuous funding.

The House amendment established Congressional findings that: congregate housing, together with supportive services, is a proven and cost-effective means of enabling temporarily disabled elderly or handicapped individuals of all ages to maintain their dignity and independence and to avoid unnecessary institutionalization; deficiencies presently exist in the availability, adequacy, coordination or delivery of supportive services so that large numbers of public housing residents face premature and unnecessary institutionalization; and supplemental supportive services available on a continuing basis are essential to a viable congregate housing program.

The conference report includes the House provision amended to emphasize in addition that: the coordination of congregate housing with the delivery of supportive services is an innovative as well as a proven and cost-effective means of avoiding the costly and unnecessary institutionalization of handicapped or temporarily disabled adults; many residents of housing projects for elderly and handicapped adults built by nonprofit sponsors, as well as many residents of public housing projects, face premature and unnecessary institutionalization because of the absence of supportive services; and in order to create a successful congregate housing program, supplemental supportive services must be available on a secure and continuing basis.

DEFINITIONS

Congregate housing

For purposes of this program and as an amendment to section 7 of the United States Housing Act of 1937, the Senate bill defined congregate housing as low rent housing constructed after, but not under construction prior to, January 1, 1979, connected with which there is a central dining facility to provide wholesome and economical meals for its occupants. The House amendment was similar but added a requirement that some or all of the dwelling units were not to have kitchen facilities. The conference agreement contains the Senate provision amended so that congregate housing built after January 1, 1979, may contain dwelling units that do not have kitchens. The conferees believe that public housing authorities and private nonprofit sponsors should have flexibility to determine whether or not congregate housing projects to be built after January 1, 1979, should contain dwelling units without individual kitchens. Such flexibility would allow congregate housing sponsors to design projects that adequately respond to unique local needs. However, to promote independence, socialization and psychological health among the congregate housing residents, the conferees strongly encourage, wherever appropriate, the inclusion of at least a kitchenette or half-kitchen in each individual dwelling unit.

Eligible project residents

The Senate bill defined eligible project residents as handicapped elderly individuals, nonelderly handicapped individuals or temporarily disabled households who are residents of congregate housing projects of public housing agencies or nonprofit corporations. The House definition was similar except that temporarily disabled individuals were eligible only if they were elderly. The conference agreement contains the Senate provision amended to refer to temporarily disabled individuals, not households.

Handicapped

The Senate bill and the House amendment defined the term "handicapped" to mean an impairment which: is expected to be long-term, substantially impedes an individual's ability to live independently, and is such that his ability to live independently could be improved by more suitable housing conditions. The impairment could include a functional disability or frailty which is a normal consequence of the aging process. In addition, the Senate bill, unlike the House amendment, stated that an impairment may include a developmental disability as defined in section 102(7) of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963. The conference agreement contains the House provision amended to clarify that the impairment is such that it substantially impedes an individual's ability to live independently unless the individual receives supportive congregate services. The conferees intend that an impairment include a developmental disability such as cerebral palsy, autism, epilepsy and mental retardation.

Professional assessment committee

The Senate bill and the House amendment defined "professional assessment committee" as a group of at least three persons including medical professionals and other persons professionally competent to appraise the functional abilities of elderly or permanently disabled adults in relation to the performance of the tasks of daily living. In addition, the Senate provision specified five activities of daily living that the professional assessment committee should evaluate to determine whether the project residents need assistance. The conference agreement contains the House provision. The conferees expect that the assessment committee, in determining who should receive the supportive services available under this program, should evaluate potential eligible residents on the basis of their ability to perform one or more daily living activities such as eating, bathing, grooming, dressing, toileting and ambulating.

Temporarily disabled

The Senate bill and the House amendment defined "temporarily disabled" to mean an impairment which: is expected to last no more than six months; substantially impairs an individual's ability to live independently, and is such that the ability to live independently may be improved by more suitable housing conditions. In addition, the Senate provision required that the impairment must be such that it may result in displacement from a congregate housing project. The conference agreement contains the House provision amended to clarify that the impairment must substantially impede an individual's ability to live independently unless the individual receives supportive services.

Household

The Senate provision contained a definition not found in the House amendment. "Household" meant one or more persons residing in a public housing project or a project assisted under section 202 of the Housing Act of 1959. The conference agreement does not contain this provision.

AUTHORIZATION TO ENTER INTO CONTRACTS

The Senate bill contained a provision not included in the House amendment which specified that each public housing agency or nonprofit corporation entering into a contract with HUD for the provision of supportive services should be reserved a sum equal to its total approved contract authority from the monies authorized and appropriated for the fiscal year in which the agency or corporation is notified of funding approval. The conference agreement contains this provision amended to refer to contract amount instead of contract authority.

CONGREGATE SERVICES PROGRAM

Both the Senate bill and the House amendment required that when nonelderly handicapped individuals are included as eligible project residents the applicant sponsors should consult with appropriate local agencies having responsibility for the development, provision or identification of social services to permanently disabled adults in order to determine the means of providing services under this program. In addition, the House amendment required consultation regarding the identification of alternative sources of funding that are available for such services. The conference report contains the House provision.

MAINTENANCE OF EFFORT

The Senate bill contained a provision requiring sponsors receiving assistance under this program to maintain the same level of services and annual financial contribution

that they were making for supportive services, prior to the initial date on which the sponsor was notified that funding was approved. The House amendment required the sponsor to maintain the same level of services and financial support as of the date the application for assistance was submitted. The conference report contains the House provision.

ELIGIBILITY FOR SERVICES

Meal service

The Senate bill provided that elderly and permanently disabled residents of the congregate facility who are not otherwise eligible for the supportive services provided by this program could participate in the meal service program if the sponsor determined their participation would not adversely affect the cost effectiveness or operation of the meal service program. The House amendment permitted all residents of the congregate facility to participate in the meal service if the same determination were made. The conference report contains the House provision. These residents will be expected to pay reasonable fees which do not exceed the cost of providing the meal service.

Eligibility determination procedures

The Senate bill contained a provision requiring that the process developed for determining eligibility for the services should accord the individual applicants fair treatment, due process and a right to appeal the eligibility determination. In addition, the confidentiality of personal and medical records should be assured. The House amendment directed the professional assessment committee to follow a selection procedure which accorded individuals fair treatment and due process. The conference agreement contains the House provision amended to require, in addition, that the professional assessment committee follow procedures for reviewing eligibility determinations and for assuring the confidentiality of personal and medical records.

CONTINUITY OF PROFESSIONAL ASSESSMENT COMMITTEE

The Senate bill also contained a provision not found in the House amendment which required that the public housing agency or nonprofit corporation sponsoring the congregate services program notify the HUD Secretary of any changes in the membership of the professional assessment committee within 30 days of such change. Any changes in the committee should be consistent with the procedures established for appointing the original members of the committee. The conference agreement contains the Senate provision.

APPLICATION PROCEDURES

Both the Senate and House provisions required that the applicant sponsor submit a service plan which was developed after consultation with eligible project residents and with the professional assessment committee. In additon, the Senate bill required that where these services were to be provided in a new, unoccupied project such consultation should be carried on as part of the occupancy interview process. The conference report does not contain this provision. The conferees expect that the provisions requiring the sponsor to develop service plans after consulting with the Area Agency on Aging and with the appropriate local agency responsible for developing or identifying social services for permanently disabled adults will be adequate for purposes of applying for funds for a new, unoccupied project. However, the conferees expect that the sponsors will be continually sensitive to the needs of project residents and particularly in the case of new, unoccupied projects, plans may be revised in order to meet needs not identified until after the residents occupy the facility. The reserve fund established by the Secretary may be used to meet these unforeseen changes in service needs.

The Senate bill contained a provision not included in the House amendment requiring that any application for funding include any comments regarding the service plan received from the Area Agency on Aging and from the appropriate local agency responsible for developing or identifying social services for permanently disabled adults. The conference report includes this provision.

EMPLOYMENT OF PROJECT RESIDENTS

The Senate bill contained a provision not included in the House amendment which limited the number of hours a week an elderly or permanently disabled adult who was not eligible to receive the supportive services himself but who lived in the public housing or 202 project assisted under this title, could be employed to provide the services authorized by this program. The conference report does not contain this provision. The conferees, however, encourage sponsors to employ elderly or permanently disabled residents on a part-time basis where possible and practical to do so.

Authorization of appropriations

The Senate bill authorized appropriations of not to exceed $20 million for fiscal 1979, $25 million for fiscal 1980, $35 million for fiscal 1981, $40 million for fiscal 1982 and $45 million for fiscal 1983. The Senate bill also directed the Secretary of HUD to establish specific procedures for the recapture of unused contract authority, the utilization of unused reserve funds and the reallocation of unexpended funds. The House amendment authorized the same level of appropriations for fiscal years 1979, 1980 and 1981, and directed that any appropriated sums remain available until expended. The conference report includes an authorization of $40 million for fiscal 1982 and retains the House language regarding appropriated funds remaining available until expended.

The conferees believe the report the Secretary of HUD is to produce annually will be very useful and will assist Congress in determining whether the program should be expanded. The report should include an analysis of the number of people served, the types of services provided, the cost per person, the extent of the coordination achieved between HEW and HUD, and the extent to which this program avoids or creates a duplication of existing programs. Since this is a new program designed to remedy the specific problem that occurred when HEW funds for supportive services could not be effectively coordinated with congregate facilities financed through HUD, the conferees are particularly interested in whether the unique features of this program have been successful in preventing the premature institutionalization of elderly and handicapped persons or whether it merely duplicates services available through existing HEW programs.

TITLE VI—NEIGHBORHOOD REINVESTMENT CORPORATION ACT

POWERS AND DUTIES

Both the Senate bill and the House amendment created the Neighborhood Reinvestment Corporation. The Senate bill authorized the Corporation, among other duties and powers, to continue the work of the Urban Reinvestment Task Force in sponsoring neighborhood housing services programs and to sponsor and replicate other experimental neighborhood preservation projects. The Corporation was also directed to continue development of Neighborhood Housing Services of America, as a secondary market operation.

The House amendment was similar to the Senate provision except it referred to the Neighborhood Housing Services of America as a demonstration program and the Corporation was given discretionary, instead of mandatory, authority to provide assistance in the form of grants and technical assistance to the loan purchase pool. The conference report contains the Senate provision amended to make discretionary the Corporation's authority to provide such assistance. The conferees are particularly interested in following the development of this new loan purchase pool mechanism closely and expect the Corporation, in its annual reports to Congress, to address in detail the activities of the Neighborhood Housing Services of America. This analysis will be particularly useful to Congress in determining whether a loan purchase pool of this type should be operated by established federally related secondary market institutions.

BOARD OF DIRECTORS

Election of Chairman

The Senate bill provided that the Chairman of the Corporation should be the Chairman of the Federal Home Loan Bank Board. The House amendment directed the Board of the Corporation to elect from among its members a Chairman who would serve for two years; however, the Chairman of the Federal Home Loan Bank Board would serve as the Chairman for the first two-year term. The conference report contains the House provision.

Board meetings

The Senate bill directed that all meetings of the Board be open unless closed by majority vote of the Board. The House amendment required that all meetings of the Board be conducted in accordance with the Government in the Sunshine Act. The conference report contains the House provision.

FINANCIAL CONTROL

The Senate bill provided that the Corporation would not be considered a department agency or instrumentality of the Federal Government. The House amendment amended the Government Corporation Control Act so that the Corporation would be considered a wholly owned government corporation. The conference report contains the Senate provision amended to require that the General Accounting Office audit the Corporation at least once every three years. In addition, the Corporation will be subject to administrative and cost standards issued by the Office of Management and Budget.

The conferees expect that the Corporation will be made subject to those circulars issued by the Office of Management and Budget which establish reasonable and appropriate standards for administrative and cost accounting procedures related to property disposition, procurement, competitive bidding, travel, transportation, consultant costs, reporting and maintenance of records. The conferees are aware that some of the standards defined or delineated in those circulars would not be appropriate to the operation of the Corporation, given its unique status. For instance, since the Corporation is receiving a direct appropriation instead of a grant from a federal agency, some reporting requirements will necessarily differ from those included in the OMB circulars. However, the conferees believe that the circulars establish reasonable standards of financial management and administrative accountability that should be followed in the operations of the Corporation. In looking to OMB to ensure that these standards are imposed, the conferees expect that OMB shall recognize the flexible and nonbureaucratic manner in which the Urban Reinvestment Task Force, predecessor to the Corporation, has operated in the past, that such flexibility has been integral to the success of its efforts and that its continued success requires a sensitivity to the necessity for reasonable controls that do not burden the Corporation with unnecessary requirements.

AUTHORIZATION

The Senate bill authorized appropriations of not to exceed $15 million for fiscal year

1979, $20 million for fiscal 1980 and $30 million for fiscal 1981. The House amendment authorized $8.5 million for fiscal year 1979. The conference agreement contains the Senate provision amended to a single year authorization of $12.5 million for fiscal year 1979.

TITLE VII—MISCELLANEOUS

HOMEOWNERS LOAN ACT AMENDMENT

The Senate bill included a provision not in the House amendment which would amend the Homeowners Loan Act of 1933 so that Federal savings and loan associations would be authorized to invest up to five percent of their assets in real property located in areas in which physical improvement activities assisted under the Community Development Block Grant Program are being carried out in a concentrated manner. The conference report does not contain this provision.

DISPLACEMENT STUDY

The Senate bill contained a provision not found in the House amendment in which the Congress declares that the Federal Government, in administering its housing and CD programs, should take the utmost care to minimize the displacement of persons from their homes and neighborhoods. The provision also provides that the Secretary shall conduct a study on the nature and extent of the displacement problem, and report to Congress by January 31, 1979, with recommendations for the formulation of a national policy to minimize displacement due to other public or private development. In conducting the study the Secretary is required to: (1) consult with affected public, governmental and industry groups; (2) provide data on nature and scope of problem (past and projected) and identify steps to improve data availability; and (3) report fully on current legal and regulatory powers and policies of HUD with respect to displacement. The conference report contains the Senate provision amended so that the Congressional declaration is that the Federal Government in the administration of its housing and CD programs and consistent with other program goals and objectives should minimize involuntary displacement of people from their homes and neighborhoods.

The conferees believe that the study required by this provision is of great importance. The conferees recognize that there are no easy answers on how to balance a strong desire to minimize involuntary displacement with the other important goals and objectives of the Department's housing and community development programs. The conferees expect the Secretary to carefully examine this question as it relates to each of her programs and include her findings in the study. Additionally, the conferees wish to make clear that the Congressional declaration contained in this provision does not confer any additional authority on the Secretary over what she now has under existing Federal law.

In addition, the conferees understand that the Department has narrowly interpreted the Uniform Relocation Act to exclude displacement caused by certain public or private actions which have been undertaken with the use of federal funds. The validity of this interpretation is currently before the courts. Both the Senate bill and the House amendment contained a provision which would enable localities to use Community Development Block Grant funds to provide relocation payments and other assistance to persons who are displaced by private or public activities, when such payments or assistance are appropriate to the locality's community development plan. The conferees wish to make clear that the enactment of that provision shall not be read as an endorsement of any interpretation of the URA; rather, the adopted provision is intended to permit CDBG funds to be used for relocation payments, whether or not the displacement is covered by the URA.

REHABILITATION GUIDELINES

The Senate bill contained a provision that was not contained in the House amendment directing the Secretary to develop rehabilitation guidelines in consultation with NIBS and other appropriate parties for voluntary adoption by States and localities, and to provide technical assistance for their implementation; also, the Secretary was to publish the guidelines within a year and promulgate them within 18 months of enactment; the Secretary was also required to report to Congress on the utilization of the guidelines with recommendations for further action. The conference report contains the Senate provision with an amendment which allows rather than requires the Secretary to offer technical assistance.

The conferees in accepting the Senate amendment are aware that considerable efforts to establish a workable set of rehabilitation guidelines are underway in a number of States and by organizations including private model code organizations. The conferees believe that these State and private organizations should be consulted with and involved in all aspects of the process of developing such guidelines. The conferees are aware that such involvement and consultation will not only reflect different regional conditions and prevent duplication of work already accomplished but it will greatly aid in the ultimate implementation of such guidelines at the State and local level.

DEPARTMENTAL REORGANIZATION

The Senate bill contained a provision not included in the House amendment which provided that no funds available to HUD during fiscal years 1978 or 1979 may be expended for the reorganization or transfer of any function of an area, field, or insuring office which relates to multifamily housing, community planning and development, or related technical services. The conference report does not contain the Senate provision.

ALASKA HOUSING PROGRAM

The Senate bill contained a provision not found in the House amendment would amend section 1004(a) of the Demonstration Cities Act to:

(1) Direct the Secretary to make loans and grants on the basis of need to Alaska regional native housing authorities for the purpose of providing planning assistance, housing rehab, and maintaining an adequate administrative structure for housing facilities for Alaska residents;

(2) Delete requirements for an approved statewide housing program; and

(3) Repeal the provision limiting grants to 75 percent of the cost of the housing constructed under the program.

The conference report contains the Senate provision amended so that rather than directing the Secretary to make loans and grants she is authorized to make such loans and grants, and rather than repealing the 75 percent limitation on grants the Secretary is permitted to waive the limitation on a case-by-case basis after consulting with the pertinent state officials.

INTERSTATE LAND SALES

The Senate bill contained a provision amending the Interstate Land Sales Full Disclosure Act which was not included in the House amendment. The Senate bill provided an exemption for the sale or lease of any improved land on which there is a condominium or on which a condominium is to be built within 2 years and excluded U.S. land patents and similar Federal grants or reservations from the Act's definition of "liens, encumbrances, and adverse claims."

The bill also exempted real estate which is restricted for commercial or industrial purposes by a declaration of covenants, conditions, and restrictions which have been recorded in the official records of the county where this real estate is located.

The bill created 3 new exemptions from the registration and disclosure requirements of the Act (but not from the fraud provisions). The first exemption was for sales operations which are intrastate or almost intrastate in nature. Under this exemption, a sales operation would be considered to be intrastate or almost intrastate in nature if not more than 5 percent of the lots sold or five lots sold, whichever is greater, in a calendar year were sold to residents of another State. Sales under this exemption must meet the following conditions: (a) The lot must be free and clear of all liens, encumbrances, and adverse claims; (b) the purchaser and/or spouse must make a personal on-site inspection of the lot; and (c) the developer must supply the purchaser with a written instrument designating a person within the purchaser's State of residence as the developer's agent of process.

For the purpose of this exemption, the terms "liens," "encumbrances," and "adverse claims" would not refer to U.S. land patents, property reservations, commonly conveyed or dedicated to local bodies or public utilities, taxes and assessments imposed by a State or public body having authority to assess and tax property or to beneficial property restrictions, provided: (a) The developer, prior to entering into a contract, provides the purchaser with a descriptive and concise statement setting forth all such reservations, taxes, and assessments which apply to the lot being purchased or leased; and (b) receipt of this statement has been acknowledged in writing by the purchaser or lessee.

The second exemption was for the sale or lease of real estate by a developer to a resident of another State when the principal residence of the purchaser is within a radius of 100 miles from the property purchased. To qualify for this exemption the following conditions must be met: (a) The lot must be free and clear of all liens, encumbrances, and adverse claims; (b) the purchaser and/or spouse must make an on-site inspection of the lot; (c) the developer must supply the purchaser with a written instrument designating a person within the purchaser's State of residence as the developer's agent of process; and (d) the developer must execute a written affirmation to the effect that these three requirements have been complied with on a form promulgated by the Secretary setting forth the name and address of the developer, legal description of the subdivision, the affirmation and the developer's legal signature. In addition, this section would require that (a) the developer, prior to entering into a contract, provide the purchaser with a descriptive and concise statement setting forth any reservations, taxes and assessments which apply to the lot being purchased or leased; and (b) receipt of this statement must be acknowledged in writing by the purchaser or lessee.

Sales under the 100 mile exemption would not be subject to the 5 percent limitation contained under the first exemption. But the number of sales made under the 100 mile exemption would be added to the sales made under the first exemption to arrive at the total number of sales made in one year by a developer for purposes of the 5 percent out-of-State sales limitation contained in the first exemption.

The third exemption was for the sale or lease of real estate located within a municipality or county whose governing body specifies minimum standards for the development of subdivision lots taking place within its boundaries, when seven conditions are met:

"(1) the subdivision meets all local codes and standards and is either zoned for single family residences or, in the absence of a zoning ordinance, is limited exclusively to single family residences; (2) the real estate is situated on a paved, public street or highway built to a standard acceptable to the municipality or county, or a bond or other surety acceptable to the municipality or

county in the full amount of the cost of the improvements has been posted to assure completion to such standards, and that authority has accepted or has agreed to accept the responsibility of maintaining the street; (3) at the time of closing, potable water, sanitary sewage disposal and electricity have been extended to the real estate, or the municipality or county has agreed to install such facilities within 180 days. For subdivisons which do not have a central water or sewage disposal system, rather than installation of water or sewer facilities, there must be assurances that an adequate potable water supply is available year-round or that the land is approved for the installation of septic tanks; (4) the contract of sale requires delivery of a warranty deed to the purchaser within 180 days of the signing of the sales contract; (5) a policy of title insurance or title opinion is issued in connection with the transaction showing that at the time of closing, title to the real estate purchased or leased is vested in the seller or lessor (but lease recordation is required); (6) each purchaser or his or her spouse has made a personal on the lot inspection of the real estate which he purchased or leased, prior to the signing of a contract to purchase or phone solicitations or offers of gifts, trips, dinners, or other such promotional techniques to induce prospective purchasers or lessees to visit the subdivision or to purchase or lease a lot."

The Senate bill also amended the statute of limitations for the Act so that no action could be brought by a purchaser more than three years after signing a contract or lease, notwithstanding delivery of a deed to a purchaser on the sale or assignment to attend part of the purchasers contract or agreement.

The conference report contains four of the Senate provisions, those dealing with: condominiums, real estate restricted for commercial or industrial use, U.S. land patents and fully improved single family homesites. The fully improved single family homesite exemption was accepted with minor clarifying amendments. This exemption applies only to the sale of lots located within counties and municipalities which have established minimum standards for the development of subdivision lots.

The conferees agree that this exemption is justified in such regulated jurisdictions because an important part of the protection which the Congress wishes to assure to purchasers already exists. Before a builder can sell even a single lot in a regulated jurisdiction, he often must gain approval from a number of local and state government agencies, including planning, zoning and environmental review boards; public works, public health and engineering departments; local utility districts and city councils or boards of supervisors. Usually lot sizes must meet certain minimums; soil compaction and/or percolation requirements must be met; the land cannot lie in an environmentally sensitive area or too close to an airport flight pattern; and plans must show access for fire equipment. It is expected that the exemption for the improved single family homesite will apply only in those jurisdictions that specify minimum standards for the development of subdivision lots.

In addition, the conferees recognize that a comprehensive reform of the Interstate Land Sales Full Disclosure Act needs to be accomplished in order to deal with specific problems faced by small land developers and land purchasers that have been brought to the attention of the conferees but which were not adequately addressed in the amendments rejected by the conference committee. The conferees have been hampered in their deliberations by a lack of adequate data derived from the experience of the Office of Interstate Land Sales in the administration of the Act. The conferees therefore direct the Secretary of HUD to report to Congress by March 1, 1979, regarding the experience of OILSR in: (1) administering the on-site inspection statutory exemption; (2) administering the 300 lot limited offering regulatory exemption; and (3) reaching administrative settlements regarding various kinds of fraudulent practices. The conferees are particularly interested in an analysis of the problems that have occurred in these three categories as they relate to land developments that are sold only (or primarily) to intra state customers and as they relate to developments of various sizes ranging from 50 to 400 lots. This information will be crucial to assist the respective House and Senate committees as they consider legislative reform of the Act next year.

TREATMENT OF SOCIAL SECURITY BENEFIT INCREASES

The House amendment provided that social security benefit increases occurring after May 1978, shall not be considered as income for the purposes of determining the eligibility for or amounts of assistance available to individuals or families under the U.S. Housing Act of 1937, the National Housing Act, the HUD Act of 1965, or the Housing Act of 1949. The term "social security benefit increases" after May 1976, was defined as any part of a monthly benefit payment under the insurance program established under title II of the Social Security Act which results from a cost-of-living increase in benefits becoming effective after May 1978, which constitutes a general benefit increase within the meaning of section 215(i)(3) of such act. These provisions were not contained in the Senate bill and the conference report does not contain these provisions.

HOUSING PROGRAM PAPERWORK REDUCTION

Findings and program

The Senate bill contained findings that the various Federal agencies responsible for housing and housing finance programs require and use a variety of different forms as residential mortgages, as notes secured by these mortgages, and for applications, appraisals and other purposes, and such duplication of forms constitute a paperwork burden that adds to the costs of homeowners and buyers; that unnecessary paperwork impairs the effectiveness of Federal housing programs; that simplification of paperwork in the housing programs would contribute to achieving the Nation's housing goals by reducing costs; that the responsible Federal agencies have made inadequate attempts to reduce unnecessary paperwork and the resultant costs; and that the Commission on Federal Paperwork has recommended that the agencies reduce the paperwork involved in their housing programs.

The House amendment contained similar findings, but did not include findings that responsible Federal agencies have made inadequate attempts to reduce unnecessary paperwork and resultant costs or reference to the recommendations of the Paperwork Commission. The conference report contains the House provision.

Task force

The Senate bill provided that the President shall establish an Interagency Task Force on reduction of paperwork in housing programs chaired by the Director of OMB which shall submit to Congress a plan and timetable for implementing the recommendations of the Paperwork Commission. The House amendment had no such provision and the provision is not contained in the conference report.

OMB coordination

The Senate bill required that the Director of OMB coordinate and monitor the implementation of the efforts required of HUD and the VA to make uniform their forms, report to the Congress on such implementation and shall coordinate and monitor the plan and timetable for implementing the Paperwork Commission's recommendations. The House amendment was similar, but did not contain the requirement that the Director of OMB coordinate and monitor the implementation of the Paperwork Commission's recommendations. The conference report contains the House provision, however, the conferees believe that the Director should carefully monitor the implementation of these recommendations and take steps to assure that prompt action is taken on them.

Staffing by OMB

The Senate bill contained a provision relating to the Task Force, not included in the House amendment, which required the Director of OMB to assign or secure the staff necessary for the Task Force to complete its duties. The conference report does not include this provision.

Consultation by the Task Force

The Senate bill contained an additional provision relating to the Task Force, not contained in the House amendment, which required the Task Force to consult with the private sector, public interest groups and the general public that will be affected by this section of the bill. The conference report does not include this provision.

NEW COMMUNITIES

The Senate bill contained a provision that was not contained in the House amendment to change the term "New Community Assistance Projects" as used under Title IV of the Housing and Urban Development Act of 1968 to have the same meaning as "New Community Assistance Projects" in Title VII of the Housing and Urban Development Act of 1970. The conference report does not contain this provision. The conferees learned that Jonathan, a Title IV new community assistance project embracing the City of Chaska, Minnesota, is the only federally-assisted new community that is not eligible for all Title VII grant assistance. The conferees also learned that Jonathan, as with many federally-assisted new community projects, is in severe financial difficulty and is being acquired by the Secretary. Foreclosure proceedings have been initiated by the Secretary and are pending action by the U.S. District Courts. Therefore, the conferees consider that any such action affecting this project would be inappropriate at this time.

COST-BENEFIT ANALYSIS OF HUD REORGANIZATION

The Senate bill contained a provision which was not included in the House amendment providing that a plan for the reorganization of any regional, area, insuring, or other field office of the Department of HUD may take effect only upon the expiration of 90 days after publication in the Federal Register of a cost-benefit analysis of the effect of the plan on each office involved. The analysis would include: (1) an estimate of cost savings; (2) an estimate of the additional cost that will result from the reorganization; (3) a study of the impact of the local economy; (4) an estimate on the effect of the reorganization on the availability, accessibility, and quality of services provided for recipients. Where any of these factors cannot be quantified, the Secretary would provide a statement on the extent of those factors in the cost-benefit analysis. The conference report contains this provision.

The intent of this amendment is to assure that (1) the Department, when proposing a nationwide plan to transfer any of its operations from one field office (regional, area or service office, to another considers the cost and benefits of such a plan and the impact of the plan on the various localities involved, and (2) that the public and Congress will be notified of the Department's intent to implement such a plan by publication in the

Federal Register of a cost/benefit analysis of the plan. It is intended that this amendment apply to those reorganization plans which are (a) proposed by the Department in the future, (b) are national in scope, and (c) effect a reduction or transfer in the location or amount of services provided by the Department to the recipient of its services. This amendment is not intended to apply to or restrict the internal operations or organization of the Department (such as the establishment of new or combination of existing organization units within a field office, the duty stationing of employees in various locations to provide on-site service, or the establishment or closing, based on workload, of small, informal offices such as valuation stations.) The amendment is also not intended to restrict the movement or geographic location of the offices of the Department in any given metropolitan area.

HOUSING PRODUCTION REPORTS

The Senate bill contained a provision, that was not included in the House amendment, which required the President, not later than January 20 of each year, to submit to Congress a report which: (1) reviews the progress made in achieving housing production objectives during the preceding year, and if relevant, identifies the reasons for any failure to reach the proposed objectives; (2) projects the level, composition, and general location of production and rehab activity for the current year, and reassess the availability of required resources; (3) specifies Federal programs and policies to be implemented or recommended to achieve the objective; (4) updates the estimates of the housing needs of lower income families in a detailed fashion as to type of need and household and location; (5) reviews the progress made in achieving goals of conserving and upgrading older housing and neighborhoods, expanding homeownership and equal housing opportunities, and assuring reasonable shelter costs; (6) reports on progress made toward developing new methods for measuring progress in achieving these goals; and (7) identifies legislative and administrative actions which will or should be adopted during the current year to achieve these goals. The conference report contains this provision.

TITLE VIII—NEIGHBORHOOD SELF-HELP DEVELOPMENT

The Senate bill contained provisions not in the House amendment which authorized a new program to provide grants and other assistance to qualified neighborhood organizations to undertake neighborhood conservation and revitalization projects.

FINDINGS

The Senate bill contained findings that: (1) existing urban neighborhoods are a national resource to be conserved and revitalized, and that public policy should promote that objective; (2) to be effective such revitalization efforts should maximize the support and participation of those directly affected at the neighborhood level; and (3) an effective way to obtain such participation at the neighborhood level is through neighborhood organizations with a demonstrable capacity for developing and carrying out revitalization projects. The conference report contains the Senate provision.

PURPOSE

The Senate bill provided that assistance under this program would be available to qualified neighborhood organizations to undertake specific housing and revitalization projects (1) in low and moderate income neighborhoods or (2) for the benefit of low and moderate income residents of other neighborhoods which need revitalization. An additional purpose would be to increase the capacity of neighborhood organizations to utilize and coordinate public, private and neighborhood resources. The conference report deletes the provision which provided that qualified projects could be in other than low and moderate income neighborhoods, but for the benefit of low and moderate income residents and limits eligible projects to those in low and moderate income neighborhoods which need conservation and revitalization. In addition, the conference report includes residents themselves as a group to be included in the effort to increase coordination.

DEFINITIONS

Neighborhood organization

The Senate bill defined an eligible neighborhood organization as a voluntary, nonprofit organization which (a) is broadly representative of the neighborhood in which the project will be located, (b) is accountable to neighborhood residents, (c) has as an objective the revitalization of the neighborhood, and (d) is found by the Secretary to have a demonstrable capacity for developing and implementing neighborhood revitalization programs. The conference report contains the Senate provision with an amendment indicating that this organization may include representatives of local businesses, financial and other public and private entities.

Neighborhood conservation and revitalization projects

The Senate bill defined a "neighborhood conservation and revitalization project" as including but not limited to: (a) locally conceived programs for housing rehabilitation and the creative reuse and improvement of existing housing, (b) revitalization of neighborhood retail business areas and the recycling of vacant industrial sites for the purpose of creating employment opportunities and neighborhood economic development, and (c) energy conservation and weatherization projects. The conference report contains this definition with a few minor amendments intended to make clearer that the specific types of projects enumerated in this section are illustrative only and that eligible neighborhood conservation and revitalization projects are not limited to those types specifically enumerated in the title.

AUTHORITY

The Senate bill provided that grants and assistance were to be made for planning and carrying out specific development, conservation and revitalization projects. The conference report contains the Senate provision amended to provide that grants and assistance are to be made for preparing and implementing specific projects rather than for planning and carrying out such projects. The conferees wish to emphasize that HUD should become involved in assisting a project after it had its planning essentially completed (except architectural, engineering or similar types of specific plans), had tangible local support, and was moving well toward its implementation, rather than being simply at its earliest or initial planning or conceptual stages.

APPROPRIATE GRANTS

The Senate bill enumerated six specific criteria for eligible projects. Grants and other forms of assistance would be made available only if: (1) the assistance will be used for a specific project related to a revitalization strategy for a specific neighborhood; (2) the project will include a self-help component involving a contribution of time or resources by neighborhood residents; (3) the project will directly benefit residents of a low and moderate income neighborhood, or low and moderate income residents of other neighborhoods; (4) the project will involve leveraging of resources available from the private sector; (5) the project will involve the coordination of resources from the local, State or Federal Governments; and (6) the applicant demonstrates that the residents of the neighborhood (particularly those who will be directly affected) have been actively involved in and supportive of the selection of the project, and will continue to be involved in the project through an ongoing neighborhood participation mechanism. The conference report contains the Senate provision with two specific changes and the addition of a seventh criterion.

The second criterion, relating to a self-help component, was amended to indicate that a self-help component which involves a contribution of time or resources by neighborhood residents is not an absolutely essential element in determining project eligibility, but rather an element to be desired and encouraged whenever possible.

The third criterion, was amended to conform to the amendment made to the Purposes provision of the Senate bill deleting from eligibility projects which were not located in low and moderate incomes, but were for the benefit of low and moderate income residents of other neighborhoods.

An additional criterion necessary for eligibility, relating to the identification of funding sources, was added to require written verification that funding sources identified in the application do, in fact, support the project and can make the identified funds available to the project as the project progresses.

INELIGIBLE PROJECTS

The Senate bill enumerated several items which were not eligible for funding. These were: (1) planning functions not combined with project implementation; (2) a public works project, such as street repair, not connected with the specific funded project; (3) operation of a social service program not connected to a specific project; (4) an economic development project which will not primarily benefit the residents of the neighborhood in which it will be located; (5) operating costs of a community group not connected with a specific project; (6) other purposes which the Secretary may determine are not consistent with purposes of this title.

The conference report contains the Senate provision. The conferees wish to indicate that while the operation of a social service program or the operating costs of a community group, specifically associated with a funded project are eligible items, these costs should be funded only for a brief, start-up period after which other funds should be identified by the local community to supplant funds made available pursuant to this title. The conferees do not believe this start-up period should extend beyond two or three years.

CERTIFICATION BY LOCAL GOVERNMENT

The Senate bill provided that assistance could be made available under this title only after the unit of general local government within which the neighborhood to be assisted is located certified that the proposed assistance is consistent with, and supportive of, the objectives of that unit of government. The conference report contains the Senate provision with amendments that require that the application submitted by the applicant organization contain this certification by the local government and that this certification indicate that the project is consistent with, and supportive of, the specific objectives of that local government.

CONSULTATION WITH OTHER FEDERAL AGENCIES

The Senate bill contained a provision requiring the Secretary of HUD to consult with other federal departments and agencies having responsibilities related to the purposes of this title. The conference report retains this provision.

AUTHORIZATION

The Senate bill authorized an appropriation not to exceed $15 million for each of the fiscal years 1979 and 1980. The conference report contains this provision.

TITLE IX—LIVABLE CITIES

The Senate bill contained a provision not in the House amendment which authorized a new program to provide assistance to States, neighborhoods and other organizations to enable such organizations to undertake or support projects aimed at revitalizing urban communities and neighborhoods, provide a more suitable living environment, expand cultural opportunities, and indirectly stimulate economic opportunities for the residents of urban communities and neighborhoods.

FINDINGS

The Senate bill contained findings that: (a) artistic, cultural and historic resources, including urban design, are an integral part of a suitable living environment for residents of urban areas and that such resources should be available to all regardless of income; (b) the development and preservation of such resources are necessary to the vitality of the urban environment and can serve as a catalyst for improving urban communities; and (c) the encouragement and support of local initiatives, particularly in connection with federally assisted housing or community development activities or in communities with a high proportion of low-income residents, is an appropriate federal function. The conference report contains this provision.

PURPOSE

The Senate bill provided that the primary purpose of the title was to further efforts to revitalize communities and neighborhoods and to provide a more suitable living environment, expanded cultural opportunities and indirectly stimulate economic opportunities for their residents, particularly low and moderate income residents. The conference report provides that the purpose of the title is to assist the efforts of public and private groups to provide a more suitable living environment, expand cultural opportunities, and to the extent practicable, stimulate economic opportunities, all primarily for low and moderate income residents of communities and neighborhoods in need of conservation and revitalization.

DEFINITIONS

The Senate bill contained a number of definitions which have been retained with a few technical changes in the conference report.

Art and arts

The terms "art" and "arts" are defined as including, but not limited to, architecture, landscape architecture, urban design, interior design, graphic arts, fine arts, performing arts, literature, crafts, photography, communications media and film, as well as activities which reflect a cultural heritage.

Nonprofit organization

The definition contained in the Senate bill has been technically revised and included in the conference report.

The term "nonprofit organization" is defined as meaning an organization in which no part of its net earnings inures to the benefit of any private stockholder or stockholders, individual or individuals and, if a private entity, which is not disqualified for tax exemption under section 501(c)(3) of the Internal Revenue Code of 1954 by reason of attempting to influence legislation and does not participate in or intervene in any political campaign on behalf of any candidate for public office. Such organizations may include states and units of local government, regional organizations of local governments and nonprofit societies, neighborhood groups, institutions, organizations, associations or museums. The conferees also wish to indicate that an eligible private entity would not have to possess a section 501(c)(3) exemption but only that it would not be disqualified from receiving one by virtue of the degree of its activity in attempting to influence legislation or participate in political campaigns on behalf of any candidate for public office.

Project

The Senate bill and the conference report define project as a program or activity intended to carry out the purpose of this title including programs for neighborhood and community based arts programs, urban design, user needs design, and the encouragement of the preservation of historic and other structures being of neighborhood or community significance.

Other definitions

The Senate bill and the conference report define the term "Secretary" to mean the Secretary of the Department of Housing and Urban Development; the term "Chairman," to mean the Chairman of the National Endowment for the Arts; the term "Department" to mean the Department of Housing and Urban Development; and the term "Endowment" to mean the National Endowment for the Arts.

AUTHORITY

The Senate bill would have authorized the Secretary to make grants or contract or make other arrangements with nonprofit organizations (or, in appropriate cases, as determined by the Secretary, to enter into contracts with profitmaking organizations). The conference report contains language which limits this authority to the making of grants or contracts with nonprofit organizations. The conferees believe that eligible nonprofit organizations could, in turn, make arrangements as provided in their agreements with the Secretary and in accordance with HUD's applicable regulations and procedures, with other groups, which could include profitmaking organizations. The change contained in the conference report is intended to clarify that the direct contemplated relationship in this program is between the Department and nonprofit organizations.

The Senate bill also provided that eligible projects must carry out the purposes of the title and (1) have substantial artistic, cultural, or urban design merit; (2) represent community or neighborhood initiatives which have a significant potential for revitalizing communities or neighborhoods, enhancing civic identity and pride for the residents, particularly low and moderate income residents of urban areas; and (3) meet the criteria jointly established by the Secretary and Chairman of the National Endowment for the Arts.

The conference report provides that eligible projects (1) have substantial artistic, cultural, historical or design merit; (2) represent community or neighborhood initiatives which have a significant potential for conserving or revitalizing communities and neighborhoods, and enhancing civic identity and pride; and (3) meet the criteria jointly established by the Secretary and Chairman of the National Endowment for the Arts. The conference report retains the Senate provision regarding criteria for evaluating and selecting projects; however, the conferees recognize that the extent to which any eligible project may meet these criteria will vary and that the primary purpose of these criteria is to act as a tool for use by the Secretary and Chairman in evaluating and ranking prospective projects.

ELIGIBLE PROJECTS

The Senate bill contained a provision requiring the Secretary and Chairman to establish criteria and procedures for evaluating and selecting projects to be assisted which criteria shall address, but need not be limited to, the following factors: (1) artistic, cultural, historic, or urban design quality; (2) the degree of broadly-based, active community participation and involvement by local officials and artists in the proposed project; (3) the degree of, or potential for, utilization of assistance from other federal, state, and local public or private sources; (4) the feasibility of project implementation, including the sponsor's capability; (5) the potential contribution to neighborhood revitalization and civic pride; (6) the potential for stimulating neighborhood economic and community development, particularly for the benefit of low and moderate income persons; and (7) the potential utilization by neighborhood residents, particularly residents who are of low and moderate income, senior citizens, and handicapped persons. The conference report contains this provision with minor technical changes. The conferees wish to indicate that each project may not meet each enumerated criteria and that the Secretary and Chairman may also utilize additional criteria in their evaluation.

APPLICATION FOR FINANCIAL ASSISTANCE

Procedural compliance

The Senate bill contained a provision which is also contained in the conference report requiring applications to be submitted in accordance with regulations and procedures established by the Secretary and the Chairman.

Consultation with local officials and chairman

The Senate bill contained a provision requiring the Secretary and Chairman to seek the recommendations of state and local officials and private citizens knowledgeable in community and economic development and revitalization, and of such officials and citizens knowledgeable in the arts. The conference report contains this Senate provision.

OTHER FUNDING

The Senate bill required the Secretary, in cooperation with the Chairman, to prescribe regulations which would require that a specific portion of the cost of any assisted project be provided from sources other than funds made available by this title which could be reduced or waived by the Secretary taking into account the financial capacity of the applicant. The conference report contains this Senate provision modified so as to clarify that in cooperation with the Chairman, the Secretary would have the discretionary authority to establish a set of financial matching requirements which might vary depending on the type of applicant and which might be reduced or waived solely on the basis of the financial capacity of the applicant.

ELIGIBILITY OF SPONSOR ORGANIZATIONS

The Senate bill contained a provision which defined an eligible organization. The conference report does not contain this provision as its substance was incorporated into the definition of a nonprofit organization contained in the definitions section of this title.

CONSISTENCY WITH THE OBJECTIVES OF THE APPLICABLE UNIT OF LOCAL GOVERNMENT

The Senate bill contained a provision requiring the Secretary and Chairman to establish procedures for eliciting the cooperation of local officials in assuring that no project be approved which would be inconsistent with the objectives of the unit of local government within which such projects would be carried out, including the cultural and community development and neighborhood preservation and revitalization plans and activities of that government. The conference report contains a substitute provision which provides that grants and assistance may be made available only if the application submitted by the applicant contains a certification by the unit of general local government that the project is consistent with, and supportive of, the objectives of that government for the area in which the project will be located.

The conferees wish to insure the involvement of the local government (where it is

not the applicant) earlier in the application process than was necessarily required in the Senate bill. In addition, the conference report requires an affirmative indication that an eligible project is consistent with, and supportive of, the objectives of that government for the area of the city in which the project would be located.

PROHIBITION AGAINST SUBSTITUTION

The Senate bill contained a prohibition against utilizing funds under this title to supplant non-federal funds. The conference report contains the Senate provision amended to prohibit the use of funds authorized for this program to supplant federal, as well as non-federal funds.

ADMINISTRATIVE EXPENSES

The Senate bill provided that no more than ten percent of the funds appropriated for any fiscal year be available for administrative expenses. The conference report contains this provision.

ADMINISTRATIVE COORDINATION

The Senate bill provided that insofar as practicable the Secretary coordinate the administration of the provisions of this title, and encourage the coordination of activities assisted under this title with existing Federal, State and local public and private programs. The conference report amends this provision to strengthen the Secretary's responsibility to coordinate the administration of this program in cooperation with other Federal agencies and to assure, rather than encourage, the coordination of assistance under this title with related efforts undertaken by State and local governments and private groups.

AUTHORIZATION

The Senate bill authorized an appropriation not to exceed $5 million for fiscal year 1979, and not to exceed $10 million for fiscal year 1980. The conference report contains this provision.

HENRY REUSS,
THOMAS L. ASHLEY,
WILLIAM S. MOORHEAD,
FERNAND J. ST GERMAIN,
HENRY GONZALEZ,
PARREN J. MITCHELL,
LES AUCOIN,
JAMES J. BLANCHARD,
STAN LUNDINE,
GARRY BROWN,
J. W. STANTON,
CHALMERS P. WYLIE,
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN SPARKMAN,
HARRISON WILLIAMS,
EDWARD W. BROOKE,
JOHN TOWER,
Managers on the Part of the Senate.

NATIVE LATEX COMMERCIALIZATION ACT OF 1978

Mr. FOLEY, Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 1816) to amend the Public Works and Economic Development Act of 1965 to authorize a program of research, development, and demonstration of guayule rubber production and manufacture as an economic development opportunity for the Southwestern States, with a Senate amendment to the House amendment thereto, and concur in the Senate amendment to the House amendment with an amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendment, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment, insert:

That this Act may be cited as the "Native Latex Commercialization and Economic Development Act of 1978".

SEC. 2. (a) Congress recognizes that natural latex rubber is a commodity of vital importance to the economy, the defense, and the general well-being of the Nation. The United States is totally dependent upon foreign sources for its supplies of natural (Hevea) latex, which total about one million tons per year. Synthetic rubber, manufactured from petroleum feedstocks, cannot be substituted for natural rubber.

(b) Congress further recognizes that certain plant species of the genus Parthenium (Guayule), native to Texas and the Republic of Mexico, as well as other plants, are known to contain commercial quantities of extractable rubber. During World War II, through research carried out by the Secretary of Agriculture in the Emergency Rubber Project, the United States demonstrated that Parthenium latex is a promising and realistic substitute for Hevea latex.

(c) Congress further recognizes that additional research and development are needed, especially into methods for increasing latex yields, before commercialization of native Parthenium latex or other hydrocarbon-containing plants by private industry is feasible.

(d) Congress further recognizes that the development of a domestic natural rubber industry, based on Parthenium and other hydrocarbon-containing plants, would not only relieve the Nation's dependence upon foreign latex sources but also convey substantial economic benefits to peoples living in arid and semiarid regions of the United States. Such an industry would comprise the agricultural production of the hydrocarbon-containing plants and the development of commercial processing and manufacturing facilities to extract the latex and other products.

(e) Congress further recognizes that ongoing research into the commercialization of native latex has been conducted by the Department of Agriculture and by the Department of Commerce through the regional commissions and that these research efforts should be continued and expanded.

(f) It is the policy of Congress, therefore, to provide for the development and demonstration of economically feasible means of culturing and manufacturing Parthenium and other hydrocarbon-containing plants for the extraction of natural rubber and other products to benefit the Nation and promote economic development.

SEC. 3. As used in this Act—

(a) The term "State" means each of the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

(b) The term "Secretaries" means the Secretary of Agriculture and/or the Secretary of Commerce acting each separately or jointly.

(c) The term "commercialization" means the stage in the development or advancement of a technology at which point private enterprise is willing to invest in a full-scale production facility.

(d) The term "native" means hydrocarbon-containing plants which may be cultured in North America, especially members of the genus Parthenium known as Guayule.

(e) "Regional Commissions" means the Regional Action Planning Commissions established pursuant to title V of the Public Works and Economic Development Act of 1965.

SEC. 4. (a) There is hereby established a Joint Commission on Guayule Research and Commercialization, hereinafter referred to as the Joint Commission. The function of the Joint Commission shall be to assist the Secretaries in carrying out the purposes of this Act.

(b) The Joint Commission shall consist of the following members: The individuals designated by the Secretary of Agriculture from among the staff of his Department; three individuals designated by the Secretary of Commerce at least two of whom shall be Federal Cochairmen of Regional Commissions engaged in the support of native latex research, development, demonstration, or commercialization activities and one of whom shall be selected from among the members of his Department; a representative of the Bureau of Indian Affairs of the Department of the Interior; and a representative of the National Science Foundation.

(c) The Joint Commission shall be headed by a Chairman. The Secretary of Agriculture shall designate one of the two members from his Department to serve as Joint Commission Chairman during the first two-year period following the enactment of this Act, and the Secretary of Commerce shall designate one of the two members from his Department as Joint Commission Chairman during the second two-year period following the enactment of this Act. And the same process of designating Joint Commission Chairmen shall be followed in ensuing years.

(d) The Secretaries may delegate to the Joint Commission one or more of their responsibilities under this Act and transfer to the Joint Commission funds appropriated to carry out the purposes of this Act as they deem appropriate to achieve the purposes of this Act, and the Joint Commission is authorized to carry out such functions and expend such funds to achieve the purposes of the Act.

(e) The Joint Commission shall—

(1) develop a plan establishing goals, timetables, and tasks to be undertaken in carrying out the purposes of this Act;

(2) establish broad policy for implementing the plan carrying out the purposes of this Act;

(3) establish criteria for evaluating and awarding contracts for research, development, and demonstration projects, and

(4) review and advise the Secretaries with respect to grants, contracts, and other project expenditures.

(f) The Secretaries are authorized to provide without reimbursement such administrative support services, including the detail of staff personnel not to exceed a total of five persons from each Department, as the Joint Commission may need to carry out its functions.

(g) One year after the enactment of this Act, and each year thereafter, the Joint Commission shall provide to the Congress a report on the implementation of the Act. Such report shall (1) recommend specific directions for further research, development, and other works, and (2) recommend funding levels for various elements of the overall project.

(h) To the maximum extent possible, the Secretaries and the Joint Commission shall seek the advice of the scientific, engineering and business communities with respect to the activities carried out under this Act. The Secretaries and the Commission shall specifically seek the advice of persons with expertise in appropriate fields of agricultural research in land grant colleges and other universities, in State agricultural experiment stations, and in other appropriate organizations; and, persons with expertise in rubber manufacturing and commerce in private enterprise and other appropriate organizations.

SEC. 5. The Secretary of Agriculture shall conduct, sponsor, promote, and coordinate basic and applied research, technology devel-

opment, and technology transfer leading to effective and economical methods for large-scale culturing of plantations and the extraction of latex from Parthenium or other hydrocarbon-containing plants. Such research shall include, but not be limited to—

(a) carrying out extensive seed collections from wild plants in Texas, Mexico, and other areas and borrowing or purchasing seeds from other sources;

(b) developing a stockpile of Parthenium seeds, such stockpile to be appropriately classified and stored in a suitable facility;

(c) carrying out breeding and selection programs for the purpose of improving latex yields, expanding insect and disease resistance, and broadening the ranges of drought and cold tolerance of the Parthenium plant;

(d) establishing a system of experimental plantings in arid and semiarid regions of the United States having suitable climatic and soil conditions for the culture of Parthenium;

(e) carrying out specific studies on the effects of irrigation on plant growth and latex yield and survival potential;

(f) developing equipment needed to carry out nursery operations, planting, cultivating, harvesting, transporting the crop, and other necessary agricultural activities;

(g) further refining present extraction technologies and future extraction technologies, including technologies which utilize solar energy; and

(h) establishing and maintaining a bank of all pertinent research data on native latex including extant United States Government publications and records from the emergency rubber project. Such data shall be made available to other Federal and State agencies and private persons who are interested or involved in native latex research, development, or manufacture.

SEC. 6. The Secretary of Commerce is authorized and directed to initiate and carry out research, technology development, technology transfer, and demonstration projects to test and demonstrate the economic feasibility of the manufacture and commercialization of natural rubber from Parthenium or other hydrocarbon-containing plants. Such research may be carried out through the Regional Commissions or otherwise and shall include but not be limited to—

(a) conducting research and development on extraction and processing techniques;

(b) economic analysis of the production of native latex, including usable byproducts;

(c) studying the environmental, social, and economic impacts of the commercial development of native latex;

(d) evaluating the commercial marketability of Parthenium and rubber derived from other hydrocarbon-containing plants;

(e) further refining present extraction and manufacturing technologies and future extraction and manufacturing technologies, including technologies which utilize solar energy, and

(f) developing pertinent material and records on manufacturing of natural rubber which shall be available to other Federal and State agencies and private persons who are interested in or involved in natural rubber development, or manufacture.

SEC. 7. The Secretaries, in consultation with the Secretary of State, are authorized and encouraged to enter into cooperative projects with the Government of Mexico in order to accomplish appropriate aspects of the research and development provided for in this Act. Such cooperative projects should include, but not be limited to, projects to determine the economic feasibility of latex extraction and processing.

SEC. 8. The Secretaries are authorized to accept financial or other assistance from any State or public agency to aid in carrying out the provisions of this Act and to enter into contracts with respect to such assistance and to enter into agreements with any State or public agency for the purpose of demonstrating, transferring, or applying results of research or methods of economic development relating to native latex.

SEC. 9. In carrying out the provisions of this Act, the Secretary of Agriculture is authorized to—

(a) make grants to States, education institutions, scientific organizations, and Indian tribes as defined in the Indian Self-Determination and Education Assistance Act (Public Law 93-638, 25 U.S.C. 450), and enter into contracts with such institutions and organizations and with industrial or engineering firms;

(b) acquire the services of biologists, agronomists, foresters, geneticists, chemists, engineers, economists, and other personnel by contract or otherwise;

(c) utilize the facilities of Federal and State scientific laboratories;

(d) establish and operate necessary facilities and plantations to carry out the continuous research, testing, development, and programing necessary to effectuate the purposes of this Act;

(e) acquire secret processes, technical data, inventions, patent applications, patents, licenses, land and interest in land (including water rights), facilities, and other property or rights by purchase, license, lease, or donation;

(f) assemble and maintain pertinent and current literature and publications, patents and licenses, land and interests in land;

(g) cause onsite inspections to be made of promising projects, domestic or foreign, and, in the case of projects located in the United States, cooperate and participate in their development when the Secretary determines that the purpose of this Act will be served thereby;

(h) foster and participate in regional, national, and international conferences relating to native latex culture;

(i) coordinate, correlate, and publish information with a view to advancing the development of native latex technology; and

(j) cooperate with other Federal departments and agencies, with State and local departments, agencies, and instrumentalities, and with interested persons, firms, institutions, and organizations.

SEC. 10. In carrying out the provisions of this section, the Secretary of Commerce, acting through the Regional Commissions, or otherwise is authorized to—

(a) make grants to States, education, institutions, scientific organizations, and Indian tribes as defined in the Indian Self-Determination and Education Assistance Act (Public Law 93-638, 25 U.S.C. 450), and enter into contracts with such institutions and organizations and with industrial or engineering firms;

(b) acquire the services of biologists, agronomists, foresters, geneticists, engineers, economists, and other personnel by contract or otherwise;

(c) utilize the facilities of Federal and State institutions and other scientific laboratories;

(d) establish and operate necessary facilities and pilot plants to carry out the continuous research, testing, development, and programing necessary to effectuate the purposes of this section;

(e) acquire secret processes, technical data, invention, patent applications, patents, licenses, land and interests in land (including water rights), plants and facilities, and other property or rights by purchase, license, lease, or donation; and

(f) foster and participate in regional, national, and international conferences relating to natural rubber manufacture.

SEC. 11. In carrying out the provisions of this Act, the Secretaries and the Joint Commission shall insure that their activities are closely coordinated with the activities of other Federal agencies such as the Department of the Interior, National Science Foundation, Bureau of Indian Affairs, Department of Energy, Department of Defense, Treasury Department, Federal Preparedness Agency, and others in order to prevent duplication of effort, insure compatibility with ongoing programs and policies, and to fully exploit the opportunities inherent in the culture and manufacture of native latex.

SEC. 12. Relative to the definitions of, title to, and licensing of inventions made or conceived in the course of or under any contract or grant pursuant to this Act, and notwithstanding any other provisions of law, the provisions of sections 9 and 10 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908-9) shall govern.

SEC. 13. The Secretary of Agriculture and the Secretary of Commerce may dispose of any latex, resin, wax, pulp, and any other byproducts resulting from operations under this Act. All moneys received from dispositions under this section shall be paid into the Treasury as miscellaneous receipts.

SEC. 14. The Secretary of Agriculture and the Secretary of Commerce may issue rules and regulations necessary to effectuate the purposes of this Act.

SEC. 15. The Secretary of Agriculture and the Secretary of Commerce shall submit to the President and the Congress, no later than December 31, 1980, and each year thereafter through 1982, a report on the status of the research, development, and other work underway under this act. Such report shall (1) recommend specific directions for further research, development and other work, and (2) recommend funding levels for various elements of the overall project.

SEC. 16. (a) There is authorized to be appropriated to the Secretary of Agriculture $2,500,000 for each of the fiscal years ending September 30, 1980, and September 30, 1981, and $5,000,000 for each of the fiscal years ending September 30, 1982, and September 30, 1983, to carry out the purposes of this Act. Funds appropriated under this paragraph shall be available for obligation until the last day of the fiscal year after the year for which such funds are authorized.

(b) There is authorized to be appropriated to the Secretary of Commerce $2,500,000 for each of the fiscal years ending September 30, 1980, and September 30, 1981, and $5,000,000 for each of the fiscal years ending September 30, 1982, and September 30, 1983, to carry out the purposes of this Act. Funds appropriated under this paragraph shall be available for obligation until the last day of the fiscal year after the year for which such funds are authorized.

(c) No more than 3 per centum of funds authorized under subsections (a) and (b) shall be available for administration and management of the program.

(d) Notwithstanding any other provision of this Act the authority to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

The Clerk read the House amendment to the Senate amendment to the House amendment, as follows:

Add at the end of the Senate amendment to the House amendment a new section 17 as follows:

SEC. 17. Section 320 of the Agricultural Adjustment Act of 1938 as added by the Act of September 3, 1974 (88 Stat. 1089; 7 U.S.C. 1314f) is amended by adding a new sentence at the end thereof as follows: "Notwithstanding any other provision of law, no marketing quota penalties shall be assessed as a result of the marketing of 1975 crop Maryland tobacco (Type 32) which was determined through the application of the

Federal Standards of Inspection and Identification of quota types to be Burley tobacco (Type 31) under the provisions of this section.".

Mr. FOLEY (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the amendment, and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. WAMPLER. Mr. Speaker, reserving the right to object, I do so in order to yield to the gentleman from Washington (Mr. FOLEY) so he may explain the legislation.

Mr. FOLEY. Mr. Speaker, I rise in support of S. 1816, as amended, the Native Latex Commercialization and Economic Development Act of 1978. The bill would direct the Secretaries of Agriculture and Commerce to coordinate research on the commercialization of latex from hydrocarbon containing plants, the most significant of which is a plant indigenous to the American Southwest known as guayule.

S. 1816, as it initially passed the Senate on May 26, 1978, authorized the Secretary of Commerce, acting through title V regional commissions to carry out research and demonstration projects to test and demonstrate economic feasibility of commercialization of native rubber. The bill contained an advisory committee to assist the Secretary of Commerce in carrying out the program. The bill authorized expenditures of $20 million over 4 years.

On September 19 the House passed H.R. 12559, a similar bill, and adopted the Senate number. The House bill directed the Secretary of Agriculture to carry out and coordinate research on the commercialization of native latex and establish an advisory committee to assist the Secretary. The House bill contained authorizations of $55 million over a 4-year peroid.

During the past several weeks attempts have been made to establish a middle ground between these two bills which would be acceptable to all parties concerned. S. 1816, as amended and passed again by the Senate on October 7, represents such an attempt and I believe the result is the best which could have been achieved given the differences between the two bills and the limited time with which we have had to work.

The major point of difference between the two measures was the agency which would coordinate and carry out the program. The House measure had the entire program in Agriculture and the Senate in Commerce. Rather than giving the entire program to one or the other agency the amended bill placed responsibility for the different research and development efforts within the agency best equipped to handle them. The Department of Agriculture is responsible for plant breeding, seed collecting, establishing plantations, developing equipment necessary for planting, cultivation and harvesting, and further refining of extraction technologies. The Department of Commerce is responsible for developing extraction and processing techniques, conducting economic analyses, studying the effects of native latex commercialization, and further refining present extraction and manufacturing technologies.

In order that the activities of both agencies be coordinated in a manner which will maximize the use of available resources, the amended bill would establish a joint commission on Guayule. The Commission contains three members each from the Departments of Agriculture and Commerce and one member each from the National Science Foundation and the Bureau of Indian Affairs. The chairmanship of the Commission rotates annually between Agriculture and Commerce designees. Since the Joint Commission is given responsibility for establishing goals, policies, and timetables and reviewing and advising the secretaries with respect to grants, contracts and other expenditures, the possibility of overlapping efforts is eliminated. The Joint Commission is also responsible for providing the Congress with yearly reports on the implementation of the act.

This is a unique arrangement for a unique program. I know that in some instances the organizational arrangement embodied in S. 1816 as amended might be viewed as a precedent for other programs. I want to assure my colleagues that such is not the case. This arrangement is tailored to meet the specific needs of guayule commercialization. Other legislative attempts to utilize this type of arrangement will be viewed on their own merit since passage of this bill will not imply that it must serve as a model for other programs.

S. 1816, as amended, provides funding levels below those in the House bill. It contains authorizations of $30 million for 4 years with half of each year's authorization going to each agency. The levels are $5 million for each of the first 2 years and $10 million for the last 2 years.

This legislation is of critical importance since the development of a domestic source of natural latex is necessary for the future well-being of our rubber industry and the security and prosperity of the United States. Enactment of this legislation will have several direct and indirect benefits:

It will help reduce our dependence on foreign latex sources, many of which are located in politically unstable areas of the globe.

It will reduce our consumption of synthetic latex which is derived from petroleum, thus reducing our foreign oil imports.

By reducing rubber and oil importation, it will help to stabilize the balance of trade.

It will provide for agricultural and commercial development in areas of the Southwest which exhibit chronic unemployment.

And, finally, it will promote the development of a solar grown, renewable resource which will help conserve the world's dwindling petroleum supplies.

The benefits which will be derived from this legislation are so great that further delay in enactment is unwarranted. I believe that S. 1816, as amended, represents a reasonable compromise and I urge my fellow Members to support it.

Mr. WAMPLER. Mr. Speaker, further reserving the right to object, I want to take this opportunity to state that I concur in the statement of the gentleman from California (Mr. BROWN) and I wish to make the additional point that future agricultural research legislation should not be patterned after the form of this bill. I think we all understand the special circumstances under which this bill originated. It is most unlikely that such circumstances will arise again.

I would also like to discuss briefly the amendment dealing with tobacco.

This morning, by a unanimous vote, the Committee on Agriculture ordered reported H.R. 14782, a bill to waive the assessment of marketing quota penalties on certain 1975 crop Maryland type 32 tobacco.

In 1975, 144 farmers in Virginia, Tennessee, and North Carolina planted Maryland type 32 tobacco thinking in good faith that such action would be consistent with a new tobacco law enacted the previous fall. Unfortunately however, a long legal battle ended 3 years later with a determination that this tobacco was classified as type 31 burley tobacco. Type 32 Maryland tobacco is not under price support, marketing quota or acreage allotment because producers voted in a referendum against bringing it under the price support program.

The tobacco produced and marketed in the three States as Maryland type 32 was once graded as such by court-appointed graders. A USDA inspector also graded the tobacco as burley. Ultimately, the court accepted the USDA grading as burley. Later the U.S. Courts of Appeals upheld the lower courts' action. On September 19, 1978, the USDA sent letters to the 144 growers informing them of the penalties they face for marketing burley tobacco. The penalties include adjustments of marketing quotas for the marketing years 1976 through 1979, and the imposition of fines totaling $136,087.

The Department of Agriculture has agreed to forestall any penalty collection or assessment activities pending the consideration of remedial legislation.

I, along with Messrs. JONES, chairman of the Tobacco Subcommittee, QUILLEN, DUNCAN, and NEAL, have introduced H.R. 14287, legislation designed to waive all penalty assessments. This legislation calls for no expenditures of Government funds and applies to this specific case only.

In summary, let me again stress that the producers involved are basically small operators with limited incomes. By virtue of the application of present law, they face severe financial losses. All of these growers acted in good faith and sincerely believed the tobacco they grew to be Maryland type 32.

I would also like to stress for the legislative history of this bill that it is in no way intended to overrule or negate the opinion of the U.S. court of appeals or the U.S. district court. The judicial remedy was exhausted. The Department of Agriculture won its case in court. We

are now dealing with a legislative remedy only.

Let me say too that this legislative remedy is a unique one. It is not, nor should it be, a precedent for any tobacco grower who violates the quota provisions of the 1938 act to seek legislative relief from his Congressman. I support the tobacco program and want to do all I can to keep the discipline and the integrity of the program intact.

The circumstances here are indeed unique because the growers involved were not intentional violators; they were instead producers who planted type 32 tobacco believing it to be outside the quota restraints of the 1974 amendments.

This is a one-shot amendment and I hope it will not be cited as a basis for excusing other violations of the quota provisions of the law.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

● Mr. THORNTON. Mr. Speaker, I join my colleagues on the Science and Technology Committee and on the Agriculture Committee in urging the House to adopt S. 1816 as amended by the Senate.

I think there are several aspects of this program which are worth emphasizing. One is that while the potential for rubber extraction from the guayule plant was determined without a doubt through the emergency rubber project in World War II, today the commercial viability is not nearly as clear. In order for a domestic rubber industry to be developed and be successful, substantial additional research and development is needed. That is what this bill would do. It would provide, for a limited number of years, a Federal effort aimed at bringing the yield of the guayule plant and the associated cultivation, harvesting, extraction, and manufacturing technologies to a point where the private sector could take over.

The funding in the bill for this purpose is equally modest. The bill would provide over the 4-year period a total of $30 million to be divided equally by the Department of Agriculture and the Department of Commerce. I believe that, following the completion of this 4-year period, it may well be necessary to provide funding for another period of years but I want to state that this is not an open-ended program. We all expect that within a reasonable number of years, probably about a dozen or so, substantial advances will be made so that private industry can step in.

Another important point worth emphasizing is that this effort is not starting from scratch. Not only do we have the experience of the emergency rubber project 35 years ago, but several Federal agencies are now supporting small but significant efforts. The Regional Commissions, as noted in the Senate report on this legislation, is supporting several projects on guayule in the Southwest. The National Science Foundation has been supporting several basic research-oriented projects on the biology of guayule. And the Agriculture Department similarly has several small, individual projects proceeding at this time.

This bill is intended to build on and augment these ongoing efforts. I am hopeful that the Joint Commission, on which all the interested parties in the executive branch will be represented, will serve as a vehicle for carrying forward a stronger and more vigorous research and commercialization program.

I urge my colleagues to support this legislation.●

● Mr. TEAGUE. Mr. Speaker, the House has returned to the Senate this bill with an amendment. I have reviewed the bill and I believe it is the best possible way in which to move forward this important program.

The bill, as amended, is the result of detailed discussions between the staffs of the committees involved. On the House side, the Science and Technology Committee and the Agriculture Committee held joint hearings on the House version of this legislation and on the subcommittee level the markup was also held jointly. Our two committees have worked closely on this bill and I am glad to say that we are in agreement on the desirability of passing S. 1816 as amended. I am glad also to note that we have had the participation of the Honorable ROBERT ROE, chairman of the Subcommittee on Economic Development in the Public Works Committee, and his staff. They too support this bill.

S. 1816 as amended is clearly a compromise. The original House bill placed the entire program in the Agriculture Department while the original Senate bill placed it in the Regional Development Commission of the Commerce Department. Thus the emphasis in the original Senate bill was clearly on economic development while the emphasis in the House bill was on the agricultural research necessary as a foundation for the program. The compromise returns the authority for carrying out these respective aspects of the program in the two Departments. It would provide authority to the Secretary of Commerce for the technology advancement and the economic development. And it would give authority to the Secretary of Agriculture to carry out and fund the agricultural research.

To coordinate these efforts and to provide a leading role in moving the entire program forward the bill would establish a joint commission on guayule research and commercialization. The joint commission would have responsibility for development of a long-term plan and for advising the two Secretaries on grants and contracts to be made under the program. The bill would also authorize the joint commission to carry out any of the functions logged in both the Secretaries. I hope that the commission, to the maximum extent possible, will be given the operating functions which are the responsibilities which the Secretary would have under the bill. I believe that while the split authority for the program is a necessary compromise, and it is the best that could be worked out with the many committees involved, it is no doubt desirable to have a single entity responsible for the bulk of activities and the joint commission has the potential of serving that role.

Mr. Speaker, the advances made to date on a very modest scale, and our experience during the Second World War, strongly indicate that guayule rubber could make a very significant contribution to the reduction of our balance of payments. Today our Nation is totally dependent for its supply of natural rubber on imports from abroad. Guayule rubber could within a decade make it possible for us to substantially reduce that dependence. S. 1816 as amended can serve as a vehicle for commercializing a native guayule rubber industry and I urge the Senate to take final action on this bill so that planning can begin.●

The SPEAKER. Is there objection to the initial request of the gentleman from Washington?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the bill S. 1816.

The Speaker. Is there objection to the request of the gentleman from Washington?

There was no objection.

AMENDING PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 976) an act to amend the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities", with a Senate amendment to the House amendments and concur in the Senate amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments as follows:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

SECTION 1. (a) Effective January 1, 1979, section 1 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a), is amended by—

(1) in subsection (6), striking out "$100,000" and inserting in lieu thereof "$200,000"; and

(2) in subsection (7), striking out "$100,000" and inserting in lieu thereof "$200,000".

(b) Section 1 of the Perishable Agricultural Commodities Act, 1930, is further amended by inserting in subsection (6) immediately after "(C) no person buying any commodity" the following: "other than potatoes", except that no person buying potatoes for processing solely within the State where grown shall be deemed or considered to be a dealer under subsection (6) of section 1, as amended by this subsection, until January 1, 1982.

SEC. 2. Section 3(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499c(b)), is amended by—

(1) inserting immediately before the period at the end of the second sentence the following: "and to be furnished thereafter";

(2) striking out "$100" in the third sen-

tence and inserting in lieu thereof the following: "150, plus $50 for each branch or additional business facility operated by the applicant in excess of nine such facilities, as determined by the Secretary. Total annual fees for any applicant shall not exceed $1,000 in the aggregate";

(3) inserting immediately after "referred to above:" in the fourth sentence the following: "*Provided*, That the amount of money accumulated and on hand in the special fund at the end of any fiscal year shall not exceed 25 percent of the projected budget for the next following fiscal year:"; and

(4) inserting "*further*" immediately after "*Provided*" in the fourth sentence.

SEC. 3. Section 13 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499m), is amended by renumbering subsections (b) through (e) as subsections (c) through (f) and adding a new subsection (b) as follows:

"(b) The Secretary or the Secretary's duly authorized agents, in order to insure that the prompt payment provision of section 2(4) of this Act is being complied with, shall from time to time inspect the accounts, records, and memoranda of any commission merchant, dealer, or broker determined in a formal disciplinary proceeding under section 6(b) of this Act to have violated such provision. The Secretary may also require that any such commission merchant, dealer, or broker furnish, maintain, and from time to time adjust a surety bond in form and amount satisfactory to the Secretary as assurance that such commission merchant's, dealer's, or broker's business will be conducted in accordance with this Act and that such commission merchant, dealer, or broker will pay all reparation awards, subject to its right of appeal under section 7(c) of this Act: *Provided*, That if such surety bond is furnished, maintained, and adjusted as required by the Secretary, the Secretary shall not thereafter inspect the accounts, records, and memoranda of such commission merchant, dealer, or broker under this subsection more than once a year. If any such commission merchant, dealer, or broker refuses to permit such inspection or fails or refuses to furnish, maintain, or adjust such surety bond, the Secretary may publish the facts and circumstances and, by order, suspend the license of the offender until permission to make such inspection is given or such surety bond is furnished, maintained, or adjusted.".

SEC. 4. Section 3(b) of the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2042(b)) is amended by—

(1) striking out "or" at the end of paragraph (8), striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and "or"; and

(2) adding at the end thereof a new paraparagraph (10) as follows:

"(10) any person who would be required to register solely because the person is engaged in any such activity solely for the purpose of supplying full-time students or other persons whose principal occupation is not farmwork to detassel and rogue hybrid seed corn or sorghum for seed and to engage in other incidental farmwork for a period not to exceed four weeks in any calendar year: *Provided*, That such students or other persons are not required by the circumstances of such activity to be away from their permanent place of residence overnight: *Provided further*, That such students or other persons, if under 18 years of age, are not engaged in providing transportation in vehicles caused to be operated by the contractor.".

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so to ask whether all the amendments to the bill are germane.

Mr. FOLEY. Mr. Speaker, if the gentleman will yield, all of the amendments to the bill are germane with one exception. The Senate added a provision, if the gentleman will yield further, which would exempt from the registration requirement of the Farm Labor Contractor Registration Act persons who contract for the services of students who live at home to detassle and rogue hybrid seed corn or sorghum for seed for not more than 4 weeks a year.

Mr. BAUMAN. I thank the gentleman for his response.

Mr. FOLEY. Mr. Speaker, will the gentleman yield further?

Mr. BAUMAN. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, we passed this bill last week after amending it to substitute for the language of the Senate the text of the bill (H.R. 13845) which the House had approved by a rollcall vote of 399 to 7. The Senate has now amended the bill further and returned it to the House. The Senate amendment includes substantially all of the provisions which the House approved although some have been slightly amended. I believe that we now have a bill which will accomplish the objectives of the legislation earlier passed by the House and, at the same time, accommodate the concerns of the other body.

The principal purpose of this legislation, of course, is to increase the statutory ceiling on the license fees which the Secretary of Agriculture may assess in order to enforce the Perishable Agricultural Commodities Act. As we sent this bill to the Senate last week, it provided for an increase in the statutory license fee ceiling from the present $100 per year to $150 per year, plus up to $50 for each additional branch location. There was an aggregate maximum of $1,000. The Senate has accepted this provision with an agreement which would exempt from the additional fee the first nine branch locations.

The House legislation would have increased the volume of perishable agricultural commodities which a retailer may purchase or a broker may sell before becoming subject to license from the present $100,000 per year to $150,000 per year. The Senate amendment increases this exemption to $200,000 per year. The larger exemption is designed to take account of the fact that the wholesale prices of these commodities have doubled since the $100,000 exemption level was established nearly 10 years ago.

The measure passed by the House last week brought intrastate potato processors under regulation but permitted the Secretary in cases of hardship to postpone application of this provision to any processor until as late as January 1, 1982. The Senate amendment brings the potato processors under regulation but exempts all such processors from the licensing requirement until January 1, 1982.

The House measure authorized the Secretary to audit and require a bond of any person found in a formal disciplinary proceeding to have violated the prompt pay requirements of the act. The Senate has accepted this provision.

Finally, the Senate amendment contains a provision not found in the House measure which would exempt from the registration requirements of the Farm Labor Contractor Registration Act persons who contract for the services of students who live at home to detassel and rogue hybrid seed corn or sorghum for seed for not more than 4 weeks a year. While this provision did not originate in the House, we understand that it is not in conflict with the provisions of that act. It will facilitate the opportunities of high school and college students to finance their education through summer employment.

Mr. Speaker, as I have just explained, the Senate amendment incorporates substantially intact most of the provisions passed by the House with a few changes which we believe to be unobjectionable. The Perishable Agricultural Commodities Act program has served the country well for nearly half a century. We believe it is vital that this program be continued with adequate funding. We believe this bill will facilitate that by permitting increased license fees and making other needed regulatory adjustments. I urge my colleagues to support this bill.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill S. 976 just considered in the House.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 14104, ENDANGERED SPECIES ACT AMENDMENTS OF 1978

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1423 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1423

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee on the Whole House on the State of the Union for the consideration of the bill (H.R. 14104) to authorize appropriations to carry out the Endangered Species Act of 1973 through fiscal year 1981, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on

the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1423 provides for the consideration of H.R. 14104 (the Endangered Species Act Amendments of 1978).

This is a simple open rule. It provides for 1 hour of general debate with the time equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries. The bill is to be read for amendment under the 5-minute rule and any germane amendment would be in order.

The rule provides for a waiver of points of order against the bill for failure to comply with the provisions of section 402(a) of the Congressional Budget Act. This section of the Budget Act prohibits the consideration of any bill which authorizes the enactment of new budget authority for a fiscal year unless the bill has been reported on or before May 15 preceding the beginning of the fiscal year.

Section 3 and 4 of H.R. 14104 authorizes the enactment of new budget authority for fiscal year 1979. Since the bill was not reported until September 25, 1978, it would be subject to a point of order under the Budget Act.

However, a predecessor bill, H.R. 10883, an authorization measure very similar to H.R. 14104, was reported on March 31, 1978 and prior to the Budget Act cutoff. In order to facilitate orderly consideration of the measure, the Committee on Rules voted to grant a waiver for H.R. 14104 rather than complicate the amendment process for the originally reported bill.

Mr. Speaker, H.R. 14104 provides authorizations to carry out the provisions of the Endangered Species Act through fiscal year 1981. The bill authorizes $25.5 million for fiscal year 1979; $28 million for fiscal year 1980 and $30.5 million for fiscal year 1981. The bill also provides a mechanism for the resolution of otherwise irreconcilable conflicts between the implementation of any federally permitted, licensed or funded activity and the protection of any endangered or threatened species and its critical habitat.

Mr. Speaker, while there has been controversy concerning the bill, I am not aware of any great opposition to the rule. I urge my colleagues to adopt House Resolution 1423 so that we may proceed to the consideration of H.R. 14104.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 1-hour open rule permitting the consideration of the Endangered Species Act Amendments of 1978, H.R. 14104. The first reading of the bill is to be dispensed with, and section 402(a) of the Congressional Budget Act (the May 15 reporting deadline) is waived.

The purpose of H.R. 14104 is to provide $85.5 million in authorizations to enforce the Endangered Species Act for an additional 3 years. The bill establishes an Endangered Species Committee and requires the formation of review boards to examine the decisions of the Secretary of the Interior as to whether an agency's action would be hazardous to endangered species and their critical habitat area. Such a determination by the Secretary would prohibit the agency's action. Except in special cases, such as cases relating to international treaty obligations as determined by the Secretary of State or cases pertaining to disaster areas declared by the President, the Endangered Species Committee would make the final governmental decision by either approving or disapproving the agency's action. If an agency exemption is granted for pertinent reasons, any person may obtain judicial review of the decision.

Hardly any Member of Congress has escaped the effects of the Endangered Species Act. This well-intentioned law has served to delay and, in many instances, completely halt important public works projects with unimpeachable cost/benefit ratios. In my own congressional district, 40 birds (Mississippi sand mill cranes) have blocked for over 2 years the construction of an interchange on Interstate Highway 10, which is to serve the heaviest industrial area in my State.

Now, not all of us have snail darters, furbish louseworts, or sand hill cranes in our districts; but we do have a vested interest in making the agency in charge of enforcing the provisions of the act conform to its original intent. There is an in-depth report by the General Accounting Office which is due to be published in March of 1979. It is my understanding that this report will reveal numerous problems with the manner in which the Fish and Wildlife Service is administering the act. The worst abuses, I am told, have occurred in the listing process whereby species of plants or animals have been listed as endangered without even a scintilla of adequate supporting evidence, while others that were listed at one time were withdrawn just as arbitrarily.

This proposed bill, although it makes many important and constructive changes in the Endangered Species Act, does not complete the task. We need more review by the authorizing committee, and we need the benefit of GAO's report before we extend the act for another 3 years. I am advised that there will be an amendment to shorten the three year authorization contained in H.R. 14104. I urge the members to support this amendment and, in doing so, to realize they are taking a significant step in the direction of improvement.

Mr. Speaker, I have no objection to the adoption of the rule at this time.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, am I right that this is really a rule which will help us to reenact the Endangered Species Act? Am I right in my recollection that the act expires in the absence of a new act?

Mr. LOTT. It would expire.

Mr. WHITTEN. Then what we are considering is whether to retain a program, and I have many questions to which I need answers, both from the Public Works Subcommittee and the Interior Subcommittee.

How any Supreme Court or any other court can say that the clear intention of the Congress was to bring about the actions that have been taken, I cannot see.

Speaking from memory, the act requires the Secretary of the Interior to make a survey of the country, and from that to determine that the species does not exist in other areas. That has not been done.

Not only is that true, but the act provides that these endangered species shall be moved in many areas or in many sections. That has not been done. The gentleman's district is one example.

Through a private conversation with the Secretary of the Interior, we had his cooperation in relieving the highway which was cut in two, Highway No. 10 of the Interstate System. We got that matter resolved.

Therefore, if anybody reads this—and I refer to the courts—he will find that the act as we have it now clearly shows that Congress never intended that this act be used to stop the development of our country, in my opinion.

Not only that, but I have in my pocket a statement by the head of the fisheries and wildlife activity in the Department of the Interior which says that they are sick and tired of this act being used to stop the progress and development of this country.

Mr. Speaker, I just wanted to make it clear that this is not a rule to amend the act. It is to reinstate the act. There is every reason in the world to study this act very carefully.

Mr. Speaker, I had a conversation with my good friend, the chairman of this committee, when this bill was up before. At that time I had an understanding that this act would correct the things I am talking about, and I can cite chapter and verse as well as questions and answers from the hearings had at that time.

I see here that in spite of the good intentions, we have not had a great degree of success. This matter could lend itself, as I said, to more of the very problems we have now, except that it could be stretched out much longer because there are more and more people to whom one talks who are for reenacting this bill and not correcting it.

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Speaker, I agree with the remarks of my colleague from Mississippi.

However, I would like to point out to the Members of this body that the appropriation authorization does not repeal the basic act.

Mr. LOTT. That is correct.

Mr. BUCHANAN. The committee has made essential improvements in the bill which they are recommending to us, and some of us are going to do our dead-level best to perfect it even further on the floor of the House.

Right now the city which I represent

has a half billion dollars of orderly, even model, development threatened by two small minnow-like fish because of the very things my colleague from Mississippi is talking about.

I think the best chance to do something about that kind of situation in my district and elsewhere is to pass this rule, to move forward with this bill, and help some of us perfect it as we go along.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman from Mississippi yield?

Mr. LOTT. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. I thank the gentleman for yielding. I certainly want to associate myself with the remarks just made by the distinguished gentleman from Alabama and urge the adoption of the rule so that we can proceed to consider this important legislation.

I realize that many of the complaints that have been pressed by those like the gentleman from Mississippi and others are justified, and that there has been a certain inflexibility in the administration of this act in the past since its adoption, I believe, in 1973, in the celebrated case of the snail darter and the case of the furry bush lousewort, and some other matters of that kind that have led Members to think this is an action that should not be extended. But I think that they will find if we proceed to a discussion of the act that an exemption procedure has been wisely provided for in the amendment offered by the committee, the authorizing committee, and that the difficulties that have admittedly existed in the past with respect to the administration of this act can be cured by an amendment.

I, therefore, urge the adoption of the rule.

Mr. FLOWERS. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Alabama.

Mr. FLOWERS. I thank the gentleman for yielding.

I am, of course, encouraged by what I have heard from my distinguished friend, the gentleman from Illinois, and my dear colleague, the gentleman from Alabama, and the problem he enumerated I share because our districts are joined where this problem occurs.

By the clock on the wall and the clock on my arm it is 10 minutes to 1 on the day we are supposed to sine die adjourn; is that not correct? And we are going to have a full, free, and fair discussion of this act here today, tonight, and tomorrow? And we are going to conference and are going to pass it and are going to come up with something fair and equitable? And we are going to rely on the bureaucrats down there to do what we ask them to do here in the dark of the night? You people have got more faith in the system than I do, I will tell you that.

Mr. LOTT. I would like to respond to the gentleman because this has gone on long enough, and it is late. Neither the gentleman nor I set this on this schedule at this time and we should not question it.

But I would like to make one further point now, a point made by the gentleman from Alabama. The act does not expire; the authorization expires; and there is a very strong likelihood that we would have some additional projects that would be held up without this legislation being passed because of the public works contracts that are included in the act.

This is not the best solution, but it certainly is better than what we have got on the books right now, and I would hope that if the rule is accepted and this legislation is passed, it is for a reduced period of time.

Mr. FLOWERS. Will the gentleman yield further?

Mr. LOTT. I will be glad to yield to the gentleman.

Mr. FLOWERS. I thank the gentleman.

Is the gentleman saying that we are going to get more in terms of reasonable decisionmaking by the bureaucrats by giving them an extension of time and more authorization for more bureaucrats and more money than by keeping them under the gun? That is what the gentleman is trying to do right now.

Mr. LOTT. If we accept this rule and go to general debate, as late as it is, there are a number of amendments that have been agreed to here, and others that are going to be passed tonight, that will improve the situation.

Mr. BEARD of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Tennessee.

Mr. BEARD of Tennessee. I thank the gentleman for yielding.

I do not believe there has been anyone on the floor who has fought this bill as I have as far as its being inflexible with the law. As the Supreme Court ruled in the Telleco Dam case, it is totally inflexible with the law. They threw the ball back into the court where it belongs, and that is this Congress.

I have to reemphasize the point: There is no way we are going to solve any of the problems if we do not come up with this new piece of legislation. If we let the present act remain on the books as it is, which has been termed totally inflexible by the Supreme Court, then all of these problems under litigation now will not be solved at all for at least a year. We have got a 500-staff GAO report that will be forthcoming in February, and I hear this report points out many critical problems.

The committee has agreed not to ask for a third authorization but to accept an 18-month extension so that next year they can start and continue every oversight hearing with the results of the GAO report and, I think, with some amendments they have accepted that I am going to be introducing.

With the mood of the committee, we have at least got our foot on first base. We are striking out if this act remains on the books as it is written today.

So if you and I want to see the bill changed very much, I plead with you, let us get on with it.

Mr. LOTT. I have no further requests for time, and I yield back the remainder of my time.

Mr. SISK. Mr. Speaker, I yield myself 2 minutes, and I yield to my colleague, the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I thank the gentleman very much.

One of the monsters we have not mentioned tonight, which has been the cause of a lot of difficulty in the Houston area in Texas, is called the Houston toad. I want you all to know they have not located it, but they know it is there. They are looking for it every night and they generally start hunting about 2 o'clock. I do not think they could see a toad by 2 o'clock in the morning if they had four of them staring at them.

I just do not know if we pass this rule, is there any indication from the author of the bill and the manager of the bill that we might just possibly accept a few amendments that would cause the economic impact of these monsters that might be sneaking out at 4 o'clock in the morning?

Mr. MURPHY of New York. Mr. Speaker, I can assure the gentleman that will not be the case. I will be happy to join in the search.

Mr. WHITTEN. Mr. Speaker, if the gentleman will yield further, may I say there are many endangered species. I was going along with maintaining, preserving or protecting them but the evidence in this instance, and we can cite many instances where they have gone out and sought unknown species they never heard of to exist and sought to use them.

Let me quote one paragraph from the Director of the U.S. Fish and Wildlife Service:

> As you know, people who find the need to stop projects they cannot stop in some other way will use the Act and the species involved to achieve that end, which is a prostitution of the Act, and it denies the value of the creature involved, in my judgment.

I am reading from the answer given by Mr. Greenwalt, Director of the Fish and Wildlife Service, from the CONGRESSIONAL RECORD of June 16, 1978, page 17929.

We have let them go find something that they never knew existed, to stop the progress and the real environment of this country. I just wanted to bring it up to have a chance to consider these facts, if this bill is going to be before the Congress.

Mr. SISK. Mr. Speaker, as I indicated early on, there are a number of horror stories in connection with endangered species. I recognize this.

I understand this may be a little controversial.

Unless there is a desire on the part of my colleague to yield further time, Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF MEMBERS TO ATTEND THE FUNERAL OF THE LATE HONORABLE GOODLOE E. BYRON

The SPEAKER. Pursuant to House Resolution 1430, the Chair appoints as members of the Funeral Committee of the late Honorable GOODLOE E. BYRON the following Members on the part of the House:

Mr. LONG, Maryland; Mr. MITCHELL, Maryland; Mrs. HOLT, Maryland; Mr. BAUMAN, Maryland; Mrs. SPELLMMAN, Maryland; Ms. MIKULSKI, Maryland; Mr. STEERS, Maryland; Mr. MONTGOMERY, Mississippi; Mr. NICHOLS, Alabama; Mr. ALEXANDER, Arkansas; Mr. JONES, Tennessee; Mr. HILLIS, Indiana; Mr. SYMMS, Idaho; Mr. MCDONALD, Georgia; and Mr. WON PAT, Guam.

APPOINTMENT OF MEMBERS TO ATTEND THE FUNERAL OF THE LATE HONORABLE RALPH METCALFE

The SPEAKER. Pursuant to House Resolution 1422, the Chair appoints as members of the funeral committee of the late Honorable Ralph Metcalfe the following Members on the part of the House:

Mr. PRICE, Illinois; Mr. BRADEMAS, Indiana; Mr. MICHEL, Illinois; Mr. DERWINSKI, Illinois; Mr. ROSTENKOWSKI, Illinois; Mr. SHIPLEY, Illinois; Mr. ANDERSON, Illinois; Mr. FINDLEY, Illinois; Mr. MCCLORY, Illinois; Mr. YATES, Illinois; and Mr. ANNUNZIO, Illinois.

Mr. ERLENBORN, Illinois; Mr. RAILSBACK, Illinois; Mr. CRANE, Illinois; Mr. MURPHY, Illinois; Mr. MADIGAN, Illinois; Mr. O'BRIEN, Illinois; Mrs. COLLINS, Illinois; Mr. MIKVA, Illinois; Mr. HYDE, Illinois; Mr. RUSSO, Illinois; and Mr. SIMON, Illinois.

Mr. FARY, Illinois; Mr. CORCORAN, Illinois; Mr. DIGGS, Michigan; Mr. NIX, Pennsylvania; Mr. HAWKINS, California; Mr. LEGGETT, California; Mr. CONYERS, Michigan; Mr. HANLEY, New York; Mr. BIAGGI, New York; Mrs. CHISHOLM, New York; and Mr. CLAY, Missouri.

Mr. STOKES, Ohio; Mr. DELLUMS, California; Mr. MITCHELL, Maryland; Mr. RANGEL, New York; Mrs. BURKE, California; Mr. GILMAN, New York; Miss JORDAN, Texas; Mr. FORD, Tennessee; Mr. AKAKA, Hawaii; and Mr. FAUNTROY, District of Columbia.

POSTAL REFORM THREATENED WITH DEATH OF H.R. 7700

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. HANLEY. Mr. Speaker, as this Congress ends, I feel it is imperative to bring to the attention of my colleagues that H.R. 7700, the Postal Service Act of 1978, a bill that passed the House overwhelmingly, is left languishing in the Senate.

This is of grave concern to me because this is not a minor piece of legislation, that was hastily drafted, nor is it a bill of such little consequence that it can be put off until next year with no ill effects. On the contrary, this is a comprehensive piece of legislation drafted after extensive hearings at which we heard from the most knowledgeable experts in the field of postal matters. It is certainly an understatement to say that this bill is timely. While H.R. 7700 addresses the long-range future of the Postal Service, it also seeks to alleviate the fiscal morass that the service is sinking into at the present time.

It received broad support in the House because it approaches postal problems in a frank and direct manner—recognizing that we have to pay a price for good postal service. This bill abolishes the "break-even" concept by continuing the current $92 million annual public service appropriation through fiscal year 1984 and authorizing additional public service funds, provided they are detailed by function by the Postal Service by February 1 of each year. It would also provide for a Presidentially appointed Postmaster General as well as a veto of nationwide service changes—for example, a cutback in 6-day delivery.

I know that all of my colleagues are deluged with constituent complaints about inadequate postal services, and that in most instances their frustrations and disappointments are justified.

The House of Representatives has always recognized that problems exist, and we have never shirked from our responsibility to address them. Strong examples of our concern are the overwhelming votes of 399 to 14 in 1976 on a resolution opposing the precipitous closing of post offices and a vote of 377 to 9 last year on a resolution opposing the cessation of Saturday delivery. In the last Congress, I sponsored H.R. 8603, which became Public Law 94-421. The major provisions of this law include a moratorium on postal rate increases, service cuts, and most post office closings; a requirement that the Postal Service submit its annual budget to Congress and testify on the budget before the appropriate Senate and House committees; authorization for appropriations to be applied against accumulated debt; and Senate confirmation of Postal Rate Commissioners. This Congress, after full debate we successfully voted out H.R. 7700 by an overwhelming vote of 384 to 11, on April 6, 1978.

Each of these votes indicates that the House of Representatives has taken the pulse of the American people and found conclusively that they want improved postal services and that they want their elected representatives to have more control over what has too often been a capricious postal service.

The American people want a return to the traditional qualities of the Postal Service. They want reliable postal services at reasonable rates. It is obvious that these qualities were more in evidence before postal reorganization than they are now.

The House should be congratulated for consistently facing up to its legislative responsibilities in this most important area.

However, I am afraid that the praise stops here.

Candidate Carter was an advocate of postal reform. In one of his campaign statements he said:

> The Republican experiment in postal management is five years old. The American people are now paying higher rates for a lower grade of postal service than they did before Richard Nixon turned the Post Office into the United States Postal Service in 1971. If I am elected President, I will take quick steps to make our Postal Service efficient and dependable once again.

President Carter refused to support postal reform. It is inconceivable but true that this administration became the major obstacle in the path of any constructive postal legislation this Congress. In a press conference held on January 10, 1978, a publisher of a weekly newspaper, Mr. Walter Grunfeld, asked the President how he felt about postal reform in general and H.R. 7700 in particular. He responded:

> It is a very complicated bill and far-reaching in its impact. It would have a very adverse effect on the federal budget. I think that in general—I don't want to say conclusively—but in general, the Congress and the President ought to stay out of the Administration of the Post Office itself.

He went on to say:

> My guess is that the majority of the Members of Congress agree with the position that I have outlined to you.

I had hoped that the overwhelming House vote on H.R. 7700 would have made the President pause and reassess his position. He obviously did not do that.

The President's efforts to thwart postal reform failed in the House, however, he persisted and succeeded in the Senate.

Senate action on a postal bill was delayed until the House passed H.R. 7700. There was no demonstration of a sense of urgency associated with the Senate bill. It was ready for final consideration so late in the session that any chance that the Senate would have the opportunity to act was minimal.

President Carter has stated that one of the major goals of his administration is to avoid "crisis management" in Government. He could have achieved this laudable goal vis-a-vis the Postal Service if he had supported H.R. 7700. This makes his opposition to this bill all the more difficult to fathom.

By ignoring the Postal Service, the President is flirting with disaster. The disaster I am referring to is the ultimate demise of the Postal Service as we know it.

The President's attitude can only be interpreted to mean that he feels that the U.S. Postal Service is on a safe course and that no harm can come from ignoring it. One somehow gets the impression that both President Carter and Postmaster General Bolger feel they can simply will the Postal Service into financial self-sufficiency. It could be said that they are wearing blinders, or looking through rose-colored glasses, that in fact they are approaching the financial posture of the Postal Service in an unrealistic and ultimately self-defeating fashion.

On May 12, 1978, the Postal Rate Commission released its recommended decision on the most recent rate increase. In that discussion the Commission stated that:

> Without doubt the Postal Service is in severe financial straits. As Senator Stevens aptly stated during debates on H.R. 8603, "if the U.S. Postal Service was in fact a private business, it would be bankrupt."
>
> As of September 30, 1977, the postal service had a deficit in equity of $588 million, compared to a surplus as of July 1, 1971, of $1,686 million. In 1976, the postal service's financial position was sufficiently precarious that it had to seek additional appropriations from Congress which resulted in its obtaining a $1 billion subsidy. Yet the erosion of the

Postal Service's financial condition has continued unabated; losses of nearly $688 million in fiscal year 1977 (originally estimated at $203 million) offset 69 percent of the subsidy and, in addition, losses are projected for the period October 1, 1977, to March 24, 1978, of $357 million.

In addition to the Rate Commission, the Commission on Postal Service in its report issued in April 1977, recommended increased public service appropriations. The Commission warned that:

If the Postal Service continues to operate in a "business as usual" manner a 28 cent stamp and correspondingly higher rates in all other classes will very probably be reached by 1985. They suggested, however, that the bleak picture that emerges from a "business as usual" posture is not inevitable.

The Commission concluded that an increase in public service appropriations is essential.

On June 13, 1978, Postmaster General Bolger testified before the subcommittee I chair on Postal Operations and Services. I think it would be safe to characterize his attitude while testifying on the Postal Service budget as extremely confident and enthusiastic. It was difficult for me to reconcile his attitude with the bleak figures we were there to examine. He indicated that taking into consideration the rate increase that he had just gotten that he "did not anticipate the deficit going much above the $650 million figure" for fiscal year 1978. It seems obvious that with that kind of deficit the Postal Service is not going to break-even any time soon.

The Postal Service is faced with mounting deficits and the constant threat of declining volume. Yet Postmaster General Bolger is on record as opposing any additional Postal Service funding. He feels that present law is still a viable framework within which the Postal Service can operate and that the break-even concept is still an attainable goal. He has also promised that there will be no rate hikes or service cuts for at least 2 years.

Certainly we should applaud the Postmaster General's commitment to balance the Postal Service books without raising rates or diminishing services.

President Carter obviously believes that the Postal Service will prosper while functioning under the constraints of current law.

I am awed by their unabated optimism.

Apparently, we can expect that with good management, a bit of mysticism, and a touch of magic that the Postal Service will flourish.

I hope that Postmaster General Bolger will be able to keep his commitment to the American people.

I hope that President Carter will be able to look back at his decision to abandon postal reform and be confident that he made the right choice.

As far as the Congress is concerned, we are entering a period of watching and waiting. The administration and the Postal Service rejected H.R. 7700, and now they have the opportunity to show us the wisdom in that incredible decision.

I sincerely hope that the President is right—because if he is wrong—all Americans will pay a heavy price for a "crisis in management" situation of his own making.

WILSON PRAISES OUTGOING LETTER CARRIER PRESIDENT JOE VACCA

(Mr. CHARLES H. WILSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CHARLES H. WILSON of California. Mr. Speaker, in the wake of the recent difficult contract negotiations between the postal unions and management, we have now learned that the National Association of Letter Carriers, in a vote announced earlier this week, has rejected the reelection bid of President J. Joseph Vacca.

I just want to take this opportunity to say that Joe Vacca was one of the finest, most decent men I have had the privilege to deal with here in Washington. He was a knowledgeable and competent union leader who greatly aided the cause of his membership both on Capitol Hill and in negotiations with postal management. He was a responsible leader, not a hothead and, sadly, this may have proved detrimental to his reputation in some quarters.

At any rate, Joe will be missed.

Columnist Bob Williams of the Federal Times has also taken note of Joe's impending departure from his post as NALC President. His fine article, "A Winner in My Book," follows:

A WINNER IN MY BOOK

(By Bob Williams)

J. Joseph Vacca, a straightforward, decent man, whose commitment to his craft and his people is beyond dispute, has been defeated in his second bid for the NALC presidency by New York City carrier boss Vincent R. Sombrotto.

I regret Joe's passing from the postal scene. In the four or five years that I have known Joe, I have witnessed, nose-to-nose, his many triumphs and I have seen this quiet, often awkward, man prevail over a host of professional and personal agonies.

Following his narrow election win over Sombrotto in 1976, Joe told me that his first goal was to "bind this union together."

As often happens in real life, Joe never got the chance. He became the target of petty union politicians whose cheap shots and dirty tricks are clearly evident to anyone who has even a passing acquaintance of NALC.

His achievements—and there are many—have been belittled, ignored and exploited by a disgrunted bunch of hasbeens or neverweres. But one gives grudging credit to his detractors, they were after all successful in duping a majority of the 220,000-member letter carrier clan.

Who stood up for Joe in 1977 when he and his team averted a move in Congress to kill the six-day week and with it tens of thousands of letter carrier jobs? And who will be around to applaud the future NALC powers-that-be when the five-day week is unveiled in 1979 or 1980?

And who gave Joe and his administration a pat on the back when they scored a steady series of other legislative, legal and arbitration victories?

I suspect we will have the answer when the final election tally is disclosed soon.

Joe's most serious ordeal has not yet been mentioned. As he said at the outset of 1978, his staying power in the union hinged almost entirely on the outcome of collective bargaining.

That he was instrumental in negotiating a solid settlement in the face of a worsening national economic crisis is remarkable. That Joe and his colleagues in the other unions fulfilled the bargaining mandates and more of their respective members is extraordinary.

His own naysayers notwithstanding, Joe had to contend with a nearly bankrupt employer, a meddling President and in addition to all that public hostility that was erupting at government workers in general.

Not a particularly auspicious juncture for bargaining, one thinks.

The coup de grace was AFL–CIO president George Meany's off-the-mark and inadvertently malicious assessment of the tentative contract. It couldn't have come at a more inopportune time.

As one of Joe's brother union officers told me:

"I don't mind losing that much. But to be ousted for all the wrong reasons is hard to take."

I went to another labor honcho. This guy, who is prominent in a separate union, said:

"Joe did a lot of things within the union to make it more effective. He beefed up the professional staff and thus improved services to the members. In collective bargaining he extracted numerous work rule concessions from the postal service."

But this admitted friend of Vacca suggested that Joe's reluctance or inability to claim the limelight made him "invisible" to the membership.

And this trait, considered laudable in all but politicians and hucksters of every stripe, may have been Joe's undoing. He wasn't a blowhard. And Joe couldn't dominate a convention of big city letter carriers. Chicago proved that.

But Joe has the sort of shortcomings I like.

His earnest, soft-spoken approach says much good about the man. His elemental instinct for fair play may have been construed as weakness by his opponents, but he earned my respect and the goodwill of many postal scene watchers here in Washington.

Joe may have lost the election, but he remains a winner in my book.

VIGIL FOR FREEDOM

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I am pleased to join the "vigil for freedom" on behalf of Soviet Jewish families and individuals who are being detained in the U.S.S.R. as a result of that government's repressive emigration policies.

I bring to the attention of my colleagues the case of Mr. Nahum Fraizinger, a 30-year old Russian citizen whose attempts to obtain permission and emigrate to join his parents in Israel have been met with a long series of refusals and frustrations.

Nahum's parents first requested permission to emigrate in 1956. When they reapplied in 1969, they were refused on the grounds that Nahum was serving in the Army. They were finally permitted to leave in 1973.

Nahum served in the Army from 1969 to 1970 as an ordinary recruit with no access to any state secrets or military information.

He was promised that he would be allowed to leave 3 years ago, but he still waits; 8 years have passed since he was

demobilized, 3 years over the time prescribed by the Soviets for the so-called "secrecy" period to elapse.

In 1975, the U.S.S.R. was one of 35 nations to sign the Helsinki Final Act, which committed the signatory nations to pursue policies consistent with basic principles of human rights, including the reunification of divided families whose members live in different countries, religious freedom, minority rights, and free travel between countries.

But judging by their restrictive emigration policies, the Soviet Government has exhibited a complete disregard for the human rights provisions of the final act.

In a clampdown on Jewish emigration, the Soviet Government has drastically reduced the number of Jewish citizens permitted to leave Russia from over 35,000 in 1973 to about 1,100 a month through 1976.

An informal group established to monitor the Soviet's compliance with the Helsinki accords has instead harassed or imprisoned Jewish citizens. Individuals seeking to emigrate face long waits before receiving their papers, repeated refusals, firings from employment, disruption of mail and telephone service, surveillance, and many other forms of intimidation.

This contrasts with life in our country where too often we have a tendency to take our freedoms for granted. It is my sincere hope that, as a result of this "vigil for freedom," more people become aware of the Soviet Union's blatant violations of the human rights provisions in the Helsinki accords.

Mr. Speaker, Nahum Fraizinger has suffered a great deal because of his simple desire to live in peace and freedom. It is my hope that this "vigil for freedom" will strengthen our resolve to assist Nahum, and the many others like him.

A VIGIL FOR FREEDOM: VINIAMIN AND TANYA LEVICH

(Mr. WAXMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WAXMAN. Mr. Speaker, it is with a sense of hope that I make today's contribution to our vigil for freedom on behalf of Viniamin and Tanya Levich. Viniamin Levich is one of the world's most renowned physical chemists. For more than 6 years, he and his wife Tanya have been refused permission to emigrate to Israel—even though the Soviet authorities had promised that his entire family could leave. Their son, Yevgeny, did manage to emigrate. The Leviches have been cruelly separated from their son ever since.

Dr. Levich's fame and notoriety made him a special target for ostracism. He was stripped of his chair at Moscow University. He has been barred from conducting research. His work can no longer be published in the Soviet Union. Acting under official encouragement, his colleagues and Soviet professional societies have spurned any association with him.

This has taken an enormous toll on Viniamin and Tanya. She has, in fact, suffered two heart attacks in recent months, and remains in poor health. Finally, in utter desperation last year, Dr. Levich issued a plea to the world for assistance in securing his freedom.

It has not gone unanswered. I have sent several letters, cosigned by dozens of my colleagues, to President Brezhnev urging that the injustices against the Leviches be ended. Additionally, I visited the Leviches in Moscow last March, and expressed personally the concern of many of their friends to both them and all of the Soviet authorities I met. In May, I met with their son, Yevgeny, who was visiting from Israel on a personal mission for their freedom.

Until recently, there had never been any response by the Soviet authorities to these expressions of concern. But finally, in September, Senator KENNEDY returned from the Soviet Union with word that 18 families will be permitted to emigrate in the near future, among them Viniamin and Tanya Levich.

All of us who have been so involved with them were overjoyed with the news. It is my fervent prayer that these hopes will be wholly fulfilled.

We are in the beginning days of the Jewish new year. May this year see Viniamin and Tanya Levich reunited with their family in freedom.

FSQS NEEDS QUALIFIED ADMINISTRATOR

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, as a member of the House Education and Labor Committee I am very interested in policies of the Department of Agriculture's Food Safety and Quality Service which affect school food programs. In this regard I have been deeply concerned over the status of the office of administrator of the service. My concern involves the appointment of a qualified person to replace Dr. Robert Angelotti as Food Safety and Quality Service Administrator.

As I stated in a speech before the House on September 7, the appointment of Sydney Butler to the Acting Administrator of the Service is disturbing to all those interested in the efficient operation of that important agency. This is due to Mr. Butler's complete lack of scientific-technological education or training.

The office of Director of the Food Safety and Quality Service should properly be occupied by a person qualified in the scientific-technological disciplines which relate to matters affecting health and safety. Despite this obvious prerequisite, Assistant Agriculture Secretary Carol Tucker Foreman, who has jurisdiction over the Food Safety and Quality Service, named Mr. Butler as Acting Administrator.

Mr. Butler is a lawyer, the younger brother of Landon Butler, who is a White House aide to Hamilton Jordon. In 1976, Sydney Butler participated in the Presidential campaign of Jimmy Carter. These would appear to be his sole "qualifications" for being named Acting Administrator of the Food Safety and Quality Service. His appointment by Assistant Secretary Foreman seems, therefore, a glaring example of political patronage replacing genuine qualifications in filling a position important to the administration of programs and policies which affect the quality and safety of the Nation's food supply.

It is with this thought in mind that I have written to the chairman and the ranking minority member of the House Committee on Agriculture asking that action be taken to expedite the replacement of Sydney Butler by a qualified Administrator of the Food Safety and Quality Service at the earliest possible moment. Following is the text of my letter:

As a member of the House Education and Labor Committee, I am especially interested in the Department of Agriculture's Food Safety and Quality Service. The Service plays an important policy role in the operation of school food programs subsidized by the Federal Government.

I am writing in regard to the appointment of a permanent Director of the Food Safety and Quality Service to replace Dr. Robert Angelotti who recently resigned. The importance of the position of Director was reflected by your Committee's vigorous investigation of the Food Safety and Quality Service under Dr. Angelotti.

Considering the outcome of that investigation, I believe it essential to the integrity and efficiency of the Service that the person who succeeds Dr. Angelotti as Director be qualified both as to experience and background in the highly technical matters that come under its jurisdiction. In this regard, I am concerned over the present occupancy of the position of Acting Director of the Food Safety and Quality Service by Sydney Butler, a political appointee who is neither qualified by education nor experience to hold a position requiring scientific and technological expertese. Mr. Butler's occupancy of the Acting Director position should be terminated and a suitably qualified permanent replacement named.

The Department of Agriculture's continued delay in replacing Dr. Angelotti can only have a deleterious effect on Federal school programs and policies. I therefore ask that you and your fellow members of the House Agriculture Committee take such action as is necessary to expedite the appointment of a qualified permanent Director of the Food Safety and Quality Service at the earliest possible time.

VIGIL FOR FREEDOM: THE CASE OF ISAAC ZLOTVER

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, I am pleased to join in the "Vigil for Freedom" sponsored by the Union of Councils for Soviet Jewry and coordinated by Representative WILLIAM BRODHEAD of Michigan. Today, I would like to remind Members of the House of the case of Isaac Zlotver, a tragic example of the as yet unfulfilled promise of the Helsinki accord. Mr. Zlotver, who is nearing 60, first applied with his wife to leave the Soviet Union 4 years ago. They wished to join their daughter, who had emigrated to Israel in 1971, and her husband and

child. Mrs. Zlotver died of cancer last year, after having been refused an exit visa numerous times. Mr. Zlotver, now ill himself with terminal cancer, still awaits positive action on his own repeated appeals for permission to emigrate.

What can possibly be gained by refusing this dying man the opportunity to see his daughter again and to meet his grandson for the first time? Do the Soviet authorities want him to die alone, separated from all of his loved ones? The official reason which has been given by the Russian Government is that Mr. Zlotver, who once served in the Soviet military, might be privy to state secrets. The fact that his term of service ended nearly 14 years ago casts considerable doubt on the credibility of such an explanation, however.

As a signatory to the Helsinki accords of 1975, the Soviet Union agreed to assist in the reunification of families such as that of Isaac Zlotver. It is sad indeed that this family and many others like them have consistently been turned down by the Soviets in their efforts to become reunited.

Mr. Zlotver is dying. At last report, one of his kidneys had ceased to function. He is receiving radiation treatment, but his days are clearly numbered. His one urgent wish is to see his daughter and her family before he dies. The people of the United States, of the 34 other countries which signed the accords at Helsinki, and of the rest of the world are waiting to see if the Government of the Soviet Union will allow Isaac Zlotver to die alone in Sverdlosk, or if it will permit him to rejoin his loved ones for the very few days that are left him.

VLADIMIR SLEPAK AND HIS FAMILY

(Ms. HOLTZMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks and to include extraneous material.)

Ms. HOLTZMAN. Mr. Speaker, I am pleased to have the opportunity to join with my distinguished colleagues in the vigil for freedom for Soviet Jewry and to call particular attention to the desperate plight of Vladimir Slepak and his family.

During a visit to the Soviet Union, I had the privilege of meeting Vladimir Slepak. He is an extremely courageous man and has undergone extraordinary punishment as a result of his desire to be reunited with his family in Israel. Since first applying for an exit visa in 1970, Vladimir Slepak has been without a job. He and his wife, Maria, have suffered continual harassment, interrogations, illegal searches and preventive detentions. Their son, Leonid has been forced to go into hiding to avoid army draft.

Recently, Vladimir and Maria Slepak were arrested for hanging a banner from their Moscow apartment with the plea: "Let us go to our son in Israel." The couple was charged with "malicious hooliganism" which carries a maximum penalty of 5 years in a labor camp. Vladimir and Maria were both found guilty and Vladimir was sentenced to exile in Siberia. Maria, who suffers from a bleeding ulcer, apparently faces a similar sentence.

Vladimir Slepak and his family have committed no crime. They are simply Jews who wish to emigrate to their homeland, Israel. Their imprisonment is a serious violation of basic human rights and further evidence of the Soviet Union's callous disregard of the Helsinki accords, requiring the reunification of families.

It is our responsibility to focus the world's attention on the Soviet Union's contemptuous attitude toward thousands of Jews who wish to flee. Our own commitment to the struggle for freedom of emigration for Soviet Jews and for human rights around the world must never falter. I hope that the efforts of the House of Representatives in calling attention to the Vladimir Slepak family's plight and that of others will make the Soviet Union change its harsh policy of arbitrarily refusing persons the right to emigrate to Israel.

A TRIBUTE TO THE HONORABLE OTIS G. PIKE

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 60 minutes.

Mr. ADDABBO. Mr. Speaker, coming to Congress with me in the winter of 1961 was a unassuming young fellow from way out on Long Island, N.Y., someplace, our retiring colleague, OTIS PIKE.

Well, 18 years later, I think it is fair to say that OTIS PIKE has spoken up for himself and the people he represents.

There have been generals who winced as he discussed their flying desks, and there have been generals who groaned as he discussed their ability to collect extra money for flight time each month for years, only to retire on disability which just happened to pay more. And there have been Pentagon purchasing agents who blanched when he questioned why they paid $10 or $15 for bolts that ordinary citizens could buy for 15 cents.

And there have been Presidents who fumed when he told them straight out that they and their people lied to the Congress. And there have been Members of Congress who fussed when he told the people that some Members tend to pose one way and then vote another when it is not so easy to see.

OTIS PIKE has had a lot to say in 18 years in this House, and almost all of it has been self-evident to people who were willing to keep their eyes open and look hard at what goes on around them. Those of us who serve here in this House owe OTIS PIKE a debt of thanks for helping to keep us straight, for helping to keep the Government overall straight, and for helping to convince the Nation at large that there are Members of Congress who tell it like it is.

There is no doubt in anyone's mind that had he desired to stay in the Congress, OTIS could have done so for year upon year to come. The people of his congressional district have voted two ways for years. They vote for Republicans and they vote for OTIS PIKE. They have done so because they have known from the beginning that OTIS PIKE was an independent man not bound by party dictates, not swayed from the truth by pretty words and a man who would come home to them to tell them the truth about what he was doing in their behalf down South.

Next year, our colleague would like to move one flight up and operate out of the House press gallery. He will do well if that comes to be, because he writes as sparingly and as entertainingly as he speaks, and you know how well he does that.

But before this session ends, I feel it only proper to inform the House that this down-east New Yorker who would rather more often fish than do anything else you can think of, has other talents that ought to come to the attention of the membership.

He was, for instance, a charter member of the Block Island Chamber Music group, perhaps the only musical group in America which has been banned in every State it has performed in. This is perhaps due as much to the group's enthusiasm as to its music, but it is nevertheless a distinction worth noting. It is Mr. PIKE's function within this group to play a stringed instrument called a ukulele, and to lead the audience in group singing, should the audience remain. It should be noted that the group most generally plays in locations where the audience is captive—on a boat, for instance—or where the audience is paid to stay—in his office, as an instance.

It is perhaps also fair to note that when Mr. PIKE plays with this group he is always reelected to office.

In the one known instance where he went around New York State playing and singing by himself, he was quickly removed from the Democratic senatorial primary.

You may or may not know that OTIS fought a gallant, if losing, battle in that primary. He was outspent by huge amounts and even his drive and determination could not help in so large a State as New York. That he did as well as he did, armed only with his force of persuasion, is a tribute to the impression he made on people far removed from eastern Long Island where his strength was.

And strong he was—and is—out in eastern Long Island where year after year, outspent and outnumbered, OTIS PIKE goes out and talks to the people and wins election after election.

He grew up in Riverhead, Long Island, learning to boat and fish and respect the land and the people who work it. He went to Princeton University, went back to New York City for his law degree, and then went home to marry his lovely wife, Doris, begin a law practice, and raise a family in the only house he has called home.

He made one abortive try for local office in Riverhead, and the residents out there sensibly rejected him, knowing the office was not demanding enough to hold his attention. Two years later, running with John Kennedy in 1960, the people of the First Congressional District sent him to Congress, and they have kept him here ever since.

Like the people he comes from and

represents, he is an independent-minded man who finds humor in the silly pretentiousness of people, including himself. He prefers to strip away the rhetoric and get down to basics, though God knows when he seeks to use rhetoric to make a point, he knows how. But it is the essentials of life he is interested in, whether it be what is contained in proposed legislation or in knowing how something mechanical works.

That curiosity, mixed with a quick and nimble mind, has made him a formidable foe of the fast-shufflers, the wheeler-dealers and departmental budget officers who sought to hide a goodie here or there during congressional hearings.

That probably also helped him during World War II when he was a Marine dive bomber and night fighter pilot who piled up 120 missions in the Far East and won five medals for bravery.

It is interesting to note that until a few years ago OTIS still made his final decisions on new aircraft by going out and flying them himself, rather than taking the word of the Pentagon and their performance abilities.

It has been a good 18 years that I have served with OTIS in this House, taking the good and the bad together. He is leaving this House bearing scars of battle, and he has worked for each and every one of them, and I know he bears them proudly. It is always a sad occasion when a Member leaves this House. It is more sad when a Member leaves with so many productive years still ahead. But somehow, I cannot believe that we are seeing this gentleman head off toward the sunset, never to be heard from again.

No, I suspect that as we look up from our duties next year, we shall see that face peering down from above, mentally composing the words that he will write to chop us to pieces for our failings. And if that be true, we had all better revise and extend the things we are planning to say about him tonight. It is never too early to get on the good side of the member of the press.

GENERAL LEAVE

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. DOWNEY. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this Congressman from Suffolk County, N.Y., participates in this special order for his distinguished senior colleague and neighbor with sadness and with fear.

Sadness because, with OTIS PIKE's retirement, Congress is losing a brilliant and very special Member. Fear, because this Congressman knows that, no matter what he says, OTIS PIKE could say it better. Sadness because Congress will miss its most accomplished ukulele player, and Long Island will miss its most distinctive voice. Fear because, if he reads this, OTIS will calculate how much each of these words is costing the American taxpayer.

I must assume that OTIS PIKE will read these magical words, perhaps as he steams out of Shinnecock Inlet in pursuit of his aquatic friends. Therefore, I will practice the prudence that the yankee from Long Island has tried to teach me. I will keep my remarks short. Very short.

OTIS, thanks for leading the way, and thanks for everything. Keep in touch, and good luck in the world of punditry.

Because OTIS has yet to teach me all he knows, I will not close with that snappy and meaningful closing paragraph. Because of an obligation to history and a desire to fill in my colleagues on something that Congressman PIKE's constituents have known since March, I would like to reveal—for the first time in the CONGRESSIONAL RECORD—the real reason for the retirement of the statesman from Riverhead:

YOUR CONGRESSMAN OTIS G. PIKE REPORTS FROM WASHINGTON

A couple of weeks ago, in a speech which attracted more attention than it was worth, I said that one of the things which had become a bore after 25 years in politics was the business of being expected to work all day and then go to meetings, receptions or dinners every night.

No sooner had that remark been publicized than the invitation came. The President and Mrs. Carter requested the presence of Congressman and Mrs. Pike at dinner on Washington's Birthday. Not breakfast. Not a coffee and arm twist session. Not a reception or a party. Dinner. Through some inexcusable chain of incompetence in the social secretaries of five separate Presidents over an 18 year period the invitation to dinner which all those Presidents surely intended to send had never reached my desk before. You have had trouble with your mail, too.

Naturally, one assumed it was black tie. Naturally, one was wrong. It WAS tie, however. Fires burned merrily under mantels over which assorted Presidents and the likes of Ben Franklin peered benignly down upon the scene. One was offered the warmth of the fires and tomato or orange juice before dinner. For the desperatly cold, there was white wine. There was also something called cassis, which I drank because I'd tried each of the others over the years and found them lacking something. It was lacking from the cassis, too, but it was pleasant.

There were little cards to tell us which table to sit at and big men to point out where the tables were. Being an avowed social climber I will mention casually the fact that I sat only 6 feet (6'3½", actually) from the President. I suppose I must also mention that that was from the middle of his back to the middle of mine, for we sat at different tables and faced in different directions. We sometimes do. I'm glad I didn't have to face him, for the last time I was invited to eat at the White House (breakfast) I complained about the food. It was much better this time. Fine, in fact. Worth retiring for.

● Mr. DE LA GARZA. Mr. Speaker, the other day I sat down for the first time and tried to imagine the House without OTIS PIKE. More specifically, I tried to picture the state of this Nation's economy if it was not for OTIS PIKE. And Mr. Speaker, I could not, and I am afraid to.

A special order for OTIS is an appropriate way for the Members to share our thoughts about this fine gentleman who represents the First District of New York, and I am delighted to participate. Because special attention should be drawn to the extraordinary work OTIS has done to keep this country on an even financial keel. As one who has been working for a constitutional amendment to balance the Federal budget, I know how important this work is, and I would like to help, in a small way, to let others know as well.

Suffolk County, an agricultural area like my own Texas district, is known for its potatoes in particular, and the fertility of its soil in general. OTIS PIKE is a down-to-earth fellow who is living proof that the Empire State still represents itself with men and women of vision and dedication. We are all going to miss this fine man.●

● Mr. RICHMOND. Mr. Speaker, I am pleased to have this opportunity to express my friendship and great admiration for my colleague, OTIS PIKE, who is retiring from the House after 18 years of dedicated service.

OTIS PIKE has a remarkable sense of humor. He is an excellent raconteur, with a ready and incisive wit. He has been consistently erudite and impressive in debate in this Chamber throughout his career.

Whether in matters of economics, health, trade, the budget, or national security, OTIS brings his good judgment and intelligence to bear and usually makes the right decision.

OTIS PIKE has a refreshingly straightforward manner. He has the rare and wonderful ability of telling you exactly what he thinks—on the issues, or on any subject you happen to be discussing with him.

We wish him well in all his future endeavors. We will miss him.●

● Mr. ROSENTHAL. Mr. Speaker, earlier this year the House was given some news which was received with sadness.

Our colleague, OTIS G. PIKE, announced that he was no longer continuing his career in the Congress, as the Representative from the First District of New York.

OTIS was born in Suffolk County, which he has represented so well since 1961. He is a tried and true New Yorker, having been educated there, practiced law there, and returned to his home there after distinguished service during World War II in the South Pacific.

He is active in business and in the community in Suffolk, and will be permanently returning to the fold at the end of this Congress. He will be warmly welcomed with open arms.

We have all enjoyed our friendship with OTIS, and we will miss his lighthearted humor, and his never-ending assistance.

We have been much impressed by his ability and capacity to absorb the ever-increasing demands of the Congress, and he is much admired and respected by all of us who have worked alongside of him over these past few years, and who are personally aware of the tremendous amount of time and effort he has contributed to the accomplishments of the House.

He will be sorely missed from the Halls

of Congress, but he leaves with much affection from his colleagues, and our best wishes for the future.●

● Mr. HUGHES. Mr. Speaker, this is a sad occasion for Members of the House of Representatives. The retirement of Congressman OTIS PIKE will leave a gaping hole in our ranks.

OTIS PIKE was blessed with an unerring sense of humor that serves both him and this body well. He could always be counted on when tempers flared and the nights wore on during lengthy sessions to save the day with some bon mot that was guaranteed to get things back on the right track.

They say that wit and wisdom are born with a man. Maybe OTIS PIKE just developed these gifts a little more than most. In any event, we are blessed by his presence.

We will miss him in the next session and I am happy to join with his many friends in wishing him well in the days ahead.●

● Mr. UDALL. OTIS PIKE's distinguishing mark was always a special kind of class and style. He came here with it and he leaves with it intact.

Few people around here had his ability to cut through the clouds of confusion to the guts of a problem. Few could do it with such humor and verve and telling effect.

Few among us have had his intellectual honesty—to follow where logic led.

There seems to be something very basic going on in the House of Representatives these days. Like the Washington Redskins, a lot of the older players are leaving. One of the most thoughtful and valuable of this group was OTIS PIKE.

He is moving on—and I am sad to see him leave.●

● Mr. COLLINS of Texas. Mr. Speaker, when Congress loses OTIS PIKE of New York, we will be losing one of the finest men that ever served in Congress. It is a rare occasion when you can describe a person as both a "gentleman and a scholar." We often know one or the other but rarely do you find the combination, and OTIS PIKE exemplifies the best of both.

In Congress we take ourselves in such a serious manner that we do not get to see a twinkle of a smile very often. But anytime you walk over to the floor with OTIS PIKE, you will always have an upbeat because he is able to laugh at himself, at the rest of us, and even at Congress in all of its pompous splendor.

I hope that OTIS PIKE stays active in our congressional legislative activities. I think of him more as a Will Rogers, or maybe as a modern Mark Twain. His keen insight and deep perspective is stimulating and delightful. I will always remember OTIS and I will always be proud to say that I had an opportunity to serve in Congress with OTIS PIKE. He is a man of character and integrity. He is a man of principle. He is a man of intellect whose concise and effective statements on the floor will be missed. OTIS PIKE is one of the greatest.●

● Mr. MURPHY of Illinois. Mr. Speaker, I would like to pay tribute to a man I greatly admire, OTIS G. PIKE of New York. As my colleagues know, OTIS is retiring at the end of this 95th Congress.

OTIS PIKE has been one of the House's most eloquent and independent voices during his 18 years in the House. For that reason, he has established himself as one of the most respected members of this body.

All of us who know him will miss OTIS, whose thoughtful and conscientious work has been deservedly rewarded by his constituents in all nine congressional elections.

I wish the very best to my good friend, OTIS PIKE, and hope that he finds challenges in the private sector equal to the capabilities and talents he has shown here as an exceptional Member of Congress.●

● Mr. MONTGOMERY. Mr. Speaker, if there is one thing our colleague from the First District of New York, OTIS PIKE, has taught us during his 18 years of service it is the value of personal integrity. He has always been a man of deep conviction and more importantly he has voted those convictions on the House floor regardless of the political consequences.

In many ways OTIS PIKE has been the conscious of the House with his well chosen words which put issues into clear perspective. We always knew where OTIS stood on any given issue and also knew that his decision had only been reached after thoughtful consideration of all the facts.

We can all be grateful that we had the privilege to serve with OTIS and could benefit from his leadership and from his dedication to those ideals which made this a great deliberative body.●

● Mr. ULLMAN. Mr. Speaker, I am grateful for this opportunity to join tribute to OTIS PIKE, a man of rare energy, talent and courage.

Since he first arrived in Washington nearly 18 years ago, OTIS has been one of the most fiercely independent Members in the House. That independence, coupled with ample powers of persuasion and persistent attention to detail, have marked him for leadership on some of the most complex and controversial issues to confront the Congress in the last two decades.

Nine consecutive terms in the House speak volumes about how OTIS has served his constituents. His service to the Congress and the Nation as a longtime member of the Committee on Armed Services and chairman of the Select Committee on Intelligence has been no less accomplished.

It has been a special privilege to serve with OTIS on the Committee on Ways and Means for the last 4 years. He has made important contributions to the work of the committee in circumstances fraught with difficulty.

I am personally grateful for his counsel, his assistance, and—equally important—his good will. OTIS PIKE has helped make the House a better, more pleasant place to serve.

I wish him well, but I am sorry to see him go.●

● Mr. PERKINS. Mr. Speaker, our good friend and distinguished colleague, OTIS PIKE, has eloquently stated the causes which impell him to his separation from us.

I respect those causes, and I respect him for his forthright decision. But I wish he could have seen things otherwise, and stood for reelection this autumn.

The House needs Members like OTIS PIKE, just as the country needs men of his character and capacity, and his sensitivity to the needs of the American people in this last quarter of the 20th century.

It has been a great privilege for me to serve with OTIS PIKE for these past 18 years. I know how much he has given to his district, and how great his contributions to the work of nine Congresses during five Presidencies.

I know that a man like OTIS PIKE will not vegetate after leaving the Congress, and that he will find other ways in which to give of his great talents for the common good.

In whatever undertaking he pursues in the future, I am sure the good wishes of every Member of this House go with him. We shall sorely miss him in this Chamber.●

● Mr. McHUGH. Mr. Speaker, when Congressman OTIS PIKE leaves us this year, the House of Representatives will be losing one of its most intelligent, conscientious and incisive Members. We will be saying goodbye to one of our wisest friends.

When I was first elected to the House, I was impressed by the quality of OTIS PIKE's dedication to his responsibilities. It was from his example that many other younger Members and I learned many valuable lessons, including the importance of effective service to our districts, and the need for responsible execution of committee assignments. He also taught us how to laugh at ourselves.

It was in this last respect that he served as a conscience for many of us. His good humor among us was always characterized by rigorous honesty and self-knowledge, and his example invited us all to strive for excellence in the fulfillment of our responsibilities. Through his example and his wit, he taught us to take our duties very seriously, but not to take ourselves too seriously.

I will always be very grateful to him for his example and his friendship. He is a fine gentleman who will be sorely missed around here, but remembered with great warmth and affection. I will always be prouder of my membership in this body because he has been a colleague.●

● Mr. BINGHAM. Mr. Speaker, I appreciate the opportunity to join in paying tribute to the gentleman from Suffolk County, N.Y., OTIS PIKE.

Whenever OTIS rose to speak in the well of the House, the hubbub subsided. This was not only because he enjoyed the Pikean wit, but also because OTIS was known to be a Member who thought for himself and whose views were worth listening to. His remarks were characterized by another all too rare quality: brevity.

I never had the privilege of serving on a committee with OTIS PIKE, but I enjoyed working with him on matters of concern to the New York delegation.

I regret that our colleague decided to retire from the House, although his reasons for doing so were understandable.

I am sure that all of us wish him and his family many happy and productive years down the road ahead.●

● Mr. DERWINSKI. Mr. Speaker, it is a special pleasure for me to join in paying tribute to OTIS PIKE, who after 18 years of outstanding service will be retiring from his duties as Representative of the First District of New York.

OTIS has been a devoted public servant throughout his career, and is one of the ablest men serving in Congress. He has faithfully represented the people of New York with great effectiveness, setting an example of leadership and fairness which is a tribute to the great institution of this body.

His firm wisdom and skilled expertise has helped to lead this Nation toward more responsible fiscal policies. As a member of both the Committee on Ways and Means and the Budget Committee, OTIS has certainly demonstrated his dedication to solving our economic problems.

He will long be remembered by us for his loyalty to principle and his dedication to the interests of his constituents and to the benefit of each and every American.

We will certainly miss OTIS' wise counsel and leadership, but I join with my colleagues in wishing him and his wife, Doris, a long and enjoyable retirement.●

● Mr. COUGHLIN. Mr. Speaker, I join today in paying affectionate tribute to my good friend and colleague the gentleman from New York (Mr. PIKE) as he retires from this body.

OTIS and I have served together in the House for 10 tumultuous years and, though we have stood on opposite sides of the aisle, our sparring has been of the friendliest sort. In fact, I have always suspected that at heart ours was more a lingering Princeton-Yale rivalry than one owing to party allegiance.

OTIS' many significant contributions to the important work of the Ways and Means and Budget Committees should give him a sense of a job well done during his years in Congress. We shall all miss his colorful personality, his sometimes biting wit, and his frequent eloquence. OTIS has never hesitated to pierce the balloons of pretentiousness when that needed to be done. I hope he will continue to do so.

I am very pleased to learn that retirement may not take OTIS very far from us, perhaps no farther than the House press galleries. I look forward to continuing our long and happy association, and I hope in the future OTIS will continue to favor us from time to time with his clever verse and exuberant ukulele playing. I wish OTIS the very best in the new endeavors.

In closing my remarks today, I cannot resist the temptation to pay a little lighthearted tribute to OTIS in a short verse of my own:

Otis Pike is a man of mirth
As honest as the clay of earth.
With financial disclosure, he tried to say,
We surely will come to rue the day.
So off he went with style and wit,
And told the world—to sit on it.●

● Mr. MURPHY of New York. Mr. Speaker, OTIS PIKE has been an outstanding Member of the House of Representatives since 1960. He has served on the Budget Committee, the Ways and Means Committee, and the Joint Economic Committee with great distinction, even faced with the international acceptance of the fact that economics is probably the world's most boring science. He proved the adage, however, that nothing is interesting if you are not interested in it. His devotion to mastery of the boring science made him a leader to be reckoned within matters economic, and a man to whom we all have turned for leadership and guidance in a complicated field.

OTIS PIKE, former fighter pilot in World War II, expert on our Nation's defense as a member of the Armed Services Committee, was as diligent to the needs and duties in his district. So beloved by the people of Peconic that he was referred to affectionately as "Our OTIS."

OTIS PIKE also brought to this Chamber one of the rarest of talents: The gift of laughter. In our daily business concerning the most urgent matters of this Nation, we have all too often been guilty of becoming the very caricature of stodginess so often attributed to the Congress. OTIS PIKE'S sense of humor never allowed us to reach the extreme, however, bringing to mind G. B. Shaw's view of humor that "life does not cease to be funny when people die, any more than it ceases to be serious when people laugh." OTIS PIKE gave us all a necessary perspective to laugh at ourselves and our troubles, and to succeed in spite of both.

It has been said of retirement that few men have the character to remain idle. OTIS PIKE may be one man who does.●

● Mr. SKUBITZ. Mr. Speaker, I take great pleasure in joining the many friends of our colleague, OTIS PIKE, in paying tribute to his many years of service to the people of this Nation. Few Members of this body have served their country—in peace and in war—with the degree of distinction and dedication that has typified OTIS' career.

Before coming to the House, OTIS had already distinguished himself as a marine pilot, having flown 120 combat missions in the Pacific during World War II, for which he was awarded five air medals. Having distinguished himself in war, OTIS' criticism of wasteful military spending as a Member of the House has been both heeded and, in many cases, needed.

OTIS has earned a much deserved reputation as one of the most conscientious, and most dedicated Members of this body. His forthright manner of handling issues has earned OTIS the respect of his colleagues of both sides of the aisle.

OTIS' presence will be sorely missed when the 96th Congress convenes in January. I wish OTIS all the happiness and peace of mind in retirement that he so richly deserves.●

● Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to Hon. OTIS G. PIKE, who is retiring this year at the close of the 95th Congress after having served nine terms in the House of Representatives.

OTIS PIKE has given almost two decades of dedicated and devoted service to his constituents of the First District of New York, and has compiled an outstanding record during his distinguished career. His diligent efforts as a member of the Joint Economic Committee and the House Budget Committee have been both fruitful and beneficial to the citizens of this Nation, and indeed, these successful efforts have made America a more prosperous and productive country.

Few men have given more of themselves to good government, or have a more compassionate understanding of human problems than has OTIS PIKE. As a member of the House Ways and Means Committee, he has been in the forefront of efforts to implement meaningful solutions and effective action on behalf of individual citizens caught in the bewildering maze of the Federal tax laws.

OTIS is a fine legislator and a distinguished leader, and he will be missed by both his constituents and his colleagues.

I extend to OTIS PIKE my best wishes for a healthy and happy retirement.●

● Mr. BOLAND. Mr. Speaker, I take this opportunity to join my colleagues in paying tribute to OTIS PIKE under this special order.

OTIS PIKE will always have a special place in my memory. Whenever he strode to the well, the House was assured of thoughtful and eloquent exposition of the issue at hand. His remarks have been often repeated, often quoted. He has always been an exciting and stimulating speaker. Most importantly, he has been able to combine a keen wit with good commonsense. The CONGRESSIONAL RECORD will deem somehow incomplete without an OTIS PIKE statement.

Most of us were quite surprised when OTIS PIKE announced his retirement last winter. His retirement statement is a very heartfelt document that takes a good hard look at a congressional career. It has been widely reproduced and widely hailed as a classic.

OTIS PIKE, the Representative, has indicated that one of his new careers will be as OTIS PIKE, the writer. His knowledge of the workings of this body are certain to lead to some fine writing on Congress. We can be sure that his views will be tough, honest, and uncompromising. I am looking forward to reading his columns on the activities of the House. He will certainly keep us on our toes.

Mr. Speaker, OTIS PIKE, in announcing his retirement, said, "It's time to cruise on other waters." I wish him smooth sailing and the best of luck.●

● Mr. FLOWERS. Mr. Speaker, when I count the blessings that have come my way in the last 10 years while being privileged to serve here in the "People's House"—the House of Representatives—right at the top of this list are the close, personal friendships that have developed with other Members. We may come from different places with widely different backgrounds, but there is surely something special here that allows a depth of friendship which is hard to find.

Today we honor one such friend to me—the gentleman from New York, OTIS FIKE. Lawyer, scholar, a man of letters, boatsman, fisherman, and on and on. OTIS is one of a kind—a rarity even for this place. His wit has helped us see ourselves a little more clearly. His candor and forthrightness and intellectual honesty are not exceeded by anyone I have ever known. He has truly served

the public interest while representing his district and his people well for 18 years. OTIS PIKE has been the kind of Congressman that makes this system of ours work.

I shall always treasure his warm friendship and wish him every success in his future careers and much happiness to go with it.●

● Mr. LUNDINE. Mr. Speaker, I join today with my colleagues in the House and particularly with my colleagues in the New York State delegation, to wish the very best for the future to my friend and colegislator, OTIS PIKE.

Few Members of this House have exercised the candor and eloquence both in this Chamber and outside, which Mr. PIKE has since he became a Member of Congress. He has remained proof to newer Members that one can vote on each issue as he or she sees fit while continuing to be respected by constituents and fellow legislators.

Mr. PIKE's service on the House Ways and Means Committee, his sharp eye for fair and commonsense compromise and approaches to problems, his important contributions to the new congressional budget process, and his dedication to national and New York needs will make him a most difficult legislator to replace.

I add my thanks from the people of New York State and the Nation for the job which Mr. PIKE has done here since his election to the House. And I add my most sincere hopes for his success and his full enjoyment of the years which will follow this retirement from public service.●

● Mr. RUSSO. Mr. Speaker, when I heard that my distinguished colleague OTIS PIKE was retiring from Congress, my first concern, of course, was preretirement counseling.

The eloquent gentleman from New York in his colloquy with me on my amendment for prepurchase housing counseling had so persuasively outlined the arguments for establishing counseling programs for many of our major life decisions, that I deeply regret that we did not have time to establish a preretirement counseling program here.

Had we had such a program in operation, surely we could have pointed out the risk to the Congress involved in his departure. We do not always work in harmony around here, for example, but OTIS, clearly a man of note, provided the tunes and lyrics that could keep us whistling as we worked. (Who will ever forget the memorable, "We are all so pure?") What are we to do without these musical refreshments?

OTIS, candid, wise, and witty, has been a valuable voice in the Congress, and his leaving is a loss for the forces working for Government efficiency, and fine humor. With a sort of innocence of style, this capable gentleman could devastate an opponent with a carefully turned phrase and a wry observation. Is the world out there ready for this? What of the pitfalls that await him? Has he carefully considered the hidden costs involved in trading the Well for the pen?

I suppose it is too late now, but certainly this should be a lesson for us all. When a talented Member like OTIS PIKE can pack up his insights and ukulele (there is no truth to the rumor that he has a try-out for the Gong Show), we have to improve our system. I think the answer is preretirement counseling. I trust my friend from New York will agree.

However, as in other matters, whether we find ourselves in agreement or not, I respect and admire him as a legislator, and value his friendship. I wish him the best.●

● Mr. MITCHELL of New York. Mr. Speaker, it has been said many times that this Chamber will not be the same without the wit and wisdom of our distinguished colleague, OTIS PIKE. That is so true.

It has been a privilege for me to work with Congressman PIKE on matters of importance to our State and Nation. I have enjoyed the relationship and have benefited from his observations gained over many years of distinguished public service.

He is a man of candor, an individual who has never been timid about expressing his views and has never been one to forego a difficult decision until he is able to test the wind of public opinion to see which way it is blowing. In short, OTIS PIKE is a man who is guided by conscience and conviction and I have always found him one to do what he thinks is right and let the chips fall where they may.

It is my understanding that we will not be denied exposure to the wit and wisdom of our retiring colleague because reports I have heard indicate that he is about to launch a journalistic career. I wish him well in this undertaking.●

● Mr. OBEY. Mr. Speaker, OTIS PIKE is the most charming nay sayer in this House. He has courage, wit, and flair. He is tenacious. He knows better than most how to use humor to make a point.

He did not reach his decisions in this House for convenience sake. I never knew him to compromise on an essential.

He has been a brilliant Member of Congress. He has played the role of skeptic well. We will miss him.●

● Mr. BRINKLEY. Mr. Speaker, I am honored to take this moment to commend the Honorable OTIS PIKE of New York, U.S.A., as he retires from the U.S. House of Representatives.

A fond recollection of mine is his policy of placing a call himself when he wishes to speak telephonically with his colleagues. He said it was a pet peeve of his for Members to call him through their secretary and keep him holding on the line until the calling Member came on. His time, he said, was just as valuable as that of his peer. I have followed that admonition myself because of my respect and admiration for the man, as demonstrated by this small but important characteristic. Simply put, it can be summed up in one word—considerateness.

John Kennedy once said, "For those to whom much is given, much is required." OTIS PIKE has fulfilled this description in every sense—as a conscientious and faithful public servant who genuinely cares for those he represents. We shall remember him, and we shall miss him.●

● Mr. RODINO. Mr. Speaker, I want to express my appreciation to Congressman OTIS PIKE for his devoted service to this Congress for the past 18 years. When he retires at the end of this Congress, he will carry with him many proud memories. As a member of the House Armed Services Committee and then as a member of the Committee on Ways and Means, OTIS PIKE has distinguished himself as one of the most thoughtful, well-prepared and insightful individuals in Congress. His trademark has been his quick wit and his ability to encourage us to take time to laugh at ourselves occasionally. His very human approach to the problems which confront us will be missed.

Mr. Speaker, OTIS PIKE is my friend and colleague and I wish him well in his future endeavors.●

● Mr. FREY. Mr. Speaker, I would like to join with his many friends and colleagues in thanking OTIS PIKE for his tremendous service to this country. OTIS has served our country in military service and in many years in the Congress. His record has been one that we all can be proud of. In my opinion, there was no more effective debater on the floor of Congress than OTIS. He could get his point across seriously or with humor, having the ability to judge the mood of the House and to respond thereby. He was never afraid to take on a tough fight and would not back away from those things he believed deeply in.

On a personal basis one of the nicest things about the House is the ability to get to know, to respect and to enjoy some tremendous people. I am fortunate enough to be able to call OTIS a personal friend and I definitely do feel fortunate. We have had the privilege of being together on many occasions, including some band concerts, and I have always found our discussions and associations most enjoyable and interesting. The State of New York and the people of this country are going to lose, in the true sense of the word, a great American. OTIS deserves his retirement although I know he will remain active in many areas. I hope our association continues past these Halls of Congress.

Good luck, OTIS, and God speed.●

● Mr. DRINAN. Mr. Speaker, the Congress and the country have been fortunate in sharing for 18 years the talents of OTIS G. PIKE. He brought to the House a splendid education and a broad background of personal and professional experience.

In the Congress he has served with distinction on the Committee on Ways and Means, the Budget Committee, and the Joint Economic Committee. He has been extraordinarily diligent in becoming one of the best informed persons in the House.

All of us will remember OTIS PIKE for his good humor and his very pleasant personality. But I and countless others will remember particularly the absolute integrity of mind and spirit which was the very soul of OTIS PIKE. He thought problems through and he voted according to his convictions and his conscience.

He was unwavering once he had made his final judgment.

I have no doubt that OTIS PIKE has another rich career opening up before him. He could do so many things that his problem in selecting another career will be the abundance of riches.

We wish him well. We shall miss his example and inspiration. He has enriched all of us and we are profoundly grateful.●

● Mr. WOLFF. Mr. Speaker, I rise today to pay tribute to my good friend and colleague, the gentleman from New York (Mr. PIKE) who at the conclusion of this Congress brings to a close 18 years of distinguished congressional service to the Nation, the State of New York, and to the people of the First District of New York.

Since 1964 I have had the privilege of serving with OTIS PIKE in this body. During that time I have found him to be witty, outspoken, eloquent, sometimes constructively irreverent, and always skeptical of big government and excessive Federal spending.

My friend OTIS, a graduate of Princeton and Columbia Universities, has an outstanding record of public and patriotic service which has brought him status as a World War II hero, and acclaim as a lawyer and justice of the peace. Of late he has been a hard-working and distinguished member of the House Committees on the Budget and Ways and Means.

Throughout his tenure in Congress, OTIS PIKE has stood up and spoken out forcefully for his convictions. He has been a defender of the oppressed and the downtrodden, and an outspoken advocate for human rights and human freedom.

When OTIS PIKE sees an injustice he seeks to correct it. When OTIS PIKE sees a need for reform, he acts to improve the situation. These are qualities he has brought to this House, and these are qualities which will be sorely missed in the future.

Congressman PIKE begins his voluntary retirement at a young age. His opportunities to contribute to his Nation are not over. I suspect—and hope—that we have not heard the last of the gentleman from New York. Just as his presence has been felt in this House, so it, too, will be felt as he continues his life as a private citizen.

Yet despite being in the forefront of the political scene, and despite years of service in the public spotlight, OTIS PIKE is, and remains a private man. He leaves this Congress now to resume his privacy, to be able to reflect, to analyze, and to view the contemporary political scene from a new perspective. The gentleman has earned the right of such privacy. In the words of Justice Brandeis, "the right to be let alone is the most comprehensive of rights and the right most valued in civilized man," OTIS PIKE has fought long for the rights of others; it is only fitting that he now benefit from the future for OTIS PIKE.●

Mr. Speaker, I join with my colleagues in extending our best wishes for the fruits of his hard labor.

TRIBUTE TO HON. JIM MANN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. DAVIS) is recognized for 60 minutes.

GENERAL LEAVE

Mr. DAVIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my Special Order on today, a tribute to the Honorable JIM MANN.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. DAVIS. Mr. Speaker, I rise to pay tribute to one of our colleagues who is leaving our midst after representing the people of his district for 10 years. I am talking about the Member from the Fourth District of South Carolina, the dean of our delegation, the Honorable JIM MANN. Much to the regret of his many friends here and at home, he is retiring from this body at the end of this term.

I would describe him as a great barrister, who practiced law in his district prior to his election to Congress. Indeed he served as solicitor of the 13th Judicial Circuit establishing an enviable record of success that may never be equaled. I do not honor him just for these accomplishments because they are but an infinitesimal part of his record. He has achieved far more than that.

As an attorney myself, I realize how hard he worked at doing his duty with dedication and compassion. A man of enormous energy, JIM served his community in a civic capacity as well. He worked hard as a member of the Greenville County Planning Commission. At a time when his community needed his drive and determination to overcome the impact of the loss of Donaldson Air Force Base, JIM turned that terrible economic blow into a windfall for his people. His attitude of "can do" was infectious in those trying times. The people of his district decided his energy and determination would serve to improve their country as well as it had served to improve his district, so they sent him here, to the U.S. House of Representatives.

In his 10 years of service in this body, he contributed so much that it would be impossible to enumerate it all. Let me just say that without him, this House is diminished.

I remember when he bled along with all of us when this Nation's highest office was wounded by Watergate. JIM MANN did what he had to do.

But again, I do not honor him just for these accomplishments, because to do so would be less than enough. Today, people are referred to as "super," giants among men, and great leaders. To simply honor a man with words seems too little somehow. I submit a different approach to this issue. I would call on the Members of the 95th Congress to honor JIM MANN by emulating him. Emulating his devotion to duty, family and God. Emulating his total dedication to his country. That would be a proper honor for JIM MANN. That way, we will not miss him quite so much, and the vacuum he leaves will not be quite so great.

Mr. FLOWERS. Mr. Speaker, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Speaker, when I count the blessings that have come my way in the last 10 years while being privileged to serve here in the "People's House"—the House of Representatives—right at the top of this list are the close, personal friendships that have developed with other Members. We may come from different places with widely different backgrounds, but there is surely something special here that allows a depth of friendship which is hard to find.

The distinguished gentleman from South Carolina and I began our service in Congress at the same time and were both assigned to the Committee on the Judiciary. We have worked together on many issues here in the House, and it is a great pleasure for me to join in honoring him here today.

JIM MANN has a rare gift of intellect, and his ability to quickly grasp and assess a situation is as good as I have ever seen. His knack for gentle but clear expression still amazes me—as it does others who work with him.

In the summer of 1974—during the impeachment inquiry—JIM MANN and the rest of us on the committee were called to "account" so to speak. When our very system was being tested in the most critical constitutional crisis in over 100 years, he certainly handled himself in the highest tradition of statesmanship. Afterward, one writer likened him to one of the Founding Fathers.

Having been there with him, and sharing the pressure and the heartache, I can attest to his understanding and his courage and his dedication. JIM MANN has served ably and well in this House, and the country is far better off that he happened to be here at a certain time in history. I am proud to count him as one of my closest friends.

I have known JIM and his fine family well for 10 years, and I wish them all every success and much happiness in the years ahead.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Texas.

● Mr. BROOKS. Mr. Speaker, I would like to join with my many colleagues in commending Congressman JIM MANN for his decade of service to our country in the House of Representatives.

I have had the privilege of serving with JIM on the Judiciary Committee where he has amply demonstrated his integrity and dedication to the discharge of his duties.

JIM MANN served his country in World War II in the regular Army and in peacetime in the Army Reserve.

After a distinguished career in the private practice of law and as a State representative, he was first elected to the Congress in 1968. He has been reelected without opposition.

I join my colleagues in this tribute to

JIM MANN and extend my personal and sincere best wishes for a happy retirement and success in future endeavors.●

Mr. HUBBARD. Mr. Speaker, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Kentucky.

Mr. HUBBARD. Mr. Speaker, I thank the gentleman from South Carolina for yielding. Would he please allow me to give a word of tribute to my dear friend and colleague, OTIS PIKE of New York?

Mr. DAVIS. I would be glad to.

Mr. HUBBARD. I know I am out of order, but I would like to make these remarks.

Mr. Speaker, an extraordinarily high number of Members are retiring from the Congress this year for many different reasons—some have trouble with the folks back home, some are not happy here, some are quite old. One of those who is leaving for none of those reasons is Congressman OTIS G. PIKE of New York.

While I have not known Congressman PIKE as well as I would have liked to, you cannot serve with a Member for 4 years without learning quite a lot about him. We all know of his delightful sense of humor. We all know of his extremely high intelligence. We have admired his courage in standing up and fighting for causes that he believed in, even when the odds were greatly stacked against him. He has certainly made the House of Representatives a far more interesting place than it would have been without him.

While I am sorry to see him go, I can concede that I am, personally, benefiting from his departure. It is my good fortune to have with me part time, and hopefully in January full time, his office manager, Betty Orr.

I wish him well in whatever his new career may be and both his former office manager Betty Orr and I can always assure him a warm welcome in the office of the First Congressional District of Kentucky.

Mr. DAVIS. Mr. Speaker, I thank the gentleman from Kentucky for bringing up those remarks. Tonight we honor two great men who are retiring. Maybe OTIS PIKE is going to join that third estate or fourth estate or fifth estate, or maybe they will not even give him a card to get into the press gallery because of his inside knowledge here. Let me say that without doubt this country is better for OTIS PIKE's service and for JIM MANN's service.

Maybe they differed in the two different areas they served and represented, but when they were brought together on great problems to meet the needs of this great country, be it textiles or maybe the needs of the Grumman Co. and the F–14, in a common defense, let me say one thing plain and simple: OTIS PIKE will be missed; JIM MANN will be missed, but we who have served with them will be enriched for having been able to walk these hallowed halls together with two men with different views, different attitudes, but a common goal.

Mr. HUBBARD. Mr. Speaker, will the gentleman yield once again?

Mr. DAVIS. I yield to the gentleman from Kentucky.

Mr. HUBBARD. Mr. Speaker, in addition to my comments concerning my good friend, Congressman OTIS PIKE, indeed I would be remiss if I did not also extend to my colleague and dear friend JIM MANN of South Carolina my congratulations upon his many outstanding successes as a Member of the House of Representatives; to wish him the very best of everything, including Godspeed in the years to come.

Mr. DAVIS. I thank the gentleman.

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, I thank the gentleman for yielding. You know, I got all the way back to my office before I realized that this was JIM MANN'S special order, and I thank the gentleman for providing it. I will extend my remarks, but I want to say right now that JIM MANN is one of the finest gentlemen and finest lawyers I ever worked with. There are one or two I would want to include within the scope of that, including the present Speaker pro tempore sitting up there, the gentleman from Alabama (Mr. FLOWERS), but I come back here with a great deal of fondness for both of them.

Mr. DAVIS. Mr. Speaker, let me in closing just say that we in South Carolina have been grateful for the services of JIM, but also we have been grateful for the support of his lovely wife Virginia, his tremendous family, and the true knowledge that JIM MANN and his whole family were true South Carolinians, never really parochial to their own district, but servants of all the people of our State and of our country.

And, JIM, we only wish you well, Godspeed, God's love, good health and happiness in your retirement. We will miss you.

● Mr. COUGHLIN. Mr. Speaker, JIM MANN is known for his dedicated work on the House Judiciary Committee, particularly during the tumultuous time of impeachment. He is known for his consistent knowledge of legislation that comes before this House, whether originating from his committees or not. He is known for his thoughtfulness and balance when looking at difficult issues.

He is known, too, for his able leadership in the area of textile trade policymaking. That leadership will be sorely missed not only by millions of textile workers but by those of us who so heavily relied on his knowledge, expertise and advice in the complex and often confusing arena of international trade.

As chairman of the Informal House Textile Committee from 1975 to 1978, JIM established a strong House base of support for this most import-sensitive industry. He did so largely through his own personal time and efforts, through his unceasing attention to detail, trends and even possibilities. JIM possessed an insight into the intricacies of trade policy decisions that was enviable—and that many of us in this House depended upon. Got a question on a textile or apparel related problem? See JIM MANN!

His retirement will truly leave a void, though through his efforts we can now call upon our new Congressional Textile Caucus ably chaired by JIM'S fellow South Carolinian KEN HOLLAND. Still, I would like to be able to take advantage of JIM'S counsel when the need arises, and I hope he is planning to spend some of his time in the Capital City and to be available for consultation.

Knowing JIM'S abilities, Mr. Speaker, I am certain there will be great success in his future. So for myself, I will wish JIM MANN and his lovely wife, Virginia, all happiness in their new endeavors.●

● Mr. RODINO. Mr. Speaker, though it is of course an honor to pay tribute to our friend JIM MANN, it is with real regret that I join in this special order.

It is with regret because the departure of JIM MANN will leave a void in the leadership ranks of the Committee on the Judiciary. It is with regret because we will miss his quiet eloquence. It is with regret because we will lose from this body a friend and a man of conscience.

Mr. Speaker, I have been privileged to serve with JIM MANN on the Judiciary Committee for many years. And we will long remember that he served on the committee at a time when 38 lawyer/legislators were called upon to do a job they had not sought. And no less than the constitutional integrity of our system of Government was at stake. JIM MANN more than rose to that occasion. He set a standard of conscience, of judgement, and of principle that can serve as an example for years into the future.

In recent years, JIM served as the chairman of the Subcommittee on Criminal Justice that processed some of the most complex legislation that came before this House. And that challenge, too, JIM met with talent and with quiet grace.

Mr. Speaker, I hope JIM MANN will consider us his friend for many fruitful years to come. Though he leaves our ranks, he can go with our best wishes and with the knowledge that he will always be fondly remembered.●

● Mr. FUQUA. Mr. Speaker, one of our most respected friends and colleagues will be retiring at the close of the 95th Congress. JAMES ROBERT MANN, better known to all his many friends as JIM, will end 10 years of dedicated service to the people of South Carolina and the Nation.

A valued legislator of exceptional ability, he has served with distinction and has been the guardian of criminal justice as chairman of the Judiciary's Subcommittee on Criminal Justice.

His wisdom and counsel have been highly valued by so many of us over the years. While watching the national interests of our country, JIM never neglected the needs and problems of his South Carolina district, the mark of a truly devoted and sensitive public servant.

His career and service to this House will soon be history, but we here will remember him not only with respect, but compassion as a friend and leader.●

● Mr. BRINKLEY. Mr. Speaker, it is with great pleasure that I commend the Honorable JIM MANN, of South Carolina, for his dedicated service in the U.S. House of Representatives. With the best interests of the people he represents always foremost in mind, he has acted as a knowledgeable and progressive legislator. As a close friend, we know him as a warm and sincere individual.

The excellence of JIM's service on the Judiciary Committee stands out in my mind, and we shall always remember the splendid example he portrayed during the impeachment hearings.

A poet once wrote, " 'Tis the human touch in this world that counts." JIM MANN is one of those uncommon men who possess that human touch, and the people of his district and the Nation have been made better for it.

I wish this wise and gentle man of the new South much happiness in the years ahead.●

● Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to the Honorable JAMES R. MANN, who has served 10 years in the House of Representatives as a distinguished Congressman representing the people of the Fourth District of South Carolina. It has been a truly rewarding personal experience for me to have known him as a colleague and I am honored to have served with him during the last five Congresses.

JIM MANN has proven himself a devoted and capable legislator as a member of the House District of Columbia Committee and the House Select Committee on Narcotics Abuse and Control, and has served his constituents well as head of the House Ad Hoc Committee on Textiles, where he worked with dedication to solve the problems of job losses to Americans due to the imports from abroad of textile products.

Few men have given of themselves to good government, or have a more compassionate understanding of human problems than has JIM MANN as the chairman of the Subcommittee on Criminal Justice of the House Judiciary Committee. He has been in the forefront in upholding the highest standards of justice for all citizens, and he has compiled an outstanding record of excellence and achievement.

JIM is a fine legislator and a distinguished leader, and he will be missed by both his constituents and his colleagues.

I extend to JIM MANN my best wishes for a healthy and happy retirement from the Congress as he continues his career in devotion to the highest principles.●

● Mr. LEHMAN. Mr. Speaker, I rise to join with the other Members in paying tribute and saying my formal goodbye to our valued colleague, JAMES R. MANN of South Carolina.

The House of Representatives will miss JIM MANN, who has brought so much intellectual honesty, dignity, and real class to all his dealings in Congress.

JIM has class in the best sense of the word, for he is also a simple and humble man. He has been a kind gentleman in a world too often thoughtless and rude. He remains a refreshing human being and, I am proud to say, my friend.

I wish JIM MANN health and happiness in his retirement, and hope he will not stay away too long.●

● Mr. THORNTON. Mr. Speaker, when this session of Congress comes to a close, so will the congressional career of a friend of this body, the gentleman from South Carolina, JAMES R. MANN.

For 10 years, JIM MANN has been an untiring champion of his South Carolina constituents and an active and forceful presence in the legislative proceedings of this House.

It was a great privilege for me to serve on the Judiciary Committee with JIM. During the tense days of the Judiciary Committee hearings on the impeachment resolutions, I watched him bring wisdom and a keen sense of reason, foresight, and objectivity to bear on the problems this Nation faced. JIM MANN provided a strong, steady hand and calm, deliberative judgment.

His leadership helped bring our Nation through the gravest constitutional crisis since the Civil War.

JIM MANN, we in the House are all grateful for your exceptional contributions, and I want personally to wish you great happiness in your future endeavors.●

● Mr. PIKE. Mr. Speaker, I am making my exit from Congress in a lot of distinguished company this year and none more so than our greatly admired and respected colleague, JIM MANN of South Carolina. I have always felt a special affinity personally—if not always politically—for our colleagues in the so-called "Southern" delegation and JIM epitomizes all that is best and admirable in whatever that regional label is meant to signify. In only 10 years' time he has managed to make a mark that many of us with longer tenure by far would have been pleased and proud to leave behind as a legislative epitaph.

At no period in our history was there ever a greater need for the best legal minds to be available to the House Judiciary Committee than in the early years of this decade, and it must have been an all-wise providence watching over us that saw to it that JIM MANN's would be one of those brought to bear on one of the most crucial and agonizing decisions ever to face a Congress of the United States. His courage, his judicial restraint and wisdom, more than equal to the challenge, have reflected great honor and credit on us all and have greatly embellished his own. I am proud to add my salute for a job well done to our distinguished colleague, JIM MANN.●

Mr. BUTLER. Mr. Speaker, JIM MANN has decided to retire from this august body at the end of this session. JIM and I have been friends for many years and his departure will be a personal loss. But, even more than that, his departure will mean the absence of a legal scholar in our midst. As many will recall, during his service on the House Judiciary Committee, JIM came to national attention because of his constitutional expertise and his dedication to justice, and the public began to think a little more kindly of us all. His 10 years here have encompassed a traumatic decade and his name will be included in the history books wherein is recorded the names of those who put the survival of our system above professional survival.

I worked with JIM behind closed doors during the judiciary hearings on the Presidential impeachment and know his capacity for quiet leadership. We sat together during the confirmations of the only two nonelected Vice Presidents our country has had. We heard a sitting President of the United States testify before our subcommittee. I know JIM to be incisive, intelligent and, above all, fair.

He has been a dedicated servant to the best interests of his South Carolina constituency and his country. He served as chairman of the House Informal Textile Committee for more than 2 years and has long championed Federal policies which recognize the national need for a healthy textile industry. He has been a key member of those committees exploring ways to eliminate the damage being done to our society and particularly our young people by drug abuse.

JIM MANN will be missed. He leaves, however, with our sincere best wishes for a happy, healthy future and great success in his new endeavors.

Mr. WOLFF. Mr. Speaker, JIM MANN's most famous accomplishment in this body was no doubt his leadership role in the House Judiciary Committee's impeachment proceedings. That he was fair and deliberate; that he was thoughtful and judicial; that his oratory and bearing were remindful of the Founding Fathers; cannot be denied. He brought great credit to this House in those difficult days, Mr. Speaker, and credit to our Nation.

But it is important to remember that JIM MANN brings those same qualities to bear in his congressional work every day. If the House is cacophonous, JIM can be counted on to provide quiet reason. If we are argumentative, he can smooth the troubled waters. If we lose sight of our objective, he has that unique ability to cut through the extraneous and bring us back on the main path. In short, JIM MANN is the kind of Representative this country needs; he will be missed by his district, his State of South Carolina, and his country.

And I personally will miss him, Mr. Speaker, although I hope and trust our friendship will endure, though JIM leaves the House. His outstanding work on the Select Committee on Narcotics Abuse and Control, which I chair, has helped to stem the flow of dangerous narcotics to our shores and cut our addict population substantially. As he embarks on new and I know successful ventures, I would remind JIM MANN that we are still in need of his counsel in these Halls.

Mr. McCLORY. Mr. Speaker, it is, of course, with mixed emotions that I rise to pay tribute to our colleague from South Carolina, and my friend, Congressman JAMES MANN. JIM MANN's decision to voluntarily retire from this body appears to reflect an attitude all too prevalent among my colleagues. I am confident myself that JIM MANN's decision and that of others of his youthful years who are leaving us at the end of the 95th Congress results from pressures and demands which tax our human capabilities to the utmost—requiring almost continuous service from which there appears to be liberation only through retirement from this body.

In the case of JIM MANN, he has assumed major responsibilities in the U.S. House of Representatives, of which I am personally and intimately aware. As a long time colleague on the House Judiciary Committee, including more recently in his capacity as chairman of

the Criminal Justice Subcommittee, I have noted the diligence and tireless application to his tasks which only my Judiciary Committee colleagues and members of the committee staff can fully appreciate.

Mr. Speaker, one aspect of JIM MANN's painstaking and conscientious work occurred during the historic and yet tragic period of the impeachment proceedings of 1974. During that period JIM MANN emerged as a leader on the majority side who individually undertook the drafting of several of the articles of impeachment. JIM MANN's work in this respect is recorded now in many of the anthologies which have been published concerning those dramatic and trying experiences of our House Judiciary Committee. As one of those who participated actively with JIM MANN in this virtually unprecedented task of drafting those articles, I can attest personally to his careful and thoughtful work, his strict adherence to the constitutional bases upon which our committee undertook to act—and his determination to reflect the views of the large majority of his colleagues—and not merely his personal concepts—based upon the evidence which our committee had received.

Mr. Speaker, in his more recent responsibilities relating to the proposed revision of the Federal Criminal Code, JIM MANN has demonstrated restraint and sound judgment in guiding his Subcommittee toward responsible action. He has recognized the importance of embodying in the proposed Federal Criminal Code the established law of our land while resisting the desires of some to use this overhaul of our Federal criminal laws as a vehicle for radical change.

Mr. Speaker, on a purely personal basis I would like to note that JIM MANN is a thoroughly friendly individual—gentle but firm, loyal, conscientious—and guided by the highest principles of the legal profession and of responsible public service.

Throughout his entire experience JIM MANN has been supported by his devoted wife Virginia who will appreciate equally with JIM MANN the freedom which accompanies retirement from this important yet active body. My wife Doris and I extend to JIM and Virginia Mann our good wishes for active and rewarding lives and much happiness.

Mr. CHAPPELL. Mr. Speaker, it is understatement when I suggest that the absence of JIM MANN, our colleague from South Carolina, will be sorely felt by the 96th Congress.

There is no doubt that he will be missed in these Chambers. JIM MANN has always represented the rational approach and his calm and judicious instincts have led us time and again to turn to him for his always thoughtful and valuable guidance.

The people of Spartanburg and Greenville counties in South Carolina can thank JIM for his efforts on behalf of the textile industry, which is that district's lifeblood. As chairman of the House Informal Textile Committee and organizer of the Textile Caucus, JIM has illustrated his understanding and appreciation of the people and place of which he is a product.

The State of South Carolina, too, owes JIM MANN its gratitude. As leader of the State's delegation in the House, JIM has been an inspiration to his fellow Carolinians, and a leader worthy of sincere respect.

People throughout the Nation will join South Carolinians in their deepfelt appreciation of JIM MANN. As an esteemed member of the Judiciary Committee, and chairman of the Subcommittee on Criminal Justice, he has spoken for the voice of reason. As the "watchman in the night" of the Watergate era and, more recently, as this body's foremost expert on criminal justice, his strength and straightforward sense of purpose have acted as a guidepost when it seemed that none could be found.

Mr. Speaker, I have found it difficult to use the word retirement as I join my colleagues today in expressing our respect and gratitude to JIM for having given us 10 years of service and leadership. JIM has demonstrated in his 30 years of public service and devotion to his district, his State, and his Nation that he is the consummate "man of the people". I do not think that will change when JIM leaves Congress.

THE RETIREMENT OF CONGRESSMAN OTIS PIKE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GREEN) is recognized for 5 minutes.

● Mr. GREEN. Mr. Speaker, the House is suffering the loss of one of its most unique Members in the retirement of Congressman OTIS PIKE, who has represented the First District of New York for the past 18 years.

I know I speak for many of my colleagues in expressing regret at OTIS' departure from our Chambers, because his intellect, good sense, and ever-present humor made him someone quite special to work with.

I want to wish Congressman PIKE the very best of luck in the future and convey to him the sense of loss the entire New York delegation feels in his departure from the House.●

FEDERAL AGENCY RULEMAKING IMPROVEMENTS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. BROYHILL) is recognized for 15 minutes.

● Mr. BROYHILL. Mr. Speaker, I have today introduced a bill entitled "The Federal Agency Rulemaking Improvements Act." This bill is designed to require a more responsible approach to rulemaking by the various regulatory agencies throughout the Federal Government and its goal is to reduce the tremendous and constantly increasing costs of Government regulation.

There is no doubt that inflation is one of the most serious problems facing this Nation today. It instills fear and anguish among the elderly and poor who are finding it increasingly difficult to afford everyday necessities; it sharply reduces the purchasing power of consumers; it reduces the amount of goods and services sold, and, ultimately, it results in lower production, fewer jobs, and a reduction in consumer goods. The causes of, and the cures for, inflation are in most instances incredibly complex and quite elusive. However, it has become increasingly clear in recent years that the Federal Government itself it contributing to inflation in a very significant manner and this contribution is increasing at an alarming annual rate.

Current and reliable studies and recent congressional hearings have indicated that Federal Government regulation costs the American economy well in excess of $100 billion per year and this figure may exceed $135 billion by the end of calendar year 1979. In addition, there seems to be no end in sight. Barry Bosworth, the Director of the Council on Wage and Price Stability, recently stated that new regulations now being developed will add more than $35 billion to the cost of Government regulation. This nonsense is totally unacceptable and must be dealt with promptly.

There is no question that some regulation is indispensible in the complex society in which we live today. However, there is also no question that many of the Federal regulations now in the law are ineffective, ill conceived, inadequately developed, and are drafted with an abundance of ambiguities. Anyone who observes the Federal regulatory process with even a passing interest quickly becomes aware that the regulatory agencies too frequently demonstrate an unwillingness to properly consider the full ramifications of their regulations and how such regulations will impact on our national economy. Another frequently observed fact is that regulatory agencies too often develop regulations without simultaneously considering the nature and volume of recordkeeping and reporting necessary to adequately implement and enforce their proposals. In short, too many of our regulatory agencies perform incomplete and sloppy work.

President Carter recently issued Executive Order 12044 which specifies new procedures which executive agencies are required to follow in developing rules and regulations. While this is a step in the right direction and one which the President should be commended for taking, it is still deficient in many respects. The bill which I have introduced draws heavily from the concepts contained in this Executive order but it contains additional and necessary requirements which unfortunately were not made a part of this Executive order. For example, it extends the requirements to the independent agencies which were exempted from the provisions of the Executive order. It also places some additional and indispensible responsibilities on the agencies and provides for a mechanism to assure some degree of uniformity among the agencies in their implementation of the requirements of this bill.

Summarized briefly, the provisions of this bill would require that regulatory agencies perform the following responsibilities in connection with any proposed rulemaking and with review of existing rules and regulations:

First. In any notice of proposed rulemaking, each agency shall include:

A detailed statement which describes the specific purpose of the rule and the purpose that will be served by such rule, as well as the scope and applicability of such proposed rule;

A statement which describes each regulatory and nonregulatory alternative which was considered by the agency in connection with such proposed rule;

A discussion of the reasons for the selection of such proposed rule as the most effective means for the achievement of the policy goals of the agency, taking into account the costs and benefits associated with each regulatory and nonregulatory alternative considered by the agency; and

An economic impact analysis of the proposed rule which shall include, among other things, the direct and indirect costs associated with compliance with such proposal, the potential inflationary or recessionary effects of such proposal, the effects of such proposal on employment, the effects on competition among businesses and industries affected by such proposed rule, the effects of such proposal on consumer costs, and the impact of such rule on recordkeeping and reporting requirements.

Second. In regard to the issuance of a final rule, the agency shall include a statement which is signed by the head of the agency indicating that such final rule is not in conflict with any existing rule prescribed by that agency or any other agency as well as a statement that such final rule shall not be interpreted in such a manner as would make such rule in conflict with any existing rule. This provision is designed to place greater responsibility on the agency head regarding the final work product that comes out of the agency.

Third. There is an additional requirement contained in this proposal that each agency review its existing rules at least once every 5 years to determine if the rule is still necessary and if it is carrying out the purposes it was originally designed to carry out at the time it was initially prescribed. Also, there is a requirement that each agency periodically publish in the Federal Register an agenda of rules which will be under consideration and a list of the agencies' regulatory priorities. The enforcement of these provisions is accomplished by allowing any person to file a petition in an appropriate circuit court of the United States alleging that a given agency has not complied with the requirements of this act. Upon a finding that the agency had not in fact complied with the requirements of this act, the court would order the agency to suspend further rulemaking proceedings relating to the rule which is the subject of the petition until the agency can show to the satisfaction of the court that it has come in compliance with the requirements of this bill. These sanctions are neither harsh nor unnecessary. The rulemaking proceeding is entirely under the control and direction of the agency involved. If an independent third party—the court—finds that an agency is not complying with certain requirements of law, it is entirely reasonable to require it to cease further action in the matter until it comes into compliance. I think that we will find rapid action by an agency which has to suffer the embarrassment of such a court order. I fully anticipate that the remarks of the various agencies will include the stock expressions of concern that these requirements will hamstring the agency, will absorb large amounts of its resources, and will delay response to national problems. On the other hand, it will be interesting to see which agencies will openly admit that they are not already undertaking the actions required by this bill in the development of their rules and regulations.

This Government has, over the years, adopted a policy of resolving most of our national problems through the mechanism of administrative rules and regulations. The impact of these rules and regulations has very obviously become enormous. Under such circumstances, it should be apparent to even the most uninformed that a meaningful, workable, and viable solution to any problem cannot be developed unless certain very basic matters are carefully analyzed, and opportunities are given to the public to see and comment on each critical aspect of the agencies' decisionmaking process.

This bill simply says to the agencies that if you are not doing the things that you obviously should be doing in the development of rules and regulations, we will mandate that you mend your ways and start proceeding in a more responsible manner.

I will await with a good deal of interest the comments of the various agencies regarding this proposal. I fully intend to reintroduce this measure at the beginning of the 96th Congress. I have no pride of authorship in this proposal and should the agencies or others interested in this matter offer meaningful, responsible, and constructive suggestions regarding needed changes in this bill, I will not hesitate to make such changes prior to my reintroduction of this bill in the next Congress.

At this point in the RECORD, I include the text of the "Federal Agency Rulemaking Improvements Act."

H.R. 14332

A bill to amend title 5, United States Code, to establish certain procedural and other requirements designed to ensure that rules prescribed by Federal agencies are necessary, reasonable, and compatible with congressional goals and policies

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Agency Rulemaking Improvements Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds that—

(1) Federal regulation of the Nation's businesses and industries is increasing at a dramatic annual rate;

(2) many Federal rules applicable to such businesses and industries are ill-conceived and inadequately developed, and are drafted in ambiguous and confusing language;

(3) Federal agencies too frequently have been unwilling to properly consider the ramifications of rules prescribed by such agencies and the manner in which such rules will affect the national economy;

(4) agencies too often develop rules without taking into account the nature and amount of recordkeeping and reporting necessary to adequately implement and enforce such rules;

(5) agencies frequently fail to carry out proper and complete reviews of existing rules in order to determine if proposed rules would impose inconsistent or overlapping requirements upon persons required to comply with such rules, and

(6) as a result of the magnitude of Federal regulation, and the ineptitude of agencies in developing rules, Federal regulation often has placed significant and unnecessary burdens upon the national economy and welfare, including—

(A) substantially increased costs to consumers, with current estimates exceeding $100,000,000,000 annually;

(B) high entry barriers in many of the Nation's businesses and industries and numerous other adverse effects on competition in the marketplace;

(C) the imposition of inequitable demands and burdens on individuals with limited means and on small organizations and small businesses; and

(D) inefficient use of the resources of agencies, enormous waste of Federal funds, and actions which often are inconsistent with national health, safety, economic, and public welfare goals.

(b) It is the purpose of this Act to establish procedural and other requirements applicable to agency rulemakings which are designed to ensure that—

(1) agencies will prescribe rules only after the need for regulatory action, and the purposes of such action, are clearly established;

(2) meaningful regulatory and nonregulatory alternatives are considered and analyzed by an agency before the agency undertakes any regulatory action;

(3) compliance costs, paperwork, and other burdens to the public imposed by agency rules are minimized;

(4) the heads of agencies will review and revise rulemaking procedures, with a view toward giving the public sufficient notice of future regulatory action;

(5) the heads of agencies will review rules to avoid conflict or duplication with existing rules; and

(6) rules are written in clear, readily understandable, and unambiguous language which specifically describes the scope and applicability of such rules.

AMENDMENT TO TITLE 5, UNITED STATES CODE

SEC. 3. (a) Chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter.

"SUBCHAPTER IV—AGENCY RULEMAKING REQUIREMENTS

"§ 591. Definitions

"For purposes of this subchapter—

"(1) the term 'agency' means each authority of the Federal Government, whether or not it is within or subject to review by another agency, but such term does not include—

"(A) the Congress;

"(B) the courts of the United States;

"(C) the governments of the territories or possessions of the United States;

"(D) the government of the District of Columbia;

"(E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;

"(F) courts martial and military commissions;

"(G) military authority exercised in the field in time of war or in occupied territory; or

"(H) functions conferred by sections 603, 604, 608, and 609 of the National Housing Act (12 U.S.C. 1738, 1739, 1743, 1744), the Contract Settlement Act of 1944 (41 U.S.C. 101 et seq.), section 13 and former section

32(b)(2) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622, 1641(b)(2)), section 4 and sections 201 through 212 of the Housing and Rent Act of 1947 (50 U.S.C. App. 1884, 1891–1902), and section 203 of the Defense Production Act Amendments of 1952 (50 U.S.C. App. 1894a);

"(2) the term 'Committee' means the Interagency Review Committee established in section 597(a);

"(3) the term 'rule' means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement or prescribe law or policy, including the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations of such structures, prices, facilities, appliances, services, or allowances for such structures, or of valuations, costs, or accounting, or practices bearing on any of the foregoing, but such term does not include—

"(A) interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice;

"(B) rules prescribed with respect to a military or foreign affairs function of the Federal Government;

"(C) rules relating to Federal Government procurement;

"(D) rules prescribed in accordance with the provisions of section 556 and section 557 of this title; or

"(E) rules prescribed after an agency publishes in the Federal Register a statement indicating that the agency has determined that—

"(i) such rules are prescribed in response to an emergency (in which case the agency shall include in such statement the reasons for such determination); or

"(ii) the prescription of such rules is governed by short-term time limitations established by or under any statute or court order; and

"(4) the term 'rulemaking' means agency process for formulating or amending a rule.

"§ 592. Requirements applicable to proposed rules

"Each agency, in connection with carrying out any proposed rulemaking, shall—

"(1) prepare a statement relating to the need for and the purposes and applicability of, the proposed rule involved in accordance with section 593 of this title;

"(2) prepare a statement containing an analysis of regulatory and nonregulatory alternatives to such proposed rule in accordance with section 593 of this title; and

"(3) carry out an economic impact analysis of such poposed rule in accordance with section 594 of this title.

"§ 593. Statement relating to need for proposed rules and analysis of alternatives

"Each agency include in the general notice of proposed rulemaking required in section 553(b) of this title—

"(1) a statement which—

"(A) describes in specific terms the need for the proposed rule involved and the purpose which will be served by such proposed rule;

"(B) indicates the legal basis for the prescription of such proposed rule; and

"(C) specifies the scope and applicability of such proposed rule; and

"(2) a statement which—

"(A) describes each regulatory and nonregulatory alternative which was considered by the agency in connection with preparation of such proposed rule;

"(B) discusses the reasons for selection of such proposed rule as the most effective means for the achievement of the policy goals and purposes of the agency, taking into account the costs and benefits associated with each regulatory and nonregulatory alternative considered by the agency; and

"(C) indicates the manner in which the economic impact analysis prepared by the agency in accordance with section 594 of this title was taken into account in connection with selecting the proposed rule as the most effective means for the achievement of the policy goals and purposes of the agency.

"§ 594. Economic impact analysis

"(a) Each agency, in connection with carrying out any proposed rulemaking, shall prepare an economic impact analysis of the proposed rule involved. Such analysis shall examine—

"(1) the direct and indirect costs associated with compliance with such proposed rule;

"(2) the potential inflationary or recessionary effects of such proposed rule;

"(3) the direct or indirect effects which such proposed rule may have on employment;

"(4) the effects which such proposed rule may have on competition in businesses and industries affected by such proposed rule, with particular attention to any competitive effects upon small businesses;

"(5) the effects which such proposed rule may have on consumer costs, with particular attention to effects upon economically depressed segments of the national population;

"(6) the impact of such proposed rule on productivity in businesses and industries affected by such proposed rule;

"(7) the impact of such proposed rule on international trade, with particular attention to effects upon the balance of payments of the United States: and

"(8) the impact of such proposed rule on recordkeeping and reporting requirements, including—

"(A) an estimate of the number of, and a description of the classes of, persons who would be required to maintain records, submit reports, and fulfill other information-gathering requirements under such proposed rule; and

"(B) an estimate of the nature and amount of information which would be required to be contained in such reports, the frequency of such reports, and the costs associated with complying with such recordkeeping, reporting, and other information-gathering requirements.

"(b) Each agency which prepares an economic impact analysis in accordance with subsection (a) shall take such analysis into account in preparing the statement required in section 593(2) of this title.

"(c) Copies of each economic impact analysis prepared by an agency in accordance with subsection (a) shall be made available by such agency for public inspection and copying during normal business hours, subject to the payment of a reasonable fee to cover any cost of such copying.

"§ 595. Requirements applicable to final rules

"(a)(1) Each statement prepared by an agency under section 593 of this title in connection with a proposed rulemaking, and included in the general notice of proposed rulemaking, shall be included by appropriate reference in the publication of the final rule in the Federal Register.

"(2) If any agency makes any change or alteration in any statement specified in paragraph (1) before publication of the final rule, then the agency shall include in such publication a detailed explanation of the nature of, and reasons for, each such change or alteration.

"(b) Each agency shall prepare a statement, which shall be signed by the head of the agency and shall be included in the publication of the final rule involved in the Federal Register, indicating that the head of the agency has reviewed such final rule and that—

"(1) such final rule is stated in clear, readily understandable, and unambiguous language which specifically describes the scope and applicability of such final rule;

"(2) such final rule is not in conflict with any existing rule prescribed by the agency or by any other agency;

"(3) such final rule shall not be interpreted or otherwise construed in such a manner as would make such rule in conflict with any existing rule prescribed by the agency or by any other agency; and

"(4)(A) such final rule is not duplicative of any existing rule prescribed by the agency or any other agency; or

"(B) in any case in which such final rule is duplicative of any such existing rule, there is a need for such duplication.

In any case in which a final rule is duplicative of any existing rule, the statement required in this subsection shall include a description of such duplication, together with an explanation of the need for such duplication.

"§ 596. Implementation of rulemaking requirements

"(a) Each agency shall prescribe rules designed to carry out the requirements of this Act. Such rules are deemed to be within the exclusion specified in section 591(3)(A) of this title and shall not be subject to the requirements of this subchapter or of subchapter II of this chapter.

"(b) Each agency shall submit rules proposed to be prescribed under subsection (a) to the Interagency Review Committee not later than 180 days after the effective date of this subchapter.

"§ 597. Interagency review of proposed rules

"(a) There is hereby established an interagency committee to be known as the Interagency Review Committee.

"(b) The Committee shall—

"(1) review proposed rules submitted to the Committee by agencies in accordance with section 596(b) of this title;

"(2) determine the manner in which such proposed rules may be revised or otherwise adapted to ensure that agencies will carry out the requirements of this subchapter in a consistent manner; and

"(3) not later than 180 days after the end of the 180-day period specified in section 596(b) of this title, submit a report to each agency and to each House of the Congress which—

"(A) describes unresolved inconsistencies and other problems identified by the Committee during its review of proposed rules submitted to it under section 596(b) of this title;

"(B) includes recommendations of the Committee regarding the manner in which such inconsistencies and other problems may be addressed in order to ensure that agencies will carry out the requirements of this subchapter in a consistent manner; and

"(C) contains model rules developed by the Committee, based upon proposed rules submitted to the Committee, which are designed to demonstrate approaches which may be used by agencies in carrying out the requirements of this subchapter.

"(c)(1) Each agency which is required to prescribe rules under section 596(a) of this title shall appoint a supervisory employee of the agency to serve as a member of the Committee. Such appointments shall be made during the 180-day period specified in section 596(b) of this title. Members shall serve for the life of the Committee. Any vacancy in the Committee shall be filled in the same manner as the original appointment.

"(2)(A) Members of the Committee shall receive no additional pay on account of their service on the Committee.

"(B) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed inter-

mittently in the Federal Government service are allowed expenses under section 5703 of this title.

"(3) For purposes of this subsection, the term 'supervisory employee' means—

"(A) an individual holding a position in an agency at GS–16, GS–17, or GS–18 of the General Schedule or at level I, II, III, IV, or V of the Executive Schedule or who is in a position at a comparable or higher level on any other Federal pay scale; and

"(B) an officer or employee of an agency who has primary responsibility for the prescription of rules under section 596(a) of this title.

"(d) The chairman of the Committee shall be elected by the members of the Committee.

"(e) The Director of the Office of Management and Budget shall be responsible for organizing the initial meeting of the Committee. After such initial meeting, the Committee shall meet at the call of the chairman or a majority of the members of the Committee.

"(f) Upon request of the Committee, the head of each agency may detail, on a reimbursable basis, any of the personnel of such agency to the Committee to assist it in carrying out its functions under this section.

"(g) The Administrator of General Services shall provide to the Committee on a reimbursable basis such administrative support services as the Committee may request.

"(h) The Committee shall cease to exist 60 days after submitting the report required in subsection (b)(3).

"§ 598. Agency review of rules

"(a) Each agency shall review each rule prescribed by such agency not later than 5 years after such rule is prescribed (and not later than the end of each 5-year period thereafter) in order to determine whether—

"(1) such rule continues to be necessary, taking into account technological and other developments, any changes in economic and other conditions, and any changes in the policies and priorities of the agency, which have occurred since such rule was initially prescribed;

"(2) such rule is carrying out the purposes it was designed to carry out at the time it was initially prescribed;

"(3) such rule is in conflict with, or is duplicative of, any existing rule prescribed by the agency or any other agency;

"(4) the language of such rule should be simplified or clarified; and

"(5) such rule should be amended or repealed.

"(b) Each agency shall, not later than 5 years after the effective date of this subchapter, review each rule prescribed by such agency which is in effect on such date of enactment in order to make the determinations specified in subsection (a) with respect to each such rule.

"(c) Each agency, in making the determinations required in subsection (a) and subsection (b), shall take into account—

"(1) the number and nature of complaints, comments, and suggestions received by the agency with respect to the rule involved; and

"(2) the nature and extent of any burdens imposed by such rule upon persons required to comply with such rule, as compared to the effectiveness of such rule in achieving the purposes for which it was initially prescribed.

"(d) Each agency shall publish each determination required in this section, together with a summary of the reasons for such determination, in the Federal Register.

"§ 599. Establishment of regulatory priorities

"(a) Each agency shall, not later than 2 years after the effective date of this subchapter (and not later than the end of each 2-year period thereafter), publish in the Federal Register a listing of the regulatory priorities of the agency during the succeeding 2-year period.

"(b)(1) Each agency shall—

"(A) publish in the Federal Register, on a semiannual basis during each fiscal year, an agenda of rules which will be under development or review during such fiscal year; and

"(B) publish in the Federal Register, not later than 30 days before the beginning of each fiscal year, a schedule of the dates on which such agendas will be published during such fiscal year.

"(2) Each such agenda published by an agency shall—

"(A) contain a brief description of each rule listed in such agenda, together with a statement relating to the need, and the legal basis, for such rule; and

"(B) include a list of existing rules which are scheduled for review by the agency in accordance with section 10 during the period covered by such agenda.

"(3) No such agenda may be published in the Federal Register unless it is approved by the head of the agency involved before such publication.

"(4) Any listing of regulatory priorities or agenda of rules published by an agency under this subsection may be modified by such agency at any time. Notice of such modification shall be published in the Federal Register by the agency, together with an explanation of the reasons for the modification.

"§ 600. Judicial review

"(a) If any agency fails to comply with any procedural requirement established in this subchapter, then any person may file a petition for judicial review in an appropriate circuit court of the United States not later than 60 days after such failure to comply.

"(b) Upon the filing of a petition under subsection (a), the court shall have jurisdiction to review the action of the agency involved, and if the court finds that the agency has failed to comply with any procedural requirement the court shall have authority to order the agency to suspend further rulemaking proceedings relating to the rule which is the subject of the petition until such agency is in compliance with the procedural requirements of this subchapter.

"(c) The judgment of the court in any action brought under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28.".

(b) The analysis for chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER IV—AGENCY RULEMAKING REQUIREMENTS

"591. Definitions.
"592. Requirements applicable to proposed rules.
"593. Statement relating to need for proposed rules and analysis of alternatives.
"594. Economic impact analysis.
"595. Requirements applicable to final rules.
"596. Implementation of rulemaking requirements.
"597. Interagency review of proposed rules.
"598. Agency review of rules.
"599. Establishment of regulatory priorities.
"600. Judicial review.".

CONFORMING AMENDMENTS

SEC. 4. Section 553(b) of title 5, United States Code, is amended—

(1) in paragraph (2) thereof, by striking out "and" at the end thereof;

(2) in paragraph (3) thereof, by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) the statements required in section 593 of this title.".

EFFECTIVE DATES

SEC. 5. The amendments made by this Act shall apply to proposed rulemakings which commence after the 18-month period beginning on the date of the enactment of this Act. Section 598(b) of tile 5, United States Code, as added by this Act, shall take effect on the date of the enactment of this Act.●

REAL ECONOMIC GROWTH IS CRUCIAL TO STRENGTHENING OUR SOCIAL SECURITY SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

● Mr. KEMP. Mr. Speaker, the strength, the stability, of the social security system is a responsibility which weighs heavily on my shoulders. There are millions of people in this country who are dependent, some almost solely, on the social security system.

The question is: How can we strengthen the social security system, assuring an adequate funding of it, without increasing the burden on the workers and producers who share the paying of social security taxes?

There is an answer: It is the adoption of economic growth policies which will foster the total expansion in the economy required to generate adequate social security tax revenues without increasing their rates on either business or the workers.

Let me explain in more detail.

MORE TOTAL GROWTH MEANS GREATER GAINS FOR ALL PERSONS

The United States is about to experience its first year of a $2 trillion GNP. But it could have been $3 trillion.

How? Since 1950, the average annual growth of the U.S. economy in real terms has been 3.7 percent. Many other major industrialized countries have grown steadily at rates well in excess of 5 percent. If the United States had grown an average 1.5 percent faster each year since 1950, at a rate of 5.2 percent, its GNP would now be $3 trillion.

With that $3 trillion economy, incomes would be 50 percent higher than they are now. Jobs would be plentiful. Federal revenues this year would be $200 billion higher, enough to provide for funding of social security needs, a balanced budget, welfare reform, national health insurance, and unqustioned military preeminence, with enough left over to let us reduce payroll and income taxes instead of raising them. Of course, price stability—little or no monetary inflation—would have been another spinoff of the growth of real output and the balanced budget.

I do not mean to cry over spilt milk. My purpose is to illustrate the power of compound interest, and the benefits to be had from faster economic growth.

Faster growth, higher incomes, and plentiful jobs are exactly what the unemployed, the underprivileged, and the minorities of this country have been seeking for many years. It is no accident that the greatest gains in income jobs, and dignity for minority workers have come during periods of rapid economic expansion. The NAACP issued a clear call

earlier this year for a return to rapid economic growth and the creation of real jobs in the private sector. Bitter experience, dead-end public jobs programs has convinced many black leaders that young people need the skills which can be learned and benefits which can be earned in the production of goods and services.

THE SOCIAL SECURITY TAX INCREASE

The social security tax increases enacted this year have drawn sharp criticism even though they have not yet gone into effect. In fact, these tax increases are but the tip of the iceberg, unless there is adequate growth.

Benefits currently promised will require increases in social security taxes by 50 percent, from 12 percent of payroll to 18 percent of payroll, over the next 70 years, if real wages grow only as rapidly as the Social Security Administration predicts—1.75 to 2 percent a year. It is assumed by a growing number that the next generation will be unwilling to pay such taxes, either in the form of payroll taxes or sharply higher income taxes.

Recent polls show a decline in public support for the social security system. For these reasons, some have suggested reducing benefits or raising the retirement age to 68 for workers just entering the system. But these suggestions assume that nothing can be done to get income to raise more rapidly than the Social Security Administration anticipates. Yet if wages can be encouraged to grow, social security revenues will rise without a tax rate increase.

I believe that it is far better to increase real wages by 50 percent more than the social security planners predict, than to impose a 50-percent increase in the tax rate on currently expected real income. An increase in the annual U.S. growth rate by only 0.6 percent would produce such a wage increase within the 70-year planning period. To do this, we must bring about the needed increase in the rate of economic growth.

THE RELATIONSHIP BETWEEN SAVINGS AND GROWTH

Anyone hoping for more rapid economic growth must be concerned with savings. Only that part of national income which goes into savings is available to cover investment and the Government deficit. Paul A. Samuelson, the Nobel-laureate economist at Massachusetts Institute of Technology, has observed that "to the extent that people are willing to save—to abstain from present consumption and wait for future consumption—to that extent society can devote resources to new capital formation."

Once the Government chooses a deficit, the only way to get more investment without expanding our foreign debt is to raise savings. The ratio of investment to GNP basically determines the country's growth rate. Only by increasing savings can the real growth rate be raised. This is especially true in the face of a massive diversion of investment to nongrowth uses.

The Government could try to help growth by reducing Government spending to lower the deficit. However, a tax increase to reduce the deficit would reduce saving by reducing the after-tax return to saving and therefore would be counterproductive.

What then should be done?

One way of encouraging saving is to lower personal income tax rates across the board. This would allow every taxpayer to keep a higher percentage of the additional interest or dividends earned from additional saving, and, thus, would make saving more attractive.

Another approach would be to tax income only when it is spent, thereby not taxing net savings. A tax deduction for savings would be created. Any additions to savings accounts, checking accounts, stocks, and bonds over the year would be deducted from taxable income.

Other nations have out-saved and outgrown the United States by wide margins over the years.

American willingness to save is low, as this chart shows, and it has been diminishing. Meanwhile, saving rates abroad have risen. The following table traces these diverse trends over the last decade. In the six major industrial countries, it pinpoints consumer saving, as a percentage of consumer disposable, or after-tax, income.

Rate of saving

[In percent]

	1977	1967
United States	5.1	7.5
Canada	9.8	6.2
Britain	13.9	8.5
West Germany	14.0	11.3
France	16.1	15.9
Japan	21.5	18.5

THE EFFECT OF TAXES UPON GROWTH

One reason we do not save enough is our high tax rate structure. Tax rates are too high, and are getting higher as inflation pushes people into higher brackets. It is marginal income, the last few hundred dollars of the taxpayer's earnings, which falls into higher brackets and is taxed at a higher rate. The Government takes a larger slice out of the last few hundred dollars of each person's wages, profits, interest, and dividends, and lowers a taxpayer's interest in earning more money or adding to savings. Inflation is producing real tax increases of $7 to $9 billion per year on individuals. Millions of workers have seen their incomes taxed in higher and higher brackets.

These changes in marginal tax rates affect behavior. At the margin, leisure might be substituted for labor, because the reward to labor has fallen. Consumption could tend to replace saving and investment because the reward to saving and investment falls. These shifts in behavior cause real GNP, saving investment, and job creation to drop. This is one of the reasons for the severity of the 1974–1975 recession.

In the long run, inflation has another effect, a subtle but devastating influence on saving. Inflation acts through the tax system both to reduce personal saving, and to misdirect what saving is done into inefficient, even unprofitable investments, thereby reducing economic growth.

It begins to pay a taxpayer to look into the use of tax shelters when his income rises to the point where it is being taxed at marginal rates a bit in excess of 30 percent—$18,000 for a single taxpayer, $25,000 for those filing jointly). The number of taxpayers in those brackets has risen dramatically in the last 12 years. In 1965, less than 2 percent of taxable returns reached brackets above 30 percent. This year, the figure is nearly 10 percent. Taxpayers in these brackets have income roughly three times the median income. Thus, the percent of total personal saving which potentially could be lured into tax shelters has risen from perhaps 10 percent to about 30 percent since 1965. The middle class is being pushed into shelters in a big way.

At the present time, less than $3 billion is collected in tax revenues on existing taxable income by having marginal tax rates in excess of 50 percent. Much of the potentially taxable income in these brackets has been sheltered or simply not earned. To increase the taxes on this income group will only result in a lower tax take, as more of their income would be shifted to nontaxable forms of income.

The amount of income actually being directed into certain types of tax shelters has risen several hundred percent in the last few years. Many brokerage houses are finding it harder to interest customers in common stock, while finding it very difficult to keep up with the demand for tax exempt bonds and tax exempt mutual funds and unit trusts.

It is very likely that marginal tax rates have risen to the point where they are causing a substantial reduction in this country's growth rate. There is even a reasonable possibility that marginal tax rates are so high that they have actually reduced Federal revenue at least in some brackets.

INFLATION DEPRESSES THE GROWTH IN WAGES

Inflation depresses the growth of business activity, job formation, and wages by interfering dramatically with depreciation. The Tax Code only permits a tax deduction of the historical cost of plant and equipment. When inflation increases the cost of new plant and equipment, the firm finds that the money it has set aside for replacement is inadequate. It must use taxable income to supplement its depreciation allowances just to maintain its productive capacity—just to stand still. Thus, actual economic depreciation is understated, and real corporate profits are overstated. Inflation "disallows" the deduction of a real cost of doing business, increases the firm's tax liability, and reduces its ability to grow.

In some industries, real economic profits, after taxes, inflation, and real depreciation, are less than zero. The tax collector is eating into assets, and the industry is shrinking. Treasury Secretary Blumenthal has been quoted as saying, "I can't explain the stock market. I didn't understand the market when I was in business, and I don't understand it now." I am not surprised to hear that the Secretary of the Treasury does not understand the stock market. Yet, there is nothing mysterious about the behav-

ior of the stock market. The broadly based Standard and Poor's 500 index, expressed in real dollars, shows that stock prices have been accurately matching changes in real economic profits for years. After-tax real economic profits are less than they were in 1967.

THE ADMINISTRATION PACKAGE

What does the President propose to do in the face of all these problems?

First, he proposes to make the savings crisis worse by switching from a personal exemption to a tax credit, transferring money from people who tend to save to people who tend to spend.

Second, he reduced the size of the tax cut, letting people slide into higher tax brackets, and transferring even more money to the pro-spending, antisaving Government. Even under the original package, families earning more than $17,000 would face real tax increases by 1979 because of inflation, social security tax increases, and the switch to the tax credit. It will be worse now.

Third, he does nothing to end the double taxation of dividends, or index the tax code, or eliminate under-depreciation.

In short, the President is content to close the deficit by raising taxes instead of curbing spending. He has shown little concept of the link between saving and investment, or inflation and saving, or growth and social security.

If we want growth, we have to increase saving, whether it is saving by individuals, or retained earnings of corporations.

Then we have to make it worthwhile for business to invest that saving to provide real output, jobs, and the productivity and capacity growth we will need to provide for ever larger numbers of retirees without breaking the system.

To that end, Republicans in Congress have proposed several policy changes.

First, roll back social security tax increases, funding medicare out of general revenue while giving the medicare taxes to the general retirement fund.

Second, get at the long-term problems of the social security system by adjusting replacement ratios—initial benefit levels as a percent of wages, age of retirement, or other factors. Offset the depressing effect on saving that the system has.

Third, cut marginal tax rates sharply across the board. This will help saving and social security too, and discourage the use of wasteful tax shelters (Roth-Kemp).

Fourth, index the new lower tax rates so inflation would not undo the tax cut.

Fifth, develop a savings tax deduction or savings promotion program to raise the U.S. savings rate to fund the investment we need for growth.

Sixth, cut corporate tax rates sharply.

Seventh, switch to replacement cost depreciation. Trade in loopholes if necessary to get these two corporate tax reductions. These are more valuable than anything else (Stockman).

Eighth, eliminate, lower, or at least index capital gains taxation (Steiger).

Ninth, end waste in Federal spending. Even if tax cuts produce only a 50-percent return in revenue reflows and savings, ending $60 billion in fat in the budget would pay for these tax cuts.

Last, address structural unemployment and end the waste in CETA by reviving the type of program used after World War II to put veterans into real training programs in private firms.

Mr. Speaker, strengthening the social security system will be a major focus of my activity in the 96th Congress. I will do everything I can to bring about the kind of changes in policy conducive to the growth this country truly needs.●

PUBLIC POLICY AND THE CHANGING STRUCTURE OF AMERICAN AGRICULTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 15 minutes.

● Mr. GRASSLEY. Mr. Speaker, as many of my colleagues know, before being elected to serve in Congress I was actively engaged in farming. By the standards in Iowa my farm could definitely qualify as a "family farm." It would also qualify as a "family farm" under the U.S. Department of Agriculture's definition of a family farm.

Presently, I serve as ranking minority member of the Family Farms, Rural Development, and Special Studies Subcommittee of the House Agriculture Committee. In both capacities I have witnessed the many problems facing the family farms in America. In many instances I fear that their very existence is threatened and I think the statistics will show that my fears are valid. It is my strongly held conviction that it is in the best interest of our country that the institution of the family farmer be maintained. Family farmers are the very backbone of our country. They possess the many qualities which make our country great.

Recently, the Congressional Budget Office released a background paper entitled "Public Policy and the Changing Structure of American Agriculture." The report points out that in 1945 there were 5.9 million farms with a farm labor force of nearly 11 million. Today, there are 2.7 million farms of about 4 million workers. The report points out that although the structure of agriculture is determined by the interaction of several factors, public policy is one of the most important. When providing some insight as to what the future holds, the CBO report states that "the public policies now in place insure a continuation of the current trend toward fewer, larger, and more specialized farms; nevertheless, the majority would continue to be family owned and operated." Mr. Speaker, the Members of Congress must closely analyze what is happening in this country to family farmers and make some sound judgments which are in our best interest. This is important to our Nation and it is especially important to the family farmers.

Mr. Speaker, the issue to which I have spoken earlier is the effects of public policy on family farmers. Now I would like to direct my comments on another point. Has there been an effort by processors and/or marketers to gain control of the production of agricultural products with the ultimate goal of putting the small family farmer out of business? Some individuals would contend that this is the case and that this threat to the independent family farmer has been taking place through vertical integration.

Mr. Speaker, for the benefit of my colleagues, following my remarks appears a summary of the background paper "Public Policy and the Changing Structure of American Agriculture." In addition, following the summary in an article which appeared in the November 11, 1964 edition of the Rocky Mountain Journal with the headline "Chains Open Fire on Family Farms." I would like to point out to my colleagues that this article appeared nearly 14 years ago. In my opinion, considering what has happened over the past 15 or so years, this article takes on added importance.

Mr. Speaker, whether the pressures come from public policy or from the processors and/or marketers, it is a recognized fact that family farmers have come under much strain in the last two decades and it appears these pressures will continue. This is an issue which is very important to all Americans, and I can assure my colleagues that I will be working to bring to their attention and to the attention of the American people the necessity of a viable family farm system.

PUBLIC POLICY AND CHANGING STRUCTURE OF AMERICAN AGRICULTURE

The structure of American agriculture is changing. Farms are becoming fewer in number, larger in size, highly specialized in production, and more dependent on the nonfarm sector. Old patterns of resource ownership, financing, and decision making are breaking down. And today some farmers who invested in new equipment and land to meet expanding export demand in the early 1970s face financial hardship due to lower world grain prices and inflation-fed production costs. These changes in the structural organization and performance of the U.S. farm sector raise three questions of interest to public policymakers:

How and why is the structure of agriculture changing?

What difference does it make—and to whom?

Are the major changes in structure taking us where we want to go? If not, can public policy be used to do something about it?

THE CHANGING FARM SECTOR

In 1945, there were 5.9 million farms, and a farm labor force (farm operators, hired workers, and unpaid family workers) of nearly 11 million; today, there are 2.7 million farms and about 4 million workers. Such substantial resource adjustments in farming are not surprising, given the steady introduction of new technology—particularly, farm mechanization. Big machines, such as a 4-wheel drive tractor, encourage farm-size growth by allowing a single operator to farm many more acres per unit of time. In what is described as "economic cannibalism from within agriculture," small farms are being replaced by much larger farms using modern machines and production practices to achieve higher incomes and a rising standard of living. As a result, a typical modern farm may now require

sophisticated managerial skills and a capital investment of a half-million dollars or more.

The structure of agriculture is determined by the interaction of several factors, but public policy is one of the most important. Although nearly all public programs are enacted to help family owned and operated farms, benefits are generally distributed in direct proportion to their volume of output, leaving little doubt that public policy has discouraged small farms. Commodity programs, which have been used to support and stabilize farm prices and incomes since the 1930s, provide an excellent example of the way in which public policies have created greater concentration in farming. Expansion-oriented farmers have converted program benefits—reduced uncertainty, higher market prices, and government payments—into additional land, modern machines, and highly specialized production processes. Since the benefits of commodity programs have been capitalized into land values, the programs reward the role of landowner rather than the role of farm operator or farm worker.

Federal tax policy extends special treatment to individuals engaged in agricultural production; encourages the conversion of farm income into capital gain, which is taxable at a lower rate; and allows investment tax credits and accelerated depreciation. These provisions tend to attract additional capital into farming, encourage rapid mechanization, and yield absolute benefits in direct proportion to taxable income. Once again, the final outcome is a capital-intensive agriculture with high land prices and fewer farms.

The impact on farm structure of other public policies are best described as mixed. For example, government-subsidized agricultural credit assists young farmers and small-scale farmers who cannot obtain credit elsewhere, but it also increases the supply of credit, thereby promoting the expansion of existing farms. And while many aspects of agricultural research and extension are neutral with respect to farm size, relatively more attention has been directed to the production and marketing problems of large farms.

CONSEQUENCES OF STRUCTURAL CHANGE

Despite these structural changes, the U.S. farm sector is highly heterogeneous. Today, there are many sizes and types of farms and many different production practices and marketing arrangements; in addition, there are substantial variations in the level, source, and stability of farm family income.

In 1977, there were 162,000 farms with annual gross sales of $100,000 or more. These "large farms" accounted for only about 6 percent of all farms, though they contributed 53 percent of total cash receipts from farming that year. Their average income per farm, which includes all off-farm income of the farm operator and his family, was nearly $48,000; 80 percent of that income came from farming.

About 70 percent of all farms in 1977—nearly 2 million farms—had annual gross sales of less than $20,000. The "small farms" accounted for only 11 percent of all cash receipts from farming. Their average income per farm operator family was estimated to be more than $15,000, but 85 percent of that income came from off-farm sources. Although the incidence of poverty among farm families has dropped dramatically during the last few decades, between 15 and 20 percent of the small-farm population today falls below the official "poverty line."

Farms can be classified according to the degree of their differentiation between capital ownership, management, and labor as well as according to the amount of their annual sales. Although there is no universally accepted definition of a family owned and operated farm, for statistical purposes, a family farm is commonly defined as any farm that annually uses less than 1.5 man-years of hired labor and is not operated by a hired manager. On the basis of that definition, an estimated 90 percent of all farms today as family farms. These farms play a leading role in food and feed grain production, dairying, most livestock enterprises, tobacco, and most diversified farming. Family farms vary widely according to their cash receipts; but together they account for 60 percent of total cash receipts from farming.

The remaining farms in U.S. agriculture today can be classified as industrialized farms, that is, forms that use assembly-line production techniques and have highly differentiated capital ownership, management, and labor; or larger-than-family farms—nonindustrialized farms that use more than 1.5 man-years of hired labor. Only 2 percent or less of all farms today are industrialized, but they account for from 15 to 20 percent of all cash receipts from farming. These farms are most often found in broiler chickens, sugar cane, citrus fruits, seed production, some processing fruits and vegetables, and cattle feeding. Larger-than-family farms (4 to 8 percent of all farms) contribute 20 to 25 percent of total cash receipts. These farms produce many kinds of agricultural commodities and they are most prevalent in the West and South, which have historically had larger than average farms.

As farms today are becoming more highly mechanized, specialized, and closely tied to the nonfarm sector, farmers compete vigorously for the limited amount of available farmland. The price of land is therefore rising, leaving established farm owners in a strong equity position, which they often use to finance newer machinery and to expand their land base. Some probable consequences of this ongoing process are:

Increasing reliance on production and marketing practices that requires large-scale and specialized farm operations;

Higher capital requirements for farming, making it difficult for young people to enter farming and creating cash flow problems for heavily indebted farmers when commodity prices fall;

Increasing displacement of farm operators and farmworkers who would prefer to remain in farming or who are not prepared for nonfarm employment;

Fewer farm families and workers to patronize businesses in rural communities, resulting in contraction of the local labor force, fewer public services, and reduced participation in social and civic organizations.

These steadily rising land prices, and favorable tax treatment, attract individuals and businesses to farmland as an investment opportunity and hedge against inflation rather than as a primary means of income. Pressure to separate land ownership from farming therefore mounts, and farmers may ultimately be outbid in the land market.

ALTERNATIVE FUTURE STRUCTURES

The public policies now in place ensure a continuation of the current trend toward fewer, larger and more specialized farms; nevertheless, the majority would continue to be family owned and operated. If current policies are pursued, there will be about 1.6 million farms in 2000, with returns to individual farmers varying greatly according to farm size and other farm resources. If policymakers desire, specific changes in public policies—for example, targeting the benefits of commodity programs to smaller, diversified farms—could decelerate the current structural trend and increase the number of farms, by .3 to .4 million, to 1.9 or 2.0 million in 2000. Alternatively, public policies could be used to reduce the production costs of large farms and encourage closer coordination with the nonfarm sector through contracting and direct ownership. These strategies would accelerate the current trend and would probably further decrease the number of farms, by .6 to .7 million, to 0.9 to 1.0 million in 2000.

Accelerating the current trend would primarily benefit the consumers and relatively few owners of the largest farms. Lower production costs and fewer farms might increase average net farm income by 25 percent and decrease retail food prices by 3 to 5 percent, as compared with continuing the current trend. This relative decline in retail food prices is based on the assumption that efficiencies gained from accelerating the current trend would be reflected forward to consumers. Under any alternative farm structure, retail food prices are expected to rise in future years, primarily because of increased processing and marketing services and higher wages.

Accelerating the current trend would, however, impose major costs on rural communities: total cash receipts to the farm sector would fall, farm employment would decline, and local economic activity would contract. Thus, though society would gain an efficiency-oriented farm sector under this option, farm income would be skewed in favor of a few large farms, rural communities would suffer, and the decrease in the number of farms would increase the possibility of interruptions in food supply.

Slowing down the current trend toward larger and fewer farms would stimulate income generation in local economies and rural communities, but this option would also lower average net farm income and raise food prices. As compared with continuing the current trend, the higher total cash receipts and higher employment in the farm sector under this option might cause secondary income generation to rise 15 percent, average net farm income might fall as much as 20 percent, and retail food prices might rise 3 percent. Federal budget costs would also increase, because decelerating the currrent structural trend would require more government support of farm incomes and rural industrialization. However, if continuing or accelerating the current trend led to substantial increases in federal spending in order to assist people displaced from farming, this difference could be reversed.

In short, in percentage terms, food price differences under the three alternatives considered here—continuing, decelerating, or accelerating the current trend toward larger and more specialized farms—appear modest, as compared with the trade-offs involved in total cash receipts to farming, the level and distribution of net farm income, and the viability of rural communities. Thus, the highly publicized conflict between farmers and consumers—higher commodity prices versus lower retail food prices—may not be a primary consideration in decisions concerning the future structure of agriculture.

[Rocky Mountain Journal, Nov. 11, 1964]

CHAINS OPEN FIRE ON FAMILY FARMS

(By Gene Cervi)

Abolition of the family farm was called for at the annual meeting of the National Association of Food Chains in Chicago in October by the organization's principal spokesman.

Never before has such open warfare been declared on a traditional segment of American society.

It is known, however, that since the end of World War II, the supermarkets have been in the steady process of vertically integrating small farmers and ranchers out of existence as farms got bigger and the farm folk sold the furniture and moved to town to work in mill and factory.

Clarence G. Adamy, executive vice president of the national chain store group, said flatly, in his October speech, "I do not believe this (the idea that agriculture is the province of family farmers) to be a sensible goal for mid-twentieth century American farm policy.

"Not only that, but I am opposed to the maintenance of the family farm," Adamy said in calling for a counter-attack on farm organizations fighting to get a fair share of the food dollar for the man who produces it.

A large part of the October meeting of chain stores was taken up with means and methods of countering, if not subverting, the investigations soon to be launched by the joint presidential-congressional National Commission on Food Marketing.

Speaker after speaker raised warning signals of unconscionable evidence that could come to light if the National Commission is diligent in examining supermarkets buying practices that by their nature and trend bring charges of illegal price-fixing and restraint of competition.

Inescapable facts and questions in the national food economy confronting the Commission are:

1. The cattle producers of America lost more than $2,500,000,000 in 1963. The question: Who got that money, since it didn't go to the consumer in the form of lower prices and it didn't go to labor in view of growing automation?

2. Since the end of World War II, beef prices at retail have increased 26 per cent, according to the Department of Agriculture, and prices paid to beef producers declined a minimum of 16 per cent.

3. Why was it possible for chains to make a profit seven years ago when there was a shortage and no imports of beef, when prices at retail were lower than they are today, and beef producers were getting 25 per cent more than they are today?

4. If there is a surplus of beef, as the chains contend and the producers deny, why doesn't the natural law of supply and demand operate to bring down the prices at retail?

5. Why did credit for small farm and ranch operations dry up progressively in the last 20 months until today only the largest commercial feed lots and the largest ranchers are conditioned to stay in business?

These are but a few of the matters that will be brought before the Commission. The chain stores are worried because they'll not look good when their practices and methods of squeezing producers come to light.

It is the strategy of the supermarkets to appeal to Congress through the customers they (the chains), currently are brainwashing.

The chains and the largest food processors are engaged in a gigantic saturation advertising campaign to convince the consumer that she never had it so good, and every possible effort is being exerted to hide the fact that thousands of farmers and ranchers are going broke.

Meanwhile, farm organizations are not idle in the face of Adamy's determination to wipe out their members.

Tipoff to the fact that the chains control food prices and have repealed the law of supply and demand was seen last month in the Ohio Farm Bureau demand that its parent organization, the American Farm Bureau, undertake to buy one of the largest chain stores. It is believed the organization has its eye on the management-plagued Atlantic & Pacific organization.

In St. Paul recently, The Minnesota Farmers Union passed resolutions barring food chains, packers and processors from operating farms, feedlots, egg factories or cow-pools.

Chain store spokesmen are so frightened that some of them see price controls in some form coming. They also hint at revolutionary measures to make all large chains utilities and have their rates of return fixed as in the current manner of private power utilities.

This type of hysteria among chain store spokesman can be attributed to severe cases of bad conscience.

After all, the 1963 question won't go away: Who DID get that $2.5 billion that the beef producers lost in one year? ●

THE CONTINUING TRAGEDY OF OCCUPATIONAL HAZARDS AND DISEASE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, during the month of June, the Chicago Sun-Times printed a series of articles on the dangers of working in many, many industries across the country, and on the lack of enforcement of occupational safety and health laws by the States and the Federal Government. I have had a number of these articles reprinted in the October 2–5 editions of the CONGRESSIONAL RECORD, and another in this series follows. I strongly urge my colleagues in the Congress to give these articles their most profound attention and consideration because deadly threats to the health and well-being of millions of Americans continue to exist and grow in number. The article follows:

[From the Chicago Sun Times, June 22, 1978]

THE WORKING WOUNDED

(By Michael Flannery)

Joe Banvich was once a brawny Lithuanian—the kind of guy who could heft a 20-pound jackhammer for 16 hours a day and still have energy to pinch hit in a neighborhood softball game.

Today, at 56, Joseph J. Banvich is a gaunt and ghostly invalid whose chest heaves with the mere effort of speaking. Talking between gulps of air, he said:

"I'm so weak . . . I can't wash my own body. Sometimes I wash my face . . . but it leaves me gasping . . for breath."

In the summer of 1941, 19-year old Joe had hired on at the foundry of U.S. Steel Corp.'s South Works. He labored for the next three decades in a cloud of dust as a chipper, chipping stray lumps of iron and foundry sand from metal molds.

The dust—containing billions of deadly, microscopic silica particles—was so thick that at times he could see no farther than an inch or two in front of his face. Meanwhile, silica was destroying the delicate tissue of his lungs. By 1973, the breath-robbing disease silicosis was so advanced that he was forced into a disability retirement.

Even when he can summon the strength to walk, Banvich is unable to move more than a few feet from the oxygen tank next to his bed. He is tethered to the tank by a plastic tube inserted in his nose.

Were that flow of pure oxygen cut off, Banvich would die like a fish out of water—unable to survive in the air around him, only 21 per cent of which is oxygen.

His devoted wife, Josephine, began to cry as she greeted a visitor at the door of their bungalow at 8450 S. Colfax. "My Joe is dying. The doctors say all he's got is 24 per cent of his lung capacity left. They can't figure out why he's not dead," she said.

Dust conditions in the foundry have not improved all that much since the era when Banvich hired on to judge from the findings of the Occupational Safety and Health Administration. OSHA found respirable silica levels at South Works last fall as much as 21 times above the federal standard.

At least 30 of 68 foundry workers and pensioners examined in April by the National Institute of Occupational Safety and Health were found to have silicosis symptoms, reported John Chico, president of United Steelworkers Local 65. The 325 workers in the foundry are waiting for final results of those tests to be made public later this month.

U.S. Steel has declined to comment. But in the March 1 issue of Cornerstone, a South Works company newsletter, retiring plant Supt. Victor H. Lindberg gave his view:

"I take extreme exception to the recent grandstanding forays by the OSHA agency and its allegations about South Works in light of our excellent safety record. At the same time I take exception to the remarks of a few *jerks* [emphasis added] within our own plant family whose only apparent goal is divisiveness and ultimate shutdown of a facility or facilities."

"Isn't that nice?" asked Mrs. Banvich.

"We're jerks? We're trying to shut the plant down? I'd like to have Mr. Lindberg come to my house. I'd like all the bosses at U.S. Steel to look at my Joe. He used to be a big man, he was a powerful man. Now he's skin and bones."

Banvich, who is 6-foot-1, weighs less than 150 pounds. Before he became chronically short-winded, he carried better than 180 pounds on his frame.

None of the confirmed victims of the disease who are still working will talk to reporters. Lindberg's threat of a shutdown, which they said has been repeated by foremen, has them frightened. Above all, many are afraid that if the company learns of their silicosis it will transfer them out of the foundry into lesser-paying jobs.

"You have to realize one thing—these guys are making good money," said John J. Kelly, a millwright in the foundry and a one-time union grievanceman. "It's real steady work these days, with lots of overtime. Some of these guys are walking out of there with $1,000 or $1,100 every two weeks. They don't want to lose a job like that, even if it kills them.

"Most of these people don't have much education and all they know how to do is foundry work. It's not a skilled trade—it's muscle and brawn and a willingness to work. It doesn't take a lot of book learning to chip or cast metal or ram sand into a mold."

Kelly, 60, of 10042 S. Perry, cited the case of former chipper Tom Bryant, who disclosed last year that doctors at Cook County Hospital had diagnosed him as one of the silicosis victims.

Cook County Hospital's Dr. Bertram Carnow said several foundrymen have "some of the worse cases of silicosis I have ever seen. They have terribly marked impairment of the lungs—the X-rays are incredible."

Bryant refused to be interviewed, but it was learned that the day after he publicized his illness, U.S. Steel sent him to a company doctor who diagnosed "hypertension" and ordered him on sick leave. His earnings dropped from a minimum $410 a week to the $142 sickness and accident benefit. After six months on enforced sick leave, Bryant was allowed to return to work as a $250 a week laborer, picking up litter.

Said Kelly: "Everybody else hates to think they might go the way of Mr. Tom Bryant—to laborer status. He has been humiliated and a lot of guys are thinking he should have never opened his mouth."

The onset of silicosis has been enough to scare at least one man out of the foundry,

however. Robert L. Samuel, 48, of 6822 S. Indiana, was diagnosed at Cook County Hospital recently.

"There is no job in the world that is worth my life," he asserted. "The doctor doesn't want me working around no dust at all. I started in that plant in 1951. I've been losing my breath for years. But I just thought it was part of getting older."

Samuel noted that management has always made face masks available to foundry employes, but only in the recent past has it required they be worn. In any event, the current masks are useful only in atmospheres containing dust up to five times the standard; they are no protection when silica levels reach 21 times the limit, according to OSHA.

"Respirators haven't ever been any good," said Samuel. "The respirator doesn't fit real tight around your face and that silica dust—it's powdered real fine. It finds a way into your lungs. To keep that dust out of there, you have got to take the silica out of the air altogether. This is what the company doesn't want to do. It costs too much money."

OSHA fined U.S. Steel $21,100 for health hazards in the foundry (including silica and noise levels). It hit the nation's largest steelmaker with another $215,800 in penalties for safety violations in the foundry and elsewhere at South Works. U.S. Steel is contesting those citations, as well as two others against South Works involving fines of $1,000 each.

OSHA, in preparation for what could become an epic legal battle with U.S. Steel, has hired an outside consultant to tour the foundry and to prepare a report on how much it would cost to bring the facility into compliance. Agency spokesmen admit that the expense may be considerable.

Iron and steel foundries, which employ about 247,000 persons, are ranked sixth among hazardous manufacturing industries by the Bureau of Labor Statistics in a soon to be published survey.

Edward E. Sadlowski, a former president of Local 65 who is now a union subdistrict director on the South Side, said, "It's a very sorry fact that in this society a worker often must trade off his physical well-being to earn a livelihood. Every day, there are literally thousands of people who choose between providing food for their families and suffering a premature, painful death."

He said that workers would not have to make that trade-off if their earnings were protected in the event they contracted an occupational disease and were forced to take what would normally be a lesser-paying job.

During the last contract negotiations, the Steelworkers for the first time scored advances in that direction, and Lloyd McBride, the man who defeated Sadlowski for president of the international union, has pledged to continue the effort. With such protection, the union argues, fewer workers would avoid physical checkups for fear of revealing a disease that might cost them their jobs.

The penalties imposed on South Works are the largest in OSHA's history. The agency was angered by what it perceived was a lack of good faith on the company's part.

OSHA charged that the company failed to comply with regulations requiring that each occupational illness be reported in a log. A death from silicosis, for example, was not logged and when OSHA inquired about other cases it believes it was misled.

Banvich, for one, said U.S. Steel told inquiring OSHA compliance officers that he had not been forced to retire because of disability.

"I'm no doctor," Banvich said, "but I know there have been a lot of deaths in that foundry that looked just like silicosis to me. Too many guys—young guys—died." ●

TRIBUTE TO EIGHT RETIRING MEMBERS OF TEXAS STATE DELEGATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BROOKS) is recognized for 60 minutes.)

Mr. BROOKS. Mr. Speaker, I have requested this special order to honor a very special group of colleagues who will not be serving in the House next year. There is no way to adequately pay tribute to this group who will long be remembered and appreciated. I doubt if ever before has Congress lost such leadership, accomplishments, and service at one time from a State's delegation. The individual achievements are too numerous and lengthy to describe. I am afraid that the House of Representatives is going to greatly suffer from their absence in service and the varied expertise that these Members offer. Their collective service totals 190 years and these colleagues I speak of are the eight retiring members of my own congressional delegation from the State of Texas.

GEORGE MAHON's retirement will be a great loss not only to the west Texas district which he has represented since 1934 when he was elected to the 74th Congress but to our entire country. He is current dean of the House as well as dean of the Texas delegation. He has certainly distinguished himself in the 44 years he has so ably served. He is one of the most knowledgable men in the country on our appropriation process and has held the important position of chairman of the House Committee on Appropriations for the past 14 years. He has always been mindful of a sound fiscal policy and has exerted strong leadership in our national defense posture. His leadership and experience will be sorely missed.

W. R. "BOB" POAGE was elected to Congress from Waco, Tex., in 1936 and is second in terms of service in the House. He has served our country well as chairman of the House Committee on Agriculture and is one of the most knowledgable men in the world today on agriculture problems. He has been a real innovator in farm policy which has had an impact worldwide. We are all grateful for the leadership and guidance he has provided. He has set a splendid example for the service that he has provided for constituents.

OLIN E. "TIGER" TEAGUE took his seat in the House of Representatives on August 24, 1946. He received some of the highest honors given for bravery in combat during World War II. He is responsible for most major legislation affecting our veterans. He served as chairman of the House Committee on Veterans Affairs from 1955 through 1972. He has played a leading role in the development of our science and space programs and has been chairman of the Science and Technology Committee since the 93d Congress. He served ably as chairman to the Democratic Caucus in the 92d and 93d Congresses.

OMAR BURLESON was elected to the 80th Congress in 1947. He has served on the House Committee on Ways and Means since 1968 and has played a major role in passage of tax legislation. Prior to that he served as chairman of the House Administration Committee. As evidence of the high regard his constituents hold for him is the fact that during his tenure he has seldom had opposition in his reelection bids.

JOHN YOUNG was elected to Congress in 1956 to the 85th Congress. He has served with distinction on the Rules Committee. He was a stalwart member of the Joint Committee on Atomic Energy. Congressman YOUNG has worked hard and courageously for his country in war and in Congress and served his constituents loyally and well.

BARBARA JORDAN was elected to the 93d Congress in 1972. During these 6 years she has established a national reputation. She came to Congress well prepared having served with distinction as the first black woman to serve in the Texas State Senate. She was the keynote speaker at the 1976 Democratic National Convention. Her work on the House Judiciary Committee has been an invaluable contribution to our Nation.

DALE MILFORD has served the metropolitan area between Dallas and Fort Worth since his election to the House in 1972. He has worked hard as a member of the Science and Technology Committee and on the Public Works and Transportation Committee.

ROBERT "BOB" KRUEGER has served in the House since his election to the 94th Congress in 1974, after a distinguished academic career. He has worked hard and earned an enviable reputation on the House Committee on Interstate and Foreign Commerce.

I am grateful for having had the opportunity to have worked with each of these Members. They have earned our respect and admiration. They represented our Nation and their districts well.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I appreciate the gentleman yielding and I join him in paying tribute to this special group of great Americans.

Mr. VAN DEERLIN. Mr. Speaker, I doubt that there has ever been a time that so many members of seniority and distinction have departed from a single State delegation in Congress. Names like MAHON, POAGUE, TEAGUE, and BURLESON all convey a sense of permanence; it seems almost inconceivable that they will not be called out by the House Clerk convening the 96th Congress.

The late President John Kennedy once referred to the Arkansas delegation of the early sixties as "pound for pound, the most influential in Congress." The same, surely, could be said of the present Texas delegation—with emphasis, naturally, on some of the giants now retiring.

I am indebted to many of them for personal kindnesses. And few of us, I think, will soon forget the graciousness displayed by BOB POAGE on the occasion of his replacement as chairman of the House Agriculture Committee. He revealed himself then to be a man as big as Texas itself.

● Mr. COLLINS of Texas. Mr. Speaker, those of us who believe the "least governed are the best governed" are going to miss OMAR BURLESON. OMAR is one of the last of the great conservatives of the South. In this liberal Congress where there is such a strong swing toward big spending, more Government regulation, and expanding bureaucracies, the folks in west Texas can always count on OMAR BURLESON to vote with commonsense. He is against big spending, and he still believes that the best government is the local government at home. OMAR is a man of few words and when he gave something, it really counts. His down-to-earth spirit and his bills and amendments with logic will be a big loss to us in Congress. There are not many people in Congress who stand up on the hard votes and vote for America the way the Constitution was written. OMAR BURLESON is one of the strong handful of men who follow the traditions of our Founding Fathers. He is a great frontiersman exemplifying the finest of the western spirit.●

● Mr. DERWINSKI. Mr. Speaker, this year we will see the departure of eight members of the Texas delegation who have made great contributions to their constituencies, the Congress, and their country. Each in their own capacity has had a positive impact on the programs of our Nation's fiscal policies, our international position, and on the preservation of our national resources and our national heritage.

During his 44 years of dedicated service, GEORGE MAHON made many invaluable contributions to the people of this Nation who are greatly indebted to this diligent and devoted Member of the House. His chairmanship of the important Appropriations Committee has been an example of fine leadership and an inspiration to all of us. GEORGE will be remembered as a man of great ability, a conscientious and highly capable legislator and truly one of the giants of the House of Representatives.

BOB POAGE has distinguished himself as a man of integrity and ability and has been a leader in the Congress and for the State of Texas. I have had the pleasure of working closely with BOB on a number of international conferences in which he was a most effective spokesman for our country. BOB has been a hard-working and dedicated Member, whose special interest in agricultural matters has made him a strong leader for improving the quality of life for the American farmer. It was a great loss for the country and for the Congress when BOB POAGE was denied the chairmanship of the Agriculture Committee during the 94th Congress. His good and balanced judgment deserves a sincere word of gratitude from those who have benefited from his outstanding record of service for 42 years. BOB is truly one of our great Members.

OLIN "TIGER" TEAGUE, whose outstanding war record has served as a great example to all of us, is a man of strong convictions who has consistently displayed the courage to put principle ahead of party. He is a deeply dedicated legislator who has compiled an enviable record of achievement on the national level, while at the same time caring for the needs of his own constituency and his State. He has earned much respect for his devotion to the cause of good government.

DALE MILFORD, whose career as a Member came to an earlier than intended retirement, is a productive, sound, energetic legislator who has always shown a high standard of public service. His great personal integrity and honesty will certainly be missed, but I am certain that he will continue to make a worthwhile contribution to his State and to his country.

We have been fortunate to have OMAR BURLESON as a colleague and to benefit from his extraordinary legislative skill. I have enjoyed serving with OMAR on the International Relations Committee, and found him to be a steadfast and effective member.

JOHN YOUNG's work on the House Rules Committee has been significant in shaping responsible legislation which is devoted to the preservation of our system of government. JOHN has proven that he is dedicated to the best interests of his constituents and of this Nation.

BARBARA JORDAN, who possesses one of the most outstanding legal minds in Congress, has gained the respect and admiration for her courage to speak and act on her convictions. As an eloquent spokesman for the cause of good government, she has executed her duties with great distinction.

I want to heartily congratulate all those retiring Members of the Texas delegation for their handling of the responsibilities of their congressional assignments with intelligence and insight. We have lost the services of these respected and dedicated public servants, but I wish to add my sincerest wishes to them and the members of their families for long and happy years in retirement. They will be missed but their deeds and accomplishments shall be testimony to their service.

The State of Texas, and our country are better for the service of these eight able legislators.●

● Mr. MONTGOMERY. Mr. Speaker, I would like to take this moment to recognize one of the House of Representative's most respected colleagues, the gentlewoman from Texas, BARBARA JORDAN.

I feel it a great privilege to have had the opportunity to work with BARBARA JORDAN, a Member who is not only admired by her fellow Congressmen, but is also held in high regard by so many Americans.

It is her strong sense of integrity that I have been most impressed with. This quality has given her the insight to deal directly with the numerous sensitive pieces of legislation that have crossed her desk.

I appreciate the forthrightness and fairness that she has always shown me during her years as a Representative, and I regret that we will be losing such a respected Member from this legislative body.●

● Mr. MONTGOMERY. Mr. Speaker, one of my deepest personal regrets as we approach the end of the 95th Congress is that we are also seeing the end of 34 years of meritorious service by the gentleman from Texas, OLIN E. TEAGUE.

Of course, when you say OLIN TEAGUE people do not always know about whom you are speaking because he was always known as TIGER, which, I might add, was a most appropriate name. I say appropriate because Chairman TEAGUE would fight like a tiger, if it was necessary, to improve the lot of our Nation's veterans.

The veterans of this Nation have never had a better friend in the Congress or anywhere in the Government than TIGER TEAGUE. He was their champion at all times and in all places.

Mr. Speaker, I would also emphasize that TIGER TEAGUE has never shown any partiality to any one group of veterans. He has always dealt fairly with all veterans whether they served in World War I, World War II, Korea or Vietnam. To him a veteran was a veteran who deserved the tribute and thanks of a grateful nation for his or her many sacrifices.

I consider it a privilege to have served under TIGER TEAGUE when he was chairman of the House Veterans' Affairs Committee and appreciate the fairness with which he always treated other committee members. He always provided an opportunity for all Members to contribute to the work of the committee.

We shall miss TIGER TEAGUE but we can be thankful that he leaves as his legacy a sound foundation of veterans programs on which future Congresses can build.●

● Mr. MONTGOMERY. Mr. Speaker, I join with my many colleagues today to pay tribute to the many contributions BOB POAGE has made to this body over the last 42 years.

Chairman POAGE was the first chairman under whom I served when first elected in 1967. I shall always remember his kindness to me and his fairness in dealing with new members of the House Agriculture Committee.

Mr. Speaker, I also appreciate the staunch friend farmers of America had in BOB POAGE. Coming from a basically rural district, I can assure you that BOB POAGE has benefited the people of Mississippi's Third District through the beneficial legislation he has steered to passage.

Agricultural legislation is probably the most complicated to be considered by the Congress. It must always be finely tuned in order to assure a plentiful production at a realistic selling price to the farmer and a realistic cost to the consumer. This is never an easy task, but one which BOB POAGE has wrestled with quite successfully over the years. I believe his deep understanding of agricultural problems has benefited the Nation's farmers and consumers.

His retirement will leave a void in this body which will be difficult to fill, but we can all be thankful for our association with BOB POAGE over the years and the many contributions he has made to agriculture.●

● Mr. MONTGOMERY. Mr. Speaker, I appreciate the gentleman yielding and commend him for giving Members an opportunity to expound upon the many and outstanding contributions made by the Dean of the House during his 44 years of service.

There is so much to be said about GEORGE MAHON that one hardly knows where to begin. He is a man who has never sought the limelight, although he most certainly deserved it. He has always gone about his business in a quiet and methodical way to insure success in his every endeavor.

Mr. Speaker, one reason I so much regret Chairman MAHON's retirement is that this body will be losing a strong voice for fiscal responsibility. He has always preached the lesson of fiscal restraint and warned us of the evils of large Federal deficits. I appreciate the fact that Mr. MAHON has always tried to hold Federal spending down in order to reduce inflationary pressures.

One of my closest associations with Chairman MAHON has been through the congressional prayer breakfast group. He has been an inspiration to those of us who gather each Thursday morning and I can assure you that his presence will be missed. His religious convictions and spiritual guidance was helpful to all.

I join with my colleagues in wishing Chairman MAHON a fond farewell and wish for him the best in the years to come. We will miss you in body, but you shall always be with us in spirit.●

● Mr. MONTGOMERY. Mr. Speaker, I sincerely regret we will be losing the services of the gentleman from Texas at the end of this Congress. OMAR BURLESON has been a perfect example of the type of dedicated public official the people of America need. His 32 years of service have been marked by many outstanding contributions to this body and to our Nation.

He has been a strong voice on the Ways and Means Committee for a responsible tax policy in America. He has continually sought to ease the tax burden on individual Americans and small businesses. At the same time, his votes on the Budget Committee have indicated his desire for more restrained Federal spending in order to make it possible to provide meaningful tax reduction.

For the last 4 years I have had the privilege of having my office located almost across the hall from OMAR. Hearing comments made by many of his constituents as they leave his office leave no doubt that he is well respected in his congressional district and the State of Texas.

We shall all miss our colleague's sage advice and wise counsel in the years ahead, but at the same time we can feel fortunate that we were able to profit from his guidance during the time he served as our colleague.●

● Mr. MONTGOMERY. Mr. Speaker, in the brief time available to us today, it is difficult to fully explore the long and outstanding career of JOHN YOUNG. For the last 22 years we have been privileged to have him as a colleague in this body and prior to that he served with distinction on the local level as county attorney and county judge.

Of course, we are most familiar with his service here in the House and more particularly his membership on the Rules Committee. I shall always appreciate the courtesy and fairness JOHN YOUNG showed Members when they appeared before the Rules Committee. I have only had to appear a few times myself before the Rules Committee, but I am particularly grateful for the kindness which he showed me when I did appear.

We appreciate the 14th District of Texas for sharing JOHN YOUNG with us and giving this body and this Nation the benefit of his hard work and dedication.●

● Mr. COLLINS of Texas. Mr. Speaker, BARBARA JORDAN is an outstanding personality. I am proud that she is from Texas. Today we hear so much discussion about the need to help this person move forward or the need to help that person. Many friends have helped BARBARA JORDAN, but the reason you help BARBARA is because her magnetism does so much to enrich your own life. She has so much ability with her dynamic character.

I once asked BARBARA where she got her drive and her intellectual ambitions. She told me about her father whom she loved so dearly. Her dad not only worked at a full job in a warehouse but he also carried another job so that he could put his children through college. She said her dad's encouragement and pride gave her the strong motivation to study longer, work harder, and to always do her best.

When BARBARA JORDAN says something, folks stop and listen. She has the vocabulary of Webster, the diction of a Shakespeare scholar, and the sincerity of an evangelist Baptist preacher. BARBARA JORDAN is a warm, sincere, and lovable person. I am thrilled to see her going on to her new challenge at the University. I am even more thrilled to see her serve on so many of the great boards of directors for major national companies.

Sometimes they say that people are chosen because they are women. Sometimes they say that people are chosen because they are black. But I can tell you for sure, anybody that chooses BARBARA JORDAN for any responsibility, any elective office, or for any leadership position chose her because BARBARA JORDAN is the best.●

● Mr. RODINO. Mr. Speaker, in 1974, a black lawyer from Houston, Tex., addressed the Nation at a time of great constitutional trauma. She began by referring to the Preamble of the Constitution itself: "We, the people."

She went on:

> It is a very eloquent beginning. But when that document was compiled on the 17th of September in 1787 I was not included in that "We, the people". I felt somehow that George Washington and Alexander Hamilton just left me out by mistake. But through the process of amendment, interpretation, and court decision I have finally been included in "We, the people".

Mr. Speaker, no one who has served in this House in recent Congresses can say that he or she has not been touched by the enormous talents and the special grace of BARBARA JORDAN.

That it took so long for BARBARA JORDAN to be included in "We, the people" is a measure of our loss as a Nation.

That the day has come at least when we can draw upon such a rare public resource is a measure of our hope for the future.

We are saddened that BARBARA has chosen to leave the House at this stage of her public career. But we are the richer for her 6 years with us, and we know she will be a leading American figure for years into the future.

A personal note, if I might: BARBARA JORDAN brought a special flavor to the work of the Committee on the Judiciary. She represented all that was best about the committee, all that was constructive and unique about the House as a legislative body. She had a genius for the way this place worked and the way it was supposed to work. She took pride in the House of Representatives as an institution and I personally will feel the loss of her talents.

She could make a committee chairman look awfully good.●

● Mr. COLLINS of Texas. Mr. Speaker, all of us know GEORGE MAHON as the Dean of the House. But those of us who have known him as our neighbor from Texas know him as one of the finest gentlemen that ever served in Congress. Many times I visited out in west Texas from Lubbock to Midland and Odessa. Naturally, you would expect the Democrats to all say good things about him. But what warms your heart is to hear the deep admiration and respect that all of the Republicans in west Texas have for GEORGE MAHON.

It is not only that he is a hard worker who understands their problems, what they appreciate most is his warm and sincere personality. With all of his prominence as chairman of the Appropriations Committee, I never knew a friendlier chairman or a man with more humility.

And everyday I learned something new from him. The others would ride the escalators, but it was GEORGE who would run up the stairs beside them. As he reminded me, you get more exercise by running up steps than you do by riding up the escalator. That was GEORGE MAHON who we will always remember as the great chairman who was always on the move.●

● Mr. LONG of Louisiana. Mr. Speaker, my good friend and distinguished col-

league, the Honorable JOHN YOUNG, will be retiring from service in the House of Representatives following the adjournment of this Congress.

Congressman YOUNG has ably served both his district and the Nation for 22 years. As the interests of the 14th Congressional District are extremely diverse, I must compliment the gentleman on his ability to so often strike that delicate balance between the special needs of his district. JOHN YOUNG met the challenge of serving the varied, often opposing interests of his constituency with energy and enthusiasm.

As a fellow member of the Committee on Rules, I have developed an admiration for Mr. YOUNG's diligence and sound judgment. A major critic of the categorization of political stances as "conservative" or "liberal," JOHN YOUNG has consistently based his decisions on the merits of an issue, and has demonstrated great courage in adhering to what he believes is in our Nation's best interest.

JOHN and I both represent oil and gas producing States, and because of our interest in energy matters, we have often worked together in an effort to educate Members who have not had as much contact with the energy community. Congressman YOUNG is a persuasive, well informed spokesman on the issues, and I have benefited from the many occasions I have worked with him.

JOHN YOUNG has been a true friend to me, always at hand when he is needed, and I shall certainly miss him in the upcoming Congress. I consider myself very fortunate to have had the privilege of serving with the distinguished Representative from Texas.●

● Mr. TEAGUE. Mr. Speaker, as you know, I am one of a group voluntarily retiring from the Congress of the United States at the end of this term. After 32 years in the House, this action is a bitter-sweet experience. I have been very happy here. For 32 years this sphere of activity has been my career and the House has been my home. It is a deep emotional wrench to have to leave so many happy memories behind. However, there are also great consolations and the greatest of these is that I am "graduating" with the most distinguished group of Members of Congress ever to serve in this body. Over a half-hundred Members are retiring this year. It may not be a record, but it is very much a statistic as far as talent, integrity, dedication, and human decency are concerned. I cannot presume upon the patience of this body to recognize publicly by name and career all of my close friends and retiring colleagues, but would like to single out those within the Texas delegation who are retiring with me.

One-fourth of our State delegation is leaving this year. This means that Texas and the Nation will lose some 150 years of leadership, know-how and accumulated congressional influence at one time. The Congress will be losing, quite frankly, a memory bank and irreplaceable expertise with this exodus. Without saying, first recognition must be the Honorable GEORGE MAHON, 19th District of Texas and chairman of the House Committee on Appropriations, with 44 years of continuous service in this body. His name will stand alone on any distinguished service list and the Nation will be impoverished by his retirement.

My old friend and contemporary, the Honorable OMAR BURLESON of Anson, Tex., 17th Congressional District who came to the Congress shortly after me will also be retiring. We learned the ropes together; we have been exceptionally close friends. What more can I say about an individual who has been in my opinion one of the most effective Members of this body; one who is totally incapable of committing a dishonorable act of any sort and one who has served both his country and constituency with distinction.

And, Mr. Speaker, will the country ever have or see another individual so totally dedicated to the agricultural problems of this Nation than the Honorable W. R. "BOB" POAGE of the 11th District of Texas. I know of no man who knows more about agricultural legislation and agricultural problems than BOB POAGE. He is my next door neighbor in Texas, our districts adjoining one another and I learned much from him when I joined this body. After all he came to Congress in 1936 and has served with distinction for 42 years. He will be almost impossible to replace.

Next in this distinguished list of individuals is the Honorable JOHN YOUNG of Corpus Christi, representing the 14th Congressional District of Texas. Elected to this body 21 years ago, he has been an outstanding Member exemplifying the characteristics of those Members who have represented his district before him. He has served with distinction on one of the most important committees in the Congress, the House Committee on Rules and like the others his presence will be sorely missed.

BARBARA JORDAN, the brilliant Congressperson from Houston has been with us only 6 short years; but in that time she has made an enormous impression on everyone with whom she has dealt. She brought a heritage of courage and integrity to this House which will be sadly missed next year.

DALE MILFORD, who has represented a neighboring district and who has served on my Committee on Science and Technology and chaired the Subcommittee on Aviation and Transportation Research, doing an outstanding job for the country and his constituency. His presence will be sorely missed in the next Congress.

And finally, a word of recognition and appreciation to one of the younger Members of our delegation, the Honorable BOB KRUEGER, a completely educated Member with degrees from Southern Methodist, Duke, and Oxford. He is not retiring really, in the usual sense, but merely abandoning his seat to run for the Senate. Whether he is successful or not, this body will miss him.●

● Mr. COLLINS of Texas. Mr. Speaker, we are going to miss JOHN YOUNG on the Rules Committee of Congress. It is the quiet Congressmen who work hard that prove to be the most effective. On the tough votes, JOHN knew how to present the issue in the most objective fashion. I remember on an energy rule issue a few years ago where they said it was going to be a close vote. And JOHN YOUNG won the floor battle with over a 50 vote lead.

JOHN's great service to his constituents is an epic. His understanding of the economics of our Southwest area was broad and deep. JOHN YOUNG served long and faithfully in Congress. Those of us in Texas who knew him well, will miss his effective leadership up here in Washington.●

● Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to the Honorable OLIN E. TEAGUE, who is retiring this year after over three decades of distinguished service in the House of Representatives as a result of wounds incurred during World War II when he served heroically as commander of the 1st Battalion of the 314th Infantry Regiment, 79th Division. Congressman TEAGUE was awarded the Silver Star with two clusters, the Bronze Star with two clusters, the Purple Heart with two clusters, the Combat Infantryman's Badge, and many other medals and awards too numerous to mention as a result of his admirable war record.

OLIN was first elected to the 79th Congress, and was reelected to every succeeding Congress through the present 95th Congress. During 18 years as chairman of the House Veterans' Affairs Committee, he worked with tireless devotion to improve the quality of life for our Nation's veterans, and authorized the Korean war veterans bill Public Law 550, which corrected the shortcomings of the World War II GI bill.

When he was honored in 1969 by the Veterans of Foreign Wars, receiving the VFW's Congressional Award, Chairman TEAGUE stated in his acceptance speech that:

> There are a lot of problems in America but there are a lot more things that are right with America, than there are that are wrong. * * * We must always strive to improve the quality of life for all our people, but sometimes it seems to me that we become so engrossed in these problems, so centered on what is wrong, that we seldom acknowledge what is right.

OLIN TEAGUE has also served as the chairman of the House Science and Technology Committee since the 93d Congress, and his diligent efforts have been most beneficial to the citizens of this Nation and have made America a more prosperous and productive country. He is a dedicated and devoted American, and a Congressman of outstanding ability, deep compassion, and courage. These qualities not only earned the respect of his colleagues but endeared him to his constituents of the Sixth District of Texas as well.

I extend to OLIN my best wishes for a healthy and happy retirement.●

● Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to the Honorable GEORGE H. MAHON, the senior Member of the Texas delegation to Congress and the dean of the House of Representatives. It has been a truly rewarding personal experience for me to have known him as a colleague, and we have all depended on his experience and expertise for enlightened counsel and strong leadership. I am honored to have served with him during the 14 years I have been in the House of Representatives.

GEORGE was first elected to the 74th Congress in 1934 and was reelected to every succeeding Congress through the current 95th Congress. He has given close to a half century of dedicated and devoted service to his constituents of the Nineteenth District of Texas, and has compiled an outstanding record of excellence and splendid achievement during his distinguished career.

Chairman MAHON's diligent efforts as chairman of the House Appropriations Committee have been both fruitful and beneficial to the citizens of this Nation, and indeed, these successful efforts have made America a more prosperous and productive country. The admiration for GEORGE MAHON's leadership is not confined to the citizens of Texas, for he is respected by every Member of Congress, and his inspiring example will be sorely missed here in the House.

Seldom does one find a man of GEORGE MAHON's stature, a man so wholeheartedly dedicated and responsive to the needs of the people of the United States. GEORGE can retire with the assurance that through his efforts mankind has benefited, and there is no tribute higher than this. I extend to GEORGE MAHON my best wishes for a healthy and happy retirement.●

● Mr. COLLINS of Texas. Mr. Speaker, we will all miss TIGER's hearty pat on the back. It was as stimulating a greeting as anyone ever received. His friendly voice always had a smiling Texas twang in it. It always makes you feel good to be around TIGER TEAGUE.

When I think of the defense of America, I always think of TIGER as the greatest friend that American defense ever had. He was Congress most decorated hero from the World War. Where the bullets were flying, there was TIGER TEAGUE leading the way. And still he is the one in the Halls of Congress who was leading the way on every defense fight.

His congressional district was my neighbor. Everybody in my hometown appreciated and loved TIGER TEAGUE.

They say down in Bryan that he is the greatest Aggie that ever lived. They say for defense that he is the greatest spokesman the military ever had. But those of us from Texas all know that TIGER TEAGUE was as warm and loyal an American as we have ever had in Congress. There will never be another one like the TIGER.●

● Mr. GOLDWATER. Mr. Speaker, the retirement of eight members of the Texas delegation must rank with those sad periods of Texas history such as the fall of the Alamo and the admission of Alaska to the Union.

In California we are proud to have the largest congressional delegation, but for some reason we always have to check with the Texas delegation. Texas knows how to get things done. The people of Texas have a penchant for sending great people to the Congress.

The record speaks for itself, and when the definitive history of the House is written, just think of the pages that will be occupied by Chairman GEORGE MAHON and his legendary battles in behalf of the American taxpayer. Chairman MAHON knows as much about government finance as any person who ever lived, and if this Congress had listened to him a long time ago and practiced fiscal sanity, we would not be running deficits and double-digit inflation. He is a born leader, and we will not see his likes again.

I look also at BOB POAGE, a man that every farmer and consumer in America owes a debt of gratitude. The miraculous transformation of American agriculture is due to the leadership and foresight of people like BOB POAGE. He has fought for the farmer and never apologized for doing so. Our people eat better food, more variety of food, and less expensive food than an other nation on the globe, and you do not need to look further than BOB POAGE, as a symbolic reason why this miraculous result has taken place.

And, as we pay these deserving tributes, I am reminded of OMAR BURLESON who set the stage as the former chairman of the House Administration Committee for a more efficient and better organized House. OMAR knew how critical the Ways and Means Committee is to Texas and he resigned his chairmanship to go on Ways and Means. His leadership on that committee has been tremendous, and he has been the American taxpayer's friend.

But, Mr. Speaker, as much as I admire and respect all of our distinguished, retiring Texans, I must, in all candor, reserve the most profound and heartfelt words for my chairman—for Tiger TEAGUE. OLIN TEAGUE is one of the dearest friends a person could ask for. He has been my mentor—a man who tells it like it is and bases friendship on total honesty and candor. I have served under his leadership on the Science and Technology Committee, and there is no American alive who loves his country more and stands in its defense more than Tiger TEAGUE. You cannot mention one piece of veterans legislation since World War II or any success of America's space program without first mentioning Tiger TEAGUE. He is truly one of the greatest, most noble men it has ever been my privilege to know, and I shall miss his leadership as will the entire Congress, indeed, the Nation. TIGER always says, "Well, son, for a Republican, you aren't too bad." "TIGER," I say, "for a Democrat you are the greatest!

Mr. Speaker, it has also been my privilege to work with another great son of Texas—JOHN YOUNG. We served together on the Ad Hoc Energy Committee. Up to that time my contact with him had been rather limited and sporadic. Those 2 months on the committee revealed to me a quality that I wish more Members of the Congress possessed. Regardless of the pressure of colleagues or party leadership or general public interests, over and over again JOHN YOUNG voted as he genuinely believed the issue in question merited. His remarks and questions consistently referred to what was in the best interests of the Nation, what was fair and reasonable for both our free enterprise system and the consumer citizen, and what commonsense should have revealed to every member of the committee.

To his great credit, JOHN YOUNG remained throughout those trying and confused times, consistent, forthright, and dedicated.

Mr. Speaker, none of us will ever forget the great lady of the Texas Delegation—BARBARA JORDAN. Her sense of fair play, objectivity, and just plain commonsense is refreshing in a world that has become far too cynical. We are all aware of her tremendous intellect and outstanding legal talent, but I want to pay tribute to BARBARA JORDAN as a person. I do not think she has a mean bone in her body. She deals with all people, regardless of their station in life, with respect, dignity, and frankness. Frankly, I was shocked when she decided to leave us after such a short time in the Congress, but I have a feeling we will hear more from this wonderful, beautiful lady.

Mr. Speaker, it has also been an honor for me to serve on two committees—Public Works and Transportation and Science and Technology—with my dear friend, DALE MILFORD. No one loves aviation more or rises to its defense quicker than DALE MILFORD. He is an outstanding pilot and in the relatively short period DALE has served in the House, he has made his mark on aviation safety and the enhancement of a brighter safety picture for the future. I have enjoyed serving with DALE, and the American taxpayer has lost a great friend in DALE MILFORD.

Mr. Speaker, BOB KRUEGER is also leaving us to seek office in the other body. I want to pay a tribute to BOB, but inasmuch as he is involved in a campaign right now, I think BOB will understand that this should be done after the election.

Mr. Speaker, the people of Texas can be proud, because they have been well represented by our Texas colleagues who will be retiring this year.●

● Mr. COLLINS of Texas Mr. Speaker, seeing DALE MILFORD going back to Dallas is not like telling a colleague goodby He is a good Texan and those of us who knew him best, hope that he decides to come back home.

It has been a great honor to serve with DALE. He serves with depth and cooperation and is consistently working for the betterment of our entire community. His commonsense understanding of economics has been a bulwark of strength.

There are so many ways I would like to see America call on DALE I hope he continues in government leadership. I hope he considers coming back to Congress. Whatever he does in the interim, I hope he comes back to Dallas. The folks in our area consider him one of our finest neighbors. Welcome back to Dallas for a while, DALE. We will probably see you back soon in Washington.

● Mr. COLLINS of Texas. Mr. Speaker, BOB POAGE is a man of deep character. Many times we hear the old statement that "In Congress you have to go along to get along." This was never true of BOB POAGE. He has built one of the great careers of Texans who have served in Congress. On every issue he stood by the facts and always voted by his principles. BOB is a plain spoken man and you always know where he stands.

As long as BOB POAGE has been in Washington, you would think he would consider himself a legislator. But every time you talk to BOB, he tells you about the weather back home and how the crops are doing. I never saw a man as far away from Texas whose heart was still on the farm.

For honor, integrity, and strong character, BOB POAGE will always be remembered in history. He is a warm friend and a man of outstanding character.●

CONCERN OVER EVENTS IN NICARAGUA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER) is recognized for 5 minutes.

● Mr. FRASER. Mr. Speaker, I am submitting for the RECORD a letter to Secretary of State Vance signed by 86 congressional Members expressing their deep concern for the crisis in Nicaragua. The letter's message is clear: We applaud the administration's efforts to help mediate a peaceful solution to the Nicaraguan crisis, and at the same time urge the administration to suspend all assistance to the Somoza Government until this conflict is resolved. By continuing assistance to that government, our Government risks sending a misleading message of support to the Somoza regime during this time of civil strife in Nicaragua.

I would like to give my sincere thanks to all those Members who lent their support to this letter. I would also like to give a special appreciation to two staff members of my subcommittee, Josephine Weber and Carol Glassman, who performed an outstanding job in helping to bring this letter to the attention of congressional offices.

The text of the letter follows:

WASHINGTON, D.C.,
October 13, 1978.

HON. CYRUS R. VANCE,
Secretary, Department of State,
Washington, D.C.

DEAR MR. SECRETARY: We have been watching with great concern the events in Nicaragua over the past several weeks. The extent of opposition to the Somoza regime has become increasingly clear. A general strike which had the unanimous consent of the Nicaraguan Chambers of Commerce and Industry lasted five weeks. Repudiation of the Somoza government at all levels could not be more deeply felt or actively displayed.

The Nicaraguan crisis presents another key test for the administration's innovative Latin American policy based on mutual respect and understanding. We applaud Deputy Secretary Warren Christopher's statement before the Organization of American States last month, committing the United States to efforts that would permit the "Nicaraguan people themselves to engage in a peaceful and democratic process that would result in an end to their suffering . . ."

At the same time, however, we cannot be oblivious to the carnage the Nicaraguan Government is unleashing on its people by its excessive military force. We therefore strongly recommend that the administration suspend all aid to the Nicaraguan Government until the armed conflict is resolved and the Nicaraguan people are permitted to work through peaceful means to establish representative government. Providing assistance to the Somoza government during this time of civil strife would be ineffective and would only send a misleading message of support to a regime that becomes increasingly illegitimate in the eyes of the Nicaraguan people.

Your attention to these important matters is most appreciated.

Sincerely,

Donald M. Fraser, Tom Harkin, Millicent Fenwick, Berkley Bedell, Anthony C. Beilenson, Jonathan B. Bingham, Michael T. Blouin, David E. Bonior, Don Bonker, John Brademas, William M. Brodhead, John Buchanan, Yvonne B. Burke, John L. Burton, Phillip Burton, Bob Carr, Shirley Chisolm, Cardiss Collins, James C. Corman, Baltasar Corrada, and Ronald V. Dellums.

Charles C. Diggs, Jr., Christopher J. Dodd, Thomas J. Downey, Robert F. Drinan, Robert W. Edgar, Don Edwards, Walter E. Fauntroy, Edwin B. Forsythe, Robert Garcia, Dan Glickman, Bill Green, Michael J. Harrington, Herbert E. Harris II, Augustus Hawkins, Elizabeth Holtzman, James Johnson, Robert W. Kastenmeier, Dale Kildee, John Krebs, Jim Leach, Stanley N. Lundine, and Paul N. McCloskey, Jr.

Matthew McHugh, Stewart B. McKinney, Andrew Maguire, Edward J. Markey, Helen S. Meyner, Barbara Mikulski, Abner J. Mikva, George Miller, Norman Y. Mineta, Parren J. Mitchell, Anthony Toby Moffett, William S. Moorhead, Richard Nolan, Mary Rose Oakar, Richard L. Ottinger, Leon E. Panetta, Edward W. Pattison, Donald J. Pease, Tom Railsback, Charles B. Rangel, and Henry S. Reuss.

Frederick W. Richmond, Peter W. Rodino, Jr. Benjamin S. Rosenthal, Edward R. Roybal, Leo J. Ryan, Fernand J. St Germain, James H. Scheuer, Patricia Schroeder, John F. Seiberling, Stephen J. Solarz, Fortney H. (Pete) Stark, Newton I. Steers, Jr., Louis Stokes, Gerry E. Studds, Paul E. Tsongas, Charles A. Vanik, Bruce F. Vento, Harold L. Volkmer, Henry A. Waxman, Theodore S. Weiss, Charles W. Whalen, Jr., and Lester L. Wolff.●

SUMMARY OF FINDINGS CONCERNING THE STATUS OF VIETNAM-ERA VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. TEAGUE) is recognized for 5 minutes.

● Mr. TEAGUE. Mr. Speaker, there have been complaints that the Congress has failed to provide adequate readjustment assistance for Vietnam-era veterans. For example, the Subcommittee on Education and Training, of the Veterans' Affairs Committee, of which I have been chairman during the 94th and 95th Congresses, has been criticized for being a stumbling block to favorable consideration of legislation to provide for a tuition bonus for veterans attending high cost schools and accelerated entitlement. It is argued that Vietnam-era veterans have special needs or have not received comparable assistance as was provided veterans of World War II, which Congress has not recognized.

On Tuesday, October 10, 1978, the President submitted a report on the progress of the Vietnam-era veteran, which has been printed as House Document 95–396. I have read a summary of the findings concerning the status of Vietnam-era veterans, which was the background and basis for the President's report on the progress of Vietnam veterans. I am especially pleased that the summary includes a comparison of the current GI bill with World War II and Korean conflict GI bills. As indicated therein, the benefits provided by Congress under the Vietnam-era GI bill compares most favorably with previous GI bills.

For example, today a veteran with as little as 18 months of active duty service in the Armed Forces is authorized 45 months of eligibility (5 school years) at the rate of $311 a month for a single veteran, with additional assistance for veterans with dependents. Forty-five months of school for a single veteran is about $14,000. In addition to this basic allowance, a veteran may also receive educational work/study allowances, tutorial assistance, special assistance for the educationally disadvantaged, and special educational assistance loans of up to $2,500 a school year—all of these programs were enacted by Congress in recognition of the special needs of Vietnam-era veterans. Further, while World War II veterans were entitled to a subsistence allowance, such allowance was subject to offset if a veteran had outside earnings. The summary indicates that the majority of Vietnam-era veterans are employed, but there is no limitation on the veterans' outside earnings.

In addition to education and training, the Vietnam-era veteran is entitled to a wide range of rights and benefits to which all other veterans of previous wars are entitled. As the report states, the Vietnam-era veterans are in the position of becoming the best educated group of veterans in our history. To date, the Nation has spent nearly $25 billion on GI bill assistance for Vietnam-era veterans as compared with $14 billion for World War II veterans and $4.5 billion for veterans of the Korean conflict. I believe that after reading the President's report, and the summary on which it is based, that a fair and reasonable person will agree that the Congress has not ignored the needs of the Vietnam-era veterans who are entitled to veterans benefits available to veterans of previous wars and, in addition, a number of programs tailored especially for Vietnam veterans in helping them to make a successful readjustment to civil life following their service in the Armed Forces.●

HON. JOSEPH A. LE FANTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. MINISH) is recognized for 60 minutes.

● Mr. MINISH. Mr. Speaker, since January of 1977, the citizens of New Jersey's 14th Congressional District have been represented by the Honorable JOSEPH A. LE FANTE, one of the ablest and finest Congressman ever to represent that district. JOE LE FANTE has made his mark on the 95th Congress and the citizens of New Jersey have benefited from his exemplary service in the House of Representatives.

JOE LE FANTE is a native of Hudson County. He was born in Bayonne, N.J.,

on September 8, 1928, and was educated in the Bayonne school system. He is the president of the Public Service Furniture Co. in Bayonne, and the vice president of the New Jersey Furniture Association. Congressman LE FANTE has a long history of public service beginning with his election to the Bayonne Municipal Council in 1962. He served as councilman until 1970. At this time he was elected to the New Jersey State Assembly. An assemblyman for 7 years, he was chosen as majority leader of the assembly in 1975 and speaker of the assembly in 1976. In November of 1976, JOE LE FANTE was elected to the U.S. Congress to represent the people of Hudson County. In each of these elected offices, JOE LE FANTE has demonstrated his sincere concern for the well-being of the people he represents. He has provided unparalleled constituent services to the citizens of the 14th Congressional District of New Jersey.

A man of exceptional abilities and tremendous empathy, JOE LE FANTE has distinguished himself in Congress as a proponent of progressive, people-oriented legislator, and as a skilled practitioner in the art of congressional compromise.

The House has been well served by his tenure in this body, for it is individuals of the stature of JOE LE FANTE who add to and sustain the confidence and trust of the American people in their public institutions, despite these cynical times.

His colleagues will miss him for we will lose a friend.

These Halls will miss him for they will have lost a dedicated public servant, deeply aware of and thankful for the historic opportunity afforded him to serve his Nation.

But most of all, the people will miss him, the people of his district and his State for whom he has worked so hard and labored so well.

Mr. Speaker, as JOE LE FANTE leaves the House of Representatives to go and serve the people of New Jersey in another capacity, I, for one, want him to know that the Congress has been enhanced by his presence in these Chambers and I am grateful to have served with him on Capitol Hill.●

HELSINKI COMMISSION OUTLINES BROAD ACCOMPLISHMENTS IN 95TH CONGRESS ACTIVITIES REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 15 minutes.

● Mr. FASCELL. Mr. Speaker, the Commission on Security and Cooperation in Europe this week published a report of its activities during the 95th Congress and I would like to summarize for the RECORD the contents of this document. Created in 1976 as an independent agency to monitor and encourage compliance with the 1975 Conference on Security and Cooperation in Europe (CSCE) at Helsinki, the Commission has carried out its responsibilities in a variety of ways.

The Commission's activities focused heavily on the Belgrade review conference which met from June 1977 to March 1978 to review implementation of the various cooperative measures contained in the CSCE Final Act signed by 35 nations. Initially, the Commission was instrumental in forming U.S. policy for the East-West conference and then played an important and active role as part of the U.S. delegation.

In addition to carrying out its monitoring and informational responsibilities in major international fora, the Commission has been extremely active on a day-to-day basis in promoting implementation of the military and security, economic and scientific, humanitarian and other goals of the Final Act.

During the past 2 years, extensive and continuing hearings held by the Commission have provided an important source of information on the State of CSCE implementation, particularly in the area of human rights. The Commission has also held a large number of meetings and staff interviews during the 95th Congress. These activities have resulted in a regular flow of background papers and reports prepared by the Commission which have been circulated in the Congress, media, and private sector.

Commissioners and staff during the past 2 years have held extensive meetings with officials of the executive branch to review and initiate CSCE policy. In addition, periodic consultations were held with officials of the other signatory governments. This activity by the Commission will intensify and expand in anticipation of the next major review conference scheduled for Madrid in 1980.

At the Belgrade meeting, the Commission supplied three members of the seven-member U.S. delegation to the June preparatory meeting. Eight Commissioners attended and participated in sessions of the main meeting while 14 staff members took part in numerous aspects of the fall meeting. In two of the most significant working groups, Basket III and Follow-up, U.S. representation was chaired by Commission staff members, with backup provided largely by Commission staff. In general terms, the Commission during the Belgrade meeting participated in committee and plenary activities, special projects, press relations, facilitating congressional and public visitors and handling of administrative details.

Since the close of the Belgrade meeting, the Commission's continuing involvement has been particularly apparent in the preparation and coordination of U.S. policy for additional CSCE-related meetings, including the experts meeting to prepare the Scientific Forum in Bonn. This meeting (together with two others scheduled for Montreaux in October of 1978 and Valetta in early 1979) was set up by the Belgrade conference to deal with special problems of North American and European cooperation that were too broad in scope to be effectively treated in Belgrade.

On a daily basis, much of the Commission's work has focused on individual violations of human rights, which fall into several categories: Emigration, family reunification, marriage, travel (all known as human contacts cases), political prisoners, human rights dissidents, religious, and national activists. The staff maintains extensive files on these cases and has compiled and regularly updates a list of unresolved human contacts cases.

During the 95th Congress, the Commission conducted a total of 18 days of hearings during which it probed the views of 79 witness on an array of issues related to the implementation of the Helsinki Accord. Specific hearing topics included East-West economic cooperation, family reunification, binational marriages, travel, religious liberty, minority rights, information flow, cultural and educational exchanges, and political repression. Hearing records are published on all of these. Among witnesses who testified were Secretary of State Cyrus Vance and Ambassador Arthur J. Goldberg, chairman of the U.S. delegation in Belgrade.

Although the Commission is an independent agency with three executive branch officials, the majority of Commissioners are Members of Congress. Hence, the Commission maintains a special relationship with the legislative branch and works closely with both individual Members and committees.

The Commission staff regularly responds to congressional inquiries, provides materials for the preparation of speeches and statements for the CONGRESSIONAL RECORD and generally functions as a clearinghouse for information about congressional activities on U.S.-European human rights and other Helsinki-related issues.

Among the most important of the Commission's numerous publications is its report, "Implementation of the Final Act of the Conference on Security and Cooperation in Europe: Findings and Recommendations 2 Years After Helsinki," published in August 1977. This comprehensive document provided a broad assessment of CSCE implementation progress 2 years after the signing of the Helsinki Final Act. Released as the substantive portion of the Belgrade review conference convened, the document, in many respects, reflected the position of the U.S. delegation. It was circulated widely among other delegations, the general public and the media. In general terms, the report found that the record of the first 2 years had been more productive than the Commission expected, though far short of the high promises detailed in the language of the Final Act.

Nongovernmental organizations have played an important role in the functioning of the Commission, which has maintained an intensive two-way flow of communications with these various groups. A significant amount of the casework that the Commission handles is originally referred by private organizations that range from groups with ethnic interests to agencies with broad humanitarian concerns such as the International League for Human Rights. These citizens

groups were kept current on Commission activities by mail and by means of frequently scheduled briefings. In effect, the Commission is geared to bring the particular concerns of private interest groups to government attention, while it helps to make government information accessible and government policy understandable to nongovernmental organizations.

The Commission's investigative activities and research in the field of human rights have also made it a valuable source of information for U.S. and foreign media. The Commission has provided information to the New York Times, the Washington Post, the Christian Science Monitor, the Wall Street Journal, Time, Newsweek, and others. Commissioners have appeared on such television shows as "Face the Nation" and "The Today Show." The Commission also supplied articles which have appeared in such journals as Foreign Policy and the Journal of the Atomic Scientists. In addition, the Commission works closely with the media elements connected to various U.S. Government agencies, such as the Voice of America and the Press Service of the International Communication Agency, Radio Free Europe, and Radio Liberty.●

THE PLIGHT OF THE KISHINEVSKY FAMILY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. DODD) is recognized for 5 minutes.

● Mr. DODD. Mr. Speaker, I am proud to join many of my colleagues in the House in participating in the "Vigil for Freedom" sponsored by the Union of Councils for Soviet Jewery on behalf of Soviet Jewish families who wish to emigrate to Israel, but who have been denied exit visas by the Soviet Government.

Today, I would like to bring to my colleagues' attention the case of Moisey Aronovich Kishinevsky, his wife and infant daughter. The 32-year-old Mr. Kishinevsky, who is employed as a technician in Beltsy, Moldavian S.S.R., first applied for visas for his family in November 1974. The Kishinevsky family would like nothing more than to exercise a basic human right—that of the freedom to live where they wish. The Kishinevsky family simply wants to join the rest of their family in Israel. But the Soviet Union, in March 1975, refused to grant the necessary exit visas. Mr. Kishinevsky, who is not easily deterred, applied five more times, and was refused five times.

The Soviet Government has refused to grant Mr. Kishinevsky an exit visa for the spurious reason that he knows "state secrets." Mr. Kishinevsky did serve in the army from 1970–72, but surely time has elapsed for him to have forgotten any "state secrets" acquired during his term of duty.

It is my hope that this vigil for freedom will result in the issuance of visas for the Kishinevsky family as soon as possible.●

INTERNATIONAL WHALING COMMISSION DECISIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LEGGETT) is recognized for 10 minutes.

● Mr. LEGGETT. Mr. Speaker, a recent exchange of views in the editorial section of the Washington Post has made public some controversial aspects of the actions of the United States in the International Whaling Commission (IWC). An article entitled "Selling Out the Whales," authored by Lewis Regenstein, appeared in the Washington Post on September 14, 1978, which criticized the Carter administration for its position on the conservation of whales. This article was countered by a response appearing in the Washington Post on September 27, 1978, and authored by Mr. Richard A. Frank, who is the Administrator of the National Oceanic and Atmospheric Administration and U.S. Commissioner on the IWC. The Regenstein article was introduced to the CONGRESSIONAL RECORD in a statement by my colleague from California Hon. LEO J. RYAN on September 25.

In order to insure that a fair presentation is made of both sides in this matter, the reply by Mr. Frank to the Regenstein article is reproduced at the end of this statement.

I have found that I cannot agree entirely with the thoughts expressed in either the Regenstein article or the reply by Mr. Frank. Therefore, I would like to share some of my thoughts on the matter.

As chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, I have on many occasions stated my full support for the U.S. policy that there should be a 10-year moratorium on all whaling in order to allow depleted stocks to recover. It is my belief that all that could reasonably be done to persuade the other nations who are members of the IWC of the desirability of a moratorium has indeed been done, and that such efforts continue to be made. However, as Mr. Frank points out, we have been unable to generate the support of a majority of IWC members, let alone the three-fourths that would be required for the IWC commission to adopt a moratorium.

I would point out here that even were we to achieve adoption of a moratorium by a three-fourths majority of the IWC, any nation not wishing to be bound by a moratorium could remove itself from such an obligation through a simple objection procedure. Surely if a moratorium were adopted, the major whaling nations would file such an objection and the moratorium would not be effective.

In light of this situation, I fully concur with the U.S. policy, as explained by Mr. Frank, that absent a moratorium we should support a procedure under which the member nations of the IWC set quotas at levels recommended by an IWC scientific committee based on the well-being of the whale stocks. Under the management procedure adopted by the IWC, stocks of whales are deemed to be protected and zero quotas are set if the stock level falls below 90 percent of that required for a maximum-sustained yield. If the stock is above this level, then it is placed in a sustained management category and quotas are set such that whales can be taken at a near maximum sustained yield level. The apparent disagreement between Regenstein and Frank on the changes in quota of North Pacific sperm whales are a product of this two-level system. In June of 1977, at a regular meeting of the IWC, the scientific committee presented evidence that the stocks of male sperm whales had fallen to just below the level required to keep them in the sustained management category. Accordingly, the IWC placed male sperm whales provisionally in the protected category and set a zero quota for 1978. The quota for females, which did not fall in the protected category, was provisionally set at 763. However, the Japanese challenged the validity of the scientific data and requested that the data and the quotas be reviewed at a special meeting later that year. This meeting took place in December 1977, at which time considerably better scientific data was available which raised the stock estimates of sperm whales above the estimates produced at the previous meeting. Accordingly, male sperm whales no longer were found to be in the protected catgeory and a new quota of 6,444 whales (5,105 males and 1,339 females) was set for 1978. This quota still represented a reduction from the 1977 quota of 7,200.

The scientific data concerning the abundance of whales in the oceans is very poor for most species. Whales roam over vast stretches of ocean and spend much of their time totally submerged. They are, therefore, very difficult to count accurately. Changes in the quotas of whales to be taken are then to be expected when scientific data improves as in the case of the sperm whale. The uncertainty with which 1978 sperm whale quotas was established is, indeed, regrettable. However, I am convinced that the United States has taken no action within the IWC that permits the possibility of extinction for any species of whales. Indeed, as Mr. Frank points out, at least in the case of the California gray whale, the conservation measures adopted by the IWC have led to a dramatic and permanent recovery of the once severely depleted stocks.

In the case of the bowhead whale, I recognize the extreme difficulty of balancing the need to protect the species and to insure legitimate subsistence needs and cultural continuity of our Alaskan Native populations: In this difficult matter, I have not always found myself in agreement with administration policy. However, I am pleased to note that the extensive research on bowhead whales conducted this year has proven that the remaining populations are considerably larger than had previously been thought, and I am satisfied that the extremely modest Eskimo subsistence quota of 18 bowhead whales now set by IWC

will pose no danger of further depletion of the bowhead. I also note with satisfaction that actions taken during the past year have dramatically decreased the number of bowhead whales which were struck by the Eskimo hunters but allowed to escape and die from their wounds in needless fashion.

The goal that we all share in the United States of preventing the destruction and extinction of the whales will undoubtedly continue to present a difficult path for us to follow. However, our best hope of achieving this goal is by rational adherence to the management plans of the IWC which themselves must be based on the soundest possible scientific evidence and assessment.

There follows Mr. Frank's article which addresses the administration position. I commend this article to my colleagues, together with the Regenstein article to which it constitutes a reply and which has previously appeared in the RECORD:

A "DETERMINED POLICY" TO PROTECT WHALES

(By Richard A. Frank)

The article "Selling Out the Whales," by Lewis Regenstein [op-ed, Sept. 14], failed to convey adequately the Carter administration's strong feelings about, and actions to achieve, protection of whales.

President Carter personally has done more than any other president to promote whale conservation. He attended the 1972 United Nations Conference on the Human Environment and argued strongly in favor of a 10-year moratorium on commercial whale-killing. During the presidential campaign in 1976, he spoke out clearly against whaling. In 1977, he sent an unprecedented presidential message to the International Whaling Commission (IWC), the multilateral agency that sets worldwide quotas, supporting a moratorium. Last year, the president signed into law legislation that bans commercial whaling within 200 miles of the U.S. coastline.

The Carter administration has continued to support a 10-year moratorium in bilateral discussions with other countries and at every meeting of the IWC. To our regret, the majority of IWC countries have refused to adopt the 10-year moratorium. In the interest of obtaining improved conservation of whales and reduced hunting more immediately, we have accepted the next best alternative, a procedure under which the member nations of the IWC set quotas at levels recommended by an IWC scientific committee based on the well-being of the whale stocks. Thus, political and economic considerations are no longer the determining factors as they once were. This procedure has fortunately resulted in a decrease in quotas at each IWC meeting, including decreases in 1977 and 1978. We have also been able to achieve selective moratoriums, such as a complete ban on the killing of fin whales and sei whales in the Southern Hemisphere.

Regenstein takes issue with a 1977 decision of the IWC to reduce the North Pacific sperm whale quota from 7,200 to 6,444 whales. That quota was recommended without dissent by the scientific committee, which included American whale experts such as the chairman of the U.S. Marine Mammal Commission, on the basis of the best available scientific evidence. The United States, which had committed itself—with the concurrence of the conservation community—to vote in favor of scientific committee decisions, concurred in the 13-to-1 IWC vote to adopt that quota.

Regenstein finds something ominous in my statements that we should be pleased that the gray whale population has increased substantially, and because of its increase is no longer on what is called the "protected list." The California gray whale was once severely depleted by commercial whaling to about one-third of its original stock. Through efforts of the U.S. government, the Mexican government and the environmental community, these marvelous animals have been protected from commercial whaling, and their population has more than doubled. No longer threatened with extinction, they therefore no longer fit the definition of the "protected list." Nonetheless, the U.S. government has unequivocally taken the position that they must have further protection and that no commercial whaling of gray whales should occur. At our initiative, a provision has been inserted in the IWC Convention to prevent commercial whaling for gray whales; each country in whose 200-mile fishing zone the gray whale migrates has agreed publicly it would not allow commercial whaling; and we have said that we would, under no circumstances, vote for renewed commercial taking of the gray whale.

The Carter administration has faced one difficult problem of satisfying our determined policy to protect endangered whales and of satisfying the policy of ensuring the subsistence needs of native peoples. Alaskan Eskimos have hunted the great bowhead whales for food for centuries. Because of non-Eskimo commercial whaling during the latter part of the 19th century, the bowhead whale population has decreased from many thousands to less than 3,000 animals. Although the bowhead whale herd is reduced, most experts in the field do believe that a small take for the next few years would not significantly affect the stock. The IWC has established a modest bowhead whale quota—18 whales for 1979—that allows the Eskimos to satisfy their legitimate subsistence needs but, on the other hand, does not jeopardize the well-being of the whales. The Eskimos would like a larger quota, and some people, like Regenstein, have argued for a smaller quota.

We all want to achieve the most effective measure to ensure that all whale stocks are never again threatened with depletion. We are committed to persuading all nations to accept and implement sound conservation measures toward that end, and I believe that we will.●

LABOR SURPLUS SET-ASIDE PROGRAM INCLUDES GRANTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 10 minutes.

● Mr. LAFALCE. Mr. Speaker, in the closing hours of this session, I would like to take this opportunity to clarify, both in the minds of the Members, and in the minds of all Federal Government contracting personnel, a question that may have arisen under the labor surplus set-aside program.

As you know, the labor surplus set-aside program requires that Government contracts be "set aside" for firms in areas of high unemployment (labor surplus areas) when "there is a reasonable expectation that offers will be obtained from a sufficient member of eligible concern so that awards will be made at reasonable prices."

The labor surplus set-aside program is embodied in Defense Manpower Policy No. 4A (32A C.F.R., part 134), which in turn is premised upon both Public Law 95-89, and three Executive orders. DMP-4A provides that—

It is the policy of the Federal Government to award appropriate contracts and *grants*, to execute agreements with, eligible labor surplus area concerns * * * (emphasis added).

The policy is unambiguous; grants are most certainly to be included within the program's embrace.

Oversight hearings held by the Subcommittee on Capital, Investment and Business Opportunities of the House Small Business Committee reinforced the need to integrate grants within the program. At hearings held October 12, 1977, representatives from the General Services Administration—who promulgated DMP-4A with the advice of a number of other procurement agencies—reaffirmed the commitment to include grants in the program. At subsequent hearings in April and June of 1978, much time was devoted to determining precisely which type of "grants" were amenable to the program.

Representatives from HEW indicated that nondiscretionary grants, such as social security benefits, medicaid, medicare, et cetera, cannot be targeted, nor could discretionary formula grants. However, they did indicate that discretionary grants were capable of being utilized under the program.

All the agencies with significant grant capability indicated to our subcommittee that they were developing procedures to utilize the labor surplus program to target these grants. The underlying basis for making grants applicable is that invariably the grant is essentially a procurement: it requires the grantee to undertake certain tasks, performances, et cetera, for the benefit of the Government in exchange for the amount of the grant.

On the 18th day of August 1978, President Carter signed an Executive order with respect to the labor surplus program. The order provided for apportioning responsibility among certain executive agencies for administering the labor surplus program. While that Executive order did not explicitly mention grants, they were nevertheless implicitly included. In fact, the order states that "Executive agencies shall emphasize procurement set-asides in labor surplus areas. * * *" The President evinced no intent to deviate from the previously established policy of including grants within the embrace of the term "procurement", and presumably intended to bring grants within the embrace of his directive.

In all events, throughout the remainder of this Congress, my subcommittee will continue to monitor the progress being made in the implementation of the labor surplus program. I would hope to see the program being used for both procurements, as well as for the award of discretionary grants.●

HONORING WILL DURANT

The SPEAKER pro tempore. Under a previous order of the House, the gentle-

man from Florida (Mr. PEPPER) is recognized for 10 minutes.

● Mr. PEPPER. Mr. Speaker, on November 5, 1978, the distinguished historian Will Durant will observe his 93d birthday. The Nation can join in celebrating this occasion as it calls to mind, once again, the monumental achievement of this man, whose writing has inspired millions of readers throughout the world to learn and understand history.

William James Durant was born on November 5, 1885, in North Adams, Mass. His early years were spent in Massachusetts and New Jersey. He earned the B.A. in 1907, the M.A. the following year, and the Ph. D. from Columbia University in 1917.

Dr. Durant first received public acclaim in 1926 with the publication of his book, "The Story of Philosophy," which, translated into 12 languages, has sold some 4 million copies.

A young Florida lawyer by the name of CLAUDE PEPPER was among the millions of Americans who read and remembered this book, which has been described as "a comprehensive survey of Western philosophy from Plato to John Dewey in the language of the average man."

Each year, Dr. Durant would embark on a lengthy lecture tour, a practice he was to continue for some 50 years. He spoke on every major campus in the country, and it was in the early 1930's that he came to speak at what is now Florida State University.

I was practicing law in Tallahassee, not long before my first campaign for the U.S. Senate. I was closely associated with the university. having been asked, as a member of Phi Beta Kappa, to initiate a chapter on the campus. I was acquainted with the president and various members of the faculty, so I was asked to meet this distinguished visitor at the train and serve as his escort for the duration of his stay.

I recall this as a most pleasant and productive encounter. A young man himself, he inspired conversation which was at once both delightful and intellectual. It was the sort of experience that is remembered and treasured by young people with a keen interest in history and government.

So it is with personal pleasure that I recall for our colleagues the achievements of this man—a man whose published works have spanned more than half a century and whose humor and understanding have enriched the lives of millions in America and abroad.

Will Durant has published 17 volumes. Since 1963, he has been joined as coauthor by Ariel, his talented wife and partner of 65 years. While each of their works has been widely acclaimed, they are perhaps best known for their 11-volume series, "The Story of Civilization," in which they undertook to explore centuries of history, beginning with Egyptian civilization and concluding with the age of Napoleon. The final installment, "The Age of Napoleon" was published in 1975, when Dr. Durant was 90 years of age. Their Dual Autobiography was published last year and is a warm personal account of their life together—a life enriched by friendship and association with major political, literary and social figures of the 20th century.

In all his works, Will Durant sought to make enjoyable what is, for many, an otherwise tedious task. His style has brought this observation:

> Dr. Will Durant, a pioneer in bringing the knowledge of the ages within the reach of the average man, is highly esteemed by students for taking the toil out of study.

It is, perhaps, this element of the Durants' work which won them the Pultizer Prize in 1968 and, in 1977, the Medal of Freedom. As an ardent student and interpreter of history, Durant knows well the benefits of understanding the past. But for those who would seek to use history to limit the future, Durant offers this caution:

> As a philosopher, I will not admit we are limited by what history has done in the past. I will not accept history as the sole governor of thought and action.

In "The Lessons of History," published in 1968, the Durants outlined their view of the rewards which come from a study of history. For them, it is not a stagnant, purely academic pursuit, but an adventure to nourish the spirit. They observed:

> To those of us who study history not merely as a warning reminder of man's follies and crimes, but also as an encouraging remembrance of generative souls, the past ceases to be a depressing chamber of horrors; it becomes a celestial city, a spacious country of the mind, wherein a thousand saints, statesmen, inventors, scientists, poets, artists, musicians, lovers, and philosophers still live and peak, teach and carve and sing.

As chairman of the Select Committee on Aging, I am well aware of the contributions which are made to our national life by the productive efforts of older citizens. Will and Ariel Durant exemplify the enormous role older Americans can and do play in our society. They are still very active. I am told that Dr. Durant works upwards of 10 hours each day, currently researching and writing a series of essays on the heroes of history.

Dr. Durant's love of history and the telling of it is matched by his love of life and the living of it. His is an inspirational story, one which deserves notice and commendation by all who repudiate the myths about old age, who see it not as a time of finalities, but as a time for continued learning, ongoing work, and productive endeavor.●

IN HONOR OF THE LATE RALPH H. METCALFE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Mrs. COLLINS), is recognized for 5 minutes.

● Mrs. COLLINS of Illinois. Mr. Speaker, the response of my colleagues to the special order called to honor the memory of the late Honorable Ralph H. Metcalfe has been overwhelming. The respect that Ralph engendered among the Members is equalled only by the intensity with which he himself lived and worked to earn such admiration.

I take this occasion to submit for the record the following remarks made by President Jimmy Carter upon learning of Ralph's deatn on October 10:

> With deep regret I learned today of the death of Representative Ralph H. Metcalfe. His life was genuinely inspiring. As a famed Olympic sprinter, second only to Jesse Owens in 1936, as a strong, independent voice for the people of Chicago and most recently—as a visionary leader in the Panama Canal Treaty ratification, he was uncompromising in the pursuit of excellence.
>
> He stood always for equity. His political energy was invested always on behalf of his constituents, and his unexpected passing deprives his community, his colleagues and the Nation of a staunch and honest leader.●

THE INDIAN LEGISLATIVE RECORD OF THE 95TH CONGRESS AND A TRIBUTE TO CONGRESSMAN TENO RONCALIO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 10 minutes.

● Mr. UDALL. Mr. Speaker, I take a few minutes of the very valuable time of the House to comment on the record of the Committee on Interior and Insular Affairs on Indian legislation and to pay tribute to the member responsible for that record.

The Constitution of the United States confers plenary power on the Congress with respect to its relations with the Indian tribes and their affairs and Members. Under the rules of the House, this very important responsibility has been lodged primarily with the Interior Committee.

These people, once sovereign nations, were the original occupants of this land and, through inexorable march of history, have been displaced from their position in their own country. They have been pushed back onto small reservations, but, beset by inherent problems of their circumstance and assaulted by outside interests, they have clung tenaciously to their tribes, their lands, and their way of life.

While they lost much in our conquest of this continent, they have retained valuable rights and resources under our laws. Under treaties and statutes, they have retained rights to hunt and fish; rights to use water and the right to govern themselves within their reservations. These reservation lands, once thought to be barren and of no use or value to the white man, have often proven to be very valuable in oil, gas, coal, mineral, water, timber, and other resources.

The tribes are slowly developing the necessary capacity to exercise their rights and develop their resources. In a growing number of cases, they have exercised their right to go to court and fight for their rights and resources under our laws. In doing so, they have often adversely impacted on the economic interests of the non-Indian community and the inevitable conflicts have arisen.

Of course, there has been a reaction among the non-Indians to the legal victories of the Indians and this reaction has been felt in the halls of Congress. Unfortunately, in spite of the justness of their claims, there seems to be a growing resentment in the Congress against

the Indian people and their interests. This has had its effect upon legislation in the 95th Congress for the benefit of the Indians.

Still, I am proud of the record of the Interior Committee on Indian legislation. We have reported 35 Indian bills to the House. 24 have been signed into law and another 7 await the signature of the President. Two others, including the most important Indian Child Welfare bill, await final congressional action in the waning hours of this Congress.

Mr. Speaker, I ask unanimous consent to submit for the RECORD to appear at the end of my remarks the legislative achievements of the committee in the field of Indian affairs.

Mr. Speaker, I am proud of this record. Only two or three of these bills were of national significance, but everyone of them was important to all the Indians or to particular tribes. They each took a tremendous amount of the time and effort of the members of the committee and staff.

But no person was more important to this effort than the chairman of the Subcommittee on Indian Affairs and Public Lands, the gentleman from Wyoming and my good friend, TENO RONCALIO.

The legislative responsibility of my committee for Indian affairs is a hard, often unwanted, burden. The Indians are not a major political force in this country and the rewards for assuming this burden and championing their cause are few, if any.

When we organized the Interior Committee this Congress, there was little interest in assuming this responsibility and I found it necessary to combine the Indian Affairs Subcommittee with some other subcommittee. I asked TENO if he would consent to chair a combined Subcommittee on Indian Affairs and Public Lands and he graciously accepted the responsibility.

It came as no surprise to those of us who know TENO to discover that he discharged that obligation with vigor, passion, and fairness. I know that he has spent long hours and traveled great distances in doing so. When you include the many bills relating to public lands, I do not think that there is any subcommittee chairman in the House who has worked harder or who has reported and managed so much good legislation.

TENO is retiring this year after 10 years of long, productive, and honorable service in the House. The House will lose one of its most valuable Members. Though I have disagreed with TENO on several occasions, I have always respected him and considered him my friend. I will miss him as I know the other Members of the House will.

But most of all, the Indian people will miss him. He labored long and diligently in their interests and I know that they feel a debt of gratitude for his service.

RECORD OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS ON INDIAN LEGISLATION IN THE 95TH CONGRESS

SIGNED INTO LAW

1. S.J. Res. 10—This resolution extends the time period the American Indian Policy Review Commission has to submit its report and authorizes funds for it, an additional $100,000. Not referred to Committee. P.L. 95-5 (February 17, 1977).

2. H.R. 4992 (Udall, Roncalio, Johnson of Colorado, Young of Alaska)—This bill amends the Indian Business Development Program which is title VI of the Indian Financing Act of 1974 by revising the appropriations authorization to extend it for another two years. H. Rept. 95-271, S. Rept. 95-304, P.L. 95-68.

3. H.R. 4585 (Roncalio)—Authorizes $2,250,000 to be spent for expenses of the Indian Claims Commission in FY 1978. It also allows for the transfer of cases from the Commission to the U.S. Court of Claims for settlement and subject to Supreme Court review. H. Rept. 95-234, S. Rept. 95-303, P.L. 95-69.

4. S. 667—Provides that 80 acres of Federal lands in Elko County, Nevada shall be held in trust by the United States for the Te-Moak Bands of Western Shoshone Indians. S. Rept. 95-237, H. Rept. 95-624, P.L. 95-133.

5. H.R. 8499(Young) Alaska Native Claims Settlement Act—Amends the Alaska Native Claims Settlement Act of 1971 to allow Sealaska Corporation, which was established in accordance with ANCSA to represent natives of Sealaska Region to select their land entitlements in the area withdrawn for selection by other village corporations. H. Rept. 95-712 No Senate Report, P.L. 95-178.

6. H.R. 6348 (Santini) (S. 103)— Provides that approximately 90 acres of Federal land located in Nevada be held in trust by the United States for the Ely Indian Colony, Nevada H. Rept. 95-619, S. Rept. 95-233, P.L. 95-191.

7. S. 1560 (H.R. 7259—AuCoin) Siletz Indian Tribe—Restores Federal recognition to the Confederated Tribes of the Siletz Indians of Oregon, and provides Federal services and benefits, furnished to other tribes, to the tribal members. S. Rept. 95-386, H. Rept. 95-623, P.L. 95-195.

8. S. 1509 (H.R. 8873—Runnels and Lujan) Lands for the Pueblo Cultural Center—Would allow 191 Indian Pueblos in New Mexico to convey their right to 11.6 acres of land in Albuquerque, New Mexico to the Federal government, who in return would accept it and hold the land in trust jointly for the Pueblos, so as to allow the existence of their cultural center. S. Rept. 95-445, H. Rept. 95-846, P.L. 95-232.

9. S. 838 (H.R. 2664—Abdnor) Black Hills Sioux Land Claims—Waives certain legal obstacles to permit the Sioux land claim to be considered on its merits. S. Rept. 95-112, H. Rept. 95-529, P.L. 95-234.

10. S. 773 (H.R. 3377—Steed) Wichita Land Claims—Allows the Wichita Indian Tribe of Oklahoma and those affiliated bands to file their claim with the Indian Claims Commission for lands taken by the U.S. without just compensation. S. Rept. 95-119, H. Rept. 95-597, P.L. 95-247.

11. H.R. 2540 (Ullman) Umatilla Inheritance—The bill modifies federal law in regard to inheritance of trust or restricted land on the Umatilla reservation so as to reduce the amount of land going out of Indian ownership. H. Rept. 95-820, S. Rept. 95-718, P.L. 95-264.

12. S. 482 (H.R. 3787—Runnels and Lujan) Zuni Indian Land Claim—The bill authorizes the Secretary of Interior to acquire 600 acres of land with religious significance for the Zuni Tribe. It also grants the tribe the right to file a claim with the Indian Claims Commission. S. Rept. 95-111, H. Rept. 95-953, P.L. 95-280.

13. S. 661 (H.R. 2497—Risenhoover)—Restores federal recognition to Ottawa, Peoria, and Wyandotte Indian tribes of Oklahoma. Also extends recognition to the Modoc Indians of Oklahoma by not making the act terminating the Klamath applicable to them. S. Rept. 95-574, H. Rept. 95-1019, P.L. 95-281.

14. S. 1582 (H.R. 8099—Udall) Ak Chin Water Rights—The bill settles the water rights and needs of the Ak Chin Indians and avoids the costly claims from being filed against the U.S. government and private parties. S. Rept. 95-460, H. Rept. 95-954, P.L. 95-328.

15. S. 1291 Conveying land to the Cheyenne-Arapaho—This bill provides that 120 acres in the state of Oklahoma shall be held in trust for the Cheyenne-Arapaho Tribes of Oklahoma, and certain other lands held in fee by the tribe shall also be held in trust. S. Rept. 95-239, H. Rept. 95-1309, P.L. 95-327.

16. S. 947 Conveying Lands to the Creek Nation—This bill gives the legislative authority necessary to transfer the 5 acre lot of land known as Yardeka Day School Land to the U.S. government to be held in trust for the Creek Nation of Oklahoma. S. Rept. 95-238. H. Rept. 95-1305, P.L. 95-329.

17. S. 785 (H.R. 9480—Santini) Conveying Land to Fallon Indians—This bill provides that 2,700 acres of the public domain shall be held in trust by the U.S. government for the use of the Paiute and Shoshone tribes of the Fallon Indian reservation. It also authorizes consolidation of land holding and allows for the construction of an irrigation system. S. Rept. 95-417, H. Rept. 95-1298, P.L. 95-337.

18. S.J. Res. 102 (H.J. Res. 738 Udall and Blouin)—The law requires the federal agencies to evaluate their policies and procedures and determine if their practices adversely impact upon the Indians' religious freedom and provides that the President shall submit a report thereon to Congress. S. Rept. 95-709, H. Rept. 95-1308, P.L. 95-341.

19. H.R. 8397 (Udall) Papaga Lands/Florence Village—This bill declares that a 20 acre tract of land, known as Florence Village. located in Pinal County, Arizona, and held in trust by the U.S. government for the Papago Indian Tribe shall be a part of the Papago reservation. H. Rept. 95-1020, S. Rept. 95-1133, P.L. 95-361.

21. S. 3069 (H.R. 13096—Pressler) Sisseton-Wahpeton—Gives a preference right to the Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation to purchase land held in trust for members of the tribe by the U.S. Government being offered for sale. S. Rept. 95-983, H. Rept. 95-1511, P.L. 95-398.

22. H.R. 12860 (Beard) (S. 3155) Rhode Island Land Claims—This act implements a compromise reached by the parties concerned with the Rhode Island Indian claim. It grants to the Narragansetts an amount of land and certain benefits and extinguishes any further claim of the land by the Narragansett and other tribes after a certain period of time. H. Rept. 95-1453, S. Rept. 95-972, P.L. 95-395.

23. S. 3002 (H.R. 12344—Rhodes et al.)—The bill provides for the settlement of various land and boundary disputes arising on the Salt River Indian reservation in Arizona between the Salt River Pima-Maricopa tribe and other private and public agencies. S. Rept. 95-2270, H. Rept. 95-1498, P.L. 95-399.

24. H.R. 10581 (McCormack) Yakima Judgment Distribution—This bill allows the award made to the Yakima Indians by the Indian Claims Commission to be distributed to the parents or guardians of the minors, which is an exception to a provision of the Indian Judgment Distribution Act. The bill was amended to also include the Mescalero Apache Tribe of New Mexico. H. Rept. 95-1304, S. Rept. 95-1193, P.L. 95-433.

AWAITING PRESIDENTIAL SIGNATURE

1. H.R. 9945 (Quillen) Amend Indian Claims Commission Act.—The bill amends the Indian Claims Commission Act to repeal a provision prohibiting former Commissioners from representing Indian tribes within two years of their tenure. As amended, the Commissioners would still be subject to

the one year limitation in the general conflict of interest law. H. Rept. 95–1510, S. Rept. —.

2. H.R. 14026 Kake, Alaska—This bill removes legal impediments to the transfer of title to certain lands owned by the Organized Village of Kake to the Kake Village Corporation so the land may be used as a construction site for a cold storage plant. H. Rept. 95–1615, S. Rept. —.

3. H.R. 23991 (Johnson of California) Susanville Rancheria—This bill provides that 120 acres of public land will be held in trust by the U.S. government for the Susanville Indian Rancheria of California. H. Rept. —, S. Rept. —.

4. H.R. 10600 (Udall) Hunter Private Relief—This bill allows Thomas Joseph Hunter and Rose Hunter, two employees of the BIA, to negotiate with the Papago Indians concerning the sale of their house, which otherwise would be prohibited by law. H. Rept. 95–1617, S. Rept. —.

5. H.R. 3924 (Lujan) (S. 2588) Santa Ana Pueblo—This bill would allow the U.S. government to hold in trust for the Santa Ana Pueblo 16,000 of public domain lands and 2,000 acres to be acquired by the Secretary of Interior from State school land to be held in trust for the tribe. H. Rept. 95–1219, S. Rept. 95–1132.

6. S. 2358 (H.R. 10240—Lujan) Zia Pueblo—This bill provides that the U.S. government will hold in trust 4,850 acres of public domain in Sandoval County, New Mexico, for the Pueblo of Zia, which will be used for grazing and religious purposes. S. Rept. 95–1131, H. Rept. 95–1220.

7. S. 1081 (H.R. 11894)—Risenhoover) Osage—The bill makes certain amendments, modification, and additions to the various laws relating ot the Osage Tribe of Indians of Oklahoma. S. Rept. 95–1157, H. Rept. 95–1459.

PENDING FINAL CONGRESSIONAL ACTION

1. H.R. 11091 (Udall)—Amends the Navajo-Hopi Settlement Act of December 22, 1974 with respect to the funding and operation of the Navajo and Hopi Indian Relocation Commission. H. Rept. 95–1017, S. Rept. 95–1158.

2. S. 1214 (H.R. 12533—Udall et al.)—Indian Child Welfare Act of 1974. Clarifies the jurisdiction of Indian tribes and States with respect to Indian child custody procedings; establishes minimum Federal standards and procedural safeguards for State proceedings with respect to Indian foster care or adoptive placement; and authorizes the Secretary of the Interior to fund Indian Child and Family Service programs. H. Rept. 95–1386, S. Rept. 95–597.●

ILLINOIS-MICHIGAN CANAL UPDATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes.

● Mr. CORCORAN of Illinois. Mr. Speaker, many concerned citizens in my district, including representatives of the Illinois-Michigan Canal Foundation, have brought to my attention the need for recognition of the historical significance of the Illinois-Michigan Canal.

In particular, I would like to acknowledge Mr. Leonard E. Lock, Jr., an adviser to the foundation, who has worked diligently to research the fascinating history of the canal. For these reasons, I deemed it appropriate to introduce legislation requesting the Secretary of the Interior to conduct a study to determine the feasibility of the Illinois-Michigan Canal as a national historical park. The purpose for the introduction of the bill at this time is to, hopefully, begin actions necessary by the 96th Congress in order to initiate this important feasibility study.●

MILDRED NASLUND—AN OUTSTANDING EDUCATOR

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ANDERSON of California. Mr. Speaker, quality education for our children is something desired by all Americans. On December 3, 1978, Mildred Naslund will be honored for the many contributions she has made in making this wish a reality for many who reside in my home district. Mildred will be retiring from her post as one of 12 area superintendents for the Los Angeles School District. Hers has been a position of special responsibility, since under her jurisdiction are five senior high schools, eight junior high schools, and 48 elementary schools with a combined enrollment of 73,000. This gives her responsibility for the largest subdivision of the second largest school district in the Nation.

Mrs. Naslund is a native Californian. She was born and raised in Los Angeles where she attended schools which she now administers. Her college career took her through the University of Redlands, where she was student body president, and the University of Southern California where she received her masters degree in 1949. When she joined the Los Angeles district she quickly moved through the system gaining broad experience in her positions as teacher, elementary school principal, academic supervisor, teacher training coordinator, supervisor of teacher education in the personnel division, and associate superintendent in charge of the instructional planning division. When the school district was decentralized into 12 administrative areas in July of 1971, Mrs. Naslund was selected to supervise the largest of these, Area A.

The area A community schools are fortunate to have large groups of Spanish surname, Asian, black, and European students. This not only makes for richness in the community's cultural lifestyle and atmosphere, but also places unusual demands on educators. When Mrs. Naslund found traditional techniques inadequate to meet these special needs, she responded by creating new methods. Individual instructional programs for children were developed under her guidance after seeking the advice of parents. These were made available in learning media instructional centers in each of the five high school areas. The unique centers provided educational materials suited to a multiethnic teaching approach.

This example illustrates the most prominent and welcome trade mark of Mrs. Naslund's administrative style, her direct involvement of both educators and parents in educational planning. While most other school district subdivisions have only one advisory council to bring in citizen input, Mrs. Naslund established five such citizen boards. This and her constant presence at other community gatherings, made her available in a moment's notice when parents or community groups wanted to be heard on school issues.

Under Mrs. Naslund's guidance, Los Angeles schools in the South Bay made education a more practical and exciting experience by utilizing community resources as school aids. She initiated the "Triple Interface: Land-Air-Sea" curriculum which included a floating laboratory, geological field trips and studies of the atmosphere.

The Los Angeles school district will certainly miss the presence of this woman after she has retired from office. It is hard to imagine how one can replace someone who held such great responsibilities, and yet would never refuse a sincere request to discuss a school complaint or suggestion. The students, parents, and citizens of Los Angeles owe her many thanks for her many contributions to our school system.

My wife, Lee, joins me in congratulating Mrs. Naslund on her accomplishment-filled career and we offer her our best wishes in all her future pursuits.

DIRECT MARKETING—A PARTIAL SOLUTION TO A DIFFICULT PROBLEM

(Mr. BROWN of California asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. BROWN of California. Mr. Speaker, in light of the House rejection of the Farmer-to-Consumer Direct Marketing Act recently, I thought it appropriate to draw my colleagues' attention to an excellent article that was placed in the July edition of the New Yorker.

This article does a superb job of pictorializing an inner-city farmers market—the fresh fruit and vegetables gleaming in the sun, the bustle of foot traffic moving among the stalls, the cash benefits to both farmers and urban consumers.

Such market have been started in various cities across the United States. People have organized to help encourage their formation. One such group is the agricultural marketing project in Tennessee which has been successful in starting more than 20 direct markets in that region. The budgets for these endeavors are less than shoestring ones and some help should be pointed in their direction.

Desire to cut back our spending programs is strong. But careful consideration should be given to the results of cutting these small amounts from the budget. Direct marketing is one area where a small monetary shot in the arm can slowly permeate the entire structure with beneficial results. Opposition to such programs is difficult to understand. The monetary and social advantages of direct marketing are incomparable to other food markets. The direct contact of farmers and consumers. The knowledge gained by inner city folks of the farmers' ways. The nutritious food fresh from the vine. The exchange of informa-

tion and better prices for both seller and buyer.

Hopefully, next year will bring greater understanding of what real assistance to farmers and consumers means. Farmers markets should exist in all of our cities, not just a few. The people want them and need them. To quote from the article:

The first place we went to was Fifty-ninth Street, and the people were fifteen deep waiting to get to the eggs. I couldn't believe it. There were just masses of faces. I looked at them and felt panic and broke into a cold sweat. They went after the corn so fast I just dumped it on the ground. The people fell on it, stripped it, threw the husks around. They were fighting, grabbing, snatching at anything they could get their hands on. I had never seen people that way, never seen anything like it. We sold a full truck in five hours. It was as if there was a famine going on. The people are quieting now * * * Quietly, in a single day in the Greenmarket, Rich has sold as many as fifteen hundred dozen eggs. In one day, nearly five thousand ears of corn. In one day, three-quarter of a ton of tomatoes.

The article follows:

A REPORTER AT LARGE: GIVING GOOD WEIGHT

You people come into the market—the Greenmarket, in the open air under the downpouring sun—and you slit the tomatoes with your fingernails. With your thumbs, you excavate the cheese. You choose your stringbeans one at a time. You pulp the nectarines and rape the sweet corn. You are something wonderful, you are—people of the city—and we, who are almost without exception strangers here, are as absorbed with you as you seem to be with the numbers on our hanging scales.

"Does every sink grow on your farm?"

"Yes, ma'am."

"It's marvellous. Absolutely every sink?"

"Some things we get from neighbors up the road."

"You don't have no avocados, do you?"

"Avocadoes don't grow in New York State."

"Butter beans?"

"They're a Southern crop."

"Who baked this bread?"

"My mother. A dollar twenty-five for the cinnamon. Ninety-five cents for the rye."

"I can't eat rye bread anymore. I like it very much, but it gives me a headache."

Short, born abroad, and with dark hair and quick eyes, the woman who likes rye bread comes regularly to the Brooklyn Greenmarket, at Flatbush and Atlantic. I have seen her as well at the Fifty-ninth Street Greenmarket, in Manhattan. There is abundant evidence that she likes to eat. She must have endured some spectacular hangovers from all that rye.

Farm goods are sold off trucks, vans, and pickups that come into town in the dark of the morning. The site shifts with the day of the week: Tuesdays, black Harlem; Wednesdays, Brooklyn; Fridays, Amsterdam at 102nd. There are two on Saturday—the one at Fifty-ninth Street and Second Avenue, the other in Union Square. Certain farms are represented everywhere, others at just one or two of the markets, which have been primed by foundation funds and developed under the eye of the city. If they are something good for the urban milieu—tumbling horns of fresh plenty at the people's feet—they are an even better deal for the farmers, whose disappearance from the metropolitan borders may be slowed a bit by the many thousands of city people who flow through streets and vacant lots and crowd up six deep at the trucks to admire the peppers, fight over the corn and gratefully fill our money aprons with fresh green city lettuce.

"How much are the tomatoes?"

"Three pounds for a dollar."

"Peaches?"

"Three pounds for a dollar twenty-five."

"Are they freestones?"

"No charge for the pits."

"How much are the tomatoes?"

"Three pounds for a dollar. It says so there on the sign."

"Venver the eggs laid?"

"Yesterday."

"Kon you eat dum raw?"

We look up from the cartons, the cashbox, the scales, to see who will eat the eggs raw. She is a good-looking big-framed young blonde.

"You bet. You can eat them raw."

"How much are the apples?"

"Three pounds for a dollar."

Three pounds, as we weigh them out, are anywhere from forty-eight to fifty-two ounces. Rich Hodgson says not to charge for an extra quarter pound. He is from Hodgson Farms, of Newburgh, New York, and I (who come from western New Jersey) have been working for him off and on for three months, summer and fall. I thought at first that I would last only a week, but there is a mesmerism in the selling, in the coins and the bills, the all-day touching of hands. I am often in charge of the peppers, and, like everyone else behind the tables by our truck, I can look at a plastic sack of them now and tell its weight.

"How much these weigh? Have I got three pounds?"

"That's maybe two and a quarter pounds you've got there."

"Weigh them, please."

"There it is. Two and a quarter pounds."

"Very good."

"Fantastic! Fantastic! You see that? You see that? He knew exactly how much it weighed."

I scuff a boot, take a break for a shiver in the bones. There are unsuspected heights in this game, moments that go right off the scale.

This is the Brooklyn market, in appearance the most cornucopian of all. The trucks are drawn up in a close but ample square and spill into its center the colors of the country. Greengage plums. Ruby Red onions. Yellow crookneck squash. Sweet white Spanish onions. Starking Delicious plums.

Fall pippins ("Green as grass and curl your teeth"). McIntoshes, Cortlands, Paulareds. ("Paulareds are new and are lovely apples. I'll bet they'll be in the stores in the next few years.")

Pinkish-yellow Gravensteins. Gold Star cantaloupes. Patty Pan squash.

Burpless cucumbers.

Cranberry beans.

Silver Queen corn. Sweet Sue bicolor corn, with its concise tight kernels, its well-filled tips and butts. Boston salad lettuce. Parris Island romaine lettuce. Ithaca iceberg crunchy pale lettuce. Orange tomatoes.

Cherry Bell tomatoes.

Moreton Hybrid, Jet Star, Setmore, Supersonic, Roma, Saladette tomatoes.

Campbell 38s.

Campbell 1327s.

Big Boy, Big Girl, Redpak, Ramapo, Rutgers London-broil thick-slice tomatoes.

Clean-shouldered, supple-globed Fantastic tomatoes. Celery (Imperial 44).

Hot Portugal peppers. Four-lobed Lady Bell glossy green peppers. Aconcagua frying peppers.

Parsley, carrots, collard greens.

Stuttgarter onions, mustard greens.

Dandelions.

The people, in their throngs, are the most varied we see—or that anyone is likely to see in one place west of Suez. This intersection is the hub if not the heart of Brooklyn, where numerous streets converge, and where Fourth Avenue comes plowing into the Flatbush-Atlantic plane. It is also a nexus of the race. "Weigh these, please." "Will you please weigh these?" Greeks. Italians. Russians. Finns. Haitians. Puerto Ricans. Nubians. Muslim women in veils of shocking pink. Sunnis in total black. Women in hiking shorts, with babies in their backpacks. Young Connecticut-looking pants-suit women. Their hair hangs long and as soft as cornsilk. There are country Jamaicans, in loose dresses, bandannas tight around their heads. "Fifty cents? Yes, dahling. Come on a sweetheart, mon." There are Jews by the minyan, Jews of all persuasions—white-bearded, black-bearded, split-bearded Jews. Down off Park Slope and Cobble Hill come the neobohemians, out of the money and into the arts. "Will you weigh this tomato, please?" and meantime let us discuss theatre, books, environmental impacts. Maybe half the crowd are men—men in cool Haspel cords and regimental ties, men in lipstick, men with blue eyelids. Corporate-echelon pinstripe men. Their silvered hair is perfect in coif; it appears to have been audited. Easy-going old neighborhood men with their shirts hanging open in the summer heat are walking galleries of abdominal and thoracic scars—Brooklyn Jewish Hospital's bastings and tackings. (They do good work there.) A huge clock is on a tower high above us, and as dusk comes down in the autumn months the hands glow Chinese red. The stations of the hours light up like stars. The clock is on the Williamsburgh Savings Bank building, a skyscraper full of dentists. They go down at five into the Long Island Rail Road, under us. Below us, too, are all the subways of the city, in ganglion assembled.

"How much are the cabbages?"

"Forty cents a head."

"O.K. Weigh one, please."

We look around at empty storefronts, at J. Rabinowitz & Sons' SECURITY FIREPROOF STORAGE, at three gold balls (Gem Jewelers Sales), at Martin Orlofsky's Midtown Florist Nursery. Orlofsky has successfully objected to our presence as competitors here, and we can tell neither plants nor flowers. "HAVE YOU HAD ANY LATELY? CLAMS, STEAMERS." Across Fourth Avenue from the Greenmarket is the Episcopal Church of the Redeemer, a century and a quarter old, with what seem to be, even in the brightest morning light, black saints in its stained-glass windows. Far down Fourth, as if at rest on the paved horizon, stands a tower of the Verrazano-Narrows Bridge. To the northwest rises the Empire State.

Not long after dawn, as trucks arrive and farmers begin to open boxes and set up wooden tables, a miscellany of whores is calling it a day—a gradual dispersal, quitting time. Their corner is Pacific and Fourth. Now and again, a big red Cadillac pauses at the curb beside them. The car's rear window is shaped like a heart. With some frequency, a squad car will slide up to the same curb—a week-in, week-out, endless duet with the Cadillac. The women hurry away. "Here come the law." The Greenmarket space, which lies between Atlantic and Pacific, was once occupied by condemned buildings—spent bars and liquor stores. The block is fenced and gravelled now, and is leased by the Brooklyn Academy of Music, which charges the Greenmarket seventy-five dollars a Wednesday. The market does not fill the lot—the rest is concession parking. Here in the din of the city, in the rivers of moving metal, some customers drive to the Greenmarket as if it were a roadside stand in Rockland County, a mall in Valley Stream.

On a sidewalk around the corner, people with a Coleman stove under a fifty-five-gallon drum are making sauce with our tomatoes. Tall black man in a business suit now picks up a slim hot pepper. Apparently he thinks it sweet, because he takes most of it with a single bite and chews it with anticipant relish. Three . . . two . . . one. The small red grenade explodes on his tongue. His eyeballs seem to smoke. By the fistful, he grabs cool stringbeans and stuffs them into his mouth.

I forget to give change to a middle-aged woman with bitter eyes. I charged her forty-

five cents for a pound and a third of apples and she gave me half a dollar. Now she is demanding her nickel, and her eyes are narrower than the sides of dimes. She is a round-shouldered person, beaky and short—short-changed. In her stare at me, there is an entire judiciary system—accusation, trial, and conviction. "You give me my nickel, mister."

"I'm sorry. I forgot. Here is your nickel."

She does not believe my mistake a mistake. She walks away in a white huff. Now she stops, turns, glowers. She moves on. Twice more, as she departs from the market, she stops, turns, and stares angrily back. I watch her all the way to the curb. She waves at the traffic and gets into a cab.

A coin will sink faster through bell peppers than it will through water. When people lose their money they go after it like splashing bears. Peppers everywhere. Peppers two deep over the apples, three deep over the plums. Peppers all over the ground. Sooner or later, the people who finger the eggs will spill and break the eggs, and the surface they walk on becomes a gray-and-yellow slurry of parking-lot gravel and egg—a Brooklyn omelette. Woman spills a dozen now. Her purse is hanging open and falling egg plops in. Eleven smash on the ground. She makes no offer to pay. Hodgson, who is young and whimsical, grins and shrugs. He is not upset. He is authentically amused. Always, without a sign of stress, he accepts such losses. The customer fingers another dozen eggs, and asks if we are sure they are good.

I err again, making change—count out four ones, and then a five, "and ten makes twenty."

The customer says, "I gave you a ten-dollar bill, not a twenty."

I look at her softly, and say to her, "Thanks very much. You're very nice."

"What do you mean I'm very nice? I gave you a ten-dollar bill. Why does that make me very nice?"

"I meant to say I'm glad you noticed. I'm really glad you noticed."

"How much are the tomatoes?"

"Weigh these, please."

"Three pounds for a dollar."

"How much the corn?"

"Ten cents an ear. Twelve for a dollar."

"Everything is so superior. I'd forgotten what tomatoes taste like."

"Will you weigh these, please?"

"The prices are so ridiculously cheap."

"How can you charge so little?"

"In nine years in the city, I've never seen food like this."

"How much are these?"

"Fifty-five cents."

"Wow! What a rip-off!"

"Three pounds for a dollar is too much for tomatoes. You know that, don't you? I don't care how good they are."

"How much are these?"

"A dollar-ten."

"A dollar-*ten*?"

"Three eggplants. Three and a half pounds. Three pounds for a dollar. You can have them for a dollar-ten."

"Keep them."

"In the supermarket, the vegetables are unspeakable."

"They are brought in from California."

"You can't see what you are getting."

"When the frost has come and you are gone, what will we do without you?"

Around the market square, some of the trucks have stickers on them: "NO FARMERS, NO FOOD." Alvina Frey is here, and Ronald Binaghi, from farms in Bergen County, New Jersey. John Labanowski and his uncle Andy Labanowski are from the black-dirt country, the mucklands, of Orange County, New York. Bob Engle and Jim Kent tend orchards in the Hudson Valley. Ed Milliman, the honey man, is from Lakeville, Connecticut; Joan Benack and Ursula Plock, the bakers, from Milan, New York. Ed and Judy Dart grow "organic" on Long Island, Richard Finch in Frenchtown, New Jersey. John Henry. Vincent Neglia. Ilija Sekulovski. Don Keller. Cleather Slade completes the ring. Slade is young, tall, paunchy, silent, and black. His wife, Dorothy, sell with him. She has a nicely lighted smile that suggests repose. Their family farmland is in Red Springs, North Carolina, but the Slades are mainly from Brooklyn. They make occasional trips South for field peas, collards, okra, yams, and for the reddest watermelons north of Chichicastenango.

Jeffrey Mack works for Hodgson part time. He has never seen a farm. He says he has never been out of the city. He lives five blocks away. He is eight years old, black. He has a taut, hard body, and glittering eyes, a round face. He piles up empty cartons for us and sometimes weighs tomatoes. On his better days he is some help.

"Jeffrey, that's enough raisin bread."

"Jeffrey, how many times do I have to tell you: get yourself out of the way."

"What are you doing here, Jeffrey? You ought to be in school."

He is not often pensive, but he is pensive for a moment now. "If you had a kid would you put him up for adoption?" he asks.

"What is that supposed to mean, Jeffrey? Why are you asking me that?"

"My mother says she's going to put me up for adoption."

With two, three, and four people working every truck, the farmers can occasionally take breaks, walk around—eat each other's apples, nectarines, and pears. Toward the end of the day, when their displays have been bought low and the crowd is becoming thin, they move around even more, and talk in small groups.

"What always surprises me is how many people are really nice here in the city."

"I was born in New York. My roots are here, you know. I'd throw away a bad cantaloupe, anything, so the people would come back."

"We have to leave them touch tomatoes, but when they do my guts go up and down. They paw them until if you stuck a pin in them they'd explode."

"They handle the fruit as if they were getting out all their aggressions. They press on the melons until their thumbs push through. I don't know why they have to handle the fruit like that. They're brutal on the fruit."

"They inspect each egg, wiggle it, make sure it's not stuck in the carton. You'd think they were buying diamonds."

"They're bag crazy. They need a bag for everything, sometimes two."

"They're nervous. So nervous."

"Today I had my third request from someone who wanted to come stay on the farm, who was looking for peace and quiet for a couple of days. He said he had found Jesus. It was unreal."

"I had two Jews in yarmulkes fighting over a head of lettuce. One called the other a kike."

"I've had people buy peppers from me and take them to another truck to check on the weight."

"Yeah, and meanwhile they put thirteen ears of corn in a bag, hand it to you, and say it's a dozen. I let them go. I only get after them when they have sixteen."

"They think we're hicks. 'Yeah,' I say. 'We're hicks and you're hookers. You're muggers and you breathe dirty air.'"

"I hardly smoke in the city. Down home I can smoke a whole pack of cigarettes and still have energy all night. You couldn't pay me to live here. I can't breathe."

If the farmers have a lot to say about their clients, they have even more to say about each other. Friendly from the skin out, they are deep competitors, and one thing that they are (in a sense) competing for is their right to be a part of the market. A high percentage of them seems to feel that a high percentage of the others should be shut down and sent away.

The Greenmarket was started in 1976. Farmers were recruited. Word got around. A wash of applicants developed. There was no practical or absolute way to check out certain facts about them—nor is there yet. For example, if some of the goods on a truck were not grown by the farmer selling them, who did grow them, and when, and where? The Greenmarket quickly showed itself to be a prime outlet for the retailing of farm produce. On a good day, one truck with an eighteen-foot box could gross several thousand dollars. So every imaginable kind of seller became attracted. The ever-present problem was that anyone in jeans with a rustic address painted on his truck could load up at Hunts Point, the city's wholesale fruit-and-vegetable center, and head out at 5 a.m. for the Greenmarket—a charter purpose of which was to help the regional farmer, not the fast-moving speculator, survive. Authentic farmers, moreover, could bring a little from home and a lot from Hunts Point. Wholesale goods, having been grown on big mass-production acreages (and often shipped in underripe from distant states), could be bought at Hunts Point and retailed—in some instances—at lower prices than the custom-grown produce of a small Eastern farm. Prices, however, were an incidental issue. The customers, the people of the city, believed—and were encouraged to believe—that when they walked into a Greenmarket they were surrounded by true farmers who had grown the produce they displayed and were offering it fresh from the farm. That was the purpose and promise of the Greenmarket—if not the whole idea, an unarguably large part of it—and in the instances where wholesale, long-distance, gassed-out goods were being presented (as some inevitably were) the principle was being subverted. In fact, the term Greenmarket had been coined—and registered in Albany—to set apart these markets in the public mind from certain "farmers' markets" around the city that are annually operated by Hunts Point hicks.

"Are you a farmer, or are you buying from an auction?" was a challenge the farmers began to fling around. Few were neighbors at home—in positions to know about each other. They lived fifty, a hundred, a hundred and fifty miles apart, and came to the city to compete as strangers. They competed in sales, and they competed in slander. They still do. To a remarkable—and generally inaccurate—extent, they regard one another as phonies.

"He doesn't even know what shoepeg corn is."

"Never trust a farmer who doesn't know shoe-peg corn."

"What exactly is shoe-peg corn?"

"Look at *him*. He has clean fingernails."

"I happen to know he has them manicured."

"I bust my hump seven days a week all summer long and I don't like to see people bring to market things they don't grow."

"Only farmers who are not farmers can ruin this market."

"These hustlers are going to work us off the block."

"There's farmers selling stuff they don't know what it is."

"What exactly is shoe-peg corn?"

"I like coming here. It gets me out of Vineland. Of course, you pick your ass off the night before."

"Look at Don Keller's hands. You can see the farm dirt in them."

"His nails. They'll never be clean."

"Rich Hodgson. See him over there? He has the cleanest fingernails in New York State."

"That Hodgson, he's nice enough, but he

doesn't know what a weed looks like. I'll tell you this: he's never even *seen* a weed."

Around the buildings of Hodgeson Farms are some of the tallest volunteers in New York, topheavy plants that sway overhead—the Eastern rampant weed. With everybody working ninety hours a week, there is not much time for cosmetics. For the most part, the buildings are chicken houses. Rich's father, Dick Hodgson, went into the egg business in 1946 and now has forty thousand hens. When someone in the city cooks a Hodgson egg, it has quite recently emerged from a chicken in a tilted cage, rolled onto a conveyor, and gone out pass a candler and through a grader and into a waiting truck. A possible way to taste a fresher egg would be to boil the chicken with the egg still in it.

Dick Hodgson—prematurely white-haired, drivingly busy— is an agrarian paterfamilias whose eighty-two-year-old mother-in-law grades tomatoes for him. His wife, Frances, is his secretary and bookkeeper. He branched into truck farming some years ago specifically to keep his daughter, Judy, close to home. Judy runs the Hodgsons' roadside stand, in Plattekill, and her husband, Jan Krol, is the family's vegetable grower, the field boss—more than a hundred acres now under cultivation. Rich, meanwhile, went off to college and studied horticulture, with special emphasis on the fate of tropical houseplants. To attract him home, his father constructed a greenhouse, where Rich now grows wandering Jews, spider plants, impatiens, coleus, asparagus ferns—and he takes them with him to Harlem and wherever else he is allowed to sell them. Rich, who likes the crowds and the stir of the city, is the farm's marketer.

The Greenmarket, even more than the arriving Hodgson, generation, has expanded Hodgson Farms. Before 1976, the family had scarcely twenty acres under cultivation and, even so, had difficulty finding adequate outlets for the vegetables Jan grew. The roadside stand moved only a minor volume. Much of the rest was sold in New Jersey, at the Paterson Market, with discouraging results. "Paterson is semi-wholesale," Rich says. "You have to sell in units of a peck or more. You're lucky if you get three dollars for a half bushel of tomatoes. You ask for more and all you hear all day is 'That's a too much a money. That's a too much a money.' " (A half bushel of tomatoes weighs twenty-six pounds, and brings at least eight dollars at the Greenmarket, giving good weight.) The Hodgsons tried the fruit-and-vegetable auction in Milton, New York, but the auctioneer's cut was thirteen per cent and the farmers were working for him. They also tried a farmers' market in Albany, but sold three bushels of peppers and a couple of bags of corn in one depressing day. They were more or less failing as small-scale truck farmers. Dick Hodgson's theory of family cohesion through agricultural diversification was in need of an unknown spray. NBC news presented a short item one evening covering the debut of the Greenmarket. The Hodgsons happened to be watching.

"The first place we went to was Fifty-ninth Street, and the people were fifteen deep waiting to get to the eggs. I couldn't believe it. There were just masses of faces. I looked at them and felt panic and broke into a cold sweat. They went after the corn so fast I just dumped it on the ground. The people fell on it, stripped it, threw the husks around. They were fighting, grabbing, snatching at anything they could get their hands on. I had never seen people that way, never seen anything like it. We sold a full truck in five hours. It was as if there was a famine going on. The people are quieter now."

Quietly, in a single day in the Greenmarket, Rich has sold as many as fifteen hundred dozen eggs. In one day, nearly five thousand ears of corn. In one day, three-quarters of a ton of tomatoes.

"How much are the tomatoes?"

"Fifteen hundred pounds for five hundred dollars."

Rich is in his mid-twenties, has a tumbling shag of bright-red hair, a beard that comes and goes. When it is gone, as now, in the high season of 1977, he retains not only a mustache but also a pair of frontburns: a couple of pelts that descend from either end of the mustache and pass quite close to his mouth on their way to his chin. He is about six feet tall and wears glasses. Their frames are pale blue. His energy is of the steady kind, and he works hard all day with an easygoing imperturbability—always bemused; always a controlled, sly smile. Rarely, he looks tired. On market days, he gets up at four, is on the Thruway by five, is setting up tables and opening cartons at seven, has a working breakfast around nine (Egg McMuffin), and, with only a short break, sells on his feet until six or seven, when he packs up to drive home, take a shower, drop into bed, and rise again at four. His companion, Melissa Mousseau, shares his schedule and sells beside him. There is no market on Mondays, so Rich works a fourteen-hour day at home. He packs cartons at the farm—cartons of cauliflowers, cartons of tomatoes—and meanders around the county collecting a load for Harlem. The truck is, say, the six-ton International with the Fruehauf fourteen-foot box—"Hodgson Farms, Newburgh, N.Y., Since 1946." Corn goes in the nose—corn in dilapidating lath-and-wire crates that are strewn beside the fields where Jan has been bossing the pickers. The pickers are Newburgh high-school students. The fields, for the most part, are rented from the State of New York. A few years ago, the state bought Stewart Air Force Base, outside Newburgh, with intent to lengthen the main runway and create an immense international freightport, an all-cargo jetport. The state also bought extensive farms lying off the west end of the base. Scarcely were the farmers packed up and on the road to Tampa Bay when bulldozers flattened their ancestral homes and dump trucks took off with the debris. The big freightport is still in the future, and meanwhile the milieu of the vanished farms is ghostly with upgrowing fields and clusters of shade trees around patches of smoothed ground where families centered their lives. The Hodgsons came upon this scene as farmers moving in an unusual direction. With the number of farms and farmers in steady decline in most places on the urban fringe, the Hodgsons were looking for land on which to expand. For the time being, rented land will do, but they hope that profits will be sufficient to enable them before long to buy a farm or two—to acquire land that would otherwise, in all likelihood, be industrially or residentially developed. The Greenmarket is the outlet—the sole outlet—that has encouraged their ambition. In the penumbral world of the airport land, there are occasional breaks in the sumac where long clean lines of Hodgson peppers reach to distant hedgerows, Hodgson cantaloupes, Hodgson cucumbers, Hodgson broccoli, collards, eggplants, Hodgson tomatoes, cabbages, corn—part vegetable patch, part disenfranchised farm, with a tractor, a sprayer, and a spreader housed not in sheds and barns but under big dusty maples. The family business is integrated by the spreader, which fertilizes the Greenmarket vegetables with the manure of the forty thousand chickens.

Corn in the nose. Rich drives to the icehouse, where he operates a machine that grinds up a three-hundred-pound block and sprays granulated snow all over the corn. Corn snow. He stops, too, at local orchards for apples, Seckel pears, nectarines, peaches, and plums. The Greenmarket allows farmers to amplify their offerings by bringing the produce of neighbors. A neighbor is not a wholesale market but another farmer, whose farm is reasonably near—a rule easier made than enforced. The Hodgsons pick things up— bread included—from several other farms in the county, but two-thirds to three-quarters of any day's load for the city consists of goods they grow themselves.

In the cooler of E. Borchert & Sons, the opiate aroma of peaches is overwhelming, unquenched by the refrigerant air. When the door opens, it frames, in summer heat, hazy orchards on ground that falls away to rise again in far perspective, orchards everywhere we can see. While loading half-bushel boxes onto the truck, we stop to eat a couple of peaches and half a dozen blue free plums. Not the least of the pleasures of working with Hodgson is the bounty of provender at hand, enough to have made the most sybaritic Roman prop himself up on one elbow. I eat, most days, something like a dozen plums, four apples, seven pears, six peaches, ten nectarines, six tomatoes, and a green pepper.

Eating his peach, Rich says, "The people down there in the city can't imagine this. They don't believe that peaches come from Newburgh, New York. They say that peaches come only from Georgia. People in the city have no concept of what our farming is like. They have no idea what a tomato plant looks like, or how a tomato is picked. They can't envision a place with forty thousand chickens. They have no concept how sweet corn grows. And the people around here have a false concept of the city. Before we went down there the first time, people up here said, 'You're out of your mind. You're going to get robbed. You're going to get stabbed.' But I just don't have any fears there. People in black Harlem are just as nice as people anywhere. City people generally are a lot calmer than I expected. I thought they would be loud, pushy, aggressive, and mean. But eighty per cent of them are nice and calm. Blacks and whites get along much better there than they do in Newburgh. Newburgh Free Academy, where I went to high school, was twenty-five per cent black. We had riots every year and lots of tension. Cars were set on fire. Actually, I prefer Harlem to most of the other markets. Harlem people are not so fussy. They don't manhandle the fruit. And they buy in quantity. They'll buy two dozen ears of corn, six pounds of tomatoes, and three dozen eggs. At Fifty-ninth Street, someone will buy one ear of corn for ten cents and want it in a bag. The reason we're down there is the money, of course. But the one-to-one contact with the people is really good—especially when they come back the next week and say, 'Those peaches were really delicious.' "

In the moonless night, with the air too heavy for much sleep anyway, we are up and on the road, four abreast: Anders Thueson, Rich Hodgson, David Hemingway. . . . A door handle is cracking my fifth right rib. Melissa Mousseau is not with us today, and for Hemingway it is the first time selling. He is a Newburgh teen-ager in sneakers and a red football shirt lettered "OKLAHOMA." Hemingway is marking time. He has mentioned January half a dozen ways since we started out, in a tone that reveres the word—January, an arriving milestone in his life, with a college out there waiting for him, and, by implication, the approach of stardom. Hemingway can high-jump seven feet. He remarks that the Greenmarket will require endurance and will therefore help build his stamina for January. He is black, and says he is eager to see Harlem, to be "constantly working with different people—that's a trip in the head by itself."

When the truck lurches onto the Thruway and begins the long rollout to the city, Hodgson falls asleep. Anders Thueson is driving. He is an athlete, too, with the sort of legs that make football coaches whistle softly. Thueson has small, fine features, light-

blue eyes, and short-cropped hair, Scandinavian yellow. He is our corn specialist, by predilection—would apparently prefer to count ears than to compute prices from weights. When he arrives in Harlem he will touch his toes and do deep knee bends to warm himself up for the corn.

Dawn is fully over Tappan Zee, the far end of the great bridge indistinct in mist. Don Keller, coming from Middletown, broke down on the bridge not long ago, rebuilt his starter at the toll-booth apron, and rolled into market at noon. Days later, Jim Kent's truck was totalled on the way to Greenmarket—Hudson Valley grapes, apples, peaches, and corn all over the road. Gradually now, Irvington and Dobbs Ferry come into view across the water—big square houses of the riverbank, molars, packed in cloud. In towns like that, where somnolence is the main resource, this is the summer of the business day. Hodgson wakes up for the toll. For five minutes he talks sports and vegetable prices, and again he dozes away. On his lap is a carton of double-yolk eggs. His hands protect them. The fingernails are clean. Hodgson obviously sees no need to dress like Piers Plowman. He wears a yellow chemise Lacoste. The eggs are for Derryck Brooks-Smith, a Brooklyn schoolteacher, who is a regular Hodgson city employee. Brooks-Smith is by appearances our best athlete. He runs long distances and lifts significant weights. He and Thueson have repeatedly tried to see who can be the first to throw an egg over an eight-story building on Amsterdam Avenue. To date their record of failure is one hundred per cent—although each has succeeded with a peach.

We arrive at six-fifteen, to find VanHouten, Slade, and Keller already setting up—in fact, already selling. People are awake, and much around and Dorothy Slade is weighing yams, three pounds for a dollar. Meanwhile, it is extremely difficult to erect display tables, open boxes, and pile up peppers and tomatoes when the crowd helps take off the lids. They grab the contents.

"Weigh these, please."

"May I have a plastic bag?"

"Wait—while I get the scales off the truck." The sun has yet to show above the brownstones.

This is the corner of 137th Street and Adam Clayton Powell Jr. Boulevard, known elsewhere in the city as Seventh Avenue. The entire name—Adam Clayton Powell Jr. Boulevard—is spelled out on the street sign, which, as a result, has a tip-to-tip span so wide it seems prepared to fly. The big thoroughfare itself is of extraordinary width, and islanded, like parts of Broadway and Park Avenue. A few steps north of us are the Harlem Performance Center and the Egbe Omo Nago African Music Center, and just east along 137th Street from our trucks is the Mother A.M.E. Zion Church. For the Tuesday Greenmarket, the street has been barricaded and cars sent out, an exception being an old Plymouth without tires that rests on flaking steel. On the front wall of the church is a decorous advertisement: "Marion A. Daniels & Sons, Funeral Directors." The block has four young sycamores, and contiguous buildings in every sort of shape from the neat and trim to broken-windowed houses with basements that are open like caves. On 137th Street beyond Adam Clayton Powell are two particularly handsome facing rows of brownstones, their cornices convex and dentilled, their entrances engrandeured with high ceremonious flights of stairs. Beyond our view west is abruptly shut off by the City College cliffs in St. Nicholas Park—the natural wall of Harlem.

The farm trucks are parked on the sidewalks. Displays are in the street. Broad-canopied green, orange, purple, and red umbrellas shield produce from the sun. We have an awning, bolted to the truck. Anders Thueson, with a Magic Marker, is writing our prices on brown paper bags, taping them up as signs. "Is plums spelled with a 'b'?" he asks.

Hemingway tells him no.

A tall slim woman in a straw hat says to me, "I come down here get broke every Tuesday. Weight these eggplants, please."

"There you are. Do you want those in a bag?"

"You gave me good weight. You don't have to give me bags."

Minerva Coleman walks by, complaining. She is short and acidulous, with graying hair and quick sardonic eyes. She wears bluejeans and a white short-sleeved sweatshirt. She has lived in this block twenty-three years. "You farmers come in too early," she says. "Why do you have to come in so early? I have to get up at four o'clock every Tuesday, and that don't make sense. I don't get paid."

Not by the Greenmarket, at any rate. Minerva works for Harlem Teams for Self-Help, an organization that is something like a Y.M.-Y.W.C.A. It is housed, in fact, in a former Y, the entrance to which is behind our truck. Minerva is Director of Economic Development. As such, she brought the Greenmarket to 137th Street—petitioned the city for it, arranged with the precinct to close off the street. While her assistants sell Harlem Teams for Self-Help shopping bags (fifteen cents), Minerva talks tomatoes with the farmers, and monitors the passing crowd. As the neighborhood kleptos come around the corner, she is quick to point them out. When a middle-aged man in a business suit appears on the scene wearing a sandwich board, she reads the message—"Harlem Team for Destroying Black Business"—and at once goes out of her tree. "What do you mean, 'destroying black business'? Who is destroying black business? What is destroying black business? Get your ass off this block. Can't you see this market is good for everybody? The quality and the price against the quality and the price at the supermarket—there's no comparison."

Exit sandwich board.

"How much are the apples?"

"Three pounds for a dollar, madam."

"Are they sweet?"

"You can eat them straight or bake them in a pie."

"Give me six pounds of apples, six pounds of tomatoes, and three dozen extra-large eggs. Here the boxes from the eggs I bought last week."

Mary Hill, Lenox Avenue. Florrie Thomas, Grand Concourse. Leroy Price, Bradhurst Avenue. Les Boyd, the Polo Grounds. Ylonia Phillips, 159th Street. Selma Williamson, 141st Street. Hattie Mack, Lenox Avenue. Ten in the morning and the crowd is thick. The sun is high and hot. People are drinking from fireplugs. A white cop goes by, the radio on his buttock small and volcanic, erupting: ". . . beating her for two hours." In the upstairs windows of the houses across the street, women sit quietly smoking.

"Are these peppers hot?"

"Those little ones? Yeah. They're hot as Hell."

"How do you know how hot Hell is? How do you know?"

The speaker is male and middle-aged, wears a jacket and tie, and is small, compact, peppery. He continues, "How do you know how hot Hell is? You been over there? I don't think you know how hot Hell is."

"Fifty cents, please."

The hundreds of people add up into thousands, and more are turning the corner—every face among them black. Rarely, a white one will come along, an oddity, a floating moon. Just as a bearded person becomes unaware of his beard and feels that he looks like everyone else, you can forget for a time that your own face is white. There are no reminders from the crowd.

Middle-aged man with a woman in blue. She reaches for the roll of thin plastic bags, tugs one off, and tries to open it. The sides are stuck together and resist coming apart. She looks up helplessly, looks at me. Like everyone else on this side of the tables, I am an expert at opening plastic bags.

"These bags are terrible," I tell her, rubbing one between my thumb and fingers. When it comes open, I hand it to her.

"Why, thank you," she says. "You're nice to do that for me. I guess that is the privilege of a lady."

Her husband looks me over, and explains to her, "He's from the old school." There is a pause, some handling of fruit. Then he adds, "But the old schools are closing these days."

"They're demolished," she says. "The building's gone."

They fill their sack with peppers (Lady Bell).

The older the men are here, the more likely it is that they are wearing suits and ties. Gray fedoras. Long cigars. The younger they are, the more likely it is that they are carrying shoulder-strapped Panasonics, turned on, turned up—blaring. Fortunately, the marke seems to attract a high proportion of venerable people, dressed as if for church, exchanging news and some opinion.

Among our customers are young women in laboratory smocks with small gold rings in the sides of their noses—swinging from a pierced nostril. They work in Harlem Hospital, at the end of the block, on Lenox Avenue.

Fat man stops to assess the peppers. His T-shirt says, "I Survived the Bermuda Triangle." Little boy about a foot high. His T-shirt says, "Man's Best Friend."

Our cabbages are in full original leaf, untrimmed, each one so broad and beautiful it appears to be a carnation from the lapel of the Jolly Green Giant. They do not fit well in collapsible shopping carts, so people often ask me to strip away the wrapper leaves. I do so, and sell the cabbage, and go back to weighing peppers, making change, more peppers, more change. Now comes a twenty-dollar bill. When I go into my money apron for some ones, a five, a ten, all I come up with is cabbage.

I prefer selling peppers. When you stay in one position long enough, a proprietary sense develops—as with Thueson and the corn. Hodgson, the true proprietor, seems to enjoy selling anything—houseplants and stringbeans, squash and pears. Derryck Brooks-Smith likes eggs and tomatoes. Hemingway is an apple man. Or seems to be. It is early to tell. He is five hours into his first day, and I ask how he is getting along. Hemingway says, "These women in Harlem are driving me nuts, but the Jews in Brooklyn will be worse." Across his dark face flies a quick sarcastic smile. "How you doing?" he asks me.

"Fine. I am a pepper seller who long ago missed his calling."

"You like peppers?"

"I have come to crave them. When I go home, I take a sackful with me, and slice them, and fill a big iron skillet to the gunwales—and when they're done I eat them all myself."

"Cool."

"These tomatoes come from a remote corner of Afghanistan," Derryck Brooks-Smith is saying to some hapless client. "They will send you into ecstasy." She is young, and appears to believe him, but she may be in ecstasy already. Brooks-Smith is a physical masterpiece. He wears running shorts. Under a blue T-short, his breasts bulge. His calves and thighs are ribbed with muscle. His biceps are smooth brown loaves. His hair is short and for the most part black, here and there brindled with gray. His face is fine-featured, smile disarming. He continues about the tomatoes: "The smaller ones are from Hunza, a little country in the Himalayas. The people of Hunza attribute their longevity to these

tomatoes. Yes, three pounds for a dollar. They also attribute their longevity to yogurt and a friendly family. I like your dress. It fits you well."

Brooks-Smith teaches at John Marshall Intermediate School, in Brooklyn. "A nice white name in a black neighborhood," he once remarked. He was referring to the name of the school, but he could as well have meant his own. He was born in the British West Indies. His family moved to New York in 1950, when he was ten. He has a master's degree from City University. "It is exciting for me to be up here in Harlem, among my own people," he has told me over the scale. "Many of them are from the South. They talk about Georgia, about South Carolina. They have a feeling for the farm a lot of people in the city don't have." He quotes Rimbaud to his customers. He fills up the sky for them with the "permanganate sunsets" of Henry Miller. He instructs them in nutrition. He lectures on architecture in a manner that makes them conclude correctly that he is talking about them. They bring him things. Books, mainly. Cards of salutation and farewell, anticipating his return to the school. "Peace, brother, may you always get back the true kindness you give." The message is handwritten. The card and its envelope are four feet wide. A woman in her eighties who is a Jehovah's Witness hands him a book, her purpose to immortalize his soul. She will miss him. He has always given her a little more than good weight. "I love old people," he say when she departs. "We have a lot to learn from them."

"This is where it is, man. This is where it is!" says a basketball player, shouldering through the crowd toward the eggplants and tomatoes, onions and pears. He is well on his way to three metres in height, and his friend is taller still. They wear red shorts with blue stripes and black-and-white Adidas shoes. The one who knows where it is picks up seven or eight onions, each the size of a baseball, and holds them all in one hand. He palms an eggplant and it disappears. "Man," he goes on, "since these farmers came here I don't hardly eat meat no more."

Now comes a uniformed racing cyclist—All-Sports Day at the Greenmarket. He is slender, trained, more or less thirty, and he seems to be on furlough from the Tour de France. He looks expensive in his yellow racing gloves, his green racing shoes. Partly walking, partly gliding, he straddles his machine. He leans over and carefully chooses peppers, apparently preferring the fire-engine-red ones. Brooks-Smith whispers to me, "That bicycle frame is a Carlton, made in England. It's worth at least five hundred dollars. They're rare. They're not made much anymore."

"That will be one dollar, please," I say to the cyclist, and he pays me with a food stamp.

Woman says, "What is this stuff on these peaches?"

"It's called fuzz."

"It was on your peaches last week, too."

"We don't take it off. When you buy peaches in the store, the fuzz has been rubbed off."

"Well, I never."

"You never saw peach fuzz before? You're kidding."

"I don't like that fuzz. It makes me itchy. How much are the tomatoes?"

"Three pounds for a dollar."

"Give me three pounds. Tomatoes don't have fuzz."

"I'm a bachelor. Give me a pound of plums." The man is tall, is wearing a brown suit, and appears to be nearing seventy. "They're only for me, I don't need more," he explains. "I'm a bachelor. I don't like the word 'bachelor.' I'm really a widower. A bachelor sounds like a playboy."

"Thirty-five cents, please. Who's next?"

"Will somebody lend me a dollar so I can get some brandy and act like a civilized human for a change?" We see very few drunks. This one wears plaid trousers, a green blazer, an open-collared print shirt. He has not so much as feigned interest in the peppers but is asking directly for money. "This is my birthday," he continues. "Happy birthday Gus. My mother and father are dead. If they were alive, I'd kick the hell out of them. They got me into this bag. For twenty years, I shined shoes outside the Empire State Building. And now I'm here, a bum. I need to borrow a dollar. Happy birthday, Gus."

Slade, opposite, is taking a break. He sits on an upturned tall narrow basket, with his head curled into his shoulder. Like a sleeping bird, he has drifted away. I need a break, too—some relief from the computations, the chaotic pulsations of the needle on the scale.

"Two and a quarter pounds at three pounds for a dollar comes to, let's see, seventy-five cents. Five and a half pounds at three for a quarter. That's three dollars."

"Even?"

"Even."

"Y'all going up every week. Y'all going to be richer than hell"

"How much are the nectarines?"

"Weigh these, please."

Turn. Put the fruit in the pan. Calculate. Turn again. Spin the plastic bag. Knot the top. Hand it over. Change a bill.

"You take food stamps?"

"Yes, but I can't give you change."

"How much are the green beans pounds for a dollar and with you in a minute next one—please."

I take off my money apron, give it to Rich, and drift around the market. I compare prices with the Van Houtens. I talk cows with Joe Hlatky. We are from the same part of New Jersey, and he once worked for the Walker-Gordon dairy, in Plainsboro, with its Rotolactor merry-go-round milking platform. Hlatky is a big, stolid man with a shock of blond hair not as neatly prepared as his wife's, which has been professionally reorganized as a gold hive. They work together, selling their sweet white corn and crimson tomatoes—not for nothing is it called the Garden State. Hlatky's twenty-one-year-old daughter, Juanita, often sells with him, too. She is a large-boned, strongly built, large-busted blonde like her mother. Hlatky says that he and his family are comfortable here in Harlem, feeling always, among other things, the appreciative good will of the people. I remember Minerva Coleman telling me that when the farmers came into Harlem the first Tuesday they were "a little nervous—but after that they were O.K." She went on to say, "You can tell when people don't feel quite secure. But now they come in here and go about their business and they don't pay nobody no mind. They like the people here better than anywhere else. I don't know why. I would assume they'd get ripped off a little bit—but not too much." And now Hlatky, standing on 137th Street weighing tomatoes, says again how much he likes this market, and adds that he feels safer here than he does in other parts of the city. He says, "I'll tell you the most dangerous place we sell at. The roughest part of the city we go to is Union Square." So rough, he confides, that when he goes there, on Saturdays, he takes along an iron pipe.

Hlatky today has supplemented his home-grown New Jersey vegetables with peaches from a neighbor in California. They are wrapped in individual tissues. They are packed and presented in a fine wooden box. He bought them at a wholesale market. Robert Lewis, assistant director of the Greenmarket, happens along and sees the peaches. Lewis is a regional planner about to receive an advanced degree from the University of Pennsylvania, a gentle person, slight of build, a little round of shoulder, with a bandanna around his throat, a daypack on his back, steel-rimmed spectacles—all of which contribute to an impression of amiable, academic frailty. He says to big Joe Hlatky, "Get those peaches out of sight!"

With an iron pipe, a single tap on the forehead could send Lewis to Heaven twice. Hlatky respects him, though, and is grateful to him, too, for the existence of the market. Hlatky says he will sell off these peaches, with a promise not to bring more—never again to bring to a Greenmarket so much as a single box of wholesale fruit.

"The peaches are from California," says Lewis. "They must go back on the truck."

Hlatky casts aspersions up one side of 137th Street and down the other. Has Lewis noticed Slade's beans, Hodgson's onions, Van Houten's lettuce, Sekulovski's entire load? He says he feels unfairly singled out. He knows, though, that without Lewis and Barry Benepe, who created and developed the Greenmarket, the Hlatky farm in New Jersey would be even more marginal than it is now. ("Here you can make double what you make wholesale. If I sold my stuff in a wholesale market, I couldn't begin to exist.") And while Lewis and Benepe might lack a certain shrewdness with regard to the origin of beans, they contribute an essential that no farmer could provide: a sophisticated knowledge of the city.

One does not just drive across a bridge with a load of summer squash, look around for a vacant lot, and create a farmers' market in New York. Tape of every color is in the way: community boards, zoning committees, local merchants, City Hall. In order to set up even one open-air market—not to mention five or six—it was necessary to persuade, and in many cases to struggle against, nine city agencies, which Benepe describes in aggregate as "an octopus without a head; pull off one tentacle and another has a grip." Benepe is an architect who has worked as a planner not only for the city government but also in Orange County, watching the orchards disappear. When he conceived of the Greenmarket, in 1974, it seemed "a natural answer to a twofold problem": Loss of farmland in the metropolitan area and a lack of "fresh, decent food" in the city. Moreover, farmers selling produce from their trucks would start conversations, help resuscitate neighborhoods, brighten the aesthetic of the troubled town. "It seemed too obvious to ignore," Benepe says. "But most obvious things do get ignored." Benepe, like Lewis, is a native of the city. Son of an importer of linen, he studied art history at Williams College (1950) and went on to M.I.T. His dress and appearance remain youthful. To the Greenmarket office, on Fortieth Street, he wears brown denim highwaters, polo shirts, and suede Wallabees. He has long sandy graying hair, a lithe frame, a flat stomach. He rides a bicycle around town. He has a steady gaze, pale-blue eyes. He knows where City Hall is. He once worked for the Housing and Redevelopment Board. To start the Greenmarket, he knew which doors to knock on, and why they would not open. He approached the Real Estate Department. "They seemed to think I wanted to rip them off." He affiliated the project with the Council on the Environment of New York City in order to be eligible to receive foundation funds. He tried the Vinmont Foundation, the Richmond Foundation, the Fund for the City of New York, the America the Beautiful Fund. Finally, the J. M. Kaplan Fund said it would match anything he raised elsewhere. He went back to the others, and enough came through. Of the Greenmarket's overall cost—forty-two thousand dollars in 1977—the farmers, renting space, pay a third.

Lewis, twenty years younger, was a colleague of Benepe in Benepe's urban-planning firm, and helped him start the market. They searched for sites where farmers would be welcome, where neighborhoods would be particularly benefitted, where local fruit-and-vegetable stores were unlikely to open fire. Lewis to a large extent recruited the farmers. He sought advice from Cornell and Rutgers, and wrote to county agents, and interviewed

people whose names the agents supplied. He went to roadside-marketing conferences, to farmers' associations, to wholesale outlets. Under his generally disarranged locks, his undefeated shrug, Lewis has a deep and patient intelligence that tends to linger over any matter or problem that comes within its scrutiny. If he is ready to rebuke the farmers (for selling West Coast peaches), he is also ready to listen, without limit, to their numerous problems and even more numerous complaints. Day by day, market to market, he is a most evident link between the farmers and the city. He binds them to it, interprets it for them. Son of a University professor, he has no idea what shoe-peg corn is, but he was born in Brooklyn Jewish Hospital, grew up in Crown Heights, and has a sense of neighborhoods, of urban ways, that reaches from Flatbush to the hem of Yonkers. He is not much frightened by Harlem or intimidated by Fifty-ninth Street. He is a city man, and, more important, he is an emeritus city kid.

After staring up the street for a while, Hlatky puts the peaches back on the truck.

"Cigarette lighters! Cigarette lighters!"

The Zippo man did not grow his produce down home. "Cigarette lighters!" Never mind where they're from. They're fifty per cent off and selling fast. While Lewis goes after the Zippo man—effecting an at best temporary expulsion—I return to my peppers.

"Give me two, please. Just two. I ain't got nobody with me. I live by myself. I throw food in the pot. I stick a fork in it. When it gets soft, I eat it."

"Lysol! Lysol!

A man has come along selling Lysol. He offers cans to Rich Hodgson and, at the same time, to a woman to whom Rich is selling apples. One result of Greenmarket's considerable success is the attraction it presents to street hucksters, not the Sabrett's-hot-dog sort of street venders, who are licensed by the city, but itinerant merchants of the most mercurial kind. Some conceal things under their jackets. They are readily identifiable because their arms hang straight, as whose would not with five pounds of watches on either wrist? They sell anything—ski hats, tooled-leather belts, turquoise rings, inflatable airplanes. They spread blankets on the sidewalk and sprinkle them with jewelry. Man comes by now selling his dog. They always try to sell to the farmers, who are possibly better customers than the customers. A guy came up to me once in Brooklyn and offered me a case of hot mangoes. I assume they were hot. What other temperature could they be when the caselot price was two dollars? Another day in Brooklyn, a man pulled up to the curb in an old Chevrolet sedan, opened the trunk, and began selling Finnish porgies. Cleaning them, he spilled their innards into a bucket and their scales fell like snow on the street.

As to nowhere else, though, such people are attracted to 137th Street. All day they come by, selling coconuts, guavas, and terminal-market cucumbers out of carts from the A. & P. "Crabs! Crabs!" The crab man has bright-red boiled blue crabs. Three for a dollar, they dangle from strings. Now a man arrives with a rolling clothes rack crammed with sweaters and pants. He wants eighteen dollars for a two-piece ensemble. "No, thanks" a woman tells him. "I don't want to go to jail." She turns to the peppers and glances up at me, saying, "If a cop came around the corner they'd drop that stuff and run." Now a young man and woman in turtlenecks and Earth shoes wheel up a grocery cart full of comic books, cotton hats, incense, and tube socks. He has a premature paunch. Her eyes are dreamy and the lids are slow. She leans on him in a noodly manner. She looks half asleep, while he looks half awake, as if they were passing each other in the middle of a long journey. "Tube socks! Incense! Tube socks!" The man fixes his attention on Rich. "It's going to get—I'm telling you—*cold* on that farm, man." The socks are still in the manufacturer's package, marked a dollar ninety-five a pair. "Cold, man, I'm telling you. Here's six pairs for five dollars." Sold.

Minerva Coleman, who has been watching, stares after the couple as they go. "That must have been a Long Island girl," she says. "A Harlem girl would know I'd break her ———."

There was a firehouse across the street once. It was razed, and a vest-pocket park is there now, smothly paved, with a chain-link fence, three strands of barbed wire, and a fan-shaped basketball backboard that (most weeks) has a net. When I am not turned toward the scale, and while I wait for customers to fill their plastic bags, I often watch the games across the street. Some of the boys who play there move like light, their gestures rehearsed, adroit. They go both ways, hit well from the outside. The game they play, almost to the exclusion of any other game, begins from the outside.

Say five, in all, are playing. One starts things off with a set from outside.

"How much are the peppers?"

"Three pounds for a dollar."

"Pick me out three pounds. I'll be back after I get some corn."

"Where are your beans? What happened to your beans today?"

The shooter hits five straight from twenty feet. He is a pure shooter. Now he misses. He and the four others go for the rebound. The one who gets the ball is now on his own to try to score, while everyone else tries to stop him. He dribbles right, into the one-on-four. He stops. Jumps. Shoots. Misses.

"Weigh these, please"

"Weigh mine, please."

Another player grabs the ball. Now he makes his moves, trying to score against the four others. The ball pulsates in his hands. His legs are flexed. His feet do not stir. He picks his moment, leaps, arches his back (ball behind his head), scores. The ball is handed to him. He goes outside and shoots an unguarded set. He hits. He shoots another. He misses. Someone else gets the rebound. Now it is four against that player as he tries to drive and score. He misses. The player who gets the rebound now faces the four others. . . .

"Mister, will you weigh these peppers? Do you want to sell them to me or not?"

"Sorry. Three and a half pounds. Take them for a dollar." Who wants to make change?

After a reverse pivot that is fluid beyond his years, the kid with the ball scores. He walks to the outside. He takes a free set. Swish. He hits again.

"Weigh these, please."

The shooter misses. The rebound goes high. All five are after it. The boy who grabs it turns and faces the mob.

We see the same game all over the city. Always, the player with the ball is alone, the isolated shooter, the incubating star—versus everyone else on the court. There is never a pass, a screen, a pick, a roll, a two-on-two, a two-on-three, a three-on-two, a teammate. I turn with some peppers and rattle the scale.

Bartley Bryt comes by and says a cop caught a thief who was ripping off Sekulovski. Bryt is young and white, in bluejeans. Pumas, and a rugger shirt. He is doing a summer job, helping administer the market. He is slim, good-looking, with a shock of light-brown hair—Dalton School, 1977.

I ask him how old the thief was.

"About forty-five," says Bryt. "The only elderly person I've ever seen stealing here. When there's trouble here, it's usually from kids, but there's not much trouble, because the community feeling is so great here. People are so nice to you. Where I live, people go in and turn on their air-conditioners and that's it."

"Where do you live?"

"Seventy-fifth Street between Park and Lexington."

"How much are the cucumbers?"

"Eight for a dollar."

"Give me some ham knuckles, too."

"No ham knuckles."

"I was here earlier and there was ham knuckles here."

"Not at this truck, ham knuckles."

"Bobby Van Houten has ham knuckles."

"Yeah. He's killing us."

"Look at all those people at his truck. They're ten deep."

"He'll gross five thousand dollars today if he takes home a cent."

"He buys the stuff at a slaughterhouse."

"I'd like to see those pigs he talks about."

"If he raises pigs, I raise bananas."

The Van Houtens, next to us, are working from a truck with an eighteen-foot box. There is no larger vehicle here. To secure their choice position—on the corner, at the mouth of the street—they arrived at four in the morning on the first Harlem Tuesday. Wherever you are at the start, you remain for the summer. The Van Houtens are nothing if not aggressive. With their high-piled fruit-and-vegetable displays and sixteen hundred pounds of ham hocks, hog jowls, and additional pig products coming out of a cooler on the truck, they are frenetically busy. Of the five people working there, four are named Van Houten. Like the Hodgsons', their operation is a family conglomerate. Behind the peaches and peppers is Jim Van Houten, stocky, cheerful, nervous, with a big lick of dark brown hair shading a round, thoughtful face. He is a Master of Business Administration (Cornell University). His wife Sue Ellen, is close to the cabbage. She brings paperbacks for lulls in the glut. Kay Van Houten, Jim's mother, is dark-haired, trim, youthful, and small. Tomatoes, peppers, jowls alike, she works tirelessly at the scales, the all-day conversion of weight to cash, which she accumulates in a steel box in the cab of the truck. Her other son, Bobby, while selling at least as much as anyone else, periodically leaps onto the truck, lights his pipe, heaves out produce, jumps off the truck, builds and rebuilds high displays, lights his pipe, and moves up and down, behind the tables exhorting, encouraging, assisting, scolding, spreading the contagion that seems to impel him, his need to get the best of the bazaar. Bobby has pale-blue eyes. He has patrician high cheekbones, turn-of-the-century sideburns, the heroic good looks of an archaic star. He is obviously the boss—the field boss, anyway, his father being the corporate mastermind, the absentee truckiord.

"They have a big place out in Pennsylvania."

"They *say* they have a big place out in Pennsylvania."

"Yeah. I happen to know they run a fruit stand in Rockland County."

"They buy their stuff wholesale and bring it from the stand."

"Bobby is a truck driver, not a farmer. He makes long hauls in big rigs."

"I seen him at Hunts Point."

"Look at the stuff on their truck—all those brand-new cartons of Lake Ontario celery."

"They got lettuce from upstate, too."

"Florida cabbages."

"Long Island potatoes."

"Pennsylvania my ass."

"You know the name of their place? It's called Van Houten's Hunts Point Farms."

The Van Houtens last year spent ten thousand dollars on seeds. Their place—near Orangeville, Pennsylvania—is on a tributary of the Susquehanna River, about a hundred and fifty miles west of New York. They rent a couple of hundred neighboring acres as well, so they have about five hundred under

cultivation. They work not just busily but feverishly—from dawn some distance into dark—with little time and probably less inclination to contemplate the scenery they are helping to preserve. Their farm is among the intervales where the Poconos and the Alleghenies reach toward one another in the central Appalachian uplift. Their terrain is like rising bread against backdrops of long, low mountains. These Pennsylvania ridges, steep-sided and flat-topped, run on for tens and even hundreds of miles. Knob Mountain, the nearest to the Van Houtens, stands high above the farm, its slopes mainly wooded but open, too, with fairways of upland pasture. There are red covered bridges, nut-colored unpainted barns, narrow crown roads among corn shocks in the autumn—pheasant land. It is a strangely mottled country, where, not many miles to the east, you can make your way in brilliant sunshine across long vistas of standing grain—pastures full of Guernseys, barns full of milk—all the while approaching a high plateau on which there is stationary cloud. When you go up there and out of the warm country-side you enter a spitting fog and before long come into the slippery streets of a small corroding city where atmospheric acids are eating the J. C. Penney and the town common is a huge anthracitic pit. Not much seems to link these plateau towns with the needle-point-sampler valleys that surround them—not much except, perhaps, the pheasant. The bird is curious and goes up there, too—pecks at the edges of the pit. On a coal-town street, I killed one with my car one day when I went out with Bob Lewis to visit the Van Houtens. The right front fender broke its neck and little else. I tossed it into the back seat and dressed it later at home, expecting pea coal to come out of its gizzard but discovering instead the pebbles of the valley. Stuffed with bread, raisins, and Greenmarket onions, it was as succulent a bird as ever climbed a hill.

The Van Houtens' packinghouse is a white barn in a state of picturesque dilapidation. The farmhouse is brick, square, solid, and Dutch, with a windowed cupola at the apex of a pyramidal roof. It is surrounded by heavy oaks and maples, and a hundred acres of field corn are visible from the kitchen. Bobby's parents have a place nearby, while he lives in the farmhouse with his wife, Anne, who is a schoolteacher, and their four children, including twins. He was wearing the same threadbare jeans and faded denim shirt he wears in New York, his belt buckle roughly a pound of steel, on which raised letters said "FIELD BOSS." We cruised in his pickup, climbed steep roadless hills, and crossed bottomlands crowded with cabbage—savoy cabbage, with its spinachlike cobbled leaves. Cucumbers, broccoli, collards, cauliflower, cantaloupes, eggplant, peppers, lettuce—Van Houten's "Hunts Point" Farms. "Yeah," said Bobby. "The good Lord made twenty-four hours in a day and seven days in a week, and we work every bit of it. We spray with parathion. We spend forty thousand a year for fertilizer and chemicals, and another two thousand for the chopper that spreads the chemicals. Parathion is deadly, but in three days it's dissipated. It will never take the place of DDT. It's not as safe, either. You can drink DDT straight. It won't hurt you. During the war, Italian prisoners were sprayed with DDT. No one ever died from it. The government hurt us bad when they took away the DDT."

There was a stock pond and a fenced-in woodlot, with pigs and cows among the hemlocks, cherries, and pines. Pigs were squealing and fighting for position around an Agway feeder. We leaned on the fence and watched. "Field-corn prices are dropping every week, and the futures are worse," said Bobby, with a suck and a puff and a dash of flame. He uses a steel cylindrical lighter that shoots a foot-long tongue of gas. "So right now it pays to put the field corn through the pigs. If the price goes up, it won't pay. Pigs go well behind cows. They run together. Pigs will eat what the cows won't eat. A third of corn goes through a cow. Pigs thrive on that stuff." Burlap bags soaked in crankcase oil were wrapped around the trunks of trees. After the pigs rub up against the trees the oil that coats them discourages lice. In a lean-to deep in the woodlot rested a pig three times the size of any of the other pigs. "The truck must have missed that one," Bobby said. "And more than once. Some of them hide in the woods when the truck comes. We have up to a hundred and fifty here at any one time. We send off about twenty a week. The slaughterhouse gives us extra jowls and knuckles for the New York market. No one around here eats that stuff. You'd be surprised what they do eat, though. When the testicles are sliced off, the more farmer farmers take them in and cook them. I throw them away." Standing nearby was a Mercedes-Benz diesel fifty-ton refrigeration unit, keeping cool the knuckles, jowls, spareribs, sausage, baloney, and smoked neck bones that within a few hours would be transferred to the truck for Harlem.

Van Houten Farms is a heavy supplier for Mrs. Smith's Pies, of Pottstown, Pennsylvania, where Mrs. Smith bakes ten thousand pumpkin pies an hour and uses Van Houten Boston marrow squash. They are grown by the no-till method. Just plant the seeds and let the field go—sixty-five acres, two thousand tons of squash, big orange bombs hidden under thatches of weed.

"Did you ever see ketchup before it went into a bottle?" Bobby said, turning into a field of tomatoes grown for the kitchens of Chef Boy-ar-dee. They appeared to have been harvested by migrant sauropods who had ripped whole vines from the soil and thrashed the tomatoes free. Hundreds of thousands—crushed and split—were now ready for delivery. On arrival at the plant they would be unloaded with a high-pressure hose—tomato slurry. We went up on a dome of channery shale, hundreds of feet above the surrounding terrain, where tomatoes grew wider than the spread of a man's hand, almost to the size of curling stones. The ground was so steep that, to hold the soil, rows of hay and sod were interspersed with the vines. While the low-ground tomatoes were on the way to Boy-ar-dee, these would be rolling toward Harlem.

The Van Houtens sell to Boy-ar-dee for three cents a pound. The tomatoes they take to Harlem return ten times that. They sell tomatoes at Hunts Point, too—for less than half of what they get in the Greenmarket. "Lots of times we don't make money selling wholesale. When corn goes at Hunts Point for two-seventy-five a box, there's nothing left for us." From big canneries to city sidewalks, they sell at every type of outlet. They have to—to dispense their considerable production. And, as one would imagine, their roadside stand is not a card table. Rather, it is a fair-sized store. It is close to the New York-New Jersey line, less than twenty miles north of the George Washington Bridge. "It attracts the carriage trade," Bobby said. "Cadillacs, Lincolns, Jaguars. We pay a hundred and seventy dollars a week in taxes there, and the customers are bitches. One Tuesday in Harlem, we had six salespeople working the counter. *Each* of the six grossed as much as the roadside stand for that day—and four people were working the stand. I'd rather wait on those people in Harlem anyway. I'd rather wait on them for ten hours than on our affluent trade at the stand for ten minutes. If I had my choice I'd take a market every day solid black. Second choice I'd take the Spanish, last of all the whites. They're a solid pain in the ———. They ask if something has sodium nitrite. Well, to preserve something, the only alternative is embalming fluid. Some woman gets out of a Lincoln Continental and peels back an ear of corn. 'Oooo, a worm!' she says. 'Do you use chemicals on this corn?' And I say, 'Lady, you can't have it both ways.' The people in Harlem appreciate our being there. We sell cabbage three heads for a dollar there. Three heads for a dollar is a good deal for those people and a good deal for us. They rarely complain. They tell you how nice the tomatoes are, how nice the sweet corn is. It gives you a nice feeling at the end of the day."

The Van Houtens are, as Bobby says it, "Blauvelt Holland Dutch," yielding only twenty years' seniority to Henry Hudson himself. Gerrit Hendricksen Blauvelt was their seminal patroon. His sons were part of a syndicate that bought the Tappan Patent, west of the Tappan Zee. "Oh, yeah, we're S.A.R., C.A.R., D.A.R. Both my mother and father are Blauvelts. I'm Blauvelts fourteen ways. The Van Houtens didn't come over until 1670. The house I grew up in was built in 1731." The original address was Muddy Brook, New York, a name that was changed a century ago—in an early example of suburban semantics—to Pearl River.

When Bobby was growing up, the family ran a dairy farm in Pearl River that is now three fathoms deep—a reservoir owned by the Hackensack Water Company. In 1953, when he was in kindergarten, he and Jim put up a table beside the road and sold vegetables from the family garden. With the money they took in, they bought their first TV. They planted a larger garden the next year, and bought an automatic washing machine for their mother. Four years later, they built the present stand. In the late sixties came the reservoir. "Dad and I were not going to be storekeepers. We didn't want to grow things on a few acres for window dressing and bring in all the rest—like most roadside stands." From Albany to Delaware, they searched for a farm, and, answering an ad, found the one in Pennsylvania. In the big woodlot where the pigs now hide were thirty-eight oaks, each with a girth of eight to ten feet, and coveted by cabinetmakers. These oaks were older than the nation—O.A.R. Fortunately, the previous farmer had repeatedly refused to sell them. As a result, the farm was in a position to make a payment on itself. The Van Houtens sold the trees.

Bobby, out of Pearl River High School, did not go on to college. "What could it teach me?" His extraordinarily integrated knowledge of what was coming to be called agribusiness would develop empirically on the farm, and his passion for the driving of behemoth trucks would develop on the road. Twenty-six hours here, thirty-three there, he often takes field corn from Orangeville to sell to cattlemen in Florida, and something in him lives for those journeys. "I know every route number going to and around the South, and that's worth something. It may not be worth much, but it's worth as much as Greek mythology." Once, in a big tandem-axle twin-screw sleeper-cab tractor-trailer, he started alone out of Vero Beach with twenty-five tons of Indian River oranges, and thirty-six hours and no pills later he delivered the fruit in Toronto. The air there was twenty below zero and he was still in his Florida shirtsleeves. He had supported his stamina with "sixteen gallons of coffee." He feels sheer contempt toward all the young drivers on pills.

Hanging around Hunts Point over the years, Bobby developed considerable admiration for the savoir-faire of a certain broker there. He once observed him taking on a buyer to whom he had sold rotting peppers. There had been a layer of good ones on the top. Now the buyer was back in a rage, and the broker was rising to the situation. Speaking with disarming and convincing candor, he succeeded in calming the man down. Then he sold him another load of peppers. As these, too, went out of the terminal, they

were split and seamy but covered with a healthy green-pepper veneer. Bobby said, "You're crazy. You're really crazy. That guy will kill you."

"Bobby, you don't understand," said the broker. "Think about it. And tell me a better way to get that man back here tomorrow."

"Yeah, this is some business," Bobby said, finishing the story. "We have friends in New Jersey, and they hope we'll have a cyclone, or a flood. We hope they'll have a hurricane. Things like that drive the prices up for the lucky ones. Every year has its own difficulties. In 1972, we had a dry, dry summer. We irrigate from two creeks, and they were running very low. We took a bulldozer and dammed both of them—ended them right here. People downstream all said it was the driest year they'd ever seen."

We went into the farmhouse for dinner with Bobby's wife, Anne, and his father, James, who has the air of a contented President retired on a farm in Pennsylvania—a big man with a baby's grin, a tan scalp, protruding ears, a swife staccato manner of speech. Like Hodgson *père*, though he runs the place, prepares the trucks for Bobby's trips to town. "Your market there in Harlem, now, your colored want a good heavy yellow corn," he observed, and went on to say that among the various outlets for their produce the Greenmarket, by a wide margin, is in every way the best. Anne set turkey before us and gravy, stuffing, and single tomato slices that overlapped their plates. "It's too good to be true," she said. "The Greenmarket is too good to be true." Before sitting down herself, she added a buttery-crusted peach pie that was above two inches thick. "Something will spoil it," she went on. "I know it will. It's just too good to be true."

"It's a land of plenty," Bobby said.

"It's a land of too much," said his father.

Monday evenings Bobby is loaded and away by nine. Over the mountains and through the Water Gap he runs four hours to Pearl River, where he sleeps two hours in the cab. Jim, who lives nearby, meets him at three, and they unload produce for the stand. They then load on onions, potatoes, fruit—the things they will sell in the city that they don't grow on the farm. By four-thirty, Bobby is away for Harlem. By six he is selling hard. Now, in the afternoon, he is still unflaggingly at it—displays descending, his mother and brother beside him, scales rocking gently like boats.

Bartley Bryt brings us the news. Like the rest of us, the Van Houtens keep their cab doors locked, but this afternoon for a short time someone forgot. The door (it was not the outside one but the door in *their* side of the truck) was left unlocked for perhaps fifteen minutes. We are watched more closely than we think, for in that brief lapse someone, somehow—coming possibly from under the truck—reached into the cab and took the steel box there, which contained upward of two thousand dollars. Without detectable changes of expression, the family continues to sell.

Brooklyn, and the pickpocket in the burgundy jacket appears just before noon. Melissa Mousseau recognizes him much as if he were an old customer and points him out to Bob Lewis, who follows him from truck to truck. Aware of Lewis, he leaves the market. By two, he will have made another run. A woman with deep-auburn hair and pale, nervous hands clumsily attracts the attention of a customer whose large white purse she is rifling. Until a moment ago, the customer was occupied with the choosing of apples and peppers, but now she shouts out, "Hey, what are you doing? Your hand is in my purse. What are you doing?" The auburn-haired woman not only has her hand in the purse but most of her arm as well. She withdraws it, and with intense absorption begins to finger the peppers. "How much are the peppers? Mister, give me some of these!" she says, looking up at me with a gypsy's dark, starburst eyes. "Three pounds for a dollar," I tell her, with a swift glance around for Lewis or a cop. When I look back, the pickpocket is gone. Other faces have filled in—people unconcernedly examining the fruit. The woman with the white purse has returned her attention to the apples. She merely seems annoyed. Lewis once sent word around from truck to truck that we should regularly announce in loud voices that pickpockets were present in the market, but none of the farmers complied. Hodgson shrugged and said, "Why distract the customers?" Possibly Fifty-ninth Street is the New York Pickpocket Academy. Half a dozen scores have been made there in a day. I once looked up and saw a well-dressed gentleman under a gray fedora being kicked and kicked again by a man in a green polo shirt. He kicked him in the calves. He kicked him in the thighs. He kicked him in the gluteal bulge. He kicked him from the middle of the market out to the edge, and he kicked him into the street. "Get your ass out of here!" shouted the booter, redundantly. Turning back toward the market, he addressed the curious. "Pickpocket," he explained. The dip did not press charges.

People switch shopping carts from time to time. They make off with a loaded one and leave an empty cart behind. Crime on such levels is a part of the background here, something in the urban air, so many parts per million. The condition is accepted with a resignation that approaches nonchalance. The Van Houtens' loss was extraordinary but theirs was by no means the only cash box that has been stolen. We lost one once in Brooklyn, with something like two hundred dollars. For various reasons, suspicion immediately attached itself to a part-time employee who was selling with us and probably handed the box in a bag to a confederate. The previous Wednesday, he had been working for another farmer, who discharged him for dishonesty. Now, just after our cash box disappeared, he began saying, and repeating, in an excited voice, "It's real, man. It's real. We don't like it but that's reality—reality, man—and there is nothing we can do." Rich felt there *was* something he could do. He said, "You're fired."

Politely, the man inquired if he could know the reason for his dismissal.

"Sure," Rich said. "I don't trust you."

"That's cool, man, cool," said our ex-employee. He took off his apron and was gone.

Most thievery is petty and is on the other side of the tables. As Rich describes it, "Brooklyn, Fifty-ninth Street, people rip off stuff everywhere. You just expect it. An old man comes along and puts a dozen eggs in a bag. Women choosing peaches steal one for every one they buy—a peach for me, a peach for you. What can you do? You stand there and watch. When they take too many, you complain. I watched a guy one day taking nectarines. He would put one in a plastic bag, then one in a pocket, then one in a pile on the ground. After he did that half a dozen times, he had me weigh the bag."

"This isn't England," Barry Benepe informed us once, "and a lot of people are pretty dishonest."

Now, in Brooklyn, a heavyset woman well past the middle of life is sobbing pitifully, flailing her arms in despair. She is sitting on a bench in the middle of the market. She is wearing a print dress, a wide-brimmed straw hat. Between sobs, she presents in a heavy Russian accent the reason for her distress. She was buying green beans from Don Keller, and when she was about to pay him she discovered that someone had opened her handbag—even while it was on her arm, she said—and had removed several books of food stamps, a telephone bill, and eighty dollars in cash. Lewis, in his daypack, stands over her and tells her he is sorry. He says, "This sort of thing will happen wherever there's a crowd."

Another customer breaks in to scold Lewis, saying, "This is the biggest rip-off place in Brooklyn. Two of my friends were pickpocketed here last week and I had to give them carfare home."

Lewis puts a hand on his forehead and, after a pensive moment, says, "That was very kind of you."

The Russian woman is shrieking now. Lewis attends her like a working dentist. "It's all right. It will be O.K. It may not be as bad as you think." He remarks that he would call the police if he thought there were something they could do.

Jeffrey Mack, eight years old, has been listening to all this, and he now says, "I see a cop."

Jeffrey has an eye for cops that no one else seems to share. (A squad car came here for him one morning and took him off to face a truant officer. Seeing his fright, a Pacific Street prostitute got into the car and rode with him.)

"Where, Jeffrey?"

"There." Jeffrey lifts an arm and points.

"Where?"

"There." He points again—at trucks, farmers, a falafel man.

"I don't see a policeman," Lewis says to him. "If you see one, Jeffrey, go and get him."

Jeffrey goes, and comes back with an off-duty 78th Precinct cop who is wearing a white apron and has been selling fruits and vegetables in the market. The officer speaks sternly to the crying woman. "Your name?"

"Catherine Barta."

"Address?"

"Eighty-five Eastern Parkway."

Every Wednesday, she walks a mile or so to the Greenmarket. She has lived in Brooklyn close to half her life, the rest of it in the Ukraine. Heading back to his vegetables, the officer observes that there is nothing he can do.

Out from behind her tables comes Joan Benack, the baker, of Rocky Acres Farm, Milan, New York—a small woman with a high, thin voice. Leaving her tropical carrot bread, her zucchini bread, her anadama bread, her beer bread, she goes around with a borrowed hat collecting money from the farmers for Catherine Barta. Bills stuff the hat, size 7—the money of Alvina Frey and John Labanowski and Cleather Slade and Rich Hodgson and Bob Engle, who has seen it come and go. He was a broker for Merrill Lynch before the stock market imploded, and now he is a blond-bearded farmer in a basketball shirt selling apples that he grows in Clintondale, New York. Don Keller offers a dozen eggs, and one by one the farmers come out from their trucks to fill Mrs. Barta's shopping cart with beans and zucchini, apples, eggplants, tomatoes, peppers, and corn. As a result, her wails and sobs grow louder.

A man who gave Rich Hodgson a ten-dollar bill for a ninety-five-cent box of brown eggs asks Rich to give the ten back after Rich has handed him nine dollars and five cents, explaining that he has some smaller bills that he wants to exchange for a twenty. Rich hands him the ten. Into Rich's palm he counts out five ones, a five, and the ten for a twenty and goes away satisfied, as he has every reason to be, having conned Rich out of nine dollars, five cents, and a box of brown eggs. Rich smiles at his foolishness, shrugs and sells some cheese. If cash were equanimity, he would never lose a cent. One day, a gang of kids began taking Don Keller's vegetables and throwing them at the Hodgson truck. Anders Thueson threw an apple at the kids, who then picked up rocks. Thueson reached into the back of the truck and came up with a machete. While Hodgson told him to put it away, pant legs went up, switch-

blades came into view. Part of the gang bombarded the truck with debris from a nearby roof. Any indication of panic might have been disastrous. Hodgson packed deliberately, and drove away.

Todd Jameson, who comes in with his brother Dan from Farmingdale, New Jersey, weighed some squash one day, and put it in a brown bag. He set the package down while he weighed something else. Then, reaching for the squash, he picked up an identical bag that happened to contain fifty dollars in rolled coins. He handed it to the customer who had asked for the squash. Too late, Todd discovered the mistake. A couple of hours later, though, the customer—"I'll never forget him as long as I live, the white hair, the glasses, the ruddy face"—came back. He said, "Hey, this isn't squash. I didn't ask for money, I asked for squash." Whenever that man comes to market, the Jamesons give him a bag full of food. "You see, where I come from, that would never, never happen," Todd explains. "If I made a mistake like that in Farmingdale, no one—no one—would come back with fifty dollars' worth of change."

Dusk comes down without further crime in Brooklyn, and the farmers are packing to go. John Labanowski—short, compact, with a beer in his hand—is expounding on his day. "The white people are educating the colored on the use of beet greens," he reports. "A colored woman was telling me today, 'Cut the tops off,' and a white woman spoke up and said, 'Hold it,' and told the colored woman, 'You're throwing the best part away.' They go on talking, and pretty soon the colored woman is saying, 'I'm seventy-three on Monday,' and the white says, 'I don't believe a word you say.' You want to know why I come in here? I come in here for fun. For profit, of course, but for relaxation, too. I like being here with these people. They say the city is a rat race, but they've got it backwards. The farm is what gets to be a rat race. You should come out and see what I—" He is interrupted by the reappearance in the market of Catherine Barta, who went home long ago and has now returned, her eyes hidden by her wide-brimmed hat, her shopping cart full beside her. On the kitchen table, at 85 Eastern Parkway, she found her telephone bill, her stamps, and her cash. She has come back to the farmers with their food and money.

West of the suburbs, thirty and more miles from Manhattan, the New Jersey-New York border terrain is precipitous and glaciated and—across a considerable area—innocent of high-speed roads. Minor roads run north and south, flanking the walls of hogback ridges—Pochuck Mountain, Bearfort Mountain, Wawayanda Mountain—but the only route that travels westward with any suggestion of efficiency is the Appalachian Trail. The landscape is remarkably similar to Vermont's: small clearings, striated outcroppings, bouldery fields; rail fences under hard maples; angular roads, not well marked, with wooden signs; wild junipers signalling, as they do, penurious soil; unfenced cemeteries on treeless hillsides; conflagrationary colors in the autumn woods. Moving among such scenes, climbing, descending, losing the way and turning back—remarking how similar to rural New England all this is—one sooner or later tops a rise where the comparison in an instant blinks out. Some distance below, and reaching as far as the eye can conveniently see, is a surface perfectly flat, and not merely flat but also level, and not only level but black as carbon. There are half a dozen such phenomena in this region, each as startling to come upon as the last. Across their smooth expanses, distant hills look like shorelines, the edges of obsidian lakes. The black surfaces were, indeed, once fluid and blue—lakes that stood for many centuries where north-flowing streams were blocked by this or that digital terminus of the retreating Laurentide glacier.

Streamborne silt and black organic muck gradually replaced the water—prognosticating Lake Mead, Lake Powell, Lake Sakakawea, and the Lake of the Ozarks some years hence when they have filled in solid behind their dams. The surface of the mucklands (as they are called) is not altogether firm. It will support a five-inch globe onion. For that matter, it will support a tractor—but it is not nearly dense enough to hold up a house. There are only a few sheds on the wide flats. People live on "islands," once and present islands, knobs that break through the black surface just as they did when it was blue. Pine Island, New York, is a town in a black-dirt sea—the largest and most productive muckland of them all. Maple Island, Merritts Island, Big Island, Black Walnut Island are spaced across it as well, and their clustered houses resemble small European farming communities. The fields surrounding them seem European, too, for the acreages of black dirt are rule off in small, familial segments, like vineyards in Valencia or the Côte d'Or. No fences, no hedgerows interrupt the vista or separate one farmer from another. Plots abut. The vegetables that come out of this rich organic soil are in their way as special as wines: tall celeries, moist beets, iceberg lettuce as crisp as new money, soft Boston salad lettuce, broccoli, cauliflower, carrots—and, above all, onions. What the beluga is to caviar the muckland is to the onion. Millions upon millions of onions are grown in the black dirt. Early flat onions. Hybrid onions. Red Globe, White Globe, Yellow Globe onions. Buccaneer, Bronze Age, Benny's Red Onions. Tokyo Long White Bunching Onions. Harvestmore, Ebenezer, Nutmeg Onions. Yellow sweet Spanish late mild onions. Everywhere you go and everywhere you look are bags and boxes and bushels of onions. Pine Island, where the crop is warehoused, is Onionapolis. The hot days are dry on the muckland. After leaving it, in the evening, farmers sometimes go hopping from island to island, have a beer or two at the Meadow Tavern, and two to four at Mike's Tavern, and four to eight at Leo's Tavern in order to be ready for the Red Onion, a sort of staging area, or base camp, as good a place as any to prepare an all-out assault on the Jolly Onion.

Onion boxes, in this early-autumn harvest season, are in random stacks across the level plain. All day long, harvesting rigs move slowly among them like floating dredges, scooping the powdery soil, "pulling onions." John Labanowski has been pulling onions for twenty days now, stirred toward delirium by the fine black dust, the hammering sun, the asynchronous cacophony of his odd machine. The lower end of a steel conveyor belt, which is angled toward the ground like a stairway, moves forward through the soft earth and nuzzles under the onions. The conveyor consists of runglike rods set apart so that dirt can fall through, but not as far apart as the diameter of an onion. Tops and all, the onions ride uphill. The tops are brittle and dry. Bolted to the rig is a fan that could fly a Jenny. It blows off the tops and scatters them downwind. Clean now, appearing just as they will in a market, the onions reach the top of the conveyor, turn a corner, and roll down a chute.

Andy Labanowski, John's uncle, is sitting on a cantilevered seat shoving crates into place beneath the downpour of onions. Roughly four hundred and fifty will fill a crate—in nine seconds. The crates are wooden and heavy. Their loaded weight is eighty pounds apiece. With his left hand, Andy begins to ease one (on rollers) off the harvester, and with his right hand he moves another one below the falling onions. Empty crates are piled on the harvester almost to the point of toppling, and John feeds them down to Andy while the whole grotesque contrivance is kept in motion by John's father, John Labanowski, who sits out in front on a steel-padded tractor—taciturn, enigmatic, in his visored cap and tinted glasses—and advances the enterprise at ten to the minus seven miles per hour. There are thunderheads along the border of the sky, but even if they were directly above us we could not hear the rumbling. Three separate engines power the rig. We are well into the afternoon now, four of us working this Orange County clipper ship. Our skins are as black as the four of spades. There are white doughnuts around the eyes. Old John has the look of a coal miner moments out of the shaft. His brother, Andy—spare, darkeyed, gregarious—is courting sunstroke under a Budweiser hat that has turned black. Young John, also called Yash, came to work in high-top leather boots, gray twill trousers, monkey-fist gloves, a blue porkpie hat, and a pink T-shirt—all of which now are solid black. He turns away from a gust of dirt. "You can get blowed out," he says. "Winds blow fine dirt so hard it sometimes cuts the tops. But don't worry. This dirt will never kill you. My father's sixty-three and he's still going."

A stone jams the conveyor, and John the elder stops the tractor, gets off, picks up a wrench, and crushes the stone. When Polish farmers first cleared the muckland, stones were hauled in and dumped on the soil to help it support the weight of horses. There are fifty Labanowskis in the valley now. Their cousins the Osczepinskis—who also go to Greenmarket—farm here, too. The harvester moves on. Its weight shakes the earth. The tenth part of an acre vibrates around us like a quaking bog. There are cracks in the dry muck—crevasses of a sort—that will go as much as six feet deep. Onions by the hundred are lost in the cracks. The soil is so rich it will burn. Now and then a farmer flicks a cigarette off his rig and starts a ground fire. Old John, who smokes, has put out three such fires on his fifty acres this summer. Blazing black dirt is not easily controlled. In 1964, there was a fire in which a couple of thousand acres of soil burned. The fire crossed many property lines. It was harvest time, and crated onions were stacks across the plain. Fifteen million onions roasted. The fallout quickened appetites in Greece. "There were big winds. You couldn't go nowheres evenings. The air was too thick to see." A tractor blew up. The fire engines of many towns and a firefighting helicopter converged upon the muckland without significant effect. The fire lasted more than a week, and went out under long heavy rains.

John's father, John, flies in chartered aircraft to spy on onions elsewhere in the state. He is the Francis Gary Powers of the Labanowskis. If black-dirt farmers know the stages of the harvest in competitive counties, they can decide whether to wait or pull. Labanowski and his wife and another farmer and Tex Sobiech, of the Pine Island vegetable association, hire a twin-engine plane at the airfield that was Stewart Air Force Base, and, taking off over Hodgson's Brussels sprouts, head north by northwest—to Canandaigua, Canastota, Batavia, Elba, Fulton, Oswego. They land in some places and snoop by car. They fly low over other checkpoints and bulbous destinations.

Lurching onward. It is now my turn to align the boxes under the thundering onion-fall. One small timing error and two hundred onions crash in your lap, spew out over the ground. I somehow lose a foot between two rollers, and nearly crack an ankle. "I guess that's dangerous," I remark, recovering the foot.

"On a farm, everything is dangerous," says Yash.

After thirty minutes of filling boxes, my arms feel as if they have gone eighteen innings each. I scarcely notice, though, under the dictates of the action, the complete concentration on the shifting of the crates, the hypnotic effect—veiling everything else in

this black-surfaced hill-bordered surreally level world—of the cascade of golden onions. Onions. Onions. Multilayered, multileveled, ovate, imbricated, white-fleshed, orange-scaled onions. Native to Asia. Aromatic when bruised. When my turn is over and a break comes for me, I am so crazed with lust for these bulbous herbs—that I run to an unharvested row and pull from the earth a one-pound onion, rip off the membranous bulb coat, bare the flesh, and sink my teeth through leaf after leaf after savory mouth-needling sweet-sharp water-bearing leaf to the flower-stalk that is the center and the secret of the onion. Yash at the end of the day will give me three hundred pounds of onions to take home, and well past the fall they will stand in their sacks in a corner of the kitchen—the pluperfect preservers of sweet, fresh moisture—holding in winter the rains of summer.

We quit in early evening, having filled two thousand crates with a hundred and fifty thousand pounds of onions, which would bring thirty thousand dollars at Greenmarket prices if only so many could move there. They will bring about eight thousand dollars at the current (and not attractive) wholesale price. They are five per cent of the Labanowski harvest. In the family's packinghouse on Big Island is a tall refrigerator filled to capacity with beer and surrounded by onion crates full of empty cans. We open sixteen cans to smooth off the day. Beer running down our arms streaks them white. We sit on onion crates with the building between us and the falling sun, and we look out over the black lake to forested hills called Mount Adam and Mount Eve. "Yeah, it gets to be a rat race here," says Yash. "In the city, sometimes, I slam things and screech at the customers. I don't know why. We've made a lot of friends there, you know. I sort of favor Brooklyn. The colored go for the big beets there. The whites go for the small beets. I don't know why. Everybody wants the Boston lettuce. I say, 'If I'd known you wanted to buy it this bad, I'd of grew a whole acre for you.' They like to bargain in Brooklyn. My cabbage is fifty cents a head, and they say they want three for a dollar. Tomatoes they watch the scale. I give them two pounds always for a pound and a half. Fifty-ninth Street? That's like high class. At Fifty-ninth Street, I get people with gloves."

Fifty-ninth Street in the rain, and—despite the awning—the apples and peppers are wet.

"Is there a towel?" a customer asks. She wears a white hat, no gloves.

"Excuse me?"

"A towel. Water weighs something, you know."

I give her three and a third pounds for three. "There you are, madam. I weighed your water."

I remember asking Derryck Brooks-Smith, before I'd ever been here, to describe the Fifty-ninth Street Greenmarket for me, and he said, "White people. *Mucho* white people—or ones passing for white. Be careful with nickels and dimes. People are more careful there than in any other market. Sixty per cent of them are richies, and people who are really making it, and upper middle class, but when you weigh something you have to defend what you say. They'll ask you, 'Why is this a dollar-ten, and not a dollar-five?' They are—shall we say?—a little tight."

Brown bags are breaking open, corn and potatoes spilling into mud. Nonetheless, as midday approaches, the crowd becomes ever more dense and compressed, moving between parallel rows of farmers in complex slow currents.

"Amazing!" I remark across the table. "So many people out in the rain."

"It's this or the supermarket," says a tall woman in a transparent coat, handing me a pack of pears.

"Two pounds even, at three for a dollar twenty-five—that's eighty-five cents, please."

"Twice forty-two is eighty-four."

"Eighty-four, then." Out of one wet dollar. My apron is filled with wet bills. When a twenty comes along, five minutes are required to change it.

"How much are the tomatoes?"

"Three pounds for a dollar."

"How much are the apples?"

"Three pounds for a dollar. It says so there on the sign."

"They are McIntoshes, are they not?"

"Why are they called McIntoshes?"

"After Charles Macintosh (1766–1843), who invented their waterproof skin."

"I'm finally discovering what real vegetables smell like."

"I never knew lima beans came in a pod."

"These beans, they don't snap."

"My bean hasn't snapped in years."

"Where is your lettuce? I'll take a head of lettuce."

"We don't have any lettuce. Try the Labanowskis, across the way."

The rain is not hurting their beautiful lettuce, and Yash is soaked to the skin. In salute, he lifts a Budweiser. People are formed around his truck in scrums. They press in from all sides, bent over, pushing hard, and now and again a head of lettuce flies out to the side. Between beers, the Labanowskis munch carrots. They pick up heads of lettuce and bite into them as if they were large green apples.

"If I had to stay on the farm seven days a week I'd go crazy!" shouts Yash, over the crowd.

"I'd say he went some time ago," mutters a man choosing peppers in a London Fog.

Across the sky immediately to the north of us run the improbable cables of the Roosevelt Island tramway, and from time to time a gondola appears, floating up and eastward, or slowly descending, suspended, increasing the sense of carnival in the scene that lies below. The Greenmarket occupies a quarter of an acre running from Fifty-ninth Street to Fifty-eighth along Second Avenue, bordered with fence-climbing vines and trees of heaven. The lot is rented from the city for a dollar a year. Not long ago it contained a row of shops and restaurants, and upstairs apartments—all of which were wiped out in the name of a fresh approach to the Queensboro Bridge. The approach road has not been built, but tall cooperatives have risen overhead—thirty-six floors and upward, with balconies sprocketing their sides and swimming pools deep in their kidneys. One building has a Rolls-Royce agency on the ground floor. The Greenmarket's obvious popularity at this address is not altogether welcomed by the people of the big co-ops, and through their community board they and others of the upper East Side have imposed some severe if not Draconian rules. No cider by the glass. No brownies by the square. No bread. No jam. No jelly. No houseplants. No balloons. No banners. No music (the market attracts enough riffraff as it is). No market, in fact, in the early or late season—an articulated suspicion that everything ever sold here has not been grown, as claimed, on regional farms.

"How many acres do you have up there?"

"A hundred and twenty."

"And how many chickens?"

"Forty thousand."

"*Forty thousand chickens?*"

"Four times ten to the fourth."

"Are they running loose?"

"They are not running anywhere."

"What do you feed them?"

"Grain products, plant-protein products, animal-protein products, processed grain by-products, dehydrated alfalfa meal with Ethoxyquin added as a preservative, ground limestone, salt, calcium iodate . . ." Prepared for the question, I am reading from a card. "Cobalt carbonate, copper oxide, copper sulfate, iron sulfate, manganous oxide, zinc oxide, methionine hydroxy analogue calcium, Vitamin A supplement, D-activated animal sterol, niacin, calcium pantothenate, riboflavin supplement, Vitamin B–12 supplement, menadione, dimethylpyrimidinol bisulfite, Vitamin E supplement, and folic acid."

"Just as I suspected. And how fresh are the eggs?"

Derryck Brooks-Smith—working Saturday, off from school—speaks up to answer. "They were laid, to be perfectly frank, two days ago or one day ago but not this morning."

"Oh. You call yourself a farmer. The eggs should be fresh."

"They *are* fresh. The yolks will stand up and yell at you. The average egg in a supermarket is three weeks away from the hen."

Brooks-Smith sells two dozen jumbos to a black man with seven bracelets on each wrist, hair in ringlets, and what appears to be about six pounds of tin around his neck. An occasional star comes in here, a face shot out of the midnight tube, and people also arrive in Lincolns, which they park in the Kinney next door. For the most part, though, they are everyday eye-shadowed urban Americans. A dog is in the market. Male. He is not loose. He is leashed. He is, nonetheless, in the market, and a woman makes a strong complaint. "Put up a sign! Keep them out! A person's legs are too precious!" she screams.

She has gained the attention of Bob Lewis. "This woman is referring to the fact that we don't allow dogs in here," Lewis says quietly to the dog's owner.

"She is crazy, too" says the owner, whose dog is six inches high.

The rain has ended and shafts of bright sun have broken through, with the result that mists are rising. An elderly woman tells me she walked a mile to be here. A big bald man in a button-down shirt is drinking beer from a one-quart can. The can is a brown bag. "The heaviest consumption of beer in the world is in Belgium," he informs us. "Belgium is one place where I believe I could get in trouble." He buys six pounds of apples and an ear of corn. There is a short man before us now in lemon-lime-cherry-and grape striped trousers and a shirt in bourbon, burgundy, and crème-de-menthe squares. He explains to a neighbor how to bake an eggplant. "Insert holes in it," he tells her, "or the thing will explode."

Man in a Harley-Davidson T-shirt over a gravid half-mast paunch. He wants the telephone number of the community board so he can call and complain that the farmers are not permitted to sell plants. The number is 679–2287, and Bob Lewis writes it, crossing the stems of the sevens.

Harley-Davidson: "That's a *seven?*"

"That's the way they write sevens in Europe."

"This isn't Europe. This is America. We've got too many Europeans here. And Spanish. What we need is more Americans, not Spanish. They came here—these animals—and won't learn English."

"Honey! Honey here!" shouts Brooks-Smith. (We have no honey. We never sell honey.)

"Eggs! Eggs! Get your eggs here!" shouts the honey man, across the way.

There is a rhythm in the movement of the crowd, in the stopping, the selecting, the moving on—the time unconsciously budgeted to assess one farm against another, to convict a tomato, to choose a peach. The seller comes to feel the rate of flow, and—for all the small remarks, the meeting of eyes—to feel as well the seclusion of anonymity that comes with the money aprons and the hanging scales. Rich Hodgson—handing them their blue free plums. They

don't know he skis in Utah. Melissa Mousseau—changing a twenty for a bag of pears. They don't know that she goes, too. Hemingway and Thueson, the athletes, have heard more encouraging sounds from other crowds. "If you charge for three pounds, give me three full pounds and not two pounds and fifteen ounces, boy."

By a blue Chevrolet panel truck, opposite us, the crowd's rate of flow is perceptibly arrested. The displays there are smaller than most, the list of items shorter. Some of the prices are higher. The zucchini is fifty cents a pound. The corn, the tomatoes, the green beans, the squash are not all superior to their counterparts around the market, and certainly not to ours. So why, then, does the crowd almost crystalize when they come to Alvina Frey? They don't know anything about her except her address (Chad's Farm, Mahwah, New Jersey), if they happen to notice it on the truck, but they can easily sense a consistent standard, a kind of personal signature, in the colors and textures before her.

"What the small farmer offers is fresher, more selected material," Alvina has said. "The small farmer throws away the bad stuff. If my produce is better than some people's, I'll charge more for it. Some of the other guys say I'm Fifth Avenue. I don't care."

She is trim and attractive, petite, with intensity in her narrow, gentle face, and gold earrings that swing and flash. Her hair is short and has flecks of gray in it. Her skin is richly tan, her eyes a bright pale blue. She wears tennis shoes and light-blue denims with bell bottoms and a striped cardigan that looks soft and expensive. At first glance she seems so Short Hills that one wonders whether she is playing, and whether she, as some others have done, starts from home empty and collects her goods on the way to market—hand-me-down potatoes, Hunts Point pears. From years in the sun, though, there are deep radial lines around her eyes. And now, toward the end of the season, her hands are rough, calloused, cracked, her fingers like small bananas. Her nails are split, and the skin that surrounds them is dark with terrarian stains.

She is very busy, and pressed for time, selling. But she takes time to educate, too. She tells people not to be impressed by fat cucumbers. The long thin ones have fewer seeds. To the universal question "Is the corn fresh?" she says, "You can tell for yourself." She reaches for an ear and holds it upside down. If the stem at the break is a damp, pale green, the corn has been off the stalk less than a day. After about twenty-four hours, the stem turns white and chalky, opaque. With more time, it turns various shades of brown. The stem at the break of the ear in her hand is damp, pale green.

"Are the beans fresh?"

"Eat one. If you can eat it and it's juicy and not stringy, it's fresh."

People may also sense when they linger close around Alvina Frey that she is—perhaps a little more than anyone else here—what the Greenmarket is about. Not far from the city, she works a long-established farm that, before the Greenmarket, was on its way to being cut up and sold. While the Hodgsons look for new ground and the Van Houtens have found it, Alvina is all but desperate to hold the farm she has, which her grandmother farmed before her. Her grandmother, in fact, cleared the land. The grandmothers name was Alwine Pelz, and she was born on a farm in Saxony in the eighteen-sixties, emigrating as an adult to New Jersey. Her husband was a loom mechanic, and he found a job in a Paterson mill while she looked through the country for a farm. Fifteen miles northeast of Paterson, in the township of Ho-Ho-Kus, she bought fifty-five acres, close by the New York State line. To irrigate her crops, she dug a well, and walled it with fieldstone, topped by four stone columns and a pagoda roof. With her husband's help, she then constructed a fieldstone barn. "She did what she knew how to do, my grandmother—she farmed. When my grandfather went to the mills in Paterson, he took her tomatoes, corn, beans, potatoes, beets—you name it—to the Island Market and sold them there. He went down with his horse and wagon. He didn't have a truck until the late twenties. My grandmother grew strawberries, too—two or three acres of them—and she had apples. She made cider, and I know damned well that during Prohibition she made hooch. She worked every day out in the fields until six months before she died. She was ninety-one years old. She farmed with horses. She never went in for anything mechanized. Neither did I, at first. Toward the end, when stuff grows high, you can't get in with a tractor. I had horses until fifteen years ago. About the only mechanical thing my grandmother ever had was the cider mill. It was steam-driven and made an awful racket. The ones that lived over the hill, they used to complain."

Her nearest neighbors are no longer over the hill. They are on the hill, around the hill, in the hill. The farm is on an old, blacktopped crown road that has become a suburban street, with a Little League field, swimming pools, trim lawns, and miniwheelbarows a foot high that have house numbers on their sides. The well is still there, however—its masonry tight, its water serving the farm. The stone barn is a high and beautiful structure that is now covered, like a superannuated college, with ivy.

The countryside Alvina remembers from her girlhood had many truck farms, dairy farms, separating what have become contiguous towns: a future that the New Jersey State Highway Department began to sketch in the nineteen-thirties, when it created what is now Route 17, a north-south bifurcation of Bergen County, its purpose being to bring the Catskills closer to the city. Alvina remembers the new road running through garden country with rich dark earth full of carrots, radishes, and beets. All of what is now Paramus—of what is now a levitated Levittown with houses checkered to the curve of the earth—was celeryland and lettuceland. Where Okonite and Minolta are now, Alvina's father, Frank Pelz, had a farm of his own. The day the new road opened he went down it with a load of cabbages. The truck body was not bolted on well, and the load shook loose—heads all over the road. Route 17 has come to be called a "butcher boulevard," and when heads roll on it now they are more likely to be human. Alvina is safe enough at six in the morning as the Chad's Farm truck moves south toward the city past the Olds-Toyota and the Swiss Chalet, past the Tiffany Diner and Pay Less Building Supply, past steak houses the size of high schools. Castle Auto Truck Parts (turrets, battlements). Car Crazy Eddie. The Value House. The Cottage Beautiful. McDonald's, Burger King, Shatzi's Hofbrauhaus (Bavarian half-timber). John Barleycorn's Restaurant. The Golden Plough (a barn full of steak and lobsters). The Jade Fountain ("Chinese-Polynesian"). Nasser Aftab's House of Carpets. When Route 17 opened, New Jersey had twenty-nine thousand farms. Today there are seventy-nine hundred. Only forty-eight are left in all of Bergen County, and one is Alvina Frey's.

After her grandmother was gone and her father, too, Alvina worked the place with her first husband, Chad Chodorowski, and for some years they sold all their produce wholesale, mainly in Paterson. Eventually they built a roadside stand. The day it opened, in 1968, Chad suffered a heart attack. A year later, he died. Alvina's grandmother had had ten children, most of whom helped her with the farm. Alvina has no children. She has reduced the acreage under cultivation to thirty-eight, and works it generally alone, with part-time help in the fields and in the stand. Her husband, Ed Frey, assists to some extent, but he is an excavator with a full-time business of his own, and while she is digging furrows he digs sewers and graves. "I love to see stuff grow. When it doesn't do well I could cry," she says. "But I don't like herbicide. The last time I used it was in tomatoes. I use as little chemical as I possibly can."

People who come regularly to the Greenmarket often bring things to Alvina. At Fifty-ninth Street, an elderly woman appears weekly with a container of orange juice for her. When there is no juice, Alvina sucks on the ice with which John Labanowski chills his beer. People take pictures of her. They invite her up for coffee. "I got one customer here at Fifty-ninth Street who's a drinker, male—a damned good-looking distinguished man, even if he drinks. He once brought me a hard-boiled egg in clear gelatin. Some kind of French dish. You don't like it, but you have to eat it." She receives weekly reports from a man who once bought a gourd. Following her directions, he cut holes in it and hung it out a twentieth-story window. A bird came to live in his gourd.

"I love the city—meeting different people, learning that all the things you learn about the city are not true. I see more people in the two markets I come to—Brooklyn and Fifty-ninth Street—than I do in several weeks in Mahwah at the stand. I wouldn't quit this for nothing in the world. The people are wonderful, and the market means a lot to them. They don't want anything to screw it up so we won't come in anymore."

A short time ago, Chad's Farm was drifting down a long and steady economic decline. In the wholesale markets, the middleman, in her opinion, wanted too much. In Paterson a couple of years ago, a half bushel of tomatoes brought four dollars and fifty cents. Now it brings five dollars, a difference that fails to compensate for the inflating costs of gasoline, fertilizer, utilities, containers, and dust. "I'm too small for Hunts Point and too big to make a living only out of a roadside stand. There was four of us—farmers—on my road once. When Johnny Werling went out of business he was forty. He finally had to get a job. That's rough—to farm all your life and then have to get a job. That's where I was headed when the Greenmarket came along. The Greenmarket is a godsend. Next year, I'd like to do different. I'd like to rent out my stand and come into the city every day."—JOHN MCPHEE.●

ANNOUNCEMENT AS TO VOTES

(Mr. DANIELSON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DANIELSON. Mr. Speaker, I was compelled to be absent from the floor of the House of Representatives for one rollcall vote on Thursday, May 25, 1978, and would like to announce how I would have voted had I been present.

Rollcall No. 379: The House, by a vote of 178 ayes to 109 noes, agreed to an amendment to H.R. 9400, authorizing actions for redress in cases involving deprivations of civil rights of institutionalized persons, that reinstates coverage for persons, that reinstates coverage for persons in jails, prisons, or other correctional institutions, but only permits the Attorney General to initiate a civil action in these areas when the court has transmitted a complaint or petition.

I would have voted "aye."

Mr. Speaker, due to compelling business in my congressional district, I was unable to be present for eight rollcall votes on Monday, June 5, 1978, for seven

MONDAY, JUNE 5, 1978

Rollcall No. 405: The House passed, by a vote of 336 yeas, H.R. 185, to amend section 2632 of title 10, United States Code, to provide the Secretary of the department in which the Coast Guard is operating with the authority to transport Coast Guard employees to and from certain places of employment. I would have voted "yea."

Rollcall No. 406: The House passed, by a vote of 344 yeas to 1 nay, H.R. 188, amended, to amend the Intervention on the High Seas Act to implement the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other Than Oil. I would have voted "yea."

Rollcall No. 407: The House passed, by a vote of 338 yeas to 9 nays, H.R. 12140, to amend the Federal Water Pollution Control Act to provide additional authorizations for certain operating programs under the act. I would have voted "yea."

Rollcall No. 408: The House passed, by a vote of 339 yeas to 1 nay, House Resolution 1213, the rule under which H.R. 12250—to designate the Boundary Waters Canoe Area Wilderness and to establish the Boundary Waters Canoe Area National Recreation Area—was considered. I would have voted "yea."

Rollcall No. 409: The House, by a vote of 213 ayes to 141 noes, agreed to an amendment to H.R. 12250, in the nature of a substitute, as amended by a substitute, that retains most of the provisions of the original bill, but eliminates the recreation area; establishes a mining protection area; and makes certain changes in motorboat use on specified lakes. I would have voted "aye."

Rollcall No. 410: The House passed, by a vote of 324 yeas to 29 nays, H.R. 12250, to designate the Boundary Waters Canoe Area Wilderness and to establish the Boundary Waters Canoe Area National Recreation Area. I would have voted "yea."

Rollcall No. 411: The House passed, by a vote of 344 yeas to 2 nays, House Resolution 1191, the rule under which H.R. 12481—to authorize appropriations for certain insular areas of the United States—was considered. I would have voted "yea."

Rollcall No. 412: The House passed, by a vote of 292 yeas to 54 nays, H.R. 12481, to authorize appropriations for certain insular areas of the United States. I would have voted "yea."

TUESDAY, JUNE 6, 1978

Rollcall No. 413 was a quorum call.

Rollcall No. 414: The House passed, by a vote of 340 yeas to 28 nays, H.R. 8394, amended, to provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries. I would have voted "yea."

Rollcall No. 415: The House passed, by a vote of 368 yeas, H.R. 12637, amended, to amend the North Pacific Fisheries Act of 1954. I would have voted "yea."

Rollcall No. 416: The House passed, by a vote of 268 yeas to 103 nays, H.R. 12668, amended, to establish a conservation program for the living marine resources of the Arctic and Southern Oceans. I would have voted "yea."

Rollcall No. 417: The House passed, by a vote of 322 yeas to 48 nays, House Resolution 1205, the rule under which H.R. 12240—to authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency Retirement and Disability System—was considered. I would have voted "yea."

Rollcall No. 418: The House rejected, by a vote of 60 ayes to 312 noes, an amendment to H.R. 12240, that sought to strike the language requiring the Attorney General to notify the House and Senate permanent Select Committees on Intelligence of each admission of an alien which the Attorney General has reason to believe is excludable under certain provisions of the Immigration and Nationality Act. I would have voted "no."

Rollcall No. 419: The House passed, by a vote of 323 yeas to 43 nays, H.R. 12240. to authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency Retirement and Disability System. I would have voted "yea."

Rollcall No. 420: The House passed, by a vote of 339 yeas to 21 nays, House Resolution 1206, providing for the consideration of H.R. 12426—to authorize the Secretary of the Treasury to provide financial assistance for the city of New York. I would have voted "yea."

WEDNESDAY, JUNE 7, 1978

Rollcall No. 421: The House, by a vote of 331 yeas to 15 nays, approved the Journal of Tuesday, June 6. I would have voted "yea."

Rollcall No. 422: The House passed, by a vote of 349 yeas to 24 nays, House Concurrent Resolution 561, authorizing the printing as a House document, the folder "The United States Capitol." I would have voted "yea."

Rollcall No. 423: The House passed, by a vote of 329 yeas to 50 nays, Senate Concurrent Resolution 89, authorizing the printing of additional copies of volume II of the Senate hearings entitled "Korean Influence Inquiry"—clearing the measure. I would have voted "yea."

Rollcall No. 424: The House passed, by a vote of 376 yeas to 1 nay, House Resolution 1218, the rule waiving certain points of order against H.R. 12930—making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1979. I would have voted "yea."

Rollcall No. 425: The House, by a vote of 80 ayes to 314 noes, rejected an amendment to H.R. 12930, that sought to increase the appropriation for the Bureau of Alcohol, Tobacco and Firearms by $4.2 million; and sought to strike the prohibition on using funds to enforce the Bureau's rules concerning firearms published on March 21, 1978. I would have voted "aye."

Rollcall No. 426: The House passed, by a vote of 297 yeas to 98 nays, H.R. 12930, making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1979. I would have voted "yea."

Rollcall No. 427 was a quorum call.

Rollcall No. 428: The House, by a vote of 201 ayes to 179 noes, agreed to an amendment to H.R. 12929—making appropriations for the Department of Labor, and Health, Education, and Welfare and related agencies for the fiscal year ending September 30, 1979—that reduces the appropriation for the Occupational Safety and Health Administration to the 1978 level, a reduction of $28.4 million. I would have voted "no."

Mr. Speaker, I was compelled to be absent from the floor of the House of Representatives during one rollcall vote on Thursday, July 13, 1978, and during one rollcall vote on Monday, July 17, 1978. I would like to announce how I would have voted had I been present.

THURSDAY, JULY 13

Rollcall No. 540: The House agreed, by a vote of 197 ayes to 195 noes, to a substitute amendment to H.R. 15, Education Amendments of 1978, that prohibits community education grants for any program being conducted in a community by another public agency, unless the Commissioner determines collaboration exists between the local education agency and the public agency. I would have voted "aye."

MONDAY, JULY 17

Rollcall No. 554: The House passed, by a vote of 376 yeas to 7 nays, House Resolution 1252, the rule under which H.R. 1069, Coal Pipeline Act, was considered. I would have voted "yea."

Mr. Speaker, due to compelling business in my congressional district during the week of July 24, 1978, I was unable to be present on the floor of the House of Representatives throughout the week, and would like to announce how I would have voted on each rollcall vote that week, had I been present.

MONDAY, JULY 24, 1978

Rollcall No. 587 was a quorum call.

Rollcall No. 588: The House passed, by a vote of 264 yeas to 10 nays, House Joint Resolution 946, to designate October 7, 1978, as "National Guard Day." I would have voted "yea."

TUESDAY, JULY 25, 1978

Rollcall No. 589 was a quorum call.

Rollcall No. 590: The House passed, by a vote of 390 yeas to 8 nays, H.R. 11823, to amend section 1331(c) of title 10, United States Code, to allow certain otherwise ineligible reservists to become eligible for retired pay. I would have voted "yea."

Rollcall No. 591: The House passed, by a vote of 372 yeas to 22 nays, H.R. 12349, amended, to provide for the Du-Noir Basin addition to the Washakie Wilderness. I would have voted "yea."

Rollcall No. 592: The House passed, by a vote of 346 yeas to 54 nays, H.R. 12973, amended, Social Services Amendments of 1978. I would have voted "yea."

Rollcall No. 593: The House passed, by a vote of 394 yeas to 4 nays, H.R. 11889, to amend title 38, United States Code, to increase from $100 to $200 the monthly rate of special pension payable to each person who has been awarded the Medal of Honor. I would have voted "yea."

Rollcall No. 594: The House passed, by a vote of 393 yeas to 9 nays, H.R. 11890, amended, to amend title 38 of the United States Code to provide that the survivors of a veteran who was rated totally and permanently service-connected disabled for a period of at least 10 years would be entitled to dependency and indemnity compensation as though the veteral had died from a service-connected disability. I would have voted "yea."

Rollcall No. 595: The House, by a vote of 244 yeas to 157 nays, agreed to the conference report on H.R. 12426, to authorize the Secretary of the Treasury to provide financial assistance for the city of New York—clearing the measure for Senate action. I would have voted "yea."

Rollcall No. 596: The House, by a vote of 276 yeas to 120 nays, agreed to the conference report on H.R. 11877, to authorize appropriations for fiscal year 1979 for the Peace Corps and to make certain changes in the Peace Corps Act—clearing the measure for the President. I would have voted "yea."

WEDNESDAY, JULY 26, 1978

Rollcall No. 597: The House, by a vote of 362 yeas to 2 nays, agreed to resolve itself into the Committee of the Whole. I would have voted "yea."

Rollcall No. 598: The House rejected, by a vote of 141 ayes to 260 noes, an amendment to H.R. 10285, Commodity Exchange Act amendments, that sought to permit States to pass and enforce State laws identical to those in the Commodity Exchange Act. I would have voted "no."

Rollcall No. 599: The House, by a vote of 273 ayes to 125 noes, agreed to an amendment to H.R. 10285, that requires the reporting of export sales to the Commission within 48 hours, and requires the Commission to then make this information public. I would have voted "no."

Rollcall No. 600: The House passed, by a vote of 401 yeas to 6 nays, H.R. 10284, to extend the Commodity Exchange Act, as amended, for 4 years. I would have voted "yea."

Rollcall No. 601: The House, by a vote of 214 ayes to 184 noes, agreed to an amendment to H.R. 3350, Deep Seabed Hard Minerals Act, as amended by a substitute, that gives the Commerce Department jurisdiction over deep seabed mining operations. I would have voted "no."

Rollcall No. 602: The House, by a vote of 199 ayes to 202 noes, rejected an amendment to H.R. 3350, that sought to require applicants for licenses and permits to submit comprehensive work plans. I would have voted "aye."

Rollcall No. 603: The House passed, by a vote of 312 yeas to 80 nays, H.R. 3350, to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto. I would have voted "yea."

Rollcall No. 604: The House, by a vote of 158 ayes to 224 noes, rejected an amendment to H.R. 7577, Economic Opportunity Act amendments, that sought to retain the ratio of Federal/State assistance contributions to community service agencies at 60 percent Federal/40-percent State. I would have voted "no."

Rollcall No. 605: The House passed, by a vote of 346 yeas to 38 nays, H.R. 7577, to amend the Economic Opportunity Act of 1964. I would have voted "yea."

THURSDAY, JULY 27, 1978

Rollcall No. 606: The House agreed, by a vote of 302 yeas to 44 nays, to Senate Conference Resolution 98, relating to adjournment to a date certain during the remainder of the 95th Congress—clearing the measure. I would have voted "yea."

Rollcall No. 607 was a quorum call.

Rollcall No. 608: The House rejected, by a vote of 197 ayes to 199 noes, an amendment to H.R. 12157, Export-Import Bank Act amendments, that sought to prohibit the Bank from financial transactions to establish or expand the production of commodities, unless the President certifies the commodity is not in surplus and its import would not substantially injure U.S. firms and employees producing the same or competing commodity. I would have voted "no."

Rollcall No. 609: The House rejected, by a vote of 103 ayes to 286 noes, an amendment to H.R. 12157, that sought to prohibit the Bank from participating in transactions with countries which the Secretary of State determines engage in a consistent pattern of gross violations of internationally recognized human rights. I would have voted "no."

Rollcall No. 610: The House rejected, by a vote of 90 ayes to 288 noes, an amendment to H.R. 12157, that sought to prohibit the Bank from participating in transactions unless the purchaser of exports endorses certain fair and equal employment principles. I would have voted "no."

Rollcall No. 611: The House, by a vote of 106 ayes to 266 noes, rejected an amendment to H.R. 12157, that sought to require the Bank to submit an evaluation to Congress, based on an analysis by the Nuclear Regulatory Commission, describing safety standards and nuclear practices of any country in which the Bank enters into transactions involving the sale of nuclear reactors. I would have voted "no."

Rollcall No. 612: The House passed, by a vote of 314 yeas to 47 nays, H.R. 12157, to amend and extend the Export-Import Bank Act of 1945. I would have voted "yea."

FRIDAY, JULY 28, 1978

Rollcall No. 613: The House agreed, by a vote of 304 yeas to 4 nays, to resolve itself into the Committee of the Whole. I would have voted "yea."

Rollcall No. 614: The House passed, by a vote of 254 yeas to 69 navs, H.R. 9400, to authorize actions for redress in cases involving deprivations of rights of institutionalized persons secured or protected by the Constitution or laws of the United States. I would have voted "yea."

Rollcall No. 615: The House, by a vote of 303 yeas to 5 nays, agreed to resolve itself into the Committee of the Whole. I would have voted "yea."

Rollcall No. 616: The House, by a vote of 87 ayes to 224 noes, rejected an amendment to H.R. 12434, Civil Rights Commission Amendments, that sought to delete provisions giving the Commission authority to study discrimination based on age or handicap status. I would have voted "no."

Rollcall No. 617: The House agreed, by a vote of 159 ayes to 125 noes, to an amendment to H.R. 12432, that prohibits the use of funds by the Commission to influence the passage or defeat of legislation before Congress or State legislatures, except where the Commission is requested to give an opinion. I would have voted "no."

Mr. Speaker, I was compelled to be absent from the floor of the House of Representatives during three rollcall votes on Friday, August 4, 1978, and during two rollcall votes on Tuesday, August 8, 1978. I would like to announce how I would have voted had I been present.

FRIDAY, AUGUST 4, 1978

Rollcall 647: The House, by a vote of 272 yeas to 7 nays, agreed to resolve itself into the Committee of the Whole. I would have voted "yea."

Rollcall 648: The House agreed, by a vote of 300 ayes to 29 noes, to an amendment to H.R. 12931, foreign assistance appropriations for fiscal 1979, as amended by a substitute, that reduces foreign military credit sales appropriations by $12.6 million, and that provides that not more than $2.5 million of the appropriations shall be available for Lebanon and not more than $8.5 million shall be available for Jordan. I would have voted "aye."

Rollcall 649: The House agreed, by a vote of 330 yeas to 7 nays, to House Resolution 1291, the rule waiving certain points of order against H.R. 13635, Department of Defense appropriations for fiscal 1979. I would have voted "yea."

TUESDAY, AUGUST 8, 1978

Rollcall 661: The House rejected, by a vote of 136 ayes to 222 noes, an amendment to H.R. 13635 that sought to reduce total appropriations in the bill not required by law by 1 percent. I would have voted "aye."

Rollcall 662: The House rejected, by a vote of 102 ayes to 252 noes, an amendment to H.R. 13635 that sought to reduce total appropriations in the bill not required by law by 2 percent. I would have voted "aye."

Mr. Speaker, I was compelled to be absent from the floor of the House of Representatives during one rollcall vote on Thursday, September 21, 1978, and would like to announce how I would have voted had I been present.

Rollcall No. 812: The House agreed, by a vote of 300 aves to 86 noes, to an amendment to H.R. 12611, Air Service Improvement Act of 1978, that provides that the CAB can deny a new route aurollcall votes on Tuesday, June 6, 1978, and for seven rollcall votes on Wednesday, June 7, 1978. I would like to announce how I would have voted had I been present.

thority only if the opposing party presents clear and convincing evidence the new service would not be consistent with public convenience and necessity. I would have voted "aye."

A TRIBUTE TO HON. JAMES J. DELANEY AND OTIS PIKE ON THEIR PROSPECTIVE RETIREMENT

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, as was the wish of our Founding Fathers, every 2 years a number of the faces change in the Halls of Congress. For many and varied reasons, Members of one Congress do not return for the next. This year, the New York State delegation will feel this change acutely, as two of our leaders have decided they will not return for the 96th Congress.

JAMES J. DELANEY, our delegation chairman, is completing his 32nd year in the House. OTIS G. PIKE is in his 18th year as a Representative of the people. Together, they take half a century of National legislative experience with them as they return to private life.

Throughout their years in the Congress, JIM DELANEY and OTIS PIKE have been leaders, not only for their legislative ability but for their exemplary conduct. They always have been able to keep in perspective their duties and responsibilities as Representatives of the people. Through their long and illustrious careers, they have never become drunk with power, neglectful of the equality of their fellow Congressmen.

I will leave it to others to list the many accomplishments of these two men, for I will remember their service here not so much for what they did, though that indeed was considerable, but for how they did it: How they never lost their sense of humor, how they stood on principle under adverse circumstances, how they never compromised on what they felt was good for the people of the Nation and of New York State.

With the retirement of JIM DELANEY and OTIS PIKE, we are losing two giants of the House. We are losing two inexhaustible sources of wit and wisdom. We and the Nation owe them a great debt of thanks for their service.

May they be blessed with long life and abundant happiness as they move on to the next chapter in their lives.●

GENERAL ELECTRIC'S 100TH ANNIVERSARY

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, today when we read regularly of the mind-boggling achievements in the fields of space technology, computer technology, medical technology and other intense specializations, it is most appropriate that we observe the 100th anniversary of the American company that more than any other, married scientific research to commerce. A marriage that has led to many of the advances mentioned.

I refer to the General Electric Co. A name as well known in the average household as in the greatest laboratories.

General Electric—an American success which traces its formation back to its predecessor, the Edison Electric Light Co., founded October 15. 1878, when a small group of investors raised $50,000 to support the incandescent lamp experiments of Thomas Alva Edison.

Merely the mention of Thomas Edison's name stirs a shadowy image of this incredibly inventive genius in the last quarter of the 19th century. His basic research into the control of electricity, underwritten by a few investors, proved that big business could benefit by supporting scientific experiments and simultaneously improve the lifestyles of a nation.

Edison's technical ingenuity coupled with the entrepreneurial energy of General Electric's early managers proved to be the magic formula for GE's storybook rise in the American business scene. That this chemistry occurred at a point in history when our Nation and its people were seeking to harness power for the manufacture and shipment of goods, and also to provide economical transportation for an increasingly mobile population, is a fact both fortuitous and predictable. For it was the success of Edison and GE in harnessing electricity to commercial applications, that led the way to hundreds of other technological supersteps.

It was only 100 New Year's Eves ago that the first functional electric light was demonstrated in Menlow Park, N.J. Just a speck of time in the calculations of history, yet how far we have traveled since then. Today we take it for granted when we flick a switch and a dark room is illuminated, an air-conditioner cools, a dishwasher operates. The convenience afforded by this harnessed power applied to everyday chores has changed our lives for the better, and a major part of the thanks is due to Thomas Edison and the General Electric Co.

I can personally attest, Mr. Speaker to the good effects the GE presence has in a community, both from an economic and a social standpoint.

It was shortly after World War II that the company opened its famous "Electronics Park" just outside the city of Syracuse. Not only did this result in the infusion of top management personnel into the community lifestream, thousands of new jobs opening up and the attendant of "supplier-companies" development, it brought a sense of stability and self-confidence so necessary for a large community struggling to get back to normal after the unsettling effects of the war.

GE not only brought stability to the central New York economy, it brought a sense of involvement in the social, and cultural aspects of the area thereby enriching both. It also brought worldwide attention to its Electronics Research Laboratory in Syracuse, for it was here in 1949 that the company's first magnetic drum memory digital computer was announced, followed by the first all-transistor radio and other firsts. In 1960 Dr. Ivar Giaever received the Nobel Prize for physics for his discoveries in superconductive tunneling.

General Electrics' foresight in encouraging basic scientific research and its talent in applying the results of this research to commerce is the key to GE's success. The benefits of this success are enjoyed by people the world over and most certainly by Americans.

Mr. Reginald H. Jones, the chairman of the board and General Electric's chief executive officer, summed up the company's approach eloquently in his 100th anniversary message:

> General Electric is an organization of creative people—only a very few of whose contributions can be recognized. (They) have led in developing and applying new concepts of professional management. Our annual awards for volunteer community activities invariably uncover a variety of riches in terms of our employees outstanding extra curricular services to society, and as for technology, GE people have been and continue to be, the world's most inventive force, garnering more patents and more industrial research awards for innovation than any other enterprise.
>
> Here in its Centennial Year, General Electric is, then, a diverse company, but one whose diversity is not a patchwork of unrelated assets. General Electric has roots. We are a product of history shaped and tempered by time. We have our legendary people, places and events.
>
> But we remain, above all, a future oriented organization of men and women who aim at making the next century, like the first, 100 years of progress for people.●

A TRIBUTE TO HON. WILLIAM F. WALSH AND HON. BRUCE CAPUTO

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, as the 95th Congress draws to a close, it is most fitting and proper that we take a moment to salute those among us who have decided to leave this Chamber and move on to other endeavors.

We in the New York State delegation will be losing several of our distinguished colleagues, and I would like to make note of two in particular: WILLIAM F. WALSH and BRUCE F. CAPUTO.

Though he has represented the 23d District of New York for only one term, BRUCE CAPUTO has shown himself to be a hard-working, energetic, and conscientious Member of the House. His potential for leadership is obvious, as the Republican Party has chosen him to be its standard-bearer to run for the post of lieutenant governor of the State of New York in next month's election.

I feel a special sense of loss by the retirement from this body by my longtime friend BILL WALSH. BILL and I both grew up on the west side of Syracuse, N.Y. We have many of the same friends, we

patronize many of the same businesses. BILL has had a long and distinguished record of public service to his home community. Before being first elected to represent the 33d District of New York in 1972, BILL was elected as the Mayor of the city of Syracuse, in which position he served from 1962–69. He has held a number of other prominent positions, including commissioner of the New York State Public Service Commission.

Central New York is losing an outstanding public servant with the retirement of BILL WALSH. I know you join with me in wishing him and BRUCE CAPUTO abundant good health and great happiness as they move on to the next chapters in their lives.●

A HIGHLY SUCCESSFUL WELFARE REFORM PROGRAM, RHODE ISLAND

(Mr. ST GERMAIN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. ST GERMAIN. Mr. Speaker, for too long, we, as the lawmaking body of the Nation, have been chagrined when accounts are aired regarding gross abuse, neglect and mismanagement of various aspects of the welfare plan. One of the primary and often repeated complaints regarding the welfare system in that payments are going to persons who are able-bodied and capable of employment but who, for reasons which are often lost in the complex maze required to administer such a broad program, are receiving substantial amounts of public assistance.

And, for as long as these complaints have been brought to light, persons responsible for controlling such abuses have been unsuccessful in formulating a plan which would lead to substantial reform.

I am very proud to point out that my home city of Woonsocket, R.I., has formulated and successfully administered a welfare reform program which, over the past 20 months, has reduced the number of welfare cases by an amazing 62 percent and, in spite of the rise in the cost of living, reduced the total weekly cash payments by 47 percent.

The mayor of Woonsocket, the Honorable Gerard J. Bouley and the director of the Woonsocket Department of Human Resources, Mr. Gregory M. Bouley, should be commended for their efforts, which were instrumental in making this program an overwhelming success. In addition, the 58 businesses and companies which participated in the program by hiring persons formerly on the welfare roles should be commended and thanked.

I would like to bring the following report, which includes a listing of the participating firms, to the attention of my colleagues:

REPORT

In January of 1976 a comprehensive statistical analysis of the welfare situation in Woonsocket as well as a "Five Point Remedial Plan" for positive changes within the welfare system were presented in a special report to Mayor Gerard J. Bouley and the members of the Woonsocket City Council. This presentation had for its objectives to make welfare recipients viable assets first to themselves, and secondly, to make welfare recipients valuable assets to the community.

At that time, single cases had escalated 174.2% over 1971–72 and 47.2% over the previous year, while family cases had jumped 100% over 1971–72. The week of February 12, 1976 recorded the highest caseload in the history of Woonsocket Welfare Department with 813 single cases and 190 family cases for a total of 1003 cases.

With the support of the present administration, three programs were initiated: (1) Mandatory Work Relief, (2) Job Development, and (3) Job Placement. Angelo Montecalvo, a city employee assigned to the Department of Human Resources, and assisted by three Title VI CETA workers, is the director of these programs. During these last twenty-nine months over 50 companies and businesses have encouraged our efforts by cooperating fully with our programs. As of June 30th, 1978, 1,128 clients have been interviewed by our job placement officer, 799 have been referred for full-time jobs, and 500 have been hired. It is mandatory for a client to accept the job if hired.

In preparation for full-time employment clients are placed in a mandatory work relief program in order to develop certain skills and to earn their welfare checks. A capable unemployable single person or a healthy male parent automatically becomes a SWAT member, (Special Work Assistance Team). This team is comprised of only welfare clients, under the supervision of CETA workers. With our own trucks we are able to perform innumerable services to the community such as maintaining parks; delivering second hand furniture to the poor; move retarded people and burned out families; paint trucks, fences and buildings; etc. In an emergency situation we are able to mobilize these forces for a special assignment. Since the program has been initiated SWAT members have expended 35,784 work hours at a savings of $107,352 to the city of Woonsocket.

Clients who cannot qualify for our SWAT Program are placed in our Therapeutic Assistance Program so their lives may also be enriched by inter-action with people. They serve in non-profit organizations as outreach workers, clerks, janitors, cooks, telephone operations, paraprofessionals teaching arts and crafts to blind and handicapped people, etc. As of June 1978 TAP personnel have expended 35,746 work hours at a savings to taxpayers of $107,238. After twenty-seven months, our SWAT and TAP Programs have expended a grand cumulative total of 71,530 work hours for a savings of $214,590 based on a figure of $3.00 per hour.

These programs have had the positive effects of rehabilitating clients by making them valuable assets to themselves; the programs have provided numerable services to the community at no cost to the taxpayers; and they have proven a significant factor in cutting welfare cost. As of June 30, 1978 our family caseload had been reduced by 71% from 190 cases to 55 cases; our single cases have been reduced by 60% from 813 single cases to 323 cases; a total reduction of 62%. Even with the cost of living increase over these last two years, our weekly cash payments to clients* has been reduced from $30,141.57 to $15,995.87, the week of June 29, 1978, a substantial reduction of 47%.

When our statistical report was made to the city administration in 1976, medical and vendor payments were fifteen months behind. Today we are close to the ninety-day paying period. Though we have had to include two years of payments into a one-year-paying period, we were still able to reduce our doctors' payment by 31% over 1975–76, and still this figure is 1% lower than payments made to doctors in 1974–75. Our hospital and clinic payments in 1977–78 were 28% lower than 1976–77. Drugs and medicine payments were at a lower level than in 1974–75 with a reduction of 27% over 1976–77.

Our cash relief expenditures in 1977–78 were reduced by $493,518 even with a cost of living increase to welfare clients. This indicates a 34% reduction over 1975–76. Even with the spiraling medical cost, the cost of living increase, back payments in medical bills, renovation of the new welfare office and our emergency food voucher assistance program during the blizzard of 1978, to mention significant adverse variables, our total expenses for 1977–78 were at the level of 1974–75.

The existence of a welfare office is not to eliminate the poor and the needy nor is it a place where cash payments are issued for the asking. A welfare office should be a place where people are provided with opportunities to challenge their lives, so that again they may feel part of a community. Welfare programs that only provide financial assistance to people quickly deteriorate into a very dehumanizing process. The comprehensive report recently circulated by the Rhode Island Department of Health strongly supports our contention that welfare clients are the loneliest people in the world. As the study indicates, the death rate among the poor is 27% higher than the higher-income group for cardiovascular diseases, 73% higher for cirrhosis of the liver, 82% higher for diabetes, 145% higher for accidents, 29% higher for suicide, and 1,000% higher for homicide.

Job Development and Placement, SWAT and TAP are concepts that were implemented to bring self-esteem to welfare clients; to develop a good work ethic; to allow clients to see their potentials and capacities; and to experience that they also have something to live and work for. Too many clients cling to their own talents and leave them untouched because they are afraid there is nobody interested. They soon regress into their own fantasies and suffer a growing loss of self esteem. No more can we allow welfare recipients and their children, and their children's children, to become conditioned to an inferior way of life. Welfare has to become an unconditioning process so that clients can be made to realize their life can also be improved. It is imperative that clients be exposed to a voluntary or involuntary self-motivating process in order to better themselves. In Woonsocket we are trying to create a system that allows clients the responsibility of choice. Welfare monies must become the taxpayers' investment in the human potentials of less fortunate individuals.

COMPANIES HIRING FROM WELFARE OFFICE

Goldstein Inc., Quincy Dye Works, Tech Industries, Miller Electric, Reliance Plastics, A. J. Krajewski Mfg. Co., Amperex, Narragansett Knitting, Raymond Lessard Press, Hyman Brickle Co., Lincoln Textile Corp., and Jack-in-the-Box.

Johnny Shadow, Cumberland Foundry, Crystal Plastics, Paul's Roofing, Ram Safety, New England Container, Menard Ford Co., Reliance Plastics, Magco Plastics, Frank Malec Forestry, Jed Delta Company, Madison Company, and Pizza Hut.

Lessard Detective, Holley Mineral Spring, Piro Metal, Stamina Mills, Foster Metal, Burger Chef, Rex Coat & Suit, and Hayward Schuster.

International Fibers, ACS Industries, American Luggage, Metal Box Corp., Regis Casting, Polytop Company, Frank Kearns Inc., Woonsocket Polishing Inc., Star Carbonizing, Beedco Company, Parco Enterprises Inc., and Kentucky Fried Chicken.

Champagne Brothers, Dannisson Company, Tinsel Town, American Luggage in Albion,

*All payments certified by Department of SRS.

Electronic Moulding, Healthtex Company, Bancroft Company, Lincoln Dimensional Tube, Woonsocket Health Center, Garelic Farms, Glass Craft Company, Puretan Aerosol, and Crystal Craft.

ORGANIZATION'S BENEFITING FROM TAP

Mt. St. Charles Academy, Chamber of Commerce, Woonsocket Family & Child Service, R. I. Association of the Blind, T.O.C.T.A., Bourdon Blvd., Y.M.C.A., R.O.A.D., Precious Blood Cemetery, and Morin Heights.

Crepeau Court, Alcoholics Anonymous, Woonsocket Library, Woonsocket Food Co-Op., United Veteran Council, Woonsocket Welfare office, Tri-Hab, Police Department, Head Start, Red Cross, and Coalition for Consumer Justice.

Duties performed (partial list): kitchen aides, maintenance helper, outreach worker, clerical help, librarian aides, teacher's aides, janitors, and counsellors.

PARTIAL LIST OF SWAT'S DUTIES

Maintain parks.

Work with highway on various projects.

Move retarded people.

Move burned out families.

Keep emergency shelter clean and ready for use.

Paint snow plows, bleachers, and guard rails.

Pick up and deliver furniture for the poor.

Move civil defense food and equipment to different locations.

Landscape.

Cut brush.

Sweep sidewalks.

Snow removal.

	1973–74	1974–75	1975–76	1976–77	1977–78	1978–79
HOSPITALS AND CLINICS						
July	$22,140.58	$31,422.26		$47,381.43	$38,366.46	$21,896.40
August	20,190.72	16,927.10	$43,349.39	8,731.14	25,572.01	
September	20,031.92	19,654.93		48,848.58	16,958.11	
October	19,047.38	14,271.30	26,419.92		9,338.49	
November	13,904.51	19,886.05	34,359.62		32,934.75	
December	23,499.26	31,087.29	29,615.01	82,774.07	24,000.45	
January	39,278.32	7,938.16	8,976.61	57,582.73	26,804.71	
February	30,830.76	30,261.11	31,949.84	26,775.56	30,417.16	
March	39,973.49	35,788.79	41,224.15	44,251.27	18,570.54	
April	33,861.99	35,624.92	21,752.52	68,311.08	51,053.27	
May	23,628.95	34,044.29	44,764.59	43,480.56	47,153.00	
June	38,214.01	37,311.54	56,920.89	57,150.50	26,373.63	
Total	314,601.89	314,217.74	339,342.54	485,286.92	347,553.58	
Average per month	26,217.00	26,185.00	28,279.00	40,440.00	28,962.80	
DOCTORS						
July	3,003.00	12,935.15	5,596.60	7,927.65	8,421.10	8,762.85
August	10,046.75	7,024.15	4,850.90	29,139.05	9,085.60	
September	4,518.30	12,541.67	45,761.20	4,909.60	10,329.00	
October	4,713.25	2,814.90	6,126.15		5,441.55	
November	13,337.05	7,173.65	13,144.30	38,595.65	12,674.10	
December	3,267.00	10,821.40	9,481.75	10,481.60	11,922.00	
January		10,336.20	6,053.65	4,141.19	5,848.25	
February	14,102.55	10,096.30	13,195.80	5,774.80	11,661.75	
March	4,249.45	10,916.00	13,814.58	13,817.35	3,753.00	
April	7,405.55	11,129.05	10,481.23	15,014.60	10,219.20	
May	6,374.50	15,650.70	17,532.70	6,638.10	9,695.68	
June	13,913.75	11,976.90	15,588.10	18,441.75	12,016.40	
Total	84,931.15	123,416.07	161,626.96	154,881.34	111,067.63	
Average per month	7,721.00	10,284.00	13,469.00	12,906.00	9,255.00	
BURIALS						
July	25.00	60.00	43.75		390.74	
August			730.00	258.34		
September				1,063.15	2,284.00	
October	285.00	128.75	952.50	1,045.00		
November		132.00	620.00	535.00		
December	285.00	78.75		520.00		
January			765.00	824.00	1,645.00	
February	30.00		43.76	709.50	425.00	
March	120.00	315.00	170.00	980.00		
April	285.00		580.00	595.00	455.00	
May		433.50	48.75	442.00	75.00	
June	30.00		953.75	340.00	510.00	
Total	1,060.00	1,148.00	4,907.50	7,311.99	5,784.74	
Average per month	151.00	191.00	409.00	609.00	482.00	
DRUGS AND MEDICINE						
July	523.83	1,215.48	803.74	3,279.71	1,924.40	2,918.20
August	810.97	4,278.46	3,562.17	2,694.67	2,205.62	
September	1,415.06	9,795.98		2,318.52	4,036.33	
October	1,165.38	2,477.97	2,796.89		2,868.30	
November	1,960.88	7,882.93	3,052.07	7,889.89	6,550.48	
December	1,425.63	2,676.15	3,116.09	8,253.67	616.11	
January		1,334.63	1,448.66	4,231.83	1,534.85	
February	3,507.38	1,158.61		4,945.76	2,712.22	
March	1,871.62	3,236.98	4,961.51	4,227.05	3,338.23	
April	3,219.55	4,491.28	4,760.84	8,378.68	1,761.95	
May	3,618.98	902.77	4,702.83	3,662.50	1,900.34	
June	2,160.82	769.62	6,078.66	2,984.07	10,047.11	
Total	21,680.10	40,220.86	35,283.46	53,866.35	39,495.94	
Average per month	1,971.00	3,352.00	2,940.00	4,488.00	3,291.32	
FOOD AND CLOTHING						
July	517.12	1,533.03	2,754.95	3,308.73	3,083.32	2,703.40
August	7,279.25	2,929.52	6,210.90	6,273.92	5,224.81	
September	3,303.74	4,174.55	374.53	5,142.75	4,401.44	
October	2,436.33	2,468.98	364.41	2,226.26	3,950.97	
November	3,310.55	4,060.90	5,517.29	2,186.69	3,529.64	
December	3,308.67	3,172.62	3,095.93	2,613.02	1,085.65	
January	3,577.16	3,915.11	4,155.84	4,587.32	5,919.70	
February	2,859.73	5,989.25	2,571.26	3,265.07	1,457.22	
March	3,700.52	5,531.98	3,988.65	3,640.91	3,948.99	
April	1,616.96	6,150.92	8,981.17	2,050.05	3,359.13	
May	2,078.69	5,389.98	1,486.24	2,785.13	3,787.85	
June	1,380.42	4,863.79	2,227.03	3,567.42	3,714.97	
Total	35,369.14	50,180.63	41,728.20	41,647.27	43,463.69	
Average per month	2,947.00	4,182.00	3,477.00	3,470.00	3,621.97	

	1973–74	1974–75	1975–76	1976–77	1977–78	1978–79
UTILITIES						
July	568.38	56.48				80.98
August	632.98		1,089.47		30.82	
September	449.08	37.40	25.99		53.02	
October	524.70	46.76	1,082.67		90.57	
November	597.24	105.16	80.00	28.85	58.73	
December	323.67	445.13		157.17	180.82	
January	25.00	86.14	88.28	410.38	386.60	
February	206.49	767.71	34.24.	126.62	394.66	
March	560.55	102.49			306.07	
April			40.62			
May		8.77	26.51		138.21	
June				196.43	126.02	
Total	3,888.09	1,656.04	2,467.78	919.45	1,765.52	
Average per month	432.00	184.00	206.00	76.00	147.00	
RENT						
July	1,326.00	457.50	690.10	635.35	489.38	1,059.61
August	1,244.00	654.75	442.38	674.38	768.88	
September	711.00	373.50	447.28	429.10	635.54	
October	725.00	1,908.23	800.76	191.44	439.57	
November	869.00	698.57	386.72	399.76	316.41	
December	313.00	1,172.01	475.47	242.88	688.90	
January	908.30	951.66	649.63	186.75	502.42	
February	604.00	1,053.60	220.72	443.04	540.69	
March	696.00	2,408.42	655.60	581.88	790.64	
April	356.00	332.16	391.16	617.04	333.41	
May	300.00	704.76	217.72	590.25	365.07	
June	216.00	431.71	311.88	636.13	1,103.38	
Total	8,268.30	11,146.87	5,689.42	5,628.00	6,974.29	
Average per month	689.00	929.00	474.00	469.00	581.00	
MOVING						
July	144.25	388.78	129.25	321.25	81.00	290.00
August	360.20	369.44				
September	131.00	410.25	197.00	196.50	272.00	
October	521.65	265.71	217.00	145.75	162.00	
November	420.05		584.25	157.50	102.00	
December	207.80	118.48	529.75	66.78	371.00	
January		44.10	403.00	29.00	692.26	
February	239.55	567.51		72.50	380.86	
March	322.35	240.73		332.49	222.87	
April	243.99	227.00	125.25	237.75	395.00	
May	87.15	231.00	134.75	291.00	324.00	
June	267.00	290.50	243.50	186.00		
Total	2,944.99	3,153.50	2,563.75	2,036.52	3,002.99	
Average per month	267.00	287.00	214.00	169.00	250.00	
CASH RELIEF						
July	31,339.06	46,339.77	137,451.25	117,557.35	71,.07.89	66,818.29
August	37,681.21	61,469.18	113,664.78	148,413.84	72,959.61	
September	31,163.85	54,516.09	113,180.61	106,336.94	88,764.10	
October	28,009.09	72,014.61	141,654.26	66,831.39	71,779.48	
November	36,261.85	64,205.16	112,017.13	70,848.37	69,093.95	
December	32,073.02	74,551.44	117,204.71	89,685.80	104,148.88	
January	55,727.24	119,507.73	155,417.67	75,381.77	83,020.66	
February	45,969.87	99,327.60	119,716.72	76,419.28	86,394.78	
March	45,731.81	98,543.79	114,963.08	95,115.53	102,270.31	
April	39,623.61	98,106.66	136,702.40	76,592.80	68,963.83	
May	46,259.99	123,476.25	102,780.90	75,014.30	65,372.57	
June	39,673.25	102,738.27	93,959.58	95,355.95	80,619.30	
Total	469,513.85	1,014,796.55	1,458,713.09	1,093,553.32	965,195.36	
Average per month	39,126.00	84,566.00	121,559.00	91,129.00	80,433.00	
TOTAL EXPENSES—REVOLVING FUND						
July	58,853.47	93,810.72	144,327.14	178,494.03	121,798.15	105,865.37
August	77,895.06	92,621.57	175,310.28	197,283.47	114,799.51	
September	61,033.19	101,130.97	159,986.21	165,763.07	129,228.92	
Ocotober	57,756.70	95,483.99	178,465.79	71,016.99	129,183.60	
November	69,715.43	104,432.74	170,578.55	112,002.87	125,807.86	
December	64,484.35	121,398.33	165,107.99	195,507.33	145,089.64	
January	98,836.98	142,689.62	167,395.28	144,999.02	137,418.44	
February	97,503.74	148,445.05	162,977.81	116,475.44	135,524.22	
March	97,452.30	157,099.58	178,582.97	163,036.52	136,315.74	
April	87,331.18	154,268.12	181,332.02	170,908.36	138,171.02	
May	82,037.47	177,319.07	169,000.93	132,300.65	135,841.72	
June	86,193.34	156,629.23	172,759.44	177,984.75	136,134.99	
Total	856,965.74	1,545,328.99	2,025,824.41	1,825,772.50	1,575,313.81	
Average per month	71,414.00	128,777.00	168,819.00	152,147.00	131,276.00	

Note: The above figures were provided by SRS certifying officer.

RETIRING MEMBERS OF 95TH CONGRESS

● Mr. JOHNSON of California. Mr. Speaker, JOE SKUBITZ will be retiring at the end of this session of Congress, and we are certainly going to miss him. JOE has a very affable manner about him and is always ready with a story. Behind this front of joviality, however, is a serious legislator. JOE has made important contributions to the Congress throughout his years in public service.

JOE has put in some 34 years on Capitol Hill. He came first as an assistant while attending the George Washington University. He came to like it, and when the time to return home came, the people of his district encouraged him to go back to Washington as their Congressman. This he did, and he has been with us ever since.

I came to know JOE better through our Membership on the House Interior and Insular Affairs Committee. As a senior Republican on that committee, JOE made significant and valuable contributions to legislation directing the wise use of our natural resources. JOE was always a hard working member of that committee, and I am sure that his colleagues there will miss his contributions.

JOE SKUBITZ always had time to work for the little man. He took his responsibilities as a Representative seriously and did all he could to help the people of Kansas' Fifth District.

As we conclude this session of Congress, I wanted to take this opportunity to wish JOE well in the years ahead and ask that he continue to share with us his wisdom and humor.●

A TRIBUTE TO "JOE SKUBITZ"

● Mr. ROGERS. Mr. Speaker, it is with a great sense of friendship that I rise to pay tribute to the gentleman from Kansas, JOE SKUBITZ. He will be missed by all who have worked with him during his eight terms in the Congress.

It has been a privilege serving with JOE on the Interstate and Foreign Commerce Committee. Through the years his incisive questioning and close scrutiny of bills coming before the committee have served a vital role in the House. There will always be a need for intelligent probing and questioning of the legislation we consider and JOE will be missed especially in this regard. Additionally, he has been recognized for the many contributions he has made on the Interior and Insular Affairs Committee.

During his years in Washington, first as an administrative assistant, then as a popular Congressman, JOE SKUBITZ has built a career of which he can indeed be proud. When he returns to Kansas he will be missed by his many friends, but I do consider myself fortunate to count myself among them. I join my colleagues in wishing JOE and his wife every success in the future.●

● Mr. LONG of Louisiana. Mr. Speaker, although Representative MAX BAUCUS is a relatively new Member of this body, most of us here in the House have already come to admire his many talents and qualities of leadership.

MAX BAUCUS has proved to be an extremely valuable asset to the Committee on Appropriations and to the House leadership as assistant majority whip. He is a bright, well informed leader, who has been a most skillful spokesman for measures to improve the quality of this institution and its legislation. I have had the pleasure of serving with MAX on the Executive Committee of the United Democrats of Congress and the Rural Caucus. His approach to long-standing problems has been both refreshing and encouraging, and I have greatly benefited from my contact with him. MAX BAUCUS' contributions to these organizations, as well as to the legislative business of the House, have been substantial, and we shall miss his talents in the upcoming Congress.

I value MAX BAUCUS highly as a close friend and energetic working partner. I am sure my colleagues join with me in congratulating the distinguished gentleman from Montana on his excellent performance in the House of Representatives. We wish him well.●

● Mr. BROOKS. Mr. Speaker, for the past 10 years I have had the privilege of serving with WALTER FLOWERS on the Judiciary Committee. He will not be with us in the 96th Congress, and the Judiciary Committee and this House will sorely miss this intelligent, capable, and dedicated Member from Alabama.

In addition to his Judiciary Committee assignment, he served on the Science and Technology Committee and was chairman of the Fossil and Nuclear Energy Research, Development, and Demonstration Subcommittee. This has been an especially critical area since the energy crisis came upon us and he has performed his duties with distinction.

Once again, let me say that we will miss WALTER FLOWERS and wish him the best in his future endeavors. The voters of the Seventh Congressional District of Alabama should be proud to have had such a man as their Representative for the past 10 years.●

● Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to the Honorable WALTER FLOWERS, who is retiring at the close of the 95th Congress after 10 years of service.

WALTER FLOWERS has proven himself a most capable legislator as a member of the House Select Ethics Committee, the House Committee on Standards of Official Conduct, and the House Judiciary Committee, and he has compiled a splendid record of achievement as the chairman of the Subcommittee on Fossil and Nuclear Energy Research, Development, and Demonstration of the House Science and Technology Committee.

I extend my best wishes to WALTER for a healthy and happy retirement from the House of Representatives as he pursues a continued career of public service in the U.S. Senate.●

● Mr. MURPHY of Pennsylvania. Mr. Speaker, I would like to take a few minutes to bid farewell to two of our honored colleagues, ROBERT N. C. NIX, and JOSEPH A. LE FANTE.

Though we are from opposite ends of the Keystone State, Mr. NIX has indeed been an inspiration to a new Member of this body such as I. His dedicated and responsible service in the House of Representatives has led him to the chairmanship of the House Post Office and Civil Service Committee and his service on the House International Relations Committee.

Among his many accomplishments is his dedication to Civil Service Reform on the domestic front and innumerable contributions through his efforts on the House International Relations Committee to the international scene.

BOB's 20 years of continuous service speaks well for him. His keen interest in the good of his constituency and the country that he has served will not be forgotten. Mrs. NIX will be missed in these Chambers. However, I as well as my other colleagues, wish him well and welcome him back any time he should choose to visit us.

At the same time I would like to bid a similar farewell to JOE LE FANTE. Those of us who have gotten to know JOE within the last 2 years regret that we have no more time in which to draw from his wisdam and experience. Likewise, those constituents who JOE has so ably represented are losing a good Congressman and fine legislator. He has shown all of us in our short time here that he is a conscientious representative, an able lawmaker, and a fair, understanding gentleman.

I have had the pleasure of serving with JOE LE FANTE on two subcommittees of the Education and Labor Committee. His past legislative experience, insight, and deep concern for people has proven to be a valuable contribution to my experiences this term. The quality of the legislation brought out of his committees is testimony to his ability and character.

JOE leaves Congress, but not public service. He will return to New Jersey where he is expected to be named to a cabinet post in state government. I am confident that JOE will continue to distinguish himself as a public servant, and I am sure that I join with the rest of my colleagues in wishing him health, success, and much happiness.

To both these men who are leaving our ranks I say thank you for your guidance and your efforts for you leave behind an indelible mark on the states you represent, your colleagues, and especially your country.●

● Mr. FUQUA. Mr. Speaker, when the gavel raps sine die adjournment for this Congress, this House will lose the services of a dear and personal friend and valued colleague, WALTER FLOWERS.

WALTER'S departure is especially significant to me for I will greatly miss his exceptional ability and expertise as a fellow member of the Science and Technology Committee.

His advice and counsel throughout his 10 years has been invaluable. His dedicated work as chairman of the Energy Research and Development Subcommittee has earned him the respect of his colleagues and a solid reputation for his expertise in this field.

WALTER has not only served the people of the Seventh District of Alabama well, but indeed the constituents of every Member have and will continue to benefit from his outstanding leadership and service to the Nation.

Foresight and an unswerving dedication to the responsibilities of his office have marked WALTER'S career in the House. The Nation is indebted to him.

He is an outstanding leader and American, a valued colleague, devoted and sensitive public servant. We admire and respect him, and he will be sorely missed.●

● Mr. GAYDOS. Mr. Speaker, as this session comes to an end, my distinguished colleague from Pennsylvania, the Honorable ROBERT N. C. NIX, will be retiring from a long and productive career in the U.S. House of Representatives.

This will bring to a close a very distinguished legislative career which began with his election to the U.S. Congress in 1958 and his reelection to each succeeding Congress.

ROBERT NIX came to the Congress with the skills of a successful lawyer who had established an excellent record as an attorney for the Commonwealth of Pennsylvania and in the private practice of law. He put these well-developed practical skills to good use as chairman of the Committee on Post Office and Civil Service and its Subcommittee on Investigations, and as a diligent and effective

member of the Committee on International Relations.

In his work with the Committee on Post Office and Civil Service, he demonstrated good judgment, commonsense, and wisdom. He was intricately involved in major efforts over the past 20 years to reorganize the Postal Service and civil service, and he was tireless in his efforts to assure the American taxpayer the best effort and service from the Postal Service and the Federal bureaucracy.

He had a good understanding of the way in which national policies affect the Commonwealth of Pennsylvania, and with his long experience as a Member of Congress, he was always helpful to younger Members of the Pennslyvania delegation.

Above all else, BOB has been a good friend and an impeccable gentleman. I will miss his friendship, wisdom, and experience, which he so readily shared with his colleagues. The Congress of the United States will lose a great human being and a fine legislator.

BOB, you leave us with a high standard to follow. We all wish you good health and many years of happiness in retirement.●

● Mr. GAYDOS. Mr. Speaker, the end of the 95th Congress marks the close of the brief, but productive, career of my good friend and colleague, JOSEPH A. LE FANTE, as a Member of the U.S. House of Representatives.

JOE LE FANTE is an able and knowledgeable legislator, whose career in public service began in local government in his home State of New Jersey. In 1969, he was elected to the New Jersey General Assembly, where he subsequently became majority leader, and later speaker. Elected to the 95th U.S. Congress in 1976, he immediately assumed the role of a dedicated and effective representative in Congress. It is rare that a freshman Member can acclimate himself so well and apply himself so readily and completely to the rigorous duties of a Member of Congress as did JOE LE FANTE.

I was proud to have had the privilege of working with JOE on the Subcommittee on Compensation, Health and Safety, which I chair. He was one of its most active members and applied himself with diligence in all matters before the subcommittee. His untiring efforts and concern for the working people of this Nation were major factors in the passage of legislation to protect the health and safety of millions of mine workers—the Mine Health and Safety Amendments of 1977.

In the 2 years I have had the opportunity and pleasure of serving with JOE, I have come to know him as a trusted friend and an able and dedicated public servant. His amiable manner and sincerity are but two of the qualities which make JOE a likeable individual, and I know many of my colleagues share my high esteem and regard.

It is with sadness that I note JOE'S retirement from Congress, and we will all miss him. However, JOE'S many years of public service to the people of New Jersey and the Nation have earned him this opportunity, and I wish him many years of happiness and good health in all his future endeavors.●

● Mr. LONG of Louisiana. Mr. Speaker, as you know, our good friend and colleague, the Honorable LLOYD MEEDS, has announced his retirement effective at the close of this session. LLOYD MEEDS' departure from this legislative body leaves the House without one of its most dedicated Members, and we shall certainly miss him in the 96th Congress.

Representative MEEDS and I have served together on the Rules Committee for the past 2 years, and I have had many opportunities to witness his grasp of House procedures. LLOYD is one of the House's finest parliamentarians; his mastery of the rules and precedents of this institution has been of great value to the committee, and his skills will not be easily replaced. His political courage is of the highest order.

The void created by LLOYD MEEDS' retirement will be much greater than we now realize. One of the hardest working Members, Congressman MEEDS has served on the Obey Commission, the Select Committee on Ethics, and ably chairs the Interior and Insular Affairs Committee's Subcommittee on Water and Power Resources. In addition, Mr. MEEDS is an active member of the Subcommittees on General Oversight and Alaska Lands, and Indian Affairs and Public Lands. A strong environmentalist, LLOYD MEEDS has made significant contributions to this legislative field and his expertise here will be sorely missed.

My wife, Cathy, and I will be extremely sorry to see LLOYD and his wife, Mary, leave Congress, as we have been close friends for many years. We both wish them continued success and hapuiness in all their future endeavors.●

● Mr. MURTHA. Mr. Speaker, I would like to join with my many colleagues in thanking Congressman BOB NIX for his many years of service to the House of Representatives, the city of Philadelphia, and his constituents in the Second District of Pennsylvania.

When I came to the House in 1974 BOB NIX was extremely helpful to me in learning about the issues and understanding the procedures of Congress.

We are all familiar with the excellent legislative record he has compiled and his excellence as chairman of the Post Office and Civil Service Committee. We also know about his deep concern for his constituents and the city of Philadelphia and the many positive, progressive things he has done to help the people he represents. He has always worked to act in the best interests of constituents.

Mr. Speaker, we will all miss BOB NIX in the House and the people of Philadelphia will miss him. I know, however, I join with us all in wishing him continued success in the years ahead.●

● Mr. RUSSO. Mr Speaker, I must admit that I view the departure from the House of my good friend WALTER FLOWERS with mixed feelings. He is a bright, articulate Member and has contributed greatly in his decade here. On the other hand, he is a ferocious paddleball player and I must admit to looking forward to some room on the courts.

At the appropriate moments, WALT has demonstrated he can be ferocious in his duties here. Quietly, without fanfare, he has demonstrated personal courage and dedication to his work here as a representative of the people.

He is a gentleman of the first order and it has been a pleasure to serve with him. I suspect we will be hearing from him again. A man with his talents does not "retire."●

● Mr. JOHNSON of California. Mr. Speaker, the Committee on Public Works and Transportation, which I have had the honor to chair during this 95th Congress, is losing one of its most effective and admired members with the voluntary retirement of Representative WILLIAM F. WALSH, who has represented the 33d District of New York for the past 6 years.

Congressman WALSH made his mark in the House of Representatives in his very first term when the colleagues who had entered the House with him in 1973 voted him the "outstanding freshman" of that 93d Congress. In the succeeding years, he has added greatly to that reputation and to the esteem in which he is held by his fellow-Members on both sides of the aisle. For the past 4 years, BILL WALSH has been the ranking minority member of our committee's Subcommittee on Public Buildings and Grounds, dealing with the enormously complex problems of housing the Federal Government's far-flung departments, agencies, bureaus, commissions, and boards and their millions of Government workers. In that capacity, he has worked tirelessly and selflessly, without a trace of political partisanship, to protect the public interest in the construction and leasing of Federal office space.

Congressman WALSH is a man of broad and varied interests and concerns. He has contributed mightily to our committee's legislative efforts in water resources development, in aviation, in surface transportation, and in the oversight and investigation of all the committee areas of legislative jurisdiction.

BILL WALSH is a man whose quiet dignity and conscientious devotion to his congressional responsibilities have won him the respect, admiration, and friendship of all of us who have known and served with him.

His constituents in Syracuse, N.Y., are losing an exceptional representative through Congressman WALSH'S retirement, and we on the Public Works Committee are losing a valued friend and colleague.●

TRIBUTE TO CONGRESSMAN CHUCK WIGGINS

● Mr. MCCLORY. Mr. Speaker, it has been said most appropriately, that our colleague from California, Congressman CHARLES WIGGINS, is a brilliant constitutional lawyer on the House Judiciary Committee. CHUCK WIGGINS' great knowledge of the law and his clear perception of constitutional principles coupled with his eloquence in debate have made him an outstanding member of the Judiciary Committee and of the House of Representatives.

Mr. Speaker, the decision by CHUCK to retire from the Congress means that we, in this body, will experience a great loss of wisdom, judgment and dedication. However, the decision is understandable and should be appreciated by all.

Mr. Speaker, it has been my privilege to be a close personal friend of CHUCK WIGGINS and both my wife, Doris, and I have appreciated our relationships with CHUCK and his lovely wife, Betty. We join in wishing both of them happiness and success in the years ahead, as CHARLES WIGGINS retires to the private practice of law and to a life more compatible with the freedom and privacy which he and Betty and their children will be able to experience when separated from the demands and pressures of the U.S. Congress and this Capital City.●

● Mr. JOHNSON of California. Mr. Speaker, the record of this 95th Congress would not be complete without paying tribute to an old and good friend, Representative TENO RONCALIO of Wyoming, who is retiring voluntarily at the close of this session to return to private life in his native State.

I have been privileged to work closely with TENO throughout his 10 years of service in the House and have watched with admiration his daily performance on the Floor of the House and in committee. No one who has ever had the opportunity to see TENO in action can fail to appreciate the breadth of his concerns, his grasp of the legislative process, and his dedication to the public service.

Congressman RONCALIO shared with me a deep concern for the development and protection of the great natural resources of the American West. During all his years in the Congress, his efforts have been governed by his unshakeable belief that the Nation's energy sources—oil and gas, uranium and coal, which are to be found in vast amounts in Wyoming—can be developed without harm to the environment, to the land, water, and air, or to the well-being of the people who live in these areas of development.

As a member of the Interior Committee, he has played a major role in this effort, as well as in the creation and protection of recreational areas in our national parks and in the development of water projects that have transformed many semi-desert regions of the West into prosperous farmlands.

As a member of our own Committee on Public Works and Transportation, TENO has cosponsored and worked on just about every highway and aviation bill that has been enacted into law in recent years. With all his varied interests, the gentleman from Wyoming has somehow managed to find time to serve with diligence and distinction on our Subcommittee on Public Buildings and Grounds, including a term as chairman of that subcommittee, guarding the public interest in the leasing and construction of Federal office space throughout the United States.

TENO RONCALIO has served the people of Wyoming and the broader constituency of the Nation long and well. We who have known him as a friend and fellow Member of the House shall long remember him. We wish him well in all the years ahead.●

● Mr. JOHNSON of California. Mr. Speaker, BOB LEGGETT will soon be leaving the House of Representatives. As one of his colleagues from northern California, I am indeed sorry to see him leave. He has been an effective legislator and a hard working Representative for his people in the Fourth District.

Through his membership on the House Armed Services Committee, BOB has given California an important voice in the development of military affairs. He has been a strong supporter of the military facilities in the Sacramento area. His hard work and great concern have earned for him the respect of his colleagues.

Because BOB represents a farming area of California, we have often worked together on common problems. BOB has been an effective Member of the California delegation and has strongly supported development of water resources in our State.

BOB and I have also worked together on several matters, because following the 1974 reapportionment by the California Supreme Court, I received two counties BOB had previously represented. Together we have been able to significantly help improve the development of that area.

BOB is a very warm and friendly person, and we have all enjoyed his humor. He goes about his work diligently, but also with a smile which can be infectious. We are going to miss that.

As BOB and his wife Barbara turn to new pursuits, Albra and I want to wish them both the very best. They can leave the Halls of Congress knowing that BOB has made an important and effective contribution to the Congress and will long be remembered for his efforts.●

● MR. LONG of Louisiana. Mr. Speaker, I consider myself an extremely fortunate individual to have worked and served with so many dedicated and capable Members of Congress. One such Member is the Honorable RAY THORNTON who will be leaving the House after adjournment.

RAY and I came to Congress together in 1972 and since that time, I have enjoyed a close and productive friendship with the distinguished gentleman from Arkansas. We have worked closely together on the Rural Caucus, an organization which has profited from Congessman THORNTON's membership. A thoughtful and well informed Member, Mr. THORNTON's careful scrutiny of the issues and constructive proposals have contributed substantially to the successful operation of the Caucus.

An active member of the Committee on Science and Technology, RAY THORNTON ably chairs the Subcommittee on Science, Research, and Technology as well as serving on two other subcommittees of this committee. In addition, Representative THORNTON's expertise in agricultural matters have made him a valuable asset to the three subcommittees of the Committee on Agriculture. Despite his exceptionally heavy committee assignment, RAY THORNTON always performs with skill and competence. Certainly his ability and talents in these areas will be sorely missed in the 96th Congress.

I will greatly miss RAY THORNTON next year. He has served this institution and the public in an exemplary manner, and his leaving will leave the Congress without one of its most talented and hard working Members.●

● Mr. LONG of Louisiana. Mr. Speaker, at the close of this session, WALTER FLOWERS will have served in the House of Representatives for 10 years. As he will not be with us in the 96th Congress, I would like to take this opportunity to congratulate the distinguished gentleman from Alabama on his outstanding career in the House.

Some of us will remember WALTER best for his strong leadership in the Judiciary Committee when he served as chairman of the Subcommittee on Administrative Law and Governmental Relations. Others will recall WALTER FLOWERS for his fine contributions to energy legislation. As chairman of the Science and Technology Subcommittee on Fossil and Nuclear Energy Research, Development and Demonstration, Congressman FLOWERS expertise and experience were of invaluable assistance in the drafting of very complicated and technical energy bills. WALTER FLOWERS' courageous fight for the Clinch River project illustrates his many talents as a spokesman. His appointment to the Ad Hoc Committee on Energy, the Select Committee on Aging, the Committee on Standards of Official Conduct and the Select Committee on Ethics is indicative of the high esteem his colleagues hold for him, and his exemplary performance in these duties is a service that will be sorely missed.

When WALTER FLOWERS leaves this body, I will feel a great sense of personal loss as I have had the privilege and pleasure of working with him on many occasions. More important, Congress will lose one of its most dedicated and capable Members, and his talents will not easily be replaced.●

● Mr. LONG of Louisiana. Mr. Speaker, the dean of the Louisiana House delegation, the Honorable JOE WAGGONNER JR., will be retiring from the House of Representatives at the close of this Congress. Mr. WAGGONNER's retirement leaves the Congress without one of its most experienced and effective leaders, and we will certainly feel the loss of the distinguished gentleman from Louisiana in the 96th Congress.

Representative WAGGONNER has served the Fourth Congressional District of Louisiana since 1961, and his contributions to the legislative business of this institution have earned him a national reputation a "man who gets things done on Capitol Hill." Intelligent, quick and persuasive, JOE WAGGONNER has played a significant role in the formulation of our Nation's tax policy as a member of the Ways and Means Committee. Congressman WAGGONNER served on numerous task forces of this committee and contributed many constructive proposals for the improvement of our tax code. Since the beginning of the 95th Congress, Mr. WAGGONNER has ably chaired the Subcommittee on Miscellaneous Revenue; his appointment to this position is indicative of the respect his colleagues have for Mr. WAGGONNER's expertise in this legislative field.

Beyond his knowledge of tax matters, JOE WAGGONNER has mastered the Rules of the House of Representatives and skill-

fully works them to the advantage of the position he is supported. Any piece of legislation benefits from his support, for he knows how to move it quickly through the parliamentary process.

Most important, JOE WAGGONNER's service here in Congress has been marked by great political courage and conviction. He has served his constituency and the Nation in an exemplary manner and his talents will not easily be replaced. We, of the Louisiana delegation, will suffer a great personal loss with his departure, as we have enjoyed his friendship and wise counsel. I am certain my colleagues join with me in wishing JOE continued success and happiness in all his future endeavors. Wherever he chooses to direct his energies will undoubtly benefit.●

● Mr. RINALDO. Mr. Speaker, I am genuinely pleased to rise this evening to recognize the contributions and achievements of my good friend and colleague, JOSEPH A. LE FANTE.

Although JOE is retiring after only one term, he has made his impact in Washington.

As a member of the Education and Labor and Small Business Committees, JOE has not been afraid to speak out and vote for the best interests of his constituents. In fact, his courageous, effective leadership goes back to his days in the State legislature, where he was majority leader, and later speaker, of the general assembly.

JOE LE FANTE has always been committed to the well-being of his constituents. As a State legislator, and as a U.S. Congressman, he has worked to improve the quality of life of the people he was elected to serve. In my judgment, he has succeeded. The people of the 14th District owe a debt of gratitude to JOE LE FANTE.

Mr. Speaker. I will miss JOE as a colleague and as a good friend. But I know that when he returns to New Jersey, he wil continue to be the effective, outspoken public servant he has always been.●

● Mr. BRINKLEY. Mr. Speaker, with the adjournment of the 95th Congress, the Honorable WALTER FLOWERS of Alabama will retire from the U.S. Congress after 10 years of distinguished service. We who have had the honor of working with this fine gentleman know him as a determined man who has always displayed warm sincerity and genuine concern for those he represents.

I have always been impressed with this man from the State which borders mine. For a man to conceive an idea of putting a canoe in the Potomac River and maneuvering it downstream for public relation purposes is to establish his ingenuity; for him to serve in such a distinguished manner on the Judiciary Committee is to establish his intellect. A combination of these two qualities bode well for WALTER FLOWERS.

John Kennedy said,

> And when at some future date the high court of history sits in judgment on each of us, recording whether in our brief span of service we fulfilled our responsibilities to the state, our success or failure, in whatever office we hold, will be measured by the answers to four questions: First, were we truly men of courage . . . ? Second, were we truly men of judgment . . . ? Third, were we truly men of integrity . . . ? Finally, were we truly men of dedication . . . ?

WALTER FLOWERS can answer a resounding "aye" to all these questions. As a progressive legislator and as a dear friend, he will be missed. I wish him much happiness.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BURKE of Florida, for Saturday, October 14, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LIVINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. WYDLER for 60 minutes, October 14, 1978.

Mr. PURSELL, for 5 minutes, today.

Mr. CORCORAN of Illinois, for 5 minutes, today.

Mr. GREEN, for 5 minutes, today.

Mr. BROYHILL, for 15 minutes today.

Mr. KEMP, for 10 minutes, today.

Mr. RAILSBACK, for 5 minutes, today.

Mr. GRASSLEY, for 15 minutes today.

Mr. GOODLING, for 5 minutes, today.

Mr. DON CLAUSEN, for 5 minutes, today.

Mr. GOLDWATER, for 5 minutes, today.

(The following Members (at the request of Mr. LIVINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes today.

Mr. GONZALEZ, for 5 minutes today.

Mr. LEDERER, for 60 minutes today.

Mr. BROOKS, for 60 minutes today.

Mr. FRASER, for 5 minutes today.

Mr. TEAGUE, for 5 minutes today.

Mr. MINISH, for 60 minutes today.

Mr. EDWARDS of California, for 5 minutes today.

Mr. DIGGS, for 30 minutes today.

Mr. FASCELL, for 15 minutes today.

Mr. DODD, for 5 minutes today.

Mr. LEGGETT, for 10 minutes today.

Mr. LAFALCE, for 10 minutes today.

Mr. PEPPER, for 10 minutes today.

Mrs. COLLINS of Illinois, for 5 minutes today.

Mr. UDALL, for 10 minutes today.

Mr. BURKE, of Massachusetts for 60 minutes, October 14, 1978.

Mr. BRINKLEY, for 60 minutes, October 14, 1978.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Appendix of the RECORD, or to revise and extend remarks was granted to:

Mr. BROWN of California, and to include extraneous matter notwithstanding the fact that it exceeds five pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $3,500.

Mr. ST GERMAIN, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,061.

Mr. GILMAN, to revise and extend his remarks in the general debate in the House today on S. 2399, Psychotropic Substances Act of 1978.

Mr. RUSSO to revise and extend his remarks during debate on H.R. 11979, local rail service.

Mr. FLORIO to revise and extend his remarks during debate on H.R. 11979, local rail service.

(The following Members (at the request of Mr. LIVINGSTON) and to include extraneous matter:)

Mr. TAYLOR.
Mr. THONE.
Mr. SEBELIUS.
Mr. WINN.
Mr. STEIGER.
Mr. ASHBROOK in three instances.
Mr. GOODLING in two instances.
Mr. O'BRIEN.
Mr. STEERS.
Mr. MCCLORY in two instances.
Mr. WYDLER in four instances.
Mr. SYMMS.
Mr. CRANE.
Mr. GREEN.
Mr. HYDE.
Mr. ARMSTRONG.
Mr. DERWINSKI in two instances.
Mr. DORNAN in six instances.
Mr. CONTE.
Mr. KEMP.
Mr. YOUNG of Alaska.
Mr. GRASSLEY.
Mr. GILMAN in three instances.
Mr. DON H. CLAUSEN.
Mrs. HECKLER.
Mr. RINALDO.
Mr. COLLINS of Texas in five instances.
Mr. MILLER of Ohio in four instances.
Mr. ABDNOR in two instances.

(The following Members (at the request of Mr. FLIPPO) and to include extraneous matter:)

Mr. PEASE in two instances.
Mr. WOLFF.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. EDWARDS of California in five instances.
Mr. CORRADA in five instances.
Mr. RANGEL.
Mr. MURTHA in two instances.
Mr. FORD of Tennessee.
Ms. MIKULSKI in two instances.
Mr. HUGHES in three instances.
Mr. FOUNTAIN.
Mr. BONKER
Mr. LAFALCE in five instances.
Mr. MOTTL.
Mr. SANTINI.
Mr. JACOBS.
Mr. ROGERS in five instances.
Mr. HANNAFORD.
Mr. ANNUNZIO in six instances.
Mr. EILBERG in five instances.
Mr. BROOKS.

Mr. MAZZOLI in two instances.
Mr. ADDABBO in three instances.
Mr. FAUNTROY in three instances.
Mr. RYAN.
Mr. ROE in six instances.
Mr. MOORHEAD of Pennsylvania.
Mr. DENT.
Mr. PATTISON of New York.
Mr. SOLARZ in two instances.
Mr. BLANCHARD in two instances.
Mr. GORE in two instances.
Mr. MCDONALD in five instances.
Mr. PREYER.
Mr. OTTINGER in two instances.
Mr. GEPHARDT.
Mr. FASCELL in four instances.
Mr. CONYERS in two instances.
Mr. CAVANAUGH.
Mr. TSONGAS.
Mr. LEDERER.
Mr. BRECKINRIDGE in five instances.
Mr. WEISS.
Mr. ALEXANDER.
Mr. MURPHY of Pennsylvania.
Mr. PATTERSON of California in five instances.
Mr. SIKES in two instances.
Mr. JONES of Tennessee.
Mr. YOUNG of Missouri.
Mr. OBERSTAR in three instances.
Mr. PEPPER in two instances.
Mr. SIMON.
Mr. MAGUIRE.
Mr. NEDZI in two instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2253. An act to amend title 28 of the United States Code to encourage prompt, informal, and inexpensive resolution of civil cases by use of arbitration in United States district courts, and for other purposes; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 11686. An act to authorize appropriations for the Department of Energy for national security programs for fiscal year 1979, and for other purposes;

H.R. 13418. An act to amend the Small Business Act by transferring thereto those provisions of the Domestic Volunteer Service Act of 1973 affecting the operation of volunteer programs to assist small business, to increase the maximum allowable compensation and travel expenses for experts and consultants, and for other purposes; and

H.R. 13635. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes.

ADJOURNMENT

Mr. DAVIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 19 minutes a.m.), under its previous order, the House adjourned until today, Saturday, October 14, 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5125. A communication from the President of the United States, transmitting a report recommending the designation of a 50.4-mile segment of the Illinois River in Oregon as a part of the National Wild and Scenic Rivers System, pursuant to section 4 of the Wild and Scenic Rivers Act (H. Doc. No. 95-401); to the Committee on Interior and Insular Affairs and ordered to be printed.

5126. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Plant Variety Protection Act (7 U.S.C. 2321 *et seq.*) to clarify its provisions, and for other purposes; to the Committee on Agriculture.

5127. A letter from the Assistant Secretary of the Navy (Manpower, Reserve Affairs and Logistics), transmitting a report on the settlement of outstanding claims against the Navy by the Newport News Shipbuilding and Drydock Co.; to the Committee on Armed Services.

5128. A letter from the Secretary of the Interior, transmitting the 1978 report on mining and minerals policy, pursuant to section 2 of Public Law 91-631; to the Committee on Interior and Insular Affairs.

5129. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on excess defense articles delivered to foreign governments during the second quarter of fiscal year 1978 and the cumulative status for the year October 1, 1977 through March 31, 1978, pursuant to section 8(d) of the Foreign Military Sales Act Amendments of 1971, as amended; to the Committee on International Relations.

5130. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on excess defense articles delivered to foreign governments during the third quarter of fiscal year 1978 and the cumulative status for the year, October 1, 1977 through June 30, 1978, pursuant to section 8(d) of the Foreign Military Sales Act Amendments of 1971, as amended; to the Committee on International Relations.

5131. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on the use of funds for assistance to Zaire, as directed by the President in his determination No. 78-11; to the Committee on International Relations.

5132. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

5133. A letter from Assistant to the Governor of the Canal Zone, transmitting a draft of proposed legislation to amend title 2 of the Canal Zone Code to provide for an exclusive remedy against the United States in suits based upon medical malpractice on the part of medical personnel employed by the Canal Zone Government; to the Committee on Merchant Marine and Fisheries.

5134. A letter from the Secretary of Housing and Urban Development, transmitting the third semiannual report on energy conservation standards for new buildings program, pursuant to section 311(4) of the Energy Conservation and Production Act; jointly, to the Committees on Interstate and Foreign Commerce, and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MEEDS: Committee on Rules. House Resolution 1431. Resolution providing for the consideration of S. 666. An act to allow Federal employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of, certain Federal laws allowing employment preference to Indians, and for other purposes. (Rept. No. 95-1781). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1434. Resolution providing for the consideration en bloc of the conference reports on the bills H.R. 4018, H.R. 5146, H.R. 5037, H.R. 5289, and H.R. 5263 (Rept. No. 95-1782). Referred to the House Calendar.

Mr. STAGGERS: Committee of conference. Conference report on S. 2466 (Rept. No. 95-1783). Ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on S. 2534 (Rept. No. 95-1784). Ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on S. 2416 (Rept. No. 95-1785). Ordered to be printed.

Mr. PERKINS: Committee of conference. Conference report on S. 995 (Rept. No. 95-1786). Ordered to be printed.

Mr. SMITH of Iowa: Committee on Small Business. Report on small business problems in the marketing of meat and other commodities (pt. 1.—meat pricing) (Rept. No. 95-1787). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Iowa: Committee on Small Business. Report on small business problems in the marketing of meat and other commodities (pt. 2.—transportation) (Rept. No. 95-1788). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 6575. A bill to establish a transitional system of hospital cost containment by providing for incentives and restraints to contain the rate of increase in hospital revenues, to establish a system of capital allocation designed to encourage communities to avoid the creation of unneeded and duplicative hospital facilities and services, to provide for the publication and disclosure of information useful to the public in making decisions about health care, to provide for the development of permanent reforms in hospital reimbursement designed to provide incentives for the efficient and effective use of hospital resources, and for other purposes; with amendment (Rept. No. 95-1789, Pt. I). Ordered to be printed.

Mr. ULLMAN: Committee of conference. Conference report on H.R. 12050 (Rept. No. 95-1790). Ordered to be printed.

Mr. FOLEY: Committee on Agriculture. Report pursuant to section 302 of the Congressional Budget Act of 1974 (Rept. No. 95-1791). Referred to the Committee of the Whole House on the State of the Union.
[*Submitted Oct. 14 (legislative day, Oct. 13), 1978*]

Mr. REUSS: Committee of conference. Conference report on S. 3084 (Rept. No. 95-1792). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolu-

tions were introduced and severally referred as follows:

By Mr. FORD of Tennessee:

H.R. 14320. A bill to amend title XVIII of the Social Security Act to include dental care among the items and services for which payment may be made under the supplementary medical insurance program; to the Committee on Ways and Means.

By Mr. HANNAFORD:

H.R. 14321. A bill to amend the Internal Revenue Code of 1954 to allow individuals who are participants in employer pension plans a deduction for their contributions to individual retirement plans, and to increase the amount of the credit for the elderly; to the Committee on Ways and Means.

By Mr. HOLLAND (for himself, Mr. BROYHILL, Mr. ABDNOR, Mr. DODD, Mr. BLANCHARD, Mr. MCEWEN, Mr. WYDLER, and Mr. MCDONALD):

H.R. 14322. A bill to amend the Trade Act of 1974; to the Committee on Ways and Means.

By Mr. JEFFORDS (for himself and Mr. HOLLENBECK):

H.R. 14323. A bill to provide for the timely and safe disposal of radioactive ores, minerals, and mill tailings as well as physical facilities and material wastes of all types which are produced as a result of the use of nuclear energy; jointly, to the Committees on Armed Services, Interior and Insular Affairs, Interstate and Foreign Commerce, and Science and Technology.

By Mr. MAZZOLI:

H.R. 14324. A bill to amend the Public Health Service Act to provide for the development of standards for provision of hospice care, to provide for studies and demonstration projects in the provision of hospice care, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MIKVA (for himself, Mr. FOWLER, Mr. FORSYTHE, Mr. GUYER, Mr. MITCHELL of Maryland, Mr. MOFFETT, Mr. RINALDO, and Mr. UDALL):

H.R. 14325. A bill to correct inequities in certain sales representatives practices, to provide protection for certain sales representatives terminated from their account without justification, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MONTGOMERY:

H.R. 14326. A bill to amend sections 3686 and 8686 of title 10, United States Code, to credit certain full-time training duty of members of the National Guard; to the Committee on Armed Services.

By Mr. POAGE:

H.R. 14327. A bill to authorize and direct the Secretary of Agriculture to establish a national program of rangeland research to be carried out by the several States; to the Committee on Agriculture.

By Mr. PREYER:

H.R. 14328. A bill to protect the privacy of correspondence in the mails; to the Committee on Post Office and Civil Service.

By Mr. SCHEUER (for himself and Mr. WALKER):

H.R. 14329. A bill to establish a national commission to study the use of computers in the Nation's education system; to the Committee on Education and Labor.

By Mr. STEERS:

H.R. 14330. A bill to amend title VII of the Civil Rights Act of 1964 to establish an Office of Equal Employment Opportunity in each department, agency, and unit of the Federal Government, and for other purposes; to the Committee on Education and Labor.

By Mr. THONE (for himself and Mr. DERWINSKI):

H.R. 14331. A bill to amend the Congressional Budget and Impoundment Control Act to limit total Federal budget authority and budget outlays in fiscal year 1980, 1981, 1982, and 1983; jointly, to the Committees on Government Operations and Rules.

By Mr. BROYHILL:

H.R. 14332. A bill to amend title 5, United States Code, to establish certain procedural and other requirements designed to insure that rules prescribed by Federal agencies are necessary, reasonable, and compatible with congressional goals and policies; to the Committee on the Judiciary.

By Mr. CARR:

H.R. 14333. A bill to prohibit the inclusion of a scenic shoreline drive in the management plan for the Pictured Rocks National Lakeshore in the State of Michigan; to the Committee on Interior and Insular Affairs.

By Mr. CORCORAN of Illinois:

H.R. 14334. A bill to require the Secretary of the Interior to make a study for purposes of determining which, if any, lands encompassing the Illinois and Michigan Canal would be suitable as a national historical park; to the Committee on Interior and Insular Affairs.

By Mr. CRANE:

H.R. 14335. A bill to amend the Airport and Airway Development Act of 1970 to make privately owned public use airports eligible for assistance under the act; to the Committee on Public Works and Transportation.

By Mr. DENT (for himself, Mr. ERLENBORN, Mr. PHILLIP BURTON, Mr. GOODLING, Mr. HAWKINS, Mr. MICHAEL O. MYERS, Mr. SARASIN, Mr. SIMON, and Mr. THOMPSON):

H.R. 14336. A bill to provide for pension reform for State and local public employee retirement systems, to amend the Employee Retirement Income Security Act of 1974 to promote more efficient and satisfactory management of the functions of the Federal Government relating to employee pension and welfare benefit plans and more effectively carry out the purposes of such act, and for other purposes; jointly, to the Committees on Education and Labor, and Ways and Means.

By Mr. GILMAN:

H.R. 14337. A bill to amend the Legislative Reorganization Act of 1946 to improve the oversight capabilities of the standing committees of the Senate and of the House of Representatives; to the Committee on Rules.

By Mr. LAFALCE:

H.R. 14338. A bill to amend the Resource Conservation and Recovery Act to establish a program for the identification and reclamation of abandoned hazardous waste sites, to establish a fee for the storage or disposal of hazardous waste, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. LEVITAS:

H.R. 14339. A bill to establish an Office of Regulatory Review in the General Accounting Office to assist the Congress in evaluating the economic impact of agency rules; to the Committee on Government Operations.

By Mr. LUNDINE (for himself, Mr. MOORHEAD of Pennsylvania, Mr. FISHER, Ms. MIKULSKI, Mr. MAGUIRE, Mr. MIKVA, Mr. PATTISON of New York, Mr. BAUCUS, Mr. FRASER, Mr. PEASE, Mr. HEFTEL, Mr. EILBERG, Mr. EDGAR, Mr. STEERS, Mr. DOWNEY, Mr. HUGHES, Mr. ERTEL, Mr. DICKS, Mr. SEIBERLING, Mr. MARKEY, Mr. WEAVER, Mr. LAFALCE, Mr. CARR, Mr. HANNAFORD, and Mr. NOWAK):

H.R. 14340. A bill to reduce the rate of inflation and keep it within reasonable bounds by providing for a comprehensive plan for coordinating Federal economic and regulatory policies to offset inflationary pressures, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, Education and Labor, Government Operations, and Rules.

By Mr. MOORHEAD of Pennsylvania:

H.R. 14341. A bill to amend the Internal Revenue Code of 1954 to require that employee stock ownership plans financed through an additional investment credit be nondiscriminatory to any group of employees; to the Committee on Ways and Means.

By Mr. GARY A. MYERS:

H.R. 14342. A bill to amend title 18 to make unlawful a willful misrepresentation regarding a Member of Congress or Federal officer made to influence Federal, State, or local government employees in the performance of official acts; to the Committee on the Judiciary.

By Mr. NEAL (for himself, and Mr. STANTON):

H.R. 14343. A bill to amend the Export-Import Bank Act of 1945; to the Committee on Banking, Finance and Urban Affairs.

By Mr. OTTINGER:

H.R. 14344. A bill to amend the Tariff Schedules of the United States to eliminate the duty on ribbon fly catchers; to the Committee on Ways and Means.

By Mr. PANETTA (for himself, Mr. RYAN, Mr. BEDELL, and Mr. MOSS):

H.R. 14345. A bill to amend section 2 of the National Housing Act to provide for a guaranteed loan program designed to encourage the acquisition and installation of water conservation equipment and systems in dwelling units; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PANETTA (for himself, Mr. RYAN, and Mr. BEDELL):

H.R. 14346. A bill to establish an Office of Water Management within the executive branch to coordinate Federal water authorities; to establish an Independent Water Project Review Board within the executive branch to advise the President and the Congress; and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PANETTA (for himself, Mr. BEDELL, Mr. HARRIS, Mr. MOSS, and Mr. RYAN):

H.R. 14347. A bill to require that certain consumer products be labeled to specify the rate of water consumption of the consumer products, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PANETTA (for himself, Mr. RYAN, and Mr. MOSS):

H.R. 14348. A bill to require that certain consumer products achieve minimum water efficiency standards,and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PANETTA (for himself, Mr. BEDELL, Mr. HARRIS, Mr. MOSS, and Mr. RYAN):

H.R. 14349. A bill to establish minimum water efficiency standards for public buildings and to provide for the procurement and installation of efficient water supply and removal equipment in public buildings; to the Committee on Public Works and Transportation.

By Mr. PANETTA (for himself, Mr. RYAN, and Mr. MOSS):

H.R. 14350. A bill to amend the Federal Water Pollution Control Act to include the reduction of unnecessary water consumption as a part of the national policy for the control of water pollution, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. PANETTA (for himself, Mr. KREBS, Mr. MCCLOSKEY, Mr. GRASSLEY, Mrs. LLOYD of Tennessee, Mr. MARKEY, Mr. FORSYTHE, Mr. DOWNEY, and Mr. LIVINGSTON):

H.R. 14351. A bill to amend the Congressional Budget Act of 1974 to provide for a 2-year budgeting cycle, to provide for separate

and timely consideration each of authorizing legislation, budget resolutions, and appropriations, and for other purposes; to the Committee on Rules.

By Mr. PANETTA (for himself, Mr. BEDELL, Mr. MOSS, and Mr. RYAN):

H.R. 14352. A bill to assure more adequate supplies of water to the Nation, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Public Works and Transportation.

By Mr. PERKINS (for himself, Mr. THOMPSON, and Mr. HAWKINS):

H.R. 14353. A bill to establish an additional position of Assistant Secretary of Labor; to the Committee on Education and Labor.

By Mr. PRITCHARD (for himself and Mr. YOUNG of Alaska):

H.R. 14354. A bill to provide that the halibut research and management functions of the International Pacific Halibut Commission be carried out by the Northwest and Alaska Fisheries Center of the National Marine Fisheries, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. PURSELL (for himself and Mr. HOLLENBECK):

H.R. 14355. A bill to provide for a Federal program for health promotion and disease prevention; jointly, to the Committees on Interstate and Foreign Commerce, and Education and Labor.

By Mr. STEERS:

H.R. 14356. A bill to require that the Federal Government pay interest on overdue contract payments, and for other purposes; to the Committee on the Judiciary.

By Mr. WEISS:

H.R. 14357. A bill to provide authority for the President to stabilize prices, wages, interest rates, and corporate dividends; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ABDNOR (for himself, Mr. ALEXANDER, Mr. AUCOIN, and Mr. TRAXLER):

H.R. 14358. A bill to provide assistance to rural water systems in achieving compliance with title XIV of the Public Health Service Act, and for other purposes; jointly, to the Committees on Agriculture, and Interstate and Foreign Commerce.

By Mr. DORNAN (for himself, Mr. HANSEN, Mr. HYDE, Mr. MOOREHEAD of California, Mr. LUKEN, Mr. BAUCUS, Mr. MOTTL, Mr. YOUNG of Florida, Mr. YOUNG of Alaska, Mr. BADHAM, Mr. DERWINSKI, Mr. DEVINE, Mr. LLOYD of California, Mr. HANNAFORD, Mr. PATTERSON of California, Mr. DON H. CLAUSEN, Mr. LAGOMARSINO, Mr. SYMMS, Mr. STOCKMAN, Mr. CUNNINGHAM, Mr. CARTER, Mr. MARRIOTT, Mr. KELLY, Mr. GUYER, and Mr. DUNCAN of Tennessee):

H.R. 14359. A bill to amend the Internal Revenue Code of 1954 to provide for tax reductions and reforms; to the Committee on Ways and Means.

By Mr. NOLAN (for himself, Mr. BAUCUS, Mr. LUJAN, Mr. DAVIS, Mr. STARK, Mr. HUBBARD, Mr. RUNNELS, and Mr. WIRTH):

H.J. Res. 1169. Joint resolution raising the price support levels for milk, wheat, corn, soybeans, and cotton to 90 percent of the respective parity prices therefor, and for other purposes; to the Committee on Agriculture.

By Mr. ROONEY:

H.J. Res. 1170. Joint resolution proposing an amendment to the Constitution of the United States to provide that the level of total expenditures of the United States for any fiscal year shall not exceed the level of total revenues of the United States for such fiscal year and for the disposition of subsequent deficits, and that the gross Federal debt be reduced by open-market operations; to the Committee on the Judiciary.

By Mr. ROSTENKOWSKI (for himself and Mr. MURPHY of Illinois):

H.J. Res. 1171. Joint resolution relating to the publication of economic and social statistics for Americans of Balto-Slavic origin or descent; jointly, to the Committees on Education and Labor, and Post Office and Civil Service.

By Mr. WHITE (for himself, Mr. BUCHANAN, Mr. ROBERT W. DANIEL, Jr., Mr. GUYER, Mr. HUCKABY, Mr. NICHOLS, Mr. ROBINSON, Mr. ROUSSELOT, Mr. RUNNELS, Mr. SEBELIUS, and Mr. CHARLES WILSON of Texas):

H.J. Res. 1172. Joint resolution proposing an amendment to the Constitution of the United States to provide that the level of total expenditures of the United States for any fiscal year shall not exceed the level of total revenues of the United States for such fiscal year and for the disposition of subsequent deficits, and that the gross Federal debt be reduced by open-market operations; to the Committee on the Judiciary.

By Mr. HANSEN (for himself, Mr. KEMP, and Mr. BURGENER):

H. Con. Res. 750. Concurrent resolution to uphold the separation of powers between the executive and legislative branches of Government in the termination of treaties; to the Committee on International Relations.

By Mr. McDONALD (for himself, Mr. SCHULZE, Mr. MOORHEAD of California, Mr. IRELAND, and Mr. EVANS of Delaware):

H. Con. Res. 751. Concurrent resolution expressing the sense of Congress with respect to the Internal Revenue Service's proposed revenue procedure on private tax exempt schools; to the Committee on Ways and Means.

By Mr. SOLARZ:

H. Con. Res. 752. Concurrent resolution endorsing the concept of a commemorative stamp honoring the Revolutionary War Prison Ship Martyrs and urging the U.S. Postal Service to release, issue, and sell such a stamp; to the Committee on Post Office and Civil Service.

By Mr. SOLARZ (for himself, Mr. EILBERG, Mr. GILMAN, Ms. HOLTZMAN, Mr. LEHMAN, Mr. MIKVA, Mr. OTTINGER, Mr. RICHMOND, Mr. ROSENTHAL, Mr. SCHEUER, Ms. SPELLMAN, Mr. MARKS, Mr. LE FANTE, Mr. MOTTL, and Mr. KEMP):

H. Con. Res. 753. Concurrent resolutions endorsing the concept of a commemorative stamp honoring the Jewish holiday of Chanukah, and urging the U.S. Postal Service to release, issue, and sell such a stamp; to the Committee on Post Office and Civil Service.

By Mr. McKINNEY:

H. Res. 1435. Resolution relating to the restoration and use, as the City Museum of the District of Columbia, or a related appropriate public or commercial purpose, of the former Masonic Hall at 9th and F Streets, NW., Washington, D.C.; to the Committee on the District of Columbia.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of the rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AUCOIN:

H.R. 14360. A bill for the relief of Theresa Flowers; to the Committee on the Judiciary.

By Mr. DELLUMS:

H.R. 14361. A bill for the relief of Oscar Armando Benavides; to the Committee on the Judiciary.

By Mr. FISHER:

H.R. 14362. A bill for the relief of Bui Dung; to the Committee on the Judiciary.

By Mr. GEPHARDT:

H.R. 14363. A bill for the relief of the Jewish Employment Vocational Service, St. Louis, Mo.; to the Committee on the Judiciary.

By Mr. THORNTON:

H.R. 14364. A bill for the relief of Bob C. Riley; to the Committee on the Judiciary.

By Mr. VOLKMER:

H.R. 14365. A bill for the relief of the Jewish Employment Vocational Service, St. Louis, Mo.; to the Committee on the Judiciary.

By Mr. YOUNG of Missouri:

H.R. 14366. A bill for the relief of the Jewish Employment Vocational Service, St. Louis, Mo.; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

558. The SPEAKER presented a petition of the Board of Education of Frederick County, Frederick, Md., relative to the proposed establishment of a separate Department of Education, which was referred to the Committee on Government Operations.

EXTENSIONS OF REMARKS

TRIBUTE TO ANTHONY DI PROSPERO OF PHILADELPHIA, PA.

HON. MICHAEL O. MYERS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. MICHAEL O. MYERS. Mr. Speaker, nearly 500 years ago a brave young man set sail from Italy in search of the new world. That man was Christopher Columbus, and history has recorded his discoveries and their importance to the history of mankind.

As we celebrate Columbus Day, I want to bring to the attention of my colleagues the deeds of one man who has worked so very hard to honor the memory, name, and glory of Christopher Columbus. I speak of Mr. Anthony Di Prospero of Philadelphia, Pa.

Born in south Philadelphia, Mr. Di Prospero traveled to Genoa, Italy, where he attended the public school system before returning to the United States to complete his high school education at South Philadelphia High School. Mr. Di Prospero worked long and hard mastering a trade and soon became very proficient in the tailoring business.

After working for several years with the Philadelphia Department of Recreation, Mr. Di Prospero began his remarkable work honoring Christopher Colum-

bus. He had a large recreation center renamed the Columbus Square Recreation Center, and in 1953 he organized the Columbus Civic Association of Pennsylvania, Inc. This outstanding organization has as its motto the words: "To honor the memory, name and glory of Christopher Columbus" and it is widely recognized as a leading force in meeting such a worthy goal.

Among the many awards bestowed upon Anthony Di Prospero are the Award of Merit from the Italian-American Press and Radio Association; a Resolution of Praise from the Pennsylvania House of Representatives, and a Citation of Honor from the U.S. Senate. He is especially proud of the honor given to him when he received the Union Legion of Merit of Rome; and he has twice been honored by the Republic of Italy for his many contributions to patriotic and charitable causes. Mr. Di Prospero was made a Cavaliere in 1962 and a Commendatore of the Order of the Star of Italian Solidarity in 1968.

Mr. Speaker, I believe the people of Italy have shown Anthony Di Prospero that they deeply appreciate the work he has done to perpetuate the memory of Christopher Columbus. I would like to add my congratulations to this remarkable man.

Mr. Anthony Di Prospero is indeed a worthy recipient of the many honors and awards he has received over his many years of service to his community. I am very proud to have this opportunity to acknowledge his work before my colleagues in the House of Representatives and I know that the city of Philadelphia is proud to have him as its native son.●

BORIS TSITILIONOK

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1978

● Mr. FREY. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of the families which remain separated.

At this time, I would like to bring to the Members' attention the situation of Boris Tsitilionok:

BORIS LEIBOVICH TSITILIONOK

Boris Tsitilionok is a 31 year old toolmaker who applied for an exit visa in 1971. Refused on the basis of national security, he subsequently lost his job and was placed under incessant KGB surveillance with periodic visits to their offices, threats of repression, and fortnightly arrests.

In February 1975, he was among nine Jewish activists who demonstrated briefly in Moscow carrying banners of "Visas not Prisons" and "Free Emigration of the Soviet Jews to Israel." Their demonstration was brought to an end within 30 seconds by police and KGB men. In March 1975, he was sentenced to 5 years in exile in Siberia.

Prior to sentencing, Boris' parents, who live in Haifa, wrote the following appeal:

"Our son participated in ten demonstrations and was detained 25 times and this was only during 1972–73. In July 1973, he was thrown into prison together with other boys where they were beaten up severely by the prison guards. During Brezhnev's visit to the U.S. he was detained and arrested 9 times. . . . On the 10th of November, 1974 he was picked up in the street by members of the KGB and warned that if he would continue to insist on his emigration he would be put in a mental institution. . . . Our family begs you to undertake urgent measures before it is too late. Our family will be very grateful to you if you will raise your voice in defense of our son."

In another plea dated October 5, 1975, his mother Batia wrote:

"My son, Boris, is now in the Far North, Siberia. . . . I want to stress that he is an official Israeli citizen. He got his citizenship on the 10th of March 1972. I, as many Jewish mothers, appeal to the Jewish hearts and consciences all over the world to take an active part in our struggle, in our fight for free emigration of the Soviet Jews to Israel. I am very obliged to your attention and for your noble participation in the fate of the Orphans of Aliyah."●

LIMITATION OF TERMS FOR MEMBERS OF CONGRESS

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. HILLIS. Mr. Speaker, over the years, there have been numerous proposed constitutional amendments to limit and/or alter the terms for Members of the House of Representatives, the Senate, the Vice President, and the President. Today, I am adding to the list of proposed amendments by introducing an omnibus measure which, if ratified, would extend the terms of Representatives to 3 years, and the terms of the President and Vice President to 6 years. Further, my proposed amendment would limit the number of years Representatives can serve in the House to 12 years, Senators to 12 years, and combined service in the House and Senate to 18 years. The President would be limited to two terms.

My proposal is intended to be a comprehensive reform designed to modernize our Constitution thus improving our electoral process. As I just outlined, my proposal has three separate components.

First, to establish triennial terms for Representatives;

Second, to establish hexennial terms for the President and Vice President; and

Third, to limit service in Congress to 12 years in either House, and 18 years in both the House and Senate.

Each component needs to be thoroughly reviewed and examined as well as the aggregate effects of the proposed amendment.

First of all, the need for longer terms for Members of the House should be apparent to any student of our political process. The original purpose of the biennial term was to keep Members in close contact with the electorate by establishing these relatively short terms of service.

Alexander Hamilton who is generally credited with authorship of Federalist Paper No. 52 explained the rationale of the biennial term as follows:

As it is essential to liberty, that the government in general should have a common interest with the people; so it is particularly essential that the branch of it under consideration should have an immediate dependence on, and an intimate sympathy with, the people. Frequent elections are unquestionably the only policy by which this dependence and sympathy can be effectually secured. But what particular degree of frequency may be absolutely necessary for the purpose, does not appear to be susceptible of any precise calculation—and must depend on a variety of circumstances, with which it may be connected.

Considering the world of the late 1700's, a biennial term was undoubtedly necessary to keep Members in close touch with their constituents. However, as Alexander Hamilton rightly pointed out, there is no way to determine what is the absolute best length of a term, but that the length of the term must be dependent on a variety of circumstances with which it may be connected.

I submit that the circumstances have, indeed, changed since the Constitution was ratified. To begin with, through modern mailing techniques both by constituents and interest groups, Members are well exposed to the opinions and moods of the citizenry. In addition, telephones and television along with sophisticated public opinion polls contribute to keeping Members abreast of the views of their constituents and the Nation as a whole. Newspapers and magazines also add to the exposure of public moods to Members.

Obviously, improvements in transportation have helped Members keep in close contact with the electorate. To illustrate the frame of mind of the delegates to the Constitutional Convention and the circumstances under which they lived, I quote from Carl Van Doren in his book of the Constitution "The Great Rehearsal":

The journey from New Hampshire to Philadelphia took usually a good part of two weeks, from Georgia a good part of three.

In a world where it took up to 3 weeks to travel from Georgia to Pennsylvania, a biennial term would appear to be needed to prevent Members from losing touch with their constituents. However, in a world where a Member can fly from Washington, D.C., to Los Angeles in 6 hours, the rationale behind a biennial term must be questioned.

There can be no question, but that the circumstances under which Representatives serve have changed. None of the aforementioned modern communication and transportation inventions which help to disseminate and facilitate the views of the American people to the Members were available when the Constitution was drafted and ratified. Certainly, the modern-day Congressman has every opportunity to avail himself of the thoughts and views of constituents. In my opinion, there is no justification to the argument that extending Members' terms from biennial to triennial will lessen their rapport with constituents.

There are two other considerations which were important in the minds of

the delegates to the Constitutional Convention in deciding on a 2-year term. They felt that the term must be long enough to allow Representatives to adequately do their job without unnecessary disruption and allow them to adequately comprehend the job before facing reelection. Second, the delegates wanted to insure that the term was short enough to protect the safety, or freedoms and liberties, of the people.

On the first point, Hamilton wrote in Federalist Paper No. 53:

> No man can be a competent legislator who does not add to an upright intention and a sound judgement, a certain degree of knowledge of the subject on which he is to legislate. A part of this knowledge may be acquired by means of information, which lie within the compass of men in private, as well as public stations. Another part can only be attained, or at least thoroughly attained, by actual experience in the station which requires the use of it. The period of service ought, therefore, in all cases, to bear some proportion to the extent of practical knowledge requisite to the due performance of the service.

Our world today is infinitely more complex than the world in which Hamilton lived. Since our world is more complex, the issues we face are more complex. Hamilton was correct in saying that the term should be proportionate to the knowledge requisite to do the job. The requisite knowledge to handle the issues today is very large and continues to grow. A triennial term is more proportionate today than a biennial term to the requisite knowledge to handle legislative matters in the best interest of the Nation.

The last concern of the delegates in selecting a biennial term for Representatives was to protect the safety of the people, to which I made reference to earlier. We should remember that the delegates were forming a new government. They lived in a world where liberties and freedoms of expression and movement were rare. Now that our Nation is over 200 years old, the liberties and freedoms of our people are well established. Unlike the delegates, we have the benefit of experience which proves that the Government established by the Constitution has sufficient safeguards against threats by the Congress to the safety of the American people. Little argument can be made that a triennial term would undermine the safety of the American people.

While I see no obvious adverse effect to extending the terms of Representatives, there are several advantages to such a move. Most importantly, it would give each Congress an additional year to start work on complex pieces of legislation without having to completely start the legislative process over again. At the beginning of each Congress, our committees must hold hearings and markup sessions and report measures that had been reported during the previous Congress but failed to be enacted due to logjams which occur at the end of every Congress.

Such logjams should be very apparent to every Member, because as we approach the end of the 95th Congress, we are facing the worst logjam I have witnessed since coming to Congress. Further, the present controversy over deregulation of natural gas illustrates how biennial terms are simply too short to handle the more complex issues of the day.

By creating triennial terms for Members of Congress, we obviously reduce the number of elections within any given period over 4 years. Thus, the American people will be able to save millions of dollars in political contributions and the millions of dollars necessary to hold selections.

The second major change in our electoral process I propose is a 6-year term for our President and Vice President. Certainly, it would be necessary to have a hexennial Presidential term if a triennial term to Representatives is approved. It seems only logical that we keep the system of having congressional elections halfway through a President's term and simultaneous with his election or reelection.

It is also obvious that the Senate elections should occur every 3 years with half the Senate elected each time. Under my proposal, each State would elect one Senator every 3 years for a hexennial term.

While a triennial term for Members of the House warrants support, that alone does not warrant a hexennial term for the President just to preserve the traditional relationship between congressional and Presidential elections. A hexennial Presidential term must be able to stand on its own merits to deserve our support.

It should be noted that we already have made one important change in the Presidential term. The 22d amendment ratified in 1951 prevents any person from holding the office of President more than twice. The Federal bureaucracy which the President must manage has become overwhelming in size and complexity. With the passage of the 22d amendment, President's have a maximum of 10 years (and most often, only 8 years) to learn the nuances of the job, gain control of the bureaucracy, recommend changes and implement those recommendations. Further, the President must direct much attention, almost 1 year, to reelection efforts. Upon close examination, 8 years is too short a period for a President to truly make a strong and lasting imprint on the executive branch, and to fulfill his mandate from the electorate to implement the policies on which he based his election and reelection campaigns.

I submit that a hexennial Presidential term would provide for a more stable foreign policy. Ever since the United States became a world superpower, other nations have watched Presidential elections with great interest. In recent years, we have seen such important issues as the SALT negotiations coming to a complete standstill due to uncertainty in the outcomes of a Presidential election. If the United States is to have a more consistent foreign policy, we must have a more stable Presidency.

Obviously, our defense systems must be based on our foreign policy in order that that policy can be implemented. Modern weapons systems take years to develop and build. It has become increasingly difficult for the Department of Defense to develop long-term designs of military posture due to fluctuations in Presidential policies. While hexennial terms will not eliminate such fluctuations, they will be reduced. I use foreign policy and defense issues only as examples of how our quadrennial Presidential terms hamper a President's ability to function.

Under my proposal, the President would be eligible for reelection, but limited to two terms. There are some, I realize, that might support a 6-year term for President, but only if limited to one term. The main argument in favor of this position appears to be an effort to free the President from election politics allowing, in theory, the President to only be concerned with what is best for the Nation. If that argument were true, we should be able to see substantial differences between the actions of past Presidents in their first and second terms. That has not been the case as history tells us.

It must be noted that while before 1951, there was no prohibition from running for a third term, the tradition was so strong that only Franklin Roosevelt was able to overcome it. While other Presidents (most notably President Grant) considered or tried to break the tradition, it was too strong to overcome.

History tells us that when a President is ineligible for reelection (whether prohibited by the Constitution or tradition), he is not "removed from politics." Party considerations and a natural desire that his party maintain control of the White House continue to influence Presidential actions.

Limiting a President to one 6-year term does not provide an adequate amount of time to develop and implement his programs. As I said earlier, I do not believe that even 8 years is long enough. By allowing for two 6-year terms, the President should have sufficient time to develop and implement programs, and also allow the American people an opportunity to replace him should his first term prove unsatisfactory.

A hexennial Presidential term is not a new idea. The term of the President coupled with the reelection issue was heavily debated during the Constitutional Convention. Since then, almost 150 proposals have been introduced to somehow change or limit Presidential terms.

It takes a special effort from an extraordinary person to be elected President today. I find it hard to believe that such a person would not be primarily motivated by a sense of history and aware of some of the awesome responsibilities associated with the job. The degree to which politics plays a role in the day-to-day decisions of the President hopefully is subordinate to the overall best interest of the Nation. To that end, the eligibility for reelection should be of minor importance.

The third and last major component contained in my proposal would limit service in the House and Senate. As with the first and second components of my amendment, limiting service in Congress is not a new idea. It has been debated numerous times since the Constitution was ratified. Most recently, hearings were

held last year by the Senate Subcommittee on the Constitution of the Committee on the Judiciary.

I think the major objection to limiting service in Congress is that such a limitation might prevent the American people from being represented by the person of their choice. I am not sure that this argument is really valid. The powers of incumbency are so great that little choice is truly available to the voter.

Incumbents have the advantages of franked mail, highly qualified personal and committee staffs, the entire resources of the Library of Congress, and so on until the list of advantages becomes overwhelming. One only has to review the results of the last several elections where about 90 percent of all incumbents won reelection to see that these advantages are hard to beat.

The same arguments which are used against limiting Presidential service can be used against limiting terms of service in Congress. Nevertheless, and perhaps because of the visibility of the office, the people of the United States recognize the dangers of excess tenure by a single person in an office like the Presidency.

The trend toward congressional careerism is relatively new. During the 1800's, it was the tradition for Members to self-impose a 4-year limit of service in the House and 6 years in the Senate. Service in the Congress was not considered a career, but more a form of public service to be shared by others. It is that sense of public service which we now lack and which coincides with the concept of a citizen's legislature that I desire to reinstate.

The concepts of equal representation were as important in the minds of those who wrote the Constitution as they are to us today. However, a strong argument can be made that excessive tenure coupled with the seniority system, even as that system exists today, undermines equal representation. Under the present system, Senators or Congressmen who hold chairmanships for extended periods gain awesome legislative power. Can equal representation be served when one Senator or Congressman holds substantially more power and influence than any other Member?

By adopting limitations on service in the National Legislature, we may not eliminate the centralization of legislative power, but we provide for a method of dispersing that power among more Congressmen and Senators.

As anyone who takes the time to listen to the ideas and opinions of the citizenry knows, there are many individuals who possess fresh ideas and approaches to the problems we deal with that are never given an opportunity to be heard in the proper form. By providing for a more constant turnover of legislators, the doors of Congress will be opened to the new ideas, concepts, and beliefs of more people. New faces will bring new approaches to old problems. These new faces should be presented to the review of the electorate for support or rejection. By limiting congressional service, we provide competition among the various approaches to Government and the major issues facing the Nation.

Another often repeated argument against limiting service in Congress is that such a limitation might deny the electorate the opportunity of being represented by a highly qualified legislator. I doubt that any Member is so unique that there is no one in his constituency capable of doing the job just as well or even better.

Each of the components I have mentioned deserves the support of the Congress, and the combination of these components justifies the extraordinary effort necessary to amend the Constitution. Should my proposal receive sufficient support, it would modernize the Constitution by altering the terms of Members of Congress and the President to make them proportionate with the requisite knowledge to properly execute the job. By maximizing participation in the legislature and minimizing the burdens of reelection, my proposal would enhance the ambiance within which the Government must operate.

A copy of my amendment follows:

H.J. RES. —

Joint Resolution proposing an amendment to the Constitution of the United States to provide a six-year term for President and for Vice President and a three-year term for Representatives and to limit the total number of years for which Senators and Representatives may serve

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of submission of this joint resolution by the Congress:

"ARTICLE —

"SECTION 1. The twenty-second article of amendment to the Constitution of the United States is hereby repealed.

"SEC. 2. The President and Vice President shall hold their offices during a term of six years. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than three years of a term to which some other person was elected President shall be elected to the office of the President more than once.

"SEC. 3. The House of Representatives shall be composed of Members chosen for terms of three years by the people of the several States.

"SEC. 4. As soon as possible after the date of ratification of this Article, the Senate shall adopt a resolution adjusting the terms of Senators beginning after the effective date of this article so that the term of one Senator from each State begins every three years and the term of one Senator from each State begins in the same year as the term of the President begins.

"SEC. 5. No person may serve any portion of a term as a Representative if, at the completion of such term, such person would have served as a Representative for periods aggregating more than twelve years, taking into account only service after the effective date of this article.

"SEC. 6. No person may serve any portion of a term as a Senator if, at the completion of such term, such person would have served as a Senator for periods aggregating more than twelve years, taking into account only service after the effective date of this article.

"SEC. 7. No person may serve any portion of a term as a Representative or Senator if, at the completion of such term, the aggregate period served as both a Senator and a Representative would exceed eighteen years, taking into account only service after the effective date of this article.

"SEC. 8. For purposes of calculating periods of service under this article, only service in calendar years during which a person has served in office for at least nine calendar months, including any portion of any month, shall be considered and such service shall be considered to be service for one year.

"SEC. 9. This article shall take effect on the first day of the first calendar year beginning more than one year after the ratification of this article in which a Presidential term begins." ●

TRIBUTES TO ROBERT L. F. SIKES

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1978

● Mr. CHAPPELL. Mr. Speaker, the last days of this 95th Congress have a somewhat bittersweet significance, for we know that the final bells will mean the departure of many of our colleagues from active membership. Even though we will promise to "keep in touch"—or to "work together" on this or that project, we know that it will not be quite the same. Many of our colleagues have already declared their intentions to forego another term, for whatever reason, to draw a close to their years in the House. I rise this afternoon to recognize the tremendous and remarkable congressional career of one such colleague, the dean of our Florida delegation, the Honorable ROBERT L. F. SIKES.

BOB'S announcements some months ago that he would be retiring at the end of the 95th Congress came as a surprise to most of us. Except for a very few of us in this Chamber, ROBERT L. F. SIKES has been an integral part of the House since long before we arrived. He has been the dean of Florida's delegation for many, many years. Had he not chosen to retire, he would, in the 96th Congress, have been dean of the entire House.

Mr. Speaker, were I to attempt to list the many contributions BOB SIKES has made during his 38 years in the Congress, we would have to postpone adjournment for several more weeks—and even then, I would almost certainly have missed some of the accomplishments of this remarkable legislator. If I were to try to add the many honors he has received—or the innumerable things he has done for the Nation, for the State of Florida, and for his district, we would have to postpone the beginning of the 96th Congress for several months.

Few individuals can compare to BOB SIKES in terms of the good they have done in the public service, in any elected office. For 38 years, BOB SIKES has devoted himself to doing the best for his country and for the people he represented. His service in the Congress spans some of the most historical times in this century; he has known no fewer than eight Presidents, hundreds of Senators, and—literally—thousands of Members of the House, who have come and gone during his time here.

Any Congressman must be judged, first and foremost, on what he has done

for the people of his won district. Few Members of the House, past or present, can claim the record BOB has made in that regard. The First District of Florida was always BOB's first loyalty, and he has served their interest and needs well during his 19 terms in Washington.

Few public figures in our history could match BOB in terms of the respect and affection his constituents hold for him. The people of Florida's First District view their Congressman with a support that anyone in public life would envy—but it is a support that BOB has earned, through almost four decades of hard work for his people.

He has become, as well, a nationally known and respected figure for his unwavering support of this Nation, for his deep and abiding concern for its defense and security. His spirit and deeply held convictions in that regard have helped shape our defense policies to no small degree during his years here, and he has prevented many poor decisions, leaving us stronger and better protected as a Nation than we might otherwise would have been. For that, we owe him our gratitude.

The House of Representatives would not be quite the same after BOB has gone back to Florida. We in the Florida delegation will miss his leadership, his wise counsel, and his guidance, as will all those who have worked with him through the years in committee and on the floor.

Mr. Speaker, I ask that all of BOB SIKES' colleagues join this afternoon in saluting him for his splendid career here in the House, and in wishing him a wonderful and well earned retirement.●

BOB SIKES: A GREAT AMERICAN

HON. JOE D. WAGGONNER, JR.

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1978

● Mr. WAGGONNER. Mr. Speaker, few men have devoted as much of their lives to serving the people of this great country as has my dear and close friend, BOB SIKES. Having served with him since I came to Congress in 1961, I not only recognize BOB SIKES as an able legislator, but a great American. I am proud to call him my friend.

I have had the pleasure of visiting in BOB's district and I know firsthand that BOB's people love and adore him as he does them. No Member of this body is loved and respected more by his people than is BOB.

Working with BOB on mutual problems over the years brings to mind many fond memories. Primarily, because we have always shared the same fundamental ideals; the belief that America must maintain a national defense second to no nation—and I hasten to add, there is no Member of Congress who has committed himself to the extent that BOB has to the defense of this country—and that the free enterprise system with a minimum of Government interference should be preserved as the cornerstone of freedom.

Let me tell you, BOB does not tackle a problem lightly. He goes into battle to win. I never will forget several years ago, BOB came to me to help enlist support in the House for the Republic of China, about to be expelled by the United Nations. Before BOB had finished his efforts, he had 337 Members of the House sign a petition of support within 3 days. Try to get even 100 Members to sign anything. It is nearly impossible.

We are all aware of the growing complexities and demands of our Government; however, few have risen to the challenges and met the needs with the courage and strength that BOB has displayed. Despite odds against him or criticism of his positions, he has never been one to back away; instead, he has met each challenge head on. This service and dedication is deeply appreciated and respected by me and all of us.

BOB and I, along with others who have chosen not to seek reelection to Congress will be keeping our eye on our colleagues up here. Of course, the day-to-day schedules that we have become so accustomed to will be missed, but I think we will both find that they were not habit forming. Perhaps our new lives in the sunny South will be the envy of our colleagues. In beginning his retirement, however, I offer one more challenge to BOB SIKES; that of seeing where the fish bite best—Cypress Lake, La., or those northwestern Florida lakes.●

FBI UNDERCOVER OPERATIONS AMENDMENT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. EDWARDS of California. Mr. Speaker, the following legal memorandum was prepared by the Department of Justice in order to explain the need for certain limited exemptions to law relating to Government procurement and public money. Those laws appear to create unintended barriers to effective performance of FBI undercover operations. Accordingly, I introduced, and the House subsequently adopted, on September 28, 1978, an amendment to the Department of Justice authorization bill (H.R. 12005) to eliminate these problems. My amendment differs from the Department proposal in that the statutory exemptions are more precisely described, and certification by the FBI Director and Attorney General or Deputy Attorney General of the need for relying on the exemptions is required.

The Department's memorandum, however, accurately describes the scope and intent of this amendment. The first section of the opinion, reprinted below, deals with the most important problem addressed in the amendment—the disposition of moneys received in the course of the FBI's undercover activities.

The memorandum follows:

DEPARTMENT OF JUSTICE,
Washington, D.C., July 27, 1978.

MEMORANDUM FOR THE ATTORNEY GENERAL

Re Legislation Regarding FBI Undercover Operations

This Office has proposed that the following language be added to the FBI's authorization bill:

With respect to undercover investigative operations necessary to the performance of the law-enforcement and other responsibilities vested by law in the Federal Bureau of Investigation—

(1) Sums authorized to be appropriated under this Act may be used for leasing space on such terms and for such periods as the Attorney General determines to be necessary to the successful conduct of undercover investigative operations, in or outside the District of Columbia, without regard to section 529 of title 31, United States Code, and without identifying the government as lessee;

(2) Sums authorized to be appropriated under this Act may be deposited in banks or other financial institutions; and

(3) In fiscal year 1979 the proceeds from these operations, less expenses incurred in such operations, shall be covered into the Treasury of the United States as miscellaneous receipts.

The purpose of this proposed amendment is to provide narrow exceptions to certain provisions of law which relate to government procurement and the public money and which presently present problems with respect to the continued effective performance of FBI undercover operations. This memorandum will explain the need for this provision with respect to the FBI's undercover law-enforcement operations.

In the last few years, the FBI has increasingly used undercover operations as a method of performing its law enforcement functions. These operations are quite successful in the investigation and prosecution of crime—the "Sting" operation is one example of this. In fact, undercover operations are often the only effective means to detect and prosecute certain sorts of criminal activity, particularly if the FBI cannot secure the cooperation of one of the participants in a criminal enterprise.

These activities, of course, must be conducted in accordance with the requirements of all applicable law. To this end, the Attorney General has approved the general use of undercover operations, and is consulted on significant individual operations before they are initiated. We are also presently formulating guidelines to cover many aspects of these operations. In addition, Congress has been advised of this technique, and has appropriated three million dollars for FY 1978 to support these operations.

In the course of studying the legality of these operations, several legal questions have been raised which could present substantial obstacles to the continued effective performance of undercover operations. Legal problems arise in three main areas: (1) whether the FBI may use income generated in the course of its undercover activities to offset the expenses incurred in those activities, *see* 31 U.S.C. § 484; (2) whether the FBI may deposit funds in banks in support of its undercover operations, *see* 18 U.S.C. § 648; 31 U.S.C. § 521; and (3) whether certain statutes pertaining to government leasing apply to leases required by the FBI in its undercover operations. We shall discuss these problems separately. Each discussion will address the legal question involved, the extent to which the FBI is presently engaged in the particular activity, and the alternatives available to the FBI if it could not engage in this activity.

USE OF INCOME TO OFFSET EXPENSES

The most important problem addressed in the proposed amendment concerns the disposition of moneys received in the course of the FBI's undercover activities. The specific question is whether 31 U.S.C. § 484 requires all income generated in these activities to be

paid into the Treasury, or whether such income might be utilized to meet the expenses incurred in the course of those activities. For the reasons that follow, it is our conclusion that 31 U.S.C. § 484 requires that moneys received by the FBI in the course of its undercover activities be paid into the Treasury. As we describe further below, this legal conclusion will have a severe impact on both the scope and the credibility of FBI undercover operations, and the proposed amendment is thus essential to the FBI's continued efforts in this regard.

A.

Section 484 provides in relevant part:

The gross amount of all moneys received from whatever source for the use of the United States, except as otherwise provided in section 487 of this title, shall be paid by the officer or agent receiving the same into the Treasury, at as early a day as practicable, without any abatement or deduction on account of salary, fees, costs, charges, expenses, or claim of any description whatever.

The broad language of this provision—particularly the reference to "all moneys received from whatever source"—would appear to encompass income generated from FBI undercover operations. That all such income must be remitted to the Treasury would seem to follow from the requirement that the "gross amount" of such funds are required to be paid into the Treasury "without any abatement or deduction on account of salary, fees, costs, charges, expenses, or claim of any description whatever."

Several rationales might be advanced to hold 31 U.S.C. § 484 inapplicable in this context, but we do not believe that any of these rationales warrant such a conclusion. The first such rationale is grounded on the fact that the statute only encompasses moneys received "for the use of the United States." This phrase has been interpreted to require that the funds in question are "to be used in bearing the expenses of the administration of the Government and paying the obligations of the United States." 33 Op. A.G. 316, 321 (1922). Other decisions applying the statute also indicate that the funds must be available to the United States for disposition on its own behalf. *See, e.g., United States* v. *Sinnott*, 26 F. 84 (D. Ore. 1886); 15 Op. A.G. 654 (1877).

Accepting this approach, we believe that the funds here are received for the use of the United States. It seems unquestioned that the funds in issue are at the disposal of the United States—as can be seen from the fact that the two alternatives presented are the use of the funds by the FBI or their transmittal to the Treasury. This availability of the funds to the United States must mean that they were received "for the use of the United States."

Another point raised to delimit the reach of 31 U.S.C. § 484 in this context is that the payments here are not made to an entity or individual openly acting as an agent of the United States; rather, the payments are made to a business or individual whose affiliation with the government is unknown to the payor. This argument rests on both the unusual nature of the payments and the state of mind of the payor, but we think neither factor is relevant. As to the payor's knowledge of the real beneficiary of his payment, we would note that all that matters under the statute is that an officer or agent of the United States *receive* a payment which is for the use of the United States. The state of knowledge of the payor would seem irrelevant so long as this essential requirement is met. As to the unusual nature of the payments, the statutory reference to "all moneys from whatever source" would seem to preclude an interpreration of the statute limited to the ordinary or normal sorces of governmental revenue. In fact, section 484 has often been applied to revenues generated from what must be deemed unusual sources. *See, e.g.*, 3 Comp. Gen. 461 (1924) (bribes).

The legislative history of 31 U.S.C. § 484 supports our conclusion that the section extends to the moneys generated in FBI undercover activities. While the debates in Congress focused on the normal sources of government revenue, Congress' intent was not so delimited. This may be seen from the original version of what is now 31 U.S.C. § 484; it required payment into the Treasury of the gross amount of all duties received from customs, from the sales of public lands, and from all miscellaneous sources, for the use of the United States . . . Act of March 3, 1849, 9 Stat. 398.

It is clear from this language that Congress intended to encompass revenue not only from customs and sales of land—the ordinary source of income at the time—but also from "all miscellaneous sources." This same intent is displayed in the Congressional debates. Statements in these debates demonstrate that Congress intended that the provision would require that "all the moneys belonging to the United States" be paid into the Treasury "without any deduction . . . whatsoever." 18 Cong. Globe 474 (1848) (remarks of Rep. Hall). *See also* 18 Cong. Globe 464 (1848) (remarks of Rep. McKay).

Congress' underlying goal in enacting 31 U.S.C. § 484 also supports the conclusion that the statute is applicable here. Congress' intent in enacting this provision was to curb Executive discretion in the handling of public moneys and to ensure that all expenditures would be authorized by Congress. 18 Cong. Globe 465, 475 (1848) (remarks of Rep. Toombs); 18 Cong. Globe 464 (1848) (remarks of Rep. McKay and Rep. Pollock). This measure was deemed necessary to fulfill the constitutional requirement in Article I, § 9, that Congress, and not the Executive, exercise control over public expenditures. 18 Cong. Globe 465, 475 (1848) (remarks of Rep. Toombs); 18 Cong. Globe 464 (1848) (remarks of Rep. McKay). *See also* 51 Comp. Gen. 506, 507 (1972). This purpose would require Congressional control of all funds that are available to the United States for disbursement, regardless of the source of the funds or the reason the funds were surrendered to the United States.

In other contexts, we have concluded that the FBI's broad statutory mandate "to detect and prosecute crimes against the United States," 28 U.S.C. § 533(1), operated to provide by necessary implication an exception to statutes of broad reach. We cannot reach the same conclusion here. First, the broad working of the statute, as well as the statute's underlying fundamental purpose to circumscribe Executive discretion in the expenditure of funds, counsel against such an approach. Perhaps more importantly, to create an implicit exception would run counter to the unusal Congressional practice of formulating an explicit exception to the broad reach of 31 U.S.C. § 484 on those occasions where it believes one necessary.[1] In fact, Congress has explicitly provided for exception to 31 U.S.C. § 484 in other law-enforcement contexts. See 21 U.S.C. § 886(b) (DEA); 42 U.S.C. § 3769(f) (LEAA). These provisions indicate Congress' awareness of the problems arising in law enforcement by virtue of the restrictions of 31 U.S.C. § 484 on the use of funds and demonstrate Congress' ability to resolve them. We thus do not believe that an implicit exception to 31 U.S.C. § 484 would be justified.

[1] For example, Congress has provided for exceptions which explicitly authorize retention of all moneys received, Pub. L. No. 94-291, § 102, May 22, 1976, 90 Stat. 523, or which authorize a deposit to the credit of the relevant appropriation, 8 U.S.C. §1356(a), 31 U.S.C. § 488, or which establish a revolving fund, 19 U.S.C. § 2074, or which authorize a deduction for expenses. 19 U.S.C. §1493, 21 U.S.C. § 1049.

The Comptroller General has formulated another exception to 31 U.S.C. § 484, but we do not believe it is applicable to the problem at issue. The Comptroller General has ruled that 31 U.S.C. § 484 will admit of a "reasonable construction" with respect to any particular form of income. 39 Comp. Gen. 647, 649 (1960). The situations where this approach has been applied, however, have been those where it could be said that the applicability of section 484 would be contrary to Congress' intent underlying a particular program. *Id.*; 24 Comp. Gen. 847 (1945); 23 Comp. Gen. 652 (1944); 22 Comp. Gen. 1133 (1943). In our view, Congress must ordinarily be assumed to intend that the FBI will perform its duties, including its undercover activities, within the constraints of existing law.[2]

In view of the absence of any sufficient indication that Congress intended that 31 U.S.C. § 484 not apply to situations such as these, we must conclude that 31 U.S.C. § 484 requires that funds received by the FBI in the course of its undercover activities be paid into the Treasury. We note that the Comptroller General has reached a similar result with respect to moneys paid out and recovered in undercover law enforcement operations. 5 Comp. Gen. 289 (1925); 3 Comp. Gen. 911 (1924).

B.

We understand that the FBI is currently using income to offset expenses in several respects.[3] The conclusions reached above will, in the absence of immediate corrective legislation, require the FBI to cease this practice. Since there appear no viable alternatives by which the FBI can accomplish the goals served by the current practice, the FBI states that both the scope and credibility of its undercover activities will be severely hampered if corrective legislation is not immediately obtained.

The FBI uses income to offset expenses to maintain the undercover businesses it establishes to investigate certain sorts of white collar and organized crime. There are now nine of these businesses in operation, and five more are presently planned. These operations have significant expenses, as is the case with all going businesses. These expenses are now being defrayed by using the income generated by the particular business. If the FBI must remit this income to the Treasury, and meet all expenses out of its appropriations, those appropriations would be quickly depleted. We have been informed by the FBI that, in view of the limited funds available these operations will necessarily have to be significantly reduced in number or in scope.

There appear to be no alternatives available to the FBI to avoid this result. One alternative—that of increasing the FBI's budget—is not within the FBI's control. Another alternative, which has been used on occasion, is for the FBI to associate with a private business. However, the owners of the businesses which would be useful to the FBI's investigative efforts are often unwilling to cooperate with the FBI. In addition, the FBI itself is often reluctant to adopt this approach, due either to problems of civil liability or to the dangers which might occur to private individuals.

[2] While conceivably a different view of Congress' intent could be drawn from disclosures of this practice to Congress and Congress' acquiescence therein, in our view the disclosures relating to this particular practice have not been so detailed or widespread to allow for this conclusion. *See TVA* v. *Hills*, 46 U.S.L.W. 4673, 4683 (1978).

[3] The FBI has used this practice upon an oral opinion from the Criminal Division. The FBI's Legal Counsel Division has also, in a written opinion, concluded that this practice was lawful.

The second manner in which the FBI uses income to offset expenses is in the gambling area. Agents who are involved in undercover activities often must associate with those who engage in various forms of gambling. In the FBI's view, the agent must also gamble if he is to maintain his credibility.

However, it seems obvious that, even in gambling activities involving fairly low sums, participation in such activity can be quite complicated if the receipts from each winning hand or roll of the dice must go to the Treasury. Moreover, gambling involves averaging and a gambler who cannot offset winnings against losses in a night of poker or a day at the race track would become very expensive indeed. In addition, problems might occur if the individual agent must later render an accounting of all the various gambling transactions which took place. In the view of the FBI, the application of 31 U.S.C. § 484 to this activity would require its undercover agents generally to avoid gambling, with the consequent loss to those agents' credibility.

Again, there appears to be no real viable alternative to this approach. In view of the limited funds available, the FBI would simply have to curtail its activity in this regard.

We thus recommend that legislation be sought as expeditiously as possible to alleviate this problem. We believe that the proposed amendment would accomplish this result. We would note here that the amendment would allow the FBI to use the moneys it receives in undercover activities only to meet the expenses of those activities; profits would still be required to be forwarded to the Treasury. In addition, the amendment contemplates that the proceeds from one activity will be used only to meet the expenses of that particular activity, and not the expenses of other activities.●

THE GREAT AMERICAN MELTING POT

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mrs. HECKLER. Mr. Speaker, during this past weekend, Columbus Day activities took place throughout the Nation and, indeed, it is an important day for all Americans.

It is a time that we focus on the outstanding achievements of Italian-Americans, but also ponder the significant events and accomplishments of all groups in the great American melting pot. It is a day of patriotism, religious observances, and celebration on a grand scale.

In Fall River, Mass.—a city of many ethnic groups—the entire community was involved in 4 days of activities in recognition of Columbus Day. The city was filed with a contagious spirit of good will, and I was privileged to participate in this great American event.

The success of the celebration resulted from the dedication and hard work of the members of the Columbus Day Committee in Fall River. May I take this moment to recognize these individuals and congratulate each for their special contribution in making this national day very meaningful to their community:

1978 Columbus Day Committee:
Santi DiRuzza, General Chairman.
Ernest J. D'Ambrosio, Secretary.
Frederick A. D'Adamo, Treasurer and Chief of Staff.
John J. D'Adamo, Program Chairman and Publicity.
James Wilcox, Sports Chairman.
Albert D'Ambrosio, Banquet Chairman and Parade Marshall.
Sadie Tigano, Memorial Dedication Chairlady.
David Silvia, Assistant Coordinator.
Daniel Morris, Parade Coordinator.
Major Anthony S. D'Ambrosio, USAR (Ret), Honorary Marshall.
Police Chief Henry Ramos, Honorary Chief of Staff.
Raymond J. Onorato, Reception Chairman and Float Chairman.
Roccina Marsden, Co-Chairman.
Henry Maddaleno, Ball Chairman.
Caroline Dolan, Co-Chairlady.
Angelo Ferraro, Decoration Chairman.
William J. Angelini, Historian.
Aurora Perry, Chairlady Miss Columbus "78".
General Committee Members:
Al Rainone.
John Tigano.
Henry Seneca.
Roland Pare.
Angelo Fusaro.
Gus Gagliari.
Gus Gagliari, Jr.
Michael J. Sicilia.
Organizations Sponsoring Celebration:
Italian American War Veterans—Fall River Post 10 and Auxiliary.
Italian Progressive Club, Incorporated—Fall River.
Lodge Giovenezza—Sons of Italy.●

EXPLOSION AT AJAX MINING CO., FRANKLIN COUNTY, ALA.

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. BEVILL. Mr. Speaker, on Friday, September 22, 1978, an explosion of unknown origin occurred at the Ajax Mining Co. in Franklin County, Ala., part of the Fourth Congressional District of Alabama which I am privileged to represent in the House of Representatives.

Mr. Bobby West, safety director of the mine, was killed as a result of the explosion. Mr. Danny Little, a pit foreman at the mine, was severely injured as was Mr. Jim Franklin, an inspector for the U.S. Mine Safety and Health Administration.

Personnel from the Bureau of Alcohol, Tobacco and Firearms and the Mine Safety and Health Administration are presently conducting an investigation as to the cause of the explosion.

I want to take this opportunity to express my condolences to the family of Mr. West. Furthermore, I want to use this as a means of expressing my admiration for the courage which was exhibited by all three men.

Those workers who produce our Nation's primary energy source and those officials, such as Jim Franklin, who are charged with the responsibility of looking after the safety and health of those workers, face constant dangers in order that our mining industry can function safely and without undue interruption.

It is proper that we, the Representatives of all our citizens, pay tribute to Jim Franklin and Danny Little and posthumously to Bobby West. These men, as public servants and mining industry workers, give so much of themselves for our daily comfort and welfare that perhaps we all too often take them and their critical work for granted.●

WHY ORANGES IN JAPAN COST A DOLLAR EACH

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. VANIK. Mr. Speaker, in an effort to improve our trade balance with Japan—projected at $12 billion for 1978—the United States has been pushing for the liberalization of Japanese trade policies. One of the most protectionist areas in Japan involves limits on the importation of citrus—an area where the United States has high quality, low-cost produce to offer.

The price of oranges in Japanese stores is often over a dollar a piece—thus strictly limiting consumer demand and blocking a major potential market for one of America's agricultural sectors.

The following article from the Mainichi Shimbun of September 5, 1978, explains how the price of an orange rises to such heights—and why the United States is correct in continuing to press for further trade liberalization.

EXORBITANT PRICES UNDER HIGH YEN

The volume of imports of U.S.-produced oranges increased by three times this year, and their prices dropped to the point where they were regarded as "fruit for the masses." However, the prices of these oranges are rising again. The rise in the prices of these imports under the high yen is really unconvincing. However, it is said that this is because trading companies qualified to import add import margins accounting for 90–100 percent and are making undue profits. In response to a Mainichi Shimbun reporter collecting data, a trading company leader clarified on the 4th their raising of the prices of U.S.-produced oranges. When oranges whose import price is ¥42 each leave the hands of trading companies, the price rises to more than ¥90, and a total profit of ¥6 billion to ¥7 billion falls into the hands of industry circles, for a total import volume of 45,000 tons. This is trade rubbing the wrong way the wishes of consumers hoping for the return of exchange profits.

"We may be told that this is the case with oranges, too, for the same thing happened to bananas before. They are profitable, at any rate," said trading company (A) which has its head office in Tokyo. With the introductory remark that "I will not mention the same for fear of causing a hindrance," a leader (Y) explained its way of making profits as follows:

The import price (CIF) of oranges in yen, which the said company imported from California, the U.S., in August, was $14.50 per case (17.5 kilograms; containing 88 oranges)—¥2,827 at the exchange rate of ¥195 to $1. The tariff was ¥565.50, the rate being 20 percent. The sundry expenses amounted to a total of ¥300. Thus, the import price was ¥3,693. This means that the price of one orange was ¥42.

The oranges imported flow from trading companies to wholesalers and then to retailers through direct transactions, without coming under the hammer. The problem is the trading companies' import margins. In the case of company A, one case is priced at ¥7,000. In other words, the profit is ¥3,307 per case. The margin is as high as 89 percent. "The price is rather low in the case of our

company. At most trading companies, the prices are on the ¥8,000 level. They sell them by adding a margin of about 100 percent."

So far, the trading companies' side has explained that the import margin is about 50 percent. However, it is said that they actually add profits twice as large. If a trading company has the right to import 1,000 tons of oranges, its profit will amount to more than ¥180 million.

The intermediate margins gained by wholesalers and retailers amount to a total of about 50 percent, and therefore, the price of oranges is as high about ¥150 each when consumers buy them at fruit stores. In June, the price was ¥70 each, but now it is more than ¥200 at some stores.

Why does such an abnormally margin arise? Mr. Y says, "Oranges have not been liberalized, and the absolute amount is insufficient. Importers are under the designation system, and they can fix prices monopolistically." He says also that "Lemons and grapefruit, which have been liberalized, are over-plentiful, and deficits are likely to be caused. This is being covered by oranges."

The import companies which have received permission from the Government number 91, and they include medium and small trading companies specializing in the import of foodstuffs. Through the Japan-U.S. negotiation in the spring of this year, the import framework has increased to 45,000 tons, three times that of last year. Seven top-ranking companies including trading company F hold a share of more than 50 percent. Allocation of the amount of imports is decided by the Agriculture-Forestry-Fishery Ministry in the light of actual records in the post, etc., but competition in obtaining shares is acute. Another importer confesses that "There are some businessmen with political party affiliations who move politicians with money and make their allocations advantageous." Among businessmen, there are brokers called "paper businesmen" who sell their rights to other trading companies by attaching premiums, without importing the goods themselves.

NATIONAL FEDERATION OF VEGETABLE AND FRUIT RETAILERS ASSOCIATIONS TO RISE UP FOR "CORRECTION OF DISTRIBUTION"

The national Federation of Vegetable and Fruit Retailers Associations (Chairman: Minira Hirano; consisting of about 70,000 stores), unable to put up with this "rights-and-interests trade" by trading companies, will hold a conference of representatives in Tokyo on the 9th, and request the Agriculture-Forestry-Fishery Ministry, MITI, etc., to "correct the structures of imports and distribution."

Federation Vice-Chairman Tetsuzo Yamaguchi criticizes that the control by importers is not limited to the manipulation of prices. There are many cases where importers sell fruit directly to major supermarkets without the medium of wholesalers, to make their profit margins large. Therefore, the vegetable and fruit market in Kanda, Tokyo, is constantly short of supply. It is said that some retail stores cannot obtain the items. Vice-Chairman Yamaguchi says, "So far, the problem of oranges has been regarded as taboo, with the remark that 'No matter what may be done, it is useless.' However, I cannot put up with the way of resting secure on rights and interests. As it is indispensable to correct the structures of imports and distribution, I want to push the movement in co-operation with consumers, too."

Agriculture-Forestry-Fishery Minister Nakagawa has left for the U.S. to attend the Japan-U.S. negotiations on agricultural products, which are to be held from the 5th. The U.S. side is calling for increasing the import frameworks for oranges and fruit juice. Will the prices become low again if the volume of imports increases? Mr. Y says in a bullish tone, "Liberalization will be troublesome. However, even if an amount twice as large as that this year is imported, it will be possible to maintain the present prices."

COURSE OF DISTRIBUTION OF IMPORTED ORANGES AND THEIR PRICES

(In case of company A)

(1) Import port—One case (containing 88 oranges; weighing 17.5 kg.) $14.50 = ¥2,828.50 (¥195 to $1) (about ¥32.13 each).

(2) Tariff rate—20% from June to November; +¥565.50.

(3) Sundry expenses—Custody fee, etc.; +¥300.

(4) Import price—¥3,693 per case (about ¥42 each).

(5) Trading companies' margin—about 89%: +¥3,307: ¥7,000.●

PORK PRODUCERS SPEAK

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. SKELTON. Mr. Speaker, recently I attended a meeting of Missouri's Fourth District Pork Producers, and I was presented with 7,397 signatures on petitions plus oral statements by several persons concerned about Federal rules and regulations that affect the pork industry. I asked that the comments of these people be reduced to writing for presentation in the CONGRESSIONAL RECORD. The following are some excerpts from those comments:

Mr. Gerald M. Sandidge, Ham Hill Farms, Inc., Marshall, Missouri: "No one believes we can exist in today's world without rules and regulations. All we want, as hog producers, are rules and regulations, simple, fair, economical, and allow us to produce the best product in the world today at a fair price and profit."

Mr. Jim Stuerke, Higginsville, Missouri, commented on the continuing confusion over whether the IRS will allow pork producers to take an investment credit on their buildings and equipment, and on the labeling of the product known as turkey ham: "I feel that in the future, this will be a concern whether as to young farmers, or young pork producers, will be able to go and invest in new equipment and buildings. I therefore propose that a concrete rule be set as to whether investment credit includes buildings and equipment or one or the other. . . . The pork producers feel that turkey hams should be removed from the food case under this name. If the product is to be marketed it should be listed as a turkey product rather than turkey ham."

Mr. Arthur Barnett spoke on the government test for sulfa residue in hogs and on the labeling of turkey ham.

Mrs. Elmer Helmig, Smithton, Missouri, described her problems with the government test for sulfa residue in hogs. The procedure took nearly three months and cost her approximately $7,000 to $8,000.

Mr. Roger Alewel, a cured meat processor from Concordia, Missouri, spoke on the proposed ban of nitrite: "I ask your continued support in making sure USDA and FDA take action only after adequate research and proof is presented that nitrites can be harmful. The loss of the use of nitrite will result in increased refrigeration therefore energy use by the entire meat industry. However, this is minor when we consider the threat of botulism we could be subjecting our consumers to."

Dr. J. R. Randolph, a Veterinarian from Marshall, Missouri, called the proposed ban on nitrites ". . . unfair and unwarranted. . .". He also commented that sulfa drugs ". . . were banned unfairly and without sufficient evidence."

Mr. Frederick Lovercamp, Sedalia, Missouri, urged Congress to conduct a ". . . reevaluation of the present regulatory procedure. . . . Note that we do not say that we want all regulations eliminated. We do say that we want reasonable regulations based on fact, practicality, benefit, economic impact and prescribed procedure for implementing such regulations." Mr. Lovercamp had the following comments on the MIT study on nitrites: "The MIT study is solid research, but is inconclusive and should not be used as a basis for the ban of nitrites."

Mr. William A. Arnold, Lincoln, Missouri, spoke on the proposal to restrict the use of antibiotic drugs at low levels in livestock feeds: "We are a little confused by the fact the U.S.D.A. is wanting to restrict a product they have proven good and beneficial. . . . The U.S.D.A., pork producers, colleges and chemical companies have all paid for and used research facilities to prove the value and importance of antibiotics such as penicillin and tetracyclines. Since these are used to combat infection, prevent disease and overcome stress problems, we cannot see any justification for their removal from the open market. We have yet to see anything proven against them."

Mr. Speaker, these are the statements of people who are directly impacted by Government rules and regulations. I urge my colleagues in the House to give them proper attention. Also, I wish to point out that the proper subcommittee chairmen of the House and the Senate will be delivered copies of the complete statements made by these people.●

PAUL G. ROGERS

HON. JOE D. WAGGONNER, JR.

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. WAGGONNER. Mr. Speaker, I am happy to join with my colleagues in paying tribute to that able Congressman from Florida, PAUL G. ROGERS.

Having served with PAUL since I came to Congress in 1961, I have found him to be a man of great integrity and honor, whose word is his bond. I have worked closely with PAUL day in and day out on big legislative decisions, as well as small. As members of the Ad Hoc Energy Committee I have seen his level-headed approach to the problems we face and his genuine concern for our Nation. Through his untiring efforts as chairman of the Subcommittee on the Health and Environmental, PAUL has translated his firm convictions and deep concern for his fellow man into working legislation.

PAUL'S no-nonsense approach is evident as he sets his mind to difficult tasks, then undertakes them one by one with the greatest efficiency.

One of the greatest compliments to

any man is that of having the respect of his colleagues and I can say in all honesty PAUL ROGERS has not only our respect, but also our admiration. I wish for PAUL the best in his new life away from the hectic day-to-day schedules, to which we have become so accustomed. I believe, however, that we will both find that this will be one habit easily broken.

I thank you, PAUL, for your diligent efforts in behalf of this great country.●

THE CASE FOR A CONGRESSIONAL VETO

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. BLANCHARD. Mr. Speaker, I would like to take this opportunity to commend the work of Congressman ELLIOTT LEVITAS of Georgia with respect to H.R. 3816, the Federal Trade Commission Act Amendments.

H.R. 3816 was recently rejected by the House of Representatives, thanks in large part to Mr. LEVITAS' determination to make certain that it does not pass unless it contains provision for a congressional veto of proposed FTC regulations. The vote on the bill was 175–214, and I believe it reflects the agreement of many of us in Congress that we must find a way to exert some measure of control over the flood of regulations now flowing from Federal agencies.

The Atlanta Journal, in a recent editorial, states clearly the case for the congressional veto. I would like to include it in the RECORD for the benefit of my colleagues:

DOUBT ABOUT DEMOCRACY?

(By Robert Akerman)

In recent years we have witnessed a growing protest against government regulation.

Reasons for the outcry have ranged from the political argument that the liberties of citizens are being eroded to the economic argument that costs mandated by government regulations contribute to inflation and to the decline of U.S. productivity. Of course there are still many people who believe that regulation is the only alternative to irresponsible individualism such as prevailed in the 1890s.

In this philosophic argument, in which both sides probably are partially right, there is a danger that we might overlook the equally important issue of democratic control over the regulatory process—that is, the question of who regulates the regulators. For it is unlikely we will ever do away with all forms of government regulation, and if regulators are substantially beyond the reach of public opinion anyway then it is almost irrelevant to debate whether we ought to have more or less regulation.

U.S. Rep. Elliott Levitas of Georgia has been the principal leader in raising this question of control over the regulatory process. He has proposed that Congress live up to its responsibility to make the laws of the land by establishing procedures for reviewing rules and regulations issued by the bureaucrats.

Until Levitas began his campaign, a citizen could go to jail or pay a large fine for breaking a law that in fact had never been approved by Congress—a citizen could be in violation of a regulation that an agency had issued as an interpretation of a law, or in the case of some agencies, a regulation resting solely upon the authority of the agency itself.

This possibility has been substantially reduced in the last few years as Levitas introduced into a number of bills a provision that a regulation issued pursuant to them is subject to congressional review and may be declared null and void if either branch of Congress overrules it within a specified period of time. His latest target is the Federal Trade Commission; the fight to restrict its present wide scope will be a tough one.

President Carter has denounced the Levitas approach as unwise and possibly unconstitutional, despite Carter's own campaign pronouncements against excessive regulation. On the constitutional point the reasoning is that enforcement of the law is an executive responsibility and therefore Congress should not interfere with it. To me this argument is not as convincing as the Levitas view that making the law should be a legislative responsibility and unelected bureaucrats are in effect making the law when they issue regulations that are not subject to review by Congress.

Perhaps in the long run the real issue will be one of practicality: whether Congress has the time and the expertise to monitor effectively the flood of rules and regulations that come out of the executive branch. At present we are running at the rate of some 18,000 new ones a year issued by the bureaucrats. In fact some congressmen disagree with Levitas precisely because they don't think they can do the job he thinks they ought to try.

Actually Congress would not have to study each and every regulation to catch some of the major problems. They could rely upon the political instincts of members and the pressures of constituents to know what agencies and what types of rules need the closest attention. But let us note carefully the significance of assuming that Congress cannot or will not do this job. If elected officials cannot at least curb the worst excesses of unelected bureaucrats through such a review process, it amounts to an admission that representative government has become meaningless in our complex modern society. The Levitas experiment is well worth making, and if it doesn't work then we will have to do some serious soul-searching about the future of democracy. ●

TRIBUTE TO PAUL ROGERS

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. ROYBAL. Mr. Speaker, it is a privilege to join with my colleagues today in paying a well-deserved tribute to PAUL ROGERS who is retiring at the end of the 95th Congress. He has provided the people of Florida's 11th Congressional District with dedicated and exemplary service since his first election to Congress in 1955.

After 24 years of service, it would be hard for anyone to leave the House without creating some type of void. In PAUL ROGERS' case, his leadership and expertise will be especially missed.

As chairman of the Subcommitee on Health and the Environment of the House Interstate and Foreign Commerce Committee, Congressman ROGERS has been an extremely effective legislator. Unquestionably, his dynamic leadership has had a major impact on the shaping of our Nation's major health policies.

With the increased public interest in the environment, increased congressional action was only logical. Congressman ROGERS recognized the need for action in this important area and saw to it that appropriate legislation was enacted. His work is sure to have a lasting effect on the quality and extent of health and environmental programs throughout the entire Nation.

It has been a pleasure to know and work with PAUL ROGERS as a colleague in the House and I want to take this opportunity to extend my best wishes for continued success.●

INTERIOR APPROPRIATIONS

HON. RAY THORNTON

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. THORNTON. Mr. Speaker, the gentleman from Washington, Mr. MCCORMACK, and I want to express clearly for the RECORD the reason for our votes against the fiscal year 1979 Interior Appropriations Conference Report. While that report has many strong and positive provisions, we are deeply concerned that it frustrates a useful program of energy conservation and disregards the actions of the authorizing committees of the House and Senate.

The National Energy Extension Service legislation was developed in the Subcommittee on Energy Research, Development, and Demonstration and became law early in 1977. This program is designed to work in cooperation with the highly successful Agricultural Extension Service and other outreach programs geared to special local conditions that Federal informational sources cannot address. It is much more than another information source. It will serve local communities and individuals by providing technical assistance in implementing energy conservation opportunities for approximately 40 percent of the energy consumption market of our Nation.

The Energy Extension Service recognizes that the Federal Government can have its best contact with individual consumers through State extension services. Additionally, the EES is the only Federal program providing education and training assistance for States to train teachers, heating, ventilation and construction professionals, and energy auditors.

Testimony before the subcommittee indicated that the modest expenditures for this program could save the United States the energy equivalent of oil delivered by the Alaskan pipeline. The program has gone through a pilot program stage and is now ready to go nationwide.

Based on the results of pilot programs in 10 States, the administration's recommendation was for a nationwide $25 million Federal funding level to be matched by the participating States. All 50 States had expressed interest in the program.

Both the House and Senate Authorizing Committees came to the conclusion that the program should be started with 100 percent Federal funding. Accordingly, the House Authorizing Committee, after full and complete hearings, proposed a $25 million fully funded program; and the Senate passed an authorization and appropriation of $35 million.

The House Appropriations Committee passed and recommended an expenditure of $25 million. Regrettably, the Appropriations Committee's recommendation was amended on the floor of the House to a $15 million level. The amendment was accepted by the committee's manager of the bill after its sponsor mistakenly advised the House that there was only a $15 million authorization.

Notwithstanding this background, the House conferees not only insisted upon the House level of funding but ignored the recommendations of the administration and the authorizing committees that the program be instituted in all 50 States.

Incredibly, the conference report directs that the Department of Energy should continue only the pilot program and that no new States should be added without prior approval of the Appropriations Committee.

Mr. Speaker, this action of the conferees not only impedes the process by which authorizing committees exercise responsibility for oversight and review of programs but, in this instance, reflects an action which was taken in disregard of the Appropriations Committee's own recommendation. The result is the impairment of a major and important energy conservation program which has the potential of significantly improving this Nation's energy conservation effort.

For that reason and in order to make a clear record of the unfortunate circumstances surrounding this item, we wanted to explain our votes against the Interior Appropriations Conference Report. Mr. Speaker, I am authorized to report to the House that the gentleman from California (Mr. BROWN) joins us in these remarks.●

WHO NEEDS "RE-EDUCATION"?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. MICHEL. Mr. Speaker, the May–June 1978 issue of the magazine Public Opinion carried a discussion between former Secretary of State Henry Kissinger and Senator DANIEL PATRICK MOYNIHAN. In that discussion, Senator MOYNIHAN said:

I remember in Washington in 1969 there was an antiwar demonstration of some kind, and a group of returned Peace Corps volunteers took over that building and flew the Vietcong flag from the flagpole of the Peace Corps building. At that moment, it suddenly came to me that these young people had adopted an identification with the aggressor.

Secretary Kissinger said:

When I see, for example, the head of ACTION going to a meeting where the North Vietnamese ambassador upon joining the U.N. castigates the United States, and this American official says, "This is the proudest day of my life. This is what we've been working for all these years," that raises to me really profound questions about the fundamental motivation from the beginning.

The Christian Science Monitor recently reported that the left-leaning French newspaper Le Monde states the prisons of Vietnam under the Communists are "fuller than before and are being expanded" and that the notorious "re-education camps" starve innocent men and keep them in captivity.

At this point I wish to include in the RECORD "Repression in Vietnam Growing?" from the Christian Science Monitor, October 5, 1978; "Vietnam's Gulag Archipelago," from the Christian Science Monitor, October 10, 1978; and "Number of Refugees Fleeing Vietnam Continues to Rise," October 10, 1978, from the Wall Street Journal:

REPRESSION IN VIETNAM GROWING?

(By Jim Browning)

PARIS.—The Communist Government of Vietnam has instituted a system of political repression and economic mismanagement more severe than anything known under the previous governments of South Vietnam, according to an authoritative report in the left-wing French newspaper Le Monde.

The political prisons made infamous under the regime of former South Vietnamese President Nguyen Van Thieu now are fuller than before and are being expanded, the newspaper reported in its Oct. 5 edition.

"Re-education" camps set up for Army officers, officials, and supporters of the old government also are reported full. Despite promises to the contrary, almost no one has been released, even though the Vietnam war ended 3½ years ago, the Le Monde correspondent wrote.

He said refugees have documents purporting to show that as many as 800,000 persons are still in the camps, living in primitive conditions, short of food, often doing dangerous work, and allowed only rare visits. He was told that the death rate in some camps is high.

RARE NEWS ACCESS

The report was filed by R. P. Paringaux after extensive research in Ho Chi Minh City (formerly Saigon) and in the countryside. It is rare for a Western correspondent to be allowed such access to the country.

Next to the article, Le Monde, the most respected newspaper in France and one that was sympathetic to the Communist cause in the Vietnam war, published a front-page editorial.

Entitled "Peace Crimes," it denounced what it called "Vietnam's Gulag Archipelago," and accused the Communist government of preferring "police state monologue to democratic debate."

"If the people cry famine," Le Monde said, in reference to heavy recent flooding and requests by Vietnam for international aid, "it is not fundamentally because of climatic hazards." Instead, the newspaper charged, the cause is bureaucratic corruption and the destruction of the economy in the name of ideology.

The expulsion of Chinese ethnic residents from Vietnam and the war with Cambodia also have damaged the economy, Le Monde said.

ALL INDO-CHINA INDICTED

"What is true of Vietnam is also true of Laos and, of course, Cambodia," the editorial concluded. "Between the Cambodian genocide and the Vietnamese repression there is, of course, an enormous difference of degree. But the inspiration, alas, is the same kind. In both cases it is to level, to eliminate, all differences that exist."

The article filed from Saigon apparently was based on reports from politically moderate Vietnamese who supported neither Mr. Thieu nor the Communists. Mr. Paringaux wrote that the response of government officials, when asked about the charges, was a combination of "mutism and propaganda."

The government, he wrote, is arresting people on mere suspicion. In addition, he said, it "has raised denunciation (of one's neighbor) to the level of a duty, leaving all those who do not conform to the new model to stagnate in the camps."

Vietnamese leaders had promised that after three years all prisoners in reeducation camps either would be free or officially charged with crimes. None apparently yet has been charged, according to Le Monde, and few liberated.

Using a list of 100 former South Vietnamese Army officers and officials married to French women, who therefore have had diplomatic backing for their release, Mr. Paringaux reported that all are still in the camps.

Prisoners who are liberated, usually those of the most immediate use (doctors, teachers, technicians), often must bribe corrupt bureaucrats to find work, the report said.

VIETNAM'S GULAG ARCHIPELAGO

Those who still harbor any illusions that the victory of Vietnam-style communism meant "liberation" for the Vietnamese people ought to be sobered by a recent report in the highly respected French newspaper Le Monde. The political repression, economic mismanagement, and bureaucratic corruption in Vietnam, it seems, are worse than anything known under the previous governments of South Vietnam.

After studying conditions in Ho Chi Minh City (formerly Saigon), Le Monde's correspondent wrote that the "re-education" camps set up for military officers and other supporters of the Thieu regime are still full after more than three years. Some 800,000 persons are said to be in these camps, living in hard conditions and without adequate food. Death rates are high. The political prisons also are fuller than before and there is widespread arbitrary arrest of citizens.

Le Monde, which was sympathetic to Hanoi during the war, deserves high credit for its expose. In a sharp editorial it denounced "Vietnam's Gulag Archipelago" and accused the Hanoi government of preferring "police state monologue to democratic debate." It also made the telling point that Vietnam's current food deficiencies can be traced not to flooding alone but to the fact that the government has destroyed the economy in the name of ideology.

The world is reminded again that communism, of whatever variety, is not the bearer of freedom—but of oppression. Where are those American and other voices that once were so quick to embrace Hanoi's cause? Will they speak up?

NUMBER OF REFUGEES FLEEING VIETNAM CONTINUES TO RISE

(By Barry Kramer)

HONG KONG.—What's going on in Vietnam? Despite a series of typhoons and tropical storms that roared across the South China Sea in September to ravage Vietnam, more Vietnamese than ever before fled across those storm-tossed waters to other lands.

Despite the fact that many of the boats sink (thousands of the escapees have drowned), and despite the fact that they face an uncertain, if not unfriendly reception elsewhere, some 7,300 "boat people" reached haven in some Southeast Asian

country during September—more than had managed to escape Vietnam by boat in any previous month.

According to figures from the United Nations High Commission for refugees, the number of boat people reaching other countries has risen steadily since January. From 1,900 persons in January, it reached 2,146 in March, climbed to 5,600 in May, hit 6.000 in July and set a new record of 7,300 in September—a grand total of almost 40,000 during the first nine months of this year. How many others set out, often in flimsy, leaking boats, but didn't make it, only the sharks know for sure.

In several countries in Asia, especially Thailand, Malaysia and Hong Kong, refugee camps are bursting at the seams. U.N. officials say that although the number of persons fleeing Vietnam, Laos and Cambodia—in boats as well as overland—now averages more than 9,000 a month, only about one-third that number are being resettled each month in the United States, Australia, France, Canada and other countries that are willing to accept them.

The number of boat people has increased slowly each year, until the significant spurt this year.

One major reason for the increase, officials speculate, is the growing tension between Vietnam and China. China contends that Vietnam is maltreating ethnic Chinese residents in Vietnam, while Vietnam counters that China is playing on the ethnic Chinese issue to suppress Vietnam's independence. Behind the debate and hostility lies China's fear of Soviet influence in Vietnam.

Indeed, an increasing percentage of the boat people are ethnic Chinese. A predominantly entrepreneurial group, many Chinese in Vietnam can afford to buy the boats in which they escape, at a price of about $12,000 in gold for even the smallest craft. (One refugee official estimates that Vietnam lost more than 1,300 boats in this manner, reducing the nation's fishing fleet at a time when more fish are needed to help meet Vietnam's protein shortage.)

But that isn't the only reason. A surprising number of the boat people—as many as half by one estimate—are simple folks, fishermen and the like, who are leaving Vietnam because they feel conditions there are too tough. "It's a fear of the future, that socially, militarily and economically, things are going to get worse," says a Westerner in constant touch with the refugees in one Southeast Asian country.

Things may already have gotten worse. The recent storms have been the most damaging in 75 years, according to Vietnamese officials, and have destroyed more than 20% of the country's estimated rice yield this year. Thousands of farm-draft animals have drowned, more than half a million homes were damaged or swept away, with more than four million Vietnamese affected, 2.7 million so badly they'll have to rely on domestic or foreign charity to survive until the next harvest seven months from now. Vietnamese who escaped the storms' fury have been ordered to "donate" part of their rice ration for the flood victims.

Vietnam is also fighting a costly border war with Cambodia. Cambodian Communist officials say Vietnam is preparing a dry season offensive to install a more cooperative government in Phnom Penh. Many foreign diplomats agree, saying that pro-Hanoi Cambodians, armed and trained and supported by Hanoi, could launch major attacks when the rains end in November or early December.

How seriously Vietnam's current food problems could retard that dry-season military push remains to be seen. But the fact is that Vietnam's troubles with Cambodia and China won't allow it the economic recovery or growth necessary to meet more of the needs of its 50 million people. And the number of people disgruntled enough to attempt to leave could grow even larger.

"From accounts of the people who are arriving now," an Asian diplomat says, "there are many people who are preparing to leave Vietnam."

Regardless of their reasons, at least 500,000 Vietnamese have fled their country since April 1975. The fact that the exodus continues to grow three and a half years after the Communist victory in Vietnam must be troubling the leaders in Hanoi (despite their "good-riddance" attitude). It certainly is worrisome to Vietnam's neighbors, and to the Western countries which have accepted many of the refugees and will have to accept many more.●

BAD HOUSEKEEPING

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. FRENZEL. Mr. Speaker, this morning's Washington Post editorial, "Bad Housekeeping" blasts House procedures in an accurate, but surprising way.

Mismanagement by the majority leadership has always been kept a closely guarded secret by an overly-protective press. But today the Post looked under the rug and found the mess that the House Republican Research Committee's Task Force on Reform, ably led by LARRY COUGHLIN, had been trying to clean up for years.

The editorial follows. Most people will read it and weep:

BAD HOUSE-KEEPING

By the time Congress leaves town on Saturday, the House will have set two dubious records. One will be for Most Roll Calls in a Year; the previous high (864 in 1976) was exceeded last week. The House is also likely to outdo itself in Most Yeas and Nays Cast Without Any Clear Idea What the Vote Is About. It could hardly be otherwise when members have to vote in quick succession on at least six conference reports, three supposedly minor or noncontroversial bills and perhaps a half-dozen measures requiring fuller debate. That's today's agenda; tomorrow and Saturday could be worse.

Granted, some end-of-session turmoil is unavoidable. Big tax bills always come late. The energy package remains to be passed. House action is also needed to continue ACTION's programs and keep the Endangered Species Act alive.

Still, one may wonder why so much work remains at the end of the year. The answer is not that Congress has been loafing, or that various factions have held back some dubious bills—such as the proposed Department of Education—in hopes of sliding them through in the last-minute crush. Beyond all the maneuvering, what's noteworthy is that the House has been going at a frantic pace for months. Committees have kept churning out bills. Major measures have piled up on the calendar, with the leadership calling up one, then jumping to another, then going back to the first in mid-fight.

Meanwhile, over 400 bills—another record—have come up under "suspension of the rules." That streamlined procedure is supposedly for minor and noncontroversial matters, but many congressmen complain that they can't be sure what's going through when 15 or 20 bills rush by in one day.

How can the House break the general logjam? The Democratic Study Group and others want to curb the number of roll calls. That could save some time. Rep. George E. Danielson (D-Cal.) has calculated that in the first half of this year, 517 roll calls ate up about a third of the House's time—and the outcome was overwhelmingly one-sided in 40 per cent of those votes.

Still, some roll calls are useful. If members aren't made to think about a bill, even for a few seconds, they may not look at it at all—and Lord knows what might slip through then. And that points to the heart of the problem: The volume of business has gotten too great. Past Congresses have created too many programs and agencies for the current Congress to review or at least reauthorize. Moreover, the House's vaunted "democracy"—the advent of lively new members, the spreading-out of subcommittee power, the increases in junior members' staff—has generated a constant flood of new projects and proposals, each with energetic sponsors who can tell you in a trice why their measure is vital to the republic.

Streamlining procedures may only increase the glut. House members don't need more time to dream up and promote more projects. What they need is fewer subcommittees, less entrepreneurial staffs and, above all, more self-restraint. If they did fewer things, they just might do them better—or at least less frenetically. It's something to think about while waiting for the umpteenth roll call late tonight.●

THE VOLUNTEER ARMY CAN FIGHT

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. STEIGER. Mr. Speaker, a popular topic of debate recently has been the question of how well the All-Volunteer Army is working. Some sociologists and Members of Congress have been critical of the quality of the AVF, while the Pentagon has pointed to statistics showing the AVF is higher in quality than its draft-induced predecessor and is representative of the Nation as a whole.

The key question is how well today's Army would do in time of conflict. To make that kind of judgment, the best people to call on are unit commanders. One such battalion commander, Lt. Col. Don Gordon, gave his thoughts in a September 29, Christian Science Monitor article, "The Volunteer Army Can Fight."

Lieutenant Colonel Gordon said:

In my opinion (today's Army) is totally superior to the Army of 1973. . . . This battalion is considerably more effective now with about 20% fewer personnel than it was during the draft.

His article, which discusses the quality of today's soldiers, as well as some of the problems with the volunteer Army, is one which merits the attention of all who are concerned about the AVF.

The article follows:

THE VOLUNTEER ARMY CAN FIGHT

(By Don E. Gordon)

Three years ago I would have agreed with those who believe America's all-volunteer Army is failing—citing such reasons as the inferior quality of its volunteer soldier and its large expense. Today's as a battalion commander, I do not believe it.

The Army certainly is not in tip-top shape; but it is in far better shape, though it is

smaller, than the army of 1965. In my opinion, it is totally superior to the army of 1973. I can't speak for all battalions, but I can compare the one in which I served as a lieutenant, a captain, and now its commander as a lieutenant-colonel. This battalion is considerably more effective now with about twenty percent fewer personnel than it was during the draft.

It is true that military manpower costs account for over 50 percent of the defense budget. This is embarrassing—manpower costs should account for *75 percent* of the budget. A new enlistee receives only $400 per month. After two years this wage increases to only $485 per month or $712 per month if he is married. The minimum national wage is $424 per month. The government pays top dollar to the people who make its equipment but not to the soldier who operates it. If the country wants a highly motivated army, it will have to pay a highly motivating salary.

It is becoming increasingly difficult and expensive to find qualified soldiers owing to low pay and an elimination of the generous educational benefits of the pre-volunteer army GI bill. Milton Friedman, an economist writing in Newsweek some years ago, commented that the draft was an involuntary and inequitable tax imposed upon young men, mostly from lower and lower middle economic class families, to support national defense—the underpaid draftee and his family.

Our soldiers report that there are four chief reasons why they join the Army.

To become eligible for GI educational benefits (consistently the first reason until 1977 when this benefit was eliminated).

To learn a skill,

For adventure, or

To grow up.

What's wrong with the volunteer Army?

The chief attraction for enlistment has been eliminated—payment of 36 months of educational benefits for 36 months of service under the pre-volunteer army GI Bill. The present contributory system provides a maximum of $8,000 for educational expenses with the government chipping in two-thirds of that cost. Only four percent of our battalion's soldiers participate in monthly deduction for this program. They can't afford it! Previously, many good soldiers tolerated problems with army life knowing they were working for an educational opportunity. They had a goal to work toward. That is no longer the case.

Too many soldiers still mow grass, move boxes, and do office work that could be done better and cheaper by civilians and in many cases by the handicapped who desperately need jobs. It is a waste of resources to have either an infantryman or a cryptologic equipment repairman mowing the lawn. Pick up their trash and clean their barracks—yes. Drive buses, mow the lawn, lifeguard at pools—no.

The military justice system imposed on the Army will never work in combat. It will fail to protect the individual because it is too cumbersome and will result in abuses which will be based on expedience. Too frequently, the rights of the good soldier, that is most of the soldiers, are abused by the rights of the aberrantly behaved.

It is not a question of proving guilt, it is a question of *technically* proving guilt. Good soldiers who commit minor infractions are easily punished and their military records permanently annotated while more serious offenders are not punished but are provided general discharges for which there is no practical consequences. Records of punishment, known as Article 15, for minor infractions should be destroyed after two years. General discharges for bad conduct or unsuitability should preclude all GI Bill benefits except medical care for a service-connected injury.

The Army has two, only two, remaining benefits—a commissary where food prices are 15 to 20 percent less than in adjacent communities and 20-year retirement. Most married soldiers see as a serious threat the likely loss of these remaining benefits. Medical care for the family has declined. It is a limited benefit, but not an attraction. Saving money at the post exchange is a myth.

Our citizens must decide between a volunteer and a conscript army. Neither is cheap. The real question is who will bear the burden—the draftee or the taxpayer?

(NOTE.—Lieutenant-Colonel Gordon notes the stated opinions are individually inspired and do not necessarily represent Department of the Army position, interpretation, or policy.)●

THE STATE AGRICULTURAL EXPERIMENT STATION—AN R. & D. DELIVERY SYSTEM

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. WAMPLER. Mr. Speaker, on October 11, the President signed into law the Department of Agriculture and related agencies appropriations bill for fiscal year 1979. This act, Public Law 95–448, among other things funded agricultural research for the coming fiscal year. Last year the Congress, in passing the Food and Agricultural Act of 1977, especially title XIV thereof, which created the National Agricultural Research, Extension and Teaching Policy Act of 1977, envisaged a vast expansion of the country's agricultural research effort to insure an adequate and stable food supply for the future, not only for the needs of our own people, but, through trade, to help provide for the food needs of an ever-expanding world population.

Unfortunately, the funds for research expansion were not requested in the President's budget for fiscal year 1979 but were cut back in traditional research areas such as Hatch funds used to fund research at our State agricultural experiment stations. After considerable effort on the part of my colleagues in the House Agriculture Committee and the Subcommittee on Agricultural Appropriations, these funds were restored to fiscal year 1978 funding levels.

Regrettably, funding to meet the target levels in title XIV to the Food and Agricultural Act of 1977 for fiscal year 1979 still fell well below authorized levels. This situation must be corrected in the appropriations for fiscal year 1980, even though the administration might want to hold down agricultural research again in its forthcoming budget request.

The record is clear, we must solve the problem of feeding an expanding world population with dwindling natural resources. Innovative research is needed to accomplish this task. Fortunately, we have the capability to accomplish the task if we will properly make use of the research talent available to us. Dr. Paul E. Waggoner, director of the Connecticut Agricultural Experiment Station, New Haven, Conn., in a letter to me of October 4, pointed the way. I would like to share his letter and his enclosures with you by including them in the RECORD at this point:

THE CONNECTICUT AGRICULTURAL EXPERIMENT STATION,
New Haven, Conn., October 4, 1978.

Congressman WILLIAM C. WAMPLER,
House Committee on Agriculture, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN WAMPLER: Your article in "Food Technology", February, 1978, page 76, has just come into my hands and I have read with particular sympathy your statement, "That's the sum of the problem—tentative research results are too often presented as proven facts to the American public—and they scare the pants off people."

It seems to me that at least part of the cause of this pandemonium that you describe so well is caused by the way that America has chosen to finance research. By using short term grants to individuals rather than the continuing financing of effective institutions, we have divorced science from application, we have weakened the responsibility that scientists feel to their constituents, and we have encouraged people to advertise their field of research by scaring the pants off people.

My concern for the fate of innovation in America has caused me to write the enclosed letter to The Honorable, Jordan Baruch, Assistant Secretary of Commerce. I sent it along hoping that it might prove to be of some interest to you.

Sincerely yours,

PAUL E. WAGGONER,
Director.

CONNECTICUT AGRICULTURAL EXPERIMENT STATION,
New Haven, Conn., October 2, 1978.

Hon. JORDAN BARUCH,
Assistant Secretary of Commerce, Commerce Department, Washington, D.C.

DEAR MR. BARUCH: On Friday night on *Wall Street Week*, Louis Rukeyser gave instructions for making money on vanishing American Inventiveness. Chemical & Engineering News of July 17 told me of your investigation of innovation—now that we can't keep on doing what we've been doing. I presume to write because we have both worked in institutions that combine theory and practice, you at MIT, I at this Station.

What is desired innovation? I assume that the innovation you seek is more than just research or even the winning of laurels; it is science wedded to the solution of mankind's problems. Thus, it is possible for a nation to educate thousands of scientists, spend millions on science, win dozens of Nobel prizes, and still worry about failing innovation.

"I wanted to help feed humanity, but my professors tell me I can't get ahead at a university with practical research." This recent remark by a graduate student poignantly reveals the divorce of our American science from human needs.

D. K. Price tells how we got the divorce (Daedulus 107(2): 77–81). To free science from the hair shirt of the practical goals of such laboratories as the National Bureau of Standards or the experiment stations three tactics were used. Research was combined with teaching; project grants to individuals were used to avoid congressional or institutional influences; and scientists were given political authority that did not depend on popular votes.

Now, about a quarter century after the divorce of science from societal influences, what have we got? We have the graduate student's poignant testimony and your worry about innovation. And we have more.

The nation must pay the overhead of a grant system that requires full-time scientists in Washington to handle the proposals, volunteer scientists to evaluate them, business offices to account for them, and entrepreneurial scientists to seek them. Getting

and spending grants, we lay waste our scientists.

The diversions from society's needs can be read in BioScience 29(8): 490: "'Many of the gaps in nutrition research can be filled only by the accumulation of information of a type that does not attract the attention of faculty members. Alfred Harper, a professor . . . explained . . . Only 1 percent of the grant applications received by the National Cancer Institute are in the nutrition area." Thus society's interest in nutrition is not reflected in research, and innovation suffers.

In an analysis of environmental technology, B. A. Ackerman et al. showed the sorry outcome of an organization when one group establishes a program and then expects another group to follow through enthusiastically. This separation is a natural consequence of grantsmanship. (The Uncertain Search for Environmental Quality. 1974. Free Press, N.Y.).

The demographic change that followed the divorce of science from society is visible in the 1977 Statistical Abstract of the U.S., the full-time equivalents employed in in-Tables 1020 and 1026. In the 1965–75 decade, dustrial R&D increased by 4 percent, while the teachers, full and part-time, employed by institutions of higher learning increased by fully 77 percent. In 1965 there were 28 scientists working in industrial labs for each ten teachers, but in 1975 there were only 17.

In 1973 B. R. Stein analyzed the consequences (Research Policy 2: 2–16). He found that the system of grants, as from the NSF, views scientific progress as a surrogate for achieving practical results, and accountability was largely left to those chosen to determine scientific merit. "While research in the past had contributed to an array of technological benefits which could be equated with the promotion if not satisfaction of national goals, the more recent and increasingly costly scientific undertakings appear to yield ambivalent results."

Today we have the inevitable fallout of a quarter-century program of separating science from other concerns.

In the C&EN article that told me of your study, J. J. Ford is quoted as saying that our present "Organizations are closed systems processing only what they are set up to process with little if any interactive relationships with sister organizations." Seeking innovation the government appropriated more money for the project-grant system associated with universities, a system where Stein found scientific progress was viewed as a surrogate for practical results. With these grants young scientists are trained and then often maintained on post-doctorates in universities, the organizations that process well the students they were established to process. Despite good intentions, there are bound to be, in Ford's words, limited interactive relationships between the system of student-processing and the system of industry, agriculture and others.

"OK", you may say, "We have wrongly driven a wedge between science and practice for nearly a generation. How can we pull out such a lengthy mistake?" I offer a successful alternative that we can work towards.

In agricultural research, the experiment stations are industrial labs. They encompass the range from basic biology to testing innovations in real farm fields. Most of the Federal dollars that come to them, the so-called Hatch funds, come to the Stations themselves and are used in the full range from basic research to payoff in practical innovation.

James G. Horsfall has written of the working and financing of experiment stations in the enclosed editorial in SCIENCE and in an OPINION in FASEB Proceedings. The trick in innovation is putting basic and practical research under the same roof, avoiding the isolation Ford described.

Every day the basic researcher faces the practical problems, and the practical developer sees the frontier of knowledge. They are drawn together by money from a single patron and succeed together by innovating.

Other labs, like Bell, innovate by unified financing rather than sending staff to forage and by placing together first-rate science and tough practical problems rather than separating them. On Route 128 MIT has a unique marriage of science and practice.

What do I urge upon you? I urge Federal financing that does not just multiply the scientists isolated in a system for processing students, but supports a full spectrum of jobs from basic to practical under the roofs of labs devoted to practical solutions to mankind's problems. Then universities will find satisfying jobs for their students; scientists will be stimulated by doing good for man; and the nation will harvest a crop of useful innovation.

Sincerely yours,

PAUL E. WAGGONER,
Director.

AN R & D DELIVERY SYSTEM

The federal government has funded and consumed a fabulous amount of research for its own needs—radar, inertial guidance, proximity fuses, ballistic missiles, "beating the Russians to the moon," and on and on and on. The emphasis has been on federal use. The National Aeronautics and Space Administration speaks of agency users, not citizens users.

At the same time the citizens are saying, "If we can put a man on the moon, we can do this or that." They will not be put off by the alibi, "That is a different subject." We must solve their problems as well.

In his editorial, Bisplinghoff makes a potent point that federal research should be and is now aiming more at citizens' needs, and he goes on to say, "It is not at all clear that funneling federal R & D funds through existing federal institutions will come within a country mile of accomplishing the intended purpose."

I agree wholeheartedly—it will not. Fortunately, there is a family of state institutions with a federal connection that do come within that "country mill of accomplishing the intended purpose" of research for citizens' needs. They do so because they are not federal. I refer, of course, to the Agricultural Experiment Station system.

The first experiment stations were set up a century ago by states to solve problems of farmers, the largest group of citizens at the time. Soon the hoped-for solutions began to come—better varieties, better fertilizers, controls of disease, and better nutrition. Soon city people found that the stations helped to feed them. The economic return on the investment in research was high.

By the time the first 13 state experiment stations were in operation, Congress decided that here was a useful system through which to funnel federal R & D funds with the aim of solving citizens' problems. The Hatch Act was passed, and there is now an Agricultural Experiment Station in every state.

By now the stations have solved reasonably well the problem of cooperating with the industries that produce our food. And they have a delivery system that has functioned for nearly a century. Being spread over the nation and directed from the grass roots, stations know citizens' needs and how they vary over the country. Therefore a federal agency does not direct them, but Congress funds them and thus spreads its scientific bets across the nation. Since no Washington committee can possibly think of all the angles or numbers that might win, the decisions must be and are made locally.

A basic policy is steady money Congress funds the stations on a regular basis, not on the feast-or-famine basis of individual grants. That means that if a fire flares up it can be quenched before people go hungry, as the corn blight epidemic of 1970 plainly showed. In cooperation with industry, the system put out that fire in 2 years. Had the system depended on contracts and grants, the red tape would hardly have been unrolled in that time.

While doing work with practical applications, the stations can do profound research too, as several Nobel prizes and memberships in the National Academy of Sciences prove. Vitamins and hybrid corn testify to the value of the stations. So, too, do dicumarol, streptomycin, and biological control of pests.

Bisplinghoff is correct: the stakes are large, they are getting larger, and the hour is late. Fortunately, in its research for our groceries the country has developed a system that can make discoveries, can translate them into solutions for the public and private sectors, and can deliver the results.

Perhaps the Agricultural Experiment Station system is a first approximation to examine as we seek greater economic return on our federal R & D investment—JAMES G. HORSFALL, *Director Emeritus, Connecticut Agricultural Experiment Station, New Haven 06504.*

THE YEARS OF NEGLECT

Energy for the machines of man is now spread blackly across the front pages of the daily press—a result of years of neglect from a surplus of oil. The editors and man are staring at the bottom of the oil barrel. But modern man and the editors, being well fed and far from the farm, do not even look at the flour barrel, the source of energy for man himself. And yet the bottom of that barrel is also showing. This view also comes from years of neglect, years of neglect of agricultural research.

One simple statistic reveals the bottom of the four barrel. Lester Brown, the distinguished economist of the World Watch Institute, said recently that the world reserves of grain have fallen from 105 days in 1961 to 31 days in 1976. Several years ago, the National Academy of Sciences published a detailed look at how farmers produce the food that fills the flour barrel. It cited many examples of the peaking of productivity curves: the number of people fed by one farmer or one arable acre, the pounds of food produced from a pound of fertilizer, and the pounds of meat from 100 pounds of feed. The fast food chain and the supermarket still have plenty to sell, but we are living on borrowed time. It takes a while to take up the slack.

A century ago agricultural reasearch in the United States became organized with the establishment of an agricultural experiment station. Congress was so pleased with the idea that a dozen years later it passed the famous Hatch Act making continuing grants to every state to operate an agricultural experiment station. Agricultural R & D at experiment stations has followed the dictum of S. W. Johnson, the founding father, who wrote in 1855 that theory and practice, i.e., basic and useful research, must march together in each institution to the drumbeat of the problems of agriculture around the institution.

A century and more later, Norman Borlaug, the recent Nobel Laureate, phrased it more pithily. "Our research must be good," he said, "but it must be good for something." And that it was.

For three quarters of a century, theoretical and useful research did march together, each fortfying the other. Agriculture carried its share of good research and it was good for something. As a result, agricultural productivity in this country rose spectacularly. For

example, at the turn of the century one experiment station director on the eastern seaboard decided that fresh milk would remain in his state as a staple food for children and that corn would be the best food for the cows that produced the milk. In consonance with the policy of his station, he initiated a broad program of theoretical and useful research in corn genetics and corn biochemistry.

The work on corn genetics led to a theoretical explantion of heterosis and then to hybrid corn, whereupon the yield of corn was doubled. The work on corn biochemistry looked at the nutritive value of corn and discovered that corn is deficient in lysine and that animals and people could not survive without lysine—the first demonstration of the essentiality of amino acids in the diet.

Blending theory with practice, the inventors of hybrid corn turned their attention to chromosome maps in corn and discovered a marker gene called opaque II out in a farmer's field. At another station, this gene was found to control lysine synthesis in corn and thus to increase markedly the nutritive value of corn especially for the hungry of the nations of the world depending so heavily on corn in their diet.

The synergism between theoretical and useful research in the same institution was so effective that by 1950 the flour barrel began to overflow and surpluses of food appeared. Policy makers in the United States began to complain about "excess capacity" and recommended that agricultural research be curtailed.

Whether concomitant or causal, a drastic shift between theoretical and useful research did occur. Just at that time the nation began beating another drum. Washington-based professional peers had money to grant to their colleagues across the country. Naturally they beat their drum on the Potomac to the tune of research for the sake of research and research for the advancement of the professions of the peers.

The shifting emphasis toward "basic research" could not have come at a better time to those being discouraged in agricultural research in the stations. The research with grant money was good, no doubt about that; but it steered researchers away from the useful and, thus, was less than "good for something." In many stations, if the work of the researcher was good for something, rather than pure, his peers considered it less than first class.

The long years of neglect of useful research set in and the nation has lived on borrowed time purchased during the years of surpluses by the difference between the income of the farmers and that of their city cousins. As the years of neglect lengthened, the surge of agricultural production efficiency slackened.

Faced with this situation this year, Congress in its infinite wisdom is considering a curious solution. It would create a granting agency within the U.S. Department of Agriculture for still more theoretical research in institutions that have been doing it all the time. Thus, another diverting drumbeat from the Potomac, faintly disguised as a farm tune, but disrupting of the union of theory and practice in the stations.

What to do? Restore the dignity of useful research to the Experiment Stations, not try to graft it onto institutions that have not shown any yen for it. Give as much academic recognition for a resistant variety of wheat as for a new twist on the DNA molecule. Return to the stations the basic research policy and the funds to do it under the Hatch Act so that theoretical and useful research could march happily together once more.

JAMES G. HORSFALL,
The Connecticut Agricultural Experiment Station.

THE ASBESTOSIS TIME BOMB

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. HANNAFORD. Mr. Speaker, this month's issue of Trail magazine contains an interesting article on an important subject: asbestos pollution in the workplace. Written by Robert E. Sweeney, a former Member of Congress and a present partner in the Cleveland, Ohio, law firm of Sweeney, Mahon, and Vlad, the article is addressed to those attorneys who will litigate the growing number of asbestos claims coming before the courts. It gives an accessibly short yet detailed history of the recognition of the health hazards that are posed by asbestos use, the legal ramifications of asbestos contamination and compensation, and a "what to look for" guide for the attorney interviewing a client with a workman's compensation claim. I believe that this is an issue we will have to deal with in the coming years, and I insert the article for the benefit of our colleagues who may not have had the opportunity to read it in Trial magazine:

THE ASBESTOSIS TIME BOMB

(By Robert E. Sweeney)

There is a popular misconception that asbestos disease cases are basically lung cancer cases. However, scientific studies identify the disease of asbestosis, as well as pleural and peritoneal mesothelioma, as resulting from the inhalation and ingestion of asbestos dust found in the workplace.

Further studies indicate that esophageal, stomach, colon, and rectal cancers are equally caused by industrial exposures.

The workers that we represent are contaminated on construction sites, in shipyards, and in factories throughout the United States. These workers are obliged to labor in dirty, dusty, confined environments. They earn and toil in boilerhouses and hospitals and factories and are daily in contact with asbestos, which is easily airborne, easily swallowed, and easily inhaled.

Lawyers handling cases on behalf of such workers and their families must therefore become familiar with the state of the art in research medicine, science, and in epidemiology concerning asbestos dust.

We should not only pay heed to scientific progress in the American medical and scientific community but to that of the scientists of the United Kingdom as well, who have been primarily involved in this industrial dust area since the early 1900s.

The most prominent and earliest works on asbestos dust inhalation appeared in the *British Medical Journal* of 1924.

These articles provide insight into the medical research which led to the regulation of asbestos dust in factories throughout Great Britain in the mid-1930's. At that time the Ministry of Factories and Health of Great Britain promulgated and adopted regulations concerning the distribution and uses of asbestos.

It is interesting to note that the Johns Manville Corporation, which produces about 70 percent of the asbestos in the world, and markets it through both British and American corporations, has submitted to the regulations in Britain.

The university medical libraries of this country are certainly important sources of information on the state of the art dealing with asbestos. However, the Department of Environmental Medicine at Mount Sinai Hospital in New York City has some of the best research material available in the world on the subject.

At Mount Sinai, prominent medical researchers of international recognition have worked most effectively under the direction Dr. Irving J. Selikoff, M.D., to develop creditable and recognized medical surveys on the relationship of asbestos dust inhalation to the onset of pulmonary disabilities.

Trial lawyers should be familiar with the fact that it was the studies of Dr. Selikoff and the research team at Mount Sinai that developed the basis for our knowledge of the statistical association between asbestos inhalation and ingestion and the high rate of cancer in insulators.

INDUSTRY ACTIVITY

Circa 1930, the adverse effect of an increasing number of insurance claims on the workmen's compensation costs to the industry prompted an inquiry into the problem. Alerted by the work of medical and scientific investigators throughout the world, the asbestos industry, led by Johns Manville, commissioned the Metropolitan Life Insurance Company in the early 1930s to investigate and determine the relationship of asbestos exposure to the high rate of pulmonary disease encountered among workers in the asbestos mines and factories.

These studies were conducted under the leadership of the medical director of the Metropolitan Life Insurance Company, Dr. Anthony J. Lanza.

The project ran from October 1929 to January 1931. It included study of dust conditions in asbestos mines and mills in Canada and the United States.

Physical examination of asbestos workers included X-rays, films, and studies of dust exhaust systems.

The conclusions of the industry's own research proved that prolonged exposure to asbestos dust caused pulmonary fibrosis and that cases of definite cardiac enlargement were frequently found to be associated with asbestosis.

The study recommended that the industry face seriously the problem of dust control in asbestos plants and sponsor studies on known cases of asbestosis.

In short, the industry investigation clearly documents the fact that the industry was mining and manufacturing a hazardous product. X-rays taken in the study showed fibrosis buildup in the lower lobes of the lungs of the workers examined.

Later, the industry established the Industrial Hygiene Foundation of Pittsburgh, and I am convinced that this organization was established to cloak their activities.

From time to time, reports would be received by the foundation and the asbestos manufacturing leadership of the nation alerting the industry to the hazardous potentials of the product that they were manufacturing. The reports urged that precautionary methods be adopted to remove workers from the risk of inhalation or ingestion of the airborne asbestos fibers.

Further recommendations were made that engineers be hired to design exhaust systems in the plants to remove workers from the harmful effect of dust inhalation. As a result, exhaust systems began to appear in American factories. Respirators and masks were recommended. Other steps were taken to physically examine employees on an annual basis to determine the particulars of the state of the health of the employees and the degree to which they were harmfully affected by their exposure to asbestos dust.

With full knowledge of the state of the art of medicine and science, with full knowledge of the fact that their own mine and plant workers were being harmed and that this harm was continuing on a progressive basis, the manufacturers continued to receive workmen's compensation claims from

injured men and women. They continued to adjust or negotiate these claims, fully mindful of the scope of the ever-increasing occupational hazard.

We have delved into the files of their medical libraries and the papers of their directors. We have found an exchange of correspondence between these directors and the leadership of the American asbestos manufacturing community pertaining to these studies. The tone of the correspondence is that of a warning to the industry of the harmful and dangerous effects of asbestos and a prescription of recommendations for improving industrial hygiene.

ACT I, SCENE I

The tragic story of the epidemic of asbestos dust disease in the United States of America is just now unfolding. What we are looking at is Act I, Scene I of a health tragedy that could have been avoided. I predict that we will be hearing much more about this health epidemic as more and more American men and women die at early ages from asbestos dust exposures that could have been avoided.

I share with you the testimony of the vice president of Johns Manville before the Assistant Secretary of Labor for Occupational Safety and Health a few years ago. He said that his company certainly knew about the harmful effects of asbestos 30 or 40 years ago and that it has tried to investigate the problem and follow the advice of medical experts.

Unfortunately, the steps that they took only served to partially protect their factory and mine workers. They completely neglected to consider the effect that their harmful and hazardous product had on the general public, or the field worker who had to come in contact with it on the construction site or in the maritime shipyard.

The results of discovery in asbestos cases clearly indicate that the manufacturing companies failed to take air sample tests in the construction environment and failed to go into the shipyards and construction sites to determine the conditions under which their product was used.

They failed to determine what precautions should be taken and what consequences could be expected. In short, they avoided the duty that was theirs under Section 402A of the law of strict liability, where they are charged to the knowledge of an expert as to the potential dangers and hazardous potential of the product that they produce.

They failed to keep abreast of the state of the art, the work of epidemiologists and researchers. They failed to underwrite research and, most importantly, they failed to adequately and properly label their product as hazardous, once they were on notice of the scientific facts.

As a result, workers and their families have been unnecessarily injured. Recently, I interviewed a 43-year-old woman in the State of Indiana who is a victim of pleural mesothelionma: a mother with a beautiful family who has never directly worked in an asbestos environment.

She married an asbestos worker. She washed his clothes and over a period of time of handling his work clothing in the small closed environment of her basement, she inhaled a sufficient quantity of asbestos to develop the disease which has reduced her life expectancy to six months. She takes medication every few hours to endure the pain of the tumorous cancer which has carved away almost half of her left side of her ribcage. She suffers; and her suffering is the direct result of the greed and the indifference to good industrial health practices of corporate America.

All the victims seem to tell the same story: the material is easily airborne; it gets into your nostrils; it gets in your ears; you swallow it; it clings to your skin; it cuts in and sometimes abrades the skin between the fingers and they start to bleed. Imagine what it does to the tender lining of the lung.

It is important to realize that asbestosis is a progressive insidious disease and that all too often there is a typically long period of latency between the time of initial injurious exposure and the time of the onset of the disability symptoms of disability.

In some instances the latency period can be as long as 25 or 30 years. For this reason, often professional medical men do not make the connection between a disease which appears at mid-life and an injurious exposure to asbestos which may have occurred in the young adult years.

THE CLIENT'S HISTORY

A lawyer interviewing a client with a workmen's compensation claim dealing with pulmonary asbestosis should inquire whether or not the client: worked in a shipyard; worked with asbestos or was anywhere near where asbestos was being used; or whether he ever worked in closed environments repairing and tearing down boilers, removing the outer lining, and shredding old dried asbestos from the mechanism.

A lawyer should ask:

Has the client ever had X-ray studies?

Does he smoke? How much? For how long?

Has he ever been refused insurance due to pulmonary problems?

Has he submitted to a recent physical?

Has he ever been rated for life insurance because of pulmonary deficiencies?

The alert, examining advocate must pinpoint as best he or she can when the worker's symptoms first appeared. This is very important, since it might bear upon statute of limitations problems. Different states begin the calculation of time on a different basis as to when the statute begins to run. Find out:

When was the client's first medical examination?

When was the client first informed of the diagnosis by the family doctor or specialist?

When did the client first experience shortness of breath, clubbing of the fingers, dizziness? Be sure to secure letters of authorization addressed to the client's doctors and medical specialists.

Has the client ever used a mask or a respirator in his workplace? Did he ever know the toxic agent he was protecting himself against?

If the client belongs to a union, find out if there is a health hazard program. Has the client ever been notified by his union's medical consultants as to particular health hazards associated with his job?

Secure a chronology of the client's entire work history. Be sure to inquire whether he or his spouse has kept the old income tax records which can be used most effectively in establishing his work record. By all means, do not overlook the fact that the administrator of the health welfare office or fringe benefit program of the union maintains detailed and accurate records of employment.

After you establish where the man has worked, go down and speak to his employer. Learn as much as you can about the work environment of this particular client. Interview his coworkers, particularly those in his own age group. Find out what jobs they recall having worked on together. Try to get an affidavit describing the working conditions on those jobs from these co-workers. Have them note whether or not the materials they worked on had any precautionary health hazard warning labels on the bags or boxes.

If your client worked for a utility industry, you might inquire at the utility division of engineering, which usually maintains good records on all products, to find out the names of the suppliers of materials who bid on those jobs and the specifications of the insulating materials used.

These former employers can be very helpful as allies in the assertion of third-party claims against the basic manufacturers of asbestos products. It is very important that these employers understand that they are not being targeted and cannot be brought into the litigation; that the sole purpose of the inquiry is to determine which materials and products caused the harm and injury to their employee.

Determine if there were any safety regulations or surveillance practices in effect on the job. Many times we find that the client, while not an asbestos worker, is a sheet-metal worker, a pipe-fitter, a plumber, or a painter, and that he came in contact with asbestos materials because of the simple fact that he worked in close proximity on the work site to the asbestos insulators and was thus contaminated.

In discovery deposition, find out from these sources if they can supply you with any of the invoices or specifications that were published at the time the materials were purchased.

In preparation of the pleadings be certain to develop thorough interrogatories addressed to all defendants.

Anticipate the defense of the manufacturers' attorneys. They will say: "We proceeded to believe that exposure to asbestos material was not harmful and we really did not know that we had any duty as manufacturers until about 1965 when Dr. Selikoff published his articles on asbestos insulators. It was at that point that we then became aware of our responsibility and aware of the fact that asbestos was indeed harmful."

Your job on behalf of the plaintiff is to prove that these claims are sheer nonsense and are unsupported by fact. Use the library, the British and American studies, the US Health Service publications, and other source materials to prove your point. For source materials, direct requests to the state and federal agencies, particularly the Division of Occupational Safety and Health of the US Labor Department and the National Institute for Occupational Safety of HEW.

Check the workmen's compensation files in your district and do not overlook the public health libraries. Dig into the material at the National Academy of Science and, most particularly, regional safety libraries.

Do not neglect to research the manufacturers' corporate reports, for they will indicate the corporations' knowledge of asbestos. Eight years ago Raybestos-Manhattan said in its annual report: "We are delighted to announce to the insulating industry that we have perfected a new product."

Then the company went on to name the product and its properties, adding: "As you know, this bears upon what we have known for over 30 years, that asbestos dust is extremely harmful and dangerous to health."

Check back on the manufacturing industry's agenda for national meetings as early as the 1930s when doctors of the United States Department of Health and federal health agencies were speaking on pulmonary asbestos-related problems.

Once you have the research materials sufficiently gathered, the next step is to visit the family doctor. Ordinarily, he will be more concerned with his patient's care than with the state of medical research. He is generally so busy with office appointments and hospital commitments that he does not have adequate time for in-depth studies outside of his own personal professional practice.

Your duty is to help him. Assist him by turning over to him any knowledge that you have developed in your research. Willingly share your materials with him. Indicate to the professional doctor that you have read the recent studies which claim that, by the use of electronic microscopic methods, pa-

thologist are now able to identify asbestos fibers in tissue.

If your client has mesothelioma, discuss the interesting question of how the asbestos fibers migrate within the body, as it may provide a clue to the origin of your client's disease process.

Delicately consider the procurement of authorizations for postmortem examinations.

In discovery it is helpful to talk to the hierarchy of the defendant corporation. Find and identify the medical director of the corporation. Determine when he was hired, when he retired, the name of his successor, whether he ever spoke at seminars. Secure copies of his articles and addresses to professional societies wherein he discussed asbestos.

I recently had the opportunity to depose the medical director of Johns Manville. Let me share with you a part of an address that he gave at an industry seminar which provided some of the materials for the depositions. In his seminar speech he said: "The industry has a tremendous legal responsibility for the harmful injuries that have been visited on countless people—there is in the United States, because of asbestos inhalation and exposure, a time bomb. A time bomb that may go off and is continuing to grow. We can't begin to approximate how many people will be adversely affected."

These kinds of predeposition comments are very helpful in eliciting from the witness admissions that the industry that acts thusly—that does not label its dangerous product, that does not forewarn the user of these dangers, that does not understand the conditions under which their product is being used, that does not adequately research or keep abreast of the state of scientific and medical art—is in fact an irresponsible industry that ought to be made to respond in damages to the victims that it has thus harmed.

CONCLUSION

We have had an interesting experience in the last five years of involvement in asbestos litigation. The story is still unfolding and it is growing, but if occupational health and safety problems are to be dealt with in real terms, they cannot simply be viewed as medical or technical problems. Rather, they must be thought out in the larger context of workers' struggles for eocnomic security and humanized working conditions. They must be controlled by the decisionmaking concerning health practices in the industry.

Workers must not have to work in ignorance of the dangers and harmful effects of asbestos in the workplace.

This is a very exciting detective story which will bring you to touch upon many other disciplines, and as a consequence, as an asbestos litigator, your life will be made much richer for it. Your clients, the victims and their survivors, are going to get less injustice. The asbestos industry is going to be made much safer. Your philosophical understanding of corporate America and our total social architecture will be your most important tool in locating this information.

In doing this, you and I will have executed our responsibility as lawyers most admirably.●

ROGERS TRIBUTE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. McCLORY. Mr. Speaker, the announcement of Congressman PAUL ROGERS of Florida to voluntarily retire at the conclusion of the 95th Congress came as a distinct surprise to many of his colleagues.

Congressman PAUL ROGERS has distinguished himself during the past 24 years for outstanding and courageous service in articulating the highest principles which guide Members of this body.

It has been my special pleasure to become personally acquainted with Congressman PAUL ROGERS and my wife Doris and I treasure PAUL ROGERS and his lovely wife Becky as personal friends.

Mr. Speaker, Congressman PAUL ROGERS has been of particular value to this body because of his expertise in the fields of health care and related subjects. We are certain that PAUL ROGERS' retirement from the U.S. House of Representatives does not indeed mean his retirement from active life and we expect him to continue in a related or other useful career where his talents and energies can continue to benefit his fellow man.●

TRIBUTE TO WILLIAM F. HICKEY, PAST NATIONAL PRESIDENT OF FLEET RESERVE ASSOCIATION

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. BOB WILSON. Mr. Speaker, the convention issue of the Chula Vista Branch 61 of the Fleet Reserve Association contains an article on a most remarkable San Diegan, William F. Hickey, a past national president of the FRA.

Bill is a 30-year Navy veteran whose career spans the seven seas and conjurs up images of the China Station and the days when America's fleets roamed the world. He is a valued friend, and I believe the rest of my colleagues will find this recounting of his life a fascinating tale.

[From the Loudspeaker, Sept. 1978]

WILLIAM F. HICKEY, PAST NATIONAL PRESIDENT 1955–1956, FLEET RESERVE ASSOCIATION

William Francis Hickey was born in Troy, New York, on August 20, 1899. Shipmate Bill was one of six boys and four girls born to William A. and Anna L. Hickey. As a young man growing up in upstate New York, school and a red-blooded American boy, with the feel of salt air running through his veins, are bound to reach a head-on collision which happened when Shipmate Hickey's schooling abruptly ended two weeks into the seventh grade in 1914 at the local Catholic school where he and Sister Theresa could not see eye-to-eye on certain classroom deportment. Needless to say the basis of this story started in rather a similar fashion to most of us who had reasons to enlist in the United States Navy.

Shipmate Hickey boosted his age a couple of years to join New York State National Guard. During the Pancho Villa Raids, his regiment was called by President Wilson and mustered into the United States Army for the Mexican Border Campaign. $18 as a private first class and a horse blanket did not appeal to him. So he requested discharge to enlist in the United States Navy where his brother J. J. was in his 14th year of service.

Shipmate Hickey received his boot training at Coasters Harbor Island, Newport, Rhode Island. During his naval career which spanned thirty years, he had the pleasure of serving on eighteen ships. He has seen sea duty aboard battle ships, destroyers, a tender, and a fleet tug. He served in all fleets—Atlantic, Pacific, Asiatic, European, and South America including duty in the Black Sea following World War I.

Shipmate Bill married Caroline M. Kreiling in 1921, and there were two boys and three girls born to the marriage. They were married in Key West, Florida where Caroline arrived via train. The marriage took place fifty minutes after the train arrived.

In 1937 Bill transferred to the Fleet Reserve with the rate of Chief Boatswain Mate; however, he volunteered to return to active duty on September 23, 1939 and was accepted. His World War II service took him to both the Atlantic and Pacific theaters, and his excellent performance of duty earned him a commission. He was released from active duty to retire with the rank of Lieutenant in November 1947.

Shipmate Hickey became eligible for membership in the Fleet Reserve Association in November 1924, but with the raising of a family and drinking what Bill called "good bourbon", he had to forego one or the other. On the pay of a second cruise, first class of $94.40 per month, Bill chose the easy route. He joined the FRA in May 1937 here in San Diego. Shipmate Bill has served Branch 9 twice as its president before progressing through the ranks to the highest office of the Fleet Reserve Association—National President.

In his many years of association with Branch 9 he has continuously served in some position in that Branch. In 1945 Shipmate was elected Regional President of the old California Region. In 1950 his exceptional leadership and organizational abilities were recognized by his Shipmates of his Region, the West Coast Region, and he was elected President of that area. At that time the West Coast Region was composed of the states of California, Nevada, Colorado, Arizona, and New Mexico. Shipmate Hickey continued to rise up the National Officers' ladder by chairing many key National Committees. In 1954 at the 28th National Convention held in San Diego, he was elected to the office of National Vice President of the Fleet Reserve Association. The following year at the Chicago National Convention he was elected National President by acclamation.

In 1949 Secretary of Defense during the Truman administration issued orders that all commissary stores were to be abolished. Shipmate Hickey was appointed Chairman of a committee by Branch 9 to formulate plans to establish a Coop Store in the San Diego area. He held the first general organizational meeting here at the VFW Club, Seventh and E St., in San Diego where an overwhelming crowd of interested military personnel and their families assembled to make plans.

The initial membership charge of $10 was assessed per family, and in a few weeks over 4,000 members became associated with the project. The store was established in a building at the General Dynamics Plant No. 2 on Pacific Highway in San Diego. It consisted of 16,000 square feet of display area allowing the members to make purchases for their family needs from needles to home furnishings. The pressure to maintain the existing Navy Commissary Store was a battle led by Shipmate Hickey from San Diego to the White House in Washington, D.C.

Shipmate Hickey met with Admiral Denfield who was Chief of Naval Personnel at that time and stated the case for the need of the enlisted personnel to purchase their staples at the Navy Commissary due to the minimum amount of wages then being received. He also told Admiral Denfield that he would not backwater regarding the commissary issue, and he placed his thirty years of naval service on the line to substantiate the importance of this project.

After listening to Shipmate Hickey's presentation, Admiral Denfield replied that the Senate of the United States would never

allow the Navy to courtmartial him over this issue. As a result, the commissary stores were never closed. After twenty months of operation in the San Diego area of the San Diego Coop Store, the store was decommissioned. Each and every contributor to the membership charge received their original investment back many times over.

In 1956 Shipmate Hickey while serving as National President of the Fleet Reserve Association was in Washington, D.C. on official FRA business. Admiral Holliway who was serving as the Chief of BuPers sent a Lt. Cdr. to request in the interest of retention of enlisted personnel in the United States Naval Service the backing of the Fleet Reserve Association to formulate and hold a Mrs. United States Navy Contest. Shipmate Hickey organized thirty such contests throughout the world with the National Contest to be held in Long Beach, CA for a ten day period of festivities which included a tremendous military parade, a fly-by by the Blue Angels, a 51 naval ship review, plus numerous other social activities. This program cost over ½ million dollars of which the Fleet Reserve Association spent approximately $1,500.

The retention of military personnel was completely reversed. The Shipmates of Branch 43 and business community of the City of Long Beach can be proud of their contribution to this highly successful program.

The story of the purchase of the Fleet Reserve Association National Headquarters at 1303 New Hampshire Avenue, Washington, D.C. is a story to be retold. Only by Shipmate Hickey's foresight and initiative did the FRA decide to purchase the property that now houses our National Executive Offices in Washington, D.C. This, as you might know, was not an easy task. At that particular time the spoken word was to place in motion a request to have Shipmate Hickey impeached for doing such a thing as buying a home. But as time was foretold, the home, Shipmate Hickey, and the FRA thrive.

Bill often reminisced regarding his days aboard ships. Among them was the USS North Dakota, a first line battleship, followed by several tours of duty aboard destroyers. Noteworthy was his service in the USS Tattnel, DD–125, and the USS Overton, DD–239. Bill often remarked that he received his sea legs and spurs aboard destroyers.

In 1929 like all good navy men Shipmate Hickey was transferred to the China Station where he served in the USS Whipple for the next two years of his naval service.●

ROCKLEDGE FIREFIGHTERS MARK 75TH ANNIVERSARY

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. COUGHLIN. Mr. Speaker, I am pleased and honored to bring to my colleagues' attention the diamond jubilee anniversary of the Rockledge Volunteer Fire Company No. 1.

From its humble origins in 1893 as the Pennsylvania Fire Company No. 1, the Rockledge firefighters have provided 75 years of uninterrupted dedicated protection to citizens of eastern Montgomery County and northeast Philadelphia. Chartered by the Commonwealth of Pennsylvania in 1903, the Rockledge Volunteer Fire Company No. 1 demonstrates daily the resourcefulness and pride of local concerned individuals in solving the problems of their community.

Rockledge firefighters have met the challenge whenever the community has been threatened. From major blazes that endangered life to disastrous floods that crippled whole municipalities, Rockledge Volunteer Fire Company No. 1 consistently responded with expertise and valor. The legacy of sacrifice and service for others established by the Rockledge volunteers over the fire company's first 75 years will be worthy inspiration to the community's new generation of volunteer firefighters.

Mr. Speaker, I am sure that my colleagues will want to join me in saluting Rockledge Volunteer Fire Company No. 1 on this auspicious day in its history.●

A NATIONAL CANCER RISK ASSESSMENT POLICY

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. WAMPLER. Mr. Speaker, it goes without saying that there is an obvious need for Congress, from time to time, to reexamine the laws it has placed on the statute books. This reexamination process should take place in areas where laws have become controversial; have been overtaken by technology; or where the jurisdiction over the basic area has proliferated to several committees of the Congress.

The laws that determine cancer risk assessment fit all three categories I have described above. In addition, we find numerous Federal agencies issuing regulations based on these laws. The result is confusion and controversy.

Two years ago the executive board of the National Pest Control Association, Inc., headquartered at Vienna, Va., adopted a resolution which conforms very closely to the thrust of my bill, H.R. 13543, which seeks a unified national policy concerning carcinogens. I request to insert this resolution in the RECORD at this point:

RECOMMENDED RESOLUTON ON CANCER

Whereas, members of the structural pest control industry seek truth in all matters affecting their businesses and the well-being of the public, and

Whereas, the public as well as affected industries need relief from the stress caused by conflicting or adversarial statements regarding cancer by regulatory officials, scientists, politicians, special interest groups and others, and

Whereas, zero risk from chemicals is unrealistic in a highly developed country such as the United States, and

Whereas, there is urgent need for a single authoritative source of guidance regarding cancer for all segments of society including government,

Therefore, the National Pest Control Association respectfully recommends that the President of the United States solicit from Government, Industry and Scientific Institutions including Professional Societies the names of the Nation's most eminent specialists on cancer and that from such experts he select and appoint a Distinguished Panel of Experts to provide on an ongoing basis:

1. Definition of chemical carcinogen;
2. Priorities in research on chemical carcinogens;
3. Asessment of the risk of cancer to humans because of their exposure to known or potential chemical carcinogens;
4. Reassessment, at least annually, of items 1, 2 and 3.●

BERKS COUNTY, PA., COMMUNITY TELEVISION

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. YATRON. Mr. Speaker, I would like to share with my colleagues an article which recently appeared in the October issue of the "American Association of Retired Persons News Bulletin," concerning Berks County Community Television.

I have long been a staunch supporter of BCTV and have had the pleasure of appearing on the station several times. I can personally attest to its tremendous value in helping the elderly. Many men and women who have previously felt cut off and alone now have a sense of true participation in their community through this exceptional television station.

The article appeared as follows:

TV PUTS COMMUNITY INSIDE CITY HALL

READING, PA.—A 77-year-old mayor and retired educator heads a unique community television station here that has won support from city and county government offices, a score or more of "Over 60" screen personalities, and put city and county officials on a first-name basis with viewers.

Eugene Shirk is board chairman of Berks County Community Television, a two-way cable television facility originating programs from city and county government offices, a Social Security office, and community high schools. More than 70 public and quasi-public organizations have used the cable—the only station of its kind in the U.S.—to communicate with older citizens.

Viewers have attained their "first-name" relationship with officials by watching the mayor and City Council in Thursday night showings of "Inside City Hall," produced by 70-year-old Mae Feick. County commissioners representing a constituency of about 300,000 have a similar program on Thursday mornings, also produced by Ms. Feick, who is a member of AARP.

Besides keeping viewers informed on city and county business, the station, BCTV, presents programs on changes in Social Security, county folk arts, county labor history (which college students can earn credits by watching), the rising cost of health care and other issues of interest to older viewers. For "good buys" and nutritional advice, a retired supermarket supervisor regularly produces a food program including televised visits to bakeries and markets.

Every Friday, Board Chairman Shirk and some of his contemporaries present a one-hour program called "Bridging the Generation Gap," in which they exchange opinions and comments with high school students.

BCTV was established in 1977 by New York University's Alternate Media Center as a National Science Foundation (NSF) research project. Reading was selected as a site because 16 percent of its citizens are over 65—an above-average proportion. The project was intended to test and evaluate

the impact of two-way cable television on the delivery of public services to older citizens.

When the $1.1 million grant expired, New York University withdrew, leaving behind $80,000 worth of black and white television equipment which was turned over to a coalition of older persons for a token sum of $1. Since then, the project has continued through the use of both public and private funding.

Jerry Richter, who originally was retained by the university, has stayed on as BCTV executive director.●

U.S. WHALING POLICY

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. RYAN. Mr. Speaker, on September 25, 1978, I inserted a Washington Post article by Mr. Lewis Regenstein, executive vice president, the Fund for Animals, which discussed a broad departure from existing U.S. whaling policy by Mr. Richard Frank, U.S. Whaling Commissioner, and head of U.S. delegation to the International Whaling Commission (IWC).

In the meantime, Mr. Frank published a rebuttal in the Washington Post, which appeared on September 27, 1978. Mr. Frank's rebuttal does not deal in a satisfactory way with the issues raised by Mr. Regenstein. However, it may delude many people into thinking no problem exists.

I am in receipt of a letter from Mr. Regenstein that takes Mr. Frank to task for his remarks in the Washington Post. Because of the seriousness of Mr. Regenstein's findings, I have asked the Secretary of Commerce to look into this matter as soon as possible and report back to me. We certainly do not want further compromising of the U.S. position at the December 1978, meeting of the IWC in Japan.

I commend to my colleagues Mr. Regenstein's letter which follows:

THE FUND FOR ANIMALS,
Washington, D.C.

Hon. LEO J. RYAN,
Chairman, Subcommittee on Environment, Energy and Natural Resources, Washington, D.C.

DEAR CONGRESSMAN RYAN: A couple of weeks ago, I wrote an article for the Washington Post criticizing the anti-whale conservation policies of Mr. Richard Frank, the U.S. Whaling Commissioner who is Administrator of the Commerce Department's National Oceanic and Atmospheric Administration (NOAA).

I described how Mr. Frank had reversed the U.S. previous pro-protection position on whale conservation and had, in effect, adopted a policy in support of continued commercial whale killing along the lines suggested by the International Whaling Commission's (IWC) Scientific Committee.

This change in policy not only violates President Carter's repeatedly expressed support for a moratorium on commercial whaling—over 80 percent of which is done by Soviet and Japanese whalers—but also subverts the will of Congress as expressed in the Endangered Species Act of 1973, the Marine Mammal Protection Act of 1972, and resolutions passed by both the House and the Senate calling for the United States to negotiate and work for such a ten year moratorium.

Following the publication of my article, which appeared in the Washington Post and the Boston Globe, Mr. Frank responded with a lengthy rebuttal published in the Post, copies of all of which are enclosed. Mr. Frank's response, while not challenging a single fact or statement contained in my article, is filled with half truths, outright falsehoods, and self-serving nonsense, which I will document below.

His letter makes it clear why new leadership is needed if our country's commitment to save the whale is to have any chance of success.

Mr. Frank begins his letter by praising the statements and actions of President Carter in favor of whale preservation, something with which I am quite familar. I even helped distribute, during the Presidential campaign, a Carter campaign statement on whales quoting Jimmy Carter as favoring a ten year moratorium on deep-sea whaling and promising to use this country's 200-mile limit as a bargaining tool to achieve this. Indeed, the very point I was trying to make in my article was that Mr. Frank has ignored and failed to carry out this commitment. Although the U.S. delegation, under Mr. Frank, has paid lip service to our previous policy of pushing for a moratorium, there has been no effective effort undertaken to push for one or even for significantly lower overall quotas.

Although the other countries may have been informed that this was the U.S. position, it should be emphasized that this was done in a pro-forma manner which was not taken seriously by anyone.

Indeed, no one will ever know how the vote would have come out at the last meeting of the IWC—in June, 1978—since the moratorium was removed from the agenda at the last minute without U.S. objection. After Japan threatened Panama with cancellation of a $10 million sugar purchase, Panama succumbed to this pressure by firing its pro-conservation whaling commissioner, Jean Paul Fortom-Gouin, and asked that the moratorium, which it had placed on the agenda, be dropped. This was done without objection from Mr. Frank, who made no attempt to have it retained despite his assertion that it is U.S. policy to seek such a moratorium. Many authorities feel that the moratorium could have been retained if one or more other countries had so insisted.

This tactic permitted the delegations from the other non-whaling nations, such as Canada, Britain, and Holland, to avoid abstaining or voting against this moratorium that had tremendous popular support in their own countries. It is possible that countries that voted against such a resolution one year might have to reverse their positions the next year following the public outcry that could be expected to ensue. We will never know until we try, and under the present policies it is doubtful if the moratorium will ever be given a fair chance to be enacted. Thus, the statement in Mr. Frank's letter that "The Carter administration has continued to support a 10-year moratorium . . . at every meeting of the IWC" is flatly untrue.

Mr. Frank's letter goes on to state, falsely, that:

"In the interest of obtaining improved conservation of whales and reduced hunting more immediately [sic], we have accepted the next best alternative, a procedure under which the member nations of the IWC set quotas at levels recommended by an IWC scientific committee *based on the well-being of the whale stocks*. Thus, political and economic considerations are no longer the determining factors as they once were." (emphasis added)

As Mr. Frank is well aware, the quotas are still set largely according to "political and economic considerations" and are not "based on the well-being of the whale stocks."

The quotas are set for the most part on data provided by the Japanese whaling industry (which is the major source for such information), much of which is biased, self-serving, and often fabricated in such a way as to inflate and exaggerate the size of population stocks and to minimize the efficiency of new and improved hunting technologies, such as the use of sonar. Moreover, many quotas are not even based on this pseudo-scientific method but are rather compromises pulled out of thin air.

For example, population estimates are arrived at using what is called Catch Per Unit of Effort (CPUE), which can give the misleading impression that the more whales that are killed in a period of time or area, the more there must be out there to be exploited.

In other words, if a large group of whales is found and killed in a short period of time, it allows the industry to extrapolate that figure over a larger area and inflate population estimates.

This methodology mistakenly assumes that whales are more evenly distributed over the oceans than is actually the case. In fact, many whales congregate in certain areas at certain times of the year, and the whalers often know where to go in order to kill a maximum number quickly and efficiently.

Thus, entire whale stocks can be wiped out while giving the impression that only a small percentage are being taken out of a much larger population.

Already, there is evidence that the breeding capacity of many whales still hunted is being, or has been, severely crippled.

Far too many sperm whales, for instance, are being killed, especially males, and the sperm whales now being landed are smaller than previous years and most are sexually immature, a sure sign that breeding stock is being destroyed. In the North Pacific and perhaps southern ocean stocks as well, so many males have been overhunted in the past that the birth rate has fallen dramatically, and there is a serious dearth of older, socially mature males, the large ones that take harems and do the breeding. Thus, the populations will continue to fall even if all killing is halted.

One of the major reasons CPUE data are distorted has come from the introduction in recent years of the use of ASDIC, or sonar, to hunt whales.

ASDIC is especially effective in hunting sperm whales, which dive deep and can stay under water for a relatively long period of time.

In the southern ocean and the Western Pacific, the use of ASDIC has drastically increased the efficiency of whaling, by 38 per cent to over 100 per cent in some areas according to some estimates.

However, the Japanese claim that in the North Western Pacific sonar has increased their efficiency only marginally, by a mere 5 per cent or so, a figure so miniscule as to be laughable.

Yet, incredibly, at the December 1977 IWC meeting, the Scientific Committee compromised between the two estimated sets of CPUE figures and came up with a protection (16%) not supported by any data and having no relationship to reality. And this was the main basis for raising the sperm whale quota by almost 900 per cent, from 763 to 6,444, which was supported by Commissioner Frank! This was done even though it was ostensibly U.S. policy to seek a ten year moratorium, and despite the fact that the sperm whale appears on the U.S. list of endangered species.

And in June of this year at the IWC meeting, new scientific data showed that the Western Pacific sperm whale population had been heavily over-exploited and was in sharp decline. In fact, even if there was a zero

quota on this severely depleted population, it would continue to decline. This is irrefutable evidence that the sperm whale quota voted last December had no validity. Yet, no action was taken at this meeting to set a quota for the North Pacific sperm whales (which includes Eastern and Western populations) because the Japanese violently objected as they did in June 1977, when the quota was reduced by several thousand whales. The Japanese are undoubtedly cooking up new "data" for this December's special meeting, just as they did last year to con the IWC into increasing the quota from 763 to 6,444. If the present policy of Mr. Frank prevails, the U.S. will go along with this ploy.

I can hardly believe that Mr. Frank makes the demonstrably false statement that "This procedure has fortunately resulted in a *decrease in quotas at each IWC meeting*, including decreases in 1977 and 1978." (emphasis added)

At the December 1977 IWC meeting in Tokyo, Mr. Frank voted to increase the 1978 sperm whale quota for the North Pacific from 763 to 6,444, which helped perpetuate the Japanese and Soviet commercial whaling industries.

At the June, 1977 meeting, under the leadership of then-U.S. Commissioner William Aron and Deputy Commissioner Tom Garrett, a reduction of 10,000 whales was obtained for the 1978 quota.

This was accomplished in part through a strongly worded message sent by President Carter warning that the U.S. might evoke economic sanctions against any nations that "diminish the effectiveness of the conservation regime of the IWC."

That victory, which many people felt would put the whaling industry out of business, was of course nullified a few months later by Mr. Frank. After helping force the removal of Dr. Aron as Whaling Commissioner (Frank was by then Administrator of NOAA, where Aron was head of its Office of Ecology and Environmental Conservation), Frank proceeded to take the position himself. At the first IWC meeting he had ever attended, in December of 1977, Frank helped reverse these gains and supported the increased quota of an additional 6,000 sperm whales.

Mrs. Frank's ostensible rationale for doing so was because the IWC's Scientific Committee had so recommended; and it is U.S. policy, he says, to ". . . set quotas at levels recommended by an IWC Scientific Committee. . . ." He also writes that this policy was adopted "with the concurrence of the conservation community." In fact, The Fund for Animals and other such groups never "concurred" in such a decision, and I doubt if Mr. Frank can name a single environmental group that went along with this 900 per cent increase in the sperm whale quota.

As for Mr. Frank's statement that this "quota was recommended . . . on the basis of the best available scientific evidence," he knows full well that the Soviets—the major whaling nation along with Japan—refuse to provide scientific data to the IWC, yet they continue to be given quotas each year.

Thus, the U.S. policy now appears to be, according to Frank, one of rubber-stamping the questionable findings of the Scientific Committee rather than seeking increased protection for whales. The Japanese and Soviets have learned to use and manipulate this system of determining quotas, and Mr. Frank is cooperating in this sham arrangement.

Neither Jimmy Carter nor the Congress, through the resolutions and laws it has passed, has said that our policy should be continued commercial killing of whales according to quotas and guidelines set by industry-oriented scientists. Instead, they have said our policy should be protecting whales, seeking a moratorium or, failing that, pushing for significantly lower quotas. This policy has been ignored and abandoned by Mr. Frank, despite the inaccurate and misleading statements he continues to make.

Moreover, Mr. Frank knows full well that it is not U.S. policy to support the Scientific Committee across the board. This seems to be a convenient excuse for going along with the Japanese and Russian whalers. In fact, the Scientific Committee has recommended, and reaffirmed, a zero quota of bowhead whales for Alaskan eskimos, on the grounds that this critically endangered species cannot withstand continued killing. Yet the U.S. has vigorously and successfully fought this Scientific Committee recommendation, and has persuaded the IWC to allow continued eskimo hunting of bowheads, despite the Scientific Committee's findings. There is widespread suspicion that Mr. Frank has reached an understanding with the commercial whalers, whereby he supports them on commercial killing, and they vote to override the Scientific Committee for the sake of the eskimos.

Mr. Frank mentions with pride the ban achieved this year on the killing of fin whales and sei whales in the Southern Hemisphere, but fails to point out that this was done much too late, and only after these stocks of endangered whales had become severely depleted. Moreover, the initiative for this ban came not from the U.S. delegation but from independent research funded by a private conservation group, the Whale Protection Fund in Washington, D.C. Moreover, these reductions were largely offset by a simultaneous increase of 531 in the minke whale quota.

Mr. Frank's lack of determination to achieve overall quota reductions was clearly demonstrated this past June when he failed to support efforts to achieve complete protection, or drastically reduced quotas, for the severely depleted, endangered sperm whale stocks off Australia, an objective being sought by other nations, but not the U.S.

At this meeting, Mr. Frank went along with the quotas at basically the same levels set by the IWC last year, except for North Pacific sperm whales, which will be decided this December. Although there was an overall quota reduction of only 5 per cent, Mr. Frank pronounced the IWC meeting a success.

It is also difficult to understand why Mr. Frank, a few days before the June 1978 IWC meeting, would publicly issue a statement that would jeopardize continued protection for the 11,000 or so California gray whales. Yet, their breeding grounds remain vulnerable and threatened, and their imperiled status is clearly demonstrated by the fact that they remain listed in the U.S. as an endangered species. Moreover, if the pre-exploitation level of these whales was 25–30,000 as some experts believe, instead of the 15,000 assumed by the Scientific Committee, then these whales would still be eligible for protected status.

Again, when there is doubt about the data, the IWC has erred on the side of exploitation instead of protection. But, curiously, in a news release issued shortly before the IWC meeting, Frank suggested that they had recovered sufficiently so that international commercial hunting of them might be revived. "Grounds exist for optimism that the gray whale may be removed from the protected list," Frank said in the release, thus virtually inviting other nations to consider turning to these whales as other stocks disappear or become protected. Sure enough, at the IWC meeting, these whales are removed from the protected list without U.S. objection, and the Russians were given a quota of 178 to be killed for their aboriginal population and reportedly to be fed to ranch-raised fur-bearing animals, such as mink.

In his letter, Mr. Frank gives an elaborate explanation of why these whales will remain protected from commercial killing under the IWC. But he fails to point out that this would apply for only one year, and can be changed by the IWC at future meetings. Thus, my article was correct in asserting that "there is now no effective mechanism to prevent commercial killing from being resumed and expanded in future years."

Finally, Mr. Frank writes that "Although the bowhead whale herd is reduced, most experts in the field do believe that a small take for the next few years would not significantly affect the stock." This statement is contradicted by the fact that the IWC's Scientific Committee—the group whose findings Mr. Frank says he feels obliged to accept—has set and maintained a zero quota on bowheads precisely because they do believe that even "a small take" could jeopardize their survival.

Of the eight great whales on the U.S. endangered list—several of which are still being hunted under IWC regulations—none has shown signs of recovery since being given nominal protection (with the exception of the California gray whales, which have come back after 40 years of protection.)

Today we are seeing some of the last of the great whales still being exploited and slaughtered beyond the point of recovery, with the support of our present Whaling Commissioner. Almost everyone agrees that the data base on which quotas are set is a shaky one, but the killing goes on. If we err, we should do so on the side of conservation, for once the whales are gone, they can never be brought back.

Until recently, the U.S. was the leader at the IWC in helping organize opposition to the small, hard-core bloc of whaling countries. As a result of U.S. leadership, whale quotas have been halved in the last decade. But under Mr. Frank, the U.S. has failed to organize the IWC majority that favors lower quotas. The main pressure on these nations now comes from Japan and the Soviet Union, for the U.S. has abdicated its leadership role.

Respectfully,

LEWIS REGENSTEIN,
Executive Vice President.●

CONGRESS SHOULD REESTABLISH INTERNAL SECURITY COMMITTEES TO MONITOR REVOLUTIONARIES

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. RUDD. Mr. Speaker, I have previously stated my deep concern over the dangerous limitations and restrictions placed on the Federal Bureau of Investigation's monitoring of subversive groups in the United States, by various Department of Justice and Federal court decisions as well as unwise statutes.

As a former special agent for the FBI, I can personally attest to the importance of such monitoring of subversive groups, including efforts to have them infiltrated in order to learn of planned action to harm the public or our Government.

The effect of various laws and decisions by the Justice Department and the courts has been to deny the FBI virtually any power to infiltrate or monitor the activities of ultraleftist groups such as the Revolutionary Communist Party (RCP), the Communist Party USA—a

Marxis-Leninist organization, the New World Liberation Front, the FALN—the Puerto Rican Socialist Party's underground radical organization, and the Progressive Labor Party.

Because of the avowed violent, revolutionary programs of these and other Communist groups, it is absurd to deny the FBI the ability to keep track of the various practices of these organizations.

It is also absurd to deny Congress essential information about these organizations and their activities that it needs, by failing to reestablish full-fledged Internal Security Committees in both Houses of Congress.

It is no coincidence that law enforcement agencies throughout the United States are finding it virtually impossible to keep up with information about these groups, including their planned criminal activities and members.

By stripping Congress and the FBI of the power to perform necessary internal security functions, these groups are allowed to carry out farflung, bizarre terrorist activities against private industry, government organizations and agencies, and individual citizens—without needed counteraction by the proper authorities.

In fact, the internal security situation is so bad at the present time that the Secret Service has listed a large number of American cities as unsafe for a visit by the President of the United States.

Recently the Progressive Labor Party openly advocated the "violent overthrow of the United States." In a special issue of Progressive Labor magazine, the PLP detailed its reasons why such violent overthrow of our Government is deemed necessary.

The fortnightly newsletter, "The Pink Sheet on the Left," published by Phillips Publishing Co., included an article in its September 25 issue concerning this publicly announced objective of the Progressive Labor Party.

The Pink Sheet article notes that the PLP is planting its own members in key positions within our own American Armed Forces, as part of the organization's long-range revolutionary Communist efforts.

It certainly makes sense that we should eliminate all restrictions against FBI infiltration of this organization, in order to protect our people and our Government against its avowed revolutionary objectives.

Congress should also be conducting continuous investigations of this and other groups, through standing internal security committees, so that needed legislative action can be taken to stop this subversive threat to our free institutions.

As soon as Congress reconvenes, it should pass a measure such as House Resolution 48, to reestablish such committees. Nothing should have a higher priority.

I would like to include the Pink Sheet article concerning the Progressive Labor Party at this point in the RECORD:

[From the Pink Sheet on the Left, September 25, 1978]

SPECIAL REPORT: PROGRESSIVE ADVOCATES VIOLENT OVERTHROW OF UNITED STATES

(By Phillip Abbott Luce)

Unfortunately, just as I expected would result from FBI and local police cutbacks in anti-subversion efforts (see Issue No. 181), the smaller communist parties in the U.S. haven't been receiving the attention they should get. A good example is the Progressive Labor Party (see Issue No. 78).

Formed in 1960 as the pro-Chinese Communist party in the U.S. (it's since broken with the Chinese) the PLP has had a history of violence and internal shakeups. But it's survived and is currently making no bones about its revolutionary intentions. Recently, its supporters have physically attacked members of the Ku Klux Klan and the American Nazi Party, and have tried to foment violence during strikes.

PLP membership is less than 3,000, but a handful of fanatics can be effective and dangerous. And the PLP's continued call for violence is a warning of what communists really stand for.

That call rang loud and true in the April-May issue of the Progressive Labor Magazine, official PLP house organ. Its cover story was, "Armed Insurrection: The Road to State Power." Here's how the article began (with my emphasis): No ruling class in world history—slave-owner, feudalist or capitalist—has given up power voluntarily. They have been crushed by armed force . . .

Workers make revolution not to substitute one form of exploitation for another, but to end exploitation and build socialism. Therefore, no compromise is possible with the capitalist class. It must be destroyed.

The conclusion to this long article (which was prepared by the PLP National Committee) gives some detail on future actions. It might also be considered an outline for other communist groups advocating immediate violence in their struggle to overthrow capitalism. Here's that conclusion (with my emphasis):

(1) Our strategy remains the armed struggle for working class state power . . .

(2) We must continue to rebuild our work in the armed forces. We wish to encourage party members and friends . . . to join the armed forces and help build this work. Some older members and friends can join the National Guard . . .

(3) In addition to studying the philosophy of dialectical materialism and the overall political ideas of Marxism-Leninism we must guarantee the study of a particular branch of this science, revolutionary war.

The PLP isn't only calling for armed insurrection, it's planting members in the armed services in an attempt to create confusion and turn troops against their officers to prevent the military from putting down PLP violence.

The Smith Act held it illegal to advocate the violent overthrow of the government. But now that the courts have emaciated the act, the PLP has no qualms about advocating—and planning—revolution. That may cause serious problems as the PLP and various terrorist sects begin serious actions.

That's why I believe it vital that FBI and local police intelligence again infiltrate and closely monitor activities of communist parties such as the PLP. The restrictions placed on the police and national security agencies by the CARTER Administration's Justice Department and the courts must be ended in the interest of national security. A good start would be passage of the Larry McDonald-John Ashbrook House Resolution 48 (see Issue #188) to reestablish a House Internal Security Committee which could prepare the necessary legislation.●

BAD HOUSEKEEPING

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. ANDERSON of Illinois. Mr. Speaker, this morning's Washington Post carries an excellent editorial entitled, "Bad House-Keeping," which takes note of the chaotic and idiotic way we handle legislation in the House. While such chaos is to be expected at the end of a session, the Post correctly observes that "the House has been going at a frantic pace for months. Committees have kept churning out bills. Major measures have piled up on the calendar, with the leadership calling up one, then jumping to another, then going back to the first in mid-flight."

The Post also perceptively singles out the record number of bills being brought up under suspension of the rules which permits only limited debate and no amendments. Comments the editorial:

That streamlined procedure is supposedly for minor and noncontroversial matters, but many congressmen complain that they can't be sure what's going through when 15 or 20 bills rush by in one day.

The Post takes a skeptical view of those who think the answer to this lawjam is to streamline procedures by cutting down on the number of rollcall votes, for instance. Instead, the editorial suggests that the heart of the problem is that, "the volume of business has gotten too great. Past Congresses have created too many programs and agencies for the current Congress to review or at least reauthorize." And the editorial concludes:

Streamlining procedures may only increase the glut. House members don't need more time to dream up and promote more projects. What they need is fewer subcommittees, less entrepreneurial staffs and, above all, more self-restraint. If they did fewer things, they just might do them better—or at least less frenetically. It's something to think about while waiting for the umpteenth roll call late tonight.

Mr. Speaker, the Post editorial coincides with my release yesterday of a "House Reform Agenda for the 96th Congress." My reform proposals address many of the same problems noted by the Post. I have proposed, for instance, that we impose a 1-year moratorium on major new spending programs next year and concentrate on our oversight function by passing sunset legislation and requiring working oversight subcommittees on every legislative committee; only six committees now have exclusive oversight subcommittees. By shifting more attention to oversight we could be cutting back on this "lawjam" that now exists. I have also suggested placing a ceiling of six subcommittees on every committee; the average number of subcommittees per legislative committee today is 7.5. Moreover, we have a total of 191 House units today—committees, select committees, subcommittees, and task forces—up 22 percent from the 159

comparable units in 1974. This helps to explain in large part why we are churning out so much more legislation.

I think we might also exhibit a little more legislative restraint and good sense if we abolished proxy voting and the new one-third quorum requirement. By forcing Members to be actually present to conduct legislative business we just might act more prudently.

At this point in the RECORD, Mr. Speaker, I include the Post editorial and an article from the same edition of the Post on my House reform agenda:

[From the Washington Post, Oct. 12, 1978]

BAD HOUSE-KEEPING

By the time Congress leaves town on Saturday, the House will have set two dubious records. One will be for Most Roll Calls in a Year; the previous high (864 in 1976) was exceeded last week. The House is also likely to outdo itself in Most Yeas and Nays Cast Without Any Clear Idea What the Vote Is About. It could hardly be otherwise when members have to vote in quick succession on at least six conference reports, three supposedly minor or noncontroversial bills and perhaps a half-dozen measures requiring fuller debate. That's today's agenda; tomorrow and Saturday could be worse.

Granted, some end-of-session turmoil is unavoidable. Big tax bills always come late. The energy package remains to be passed. House action is also needed to continue ACTION's programs and keep the Endangered Species Act alive.

Still, one may wonder why so much work remains at the end of the year. The answer is not that Congress has been loafing, or that various factions have held back some dubious bills—such as the proposed Department of Education—in hopes of sliding them through in the last-minute crush. Beyond all the maneuvering, what's noteworthy is that the House has been going at a frantic pace for months. Committees have kept churning out bills. Major measures have piled up on the calendar, with the leadership calling up one, then jumping to another, then going back to the first in mid-flight.

Meanwhile, over 400 bills—another record—have come up under "suspension of the rules." That streamlined procedure is supposedly for minor and noncontroversial matters, but many congressmen complain that they can't be sure what's going through when 15 or 20 bills rush by in one day.

How can the House break the general lawjam? The Democratic Study Group and others wants to curb the number of roll calls. That could save some time. Rep. George E. Danielson (D-Cal.) has calculated that in the first half of this year, 517 roll calls ate up about a third of the House's time—and the outcome was overwhelmingly one-sided in 40 percent of those votes.

Still, some roll calls are useful. If members aren't made to think about a bill, even for a few seconds, they may not look at it at all—and Lord knows what might slip through then. And that points to the heart of the problem: The volume of business has gotten too great. Past Congresses have created too many programs and agencies for the current Congress to review or at least reauthorize. Moreover, the House's vaunted "democracy"—the advent of lively new members, the spreading-out of subcommittee power, the increases in junior members' staff—has generated a constant flood of new projects and proposals, each with energetic sponsors who can tell you in a trice why their measure is vital to the republic.

Streamlining procedures may only increase the glut. House members don't need more time to dream up and promote more projects. What they need is fewer subcommittees, less entrepreneurial staffs and, above all, more self-restraint. If they did fewer things, they just might do them better—or at least less frenetically. It's something to think about while waiting for the umpteenth roll call late tonight.

[From the Washington Post, Oct. 12, 1978]

PROPOSALS FOR HOUSE REFORM OFFERED

Congress should forgo major new spending programs next year and concentrate on studying the effects of past legislation, the chairman of the House Republican Conference said yesterday.

Rep. John B. Anderson (R-Ill.) said the House also should devote its time to investigating existing programs and agencies and to revising its own rules.

The new rules should allow "complete, continuous and unedited live broadcast coverage of House floor proceedings," he said.

Anderson's proposals were submitted to a special Republican task force on House reform.

"We have been too eager to pile new programs on top of old to gain political support from various special interests without proper respect for budgetary restraints, inflationary impacts, the need for greater efficiency and coordination and the over-all national interest," Anderson said.

The first major legislation enacted next year should be a "sunset bill" to impose a specific timetable for reviewing, revising and deciding whether to continue programs and regulatory activities, he said.

The 31 House committees with their 160 subcommittees should be trimmed, he said.

House members of both parties meet in December to vote on rules changes, select leaders and tentatively set legislative agendas for the session that begins in January.

In recent years, the Democratic positions have been placed before the House for a vote with no amendments allowed. Anderson called for an end to that practice.●

JOHN H. DENT

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. JOHNSON of California. Mr. Speaker, as the 95th Congress completes its business, we are reminded that our colleague JOHN DENT will not be returning to these Halls next year. I want to take just a few minutes to commend JOHN on his outstanding record in the Congress.

JOHN came to Congress just before I did, and we have been friends ever since. He has been a hardworking Congressman who knew well the needs and desires of the little man.

Through his membership on the House Education and Labor Committee, JOHN DENT has built an enviable record of accomplishments for the working man and woman. In recent years we have seen a continuing flow of legislation designed to improve the working conditions for American workers. Much of this legislation is the direct result of the skillful leadership of JOHN DENT.

He also took on less glamorous tasks, but nevertheless important ones, through his membership on the House Administration Committee. There JOHN became well known for his diligence and concern with detail.

JOHN has been a good friend and adviser to me throughout the years we have been colleagues. I am going to miss him and want to take this opportunity to wish him continued success and happiness in the years ahead. We hope that he will continue to share with us his vast knowledge and expertise on problems affecting working Americans.●

STATEMENT OF CONGRESSMAN DON EDWARDS UPON INTRODUCTION OF LEGISLATION TO PROTECT RESEARCH ON INTEGRATED CIRCUIT CHIPS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. EDWARDS of California. Mr. Speaker, I am introducing legislation today to protect the rights of inventors and companies engaged in researching applications of semiconductor technology. There is widespread concern in the industry that protection under the copyright laws is necessary to prevent the pirating of imprinted design patterns by foreign competitors.

The proposed bill will amend section 101 of the Copyright Act of 1976 to clarify that copyright protection is available for the imprinted design patterns on semiconductor chips. The Register of Copyrights has denied registration under the present act. She takes the position that these patterns cannot be identified separately from the utilitarian aspects of the chip.

The integrated circuit, a combination of transistors and other electronic circuit elements on a single chip of silicon, was invented in the late 1950's. Commercial integrated circuits (known as "IC's") first were available in 1961. The technology expanded rapidly and in 1971, a fledgling Santa Clara company produced an entire computer on a single silicon chip. The "computer-on-a-chip", technically called the microprocessor or microcomputer, is revolutionizing the electronics industry. The February 20, 1978 issue of Time Magazine quoted an industry analyst as saving that the microcomputer chip: "Will have more impact on our society in the next 20 years than any other invention." Already, the microcomputer is being used in microwave ovens, refrigerators, electric ranges, cash registers, taxi meters, typewriters, television sets, automobiles, hi-fi's, home computers, and, by the end of this decade, probably will be found in virtually every home and business electronic unit produced. To meet the 1980 pollution standards, for example, every automobile will have at least one microcomputer.

The integrated circuit was a Santa Clara Valley development. First marketed in 1961, IC's are already a $5 billion worldwide industry.

Only over the last few years has for-

eign competition become a factor in the state-of-the-art, leading edge portion of the business. The microcomputer started from nothing in 1971. Last year's microcomputer sales were $235 million and are expected to grow 50 percent annually, to exceed $800 million by 1981.

The "chips", as they are dubbed, are becoming larger, more complex—and increasingly expensive to develop. The first microcomputer chip in 1971 was a tiny square slightly larger than one-tenth inch on each side containing 2,250 transistors. The microcomputer of 1978 is a chip about one-quarter inch square and contains over 30,000 transistors. It is more powerful than the IBM 1401—the workhorse business computer of the 1960's.

Producing silicon chips of such complexity requires a substantial chip layout design effort. Layout designers start from a schematic circuit diagram of the microcomputer. The conversion to a chip layout design is done by hand at a drafting table. The completed, hand-drawn layout of a 30,000 transistor chip almost fills a room 20 feet square. Ten designer-years of effort were required to transform that circuit diagram into the chip layout.

The finished layout design is traced by an electronic tracing device connected to a computer. The traced data is stored by the computer onto magnetic tape. This tape is used directly in an electronically controlled camera to photographically produce the masks or tooling which will be used to imprint the design onto the chip. These masks have been photographically reduced in size from the layout drawing by a factor of one one-millionth in area.

Making the layout design is not merely drafting. It requires considerable creativity. The designer must cram the 30,000 transistors and their intricate, rabbit-warren interconnections into an absolutely minimum area in order to minimize the chip size. If the chip is too large, existing production technologies will be incapable of economically producing a sufficient number of fully functioning chips. In other words, the "yield" will be too low to be practical.

At the same time as the cost of creating new layout designs is skyrocketing, the technology for copying them is improving. Ironically, electronic equipment making use of these very microcomputer chips is being used by chip pirates to copy them. Better lenses, better photomicrographic techniques, and better control electronics are becoming available for taking superb blowup pictures of the tiny chip. As soon as the company which did the original design puts a chip on the market, the chip pirate purchases it, removes any impeding coatings on the chip surface, and sends it to a specialized and trained photomicrographer (often in Japan) to make blowup photos of the layout design. Typically, a blowup 800 to 1,000 times the original chip size is used. The chip pirate (or a commercial business which offers chip-copying as a service) electronically traces the photographic blowup and feeds the design information into a computer in exactly the same way as the original layout designer did from his own original design drawings. The techniques and the equipment are exactly the same.

While the American economy is built on competition, unfair competition—and chip pirating is just that—has a negative impact on the semiconductor industry. Unless a reasonable return on investment can be made on a new chip, the American semiconductor firms will not make the investments to design them. Chip pirates drastically curtail the innovator's product leadtime (during which development costs must be recovered) by quickly reaping the fruits of the design. Copying is cheap, designing is dear. If the pirating practices are allowed to continue, the American semiconductor industry no longer will be willing to finance new chip designs. The Japanese companies, financed by the Japanese Government and banks, do not need the profit levels we require to attract capital. They will, by our default, take over the original chip design efforts and eventually the entire market. It was our willingness heretofore to finance creativity which put us in our present leadership position. If our willingness to invest goes, semiconductor leadership inevitably will default to the Japanese, just like video cassette recorders.

Patent protection is not enough. Just as copyright protection on musical works, which has always existed, was not enough to protect against record and tape pirates, patent protection on the circuit designs used in semiconductor chips is insufficient to protect against chip pirates. Patents usually cover narrow circuitry aspects of the chips. These inventions are widely diffused throughout the industry and the world. The semiconductor industry has been characterized by broad cross-licensing of patents, either free or for relatively nominal payments. Patents have been no impediment to its dramatic growth.

The proposed amendment to the Copyright Act will not interfere with the normal "reverse engineering" prevalent in the industry. "Reverse engineering" requires only one or a very few photographs of the layers of the chip. These photographs are analyzed by engineers who can trace the circuit schematic. The circuit schematic is turned over to a chip designed to prepare an original topographic layout design. The taking of these photographs for study and analysis, but not for duplicating, is clearly permitted within the "Fair Use" doctrine set forth in section 107 of the 1976 Copyright Act.

Another practice prevalent in the industry which would not be prohibited by the proposed amendment is the copying of portions of an integrated circuit chip. For example, it is common to copy a single transistor, or a cell of transistors to incorporate these into one's own original topographic layout design. Such copies would be de minimus and thus would not be protectable as "original" works of authorship under the Copyright Act.

The purpose of the proposed amendment to the Copyright Act is to clarify that the creative efforts of highly skilled and highly paid chip layout designers will be legally protected. Much the same as the 1972 amendment to the copyright law was required to prevent phonographic record pirating, the semiconductor industry needs an amendment to the 1976 Copyright Act to prevent "chip pirating".

Chip layout design is a form of unpatentable intellectual property. The 1976 Copyright statute should be clarified to insure its protection.●

THE SALT II AGREEMENT

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. BEARD of Tennessee. Mr. Speaker, in the near future the Congress and the American public will be considering the merits of the SALT II agreement.

The following column, by Mr. Cord Meyer, offers some insight into SALT II. The column is erudite and concise. Unfortuately, it is also true.

[From the Richmond Times-Dispatch, Oct. 6, 1973]

A SALT-Y DIALOGUE

(By Cord Meyer)

Confused Citizen. I'm glad we seem to be making progress with the Soviets on a SALT II agreement but I'm not sure I understand exactly what the new treaty will accomplish.

SALT Expert. Ask any question you want. We experts are always happy to explain these complex issues to the layman.

Citizen. Will the treaty control the arms race between us and the Russians?

Expert. Not really. It applies only to strategic nuclear weapons. That means that wide-open competition will continue in building conventional armaments like tanks and artillery. There's no limit on the size of armies.

Citizen. Well, how will the treaty control strategic weapons?

Expert. Both sides will accept an upper limit of 2,250 on the number of vehicles with intercontinental range capable of delivering nuclear warheads.

Citizen. Good. That means the Russians won't be able to increase the number of atomic warheads aimed at our cities and at our own missiles.

Expert. Wrong. The Russians are in the process of arming their big ICBMs with separately targeted warheads. Their biggest missile, the SS–18, can carry 10 warheads of great destructive power and increasing accuracy. At the rate they're going, by 1985 they will have a lead of 5 to 1 over the United States in the nuclear payload they can deliver.

Citizen. What does that mean?

Expert. It means that by 1982 the Russians may be in a position to destroy in a first strike nearly all of our 1,054 land-based ICBMs with plenty of missiles left over for use against our cities.

Citizen. Won't SALT II prevent that from happening?

Expert. I'm afraid not. There is nothing in the new treaty to inhibit the Russians from improving the accuracy and multiplying the number of warheads.

Citizen. But our ICBMs can destroy theirs in the same way, can't they?

Expert. Not as effectively. Our warheads are smaller than theirs and they have protected their silos better than we have. Besides, we are not likely to strike first.

Citizen. What's the answer?

Expert. The treaty would not prevent us from developing a new mobile missile system to replace our vulnerable silo-based missiles. But if we started tomorrow, it would take seven years to deploy the new system, and it will cost more than $25 billion.

Citizen. So under the new SALT agreement we would have to spend even more money for defense. It seems to me that SALT legalizes the arms race instead of ending it.

Expert. Well, we could write off our ICBM force and rely on the retaliatory threat of our submarine-launched missiles and on our B-52 bombers armed with our new cruise missiles. These are either too slow or too inaccurate to be effective against their ICBMs, but they are a serious threat to their urban population and industrial base.

Citizen. In other words, we hold their cities hostage to prevent a first strike?

Expert. There is one problem. The Russians have been spending $2 billion a year on civil defense shelters and evacuation planning, while we have done very little. As a result, they would probably lose a smaller proportion of their urban population than we would in a nuclear exchange aimed at the cities. That puts us at a disadvantage, unless we move into a crash civil defense program ourselves.

Citizen. I can see my taxes going up. When we began these SALT negotiations in 1969, we were ahead of the Russians in every aspect of strategic power. After 10 years of SALT bargaining, they are either superior to us or catching up fast. The only thing they've given up are some obsolete missiles. Why don't we just back out of the whole deal?

Expert. I wouldn't advise that. You see, we have closed down our ICBM production line. The Russians have a whole new generation of missiles ready for testing. We have mostly blueprints and it would take us years to catch up. Besides, there's always the hope that in SALT III we can persuade the Russians to agree to real reductions.

Citizen. Don't count on it. How did we ever allow ourselves to be backed into this corner?

Expert. Ten years ago, we believed that when the Russians caught up with us, they would settle for parity. Stability would then be assured by our mutual ability to destroy each other's cities. Quite unreasonably, the Russians decided to go for superiority, as if nuclear war would be worth winning.

Citizen. But you are the experts. Why didn't you foresee this?

Expert. How could we anticipate that the Russians would behave so irrationally?

Citizen. Just like missiles, experts become obsolete and need to be replaced.●

CONGRESSMAN JOHN H. DENT

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. BROOKS. Mr. Speaker, as we near the end of the 95th Congress, I would like to make note of the outstanding contribution of one of our retiring Members, my friend and able colleague, JOHN H. DENT.

JOHN DENT alwavs kept the best interest of the people of his district, State, and Nation firmly in mind as he pursued an innovative and constructive legislative career.

The fairness and dignity he brought to his leadership roles as chairman of the Subcommittee on Labor Standards of the Committee on Education and Labor, and chairman of the Subcommittee on Accounts of the Committee on House Administration, will be well remembered by his colleagues and the Nation.

It was with great pleasure that this week I served as floor manager of a bill Congressman DENT sponsored, H.R. 9701. It was a meritorious piece of legislation that will protect the future of Federal Government retirees, and JOHN DENT has scored again on behalf of the people.

We will miss him.●

HON. BOB SIKES

HON. LOUIS FREY, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1978

● Mr. FREY. Mr. Speaker, it is with regret that I rise today to honor my friend and colleague BOB SIKES on the floor of the institution he has served so ably for the last 38 years.

Since these closing days of the 95th Congress will be the last both of us will spend in the Congress, I cannot say that I will miss him next year. But I will predict that the House will be a different place without the "He Coon." The 96th Congress will convene without the man whose experience and service make him a leader among equals.

Few men have served as long or as strenuously as BOB. His colleauges over the years have moved up, become fed up and quit, or been retired by their constituents. But BOB staved and fought —for the military, for his beliefs, for his constituents—and for Florida.

One of the three national naval training centers is in mv district. Although the center was in the planning stages when I came to Congress, the Navy announced in 1972 that they were closing it down—after spending $15 million. As is usual in these matters, I received a courtesy call almost a half day before the closing notice was made public. The first person I called was the Secretary of the Navy, and the second was BOB SIKES.

I am happy to tell you that not only is the Orlando Training Center still in operation, but that next year when the Navy closes one of the other training centers we will expand to take up the slack.

The point here is not so much that BOB was there to help, or that he could help, but that he acted in the best interests of the State and of Nation. I have often used the phrase, "do well by doing good," to describe various projects—but I think BOB coined the phrase. By doing good for his country he has done enormously well for Florida—and we thank him.

I regret his retirement, but I know he has earned it. I wish him luck, good health and many years of leisure.●

CONGRESSMAN FLIPPO ADDRESSES INTERNATIONAL BIBLE COLLEGE ON RELIGION IN PUBLIC LIFE, PUBLIC POLICY, AND PERSONAL ACTION

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. BEVILL. Mr. Speaker, the significance of public life, public policy, and the personal commitment of individuals to religious principles often go unsaid in our deliberations. We begin our proceedings here with a prayer but Congress does not legislate on the basis of religion. The freedom of religion is protected for the individual through the Bill of Rights of the U.S. Constitution. We have held firm to the principle of the separation of church and state throughout our history. history.

Religion and democracy have flourished in our land. Religious belief does have a role in the shaping of public attitudes and is the moral strength of our public institutions. My colleague from Alabama, Congressman RONNIE G. FLIPPO, has spoken eloquently of the relationship between God and man in our national affairs.

The words of Congressman FLIPPO should have a special meaning to those of us in public life regardless of our faith. He speaks from the heart and from the mind with a message which places in the perspective of greater meaning our efforts to rid our society of the evils of mediocrity and injustice.

I am entering these remarks made by Congressman RONNIE G. FLIPPO on September 30, 1978, at the Seventh Annual Evangelism Conference of the International Bible College in Florence, Ala., for the RECORD:

REMARKS OF HONORABLE RONNIE G. FLIPPO TO THE INTERNATIONAL BIBLE COLLEGE, SATURDAY, SEPTEMBER 30, 1978

The relationship between God and man is one of the most important aspects of our national affairs. In the not too distant past, the unwritten glossary on American politics said that God is a word in the last paragraph of a political speech. However, public officeholders are reluctant to discuss religion. Perhaps that reluctance comes from a natural and sincere fear to discuss anything so intently personal as religious faith. Religion is after all a delicate matter so closely bound up with men's personalities that they tend to regard any attack upon their religion as an attack upon themselves. Public officeholders are also reluctant to discuss religion on the grounds that it may appear self-serving. Every politician who kneels in public prayer is suspected of having one eye opened toward a press camera. But it does my heart good when the most powerful politician on planet earth, the President of the United States, stands up before the world on international television directing his remarks to Prime Minister Menahem Begin and President Anwar Sadat, the Heads of Jewish and Moslem nations, and witnesses for the Lord when he says, "As a Christian, Jesus says, 'Blessed are the Peace makers for they shall be called the children of God' ".

Although our nation was founded on the basis of a separation of church and state, there is a constant interaction between the

activities of the national government and the religious forces in local communities. Often our national policy is shaded, diluted and distorted by religious pressure groups. Almost every issue we deal with on a daily basis has some relationship to religious beliefs; abortion, aid to parochial schools, the Equal Rights Amendment and many others are examples of that relationship.

All of these controversial religious issues and thousands more flow into the nations capital. They are national issues which are the concern of all the people of all faiths. They are *your* concern because Washington is You. All of the Representatives, Senators, judges, Presidents, pages and lobbyists are people *you* have sent to Washington, either to govern America or to influence its government. You are paying for them and they are your servants. If they meet religious issues in American politics with evasions and foolish platitudes, it is because you have lacked sufficient candor and courage in facing such issues. If they engage in legislative raids on the public treasury in behalf of parochial special privilege, it is because you have been less than alert in defending the American principle of the separation of church and state. If Washington condones the suppression of religious freedom when the victims are unpopular minorities, it is because you have not been sensitive enough to the rights of the heretic and the citizen of dissident views in your home towns.

There are dangers, but we can also take pride in our National religious picture. We do pretty well in our relationship between church and state. In fact, the combination of tolerance and church-state separation has been rated as our most distinctive contribution to modern statecraft. The churches have thrived on it, and the government has flourished under it and freedom of thought and freedom of faith have prospered under it.

We can offer our Church-State relationship to the world as an example of the way in which democracy and religion may cooperate in a nation of many faiths.

Truth and wisdom are not universally defined commodities. We are a nation of differing viewpoints and differing opinions. That has been true throughout our history.

Every one of the four Gospels reports a different wording for the legend written over the Cross on Calvary. Good men and true each looked at the same cross and each reported what he saw differently.

Government and representatives of government suffer from the same faults that the American people suffer from and rejoice in the same virtues. Most officeholders recognize that the roots of all wrong are in the hearts of men. And the main thrust of Christian effort is toward the regeneration of hearts. Only to the degree that human hearts can be regenerated can social evils be overcome.

God's message was tolerance and love. Jesus' coming was a new day. There was neither Jew nor Greek nor Roman, but a new humanity of which Christ was the head. Wherever he lives a Christian is expected to be a transforming force for the Christian way of life. Each Christian ought to be able to say to every other Christian "You do your Christian job where you are, I'll do my Christian job where I am. And we will both do it without needing a policeman to check up on me or threaten me with punishment if I don't do it." Such is the inner motive of the Christian—a compulsion to love.

Age and education give you the authority, and citizenship and Christianity give you the responsibility to *rage* at mediocrity and injustice and evil in our society; more importantly to rage at mediocrity and injustice and evil in ourselves, in our own hearts.

Lest we leave our lives in the alter of ethical neutrality or find our soul eroded by those gentle raindrops of moral detachment we should heed the writer and do not go softly into that Good night but *rage, rage* against the dying of the light.

Reason.—More things are wrought by reason that this world dreams of; wherefor, we should make reason the ultimate weapon in our arsenal of rage, and by it use convince others of our integrity if not of our rightness.

The hand that cradles the rock and the heart that heeds not the head shall not rule this world.

Read.—Bury yourselves in good books and the Good Book and read them often. Develop a thirst for printers ink and quench it by reading, for from books flow the fountain of youth found by few.

Laugh.—We should learn to laugh at ourselves. He who cannot laugh at himself always appears ridiculous.

Linger.—There is a time and a place for all things. Time will wait for what's worthwhile. As we go through life we should pause to pick some flowers along the way.

Love.—Love is the most *unnatural* of all human emotions. While we have learned how to transplant the human heart we have not learned to transform it. We must learn to act unnaturally and follow the commandment to love one another.●

REPRESENTATIVE JOHN DENT

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. BINGHAM. Mr. Speaker, I am delighted to have the opportunity to participate in this special order in honor of the distinguished gentleman from Pennsylvania, JOHN DENT, who is retiring this year.

I served for a time on the House Administration Committee with JOHN DENT and of course had many opportunities to listen to him speaking in the well of the House, as well as to engage in conversation off the floor.

JOHN has always been a stimulating person, with very definite ideas and the ability to express them forcibly. One did not always have to agree with them to admire the strength of the conviction from which JOHN expressed his views.

JOHN DENT always had the welfare of the Members of the House very much at heart. He understood their problems and sought, from his position in the House Administration Committee, to help in the alleviation, if not the solution, of those problems.

In his work as chairman of the Subcommittee on Labor Relations of the Committee on Education and Labor he battled again, and again for justice for the American working man and woman, seeking to provide a decent minimum wage, to offset the dreadful effects of "black lung" disease, and to provide protection for working people who in the past were too often cheated of their pension rights.

JOHN DENT can be proud of his record in the House and we wish him well in whatever he undertakes in the future.●

LACK OF DEFENSE APPROPRIATION BILL MEANS NO PAY FOR SERVICEMEN AND CIVILIAN EMPLOYEES

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 11, 1978

● Mr. SIKES. Mr. Speaker, Secretary of Defense Harold Brown has addressed a letter to the chairmen of the House and Senate Committees on Appropriations and to the members of the Defense Subcommittees, in which he states specifically that payrolls for 466,000 Department of Defense civilian employees will come due on October 13 and for 1.5 million service personnel on October 15. The Department has no money to meet these payrolls. Passage of an appropriation bill or a continuing resolution this week is essential or these people will go payless. Even if passage of a bill is completed this week, a leadtime of several days is required to assure the checks are in the hands of personnel. A continuing resolution is very unsatisfactory for many reasons. The defense appropriations bill is now ready to come to the floor of the House and Senate. Conferees have completed work on it. It is obvious that there should be no delays in final consideration and approval of the bill. I submit for reprinting in the RECORD a copy of Secretary Brown's letter:

WASHINGTON, D.C.,
October 6, 1978.

Hon. GEORGE H. MAHON,
Chairman, Committee on Appropriation, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Knowing that you share the deep sense of responsibility that I feel for the men and women of our armed forces, I want to express my concern about the current situation with respect to funding of the Department of Defense. I think it important to let you know how things stand now, in order that you may bring the facts to the attention of your colleagues and urge their speedy action.

Since the end of the previous fiscal year on September 30, as you know, there has been neither an appropriation act for the Department of Defense nor a joint resolution to authorize continuing expenditures of funds on an interim basis. No later than October 13 payrolls for approximately 466,000 DoD civilian employees will come due, and no later than October 15 is pay day for the first half of October for 1.5 million of the men and women in the Army, Navy, Air Force and Marine Corps. Normally there is required a lead time of several days to assure that checks are in the hands of our personnel, or are deposited in their bank accounts, on or before the due date. In contemplation of the Congress' final action on the appropriation bill, I have directed that every action be taken to prepare to make the funds available with the shortest possible delay as soon as that may be done. I am concerned, however, that unless the Congress acts very early in the week of October 9 some delays in payment will be unavoidable. These, of course, will work a hardship on persons who do not have savings to tide them over a few days, and on their families. That is an aventuality I am determined to avoid—as I know you are—if it is at all possible to do so.

For this reason I hope you will express to

your colleagues the great concern we share, and that you will urge them to do everything possible to bring about final action on the Defense Appropriation Bill at the earliest possible date next week. I know that you care deeply for the well-being of our personnel, a cause which you have always served with great ability and devotion. It is with that shared goal in mind that I offer any help I can provide to resolve this situation promptly.

Sincerely,

HAROLD BROWN.●

SOLAR ENERGY

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. MAGUIRE. Mr. Speaker, an extremely important series of articles, authored by Gordon Bishop, on the economics of solar energy applications—and their relative advantages relative to conventional fuel sources—has recently appeared in the Newark Star Ledger.

My colleague, MILLICENT FENWICK, has inserted into the RECORD the first three articles in the Bishop series. The fourth and last articles of the five-part series are inserted below, together with a column authored also by Gordon Bishop entitled "Solar Power Outshines the 'Big-Time' Fuels":

BRIGHT SCENARIOS: U.S. AGENCY CHARTS THE FUTURE OF SOLAR POWER

(By Gordon Bishop)

By the turn of the century, more than 37 million homes are expected to be heated and cooled by the sun.

That is the goal of the U.S. Department of Energy (DOE), based on the conservative price of a barrel of oil at $25 by the year 2000.

But, the price of worldwide oil which is almost $15 a barrel today, is expected to more than double that within the next 20 years making solar energy more attractive and competitive to the consumer.

The United States will contain over 100 million dwelling units when the 21st Century begins, according to the "Domestic Policy Review on Solar Energy" released Aug. 25.

The review was ordered by President Carter on Sun Day (solar energy day, May 3). The review was conducted by a cabinet level Solar Energy Policy Committee chaired by Energy Secretary James R. Schlesinger.

About 45 million of the expected number of dwelling units (100 million) will be built between now and the end of the century, the solar review estimates.

Assuming that oil will cost a minimum of $25 a barrel, about one-eighth of the new dwellings—or between five and six million units—will be constructed with a passive solar design, saving roughly 50 per cent of the householder's heating demand.

For every five new homes constructed with solar hot water and heating systems, the report goes on, it is assumed one new home will be built with both solar heating and cooling systems, or slightly over one million units.

Another 11 million homes will be retrofitted with solar hot water collectors and storage tanks.

Thus, solar heated homes would account for about 13 per cent of all new construction over the next two decades, and about 6 per cent of all homes existing in the year 2000, the policy reviewers predict.

Commercial buildings were assumed to offer less of a potential market than the residential sector because of their relatively smaller roof areas per unit of floor area.

A doubling of commercial floor space is likely to occur over the next 22 years, with 20 per cent of the present commercial buildings being replaced, according to the solar analysis.

The heating, hot water and cooling loads displaced by solar systems in the new construction were estimated at 30 per cent of the new loads.

To supply the collectors needed for all buildings for the residential-commercial market would require a solar industry with a cumulative output 130 times greater than what could be produced with present capacity over the same period, the policy review calculates.

A growth of that magnitude would require additional action by government and the private sector to bring about the solar transition envisioned by the policy review committee.

To achieve the level of market penetration possible with existing and improving solar technologies, tax credits amounting to an effective 20–30 per cent discount on the first costs of space and hot water systems are essential, the study finds.

Federal lending institutions also would have to provide extra investments needed for solar installations.

And industry would have to receive additional 10 per cent investment tax credit for solar equipment.

The level of spending by the federal government would be moderate, however. The solar review committee sees a continuation of $500 million a year for research and development programs aimed primarily at technology development.

Consumer education would also have to be stepped up to inform homeowners and business managers of the increasing number of incentives and programs available.

The National Solar Heating and Cooling Information Center lists over 31000 "Solar professionals"—architects, engineers, designers and builders—as of Aug. 1.

Their exact type and level of activity is unknown.

The Solar Center also lists over 400 manufacturers of other types of solar equipment, such as systems to capture and convert sunlight, wind and biomass (wood, sludge, wastes that can be used as fuel).

There are also over 3,000 distributors of solar systems, with the number growing each month as federal demonstration projects become funded and the monies trickle down to the states and local agencies administering the programs.

In New Jersey, the Department of Energy has an office of Alternate Technologies headed by Dennis O'Malley.

The office at 1100 Raymond Blvd., Newark, is processing some 2,000 applications for solar hot water systems. Each qualified applicant receives $400 as a downpayment against the installation of a solar unit costing approximately $2,000.

The program, announced last year, is being funded by the U.S. Department of Housing and Urban Development (HUD).

SOLAR FLICKER: HOME SYSTEMS TESTED IN PSE&G PILOT PROGRAM

(By Gordon Bishop)

Public Service Electric & Gas Co., New Jersey's largest power producer, is spending $627,400 to find out if solar energy can really perform in the Garden State.

When the giant utility (the third largest electric/gas combine in the country) announced in the summer of 1976 that it would install and operate 14 experimental solar systems in its territory, the company received 42,000 inquiries from customers.

Robert I. Smith, president of Public Service, feels "no one really knows what the potential for solar energy is in New Jersey," but that the company's "comprehensive effort" will enable energy consumers and producers to know for sure.

PSE&G selected nine existing homes and installed solar water heating systems in them. Another existing home and a new home were equipped with solar water heating units, as well as systems for heating the living space in the homes.

Another new house was equipped with a solar unit to augment a heat pump, which draws heat from the outside air even in the cold winter months

Two existing swimming pools were retrofitted for solar heating.

In addition, four weather stations were set up to obtain solar data, including temperatures, sunshine intensity and cloud cover.

The stations are located at Public Service's Waldwick switching station in Bergen County, the company's Energy Laboratory in Maplewood, Essex County, Deans switching station in South Brunswick Township, Middlesex County, and Camden switching station in Pennsauken, Camden County.

Each of the 14 participants paid a contribution toward the solar systems, ranging from $100 to $500, depending on the type of unit installed. The cost per installation ranges from $2,000 for a hot water unit up to $15,000 for water and heating.

The demonstration program is now in its second year.

Each test system will become the property of the homeowner upon completion of the study, according to Public Service's Research and Development Department.

The hot water systems were installed in homes in Burlington (a PSE&G employe), Florham Park, Piscataway, Princeton Junction, Rahway, Ramsey, Vincentown, West Windslow(an employe), and Newark.

The Newark installation is a special joint effort with Tri-City Citizens for Progress Union, an innercity redevelopment organization.

PSE&G supplied the equipment and aid in the system design for a three-family residence, Tri-City residents did the installation themselves.

The hot water and heating systems were installed in homes in Bridgewater and Blackwood, South Jersey.

The swimming pool solar units are located in Cedar Grove and River Vale.

The solar augmented heat pump is in a house in Fairfield.

PS researchers say they plan to recover some of their investment through federal solar grants available for certain utility experimental projects.

"Should solar energy prove to be an economic and reliable future energy source for its customers, PSE&G would try to utilize it," the research department reports.

But the company's president is not optimistic on solar energy, as evidenced by two recent speeches he made.

"Present indications are that the savings generated with today's energy prices fail to make solar equipment an attractive investment," Robert Smith told a meeting of the Better Business Bureau of Greater Newark Sept. 18 at the Robert Treat Hotel.

Smith's talk, entitled "Energy for New Jersey," looked dimly at sunshine power.

"As energy prices increase," Smith said, "the economics will become more favorable, and we expect solar to make a small contribution to energy supply between now and the year 2,000."

A week later, on Sept. 23, before the New Jersey Medical Women's Association, Smith declared:

"We are of the opinion that these alternates (solar, garbage, wind, cogeneration) can make only a minor contribution to energy supply in New Jersey during the next 20 years."

Public Service is putting its bet on nuclear power, investing more than $5 billion on nuclear generating stations.

The utility is also relying on coal to produce electricity.

The utility industry in general is counting on coal and uranium fuel as the source of the nation's electric power.

But the U.S. Department of Energy already is downplaying the use of coal because of complicated pollution problems, and President Carter has not yet given the green light to advanced nuclear reactors that eventually will have to replace conventional reactors as uranium supplies dwindle.

Although the jury's still out on solar energy as far as PSE&G is concerned, more and more homeowners and businesses are turning to the sun to heat and cool their buildings.

The pace is slow, however, and Public Service attributes much of the problem to the government and the solar industry itself.

"There has been no large-scale promotion by solar equipment manufacturers," Public Service's R&D department points out.

And governmental assistance through tax incentives, low interest loans, grants and other subsidies are either "nonexistent or few in number," PSE&G emphasizes.

Public Service's "early observations" based on its 14 test projects are:

Costs are generally exceeding the initial 1976 estimated costs.

Installed cost of solar systems is increasing, not decreasing, a situation PSE&G finds might be a "short-term trend reflecting inability to meet demand."

Solar systems in operation have performed well—no major problems beyond usual start-up leaks.

Vandalism can be a problem, especially in urban areas. "No Trespassing" signs have to be posted to discourage inconsiderate solar visitors (the "curiosity factor").

One customer dropped out of the program because of a neighbor's complaint. A replacement was found.

SOLAR POWER OUTSHINES THE "BIG TIME" FUELS

(By Gordon Bishop)

Tucked snugly away in the Blue Ridge mountains of Virginia is a tiny energy factory powered by unlimited human ideas and ingenuity.

Within the round brick walls of Intertechnology Corp., Warrenton, are enough energy schemes to end the world's worries over fuel shortages, environmental disasters and economic-inflation dilemmas.

The task confronting Intertechnology and other research and development companies is to translate the seemingly endless energy potential on earth into useful forms for heating, cooling, and powering motors and machines.

The solutions to many of the world's energy-economic problems are already here, if what Intertechnology and other R&D firms are doing catches on.

In our search for solutions to today's energy fix, we went to the U.S. Department of Energy in Washington, for advice.

Dr. Henry Marvin, deputy program director for Solar, Geothermal, Electric and Storage Systems in the DOE, turned us on to Intertechnology Corp., a leading consultant to the federal government.

Marvin described Intertechnology as an "aggressive worldwide applicator" of alternate technologies, all of them using renewable energy sources.

Intertechnology is the sum and substance of one man—George Szego.

Born in Budapest 59 years ago, Szego is a maverick engineer who is light years ahead of his profession and the energy powers that control the flow of the world's capital and resources.

He would like to see some of that capital and technology shifted immediately to energy resources that are renewable and non-inflationary.

When talking about energy, the economy and the environment, Szego sounds much like Theodore Edison, son of the famed inventor from West Orange.

Ted Edison, also an engineer, warned in this column two years ago of irreversible global conditions unless industrialized nations turned to the sun for relief from oppressive inflation and ecological degradation.

The energy powers—those who control oil, natural gas, coal and uranium—are bent on exhausting their capital and the planet's finite resources this century, rather than build and install solar collectors today.

Edison and Szego, both widely respected engineers, are trying to wake up the people and their governments to the hazards of fossil and nuclear fuels. They are expensive, exhaustible and pollute the biosphere.

Still for every dollar invested in solar sanity today, $1,000 or more goes into nuclear fossil fuels.

A former aerospace specialist with General Electric and professor at Seattle University, Szego decided in 1968 that big corporations and big government were wasting their time and money pursuing the fossil-nuclear nightmare.

He founded Intertechnology Corp. and pioneered many of the solar concepts now being developed by the U.S. Department of Energy and recent corporate converts.

Szego, who holds three degrees in chemical engineering, including a doctorate from the University of Washington, says he is not in the business of developing ideas that become shelved in some bureaucrat's files.

He figures natural gas will be fairly well played out within 10 years, oil within 25 years. and nuclear—well, that's an unanswerable question at the moment because of the nuclear proliferation and storage problem.

As for coal, it will be limited because of carbon dioxide and sulfur dioxide, plus the fact it takes a lot of water for processing, water which is simply not available.

That leaves solar and fusion. Szego regards fusion as a complex, costly experiment which, if it succeeds, won't be of any help for perhaps 100 years.

Solar, on the other hand, is readily available today. It is a simple technology that can produce energy for heating, cooling and electricity. All that's needed is capital, capital that is now being plowed into fossils and nuclear development.

The federal government has spent, in the way of subsidies and tax credits, about $500 billion since 1918 to establish a fossil fuel and nuclear economy.

For only a few billion dollars, solar can be doing the job without pollution and inflation.

George Szego and Ted Edison are engineers, not bureaucrats, legislators or corporate executives.

But if they were making the decisions on policy and direction, our "democratic society" would be serving the interests of the working consumer, and not the energy elite that seem caught in a dead-end technical fix.●

PEACE TALKS

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Ms. OAKAR. Mr. Speaker, it is with mixed emotions that I accepted the President's invitation to the opening of the peace talks concerning the Middle East. I say this because, while I applaud the open dialog with Middle Eastern leaders and the President, I do not believe the Middle East is being dealt with in a comprehensive manner. How can we assure there will be peace in the Middle East when, for example, the internal and external problems of Lebanon have not been dealt with. I have often noted, on this floor, the lack of concern for this tiny country and other countries in the Middle East. This is brazenly illustrated by the fact that not one cent to aid this country is to be found in any bill related to foreign aid. While American weapons have been used on occasion to devastate the country, American aid in the form of food, shelter, and clothing is not to be found. Where is the concern for humanity and human rights on the part of our Government for this country and its people. I am submitting for this body's RECORD a letter I wrote to the President calling upon him to use the same energies of his office which he has demonstrated in other areas of this part of the world to the current crisis in Lebanon. No one force is totally guilty or innocent. All are responsible. I urge my colleagues, the President, and the American people to have a commitment and a compassion for these people living in Lebanon. The following is a copy of a letter to the President which was hand delivered October 6, 1978:

WASHINGTON, D.C.,
October 6, 1978

THE PRESIDENT.
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I write to you today, imploring your help as a fellow human being, dedicated to the concept of human and equal rights for all peoples. I write to you today, as my President, believing in your outspoken commitment to World Peace and Human Rights—a concept to which I also am committed. I write to you today, fully confident that you will not permit the present bloodshed reddening the streets of Lebanon to continue.

Lebanon has lived the 'prolonged agony' of the ravages of war and prejudice and destruction. Lebanon, since her inception, has remained unfaltering, however, in her allegiance to the United States, even though, the United States has chosen not to award one cent in terms of human needs to her faithful ally in the foreign aid bill. On the other hand, we have appropriated billions of dollars to the rest of the Middle East. Mr. President, Lebanon is indeed a small country, and perhaps cannot offer the United States the same economic advantages that more prosperous countries of the Middle East have the resources for, yet I cannot despair and think that your motive for assisting less fortunate countries is solely one of economic gain as opposed to the higher value of human justice!

I call upon you to use your influence as a World Leader and a humane person to demand a cease-fire in Lebanon immediately. I call upon you to use your influence as a World Leader and humane person to demand United Nations meet to comprehensively deal with the crisis in Lebanon. I call upon you to make the commitment to Lebanon that you have made to other areas of the Middle East. I call upon you to respond immediately to the August 9th request made by myself, Congressman Kazen, and others of Middle East ancestry regarding a meeting—a meeting which possibly could have begun to build a framework that would have prevented the renewed attack in Lebanon.

I do not dramatize the recent events in Lebanon. I cannot minimize the counter effects such disasters will have on the Camp David accords. The World cannot avoid the political reality of Lebanon any longer—the World cannot avoid a social struggle that could precipitate another war—the world cannot avoid a commitment to human justice and world peace.

I remain confident I will receive a positive response to my requests.

Sincerely,

MARY ROSE OAKAR,
Member of Congress.●

PHILADELPHIA LAUNCHES INFLUENZA IMMUNIZATION EFFORT

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. EILBERG. Mr. Speaker, the city of Philadelphia has launched its 1978–79 influenza immunization program for its high-risk population.

Under the direction of Dr. Lewis D. Polk, acting city health commissioner, the program is being carried out at all 11 of the department's health centers, as well as a nursing, convalescent, and retirement homes throughout the city.

Reporting to the Philadelphia Board of Health at its monthly meeting, Dr. Polk noted that this year's trivalent vaccine will give protection against A/USSR (Russian)/77, A/Texas/77, and B/Hong Kong/72 influenza—the currently prevalent strains—and will require only a single dose for immunization for those over 26 years. Those who are 25 and under will require two doses of a modified "youth formula" vaccine.

Dr. David A. Soricelli, deputy health commissioner for Community Health Services, said the Health Department recommends influenza immunization for anyone 65 years of age and older, as well as for individuals of any age who suffer from a chronic debilitating illness of a cardiovascular, pulmonary, renal, or metabolic nature. These would include such illnesses as heart disease, hypertension, tuberculosis, asthma, chronic bronchitis, kidney or liver problems, diabetes, Addison's disease, or other such disorders.

Flu immunization of healthy children and adults under 65 is not recommended, nor should the vaccine be given to anyone allergic to eggs nor to anyone who has a history of having had Guillain-Barre Syndrome.

During the week of September 25, Health Department technicians visited nursing, convalescent, and retirement homes which have 50 or more residents. Utilizing a jet-injector, they immunized approximately 5,000 persons in the high-risk group.

Free walk-in clinics at the city's health centers for eligible high-risk persons will be available through March 1979.●

S. 957, THE DISPUTE RESOLUTION ACT

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1978

● Mr. ANNUNZIO. Mr. Speaker, as the 95th Congress comes to a close, the mad rush to complete action on major legislation has gone into full swing. In the biannual scramble to close up shop, very valuable legislation is often abandoned, doomed to repeat the whole legislative process in the next session. One bill which has already suffered this fate, and which may do so again, is S. 957, the Dispute Resolution Act.

S. 957 is designed to counter the dismaying, but not too surprising figures of a Louis Harris survey which shows that 79 percent of the public feels it is a waste of time to complain about consumer problems because they are confident that nothing will be achieved by doing so. One of the prime causes of this feeling of frustration and helplessness, which allows merchants to continue to abuse their customers, is the adversary court process consumers must deal with in order to enforce their statutory rights. Small claims courts have inconvenient hours, are often inaccessible, and provide little assistance to consumers unfamiliar with the court process. It is estimated that there are presently 41 million individuals without reasonable access to a small claims court. Such a system gives a decided advantage to those who violate the law.

It is imperative that we respond to the ineffectiveness of formal court procedures. We need to explore alternatives to the court system which will offer people an outlet to air their grievances without having burdensome costs and demands placed on them. Experiments throughout the country with innovative mediation, negotiation, and conciliation programs have shown the value of settling disputes outside of the traditional channels. S. 957 is designed to provide Federal support both for improving the traditional small claims court system, and for establishing new mechanisms for resolving disputes. This bill provides for the creation of a dispute resolution program within the Department of Justice. This program would, through grants to States, localities, and nonprofit organizations, assist in the development of inexpensive, fair and easy to use forums for resolving consumer disputes. Applicants for the grants under this program would be required to meet criteria set out in the bill geared to overcome the problems consumers currently face. These include assistance in how to use the dispute resolution mechanism, the establishment of centers in convenient locations and with reasonable hours, and the use of forms, rules, and procedures which are fair and easy to understand. The bill would also require that there is ample assurance that any settlement which is reached will be implemented. This last provision is especially important, because currently consumers have a difficult time collecting damages even if a court has ruled in their favor.

Passage of this bill would prove to Americans that this Congress should be remembered not for freely spending taxpayers' money on worthless projects, but for prudently investing in programs which will benefit all citizens facing the everyday problems which Congress sometimes ignores in its efforts to deal with larger issues.●

HON. ROBERT L. F. SIKES

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1978

● Mr. FASCELL. Mr. Speaker, it is not easy to say goodbye to a colleague with whom you have worked for almost a quarter of a century. However, as the 95th Congress nears adjournment, I wish to express my esteem for ROBERT L. F. SIKES, who is retiring from Congress at the end of this, his 19th term.

BOB SIKES has acted as the dean of the Florida congressional delegation since 1952, and he holds the record for length of service in Congress from the State of Florida. Throughout his entire congressional career, he has maintained an outstanding record of service and dedication to the interests of his congressional district, to Florida, and to the Nation.

In his many years on the Military Construction Subcommittee of the House Appropriations Committee, BOB became an influential spokesman for a strong national defense. His legislative skill in the field of military appropriations is acknowledged by all who are familiar with his work in this area.

I am sure that, as BOB looks back on his distinguished career which spans 38 years in the Congress, he will be proud of his many accomplishments. When he returns to his home in the Florida "Panhandle," I can only hope that he will now have the time to enjoy hunting, visiting with friends, and other such leisurely pursuits for which the hectic pace here in Congress has not always left sufficient time.

To BOB and his lovely wife, Inez, I offer my best wishes for future health and happiness.●

WALL STREET JOURNAL CITES NEED FOR INTERNATIONAL EFFORT ON REFUGEES

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. EILBERG. Mr. Speaker, the House has adopted a sense of the Congress resolution requesting the Attorney General to exercise parole authority under the Immigration and Nationality Act to admit, over a 2-year period, 15,000 Cambodian refugees now in camps in Thailand.

This resolution arose out of the deep concern which we all share over the ruthless and brutal treatment of Cambodian citizens at the hands of Communist leaders in that country.

As chairman of the Subcommittee on Immigration, Citizenship and International Law, I joined with the ranking minority member of my subcommittee, Mr. FISH of New York, in opposing the resolution. We felt it to be detrimental to our efforts to establish a fair, humanitarian, and long-range refugee policy in the United States. We warned that its effect would be to perpetuate the past policy of responding to refugee problems in an ad hoc, piecemeal fashion. At the same time, we felt that the resolution was unfair in that it singled out refugees who are now living in far better conditions than other refugees in Indochina, and it did nothing to ease the plight of the Cambodians who are struggling against the genocidal tactics of the Communist regime in Cambodia.

I commend to the attention of my colleagues the following editorial from the Wall Street Journal of October 2, 1978. This editorial correctly points to the lack of coordination and the piecemeal approach which has marked the U.S. Government's approach to the Indochina refugee problem, and cites the need for action on the international level to ease the plight of the tens of thousands of refugees now in Indochina.

This was precisely my concern, Mr. Speaker, when I addressed a letter to President Carter on August 7, 1978, which I also submit for the RECORD:

[From The Wall Street Journal]

INDOCHINA UPDATE

A little more than a year ago, news began coming out of Indochina on the growing refugee problem in the area. The flow of refugees from Vietnam had not dried up as the new regime established its hold; people were still trying to escape, often by heading out onto the open sea in small boats. A few refugees were also managing to escape from Cambodia, bringing their stories of the almost unbelievably grim and murderous life there. Since then, the American government ha. made increasingly strenuous efforts to try to deal with the situation. But deteriorating conditions in Indochina keep outpacing them.

This past winter, the International Rescue Committee sent a citizens' commission to Southeast Asia to get some idea of the size of the problem. The group reported more than a hundred thousand refugees sitting in refugee camps in Thailand, with more scattered throughout Southeast Asia. Fifteen hundred boat people a month were coming out of Vietnam, and two to three thousand entered Thailand from Laos each month even though the Thais no longer wanted to accept them as refugees. The citizens' commission recommended that the U.S. adopt a more generous policy towards refugee admissions. The Carter administration responded, saying it would use its emergency parole authority to admit the boat people and more of the refugees with special family or employment ties to the U.S.

But before much of this could be implemented, circumstances changed once more. There's recently been a sharp rise in the number of refugees reaching haven: From April through August, the average was 8,200 a month. Included was an increase in the number of Cambodians, perhaps because war with Vietnam has diverted Cambodian troops from the Laotian border. The Thai government intends to tighten up its already restrictive admission policies. More of the escapees are now showing up in Malaysia; it seems only a matter of time before the Malaysian government, too, feels it has to do something to cut them off.

Various agencies of government have been trying to cope with these events. Escaped Cambodians, for instance, are in an especially bad position to gain entry into the U.S. because they rarely have relatives here or any special connection with the U.S. government. Congress has just responded with the Dole-Solarz amendment, approving a special use of the parole authority for them. But this isn't an obligation that the country is going to be able to meet easily or neatly. Right now, for instance, the State Department stands in need of more money for our voluntary resettlement agencies, whose costs in settling new immigrants considerably exceed what the government is authorized to reimburse them.

Right now also there are countries that could fruitfully use some prodding to live up to their responsibilities. Japan, for instance, still hasn't forked over the 10 million dollars it pledged to help defray the deficit of the UN's office of the High Commissioner for Refugees. And Sweden, for all the moral sensitivity it displayed during the Vietnam war, evidently doesn't think its duties extend to taking in some of the people whom postwar Indochina has made homeless.

We will no doubt see many such failings, new needs and seemingly endless tasks before this refugee episode is over. It would be a terrible thing if somewhere among them the impulse to continue were lost.

AUGUST 7, 1978.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I remain deeply disturbed by the "ad hoc" response of the United States Government to refugee problems in general and to the Indochina refugee problem in particular.

I communicated this concern to you in a July 12, 1977 letter in which I stated that "it is imperative to end the haphazard, piece-meal approach which the U.S. has taken toward [Indochina] refugees." That same letter requested you to "take the lead in convening the nations of the world for an International Conference on Indochinese Refugees."

Based upon statements made last week by the Secretary of State during a meeting with the ASEAN minister and my own discussions with the Foreign Ministers of Thailand and Malaysia, I continue to believe that such a Conference is essential in resolving this truly international problem. I therefore renew my request that the U.S. undertake immediate steps leading toward the convocation of a worldwide conference on this most serious problem.

I would also request that the Administration consider the urgent need for closer cooperation between the various Executive Departments involved in formulating and implementing administrative aspects of our refugee policies. Unfortunately, there appears to be little coordination between the Departments of State, Justice, and HEW in reaching decisions on: the number and categories of refugees to be admitted; the amount and method of funding their care and maintenance in asylum countries or their processing and movement to the U.S.; or the amount and type of assistance to be provided to voluntary agencies, to the States or to the refugees themselves to facilitate their resettlement in the United States.

For example, the Administration is now asking the Congress to once again extend the "Indochina Migration and Refugee Assistance Program" in a limited, "stopgap" manner. In my judgment it is unreasonable and inefficient to propose such an extension and at the same time support a continuing admisisons program of 25,000 Indochina refugees per year. Certainly, the issues of refugee admissions and resettlement funding cannot and should not be separated—even though we have done so in the past. In order to promote a comprehensive, coordinated and unified approach to the Indochina refugee problem these matters must be submitted to, and considered by, the Congress simultaneously. It makes little sense for the Judiciary Committee to concur in the use of parole for certain Indochina refugees, when no monies exist to process, transport and resettle that group of refugees.

My concerns on this subject are shared by the ranking minority members of the full Judiciary Committee and the Subcommittee on Immigration, Citizenship and International Law, which I chair. In fact, our views were expressed in a June 1, 1978 co-signed letter to the Attorney General regarding the use of parole for 25,000 Indochina refugees. In that letter we stated:

"We are also troubled by the lack of coordination in the Executive Branch in the development of policies and procedures for admitting and resettling Indochinese refugees. Apparently, decisions on the admission of refugees are finalized without adequate planning on the resettlement of such refugees. In our judgment, the presentation of detailed cost data and the submission to Congress of a definitive legislative proposal on financial reimbursement to State Governments would have greatly assisted us in our consideration of this parole request. Decisions to admit refugees must not be made in a vacuum. They must be accompanied by carefully-developed plans designed to facilitate their resettlement in this country."

This view is apparently shared by the House Committee on Appropriations, particularly its Subcommittee on Foreign Operations, chaired by the Honorable Clarence Long. In that Committee's report on H.R. 12931, the Foreign Assistance and Related Programs Appropriation Bill, 1979, it was stated:

"With the fiscal year 1980 justifications, the Administration must submit to this Committee a five year financial projection of the Indochinese program. This must include, at least, the numbers of refugees involved, those costs to be borne by this account and the Department of Health, Education, and Welfare. Further the Administration must submit evidence to this Committee that officials of the Department of HEW are participating at these preliminary stages, are cognizant of the ultimate costs and support this further admission of these refugees. Finally, the Administration must provide detailed documentation or testimony proving that they are working to achieve broader world support for these refugees."

I would therefore urge you to personally insure that these issues are better coordinated in the future and—if necessary—to

establish a formalized mechanism in the White House to accomplish this objective. I strongly believe that these congressional concerns can only be alleviated if we receive the full support and cooperation of high-level officials from your Administration.

I am hopeful that such support could also extend to the enactment of comprehensive legislation on this subject, as well as to the convening of the International Conference on Indochina Refugees, mentioned earlier in this letter.

I can assure you, Mr. President, that I am committed to the establishment of a coherent, long-range and coordinated refugee policy for this country. I know that you share this view and I am most anxious to work with you and your Administration in accomplishing this humanitarian goal.

Sincerely,

JOSHUA EILBERG,
Chairman.●

DAVID G. OGILVIE III WINS GOLF AWARD

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. RUSSO. Mr. Speaker, last month David G. Ogilvie III won the Illinois Professional Golf Association's Golf Pro of the Year Award. This is a fine victory for a man who can trace his golf "tree" back to 1896, who has honed his skill and displayed the dedication to his field that is required to become a champion, and who has ably shared with others, through special teaching programs for young people, the talent and knowledge he possesses. For his contributions in the field of golf education, Dave received the very prestigious, Horton Smith Award, in 1976 from the Illinois P.G.A.

Dave is presently head pro at the Floosmoor Country Club in Floosmoor, Ill., and has gained the affection and admiration of those at the club since going there in 1967 from his work as head Pro at the Peoria Country Club in Illinois.

It might be said that Dave was destined for a life upon the greens. His grandfather, David G. Ogilvie, came to America, in 1896, from Scotland where golf had originated three centuries earlier. The senior Ogilvie was one of the first golf pros in America. David G. Ogilvie II was born in the club house of the Augusta Country Club in Georgia, and later grew up to become the golf pro at that same club, where his son, the man we honor today, started playing golf at the ripe old age of 5.

With this outstanding background, it is not surprising that Dave III won the Cleveland City High School Tournament as a young man, and later, with the help of Arnold Palmer, received a golf scholarship to Wake Forest. The 4 years that Dave was at Wake Forest, the college was All-Conference Champions.

During the time that he worked for his dad as Assistant Pro at the Oakwood Country Club in Cleveland, Dave set the course record at the club and that record still stands today. In 1958 Dave became a member of the PGA and participated in the tour that year.

Today I know my colleagues join with me in congratulating David G. Ogilvie III on this latest achievement; truly, he is a real champion.●

THE OBJECTIVITY OF "JUDGE" SCHAAP

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. McDONALD. Mr. Speaker, on August 1 of this year I alerted my colleagues to a new attack on the intelligence community launched by CIA defector Philip Agee and a small group of his Washington-based collaborators led by William Herman Schaap, the editor of the Military Law Reporter, a project of the Public Law Education Institute of 1346 Connecticut Avenue, Washington, D.C., and a member of the National Lawyers Guild (NLG). My report appeared in the CONGRESSIONAL RECORD of August 1, 1978, pages 23798–23801.

The Agee/Schaap attack has taken the form of a new operation, "Counter Watch," which will publish on a bimonthly basis the Covert Action Information Bulletin which purports to instruct its readers in counterintelligence techniques and reveal the names and locations of persons that they believe are members of our country's intelligence community.

From reading this bulletin, I learned with grave concern that the Counter Watch group plan to learn the identities of, and personal information relating to, key law enforcement officers, including those assigned to intelligence and SWAT groups at the State and local level. This, I believe is the first time that covert activities have been directed against members of local SWAT teams; obviously this type of information would be of particular interest to the supporters of terrorists, such as Schaap, because of the key role that SWAT teams play in hostage situations and terrorist attacks. Our specially trained SWAT officers will now have to take certain precautions for their own privacy and safety, as have those foreign-based members of the intelligence community who have been under attack from Agee and company for the past several years.

The Agee-Schaap operation was launched from Havana during the 11th World Festival of Youth, where Schaap was serving as a "judge" at an anti-CIA kangaroo court, a so-called tribunal, "Youth Accuses Imperialism."

On his return to this country, Schaap, for a short time sought the cover of the Public Law Education Institute, which had assisted him with the early distribution of the Covert Action Information Bulletin, but recently emerged to speak at a local "Women Strike for Peace" meeting.

This meeting was attended by the well-known columnist John D. Lofton, Jr., whose report, carried by United Features Syndicate, Inc., notes that Schaap provided an insight into his objectivity "by admitting that before he went to Cuba to serve as a tribunal judge," he called his sister who teaches high school Spanish and asked her how to say one word: "guilty!" Mr. Lofton's report on the Women Strike for Peace meeting also brings into sharp focus the involvement of the Coalition for a New Foreign and Military Policy, a major antidefense lobby on Capitol Hill, with the Cuban dictatorship and its local supporters. I commend Mr. Lofton's article to the attention of my colleagues:

LEFTISTS AND A LESSON: POLITICAL PRISONERS MATTER

(By John D. Lofton, Jr.)

WASHINGTON.—It is 8 p.m. Friday. Having unwisely suppressed an earlier impulse to go home and clean the cat's litter box, I am instead at a comfortable private residence in the northwest section of this city, to which I have been invited by the September issue of the local Women Strike for Peace newsletter. The featured speakers tonight are Dee Bates and Bill Schaap, who, I am promised, will present "an expose of CIA-FBI infringement of civil liberties in the U.S. and an eyewitness report on the International Tribunal held in the month of August in Havana, Cuba."

Certainly you remember the Youth Accuses Imperialism International Tribunal which was the centerpiece of the World Festival of Youth and Students? You know, the hate-America hootenanny and anti-CIA orgy that attracted some 18,500 far-left crazies from 140 countries? Yeah, that one. Well, Bates was a U.S. delegate to this get-together and Schaap was a "judge" at the tribunal. Bates I know very little about. She is identified only as someone affiliated with something called the Coalition for a New Foreign and Military Policy. Schaap's record is very well known and goes way back.

According to John Rees, editor of the Information Digest, Schaap has been waging war against the U.S. intelligence community for at least 17 years. He is currently a co-publisher, along with CIA defector Philip Agee, of the Covert Action Information Bulletin, the main purpose of which is blow the cover of CIA agents around the world. Writing in the first issue of this publication, Agee says that if peaceful protests don't drive CIA agents out of the countries where they are exposed, then "those whom the CIA has most oppressed will find other ways of fighting back." In December 1975, after his name and home address was published in a local paper, Richard Welch, CIA chief of station in Athens, Greece, was the victim of one of these "other ways." He was murdered by terrorists in front of his residence.

Time magazine reported that the main impact on spectators of the exposes at the Cuban World Festival of Youth and Students was "widespread narcolepsy". I know the feeling well.

Bates is very gushy. She was particularly impressed by the 11,000 Cuban youths in colored T-shirts who formed different designs in the Festival Stadium. "It was fantastic!" she says. "They looked so mechanical." Why it is fantastic that people in a totalitarian country looked mechanical, Bates does not say. She speaks lovingly of one tribunal judge, a female North Vietnamese general known as "the lady with the smile," who "led thousands of guerrillas." Three older women across the room from me yawn simultaneously. Bates presses on, telling how

one witness accused Allan Baake of being "a tool of imperialism," and how she herself was able "to show how our country exploits its people" by focusing on making a dollar rather than protecting our children."

It is Schaap's turn to talk. A lawyer, he gives us an insight into his objectivity by admitting that before he went to Cuba to serve as a tribunal "judge," he called his sister, who teaches high school Spanish and asked her how to say one word: "guilty!" Schaap's lack of fairness is matched only by his gullibility. He repeats as a fact what his Cuban hosts have told him: that $90 million of the cost of the festival was raised by individual Cubans in "small sales like yard sales and bake sales."

Schaap, like Bates, is also impressed by the regimentation of Cuban society, specifically how they were able to serve a sitdown dinner for 28,000 people. But "the most incredible thing" he saw was a gymnastics demonstration featuring 4- and 5-year-olds who were carried into the festival stadium by soldiers. After their routines, these children jumped back into the arms of the soldiers, who marched out of the stadium. Schaap observes:

"In the U.S., kids are afraid of soldiers; in Cuba, they love them." Several in the audience nod knowingly. This is an interesting phenomenon. Why do the anti-war leftists in this country despise displays of militarism here but adore it in communist countries?

Schaap is really steamed that the U.S. press ignored many "astonishing" revelations of the tribunal. To him an allegation is the same thing as a revelation. He quotes one witness as saying that U.S. Agency for International Development police adviser, Dan Mitrione, actually tortured to death innocent Uruguayans simply to demonstrate torture devices. Schaap believes this even though, when I press him later, he says there was no corroborating evidence to back up this assertion. Mitrione was subsequently killed by Uruguayan terrorists. Schaap says he has "shed no tears" over the death of either Mitrione or Welch.

A little later, Schaap refers to one of the Puerto Ricans who tried to assassinate President Truman in the 1950s as a "political prisoner" because he served 28 years in prison. This was an extreme sentence for trying to kill a president, he says.

A woman in the audience asks Schaap what Ralph Nader's role is "in all this." Stymied, he mumbles something about how they are both working for corporate accountability, etc.

I ask if, as a tribunal "judge," he raised the issue of the thousands of political prisoners in Cuba. And why didn't you mention this subject tonight? "I didn't come here tonight to discuss this," he snaps, obviously irritated by the question. "Were you told not to discuss this?" I ask, also becoming irritated. Accusing me of being obnoxious, Schapp rises from his chair saying: "If you were in my bedroom, I'd punch you in the nose!" I ask him where his bedroom is, telling him I'll meet him there.

The hostess takes me by the arm, suggesting that it is time—indeed, past time—that I leave. She is right. This is not a news conference, she says. A grim-faced young woman at my other arm keeps repeating: "You've disrupted our meeting. You've disrupted our meeting."

As I put on my coat and head for the door, I hear another lady say: "He's probably an undercover agent."

Suddenly as I walk to my car in the crisp night air, I'm extremely happy I'm in America and not Havana. When I get home, I go right to the basement. Never has a littered cat box looked so good.●

STRATEGY FOR SURVIVAL

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. SYMMS. Mr. Speaker, I have just finished reading a startling book by one of our friends in England. Brian Crozier's "Strategy for Survival," is a basic mental building block book that corectly shows that the United States has already entered "World War III" and that the struggle against the Soviet Union is not of our wanting, but something that must be realized before it is too late. Soviet imperialism is the greatest threat to peace in the world today.

William Murchison, the editorial staff writer for the Dallas Morning News of September 12, 1978, has done a superb job of capturing the essence of the argument of the "Strategy for Survival." I should like to insert into the RECORD a copy of Mr. Murchison's timely article:

HOW TO HELP MOSCOW

(By William Murchison)

In a new book that absolutely everyone should read—"Strategy of Survival"—Britain's Brian Crozier quotes Vladimir Illich Lenin:

"The capitalists of the whole world and their governments will shut their eyes to the kind of activities on our side that I have referred to, and will in this manner become not only deaf mutes but blind as well.

"They will supply us with the materials and technology which we lack and will restore our military industry, which we need for our future victorious attacks upon our suppliers. In other words, they will work hard in order to prepare their own suicide."

Well, well, well. Who would have ever thought that upon a squalid little monster like Lenin would descend the gift of prophecy?

The latest government figures show that from January to June, U.S. trade with the Soviet Union jumped 45 percent over the same period in 1977. For the communist bloc as a whole, the increase is higher still—55 percent.

Translated into dollars, the figures mean that we sold the Soviet Union $1.52 billion of goods during the first six months of the year; the communist world as a whole bought $2.4 billion in goods from us.

We are supposed, apparently, to rejoice at such tidings. We ought, rather, to be sunk in gloom.

There has been talk in recent years of the "failure of nerve" from which Western society supposedly suffers. No clearer evidence could there be of such a failure than the thirst of Western capitalists—not just American, unfortunately—to do business with the communist world and especially with Soviet Russia. These capitalists are not quite the equivalent of their forerunners in the American West who sold rifles to the Indians. But their shortness of sight is nearly as pronounced.

IBM, Ford, Chase Manhattan, Dresser Industries, Pepsi-Cola, and on and on—the list of American companies doing business in the Soviet Union is a virtual register of capitalism's blue chippers. It is no wonder—speaking just in capitalistic terms. Trading with the enemy can be mighty lucrative.

On the other hand, the gains are not always impressive. To do business with Moscow, American companies must make their kow-tows to the Kremlin. International Harvester, for example, has lately had to sit tamely and watch one of its representatives, F. Jay Crawford, arrested, endlessly interrogated and haled into a Soviet court on flimsy charges of currency manipulation. Crawford's 5-year suspended sentence was no doubt meant to be conciliatory. Had International Harvester any gumption, even so, it would pull out of the Soviet Union in protest.

The long-run consequences of dealing with the Soviets are more disturbing still. Crozier, in his book, talks of the present "crisis of communism." Professing its superiority to the capitalist system, communism nevertheless lags badly in economic (as well as all other) terms. The worse its failures, the harder-put are apologists to justify its moldy dogmas.

"Unsold goods," writes Crozier, "began to accumulate in the U.S.S.R. in the 1960s. A decade later they were still piling up, apparently for the simple reason that the average Soviet buyer doesn't particularly want to buy what the system offers him."

Crozier speaks of the trade deficit as dramatic evidence of the Soviet economy's failures, and likewise of its increasing dependency on Western supplies, such as wheat.

What are Western companies doing, then, when they sell to the Soviets? They are assisting them out of a jam. Propping up a regime that might otherwise be in deep trouble with its own people.

They are actually helping to vindicate communist dogma. If the communist system does not quite coruscate, economically speaking—well, at least it holds together. Just look and see.

This is not the way Soviet-American trade policy is supposed to work, of course. The rationale promoted by Richard Nixon and Henry Kissinger was that trade would make the Soviets more dependent on us, thus more disposed to leave us alone.

And do they leave us alone? If so, it is hard to know where. In Africa, Soviet power advances; the Soviet military buildup goes on relentlessly; Russian spies abound everywhere, but here especially. As plain as the nose on Brezhnev's face, as Crozier points out, is the Soviets' unrevoked ambition to dominate the whole world.

So what do we do? Many things, says Crozier; not the least of which is to cut off credits and technology exports to the Soviet Union—grain deliveries, too, unless perhaps the Soviets agree to heavy defense cuts. These are strenuous measures, at which our capitalists would surely balk. But the likely alternative hardly needs underscoring. it is, as V. I. Lenin kindly reminds us, suicide.●

MARTYRS OF THE HOLOCAUST MEMORIAL

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. WAXMAN. Mr. Speaker, the Jewish Federation Council of Greater Los Angeles, in remembrance of the 6 million Jews who died in the holocaust, has erected a Martyr's Memorial as a tribute to those who perished. It will serve as our reminder of this infamous period in our past and as a reaffirmation of the determination that the events which led to this slaughter must never again be repeated. It will enable future generations to be

part of that past and our present commitment to its memory.

The memorial, which will open on November 3, 1978, has been constructed in the form of four cutaway trains which will recall to those passing through the cattle car transports of the holocaust era. On the walls are written the names of victims and the once-thriving communities of Europe where Jewish life was destroyed. The crypt following the passage contains bronze discs engraved with the names of the notorious concentration death camps, the arches bearing the Ten Commandments, represent the faith for which the holocaust martyrs died. Following the crypt is a chapel intended for services, lectures, or contemplation and also provided are display rooms containing photographs, documents, and other articles which are remnants of the life in the ghettos and concentration camps.

Many people were responsible for the realization of this magnificent memorial, the construction of which was paid for through a special fundraising drive. On November 7, the Martyr's Memorial Committee will have a dedication dinner celebrating the completion of the project and will honor Ruth and Lawrence Harvey without whose help, encouragement, and support the tremendous task could not have come to fruition.

I ask the Members to join me in honoring the Martyr's Memorial and to express our appreciation to those who committed themselves to its fulfillment.●

KEMP—WHAT?

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. BOB WILSON. Mr. Speaker, I would like to share with my colleagues a recent editorial on the subject of tax cuts, as follows:

KEMP—WHAT?

Now that the Senate has passed the Nunn version of the Kemp-Roth tax cut, the folks who love big government are scurrying around trying to find a rationale for opposing it. The one on which they seem to be settling, floated in a speech by Sen. Moynihan on Monday night and repeated by President Carter at his press conference Tuesday, is that it is too radical a departure to take on the spur of the moment without extensive debate. Kemp—what? they ask. Never heard of it.

The intensively publicized proposal by Sen. Roth and Congressman Kemp, to be sure, would simply have cut tax rates successively in three steps over three years. It was attacked for ignoring spending and deficits, so Sen. Nunn laid out a five-year schedule of rate reductions but made them contingent on holding the growth of federal spending to the rate of inflation plus one percent. Those who argued that Mr. Roth and Mr. Kemp were irresponsible for ignoring spending now argue that Mr. Nunn is irresponsible for including spending.

As it happens, the idea of linking tax cuts to expenditure restraint has also been extensively debated this year, in the context of the budget process. It is said that the House has not had a chance to consider the Nunn proposal, but in fact for a few moments last May the House had actually passed what is in principle the same proposal. The Republican budget resolution offered by Rep. Marjorie Holt was specifically designed to accommodate the first year of the Kemp-Roth cuts, and was offered in the context of a systematic program tying the tax cuts with the spending restraint of a current-services budget—the same inflation-adjusted concept embodied in the Nunn bill.

As the rollcall ended, Mrs. Holt found herself with 202 votes for and 198 against. But Majority Leader Jim Wright started dragging Congressmen bodily into the well to change their votes, and the Holt amendment finally lost by 203 to 197. Mrs. Holt offered conceptually the same amendment again with the second budget resolution in September, and lost by 206 to 201. Considering the lopsided Democratic majorities and pull of the leadership and party loyalty, there is obviously quite considerable sentiment in the House for the principles now embodied in the Nunn amendment, which incidentally passed the Senate by 65 to 20. House Republicans are now moving to instruct the conferees to accept the Nunn amendment; it will be instructive to observe how the Democratic leadership behaves.

The political support for the principles involved is far more important than the mechanics of the Nunn amendment. In itself no gimmick or procedural device can reform government spending. The Washington Post has the fanciful notion that the Nunn mechanics would tie the hands of future Congresses, preventing them from working their wisdom when anti-recession tax cuts or spending increases were needed. Yet there is no way to dictate to future Congresses. And on the record the more likely outcome, we should think, is that they would find some way to distort the Nunn amendment into a pro-spending device, an excuse for not cutting taxes.

What the Nunn mechanics would do, however, is to instill a bit of discipline in the congressional budget process, which itself has been neatly transformed into an engine of high taxes and high spending. No Senator was more effective in opposing tax reduction in this week's debate than budget czar Edmund Muskie, who refused even to let the Senate vote on the provision to repeal deduction of gasoline taxes. On the House side, we find back in May Budget Committee Chairman Giaimo deriding Mrs. Holt's lower totals as an impossible, a "wishtype amendment," though in fact outlays in the final budget resolution ultimately ended up almost exactly what she had proposed in May.

The real effect of the Nunn proposals would be to force the budget committees to take tax reduction seriously as a national goal. At present, tax levels are driven by spending desires; after the budget committees decide how much to spend, the revenue committees decide whether they can afford to cut taxes. With the political support that seems to be building in the country, plus a little luck, this can be reversed. We can decide what level of taxes we want to pay, in particular what levels are healthy for economic growth, and make the budget committees hold down spending accordingly.

This is what the budget process was supposed to have been. It is what the country seems to want. And given the Nunn vote in the Senate and the Holt votes in the House, a majority of the Congress—if given a free choice—would be ready to agree.●

FREE SPEECH

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. EDWARDS of California. Mr. Speaker, the American Civil Liberties Union is one of the most respected defenders of individual rights as provided for under our Bill of Rights that we have in this country, in fact one of the most respected protectors of free speech in the world. One of the reasons the ACLU is so highly regarded, and for the same reason often opposed, is that they believe fre speech applies both to those whose speech we welcome and to those whose speech we do not welcome. As chairman of the House Subcommittee on Civil and Constitutional Rights, I understand full well the difficulties that can incur in protecting our free speech guarantees for everyone. The San Jose Mercury News, a daily newspaper in my district in California, has explained its reaction to recent ACLU projects in a recent editorial. I would like to share the thoughts on the subject with my colleagues:

HANG IN THERE, ACLU

The rights and liberties of people in a free society are most severely tested when they are exercised by unpopular persons on behalf of unpopular ideas.

That's what causes an organization like the American Civil Liberties Union to exist in the first place. And that same truth, stretched to an ironic extreme, is what has brought the ACLU under fire from some of its own supporters who feel the organization has gone too far in defending certain activities by American Nazis and their National Socialist White Workers Party.

A year ago this week, the ACLU defended the right of a small band of Nazis to demonstrate in St. James Park in downtown San Jose.

And in June of this year, the ACLU supported the right of Nazis to march through Skokie, Ill., a Chicago suburb heavily populated by Jewish survivors of German concentration camps; eventually, instead of marching through Skokie, the Nazis held a rally in a Chicago park.

To some traditional supporters of the ACLU, the organization went too far in insisting that fundamental rights extend even to the Nazis.

A sensitively written story by Mercury News staff writer Mark Saylor quotes one San Jose attorney, upon resigning from the Santa Clara County board of the ACLU, as commenting: "Free speech covers a lot of things, but it doesn't cover the Nazis."

We understand that reaction, particularly when it comes from people whose families were victims of Nazi atrocities in Germany.

Against the ACLU's historical background of defending generally left-of-center groups, such as civil rights demonstrators or war protesters, it seems strange and unsettling for the organization to devote its efforts to defense of those who, in the case of the Nazis, no doubt would be the first to destroy the rights of others if they could. But we think the ACLU is correct in staying on its traditional course of defending activities which are guaranteed by the Bill of Rights—regardless of who happens to be involved in those activities.

When even despicable people like the Nazis are protected in their right of free speech,

it is not their cause which is strengthened nearly so much as it is the freedom of speech itself.

And the fact that the Nazis would be the last to understand that, if they were running the society, is, in a way, the whole point.●

LEV ROITBURD STILL DENIED BASIC RIGHTS OF FREE EMIGRATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. LEHMAN. Mr. Speaker, once again I find myself joining the "Vigil for Freedom" sponsored by the Union of Councils for Soviet Jewry on behalf of Soviet Jewish families and individuals who are being detained in the U.S.S.R.

Despite signing the Helsinki Final Act, people who apply for exit visas still lose their jobs and are constantly harassed. Enormous cost, both financial and emotional, are still imposed on those who want to leave. Illegal army conscriptions and show trials are still occurring with clock-like regularity, and political dissidents are tortured in psychiatic institutions as well as being interned in Siberian labor camps.

Once again I call to your attention to the bitter plight of Lev. Roiturd, an aeronautical engineer, his wife, Lilia, and their son, Sasha, who applied for permission to emigrate and join their family in Israel, are unfortunate examples of Soviet policy.

The Roitburds seek not to change the Soviet system, but only to leave the Soviet Union—a fundamental right allowed, even guaranteed, by the Soviet constitution. Yet, the Soviet Union is conducting one of the most frightening campaigns against the Jews in the pogom-like atmosphere that still exists in the U.S.S.R.

Lev Roitburd was dismissed from his job immediately after asking for an exit visa in 1972. After being constantly threatened with arrest and imprisonment for some time, Lev was beaten, arrested, and sentenced at a "show trial" to 2 years in a Siberian labor camp on the charge of obstructing police.

When Lev was freed in the summer of 1975, he returned to his family, and they once again tried to obtain and exit visa, but were denied for no reason. It has come to the point where Lev cannot support his own family, for he cannot find a job. Since the last time I wrote of Lev, things have gotten worse, and there seems to be no end of this brave family's plight.

The time has come for the Soviet Union to stop persecuting these people and the unknown hundreds of others like them. Anti-Semitism still thrives in the U.S.S.R., and lurks on the horizon needing only a bit of prompting from the authorities to gestate into the hate that led in our own century to those official massacres known as pogoms.

On this day we call upon the Soviet Union to prove our fears groundless. We invite them to show us that the present is unlike the past. Release your citizens who ask only to be allowed to go to their religious homeland, we say, "Free Lev, Lilia, and Sasha Roitburd, free them—now."●

PROJECT PACESETTER

HON. DOUGLAS WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. WALGREN. Mr. Speaker, no Congress has devoted so much time to energy issues as the 95th Congress. The final week of this session hopefully will see a National Energy Act which has eluded us for over 18 months.

I want to recommend to my colleagues remarks made by Shirley Sutton, executive director of Project Pacesetter, an ambitious western Pennsylvania energy conservation and development program. Pacesetter has reached out to involve every segment of the community in steps to reduce our energy crisis.

In view of her outstanding work and leadership on Project Pacesetter, Mrs. Sutton has been chosen not only to serve on DOE's Consumer Advisory Committee, but also to be chairperson of the new DOE public energy education task force.

Project Pacesetter is ongoing and results to date are promising. Pacesetter has been designed as a prototype that will encourage the Nation and other communities to take similar steps on our energy problems from a local level.

Pacesetter, Mrs. Sutton, and Americans for Energy Independence are to be congratulated for their diligence and leadership:

CITIZEN PARTICIPATION IN CONSERVATION

(By Shirley Sutton)

Project Pacesetter is a citizen energy education and conservation project involving the whole community. The idea of a Pacesetter-type program began with the national Americans for Energy Independence organization over a year ago. AFEI was concerned about the fact that almost 50 percent of the American public did not believe there was an energy problem, so they decided to try a major citizen education program—but also a program that involved citizens in the planning and implementation stages. Allegheny County, Pennsylvania (which includes the city of Pittsburgh) was chosen as the location to try this pilot program.

An executive committee of leading Allegheny County citizens was chosen to direct the project. The executive committee was chaired by Richard Simmons, President of Allegheny Ludlum Steel, and Lloyd McBride, President of the United Steelworkers of America. Serving on the committee are Edgar Speer, Chairman of the Board of United States Steel Corporation; Joseph Odorcich, Vice President, United Steelworkers of America; Dr. Wesley Posvar, Chancellor, the University of Pittsburgh; Susan Brandt, President, the League of Women Voters, Allegheny County Council; Ronald Davenport, Dean, School of Law, Duquesne University; and Commissioner Jim Flaherty, Chairman, Board of Commissioners of Allegheny County.

Each member of the Executive Committee headed up a Task Force. The six Task Forces were designated to represent various segments of the community: education, labor, business, government, volunteers, and public interest groups.

The project was kicked off in the spring of 1977 with a community announcement that Allegheny County was chosen to try this type of project. Throughout late spring and summer, each Task Force organized within its area of influence. Other county leaders were chosen to head up sub-task forces. These groups met, gathered ideas from people with expertise in their fields, and drew up a plan to be implemented in Allegheny County. The plans told of ways that each segment of the community could contribute to possible solutions to our energy dilemma. Suggestions were also offered for the county as a whole.

September 19th, 1977 was Energy Day in Allegheny County. This was the day that the Task Forces announced to the community the results of all of their planning. Each Task Force had come up with many suggestions, but was instructed to, and did, announce one major project that it would like to emphasize. The Educational Task Force's primary recommendation was the development of an energy curriculum in the school systems of Allegheny County. The Labor Task Force recommended that management-labor energy committees be established to discuss energy-related matters. The Government Task Force announced an Energy Alert system, designed to measure the amount of energy being used through the course of the year in Allegheny County. The Volunteer Task Force announced a plan to build models of a home to show people how their homes could be insulated and otherwise weatherized. The Public Interest Task Force mentioned recycling as its major project, while the Business Task Force suggested the development of energy management workshops, with all businesses designating an energy manager responsible for conservation.

Since September 19, the Task Forces and the Pacesetter staff have been working to implement, first of all, these primary recommendations, and after that, a number of the other recommendations—as many as we possibly can work out within our time constraints.

Most of the original recommendations have been carried out. A pilot program involving a management-labor energy committee is meeting regularly at the Brackenridge works of Allegheny Ludlum Steel Corporation. The Energy Alert system recommended by the Government Task Force has been operating since last November. The reports of our energy usage have become a regular part of our evening news and weather reports on most channels. An "Energy-Saving Money-Saving" model house was displayed January and February in major shopping malls to show people how to retrofit their homes. Eight energy management workshops have been held for the business community, and many businesses within Allegheny County have designated energy managers responsible for conservation. Recycling programs are being advocated with volunteer and public interest groups and a presentation has been made to the Greater Pittsburgh Chamber of Commerce regarding the recycling of office waste paper and the purchase of recycled paper for office use. The Education Task Force's recommendation regarding energy curriculum is being pursued through the development of a motivational videotape for use by teachers at in-service workshops.

When AFEI drew up the Pacesetter plan, they did so with the idea that if Pacesetter was successful, similar plans might be started in many other urban areas in the country. If, through Pacesetter, we can convince more citizens in Allegheny County that the energy crisis is real, and if we can convince these same people that they should conserve in every way possible while solutions to the energy problem are being worked out, we will feel that Pacesetter should be expanded. This is the reason that "Pacesetter" was

chosen as the name for our project. We would like to think that what we are doing in Allegheny County will set the pace for the rest of the country in energy matters.

How will we decide if Pacesetter has been a success? From the beginning we had decided that there would have to be a method of evaluating the program, and we had made plans to have this evaluation done by one of the local universities. As the project began and moved along, interest was shown in the project by the then-Federal Energy Administration, an last September the Department of Energy announced that the University of Pittsburgh would receive a grant to monitor Pacesetter. We are very anxious for Pacesetter to succeed, and we are especially pleased that the federal government has shown so much interest in the kinds of things we are doing in Allegheny County. We would like to think that we will show that the private sector can work together and accomplish its goals as set by Pacesetter.

In addition to reaching out to the people through their organization such as clubs, professional groups, service groups, labor unions, etc., we conducted a mass media campaign in the early phases of the project. This developed awareness of Pacesetter in the community. We continue to have good coverage of our events as they are developed.

Is it possible to give an evaluation at this point as to how I think the project is going? We are a little over the half-way point in the project at present. I am personally excited with the cooperation and interest that have been shown in Project Pacesetter. I believe that, at the outset, our expectations may have been a bit too high. Our plans were extensive and perhaps unrealistic. It is a monumental job to organize a community along the lines that we have suggested and to accomplish all of the many goals that we had discussed in the beginnig in the time frame that we had set for ourselves. But we will achieve all of the major recommendations that the Task Forces have made, and many of the others. We are a pilot program, and so we have learned a great deal. Many of the programs and plans that we tried but were not feasible would not be tried at another time in another city, and we would save ourselves that expenditure of time and energy.

Many people have said, as expected, that they don't believe in the "crisis," but many more have given time, money, materials, and "in kind" services. We have had the usual groups or individuals who didn't carry out the job assigned to them—and others who have done an excellent job with their projects. I have found very few people who have not been willing to do something as part of Pacesetter.

This project has been a tremendous challenge. It has been a great opportunity to work with diverse segments of the community. Credibility is still the biggest drawback. People with opposing opinions have talked over energy problems together, and are working together. The evaluation from that should give us some concrete results. We hope that we can report to the public and the Department of Energy that people working voluntarily together can make a difference. We know that the key to success in developing a good national energy plan is to create better understanding and cooperation among our citizens.●

JOHN H. DENT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. DERWINSKI. Mr. Speaker, it is a special pleasure for me to join in paying tribute to one of our outstanding colleagues, JOHN H. DENT.

JOHN has always shown a strong sense of dedication to his constituents and to the State of Pennsylvania, as demonstrated by his hard work in Congress. Throughout his career, he has accumulated a record that will long be remembered by all of us. His valuable contributions include the areas of unemployment and workmen's compensation laws, international trade legislation, fair labor standards, coal mine safety, and health legislation.

During his 21 years in Congress, JOHN has served with courage and distinction. He leaves us with a record of legislative accomplishment and personal example which we will all miss.

Mrs. Derwinski and I wish JOHN and his wife Margaret and their family much happiness and success as he enters a richly deserved retirement from public office.●

PRESIDENT SIGNS LAW TO TERMINATE THE WARTIME RENEGOTIATION BOARD

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. HANNAFORD. Mr. Speaker, today I applaud the Congress for having effectively terminated a Government agency which has long since outlived its usefulness.

As my colleagues will recall, I refer to the wartime Renegotiation Board which was subject to careful scrutiny during this Congress. While the House Banking Committee reported legislation expanding the powers and extending the life of this Board, this bill never came to the floor because it lacked the support of a majority of the House. The Senate Banking Committee, on the other hand, defeated similar legislation and instead reported measures to abolish the Board.

Outstanding work was accomplished by the appropriations committees of both Houses. The conference agreement on the State, Justice, Commerce, and Judiciary appropriations bill, H.R. 12934, grants the Board $5.2 million to clear an existing backlog of filings by no later than March 31, 1979. H.R. 12934 was sent to the President, signed on October 10, and is now Public Law 95–431. This feat makes clear that the Congress is opposed to the continuation of the Board and its functions.

As the Board faces the fact of termination in the very near future, however, it will be our responsibility to remain vigilant, for the instinct of preservation is an overpowering one and the Board may take it upon itself to again attempt to persuade the Congress for a new lease on life. The fact remains, however, that it costs the Board $5 to recover $1 and that its peacetime functions hinder innovation and efficiency in the private sector. The Congress must resist all efforts at resuscitation.●

PLO-SPECIAL U.N. UNIT

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. BRODHEAD. Mr. Speaker, in December 1977, the United Nations General Assembly approved a resolution establishing within the U.N. Secretariat a special unit on Palestinian rights. Over the past year, this special unit has acted as a U.N.-sanctioned propaganda arm of the Palestinian Liberation Organization, a terrorist group dedicated to the destruction by force of our longtime friend and ally, Israel. It should be pointed out that Israel is also a member of the United Nations.

The PLO has the distinction of not only being the sole terrorist organization—out of hundreds in the world—to be represented in the U.N. It also is the only such body to have a major part of its advertising budget paid for by American taxpayers. The U.S. share of U.N. expenses amounts to 25 percent, or $125,000 of the Special Unit's expenses.

These funds are being used for pamphlets and newsletters propagandizing PLO objecives and for the production of a film, "Palestinians Do Have Rights," which will be released later this year. This film will provide a forum for PLO leader Yasser Arafat and attempt to portray PLO terrorism as justified and PLO goals as "moderate." Thus, the auspices of the United Nations, supposedly dedicated to peace, will be used to promote an organization which condones the murder of innocent civilians, rejects peace negotiations and ignores the rights of U.N. member states and allies of this country.

There is clearly a need for multilateral organizations where the nations of the world can meet to solve world problems. However, the U.N. overstepped its bounds in this instance. It has chosen bias over objectivity and is now promoting the causes of certain factions instead of reconciling the differences between them. I do not believe that our country should let such a perversion of U.N. aims to continue unchallenged.

The President recently signed into law the Foreign Relations Authorization Act, Public Law 95–426, which denounces the work of the Special Unit on Palestinian Rights and calls upon the President to direct our U.N. Ambassador to use all means at his disposal to terminate it. I have written to the President to urge his prompt attention to this matter, and I want to share my letter with my colleagues:

CONGRESS OF THE UNITED STATES,
Washington, D.C., October 12, 1978.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Last week, you signed Public Law 95–426, the Foreign Relations Authorization Act of 1979. I write to ask your immediate attention to Section 614 of this law, which condemns the U.N. Special Unit on Palestinian Rights which was established under the U.N. Secretariat in December, 1977.

Over the past year, this Special Unit has acted as a propaganda arm of the Palestinian Liberation Organization, a terrorist group dedicated to the destruction of our longtime friend and ally, Israel.

Besides using its half-million dollar budget for pamphlets and newsletters propagandizing PLO objectives with the sanction of the U.N., the Special Unit is completing a film, "Palestinians Do Have Rights," which will be released in late November of this year. This film will provide a forum for PLO chief Yasser Arafat and attempt to portray PLO terrorism as justified and PLO goals as "moderate." Because the United States contributes one-quarter of the U.N.'s budget, American tax dollars are being used to actively promote PLO interests. I believe this situation is intolerable.

Congress has already expressed its views on the matter. Section 614 calls upon you to direct Ambassador Young to use all means at his disposal to obtain action by the General Assembly to terminate the Special Unit on Palestinian Rights and its sister body, the Committee on the Exercise of the Inalienable Rights of the Palestinian People. I earnestly urge your immediate attention to this matter.

Thank you for your kind consideration.

Sincerely yours,

WILLIAM M. BRODHEAD,
Representative in Congress.●

SUPER VET JERRY BENSON

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. RUSSO. Mr. Speaker, we are a culture that dearly loves a hero, and when we cannot find them, we invent them in our fiction and our television. But we do not have to create them. Sometimes the heros are right in our back yard—not Superman or Spiderman, but Super Vet.

In fact, Super Vet is not in my back yard, but he is next door. And when Jerry Benson receives the first Mayor Daley Marathon Most Heroic Performance Award from Mayor Bilandic, there will be few people more proud or admiring than his neighbor. The award plaque reads, "Super Vet, Jerry Benson," as well it should. Jerry, who lost his left leg while serving with the Marines in Vietnam, ran, walked and crutched his way on his artificial leg the 26.2 miles of the marathon. The plaque also gives his official time of 9:47 and reads: "Why? 'To Give Hope to All Handicapped People.'"

Jerry enthusiastically talks about the Institute for the Advancement of Prosthetics, headed by Jan Stokosa in Lansing, Mich. After 9 years as an amputee, Jerry says the institute and Mr. Stokosa were able to help him and that the work there should serve as a model for others throughout the country.

Jerry has always been active, so the marathon was right in keeping with his style. He was a starting center in basketball in South Holland, starting shortstop for the softball team, a member of the first-place Harvey Babe Ruth team and member of the bowling champions of Art's Bowling Alley in Harvey.

He also gave time to various programs in the YMCA as a volunteer instructor for children and to elective office in high school. In 1968 he graduated from Homewood Flossmoor High School and at the end of the year joined the Marines.

Today I want to share with my colleagues a letter from Jerry. He has a wonderful philosophy of life and his words speak eloquently of his personal courage:

DEAR CONGRESS: All of us are given the grace of life once as we are conceived. I was more fortunate than most. I received the grace of life a second time on a Vietnam battlefield. From that moment I lost my left leg decisions had to be made.

(1) "I want to live"

(2) "I will never accept defeat"

(3) My third goal was my rainbow, to become a "normal" boy again.

After nine years of trial and error my achievements range from bowling, playing golf, baseball, basketball, volleyball, swimming, driving, riding a bicycle and a motor cycle, skiing and surfing.

And I thank God for teaching me a very special lesson: "Never Give Up Hope When You are Running, Jerry."

Today, I know my colleagues join with me in extending congratulations to this marathon champ. Super Vet Jerry Benson is quite a hero.●

CHAVEZ GETS U.S. MONEY

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. BOB WILSON. Mr. Speaker, Jack Pickett, the editor of California Farmer, has pointed out another flagrant abuse of the taxpayer's money by the Federal Government—this time by the Department of Labor.

Mr. Pickett, in his editorial, astutely assesses one Department of Labor grant as wasteful, and shows how another grant to fund a "study of further grants" could become a self-perpetuating cornucopiea of Federal funds.

In the wake of California's proposition 13, and given the present antitax mood of the country, I believe Jack Pickett's timely words will be of benefit to all of us:

[From the California Farmer, Sept. 16, 1978]

CHAVEZ GETS U.S. MONEY

Apparently our own U.S. Department of Labor is totally obvious to the mood of the taxpayers. Chavez asked for a grant of money to be used for various purposes by the United Farm Workers union.

He got more money than he asked for, a total of $804,786. One of the grants for $683,861 will be used to train 75 farm workers. That is over $9,100 per head to teach them how to speak English, how to do offset printing, auto diesel mechanics, carpentry, electrical, plumbing, painting, etc.

If 75 men get $683,861, we figure it would cost almost $1 million to train 100 men and over $9 million to train 1,000.

We agree with the Farm Bureau that this is a flagrant misuse of taxpayers' funds and we think the farmers of this state should vigorously complain to their congressmen.

One of the grants for $120,195 is to be used to study further grants. The way they are setting up it sounds like a self-perpetuating program for spending thousands of dollars.

We would think this would be more than a little disturbing to those educational facilities in this state that are being forced to cut essential subjects to the bone. It must be irritating to those who are being cut out of adult education classes.

Selection of this particular union for all this special funding is subject to investigation and we feel the funding should be stopped immediately.●

OLIN E. TEAGUE: DISTINGUISHED PUBLIC SERVICE MEDAL

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. FUQUA. Mr. Speaker, on Tuesday October 3, 1978, the Honorable OLIN E. "TIGER" TEAGUE, was awarded the distinguished public service medal by the Administrator of the National Aeronautics and Space Administration.

The Honorable Robert A. Frosch in making the award, on the behalf of NASA, pointed out that the recipient brought great honor to the award. TIGER TEAGUE's unselfish public service over four decades has brought great credit to his country and to him personally.

Because of the significance of Dr. Frosch remarks, I am including them in the RECORD for the benefit of my colleagues and the general public:

REMARKS BY HONORABLE ROBERT A. FROSCH

Good morning, ladies and gentlemen, and welcome to these ceremonies in tribute to a man whom we all know and respect and to whom our Nation's whole effort in space is so deeply indebted.

We are here to honor Chairman Teague for his unequalled contributions to the space program of our country, but before we do so, we must also give full credit to his equally significant accomplishments in behalf of the American veterans, of which he is himself an honored peer. For thirty-eight years, in nineteen Congresses, as a Member and as Chairman of the Committee on Veterans Affairs, he zealously furthered the cause of these men and women whose needs and problems he understands so well.

For us at NASA, Chairman Teague's most outstanding asset has been his consistent and unswerving faith in the value and virtue of a dynamic and imaginative space program—a faith which he has conveyed to all the elements of the government, industry and university team on which all progress in space depends.

The single episode which best epitomizes Mr. Teague's profound faith in the space effort, was the leadership he demonstrated at the time of the Apollo fire in early 1967. The Space Program was in severe jeopardy because of the tragic deaths of the Apollo crew; many influential Americans questioned the wisdom of proceeding with the lunar landing program; the basic concept of the space effort was challenged; and many potentially disrupting actions were being proposed. The dynamic leadership of Chairman Teague spurred a prompt identification of the issues and a clear-cut course of action to resolve them. Undoubtedly, more than any other single individual, Chairman Teague "saved" the program and redirected our energies in a direction which resulted in the successful lunar landing within the decade of the 60's.

Chairman Teague is unique in the depth of his knowledge of the space program. He believes in and has consistently executed a "hands on" policy in regard to space, routinely and frequently visiting NASA Centers,

industrial contractors and laboratories—in some cases, many times a year. He has insisted on firsthand, personal meetings with the organizations and people doing the work. Moreover, he has insisted that all Members of his Committee do the same and, thus, by example, has developed one of the most knowledgeable Committees in the House, especially valuable in view of the highly technical nature of space operations. His mentorship has thus provided a strong, informed, collective leadership for the Nation in space activities.

In space-related international relations, Mr. Teague has always taken a firm position, assuring that the nation's interests are advanced and its responsibilities met. His support of the cooperative programs with the European Space Agency has been characterized by vision and foresight. His involvement of European decision-makers in our legislative process through visits and testimony has proved an innovative and effective device in the in-depth management of our activities in space.

Nowhere has his consistently optimistic and confident attitude toward the future of our operations in space been more evident of more constructive than his enlightened and effective advocacy of the Space Shuttle. He fully understands the great potential of the Shuttle, its versatility, flexibility and open-ended promise, and has gone into the lists time after time in its behalf despite his realistic awareness that its debut could not occur "on his watch."

I think we are all aware of the benefits which are accruing to our people as a result of our activities in space. The flow has barely begun. In the years to come it will affect nearly every aspect of our lives, and all the millions of men and women here and around the world whose days are brightened and burdens lightened will owe a debt of gratitude to the man we are proud to know with deep affection as "Tiger" Teague.

OLIN E. TEAGUE, CITATION. DISTINGUISHED PUBLIC SERVICE MEDAL

In recognition of his distinguished contributions to the scientific and technological advancement of the Nation by his steadfast advocacy of a strong national space program. In two decades of leadership positions in the House of Representatives, he gained the continuing support of the Congress for the cause of building and maintaining the spacefaring capabilities of the United States.●

TRIBUTE TO PAUL ROGERS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. DRINAN. Mr. Speaker, I am pleased to join with my colleagues in honoring Congressman PAUL ROGERS. Congressman ROGERS is retiring after 24 years of dedicated and productive service to his constituents and to the Nation.

As chairman of the Health and Environment Subcommittee of the Interstate and Foreign Commerce Committee, PAUL ROGERS has been responsible for virtually every major health bill enacted in the last decade.

The list of Congressman ROGERS' accomplishments is far too great to recite here, but allow me to mention a few of the major laws whose passage he has secured: The Health Manpower Act, National Cancer Act, biomedical research program, Emergency Medical Services Act, and the National Health Planning and Resource Development Act.

PAUL ROGERS has been a tireless and effective advocate for improved health care planning and delivery throughout his years in Congress. He has moved national health policy toward an emphasis on prevention and he has fought to make quality health care available regardless of where an individual lives or his or her economic status.

His many accomplishments bear ample testimony to the success and value of his efforts. While he is best known for his outstanding leadership in the area of health policy, his achievements in the environmental field also deserve recognition. The Clean Air Act of 1970, and the Safe Drinking Water Act of 1974 are but two of the major bills he authored in this area.

Mr. Speaker, I am proud to honor this gifted public servant. Rarely has one Congressman done so much for the benefit of so many. He has served the Nation well and he shall be missed.●

MAJ. JAMES E. BOOTH

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. COLEMAN. Mr. Speaker, I recently received a moving letter of tribute from the family of a young man from the Sixth District of Missouri who sacrificed his life to the service of our country during the war in Vietnam.

What makes this letter of interest to my colleagues in the Congress, and to all Americans, is the despair it reflects for all the young men who have been listed as Missing In Action, and then reclassified to "Presumed" Killed in Action. It is my sincere hope that this family's experience may serve to spur our Government forward in fully investigating the fate of all the MIA's from the Southeast Asian conflict.

The letter follows:

ROUTE 2, BOX 15,
Savannah, Mo. 64485.

DEAR CONGRESSMAN COLEMAN: It is time to pay tribute to a very deserving citizen from the 6th Congressional District of Missouri. This young man, Major James E. Booth, USAF, has unselfishly sacrificed his human rights in the service of his country.

On June 23, 1968, Major Booth was backseat pilot in an F-4 which was downed in a mission over North Vietnam. He was declared missing in action. His family has been constantly reassured and promised by the U.S. government that every possible means would be employed to determine his fate. Now, 10 years later, without an iota of new evidence to support the charge, Major Booth's status has been reclassified to "presumed" killed in action, effective August 8, 1978. We, the family, are forced to accept this change although we openly object to this method of accounting.

Major James E. Booth was an asset to his community and a tribute to his humble farm parentage and a testimony of self-attained achievements of success despite his brief 27 years. His unselfish response to the famous challenge, "ask not what your country can do for you, ask what you can do for your country," has earned him much more than he received.

The love and pride we feel for our brother is overshadowed by two questions: 1. Was the price he paid too much? 2. Has his trust in government been betrayed?

The answers are uncertain but whether his bones lie rotting in the soil or in some jungle prison in Southeast Asia, we shall continue to pursue this issue, to obtain an honorable and just accounting for him and all the men abandoned to the mercy of the enemy.

Respectfully submitted by his sister,
LOUISE VAN HOOZER.●

PROGRESS IN TURKEY

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. FINDLEY. Mr. Speaker, I would like to share with my colleagues a letter I recently received from Acting Secretary of State Warren Christopher regarding the current situation in the eastern Mediterranean.

In lifting the arms embargo against Turkey, Congress sought to create a new situation which would stimulate a Cyprus settlement and improved U.S. bilateral relations with both Turkey and Greece. This letter provides a positive indication that the termination of the embargo is indeed producing these hoped for results.

DEPARTMENT OF STATE,
Washington, D.C., October 6, 1978.

Hon. PAUL FINDLEY,
House of Representatives.

DEAR PAUL: On September 26 the President signed into law the International Security Assistance Act of 1978 and made the certification to permit resumption of military cooperation with Turkey. We are hopeful that this action has created conditions conducive to the resolution of problems in the Eastern Mediterranean.

While it is obviously too early to make a conclusive judgment, even in the brief period since September 26, there have been positive developments. The most significant was the Turkish decision announced October 4 to reactivate four important defense installations in Turkey (Sinop, Pirinclik, Belbesi, Kargaburun) that were closed when the embargo was imposed. We will soon commence negotiations on long-term facilities arrangements between our two countries. The action to reactivate the closed installations, which involved a major decision by Prime Minister Ecevit and his government, is heartening evidence that Turkey is committed to rebuilding our bilateral relationship.

The developments related to Cyprus are also encouraging. State Department Counselor Matthew Nimetz visited Cyprus early in September and held productive consultations with the leadership of both the Greek Cypriot and Turkish Cypriot communities. We have continued these contacts with the Cypriots here and in New York in connection with the UN General Assembly.

Earlier today President Carter had a useful meeting with President Kyprianou, and Cy met with Turkish Cypriot leader Denktash in New York. Generally, we find a constructive mood prevailing on both sides. Both are seeking a basis for an early resumption of the inter-communal dialogue, and both emphasize that their positions on the outstanding issues are flexible. We intend to remain in close touch with two Cypriot parties, and with Secretary General Waldheim, and will

work actively to facilitate a resumption of direct negotiations.

We will also be working to strengthen our relations with Greece. As a step in this effort, I will be undertaking a mission for the President to Athens later this month.

Knowing your concern for the Eastern Mediterranean, I will report to you again later this fall if there are significant developments.

Sincerely,

WARREN CHRISTOPHER,
Acting Secretary.●

CONSTITUENTS' OPINIONS

HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. WYLIE. Mr. Speaker, submitted herewith are the results of my most recent questionnaire mailed postal patron to the residents of Ohio's 15th Congressional District.

I have found this method of public opinion sampling to be highly informative and a most useful legislative tool to assist me in representing my constituents in Congress.

The results are as follows:

QUESTIONNAIRE RESULTS

1. People are rightly concerned, I think, about the size and number of federal agencies or bureaucracies. Would you favor "sunset" legislation that would terminate automatically any federal agency after a specified time, unless its continuance can be justified and a law is passed by Congress extending its life?

His—yes, 94.5; no, 2.5; undecided, 2.8.

Hers—yes, 93.2; no, 2.2; undecided, 4.4.

2. Federal judges are appointed for life. Would you favor a constitutional amendment that would limit federal judges to specified terms and, thereafter, require that these judges run against their records, say each six years?

His—yes, 82.1; no, 13.0; undecided, 4.7.

Hers—yes, 85.9; no, 8.7; undecided, 5.2.

3. Should the seven-year time limit for ratification of the Equal Rights Amendment be extended for an additional three-year period as provided for in a bill just reported out of the House Judiciary Committee?

His—yes, 22.8; no, 68.1; undecided, 9.1.

Hers—yes, 33.0; no, 55.2; undecided, 11.8.

4. Do you feel that the United States should increase restrictions on imports?

His—yes, 51.0; no, 33.9; undecided, 14.9.

Hers—yes, 57.8; no, 23.0; undecided, 19.2.

5. Do you favor the death penalty for what are generally termed "capital offenses?"

His—yes, 81.2; no, 11.7; undecided, 7.1.

Hers—yes, 73.0; no, 14.1; undecided, 12.9.

6. Should federal funds be provided to pay for abortions for women who qualify for Medicaid?

His—yes, 35.3; no, 55.5; undecided, 9.2.

Hers—yes, 34.3; no, 56.2; undecided, 9.5.

7. Would you favor the Kemp-Roth proposal that would cut more than $100 billion from federal taxes in three years without a comparable reduction in federal spending?

His—yes, 21.8; no, 65.4; undecided, 12.6.

Hers—yes, 18.8; no, 62.8; undecided, 18.4.

8. Do you think the Administration is doing an adequate job of confronting the unemployment problem?

His—yes, 27.7; no, 54.9; undecided, 17.4.

Hers—yes, 22.3; no, 56.6; undecided, 21.1.

9. Do you think the Administration is doing an adequate job of confronting the inflation problem?

His—yes, 3.9; no, 90.5; undecided, 5.6.

Hers—yes, 3.8; no, 89.5; undecided, 6.7.

10. Do you think the federal government should intervene in the regulation of utility rates?

His—yes, 42.2; no, 44.9; undecided, 12.9.

Hers—yes, 45.0, no, 38.1; undecided, 16.9.●

THE HUMAN RIGHTS OF FORMER ROMANIAN POLITICAL PRISONERS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. FASCELL. Mr. Speaker, several former Romanian political prisoners have written an interesting memorandum on the types of problems such prisoners face in Romania. In an attempt to alleviate some of those problems, the writers of the memorandum outline several specific steps they feel the Romanian Government should take in line with the humanitarian provisions of the many international documents Romania has signed. For those with an interest in the human rights situation in Romania, I have excerpted some of their main arguments below:

STATEMENT

We, a group of Romanians living in the United States and other Western countries, feel it is our duty to bring to the attention of responsible American leaders and organizations the fact that in the Socialist Republic of Romania, former political prisoners are still harassed, persecuted, and forced to live as second class citizens. While assuming a posture of "independence," the current regime managed to acquire great economic and political benefits from Western countries and America, failing to implement any democratic or humane reforms at home. It is worth mentioning in this respect the following facts:

From about 1945 until 1962–64, any discussion of human rights in Romania would have been a matter of ridicule. During the first part of this period the almost nonexistent Communist Party secured political power through mass terror, starvation and mass imprisonment of opponents and by relying on the Soviet Army and the newly created arm of repression Securitate (Secret political police). Hundreds of thousands of people were thrown in prison during that time, many serving up to 20 years there and in labor camps. Many of these political prisoners died while serving their sentences, leaving behind widows and orphans without basic means of support. Others, probably less fortunate, lost their mind while subject to "brainwashing" experiences at Pitesti and Gherla prisons, or the Danube-Black Sea Canal.

In 1963–64 the Bucharest government freed those political prisoners who managed to survive. Nevertheless, before freeing them, the regime subject the inmates, particularly those in Aiud prison, to unspeakable "brainwashing" techniques. These former inmates are now at the mercy of very poor public assistance programs in order to survive, or have become a burden to their impoverished families. On the other hand, many of those who spent endless years in prison have been physically incapacitated, incapable of continuous hard physical work. And yet another large category is unable to retire because they lack the mandatory years of work, although their advanced age would entitle them to. We recently received a letter from a group of such people begging us to ask the U.S Congress and other American organizations to intervene on their behalf so that they may be able to retire and still enjoy some dignity and human rights in their old ages since God denied them such privileges when they were young. Here are those who dared to give us their names:

(1) Remus Radina, age 54, 9 years in prison, Str. Costila No. 8, Ap. 4, Bucharest 5.

(2) Cicerone Ionitoiu, age 54, 10 years in prison, Bvd. E. Bodnaras No. 25, Ap. 24, Bucharest 7.

(3) Valerian Basarabescu, age 57, 10 years in prison, Sos. Pantelimon No. 287, Ap. 64, Bucharest 3.

In 1975 Romania signed the Helsinki Accords, thus pledging to respect the human rights of its own people. Later, Romania received from the United States the Most Favored Nation Clause, which grants her great economic and trade privileges. This privilege, however, was granted on condition that the Bucharest regime would liberalize its emigration and human rights policies. We, American-Romanians, demand that human rights be fully observed in Romania and that former political prisoners enjoy the rights and dignity of all human beings in this 20th Century. This memorandum has been prepared under the guidance of Zaharia Pana of New York, who spent 14 years in the political prisons of communist Romania, and Ion Dima also of New York who spent 10 years in prison:

MEMORANDUM

Former political detainees in Romania continue to form a category of ostracized citizens, deprived of basic human rights.

After years of duress and torture in the extermination conditions prevalent in prisons and labor camps, those who have managed to survive and regain their freedom continue to be the victims of persecution, including among other things, denial of rights to old-age pensions and Social Security benefits.

In all Communist countries the only means available to ensure a minimum of living conditions are the wages and salaries earned by able-bodied individuals or the Social Security benefits granted to those incapable of work. Any other income, apart from wages, old-age pensions and sickness benefits, is considered illegal and is penalized as such.

In accordance with laws applicable in present-day Romania, old-age pensions and sickness benefits are partly calculated on the basis of the average earnings of the respective individual during a given period of time (for instance, 10 years for old-age pensioners), as well as the number of years he or she has been in employment. The voluntary retirement age is 55 for women and 60 for men. On reaching these ages, the minimum period of employment must be 20 years for women and 25 years for men. Nonfulfillment at retirement age of these minimun periods of employment affects the amount of the pension, which even in the most favorable conditions never reaches more than 65 p.c. of earnings during the last 10 year period.

However, as far as former political prisoners are concerned, their years of imprisonment are not taken into account, a circumstance which seriously affects their future existence. It is also worth mentioning that the majority of former political detainees worked during their detention.

In those circumstances, we consider it necessary to emphasize the following points:

1. Since the Communist regime came to power in Romania, the Penal Code has undergone a number of changes in order to bring it into line with the main tenet of the "proletarian dictatorship"—the class struggle. In the framework of these changes in the Penal Code, the penalties imposed on all persons arrested as opponents of the regime have been raised to a maximum level of severity, varying between 10 years for a

disparaging verbal utterance about the regime, to hard labor for life and capital punishment for wider discussions, considered by the authorities as being counter-revolutionary plots or acts in support of American imperialism.

2. During their terms of imprisonment political detainees were compelled to work in various labor camps, such as the Danube-Black Sea Canal, the lead mines at Caynic, Baia Sprie, Valea Nistrului, irrigation projects in the Danube marshlands and the harvesting of reeds in the Delta, as well as in factories and workshops attached to prisons at Aiud, Gherla, Margineni and other penal settlements.

Prisoners working at the more important of these sites were assigned, in accordance with a master plan, to specialized production units, where labor norms were 2 or 3 times the level of those required from "free" workers performing identical work. Moreover, their official wages were paid directly to the Directorate of Prisons and Labor Camps. As a result of the conditions and complete lack of protective measures at these sites of work, many political prisoners died or were incapacitated for life.

3. After their release from detention, the professional qualifications of these former political detainees were ignored and Communist Party organs and personnel bureaus within the State-owned enterprises were, and still continue to be, extremely vigilant that no former political prisoner should occupy a better-paid job, notwithstanding his abilities and qualifications.

4. The penal sentences passed on political prisoners also entailed total confiscation of their assets and belongings, so that after their release they were entirely at the mercy of the Party organs, which continue to exert psychological pressure on these individuals deprived of all rights.

Taking into account the above-mentioned facts, we respectfully request your intervention for the implementation of human rights of former political prisoners in Romania, namely by:

Recognition of their years of detention as equivalent to years of employment. In this respect a precedent has already been created by law for individuals deprived of liberty as a result of administrative decrees.

The granting of Social Security sickness benefits to former political prisoners unfit for work or suffering from chronic diseases, shocks, etc.

The granting of pensions to the deprived descendants of former political prisoners, who died in captivity.

We also request the restitution of assets and belongings confiscated by penal sentences and payment of damages for years in detention.

We sincerely hope that your kind intervention will alleviate some of the hardships of those former Romanian political prisoners and prisoners of conscience who were deprived of freedom for too many years and who still cannot live in peace and dignity now toward the end of their lives.

Sincerely,

ZAHARIA PANA,
ION DIMA,
NICHOLAS DIMA, Ph. D.●

VIGIL FOR FREEDOM

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. GORE. Mr. Speaker, I am pleased to participate in the "vigil for freedom" sponsored by the Union of Councils for Soviet Jewry on behalf of Soviet Jewish families and individuals who are being detained in the U.S.S.R. as a result of the Soviet Government's repressive immigration policies.

Three years ago, the U.S.S.R. joined 34 other nations in signing the Helsinki Final Act, which committed the signatory nations to pursue policies consistent with basic principles of human rights, including the reunification of divided families, religious freedom, minority rights, and free travel between countries.

Regrettably, the Soviet Government has disregarded the human rights provisions of the Helsinki agreement and has drastically reduced the number of Jewish citizens permitted to emigrate.

Today, I would like to bring to my colleagues' attention the case of Mr. and Mrs. Daniel Fradkin and their children Wolf and Faina, residents of Leningrad. The Fradkins have applied for emigration status to Israel six times in the past 4 years but have been refused permission each time, apparently because of Daniel Fradkin's access to secret documents in 1963. The fact that, for the following 9 years, Fradkin worked as a lecturer of mathematics in Leningrad's Institute of Electrical Communication without access to any secret information whatsoever, has been ignored by the Soviet Government. As a result of his appeal to emigrate, Fradkin was discharged from his position and subsequently was denied employment in his field, forcing him to find work as a postman.

Daniel and Sara Fradkin have no relatives in the U.S.S.R. Mrs. Fradkin's family lives in Israel as do the brother and elderly, ill father of her husband. These relatives have made repeated pleas for assistance to allow Daniel, Sara and their children to leave the U.S.S.R., but their efforts have proved fruitless. It is my hope that this vigil for freedom we hold here will assist in the cause of Daniel and Sara Fradkin and thousands of Soviet Jewish citizens like them.●

TRIBUTE TO JOHN DENT

HON. JAMES R. MANN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. MANN. Mr. Speaker, it is with great pleasure that I speak today about our much respected colleague from Pennsylvania, JOHN DENT.

JOHN has been in Congress for 20 years, and during that time he has been one of the House's unquestioned leaders in the labor field. He has been chairman of the Subcommittee on Labor Standards of the House Education and Labor Committee, and in that capacity has had major legislative accomplishments in the areas of labor regulation, minimum wage, black lung and pension reform. He has also been an important sponsor of many Federal aid to education bills and of legislation extending benefits to older Americans.

Our colleague from Pennsylvania has also made significant contributions to election reform as chairman of the House Administration Committee's Subcommittee on Election Reform. He later did an excellent job as chairman of the administration committee's Subcommittee on Accounts.

JOHN has been a very adept legislator. He has the vital talent of setting his goals on an issue, sensing the mood of Congress, drafting the bills accordingly, and then steering them through the House. It is this talent which has enabled him to see so many significant bills that he has sponsored become law.

With the departure of JOHN DENT, the House is losing one of its most able and effective members.●

TRIBUTE TO DR. AND MRS. ROBERT GERBER

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. WAXMAN. Mr. Speaker, on October 29, Dr. Robert Gerber and his wife, Robin Gerber, will be honored at the annual Israel Dinner of State of the Los Angeles Committee for Israel Bonds, Dental Division, at which time they will receive the Sword of Haganah—one of Israel's highest honors. The Gerbers are a young couple who through fervent dedication and consummate skill have worked to alleviate some of the pain and inequity in our present world.

It is evident, in reviewing Robin Gerber's activities, that it is not merely hard work but a strength of conscience which accounts for her involvement in diverse community organizations. She is a member of the executive and civil rights committees of the B'nai B'rith Anti-Defamation League; a member of the planning committee for the first Catholic-Jewish Women's Conference in 1977 and 1978. She is a member of the Board of Parents organization of the Abraham Joshua Heschel Day School, North Hollywood attended by the couple's sons, Ross and Seth.

Robin Gerber is founder of the Los Angeles Women's Campaign for Soviet Jewry–35, an organization formed to protest the Soviet Government's policy of barring countless numbers of Soviet Jews from emigrating from the U.S.S.R. and their subsequent harassment by Soviet authorities. Her work, along with the other women in this group, includes monitoring violations of the Helsinki accords, keeping in close touch with Soviet families in need of moral support, providing them with cultural and religious materials otherwise unobtainable by them, and keeping a steady flow of American tourists to the U.S.S.R. in touch with them. Robin Gerber earnestly believes it is a moral obligation to continue the fight against the Soviet policy of repression because, in principle, it is not only a Jewish issue but the issue of basic human rights and freedom of expression for all people.

Dr. Robert Gerber is chief of the dental staff of Cedars Sinai Medical Center. His interest in the welfare of others began

at an early age. After graduating from Fairfax High School, he went on to predental school at UCLA 1955–57. When he was 17 he joined the U.S. Army Reserve, entered the USC dental school, and was commissioned as second lieutenant in the Medical Service Corps, becoming first lieutenant upon graduation. He served from 1961 to 1964 as captain in the Dental Corps, U.S. Army Europe. His military awards include a letter of commendation for heroism in 1961 at Fort Sam Houston, Tex., for his part in an air rescue operation, and certificate of achievement in 1964 for outstanding service, U.S. Army Europe, Ninth Hospital Center, Germany. His professional associations include membership in the American Dental Association, California Dental Association, Los Angeles Dental Society, Academy of General Dentistry, USC Dental Alumni, Association of Hospital Dentists. He is assistant chairman, Committee on Human Rights, Alpha Omega International Dental Fraternity.

Dr. Gerber shares his wife's commitment to the cause of Soviet Jewish liberation. In 1976 they visited many cities in the Soviet Union to meet personally with the Jewish refuseniks, the account of which was published in the Los Angeles Times. Both Robert and Robin Gerber were delegates to the Second World Conference on Soviet Jewry held in Brussels.

Despite the demands of a crowded professional schedule, Dr. Gerber's other community service activities are as numerous as they are impressive. He is national vice chairman, Committee of Concerned Scientists; a member of the B'nai B'rith's Anti-Defamation League's National European Affairs Committee, and Executive Committee, Pacific Southwest Regional Board; past chairman, United Jewish Welfare Fund, L.A. Dental Division; member and past chairman United Jewish Appeal L.A. Region Young Leadership Cabinet; member of the Commission on Soviet Jewry of the Community Relations Committee, Jewish Federation Council, Los Angeles.

I ask the Members to join me in recognizing Robin and Robert Gerber for their outstanding service to their community as well as to the community of the world.●

GEN. CASIMIR PULASKI

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. DERWINSKI. Mr. Speaker, today marks the 199th anniversary of Gen. Casimir Pulaski's untimely but heroic death. That outstanding Polish patriot gave his life for our country during our Revolutionary War. He will long be remembered for his service in the cause of American liberty, and for his love of freedom.

Born in 1848 in Poland to a distinguished aristocratic family, Count Pulaski turned his interest to military affairs at the age of 20. He joined with his father and brother in pledging their time, fortune, and life to the independence of his native country. Pulaski led the Polish insurrection against the domination of Poland by Russia, Austria, and Prussia. His heroic feats against overwhelming odds won him recognition throughout Europe as an outstanding cavalry leader.

Forced by Russian oppression to leave Poland, Pulaski became an exile in France where he first learned of the American rebellion against the British. Fired by the spirit motivating the American cause, Pulaski offered his services to the Americans who accepted them with gratitude.

By the summer of 1877, Pulaski was in America ready for battle, and in September of that year took his place in the American line, as a volunteer at Brandywine, where his conduct earned him instant recognition. As a result of his outstanding military leadership, the Continental Congress granted him a commission as brigadier general.

At Valley Forge, Pulaski organized an independent cavalry force that was to become known as Pulaski's Legion, earning him the title of "Father of the American Cavalry." Stationed at Baltimore for a time, Pulaski grew impatient for battle and asked for a transfer to the scene of war. The request was granted and the legion moved north, engaging the enemy in frequent battles, throughout New Jersey. When once again a lull developed, Pulaski, whose ardent desire was to make a full and lasting contribution to the Revolutionary War, asked for a more active role in the fight for independence. He was then dispatched to the South, where the British were operating effectively out of Savannah.

Pulaski's courage and determination helped save Charleston, S.C. General Pulaski's final act of undaunted courage came at the Battle of Savannah. As the British fired from the fortified city, Pulaski volunteered to charge through their line of defense, enter the city of Savannah, and confuse the enemy. His untimely death at the head of his famous cavalry charge underscored his dedication to the ideals for which the colonist fought.

On this day, we honor Casimir Pulaski, whose dream of freedom was to benefit millions and millions of Americans to come, including a host of immigrants from his native land and their descendants. He was a hero in the fight for freedom in Poland, his native land, and in America, the land of his adoption.●

KILPATRICK OF CALIFORNIA—A LAWYER'S LAWYER

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. LEGGETT. Mr. Speaker, this week in California the bench and bar lost one of its premier court officials, Henry Hecker Kilpatrick, Esquire. I began practicing law with Henry in Vallejo 28 years ago. I found him an aggressive teacher, a paramount representative of the friends of our offices, and a lawyer who could provide valuable counsel. Judge Vic Castagnetto, Judge Ellis Randall, and former State Bar President Pat O'Hara were all part of the firm.

But for a quirk of fate, Kilpatrick might now hold my congressional seat. Unfortunately, he chose to run for public office 10 years before I did. At that time, his formidable opposition was entrenched, the late John Baldwin of Martinez. Henry was beat in a primary convention where I participated in my one and only campaign for Kilpatrick. He lost, never to attempt the art of politics again.

Kilpatrick adopted the law school adage that "you serve people best by continuity of private practice at the same old stand." For nearly 20 of his 44 years of private practice, he maintained offices at 922 Tennessee Street, Vallejo, Calif. Many times during those 20 years I sought Kilpatrick's counsel, association, and assistance. Always, he was a friend who could be relied upon almost without asking. He epitomized the soundest principles of private practice of the law. The people he assisted measurably and effectively over a lifetime are too numerous to count. The vacuum left by his leaving Vallejo will not soon be filled.

At this time, Henry, the Congress of the United States salutes you for your service to people from the private sector. To your partners, Clint and Dwight, and your lovely wife, Fran, and family, you have our sincerest formal condolences.

Statistical accomplishments of Kilpatrick were noted yesterday in the Vallejo Times Herald as follows:

H. KILPATRICK, VALLEJO ATTORNEY, DIES

The late attorney practiced law for 44 years and formed his own law firm here in June, 1955. He was a 1931 University of California, Berkeley, graduate with a bachelor of arts degree and later attended Harvard Law School and Boalt Hall. He was admitted to the California Bar in June, 1934 and began his first practice in Oakland.

Kilpatrick's achievements were numerous. He was elected to the Board of Governors of the California State Bar Association in 1971 and also elected treasurer of the association in 1973. He served as an association vice president at the same time.

He was a Solano County Bar Association president and a delegate to the Conference of State Bar Delegates on five occasions. He also served on several law study committees for the local association.

Kilpatrick practiced law in good company. Two of the attorney's law partners' in Vallejo also achieved high positions in the state bar association. Russell F. (Pat) O'Hara was its president in 1945 and Judge Ellis R. Randall served on the Board of Governors as well.

The distinguished attorney was a member of the American Bar Association, the American Judicature Society and he was a fellow in the American College of Probate Counsel.

He was a Vallejo Lions Club president, a Silverado Council, Boy Scouts of America president, two-term chairman of the city of Vallejo Juvenile Delinquency Committee and Vallejo's representative in 1958 in Springfield, Mass. when Look Magazine proclaimed Vallejo as one of the publication's All-America Cities.

Kilpatrick was also a member of Naval Lodge 87, F and AM; Vallejo Post 104, American Legion; Vallejo Elks Lodge 559; and a charter member of Green Valley Country Club.

The U.S. Army activated Kilpatrick in

1940 and he served five years as a combat infantry and staff officer in both the European and Pacific theaters during World War II.

His division was immediately transferred from Europe to the Far East after V–E Day in May, 1945, and was ready to land as part of an invasion force on Japan when peace was achieved. The unit went ashore as an occupation force north of Toyko.

He came to Vallejo following his discharge from military service and joined the law firm of O'Hara, Randall and Castagnetto. He remained there until he established a firm with partners J. Clinton Peterson and Dwight C. Ely.

Kilpatrick is survived by five daughters, Mrs. Sandra Petty of Berkeley, Mrs. Mildred Fitzgerald of Rancho Palos Verdes, Calif., Ms. Maureen McDevitt of San Francisco, Mrs. Karen Eichler of Napa, and Mrs. Patrick Murrell of Ceres; one brother, Emmett Kilpatrick of Oakland; and eight grandchildren. ●

AMERICAN PRODUCTIVITY

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. WINN. Mr. Speaker, this Nation, since the turn of the century, has experienced a virtual technological revolution. We have set the pace for the world in technological innovation. The American people have displayed a creative motivation that has resulted in the world domination on many fronts of technology. Consequently, the United States has been the envy of the world.

Unfortunately, I fear this is something of the past. I have witnessed in the past few years a general decline on all fronts of technology and innovation. The world is challenging us in the very game we set the standards for and we as a nation are not responding to that challenge. This challenge is not just occurring in the areas of high technology, but in all areas of production. We recognize the obvious trade deficit for oil, but I do not feel we are paying close enough attention to the growing imbalance in manufactured goods such as clothing, appliances, and automobiles. I even noticed that the world's largest sewer pumps were recently imported from a Swiss firm and delivered to the Passaic Valley Sewage Commission in New Jersey. The fact that the trade deficit problem is so prevalent on all fronts of production indicates the existence of a very basic problem; that problem is productivity.

The concept of productivity is very simple; it is the relationship between the input and output of a function. Provided the output is larger than the input, the function will grow. This concept can be applied to nearly all facets of life. For example, our personal checking accounts comply with this concept—obviously, if the withdrawals or outputs are greater than the deposits or inputs then we receive an overdraft statement. In fact, this concept is so rudimentary to our way of life that it is taken for granted. It appears obvious to me that this Nation as a whole and especially the Federal Government has totally ignored this concept when making decisions and drafting legislation.

For example, the public utilities are being forced to convert to coal burners as opposed to gas. Unfortunately, there is no mechanism provided to pay for the cost of compliance with the clean air standards. Therefore, these costs must represent a decrease in total output.

The implementation of OSHA safety standards has added substantially to the cost of manufacturing and construction. This also represents a reduction in productivity. Someone has to pay sooner or later. It appears obvious that later has arrived and the U.S. economy is paying the bill. The world is trying to tell us that our society's economy is about to receive that giant overdraft statement. You only have to look at the condition of the dollar on the world money market, trade deficits and the inflation figures to realize this. It is way past time for this Congress to exercise some reasonable judgment in their decisions and give due consideration to the concept of productivity. It is time to give consideration to the health of the industrial community of this Nation. We no longer can afford the luxury of instituting programs that inhibit or reduce productivity.●

PHILADELPHIA COMMEMORATES VON STEUBEN DAY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. EILBERG. Mr. Speaker, I am delighted to inform my colleagues in the House that I recently had the privilege of taking part in the Philadelphia tribute to one of our Nation's Revolutionary War heros, Gen. Friedrich von Steuben.

The commemoration was highlighted by a parade and other festivities. Mayor Frank L. Rizzo and other city officials participated in the parade, and in a subsequent observance at Independence Hall.

The parade was reviewed by the mayor, Dr. Werner Ungerer, Consul General of the Federal Republic of Germany from New York; Hans J. Beyer, chairman, Steuben Day Parade; Rev. Dr. Hans Haug, president, German-American Committee; Maj. Gen. Frederick Welsh, 79th Army Reserve Command; Lt. Gen. Willard Pearson, superintendent, Valley Forge Military Academy; Brig. Gen. Martin Krausz, grand marshal of the parade; and Maj. Gen. Robert Friedrich, U.S. Marine Corps.

The Independence Hall festivities got underway when Mayor Rizzo received a burning symbolic torch from a five-man marathon team which ran from New York City to Philadelphia to take part in this year's parade.

Mr. Speaker, Von Steuben came from Prussia to offer his services to the Continental Congress, and was appointed a major general in Washington's army. During the winter of 1777 at Valley Forge, Von Steuben was credited with shaping the Continental Army into an effective, disciplined, fighting force.

The drill manual he wrote for Washington remains today as the fundamental manual of the U.S. Army.●

TRIBUTE TO JOHN DENT

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. BURKE of Massachusetts. Mr. Speaker, thank you, first of all, for setting aside this time to pay tribute to my dear friend and long-time colleague, JOHN DENT.

JOHN and I came together as freshmen to the 86th Congress. Both of us had served in our respective State legislatures and both of us had assumed positions in the Democratic Party leadership there; JOHN in the State Senate, I in the House.

What especially endears JOHN to me is his lifelong association with the health concerns, prosperity, and aspirations of the working men and women of our Nation. His active interest in labor issues here in the Congress has been unsurpassed. And because he has listened to and acted in the best interests of his district, the 21st District of Pennsylvania, the people there have returned him to this Chamber by wide margins.

JOHN DENT has never waivered in his unceasing efforts to insure just and decent minimum wage laws for all Americans. I was fortunate to work with him during the Johnson administration to pass several labor laws, including the Dent-sponsored minimum wage bill. We have always depended on and unequivocally received each other's support in the areas of medicare, social security, labor standards, and unemployment compensation legislation.

More recently, we enjoined our efforts to enlighten the American public about the state of foreign trade and together we asked our colleagues to take a new look at unrestricted importation of goods into American markets. It seems, JOHN, that we were ahead of our time. The American consumer is only just beginning to realize the serious nature of our trade deficits, foreign trade practices and the threat they pose to American industry and industrial workers.

Congressman DENT'S success in writing into law major reform legislation in the areas of black lung and retirement pensions have helped ease the fear of disease and retirement in security for millions of Americans. His yeoman work has touched the lives of all our citizens, and for a great many, his legislative accomplishments have renewed in them, a sense of self-worth.

I am proud to say that I have been closely associated with JOHN DENT these past 20 years. I have enjoyed a warm and productive working relationship with the current chairman of the Subcommittee on Labor Standards. The United States is losing the talents of a fine legislator and a warm and compassionate man. I shall be sorry to see him leave this House. We have such need of him here.●

HASTINGS COLLEGE OF THE LAW: A CENTURY YOUNG

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. RYAN. Mr. Speaker, 100 years ago the University of California founded its first law school. One hundred years later, Hastings College of the Law, the oldest law school west of the Mississippi has distinguished itself as one of the finest law schools in the country. I think it is only fitting for the House of Representatives to recognize the accomplishments of this noble institution which is celebrating its centennial year in preparing law students for careers in the legal profession.

It is especially important, I think, for the Congress to take note of the fact that Hastings College of the Law has contributed more graduates to the three branches of Government than any other law school in California and more than 250 graduates presently serve in the Judiciary. Hastings has been in the vanguard among law schools in offering, and more importantly, encouraging women and men of all ethnic backgrounds to pursue legal educations. The school attracts students who are among the top 10 percent of the college graduates across the Nation. Furthermore, the 1,500 students at Hastings represent one of the best integrated enrollments in the country. Minority students comprise 20 percent of the student population and women comprise 33 percent of the student body; two of the highest percentages attained by any American law school.

From its very beginning Hastings has pioneered innovative programs in faculty recruiting and curriculum development. Under the respected leadership of Dean Marvin J. Anderson, Hastings has continued to attract eminent legal scholars to its faculty. One-third of the faculty is comprised of members of the "Sixty-five Club," professors who left positions at other law schools due to the mandatory retirement rules and came to Hastings to continue their careers. Hastings instituted this program long before we in the Congress, and the country as a whole, recognized that there was simply nothing ominous or barren about the age of 65. Indeed, Hastings realized early on that the finest legal scholars, professors, and law school deans were being forced from the classroom at a time in their lives when they were probably the most valuable. The greatest beneficiaries of this program have been the students at Hastings who have had the invaluable opportunity of learning the law from the masters who actually wrote the casebooks.

As the school enters its second century of providing students with a legal education, I know my colleagues join me in commending Hastings College of the Law for its outstanding achievements and contributions to the American legal profession, and ultimately, to the American people.●

MULTINATIONAL COMPANIES BRING JOBS TO CORAL GABLES, FLA.

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. FASCELL. Mr. Speaker, much uncertainty continues to plague government, industry, and labor leaders about the effects of multinational corporations and their activities on jobs and the general quality of life in this country.

There are conflicting theories and views about the impact of multinationals. But what we need is more facts and less speculation.

The community of Coral Gables, in southern Florida, has recently put together some of the kinds of facts we need. There has been a considerable influx of multinational firms establishing corporate headquarters in Coral Gables since 1974. The figures on the economic impact of that trend, prepared by Mr. Carl Morrison, an active member of the Coral Gables Chamber of Commerce and retired president of Esso Chemical Inter-America, speak for themselves.

The Coral Gables Chamber of Commerce, and its committee of 21, are to be commended for their initiative and support of this study, which is as interesting and useful to policymakers in Washington as it must be to local officials. Certainly it suggests that Congress ought to think twice before adopting legislation that would unduly inhibit multinational business activities in the United States.

The background and text of the 1978 Morrison Report follow:

ABOUT THIS SURVEY . . .

The 1978 Morrison Report—a study reflecting the contribution of the multi-national companies to the economy of Coral Gables—was begun in late 1977 and is based on the 76 multi-nationals headquartered here at that time. Seventy-six companies participated in the study and full answers to our questionnaire were obtained from 50 of these companies, or 66 per cent. Sufficient information was obtained by telephone from the others to satisfactorily include them in the study.

It will be noted that the number of companies is up 80 per cent since early 1974, while the number of total employees is up only 39 per cent. Employees per company has decreased from 38 to 29.2. The percentage of employees living in Coral Gables is up from 18.2 to 20.3.

The number of visitors has increased, which is a good trend not only because of their expenditures in Coral Gables, but also because of the information disseminated through them. An additional bit of information included in the 1978 survey which was not part of the 1974 survey is that 61 per cent of these visitors stay in accommodations within the Coral Gables city limits. Another point to note in the 1978 figures is the increase in services purchased within the City of Coral Gables. This indicated that the need for such services is now being provided by additional local facilities.

In these "services purchased" figures, we did not include travel agents' commissions on the transportation expenditures. It would be quite a substantial figure. Some companies deal directly with the airlines, while others use local agencies.

In compiling the figures for the 1974 survey, 50 per cent of the 42 companies located here at that time filled out and returned the questionnaire, and Carl Morrison sought sufficient information from the other companies to project reasonably accurate information on their behalf.

To obtain any further information about these Morrison Reports, contact the Coral Gables Chamber of Commerce, 50 Aragon Avenue, Coral Gables, Florida 33134. Telephone (305) 446-1657.

A SURVEY OF THE IMPACT OF THE MULTI-NATIONAL COMPANIES ON THE CORAL GABLES ECONOMY

1. The number of multi-national companies locating in Coral Gables increased from 42 in 1974 to 76 in 1978—an increase of 80%.

2. The number of employees of these companies increased from 1,597 in 1974 to 2,225 in 1978—an increase of 39%.

3. The number of employees living in Coral Gables increased 56%, from 290 in 1974 to 453 in 1978.

4. An increase of 174% occurred in the number of out-of-state and foreign visitors to the offices of multi-nationals in Coral Gables—from 4,049 in 1974 to 11,091 in 1978.

5. The average length of the visitors' stays in Coral Gables remained unchanged—2.6 days.

6. The annual total employee payroll increased 24%—from $26,095,000 in 1974 to $47,895,000 in 1978.

7. The annual total employee payroll for employees living in Coral Gables increased from $4,980,000 in 1974 to $8,740,000 in 1978, an increase of 75%.

8. Coral Gables' annual estate tax, tangible property tax, and cost of occupational license revenues totaled $732,000 in 1978, an increase of 67% over the 1974 total of $438,700. (Where a company did not know the real estate tax paid by landlord, they supplied their square feet of floor space. Total tax on the building in question was obtained by Morrison and their square footage ratioed against the total footage and tax.)

9. The value of services purchased within Coral Gables by these multinationals was $1,971,300 in 1974, and $6,650,000 in 1978, an increase of 23%. These figures include office supplies and maintenance where purchased locally. Telephone cost is included as 50% of the total communications cost submitted by the company since it is paid locally. The other 50% is for service paid for outside Coral Gables. Travel costs were obtained from companies but only 7% of the total was included since this is the agent's commission. Where a company did not use an agent, no amount was included.

10. The expenditures by and for the visitors to the offices of the corporations increased 78%. The 1974 figure was $1,994,200 (per diem of $60 was used for visitors; expenditure of $300 per visit was used for purchases by the visitor; expenditure of $50 per visit by the company for the visitor was included). The 1978 figure is $3,555,520 (for visitors to Coral Gables from other locations in the U.S., an expenditure of $210 per trip was used for local travel, living quarters, food and company expenditure for the visitor; for visitors from outside the U.S., $570 per trip for similar expenditures plus local purchases was used).

11. Annual expenditures by employees in Coral Gables increased 93%—from $881,400 in 1974 (based on 50% eating lunch outside the office at a total cost of $245 per year each, plus $30 per year on items other than lunch) to $1,701,000 in 1978 (based on 50% eating lunch outside the office at a total annual cost of $325, plus $45 per year on things other than lunch; it was assumed that each employee living in Coral Gables would spend $2,650 per year on food, clothing, drugs, etc.)

12. For 1978, it was estimated that the approximate annual expenditures for transportation total $8,000,000.●

FORCED BUSING

HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. DEL CLAWSON. Mr. Speaker, the issue of forced busing of schoolchildren to achieve racial balance has been the subject of much theorizing and practical discussion. In spite of the strenuous objections of many of those affected, however, the practice continues to affect one U.S. community and school system after another. A column which appeared in the Herald American dated today and published in my hometown of Downey, Calif., examines the issue in depth. I commend the logic of the column "This Changing World" by Madelon Chambliss and am pleased to include it in the RECORD at this point.

FORCED BUSING

(By Madelon Chambliss)

Many people with young children buy homes near schools just for the advantage of having a school nearby. It is not difficult to understand why they are upset when government officials and judges force them to put these children on a bus to be taken five, 10 or 20 miles away to school, all in the name of something called racial balance.

The concept of forced busing for racial balance is one of the most absurd bits of idiocy which has ever been forced upon our citizens. It has no educational value and dubious social value. It does not create good schools. As a matter of fact, busing, with its attendant costs, with its destruction of the neighborhood school concept, its destruction of the cohesiveness encouraged through neighborhood meetings, only exacerbates existing problems.

It is completely at odds with the original purpose of school desegregation. That original purpose was to allow all children to attend the school nearest them regardless of race or color.

Schools across the nation have been integrated for a number of years and schools in cities such as New York were integrated many years before the Supreme Court's 1954 school integration decision. So the racial balance drive is something which goes far beyond school integration and its implementation requires an enormous degree of coercion which is inconsistent with the basic freedoms to which Americans are accustomed.

Since the 1957 start in New York, the racial balance drive has expanded, forcing black children to white neighborhoods and white children to black neighborhoods on long bus rides, regardless of the desires of the children or their parents and with no consideration for the many inconveniences caused. Actually, this forced busing operation causes much protest, boycott and conflict in general.

Although the Supreme Court and federal judges have been a major cause of this forced busing problem, not all judges go along with it. Some have ruled against it, stating flatly that it violates the laws of reason and sanity; that it endangers and jeopardizes the health and lives of hundreds of small children.

One important aspect which government officials and federal judges ignored and which the general public apparently is not aware of is that forced busing was actually forbidden by the Civil Rights law. The language is as follows: "Provided, that nothing herein shall empower any official or court of the U.S. to issue any order requiring the transportation of pupils from one school to another in order to achieve racial balance or otherwise enlarge the existing power of the courts to insure compliance with constitutional standards . . . ."

Incredibly this particular portion of the 1964 Civil Rights Law was not only completely ignored in the drive for forced busing but Federal judges have hurriedly rewritten the Constitution and say that somehow racial imbalance in schools is a violation of the Constitution. Did these judges have the right to change completely the meaning of our Constitution and use it to violate the Civil Rights Law itself in regard to forced busing?

We must use our national resources to strengthen, not weaken our schools and come up with a program that will really provide the highest quality education that we can for all youngsters.

We might add that a good way to improve education across the country is to get the heavy hand of federal big government out of it and leave the policies of the schools to state and local governments.●

TRIBUTE TO JOHN DENT OF PENNSYLVANIA

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. ANDERSON of California. Mr. Speaker, after 22 years of dedicated service in the Pennsylvania Senate, and 20 years in the U.S. House of Representatives, Congressman JOHN DENT is removing his hat from the political ring to return to the doubtlessly more peaceful life of a private citizen. The great State of Pennsylvania and the entire Nation surely will sense the absence of this "guardian of the worker" from the halls of Congress.

JOHN'S outstanding career of public service began over 44 years ago, when he was elected to the Pennsylvania House of Representatives. After one term there, he spent the succeeding 22 years in the Pennsylvania Senate, where he served as floor leader for 17 of those years.

The untimely death of Augustine B. Kelley brought JOHN to the Capitol early in 1958. He quickly established himself as a champion of the American worker with his devotion to the study of the ever-present unemployment problem and workman's compensation laws. He is, not surprisingly, the chief sponsor in the House of bills to raise the minimum wage. Needless to say, the tasks which JOHN chose to undertake upon his arrival in Congress were then, and are today, ominously difficult ones.

JOHN'S service on the Education and Labor Committee and as chairman of the Labor Standards Subcommittee—not to mention the other subcommittees of which he is a member—has been diligent and superior in nature. His dedication to public service has been invaluable to constituents and colleagues alike.

Those of us who remain here can only attempt to fill the void created by JOHN DENT'S retirement. My wife, Lee and I wish JOHN, his wife Margaret, and their wonderful family all the best in the future.●

THE DELUSIONS UNDERLYING THE SALT TREATY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. LAGOMARSINO. Mr. Speaker, the following article by Eugene Rostow brings to mind these lines written by Thomas Gray:

Alas regardless of their doom
The little victims play!
No sense have they of ills to come
No care beyond today.

Mr. Speaker, it is one of the striking signs of the decline of the West that so many in the West blithely disregard the menace posed to human freedom by the Soviet Union. The Soviet military buildup has been unprecedented in its magnitude and singular in its purpose. Since the SALT I treaty, which supposedly allayed the fears and insecurities of the Soviets, the Russians have doubled the throw weight of their ICBM force. By the early 1980's, the Russians will have increased the number of their nuclear warheads by a factor of 4. The facts are incontestable, their implication quite clear. The Soviets are not content with strategic parity, but are striving for strategic superiority. Yet still, "the little victims play."

What truly amazes me is the indifference with which these ominous developments are greeted by many in the West. It seems to me that this lassitude is comprehensible on two grounds. First and foremost, the fundamental error which many people make is that they do not understand that the interests of the United States and the Soviet Union are fundamentally irreconcilable.

Our differences with the Soviets are real and fundamental, not illusory. These differences did not arise from a lack of communication or understanding. If only such were the case, then it would be possible to reconcile our differences through demonstrations of our good will. However, the procession of illusions which have successively gripped a West desperate for accommodation with the Soviets, from the 1959 Spirt of Camp David, to the Spirit of Geneva, to détente, cannot but inspire a feeling of deep melancholia when we realize how chimerical were those "new eras of cooperation." There can be no cooperation with the masters of the Kremlin except on their own terms. For those men desire not peace and cooperation but world dominion.

From that decisive error flows the equally defective corollary that military force has no utility in international politics today. This truth has been lost on the Soviets who have found that the increased ability to project military power pays handsome dividends when embarking on a course of conquest and carnage across the African continent. Furthermore, this truth has also been lost on our allies who have noticed that the U.S. nuclear umbrella is folding up, as a result of which, they are now developing their own nuclear deterrents.

As Mr. Rostow explains in his article the proposed SALT II treaties represent the culmination of the Carter administration's neglect of the sinews of our military strength.

Our current predicament is best summarized by these words spoken by George Washington to the Continental Army:

The fate of unborn millions will now depend under God, on our courage and conduct. Our cruel and unrelenting enemy leaves us only the choice of brave resistance or the most abject submission. We have, therefore to resolve to conquer or die.

Mr. Speaker, the question is: Do we have the necessary resolve?

[From the Omaha World-Herald, Sept. 10, 1978]

WHAT IS "THE PRESENT DANGER"? ARGUMENTS AGAINST SALT

(By Eugene V. Rostow)

So far as new weapons systems are concerned, the record of the administration is clear and consistent. For President Carter, new systems are like bulls in a bull ring. You know when the bull comes in that he is going to be killed sooner or later by the matador, although you cannot tell when or how. So it has been with President Carter.

Our first new bomber in many years, B–1, has been canceled. The neutron warhead, which might have given NATO a firm shield for 10 years, has been remitted to the shades. The United States has closed down the Minuteman III production line and delayed the initial operating capability of the missile which was supposed to replace it. MX is on ice for the time being. Furthermore, the Trident program has been stretched out.

The record is the same in the area of conventional forces and conventional weapons. The president assures us that all our treaty obligations are still firm, and that we stand squarely behind our allies in the Pacific as well as in the Atlantic.

But the former chief of naval operations has testified that our Navy cannot guarantee the sea lanes beyond Hawaii. Secretary of Defense Brown recently told the Japanese that we could not assure the naval defense of Japan. And the administration has proposed a further reduction in the Navy.

In short, Secretary Brown's celebrated American hare is still asleep, while the Soviet tortoise moves ahead steadily, propelled by the pressures of vast research programs, and the momentum of new generations of weapon systems.

Now, we are told, the administration is about to agree to a SALT agreement whose terms, coupled with recent United States program decisions, would make it virtually impossible to maintain crisis stability or rough equivalence, or to reverse presently unfavorable trends.

The limitations of the three-year protocol to the treaty would affect us far more than the Soviets, if we decide to wake up from our sleep during that period. We have not introduced a new missile system since the late 1960s, while the Soviets have subsequently unveiled five.

Furthermore, temporary agreements with the Soviet Union tend to become permanent—consider the case of SALT I, for example. The administration is pinning its hopes for deterrence on the cruise missile, although it has not yet chosen a modern instrument for getting the cruise missile past Soviet air defense systems. Under the protocol would we ever be able to deploy it? and could we transfer it, or transfer the technology for making it, to our allies?

At the moment, as Paul Nitze has pointed out, we face the unattractive task of negotiating SALT II while having no modern bomber-cruise missile system capable of penetrating Soviet defenses, no follow-on to the aging and vulnerable Minuteman system on the boards, and a submarine missile force of fewer than 25 boats at sea, each constituting 4 percent of our reliable second-strike capability, and thus worth tremendous Soviet efforts to negate.

In the end, many of the proponents of SALT II at any cost fall back on another argument which I should mention. It is better, they argue, to negotiate the best deal the Soviets are willing to give us, and thus preserve the outward forms of detente, because the strategic nuclear balance doesn't make any difference anyway. No one is going to fire nuclear weapons, they argue, so why worry?

The fallacies of this argument, and its frivolity, are appalling, even in an age which should have hardened us to foolish and frivolous arguments.

International politics today, like international politics yesterday, and a thousand years ago, cannot be dissociated from the real power balances which are its matrix.

The nuclear balance is only one element in the equation. But in the Soviet view, as Nitze has recently said, "It is the fulcrum on which all the other levers of influence—military, political and economic—rest."

Can any prudent man or woman seriously advise the United States government that the Soviet view is wrong? Or that the United States should ignore a Soviet warning based on this theory?

With the Soviet military establishment organized and equipped to fight and win nuclear wars, could we resist a Soviet ultimatum—or, for that matter, a Soviet attack in Europe, the Middle East, Africa, or the Far East—under the threat of escalation to a level of violence where we could not meet the challenge?

I do not want to be misunderstood. I do not oppose arms limitation agreements with the Soviet Union as such. On the contrary, I think that, properly designed, they might serve a constructive purpose.

But I do oppose the SALT II agreement as it appears to be emerging from the negotiating table, and so does the Committee on the Present Danger, of which I am an officer.

In our view, the treaty now in prospect would not prevent the Soviet Union from neutralizing our second-strike capability, and would prevent us from restoring the nuclear deterrent on which national security ultimately depends.

The basis for our security is not the treaty, but strategic force deterrence and the strategic and conventional force balance.

We are much too preoccupied with SALT, at the expense of our concern with the realities of power.

I have just returned from a trip to Europe, Iran and China, where I talked at length with responsible governmental leaders.

I can assure you that their concern was with the adequacy of our military establishment, the cohesiveness of our alliances, and the rationality and dynamism of our foreign policy—not with SALT, except as a self-imposed obstacle to restoring our military strength.

Around the world, people are seriously worried about our state of mind. They wonder whether we have the understanding and will to defend ourselves and our interests in world politics, or whether we are in a mood of suicidal appeasement. As the brilliant leader of a moderate-sized country in Asia said recently, "the greatest external threat" to the security of his nation "is the weakness of the West. The West is paralyzed, and divided."

Our goal—the goal of every American—is a stable peace, and improved relations with the Soviet Union, a state of things based on mutual and reciprocal respect for the rules of the Charter of the United Nations regarding the use of force. This is what we mean when we use the word "detente."

In nearly 40 years in or near the foreign and defense policy establishment of the United States, I have never met a person who was not for detente or who favored war with the Soviet Union.

The Russians who govern the Soviet Union are what they are. They will not change and we should not get hysterical about them. They take advantage of every opportunity to expand their power, so long as the risks are not excessive. As they say, they push at every open door.

And they take a long view. We have to deal with them calmly, steadily, and patiently, with an eye on our national interests around the world.

The kind of SALT agreement the administration is so frantically trying to sell the country is not a step toward detente or toward peace, but an act of appeasement which can only invite more Soviet pressure and more risk.

It would freeze us in a position of inferiority, deny us the opportunity to redress the balance, weaken our alliances, and isolate us.

It would be a step toward war, not peace.

"SOFT BARGAIN, HARD SELL"

Eugene V. Rostow was undersecretary of state for political affairs from 1966 to 1969 and presently is Sterling Professor of Law at Yale Law School.

He is chairman of the executive committee of the Committee on the Present Danger, an organization formed to express views on national security and defense policy.

This article is taken from a speech, "SALT II—A Soft Bargain, A Hard Sell," delivered July 25 at a Conference on United States Security and the Soviet Challenge, at Hartford, Conn.●

RETIREMENT OF MR. HEALTH, PAUL ROGERS

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. CORMAN. Mr. Speaker, the last days of a Congress always saddened by the realization that the work of the Congress will proceed next year without the assistance of some of our most distinguished colleagues. One of the most missed will be PAUL ROGERS.

PAUL has established a formidable record as a master legislator. His methods, skills, commonsense, patience, and compassion should be a case study for all who follow. Few Members have been to the well of the House more frequently and none have been more successful.

The Nation has been fortunate that PAUL ROGERS has devoted his talents to health issues. As a result, he has probably done more to improve in a direct way the well-being of the American people than the rest of us can claim.

Every year, U.S. News & World Reports conducts a survey on "Who Runs America." As expected, PAUL ROGERS is ranked as one of the top five leaders in health.

I was surprised the other day as somebody said that she was sorry that I would not be returning to handle health legislation next year. My surprise turned to honor when she realized that I had been confused with PAUL.

Changes ahead in the way health care

is delivered and financed will be more difficult without his leadership and expertise.

The Rogers, first his father, Dwight, and than PAUL, have been an honor to the House and a tribute to the people of Florida.●

PROPOSED REVENUE PROCEDURE ON PRIVATE, TAX-EXEMPT SCHOOLS

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. RHODES. Mr. Speaker, I would like to share with you and the other Members assembled, a letter that was written to me from a constituent who was concerned about the proposed Internal Revenue Service's regulations concerning private educational institutions. This letter represents only one of many that I have received concerning this matter, and all have expressed similar concern about what they, and I, feel is a grave intrusion into the first amendment rights of the citizens of our country. The letter is from an attorney from Phoenix, Ariz., by the name of George H. Mitchell. Mr. Mitchell's remarks are succinct and to the point. However, their brevity is in inverse proportion to the seriousness of the issue they address. I hope all Members take heed of Mr. Mitchell's timely remarks, and that IRS reconsiders its onerous position on this matter.

The letter follows:

PHOENIX, ARIZ.,
October 5, 1978.

Mr. JEROME KURTZ
Commissioner of Internal Revenue, Washinton, D.C.

Re: Proposed Revenue Procedure on Private, Tax-Exempt Schools.

DEAR MR. KURTZ: I have recently noted in the August 22, 1978 Federal Register the proposed revenue procedure on private, tax-exempt schools. I was extremely concerned by what I read and especially the way in which the I.R.S. is attempting to accomplish social reform through taxation. The proposed regulation in my opinion is definitely in violation of the First Amendment of the United States Constitution as an infringement by the state on the freedoms of speech and religion. In addition, it is an attempt by your Bureau to legislate when, in fact, none of the proponents of this proposal are elected representatives of the people.

This is a first amendment issue, not a racial issue, and should therefore be decided by the law and not by your own political and social views or objectives. With this in mind, I was even more alarmed to note that the regulations were scheduled to go into effect without a public hearing. This procedure is unconscionable. It deprives the people of their fundamental right to be informed and to have an opportunity to make their opinions known before any action is taken that directly affects their rights as a citizens.

I would urge that you stop the implementation of this proposed procedure and at the minimum hold public hearings before it is again considered.

Thank you for your attention to this matter.

Very truly yours,

GEORGE H. MITCHELL.●

ANIMAL BIOLOGICAL PRODUCTS ACT OF 1978

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. WAMPLER. Mr. Speaker, I have this day introduced, with Mr. GRASSLEY and Mr. LEACH of Iowa as cosponsors, a bill known as the Animal Biological Products Act of 1978. The purpose of this bill is to regulate the production, sale, and shipment of animal biological products and to repeal the act of March 4, 1913, relating to viruses, serums, toxins, and analogous products intended for use in the treatment of animals.

The bill would repeal the act of 1913 (21 U.S.C. 151–158) and would replace it with a new act to be known as the Animal Biological Products Act. The new act would strengthen regulatory measures relating to the production, distribution, and sale of animal biological products used in the prevention, diagnosis, and treatment of animal diseases.

The bill would clarify and extend the provisions of the present law by including: First, provisions for regulating animal biological products moving in intrastate commerce; second, provisions for seizure or stop sale authority for any animal biological product, as defined, which violates the provisions of the act; third, requirements to assure that each animal biological product is pure, safe, potent, and efficacious; fourth, development and issuance of test methods and control procedures as standards; fifth, addition of label requirements; sixth, revisions of the present licensing system relating to animal biological products; seventh, provisions to assure that imported products meet standards of quality as required for domestic products.

When the Virus-Serum-Toxin Act of 1913 was enacted, animal biological products were few in number, and those produced were used largely for the control of hog cholera. In recent years, the production, distribution, sale, and use of animal biologics have expanded greatly as a result of rapid scientific and technological advances. Moreover, new products are always in the process of development.

The products to be regulated under this act are differentiated from the many drugs and devices regulated under the authority of the Food, Drug, and Cosmetic Act, as amended.

One-third of the States have no laws to regulate the production and sale of biological products for animals. For the most part, the other States require only the registering of animal biological products and quality control is nonexistent. Products purportedly prepared for shipment only in intrastate commerce can, and often do, either intentionally or inadvertently find their way into interstate or foreign commerce. It is in the public interest that all animal biological products be brought under the regulation of the Secretary of Agriculture in order to assure that they are pure, safe, potent, and efficacious.

I want to make it crystal clear in introducing this bill that I do not expect it to become law in the 95th Congress. On the contrary, I fully expect that it will not become law this year.

My intention in introducing the measure at this time is so that the general concept of broadened USDA authority in this area of regulation can be examined between now and the convening of the 96th Congress. I do not favor increased Federal regulatory authority unless there is a definite need for it. However, I am also concerned that in many cases areas within the jurisdiction of USDA are being taken over by other agencies such as FDA or EPA. If there is to be further regulation in this area, I believe it should be administered by the Secretary of Agriculture.

For instance, I am aware that this bill gives to the U.S. Department of Agriculture certain authority which the Food and Drug Administration (FDA) may now exercise as it relates to enforcement mechanisms such as those which authorize FDA seizure of misrepresented and unsatisfactory products and those which authorize FDA to obtain injunctions to prevent and restrain violations of law relating to contaminated or harmful biological products.

There is one area in this bill which should, I believe, be strengthened. I would prefer to have an expanded State authority provided for in the bill. It is my considered judgment that USDA could delegate authority for licensing, issuing of permits, and establishment of test standards to the States. Also, I believe that States could be given expanded authority in the enforcement of this Act much as we did in Public Law 95–405, the Futures Trading Act of 1978.

Congressman GRASSLEY, Congressman LEACH and I welcome correspondence and comment from interested parties regarding this legislative measure with respect to ways it may be improved upon before its reintroduction in the 96th Congress.●

FREEDOM FOR SOVIET JEWRY

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. MURPHY of Illinois. Mr. Speaker, as the House today observes a "Vigil for Freedom" for Soviet Jewry, I want to draw my colleagues' attention to the case of Boris Chernobilsky. Mr. Chernobilsky, a member of the Refusnik community of Moscow, was detained last October and accused of "hooliganism," a charge that carries 1 to 5 years in prison. The arrest stemmed from Mr. Chernobilsky's presence at a peaceful protest at the Supreme Court by Moscow Jews. Fortunately, Mr. Chernobilsky was released following a worldwide outcry over this action by the Soviet KGB.

On March 4, 1977, the official Soviet newspaper, Izvestia, accused several leading activists of working for the U.S.

Central Intelligence Agency. That evening, apartments of several Refusniks were searched, Chernobilsky's among them. This represented the most severe crackdown in several years, aimed especially at the group monitoring Soviet violations of the human rights provisions contained in the 1975 Helsinki accords. The searches carried out by the KGB, coupled with the slanderous article in Izvestia, clearly places the activists in serious danger.

While the Soviet Government would like Russian citizens to believe the false charges brought against the Refusniks, the facts are these:

First. All of their activities have been directed solely toward obtaining the right to emigrate from the Soviet Union to Israel.

Second. Everything they have done has been entirely within the framework of Soviet law.

Third. They have always informed Western public opinion and the Western press about their condition and suffering in open letters and declarations.

Fourth. They have never hid from Soviet authorities the fact that they are trying to keep the West aware of their monitoring activities.

Fifth. Their actions are intended not only to help Jews who wish to emigrate to Israel, but to improve the relations between the Soviet Government and countries of the Western world.

Mr. Speaker, I view with apprehension the prospect of anti-Jewish trials based on completely false evidence, and fear that the Soviet Government may be returning to the worst excesses of Stalin's time. It is critical, therefore, Mr. Speaker, that the Congress, the President, and all Americans call on the Soviet Union to abandon its campaign against law-abiding dissidents—in the interest of basic human rights and the possibility of greatly improved United States-Soviet relations.●

VIGIL FOR FREEDOM

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. BROWN of Ohio. Mr. Speaker, I am pleased to join the "Vigil for Freedom" sponsored by the Union of Councils for Soviet Jewry on behalf of Soviet Jewish families and individuals who are being detained in the U.S.S.R. as a result of the Soviet Government's repressive emigration policies.

Three years ago 35 nations signed the Helsinki Final Act, committing the nations to pursue policies consistent with the basic principles of human rights, including the reunification of divided families, whose members live in different countries, religious freedom, minority rights and free travel between countries.

Unfortunately, the Soviet Union has failed to honor the human rights provisions of the Final Act.

Today, I want to bring to my colleagues' attention the case of Emanuel and Alla Smeliansky, and their 5-year-old son. Mr. Smeliansky is a 44-year-old former metallurgical engineer. When the family applied for visas in 1970 to join the remainder of his family in Israel, Mr. Smeliansky lost his position as an engineer, as did his wife, an intourist guide. Not only was permission denied, but he was sentenced to 10 days of detention and sent to Butyrka.

Furthermore, Mr. Smeliansky's request resulted in unreasonable harassment, continuing surveillance and confiscation of international correspondence. The Soviet Government also levied heavy taxes, equal to a month's salary, twice on the family.

In January 1976, Smeliansky issued the following statement:

> The list of violations by the Soviet Government could be lengthened and we would ask you to bear in mind that our case is by no means exceptional. Please ask the Soviet Government to keep their promises and to grant us and our friends suffering similarly, permission to emigrate.

It is my sincere hope that this vigil will result in prompt emigration to Israel for this family.●

MICHIGAN MILK PRODUCERS ASSOCIATION SUPPORTS NATURAL GAS CONFERENCE REPORT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. DINGELL. Mr. Speaker, the Michigan Milk Producers Association has contacted me and asked that the Congress be notified of their support for the natural gas conference report, accompanying the energy bills the House will soon consider. I am pleased to have this opportunity to insert their letter at this point in the RECORD:

MICHIGAN MILK PRODUCERS ASSOCIATION,
Detroit, Mich., October 6, 1978.

Hon. JOHN D. DINGELL,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN DINGELL: This letter is to register the viewpoint and position of the 6,000 dairy farmer members of the Michigan Milk Producers Association. For the past several years as a dairy farmer closely associated with other farmers, I have agonized with them about the lack of progress in achieving a more clear and understandable energy policy.

We believe the energy situation in the United States is critical. Agriculture depends entirely upon an adequate supply of fuel. To meet the needs of agriculture in this country, comprehensive legislation must be enacted and the passage of the bill is crucial in order to demonstrate to all that we have the will to deal with the energy problem in a decisive way. The Conference Report will allow for the production of more gas than at present and it contains provisions to protect the agricultural sector from production to the point of last sale from undue high costs. We also have concluded that it is in our interest as homeowners as well.

We realize it is a very complex issue with extreme positions being held to. Some want total regulation and no price incentive for gas producers, and others want total deregulation now. We know that both opposites cannot be right. Therefore, in the face of the need, we favor the compromise of HR-5289.

On behalf of the dairy farmer members of the Michigan Milk Producers Association, I respectfully request your vote for the Natural Gas Conference Report.

Sincerely,

GLENN LAKE,
President. ●

ADM. PIERRE CHARBONNET

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. LIVINGSTON. Mr. Speaker, I would like to place in the RECORD an interview conducted by the New Orleans Times-Picayune with Vice Adm. Pierre N. Charbonnet, Jr., who recently retired from the Navy after 40 years of service.

Admiral Charbonnet was Chief of Naval Reserve and Commandant of the Eighth Naval District.

In the interview with the Times-Picayune, Admiral Charbonnet expresses his dismay with the Carter administration's policies and what he calls the "muzzling" of the military. He says that the President is telling military commanders, "If you can't go and support me, get out."

Mr. Speaker, I do not believe that this kind of policy gives us a clear picture of the views of our military experts, nor does it enable us to take advantage of their experience. The President is ignoring the experts on national defense, and the security of the United States has become the whipping boy. I think that is a cause for grave concern.

I am inserting this article in the RECORD and I am also writing the House Armed Services Committee, expressing my concern and asking that Admiral Charbonnet be called as a witness when defense policy is under discussion.

We cannot afford to lose military experts and leaders like Admiral Charbonnet merely because the President does not want dissent.

The article follows:

CHARBONNET LEAVES NAVY DISMAYED BY CARTER'S POLICIES

(By Don Lewis)

Vice Adm. Pierre N. Charbonnet Jr. leaves the Navy after 40 years dismayed by the Carter Administration's defense policies and "worried about our sustained capability to meet the Russians and whip 'em in the future."

"I think we can do it right now," said the 58-year-old admiral, who took an early retirement rather than continue to support administration policies he did not believe in during testimony before congressional committees.

"You've got to remember the Soviets have got a momentum built up and I don't think we really know how great that momentum is," added the three-star admiral, who retired Sept. 1 as chief of Naval Reserve and commandant of the Eighth Naval District.

"We know their capacity for building and fabricating ships, like submarines, is something fantastic," he said. "They're geared for military production now. They've got an economy which permits them to go and concentrate on anything they want to."

Could the U.S. Navy keep the vital sealanes open in the event of war with the Soviet

Union, which has a constantly growing blue water Navy?

"I think we could in the selected areas that we would have to," Adm. Charbonnet replied. "We do not have, in my opinion, blanket superiority and capability to cover the seas, period. I think those days are long gone. We could do that 15 years ago.

"I think right now we could keep the sealanes open to principal allies in Europe or Japan," he said. "Heck, I think you've got to consider Japan in any context of confrontation with the Soviet Union and we have too much vested in the Pacific area to ignore them. And I'm not too damn sure that the Russians are not going to make that type move."

At present, the Department of Defense only has eyes for Europe, but Adm. Charbonnet observed: "When the Russian applies pressure and if we have a confrontation with them, there are other places we could have them besides Europe. I'm not necessarily totally sold that NATO is the place, but of couse, we've got to be prepared for NATO."

Adm. Charbonnet worries about a trend he sees among DoD planners: Trying to guess Russian intentions.

"We've got to base our defense establishment on his capabilities, not his intentions," he warned. "I'm sick of this worrying about intentions because we've never guessed intentions right of anybody I've ever known. That goes from Hitler to Castro. We're never right!"

Adm. Charbonnet said that Pentagon planners are talking about a given scenario in a confrontation with Russia. "They're saying things like the war in Europe will be over so fast that maybe the Navy won't even participate," he said.

"This is intentions again and this is not capabilities," he said. "This sort of ignores the fact that there's a Pacific Ocean and we're going to be fighting I assume the Russians or the Iron Curtain in the Pacific. It's going to be a worldwide thing if you fight the Russians, who have access to all oceans—and a fine, expanding navy."

"If you play against his capabilities—and we have a good estimate of his capabilities—and you build for that, it's just one helluva lot safer. You can lose a war easily—quick—on intentions.

"This is like trying to estimate when he's going to make an assault into NATO," Adm. Charbonnet said. "I don't think we will ever have a warning. I think every year when he goes and changes his troops in Eastern Germany, he could make his assault right then."

The admiral said the Soviets are working hard at building a strong military capability and their development of defensive or offensive capabilities are almost entirely based on what the U.S. can do.

"He doesn't mess around with our intentions," Adm. Charbonnet said. "He assumes always, I think, that they're bad for him. And I think we should continue to have the same feeling because it's the safe way to play. You're playing for something in which there are no second place winners.

"It's just like air combat. You either win or you've had it." said Adm. Charbonnet, who flew as a squadron and group commander in the Pacific Theater during World War II.

Adm. Charbonnet has accepted the position of executive assistant to the president of Oil Mop Inc., the New Orleans-based international pollution control company.

During a two-and-a-half hour interview at his new residence on St. Charles Avenue, Adm. Charbonnet said he was ready to retire last October, but decided to stay on at the request of Adm. James L. Holloway III, then Chief of Naval Operations.

He said the muzzling of the military under the Carter Administration has to be experienced to be believed.

Referring to the president, Charbonnet said: "He says if you can't go and support me, get out. You either go our way or leave. And, consequently, that's what I'm doing.

"At one time, we were told by somebody in Defense that we should even get clearance and approval to state our personal opinions," Adm. Charbonnet said. "And it puts you under, I thought, exorbitant pressures.

"For one thing," he said, "I felt constantly sort of hypocritical when I appeared before the Congress where you would go over and defend really the budget that was not your budget, not what we submitted, not what our requirements were, but the requirements that had been interpreted by this echelon of general staff—the analyst types, the budgeteers, the Office of Management and Budget guys.

"I just don't want to go and be dictated to by the administration that I can't agree with.

"When you go and testify in front of Congress any military man has got to have allegiance to the commander-in-chief," Adm. Charbonnet noted. "I recognize that and when I went up there on the Hill I represented the (Naval) Reserve budget to Congress as the administration wanted it. When I went and testified to the Congress, I told them what the administration, the secretary of defense, wanted for the Naval Reserve. Not what the Navy wanted."

Adm. Charbonnet said there are many brilliant young civilians working in the Pentagon with *beaucoup* doctorates in this and that. But, he said, so many have no experience in military matters and "are making decisions about things they really don't know anything about. And this goes for selections of weapons systems and estimates of the threat.

"So many of these Pentagon people are not qualified by virtue of experience," Adm. Charbonnet said. "They don't know what the hell they're talking about."●

TODAY'S SOLDIERS AMONG THE BEST

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. STEIGER. Mr. Speaker, Gen. Bernard W. Rogers, Army Chief of Staff, recently addressed the 60th annual American Legion national convention. In his speech, he spoke of the Army since the end of the draft, commenting both on the problems and the successes of the All-Volunteer Force.

"Our soldiers today reflect the strengths and weaknesses of our society," General Rogers told the Legionnaires. Still, he emphasized, "I believe that today's soldiers are among the best with whom I have had the privilege to serve in over 35 years of commissioned service."

General Rogers' speech is frank and thoughtful. His analysis of the challenges today's Army faces is one that all of us should read. I commend it to the attention of all who read the RECORD:

ADDRESS BY GEN. BERNARD W. ROGERS

Distinguished guests, ladies and gentlemen. I am deeply honored to be here this morning. Yours is a great and proud organization which always gives strong support to many causes of worth to our country. How well I remember from my early childhood my father's pride in belonging to the Legion and his participating in its activities in the small Kansas town of 250 where I grew up. The Legion is still very active in that little town.

The American Legion has always fought for a strong national defense. Two days ago Secretary Brown spoke to you about the requirements of such a defense and the high priority being placed today on combat readiness. The Joint Chiefs of Staff fully concur in that emphasis on readiness. We have committed ourselves to ensuring that we can be militarily responsive to the needs of our nation as determined by the President and the Congress. To that end we have had more opportunities, as a corporate body, than our predecessors to give our advice to this Administration; and we have always had a fair and understanding hearing. Some believe that our military opinions are not sought and are not heard. They are wrong. Our advice might not always be accepted, but the Constitution and the law do not require that it be. The principle of civilian control must remain inviolable; the final decisions on national policy must remain the responsibility of our elected leaders.

I would like to take up this morning where Secretary Brown ended this talk when he stated that "people are the greatest asset we have in defense" and that "the men and women of today offer us the opportunity for the same decisive margin" of victory which "you, our veterans, gave us . . . in the past." All our operational needs, our plans and strategies, our programs and budgets, our sophisticated equipment and computerized methods are ultimately without value unless we have that one key ingredient: adequate numbers of dedicated, responsive, trained and effective soldiers, sailors, airmen and marines.

It will, of course, be an Army perspective from which I speak, but in some cases parallel observations can be drawn from the other Services. I think it would be well to dispel some myths about the volunteer environment, to collect some facts as to the Army's experience in it, and outline for you some of our challenges as we attract, train, care for, and keep the best among those who volunteer to join our ranks.

Since December 1972, when the Army inducted its last draftees, we have been engaged in an unprecedented effort. No country has ever tried over a sustained period in peacetime to fill, solely by volunteers, an Army of our size—over 1.3 million in uniform in the Total Army: the Active Forces and the Reserve Forces—the Army Guard and the Army Reserve. We have had some growing pains and known both ups and downs, but we have met with success, at least in getting adequate numbers of qualified soldiers for our Active Forces which are some 780 thousand strong.

If the volunteer experience has been positive for the Active Army, we have not had comparable success in our Reserve Forces which face a more complex series of challenges. The end of the draft dealt those forces a severe blow. No longer were draft-induced volunteers coming into the Guard or Reserve so as to have a degree of control over the conditions of their required military service. Furthermore, the Active Army is now half the size it was ten years ago at the Vietnam peak. This reduction in the size of the Active Forces and the increase in terms of Active service result in fewer soldiers entering the Reserve Forces to complete their service obligation and serving less time once in the reserves.

Hence, a major result of the dropping of draft has been the dwindling of the strengths of our Reserve Forces. Normally this understrength would be made up by the Individual Ready Reserve, the IRR. This is the pool of trained, former service-members, who are not assigned to Reserve units yet who still have a residual obligation. This IRR pool would not only provide the immediate fillers to bring units up to full strength, it would also serve as the source of replacements for

the casualties we might expect in the early days of a major contingency until a reinstated draft could take over and fill the manpower pipeline. Unfortunately, our IRR pool is today drastically short of personnel. In my opinion, that challenge is exacerbated by another: the Selective Service System is in such a deep standby status that, under current conditions, it would take much too long to get our first draftees in and out of the training command and headed toward their initial units of assignment.

The greatest challenge which the volunteer environment poses for our Army today is reaching and maintaining the appropriate strength levels of our Reserve Forces units and of the Individual Ready Reserve.

Recruiting in the volunteer environment has obviously taken on new meaning, a very energetic one. Recruiting for the Reserve Forces presents challenges altogether different from those facing the Active Forces since recruiting for the Reserve Forces is community based. A surplus of volunteers for a unit here in New Orleans cannot help an understrength in New York.

The greatest assist in increasing the strength of our Reserve Forces would come from there being a general understanding by all citizens of the important role played by the Guard and Reserve today, and the active support of those Reserve Forces by the public and their elected representatives. Meanwhile, we have underway a number of efforts to correct these shortages. We have made proposals for new legislation required from Congress. We have begun a program of direct recruiting assistance of the Army Reserve by the Active Army Recruiting Command. And we are implementing several other measures to enhance our recruiting and retention in the Reserve units that are short. Until these measures are tried in earnest—as such measures have been implemented for the Active Forces—we must hold in abeyance any judgment on the overall success of the volunteer concept.

As we think about recruiting issues, we must recognize that we are in the business of recruiting women as well as men. In today's Active Army, we have almost 50 thousand enlisted women. They are playing an expanding role and doing extremely well at it. They have required that we reassess the types of assignments they can fill, and now some 96 per cent of our military skills are open to them. Women are still barred from assignments likely to involve close combat. They will deploy with their units should we have to go to war. They are soldiers and need to be treated as such, just as are their male counterparts. That is what the women soldiers want; that is what I want. Their presence has leavened the whole Army and presented challenges to leaders to all levels to adjust their traditional modes of thinking. We are proud of the outstanding contribution women are making, and we will be drawing upon them even more over the next several years.

To ease our recruiting burdens we must minimize the losses occasioned by soldiers who do not complete their normal terms of service. Some publicity has been given to the fact that almost 40 per cent of those soldiers who volunteered in FY 1974—the first full year without the draft—did not complete their full 36 months of service. More than half of that loss occurred during the first year. Most of those who departed early were caught in our filtering systems that sought out the non-productive, the inept, the unsuitable or the disciplined soldiers so that our commanders could concentrate on training those who were capable, motivated, and disciplined. As you would expect, it is not until we get our volunteer soldier into uniform and immersed into the regimentation and routine of the Army that we know whether he or she has the motivation, self-discipline, attitude and aptitude to be the kind of soldier we want to keep. If some demonstrate that they cannot or will not meet the standards we set, then we have the tools to remove them from our ranks. After all, this is a volunteer Army, and soldiers volunteer to meet our standards which I insist be high in all areas. If they do not measure up, I encourage commanders to use the tools and programs available to rid us of the substandard. This is surely what you would expect us to do.

As we have gained experience in the volunteer environment, we have been able to determine which categories of potential recruits show the greatest promise for effective service. As our techniques for determining that promise are refined, and as we are able to recruit more from those groups likely to do well, our attrition rates will drop. In several years, we hope to reduce attrition among first termers to about 25 per cent, but progress will be slow and expensive since we are seeking the same sorts of people as business, industry and the other Services.

We have found that one of the best pre-enlistment indicators of potential for effective service is the high school diploma—though it is by no means the only one. The motivation, discipline and reliability displayed in acquiring a diploma carry over into the Army. Our experience shows that a recruit with a diploma is more than twice as likely to finish his first term than his contemporary who does not possess one. Additionally, holders of diplomas are more apt to reenlist.

While these young persons are doing well, this expectation of success should not be construed as implying that soldiers without diplomas cannot be effective. In fact, many of them are. In the last analysis, quality should be measured by performance in one's unit, after initial training. In the main, those who complete training are doing well. When turned on by good leadership, meaningful tasks, tough and challenging training, strict discipline, and high standards, our soldiers respond with dedication, willingness to sacrifice and high performance.

I mentioned that our attrition rates are dropping, and a major factor is that the percentage of high school diploma graduates in the force has increased significantly. So far this year, more than 70 per cent of our new recruits have been holders of diplomas—a higher percentage than ever before during the volunteer environment.

Admittedly, we are not attracting many of those persons who are bound for college and also perhaps not too many at the top end of the intelligence scale. But then we have about the same proportion of enlisted members with at least some college experience as we did during the last year of the draft, about 12 per cent. By the same token we are not accepting those persons at the lower end of the intelligence scale. Our recruits in the lowest acceptable mental level, Mental Category IV, are about half the percentage we were receiving during the draft six years ago.

Many have decried the educational levels in the Army today. I would only point out that during the later phases of World War II, when our soldiers were landing on the beaches of Normandy and New Guinea, the high school graduate content of the Army was less than 40 per cent. At the height of the Korean War, it was less than 50 percent. During the last year of the draft it was 70 per cent. Today our high school graduate content throughout the Active Army is 83 per cent, including a number who have earned their diploma or equivalency while in the Service.

I think such historical perspective is important as we look at the Army and try to judge the qualifications of the soldiers now in our ranks. Although the Army can improve in many respects, and is deeply engaged in just that endeavor, much of the criticism of our soldiers that has been voiced recently is inaccurate. More importantly, hundreds of thousands of fine soldiers have been unfairly maligned. Often, a return to the draft is seen as a panacea for our challenges, but that is not necessarily so. The issue is much more complex and not susceptible to simple solutions.

The volunteer soldiers commanded by General Pershing prior to World War I and those led by General Marshall prior to World War II were not better qualified to be soldiers than those in the Army today. Yet their gallantry on the battlefield is beyond dispute. We sometimes forget the chants of "OHIO"—"Over the Hill in October"—prior to Pearl Harbor. We sometimes forget that large scale troop disturbances occurred during the demobilization after World War II. We sometimes forget that the composition of our Army during the recent draft was not necessarily more representative of our society than our Army is today—or was 50 or 100 years ago.

Perhaps the categories of representation may have changed somewhat, but a degree of imbalance will remain as a matter of practical application of any system—draft or volunteer. No system will be fully representative or truly equitable in practice. What matters is not which social or economic strata our soldiers come from or what motivates them to join; what does matter is how well they perform once they are serving in their units under their sergeants, lieutenants and captains. Then, and only then, can we judge if the soldier's performance is one of "quality."

Quality is an extraordinarily elusive concept, and peacetime measurements of wartime effectiveness must always be indirect; but we are not without experience in the field. Traditional indicators of indiscipline are down dramatically over the past five years—AWOL's, desertions, crimes of violence and the like—in some cases down by a factor of three. Our indications of motivation and morale are up. Our soldiers are in the Army because they want to be, and they are performing well.

I believe that today's soldiers are among the best with whom I have had the privilege to serve in over 35 years of commissioned service.

Let me add to that perspective. Our soldiers today reflect the strengths and weaknesses of our society. They represent a microcosm of the 17–25 year olds in our country since two-thirds of our Army fall in that age group. And, to some extent, the fact that they are now in the Army puts them in an unaccustomed spotlight.

A point has been made about the low reading levels of some of our enlistees. It is true. Even after we disqualify young people in the lowest categories of mental aptitude from coming into the Army, we find that about 6 percent of our enlistees are functionally illiterate, reading at about the 5th grade level. By comparison, a study sponsored in 1975 by the Department of Health, Education, and Welfare, indicated that about 20 percent of all American adults over age 17 are functionally illiterate. Now while certainly not all of these people are qualified for military service—by age if for no other reason—that is nevertheless a shocking figure. It is something about which we all as citizens must be concerned. It has effects with which Army commanders must cope.

However, we have a number of programs in the Army to improve the capabilities of our soldiers in this regard, such as the Basic Skill Education Program, a fully funded, on-duty effort to help the soldier acquire the educational skills he needs to do his job. We are working with the Departments of Labor and HEW to provide pre-enlistment remedial education. Other programs provide industrial recognition for skills learned in the Army and provide for appropriate ap-

prenticeships. And though the Congress has discontinued educational benefits for new soldiers under the GI Bill, there is a partial replacement for it under the Veterans Education Assistance Program.

Public interest has recently focused again on drug abuse in the Services, although Army programs are also deeply concerned with alcohol abuse where our case load is in fact higher. Again, a measure of perspective is in order. We do not want our soldiers to do anything that would impair their health and efficiency or that of the Army. Our soldiers come from a society in which drugs are endemic, and while exact national figures are not available, National Institute of Drug Abuse estimates for the 17-25 year old age group are comparable to those of the Army. We are not satisfied with these comparisons, however, because our responsibilities for national security should require higher standards than those prevalent in society.

We have been encouraged by the downturn of hard drug abuse in the past four years. Alcohol and marijuana use have remained about steady. As accurately as we can determine, about 7 percent of our enlisted soldiers now use hard drugs at least occasionally, with just less than 2 percent of them on a regular basis. Most of this use is in a social or recreational context—we have been able to weed out most of the hard core addicts we had several years ago. We have a number of programs to combat and contain, if not eliminate, drug abuse—recreational, to remove the temptation; educational, to teach the dangers; law enforcement, to root out the sources; and rehabilitational, to treat the abusers.

We do not minimize the problem; any misuse of drugs is abuse and cause for concern. But I want to assure you that drugs have not incapacitated the Army, despite what some would have you believe.

In sum, we have some big people challenges in the Army—as well as challenges in other areas—and we are working vigorously at meeting them. But, they have not overwhelmed us.

Many of these challenges are eternal. They have faced all commanders through the ages, since armies have historically been composed largely of young people. Seventeen to 25 year old men and women today have all the energy and all the high spirits they have always had. They want to be tested, the harder the better. They have an enormous potential for hard work, ingenuity, and great accomplishment. They also have the potential for mischief. They place a premium on good leadership—professional, competent, sensitive, compassionate leadership. Our Army has always needed officers and noncommissioned officers who could channel soldiers' energy in the right direction. Our task today is the same as has always faced the Army: to take those young people who join us, transform them from civilians into soldiers, and train them well so as to produce soldiers who are better as individuals, better as members of the team, and better as citizens once they return to civil life after honorable service in uniform.

In this sense, the quality of any Army is determined more by its leaders than by its junior soldiers. Good leaders can make good units; they can create an environment in which pride, professionalism, confidence, candor, esprit and motivation can fluorish. They can take care of their soldiers and make the best want to reenlist. Those who measure up have done so. Our reenlistment rates today are among the highest we have experienced in the volunteer environment, and we are meeting the reenlistment objectives we had previously set.

I have focused much of my talk on issues surrounding our soldiers that have received considerable national publicity lately. Much fuel for that debate has been based on anecdotal evidence. I submit that the views of one drug abuser, while important in themselves, should not be used to characterize the whole Army, just as the opinions of one sergeant cannot reflect accurately on the state of readiness of the whole Army.

Those of us in uniform generally have a tendency to hark back to the good old days, to wish to return to the comforts of a seemingly remembered past rather than face the possible discomfort of an unknown future. But as the old sergeant once said, "The Army ain't like it used to be, and it never was." Wishful thinking about the past will not solve today's challenges. What we in the Army do is to recognize our challenges today in their human dimensions and, with the resources available to us, do something about them.

Our Army has plotted a careful course between constancy and change. We have adjusted to change in the international environment, and we have adjusted to the dynamics of the society from which we spring. At the same time we have held true to the enduring values of integrity and honor, to the bedrock of professional competence, and to the firm principle of civilian control. If we are indeed to defend our society—and our society's right to change its own values—then the constant values of our commitment to service must remain unalterably fixed.

Before I close, I want to reiterate one point very clearly. Our Army today faces many challenges, just as it always has and always will; and, as in the past, we intend to meet them. Not the least of these challenges is taking what our nation gives us—in the way of material resources and in the way if young men and women—and fashioning a proud Army, professionally competent, capable of securing the interests of our nation in concert with the other Services, and providing an environment in which good soldiers and their families want to serve and live. The soldiers in our Army are doing just that, and they are doing it well. I am proud of them; you veterans can be proud, too. The soldiers need your support; they deserve your support. And I solicit your continued support of them.

VIGIL FOR FREEDOM

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. FRENZEL. Mr. Speaker, over 3 years ago 35 nations including the United States and the Soviet Union signed the Helsinki agreement. All of these nations pledged to reunite divided families. However, case after case has come to my attention to indicate that the Soviet Union does not take their responsibility in this matter seriously.

Just last Saturday evening, I participated in a "candlelight march" in St. Paul, Minn., in which 2,000 people demonstrated, in a dignified manner, the outrage over Russian suppression of emigration and other human rights. It is obvious that this strong objection is not confined to a few activists.

We are all familiar with the harassment and intimidation that often follows Soviet Jews request to emigrate from Russia. A case history of these families entitled "Vigil for Freedom," dramatically details this tragic problem. I would like to invite the Members' attention to the situation of the Finkelstein family, which to me demonstrates a clear violation of the Helsinki agreement.

Eitan Finkelstein and his wife, Alexandra, first applied to emigrate to Israel 8 years ago. Mr. Finkelstein is a physicist who was dismissed from the Moscow Physics Technology Institute due to his activist activities. Although he has not worked in his field for 10 years, Soviet officials continue to deny his exit permit on the grounds that he possesses secret information gained during his previous employment. Mrs. Finkelstein is highly educated in oceanographic biology and has not been employed for 2 years.

In 1974, the Finkelsteins' joy over the birth of their daughter was dampened by their struggle with registrar to name their child, Miriam. The family was subject to further harassment from the Soviet officials when Eitan and Alexandra were forced to live in different cities. We recently learned that their telephone was disconnected and they have not received mail for several months. Despite their suffering, the Finkelsteins, like many other courageous families, will not give up their dream.

I share the Finkelstein's dream. I look forward to the day when it will not be necessary to offer case examples of the many families who are forcibly detained in the U.S.S.R. But, that day is not here so we must continue our own struggle to remind the Soviet Government of its signed, but unfilled, commitment to its own citizens for basic human rights.

On this day, I pay nomage to the Finkelstein's personal fight for freedom and their courage to continue that fight. The Finkelsteins are just one of many persecuted families. There are many others who suffer a similar plight, and we must not forget them. I urge every Member of Congress to join this vigil in support of those who must always struggle for freedom.●

ENERGY SITUATION

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mrs. FENWICK. Mr. Speaker, the urgency of the energy situation of this country demands all the innovation and creativity of which this Nation is capable. With this in mind, looking forward to a conference on the subject of alternate and automating exhaustible sources of energy, I would like to bring to the attention of the Members these articles, written by Gordon Bishop, in one of our leading newspapers, the Newark Star Ledger:

ANALYSIS FINDS SOLAR INVESTMENT A "GOOD BUY"

(By Gordon Bishop)

Solar systems can produce more energy for heating, cooling and clean, renewable fuels than a comparable investment in offshore oil and natural gas.

That is the finding of one of the leading consultants to the U.S. Department of Energy—Intertechnology Corp., Warrenton, Va.

Consumers, according to the analysis, will be paying more for oil and natural gas ex-

pected to be found off the New Jersey coast than an equivalent amount of solar energy.

A solar investment of $100 billion in collection systems today buys the equivalent of a million barrels of oil a day, the analysis shows.

The United States now consumes about 20 million barrels a day.

But once the oil and gas are burned, they must be replenished, unlike solar systems, which, once installed, keep on providing energy for 40 years, the lifetime of a typical collector.

The analysis is the first ever done comparing the energy value and costs of Atlantic offshore oil and gas to new solar systems, according to the federal Department of Energy (DOE).

It was prepared by Intertechnology Corp., a worldwide developer of renewable resources and a major consultant to DOE.

The analysis reveals that energy from sunlight—hot water, heating, cooling, electricity, biomass—already is available and will be cheaper and easier to produce than resources taken deep below the Atlantic Ocean beginning in 1987.

That is the year when the first amounts of crude oil and natural gas are expected to be coming ashore for processing and distribution to the consuming public.

The government expects about one billion barrels of oil and five trillion cubic feet of natural gas to be extracted from the Baltimore Canyon some 50 to 100 miles east of New Jersey.

The conclusion reached by Intertechnology Corp. is that an investment in solar applications over the next 20 years will yield much greater energy value and social benefits, and less environmental, economic and political problems.

Moreover, inflation in the "free world" can be controlled through energy systems that rely on renewable and, in most cases, free solar fuels, Intertechnology maintains.

For example, a $100 billion solar investment now can save a million barrels of oil a day. At $15 a barrel, the savings comes to $15 million a day.

The United States will import nearly $50 billion worth of fuels this year, causing a massive trade deficit and feeding inflation, federal studies project.

Yet the U.S. Department of Energy continues to spend more money on development of fossil fuels and nuclear power than renewable solar technologies.

The DOE budget is $10.3 billion, of which $7 billion is allocated for nuclear activities and $684 million for fossil fuel development (conversion of coal into gas and oil).

On the bottom of DOE's priorities is solar energy research and development at $411 million.

The 1979 budget will jump to $12.6 billion, but the solar outlay will rise only $89 million to $500 million, mostly for research and development. And that increase resulted from citizens' pressure following the Sun Day celebration May 3. The original appropriation had been $400 million.

Unless the federal government and the energy industries shift the emphasis to solar, the cost of powering and fueling the nation's economy will continue to rise at a rate of about 10 per cent or more a year, indefinitely, based on costs of finite fuels this decade.

Intertechnology president Dr. George Szego is convinced the U.S. needs a crash program of the same magnitude as the space effort to make solar a reality this century.

The federal government committed $69 billion from 1959 through 1978 to space exploration.

Solar supporters are asking for a $2 billion effort, beginning in 1979, to bring solar into the marketplace at prices most everyone will be able to afford.

During the preparation of the solar/offshore analysis in his Virginia office, Dr. Szego explained that President Carter and Congress created a great deal of confusion by promising solar as a solution to our present fix, but proper initiatives.

Last year, President Carter announced a goal of 2.5 million homes utilizing solar energy by 1985. That number has since been drastically cut back to a few hundred thousand dwelling units, despite a growing interest in solar alternatives.

While the President's Council on Environmental Quality is calling for a 25 per cent solar mix by the year 2000, the oil industry is forecasting a scant of 1 to 2 per cent by then.

New Jersey's Energy Master Plan also anticipates a 25 per cent solar use within the next 22 years if solar development is immediately accelerated.

To determine whether the 25 per cent solar goal was, in fact, achievable, an analysis was done comparing the costs of offshore oil and gas to solar alternatives, and the net impact on consumers—and society.

Two assumptions were made for the analysis. The first is that the worldwide price of a barrel of oil will be about $30 in 1987, when the Mid-Atlantic oil will be coming ashore for processing and distribution in the marketplace.

For natural gas, the wellhead price (where the gas leaves the ground and enters the pipeline) was set at $5 per thousand cubic feet.

Both oil and gas estimates are considered conservative by energy analysts.

The second assumption is that finite energy supplies (particularly oil and gas) will continue to inflate in price about 10 per cent a year. This is also considered a reasonable assumption based on the escalating demand for oil and gas, especially in the developing nations, and the increasingly rapid rate of exhaustion of limited fossil fuels.

The numbers used in the analysis were purposely low and weighted in favor of oil and natural gas to avoid any unintentional bias that would put alternate solar technologies at an advantage, Szego noted.

For example, the $30 per barrel cost is for crude oil before processing. A barrel of oil contains 42 gallons.

The market value of 42 gallons of finished product (gasoline, heating oil, kerosene, etc.) is about three times as much as a barrel of crude oil.

The consumer also pays about twice the wellhead price of natural gas.

But simply using $30 per barrel and $5 per thousand cubic feet of natural gas at the wellhead, the least cost to the consumer would be $200.3 billion over 20 years.

If the higher numbers were used in the analysis, the cost to the consumers would be in the range of $500 billion over the same time period, making solar even a better bargain by comparison.

Dr. Szego did all of the calculations himself.

A chemical engineer with over 30 years experience in the economics of energy and energy conversion and power, Szego, 59, found that $200 billion worth of solar energy over 20 years could save the equivalent of 73 billion barrels of oil.

The rule of thumb in the industry is that an investment of approximately $100 billion today buys the equivalent of a million barrels of oil a day.

That averages out to one-third of a billion barrels per year. Within three years, the $100 billion solar investment returns to the consumer the same as a billion barrels of oil.

At today's price of around $15 per barrel, the cost to the consumer is $15 billion. Again, that is for the raw barrel of oil before processing and distribution.

The Intertechnology figures were similar to those computed by Grumman Energy Systems, a division of Grumman Corp., manufacturers of aircraft and aerospace equipment and a leading developer of solar technologies.

Sally Schneider, a Grumman energy systems engineer, found that for $400 billion (what consumers would most likely pay for Atlantic oil and gas over 20 years production), a solar array could be launched in space and provide the entire northeast with all of its electric energy.

Or, put another way, enough solar collectors could be installed on rooftops (10 billion square feet) to furnish just hot water at a savings of 800 million barrels of oil a year.

In five years, the energy saved from heating just hot water with sunshine would be equivalent to four billion barrels of oil, or four times more than the potential oil reserves in the Baltimore Canyon.

If heating were added to the solar collection and storage system, the energy savings would be triple that of hot water.

Sheldon Butt, president of the Solar Energy Industries Association, Washington, D.C., says that for $200 billion consumers in the Northeast can be provided with as many useful BTUs as a billion barrels of oil and five trillion cubic feet of gas at half the cost.

When asked what's holding back solar if it's a great energy saver, Butt asserted: "The billions and billions of dollars being plowed into harder-to-recover oil and gas, expensive nuclear technology and costly coal conversion."

Major oil companies refuse to say how much they are spending in solar research and development, claiming it is proprietary information that would give competitors an advantage.

Solar companies not engaged in oil, gas, coal or nuclear activities, however, freely report how much they are spending—and must continue to invest—to drive the cost of solar collectors and hardware down to competitive prices.

A typical solar hot water system for a family of four in the Northeast can now be installed for approximately $2,000. Roughly 20 percent of an average home's energy requirements is for heating hot water.

Furnishing heat and storage for up to five sunless days costs an additional $5,000 for a 1,500-square-foot home.

Solar air conditioning is also available, but at costs higher than conventional electric units. For $5,000, a solar air conditioner can be installed in the average home, with a payback of more than 15 years.

The payback on hot water is from three to five years, and heating from 10 to 15 years.

Solar electricity is expected to be on the market within five years. By 1986–87, photovoltaic systems—the method used to convert sunlight to electric energy—is expected to be competitive with local utilities.

A Ten-Dollar Solar Cell Closing Energy Gap

(By Gordon Bishop)

At $1.5 billion, it may be the bargain of the century.

That's how much the U.S. Department of Energy (DOE) needs to launch what it sees as the most promising energy development of the 20th Century—Photovoltaics.

The photovoltaic phenomenon is the direct conversion of sunlight into electricity.

A semi-conductor material transfers the sun's photons, or light energy, into electrons which can do the work: Light a bulb, or power an appliance or motor.

All space satellites orbiting the earth have been powered by silicon cells, a conductor of light energy.

But solar electricity remains largely a space technology.

The Department of Energy is getting only $33 million next year to reduce the costs of producing semi-conductors, a mere pittance

when compared to DOE's $12.6 billion budget for 1979.

Yet with little support from government or industry, photovoltaic engineers have been able to cut the costs of their product from $300 to $10 per kilowatt hour in only five years.

When the price comes down to about 10 to 15 cents per kilowatt hour, it will compete effectively with conventional generating plants that burn oil, coal or uranium fuels to produce electricity.

A typical family of four uses about 17 kilowatts of electricity each day.

With a $1.5 billion investment, DOE's engineers predict solar electricity can be on the market by 1983 for various residential and commercial uses, and will be able to compete dollar for dollar with utilities by 1986.

Utilities, however, will be faced with a shrinking market as homes and businesses begin tapping the sun for electricity.

Paul D. Maycock, assistant director for photovoltaics in the DOE, admits that is a "societal issue" that needs to be resolved.

Maycock refers to it as the "utility-interface" problem. Who pays for the utility back-up costs which would have to be shared with those who do not yet have photovoltaics?

Will consumers be able to afford utility-generated electricity as prices rise to offset losses to new photovoltaic users?

These are some of the tricky balancing issues the federal government must deal with as a new industry emerges to challenge central power systems.

"We are looking at a clean, silent, reliable, high technology that will have a major impact," Maycock envisions.

And that vision is within reach today. More and more photovoltaic arrays are being installed where central power systems cannot reach—remote sites in the mountains, offshore drilling platforms, along transportation corridors, in newly developing countries that cannot afford a billion dollars for a single generating station, and for watches, radios and other electronic gadgets that require little voltage.

The $1.5 billion that DOE is seeking to penetrate the potential market for photovoltaics is the same amount for one nuclear power plant.

Utilities are spending billions of dollars to build nuclear facilities that would have a life expectancy of 40 years.

Some DOE scientists feel the utilities might be building the white elephants of tomorrow, instead of planning on conservation leading to a gradual transition to solar and other renewable sources.

The DOE is striving to combine heating and cooling with photovoltaics for a single system. A similar approach is being taken by SES (Solar Energy Systems), a division of Shell Oil Co.

SES last year announced it planned to have on the market a combined solar system capable of producing hot water, heating, air conditioning and electricity by 1984. The price was $5,000 (1976 dollars).

The Department of Energy finds several favorable attributes for application of photovoltaic electric generating systems for homeowners. They are:

Land costs are offset by existing roofs that collect the sunlight.

Photovoltaic costs scale down proportionally to small kilowatt sizes, unlike central power plants that depend on economies of scale to offset costs.

There are no distribution costs for on-site generation.

The homeowner has a lower discount rate than the utility.

Individual desire for energy independence is served.

As photovoltaics become less expensive and more popular among energy consumers, the federal government is expected to develop a long-range "interface plan" with utilities, which will still be needed to deliver the heavy industrial loads.

Utilities will also be able to generate electricity whenever the sun is shining, making them less reliant on uranium and coal, both finite fuels whose costs will increase while photovoltaics will flatten out once mass production gets underway.

Federal photovoltaic officials see the era of giant power plants with their transmission tentacles spreading out over the landscape coming to an end as soon as a solar economy takes root in the 1980s.

"As energy from the sun is harnessed, there is no reason to keep extending systems that depend on limited and costly fuels for their survival," Maycock observed. "Right now, it doesn't make much sense to continue massive investments in technologies that soon will not be able to compete with solar systems."

At RCA Laboratories in Princeton, scientists have developed a semi-conductor that can be mass produced within a few years, ushering in the age of solar electricity.

RCA inventor Dr. David E. Carlson calls his discovery "hydrogenated amorphous silicon." It is the only amorphous material known that has been used successfully to make high performance, photovoltaic solar cells, according to RCA.

Amorphous silicon solar cells are low cost because the material (derived from common sand) is plentiful . . . the fabrication process involves low temperatures . . . extremely thin layers of the material (about 1/50th the thickness of a human hair) can be placed on inexpensive glass or steel sheets . . . and it is a long-lasting, stable material.

William C. Hittinger, executive vice president of Research and Engineering for RCA, says the federal government must support solar energy, noting it subsidized the oil, gas, coal and nuclear interests.

Since 1918, the federal government, through direct subsidies and tax credits, has given the finite fuel producers a $500 billion break.

Hittinger believes the solar industry needs only tax credits for manufacturers and tax rebates for users to get the sun working for everyone.

Without a long-range government commitment, a significant solar industry may not develop before the year 2000, Hittinger warns.

GREEN POWER: "ENERGY PLANTATIONS" MAY YIELD FAST-GROWING TIMBER FUEL

(By Gordon Bishop)

"Energy Plantations"—which grow fuels the same way farmers raise crops—may someday supplant oil and coal for heating, cooling and generating electricity.

The projected price of plantation fuel is $1.59 for one million BTU's of energy.

The price of oil today is $2 for the same amount of BTUs.

It is estimated that plantation fuel can furnish the nation with 20 per cent of its total energy needs.

Unlike oil or coal, plantation fuel does not pollute when burned.

Aware of the immediate potential of energy plantations, the U.S. Department of Energy has a project underway that would grow hybrid, hardwood trees for fuel on as many as 175 million acres of land unsuitable for food production.

* * * * *

The plan calls for harvesting quick-growing sycamores, poplars, cottonwoods and similar species on 25,000- to 30,000-acre plantations.

An acre yields from seven to 11 dry tons per year.

A typical plantation could supply 150 million BTUs per acre per year, or enough to satisfy the energy requirements of a suburban community.

The wood can also be used to make methanol fuel, replacing gasoline with a substance that emits only carbon dioxide and water.

And methanol fuel delivers 80 to 90 miles per gallon in a modified automobile engine, instead of from 20 to 50 miles from octane gasoline that powers conventional combustion engines.

The "Energy Plantation" concept was first advanced in 1971 by Dr. George Szego, president of Intertechnology Corp., Warrenton, Va.

Intertechnology is a leading consultant to the federal energy department.

* * * * *

Szego's energy plantations are part of a total energy package he describes as "24-Hour Solar."

That involves supplying a homeowner's entire energy requirements around-the-clock, even when the sun does not shine.

Solar energy systems are now capable of delivering BTUs when the sun shines, but the costs for storing heat, or chemical-electrical energy for use on sunless days, are three to four times more than the collection systems.

Szego's "24-Hour Solar" system solves that storage problem, he says. Solar collectors work when the sun's out, and plantation fuel takes over the rest of the time.

Energy plantations supply the fuel that is delivered to homes much the same way as heating oil. However, instead of filling a 500 gallon oil tank, the delivery man fills a magazine with cylinders of compressed chips. The chips burn in the furnace, but without contributing to the atmospheric pollution load.

Energy plantations are a "steady state" system, Szego, a chemical engineer, explains.

Trees growing on a plantation take in carbon dioxide, water and sunlight (photosynthesis), and give up carbon dioxide and water when burned.

They also leave a residue of ash which is collected by the furnace or delivery man and taken back to the plantation to feed more trees.

The carbon dioxide released on burning is returned to the atmosphere, where it is again taken up by the trees on the energy plantation. The CO_2 level remains in balance.

Oil and coal are the byproducts of trees, vegetation and animals that perished millions of years ago and became trapped in sediment and eventually covered and buried in the earth's crust.

Releasing those stored hydrocarbons in the atmosphere today is like trying to squeeze 1,000 people in a room capable of supporting only 100.

Consequently, the carbon level increases in direct proportion to the amount of fossil fuels burned.

The burning of ancient or fossil fuels at higher and higher rates already has caused the carbon level to become imbalanced. It is one of the reasons why coal is no longer being touted by the federal government as the answer to America's long-term energy problems.

The energy plantation is now being eyed as an acceptable alternative to coal, coupled with solar collectors for heating, cooling and generating electricity.

The 175 million acres of energy plantations would also be equivalent to the nation's annual production of coal, according to Szego's calculations, but without the accompanying impact on the air, water and land (strip mining).

The plantations would be harvested every two to three years, with no replanting necessary, as only certain species of trees that can regrow from their cut stumps would be used.

Intertechnology Corp. also has other energy alternatives on the proverbial burner.

Perhaps the most promising of these is OHP—Osmo-Hydro-Power, developed by Intertechnology and Dr. Sidney Loeb, a chemical engineer and professor at Ben Gurion University, Israel.

Essentially, OHP is a simple chemical reaction that makes electricity by passing a salt solution through a membrane into ordinary water. The membrane can be glass, cellulose acetate or triacetate.

Intertechnology is developing an OHP machine that is expected to produce electricity within five years at a cost comparable to what utilities will be charging their electric customers in 1983.

Dr. Loeb and his technicians have brought the costs of OHP electricity down to 40 cents per kilowatt hour. When it drops to 20 cents, they figure it will be competitive with some major utilities that today charge about 10 cents per kilowatt hour.

Public Service Electric & Gas Co., New Jersey's largest power producer, charges about 7 cents per kilowatt hour, with the rate increasing each year as the costs of oil and nuclear fuel rise.

Unlike nuclear or coal-fired power plants, OHP machines can be run by an illiterate person, according to Szego.

"All they have to do is turn color-coated valves every now and then," he says. "It's a simple, reliable, clean operation that needs nothing but salts and water to work."

The Department of Energy is also looking at algae ponds that would feed on sewage-sludge wastes, solving the sludge disposal problem while also providing a renewable source of methane gas.

Algae would be harvested and converted into clean gas for heating and cooling, and as a feedstock for petrochemicals.

The algae ponds could be sited next to energy plantations, supplying the fast growing trees with water whenever there is less than 20 inches of rainfall a year.

The Department of Energy, established by Congress last year, is setting into motion a series of alternate technologies to take the place of finite fuels—oil, gas, coal and nuclear—as they become scarcer and more difficult and expensive to recover.

As one DOE official put it: "We really don't have a shortage of energy. We have a shortage of a few kinds of fuel on which we've become overly dependent and extremely vulnerable.

"What we've got to do is to shift to those sources that are renewable and compatible with man and his environment." ●

NATURAL GAS: WE COULD HAVE IT IN GREAT QUANTITIES IF THE NATIONAL POLICY WERE TO RECOVER IT MUCH MORE RAPIDLY FROM UNCONVENTIONAL SOURCES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. KEMP. Mr. Speaker, later this this month the National Geographic Society, one of the top scientific research organizations in this country, will release a 15-month study on natural gas and the search for additional supplies of it. Prepared under the direction of Bryan Hodgson, of the society's senior editorial staff, this report is scheduled for release between October 15 and 17.

Unfortunately, that is next week, which means after the House vote on the so-called nautral gas "compromise" bill. Thus, if that timetable is adhered to, the study's findings will have no impact upon the decision we reach. I am therefore entering into our proceedings today excerpts from an advance copy of that study.

In my opinion, this study shows that the emphases in the natural gas compromise and the administration's policy goals reflected in that compromise are misdirected by being insufficient. While the compromise bill takes two steps in the right direction—putting somewhat more emphasis than in the past on development of unconventional sources and providing for more rapid deregulation of natural gas stripper well gas—it does not go far enough. By continuing the heavy and confusing layers of regulation of natural gas far into the future, calling into question whether there really ever will be deregulation, the compromise denies the industry, particulary the independent producers, the incentives needed to develop these unconventional sources rapidly enough to lessen American dependence on imported oil imported liquefied natural gas, Artic gas, Mexican gas, and very expensive gas from coal gasification.

Nearly 3 years ago, three of us in the House—JACK MURTHA, of Pennsylvania, BOB MOLLOHAN, of West Virginia, and I—drew up an amendment to be offered the natural gas legislation then under consideration. That amendment would have provided for immediate deregulation of natural gas stripper wells. That amendment was not offered because it was interdicted by a substitute which took the entire debate off in another direction. But it was reintroduced this Congress by BILL MOORHEAD of Pennsylvania, and myself, and won the support of nearly 70 of our colleagues. It is now in the compromise bill.

At the same time we were drawing up that amendment 3 years ago, we were pushing for adequate ERDA funding for exploring improved techniques for recovering unconventional sources. About 40 of us on the House side appealed to the Senate subcommittee handling the question, and with the support of the Senate's majority leader, ROBERT BYRD of West Virginia, we won that funding. The natural gas compromise puts additional weight behind Congress intent to recover more natural gas from these unconventional sources, but it does not go far enough.

The reason unconventional sources are so important—and the reason the compromise bill should have done more to assure their development—rests in how much more natural gas could be made available. It would, in short, take care of our natural gas shortfall.

Geopressure zones are found in Texas and Louisiana, but deep basins and western tight sands encompass 22 States, mostly in the Rocky Mountain area. Coal seam gas is found in those Rockies and in the Appalachian region. Devonian shale gas is found in 13 States. Methane hydrates are located offshore and in Alaska.

Development of unconventional gas reduces the dependency of the country to natural gas which comes almost exclusively now from the four States in the Southwest. There are 26 States who have unconventional sources which have been—and will continue to be—disadvantaged by regulation of unconventional gas and of stripper wells.

If we want to have enough gas to assure the uninterruption of jobs in months of shortages; to heat our businesses, homes, schools; to reduce dependence on imported fuels, a natural gas bill must provide for the restoration of the incentives necessary to assuring the most rapid development of unconventional sources. The compromise bill does not.

I have one other thing to say with respect to the administration's handling of the unconventional sources question. The Department of Energy has delayed—has been sitting on—a major study on unconventional gas for nearly 6 months. It could have been released at any point in that 6 months. Why wasn't it? Because the study shows that the volume of gas which could be recovered from unconventional sources is staggering, that it would take care of the shortfall. That position, of course, undercuts the administration's statements in seeking this natural gas bill that we are running out.

This is why, as a person says in the National Geographics Society article, "Natural gas? We could have it running out our ears."

Excerpts from that article follow:

NATURAL GAS: THE SEARCH GOES ON

(By Bryan Hodgson)

"Natural gas? We could have it running out our ears," says Dr. Paul Jones. " But first we've got to accept some new ideas about petroleum geology."

He stabs a finger at a map of the Texas-Louisiana coastal region, which is barely recognizable beneath a crazy-quilt pattern of subsurface contour lines.

"Those lines could lead us to more gas than we've ever dreamed of, enough for centuries," says Paul. "They mark the geopressure systems—150,000 square miles of porous shale and sandstone saturated with hot brine at abnormally high pressures. There's good scientific evidence that this brine could contain as much as 50,000 trillion cubic feet of gas. That's equal to 2,500 times our present yearly production."

As a hydrologist, Paul has spent thirty years—most of them with the U.S. Geological Survey—studying the critical role of underground water in the earth's geological history. Some of his ideas are still sheer heresy to many petroleum experts. But he is one of a growing band of scientists, engineers, and hard-nosed production men who reject the dire predictions that United States gas resources will soon be exhausted.

Instead, they want to rewrite the petroleum-geology textbooks to include six "unconventional" gas sources long dismissed as too difficult or too costly to exploit:

Geopressure zones. Interest is focused on the Gulf Coast region, but researchers have identified several other U.S. regions that also may contain significant resources.

Deep basins. Today drillers are finding unheralded quantities of gas at depths between 15,000 and 30,000 feet.

Western "tight sands." In the Rockies drillers have learned how to extract gas from concrete-hard sandstones estimated to contain some 800 trillion cubic feet (TCF).

Coal seams. An estimated 850 TCF of gas exists in the nation's coal seams at depths as great as 6,000 feet.

Devonian shales. More than 1,000 TCF is believed trapped in dense rock underlying 90,000 square miles of Appalachia.

Methane hydrates. At certain pressures and temperatures, methane and water form an icelike substance beneath permafrost and in

deep-ocean bottoms. Undetected in nature until the mid-1960's, hydrates may have captured enormous quantities of gas thought to have dissipated millennia ago.

"If we recover only a small percentage of this gas, we'd more than quadruple our present estimates of potential resources," says one government researcher. "But this is scarcely mentioned as a possibility in our energy plans."

The planners are turning to massive engineering projects for new gas supplies. Liquefied natural gas (LNG), chilled to minus 260°F and imported by tanker from Algeria or Indonesia, may cost five dollars per thousand cubic feet delivered to U.S. pipelines by 1985—more than double the controlled price of new domestic gas. The 4,800-mile Alaska gas pipeline also will require a five-dollar price, as would synthetic gas produced from coal in a series of proposed 1.6-billion-dollar plants backed by the government.

"But we could drill a thousand exploration wells for the cost of one coal-gas plant," says my government friend. "If we're wrong about unconventional resources, we'd soon find out. If we're right, we'd find huge new energy supplies in our own backyard—with a very good chance that they'd be cheaper than the alternatives, and reduce our dependency on imported fuels."

GOVERNMENT PROBES GEOPRESSURE ZONE

We're sweltering on a barge moored in Tigre Lagoon, deep in the humid coastal marsh of southern Louisiana. Dr. Wieland, a veteran petroleum engineer, is working on the U.S. Department of Energy's first geopressure test well, Edna Delcambre #1. It is producing as much as 10,000 barrels of water a day from a sandstone aquifer 12,600 feet below, where pressure is almost 11,000 pounds per square inch and the temperature is 240°F. The gas is collected by an elaborate manifold system, and the water is forced by its own pressure down another well bore for disposal 2,500 feet underground.

Major oil companies have made similar tests in utmost secrecy. But Edna Delcambre #1 is in the public domain. And the results are dramatic. Gas production is 150 percent higher than originally predicted.

"We expected 20 cubic feet per 42-gallon barrel of water," Dr. Wieland says. "But we're getting 50 cubic feet."

The new data delights Dr. Paul Jones, reinforcing theories he's held for years.

"We know that enormous quantities of gas are dissolved in geopressure waters. The reasons are complicated [illustration, page 647], but basically here's what happens:

"The amount varies with temperature, pressure, and salinity. Recent research indicates that water may dissolve as much as 1,000 cubic feet of gas per barrel at 30,000 feet. Near the 20,000-foot level, with lower pressures, its saturation capacity is about 100 cubic feet. Now, over geologic time, these waters have been forced upward. As they encounter lower pressures, gas comes out of solution in tiny bubbles. As more water passes through the pressure-drop zone, the number of bubbles increases. They move upward with the water. When they collect beneath geologic traps, free-gas reservoirs are formed. Today, many such reservoirs in the Gulf Coast geopressure zones are producing trillions of cubic feet a year.

"But the aquifers are vastly more extensive than the free-gas pockets. Virtually all the water is gas saturated. That is the gas we must learn to recover."

ROCK PORES HIDE TREASURE

Edna Delcambre No. 1 is changing all that. In November 1977, Dr. Philip Randolph of the Institute of Gas Technology in Chicago analyzed the well's behavior, and announced that the unexpectedly high production could be explained if only 6.5 percent of the rock's pore space, once thought to contain only water, actually was occupied by tiny trapped gas bubbles.

According to Dr. Randolph's theory, allowing water to rush upward through the well bore reduces the pressure; in turn, that allows the gas bubbles in the aquifer to expand, pop free of their traps, and join the water flow. If that phenomenon is true of geopressure acquires in general, he said, they could contain five times more gas than estimated for dissolved gas alone.

But he provides a hardheaded note:

"I'd urge at this point that we stop worrying about whether we have a thousand trillion or ten thousand trillion cubic feet of geopressure gas. We know there's a bunch! But only by drilling, by developing solid engineering data and lab research are we going to solve the gut issue: How much gas can we produce, and at what price?".

Some experts reject these theories.

"The best reason to drill geopressure test wells is to lay this thing to rest," says Charles Matthews, a consulting petroleum engineer for Shell Oil Company, citing its experience with geopressure aquifers broken in blocks too small for adequate water flow.

But recently Amoco Production Company reported a gas-to-water ratio 140 percent higher than anticipated from normally pressured shallow brine wells in Oklahoma. As for geopressure: "We think it's close to flying on solution gas alone, given continuity of reservoirs," says Michael Waller, the company's vice president for research.

And in 1977 a 20,000-foot well near Baton Rouge, Louisiana, produced as much as 496 cubic feet per barrel—five times the dissolved-gas ratio. Later, a nearby Chevron U.S.A. well blew out while probing at 21,346 feet (above). Before killing the blowout, Chevron initially measured an incredible daily production of 142 million cubic feet, and sold 3.6 billion cubic feet—a year's supply for 31,000 homes—to recoup in 29 days the well's five-million-dollar drilling cost.

DRILLERS GO EVER DEEPER

New ideas are an old story to Robert A. Hefner III.

"We expect to discover gas between 24,000 and 28,000 feet. We're shooting for man's deepest penetration of the earth."

Therein lies another untapped major source of natural gas: deep basins.

Bob Hefner made his predictions stick. His company has drilled more than thirty successful deep wells in western Oklahoma's Anadarko Basin and participated in many others, two of them below 30,000 feet.

Now he's ready for more.

"We think we'll find between 70 and 360 trillion cubic feet of gas in the Anadarko between 15,000 and 40,000 feet," he says. "We're as sure as 150 million dollars in research and exploration can make us. We're even predicting gas production below 50,000 feet, with better technology."

The Anadarko is already one of the nation's most productive basins, with conventional reserves of 130 TCF—more than that of the Gulf Coast States.

"But this basin has 22,000 cubic *miles* of sediments below 15,000 feet—and only one percent of it has ever been touched by a drill," Bob Hefner says.

Bob classifies his new success as a "super well," one whose production exceeds the energy of one million barrels of oil a year.

"Just 165 wells like that will produce more energy each year than the Tennessee Valley Authority's system and the U:S. nuclear-power industry *combined!*

"They're not just gas wells. They're national energy institutions."

Recently a committee of independent gas producers from around the country echoed Bob's feelings about deep exploration. Gas may lie as deep as 30,000 feet in the Appalachian Basin, they said. Other promising areas include the Arkoma Basin in Oklahoma and Arkansas, the Mississippi Embayment in the South, and the Delaware Basin in Texas, already boasting more than 70 super wells.

"If you doubt their judgment, just remember that the nation's 5,000 independent operators made 90 percent of the onshore oil- and gas-field discoveries in 1976–77—and they drilled more than 50 percent of the deep wells," Bob says.

Meanwhile, there's the Anadarko—and a new set of predictions.

"We want to organize a 12-year program to drill 5,000 deep wells. We predict production of a trillion cubic feet by 1982, four trillion by 1991, with more reserves discovered as we go. That'll cost about 16 billion dollars. At today's higher gas prices, I think we'll be able to smoke out the investors."

COAL HIDES CLEANER FUEL

"Digging isn't the only way to get energy from coal," says Harvey Price. "By drilling into seams for methane, we think production could reach a trillion cubic feet a year by 1985, the equivalent of 40 million tons of coal—with no environmental problems."

"This isn't potential gas—it's here today," says Price.

Resource estimates are huge—850 trillion cubic feet, according to a 1977 Federal Power Commission study. "We think it's closer to 1,000 trillion," Price says. "They left out several basins."

Coal-seam methane is nothing new. Miners have feared and fought it for years, and thousands have died in methane-triggered explosions. In 1964 the U.S. Bureau of Mines began a research program designed to remove the deadly hazard and cut ventilation costs by drilling into coal seams before they were mined.

"We've produced more than two billion cubic feet since 1972 in just one West Virginia seam," says Maurice Deul, who started the project. "And just last year a small horizontal borehole produced between 60 and 70 million cubic feet from a Utah seam. We're planning a full-scale program there."

EYE IN SPACE AIDS SHALE PROBE

"But it's hard to get," says Dick McClish, an energy specialist for Ohio's Department of Energy. "We're looking for help from out in space."

He unrolls a large map overlay covered with lines like scattered dry spaghetti.

"This is Ohio's share of the Devonian sediments. The lines are surface faults, plotted from satellite pictures. We think they'll lead us to underground fault systems where shale-gas production is best."

Devonian shale contains an estimated 1,000 trillion cubic feet of gas beneath 90,000 square miles of seven Appalachian states. Ten percent of the gas can be recovered by modern methods, according to the U.S. Department of Energy's Technology Center in Morgantown, West Virginia.

Shale gave birth to the U.S. gas industry in 1821, when the first well was sunk at Fredonia, New York. It produced only a few thousand cubic feet a day for 35 years. Low productivity and long life are typical of Appalachia's 10,000 shale wells. But the Big Sandy field of eastern Kentucky has produced three trillion cubic feet since 1914.

"We'd like to find some more fields like that," says Dick McClish. "The space survey has given us some promising sites. The state is putting up 1.3 million dollars for drilling in Ohio this year, and private investors another 1.7 million. They'll get the gas—and we'll get the most sophisticated Ohio Devonian core sampling ever. A real challenge—and every 5,600 cubic feet of gas means one less barrel of oil imported."

Shale isn't the only gas "play" these days in Appalachia. Recently, with state help, a private firm probed unexplored strata. The well tested at 1.6 million cubic feet a day—phenomenal for Ohio. In central Pennsylva-

nia, an Amoco well tested at 20 million cubic feet daily from a previously unexplored basin. In West Virginia, Consolidated Gas Supply Corporation drilled into a shallow formation near Clarksburg and reported 7.5 million cubic feet a day.

"We don't really know what we've got in Appalachia," says J. Pasini III, a senior engineer at the Morgantown Energy Technology Center. "The big companies pulled out years ago, and there's been almost no real exploration for fifty years. They're starting to come back now—and not just for fun." ○

BERNIE SISK

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1978

● Mr. JOHNSON of California. Mr. Speaker, BERNIE SISK will be leaving Congress at the end of this session of Congress. As a California colleague of his, I am especially sorry to see him go. BERNIE has been a good friend and adviser to me since I came to Congress.

BERNIE has made significant contributions to the legislation passed by Congress during his tenure here. He has easily gained the confidence and friendship of his colleagues and is well known as a hard worker and a Member who knows his subject.

For many years BERNIE served as a distinguished member of the House Agriculture Committee. He comes from an agricultural area of the Golden State and had a significant background in agriculture prior to coming to Congress. He understands the problems of farmers and their associates in related fields. He worked diligently and successfully in their behalf throughout his service in the House. On numerous occasions, BERNIE'S predictions and suggestions have borne out his remarkable expertise in this field.

BERNIE later moved to the House Rules Committee where his legislative skills and abilities showed new effectiveness. He continued to maintain his interest in agricultural matters and often helped to shepherd agricultural bills through the Rules Committee.

My association with BERNIE are primarily on matters of concern to the State of California. Because we have districts of similar nature, there were often matters on which we worked together. BERNIE worked tirelessly for the wise use of our natural resources and was a strong supporter of water projects throughout our State. Implementation of the Central Valley project in California has been a major objective of his throughout his years in the House, and it was through his efforts and those of others in the delegation that we were able to accomplish much in this direction.

As BERNIE and his wife, Rita, prepare to leave the Halls of Congress, I want them to know that they can leave with great pride. BERNIE has been an effective legislator and an outstanding Representative of his people. Albra and I are going to miss them and want to share with them our very best wishes for continued health and happiness in the years ahead.●

STUDY REVEALS WIDE PBB RETENTION IN MICHIGAN

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. RUPPE. Mr. Speaker, it is not often that a newspaper article is of such interest that the Washington Post reprints it from the Wall Street Journal and the Washington Star chooses to reprint a similar article from the New York Times. But that happens to be an indication of the significance of the PBB chemical contamination problem in the State of Michigan. Eight million citizens of the State have the terribly dubious distinction of carrying PBB's in their bodies, the long-term effects of which are undetermined.

One of the most difficult aspects of the PBB contamination outside of the direct threat to human health is the economic disaster which it has imposed on many Michigan farmers. While insurance settlements and court imposed payments have reimbursed many farmers for their losses from PBB contamination of livestock and the use of their lands, others have not yet been indemnified while their cases proceed glacially through the courts. Many of those individuals are in disastrous economic straits. They have lost their means of livelihood through absolutely no fault of their own, and while the State of Michigan has established a modest program of loan assistance, it in no way makes them economically "whole" during this period when the courts are determining just compensation.

Along with other members of the Michigan delegation I have tried very hard for the past 2 years to gain sufficient support in the House for the establishment of a Federal program of financial assistance to those hard-pressed individuals. We have been unsuccessful. The Senate saw fit to pass such legislation, last year, but we have been unable to convince the Interstate and Foreign Commerce Committee of the need in the House.

As of this moment the House will not take up legislation amending the Toxic Substances Control Act this year even though a bill to do so has been reported from committee and was on the calendar last week. Unfortunately, the bill, H.R. 12441, did not reach the floor. I have today written to the Speaker imploring him to bring this legislation before the House so that at least in conference there would be an opportunity to agree to language which would help to relieve at least some part of the suffering of those who are the innocent victims of this toxic substance disaster.

Mr. Speaker, I insert the Washington Post article in its entirety so that the Congress will be aware of the extent of our disaster in Michigan:

STUDY REVEALS WIDE PBB RETENTION IN MICHIGAN

(By Gail Bronson)

Investigators have determined that 8 million of Michigan's 9.1 million residents are carrying in their bodies toxic chemicals that have caused deaths in cattle and liver cancer in rats.

The chemicals, polybrominated biphenyls, or PBBs, are flame retardants until used recently by the plastics industry. They accidentally were put in cattle feed in 1973 and 1974, resulting in contaminated meat and milk. What at first appeared to be a local health hazard for farm workers and plant production workers now is recognized as a statewide disaster.

The study confirms scientists worst fears that PBB are widely disseminated throughout the state's population and are likely to be retained in their bodies forever. These conclusions are based on tests of mothers' milk in 1976 that showed PBB residues, and on those findings, extrapolations for the entire state population were made.

Earlier this year, Dr. Irving Selikoff of the Mount Sinai School of Medicine tested blood and fat tissue samples from men and women. He found 98 percent of the samples contained PBB, at a lower detectable level than was technologically possible at the time of the mothers' milk study, Selikoff said his findings corroborate the conclusions drawn on the breast milk study evidence.

Although no level of toxicity or safety for humans is known in terms of contamination, PBBs had a devastating effect on the cattle herds that ingested the chemical. Physicians are concerned about how contamination of the food chain may injure people's health in the future.

"If the women are representative of the population, and there is no reason to believe that PBBs were sex discriminatory in their dissemination process, then most of Michigan's population is carrying PBBs," says Dr. Lawrence B. Brilliant, professor of epidemiology at the University of Michigan and lead author of the study reported in the current issue of The Lancet.

"The chemical has gotten all through the food chain," says Dr. Philip J. Landrigan, of the bureau of epidemiology at the Center for Disease Control in Atlanta, "and although it went through like a comet with a long tail, meaning little recontamination will occur, these people will probably carry PBBs with them the rest of their lives."

Human exposures to PBBs initially were thought to be limited to workers in the production process of the chemicals and to farm workers who consumed contaminated produce. An estimated 10,000 to 12,500 persons lived on the contaminated farms.

This belief was based on the manner in which the stock became contaminated. In 1973 and 1974, as the result of a packaging and shipping error, several hundred pounds of PBBs were substituted for magnesium oxide, a dairy-cattle nutritional supplement, and distributed in cattle feed throughout Michigan. In exposed cattle, it caused an often fatal syndrome—anorexia, weight loss, decreased milk production and increased miscarriages.

In June 1976, during an unrelated survey for pesticide residues, the laboratory of the Michigan Department of Public Health discovered that milk from four mothers who weren't from the affected farms contained PBBs. As a result, the health department decided to further document the extent of breast milk contamination. Breast milk was chosen over other tissues for study because it is 4 percent fat, and PBBs are fat soluble.

Samples from 53 mothers who gave birth in August 1976 showed that 51, or 96 percent, contained detectable PBBs, ranging between 0.05 parts of the chemical in a million parts of milk to one part PBB per million parts of milk. Because there isn't any conclusive data on toxicity in humans, scientists can't knowledgeably advise mothers about the relative risk and benefits of breast-feeding at various PBB levels.

"As a pediatrician, I'm concerned about the implications of these findings for children," Dr. Landrigan said. "Breast-feeding is

considered a good psychological factor for children, so we want to be careful not to declare a ban on breast-feeding in Michigan." He observes that concomitantly there is a potential risk to the children who receive this milk depending on what is discovered about the chemical's human toxicity in the future.

The only way that these affected women can excrete the chemical is through lactation, the secretion of milk. There is no known way of excreting the substance from the male body.

Dr. Brilliant said the University of Michigan's School of Public Health is investigating ways to remove PBBs from humans. Furthermore, the U.S. Public Health Service has initiated a 20-year follow-up study using a 4,500 case sample of the affected Michigan population as well as a control population of 2,000 from Iowa to track these people's health. Landrigan said they have found symptoms of fatigue, decreased muscle strength and sleep problems that don't seem to relate to body levels of PBBs and aren't being corroborated by physical examinations.

Dr. Landrigan said it originally was assumed that farm people were only affected as a result of consuming their own produce. What's devastating is the finding that some milk, contaminated with small amounts of PBBs, mixed with milk from uncontaminated dairy cows and marketed at grocery stores across the state, still contained high levels of PBBs.●

ENFORCEMENT OF HEW ABORTION REGULATIONS

HON. GARY A. MYERS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. GARY A. MYERS. Mr. Speaker, as you know, abortion compromise language for the Labor/HEW appropriations measure is still unsettled for this year. In light of the ongoing controversy surrounding Federal participation in abortion funding, I would like to insert in the RECORD information I received from HEW in response to several concerns I voiced over the possibilities of abusing Federal funds to pay for abortions outside the congressional mandate. I feel this response may provide additional insight into the enforcement of the current regulations governing the use of Federal funds for abortions.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., August 11, 1978.

Hon. GARY A. MYERS,
House of Representatives
Washington, D.C.

DEAR MR. MYERS: This is in response to your letter to me of July 18, which raises several questions regarding the Department's enforcement of its regulations governing the Federal funding of abortions.

First, your letter asks for our comments on the change in the number of cases of rape or incest that will be reported during the first year of these regulations. The Department will not collect statistics on the overall number of rape and incest reports. We do not have any need to know those figures since section 101 of Public Law 95-205 only governs those abortions which are Federally funded. However, an Action Transmittal, which forwarded the regulations to the States and established guidelines, requires States to submit on a quarterly basis the number of abortions for which they have claimed Federal reimbursement under the Medicaid program for each of the three categories for which such reimbursement is available, including those claimed under the rape and incest exception, and the total expenditures for those abortions. These data will enable the Department to monitor the number of abortions being reimbursed with Federal funds.

Second, your letter asks whether there will be an effort to recognize fraudulent reports of rape or incest. Although the primary responsibility for detection of fraud in these instances must rest upon State and local agencies, the Department is making vigorous efforts to ensure that Federal funds are being properly spent. Thus, in addition to its regular review of State claims, the Department is performing an intensive audit in a selected number of States which we anticipate will claim Federal funds for the vast preponderance of abortions to ensure that these States are seeking those funds only for abortions which are reimbursable under the regulations. Any indications of fraud which are detected through these audits will certainly be referred to the proper authorities for investigation and prosecution.

Third, your letter asks what the penalty will be for fraud. That would be dependent upon the statute under which the crime was prosecuted. However, it should be noted that section 1909(a) of the Social Security Act provides for penalties of up to $25,000 in fines and five years imprisonment.

Finally, your letter requests our comments on the number of Federally funded abortions provided under the regulations after they have been in effect for a year. The quarterly submissions required by the Action Transmittal will provide those data for abortions funded under the Medicaid program.

I want to thank you for expressing your continuing interest in this important issue and assure you that the Department will follow the statutory dictate in section 101 of Public Law 95-205 "to ensure that the provisions of this section are rigorously enforced."

Very truly yours,

RICHARD I. BEATTIE,
Deputy General Counsel.●

MICHIGAN GOV. WILLIAM MILLIKEN SUPPORTS NATIONAL ENERGY BILL

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. DINGELL. Mr. Speaker, pursuant to permission previously granted, I am pleased to have this opportunity to insert in the CONGRESSIONAL RECORD the letter of support I received from the Honorable William G. Milliken, Governor of the State of Michigan, for H.R. 8444, the national energy bill:

OCTOBER 3, 1978.

Hon. JOHN DINGELL,
Rayburn House Office Building,
Washington, D.C.

DEAR JOHN: I am writing to urge your support for H.R. 8444, the National Energy Policy Compromise Bill, when it comes before you on the floor of the House during the next few weeks.

I recognize the complex and controversial nature of the bill. I commend you for your efforts to reach an understanding of the issues. At the same time I cannot ignore the critical need Michigan and the rest of the country have for a federal energy policy. It is imperative that this need be met without further delay.

The problems of energy dependence and waste, as well as those of inflation, demand our action. Action which emphasizes the efforts of Congress to help provide this nation with an energy policy is in the best interest of all. Through passage of this measure, the development of new sources of energy will be facilitated and energy conservation will be encouraged. By supporting H.R. 8444, you will be taking a significant step toward ensuring the nation and the world of our commitment to expeditious treatment of our energy deficiencies, and to the ultimate implementation of a comprehensive national energy program.

Warm personal regards.

Sincerely,

WILLIAM G. MILLIKEN,
Governor.●

ELECTION YEAR GRANDSTANDING

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. LAFALCE. Mr. Speaker, the House voted today to instruct House conferees to concur in a Senate amendment to the Revenue Act which promises massive tax cuts with a whole series of "ifs," "ands," and "buts" attached. The Buffalo Evening News, in an editorial in its October 11 edition, superbly analyzed the other body's adoption of this amendment, which is, quite simply, the worst kind of political gimmickry.

The editorial follows:

SENATE FINESSES THE TAX REVOLT

At first glance one might think the Senate had been lassoed by the taxpayer revolt. But we'd be more impressed by its plan to slice federal taxes 25 percent over four years if that plan didn't so closely resemble election-year grandstanding.

True, the Senate did vote 65-30 to provide a gradual 25 percent tax cut over four years, beginning in 1980. But there were two preconditions: first, the federal spending pace be slowed to no more than 1 percent above the rate of inflation; second, federal outlays must decline to 19 percent of gross national product in 1983 from the current 22 percent share.

What gobbledygook, you might say. Here is a purported tax cut—from which no taxpayer can expect to draw any benefit until some iffy point safely in the future. Even the required spending squeeze can be put off for a while—certainly until well after this year's election. And if the sentiment among senators should change? Well, they didn't promise you a tax cut unless they were able to cut spending too, so what if neither one materializes?

We certainly don't object to the concept of linking lower taxes to lower future spending. But if the Senate were really serious, it could just as easily have required the spending cutbacks to begin immediately, tying them to a straightforward system of indexing the income-tax structure to wipe out the automatic tax-raising effect of inflation. Or, for that matter, it could have linked spending reductions to the Kemp-Roth program, which would pare tax rates permanently by 30 percent over three years.

But the Senate rejected the Kemp-Roth approach and put off all the goodies in its alternative plan into the 1980s. So given the political realities of Congress as well as future economic uncertainties, we would not advise any taxpayer to hold his breath while waiting for this kind of income tax cut. Even if the Senate has been lassoed by the taxpayer revolt, it has made sure that the rope has a slip-knot.●

TAXPAYERS FOOT THE BILL FOR WEST VIRGINIA CAMPAIGN

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. FRENZEL. Mr. Speaker, on October 7, President Carter flew to West Virginia. In the words of Washington Post writer Edward Walsh:

. . . The underlying purpose was clearly to help the struggling campaign of the 76 year old Senator (Jennings Randolph).

Mary McGrory, writing in the Washington Star of October 10, said:

Carter had come to West Virginia to protect Randolph against the rains of the ferocious campaign of Republican Arch Moore, Jr. . . .

In the opinion of these writers, and in my own, the purpose, and the result, of the trip was wholly political. But White House officials have insisted that the appearance was "nonpolitical." Therefore, absent some official complaint, the taxpayers of the United States will have to foot the bill for the full cost of this political junket.

Not only did the President shower compliments on Senator RANDOLPH, who had opposed Carter on his two most important legislative actions, but also former Governor Moore was not even invited to the event.

The President will visit nearly one-third of the States this month campaigning for Democratic congressional candidates. He will visit my State. His Vice President has been doing the same thing for months.

Nobody minds those junkets. Some of us even think he is a positive influence for Republicans. But nobody believes those trips are nonpolitical. No taxpayers want to pay for political junkets.

It is not as though the people were just being stuck for the cost of a seat on an airplane. When the President travels, of necessity he must travel in his own plane, with hordes of camp followers, platoons of Secret Service people, and as much of the White House press corps as can squeeze in. That is expensive.

I do not know if the cost should be charged directly to Senator RANDOLPH's committee, or the Democratic National Committee for apportionment to the Randolph committee. But I do know that it should not be charged to the people.

The newspaper articles, quoted herein, follow:

[From the Washington Star, Oct. 10, 1978]

CARTER'S CAMPAIGNING PUTS THE SHINE ON A GLOOMY WEST VIRGINIA DAY

(By Mary McGrory)

ELKINS, W. VA.—To see Jimmy Carter in Elkins (pop. 4,000) was to understand how he got elected president—and can be again.

The scene was one of almost unrelieved desolation. The temperature stood at a bone-gnawing 41 degrees, a chill rain began to fall, as if on signal, as the presidential helicopter put down. The Elkins High School majorettes were blue of knee and nose. The Queen of the West Virginia Mountain State Forest Festival gathered her sodden forest green velvet gown around her; one of her smaller ladies in waiting had donned a hunting cap and a wool jersey shirt against the weather.

The notables, Gov. Jay Rockefeller and his wife Sharon, and Rep. Harley Staggers, were huddled under umbrellas. Carter himself held an umbrella over Sen. Jennings Randolph, the plump and anxious incumbent. It was an appropriate symbol of the visit. Carter had come to West Virginia to protect Randolph against the rains of the ferocious campaign of Republican Arch Moore, Jr., who was twice elected governor of this Democratic state, where pictures of Franklin D. Roosevelt and John F. Kennedy hang on the walls of miners' shacks.

Not every president would have interrupted a weekend rest at Camp David to campaign for a man who opposed him on his two most important legislative actions, the Panama Canal treaties and the veto of the public works bill.

Last April, Randolph, despite a record of party regularity that goes back to New Deal days, voted against both treaties. He gave the reason without any pretense. "Arch Moore," he said, in effect.

Panama, in "super-patriotic" West Virginia, is still an emotional issue. And Moore is still trying to use it—charging Randolph with being a closet supporter of the "giveaway," one who was prepared to give his vote had it been urgently needed.

Fifty-five-year-old Moore calls the 76-year-old Randolph "a nice old man" who cannot give West Virginia vigorous representation in Washington.

Carter did everything in his power to counter Moore. Even though the excursion had been billed as "non-political"—meaning that Randolph will not have to pick up the tab—and the president's airport arrival remarks were scheduled to be of the briefest and most cursory nature, the president let himself go in depicting Randolph as a pioneer and a prophet of such calibre as to make West Virginians seem demented if they didn't re-elect him.

"I work with him every day," he said. "I know of no more dedicated spokesman for the things you and I stand for."

Randolph has been, despite what Moore says, exceptionally diligent in bringing benefits to his poor home state. But this brought him in conflict with Carter on the public works veto, a significant Carter anti-inflationary coup, which Randolph and West Virginia's other senator, Majority Leader Robert C. Byrd, had most vehemently opposed.

Gliding past uncomfortably contradictory material is something all politicians, especially Carter, always do. Since he had indulged in creative perjury by telling the drenched crowd that he could not think of "a more beautiful place to be than right here with you," he obviously saw no good reason not to go the distance for Randolph.

The trip was like hundreds Carter made during his campaign for the White House, when he went everywhere and plumped for anyone on the off-chance it would do him some good. The Democrats are bringing in "big timber" for Randolph. Vice-President Mondale and Secretary of State Vance are due. So, perhaps more to the point, is Sen. Edward Kennedy, who will hold health hearings, and Randolph's hand, later this month.

Carter has wanted to demonstrate that there is no "Carter drag" for Democratic campaigners. Since Camp David, it has been infinitely easier. While what happens in the Sinai Desert is not of immediate consequence in these low-income, high-unemployment hills, West Virginians are glad, like other Americans, to see their president looking presidential.

The 15-minute speech in the rain sounded like an out-of-town tryout for next time. Carter sounded the themes of yesterday—his goal of a government "as kind and competent as the people of West Virginia." He sounded what could be the themes of tomorrow; his successes as a president, working as one Democrat among many.

By the time he finished speaking, the rain had stopped. Something approaching sunshine was contending with the lowering gray clouds.

It was the epitome of Carter's campaign and presidency. Seize every opportunity, however unpromising, and hang in.

Immediately thereafter, the lesson was reinforced. White House transportation aide Robert Manning presented the president on his way to the First Limousine, to his eight-week-old grandson, a West Virginian named Joel Browning. Joel was squalling lustily. The president, undismayed, clucked and cooed and, sure enough, Joel's small countenance, like the skies, cleared, and the moral equivalent of a smile was produced.

The president and Randolph then strode at the head of a parade past thousands of hooded, blanketed, shivering West Virginians, who know all about adversity and were cordial to one public figure who overcame it and another who might.

[From the Washington Post, Oct. 8, 1978]

FORGETTING A PORK-BARREL PAST

(By Edward Walsh)

ELKINS, W. Va.—President Carter proved yesterday that a pork barrel need not come between political friends.

Take the case of Sen. Jennings Randolph (D-W. Va.). As the chairman of the Senate Public Works Committee, he is generally regarded as one of the leading pork-barrelers on Capitol Hill.

When the President Thursday vetoed the $10 billion public works appropriation bill, describing it as bloated with wasteful and unnecessary water projects, Randolph said he regretted the decision, which he blamed on "some extremely bad advice" that had been given to Carter.

But Randolph is also a Democrat facing a tough battle for a fourth full Senate term against former Republican governor Arch Moore.

So it was yesterday that differences over what constitutes pork-barrel appropriations were swept aside as Randolph and other West Virginia Democrats stood on the 50-yard line of the Elkins High School football field watching the president's helicopter approaching over the mountains from the east.

Carter flew here from Camp David, Md., to participate, as four presidents before him had, in the 42nd annual Mountain State Forest Festival Parade in Elkins, which is Randolph's home town. That was the event, but the underlying purpose was clearly to help the struggling campaign of the 76-year-old Democratic senator.

At the high school, coatless despite a cold drizzle, the president told the crowd that "no state has a more strong, vigorous, able or dedicated spokesman" than West Virginia has in Jennings Randolph.

Moore has been making Randolph's age an issue in the campaign. When Carter vetoed the public works bill, Moore noted Randolph's position as chairman of the Public Works Committee, and said that never before had seniority and a Senate chairmanship meant so little to a state.

The president also brought with him to Elkins an announcement of two federal grants for West Virginia—one of $14 million for a civic center in the state capital of Charleston, and the other a $4.7 million loan to a faucet company in Morgantown, where a large number of job layoffs have been threatened.

And from the high school, Carter, Randolph by his side at all times, assumed an honored position in the parade, riding in an open limousine and at times walking along the two-mile route as tens of thousands of enthusiastic spectators cheered and waved.

White House officials insisted that the

president's appearance here yesterday was nonpolitical, and therefore would be paid for by the government. "It is not a campaign trip," White House press secretary Jody Powell said last week.

Randolph also characterized the event as non-political, although he conceded that there could be some benefit in the president's appearance here for him. Asked why Moore, who is, after all, a former West Virginia governor, had not been invited to ride in the parade, one of the largest annual events in the state, Randolph replied with a laugh.

"Why, we don't have candidates in the parade, we just have public officials," he said.

The president's appearance here was his second in the last six months to help Randolph. West Virginia is among about 15 states the White House has targeted for personal appearances by Carter this fall to help Democrats involved in close races.

Carter has already been to North Carolina, South Carolina and Pennsylvania to help Democratic Senate candidates, and to Ohio to raise money for the state party, which this year is given a chance to defeat incumbent Republican Gov. James A. Rhodes.

In the next several weeks, the president plans to campaign for Harry Hughes, the Democratic gubernatorial candidate in Maryland, Gov. Ella T. Grasso in Connecticut and Sen. William D. Hathaway in Maine. He also has campaign appearances scheduled in Minnesota and Kansas.

White House officials say no final decisions have been made on which states Carter will appear in during the last week of the fall campaign, when the president is expected to be on the road for three or four days.●

ISAAC SHKOLNIK

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. MOFFETT. Mr. Speaker, as the Jews of the world celebrate their new year, I would like to call the attention of my colleagues to one Soviet Jew, Isaac Shkolnik, for whom there will be no celebration.

In 1972, Isaac applied for an exist visa to emigrate to Israel. He was subsequently arrested for this "anti-Soviet agitation," and was tried for "treason against the motherland." The Soviets also charged that he was spying for Israel.

Isaac was put into a mental institution before his trial, where an attempt was made to extract false testimony from him. His fellow workers were then threatened in an attempt to secure evidence against him.

During his trial, it was alleged that he had been collecting information for 15 years and was passing it along to foreign powers. Despite a total lack of evidence, Isaac was convicted and sentenced to 7 to 10 years at hard labor. Today, Isaac is in prison subsisting on the equivalent of a meager lunch each day. All this, because he wanted to go to Israel.

I write to Isaac on a regular basis because I believe that it may result in better treatment for him and may speed up his release.

I urge my fellow Members to adopt prisoners of conscience and to write to them regularly. It is not enough to speak of what we would like to do for these dissidents and what we would like to see done for them. Only when we take a personal interest in their welfare and show the Soviet authorities that someone in the free world cares what happens to them, will conditions change. Perhaps, if enough of us take an active role in this endeavor, Isaac and all the other Isaacs presently living under similar conditions will celebrate the next new year in Israel, where they will be able to live out their lives like other free human beings.●

WAR RESISTERS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. WEISS. Mr. Speaker, on September 4, 1978, a group of individuals associated with the War Resisters League recently staged simultaneous prodisarmament demonstrations in Moscow and Washington, D.C.

This courageous action merits the respect of Congress, whatever positions individual Members may espouse on the crucial issues of war and peace. I would like to call my colleagues' attention to the leaflet that was distributed by the War Resisters League members in Red Square in Moscow prior to their arrest.

This eloquent message to the Soviet people should also be carefully considered by all Americans.

DISARM NOW

BAN THE NEUTRON BOMB. NO NUCLEAR TESTS—EAST OR WEST. CUT MILITARY SPENDING—FUND HUMAN NEEDS

We are a group of Americans bringing a plea for nuclear disarmament to the Soviet Union in Red Square today even as others of our number are demonstrating for disarmament at this very moment at the White House in Washington, D.C. We have all been active in the disarmament movement in the United States. We were active in the movement against the war in Vietnam and many of us spent time in prison because of our resistance to that war. We are here and in Washington in order to stop the next war.

For thirty years your country and our country have talked of disarmament while stockpiling more and more weapons of mass destruction. Our governments have talked of peace while preparing for war. Our governments have spoken eloquently of developing the human potential and meeting human needs while wasting our nations' wealth in an insane arms race. And since World War II not a single weapon has been eliminated as a result of our governments' failure to act. In a world bristling with nuclear weapons the stakes are too high, the situation too urgent for us to be content with promises and platitudes.

We are members of the War Resisters League and believe all war to be a crime against humanity. In the past our members demonstrated and worked against British and American intervention when those governments sought to overthrow the Soviet Union by aiding the White Army counterrevolution. Current members of our Executive Committee came to the Soviet Union in the 1930s to help build a peaceful Soviet Union by working in the steel mills and other heavy industry. It is in this spirit that we come now to urge the Soviet Union to lead the world to peace. We understand all-too-well the passion for peace that inspires Soviet citizens since twenty million of your husbands and wives, parents and children, friends and neighbors perished in the Second World War.

We realize that our main emphasis as Americans must be on the United States, which initiated the nuclear arms race and is the only nation ever to unleash nuclear weaponry on fellow human beings. However your government must also share the burden for the arms race that threatens to destroy us all—American citizens as well as your own people—unless it is reversed. We urge the governments of the Union of Soviet Socialist Republics and the United States of America to take immediate steps to end all testing of nuclear weapons and to substantially reduce their respective nuclear arsenals. We further urge that the funds saved by these bold initiatives be applied to meet pressing human needs within their own borders as well as aid economic development in the Third World. We support the international movement to ban the neutron bomb and nuclear power plants that produce lethal nuclear wastes which remain poisonous for tens of thousands of years. We call upon the peoples of the Soviet Union and the United States to consider the folly of nuclear armaments and to pressure their respective governments to move ahead immediately with bold initiatives toward the goal of a peaceful nuclear-free world.

We are not utopians. Rather we are realists who believe that the elimination of the nuclear threat and the scourge of war can come only when we citizens—Soviets and Americans—resolve not to rest until our respective governments take immediate initiatives toward disarmament.

When we return to the United States we will continue our work for disarmament. We urge the people of the Soviet Union who have suffered so much from war, to work to pressure your government to lead the world into a new era of peace.

Y. YEVTUSHENKO

(To M. Bernes)

Do the Russians want war?
Ask the silence above the pastures and fields;
Ask the birches, the poplars.
Go ask the soldiers who now lie under those
birches, and their sons will tell you
whether Russians want war.
Not only for their country did the soldiers
die in that war;
They died so that the world over people could
sleep in peace.
To the rustling of leaves and placards
You sleep, New York, you sleep, Paris.
Let your dreams tell you whether the Russians want war.
Yes, we know how to wage war,
But we don't want soldiers to fall again in
battle onto the sad earth.
Go ask the mothers; ask my wife.
And then surely you'll know whether Russians want war.

1961.

SEPTEMBER 4, 1978.●

TRIBUTE TO JOHN DENT

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. ROYBAL. Mr. Speaker, it is with pleasure that I rise now to add my words of tribute to those already spoken about JOHN DENT, Representative of Pennsylvania's 21st District. During his 20 years in Congress, JOHN has established himself as a hardworking Congressman and a champion of the workingman.

JOHN has taken the time to get to know the people and the problems of his district and has worked hard in Congress to do what he felt was right. His expertise in unemployment and workmen's compensation law, Fair Labor Standards, and coal mine safety and health legislation has proven particularly effective in his work on the House Education and Labor Committee. As chairman of the Subcommittee on Labor Standards, JOHN has combined his expert knowledge with his concern for working people, to bring forth major legislative advances.

Well over 40 years of his adult life have been devoted to serving the people of Pennsylvania and the Nation. He was first elected to the State House of Representatives in 1934, the State Senate in 1936, and the U.S. House of Representatives in 1958. He has distinguished himself as a dedicated public servant and may certainly take pride in his many contributions to our Nation's legislative history.

It has, indeed, been a privilege to know and work with JOHN and I am pleased to have this opportunity to add my words of praise for a friend and colleague, whose presence in Congress will be greatly missed.●

ROCKWOOD NATIONAL CENTER

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. STEERS. Mr. Speaker, since Girl Scouts of the United States of America is a congressionally chartered organization, I would like to call to my colleagues' attention the controversy which has grown up around the proposed sale of the national organization's Rockwood National Center in Montgomery County, Md., my district.

Thousands of girls from throughout the United States have been able to see and visit their Federal Government while staying at the Rockwood facility.

On Monday night, Dr. Gloria D. Scott, president of Girl Scouts of the United States of America and a volunteer like so many other women interested in the work of the Girl Scouts, came to Bethesda to meet with several hundred concerned residents of the area, including many Girl Scouts and Girl Scout leaders. Dr. Scott presented the national board's point of view and listened and took notes on the comments of Washington area people.

Although a congressional charter is not a license for Congress to meddle in the internal affairs of a private organization, I have sought information on the proposed sale for concerned area residents and I have encouraged the State of Maryland to assure that the will which brought the property to the Girl Scouts is not violated.

In my view, the objections developed by the Rescue Rockwood Committee, chaired by Barbara Lehmann, 11403 Rolling House Road, Rockville, MD. 20852, are compelling:

VIEWS OF THE RESCUE ROCKWOOD COMMITTEE

Lou Henry Hoover, wife of President Herbert Hoover and not only an active president of GSUSA from 1922–25 but honorary president during her White House years, directed that furniture from the summer White House at Camp Rapidan be used at Rockwood. That furniture is still there today. In honor of Mrs. Hoover's many contributions to Scouting the Lou Henry Hoover Room at Rockwood was dedicated as well as a 59 acre Memorial Forest and Wildlife Center at Rockwood. All of this would disappear with the closing of Rockwood.

Surely Rockwood holds as much historical significance as the Juliette Low National Center, which was only the birthplace of our founder and had no relationship to the organization of Scouting.

Concerning the Juliette Low National Center, Gordon McKay, controller for GSUSA, tells us "By reason of its historical significance to our organization, it is unique and cannot be regarded from the same economic and development approach as must the other three properties." We consider this statement to be true for Rockwood also.

As a program center Rockwood has served a dual function. It originated various programs which served the needs of Scouting such as the "Flairs" program, and also is used as a hostel-type facility for troops visiting Washington, D.C.

In regards to program, Rockwood has not yet realized its special potential as a close-in Nation's Capital-centered facility. Some of the suggestions which could only happen in the Washington, D.C. locality are listed below.

Opportunities to participate in the action of government: by visiting Congressional hearings, by attending House of Representatives and Senate sessions, by meeting Congressmen and discussing the issues of the day, and by serving as an intern.

Opportunities to participate in heritage studies from earliest settlements to space flight for many cultures; by exploring nearby historical sites and the Smithsonian's major museums.

Opportunities in career exploration in fields non-traditional for women, especially government careers. Law, medicine, and science are more readily available than in many parts of the country.

Art galleries and craftsmen's shops abound in the Nation's Capital, offering opportunities to study creative means of self-expression through art.

Opportunities for international studies and contacts, through embassies, the State Department, and the many agencies serving the international community.

Opportunities for high adventure abound because of Rockwood's unique location adjacent to the C&O Canal and Great Falls Park. The white water at Sherwin Island, the backpacking and hiking trail of the C&O Canal, and the cliffs at Carderock offer the best in canoeing, backpacking, climbing and rappelling all within walking distance. And within an hour's drive are several caves for spelunking.

As a hostel facility, Rockwood has been complimented for the excellent staff help and suggestions that have enhanced a troop's visit to the Nation's Capital. Having Girl Scout hospitality and a secure location were vital factors in producing a relaxed and congenial atmosphere. The girls themselves enjoyed meeting Scouts from other areas and exchanging new and exciting ideas with girls of varying backgrounds. A lone troop coming to Washington would miss this positive experience.

As active Washingtonians, we can assure you that no other property in the Washington area can duplicate the natural setting and close-in location to Washington, D.C. attractions.

One of the facts that bothers Scouts most is that the Board has had little contact with the individual Scout in making such a major decision as to sell Rockwood National Center. Councils were informed in May 1975 that the Board directed Rockwood to operate on an increasingly self-supporting basis during the following three years and that it was suggested that the site be closed unless a purpose and plan for its use had been developed and a financial support system established.

Since volunteers saw such a wide variety of program it was not within the scope of their imagination to doubt that GSUSA with all of their resources could not come up with a purpose and a plan.

In May 1977, Councils were again notified that the same standards that applied to Macy, applied to Rockwood. Only these two cryptic notices as to a possible closing were given. Apparently, Council Presidents did not feel the sale was being contemplated because the notice did not filter down to the Girl Scout membership. Thus we greeted the May 22, 1978 announcement with shocked disapproval. GSUSA asked the membership about closing Macy. Could not the same standard be applied to Rockwood? Had Scotus realized that such abrupt action would be taken, they would have raised their voices to prevent the loss.

Outstanding in everyone's mind is the fact that Washington, D.C. is a mecca for Girl Scouts because it is the Nation's Capital. Not having a national center here is an abrogation of responsibility. From all of the letters that have been written, one fact remains foremost—Scouts from across the country want to retain Rockwood as a National Program Center;—now—and as a heritage for girls yet to come.●

FEDERAL INTERMEDIATE CARE FACILITIES

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. HAMMERSCHMIDT. Mr. Speaker, I would like to take this opportunity to share with my colleagues a very interesting satirical article on Federal intermediate care facilities which was written by one who certainly knows the subject well.

David Ray, Jr., is presently serving as director of the Arkansas Department of Human Services, but his history in the field of mental health has encompassed service on the local, State, and Federal levels. From 1957 through 1964 he served as superintendent of the Arkansas Children's Colony, one of our finest and most effective institutions in the State. During the summer of 1963 David was consultant to the Special Assistant to the President for Mental Retardation and Human Development here in Washington, and during the next 2 years served as Director of Information for the Joseph P. Kennedy, Jr., Foundation.

In 1965 he returned to Washington to become the Executive Director of the President's Committee on Mental Retardation. From 1970 through October 1975 he served as assistant commissioner for the State of Tennessee Department of Mental Health and Mental Retardation in Nashville. For the past 3 years we have been fortunate to have

him in the Arkansas Department of Human Services.

I think that you will find that David's article brings home to all of us the burden which excessive Federal regulations put upon those persons who earnestly desire to provide the best possible training and care to the mentally retarded, and the importance of involving the individual States in setting standards for institutions which insure proper care without wasting the Federal tax dollar or reducing the effectiveness of the programs:

ICF SYNDROME

(By David B. Ray, Jr.)

The other night I had a dream—or maybe a nightmare. The year was 1966—Baltimore won the World Series in baseball—Bonanza was the top t.v. show—the mod looks for women was the mini skirts—the first artificial heart was successfully implanted in a 37 year old woman—Instant Freeze-dried Coffee was introduced—also in 1966, Walt Disney died—New York City had a 140 day newspaper strike—The Sound of Music was the Movie of the year, and the President's Committee on Mental Retardation was appointed by President Johnson—my dream or nightmare went something like this—

A long time ago, I can recall a time when people working in the field of mental retardation were more interested in the retarded person than with filling out paper forms. One can remember when it was not fashionable to talk about mentally retarded people; yet we saw in the 1960's the emergence of President John F. Kennedy who gave the cause "class." We went from the back pages in the news to the society pages and even page one. You know, from such public support, the leadership of many fine superintendents, and others working in the field of the mentally retarded, great strides were taken.

Community programs were begun; there was a happy and warm feeling between staff and between children and individuals who were residents at a facility. We saw work programs that were developed for on-the job training. We saw public information campaigns on behalf of the mentally retarded; we saw great strides in volunteer service. We saw facilities begin to take on a homey look. We saw states beginning to spend more money for their facilities (capital and operating) for State programs as well as local projects. We saw interest and support on the part of U.S. Congress for the great cause.

It was great in those days to walk through facilities stretching from Florida to Maine and from North Carolina to California. You could feel the warm feelings as you toured a mental retardation institution. Churches became interested; it was getting to the place that we were "accepting mentally retarded people as human beings." Superintendents were getting together on a regional and national level to share their experiences. Top professionals were interested in finding out better ways to work with mentally retarded people. Research was taking place that had realistic approaches in all aspects of training. Facilities such as the University Affiliated Facilities and Research Centers were beginning to move and develop in the field of mental retardation and human development. You know—just walking through those facilities and talking to superintendents, their staff, and the folks labeled retarded, was a warm and wonderful experience. There appeared to be a relaxed but yet progressive attitude; there were challenges; there were enthusiastic programs. There were even cross-overs where the psychologists didn't just worry about psychological services or medical people just about medical services or social workers just about social services; people were just working together and having a lot of fun doing it.

Recently I traveled back through some of these facilities and I found some terribly disturbing things. I found people up tight; I found staff worried and puzzled; I saw retarded people that appeared to also be concerned because they knew something was wrong. There was a nervous uncertainty about the future. There were disagreements and disputes taking place on state and national level. What became evident was that busily about something to do with mental retardation. I did not see much happening to the retarded people, but I saw a lot of writing and I saw a lot of charts being circulated around. I saw meetings where people were nervous; I saw doctors begin to be cautious and talk like a doctor; I saw psychologists become frightened and they talked like a scared psychologist; I saw social workers who almost forgot they were social workers.

Remember my dream started in 1966, and I saw hope, enthusiasm, creativity. Now, twelve years later, in 1978, it is depressing; freedom had been taken over by rules and regulations. Superintendents and staff supervisors were not operating the facilities I saw; they were operated by a dictatorship of rules and regulations. This was a great mystery to me.

I secured some national statistics and found that we were spending more money than ever for mentally retarded persons on the federal and state level. We were building new facilities; we were getting more staff; we were paying better salaries. We had more and more meetings; and through it all I saw people writing and writing and writing.

Where was the joy? Where was creativity? Worst of all, I saw concerns turn to fear in the eyes of the mentally retarded people. Brilliant people spoke out for the rights of the retarded but at the same time we became the slave of Federal mandates and regulations.

So I began the search for great people who had creative minds. We secured many medical doctors, psychologists, educators, social workers, other medical and nursing personnel, and we secured outstanding administrators from many walks of life. The best equipment that money could buy was used; the most sophisticated computers in the world were put to work on this problem. Huge rewards were offered to the individuals or group that could diagnose this "sickness" that was causing epidemics with staff and mentally retarded folks.

At last a computer network was developed that the world has never seen. It had the best technology of all the countries of the world tied together to solve the problem of what had happened during this past twelve year period.

The captain of the project said, "D-Day is approaching!" He said, "All of the computers have been programmed. We are now ready to ask our machines for a diagnosis." Thousands of people in this country who work with the mentally retarded were brought in to see this massive network of computer systems. People came from far away and from many lands.

The question was put to the huge network of computers. What has happened to mental retardation during the past twelve years? With five to six times more money—what went wrong? With beautiful facilities and with three times as many staff members—why is there such gloom and frustration? With more than adequate maintenance and operational budgets—what has happened? Where has the happiness gone? Where have the success stories gone? All of this data and more was fed into the computers.

There was a hush over the huge audience of thousands of people. The network of computers digested this information and made the appropriate amounts of burps and beeps. There was a dead silence in the massive room. And then flashing across the huge screen tied to the computers there appears on the screen Diagnosis—I.C.F. Regulations.

An emergency hurried conference among the great people was held and it was decided again to put this massive information into the huge computer complex. Again, the computer was asked what had happened. Once again the giant screen lit up with Diagnosis —I.C.F. Regulations.

People looked puzzled at one another and then in the midst of the huge silence a lonely superintendent of a mental retardation facility stood up. This man had been in charge of the residential program for many, many years and he said, "you know the joy and the fun and even part of the freedom for mentally retarded people began slowly to fade as we moved further and further in our quest for funds and our exposure to I.C.F. kept increasing, even though we knew the radiation levels were approaching dangerous stages."

The superintendent in a quiet but straightforward way continued, 'you know, things were great when we got support from President Kennedy; it was a coup when Congress became interested in problems of the mentally retarded. We were all pleased with the human rights of all people and particularly the handicapped. We were pleased when people in the states took more interest in our programs. It was super when we got some new buildings even though we did not have as much to say about the buildings as we would have liked. It was nice to have the extra staff, but on the other hand it didn't make sense to make our staffs into "robots." Certainly it was supported by those I.C.F. Federal "folks" because robots could not talk back.

For awhile it seemed terrific to have big fat written records of everything that happened to our residents. But about this time I began to notice at staff meetings when we were discussing a certain resident that my social worker or my nurse who used to know the individual personally said, "Well, you know, I haven't seen Johnny or Mary in seventeen months," and I would say, "why has it been seventeen months?" and she said, "well Doctor, I have been busy writing on these records," and when I asked if they had asked Johnny or Mary or one of our retarded kids what they really thought about all this, you know, they had never been asked."

This unusual superintendent continued, "I can remember one day that my educational director felt great and had a great big smile since his wife had just presented him a baby boy. In a typical staff party with jokes, pranks, and just cutting up it was decided to weigh the I.C.F. records of all the residents in this facility. These records weighed more than all of the people we served. (It should be noted here that a Federal grant was not applied for since the rumor was making the rounds that we wanted $2.00 per pound of records for a grant.)"

He continued, "I am not quite sure what that means, but it made me stop and think and while I was quietly thinking a vision came to me that the answer to what happened to our mentally retarded programs the last twelve years was due to the greatest and most frustrating epidemic that the U.S. had ever seen.

I then remembered seeing a super secret special hospital clinic that was attempting to cure the State and local people afflicted with a new virus that we know as I.C.F. I remember one ward that I visited and I saw four former superintendents of MR facilities who had been exposed with the dread I.C.F. syndrome. I saw several team leaders, many psychologists and social workers and nurses who were afflicted with this terrible syn-

drome. These poor people were practically out of their heads, not only with the fever but many of them were making odd sounds and some of these poor people took on baby traits.

Fortunately, in this ward one of the least sick staff members was an expert in behavior modification. You know this guy really got a program working. I don't know how he did it but he would walk into one of these wards where they had ex-superintendents bubbling at the mouth, others screaming, some beating their heads against the wall, and this brave psychologist would just walk in and say here comes the I.C.F. team. And all at once every one of these individuals would pick up their pencils and paper and start writing furiously. They would write and write and write. This would go on until the psychologist would yell—"the Feds have gone". Then all would return to their bizarre behavior.

We were fortunate that one of our superintendents was kin to a governor who in turn was exceedingly close to the big powers in Washington, D.C. This superintendent said he would get his Governor to get help from Congress. I will never forget the day when this superintendent called me and said, "you will never guess what happened," and I said, "well, what happened?" He said, "Congress just voted to set up a National Institute for the prevention of I.C.F." The excitement was contagious and we knew the cure would be forthcoming. It seems that a building was going to have to be erected to develop the research that would be needed for prevention of I.C.F. and a tremendous building was constructed at a cost of $300 million. This federal building was to be an Institute for Prevention of I.C.F., but the building did not meet I.C.F. regulations and furthermore the Federal people could not find how to get it certified.

All kinds of committee study groups, conferences, commissions, and task forces made studies and great volumes of reports were printed, but to no avail. Then very quietly and without much fanfare the Federal I.C.F. specialists took over this $300 million institute. The purpose was to train more I.C.F. specialists. Their mission was to help insure that I.C.F. would continue to expand its authority into all areas of government. The ultimate goal was for I.C.F. to take over the United States first and eventually the world.

The I.C.F. Institute became a deadly training center for I.C.F. regulation writers and I.C.F. Inspectors. It was even more super secret than the C.I.A. and the F.B.I. Medals were given to the person who could come up with the longest sentences and the biggest words at this center. A bonus was given if one could develop a new regulation and develop the written material in such a fashion that no one could understand it. Many times new regulations were added by playing games. For example one person would say a word, then the next person and on and on until at least 1,000 words were written on the blackboard. Then this new 1,000 word statement would become a new I.C.F. regulation.

One of the hardest workers in the Federal I.C.F. program, even though he is dreadfully sick with the I.C.F. disease, has found the time to write more of those beautiful and helpful standards than any other man or woman I know. He was asked recently the secret of his success. This very dedicated man indicated that he developed standards by a very unique method. First of all he rolls a pair of dice and whatever number appears that will be the number of words in the sentence. Two, he draws letters out of a hat and the first letter that he draws will be the first letter for the first word, the second letter for the second word and so on. Then he starts over again and finally completes a proper number of letters for each word with a proper number of words for the sentence. And you get some challenging, noble, and provocative regulations using this method!

Another thing: we were elated when the President of our country was interested and Congress was interested and our states were interested and the public was interested. But things began to fall in place when those HEW Feds got together at their secret meeting place. Somehow or another with no inoculations they all became very ill with I.C.F. fever. Anyway you know how the Feds hate to take the blame for anything; but several expert diagnosticians did indicate it was the I.C.F. syndrome. To make matters worse, this I.C.F. fever was also affecting the mental stability of many of our federal regulation writers. They began to have hallucinations. There is no question that they developed signs of schizophrenia. (However, some people said there was no change—the Feds are like that all the time).

But we all remembered they (the Feds) said write, write in the records, write on the walls; but on the other hand the Feds said work with the individual retarded person, and make their cottages home-like. On the other hand they (the Feds) said well go ahead and make it hospital construction. On one hand in their speeches, Washington Officials reminded us that retarded people were human beings and should be treated so. Yet when we try to make it home-like, they said you must have all of the hospital concepts even though it's not a hospital, but it was a little community of cottages. The Feds finally compromised and said make it like a vault—a completely fire proof vault.

"One Fed in a speech said that MR facilities should resemble a home—but on his tour all he could think of was where were our hospitals, clinics, etc. One Fed says be sure and have 37 fire exits in a cottage for 15. Another Fed said build it like your home, but be sure the corridors are eight feet wide. Too many windows—not enough windows; ceiling too high—ceiling too low; you need privacy—no you cannot have that quiet room."

By now my nightmare was getting progressively worse. The superintendent continued, "I can remember when several Federal and/or State teams would evaluate the quality of our program. It seems that most teams came down with I.C.F. disease. (We wish them well.) The I.C.F. Feds and Health Departments had fun in deciding which life and safety codes to use. Consequently, will it be in the 1965 code? 1967 code? 1973 code? 1976 code?, or some new code that the Feds dreamed up last night?

I thought to myself that I am imagining things, so I will travel for a few weeks and spend some time in Washington, D.C. and then go to every regional office of HEW; then I would have a clear and concise concept of I.C.F. got my Congressman to arrange me a visit to Washington; now you know he is a pretty powerful Senator. He got on the telephone and talked to the Secretary of HEW right away. The Secretary was very cordial but he said it would take him a little time. The Senator called back in a few days and the Secretary was exceeding cordial but said he was having a most difficult time find-out what I.C.F. meant and who was responsible in HEW. After threatening to hold up HEW's appropriation for the next year, we finally got with a group of individuals that appeared to be suffering from I.C.F. They indicated that they were feeling better as they had had several bureaucratic transfusions that day. They told us how I.C.F. regulations developed to make a better way of life for the mentally retarded people.

I have never been the bashful type, so I asked who they talked with to develop these I.C.F. concepts? Well this person told me that there had been some meetings that he attended and that is probably where they caught I.C.F. (We now know it was at the super secret I.C.F. Institute.) Now even though we were labeling it as a sickness, it was in truth good for the mentally retarded, so said our Feds. It's like apple pie, coca cola, and baseball."

This superintendent continued, "I asked, 'By the way, did you talk to any mentally retarded people about I.C.F. regulations? 'Well this very important bureaucrat said, 'Why certainly not! What in the world would a retarded person know about I.C.F.?' 'Well,' I said, 'you know if the I.C.F. is for the mentally retarded person, I just thought maybe you might have asked.' Well this guy just gave me a funny look."

I thought I would try again, and I said I wondered if he had made contact with some people like myself, some other superintendent that is running facilities for the mentally retarded; another very important looking bureaucrat spoke up and said; Certainly not! I mean, people that are running programs would be biased and short sighted; they could not give the type of objectivity that you need to have for I. C. F. regulations.

So I thought about it for just a second and I said, 'Well did you maybe talk to some parents of a retarded child?' And another bureaucrat spoke up and said, certainly not! They are too emotional! 'Well', I said, 'I wonder then who you might have sorta bounced these ideas off of?' And in unison they said 'Each other'."

My dream went on and the superintendent continued speaking, "there are six of you bureaucrats in here, so I wonder if you would be kind enough to give me your background before you got into this most important job. All six people looked really important then and were so pleased to be asked what their background was. One of the Feds said his dad was a great financial supporter of Senator B. B. Blank, and he got him this Civil Service job in Washington where he had a chance to serve the people, but his real interest was history. I was somewhat puzzled and I asked about the other backgrounds: one man said he used to repair t.v. sets; one woman was a holdover from the Hoover days still resisting retirement; one person said he was from the Defense Department because when he was assigned to I. C. F. it was his understanding it was a missile program. The other Fed said that she was an art major, and her talents were sought out from a unique standpoint because she was tremendous at drawing straight lines on questionnaires that need to be filled out for I. C. F. There was a silence and then the last person who was the captain of the team smiled very big and said, 'Well you thought we did not have experience, and just to top it off I want you to know I have a Ph.D.' And for just a second I had faint hope, and then I said, 'What is your Ph.D. in?' And he said, 'Egyptian Cryptology'."

Our spokesman and our senior superintendent continued, "I left Washington and made my rounds to all of the Regional Offices of HEW. I was received very warmly in every Regional Office. I met some outstanding people with excellent qualifications. One person used to run a goldfish hatchery; another staff member used to replace lightbulbs in those warning light poles on mountains; another person who had distinguished himself in his state before coming to serve his country as having painted more white lines on interstates than any other man in the country. At one Regional Office I was most fortunate to meet a veterinarian. There was one that used to write articles for the old 'Colliers' and 'Liberty magazines' many years ago. There was one person that had a musical background and indicated that she wanted to write a song about the blues and

I suggested that she might write a song titled 'Those I.C.F. Blues'.

"Well you know I went to all ten Regional Offices plus the great National HEW office and I looked at my notes when I got back home. I ended up with eleven different versions of I.C.F. rules and regulations. In most cases you could not even look at these notes and realize they were about the same subject."

This lonely superintendent became more bold as he stood before this great audience as he continued, "I don't know all the answers, but I know I believe in nice, good living conditions; I know I believe in understanding and well trained staff; and I feel strongly about research and prevention based on good progressive programs. I believe in bringing the innovation back to the people who are not afraid to try something different. I believe in building a home for the retarded, like a home for human beings, because they are human beings. I believe in all of our people having as much privacy as possible, but I also believe in the protection of those individuals that need constant supervision.

"You know I am just as concerned about my tax dollars as most people are. I am concerned because we are throwing away millions of dollars worth of costly construction and staffing that have no effect on the quality of care for retarded people. In fact it is sometimes a negative effect. I believe in getting many of our retarded citizens back to the community and back to things called group homes which should be more and more like a real home.

I would like to have the ability to say to these mighty computers, 'Computers—how can we bring back the joy, the stability, the simplicity, the human approach, understanding, the attitude that we are on the same team together? And then get an answer.

How can we bring about less writing and more attention to the person, not paper work but people work? How can we allow for the individuality for the creativity of fantastic staffs throughout the country? How can we ask the retarded person what he or she would like? Can we bring back the attitude of being efficient in our buildings and efficient in our staffing and programs? And soon you could have less people treated by the state. It can be done and it can save the taxpayers money. Unheard of! unheard of!"

My dream was coming to an end: This lonely superintendent continued. In a bold voice he asked these massive computers. "How can we cure the I. C. F. syndrome and bring back the joy of working with retarded folks?" There was silence. Then the computers buzzed and went bing, bing; more silence and then appeared on a screen in great big letters You Can Tell Those Feds What They Can Do With Those ICF Standards and Regulations—Recommend That They Be Stuffed One By One By One. There was a mighty roar from the group and the computer blew a fuse.

Much, much later as my dream ended, there was a sense of happiness, contentment and victory on the smiles of people that were retarded and people who worked with the retarded. In the want ads of our newspapers I couldn't help but notice some ads pertaining to people who were looking for work. One said he was the greatest white line highway painter in the country. Another said he was fantastic at raising goldfish. One wanted to change light bulbs on mountains. One person wanted something on historical stories both fiction and non-fiction. Last but not least the one who was an expert in Egyptian Cryptology indicated that he would consider a business manager's job for any place except a mental retardation program.

As I awoke I could hear in the background words and sounds of the most popular song of the day, "Oh, Those ICF Blues, Those ICF Blues."●

MARXIST SCRIPT TO NICARAGUAN DRAMA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. McDONALD. Mr. Speaker, the violence and destruction caused by the recent Marxist insurrection in Nicaragua is the most graphic example of the inevitable results of this administration's policy of withdrawing support from America's traditional allies and courting leftists. Should the Marxist-Leninist terrorist movement seize power in Nicaragua with U.S. acquiescence, we can expect the Soviet Union and Cuba to mount similar attempts against the governments of many other Latin American countries.

A highly perceptive article on the implications of the Nicaraguan conflict for the United States by commentator John J. Metzler appeared in the October 2 issue of the Manchester Union Leader which I sincerely recommend to my colleagues.

The article follows:

NICARAGUAN DRAMA BODES ILL FOR U.S.

(By John J. Metzler)

The brutal political-military drama being enacted in the small but strategic Central American republic of Nicaragua bodes poorly for the United States' hemispheric security.

The pro-American central government led by West Point graduate Somoza is fighting a desperate economic and military struggle organized by groups as disparate as businessmen and terrorists of the Marxist Sandino Liberation Front (FSLN). Named after an anti-American figure in the 1920's, FSLN has become Castro's Nicaraguan tool.

When FSLN terrorists seized Nicaragua's national palace in August, the group demanded prisoner releases and ransom money in exchange for the lives of nearly a thousand hostages. After gaining most of their demands, the group was cleverly flown to Panama first to allay many people's suspicion as to the FSNL's direction. Then many of the FSLN cadre soon flew to Havana for a hero's welcome.

Following the palace incident, Nicaragua has faced a general strike and increasing terrorist attacks on isolated cities. The attacks soon widened and engulfed most of the country's centers. Fears of all-out war in Central America surfaced when Cuba accused Israel of aiding Somoza, Venezuela and Panama sent aircraft to Costa Rica, and Costa Rica offered sanctuary to FSLN insurgents.

Somoza's reaction to the attacks was a systematic "city hopping" campaign—mopping up resistance in one center, then moving to the next trouble spot. According to humanitarian officials, the brutal fighting has cost thousands of lives.

Opposition to Somoza is nothing new, much of it centering on the family's four-decade rule in Nicaragua. The Somoza family has powerful business interests in the small nation as well. While much opposition rests on legitimate grounds, some of it would better be called subversion. For more than 17 years, the Cuban-backed FSLN has tried unsuccessfully to overthrow the government. After Somoza ended martial law in September 1977, honest libera's, opportunistic businessmen and the dedicated FSLN made loose arrangements to oppose his ru'e. While highly fragmented in all sectors, the opposition has joined in a kind of "provisional" government uniting all forces. Somoza's opposition has been encouraged by Washington's increasing distance from Somoza's ruling circle.

Twelve opposition leaders permitted to return to Nicaragua in July have framed an opposition manifesto. The Twelve, Los Doce, an organization close to FSLN had their plan published in the country's outspoken newspaper La Prensa. Among other things, the plan called for nationalizing key economic activity and for allowing the FSLN into the future government. Cuba has heartily endorsed the compromise Group of Twelve plan calling for a most certainly short-lived provisional regime.

Should anyone doubt the FSLN motives towards the opposition's non-terrorist sectors, it's wise to consult the FSLN's General Political-Military Platform. After advocating a broad anti-Somoza front including the "bourgeois opposition," FSLN proposes itself as the movement's armed wing. After stating that the FSLN must control the movement, the platform adds that "the bourgeois opposition will be prevented from becoming the political head." So much for those businessmen who hope that FSLN will keep its place in a broad-based provisional regime!

After defeating Somoza, the FSLN advocates no letup in the struggle as "it must not lead us into reformist, nationalist or other kinds of capitalist development." Considering itself a vanguard organization, FSLN will not rest until Nicaragua is transformed into a classical Peoples Republic.

That the FSLN is an international terrorist band is obvious. Supported and in many cases trained in Cuba, endorsed by the Palestine Liberation Organization (PLO) and given refuge in Costa Rica and Panama, FSLN represents a revolutionary whirlwind that, if successful, will bring glory to Havana and Moscow.

At no point since Castro seized power in Cuba 20 years ago, has a Havana-sponsored revolution succeeded anywhere in this hemisphere. While nations such as Allende's Chile were pro-communist, that regime and others were not installed by Castro's revolutionary warfare. For Castro, then, Nicaragua represents a symbol because it was a launching point for the Bay of Pigs invasion of Cuba, and also because Castro propaganda needs a hemispheric victory.

Many of the Latin American revolutionaries lost heart and confidence following Che Guevara's blundered 1967 Bolivian operation. With Guevara dead and the revolutionary precepts of Havana falling on fallow ground in the Americas, Castro had to go to Africa in order to foment troubles. Even there did not succeed by using revolutionary warfare but by using conventional invasions.

Should Castro's FSLN surrogates succeed in Nicaragua, the Americans will feel the effects of increased optimism in the camp of those who admire Cuba and who may be willing to try other similar insurrections in the near future.●

PAUL ROGERS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. UDALL. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following: PAUL ROGERS is leaving, and I am sorry to see him go. PAUL has been one of the very outstanding men I have known here in Congress. He can take some pride in his distin-

guished political career, and as a real fighter in the cause of decent health care for all Americans. Besides being a courageous man, PAUL has a good personality. I shall miss his likable and affable style. And I wish him well.●

THE TRUTH WILL SPEAK FOR ITSELF: THE CONTINUATION OF HUMAN RIGHTS VIOLATIONS IN NORTHERN IRELAND

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. GILMAN. Mr. Speaker, last week I had the pleasure of meeting with Father Raymond Murray and Ms. Rita Mullan to discuss the continuing incidents of human rights violations in Northern Ireland. When I walked away from that meeting, I felt, as I have felt on many occasions, saddened and distressed, because of the lack of knowledge that so many of us have on this issue. It is one of those subjects which no one readily speaks about, and one which is steeped in rumors, falsehoods, and questions.

Mr. Speaker, the flagrant violations of human rights and dignity in Ireland, documented by Amnesty International's Report of June 1978 cannot be allowed to continue. I heard firsthand from Father Murray, chaplain at Armagh Prison for the past 11 years, of the brutality and psychological abuse that suspected violators must endure at the hands of the Royal Ulster Constabulary (RUC), the main auxiliary of British forces in Northern Ireland. The author of several brochures, pamphlets, and books on this subject, Father Murray quietly related the inhuman conditions that the prisoners face daily, stressing the need for a greater awareness on the part of the American Congress about these conditions.

To Americans, the question of Ireland has many aspects. Many Americans of Irish descent, look toward Ireland as their motherland. Other Americans are content to recall the contributions of the Irish on St. Patrick's Day, partaking in celebrations and festivities. And still others who are painfully aware of the plight of Irish prisoners, attempt to call the world's attention to this situation through writing, pleas, and campaigns. It is our duty, as the freest, most democratic nation of this world, to listen, and to act. But we have waited too long to react to the plight of those 5,000 prisoners in Ireland who are being subjected to inhuman and barbarous conditions.

Mr. Speaker, Father Murray spoke this week before our Ad Hoc Committee on Irish Affairs (comprised of 115 Members) and suggested to the Congress mechanisms or action—by raising the public awareness of the problems in Northern Ireland, and by placing pressure upon the President and the British government, these barbarous acts of dehumanization and torture might be stopped. Father Murray explained to us that by seeing each of these prisoners as our brothers, we would be spurred into action.

One of the most startling facts that Father Murray brought to our attention was the ratio of prisoners to inhabitants—Ireland's population being quite small in comparison to other nations, and when compared to the number of prisoners taken in the last several years, we find that the proportion of prisoners to the total population is the highest in the world.

Father Murray, over the past 6 years, has published, along with Dennis Faul and Brian Brady, 16 books outlining the crimes against prisoners in Ireland. No one is more capable of reporting these violations, and no one has more compassion for the scope of human suffering endured at the prisons—Long Kesh, Armagh, Crumlin Road, McGilligan—names which conjure up horror and dread to those who are familiar with their inhumanity and traffic.

This evening I had the opportunity to talk to Leo Fleming of Derry, Ireland, the father of seven children, whose sad tale is an example of the deep and lasting effect that this situation has caused. Two of Mr. Fleming's sons, Paul, age 22, and Leo, age 18, are both imprisoned in Long Kesh as a result of the civil unrest in Ireland. Paul is serving a life sentence for his alleged involvement in a bombing. Leo is serving 10 years for allegedly carrying a firearm. While Paul has been classified as a political prisoner and has visitation rights, Leo is classified as a nonpolitical prisoner and has no such rights. As a result, Mr. Fleming has not seen his son Leo since July 22, 1977.

Unfortunately, the pattern of harassment against the Fleming family does not stop there. Daughter Lynn, age 22, has been arrested 24 times (three times on a single day). Son, Gary, age 20, has been arrested over 30 times. He has been arrested and detained so many times he has lost count.

According to Mr. Fleming, his family members have committed no crimes, have repeatedly been illegally arrested and tried, and remain in jail solely because of political persecution. Can we honestly expect such deep blood wounds to heal over, leaving no scars?

I would lie to focus the attention of my colleagues on some of the brutality in these prisons and holding centers and would like to share with them some of the reports which have emerged from these prisoners. In order to share these reports with my colleagues, I request that these reports which are simply written, straightforward, idiomatic, reflecting the honesty of emotions which the Irish have learned to accept, be printed at this point in the RECORD:

CASE NO. 1

(Mrs. Elizabeth Donnelly, Ardoyne, Belfast, 5 children.)

On Thursday the 6th October 1977 my niece and myself were stopped and searched by the RUC in North Street. We were then asked our name and address and date of birth. I told them my age but refused to give my date of birth. The police woman then told us to get into the jeep as we were being taken to North Queen Street RUC Station. At the station we were told we were being arrested for withholding information, namely our date of birth.

I was then taken into a small room where the police woman again asked my name, address, and date of birth. Still I refused to give my date of birth. When I told the police woman I knew my rights and didn't have to give my date of birth she said—"We are the law and you don't have any rights." Then another police woman entered the room and closed the shutters on the window. She then told me to take off all my clothes. I refused and she went outside the door and told the policeman I wouldn't cooperate. I then heard a policeman saying—"Take the ------ off her." She then came to me and took my shoes off and pulled my trousers down to my ankles then pulled my jumper up over my head and searched around my body. When I asked to get in touch with my solicitor they refused and said when they were finished with me I could see a solicitor. Shortly after I was taken to the reception desk where I was told by a police man that I was not allowed to talk to anyone. A few minutes later I was allowed to go home.

Signed: Mrs. Elizabeth Donnelly.

Witness: Fr. Denis Faul.

Date: 9th October 1977.

CASE NO. 2

(Patricia Moore, Dunmurry. Age 18 years.)

On Wednesday 30th August 1977, I was coming up Castle Street between 3:00 p.m. and 4.00 p.m. I was stopped by a Military Policewoman and she asked me to open my bag. I had a tape recorder in my bag which was switched on by mistake, she also found a letter in my bag which I had found in a telephone box a few minutes beforehand.

I was then arrested and taken to Grand Central Army Post. I was put into a cubicle and then taken out and searched in the toilets. After about two hours I was taken in again and asked if I had anything in my pockets. I emptied my pockets and there was a dead match and a piece of tissue in them; I also had a bracelet on my arm which the Policewoman dragged off me. She was shouting and yelling at me and saying I was a 'suspicious bitch', I did not say a word while this was going on.

I was taken to a room which I took to be a Medical room. A young soldier was in the room when I went in; I think he said he represented the Medical Officer; he asked me about previous illnesses and did I have any scars, also did I want to be medically examined. I said I had no need to be examined. He asked me to sign a form which I did. He went out but the Military Policewoman was still there. He came in again and the two of them giggled and laughed about strip-searching me; he went out again.

Then a black soldier came in and the M.P.W. said "I want her strip-searched"; he just walked out. The young soldier came in again and the M.P.W. said "She's going to be strip-searched and you have to leave." He said something about 'his luck.' He then left and the black soldier came in again; I was standing facing the wall. She (MPW) came over to me and said, "Right, you're going to be strip-searched", with that the black soldier left again. The MPW said "Get your clothes off." I said "No." She said "take them off or I'll get three or four women to take them off for you." I said "Go and get them." She went out for about one minute and came in again with the black soldier. He said "You'd be better to make it easy for yourself." I said "For what reason should I take off my clothes." The MPW said "Because you're a suspicious bitch." I said "I've been searched twice before"; she came towards me and grabbed my coat and tried to pull it off me. I resisted and she pushed me and I banged my head off the wall. She lifted her fist and I thought she was going to hit me and I slapped her face and she then hit me

on the ear. With this the black soldier came in; she told him that I had hit her and that I wouldn't take off my clothes.

She left and came back with two other Women soldiers, one was a Sergeant Major and she said to me 'about making it easier for myself!' I said again that I would not take off my clothes. She asked me again, this time I said I would if some of them left. I took off my clothes, every stitch. I put my shirt and anorak on again quickly but the MPW said, "Who gave you permission to get dressed, you haven't been searched yet" with that she grabbed my anorak and a struggle developed. The black soldier must have heard it and came in again. I struggled and kicked like mad but eventually they managed to get me up onto the table; they put plastic-like handcuffs on my wrists and on my ankles.

The black soldier was holding my arms and he asked one of the women to hold them so he could search me. He said he could not get at me so he took the handcuffs off my ankles and he put his finger inside me; I was crying with the pain; they turned me over and he did it again; during this they were shouting and yelling at me and when I was getting dressed this MPW kept hitting me on the back with her fist. They questioned me again and said they were going to charge me with assault. I thought I was going to be released then, but instead they took me to Castlereagh where I was kept for 24 hours, I was released on Thursday 31st August 1977 at about 8.00 pm.

Signed: Margaret Moore (Mother).
Witnessed: Margaret Gatt (ALJ).

CASE NO. 3

(Castlereagh July 1977. Statement by: Francis McCrory, Beechfield Street, Belfast. Re. His son Patrick McCrory. Presently on remand at Crumlin Road Jail.)

On Friday 8th July at approximately 6 a.m. my house was once again raided by members of the Special Branch, uniformed member of RUC and the Red Caps. After searching my home they announced they found nothing which was incriminating in either a criminal or political sense; they did arrest one of my sons Paul and his friend John who stayed overnight with us. At 9.30 a.m. on the same morning they arrested my son Patrick in Beechfield Street. He was arrested by Red Caps. All three were held at Castlereagh under Section 12 of the PTA. On Saturday 9th July a local Club received a request from the RUC to inform me that my son Patrick had been transferred to the Security Wing of Musgrave Park suffering from abdominal pains and internal bleeding. I rang Ladas Drive, Castlereagh and was advised to go to the Hospital between 7 p.m. and 8 p.m. and I would be permitted to see the boy. I rang Musgrave Park and was told that I could get a visit.

I went to the Hospital and was told by an RUC Sergeant that under no circumstances would I or any of my family or indeed the family Solicitor be permitted to see him. The Solicitor tried and failed also to get in and the Solicitor was then referred to inspector _____ who told him that Patrick was suffering from stomach ulcers. I asked to see the doctor while I was there who told us that Patrick hadn't bled since he came in. When I got back home I got in touch with our own doctor who already knew about everything. The doctor tried to get in, and was told he could indeed see him but that Patrick in the meantime could be shifted back to Ladas Drive so that he would in effect have to make another application to see him. The doctor did so and saw him on Monday. He was allowed to examine him but he was accompanied by two Police Doctors. He observed on examination to have what the Doctor terms as a rebounding phenomenon abrasions to both legs back and front. He asked Patrick how he came to have these. Patrick said he had a fight with his girl. Patrick explained to me later that he was afraid to say that these were caused by RUC and Special Branch and he was afraid of suffering any more. The Doctor also observed that Patrick seemed as if he was still under the influence of medication and said that in no way did he appear to be the same bright boy he had known prior to his arrest. The doctor is willing to give evidence in accordance with these facts. The doctor went on to say that this rebounding phenomenon could be caused by a blow.

I saw Patrick in Townhall Street on Tuesday 12th July. At Townhall St. he told me that a particular Branch man had given him, in the middle of the kicks he was getting from others, one sudden blow in the stomach and immediately blood spurted from his mouth. It was then that the Special Branch man ran away, and shouted for someone to get the Doctor or an ambulance to get him to a hospital. He also told me that he had not been told by a Doctor that he was being discharged. The first intimation of this was when Inspector _____ stated at Mountpottinger came into the room and forcibly removed him from the bed saying "Here boy you're for Ladas Drive again."

He is on remand at Crumlin Jail. My daughter was refused a committal visit. So she saw him on Thursday. He is still very sore and he got a beating by a warder inside Crumlin. On his way out to take a visit he was called a "Murdering B_____."

Signed: Francis McCrory.
Witnessed: Elizabeth F. Murray.
Dated: 17 July 1977.

Amnesty International, that organization which has gained respect throughout the free world, made a report in June of this year, detailing their findings of maltreatment in the Irish prisons. I am inserting into the RECORD at this point, the conclusions and recommendations by Amnesty International:

CONCLUSIONS

1. On the basis of the information available to it, Amnesty International believes that maltreatment of suspected terrorists by the PUC has taken place with sufficient frequency to warrant the establishment of a public inquiry to investigate it.

2. The evidence presented to the mission does not suggest that uniformed members of the RUC are involved in the alleged maltreatment.

3. The evidence presented to the mission suggests that legal provisions, which have eroded the rights of suspects held in connection with terrorist offenses, have helped create the circumstances in which maltreatment of suspects has taken place.

4. The evidence presented to the mission suggests that the machinery for investigating complaints against the police of assault during interview is not adequate.

RECOMMENDATIONS

1. Amnesty International recommends that, for reasons relating to the protection of suspects and police-officers alike, a public and impartial inquiry be established to investigate the allegations of maltreatment.

2. The terms of reference of this inquiry should include consideration of the rules relating to interrogation and detention, admissibility of statements, and the effectiveness of machinery for investigating complaints against the police of assault during interview.

3. The inquiry should have access to all relevant data on individual cases of alleged maltreatment.

4. Pending the establishment and reporting of such an inquiry, Amnesty International recommends that immediate steps should be taken to ensure that suspects being interviewed by the Royal Ulster Constabulary on suspicion of terrorism are protected against possible maltreatment. Measures to this end should include access to lawyers at an early stage of the detention.

Since the issuance of the Amnesty International report, I have not learned of any changes in procedures, conditions, or opinions about the treatment of suspects in Northern Ireland. Nor am I aware of any renewed commitment on the part of the United States to uncover the truth, to level proper sanctions against the wrongdoers, and to insure the human rights of the Irish prisoners. I am aware, however, of the continuing apathy by our Nation in this regard, and the lack of action by the administration. Several Members of this body have stood up to be counted—my esteemed colleague from New York, MARIO BIAGGI, and other members of the 115-member Ad Hoc Committee on Irish Affairs. But we cannot solve this problem alone, what is necessary is the involvement and leadership by our President, by our Irish-American community, and by the rest of the world.

Some 5,000 individuals have been detained, questioned, beaten, abused—and there has been little if any protest. It is about time that the silence of apathy is broken by an outcry of indignation.

Mr. Speaker, I urge my colleagues to take a long, hard look at the Amnesty International report, a document which can have long-lasting effects on this issue of human rights.●

THEY, TOO, WANT TO GO TO ISRAEL

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. HARRIS. Mr. Speaker, the mother is Vina Belkina and her son is Yakov Rachlenko. She is 63 years old and a pensioner in Moscow; he is 28 years old and a janitor. All they want in this world is to leave the Soviet Union and live in Israel. The facts of the case are depressing and I wanted to take this opportunity to inform my colleagues of them, as part of our Vigil for Freedom.

Vina and her two children, Mirra and Yakov Rachlenko, applied to emigrate to Israel in November 1977. Vina and Mirra were granted permission to leave the U.S.S.R. in March 1973, but Yakov was denied permission to leave because "he served in the Army until November 1971."

Vina decided to stay with her son until they both could leave together. Mirra left for Israel in April 1973 and has lived there ever since. She was married in 1975 and is the mother of a beautiful infant daughter—a child she would like her mother and brother to meet and know.

Yakov Rachlenko was trained and worked as a radio engineer. After his refusal in 1973, he lost his job. Now he works as a janitor repairing boilers. It is my understanding that he is living under house arrest.

The situation is deteriorating. Phone conversations in recent months, between Mirra in Israel and her mother in Moscow have been interrupted. Further, the Rachlenko's good friends, Vladimir Slepak and Ida Nudel have been handed harsh sentences and exiled. With the passing of time, Vina's and Yakov's loneliness only grows. They long for a day when they and so many of their friends in Moscow can be reunited with their relatives in Israel.

Mr. Speaker, it is clear to me, that this is another example of a violation of the Helsinki Act. We will not stop pressing until the Soviets honor their commitments and allow families, such as the Rachlenko's, to be reunited.●

CELEBRATION OF NORTH STAR MINISTRIES

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. JOHNSON of California. Mr. Speaker, Dr. Bill Mansdoerfer, president and founder of North Star Ministries of Grass Valley, has been honored recently during the 15th anniversary celebration of the founding of North Star Ministries in Grass Valley.

Dr. Mansdoerfer and his staff have played an important role in the lives of many young people and have helped them to lead a more Christian life. The programs of North Star Ministries are many and varied. Under the capable leadership of Bill Mansdoerfer, these ambitious programs have moved steadily ahead.

Young people, ages 16 to 21, are provided the opportunity to overcome their problems. The principal prerequisite is that the young person must ask for help. After this is accomplished, the orderly rehabilitation of that young person begins. The four keystones of the program are spiritual guidance, hard work, education, and vocational training. The program helps young people to contribute to the conservation of natural resources and at the same time develop an appreciation for those resources.

Mr. Speaker, the Nevada County Board of Supervisors recognized the accomplishments of Dr. Mansdoerfer on the occasion of North Star's 15th anniversary. I would like to include a copy of their resolution of commendation at this point in the RECORD.

The resolution follows:

RESOLUTION

Whereas, Dr. William Mansdoerfer, Founder and President of North Star Intensive Training Center, is deserving of the highest commendation for the outstanding work he has done in helping young persons; and

Whereas, Dr. Mansdoerfer and North Star have worked with Nevada County in assisting in the counseling of runaways and providing a home for them until satisfactory family arrangements could be made; and

Whereas, Dr. Mansdoerfer has worked with Nevada County's Mental Health Board in establishing an excellent mental health program; and

Whereas, Dr. Mansdoerfer has served on the Nevada County Health Planning Council and serves as the County representation on the Regional Health Systems Agency Council; and

Whereas, North Star is an academy and motivational facility to help young people who are troubled; and

Whereas, under the direction of Dr. Mansdoerfer, the North Star Academy has served over 2,000 young people through their education and counseling efforts; and

Whereas, North Star is funded through the private donations of concerned citizens and does not take Federal or State funds; and

Whereas, Dr. Mansdoerfer has been available and deeply involved in suicide prevention in this County; and

Whereas, North Star Hot Line, a telephone answering service to assist those needing someone to listen, has been effective in meeting the needs of hundreds of troubled people; and

Whereas, Dr. Mansdoerfer founded his organization 15 years ago, and established North Star nine years ago in Nevada County and has been an asset to solving the needs of this County.

Now, therefore, be it resolved by the board of supervisors that the members take this opportunity to publicly commend Dr. William Mansdoerfer for the outstanding work he has done, not only in helping today's troubled youth, but also his dedication and untiring efforts to make Nevada County a better County both in health and mental health fields; and

Be it further resolved that Nevada County Board of Supervisors express the hope that Nevada County will continue to benefit of his abilities, experience and expertise for many years to come.

Be it further resolved that the Clerk of the Board of Supervisors transmit a suitably prepared copy of this resolution to Dr. William Mansdoerfer.

LEE METCALF FAIR EMPLOYMENT RESOLUTION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mrs. SCHROEDER. Mr. Speaker, the House of Representatives can "boast of some connections with the great, of some insanity, and a modicum of idiocy." But it can hardly boast of blazing the trail against employment discrimination.

Congress—often dubbed the "Last Plantation"—has exempted itself from the provisions of title VII of the Civil Rights Act and from the Equal Pay Act. In answer to this situation, the Fair Employment Practices Panel was formed in 1975. We now believe, however, that the time has come to move beyond the voluntary provisions of the fair employment practices agreement and toward binding legislation which will mandate that the House of Representatives become "an equal opportunity employer."

Therefore, today Representative MO UDALL and I are reintroducing the companion measure to Senate Resolution 431, the Lee Metcalf fair employment resolution, which is now awaiting consideration by the full Senate.

To date, 32 Representatives have cosponsored the fair employment resolution. Their names follow:

Representatives Berkely Bedell, William Brodhead, Yvonne B. Burke, Bob Carr, Ronald Dellums, Robert Drinan, Robert Edgar, Don Edwards, Joshua Eilberg, Dante Fascell, Joseph Fischer, Donald Fraser, William Gephardt, William Lehman, and Matthew McHugh.

Representatives Edward Markey, Abner Mikva, Parren Mitchell, Toby Moffett, Stephen Neal, Richard Ottinger, Leon Panetta, Edward Pattison, Charles Rangel, Henry Reuss, John Seiberling, Paul Simon, Newton Steers, Paul Tsongas, Bruce Vento, and James Weaver.●

COLLEGE "DAVID" TAKES ON HEW GOLIATH

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. McDONALD. Mr. Speaker, the Department of Health, Education, and Welfare is going around the country like a large misshapen camel trying to stick its nose under the tent of every college campus in the country. Some small independent colleges have succeeded in keeping the HEW camel out of the tent by refusing to participate in any Federal aid to education programs. However, now on the basis of title IX, requiring there be no sex discrimination, HEW is trying to gain control of the remaining independent schools by refusing to let students attending these schools participate in Federal tuition loan programs. Grove City College in Pennsylvania is currently the target of such an attack. Human Events of September 30, 1978, describes how this occurs and why we should all be concerned over this attack on academic and intellectual freedom in this country.

The article follows:

COLLEGE "DAVID" TAKES ON HEW GOLIATH

(By Hannah Yonan)

Goliath is at it again. Once more a group of private educational institutions is reeling under the Department of Health, Education and Welfare's heavy-handed efforts to expand its power. One of the current victims, along with 12 or so other colleges around this country, is Grove City College, a small private college in western Pennsylvania.

This Christian school—affiliated with, but not controlled by, the United Presbyterian Church—places a strong emphasis on free-market principles and their importance to a dynamic economy. The college offers its 2,200 students quality academic training at one of the lowest tuition rates of any private college in the country ($1,740 plus $1,180 room and board for the 1977–78 academic year).

On Dec. 9, 1977, the Associated Press in Pittsburgh called the public relations office at the college informing it that HEW Secretary Joseph Califano was threatening to cut off federal funds to 10 school districts and 12 colleges throughout the country, including Grove City, if they did not sign forms indicating compliance with Title IX anti-sex discrimination regulations.

This legislation—part of the Education Amendments of 1972—prohibits the exclusion of any person on the basis of sex, from any "educational program or activity receiving federal financial assistance." Under HEW's broad interpretation of Title IX, the agency has issued rules governing almost every aspect of college life, including living facilities, curfews at dormitories, and extracurricular activities such as athletics.

In addition, it has required mixed classes of boys and girls in all courses of instruc-

tion, including physical education, which has been separated traditionally according to sex. Further, the regulations would require "affirmative action" to remedy the effects of so-called past discrimination, though "affirmative action" is not mentioned in Title IX legislation.

Some things need to be clarified.

To begin with, Califano apparently believes that Grove City has been discriminating against women. I am a junior at the college and I, for one, have neither encountered such discrimination nor seen it in evidence. But that is beside the point, since whether Grove City discriminates or not is really none of HEW's business. Congress specifically stated that Title IX applies to an "education program or activity receiving federal financial assistance." Grove City doesn't receive any assistance.

Ever since its creation in 1876, the college has consistently refused to accept even a penny of federal money, knowing full well that such acceptance leads to federal controls.

Nevertheless, Califano and other HEW officials maintain the federal assistance to certain students at Grove City in the form of Basic Opportunity grants or private bank loans guaranteed by the government has the effect of aiding the college and that, therefore, the whole college is a recipient institution and must obey all the federal rules on coed sports, affirmative action etc. As the college sees it, such aid to students is a matter between them and the government. The college itself has maintained no involvement with such funding, except that when a student applies for any grant or financial aid, it certifies that the person is in fact enrolled there.

So, in light of Grove City's experience, one may assume that when a federal worker buys a pound of butter at the corner deli, that deli automatically becomes subject to federal control, since it received federal funds in the transaction.

Grove City has received "Dear Recipient" form letters from HEW in the past. Apparently, since so many institutions of higher learning are recipients of federal largess, the college, it was assumed, also drinks from the federal trough. Said college President Dr. Charles MacKenzie, "When I pointed out that they could not threaten to take away federal aid we did not receive, I was told in strong terms that they would bring us into compliance one way or another."

In January of this year representatives of the college were ordered to appear for its supposed noncompliance before a "departmental administrative judge," an employe of HEW. The college's lawyer for this case, John B. McCroy, said the college does not expect to win the issue while it is within the jurisdiction of HEW, and that it will appeal to the federal courts. Said Dr. MacKenzie, "The trustees have decided to go to the United States Supreme Court to fight for our right to remain independent, if we have to."

And so the struggle goes on, a struggle that not only affects the field of private education, but also virtually every other aspect of American life, down to what seat belts or air bags should be present in cars. Of course, I'm prejudiced. I propose a toast to David. Cheers and Godspeed!●

COMMENDATION

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. BRINKLEY. Mr. Speaker, on the occasion of the retirement of our esteemed colleague, the Honorable JOHN DENT of Pennsylvania, I would like to take this opportunity to commend him for his distinguished service in the U.S. Congress.

His dedication to duty and to his fellow citizens have made him a respected Member of the House of Representatives, and we, who have been privileged to serve with this fine gentleman, gratefully recognize his service. Integrity, honesty, and ability—these are the qualities desired in a Member of Congress, and JOHN possesses them all. We will miss his leadership and his friendship. In Matthew 7:20, we read, "By their fruits ye shall know them." JOHN DENT bears this out, in the best tradition of representative government.●

TRIBUTE TO PAUL G. ROGERS

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. CHAPPELL. Mr. Speaker, I regret that PAUL G. ROGERS, one of my colleagues in the Florida delegation is not seeking re-election, and therefore will not be returning after the adjournment of the 95th Congress. Because of his devotion during his 24 years in the House of Representatives, the 11th District of Florida has benefitted in more ways than we could possibly mention here today. I would ask, however, that we in the House pause for a moment to pay tribute to the service, the hard work, and the many accomplishments of the Honorable PAUL G. ROGERS—since 1955, one of Florida's ablest and most respected legislators in the House.

Coming to the House myself in 1968 allowed me to renew an acquaintance with PAUL that began in the 1940's, when we both taught speech, as acting professors at the University of Florida.

Now completing his 12th term in the Congress, PAUL has served the last 8 of those years as chairman of the House Subcommittee on Health and the Environment, of the Committee on Interstate and Foreign Commerce. In this important leadership role, he has earned the title of "Mr. Health" in the U.S. Congress and has gained national recognition and respect as an innovative and hard-working legislator in health-care issues.

Congressman ROGERS has been the leading architect of programs to bring the high costs of hospital care under control and to make our publicly-funded programs for financing health care more efficient, cost-effective, and free of fraud. He has also been a strong advocate of professional review of both the quality and necessity of hospital care paid for by medicaid and medicare, and has developed programs to retire unnecessary hospital facilities and to convert them to other purposes.

One of the major reasons for PAUL ROGERS' phenomenal success in dealing with many of the complex problems of health care is his approach. The ROGERS style invariably enlists the support and assistance of those sectors of the medical education, research, and practicing communities who will be most directly affected. By this means, he has involved those best qualified and equipped to find and implement solutions to health care problems, and has united them in an active partnership with Government—instead of attempting to merely force such changes solely through Federal regulation.

Numerous major health laws bear his mark. PAUL ROGERS has been the driving force behind the National Health Service Corps program, which places critically needed health personnel in medically underserved areas, and the area health education centers program, which provides training and continuing education opportunities for both students and health professionals in community hospitals—thus encouraging physicians to locate their practices in rural areas. In these and other such programs, Congressman ROGERS has consistently sought to improve the overall effectiveness of health planning and to insure health care delivery systems that provide accessible services of good quality and reasonable cost for all citizens throughout the United States.

Health care issues—of such vital concern to every American—will sorely miss the expertise of this respected and conscientious individual. Whoever succeeds PAUL ROGERS as subcommittee chairman will have quite a record to live up to.

We will all miss him—especially me in the Florida delegation. Certainly, his retirement has been more than well earned—and I ask my colleagues to join me in wishing PAUL a full and satisfying retirement. It has been a privilege to serve with a legislator of his caliber and dedication.●

NATIONAL ADVISORY COUNCIL ON MINORITIES IN ENGINEERING

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. MURPHY of New York. Mr. Speaker, a recent address by the chairman of the National Advisory Council on Minorities in Engineering, Mr. Howard C. Kauffmann, to a Washington symposium, outlined the council's concerted effort to bring more minorities into the engineering professions. It includes support programs in universities as well as pre-college prospects, and particularly focuses on the need for more direct involvement of business, Government, educational institutions, and professional organizations to participate in bringing increased opportunities to those minorities who can be directed into the engineering profession.

I would like to commend to my colleagues the remarks, in the hope that they will be inclined to support such goals within their own communities.

The material follows:

ADDRESS BY HOWARD C. KAUFFMANN

The introductory remarks explained the origin of the goal of a tenfold increase in ten years which was endorsed by NACME when it was established by the academy in 1974. That goal has a great deal to recommend it besides symmetry. It is a realistic objective. There was and is every reason to believe that

it can be reached, given a truly nationwide effort. And as we succeed, it will be a large step toward fuller participation of minorities in the mainstream of the private sector.

As we approach the halfway mark in the ten-year program, we can take considerable satisfaction from the results to date. The significant increase in the percentage of minority students in freshman engineering courses unquestionably owes a great deal to the work funded and carried on by the organizations involved in this national effort. I particularly want to acknowledge the outstanding contributions of Reg Jones and Ed Kane, the first and immediate past chairman of NACME. The challenge to measure up to the standard they set is all too clear to me.

For all the accomplishments, of course, there is still much to be done. Phase one of the program established a foundation of teaching and support programs in key colleges and universities which has materially increased the awareness of engineering as a career among minority high school juniors and seniors. The time has now come to begin a second phase, which involves nothing less than a major expansion of the entire program and a strong shift in emphasis to precollege activities aimed at building the supply of qualified and interested applicants. During the next five years of this effort, phase two, the aim will be to generate a "multiplier effect," which is the focus of this symposium.

As the name implies, the "multiplier effect" is something which gives back more than is put in, something which builds on itself and can be more or less self-perpetuating. The trick is to get the process going—and that is going to require renewed efforts from all of us.

This will involve three seperate tasks.

First, we must broaden the membership base of the national organizations involved in the minorities in engineering movement—organizations such as the national fund for minority engineering students and ME³ and NACME. This means an extensive recruiting drive to enlist more members from business, government, educational institutions, professional organizations and minority and community resource groups. And with this expanded representation must come more emphasis on local involvement.

The base for financial support must also be expanded. At the present time, 38 companies and five foundations provide approximately 98 percent of the funds which support national programs to increase minority participation in engineering. Perhaps another 50 companies contribute financial aid through the national fund for minority engineering students, and, of course, others make direct contributions to colleges for this purpose. But this is too narrow a base. It leaves significant potential sources of support untapped, such as the hundreds of companies whose operations and interests are essentially regional. Our goal will be to expand significantly the number of companies supporting the national effort.

Another step in achieving the multiplier effect will be to further extend minorities engineering programs in the pre-college area. While the effort now is concentrated on high school juniors and seniors, there is a need to go as far down as the 7th grade level to reach students when their interests are in the most formative stage. Even modest programs at this level can have great impact in starting youngsters on the road to careers in engineering. We must work with educational systems to ensure that interested youngsters have access to the necessary math and science courses.

Better use can be made of the potential of community and junior colleges as feeder institutions of minority students for the engineering schools. And we should involve more community organizations outside the educational system to help build awareness of engineering career opportunities.

The third task will be to strengthen the programs which are underway, and to ensure that adequate funding is available both for individual students and for program operations. One of the priority needs was underscored by the recent survey of attrition rates made by the retention task force of the committee on minorities in engineering. This study showed that the colleges with the highest retention rates among minority engineering students are those which offer the most complete support programs—including provisions for tutoring and schedule stretchout as well as financial support.

That is the three-part task ahead of us—to broaden the base of support for the national effort, to extend the reach of national minorities engineering programs into schools and community, and to reinforce and expand the programs already underway.

Phase two of our ten-year program is considerably more ambitious than phase one. Some of this is going to be about as many laughs as changing a flat in the Lincoln Tunnel but it has to be done. To achieve our goals, there will need to be improved coordination and more cost-effectiveness in the minorities engineering movement.

All of the national organizations involved will benefit if duplication of effort can be eliminated and the respective roles clearly delineated. This should be a high priority goal throughout phase two in order to efficiently use the available resources and attract additional support.

Careful evaluation of all the programs should be emphasized to ensure that objectives are being achieved and costs are being justified in terms of their real contribution to the total minorities in engineering movement. I encourage contributors of funds to minority engineering programs to make a special effort to evaluate the way these funds are being spent. And I urge those of you who are administering these programs to evaluate your own activities, with particular emphasis on cost-effectiveness.

Corporations' involvement in the national effort can go beyond simply giving money. While contributions to minorities engineering activities are customarily a headquarters concern, company affiliates can be encouraged to help develop programs at the local level. For example, Exxon's activities in the field are currently centered in New York and Houston. We now plan to broaden our involvement and have set Washington, D.C. as our next prime target, working with others to stimulate activities here.

This sort of thing is important in achieving the "multiplier effect" we are striving for. There are numerous other possibilities. More plant visits by student groups can be arranged. Minority engineers on our staffs can appear before high school and junior high school classes as lecturers and role models. Working with local school officials or through the committee, curriculum additions can be suggested to stimulate interest in engineering. And so on. The important thing is to be active, interested participants in the minorities engineering movement, not just passive sources of funds.

Participation means personal participation. The major recruiting campaign about to begin will depend heavily on personal contacts. And I will be requesting various companies to join this national effort through membership in NACME. Your suggestions regarding prospective NACME members are needed as well as the assistance of your personal contact.●

WHY DIRECT SELLERS SHOULD NOT BE COVERED BY PROPOSED FRANCHISE LEGISLATION

HON. ROBERT (BOB) KRUEGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. KRUEGER. Mr. Speaker, during this term I sponsored H.R. 9144, designed to protect franchisees from arbitrary terminations and refusals to renew by their franchisors. Representative MIKVA has also sponsored legislation, H.R. 5016, in this area. Since introduction of these measures, I have considered statements made during hearings before the Consumer Protection and Finance Subcommittee and have had discussions with members of various industries affected by these legislative proposals. As a result, it has become clear to me that the definitions of "franchise" used in these bills encompass business relationships not traditionally regarded as franchise arrangements nor lending themselves to the abuses sought to be corrected. In this connection, the antitrust section of the American Bar Association has pointed out in its report on proposed Federal franchise legislation:

> Because circumstances may be so different from industry to industry, and even among different distribution relationships within a particular industry, Congress should proceed very cautiously in developing uniform procedures and remedies which will apply across the board to all relationships that fall within a broadly framed statutory definition of "franchising." Congress should carefully examine the problems which allegedly exist, and the abuses which allegedly have occurred in franchising relationships, in order to determine the extent to which such problems and abuses have resulted from the utilization of particular types of distribution techniques or franchise agreements (or particular contractual provisions in such agreements).
>
> Any legislation which is enacted should be tailored to solve those specific common problems; and eliminate those specific common abuses, which are deemed sufficiently serious to warrant Congressional action. Such an approach would avoid the enactment of broad legislative provisions which may be totally inappropriate for many of the varied distribution methods which might be affected thereby, and also would make it more practical for the diverse industries affected by any proposed legislation to comment more meaningfully on the need for, and potential impact of, such legislation.

One industry to which franchise termination legislation seems particularly inapplicable is direct selling. As now written the overly broad definition in these proposals could be interpreted to cover some relationships within this industry. These are not franchise relationships under the commonly understood meaning of that terms. The problems identified as giving rise to this legislation do not exist within the direct sales industry, in which the common denominator is that sales are personally conducted away from fixed business locations, most often in the consumer's home. For most of the approximately 4.5 million persons

engaged in this industry annually, direct selling serves basically as a supplemental income source and the turnover rate exceeds 100 percent per annum. Many people sell for many years for the same company, some full time, others for only a few weeks per year. Generally speaking, there are no required investments, quotas, territorial restrictions, or controls over members of the direct selling distribution systems.

Because of the frequent and voluntary interruption of selling activities by individual direct sellers, formal termination procedures pursuant to legislative mandate would be expensive, administratively burdensome, and unnecessary for this industry.

In the event of further activity in the area of franchise termination legislation, I urge my colleagues to carefully consider my remarks and the cautionary views of the American Bar Association which I have quoted.●

DISABILITY AWARENESS WEEK

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. EDWARDS of California. Mr. Speaker, I would like to take this opportunity to note that October 14–21 has been designated Disability Awareness Week in the State of California. Organized by the California Department of Rehabilitation, this week has been set aside to focus public attention on the special concerns faced by disabled members of our population.

The situation that confronts disabled individuals in our society has largely been ignored for many years. However, there has been encouraging awareness recently of the rights and concerns of the physically handicapped. This growing public attention has been translated into numerous public programs and laws to improve the conditions relating to such basic issues as job opportunity and lifestyle. Recent laws on both the State and Federal levels have been enacted to deal with these areas, most notably section 504 of the Rehabilitation Act of 1973, which specifically addresses the civil rights of the handicapped. This act has been hailed by HEW Secretary Califano as—

> The first federal civil rights law protecting the rights of handicapped persons and reflecting a national commitment to end discrimination on the basis of handicap.

Implementation of section 504 has led to important progress in many areas of concern to the disabled—accessible transportation systems, design improvements and modification of buildings, and schools which place emphasis on the special learning needs of the disabled. Just as vital has been growing recognition of the important societal contributions to be made by handicapped individuals.

Activities planned for California's Disability Awareness Week will involve individuals representing many different viewpoints. Government staffers, social service workers, lawyers, and handicapped participants will all take part in events located around the State such as seminars, workshops, and discussion groups. Approximately 500 to 1,000 persons are expected to participate in these functions, as well as in the Action 504 conference on the human and legal rights of individuals with disabilities. Speakers include Max Cleland of the Veterans' Administration, Mario Obledo of the department of health and welfare, and Ed Roberts of the department of rehabilitation. On October 19 and 20, the Action Equalization conference will discuss various methods of integrating people and services to better serve the disabled.

Once again, I offer my support for a productive and successful Disability Action Week.●

EQUAL OPPORTUNITY IN FEDERAL EMPLOYMENT ACT OF 1978

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. STEERS. Mr. Speaker, I am today introducing legislation known as the Equal Opportunity in Federal Employment Act of 1978. The purpose of the measure is to insure that Equal Employment Opportunity (EEO) programs at the Federal level have the kind of support that is necessary to deal, in a meaningful way, with job discrimination.

My interest in this proposal stems from my experience in trying to deal with what I believed to be inadequate attention given to EEO efforts by the Department of Health, Education, and Welfare (HEW). I had received reports that the EEO effort at HEW was in real trouble. It lacked leadership and it lacked any real power, or "clout," within the Department. In fact, no one person was in charge of the program. Further, a series of proposed downgradings for EEO personnel, without similar downgradings for other programs at the same level, made it clear that EEO staffs had been singled out for reduced stature, thereby leaving them with reduced clout.

On November 15, 1977, I wrote to HEW Secretary Califano on the matter. An analysis of the HEW response indicated to me that my concerns were entirely justified. I again wrote the Secretary on July 25, 1978. His response to that letter, which I received 3 days ago, still only partially addresses the problem of how to make EEO programs effective tools to bring about true equal opportunity in Federal employment.

Consequently, I am introducing this measure in an effort to be sure that our stated commitment to equal employment opportunity is matched with the staffs and resources necessary to do the job.

Simply put, the Equal Opportunity in Federal Employment Act of 1978 would mandate, by statute as opposed to regulation, not only that EEO programs be established in each "department, agency, and unit" of the Government, but also that the directors and staffs of those programs have sufficient stature, in terms of grade level and rank within their departments and agencies, to perform their jobs effectively. It does little good to have an EEO program if those persons charged with running the program, due to their grade and rank within the bureaucracy, have no power and have no direct access to those who do have the power. My proposal is aimed at resolving that problem once and for all. By establishing these programs by statute, as opposed to departmental regulation as is presently the case, we can help bring about an EEO effort which is not subject to various degrees of emphasis in various departments. The relative importance given EEO would no longer be subject to temporary, political whims of various administrators.

Mr. Speaker, the goal of equal employment opportunity in the Federal Government has been set. It is both a worthy and essential one. This type of legislation would bring us a step closer to insuring that we meet that goal. I hope that it will be given careful attention, and after due consideration, approval.●

CIRCULAR LETTERS OF CONGRESSMEN TO THEIR CONSTITUENTS: 1789–1829

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. FOUNTAIN. Mr. Speaker, I call to the attention of my colleagues an article by columnist George F. Will in yesterday's Washington Post which describes some of the many contributions to a fuller accounting of the history of the Congress contained in a three-volume work, "Circular Letters of Congressmen to Their Constituents, 1789–1829," published last summer by the University of North Carolina Press, Chapel Hill, N.C.

On June 8, 1978, I had the privilege and honor of presiding over a Capitol ceremony in which copies of this major compilation, edited by Prof. Noble E. Cunningham of the University of Missouri were presented to the leadership of both the House and the Senate. A transcript of that presentation ceremony, along with a fuller explanation of the historical significance of this important work, appeared in the CONGRESSIONAL RECORD for June 16, 1978.

The article follows:

"DEAR CONSTITUENT . . ." (c. 1800)

(By George F. Will)

It was time to fulfill the literary function that is central to republican government, so the congressman began a letter to his con-

stituents: "Although no definitive measure of importance hath hitherto taken place in Congress, yet in pursuance of my duty and inclination, I beg leave to furnish you with a short abstract of the state of public affairs. . . ."

The University of North Carolina has published three volumes of "circular letters," newsletters sent by congressmen to constituents between 1789 and 1829. To read them is to sense something we have lost, and to glimpse the elusive relationship between style and substance in politics.

Although the styles of the letters vary, they all seem suited to an age before broadcasting, when the eye was more important than the ear, and people did not expect and require public utterances to be plain and graceless. I will leave aside my firm conviction that the rushing typewriter, with its clackety-clack rhythm, is an enemy of well-crafted sentences.

But I will insist that when those early congressmen dipped quill pens into inkwells they were undertaking a highly regarded art—expository prose—and they aimed for a stately tone appropriate for matters of high moral dignity. The less elevated style of today's political discourse is, perhaps, appropriate for today's servile state that sees itself merely as an undignified broker between clamorous interests.

The subjects taken up in the republished letters include how to cope with Algerian pirates, and Indians, and whether to tax stills or the liquor distilled. There also are perennial themes. A writer boasts about voting against a measure that increased congressmen's compensation to "eight dollars a day and the same for 20 miles travel." In 1818 a congressman expresses fastidious dismay: "All works undertaken by this government are carried on in a manner not remarkable for economy." Another representative, anticipating today's populist dislike of lawyers, criticizes the session just ended because "there was too large a proportion of professional gentleman, and others not sufficiently conversant with the manner in which the main body of the yeomanry of this country gain their substance."

In the 1790s, when the government was just developing its sea legs, many letters were full of alarm. Americans were "furiously hurling ourselves into the vortex of tyranny." Americans were losing "the Security of their Liberties, for which they have so valiantly fought and so profusely bled." A congressman mentioned "the election of John Adams" and exclaims: "O afflictive words! . . . O the depravity of times! O the corruption of the manners!"

By the 1820s a congressman's report was more apt to be a matter-of-fact: "In giving you a sketch of our session, I have to remark that it commenced in a calm, which approached to indifference."

Communication to and from the central government was difficult in the days before mass and instant communication. When these letters were being written, congressmen were insulated from their constituents by a psychological distance that owed something to the philosophic understanding of representation that is the essence of republican government. So it was natural for congressmen to conclude a report as austerely as John Tyler of Virginia did in 1818:

"I have thus briefly, Fellow Citizens, presented you the reasons which have governed me in the course which I have pursued upon those subjects of greatest importance to our future destiny. Should I have been so fortunate as to have coincided with you in opinion, it will be to me a source of gratification . . . [But] should my course not meet with your approbation, I have the consolation to know that I have honestly pursued the dictates of my best judgment, and acted the part of an independent Representative."

When, if ever, have you been adressed by a politician possessing such serenity and dignity? Tyler's course was determined by "reasons," by his 'judgment," not his constituents' instructions. He was pleased to present his conduct for approval, after the fact. Given the limited possibility for communication with a constituency during a session of Congress, he could hardly have done more. Given his understanding of his office, he would not have wished to do more.

Tyler expressed the essential, indispensable spirit of republican government, and it seems archaic because we have, in fact, dispensed with it.●

MEDICARE AND MEDICAID

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. FORD of Tennessee. Mr. Speaker, over 10 years ago, Congress enacted medicare in an effort to provide a comprehensive program to meet the health care needs of our Nation's elderly.

Although beset with some problems, the program has, for the most part, provided the means for those persons 65 or older to seek and receive quality health care. One exception is the important, and frequently neglected area of primary care—dental care.

When medicare was enacted, the Congress did not include a dental component in the program. Instead, Congress voted to include adult dental care uner the medicaid program—as a State option. Theoretically then, the elderly poor would be able to obtain dental care—but only if they lived in a State which had a dental program under medicaid.

Unfortunately, only 34 of the 53 States and territories with medicaid programs provide adult dental benefits. And of these 34, 31 have imposed restrictions on benefits, such as no denture coverage, or coverage only in emergency conditions. In addition, because of the optional nature of adult dental services, they are among the first to be curtailed or eliminated when States find it necessary to cut back on medicaid services.

It is a well-documented fact that dental disease and its related problems are pervasive among the elderly and, unfortunately, going untreated in many cases. According to the National Center for Health Statistics, of the 22.4 million Americans aged 65 and over in 1975, 11.4 million were edentulous (or without teeth). Of this group, 6.2 percent did not have dentures. In addition, evidence of periodontal disease was found in over 90 percent of elerly persons with their natural teeth.

Coupled with this high rate of need is the low utilization rate. In 1975, nearly 70 percent of the elderly population did not see a dentist. For those who did seek dental care, 93 percent of the cost of providing dental care was paid with private funds. The remaining 7 percent was paid with Government funds through medicaid, and totaled $38 million or $1.24 per capita. The $38 million expenditure equals only one-half of 1 percent of all dental care expenditures.

It is also well known that the majority of people over age 65 live on limited, fixed incomes, often below the poverty level. Findings of a study conducted by the American Dental Association demonstrate that—

The small amount of spendable income available to most elderly does not tend to support frequent utilization of dental services.

Clearly, the Government has an obligation to help these people secure quality dental care. Without attention to their oral health, their ability to socialize, to speak, or to obtain proper nutrition is directly affected.

Today I am introducing a bill to assist the elderly in receiving this needed dental care.

This bill would amend medicare part B to include coverage for comprehensive dental care services, including dentures, provided by licensed dentists.

Although these title XVIII dental care improvements initially will result in higher program costs, the expenditures should decline as elderly persons receive the preventive and comprehensive dental care they so urgently need at present. According to survey research data released by the American Dental Association in July 1977, "the percentage of Americans wearing dentures is dropping dramatically * * * Long-term efforts by the dental profession to eliminate needless loss of teeth are yielding results," with only 24.7 percent of the 30-and-older age group in 1975 wearing one or two complete dentures, compared to 35.2 percent in 1960.

In fact, as those individuals who have been exposed to fluoridated water over the past 30 years reach age 65, the number of people requiring extensive dental care will decline.

Mr. Speaker, my bill is cost-effective and necessary. It would help meet one of the greatest needs in the total health care of our elderly.

I realize it is too late in this session of Congress for full consideration of this legislation. However, it is important to emphasize this significant gap in current medicare coverage. I introduce the bill now with the hope that it can be reviewed and acted upon in the 96th Congress. An explanation of this legislation follows:

EXPLANATION OF PROPOSED DENTAL CARE AMENDMENTS TO PART B OF MEDICARE

1. Section 1 would delete the present statutory exclusions of dental prosthetic devices, (dentures) and dental care services under Section 1861(s)(8) of Title XVIII.

2. Section 2 would provide a new subsection, Section 1861(s), which would define a "dentist" as an eligible provider for newly mandated dental services under Part B of Medicare. Essentially this new definitional section would enable only qualified and licensed dentists to provide dental services which they are legally authorized to provide by the State in which they perform them.

3. Sections 3 and 4 of the bill would explicitly mandate comprehensive dental services, including dentures, for Medicare beneficiaries under Part B of Title XVIII, Social Security Act.

4. Section 5 would clarify existing author-

ity for coverage of dental services rendered by a dentist, as defined in Section 1861(s), in an inpatient hospital setting.

5. Section 6 would make these amendments effective the first day of the month following the month in which this legislation is enacted.●

A COLLEGE WORK-EXPERIENCE PROGRAM THAT WORKS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. BROWN of California. Mr. Speaker, with the multitude of educational programs in this country, it is difficult to single out any particular program or program director for special recognition. There are exceptions, however, for exceptional programs. One such example is centered in the congressional district that I represent, at the Riverside campus of the University of California.

For over a decade, Prof. Ron. Loveridge of University of California, Riverside, has been encouraging elected officials and governmental agencies at the Federal, State, and local levels to accept students in a work-experience program. The students are carefully screened, and must complete outside reading and prepare papers, as well as do the work of regular employees, in exchange for college credits. The agencies and offices which accept interns generally get free, or inexpensive and energetic assistance in their own work, as well as a fresh point of view about that work. The net result has been an enrichment in the education of the students involved, and a contribution to the community at large from the work of these students. One individual deserves the major credit for the success of this program, Ron Loveridge. Other colleges would do well to emulate this program.

Mr. Speaker, as one who has benefited from this program, and who hopes to gain even more benefits in the future, I perhaps should disqualify myself from praising Dr. Loveridge. But since both of California's Senators have similar conflicts of interest, and many other offices in Washington, D.C., have benefited from this college intern program, I will not. Let me simply say that I fully concur with the California State Legislature, which recently passed a joint resolution commending the UCR intern program, its contribution to the State legislature, and the "patience and hard work" of Ron Loveridge. I would only add the thanks of those of us in Washington who have also benefited.

The story of how this resolution came to be is interesting in its own right, and helps explain why this program is a success. I recommend the following article from the September 1978 issue of UCR News:

CALIFORNIA LEGISLATURE RESOLUTION

It happened the way most people imagine political plots are hatched.

A special interest group makes a connection with a local legislator through the ol' boy network. A bill is secretly prepared and its passage assured by deals made with other politicians who have benefited—and will continue to benefit—from the interest being served by the measure.

But in this case, the special interest group is comprised of interns from UCR, working with legislators in Sacramento. Their purpose: to honor political science professor Ron Loveridge, who has spent over a decade placing UCR students in such internships.

The political intrigue began several months ago when Rupert Francisco, a 1977 UCR graduate, decided it was time to thank Loveridge for his efforts. Francisco, who had interned in Sacramento for a quarter during his senior year and then was selected for a fellowship with the state Assembly, contacted Eric Norland, then an intern with Assemblyman Walt Ingalls (D-Riverside). Both students had been placed in their positions by Loveridge.

"Rupert suggested the idea, then asked me if I could arrange for him to see my boss," Norland, of Corona, recalls.

The "ol' boy network" paid off and Norland arranged a meeting with Ingalls, who enthusiastically supported a joint resolution of the Legislature. Ingalls also obtained the support of State Sen. Robert Presley (D-Riverside), who had also had Loveridge interns placed with him.

The whole thing was handled on a hush-hush basis by Francisco, Norland and Charles Schultz, of Hemet, a member of Ingalls' staff who himself had served as an intern from UCR. They secretly researched Loveridge's background with help from the Political Science Department and drafted the resolution.

It commends Loveridge "in appreciation of his many years of providing to the Legislature the extraordinarily high caliber of interns" from UCR.

Noting that 125 UCR students have served in Sacramento since Loveridge began placing them in 1966, the resolution attributes "the good work of University of California at Riverside interns . . . to the patience and hard work exemplified by Professor Loveridge."

The commendation also recognizes his work with the California State Assembly Fellowship Program, which provides college students with 10 months of experience working with the Legislature.

Loveridge, who recently stepped down after three years as chairman of the Political Science Department, commented simply, "I was quite surprised."●

RETIREMENT OF ROBERT L. F. SIKES

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1978

● Mr. CORMAN. Mr. Speaker, the House will lose the valuable leadership of one of its most experienced and influential Members with the retirement of BOB SIKES.

Elected to every Congress since 1941, BOB has led the Congress, the Nation, and his district through a period of major change. His experience has been an important resource for each of us and a stabilizing force on the House.

BOB's greatest public service has been in directing the development of a strong national defense.

He has served on the Appropriations Subcommittee for Defense and Military Construction and chaired the Military Construction Panel during the challenging period of 1965–77. His cool and decisive performance under pressure will long be remembered and a mark by which others will be measured.●

THE CASE OF THE RYNSKY FAMILY WHO ARE DETAINED IN THE SOVIET UNION

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. SANTINI. Mr. Speaker, I am pleased to join in the "Vigil for Freedom" sponsored by the Union of Councils for Soviet Jewry on behalf of Soviet Jewish families and individuals who are being detained in the U.S.S.R. as a result of the Soviet Government's repressive emigration policies.

In 1975, 35 nations signed the Helsinki Final Act, which committed the 35 signatory nations to pursue policies consistent with basic principles of human rights, including the reunification of divided families whose members live in different countries, religious freedom, minority rights, and free travel between countries.

Unfortunately, the Soviet Government has regarded the human rights provisions of the Final Act as empty promises. This is most apparent now in the Soviet Union's restrictive emigration policies.

We who take freedom from such harassment for granted must do all we can to change these practices.

Today, I would like to bring to my colleagues' attention the case of Edouard Mikhailovich Rynsky and his family in Moscow. He, his wife, Natalya, his daughter, Yelena, and his mother, Mariya, have applied five times for emigration visas since October 1974, and have been refused. The refusal has been based ostensibly on "state interests." However, Mr. Rynsky had quit his job as a design engineer engaged in elevator design projects (with a second-class security clearance) in 1972, 2 years prior to applying for his immigration visa. He found another job as an engineer with a passenger elevator operation and maintenance agency, in no way associated with sensitive matters. Since 1974, he has been employed as a mechanic at a small factory. Although trained as a mechanical engineer, he has been unable to find employment in his field since applying for exit visas for his family.

Edouard Rynsky and his family desire to be reunited with his sister who is now living in the United States. They have no idea how long they will have to wait—days, months, or years—before they will be allowed to emigrate. It is my hope that this vigil for freedom will result in early emigration to Israel for this family.●

ANALYSIS OF PROPOSAL BY MR. HOWARD JARVIS

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MURTHA. Mr. Speaker, I believe each Member of the House recently received a Mailgram from Mr. Howard Jarvis of the American Tax Reduction Movement. I think it is important that the RECORD contain a summary of that proposal by the House Budget Committee.

Therefore, I would first like to insert part of the original telegram from Mr. Jarvis. Second, I will insert the analysis prepared by Chairman ROBERT GIAIMO:

JOHN MURTHA,
Johnstown, Pa.:

Recently I proposed the "Freedom for Taxpayers" national tax plan. I have promised the American people a detailed report on which candidates for the U.S. Senate and the House of Representatives support this tax and spending reduction plan. And I have promised meaningful support to candidates pledged to support this plan for the people.

The elements of the plan are:

1. 20% annual cut in Federal spending phased in over a four year period, ($25 billion per year equals 5% of yearly federal budget).

2. 10% annual cut in federal taxes phased in over a four year period.

(a) Reduction of income tax by 25%.

(b) Reduction of capital gains tax to 15%.

3. 2% reduction in the national debt each year.

4. Indexing.

WASHINGTON, D.C. *October 5, 1978.*

Hon. JOHN P. MURTHA,
U.S. House of Representatives, Cannon Office Building, Washington, D.C.

DEAR JOHN: This is in response to your request for an analysis of the Jarvis tax proposal. A detailed analysis of this plan is impossible due to the unclear and contradictory information provided by the Jarvis Mailgram. Adoption of the Jarvis proposal would commit the Nation's economic policy to four years of large but undesignated cuts in Federal services along with apparently substantial but unspecified cuts in personal taxes.

Similar to the Kemp-Roth 33 percent reduction in personal income taxes over a three-year period, the Jarvis plan appears to call for a reduction of income taxes by 40 percent over a four-year period regardless of subsequent economic conditions and activity. However, the wording of the proposal leaves the nature of this cut in doubt. For instance, Part 2 of the plan calls for a 10 percent annual cut in Federal taxes phased in over four years. If this means a total cut of 40 percent by 1982, revenues would fall by approximately $44 billion in 1979, and $51 billion in 1980 based on current estimates. However, Part (B) of this provision states that income taxes are to be reduced by 25 percent. If this means a 25 percent cut a year in individual income taxes, receipts would fall by approximately $48 billion in 1979, and $56 billion in 1980. A clear contradiction and lack of understanding exist in this ambiguous provision. Provision 2–B of the plan calls for a reduction of the capital gains rate to 15 percent—another cloudy statement raising such questions as these: Are all capital gains to be taxed at a statutory or effective rate of 15 percent, or are 15 percent of capital gains to be subject to ordinary tax rates? What is to be done regarding minimum and alternative taxes? Are corporate tax rates and provisions to remain unchanged?

Unlike Kemp-Roth, the Jarvis proposal also calls for a 20 percent annual cut in Federal spending phased in over the four year period, apparently as a 5 percent reduction per year. However, no mention is made as to where such enormous budget slashes are to come. And while a 5 percent reduction in Federal expenditures amounts to approximately a $25 billion cut in 1979 and $27 billion cut in 1980, the proposed tax cuts are substantially larger and thus the plan will plan inflation and increase the Federal deficit.

With respect to the third provision calling for a 2 percent reduction in the national debt each year, the other aspects of the plan appear to preclude this. A reduced national debt is the result of an improved overall economy where Federal tax surpluses make debt reductions feasible. The decreased receipts and resulting increased deficit of the first two provisions of the Jarvis plan make an annual debt reduction impossible.

The final element of the Jarvis plan calls for indexing to automatically adjust taxes for inflation. Such a policy accepts rather than tries to control inflation by institutionalizing and validating inflationary expectations.

The Jarvis "Freedom for Taxpayers" plan is an ambiguous and economically unsound proposal. I believe present Congressional legislation deals more effectively and realistically with tax reduction, both personal and corporate, and with spending limitations while continuing the fight against inflation.

Sincerely yours,

ROBERT N. GIAIMO,
Chairman.●

LEONARD SHANE, A TRUE HUMANITARIAN

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. PATTERSON of California. Mr. Speaker, if ever there was a man deserving of recognition for his humanitarian activities, it is Mr. Leonard Shane.

Leonard Shane, who is the founder and board chairman of Mercury Savings & Loan Association of Orange County, Calif., will be honored on November 9 by the Orange County Chapter of the National Conference of Christians and Jews as "Humanitarian of the Year."

I am proud to say that Leonard Shane is a personal and good friend of mine and I congratulate him for this honor bestowed on him.

Leonard Shane has received nearly 200 awards for community service. He has served on the Los Angeles Parks and Recreation Commission, the Los Angeles Coliseum Commission, the Jewish Federation Council of Orange County, and on the United Jewish Welfare Fund of Orange County.

His concern for his fellow human beings is genuine and unselfish. His charitable trait is matched only by his acumen for business. As long as there is poverty and despair in the world, he will be in the forefront of the struggle to overcome them.

He is truly worthy of this honor given to him and I ask my colleagues to join me in recognizing Leonard Shane, a man whose concern and community involvement go far beyond what is reasonably asked or expected of anyone.●

ENVIRONMENTAL HEALTH PERSONNEL ACT OF 1978

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ROGERS. Mr. Speaker, I introduced on October 6, 1978, the Environmental Health Personnel Act of 1978.

This bill emanates from my concern about the status of the environmental and occupational health work force. Numerous studies have indicated that there is a possibility that there will be shortages in some professional disciplines, such as toxicology and epidemiology, and other critical environmental health disciplines. Next, in their efforts to execute environmental and health laws mandated by Congress, the Environmental Protection Agency, the Department of Health, Education, and Welfare, and the manpower assessment, projection, and development concerns to a rather low status. Further, executive budget constraints have had an adverse effect on the amount of dollars for prospective environmental health personnel. Budget constraints have also caused a reduction in in-house training efforts formerly offered by EPA for State and local environmental health personnel. Additionally, the public sector is often hard-pressed to attract and retain qualified environmental health technicians, researchers, administrators, and program designers. Finally, there has been relatively little interagency cooperation in regard to the assessment, projection, and development of environmental health personnel needs.

This bill would attempt to remedy the above problems. It would amend the Public Health Service Act to stimulate training in environmental and occupational health disciplines; it would focus, at the local level, on the relationship of environmental pollutants and disease; and it would assist in meeting manpower needs. The bill also would direct the Administrator of EPA to play a central role in analyzing and projecting environmental personnel needs within EPA and nationwide. The Administrator of EPA, the Secretary of HEW, and the Secretary of Labor would be required to consult with each other in the performance of their respective functions.

There is a considerable body of evidence to the effect that human illness can be abated to a significant degree by effective pollution control programs. It is essential that this Nation have an adequate supply of trained personnel to design and implement those programs. However, there is evidence that the supply of such personnel is insufficient and that the situation will get worse unless expeditious action is taken. I think this legislation will help accomplish this. I respectfully urge your consideration of this legislation and hope you will support it

when my successor reintroduces it next Congress:

H.R. 14264

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) This Act may be cited as the "Environmental Health Personnel Act of 1978".

(b) The Congress finds that—

(1) an unfortunate by-product of this Nation's highly industrialized and technological society has been the generation of a wide variety of extremely potent and dangerous pollutants, many of which are released or escape into the environment;

(2) much human illness can be abated or prevented, at a substantial cost savings to the public and to the Government, by efficacious environmental health programs (including pollution control programs);

(3) in order to ensure the success of programs to eliminate or control environmental pollution, qualified, well-trained personnel are needed to participate in all aspects of the pollution control process, including health effects research, research in the environmental health sciences, and all other phases of the administration and implementation of pollution control programs, and

(4) recent studies indicate that existing health manpower programs are inadequate to solve or assess shortages of specialists in environmental health and that Federal and State efforts to determine and forecast environmental health personnel needs and to assist in the provision of such personnel must be substantially augmented.

SEC. 2. (a)(1) Subsections (a) and (b)(1) of section 792 of the Public Health Service Act are each amended by striking out "make grants" and inserting in lieu thereof "make grants and enter into contracts".

(2) Subsection (c) of such section is amended by striking out "grants under this section" and inserting in lieu thereof "grants and contracts under subsections (a) and (b)".

(b) Section 792 of such Act is amended by adding at the end the following:

"(d) The Secretary may make grants to and enter into contracts with public or nonprofit private educational entities (other than entities which may receive a grant or contract under subsection (a) or (b)) to assist them in meeting the costs of special projects to develop new programs or expand existing programs in environmental health and programs in occupational health. For the purpose of making payments under grants and contracts under this subsection there are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1980.

"(e) The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

(c)(1) Section 749 of such Act is amended by adding at the end the folowing:

"(d)(1) The Secretary may make grants to public or nonprofit private educational entities (other than entities which may receive a grant under subsection (a)) to enable such entities to provide traineeships to train students enrolled in programs in environmental or occupational health which are offered by such entities.

"(2) No grant for traineeships may be made under paragraph (1) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary by regulation may prescribe. The amount of any such grant shall be determined by the Secretary.

"(3) Traineeships under a grant under paragraph (1) shall be awarded in accordance with such regulations as the Secretary shall prescribe. Such traineeships shall provide for tuition and fees and such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

"(4) In making grants under paragraph (1), the Secretary shall consult with the Administrator of the Environmental Protection Agency and other appropriate individuals respecting the environmental and occupational health services for which there are a need for trained personnel.

"(5) For payments under grants under paragraph (1), there are authorized to be appropriated $4,500,000 for the fiscal year ending September 30, 1980."

(2)(A) Paragraph (3) of section 748(b) of such Act is amended by striking out "individuals who" and all that follows in such paragraph and inserting in lieu thereof the following: "individuals who are pursuing a course of study in—

"(A) biostatistics or epidemiology,

"(B) health administration, health planning, or health policy analysis and planning,

"(C) environmental or occupational health,

"(D) dietetics or nutrition, or

"(E) preventive medicine or dentistry."

(B) Paragraph (3) of subsection (b) of section 749 of such Act is repealed.

(d) Subsection (e)(1) of section 788 of such Act is amended by adding at the end the following: "For the purpose of making payments under grants and contracts under subsection (d) for projects and programs in environmental health education (including faculty development and continuing education) there are authorized to be appropriated $4,000,000 for the fiscal year ending September 30, 1980.".

(e)(1) Clauses (i) and (iii) of section 472(a)(1)(A) of such Act are each amended by inserting after "biomedical and behavioral research" the following: "(including environmental health sciences research)."

(2) Section 472(a)(1)(A)(iii) of such Act is amended by inserting "the Environmental Protection Agency, the National Institute for Occupational Safety and Health, and other" before "public institutions."

(3) Paragraphs (1) and (2) of section 473(a) of such Act are each amended by inserting after "biomedical and behavioral research personnel" the following: "(including environmental health sciences research personnel)."

(4) Section 473(b)(3) of such Act is amended by inserting before the period the following: ", the Director of the National Institute of Environmental Health Sciences, the Director of the National Institute for Occupational Safety and Health, and the Administrator of the Environmental Protection Agency."

(5) Section 475(a) of such Act is amended (A) by striking out "and" after "Alcoholism,", (B) by inserting after "Drug Abuse," the following: "and the National Institute for Occupational Safety and Health and the Administrator of the Environmental Protection Agency, and (C) by inserting "(including environmental health sciences research)" in paragraphs (1) and (2) after "biomedical and behavioral research".

(f)(1) Section 1502(8) of such Act is amended (A) by striking out " and environmental factors" and inserting in lieu thereof ", occupational, and environmental factors", and (B) by inserting after "health" a comma and the following: "the development of environmental health personnel programs,".

(2) The first sentence of section 1513(b)(2)(B) of such Act is amended inserting after "unique needs" the following: "(including the prevention of diseases and other human conditions which may reasonably be anticipated to result from exposure in the health service area of the agency to contaminants and other health hazards in the environment)".

(3) Section 1524(b)(1) of such Act is amended by adding at the end the following:

"(E) Each SHCC shall have at least one representative who by training or experience is an expert in the field of environmental or occupational health."

SEC. 3. (a)(1) The Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the "Administrator") shall, on an ongoing basis, assess, identify, and give advice with respect to current and projected personnel needs (including needs for education and training programs, continuing education, and retention of personnel) for the administration and implementation on a Federal, State, and local level of the environmental protection laws under the jurisdiction of the Administrator and for the administration and implementation of environmental protection programs of States and political subdivisions and to enable entities subject to such requirements to comply with them. In carrying out this paragraph the Administrator shall consult with—

(A) persons with expertise in the administration and implementation of such laws and in compliance with such laws,

(B) persons engaged in providing training for such administration, implementation, and compliance, and

(C) the Bureau of Labor Statistics of the Departmtnt of Labor, the Bureau of the Census, and other persons who can provide advice respecting the methodology to be used to determine the personnel needs described in the first sentence and to avoid duplication in the gathering of data to determine such needs.

For the purpose of advising the Administrator in the performance of his functions under this paragraph, the Administrator shall establish an advisory board. The advisory board shall be made up of persons engaged in the implementation or administration of programs administered by the Administrator, representatives from other Federal agencies engaged in pollution control activities, representatives from State and local pollution control agencies, representatives from industry, representatives from environmental interest groups, and such other persons as the Administrator determines are appropriate to advise him in carrying out such functions.

(2) Not later than one year after the date of the enactment of this Act and annually thereafter the Administrator shall report to the Congress the activities undertaken under paragraph (1), the findings made by the Administrator with respect to the personnel needs described in such paragraph, the costs of meeting such needs, the activities undertaken by the Administrator and others to meet such needs, the effects which would result if such needs are not met, and any recommendations for legislation which the Administrator determines is required to meet such needs. The report required by this paragraph may be included in the report required by subsection (h).

(b) The Administrator shall coordinate within the Environmental Protection Agency the development and implementation of policies, programs, and activities for personnel development, education, and training to meet the needs identified under paragraph (1) of subsection (a).

(c) The Administrator shall provide technical assistance to Federal entities, States, and political subdivisions of States to assist such entities in the development of programs to train personnel to meet personnel needs identified under paragraph (1) of subsection (a) and to retain personnel required to meet such needs. The Administrator may make grants to States and political subdivisions of States to assist them in the de-

velopment of such training programs. Such grants shall be made on such terms and conditions and in such amount as the Administrator prescribe.

(d) The Administrator shall assess—

(1) the needs of States and political subdivisions for personnel for the administration and implementation of environmental protection programs, and

(2) the effectiveness of the authority of the Administrator under subchapter VI of chapter 33 of title 5, United States Code, and other laws to assist the States and political subdivisions in meeting such needs, and the effectiveness of the implementation of such laws in assisting in meeting such needs.

The Administrator shall, within six months of the date of the enactment of this Act, complete such assessment and report the results of it to the Congress together with such recommendations for legislation as the Administrator deems appropriate. The Administrator shall take such administrative action as may be required as a result of the assessment.

(e) The Administrator shall consult with institutions of higher education, boards of education, and other educational entities respecting the education and training in environmental health sciences and related disciplines needed to provide sufficient personnel for the administration and implementation of Federal, State, and local environmental protection programs. The Administrator shall provide for information and counseling for individuals (1) respecting the availability of positions in environmental health sciences and related disciplines and the training required by such positions, (2) to encourage individuals to undertake such training, and (3) to encourage and assist individuals in advancement in careers in environmental health sciences and related disciplines. The Administrator shall provide, without charge, programs of continuing education and training for officers and employees of the Environmental Protection Agency and of agencies of States and political subdivisions engaged in the administration and implementation of environmental protection laws.

(f) The Administrator shall advise Federal, State, and local agencies involved in the administration of programs to train and employ unemployed persons respecting positions in the implementation of environmental protection programs in which such persons may be employed, shall encourage such agencies to train such persons for such positions, and shall provide, through interagency agreements or otherwise, for the training and employment of such persons in appropriate positions in programs administered by the Administrator.

(g) The Administrator shall exercise his education and training authorities under the Clean Air Act, the Toxic Substances Control Act, the Noise Control Act of 1972, title XIV of the Public Health Service Act, the Solid Waste Disposal Act, and the Federal Water Pollution Control Act to meet the personnel needs identified under subsection (a)(1). The Administrator shall, in consultation with the Secretary of Health, Education and Welfare, review and assess, on an ongoing basis, the educational programs administered by him. The Administrator shall include in the report required by subsection (h) any recommendations for legislation for the revision of such programs.

(h) Not later than one year after the date of enactment of this Act and annually thereafter the Administrator shall report to the Congress on the implementation of this section. Each such report shall include a comprehensive description of the activities undertaken pursuant to this section, an assessment of the effects such activities have on meeting the needs identified under subsection (a)(1), and recommendations for such legislation as the Administrator determines is required to improve his ability to meet such needs.

(i) For purposes of carrying out this section there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1980.

SEC. 4. The Secretary of Health, Education, and Welfare, in carrying out the provisions of the Public Health Service Act, as amended by section 2 of this Act and the Administrator, in carrying out section 3, shall consult respecting their activities and policies under such provisions and shall coordinate their activities to improve the effectiveness of the activities undertaken under such provisions, to avoid conflicts in the performance of such activities (especially activities involving grants and contracts for education and training), and to improve the Federal effort to provide personnel for environmental protection programs.●

U.S. BUSINESS: PARTNER IN APARTHEID

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. RANGEL. Mr. Speaker, I would like to bring to the attention of my colleagues an article that appeared in a recent issue of Newsday. The author, a former Ambassador to Ghana, discusses the question of U.S. investment in South Africa and presents strong arguments for withdrawal of U.S. companies from South Africa. Clearly, regardless of one's position, this is an issue that the U.S. Government and Congress must address in assessing its relationship with South Africa. The article follows:

U.S. BUSINESS: PARTNER IN APARTHEID

(By Franklin H. Williams)

The most articulate social protest movement since the Vietnam War is accelerating from coast to coast—the drive to force American business out of South Africa. Discounted until recently by U.S. business leaders, it has gathered such momentum that Henry Ford II himself conducted a well-publicized "fact-finding mission" last January to his company's South African plants.

After due consideration, and a cordial luncheon with Prime Minister Vorster, Ford delivered his decision at a news conference: the company will remain in South Africa. He quickly added that, of course, Ford will follow enlightened labor guidelines which will serve, in effect, as a beacon in the surrounding darkness of apartheid. The South African press was jubilant. The next morning's edition of the Johannesburg Star carried the headline "Thank you, Mr. Ford!"

As Mr. Ford's exercise in public relations illustrates, the sybaritic of the straightforward "we do business in South Africa because it's profitable" are gone. An increasingly sophisticated counterattack on the disinvestment movement, backed with an almost unlimited supply of money from vested interest groups and the South African government, is being launched in the media. Most thoughtful people find the three main arguments of this campaign beguiling. Reasonable at first hearing, reassuring to an American public still recovering from the moral shock of Vietnam and Watergate, all there are seriously flawed.

1. Economic growth in South Africa, which depends heavily on foreign investment, will change conditions to the point where blacks will inevitably take their rightful place both economically and politically.

History shows otherwise. The astonishing growth of the South African economy during the past 20 years has done nothing to arrest the steady decline in black living conditions. Medical statistics suggest a social disaster. Tuberculoss, for example, a direct indicator of the standard of living, has reached epidemic proportions among blacks, while diseases of malnutrition such as pellagra and kwashiorkor, unknown prior to South Africa's recent boom, are on the rise. More than half the black children die before the age of 5.

Government per capita spending for black education (rarely available beyond elementary school and never free of charge) is below the 1950 level.

The University of Natal estimated early this year that 25 per cent of the economically active black population is now unemployed, rendering them "redundant" under South African law and subject to resettlement in one of the desolate "homelands." There is no national system of social welfare for blacks, and the population density in these barren areas is already three times as great as the areas set aside for whites.

Statistics are a game anyone can play. With billions at stake, entrenched interests in South Africa play it very well, suggesting that at least for a substantial portion of the black skilled population, wages have risen thanks to foreign investment. Fair analyses of statistics which take into account inflation, cost of living (although higher for blacks) and growth of population paint another picture entirely. During a period of particularly spectacular economic expansion, 1958–70, which saw a 400 per cent increase in South Africa's foreign reserves, economist John Sackur found that while white incomes more than doubled, incomes for blacks in white urban areas remained static. If the more than half the black population now living in the "homelands" is considered—mainly the "redundant" dependents—African real income actually dropped 30 per cent during this period.

Something is obviously very wrong in Paradise. There are two key reasons why blacks have not been swept upward along with whites on South Africa's rising economic tide. Stated simply, apartheid, widely considered a social system, is at its base an economic system, rooted in the exploitation of cheap black labor. A separate and unequal work force is germane to South Africa's prosperity. Second, most foreign investment is capital intensive, depending more on technology and equipment than on employing large numbers of unskilled black laborers in desperate need of training and jobs.

2. Social change is best accomplished from within the country. American companies operating there have a prime opportunity to set an example and, while doing so, improve the lives of thousands of blacks.

In visual terms, the entire South African society may be seen as a massive spider web, woven by whites for their own benefit and strengthened by foreign technology. All institutions are an intricate part of that structure by custom and law (enforced with such ferocity that one out of 95 South Africans is in jail). That is the macro-truth. The happy language of official U.S. policy instructing our companies to follow "enlightened employment practices within the laws of South Africa" may be a bit like telling the enmeshed fly how to dance.

Given all this, just how enlightened have our South African subsidiaries been, anyway? In actual practice, few made even a feeble stab at fair labor practices until 1977, when the disinvestment movement began to look serious. The Rev. Dr. Leon Sullivan, a member of the General Motors board of directors.

pronounced this overt collaboration with apartheid appalling. After 18 months of persuasion, and with the full blessing of the South African ambassador to the United States, 12 American companies agreed in March, 1977, to adhere to six principles that ease the companies toward racial equality. A miracle of compromise, the Sullivan code of conduct (now signed by 98 companies) stops short of the one factor that could actually make a difference to black workers—recognition of black labor unions.

The omission is significant. By leaving out the right to collective bargaining accorded to whites, the Sullivan code is as guilty as any creation of the South African government in insisting upon a solely white definition of fairness. White unions, unopposed, continue to reserve the best jobs and pay for themselves, earning five times the amount of blacks on the average. None of the other principles (except "integrated facilities") can be enforced effectively without this basic worker's right, and the code has been viewed as an exercise in tokenism by blacks and moderate South African whites—even the British foreign minister.

3. The Carter administration has pledged to support African solutions to African problems, and according to many American leaders—black and white—black South Africans don't want American business to withdraw.

Most South African blacks understandably feel cautious in the shadow of the noose, since South Africa dropped all pretense of free speech last October, when scores of journalists and leaders of all races were detained without trial and banned. It is also a matter of law that any South African advocating economic sanctions or foreign business withdrawal can be prosecuted and hung for economic sabotage under the Terrorism Act. Still, there have been several strong indications lately from such impeccable sources as our own ambassador to South Africa, William Bowdler, that soothing assumptions about black opinion are dangerously far from the truth.

In a "limited official use" cable to the State Department in March, 1977, Bowder said that black community and labor leaders "leaned toward withdrawal. Conceding that immediate consequences would be loss of U.S. market share to foreign or local competitors, main point, they claimed was one of morality." He concludes that the "role of American firms here will become increasingly controversial and rationale for continued presence will seem less and less persuasive to growing number of blacks."

The largest nationwide organization in South Africa corroborated the ambassador's analysis on July 12. In an announcement all but ignored by the American press, the 15 million-member multiracial South African Council of Churches adopted a lengthy policy statement which concluded in stronger terms than any legal body in South Africa has ever done, that "foreign investments and loans have largely been used to support the prevailing patterns of power and privilege in the country . . . We urgently call on foreign countries and organizations, for the sake of justice, to revise radically their investment policies . . . in regard to South Africa . . ."

Donald Woods, the noted white editor who dramatically escaped from South Africa late last year, dismisses the notion of foreign investors remaining in South Africa because they feel it is the "right" thing to do. "The argument that these investments benefit blacks by giving them employment is one that has been rejected by all—and I repeat all—the most widely respected and representative black leaders since 1962," he said in a recent article. An adamant admirer of the United States, Woods believes that "they are therefore turning increasingly anti-West and anti-American because of American and Western hesitance to take stronger steps against apartheid. By contrast, they point to the fact that Russia has no investments or diplomatic representatives in South Africa."

While we mouth the same dreary excuses for doing business as usual, the people of South Africa prepare for catastrophe. In accordance with a manual distributed to whites free of charge by a government civil defense agency, many white homes are fully stocked with emergency rations and guns. Their children attend the Youth Preparedness Program Summer camps to learn survival techniques and sharp-shooting. Surely, the party is over and the United States should go home before, once again, we are caught in a crossfire propping up the wrong partner.

THE VIETNAM–CAMBODIA CONFLICT

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. WOLFF. Mr. Speaker, I rise today to call the attention of the House to the continuing conflict between Vietnam and Cambodia, to the threat it poses to regional stability in Southeast Asia, and to the fact that we, as Members of Congress, are again confronted with a situation in Indochina where we lack both reliable intelligence and critical analysis of current developments.

While our attention is presently focused elsewhere, on SALT, the Camp David accords and the Israeli-Egyptian negotiations for a treaty of peace, and particularly the tragedy unfolding in Lebanon, we must not overlook the fact that developments in Indochina have and will continue to affect U.S. interests in Southeast Asia.

At the same time, we should reflect on the fact that all too frequently our Asian policy has suffered from serious cultural misunderstandings and a decided lack of historical perspective.

In an attempt to remedy this situation and to provide the Congress and the American people with some historical perspective on and understanding of Vietnamese-Cambodian relations, the Subcommittee on Asian and Pacific Affairs commissioned and is publishing under its auspices a Library of Congress study entitled "The Vietnam-Cambodian Conflict."

Mr. Speaker, as chairman of the Subcommittee on Asian and Pacific Affairs, I am concerned lest the current conflict between Vietnam and Cambodia escalate and result in a destabilization of not only the Indochina peninsula but all of Southeast Asia to the detriment of American interests.

Strategically, Southeast Asia is a region of critical importance to the United States and its allies. The region is a vital source of raw materials for the free world. The Straits of Malacca provide access to the Indian Ocean for our 7th Fleet and link our ally Japan with the oil of the Middle East.

Commercially, our trade with Asia today exceeds our trade with Europe and, as the economies of the region continue to develop, our trade prospects can likewise be expected to increase. And, assuming a continuation of stability in the region, Southeast Asia promises to be a fertile field for American investment.

But we cannot assume that stability will continue. Given the PRC's support of Cambodia and Soviet backing for Vietnam, the region is faced with the possibility of superpower intervention and attendant destabilization.

Mr. Speaker, I cannot emphasize too strongly the need for reliable information and sound analysis of the present situation in Southeast Asia. For, without an adequate understanding of the Vietnam-Cambodia conflict, its present nature, and future potential, we, as Members of Congress, may find ourselves in a situation in which we are condemned to repeat the mistakes of the past.

The issuance of "The Vietnam-Cambodia Conflict" by the Subcommittee on Asian and Pacific Affairs is but a small step in the direction of increasing public awareness and understanding. Clearly, more remains to be done.●

VIGIL FOR FREEDOM

HON. CHARLES THONE

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. THONE. Mr. Speaker, the ongoing "vigil for freedom", cosponsored by Congressman BRODHEAD and the Union of Councils for Soviet Jewry, serves to remind us of the struggle facing Soviet Jews. This is an important reminder, for if we forget the plight of those people not as fortunate as ourselves, we may find our own freedoms gradually slipping away. By working to free these Soviets, through the vigil and within the guidelines of the Helsinki Final Act, we are working to preserve our own freedoms.

Amner Zavurov of Shakhrisyabs is one Soviet Jew caught in the struggle to survive while attempting to emigrate. Zavurov and his brother received permission for their families to emigrate in August, 1975. But, as their belongings were being processed by customs officials, permission was revoked and Amner's internal passport confiscated, making it impossible for him to work. The Soviets had created a catch-22 for Zavurov. Without the passport which they had taken from him he could not hold a job and was arrested for parasitism. Other charges included failure to have an internal passport and holliganism. After a trial, Soviet style, he was sentenced to 3 years in prison. His distraught wife attempted suicide and the family continues to wait.

Certainly, I hope the Soviet officials will awaken to the fact that they are among the signatory nations committed to the basic principles of human rights as outlined in the Helsinki Final Act. Perhaps such an awakening, in addition to our vigil for freedom, will result in early release of the Zavurovs and other families in similar situations.●

MANAGING DIRECTOR OF ECOWAS, DR. ROMEO HORTON, GIVES MAJOR ADDRESS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. STOKES. Mr. Speaker, I recently had the privilege to meet with Dr. A. Romeo Horton, a distinguished African leader and the managing director of the Economic Community of West African States (ECOWAS) Fund. The Economic Community of West African States was created in 1976 by 16 governments, both French and English speaking. The community has established a fund with an authorized capital of $500 million to be paid by participating states on agreed upon amounts. The purpose of the fund is to promote the economic and industrial development of the community. The fund may provide guarantees in respect of foreign investment and provide financing for and facilitate the financing of projects for ECOWAS.

Mr. Speaker, when ECOWAS was established, Dr. Aboubakar Diaby Quattara was named executive secretary and Dr. A. Romeo Horton was named as managing director of the fund.

Dr. Quattara, a graduate of the Ecole des Hautes Etudes Commerciales in Paris, holds a Master of Business Administration from Syracuse University in New York and a doctorate degree in business administration from Harvard University. He joined the International Bank of West Africa (BIAO) in 1965; and became its managing director and the first African senior executive a year later. He, along with several officials of the BIAO from Senegal, Mali, Cameroon and the Ivory Coast, found the African Center of Cultural and Technical Research (CARECT) of which he is still president.

Dr. Horton is a graduate of Morehouse College in Atlanta, Ga. and holds a master of business administration from the Wharton School of Finance and Commerce of the University of Pennsylvania. He was awarded the LL.D. degree from Morehouse.

He promoted the founding of the Bank of Liberia in 1953; and has served as its president since the bank's inception. He was Liberia's first assistant economic adviser to the president of Liberia, the first secretary of commerce, industry, and transportation, the first dean of the college of business and public administration of the University of Liberia.

He was chairman of the committee of nine African countries responsible for the negotiation, planning and drafting of the charter culminating in the establishment of the African Development Bank. He currently serves as chairman and/or member of the board of directors of several Liberian and foreign-based corporations; and just prior to his nomination to head the ECOWAS fund was executive secretary of the Liberia Direct Baptist Missionary Conference.

At the first meeting of the board of directors of the ECOWAS fund held in Lome, Togo, on July 27, 1977, Dr. Horton delivered a moving address in the final business of the meeting.

Mr. Speaker, at this time I ask that excerpts of this address be included in the RECORD as it provides an excellent insight into the desire by African leaders for cooperation and development of the economic community of these 16 countries.

The excerpts follow:

CLOSING REMARKS OF THE MANAGING DIRECTOR

Honourable Chairman, Directors and Alternates, my dear Colleague, Mr. Executive Secretary and Distinguished Delegates to this first Board of Directors' Meeting of the ECOWAS FUND, Distinguished Representatives of sister organizations, and other special Guests, Excellencies, Ladies and Gentlemen:

I come before you at this moment, filled with a sense of history in the making as together we stand at the threshold of launching what is today, despite the present attendant problems, the largest and most viable economic unit in West Africa.

The Economic Community of West African States, of which the Fund for Cooperation, Compensation and Development is perhaps the most vital and potentially productive and rewarding organ, now consists of 16 proud, sovereign and independent nations covering about 2,400,000 square miles, with a population of almost 130 million people and abundantly rich in human and natural resources.

In addition to the ever-increasing skilled labour population of the various member countries, the West African region can boast of large quantities of some of the world's most sought-after mineral and agricultural resources; from rubber and cocoa to bauxite and iron ore; from palm products and coffee to uranium and oil; from timber and cotton to gold and phosphate; from bananas and copra to chrome and copper; from abundant marine products and livestock to diamonds and marble; from groundnuts and citrus fruits to manganese and silica. These are but a few of the many resources with which Nature has endowed our region and together they can provide the sturdy launching pad for a formidable thrust into the outer reaches of economic self-sufficiency. The Fund has been set up to serve as the booster rocket in the pursuit of this goal.

The facts regarding the economic potential of this region, Mr. Chairman, Honorable Directors and my dear Colleagues, are clear, abundant and speak eloquently for themselves. They cannot be ignored or go unheeded any longer, nor can they be allowed to remain largely irrelevant to the development needs of our people. Indeed, I feel it is an unpardonable indictment against ourselves to have a region so rich and people so poor. "It is not in our stars but in ourselves that we are underlings." (William Shakespeare). "He who is behind in a race must remain behind or run faster than the man ahead". (B. E. Mays).

Our huge agricultural potential and our many feasible industrial possibilities combine with an increasingly strong network of viable private and public financial institutions, as well as our credibility on the international money market, provide a basis for a supra-national Financial Institution such as the ECOWAS Fund to undertake the speedy economic integration and progress of the Community.

No one needs remind you, however, Mr. Chairman and Honourable Directors, that weighed against these plus factors are the many adverse and anomalous conditions which, up to now, have frustrated our desires and short-circuited our efforts:

These conditions are both obvious and complex, but I stand before you today convinced that none of these are insurmountable. Let me, for the sake of the record, mention what some of these anomalies are:

1. While it is true that some of the countries in the region have fairly strong economies and most can even be said to have abundant wealth, only a very small percentage of the population has been brought into the money economy.

2. While the land area is vast and in many of the countries, the soil condition for agriculture production are good, there is still an enormous amount of foreign exchange being spent on import because of an acute food shortage in the Community.

3. Vast sums of money are being spent by member countries out of their development budgets to pay for experts from non-member countries, while there are hundreds, yea thousands of highly skilled and professionally qualified Community citizens, many of whom are, for various reasons, gainfully employed in developed countries who, in most cases, could do the same jobs as good or better.

4. Although we provide the rest of the industrial world with much of the raw materials that sustain their economies, our member countries are constantly told that our markets are too small for the production of finished goods and therefore, we have, up to this point in our history, remained in an uncomfortable, humiliating and restrictive recipient relationship with the so-called donor countries, condemned to producing and exporting all our valuable primary products and importing their finished products at exorbitant prices.

It is my conviction that the emergence of a true and just new economic order will not come about as the result of altruism on the part of the developed countries. It is unrealistic to believe that, just as it is unrealistic to believe that there can be any true equality between donor and recipient or that our political emancipation has any real substance without economic self-reliance through community co-operation and integration.

I believe, Mr. Chairman and Honourable Directors, that only through our own harmonious and concerted efforts, realizing that an inspired and motivated people are the single most essential catalyst for development, can we maximize the return benefits from our resources to our people. The Fund, in this instance, working in close cooperation and coordination with the Secretariat, with other institutions within and without our region, can play a major role in this process and under your particular direction, the Fund intends to fulfill this role.

Our task is difficult but not at all impossible. This I believe and I have a vision of the future in which it will be possible for a Government official or a businessman in one country to pick up his telephone and dial directly to his associate in any of the ECOWAS countries and in the rest of Africa and the world.

I have a vision in which a well-built network of trans-national and community highways will criss-cross the region and reliable electricity and potable water will flow into the homes, hotels and office buildings in every town and village.

My vision is of community-owned modern and efficient transportation, including ships, planes, buses and trucks safely and speedily ferrying passengers and community-produced goods easily from one country to another on schedule.

I also visualize the day when there will be a complete harmonization of tariffs, customs duties and the removal of other import restrictions and visas; when citizens of ECOWAS can cash cheques in a bank in one country and use the same money in all the other Member States, because we will then have a single, hard and readily convertible common currency.

Indeed, I envisage a functional West African Common Market, with an increased

population of over 150 million with huge agro industries and giant factories to supply the capital and consumer goods which we need to feed ourselves and export our finished products to the rest of the world.

I have a vision today that by the proper and maximum use of our human resources, through the expansion of modern health facilities and services; through sound and relevant education and technical training; through the creation of job opportunities in every country, we can perform a miracle and transform our region from its present state of subsistence economies into a vibrant and stable economic community. We are told by the Sacred Book that "where there is no vision the people perish".

This is my vision: to replace poverty with prosperity and under-development with technological and social advancement. My vision is based on the conviction and knowledge that the great men who conceived the idea and produced the reality of ECOWAS are true Africans who love their people and seek for them a new and better life. Those of us, therefore, whose challenging but exciting task it is to implement their mandates embedded in the Treaty and Protocols, must move ahead surely and with speed to accomplish the noble aims and objectives contained in those sacred documents to which we all have subscribed and are committed.

It has been said that in signing the Treaty and Protocols, the distinguished Members of the Authority have signed a blank cheque. If this is so, I regard it as a blank cheque to be filled in by men of competence, dedication, honour, integrity and vision, such as yourselves, who have the perspective and ability to plan and program, and the sincere determination to build a strong, viable and industralized Community, whose economic stability will ensure the peace and progress of the region.

In short, Mr. Chairman and Honourable Directors, you have given us the tools and now we must do the job.

After due contemplation, deliberation and consensus, we can now go bravely forward, putting the dark past behind us, knowing that our cause is noble; that our goals are realistic; that our purpose is defined; and our unity strong so that together we can, once and forever, break the shackles which have too long held us bound in economic enslavement and allow our people to stand tall and walk with dignity into the beautiful and brilliant sunshine of progress and prosperity.●

TRIBUTE TO BOB SIKES

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1978

● Mr. ROYBAL. Mr. Speaker, it is a pleasure to join with my colleagues today in paying tribute to Congressman BOB SIKES who is retiring at the end of the 95th Congress. As third ranking Member of the House of Representatives, BOB has played an important role in shaping several decades of our Nation's legislative history.

Elected in 1940, Congressman SIKES also has the distinction of serving in Congress longer than any Representative or Senator from the State of Florida. In addition to his longevity of service, BOB must be recognized for his outstanding efforts on behalf of the First District of Florida and for his dedicated service to the people of America.

It is a personal pleasure to have worked with BOB as a colleague in the House, and more specifically as fellow members of the House Appropriations Committee. I want to take this opportunity to wish this fine Congressman a long and enjoyable retirement filled with good health and happiness.●

NUCLEAR PROBLEMS ABOUND IN NORTHWEST

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. BONKER. Mr. Speaker, nuclear energy is no bargain in the Pacific Northwest. The price tag for five nuclear powerplants now under construction in Washington State has soared from $4.5 billion to about $8.5 billion, and work schedules have slipped a total of 11 years. This situation is the responsibility of the Washington public power supply system.

Unfortunately, a recent series of articles in the Seattle Post-Intelligencer offers few assurances that the situation is going to improve. The Justice Department, the Interior Department and the Bonneville Power Administration have all investigated the supply system's performance. Incomplete records, sloppy accounting procedures, inadequate employe training and poor audit trails are among the findings.

Although the supply system was established to serve the construction needs of local public utilities in the Northwest, the electricity that these five projects are supposed to produce will serve several States via the Federal transmission system of the Bonneville Power Administration. Mistakes and mismanagement will thus prove costly to a region much larger than any one locality.

The newspaper articles are reprinted below:

COSTS SOAR AND WORK LAGS AT FIVE NUCLEAR PLANTS

(By Dan Seligman)

Total delays of more than 11 years and cost increases of about $4.5 billion have been encountered by the public agency that is building five nuclear power plants in the state.

The cost of completing the plants has doubled, and they are now among the most expensive nuclear projects under construction in the nation, public documents show.

Federal auditors have examined the rising costs at one plant. They have found incomplete records and sloppy accounting procedures. In a preliminary report issued two years ago, the Bonneville Power Administration concluded, "although we did not find any direct evidence of fraud or collusion, the complete lack of control procedures provided ample opportunity for such acts to occur."

Subsequent reports by BPA and others have made similar criticisms, though BPA officials told The Seattle Post-Intelligencer the costs may be coming under control, slowly.

The precise impact of the increased costs and delays on Pacific Northwest electric rates is still not known. But electric bills for residences and businesses in the state are expected to go up steadily to help pay for the plants.

Utility customers in Snohomish County, for example, may be faced with increases in their residential bills of 50 percent within the next two or three years.

The nuclear plants—two at Satsop in Grays Harbor County, southwest of Olympia, and three at Hanford in Eastern Washington—are being built by the Washington Public Power Supply System.

The Supply System is the construction arm for 22 of the state's publicly-owned utilities. Its members include Seattle City Light, the Tacoma Department of Public Utilities and the Snohomish County Public Utility District.

The Supply System can sell electricity to any utility inside or out of the state, and dozens of utilities from the entire Pacific Northwest have purchased shares in one or more of the nuclear plants. Among the utilities with a financial stake in the Supply System's projects are Puget Power and the Washington Water Power Co., which serves Spokane.

Officials of the Supply System said they are doing a good job at completing one of the most ambitious construction programs ever undertaken in the state.

"Show me somebody who is doing better," John Goldsbury, president of the Supply System's board of directors said. "On the national average, we sit right in the middle."

Neil Strand, Supply System managing director, said the increased costs are due primarily to inflation, changing licensing and safety requirements, the rising costs of nuclear fuel and other factors for which the Supply System cannot be blamed.

He said the Supply System's costs are not out-of-line with nuclear construction costs elsewhere in the country. "We are dedicated to controlling these costs to the extent possible," Strand recently told his board of directors in a prepared statement.

Supply System records show the total amount of money needed to complete the five plants has gone from about $4 billion to about $8.5 billion.

Each of the plants has been delayed by more than two years and the projects are now scheduled to begin operating between 1980 and 1985, one plant each year.

Supply System officials acknowledge that the most frequent sources of delay in the nuclear industry, environmental lawsuits and financing troubles, have not caused the schedules of the Supply System projects to slip.

Instead, they said their plants have been subjected to other problems, including a labor strike that slowed work on one plant for about 10 months.

Supply System reports show that:

Project 1 at Hanford has increased from $633 million to $1.6 billion.

Project 2 at Hanford has increased from $394 million to $1.4 billion.

Project 3 at Satsop has increased from $756 million to $1.5 billion.

Project 4 at Hanford has increased from $1 billion to $1.9 billion.

Project 5 at Satsop has increased from $1.2 billion to $2.1 billion.

Most of the original estimates were made after the contracts for the reactor and other key equipment were signed, but shortly before excavation or plant construction began. The estimates included money for escalation and contingencies.

According to the U.S. Department of Energy, which monitors construction costs in the nuclear industry, the Supply System is now building plants that are more expensive than most other plants of comparable size under construction in the country.

The Supply System's costs are between 30 and 50 percent higher than the national average for plants due to begin operating in the 1980's, the "U.S. Central Station" report for June shows.

In some cases, the disparity in costs between the Supply System and other utilities appears to be even greater.

The Tennessee Valley Authority, Duke Power Co. of North Carolina, and Commonwealth Edison Co. of Illinois all have nuclear power plants under construction at half the announced cost of the Supply System's projects, according to data from those utilities.

Supply System officials said they can explain the difference between their agency's costs and those of other utilities.

L. S. Sandin, manager of project planning and measurements, said the Supply System discloses its true costs of construction sooner than many other utilities because the Supply System is a public agency. He said other utilities, many of them privately-owned corporations, use different accounting methods and therefore can defer costs so they will not show up until years later.

In addition, Sandlin said, there are certain advantages for a utility like the Tennessee Valley Authority. It builds plants in a region where there is a cheap labor market.

TVA also hires its own engineers and construction workers while the Supply System is forced to hire private companies to perform similar duties, Sandlin said. Those and other advantages give TVA a $300 million edge over the Supply System for each plant.

Another Supply System official, Jerry Read, said the Department of Energy does not take into consideration certain unique expenses the Supply System is forced to pay. He cited the high sales tax as an example, though he acknowledged that if the Supply System built plants in a state with a sales tax half that of Washington, the cost differences would be only a small proportion of the total Supply System costs.

Supply System officials said they have to contend with the cumulative disadvantages of building plants in this region. The costs of the projects do not reflect adversely on the competence of the agency, they said.

Project 2 at Hanford, however, has been the subject of a U.S. Department of Justice investigation and three other federal reports, all conducted between October 1976 and April of this year.

The Justice Department investigation was initiated after a former Supply System employee, T. S. Soundarajan, made public allegations about collusion in the estimating process of construction work at Project 2.

The Justice Department found no evidence of collusion and concluded that no criminal wrongdoing had occurred.

The Bonneville Power Administration then conducted a preliminary investigation of its own.

A subsequent report, prepared by the Interior Department's Office of Audit and Investigation, found that the Supply System was still not doing a good job of controlling costs and keeping complete records of how it spent public funds.

A third report, this one released by BPA in April, again criticized the Supply System and its architect-engineer, Burns and Roe Inc., for similar reasons.

The audit said that records of "change orders" continued to be kept inadequately. A change order is a written request from the Supply System to a contractor for more work.

The change orders under question were the responsibility of both the Supply System and Burns and Roe Inc., the audit said, though neither the agency nor the company could fully justify some of the money spent.

More than 2,600 change orders worth about $200 million have now been processed by the Supply System for Project 2.

"The audit trail is incomplete," the BPA audit said. "(The trail) does not substantiate that the propriety of change order processes has been maintained. The incomplete audit trail is caused by a lack of coordination and control of the change order process, inadequate procedures, non-performance of required work procedures and a lack of employee experience and training."

Since the audit was made public, the Supply System has reformed its own procedures for handling change orders, officials of the Supply System said.

Thomas Wagenhoffer, special assistant to BPA administrator Sterling Munro, said BPA has increased its "oversight" of the Supply System as a result of the investigations and reports.

Through a series of accounting agreements, BPA has agreed to purchase the electricity from three of the Supply System's plants, including Project 2.

Wagenhoffer said he has seen major improvements in recent months in the way the Supply System is supervising construction of its nuclear plants. Many of the problems at Project 2 appear to have been resolved, he said.

But BPA continues to have an active interest in making sure the Supply System stays on its present timetable and within its current budget, Wagenhoffer said.

A Close Look at Hanford Project Two Problems

(By Dan Seligman)

Seattle City Light is among those Pacific Northwest utilities with a financial stake in a nuclear power plant that has more than tripled in cost from $394 million to about $1.4 billion.

But under a complex series of accounting agreements, city consumers will not bear the full brunt of those rising costs.

Instead, the costs of producing electricity from the nuclear plant will be mixed with low-cost electricity from federal dams on the Columbia River and sold back to Seattle and other utilities at less than one-third the cost of generating electricity from the nuclear plant.

Work on the plant—Project 2, at Hanford—has been hampered by a series of construction problems, including a dispute with a major contractor, the discovery of cracked welds and other defects in the reactor building, a lengthy labor strike and an investigation by federal authorities into forged inspection reports.

The plant is now more than three years behind schedule. It is due to begin operating in late 1980.

As The Post-Intelligencer reported yesterday, federal auditors have examined the plants' records and found that the owner, the Washington Public Power Supply System, and its chief architect-engineer, Burns and Roe Inc., could not justify fully some of their expenses.

The plant is one of five nuclear project being built by the Supply System, which is the construction arm for the state's publicly owned utilities. Seattle City Light is a member of the Supply System and Gordon Vickery, City Light superintendent, sits on its board of directors.

Vickery has hired a special consultant to advise him of construction problems at Project 2 and to report on the status of Projects 1 and 3, two other nuclear power plants being built by the Supply System in which Seattle has an interest.

The consultant, Walt Yatch, works out of Hanford and keeps Vickery informed of the progress at each plant, Deputy Supt. Joe P. Recchi said.

Recchi said Vickery is "concerned" about the delays and cost increases of the three plants.

The public records show that the cost increases and delays have been more severe at Project 2 than at the other two plants.

The records show that:

Work on the project was halted during part of a four-month pipefitters' strike in 1976. The strike had a "drastic effect" on the cost of the plant, Supply System reports state.

Progress at the plant was slowed down for months after the strike was settled because many of the original workers had taken jobs elsewhere. New employees had to be hired and trained, and the overall impact of the strike was to slow down work at Project 2 for about 10 months, a Supply System spokesman said.

The main contractor at the plant was forced off the job by the Supply System in January 1976 because the company allegedly failed to do the work in the proper amount of time.

The contractor, Bovee-Crail Construction Co. of Paramount, Calif., had been working on Project 2 for about three years.

Bovee-Crail Co. subsequently filed a $24.5 million suit against the Supply System, charging it with unfair termination of the contract.

The nuclear power plant was so poorly designed, the firm's lawyers said, that Bovee-Crail could not do the work as directed.

The Supply System has contested the allegations and filed a $25 million claim of its own against the company.

Both claims are still pending in U.S. District Court in Spokane.

Cracks in the welds inside the nuclear power plant containment were found in October 1977. A British welding expert, was brought in to review the problem and corrections were completed in March.

Other problems in the containment have also been discovered and about $13 million has now been spent to fix those problems.

Forged inspection reports were discovered in February by the Supply System. They were reported to the U.S. Nuclear Regulatory Commission, which then ordered the Supply System to stop work on a portion of the plant while it investigated the falsifications.

The NRC issued a report in May that said the forgeries were made by "lower echelon" employees in an attempt to duplicate lost records.

The forgeries, the NRC said, were limited in number and did not appear to be as serious as first indicated. There was no intention the part of the employees to defraud the Supply System, the report said.

The "stop work order" was removed seven days after the forgeries first were reported.

Those problems, Supply System officials said, have all slowed down construction at the site and increased the costs of completing the 1,100 megawatt project.

Neil Strand, managing director of the Supply System, said his agency originally adopted a schedule that was too optimistic. When the Supply System received its construction permit in 1973, it planned to build the plant in four years, one of the fastest timetables ever attempted in the nuclear industry.

Other utilities in the nation adopted similar timetables and they have fallen behind their previous estimates, too, Strand and other Supply System officials said.

Seattle City Light and the other utilities with a share of Project 2 have assigned their interest in the plant to the Bonneville Power Administration, the agency that sells electricity from 29 federally owned dams on the Columbia River and its tributaries. Originally, Seattle had a seven percent share of the plant.

BPA will "mix" the costs of the nuclear plant with the overall costs of operating the federal hydro system. It will then sell electricity back to the region's utilities at the new, averaged rate.

As a result, Seattle no longer has a specific, "identifiable" share of Project 2, Recchi, the deputy superintendent, said.

Recchi said Project 2, as well as Project 1 at Hanford and Project 3 at Satsop in which Seattle has a financial stake, are now considered "regional resources."

BPA will also mix the costs of those plants with the federal hydro resource, Recchi said.

Recchi said the city still has a financial

interest in seeing that the three plants start generating electricity as soon as possible.

The Seattle City Council decided not to participate in two other Supply System nuclear plants, Project 4 at Hanford and Project 5 at Satsop.

Neither of those plants is being built with assistance from the Bonneville Power Administration. Utilities that purchase shares of the plants cannot assign them to BPA, though they have signed agreements instead with the region's aluminum companies.

The agreements allow the Supply System to sell surplus power to the companies.

FIVE NUKE PLANTS CARRY OUT MISSION—AT A PRICE

(By Dan Seligman)

When the Washington Public Power Supply System was set up in 1957, it had a mission: to provide electricity for its member public utilities.

The Supply System is now building five nuclear power plants in the state. It is carrying out its mission.

But public records obtained by The Post-Intelligencer shows:

The cost of completing the five plants has increased from about $4 billion to about $8.5 billion.

The plants have been delayed a total of more than 11 years.

The plants are now among the most expensive nuclear projects under construction in the nation.

Officials of the Supply System said they are building nuclear power plants because the region needs the energy, the best sites for dams already have been used, and conservation will not reduce substantially the public's demand for more energy, they said.

Nuclear power, they said, is the best option for the Pacific Northwest.

"We're building nuclear power plants because they are economical," Neil Strand, the Supply System's managing director, said.

When the plants begin operating in the 1980s, the Supply System will have the capacity to generate more than 6 million kilowatts of electricity, equivalent to half the entire capacity of the federal dams on the Columbia River.

Supply System officials said they believe the electricity will be used by the region's consumers. (The Supply System, a public agency, has the legal power to sell electicity to any public or private utility, inside or out of the state.)

"The expectation of a continued, rapid expansion of the region's economy is very reasonable," the Supply System's annual report states.

"A vital key to this expansion is a continuing, reliable source of energy. The Supply System, with its strong base—is moving ahead to match the expected energy demand."

Supply System officials said they are not committed to building only nuclear power plants. When solar energy becomes feasible, the Supply System will consider building solar plants, they said.

The Supply System's headquarters are in Richland, south of the Hanford Reservation where the Supply System is building three plants. The other two plants are at Satsop, southwest of Olympia.

The Supply System also owns and operates a small, hydro-electric project at Packwood Lake in the Cascade Mountains and the Hanford Generating Project, a set of steam turbines attached to a military reactor at Hanford.

The Packwood Lake project was completed in 1964 and the Hanford Generating Project in 1966. Those two projects are the Supply System's only completed facilities.

For almost 20 years, the Supply System attempted to get permission from the Federal government to build a dam on the Snake River in Hells Canyon, Idaho. But when Congress passed the Hells Canyon National Recreation Act of 1975, dams on that portion of the river were prohibited.

The Supply System, unlike most other government agencies, has no taxing power. It gets its money to build the plants by selling revenue bonds.

Every four months, the Supply System borrows between $150 and $200 million from banks, insurance companies and other investors.

The money to pay the interest and principal back to the bond holder comes from the revenue paid to the Supply System by the utilities that have agreed to use the energy. The utilities get from their customers the money to pay the Supply System.

The Supply System has gone into debt by several billion dollars and will go into debt even further to pay for the costs of the nuclear plants. The debts eventually will be paid off by the region's consumers.

There is no legal limit to the amount of money the Supply System can borrow, James D. Perko, assistant director of finance said. Only financing power is limited by what the bond market will bear and by the needs of the region.

The region's needs are growing rapidly and even more plants will be needed to avoid shortages by the late 1980s or early 1990s, Hank Kosmata, Supply System manager of planning and analysis said.

"I was at the groundbreaking ceremony for Bonneville Dam in 1934," Ed Fischer, a Clark County PUD commissioner said.

"Critics said there was enough surplus power to electrify every jackrabbit west of the Continental Divide. Now, on a cold winter day in December, our total demand (in Clark County) is greater than the output of Bonneville Dam."

Fischer said predicting energy demand in the 1980s is like shooting at a "moving target."

But he said that any surpluses from the nuclear power plants could be sold off to other utilities in the area, or to the region's aluminum companies. "If we need it, we'll use it, otherwise we'll assign it to someone else," Fischer said.

The major technical and policy decisions of the Supply System are made by a board of directors, composed of 22 officials, one from each of the member utilities.

Nineteen of the utilities are public utility districts within the state. The three remaining members—the cities of Seattle, Tacoma and Richard—all have their own electrical utility department.

For the PUD commissioners, serving on the Supply System's board of directors is sometimes their third job. John Goldsbury, for example, the board of director's current president, owns and manages a store, Morrison Refrigeration and Heating Inc., in Pasco. He also serves as one of the elected commissioners for the Benton County PUD.

The board meets four times a year. In between the quarterly meetings, an executive committee, which includes Gordon Vickery, Seattle City Light superintendent, takes responsibility for managing the Supply System's business.

Minutes of the board and the executive committee show that most of the resolution involving finances and timetables for the nuclear power plants are passed with little or no recorded discussion, and almost no dissent.

Goldsbury acknowledged that the minutes "aren't that thorough." He said a secretary takes shorthand of the meetings but they are not typed up for the public to read. The result is that the records of the Supply System meetings are "extremely condensed" and "only highlights" are recorded, he said.

The structure of the Supply System works well because it has attracted people with a "sincere interest" in the energy field, Goldsbury said.

"Some people used to say, "that old bunch of farmers will never build a nuke."

"But there are good businessmen on the board and we make good, sound business decisions."

When the Supply System opened its first office in Kennewick, it had a staff of only a few people.

The staff expanded as the construction program grew, and the Supply System now has about 1,300 employees.

The Supply System is presently studying the possibility of building two coal or nuclear plants in Lewis County, southeast of Tacoma, but a final decision has not been made, a spokesman for the Supply System said.●

CLAWS OF THE BEAR

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. GOODLING. Mr. Speaker, I should like to bring to my colleagues' attention a recent article which appeared in the Wall Street Journal, September 8, 1978. This article examines Soviet involvement in the recent coups in Afghanistan and South Yemen and concludes that the United States, unlike other Mid East nations, has failed to draw the proper conclusions from these events.

Our attention has lately been focused on the Middle East peace settlement and the successes at Camp David. There are, however, events in that region of the world that, despite every exertion of will by Sadat, Begin, and Carter, could turn a Mid East peace to ashes in our mouth.

While it is generally believed that the Soviet Union has lost ground in the Middle East in the last years, the article below gives us reason to reconsider this assessment, due to the recent coups in South Yemen and Afghanistan.

Short of having the Politburo itself on hand, it is difficult to imagine a more obvious Communist presence than what we find in South Yemen during the coup. The Soviets were there training the Army—perhaps even flying aircraft against the government, the Cubans were there as fighter pilots, and the East Germans were there creating the South Yemen version of the KGB. The establishment of a hard line pro-Soviet regime in South Yemen, which is located at a crucial choke point in strategic sea lanes, should be cause for alarm within the administration, but we have not heard a peep from them.

In Afghanistan the Soviet connection is more tenuous, but the results no less ominous or threatening to peace than in South Yemen. The Soviet's now have a client state in Afghanistan and the Pakistanis and Iranians dread what the future may hold with such a nation at their borders. But again what do we hear from the administration, but the muddled and confused prose of a State Department so proud of their "tough" stand on human rights, and yet so quiet when it comes to the death of nations.

The fact is that now Afghanistan and South Yemen post a threat to regional

peace. Begin and Sadat know this, but the message seems to have been lost on the United States.

The article follows:

THE CLAWS OF THE BEAR

Six years ago, when a Third World ruler became disenchanted with his Russian advisers, he threw them out. Now, if he becomes disenchanted, the Russians throw him out. This, starkly stated, is the pattern of increasing Russian boldness throughout the globe.

When President Anwar Sadat of Egypt expelled his Russian advisers in 1972, they left quietly, and the example may have reassured many Third World leaders that it was safe to accept Russian help. But in 1978, it seems, the Russian bear isn't so easily kicked out of the house.

In South Yemen, where the Arabian Peninsula meets the Indian Ocean, a militant Marxist regime has been taking Russian advice on building the revolution for about a decade. But its president, Salim Ruba'i Ali, grew frustrated with the resulting economic stagnation and sought a rapprochement with Saudi Arabia and the United States. In June, just one day before the scheduled arrival of some American diplomats, Ruba'i's left-wing enemies staged a bloody coup.

Well-placed pro-American sources in North Yemen are convinced that during the fighting the South Yemeni air force pilots were locked in, and Russian pilots flew the bombing and strafing missions on the presidential palace that sealed the coup. Washington can't confirm or refute this report, but one official wonders why the Russians would take such a risk. Such direct involvement would be a change from their previous habits.

But the prize is substantial. South Yemen overlooks the main oil shipping routes south from the Persian Gulf. Its island of Socotra in the Arabian Sea may in fact be the site of a new Soviet surveillance and communications installation. And South Yemen's new rulers are now more dependent than ever on the Russians who train the army, the Cubans who train the militia and, most sinister of all, the East Germans who train the secret police.

These reports grow more ominous when compared with the late April coup in Afghanistan. Afghan President Mohammed Daoud had seemed pro-Russian when he came to power in 1973, overthrowing his brother-in-law, the king. But he had become alarmed by the growing power of local Communist factions and was beginning to round them up when the coup came. The balance was tipped by an air force attack on the presidential palace. The precision of the bombing led some diplomats to speculate that the pilots must have been Russian, not Afghan, but the State Department dismisses the rumor as the product of a "colonialist mentality."

With or without direct involvement, however, the Russians have greatly benefited. Since the coup, the new rulers in Kabul have signed more than 25 economic and technical agreements with Moscow. Russian advisers make a sizable presence in government ministries and the military. The Chinese claim the Soviets have shipped in 100 T-62 tanks; some observers think the Chinese are too jumpy, but agree new equipment is flowing in.

The regime still faces tribal unrest, but for the moment the Russians seem to have won the "Great Game" for influence in Afghanistan that was once played by the Czars and the British crown. Nervous Iranians and Pakistanis fear renewed Soviet pressure in its historic southward drive to warm water. And Afghanistan's neighbors marvel at American tranquility.

The State Department has steadfastly refused to join Iranian, Indian and Pakistani officials in labeling the new government as Communist. But Afghan official statements echo the Moscow line; a diplomat at a recent "nonaligned" conference said of the Afghan foreign minister, "He sounds like a Bulgarian." The State Department's immediate concern is to avoid triggering a statutory cutoff of aid, which would deprive it of remaining leverage in the country. But a more serious malaise is at work.

Official Washington is refusing to admit how alarming the picture truly is. The Russians may succeed in intimidating a region far more strategic than Africa. More ominous than the possibility that Soviet pilots flew missions in the South Yemen coup is the fact that South Yemen's neighbors believe that they did. The impression is spreading that, as one French intelligence source put it in Afghanistan, "The Soviets are able to get away with practically anything these days."

Regardless of the merits of the quiet game, the administration is letting far too much go by default. At the very least, it should be making propaganda about the dangers of Russian aid. Any Third World leader who is flirting with the Soviets should be reminded of the fate of Salim Ruba'i Ali and Mohammed Daoud. Our failure to make the point suggests a failure of national will, and it is just that condition that makes the Russians so bold in the first place.●

FEDERAL HEALTH PROMOTION AND DISEASE PREVENTION ACT

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. PURSELL. Mr. Speaker, if one judges the investments by the returns they bring, the American health care industry is becoming progressively less cost-effective. Therefore, today I am introducing legislation which will not only make health care more cost-effective, but will make health care itself more effective.

In short, I am proposing that this country take a new approach toward health—to emphasize prevention, not treatment of disease. We literally can not afford to continue to wait until we are ill to care about our health. We must take steps to insure that Americans know how to prevent illness—and then actually prevent it. But only through a national commitment can we hope to accomplish this goal.

The "Federal Health Promotion and Disease Prevention Act" which I am introducing today is a first step toward achieving this goal. This legislation is a 3-year authorizing bill designed to establish a Federal program for health promotion and disease prevention, that is, preventive medicine. Four major initiatives in health promotion and disease prevention are established in this bill. First, eight regional health promotion centers are set up throughout the country—two each in the north, south, east, and west—serving both urban and rural areas. Second, a system of research, development and demonstration grants is established. Third, a special initiative for elementary and secondary school children through the use of health promotion demonstration projects has been designed. Finally, a grant system for health promotion manpower development and training is established.

Each of these four initiatives is vital to the development of preventive medicine. We need centers to emphasize the importance of prevention and to disseminate information to the public. Visible centers will assist Americans in realizing the importance of and understanding the unique nature of preventive medicine. Research and development are sorely lacking in the area of preventive medicine and so we must have a greater thrust in this direction to develop new techniques in this area of health care. Likewise, manpower is also lacking in this area. Without the necessary personnel, preventive medicine will never take hold in the health industry. Finally, but perhaps most importantly, we must insure that our youth are brought up knowing the vital importance of preventive medicine. It is very difficult to change one's basic health habits in mid-life. But if our children are taught early on, preventive medicine will become their health habit.

Medical advancements have been great in the past few decades—we have learned to save babies so they can grow into adulthood, but now we must learn to insure the health of those adults. I believe the tide is turning in favor of preventive medicine in this country—that we are ready for this type of legislation. Quite frankly, without it, we will see nothing but spiraling health care costs and continued unchecked, but preventable, illness.

Preventive medicine is not the complete answer. However, prevention can help control and cure illness and disease; and by preventing disease we can certainly keep down the cost of health care. This is an important fact of health which we cannot ignore.

Therefore, I hope my colleagues will join me in this commitment to health promotion and disease prevention. It is a commitment to better health and lower health care costs. Without a commitment, we will be failing all Americans.●

MORE PROBLEMS WITH IMPORTED STEEL

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MURTHA. Mr. Speaker, it has come to my attention that another case has occurred where foreign steel is being shipped into the United States in a situation that is hurting our industry, economy, and workers. It also represents another example of why we need to tighten the buy American law.

The case involves the Defense Department. I understand the Department purchased 3,000 tons of steel plates from Canada for a Green Bay shipbuilder constructing a naval vessel. Moreover, these shipments came into the United States without any duty under a section of the law that allows the Defense Department to make such purchases for their construction projects.

Thus, we have another case where U.S. tax dollars went to subsidize the purchase of foreign steel. Had the duty been

required it is very likely the steel would have been purchased from a domestic steel company.

This is another example of why we need to tighten the buy American law and why we need to make certain U.S. tax dollars are going to support the United States and not being used to help jobs in foreign countries rather than in the United States.●

INDEPENDENCE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. DORNAN. Mr. Speaker, the price of independence is not small. Fortunately, neither are the benefits. Our ancestors sacrificed many lives and many comforts so that generations after them could live out their years in a free, unfettered society. Julie Jenks, of St. John Fisher School in Palos Verdes, Calif., has written an insightful essay bringing this to our attention. It is a piece from which we can all benefit by reading.

I am very proud to represent the Jenks family. America is very lucky to have future leaders of Julie's ability ready to take the reins.

The essay follows:

AN INDEPENDENT AMERICA

The Declaration of Independence sets forth in clear and forceful terms the desire of a people to govern themselves rather than be governed by a privileged class. Have you ever wondered about the courage and bravery of those men who sacrificed their lives, fortunes and sacred honor to the cause of independence and liberty for each individual when they signed this document?

What kind of men were these ancestors of yours and mine? Some were merchants and farmers, and almost half of them belonged to the law profession. Nine of the fifty-six signers fought and died during the Revolutionary War, five were captured by the British as traitors and twelve had their homes ransacked and burned. These men risked their security because they valued liberty more. They developed the resourcefulness and wisdom to solve the problem of organizing a nation in the midst of war and crisis.

This new weak nation wisely maintained a neutral foreign policy under George Washington. But as the country grew stronger, this policy of steering clear of foreign alliances was modified. A "learning" nation participated in the War of 1812 followed by an "era of good feeling" during the presidency of the author of the Monroe Doctrine, a document which guaranteed independent nations of the Western Hemisphere against European interference. We also participated in other wars, some of which could possibly have been prevented. Our ancestors who sacrificed their lives to insure our liberty could have been saved if the United States had followed George Washington's Farewell Address when he said to steer clear of permanent alliances and had obeyed his neutrality proclamation.

The Americans of the Revolutionary generation proved themselves the most creative statesmen in modern history . . . perhaps in all history. They established institutions that have had a more lasting influence than any established anywhere else—and we've been living on this "foundation" ever since.

And, as Ralph Waldo Emerson said: "Every man is a bundle of his ancestors."●

CREDIT CARDS: WHEN SHOPPING AROUND PAYS

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ANNUNZIO. Mr. Speaker, during the credit card blitz of the 1960's, a favorite subject of cartoonists was the American consumer buying everything imaginable with a little piece of plastic. But yesterday's satire of a plastic society is today's reality. Credit cards are no longer a novelty, they are an ingrained part of American life.

At the end of last year there were 563.7 million credit cards in circulation. And the credit card industry is expected to grow much larger as we approach the next decade. According to the Nielson Report, a news and advisory service for credit card executives, the number of credit cards is expected to reach 700 million by 1983. And the majority of that growth is expected to occur in the field of national bank cards, such as Visa and Master Charge.

Unfortunately, the development of the credit card society has often outpaced consumer awareness of the most effective ways to use this credit. Many consumers wrongly assume that all Master Charge or Visa accounts operate under the same policies, regardless of where the card is issued. The truth is that many very important considerations for consumers, such as the finance charge on credit cards and the method used to compute that charge, vary not only from State to State but from financial institution to institution.

The fruits of the credit card business are plentiful to banks issuing the cards. Banks make money on credit cards by charging interest on balances, usually 18 percent, and by paying back merchants less than the amount charged, thereby making money on both ends of the transaction.

The law allows banks to charge an annual percentage rate of 18 percent interest on credit card accounts, or 1½ percent interest a month. However, some State laws only allow banks to charge 12 percent interest and some banks voluntarily offer lower rates. So, the consumer's first step in shopping for the best credit card is to check the annual percentage rate.

The second step is to then check the method by which the interest, or finance charge, is computed. There are three accepted methods of computing the finance charge on credit cards: The daily balance method, the adjusted balance method, and the previous balance method. Which method is used to compute a finance charge can have a substantial effect on how much the consumer ultimately pays for use of the credit card.

The switch to computerized banking has caused more and more institutions to use the daily balance method. With this method, the finance charge is determined by the balance owed during the period, divided by the number of days in the billing period. Simplified, if a $500 purchase is made and a payment of $450 is credited to the account on the 20th day of the billing period, the finance charge is then based on a debt of $500 for the first 20 days and a debt of $50 for the remaining days in the billing period. A computer is used to keep the account updated continuously.

With the adjusted balance method, the finance charge is figured on the unpaid balance at the end of the billing period. With this system, payments made late in the period have the same effect of payments made early in the billing period. This method is the most advantageous to consumers because the finance charge is only computed once, at the end of the billing period, and it is computed only on the outstanding balance.

The previous balance method is the least advantageous method to consumers because the finance charge is computed on the amount owed at the final date of the previous month. In other words, it does not matter when payments are made or how often these payments are made for if the full amount of a credit purchase is not paid off before the end of the billing period, finance charges are assessed on the full amount of the original purchase.

As chairman of the Subcommittee on Consumer Affairs, I am always keenly interested in advancing consumer education in the field of consumer credit. For this reason, I was happy to see an article in yesterday's Washington Post which touches on the pitfalls of credit cards and details what to look for in shopping for a credit card.

I would like to submit the entire article into the RECORD at this time.

CREDIT CARDS: WHEN SHOPPING AROUND PAYS

(By Robert Krughoff)

Most persons assume a Visa card is a Visa Card is a Visa card, and that all Master Charge cards are alike. In fact, there are big differences.

Suppose you and your friend have Visa cards and you go to the same bank to take out $2,000 cash advance loans with your cards. Suppose, too, that you both pay off your loans after exactly a month. The finance charge for you might be $60 while your friend's finance charge might be $20.

Or take a similar, though less dramatic, situation—this time involving use of the Visa cards for retail purchases rather than cash advance loans. Suppose you and your friend have been carrying $1,000 card balances and each of you makes retail purchases totaling $500 on the 10th of the month. Your finance charges at the end of the month might be $10 higher than your friend's.

Who pays more depends on which bank "issued" the card. There are about 20 Washington area banks issuing Visa cards, Master Charge cards or both. Each bank is free to set its own interest rates and other terms within certain limits set by law, and the bank that takes the entire loss if you fail to pay off your balance.

These banks simply affiliate with one or both of the national interchange systems—Visa (formerly BankAmericard) and Master Charge (the Interbank System)—for paper-handling convenience. In the past, many banks had their own cards with their own names. The Bank of Virginia Charge Plan is a surviving example. But customers who had these cards could not use them with merchants in other parts of the country. To solve this problem, since the mid-1960s most banks have affiliated with Visa or Master Charge.

If you make a purchase in a distant city, the merchant can cash in your sales slip with an interchange-affiliated bank in that city, and that bank, in turn, can collect from your bank. In becoming a member of one of the interchange systems, a bank simply agrees to handle sales slips in this way and to follow a common card format. The major differences among cards affiliated with the same system have to do with:

Interest rate. On balances resulting from cash advance loans, some banks charge 12 percent while others charge 18 percent. On balances resulting from retail purchases, Virginia banks charge 18 percent regardless of balance size, while Maryland banks are limited by law to 12 percent on the portion of a balance above $500. Because the District's legal interest rate ceiling is 11.5 percent, none of the District banks has considered it profitable to issue its own card.

Method of computing interest. No bank charges interest on a balance resulting from retail purchases paid off in full within 25 days of the first billing. But if you carry a balance from month to month, some banks will start charging interest on each new purchase as soon as you make it, while others will give you a free ride until you get your first bill reflecting the new purchase. Similar variations affect cash advance loans.

Transaction charges. On a cash advance loan, some Virginia banks charge as much as 2 percent of the amount of the loan at the time of the loan on top of the interest charge. As a result, for the first month of such a loan, you pay the equivalent of a 36 percent annual interest rate. But none of the Maryland banks imposes these transaction charges, and not all of the Virginia banks have them either.

To get the best of these various terms, you have to shop. Start by calling various banks and asking for truth-in-lending disclosure statements. These statements should enable you to make comparisons. Be warned that some are hopelessly obscure, but some are actually intelligible. If you cannot figure out what one says, you can check with bank personnel. But, again, don't count on a lucid explanation. You may get conflicting statements from different persons. Finally, if you cannot get clear answers from a particular bank, you can drop that bank from consideration.

In shopping, be aware that every bank giving out applications is not an independent "issuing" bank. Some simply serve as agents for others. For instance, the National Bank of Fairfax is a Master Charge agent for Bank of Virginia. But by trying several banks you can be sure to get a few that are unaffiliated.

Do not confine your shopping to the jurisdiction you live in. Some of the best terms for retail purchase credit are available on cards issued by Equitable Trust and Suburban Trust in Maryland. Anyone from the District or Virginia can apply.

Also, consider getting different cards for different purposes. For large retail purchase balances, the terms of United Virginia's Visa card are not as favorable as those of a Visa card from Equitable Trust. But for a cash advance loan, the United Virginia card offers a 12 percent interest rate, compared to the 18 percent rate Equitable Trust charges most customers (except customers with credit limits exceeding $3,500).

Before settling on one or more bank cards, you may want to consider two other alternatives: the independent cards and the "travel and entertainment" cards.

The terms of the independent cards, Central Charge and NAC, are roughly competitive with the terms of many of the bank cards, and some individua's whose credit histories do not qualify them for the bank cards find the independent cards easier to get. But these cards, which are not affiliated with banks or with national interchange systems, cannot be used to get cash advance loans and do not enjoy nationwide acceptance for retail purchases.

The "travel and entertainment" cards—American Express, Carte Blanche, and Diners Club—differ from the bank-issued cards in two important respects: They charge customers an annual fee—currently $20 to $30, depending on the card—and they expect you to pay off your balance from most types of purchases right away, preferably within 25 days of billing. In addition, the travel and entertainment cards have traditionally been limited in the types of purchases for which they are accepted. But they are now expanding into many new retail outlets, from auto repair shops to clothing stores.

American Express has a special arrangement with some banks to market what it calls its "Gold Card," which is directly competitive with Visa and Master Charge cards. You can use the Gold Card to get cash advance loans, and you also can use it to extend the due date for payment of a retail purchase balance. If you do not wish to pay off a retail purchase balance within 25 days, you notify the American Express Company and it will tell the bank that arranged your Gold Card that it is to give you an automatic loan to pay off the American Express balance. From that point on, your obligation is to the bank, just as it would be with a Visa or Master Charge card.

At several local banks, this Gold Card system is a particularly attractive arrangement. For instance, at Riggs Bank and Union First Bank in the District, you pay only 11.5 percent on balances that originate through use of a Gold Card. This compares very favorably to the 18 percent interest rate most common on Visa and Master Charge retail purchase balances.

One final tip: If you run up a substantial retail purchase balance on a bank card and you cannot pay it off right away, consider getting the needed funds through a regular installment loan from a bank or credit union. You may be able to get an installment loan at 11.5 percent or better—a considerable savings compared to the 18 percent you pay at many banks to carry a credit card balance.

PAUL ROGERS

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. IRELAND. Mr. Speaker, as you know our good friend PAUL ROGERS has decided to leave the Congress after 24 years of distinguished service.

During those 24 years PAUL has earned the reputation as one of the most effective Members of the House, and the respect and admiration of all who have worked with him.

In all that he does, PAUL ROGERS conducts himself with a certain dignity and a special grace which sets him apart from most.

In short Mr. Speaker, PAUL ROGERS is a special person, and we in Florida, and all of those across this land concerned about health care, will miss him greatly.

I know that you join me, Mr. Speaker, in wishing PAUL all the best when he leaves Congress, and in the hope that his time spent outside this body will be as rewarding and productive for him as his time here was for all of us.

Thank you Mr. Speaker.●

IF EVER THERE WAS AN OPPORTUNITY

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. TAYLOR. Mr. Speaker, Alan A. Reich, chairman, Paraplegia Cure Research, recently addressed the Fourth Wakeman Award Banquet held at the Duke University Medical Center, in Durham, N.C.

Mr. Reich had some important and most interesting comments to make relative to the progress made in the rehabilitation of paraplegics. I would like to share his remarks with my colleagues at this point in the RECORD:

IF EVER THERE WAS AN OPPORTUNITY

Prior to World War II, there were few paraplegics. They simply did not survive. Medical science and the commitment of numerous dedicated people (including many here tonight) have made it possible for paraplegics to live and accommodate to wheelchair living. Rehabiliation has facilitated an increasingly normal existence and opportunity for personal fulfillment. In the United States more than in any other country, there has been a climate of encouragement for this process. In March of 1970, the year the word "impossible" was redefined by landing a man on the Moon, at a conference sponsored by the National Paraplegia Foundation in Palm Beach, Florida, scientists overturned the old dogma that central nervous system regeneration was impossible. For the first time a group of neuroscientists declared, "the problem should no longer be considered hopeless; it is amenable to solution through basic research." This validation challenged the world's scientists and strengthened the hope of paraplegics.

At that time too Mrs. Gardiner established the Wakeman Award in memory of her paraplegic husband to stimulate central nervous system regeneration research aimed at curing paraplegics. Have her generosity and foresight brought results? The answer is a resounding yes! While we may not be able to make specific connections, I believe it is reasonable to attribute much of the progress to the momentum generated by the Wakeman Award process. That progress includes:

In 1970 only a handful of scientific articles was published on central nervous system regeneration. Last year there were over 400. Many more investigators throughout the world are now working on the problem.

Government funding by the National Institute of Neurological and Communicative Disorders and Stroke and by the Veterans Administration of regeneration research has increased from about two hundred thousand dollars in 1970 to about five million dollars last year. Both agencies have sponsored conferences.

The National Paraplegia Foundation has held four international conferences on CNS Regeneration. Its new research division has published bibliographies and has initiated an exciting fellowship program.

The Paralyzed Veterans of America has created a new research foundation which has funded close to a quarter of a million dollars of CNS research.

Several universities have started up regeneration research programs and laboratories.

Six annual congressional luncheon reviews, hosted by Congressmen Orval Hansen and Bill Frenzel, have been held in The Capitol in Washington.

The Government's Neurologic Institute sponsored an 18-month task force study by

eminent neuro-scientists who concluded "the field is ripe for a push."

The day after the last Wakeman Award banquet two years ago, a group of paraplegics and their families founded Paraplegia Cure Research, an advocacy group, with headquarters in Washington. Its Bermuda Conference and dynamic program have a momentum of their own. PCR fosters research, promotes public and private support, and generates a sense of urgency and purpose.

Very significantly, the Wakeman Award process itself, under the able direction of Dr. Molly Brazier and Dr. Stanley Appel, has stimulated fruitful meetings and exchanges of ideas.

Tomorrow's Wakeman Neurobiology Conference here at Duke Medical Center attests to this university's ongoing commitment.

I could go on, but most importantly, underlying this activity, there is solid scientific accomplishment toward Mrs. Gardiner's and our goal of liberating paraplegics from their wheelchairs through regeneration research.

Because, according to scientists, the research effort required will take time, we must have a long-range perspective. As one paraplegic said to me, "If we work on the problem, I may get out of my wheelchair. If we don't, I won't."

It will take understanding and commitment on the part of paraplegics as well as scientists. No longer can we allow the fear of raising false expectations to be an excuse for inaction. Paraplegics are realists, but they hope for and desire continuing commitment to the job at hand. The time is past when paraplegics inquiring about cure-oriented research can be put off by learned descriptions of paraplegia research in general. Paraplegics deserve in return for their patience, persistence and support of science straight answers clearly distinguishing these areas of research from that aimed at a cure eventually liberating them from their wheelchairs. Paraplegics are less interested in research per se than in the very human results of research.

One must appreciate that scientists require freedom of inquiry so essential to the free flow and development of ideas; only in such an environment will basic science flourish. The scientists I have known in this enterprise are compassionate and also are motivated by a desire to improve the condition of their fellow man. We must recognize the complexity of this area of science. A scientist easily could spend his entire life on this problem without finding the answer. There must be understanding on both sides; paraplegics must respect the scientific approach, while scientists must appreciate the urgency felt by paraplegics. There must be continuing, purposeful, and realistic dialogue between the two communities.

The basic research effort must go on in parallel with other research whose purpose is better accommodation to wheelchair living. It is not a matter of one or the other; both are necessary. All the research on better facilities, devices, rehabilitation and surgical techniques, epidemiology, etc. is important; in fact it is vital and should be encouraged and expanded. It is not unlike working on improvements to the iron lung while developing the Salk Vaccine.

People ask how we can afford such a dual approach. My reply is how can we not afford it? The 1975 Regeneration Task Force report I mentioned estimated annual world-wide savings from a CNS research breakthrough might approximate $20 billion. In addition to the 150,000 American paraplegics and their counterparts throughout the world, scientists point to large numbers of sufferers of other neurological disorders who would benefit from such a breakthrough. They include many forms of stroke, focal epilepsy, chronic multiple sclerosis, cerebral palsy, and mental retardation. While the economic savings would be enormous, the potential savings in human suffering are incalculable. In view of this potential payoff, the current $5 million annual CNS regeneration research commitment of the U.S. Government is woefully inadequate!

As we recognize Dr. Hamburger and Dr. Weiss, two giants of neuroscience, we look back in awe at their enormous accomplishments. It is also fitting on this occasion to look forward, as our collective business remains unfinished. To help bring it to the ultimate conclusion we all seek, I urge the following ten-point program:

"10-POINT PROGRAM FOR ACTION"

1. Form a strategy council of leading scientists from appropriate disciplines to monitor and guide the worldwide effort in regeneration research.

2. Bring about Presidential leadership of a major, coordinated "push" for regeneration to eventually cure millions.

3. Increase U.S. Government regeneration research support to $20 million annually.

4. Review regularly, formally, and critically the recommendations of the U.S. Government's 1975 task force which dealt with "high priority research areas," "training," "centers of excellence," and "planning and coordination."

5. Increase the awareness and support of the U.S. Congress and the American public.

6. Strengthen the commitment of concerned U.S. and international voluntary health organizations to advance regeneration research in a coordinated manner.

7. Increase the support of foundations, corporations, and other private sector groups having coincidence of interest and untapped potential.

8. Establish a private sector fund to take advantage of research "targets of opportunity" promptly as they may arise.

9. Institutionalize, for as long as necessary, the Wakeman Award and associated activities at Duke University; increase its visibility substantially; and orient it to ensure recognition of recent scientific contribution toward the donor's stated purpose of "liberating paraplegics from their wheelchairs through central nervous system regeneration research."

10. Review and publicize progress on this program on an annual basis until the solution is found.

I hope all of you here this evening will do all you can to further this noble effort. Thank you again Mrs. Gardiner and Duke University for leading the way. If ever there was an opportunity to alleviate human suffering, this is it.●

RESOLUTION ON LEBANON

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. O'BRIEN. Mr. Speaker, the tragic events in Lebanon have not received the proper attention nor the understanding from the administration. That country is near the point of destruction. The Christian populace in Lebanon continues to suffer from the growing military aggression by Syrian troops which is threatening to break the fragile Middle East peace.

I wish to call the attention of the Members to a resolution which was recently adopted by the National Republican Heritage Groups (Nationalities) Council, and to which I fully subscribe:

RESOLUTION

The National Republican Heritage Groups (Nationalities) Council, at its fall Executive Board meeting held September 30, 1978 in Washington, D.C., hereby makes the following recommendation:

Whereas, Lebanon is continuing to suffer daily assaults in the loss of life and limb to innocent civilians by the indiscriminate shelling and bombings being conducted by the Syrian peace-keeping troops in Lebanon;

Whereas, such conduct by the Syrians upon civilian targets is both reprehensible and in flagrant violation of the rights of those civilians;

Therefore, the Natonal Republican Heritage Groups (Nationalities) Council urgently demands:

(1) That President Carter immediately intercede with the Syrians to halt the shelling and bloodshed being inflicted upon the innocent civilians in Lebanon;

(2) That President Carter demand the immediate removal of the Syrian troops from Lebanon and their replacement with the United Nations peace keeping troops;

(3) That additional humanitarian aid by the United States be rendered to Lebanon to assist the victims of the present conflict.

October 2, 1978.

MITCHELL P. KOBELINSKI,
Chairman.●

FREEDOM AND RESPONSIBILITY

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. SEBELIUS. Mr. Speaker, western Kansas is traditionally known for being one of the largest wheat producing areas in the country, the home of an independent and strong people, clear air, and small towns. What is not always recognized about this part of Kansas and the United States is that it is also the home of the finest small universities in the country, Fort Hays State University.

Dr. John Garwood, professor of economics and dean of instruction at Fort Hays is widely recognized for his writings on economics, business, and education. During his three decades at the school he has counseled thousands of students. Dr. Garwood has drawn on his experiences as a teacher, counselor, and scholar to bring our Nation and its people a message of hope and direction in his book, "Back to Basics." Because Dr. Garwood's book embodies what I believe to be some of the most basic values held by the American people, I would like to share just a small part of Dr. Garwood's thoughts on the future of our Nation and what we must do to hold on to the freedoms we all enjoy.

"Freedom and Responsibility" from the book, "Back to Basics," by Dr. John Garwood:

FREEDOM AND RESPONSIBILITY

If nations, institutions and individuals want freedom, then they have a moral obligation to assume responsibility for the use of it. Freedom without responsibility is always accompanied by actions which impinge upon some other individual's freedom. Self-discipline is a necessary ingredient if there is to be freedom.

After capturing Babylon in 585 B.C. Cyrus, King of Persia, reminded his followers to be alert at all times. He said: "To have been once brave men is not sufficient; it is harder to hold what you have gained than to gain it."

Our behavior, individually and collectively, is governed by what we believe to be true,

that is, true about good and evil, where we establish our priorities, how we perceive the future as related to the present and finally how well we have learned the lessons from the past. What is true sometimes is difficult to determine and if determined, slow to be accepted.

In accepting the Nobel Prize for literature Alexander Solzhenitsyn warned the West with these words:

"The timid civilized world has found nothing with which to oppose the onslaught of a sudden revival of barefaced barbarity, other than concessions and smiles. The spirit of Munich is a sickness of the will of successful people; it is the daily condition of those who have given themselves up to the thirst of the prosperity at any price to material well-being as the chief goal of earthly existence. Such people—and these are many in today's world—elect passively and retreat . . . just so as to not step over the threshold of hardship today—and tomorrow. You'll see, it will be all right. (But it will never be all right. The price of cowardice will only be evil . . .)"

We can't turn back the clock on technological change which has made possible our more than trillion-dollar GNP, which in turn has led to change in all areas of our lives. We can however, purposefully modify levels of permissiveness, our concepts of excellence and ordering of priorities. The traditional American values of work, thrift, belief in country, integrity, public decency, and faith in God are needed even more with the rapid rate of change. These values are not transitory which are shed in the name of progress and "doing our thing." These are values which historically have characterized great nations. No nation, no institution, no individual ever achieved greatness by emphasizing leisure and forsaking discipline of purpose.

If the president of the U.S., a senator, a businessman, or a staff member of a university has his or her integrity questioned, this one factor overwhelms everything else that person might be, or try to do. A credibility gap in integrity is a thousand times easier to create than to bridge. Chappaquiddick is a case in point.

A French taxi driver once played a joke on Sir Arthur Conan Doyle. Sir Arthur had been driven from the railroad station to his hotel. When the driver received his fare he said, "Meric, Sir Arthur Conan Doyle."

"How did you know my name?" asked Sir Arthur.

"Sir, I saw in the papers that you were leaving the South of France for Paris. Your hair has been cut by a barber of Southern France.

"This is indeed remarkable. Did you have any other evidence?"

"The underside of the right sleeve of your coat appears to be shiny and worn as though it had been moved in writing, while the elbow of the left sleeve appears to be worn as though from leaning on it."

"Go on man," urged Sir Arthur, delighted at a man so perceptive. "What else did you see?"

"Well," said the driver, "there was also the fact that your name was on the luggage."

You and I write our name in indelible ink on our luggage by the lives we lead.●

INFLATION

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

Mr. JACOBS. Mr. Speaker, no quorum at Ways and Means today. The Honorable KEN HOLLAND sums it up, to wit:

On Friday the 13th I went to the forum and tried to help AL get a quorum. The issue we lost was hospital cost, and the consuming sick folks died of boredom.

Oh well, so much for the fight against inflation.

THE VOLUNTEER FORCE IS WORKING

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. STEIGER. Mr. Speaker, the Washington Post recently ran an article by Warren Rogers that did a disservice to our men and women in uniform. The piece suggested that the volunteer Army is in trouble; it made some sweeping, critical statements that simply were not accurate.

Because of my concern over the amount of misinformation that sometimes becomes accepted as fact simply because it was printed, and reprinted, in the newspaper, I have prepared a response to the Rogers article. As I noted in my rebuttal, he was dead wrong on some of his assertions and was misleading in use of some statistics.

It is important that the record be set straight. Those who were concerned about the picture painted in the Rogers article can take heart when looking at the true picture. I hope that those who care about the calibre of our Nation's defense force will not be misled by sensationalist pieces, but will rather seek out the truth about the quality of the all-volunteer army.

My response follows:

TAKING EXCEPTION: THE VOLUNTEER FORCE IS WORKING

(By Representative WILLIAM A. STEIGER)

It must be that the press abhors the doldrums of summer. Whyever else would a number of horror stories keep reappearing during these slow, warm days. The return of Bigfoot, the latest sighting of the Abominable Snowman, or a retrospective on the Johnstown flood provide the standard fare. Another bogeyman that periodically materializes is the Need-to-Return-to-the-Draft.

When conscription ended five years ago, stories appeared almost immediately predicting the imminent Return of the Draft. Despite continued improvements in military manpower programs ever since, these stories reappear every so often, albeit with decreasing frequency. The usual tack of such stories is to begin by noting an adverse trend, and conclude that the Return of the Draft is just around the corner.

Like the latest sighting of Bigfoot, such stories have an ephemeral impact. Apparently they are so lightly regarded by editors of the Post that little effort is made to check the veracity of their contents. I can think of no other explanation for the Post's publication of the fanciful statements in Warren Rogers' piece, 'The All Volunteer Army's Bleak Future" (Outlook, August 6).

In prophesizing The Return of the Draft, Rogers first points to the "high rates of desertion" in the Army and the other three services." He simply did not do his homework. The rate of absences in the Army has dropped dramatically subsequent to the end of the draft, from 52 desertions per 1,000 in the last year of the draft to 13.1 in 1977. With the exception of the Navy, the same is true for the other services.

Rogers also focuses on the question of enlistment standards. Enlistment standards are now higher than they were during the periods of the draft; he may not like to admit it, but the services are actually rejecting young men who would have been taken into service during the draft era.

He makes much of the contention that "too many CAT IV's, individuals in the group with the lowest acceptable test scores, are coming into the services . . ." Rogers is entitled to his opinion as to how many, but the plain fact is that the number of CAT IV's entering the services has been reduced dramatically since the end of the draft. For all services, the percentage of accessions in Category IV dropped from 14.5% in 1964 and 14.1% in 1973 to 5.3% in 1977; for the Army, the figures are 19.9% in 1969, 17.3% in 1973 and 9.2% in 1977.

Such misuse of statistics to demonstrate the "bleak future" of the volunteeer force is inexcusable and far below the standard one would expect in the "Outlook" section. It is equivalent to proving the existence of Bigfoot by quoting an eyewitness account from an eccentric high on LSD.

No one would contend that the military is without manpower problems. The question is whether a return to the draft would produce a better solution than continued reform of manpower policies. As Rogers notes, attrition must be brought under better control. Yet the AVF outperforms the draft—the average tour length actually served in 1964 for all services was 37 months, while this has been increased in the volunteer era to 43 months. New management techniques, dismissed by Rogers with no analysis whatsoever, will do more for decreasing attrition than return to the high turnover policies fostered by the draft.

Rogers is almost correct when he writes: "In the event of a national emergency, a draft law would have to be enacted to provide the legal authority for calling up the people needed . . ." In fact, the draft law remains on the books (hint: it is in the Appendix to Title 50 of the United States Code, just where it has always been). The only aspect of the law that requires congressional action is the induction authority. An important lesson from the Vietnam era is that the power to activate the induction authority should reside with Congress, not the President—unless, of course, Rogers favors unrestricted executive authority to commit this nation to military adventures overseas.

Recruiting, training, and managing an active force of 2 million persons and reserve force of one million is an enormous task. By and large, that challenge has been met. The Army has increased its combat strength from 13 to 16 divisions. The services have achieved nearly all of their enlistment goals for most reporting periods. Almost every disciplinary trend is favorable. Costs have been brought under control to such a degree that a return to the draft would generate little, if any, savings. While Reserve and Guard recruiting presents a continuing challenge, these units have gained an enormous number of accessions without cost-effective enlistment incentives. Recent congressional action to provide such incentives should lead to an improvement in the picture for these forces.

Rogers wisely concludes that a return to selective service would be unfair and national service would be too costly. He recommends a "modest" draft call of 2,000 per month, a number clearly picked out of a hat with no relationship to recruiting experience or manpower requirements. With 4 million young men and women turning age 19 each year, only a minuscule fraction would be called. Such a draft call would reduce the incentive that now exists within the Pentagon to overcome resistence to manpower reform and would prove highly inequitable for the few who were called. Unless we return to

the poverty-level recruit wages of the draft era—a prospect not seriously suggested even by proponents of the draft—the Rogers proposal would greatly raise manpower costs by restoring the expensive Selective Service bureaucracy and increasing attrition in the services.

Rogers article is about as convincing as the last story I read on Bigfoot—which may explain why it appeared on a dreary Sunday in August. My only question for the Post is why did you put this piece of fluff in the news-oriented section of "Outlook" when it clearly belonged next to one of your humorous pieces in "Style"?●

OHIO AGRICULTURE DIRECTOR QUESTIONS CFA SURVEY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

○ Mr. ASHBROOK. Mr. Speaker, the Department of Agriculture's award of a $23,500 grant to the Consumer Federation of America has come under a great deal of public scrutiny. This grant, which is to study proposed changes in net weight regulations, was made by the Department's Food Safety and Quality Service under the direction of Assistant Secretary of Agriculture Carol Tucker Foreman. Mrs. Foreman, of course, served as executive director of the Consumer Federation before assuming her current position in Government.

Questions surrounding the grant include whether the award indicates a conflict-of-interest on Mrs. Foreman's part in view of the apparent favoritism shown to the Consumer Federation of America in the bidding process. Also at issue is whether CFA should have been disqualified from receiving the grant because that organization had previously taken a public stand on the question to be surveyed.

Now a further question has been raised, this time by John M. Stackhouse, director of the Ohio Department of Agriculture. Confronted with what he considers a totally unrealistic CFA testing program, Mr. Stackhouse has advised the Consumer Federation that the Ohio Department of Agriculture will not take part in the survey.

Mr. Stackhouse's response to the Consumer Federation's research coordinator offers one more example of why this grant should be canceled immediately and a thorough, independent investigation should be undertaken to determine the circumstances under which CFA received the grant. According to Mr. Stackhouse, it is virtually impossible for the States to complete the work CFA wants in an accurate fashion in the timeframe allowed.

In his letter to the CFA's research coordinator advising CFA that Ohio would not take part in the CFA survey, Mr. Stackhouse says:

In order for your survey results to be included in a valid recommendation or study, the answers obtained from the various states must be accurate. In order to meet the requirement of accuracy, the amount of time allotted is simply insufficient.

Ms. Foreman has said that one reason for awarding the contract to CFA was its ability to conduct the study within the timeframe required. But, we see now why CFA was able to conduct its "study" within a restrictive timeframe: evidently, the deal was for the State officials to do the work for CFA—I might add, at additional cost to the taxpayers in the form of State government salaries.

Another question is raised in my mind. For what is Carol Foreman paying CFA $23,500? Questionnaires? And, is CFA really qualified to conduct this study in view of its apparent ignorance of the complexity of the question? I again call for an independent investigation of this matter and cancellation of the study contract.

At this point I am including the full text of Mr. Stackhouse's response to the Consumer Federation of America's research coordinator:

OHIO DEPARTMENT OF AGRICULTURE
Columbus, Ohio, August 15, 1978.

Re: Net Weight, Proposal Survey.

Miss CATHY PERLMUTTER,
Research Coordinator,
Consumer Federation of America,
Washington, D.C.

DEAR MISS PERLMUTTER: In response to your request that the various state officials responsible for implementing the Weights and Measures regulations of the state complete the attached survey, please be advised that the Ohio Department of Agriculture will not take part in the survey. The information solicitated by your survey requires extensive testing on the part of the state, testing which could not possibly be completed within the two weeks allotted for the completion of this survey. In order to provide valid answers to the questions, the Ohio Department of Agriculture would need to conduct special tests utilizing two different methods of calculation. Although the department possesses the equipment and expertise to conduct such tests, there would be a personnel problem in running the various field tests.

The Ohio Department of Agriculture currently utilizes the specifications set out in National Bureau of Standards Handbook 67, such specifications being incorporated into the state statutes and regulations. Your survey would require us to utilize specifications incorporating both Handbook 67 and the proposed USDA standards, thus necessitating the implementation of different techniques.

It is the estimation of the Ohio Department of Agriculture that in order to conduct a "good" survey it would take two to three months of our time to obtain valid results. It is the position of the Ohio Department of Agriculture that in order for your survey results to be included in a valid recommendation or study, the answers obtained from the various states must be accurate. In order to meet the requirement of accuracy, the amount of time allotted is simply insufficient.

Sincerely,

JOHN M. STACKHOUSE,
Director.●

GREAT AMERICAN FACE PHOTO CONTEST

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. WYDLER. Mr. Speaker, a review of the book "Faces USA" has recently come to my attention.

"Faces USA" resulted from a modest amateur photo contest, which became an official Bicentenial project of the U.S. Government. The contest eventually touched the lives of millions of Americans.

Originally, the contest was open to all Americans to submit snapshots—informal and candid—of their family members, friends, or any American with whom they came in contact. It was called the Great American Face Photo Contest and divided the snapshops into 12 different categories—ranging from infants to great-grandparents. A panel of judges then selected the "most representative" face in each of the 12 categories.

The winning photographs were displayed from coast to coast in museums, galleries, libraries, schools, State fairs, and shopping centers. So great was the interest in the contest that an estimated 10 million Americans flocked to see the exhibits. The USIA has also shown them in numerous other countries whose citizens came in large crowds to view the "representative" American faces in the pictures.

As a result of the extraordinary interest in what began as a small amateur photo contest, Arnold Newman photographed the winners in each category. These photographs have been compiled into the book "Faces USA," which is published in my hometown of Garden City, N.Y.

I am pleased to commend to the attention of my colleagues an outstanding review of "Faces USA" written by Irving Desfor:

CAMERA ANGLES
(By Irving Desfor)

Just two years ago, early in 1976, a deceptively simple photo contest originated to interest the country's amateur photographers. The idea was to invite all Americans with a camera to submit snapshots—not formal portraits—of friends, relatives, or even strangers, in 12 different categories from babies to grandparents. A panel of judges would then select the most representative face in each category to form a symbolic photographic "great American family."

No one at that time visualized the national enthusiasm that the Great American Face Photo Contest would generate. Who could have predicted that it would become an official Bicentennial project of the U.S. Government and that it would be lauded by Senator Hubert Humphrey in the Congressional Record?

No originator foresaw that the 12 national winners—ordinary people like you and me—would wind up as subjects for professional portrait assignments by Arnold Newman, renowned photographer of the world's leading personalities.

Or that an estimated ten million viewers would see the Great Americans Faces Exhibition from coast to coast, at the United Nations in New York, at the National Visitors Center in Washington, D.C., as well as at museums, galleries, libraries, schools, state fairs and shopping centers.

Or that major cities would proclaim Great American Face Days to promote the project. And that it would inspire a popular song and lyrics.

Or that, two years later, 'FACES U.S.A." would still be exhibited under the auspices of the United States Information agency in 125 countries on six continents.

And finally, that its complete story would make a compelling book.

Now that, too, has taken place with the current publication by AMPHOTO, Garden City, N.Y., of: "FACES USA" by Arnold Newman, with a foreword by Thomas Thompson (paperbound, $5.95).

It's all on record. We realize now that it was a unique contest, ingeniously attuned to the spirit of the nation as it celebrated its 200th birthday. Its appeal was at the grassroots level, asking people to get involved with their neighbors and themselves. The contest sought a mirror image of Americans with a rich variety of ethnic cultures and an individual emphasis on qualities of character, personality, strength, warmth and humanity. The country was taking its own family portrait with a self-timer.

As the contest gathered momentum with its mass appeal and public spirit, its continued success was assured by the low-key profile maintained by its sponsor, Kinney Shoe Corp., and the integrity and professionalism of Ruder & Finn, its guiding hand in the communications area. Their awareness of the larger purposes of the Great American Family concept, as it evolved, produced a contest that became a remarkable achievement for both photography and the American people.

It is strange that a collection of amateur photos of ordinary Americans should capture the public's imagination? That interest became evident from the very first simultaneous exhibitions of "Faces"—at New Jersey's Morris Museum of Arts & Sciences and at the California Museum of Science & Industry in Los Angeles. And audiences in other countries who have seen the USIA-sponsored exhibits also reacted, and are reacting, with similar fervor.

The key may well be in the high degree of self-identification that these photos stimulate. The faces are of ordinary people, like "you and me." We see in these photo families the parents and grandparents we were familiar with, the children we knew, the boy and girl down the street. We see ourselves. The response is different when we look at photos of famous personalities, however. There is an invisible barrier or gulf because we are separated by the differences of wealth, position, talent and distance. We can't identify with them personally. But "FACES" can be part of our own family albums.

When Arnold Newman—who photographed seven U.S. presidents, kings, celebrities, Nobel prize-winners and headline personalities—photographed the dozen "ordinary" Americans, he found they were not ordinary at all. Their achievements have a special yardstick. Their accomplishments are in living their own full, rich lives with integrity and dignity. And that is in itself a memorable accomplishment.

In addition, Newman achieved just as great a sense of personal satisfaction with the photographic results as any attained when photographing the most famous celebrity.

Today, the 1976 Bicentennial and its celebrations have faded from the American scene but some rewards remain. Among them we count the Great American Faces project and its exhibitions. And one of its dividends is the book, "FACES USA."●

FBI UNDERCOVER OPERATIONS AMENDMENT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. EDWARDS of California. Mr. Speaker, the following legal memorandum prepared by the Department of Justice, explains the need for and scope of the amendment I introduced to H.R. 12005 (Justice Department authorization). This part of the memorandum deals with the following legal issues that are addressed in the amendment: First, whether the FBI may deposit funds in banks in support of its undercover operations, and second, whether certain statutes pertaining to Government leasing apply to leases required by the FBI in its undercover operations:

BANK DEPOSITS

At times it becomes necessary for the FBI, in the course of undercover operation, to deposit public funds in a bank. The FBI might do this in several different situations. First, it deposits funds to maintain and support undercover agents or off-site surveillance teams or equipment, so that these entities will not be identified with the FBI. Second, the businesses established by the FBI must deposit funds in banks in order to operate as any other commercial enterprise would. Finally, in investigations dealing with white collar and organized crime, the individuals with whom the FBI is dealing frequently require FBI undercover agents to demonstrate their financial ability to participate in transactions involving large amounts of cash—e.g., the purchase of stolen securities. To do so, the FBI must often deposit large sums in banks in order to permit the undercover agent to verify his finanical resources.

The practice of depositing funds in banks raises questions under 18 U.S.C. § 648, which provides in part: [1]

"Whoever, being an officer or other person charged by any Act of Congress with the safekeeping of the public moneys, loans, uses, or converts to his own use, or deposits in any bank or exchanges for other funds, except as specially allowed by law, any portion of the public moneys intrusted to him for safe-keeping is guilty of embezzlement of the money so loaned, used, converted, deposited, or exchanged, and shall be fined in a sum equal to the amount of money so embezzled or imprisoned not more than ten years, or both . . . ."

For the reasons outlined below, we have concluded in a previous opinion that the FBI might deposit funds in banks under certain circumstances without violating this statute. The rationale which justifies this conclusion however, would not extend to certain large deposits necessary to conduct successfully certain investigations of white collar and organized crime. The proposed amendment is thus necessary to enable the FBI to continue to conduct its investigations effectively in those areas.

The rationale which justifies FBI bank deposits in certain limited circumstances rests on both the language and the purposes of the statute. The statute prohibits bank deposits except "as specifically allowed by law." While the FBI has no explicit authority in this regard, the lack of an explicit provision is generally not regarded as conclusive. *United States* v. *Macdaniel*, 7 Pet. (32 U.S.) 1, 13–14 (1833). Rather, the general rule as to the scope of an official's authority is that where a statute imposes a duty, it authorizes by implication all reasonable and necessary means to effectuate such duty. 2A Sutherland, Statutes and Statutory Construction § 55.04 at 384 (4th ed. 1973) This approach has been adopted by the courts and other legal authorities in regard to statutes which establish a prohibition absent an "authorization by law." *See, e.g., Chase* v. *United States*, 155 U.S. 489, 502 (1894); 31 Op. A.G. 570, 575 (1912) (both construing the predecessors to 31 U.S.C. § 655(a) and 41 U.S.C. § 11 (a)); *Burns* v. *United States*, 160 F. 631, 634 (2nd Cir. 1908) (construing the predecessor of 40 U.S.C. § 34). This approach has also been followed to uphold the activities of law-enforcement agencies in the absence of explicit statutory authority. *See, e.g., United States* v. *Krapf*, 285 F.2d 647 (3rd Cir. 1961); *United States* v. *Jones*, 204 F. 2d 745, 754 (7th Cir. 1953); *United States* v. *Kelly*, 55 F.2d 67 (2d Cir. 1932). Based on these authorities, the FBI's statutory mandate "to detect and prosecute crimes," 28 U.S.C. 533(1), and the FBI's determination that it is imperative to deposit funds in banks in the course of undercover operations, we have concluded that this practice would not violate the statute if the FBI ensured that the funds were fully safeguarded.

In our view, this interpretation does not contravene the purposes underlying the statute. Several of the goals underlying the statute—e.g., to guard against favoritism among banks, to ensure that the government would have funds available when needed, and to prevent overexpansion of bank notes—do not seem threatened by the FBI's practice. Moreover, the statute's major objective—that of safeguarding public funds—could be satisfied if the FBI met certain conditions with respect to maximum deposits. It is our understanding that many of the FBI's undercover activities can satisfactorily operate within these conditions.

However, in certain circumstances where the FBI needs to display large financial resources in white collar and organized crime investigations, the limitations necessary in our opinion to comply with 18 U.S.C. § 648 would frustrate the undercover operations. Four major current operations are threatened by the applicable limitations, and four other major operations planned for implementation in the immediate future would be greatly hampered under the limitations imposed under our interpretation of 18 U.S.C. § 648.

There appears to be no alternatives to legislation in this instance. While the FBI can conduct certain limited operations under the restrictions of 18 U.S.C. § 648, it cannot maintain present and planned operations of a size and scope necessary to deal effectively with large scale white collar and organized crime. In addition, even the limited operations which might be conducted consistent with 18 U.S.C. § 648 will be short-lived since sophisticated criminal elements would be able to identify them as FBI tactics subsequent to arrests, trials, and attendent publicity.

LEASES

In the course of its undercover operations, the FBI at times must enter into leases of property. In the law-enforcement area, the FBI's undercover businesses must operate as any other commercial business, and this requires that these businesses lease space from which to conduct their operations. However, this practice raises problems under statutes relating to government leasing and to government procurement. While the FBI has heretofore largely been able to adhere to the pertinent statutes without undue difficulty, several statutes pose serious problems for undercover law-enforcement operations which are scheduled to begin in FY 1979. The proposed amendment is designed to eliminate these problems, as well as to clarify one questionable area of the law.

The problems which undercover law-enforcement operations face (or will face) in leasing property are as follows: (1) whether the FBI might enter into leases for periods extending beyond the current fiscal year; (2) whether the FBI might enter into leases in Washington, D.C.; and (3) whether the FBI might enter leases without including in the lease clauses usually required in government contracts. Each of these problems requires separate discussion.

(1) Leases extending beyond the current fiscal year.

At times, the FBI needs to rent property for its undercover operations where the landlord demands a lease extending beyond the current fiscal year. This raises problems under 31 U.S.C. §§ 665(a) and 41 U.S.C. § 11 (a). These statutes prohibit federal agencies from entering into contractual obligations unless appropriations are available to meet those obligations or unless they are authorized to do so by law. In the leasing

[1] The same prohibition on deposits of public funds in banks is contained in 31 U.S.C. § 521.

area, these statutes have been interpreted to prohibit leases which extend beyond the current fiscal year unless such contracts are authorized by law or unless appropriations are available to meet those obligations. *See, e.g., Leiter* v. *United States,* 271 U.S. 204 (1926).

This Office has, in the intelligence area, concluded that the FBI may, under narrowly delineated circumstances, enter into leases extending beyond the fiscal year. This conclusion was founded, first, on the ground that the statutory exception "authorized by law" has been interpreted to allow for an authorization "by necessary implication" from a general statute. *Chase* v. *United States, supra* at 502; 31 Op. A.G. 570 (1912). Second, the statutes set forth above allow contracts where an appropriation is available to meet the contractual obligations; the statute which sets forth the availability of appropriations, 31 U.S.C. § 712a, has been interpreted to allow the government to enter contracts requiring payments relating to future years if such was the only way the government could obtain a needed supply or service. *See* B–18631, December 9, 1976 (slip. op. at 19, 22); 37 Comp. Gen. 155, 159–60 (1957); 3 Comp. Gen. 654 (1929). On the basis of these interpretations, the FBI's responsibilities in the intelligence area, and the exigencies of intelligence work, we concluded that the FBI could enter a lease extending beyond the current fiscal year where such was truly necessary in the performance of its responsibilities.

Even though we have concluded that leases extending beyond the current fiscal year in the intelligence area are lawful, we still consider it to be a close question. Due to the different sorts of considerations underlying law-enforcement operations, we believe the question is even closer in this context.

The FBI has thus far managed to avoid situations requiring a lease extending beyond the current fiscal year in the law-enforcement area. However, we are told that there is presently pending at least one major operation whose implementation is being delayed due to this problem; we are also informed that there is another imminent major operation which might be forestalled completely due to the problem.

Conceivably, there might be alternatives to legislation. The FBI may be able to structure the same sorts of solutions it has in the past—i.e. entering month-to-month leases, or entering leases extending only to the end of the fiscal year, or simply looking for alternate locations. However, as the FBI's operations grow and become more complex, these alternatives may simply become unavailable. The lessors of large commercial property, for example, may uniformly require leases in excess of one year. Since the FBI believes it will encounter this sort of situation in FY 1979, we believe that it is necessary, if the FBI is to continue its undercover activities, for corrective legislation to be enacted.

(2) Other leasing problems.

The FBI's investigative responsibilities in the area of law enforcement exist in Washington, D.C., as much as in any other area. This means that, just as in other areas of the country, the FBI may have to resort to undercover operations in Washington, D.C., in order to perform its statutory responsibilities. These operations, like all other undercover operations, may have to lease space in order to conduct business. Unlike operations conducted in any other part of the country, however, operations in Washington, D.C., face a particular prohibition on leasing. Section 34 of title 40 prohibits leases in Washington, D.C., "until an appropriation therefor shall have been made in terms by Congress." [2]

[2] Another prohibition pertaining to rentals in Washington, D.C., is contained in 40 U.S.C. § 35.

Since the FBI, to our knowledge, has not had to rent property in Washington, D.C., in the course of its law-enforcement operations, this statute has not yet posed an obstacle to such operations. Since the FBI has thus never presented this particular problem to the Department, no determination has been made whether the FBI might legitimately enter into leases in Washington, D.C. If, however, a need ever arises in this regard, legal problems would obviously arise. The broad language of the statute would on its face apply to such a situation. Moreover, while there is some authority allowing for exceptions to the statute in certain circumstances, *see, e.g.,* 6 Comp. Dec. 75, 78–79 (1899), the decisions interpreting the statute generally adhere to its literal terms. We think that, in order not to foreclose the FBI from conducting effective undercover operations in Washington, D.C., explicit legislative authority should be obtained so that the FBI may enter into leases in the District. If legislation is not secured, the FBI may have to conduct its operations in Washington, D.C., from space leased either in Maryland or Virginia. This alternative, however, raises credibility problems and practical difficulties, which may well render an operation inadvisable altogether. It thus seems best, in order to avoid these difficulties, that we secure explicit legislative authority in the authorization bill.

The final leasing problem is that, in entering the leases discussed above, it is obvious that the FBI usually cannot disclose the true identity of the lessee. This raises problems under statutes such as 41 U.S.C. §§ 22, 254 (a) and (c), which require certain clauses to be inserted into government contracts; [3] the inclusion of such clauses would disclose to the lessor that a government agency was actually the lessee. This would compromise an operation and could often require its termination.

This Office has concluded that, under certain conditions, the FBI may enter into leases without including in the leases clauses usually required in government contracts. We understand that the FBI can operate satisfactorily under those conditions. However, in view of the broad language of the pertinent provisions, and to clarify the scope of the FBI's authority to enter such leases, we believe a specific legislative exception to these general provisions is necessary. We therefore recommend that this authority be secured in the authorization bill, and our proposed amendment contains language to this effect.

JOHN M. HARMON,
Assistant Attorney General,
Office of Legal Counsel.●

[3] These clauses relate to prohibitions on government contracts with members of Congress, the payment of improper fees in soliciting or securing government contracts, and the Comptroller General's access to the contractor's or subcontractor's records.

DR. DANIEL ALDRICH, CHANCELLOR OF THE UNIVERSITY OF CALIFORNIA, IRVINE

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. PATTERSON of California. Mr. Speaker, imagine the awesome task and responsibility for seeing a major university developed from bare ground to a fully operating institution. It is an assignment not meant for the average administrator.

That assignment was placed on the shoulders of Dr. Daniel Aldrich, Chancellor of the University of California, Irvine. Dr. Aldrich not only accepted this difficult task, but has effectively built the University of California, Irvine, into one of the finest institutions of higher learning in the United States.

Dr. Aldrich, who was appointed chancellor of UCI in 1962, is now tops in seniority among the nine chancellors in the University of California system. On November 9 he will be honored as a "Humanitarian of the Year" by the Orange County chapter of the National Conference of Christians and Jews.

He is an avid fan and participant in track and field events. He has won medals in the discus, javelin, shot put and hammer throw. Like our senior Senator for California, Alan Cranston, Dr. Aldrich is a regular participant in the U.S. Masters Track and Field Championship for participants over 40 years of age.

Dr. Aldrich has unquestionably established his success in academia and I wish him continued good fortune in all his future endeavors.●

PHILADELPHIA INQUIRER CITES NEED FOR HUMPHREY-HAWKINS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. EILBERG. Mr. Speaker, I know that many of my colleagues in the House share my earnest hope that the Senate will, in the closing days of Congress, decide that the proper course of action is to pass the Humphrey-Hawkins bill which would commit us to definite goals in reducing unemployment.

For those Members of the Senate who still have doubts about the wisdom of the Humphrey-Hawkins bill, I commend to them the following editorial from the Philadelphia Inquirer of Monday, October 9, 1978. This editorial is an eloquent commentary on the need to set goals in our battle to cut unemployment:

WHY NOT SET JOBS GOALS AND TRY TO ATTAIN THEM?

While the Congress wrestles with a tax bill which, at this writing, tilts toward helping the well-to-do and the middle classes, how about some attention to the question of jobs? Specifically, to the Humphrey-Hawkins bill, a version of which has been passed by the House, 257 to 152, but which is stalled in the Senate.

The Humphrey-Hawkins bill, named after the late and loved Democratic senator from Minnesota and Los Angeles Democratic Rep. Augustus Hawkins, has become a symbol, but of very different things to different people. On one side, there are those who regard it as radical legislation which might subvert our system of capitalism. On the other, there are those who regard it as almost the be-all and end-all of wise and compassionate economic policy.

In reality, it is neither. Certainly it is not radical. What is so radical about establishing as national policy "the right of all Americans able, willing, and seeking to work full opportunities for useful paid employment at fair rates of compensation"?

What is radical about setting a goal of a national unemployment rate of 4 percent and

establishing processes and planning by which the goal might be achieved? The current unemployment rate hovers around 6 percent, but it is twice that for blacks and as high as 40 percent or even more in America's urban ghettoes.

That, basically, is what Humphrey-Hawkins is all about—a way of coordinating policy and planning among the Executive Branch, the Congress and the Federal Reserve Board to achieve the 4 percent unemployment rate that economists traditionally have regarded as "full employment."

Opponents have opposed it on contradictory grounds. The legislation, they charge, would be "wildly inflationary," as the Washington Post put it in an editorial the other day. That assumes that the legislation would require the federal government to do all kinds of things—most particularly, to spend all kinds of money—to bring the unemployment rate down. On the other hand, however, they attack the legislation as being nothing more than symbolic—a promise, still another promise, by the government to accomplish a noble goal, but a symbol without substance, and hence doomed only to disappoint and disenchant.

In other words, they attack the legislation as being both too much and not enough. You can't have it both ways. Our own view on the subject has changed, partly because we have thought the matter over, and partly because the legislation itself has been changed to include an anti-inflation component, requiring a similar process of setting short and long-term goals and proposing specific means of achieving them to combat inflation.

True, the legislation in and out of itself will not create jobs, but what is wrong with requiring that attention be paid, in a comprehensive way, to the intolerable situation of people willing but unable to find "useful paid employment at fair rates of compensation"? True, the goals to be set may be unattainable immediately, but what person does not set goals for himself, what corporation does not set goals for itself? Setting goals is a key to planning, the process of figuring out where you want to go and how to get there. Humphrey-Hawkins would set the goals of full employment and zero inflation. By itself, it cannot get us there, but it can help show the way.●

THE CASE OF LEONID SKRYNNICK

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

Mr. CARR. Mr. Speaker, I am pleased to participate today in the vigil for freedom sponsored by my colleague BILL BRODHEAD in support of Jewish families and individuals who are being denied permission to emigrate from the U.S.S.R.

I believe it is important that this Congress be reminded of the individual suffering of those whose human rights are not adequately protected. Accordingly, I am bringing to the attention of my colleagues the case of Leonid Skrynnick, a 33-year-old lawyer living in Moscow.

Mr. Skrynnick graduated from Moscow State University in 1971, after which he began work for the Soviet branch of the international insurance company Ingosstrakh. When he applied in 1975 for permission to emigrate, he was fired from his job. Two months later, the request was denied, with the explanation that Mr. Skrynnick had state secrets. This came as a surprise to him, but his inquiries resulted only in the response "you had better know which state secrets."

Mr. Skrynnick has since applied two more times for permission to emigrate, and the requests have been denied for the same reason. He has thus been left without a job and without any explanation for the reason for his firing.

I am hopeful that continuing public pressure will result in Leonid Skrynnick being allowed to emigrate from the Soviet Union.

A NATIONAL PROGRAM TO IMPROVE THE HANDLING AND DISPOSAL OF HAZARDOUS WASTES

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. LaFALCE. Mr. Speaker, yesterday I introduced the Toxic Pollutant Compensation Act, a bill designed to protect innocent victims injured as a result of toxic pollutants in the environment. Today I am introducing a second bill which is intended to help prevent hazardous substances from being handled or disposed in ways that threaten injuries to American citizens or to the environment.

My bill will, I believe, help to fill the gaps which have become evident in the original Resource Conservation and Recovery Act of 1976 (RCRA) by amending it to:

Establish a program for the identification and reclamation of abandoned hazardous waste sites;

Set fees to be paid by private organizations which store or dispose of hazardous wastes; and

Provide a process for the selection of sites for future disposal of hazardous wastes.

The bill is not meant to be a definitive judgment on the ways in which RCRA should be improved. Rather, its purpose is to serve as a starting point for congressional action. RCRA comes up for reauthorization in 1979 and will, I expect, be amended in many ways. I plan to take an active part in this process and I hope my bill will be a signal for the need for changes in existing law, and serve as a catalyst for provocative and creative thoughts by others similarly concerned.

THE PROBLEM

RCRA, as presently written, does not provide a program for the identification, reclamation, and maintenance of hazardous waste sites, whether abandoned or presently in operation. Neither does it provide for the location of future sites. Recently we have all become acutely aware of the need for such a program, as witnessed by the explosion of the "Love Canal" in the city of Niagara Falls, which is in my congressional district.

At least 39 additional abandoned landfill sites have been identified in Niagara County alone; according to the U.S. Environmental Protection Agency (EPA), the exact number of these "ticking timebombs" cannot be definitely determined—only estimated. EPA's estimate is 3,000 nationwide.

ABANDONED SITES

A concerted effort must be made to identify all abandoned landfill sites that do or may contain hazardous wastes, and once they are identified they must be reclaimed, if feasible. If reclamation is not feasible they must be monitored to insure that public and environmental health and safety are not endangered. My bill includes an approach to do just that; it establishes a joint State/Federal procedure for identifying, reclaiming and/or maintaining abandoned sites.

LOCATION OF FUTURE LANDFILL FACILITIES

When RCRA was passed in 1976, no one foresaw the widespread public opposition to new hazardous waste disposal sites which has swept the country. The general public was not then fully aware of the large number of abandoned sites throughout the country, the deleterious effects they were having on people's health and safety, and their dire impact on the environment. Now that public awareness has grown, in part because of the Love Canal emergency, citizens are understandably leery about the dubious honor of having a new site proposed to be located in their backyards.

However, the hazardous waste disposal situation is here to stay; our advanced manufacturing processes must produce wastes as byproducts of those very activities that allow us to enjoy one of the highest standards of living in the world.

Therefore, we must create a program and process for locating new facilities for the treatment, storage and disposal of hazardous waste materials in as rational, effective and equitable a manner as possible. That is precisely what my bill is intended to provide. A permit system will be established under which permits will be issued only after assurances are given about the environmental safety and soundness of any new facility's location. Affected local residents, local governments and States would be included in the process and must be consulted; panels of scientific experts will be formed to help answer the many questions that arise in such situations.

CLOSING OF EXISTING OR FUTURE HAZARDOUS WASTE DISPOSAL SITES

My bill also creates a program for the termination of existing or new hazardous waste disposal sites in a safe manner. This is most important, for it will provide assurances to communities surrounding such sites that they will not cause problems in the future such as those we are experiencing as a result of past landfill sites being abandoned and improperly sealed.

FEE SYSTEM

The bill would initiate a system of fees to be levied on permitholding operators of hazardous waste treatment, storage or disposal facilities. The fees will be deposited into a fund to be used for two purposes: First, the maintenance of new or existing sites and, second, the mainte-

nance and reclamation of abandoned sites.

Half of all fees collected will be paid into a special account and used for new site maintenance. The fees will be set at a level sufficient to assure that all costs for maintenance will be borne by this account, thus making this a program funded entirely by the industry which created the need for the program in the first place. These costs, previously borne by society in general through environmental and health hazards and damages, will now be shifted to the industry through this user fee.

The other half of the fees will be deposited into a second fund and used to help defray the costs of monitoring and reclaiming abandoned sites. It is anticipated that the fees will provide 50 percent of these costs; the remainder needed for these purposes would be provided through a Federal/State program funded on a 90–10 percent basis.

EMERGENCY ASSISTANCE AND LIABILITY

The bill I am introducing would also establish a program and a contingency fund for emergency assistance and payment of costs for cleanup operations in the event any pollutant or other contaminant associated with any facility for the treatment, storage or disposal of hazardous wastes present an imminent and substantial danger to the public health and welfare. This is a customary provision in this type of legislation, and it is accompanied by an equally customary provision providing for the Government to bring an action against owners or operators of facilities where such emergencies arise to recover the costs of cleanup operations.

CONCLUSION

Mr. Speaker, I repeat that I do not consider this bill to be a "final" product that solves all the problems we now know about solid waste disposal. Rather, I view it as the beginning of a long and arduous task leading, I hope, toward some solutions to some of the problems our highly industrialized and technological society has created. If anything needs "cradle to grave" attention, it is hazardous wastes, and I hope Congress will act to help achieve that.●

JUDICIAL TENURE ACT

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. PEASE. Mr. Speaker, in the closing days of this Congress, many bills will die. There is one such bill, the Judicial Tenure Act, that I hope will receive prompt and thorough consideration in the 96th Congress.

The functions of the Federal judiciary in our constitutional government are critical. The power residing in the Justices of the Supreme Court and the Federal judges is great. The importance of the independence and integrity of the Federal judiciary cannot be underestimated. The size of the Federal judiciary has far outgrown that contemplated by the Founding Fathers. And there exists a compelling need to reinforce public confidence in the character and the professional conduct of Federal judges.

All of these factors point toward the need for legislation to establish within the judicial branch of Government a system for dealing with allegations of misconduct or disability among Federal judges. Accordingly, I am working on legislation designed to address this need. My bill will be similar to that which passed the Senate in early September. I hope to elicit support from my colleagues for what I feel is a responsible approach to coping with a growing public concern. I also want to encourage the House Judiciary Committee to give high priority early in the 96th Congress to coming to grips with several issues related to judicial conduct and disability.

There is a school of thought which contends that Federal judges can only be removed from office by impeachment for "bribery, treason, or other high crimes and misdemeanors." On the other hand, a competing school of thought argues that the "good behavior" clause of article III, section 1 of the Constitution needs to be defined by law so as to provide supplementary grounds for removing Federal judges from office.

Much scholarly debate has centered on these divergent constitutional interpretations. Ample historical and legal precedents have been cited in defense of each interpretation. Now is the time for the Congress to give thoughtful consideration to the approach provided in this bill as a way of establishing the constitutional parameters under which the conduct and conditions of Federal judges can be evaluated. The public is criticizing the Federal judiciary as never before, so the need for arriving at a delineation of the constitutional standard of "good behavior" is greater now than ever before.

Briefly, this bill establishes a procedure within the Federal judiciary for investigating and resolving allegations that a Justice or Federal judge is not conforming to "good behavior" or is suffering from a permanent mental or physical disability that seriously interferes with the performance of his official duties. This is accomplished through a three-tiered judicial disciplinary system which investigates and takes appropriate action on complaints filed against a judge of the United States. Only allegations relating to the conduct or condition of a judge which are connected with the judicial office or which prejudice the administration of justice by bringing the judicial office into disrepute could be considered. Complaints filed by persons unhappy with a judge's procedural rulings or stemming from personal disagreements with the merits of a judge's decision could not be considered.

An investigation of a complaint against a judge could result in the involuntary retirement, removal, or censure of the judge or the dismissal of the complaint. Similarly, a complaint against a Justice of the Supreme Court, if found to be meritorious, could result in a report to the House of Representatives recommending impeachment, censure, or dismissal of the case.

Personally, I am persuaded there are strong arguments in defense of the constitutionality of this bill. It does not undermine the separation of powers doctrine, in my opinion, since that doctrine refers to the independence of the judiciary as an institution from the two other branches of Government and not to the independence of judges from their peers. After all, under the procedures established in this bill, judges suspected of misconduct or disability would be judged by other Federal judges.

The bill is also practical. The system that would be established for handling allegations of misconduct or disability among Federal judges parallels those already in use in 47 States, the District of Columbia, and Puerto Rico.

In closing, I venture to guess that most of us at one time or another have heard from disgruntled constituents, litigants, and attorneys concerning Federal judges. For lack of anywhere else to file their complaints, they come to us. This bill would fill this void by creating a system whereby allegations about Federal judges could be filed with a responsible, judicial body that has both the means and the ability to investigate and take appropriate action.●

WE NEED A DEPARTMENT OF EDUCATION

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MARKEY. Mr. Speaker, I rise in strong support of H.R. 13778, legislation to establish a Department of Education.

In an article which appeared in Change magazine last February, Senator ABRAHAM RIBICOFF clearly outlined why the creation of a Department of Education is essential if we are to provide an equal chance for quality education for all. I hope my colleagues will join me in supporting this important legislation.

The article follows:

A SEPARATE DEPARTMENT OF EDUCATION: WHY NOT THE BEST?

(By ABRAHAM RIBICOFF)

Historically, Americans have displayed an almost mystical belief in education as the path upward, the road to success. Even today, nothing is more important to the nation's well-being than providing an equal chance for quality education to all. Thus it is not surprising that education has become a huge, all-encompassing activity. Today almost 64 million Americans—30 percent of the population—participate directly in its operations. It takes up 38 percent of our state and local budgets. And the federal government is involved at all levels.

However, the federal effort is scattered. It resides in what Harvard professor Steven Bailey has called "the hands of a series of fourth- and fifth-level bureaus spread throughout a score of executive departments and agencies." Nearly 40 different federal agencies handle 300 programs, 200 of them outside the Department of Health, Education, and Welfare. State and local education administrators go from agency to agency putting together a package of grants and ap-

provals. They answer the same questions over and over for different offices.

Organization is both symbol and reality. Symbolically, organization tells us how important something is. Urban America became important in the mid-1960s; thus we have a Department of Housing and Urban Development. Energy matters, so we created a Department of Energy. What does this tell us about how education is viewed?

Organization also defines real situations: how sharply programs are focused and how effectively they compete for funds. Education moneys are only one part of the huge budget for the Department of HEW. Since attention focuses on budget totals by division, the pressure is to keep each unit's expenses down. But much of HEW's budget cannot be controlled. It is only after funds are allocated to the growing entitlement programs in health and welfare that education can compete. It is thus the poor cousin in a huge department. Charles Saunders, currently with the American Council on Education and former Deputy Assistant Secretary for Education, has summed it up: "The history of education's role within the HEW complex clearly demonstrates that it has suffered in competing for attention with all of the Department's other vast responsibilities for social policies affecting all Americans."

Separating education from health and welfare will result in better administration in all three fields. No one is busier than the Secretary of HEW. Crises in health and welfare demand his time. Education, which presents a different kind of problem, is relegated to a lower priority. No serious work is done in developing a coordinated federal role in education. Nor will this role ever be developed as long as the top federal education officials remain at the level of Commissioner and Assistant Secretary.

We have said to the Assistant Secretary for Education and to the Commissioner of Education, "Go and coordinate federal programs related to education," but we have not given them the backing or the prestige to do so. A Department of Education would provide a focal point for such efforts. A Secretary of Education—unlike the Assistant Secretary or the Commissioner—would have direct access to the President. A cabinet Secretary can fight for coordination where a lower official can only argue.

In October 1977 the Governmental Affairs Committee, which I chair, held the first hearings in 20 years on legislative proposals to create a Department of Education. There was wide agreement that dealings with education on the federal level today are unsatisfactory. Senate Bill 991 would transfer into a cabinet-level Department of Education many education authorities, including all of the current Education Division, the Department of Agriculture's school lunch and child nutrition programs, the National Foundation on Arts and Humanities, and the National Science Foundation's education programs. But the Department would not absorb all education programs; those designed to support the major goal of another Department would remain with that Department. However, coordination would be improved. S. 991 strengthens the Federal Interagency Committee on Education by providing a statutory base and a cabinet-level chairman.

Some have used the demands of coordination as an argument against a separate Department of Education. They suggest that health, education, and welfare are so intertwined that policies in one area should be designed with the other two in mind and that this can be best accomplished within a single department. This argument assumes that links between health, education, and welfare programs currently exist. But in my years of experience with HEW I have yet to find concrete examples of planning links. Rufus Miles, currently a professor at Princeton University and for 12 years director of administration for HEW, has described this coordination as "simply a figment of the imagination."

Total coordination, of course, is never possible. However, the relationships between education and other programs can be worked out across Departments when both components work from strength—witness the links between HEW and Labor on welfare reform. Coordination of the government's widely scattered education programs, however, requires high-level leadership and the umbrella of a Department focus on education.

Organization has to do with policy within a department as well as between departments. I believe it is important to structure the Department of Education so as to prevent domination by any single interest—whether it be elementary or secondary schooling, postsecondary or vocational learning. In this regard, six former Education Commissioners have recommended creating two undersecretaries: one for elementary and secondary education and the other for postsecondary and continuing education.

As far as the budget goes, this apparently presents no problem. Although fewer programs are directed at higher education, there is rough equality in funding between elementary-secondary programs and higher education programs. This and other suggestions will be studied later this year when the Governmental Affairs Committee resumes its hearings and debate on the exact structure of the proposed new Department. We hope to complete action during this session of Congress.

For too long the nation has assumed that education could muddle through. We have neglected it because other areas were in visible crisis. Perhaps if budgets were unlimited, sending money and directions to education scatter-shot fashion would do. However, money and time are not unlimited. We cannot continue to waste both in overlapping and undirected programs. We need a Department which can work effectively with the states and cities. We need a Secretary of Education who can operate from strength, within a reasonable structure. Once that is accomplished. Perhaps the average tenure of the nation's highest education officer will stretch longer than a single year.●

BEN ADAMOWSKI

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ANNUNZIO. Mr. Speaker, one of my constituents has written a poem in honor of Ben Adamowski, now a lawyer in private practice in Chicago and a man whose record of accomplishment is an inspiration to his friends and fellow citizens. The text of that poem follows:

THE WAY TO GO

(By Harry the Horse)

Oh, his name is Adamowski
but Ben is more his style
He stands for truth and justice
and he's been around awhile
His Father came from Poland
to Chicago long ago
Where Ben learned helping people
is the only way to grow

He grew up to be a lawyer
and he won his LL.B
'Til Uncle Sam came calling
and he went across the sea
He entered as a Private
when his country needed men.
But when the smoke had lifted
he was known as Captain Ben

He's been Corporation Counsel
and a Legislator too
And a fighting States Attorney
when the accolades were few
A candidate for Mayor
that's walked along the aisle
Yes, they call him Adamowski
but Ben is more his style!●

SOVIET UNION WOULD USE OLYMPIC GAMES FOR POLITICAL GAINS

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. McCLORY. Mr. Speaker, I want to share with you and my colleagues a poignant critique of one of the events to be held in conjunction with the 1980 Olympic Games in Moscow.

It was put out by the Estonian American National Council headquartered in New York City and it was given me recently in my 13th Congressional District by Olaf Tammark, a longtime friend and a heroic worker for the rights of Estonians and the liberation of that Baltic nation.

Mr. Speaker, Tammark felt that all of us should be aware of this, and I agree with him.

[From Estonian American National Council]

OLYMPIC GAMES 1980

As part of the Olympic Games in Moscow, a Yachting Regatta will be held in Tallinn, capital of the Soviet-occupied Republic of Estonia.

The Soviet Russian rulers in Estonia are using this event for their political propaganda purposes.

Most countries of the free world have never recognized the forcible annexation of the three Baltic States, Estonia, Latvia and Lithuania, by the Soviet Union. This illegal act took place in 1940 as a result of the notorious pact between Stalin and Hitler.

Since then Soviet Russia has made efforts to cover up this international crime. By bringing the Olympic Regatta to the territory of an occupied country, the Russians intend to give the impression that conditions there are quite "normal" and the incorporation of Estonia into the Soviet Union a generally accepted fact.

During the period of Estonia's freedom, Estonian athletes participated under their national colors in Olympic Games and other international contests. If Estonia would be a free country, all the people would have greeted with pleasure the Olympic Regatta in Tallinn, a well-known center of yachting on the Baltic Sea. However, under present circumstances the Estonians look at this event with mixed feelings nor dare they express freely their thoughts about it.

As a commendable example of understanding of the Estonian problem, we quote in English translation the following passage of an article in the Norwegian yachting magazine "Seilsport" (No. 2—1977):

"Should or ought Norwegian yachting sportsmen or those from other free countries take part in a sporting contest with the Russians on occupied Estonian territory in 1980? If Germany had won the last war, what would the Norwegians have said and thought when German-arranged winter Olympics had been held in Oslo? Would not a participation in Tallinn be a mockery against all freedom-

loving people over the whole world, and especially against the occupied Estonians?

"Should not the Norwegian yachting sportsmen and organizations show a straightforward adherence to leading principles of life among free people and abstrain from participating in Tallinn, and preferably take the initiative to a similar attitude among yachting sportsmen of other countries?"

The Estonian community in the free world is appealing to all concerned to realize under what conditions the Olympic Regatta is being held in Estonia and to refrain from any acts which would damage the justified claims for freedom of the Estonian people or the international status of the Republic of Estonia.

THE TRIS BILL

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. WAXMAN. Mr. Speaker, yesterday, the House considered S. 1503, a bill to compensate manufacturers who suffered losses resulting from the Consumer Product Safety Commission's ban on tris-treated children's sleepwear. While I did not object to the laudable intent behind the bill, I strongly opposed consideration of this legislation on the Suspension Calendar.

Expedited floor procedures were not justified in this case. The procedures deny members the opportunity to thoroughly debate the bill and offer amendments. As I have strong objections to several portions of the bill, I opposed it and voted against it.

Mr. Speaker, I do not object to providing financial relief to small sleepwear manufacturing firms injured by the tris ban. In many cases these small operations, many of which are family run businesses, did not even know what tris was. In many cases these small businessmen merely bought flame retardant fabric from the fabric mills and cut it into garments. Actual chemical purchases were made by the mills.

Unfortunately, the garment industry is highly labor intensive. As a result, the economic loss resulting from the ban on tris fell disproportionately on the small cutters and sewers. It is this injustice that must be rectified.

The legislation before us contained a serious flaw. The bill assumed equal innocence between major integrated fabric mills and small family owned businesses. Further, the legislation totally ignored the fact that many sleepwear manufacturers knowingly exported thousands of the banned, cancer causing sleepwear garments overseas.

These businessmen knew the risks of tris. They knew tris could increase a child's risk of cancer. Nonetheless, they persisted in their macabre trade and now have the arrogance to ask the Congress to reward them for their efforts.

Mr. Speaker, it is an outrage. The bill before this body subsidized businessmen that deliberately sold cancer causing substances to children overseas. These individuals have demonstrated a callous attitude towards the health of foreign consumers and a disrespect for the reputation of the U.S. export market. Their sole motivation was financial gain—nothing more.

To compensate such individuals with Federal dollars is unconscionable. Such trade practices have no moral or ethical explanation. They deserve only our contempt.

I agree that this legislation is well intended. But I cannot support an indemnification bill which does not clearly distinguish between those manufacturers who in "good faith" withheld tris garments from export and those who resorted to foreign exploitation in search of short term financial gains. Any businessman who has exported tris should forfeit any right to Federal compensation or public compassion.

I had prepared an amendment to the bill which would have prohibited the U.S. Court of Claims from compensating manufacturers who had exported tris overseas. Under the floor procedure, I was denied the right to offer this amendment during House consideration of the bill.

Mr. Speaker, I therefore urged my colleagues to defeat the bill and allow it to be considered under the regular order early next session. I now urge the President to veto it.●

LANGUAGE AND POLITICS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. DORNAN. Mr. Speaker, George Orwell once observed that the corruption of the language is one of the features attendant upon the corruption of a society and its politics. It is not unusual for us to refer to Communist revolutionaries and terrorists as merely "leftists," a word that leaves them indistinguishable from, say, the board of directors of the Americans for Democratic Action or the network of passionate reporters who labor diligently for Ralph Nader. This is unfair to everyone. The roots of this corruption are not difficult to trace. More often than not it springs from a simple lack of linguistic precision. It may also reflect a kind of subconscious surrender to enemies who self-righteously arrogate virtue exclusively to themselves. The Communist is such an enemy. Those who fail to understand him, who merely view him as a kind of militant social democrat—winning the steeled Bolshevik's heartfelt contempt, easily fall prey to this kind of self-betrayal. How often have we heard news reporters describing avowed Communists, holding the allegiance of no more than a tiny fraction of the population of some less developed country, as the forces of "national liberation?"

Senator DANIEL PATRICK MOYNIHAN, a gentleman blessed with a unique rhetorical gift and a deep appreciation for the integrity of language, has some hard-hitting and insightful remarks on this condition. I commend his observations to your attention:

WORDS AND FOREIGN POLICY

(By Daniel Patrick Moynihan)

Years ago Disraeli, in one of his novels, remarked that "Few ideas are correct ones, and none can ascertain which they are. But it is with words we govern men." There can be no doubt that words are important in government and they are especially so in the delicate arena of foreign policy negotiations. It is for this reason that I have recently been troubled by what appears to me to be the undisciplined use of language with which American spokesmen and principal officers of the government have addressed themselves to certain foreign policy problems.

In particular I am concerned about the phenomenon dealt with so brilliantly by George Orwell in his classic essay, "Politics and the English Language." More specifically I should like to briefly call to the attention of our diplomats a more recent and I think important point made by Dr. Fred Charles Ikle (formerly a professor of political science at MIT and lately director of the Arms Control and Disarmament Agency).

Some years ago, in a paper on American difficulties in negotiating with communist countries (published by the Rand Corporation), he pointed to the process whereby we come to adopt the language of our adversaries in deescribing political reality. He gave to this process the intriguing term "semantic infiltration."

I quote a passage from the paper he wrote on the matter. He said:

"Paradoxically, despite the fact that the State Department and other government agencies bestow so much care on the vast verbal output of Communist governments, we have been careless in adopting the language of our opponents and their definitions of conflict issues in many cases where this was clearly to our disadvantage. Or perhaps this is not so paradoxical. It might be precisely because our officials spend so much time on the opponent's rhetoric that they eventually use his words—first in quotation marks, later without."

There are concepts which are at the heart of today's major political conflicts. For years now the most brutal totalitarian regimes in the world have called themselves "people's democracies" or "democratic republics."

The term "people's democracies," according to Djilas, was coined by Stalin himself and given as part of the title of the new publication that attended the formation of the Cominform in 1947. Stalin wanted us constantly repeating the fact that the Cominform journal for "A People's Democracy" said such and such. Similarly, organizations in various parts of the world which seek to emulate and institute that manner of regime have taken to calling themselves "liberation movements."

Now here is the problem we face today.

For some time, the Secretary of State, who is a distinguished and capable American statesman, in referring to the parties to the dispute in Rhodesia has spoken of "the Patriotic Front," on the one hand, and "the Salisbury group," on the other. Now, "the Patriotic Front" is made up of forces supplied by and backed by the totalitarian powers, the Soviet Union and China. The self-styled "Patriotic Front" represents the armed component of totalitarianism, a philosphy which they openly espouse.

However, who would not wish to be with "the Patriotic Front"? Is there a man whose heart is not stirred by the prospect of joining with the Patriots? Who, by contrast would wish to be with "the Salisbury group"? It sounds like a mining concession put together by investment bankers in London.

Let me cite another example. On July 17, in a State Department briefing, the spokesman for the Department of State made the following statement:

There cannot be a peaceful settlement unless the liberation forces and the Salisbury parties are satisfied. What we are seeking is an agreement by all parties to fair elections under neutral transition arrangements.

By using the words "liberation forces" the Department of State spokesman is referring to the guerrillas who are armed by the Soviet Union and China and which certainly espouse a totalitarian doctrine. The Department of State spokesman went on to say that we want "fair elections under neutral transition arrangements."

I would argue that the use of those terms, the choice of those words, is fatal to the object of neutrality. When you have described one side as the liberation forces and the other side as a group in the capital, you have summoned all the imagery of political legitimacy of the 20th century and put it on the one side and denied it to another. That is not only fatal to neutrality but, I suggest, it is fatal to clear thinking about this phenomenon.

I do not believe this is a trivial matter. For some years, I have been arguing that the West's political culture is endangered by the fact that the vocabulary and the symbols of political progress are being expropriated by the opponents of our values. Democracy, as we understand it, is under assault from totalitarians masquerading as democrats—just as democratic socialism is under assault from totalitarians masquerading as socialists in Eastern Europe. Nonetheless, we persist in dignifying these enemies of freedom with the terminology of freedom—so that we persistently misdescribe the political forces arrayed against us.

It is thus important that we convey the impression to the world that we understand the difference between national liberation on the one hand, and the progressive brutalization of politics which is being carried on by the Soviets in the name of national liberation.

If I could use a term of nautical imagery, I would like to suggest that at the very least the Department of State's acceptance of this language is unseamanlike. It is prejudicial to good order and to semantic discipline. It reveals a carelessness that verges on negligence or, alternatively, it reveals a private agenda that needs to be further explored in public.

In summation, I believe we need not be ashamed to express our proprietary interest in the notions of self-determination and representative government. And it is essential to our own well-being in the world that other nations not be permitted to distort these concepts into a shape which would exclude our own democracy from the proper definition.●

THEFT AT CIA

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. GOODLING. Mr. Speaker, I would like to bring to my colleagues' attention an article written by Michael Ledeen, which appeared in New York magazine, October 2, 1978.

Several days ago the President revealed, for the first time in history, that the United States uses satellites to monitor Soviet compliance with arms control agreements. The President's admission is significant, not so much for what it tells about American verification capabilities—I think I first read about these spy satellites in a Weekly Reader—but for what we can expect from the administration as they try to fatten us up for the SALT treaties. The President's statement is supposed to convince the people that because of superior American technology we will have no problem verifying an arms control agreement with the Soviet Union. After all, why would the Soviets cheat when they know we can watch their every move with our sophisticated spy satellites?

It comes as no surprise then, that the President's hope for our surveillance abilities ignored the recent theft of the manual describing our most valued satellite surveillance system and its subsequent sale to the Soviet Union. Confirmation of this report comes from evidence that the Soviets have already taken steps to foil this system's ability to gather intelligence.

All this suggests that our ability to verify a SALT agreement has been severely compromised, a possibility which has yet to be discussed by this "open" and "honest" administration. Now it should be pointed out that normally the political aspects of verification are more important than the technical. The questions about vertification tend to be greatest when they concern our attitude toward and response to Soviet violations. But this incredible intelligence leak makes us wonder whether we will ever even know about Soviet cheating, let alone be able to consider a response.

In addition, Ledeen calls our attention to a far more threatening possibility—that of Soviet infiltration of our intelligence community.

Mr. Speaker, I implore every Member of this Chamber to read this article.

A MOLE IN OUR MIDST?

(By Michael Ledeen)

Seven months ago, a low-echelon, 23-year-old Central Intelligence Agency officer allegedly stole a top-secret manual detailing the operations of the most important and complex American surveillance satellite and sold it to the Russians.

Although it deeply disturbed the United States intelligence community, this event seemed at first like an aberration, an isolated breakdown in what has traditionally been the most impenetrable security system in the West. Repetition seemed unlikely.

But since March there have been other events that when viewed jointly have instilled an even greater fear among some of America's high-level intelligence specialists and elected officials. The fear is that the United States administration and the CIA have possibly been infiltrated by one or more Russian agents.

Intelligence sources from a variety of countries stress that American security-leak problems may be merely coincidental, that the Russians may have made their discoveries through other means. Nonetheless, the best-informed people in this field—including more than one former CIA director—are privately saying that the responsibility for the United States' recent difficulties may arise more from the activities of a "mole" than from incidents related solely by a slim thread of chance.

In reaching the conviction that at least one foreign operative, or "mole," is at work within our government, the intelligence-community sources point to three events: the already mentioned alleged theft of the satellite manual; the defection of a CIA operative "in place" within the Rumanian government last July; and, most spectacularly, the formulation and results of a counterintelligence experiment run by the CIA to discover the possible existence of a foreign agent in a high position in the U.S. government.

SPY IN THE SKY

The case which first so unnerved the Western intelligence community was the reported theft of the manual describing the KH-11 satellite surveillance system. According to press reports, the manual was removed from the control room in CIA headquarters in Langley, Virginia, by William P. Kampiles. Kampiles, who was hired for less than $15,000 a year as a "watch officer," has allegedly told Federal Bureau of Investigation agents that he simply took the manual home from work one morning, following his night shift at Langley, and eventually sold the document to a Russian agent named "Michael" in Athens in early March.

The apparent theft of the KH-11 manual is of importance both to the United States and to the other NATO countries, for this system of surveillance was the basic means of gathering information on Russian strategic developments. The nature of the KH-11 system (which has often been mislabeled the "Big Bird" satellite) obviously remains a highly classified secret, and only its basic principles are known. It has at least three complicated sensing systems and lenses said to be so accurate that they can distinguish between civilians and military men from an altitude of 200 or 300 miles. Its infrared and multi-spectral sensing devices make it possible to locate large objects such as missiles, trains, or launchers, even at night, and to distinguish camouflage and artificial vegetation from real plants and trees. Also, the satellite is equipped with devices (such as side-looking radar) that can effectively "see" through overcast.

The KH-11 transmits its information in a digital computer code via instant communications links to earthbound stations, where it is reconstructed in visual form. These direct transmissions give it a big advantage over other spy satellites such as the "Big Bird," where discoveries are recorded on high-resolution film, periodically dropped back to earth in re-entry capsules, and snatched in midair from their descending parachutes by a giant Y-shaped hook on the nose of an air-force C-130 cargo plane. The risks of this approach are obvious.

Yet, despite the precision of the KH-11, it is vulnerable to deception. As long as the exact nature of the system remained secret, the United States could reasonably assume that the Russians were not capable of taking the precise steps necessary to falsify the information recorded from the satellite. But now that the Russians know enough about the resolution of the lenses, the nature of the infrared and multispectral photographic equipment on board, and the way in which the information is gathered and transmitted, they can take steps to "blind" the KH-11. In fact, what originally tipped security experts to the reported sale of the manual was Russian ground movements that seemed designed to thwart specific KH-11 capabilities. In any event, it may not be entirely accidental that at the same time the intelligence community was reeling from the alleged robbery, the Defense Department (which along with the CIA launched and operated the KH-11) announced that it would soon build a new version of the U-2 spy plane.

The Russians' knowledge about the KH-11 is considered so grave that one former high-ranking intelligence officer said it was the most serious espionage disaster since the defection of two National Security Agency officials in 1960. Curiously, the two—William Martin and Bernon Mitchell—who went over to the Soviet Union nearly two decades ago, carried similar information dealing with the nature and location of American sensors used to monitor Soviet communications.

The most significant implication of the KH-11 theft, say knowledgeable officials, is that the ability to obtain information about Russian strategic developments has been

compromised so seriously that it is now doubtful that America could reasonably expect to verify Soviet compliance with a possible strategic-arms-limitation treaty. Although proponents of SALT (the treaty) argue that there is litle harm in the Russians' knowing about America's monitoring abilities, intelligence experts take a very dim view of the situation.

Indeed, Senator Birch Bayh (D., Ind.), the chairman of the Senate Select Committee on Intelligence, has suggested the research and development of an even more advanced, less vulnerable, and, it is hoped, secret system, both to ensure SALT verification and to provide reliable intelligence during crisis confrontations.

Yet, aside from these purely technical matters, there remains the fear that this intelligence coup was not merely the apparent work of a low-level employee operating on his own but part of a pattern that points to penetration at a far higher level.

STOLEN QUESTIONS

The Kampiles case still contains many unanswered questions. As Cord Meyer Jr., a former CIA official now associated with conservative causes, put it in a recent article in the Baltimore Sun, "Why was one so young, untrained, and untested assigned to work in the operations center through which the most sensitive information flows?"

This is standard procedure. The operations center works through the night, and the CIA has long employed junior officers for such tasks, as older employees are reluctant to work the night shift. But Kampiles himself hardly seems to meet the criteria for someone in such a position: He reportedly wished to work in operations but is said to have lacked the aptitude. Some sources who have examined the case say that there had already been suggestions that Kampiles was a loner and should not have been given such a delicate task. In any case, he was in the operations center, he did have access to the KH-11 manual, and he has since reportedly told the FBI that he passed the manual to his Russian contact in exchange for $3,000 "on or about March 2, 1978."

But there appear to be problems with Kampiles's behavior following the alleged transfer of the manual.

Upon his return to America from Athens, he reportedly wrote a letter to a former colleague at the CIA saying that he had received money from the Russians and had been asked to obtain information. Should he, he asked, pass "disinformation" to the KGB? To intelligence analysts the letter actually seemed to be a confession of guilt.

The CIA has long known that the KGB (the Russian intelligence network) does not pay "on spec," that it only pays for services actually rendered. So the Kampiles letter was a red flag: It told the CIA that he had apparently already committed espionage. They then, we are told, initiated a search to discover what was missing, and Kampiles was arrested on August 17 and charged with espionage and theft of government secrets.

It may be that Kampiles was ignorant of this bit of intelligence lore, but those with long experience in the business say that many signs suggest that the KGB instructed him to write the letter, knowing that it would lead to his arrest. Yet why would the Russians "burn" an agent who had reportedly given them their greatest intelligence coup in nearly two decades? In short, the fear is that Kampiles was sacrificed to provide the United States with a plausible explanation for the loss of its secrets and to protect a higher-placed agent, a "mole."

The notion that the Soviet Union has infiltrated the CIA is what former agency chief Richard Helms once called "the constant nightmare of every director." He added last week that "the Kampiles case raises the question of whether or not there has been infiltration of the United States intelligence community or government at a significant level."

The CIA was already aware of a major leak concerning the KH-11 well before the Kampiles letter, for there was a top-secret security check going on in March to find the source of the leak. The timing is of paramount importance; if the CIA was already looking for the source of the leak in March, then either Kampiles apparently gave the Russians the information before March 2 or the KGB had already obtained it from another source. Some Washington sources believe that the latter happened.

If this is true, there is still a Russian agent somewhere in the administration or the intelligence community.

THE GREAT ESCAPE

Ion Pacepa, the Rumanian vice-minister, went to West Germany last July to negotiate a venture with the VFW-Fokker Company for the manufacture in Rumania of the VFW 614 aircraft. By the end of the month, Pacepa had disappeared from his Cologne hotel. He has not since been seen in public.

Actually, Pacepa had long worked as a CIA agent in the Rumanian intelligence system and had been an important source of information, particularly regarding Rumanian and Russian espionage in Western Europe.

According to a Reuters dispatch at the end of August, Pacepa had "revealed that a Communist spy is active at the highest levels of the West German establishment." This so-called revelation led to an emergency meeting of the Bundestag in late August in order to vote to lift parliamentary immunity from a deputy suspected of being the agent in question. Other rumors suggest that Pacepa was the source of a spectacular article in the London *Daily Telegraph* this summer that accused a high-ranking member of the governing Social Democratic Party of preparing plans leading to the withdrawal of West Germany from the NATO alliance.

But this is only part of the Pacepa story. According to intelligence sources in Washington, Pacepa insisted upon "coming over" after he discovered that he had been compromised. The Rumanians had learned about his CIA connection, and his arrest was imminent. Where had the leak come from? As in the Kampiles case, it is conceivable that Pacepa had made a mistake and inadvertently revealed his identity to the Rumanians or the Russians. But there was good reason to fear that information on Pacepa's role had come from Washington: Pacepa was working for the CIA. Did someone within the American intelligence community or the administration advise the KGB?

Pacepa is only one of many CIA agents in Eastern Europe to have been compromised in recent months. Indeed, in the last year or two several American agents operating under "deep cover" in the Soviet Union have been compromised and eliminated.

No apparent explanation exists for these intelligence coups; we only know that the agents are no longer functioning. Pacepa was luckier. He found out in time that he was in jeopardy and was able to escape to the West.

THE MOLE HUNT

The CIA has long lived with the possibility that a major penetration might someday occur. According to former directors William Colby, George Bush, and Richard Helms, the agency is itself structured in such a way as to prevent this from happening and to severely limit the damage should such a penetration actually take place. Yet Colby eliminated much of this compartmentalization, and security measures are, in the final analysis, only as good as the people who apply them and submit to them.

What this essentially means is that the agency can maintain tight security only if morale is excellent. At the moment, morale in the CIA is at an all-time low.

One former high-ranking CIA official says that he sometimes thinks he is living through a sort of "twilight of the gods," with the agency in a grave crisis, the old guard in either disrepute or failing health, and the Congress and the public more critical than sympathetic. This, therefore, is an ideal time for the KGB to step up its attempts at infiltration, both inside and outside the CIA. It is no accident that there have been so many cases of reported espionage in the headlines in the past year, including the Kampiles case, the attempt to obtain naval secrets in New Jersey, the conviction of two Americans who sold satellite secrets to the Russians, and the collaboration of a United States Information Agency employee with a foreign citizen to pass classified documents in Washington.

Predictably, in the midst of all this, the CIA has attempted to test the possibility that a "mole" is operating in the American government.

Following the discovery of the KH-11 theft, CIA counterintelligence designed a controlled, top-secret experiment. Documents that ostensibly contained highly sensitive information were circulated among a small number of top government officials. Included within the papers was some information which, if transmitted to the Soviet Union, would in all probability provoke a response which could be monitored by counterintelligence.

Shortly after the documents were distributed, the predicted response from Russia occurred. What this meant was that someone high in the U.S. government had purposely—or perhaps inadvertently—passed what was believed to be secret data to the Russians.

THE NEXT MOVES

No one today knows whether there is a "mole" in Washington or Langley, but the events of recent months have grim implications for the ability of the United States to conduct foreign policy. Strategic planning depends upon a nation's ability to gather information about clandestine foreign activities, and the loss of agents and top-secret information about our satellite technology has already greatly reduced America's information-gathering apparatus.

This throws into question both the verification of future nuclear and military agreements and the capacity of the United States to react to an international military crisis.

Furthermore, the recent security ruptures within the intelligence community seriously reduce the ability of the CIA to recruit and operate agents in the field. Already concerned about the continuous assault on past sins, the agency now knows that prudent people think long and hard about the safety of working for the CIA; as Ion Pacepa and others would testify, it is an increasingly perilous business. Perhaps it is becoming more difficult to determine just precisely who the enemies are.●

AUTOMATIC TRANSFER SYSTEMS

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ANNUNZIO. Mr. Speaker, banks are taxing their imaginations to come up with catchy names for their new automatic transfer services, but they all spell the same thing—consumer ripoff. Although advertised as just another of the banking industry's so-called consumer conveniences, this new system will have a major impact on how people bank, and on the competitive equality of different financial institutions. The service is supposedly designed both to protect people from the costs and embarrassment associated with overdrafts, and to allow savers to come as close as pos-

sible to earning interest on demand deposits, which is currently forbidden by law. But in fact, the ATS does no such thing except for those who maintain very high balances in their acounts. For the average saver, the new system is likely to end up costing more than the price of maintaining two unlinked accounts, and provides no real protection from overdrafts. It is fitting that these plans will go into effect the day after Halloween, a time when people disguise themselves as something they are not.

The confusion about automatic transfer services is revealed by the comments received by the Federal Reserve Board earlier this year when the regulation permitting ATS was under consideration. Individual respondents overwhelmingly supported the idea, believing it would be a convenient service which would save money and avoid the embarrassment of accidental overdrawing of their checking accounts. But what is the real story?

For all except those maintaining large deposits, the service fees being instituted by various banks run as righ as $5 per month, which will exceed the interest accrued by keeping a zero balance checking account and having money automatically transferred from a savings account whenever a check is drawn. As well as instituting these monthly fees, the banks are planning to assess charges for each transfer of funds. The banks, as part of their acknowledged effort to rid themselves of small depositors, are placing the burden on those who can least afford to bear it.

Another feature of the new service plans is the method of shifting funds from a savings to a checking account. Transfers are made in increments as large as $100, rather than a sum equivalent to the amount of a check. Thus, even if an account holder writes a $10 check, 90 extra dollars are placed in the demand account, and are no longer eligible to earn interest. This method also makes it difficult for people to keep track of how much money they have in their different accounts.

Overdraft protection is another of the myths perpetrated by the banks. Although savers will be covered for overdrafts on their checking accounts, nothing prevents them from writing a check for more than is in their combined savings-checking accounts. Savers are much better protected by the automatic loan programs offered by banks today.

The new system also threatens to create a competitive disadvantage for savings and loans, which are already struggling to meet rising mortgage demands, and small banks. Most thrift institutions are not permitted to offer checking accounts. Their inability to provide automatic transfer services means that many people may be drawn away from savings and loan institutions in order to take advantage of this dubious customer service. This could have a crippling effect on the Nation's housing market, which is dependent on the health of the savings and loan industry. The advent of the automatic transfer systems also threatens the viability of small banks which can barely afford to provide the service, but must do so to remain competitive.

Still another danger lurks behind the seemingly innocent facade of automatic transfers. This new service invites carelessness on the part of consumers, who will be enticed to overdraw on their checking accounts, secure in the knowledge that they have savings which will back them up. Furthermore, the traditional conception of a savings account as a means of preserving funds for the future may be replaced with the idea of such accounts as simply being the closest one can come to earning interest on demand deposits. Automatic transfer systems are not just another customer service—they can profoundly alter the way Americans bank.●

PROVIDING INCREASED OPPORTUNITIES FOR PENSION PORTABILITY IN PRIVATE AND PUBLIC SECTOR EMPLOYMENT AND HELPING TO ASSURE ADEQUATE RETIREMENT BENEFITS FOR THE ELDERLY

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. HANNAFORD. Mr. Speaker, employer pension plan participants in both the private and public sectors are currently prohibited from making tax-deductible contributions to an IRA (individual retirement account). The assumption, of course, is that such employees by virtue of their participation in an employer pension plan will actually receive pension benefits upon retirement. However, it is obvious that this assumption has not proven to be completely accurate. There are mobile workers, for example, who may participate in employer plans but never participate long enough to become vested; that is, become eligible for a pension benefit.

Many hearings and studies have been conducted on the need for greater pension portability systems. It is also apparent that sweeping changes in this area will be extremely costly and that implementation would require some additional Federal manpower. The fact remains that we must do something to protect individuals from situations under which pension benefits are lost forever without alternative means of providing for retirement income.

The legislation that I am introducing today for study by the Ways and Means Committee with the hope of positive action early next year would help ameliorate the present condition faced by mobile employees who never become fully vested in employer plans. Specifically, my bill would permit such individuals in the private and public sectors to contribute to IRA's. The tax-deductible contribution to the IRA for a taxable year would be the lesser of 15 percent of annual income or $1,500 ($1,750 in the case of an eligible individual with a nonworking spouse). Once the employee becomes fully vested, my bill would allow continued contributions to the IRA but would limit such contributions to the lesser of 5 percent of annual income or $500.

Such eligibility would be an important step toward portability of pension plans, but significant also in that workers would be given an additional option of saving for retirement life. This option would be completely voluntary for all workers. While this approach will reduce tax revenues to the U.S. Treasury, it is far simpler and perhaps even less costly than organizing a new Federal bureaucracy and mandating additional pension fund regulations to promote portability and earlier vesting.

Another facet of the approach I suggest which deserves further study is its potential for relieving pressures on the social security system to provide retirement income benefits. That is, if individuals were given incentives, via IRA's, for their own retirement, reliance on social security may be reduced.

A corollary to assuring that individuals will have sufficient retirement benefits is to provide that what seems sufficient today does not become inadequate tomorrow because of the eroding impact of inflation. In this connection, my bill amends the tax credit for the elderly by: First, further increasing the credit base for individuals from $2,500 to $3,500 (from $3,750 to $5,000 in the case of married couples filing a joint return, and from $1,875 to $2,500 for married couples filing separate returns); second, indexing the credit bases listed above to account for increases in the cost of living; and third, raising the adjusted gross income limits from $10,000 to $25,000 for joint returns and from $7,500 to $20,000 for single returns.

I believe that these changes are necessary especially in light of the soaring costs of housing, transportation, fuel, and food which many of the Nation's retirees can no longer afford based on pensions that had been planned years ago.

I encourage my colleagues to review this proposal and hope that proposals of a similar nature will receive full consideration in the next year.●

MIA LIVE SIGHTINGS—IX

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. DORNAN. Mr. Speaker, before the end of this session, I want to remind all of the Members of this House that reports from Vietnamese refugees on Americans held in Southeast Asia continue to come to our attention. What are we doing to investigate these sightings? I cannot determine what is happening with this awful trajedy. I have two more items on the subject: One an article in the Vietnamese language journal, "Trang Den" and the other a letter from another refugee. I include these items at this point in the RECORD:

COMMUNIST VIETNAM STILL HOLDS ONE AMERICAN COLONEL AND TENS OF PRISONERS AT HA NAM NIMH PROVINCE

Before the U.S. Mission's visit to Vietnam, led by Leonard Woodcock, President of the U.S. Auto Workers Union, in February 1977, Communist Vietnam had high hopes for a normalization of diplomatic relations with the United States. For this reason, they have organized study sessions in order to explain

to their cadres and to the people the need to normalize relations with the United States.

In those study sessions, big empty slogans were used such as "Great victory", "U.S. Imperialist fleeing", "Soviet Socialism", "World admiration", "U.S. to pay war reparations", "Normalization of diplomatic relations from a strong position" etc. Mai Chi Tho, director of the Police Directorate, Deputy Secretary of the Party (Ho Chi Minh City), Deputy Chairman of the Administrative Committee (Ho Chi Minh City), the powerful number 2 man in South Vietnam, paid a surprise visit to one of these sessions reserved to former officials of the old regime. During this visit he said that the government was negotiating for a normalization of diplomatic relations from a strong position. He added: "The weakness of the United States lies in the problem of United States prisoners. We are holding United States prisoners. Therefore, in any negotiations, we are holding the trump card."

The Communists are clever and cunning. They never keep their promises. After the Paris Accord was signed, the Republic of Vietnam was forced by the United States to release all Communist prisoners. As for the Communists, they held back a number of our people and not until after April 30, 1975, did they slowly release our soldiers captured since 1970–1972.

Therefore, through Mai Chi Tho's disclosure, we believe that, although the Communists have categorically stated that they have returned all U.S. prisoners as well as have supplied all information regarding MIAs, they are in fact still holding a number of United States prisoners to be used as a prey for future U.S. missions.

On account of this reason, we have used our best efforts to seek help from friends whose relatives are Communist cadres in order to check on this matter for us.

The first piece of information came from prisons' officials (Party members coming to South Vietnam from North Vietnam). They said that they are still holding a number of United States prisoners in North Vietnam. There are about several scores of them. Before, they were held in a camp near the Sino-Vietnamese border. They are now moved to near Hanoi, probably to Ha Nam Ninh City.

Later on, our information was confirmed:

1. Nam Ken, a Communist Colonel, almost like Mai Chi Tho, told his aunt: "Our Party is very clever. We did not return all United States prisoners for fear we might lose our advantageous position."

2. Tu Than, former chief of the Communist Police Bureau, Rach Gia province, presently police inspector of the City, has revealed to his relatives that: "We are still holding a number of United States prisoners in North Vietnam. The highest ranking prisoner is a Brigadier General (or Colonel?) captured at Ban Me Thuoc." (A colonel of the Republic of Vietnam armed forces said this could be correct because it had been reported that a United States advisor to a Division in Ban Me Thuoc had been captured.)

3. Professor Nguyen Van Chi, Chairman of the United People Front, Ho Chi Minh City (Chairman of the now defunct National Liberation Front) while complaining to a close friend about the gloomy fate and the incompetency of the leaders of the National Front for the Liberation of South Vietnam, said that: "Our Party is still holding a number of United States prisoners in North Vietnam."

The source of our information is correct and reliable. It comes from the people who have themselves heard from the Communist leaders.

Therefore, we are certain that the Communists are still holding a number of United States prisoners, although we do not know the exact number and whether the camp is at Ha Nam Ninh or not.

We believe that the United States authorities, especially the CIA must have better sources regarding this information.

What surprises us is why the U.S. authorities do not talk about it. Do they keep silent because they do not want to admit that they have been cheated by the Communists, or have they already forgotten their sons, those who have given their lives for the defense of freedom in South Vietnam. They now have to accept a slow death with humiliation and suffering in the inhuman Communist prisons. Day after day, they are hoping for a miracle that could save their lives.

It is so useless to fight communism with empty criticism or loud demonstrations for human rights.

While writing this article, we hope that (being not a United States citizen to demand) President Carter would have positive actions in order to save those American heroes, instead of patiently waiting day after day for the return of the remains of the MIAs.

We also hope that President Carter would also give some thought about the hundreds of thousands of military personnel and officials of the Republic of Vietnam, who were at one time allies of the United States, and who are now held in concentration camps, suffering the same fate as the U.S. prisoners are suffering in Communist prisons.

HUYNH TRUNG CHANH,
Trang Den.

Translated by Nguyen Hoa, Descriptive Cataloging Division, 20 Sept. 1978.

MAY 30, 1978.

MY DEAR SISTER: I am replying right away upon receiving your letter.

I am very happy to hear from you, and like to hear from you more and more. I am in need of speaking our language, thinking of our country and our people. I have so much respect for you, a woman who lives in a foreign country and tries so hard to do something for her own country. Out of that respect I am wishing you the best of everything.

I would like to tell you what I heard and saw.

I am an employee (employed after the fall of Saigon), working in a big harbor where I happened to hear all the tricks, plots, and corruptions of the Communists. I have a brother who got caught in the battle at the Vietnam-Laos border on April 14, 1971. Since then my family thought that he was already dead. Surprisingly, after the fall of Saigon, a friend of his, who also got caught in the battle, came back from the prison in the North and disclosed all the secrets in the prison. Out of doubts we asked some acquaintances in the North to search for my brother. He is still alive and imprisoned in the North.

Our family wonder so much about the promise of the Northerners. They promised to release, after the reunion of the country, all the prisoners. The fact is that he is not allowed to send a letter to us nor could he contact to tell us where he is. That is the way they treat their own people. I could imagine how worse they do to their enemies, the Americans. In addition to that, some people from the North told us that they saw a lot of Americans in the North. They saw the Communists taking the Americans to make the movies, especially war movies.

I saw a movie some time in April 1977, and I don't remember the date.

The letter is long enough, next time. Until then my best regards to you.

P.S.—From this letter on I would like you not to reveal my name, my age, and my letters. I hope you understand.

I just got the news from Taiwan and Philippines that my brother was taken to re-educational camp, and no news from him have we gotten since then. My old mother becomes blind for crying so much for the departure of her son. That is enough for you to see how hurt I am right now. I want to kill myself, yet I know I have to live; live to fight for those who are still in the prisons of the Communists.●

MONTHLY LIST OF GAO REPORTS

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. BROOKS. Mr. Speaker, the monthly list of GAO reports includes summaries of reports which were prepared by the staff of the General Accounting Office. The August 1978 list includes:

NATIONAL DEFENSE

Inadequate Methods Still Used to Account for and Recover Personnel Costs of the Foreign Military Sales Program. FGMSD–78–47, July 25.

The Department of Defense Continues to Improperly Subsidize Foreign Military Sales. FGMSD–78–51, August 25.

Budget Authority for Foreign Military Sales is Substantially Understated. PAD–78–72, July 27.

Department of Defense is Overcompensating Its Foreign Employees. FPCD–78–64, August 2.

Progress Made and Improvements Needed in Developing a Containerized Ammunition System. LCD–78–222A, August 3.

Full Potential to Achieve Savings by Investing in Fast Payback Productivity Enhancing Capital Equipment Not Realized. FGMSD–78–44, July 25.

LETTER REPORTS

Review of alleged quality assurance deficiencies in Minuteman silos at Malmstrom Air Force Base, Montana. PSAD–78–124, July 7.

The Army plans to convert certain base support functions at Fort Gordon, Georgia, from in-house to contract operations. LCD–78–320, July 27.

To make needed program assessments, the Navy should accurately measure benefits realized from the various management programs. LCD–78–230, August 9.

The Arms Export Control Act provides the legal basis for the replacement cost for machine guns shipped after June 1975. LCD–78–432, August 28.

INTERNATIONAL AFFAIRS

U.S. Foreign Relations and Multinational Corporations: What's the Connection? PAD–78–58, August 23.

U.S. Economic Assistance for Israel. ID–78–31, August 18.

GENERAL SCIENCE, SPACE, AND TECHNOLOGY

A Second Launch Site for the Shuttle? An Analysis of Needs for the Nation's Space Program. PSAD–78–57, August 4.

LETTER REPORTS

Reporting accuracy of research and development funding data to the National Science Foundation. PSAD–78–133, August 9.

ENERGY

The Advance Payment Program: An Uncontrolled Experiment. EMD–78–47, July 10.

Need for Greater Regulatory Oversight of Commercial Low-Level Radioactive Waste. EMD–78–101, August 16.

Region at the Crossroads—The Pacific Northwest Searches for New Sources of Electric Energy. EMD–78–76, August 10.

Questionable Suitability of Certain Salt Caverns and Mines for the Strategic Petroleum Reserve. EMD–78–65, August 14.

LETTER REPORTS

The Department of Energy should provide the Congress with all estimated costs associated with the Tokamak Fusion Test Reactor project. PSAD–78–129, July 10.

Is there a need for uniform oil and gas accounting standards? EMD–78–100, August 4.

NATURAL RESOURCES AND ENVIRONMENT

An Overview of Benefit-Cost Analysis for Water Resources Projects—Improvements Still Needed. CED–78–127, August 7.

Improved Project Authorizations and Agency Practices can Increase Congressional Control of Water Resources Projects. CED–78–123, July 11.

Environmental Effects of Airport Development: Better Assessment Needed. CEDX78–156, August 22.

LETTER REPORTS

There is a continued need for a clearinghouse on environmental carcinogens. HRD–78–143, July 26.

Are long-range adverse health effects from exposure to the herbicide Agent Orange possible? CED–78–158, August 16.

COMMERCE AND HOUSING CREDIT

The Role of Field Operations in the Federal Communications Commission's Regulatory Structure. CED–78–151, August 18.

LETTER REPORTS

Listings of U.S. Travel Service contracts from October 1, 1977 through June 30, 1978. CED–78–161, August 24.

COMMUNITY AND REGIONAL DEVELOPMENT

Housing Abandonment: A National Problem Needing New Approaches. CED–78–126, August 10.

Management and Evaluation of the Community Development Block Grant Program Need to be Strengthened. CED–78–160, August 30.

Complications in Implementing Home Weatherization Programs for the Poor. HRD–78–149, August 2.

The Community Development Block Grant Program: Discretionary Grant Funds Not Always Given to the Most Promising Small City Programs. CED–78–157, August 31.

LETTER REPORTS

There is no evidence indicating the decisionmaking process resulting in allocation and cancellation of funds for HUD's elderly housing unit in Harrisburg, Pa., was amiss. CED–78–150, July 17.

The Farmers Home Administration emergency disaster program should be made more equitable and efficient. CED–78–136, August 18.

EDUCATION, TRAINING, EMPLOYMENT, AND SOCIAL SERVICES

Federal Employment of Handicapped People. FPCD–78–40, July 6.

Problems and Outlook of Small Private Liberal Arts Colleges. HRD–78–91, August 25.

Poor Administration of the 1977 Summer Program for Economically Disadvantaged Youth in New York City. HRD–78–123, July 26.

Federally Sponsored Research at Educational Institutions—A Need for Improved Accountability. PSAD–78–135, August 18.

LETTER REPORTS

Impoundment of $500 million on budget authority for the Department of Labor Employment and Training Administration. OGC–78–13, August 4.

The Department of Labor's revisions of certification regulations for recruiting foreign temporary workers were clarified. HRD–78–156, August 15.

HEALTH

Lack of Authority Hampers Attempts to Increase Cosmetic Safety. HRD–78–139, August 8.

Progress and Problems in Improving the Availability of Primary Care Providers in Underserved Areas. HRD–77–135, August 22.

LETTER REPORTS

Audit of costs charged by the National Academy of Sciences to a Veterans Administration contract for health care systems. HRD–78–137, July 14.

Review of operation of the Occupational Safety and Health Review Commission. HRD–78–144, July 18.

How adequate are investment returns on for-profit hospitals allowed under Medicare? HRD–78–152, July 31.

INCOME SECURITY

Replacing Missing Supplemental Security Income Checks—

Recipients Waiting Longer Than Necessary HRD–78–28, August 22.

LETTER REPORTS

Impact of newly arrived aliens on supplemental security income payments in California, Florida, Illinois, New Jersey, and New York. HRD–78–136, July 18.

ADMINISTRATION OF JUSTICE

FBI has Improved Its System for Handling Allegations of Improprieties and Misconduct Against Its Employees. GGD–78–92, August 11.

Bank Robbery—The Federal Law Enforcement Role Should Be Reduced. GGD–78–87, August 18.

The Danbury Prison Fire—What Happened? What Has Been Done to Prevent Recurrence? GGD–78–82, August 4.

IRS Seizure of Taxpayer Property: Effective, But Not Uniformly Applied. GGD–78–42, July 31.

A Compilation of Federal Laws and Executive Orders for Nondiscrimination and Equal Opportunity Programs. HRD–78–138, August 2.

GENERAL GOVERNMENT

A Management Concern: How to Deal With the Nonproductive Federal Employee. FPCD–78–71, August 10.

What Rules Should Apply to Post-Federal Employment and How Should They Be Enforced? FPCD–78–38, August 28.

How Long Does it Take Conrail to Process Protected Employees Claims Under the 1973 Regional Rail Reorganization Act? CED–78–138, July 31.

A Look at the Prohibition on Using Commercial Travel Agents. LCD–78–219, August 8.

Contemplated Legislation to Provide Telecommunications for the Deaf. LCD–78–118, August 14.

New Senate Office Building: Escalated Costs and Delayed Completion. LCD–78–333, August 14.

Examination of Financial Statements of the National Credit Union Administration for the 15 Months Ended September 30, 1977. FOD–78–2, August 14.

Government Field Offices Should Better Implement the Freedom of Information Act. LCD–78–120, July 25.

Import Duties and Taxes: Improved Collection, Accounting, and Cash Management Needed. FGMSD–78–50, August 21.

Progress in Improving Program and Budget Information for Congressional Use. PAD 78–78, August 29.

Audit of the Senate Recording Studio Revolving Fund for the Fiscal Year Ended March 31, 1978. GGD–78–86, August 3.

Audit of the House Recording Studio Revolving Fund for the Fiscal Year Ended March 31, 1978. GGD–78–90, August 8.

Audit of the Minority Printing Clerk, House of Representatives, for the Fiscal Year Ended September 30, 1977. GGD–78–89, August 9.

Audit of the Majority Printing Clerk, House of Representatives, for the Fiscal Year Ended August 31, 1977. GGD–78–88, August 9.

Examination of Records, House of Representatives Finance Office for the 15-Month Period Ended September 30, 1977. GGD–78–94, August 14.

LETTER REPORTS

How the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System have carried out GAO recommendations to improve their financial disclosure systems. FPCD–78–54, July 14.

What is the cost of using GSA vehicles instead of privately owned vehicles for official business? LCD–78–238, July 26.

Is the Postal Service's decision to terminate the Railway Post Office operations reasonable? Should it make greater use of Amtrak? GGD–78–97, July 26.

Allegations about an Immigration and Naturalization Service contract for microfilming services. GGD–78–83, July 28.

Alleged unfair promotion practices and employee harassment at the Fargo, North Dakota, post office. GGD–78–103, August 7.

Changed conditions in ocean shipping practices warrant revising the justification for using foreign ships. LCD–78–231, August 18.

The Federal Trade Commission should clarify and restate its policy on use of injunctive authority. HRD–78–161, August 24.

GENERAL PURPOSE FISCAL ASSISTANCE

Will Federal Assistance to California be Affected by Proposition 13? GGD–78–101, August 10.

The Monthly List of GAO Reports and/or copies of the full texts are available from the U.S. General Accounting Office, Distribution Section, Room 4522, 441 G Street, N.W., Washington, D.C. 20548. Phone (202) 275–6241.●

TUITION ADVANCE FUND SUPPORTED

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. OTTINGER. Mr. Speaker, few issues have come more insistently to the attention of the Congress this past year than the question of how to meet the very high tuition bills that face individuals who wish to attend college. The current system is a mess. We need a new and better mechanism. I believe that the far-reaching proposal developed by the president of Boston University, John Silber, which he has called the "Tuition Advance Fund" is a possible answer to the problem.

There are major advantages to the students, parents, and taxpayers of America in the tuition advance fund (TAF) concept, which has been introduced in the House by Representative MICHAEL HARRINGTON.

First, it meets the real needs of the student. It will cover the cost of tuition plus up to $1,000 in related education expenses with a maximum annual advance of $5,000. Thus, it will make education available to all who qualify without regard to financial matters.

Second, the tuition advance fund will relieve the crushing burden on the parents who are frequently unable to raise the enormous sums required to meet the current tuition bills. This is particularly true of those families that may have more than one child in college at any one time.

Third, all of the funds advanced will be returned to the fund by means of a payroll withholding system. Thus, in the long run, the TAF plan is not only comprehensive, it is also economical.

Newsday, in its editorial of August 25, 1978, indicated that the Congress "might

do everyone a favor by considering the tuition advance fund." I agree. I hope that the House will take a look at this exciting and innovative legislative concept. It is simple; it is far-reaching; and it will work.

The editorial from Newsday follows:

WHY NOT PAY FOR COLLEGE OUT OF FUTURE INCOME?

President Carter has threatened to veto a bill allowing tax credits for school tuition, and well he should; his own plan to increase grants and loans to college students makes a lot more sense. But a tuition advance fund might be even better.

In a sad display of irresponsibility last week, the Senate actually approved tuition tax credits and higher grants and loans. At least the House made a choice, even if it was the wrong one: The aid bill Carter supports was put in cold storage there by Rules Committee chairman James Delaney (D-Queens).

The House has voted tax credits ranging up to $250 a year for college students and $100 for private elementary and secondary school pupils by 1980. The Senate's bill would allow larger credits but confine them to college tuition, starting at $250 a year now and rising to $500 in 1980.

In either case the cost to the federal treasury would be great—an estimated $1.7 billion a year in the Senate bill and $1.2 billion for the House version. Yet the relief would be modest for families that confront college costs of thousands of dollars a year. The Carter-supported bill sponsored by Senator Claiborne Pell (D-R.I.) and Representative William Ford (D-Mich.) would be an improvement, but it wouldn't erase the flaws in the present student aid program, and it would cost about $1.5 billion annually.

Congress and Carter might do everyone a favor by considering the tuition advance fund proposed by Boston University president John Silber. Under TAF, an education trust fund would be established to advance college sophomores, juniors and seniors the cost of tuition plus $1,000 in education-related expenses such as room and board—up to a maximum of $5,000 annually. The advance, plus a 50 percent surcharge, would be repaid by the student through payroll withholding of 2 percent of adjusted gross income a year. It would be collected by the Internal Revenue Service and protected from default and bankruptcy, which pose persistent problems in the current student loan program.

While the initial cost would be higher than those of the other proposals, Silber estimates that the fund would become self-sustaining in about 20 years. It would also, as he points out, "introduce the old-fashioned American principle that the person who receives the benefit is the one who ought to pay for it." TAF certainly merits a closer look in Washington.●

CONGRESSIONAL OVERSIGHT IMPROVEMENT ACT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. GILMAN. Mr. Speaker, Congress is not only responsible for making our Nation's laws, it is responsible for assuring that the implementation of such laws is undertaken in accordance with congressional intent in authorizing such laws.

For study purposes and in preparation of the forthcoming session, I am today introducing legislation, the Congressional Oversight Improvement Act, designed to enable Congress to more effectively fulfill its overall legislative responsibility.

We hear much these days that Government has become too large and too complex for adequate legislative oversight, that Congress has experienced a serious problem in monitoring the administration of those programs it has authorized. This line of reasoning concludes that the result of this development are programs not accomplishing their objectives, people going unserved, and taxpayers dollars being wasted. Faced with an uncertain economy, it is clearly imperative that we correct this situation by providing cost-effective programs to deal with the critical problems facing our Nation.

The legislation I am proposing amends the Legislative Reorganization Act of 1946 and provides Congress the necessary means to assess the implementation of those laws it has authorized. The bill requires that each report accompanying a bill approved in committee and referred to the House floor for consideration, contain within its summation of the legislative history of that bill, a congressional oversight statement. This statement would identify those Federal agencies administering those programs authorized and contain an outline of the manner in which the committee will exercise its oversight responsibility for the program specifically mandated by that bill.

In preparing this oversight statement, the committee shall appropriately enlist the assistance of the four key congressional support agencies: General Accounting Office (GAO), Congressional Research Service (CRS), Congressional Budget Office (CBO), and the Office of Technology Assessment (OTA).

Mr. Speaker, a February 1977 report of the Senate Committee on Government Operations concluded that—

Congressional committees should take increased advantage of GAO's expertise by . . . requesting GAO's assistance in drafting a statement of goals and objectives in new legislation, so that evaluation of agency activity might be easier.

As Congress' most valuable oversight support agency, charged with analyzing and auditing the programs, activities, and financial operations of Federal departments and agencies, GAO is an especially key position to define ways to measure to what degree programs are achieving their goals and objectives. However, the Senate report points out:

To date committees have not been clamoring for that type of GAO help.

The report also charged that GAO's current efforts are often out of touch with those areas of specific and topical interest to congressional committees, and that GAO reports often suffer from an inordinate production time. Indeed, as an Assistant GAO Director recently stated, vital to GAO's ability to increase the effectiveness of its oversight services to Congress, is the agency's need "to discern congressional needs and priorities early and quickly."

However, as a House Select Committee on Congressional Operations report of June 22, 1978 observed:

Although GAO officials are encouraged to consult congressional sources in planning the agency's self-initiated work, no systematic or formal procedure has been developed to solicit the views of committees, Members, or staffs for this purpose, a situation which tends to limit GAO's responsiveness to congressional needs and may reduce the ultimate usefulness of some of its self-initiated studies.

I am confident that my proposal requiring committees to enlist the assistance of congressional support agencies, such as GAO, preparing an oversight statement identifying particular aspects of an authorized program which the committee should evaluate, will produce a systematic, formal procedure whereby energies of congressional support agencies can better be attuned to the oversight responsibilities of the congressional committee.

The second main feature of this legislation would enable Congress to better assess the scope and impact of regulation issued by Federal agencies, We are all well aware of the onerous burden Federal regulations impose upon our Nation's taxpayers, private industry, schools, and other groups and organizations. Federal regulations written in incomprehensible jargon, affecting those to whom they apply in ways never envisioned by Congress pose a serious threat to the integrity of congressional legislative powers. By requiring executive departments and agencies to report back to the committee from which the legislation originated, what the impact of these regulations is and how it squares with the law's objectives, we will allow Congress to regain legislative authority now lost to executive departments and agencies.

Moreover, Congress, upon its findings that such reports assessing those programs it has authorized and those program regulations issued by administering agencies are inadequate or otherwise inappropriate, shall be empowered to direct GAO to mobilize a strike force geared to evaluating such programs and regulations, and the reasons for agency noncompliance with demands by Congress for such reports.

Mr. Speaker, passage of this measure will allow our Nation's elected representatives to fulfill their complete legislative responsibility which includes not only enacting responsible legislation, but also assuring that such programs are administered successfully in a cost-effective manner assuring the most efficient use of our hard-earned tax dollars.

Accordingly I urge my colleagues to support this legislation, and I include the full text of this bill at this point in the RECORD:

H.R. —

A bill to amend the Legislative Reorganization Act of 1946 to improve the oversight capabilities of the standing committees of the Senate and of the House of Representatives

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Congressional Oversight Improvement Act".

SEC. 2. The Congress finds that—

(1) the Congress is responsible for effectively evaluating the implementation of those programs which have been legislatively au-

thorized and those programs developed as a result of such legislative authorization;

(2) the responsibility of the Congress to effectively evaluate such implementation is imperative if the above programs are to fulfill the intent of legislation from which these programs are established or originate; and

(3) the ability of the Congress to expeditiously and prudently fulfill its above responsibility can best be achieved through a systematic, formal procedure developed with the assistance of the congressional support agencies.

SEC. 3. Section 136 of the Legislative Reorganization Act of 1946 (2 U.S.C. 190d) (relating to oversight by standing committees) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) If any Government agency within the executive branch finds that the way in which any law is being administered, or is proposed to be administered, by such agency may not be consistent with the legislative intent underlying such law, such agency shall, within a reasonable time after such finding, request each standing committee having jurisdiction over the subject matter of such law to review with representatives of such agency the findings of such agency.

"(2) At the request of any such standing committee, any Government agency within the executive branch responsible for administering any law, the subject matter of which is within the jurisdiction of such standing committee, shall furnish such standing committee and the Comptroller General, the Director of the Congressional Budget Office, the Director of the Congressional Research Service, and the Director of the Office of Technology Assessment (at such time, during the duration of such program, as such standing committee shall designate) with a report setting forth—

"(A) citations to the rules issued by such agency in administering such law, together with a summary of such rules;

"(B) an assessment of the impact of such rules; and

"(C) recommendations, if any, for modifying such law.

The Comptroller General, the Director of the Congressional Budget Office, the Director of the Congressional Research Service, and the Director of the Office of Technology Assessment shall prepare, individually or jointly, an evaluation of such law, based on such report, and shall furnish such evaluation to such standing committee, which shall determine (taking into account such evaluation) what modifications of such law, if any, would be appropriate.

"(3) If such standing committee determines that any such Government agency has failed to submit a report in accordance with the requirements of paragraph (2), the chairman of such standing committee shall notify the President of the Senate (if such standing committee is a committee of the Senate) or the Speaker of the House of Representatives (if such standing committee is a committee of the House of Representatives), who shall direct the Comptroller General to conduct an investigation of such failure. The Comptroller General shall establish a strike force, composed of employees of the General Accounting Office, to carry out such investigation, and shall report the results of such investigation to the President of the Senate or to the Speaker of the House of Representatives, as the case may be, who shall report such results to the chairman of such standing committee.

"(4)(A) Except as provided in subparagraph (B), each report accompanying any measure reported by a standing committee of the Senate or of the House of Representatives and each report accompanying any recommendation made by a committee of conference to, the Senate or House of Representatives shall include a statement entitled 'Congressional Oversight Statement', which shall—

"(i) identify the Government agency within the executive branch which will administer any law which is a subject of the report containing such Congressional Oversight Statement;

"(ii) identify the ways in which such agency can assist any committee which has oversight responsibilities under this section with respect to such law to fulfill such oversight responsibilities; and

"(iii) be prepared after consultation with the Comptroller General, the Director of the Congressional Budget Office, the Director of the Congressional Research Service, and the Director of the Office of Technology Assessment.

Any additional oversight statement required to be included in such report under the Rules of the Senate or of the House of Representatives shall be set forth separately in such report.

"(B) If any such standing committee determines, under criteria established under subparagraph (C), that compliance with the requirements of subparagraph (A) would be impracticable, such standing committee shall include as a substitute in any report required to contain such Congressional Oversight Statement a statement that compliance with such requirements would be impracticable and an explanation of the reasons for such statement.

"(C) The criteria to be used in determining whether compliance with the requirements of subparagraph (A) would be impracticable shall be established—

"(i) by the Committee on Rules and Administration of the Senate, with respect to the standing committee of, and committees of conference to, the Senate, and

"(ii) by the Committee on Rules of the House of Representatives, with respect to the standing committees of, and committees of conference to, the House of Representatives.

"(5) For the purposes of this subsection the term 'rule' has the same meaning such term has in section 551(4) of title 5, United States Code.".

SEC. 4. The provisions of this Act shall take effect as of noon on January 3, 1979.●

COOPERATION IS ESSENTIAL

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. WINN. Mr. Speaker, at a recent joint hearing of the Subcommittee on International Development and the Subcommittee on International Economic Policy and Trade of the House International Relations Committee, some interesting testimony regarding the position in which President Carter found himself during the economic summit in Bonn was presented. The testimony of Mr. Jeremiah Novak, a financial journalist for Asia Mail, pointed to the need for better coordination and consultation between Congress and the Executive in the formation of U.S. international economic policy. Such an improved and systematic relationship between these two branches of Government could put the President on a more equal footing with his counterparts from parliamentary governments at future summits by enabling the President to take with him a policy on which he already had obtained congressional participation and support. Mr. Novak's remarks on this important subject follow:

TESTIMONY OF MR. JEREMIAH NOVAK

Mr. Chairman, Mr. WINN, at most of the economic summits the representatives of other countries represent their Parliament. Mr. Callaghan, Mr. Schmidt, Mr. Giscard d'Estaing can walk into a Summit meeting with full confidence of which way their Parliaments will vote on a given issue.

When President Carter attends, he is not so blessed. I believe yesterday in the exchange with Mr. Cooper, one of the things which became clear was that the inability of the Administration to sell Congress and the failure of the Administration to take Congress' views into account, represent one of the major weaknesses in the American position at Summits.

For example, consider Mr. Carter's relative weakness over the energy issues that he faced at the recent Bonn summit.

I believe that this type of situation is exactly what makes the hearings so important. Such a situation suggests that perhaps Congress and the Senate should make a more arduous effort to work with the Administration, in order to form a policy which would enable the President to speak with a voice backed by Congress.

In 1944 at Bretton Woods, then Secretary of the Treasury Henry Morganthau, and Secretary of State Cordell Hull, were confident that they could bring Congressional majorities with them on certain issues. Because of this, the United States had a very clear cut policy at Bretton Woods, compared to where we stand today.

If we compare the situation today with that of Bretton Woods—in both cases there existed the need to create a new international economic system—it becomes clear that it is essential for Congress and the President to work together.

With this in mind, I think it very important that Congress look at the Summit process. The Summits are now institutionalized, and they provide a process through which Congress can register its views.

At present, the agenda for the Summit is established by a group of international planners. This group is led by Henry Owen of the United States, and includes representatives of the Presidents and Prime Ministers of all the other members attending the Summit. It is extremely important, therefore, that Congress have input into Mr. Owen's preparatory group committee, and that this takes the place of a regular dialogue between Congress and the committee, in order to make sure that the Congressional views are taken into account at the Summit meetings.

In my interviews, I have been told that this is not taking place in a systematic way. Perhaps Mr. Bingham, who has attended the conference, could correct me on that, but I have been told that Congress and the Administration are not effectively coordinated in the Summit process.

Thank you very much.●

THE LIFTING OF THE TURKISH ARMS EMBARGO

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MAGUIRE. Mr. Speaker, on August 1, 1978, in one of our closest votes this session, the House voted to support the administration's proposal to lift the arms embargo against Turkey. On Tuesday, September 26, President Carter signed the International Security Assistance Act, which included the lifting of

the arms embargo. At the same time he notified the Secretary of State that he had determined that the resumption of military cooperation with Turkey was in U.S. national and NATO interests and that Turkey was acting in good faith to achieve a just and peaceful settlement of the Cyprus problem.

So now, after an unsuccessful partial embargo, which was imposed after Turkey's second forceful and violent invasion on the island of Cyprus in August 1974, the situation reverts exactly to that prior to the imposition of the embargo. The Turkish military now controls over 40 percent of the island and its presence continues to impose on Greek Cypriots the fear of further military expansion.

Few of us know what it is like to be dislocated by the movement of massive, hostile military forces. But about one-third of the residents of Cyprus—200,000 people—have been displaced by the Turkish intervention and made refugees.

It was hoped the embargo would give the Turkish Government a clear indication that it must reassess its policy and deal justly with Cyprus. But possibly because throughout the 4-year embargo there were American proposals and official vows to lift the embargo, Turkey never reacted to the embargo.

And now, after Turkey's persistent refusal to negotiate a solution to the Cyprus problem, and after its unwillingness to recognize the rights of those driven from their homes by the invasion, the Turkish Government has been rewarded for its disregard of both international law and the binding agreements under which it received American arms by the lifting of the embargo. Many of us in Congress recognize that Turkey's invasion and occupation of Cyprus was a flagrant violation of the terms of sale with the United States under the Foreign Military Sales Act and the Foreign Assistance Act of 1961. But a bare majority of House Members finally bowed to the pressures brought to bear by the administration on the grounds of strategic necessity. They were assured that Turkey was essential to NATO. What the State Department's argument ignored was that Greece, too, is part of NATO, but that—until there is a just settlement in Cyprus—they will not participate. Of even greater importance, I cannot comprehend why our human rights policy should exclude Cyprus.

I must agree with Mr. Nicos Rolandis, the Foreign Minister of Cyprus, who recently said that—

> The decision to lift the embargo does not in itself pave the way for favorable developments as regards the prospects for a solution to the Cyprus problem.

He attributed this to what he claimed was a lack of demonstration by the Turkish Government that it intends to abandon its "negative approach" to the Cyprus problem.

However, Turkish Prime Minister Ecevit has said that the lifting of the embargo has "shown there is a proper medium for cooperation between Turkey and the United States." He went on to say that—

> Some of the realistic and constructive statements made by the House should be evaluated as a hopeful factor in the restitution and development of our friendly relations with the U.S.

I would certainly hope that "cooperation" is not simply another term for the willingnesss to concede to Turkey all that it wishes. I would like to believe that Turkey intends genuine cooperation—a willingness to work with the United States for a complete and rapid end to its occupation of Cyprus. I regret, however, that I see little in the past behavior of the Turkish Government to indicate that such a result is likely.

As we are all well aware, President Carter must report to Congress 60 days after September 26, the date of certification, and periodically thereafter, on the progress that is being made. It is important that we carefully monitor these reports, and the entire situation to determine whether Turkey is in fact meeting its obligation to resolve with justice and humanity the Cyprus problem.

It was, after all, the administration's assurances that termination of the embargo would lead to reciprocal action by Turkey which gained the crucial votes in favor of termination. If Turkey does respond favorably, then I, along with all the other Members of Congress, will be pleased to celebrate the end of this crisis and to commend Turkey for at last acting as it should.

But if Turkey fails to act, if we see that little or no progress has been made or even that Turkey has taken advantage of the end of the embargo in order to improve its strategic position, I can unequivocally state that many of us in Congress will move to reimpose the embargo with stricter limitations than in the past.

I am convinced that this is a critical point in the history of Eastern Mediterranean relations. We have been told that our Nation's strategic interests are at stake. But the final outcome in Cyprus will only serve our strategic interests if we remain determined to seek a just solution.●

A TRIBUTE TO LEONARD PUTNAM

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. HANNAFORD. Mr. Speaker, it gives me great pleasure today to salute Leonard Putnam, who has served as the city attorney for Long Beach during the past 14 years. While Leonard's services will be missed, the high standards of professionalism and competence which he established will long remain as an example to all public servants.

A native of Long Beach, Leonard graduated from Wilson High School. During World War II, he served as a radio operator in the Pacific Theater for the merchant marines, U.S. Navy. After the War, Leonard entered the University of Southern California and then attended UCLA pursuing studies in foreign service and political science. Leonard then went on to Southwestern University to study law and graduated magna cum laude in 1953.

Having served for 1 year in private practice in the city of Long Beach, Leonard entered the city attorney's office on February 16, 1955, as deputy city attorney. By 1958, he was made chief trial attorney for the city and in 1964 was appointed city attorney. Since then, Leonard has been reelected to the position on four occasions.

Leonard's retirement is marked by years of dedicated and distinguished public service. Those of us who have followed his career admire the great combination of knowledge, integrity, and compassion that Leonard has consistently exhibited. As I extend this tribute to Leonard Putnam, I wish him many happy years of retirement life and I know that the people of Long Beach join me in saying "Thank you for a job well done." ●

PANAMA'S TRANSFORMATION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. DORNAN. Mr. Speaker, almost daily, there is somber news emanating from the Republic of Panama. The following letter from a Panamanian national, Alford Camacho Diez to Robert Norris of the Inter-American Commission on Human Rights is another piece of valuable testimony on the conditions prevailing in Panama. Camacho's son was killed during the troubles when President Carter visited the country.

I ask my colleagues to give this letter their undivided attention:

[Translation—Spanish]

PANAMA,
August 2, 1978.

DR. ROBERT NORRIS,
Inter-American Commission on Human Rights, Washington, D.C.

DR. NORRIS: I am Alford Henry Camacho Diez, a Panamanian, Investigator of Criminal Matters, graduate of the officers' academy "Inter American Police Academy, male, currently a government official, with I.D. card no. 8-58-184. I write through this letter to that high continental body of the Organization of American States with the end of making known and invoking rights foreseen in their Statutes and Rules, in accordance with that agreed upon by the Republic of Panama and the other nations in Costa Rica in 1969 who endorse the agreements on human rights, agreed upon and ratified by the Republic of Panama, as legal document 15 on October 28, 1977 and currently in effect. Below I wish to communicate the following to you:

I. Antecedents:

1. The Ministry of Education of the Republic of Panama, the direction of Student Affairs of that ministry, as well as Student Affairs of the University of Panama, the latter also a branch of that same official entity, the officials, Carlos González Martinez for the Ministerial Office and Juan Gómez for the Office of the Rector of the University of Panama, appear to be implicated, by commission and omission, in the bloody acts which occurred at the University of Panama on on June 14, 1978, a place where the student Demóstenes Rodriguez and Jorge Antonio Camacho Castro, student of philosophy and history of the School of Humanities of that university, were killed.

II. The Minister of Education of Panama, Dr. Aristides Royo, and the Rector of the University of Panama, Lic. Eligio Salas, are

both responsible for the acts because of omission. It is known by everyone in this country that the actions with firearms on the part of officious encouraged groups were supported by the Office of Student Affairs of the Ministry of Education of Panama and of the University of Panama, when violence broke out and spread to the schools of innocents of the high schools. It is common knowledge about the armed attacks on the Politechnical Institute of the City of Colon and Abel Abel Bravo of that same city.

III. The part which implicates the Rector of the University of Panama, Lic. Eligio Salas, is more serious, since this official had knowledge that in a certain office or place at the University of Panama heavy caliber arms had been being stored and he took no measures. This makes him an accomplice in the criminal acts of June 14, 1978.

IV. In the criminal action carried out against the students of the University of Panama on June 14, 1978, the place where my son Jorge Antonio Camacho Castro was killed, two different types of interests were at work: one that planned, equipped and put the plan into action and the other, which carried out the action with groups of combined backing. The first group corresponds to an international conspiracy planned and carried out by elements of the People's Party, their organizations of backers, the FAU (University Anti-imperialist Front), University Reform Front (FRU), the Federation of Students of Panama (FEP), under the due planning and logistical support of Communist Cuba. This well calculated scheme, with the end of injuring the prestige of the meeting of presidents and especially to dim the presence of President Jimmy Carter of the United States at that meeting for June 16, 1978.

The above-exposed groups carried out their plans, also making sure that they complied with the purposes and interests of the Communist Party (People's Party) with respect to the interests of local politics of that organization. It is know by all our honest fellow citizens in the country that the Communist Party and the Federation of Students of Panama participated in the counting of votes of precandidates, the other political organizations not being present since at that time the national government had not defined the Legal Status of Political Parties, which consequently gave a balance of candidates for the Representatives to the Assembly of 80% in their favor and the rest to independent elements. Added to this situation the Communist Party of Panama and its satellites prepared lists of judges who would be elected by the Electoral Tribunal, to form the Election Boards, also with a unilateral representation in their favor. All of this plan would have gone along well if they had not allowed the entrance of exiles, especially the Panamanian group headed by former President Arnulfo Arias Madrid. Here is where the macabre plan arises; sacrifice students after a planned act, indicating that the partisans of Dr. Arnulfo Arias Madrid were those responsible for the acts and this action was also approved to eliminate the independent student groups which opposed the Communist Party and their backers. For this operation they hired mercenaries from organized crime, together with operative commandos of the Communist Party of Panama.

V. Immediately after the criminal action of June 14, 1978, when they killed the student Demóstenes Rodríguez and my son Jorge Antonio Camacho C., the Minister of Education, Eligio Salas, in a premeditated manner with the Rector of the University of Panama openly carry out their insane ends by blocking all information and trying to confuse public opinion through a series of broadcasts that covered all the national territory, forgetting that this action made them participants in the cited conspiracy of criminal acts. This in conformity with Law 47 of Education of 1946 . . . The events that occurred are of private jurisdiction of the Government Attorneys in accordance with articles 223, 224, 225, 226 and 227 of the Legal Code. The decisive function is in the jurisdiction of the courts of justice, the Government Attorneys explain the concept but they don't decide the hearing of the case. In this case the expression quoted for the rules of law on competence is appropriate: Causae ne dividatur contintia in cadem judez defendere debet. Indivisible competence [jurisdiction] of the cause determines the competence. In other words the officials mentioned from the Ministry of Education are not authorized to assume functions that are of the jurisdiction of the Public Ministry, in this case the Attorney General of the Nation, who is the official who would have the authority to take the precautionary measures in order to protect the area of access to the place of events and to ask if * * * necessary to have the intervention of police authorities, in order to preserve all of the necessary proof for the investigation. At the same time, he was the only person who could make statements, whether directly or through the Ministry of Government and Justice, in order maintain peace and order, as a measure of tranquility of those associated.

II. The Church and Notable Personages Go on Record:

1. The Panamanian Episcopal Conference, through a pastoral letter on the situation in the country, makes a statement through all of its bishops in the national territory. Indicating in this document its concern and vehement desire for peace, respect for human dignity, criticizing the acts of violence and political manipulation of students.

2. Notable people such as former parliamentarian Victor Navas, in his uneasiness, shows his humanist feelings and releases a page which calls upon the conscience of the country to reflect deeply so that there will be no more sorrowful acts.

III. The Facts:

1. My son Jorge Antonio Camacho Castro, on many occasions, was the victim of physical aggression and threats from members of the Federation of Students of Panama (FEP). I enclose a xerox copy as evidence of my statement.

2. Weeks before the bloody acts at the Politechnic Institute, the Rector of the University, Eligo Salas, informed him that in certain places at the University of Panama arms were being stored; my son Jorge Camacho sent two anonymous notes. A minor handed them over and Rector Eligio Salas paid no attention and the minor is followed to find out who had sent the message.

3. The month of May of 1978 was the month for the first person wounded from a bullet from an automatic weapon fired by members of the Federation of Students of Panama in Colon at the Abel Bravo High School. That time it was the student Edmonds, Mario. Where did those automatic weapons come from?

4. In the months of May and June, groups armed with automatic weapons mercilessly attack students, wounding them, at Abel Bravo as well as the Politechnical Institute of Cativá, Prov. cf Colón. All of these acts by the Federation of Students of Panama. Where are the authorities of the Ministry? What are they doing about it?

5. Then from June 12, 13, 14, 1978, the satellite groups of the Communist Party of Panama, FAU, FRU, and FEP, had been carrying out rallies in all the centers of the university schools and were characterized by insults and open provocation of the other students and independent groups. This was an attitude of provocation of the other students and independent groups that led to a simple confrontation with the sudden and unforeseen appearance of arms of different calibres in the hands of the groups of the Communist Party. Immediately the aggression began against defenseless young people and from the buildings of Colina the smoke from the firearms could be seen; within the Office of Student Affairs for the University the sound of machine guns could be heard, bravely shooting—against the pebbles and rocks of the defenseless students; those of the FAU, FRU, and FEP coming out of their hiding places with their machine guns, arms identified as manufactured in Czechloslavakia, communist.

6. As the University of Panama has a great number of students and groups, all their members are known; it is very easy to identify they were bearing arms and their locations at the moment of their criminal actions; as a consequence numerous arrests were expected, but it happens that since the acts had been planned, those implicated before beginning their criminal deeds had covered their bodies with chemical agents to avoid the parafin test and the arms of communist origin were taken away in the retreat, with the only ones left behind being of American manufacture, who knows for what purpose. The investigation is begun by Attorney Lic. Olmedo Miranda and evidence of great value is found for the investigation, but Rector Eligo Salas, in his desperation, orders the immediate remodeling of all those places which suffered the impact of projectiles that could contribute to the investigation by experts when there was criminal cause against one of their officials or groups of the same cause. In conflict with this action, he publicly stated that he would practice administrative actions against those who in his judgment deserved disciplinary sanctions, thus leaving a hidden threat against those who could shed light on the investigation that has not yet been concluded, so that with his attitude he is breaking Law 47 of 1976, which impedes the authorities of the Ministry of Education from intervening in the investigations that are in the jurisdiction of the Public Ministry. Also, it is in contracition to our legal clauses with respect to the fact that the major crime absolves [misspelled in text] the minor one; therefore, that official can only falsely or poorly apply disciplinary sanctions when those under his rectorship seem to be implicated.

7. Weeks before the events of June 14, 1978, the Federation of students of Panama (FEP) changes its office location opposite the Cuban Embassy to a new office on Calle 33 and Mexico Ave. in Panama City and its principal members, as well as the Director of Student Affairs of the Ministry of Education, Carlos Gonzáles Martínez, stop frequenting that embassy after June 29, 1978.

8. Having decided on my own to maintain vigil in secret of the offices of the Communist Party on Calle 45 Bella Vista in this city I have studied the movement of the different elements; and candidates to positions in the house of Representatives: understanding their activities I suspended the watch and proceeded to maintain a secret watch on the office on calle 32 and Ave. Mexico opposite the building La Atalaya, a location next to the Karate society where the Comando of Guerilla operations has its center, under the direction of the Director of Student Affairs of the Ministry of Education, Mr. Carlos Gonzáles Martínez. With respect to the organization known as FENAMUDE, they are used largely for work in intelligence and counter-intelligence, for getting closer, detecting situations and investigating the private life of some officials and especially learning the intentions, way of thinking of actions of the Superior Comando and intermediaries of the National Guard and Security Agencies. They are divided into two groups by

branches, women who are married and those who are single of different ages.

9. The offices of Calle 33 (FEP), Calle 32 and 31 Bella Vista are paid for by the Ministry of Education and the vehicles used in these duties are the property of the state, and I have the description and license numbers of these.

10. With the sinister plans of the Director of Student Affairs of the Ministry of Education carried out, Carlos González Martínez travels to Havana, Cuba in the company of others where he reports the battles that gave glory to his armed groups at the University of Panama on June 14, 1978.

To conclude this exposition of antecedents and concrete facts, exposed in the previous paragraphs, we see that there does not exist a condition or adequate climate to allow the authorities of the Public Ministry or Security Agencies to have an objective and impartial investigation, because of the hierarchy of officials involved in the plot and murder of young students.

Tangible proof of this statement is the fact that it has been stated in serious newspapers abroad that the dead on June 14 are many more than the students indicated in this report and yet the official report insists that there were only two dead; this is evidence of the partiality of the officials in charge of the investigation of the facts. Facts such as these, for their notoriety, do not need denouncement by any official; nevertheless, the first official who should be investigated as being responsible for what happened at the university appears as the denouncer, with the sole motive of throwing the investigation off the track to other sectors that possibly are not involved in the acts.

It is for that reason that I appeal to the good will of your organization. You have my authorization to use my name, whether in a probable investigation or for information for the Social Communication Groups.

We enclose a glossary of August 1 of this year, which appeared in the Republic, which predicts what must occur in this country in the not very distant future. The author of the glossary is a permanent visitor of the Cuban Embassy in our country.

With my best wishes for a deep peace,

Sincerely,

ALFORD H. CAMACHO D.

Postal Address: Apartado 2288, Balboa, Canal Zone.●

THE VERY REVEREND HAROLD F. LEMOINE

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. WYDLER. Mr. Speaker, recently the Very Rev. Harold F. Lemoine retired as dean of the Cathedral of the Incarnation, Diocese of Long Island, in Garden City, N.Y. He has served in that capacity since February 1, 1957—a period of 21 years and 9 months. This is the longest tenure of any of the cathedral's nine deans, going back to 1890.

At the suggestion of the bishop, the cathedral chapter voted that, upon his retirement, he shall be known as dean emeritus.

In the Village of Garden City, Dean LeMoine has been active in the ministers fellowship which meets at the various churches monthly, except in the summer. He is a member of the Rotary Club and of the Order of Masons.

In the Diocese of Long Island, Dean Lemoine served on many and various committees, particularly the Committee on Ecumenical Relations and the Liturgical Committee. Since 1954 he has served as secretary of the diocese.

Dean Lamoine was first elected a delegate to represent the Diocese of Long Island at the general convention of the Episcopal Churches in 1952 and has served continuously since that time, having been elected to 10 general conventions. At general convention, he was a member and then chairman of the Committee on the Prayer Book. In 1963, he was priest representative from the Diocese of Long Island to the Anglican Congress in Toronto. The dean is a member of the board of managers—since 1933—of the church charity foundation which operates three hospitals and a home for the aged in the Diocese of Long Island.

In addition to preaching in various parts of this country, he has preached at the Cathedral of St. Paul in London and in many parish churches on various visits to England, in St. Andrew's Cathedral in Honolulu, at St. James Cathedral in Mauritius and in other churches and cathedrals around the world.

I know of no man whose long and devoted service to God and his fellow man more justly entitles him to many, many years of good health and happiness in his retirement. To Dean Lemoine, I extend my "well done" and pray God's richest blessings upon him in the years ahead.●

THE CASE OF GALINA GOLZMAN MICHELSON

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ARMSTRONG. Mr. Speaker, I am pleased to participate today in the Vigil for Freedom sponsored by the Union of Councils for Soviet Jewry on behalf of Soviet Jewish families and individuals who are being detained in the Soviet Union.

As we all know, in 1975 35 countries signed the Helsinki Final Act, which committed the signatory nations to pursue policies consistent with basic principles of human rights, including the reunification of divided families whose members live in different countries, religious freedom, minority rights, and free travel between countries.

The case of Galina Golzman Michelson illustrates both the urgent need for implementing these principles throughout the world and the abject failure of the Soviet Union to comply. Since 1956, Galina Michelson has made 18 separate applications for permission to emigrate from the U.S.S.R. to reunite her family. The Soviet Government has refused in each instance. No reason for the refusals has ever been given.

Over these years the life for Galina Michelson and her daughter has been one of interrogation by the secret police, humiliation by officials, and denial of employment or admission to schools.

While many individuals in this country have sought to assist Galina Michelson, it is my hope that this reminder of her and the vigil for freedom will strengthen our resolve to continue.●

REINTRODUCING H.R. 13752, TO AMEND THE SAFE DRINKING WATER ACT AND THE RURAL DEVELOPMENT ACT

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ABDNOR. Mr. Speaker, although it is late in the 95th Congress and no legislative action can be expected this year, I am reintroducing with cosponsors H.R. 13752, to amend the Safe Drinking Water Act (SDWA) and the Rural Development Act (RDA).

This measure would encourage and assist citizens living in small communities and rural areas to achieve compliance with Federal safe drinking water standards.

The SDWA is up for extension next year, and the House Interstate and Foreign Commerce Committee's Subcommittee on Health and Environment has held hearings on controversial standards proposed under the act.

The issues addressed in H.R. 13752 are important from Arkansas to Michigan to South Dakota to Oregon and throughout rural America. I plan to reintroduce this measure in the 96th Congress and to push for its adoption.

I commend H.R. 13752 to my colleagues and other interested readers of the RECORD. Support for its enactment, suggestions as to how it may be improved, or any comments on its merits are earnestly solicited.

The text of my September 25 statement to the Subcommittee on Health and the Environment follows:

STATEMENT OF HONORABLE JAMES ABDNOR

Mr. Chairman and members of the Subcommittee, I commend your interest in holding this oversight hearing to consider EPA's administration of the Safe Drinking Water Act.

It is a truism that we all support the goal of safe drinking water. It is also evident, however, that EPA's administration of the Act leaves something to be desired and, further, that the law itself could be improved.

In commenting on proposed drinking water regulations, the Council on Wage and Price stability said:

"The economic impact analyses of the proposed EPA regulations to control organic chemical contamination in drinking water are inadequate."

The EPA studies contain no analysis of the benefits of alternative performance standards or of alternative population-size cut-offs, and no analysis of either the costs or the benefits of alternative design standards.

Consequently, the EPA analyses shed no light on the reasonableness (i.e., the cost-effectiveness) of these decisions.

They provide no information about the consistency of these regulatory decisions with each other or with other EPA regulations.

Because the resources available for health-related programs are limited, it is important that those resources be allocated in a way that maximizes the benefits (in terms of lives saved or cases of illness or injury

avoided). This in turn requires that the incremental cost per case avoided be at least approximately equated for different regulations or different adopted standards. To ignore this fact is to allow more deaths than necessary for a given expenditure on health-related programs. It is therefore incumbent upon EPA to support its proposed regulations with careful risk-assessment and cost-benefit analyses, employing the best estimates available regarding uncertain variables, parameters, and relationships.

There is a considerable amount of uncertainty about both the costs and the benefits of these alternatives, but it makes little sense to act on uncertain evidence by imposing costly regulations on local communities while, at the same time, eschewing cost/benefit analyses because of this uncertainty.

The House Appropriations Committee also recognized problems from the public interest standpoint in EPA's actions with respect to drinking water standards. The Committee's report (HR 95-1255) said:

"EPA has at times put greater emphasis on publishing a standard rather than on the compilation of the necessary scientific data on which to base it. Under these circumstances, EPA's research and development programs have been directed more toward a legal defense of regulations rather than information for their development.

"An example of proposed regulation issued without substantive supporting scientific evidence is the recently published regulation on control of organic chemical contaminants in drinking water supplies for communities above 75,000 population."

I am greatly concerned about these proposed regulations in particular because:

(1) a sound and adequate scientific basis seems to be lacking;

(2) If, in fact, the threat is real and the regulations are justified, nearly one-half of the population is left unprotected;

(3) it is evident that the law requires drinking water regulations such as these to be applied to all "public water systems" eventually and, for this reason alone, the cost will be much higher than EPA's estimate of as much as $800 million;

(4) EPA shows no apparent concern—probably because OMB will not allow it—about the cost of the regulations and little inclination to assist small community water systems in finding means of financing mandated improvements at a reasonable cost to their users; and

(5) millions of Americans do not receive their water supplies from a "public water system" and are totally ignored—not only by these regulations but by the Act itself.

The National Demonstration Water Project published a report in March of 1978 entitled "Drinking Water Supplies in Rural America." The report estimated that 25 million rural Americans depend upon supplies of drinking water of doubtful adequacy and safety. It also said that 24.5 million drink from individual wells or small town water systems which are "potentially hazardous." EPA itself estimates 12,000 communities—most of which are small or rural—will need additional water treatment to meet drinking water standards.

In my view this issue is of vital importance and warrants improvements in the Safe Drinking Water Act to promote a more responsible regulatory program. Consequently, on August 7th I introduced HR 13752, to amend the Safe Drinking Water Act and the Rural Development Act.

H.R. 13752 would not create a costly new program. It would:

(1) require the Federal Government to weigh more adequately the benefits and costs of its standards;

(2) encourage intergovernmental cooperation, rather than confrontation, in meeting drinking water standards;

(3) end bureaucratic harassment of small community officials who have no realistic hope of compliance without assistance;

(4) enable those citizens, primarily rural poor, who are not presently covered to benefit from the same standards applied to others;

(5) ascribe priority in the allocation of available funding to projects which will achieve compliance with SDWA standards; and

(6) rationalize the regulatory process.

HR 13752 would create a framework for the protection and enhancement of the interests of rural citizens within the regulatory process. It would not require Federal assistance to any water system, but it would prevent EPA from taking a small community to court to be fined if it cannot afford to comply with the standards.

This measure would also encourage cooperation instead of confrontation between EPA and the local people in meeting drinking water standards. It would foster efforts upon the part of the local people to seek solutions to water quality problems and would provide them the means to achieve solutions at a reasonable cost.

At the same time no Federal funds would be expended if (a) the local users can reasonably afford the cost themselves, (b) there is a less costly means of achieving compliance with the standards, or (c) the benefits do not justify the costs.

Finally, enactment of HR 13752 would require the Federal Government to more fully consider the expenses it imposes upon local water users. While my bill does not authorize a new grant program or even an increase in funding for the existing program under the Rural Development Act, the argument that the Federal budget cannot absorb greatly increased expenditures for a safe drinking water program is moot if these costs are merely foisted upon local users. The impact on the national economy will still be there, and it will be an impact mandated by the Federal Government whether or not it is a direct Federal expenditure.

Again, I commend the Subcommittee for its interest in this important issue. An analysis of HR 13752 along with the full text of the bill are contained on pages 24745-24746 of the August 7th CONGRESSIONAL RECORD, and my additional comments may be found on page 30222 of the September 19th RECORD.

Thank you very much.●

VIGIL FOR FREEDOM FOR SOVIET JEWRY

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MARKEY. Mr. Speaker, I wish to join today a "Vigil for Freedom" sponsored by the Union of Councils for Soviet Jewry.

In 1975, 35 nations signed the Helsinki Final Act, committing themselves to the pursuit of policies consistent with basic principles of human rights, including religious freedom, minority rights, and the reunification of divided families whose members live in different countries.

The Soviet Union was among the 35 signatory nations. Despite this fact, the Soviet Government has shown total disregard for the human rights provisions of the Final Act.

Today, I bring to my colleagues' attention the case of Leib Khnokh, a 34-year-old electrician from Riga. Leib, whose wife and child reside in Israel, is imprisoned in the notorious Vladimir Prison.

Conditions at Vladimir Prison are deplorable. The floor of cells are made of concrete. Windows are nothing more than narrow slits. There are no sanitary facilities in most cells, and prisoners are allowed to bathe only once a week. Very few persons survive a stay at Vladimir without suffering permanent damage to their health.

It is my hope that this "Vigil for Freedom" brings about humane treatment of Leib and perhaps enables him to be reunited with his family in Israel.●

CRISIS IN LEBANON

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. GILMAN. Mr. Speaker, the recent tragic clashes between the predominately Syrian Arab "peacekeeping" forces and the Lebanese Front Forces—Christian forces—in Beirut have resulted in the needless deaths of thousands of innocent civilians in Lebanon. These recent deaths are a stark reminder that more people have lost their lives in Lebanon in the last 3 years of civil war than in all the Arab-Israeli wars combined.

While Beirut remains under a shaky cease-fire, the debris of dozens of past cease-fires are reminders that in Lebanon peace is an elusive thing. As long as the Syrian troops remain in that strife-torn country, the threat of renewed violence is ever present.

Of critical concern is Syria's recent action in Lebanon which has resulted in a large-scale violation of the human rights of the Lebanese Nationals. In an apparent effort to establish control over Lebanon, Syrian troops have undertaken a campaign of kidnaping, murder, and terror in Christian villages. Rather than fulfilling its original peacekeeping mandate, Syria has sought to use her position to destroy Lebanon as a buffer state.

There has been, and continues to be, a need for a dispassionate peacekeeping force in Lebanon to serve the interests of peace—for the continuing crisis threatens not only the peace and stability of that nation, but that of the entire region. Unfortunately, the Syrians are not a disinterested party and have in fact become an instigator of violence. Their continued presence no longer serves to further the attainment of peace in that country.

If present conditions in Lebanon persist, the current Camp David peace efforts will remain in great jeopardy. The longer these deplorable conditions exist, the more likely that Syrian peacekeeping forces become an Arab army of occupation with all that implies for Israel's security.

Yesterday, I joined with several Members of the House in sponsoring a briefing of the Lebanese crisis in an effort to inform the public about the critical nature of this situation. We heard shocking testimony from a variety of informative witnesses including Mr.

Alfred Mady, Secretary General of the Christian Lebanese Forces, Lebanon; Dr. Elias El-Hayek, executive director, American Lebanese Information Center, Washington, D.C., and Mary Rihani, vice president, Trans Century Foundation; Mr. Peter Dartley, chairman, Archdiocese of Syrian Orthodox Church of the United States and Canada; and Mr. El. Shabo, president, Deacon Society, Nation School Association.

Today I am joining with those and other Members of the House in sending a letter to President Carter urging him to take advantage of the current ceasefire to bring about a United States-U.N. effort to begin the painstaking process of restoring a secure, stable, and independent Lebanon.

Included in the letter is a resolution signed by more than a majority of the Members of the House which specifically urges the President to:

One. Seek the withdrawal of all foreign troops;

Two. Support efforts to disarm all others;

Three. Seek an expanded peacekeeping role for the U.N.; and

Four. Seek the formation of a U.N. commission to bring about the economic and political rehabilitation of Lebanon.

The crisis in Lebanon is at a critical period. As pointed out by a recent Washington Post editorial on October 10, 1978:

> The matter should be at the top of the international agenda . . . the slaughter cannot be allowed to resume.

For my colleague's information I say inserting into the RECORD at this point the entire text of the Post editorial and in addition a related editorial from the Philadelphia Inquirer of October 10, 1978.

I call upon my colleagues to join in this effort and urge the President to act now to bring peace to Lebanon.

The material follows:

[From the Washington Post, Oct. 10, 1978]

CEASE-FIRE IN LEBANON

As one stares at the debris of the dozens of cease-fires that have been proclaimed and then broken in Lebanon in the last three years, it is idle to say that one of them has more value than the others. Yet the one that the United Nations Security Council demanded and the Christians and Syrians accepted over the weekend is precious indeed. It halted at least temporarily a frightful phase in the calamity that has become Lebanon's permanent way of life. And it forestalled an Israeli intervention in behalf of the Christians, with all the damage to the Arab-Israeli peace effort that could have done.

Through the summer, the militias guarding the Christian Maronite community in Beirut found themselves heavily engaged with the Syrian army, which has been occupying parts of Lebanon for two years, ostensibly to keep the peace in the Lebanese civil war. Did the militias provoke the attack? Which comes first is, by this time, a chicken-and-egg question in Lebanon. In any event Syria took the occasion, or so it seems, not only to punish the militias but also to make Christian East Beirut uninhabitable and thus to threaten, by demoralization as much as by death, the whole Christian Maronite community. Civilians and civilian facilities were major targets, and Syrian fire was deadly.

Can the weekend cease-fire hold? There is a long chance that it could. One party—the Christian militias—may be frightened and headstrong and resistant to international discipline in the Lebanese manner. But the other—Syria—is something else. Though the U.N. appeal is an implied rebuke to Damascus, the Syrians may well wish to have others take over some further part of the thankless job of keeping the peace in Lebanon. They are probably less interested in provoking the collapse of the Arab-Israeli peace effort than in leaving open an eventual place in it for themselves. They are poorly placed to challenge, at the same time, the United States, which provides aid and a certain political support; and the Soviet Union, their military patron; and France, a traditional friend. All supported the cease-fire call.

Why the Russians? Jimmy Carter personally approached Leonid Brezhnev. Evidently the Kremlin did not want to cause trouble—trouble that could easily get out of hand in a way that could seriously discomfit Moscow—at an otherwise quite propitious moment in Soviet-American relations.

It remains a formidable task to use the time gained by the cease-fire to make a credible start on healing Lebanon's wounds. The Camp David agreements, offering a potential way to lance Lebanon's Palestinian boil are one possibility. Jimmy Carter's proposal for an international conference to recalibrate Lebanon's Moslem-Christian political balance is another. The matter should be at the top of the international agenda. More people have lost their lives in Lebanon in three years than in all the Arab-Israeli wars combined. The slaughter cannot be allowed to resume.

[From the Philadelphia Inquirer, Oct. 10, 1978]

PEACE OUTLOOK IS GRIM IN BLEEDING LEBANON

A day after the U.N. Security Council adopted a U.S.-sponsored resolution calling for a cease-fire in Lebanon, Syria ordered its "peacekeeping" forces to stop shooting. Does Syria deserve credit for that? Hardly. For a week, the Syrians had been unmercifully pounding Lebanese Christians in Beirut. One does not deserve credit for stopping what one should not have been doing in the first place.

What are the 30,000 Syrian "peacekeeping" forces in Lebanon up to? It does not exactly look like peacekeeping. One theory has it that the Syrians are involved in a quagmire—"Syria's Vietnam," as one Western diplomat called it—and that somehow a way to save Syrian President Hafez Assad's face must be found so that Syria can extricate itself.

The theory, however, begs the question. Does Syria want to extricate itself? It is no secret that Syria, which once ruled Lebanon as well as most of Jordan and Israel, has not given up its ambitions for a "greater Syria." Indeed, had it not been for Israeli backing, the Christians in Lebanon would have gone under long ago.

It also is no secret that Syria is dead set against the kind of peace that Egyptian President Anwar Sadat and Israeli Premier Menachem Begin, under the aegis of President Carter, worked out at Camp David. According to Mr. Assad, President Sadat "defected to the enemy" and "left us alone in the trenches." In Damascus, Mr. Assad presided over a conference of radical Arab leaders of his own country, Libya, Algeria, South Yemen and the Palestine Liberation Organization to firm up their anti-Sadat alliance and, in Yasir Arafat's words, to say "yes to continuation of the struggle" against Israel.

So it may be that that Syria's behavior in Lebanon has been designed, at least in part to upset the Camp David accords. The icing on the cake, as it were. Alone, Syria could not succeed, but with Syria are the other radical Arab forces and behind them is the Soviet Union. Does the Soviet Union deserve credit for not exercising veto of the resolution in the Security Council? Hardly. The Syrians would not have been doing what they were doing without Soviet arms and encouragement.

What are the Russians up to? They, too, are determined to subvert the Camp David arrangements if they can. At a Moscow dinner in Mr. Assad's honor several days ago, Soviet leader Brezhnev declared that there could be no peace in the Middle East "until the causes of the Arab-Israeli conflict are removed, until the consequences of Israeli aggression are eliminated." Since the radical Arabs believe the cause of the conflict is Israel's very existence, the consequences that Mr. Brezhnev has in mind are all too clear.

Coming down from Camp David, the three national leaders, as Mr. Carter later declared, "committed ourselves to renew our support for the government" of Lebanese President Elias Sarkis. That is one of the few hopeful signs in an otherwise grim situation. Washington also ought to be, and presumably is, urging its friends the Saudis, who bankroll Syria, to apply some pressure of their own for moderation. And it would do well to advise Moscow quietly that if the Soviet Union expects U.S. cooperation in other areas, Moscow cannot subvert the prospects of Mideast peace. As a Soviet foreign minister once declared in the mid-1930s, "Peace is indivisible."●

JIM BEAM, A MAN WHO INVOLVES HIMSELF IN THE COMMUNITY

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. PATTERSON of California. Mr. Speaker, recognition often escapes many persons who dedicate their professional talents to the public good.

Fortunately, this has not been the case with my friend Jim Beam. Jim is recognized in Orange County, Calif., as a community and government leader. And today I want to make my colleagues aware of Jim Beam's tireless and lasting contributions to Orange Countians.

Until recently he was the executive director of the Orange County Chapter of the Building Industry Association of southern California. He resigned the directorship to become president of Concordia Development Corp., a southern California residential and commercial construction firm.

Jim Beam is currently chairman of the board of trustees of Christ College Irvine Foundation. He is also a member of the board of directors of the following organizations: President's Advisory Board of California State University, Fullerton; World Affairs Council of Orange County; and Town Hall of California.

His other civic activities are too numerous to mention, but they reflect his genuine concern and interest in his fellow human beings.

Between his numerous community activities, Jim finds time to serve as mayor pro tempore of the city of Orange and chairman of the personnel committee of the South Coast Air Quality Management District.

I know I join many Orange Countians who appreciate Jim's sincere interest in

bettering the lives of his fellow man, and I am proud to call him a friend.●

SENIOR CITIZEN SEMINAR

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. EILBERG. Mr. Speaker, on September 11, I was honored to have the opportunity to host approximately 100 leaders of the senior citizen community in northeast Philadelphia at a seminar to discuss the needs of older Americans, and what services are available to them in our community.

I would like to offer the minutes of our seminar for the RECORD, because I believe the discussion was an excellent summary of the services which senior citizens can take advantage of.

In addition, the dialog which followed the panel discussion was extremely informative, and I know it will be helpful to me in my work in the Congress on behalf of senior citizens:

William Ross, former Business Manager of the International Ladies Garment Workers Union of America and a former member of the Philadelphia School Board, opened the seminar by welcoming the participants, and explaining that the panel members will detail the services of the organizations they are representing.

He stated that for years our country was considered a young people's country. But now, this situation is changing. The large number of senior citizen organizations present here demonstrate the increased interest in issues vital to older Americans. This is true not only in Philadelphia but nationally as well.

Mr. Ross explained that he recently had occasion to witness the kind of interest that exists on behalf of senior citizens when he attended a Congressional seminar in Washington, D.C. Many Congressmen and Senators banded together to set up an institute for senior citizens, who were invited for a 2-week session to consider what is being done on their behalf. There were 141 participants from all over the country. However, whenever anyone spoke about a program that was necessary, there was always one catch to it—the lack of funds.

Mr. Ross commended Congressman Eilberg for his great interest in behalf of senior citizens. He cited the results of a recent survey by the National Council for Senior Citizens which shows how Pennsylvania's 25 Congressmen were rated as far as their votes on behalf of senior citizens are concerned. Congressman Eilberg rated 100%. He voted in favor of all 10 bills dealing with senior citizen issues.

Mr. Ross introduced Congressman Eilberg.

Mr. EILBERG emphasized his belief that meetings of this sort are very important. Even when programs to assist senior citizens exist, they won't do much good unless our senior citizens, and those who are in a position to advise them, are aware of the help that is available, he said. This is the purpose of today's seminar, to have our panel members acquaint us with the programs that are available.

Mr. EILBERG stated that he was pleased to tell the participants that there is increasing interest in the problems of senior citizens in all levels of government as well as in the private sector.

Congressman EILBERG summarized some of the legislative activity in the 95th Congress which is important to senior citizens.

The legislation which has probably received the most attention is the Age Discrimination in Employment Act. This bill recognizes that age is an arbitrary and poor measure of one's ability to perform a job. It eliminates mandatory retirement ages for federal employees, and raises the retirement age in the private sector from 65 to 70.

Another important action was Congress' effort to amend the Older Americans Act.

This legislation is now in conference committee, where the differences between the House and Senate versions of the bill are being resolved. These 1978 amendments extend programs already in effect—senior citizen centers, hot meals and employment assistance. And they set up new programs—home-delivered meals, legal services and a method to investigate and resolve complaints about nursing homes.

The House attached one other important provision to the Older Americans Act, a provision to establish research projects in long-term care for senior citizens. Along these same lines, it is significant that the Ways & Means Committee just completed consideration of a Medicare bill which expands home health care alternatives to institutionalization. This bill will be voted on by the House this week.

Congressman Eilberg stated that the 95th Congress has also passed amendments to the Social Security Act. Among other things, these amendments raise the amount of earnings a retiree can have without the loss of any social security benefits. Next year this earnings limitation will be $6,500. The amendments also provide that remarriage will not reduce the benefits for widows or widowers over the age of 60.

Congressman Eilberg explained that for those of our senior citizens who are veterans, and there are many, the House has passed legislation revising the program of benefits for non-service connected disabilities.

One other item is the new Act which allows airlines to offer lower rates to senior citizens on a space-available basis.

Congressman Eilberg closed by saying that he hopes we can continue to have seminars like this from time to time. He stated that he thinks that these sessions can help us to determine whether existing programs are helping our senior citizens, and to develop new solutions for unresolved problems.

Congressman Eilberg informed the participants that after the panel members give their statements, everyone would be given a chance to ask questions. He stated that the panel might not be able to provide answers to all questions, but it should be able to give suggestions for dealing with the issues raised. Because time was limited, Congressman Eilberg asked all panel members to limit their statements to 5 minutes so that the greatest number of persons could be heard. He also mentioned that he would have to depart early for Washington since the House would be considering the Civil Service Reform bill, and he wants to give it his full consideraton.

Congressman Eilberg then introduced the panel members:

Mr. Louis C. Cappiella, Executive Director, Mayor's Commission on Services to the Aging, 1317 Filbert Street, Philadelphia, Pa. 19107.

Chief Inspector John Craig, Community Relations Bureau, Police Department Headquarters, Franklin Square, Philadelphia, Pa. 19106.

Mr. William Finlay, Older Philadelphians Legal Services Plan. 1317 Filbert Street, Philadelphia, Pa. 19107.

Mr. Ephraim Goldstein, Executive Vice President, Federation Housing, Inc., 8900 Roosevelt Boulevard, Philadelphia, Pa. 19115.

Mr. Melvin Jenks, Field Representative, Social Security Administration, 7959 Bustleton Avenue, Philadelphia, Pa. 19152.

Mr. Bernard R. Marks, Center Director, David Neuman Senior Center, 6600 Bustleton Avenue, Philadelphia, Pa. 19149.

Mr. Ed Nalley, Section 8 Subsidized Housing, Philadelphia Housing Authority, 2012 Chestnut Street, Philadelphia, Pa. 19103.

Ms. Diane Niesley, Catholic Social Services, 222 North 17th Street, Philadelphia, Pa. 19103.

Mrs. Victorina Peralta, Director, Adult Services Division, Department of Public Welfare, 1405 Locust Street, Philadelphia, Pa. 19102.

Mr. Ralph Rizzo, Federal Blue Cross Representative, 7213 Fowler Street, Philadelphia, Pa. 19128.

Mr. Jack Schimpf, Veterans Administration, 5000 Wissahickon Avenue, Philadelphia, Pa. 19144.

STATEMENTS OF PANEL MEMBERS

(Mr. Louis Cappiella, Executive Director, Mayor's Commission on Services to the Aging:)

Mr. Cappiella mentioned a few of the many services of the Mayor's Commission on Services to the Aging, such as employment, information and services, technical assistance, reduction of utility rates, free transportation fares, senior aid program, discounts for senior citizens, elder craftsmen shop, and nursing home assistance. He also mentioned that the Commission helps senior citizens in filing their property tax and utility forms.

In his view, Mr. Cappiella believes inflation is the number one problem existing for senior citizens. Inflation harms senior citizens more than any other individual. Mr. Cappiella thanked Congressman Eilberg for his support of Title 9, which is part-time employment for senior citizens. They Mayor's Commission has the second highest funding in the United States for this purpose. It now has 221 senior citizens who are working under their program. They also have a waiting list of 488 people for part-time employment.

The Mayor's Commission on Services to the Aging is open from about 8 a.m. to 5:30 p.m., Monday through Friday, located in Room 143 of City Hall. Their telephone number is MU6-3504. Last year, 12,000 people came into the Commission with problems, and the staff is there to help.

(Chief Inspector John Craig, Community Relations Bureau, Philadelphia Police Department:)

Chief inspector Craig thanked Congressman Eilberg for inviting him to speak at the seminar.

He stated that the purpose of his department is to protect people from crime. Whether or not the citizens think the Police Department is doing a good job is very important for them to know. He remarked that he is amused when he hears people say the Philadelphia Police Department is not doing a good job, because they are visited occasionally by people from other states who feel differently.

The Police Department tries very hard to protect citizens from criminals. Senior citizens are more traumatized by crime than any other individual. In order to protect the senior citizens, the Community Relations Bureau has introduced programs that deal with crime prevention. Chief Inspector Craig said that dealing with the problem of harassment of senior citizens by young people is very difficult in our modern society because everyone has rights. The Police Department has to try their best to protect everyone's rights.

He said that all 22 police districts in Philadelphia have workshops where the captain discusses problems and solutions with citizens. These workshops are publicized in the local media. They also provide speakers for Golden Age Clubs in the area.

The Police Department has a group of police officers called the Pastimers who will

perform for the entertainment of senior citizens. Requests should be made in writing to the Community Relations Bureau, 1328 Race Street, Philadelphia, Pa. 19107.

Through the Law Enforcement Assistance Act (LEAA) the Police Department has trained officers in crime prevention. These officers will visit your home or business free of charge to inspect it for the purpose of better crime prevention. The telephone number for this service is MU6-3380. LEAA funds have also been provided for other programs such as one to help people who have been victimized by crime. Also, a 30-foot mobile home has been visiting shopping centers to display and demonstrate devices for better crime prevention.

Chief Inspector Craig stated that their greatest hope of the Police is that they can listen to the problems of the senior citizens so they can try to help.

William Finlay, Older Philadelphians Legal Services Plan:

Mr. Finlay thanked Congressman Eilberg for inviting him to speak. He explained that the Older Philadelphians Legal Services Plan (OPLS) is a new program designed to help senior citizens. It began in January, 1978. The most important issue here is providing new solutions to old problems. It seems that the senior citizens encounter the most problems in dealing with the legal system since they are the ones who are most often victimized by an unscrupulous roof repairman or door-to-door salesman, for instance. And, they are the ones who are most often refused service by social service agencies.

The new approach of the OPLS is centered around the telephone. The organization is a telephone information and referral service. For a fee of $3 per individual and $5 per couple for a complete membership, members will receive unlimited telephone advice between the hours of 9 a.m. and 5 p.m. They have a complete staff of attorneys who will try to answer your questions. There are also legal services beyond advice over the telephone at reduced, fixed fees by OPLS Panel Lawyers conveniently located throughout the city of Philadelphia. For instance, the OPLS Panel Lawyers will assist members in drafting a simple will at a maximum charge of $25.

There are also workshops and educational materials on legal matters important to senior citizens, such as wills and how to avoid probate, when and how to challenge social security and medicare decisions, the legal rights of consumers, how to use small claims court, etc.

Mr. Finlay explained that the qualifications are that you must be 60 years of age or over, live in Philadelphia, receive $20,000 or less in income annually, and have a net worth of $50,000 or less not counting home, automobile(s) and personal belongings.

Mr. Finlay stated that this is a unique and worthwhile program for senior citizens. At present, there are 4,000 members. The address is 1317 Filbert Street, Philadelphia, Pa. 19107. For more information about the plan, the telephone number is 563-1086.

(Mr. Ephraim Goldstein, Executive Vice President, Federation Housing, Inc.:)

Mr. Goldstein stated that Federation Housing is concerned with the development of apartments for senior citizens. He said that without the federal government, Federation Housing would not be in business. The government provides subsidies for construction and rent subsidies that are needed because of spiraling inflation. Rent subsidies enable senior citizens to afford their rent payment, which is 25 percent of their income. The federal government pays the rest. Unfortunately, the programs today still do not meet the needs of the entire population.

Mr. Goldstein stated that the primary question he is asked is "How can we get into your facility?" He said: "We have thousands of applications presently in our files. The problem is lack of space. The Congress is going to have to appropirate more funds for this purpose. Last year there were approximately 300 units made available and there are 19 agencies, such as Federation Housing, trying to get these units." Mr. Goldstein said that although the decision has not yet been made as to what agency will get the units, it is imminent. He hopes that Federation Housing is successful in obtaining these units because they already have the site and plans ready in the event they are awarded the project.

He stated that they do have a third building presently on the books waiting HUD's final approval. Construction will start within the next two months.

Mr. Goldstein said that Federation Housing presently has 700 units. The new construction will add another 150 units to the project.

(Melvin Jenks, Social Security Administration, Field Representative:)

Mr. Jenks stated that the Social Security office at Bustleton and Rhawn Streets is open from 8:00 a.m. to 4:30 p.m., Monday through Friday. He mentioned that sometimes, part of the staff works overtime, but the office is open to the public only until 4:30 p.m. There is also a branch office at Kensington and Allegheny Avenues. He said if you are in that vicinity, you can stop in on a social security matter.

One important point he mentioned is that anyone who files a claim at that office will have his or papers transferred to the Bustleton and Rhawn Streets office. On Fridays, the Social Security Administration operates a contact office in Olney at 5627 North 5th Street, in the Unemployment Office Building between 9:00 a.m. and 3:00 p.m. The Social Security Administration cannot give you a full range of services at that office, but it can handle new claims and non-claims action.

The function of the Social Security is to handle Social Security benefits, or Title II, Supplemental Security Income, or Title 16, and Medicare. SSI is a federally administered welfare benefit based on need, so the requirements are different than regular social security benefits. All food stamp inquiries are sent to the Department of Public Assistance.

Mr. Jenks explained that Medicaid and Medical assistance are also handled by the Department of Public Assistance. All inquiries regarding those programs are referred to that department.

Mr. Jenks stated that business can be transacted by either coming into the office or over the telephone. He said that if a client cannot come into the office, he should try to get someone to go in his behalf or to try to handle it over the telephone. The Social Security Administration does have field representatives that can go out, but they are limited by the workload. Mr. Jenks said that he realizes the problem of runaway inflation. But, there is nothing that he and his colleagues can do as employees of the Social Security Administration. He stated that the pressure must come from individuals and it should be directed to their representatives in the U.S. Congress. The employees at the branch office can only pass on such information to the higher officers in their center city offices.

Mr. Jenks said the telephone number of the social security office at Bustleton and Rhawn Streets is RA2-7353. He mentioned that at the beginning of the month and on Mondays, the switchboard is very busy. He also mentioned that there is no telephone service at the Olney office.

(Mr. Bernard R. Marks, Center Director, David Neuman Senior Center:)

Mr. Marks stated that he had been asked to describe his program at the David Neuman Senior Center. He explained that they average 350 people a day and have serviced 1,100 senior citizens so far this year. At the Center, they have lunches, continuing education, physical education and other activities. The project is funded in part under a contract with the Philadelphia Corporation on Aging and the Office of Aging, Pennsylvania Department of Public Welfare. The Center works closely with in-home service through its association with the United Way, Philadelphia Corporation on Aging, and the Department of Health, Education and Welfare.

Mr. Marks stated that their major concern at the Center is that Philadelphia has not received any additional money from the State of Pennsylvania in two years. He blames the freeze created by the Department of Public Welfare for this problem. Another major concern of those at the Center is the fact that the Center is adequate because it was not built for senior citizens. There are only two Centers in Northeast Philadelphia, the other being in Liddonfield. He said that there are 70,000 people who are 60 years of age and older in the Greater Northeast, which is a larger population of senior citizens than most other entire towns in Pennsylvania.

(Ed Nalley, Section 8 Subsidized Housing, Philadelphia Housing Authority:)

Mr. Nalley stated that at the present time, funds have run out for Section 8 funding. He explained that when his office receives a subsidy from the Department of Housing & Urban Development (HUD) it is divided by bedroom size. The problem is that there are no more certificates for efficiencies, one bedroom, or two bedroom apartments available.

Mr. Nalley explained that the program is designed to help people pay their monthly rentals. He stated that he thinks it is a very helpful program for senior citizens. It is based on income. Those in the program only pay 25 percent of their gross monthly income. It is a five-year program consisting of consecutive one-year leases. It is the responsibility of the applicant to find an apartment, although the Housing Authority does have service representatives to assist.

Because of the non-availability of units at the present time, Mr. Nalley directed the participants to write to HUD to request that they give the Philadelphia Housing Authority more allotments. The address of HUD is 625 Walnut Street, Philadelphia, Pa. 19106.

Mr. Nalley stated that the City of Philadelphia is anxious to provide decent housing for senior citizens, and that he hoped that more money becomes available for this purpose.

(Diane Niesley, Catholic Social Services:)

Ms. Niesley stated that her organization is part of the Department of Community Services on Aging created in January, 1972. It was created because of the needs in the community, spiritually as well as materially. There are nine programs in this Department. The overall goal is to keep older people active in the community.

They operate three centers in Philadelphia: Star Harbor in West Philadelphia, St. Rita's in South Philadelphia and St. Anne's in the Kensington area. They provide home delivered meals, transportation, shopping assistance and regular center services. The main office is located at 222 North 17th Street, center city.

The Catholic Social Services has caseworkers to work with anyone who needs assistance. They also have a Friendly Visiting service in which senior aids offer supportive services such as visiting with clients, and providing services such as shopping and light chores.

Ms. Niesley stated that they also have an information and referral service where callers can obtain immediate information about resources and service delivery to senior citizens. They also have a project called HEAD (Help Elderly Adults Direct), which attempts to help the leaders of about 200 senior citizen organizations.

She also described their cultural program, which has specialists trained in arts, crafts,

music and dance. This program assists in planning special events to learn new crafts.

Ms. Niesley also talked about the Retired Senior Volunteer Program (R.S.V.P.), which helps senior citizens remain active and functional in society.

(Victorina Peralta, Director, Adult Service Division, City of Philadelphia, Department of Public Welfare:)

Mrs. Peralta thanked Congressman Eilberg for inviting her and mentioned that she was very pleased to be a part of the seminar for the third time.

She indicated that there are two Departments of Public Welfare—one a city agency and the other a state agency. She emphasized that she is from the City of Philadelphia agency, which is not the department that issues the welfare checks. She stated that her department is a service department and a protective service agency. It looks after senior citizens or any adults 18 years or older who are abused, neglected, abandoned, or exploited.

For example, she described a case of an old man who lives in an abandoned home with 60 cats, and his neighbor never sees him leave. The neighbors suspected that he was killing off the cats one at a time for food. Another case she described was the recent one involving a rumor that an elderly woman had about $45 million stashed away in her home, and the neighbors broke in and ransacked her home. These are the people that they try to help, those who are no longer able to take care of themselves.

Mr. Peralta stated that in cases such as these, the City of Philadelphia actually goes to court and becomes the legal guardian of the individual who is in need, such as a senior citizen whose nephew takes the money from her social security check to support his drug habit or an 85-year-old lady who was brought in by a newspaper boy because she was roaming around and didn't know her name or where she lived. In cases such as these, they assign a trained social worker and go to court to become the legal guardian.

Mr. Peralta also described the adult foster care program for people who are no longer able to care for themselves. They also assist in nursing home placement. Their workers give supportive counseling. She described her agency as "the agency of last resort." When people come to the agency, they are broken down, bitter and ressentful. The telephone number is MU 6- 5661. It is located at 1405 Locust Street, 19th Floor. It is open 7 days a week and holidays, from 7:30 a.m. to midnight.

(Ralph Rizzo, Federal Blue Cross Representative:)

Mr. Rizzo described his feelings of the Blue Cross program in its present state. He mentioned that he thought it was a bureaucratic monstrosity.

If a subscriber has a problem, Mr. Rizzo stated that he should write a letter to Blue Cross outlining the problem.

The contact at the federal level is: Federal Employees Program, 1800 M Street, N.W. Washington, D.C. 20036. The telephone number there is 202-785-7950, and the Director of Field Service for that program is Karen E. Schweitzer.

In Philadelphia, the Blue Cross Representative is Mrs. Bertha Jackson, and her address is 1333 Chestnut Street, 11th Floor, Philadelphia, Pa. 19107.

(Jack Schimpf, Veterans Administration:)

Mr. Schimpf explained that he was attending in place of Mr. S. W. Melidosian, the Veterans Administration's Philadelphia office Director. He gave the address of the Veterans Administration, 5000 Wissahickon Avenue, Philadelphia, Pa. 19144. The telephone number which is 438-5225. He mentioned that if anyone has a question or a problem, he should call.

Mr. Schimpf stated that the VA office in Philadelphia has responsibility for administering federal benefits through a 40-county area of Eastern Pennsylvania. The VA administers compensation, pension, educational benefits, and the insurance program. Mr. Schimpf mentioned that earlier this year, the VA did a study of its pension benefit program. One of the outcomes was the determination of the fact that older veterans and dependents were not getting the money to which they were entitled.

Mr. Schimpf stated that Max Cleland, the Administrator of the Veterans Administration in Washington, D.C. has instituted a new training program for physicians who specialize in geriatric medicine. This program was begun because the VA is concerned about the increasing age of the veteran.

The average age of the veteran population will be 65 in 1984. Another thing Mr. Schimpf pointed out is the fact that the VA has initiated a direct deposit program for monthly checks with the use of the Electronic Funds Transfer system. So, recipients won't have to worry about making a trip out to the bank. For information, he directed recipients to the bank where they do business.

Another very important point that Mr. Schimpf discussed was that World War II and Korea veterans who have a term life insurance policy in force should look into having it converted or reduced. A lot of people don't need as much insurance, and the cost keeps going up. He suggested converting it to a permanent plan because term insurance is almost unpayable with a fixed income. Also, Mr. Schimpf emphasized that it is very important to keep your beneficiary current. He mentioned that some veterans have never up-dated their beneficiary and have ran into difficulties.

Mr. Schimpf stated that anyone can call the local VA office and ask a question about his claim and can get instant information due to their new computer system.

Mr. Schimpf again emphasized that the VA's effort to help cannot work unless people come to the VA and ask for assistance. He stated that many people are missing out on benefits because they won't take the time to inquire about them.●

THE INTER-AMERICAN DEFENSE BOARD

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. SIKES. Mr. Speaker, few of our colleagues have more than scant knowledge of the work and accomplishments of the Inter-American Defense Board. Yet it is an effective agency for providing a better understanding of defense needs of the hemisphere, and defense objectives and defense problems of the member states. It was my pleasure recently to discuss in detail the work of the Board with the chairman, Lt. Gen. Ranald T. Adams, Jr., of the U.S. Air Force. I was impressed with the information provided me by General Adams, whose leadership on the Board has been both outstanding and highly appreciated by his colleagues on the Board.

I would like at this time to outline the development, mission, and functions of the Inter-American Defense Board (IADB) in the context of hemispheric security and peace. I am using information provided me by General Adams on behalf of the Board.

HISTORICAL DEVELOPMENT

a. Meeting in Rio de Janeiro in January, 1942, barely a month after the attack on Pearl Harbor, the nations of the Americas established the IADB, "to study and recommend measures necessary for the defense of the continent."

b. When World War II ended, in 1945, the American States, meeting in Mexico City, decided to continue the existence of the Board, pending establishment of a permanent military body within the Inter-American System.

c. When the Organization of American States (OAS) was established, at the conference in Bogotá in 1948, provision was made in the OAS Charter for an Advisory Defense Committee (which, in fact, has never been convened) but the IADB was continued, by separate resolution (Washington, D.C., 1951), as an element apart from the OAS, to accomplish hemispheric defense planning and preparation.

d. The IADB, now almost 37 years old, is the oldest, multilateral military organization in the free world today—antedating NATO by more than five years—and numbers 19 member states: Argentina, Bolivia, Brazil, Chile, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, United States, Uruguay, and Venezuela.

MISSION

a. The mission of the IADB is:

To act as the organ of preparation and recommendation for the collective self-defense of the American Continent against aggression, and to carryout, in addition to the advisory functions within its competence, any similar functions ascribed to it by the Advisory Defense Committee of the Organization of American States. (Article 1, Regulations of the Inter-American Defense Board.)

b. The key words of the mission statement are those that pertain to the Board's *planning and advisory* functions. Resolutions adopted by the Board's Council of Delegates—on which the 19 member states are represented—are submitted to the respective governments as recommendations to those governments.

Organization: The IADB consists of a Council of Delegates comprising the accredited delegations of the nineteen member nations, and a supporting Staff and Secretariat. Presiding over the Council of Delegates in a non-voting, executive capacity is a Chairman designated by the host country, the U.S. Subordinate to the IADB is the Inter-American Defense College, where senior military officers of the American Republics pursue strategic studies.

Planning Functions: Plans prepared and approved by the IADB, necessarily broad and general in nature, are sent to the member countries to form the basis for more detailed bilateral and multilateral operational plans. The more important IADB plans and documents that have been approved and distributed include the following:

a. Basic Strategic Plan ALPHA: This plan provides guidance for collective defense planning against the subversive threat.

b. Basic Strategic Plan BRAVO: This plan sets forth the basis for continental defense against the conventional threat, accompanied simultaneously by subversion and guerrilla warfare.

c. Plan DEFTRAMI. This is the plan for the coordination of the defense of inter-American maritime traffic. It is the IADB counterpart of the NATO maritime traffic control manual ATP-2A but contains an interesting variant where maritime areas are controlled by independently cooperating operational control authorities rather than under one area coordinator as is done in NATO. This plan is an excellent example where defense procedures have been tailored to pre-

serve national sovereignty. (Plan DEFTRAMI was employed as an integral part of the 1977 inter-American naval war games.)

d. Disaster Preparedness/Relief Operations. This special study, although not strictly in the field of hemispheric defense, sets forth guidelines for the employment of military forces in disaster relief operations. Considerable favorable response to this document has been received from the United Nations, Red Cross, and other agencies involved in disaster relief. In 1978, a more detailed, field-oriented disaster preparedness document has been issued, including versions in the English, Spanish, and Portuguese languages.

e. Civic Action. "Military Civic Action" was compiled as an information and guidance document for military civic action programs in the Americans.

f. Air Defense. As an initial step in inter-American air defense planning, a document on the bases for collective air defense of the continent has been published. Currently, a more definitive plan for surveillance and control is under development.

g. Search and Rescue. This document, published by the Board to provide guidance for coordinated search and rescue efforts, has received broad, favorable comment.

h. Strategic Evaluation. In support of IADB plans and studies, the International Staff of the Board periodically prepares and updates the Strategic Evaluation. This has been accomplished in the form of various Periodic Intelligence Resumés and a Strategic Analysis document.

i. In preparation, under guidance from the IADB Council of Delegates, are the following documents:

(1) Basic Strategic Plan CHARLIE
(2) Doctrine for Combined Exercises
(3) Strategic Concept
(4) Contingency Plan
(5) Analysis of Strategic Areas
(6) Multi-language versions of the Dictionary of Military Terms.

j. Also under current examination are proposals to study further integration and coordination of the inter-American military schooling system, and a concept for a closer institutional relationship between the OAS and the IADB.

IADB ACTIVITIES

a. The advisory function of the Board is most effectively fulfilled because the IADB is virtually always operating and available for consultation in case of emergency. The Board has been utilized, in one capacity or another, whenever its services were needed. Representative examples are:

(1) In 1963, the Council of the OAS, acting on behalf of the Foreign Ministers, requested the IADB to provide military expertise in evaluating the cache of weapons that had been covertly introduced into Venezuela and in determining their origin and probable intended use. As a result, Cuban subversive activity and involvement were definitively identified, and the Council was enabled to take firm action in denouncing the Cuban conspiracy.

(2) During the Dominican Republic crisis of 1965, the OAS requested the IADB to formulate a plan for the establishment of an Inter-American Armed Force. Within 48 hours, the Board had forwarded to the OAS a completed study outlining the organization, composition, and operation of the combined force. Subsequently, in response to an OAS request, a high-level advisor was provided by the Board—this advisor, in addition to his normal advisory functions, acted as a negotiator, as well.

(3) Although the OAS identified the Honduras-El Salvador conflict of 1969 as political in nature, military advice and assistance were provided by a number of officers who were connected with the Board. Although not acting specifically in the name of the IADB, these officers served in a military advisory role in the area of conflict and, subsequently, in the demilitarized zone.

(4) When conflict between Honduras and El Salvador again erupted, in August 1976, officers assigned to the IADB were again sent to the area as OAS military observers. The chief of this OAS peacekeeping mission to Honduras and El Salvador was General Miró, of the Army of Argentina, who was at that time the Chief of the Argentine Delegation to the IADB.

b. The Board works cooperatively with the Central American Defense Council, CONDECA, and its subordinate permanent committee, COPECODECA, through the exchange of information. CONDECA, which necessarily functions on a more operational, pragmatic level, conducts frequent combined exercises as a mechanism for formulation of their operational plans. Because the CONDECA organization provides a viable example of active cooperation of American armies on the operational level, the IADB takes a keen interest in their activities.

c. In 1978, the Board initiated exploratory discussions with the International Peace Academy and participated in an JPA Seminar in Lima, Peru, in an attempt to identify how activities of the two organizations might be coordinated to the mutual advantage of peace and security within the hemisphere.

IMPORTANCE TO U.S. INTERESTS

a. Despite the traditional "East-West" orientation of U.S. policy planning and the undeniable importance of our "European connection", Latin America does represent our "strategic backyard" and is therefore of great strategic importance in its own right. The bare facts of geography alone illustrate this fundamental point: the U.S. shares 1,800 miles of border with Mexico; Cuba is only 90 miles off the coast of Florida; Buenos Aires is closer to Washington than Tokyo and only moderately further than Rome, and Rio de Janeiro is much closer than Angola, Ethiopia, or the Horn of Africa; Argentina stretches for 1,000 miles and Brazil 4,000 miles along the South Atlantic coast, and Chile for 2,600 miles along the South Pacific Coast, facts of patent strategic significance to the defense of the hemisphere.

b. Not to be overlooked is a more subtle factor, the rather strong Latin influence on U.S. culture. Spanish-speaking residents of the U.S. constitute about 7% of our national population. Probably, comparatively few Americans realize that the U.S. has the fifth largest Spanish-speaking population in the world, after Spain, Mexico, Argentina, and Colombia—and far more numerous than Chile, Peru, Bolivia, Venezuela, or Cuba. (Source: Office of Education, Department of Health, Education and Welfare.) And, conversely, it is equally true that there exists a strong U.S. influence—culturally, economically, socially—within Latin America, including the pervasive presence of U.S. commercial products, television programs, and business interests . . . everything from Kodak to Coca-Cola to The Mary Tyler Moore Show to the Chase Manhattan Bank.

c. Beyond geography, beyond history and culture, there are important economic links, as well. The U.S., as is becoming ever more painfully clear, is far from self-sufficient in strategic materials. In mid-1977, the U.S. imported virtually half of its crude oil requirements, and no less than 9% of this amount traversed the Caribbean (with the addition of refined petroleum products, the percentage of Caribbean-transported material was over 50% of the total imports). It is not difficult to visualize the magnitude of the impact that interruption of this flow of crude oil and refined products would have, both on the U.S. defense posture and on its economic health.

d. Nor is petroleum the only strategic material for which the U.S. is dependent on overseas suppliers. More than 85% of the U.S. production of aluminum—a vital, irreplaceable metal—is derived from the bauxite ore imported from Jamaica, Surinam, and the Dominican Republic. For manganese, essential in the production of high-quality steel and industrial alloys, the import figure is 100%, much of it from Brazil. Bolivia, Mexico, Peru, Venezuela, and Chile export to the U.S. important quantities of tin, fluorine, tungsten, iron, lead, and copper ores. These materials play a vital role in the U.S. industrial production and therefore, in turn, on the overall U.S. defense posture and that of its allies. (Source: Domestic Business Development Office, U.S. Department of Commerce.)

e. Since the combined industrial output of the U.S. and its NATO allies amounts to virtually half that of the entire world, it is inescapable that a significant scarcity of these strategic materials would have a serious impact on U.S. defense and economic postures. On the overall basis, the Latin American countries have supplied the U.S. with over 50% of our total imports of aluminum, manganese, lead, columbium, over the past five years, and at some times also provide more than 50% of total U.S. imports of iron, copper, zinc and vanadium ores as well. (Source: Domestic Business Development Office, Department of Commerce.) When there is added to this the potential economic and technological capacity of such nations as Argentina, Brazil, and Chile, there are evident important overtones to hemispheric security development, well into the 21st century. (It is also significant that U.S. direct capital investments in Latin America (1975, Department of Commerce data) totalled $22.2 billion, larger than for all other "Third World" developing countries combined.)

MILITARY FORCES

Unclassified information available from open sources—in this instance, the Institute of Strategic Studies, in London—reveals some provocative information about the comparative investment in military forces, on the part of nations of the hemisphere. Cuba, for example, with a national population of about 9.5 million, maintains an army of about 90,000, only moderately smaller than the Army of Brazil, whose population is some twelve times greater than Cuba's. This clearly indicates a proportionately much larger national military commitment for Cuba than Brazil—Brazil's army constitutes only 0.16% of its population, while Cuba's is a ratio at least six times greater. (The U.S. Army strength—to support worldwide commitments for a wide spectrum of possible war situations, including conventional and nuclear war scenarios—constitutes less than 0.4% of our population.) Similar proportional commitments are observable for Naval and Air Forces:

TABLE 1.—ARMY STRENGTHS RELATIVE TO NATIONAL POPULATION SELECTED WESTERN HEMISPHERE NATIONS (1976 DATA)

	Population (millions)	Army strength	Percent of population
Cuba	9.3	90,000	0.96
Argentina	25.0	83,500	.33
Brazil	108.0	170,000	.16
Chile	10.6	40,000	.38
United States	216.0	785,000	.35

TABLE 2.—NAVY STRENGTHS RELATIVE TO NATIONAL POPULATION, SELECTED WESTERN HEMISPHERE NATIONS (1976 DATA)

	Population (millions)	Navy strength	Percent of population
Cuba	9.3	7,000	0.075
Argentina	25.0	33,000	.132
Brazil	108.0	49,500	.046
Chile	10.6	21,800	.206
Venezuela	12.1	8,000	.066
United States	216.0	536,000	.248

TABLE 3.—AIR FORCE STRENGTHS RELATIVE TO NATIONAL POPULATION, SELECTED WESTERN HEMISPHERE NATIONS (1976 DATA)

	Population (millions)	Air Force strength	Combat aircraft
Cuba	9.3	20,000	205
Argentina	25.0	17,000	132
Brazil	108.0	35,000	160
Chile	10.6	12,000	32
Venezuela	12.1	8,000	85
Colombia	24.7	6,000	16
United States	216.0	612,000	5,000

TABLE 4.—ARMED FORCES STRENGTH AND RESOURCES COMMITMENT, SELECTED WESTERN HEMISPHERE NATIONS (1976 DATA)

	Population (millions)	Armed Forces strength	Percent of population	Percent of GNP
Cuba	9.3	117,000	0.94	6.4
Argentina	25.0	133,500	.53	1.9
Brazil	108.0	254,500	.22	1.1
Chile	10.6	73,800	.68	1.1
Colombia	24.7	64,300	.26	.8
Peru	15.9	56,000	.35	2.4
Venezuela	12.1	44,000	.35	2.1
United States	216.0	2,131,000	.98	6.0

It is clear from analysis of the above data that Cuba—for such a relatively small nation—is a military power, with a sizable standing Army and dedicated military resources significantly larger than her hemispheric neighbors. Cuba has the demonstrated capability, as she has openly shown since 1974—in Angola and Ethiopia—of effectively deploying forces halfway around the world in support of "revolutionary wars of liberation", and has readily supported guerrilla/terrorist movements throughout the hemisphere. The Cuban leader, Fidel Castro, has publicly declared his readiness to export revolutionary communism around the world, and tended to give proof of his words in Angola, and, more recently, in Ethiopia, as well as supporting infiltration and subversion—closer to home—in Guyana, Jamaica, Belize, Panama, Venezuela, Colombia, and elsewhere.

IADB PHILOSOPHY

a. The IADB, in its organizational structure and processes, decidedly does *not* constitute a "little NATO"—there are no forces in being, under an established command structure, and there is not even a single tactical language.

b. Nonetheless, the raison d'être for the Board is that in fact it meets the immediate defense needs of the hemisphere, as determined by the nations that comprise the Inter-American System. The IADB provides the essential first step in the formulation of defense plans, even though the plans produced are necessarily very broad and require preparation of more detailed implementation plans at lower, operational levels. (IABD plans, general though they may be, are the only plans of their type currently being developed and updated specifically for bilateral or multilateral use in the hemisphere.) Since IADB plans must be approved by two-thirds of the delegations accredited, prior to their transmittal to the governments, they do in fact represent a high degree of professional certification and resolve among the membership. IADB recommendations form the political and military foundation for the development of detailed operational plans. (In this connection, former U.S. Ambassador to the United Nations Daniel Moynihan, currently the U.S. Senator from New York, has observed that the General Assembly of the United Nations only sends recommendations to the member countries, and that these recommendations were not binding, so in that respect the IADB is no less potent than is the United Nations.)

c. In the event of an emergency situation, the IADB provides a highly responsive source of military expertise that can be tapped without delay, as has been noted with respect to the covert arms smuggling into Venezuela in 1963, the Dominican Republic crisis of 1965, and the Honduras-El Salvador border disputes of 1969 and 1976. When the OAS recognizes the need for prompt, professional military advice, they can and do call upon the IADB for military support.

d. Under non-crisis conditions, the IADB provides a permanent multinational forum representing the defense ministers of the hemisphere, having the capacity to accept and study problems facing the hemisphere, recommend solutions, and—if necessary—refer matters to the highest military echelons in the hemisphere.

e. Overall, the IADB provides an element that, while difficult to quantify, is nonetheless extremely important, that is, a sense of common purpose. The IADB building in Washington—called La Casa del Soldado—is a unique location where members of all branches of the Armed Forces of the nineteen American member nations can meet together, in an atmosphere conducive to fraternity, mutual understanding, and trust, on a person-to-person basis. Through this mechanism, a cooperative military forum of nineteen independent nations, future contingencies can be dealt with, and the security and solidarity of the Americas assured.

PERSPECTIVE

It seems clear that the U.S., in the world of today, must find a way to order its priorities and place its international commitments in balance. The importance to U.S. security of credibility and confidence in the U.S., among the governments and peoples of Western Europe, the Middle East, and the Korea-Japan area, is undeniable and immense. Yet the vital significance of a secure and friendly Latin America, our own "strategic backyard", is no less, and simply must not be taken for granted. The concept of "Fortress America", in the sense of an overall, cooperative hemispheric defense, has been for some time a viable strategic asset to the hemisphere, and indeed to the entire Free World.

In the final analysis, the United States is the "senior partner" in hemispheric endeavors, by virtue of its military and economic power, and the world community of order, tranquility, and peace that the U.S. is anxious to see built and strengthened must surely be able to count on a secure Western Hemisphere as one of its central supports. The world is patently becoming increasingly interdependent, so it is essential that the multilateral character of the U.S.-Latin American connection be a source of unity, strength, and mutual confidence. Failing that, the "prospects for success in any other part of the world"—to use Henry Kissinger's phrase—"will truly be clouded." A lack of vigilance and attentiveness to the tensions and danger spots within the hemisphere can lead to perilous conditions, where the United States might stand alone in the Americas.●

RATIONALE BEHIND U.S. POLICY FOR MASSIVE BUILDUP OF GRAIN STOCKS

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, in the course of our oversight role in all aspects of the inflation problem, the Subcommittee on Economic Stabilization of the Banking Committee, of which I am chairman, has naturally looked closely into the special problem of food prices. As I have reported previously, the "underlying' increase in food prices reflects inflationary forces in the economy at large, given the fact that only 33 cents out of each food dollar spent by the consumer goes to farmers. But farm prices and the agricultural economy are still of major importance and they continue to account for the volatility of food prices. Put another way, there remains a danger of serious, independent inflation of food prices as a consequence of events in agriculture at home and abroad. With our current grain stocks and excellent harvests, it is not an imminent danger, but it is there.

At the subcommittee's most recent hearing on food prices, September 19, we looked into the question of large food and feed grain reserves as a kind of insurance policy against a recurrence of the events of 1972–74, when bad harvests in the world, including the Soviet Union, led to a veritable explosion of food prices in the United States. We heard from Howard Hjort, the respected chief economist of the Department of Agriculture, some of the constraints against a unilateral policy by the United States of building up massive reserves. But we also heard from Fred Sanderson of the Brookings Institution the arguments for such a policy, which were spelled out in a letter to me following the hearing.

Mr. Speaker, I am inserting that letter in the RECORD not because I have reached any firm conclusions on this very important issue. But I believe that Members of the House should know the rationale behind an overt policy of the United States of a very large buildup of grain stocks—a policy that is not by itself profarmer or antifarmer. Mr. Sanderson's letter follows in its entirety:

THE BROOKINGS INSTITUTION,
FOREIGN POLICY STUDIES PROGRAM,
Washington, D.C., September 26, 1978.

Hon. WILLIAM S. MOORHEAD,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MOORHEAD: Thank you for your letter of September 21. I appreciated very much indeed the chance to testify before the Subcommittee on Economic Stabilization.

In reply to your question, I believe it would be in the U.S. interest to allow full grain production, with no acreage set-asides, until we have accumulated a reserve of 100 million tons. I believe the benefits to the United States of a well-managed reserve of this size would justify the budgetary costs. I believe this holds true even in the absence of significant foreign contributions.

Let me explain. I am starting from the premise, implicit in the 1977 farm legislation, that we are trying to stabilize U.S. (and world) grain prices within a range between U.S. support prices and 40% above support. I have estimated that it would have taken a reserve of 100 million tons of grain (over and above normal working stocks of about 25–30 million tons) to meet the foreign and domestic crop shortfalls in 1972–75 while keeping grain prices within that range. I am not advocating unlimited stockpiling.

It will be argued that the events of 1972–75 were unusual and unlikely to recur. My own feeling is that we must be prepared for much greater instability in world grain markets than we have experienced in the past. There are indications that climatic conditions in the United States in the period 1958–73 were more stable than usual. But of

greater importance are economic and political trends in countries that, in the past, played no major role in grain trade. Crop failures in communist and developing countries are no longer largely absorbed internally. These is greater resistance to belt-tightening in countries such as the USSR, Eastern Europe, China and India and the balance-of-payments constraints on food imports are less severe. As a result, major crop shortfalls in these countries now have a greater impact on world markets. This is the more significant because there is evidence suggesting that adverse weather tends to occur simultaneously in different parts of the world. I don't think that the events of 1972–75 will prove to be as unique as one might think from looking at the past.

The costs of a 100-million-ton grain reserve are not as great as is commonly believed. I estimate the average annual net costs of a government-owned reserve of 100 million tons of grain at about $800 million (storage and interest less annualized sales profits). (The costs of the present farmer-held reserve are greater mainly because the farmer keeps any profit from holding the grain while the public is paying almost all carrying charges). On the other hand, there would be substantial savings on other programs. I understand that we are spending over $500 million on acreage diversion payments for the 1978 feedgrain crop which could have been saved. With unrestricted production, it should also be possible to reduce the high target prices for wheat which were justified, in part, as a necessary incentive (and compensation) for the growers' cooperation with the set-aside program. This should result in some savings on deficiency payments to wheat growers which, I gather, amount to about $770 million.

The benefits to the United States on an adequate grain reserve, though more difficult to quantify, are nonetheless real. Most important, we would avoid the far-reaching inflationary consequences of another grain shortage and the economic costs involved in trying to cope with inflationary pressures emanating from the grain sector. We would avoid the costly disruption of our livestock industry. Adequate reserves and more stable prices would strengthen our reputation as a reliable supplier and would help us maintain and expand our position in world grain markets. To my mind these benefits greatly exceed the net budgetary cost.

Sincerely,

FRED H. SANDERSON,
Senior Fellow.●

HEALTH CARE FOR OLDER VETERANS—LONG-TERM CARE

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. PEPPER. Mr. Speaker, I wish to share with my colleagues an additional portion of a research paper which was prepared by Ms. Dena Belinkoff, who served as a summer intern with the Subcommittee on Health and Long-Term Care of the Select Committee on Aging, both of which it is my privilege to chair.

The paper deals with the Veterans' Administration's system of health care and gives special consideration to programs which provide services to elderly veterans. As I indicated earlier, this paper offers points for discussion in the course of our ongoing efforts to develop long-term care programs and policies under our existing medical programs, and in the course of our deliberations regarding national health insurance.

I include part II of Ms. Belinkoff's paper to be inserted at this point in the RECORD:

NURSING HOMES

Three types of skilled nursing homes are utilized by the Veterans Administration: VA owned and operated facilities; community contract nursing homes; and State Veterans Homes. Each type is both supported and regulated to a different degree by the VA.

State Veterans Homes fall under the jurisdictions of the States, but are built with 65% federal construction funding. A per diem arrangement enables the States to receive assistance through reimbursements from VA medical facilities for the care of veterans. State hospitals and domiciliaries are similarly supported. Currently, a total of 15,815 State home beds are available in 31 States and the District of Columbia. State homes are licensed and reviewed by the individual States.

To satisfy the need for nursing home care in communities, the VA contracts with proprietary facilities for a transition period between a hospital stay and a return home. As of July 1977, 7,932 veterans were receiving care in contract facilities, just under the 8,000 placement authorization.[10] Care for a service-connected condition is provided at government expense indefinitely, but care is limited to six months for other veterans. Admittance requires a prior hospitalization period. These nursing homes undergo VA inspection before contracts are approved and are reviewed annually. The NAS found that VA contract homes are, on the whole, of better quality than the average nursing home, but still not as good as VA owned nursing homes.

Contract community homes are intended to allow a veteran to recover in a familiar environment which facilitates re-entry into community life. Because of the six month limit on care for non-service connected conditions, however, an identifiable group of veterans is left without the care they need. Some are able to qualify for Medicaid benefits upon discharge; some receive extensions on their VA benefits; some are readmitted to hospitals for the sole purpose of renewing their six month care period; and some must cope by themselves. The VA offers counselling to the last group and their families to help them assess their resources and the available alternatives.

Another problem with the contract program stems from the legislated limitations on the per diem the VA will pay for care in a contract facility. In a few areas, such as New York City, the VA has recently been unable to negotiate contracts due to the high costs of health care. The VA is authorized to spend a per diem of up to 40% of the cost of acute hospital care on nursing home care. When this is not sufficient one alternative is to move patients out of their familiar environment to a VA facility or a different contract home.

Duplication of inspections of contract facilities, which take both VA and Medicare and Medicaid patients, is both a costly and an unnecessary administrative burden. Currently the VA is negotiating with the Department of Health, Education and Welfare to coordinate interagency evaluation of these nursing homes. In addition, the VA is specially training employees to assess community homes.

The VA operates 88 nursing homes, adjacent to VA full service hospitals, serving 7,874 patients as of April 1978. Length of stay is not time-limited in these facilities and priority is given to those with service-connected conditions.

The NAS reviewed the quality of care favorably, rating the homes above the appointed benchmark of adequate care: ". . . the overall quality of the long-term care provided by the VA is usually acceptable—superior to a great amount of the care provided outside the VA."[11] The quality, however, fell short of an excellent NAS rating.

In order to care for the growing elderly veteran population, the VA plans to expand its nursing home facilities to 10,000 beds. This increase has already been authorized by Congress and the VA hopes to eventually bring the total to 12,000 beds.

Uncertainty as to the future demand for nursing home beds has led the VA to adopt a flexible strategy for certain plans. New facilities will be adaptable according to need, serving alternately as Intermediate Care facilities, nursing homes or domiciliaries. Keeping admission standards and patterns as they are, it is probable that the demand for skilled nursing beds will rise. If, however, home health services succeed nursing homes as the dominant mode of care, the VA should be cognizant of the potential oversupply of nursing beds.

Comment

In the future, the VA should seriously examine their investments in additional nursing homes and coordinate them with regional planning. While the VA will need expanded facilities to meet the demands of World War II veterans, that elderly population will level off along with the demand. The general civilian elderly population, however, will continue to increase and require more nursing homes, but VA homes will not be accessible to them under current law. Limits on the allowable per diem should be studied and, if necessary, revised to meet regional differentials in an effort to preclude expensive construction.

Hospital based home care

The Hospital Based Home Care (HBHC) program allows patients, who otherwise might be institutionalized, to remain in their homes with the coordinated assistance of a treatment team consisting of a physician, public health nurse, social worker, rehabilitation therapist, dietician and nursing assistants. Veterans classified up to the fifth level of care are considered suitable for HBHC. The fifth level, according to VA definition, includes those patients with severe, chronic and stable disabilities, who require intensive non-professional nursing care. This level is considered by the VA also to be the highest level for a skilled nursing facility.

Thirty hospitals now provide HBHC programs and in 1977, approximately 2,500 patients were served by 60,000 home visits. No new HBHC units have been initiated since 1974 as "HBHC is an outpatient program and has had less funding priority than the inpatient programs."[12]

Although the VA states the expansion of HBHC as a desirable goal, at present the priority and funding remain on the side of acute hospital medicine. VA tradition in this regard appears even stronger than in the non-VA medical establishment, where long-term care, particularly for the elderly, has come under close examination. In a policy statement regarding home care, the VA concluded that, "it should not be assumed that a home is always the best choice; given attractive surroundings and appropriate personal attention, an institution need not be institutional and the quality of life may be better than in many homes."[13] The current trend in long-term care is to maintain the person in the familiar comfort of the home environment. From both a financial and a medical standpoint, home health care and not institutionalization, appears to best benefit the patient.

An article in Medical Care of June 1978, titled "Patient Outcomes in Alternative Long-Term Care setting," reported on the health status outcomes in three Veterans

Footnotes at end of article.

Administration programs: Home Care (HC); Community Based Nursing Care (CHC); and Hospital Nursing Home Care (HNH). The study concluded that "most patients requiring extended medical care will be more successful in the HC program than will similar patients in the CNH or HNH programs . . . these findings do provide preliminary support for what many health care professionals have long believed, but lack the evidence to substantiate: home care is preferable, when possible." [14]

On economic grounds, home health care is similarly desirable. A December 1977 GAO report to Congress found that "until older people become greatly or extremely impaired, the cost of nursing home care exceeds the cost of home care including the value of the general support services provided by family and friends." Among other provisions, the GAO recommended that Congress pass legislation to consolidate home health services under Medicare and eliminate the three day prior hospitalization requirement for home health care.[15] The GAO testified that the cost of the recommendations would be offset in part by savings that would result from decreased hospital and nursing home utilization if the provisions were passed. Congressman Claude Pepper, with over 100 cosponsors, has introduced legislation (H.R. 10738) to implement the changes recommended by the GAO. H.R. 13097, passed by the House on September 18, 1978, includes two of these proposals: removal of the prior hospitalization requirement and deletion of the visit limits under Medicare.

Comment

The Veterans Administration should take heed of these findings and trends in the field of long-term care. With the tremendous projections for the elderly veteran population, the cost efficient and medically beneficial concept of home health care should be implemented by the VA to a greater extent. The current HBHC program must be reclassified as a priority program in the VA Department of Medicine and Surgery.

Personal care homes

The VA Personal Care Home (PCH) program places patients without supportive home environments in appropriate community settings. Originally devised for released psychiatric patients, PCH has expanded to serve 22,000 patients. VA social workers inspect the homes before placement, but no VA medical funding supports the veterans once they have been released from a medical facility. For this reason, the PCH program costs the VA only $400 per veteran per year. The facilities approved for veterans range from rooms in single family home to board and care homes. No formalized standards for Personal Care Homes have been prescribed and these types of facilities are not usually licensed by state authorities.

The VA has expressed interest in investigating the PCH program's expanded application to elderly veterans; however, current limitations on VA funding of placements preclude extensive utiliziation of this program.

The GAO completed a study in June 1978 titled, "Better Services at Reduced Costs Through an Improved 'Personal Care' Program Recommended for Veterans." The report concluded that personal care homes are an effective, non-institutional alternative to the care of a potentially large group of homeless and/or elderly veterans. As it is currently operated, however, the program lacks definition, goals and efficient management. The GAO recommended that the VA specify the program in the annual budget request; define objectives; establish staffing and facility criteria; and institute periodic evaluations of the program. To encourage greater use of the program the GAO suggested that Congress authorized the VA to participate in paying the cost of veterans' personal care when other funds are not available. The VA agrees with GAO proposals and is working to expand the PCH program.

Comment

Congress should recognize the desirability to this alternative to institutionalization and should allocate the necessary resources and provide structural guidelines for the program's wider implementation.

Domiciliaries

The Veterans Administration originated with the domiciliary program, which was first developed to provide homes for returning Civil War soldiers. As a result of the two World Wars and the enactment of Public Law 293 in 1946, the domiciliary program evolved to its present capacity of 9897 beds in 16 locations. Few medical services are available, as the emphasis in these facilities is on protected residential care. Residents must be capable of meeting their own personal needs, but meals are served, and all domiciliaries except one have access to VA hospitals.

Individual states also provide veteran domiciliary care with federal assistance in the form of construction grants and per diem reimbursements. At present, state homes have a capacity of 8567 beds.

Occupancy in domiciliaries has declined in recent years, allowing the VA to close some outdated facilities which failed to meet fire and safety codes. According to the NAS, domiciliary residents are most often infirm, unmarried approximately 60 years old and disaffiliated from society, all of which contributes to an average stay of several years and to frequent re-admission. Internal programs emphasize recreation and maintenance, rather than rehabilitation and therapy. Alcoholism is prevalent among domiciled veterans, as are chronic diseases and mental illness.

The VA plan to develop and implement a new prototype for domiciliary care in response to the changing needs of veterans and the NAS evaluation of the current program. Proposed are smaller facilities of 200 beds, with greater privacy and increased rehabilitation incentives and services. Convertability of the facility from domiciliary to nursing home will allow the VA to respond to the demands of elderly veterans.

Domiciliaries fulfill their purpose of providing an adequate sheltered environment for homeless veterans who otherwise might reside in single room occupancy hotels in inner cities.

Outpatient care

A total of 228 clinics, mostly located in the 172 VA hospitals, provide ambulatory care for veterans across the country. As described earlier, eligibility for this service was narrowed in the 1976 Veterans Health Care Omnibus Act in an attempt to put a lid on the program's rapidly increasing utilization.

The NAS found defects in the physical facilities and staffing patterns of the ambulatory care program, which were partially attributed to the VA's primary commitment to inpatient care. In addition, the study commented on the problem of access to outpatient clinics, since travel to and from clinics presents an obstacle, particularly to elderly people. Within its legislative and budgetary limitations, the VA is revising its outpatient program and responding to NAS criticisms.

Senior centers

Although the VA is not authorized to fund senior centers under the Department of Medicine and Surgery, the Office of Extended Care has assisted veterans service groups in establishing two centers in Minnesota. The VA plays a consultative role in the operation of the senior centers, occasionally sending medical staff from the local VA hospital to provide various supportive health services.

Participants receive noon meals under the nutrition program carried out under Title VII of the Older Americans Act, but the senior centers do not qualify for other federal funding because of a restriction imposed by the American Legion that only veterans are eligible to attend.

VA involvement in senior centers is a worthwhile investment in terms of the development of a full range of supportive social services for elderly veterans, which cannot be separated from medical services in a holistic approach to health care. In the future, the VA should be mindful of the potential for costly duplication of senior center services in a geographic region if VA centers remain exclusive and additional centers are required for the non-veteran elderly.

FOOTNOTES

[10] *Ibid.*, p. 31.
[11] *Op Cit.*, NAS p. 224.
[12] *Op Cit., Aging Veteran*, p. 40.
[13] *Ibid.*, p. 113.
[14] "Patient Outcomes in Alternative Long-Term Care Settings," *Medical Care*, June 1978, p. 451.
[15] "Home Health—The Need For A National Policy to Better Provide For The Elderly," Comptroller General of the U.S., Dec. 30, 1977.
[16] "Better Services At Reduced Costs Through An Improved 'Personal Care' Program Recommended For Veterans," Comptroller General of the U.S., June 6, 1978.●

A UNIVERSITY FOR PEACE

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. DENT. Mr. Speaker, I am delighted to have received a copy of Costa Rican President Rodrigo Carazo's recent address to the 33d session of the United Nations' General Assembly. I am particularly impressed with the purpose of President Carazo's address, the proposed establishment of an international university for peace under the auspices of the United Nations.

Mankind has come a long way in many fields of endeavor, yet we are still plagued by the age-old scourge of war. We have conquered space but we have yet to overcome hatred and bigotry. We have developed untold riches and luxuries, yet far too many of our brothers and sisters exist in abject poverty and despair. We have built massive institutions for war and destruction but we have yet to institutionalize our dreams of peace and human rights.

Mr. Speaker, I have, on many occasions, stood on this floor and disagreed with President Jimmy Carter on a number of different policies and programs. However, in the fields of human rights and human liberties, President Carter has my unqualified support and admiration. His bold initiatives for peace in the Middle East and his unswerving devotion to human liberties has earned him the rightful distinction to be called "Peacemaker."

Like Mr. Carter, President Carazo has devoted himself to the cause of peace and has put forth a concrete proposal to institutionalize that illusive and long sought after dream. His proposed university for peace, dedicated to the active pursuit of peace by men and women of good will everywhere, is a proposal which I urge the United States to support when

it is considered by the U.N. General Assembly. To my colleagues here assembled, I recommend that each of you take a few minutes to read and consider President Carazo's address and to reflect on its importance.

Mr. Speaker, at this time I would like to present for the RECORD the speech of my good friend, the President of Costa Rica, Rodrigo Carazo.

The speech follows:

ADDRESS BY THE PRESIDENT OF COSTA RICA, RODRIGO CARAZO

Mr. President, distinguished delegates: As I address this august assembly of the Organization in which Mankind has placed its highest hopes for the preservation of peace, the development of the Earth's peoples and the prevalence of respect for the rights of the human person, it is with deep satisfaction that I extend a respectful greeting to the honourable representatives of the sovereign States that take part, with identical rights, in the deliberations of this supreme body of the most eminent of international organizations. And to you, Mr. President, as one who ranks high among the intellectuals and men of outstanding insight who have lent distinction and renown to our Latin American spiritual community, I wish to express my hearfelt satisfaction at the well-deserved recognition your merits have received through your election to the presidency of this General Assembly of the United Nations in a year so crucial to that noblest of endeavours, the advancement of human rights, a cause to which your country and my own attach such great importance.

This year marks the thirtieth anniversary of the unanimous adoption of both the American Declaration of the Rights and Duties of Man, signed on the second of May, 1948, in Bogota, and of the Universal Declaration of Human Rights, adopted on the tenth of December of the same year in Paris, that city beloved of all free men since the historic day when the barricades raised in its ancient streets gave rise to the inmortal cry of "Liberty, Equality, Fraternity!" And now, as if to attest to the strength of their belief in this noble cause, a group of member States of the United Nations is preparing for the forthcoming inauguration of the Inter-American Court of Human Rights, whose seat is to be in Costa Rica, the country that was also the seat, more than 70 years ago, of our first regional court of justice, the Central-American Court, which was given competence to hear grievances and accusations by persons who considered that their rights had been violated by any of the governments of Central America.

HUMAN RIGHTS

Thirty years will shortly have elapsed since the Paris Declaration was drawn up. Much progress has since been made in this continuing struggle to secure recognition and respect for the rights of the human person in every corner of the globe. That declaration, a valuable yet limited expression of the juridical conscience of Mankind, gave way to the Human Rights Covenants adopted in this very hall on the sixteenth of December, 1966. Over ninety countries have secured the inalienable right recognized by the United Nations freely to determine their own destiny. Discrimination among men for reasons of race has wholly disappeared from the law of many countries, where the separation imposed by social custom has also diminished or abated. Today, although one nation or another may still cling to the laws and practices of "apartheid" abhorrent though they may be to all who believe in the oneness of the human race, the innate equality of men and the ideals of the United Nations, we may be sure that no such laws or practices can long endure, for they are infringements of the most sacred of the rights of the human person: respect for the dignity of man, which is both the wellspring and the foundation of the juridical doctrine of human rights. We therefore welcome the news that has recently reached us that biracial Government of Zimbabwe has adopted a series of measures that take the first step towards the abolition of all rules and measures implying unequal treatment of the inhabitants of that long suffering country merely by reason of the colour of their skin.

The work done by the United Nations in this field, which affects so many millions of men and women, as well as other innocent beings, as are children and adolescents, has been great and fruitful. Worthy of special mention is the arduous work done by the Commission on Human Rights and the Sub-Commissions, Committees and sub-committees created to deal with related problems. But this is not enough. In every corner of the earth, there continue to occur frequent cases of violation or non-recognition of rights which the world's conscience and the United Nations consider sacred because the domestic peace of States and, in the final analysis, peace among nations rests upon respects for those rights.

In this connection, Costa Rica has, for more than 12 years, tirelessly advocated the establishment of the post of a United Nations High Commissioner for Human Rights, which, like that of the United Nations High Commissioner for Refugees, would strengthen, through specific personal action, the application of the Universal Declaration and Covenants on the fundamental human rights and freedoms, which is essential to enable all men to enjoy peace and the blessings of progress and civilization.

We have once again pressed for the inclusion of this item because we feel that its continued presence on the agenda of the General Assembly will serve constantly to underscore its importance to the world. This, however, does not imply that we underestimate in any way the major role which has been played with respect to this item and to human rights in general, by the special committee entrusted with studying the item and reporting to the General Assembly

AGGRESSION BY NICARAGUA

A fortnight ago, my country, which has made peace a habit and a way of life, was the victim of the violation of a fundamental right of man: the right to peace.

My country's constitution forbids the establishment of an army and allows only a police force to keep the peace. Resources earmarked by other Nations for maintaining military forces are devoted to education. Costa Rica is thus able to appropriate one third of its national budget for education at all levels.

Costa Rica has no arsenals, no military forces or economic might. Yet it is not by default but by conviction that my country has clearly chosen a civilian vocation, one which places right over might, and the search for the riches of the spirit over the desire for dominance. Costa Rica's lack of force is its strength.

On the twelfth of September, aircraft of the Nicaraguan Air Force violated the border with Costa Rica and proceeded to strafe the only army our country has: its students and teachers. The order was given by the Government of Nicaragua, and the target was the innermost heart of our nationhood.

My Government, which is based upon the rule of law and respect for international agreements, repelled the attack with its finest weapons: the moral courage of its people, and reliance upon international treaties. It immediately appealed to the Organization of American States, invoking its Charter, and supported the open and exemplary initiative of the Government of Venezuela, which called for a meeting of American Foreign Ministers. My Government brought its case before the Organization of American States, as a regional body, before appealing to the Security Council.

In this matter, my Government has enjoyed the resolute and effective support of the Governments of Venezuela and Panama, which have shown themselves ready to come to the aid of a country which has no army and no weapons, as well as the support of other friendly nations. Before this world forum, I convey to them the thanks of my Government and my people.

How great a task lies before us in the field of human rights when a country can be assailed because it lives in peace! How great is our responsibility when dedication to culture, to education, health and development can be greeted with a treacherous attack! How much yet remains to be done to uplift the minds of men and nations when weapons, in the hands of a foreign country's ruler, can be raised against children, teachers and students walking joyously and peacefully through the fields of their homeland organizing the celebration of their Independence Day, as has just occurred in my country.

Distinguished Delegates, compare the character of the attacker and the position of the attacked, and ask yourselves whether this case leaves any room for doubt as to who is in the right.

My people and Government solemnly undertake, before this forum of universal dialogue, to continue demonstrating their adhesion to human rights and to the cause of peace, and to strive without respite to secure respect for the law and for the human dignity in the face of aggression, genocide, violence and the stifling of liberty. This is my Government's reply to those who, in word and deed, have left the stain of their treachery upon our land.

I am confident that the international community will recognize who is in the right and will issue a just verdict, as an expression of its faith in its principles as a demonstration of their fruitful application.

SELF DETERMINATION

The Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights, of sixteen December 1966, which Costa Rica had the privilege of signing, approving and ratifying before any other country, are an embodiment of the inalienable right of peoples freely to exercise self determination in the political, economic and social domains. Both Governments, using the same wording, place this right in the first paragraph of their first article, to indicate thereby that the legal framework of respect for human rights and peace among nations rests fundamentally upon recognition of the right of peoples freely to determine their political institutions. Thanks to this sound principle, we have today in this General Assembly representatives of a great many States which secured independence, recognition and sovereignty since 1945, among them the newest member of our Organization, the Solomon Islands, to whom I wish to extend my Government's heartfelt congratulations and our best wishes for the development and prosperity of this new nation. Costa Rica cannot hide its satisfaction at having contributed, on all previous occasions, to ensuring that the aspirations of different groups of human beings to govern themselves freely and independently should be recognized by other nations and by our Organization.

MIDDLE EAST

In this regard, my Government publicly expresses its joy at the signing by President Anwar El Sadat and Prime Minister Menagem Begin, of a preliminary peace agreement, under the auspices of President Jimmy Carter, which augurs an historic change in international relations in the Middle East, if good will, pursuit of the ideal of peace,

and direct dialogue between the two countries continue.

It is my Government's sincere hope that, in the long-awaited settlement of the very delicate problems of the Middle East, the right of the Palestinian people freely to determine its own destiny should, as the Camp David document suggests, become a reality in the near future. My Government likewise reaffirms the right of the State of Israel to have its status as a free and sovereign State acknowledged and guaranteed by all members of this Organization.

The direct dialogue between Israel and Egypt has inspired new hope in all peace-loving men and peoples. Peace is possible. In that conviction, I appeal to all Governments in this effort and pursue in this fruitful and exemplary dialogue so that, before long, they can offer the world imposing evidence of faith in man, and so that, once again, as in Biblical times, the dove of peace shall take flight and peoples shall be united. On that day, Mankind shall turn a new page in its history and the blessings of all men of good will shall go with the leaders who brought about this achievement.

My Government upholds the unique effectiveness of frank and cordial dialogue, as in the case of Egypt and Israel. We also harbour the highest hopes for Central America expressing once again Costa Rica's heartfelt wish and concern to see a speedy solution of the problems still pending between the sister nations of El Salvador and Honduras. Accordingly, I reaffirm my Government's confidence in the mediation mechanism which has been established.

PANAMA CANAL

My Government hopes that the same spirit of justice will attend the deliberations of the Third United Nations Conference on the Law of the Sea, which has just completed another session, as well as the multilateral negotiations being conducted by several countries concerning the rights and obligations of States which have interests or which carry on fishing activities in the economic zones which the new Law of the Sea recognizes for coastal States. Costa Rica, whole land territory is small, possesses broad maritime zones in the Pacific and Atlantic Oceans that it has claimed for many years, with no objection by other States, on legal grounds which correspond to those that have already been incorporated in the text which the Conference on the Law of the Sea is working out by consensus. These zones abound in marine species of all kinds—some sedentary, others migratory—all of which are part of the natural resources which both law and equity recognize as the economic heritage of Costa Rica, and which the government that took office in my country in the eighth of May proposes to defend with all the force of the law in order to ensure that the Costa Rican people receive their just share of the benefits derived from permitting the exploitation of their fisheries by Costa Rican vessels of by foreign vessels which obtain the necessary permission in accordance with duly established regulations. It is all well and good that on the high seas, which are the *res communes* of Mankind, fishing fleets of economically powerful nations should take the harvests without sharing the product of their sale with any country other than their own; it would be inequitable, however, for such fleets to transfer their bases thousands of kilometres away in order to take advantage of the thunnidae which abound in the economic zones of other nations without those nations, which are generally underdeveloped or at an early stage in development, receiving a fair share of the proceeds accruing from the sale of a natural resource that was taken from their economic zones.

It is not right that the great industrial powers should reserve extensive fishing zones for themselves, send their fleets thousands of kilometres away to reap resources lying off the coasts of developing States, and yet not recognize the rights of those States with regard to the exploitation of their marine resources, which are the only such resources accessible to their generally poor equipped national fleets.

As I stated during my first visit to our island territory most distant from the mainland—Cocos Island—"the President of the United States has opened up a new and promising era in international relations by proceeding with the exchange of documents concerning the Panama Canal Treaty. The principles he laid down are categorical and, if the new Canal Treaty is the first sign of this new policy, Costa Rica trusts that those same principles will apply in the case of fisheries, in the interests of justice in relations between our two countries." The resources of the sea are an important part of the national wealth of coastal States. Costa Rica hopes that, at this promising juncture, as nations strive to find just formulae conducive to development, bi-lateral or multilateral agreements can be worked out that will recognize the right of Costa Rica or of any other State that authorizes exploration of its resources by foreign fleets to receive the equitable share to which it is entitled by the use of the living resources of its exclusive economic zone.

DISARMAMENT

All men who long for peace are concerned about the arms race that has been unleashed among the largest world powers and which is consuming enormous economic resources and absorbing the efforts of intelligent men who could otherwise place their inventive genius in the service of peaceful arts and sciences, and thus contribute to the worthy tasks of development and the gradual eradication of the ignorance and poverty that persist in many large areas of the globe. My Government, which represents a people known for its love of peace, cannot fail to reiterate its hope that the major military powers will find a propitious formula enabling them to earmark for peaceful purposes a substantial part of the financial resources and man-hours which they are now devoting to the construction of ever more sophisticated instruments of death and destruction.

As we enter the closing years of the Twentieth Century and near the dawn of the Third Millenium, the question of disarmament as the basis for the establishment of peace in the world must, in my Government's view, be accompanied by a new vision of peace.

The purpose of global efforts for disarmament is to eliminate the principal physical instrument of war. All things considered, what is involved is a worldwide decision and a worldwide struggle, which may fail to alter the fundamental problem: the absence of a collective and positive will for peace. The struggle for disarmament must therefore be accompanied by a pedagogy of peace—in other words, education for peace. Disarmament may serve to avert imminent disaster. Education for peace is a permanent attitude. Disarmament means discarding an instrument of war in order to achieve the objective of peace. Education for peace means creating the real conditions for a peaceful world. Consequently disarmament should advance hand in hand with education for peace.

I therefore propose to this Thirty-Third General Assembly of the United Nations the creation of a University for Peace, within the framework of the United Nations University network, as a concrete expression of this new vision of a triumphant and dynamic peace, this new vision of peace as a result of education and consciousness.

This University would be a great centre of higher learning, open to all peoples and all men of good will, whose primary objective would be to contribute, through research, teaching, dissemination and free inquiry, to the cause of peace, to mutual knowledge for men throughout the world, and to the promotion among all men of a spirit of understanding, tolerance, and peaceful coexistence, in order to stimulate international co-operation and eliminate any situation which could imperil universal peace and progress.

The United Nations is, by definition, dedicated to the cause of peace. That is its supreme and inescapable purpose.

The United Nations has created various bodies to perfom specific tasks in economic, social and cultural development. However, it lacks the supreme institution, that from which it derives its essence and its reason for being: the institution of Peace. The United Nations was created to safeguard peace, and the entire organization is oriented towards that central goal. However, for historical reasons, its concept of peace has been closer to the notion of peace as the absence of war than to that of peace as the supreme achievement of man, as a continuing task in the domain of learning. Accordingly, I propose the creation of an institution to prepare men and nations for peace.

Every positive and concrete effort against the arms race meets with opposition from those who wield the old Latin principle "Si vis pacem, para bellum" ("If you desire peace, prepare for war".) Today, however, preparing for war has a different goal, not the achievement of peace, but the prevalence of fear, as the means to world equilibrium. This, then, is peace founded on an act of fear, not on conviction or on an act of conscience.

For the military maxim, I propose to substitute a human one: "If you desire peace, prepare for peace."

Peace is a dynamic concept. It is a condition of life and, consequently, one of the fundamental human rights. Viewing the matter in this way, it becomes a question not of keeping the peace, but of achieving it. Peace is a right of the human species, but it is also a duty. It follows that every man, and Mankind as a whole, must be not only the object, but the subject of peace. Men may enjoy this right, but they must, at the same time, keep it in being. Peace is the work of justice and the fruit of love, but it must also be the product of education, or, better said, education must be one of its most effective instruments of action.

At this point in the Twentieth Century we are being called upon to face, in all their tragic urgency, the needs of Mankind. However, we must at the same time face up to the requirements of the species. The University for Peace must be the laboratory of the spirit of peace, the crucible in which we must form the new mentality of peace over the decades to come. For the Twenty-First Century shall be peaceful, or it shall not be.

Peace is not the end of a conflict or an interlude between wars; it is a constantly renewed challenge. It must be our supreme objective and, as such, we must provide concrete means for affirming it, recalling that the present generation reserves its trust for words that are accompanied by deeds.

Peace, like war, is not the result of historical predestination; it springs from man's freedom. Peace is within man, but it urgently requires measures to safeguard and create it: diplomatic relations, covenants, agreements, treaties, economic and human resources, means of information and education, laws and, finally, a vast machinery to give visible and tangible shape to this ceaseless quest of man on earth. What would become of the human species without all of a specific institution dedicated to preparing for peace, training for peace, two decades before the new millennium?

Peace is not merely a matter of noble sentiments. It requires, by its very nature, some measure of precise and diversified knowledge, both theoretical and practical. That is why it is urgent that man's intel-

ligence and culture should be directed towards peace. What is involved, as has been proposed by one eminent voice, is marshalling all man's intellectual faculties, all of the cultural and scientific heritage of mankind, in order that we may become an instrument of peace. What this implies, finally, is preparing and training man's will and intelligence for peace.

Peace is made, not found. Peace is not rest. It is not another word for fear. It is the pulse of life.

Settlements imposed by fear do not constitute peace. The institutions of peace we have today were born in the wake of the war. They were inspired by pain and fear. But, as the pain and fear of that holocaust subside, the possibility of a new war looms ever greater. Why is this happening? Because, as the old Latin maxim would have it, we are still preparing for war in order to bring peace. Thus, the vicious circle continues and Mankind is never prepared for peace.

With this in mind, what I offer for your consideration is an institution that would not be built on fear, but on a triumphant and vigorous idea of peace. The world must instil a dynamic mentality of peace in adults, children and young people. To that end, we must put to use one of the greatest and most effective means of ennobling and transforming man: education. In this way we may forge in man the thoughts and habits of peace, bringing peace first into the minds and hearts of men, and then into world politics.

My Government will submit a specific draft resolution on this subject, requesting the General Assembly to consider the initiative of creating a University of Peace along the lines I have described, as the contribution of a peaceful people to the cause of peace, the supreme goal of the United Nations, on the thirtieth anniversary of the Universal Declaration of Human Rights.

And, as a token of good will and the desire to take part in the creation of the University for Peace, I offer my country, Costa Rica, as its host. I hope that the distinguished representatives of the Member States will view this offer as testimony of our faith and trust in the ability of this Organization to find new ways to strengthen and nurture a flourishing and positive peace in the world through the education of man. Let us rally to peace!

Costa Rica places at the disposal of the United Nations achitectural drawings and programmes of study which we have already developed, as well as an ample and ideal site, from an ecological and geographical viewpoint, for the realization of this project. The tropical features of the site, coupled with a refreshing altitude, produce a spring-like climate. Largely surrounded by virgin forest, the site is an ecological paradise.

The area set aside for the University for Peace enjoys a climate which, from the physical and biological standpoint, is particularly well suited for the realization of an historic project on peace.

Distinguished Delegates: Thirty-five years will shortly have elapsed since the signing, at Moscow in October of 1943, of the Four Nations Declaration on General Security, which, for the first time, recognized the necessity of establishing "a general international organization, based on the principle of the sovereign equality of all peace-loving States, and open to membership by all such States, large and small, for the maintenance of international peace and security." That declaration planted the seed which, finding fertile soil in a Mankind racked by blood and destruction, was to grow into this august Assembly of sovereign States, the largest and most exemplary organ of international action that the centuries have witnessed. I call to mind here the illustrious names of so many eminent men of the Old and New Worlds, of the Northern and Southern Hemispheres, men from strong countries or from weak countries, leaders of Christianity and of other spiritual movements, who have spoken from this podium and have contributed so much to this Organization's endeavours to fulfill the hopes that led to its creation.

Distinguished Delegates, allow me once again to extend to you all my respect and consideration.●

INTRODUCTION OF THE HALIBUT CONSERVATION AND MANAGEMENT ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. YOUNG of Alaska. Mr. Speaker, today, I am joining my colleague from the State of Washington (Mr. PRITCHARD) in introducing the Halibut Conservation and Management Act. This bill will bring under U.S. jurisdiction the research and management activities currently being conducted by the International Pacific Halibut Commission.

The Halibut Commission was established in 1923 by a convention signed with Canada. The Commission represented the first attempt at international management of a marine resource. Since its establishment, the Commission has done an excellent job in compiling data on the nature and distribution of Pacific halibut and has assembled a distinguished staff of marine scientists to aid in the management of the resource.

Unfortunately, problems have arisen in recent years. Halibut stocks have declined due to a number of factors, including a high rate of mortality of juvenile halibut from incidental catches by foreign trawl vessels.

Halibut management has become entangled in disputes between the United States and Canada over the location of international boundaries and reciprocal fishing rights. Canadian fishermen have begun to take more halibut in U.S. waters than in Canadian waters. All of these problems have caused the United States to give notice of withdrawal from the Halibut Convention, effective April 1, 1979. This will cause the Halibut Commission to be disbanded and will mean the loss of the carefully acquired data.

While I concur in the need to withdraw from the convention, I do feel that the years of research conducted by the Commission should not go to waste. Thus, this bill, which is supported in principle by the Governor of Alaska, the North Pacific Fisheries Management Council, and the Pacific halibut fishermen, will transfer the research data to the Northwest and Alaska Fisheries Center operated by the National Marine Fisheries Service and will provide for uninterrupted management of the halibut resource. By working within the framework provided by the Fisheries Conservation and Management Act, this bill will allow U.S. halibut fishermen to continue earning their livelihood without dangerously depleting the existing halibut stocks.●

CZECHOSLOVAKIA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. DERWINSKI. Mr. Speaker, as we will be in adjournment on the 28th of October, I would like to take this time to remind the Members of a very important date in the history of Czechoslovakia.

Although before 1914, the Czechs and Slovaks existed only as a nation within Austria-Hungary, the outbreak of World War II, changed this outlook. Prof. Thomas Garrigue Masaryk devoted himself to the purpose of liberating his country, and became the spiritual head of the struggle for independence.

In May of 1918, Thomas Masaryk went to the United States where he secured official support for his cause which resulted in its later adoption by the allied powers.

His work found its culmination in November 1918, when he was elected first President of the Czechoslovakian Republic. He served in this capacity for 17 years in accordance with democratic principles. Ill health forced his resignation in December 1935, and he died in September 1937, thus being spared the agony of seeing his homeland under the control of Nazi and Communist oppressors.

His memory lives on in the minds and hearts of his countrymen to whom he dedicated his life, and remains a symbol of inspiration to all who value freedom and true national independence.

In honor of this anniversary of the birth of modern Czechoslovakia, I wish to insert a letter which Professor Masaryk sent to President Wilson on October 18, 1918, and a copy of the Czechoslovak Declaration of Independence:

OCTOBER 18, 1918.

President WOODROW WILSON,
Executive Mansion,
Washington, D.C.

MR. PRESIDENT: I beg to enclose our Declaration of Independence, which is published today in all the Allied countries and in America; the National Council was compelled to make this declaration now because of the Austrian moves for peace and toward a mock-federation calculated to deceive the world.

Believe me, Mr. President,
Very respectfully yours,
T. G. MASARYK.

DECLARATION OF INDEPENDENCE OF THE CZECHOSLOVAK NATION BY ITS PROVISIONAL GOVERNMENT

At this grave moment, when the Hohenzollerns are offering peace in order to stop the victorious advance of the Allied armies and to prevent the dismemberment of Austria-Hungary and Turkey, and when the Habsburgs are promising the federalization of the Empire and autonomy to the dissatisfied nationalities committed to their rule, we, the Czechoslovak National Council, recognized by the Allied and American Governments as the Provisional Government of the Czechoslovak State and Nation, in complete accord with the Declaration of the Czech Deputies, made in Prague on January 6, 1918, and realizing that federalization, and, still more, autonomy, mean nothing under a

Habsburg dynasty, do hereby make and declare this our Declaration of Independence.

We do this because of our belief that no people should be forced to live under a sovereignty they do not recognize, and because of our knowledge and firm conviction that our nation cannot freely develop in a Habsburg mock-federation, which is only a new form of the denationalizing oppression under which we have suffered for the past three hundred years. We consider freedom to be the first pre-requisite for federalization, and believe that the free nations of Central and Eastern Europe may easily federate should they find it necessary.

We make this declaration on the basis of our historic and natural right. We have been an independent State since the seventh Century; and, in 1526, as an independent State, consisting of Bohemia, Moravia, and Silesia, we joined with Austria and Hungary in a defensive union against the Turkish danger. We have never voluntarily surrendered our rights as an independent State in this confederation. The Habsburgs broke their compact with our nation by illegally transgressing our rights and violating the Constitution of our State which they had pledged themselves to uphold, and we therefore refuse longer to remain a part of Austria-Hungary in any form.

We claim the right of Bohemia to be reunited with her Slovak brethren of Slovakia, once part of our national State, later torn from our national body, and fifty years ago incorporated in the Hungarian State.

We reject the sacrilegious assertion that the power of the Habsburg and Hohenzollern dynasties is of divine origin; we refuse to recognize the divine right of kings. Our nation elected the Habsburgs to the throne of Bohemia of its own free will, and by the same right deposes them. We hereby declare the Habsburg dynasty unworthy of leading our nation, and deny all of their claims to rule in the Czechoslovak Land, which we here and now declare shall henceforth be a free and independent people and nation.

We accept and shall adhere to the ideals of modern democracy, as they have been the ideals of our nation for centuries. We accept the American principles as laid down by President Wilson: the principles of liberated mankind,—of the actual equality of nations,—and of governments deriving all their just powers from the consent of the governed. We, the nation of Comenius, cannot but accept these principles expressed in the American Declaration of Independence, the principles of Lincoln, and of the Declaration of the Rights of Man and of the Citizen. For these principles our nation shed its blood in the memorable Hussite Wars five hundred years ago, for these same principles, beside her Allies in Russia, Italy, and France, our nation is shedding its blood today.

We shall outline only the main principles of the Constitution of the Czechoslovak Nation; the final decision as to the Constitution itself falls to the legally chosen representatives of the liberated and united people.

The Czechoslovak State shall be a Republic. In constant endeavor for progress it will guarantee complete freedom of conscience, religion and science, literature and art, speech, the press, and the right of assembly and petition. The Church shall be separated from the State.

Our democracy shall rest on universal suffrage. Women shall be placed on equal footing with men, politically, socially and culturally. The rights of the minority shall be safeguarded by proportional representation; national minorities shall enjoy equal rights. The government shall be parliamentary in form and shall recognize the principles of initiative and referendum. The standing army will be replaced by militia.

The Czechoslovak Nation will carry out far-reaching social and economic reforms; the large estates will be redeemed for home colonization; patents of nobility will be abolished.

Our nation will assume its part of the Austro-Hungarian pre-war public debt; the debts for this war we leave to those who incurred them.

In its foreign policy the Czechoslovak Nation will accept its full share of responsibility in the reorganization of Eastern Europe. It accepts fully the democratic and social principle of nationalism and subscribes to the doctrine that all covenants and treaties shall be entered into openly and frankly without secret diplomacy.

Our constitution shall provide an efficient, rational, and just government, which will exclude all special privileges and prohibit class legislation.

Democracy has defeated theocratic autocracy. Militarism is overcome, democracy is victorious; on the basis of democracy mankind will be reorganized. The forces of darkness have served the victory of light, the longed-for age of humanity is dawning.

We believe in democracy, we believe in liberty, and liberty over more.

Given in Paris, on the eighteenth day of October 1918.

Professor Thomas G. Masaryk, Prime Minister and Minister of Finance.

General Dr. Milan R. Stefanik, Minister of National Defense.

Dr. Edward Benes, Minister of Foreign Affairs and of Interior.●

MONSIGNOR MEYER RETIRES

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. GEPHARDT. Mr. Speaker, it is my pleasure to recognize today, Msgr. Louis F. Meyer of St. Louis. Monsignor Meyer recently retired as the director of the St. Louis Archdiocesan Catholic Youth Council after 15 years of dedicated service. Upon his retirement from the CYC, he assumed the directorship of the Family Life Commission in St. Louis.

Monsignor Meyer has worked with the youth of St. Louis for over 30 years. As director of the CYC, he directed all of the archdiocesan youth programs. These included camps, sporting activities, teenage and adult programs, and the Girl Scouts.

Additionally, Monsignor Meyer has been very active in efforts to preserve the strong neighborhood character of South St. Louis. Through his insistence that the CYC teams be products of the parishes they were associated with, he encouraged the development of a strong sense of community and neighborhood. Many St. Louisans active in the revitalization effort of St. Louis can thank Monsignor Meyer for developing that quality and others so important to the development of an individual character and of his community.

Now that Monsignor Meyer is giving up his post with the CYC after 30 long years, it is tempting to dwell on the magnitude of the loss that all St. Louisans will feel. But Monsignor Meyer's contributions to his fellow man have been so great that the St. Louis community at this moment, can feel a glowing pride that his contributions are still with us today and will endure for a long time in the future.

For all the young people who were touched by this man's understanding and compassion in the formative years of their lives, a chorus of "thank you's" will be heard this Thursday evening, October 19, when members of the St. Louis community will honor Monsignor Meyer for his service. I would like to join them by offering my sincere appreciation for his work and my best wishes.●

CONGRESSIONAL SALUTE TO THE CLERGY AND PARISHIONERS, ST. GEORGE GREEK ORTHODOX CHURCH, CLIFTON, N.J.

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ROE. Mr. Speaker, on Sunday morning, November 12, residents of my congressional district, State of New Jersey, will join with His Eminence Archbishop Iakovos, primate of the Greek Orthodox Church of North and South America, assisted by Bishop Silas of Amphipolis, Reverend Father John P. Orfanakos, presbyster, other distinguished members of the clergy and parishioners in the solemn consecration of the St. George Greek Orthodox Church located in the city of Clifton, my congressional district, State of New Jersey.

Mr. Speaker, consecration services will be followed by a consecration banquet at the Wayne Manor and I am deeply honored and privileged to have been invited to participate in this most historic event.

In recognition of the fact that our Nation was founded on the cornerstone of our people's faith in God, which is truly the spirit, conscience and very being of our society, I appreciate the opportunity to call this consecration service to the attention of you and our colleagues here in the Congress. I know you will want to join with me in extending our warmest greetings and felicitations to the pastor of St. George's, Father Orfanakos, his associate priests, Hon. Peter N. Kartanos, president, the board of trustees, and all of the other members of this congregation of our citizens of Greek heritage who are promulgating the richness of their religious culture through the consecration of St. George Greek Orthodox Church.

Mr. Speaker, the magnificence and splendor of the St. George Greek Orthodox Church where the consecration services will be conducted was described to me by Father Orfanakos, as follows:

The cornerstone for the beautiful, Byzantine Style edifice, on the side of Garrett Mountain, was laid in December, 1971, and the first Divine Liturgy was conducted three years later. Demetris Siderakis was the architect and Leegwater-Riker the builders. The furnishings were imported from Greece and the iconography, which is almost completed, is being done by Constantine Youssis. The stained glass windows were done by Hiemer & Co., a Clifton enterprise.

The present location is the fourth in succession since a handful of Greek immigrants residing in the Passaic area established the original church in 1921 over a store. Later the church moved to Lincoln Street and then to Hamilton Avenue. The church serves the

spiritual needs of the Greek Orthodox of Passaic County and some sections of Bergen and Essex Counties

It provides, in addition to religious guidance and Sunday School, a Greek language school three days a week for the parish children and once a week for adults who wish to learn Greek—when there are enough persons to form a class.

Youth organizations, the Philoptochos Society, the Senior Citizens Club have become the outlets for the athletic, philanthropic and creative energies of the parishioners under the guidance of the Reverend Father John P. Orfanakos and the Board of Trustees led by President Peter N. Kartanos and the president of each parish organization.

Mr. Speaker, to understand the wealth and vibrancy of inspiration that the consecration services signify, with your permission, I would like to insert at this point in our historic journal of Congress the following information related to to me by Father Orfanakos on the baptism, sanctification, consecration, and dedication embodied in this Greek religious service:

THE SERVICE OF THE CONSECRATION

On Sunday, November 12, 1978, we will have our church consecrated. The solemn service of the Consecration will be celebrated by his Eminence Archbishop Iakovos.

The Consecration Service dates back to the 4th Century A.D. The tradition to dedicate an Altar to the service of God was practiced by the Jews, as recorded in the Old Testament.

Consecration means "To make sacred," to set apart for sacred use, thus the Consecration of the Church means that the Church building is set apart especially and exclusively for the purpose of worshipping God. St. Symeon of Thessalonica writes "Just as a bishop or priest is needed to celebrate the Divine Liturgy and a Bishop to celebrate Holy Orders, in like manner these rites have need of an Altar, for the Altar is the Church and through the Altar the Church is made Holy; for without an Altar there can be no Church, but only a house of prayers."

On the evening before the day of the Consecration, at the Vesper Service, the Archbishop followed by the priests, will enter the Church carrying the Holy Relics, proceeds to the Sanctuary, and stands before the Altar Table, which has been stripped of all its Holy articles. There he separates the Holy Relics into three small portions, places them on a paten and covers the paten with a veil.

On the morning of the Consecration, at the conclusion of the Orthros (Matins) the Archbishop dressed with all his vestments, proceeds to the Altar and stands before the Holy Relics. The Archbishop, holding the paten containing the holy relics above his head, leaves the Church preceded by the Altar boys, clergy and followed by the faithful.

A procession three times around the Church will take place, stopping each time in front of the Church, where a table is set, and where the Epistle and Gospel readings are read. Upon the third completion the Archbishop places the holy relics on the table which is in front of the Church, and the following dialogue takes place, between the Archbishop, who represents Christ returning to heaven at the Ascension, and a priest within the Church who represents an angel: "Open, Open the gates and let them remain open forever and let the king of glory enter." "Who is this king of Glory?" "The Lord strong and mighty, the Lord mighty in battle, the Lord of hosts. He is the king of glory."

The gates of the church open wide and the Archbishop proceeds to the Sanctuary and places the paten on the Altar table. Uncovers the Holy Relics and removes them from the paten and places them in a small Pyx (box), sprinkles the relics with the oil of Holy Chrism and seals the pyx securely reciting at the same time the words: "May the memory of all those who contributed and built this Church be eternal. Amen." Deposited with the Holy Relics are the names of the living and dead for eternal commemoration. He then deposits the pyx containing the holy relics in a concealed crypt in the center of the Altar Table and pours over it wax-mastic, a mixture of wax, mastic, myrrh, aloe, incense, resin and ladanum, to seal them in.

The Archbishop then puts on over his Liturgical vestments a white garment made of pure linen, "Savvanon" which reaches from his shoulders to his feet. This white linen garment reminds us of the cloth (Shroud) with which Joseph of Arimathea wrapped the body of our Lord before placing it in the tomb.

The Archbishop wearing the shroud reminds us also of the death of Christ so that we may never forget that the Altar symbolizes the tomb of Jesus Christ. He then proceeds to cleanse and purify the Altar table.

The materials of which the Altar table is constructed die to their former use and resurrect to a new use, the Sepulchre of our Lord.

A basin, containing warm water, and a vessel of wine and one of rose water are brought before the Archbishop who blesses and prays for their sanctification. Pouring the water three times on the Altar Table in the sign of the Cross the Archbishop says each time "In the name of the Father and the Son and the Holy Ghost." The Archbishop washes the Altar Table with a new sponge as Psalm 84 is read. Symeon of Salonika says: "Since the Altar symbolizes Jesus, it also receives the marks of His Baptism, and this in two ways. It becomes clean by washing it and is sanctified with Holy Spirit since it becomes the vessel of the Spirit." The Archbishop glorifies God at the completion of the washing and wiping off the Holy Table. Then three times he anoints the Altar Table with rosewater symbolizes the anointing with sweet smelling fragrances of Christ's Body. The Altar Table is wiped with the Corporals, Antimensia. The Archbishop now takes a vial filled with oil of the Holy Chrism and pours the contents on the Altar making the Cross three times (as is done during the Holy Baptism) chanting at the same time the "Alleluia." He proceeds then to anoint carefully the entire Altar. After this, he wipes the Altar dry with the same corporals with which he wiped the rosewater and wine.

Four icons of the Evangelists are fastened on the four corners of the Altar Table with mastic. The Altar now symbolizes the whole church, which from the four corners of the earth is held together by the Lord and is built on Him, through the preaching of the Gospel. The Altar is then covered with a white linen shroud called the "Katasarkion." This symbolizes the shroud with which our Lord was wrapped for burial. The "Katasarkion is secured around the Altar with a cord, which typifies the cord tied around our Lord when he was led before the High priests. The shroud will never be removed again and will remain on the Altar as long as the Church will remain standing, for our Lord died and was buried once and for all time. Over the "Katasarkion" he places a cloth of rich material called "Epedyses" or "endyte." Finally, he places the "eiliton" or corporal (Antiminsion) on the Altar and upon this the book of the Holy Gospels. The Priests assist in completing the vesting of the Altar by placing the Tabernacle, candlesticks and the Vigil light on the Altar.

Since the Altar Table has been consecrated, sanctified, and adorned it is censed, for we cense that which is holy, the church is then censed. The Archbishop then proceeds to anoint with the oil of Holy Chrism the four walls of the Church. This is done by means of a long pole at the end of which is secured tightly some cotton. St. Symeon of Salonika says: "The entire Church is anointed, symbolizing the sanctification of all humanity by God's Grace.

Sometimes during the Service the Archbishop will invite the Congregation to participate in the offering of light to the Vigil Lamp by approaching the Solea and placing oil into this lamp and making an offering to the Church. The Archbishop then lights the Vigil Lamp which he places near the Tabernacle and which is never to be extinguished. This eternal light represents the ever presence of the light that Christ brought to the world which was found in darkness.

The church has now been baptized, anointed, sanctified, consecrated, and dedicated to God for eternal use as an Orthodox Christian House of Worship. The Divine Liturgy is performed immediately after the Consecration Service, for the Holy Eucharist consumates the Consecration of the Church, and which is to be celebrated for seven consecutive days.

Mr. Speaker, as they consecrate their altar to the service of God dedicated to the noble cause of service to God and brotherhood, goodwill and understanding among all mankind, we extend this national recognition and tribute to the elegance of the faith of our people of Greek heritage and salute the clergy and parishioners of St. George Greek Orthodox Church.●

THE OLDEST PUBLIC/PAROCHIAL SCHOOL RIVALRY IN PHILADELPHIA

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. LEDERER. Mr. Speaker, I would like to pause in the business of the House to recognize a great rivalry in the history of Philadelphia football—the North Catholic-Frankford High School football game. This is a rivalry which began on October 5, 1928; certainly the oldest public school/parochial school game in Philadelphia and possibly the Nation. The game cannot be played on the football field of either school, simply because the numerous fans of this rivalry, often numbering over 30,000 cannot be accommodated by the limited seating in a high school field.

This Thanksgiving Day game will mark the 50th anniversary of this great series. Fittingly, the game will be played in Philadelphia's finest sporting complex, Veterans Stadium. Since 1931, this game has begun at 9:30 a.m., making it the first football game to be played in the Nation on each Thanksgiving Day. While this may be symbolic, certainly this great Thanksgiving classic is No. 1 in more ways than simply the time that it is played.

Mr. Speaker, I wish to thank Mr. Jeb Lynch, coach of North Catholic High School football, and Mr. Al Angelo, coach of Frankford High School football, for the great work they have done in preparing their respective teams for this tremendous classic.

I also wish to salute the students, faculty, alumni, fans and, of course, players of North Catholic and Frankford

High Schools for making Philadelphia's greatest Parochial/Public High School rivalry possible.

This Thanksgiving Day we will see in the gridiron future all American's which has been a Philadelphia tradition for over 50 years.●

NATIONAL COMMISSION TO STUDY COMPUTERS IN EDUCATION

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. SCHEUER. Mr. Speaker, today I and Representative ROBERT S. WALKER have introduced H.R. 14329 to establish a national commission to study the uses of computers in the Nation's educational system. There are two major reasons for our action:

First, our Nation must critically assess how it will prepare our young people for a developing information-based society—a future society where computer literacy may be as critical as reading literacy is today.

Second, we must take full advantage of the marvelous potential being offered by what is termed the microelectronic revolution in the computer industry. This revolution will make computers affordable by every school and virtually every home. The educational potential of this development cannot go ignored.

The idea behind this commission and the specific tasks it should undertake grew out of a 6-day oversight review of the Domestic and International Scientific Planning, Analysis, and Cooperation (DISPAC) Subcommittee of the House Science and Technology Committee during the fall of 1977. Witnesses at those hearings were convincing to the subcommittee that such a commission is necessary to put our country on the correct course of computer usage.

Specific tasks assigned to this commission will lay the groundwork for an appropriate national policy on computers in education. Items to be addressed include:

First. A forecast of changes in information technology during the period from 1980 to 2000, with emphasis on the effect of such technology on education and lifestyles;

Second. A forecast of the need for individuals with computer skills during the period from 1980 to 2000, with emphasis on the need in the service sector of the Nation's economy for individuals skilled in information processing;

Third. A forecast of the effect of increased use of computers in education on school financing and local taxation during the period from 1980 to 2000;

Fourth. An investigation of needed incentives for increasing private sector involvement in the research and development, demonstration, dissemination, and utilization of computers for education purposes;

Fifth. An investigation of the costs and benefits of alternative methods of training teachers in the use and application of information technologies and computer-based instructional materials;

Sixth. An investigation of the status and effectiveness of existing computer-based instructional techniques;

Seventh. An investigation of research in the application of cognitive psychology and artificial intelligence to computer-based learning, and

Eighth. An investigation of institutional mechanisms for development of exemplary computer-based learning techniques.

To assure proper understanding of these areas of information, the commission will be composed of individuals who are affected by and involved in our Nation's technological progress in this field. Specifically, the Commission shall consist of 12 members appointed by the President with the advice and consent of the Senate.

At least one member of the Commission shall be appointed from each of the following three categories:

First. Individuals who are engaged in the professions of teaching, education administration, or education research.

Second. Individuals who are developers of computer-based instructional materials and computer equipment.

Third. Individuals who are enrolled in school or parents of such individuals.

Not more than three members of the Commission shall be officers or employees of the United States.

Mr. Speaker, we urge passage of this act. In scrutinizing the use of computers in improving our Nation's educational system, it is evident that the problem is large, but the promise is great.●

NATURAL GAS ISSUE

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. RYAN. Mr. Speaker, the natural gas issue, in spite of recent congressional action on energy policy legislation, remains with us and demands policy initiatives on the part of the U.S. Government.

A case in point is the recent decision by the Department of Energy Secretary Schlesinger to import liquefied natural gas (LNG) from Indonesia. Not only is the transport and unloading of LNG dangerous, but costly special ships and docking facilities must be built. In California, there is strong public and local government reaction against such facilities.

I grant that the LNG decision may have been made at a time when other alternatives did not exist. Now such alternatives exist, not only to LNG and its problems, but to the purchase of such fuel from countries already receiving great amounts of U.S. money for petroleum.

We now have the opportunity to buy both natural gas and petroleum from our good neighbor to the South—Mexico. It is time to place our relations with Mexico on the same basis as those we enjoy with our other good neighbor—Canada.

It makes sense to turn to Mexico for oil and natural gas instead of other countries, with which we do not have such strong, cultural, social, historical, or political ties. This is also an opportunity for us to deal in a positive way with some of the other issues confronting our two governments, for example, immigration, drugs, et cetera.

It is to the mutual benefit of all the nations in the Western Hemisphere to have a strong and healthy economy in Mexico. We can aid in this by increasing trade, cooperation, and improving political and cultural relations with Mexico while assuring a safe and reliable energy source for the United States.

I was distressed to learn that the Department of Energy and the State Department offhandedly refused the Mexican government's offer to supply us with natural gas. I sincerely hope that President Carter reconsiders that decision when he receives a Presidential Review Memorandum on the subject.

I commend the following article entitled "Oil Colossus Lies South of U.S. Border" by J. P. Smith, which appeared in the Washington Post on October 8, 1978:

OIL COLOSSUS LIES SOUTH OF U.S. BORDER

(By J. P. Smith)

As the Arab oil embargo came to a close five years ago the Central Intelligence Agency circulated secret reports that Mexico harbored an oil bonanza of some 20 billion barrels—enough to reduce substantially U.S. dependence on Arab oil.

Last month Mexico's president, Jose Lopez Portillo, pegged his country's possible oil reserves at 200 billion barrels, an estimate on which American oil experts concur. This would rank Mexico as a rival only to Saudi Arabia among the world's most oil-rich nations.

Yet the significance of a potential oil colossus along the southern border of the United States seems to have registered little impact on top Carter administration energy and foreign policy makers.

When asked at a press conference last month about the impact of Mexican oil finds on the U.S. relationship with Arab oil-producing states, White House national security adviser Zbigniew Brzezinski replied equivocally:

"I don't have a clear notion of how any potential developments in the area of energy, in Mexico, will affect the world economic energy situation. I don't have an informed judgment to make."

Nonetheless, the National Security Council staff, over which Brzezinski presides, is working on a Presidential Review Memorandum (known as PRM-41 within the bureaucracy) outlining a possible linkage of energy, trade and immigration policies to encourage higher Mexican oil and gas production. The document is due on President Carter's desk in November.

Within and outside government, questions have been raised as to why the administration has not responded faster and more aggressively to the prospect of a Saudi Arabia-sized oil reservoir on the doorstep of the United States.

"Why hasn't Mexico become an issue *vis a vis* our leverage on the Persian Gulf?" asked Jerome Levinson, general counsel of the Inter-American Development Bank.

"Every barrel of oil and cubic foot of natural gas Mexico markets is a bonus for every country entering the market to buy," observed International Energy Agency analyst James Reddington.

"Mexico will be a big factor in the world oil market," predicted Irving Trust vice president Arnold Safer. "Mexico is already selling some oil on the Gulf Coast to U.S. markets that is undercutting crude from Nigeria and the Middle East."

Since the Arab boycott the stated objec-

tive of U.S. policy has been to reduce dependency on imported oil, principally from the Middle East and other members of the OPEC cartel. Mexico has refrained from joining OPEC, the Organization of Petroleum Exporting Countries.

But since oil prices quadrupled in 1973 the trend of drilling and exploration in the less developed countries outside OPEC, particularly Latin America, Africa and Asia, has drifted downward, according to a personal study just completed by a U.S. Geological Survey geophysicist, Bernardo Grossling. Promising areas in these regions remain unexplored, Grossling found.

The richness of Mexico's promise is already being demonstrated. Hydrocarbons—oil or natural gas—are being found in four out of every five wells drilled there as compared to one out of every five in the United States. Individual Mexican wells can produce an average 20,000 barrels a day, the largest rate outside the Middle East as compared to 16 barrels a day in the United States.

Mexico is now pumping 1.5 million barrels a day and is expected to nearly double that by the early 1980s. Production could well go to four or five million barrels a day by the mid and late 1980s, according to State Department and International Energy Agency forecasts.

More importantly, the U.S. government and some major oil companies concede that if Mexico's reserves turn out to be in the 150 billion range, the country could join the ranks of major oil exporters pumping as much as eight million barrels a day in the next decade.

But even if the oil in Mexico jumps to the top of the priority lists of U.S. Government policymakers there is no guarantee of access to the potentially massive tap.

Unlike Saudi Arabia and Iran, the Mexican government has pursued a determinedly independent course of developing its oil and gas richesse.

For one thing, it nationalized the American oil companies drilling in Mexico 40 years ago and turned over control of oil production to the state-run corporation Petroleos Mexicanos (Pemex). This means the major international companies such as Exxon, Texaco and Mobil, which share in production revenues in the Middle East, would stand far less to gain in Mexico—if they were welcome at all.

Mexico has given the cold shoulder to overtures by the major international companies for offshore drilling concessions. "We discussed it at length and we told them we appreciate their efforts, but that we did not need their help," Pemex Director General Jorge Diaz Serrano said recently.

In evidence of that, Mexico is having little trouble attracting capital and is now borrowing from international investment banks at preferential rates. One reason for the favorable interest is that Pemex could pay off all its loans in three years from oil income alone.

While Mexico's oil potential has, as American Ambassador to Mexico Patrick Lucey says, "unfolded beyond our expectations," Washington's handling of bilateral energy questions—especially a proposed natural gas sale of 2 billion cubic feet a day—as well as trade and migration questions have become ensnarled in a succession of debates.

"It's clear we would like to make a deal," says an administration official, "but politically whether we can do it is a tough question."

Sources close to President Lopez Portillo also say that Mexico is actively interested in pursuing high-level exchanges of oil and gas assurances for U.S. concessions on trade barriers and immigration.

Jack Ray, president of Tennessee Gas, had a hand in the talks. He calls Energy Secretary James Schlesinger's performance "an absolute debacle . . . Schlesinger displayed an arrogant sort of attitude about it."

James Flug, head of Energy Action, a consumer lobby on energy issues normally critical of Schlesinger, commends DOE and State for refusing the Mexican gas offer.

At stake was a contract negotiated by a consortium of six American pipeline companies for 2 billion cubic feet of gas a day, equivalent to 5 percent of U.S. daily consumption. The gas was to be sold at a price indexed to the price of oil products, starting at about $2.60 per thousand cubic feet. This is higher than the $1.99 the administration has proposed in its energy bill, and also higher than the $2.16 paid Canadian producers.

Officially, State Department officials such as Deputy Assistant Secretary Steve Bosworth say, "The Mexican gas deal is on the backburner."

Unofficially, the administration says that the talks can start up once the energy bill passes Congress.

In the interim, DOE has approved a purchase of liquefied natural gas from Indonesia at the same pricing formula asked by the Mexicans.

Portillo, who drew political fire from the left in Mexico, has pledged, "We will not lower our prices."

The ultimate significance of the gas deal, some argue, is that the gas is associated with oil. By buying Mexican gas at any price, it's said, the United States can create conditions that will stimulate more aggressive oil production.

Beyond that, Latin experts and the Mexicans themselves admit, there are still questions about whether Mexico will be willing to deplete its oil resources to slake American consumer appetites.●

CLEAN WATER

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

Mr. GRASSLEY. Mr. Speaker, improved purification of municipal waste water has become a critical element in our efforts to provide "clean water" for our country. Unfortunately, conventional water purification systems are extremely expensive, catastrophically so for many smaller communities.

One of the wastewater treatment alternatives, which has been widely used recently, is the high purity oxygen (HPO) system which employs onsite manufactured pure oxygen exclusively. A still newer innovation, the Pentox system, developed by the Cedar Falls, Iowa, based Pentoch Division of Houdaille Industries, Inc., uses combinations of atmospheric (free) air in a series of tank reactors and just a small amount of high purity oxygen in a final cell. In the Pentox system, high purity oxygen is used in only the amounts necessary to achieve the desired results.

Through its research efforts, including studies of existing HPO systems and analysis of other independent studies, Pentech has determined that using these large amounts of high purity oxygen throughout the process is both costly and wasteful. Where HPO systems require elaborate, expensive oxygen concentration equipment, the Pentox system uses conventional air compressors for almost all the oxygen requirements. A small amount of HPO is used for control purposes and can be obtained from readily available liquified oxygen in storage tanks. This results in much lower capital costs, lower energy consumption for a given waste flow and less complicated equipment which is easier to operate and maintain. Through its pilot studies and demonstration plants, Pentoch has proven Pentox to be the functional equivalent of the more costly conventional HPO systems. In a comparison of both capital and maintenance costs, the Pentox system shows significant savings over the HPO systems. The lower maintenance costs are of even greater importance to municipalities than the capital savings since these indirect costs are not covered by grant-eligible funds and will have to be paid by the municipalities from their operating budgets forever. A comparison of capital investment between the Pentox system and a conventional HPO system for a specific 20-million-gallon-per-day waste water treatment plant is shown below:

	HPO	PENTOX
Capital cost of oxygenation	$1,900,000	$1,450,000
Present worth of power	1,780,000	1,260,000
Present worth of liquified oxygen	0	169,000
Extra excavation	0	8,000
Extra concrete for tank deepening	0	29,000
Eliminate tank covers	154,000	0
Total	3,834,000	2,916,000

These savings by use of Pentox are typical of those which can be achieved over comparable HPO systems. The Pentox system is not just an engineer's dream. It is being used and/or proposed in several facilities, including one in my congressional district, at Marshalltown, Iowa.

The Pentox system is fine example of the ability of American enterprise to develop new products to meet new challenges, creating new jobs for workers while reducing costs for consumers and taxpayers. It is a major step toward a better environment and will undoubtedly be followed by additional innovations which will improve our quality of life still further.●

TRIBUTE TO ROBERT PUGLISI

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. OTTINGER. Mr. Speaker, last month, Westchester County was saddened by the passing of my good friend, Robert Puglisi. Bob, public relations manager for the New York Telephone Co. in Westchester, was a good friend who will long be remembered for his humor, industriousness, and dedication to the community.

Bob was a wonderful human being—always kind and considerate, always a gentleman. Even while I was engaged in a citizen action campaign against the deteriorating service of the phone company, Bob was always available to talk, always candid in admitting shortcomings of the phone company, always thoughtful, always the most effective advocate for his company. He alone ele-

vated the profession of public relations to an art which one would be proud to join; he always had the consumer in mind.

I do not think Bob Puglisi had an enemy in the world. Everyone was his friend; the world was his oyster.

Bob was a selfless person, always devoting his time and self to the good of the community. At this time, therefore, I would like to share with my colleagues tributes from Warren Jackson and the Westchester Rockland Newspaper's editorial staff.

ROBERT PUGLISI

Robert L. Puglisi had been honored last year by the National Conference of Christians and Jews "for his boundless enthusiasm for those causes that enrich the community and for his unselfish concern for others." Puglisi, public relations manager for the New York Telephone Co.'s mid-state territory and a member of numerous Westchester civic organizations, died Sept. 9 of cancer.

When a person with Bob Puglisi's outstanding personal qualities dies the sense of loss the community feels is compounded by a vague sensation that our whole standard of public service and involvement has fallen a little. There will be those who worked with Bob Puglisi, caught up in his own blend of enthusiasm, friendliness and compassion, who will say that there never will be another to match him.

But the word must go out that Bob's career should serve as an inspiration to others in the future, rather than merely a landmark of accomplishment in the past.

REMEMBERING THE LATE BOB PUGLISI

(By Warren Jackson)

My friend, Bob Puglisi, was buried a week ago and, unfortunately, I did not attend the funeral because I was out of the country and hence did not know of his death. From all I've heard since my return, the funeral services proved that "Pug" was a friend of a lot of people.

I'm lucky to count myself among them, as is anyone who knew Bob Puglisi during his 54 years of distinguished living. "Pug" had the quality of being everybody's fall guy. You loved him and delighted in making him happy by collective or one-on-one exchanges.

Lunch with Bob Puglisi was always a delight, whatever day or week it happened. It would invariably come about by an early morning phone call, complete with the customary static and intermittent failure of the phone in his automobile.

"Warren, this is Pug. What are you doing for lunch?" was how it would start. Then, after arguing over who would pick up the check, his famous line: "Media or P.R. guys never pick up a check for me."

Pug's 26-year career of accomplishments for the New York Telephone Company are well known to his business acquaintances and friends. As Public Relations Manager for the mid-State territory, he was all over; his energy and health was boundless. The trips up and down the Hudson Valley never seemed to tire him out.

These Gannett Westchester Newspapers have chronicled extremely well, his varied professional, fraternal and civic involvements. He did it all—on and off company time.

My first recollection of Bob Puglisi goes back some eight years. He called me up to introduce himself one day and wanted to get together to discuss how the Telephone Company could become involved in minority programs and community concerns.

Although the relationship began as a business meeting, and to his credit the company became increasingly involved in helping its neighbors, our personal friendship outdistanced our professional relationship.

Golfer Lee Elder has made Gregory's restaurant in White Plains famous nationally, but Pug was equally a champion exponent of it and the other Losapio family location, Sergio's restaurant in Hartsdale. He was never happier than when he was eating too much Italian food and not staying from desserts as advised, with friends like Al Grosby of WFAS, Joe Baglia of the American Cancer Society and various members of the Gannett Westchester staff.

I can remember a lunch that lasted over three hours, sponsored by Puglisi, to bring together what he called some of the best "story tellers" in town. The lunch, held at a 46 Street Italian restaurant (where else), consisted of Publicist Irving Rudd; Guido Cribari, Executive Sports Editor for Gannett Westchester; Dan Mahoney of the New York Telephone Company; myself and Pug. For three hours "can you top this" was never better. Memorable moments . . . you bet!

The Puglisi team at the Telephone Company's Public Relations Office was an extension of the man. Dolly DiMarzo, Rose Casella, Wally Simpson and Marilyn Conway . . . they all were Pug. They made working with, or covering the Telephone Company's mid-Hudson Division, a pleasurable assignment.

It was through Pug that I met some of the utility's key Westchester executives; men like Bob Burke, Tom Hartman and Jack Kreel who supported Bob and yet enjoyed the rapport of "putting Pug on."

As for Bob's private life, Pug made it no secret that he was a "square" when it came to his family . . . church on Sunday and no overnight company trips if he could help it.

His Eastchester home was the center of his life: Rita, his wife; Robert Jr., his eldest son; Ellen, his only daughter and Donald, the youngest, were all blessed with a good husband and father who cared most of all about his family.

Pug and I used to constantly attempt to intimidate each other, affectionately, by stating we were taping our conversation. He was always threatening to have me arrested for abusing telephone property and I was always threatening to go over his head to some Telephone Company higher-up to complain about the way he gave the public (that is, me) the business.

Gee, Pug, I only wish I could have taped some of those conversations, so I once more could hear my good friend say, "Hey Warren, this is Pug."●

IN THE PURSUIT OF PEACE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. BROWN of California. Mr. Speaker, I would like to call to the attention of my colleagues the national meeting of the pacifist churches held in Green Lake, Wis.

For 4 days, 300 delegates representing the various organizations of Quakers, Mennonites, and Church of the Brethren, met to discuss the ways to promote peace. Whether the question was one of nonviolent activism or voluntary subordination, it centered on the issue of peace.

Mr. Speaker, as we conclude another session of Congress, I hope my colleagues who intend to return will take time to reflect on this. The defense budget pending before Congress is the largest annual expenditure of defense in the history of the world. Given the fact that this country is supposedly in an era of peace, one wonders how much we as legislators are doing to promote peace.

In the next session of Congress I hope my colleagues will bring with them the idea and proposals for the promotion of peace. One measure which deserves consideration is the world peace tax fund bill, which will allow those conscientiously opposed to war an opportunity to pay their taxes with the knowledge that they are acting consistent with their moral and religious convictions.

I urge my colleges to read the following article.

[From the Los Angeles Times, Oct. 10, 1978]

WAR-TAX RESISTERS WIN CHURCH BACKING

(By John Dart)

GREEN LAKE, Wis.—An unprecedented national meeting of the "historic peace churches"—Quakers, Mennonites and Brethren—resulted in agreement Sunday to go beyond their common pacifist stance and support those who refused to pay "the military portion" of their federal taxes.

For many in the three small but historically influential denominations, the possibly illegal "war-tax resistance" position represents a giant step from their previous passive refusal to bear arms and the practice of turning the other cheek to violence.

But statements such as, "We are praying for peace but paying for war," prodded the more than 300 delegates to the New Call to Peacemaking conference to support what advocates called an economic moral equivalent to military conscientious objection.

The consensus statement, which urged total disarmament following arms reduction, formation of a peace church delegation to President Carter, establishment of a world peace tax fund and simpler life-styles, is not binding on individual church members. However, the four-day conference here followed 26 regional meetings involving more than 1,500 Quakers, Mennonites and Brethren.

Those joint meetings in themselves constituted a new ecumenical venture in breaking stereotypes. "We have discovered," the Rev. Dale W. Brown, a Brethren seminary professor, said, "that some Quakers also have Bibles that some Mennonites have been off the farm long enough to know a passion for global concerns and a few Brethren have actually been able to keep their biblical and peace concerns as they have jetted to and from the boardrooms of the Nation and World Councils of Churches."

Not all regional meetings had suggested including war-tax resistance in peacemaking efforts, but, reflecting strong sentiment here, the national conference challenged congregations and church agencies to:

—"Seriously consider refusal to pay the military part of their federal taxes as a response to Christ's call to radical discipleship.

—"Uphold war-tax resisters with spiritual, emotional, legal and material support.

—"Consider the requests of employees who ask, for reasons of moral conviction, that their taxes not be withheld."

A Mennonite newsletter, God and Caesar, has reported 33 cases of war-tax resisters within and outside the historic peace churches. Many have merely filed letters of protest with their tax forms, but some have withheld taxes equalling the percentage of the federal budget estimated as going to the military. Some court cases have resulted.

In several instances, employes at Mennonite institutions have asked their employers not to withhold their taxes so they can "express their faith through our tax resistance." The American Friends Service Committee has had similar requests.

The witness of the peace churches to the New Testament declaration that "blessed are the peacemakers" has been consistent, historian Donald Durnbaugh said, noting that the movements emerged at different points in history: Mennonites from the Radical Reformation (16th century), Quakers, or "Friends," from the left-wing Puritanism

(17th century) and Brethren from German Pietism (18th century).

"The refusal to participate in war has been matched by persistent willingness to reach out to those suffering from acts of war, from social oppression or from natural catastrophe," said Durnbaugh, who was chairman of the committee that wrote the final peacemaking statement.

The U.S. and British Friends Service Committee won the Nobel Peace Prize in 1947 and Brethren and Mennonite aid to flood and tornado disaster victims in this country has been notable.

Mennonites were among the few westerners who stayed on in South Vietnam after the American withdrawal in 1973 and the Communist takeover.

However, the Quakers and Mennonites of various affiliations and the Illinois-based Church of the Brethren—who together have more than 400,000 members—have been somewhat overshadowed in peace efforts of the last decade by the war protests of Catholics and mainline Protestants.

As the popular movement faded after the end of the Vietnam war, the peace churches found a strong remnant in the Catholic left, symbolized by the Berrigan brothers, and a growing social justice movement among evangelical Protestants, exemplified by the Washington, D.C., Sojourners community.

The impetus for the peace churches, regional and national peacemaking conferences, in fact, came two years ago from evangelical Quakers.

Nevertheless, some churches, including conservative branches of the traditions, oppose civil disobedience as representing political activism or as a kind of violence.

Brethren theologian Vernard Eller of La Verne (Calif.) College, in a biblical position paper for the conference, said that economic pressure, propaganda and psychological browbeating violated human freedom and dignity.

To achieve peace, Eller contended, "We are free to use only those means God asks of us—defenseless love, voluntary subordination, the way of the 'Suffering Servant' and the faithful martyr-witness."

But Ronald Sider, a Brethren in Christ (Mennonite) seminary professor from Philadelphia, argued in a lecture here that nonviolent activism would be a more faithful imitation of Jesus than quiet nonresistance. Nonlethal forms of coercion for peaceful ends are used in family and church and, he said, could be attempted in society as well without involving a corrupt use of power.

The broadened concepts of peacemaking expressed here held appeal for Mennonite Katie Wiebe, a teacher from Tabor College in Hillsboro, Kan.

"My father was a C.O. (conscientious objector), a medic in the Russian army, and my husband was a C.O. in alternate service during World War II, but I as a woman never personally had to take a position," she said.

"Peacemaking is not just a male responsibility," another woman delegate added.

More than a dozen chinline beards were worn by Mennonite and Brethren men—the moustacheless style most associated with the Amish, their more world-denying theological cousins.

The only clerical collar in evidence at the Baptist-run Green Lake center here was worn by Archpriest Arkady Tyshchuk of New York, representative of the Russian Orthodox Patriarch of Moscow and one of 19 observers from other denominations. The Russian Orthodox Church and the Church of the Brethren have developed close relations through a series of exchanges in the last two decades.

Although Quakers, Mennonites and Brethren found much common ground when talking about peacemaking, they recognized a multitude of divergent social and theological differences from local church to local church.●

THE LBJ INTERNSHIP PROGRAM—A SUCCESS: THE EXPERIENCE OF DENNIS MORROW

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. OBERSTAR. Mr. Speaker, to select this year's LBJ interns, I invited secondary school social studies and government teachers from my district to apply for the two positions.

I felt these two teachers and ultimately their students would benefit from the internship and from the firsthand experience with the operation of Congress.

For the interns, the program was a success. At the same time, I know how much it meant to me and to my staff to work with two individuals who were actively involved in classroom education.

It was my pleasure to have Dennis Morrow serve the first half of the summer as an LBJ intern. Dennis is an extremely capable and dedicated teacher who has taught at Blaine Senior High School since August 1975.

His advice and staff work during our consideration of Elementary and Secondary Education Act amendments were of great importance to me during this past summer.

He also developed a complete list of fellowships, grants, and other Federal aid opportunities available to educators. Dennis recognized the need among educators for this kind of list and then set to work to develop it.

In a letter to the Speaker, Dennis provides an articulate summary of his internship and its significance to his teaching career.

In that letter, he also discusses how the internship changed his perception of Congress as an institution.

Dennis' letter is a good one, and I would like to share it with my colleagues in the House.

SEPTEMBER 13, 1978.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES,
U.S. Congress,
Washington, D.C.

DEAR MR. SPEAKER: It is my pleasure to recount to you and to the Members of Congress the events of this past July as a participant in the Lyndon Baines Johnson Internship Program. I came to Washington from Blaine Senior High School, in Minnesota's 8th Congressional district, as an educator/participant involved in the governmental process as it touches education. I found my stay in Congressman Jim Oberstar's office both an encouraging and enlightening experience.

Interns have a unique position on the hill. We live and/or work close to the Capitol, yet there is a sense of distance from those who make the decisions. There is, of course, an understanding about the time limitations of legislators and this motivated most of us to find out our own niche in the office rather quickly.

My own experience began researching the question of federal involvement in the establishment of minimum competencies in education. Teachers and administrators in Representative Oberstar's district had expressed some questions about the propriety of a basic proficiency language in a federal bill. The House Education and Labor committee staff was most obliging in providing the needed information to respond to the questions.

This was the perfect beginning for my next assignment, that of drafting the ideas to be incorporated in an affirmative speech by Representative Oberstar to encourage the passage of the Elementary and Secondary Education Act renewal. In researching the ways that Minnesota has benefited from the E.S.E.A. during the past three years, I gained important information useful to me as an educator, as well as having the tremendous experience of being involved in drafting a speech to be given in Congress. It was a great thrill to see the finished product in the Congressional Record.

My third, and final, project was to compile a listing of fellowships, grants, and other financial aid opportunities available to educators. This has already proved to be a succesful tool for teachers in Minnesota's 8th District in securing personal development funding.

Since my return to Minnesota, I have seen students become excited about government as they hear about my Washington experience. They ask pertinent questions about the form and procedure of legislation. They want to know how they can become involved. It is fulfilling for me to see their enthusiasm.

I, personally, have become more patient and understanding as the massive bulk of government lumbers along. I have grown less frustrated with the bureaucracy and more impressed with the competence of Congressional staff assistants. I have seen skilled technicians of law reach for meaningful concepts in the face of certain compromise. This was especially apparent as I talked with Members of Congress about wilderness policies at the federal level.

I appreciated the opportunity to be directly involved in the marketplace of ideas, namely, the Congress. I loved the responsibility, but was frustrated by the pace and diffuseness. I confess intense interest in the glamour issues and planned avoidance of the others and was fascinated by the city of Washington, but missed the clean air and relaxation of Minnesota. It was a summer of contrasts for me. The balance, however, was weighted in favor of sincere gratitude to all of you for making it possible!

With Sincere Appreciation,

DENNIS MORROW.●

THE WORLD BANK: AN ADDITION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. DORNAN. Mr. Speaker, in my remarks in the RECORD on October 4 regarding the bankrolling of totalitarian regimes by the World Bank, I indicated that Congressman WILLIAM YOUNG'S amendment to the appropriations bill for the World Bank, which seeks to establish human rights considerations in connection with all loans, was deleted by the House-Senate conference committee report. I have since learned that, while Mr. YOUNG'S provision to bar the use of any IDA loans to the Communist regime of Vietnam was deleted from the report, his human rights amendment fortunately was not. I, therefore, exhort my colleagues to fully support Mr. YOUNG'S amendment and so give substance to our rhetoric about human rights.●

BUFFALO: A CITY ON THE REBOUND

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. LaFALCE. Mr. Speaker, all too often, a negative attitude has a way of becoming a self-fulfilling prophecy. Confronted by difficulties and beset by tribulations, individuals, whole industries, and even entire communities are faced with two stark alternatives. They can begin to feel sorry for themselves, begin to bad-mouth themselves, and eventually roll over and die; or they can make a calm assessment of their difficulties, remember their advantages, and devise solutions to problems which are, in the end, solvable.

Buffalo, N.Y., is an excellent example of the latter case. Plagued by a period of economic stagnation and urban decay which has afflicted many old northern cities, it seemed to many, even some western New Yorkers, that Buffalo was destined to wither away and die. However, such was not to be the case, as Buffalo forcefully moved to reverse urban decay and economically rejuvenate its inner city. Those first measures are now beginning to bear fruit, as Millard C. Browne, the editorial page editor of the Buffalo News, so graphically describes in an article entitled "Buffalo Finally Getting Its Act Together."

The article follows:

BUFFALO FINALLY GETTING ITS ACT TOGETHER

(By Millard C. Browne)

Cynics still scoff and grumblers still grumble, but suddenly there's more of an upbeat air than we've felt in a long time, as Buffalo shows signs of getting its rebuilding act together.

A lot of things are beginning to happen at last, and the more that do, the more serious becomes the talk of still other things that they may stimulate. Everything not only feeds but feeds on everything else, like hands washing each other.

That applies to a flock of items you've been reading and hearing about: Rapid-transit and Convention Center; Chen Hotel and Marriott; the ECC and the old P.O.; the old Shea's Buffalo and new Studio Arena; the DL & W and the waterfront.

Some of this is now reality; some is still in the planning, hoping or maybe only dreaming stage. But it's all just what the original planners of such projects as the now about-to-open Convention Center and the ready-for-construction rapid-transit system had hoped would happen when—and if—those one-time dreams ever approached reality.

What is so frustrating about the seemingly endless gestation period that all these major projects require is that they are all so interdependent that everything waits for everything else. None of them, in fact, make much economic sense in a vacuum.

A subway from nowhere through nowhere to nowhere, for example, would obviously be of no earthly use to anyone. Making it work depends on what kind of traffic it can generate all up and down the line—from apartments and small shopping centers along its outer reaches, past hospitals, schools and colleges along the way, down through a live and vibrant theater district to a refurbished downtown shopping and office-building complex, on down to a busy, much-used Memorial Auditorium, with maybe even a farmer's market and entertainment-boutique complex at the lower end.

It's the same with the Convention Center: It's no good without plenty of nearby places to sleep and eat and shop and plenty of interesting things to do.

But that's what's exciting about how it's all now beginning, at long last, to come together. The transit line is now definite, along with the Convention Center. The Chen hotel is under construction instead of just being endlessly talked about.

And these facts lend credence to other plans and dreams, even though they are still only in the talk stage: Clement Chen's plans for a new office building complex adjacent to his waterfront hotel, for example, and James DiBlasi's plans for a $12 million shopping-entertainment complex on the site of the old D L & W depot.

That last has been talked about for years, but it only begins to make economic sense when you visualize something like it both as the lower-end anchor for a rapid-transit line and as a potential tourist magnet to complement a booming downtown convention business.

The point about downtown Buffalo for too long has been that, in spite of a lot of civic wheel-spinning, not much has really materialized since the last great wave of bank-building construction. As long as everything seemed to be waiting for everything else, the whole mood was pessimistic.

But now, with a new pattern visibly beginning to take shape, we can expect a lot of imaginative people to take new interest in projects that may have seemed too iffy a year or so ago. Even among long-time detractors of the rapid-transit line and Convention Center, there will be those who now smell economic opportunity in investments strategically related to those projects.

And why not? These are now the new reality, the shape of "Buffalo future." In fact, in terms of revitalizing the downtown, they are the only game in town. So instead of worrying any more about whether they should have been built, we'd all better make the most we can of the opportunities they present.

That means putting the complementary pieces in place as imaginatively and as rapidly as we can—and not only on the basis of anything goes if it will make a buck, but in accordance with the soundest sense of over-all civic planning we can muster.●

MEMORABLE OCCASION FOR ST. GEORGE CHURCH

HON. JOHN J. CAVANAUGH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. CAVANAUGH. Mr. Speaker, I want to take this occasion to extend recognition to the St. George Orthodox Church on the memorable occasion of the 75th anniversary of its establishment. I believe that this time is well spent noting their dedicated service to God and mankind since the establishment of this church in 1903. The St. George Church followed in the footsteps of its founders in deciding to exist as a parish—unstintingly giving of their precious time and many talents to serve the Orthodox faithful in general and have represented an unquenchable light of solace and faith to all those seeking its aid in times of trial and tribulation.

St. George's Church is renowned through the Orthodox Church in Nebraska for for its architectural history, beauty and structure, and is considered a landmark west of the Missouri River.

I am sure that my colleagues all join me in saluting one of God's true churches and extending our best wishes to St. George's on the joyous occasion of its diamond jubilee of service in the worship of God.●

TOY COMPANIES WILL BE HURT SEVERELY BY FTC RULE

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. WYDLER. Mr. Speaker, on February 28, 1978, the Federal Trade Commission voted to begin a rulemaking procedure to consider restrictions on commercials televised during children's viewing hours, and has invited public comment on the advisability and manner of implementation of a rule which would include the following three elements:

First. A ban on all televised advertising where the audience includes a significant proportion of children who are too young, as determined by the FTC, to understand the selling purpose of advertising;

Second. A ban on televised advertising of products which pose the most serious dental health risks, as determined by the FTC, where a significant proportion of the audience is likely to be under 12 years of age; and

Third. A requirement that television advertising to children under 12 years of age for certain other foods containing sugar be balanced by "counter-advertising" containing nutritional and/or health disclosures, with such advertising to be funded by the food advertisers, but prepared by FTC-selected public interest groups.

Hearings are to begin in late November, and will last several months.

The toy industry, I am told, will be severely affected by a stringent FTC ruling that may result from these hearings. Frequently, it seems to me, regulatory agencies do not take into account the impact of their regulations upon individual companies, nor upon the communities from which these companies draw their work force, from which they purchase services, and to which they contribute in the form of taxes.

One such company, MEGO Corp., has a facility near my district. Some of my constituents supply services; others are employed there. A trade periodical, Playthings, in their September 1978 issue reported on the severity of the effect on MEGO Corp. if the FTC issues a stringent rule.

Mr. Speaker, so that my colleagues can have the benefit of reading this article, which may illustrate implications for their own districts, I include the article at this point in the RECORD:

MEGO'S ABRAMS HITS PROPOSED FTC RULE

NEW YORK.—The president of one of the nation's largest toy manufacturers issued a warning to the toy industry about the disastrous economic effects that could result, should the Federal Trade Commission's pro-

posed rule regarding advertising of toys to children be put into law.

"Nationally, we would be in the position of starting over and proving ourselves from scratch as a source of toys," said Marty Abrams, president of Mego Corporation.

"Our current business is built upon our customers' reliance that we can effectively advertise our products nationwide and assure them of a receptive market for our toys. Mego has grown to be a major manufacturer in our industry by virtue of this factor. If the FTC ruling were to take effect, the loss of opportunity to advertise our products would cause our customers to drastically cut back on the purchase of our products.

"Not only that, but a negative FTC ruling against television advertising could have an adverse effect on the toy industry's financial relationships. The leaders would be concerned about the manufacturers' ability to initially replace the television advertising with alternate sources, and this would affect borrowing costs. These higher costs would reduce the profitability of toy companies and their ability to hire people and continue to expand.

"In that transition period, the industry would probably endure a substantial decrease in sales, profits, and employment, and certainly, since most of the larger companies in the industry are public corporations, they would see a rapid decline in the price of their stock, affecting approximately 50,000 shareholders." Abrams pointed out that Mego's Bohemia, New York, distribution and manufacturing operations contributed over $2,250,000 to the economy of Long Island and the state of New York annually. "The domestic operation," he said, "physically processes approximately $85 million annually in sales.

"All of this money is continually poured back through the company for services, jobs, taxes, and similar expenditures to maintain our growth posture."

Abrams remarked that the Bohemia facility has grown from 70 employees during fiscal 1975 to 450 during fiscal 1978, with a projection of 1,000 employees during fiscal 1981. "All of these people and over 200 supporting vendors and their operations, have a substantial impact on the economy of Long Island along with the $2 million of income taxes that we pay annually to the Federal government. "It is mystifying to me, I must confess, that the FTC, which had as its original task the assuring of competition in our economy, now would take a step which would stifle competition.

"We began our rise in the toy industry because we had the freedom to create products and the means to sell them; the competition is intense. The proposed FTC rule would have the effect of preventing us from using television media which is providing much of the competition in our field," Abrams emphasized.

"We are already one of the most heavily regulated industries in the world. Not only as to television advertising, where we must undergo the most difficult and systematic self-policing and pre-screening by the National Association of Broadcasters of any industry advertising today, but we also are regulated, controlled, and affected by a huge number of federal bureaucracies." Abrams said that, at last count, there were 57 federal and other agencies under whose rulings the toy industry fell.●

ON PROFANING CHRISTIANITY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. DORNAN. Mr. Speaker, the fundamental principle of Christianity is the love of God. The divine commandment is simple: Do unto others as you would have them do unto you. We are further reminded: That which you do to the least of My brethren, that you do unto Me. The message of Christ transcended the earthly trappings of the civil power. He simply said: Render to Caesar those things which properly belong to Caesar and to God those things which are His. That is a simple command. It is clear and straightforward. It is Caesar, however, who contests the rights of men, rights that would not even exist if God did not give them. And it is Caesar who has created a totalitarian hell on earth for millions whose only crime is their simple attempt to exercise the primal right of human existence: free will.

The sad truth is that there are those who employ the Christian name for purposes which are quite the opposite authorized by the Founder of Christianity. Anger and outrage are reasonably expected when coming upon such a profane misrepresentation. But, I confess, Mr. Speaker, I can only express sadness.

I am saddened by the fact that a man who professes to be a follower of the Gospel could justify one of the most ruthless totalitarian regimes in the history of the world. What of love? The least of our brethren? I have no more to say on the subject. But I ask that my colleagues pause from their busy schedules and examine the following piece by Mr. John Lofton in the October 9, 1978, edition of Monday magazine.

PROFESSOR OF CHRISTIANITY DEFENDS MAO'S MASS MURDERS

(By John D. Lofton, Jr.)

WASHINGTON.—Looking over his background, you wouldn't think that Creighton Lacy would see eye-to-eye with Mao Tse-tung on anything. Mao was a bloodthirsty, atheistic tyrant who believed that "a revolution is not a dinner party" but "an insurrection, an act of violence by which one class overthrows another." Under the brutally oppressive regime of the late Communist Chinese dictator, millions of so-called "enemies of the people" were put to death. One estimate of these killings ranges as high as 62 million people.

On the other hand, since 1953, Creighton Lacy has taught at Duke University's Divinity School, where today he is a professor of world Christianity. Born in central China, he is a Christian, and from 1946 to 1951 was a missionary to China. Lacy is a Phi Beta Kappa, an ordained elder in the United Methodist Church, a former Fulbright grantee, and was a Danforth visiting professor of philosophy at the International Christian University in Tokyo. He is also a member of the Society of Values in Higher Education and the American Society of Missiology.

But Creighton Lacy and Mao Tse-tung have quite a bit in common. In fact, Lacy believes that mass-murderer Mao "has left a legacy that the world as well as China will continue to honor." In a new book reporting on his 18-day trip to Red China in 1977, titled "Coming Home to China," he addresses himself to some "popular misconceptions" about Mainland China, specifically the idea that the communists murdered millions of people. In this small paperback volume—printed, incredibly, by Westminster Press, the official publishing agency of the United Presbyterian Church—Lacy writes:

"How many people died as a result of the Communist Revolution in China? Nobody knows or will ever know . . . I would guess, from extensive reading and weighing of authorities, that five million would be a top figure, probably far fewer than that . . .

"The real issue is not 'how many?' but 'what price for the Revolution?' I happen to be a semi-pacifist (which may be like being 'partly pregnant;' I wouldn't know). I find it difficult to justify the use of deliberate, destructive, deadly violence for any cause . . .

"Nevertheless, after 'going home to China' and seeing the overall advancement of the country and its people over the past 30 years, I can only conclude that it was worth the cost. That is not to justify or excuse the cost; it is simply to acknowledge that no progress is achieved without its price. And that quality of life for the many is more important than quantity of life for the few."

In an interview, admittedly outraged, I asked Lacy how he could, as a Christian, rationalize the murder of millions in the name of "progress?" He replied:

"My own Christian ethic comes out of a general concern for the humanity of people. To use an old cliche—the greatest good for the greatest number. If more justice, food, education, and medical care and so on are available now, then more lives have been saved than have been lost. It's not that I justify killing (sic), but that I think life and death and war are part of our human experience which may, at least, be related to the results thereof."

And where in the Scriptures or in the teachings of Christ do you find support for such an ends-justifies-the-means moral calculus, I ask? Lacy answers: "I am not a biblical scholar and I wasn't writing a biblical book."

When I asked if it is his view that whatever "progress" has been achieved under the communists on Mainland China could have been achieved only by murdering millions of innocent people, Lacy responds, after a long pause:

"I don't know. The nationalist situation was absolutely hopeless and something drastic had be done. Whether this required a certain number of killings, and I question how many were deliberate and systematic, I just don't know." He compares the mass murder of millions on the mainland to our own Revolutionary and Civil wars.

When I ask him if it is too early to say whether the mass murder of millions in Cambodia has, in his judgment, also been "worth it," Lacy says he has "no opinion" about this. He accuses me of having "a very strong bias" and trying "to make a case." Observing that our conversation "is not very profitable," he hangs up.

Footnote: When I asked Dr. Paul Meacham, editor of religious books at Westminster Press, why his publishing house would print an apologia for Mao Tse-tung, including the mass slaughter committed by his supporters, he says he doubts that Lacy has put it "in those terms." When I read him relevant portions from the Lacy books, he says Westminister Press tries to "present a variety of points of view on significant issues" and doesn't necessarily agree with everything in all the books it publishes. Meacham characterizes Lacy as a "well-known, respected professor regarded by many people as a man knowledgeable in his field." He says that "taken as a whole, we thought the Lacy book served a useful purpose." Like what? He doesn't answer.

Edward Trefz, the Westminster Press associate editor who actually edited the Lacy manuscript, defends the publication of the books by denying that the defense of Mao and his mass murders was the "thesis" of the book. He charges that I am "picking up on a little point" in an otherwise "fair and generous" book written by a man who is not "vindictive."●

INDOCHINA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. SOLARZ. Mr. Speaker, today's Washington Post contains an eloquent editorial describing the serious plight of the refugees in Indochina and the particularly difficult situation of the Cambodian refugees.

On September 29 this body by a vote of 231 to 105 went on record as favoring an immediate extension of the parole power of the Attorney General to allow those refugees from the most repressive nation in the world, from that country already described by our President as the world's worst violator of human rights; namely, Cambodia, to come into the United States.

These Cambodian refugees have been aptly described as having escaped an Asian holocaust, and now live under extremely difficult circumstances in refugee camps. Fifteen thousand live in four camps in Thailand. Another 100,000 are in camps in Vietnam. Today I received a letter from one of the Cambodian families in Thailand, which I would like to share with my colleagues. It is a simple but moving request for assistance from refugees who live in the extreme southeastern tip of Thailand in a small camp which has suffered from poor administration, shortages of supplies, and even incidents of mistreatment of refugees by corrupt or inept petty officials.

The support of the Congress for a special parole for these Cambodian refugees was, I think, a strong indication of the depth of the humanitarian concern which this situation evokes, and also, I believe, a remembrance that forty years ago many people chose not to get involved with the problems of other refugees. This Congress did not wish to repeat that past tragedy. I sincerely hope that as we prepare to adjourn, the administration, and the Attorney General in particular, will move quickly to take the necessary steps to implement the special parole for the Cambodians, and to take whatever other actions are required to lift some of the incredibly heavy burden now being born by the Governments of Thailand and Malaysia in caring for the Indochinese refugees, until such time as the Congress has the opportunity, working with the administration, to adopt a new comprehensive refugee policy. We in the Congress are anxious to send a message by our foreign and domestic policy, that we remained deeply committed to the protection of human rights and to assisting the innocent victims of war and terrorism.

Mr. Speaker. I submit for the RECORD the editorial from the Washington Post of October 13, and one of the letters I received from Cambodian refugees in camps in Thailand:

CAMBODIAN REFUGEES

In the absence of feasible avenues for action, the outrage expressed at the war that the government of Cambodia has been conducting against its own people has provided scant benefit to the victims. "Democratic Kampuchea," as it is called, having chosen isolation to impose its rule, has seemed immune to external protests. So it is especially gratifying that the United States is finally finding something helpful to do.

The first step has been to funnel aid to countries caring for Cambodian refugees. Some $8 million is now going for such refugees in Thailand—through the United Nations High Commissioner for Refugees. Earlier this year a mission dispatched by Sen. Edward Kennedy (D-Mass.) brought to the Congress's attention the plight of some 120,000 Cambodian refugees in Vietnam. The trouble was that, while Thailand is a friendly country with which the United States has close ties, Vietnam is unrecognized by the American government and regarded as an unacceptable regime by many American citizens. For people feeling that way about Vietnam, such as Sen. Robert Dole (R-Kan.), the problem was how to help the refugees without giving aid or approval to Vietnam. That is, of course, precisely what international organizations are for—in this case, the United Nations High Commissioner for Refugees. On that basis, Mr. Dole joined forces with Mr. Kennedy. The result was that the Congress has now used up its first funds for Cambodians in Vietnam. The money is small ($1.5 million), but the necessary precedent has been set.

A second step is pending—admission of some of those Cambodian refugees to the United States. There is a continuing and, in our view, rather tiresome argument in Washington over whether refugees should be admitted under the attorney general's "parole" authority or whether Congress should itself directly regulate the flow. But in this instance, both houses of Congress, not without some friction, have supported resolutions requesting the administration to use the parole authority to admit at least 15,000 Cambodians. Attorney General Griffin Bell, who has expressed reservations about use of the authority, is pondering the request.

We hope he responds promptly and positively. Resolution of the fine points of a Washington legal and jurisdictional dispute cannot be allowed priority over the relief of desperate people fleeing a wretched regime.

CAMBODIAN REFUGEE CAMP,
Klong Yai, Trat Province,
September 22, 1978.

Congressman STEPHEN SOLARZ,
House of Representatives,
Washington, D.C.

DEAR SIR: We are Cambodian refugees living in the camp at Klong Yai, Trat Province, Thailand.

We fled the communists into Thailand by boats after they took power throughout the country. During the course of our stay in Thailand, we have been temporarily employed by the kind Thai merchants in various places in Trat Province.

Then we began to experience trouble. Every Cambodian refugee who has been earning his living in Trat has been ruled an illegal immigrant. This forced us to come into the camp by the end of March of this year. For more than six months we have been laid off without a single Baht to come in. We are in a difficult situation due to having exhausted our slight savings. The distribution of food we obtain is found insufficient for our daily consumption, the French and American come to interview, but the number they settle is limited and this camp is located so near the Cambodian border that some day we may be attacked by them.

We know only you on whom we depend in this urgent case, we hereby respectfully request your kind assistance in helping us to go to a third country.

We are grateful for your assistance and effort in this matter.

Yours respectfully,

CHOUN WICHETRA (SOK),
Chief of Cambodian Refugees at Camp.●

MORE HYPOCRISY AT U.N.

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. DERWINSKI. Mr. Speaker, the annual United National General Assembly session is always dramatic evidence of how that world body demonstrates the minimum of diplomacy and the maximum of posturing.

A case in point is that of colonialism and the annual verbal abuse that the United States takes on the subject of Puerto Rico. This is the topic of an article by William F. Buckley, Jr., which appeared in the Chicago Sun-Times of October 12. The article follows:

MORE HYPOCRISY AT U.N.

(By William F. Buckley, Jr.)

For every good reason in the world, the doings of the United Nations are not widely reported. For one thing they are mostly meaningless. But, mostly the reason is that there is an inherent offensiveness in hypocrisy, particularly if it is studied.

But as a gesture, every now and then, one should report a UN venture, just in case anything changes, and I have selected for this reason to report on the deliberations of the UN's Decolonization Committee in the matter of Puerto Rico.

That committee has passed by a vote of 10 (in favor), 0 (opposed) and 12 (abstaining) enjoining a course of action on the United States government. We are directed to put an end to "the persecutions, harassments and repressive measures . . ." in Puerto Rico.

We are further directed to "unconditionally release the four Puerto Rican political personalities who have been incarcerated for more than 24 years."

We are further advised that if Puerto Rico continues to vote for its present commonwealth status, that will not do. Nor would it do if Puerto Rico voted to ask for statehood. No vote by the Puerto Ricans that would continue the existing relationship, or that would take them to statehood, would be tolerable to the UN. First they have to be given independence. Then, and only then, may they vote a different relationship.

Now: If there is persecution, harassment and repression of those who seek independence in Puerto Rico, it is extraordinary subtle. The "political personalities" who have been "incarcerated for more than 24 years" expressed their personality by sneaking into the visitors' gallery of the House of Representatives in 1954, pulling out pistols, and shooting our elected representatives, wounding five. They were given life sentences. In most of the countries that voted the resolution in question they'd have been shot.

Now who voted for the resolution, denouncing political harassments in Puerto Rico, and asserting "the inalienable right to self-determination and independence"?

The Soviet Union, China, Bulgaria, Czechoslovakia, Cuba, Ethiopia, Iraq, Syria, Tranzania and Afghanistan. The Soviet Union's respect for the territorial integrity of Bulgaria and Czechoslovakia is legendary. China's respect for the territorial integrity of Tibet is one of those matters we do not mention at the United Nations. Ethiopia's government is maintained in power by Cuba, as Cuba's is maintained in power by the Soviet Union. Syria and Tanzania are one-party dictatorships where the will of the people is consulted as regularly as Scottish hunters consult grouse.

Why then did Australia and Sweden abstain? China owes us very little. On the other hand, Chile's complaints against UN

hypocrisy sound a little tinny when Chile goes on to acquiesce in it.

The explanation, if that is the word for it, is that there are fewer and fewer countries prepared to stand up against the Third World and the Communist bloc. They muster only enough courage to wash their hands of the question of right and wrong. Fortunately, few listen. But high in the spheres, the dissonance is caught, and the conscience of civility and reason is stained.●

GUY NORTHROP

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. JONES of Tennessee. Mr. Speaker, I rise today to pay special tribute to a special friend with whom I had a long association. He was Guy Northrop, editorial page editor of the Memphis Commercial Appeal until his recent death. Guy Northrop was an exceptional individual. I would not take up a great deal of time because I think the following editorial which appeared in a recent issue of the Commercial Appeal gives a better description of Mr. Northrop than I could:

GUY S. NORTHROP

Guy Northrop was a first-class newspaperman.

In his 35 years he spent in this business of producing a newspaper 365 days every year, he had done just about everything. He had been a reporter, sports deskman, copy editor, telegraph news editor, makeup editor in the composing room, art columnist and editor of this editorial page. And he did all those things meticulously and conscientiously.

He was a lifelong scholar. Hardly a day went by but what he would leave the office with a briefcase stuffed with books, magazines and papers he would try to study at home in the evening. He was almost always among the first to arrive at the office, and usually among the last to leave because he wanted the editorial pages to be as nearly perfect each day as he could make them.

He often said it was fine for a newspaperman to specialize in a particular field, but that he should be knowledgeable in all. And he was. When new fields opened, he often attended seminars held on university campuses around the nation to learn about them from experts. He sharpened his journalistic skills at the American Press Institute seminars.

His column, "Living With Art," was an avocation. In that field he was truly knowledgeable and his advice was sought by many people who were considering buying art works or he wanted to know something about a regional or internationally famous artist. He would rise especially early some mornings to go out to look at a new art show somewhere in the Memphis area or to interview an artist before picking up his editorial page duties.

In recent years, when his daughters, Robin and Mimi, were grown, he and his wife Miriam had taken many trips to Europe. They went with tour groups but, as Guy once wrote of such trips, they would "flee the lockstep of the tour people as soon as we hit town, to walk more than ride, to dine on fruit and cheese from the open markets rather than in costly restaurants and to ride trains to neighboring towns."

But it is not enough to speak of Guy as a newspaperman.

He was also a beloved person. Kind, considerate and accommodating are some of the terms that come to mind to describe him. If someone on the staff had an emergency and had to leave the office, he would fill the breach. If someone needed help in writing something difficult, Guy could be consulted and he would offer help.

He had a fine sense of balance which probably resulted from his continuing study of history. It showed up in his writings upon occasion, as once just two years ago when he wrote of a side trip to Augsburg in Bavaria. He told how he and Miriam had wandered on foot through the old streets and suddenly rounded a corner to confront the Golden Goose brewery with its sign that said, "Since 1346."

"It is that kind of experience, a discovery of some existing part of life with links that stretch back hundreds of years, that gives the traveler a sense of his own place in the sweep of history. Time is chopped into pieces only in books and museums. In life it is an unbroken line and wherever you find yourself at the moment, there is a connection with the past and the future."

Guy Northrop is gone now, but his contributions to this newspaper and this community served as such a "connection with the past and the future." We shall miss him sadly, both for what he did and for what he meant to all of us.●

HELSINKI'S UNFULFILLED PROMISE

HON. PAUL E. TSONGAS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. TSONGAS. Mr. Speaker, I welcome once again the opportunity to continue the vigil of "Helsinki's Unfulfilled Promise," a project initiated through the efforts of Representative DRINAN. This is an important phase in the ongoing struggle to ease the plight of those detained under the repressive emigration policies of the Soviet Union. We who work toward the preservation of rights and freedoms in our own society must feel a special call to aid those detained under the harsh Soviet system of justice.

Iosef Mendelevich is one such prisoner of conscience. He is presently incarcerated at Camp Vladimir in Moscow, on charges involving the hijacking of a plane to Israel. Perhaps we cannot reasonably protest that sentence, but what is most unconscionable is an additional sentence of 3 years for his participation in the Soviet Jewish movement. At his trial for the hijacking charges, Iosef admitted to his "Jewish activities," which were in reality no more than the writing of articles concerning the Jewish holidays and anniversary of the Warsaw Ghetto uprising. The resulting charges will cost Mr. Mendelevich 3 years of life in addition to his existing sentence of 12 years, at a time when reliable reports indicate that his health has already seriously deteriorated under harsh prison conditions.

Denied a right to practice the religion of his birth, to receive outside communications, or even receive visits from family members, Iosef Mendelevich's cruel situation is one against which we all must struggle. In the spirit of all that Helsinki and our vigil in Congress stand for, I urge a reduction of this Soviet citizen's harsh sentence and the restoration of his fundamental human rights.●

MEMBERS OF CITY POLICE AND FIRE DEPARTMENTS HONORED IN DISTRICT OF COLUMBIA

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. FAUNTROY. Mr. Speaker, each year the Washington Metropolitan Board of Trade honors those members of the District of Columbia Police and Fire Departments who are recipients of the Meritorious Service Awards for the valorous acts which they have performed in their line of duty. We who live and work in the District of Columbia are fortunate to have the men and women who risk their lives and limbs to protect us from the perils of fire and violence. Their work has made this city a finer and better place for all of us.

Important in this recognition is the fact that many of the awards made at the annual recognition luncheon held on October 12, 1978, are for valorous acts done while off duty. The commitment of these persons to this city is a way of life and full time. We who live here are proud of these men and women whose names and acts I submit to this House for my colleagues, too, to honor with me and every official and citizen of our Nation's Capital:

HEADQUARTERS OF THE FIRE DEPARTMENT, DISTRICT OF COLUMBIA

The Metropolitan Washington Board of Trade will, on October 12, 1978, honor certain officers and members of the Fire and Police Departments who performed Valorous Acts as provided for by an Act of Congress. The following awards were presented to officers and members of the Fire Department.

Gold medal

Firefighter John M. Bruton

On June 27, 1978, Firefighter John M. Bruton, distinguished himself as a member of Engine Company No. 21, at a fire located at 2903 Woodland Drive, N.W., which occurred during a severe electrical storm. Upon arrival, the basement of the house was heavily engulfed in flames with dense smoke billowing from all openings. After being informed that a victim was trapped on the second floor, Firefighter Bruton, without hesitation and without regard for his own safety or respiratory protection, entered the house under the most adverse conditions and rescued an unconscious elderly woman. The quick, efficient manner in which Firefighter John M. Bruton performed his duties undoubtedly prevented serious injury or loss of life, and is certainly a credit to the high standards of this Department.

Silver medals

Firefighter William J. Gross

On June 27, 1978, Firefighter William J. Gross, distinguished himself as a member of Engine Company No. 31/Rescue Squad No. 4 at a fire located at 2903 Woodland Drive, N.W. After performing his regularly assigned duties, Firefighter Gross entered the house to search for possible trapped victims. Upon approaching the second floor, he was alerted by the alarm of a fireman's mask. Firefighter Gross continued his search through intense heat and smoke until he found a fellow firefighter in a semi-conscious condition, and carried him to safety. The quick, efficient manner in which Firefighter William J. Gross performed his duties undoubtedly prevented serious injury or loss of life, and

is certainly a credit to the high standards of this Department.

Firefighter Charles C. Diggs, Jr.

On June 2, 1978, Firefighter Charles C. Diggs, Jr., distinguished himself as Acting Sergeant of Truck Company No. 4 at a fire located at 438 K St., N.W. Upon arrival, fire was evident on all three floors with heavy smoke conditions. After being informed by residents that had already safely escaped the building that others were trapped, Firefighter Diggs without regard for his own safety, went past the attack team using the opening that their nozzle was making in the flames, to reach a trapped victim. Firefighter Charles C. Diggs, Jr., in performing his rescue, did prevent serious injury or loss of life and is a credit to the high standards of this Department.

Firefighter Raymond G. Kinder

On June 23, 1977, Firefighter Raymond G. Kinder of Engine Company No. 28, while off duty in Montgomery County Maryland, distinguished himself for courage, initiative and citizenship in the apprehension of a murder suspect. The act rendered by Firefighter Raymond G. Kinder is certainly a credit to the high standards of this Department.

Firefighter Robert N. Green

On January 5, 1978, Firefighter Robert N. Green of Engine Company No. 1, distinguished himself for outstanding courage and devotion to duty during a fire at 1649 Fuller Street, N.W., where he ascended a ladder to the second floor and after a room-to-room search, found and rescued a five-month old infant. The act rendered by Firefighter Robert N. Green is certainly a credit to the high standards of this Department.

Firefighter Gary J. Firmani

On March 5, 1978, Firefighter Gary J. Firmani of Engine Company No. 12, distinguished himself for outstanding courage and devotion to duty during a fire at 2004 1st Street, N.W., when he subjected himself to extreme punishment due to heat and smoke conditions that were encountered while rescuing three children and one adult. The act rendered is certainly a credit to the high standards of this Department.

Firefighter Robert F. Harrington

On July 12, 1977, Firefighter Robert F. Harrington of Engine Company No. 12, distinguished himself by saving a woman from being stabbed in the quarters of Engine Company No. 12. The act was done without concern for his own safety, therefore preventing a serious injury or loss of life. The act rendered by Firefighter Robert F. Harrington is certainly a credit to the high standards of this Department.

Captain Bernard C. Johnson

On January 5, 1978, Captain Bernard C. Johnson of Engine Company No. 1, distinguished himself for outstanding courage and devotion to duty during a fire at 1649 Fuller Street, N.W., where he rescued a women by giving her his respiratory equipment, subjecting himself to extreme heat, smoke and fire gases. The act rendered by Captain Bernard C. Johnson is certainly a credit to the high standards of this Department.

WASHINGTON METROPOLITAN POLICE DEPARTMENT, DISTRICT OF COLUMBIA

As provided for by an Act of Congress, Meritorious Service Awards will be presented to members of the Police and Fire Departments on Thursday, October 12, 1978, at a luncheon to be held at the Washington Hilton Hotel commencing at 1115 hours.

The following members of the Metropolitan Police Department were selected by the Mayor's Awards Committee to receive awards.

Gold medal for valor

Officer James E. Washington, Fifth District

On April 24, 1978, Officer James E. Washington distinguished himself by displaying courage and devotion to duty while assisting a wounded, fellow officer to safety and medical care. After monitoring a radio assignment for a man with a gun in a residential neighborhood, Officer Washington responded to the scene, observed a wounded officer, and questioned him regaring his injury. The wounded officer advised Officer Washington that he had been shot in the back and that the subject who had shot him was in the house in front of them. Officer Washington advised the officer that he would cross over to his location and assist him, but the wounded officer stood, attempting to make it over to Officer Washington and collapsed. Officer Washington realizing that the wounded officer was in the gunman's direct line of fire and in need of medical attention, sprinted to his side disregrading his own safety. Officer Washington then dragged him to the safety of the scout car and expedited him to the hospital where he was admitted in serious condition. The suspect was apprehended, and due to Officer Washington's prompt, unselfish actions, the wounded officer survived.

Silver medals for valor

Officer Delores M. Massey, First District

On January 21, 1978, Officer Delores M. Massey distinguished herself by displaying courage and devotion to duty. Officer Massey, while off duty and seated in her vehicle with her seven-year-old son, was conversing with a neighbor when two male subjects confronted the neighbor. One subject placed a handgun in the neighbor's stomach and demanded his money while the second subject searched him. The armed subject then crossed the street and aimed the gun at the head of another neighbor, and the second one stood lookout in the street. Officer Massey instructed her son to lie down on the vehicle seat. When the lookout subject turned away briefly, Officer Massey, drawing her service revolver, calmly exited her vehicle and advised the lookout subject not to move. She then told the armed subject to drop his weapon. Twice the armed subject failed to heed Officer Massey's command, turning toward her with the gun still in his hand. Officer Massey fired one shot from her service revolver. The armed subject dropped to the ground unharmed, releasing his weapon. As a result of Officer Massey's outstanding performance, the two subjects, who had a record for robbery and larcency, were arrested and charged.

Officer Robert H. McCants, Sixth District

On February 17, 1978, Officer Robert H. McCants distinguished himself by displaying courage and dedication to duty, and prevented possible injury to innocent people, during a domestic controversy that developed into a barricade situation. While off duty and at a service station, within the confines of the Sixth District, Officer McCants was informed by an on-duty policeman that the Youth Division had attempted to serve a custody order for a ten-year-old respondent at his home when the father became irrational and threatened the safety of his wife, his son, and the police by brandishing a revolver and barricading himself inside the residence. Officer McCants recognizing the address as one where he had previously handled domestic arguments responded to the scene. Although Officer McCants was unable to persuade the husband to respond to his call over a bullhorn, he was successful in persuading the wife to open an upstairs window, talk to him, and then open the door. Officer McCants stepped into the doorway and proceeded to talk soberly to the husband who seeing this officer as one who had been helpful in the past, placed trust in the action and conversation of Officer McCants and surrendered to him. It should be noted that Officer McCants accomplished this task unarmed.

Officer Samuel H. Newman, Fifth District

On November 8, 1977, Officer Samuel H. Newman distinguished himself by displaying courage and devotion to duty in the prevention of a robbery and possible injury to innocent people at a Seven-Eleven Store in Arlington, Virginia. While off duty and inside the store, Officer Newman, without regard for his own safety, cautiously approached the armed subject, knocked the shotgun to the floor, and informed the subject that he was under arrest. Officer Newman realized that the dangerous situation had not been completely alleviated as officers who had been called for a "Hold-up in Progress" would not be able to readily distinguish between himself, in civilian clothes with a revolver pointed at the holdup man's head. Therefore, he advised the counterman to slowly exit the store with his hands raised and apprise the arriving officers of the situation. Shortly thereafter, the police entered the store and arrested the subject for this attempted robbery and armed robbery of another Seven-Eleven Store committed two hours earlier.

Officer Carl A. Occhipinti, First District

On September 24, 1977, Officer Carl A. Occhipinti, assisted Officer Anthony J. Scarpine, distinguished himself by outstanding bravery and presence of mind in the rescue of a citizen. While off duty and in his private automobile, Officer Occhipinti observed a man trapped in an overturned vehicle with smoke and fire emitting from the engine area. Realizing that the entire vehicle could burst into flames as the heat increased, and in disregard for his own safety, Officer Occhipinti approached the vehicle and attempted to remove the trapped man. Due to the position of the car and the size of the victim, this was difficult to do. Another off-duty officer arrived and responded to assist Officer Occhipinti. As the victim's leg was caught in the vehicle, Officer Occhipinti entered the vehicle, released the leg, and with the fellow officer's assistance pulled the man out of the car to safety. Approximately five to ten seconds later, the vehicle burst into flames.

Officer Gerald A. Smith, Seventh District

On September 10, 1977, Officer Gerald A. Smith distinguished himself by displaying courage and devotion to duty. Officer Smith, while off duty, and driving his private automobile alone in the 2600 block of King Avenue, S.E., heard three consecutive gun shots and observed a male subject, carrying a revolver in his hand, fleeing. The male subject joined another male and a female, handed the revolver to the male, who then concealed the gun in his waistband. Officer Smith immediately turned his vehicle around, parked, and without regard for his own safety approached the three subjects. Officer Smith identified himself and advised them to drop the gun. Both males denied possessing any weapon. As Officer Smith confronted the armed subject, he heard a shotgun blast and pellets pass by him. Officer Smith quickly grabbed the armed subject and as he turned, a fourth subject was aiming a shotgun at him from the window of an automobile. Officer Smith fired three rounds from his service revolver, while maintaining control of the male subject. The three other subjects fled the scene, but were later captured and charged.

BURTELL M. JEFFERSON,
Chief of Police.●

REBUTTAL TO WASHINGTON POST EDITORIAL ON HUMPHREY-HAWKINS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. CONYERS. Mr. Speaker, few major pieces of economic legislation have

had as much attention and scrutiny in recent years as the Humphrey-Hawkins Full Employment and Balanced Growth Act. Unfortunately, as is often the case with complex and controversial bills, the image of the bill occasionally becomes confused with its substance and fine print. Such has been the case with the editorial writers of the Washington Post. On numerous occasions this otherwise distinguished newspaper has seen fit to present the bill in a wholly inaccurate light.

As a means to clarify the nature and substance of the Humphrey-Hawkins bill, I ask my colleagues to consider the letter that follows, which is a rebuttal to a recent Washington Post editorial against the bill. The letter follows:

WASHINGTON, D.C.,
October 4, 1978.

Mr. PHILLIP GEYELIN,
Editorial Editor, The Washington Post, Washington, D.C.

DEAR MR. GEYELIN: Your editorial of October 4 on the Humphrey-Hawkins bill is disappointing for a newspaper with a distinguished reputation for enlightened and fair reporting. The editorial was both erroneous and callous.

Show me where in the Humphrey-Hawkins bill that blacks are given special treatment. Besides, what would be wrong with legislation that deals with massive unemployment in any community? The Humphrey-Hawkins bill, however, was not designed to exclusively or even mainly benefit blacks, much less to pacify its political leadership.

More than 82 national organizations—with predominantly white constituencies—representing churches, labor, women, consumers, civic groups, business, and minorities, have worked continuously for the bill's enactment for over four years. Numerically, blacks will benefit far less than whites from a reduction in joblessness and inflation. Of the more than 20 million persons hurt annually by joblessness, blacks constitute less than 20 percent. Of the more than 60 million people affected annually by the unemployment of a breadwinner, only a small minority are black.

Unemployment and doube-digit inflation have increased together. Conversely, unemployment reduced to 3 percent in 1952 and 3.8 percent in 1966 were accompanied by unusual price stability. Yet your editorial claims that reducing unemployment from 5.9 percent (in August 1978) even to 5.5 percent, or to 4 percent by mid-1983, would be "wildly inflationary." There no longer is any respectable economist, of conservative or liberal persuasion, who endorses the unemployment-inflation trade-off theory. *Business Week, Forbes, Dunns Review* and *The Wall Street Journal* have wisely avoided propagating such economic nonsense in recent times in their analyses of the complex international and domestic factors contributing to short- and long-term inflation problems. Even economists who do not support the Humphrey-Hawkins bill surely would find the *Post's* assertions extravagant and maybe ridiculous.

Your claim that "the Administration has not yet established any clear and comprehensible direction in its economic policies" is precisely our case for the Humphrey-Hawkins bill. At the very least, however, the Administration has recognized that reducing unemployment and inflation are consistent provides the planning framework for achievgoals, and the the Humphrey-Hawkins bill ing these mutually compatible goals.

Sincerely,

JOHN CONYERS, Jr.,
Members of Congress.●

SUMMATION

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ADDABBO. Mr. Speaker, each year at the end of the congressional session, I summarize the activity of the preceding year, as well as the activities of myself, and present them to my constituents for their consideration.

This year, because the rules of the House now force Members to do their last mailing to constituents 2 months before the end of the session, I was forced to summarize up until that point, and no further.

One of the most important elements that I have always previously included in my final reports to constituents obviously had to be left out of that earlier summation. That was the actual chart of the money the House had appropriated for the various functions of the Federal Government. Since I serve on the Appropriations Committee and have a vote in how these decisions are made, it is especially important to my constituents. But I also consider it very important for people to be able to look over a single chart and determine how their Federal legislators have spent their tax money over the last year.

We are presently concluding perhaps one of the most active years I have participated in during my 18 years in Congress. Just last night, we held the 400th recorded rollcall of the 95th Congress, and it is obvious to all of us that we shall conduct a number of additional rollcalls before this session comes to an end.

What have been the major issues? Obviously, enactment of the President's energy package, the tax cut bill and several other controversial issues still remain to be voted upon before we return to our districts. But we have passed the largest defense appropriations bill in the Nation's history, a total spending program $117 billion just for weapons systems and maintaining the Armed Forces. There is too much money in that bill as far as I am concerned; there always is. But it is generally a good bill with as little fat in it as any bill we have had before us in recent years. I am pleased that the Congress agreed with the President to withdraw the money for the nuclear carrier. It is a better bill for not containing that provision.

Generally, the defense appropriations bill provides a very lean budget for each of the services while providing adequate moneys if the programs are well managed. We have insisted that the services maintain best cost controls over weapons procurement programs so that the Government will get a good return on the money spent for these necessary but very expensive expenditures. The final figure as far as this appropriations bill is concerned is that it is some $2 billion under the budget request.

We increased spending in this last year for the Department of Agriculture and related agencies but if you will take a close look at the accompanying chart, you will see that every other agency of the Federal Government came in under the actual budget request. I think that is very significant and it ought to refute the claims that Congress spends and spends without concern for the taxpayer. It was on this floor of the House that these cuts were made, and if you will take a look at the bottom line, the Congress cut $10.6 billion from what the President requested. That is a very impressive amount. I repeat again that it cannot be disputed that when it came time for the Congress to fish or cut bait about spending, this Congress voted to cut spending and to cut spending by impressive amounts. Had it not been for the prudence of the Congress in this year of inflation and floundering economics, the budget deficit would have been far, far worse.

Now, you will find two other areas where the budget figures increased for fiscal 1979. We increased by $22 million money to fight black lung disease after a good case for this was made before the committee.

Additionally, the Congress increased by $63 million moneys for disaster relief. This so-called crisis intervention program passed the House by a single vote, and I am pleased that it did so because the House was voting on my amendment. Without this money, poor people and the elderly would have been in serious difficulty with high fuel bills last winter. It was a worthwhile program. It worked well, far better than it had the previous year, and I am pleased that it was included in the fiscal 1979 budget.

I believe, Mr. Speaker, that since I have already informed my constituents about the general activities of myself in this past year, as well as the actions of the House, that I will not go into greater depth at this time.

Let me conclude, however, by noting that it has not been an easy year for any of us. We have major domestic problems in this Nation and the Members of Congress are flooded with many, often varying, proposals for setting things right. Since we are but human beings we can only hope that our actions will be the right ones. We are never certain that the path we choose is the right one until we have walked down it.

We have struggled hard in this year to make the right choices. We have worked more days, more hours than any Congress in the history of this Nation. If there is any issue that has not had at least a fair hearing before the Congress this year, I do not know what it might have been. There is a limit to what any person, Member of Congress or not, can absorb in a single year, and I believe if we did not breach that limit this past year, we came very close to it. And well we might. When a Nation like ours has the number of problems we have, all we can do is put our collective noses to the grindstone and work until we solve them.

I know full well that a few months from now when we return we will face nearly as many problems as we began 1978 with, but to a large extent, they will hopefully offer better chances for success than some of the areas we have struggled with during the last 10 months.

The material follows:

ACTIONS ON REQUESTS FOR NEW BUDGET AUTHORITY CONSIDERED IN APPROPRIATION BILLS, 95TH CONG., 2D SESS.[1]—REVISED TO OCT. 11, 1978

[This table excludes "back-door" spending authority in legislative bills and permanent budget authority (Federal and Trust) available without further action by Congress]

Bill and fiscal year	House				Senate			Congress	
	Budget requests considered	Reported by committee	Approved by House	Compared with budget requests considered by House	Budget requests considered	Approved by Senate	Compared with budget requests considered by Senate	Approved by Congress	Compared with budget request
A. BILLS FOR FISCAL 1979									
Agriculture and Related Agencies (P.L. 95-448)	18,090,152,000	18,014,029,000	18,014,029,000	−76,123,000	18,090,152,000	23,365,764,000	+5,275,612,000	18,288,201,000	+198,049,000
Defense (H.R. 13635)	119,300,283,000	119,196,827,000	119,019,278,000	−281,005,000	119,300,283,000	116,422,972,000	−2,877,311,000	[13] 117,255,621,000	−2,044,622,000
District of Columbia (P.L. 95-373)	460,090,000	277,300,000	277,300,000	−182,790,000	460,090,000	261,200,000	−198,890,000	258,200,000	−201,890,000
Foreign Assistance (H.R. 12931)	8,444,320,919	7,352,761,483	[2] 7,176,722,653	−1,267,598,266	10,387,760,919	9,203,806,072	−1,183,954,847	[13] 9,135,031,948	−1,252,728,971
HUD-Independent Agencies (P.L. 95-392)	69,517,534,000	68,208,848,000	68,208,848,000	−1,308,686,000	69,517,534,000	67,656,624,000	−1,860,910,000	67,911,419,000	−1,606,115,000
Interior (H.R. 12932)	[9] 12,874,757,000	12,700,544,000	12,690,544,000	−184,213,000	[8] 12,878,467,000	11,566,413,000	−1,312,054,000	11,587,692,000	−1,299,775,000
Labor-HEW (H.R. 12929)	57,338,938,000	57,982,268,000	[3 4] 56,585,102,000	−753,836,000	57,338,938,000	[3] 54,507,666,000	−2,831,272,000	[2 13] 56,054,029,000	−1,284,909,000
Legislative (P.L. 95-391)	948,149,500	922,491,800	922,491,800	−25,657,700	1,143,824,100	1,118,244,400	−25,579,700	1,118,244,400	−25,579,700
Military Construction (P.L. 95-374)	4,253,000,000	3,744,887,000	3,844,887,000	−408,113,000	4,253,000,000	3,964,746,000	−288,254,000	3,880,863,000	−372,137,000
Public Works (H.R. 12928) (Vetoed) [9]	(10,369,899,000)	(10,315,174,900)	[5] (10,134,801,200)	(−234,097,800)	(11,039,449,000)	(10,123,344,900)	(−196,104,100)	(10,160,483,900)	(−878,965,100)
Continuing Appropriations, 1979 (J.H. Res. 1139)[12]					11,039,449,000	10,162,251,800	−877,197,000	[14] 10,162,251,900	−877,197,100
State-Justice-Commerce Judiciary (P.L. 95-431)	[11] 4,730,529,600	8,554,311,600	[6] 4,588,717,900	−141,811,700	8,660,276,000	8,436,480,000	−223,796,000	8,515,354,000	−144,922,000
Transportation (P.L. 95-335)	9,068,623,096	8,857,296,096	8,847,296,096	−221,327,000	9,268,623,096	8,568,543,096	−700,080,000	8,747,553,096	−521,070,000
Treasury-Postal Service-General Government (P.L. 95-429)	8,663,161,000	8,634,300,000	8,634,300,000	−28,861,000	9,203,261,000	8,981,125,000	−222,136,000	8,983,261,000	−220,000,000
Total, bills for fiscal 1979	313,689,538,115	314,545,863,979	308,809,516,449	−4,880,021,666	331,541,658,115	324,215,835,468	−7,325,822,647	321,888,721,344	−9,652,936,771
B. BILLS FOR FISCAL 1978									
Supplemental Appropriations Bill, 1978 (P.L. 95-240)[10]					7,907,424,000			7,336,498,000	−570,926,000
District of Columbia (P.L. 95-288)[10]					491,116,000			399,116,000	−92,000,000
Subtotal, bills carried over from 95th, 1st					8,398,540,000			7,735,614,000	−662,926,000
Urgent Power Supplemental Appropriations (P.L. 95-246)	13,114,000	13,114,000	13,114,000		13,114,000	13,114,000		13,114,000	
Disaster Relief Supplemental (P.L. 95-255)	300,000,000	300,000,000	300,000,000		300,000,000	300,000,000		300,000,000	
Supplemental U.S. Railway Association (P.L. 95-282)	13,000,000	13,000,000	13,000,000		13,000,000	13,000,000		13,000,000	
Disaster Loan Supplemental (P.L. 95-284)	758,000,000	758,000,000	758,000,000		758,180,000	821,180,000	+63,000,000	821,180,000	+63,000,000
Urgent Black Lung Supplemental (P.L. 95-332)	183,870,000	181,689,000	181,689,000	−2,181,000	231,158,000	278,977,000	+47,819,000	253,977,000	+22,819,000
Urgent Grain Inspection Supplemental (P.L. 95-301)	8,526,000	6,488,000	6,488,000	−2,038,000	6,488,000	6,488,000		6,488,000	
Urgent Supp. for Dept. of Agriculture (P.L. 95-330)	57,145,000	57,145,000	57,145,000		+57,145,000	57,145,000		57,145,000	
Second Supp. Appropriations Bill, 1978 (P.L. 95-355)	6,675,886,486	6,383,818,186	[7] 6,333,389,186	−342,497,300	7,168,446,986	6,719,228,686	−449,218,300	6,753,925,686	−414,521,300
FY 1978 Supplementals in Legislative Bill (P.L. 95-391)					13,056,600	12,801,700	−254,900	12,801,700	−254,900
Total, bills for fiscal 1978	8,009,541,486	7,713,254,186	7,662,825,186	−346,716,300	16,959,128,586	8,221,934,386	−338,654,200	15,967,245,386	−991,883,200
C. CUMULATIVE TOTALS FOR THE SESSION TO DATE									
House	321,699,079,601	322,259,118,165	316,472,341,635	−5,226,737,966					
Senate					348,500,786,701	332,437,769,854	−7,664,476,847		
Enacted								337,855,966,730	−10,644,819,971

[1] Additionally, the Congress has taken action during this period to rescind budget authority as follows:

Bills	Proposed rescissions considered	Approved by House	Approved by Senate	Approved by Congress	Compared with proposed rescissions
First budget rescission bill, FY 1978 (P.L. 95-254)	$55,255,000	$55,255,000	$55,255,000	$55,255,000	

[2] Reflects 2 percent reduction for certain items in the amount of $58,558,720.
[3] Reflects $1 billion reduction for the House, $2 billion for the Senate and $1 billion for the conference for reduction of fraud, abuse, and waste.
[4] Reflects 2 percent general reduction on nonmandatory items in the amount of $397,166,000.
[5] Reflects 2 percent general reduction on nonmandatory items in the amount of $206,832,000.
[6] Reflects 2 percent general reduction on nonmandatory items in the amount of $92,825,000.
[7] Reflects 2 percent general reduction on nonmandatory items in the amount of $35,108,009.
[8] Includes $47,500,000 in permanent budget authority which was rescinded in this bill.
[9] Funding is provided in the Continuing Appropriations, 1979 (P.L. 95——).
[10] These bills were passed by the House and Senate during the 95th Congress, 1st session, but approved by the Congress and enacted into law during the 95th Congress, 2d session.
[11] Amount considered by Full Committee was $8,554,311,600 but is reduced by $3,907,984,000 in this table for unauthorized items removed from the bill by point of order.
[12] Amounts shown under Continuing Appropriations are new budget obligational authority for the Public Works-Energy Research Appropriation bill.
[13] Conference agreement.
[14] Amount as reported by Senate Appropriations Committee but not yet approved by Congress.

Note: The Budget for 1979, as submitted Jan. 23, 1978, tentatively estimated total new budget authority for 1979 at $568.2 billion net ($631.8 billion gross, including $63.6 billion in intragovernmental transactions and certain so-called proprietary receipts handled as offsets for budget purposes only). An estimated $265.8 billion does not require current action by Congress; this amount includes permanent appropriations such as interest and various trust funds already provided in basic law. Virtually all of the remaining $366.9 billion is for consideration at this Session in the appropriation bills. About $19.8 billion of the $366.9 billion was shown in the January budget as being "for later transmittal" for supplemental requirements under present law, new legislation, allowances and for contingencies and civilian pay raises.

Parentheses indicate that amounts are not included in "C. Cumulative totals for the session to date."

Prepared by House Committee on Appropriations. ●

THE RESULTS OF PUBLIC OPINION POLL OF OHIO'S 17TH DISTRICT

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ASHBROOK. Mr. Speaker, the results of my annual public opinion poll have been tabulated. The response was excellent. Thousands of 17th district residents expressed their views. Many included letters and comments along with their completed questionnaires.

The poll covered a wide range of domestic, national defense, and foreign policy issues. The results are of great interest.

Ninety percent of those responding favored proposition 13-type amendments to limit spending and taxation by the Federal Government. Only 6 percent opposed such amendments. Eighty-two percent expressed the view that a balanced Federal budget is very important, while another 13 percent thought it is fairly important. Sixty-three percent supported a major tax cut for individuals and corporations.

In the area of national defense, 92 percent believed that the United States should follow a policy of military superiority over the Soviet Union. Ninety percent opposed abandoning the Republic of China in order to normalize relations with Communist China. Another 82 percent went on record against giving our tax money to multilateral agencies such as the World Bank if they in turn make loans and grants to countries like Vietnam, Cambodia, Uganda, and Cuba.

Sixty-four percent favored strict import quotas on foreign steel as a means of protecting American jobs. An even greater number, 78 percent, thought Federal registration of all firearms by the Bureau of Alcohol, Tobacco, and Firearms was a bad idea.

I appreciate that so many 17th district residents took the time to complete this poll. It is an important way of getting constituent views on issues facing our Nation.

Following is the 1978 public opinion poll:

1978 PUBLIC OPINION POLL OF THE 17TH DISTRICT

[Answers in percent]

	Yes	No	No opinion
1. Do you favor proposition 13-type amendments which will limit spending and taxation by the Federal Government?	90	6	4
2. Do you think Federal registration of all firearms by the Bureau of Alcohol, Tobacco, and Firearms would be a good idea?	18	78	4
3. Do you favor strict import quotas on foreign steel as a means of protecting American jobs?	64	30	6
4. A balanced Federal budget is—			
(a) Very important	82		
(b) Fairly important	13		
(c) Not so important	3		
(d) No opinion	2		
5. To normalize diplomatic relations with Communist China, that nation insists that the United States break diplomatic relations with the Republic of China, abrogate our defensive treaties, and withdraw our troops from Taiwan. Should we accept those terms?	6	90	4
6. The proponents of the equal rights amendment seek an additional 7 years to secure ratification in the State legislatures. Do you favor this proposed extension?	26	69	5
7. What is the best solution to the economic problems farmers are experiencing?			
(a) Higher Government price supports	5		
(b) A combination of expanded credit, land set asides and Government reserves	8		
(c) Allow the free market to function and limit Government to developing exports and overseas markets	78		
(d) No opinion	9		
8. Do you favor Federal tuition tax credits to help pay tuition expenses at the college level?	42	50	8
9. Do you favor Federal tuition tax credits to help pay tuition expenses at the elementary and secondary school level?	25	70	5
10. Should those who are receiving public assistance but are able to work be required to work at least part time in order to keep their Government assistance?	94	1	5
11. New York City is seeking to renew the Federal loans which are due to expire shortly. With which statement do you most agree?			
(a) New York City should solve its own problems without Federal assistance	85		
(b) Federal assistance is justified	11		
(c) No opinion	4		
12. The Senate has passed the Panama Canal Treaty. The House will vote on appropriations and implementing legislation. How would you vote?	9	88	3
13. In planning for our national defense, should the United States follow a policy of military superiority over the Soviet Union?	92	6	2
14. Do you believe that illegal aliens presently in the United States should be granted amnesty to remain and work in the United States?	14	80	6
15. Should Congress roll back the social security tax increases it approved last year?	47	51	2
16. Should Congress hold down cost-of-living increases and all increases in social security benefits?	55	43	2
17. There are 2 basic areas of controversy in the abortion issue. Which position best expresses your opinion:			
As to abortion itself:			
(a) I favor the right of the individual to choose whether or not she will have an abortion	54		
(b) I favor the right to life amendment which would assure the right of life extends to conception and prevent abortions except where the life of the mother is involved	37		
(c) No opinion	9		
As to funding for abortions:			
(a) I believe tax money should be used to pay for abortions for the poor and those on welfare	21		
(b) I do not believe tax money should be used to pay for abortions	68		
(c) No opinion	11		
18. Do you favor the death penalty for the most serious crimes such as murder, kidnapping, terrorism?	83	6	11
19. President Carter advocates shifting emphasis on foreign aid to multilateral agencies such as the United Nations, the World Bank, the International Development Association and others. What do you think?			
(a) Whatever foreign aid we give should be given by our Government and administered by our Government	80		
(b) We should move in the direction of cooperation with other governments and multilateral agencies	6		
(c) No opinion	14		
20. I of the critical issues in this shift to multilateral agencies is that the World Bank, the UN, etc. promote programs in Vietnam, Cambodia, and nations of the world which are Communist or hostile to America. Which view do you hold:			
(a) Do not give to multilateral agencies if they in turn would make loans and grants using our tax money to countries like Vietnam, Cambodia, Uganda, Cuba	82		
(b) Work through multilateral agencies regardless of whether their position is different from ours	5		
(c) No opinion	13		
21. A number of steps have been proposed to deal with our energy problem. Which of these steps do you believe we should take?			
(a) Institute a program of mandatory gas rationing	16	79	5
(b) Increase the Federal gasoline tax	4	90	6
(c) Deregulate the price of new natural gas	47	45	8
(d) Expand the use of coal	88	4	8
(e) Accelerate development of nuclear power	85	7	8
(f) Accelerate development of solar energy	85	7	8
(g) Restrain the Environmental Protection Agency standards which limit use of coal, generation of energy and expansion of industry	75	16	9
22. Should employees of Federal, State, or municipal governments be permitted to strike?	23	74	3
23. Do you favor a major tax cut for individuals and corporations?	63	27	10
24. How would you rate the job that Congress is doing?			
(a) Good	4		
(b) Fair	27		
(c) Poor	67		
(d) No opinion	2		
25. How would you rate the job that President Carter is doing?			
(a) Good	4		
(b) Fair	24		
(c) Poor	71		
(d) No opinion	1		

●

RUSSIA WIDENS NUCLEAR TECHNOLOGY GAP

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. WYDLER. Mr. Speaker, three articles have appeared in the Washington newspapers during the past week which I think document a cause for alarm with respect to this country's misguided nuclear policy. The first article "Soviets Confident They've Mastered Breeder Reactor Technology" in the Washington Star confirms my own views of Soviet breeder development which I presented to the Congress in a report this year. I also wrote the President about this potential for an "Atomic Sputnik" and asked him to keep a U.S. commitment to build a breeder plant. In the letter to Mr. Carter I stated:

OVERSIGHT OF SOVIET NUCLEAR ENERGY DEVELOPMENT

. . . I am pleased that you have initiated an effort to come to some accommodation with the Congress on the breeder program and the Clinch River Reactor Project in particular. I share your view, as Secretary Schlesinger has related it, that continued confrontation on this issue is not in the best interest of the country. Chairman Teague has told me that you do feel that our Nation needs a strong breeder program.

The fact is, however, that our program cannot really be strong without a demonstration of fast breeder technology in an operating plant. This plant does not have to be the one currently planned for Clinch River, but could incorporate more advanced breeder technology. However, until we make a large commitment, we must keep the Clinch River option open.

I have come to this conclusion about the breeder after my discussion last week with the Soviets in Moscow. I have also had extensive discussions with the International Atomic Energy Agency in Vienna and the French Atomic Energy Commission, all within the past year. In all cases the evidence is irrefutable. Other major developed nations are far ahead of us in breeder development. Our continuing technology program is simply not sufficient to keep this energy option open to the United States in a timely manner.

[From the Washington Star, Oct. 3, 1978]

SOVIETS CONFIDENT THEY'VE MASTERED BREEDER REACTOR TECHNOLOGY

(By John Flalka)

OBNINSK, U.S.S.R.—The goal of the nuclear scientists and engineers working here is to introduce a "plutonium economy" into the Soviet energy system by the 1990s.

The device for accomplishing this is called the liquid metal fast breeder reactor (LMFB), a piece of technology that has caused a major controversy in the United States because it will generate or "breed" large quantities of plutonium for use as nuclear reactor fuel. Plutonium is also the main material used in the manufacture of nuclear weapons.

The feeling here is that handling plutonium along with other materials involved in breeder technology is an art that has been completely mastered.

"I don't see any basic difficulties in transferring from uranium fuel to plutonium," explained Mikhail Troyanov, deputy director of Russia's Instiute of Physics and Power Engineering, to a group of visiting U.S. journalists.

The difference between the U.S. breeder program and the Soviet Union's is obvious to a lay visitor to Obninsk, the main breeder research facility, located 80 miles southwest of Moscow.

While the Carter administration and Congress are locked in a protracted dispute over whether to build the first U.S. breeder reactor that will produce electrical power on a commercial scale, the Soviets have already built two and are finishing plans for a third.

The third Russian breeder, to be completed in the late 1980s, is called BN-1600. It will produce 1,600 megawatts of electric power, more than five times that of the proposed Clinch River breeder reactor. Carter stopped the Clinch River project last year because it conflicted with his nuclear non-proliferation policies. The reactor, which still has strong support in Congress, was to have been built near Oak Ridge, Tenn.

Until recently, the LMFBR was the U.S. government's main energy research program. It was considered to be the next generation of nuclear power plants, one that would begin to dominate power production in the United States by the 1990s.

One difference between the breeder and conventional reactors is that breeders operate at much higher temperatures, requiring a molten metal, sodium, as a coolant rather than the water that is used to cool and to carry the heat out of conventional nuclear reactors.

The breeder reactor is also designed to operate in a way that physicists call "fast." In a breeder the flow of fast-moving sub-atomic particles, called neutrons, is encouraged. In the conventional reactor the flow is inhibited.

The neutrons have the capacity to change the atomic structure in the metals surrounding the reactor and so breeders are designed with a blanket of natural uranium around the reactor's core. Under bombardment by neutrons, the uranium turns into plutonium suitable for a re-use as reactor fuel.

According to Troyanov, the Soviets hope to use LMFBRs, "very intensively" in the 1990s. The reactors will be designed to create about 1.3 times the amount of plutonium fuel they burn up, and to eventually shift the basis of their energy economy to plutonium fuel, rather than coal, oil, uranium or natural gas.

While U.S. scientists maintain that the U.S. breeder program is still ahead of the Soviets' in terms of basic research, they admit the Soviets are now well ahead of the United States in terms of testing equipment under actual operating conditions.

Obninsk is the home of the world's first commercial nuclear power plant, which began sending small quantities of electric power into the Moscow area electrical power grid in 1954, at a time when the United States was concerned with smaller experimental devices.

Almost immediately, according to Troyanov, the basic thrust of the Soviet research program was shifted into the breeder area because of the promise of virtually limitless supplies of plutonium fuel.

Unlike U.S. nuclear engineers, who dress up visitors in white gowns, shoe covers and special radiation monitors, the Soviets have a much more relaxed attitude about displays of nuclear hardware.

They don't use shoe covers, which protect the reactor area against dirt, and they believe that radiation monitors are unnecessary. They like their machinery and they want people to see it up close, even touch it.

For a lecture on the main Soviet breeder research reactor, BN-5, reporters were assembled on the operating reactor's metal cover, just a few yards away from the machine's radioactive fuel.

Next year BN-5 will celebrate it's 20th birthday and the engineers here are looking for a way to celebrate what they say has been 20 years of trouble-free breeder operation.

"We could fill it up with cognac," joked one engineer, "but that would slow down the reaction."

The Soviet equivalent to the proposed Clinch River breeder is called BN-350. It began operating at Shevchenko, on the shore of the Caspian Sea, in 1972.

It now produces electricity and also steam for use in water desalination although, as Troyanov admitted it has had "certain difficulties."

Sodium is a very tricky chemical to handle in large quantities. It burns on contact with air and can explode upon contact with water.

An explosion occurred in 1974 after some 100 gallons of water leaked into the sodium in one of the steam generators at Shevchenko. Some reports say the explosion was rather large, but Troyanov dismissed these reports as "rumors," saying that the plant remained in operation and that the damage it sustained would not have been noticeable from the outside.

A somewhat larger facility, BN-600, is being completed near Byeloyarsk in the Urals and is expected to begin operations sometime next year.

Recently there has been some discussion among Russian and U.S. scientists that American equipment, such as steam generators, should be tried out in the Russian breeders.

The second article "Nuclear Plant in Finland Showcase for Soviets" appeared in the Washington Star on October 4, 1978, and a companion piece in the Post on September 29, 1978, "Soviet Reactor in Finland Seen as Economic Threat to West" describe how the Soviets have put their foot in the door in the nuclear power market which has been long dominated by this country. I pointed to this disturbing trend in my May 1978 report to the Congress, "Oversight of European Nuclear Energy Development." The administration has done little since to change the views I expressed at that time.

OVERSIGHT OF EUROPEAN ENERGY DEVELOPMENT

To the rest of the world the United States policy of deemphasizing atomic power is a no-growth policy of "pull back." Other nations look in amazement at a policy designed to keep us on an oil binge destined to let the world leave us behind in nuclear technology. Our shifting position on nuclear safeguards has given our Nation a reputation as being an unreliable nuclear partner.

This country's radical change in policy toward the development of nuclear energy and peaceful export of nuclear technology has raised grave doubts among our friends. We are losing credibility with these nations and losing business in the export of peaceful applications of nuclear energy as well.

Our reneging on past nuclear commitments not only means that this country's technological capability will be wasted but also leaves open the market to nations who may share our concerns about the peaceful uses of the atom.

The fact that the United States is requiring foreign countries to renegotiate the terms of nuclear agreements has literally put these countries in a mood of "quite rage." We are destroying our image as good neighbors and raising serious questions in the international community about whether we honor the traditional American view of "sanctity of contracts." In the case of Eastern bloc countries such as Yugoslavia we are undercutting them as they attempt to "walk the tightrope" in

relations with the United States and the Soviet Union.

I recommend these articles to my colleagues so that they can see the extent to which the gap has increased between our nuclear program ant that of the Soviets:

THIRD WORLD CUSTOMERS GIVEN TOUR: NUCLEAR PLANT IN FINLAND SHOWCASE FOR SOVIETS

(By John J. Fialka)

LOVIISA, FINLAND.—The large, silo-like structure built near here on an island in the Gulf of Finland bears witness to the first success of the Soviet Union in what appears to be a major push to sell nuclear power plants in the West.

Finnish engineers, who have labored mightily to make the Soviet nuclear equipment conform to much tougher U.S. safety standards, have dubbed the plant "Eastinghouse" for its marriage of a Soviet reactor, German control equipment and an emergency cooling system designed by the Westinghouse Electric Corp.

The Soviets are so proud of the completed reactor that they have begun bringing potential customers from Third World nations, including Iraq and Iran, to visit the site. One reason for the Soviet pride is that the plant has been operating at about 85 percent efficiency—considerably higher than most American-built reactors.

The plant at Loviisa is the Soviets' foot in the door of a market long dominated by American and, to a lesser extent, European companies. The Soviet Union is bound to gain a larger share of nuclear business when it opens the world's largest reactor manufacturing facility sometime in the 1980s. That operation will have the unprecedented capability of manufacturing entire nuclear plants on an assembly line—turning them out "like cookies," in the words of one diplomat.

As the Finns have learned, much of the Soviet Union's commercial nuclear power operations are shrouded by military-style secrecy.

No Westerners have seen the massive atomic reactor plant, called "Atommash," which is believed located in the vicinity of Volgodonsk, south of Moscow.

When the Finns decided to build a plant near Loviisa, they invited a number of Western companies to submit designs and bids. However, they ended the competition by inviting their powerful neighbor, the Soviet Union, to underbid the competition. The Soviets sold the plant for $250 million, roughly half the going U.S. price at the time. They also sweetened the deal.

"It came with very, very favorable long-term financing for us," explained Kalevi Numminen, a member of the board of the state-owned Imatran Voima Co., which owns the Loviisa plant.

Politics have tended to flavor much that has happened at Loviisa since.

The Soviet construction crews, numbering up to 1,000 workers, arrived in 1970 and established self-contained communities apart from the population of Loviisa, which is 60 miles east of Helsinki.

The Finns ran into a political wall early on when they decided they had to visit Soviet plants to see exactly how the nuclear fuel was made before they could certify that the plant was safe to run at peak capacity—slightly less than half that of the current generation of U.S. plants.

Although the request was made at the highest levels, sources said, the Soviets were adamant in their refusal, saying it was against Soviet law for any foreigner to see Soviet uranium enrichment plants where the exotic isotope U-235, which is used in nuclear fission, is separated and concentrated.

Because the Soviet plants, like their American counterparts, are used to supply enriched uranium to their nation's nuclear weapons program, the Soviets have never publicly revealed their whereabouts. Western observers believe they are located in Siberia, where vast amounts of hydroelectric power are available.

Nor have the Soviets ever revealed exactly what they do with the long-lived radioactive nuclear wastes.

Under Soviet contract provisions, fuel supplied with the plant is retrieved and returned to the Soviet Union when it is spent.

"What they sell they take back," explained Anders Palmgren, superintendent of the Loviisa plant. "For us, the fuel is more or less leased. After that, it's their problem."

Under U.S. and European contracts, user nations buy the fuel for keeps and must devise waste disposal systems of their own. They also are left with substantial amounts of plutonium, a residual component of the spent fuel.

Because plutonium is also the primary material used to make nuclear weapons, the question of ownership of the plutonium in fuel purchased from the United States currently is troubling the Carter administration. Japan and Austria are pressing the United States for permission to send their used fuel to third countries for reprocessing a matter that requires U.S. approval under current contracts.

The Soviets "have total control (of nuclear fuel)," said a U.S. diplomat. "When it comes to non-proliferation, they are almost holier than thou."

According to Western estimates, the Soviets have sold nuclear power plants under similar arrangements to Bulgaria, Poland, East Germany and Czechoslovakia. There are also believed to be negotiations under way with Libya and Cuba.

The Soviets also have begun contracting to enrich uranium fuel purchased elsewhere. So far France, Great Britain, West Germany and Italy have arranged to send uranium to the Soviet Union for enrichment.

As for the Finns, they say they are happy with their dealings with the Soviets. Next month a Finnish envoy will go to Moscow to see whether the Soviets are interested in a joint venture in their nuclear export business using Finnish engineers to equip Russian plants with U.S. style safety features.

Meanwhile a second Soviet plant at Loviisa is near completion, and the Finns are considering a third—one of the first to be produced at the "Atommash" plant.

SOVIET REACTOR IN FINLAND SEEN AS ECONOMIC THREAT TO WEST

(By Thomas O'Toole)

LOVIISA, FINLAND.—The Finns who operate the first nuclear power plant to be exported to the West by the Soviet Union jokingly refer to it as their "Eastinghouse" reactor. But they see the future for Soviet nuclear power as anything but laughable.

The Finns call their Soviet-built plant "Eastinghouse" because it so closely resembles the 38 nuclear electric plants built round the world by Westinghouse, the American company preeminent in the field.

Westinghouse tried to land this contract eight years ago but lost to the Soviets even though it bid 20 percent less than the $250 million the Finns paid the Soviets. Therein lies a story.

For the last two years, Westinghouse has told the White House and the Congress that stricter controls on nuclear exports will mean a staggering loss of sales. Insisting that nuclear energy is here to stay, Westinghouse has said that if American companies fail to build the world's nuclear power plants, the French and the West Germans will.

There is little doubt that American companies such as Westinghouse may lose some of their share of the nuclear market but there is doubt that the French and Germans will capture that loss. If the Finnish experience is a guide, it may be the Soviets who win a large share of the market.

A trip to this small town on the Gulf of Finland by touring American journlists offers evidence that this may turn out to be one of the most serious economic threats the Soviet Union has ever mounted on the West.

The Soviet-built plan is already in operation, a shiny, whirring machine that last week started its fourth straight month without missing a kilowatt. An almost identical second plant is nearly constructed, less than 100 yards from the first. More than 600 Soviet construction workers are still at work there.

Talks are taking place concerning a third plant, which at 1 million kilowatts will be more than twice the size of the 440,000-kilowatt plant now in service. The Finns say they don't have to decide on this plant for another two years but it is clear from conversations here with executives of the government-owned Imatran Voima Power Co. that a decision of sorts has already been reached—the plant will be built by the Soviets.

"Why change something when it works?" asked Kalveli Numminen, director of Imatran. Anders Palmgren, superintendent of the Loviisa power station added: "The plant we have here happens to be one of the best in the world. The fuel works well, the vibrations in the turbines are low and we have not had a single fuel leak in more than 10,000 hours of operation. We are delighted with this nuclear power plant."

The Finns talk bluntly about how they would like to become salesmen for Soviet nuclear power around the world. The Finns here think that the Soviet nuclear power design is as good as any in the West and want to share in the profits they see tumbling into Soviet coffers once others turn to Moscow.

Until the Finns bought their first Soviet plant, things did not go well with Soviet nuclear exports. The Soviets have exported nuclear plants to East Germany, Poland, Bulgaria and Hungary but in the last few years lost bidding battles to Westinghouse for a plant in Yugoslavia and to a Canadian firm for a plant in Romania.

None of these Communist countries thought the Soviet nuclear design was safe. Five years ago, the Soviets were trying to sell nuclear plants without the thick concrete containment buildings around them that are the American trademark.

The Soviets did not build redundant cooling systems favored by American companies to cool down the reactor if its nuclear fuel should accidentally overheat. The Soviet computer controls of the plant were also incomplete.

The Finns convinced the Soviets to change their ways. They bought not only the Soviet reactor but also steam generators and turbines. Then they went to a West German firm for the controls, a Dutch company for the concrete containment and to Westinghouse for a $10 million system to flood the reactor with 1,000 tons of ice if its heat and pressure need to be subdued in a hurry. The Soviets got the message and will now supply these items.

Currently said to be negotiating to buy Soviet nuclear plants are Cuba, Libya and a third, unnamed country. Visitors now flock to Loviisa to watch the plant work and to talk about it with the Finns.

The Loviisa plant could win the Good Housekeeping award for industrial cleanliness. It is nearly spotless, from its white turbines to the dark green of its cooling tanks along the walls of the main reactor building. The reactor itself is silent. The only

noise is the high-pitched whine of the turbines.

The Finns say one reason they picked the Soviet plant over the Westinghouse design is the financing, which other countries might not get from the Soviets. They loaned the Finns money at low interest rates, gave them uranium fuel free of charge for the first year and let the Finns subcontract almost half the construction work to Finnish firms.

The way the Finns tell it, the country needs nuclear energy. Finland has no oil, coal or natural gas and pays out more than $1 billion a year to import energy. The country is so flat it has only six dam sites left to exploit, all of them expensive. The only domestic fuel is peat.

Nuclear power presently supplies 8 percent of Finland's electricity, and that figure is likely to rise to 35 percent within a few years. That would make Finland the world's most nuclear-dependent nation, but the Finns hope that their experience with plants such as "Eastinghouse" will turn to profits when other energy-strapped countries are shopping for Soviet nuclear technology.●

GENNADY KHASSIN DENIED PERMISSION TO EMIGRATE TO ISRAEL

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. SOLARZ. Mr. Speaker, I am proud today to have the opportunity to bring to the attention of my colleagues in the Congress and the American people, as part of the continuing "Vigil for Life" sponsored by the Union of Councils for Soviet Jewry, the plight of Gennady Khassin and his wife, Natasha Khassin, and their children—all Soviet Jews who have been denied the right to immigrate to Israel by the Soviet Government.

Although a signatory of the Helsinki Final Act which committed all signatory nations to pursue policies consistent with basic human rights, including the rights of religious freedom and free travel between countries, the U.S.S.R. has refused since 1976 to allow the Khassin family to emigrate from Russia. In addition, Gennady Khassin, a prominent mathematician and author of 4 textbooks and 16 scholarly articles which have been widely published and which are available abroad, is now unemployed and nearly destitute. Why? Because in 1976 he requested permission to emigrate to Israel to be reunited with his mother. Now his only means of support is by teaching Hebrew—an occupation the Soviet officials do not regard as a registered profession. Thus, he has been called in by the police twice and threatened with prosecution for being a "parasite."

Mr. Khassin has never been given any reason for the refusal of his requests to emigrate. He and his wife participated in the Babi Yar memorial service in Kiev in 1976 and were both arrested. When they attempted to go to the Babi Yar memorial service in 1977 the KGB confiscated their train tickets and took them to the police station.

Undaunted they have continued to request permission to leave Russia. They have also continued to participate in activities that protest the policies of the Soviet Government which prevent them from being reunited with their families, or to even hold the positions for which their background and education would qualify them, because they are Jews determined to raise their children in Jewish traditions, and because they long for the opportunity to live in peace and freedom.

I commend the courage of the Khassins and hope that this small "Vigil for Freedom" effort will aid them in their efforts to soon win the right to emigrate.

As signatories of the Helsinki Accord, we in the United States call upon the U.S.S.R., as another signatory, to live up to its promises to pursue policies consistent with the basic principles of human rights—particularly the reunification of families, religious freedom, and the right of citizens to free travel.●

S. 274—PROHIBITING UNION ORGANIZING OF THE ARMED SERVICES

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, at the beginning of the last session of Congress, during the 95th first session, I cosponsored a bill, H.R. 2477, which was introduced by my colleague, Congressman G. V. MONTGOMERY of Mississippi, to prohibit union organization of the Armed Forces. A similar bill this session, S. 274, was considered and passed by both the House and Senate on September 16 and 28, respectfully.

Congress must move swiftly to deal with this critical piece of legislation, as there is currently a movement afoot within several of our Nation's labor unions to recruit members from our Nation's military services.

In late September of 1976, the American Federation of Government Employees (AFL–CIO) voted to amend the union's constitution to permit recruiting members of our military forces. This organization is now in the process of polling its members to see if they want to try to unionize the 2.1 million service men and women on active duty. They have already voted to raise a $13,000 a month "war chest" to unionize members of the Armed Forces, making it painfully evident that if the members of the union concur, military unions could, indeed, become a reality. Last month Gen. David C. Jones, Air Force Chief of Staff, warned that the Nation's armed services would be unionized "within 5 years" if something is not done to stop it.

It is up to us, as Members of Congress, to see to it that General Jones' prediction does not become a reality. The institution of military unionization could only serve to severely undermine our national security by dividing the allegiance of those pledged to defend our country between the Government and a union, while fragmenting command authority in a branch of the public service where such a condition would be intolerable and self-destructive.

The Constitution charges Congress with the responsibility to "raise the Army." It charges the President with the responsibility of Commander in Chief. He carries out these responsibilities through a change of command in the Defense Department, the Army, the Navy, Marine Corps, the Air Force, and Coast Guard.

A unionize defense force would play havoc with this military chain of command which is so crucial in our present electronic-nuclear war age, when every strategy, every policy, every tactic is based upon the instantaneous, unquestioned response to orders. There is no place in this system for strikes, slowdowns, shop-meetings, pay bargaining sessions, and so forth, that are inherent to any union organization. Legitimate as they are in industry, union relations must continue illegal in the Armed Forces; the life of this Nation could depend upon it.

The detrimental effects of military unionism are clearly evident when one considers the toll it has taken within the Armed Forces of some of our European allies, such as Holland, Denmark, and West Germany.

While the official lines in these countries is that all is well with military unionization, the facts speak differently. Capable, experienced officers have resigned rather than face the humiliation of shop steward meetings. Raw recruits have challenged military commands and discipline at times, electing to demonstrate loyalty to their union at the expense of their assigned duties and their obligation to their country. Indeed, the involvement of Portugal's armed forces with leftist unions played a major role in that country's recent unrest that brought down one government and threatened Portugal's role in the North Atlantic Treaty Organization. The words of Gen. Marcel Bigeard, a legend in the French army and now France's Secretary of State Defense, regarding the unionization of the European military are undoubtedly a more reliable yardstick for measuring the effects of military unionization than are many countries "official lines." General Bigeard said:

> There is afoot an enterprise of demoralization of armies on a French and European level which has been going on for five or six years. . . . The matter is serious (Newsweek, March 8, 1976, p. 43).

We should learn from the European precedent rather than allowing the U.S. military to become an example to other nations considering military unionization.

Advocates of unionization of our Nation's Armed Forces argue that to deny members of the military the right to form unions would be a deprivation of their constitutional rights, using the first amendment's freedom of association clause as a basis for their argument. What they conveniently fail to mention is that section of the U.S. Constitution, article 1, section 8, clause 14, which specifically grants Congress the power "to make rules and regulations of the land and naval forces." Furthermore, in a decision upholding articles 133 and 134 of the Uniform Code of Military Justice, the U.S. Supreme Court has said:

This court has long since recognized that the military is, by necessity, a specialized society separate from civilian society.

Thus, while members of the military are not deprived of the freedom of association granted by the first amendment, the different character of the military requires a different understanding of this community and of the military mission right. The fundamental need for obedience and the consequent need for discipline make it impossible for service men and women to do some of the things that civilians are entitled to do. This small abridgement of rights, as guaranteed by the first amendment, is necessary to guarantee citizens the protection of a disciplined, responsible, and effective military force.

The "separate society" doctrine enunciated by the Supreme Court plainly suggests that prohibiting unionization of the military is a valid exercise of legislative authority.

By denying members of the military the right to form unions we are in no way subscribing a "grin and bear it" type of philosophy to those who have voluntarily pledged their services to preserve our Nation's liberty and security. There are channels which members of the Armed Forces may utilize to air grievances and present problems through the chain of command. Such procedures currently include the Inspector General System, and complaints under article 138 of the Uniformed Code of Military Justice. In addition there has been a trend in recent years whereby individual commanders now have open door policies. Many bases have instituted enlisted and junior officers councils and other similar programs, all attesting to the flexibility of the chain of command in providing appropriate means of communication for voicing complaints. There is no place in this chain of command, however, for organizations that would rely on bargaining and negotiations.

We must not allow a system to be instituted that would give servicemen and women the upper hand in determining the course of action the military will pursue. The ramifications of such a situation are particularly alarming when considered within the context of a situation in which the very life of the Nation would be at stake. Should we merely sit by, idly allowing an organization to be instituted that would leave our national security to the whims of those who, by the very nature of their position, are not able to see the potential hazards of ignoring high level military commands?

In addition, I wish to point out my serious reservations about section III of S. 274, dealing with our National Guard technicians program.

I am unalterably opposed to unionization of any type in the Armed Forces. I regard the existence of Government employee unions in the National Guard technicians program as a foot in the door which could lead to the erosion of the command and control processes of the Active Forces.

National Guard technicians are Federal employees who provide day-to-day continuity for National Guard units. They work full time at helping their units achieve and maintain combat readiness and a rapid mobilization capability.

All but a small fraction of the Guard's technicians are required by law, as a condition of their employment, to be military members of the organization they serve as technicians. The technician force exists to assure that, in a State or National emergency, the National Guard will be able to send effective, smoothly functioning units to active duty in the shortest possible time. Congress wrote the military membership requirement into law for Guard technicians in 1968, when it enacted the National Guard Technicians Act.

Since the conversion of the National Guard technicians to Federal status on January 1, 1969, challenges to the military characteristics of the technicians program by labor organizations have continued to increase each year. In 1970, there were but 14 labor agreements and 2 unfair labor practice charges filed. In 1976, 113 labor agreements were negotiated and 37 unfair labor practice charges filed.

Information compiled from data furnished by State adjutants general show that they are continually challenged by local and national labor organizations in their efforts to direct day-to-day operations of the National Guard with their technician workforce. The unions continue to strive for a complete separation between military and technician duties.

Strong differences of opinion exist between Federal employee unions and National Guard leadership over the purely civilian nature of the jobs performed by technicians; so strong, in fact, that some National Guard leaders declare the situation has produced an intolerable adversary relationship between technicians and their military commanders.

There is simply no substitute in the Armed Forces for unqualified obedience to authority. The security and tranquility of our Nation in peace, and its defense in war, depend upon it. When our men and women are called up to defend our country, a commander must have the unquestioned authority to order them into battle and the power to enforce his orders. Any action that would diffuse or weaken this power and authority would amount to a self-inflicted wound to our defense effort—one from which we might never recover.●

GE'S 100TH ANNIVERSARY

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mrs. HECKLER. Mr. Speaker, I would like to bring to the attention of my colleagues that Thursday, October 15, marks the 100th anniversary of the founding of one of the most technologically innovative corporations of our time—the General Electric Co.

It was 100 years ago, October 15, 1978, that a small company was founded to financially back Thomas Alva Edison's attempt to turn a dream—the development of the incandescent lamp—into reality.

It was this company, General Electric's predecessor, through its financial support of Edison's early experiments, that helped launch the world into a new era of technological achievement.

From this great beginning, the General Electric Co. would in its first 100 years furnish the world with many more great and diverse technological advancements.

These notable technological innovations and achievements include: Turbine engines which produce our electricity and act as propulsion systems for jet aircrafts and ships; the electric stove and refrigerator and other home appliances; pioneer radio and television, and development of mass communication systems; electron radio tubes which were the heart of the first early warning radar; computer time-sharing systems; man-made materials such as diamonds and silicone for use in industry; re-entry systems to house and protect space payloads; and helping man to achieve one of his greatest aspirations—landing man on the Moon.

Yankee ingenuity is the cornerstone of our great economic growth as a Nation, and General Electric's century of innovation has been an important part of this progress. On the occasion of General Electric's 100th anniversary, we congratulate each individual in the company for their contribution to this outstanding American success story.●

A DEBT OF GRATITUDE TO THE REVEREND HARRY W. HEERMANS FOR THE FAITHFUL SERVICE TO OUR COMMUNITY AND COUNTRY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. KEMP. Mr. Speaker, it is with great pleasure that I take this opportunity to recognize before my colleagues a leading member of our community, the Reverend Harry W. Heermans, for his innumerable contributions to the community of Orchard Park, N.Y. Retiring this month after 29 years of service as rector of St. Mark's Episcopal Church, his reach has extended beyond the parameters of this single parish to touch our entire community, embracing all of us with his deep commitment, constant understanding, and tireless dedication.

Thirty-six years after his graduation from Virginia Theological Seminary and ordination into the Episcopal Church, and over 1,900 sermons later, Reverend Heermans continues to exemplify those attributes of leadership and participation upon which the future of our communities, indeed, our Nation depends. His endless generosity and continued involvement have left our community with many invaluable contributions for which he will always be remembered.

As dean of the Southern Erie Deanery of the Diocese of Western New York, and through his service on countless

liturgical and social service commissions, he has been instrumental in fostering an ecumencial understanding among our churches as well as furthering a long-standing commitment to meeting the needs of every sector of society. The elderly as well as the young, the poor, and comfortable alike have all benefited from Reverend Heermans' keen sensitivity and strong sense of purpose and community service. Through his civic work on the board of directors of both Freeport and the Orchard Park chamber of commerce, he has demonstrated the strength of a church involved in society not separate from society, and has earned the highest regard and esteem of our entire community. The respect which he has gained was perhaps best reflected in his selection as recipient of Orchard Park's Citizen of the Year award for 1977.

Mr. Speaker, the character, integrity and constant good will of Reverend Heermans have enriched the lives of all he has known to surpass even his greatest contributions. It is in such citizens that the hope of tomorrow lies—citizens who are able to overcome the limitations of self-interest to channel their compassion into positive action, giving themselves freely for another. So it is with great pride and appreciation that I commend Reverend Heermans for his outstanding achievements and thank him for the vision he has shared with the entire community. I join all our mutual friends in wishing him Godspeed and many years of health and happiness, fully confident that his commitment to community involvement will continue long into retirement.●

FOREIGN ASSISTANCE APPROPRIATIONS ACT

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. HEFTEL. Mr. Speaker, this statement is intended to explain my "nay" vote on the conference report on H.R. 12931, the Foreign Assistance Appropriations Act. The conference report as reported back to the House included an additional $1,831,640,000 for U.S. participation in the Supplementary Financing Facility of the International Monetary Fund. This provision was added after the August 14 House consideration of the measure. It is my strong feeling that the Congress must better utilize and comprehend the consequences of IMF funding. A mechanism which serves to finance foreign imports to the United States may also threaten a facet of our domestic industry, a specific example of which is sugar. At the very moment that we are increasing the potential for foreign sugar, the President is threatening to veto a sugar bill which provides $0.16 per pound. That price is sorely needed for the continuation of much of the sugar beet industry of America, including but not limited to Louisiana and Idaho. It is unfortunate that the Foreign Assistance Appropriations Act includes funding for IMF as well as economic and military assistance programs and foreign military credit sales. Such measures must be categorized separately so that effective scrutiny and control may be exercised by the Congress.●

GOVERNMENT INTERFERENCE WILL NOT CURE OUR NATION'S ILLS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. CRANE. Mr. Speaker, it has been said that commonsense in medicine is the master workman. Commonsense hardly dictates entrusting our health to the Government that brought us Amtrak and the Postal Service. The health care issue has been discussed in almost every Congress for the past 36 years. We have looked at experiments in other countries and in fact toyed with two programs of our own: medicare and medicaid. We have accused the AMA of a monopoly on health care; we have blamed the hospitals for rising costs. We have placed blame on every group and organization and yet left out the most obvious culprit: the Federal Government. Government intervention in health care has caused tremendous increases in taxes, an enormous bureaucracy to administer the regulations, fraud and abuse that grow yearly. Within the past 6 years Government expenditures in the health care field have doubled; protests about our present health care system have also risen. It seems an analogy can be drawn between the degree of Government intervention and amount of public complaint. We must not let Government gain more control of health care. Dr. Yuri H. Vassilier warns: "Government control of medicine begins with the removal of responsibility from both doctor and patient, bit by bit, chunk by chunk." We must keep ever present the fact that the real tragedy of socialized medicine is not in its material cost, however, but the cost in terms of human suffering. Government control of health care is not the answer.

The argument that Government has ignored the health of the American people is unfounded. Recent years have witnessed a steady rise in Government expenditures for health in this country. Expenditures for health purposes in the United States in fiscal year 1977 were almost $163 billion. This doubles that of the previous 6 years and represents a per capita outlay of $737 for every man, woman, and child. The Government share of the national health bill has increased substantially over the past 10 years: from 24.5 percent to the present level of 42.2 percent of the total. This growth of Federal control over the practice of medicine has augmented the already bloated Federal budget and created a need for more bureaucracy. We find ourselves today trying to regulate the regulators. For hospitals, regulatory actions alone account for 25 percent of their costs. A new study by the Hospital Association of New York shows regulatory efforts cost $1 billion per year as a consequence of their 164 regulatory agencies. These immense regulatory bureaucracies cannot help but duplicate one another; what has been created is a massive tangle of Government preoccupied with administrative redtape rather than provision of health care.

To a large extent, medicare and medicaid demonstrate only a fraction of what Government control and bureaucratic inefficiency can do to the health care system. Abuse, fraud, and waste in medicare medicaid amounted to $4.5 billion. This astronomical sum is a direct result of Government attempts to control health care. If we had a comprehensive program, $4.5 billion would become petty cash. Such amounts of waste are unimaginable.

No one would presume to suggest that our present health care system is perfect. There is no perfect system anywhere. Increasingly, however, Americans are doubting the benefits of Federal controls on any aspect of the health care field. The National Opinion Poll recently had an enlightening report on the issue of Federal controls of hospital costs. Even though hospital costs have been rising at a rate of 14 percent per year, 63 percent of voters polled thought Federal controls were not the answer. Interestingly enough, blue collar workers, those over 50, and those in lower income groups all said "no" by large percentages. The fact is, those groups at which national health insurance is aimed did not favor Government intervention to deal with rising hospital costs.

As if problems with our own medicare/medicaid programs were not sufficient to convince proponents of national health insurance of its chaotic consequences, we may look at national health insurance programs in other countries. Australia, Britain, Canada, Russia and Sweden are all striking examples of the failures of socialized medicine. Dr. William D. Rossen returned to the United States after a 6-day factfinding tour in Britain and stated: "The British National Health Service is a bankrupt disaster." His findings make evident the ugly fact that in Britain the public is not being served by the physician. For every practicing doctor there are 1.8 administrators. Ultimately, policy determination is administered by the Secretary of State; party line is followed for political reasons. Medicine manipulated through politics at best results in ineffective, unrealistic planning. Thus, there appears to be a struggle between the Government, the public, and the doctors. In Britain the general practitioners outnumber the specialists three to one. The GP has a list of patients to whom he must be accessible 24 hours per day, 365 days per year. If he wishes to be exempted from nighttime calls he must pay for the service at $4,000 per year.

The average doctor has an income of between $12,000 and $16,000 per year before taxes. To make that amount of money he must see 21 patients per hour, 80 patients per day, plus 8 house calls. Thus the British physician is paid on the basis of quantity of patients not

quality of service. There is consequently no consumer control. The condition of British hospitals is similarly tragic. Massive inefficiency is the character of the system and there are manifold examples of waste and abuse. The inflation fires are stoked; poor planning results in the decline of quality care; between 400 and 500 British trained physicians leave Britain each year; taxes continue to soar; and waiting lines for care grow progressively longer. Meanwhile, administrators play politics with the health of a nation on the threshold of economic collapse.

Today, the same people who described the British National Health Service as the "envy of the world", carefully steer their remarks away from Britain and toward Canada. Canada has become the fashionable example. The consistent problem throughout the health care plans is one of cost controls. Canada has been unable to curb the growth of medical expenditures. In fact, health care spending has grown faster in Canada than in the United States: From 1960 to 1975 health expenses in Canada increased 425%, while in the United States they increased 325%. Similarly, doctor's bills in Canada rose 71% while those in the United States rose 65%. As in Britain, large numbers of disconsolate physicians are leaving their country. "Free" services have resulted in the overutilization of hospital care and thus the waiting time for care increases. An analysis by the University of California at Los Angeles indicates that although the low-income groups do get more health care, they pay for it eventually in cutbacks in other welfare programs.

When looking at the problem of health care today we tend to fall prey to emotional arguments such as "equal care for all" and "medical care is a right that should be provided by the Government." We tend to lose sight of the complex realities of Government intervention in a health care program. How much will it cost? Where will the money come from? What will we get for the money? These are the questions that must be faced, and when examined, an effective program becomes more of a myth than a possibility. We must not be propelled into chaos by experimenting with programs proven ineffective in other countries. The philosophical implications for a free society are also grave. We cannot in any sense afford more Government intervention. We must determine to remain a free society, unburdened by confiscatory taxation and overregulation. All of the evidence demonstrates that Government health care is an idea whose time has passed.●

SUPPORT NEEDED

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. WEISS. Mr. Speaker, I am today joining my colleagues from Wisconsin and Illinois, Mr. CORNELL and Mr. SIMON, in introducing legislation to provide the President with standby authority to institute wage and price controls, including restraints on interest rates, dividends and similar transfers.

The ravages of inflation must be halted now. Every sector of the economy is being damaged by an overall inflation rate that has exceeded 6 percent for each of the past few years. Food and health costs are soaring, with prices for other goods and services continuing to spiral as well. As the purchasing power of the dollar declines, people with low, moderate and fixed incomes suffer most.

The American people are demanding relief from runaway inflation, and the President has indicated that he will soon propose a voluntary wage and price standard program. I applaud this step, but it is unlikely to be sufficient to prevent a new surge of double-digit inflation.

For any voluntary program to be effective, there must be a strong option available for enforcing the guidelines. If Congress grants the President this standby authorization, his ability to encourage voluntary economic restraints will be measurably enhanced. Hopefully the President will never need to impose the controls created by this legislation, but it is essential that they be at his disposal should the need arise.

I urge my colleagues to join me in supporting legislation which will signal our willingness to attack inflation head-on.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Economic Stabilization Act of 1978".

PRESIDENTIAL AUTHORITY

SEC. 2. The President is authorized to issue such orders and regulations as he may deem appropriate to stabilize prices, rents, wages, and salaries at levels not less than those prevailing on October 1, 1978, and to stabilize interest rates and corporate dividends and similar transfers at levels consistent with orderly economic growth. Such orders and regulations may provide for the making of such adjustments as may be necessary to prevent gross inequities.

DELEGATION

SEC. 3. The President may delegate the performance of any function under this Act to such officers, departments, and agencies of the United States as he may deem appropriate.

PENALTY

SEC. 4. Whoever willfully violates any order or regulation under this Act shall be fined not more than $10,000.

INJUNCTIONS

SEC. 5. Whenever it appears to any agency of the United States, authorized by the President to exercise the authority contained in this section to enforce orders and regulations issued under this Act, that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any regulation or order under this Act, it may in its discretion bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. Upon application of the agency, any such court may also issue mandatory injunctions commanding any person to comply with any regulation or order under this Act.

EXPLANATION

SEC. 6. The authority to issue and enforce orders and regulations under this Act expires at midnight September 30, 1981, but such expiration shall not affect any proceeding under section 4 for a violation of any such order or regulation, or for the punishment for contempt committed in the violation of any injunction issued under section 5, committed prior to October 1, 1981.●

NEIGHBORHOOD DECAY SOLVED IN TROY, N.Y.

HON. EDWARD W. PATTISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. PATTISON of New York. Mr. Speaker, over the past few weeks, we have been working very hard to complete work on authorizations and appropriations aimed at helping solve some of the Nation's serious problems. In a very few days, when we adjourn, we will be able to spend time visiting and examining programs in our districts made possible by previously enacted bills. We will be looking first hand at local programs and talking face to face with the local people who make them successful.

Before my colleagues return to the neighborhoods and cities in their districts, I would like to share with them the story of Troy, N.Y., the largest city in my district, which is creatively solving some of the serious problems of neighborhood decay. Through a combination of skillful leadership, widespread community involvement, and the use of Federal community development funds, one Troy neighborhood has been largely rehabilitated. This program could well be a model for other communities wishing to involve citizens in problem solving and to stretch Federal dollars as far as they can.

I would like to insert in the RECORD an article from a recent Journal of Housing describing this successful neighborhood renewal program.

The article follows:

CITIZEN INVOLVEMENT RESULTS IN SUCCESSFUL REHABILITATION OF A TROY, NEW YORK, NEIGHBORHOOD

(By Duncan Barrett and Chandler Harrison Stevens)

A traditional neighborhood improvement program has been carried out with community development funds in Troy, New York, but the program was unique because of its thorough involvement of neighborhood residents in the planning and implementation stages. That citizen involvement is credited with stimulating almost a half million dollars in private reinvestment in the low- and moderate-income neighborhood, which consists of two- and three-family brick rowhouses built shortly after the Civil War.

Results in the neighborhood are concrete. After a three-year program that involved a total of $486,000 of community development funds, the area has turned around. A total of 163 of the 255 structures there have been repaired and brought up to code standards. The city has demolished unsound buildings, cleaned up vacant lots and beautified the

streetscape, improved two existing city-owned playgrounds, repaved streets, improved water and sewer lines, and installed additional street lighting. In addition, the city used $148,000 of its $486,000 to defray the cost of home repairs to homeowners, effectively reducing the interest rate on home improvement loans to about 6 percent. This $148,000 leveraged nearly $500,000 in private investment in the neighborhood. The grants to homeowners under this program averaged about $1,000 per structure, going to 141 homeowners (slightly more than 20 homeowners were not interested in the grants).

The three-year project, which is nearing the completion stage, involves several firsts. It was the first neighborhood rehabilitation program for the city of Troy (previous redevelopment or rehabilitation projects centered around the central business district). It prompted the first agreement with the four savings banks in Troy to provide loans for inner city reinvestment: the four banks agreed to reserve 1 million dollars for the project. And its success has prompted three other neighborhood projects in the city. Finally, the project's success was achieved without causing displacement.

The neighborhood began to decline after World War II as middle-income residents moved to the suburbs. Then, in the 1950s, a road-building project threatened to clear part of the area. Some clearance did occur and continuing uncertainty over the road project in the ensuing years caused disinvestment in the remaining housing stock.

By 1975, when project planning began, only 54 percent of the neighborhood's 265 structures were owner-occupied. A slightly higher percentage of the structures—55 percent—had serious code violations. Median annual income in the area was $7800, according to the 1970 census. The population was racially mixed but predominantly white. Of the 255 buildings in the area, 18 were vacant and abandoned. There were 44 small parcels of vacant land, mostly city-owned and unkept.

The area was chosen for Troy's first neighborhood revitalization project funded with CD monies. The decision was based on need and the probability of success, as argued by the original advocate for the program, the Troy Rehabilitation and Improvement Program (TRIP), a nonprofit housing rehabilitation organization. TRIP and the city planner recognized the need for an extensive redevelopment effort.

PROGRAM APPROACH

The development program approach chosen was a traditional neighborhood improvement program. Program components include incentive grants for home improvements, code inspections and enforcement, capital improvements, technical assistance to property-owners, and citizen participation.

It was the citizen participation component that was unique. It called for the community to develop not only a long-term redevelopment plan but also a structure and process for implementing and updating that plan.

It was clear from an examination of the existing conditions in the project area that redevelopment and not simply stabilization was required. The actual format for that redevelopment, however, was unclear. It was clear only that the redevelopment effort should lead to a neighborhood that was sound, stable, and self-sufficient. That sound residential neighborhood was defined as one in which (1) the housing meets code standards; (2) the area is perceived internally and externally as a good place to live; (3) land uses are consistent with and supportive of residential use; and (4) housing quality is maintained through private investment and no extraordinary public services or investment are required to maintain stability.

Both TRIP and the city planner believed that a sound and self-sufficient neighborhood could result only if neighborhood residents took some initiative to turn the neighborhood around. The redevelopment plan had to start with the citizen participation plan but there wasn't even an active neighborhood association.

TRIP sought and received a grant from the New York Council on the Arts, architecture and environmental arts section, to design and sponsor a series of workshops in the neighborhood on community design. TRIP contracted with Participation Systems, Inc., a citizen involvement consulting firm from Winchester, Massachusetts, to design the workshop series. The workshops were intended to lead to a redevelopment plan and ongoing neighborhood association.

THE INVOLVEMENT EFFORT

The scenario developed by PSI and TRIP called for a traditional three-step process: (1) problem identification; (2) potential solution identification; and (3) the choice of the best solution. Each step had a series of activities, including outreach, feedback, workshop, and product. Because it was the sponsor's intent that the community attain "ownership" of the process and any products through origination and continuation of the project, flexibility was required and an exact timetable and series of steps could not be projected.

We did, however, prepare a scenario that depicted the probable flow of events and a management plan that defined the process-management principles to which the staff would adhere. The projected scenario focussed as much on what should go on before and after each of three workshops as it did on the workshops themselves. We called these before-and-after process components "outreach steps," in order to emphasize that the overall process should be seen as a series of concentric circles of involvement rippling out into the community. The workshops served only as denser nodes in a planning process that otherwise had to reach out into the community.

During both the outreach steps and the workshops, emphasis was on interaction rather than on the type of one-way information flow that is so often associated with public relations or educational aspects of the centralized planning processes. In fact, the feedback associated with each of the outreach steps provided content for the agenda and also participants for the workshop to follow. At each workshop those in attendance saw their main purpose to be making the next outreach step penetrate deeper into the neighborhood. As the scenario (see page 358) unfolded, TRIP and PSI became less important since the script was being developed not by manipulated "actors" but by self-motivated residents. These participants were largely volunteers rather than recruits as is so often the case in citizen participation processes.

Our schedule was defined by the city's community development program timetable. Everyone agreed that the public works should start in the spring of 1976. It was important, then, that the workshops be held during the winter and spring of that year so that the conclusions of those workshops could guide the public works. The city demonstrated great flexibility in holding off on finalizing plans for public works until the last possible day in order to allow community input.

TECHNIQUES APPLIED

A management team was formed that included the TRIP staff, a newly hired outreach worker/community organizer for the project, and Participation Systems, Inc. In February, the first outreach step began. In addition to knocking on doors, a series of mini-workshops was held to explain the intent of the three main workshops and of the NIP and to begin to solicit help in identifying problems. As a follow-up to this outreach step, tape recordings were made of several residents voicing their complaints about and aspirations for the neighborhood. A synchronized slide show was prepared, documenting the tape-recorded problem statements, and the slide show and tapes were used as the opening of Workshop 1.

After about six weeks of outreach, Workshop 1 was held on a Saturday afternoon in the hall of a church near the center of the neighborhood. Attendance was modest—only about 25 of the nearly 300 adults residing in the neighborhood—but the spirit and enthusiasm of the participants made for an exciting afternoon.

The slide show and taped neighborhood interviews, as well as related posters, quickly established a context for the workshop. Then the workshop began with a brainstorming session to list problems. We broke the workshop participants into three small groups, each of which keep a record of its suggestions. The recorder for each group kept notes on a large sheet of easel paper, which served two purposes. First, everyone in each group could be sure of just what ideas were being recorded. Second, when the groups reassembled, the larger workshop could easily focus upon each group's list as the list was explained by a group's recorder. The groups reviewed each other's brainstorming lists then prioritized the results by voting.

When time allowed, workshops could split into small groups a second time to conduct even more specialized discussions. Each of these specialized groups then would focus upon one of the most important problems as identified by the workshop as a whole.

Our scenario called for such specialized discussions to take place at Workshop 2 several weeks later. In the meantime, through Outreach Step 2, people who attended Workshop 1 were to take their neighborhood concerns back to their neighbors, some of whom would then become involved in Workshop 2.

In a matter of a week or so, attendees at the first workshop and a few of their friends were given assistance in structuring their neighborhood outreach efforts. They were given a feedback ballot containing questions derived from the results of the first workshop.

This questionnaire looked a bit like an opinion poll. But its structure was different, as was its purpose, which was to involve citizens not just in planning but in implementation as well. The questions were designed to stimulate thought and discussion about neighborhood revitalization.

The questionnaire (see page 357) contained 10 questions to probe how individuals felt about the neighborhood. Each of these questions contained seven alternative answers, four of which were written by us while the remainder gave the respondent a chance to write his own answer. The 10 "issue" questions were based upon the citizen brainstorming that had taken place at the first workshop.

Our feedback questionnaire was not intended to be an opinion poll or a referendum but rather an involvement technique. That is why the final question asked respondents to identify themselves. This type of information can lead to development of a talent bank that the neighborhood could use when forming various types of task forces.

AN OPEN PROCESS

If the overall involvement process is viewed as open by those involved, then the results of the process are likely to be accepted by the neighborhood as a whole. Success is not determined by the number involved but by the depth and effectiveness of involvement.

The second workshop was based on the conclusions of the first and a tally of the issue questionnaires. It focussed on the problems identified: (1) recreation facilities; (2) housing conditions; (3) traffic; (4) people helping people; (5) streetscape and beautification; and (6) youth recreation.

The workshop was held late in the spring of 1976. The 40 participants reviewed the

conclusions of the first workshop. Then they broke into six smaller groups to discuss the six specific problem areas. Each of the six subgroups had a predetermined discussion leader/expert. The subgroups reviewed their problem and prepared a shopping list of solutions. In each case, it was clear to the subgroup that it needed to gather more information and solicit the opinions of the neighborhood before reaching a conclusion.

Each subgroup, except the "people helping people" group, formed itself into a task force to develop a solution for its problem area. Each reported back to the reassembled gathering and a decision then was reached to form a neighborhood association. A temporary chairperson was election and the group named itself the Hillside NIP Association.

The task forces—now committees of the neighborhood association—met regularly, often weekly, over the next three months. By this point, neighborhood association activities were so frequent that TRIP and PSI could not keep up with them and became observers rather than initiators.

Two of the task forces—recreation and traffic—conducted specialized feedback questionnaires to solicit more input and participation in their deliberations. The housing task force immediately identified a city procedural problem: ineffective and often belligerent code enforcement. The task force organized a neighborhood meeting with the city administration. Over 150 people attended, vehemently attacking enforcement procedures. The meeting led to a change in procedures and, more importantly, to a more formal structuring of the relationship between the city and the new neighborhood association. The city agreed to seek association review on NIP policy and procedures.

Each task force developed a recommended course of action for its area of concern. At the staff's suggestion, these recommendations took the form of a five-year goal, a program policy statement, and a description of activities out during the coming year.

THE FINAL RESULT

The third workshop was a forum for each task force to present its recommendations. The workshop was again held at the church hall, where the street grid of the neighborhood had been laid out with tape. Chairs were set up within each "block" and people were asked to sit where they "lived."

The meeting was a systematic presentation of each task force report. Since each task force report consisted of a goal and policy statement, the reports were debated from that perspective. The debates were spirited and block as well as neighborhood interests emerged which was the purpose of seating people according to the blocks in which they lived. In the end, each task force report was presented in the form of a motion to adopt as policy. All were amended in varying degrees and passed.

This adopted policy became the foundation of the redevelopment plan. The policy was goal-oriented enough that the city expanded the amount of CD funds available from a start-up level to an operating level.

Much grew out of this community-based planning effort. The association is an ongoing, respected organization. For example, it was effective enough to secure three years of CD funding—enough to complete the neighborhood project. It also has proven to be a model for other neighborhood organizations in areas where projects are just beginning.

But the most exciting activities have been self-help actions outside the CD effort. The association sponsors an annual "war on trash" day as a spring clean-up program. Thirty cubic yards of trash were cleaned from the streets the first year. Also, a committee from the association is responsible for picking up trash in the two improved public playgrounds and on the vacant lots in the area. Also, the association is responsible for transforming a graffiti-strewn retaining wall at one of the playgrounds into a mural. Area teenagers designed and painted the six-section mural, which, to date, is unmarred by graffiti.

TRIP, the original advocate for the neighborhood improvement program, became the administrator of the program under a contract with the city. The citizen involvement process that led to the redevelopment plan and the neighborhood association not only stimulated self-help activities but also solved some administrative problems such as the strategy to quickly create a reinvestment atmosphere. The involvement of the residents cannot be overstated. They, and they alone, are responsible, for example, for recruiting new owners for abandoned buildings. After conventional advertising methods failed, the members of the association began talking up the neighborhood to friends and relatives. Of the 10 buildings that can be rehabilitated, the association has found new owners for six. The city already has demolished eight buildings that were unsound. If owners cannot be found for the four remaining abandoned structures, these also may be demolished.

Further, the association has been effective at exerting pressure where the city and TRIP couldn't. Peer pressure has led to several facade restorations where no public enforcement effort could have succeeded. Public discussion on redlining by the association also is believed to have hastened the adoption of an affirmative lending policy by local savings banks.

Probably most significant, because of its long-term implications, is the reinvestment that has occurred. With a leveraging ratio of five private dollars to every one public dollar in a low- and moderate-income neighborhood, we can conclude only that reinvestment has occurred because the residents believe in the future of their neighborhood. They see it as a good place to live and want to make their long-term homes there. This is the most encouraging result of the citizen involvement effort.●

ICBM SURVIVABILITY AND SALT: THE NEED FOR AN EARLY DECISION ON THE MX

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. KEMP. Mr. Speaker, in 1972, the United States embarked upon a diplomatic experiment of great potential significance—the negotiated limitation of strategic nuclear delivery system deployments with the Soviet Union. This experiment was both hesitant and hedged. It did not include all strategic delivery systems, nor was the agreement expected to endure in its 1972 form; a 5-year limitation on the terms of the 1972 agreement was provided with respect to the executive agreement covering strategic offensive delivery systems. The purpose of the interim offensive agreement was to "freeze" the number of strategic delivery vehicle deployments at approximately their 1972 levels to provide a suitable environment to permit subsequent negotiation of "permanent" limitations.

Regrettably, the expectations which arose during the euphoria of June 1972 have given way to the sobering reality of 1978. While the United States has not added a single new strategic system to its inventory since the deployment of the Minuteman III and Poseidon submarine launched ballistic missile systems in 1970, the Soviet Union has been able to substantially modernize every element of its strategic forces within the scope of the 1972 agreement—except ABM's which were, of course, constrained by treaty; adding not only five new strategic ballistic missile systems and a new strategic bomber, but more than doubled their number of deployed reentry vehicles, most of which are capable of destroying hardened missile silos. Moreover, the Soviet R. & D. community has "caught up" with the U.S. qualitative advantage in deployed ballistic missile delivery accuracy with the latest versions of their advanced ICBM's (the SS–18 mod 4 and the SS–19 mod 3). As a consequence, the United States faces the likelihood that a far greater number of RV's will be deployed on Soviet ballistic missiles, both in their land- and sea-based modes than was anticipated when the Congress ratified the first round SALT accords in 1972. Thus, U.S. forces whose location is known—for example, silo-based ICBM's and bomber aircraft escape areas—will inexorably become vulnerable to destruction as the Soviet modernization program, begun in 1973, nears completion.

The element of U.S. strategic forces most affected by these developments is the U.S. land-based ICBM force. Although the land based force contains only 30 percent of the equivalent megatonnage in the U.S. strategic arsenal, it contains approximately 70 percent of the equivalent megatonnage in U.S. forces which are on a day-to-day alert, the forces available for early and reliable retaliation in the event of a Soviet first strike. The potential consequences of such an eventuality are both dangerous and well understood, so I will not discuss them in great detail here. Suffice to say, that the incipient vulnerability of the ICBM force will gravely risk the diminution of the probability of survival of the remaining elements of U.S. strategic forces by permitting the Soviets to direct their vast defense investment to anti-submarine warfare, depressed trajectory missiles, and anti-aircraft defense to diminish the survivability and/or effectiveness of the SSBN, bomber, and cruise missile forces which remain.

The United States has had an active development program for several years, the advanced ICBM program, better known as MX—to provide for a less vulnerable ICBM system to offset the post-SALT I build-up of Soviet ICBM warheads. As presently paced, the initial operating capability (IOC) would not occur until fiscal year 1986, and full operational capability might not be available until as late as 1991. The pace of this program was appropriate to the expectations generated in 1972, but the unanticipated rate of improvement in Soviet strategic forces and the subsequent reduction in the survivability of U.S. strategic forces clearly makes a faster pace necessary.

The need for a faster pace is evident due to the fact that the threat to the Minuteman force—already threatening 30 percent of the force, will grow to 80

percent as early as 1983. Thus, the United States will be compelled to face the military and diplomatic consequences of 3 to 8 years of acute vulnerability to a Soviet attack on its land based ICBM's. I have, as a member of the Subcommittee on Defense of the Committee on Appropriations investigated the technical, economic, and bureaucratic feasibility of a 3-year acceleration in the deployment schedule of a survivable ICBM to forestall the prospect of the United States having to "live"—or perhaps die—with the dangerous and uncharted world of acute ICBM vulnerability.

The primary scientific advisory body to the Secretary of Defense, the Defense Science Board, has completed an exhaustive series of studies of the design and feasibility of the properties of both a survivable basing mode and a follow-on missile to the 1960's vintage Minuteman III. Parallel studies have been carried out by the primary U.S. Air Force scientific advisory body, the Scientific Advisory Board as well. The result of these studies is a consensus that a multiple aim point system of 4,000 to 5,000 vertical shelters to house 200 to 250 randomly deployed ICBM's is both technically and economically feasible. The design of a new ICBM would permit its use by both land- and sea-based forces.

It is both technically and economically feasible to initiate full-scale development of both the multiple aim point (MAP) basing and the new 82-inch-diameter MX missile in fiscal year 1979 that could result in deployment of 1,000 aim points by December 31, 1984.

Full operation capability (FOC) of the system of 4,000 aim points could be achieved by fiscal year 1986, at least 3, and perhaps as much as 5 years ahead of current planning.

There is ample time—given suitable support by the President—to resolve bureaucratic obstacles within the U.S. Government such as land transfer from one Federal agency to another, et cetera.

To carry out such an acceleration of the survivable ICBM deployment schedule, a supplementary authorization and appropriation for fiscal year 1979 is required of approximately $200 million. The early decision to begin MX/MAP deployment that would be compatible with such a budgetary request would have a salutary impact on both the U.S. defense and diplomatic postures.

The sine qua non of a successful conclusion of SALT is a situation where neither the United States or the Soviet Union will have an incentive to strike first in an intense political crisis. Should the ICBM force be perceived as vulnerable, the United States will inevitably be pushed to adopt a less stable defense posture—some variant of a launch-on-warning policy, a policy which could increase the risk of nuclear war. An early MX/MAP full scale development decision as well as a commitment to deploy will resolve the doubts which have emerged about the survivability of U.S. strategic forces.

Second, an early decision by the President moving toward an accelerated IOC for MX/MAP will have a favorable impact on the course of the Soviet strategic buildup by undermining the rationale for their focus on ICBM-based hard-target killers. Once the Soviets are convinced that the President is determined to deprive them of the focus of their investment—destroying Minuteman on a first-strike, it will be possible to discuss reductions in strategic delivery systems in subsequent strategic arms limitation negotiations.

Third, a determination by the President to go forward with an early IOC for MX/MAP will have a beneficial impact on their perception of the resolve of U.S. defense policy replacing the apparent sluggishness in the U.S. response to the Soviet buildup.

The ability of the United States to accelerate the development and subsequent deployment of a survivable ICBM is one of the most compelling attributes of American power. The present circumstances provide the United States to exercise one of its strengths for the benefit of both its arms control and defense policy objectives, the opportunity should not be lost.●

LEON DESPRES

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. SIMON. Mr. Speaker, through the years Illinois has been fortunate to have a variety of leaders, sometimes political mavericks, sometimes business and labor leaders, people whose contributions have varied with the circumstances.

Recently the Chicago Sun-Times printed an article by M. W. Newman about one of the finest Illinois leaders I have known in my years on the Illinois political scene, Leon Despres, former alderman in the city of Chicago.

Like his predecessor from the Fifth Ward in Chicago, Senator Paul H. Douglas, Leon Despres was often a lonely voice in the Chicago City Council. But he was always a respected voice.

Life is strange in its twists and turns, and I have often thought that if circumstances had been slightly different Leon Despres would have followed his predecessor, Paul Douglas, into the U.S. Senate and would have become one of the great Members of that body. The fact that the political fortunes did not fall in that way is the Nation's loss, but gain for Chicago.

In any event, I hope some of my colleagues will read this story about a politician with integrity, heart, brains, commonsense, and a certain spark that set him apart.

LEON DESPRES

At age 70, Hyde Park's Leon M. Despres surely is entitled to leap off his bicycle and look back, but you'll forgive him if he doesn't. He's too lively—to young, really. You can find him every workday in suitable weather, wheeling from his 56th Street townhouse to his Loop law office. He whips along the tree-dotted lakefront he has fought so hard to preserve, and says jauntily: "The bicycle path is magnificent. Not an interruption during a 40-minute ride."

As always, Despres is busy being himself, the ultimate Hyde Parker—brisk, assured, cultivated. He has thrived on riding into the civic arena to battle and bleed for independent ideas.

Despres spent 20 slashing years as a Chicago alderman during the heights and depths of the Daley years, fighting City Hall—often by himself. It was the party machine's golden age, in more ways than one. He was the egghead who turned out to be hard-boiled—the thundering voice of Hyde Park and just about everyone who cared to dissent.

A Phi Beta Kappa with street savvy, he outtalked, frequently outfoxed and generally outbaited his fellow aldermen in an epic guerrilla war on corruption. They had the numbers, but often he had their number. ("Last week I saw him speechless for the first time in 20 years," Ald. Roman Pucinski once said triumphantly—for no one ever has seen Pucinski speechless.)

But Despres, although a world-class orator, was far more than that. He may well have been the outstanding alderman in our time—a deft battler and endless fount of proposals and resolutions. True, his ideas almost always were put on ice. He was the magnificent loser. But by that very reason he became the civic conscience of an era. In that sense he won, in the end.

Fortunately, he has a sardonic wit big enough to enjoy it all. He needed it. The machine had a way of burying or laundering his crusades—such as a fair-housing law and controls on lead-paint poisoning—only to later on revive some of them as its own.

"They borrowed my ideas and called me a lot of names," he concedes with a grin. Ald. Vito Marzullo publicly labeled poor old Len a "nitwit" (Despres' nickname is Len). Ald. Burton Natarus sorrowfully concluded that the problem was senility. Tom Keane, the council's high honcho, ticked him off as a "loudmouth," and Ald. Paul Wigoda detected the stigma of "an intellectual crook." Ald. Claude Holman called him everything under the sun in numerous grotesque shouting sprees.

And everybody yelled, "Shut up." Mike Royko once estimated that during Despres' City Council years, he was told to shut up more than 6,000 times. Even so, it didn't work.

Despres gave as good as he got, and was re-elected about as often as Mayor Richard J. Daley and usually by even bigger percentages. He managed the last word and the last guffaw rather frequently. Meanwhile, Keane and Wilgoda landed in prison, along with half a dozen other City Council statesmen busted for grab-bag politics during the Daley era. There eventually were so many greedy ex-aldermen confined in stone crocks that Despres can't remember their names.

And Daley himself, Despres' noblest target, has passed on. Their exchanges while the mayor presided over the council were sometimes epochal, sometimes not, but always worth a headline.

"You and your ilk are trying to tell us that you are being stepped on," Daley once huffed at Despres. "As long as I am mayor, no one will be stepped on. And that goes for you, too."

Despres: "I don't want you or anyone else to call me an ilk."

Daley: "I did not mean to call you an ilk. I meant to call you an elk."

Despres, elk-like, had a habit of horning his way down front to lecture His Honor personally. If the finger-wagging made Daley turn red, so much the better. "It's the only chance I get to talk to him," the alderman explained.

Len Despres obviously is an original. "He was Daley's Lucifer—and educator," says a veteran Chicago reporter. "Daley may even have enjoyed him—particularly since he had the votes, and surely didn't need Despres' vote."

Despres joined the council in 1955, the year Daley first was elected mayor. He stepped down in 1975, a year and a half before the mayor's death. The alderman came out of a tradition—the independent Democrat from the 5th Ward, centering on the University of Chicago. Among those who went before were Paul H. Douglas (later a U.S. senator), and young Robert E. Merriam.

Despres was born at 41st St. and Michigan, but settled into Hyde Park, for life, when he was 3. His father was a clothing manufacturer, a political populist who was named to the library board when Len was about 6.

"I always thought that was great," says Despres. He has been a lifelong fighter for freedom to read—including freedom from political interference with schools and libraries.

If you don't think that's significant, consider that in 1965 a Chicago City Council committee voted in favor of removing James Baldwin's novel, "Another Country," from required reading at Wright Junior College. The book deals in part with interracial sex and homosexuality, and really was a matter for the schools to decide.

But it was the heyday of Chicago book censorship and smut-hunting. Ald. John Hoellen, usually anti-administration, challenged Despres to spout passages from Baldwin's novel. The things that happened in the book didn't happen in his neighborhood, Hoellen said. Despres, not one to pass up a public joust, dared Hoellen to read aloud certain Bible passages.

"This resolution equates Chicago's Tammany with Moscow's Kremlin," Ald. Despres assured the world. Eventually Chicago's city fathers moved on to other matters.

Despres' own education included two years in Paris and Rome, but other than that it was all Hyde Park—Ray School, the U. of C. lab school, and the university itself, class of '27.

"When I was growing up," he recalls, "Hyde Park was much less densely populated than now. I could look out of my window and see fishing boats. Later the lakefront was filled in. And black people were restricted to three blocks on Lake Park Av. There was a young black man in my class and I considered myself lucky to be able to meet one."

Hyde Park-Kenwood now is possibly the most stable racially mixed community in the U.S., a change that Despres fully approves. Racial equality has been a major cause for him since his early days as a lawyer with a specialty in labor and civil-rights cases.

He surfaced politically in 1954, when the 5th Ward's crime-busting Ald. Bob Merriam decided to run for mayor. Merriam gave Daley his closest call ever—but first, he asked backers to find a successor to him. Despres was on the committee, and one day it met without him and tapped him for the job. It was a surprise, but he ran and defeated a Democratic regular. He rallied independents, university dons, some black and labor votes, and Republicans—quite a team.

So began the Despres years. By 1959 Daley and City Hall, egged on by U. of C. bigwigs, consented to an all-out fight to beat him. He had offended the powers-that-be by advocating poor people's housing in the elite renewal of Hyde Park-Kenwood.

Luckily for Despres, ward committeeman Barnet Hodes uncovered a groundswell demand for the candidacy of his nephew, Allen H. Dropkin, and yielded to it graciously. Despres was able to yell, "Bossism, nepotism, corruption." It was a terrific battle that split campus ranks, and the party. Despres came through, and after that the Democratic brass and he tacitly agreed to agree at election time. They never laid a glove on him in an election again.

Over the years, Despres was into an enormous number of issues, from elevator-door safety to architectural landmarks and CTA fare cuts for the elderly. Daley's overstuffed and under-explained budget always touched off the filibustering combat spirit of Despres and the little bloc of council dissidents.

Marshaling statistics, satire and apt passages from Shakespeare, Despres also zeroed in on aldermanic land profiteering and party patronage, police corruption and spying, treeslaughter and highway widening in lakefront parks, the proposed airport in the lake, and racism in innumerable forms ("the city's big problem—it distorts everything we do"). He honed a rampant style. "Chicago's Watergate" was the way he assailed council approval of taxicab fare increases. ("This is an Ehrlichman-Haldeman committee run by a small band of conspirators.")

He needled Daley to do more for the poor and hungry, and hammered for open government, public hearings, civic efficiency. And he ignored the jeers that sometimes rained from a stacked City Council gallery.

If he was the only dissenter to the stop-and-frisk ordinance, so be it. If he sometimes shouted and waved his hands to get the floor—all in vain—he took his lumps regularly. ("I hope insanity is not catching," Ald. Keane snapped at him.) When Mayor Daley grumbled about Seymour Simon's Bobby Kennedy hair spread and suggested that he see a barber, Depres proposed that the council forestry committee set standards "for the foliage of aldermen." He unloosed a barbed rejoinder to Daley's order that policemen "shoot to kill" arsonists: "The mayor has no right to change the penalty for a crime."

Those were the days, and nights. Some saw Despres as the eternal shrill obstructionist and nay-sayer. He considered his role to be "creative opposition." Actually, he voted with the majority on 9 out of every 10 routine items, but it was that 10th one that angered the party rubber stamps.

His formula for fighting City Hall was to punch, squeeze, cajole, push the issues and win the spotlight: "I make my point. Never get angry. Always leave room for the other side to have friendly feelings toward you." Well, almost always.

Was the battle worth it? These are bland times, when everything seems paved over. Despres acknowledges that the few remaining council independents face battles for survival, but has no regrets. He feels he helped Joe Citizen pierce Chicago's entrenched machine more than a little. And he looks ahead, to tomorrow's elections. He's an optimist by trade. Late in 1967 he was shot by street hoodlums near his home, but now brushes it off: "It could have happened anywhere."

These days Despres cultivates his own garden—one of his hobbies. Another is the Hyde Park Historical Society, for which he is working on a community map. He likes the new Hyde Park, although he finds it antiseptic and short on street life. "What it mostly needs is a good city around it," he says. In his law practice, he has interesting clients, such as Ed Sadlowski, the maverick Steelworkers Union leader.

Despres always has enjoyed traveling abroad with his wife Marian, a social psychologist and distinguished Chicagoan in her own right. One day he read an article about the Jews of the Lorraine district of France, and it led to a typical Despres fact-finding expedition—his own "Roots."

We knew that his family came from somewhere in that part of the world. So he wrote to the author of the article, and the trail led to an obscure village. Despres excitedly went through old records from the time of Napoleon, when Jews were ordered to adopt family names.

"I found the signature of my great-great-grandfather. Until then he had been known as Matthiah, son of Moses. The laws at that time limited Jews to a few trades such as peddling and horse trading. He had the good fortune to work for a man who was able to set up a textile factory. I learned a lot about him—but not why he chose the name of Despres."

No matter. Great-great-grandson Leon has made the name very well-known in Chicago in the time of Daley.—M. W. NEWMAN.●

WALTER KANER

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ADDABBO. Mr. Speaker, for the last quarter century, Queens County has been lucky enough to have in its midst a very distinguished person: Walter Kaner, newspaper columnist, broadcaster and concerned citizen, especially where handicapped children are concerned.

I have known and admired Walter Kaner for more years than I care to remember, and so it pleased me immensely when he was presented the Long Island Distinguished Leadership Award recently by the Long Island Business Review.

I could catalog Walter's many talents as well as his dedication to helping people unable to help themselves but I think that the award speaks for itself. Accordingly, I ask unanimous consent to insert the text of the award in the RECORD.

LONG ISLAND DISTINGUISHED LEADERSHIP PRESENTED TO WALTER KANER

Walter Kaner of Rego Park . . . widely read Long Island columnist for 25 years . . . veteran broadcaster . . . sensitive humanitarian with a loving concern for handicapped and underprivileged children . . . charity and community leader . . . dinner toastmaster . . . year long and distinguished record in the fields of journalism, philanthropy and community service merit the gratitude of all Long Islanders.

As a newspaper columnist for the past quarter century, for 23 years with the Long Island Press and now with the New York Daily News, you have reported on Long Island life with fairness, accuracy and integrity reflecting the highest standards of journalism.

Your popular and widely read column, in lively, interesting fashion, has reported on people, places and happenings on Long Island; performed outstanding public service; contributed to community life; and assisted hundreds of charitable, religious, fraternal, and business organizations on the Island.

Your concern, dedication and tireless efforts on behalf of homeless, handicapped and needy children over the past quarter century have earned you the respect and admiration of your fellow Long Islanders and justly won you awards of recognition and appreciation from more than 35 organizations.

Your annual Thanksgiving party for 750 children and your summer outing to Rockaways Playground for 500 children, along with your other parties, have become a LI tradition. You have brought laughter and joy to children in hospitals, orphanages and shelters; to children afflicted with crippling diseases; to underprivileged children.

Over the past 25 years you have entertained more than 57,000 children and deservedly won the praise of former President Nixon, former Vice President Rockefeller, Gov. Carey and former Mayors Lindsay and Beame.

A life-long LI resident, you have been deeply involved with its community life, giving unstintingly of your time and experience in serving as president, trustee or direc-

tor of many philanthropic, health and cultural organizations.

Since its first publication on Oct. 6, 1953, your column served as an important journalistic voice on LI. Your crisp, candid and witty style of writing has won you a legion of devoted readers who regularly turn to "Kaner's Column" to learn about the doings of their fellow Long Islanders.

Above and beyond news reporting, your column has reflected your personal concern and dedication to helping others by aiding worthy LI causes and campaigns and assisting community groups.

Your Sunday columns have made us laugh, and sometimes cry. You have brought laughter as you poke fun at our human foibles, and tears with sensitive writings that deeply touch all of us. Your Mother's Day column, which has been reprinted annually; your column, "Doesn't Anyone Care . . .?", about a LIGI killed in Vietnam; your column "And the Children Die", about starving children in Africa; and your column "I Saw Santa Claus Cry", about your children's parties; received deserved tribute by being reprinted in the "Congressional Record."

In keeping with your deeprooted concern for others, you have served as president of the Lifeline Center for Child Development, a Queens school for mentally ill children; and president of the Queens Chapter of the National Multiple Sclerosis Society. You have served as L.I. chairman of the Association for the Help of Retarded Children Telethon and Queens chairman of the United Cerebral Palsy Telethon.

Indicative of your community involvement you presently serve as a trustee of the Queens Museum and the Industrial Home for the Blind. You currently are also a director of the Samaritan Halfway Society, the Queens Speech and Hearing Center, the National Conference of Christians and Jews-Queens Region, the Queens Society for the Prevention of Cruelty to Children, the Muscular Dystrophy Assn.-Queens Chapter and the Queensboro Council for Social Welfare. Further, you are an Advisory Board member of the Association for the Help of Retarded Children-Nassau Chapter, and the Queens Boy Scouts Council; as well as an honorary director of the American Cancer Society-Queens Chapter.

In recognition of your efforts in behalf of children, four Borough Presidents have proclaimed "Walter Kaner Day" in Queens and you have been cited by Nassau County as well as Hempstead and Oyster Bay Towns for your humanitarian endeavors. You have been honored also for this work by a resolution passed by the N.Y. State Legislature.

You have been the recipient of many deserved honors including the Community Service Award of the Queens Bar Association, the Humanitarian of the Year Award of the N.Y. State Knights of Pythias, the Inter-Faith Award of the Queens Inter-Faith Clergy Council, the Man of the Year Awards of the Queens March of Dimes and the Queensboro Council for Social Welfare, and the Service to Children Award of the Brooklyn Diocese.

Following military duty with the 97th Infantry Division in Europe and the Pacific, you presented shows at veterans hospitals and aided veterans groups in your column which won you citations from the American Legion and the Jewish War Veterans. While stationed in Tokyo, you conducted a daily program over 18 Armed Forces radio stations in Japan and Korea and wrote a column for the Pacific edition of "Stars and Stripes," the G.I. newspaper.

Upon completion of military service, you resumed your broadcasting career as a Broadway-Hollywood commentator on WINS, interviewer on WMCA and disc jockey on several other New York City stations before your entry into journalism as a columnist.

Your distinguished 25 years of service as a LI newspaper columnist, your concern and efforts in behalf of homeless, handicapped and needy children, and your personal involvement and service to charitable and community organizations have won you the respect, affection and gratitude of all Long Island.

A REASONABLE APPROACH TO THE ENERGY BILL

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. LaFALCE. Mr. Speaker, there have been many strident claims and counterclaims about the energy bill in general and the natural gas segment in particular. There have been claims that the compromise provisions of the natural gas section will bankrupt gas producers, and there have been counterclaims that it will bankrupt the American consumer. Amidst these obviously contradictory assertions, it is extraordinarily difficult to find that essential middle ground which is so necessary for calm and deliberate thought and the search for the inevitable, but yet the often productive, compromise.

The natural gas section of the energy bill is a compromise, and like all compromises it is not a polished gem. However, the Buffalo News in an editorial from its September 30, 1978 edition has weighed this compromise very carefully in light of the general energy crisis and has found it "certainly acceptable." I want to share this composed and reasoned analysis with all of my colleagues.

The editorial follows:

FINALLY, ACTION ON GAS BILL

Nobody claims it's perfect but the natural gas compromise now passed by the Senate is certainly acceptable. We hope the decisive 57–42 vote there foreshadows similar approval by the House.

In this world of limited oil supplies and America's own over-reliance on insecure foreign sources that could be cut off quickly, the energy crisis is still very real, and resolution of the natural gas dispute can contribute meaningfully to lessening its dangers.

What the compromise does is split the difference between those who want to continue existing, unrealistic price controls over natural gas and those who want to end price ceilings immediately. The proposed arrangement calls for a gradual lifting, through 1984, of controls over the price of newly discovered natural gas, with complete removal coming in 1985. Even then, it is estimated that gas prices will be lower than those for fuel oil. Thus, the federal Energy Department says oil imports will be shaved by 1.4 million barrels a day by the mid-80s.

The higher prices allowed, moreover, ought to spur producers to expand gas supplies. And these same higher prices should also encourage conservation by consumers.

A portion of the compromise is especially tailored to aid the Northeast. That is the extension of the price-control system to intrastate gas—gas sold in the same states, like Texas and Louisiana, where it is produced and where now-unregulated prices are higher. The change will diminish financial incentives of producers to withold their product from consumers in other states.

Finally, too, as the Carter administration has repeatedly emphasized, adoption of the natural gas bill will be read by foreign nations as a signal of America's determination to confront the energy crisis seriously.●

ILLINOIS LEADS IN BATTLE AGAINST REDLINING

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. HYDE. Mr. Speaker, the problem of "redlining" has plagued communities throughout our land. I am proud that my State, Illinois, has been a leader in combating this evil. Two articles worthy of my colleagues' consideration appeared in the Chicago Tribune of September 24, 1978:

ILLINOIS A LEADER IN BATTLE AGAINST INSURANCE REDLINING

(By Janet Key)

The insurance industry—companies and consumers alike—has been bedeviled by "redlining" charges for more than two years, but recent legislation, new reporting requirements for the companies, and changes in policies have made Illinois a leader in combating the problem.

One of those changes, which requires companies doing business in Illinois to report all cancellations, nonrenewals and new business by Zip Code, has even changed the perception of what "redlining" actually is and what it does.

Illinois is the only state that requires such Zip Code reporting—and one of only three in the country with an antiredlining law. That law, along with other legislation, prohibits insurance companies from refusing to write homeowners' insurance because of the geographic location or age of the property.

The companies also are prohibited from refusing business because a homeowner's agent had been terminated, or because he had been turned down by another company, or because he did not live in a particular agent's area.

The new reporting requirements have shown that redlining, defined by the Illinois Department of Insurance [IDI] as any discriminatory practice which makes getting homeowners' insurance more difficult or impossible because of a property's geographic location, is not the blanket practice it has commonly been assumed to be.

"Everyone" in the 22 areas identified by the Metropolitan Area Housing Alliance [MAHA] as those with the greatest insurance problems, is not being canceled or nonrenewed by insurance companies. For example, in South Austin, 785 of the 858 one- to four-unit dwellings insured were new or renewed between January and March and 73 were insured under the FAIR plan. Only 94 were canceled or nonrenewed.

But what those statistics—and state investigations—do show is that those 94 uninsured homes represent a grave problem that cannot be answered by the insurance industry's statistically accurate, traditional "We do not redline" response.

Cancellations and nonrenewals are not a wholesale, but a creeping problem. And they often are done, not in response to conditions in a riot-torn or blighted area, but in anticipation that an area will become blighted. As such, they can create a self-fulfilling prophesy for urban areas.

"Insurance is only one of a group of investment decisions made in urban areas," said Richard L. Mathias, director of the IDI. "But to the extent that any one investor loses confidence and begins to pull out, others will follow."

Increasingly, insurance companies are beginning to share that view. "I think everyone would have to agree that the problems of cities didn't start with insurance, but that it is a good part of the solution," said Fred J. Gasser, vice president and associate general counsel of Allstate Insurance Co.

This spring, Allstate launched one of the industry's most innovative efforts to become an active part of that solution with its Basic Homeowner's policy. Based on the actual cash value of a home, the new policy is designed for homeowners who were turned down, canceled or nonrenewed by the company because the cost of replacing their houses exceeded their market value by more than 150 per cent.

"We will still not insure substandard property," said David Murphy, Allstate's vice president of underwriting. "But environmental risks—the proverbial house next to the fireworks factory or the only home left standing in a burned-out block—can go into the FAIR plan and get homeowner's insurance there after December 1."

Because the policy limits are less, Murphy said the basic policy on a $40,000 home would cost about 10 per cent less than the company's Deluxe Homeowner policy.

By Sept. 1, Allstate had sold 423 of the new policies, the majority of them in Chicago. But following an agreement with MAHA, Allstate agents have been calling approximately 3,000 former policyholders to offer them the new policy—and the numbers are expected to increase dramatically.

"Between our basic policy and the homeowner's policy that will be available in the FAIR plan after Dec. 1, we think insurance availability will be greatly enhanced," said Murphy. "Hopefully, more companies will embrace this concept."

Some companies, such as State Farm and Fireman's Fund, are studying the idea but have not yet come to any conclusions. Others, such as United States Fidelity and Guaranty, recently have begun using a model basic policy put together by the Insurance Service Office [ISO], and advisory organization for the insurance industry. Aetna Casualty and Surety Co., Chicago's third largest personal lines [which also includes auto] insurer, uses a replacement cost endorsement clause in its standard policy. "It's definitely for the older homes," said Vincent T. Regan, general manager of the Chicago branch office.

"It allows us to insure a house for at least 100 per cent of its market or cash value and 50 per cent of its replacement cost," he said.

A model for similar replacement cost endorsement clauses has been drawn up by the ISO and is available to any insurance company that is affiliated with it.

But the changes in the FAIR plan are perhaps the broadest-ranging response to the needs of "changing" or "deteriorating" urban areas. Previously, the FAIR plan offered only fire and extended coverage to homeowners who were unable to get insurance in the voluntary market—there were no provisions for theft or liability coverage.

But on Dec. 1, the FAIR plan will include a basic homeowner's policy, based on either the actual cash value of the home or the cost of replacing it—thus taking policyholders out of the "less coverage for more money" rut.

"Older homes would probably be insured only for actual cash value," said Charles Cliggett, head of the Illinois FAIR plan. "The replacement cost provision is designed for newer homes or an inspected, rehabilitated home."

Other changes in the FAIR plan include initiating a system of installment payments, expanding the board to include four community members, and binding [putting the policy into effect] within one day of receiving the application.

The FAIR plan has also recommended that it again be allowed to inspect all dwellings before insuring them and that it be allowed to cancel a policy where arson is suspected within five days. The Department of Housing and Urban Development is expected to approve the inspections shortly, said Cliggett.

More changes will stem from the report of the Illinois Citizens Task Force on Homeowners Insurance Availability, a 15-member committee appointed in July by IDI director Mathias. The group, a cross-section of the insurance industry, community groups, the investment community, and independent agents, will report to Mathias Jan. 15.

"I think we've seen a definite failure of communication between consumers and insurance companies, and perhaps from our point of view as a regulator," said Mathias.

"The task force will try to define what's going on in the marketplace and then work on the problems," he said.

The task force is analyzing the FAIR plan, looking at new kinds of insurance policies for urban residents, studying new marketing efforts, and analyzing the need for new legislation to allow the IDI to review insurance rates.

Four public hearings are scheduled for October—three in Chicago—to allow community groups to spell out their problems and suggest remedies. Hearings for groups on the South Side will be held Oct. 3 at the Memorial Missionary Baptist Church, 1546 W. 87th St.; on the West Side Oct. 10 at the Resurrection Parish Hall, 5082 W. Jackson Blvd.; on the North side at Alphonsus Parish Hall, 1429 W. Wellington Ave.; and in East St. Louis Oct. 24.

REDLINING HOME POLICY VICIOUS CYCLE

(By Janet Key)

Joseph Simmons is explaining why he and his community group, Auburn Gresham Community Concerned Citizens, joined three others in the Metropolitan Area Housing Alliance's (MAHA) insurance coalition. He is getting angrier by the minute.

"I bought a 48-year-old house in 1970 and got a three-year Allstate policy for $55 a year," he said. "The next policy was $76 a year, but when it was renewed in 1976, I only got a one-year policy and for $126. In 1977, I had to pay $198—all for the same coverage."

But in Joe Simmons' neighborhood, Allstate paid out $1.69 in claims for every $1 it collected in premiums, not including underwriting expenses of about 28 cents for for each dollar.

To Allstate the issue is administrative—it is in business to generate profits for its stockholders and raising Simmons' rates was the only way it could begin to recoup on those kinds of losses.

Losses for the other three members of the MAHA coalition were equally high. In the Greater Roseland Organization's zip code, Allstate paid $2.40 in claims for every $1 it wrote in premiums, in Garfield Park $2.05 and in South Austin $1.84.

Yet the company continued to write in those zip codes, taking 26 per cent of the market in Greater Roseland, 26.5 per cent in South Austin, 19 per cent in Garfield Park, and 26.2 per cent in Auburn Gresham. To Allstate, the problem was simple—someone had to pay.

To Joe Simmons, the issue is more personal—he isn't getting any more coverage and his rates have increased astronomically. Neighbors had been forced by similar rates to drop their insurance altogether. Or they had been cancelled and forced into the industry-subsidized FAIR plan, where—for premiums that were sometimes double what they had paid companies like Allstate—they got only fire and extended coverage.

What that does to a neighborhood—and eventually to a whole urban area—has been documented carefully by the Illinois Department of Insurance (IDI) as well as the community groups. "Those kinds of premium increases can put you behind in your mortgage payments and then you get foreclosed," said Joy Williams, another Auburn-Gresham leader.

"Everything follows," said Lettye Bell, a leader of the Greater Roseland Organization. "When the foreclosures start, the homes are abandoned and boarded up. The next thing you know, your perfectly good house is surrounded by abandoned buildings—and you get a letter telling you that you've been cancelled or not renewed by your insurance company. It becomes a cycle."

It is a cycle with a vicious ripple effect throughout the Illinois insurance industry. Of about 400 companies writing in Illinois, only 12 write 83 per cent of the homeowners' business in Chicago—thus doing what many refer to as "the real red-lining."

"The problem is that urban areas or parts of urban areas shouldn't just be written off because of the loss ratio," said Philip R. O'Connor, special counsel for the IDI. "We're looking for viable ways for companies to write that business, not altruism."●

A VIGIL FOR DR. SEMYON GLUZMAN

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. GREEN. Mr. Speaker, it is my privilege to join in the "Vigil for Freedom" sponsored by the Union of Councils for Soviet Jewry on behalf of Soviet Jewish families and individuals under detention in the U.S.S.R. because of the Soviet Government's repressive emigration policies.

Regrettably, the Soviet Government has disregarded the human rights provisions of the Helsinki Final Act, signed by 35 nations in 1975. This act committed the signatories to pursue policies consistent with the basic principles of human rights, including religious freedom, free travel between countries, and the reunification of divided families whose members live in different countries.

I bring to the Members' attention today the case of Dr. Semyon Gluzman. Dr. Gluzman, 31, is a psychiatrist who was imprisoned in 1972 after refusing to obey an order from the KGB to classify certain dissidents as mentally ill, a designation which would have led to eventual imprisonment in the infamous Soviet mental hospitals. Together with fellow inmate Vladimir Bukovsky, Gluzman wrote a guide for fellow dissidents describing techniques to avoid being classified as psychotic by government psychiatrists and smuggled it to the outside world.

Until May 15, 1978, Dr. Gluzman was imprisoned at the Perm 36 Prison Camp; however, his present whereabouts are a mystery to everyone except the Soviet Government. Before his disappearance it was known that Dr. Gluzman's health was rapidly declining due to a combination of self-imposed hunger strikes in protest of the harsh treatment of fellow prisoners and his subsequent inhuman treatment by the prison guards.

Semyon Gluzman and his family wish to emigrate to Israel to join relatives living there. Along with 49 cosponsors, I have introduced House Joint Resolution 1097 which calls upon the Soviet Government to release Dr. Gluzman and permit him and his family to emigrate. It is my deep hope that this vigil for freedom will help him soon to be granted his freedom to realize the desire of him and his family to live together in Israel.●

A "RACIST" U.S. POLICY TOWARD THE RHODESIANS

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. SIKES. Mr. Speaker, the U.S. policy toward Rhodesia is a very puzzling one. We insisted for many months that our quarrel with Rhodesia was the fact that they did not have a coalition or black majority government. Now they have such a government. A gradual transition toward black control in Rhodesia is underway. However, this did not change our policy of supporting the black terrorist leaders who are based outside Rhodesia. We should have been willing to give the new government a reasonable chance and to lend it support where policies indicated a sincere effort for change. Instead, we continue to court the black terrorist leaders, unmindful of the fact that they have raised armies which are armed and equipped by the Russians and trained by the Cubans under Russian supervision. Their mission now appears almost certain to result in a civil war and a takeover in Rhodesia, with the whites killed or driven out, many peaceable blacks killed, and a new Russian-dominated state in Africa.

One of the black terrorist leaders recently was received with open arms in this country as a visitor. When Ian Smith, the Rhodesian leader, sought to come to this country, the State Department resisted and the administration lagged for weeks before granting him permission. Since he has been in this country, equally as much attention has been shown to an opponent of the Rhodesian Government, even though that opponent speaks only for himself. Our treatment of the Prime Minister of Rhodesia is cavalier, to say the least.

The situation does not reflect credit upon the United States or our skill in diplomacy. William Safire, in a column in the Washington Star of Thursday, October 12, spells the problem out in very clear terms. We do not have much time if we are going to exercise a realistic policy to help prevent the destruction of a nation and the slaughter of thousands of its people, black and white. I submit Mr. Safire's statement for printing in the RECORD.

[From the Washington Star, Oct. 12, 1978]

A "RACIST" U.S. POLICY TOWARD THE RHODESIANS

(By William Safire)

If the word "racism" has any meaning, the Andrew Young-Jimmy Carter policy toward Rhodesia can only be defined as racist: its clear intent is to undermine the compromise reached by blacks and whites within that country, and to impose a rule by two black terrorist leaders determined to drive out the remaining whites.

By his recent praise of Mr. Young for "outspokenness" and by his agonized approval of the visa for Rhodesian leaders Smith and Ndabaningi Sithole to present their case in the U.S., President Carter has reaffirmed his preference for an all-black, anti-election dictatorship.

Why? Certainly no human rights case can be made for demanding that all Rhodesians submit to rule of the Marxist Mugabe and the terrorist Nkomo. That way lies the massacre of whites foolish enough to remain, and of all the blacks who mistakenly placed their faith in honest compromise, majority rule, and free elections.

The Carter-Young position is the ultimate in amoral pragmatism, based on pure defeatism: That the other black states in the area prefer the victory of the terrorists, that the terrorists will therefore win, and that the U.S. is better off being on the side of the ultimate winners.

Even if that assessment were accurate, the policy would be morally bankrupt.

If the outside world were to let the "internal settlement" work, goes the Carter-Young reasoning, the Cubans would soon move in on Rhodesia and we would be forced to watch them take over. Better the loss of a chance at liberty now for millions of black and white Africans, than a loss of face for the U.S. later when the Cubans move in.

Such defeatism should never be the basis of U.S. policy. The defeatists may also be wrong: if we are willing to allow the possibility that a pro-Western, free-election Rhodesia can exist, then our support of the black-white alliance within that nation could lead to its salvation. The West's prediction—and lifting of economic sanctions—could become a self-fulfilling prophesy.

The last-ditch plea now underway faces great odds. Not only must it counter the defeatists, who are legion, but some American civil-rights militants who insist that Rhodesian whites be punished for their history of discrimination. Defeatism at the State Department has combined with retribution in the minds of Andrew Young and the "get-even" brigade.

Does the internal settlement have a chance to win enough support in the U.S. to modify the Carter position? Will we give a fighting chance to the people of Rhodesia to have a form of government different from their "one man, one ruler" neighbors?

I think it's worth the effort to try. We have seen that Mr. Carter is educable in foreign affairs. Only a year ago, he was insisting on a "comprehensive" settlement in the Mideast, trying to bring Soviet pressure to bear on the Israelis at Geneva, and deriding Israeli pleas for a separate peace with Egypt first. When Israel and Egypt saw the folly of that Carter approach and went their own way, Mr. Carter swung around 180 degrees and was able to arrest his own political collapse by arranging for that separate peace.

The internal settlers of Rhodesia are not as strong as the Israelis, nor do they yet have support throughout the U.S. electorate. And they face a formidable, intractable opponent in Andrew Young, who has apparently convinced Mr. Carter that his black-bloc support hinges on the humiliation of all whites in Africa.

But Mr. Smith and his black partners are on the side of the right, and have the political right in the U.S. on their side. They are the only side ready to meet, ready to compromise, and ready to vote. Is Mr. Carter a big enough man to change his mind again?●

CRITICAL MASS 78: NATIONAL ANTINUCLEAR CONFERENCE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. McDONALD. Mr. Speaker, Ralph Nader's Critical Mass Antinuclear Organization held its third national conference, October 6–8, 1978, at the Capitol Hilton in Washington, D.C. As at Nader's two previous Critical Mass meetings in 1974 and 1975, the estimated 1,000 participants were exposed to leading antinuclear activists who urged doing away with both peaceful and defense use of nuclear materials by tactics ranging from lobbying and litigation to mass demonstrations, civil disobedience, sabotage and terrorism. What was new, was that at Critical Mass 78, the chief advocate for sabotage and terrorism to stop nuclear powerplants, Samuel Holden Lovejoy of the Clamshell Alliance, was listed on the program as a leader of a workshop on organizing demonstrations, indicating Nader's continuing flirtation with extra-legal tactics against nuclear energy.

At Critical Mass 75, Lovejoy was not a scheduled workshop leader or "resource person," and Nader had indicated embarrassment at sitting on stage with Lovejoy while his calls for "direct action" against "nukes" were cheered, although he made no spoken protest and not walk out. Indeed, in an interview published in the Village Voice on April 4, 1977, Nader indicated no opposition to the argument for sabotage, saying:

> What the activists are trying to do is make new law based on the settled Anglo-Saxon tradition of self-defense that stretches back through Blackburn's commentaries. That is, if someone tries to break into your house you can retaliate lawfully. In the case of a nuclear reactor, the self-defense is projective. But what are you going to do, wait until radioactivity is all over the place?

Sabotage and violence has been Sam Lovejoy's constant theme since 1974, when he admitted he destroyed a $50,000 weather tower at a nuclear powerplant under construction near Montague, Mass. Following a week-long trial in which Lovejoy argued his action was a bizarre sort of "public service" and in which he was supported by a number of activists from the disarmament and anti-Vietnam movements who came to testify at his trial, Lovejoy was acquitted at the direction of the judge who ruled that Lovejoy's indictment was faulty—he had been charged with destroying "personal" instead of "real" property.

Lovejoy, like others in his Montague collective and organization called Nuclear Objectors for a Pure Environment (NOPE) a veteran of the Venceremos Brigade to Cuba, took that court decision as vindication of his sabotage tactic. He has repeatedly urged others to emulate him and has claimed to find ready acceptance of sabotage tactics among the members of the environmental and antinuclear groups. In an article published in the June 1976 issue of the newspaper of the People's Party,

Dr. Spock's Socialist organization, Lovejoy gave an account of his speech to an anti-nuclear power group in San Luis Obispo, Calif. Lovejoy wrote:

* * * first I suggested that a big demonstration and sit-in at the plant gates might stop the workers, or maybe a fuel shipment from entering * * *. Then I blurted out what was honest in my head, "If I lived here, and was afraid for the life of my community, and thus decided to stop the plant's operation (and yet I couldn't actually tamper with the nuclear machine itself), the only way was to make the machine useless by cutting the umbilical cord." * * * then almost the entire crowd was on its feet applauding!

* * * So there I was suggesting sabotage of the nukes' transmission lines (with a P.G. & E. [Pacific Gas and Electric] representative there!) and concerned citizens with little prior knowledge or experience in direct political action were enthusiastically responding.

In the February 9, 1978, issues of WIN magazine, founded by and closely associated with the War Resisters League (WRL), an allegedly pacifist group and which has supported revolutionary terrorist violence by the Weather Underground Organization, Karl Armstrong, the Vietcong and other organizations and individuals, Lovejoy discussed the implications for antinuclear activists of the "choice of evils" theory to justify "direct action" against nuclear power plants. Since a "choice of evils" defense against nuclear power requires an operating nuclear plant containing radioactive substances, Lovejoy again returned to his obsession with destroying power lines. He wrote:

Citizens could occupy (or even disrupt) the power lines * * *. There is no point running the factory if you can't deliver the goods—a shut down reactor is vastly more safe than one in operation.

Lovejoy exhibited his power line sabotage mania during the Critical Mass 78 conference. On Sunday morning, Lovejoy was a leader of a workshop on organizing demonstrations moderated by Kitty Tucker of the Supporters of Silkwood and active with the National Labor Task Force of the National Organization for Women (NOW). Afterwards, Lovejoy shifted from organizing massive sit-ins and occupations of nuclear facilities to destroying power lines as a likely way to "do something physical to stop the nuke."

Lovejoy described the campaign against a new, powerful electrical power line in Minnesota which he and Clamshell Alliance affiliates had supported. Lovejoy boasted that nearly $8 million in damages had been done to power lines in Minnesota during the past year and warned, "more of this is going to be happening around the country and throughout the world."

The Critical Mass 78 conference differed from its 1974 and 1975 predecessors in having a considerable number of representatives of foreign antinuclear movements present as program speakers and participants from countries including the Philippines, Australia, Brazil, Canada, France, and West Germany.

The 1978 conference also gave a markedly increased role to the disarmament and anti-intelligence coalitions which have ties to the Soviet bloc.

The demonstration organizing workshop, scheduled for the Capitol Hilton's Senate Room, was followed by a workshop, "Civil Liberties: Is Nuclear Power incompatible with a democratic society?" moderated by David Comey of Citizens for a Better Environment of Chicago. The leaders of the workshop/lecture were Donna Warnock, Syracuse Peace Council; and two veterans of the anti-intelligence lobby, Morton Halperin and John H. F. Shattuck.

Shattuck, a former coordinator of the Vietnam moratorium committee who has worked for the ACLU since his graduation from Yale Law School in 1970, former counsel for the Project on National Security and Civil Liberties, jointly operated by ACLU and Halperin's Center for National Security Studies, Shattuck denounced a proposed bill to prevent terrorists or unqualified persons from holding jobs in sensitive areas of the nuclear industry and suggested that an employee in a nuclear facility suspected of contact with terrorists might be "tortured."

Halperin, a supporter and contact of CIA defector Philip Agee, was wearing both his anti-intelligence lobby hats, representing the Center for National Security Studies (CNSS), which he now directs, and the Campaign to Stop Government Spying (CSGS), his grassroots pressure group. Halperin delivered a long attack on private utility companies for having security units to protect their property and nuclear facilities, on private security companies who provide guards to protect utility companies, and on police for telling utility companies when their property or their personnel may be the target of an attack.

Apparently Halperin thinks that private, profitmaking companies have no right to know about threats to their property, to their managers or employees and that if companies take precautionary measures, such as having extra security people in targeted area, they are being somehow "unfair" to terrorists and revolutionaries.

Halperin called on antinuclear activists to join with his "antisurveillance" campaign group. He encouraged them to seek ways to force public disclosure of corporate security activities, particularly the utilities. He suggested that the utilities be placed under various governmental regulations including a "freedom of information" type regulation that would require public disclosure of company personnel and security files to the persons or groups mentioned in them.

International antinuclear activists were featured in a workshop moderated by Terry Provance, former director of the Stop the B–1 Bomber Campaign of the American Friends Service Committee (AFSC) and the Coalition for a New Foreign and Military Policy (CNFMP). Since his participation in a 1976 disarmament conference run by the World Peace Council (WPC), an internationally active Communist propaganda front run by the KGB and the Soviet Communist Party Central Committee, Provance has taken an increasingly active international role in the international disarmament movement and serves as head of the international task force of the Mobilization for Survival (MFS).

Participants in the international workshop incidentally, "workshop" is a misnomer, "seminar" would be more appropriate—included Australian Helen Caldicott, a pediatrician and leader of the Mobilization for Survival, who delivered an impassioned call for U.S. unilateral nuclear disarmament as an "example" for the rest of the world. Dr. Caldicott provided an account of how she and others argued Australian trade unions into not transporting uranium ore so that it could not be refined or exported.

Another participant was Nicky Perlas of the Philippines Movement for Environment Prctection which shares an office address with the Center for Development Policy in Washington, D.C. Perlas has been active with the Anti-Martial Law Coalition (AMLC), a U.S.-based leftist group whose members include supporters of Filipino terrorist groups such the New Peoples Army, a Maoist organization, and the Moro National Liberation Front. Perlas encouraged antinuclear activists to join in the campaign to prevent the Nuclear Regulatory Commission from licensing Westinghouse to export a nuclear power reactor to the Philippines.

Perlas stated that an "international day of protest" against export of the Westinghouse reactor has been scheduled for November 30, 1978. He said a Washington demonstration would be sponsored by the Coalition for a Nuclear Free Philippines, Friends of the Filipino People, Friends of the Earth and other organizations.

Another speaker, Otto Buchsbaum, head of Resistencia Ecologica in Brazil, claimed that "Nazis" ran the West German-Brazilian nuclear energy program. He also attacked as controlled by Nazis and Third Reich officials the West German rocket firm, OTRAG, which he said was providing assistance for the construction of Roland and cruise missiles in Brazil. It is interesting to note that an unclassified CIA report on KGB manipulation of the media published in the House Intelligence Committee hearing, "The CIA and the Media," (p. 538) reported on a KGB campaign of vilification against OTRAG, a company stated to be developing rockets to lanuch satellites for commercial customers.

Gerd Nichelson of the Okologie Institut of Freidburg, West Germany, in response to a question about the political orientation of the European anti-nuclear movement, said that "opportunists—Communists and other doctrinaire leftist groups" were "trying to use the environmentalist movement for their own purposes." Mr. Michelson, who seemed quite out of place in the international meeting, was greeted with an embarassed silence from some participants and suppressed amusement by others.

The action calls and energy in the Critical Mass 78 Conference derived primarily from the radical left activists present. The real keynote speech of the conference was provided by Tom Hayden, head of the California Campaign for Economic Democracy (CED)—"economic democracy" being a catchier

phrase with which to mislead people than "socialism" which most Americans understand and reject.

Hayden, who was introduced as Gov. Jerry Brown's appointee to the Federal Solar Energy Conference, said, "The antinuclear struggle should be to America during tht 1980's what the antiwar movement was in the 1960's." Hayden did not mention the obvious fact that the antiwar movement was actually directed against the free countries of Southeast Asia in support of Communist aggression. What he meant was that the antinuclear movement can be a weapon against the Free World and against capitalism.

Hayden, who gave indications of wanting to be Governor Brown's Presidential campaign manager in 1980, called on the antinuclear activists to challenge the President's nomination for the Presidency in 1980 based on his solar power versus nuclear power record.

Ralph Nader's keynote speech, in contrast, provided a brief amount of praise for the Seabrook, N.H., mass civil disobedience demonstrations as a new development in the antinuclear campaign. However, most of his speech was a sharp attack on James Schlesinger, Secretary of the Department of Energy. In sum, Nader called for Schlesinger's resignation and replacement with someone who will do what Nader wants.

Critical Mass 78 also had a strong representation from U.S. groups who support the so-called "Eurocommunist" movement including the New American Movement, and the Democratic Socialist Organizing Committee (DSOC). This orientation was particularly strong in the session on "jobs and energy" and the anticapitalist bias of moderator Richard Grossman was made plain. Antinuclear activists intend to bring progressive unions such as the autoworkers, oil, chemical and atomic workers and others into their campaign.

In contrast to previous critical mass conferences, no resolutions were submitted to any plenary for consideration. The conference consisted of panels and speeches delivered to the whole audience, and seminars and panels delivered to smaller "workshops."

Among the listed workshop leaders and panelists were:

FRIDAY, OCTOBER 6, 1978

Hazel Henderson, Co-Director, Princeton Center for Alternative Futures, Inc.

Dr. Helen Caldicott, Children's Hospital Medical Center, Boston

GENERAL SESSION PANEL ON NUCLEAR POWER

Dr. Henry Kendall, Union of Concerned Scientists

Dr. Thomas E. Mancuso, Professor of Occupational Health, University of Pittsburgh

Randall Forsberg, Dept. of Political Science, Massachusetts Institute of Technology

Peter Montague, Director, Center for Environmental Research and Development, University of New Mexico

June Allen, President, North Anna Environmental Coalition

Moderator: John Seigenthaler, Publisher, *The Tennessean*

SATURDAY, OCTOBER 7

Earl Craig Jr., Urban Coalition of Minneapolis

Hon. Leo J. Ryan, U.S. House of Representatives

General Session Panel on "Jobs and Energy"

Michael Olszanski, United Steelworkers of America, District 31 Enviromental Committee

Carolyn Brancato, Professor of Economics, New York University

Valerie Pope Ludlam, Director, San Bernadino Community Development Corporation

Edward J. Carlough, President, Sheet Metal Workers International

Moderator: Richard Grossman, Environmentalists for Full Employment

Dr. Barry Commoner, Director, Center for the Biology of Natural Systems, Washington University

SUNDAY, OCTOBER 8

GENERAL SESSION PANEL ON SOLAR ENERGY

Jim Benson, Council on Economic Priorities

Tom Hayden, California representative to Western SUN, the federal solar energy conference

Denis Hayes, Senior Researcher, Worldwatch Institute

Dr. Benjamin Spock

Closing address by Rev. David Eaton, All Souls Church, Washington, D.C.

WORKSHOPS

(Saturday, October 7, 2:00–3:30 p.m.)

1. INTERNATIONAL ENERGY MOVEMENTS

Moderator: Jacob Scherr, Natural Resources Defense Council, Washington, D.C.

Terry Provance, American Friends Service Committee Pennsylvania.

Nicky Perlas, Phillipines Movement for Environment Protection.

Vincent Richet, Natural Resources Defense Council.

Gerd Michelson, Okologie Institut, Freidburg, Germany.

Otto Buchsbaum, Editor, Abertura, Brazil.

2. ENERGY ALTERNATIVE: SOLAR

Moderator: Ken Bossong, Citizens Energy Project, Washington, D.C.

Ron Pogue, Alternative Energy Resource Association, Montana.

Dick Munson, Solar Action, Washington, D.C.

Michael Freedburg, former Director, 11th St. Movement, New York City.

3. RADIOACTIVE WASTE

Moderator: Marvin Resnikoff, Professor, Rachel Carson College, New York.

Ronnie Lipshutz, Union of Concerned Scientists, Massachusetts.

Judy Johnsrud, Environmental Coalition on Nuclear Power, Pennsylvania.

Phil Greenberg, Resources Agency, State of California.

Peter Montague, Director, Center for Environmental Research and Development, University of New Mexico.

4. ECONOMICS OF NUCLEAR POWER

Moderator: Charles Komanoff, Komanoff Energy Associates, New York.

Saunders Miller, Dain, Kalman and Quail Inc., Minneapolis.

Dale Bridenbaug, MH Technical Associates, California.

5. LOW-LEVEL RADIATION AND HEALTH

Moderator: Michael Bancroft, Public Citizen Litigation Group, Washington, D.C.

Dr. Rosalie Bertell, Senior Cancer Research Scientist.

Dr. Thomas E. Mancuso, Professor of Occupational Health, University of Pittsburgh.

Dr. Karl Z. Morgan, School of Nuclear Engineering, Georgia Institute of Technology.

Dr. Thomas Najarian, Medical Consultant, Massachusetts.

Dr. Arthur Tamplin, Natural Resources Defense Council, Washington, D.C.

(Saturday, October 1, 3:30–5:10 p.m.)

1. TRANSPORTATION

Moderator: Chip Reyolds, American Friends Service Committee, North Carolina.

Jim Paschall, Attorney for Eastern Railroads, Ohio.

Bill Cox, Airline Pilots Association, Connecticut.

2. REACTOR SAFETY

Moderator: Bob Pollard, Union of Concerned Scientists, Washington, D.C.

Dale Bridenbaugh, MHB Technical Associates, California.

William Smart, former general foreman, Callaway Nuclear Power Plant.

3. EMERGENCY PREPAREDNESS

Moderator: Jan Beyea, Center for Environmental Studies, Princeton University.

Pete Cleary, Citizens for Better Environment, Illinois.

Lou Sirico, Rutgers Law School, New Jersey.

4. ENERGY ALTERNATIVES INDIRECT SOLAR

Moderator: Harriet Barlow, Institute for Local Self-Reliance, Washington, D.C.

Lee Johnson, Editor, *RAIN*, Oregon.

Skip Laitner, Citizens Action Research Group, Iowa.

Scott Sklar, N.Y. Alliance to Save Energy; Aide, Sen. Javits.

5. INDUSTRY EXPORTS AND WEAPONS PROLIFERATION

Moderator: Terry Provance, American Friends Service Committee, Pennsylvania.

Keike Kehoe, Center for Development Policy, Washington, D.C.

Paul Leventhal, arms control consultant; Forthcoming book, *On Nuclear Proliferation.*

Gloria Duffey, Rand Corporation, California.

(Sunday, October 8—9:00–10:20 a.m.)

1. CITIZENS LEGAL RECOURSE AND STRATEGY

Moderator: Anthony Z. Roisman. Natural Resources Defense Council, Washington, D.C.

Ellen R. Weiss, Sheldon, Harman, Roisman and Weiss, Washington, D.C.

Karen Sheldon, Sheldon, Harmon, Roisman and Weiss, Washington, D.C.

Chauncy Kepford, Environmental Coalition on Nuclear Power, Pennsylvania.

2. DEMONSTRATION ORGANIZING

Moderator: Kitty Tucker, Environmental Policy Center, Washington, D.C.

Kathy Wolff, Clamshell Alliance.

Bret Burcy, Palmetto Alliance, South Carolina.

Sam Lovejoy, Clamshell Alliance.

Pam Solo, Trojan Decommissioning Alliance, Oregon.

3. CONSERVATION

Moderator: Gary DeLoss, Environmental Policy Center, Washington, D.C.

Jan Beyea, Princeton University.

David Knepper, Rural America, Washington, D.C.

Robert Goble, Professor, Clark University, Massachusetts.

4. ORGANIZING TACTICS

Moderator: Franklin Gage, National Task Force Against Nuclear Pollution, Washington, D.C.

Victor Fisher, Linton, Mields, Reisler & Cottoni, Washington, D.C.

Whitey Bluestein, Sheldon, Harmon, Roisman, & Weiss, Washington, D.C.

Jeanine Honicker, Nashville, Tenn.

Chuck Sheketoff, Vermont PIRG.

5. FUNDRAISING

Moderator: Lindsay Mattison, Center for Development Policy, District of Columbia.

Russ D. Hemenway, National Committee for an Effective Congress.

Herman Warsh, Foundation Executive.

Charlene Divoky, Union of Concerned Scientists.

Joan Flanigan, Grass Roots Fundraising.

(Sunday, October 8, 10:30–11:50 a.m.)

1. UTILITY RATE STRUCTURES

Moderator: Rick Morgan, Environmental Action Foundation.

John Stutts, Energy Research Systems, Massachusetts.
Aldon Meyes, Connecticut Citizens Action Group.
Jack Mould, ACORN, Louisiana.

2. CIVIL LIBERTIES

Moderator: David Comey, Citizens for a Better Environment, Illinois.
Morton Halperin, Director, Center for National Security Studies, District of Columbia.
John Shattuck, Executive Director, American Civil Liberties Union, Washington, D.C.
Donna Warnock, Syracuse Peace Council.

3. MEDIA AND PUBLICITY

Moderator: Noreen Banks, Peoples Business Commission, Washington, D.C.
Harvey Wasserman, Clamshell Alliance.
David Fenton, Independent Publicist, New York.
Nancy Quinn, Nuclear Information and Resource Service, District of Columbia.
Lindsay Audin, Pacifica Radio Network (WBAI), New York.

4. COALITION BUILDING

Moderator: Gail Daeneker, Environmentalists for Full Employment, District of Columbia.
Chuck Matthei, Clamshell Alliance.
Jan Schakowsky, Illinois Public Action Council.
Mina Hamilton, Sierra Club Task Force on Radwaste.

5. FEDERAL, STATE, AND LOCAL LEGISLATIVE REVIEW

Moderator: Dave Moulton, Congress Watch, Washington, D.C.
Scott Skinner, Skinner and Skinner, Vermont.
Jim Cubie, Union of Concerned Scientists, Washington, D.C.
Robb McDougal, Washington.
Marc Messing, Environmental Policy Center, Washington, D.C.

Organizations participating in the Critical Mass 78 conference included:

American Civil Liberties Union (ACLU), Washington Legislative Office, 600 Pennsylvania Avenue, S.E., Washington, D.C. 20003.
American Friends Service Committee (AFSC), 1501 Cherry Street, Philadelphia, PA 19102.
Boston Clamshell, 2161 Massachusetts Avenue, Cambridge, MA 02140.
Campaign to Stop Government Spying, 201 Massachusetts Avenue, N.E., Washington, D.C. 20003 (202/547-4644, 4705).
Citizens for a Better Environment, 59 E. Van Buren, Chicago, IL 60605.
Coalition for Safe Electric Power, 140 Public Square, Rm. 312, Cleveland, OH 44114.
Coalition for a New Foreign and Military Policy (CNFMP), 120 Maryland Avenue, N.E., Washington, D.C. 20002.
Coalition for a Nuclear Free Philippines, 317 Pennsylvania Avenue, S.E., Washington, D.C. 20003.
Congress Watch/Public Citizen, 133 C Street, S.E., Washington, D.C. 20003 (202/546-4996).
Clamshell Alliance, 62 Congress Street, Portsmouth, NH 03801.
Center for National Security Studies, 122 Maryland Avenue, N.E., Washington, D.C. 20002.
Critical Mass, 133 C Street, S.E., Washington, D.C. 20003 (202/546-4790).
Democratic Socialist Organizing Committee (DSOC), 853 Broadway, Room 617, New York, NY 10003.
Democratic Agenda, 853 Broadway, Room 617, New York, NY 10003.
DSOC Washington, D.C. Youth Caucus, 1346 Connecticut Avenue, N.W., Washington, D.C. 20036.
Energy Policy Information Center, 3 Joy Street, Boston, MA 02108.
Environmental Action Foundation, 1346 Connecticut Ave., N.W., Washington, D.C.
Environmental Policy Center, 317 Pennsylvania Avenue, S.E., Washington, D.C. 20003 (202/547-6500).
Environmentalists for Full Employment, 1101 Vermont Avenue, N.W., Washington, D.C.
Friends of the Filipino People, 110 Maryland Avenue, N.E., Washington, D.C. 20002.
Friends of the Earth.
Institute for Local Self-Reliance, 1717 18th Street, N.W., Washington, D.C.
Mobilization for Survival (MFS), 1213 Race Street, Philadelphia, PA 19107.
National Council of Churches, Energy Project, 475 Riverside Drive, Room 572-S, New York, NY 10027.
Natural Resources Defense Council, 917 15th Street, N.W., Washington, D.C.
New American Movement (NAM), 3244 Clark Street, Chicago, IL 60657.
Nuclear Information and Resource Service (NIRS), 1536 16th Street, N.W., Washington, D.C. 20036 (202/347-8317).
Palmetto Alliance, 18 Bluff Road, Columbia, SC 29201 (803/254-8132).
Philippines Movement for Environmental Protection, c/o Center for Development Policy, 225 4th Street, N.E., Washington, D.C. 20002.
Potomac Alliance, Washington, D.C.
Readers Energy Media Service, Box 6, Turners Falls, Massachusetts 01376.
Resistencia Ecologica (publisher of *Abertura*), Rio de Janeiro, Brazil.
Karen Silkwood Public Education Fund, 317 Pennsylvania Avenue, S.E., Washington, D.C. 20003 (202/547-6500) which is the same address and telephone listed to the Environmental Policy Center.
Supporters of Silkwood, 317 Pennsylvania Avenue, S.E., Washington, D.C. 20003 (202/544-8200).
The Karen Silkwood Fund, Box 651, Hyattsville, MD 20782.
Trojan Decommissioning Alliance, 215 S.E. 9th, Portland, OR 97214.
Union of Concerned Scientists, 1208 Massachusetts Avenue, Cambridge, MA 02138.
United Steelworkers of America, District 31.
Youth Project, Grassroots Fundraising Project, 1000 Wisconsin Avenue, N.W., Washington, D.C.●

THE CASE OF SAADIA IGILOVITCH SHAMUILOV, WHO IS BEING DETAINED IN RUSSIA, APART FROM HIS FAMILY

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. SYMMS. Mr. Speaker, I am pleased to join in the "Vigil for Freedom" sponsored by the Union of Councils for Soviet Jewry. I support this vigil not for the Jewish people alone, but for all individuals who suffer under the repressive emigration policies of the Soviet Union. No one in the Soviet Union will have any freedom until he or she is allowed to travel freely.

I bring to the attention of my colleagues, yet another case where human rights have been violated by the Soviets. The right of families to be reunited is guaranteed under the Helsinki Final Act which although signed by the Soviets is commonly rejected by them. The Helsinki accords are consistently violated by the Communists, as in this case, when a man is kept from his wife and children.

Our pleas cannot rest on general arguments alone; sounded only for the purposes of whole peoples; whole worlds; we must look to the effect it has on the individual and base our judgment upon this criteria. I therefore introduce the case of Saadia Igilovitch Shamuilov as an example of Soviet tyranny over their citizens. Saadia is a foreman of building construction in the Uzbeck region of the U.S.S.R. He is forced to live thousands of miles from his wife and children because the Soviets will not allow certain citizens to leave the country because of their political or religious beliefs.

Saadia's wife Tsipora, and his children Olga, Rambam and Rafik want their father with them in Pardes Hans, Israel, but the Communists in Russia say no. Since 1976, Saadia has applied for emigration and has been refused. There has never been a reason given for this bureaucratic refusal. The refusal goes unexplained and there is no way that Saadia can appeal because the Soviet law does not work in such a manner. It is my hope that this vigil for freedom will help in the early emigration of Saadia Igilovitch Shamuilov.●

NATHAN SHAPELL, A MAN OF CIVIC ACHIEVEMENT

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. PATTERSON of California. Mr. Speaker, on October 25 the American Jewish Committee will honor Mr. Nathan Shapell with a 1978 Civic Achievement Award.

Mr. Shapell is the owner of S. & S. Construction Co., which is a residential construction firm headquartered in Orange County, Calif. He is also a much respected businessman in southern California.

His achievement in the business community is a remarkable one, for Mr. Shapell emigrated to this country after losing his home and family to that infamous period in human history that has become known as the Holocaust.

One could say that Mr. Shapell's success in America is an all too common story, one that equates strength with success. But his strength lies not solely in his successful business enterprise. His greatest strength is an inner strength which could not be broken. This does not come only from the fact that he survived the most inhuman tortures ever imposed on man by others of his kind, but primarily from the fact he witnessed and endured such atrocities and still found it in his heart to love his fellow man.

I find it ironic that a homeless man who drifted across Europe after World War II is now a builder of homes for thousands of American families. Such ironies can sometimes be found only in this great country of ours, where a man can be assured success through hard work and sacrifice.

I ask my colleagues to join me in paying tribute to Nathan Shapell. His life serves as an inspiration to those who see the United States as a beacon of hope in a world still persecuted.●

POST 572'S MAN OF THE YEAR

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MOTTL. Mr. Speaker, I wish to pay tribute to Mr. Martin J. Gallagher, executive board member of 9 years standing of American Legion Post 572, who will be honored by the post as its "Man of the Year." Mr. Gallagher will be presented the Legion Man of the Year Award at the Sixth Annual Award Banquet to be held at the post home on the evening of November 4, 1978.

Mr. Gallagher, a Legion member for the past 16 years is being honored for his many years of outstanding devoted service to the American Legion and for the many years of service to his community.

As a present member of the Legion post executive board, and present building chairman, Mr. Gallagher has been a leading and moving force in bringing about the recently completed expansion and remodeling program of the post 572 home located at 6483 State Road, Parma, Ohio.

Prior to getting involved with the post building expansion program, Mr. Gallagher was, and presently is, a front runner when it comes to lending his assistance to insure the success of the Legion's sponsored Boy's State program, to its "Americanism Tests" given annually to the students in our local high schools, volunteering his services to raise fund's through the Legion's "Gifts for the Yanks," a program designed to make our hospitalized veterans life a little more bearable. In his continuing efforts to serve, Mr. Gallagher is always counted on to give a helping hand for worthwhile community projects. On the post level Mr. Gallagher is always called upon to put to use his skill as an electrician as well as his all-around ability which are so important to the proper maintenance of a post home.

A veteran of World War II, Mr. Gallagher spent his service time (1943–46) with the U.S. Navy in the Pacific theatre. Trained by the Navy, Mr. Gallagher became a first-class electrician, which training served him well through the years that followed.

In 1948, Mr. Gallagher became employed by the city of Cleveland in its municipal light division. After spending 30 years of service with the light plant, at age 53 Mr. Gallagher is now enjoying retirement. Another special occasion for the Gallaghers to celebrate will be in order on the very same evening and that is their 30th wedding anniversary. It was in November 1948 that he and his wife Colletta were married. They have three daughters, Rita, Kathleen, and Nancy. Grandparents of one, the Gallaghers reside at 2806 Priscilla Avenue, Parma, Ohio.

A lifelong resident of the Cleveland area, Mr. Gallagher was raised on Cleveland's East Side, in the East 116th and St. Clair area. A product of Collinwood High, Mr. Gallagher has been a resident of Parma for the past 25 years.

His parents, Michael and Ann, along with his sisters, Betty and Ann, will join the rest of the Gallagher family and his many Legionnaire friends, celebrate this festive occasion.

One again the local American Legion has plucked from its ranks one of its many unheralded Legionnaires to be honored as its "Man of the Year."●

HEALTH CARE FOR OLDER VETERANS—THE VA SYSTEM

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. PEPPER. Mr. Speaker, we are all aware of the fine contributions to the Nation's health which have been made by the Veterans' Administration. It operates the largest health care system in the United States, and the lessons which have been learned from the VA experience can be of valuable assistance as we look toward the enactment of a national health insurance program.

Ms. Dena Belinkoff, who served as a summer intern with the Subcommittee on Health and Long-Term Care of the Select Committee on Aging, both of which it is my privilege to chair, prepared a fine paper which examines the VA health care system—particularly with respect to its programs for elderly veterans—and recommends several areas for further study and examination. Ms. Belinkoff is a recent graduate of the University of California at Berkeley.

Mr. Speaker, the 65-and-over population of the United States is expected to nearly double over the next 50 years. Ms. Belinkoff points to a similar trend among the aging veteran population. In 1970, she indicates, there were 2.3 million veterans over the age of 65; by the year 2000, there are expected to be 7.1 million elderly veterans. The VA system of providing long-term care services for this important segment of our population can offer important lessons in relation to our deliberations regarding improvements in medicare and the eventual adoption of a national health insurance plan.

I commend Ms. Belinkoff's paper to the attention of my colleagues and include part I at this point in the RECORD:

INTRODUCTION

The Veterans' Administration (VA) has established an admirable record in providing comprehensive health care to those who have served in the United States armed forces over the past 110 years. As the VA plans to expand medical services to meet the needs of the coming decades, there is growing concern over the increasing number of elderly veterans who, like all senior citizens, will require a greater amount of acute and long-term care as they become more infirm.

Exactly what services and which facilities call for expansion, however, is subject to debate. Assessments differ as to the VA's role in geriatric health care, depending on the priorities that are set and the predictions that are made regarding the future of national health insurance.

The purpose of this paper is to outline and discuss the services available to the elderly veteran and review the criticisms of them; to assess VA policies which affect the elderly; to suggest the issues which demand further investigation by Congress and to make policy recommendations.

DEMOGRAPHY

As the largest health system in the country, the VA operates a nationwide network of 172 hospitals, 88 nursing homes, 16 domiciliaries and 228 outpatient clinics. In addition, the VA contracts with community hospitals and nursing homes and veterans are cared for in state-run veteran facilities. In total, the cost to taxpayers for health care provided by the VA in fiscal year 1979 will be over $5 billion. Some 1.4 million inpatients will be treated and over 18.2 million outpatient visits will be made to VA and contract facilities in the coming year. The VA is an executive agency, funded by an annual appropriation from Congress and, therefore, subject to Congressional oversight and review.

Legislation enacted in 1973 (Public Law 93–82) directed the VA to contract with the National Academy of Sciences (NAS) to perform a study of VA medical facilities. Beginning in 1973, the NAS conducted a three-year appraisal of the VA and produced a report containing 37 recommendations. Because of the controversial nature of some of the recommendations, the VA issued a formal response to the NAS report.

The immediate concern over VA planning stems in large part from demographic data on the veteran population. While in 1970 there were 2.3 million veterans over the age of 65, the projection for the year 2000 is for 7.1 million elderly veterans. Veterans comprised 26% of all U.S. males over 65 in 1970, and that figure is expected to grow to nearly 60% by the year 2000, and then decrease gradually, barring future large-scale wars. The bulge in the projected elderly population is attributable to the cohort of 13.2 million World War II and Korean Conflict veterans whose average age is currently 56.3 years.[1]

Out of a total of over 27 million veterans of all ages, only 3 million receive VA-sponsored medical care. The eligibility structure, access and the availability of other medical insurance plans all serve to reduce the number of actual VA beneficiaries.

In the NAS study, "Health Care For American Veterans," veterans receiving VA treatment were characterized as being older, poorer, more likely to be black, less likely to be married and less likely to have other health insurance, when compared to the veteran population at large. In light of these findings and the changing demographics of the armed forces in general, it is evident that current utilization patterns of VA facilities should be considered in analyzing the impact of national health policies on the Veterans Administration and in subsequent plans for expansion.

ELIGIBILITY

The mandate of the Veterans Administration is first to provide health care for all veterans with service-connected disabilities and second, if capacity is available, for those without service-connected disabilities. From this basic premise stems a complicated priority structure, unique to each medical service, which also takes into account age, financial need and receipt of a VA pension. Veterans over 65, regardless of their financial situation, are automatically eligible for VA health care and more or less follow the service-connected group in priority.

Despite the complex eligibility restrictions, only 1% of the veterans who apply for medical, surgical or psychiatric care are turned down. Ample space appears to be available in VA facilities under current admittance procedures and application rates.[2]

[1] *World Almanac 1978*. Newspaper Enterprise Assoc., Inc., New York.

[2] *Study of Health Care for American Veterans*, National Academy of Sciences (NAS) 1977, p. 29.

Eligibility provisions for other services, however, are narrower, because of inadequate VA resources. In the case of outpatient services, the eligibility standards were widened under Public Law 93–82 in August, 1973, to authorize care for patients without service-connected disabilities, if the care was provided "to obviate the need for hospitalization." This provision stimulated a significant increase in the number of outpatient visits and alerted Congress to the heavy financial consequences of an eased eligibility structure. In response, Congress again revised the outpatient status laws in the Veterans Omnibus Health Care Act of 1976, Public Law 94–581, demonstrating an intent to limit eligibility according to priority. The new provision may result in the unnecessary hospitalization of patients, since outpatient care is less available.[3]

In summary, the VA has expanded its health services well beyond the original mandate to care for the service-connected disabled. The complex eligibility provisions now serve as one method of controlling the patient census and, therefore, the budget. Both Congress and the VA should be mindful, however, of alterations in eligibility policy which trigger unforeseen changes in utilization patterns.

SERVICES

The VA offers a full range of medical services and health programs to its beneficiaries under the Department of Medicine and Surgery. Through its extensive affiliation with medical schools since World War II, the VA has been heavily involved in "acute, mainstream medicine." The commitment to a professional, research-oriented health organization has, in the past, been an obstacle to the development of a comprehensive, multi-level care program particularly suited to the needs of the elderly.[4] Although a continuum of care is now evolving, certain procedures and restrictions continue to emphasize acute hospital care, where less intense levels of care are now thought to be adequate.

Veterans Administration health services include:

Hospital Care.
Psychiatric Hospital Care.
Nursing Home and Intermediate Care.
Hospital Based Home Care.
Personal Care Homes.
Domiciliaries.
Outpatient Care.

HOSPITAL CARE

The 172 hospitals in the VA system are located in every state except Hawaii and Alaska. The National Academy of Sciences (NAS) Committee surveyed inpatient care in 21 VA hospitals and found the quality of care to be outstanding in 5, adequate in 13 and inadequate in 3, as measured using site visits and medical records. Only 5 percent of discharged patients gave physician and nursing care a poor rating; 50 percent rated the care excellent.[5]

The NAS report criticized the VA for keeping patients for inordinately long periods of time, in comparison to non-VA hospital practices. In response, the VA cited the high incidence of chronic patients and the comprehensive nature of VA care to explain the length-of-stay statistics.

Once a patient is admitted to a VA facility, comprehensive examinations and treatments are given. This policy has several consequences, both positive and negative, on VA practices and patient well-being. An elderly veteran benefits upon admittance to a VA hospital or nursing home because he receives dental, eye and foot check-ups, a battery of medical tests and the drugs he needs, all free of charge, along with treatment of the original ailment. Total care is not reimbursed under Medicare and Medicaid, and notably would require multiple doctor visits in the private sector.

On the other hand, this policy can also lead to the unnecessary hospitalization of an older person, who does require the comprehensive medical monitoring, but need not be retained overnight in an acute care bed. Over hospitalization of patients drives up the cost of health care. Moreover, institutionalization, which has long been the mainstay of care for the elderly, is thought by many to adversely affect a patient's physical and mental well-being.

Another often cited reason for greater lengths of stay in VA hospitals accrues to the budgetary process. Annual VA appropriations are based on census data, a system which creates an incentive for a facility director to keep his census high or risk losing funds. An analysis in Public Policy magazine stated that, "The concern over the so-called bed census is so blatant, in fact, that Chief Medical Directors have periodically had to issue directives to the hospitals reminding them that decisions to admit or retain a patient in the hospital should be made only on medical grounds and never to keep the census artificially high." [6] The former Chief Medical Director, Dr. John Chase, clarified the process, explaining that while patient census served as the primary allocation guideline in the past, it is no longer adequate as the sole determinant of workload and therefore, budgetary requirements. Census is now one of several criteria used, though it probably remains the most significant.

While VA hospital care has a fine overall record, this incursion of the budgetary process on the quality of medical services is bound to be detrimental. The incentive of the hospital to keep a high census works together with the attraction of comprehensive health services to extend hospital stays and raise health care costs.

PSYCHIATRIC HOSPITAL CARE

As the largest centralized mental health care system in the country, the VA operates 10 percent of all psychiatric beds currently available. Parallel to the national trend, the total number of VA psychiatric beds has decreased from 59,000 in 1965 to almost 30,000 in 1975, due to the advent of new drugs, improved therapies and the expansion of outpatient and community resources. In 1975, the VA handled 2.7 million psychiatric visits in 326 outpatient clinics and paid for 406,000 more on a fee-for-service basis in the private sector.

Although only 8 percent of all veterans are now over age 65, some 23 percent of all veteran patients with diagnosed psychiatric disorders are elderly. This imbalance is explained in part by the enhanced priority rating of senior citizens in obtaining covered care, combined with the attractive comprehensive nature of VA services. The same factors contribute to the NAS study's observation that lengths of stay in VA psychiatric hospitals are longer than in non-VA facilities.

An important criticism discussed in the NAS report concerned the suitability of inpatient psychiatric care for a significant minority of the surveyed patients. Stated the NAS:

"A large fraction of patients in VA psychiatric beds—at least 40 or 50 percent—do not require the services associated with a hospital bed. About half those deemed not to require hospitalization were judged to be treatable as outpatients, and the balance in another type of setting." [7]

The VA responded to concerns of this type with the implementation in 1974 of an HSRO (Health Services Review Organization) program to assess each patient's level of care. In addition, the VA has proposed the expansion of their Personal Care Home program (discussed later) which organizes placement of psychiatric patients in the community.

LONG-TERM CARE

The VA operates a full range of long-term care programs utilized principally by elderly veterans. On the whole, the NAS praised VA nursing home programs, saying they "compare favorably with a non-VA example of adequate nursing home care." [8]

A philosophy of long-term care has structured the development of VA services. The underlying assumption is that high quality long-term care is best provided in a setting adjacent to an acute care facility, because such an integration best meets the fluctuating needs of the long-term patient. An additional benefit of concentrating services in one central locale is the easing of VA research and education efforts.

INTERMEDIATE CARE

Intermediate Care, in VA parlance, refers to care for "patients who have passed through the acute stage of their illness, but who are till unstable and will require several months of further hospital care before a stable course can be anticipated." [9] Treatment involves skilled nursing, frequent physician supervision and various professional therapeutic services. This level of care should not be confused with the non-skilled "intermediate care" as defined by Medicaid and Medicare.

The 10,456 beds designated as Intermediate Care within VA hospitals serve a group of chronically ill, greatly disabled veterans and a smaller group of convalescent patients. These facilities often provide care for periods of several years.

The quality of Intermediate Care was rated by the NAS as "custodial" in over half of the units—the lowest ranking on a four point scale devised by the NAS to compare VA facilities with those in the private sector. The reason cited was inadequate personnel for the appointed workload. In reaction, the VA initiated a reassessment of the Intermediate Care program to evaluate its function in the continuum of care and to review the program's standards.●

[3] *Ibid.*, p. 116.
[4] "America's Socialized Medicine: The Allocation of Resources Within the Veterans' Health Care System," *Public Policy*, Vol. 25, No. 3, Summer 1977, p. 367.
[5] *Op. cit.*, NAS p. 31.
[6] *OP Cit. Public Policy*, p. 374.
[7] *Op Cit.*, NAS, p. 186
[8] *Ibid.*, p. 277
[9] "The Aging Veteran: Present and Future Medical Needs," VA, October 1977, p. 29.

THE CASE OF YAKOV KARMANITSKY

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. BLANCHARD. Mr. Speaker, I am pleased to join in the "vigil for freedom" sponsored by the Union of Councils for Soviet Jewry on behalf of Soviet Jewish families and inqividuals who are being detained in the Soviet Union as a result of the Soviet Government's repressive emigration policies.

In 1975, 35 nations signed the Helsinki Final Act, which committed the 35 signatory nations to pursue policies consistent with basic principles of human rights. These rights included the reunification of divided families whose members live in different countries, religious freedom, minority rights, and free travel between countries.

It has become painfully clear that the Soviet Union has chosen to disregard the

human rights provisions of the Final Act. In the many occasions where they have denied basic human rights, such as the right to emigrate and join relatives in other countries, they have flagrantly violated the provisions agreed to at Helsinki.

Today, as part of this "vigil for freedom" I want to share with my colleagues the case of Mr. Yakov Rakhlenko Karmanitsky of Moscow. Mr. Karmanitsky and his mother have been trying to emigrate from the Soviet Union to join his sister in Israel for the past 6 years. Their applications to emigrate have been refused supposedly because Mr. Karmanitsky had served in the Soviet Army from 1969–71. * * *●

THE 60TH ANNIVERSARY OF CZECHOSLOVAKIA

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. BLANCHARD. Mr. Speaker, October 28 will mark the 60th anniversary of the birth of modern Czechoslovakia. It was not long ago, in August of this year, that we sadly commemorated the Soviet occupation of Czechoslovakia—a day that has become known as the "Soviet Day of Shame."

The Czechs and Slovaks have a long and proud history which goes back over a thousand years. In 1918 they were united in the newly formed state of Czechoslovakia, just as they had been originally linked together under the Great Moravian Empire.

Foreign occupation and domination have been a great blot on the history of this young nation. In the first 20 years of her independence, prior to the Nazi invasion and occupation, Czechoslovakia proved to be a highly progressive, democratic country. It was a country that stood out to the world as a haven for the persecuted who were fleeing from the Bolshevik revolution in Russia and from the Nazis in Germany. Czechoslovakia was a country that quickly became a symbol for the kind of freedoms, human rights, and democratic principles that we hold so dear today in our country.

Since the original Nazi occupation, the Czechoslovak people have been mired under totalitarian rule. First by the Nazis, then as a satellite state of the Soviet Union, and finally under the flagrantly illegal formal occupation by the Soviet Union in 1968. Yet, the great spirit of the Czechoslovak people has not waned. That same spirit, which 60 years ago boldly instituted a freedom-loving democracy, strives with even greater determination today to return those freedoms to Czechoslovakia.

That is why it is so important, on this 60th anniversary, to recall the birth of this democratic nation with both fond remembrance, as well as perseverence for the future.

I hope that all of my colleagues will join with those Americans of Czech and Slovak descent in this noble and worthy struggle.●

CONGRESSIONAL SALUTE TO THE EASTSIDE HIGH SCHOOL MARCHING "100" BAND AND MARCHING UNITS OF PATERSON, N.J.

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ROE. Mr. Speaker, the Eastside High School Marching "100" Band and Marching Units has completed the 1977–78 season with a year of competitive victories and "blue-ribbon" championship performance record which have brought great pride to the city of Paterson, my congressional district and State of New Jersey. May I take this opportunity to commend to you the following members of Eastside High School Marching "100" Band and marching units whose personal commitment, hard work and training under the directorship of the Honorable William Peter Nelson, Jr., and his assistant, Hon. Thomas Lee Page have enabled them to achieve national recognition and award-winning performances in this highly competitive field of endeavor. The team membership is, as follows:

Altheria Alston, Sandra Artis, Michelle Brown, Melinda Cunningham, Sandra Dixon, Myava Fields, Audrye Grey, Antionette Hackney, Michelle Harrell, Rosetta Jackson, Marilyn Johnson, Angel Jones, Angela Jones, Kim Jones, Shelia Jones, Vivian Jones, Francella LaGarde, Bridgette Macklin, Margaret Miller, and Denise Robins.

Melinda Robinson, Carolyn Thompson, Andrea Wheeler, Tanya Barbour, Sharon Boone, Monica Bracey, Beatrice Jones, Lora Jones, April Martin, Beverly McCoy, Vermell McLeod, Paulette Moses, Abigail Nelson, Janice Parker, Patricia Pipkin, Kim Rogers, Anthony Prater, Harris Price, Alan Richardson, and Hope Richardson.

Cassandra Risher, Esther Rivera, Gordon Robins, Anthony Robinson, Sam Robinson, Vincent Robinson, Darrin Rogers, James Shawell, Jessie Sims, Catherine Smith, Vickie Smith, Gregory Stewart, Alteta Thomas, Donna Thomas, Charles Thompson, Richard Thompson, Kevin Tucker, Bryant Warren, Wayne Warren, and Janet Wesley.

Matthew Wideman, Jeffrey Willis, Peggy Wright, Kenneth Harrison, Myron Hicks, Cheryl Hinton, Ellis Hogges, Michael Horton, David Isaac, Randy Jackson, Jerome Jiggetts, Derald Jones, Warren Judge, Crystal Keeling, Garry Kersey, William Lawrence, Nina Lewis, Pamela MacDonald, Roberto Maldnaldo, and Ralph Melendez.

Perry Mann, Phyllis Martin, Reggie Matthews, Eva Monteaqudo, Deidra Moore, Denise Moore, Jerry Myers, Alexis McCray, April McCray, Michael McCormick, Gina McGowan, Neal McKinley, Gerald Nuttry, Frankie Oliver, Peter Peterson, Carmen Pino, Doris Pointer, Kimble Arrington, Nyles Arrington, and Diana Branch.

Genneace Buie, Matthew Buie, Wendy Butler, Daria Bullock, John Brodie, Jayson Brown, Gregory Byrd, Kevin Carter, Dennis Chambers, Terri Clark, Mary Clyburn, Charles Cobb, Horace Cobbs, Sherry Cobbs, Luis Colon, Sam Colon, Bennie Cook, Taryn Council, Brenda Cunningham, and Tommy Davis.

Peter Daye, III, Connie Drakeford, Elizabeth Dugans, Sharon Dunston, Kenneth Durant, Keith Evans, Dexter Farrar, Lisa Farrar, Kevin Fields, Mary Fields, Walter Gaston, Dale Glenn, Rosalyn Glover, and James Godbolt.

Mr. Speaker, in recognition of the esteem with which the Eastside High School Marching "100" Band and Marching Units is held, with your permission, I would like to insert at this point in our historic journal of Congress the testimonial dinner program celebrating their victorious achievements in which I was pleased and honored to participate. The program which includes a list of the exemplary community leaders and highly reputable citizens who have strongly supported and sponsored the Eastside High School Marching "100" Band and Marching Units, is, as follows:

PROGRAM

Invocation, Mr. Frank Oliver.

Introduction to Mistress of Ceremonies, Mrs. Bertha Farrar.

Mistress of Ceremonies: Mrs. Vera P. Thompson.

DINNER

Presentation of Awards: Marching Units.

Presentation of Awards: Marching Band—Band letter and certificates, Secretaries, Section Leaders, Seniors, Jazz Band, Outstanding Fresh., Soph., Jr., Sr., Outstanding Section, Drum Majors, Outstanding Musician and Band Person.

Closing Remarks, Mr. William M. Kline.

COLLEGE BOUND SENIORS

Marching Band

Walter Gaston, University of Wisconsin.

Connie Drakeford, William Paterson College.

Carmen Pino, William Paterson College.

Eula Davis, Rutgers University.

Sharon Dunston, Rutgers University.

Vickie Smith, Rutgers University.

Jayson Brown, Florida A. & M. University.

Daria Bullock, Florida A. & M. University.

Brenda Cunningham, Florida A. & M. University.

Keith Evans, Florida A. & M. University.

Kenneth Harrison, Air Force.

Gregory Stewart, Air Force.

Elizabeth Dugans, Ramapo College.

April McCray, Jersey City State College.

Marching Units

Juanita Tate, Stevens Institute of Tech.

Jackie McMillan, Bethune-Cookman College.

Sharon Boone, William Paterson College.

Abigail Nelson, Delaware State.

Antionette Hackney, Montclair State College.

Althea Jones, Miami Biscayne.

Patrons

Mr. and Mrs. Everett Martin, Mr. and Mrs. Ardie Ferrell, Mr. and Mrs. Charles Redmond, Ms. Jeanette Martin, Mrs. Jeannette Thornton, Quentin Martin, Ms. Faustina Martin, Betty Pippins, S. Horowitz, Best Friends–Erica Abigail "78", Mamie Williams, Vanessa Horton, Grady James IV, April McCarthy, and Ophelia B. Chavis.

I. Grassi, V. Maus, Gary Kosdan, Michael J. Donow, Vicki Madden, Paula DePaola, Ms. K. M. Perry, Mrs. Clara Robinson, W. Lucky, Margaret Hicks, Mr. Lepescu, Ernest Gans, Rosalind Ellerbee, Mr. Spinelli, and J. Kutner.

Sally Glazer, Mr. Bennick, Pearl Tannassee, Lynette Tannassee, Eva McClennon, Rosalyn Thorne, Ramona Milete, Maritza Perez, Alba Mulero, Cindy Torres, Mary Demas, Aida Caraballo, Louise Little, Dr. Leo Rus, Nancy Reyes', and Lucy Martinez.

Randy Covington, Mrs. Normell Chappell, Pauline Woodhouse, Mr. Roosevelt McClennon, Mr. Abraham Woodhouse, Mrs. Bertha McClennon, Beverly McCoy, Roberta Fazio, Arnita Bullock, Douglas Clark, Florian George, Terri Belfield, Williams Albert, Jamie Nuttry, and Neil Mclean.

Mary Thomas, Vanessa Nuttry, Johnnie

Nuttry, Rosemarie Haten, Ruth Dowd, Wilimae Brown, Donald Rives, Rufus, Daughn Rembert, Kelly Rembert, Tracey Rembert, Mr. W. Rembert, Mrs. J. Rembert, Mr. Parker, and Mrs. Parker.

Mrs. M. Collins, Barbara Collins, A. Martucci, M. Lechleiter, Trudy Moore, J. Hajas, L. Lopas, Mr. Curtis Mason, Mrs. Mary Sims, Mrs. Leah Moore, Miss Raetha Sumter, Mrs. Rosetta Sims, Mr. Roger Sims, Mr. Jesse Sims, and Minnie Jackson.

J. Grimes, Mr. Lechlieter, Cal Maxwell, J. Agnoli, Henry Baker, E. Goematt, Robert Christie, James Stringer, Thompsons, Cornwell, G. Stanton, James Dassano, M. Myrick, Carolyn Little, and Maude C.

C. Simmons, Tommy Cowan, M. Campbell, Susan Wallace, Bessie Greenblatt, Peter Peterson, Donna Peterson, John Peterson, Mrs. Peterson, Wilberto Rosa, Mrs. Allen, Rodney Ruth, Mrs. Maggie James, Katie Ruffier, and Ernestine Bulter.

Cume Harrison, Ruth Hayes, Steve Kayne, M. Carlos, Nick Moretta, Rise Itkin, Wilburt M., Robert Powell, R. L. Migliarino, Jane Goldberg, Benjamin Itkin, Lizzie Wilbur, Rev. and Mrs. Louis McDowell, Ms. Atkins, Mrs. Beatrice Davis, Mr. and Mrs. Riland Stewart, and Mr. and Mrs. Howard O. Cumberbatch.

Ms. Denkins, Gregory Stewart, Mrs. Ana Nieves, Mr. Thomas Nieves, Mrs. Deniase Castro, Lillian Garcia, Gladys Torres, Hilda Adorno, Ralph Melendez, Thomas Lee Page, Lee Carter, Wardell Carter, Wardell Carter, Jr., and Kevin Carter.

Alice Page Gant, Dale Gant, Christine Page, Kapers Page Sr., Malcolm Cobb, Mr. William Peter Nelson, Denise Moore, Vickie Smith, Keith Evans, Dolly Cobb, Eleanor Council, Michael Council, Taryn Council, June M. Backman, Benjamin Thomas, Doris R. Thomas, Aleta Rei Thomas, and Mrs. Gibbs.

ACKNOWLEDGEMENTS

Mr. Frank Napier—Superintendent of Schools.

Mr. Joseph Goldberg—Asst. Superintendent.

Mrs. Vera P. Thompson—Asst. Superintendent.

Mr. Charles Riley—Business Administrator.

Mr. Robert Schwartz—Legal Consultant.

Ms. Angela Giella—Acting Supervisor of Music.

Rev. Robert Kirchgessner—President.

COMMISSIONERS

Mr. Robert Cornish Jr., Rabbi David Panitz, Mr. William Pascrell, Mr. Juan Torresola, Mrs. Claire Salviano, Rev. Albert P. Rowe, Mrs. Alberta VanWinkle, Mr. Edward Zonenberg.

ADMINISTRATION

Mr. William M. Kline—Principal.
Mr. James Bradshaw—Vice-Principal.
Mr. Angelo Martucci—Vice-Principal.
Ms. Emilie Renna—Vice-Principal.
Mr. Paul Barnes— Dean of Boys.
Mrs. Buelah Philpotts—Dean of Girls.

Mr. Speaker, the following narrative which was presented to me by the Honorable Vera P. Thompson, assistant superintendent of schools, Board of Education, Paterson, N.J., will provide you with some very interesting highlights on "what the Eastside High School Marching Band is all about":

The E.H.S. Band and Units have been the talk of Paterson.

Under the direction of Mr. William Peter Nelson Jr. and his Assistant, Mr. Thomas Lee Page, the band and Units has to do more than just demonstrate their playing and marching abilities, but the members of the band and Units also have to prove themselves academically and scholastically, attending classes, and getting the work done, achieving an A, B, or even a C, plays an important part in keeping the standards of these two perfectionists, along with the Marching "100" and Units themselves.

Since Mr. Nelson has taken charge, he has stressed to not only their members, but to their classes also, that whatever group or extracurricular activity you get involved in, you must keep in mind that just being in it is not enough. You must attend classes and take part in the advantages of the class, worth and value and strive to do your best in that class, then if you feel that you are able to maintain a good grade and would like to participate in an extracurricular activity, by all means do so The students are never forced to participate in any of the school's extra curricular activities. This has been the number one asset, on behalf of the students in making a very successful band and marching unit.

Another aspect and very important role in having a successful band and marching units is having the parents take an active part in the band's activities and functions. The parents are the backbone of the band and with their number one support and effort they keep us together as one unit.

In addition to these qualifications, we must never forget the words, "7:30 Practice" and "Be on time". It's these very important factors that make Eastside High School Band and Units what it is.

With all of this in mind, the awards and accomplishments fall right into place. The band and Marching Units in the past years, while Mr. Nelson was the band director, has accomplished the following: The band has been invited to Florida to participate in the 1974 Florida Orange Blossom Classics Parade, and today the rewards and comments haven't ceased. The trip was also planned to visit various colleges and to give graduating seniors a chance to audition for scholarships.

In 1976, the band played in the Great Falls Festival, here in our own city, and was recommended and commented very highly, by the former President of the United States, Gerald R. Ford. It is a Paterson's first for a president to even come to our city and it has been a big step for not only the band and units, but for the city of Paterson to get a comment from Mr. Ford about one of the highlights of Paterson, New Jersey, the E.H.S. Marching "100" and Units. But still the accomplishments and rewards still go on.

In 1977, the band was involved in another first. An exchange program with the Paul Laurence Dunbar High School from Baltimore, Maryland.

On May 14, of this year, the Band and Units were to have marched again on 5th Avenue and 44th Street, but due to the storm and the hazard to the health of the students, we didn't march. All this proves that with the support of the parents and with the cooperation of the students, one can have a band of great achievement and great accomplishments.

Not only the marching band and units accomplished great tasks but we must also look upon the E.H.S. Stage Band. The Stage Band has had its share of success this year. They have been involved in many active functions such as The Social Services Workshop at the Brownstone, and they have participated in Jazz Band Clinics at the Indian Hills High School in Paramus, New Jersey.

They also won first place in the AllCity Talent Competition at Eastside.

This year the Concert Band and concert was considered the high point of the year as well as being the most sophisticated one. We were dressed in all white. The boys in white tuxedos and the girls in white gowns.

The banquet this year is to honor the thirty eight seniors for their academic school year.

This is the E.H.S. Bands, the victories, the work and a taste of success. This is what the E.H.S. Marching Band and Units, and Stage Band is all about.

Mr. Speaker, the Eastside High School Marching "100" Band and Marching Units has engendered deep admiration and respect from all of the residents of my Congressional District and State of New Jersey and their musical excellence, marching proficiency and sparkling exemplary performance are a special source of great pride and honor to all of us, their parents, teachers, classmates and many, many friends. Deepest appreciation is also extended to the families, supporters and school administrators for their continuing encouragement and confidence.

Mr. Speaker. I appreciate the opportunity to seek this national recognition of the outstanding contribution the team members have made to the recreational enjoyment of our community. We do indeed salute the Eastside High School Marching "100" Band and Marching Units.●

SEPARATE GOVERNMENTAL ENTITY CELEBRATION

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. CONTE. Mr. Speaker, as my colleagues who have been fortunate enough to visit my district in western Massachusetts know, autumn is one of the most beautiful seasons of the year in that area. The fall foliage will be at its peak in many parts of Massachusetts' First Congressional District this weekend. But besides celebrating the natural beauty of the region, residents of Adams, Mass., will also be marking and making history this Sunday by commemorating the 200th anniversary of the incorporation of the town as a separate governmental entity.

This weekend, Adams will officially celebrate the anniversary of the date of incorporation with a "rededication" program in the center of the town. The community has held various bicentennial activities throughout this year culminating in a gala weeklong slate of events in August, featuring a parade, art show, concert, road race, picnics, and other appropriate festivities.

So that my colleagues might know the reasons behind all of this celebration, let me provide this "thumbnail" history of the town of Adams, Mass.

The town of Adams lies in the northwest corner of the Commonwealth of Massachusetts in Berkshire County. As early as 1749, this area was explored. It was then that the town's borders were set up, 7 miles from north to south and 5 miles from east to west, and they remain the same today. At first, it was known only as "number one." Later, the name was changed to East Hoosac. When it became a township in 1778, it was named Adams after Samuel Adams, the patriot who stirred the people of Massachusetts to war against the British in the American Revolution.

The neighborhood of Adams was the last to be settled in the State. The territory, to prospective settlers, appeared defenseless, borderless, and surrounded by forbidding wilderness. Originally, the town was accessible only by an Indian trail known as Pastoosac Path, which led from southern Berkshire to join the Mohawk Trail in North Adams. It was required of new townships to have 60 settlers within 5 years; the settlers must have built their own houses and cleared, fenced, and cultivated 7 acres of land each. A Protestant minister of Gospel must also make his residency there. The Quakers were among the first settlers in the town in 1762. The first settlers of Adams decided who would own which lot by holding drawings. The Reverend Samuel Todd bought 400 acres in 1765. He came from Connecticut and, as expected, many of his parishioners followed him to Adams and settled there. In 1778, the town divided to become North Adams and Adams.

The town lies in the heart of the Berkshire Hills, to my mind, one of the most beautiful places in the world. Mount Greylock towers above the town and is the highest peak in the State—and in southeastern New England—at an altitude of 3,505 feet Peaceful farms, natural caves, lime formations, brooks, waterfalls, deep ravines, gorges, an abundance of wildlife, ski areas, and the scenic Mohawk Trail all add to the natural beauty and interest of this town and surrounding areas.

The town of Adams is famous as the birthplace of Susan B. Anthony, the courageous advocator of women's suffrage. She was born in 1820 and her house still stands. I think it is particularly important to note that the legislation creating the Susan B. Anthony dollar coin was signed into law this very week as the town of this great American woman's birth celebrates its 200th anniversary. I was pleased to be a cosponsor of the bill that became law this week.

It was from Adams also that George Nixon Briggs came (1796–1861). He served as Governor of Massachusetts and represented the Berkshire District in Congress for six terms.

The sons of Adams have been well represented in every war from the Revolution to Vietnam. The Friends were exempt from early military service, but some volunteered at the Battle of Bennington. Some also took part in Shays' Rebellion, 1788–87, an armed citizen revolt against taxation and depressed economic conditions, but were pardoned afterwards. Memorial Tower, which was erected on Mount Greylock at the 105 mark, pays tribute to the sailors and soldiers of Massachusetts.

Industrial development in Adams began in the early 19th century when William Pollock sold a horse he won in a lottery and bought and operated a mill. Soon sawmills, gristmills, and tanneries flourished. In 1811, the first cotton mill was built in Adams by a joint stock company of 20 citizens of the town. In 1845, the railroad was completed in Adams and this development changed Adams into an early center of American cotton manufacturing and an important area for business. Textiles and paper products remained the center of the town's industry until well into the 20th century. So prominent was this business that in 1890, President McKinley came to lay a cornerstone at the Plunkett Mill.

Today, Adams is home in 11,000 residents. Although its earlier industrial base has been eroded by migration of the textile and paper industries from the Northeast to the South, Adams remains a community of industrious men and women who continue to take pride in their community, its past, and its future.

Yes, the town of Adams has much to be proud of on its 200th anniversary. I am proud, in turn, to represent this fine community in the U.S. Congress. I invite my colleagues to join me in extending a warm "Happy 200th Birthday" to Adams, Mass.●

LEGISLATION TO REQUIRE SEARCH WARRANTS FOR CERTAIN CUSTOMS SERVICE MAIL OPENINGS

HON. RICHARDSON PREYER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. PREYER. Mr. Speaker, I am introducing today H.R. 14328 which would require customs officers to obtain a search warrant before they can open incoming sealed international mail that weighs one ounce or less.

This requirement would implement the recommendation recently approved unanimously by the Government Operations Committee in House Report 95–1681 and based on more than a year of examination of Customs Service mail-opening practices by the Subcommittee on Government Information and Individual Rights, which I chair.

I believe that this warrant procedure will strike an appropriate balance between the interest in protecting privacy of correspondence and permitting Customs to perform its missions.

Customs officers currently can open sealed international letter-class mail entering the Customs territory of the United States without a search warrant if the officer has seasonable cause to suspect the presence of a prohibited or dutiable article in the piece of mail. Customs regulations prohibit the officer from reading any enclosed correspondence without a warrant.

The Supreme Court in 1977, in United States against Ramsey, upheld the warrantless opening process, saying the need to protect the Nation's borders made the warrantless search reasonable under the fourth amendment. The Court said the regulatory prohibition on reading correspondence should protect first amendment speech and privacy interests.

An examination by the subcommittee found, however, that correspondence was improperly read in some instances and referred to other investigators. Customs also had no data on how much mail was being opened or for what reasons.

In response to the committte's earlier recommendations, the Customs Service began keeping detailed mail-opening statistics this year. These figures show that customs officers are opening barely one-fifth as much mail as the 270,000 pieces the Government estimated was annually being opened when it argued the Ramsey case before the Supreme Court. Openers are finding improper contents in about 60 percent of the openings, compared with about 17 percent stated in the estimates given the Court. In another response to the committee's recommendations, the Postal Service is now observing all mail openings by customs officers.

Despite these improvements, however, the committee concluded that a warrant requirement for lightweight mail would better protect first amendment interests without imposing an onerous administrative burden on the Customs Service. Letters weighing 1 ounce or less would be presumed to contain only correspondence. They could be opened only if the customs officer obtained a search warrant based upon a showing of probable cause to believe the letter contains something other than correspondence. The committee reasoned that heavier mail articles can more easily conceal contraband or dutiable merchandise, hence should continue to be subject to opening without a warrant.

In addition to requiring the warrant for lightweight mail, the bill would also elevate from regulation to statute the prohibition on reading any correspondence in sealed mail of any weight without a search warrant.

By introducing the bill at this time, we hope to set the stage for early consideration and passage in the next Congress. Members who would like to join in cosponsoring this bill when it is reintroduced in January should contact the staff of the Government Information and Individual Rights Subcommittee.

I also wish, without objection, to insert into the RECORD at this point documents concerning two of the administrative actions which have been taken in response to the committee's earlier report on Customs Service mail-opening, House Report 95–794. The first is an agreement between the Postal Service and Customs Service providing for postal observation of mail-opening by Customs. The second is Postal Service procedures implementing that agreement. The third is a Defense Department decision to stop specially referring certain suspected mail items to the Customs Service.

The documents follow:

AGREEMENT

Since existing administrative procedures for the customs clearance of sealed letter class mail entering the Customs Territory of the United States include two rules particularly designed to safeguard the privacy of correspondence, namely, that (1) no such mail shall be opened by the Customs Service if it appears to contain only correspondence and, (2) no Customs officer or employee shall read any correspondence found inside such mail, or allow anyone to do so, except under a search warrant authorized by law; and public confidence that these procedures are being followed may be enhanced by providing for the independent observation of customs sealed letter class mail opening and examination by a responsible postal employee;

therefore, the United States Postal and Customs Services agree through their undersigned representatives as follows:

I. The Place That Sealed Letter Class Mail May Be Opened And Its Contents Examined.—No sealed letter class mail item may be opened, nor may its contents be examined, except in a facility jointly designated by the Postal and Customs Services for that purpose. Nothing in this section shall be construed to preclude either the lawful seizure of any sealed letter class mail item or some or all of the contents thereof (with or without a search and seizure warrant, as provided by law), or the lawful removal from the designated facility of such an item or its contents, or its opening, examination, treatment and disposition in accordance with law, after it has been lawfully seized.

II. Observation Of Opening.—No officer or employee of the Customs Service shall open sealed letter class mail addressed for delivery within the Customs Territory of the United States, which originated outside of it, unless a responsible postal employee is present to observe the opening. The Postal Service, upon receiving notice from the Customs Service that sealed letter class mail is to be opened, shall make a responsible postal employee available to observe such openings without undue delay.

III. Examination Procedure.—After sealed letter class mail has been opened no officer or employee of the Customs Service shall examine the contents of sealed letter class mail, unless a responsible postal employee is present to observe the examination, or measures are taken to prevent the contents of the mail item which appear to be correspondence from being exposed to view.

IV. Definitions.—For the purposes of this agreement:

A. The Customs Territory of the United States consists of the 50 States, the District of Columbia, and Puerto Rico.

B. A responsible postal employee is the employee designated by the Postal Service to observe the opening of sealed letter class mail, and the examination of its contents, and to report any failures to follow the proper procedures with respect to such openings and examinations.

V. Joint Implementing Regulations.—The Postal and Customs Services with each other's consent shall issue, amend, and maintain in effect any regulations necessary to implement this agreement.

VI. Delegations Authorized.—Either the Postal Service or the Customs Service may delegate any of the responsibilities vested in itself by this agreement to any of its subordinate officials, including the heads of different field units, so long as each delegation shall be in writing and reasonably available to inspection by the personnel of the other agency for official purposes upon request.

VII. Relationship of Agreement to Existing Regulations, Agreements, and Procedures.—This agreement is intended to supplement and be generally consistent with existing regulations, agreements, and administrative procedures. No action or inaction is authorized by this agreement's failure to prohibit such action or inaction specifically. No action or inaction is prohibited by reason of this agreement's failure to provide specifically for it.

VIII. Field Office Procedures.—Field customs and postal installations may agree to any details of administration (such as the joint designation of the hours in which mail may be opened and examined in the presence of a responsible postal employee) which are not otherwise provided for, not inconsistent with this agreement, and not inconsistent with the requirements of any applicable laws or regulations.

IX. Effective Dates.—This agreement shall become effeotive immediately after its execution by an authorized representative of each agency. The procedures required by this agreement shall be initiated as soon as practicable on such date or dates as may thereafter be jointly agreed.

For the U.S. Postal Service:

W. F. BALGER,
Postmaster General.

March 21, 1978.

For the U.S. Customs Service:

R. E. CHASEN,
Commissioner of Customs.

March 22, 1978.

U.S. POSTAL SERVICE,
Washington, D.C., April 25, 1978.

Subject: Postal Procedures to Implement Agreement between U.S. Customs and U.S. Postal Service.

To: Regional Postmasters General—Northeast Region, Eastern Region, Central Region, Southern Region, and Western Region.

On March 21 and 22, 1978, an agreement was signed by Mr. Chasen, Commissioner of Customs, and Mr. Bolger, Postmaster General, for postal representatives to observe the opening of sealed letter-class mail and to safeguard the privacy of correspondence. Attached is a copy of that agreement. (Attachment No. 1)

Under this agreement, the U.S. Customs is required to advise the U.S. Postal Service whenever it intends to open sealed letter-class mail. The U.S. Postal Service is required to furnish a responsible postal supervisor to observe the opening of sealed letter-class mail. Attached is a list of those offices where Customs indicates it intends to open sealed letter-class mail. The complete list of offices must not be distributed. Each office will be individually advised. (Attachment No. 2)

It is suggested that, at most points where examinations will take place, a supervisor from each tour be designated as the responsible postal employee. Each Postmaster in the city on the attached list will furnish to the Postal District Manager, your General Manager, Logistics Division, and local Customs Mail Managers the name, title and duty hours of each employee and alternate designated to be the responsible postal employee. Postmasters must furnish to all concerned any changes in the list of employees immediately as they occur.

The General Manager of each Regional Logistics Division must assure that each designated employee understands the requirements of this agreement.

The Postal regulations on all aspects of Customs clearance of mail are in Postal Service Manual 115, as published in the Federal Register on April 5, 1978 (Attachment No. 3) and USPS Publication 42, International Mail, Part 820 (Attachment No. 4). Note especially PSM 115.91 and the exemptions from Customs clearance in Publication 42, Section 821.1 a, b and c. Customs regulations on mail clearance are in Part 145 of the Customs Regulations 19 C.F.R. 145 (1977), as amended in the Federal Register on April 6, 1978 (Attachment No. 5). Note especially 145.0 through 145.3, as amended. We anticipate that certain revisions of Part 820 of Publication 42 will be issued shortly.

Postal supervisors responsible for observing Customs mail procedures shall specifically observe whether each of the following four requirements is satisfied before a sealed letterclass mail is opened without a search warrant.

1. The item originated outside the Customs Territory of the United States (abbreviated "CTUS" and defined as the 50 states, the District of Columbia and Puerto Rico).

2. The item is addressed for delivery within the CTUS.

3. The item is excluded from each of the three categories of diplomatic and governmental mail listed in Publication 42 (Sec. 821.1 a, b and c) as exempt from Customs clearance.

4. The item appears to contain something other than correspondence and that the Customs officer records his reason for opening and has not read the correspondence.

After sealed letter-class mail is opened without warrant or consent, the supervisor shall specifically observe whether the following four requirements are observed.

1. The inspection of the contents without a warrant is confined to articles other than any contents appearing to be correspondence.

2. Inspection or seizure of any contents appearing to be correspondence is authorized by a valid search warrant.

3. If Customs inspection of the contents of the item is not completed by the end of the observation period, measures are to be taken to prevent any contents which appear to be correspondence from being exposed to view. If the Customs examination of a letter-class item cannot be completed due to insufficient time or other reasons, the item will be re-enclosed in an envelope, sealed, initialed or signed by the USPS and Customs officials and secured until the process can be completed.

4. If the item is not selected for a controlled delivery, the item is stamped with the appropriate Customs endorsements, including the opener's badge number or other identification, the coded reason or reasons for the opening and the Postal witness' initials.

Irregularities noted by the supervisor will promptly be brought to the attention of an appropriate Customs supervisor. A memorandum report of the irregularity, to include the result of discussions with the Customs supervisor, will be prepared and forwarded to the Postmaster who will, in turn, furnish a copy to the Inspector in Charge; General Manager, Logistics Division' Director, Office of Transportation Services, USPS Headquarters; and Customs Service Headquarters, 1301 Constitution Avenue, Washington, D.C. 20229.

Normal Customs hours of operation are similar to Postal Service operations and, therefore, should not cause any major problems.

Any sealed letter-class mail will be furnished to Customs upon the request of the local Customs official. Letter-class mail may include items up to four pounds from all foreign administrations except Canada, where sealed letter-class mail is up to sixty pounds. None of the above mail can be open without the local responsible postal supervisor in attendance. Green label mail openings do not have to be observed because green label mail is not considered to be sealed letter-class mail under this agreement.

It is not the intention of these instructions to change in anyway the rules and handling of registered mail or parcel post mail entering the Customs Territory of the United States.

The implementation date of these new procedures will be June 1, 1978.

E. V. DORSEY,
Senior Assistant Postmaster General Operations.

MARCH 13, 1978.

Mr. JOHN B. O'LOUGHLIN,
Director, Duty Assessment Division, U.S. Customs Service, Washington, D.C.

DEAR MR. O'LOUGHLIN: In your December 22, 1977 letter regarding termination of the suspect letter class mail program, you stated that the program had not been particularly effective and that you had no objection to the military terminating the program. Subsequent to this letter, the Military Postal Services, the Military Investigative Services, and the Defense Investigative Program Office were contacted to determine the benefits of the program to DOD. It was unanimously agreed

to that the value of the program to DOD was minimal and did not merit continuation. This resulted in a decision to terminate the program of letter class mail referral.

This decision was informally presented to staff members of the House Government Information and Individual Rights Subcommittee, Committee on Government Operations, and was favorably received.

After receipt of your February 13, 1978 letter requesting continuation of the program for Europe only, another review of the justification presented was undertaken. In view of the low number of referrals from Europe and the small number of seizures resulting, DOD remains of the opinion that the continuation of the program is not beneficial to DOD. Continuation of the program for Europe only would, in effect, be discriminatory to personnel assigned to that theater of operations. The inspection of letter class mail by U.S. Customs Service personnel and sniffer dogs in CONUS, could provide just as effective a system for intercepting contraband.

It is DOD's intention to notify military postal activities, worldwide, that effective 30 April 1978, the military suspect letter class referral program is terminated. DOD Regulation 5030.49R will be changed to read in paragraph 6003c: "All outgoing letter class mail evidencing drug/narcotic contents is subject to surveillance in compliance with regulations of the respective military services."

Should the U.S. Customs Service determine that military letter class mail later becomes a route of introduction of commercial quantities of contraband or a serious threat to prevention of the introduction of narcotics to the customs territory of the United States, and supportive evidence is presented, discussions with DOD, USPS, and USCS should be initiated by your office to determine the most effective means of countering such activity.

Sincerely,

NATHANIEL R. THOMPSON, Jr.,
Brigadier General, GS, Director of Transportation, Energy and Troop Support.

CARL KARCHER, AN AMERICAN SUCCESS STORY

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. PATTERSON of California. Mr. Speaker, on November 9 the Orange County chapter of the National Conference of Christians and Jews will honor Mr. Carl Karcher, of Anaheim, Calif., as "Humanitarian of the Year."

Mr. Karcher, who is a strong believer in the American free enterprise system, owns one of the largest, privately-owned fast food chain of restaurants in the United States. His patriotism and dedication to our American ideals are impeccable.

His success in the business world symbolizes the American dream. Mr. Karcher ended his formal education in the eighth grade. He left Ohio in 1937 and moved to Anaheim, Calif., where he worked in his uncle's feed store.

He launched his business enterprises in 1941, when he borrowed $300 to buy a hot dog stand in downtown Los Angeles. From this humble beginning grew Carl Karcher Enterprise, which include Carl's Restaurants and Taco de Carlos.

Mr. Karcher is very active in California politics and has appeared in Who's Who in American Politics. He has also been knighted into the Order of Malta, the highest honor a law person can attain within the Roman Catholic Church.

I know my colleagues join me in honoring Mr. Karcher for his patriotism and dedication to the American way-of-life. His success in American business serves as a reminder that in America opportunity for a better life is truly a reality.●

NITRITES CONTROVERSY

HON. MICHAEL T. BLOUIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. BLOUIN. Mr. Speaker, I recently had the opportunity to present my views before the House Agriculture's Subcommittee on Dairy and Poultry concerning the nitrite controversy. Given that, this is a subject of great concern to the people of my home State of Iowa, as well as the people of this country, I would like to insert in the RECORD at this time my remarks on this matter for the House's consideration.

The testimony follows:

Mr. Chairman, I realize that it is often fashionable to seek out "band wagon" issues. The matter I want to bring to committees' attention, however, is a very serious one and could result in a disastrous state of affairs, economically speaking, for my home State of Iowa if agencies of the Federal Government make any hasty determinations as it relates to the use of nitrites.

I do not believe that there is one person in this country who is not genuinely interested in the physical well-being of their fellow man. Nitrites are not a "convenience," but rather a "necessity" in the fight against botulism.

As most of the members of this Committee are aware, I have the honor of representing a state whose economy is dependent upon pork production. The question we address today, however, is not one of who we represent, but rather how can we find a reasonable and common sense solution to protect the physical and economic health of this country.

In an attempt to address this problem before any arbitrary action is taken on this matter, I recently joined with Congressman Wampler and Mathis in co-sponsoring legislation that effectively prohibits the HEW and USDA from banning or phasing out nitrites unless certain requirements are met.

Both bills would require that it be proven beyond a reasonable doubt that nitrites as a food preservative have a significant carcinogenic effect on humans. Second, the bills require that there be a commercially available substitute before there is a ban, but most importantly that such a substitute is as effective in preventing botulism. Finally, the bills require that any "substitute" be economically affordable for both producers as well as consumers.

Most reasonable people agree that banning nitrites in meats will not eliminate these chemicals from the digestive tracts of individuals. I do believe, however, that it is important that the Congress enact legislation of this type to assure that reasonable guidelines will be followed in dealing with this matter. It is my belief that these bills represent a modest approach in dealing with this issue and I strongly urge that they be given the speediest of consideration.●

THE IRS ATTACK ON THE INDEPENDENT SCHOOLS—NONGOVERNMENT SCHOOLS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. McDONALD. Mr. Speaker, the Internal Revenue Service has recently proposed that new regulations require that private or independent schools claiming tax-exempt status, arising out of being church operated, must affirmatively demonstrate that it is not guilty of any form of racial discrimination. In other words, the school is guilty unless it can prove it is innocent. The whole approach of the IRS is a very thinly veiled attempt to secure control of some private and independent schools via the back door method of IRS regulation. Dr. Gary North has recently written a very lucid article on this controversy, which appeared in the Temple Times, the weekly voice of Calvary Temple in East Point, Ga., on October 8, 1978. The article follows:

THE I.R.S. ATTACK ON THE INDEPENDENT SCHOOLS

(By Gary North)

We are beseiged with so many crises these days that one more crisis is hardly newsworthy, even in the crisis newsletter markets. It seems that every week brings us another major disruption of the American system. We seem to be losing a battle every time we turn around.

Over the past decade, however, there is one area where those of us who are fearful of the constantly expanding messianic State have made some important gains. This is in the area of education below the college level. The independent day-school movement has been giving fits to the public schools, the same way U.P.S. has been giving fits to the Postal Service, and for many of the same reasons. Any monopoly that is several generations old is an easy mark for innovators. Nowhere is this more true than in the field of education. And an innovator here is very often someone who is assigning students readings from the century-old McGuffey Readers.

Simultaneously, the disintegration of the public schools has called attention to the need for alternative schools. This disintegration is so widespread that long-time political liberals are aware of its effects. A neglected government publication in 1975 was the Preliminary Report of the Subcommittee to Investigate Juvenile Delinquency, which was titled (incredibly), Our Nation's Schools—A Report Card: "A" in School Violence and Vandalism. Even more incredible than its incendiary title is the fact that this Senate Judiciary Subcommittee was chaired by Sen. Birch Bayh.

How bad are the public schools? Here are a few statistics from the report, based on data from 1970 and 1973:

Homocides increased 18.5%

Rapes and attempted rapes increased by 40.1%

Robberies increased by 36.7%

Assaults on students increased by 85.3%

Assaults on teachers increased by 77.4%

Drug and alcohol offenses on school property increased by 37.5%

This was not confined to any single geographical region; crimes were up everywhere. Some areas had their specialties. Robberies in the West increased by 98.3% The South's specialty is student assaults on other students: up 276.9%. In the North-Central region, drug violations were up 97.4%, and

rapes were up 60%. In the Northeast, the increases were usually below the national level. The reason is clear: the disintegration in the Northeast began a generation ago; they had a lot larger base of crime and assaults to build from. In other words, it is the white, suburban, middle-class high school that has exploded upward in the grim statistics. Busing has helped, but the philosophical disintegration is the basic cause. (If you want a free copy of the committee report, a few may still be available. If not, the bulk of the report has been reprinted in the scholarly journal I edit, The Journal of Christian Reconstruction. You can buy a copy of the "Education" issue for $4.00 from Chalcedon, P.O. Box 158, Vallecito, Ca. 95251.)

Meanwhile, the scores on the national college entrance exams have fallen each year for thirteen consecutive years. What about costs? The figures are supplied by Frank Armbruster's masterful (and ridiculed) study, *Our Children's Crippled Future: How American Education Has Failed* (New York Times-Quadrangle, 1977). In 1950, the total spent by all levels of government on primary and secondary education was $6.7 billion. Total expenditures by 1974 had risen to $61.6 billion. Most of this increase came after 1960, when the decline of the schools began to set in. Yet the school population increased from 28.6 million in 1950 to 49.7 million. The cost per pupil, *when adjusted for price inflation,* rose 141% more than the general price level in these years.

The crisis of American public education is only just beginning. The bad years lie ahead. The teachers who will be coming into the school systems next year, 1979–1980, are those who started first grade in 1963–64—the year academic decline became noticeable in the high school college entrance scores, the beginning of the curricula upheavals of the mid-1960's. The products of the disaster are now coming on stream. The best hope we have for public education is that they will not be able to find jobs teaching. Of course, this means very little; the graduates of 1970, who spent their college years in the campus turmoil, have been teaching in the public schools for the whole decade. You wonder why Bayh's committee found signs of total disaster?

THE INDEPENDENCE SCHOOLS

The [true] Christian schools were not established to escape integration. Most of the successful ones were established in communities in the North, West, and Midwest where the public schools were legally integrated. They were not built in the inner city; they were built in white suburbs, and long before busing was a major threat to local school stability. These schools were begun to challenge the monopoly of tax-supported socialist education, not to escape blacks. These schools are based on an honest to God hatred of the public schools, not a hatred of blacks. Let me assure you, the administrators of the government schools know towards whom the hate is directed. They are pulling the same familiar tactic that white politicians in the South after 1875 used so successfully: use the Negro as an excuse for every corrupt bargain possible. The public school administrators resent the very successful academic challenge of the independent schools, so they are trying to pin the charge of racism on their enemies. The southern politicians wanted to "outsegregate" moderate politicians, and the modern politicians wanted to "out-integrate" the private schools, who constitute a real threat to the system. In the old days, politicians "worried" *about* Negroes; these days they "worry" *for* Negroes; and the only thing that stays constant is the third-rate education that government schools provide *to* Negroes. The *real issue,* then as now, is *the preservation of monopoly power.*

The Christian schools are religious in character. They are based on the premise that education is always the product of a world-and-life perspective, and that to subsidize "neutralism" is to subsidize a rival religion. The Christian schools that are seriously independent—and the strictly parochial schools of the past were not always consistent on this matter—want no government tax dollars, no government school textbooks, no government interference, no government licensing, no government anything. They are religious in the broad sense of the term: they want no subsidies for their religion, and none for anyone else's. They see the public schools in the same way that independent churches saw the State-supported churches 200 years ago: an infringement on religious freedom. The established churches of both eras resented this criticism of their tax-supported position. Priesthoods like your tax dollars. They would like a monopoly even more. And a monopoly with compulsory attendance: that would be heaven on earth.

FOR THE PRIESTS

Now that monopoly is being seriously challenged. Furthermore, those who have attended schools without major discipline or vandalism problems, schools supported by parents, schools that assign homework, schools that cannot afford frills, schools that concentrate on basic education, schools that are openly committed to a specific philosophical perspective, schools that encourage student competition, are usually far better prepared academically than children in the same grades in the government schools. Surprise, surprise: free enterprise is more efficient than government monopolies. Isn't that amazing?

What this indicates is that a real revolution is in the making. A new generation of several million students is being created. These students share a basic philosophical perspective—one which usually is hostile to expanded State power. They are better trained than the average student in the government schools They will be more willing to take their children out of the government schools later on in life. They tend to have larger families than government-trained students. (Genesis teaches men and women to be fruitful and multiply.) This generation is also quite willing to vote no on school bond issues. They are, in a real sense, a corrupting influence, as far as the public school administrators are concerned. If the independent school movement continues to grow for the next ten years as it has in the past dozen years, the leadership of the future could be significantly altered. Those secular humanistic priests who are now using our tax-collected revenues to maintain their stranglehold on American thought are scared. They have a right to be. This is probably the most important area of conservative successes in the country. It is the fight of our time. Will there be freedom for those not sharing prevailing government views to educate their children in terms of a totally different political and economic philosophy? Will the established priests stay established?

THE COUNTERATTACK

The bureaucrats are really frightened. They are taking Christian parents to court in state after state to get them to take their children out of unlicensed schools. They are jailing parents, pastors, and school administrators. I am not exaggerating. They are taking children out of homes and putting them in foster homes. They are taking schools to court daily. The Christian Law Association, which is headed by the lawyer who got the Amish their freedom from public education in the early 1970's, is being flooded with requests for legal defense. Almost one request per day comes in. Their success in beating the state so successfully in the Ohio case last year has led other states (like North Carolina) to crack down fast, hard. Anyone doubting the nature of the war against parents who send their children to Christian schools should send in five or ten dollars as non-tax deductible gift and ask for a copy or two of the CLA Defender, the magazine chronicling these horror stories. Write to: CLA Defender, P.O. Box 30290, Cleveland, Ohio 44130. Another organization that is in the forefront of this independent school movement is the Christian Schools of Ohio. The director, Alan Grover, has written the story of the Ohio case, which is a landmark decision against the regulatory powers of a state school department, Ohio's Trojan Horse. You can order a copy for $5 from Christian Schools of Ohio, 6929 W. 130th Street, Suite 600, Cleveland, Ohio 44130.

A fight is beginning that will help to determine the future of freedom of speech in the nation. The issue is nothing less than this. If one group of people can capture a monopolistic agency, compel all children to attend it, write its textbooks, indoctrinate the victims for a dozen years, minimum, and then send them out at age 18 to vote, where do you think we are headed? Hayek, in The Road to Serfdom (1944), inserted a chapter, "Why the Worst Get on Top." If the stakes are high enough, and the power is centralized enough, it will be worth capturing. The most ruthless men will strive to capture that power. The generation of public school textbooks over the last two generations, but especially since 1964, is testimony of the reality of Hayek's principle.

THE I.R.S. STRIKES

On August 22, 1978, the Federal Register published a frightening document [4830–01]. The Commissioner of the I.R.S. has announced that schools, including church-operated schools, that started operations about the time of school integrating (meaning after 1957, but especially after 1960), will, as of the end of October, be automatically assumed to be racially discriminatory, at which time their tax-exempt status will be removed. Guilty until proven innocent has always been the legal status of those challenged by the I.R.S., the courts have determined. (Did you know this?) Now the schools are under the auspices of the I.R.S., and they are guilty until proven innocent. Schools will be able to appeal this removal of their tax-exempt status in October by proving:

1. That they are hiring racial minority teachers.
2. That they are actively recruiting minority students.
3. That they have established scholarships for racial minorities.
4. That they are increasing the proportion of racial minority students.
5. That they now have his percentage of minority students: 20 percent of the percentage of minority students in the school ages in that community.

They are now doing to private schools what the boys at HEW are doing to every private college and university in the country: integrate, by percentage numbers. Pay for their educations, now. Recruit them, now. Pay taxes to the public schools, pay tuition at the school, make donations to the church or school in addition, and now, to make certain you conform to the new rules, pay for minority students to come and fill the percentage slots.

They are trying to bankrupt the schools. The war is being waged at every level, from every side. It is a war against those who deny the sovereignty of the messianic State. It is a campaign of harassment. How many of these schools were established, outside of the South (and even inside the South), in order to escape blacks as blacks? (To escape blacks as products of secular humanism, welfare, and the rhetoric of Stokely Carmichael, I will admit my guilt. I'd run just as fast to get away from Abbie Hoffman, Tom Hayden, and the old Jerry Rubin, too.) Most of these schools have a few black students, but not many black parents have

understood the threat to their future as schools pose to them. There are exceptions, like the remarkable mother of Texas Representative Clay Smothers, who started a private school for black students. I would rather have my kids in her school than in a government school. But the fierce independence of a woman like that, or the conservatism of her son, is a very rare commodity in any community. It costs in dedication, money, time, and sweat far more than most people are willing to pay. And if the bureaucracy gets its way, Mrs. Smothers' school will probably be shut down, since their enrollment does not include enough Mexican-Americans, or whites, or Jews, or South Moluccans.

Lyndon Johnson once drew a lot of applause for telling the following story. He said he was talking with a southern Congressman, and the man told him how sad it was that a fellow couldn't give "an old-fashioned Democratic speech" back home any more. He couldn't talk about the old issues of economics and the plight of the little man. No, if you went back home, the politics of the day compelled you to give the same speech over and over: "Nigra, nigra, nigra." So said Sam Rayburn.

Well, that was a good line back in 1964, and Johnson got a five-minute ovation from the Democratic liberals. I have news for them: it's still the popular litany today, only the HEW bureaucrats and the I.R.S. bureaucrats are the ones chanting it. Today, as in 1937, it has little to do with Negroes, and everything to do with men's political power. If you doubt my analysis, consider the Bakke case. It didn't hit the front pages because of Mr. Bakke, whose charisma is something less than that of Calvin Coolidge. The issue is this: who controls the schools?

It's a phony issue. The ultimate issues are far, far deeper. They are issues of the First Amendment. Will one man's religion be subsidized by other people's tax dollars (the religion of secular humanism) at the same time that another man's religion is not even allowed tax exemption, let alone access to the public treasury? Will alternatives to the government monopoly of education be permitted? Will other textbooks than state-approved ones be allowed in schools throughout the nation? Will every parent be compelled to finance the destruction of his children's values—the values he tried to give them before the State took the children away?

Some of you worry a lot about taxes. Yet you don't worry about what is happening in the public schools. You have tried to reduce your tax burden, but you have allowed the messianic State to take your children into its indoctrination centers for a minimum of twelve years, or in some cases for lots longer (though the later years were not compulsory). We live in an era in which men grumble about 25 percent tax brackets—those who have only recently been forced into them by inflation—and never give a thought to the confiscation of their children. The State has stolen men's children and they have remained quiet. And will they protest when the same State takes their money? Are children worth less to us than money?

If the drift into socialism continues, do you think it would be a good idea to have alternate schools, teaching totally different curricula, financed by parents or other voluntary organizations, so that your grandchildren will have a better place to learn than the compulsory, monopolistic, tax-supported government schools? If you think it's a good idea, you're running out of time. I am not exaggerating. We are literally at the crossroads. This month.

Please, for the sake of the First Amendment, write a letter, no matter how short, and make six photocopies (as required), protesting this massive infringement on freedom of speech and religion. You athiests, Jews, anarchists Mormons, Baptists, Roman Catholics, buddhists, and worshippers of anything except the State, write a letter. You're next. Don't sit around tossing your neighbor to the alligators, on the assumption that he will be satisfied. That alligator is hungry. You're next.

There are only a few days remaining. All letters of protest (6 copies) should be addressed to: Jerome Kurtz, Commissioner of Internal Revenue, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Be polite. Be firm. Just let them know that there are people out there, of many faiths, of many perspectives, who resent the fact that a basic Constitutional rights is being threatened. This is a First Amendment issue, not a tax issue, not a race issue, and certainly not a neutral issue. If you have to put it on lined paper, do it. If you have to write it in crayon, do it. But please stand up and be counted on this one. If the I.R.S. succeeds in bankrupting these little schools before there are enough of them to warrant numerous competing curricula, then we have speeded up the timetable on the march into socialism.

If you can get a few other people to follow through on this project, it will really help. I am, therefore, suspending my copyright privileges for this issue. Xerox all you want. Take them to your pastor. If he can't get enthusiastic over this topic, you might try locating a new church. If they shut down tax-exempt church schools on the basis of racial discrimination, how do you think the churches are likely to fare? Or the synagogues? (Where are your Puerto Ricans, Rabbi Stein?)

It can't happen here, right? Not to our churches. Sure, the bureaucrats can require busing, even in Los Angeles, where white students will be driven for up to an hour and fifteen minutes to ship them into ghetto schools. After all, schools are tax supported. And private schools have tax exemption; the exemption is really a kind of subsidy, since the treasuries aren't getting any money from them. Yes, even church-oriented schools are getting a subsidy, since they also have tax exemption. I guess the logic holds up. But churches are completely different. The State can assign racial quotas to churches just because they're tax exempt. Right?

It is always amazing to me how the "alligator" mentality dominates people. They won't get me. You, maybe; I can understand sacrificing you. But not me. I'm immune. I'm part of the American tradition. I'm a *little* guy.

Tell it to Solzhenitsyn.

This incredible I.R.S. persecution has been kept very quiet. Christian school administrators are absolutely unaware of it. There is no mobilized campaign. I am asking you to join an effort which will probably lose until the courts overturn it, if ever. All I'm asking is that you go down fighting on this one. If they close our independent schools, and you have done nothing, then you are, in some small degree, responsible. Write your letter, now. It needn't be eloquent. It needn't even be typed, although that would help. All it needs is five copies and the original. (Bureaucrats, after all, are bureaucrats.) ●

MANDATORY DEPOSIT LEGISLATION: WHY IS THE TIME NEVER RIGHT?

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. DRINAN. Mr. Speaker, as this Congress draws to a close, I note with great disappointment that we have again failed to enact mandatory beverage container deposit legislation. There is no question that enactment of such legislation would save significant amounts of energy and raw materials. But for too long we have allowed a powerful special interest to block consideration of this valuable legislation which would contribute significantly to the goal of making our Nation more efficient in its use of energy and natural resources.

While opponents of this measure warn that its enactment would be unpopular, ineffective, and result in increased costs and lost jobs, the experience of the States which have adopted mandatory deposit legislation has been uniformly positive. In Oregon, which enacted its deposit law in 1972, public opinion polls document that 91 percent of the people are pleased with it, and studies reveal that 90 percent of the bottles and 80 percent of the cans are being returned. No price increase has been attributed to the deposit law, and after the first 2 years of the law roadside litter was down 42 percent on a volume basis, and beverage container litter was down 83 percent. Oregon's law is not only saving money and resources—including 1.4 trillion Btu's annually—it has also created a net gain of 365 jobs, according to a study prepared at Oregon State University.

There is less data available on the experience of the other States, which have adopted deposit legislation more recently, but there is no doubt that both Vermont and Maine are pleased with their laws. Their experience mirrors that of Oregon: less waste, lower costs, decreased energy use, and increased jobs. Michigan, Connecticut, and Iowa have recently adopted legislation of this kind, which is further confirmation that the American people have confidence in the validity of the Oregon, Vermont, and Maine experience and in the value of deposit legislation.

The time has clearly come to adopt a national deposit bill. Such action would aid the industry by creating a single uniform deposit standard, but more importantly a national bill would greatly reduce litter, and save significant amounts of energy, resources, and money, while providing a net increase in jobs.

In January of this year the Federal Interagency Resource Conservation Committee (RCC), which includes representatives of the Energy, Labor, Commerce, Interior, and Treasury Departments, as well as the Environmental Protection Agency and other government agencies, released a comprehensive study concerning national deposit legislation. While a recommendation for or against a national deposit bill will not be issued until March 1979, this preliminary study concluded:

> The imposition of mandatory deposits is an effective means for reducing litter associated with beverage containers.

It also includes the best available estimates on the probable impact of the enactment of national mandatory beverage deposit legislation.

According to the RCC, enactment of a national deposit law would yield energy savings of at least 70 trillion and quite possibly as much as 130 trillion Btu's

annually, the equivalent of between 12 and 23 million barrels of oil per year. Such an energy saving, for example, is roughly twice as large as the amount of energy that will be saved by the solar tax credits approved by the House.

The RCC also estimates that enactment of this legislation would allow the United States to significantly reduce our imports of bauxite and iron ore. This is particularly important because the United States spends more to import bauxite than any other non-fuel mineral, and it is the only non-fuel mineral believed to be subject to control by an OPEC-like cartel.

The total amount of litter by piece count in the United States would drop 20 percent, and the volume of litter would decrease 40 percent, according to the RCC. In addition to the tremendous esthetic benefit this represents, the Government would save about $200 million annually due to the reduced need for litter removal. The experience of Vermont is illustrative in this regard: it reduced its clean-up expenditures by 76 percent.

Further, deposit legislation would reduce the amount of solid waste generated annually by 4 percent, and would reduce the beverage industry's pollution of the air and water by 50 percent.

Prices would also be reduced by a deposit bill. The industry would save at least $656 million and perhaps as much as $1.7 billion in packaging costs which, if passed on to consumers, would reduce the price of a 12 ounce serving by $0.006 to $0.015.

Finally, the RCC estimates that a net increase of 54,000 jobs would be generated by enactment of legislation of this sort. While there might be job losses in the glass and can manufacturing sectors, there would be increases in the distribution and retail sectors. These jobs would be well suited for the large number of unemployed, unskilled young people that are so badly in need of work. New openings might also occur for skilled workers in the machinery manufacturing industry, inasmuch as there would be increased demand for beverage container processing, washing, and recycling equipment. It should be emphasized that virtually every private and government study conducted on this subject supports the conclusion of the RCC: that there would be a substantial net increase in jobs. The experience of Oregon and Vermont lends further credence to this conclusion.

Even members of the beverage industry are finally beginning to acknowledge that deposit legislation would be good for the country and harmless to them. Coors and Falstaff, two of the Nation's major brewers, and Shasta, a major soft drink company, support mandatory deposit, as do a number of trade associations and scores of smaller bottlers and distributors. Even Alcoa, for years a principal and vigorous opponent of deposit legislation, has dropped its opposition. Equally significant is Pepsico's recent admission to the Securities and Exchange Commission:

Pepsico believes that it will be able to earn an adequate return on the investment which might be required by it as a result of restrictive container legislation and does not anticipate a material adverse impact on the sales or profits of its soft drink business if such legislation is adopted.

Clearly, deposit legislation would not be a mortal blow to the Nation's beverage industry.

Mr. Speaker, numerous studies and actual experience indicate that tremendous savings of energy, materials, and cost would be achieved by enactment of mandatory beverage deposit legislation, while jobs would be created. Public opinion polls consistently show that well over 70 percent of the American people favor the adoption of such legislation. But despite a wealth of supporting evidence and overwhelming public support, a small but powerful special interest has managed to discourage the Congress from seriously considering this matter.

Mandatory beverage deposit legislation will be reintroduced early in the 96th Congress. At that time I hope my colleagues will stand firm against the "throwaway" mentality that has come to permeate our society. I hope my colleagues will resist the special interests and demonstrate their commitment to conservation and the environment by rapidly enacting this valuable legislation.●

STEUBEN SOCIETY OF AMERICA RESOLVES THAT ANDREW YOUNG MUST GO

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. McDONALD. Mr. Speaker, the National Convention of the Steuben Society of America adopted a resolution calling for the ouster of Ambassador Andrew Young at its convention in Cleveland, Ohio on August 24–27, 1978. The resolution says things about previous American Ambassadors to the United Nations, whose work did not impress me, but certainly they were better in the position than the present incumbent. I commend the text of the resolution to the attention of my colleagues:

RESOLUTION ADOPTED DURING THE NATIONAL CONVENTION OF THIS SOCIETY, CLEVELAND, OHIO, AUGUST 24–27, 1978

Whereas, Andrew Young was appointed by the present administration to represent the general opinion and feeling of people throughout our country as it reflects in their attitude towards others throughout the world, and

Whereas, Andrew Young has not accurately reflected the attitude of this nation, and

Whereas, he has confined his somewhat biased and contradictory views almost entirely to the continent of Africa, and

Whereas, Andrew Young appears to have insufficient knowledge or interest in other foreign policy matters, and

Whereas, outstanding men of high caliber and fine background served in the past in the position of U.S. Ambassador to the United Nations, such as Warren Austin, Henry Cabot Lodge and Adlai Stevenson,

Be it resolved, therefore, that the Steuben Society of America, a patriotic organization of U.S. citizens of German descent, assembled in National Convention here, feels today that the time is long overdue for the present Ambassador to the United Nations to step down, or be replaced by an individual of the highest caliber who would truly represent this nation.●

S. 1816—A PROGRAM WHOSE TIME HAS COME AGAIN

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BROWN of California. Mr. Speaker, I applaud yesterday's action by the House in passing S. 1816 as amended, the Native Latex Commercialization Act of 1978. A good deal of work has gone into this version of the bill and I believe that it is a good compromise between the original House and Senate versions which differed substantially.

I think it is particularly important that the Congress act at this time. The Department of Agriculture has long been urged by myself and others to undertake agricultural research aimed at improving the yields of the guayule plant. But to the regret of many who long ago foresaw the potential for the development of a domestic natural rubber industry based on this plant, the Department has been extremely slow in taking the initiative. Authority was specifically given to the Department in title XIV of the farm bill 2 years ago, but there has been only the most limited response.

This bill would direct the Department to enter the field in a substantial way. I hope that as soon as the President signs it into law a concerted effort will be made by Secretary Bergland, for whom I have only the highest respect, to get the plans and programs for this effort going at full speed ahead.

The bill establishes a Joint Commission on Guayule Research and Demonstration. This Joint Commission is included in the bill as part of the proposed compromise between the House and Senate versions. It would provide a bridge between the two departments, Agriculture and Commerce, who were to have charge of the guayule program under the House and Senate bills respectively. The bill specifically authorizes both the Secretary of Agriculture and the Secretary of Commerce to delegate to the Joint Commission one or more of their responsibilities under the act. I urge the Secretaries to work together to speedily appoint the three Commission members each which the law provides for, and I urge the Secretary of Agriculture to select a Commission Chairman of vision and ability who, with his backing, can mount a vigorous and effective guayule program.

I want to stress one aspect of the proposed legislation which has not received a lot of attention. That is the authority to both Secretaries to make grants to, among others, Indian tribes. The guayule plant will grow throughout the Southwestern region of the United States, and might provide a new cash crop for many Indian-Americans who now live on the reservations in that part of the country. It is here that the economic development

aspect of the legislation should take on particular significance. I am hopeful that eventually many thousands of acres of guayule will be cultivated on the reservation lands and thus provide employment and income in this part of the country where it is so strongly needed.

The Congress can be proud of this program that comes at a critical time in the development of guayule in the Southwest. This program is placed at the edge of our commercial competence in this crop and thus its timing should serve as a model for all Government research and demonstration efforts. It infuses just enough Government assistance, just long enough for private market forces to take over and then it ends, preventing the establishment of a permanent, cumbersome Government effort in the field. Time and money is thus freed up to address new problems on the fringe of our expertise.

Mr. Speaker, S. 1816 has been developed through the joint effort of the House Agriculture Committee, the House Science and Technology Committee, the Senate Public Works Committee, and the Senate Agriculture Committee. I applaud the efforts of all of those involved in overcoming what seemed, at times, to be insurmountable problems. I urge all of the agencies and departments involved in this program to follow the model of communication and cooperation that has been exhibited in the enactment of this bill.●

REMARKS BY ADM. T. B. HAYWARD

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. BOB WILSON. Mr. Speaker, we have just recently finished a go-around on the Department of Defense authorization bill, which was originally vetoed by the President because it made provision for a nuclear aircraft carrier that the President did not want.

During the months of hearings and investigations that the House Armed Services Committee engaged in prior to reporting out the bill, we heard a great deal of testimony regarding the nuclear aircraft carrier, both pro and con. But at no time did I hear as astute and concise an argument for the nuclear carrier than the following remarks by our Chief of Naval Operations, Adm. Thomas Hayward, at the National Aviation Club and Aero Club, and I commend them to my colleagues:

REMARKS BY ADM. T. B. HAYWARD

It may seem strange to have the Chief of Naval Operations appear before the Aero Club and National Aviation Club speaking not as the CNO but as an amateur zoologist—but the fact is, this noon I want to talk a bit about a favorite subject of mine, the dinosaur. As you know, dinosaur's have been much in the news of late, at least dinosaurs of the naval variety, as have other creatures in the animal world, incongruously finding themselves spoken of in numerous articles on the editorial pages—creatures like "sitting ducks", and "turkeys", and other rare species with unmentionable names.

Now reports about "sitting ducks" and "turkeys" are not particularly troublesome to me, but I must admit to having more than a bit of difficulty with the dinosaur, because as everyone knows, the dinosaur is extinct—and I worry about that.

So after reading one particularly troublesome piece the other day, I decided to do a bit of research about dinosaurs, and it brightened my day up considerably. For you know, dinosaurs weren't so unsuccessful after all. They ruled the animal world for nearly 100 million years—not a hasty or premature departure by any means. An enouraging thought to this naval officer.

As a group, dinosaurs were powerful, speedy, and extremely well armored. In short they were highly survivable. At sea, the Plesiosaurus pretty much ruled the waves while the Tyrannosaurus Rex and his relatives projected power over most of the earth. In fact, recent fossil finds even tell us of a flying dinosaur with a wing span of more than 50 feet—that's 12 feet larger than our new F–18 Hornet.

About the only thing that could reasonably challenge a dinosaur was another dinosaur. With that knowledge, we in the United States Navy take a certain amount of comfort.

You recognize the analogy, of course, to that gargantuan of the seas—the aircraft carrier.

I regard as unfortunate the use of such careless hyperbole when discussing an issue so critical to our national naval strength, and our defense posture as the aircraft carrier? A turkey? I'll be damned. A sitting duck? No way! But a dinosaur—perhaps. For the carrier is powerful, fast, well armored, and highly survivable. And though it is gradually becoming a rare species, it is yet to be extinct. God help us if in this century it is.

So, with the future of our carrier force having figured so prominently in the news recently it seems appropriate at this point in time for the Chief of Naval Operations to be heard on the issue of the aircraft carrier to set the record straight about its true value in today's naval strategy—not because I stand here before you wearing wings and voicing parochialism as an ex-commanding officer of one of our better dinosaurs, the USS AMERICA, but because I represent the views of your operational commanders as one who recently commanded your Seventh Fleet and the U.S. Pacific Fleet—to tell you explicitly what the professional naval officers' assessment is today of the true value of the aircraft carrier.

We all know it to be a popular game these days to direct criticism at us stodgey old carrier Admirals who are wedded to the past, just as were the battleship Admirals of yore, steeped in our tradition of ultra conservativism. The truth is, those who voice such blatant platitudes do so in the safety and comfort of knowing how popular it is to needle the "brass" while having no responsibility whatsoever for executing the naval strategy that unfolds. One should be required to compare objectively these carelessly expressed views with those held by the men who wear the uniform of the naval service, those who have been there and who speak unanimously of the vital importance of today's carrier force strength and you would get . . . the time has come for much more public debate involving facts, avoiding the shallowness of fuzzy strategic thinking of which we have a plethora these days.

First, it is important to recognize that the United States Navy today is considerably outnumbered by that of the Soviet Union. This substantial imbalance pertains even when both sides include their allied naval forces. Yet we still maintain a margin of superiority for several reasons: our qualitative, technological edge—our superb submarine force—and most especially our ability to control the air in its totality due to the presence of our sea based tactical air. Make no mistake about it—the margin of difference between ourselves and the Soviets today, at sea, resides in our carrier based offensive capability.

In historical perspective we are all well aware of the carrier's significant contribution to victory during World War II, and the high value of the carrier aircraft during Korea and Vietnam. Not to be overlooked in the post World War II environment is the frequency with which U.S. policy makers turned to the use of naval power structured around our aircraft carrier battlegroups—as in Lebanon, or the India-Pakistani crisis, and the Arab-Israeli conflicts. Henry Kissinger recently summed up his evaluation during an address before the Naval War College at Newport recently when he said, "In the crises in which I was involved, the use of naval power—particularly the carrier—turned out to be almost invariably the crucial element." These views do not pertain solely to the Atlantic and Mediterranean. We can and should reflect back to the period following Vietnam, when virtually no residual presence on the mainland of Southeast Asia. A large inventory of bases and aircraft was left behind under North Vietnamese control and considerable uneasiness existed with respect to what the future might hold. About all we had left was an off-shore presence maintained largely by the carrier striking forces of the Seventh Fleet.

More than any other force these carriers provided the stability necessary to reorient our Asian defense policy with a lower but still credible profile. They maintained a presence in the South China Sea, reinforced our position in Northeast Asia, and continued to give substance to our alliance with Japan.

Now what about that "sitting duck" complex—the carrier's vulnerability? It seems to me the real question that needs to be asked is, "compared to what?" Can there be any rational questioning as to which would be harder to locate and attack: a fixed-site shorebased airfield or a carrier at sea: an ammunition depot, a truck park, or a mobile naval force? I don't see how. The carrier wins, hands down in that comparison.

Likewise, in weighing the arguments about the degree of vulnerability between one category of ship and another, there can be no question but that the carrier is the least vulnerable of all ship types. While its large size can make it more detectable and discernible to a radar scope, on the other hand, radars can be spoofed and misled—a task neither too complex nor overwhelming.

And we build them tough in anticipation of going in harms way. The flight deck and hangar decks are constructed of one-inch thick high-yield steel, with an additional 2½-inch armored deck below them, designed to protect the carrier from major caliber, semi-armor piercing explosives. These ships are designed with over 2000 watertight and shock resistant compartments for the sole purpose of controlling and limiting damage. Missile and torpedo protection is accomplished with side-plating and new energy absorbing hull designs. And extensive firefighting capability is built throughout the ship, with highly redundant systems of all kinds within the engineering and propulsion systems.

To give you a feel for the carrier's durability, during a major flight deck accident aboard USS ENTERPRISE in 1969, nine 500-pound bombs exploded on the flight deck, the equivalent of six Soviet cruise missiles—yet ENTERPRISE could have commenced flight operations within hours had the situation so demanded.

Which brings us to the issue of comparability between our overseas base structure and the availability of aircraft carriers. Contemporary history shows that time and time again we have had to defend out interests overseas with inadequate numbers

of bases and enormous problems related to base security.

Take the case of Vietnam. Time allowed the United States to build a massive complex of air bases in Southeast Asia at a cost of over $525 million for runways, taxiways, parking aprons, etc. This did not include the cost of logistics support facilities such as harbors and ports, petroleum and ammunition storage and other support required by the TACAIR units. Nor does it include the high cost of defense installations had the situation so warranted. Notwithstanding this heavy investment, the vulnerability of air bases in South Vietnam was a major problem that led to the loss of over 400 allied aircraft to ground attack alone. An additional 4000 aircraft were damaged due to such action. Not one seabased air asset was lost or damaged on board any of our aircraft carriers as a result of enemy action. Furthermore, today our operational overseas base structure has been reduced from the 105 that existed ten years ago to less than 40 today. It is questionable that this trend can, or will be, reversed. In shore, all military systems and installations are vulnerable to attack and damage—the aircraft carrier standing out as least vulnerable of them all—hardly a sitting duck!

Then there is the issue of cost. Believe me, no one has more heartburn than I when it comes to talking about $2 billion anythings. The aircraft carrier is expensive. But we need to keep its high cost in reasonable perspective—compared to what? The Metro? Super Dome? Or that new house of yours? Three factors deserve our consideration.

To begin with, one needs to understand that the acquisition cost of ships is not expressed in today's dollars as you and I understand them. Let me explain. By virtue of the budgeting rules of the Congress, the services are required to fully cost out the price of any weapon system proposal at the time the item is first requested of the Congress. This requirement impacts uniquely on ship building costs in that in general, one can anticipate that it will be seven years or more from the time of appropriation until a ship's construction costs are terminated. In essence at least seven years of inflation are built into the original cost estimate which you and I hear about so frequently. That is to say, while the Navy might ask the Congress to authorize and appropriate a carrier today at the cost of about 1.7 billion dollars, its real cost in today's dollars, if there were no inflation to consider, would be more like one and a quarter billion dollars, a substantial reduction.

Another way to look at the mis-perception of the high cost of the aircraft carrier created by the fact of inflation can be seen by considering how one might amortize the cost of an aircraft carrier over its lifespan. For instance, in 1961 the United States Navy built the USS ENTERPRISE, our first nuclear attack carrier, at an end cost of about $450 million dollars. At that time, there was the characteristic criticism levied against the exorbitant cost of that carrier, just as is common today. Yet, we expect ENTERPRISE to be in the force for 45 years, which means that its initial acquisition costs amortizes out over its lifespan at 10 million dollars a year. Quite a bargain! It is my personal view that today's apparently high cost carrier will appear equally as fiscally prudent in the year 2000, a point at which the carrier will have reached only its half life.

Lastly, there is the frequently held view that it is the high cost of carriers that prevents the Navy from getting on with constructing other ships; that it is the high cost of carriers that inexorably compels the Navy to reduce its overall size because funds do not remain to buy the vast number of other ships so badly needed. Compare that judgment with the fact that over the past 20 years the Navy's investment in aircraft carriers has been but 5.4 percent of our total shipbuilding costs. 5.4 percent! Hardly a major proportion of our ship construction budget.

Which leads me to a final question—has the hour arrived for another Billy Mitchell? Is there a new and better way to do the Navy's mission than to perpetuate this gargantuan of the seas? Clearly, the time is now to insist that the Navy remove its blinders, if it has them on, and explore realistic alternatives to the future of tactical aviation. We must not be wedded to conventional solutions to tomorrow's threat. The most promising near term development seems to be associated with vertical life aviation, VSTOL, or as some call it—powered lift. In other words, is there a way to do away with the catapult and arresting gear in the design of aircraft carriers in the future? Surely the Navy must not be found parochial on this issue; and let me assure you, we will not. I have recently established a policy requiring that we pursue a program of VSTOL alternatives in just as aggressive a manner as the Department of Defense and Congress will permit.

Further, I am intent that we will examine ways in which to put more sophistication into our weapons themselves, minimizing the complexity of the airplane and the carrier to the maximum degree possible. I am convinced we must capitalize on our technological superiority if we are to maintain our lead over the Soviet Union and to fulfill the basic mission of the United States Navy as it is understood by your countrymen. We will not be found wanting. So for those of you who find particular encouragement in the concepts of smaller, more numerous and inexpensive ships you will especially appreciate the manner in which the Columbia Encyclopedia suggests the dinosaur met its demise, and I quote:

". . . The inability of the large, clumsy dinosaurs to compete with the small, fleet mammals, which were gradually becoming more numerous at the time, contributed to the dinosaur's extinction."

The carrier is far from that situation today, but the suggestion is clearly worth heeding.●

1978 INTERNATIONAL CHORUS CHAMPIONSHIP

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. AMBRO. Mr. Speaker, I have the great pleasure to inform this body that the Island Hills Chorus of Huntington, Long Island, won the 1978 International Chorus Championship at the Sweet Adelines' 32d annual competition in Los Angeles, Calif. This group, a 93 member championship chorus, has performed for many Long Island functions. Most chorus members live in Suffolk, Nassau, and Queens.

The Island Hills Chorus, region 15 champions won over regional champions from Ontario, Canada, Connecticut, Kentucky, Missouri, Minnesota, Kansas, Colorado, Alabama, Texas, California, Washington, North Carolina, Ohio, Pennsylvnia, Maryland, Nebraska, and Wisconsin.

Competition was held Friday October 6, 1978, in the 6,000 seat Shrine auditorium in Los Angeles, Calif. Under the direction of Estelle Grau of Wantagh, the chorus performed George Avener's arrangement of "Strike Up The Band" and "Soldier," to a standing ovation by the crowded auditorium.

I would like to add my congratulations and best wishes to the many other accolades received by this talented group.●

PANAMA CANAL TREATIES

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. SNYDER. Mr. Speaker, it is my conviction that the American people are not happy with the proposed Panama Canal treaties, since they will deprive the United States of the right to permanently maintain a military presence in the Canal Zone.

The people are aware of the fact that there have been differences over the question of sovereignty, over the ability of Panama to operate the canal, over the constitutional right of the House of Representatives to vote on the disposition of the Canal Zone, and over other aspects of the treaties.

But the people know that the most crucial issue is the defense of the great waterway that permits our warships, the great bulk of our military supplies, and the greater number of our fighting men to go from the Atlantic to the Pacific and vice versa across the American Continent. No leader on either side of the treaty debate has ever claimed the Republic of Panama alone can defend the canal against any and all enemies.

Under the proposed treaties, that do not become effective until 6 months after the effective date of the exchange of the instruments of ratification, the United States shall surrender the right to maintain any armed forces onsite close to the canal after December 31, 1999. The treaties take effect October 1, 1979.

I have introduced legislation which would postpone entry by this country into the treaties "until the United States of America is assured of the right to permanently maintain a military presence in the area presently known as the Canal Zone." The bill would require representatives of the United States to begin negotiations with the Republic of Panama at the earliest practical date to achieve this purpose.

My proposal will be objected to by treaty proponents.

But the American people who object to the proposed treaties will have a chance to make their objections known by supporting my bill.

Of course, this proposal will die when the House adjourns sine die. It is my hope to return with the next Congress and reintroduce this proposal.

In the meantime, I urge my colleagues and the citizens of our great country to give serious thought to the wisdom of adopting my proposal by which we can insure that the Panama Canal will always have onsite protection by the Armed Forces of the United States.●

DISTURBING TRENDS IN COMMUNICATIONS TECHNOLOGY TRANSFER

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. BROWN of California. Mr. Speaker, in the past few days two articles have appeared in the papers which outline a policy trend for this country that disturbs me. One article in a recent Washington Star details the U.S. approach to the upcoming World Administrative Radio Conference (WARC), an international meeting to reallocate radio frequencies in the next 20 years. The other article in the Los Angeles Times outlines the administration's new space policy, marked by major cuts and policy shifts. Together these articles signal a conservative technology transfer policy that will hurt us in the long run.

Let me preface the insertion of these articles into the RECORD with a few words of background and commentary. In 1976 at the UNESCO General Conference this country promised to help establish a communication capability for Third World countries. This was done to side step a confrontation, and one that the United States would certainly lose, over claims that developed countries controlled communications and information technologies to the detriment of lesser developed countries. Since 1976 this country has done nothing to live up to its promise.

This month there is another UNESCO General Conference and communications and information technology issues will be raised again. This country plans to go into the conference with a "hang tough" attitude and no innovative attempts to make good on its promise after 2 years have elapsed. This is not due to a lack of planning and attention to the upcoming Conference, but rather is due to a lack of sensitivity to the needs of the developing countries on the part of those doing the planning.

Following this UNESCO Conference is the WARC Conference discussed in the Star article. While this is a technical conference, it deals with the control over radio communications frequencies and thus communications technology. The potential impact of the UNESCO Conference upon the WARC is a serious one if the United States fails to adequately deal with the advocates of the "New World Information Order." As much as policymakers would like to divide policy and technical issues into neat, separate boxes, the demands of the Third World may not allow this.

Following this WARC meeting is the United Nations Conference on Science and Technology for Development at which time developed countries will again be called to demonstrate their commitment to meaningful technology transfer. How easy would be the life of a policymaker if the common thread of these three international meetings could be found and anticipated. A country with the imagination and technical ability that ours possesses should be offering solutions and not turning a deaf ear at these meetings. I have stated this opinion before, it has been included by the Senate in the foreign relations authorization, and it needs stating again.

Our space technology offers an excellent way to deal with the potential problems of these conferences in an effective way. This technology is highly attractive to developing countries and at the same time can provide new markets for our advanced industries. An international satellite communications net with adequate Third World access would be a strong demonstration of our determination to deal with developing countries as equals. An "international library cooperative" was being discussed by the administration earlier this year, an idea rich in potential, but it apparently has been dropped. A stepped-up Landsat program with adequate interpretation training and wider access to data would help dispel objections and suspicions toward our remote sensing operations. In short, a switch from a research and demonstration mode to an operational mode for our civilian space programs can turn them into our most effective foreign policy tool.

This brings up the second article entitled, "White House Cuts Space Goals for Next 10 Years." In this article, the details of the administration's space use policy is detailed and, at first blush, seems to run counter to the international policy needs outlined above. The planned joint military-civilian space missions that are outlined jeopardize the integrity of our peaceful uses of outer space and further add to Third World suspicions of our space activities. A curtailed, pay-as-you-go Landsat system cannot account for the nonmonetary benefits that would accrue from an expanded data sharing effort with developing countries. In our urge to economize, we jeopardize our standing in international conferences such as WARC and may end up paying in restraints being placed on our international operations and our activities in space.

Just as we need an expanded space technology effort in the developing world for policy reasons, we need it for economic reasons. The French have been great innovators in this area and are undertaking a number of joint ventures in outer space with other developed countries. The Japanese are developing satellite communications system hardware and software and are aggressively seeking new markets. A German private corporation, OTRAG, is seeking to develop low-cost launch vehicles that will allow many developing countries to engage in their own space porgrams. These and other efforts signal a realization of the economic potential that the peaceful uses of outer space hold for those innovative enough to anticipate the coming boom.

The French, at the recent U.S. Special Session on Disarmament, proposed a global satellite monitoring system to aid disarmament efforts. This shiny, new initiative should have been surfaced by the United States as a signal of its commitment to disarmament but our stance at this meeting was anything but innovative. The French are now reported to be discussing a plan to develop a global telecommunications and information network for use by the Third World. Ironically, this action is in response to rumors about the U.S. establishment of the "international library cooperative" mentioned before. The French are fearful of a system that would link countries to U.S. data bases and thus give U.S. ideas and equipment an edge in the Third World. Apparently, however, the French need not fear such innovation on our part at present, nor in the near future if my interpretation of our policy is correct.

I urge my colleagues to read the following articles and ponder the consequences of the actions outlined. This country has the potential to regain much lost stature in the world with a meaningful sharing of aerospace and communications technology. But a shortsighted space policy that increasingly blurs the military-civilian space use issue and discourages a new Third World policy centered around our advanced technologies is a mistake. Likewise, our inability to anticipate and innovate at international conferences makes us the victim of events rather than being in control of them. We have more to offer the world than hollow promises of help.

The articles follow:

[From the Washington Star, Oct. 8, 1978]

RADIO SPECTRUM PARLEY FACES KNOTTY PROBLEMS

(By Ernest Holsendolph)

The World Administrative Radio Conference normally takes place only once every 20 years, but the one next year may be one of a kind. Part technical skull session, part political struggle and part bazaar, WARC, as it is affectionately known, is likely to be all of the above and yet neither.

On neutral turf in Geneva, more than 1,100 delegates from about 140 nations will meet for 10 weeks starting next September under the ausnices of the International Telecommunication Union to allocate radio frequencies and revise operating regulations that will govern use of the spectrum through 1999.

Because of the explosion in broadcast technology, the proliferation of needs for radio services and the fact that so many nations were born in the last two decades, the work of this upcoming WARC may be more strenuous, far-ranging and tension-filled than any other, according to communications specialists interviewed here.

Communications officials in the United States have been actively preparing for WARC for two years, and some planning was taking place five years ago. For the vast and far-flung enterprise, the preparations are being carried out under the auspices of the Federal Communications Commission, but contributions are being made by industries, public interest organizations and several major government agencies. The State Department is supposed to see that the final U.S. position agrees with the nation's foreign policy.

A triumvirate of officials is guiding the preparation, including Commission Chairman Charles D. Ferris; Henry Geller, who directs the National Telecommunications and Information Agency of the Commerce Department, and the chief of the American delegation, Glen O. Robinson. Geller, whose agency oversees the communications requirements of the federal government, and Robinson, a law professor of the University of Virginia, formerly had ties with the commission. Geller was once general counsel for two years earlier in the decade.

The big meeting, so filled with complex issues, is nearly a year away, but already

some spirited controversies have arisen, even as the Americans try to chart their prepared position.

The American agenda, put in simple terms, aims to see that a framework of rules and spectrum allocations is created to accommodate the huge communications services that the nation will need for the next 20 years. But at the same time, most officials agree, it is in the national interest to see that the worldwide communications system develops smoothly and facilitates international commerce and cooperation.

In a presentation this week, Robinson said that essentially these American national needs are parallel to those of the Soviet Union, even though their positions on the issues are not likely to be identical.

Already public interest groups, such as the Office of Communications of the United Church of Christ are asserting in filings with the Federal Communications Commission that U.S. preparations are preoccupied with industrial and commercial needs and that not enough attention is being paid to "broader public interest concerns" or "critical foreign policy implications."

"Despite plans to do otherwise, the preparation for WARC seems to be going ahead without paying adequate attention to the concerns of public-interest organizations," says Curtis T. White, a Washington lawyer pressing the concerns of such groups.

African and Asian developing nations are primed to demand their "share" of the high frequency spectrum to meet their growing needs for domestic communication links from fixed stations—a need that no longer exists in industrial nations such as the United States, where land-line and microwave transmissions serve that purpose. They will also be seeking to set aside time for satellite use.

However, the United States is nonetheless expected to file for the high frequency spectrum for growing maritime, land mobile and amateur broadcasting use, providing an area of likely conflict with the developing nations, and others as well.

"Despite the rhetoric that we are hearing," Robinson said, "our talks so far with Third World nations have not yet revealed a clear picture of their needs. I expect that these will become clearer as we hold more bilateral discussions between now and next year."

While developing nations may press their case to get their foot in the door of the international communications house now dominated by the industrial nations, the United States and others will be seeking spectrums for such Buck Rogers applications as environmental sensing satellites, now in operation, and later for a string of special satellites for wireless transmission of solar power to earth.

Sensing satellites such as Landsat and Seasat, not to be confused with spying "eyes in the sky," are used to measure crop condition, plant diseases, meteorological conditions.

Some observers have pointed out that however sophisticated or technically persuasive the case of the industrial nations, the rules and allocations will be made by majority vote, and so accommodations will be necessary.

Conflicts will occur not just between the industrial and developing nations, however. For instance, there is a pressing disagreement between the United States and Canada about the conflicts between UHF television broadcasting and land mobile users along the northern tier of the United States.

Another, related potential arena of controversy will be an effort by some delegations to pursue a "new world information order," with the aim of redistributing communications facilities and power, and providing a more "balanced" flow of information between the "North" and "South" nations—a formulation roughly equivalent to industrial world powers and the developing countries.

"We are resisting any suggestion that the spectrum should be carved up equally among all nations regardless of needs, or that satellite time must be so divided," said Robinson. "We don't see that as sensible or necessarily as equitable."

Moreover, Robinson and others close to the evolving American position say they prefer preservation of the traditional "first come, first served" doctrine in communications, which holds that users who occupy a spectrum have priority in maintaining it.

Robinson said a reasonable compromise might be for the United States and other world leaders in communications to promise access and rights of sharing frequencies and facilities, where practical, as the needs of emerging nations materialized.

"Redistribution of technology and service is certainly one way to redress imbalances between the West and the Third World," he said.

"Speaking for myself, it is my feeling that the nation is unlikely to do anything dramatic, such as put up a separate Third World satellite—that does not seem to be in the cards, mostly because of the expense."

Some Third World delegations reportedly may see such a U.S. position as a turnabout from Western goals espoused at an international conference in Nairobi in 1976 that included a promise to encourage expansion of Third World communications capability. Whether others agree or not, most American strategists say that such efforts are probably more appropriately addressed in other world bodies.

"Basically this will be a technical conference," said Kalmann Schaeffer, foreign affairs advisor to the FCC. "As much as possible, we would like to see the conference conducted on a technical level and not on a political level."

The question, of course, is whether the world leaders will be allowed to do business as usual.

The requirements of most of the committees working on the nation's WARC position should be in next month or early in December. Then the final collective position should be ready by Jan. 20 for submission for the ITU. In the following months papers will be exchanged and many bilateral meetings will be held.

[From the Los Angeles Times, Oct. 12, 1978]

White House Cuts Space Goals for Next 10 Years

(By Robert C. Toth)

WASHINGTON.— The White House Wednesday released a detailed statement of its space policy for the next decade in which spectacular, costly missions are rejected in favor of projects of unmanned scientific exploration and practical applications of existing technology.

Even this modest program is promised only "adequate" funding in the policy statement. The National Aeronautics and Space Administration's budget, now $4.3 billion, may shrink significantly when spending for its biggest project, the shuttle orbiter, tails off, the document suggests.

The four-page statement also indicates that military and civilian projects will be increasingly consolidated, when possible, to save money and increase efficiency.

All told, the statement, which expands on an Oct. 1 speech by President Carter at Cape Canaveral, directs a far more conservative space policy than those of his predecessors.

Former President John F. Kennedy committed the nation to the $24 billion Apollo project to land men on the moon. Former President Richard M. Nixon directed development of the reusable shuttle spacecraft whose program cost approaches $10 billion.

But the economic health of the nation and the mood of the people are quite different today, said Frank Press, the Presidents science adviser and chairman of the presidential review committee whose four-month study formed the basis for Carter's space policy statement.

"Nobody in Congress or the federal government or the public has put forward a case for a U.S. manned Mars mission," Press said in an interview. "And if the Soviets decide to spend $70 billion to land men on Mars in five years, we say: 'God bless them'."

There have been hints that the Russians are aiming eventually at Mars in their present series of manned flights. Soviet cosmonauts have spent record times of 96 days and, currently, 117 days in an orbiting space station that has been resupplied three times. But a Mars mission would probably be preceded by thorough manned exploration of the moon and use of the lunar surface as a jumping-off base.

The White House statement says that America's civil space policy revolves around three basic tenets:

—The activities "will reflect a balanced strategy of applications, science and technology development."

—Activities will be pursued in space, not just because space is there to be explored, but "when it appears that national objectives can be most effectively met" by conducting them in space.

—"It is neither feasible nor necessary at this time to commit the United States to a high challenge space engineering initiative comparable to Apollo. As the resources and manpower requirements for shuttle development phase down, we will have the flexibility to give greater attention to new space applications and exploration, continue programs at present levels, or contracts them. To meet the objectives specified above, an adequate federal budget commitment will be made."

Other high-cost projects rejected by Carter include space colonization, space manufacturing and solar-power satellites.

The solar-power system, claimed by its champions to be the answer to the energy crisis, would cost an estimated $100 billion. Satellites would collect solar energy and convert it into microwaves that would be beamed down to giant receivers and converted into electricity.

The space policy statement further erodes NASA's original image as a solely peaceful agency.

When created 20 years ago, NASA was purposely set apart from military activities in space. Its space shuttle, however, is now programmed to carry secret Pentagon payloads and military pilots, as well as scientific instruments and NASA astronauts.

In the future, the civilian and military agencies will share the same weather satellites and probably ocean surveillance satellites as well. Each agency will have separate communication channels to transmit data from their instruments on board.

"I see no objection," Press said, "if efficiency improves and we get more for our money, provided NASA remains an open agency, with all its data being made public. It will remain open, and all data will be open.

Carter has rejected proposals to establish an operational Landsat system whose photographs of earth have been widely hailed.

The White House statement promised to continue providing data from the present experimental Landsats, run by NASA, to anyone wishing to buy the data. It directed a continuing review of the technology and market demand for the data by government and private groups.

But indications are that only when and if enough money—an operational Landsat system will cost $70 million to $200 million—will the federal government consider expanding the present system into an operational network.

Communications satellites got significant support in the policy statement. NASA is authorized by the document to resume research on such craft, and the Department of Commerce is ordered to study and stimulate public-service use of these satellites for education, health and basic communication needs in remote areas of the country.●

AMERICA AND SOUTH AFRICA

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MAGUIRE. Mr. Speaker, I wish to insert two statements issued by our colleague, EDWARD J. MARKEY of Massachusetts, concerning U.S. policy toward South Africa and the imminent danger in the squatter settlement of Crossroads that a tragedy may be about to unfold.

EDWARD MARKEY joined me, THOMAS DOWNEY of New York, PAUL TSONGAS of Massachusetts, and a number of other House Members last fall—in the wake of the death in a South African jail of the civil rights leader Steve Biko—to form the Congressional Ad Hoc Monitoring Group on South Africa. Since that time, he has spoken out with great force and passion on the issue of the denial of basic human rights inside South Africa.

Earlier this year, I visited the community of Crossroads, a squatter settlement founded by black Africans in 1975 so that men working in Capetown could live with their families. Because of the threat to this community by the South African Government, 80 Members of this House are cosponsors of House Concurrent Resolution 720, expressing the concern of this body for the safety of the residents of Crossroads, and urging the South African Government to reconsider its plans to destroy this community, and instead to allow the residents to continue to live there.

Both EDWARD MARKEY and other members of the Ad Hoc Monitoring Group, including myself, and members of the Congressional Black Caucus, joined Mr. BRADEMAS and Mr. ANDERSON in cosponsoring this resolution.

Because it is crucial that more Americans are aware of the tragedy which may be about to take place in Crossroads, I wish to insert in the RECORD the prepared remarks of EDWARD MARKEY on this important subject.

The South African Government indicates it will demolish Crossroads by the end of this year. Indeed, on two specific occasions in September, armed South African police invaded this peaceful community, broke into homes, and arrested hundreds of people for the crime of illegal residency. The people arrested were women and children who simply seek to live with their husbands and fathers. Many people were injured and at least two people died. The words of EDWARD MARKEY on Crossroads warn each of us that we cannot turn aside from the deeds which may shortly be committed.

I also wish to insert the remarks delivered by EDWARD MARKEY on April 30 of this year in Boston, Mass., at a rally calling for a tougher policy of opposition by this country to the policy of apartheid in South Africa. In his speech titled "The United States and Apartheid—A Call to Disengage," Mr. MARKEY called for us to disengage ourselves economically from the support—which may be indirect, but is nevertheless both real and substantial—of the system of racial oppression in South Africa.

As we fear the possibility of another Sharpville massacre or another Soweto massacre in Crossroads, we must consider how U.S. policy ought to be changed to address the underlying causes of the monstrous and oppressive system of apartheid. Mr. MARKEY issues a call for such a change, a call which policymakers in our Government ought carefully to consider:

SOUTH AFRICA AT HER "CROSSROADS"

(By EDWARD J. MARKEY)

Mr. Speaker, I rise in support of H. Con. Res. 720.

In August of this year, Dr. Willie Vosloo, deputy minister of plural relations and development for the Republic of South Africa, told the approximately 20,000 residents of Crossroads that they must leave the camp by the end of this year. If they fail to do so, warned Dr. Vosloo, the residents of Crossroads will face the force "of every method available to the Government" to make them move.

The deadly seriousness of Dr. Vosloo's intentions—and those of his Government—was made crystal clear to us all when, on September 14, armed South African riot police charged into the squatters' camp of Crossroads, shooting tear gas and swinging clubs, beating, and arresting residents indiscriminately.

We know that the South African Government has promised to bulldoze Crossroads within the very near future. We know that the raid of September 14 was simply one stage in the forcible eviction of these several thousand families from their 3,000 shacks. We know also that Crossroads could become another flashpoint—another Sharpville or Soweto—and that it is doubtful that the impact could be contained within South Africa's borders.

Crossroads was built a few miles outside of Capetown so that Africans working in that city would have the "luxury" of coming home to their families, something that we in this country consider a right.

The Government of South Africa has for 23 years enforced a policy of phasing out Black Africans from the region around Capetown. Yet, this proudly segregated society depends greatly on black labor to keep the economy running.

This means that Blacks who work daily in Capetown cannot live in or near their place of employment with their families. It reminds us yet again that South Africa is the only country that determines where you will work, what you will do, and what you will be paid, solely on the basis of the color of your skin. This simple struggle for the basic right to live with one's family brings a cry in our hearts at the awful price in human decency now paid to maintain the immoral system of Apartheid.

Yet we cannot today address the larger problem of that wretched system which has created Crossroads, and denied the nonwhites of the Cape area any alternative save that of a squatters' settlement. Instead, we are here to call for a remedy on behalf of Crossroads. We are here to urge support for H. Con. Res. 720.

This Resolution urges the South African Government to reconsider its decision to destroy Crossroads. I urge the Members of this House to speak with one voice to this end.

THE UNITED STATES AND APARTHEID—A CALL TO DISENGAGE

(By Representative EDWARD J. MARKEY)

Repression of basic human rights is a tragedy that is encountered world wide. But massive denial of human rights based solely on race is a situation unique to South Africa. South Africa is the only state where an entire segment of the population—namely, four-fifths of all the people in the country—is denied participation in national politics solely due to race.

For what, after all, is Apartheid but a carefully calculated and meticulously planned network of racist laws explicitly building a society which bestows or denies basic human rights simply according to the color of your skin?

This point cannot be repeated too often. The vicious reality is that South Africa is a black country, ruled by a wealthy racial minority whose grasp on power grows tighter as its insecurity grows more intense.

Although blacks comprise 18 million of South Africa's 26 million people, they are virtually prisoners in their own country. They are forced either to live on 13 percent of the land, or to live in crowded urban townships like Soweto. They are denied all political rights. They are paid only one-sixth the average white wage. They are denied basic educational opportunities that whites have. They are jailed without charge and held incommunicado when they protest.

For more than three-quarters of a century, black South Africans have insistently and persistently sought to establish organizations to voice their aspirations to the government. Every time, the government has given its reply—brutal suppression.

Now, this climate of repression has intensified to the stage at which South Africa stands on the brink of voiding the last rights of all people, white and black, who oppose its policies. Indeed, the unmistakable scent of police is now in the air.

Until the death in prison of Steve Biko last fall—a death he met naked on the floor of a jail after being beaten by his captors—there had been some faint reason to hope for the future.

But now, in the wake of his murder and then the crackdown against political moderates that followed the protests against his death, hope has grown even more dim than before. For many blacks, the death of Steve Biko was the final straw. Biko—a man felt by many as likely to be a future prime minister of his country—was perhaps the last remaining voice of moderation, a man able by his vision of a multiracial society to inspire others to bridge the growing gap between the races.

I experienced personal outrage at his senseless, violent and cowardly murder last September by the South African police. I met in Washington with South African Ambassador Donald Sole in the hope of finding out the true circumstances of Biko's death. Yet the Ambassador answered probing questions with evasive replies. He either did not know, or did not care to confront, the truth.

Our duty today is to testify to this truth, to remember the words of the great black South African newspaper editor Percy Qoboza: "Unless the truth is spoken and the facts are told like they are, the process of self deception will continue unabated."

"When history catches up with us—as it will inevitably do," Qoboza continued, "I suspect the tragic words of 'I did not know' will come from many a mouth."

After meeting with Ambassador Sole, I decided to introduce a Resolution before the U.S. House of Representatives, expressing the

deep concern of Congress over the appalling deed of Biko's murder.

I testified before the House subcommittee on Africa, which took my resolution and blended it with another that went to the House floor. For the first time in history, the House of Representatives voted to condemn Apartheid. This vote was overwhelming—347 to 54. But even more important, the Resolution called upon President Carter to take "effective measures" to implement this reproach to South Africa. Therefore, I met with President Carter in a delegation of House members, and urged him to begin to strengthen U.S. policies opposing the regime in Pretoria.

Standing here today, however, I must tell you that our Government still hesitates, still waits, still seeks to delay, the imposition of the stern measures which this situation demands.

Therefore, in Congress we have begun to move—albeit slowly—to set these measures in motion.

Beginning last fall, Congressman Paul Tsongas and myself, together with Robert Drinan, Michael Harrington, and Gerry Studds and others formed an informal group of House members we call the Ad Hoc Monitoring Group on South Africa. Today, nearly 40 members of the House join in this work.

Our most recent victory—aided by the hard work of people like yourselves—came just this week in Washington. The first, clear step toward imposing an economic sanction against South Africa won strong support in the House Banking Committee, thanks especially to the tireless effort and eloquent testimony of Congressman Paul Tsongas.

Though the issue is still open to reversal, at this moment it appears likely that the full Banking Committee will remain steadfast in its vote to cut off all U.S. loan guarantees to South African business firms which receive import aid from the U.S. Export-Import Bank. This bank currently has about $200 million invested in insurance and other guarantees on loans obtained from private U.S. banks by South Africans importing U.S. goods.

The Senate Banking Committee begins its own work on the Export-Import Bank bill next week. I am hopeful they will follow the lead of the House and make a clear commitment to take the battle against Apartheid one significant step further.

But the final battle will not come until it is fought on the floor of each House. Once again, your efforts and those of people all across the country will be vital to ensure enactment of this measure.

On yet another front, too, the members of the Congressional Ad Hoc Monitoring Group on South Africa are once again forming the cutting edge for a bolder U.S. policy to oppose Apartheid.

Early this year, I joined in introducing legislation to make sure the mandatory U.S. arms embargo becomes a total arms embargo. Far too many loopholes exist in the current arms embargo, loopholes which are literally wide enough to fly airplanes through them . . . airplanes like the Cessna light aircraft, which can be, and are being, flown by the civilian air militia in South Africa, the so-called "Air Commandos."

Our own State Department is unwilling to admit that such items as these aircraft, and other items like explosives, police-style .38 caliber revolvers, and telecommunications equipment, can contribute to the defense of Apartheid.

Our bill aims to plug these loopholes.

Already, the Majority Whip of the House is a co-sponsor, and we will soon seek hearings on this bill before the House International Relations Committee.

A third step is now already in the offing. Many South Africans, both white and black, call for an end to all new U.S. investment in their country. Steve Biko urged this action. I support moving to ban such new investment now, and together with nearly 30 others in the House last week I joined in sponsoring such a bill.

Some would say this step is premature. But I do not agree. The tragedy of South Africa has worsened the longer our economic ties have continued. Blacks and other non-whites are now more separate and less equal than ever before. We—in the United States—have a clear duty to ourselves as a nation, and as a people committed to the pursuit of liberty and human dignity for all. We have a duty to act, for if not us, who shall spearhead the calls for justice?

Thus, we must begin now to think ahead to what may be required to disengage U.S. economic backing for the regime in Pretoria. To begin this national debate on the ultimate step which U.S. policy might take, I introduced a bill last fall which I named the "South African Trade Limitation Act." Quite simply, this bill would amend the Tariff Act of 1930, a law which forbids U.S. trade with any nation practicing slave labor. My bill would add racial discrimination in the labor force as a sufficient condition for halting U.S. trade with any nation.

South Africa is the only country that determines where you will work, what you will do, and how much you will be paid solely on the color of your skin. This is unacceptable—just plain unacceptable.

Remember that the final outcome of Apartheid will be that the vast majority of South African blacks are herded onto reservations comprising only 13 percent of the land and even less of its resources, or they will live in conditions like Soweto.

Government officials speak seriously of this "homelands" policy as a way out. Urban blacks, who know that white society depends on cheaper black labor, find these "homelands" absurd.

This insanity, like so many others, flows from one basic and over-riding irony confronting white society in South Africa. They are afraid to live with their black fellow citizens, yet they cannot live without them.

Indeed, the final outcome of Apartheid is a South Africa without a single black citizen. Yet black people won't go away. They will simply be aliens in the cities where they work.

Thus, white power seems firmly set on a road that leads to a confrontation with black power. This is not something that will be resolved overnight. For white power is colossal. But unless some force can begin in the painstaking process of racial reconciliation, the battle lines are now drawn. In the poignant words of one liberal white in Johannesburg, "It is very sad. South Africa should not have come to this."

In the words of Alan Paton—the great white South African novelist, the author of "Cry the Beloved Country"—"The Afrikaner whites sometimes think of Apartheid as a fort. Often, it is seen as a prison. But it is really a grave the white Afrikaner has dug for himself."

The world-famous journalist Donald Woods warns that, unless the South African government can be compelled to come soon to the bargaining table, "there will inevitably be racial war in South Africa."

"One incident could spark this off," continues Woods. "White South Africa is being placed on a war footing. . . . The enemy is seen to be everywhere—on the borders, within the borders, throughout South Africa, throughout the world."

"The war psychosis rages, and for war on many fronts. The gray areas in South African political life are being washed away and the scene is increasingly being deep-etched in black and white."

"The express train of white racism is now rushing at full speed on a collision course with the express train of black anger."

I am reminded here today that the campaign slogan of the Vorster government in last December's all-white elections was "Go Forward Together." But in the prophecy of Helen Suzman, who holds a seat in the white Parliament, "It will be forward together over the cliffs and into the sea,' like lemmings rushing unthinking towards their death below.

Thus, strikes and civil disobedience are likely to intensify in the months ahead, interspersed with urban terrorism. Eventually, we may even see border crossings by soldiers of a liberation army. The white government can certainly sustain a protracted rearguard action. But for how long? And at what tragic cost?

What can a concerned world do to halt the terrible doom of this gathering storm?

As Americans, our goal must be simple . . . to foster a process in which all South Africans play a real part in determining the future of their country, with firm constitutional guarantees to protect the human rights of all citizens in that country.

The basic demand of most black South African leaders is also this simple . . . to convene a national conference where freely chosen representatives of all groups have the chance to help shape the future of their society, and to decide on the steps needed to get there.

Robert Kennedy spoke of this dream twelve years ago when he visited South Africa. His words are inscribed today on his tomb in Arlington Cemetery.

"It is from numberless diverse acts of courage and belief," Robert Kennedy told the South African students, "that human history is shaped."

"Each time a man stands up for a ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope."

"And crossing each other, from a million different centers of energy and daring, those ripples build a current that sweeps down the mightiest wall of oppression and resistance."

Remembering his words here today, let us declare that a dialogue among the races in South Africa is surely the last, best hope for reaching a negotiated and peaceful settlement.

For it is surely not beyond the capacities of delegates of good will—black or white—to negotiate a fair deal for all concerned.

Today, the logic of events is moving—and should move—toward American economic withdrawal from South Africa. Left to itself, South African society appears to possess neither the will nor the way to make basic changes in its political structure with strong pressure from overseas.

The presence of Western business is enormously important to white South Africans, psychologically as much as economically. They talk about standing alone against the world, but they are desperate for links—especially with the United States.

Americans should not profit from the political system and the economy of a nation rooted in racist doctrine and based on the permanent exploitation of its vast majority. It is long overdue for us to begin to disengage.

Such action offers the hope—though not the certainty—that it can prompt reconciliation rather than warfare. Without external pressures now that will cut deeply, blacks seeking a clear-cut transfer of power may well decide they have no recourse but to violence.

As for the government of South Africa, there is already the unmistakable evidence that in the only other example of concerted pressure applied by the West—in sports—such pressure eventually brought about real change in Afrikaner policies, despite defiance and bluster on their part at the starts.

Therefore, so there is time for the message to sink in clearly, America should be heading for the exit economically in South

Africa. How fast and how far to do so are still open for debate. But the direction of movement by America must be clear and unequivocal.

American policy on South Africa must be for the long haul. Thus, it is vital that we convey the unambiguous message that whatever we do next is just another step in a gradual, step-by-step tightening of our pressure for change. We must invite other nations to join us in a public timetable for turning the screw tighter and tighter. But we must be prepared, also, to go it alone if necessary.

There is a minimal standard of human rights which cuts across all national boundaries. Without exception, South Africa fails this test. America must not, and cannot, stand idly by as the rights of millions are systematically trampled and destroyed.

We cannot condone Apartheid by our silence.

We must act, to demonstrate to the world that our dedication to the principle of basic human rights is sincere, total, and unequivocal.●

DeMARTINO CASE

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. RINALDO. Mr. Speaker, I would like to call the attention of my colleagues to an effort by an outstanding public servant, former Elizabeth Councilman Michael J. DeMartino, to vindicate himself in our State and Federal courts.

Mr. DeMartino has waged a long battle to have his good name restored and reputation cleared. He wants our Federal courts to give his case the same thorough scrutiny they have given to some of the more glamorized cases that have captured newspaper headlines throughout this country and in my own State of New Jersey.

It would be improper for us to judge the merits of the DeMartino case since that is a function of the judicial branch of our Government. I merely ask my colleagues to read the following editorial that was published in the Daily Journal of Elizabeth, N.J., the third oldest newspaper published in the United States. It has fought for many good causes from the earliest colonial times when the rights of our citizens were suppressed by the British Crown.

It expresses an unbiased comment on this case. Today, the case is still unresolved as Mr. DeMartino fights for a full airing of all the evidence.

The editorial, published earlier this year, follows:

NEW QUESTION

It would be premature to attempt to assess the legal impact of the new element in the case of former Elizabeth Councilman Michael J. DeMartino, who has been fighting his 1973 conviction on charges of conspiracy and misconduct in office. That is a matter for the courts.

But the affidavit last week by a Union County Prosecutor's detective, who challenges the testimony of a key witness against the former councilman, does tend to support some of the questions the defense has been raising. It also encourages doubts in the public mind that should not be tolerated.

The remedy lies in a prompt official review of any new evidence to evaluate its relevance to this controversial case.

Mr. Speaker, I know that my colleagues join me in praying to God for a swift resolution to this traumatic trial, with the hope that justice will prevail.●

REPRESENTATIVE JOE FISHER OFFERS US WISDOM

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. SIMON. Mr. Speaker, as the session winds down and we need some sense of perspective I commend to my colleagues the words of our colleague Representative JOE FISHER and the poetry of his wife, Margaret, known by most of us as "Peg."

The remarks were presented by our colleague and his wife to the Mount Vernon Unitarian Church in Alexandria on August 13.

Few if any of our colleagues have as fine a sense of balance and good judgment, coupled with a good feeling for where this Nation and humanity must go, as does our colleague JOE FISHER.

I particularly like his quote from Yeats:

The best lack all conviction, while the worst are full of passionate intensity.

Too often true, I have observed.

And that is but one of many truths our colleague brings to us:

OF WAR AND PEACE

(By Margaret W. Fisher)

Human nature has a way of dimming memories
Of cruelty of wars, of families thrust apart,
Of lovers weeping, clutching futilely,
Of parents sending off their sons and daughters,
Plagued by doubt and guilt and fear.

Human nature has a way of screening out
The horrors of the holocaust,
Of mass destruction in the cities and the countryside,
Of art and architecture of the ages turned to rubble,
And human minds and bodies shattered in the ruins.

Human nature has a way of shutting out these memories
And sinking into apathy.
The peace so dearly won is soon presumed to be
Our daily fare as we indulge in insulated introspection,
Tunnel vision turning inward with complacency.

Turn, then, outward, humankind,
Beyond the horrors of the wars,
Beyond the loneliness and mass destruction,
Beyond the sacrifice of generations past,
Beyond the clouds of doubt and fear.

Turn the vision outward, then,
To all the possibilities of peace,
To opening communications,
To sharing knowledge, art, and thought,
To build respect for all humanity.

OUT OF THE SHADOW

(By Marget W. Fisher)

Out of the valley of the shadow,
Out of the shadow of wars past,
Out of the shadow of feuding peoples
Whose bitter struggles cast a pall
Upon our dreams of peace—

We seek some greater power
To lift our sights, to give us wisdom
To pursue a course of justice,
Equity, and human dignity,
Of beauty and tranquility.

Out of the valley of the shadow,
Out of the shadow of our fears,
Out of the shadow of pain,
Uncertainty and grief,
The legacy of human frailty—

We pray for vision
And for energy to so direct
Our lives that precious time
Shall not be lost, and peace,
Not war, shall rule the world at last.
Amen.

OF SPEARS AND PRUNING HOOKS

(By JOSEPH L. FISHER)

In this series of essay sermons on Religion and Living the subject of war and peace has to be dealt with. Since the beginning of recorded history war has alternated with peace such that few people have lived out their three score and ten years without at least one war. In my lifetime, for example, the United States has fought in two world wars plus two other major wars, one in Korea and the other in Vietnam. And we have been on the verge of war a dozen times.

More than 10 million Americans now living have served in the military forces during wartime. A much larger number have worked in war industries. Americans killed in war during my lifetime exceed the nuber killed in all our previous wars. Although this country is not at war at the present time, I voted last week in the House of Representatives for the largest peacetime defense appropriation in our national history—not happily, to be sure, and not without first supporting amendments to reduce the spending somewhat.

Most other major countries have suffered more years of war in this century than the United States has and have lost far more soldiers, sailors, air force personnel, and especially civilians. War-caused irregularities in the population distribution in Britain, Germany, the Soviet Union, Japan, and China, along with other smaller countries will continue for several generations. The losses have been staggering in economic terms and especially in human terms.

The brutal depravity of war was brought home to me shockingly and vividly on a pilgrimage I made in the early 1960's to the Nazi concentration camp of Auschwitz, now a national shrine in southern Poland. In addition to the gruesome exhibits of fillings from the teeth of thousands of murdered Jews and the hanks and clippings of their hair was a large barracks almost completely filled with small, cheap cardboard suitcases in which those sent to the camp had been allowed to pack a few personal belongings. One such suitcase near the front caught my eye. Crudely lettered on it in white paint was the following:

Kleinkind Fischer, Geboren 1943, Sterben 1945.

It hit me with the force of a sledgehammer.

Over and against the fact of war has been the yearning for peace, in our time as in former times. This timeless yearning for peace is repeatedly proclaimed by political leaders everywhere, by educators, by preachers and prophets, even by military leaders. Surprisingly, Napoleon once said that war is the business of barbarians. One is not surprised

that Dwight Eisenhower said, "After my experience, I have come to hate war. War settles nothing."

The increasing terror and destruction of war seem to be accompanied by an increasing desire for peace. Similarly, greater insecurity gives rise to a stronger desire for security in many aspects of life. This is true for individuals as it is for nations. But somehow the yearning for peace is not strong enough and persistent enough to maintain the upper hand. Why is this so?

The argument has frequently been made that war is inevitable; that it follows from man's inherent combative nature, from his animal inheritance. Fighting, so this argument runs, is the ultimate test of fitness to survive whether in the jungle of wild animals or the jungle of modern nation-states. Or, it is claimed, wars are deeply set in ancient, unremembered territorial and tribal allegiancies. Or they arise out of the vanity of machismo, the glorification of the man on horseback, the mental-emotional abnormality of a charismatic leader, or something else.

No doubt the roots of war go deep into economics, psychology, biology, and philosophy. Cheap imports of raw materials or markets for manufactured products are thought to be necessary. Security for families, property, or national sovereignty are thought to be threatened. Pre-eminence for a particular political and social philosophy is thought to be essential. Ignorance and fears are played upon so as to magnify differences and transform remote contingencies into imminent dangers. Wider concepts like the family of man, international law and order, and an integrated world economic system—concepts upon which peace can be established—tend to be overpowered by narrow, outworn concepts.

The central issue can be stated in different ways but it is clear: how do we, companions on this particular spinning globe whirling around its particular sun, find our way out of a war-filled past into a peaceful future

Now inspiration is where you find it. I found a bit of it on a poster on the wall of your bathroom upstairs just a few moments ago. It was taken from the writings of Thomas à Kempis:

"Keep thyself first in peace and then thou wilt be able to bring others to peace."

This quote expresses quite well my central theme.

Peace, I assert, has to begin in a person's heart, to be based there, firmly and confidently. Disarmament and other approaches to peace will not succeed otherwise, nor will there be an end to war. This has been asserted before many times but it still has to be the starting point.

Diplomats have no magic wand to wave over the countries of the world so as to bring forth peace. International conferences, however helpful, can't do it. Multinational corporations, for all their need of a peaceful world, can't manage it. Cultural exchanges of artists and scientists, though useful in breaking down some barriers, are insufficient. Tourists visiting back and forth frequently irritate their hosts as much as please them. Certainly wars can't bring peace beyond a temporary period; in the long light of history it would be fatuous to think they can.

This is not to say, however, that the diplomats and political leaders, or any of the others who move on the world scene, cannot be helpful. And it is not to say that organizational effort for peace is futile. On the contrary, without determined action along these lines peace within a person's heart might die aborning or never find its proper outlet in world affairs.

The two—peace within the individual's heart and peace among nations—interact. Peace in one sphere encourages peace in the other. Therefore, governmental and group efforts are worth making as are personal efforts undertaken at the individual level. Both efforts, the individual and the general, will require educational programs, practical demonstrations, and much perserverance. Most of all the building of peace, internal and external, will require religious effort, religious leadership, religious concentration of the highest order.

The great religions of the world have tried to deal with the subject of war and peace but, thus far, not successfully. Buddhism advocates renunciation of struggle, person against person, group against group. Instead, the emphasis has been on inner tranquility, peace of mind, and the prospect of reincarnation in a more favorable form. Such a religion, deeply believed, ought to constitute a promising start toward peace. Unfortunately Buddhism has been limited in geographic scope; countries espousing its meek and fatalistic doctrine have easily fallen prey to marauders from outside. It seems also to lack the positive and energetic attributes without which a combative world cannot be transformed.

In the long Judeo-Christian development one finds schizophrenia: some of the loftiest testaments to peace and love along with examples of arrogance, exclusiveness, and warmongering. Associated with Jesus are such statements as: love your neighbor, go in peace, turn the other cheek, the peace that passes all understanding. Rejecting the invitation to enter Jerusalem as a conquering hero, Jesus in death, even more than life, gave the most profound, dramatic witness for peace and love in our whole religious tradition. But ironically, sadly, tragically, ever since the crucifixion countless battalions have marched in his name: the ultimate perversion of great teaching.

The same division is found in the stories of the Old Testament. Joshua fit de battle of Jericho, Jericho, and de walls came tumblin' in. Yet Micah called out to the chosen people: beat your swords into plowshares and your spears into pruning hooks. War and peace both were glorified in the same set of religious teachings.

The American psychologist and philosopher, William James, advocated what he called "the moral equivalent of war." The idea still seems to have promise today. What are the possibilities?—hard and challenging work, rewards based on cooperation and avoiding conflict, enforcement of international law, the building of world government?

Notable attempts have been made to erect a structure of world peace. Alexander, Julius Caesar, Charlemagne, Napoleon, even Hitler tried to establish peace through war; in the end, sooner or later, each failed. Prime Ministers, foreign ministers, and presidents have tried: Metternich and his Congress of Vienna, Kellogg and Briand with their post World War I pact, Wilson with his magnificent idea of a League of Nations, Franklin D. Roosevelt and the other founders of the United Nations. Each of them had good motives and high expectations, but the results have fallen short. Philosophers, poets, and prophets have described the world of peace—Plato, St. Augustine, Thomas More, Rousseau, Milton, Isaiah, and Micah who preached about spears and pruning hooks. But lasting peace continues to elude our grasp.

Perhaps having these disappointments, among others, in mind, William Butler Yeats poured out his pessimism, even using the metaphor of war:

"Things fall apart; the centre cannot hold,
Mere anarchy is loosed upon the world,
The blood-dimmed tide is loosed, and everywhere
The ceremony of innocence is drowned;
The best lack all conviction, while the worst
Are full of passionate intensity."

In our Twentieth Century now moving insecurely and unpredictably toward its close, war clouds hang dark over the world. Southern Africa struggles toward an uncertain future. Nearly everyone grants the moral inevitability of black control of government there but hardly anyone knows how to navigate the passage to it without vast bloodshed. And no sooner than the black dream is achieved, it may be outdated by onrushing events which will call for submission to a continental or world order. In the Horn of Africa another struggle proceeds, less profound and traumatic for Americans, but still because of its proximity to the Middle East oil countries, of great concern.

The most dangerous part right now undoubtedly is the Middle East, centering on Egypt and Israel but with Lebanon, Syria, the stateless Palestinians, Saudi Arabia, Libya, Iran, and other countries much involved. The problem of securing peace there is so complex and mystifying that it can hardly be described, much less solved. Our own country is about to launch another major initiative, with Egypt and Israel, to pluck from the nettle a solution, or at least an approach to a solution. Yet at the same time, the United States in the name of peace, compromise, and harmony is stepping up its shipments of arms to those two countries and Saudi Arabia, meanwhile continuing to send military supplies to Iran and other countries in that region. How much better it would be to promote peace in the Middle East by a balanced scaling down of United States arms shipments instead of the balanced increase.

Almost in despair one is tempted to cry out for a new messiah, a new prince of peace, to sweep away the tired, worn out policies of the past and put things in a new perspective. But we know deep inside ourselves that progress will have to come from our own effort to listen, understand, gently but firmly lead, have patience, suppress unrealistic expectations, and to persist.

What are the principal underlying conditions for peace, not only in Southern Africa and the Middle East, but in a general sense? I believe these are among the more important ones.

First, an adequately broad set of values and objectives for living, shared among the peoples of the world. Fear of one another or of the horrors of war are not enough, even in the age of nuclear bombs. All agencies of society will have to work on this—education, politics, science, commerce, and, most of all, religion.

Second, an international law system, based on shared values, that has general respect and support, and can be enforced by means of economic sanctions, political pressure, and ultimately police power.

Third, vigorous and dedicated leadership for peace in the various countries of the world moving toward the concept of world citizenship, of rights and obligation, perhaps beginning on a regional scale (the European Economic Community, the Soviet Bloc, Latin America, Southeast Asia, Africa south of the Sahara.)

Fourth, much attention to research on finding ways to peace (in psychology, economics, sociology, ecology, natural and life sciences, even military science devoted to enforcement of peace), to demonstrations of war prevention and peace-keeping, and to education for peace.

Finally, more concern for the religious component of peace, the all-embracing and most essential of all. Niebuhr's insight on this score is prophetic: the dictum of "moral man in an immoral universe" has to be enlarged to "moral man in a moral universe" if man is to be truly moral. In that most magnificent of all historical novels, War and Peace, young Rostov, wounded on the field, cries out, "Can they be coming at me? And

why? To kill me? Me—of whom everyone is fond?"

To obtain those conditions will require a "positive affirmation of peace," to put the matter in the words of Martin Luther King, Jr. It is not a question of peace at any price; obviously a person should not give up his soul for peace. But there will be a price to be paid in sacrifice, hard work, devotion to the cause, willingness to go the extra mile to see the other side in a controversy.

In his jeremiad delivered a few months ago at the Harvard Commencement, Alexander Solzhenitsyn said, "We have placed too much hope in political and social reforms, only to find that we were being deprived of our most precious possession: our spiritual life." He had in mind Americans, Russians, everyone. It would be a mistake to think that a black majority government in Zimbabwe (Rhodesia) or a settlement of the Palestinian homeland issue, or a non-proliferation treaty, or a successful conclusion of the SALT II talks, or all of them together would guarantee peace. Dr. Johnson asked:

"How much of all that man endures
Is that which courts or kings can cure?"

Not much, for all they can help, unless man changes in his own heart. This is the overriding condition for peace.

During the second World War after serving as an infantry soldier, I was assigned to the Army Newspaper, Stars and Stripes, as a reporter and later editorial and feature writer. Not long ago I was reminiscing with my old scrapbook. My editorial of May 22, 1945 was addressed as an open letter to the men and women gathered in San Francisco to agree upon a charter for the organization of the peace and security of the world. I wrote:

"Yours is the difficult task of translating the aspirations of common people everywhere into a workable scheme for the preservation of peace. Yours is the job of bridging the gap between vague, half-formed ideals and hard, political reality; between past disappointments and future hopes. Yours, too, is an unmatched opportunity to earn the everlasting thanks of the human family. You have our prayers."

And on August 15, 1945, the day after V–J Day, I wrote in another editorial:

"The end of the war is not the end of responsibilities. United Nations plans for world peace must be made to work. And that's the business of each individual who would be a world citizen, just as much as it is the responsibility of prime ministers and generals."

As always then, the problem is an individual's control of himself. We need a guidance system to keep the human ship on a peaceful course. Neither a ship of fools nor a ship of angels, we are a ship of ordinary men and women who must realize we have to become extraordinary if we are to survive in peace, if our ship is to stay afloat and moving toward its destination.

The greatness of Tolstoy's War and Peace lies in considerable part in his bringing together hundreds of individuals and thousands of separate actions into one grand experience. "Only by taking an infinitesimally small unit for observation (i.e. the individual tendencies of men) and attaining to the art of integrating them can we hope to arrive at the laws of history." The present task of establishing a durable peace will require the integration of individual hopes and actions with the larger, but not therefore more important, policies of governments: the micro and the macro harnessed to the same task.

War has been a part of living for so many people in our country and virtually all other countries. It has certainly been a part of my life and that of my wife. A religion for living has to address the evils of war and the hope of peace with a moral fervor that is somehow tempered with analytic insight and a sense of the practical and achievable.

In these ways, then, spears can be beat into pruning hooks, until "nation shall not lift up sword against nation, . . . but they shall sit every man under his vine and under his fig tree, and none shall make them afraid."

Give us, god of war,
The weapon for your quiet death
To administer swiftly.
Give us, god of peace,
Not so much peace itself
As the will to seek it,
persistently and patiently,
Until at last it possesses us
And we it.●

CRIMINAL CODE REFORM

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. WEISS. Mr. Speaker, I would like to take this opportunity to commend both the Subcommittee on Criminal Justice and the full Judiciary Committee for their efforts on the reform of the Criminal Code.

As one who has expressed serious reservations with the bill, S. 1437, which passed the Senate under unusual circumstances, I am very pleased that the committee has decided to devote further study to this extremely complex issue before reporting legislation to the full House.

The subcommittee, ably chaired by our distinguished and soon to be retiring colleague, JAMES MANN, conducted thorough and exhaustive hearings, taking testimony from a number of diverse groups. An underlying theme sounded throughout the hearings, was that reform of the code was simply too massive a task to be effectively accomplished by one bill. The subcommittee recognized that not only was an omnibus bill not a feasible approach, but that the particular bill under deliberation, H.R. 6869/S. 1437 represented a serious threat to our civil liberties. Rather than simply report a bill, with which every Member had expressed grave doubts, the subcommittee attempted to recodify current law. The Members support the idea that reform of the code, if it is to be undertaken, should be accomplished by individual bills. The subcommittee recently reported a recodification bill to the full Judiciary Committee. After much deliberation, the full committee, however, has decided to devote more time to the issue, so that each Member of the House will have ample opportunity to give this legislation the complete and thorough study it demands.

I strongly support this action and commend the committee for a difficult decision, which some may look upon disfavorably. However, I believe it is important to reemphasize that reform of the code is one of the most important and difficult endeavors that the House will ever attempt. Such changes in the law must be undertaken not in haste, but with much thought and reflection.

In conclusion, let me again offer my praise to my colleagues for allowing the House to give criminal code reform its due consideration.●

CIA DOMESTIC INVESTIGATION POLICIES

HON. RICHARDSON PREYER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. PREYER. Mr. Speaker, in February of last year, the U.S. Court of Appeals for the District of Columbia Circuit in a case arising under the Freedom of Information Act, Weissman against CIA, stated in dicta that the CIA did not have legal authority to conduct investigations of persons within the United States without their consent or knowledge on the grounds that such persons may be considered for employment by the Agency at some later date. Indeed, the CIA appeared to have compiled some 50 documents in the course of intestigating the plaintiff in the Weissman case from 1958 to 1963. Similar questions were recently raised but unresolved in another case before the D.C. Court of Appeals, Marks against CIA.

I wrote Admiral Turner last October inquiring about the Agency's current policy with respect to the conduct of domestic investigations. The 1947 National Security Act excludes from the CIA's mandate "law enforcement powers, or internal security functions." Because of the public interest in this issue following the revelations of the last few years, I would like to bring to the attention of my colleagues the reply to my letter from Admiral Turner. The letter follows:

SEPTEMBER 18, 1978.

Hon. RICHARDSON PREYER,
Chairman, Subcommittee on Government Information and Individual Rights, Committee on Government Operations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further regard to your inquiry concerning the effect of the decision in Weissman v. CIA on this Agency's investigative program.

In our earlier response, we indicated that the scope of the Weissman decision and its impact upon the Agency's investigative practices were under review by the Office of General Counsel and the Department of Justice. During that review Executive Order 12036 was issued. Section 2–208 of the Order limits the collection, storage and dissemination of nonpublicly available information concerning U.S. persons to certain enumerated categories of information, and specifies that such activity must be carried out in accordance with procedures approved by the Attorney General.

We are currently working with the Department of Justice on procedures under Section 2–208, which for CIA will reflect the requirements of the Weissman decision. We will provide you with a copy of the procedures as soon as they have been made final and approved by the Attorney General. In the interim we have revised Agency Headquarters Regulation 7–1, "Restrictions on Intelligence Activities," to reflect our understanding of the Weissman decision.

The enclosed answers are in response to the questions you originally posed concerning the Weissman decision. I want to assure you that any investigation of a U.S. person

now undertaken by the Central Intelligence Agency is in accordance with the Weissman decision as well as with other applicable law and executive orders.

Yours sincerely,

STANSFIELD TURNER.

Question 1: Does the CIA currently conduct investigations of unaffiliated U.S. citizens without their consent or knowledge on the grounds that they may be considered for employment, or as an intelligence source, at some future date? If so,

a. Describe the circumstances which would justify such investigations.

b. Provide the number of persons who are annually subject to such investigations.

c. Provide a copy of the Agency regulation(s) which authorize or govern this practice.

Answer: Except as outlined in (a) below, CIA's current policy is to conduct all such security suitability investigations with either the explicit or implicit consent of the U.S. person who is the subject of the investigation.

(a) In certain situations it is necessary to collect some information prior to approaching a U.S. person for cooperation or consent. For example, if CIA wishes to approach a U.S. person who is in a position to provide unique access to foreign intelligence, it is only prudent to first gather some preliminary information about the individual. There can also be situations in which an approach for consent prior to collecting any background information might jeopardize the security of an operation should the person be unsuitable from a security standpoint. In order to protect the security of a safehouse which the CIA has in the U.S., for example, it may be necessary to establish or confirm the identity of persons residing in the vicinity of the facility. It is also sometimes necessary to confirm the identity of a U.S. person who has volunteered to assist or cooperate with CIA.

The collection of information in the above situations is limited to:

(1) The collection of publicly available information;

(2) Lawful Federal, State or local Government or other records checks; and;

(3) Oral or written inquiries for the limited purpose of establishing or confirming identity.

(b) It is impossible to determine accurately the number of limited inquiries and National Agency checks made annually, since CIA records are not maintained under categories which would make such a compilation feasible. It is roughly estimated that about 100 limited inquiries and about 1,000 National Agency Checks are conducted annually.

(c) Agency Headquarters Regulation 7-1, "Restrictions on Intelligence Agencies," governs investigations of U.S. persons for security suitability. It has been revised to reflect the Agency's understanding of the Weissman decision. The applicable provisions of Headquarters Regulation 7-1 are set out below. In addition, procedures are currently being developed pursuant to Executive Order 12036, Section 2-208, concerning the collection, storage and dissemination of nonpublicly available information on U.S. persons. We plan to incorporate the Weissman decision's limitations in these procedures.

HEADQUARTERS REGULATION 7-1 (EXCERPTS)

(b) Investigations of U.S. Persons for Security Suitability. As used in this paragraph, the term "investigation" means the deliberate and systematic collection or acquisition of information about a selected individual or entity for the purpose of determining security suitability or reliability.

(1) Sections 1-811 and 1-813 of Executive Order 12036 recognize that investigations of applicants, employees, contractors, and other persons with similar associations with the CIA and the Office of the Director shall be conducted as necessary to protect the security of CIA installations, activities, information, and personnel.

(2) Subject to all other applicable limitations, including the restrictions established by E.O. 12036, such investigations of U.S. persons are prohibited unless:

(a) The investigation will involve no more than: (i) lawful Federal, State, or local Government or other records checks; and (ii) inquiries solely for the purpose of establishing or confirming identity or commercial reliability;

(b) The investigation will result in only the acquisition of publicly available information;

(c) The subject is an employee, military or civilian detailee, or independent contractor of the Agency and is witting of his or her status as such;

(d) The subject is performing or has offered or agreed to perform services for the Agency, whether compensated or uncompensated, and is witting that such services are or will be performed for the Agency;

(e) Subject is an Agency contractor or subcontractor under an Agency contract, or an employee of such contractor or subcontractor who will require a security approval to perform work on or in connection with a classified contract, provided that the contractor, subcontractor, or employee thereof, as the case may be, is witting that the contract or work being performed is for either the Agency or the U.S. Government;

(f) The subject is a person for whom security approval has been requested for either unescorted access to Agency facilities or access to classified Agency information or documents; or

(g) The subject has expressly consented to the investigation or has otherwise been informed or has knowledge that inquiries will be made without voicing an objection.

(3) Until further guidelines and procedures for investigations of U.S. persons are developed and approved by the Attorney General as part of Agency procedures on collection of information on U.S. persons (Section 2-208, E.O. 12036), any investigation of a U.S. person other than as permitted above shall require the concurrence of the General Counsel.

(4) The use of any specialized techniques in investigations pursuant to this paragraph shall be in accordance with any restrictions or procedures otherwise applicable to those techniques.

Question 2: Please set forth the Agency's position with respect to the legality of such practices after the Weissman decision.

Answer: The Agency believes the investigative practices outlined in Headquarters Regulation 7-1 are authorized and lawful under the National Security Act of 1947 and Executive Order 12036.

Question 3: If there are current Agency regulations which prohibit such practices, please furnish a copy to the subcommittee.

Answer: See answer to question 1c.

Question 4: If such investigations are no longer undertaken, at what point did the Agency end such practice? For what period of time were such investigations conducted by the Agency?

Answer: The Agency conducted Weissman-type investigations over a number of years beginning in the early 1950's. While we cannot determine the exact date, the Office of Security decided to cease such investigations shortly after the Weissman case was decided in January 1977, and no investigations of this kind have been initiated since the decision. In fact, it is likely that the last such investigation was conducted some time prior to the decision.

Question 5: Please indicate, or provide an estimate of the total number of persons who were subjects of such investigations in the past; and, a further breakdown, if available, of the number of investigations conducted a) where no future employment of, or b) no future use as an intelligence source or contact with the individual, was forthcoming.

Answer: It is not possible to determine the number of persons who were the subject of Weissman type investigations in the past since CIA files are not categorized according to the type of investigation conducted. We believe that the great majority of the subjects of such investigations were subsequently contacted by the Agency.

Question 6: If the Agency believes the collection of such information is illegal, what has been the disposition of records of earlier such investigations now considered improper?

Answer: Agency security records are not indexed or maintained in a manner that would allow the ready identification of Weissman-type records. We are, however, in the process of reviewing all security files to identify any records that are no longer proper for retention. The criteria being used in this review exercise include guidelines for the identification of Weissman-type records. A number of such records have already been set aside for purging.●

NATIONAL PARKS AND RECREATION ACT

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. PHILLIP BURTON. Mr. Speaker, I wish to add to my previous remarks regarding the enactment of the National Parks and Recreation Act of 1978 in the following manner:

The Pinelands of New Jersey is a provision of this bill that I have described as one of the "gems." I must thank Jim Florio of New Jersey for his imagination, leadership, and determination in the face of seemingly insurmountable obstacles.

Jim Florio saw the need to preserve the vast wilderness of Southern New Jersey as the parts of the Pinelands in his First District of New Jersey were rapidly destroyed by unplanned development. Jim realized the impossibility of total Federal acquisition and the ecological futility of partial protection of an interrelated resource. Sensitive also to the unique culture, history, and economy of the Pinelands, and inspired by the concept of a "greenline park", he developed legislation through which limited development would be controlled to harmonize with the natural and fragile environment. His initial legislative attempts were met by strong and frustrating opposition from local development interests. In the face of this opposition I am proud to say, Jim Florio defended and advanced his position. Through the months of negotiations and meetings that continued up until the evening of the passage of this bill, Jim and his staff worked tirelessly to achieve a program that would protect the resources of this priceless region using the best resources of the Federal, State, and local governments.

I am happy to say that his efforts have met with success. The provisions of this bill are a tribute to his dedication, but I am sure that the most rewarding results for Jim Florio is not anything that can be printed on these pages. It is the knowledge that long after we all are gone and forgotten, the waters of the Pinelands will continue to flow cold and

pure past the silent oaks and pines of those woods.●

TRIBUTE TO MY FRIEND, BERT SACK, WHO CHAMPIONED HISTORY AND THE STORY OF THE BRONX, THE BOROUGH HE LOVED

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. BIAGGI. Mr. Speaker, last month, our Nation lost a dedicated American who made the legacy of our country's past his life's work. Bronx County, New York City lost a native son who made the story of that borough an institution. And history lost an adopted son who became one of its most ardent heros. For Bert Sack had passed away after a full lifetime of devotion and service.

Bert Sack was a soldier himself during World War I, and long after championed the spirit of veterans everywhere. He was to become a foremost activist and educator within the borough he loved, to preserve the lessons of history, and pay proper tribute to the men and women who wrote that story with their deeds and their lives.

Bert Sack touched the hearts and souls of all the people affected by his example and good works. He worked hard to succeed and accomplish his tasks for the sake of the good that would come from it for the benefit of others. He worked all his life, retiring in December 1977 at age 81. In his own very special way, it could be said that Bert Sack made growing old respectable.

Bert was also a familiar figure in local schools and organizations, doing what he liked best—telling those Bronx tales. And it is significant that through the personal efforts of Bert Sack the Bronx obtained its own flag.

Civil War history was a special area of interest for him. His grandfather and great uncle had fought in that conflict. He was to become after many achievements, some of which I will mention here, the president of the Civil War Memorial Committee.

Bronxites and historians will long remember that it was through the work of Bert Sack that the West Farms Civil War Cemetery was saved and brought to the condition that it is today. Some of his other great deeds I can name now were: The restoration of the Civil War Soldier Monument in that cemetery; the flood lighting of Grant's tomb; the repairing of the Soldiers and Sailors Monument and the Ferris Plot on Westchester Square; the finding and restoring of other Civil War soldier statutes, and the establishment of memorial services in West Farms Cemetery every year.

Bert Sacks leaves behind a loving family and many devoted friends from all walks of life. We appreciate that his kind of spirit survives in all of them. His family's pride should be so special in having shared so much of his love and example.

To his daughter, Hermine, and son-in-law, Burton Sills, and grandson, Matthew Sills, we extend our warmest wishes that they will enjoy happiness and prosperity as Bert Sack would have wanted. And we wish his former associates of the Civil War Memorial Committee, Frank Wuttge, Jr., Helen Nelson, Juanita Carter, and Sam Muchnick, our best for their happiness and continued success in the work they have championed alongside Bert Sack.

It was also my privilege to know and work with this very fine man on many projects and endeavors. He will be sorely missed at home and in our neighborhoods, but his dedication and work for the preservation of history will long be remembered.

May he truly rest in peace. His work is done.●

COFFEE COUNTY GENERAL HOSPITAL

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. GORE. Mr. Speaker, I would like to take this opportunity to call to the attention of my colleagues two important national and State awards recently received by the Coffee County General Hospital, in Manchester, Tenn.

Recognizing that in emergency situations, hard-of-hearing persons often experience difficulty communicating with medical, and law enforcement officials, the hospital held meetings in the region to explain emergency procedures to these disabled persons.

As part of this project, the hospital then developed a special identification card to enable hard-of-hearing citizens to display vital information in crisis situations. The card was distributed not only to persons with hearing disabilities, but to the hundreds of law enforcement, rescue, and emergency medical personnel in the mid-South region to alert these persons to the presence of the identification card.

Based on its innovative new program of outreach and assistance to the hard-of-hearing residents of the county, middle Tennessee, and the mid-South region, Coffee County General has won the coveted "MacEachern Award". Presented September 12 by the American Academy for Hospital Public Relations, the award cites Coffee County General for distinguished innovative service and "excellence in hospital programing."

More recently, the hospital was also chosen to receive the "Prism Award" from the Tennessee Hospital Association, adding further distinction to the outstanding efforts of the board and staff of Coffee County General.

As the Congress has reaffirmed in this session, the rights and opportunities of our handicapped citizens must be supported with a new vigor. Coffee County General Hospital has made a major step in that direction.

I know you will want to join me in citing the dedicated performance of the many persons responsible for these awards, including Coffee County Hospital administrator Jack Youree, project coordinator June Scarborough, board chairman Joe N. Deitzen and his tireless board members, Rev. L. M. Drinkall, director of Nurses Mrs. Katie Burns, and Chief of Staff Dr. Al Brandon, D.O.●

NOBEL PRIZE AWARDED TO TWO JOHNS HOPKINS UNIVERSITY DOCTORS

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Ms. MIKULSKI. Mr. Speaker, the city of Baltimore, the State of Maryland, and the whole Nation, for that matter, applaud the work that Drs. Daniel Nathans and Hamilton Smith have done in the field of medical research to earn the most honored Nobel Prize. They, along with Dr. Werner Arber, of the University of Basel in Switzerland, yesterday won the Nobel Prize in medicine for research that has produced a new method for studying the ways genes determine heredity.

Dr. Nathans, who joined the Johns Hopkins University faculty in 1962, is Boury professor and director of the department of microbiology. Dr. Smith, a graduate of Hopkins Medical School, is now professor of microbiology there.

Both Dr. Nathans and Dr. Smith shared their findings with each other as their research progressed. These two scientists, along with Dr. Arber, were cited by the Nobel Committee for the discovery and use of "restriction enzymes" and their application to genetics. The restriction enzymes are molecules that trigger chemical reactions and, in this particular field of research, allow scientists to separate hereditary genes in much the same way that a person would take apart a watch to determine how it works.

Dr. Nathans' and Dr. Smith's work demonstrated how a restriction enzyme could cut the DNA molecule at certain points in its complex structure for further study. Furthermore these enzymes can be used to analyze the structure of genes. The discovery of restriction enzymes was one of the important threads in the development of molecular cloning, which has been underway for about 5 years. This cloning process involves the joining of a piece of DNA that is being studied to another piece of DNA that has the ability to duplicate itself. As a result, the second piece of DNA duplicates the first piece. This procedure is a means of isolating a piece of DNA under study, and at the same time, making large quantities of the substance.

Dr. Nathans and Dr. Smith have made important strides in the field of microbiology which will lead to new discoveries to benefit all people. I congratulate these two men for their vital contributions to the field of medicine and for their winning of the Nobel Prize as recognition of that work.●

CONGRESS SHOULD HAVE SOME SAY ABOUT TECHNOLOGY TRANSFER TO COMMUNIST COUNTRIES

HON. LESTER L. WOLFF
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. WOLFF. Mr. Speaker, I have joined with my colleague, Mr. CLARENCE MILLER, Mr. PRICE, Mr. DORNAN, and Mr. ICHORD and 70 cosponsors in introducing a bill that would give Congress a say in determining what technology could be transferred to Communist countries. The bill would require the President to notify Congress of any license the Secretary of Commerce plans to grant to a Communist country, and Congress would have 30 days to veto the license or it would be approved automatically.

The lack of a clear U.S. policy on technology transfer has become increasingly evident. Congress should have a say in this critical process. Had Congress had such veto power, it is unlikely that the recent Dresser deal of oil drilling equipment would have gone through.

I would like to insert into the RECORD an article which appeared in the Free Trade Union News concerning U.S. policy on technology transfers. This article is a succinct exploration of the issues involved:

SELLING ROPE TO THE KREMLIN

(By Miles Costick)

"I believe we can save her (Russia) by trade. Commerce has a sobering influence . . . trade, in my opinion, will bring an end to ferocity, the rapine, and the crudity of Bolshevism surer than any other method."—British Prime Minister Lloyd George, February 10, 1922.

Since the early days of Soviet Bolshevism, the non-communist world has been trying to coax the communists into not being communists by helping them maintain their closed, totalitarian societies with periodic injections of capitalistic credits and western technology. The hoped-for result echoed in British Prime Minister Lloyd George's statement—now more than 56 years past—has failed to materialize. Yet leaders of the capitalist world continue to charge ahead like so many modern-day Don Quixotes in search of their impossible dream: the merger of totalitarian dictatorship with capitalism à la Wall Street.

The old saying, attributed to Lenin, that "Capitalists will sell the communists the rope with which to hang capitalism," should be updated. Capitalists will not only sell the rope, but sell it on credit.

Few people realize that the western nations and the communists are currently engaged in World War III, and the battlefields are economic. The problem is that the economic warfare and resource war conducted by the communist governments are an intrinsic part of their ideology and the worldwide revolutionary process waged by them. On the free world side of the equation, this is not perceived for what it is, and the result is "economic détente" which facilitates transfer of wealth from the West to the East. By providing technology of a strategic nature, entrepreneurs of the non-communist countries strengthen Soviet capacity to wage a more conventional warfare against the free world.

ECONOMIC DETENTE

The United States does not have a clear trade policy tailored to its strategic and economic interests vis-a-vis the communists. Instead it conducts commerce with the communists based on a vulgar assumption that "one can buy one's enemy."

In a secret talk to the Warsaw Pact (Soviet military block) leaders in Prague in June, 1973, Leonid Brezhnev spoke very frankly about using "economic detente" to consolidate the strength of Soviet bloc economies and to advance their standing strategic objectives.

Brezhnev told the communist leaders that by 1985 they will have achieved most of their objectives in Western Europe and also be powerful enough to exert their will anywhere in the world.

KISSINGER'S BRAINCHILD

Current U.S. policy on trade with the communists was the brainchild of Henry Kissinger. However, the same policy has continued under the Carter Administration. Kissinger's "economic detente" is based on linkage of the two economies, the U.S. and Soviet. The linkage is established by the extension of subsidized credits to the USSR, by transfer of U.S. technology, by exporting grain and foodstuffs, development of Soviet mineral resources, and by U.S.-Soviet ventures in the developing countries of the Third World. Kissinger envisioned that "through a set of strategic and economic agreements, the U.S. could spin a web of vested interests thereby encouraging the Soviet Union to temper its international behavior."

This, of course, has not happened. The USSR remains as aggressive as ever—currently using proxy Cuban troops and its satellites in Eastern Europe throughout the African continent to expand world communist influence and assure its strategic objectives. Meanwhile, the Soviet Union's debt in hard currency to the Western world and Japan has grown to over $20 billion, while the Soviet economic bloc, COMECON, owes the non-communist world over $64 billion.

If the communist governments continue to receive financial assistance from the West at the present rate, they will, by 1980, owe the free world $100 billion. This figure, furthermore, does not include loans to Communist China which only this year has begun to seek financial backing and technology from the Western world.

A great deal of commerce between the United States and the communist government is being subsidized by the American public. Those subsidies take place in direct and indirect ways. A good example of the latter was the 1972 Soviet grain deal.

By suddenly and unexpectedly cornering the American wheat market (by buying 25 percent of the total wheat crop of 1972), the Soviets caused an earthquake on the world commodity market. They bought the wheat at subsidized prices with a loan from the Commodity Credit Corporation. The terms of the loan were highly favorable—the interest rate was below the ongoing market rate. American taxpayers subsidized the Soviet transaction with some $800 million, and the Soviets turned around and resold some American wheat at inflated prices on the world market. They even tried to sell some of it back to the U.S. at inflated prices, while it was still in storage here!

It was estimated that the cost of the 1972 Soviet grain deal to American housewives was over $3 billion as a result of the increase in the cost of living index, due to the increase in food prices.

The U.S. policy of "economic detente" with the Kremlin has allowed the Soviets to obtain numerous advanced technologies of critical importance in effective strategic and conventional weapons systems—many at the expense of U.S. taxpayers.

For example, the U.S. taxpayers subsidized, at over $200 million, the development by Lockheed Corporation of the RB 211 high-bypass turbo-fan jet engine, and Henry Kissinger then approved the sale of this technology to the Soviets. Also approved for sale to the USSR was technology developed to produce the "Seabee" sophisticated cargo ship for which U.S. taxpayers forked out $50 million in research subsidies.

SUBSIDIZED COMMUNISM

During Kissinger's peak years, the American taxpayer was, in effect, subsidizing a foreign aid program to the USSR through the Export-Import Bank and the Commodity Credit Corporation—a new Marshall Plan. But while the post-World War II Marshall Plan made the survival of democracy in Western Europe possible, the Kissinger "Marshall Plan" bailed out the Soviet economy; it thus assured the continuation of totalitarian communism in the Soviet Union, its domination of captive nations, and its growing ability to export subversion and revolution.

In addition, the commerce with the Soviet Union is allowing the Soviets to produce strategic and conventional weapon systems which threaten the very survival of the free world. A typical transaction was the sale in 1972–73 by the Bryant Chucking Grinder Co. of Springfield, Vermont of 164 Centalign-B precision grinding machines. These unique machines are capable of mass production of precision miniature ball bearings to tolerances of one 25-millionth of an inch.

With acquisition of the Centalign-B machines from the Bryant Chucking Grinder Co., the Soviets obtained the capacity to mass-produce guidance mechanisms for the MIRV's (multiple independently targetable reentry vehicles armed with nuclear warheads) which, by 1980, according to U.S. intelligence officials, will allow the Soviets to have at least 10,000 nuclear MIRV's for deployment against targets in the United States.

COMPUTER TECHNOLOGY

The communists know exactly what they want in technology from the U.S. and other free world nations and are often able to get it at bargain-rate prices by playing one company against another for a better deal. For example, by spending a measly $3 million on a large scientific computer system built by Control Data Corp., the Soviets gained 15 years in research and development.

What the communists want most from the U.S. today is the very latest in computer technology and electronics. Computers are the core of today's and tomorrow's strategies, for, without them, there are no modern weapons systems. All the new technologies are dependent on computers and, without them, modern weapons systems could not be built, integrated, tested, deployed, kept combat-ready and operated.

Practically every major computer manufacturer in the U.S. has sold computers and related equipment and technology to the USSR and its satellite governments. These include General Electric, Hewlett-Packard, IBM, Sperry-Univac, Honeywell and RCA, in addition to Control Data Co. of Minneapolis, the principal producer of large strategic computer systems utilized throughout our defense and intelligence establishments.

Last summer it took a letter signed by 309 members of the House of Representatives for President Carter to veto a license for export of one of the world's largest computers to the Soviet Union. Control Data, the manufacturer of the Cyber 76 computer system, still has not given up, however, and has gone to court to try to force the government to issue a permit for the export of Cyber 76 to the USSR.

With such a computer, the Soviets could obtain any information of a confidential nature stored in data-banks in the U.S. Data processing companies in the U.S. have already sold to the USSR services and terminals which enable them to monitor the flow of information of an economic and corporate nature. In other words, with U.S.-generated help, the Soviets are capable of conducting economic espionage in the U.S.

Cyber 76 could improve Soviet conventional and strategic capabilities across the board. It would improve the Soviet air defense system to the point where it could render obsolete both the B–52 and B–1 bombers, seriously threaten our new cruise missiles, and vastly improve the precision of Soviet ICBM's.

The communist appetite for western technology is staggering. In the past decade, governments of the Soviet bloc have set up more than 800 joint manufacturing ventures with western firms, and, according to figures from the Economic Commission for Europe, in the period from July 1975 to July 1976 alone, about 300 contracts on industrial cooperation were signed by the Communist bloc countries and western firms.

SECRET DEALS

American corporations should not be allowed to conduct business with the communist governments and their agencies unsupervised—from the initiating phase to the conclusion of the deal. The Soviet state enjoys a monopsonistic power versus the competing suppliers from the U.S. and is playing one company against the other to obtain desired technology or industrial know-how.

Secret deals between the Kremlin and U.S. private industry often give the Soviets more than was originally intended. For example, many U.S. firms contributed to the construction of the huge Kama River truck plant in Siberia. Only 16 months after providing part of the capital for this multibillion dollar project, Chase Manhattan Bank officials admitted, "We got burned." It was really the security of the free world that "got burned" because the Soviets will use this monumental industrial plant financed by the West to produce heavy duty military trucks, tanks, armored vehicles and other military hardware.

Should the U.S. trade with the communist governments? The argument that trade promotes peace is off base. Commerce was actually growing between the U.S. and Japan just prior to the Japanese attack on Pearl Harbor, and no economies were more "interdependent" than the British and Germans before both World Wars.

Right now the U.S. has no coherent national policy on the transfer of technology to the communist superpowers and their satellites. As a result, the present U.S. export control system is totally ineffective. Concern led Senator Henry Jackson to write President Carter on July 25, 1977: ". . . I am persuaded that the effect of our past and current policies in this area has been to enable the Soviets and their allies to acquire technology that bears importantly on the military balance between East and West. . . . In my judgment, our current condition can best be described as acute hemorrhaging."

The only remedy for this is to set up a governmental board—strictly accountable to Congress—to see that only deals benefiting the American economy and security as a whole are permitted.

Too many executives of gigantic, multinational corporations have loyalty neither to America nor to the Western democracies under whose protective shield they optimize their profits. As an example, an article in the New York Times of February 22, showed how General Electric uses a German firm, the electrotechnical giant, A.E.G., to sell to the Soviets.

Part of A.E.G.'s business involves selling American technology under license to German companies. A.E.G., for example, won a $732 million contract for gas turbine pumps for the "Friendship" gas pipeline from western Siberia to the West German border in 1976, using licenses from General Electric.

General Electric has applied for an export license with the Commerce Department to sell twelve 51,000-pound-thrust CF–6 jet-aircraft engines to the Soviet Union. The CF–6 engine is a strategic and technological asset which should not be sold to the Soviets. This engine is used to power three of our largest aircraft—the C5–A, the world's largest cargo plane; the Boeing 747, capable of carrying 60 cruise missiles; and the DC–10. Moreover the turbo-fan technology in the CF–6 has been adapted for use in the engines of our newest naval frigates, destroyers and cruisers. The CF–6 engine was originally developed for the U.S. Air Force at a cost to the American taxpayers of $315 million.

The proclaimed objective of eventual victory for "socialism" on a world scale makes it clear that any accommodation with Western powers is a purely temporary phase, while the USSR and its satellites build their strength in the advancement of that standing objective.

One of the most urgent tasks is to inform the American public about the deadly potential inherent in the ongoing pattern of the West's strategic technology transfer to communist governments, instigated and carried out on the highest government and private sector levels in the name of "economic detente."

We do not have "economic detente," we have economic warfare waged by the Soviet government and its allies. In other words, in the name of corporate profit, balance of trade and some illusory detente, we are selling Moscow the rope to hang the free world.●

SUPREME COURT STANDS TALLER THAN THE PRESS

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1978

● Mr. SIKES. Mr. Speaker, the power and/or arrogance of the press received a setback recently with the decision of the Supreme Court against the appeal of a New York Times reporter M. A. Farber. Farber defied a court order to reveal the contents of his investigative file in a New Jersey murder case. Articles written by Farber in 1975 about the murder case prompted officials to reopen an investigation which resulted in an indictment.

Farber refused to reveal the sources of the information which he published and which had a very direct bearing on the trial. His files were needed for private inspection by the presiding judge. Refusal to provide them resulted in a conviction of civil contempt for the New York Times with a fine of $5,000 per day until the files are produced. Farber was incarcerated on a sentence for civil contempt which was to remain in effect until the end of the trial, now in its eighth month, or until he produces his files. In addition, the Times drew a $100,000 fine and Farber a 6-month sentence for criminal contempt of court. The conviction in the lower court was upheld by the New Jersey Supreme Court. Farber sought action by the U.S. Supreme Court to avoid serving time. A stay of sentence had been issued by Justice Potter Stewart until the Supreme Court could hear the case. The Supreme Court has now ruled against him and Farber must now return to jail.

The courts and administration generally have shied away from facing up to the U.S. media, even when there have been obvious violations of the law in the publishing of U.S. Government security secrets. The Court's decision in the Farber case is a needed indication of courage in the courts.●

THE RAILROADS

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. GORE. Mr. Speaker, during the past year of this Congress, rail passenger service in the United States has come under intense scrutiny and debate. As you know, I have been active in support of a continuing and expanded commitment to this vital form of intercity transportation for our citizens.

Critics sometimes cite lack of public endorsement and interest in the survival of rail passenger service. However, during March of this year, the highly credible Louis Harris survey revealed an unqualified public mandate for improving and expanding service throughout the country.

This expression of support is fast becoming a groundswell of nationwide support as more citizens become aware of the impending threat of route eliminations. As an example of such grassroots interest, I take this opportunity to share an editorial from the McMinnville, Tenn., Southern Standard, September 6, 1978.

[From the Southern Standard, Sept. 6, 1978]

THE RAILROADS

Again this year the railroads, many of them now operated by a federal agency, need more money. Amtrak is not yet in the black, nor is the black even visible in the distant future.

And as earlier, perhaps unrealistic, hopes are not realized and it becomes evident federal money will be needed for a long time to keep the railroads operating, and to continue service on certain routes, some in Congress and among the public advocate less federal aid to the railroads, regardless of the consequences.

But in analyzing the condition of U.S. railroads, the primary fact to keep in mind is that the U.S. subsidized trucks and cars so heavily, by building highways, and the airlines, by building airports, that the railroads were, relatively, handicapped.

If Congress, state and local governments had spent billions in the last thirty or forty years building railroads and railroad stations, the U.S. passenger today would probably be riding on clean, fast, super-modern passenger trains, perhaps doing 150 m.p.h. But the railroads had no such help.

They will have to have federal support so long as the trucking industry and the airline industry enjoy the use of publicly-financed highways and airports. Rather than begrudge railroads federal money, the proper approach is to hope that long-time federal support can restore U.S. railroads to a competitive position. A fuel crisis or a national emergency could quickly make them once again indispensable to the welfare of American people.●

STATEMENT OF FISCAL YEAR 1979 DOE AUTHORIZATION FOR MILITARY AND NATIONAL SECURITY PROGRAMS

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. SPENCE. Mr. Speaker, I would like to take this opportunity to compliment Armed Services Committee Chairman PRICE for his leadership in calling our attention to a serious problem in our weapons production capabilities. White House and congressional attention has focused on the ongoing Strategic Arms Limitation Treaty (SALT II) negotiations. A more crucial point of focus is the fact that our nuclear weapons production facilities are in such a state of disrepair that the United States may be on the verge of unilateral disarmament.

Our military production complex, which produces the raw materials for our modern weapons systems, was constructed during and just following World War II. In hearings before the Armed Services Committee on the fiscal year 1979 budget, the Department of Energy (DOE) called our attention to the fact that these weapons production facilities are nearing the end of their operational lifetime. In recent years, their obsolescence is such that spare parts are unavailable and must be fabricated on site. The DOE has further warned Congress that—

> Early indications are that the production facilities are physically and technologically deteriorated.

To investigate further the state of this deterioration, Chairman PRICE sent a special investigative team to inspect and report back on the state of our production facilities. The team's report confirmed the worst fears, stating that the situation "* * * could be called galloping obsolescence." The report further warned that—

> . . . putting off modernization and upgrading of the national security nuclear weapons facilities of DOE could be a form of unilateral disarmament.

This warning was taken to heart by the House Armed Services Committee, whose report on the fiscal year 1979 budget for DOE national security programs clearly stated the dangers. That report noted that the weakest link in our military production complex was "uncertainty," such that "* * * an unforeseen event in one system could result in requiring the shutdown of the total complex." The committee also warned that replacement of these facilities cannot be accomplished quickly and that the cost will be high.

The administration's failure to heed these warnings is yet another example of why the United States is falling behind the Soviets in weapons development. The very core of our weapons production complex needs replacement, on the fastest possible timetable. As the House Armed Services Committee has stated:

> If the United States is committed to producing modern nuclear weapons such as the cruise missile, MX, Trident, Lance, and other warheads, it must also be committed to producing nuclear materials for those weapons.

There are three potential solutions to remedy this situation. First, the present maintenance budget for DOE could be increased in an attempt to extend the lifetime of the existing facilities. DOE officials acknowledge that the cost of this option might run as high as $260 million for fiscal year 1979. Second, new production facilities could be constructed to fill the void that will be left by shutting down the existing facilities that are now near the end of their operating lifetimes. Third, DOE could use the Barnwell nuclear fuel plant in South Carolina to replace the aging production reprocessing capacity at DOE's Savannah River reservation. DOE studies have shown that the Barnwell plant is capable, with minor technical modifications, of reprocessing spent fuel from Government production reactors.

When the Senate considered the fiscal year 1979 DOE budget for military programs on September 30, Senator JACKSON amended that legislation to direct DOE to study the state of deterioration of the weapons production complex and report back by early next year. Senate action was prompted in large part by the House committee report and Senator JACKSON is to be commended for reacting along with the House to a potential crisis situation.●

FEDERAL LABOR-MANAGEMENT RELATIONS PROGRAM

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. CLAY. Mr. Speaker, I am pleased to note the statement by Mr. FORD of Michigan on the Civil Service Reform Act of 1978 with special focus on title VII of that act. Mr. FORD and I were House conferees on this bill and have both worked shoulder to shoulder over the years to insure a strong Federal labor-management relations progam. Struggling with the major differences in conference between the Senate and the House on this detailed legislation was so time consuming that many of us feared we would be unable to come back with a conference report early enough to insure passage before adjournment. In fact, the conference documents were finished only hours before final Senate floor action.

With this in mind, we contented ourselves with a statement of managers that was not as complete as we would have preferred. Consequently, I am pleased that Mr. FORD, who has already made significant contributions to the understanding and enactment of title VII of this legislation during House debate, has offered a more detailed summary of the actions of the conference with particular focus on the statutory labor-management relations program. As my colleague from Arizona noted in the House debate on September 13, Mr. FORD, as a major contributor to title VII, is in a unique position to explain with thoroughness and understanding the work of the conference on title VII. It is my hope that this statement will help to guide others in understanding the important legislation.●

CARTER ADMINISTRATION OFFERS SATELLITE TO RED CHINA

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ASHBROOK. Mr. Speaker, the Carter administration seems intent on transferring our most advanced technology to the Communist regimes. In the past the Soviet Union, Red China, and other Communist countries have obtained from the United States sophisticated computer systems and unique petroleum exploration equipment.

Now the Carter administration has offered to sell the Communist Chinese an American communications satellite. In fact, the United States will even launch it for them—as well as provide ground stations for receiving and transmitting the signals.

The Atlanta Constitution calls the prospective United States-China deal "the most sophisticated transfer of technology between the two countries." U.S. officials concede that the sale might improve Chinese military communications, but apparently the Carter administration could not care less.

This is an extremely shortsighted policy. Our technology is being used to build up the industrial and military might of our enemies.

Every year the United States spends billions of dollars on defense, a defense made necessary by the threat of Communist aggression. At the same time we are spending these billions, however, we are helping to build up the enemies we are defending against.

This makes no sense. We should stop exporting our sophisticated technology to the Communist world.

Following is the text of the October 13 Atlanta Constitution article on the United States-China satellite deal.

PEKING PERMITTED TO BUY U.S. COMMUNICATIONS SATELLITE

WASHINGTON.—The Carter administration has informed Peking that the Chinese will be allowed to buy an American communications satellite and that the United States will launch it, administration sources said Thursday.

The sources said the administration is waiting for the Chinese to reconfirm that they are interested in making the deal, which would represent the most sophisticated transfer of technology between the two countries.

The Washington announcement came as a West German-led industrial consortium announced in Duesseldorf that it will bid to construct one of the world's largest steel mills in China, sweetening its offer with a record $14.7 billion credit pledged by German bankers.

Washington sources said the administration is fairly confident that the Chinese will make the satellite deal. Chinese representatives discussed it with White House science adviser Frank Press during a meeting in

July. Several years ago they "reserved" a slot for a communications satellite with the United Nations agency that monitors the field.

The sources emphasized that the discussions are still at a very tentative stage. If the Chinese choose to pursue the offer, they would have to make a deal with one of the handful of American companies that manufacture the satellites. To make the satellite effective, they would also have to buy an undetermined number of ground stations for receiving and transmitting the signals.

The cost could run into hundreds of millions of dollars. A satellite would cost $15 million to $17 million, according to industry sources. The cost of placing it in orbit would add another $13 million to $23 million, depending on the rocket used.

The satellite sale would not technically violate the longstanding U.S. policy against the sale of military equipment to the Chinese, the sources said. But they acknowledged that it might improve Chinese military communications.

Whether it had direct military implications or not, the sale would likely irritate the Soviets, who have repeatedly warned in recent months that it is dangerous for Washington to "play the China card"—a reference to cultivating closer ties with the Chinese while Peking-Moscow relations are strained.

In West Germany, Heinrich Weiss, head of the Duesseldorf engineering and plant construction company Schloemann-Siemag AG, said Chinese Metallurgy Minister Tang Ke invited his firm to form the bidding consortium when the minister toured West European cities in July.

If the bid is successful, the size of the order would be a record for West German companies and would be accompanied by one of the largest credits ever granted.

Weiss said the steel mill in Hopei province would have a planned production capacity of 10 million tons of crude steel a year when completed.

A first stage with a capacity of six million tons a year would be completed in 1985, he said.

Meinhard Carstensen, a director of the Frankfurt-based Dresdner Bank AG, confirmed that his bank has promised to finance the package.

If the German tender is accepted, Dresdner Bank would form a Western credit consortium—possibly including non-German banks—to supply up to $14.7 billion in buyers' credit to the Bank of China, he said. Funds drawn on the credit would be repayable in 10 years.

The sales to Peking would continue a trend of dramatically growing trade and technical ties with mainland China that began with the death of Mao Tse-tung and accelerated when the pragmatic Teng Hsiao-ping became deputy premier under Hua Kuo-feng.

Teng and Hua have embarked on an ambitious program to modernize China's educational, technological and military base, opening the country to the West in unprecedented ways.

An educational delegation from China is visiting Washington this week to make the final arrangements for the first of what is expected to be an influx of 500 Chinese students to American universities. In return, the Chinese have indicated willingness to allow significant numbers of American scholars to visit China on a long-term basis.

The Chinese are also making educational exchange arrangements with several nations in Western Europe and with Japan.

Trade between the United States and China is expected to triple this year to more than $1 billion, according to the National Council for U.S.-China Trade.

Most of the goods exchanged are still in the agricultural category, but the council says business in more sophisticated goods such as computers and petroleum exploration equipment is growing rapidly.●

AMENDING THE FARM LABOR CONTRACTOR REGISTRATION ACT OF 1963

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. FITHIAN. Mr. Speaker, S. 976 contains an amendment to the Farm Labor Contractor Registration Act of 1963 (FLCRA), which exempts companies producing hybrid seed corn and sorghum for seed to the extent that such companies do not use traditional migrant and seasonal workers and professional farm labor contractors.

When Congress passed FLCRA in 1963, we recognized the need to protect migrant and seasonal farm workers from exploitation by professional farm labor contractors. In 1974, FLCRA was amended in order to provide better protection for these workers. The 1963 Act (as amended in 1974) requires farm labor contractors to register each year with the Secretary of Labor and be fingerprinted, to designate the Secretary as their agent for service of process, to supply detailed information regarding the housing accommodations for workers, and to comply with insurance regulations for vehicles and drivers.

FLCRA was intended to help those migrant and seasonal farm workers who traditionally have been victims of exploitation. The report accompanying the 1974 FLCRA amendments described the exploitation of migrant workers:

> It is unfortunately an all too common experience for workers to be abused by farm labor contractors. Testimony revealed that in many cases the contractor: exaggerates conditions of employment when he recruits workers in their home base, or that he fails to inform them of their working conditions at all; transports them in unsafe vehicles; fails to furnish promised housing, or else furnishes substandard and unsanitary housing; operates a company store while making unitemized deductions from workers' paychecks for purchases, and pays the workers in cash without records of units worked or taxes withheld.

The act, however, was never intended to interfere with the longstanding relationship, common in the seed industry, between seed companies and students and other young people who are permanent residents of a given locality and who perform a variety of tasks for a few weeks during their summer vacations. Yet, the Labor Department began enforcing FLCRA's provisions last year against the seed industry even though these young people clearly are not migrant workers and they are not supervised, hired, or transported by professional farm labor contractors.

Congress did not intend FLCRA to be applied to students and other young people who work for a few summer weeks to detassel seed corn, to eliminate rogue plants and to perform other incidental farm activities for a variety of crops. Because the Department has unjustifiably interfered in the seed industry, we have amended FLCRA to exclude explicitly the seed industry to the extent that it employs young people not regularly required to be away from their place of residence other than during normal working hours.

Passage of this amendment is not the first time that Congress has acted to prevent the Labor Department from regulating a similar labor situation under FLCRA. The 1974 amendments included a similar exemption for the strawberry industry in the Pacific Northwest. In the report accompanying the 1974 amendments we stated that FLCRA was not intended to apply to students or other community-based berry-pickers in the Pacific Northwest.

The seed industry's summer workers are in a similar situation, and clearly do not need FLCRA's protections. These workers are residents of the communities where the seed companies produce their products, and a strong personal relationship exists between them, their adult supervisors, and the seed companies.

The American Seed Trade Association has estimated that over 280,000 young people are temporarily employed in the seed industry each year. Most of the people so employed are vacationing students who are recruited, not by professional contractors, but by seed company employees or school teachers and other community residents doing part-time work. Registration and fingerprinting of such supervisory personnel is unnecessary and would be counterproductive. If registration were required, more than 19,000 people would have to register, according to the American Seed Trade Association. In contrast, only 12,000 people in all other agriculture activities had to register in 1977.

The seed industry is a complex one. To the extent that corporations or farmers employ traditional migrant and seasonal farmworkers, they will remain subject to FLCRA. However, the amendment we are considering today provides an exemption with respect to students or other temporary local workers hired to detassel and rogue seed corn, to rogue sorghum or other crops, and to perform incidental farm activities. This amendment is not as broad as many Members would have liked, but Congress had insufficient time to consider fully a broader exemption for the seed industry.

Flexibility, however, should be exercised by the Labor Department in administering FLCRA with respect to seed crops other than hybrid corn and sorghum, which are specifically covered by this exemption. If the same temporary workers are used to detassel seed corn one day, then to rogue another crop the next day, it should be obvious that Congress intended to exempt such activity with respect to the other crop because the exemption applies to engaging "in other incidental farmwork," as well as to detasselling or roguing hybrid corn and sorghum for seed. Similarly, FLCRA would not apply where the same type of temporary workers are utilized in related activities, such as research on new types of seed, or to perform hand-pollination

and other functions related to the production of seeds.

Mr. Speaker, the fact that this amendment is needed at all sugegsts that the Department of Labor has misread its legislative mandate. It is my hope that from this point on, the Department will use its resources to protect those migrant and seasonal farmworkers for whose protection FLCRA was first enacted. I hope that further amendments will not be necessary, but they will be forthcoming if the Department continues to apply the act to groups of workers for whom FLCRA coverage was never intended.●

WINS SOFTBALL CHAMPIONSHIP

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MINETA. Mr. Speaker, while the Nation's eyes this week turned to the World Series, members of my staff turned their after-hours energies to battles closer to home. On Tuesday, October 10, they won the final game in the House softball league playoffs. While I am pleased with the team's victory, I think their attitude in their games has been even more interesting: Completely prepared to lose, they happened to win. They were sure they would have a good time, either way.

I would like to say a few words in praise of their achievements, but team captain Hal Stemler has taken care of that for me in the following rather one-sided description of the game.

The description follows:

MINETA-WIRTH WINS SOFTBALL CHAMPIONSHIP

It was written all over shortstop Jim Ray's face as he lunged to make the final putout of the game.

This was a team whose momentum had steadily built up. Sure, it had started slowly at the beginning of the season, but the machinery had fallen into place. The dozen players that constitute Mirth, Mineta-Wirth, with assists from Bedell and Markey, had streamrolled their way through four tough playoff games to the House of Representatives softball championship.

Second baseman Brian Hernon let the peg from rightfielder John Dalsanto through to Jim Ray, who found himself with the ball, fifteen feet from third base and staring at the opposition's errant base runner who had made the big turn and was now regretting it.

Jim Ray dove for the kill while the baserunner frantically tried to reverse his direction. Both players found themselves in the air at the same time, but the ball made contact with the runner before the runner landed on the base and the game was over. Despite the final drama, it wasn't even close. Mirth had defeated Ammerman-Pettis, 13–4.

Mirth's big guns battered the outfield ramparts with two blasts paving the power alley over the leftfield fence, one by John Dalsanto in the third and another by Jim Ray in the sixth.

The rest of the team aimed lower and settled for nasty line drives for extra bases. Paul Schoellhamer, Michael Rattigan, Bill Shem, and Brian Hernon all kept the outfield honest, and the attack produced runs in every inning except the seventh, when the game was already on ice with a nine run lead.

Bill Shem revived the lost art of base running, cleverly anticipating three enemy errors in a nonstop romp around the bases. On a second trip home, he was surprised to find himself awaited at the plate by a ball-brandishing shortstop. Sliding in like a piston in a a cylinder, Shem persuaded the prostrate defender to drop the ball.

Talk about RBI's and you have to talk about pitcher Jannelle Rattigan, whose vicious swing, deceptively cloaked in the calm exterior of a demurring southern belle, repeatedly sent penetrating drives through the infield when it counted, bringing home three runs. Catcher Chris Simone and firstbaseperson Stephanie Dean added their share to the offensive assault, crossing home so often they were charged rent.

The big difference, though, was defense. The game was won in the outfield where the acrobatic Mirth hawks shagged many a drive with "disaster" written all over it. The low slung lights of the Bolling Airforce Base field made the task even more difficult. Centerfielder Paul Schoellhamer did lose one in the glare, but made up for it with a beautifully executed shoulder roll to climax his next catch.

Thirdbaseman Michael Rattigan clamped an iron gate on the hot corner, converting seering furrow diggers into quick outs. And sure-handed Stephanie Dean added another night of flawless ball to her consistent season.

Starting shortstop, Captain Hal Stemmler, imposed strict standards on his players' performance on the field and was, therefore, the first to go. One hot grounder between his legs and he put himself on the bench, muttering his regret at leaving his ball-stopping chaps at home. His replacement, Mike Bobseine, made a fine catch in the outfield in the bottom of the seventh to stunt a threatened Ammerman rally.

Captain Hal then diverted his energies to Stengelizing with the fans and aiding the astute monitoring of the game by Chellie Campbell, substitute pitcher, catcher, and utility infielder, whose careful accounting during the lineup and snatched victory from the jaws.

"The fans were the key to victory," said Captain Hal, "all eight of 'em." He had special words of praise for the gallon of hot chocolate. Captain Hal estimated the number of fans turned away before the surly sentry at the airforce base guardhouse was bound and gagged at 100–200.

Following the game, Mirth players posthumously squashed empty beer cans in honor of former players Michael Jacobson and Kathy Anderson, to whom life was more important than the team, and who now reside in Colorado and Oregon, respectively.

There's talk now of a Capital Hill World Series, pitting the House champs against the Senate chumps, Captain Hal said.

There's also talk of skiing in Vail, suntanning in Acapulco, and a reunion of the Beatles.

Whichever happens first.●

PERSONAL EXPLANATION

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. STEERS. Mr. Speaker, on Friday, October 13, 1978, the House considered H.R. 13471, the Financial Institutions Act of 1978 by means of House Resolution 1439. The House passed this measure by a vote of 341 for, 32 against, and 9 voting present. I did not vote either for or against this measure, but simply recorded myself as "present."

On January 4, 1977, I submitted a copy of a personal statement of net worth for public consideration in the CONGRESSIONAL RECORD—the first Member of the 95th Congress to do so. In that statement I recorded ownership of shares of the Government Services Savings and Loan. In order to avoid even the appearance of voting in favor of legislation that could be construed as being in my own personal interest, I voted "present."

I might also add that when H.R. 13471 was considered for final passage by the House Committee on Banking, Finance and Urban Affairs, I was recorded as "present but not voting." ●

GRAZING LANDS MANAGED ACCORDING TO TAYLOR GRAZING ACT

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. BAUCUS. Mr. Speaker, for the last several months I have been involved in discussions with the Department of Interior regarding a serious Federal land problem in Montana. I met with Secretary Andrus this morning to discuss the problem again, but we have not yet come to a satisfactory solution.

Thus, I am introducing legislation today that I believe should be enacted legislatively if Interior will not change its policies administratively.

The Missouri Breaks region of Montana has unique values for both livestock and wildlife. Recognizing this, President Franklin Roosevelt created the Fort Peck Game Range in 1934. Roosevelt's order stated that the lands be reserved for the conservation and development of natural wildlife resources and for the protection and improvement of public grazing lands and natural forage resources.

The range, now called the Charles M. Russell Game Range, was originally managed by the Bureau of Land Management under a joint agreement with the U.S. Fish and Wildlife Service. Grazing permits are issued under the Taylor Grazing Act.

The joint BLM-Fish and Wildlife jurisdiction on the range led to some conflicts and in 1976 Public Law 94–223 placed the range under the sole jurisdiction of the Fish and Wildlife Service.

I believe congressional intent was for grazing on the range to be continued under terms of the Taylor Grazing Act. It was the clear understanding in both the House and the Senate that the assumption of sole administration by the Fish and Wildlife Service would not act to prejudice or jeopardize existing grazing use by ranching operations in the area.

Fish and Wildlife does not agree with this view and their policies are threatening the livelihoods of local livestock interests. The major problems are:

First. Prohibition of transferring grazing permits as part of the base property when selling ranch units;

Second. Reduction in the length of grazing leases from 10 years to 1 year; and

Third. Gradual loss in permitted numbers of animals grazed.

Fish and Wildlife policy has led to rapidly deteriorating relationships between the administration and the residents of northeastern Montana. The Federal hardheadedness is completely unjustified. A more reasoned grazing policy would in no way detract from the wildlife values of the CMR.

Several months ago Mr. UDALL, chairman of the Interior Committee, Mr. RONCALIO, chairman of the Public Lands Subcommittee, and I expressed concern about Fish and Wildlife policy on the CMR to the Secretary of Interior. Since then, we have been pressing the Department to change some of these policies. In particular, we would like recognition of the fact that grazing permits have historically been attached to base properties and should transfer automatically with those properties and that the length of grazing permits should be 10 years to encourage ranchers to protect their rangeland and to give them a basis for long-term planning.

During several months of meetings and correspondence with Interior, no resolution has been reached. For that reason, I now offer this bill which would mandate that grazing on the Charles M. Russell Game Range be administered in accordance with the Taylor Grazing Act as are other BLM lands. This amendment offers a quick solution to the problems we are having on the CMR. And if it does not pass this session, and if Fish and Wildlife policies do not change, passage of this amendment should be a major priority of the Montana delegation next year.

The text of the bill follows:

H.R. —

A bill to require grazing management of Charles M. Russell National Wildlife Refuge in accordance with the Taylor Grazing Act and the Federal Land Policy and Management Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, The Secretary shall manage the Charles M. Russell National Wildlife Refuge in accordance with the Taylor Grazing Act (43 U.S.C. 315–315 (o)), the Federal Land Policy and Management Act of 1978 (43 U.S.C. 1701–1782), and other applicable law.●

CIVIL SERVICE REFORM

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mrs. SCHROEDER. Mr. Speaker, as a conferee on the Civil Service Reform bill and one who had a particular interest in several sections of the bill, including the labor relations portion, I was pleased to see Mr. FORD's statement today amplifying the intention of the conferees on title VII of that bill. In conference we were confronted with not only a long, but a particularly intricate bill, and because our work fell close to adjournment, we were forced to settle for a statement of managers that is somewhat brief.

As a former employee of the National Labor Relations Board, I found Mr. FORD's statement reflected a thorough understanding of the work of the conference on title VII. It is my hope that this statement will serve to complete the record about the actions of the conferees on S. 2460.●

STATEMENT BY THE HONORABLE H. M. PATEL

HON. JOHN J. CAVANAUGH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. CAVANAUGH. Mr. Speaker, the Honorable H .M. Patel, Minister of Finance and Governor for India of the International Bank and the International Monetary Fund, recently spoke to the annual meeting of those institutions. Mr. Patel's speech is an important, detailed description of current international economic forces as seen by a highly qualified spokesman for a major developing country. I am pleased to be able to share his views with my colleagues.

The text of the statement of September 26, 1978 follows:

STATEMENT BY HON. H. M. PATEL

At this time last year, the small and faltering recovery in the industrial world seemed to portend, if not recession, generalized stagnation from which a way out could only be found if the leading industrial countries were prepared to take urgent corrective action. As the year advanced, pessimism gave way to moderate optimism and during the Interim Committee meeting in Mexico City the prognostications were predominantly favorable.

Since then, the pendulum once again swung back and the outlook for the coming months began to look decidedly gloomy. This was because the coordinated corrective action on which our hopes of recovery rested did not materialize. The continued sluggishness in economic activity in the developed world, the low rate of expansion in world trade and the instability in exchange markets observed since the last Annual Meeting have had, and will have, a number of adverse repercussions on the developing world. These will obviously further depress the already low rate of income growth among non-oil developing countries and delay the removal of poverty of millions of their people. It was expected that the declining trend in the developing countries' balance of payments deficits from the peak of 1975 would be reversed in 1978. As it is, the aggregate deficit would be about 45 per cent larger than the level last year, partly owing to an unfavorable movement in the terms of trade. The debt servicing problem of some of these countries might, therefore, become acute and force them to adopt deflationary measures and/or severely restrictive import policies unless adequate relief/credit is made available.

I cannot help feeling that the health of the world at this time would have been better if there had been greater cooperation and coordination among the leading economies notwithstanding the limitations on the maneuverability of the authorities imposed by unacceptably high inflation and unemployment rates. Some efforts were no doubt made in this direction but they have failed to yield the desired results because of inadequate and halting implementation which again was the result of excessive caution and conservatism. We welcome the renewed initiative of the Bonn Summit declaration and feel encouraged that, this time, the needed policy measures will be expeditiously implemented. Whatever be the preferred development strategy—the "locomotive", the "convoy" or any other—the fundamental fact is that because of the sheer weight of their economies, the policies and performances of major industrial economies will have far greater multiplier impact, in either direction, on the rest of the world. We would, therefore, urge them to set their growth targets as high as possible commensurate with reasonable price stability.

In the field of international payments, the most striking feature has been the pronounced instability of exchange rates and its unsettling effects on the growth of the income and trade of developing countries. These countries have had to deal with this phenomenon at a time when they were faced with the difficult task of undertaking domestic adjustment measures in the face of a severe deterioration in their terms of trade since the early seventies. The slump in the U.S. dollar and the continued inflation in the industrial world have sharply reduced the real purchasing power of developing countries' reserves. One does not have to be an unflinching believer in fixed exchange rates to be convinced that the world could do without the extreme volatility of exchange rates we have experienced in recent months. Given the inflation differentials among countries and the distribution of balance of payments surpluses and deficits, exchange rate movements are inescapable; but we have serious reservations whether the observed movements could be characterized as orderly or even appropriate. Here again, lack of adequate cooperation among major economies has caused unwarranted fluctuations. Leading economies should undertake (i) timely and appropriate policy measures, (ii) concerted action to resolve the underlying destabilizing factors, and (iii) prudent intervention to ensure orderly movements in exchange rates. The International Monetary Fund should make effective use of its powers of surveillance under the amended Articles to prevent the persistence of disorderly movements in the exchange markets.

In the context of the persistent and large imbalances on the external account, and to meet the members' needs arising from future growth in international transactions and disequilibria emanating therefrom, it is essential that adequate resources are placed at the command of the International Monetary Fund. We are happy to note that the expected augmentation in the resources of the Fund as visualized under the Sixth Quota Review has come about. We also note with satisfaction the agreement reached by the Interim Committee last Sunday regarding a 50 per cent increase in Fund quotas in the process of Seventh Quota Review. It is our earnest hope that the new quota will become effective early next year.

There is now an almost complete agreement on the need for a fresh allocation of special drawing rights. In this context, we note with satisfaction the agreement reached by the Interim Committee at its last meeting regarding the allocation of SDRs in each of the three years 1979 to 1981. We are however disappointed at the size of the recommended allocation. In our view, the figure of 4 billion SDRs of annual allocation during the next three years falls short of the genuine needs of the international monetary system. We are also not very happy with the recommendation of the Interim Committee that 25 percent of the next quota increases be paid for in SDRs. However, we welcome the decision to reduce the reconstitution requirements in respect of SDRs from 30 to 15 percent of net cumulative allocations. We hope that in due course reconstitution requirements will be totally eliminated.

The stiffness of conditionally attaching to Fund drawings and the widespread feeling

among developing countries that they are discriminated against in this respect are matters which merit serious attention. We are happy that a comprehensive review of this aspect is being conducted by the Fund Executive Board and hope that it would lead to such modifications in conditionality as would encourage the members to approach the Fund before their problems assume serious proportions. Recent experience of developed countries suggests that the task of orderly economic management involving the reconciliation of often conflicting requirements of internal and external balance is not an easy one. I very much hope that, when it comes to handing out policy prescriptions to developing countries, donor countries as well as international organizations would draw appropriate conclusions from the recent experience of developed countries. In particular, the conditionality of Fund drawings must take adequate account of economic, social, and political constraints. Our objective should be to ensure that the Fund assistance is not in the nature of "last resort"; on the contrary, members really should be encouraged to knock at the doors of the Fund first. As we would very much like to have this kind of relationship developed between the Fund and its members, it is necessary that the members should feel assured that what they are asked to do for receiving assistance is about the minimum necessary. We would also urge a further liberalization of the Fund's compensatory financing facility involving, among other things, the calculation of export shortfalls in real terms and an increase in the limit of compensatory drawings from 75 percent of quota as at present to 100 percent.

Last year I had expressed concern at the restrictive tendencies on the trade front. This undesirable trend appears to have gained strength. The Fund's 29th Annual Report on Exchange Restrictions concludes that during 1977 and early 1978 several countries in Europe and elsewhere made more frequent use of protectionist trade measures. This is increasingly hurting a growing number of developing countries partly because it has coincided with a drop in the rate of expansion of world trade. The social and economic problems connected with structural adjustments needed to absorb more imports from developing countries are difficult but these should not be exaggerated. In any case industrial and creditor countries should not attempt to throw the burden of adjustment on poor developing countries through the erection of trade barriers. The developing countries just do not have the economic capacity to bear the burden of adjustment. In this respect, the determination of the Bonn Summit leaders to maintain and strengthen the open international system is welcome. However, the manner in which the multilateral trade negotiations are being conducted raises serious doubts in the minds of developing countries about the outcome of these negotiations. It is my sincere hope that in the coming months there will be greater awareness of the aspirations and concern of developing countries so that in line with principles accepted in the famous Tokyo declaration these negotiations are able to make a major contribution to an orderly and equitable management of the growing interdependence of the world.

While on the subject of trade, I cannot but point to the serious deterioration which the non-oil developing countries have suffered in their terms of trade in the last few years. Many of them have made strenuous efforts to expand the quantum of their exports, but their over-all balance of payments position continues to be under strain. A degree of instability in export prices has contributed to this but the increase in the prices of their imports have also been a factor of great significance. Therefore, while measures to stabilize export earnings at a higher level are necessary, this is only a partial solution to the wider and more complex problem of their balance of payments vulnerability. A review of compensatory financing facilities should keep these wider aspects in mind. It is certainly not beyond our ingenuity to devise appropriate mechanisms which would enable developing countries to withstand the danger of disruption of their external payment situation.

Of equal concern to us is the overall situation with regard to international resource transfers. Official development assistance levels have declined as a percentage of the Gross National Product of donor countries from 0.36 in 1975 to 0.33 in 1976 and the projections of the World Development Report suggest that they may rise to no more than 0.39 by 1985. This is a grossly inadequate measure of progress. What has happened to the target of 0.7 per cent, a target which was an internationally declared objective but whose fulfillment is now confined to a handful of developed countries and some oil producing countries? Capital transfers represent an important aspect of economic interdependence. We believe that an increase in official development assistance is an essential aspect of the international adjustment process in that the surplus countries would be fulfilling not merely their obligations in terms of adjusting their balance of payments but also helping in raising the level of development in the developing world. In fact, such an increase in developmental assistance would help to expand economic activity in many leading industrial countries where at present there is considerable underutilization of productive capacity and unemployment levels are higher than what they should be; and some of these countries also happen to be the ones whose official development assistance performance is disappointingly low.

An analysis of recent trends of external capital flows to developing countries shows that concessional capital flows have increased far more slowly than commercial capital flows. Since the capacity of low income countries to absorb external capital on commercial terms is extremely limited, it is not surprising that these countries have failed to attract external resources commensurate with their objective needs and growth potentialities. There is an urgent need to correct this growing asymmetry so that external capital inflow on soft terms to the lower-income countries is encouraged. There is indeed no real substitute for larger official development assistance.

The increase needed in levels of official development assistance reflects also our recognition of the need for concessionality in assistance to the poorer among the developing countries. It is a matter of gratification that several Development Assistance Committee members are now providing assistance to the low income countries on a grant basis. While this is welcome, it must also be pointed out that the problem of debt servicing remains a serious one for many poor developing countries. The logic behind the provision of new assistance on a grant basis clearly needs to be extended to debt relief or any other form of retroactive application of the currently prevailing soft loan or grant terms. I would like to take this opportunity to express our appreciation of the measures taken by Canada, the Netherlands, Switzerland, Sweden, and the United Kingdom in canceling the official debt owed to them by several developing countries.

While the importance of concessional aid to low income countries has received universal recognition, it is a matter of regret that the replenishment of International Development Association resources regularly runs into problems, even to a point where its commitment authority appears to be seriously jeopardized. Although the funds available to IDA V will not be fully committed before June 1980, we strongly support Mr. Namara's plea for start of negotiations for the Sixth Replenishment latest by the end of the current year. In view of the great importance of the International Development Association to the poorer among developing countries, it is absolutely essential that the next replenishment should involve a substantial expansion of resources of the International Development Association in real terms.

The problem which the International Development Association is facing is part of the larger issue of mobilization of resources for the multi-lateral development institutions. The World Bank has expanded its activities in a significant manner during the last decade under the inspiring leadership of Mr. McNamara and as he begins his third term, the Bank is poised for an even greater role. The proposal for a capital increase of the Bank has come not a day too soon and we strongly support the enlargement of the Bank's capital, so that it might be enabled to play an even more helpful role in the future. We welcome President Carter's declaration affirming the support of the United States for the increase in resources both of the Bank and the International Development Association.

The Bank's expanding activity is not merely a matter of numbers. I believe its activities are beginning increasingly to make a qualitative difference to the lives of the people it serves, for they are oriented essentially toward alleviation of poverty and the provision of basic human needs. This change in the Bank's approach is completely in line with the thinking of my country. The objectives of India's new Five Year Plan are precisely these, namely, the removal of unemployment and significant underemployment, an appreciable rise in the standard of living of the poorest sections of the population, and the provision of some of the basic needs of the people in these income groups like clean drinking water, adult literacy, elementary education, health care, and rural housing. Accordingly, we are planning not merely to achieve a higher rate of economic growth than has been feasible in the past but to move toward improving the productivity of the lowest income groups and thereby effect a significant reduction in the disparities of incomes and wealth.

We recognize that to achieve these objectives, the major effort has to be made by ourselves. India has progressed considerably along the path of self-reliance and the share of external assistance in relation to our own investment effort is indeed low. But at the same time we believe that the extent to which the international community is able to sustain the efforts made by countries themselves makes appreciable difference to the speed and the rate at which the developing countries are enabled to move forward in the achievement of their essential objectives. A favorable international economic environment characterized by forward-looking trade and aid policies by the developed countries can greatly enhance the effectiveness of domestic policy measures adopted by the developing countries.

The message of the World Development Report is that international development ought to be a combined effort of both the developed and the developing world and that the world cannot afford to have large patches of poverty alongside tiny islands of enormous affluence. In this task the international financial institutions have done commendable work and their successful functioning in the future will without a doubt provide valuable support to the grim struggle of millions of the world's poor for a better and more meaningful life.●

TERRORISM AGAINST BULGARIAN EMIGRES

HON. LARRY McDONALD
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. McDONALD. Mr. Speaker, since the 1917 Russian revolution there have been frequent instances of assassination of political opponents by Communist governments. While the most notorious was the 1940 murder of Leon Trotsky in Mexico by Stalin's secret police, over the years many other less well known opponents of the Soviet regime have been killed to stifle their criticism.

In recent years, while the Soviet terror has continued the Yugoslav secret police have become notorious in Western Europe and, to a lesser extent in our country, seeking out and killing those hostile to Tito's totalitarian regime. And, in Miami, the Cuban Secret Police, the DGI, have followed these examples, killing and maiming some of the most active and vocal of Castro's enemies who had sought refuge in the United States.

Within the past month, two stalwart critics of the Bulgarian Communist regime, living in London have died unnaturally; one without doubt murdered by the administration of poison or pathogen in a cruel and bizarre manner. This same method was used in an attempt to assassinate a third Bulgarian emigre, living in Paris, France; and in Los Angeles an enemy of the Bulgarian Communists, Rev. Stefan Bamkov reports death threats being made against him, and shots being fired at his home during the night hours.

By these terror tactics a climate of fear has been created in the Bulgarian emigre anti-Communist community; the Bulgarian dictatorship has attempted to suppress the murder investigations in London; the head of the Bulgarian secret police has threatened those who dare to criticize the regime of Todor Zhivkov; and Radio Sofia has boasted, "the long arm of State security will always outreach the running feet of dissident traitors."

On September 11, Georgi Markov, 49, the Bulgarian writer and broadcaster who had fled from his country in 1970, died as the result of being stabbed with a poisoned weapon. Markov, who was given a prison sentence in Bulgaria in his absence in 1972, was a member of the British Broadcasting Corporation's Bulgarian service and also broadcast from such radio stations as Radio Free Europe in Munich and Deutsche Welle in Frankfurt. Before he had fled his country, Markov had been very close to the ruling elite and to the president and chairman of the State Council, Todor Zhivkov He knew many details about the private lives of the Communist leadership and used these in his broadcasts which had gained tremendous popularity in Bulgaria. At the time of his murder Markov was planning to write his memoirs, which would have been a sensational exposure of life at the top in the Communist world and devastating to the image that Bulgaria's dictatorship sought to portray.

According to press accounts, Markov on a recent visit to Munich to meet friends in Radio Free Europe, told them that he was being followed by agents of the Bulgarian secret police and had received a telephone call saying that he would be "liquidated," but not "in the normal way."

Markov was murdered in central London by means of an impregnated alloy sphere or pellet, less than the size of a pinhead, being injected into his thigh with a tip of an umbrella. An identical sphere was surgically removed from the back of another anti-Communist Bulgarian broadcaster, Vladimir Kostov in Paris, France, on September 28. Kostov survived the attack, which took place on August 26, but only after spending 12 days in hospital with a high fever.

Intelligence community sources report that bizarre, near-silent weapons, such as those that were used on Markov and Kostov are known to be used to "eliminate" opponents of Communist regimes. While tests continue to determine the substance that was used, experts suggest that the alloy spheres, measuring sixty-eight thousandths of an inch with two holes sixteenth thousandths of an inch drilled into them, may have contained a virus. The spheres were very precisely engineered and it is believed that they were made by a watchmaker or micro-engineer.

According to one report,

A virus that would seed an infection may have been chosen by the murderers, since it would be more difficult to isolate and identify than an organic poison, thus heightening the atmosphere of mystery and terror. Before it was fired, the sphere would have been sealed by some kind of jelly that would melt inside the victim at a precalculated rate, allowing the substance inside to escape at any desired rate. The alloy sphere could have been injected into the body by the use of a low powered compressed air gas gun which would produce no noticable recoil or noise. Such a gun could be concealed in or disguised as an umbrella and would have the capability of placing the sphere or pellet under the skin, where it could easily escape detection. The wound caused would only show as a small red mark resembling an insect bite.

The assassination of Mr. Markov is being investigated by a team led by Comdr. James Nevill who is head of Scotland Yard's antiterrorist squad. As reported in the London press,

Commander Nevill is particularly anxious to trace a taxi-driver who picked up a man who "did not speak very good English" who had jabbed Mr. Markov with an umbrella. The man had dropped the umbrella, picked it up, and entered a passing cab . . .

Three weeks after the murder of Mr. Markov, on October 3, another Bulgarian employee of the BBC, Vladimir Simeonov, 31, was found dead in his apartment. According to the antiterrorist unit who are also investigating his death, he had died of suffocating by blood that had clogged his windpipe due to a broken nasal bone. He was found dead at the bottom of a staircase in his home. According to Scotland Yard,

We treat this as a suspicious death considering the recent murder of Georgi Markov.

On October 4, the Bulgarian Telegraph Agency, the official Government news agency, launched a major radio attack against the British press for their reporting of the deaths of Markov and Simeonov, and the attempted murder of Kostov. This followed an earlier protest by the Bulgarian Embassy in London which had threatened serious consequences if the "hullabaloo" over the murder of Markov continued in the press.

The concerns for favorable reporting were obviously not shared by Dimitar Stoyanov, Bulgarian Minister of Internal Affairs, who is responsible for the notorious Drjavna Sigurnost (DS) the Bulgarian secret police. As reported by the German newspaper, Die Welt (Bonn, October 4, 1978), Stoyanov appeared on Bulgarian television on September 15, saying,

Our enemies cannot evade our action anywhere. Borders do not exist for us. Counter-revolution must know that it has no secure refuge.

And, in the face of such a statement the London Sunday Telegraph of 2 days later, September 17, 1978, very appropriately reported:

If suspicions that Mr. Markov was the victim of a political assassination ordered by the Bulgarian authorities are confirmed, one man likely to figure in inquiries is Dimiter Kendimenov, who works at the Bulgarian Embassy in London.

Though Kendimenov is listed as the Embassy's Counsellor for Economic Affairs, ranking fourth on the diplomatic list of the mission, he is known to be no diplomat at all but the "resident" or official head in Britain of the Bugarian intelligence network. DS which stands for "Drzaven Sigurnost" or Department of Security.

No espionage or subversive network, least of all a Communist one, ever divulges its activities to the regular diplomatic regime under which it shelters for cover purposes only.

Mr. Kendimenov has his own masters in Sofia and his own separate channels of communication with them.

The same applies to all his colleagues in Britain. One of these, who is thought to have made the advance assessment of what sort of danger Mr. Markov constituted, was Kolyo Trankov. Until he returned to Sofia at the beginning of this year, Mr. Trankov worked in the guise of a third secretary in the Embassy's Consular Affairs section.

One of his special tasks was to "keep tabs" on all the anti-Communist Bulgarian emigres in Britain and it is known from friends of Mr. Markov that he tried to win his confidence.

Mr. Trankov was replaced in the same post by Francesco Toskov, who is still at the Embassy.

Mr. Speaker, in light of the long record for brutality and terrorism of the Bulgarian Communist secret police, which included the 1974 kidnaping from Copenhagen, Denmark, of Boris Ilieo Arsov, an outspoken critic of Zhivkov's regime, his subsequent kangaroo court trial, and death in a Bulgarian prison, there are strong indications that secret police chief Stoyanov's statement that "borders do not exist for us" presages a continuing campaign to international terror.

I am urging my colleagues to join with me in urging the Federal Bureau of Investigation to take every measure necessary to protect the safety of Bulgarian emigres in the United States, and in urging the Central Intelligence Agency to give great attention to this matter as

well. Should any incidents occur against U.S. residents, Congress should take action not only against Bulgaria, but against its masters in the Soviet Union.●

STATEMENT OF PETER J. McDONOUGH

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. PATTEN. Mr. Speaker, on Monday, October 9, 1978, I attended Columbus Day ceremonies in my district at South Plainfield, N.J. I think that these commemorative ceremonies are important, for they provide us with an opportunity to display pride in our history and an appreciation of the people with whom we live.

State Senator Peter J. McDonough spoke at this ceremony, and he has provided us with a statement which is a true testament of the Italian people and their contribution to the State of New Jersey. It is a story of hard work, dedication, and love of country; and one which I would now like to share with my colleagues.

The statement follows:

STATEMENT OF PETER J. McDONOUGH

New Jersey wouldn't be what it is today without the tremendous efforts of great Italians through the years. For example, during this weekend we celebrate Columbus Day, that great Italian forefather, who left a wonderful legacy for all American generations to follow. New Jersey Italians can be proud of the strides made by their people. The emigration from Italy over the course of a century totaled almost 5 million and was second only to that from Germany. The majority of the Italian immigrants however arrived between 1900 and 1914, with the peak of 285,000 being recorded in 1907. New Jersey experienced the full force of this enormous influx. Its Italian born residents increased from about 42,000 in 1900 to over 191,000 a short 30 years later. However, New Jersey was barren of Italians before the civil war. One of the earliest arrivals, Giovanni Battista Sarrori, settled in Trenton about 1800 and founded the first spaghetti factory in the United States as well as the first Catholic Church in New Jersey. Most of the pioneers came from northern Italy and followed specialized occupations as fruit merchants, music teachers, barbers and plastic workers.

In the 1870's the southern Italians began their epic migration to America. It was from the southern regions of continental Italy and the island of Sicily that most of New Jersey's Italians were to come. The unification of Italy in 1861 had brought neither peace nor prosperity to the Italian south. During this festive time of the year, and the celebration of the Italian pioneer, Christopher Columbus, it brings to mind the day of elementary school, when all of us kids would sing . . . "Columbus sailed the ocean blue in 14 hundred and 92 . . ." Remember that? Well for most Americans Columbus was the father of this great land of ours. Disputed as it may be from time to time, we must all agree that had it not been for Columbus, America would not be what it is today. Had it not been for the large south Jersey Italian population, things might not have been quite the same. Since New Jersey farmers were suffering from a shortage of labor, efforts were made to recruit the Italians as agricultural laborers and tenants. Charles Landis, the foremost promoter of settlement in south Jersey, sought to attract Italian immigrants through agents and advertisements in Vineland, still considered New Jersey's answer to Rome. An even larger colony at Hammonton was later settled in Atlantic County. For half a century, the Italians also played an important role in the agriculture of south Jersey as migrant laborers. The harvesting of vegetable and fruit crops, especially berries required large numbers of pickers.

Even today we see large numbers of Italian farmers still on their land. Farming and farming—keeping New Jersey and the rest of the northeast tables rich with food the Good Lord has provided from his land. Italians are tremendously blessed with the sense of imagination and creativity. And we can see their handiwork wherever we go. In central New Jersey alone, many of the older Italian citizens to this day till their own gardens, build their own homes, and are an active part of the American society.

We hear a lot about discrimination from throughout the country, whites hating blacks, blacks hating whites, and on and on. But if ever there were cases of discrimination, Italians at one time were the target of attack. The parochial spirit of the Italians was nowhere more evident than in their organization. Scores of mutual aid societies were organized, each of which limited its membership to those from a particular town. For example, in Plainfield there is a maddalonese society. This type of association united the townsmen in mutual assistance, providing sick and death benefits and social and sport activities.

They essentially carried on the confraternities of the old country. But things soon began to change in the early part of this century when Italians became more and more politically astute. Today, we see large numbers of Italians becoming deeply involved in the American political process, including all branches of the Government.

Here in New Jersey both the assembly and the Senate see many more Italians taking part in the legislative process. Out of 40 Senators 14 are Italian and 16 of the 80 assemblymen are Italian. Politically, Italians here in New Jersey are becoming much more involved. There are 11 Italians now chairmen of the 21 Republican county committees here in New Jersey alone.

In Washington Secretary of Health, Education and Welfare, Joseph Califano too is an Italian. So more and more we see many Italians become involved. Italians no longer are relegated to just the blue collar jobs in industry, although I don't see anything wrong with that type of occupation. We are seeing more and more corporate managers and corporate owners coming out of the Italian ranks.

Yes it's true that Columbus started a trend. But it was most definitely a trend for the betterment of mankind. He obviously saw that the battle would be tough for Italian recognition, but nonetheless he fought hard because of the pride of his heritage.

I, too am proud of my heritage. And can honestly say that life in these United States is a wonderful experience for all ethnic groups.●

CARGO SECURITY ACT OF 1978

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. PICKLE. Mr. Speaker, because our Government is doing nothing effective to fight cargo theft, and because the transportation industry would rather deny the problem than act, I am again introducing legislation to fight this cancer on our transportation system. I cannot understand the lack of courage and commitment on the part of DOT to do something about this problem.

I recognize the rhetoric from this administration and from industry. I have heard it before. It is a line that has several aspects. One is that the Government/industry voluntary effort is successful. The facts show otherwise—for the facts are that direct losses continue around $2 billion per year, and that news story after news story highlight cargo theft in city after city. Ironically, one news series this year described the problem in Seattle, Wash.—the hometown of our Secretary of Transportation Brock Adams.

Another line is that cargo theft is no problem, just a little stealing here and a little thieving there. Unfortunately, the American consumer is paying the big costs—both indirect and direct, and statements to the contrary by certain spokesmen from the industry are not credible.

Mr. Speaker, the bill I introduce today is revised legislation, but it maintains the moderate approach of limited, and I emphasize limited, cargo security regulation by the Secretary of Transportation over the bulk of our transportation system.

The bill would give the Secretary authority to issue regulations adding security measures in four fields: First, packaging; second, documentation and labeling; third, comprehensive, continuous and uniform loss reporting; and fourth, personnel security.

In the port of entry area, this authority would be given to the Secretary of the Treasury.

The bill also creates an interagency council on cargo security.

New features of my legislation is to include shippers in the category of people who would have to follow the security provisions, makes it a crime to break seals and bonds of cargo in transit, makes it a crime to lie on an employment form for work in interstate commerce, and drops the creation of an Office of Cargo Security since this office already exists in the Department of Transportation.

Mr. Speaker, many people will ask why drop a new cargo security bill in the last day of the 95th Congress. There are several good reasons. First, our distinguished colleague LESTER WOLFF and his Select Committee on Narcotics will be holding hearings on cargo security problems at John F. Kennedy Airport the end of this month. JFK has long been a trouble spot of cargo theft, and I suspect that Congressman WOLFF and his fellow committee members will find the situation unimproved. Congressman WOLFF tells me that narcotics is no longer being smuggled into this country in a traditional manner; he says that the dope peddlers now package up the dope in regular packages so that they can be stolen. In other words, it is easier to steal dope off the docks than to smuggle it into the country. The cargo thief's job is so easy he is putting the smuggler out of business.

Also, Mr. Speaker, I think we are going to see the GAO speak out on this problem real soon, and in a very forceful way. Right now the GAO is in the final stages of writing a report on the lack of security

in the shipment of arms and explosives—a frightening prospect in this day of terrorism.

Finally, I have information that more and more Federal agencies are supporting my push for legislative action in this field. If the pressure builds, perhaps we can bring the Department of Transportation and the Office of Management and Budget around to a more realistic position.

So, Mr. Speaker, events may be running in positive course for a change, and come next January the push will begin again.

My action today can be described as an opening ploy for the offensive planned in the 96th session of Congress.●

THE UDALL RECORD—II

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. UDALL. Mr. Speaker, I am continuing today a listing of my votes for the 95th Congress, second session. The list includes my votes from August 16, 1978, to October 11, 1978. It does not include the votes for the last few days of the session, because some time is necessary to prepare them for printing. I will insert them here when available.

The list is arranged as follows:

Official rollcall number;

Number of the bill or resolution;

Short description of the measure;

Date of the action;

My vote on the motion (Y=yes; N=no; NV=not voting);

The overall vote of the Arizona House delegation (in the order: Yeas—Nays—Not voting);

An indication whether the measure passed or failed; and

The total vote.

I have again left out noncontroversial votes, such as quorum calls, votes to approve the Journal of the House, and motions to resolve into the Committee of the Whole House.

I have additional material relating to these measures in my district office (301 West Congress, Tucson, Ariz.), and I invite any of my constituents who have questions to come in and look it over. My staff and I will be happy to answer any questions, or to explain any of the measures listed here, upon request.

The list follows:

(707) H. Con. Res. 683. Amendment to the substitute to provide for the following budget aggregates: budget authority, $539 billion; outlays, $840 billion; revenues, $445 billion; deficit, $35 billion. August 15, 1978. N(3–1–0) Rejected 201–206.

(708) H. Con. Res. 683. Amendment to the substitute to reduce budget authority by $223 million and outlays by $673 million to reflect Senate Committee cuts in anti-recession aid to states and cities and House cuts in the Comprehensive Employment and Training Act. August 16, 1978. Y(4–0–0) Adopted 271–204.

(709) H. Con. Res. 683. Amendment to the substitute to provide for the following budget aggregates: budget authority, $539 billion; outlays, $480 billion; revenues, $450 billion; deficit, $30 billion. August 16, 1978. N(1–3–0) Rejected 198–204.

(710) H. Con. Res. 683. Amendment to the substitute to reduce budget authority and outlays by $5 billion. August 16, 1978. N(1–3–0) Rejected 155–241.

(711) H. Con. Res. 683. Amendment to the substitute to reduce budget authority and outlays by $753 million to reflect elimination of all money for anti-recession aid to states and cities. August 16, 1978. N(3–1–0) Rejected 187–208.

(712) H. Con. Res. 683. Substitute to the substitute to balance at the following levels: budget authority, $519 billion; outlays, $464.1 billion; revenues, $464.1 billion. August 16, 1978. N(2–2–0) Rejected 153–235.

(713) H. Con. Res. 683. Adoption of the Second Budget Resolution setting the following budget levels: budget authority, $561 billion; outlays, $489.1 billion; revenues, $450 billion; deficit, $39.8 billion. August 16, 1978. Y(1–3–0) Adopted 217–178.

(715) H.R. 13467. Adoption of the conference report on the bill to appropriate $6,808,778,686 in supplemental funds for fiscal 1978 operations of the government. August 17, 1978. Y(1–3–0) Adopted 217–178.

(716) H.R. 13467. Motion that the House recede from its disagreement to the Senate appropriation $54,853,000 for the Hart Senate Office Building. August 17, 1978. N(1–3–0) Rejected 133–245.

(717) H.R. 12935. Adoption of the conference report on the bill to appropriate $1.118 billion for operations of Congress and related agencies for fiscal 1979. August 17, 1978 Y(1–3–0) Passed 255–123.

(718) H.R. 12935. Adoption of the conference report on the bill to appropriate $3,880,863,000 for construction projects of the Department of Defense for fiscal 1979. August 17, 1978. Y(4–0–0) Passed 355–24.

(719) H.R. 13468. Adoption of the conference report on the bill to appropriate $1,597,317,700 for fiscal 1979. August 17, 1978. Y(2–2–0) Passed 339–31.

(720) S. 9. Adoption of the conference report on the bill to revise federal leasing procedures, upgrade environmental standards and to increase state participation in federal decisions regarding the development of oil and gas on the Outer Continental Shelf. August 17, 1978. Y(3–0–1) Passed 338–18.

(721) H.R. 12230. Adoption of the conference report on the bill to authorize a secret amount for intelligence operations for fiscal 1979. August 17, 1978. Y(3–0–1) Passed 323–30.

(722) H.R. 10898. Adoption of the rule (H. Res. 1321) providing for House consideration of the bill to authorize appropriations for the U.S. Railway Association for fiscal 1979. August 17, 1978. Y(3–0–1) Passed 323–26.

(723) H.R. 10898. Passage of the bill to authorize $27.2 million for the U.S. Railway Association for fiscal 1979; to permit the association to modify loan guarantees to permit the continuation of rail service found by the association to be desirable; and to extend by 195 days the 900-day period during which the Consolidated Rail Corp. is permitted to sell surplus trackage, stations and rights of way to states at the net liquidation price. August 17, 1978. Y(2–1–1) Passed 253–67.

(725) H.R. 12432. Amendment to prohibit the Commission on Civil Rights from appraising or studying and collecting information about laws and policies of the federal government, or any other governmental authority, with the respect to the issue of abortion. September 6, 1978. N(2–1–1) Adopted 234–131.

(726) H. Res. 1088. Adoption of the joint resolution to permit the Secretary of the Treasury to guarantee up to $1.65 billion in New York City bonds, as authorized under the New York City Loan Guarantee Act of 1978 and to appropriate funds necessary to pay guaranteed loans if the city defaults on them. September 6, 1978. Y(2–1–1) Passed 233–132.

(727) H.R. 7308. Amendment to allow wiretapping of non-U.S. persons without a warrant, provided that a certificate was issued by the attorney general and a designated executive branch official in the area of national security who had been confirmed by the Senate. September 6, 1978. N(2–1–1) Adopted 178–176.

(728) H.R. 7308. Amendment to eliminate a provision in the bill to establish a special court to government applications of warrants to conduct electronic surveillance in the foreign intelligence area. September 6, 1978. Y(2–0–2) Adopted 224–103.

(730) H.R. 10929. Bill to authorize $36,956,969,000 for Defense Department weapons procurement and military research programs in fiscal 1979. September 7, 1978. N(3–1–0) Rejected 191–206.

(731) H.R. 12930. Motion to instruct House conferees to the House-Senate conference committee on the bill to appropriate fiscal 1979 funds for the Treasury, Postal Service, Executive Office of the President and other independent agencies to agree to the Senate amendment to prohibit the president from imposing fees or quotas on oil imports. September 7, 1978. N(3–1–0) Rejected 194–204.

(740) H.R. 11711. Adoption of the rule providing for House floor consideration of the bill to broaden coverage and liberalize certain benefits to workers and firms under the adjustment assistance programs of the Trade Act of 1974. September 8, 1978. Y(3–0–1) Adopted 303–2.

(741) S.J. Res. 4. Motion to recommit to the Interior and Insular Affairs Committee, and thus kill, the joint resolution to establish a commission to study the claims of aboriginal Hawaiians resulting from the 1893 overthrow of the Hawaiian government. September 8, 1978. N(2–1–0) Agreed 190–148.

(742) H.R. 11711. Amendment to extend the adjustment assistance coverage to workers in firms adversely affected by foreign imports, who were employed at least 26 of the preceding 52 weeks, as under current law, or 40 of the preceding 104 weeks. September 8, 1978. Y(1–2–1) Adopted 206–110.

(743) H.R. 11711. Passage of the bill to broaden coverage and liberalize certain benefits to workers that were adversely affected by foreign imports under the adjustment assistance programs of the Trade Act of 1974. Y(1–0–3) Passed 261–24.

(745) H.R. 11280. Amendment to require each federal agency to establish a personnel office to be headed by a career civil servant. September 11, 1978. N(0–2–2) Rejected 16–336.

(746) H.R. 11280. Amendment to extend the use of veterans preference to Vietnam War combat veterans for 15 years after leaving the service or until 1986, whichever came later. September 11, 1978. Y(1–1–2) Rejected 149–222.

(747) H.R. 11280. Amendments, en bloc, to delete provisions, changing the veterans preference program. September 11, 1978. N(1–1–2) Adopted 281–88.

(749) H.R. 11280. Amendment to limit the number of federal employees one year after the enactment of the bill to the employment level on January 1, 1977, and to impose the ceiling until January 20, 1981. September 11, 1978. N(1–1–2) Adopted 251–96.

(750) H.R. 11280. Amendment to guarantee the FBI at least 140 positions at the Senior executive service levels equivalent to GS–16, GS–17, GS–18. September 11,, 1978. N(0–2–2) Rejected 124–217.

(751) H.R. 11280. Amendment to delete the labor-management relations provisions from the bill. September 11, 1978. N(0–2–2) Rejected 125–217.

(752) H.R. 11280. Motion that the Committee of the Whole rise and report the bill back to the House with the recommendation that the enacting clause be stricken. September 11, 1978. (N(1–1–2) Rejected 46–286.

(754) H.R. 12860. Pass the bill to authorize $3.5 million to purchase land in Charles-

town, R.I., and to establish a Rhode Island-chartered Narragansett Indian corporation to oversee the federally purchased private land and the 900 acres of state land ceded by Rhode Island in settlement of violations of the 1790 Indian Tribe and intercourse Act. September 12, 1978. Y(1–1–2) Agreed 249–122.

(755) H.R. 13311. Bill to mandate higher standards for ship construction and safety equipment. September 12, 1978. Y(2–0–2) Agreed 366–6.

(756) H.R. 12026. Bill to create the Indian Peaks Wilderness Area and Arapaho National Recreation Area and to authorize the secretary of the interior to study the feasibility of revising the boundaries of the Rocky Mountain National Park. September 12, 1978. Y(2–0–2) Agreed 360–9.

(757) H.R. 5265. Bill to provide for the suspension of the duty on importation of flourspar through June 30, 1980. September 12, 1978. N(1–1–2) Rejected 205–166.

(758) H.R. 1337. Adopt the resolution (H. Res. 1342) providing that the House concur, with amendments, in Senate amendments to the bill making certain changes in tax laws and in the Supplemental Security Income program. September 12, 1978. Y(1–1–2) Agreed 304–69.

(759) H.R. 13331. Bill to make certain changes in the location of federal district courts, in the divisions within judicial districts, and in judicial district dividing lines. September 12, 1978. Y(2–0–2) Passed 362–9.

(760) S. 3119. Bill to transfer title of parcel of federal land adjacent to the Southwest Urban Renewal Project area in the District of Columbia to the D.C. Redevelopment Land Agency. September 12, 1978. Y(2–0–2) Passed 354–1.

(761) S. 3075. Adoption of the conference report on the bill to authorize $2,817,500,000 for foreign military assistance, arms sales and economic support programs of the State Department for fiscal 1979. September 12, 1978. Y(2–0–2) Adopted 225–126.

(763) H.R. 11280. Amendment to the substitute to prohibit Federal Election Commission employees from being represented by a union that maintained a political action committee or advocated the election or defeat of any candidate for federal office. September 13, 1978. N(2–1–1) Rejected 166–217.

(764) H.R. 11280. Amendment to establish the right of federal employees to union representation, and to define other federal employees' rights. September 13, 1978. Y(3–0–1) Adopted 381–0.

(765) H.R. 11280. Amendment to limit the outside income of federal employees at levels GS–13 and above to 15% of their federal salaries. September 13, 1978. N(2–1–1) Rejected 134–354.

(766) H.R. 11280. Delete from the bill changes in the veterans preference program. September 13, 1978. Y(3–0–1) Adopted 327–70.

(767) H.R. 11280. Bill to revise the civil service system. September 13, 1978. Y(3–0–1) Passed 385–10.

(768) H.R. 8729. Motion to order the previous question on the adoption of the rule providing for House floor consideration of the bill to provide federal grants for airport operators for airport noise control noise programs and to provide federal assistance to aircraft operators to comply with federal noise standards. September 13, 1978. T(1–3–0) Agreed 199–193.

(769) H.R. 8729. Adoption of the rule (H. Res. 1292) providing for House floor consideration of the bill to provide federal grants for airport operators and airport noise control programs and to provide federal assistance to aircraft operators to comply with federal noise standards. September 13, 1978. Y(2–2–0) Adopted 236–155.

(771) H.R. 8729. Amendment to require airports, whose noise in the opinion of the transportation secretary affected communities in adjacent States, to prepare airport noise compatibility programs. September 13, 1978. NV(0–3–1) Rejected 127–246.

(772) H.R. 8729. Amendment to authorize the expenditure from the Airport and Airway Trust Fund of $25 million annually for fiscal years 1979 and 1980 for the development of general avaition airports, and to divide the funds equally among the 50 States. September 13, 1978. Y(3–1–0) Adopted 213–147.

(774) H.R. 8729. Amendment to substitute provisions of the bill as drafted by the Ways and Means Committee for the Public Works Committee's provisions on changes in air transportation taxes and tax credits and refunds for retrofitting and replacing noisy aircraft. September 14, 1978. Y(2-2-0) Adopted 266–133.

(775) H.R. 8739. Motion to recommit the bill to the Public Works Committee with instructions to delete the provisions of the bill imposing a 2% tax on commercial airline passenger tickets and freight charges for the purpose of providing federal assistance for aircraft operators to comply with federal noise standards. September 14, 1978. NV (2-1-1) Rejected 170–227.

(776) H.R. 8729. Bill to provide federal grants to airport operators for airport noise control programs and to provide federal assistance to aircraft operators to comply with federal noise control standards. September 14, 1978. NV(1-2-1) Passed 272–123.

(777) H.R. 12928. Adoption of the conference report on the bill to appropriate $10,160,483,000 in fiscal 1979 for energy and water development programs of the Interior and Energy Departments. September 14, 1978. Y(4-0-0) Adopted 319–71.

(778) H.R. 9214. Motion to instruct House conferees on the bill to authorize U.S. participation in the Supplementary Financing Facility of the Internatonal Monetary Fund to accept Senate language to require a balanced federal budget beginning in fiscal 1981 and direct the U.S. executive director to the IMF to oppose aid to countries that aided or abetted international terrorists. September 14, 1978. Y(4-0-0) Rejected 286–91.

(779) H. Res. 1242. Adoption of the resolution to disapprove the president's Reorganization Plan No. 3 of 1978 for the reorganization of federal emergency preparedness and disaster relief programs. September 14, 1978. N(0-4-0) Rejected 40–327.

(783) S. 2701. Adoption of the conference report on the bill to authorize $11,733,900 for the Water Resources Council for fiscal 1979. September 15, 1978. Y(3-1-0) Adopted 304–22.

(784) H. Res. 1350. Adoption of the resolution to cite Hancho C. Kim for criminal contempt of Congress and to recommend prosecution of Kim for contempt for refusing to respond to questions by the Committee on Standards of Official Conduct in connection with its investigation of South Korean influence-buying on Capitol Hill. September 15, 1978. Y(4-0-0) Adopted 319–2.

(785) H.R. 11733. Adoption of the rule (H. Res. 1326) providing for House floor consideration of the bill to authorize $66.5 billion for fiscal years 1979–82 for federal assistance programs for highway construction and safety and urban mass transportation. September 15, 1978. Y(4–0–0). Adopted 318–4.

(786) H.R. 11733. Motion that the House resolves itself into the Committee of the Whole for consideration of the bill to authorize $66.5 billion for fiscal years 1979–82 for federal assistance programs for highway construction and safety and urban mass transportation. September 15, 1978. Y(4–0–0) Agreed 303–6.

(788) H.R. 13097. Motion to suspend the rules and pass the bill to liberalize home health benefits and provide certain other benefits for Medicare beneficiaries, through fiscal 1983. September 18, 1978. Y(4–0–0) Agreed 398–2.

(789) H.R. 13817. Motion to suspend the rules and pass the bill to increase nonphysician health professionals' participation in federal professional standards review organizations, authorize Medicare and Medicaid reimbursement for certain long-term nursing care and require coordinated Medicare and Medicaid audits. September 18, 1978. Y(2–2–0) Agreed 359–40.

(790) H.R. 10792. Motion to suspend the rules and pass the bill to allow the Smithsonian Institution to acquire the Museum of African Art, in Washington, D.C., and to authorize $1 million in fiscal 1979. September 18, 1978. Y(2–2–0) Agreed 350–54.

(791) H.R. 7819. Motion to suspend the rules and pass the bill to repeal a 1790 statute granting full criminal and civil immunity to the staffs and servants of diplomats posted in the U.S. September 18, 1978. Y(4–0–0) Agreed 397–7.

(792) H.R. 11488. Motion to suspend the rules and pass the bill to authorize $1.49 billion through fiscal 1981 for health resources planning and development programs. September 18, 1978. Y(1–3–0) Rejected 261–141.

(793) H.R. 12326. Motion to suspend the rules and pass the bill to extend through fiscal 1981 the Developmental Disabilities Act and to authorize up to $399 million for fiscal 1979–81 for programs operated under the act. September 19, 1978. Y(4–0–0) Agreed 397–3.

(794) H.R. 12303. Motion to suspend the rules and pass the bill to authorize $553.5 million in fiscal 1979 for construction or renovating the nursing schools and grants to support nurse training. September 19, 1978. Y(3–1–0) Agreed 393–12.

(795) H.R. 12460. Motion to suspend the rules and pass the bill to authorize $1.98 billion in fiscal 1979–81 for community health centers, migrant and community health centers and other health programs. September 19, 1978. Y(2–2–0) Agreed 302–102.

(796) S. 703. Motion to suspend the rules and pass the bill to allow U.S. citizens living overseas to vote in federal elections in the state of their last domicile without becoming subject to the taxes of that state. September 19, 1978. Y(2–2–0) Agreed 327–78.

(797) H.R. 12101. Motion to suspend the rules and pass the bill to authorize $1.5 million in fiscal 1979 for farmer-to-consumer direct marketing demonstration projects. September 19, 1978. Y(1–3–0) Rejected 237–163.

(798) S. 3040. Adoption of the conference report on the bill to authorize a subsidy for fiscal 1979 of $755 million for the National Railroad Passenger Corp. September 19, 1978. Y(2–1–1) Adopted 267–127.

(799) H.R. 12598. Adoption of the conference report on the bill to authorize $1,969,710,000 for the State Department and related programs in fiscal 1979. September 19, 1978. Y(1–2–1) Adopted 240–153.

(800) H.R. 12222. Adoption of the conference report on the bill to authorize $1,795,000,000 for bilateral economic aid programs in fiscal 1979. September 19, 1978. Y(2–1–1) Adopted 232–159.

(801) H.R. 11401. Adoption of the conference report on the bill to authorize $4,401,600,000 for fiscal 1979 research and development and construction programs of the National Aeronautics and Space Administration. September 19, 1978 Y(3–0–1) Adopted 321–54.

(801) H.R. 8149. Adoption of the conference report on the bill to modernize and simplify numerous procedures of U.S. customs law and to raise the personal duty exemption to $300, from $100. September 19, 1978 Y(3–0–1) Adopted 360–1.

(806) H.R. 1. Amendment to exempt can-

didates for congressional office from the bill's financial disclosure requirements. September 20, 1978. N(0-2-2) Rejected 34-365.

(807) H.R. 1. Amendments en bloc, to require candidates for federal office to report the source but not the amount of income that must be reported under the bill. September 20, 1978. N(0-2-2) Rejected 39-353.

(808) H.R. 1. Amendment to repeal House Rule 47 limiting members outside earned income to 15 percent of their congressional salaries. September 20, 1978. N(1-1-2) Rejected 97-290.

(809) H.R. 1. Amendment to delete provisions in the bill that prohibit a former government employee from making business contacts with his or her former agency for one year after leaving the agency. September 20, 1978. NV(1-0-3) Rejected 112-259.

(811) H. Con. Res. 683. Motion to approve the conference committee's version of the resolution setting the following binding budget levels for fiscal 1979. September 21, 1979. Y(1-1-2) Agreed 225-162.

(812) H.R. 12611. Amendment to direct the Civil Aeronautics Board to authorize a proposed air transportation service unless it determined that the proposed service was inconsistent with public convenience and necessity. September 21, 1978. Y(1-1-2) Adopted 300-86.

(813) H.R. 12611. Amendment to declare unlawful the pooling of revenues by air carriers in order to provide financial aid to carriers shut down by strikes. September 21, 1978. Y(1-1-2) Adopted 299-78.

(814) H.R. 12611. Passage of the bill to encourage airline industry competition by increasing airlines' flexibility to set fares and enter additional routes. September 21, 1978. Y(1-1-2) Passed 363-8.

(815) H.R. 11733. Amendment to declare it to be national policy that expenditures from the Highway Trust Fund be "closely related" to the fund's anticipated annual revenues. September 21, 1978. Y(1-1-2) Rejected 111-238.

(816) H.R. 12452. Amendment to add approximately 100,000 countercyclical public service jobs by increasing the target for jobs to be provided under CETA Title VI to 25 percent, from 20 percent, of the total number of unemployed in excess of 4 percent of the work force. September 22, 1978. N(0-2-2) Rejected 1-335.

(817) H.R. 12452. Motion to recommit the bill to the Education and Labor Committee with instructions to report it back with an amendment limiting spending on public service jobs programs to no more than 30 percent of the amount appropriated for CETA. September 22, 1978. N(1-1-2) Rejected 81-252.

(818) H.R. 12452. Passage of the bill to extend major jobs programs under the Comprehensive Employment and Training Act through fiscal 1982. September 22, 1978 Y(1-1-2) Passed 284-50.

(819) H.R. 11733. Amendments, en bloc, to delete from the bill provisions making changes in the 1965 Highway Beautification Act. September 22, 1978. Y(1-1-2) Rejected 76-199.

(820) H.R. 10584. Motion to suspend the rules and pass the bill to promote the sale of U.S. agricultural commodities by providing intermediate term credit under the Commodity Credit Corporation, to make certain non-market economy countries eligible for short term credit, and to establish six to 16 agricultural trade offices overseas. September 25, 1978. Y(3-0-1) Agreed 325-62.

(822) H.R. 11870. Motion to suspend the rules and pass the bill to authorize $1,008,000 for fiscal 1979 to carry out the domestic tourism programs administered by the Commerce Department's U.S. Travel Service. September 15, 1978. Y(2-1-1) Agreed 289-96.

(823) H.R. 12162. Motion to suspend the rules and pass the bill to authorize $2.2 million for fiscal 1979 for the Interstate Commerce Commission's Office of Rail Public Counsel. September 15, 1978. Y(2-1-1) Rejected 188-196.

(825) H.R. 13655. Motion to suspend the rules and pass the bill to authorize $126 million for fiscal 1980-81 for federal assistance to prepaid group medical practices and to make certain revisions in the program. September 15, 1978. Y(2-1-1) Agreed 327-60.

(826) H.R. 12584. Motion to suspend the rules and pass the bill to authorize $429 million in fiscal 1979-81 for the National Center for Health Services Research and the National Center for Health Statistics and to authorize a Center for Health Care Technology. September 25, 1978. Y(2-1-1) Agreed 306-77.

(827) H.R. 12370. Motion to suspend the rules and pass the bill to authorize $2.7 billion for family planning services and other public health programs through fiscal 1981. September 25, 1978. Y(1-2-1) Rejected 193-193.

(828) H.R. 9486. Motion to suspend the rules and pass the bill to authorize the president to contribute 5,000 long tons of tin to the tin buffer stock in accordance with the 1976 5th International Tin Agreement to stabilize the world tin market. September 25, 1978. Y(3-0-1) Agreed 308-75.

(829) H.R. 13597. Motion to suspend the rules and pass the bill to authorize $3 million to install solar collectors to provide a portion of the energy needs of the Rayburn House office building. September 25, 1978. Y(2-1-1) Agreed 332-48.

(830) H.R. 13488. Motion to suspend the rules and pass the bill to ease the income tax burden on Americans working abroad. September 25, 1978. Y(3-0-1) Agreed 282-94.

(832) S. 274. Motion to suspend the rules and pass the bill to prohibit union activity in the U.S. armed forces. September 26, 1978. Y(4-0-0) Agreed 395-12.

(833) H.R. 9333. Motion to suspend the rules and pass the bill to authorize feasibility studies of eight hydroelectric improvement projects and $151,700,000 for additional construction at three existing projects. September 26, 1978. Y(4-0-0) Rejected 263-143.

(834) H.R. 12728. Motion to suspend the rules and pass the bill to authorize the minting of a new coin bearing the likeness of women's suffrage leader Susan B. Anthony. September 26, 1978 Y(2-2-0) Agreed 368-38.

(835) S. 2727. Motion to suspend the rules and pass the bill to authorize $30 million for fiscal 1980 for athletic training, medicine and administration, and to amend the federal charter of the United States Olympic Committee. September 26, 1978. N(1-3-0) Rejected 244-158.

(837) H.R. 12005. Amendment to prohibit use of funds to bring action to require, directly or indirectly, the busing of students to a school other than the one nearest the student's home, except for mentally or physically handicapped students requiring special education. September 26, 1978. N(3-1-0) Adopted 235-158.

(838) H.J. Res. 1139. Passage of the joint resolution to continue appropriations for existing programs funded in the Labor-HEW-related agencies and defense appropriations bills, which were not expected to be enacted before fiscal 1979 began Oct. 1. September 26, 1978. Y(4-0-0) Passed 349-30.

(839) H.R. 31325. Passage of the bill to appropriate $19,699,776,000 for fiscal 1979 operations and programs of the Department of Agriculture and related agencies. September 26, 1978. Y(2-1-1) Passed 328-31.

(841) H.R. 1. Amendment to allow undercover intelligence agent to falsify the name of their employer and their salary in their financial disclosure reports if the president found it was necessary for national interest, and to provide for review of their reports by the director of the Office of Government Ethics under Central Intelligence Agency procedures. September 27, 1978. N(0-4-0) Rejected 53-347.

842) H.R. 1. Amendment to require repeal after five years of the bill's provisions requiring financial disclosure by executive branch employees and establishing an Office of Government Ethics. September 27, 1978. N(3-1-0) Rejected 138-266.

(844) H.R. 1. Amendment to remove criminal sanctions from the bill's executive branch conflict-of-interest provisions. September 27, 1978. N(2-2-0) Rejected 129-269.

(845) H.R. 1. Amendment to delete the provisions in the bill to require public financial disclosure by federal judges and top judicial branch employees. September 27, 1978. N(0-4-0) Rejected 75-316.

(846) H.R. 1. Passage of the bill to require financial disclosure by high-level federal officials, including members of Congress and federal judges. September 27, 1978. Y (4-0-0) Passed 368-30.

(848) H.R. 11733. Amendment to delete from the bill language to authorize the Federal Aviation Administration to have access to information in the National Driver Registry. September 28, 1978. N(0-4-0) Rejected 12-380.

(849) H.R. 11733. Passage of the bill to authorize $60.9 billion for fiscal 1979-82 for federal assistance programs for highway construction and safety and urban mass transportation. September 28, 1978. Y(4-0-0) Passed 367-38.

(850) H.R. 3816. Adoption of the conference report on the bill to strengthen and expedit the Federal Trade Commission's powers for enforcing its rules and subpoenas and to authorize funds for the FTC for fiscal 1978-81. September 28, 1978. Y(1-3-0) Rejected 175-214.

(851) H.R. 9214. Adoption of the conference report on the bill to authorize $1.8 billion for United States participation in the International Monetary Fund's new Witteveen Facility to assist developing nations meet balance of payments deficits. September 28, 1978. ((2-2-0) Adopted 238-138.

(852) H.R. 12005. Amendment to require the attorney general to promulgate advisory procedures to assist the president in selecting federal district court judges on the basis of merit. September 28, 1978. Y(3-1-0) Adopted 206-151.

(853) H.R. 12005. Passage of the bill to authorize $1,657,224,000 for Justice Department operations for fiscal 1979. September 28, 1978. Y(4-0-0) Passed 322-21.

(854) H.R. 12934. Adoption of the conference report on the bill to appropriate $8,515,-354,000 for fiscal 1979 programs and operations of the Departments of State, Justice, Commerce, the federal judiciary and related agencies. September 28, 1978. NV(1-2-1) Adopted 276-61.

(856) H.R. 12934. Motions to recede and concur in the Senate amendment to the conference report to provide $355,392,000 for obligations to international organizations such as the United Nations rather than the $327,676,000 recommended by the House Appropriations Committee. September 29, 1978. N(0-3-1) Rejected 143-191.

(857) H.R. 12934. Motion that the House recede from its position and agree to the Senate amendment to the conference report to state that it is the sense of Congress that the attorney general admit into the United States 7,500 Cambodian refugees in fiscal 1979 and 7,500 in fiscal 1980 "in view of the magnitude and severity of the violations of human rights" committed by the government of Cambodia. September 29, 1978. Y(1-2-1) Agreed 231-105.

(859) H.R. 14042. Amendment to eliminate from the authorization $209 million earmarked for the payment of naval shipbuild-

ing contract claims. September 29, 1978. NV(0-2-2) Rejected 97-187.

(860) H.R. 12390. Adoption of the conference report on the bill to appropriate $8,983,-261,000 for fiscal 1979 for the Treasury, Postal Service, Executive Office of the President and various independent agencies. October 4, 1978. Y(3-1-0) Adopted 247-137.

(861) H.R. 12930. Motion that the House recede from its disagreement and concur in the Senate amendment to provide a 5.5 percent ceiling on salary increases for federal blue-collar workers. October 4, 1978. Y(4-0-0) Agreed 284-111.

(863) H.R. 12255. Adoption of the conference report on the bill to extend for three years the 1965 Older Americans Act and authorize $4,042 billion for various programs for elderly Americans for fiscal 1979-81. October 4, 1978. Y(4-0-0) Adopted 399-3.

(864) H.R. 11302. Adoption of the conference report on the bill to authorize $400,564,-000 for research development and demonstration programs of the Environmental Protection Agency for fiscal 1979. October 4, 1978. Y(2-2-0) Adopted 387-15.

(865) H.R. 11445. Adoption of the conference report on the bill to authorize $1.636 billion for the Small Business Administration for fiscal 1979, $1.616 billion for 1980, $1.607 billion for 1981 and $1.943 billion for 1982; to subsidize the interest rate on SBA natural disaster relief loans; to strengthen and expand federal small business aid programs; to authorize a new type of SBA small business investment company, and to authorize $5 million for a White House conference on small business. October 4, 1978. Y(4-0-0) Adopted 396-10.

(866) H.R. 7843. Motion to order the previous question on the Rodino motion that the House recede and concur in the Senate amendment to the bill. October 4, 1978. Y (2-2-0) Agreed 285-114.

(867) H.R. 7843. Motion that the House reced and concur in the Senate amendment to the bill, with an amendment stipulating the areas of agreement between the House and Senate conferees on the bill to provide for creation of 117 new federal district court judgeships. October 4, 1978. Y(1-2-1) Agreed 292-112.

(868) H.R. 13845. Motion to suspend the rules and pass the bill to raise license fees and make certain other revisions in the Perishable Agricultural Commodities Act. October 4, 1978. Y(4-0-0) Agreed 399-7.

(869) H.R. 12917. Motion to suspend the rules and pass the bill to establish an interagency task force to study rural transportation problems and recommend improvements in railroad transportation for the agriculture industry. October 4, 1978. Y(2-2-0) Agreed 352-49.

(871) H.R. 14042. Amendment to require approval by both houses of Congress of any future contract claims settlement negotiated under PL 85-804 that cost more than $25 million. October 4, 1978. N(0-4-0) Rejected 111-275.

(872) H.R. 14042. Passage of the bill to authorize $35,235,969,000 for weapons procurement and military research projects of the Defense Department for fiscal 1979. October 4, 1978. Y(4-0-0) Passed 367-22.

(873) S. 1613. Passage of the bill to enlarge the civil and criminal jurisdiction of U.S. magistrates, and to abolish "diversity of citizenship" as a ground for requesting federal district court jurisdiction in most cases involving disputes between residents of different states. October 4, 1978. NV(1-2-1) Passed 323-49.

(874) H.R. 13059. Passage of the bill to authorize $1.29 billion for certain water projects of the Army Corps of Engineers. October 4, 1978. Y(4-0-0) Passed 303-73.

(875) H.R. 12932. Adoption of the conference report on the bill to appropriate $11,-578,692,000 for fiscal 1979 for the programs of the Interior Department and various programs of the Energy Department and related agencies. October 5, 1978. Y(4-0-0) Adopted 382-12.

(877) H.R. 12928. Passage, over the president's October 5, 1978 veto, of the bill to appropriate $10,160,483,000 for energy and water development programs of the Corps of Engineers and the Interior and Energy Departments. October 5, 1978. Y(4-0-0) Rejected 223-190.

(878) H.R. 13635. Motion to table the Dickinson motion to instruct House conferees to maintain the House position in support of consolidating Army and Navy basic helicopter pilot training. October 5, 1978. N(1-3-0) Rejected 165-225.

(879) H.R. 13635. Motion to close to the public the conference committee meetings on the bill to appropriate fiscal 1979 funds for the Defense Department when classified national security information was being discussed, as authorized under House rules but to allow the attendance of members of Congress at all meetings. October 5, 1978. Y(4-0-0) Agreed 387-0.

(880) H.R. 12932. Motion that the House recede from its disagreement and concur in the Senate amendment stating that a basin-wide environmental impact statement would not be required for water projects in the Colorado River basin for which individual environmental impact statements had been filed. October 5, 1978. Y(4-0-0) Agreed 206-186.

(881) H.R. 13471. Amendment to authorize payment of attorney's fees and court costs to persons who prevail in an appeal. October 5, 1978. N(1-2-1) Rejected 153-222.

(882) H.R. 13471. Amendment to strike language exempting the Securities and Exchange Commission from financial privacy provisions. October 5, 1978. NV(2-0-2) Agreed 328-26.

(883) H.R. 13471. Amendment to delete the grandfathering of bank holding company insurance affiliates which had applied for authority to engage in insurance activities. October 5, 1978. NV(1-1-2) Agreed 252-72.

(885) H. Res. 1404. Motion that the House provide for the consideration of conference reports, authority to declare recesses, and motions to suspend the rules. October 6, 1978. Y(2-0-2) Agreed 300-56.

(886) H. Res. 1410. Amendment to the Consumer Product Safety Act to extend the authorization of appropriations contained in such act. October 6, 1978. Y(2-0-2) Agreed 360-6.

(887) S. 2640. Adoption of the conference report on the bill to reform the civil service laws. October 6, 1978. Y(2-0-2) Agreed 365-8.

(888) H.R. 13750. Amendment to add a cost of production escalator to the price objective provisions of the bill. October 6, 1978. N(1-1-2) Agreed 194-164.

(890) H.R. 11545. Amendment to set the minimum level of meat imports at 739 million pounds per year rather than 1.2 billion. October 6, 1978. N(0-1-3) Rejected 131-139.●

HOMER DETRICH—A DEDICATED PUBLIC SERVANT

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. BURGENER. Mr. Speaker, the San Diego County government has lost one of its most capable administrators with the retirement of Mr. Homer E. Detrich, the director of the San Diego Department of Public Welfare for the past 22 years.

Mr. Detrich has competently and compassionately directed this important local government department through years of phenomenal growth in San Diego County, introducing modern administrative practices which insure responsive public service.

Mr. Detrich has also held a number of other voluntary community posts throughout his career as a public administrator. He served on the Governor's Committee on Children and Youth in 1958, and was a delegate to the White House Conference on Children and Youth.

He has had an active role in civil defense and disaster preparedness activities in Southern California, and he served on the National Association of Counties Welfare Technical Committee from 1975 to 1977, as well as the San Diego County United Way Budget Review Committee in 1978.

Mr. Detrich exemplifies what is right about the much-maligned civil service, be it local or Federal. He is a dedicated professional who has endeavored to be responsive to the public and give the taxpayer his money's worth. San Diego County government will miss Homer Detrich and his dedicated service.●

CWA NATIONAL WOMEN'S CONFERENCE HELD IN MINNEAPOLIS LAST WEEK

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mrs. MIKULSKI. Mr. Speaker, I would like to call to the attention of the House a very significant conference which was held last week in Minneapolis. It is significant both for the aspirations of the women of this country and the future of the labor union movement.

More than 500 working women from the Communications Workers of America participated in the CWA National Women's Conference, the first national leadership training program for women ever held in the labor movement.

The conference was sponsored by CWA's Concerned Women's Advancement Committee and was planned in cooperation with Cornell University's Institute for Education and Research on Women and Work. The chair of the conference is CWA vice president Dina Beaumont, of Los Angeles.

The entire conference, including plenary sessions, skill workshops, issue discussions and a unique mock convention on the final day—October 1—is intended to provide knowledge and sharpen skills that will advance the careers of participants within the union and throughout society.

CWA president Glenn E. Watts, in announcing the conference last June, said that the union "must struggle to translate from a dream into a reality the right of more women and more minorities to mount the ladder of leadership * * * beginning right here in CWA and winding up right at the top in the AFL-CIO."

Many of the seats at the conference

were reserved for rank and file members, he said, since the program is "aimed directly at the persons who it is hoped will move ahead as the opportunities arise in the future."

Speakers included Koryne Horbal, U.S. Representative on the U.N. Commission on the Status of Women; Janet Bertinuson, Institute of Industrial Relations, University of California, Berkeley; John J. Flagler, director, Labor Education Service, University of Minnesota; Alexis Herman, director, Women's Bureau, U.S. Department of Labor; Gloria Johnson, national treasurer, Coalition of Labor Union Women; Martha Darling, Executive Assistant to the Secretary of the Treasury; Patsy Fryman, assistant to the president of CWA, and Mildred Jeffrey, chair, National Women's Political Caucus.

Themes for discussion included "The Many Hats of Working Women," "Stress on the Job," "The Union's Stake in ERA," and "Rightwing Attack on Labor and Women."

Skill workshops centered on parliamentary procedure, assertiveness training, building union committees and coalitions, public speaking, public relations, and union organizing techniques.

Mr. Speaker, I am sure many House Members will want to join me in commending CWA for this pioneering effort. The result can only help the women involved, the union, the labor movement and the country.●

FINANCIAL REPORT OF THE CONGRESSIONAL STEEL CAUCUS: QUARTERLY STATEMENT OF EXPENSES AND FUND BALANCE FOR PERIOD ENDING SEPTEMBER 30, 1978

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. BENJAMIN. Mr. Speaker, in accordance with Executive Committee Order No. 1, I am respectfully submitting herewith the quarterly financial report of the Congressional Steel Caucus for insertion in to the RECORD. The report is as follows:

QUARTERLY REPORT

FUND BALANCE STATEMENT

Total revenues:	
(Clerk Hire and Membership Dues)	$31,367.47
Less expenses:	
January	0
February	2,000.00
March	3,574.20
April	3,287.25
May	3,312.75
June	3,057.15
July	3,006.34
August	3,240.95
September	3,060.16
Total Caucus expenses	24,538.80
Unexpended revenues (as of September 30, 1978)	6,828.67

QUARTERLY REPORT

STATEMENT OF EXPENSES

Salaries	$22,301.66
Travel	0
Stationery	448.01
Postage	41.00
Publications	238.53
Telephone	296.09
Equipment	1,076.01
Miscellaneous	137.50
Total expenses as of September 30, 1978	24,538.80

CONGRESSIONAL STEEL CAUCUS MEMBERS WHO HAVE PAID DUES AS OF SEPTEMBER 30, 1978

Joseph Gaydos, John Selberling, Tom Bevill, Douglas Walgren, W. C. Daniel, Bill Young, Thomas Kindness, Robert Walker, Gus Yatron, Edward Pattison, Robert Duncan, Ralph Metcalfe, Barbara Mikulski, Charles Carney, Allen Ertel, Frank Evans, Benjamin Gilman, Donald Mitchell, Robert Mollohan, Donald Pease, Thomas Railsback, Robert Roe, Clarence Long, and William Walsh.

Jim Weaver, David Evans, John Dent, Michael Myers, John Cavanaugh, E. Thomas Coleman, Philip Ruppe, E. G. Shuster, Morgan Murphy, James Oberstar, Henry Nowak, Edward Patten, Frank Annunzio, Morris Udall, Austin Murphy, John Murtha, John Jenrette, Gary Myers, James Hanley, Ralph Regula, Stanley Lundine, Martin Russo, Robert Michel, and Joseph Addabbo.

Samuel Stratton, George Brown, John Buchanan, Leo Zefferetti, James Mann, Robert McClory, Robert McEwen, Gunn McKay, Marc Marks, John Murphy, Thomas Luken, Douglas Applegate, Carl Pursell, Mary Rose Oakar, William Moorhead, George O'Brien, Fred Rooney, Clarence Miller, Elwood Hillis, Joseph Le Fante, Ronald Mottl, Willian Harsha, Adam Benjamin, and Ted Risenhoover.

Shirley Pettis, David Cornwell, Kenneth Holland, Joseph Ammerman, John Dingell, Tom Corcoran, Jim Lloyd, Richard Ichord, Floyd Fithian, Bob Gammage, William Ford, Daniel Flood, Peter Kostmayer, Raymond Lederer, Walter Flowers, and Clarence Brown.●

ACCOMPLISHMENTS OF THE INDIAN AFFAIRS SECTION OF THE SUBCOMMITTEE ON INDIAN AFFAIRS AND PUBLIC LANDS

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. RONCALIO. Mr. Speaker, I would like to submit for the record a brief statement on the accomplishments of the Indian Affairs section of my Subcommittee on Indian Affairs and Public Lands.

The Indian Affairs jurisdiction was combined with the Public Lands jurisdiction at the beginning of the 95th Congress. I have attempted to do justice to both areas of responsibility, and I am satisfied that the accomplishment of my subcommittee in this area will compare well with the record in previous Congresses.

I did not seek the Indian Affairs jurisdiction, but I have found the subject area an education, a challenge, at times, a burden, and, in the end, a rewarding experience.

The Indian people across the country look to the chairman of the Interior Committee, as well as the chairman of the subcommittee concerned with Indian Affairs, to provide guidance and leadership in all matters pertaining to Indians regardless of whether the particular legislation has been referred to the subcommittee or not. The position I leave as subcommittee chairman for Indian Affairs needs to be filled in the next Congress by a Congressman, or perhaps, Congresswoman, with vitality and vigor and a willingness to do battle on Indian issues.

I have observed in this Congress an anti-Indian mood of disturbing proportions which does little credit to this great Nation of ours. It seems to me that ours is a Nation where every person can assimilate and intermingle and be treated as an equal, but also where one, who so chooses, can be different and have that difference respected. It appears to me that our Nation is great enough to be able to accommodate within our borders the semi-sovereign Indian tribes with their desire to retain their culture and their self-determination. I would hope so.

The Indian Affairs section of my subcommittee had 112 bills referred to it for action. The subcommittee took some form of action on 71 of these measures; 32-Indian bills have passed both Houses of Congress and 23 of these have been signed into public law by the President.

Some of these bills pertained only to a particular tribe, while some had more general application; 12 bills dealt with the transfer of land, two bills restored recognition to Indian tribes that had been terminated as federally recognized tribes in the 1950's, three bills made provision for certain Indian tribes to have their claims considered by the Court of Claims. One bill provided for the settlement of an Indian water rights claim and one provided for the settlement of an Eastern Indian land claim—Rhode Island.

I would like to submit for the RECORD the attached list of bills enacted, and I would like to conclude by thanking the members of the subcommittee for their cooperation and good work.

The material follows:

SUBCOMMITTEE ON INDIAN AFFAIRS AND PUBLIC LANDS

INDIAN AFFAIRS SECTION

Legislation passed by both Houses in the 95th Congress:

1. S.J. Res. 10. This resolution extends the time period the American Indian Policy Review Commission has to submit its report and authorizes funds for it, in additional $100,000. Not referred to Committee. P.L. 95–5 (February 17, 1977).

2. H.R. 4992 (Udall, Roncalio, Johnson of Colorado, Young of Alaska). This bill amends the Indian Business Development Program which is title VI of the Indian Financing Act of 1974 by revising the appropriations authorization to extend it for another two years. H. Rept. 95–271; S. Rept. 95–304; P.L. 95–68.

3. H.R. 4585 (Roncalio). Authorizes $2,250,000 to be spent for expenses of the Indian Claims Commission in FY 1978. It also allows for the transfer of cases from the Commission to the U.S. Court of Claims for settlement and subject to Supreme Court review. H. Rept. 95–234; S. Rept. 95–303; and P.L. 95–69.

4. S. 667. Provides that 80 acres of Federal lands in Elko County, Nevada shall be held in trust by the United States for the Te-Moak Bands of Western Shoshone Indians. S. Rept. 95–237; H. Rept. 95–624; and P.L. 95–133.

5. H.R. 8499 (Young) Alaska Native Claims Settlement Act. Amends the Alaska Native Claims Settlement Act of 1971 to allow Sealaska Corporation, which was established in accordance with ANCSA to represent natives of Sealaska Region to select their land entitlements in the area withdrawn for selection by other village corporations. H. Rept. 95–712; No Senate Report; and P.L. 95–178.

6. H.R. 6348 (Santini) (S. 103). Provides that approximately 90 acres of Federal land located in Nevada be held in trust by the United States for the Ely Indian Colony, Nevada. H. Rept. 95–619; S. Rept. 95–233; and P.L. 95–191.

7. S. 1560 (H.R. 7259—AuCoin) Siletz Indian Tribe. Restores Federal recognition to the Confederated Tribes of the Siletz Indians of Oregon, and provides Federal services and benefits, furnished to other tribes, to the tribal members. S. Rept. 95–386; H. Rept. 95–623; and P.L. 95–195.

8. S. 1509 (H.R. 8873—Runnels & Lujan) Lands for the Pueblo Cultural Center. Would allow 191 Indian Pueblos in New Mexico to convey their right to 11.6 acres of land in Albuquerque, New Mexico to the Federal government, who in return would accept it and hold the land in trust jointly for the Pueblos, so as to allow the existence of their cultural center. S. Rept. 95–445; H. Rept. 95–846; and P.L. 95–232.

9. S. 838 (H.R. 2664—Abdnor) Black Hills Sioux Land Claims. Waives certain legal obstacles to permit the Sioux land claim to be considered on its merits. S. Rept. 95–112; H. Rept. 95– 529; and P.L. 95–234.

10. S. 773 (H.R. 3377—Steed) Wichita Land Claims. Allows the Wichita Indian Tribe of Oklahoma and those affiliated bands to file their claims with the Indian Claims Commission for lands taken by the U.S. without just compensation. S. Rept. 95–119; H. Rept. 95–597; and P.L. 95–247.

11. H.R. 2540 (Ullman) Umatilla Inheritance. The bill modifies federal law in regard to inheritance of trust or restricted land on the Umatilla reservation so as to reduce the amount of land going out of Indian ownership. H. Rept. 95–820; S. Rept. 95–718; and P.L. 95–264.

12. S. 482 (H.R. 3787—Runnels & Lujan) Zuni Indian Land Claim. The bill authorizes the Secretary of the Interior to acquire 600 acres of land with religious significance for the Zuni Tribe. It also grants the tribe the right to file a claim with the Indian Claims Commission. S. Rept. 95–111; H. Rept. 95–953; and P.L. 95–280.

13. S. 661 (H.R. 2497—Risenhoover). Restores federal recognition to Ottawa, Peoria, and Wyandotte Indian tribes of Oklahoma. Also extends recognition to the Modoc Indians of Oklahoma by not making the act terminating the Klamath applicable to them. S. Rept. 95–574; H. Rept. 95–1019; and P.L. 95–281.

14. S. 1582 (H.R. 8099—Udall) Ak Chin Water Rights. The bill settles the water rights and needs of the Ak Chin Indians and avoids the costly claims from being filed against the U.S. government and private parties. S. Rept. 95–460; H. Rept. 95–954; and P.L. 95–328.

15. S. 1291 Conveying land to the Cheyenne-Arapaho. This bill provides that 120 acres in the state of Oklahoma shall be held in trust for the Cheyenne-Arapaho Tribes of Oklahoma, and certain other lands held in fee by the tribe shall also be held in trust. S. Rept. 95–239; H. Rept. 95–1309; and P.L. 95–327.

16. S. 947 Conveying Lands to the Creek Nation. This bill gives the legislative authority necessary to transfer the 5 acre lot of land known as Yardeka Day School Land to the U.S. government to be held in trust for the Creek Nation of Oklahoma. S. Rept. 95–238; H. Rept. 95–1305; and P.L. 95–329.

17. S. 785 (H.R. 9480—Santini) Conveying Land to Fallon Indians. This bill provides that 2,700 acres of the public domain shall be held in trust by the U.S. government for the use of the Paiute and Shoshone tribes of the Fallon Indian reservation. It also authorizes consolidation of land holding and allows for the construction of an irrigation system. S. Rept. 95–417; H. Rept. 95–1298; and P.L. 95–337.

18. S.J. Res. 102 (H.J. Res. 738 Udall & Blouin). The law requires the federal agencies to evaluate their policies and procedures and determine if their practices adversely impact upon the Indians' religious freedom and provides that the President shall submit a report thereon to Congress. S. Rept. 95–709; H. Rept. 95–1308; and P.L. 95–341.

19. H.R. 8397 (Udall) Papago Lands/Florence Village. This bill declares that a 20 acre tract of land, known as Florence Village, located in Pinal County, Arizona, and held in trust by the U.S. government for the Papago Indian Tribe shall be a part of the Papago reservation. H. Rept. 95–1020; S. Rept. 95–1133; and P.L. 95–361.

20. S. 3069 (H.R. 13096—Pressler) Sisseton-Wahpeton. Gives a preference right to the Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation to purchase land held in trust for members of the tribe by the U.S. government being offered for sale. S. Rept. 95–983; H. Rept. 95–1511; and P.L. 95–398.

21. H.R. 12860 (Beard) (S. 3155) Rhode Island Land Claims. This act implements a compromise reached by the parties concerned with the Rhode Island Indian claim. It grants to the Narragansetts an amount of land and certain benefits and extinguishes any further claim of the land by the Narragansett and other tribes after a certain period of time. H. Rept. 95–1453; S. Rept. 95–972; and P.L. 95–395.

22. S. 3002 (H.R. 12344—Rhodes et. al.) The bill provides for the settlement of various land and boundary disputes arising on the Salt River Indian reservation in Arizona between the Salt River Pima-Maricopa tribe and other private and public agencies. S. Rept. 95–2270; H. Rept. 95–1498; and P.L. 95–399.

23. H.R. 10581 (McCormack) Yakima Judgment Distribution. This bill allows the award to the Yakima Indians by the Indian Claims Commission to be distributed to the parents or guardians of the minors, which is an exception to a provision of the Indian Judgment Distribution Act. The bill was amended to also include the Mescalero Apache Tribe of New Mexico. H. Rept. 95–1304; S. Rept. 95–1193; and P.L. 95–433.

The following bills have passed both Houses, but have not yet been signed by the President.

24. H.R. 9945 (Quillen) Amend Indian Claims Commission Act. The bill amends the Indian Claims Commission Act to repeal a provision prohibiting former Commissioners from representing Indian tribes within two years of their tenure. As amended, the Commissioners would still be subject to the one year limitation in the general conflict of interest law. H. Rept. 95–1510. S. Rept. —; and P.L. 95– .

25. H.R. 23991. (Johnson of California) Susanville Rancheria. This bill provides that 120 acres of public land will be held in trust by the U.S. government for the Susanville Indian Rancheria of California. H. Rept. 95– ; S. Rept. —; and P.L. 95– .

26. H.R. 14026 (Johnson of Colorado, Young) Kake, Alaska. This bill removes legal impediments to the transfer of title to certain lands owned by the Organized Village of Kake to the Kake Village Corporation so the land may be used as a construction site for a cold storage plant. H. Rept. 95–1615; S. Rept. —; and P.L. 95– .

27. H.R. 10600 (Udall) Hunter Private Relief. This bill allows Thomas Joseph Hunter and Rose Hunter, two employees of the BIA, to negotiate with the Papago Indians concerning the sale of their house, which otherwise would be prohibited by law. H. Rept. 95–1617; S. Rept. —; and P.L. 95– .

28. H.R. 3924 (Lujan) (S. 2588) Santa Ana Pueblo. This bill would allow the U.S. government to hold in trust for the Santa Ana Pueblo 16,000 of public domain lands and 2,000 acres to be acquired by the Secretary of Interior from State school land to be held in trust for the tribe. H. Rept. 1219; S. Rept. 95–1132; and P.L. 95– .

29. S. 2358 (H.R. 10240—Lujan) Zia Pueblo. This bill provides that the U.S. Government will hold in trust 4,850 acres of public domain land in Sandoval County, New Mexico, for the Pueblo of Zia, which will be used for grazing and religious purposes. S. Rept. 95–1131; H. Rept. 95–1220; P.L. 95– .

30. S. 1081 (H.R. 11894—Risenhoover) Osage. The bill makes certain amendments, modification, and additions to the various laws relating to the Osage Tribe of Indians of Oklahoma. S. Rept. 95–1157; H. Rept. 95–1459; P.L. 95– .

31. S. 1214 (H.R. 12533—Udall et al.) Indian Child Welfare. The Indian Child Welfare Act of 1978. Clarifies the jurisdiction of Indian tribes and States with respect to Indian child custody proceedings; establishes minimum Federal standards and procedural safeguards for State proceedings with respect to Indian foster care or adoptive placement; and authorizes the Secretary of the Interior to fund Indian Child and Family Service programs. H. Rept. 95–1386; S. Rept. 95–597; P.L. 95– .

32. H.R. 14224 (Nolan). This bill would authorize the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians. H. Rept. 95– ; and P.L. 95– .

Other legislation considered during the 95th, but not enacted.

The following bills were considered by the Subcommittee but for various reasons, as detailed herein, were not enacted.

1. S.J. Res. 4 (H.J. Res. 526—Akaka & Heftel) Hawaiian Claims. This bill would have established a Study Commission to examine possible Aboriginal Native Hawaiian claims against the United States for the taking of land and resources. The bill failed of passage and was recommitted Sept. 8, 1978. H. Rept. 95–860; and S. Rept. 95–501.

2. H.J. Res. 612 (Studds) Mashpee Indian Land Claims. A bill to provide for a settlement of the claims of the Mashpee Indian Tribe to certain lands in the town of Mashpee, Massachusetts. The bill was heard, marked up in Subcommittee. No further action.

3. H.R. 4377 (Risenhoover—S. 660) Arkansas Riverbed Settlement. This bill would authorize the Secretary of the Interior to enter into an agreement with the Cherokee, Choctaw, and Chickasaw Indian Nations for the settlement of the tribes interest in the riverbed. The bill was ordered recommitted to Subcommittee for further study from the full Committee.

4. H.R. 2539 (Ullman) Umatilla Indian Reservation. A bill pertaining to land consolidation and development on the Umatilla Indian Reservation. The bill was reported favorable from the Committee, but at the request of the tribe and the sponsor no further action was taken. H. Rept. 95–819.

5. H.R. 5523 (Bonker & Dicks) Cowlitz Judgment Distribution. A bill to provide for the distribution of judgment funds to the Cowlitz tribe of Indians from the award in Indian Claims Commission docket 218. The bill was reported to the House for favorable

consideration, but stricken from the consent calendar at the request of the sponsor. H. Rept. 95–1327.

6. H.R. 8674 (Winn, Keys, Glickman & Sebelius)—Delaware Judgment Distribution. A bill to provide for the distribution of funds appropriated to pay a judgments in favor of the Delaware Tribe of Indians in Indian Claims Commission dockets 27A, 241, and 289. The bill was heard, marked up in Subcommittee, but no further action was taken.

7. H.R. 11489 (Roncalio) Tribal State Compact Act. This bill would authorize the States and the Indian tribes to enter into mutual agreements and compacts with respect to jurisdiction and various governmental functions in Indian country. The bill was heard and marked up in Subcommittee, but no further action was taken.

8. H.R. 11630 (Rose et al.) Federal recognition of Indian tribes. (H.R. 12691, 12830, 12996, 13773). A bill to establish an administrative procedure and guidelines for the recognition of the existence of Indian tribes by the Secretary of the Interior. A full day of Subcommittee Hearings was held, but no further action was taken.

9. H.R. 12529 (Roncalio) Alaska Native Claims Settelement Act Amendments. This bill would amend the Alaska Native Claims Settlement Act to provide for land selection rights for the 13th Regional Corporation. Subcommittee hearings were held, no further action.

10. H.R. 13361 (Marlenee) Fort Peck Indian Reservation land transfer. This bill would provide for the transfer of approximately 1.8 acres of public domain land to the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation. Subcommittee hearings were held, but the Subcommittee was subsequently advised through a Solicitor's opinion that such transfer could be accompanied administratively under present authority. No further action.●

LIVABLE CITIES: AN IMPORTANT PART OF THE 1978 COMMUNITY DEVELOPMENT BILL

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. LaFALCE. Mr. Speaker, the 1978 housing and community development bill has been passed by both Houses of Congress and has been in conference for some time now. We are in the last 2 days of session and the bill has not yet been reported back from the conference committee.

I anticipate, however, that compromises on the differing versions of the two Houses' bills will be achieved in time for action before adjournment. That would be welcome news indeed, for this year's bill contains a number of very important provisions. I would like to outline one of them here today and to urge all my colleagues to join me in supporting the bill when the conference report is brought before us for a vote.

The provision about which I speak is not large, in dollar terms, but its significance lies in the fact that Congress will be recognizing an important part of life in America's urban areas—the need people have for artistic, cultural, and historic resources. We will do that through the "Livable Cities" program which will be included in the conference report.

This program will permit the Secretary of HUD, in coordination with the Chairman of the National Endowment for the Arts, to make grants to nonprofit organizations to carry out activities that have significant artistic, cultural, or historic merit and which will help to revitalize communities or neighborhoods and contribute to a more suitable living environment.

The funds provided through this program will supplement other activities, but it is likely, I feel, that activities supported through the "livable cities" program will achieve the difference between those that are "good" and those that are "great." I can visualize a number of communities in the region I represent, western New York, where having this resource would be exceptionally valuable.

One such would be to supplement activities planned for the "Niagara Falls Experience," for which a proposal has already been submitted to the National Endowment for the Arts by the Niagara Council on the Arts. The "Niagara Falls Experience" will be a summer festival, free to the public, serving as a vehicle for bringing residents of the entire region to the heart of Niagara Falls to participate in and enjoy an ethnic and cultural heritage program. And supplemental assistance through "livable cities" would make this festival that much more meaningful.

Another possible candidate for assistance through this program is the "entertainment district" in downtown Buffalo, a presently deteriorated commercial area but one which has immense potential if its historic architectural and cultural resources are preserved, rehabilitated and energized. A magnificent plan to accomplish just that was proposed a short time ago; and the September 29 reopening of Shea's Buffalo theater, once the flagship of this famous chain, with a performance of "Tosca," signals that the time is right to move forward aggressively.

Having Federal assistance in these efforts is essential, and I urge the House to join me in supporting the livable cities program and the community development bill when it comes before us.●

CATCH-22 OF CONSERVATION

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. STEERS. Mr. Speaker, recently there have been reports that a local utility company, Washington Gas Light wants permission from the Public Service Commission to charge more to customers who attempt to reduce gas costs by using energy saving devices such as heat pumps or wood burning stoves.

I believe that the Washington Star of Friday, October 13, 1978 has written an excellent editorial against this proposal. I fully share the Star's opinion on this matter. It makes no sense to me that this utility company or any other one should penalize consumers who attempt to reduce energy consumption. I fully intend to follow this matter closely; to see that the interests of consumers concerned about energy consumption will not be penalized for taking action into their own hands.

I am inserting the editorial from the Star into the RECORD for all of my colleagues to review.

The editorial follows:

CATCH-22 OF CONSERVATION

The Washington Gas Light Company has come up with a gasser.

It proposes to penalize customers who save gas—and consequently money—by installing energy-saving devices.

That means if you have a gas-fired heating system and put in an electric heat pump or a wood stove, which probably would cause your consumption of gas to drop, you're apt to be ticketed for a gas rate boost.

The company's rationale is not completely irrational, of course. It argues that the company must collect enough revenues to construct, maintain and operate a system designed to satisfy all customer demands during peak load periods. A sharp reduction in revenues would put the company in financial difficulty. Therefore, it proposes to guarantee the revenue flow by boosting charges to customers who sharply reduce their consumption.

Obviously the company must have income sufficient to match the outgo, with a reasonable amount left over for investors. But its proposal to penalize customers who save gas not only goes against the grain of national policy—to save energy—but it is bound to be a public relations disaster.

How will it ferret out the culprits disloyal to the gas company? It plans to run bills through computers, which will flag customers whose bills reflect a sharp drop in gas usage. Then the company presumably will make an on-the-spot investigation to see what the customer is using in place of gas.

If it's a heat pump or wood stove, the customer is likely to be in trouble. These devices, you see, are coming into fairly common usage as energy and money savers.

Solar heating devices, as we understand it, are okay for the moment but look out down the road. A company official was quoted as saying that solar heating doesn't "represent a problem yet. . . That's still about five years away."

Does the company have a real problem or is its proposal aimed at heading off competition and scaring customers away from buying energy-or money-saving devices?

If it does have a revenue problem—and the company ought to be required to prove that beyond doubt—penalizing individuals who are trying to save energy or beat the cost of living hardly seems an appropriate way to solve it.

Government units that pass on rate requests ought to tell the company to run the problem through its computers again.●

VIGIL FOR FREEDOM FOR SOVIET JEWRY

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. BRODHEAD. Mr. Speaker, today the Vigil for Freedom for Soviet Jewry which I began in March of this year comes to an end. I wish to express my thanks to the many Members who participated in the Vigil on behalf of Soviet Jews whose only crime is a desire to be reunited with their families and live out their lives where they choose.

Much has happened this year. On the other hand, Jewish emigration from the Soviet Union has increased dramatically in recent months. On the other hand, a survey completed by the U.S. Commission on Security and Cooperation in Europe indicates that the discriminatory practices and procedures encountered by applicants for emigration from the U.S.S.R. remain substantially unchanged. Recent reports indicate that emigration from the Soviet Union may become even more difficult because of new Soviet restrictions arising from preparations for the Moscow Olympics. This was also the year of the trials of Anatoly Sharansky and other members of the Helsinki Monitoring Group, who sought to document the Soviet Union's lack of compliance with the human rights provision of the Helsinki Final Act.

Nevertheless, I believe that more people than ever before are aware of the Soviet Union's restrictive emigration policies. It is my hope that we will recommit ourselves to efforts to change them and insure basic human rights for people everywhere. ●

MANY QUESTIONS AT SENIOR CITIZENS SEMINAR

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. EILBERG. Mr. Speaker, the recent Senior Citizens Seminar which I sponsored in my congressional district included a question-and-answer session which I found particularly helpful. The session pointed to many of the concerns which are on the minds of senior citizen leaders in our Nation, and I would like to offer the minutes of this meeting for the RECORD:

MINUTES OF SENIOR CITIZENS SEMINARS

Mr. Harry Silver, of the National Association of Retired Federal Employees, Chapter 1301, opened the question and answer period by inquiring as to what action has been taken on his recent communication with Congressman Eilberg about H.R. 8818, a bill to increase the present tax credit for persons 65 years old and over and to eliminate the adjusted gross income limitation.

Congressman Eilberg informed Mr. Silver that the bill is before the House Ways & Means Committee, where it is scheduled for mark-up soon. He also said that he had notified the proper people with his views on this matter.

Rae Turon (JYC David Neuman Senior Center) asked Congressman Eilberg what he was doing about a national health insurance policy. She also asked what is going on in the Pennsylvania Legislature since they have cut funds for the Philadelphia Corporation on Aging. She said that they have not had any increases for 1978 and 1979. Mrs. Turon described how much the senior centers in the area mean to the community, and said that without the funds, they will be unable to function. She further stated that she would like to see Congressman Eilberg help in seeing that the State provides the appropriation for that purpose.

Congressman Eilberg stated that he would be in touch with the State representatives regarding additional appropriations for the Philadelphia Corporation on Aging. He also explained that, hopefully by the 96th Congress, we will have a national health insurance policy.

Joseph Hutter, of the Pennsylvania Association of Older Persons' stated that the proposed tax relief means nothing to him. What the senior citizens need is real estate tax relief, he said, adding that senior citizens are facing confiscation of their properties since inflation has boosted taxes to enormous figures. Mr. Hutter urged Congressman Eilberg to use his efforts to stop the City Council from taxing senior citizens.

Congressman Eilberg explained that taxes on real estate is a function of the local government and the Board of Revision of Taxes. There is little that Congress can do to lower real estate taxes. Congress should be helping out the cities, he said.

Lillian Holliday, President of the Action Alliance of Senior Citizens directed her question to Chief Inspector John Craig, and asked what can be done about the problem of senior citizens being robbed, especially on buses. She stated that senior citizens are afraid to board buses because of muggers and pickpockets.

Chief Inspector Craig stated that his department does have a policy for uniformed policemen to board buses, depending on the availability of policemen. However, sometimes, there may have been an incident before the policeman boards the bus, and in such a case, there is very little he can do if the thief has escaped.

Bert Share, of the JYC David Neuman Senior Center, stated that senior citizens want $1 prescriptions. He stated that he calls many senior citizens each month who are disabled, ill and lonely. He gets frustrated because the people tell him that they set aside their prescriptions or take less than the prescribed amount because they just can't afford to pay the high prices.

Congressman Eilberg pointed out that $1 prescriptions is a State matter, which should be pursued through State representatives. However, he explained that there is a bill in the Congress which, if passed, would provide drugs for $1 on an outpatient basis for those participating in the Medicare program.

Louis Gross, of the David Neuman Senior Center, Concerned Citizens, remarked about the new bill to reduce airplane fares for senior citizens. Mr. Gross asked how many senior citizens can afford to go by airplane and suggested that the reduction is needed for train and bus transportation, not airplanes.

Millie Marshall, of the David Neuman Senior Center, stated that, as Mr. Cappiella said, inflation is the number one problem of senior citizens. She asked what the Congress is doing about it. When landlords increase the rents of apartments of senior citizens, they have nowhere to go. Also, Mrs. Marshall stated that they have to wait a whole year for an increase in their Social Security benefits.

Congressman Eilberg stated that he is a cosponsor of legislation that would provide increases every 3 months for social security benefits.

Mr. Harry Kaplan, of the David Neuman Senior Center, stated that without wage and price control, we are fighting a losing battle, whether we get an increase every three months or every six months. Before the end of the year, the money is gobbled up because of inflation before increases are even received. Mr. Kaplan said that there must be some form of control or the country will go down the drain.

Congressman Eilberg stated that not only should there be controls on wages and prices, but on profits and interests as well. Congressman Eilberg further stated that the President is opposed to controls. And, although President Carter is taking certain steps to control inflation, Congressman Eilberg thinks they are inadequate. He mentioned also that he would vote for controls in the Congress.

Jesse J. Yanni, of the St. Williams Senior Citizens Club, stated that people on Social Security have difficulties budgeting their money since they receive their checks only once a month. Mr. Yanni made a suggestion that social security recipients could receive their checks every two weeks instead of once a month.

Mel Jenks of the Social Security Administration responded by saying that he thought it would be impossible to administer the Social Security program on a semi-monthly basis. He also mentioned that he had never heard this suggestion made within, or outside, the Social Security Administration. He stated that this idea should be pursued through elected representatives in Congress.

Congressman Eilberg stated that he would look into it.

Elsie Pinkovitz, of the JYC Klein's Concerned Citizens, asked about what the Congress is doing about national health insurance, because hospital costs are so high. She also mentioned the very high cost of nursing home care and pointed out that senior citizens cannot afford to pay such exorbitant prices.

Congressman Eilberg stated that since the 95th Congress will be adjourning in about four months, there will not be enough time during this Congress for a national health insurance policy to be implemented. However, he stated that he believes it will be passed during the 96th Congress.

Sigmund Kempner, of the JYC David Neuman Senior Center, asked why is it that every time Social Security gets a raise, the VA takes it away.

Congressman Eilberg stated that he has been a frontrunner on this issue for some time, and although he and his colleagues haven't won the fight yet, he said they will win it.

Mr. Kempner stated that widowers can collect on their wife's Social Security and he wondered if it is possible for him to collect something on his wife's Social Security.

Mr. Jenks from Social Security stated that these laws are very complicated. He said that if Mr. Kempner's own Social Security benefit is greater than what the widower's benefit would be, he can only receive his own. And, if a widower is receiving a government pension, it is possible for that annuity to wipe out a widower's benefit.

Congressman Eilberg said that he hoped the senior citizens found the seminar to be informative and beneficial. He thanked the panel members for their contribution and indicated his interest in having continuing communication with all the participants.

Congressman Eilberg asked Mr. Ross to preside for the remaining minutes of the meeting.

Molly Weiss, of the David Neuman Senior Centers expressed her interest in the proposal for $1 prescription drugs.

Mr. Ross explained that this is a state matter, not a federal one. Senior citizens should contact their state senators and representatives on this matter, he said.

Mr. Oscar King, of the American Association of Retired Federal Employees, voiced his views regarding the very high property taxes, and mentioned that he wants something done to lower them.

Mr. Ross stated that this is a local matter handled through the Board of Revision of Taxes. He also stated that the best way to fight it is through a taxpayers revolt.

Mr. Ed Maskin, Chairman of the Political Action Committee of Klein Concerned Citizens, voiced his opinion regarding his support of a freeze on wages and prices. Mr. Ross mentioned that, as Congressman Eilberg

stated previously, the Carter Administration is against such controls.

Mr. Ross thanked all the participants for their contribution to the seminar, and mentioned that he, too, thought it was a very informative conference.●

ARROGANT MORALIST OF THE LEFT

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. SIKES. Mr. Speaker, Common Cause, long headed by a Berkeley product named John Gardner, has low-keyed some of its more recent forays into the public domain. Possibly this is due to the resentment aroused in a great many quarters by the extreme position taken on public issues and against individuals. This situation led to Gardner's being dropped as head of Common Cause and, hopefully, a realization that whatever usefulness Common Cause might have had has largely been dissipated by its extreme policies.

I now wish to go into the background of Common Cause. This subject was effectively portrayed by a distinguished Member of the House, Mr. ASHBROOK of Ohio, on February 10, 1976. I shall borrow extensively from his comments. I trust the reedification of the House on this organization and the background of its sponsors will come in good stead.

Mr. Speaker, Common Cause, an organization founded by John Gardner in 1970, has been described as America's largest public interest lobby. Every year this organization pours hundreds of thousands of dollars into lobbying Members of Congress.

During the years of its existence, Common Cause has received too many glowing press reports and too little hard analysis. Consequently I think it is important for us to examine this organization at some length.

An objective analysis will show that Common Cause is politically liberal. Its origins are liberal. Its leadership is liberal. The issues it supports are predominantly liberal. In short, Common Cause promotes liberalism and big government which we all know is not the same thing as promoting good government. It has become impudent and arrogant and attacks all who stand in its path. It is anti-business to the core and has nonetheless attracted many big businessmen to its following which also tells a lot about some of our so-called businessmen. A close study shows it promotes its own interest, not the public interest.

ORIGINS OF COMMON CAUSE

According to John Gardner, Common Cause is "a direct outgrowth of an earlier group known as the Urban Coalition Action Council." The Urban Coalition Action Council in turn served as the lobbying end of the National Urban Coalition. Gardner played a key role in both organizations.

In 1968, after stepping down as Secretary of Health, Education, and Welfare in the Johnson administration, Gardner became chairman of the National Urban Coalition. He subsequently founded the Urban Coalition Action Council to give his organization a lobbying arm. When Gardner established Common Cause in 1970, the same executive committee that governed both the National Urban Coalition and the Urban Coalition Action Council initially governed Common Cause.

This executive committee was dominated by liberals. It included George Meany, president of the AFL–CIO, Leonard Woodcock, president of the United Auto Workers, and A. Philip Randolph, International president emeritus of the Brotherhood of Sleeping Car Porters, AFL–CIO. In addition, it contained the president of the National Council of Churches and leaders of the National Urban League, the Leadership Conference on Civil Rights, and the United Negro College Fund. Also serving were such prominent liberal politicians as John Lindsay, former mayor of New York City and Richard Hatcher, mayor of Gary, Ind.

According to Congressional Quarterly, the Coalition's steering committee included leaders of more than half of the 10 organizations which sponsored the 1963 "March on Washington for Jobs and Freedom." This was a major impetus for the 1964 Civil Rights Act. Many gullible businessmen were enlisted in its early days.

It is hardly any wonder then that Common Cause has a leftist bent. In describing the origins of Common Cause, the December 19, 1972 edition of the Washington Post stated the following:

> The board's basic makeup was shaped even before the first member solicitations began. The first 20 board members had been directors of the old Urban Coalition Action Council, which Gardner had headed. Most of them were on that board by virtue of their leadership roles in labor, civil rights and other social purpose organizations.

The activities of the Urban Coalition Action Council reflect the liberal makeup of the board. The solution to every problem was thought to be massive doses of the Federal programs which had failed in the past. As I stated on the floor of the House on July 16, 1970:

> This group [the Urban Coalition Action Council] has been effectively mounting a crusade for heaping more and more taxes on the back of the already overburdened American taxpayer. Through its spokesman, Mr. Gardner, it has come out against giving any tax break to the average American and has called for massive doses of socialism and spending to cure every conceivable ill.

One of its pet projects was the Family Assistance Act, which would have established a federally guaranteed minimum income for every American. This would have been a budget-busting program of mammoth proportions.

The council also sought to implement proposals of the National Commission on the Causes and Prevention of Violence and the National Advisory Commission on Civil Disorders. Both called for major increases in Federal spending and wholesale revamping of national priorities. The Violence Commission's report alone recommended that at least $20 billion a year be committed to solving social problems. This coincides with Mr. Gardner's expressed view that "a great deal more" Federal spending was needed to help the cities.

The council favored increased funding for urban renewal, Model Cities, and housing programs. It worked for passage of the Housing and Urban Development Act of 1968, which authorized $5.3 billion over a 3-year span. It lobbied for more funds for the Office of Economic Opportunity, the discredited Federal anti-poverty program born out of the Great Society. It called for a massive effort to provide federally funded public service jobs.

When it came to the food stamp program, the council complained about the "barriers to participation." According to Mrs. Fred Harris, who testified on behalf of the council, the procedures could be immediately simplified by permitting recipients to fill out a simple declaration of eligibility and then mailing food stamps to recipients. No checks, no questions asked—just sign up and the Government pays on demand. This position is typical of Common Cause's myopic vision and prowelfare, proliberal posturing.

In summary, the Urban Coalition Action Council lined up behind the liberal big spenders and promoters of big government on issue after issue. The council consistently advocated more Federal programs, more Federal intervention, and more Federal spending as the solution to every real or imagined problem.

LEADERSHIP

After investigating the origins of Common Cause, it should come as no surprise that the top policymakers of this organization are liberals.

John Gardner, the chief policy officer and founder of Common Cause, served as Secretary of Health, Education, and Welfare in the Johnson administration. A token Republican of the eastern establishment type, Gardner resigned his post in 1968 to become chairman of the liberal-oriented National Urban Coalition. He then set up the National Urban Coalition Action Council to give his group a lobbying arm. The council as previously mentioned, was the direct predecessor of Common Cause.

Before moving to Common Cause, Gardner consistently supported liberal efforts to establish massive new Federal programs as well as make major funding increases in existing programs. He also alined himself with the antigun forces in this country. He was a member of the executive committee of the Emergency Committee for Gun Control. This group advocated legislation requiring registration of all guns and licensing of those who own or use guns.

The September 1, 1973, issue of the National Journal Reports, a publication which covers the activities of the Federal Government, described Gardner and his organization in the following terms:

> The popular image of the public interest citizens' lobby founded in September 1970 by Gardner, the former Secretary of Health, Education, and Welfare, and former President of the Carnegie Foundation, resembles that of its founder: white, affluent, liberal, vaguely ministerial and often dull.

Jack Conway served as president and chief operating officer of Common Cause (CC) from 1971 until 1975. According to

the Common Cause report from Washington:

In his four years with CC Conway has played the major role in organizing CC members for effective action.

Conway has a long record of liberal and union affiliations. He was top aid to Walter P. Reuther, president of United Auto Workers, from 1946 to 1961. Conway then served as head of the AFL–CIO's Industrial Union Department. From there he moved to the deputy directorship of the Office of Economic Opportunity. He was also founding chief of the Center for Community Change, a Ford Foundation-funded group devoted to poverty area community organizing.

After completing his 4-year stint as president and chief operating officer of Common Cause, Conway has become executive director of the American Federation of State, County, and Municipal Employees. AFSCME has gained a reputation of being one of the most politically activist unions in the country.

Conway apparently has no intention of severing his ties with Common Cause. He has assured the CC staff that he would remain a CC volunteer and active board member.

Stepping into Conway's shoes is David Cohen. Formerly executive vice president of Common Cause, third ranking in the power structure, Cohen is a Conway protege. Cohen followed Conway into the Center for Community Change and joined Common Cause at Conway's request in 1971.

Cohen, a registered Democrat, likewise has strong union and liberal affiliations. Cohen previously worked as a lobbvist for the AFL–CIO's Industrial Union Department. He also has been a lobbyist for the Americans for Democratic Action, an ultraliberal political organization.

Tom Mathews is described as the "voice" of Common Cause. He is responsible for all information about Common Cause that goes to newspaper, radio, and television reporters.

In 1968 Mathews was Washington press chief for Robert Kennedy's Presidential race. Before joining Common Cause he was with the National Urban Coalition.

ISSUES

The positions taken by Common Cause reflect its liberal origins and leadership. On issue after issue Common Cause adopts a liberal stance. Rarely, on the other hand, does it back a conservative measure.

Let us take a look at the Common Cause legislative report. This report, dated October 24, 1975, includes among others the following positions.

First, Common Cause supports legislation to establish an Agency for Consumer Advocacy. According to the legislative report, "CC has participated in a coalition of groups, led by Ralph Nader and the Consumer Federation of America, working for enactment of such a measure."

This is an extremely bad piece of legislation. It would create another new and costly Federal agency. Our country simply does not need another layer of government bureaucracy. America's businessmen, particularly the small businessmen, are already buried under a flood of Government paperwork, Federal forms and bureaucratic regulations. It would be unwise to add to that burden. It exempts labor unions from its coverage. Liberals adhere to the fiction that labor unions do not affect the consumer.

As I stated on the House floor, the most relevant thing about the proposed Agency for Consumer Advocacy is the admission of failure of regulatory agencies of the Federal Government. For years the liberals argued we needed regulatory agencies to protect the public. They have built up hundreds of red-tape-spawning regulatory agencies and now they come along and say we need the ACA to become involved in the same agencies to protect the public. The liberals have met themselves full circle.

Second, Common Cause supported a 10-year extension of the Federal Voting Rights Act and expansion of the act's coverage to include a wide range of language minorities.

This legislation, which was enacted into law on August 6, constituted another intrusion by the Federal Government into the rights and powers of the individual States. The new trigger mechanism for Federal involvement in State election procedures is jurisdictions where less than 50 percent registered or voted in the 1972 Presidential election and at least 5 percent are members of a single language group.

As a result, States and political subdivisions will be legally required to provide ballots and other election materials in the language of a language minority group. The cost in many cases is prohibitively high. Furthermore, local jurisdictions will lose the right to make numerous decision because of possible consequences to minorities within their jurisdiction. Local actions such as annexation, deannexation, the establishment and location of voting booths and the printing of voter information could become Federal questions, subject to Washington, D.C., approval or Federal court review.

It is unfortunate that liberals are so eager to sanction Federal invasions of State and local prerogatives.

Third, Common Cause is continuing to push for legislation to provide for public financing of House and Senate elections.

This legislation has a high price tag. It is estimated that public financing would increase Federal expenditures by hundreds of millions of dollars. The cost would be picked up by the American taxpayer through higher taxes and more inflation. There also is a serious constitutional question involved. Is it constitutional to force a citizen to subsidize the campaign of a candidate for public office with whom he disagrees? Finally, there would be an opportunity for subversion of a Government-financed campaign by a party in power.

The public financing proposal is indicative of the liberal view that the best way to solve any problem is through Federal money, Federal regulation, and Federal control.

Fourth, Common Cause backs H.R. 25, the Surface Mining Control and Reclamation Act.

Although we need to protect our environment from strip mining, this bill fails to strike a reasonable balance between our energy needs and our environmental concerns. At a time when the United States must increase coal production, the overly strict provisions of H.R. 25 would unnecessarily reduce production.

The Department of the Interior and the Federal Energy Administration estimate that H.R. 25 would cause a production loss of 40 to 162 million tons in 1977 alone. This would mean greater dependence on foreign oil and higher electrical costs for consumers, as well as increased unemployment. The liberal view seems to be environmentalism at any cost.

Fifth, Common Cause supports efforts to terminate funding for the B–1 bomber being developed as a replacement for the B–52 strategic bomber.

Development of the B–1 bomber is of critical importance to our national defense. The B–52 will have been flying approximately 30 years before the B–1 can be produced in quantity. During those years antibomber defenses have become far more effective. The B–1 will be able to fly three times the speed of the B–52, carry more than twice the bomb load and have electronic devices and other equipment that will help assure its survivability. If we are to maintain an effective strategic bomber force we must develop the B–1.

Sixth, Common Cause opposes easing of the Clean Air Act's environmental standards.

Such action will seriously worsen our energy problems. We should temporarily relax the act's restrictions so that industries and powerplants can make better use of our abundant coal resources. We should suspend auto emission standards so as to allow more efficient use of gasoline. Blind environmentalism can destroy our economy and our standard of living.

Seventh, Common Cause advocates an energy program with immediate imposition of petroleum import quotas, a stiff gasoline tax, and an automobile efficiency tax.

These policies are a prescription for national disaster. Rather than increasing domestic energy production, emphasis is on reducing U.S. consumption of oil and gas through quotas and heavy tax assessments.

The quota system would create an artificial shortage of petroleum products. We would experience a self-imposed embargo, just as damaging as if the oil-producing nations chose to limit our imports. In addition, a "stiff" gasoline tax would be extremely onerous for the people living in the more rural areas of our Nation. Mass transit systems and public transportation simply are not available.

It is ironic that the liberals always seem to think in terms of taxes and quotas. Rarely do they propose policies which will assure sufficient supplies for the future. Common Cause calls all of this working in the public interest.

OTHER ISSUES

Other positions taken by Common Cause over the last 5 years are equally or even more outrageous. Again, Common Cause always seems to come down

on the liberal side of the issues. Following are a few examples.

Common Cause has opposed efforts to prevent busing through constitutional amendment. According to the March 1972 Common Cause Report from Washington:

> It (a Constitutional Amendment on school busing) would turn the clock back on 18 years of dogged citizen efforts.

Forced busing to CC is fine, the result of dogged citizen effort. I would say that the latter part of that statement is true but the "dogged efforts" come from a small, radical band of liberals bent on imposing their will on a very reluctant majority.

Forced busing of schoolchildren is another liberal panacea that has failed miserably in practice. It is just one more example of the Federal Government forcing its own view on local school districts.

Common Cause supported the Family Assistance Plan, which would provide a federally guaranteed minimum income. According to Gardner, Common Cause has been "the chief citizen organization" backing the plan.

This radical program would commit the Government perpetually to the worst possible position. It would expand rather than solve the welfare mess. More, not less, people would be dependent on the Government for their food, shelter and clothing. A guaranteed annual income would be a giant step toward a permanent welfare state, a socialized society these CC liberals yearn for.

Common Cause has worked for an expanded food stamp program and has opposed administration efforts to raise the price of food stamps or cut back on the $5 billion boondoggle.

The present food stamp program is becoming a spending nightmare. The program has already topped the $5 billion mark and could grow to $8 billion unless needed changes are made. Too many undeserving people are accorded food stamp privileges such as striking workers, college students, and dropouts. Unfortunately the CC liberals do not seem to want to make the reforms in the food stamp program that are so desperately needed.

Common Cause opposed legislation authorizing construction of the Alaska pipeline bill. In the words of Common Cause, this was "a giant step backward on environmental policy."

This legislation was essential to help alleviate the energy shortage facing our country. When completed, the Alaska pipeline will be able to handle 2 million barrels of oil per day. Although some would block all development of our energy resources, there must be a reasonable balance between our need for energy and our concern for the environment.

Common Cause supported legislation for a new, comprehensive child development program.

Such legislation would authorize Federal intervention in the parent-child relationship. This is totally inappropriate area for the Federal Government. Nationally syndicated columnist James J. Kilpatrick has described the program as a scheme "for the essential Sovietization of the American family." This bill is the culmination of the bureaucrat-sociologist control plan, the liberal planner's dream.

COMMON CAUSE VOTING SUMMARY

The Common Cause voting summary demonstrates the liberal leanings of that organization. The positions backed by Common Cause almost invariably would result in more Federal regulation, more Federal interference, and more Federal spending. The votes also indicate an antimilitary bias.

Let us look for a moment at the "Voting Summary on Common Cause Issues" prepared for the 93d Congress.

Common Cause supported passage of the Land Use Planning Act. This legislation would have authorized a massive Federal intrusion into the uses of private property. Traditional local control of property would have been replaced by Federal rules and regulations.

The bill was a spending nightmare as well. It proposed Federal expenditures of $800 million. Such waste of taxpayers money is totally unjustified.

Common Cause favored enactment of Federal postcard registration. This bill would have established another Federal bureaucracy at a cost of $50 million a year. It also would have provided an open invitation to voter fraud. It makes little sense to set up a new and expensive Federal bureaucracy when voter registration already is being adequately handled by local officials.

Common Cause backed public financing of House and Senate elections. Public financing would lead to more Federal interference in the conduct of campaigns. It also would soak the American taxpayer for hundreds of millions of dollars per election.

Common Cause wanted to block speedy construction of the Alaska pipeline. Further delay would have injured the interests of every American. It would mean less oil, higher prices and more dependence on foreign energy sources.

Common Cause favored creation of a Federal Consumer Protection Agency with very broad information-gathering and enforcement powers. The agency could intervene at the whim in court and administrative proceedings, hold up final determination of an issue and send interrogatories to businessmen on virtually any topic. We hardly need another group of Washington-based bureaucrats interfering in our free enterprise system and harassing our Nation's businessmen.

Common Cause supported an amendment reducing by $733 million the military procurement authorization approved by the Armed Services Committee. The bill was already $486 million below the budget and this amendment would have seriously weakened our national defense.

MEMBERSHIP LIST

Common Cause's handling of its membership list also shows the liberal leanings of this group. In 1971, Gardner publicly admitted that Common Cause had allowed the Democratic National Committee to use part of its membership list for fundraising purposes. This was part of a list swap with the Democrats.

Common Cause exchanged lists with one Republican group as well. And which one was that? You guessed it, the Ripon Society. According to the March 10, 1971, edition of the Washington Post:

> The spokesman [for Common Cause] said the only Republican group whose membership list Common Cause had used is the Ripon Society, an unofficial group of liberal Republicans.

FINANCIAL DISCLOSURE REPORT

When it comes to the question of financial disclosure, Common Cause believes that everyone should strictly comply with the law. Apparently everyone, that is, except itself. Then different rules seem to apply.

We all know how Common Cause takes satisfaction in watch-dogging the reports of candidates and political committees and loudly denouncing election law violations no matter how minor or innocent. Consequently it is ironic that Common Cause was a month late in filing its March 10, 1975 financial disclosure report as prescribed by Federal election law.

This fact was brought to light by my colleague from Ohio, Congressman Wayne Hays, chairman of the House Administration Committee. Congressman Hays stressed that Common Cause should be held to the same standards as are applicable to all other political committees.

As Representative Hays stated on April 16, 1975:

> All other political committees filed reports on March 10, 1975. Why should there be an exception for Common Cause?

That is a good question.

COMMITTEE CHAIRMEN

Common Cause has displayed a liberal bias in attacking the seniority system. Almost invariably it is the conservative chairmen who are the object of Common Cause's wrath.

In previous years, Common Cause has urged the defeat of such conservative chairmen as former Representatives William Colmer of the Rules Committee and Mendel Rivers of the Armed Services Committee. Liberal chairmen, on the other hand, go largely unscathed.

The 94th Congress is no exception. The Common Cause evaluation of House committee chairmen placed Representative Edward Hébert—Democrat of Louisiana and head of the Armed Services Committee—at the bottom of the ratings.

It should come as no surprise that Hébert is a patriot and one of the most conservative members of the Democratic Party. Apparently Common Cause believes there is nothing more obnoxious than having a conservative in charge of a House committee.

Common Cause has a great deal in common with the Ralph Nader band and the environmental zealots. Everything private or business oriented is bad, everything public or antibusiness is good. They all have the same double standard when it comes to labor. Everyone with any business connection is attacked, labor connections do not count. Amendments which knock out labor from coverage of the Consumer Protection Agency do not get a peep out of Common Cause or Nader. Amendments which open the flood gates for labor spending in campaigns do not come under their microscope.

A good example would be two recent pronouncements of Common Cause. They attacked my friend and colleague, BOB SIKES of Florida for his connection to business interests and the military but say not a word about those Congressmen who have received from $30,000 to $50,000 from labor unions for their 1974 political campaign when it came time to vote on a No. 1 labor issue, that of situs picketing. That is not a conflict according to Common Cause, but receiving a $500 contribution from a group of your local real estate agents who are working in political campaigns is bad. This double standard runs through the entire Common Cause arrogance which makes their moral posturing a little sickening.

SUMMARY

John Gardner would have us believe that every action taken by Common Cause is in the public interest. As we have learned after studying the issues, however, the public interest almost always seems to be defined in liberal terms. It should be understood that the positions advocated by Common Cause are neither politically nor philosophically neutral. In the final analysis, Common Cause favors the liberal cause.

James J. Kilpatrick, one of my favorite columnists, hit the nail on the head in referring to Common Cause as arrogant moralists. Here is what he wrote in his February 3, 1976 column. The McCarthy he refers to is former Senator Eugene McCarthy, by all standards a very honest and direct liberal. Note well what Kilpatrick writes:

Back in November, McCarthy received a letter from John Gardner, chairman, and David Cohen, president, of Common Cause. These two eminences, in the high and mighty way, wished to remind McCarthy that many political campaigns had become mere exercises in "image manipulation and issue evasion." Their supremacies told McCarthy that new standards of integrity, responsiveness and accountability must be introduced. Messrs. Gardner and Cohen had prepared such a list of standards. Copy enclosed.

"We will be calling on our members, the public and the media," warned the two exalted ones, "to measure candidates' performance against the enclosed standards." They asked McCarthy for a written response.

The identical letter went to other avowed candidates for the presidency. Their flatulent responses soon came pouring in. Birch Bayh wrote that he had no hesistancy in subscribing in full to the Common Cause checklist. Lloyd Bentsen assured their nobilities that his conduct would be consistent with their goals. Jimmy Carter delivered his wholehearted endorsement. Fred Harris sent three single-spaced pages of agreeable response. Henry M. Jackson said he had directed his staff to see that the goals were achieved. Gov. Milton Shapp declared his strong endorsement and delivered his pledge of adherence. Sargent Shriver sent two pages of fulsome allegiance. Mo Udall sent three.

Alas, the royal highnesses of Common Cause got no such response from McCarthy. Clean Gene turned the letter over to his campaign chairman, Ronald Cocome, who responded to John Gardner by return mail as follows:

"I find this communication insulting. I don't mind telling you that if any citizen controls are needed, they are controls over your arrogance. I don't know who the blazes you think you are. As a campaign we are responsible to the voters directly. We will let them interpret our actions and motives. We do not need you to do so, and we do not believe the people of this country do.

"In short, you can take your enclosed standards and stuff them in your ear!"

Well! Lese majeste! King John was not amused. Gardner delivered himself of a portentous conclusion: McCarthy "must disagree with the standards or he cannot live with them politically." No other possibilities had occurred to El Supremo.

John Gardner has been very successful with his "do as I say not as I do" approach. This is largely due to the fact that the liberal press, notably the New York Times, dotes on his every word. He is the liberal ax they proclaim to speak for the public interest. He also fits the other pattern. Liberal media like the New York Times refer to him as a Republican even though he comes about as close as Khrushchev to the philosophy and platform of the Republican party. Prudent Americans who are worried about the direction of the Federal Government, our Federal tax burdens, huge and mounting deficits, inflation, and grasping Federal bureaucracy should keep an alert eye on John Gardner and Common Cause, arrogant crusaders and moralists of the left.●

PREVENTING TEENAGE PREGNANCY

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. BEILENSON. Mr. Speaker, I was opposed to Mr. VOLKMER'S amendment requiring parental notification of the prescription of drugs and devices to unemancipated minors under 16 to H.R. 12370, health service amendments, which passed the House Friday evening. Though the amendment failed, I would like to explain my reasons for opposing it.

It seems to me there are two possible reasons for the amendment proposed by the gentleman from Missouri. One could be the hope that, by requiring parental notification, teenage sexual activity will be curtailed. Or, it could reflect a concern with the status of the family in this country. We are all concerned with the family in America and we all support any effort this Congress can make designed to maintain and strengthen family life. In this case, the idea that parents should be informed about their children's behavior and problems is not objectionable in and of itself. In fact, it is a highly laudable concern. However, here we must first make a decision as to our priorities, and we then have to assess the practical value of any action, no matter how well-intentioned, which we might take.

The fact is that teenagers will continue to have sexual relations even if we require parental notification for contraceptive prescriptions. They will just stop using family planning clinics, and contraceptives—other than those available over-the-counter on supermarket shelves. In essence, they will either turn to the least effective forms of contraception, or they will not use contraceptives at all.

How, may I ask, will the American family be served, or strengthened, if greater numbers of youngsters under 16 become pregnant, and are forced to deal with the trauma of either carrying their unwanted pregnancies to term, or of having an abortion?

The idea that parents should be informed in the case of their children receiving prescription drugs or devices is not offensive to me at all, but the consequences of such a requirements are.

The problem of teenage pregnancy has become alarming. The number of adolescents who are becoming parents, before they become adults, is a serious, and escalating, social, economic, and health problem.

Our Select Committee on Population held 3 weeks of hearings earlier this year on the specific question of adolescent fertility in the United States. Here are some of the committee's findings:

One million American teenagers become pregnant every year;

More than one-third of a million teenagers have abortions every year;

Of the more than 600,000 teenage mothers who gave birth last year, 250,000 were 17 and under and 13,000 were under 15;

Of all of the young women who were 15 years of age in 1973, 40 percent became pregnant at least once before they reached their 20th birthday.

Out-of-wedlock births to teenagers have more than doubled in the past 16 years until, in 1976, more than one-half of all out-of-wedlock births in the United States occurred to teenage mothers, and

Pregnancy is the single most common cause of school dropouts among young girls: Nearly 70 percent of pregnant girls fail to complete high school. Among mothers aged 15 years or younger, 90 percent never finish high school and 40 percent fail to complete even the eighth grade.

Less than one-third of sexually active teenagers regularly use contraception—but the committee found—

the relatively low level of adolescent participation in family planning programs has been attributed to a number of problems associated with providing services to teenagers. These problems include: "barriers" to service delivery such as anxiety about confidentiality, . . . and legal impediments, in the form of complete prohibitions of services to minors, parental consent requirements, or parental notification requirements.

Teenage pregnancy poses a very serious health risk for both mother and child. Infant mortality is two or three times higher for infants born to teenage mothers, and maternal mortality is 60 percent higher for teenage mothers than for mothers in their twenties.

Abortion is one alternative to childbearing that is immoral to some, and distasteful to those of us who see it as a choice that a young woman sometimes feels it necessary to make. The Senate, the House and the administration are all interested in providing "alternatives to abortion."

There is no better alternative to abortion than contraception.

There is no better way to stop the constantly rising numbers of abortions than by eliminating the need for them by providing family planning services to the millions of teenagers, a sizeable portion of whom are under 16, who will be sexually active despite anything we try to legislate here. We should place more emphasis on helping men and women—especially teenagers—prevent unwanted and unplanned pregnancies, rather than forcing them to choose between seeing such pregnancies through to term, or ending them by abortion.

In a recent study of adolescents using family planning clinics, nearly half were attending those clinics without the knowledge of their parents. Of these, only one-fifth said that they would have come if parental notification were required, and less than one-tenth said that they would drop their sexual activity if their parents had to know of it.

Additionally, there is a question as to the constitutionality of requiring parental notification when supplying contraceptives to minors. Some recent Supreme Court cases have indicated that minors have the same rights to privacy as adults.

If we expect teenagers to participate in our programs, they must not be made fearful of losing confidentiality. Such fears would drive away those most in need of the services, with the result that young people who could have gained access to a health care delivery system will not receive the health care they need.

It is ironic that we considered a number of so-called antiabortion amendments yesterday and at the same time considered this amendment which, if adopted, would have erected significant barriers which would deter young people from receiving the means of prevention of unwanted pregnancies. Title X strictly prohibits the use of abortion as a method of family planning. The aim of the program is to prevent unwanted pregnancies, a goal which we should encourage, and not thwart with additional Federal restrictions.●

PROMOTING AMERICA'S EXPORTS

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ZABLOCKI. Mr. Speaker, the Committee on International Relations is issuing today a Library of Congress study on "Export Stimulation Programs in the Major Industrial Countries: The United States and Eight Major Competitors." The study, performed by the Congressional Research Service at committee request, describes the export promotion programs of the United States, Canada, France, West Germany, Italy, Japan, the Netherlands, Switzerland, and the United Kingdom. It offers a good factual comparison of the export incentives used by ourselves and our chief rivals in international trade. It sheds light in an area where there has been considerable confusion and debate, and I commend it to Members of Congress and the public.

I also wish to take this opportunity to offer some general observations about the state of U.S. exports and export policy. As the study notes, the United States has experienced a serious deterioration in its foreign trade balance in recent years. The huge gap between our export earnings and our imports has become one of the most worrisome problems facing our economy. Our trade deficit hit a record $27 billion in 1977. This year it will be even worse.

In bygone years, an unfavorable trade balance could be shrugged off as an irritant which affected a relatively small portion of our economy. Historically the United States, unlike most industrial nations, has produced goods largely for consumption within the United States. But in more recent times, exports have become increasingly important to us. Over the last two decades, the proportion of exports in our GNP has nearly doubled, reaching 7 percent last year. At the same time, our important bills have been climbing even faster. For example, the volume of our exports in 1977 was 2.8 percent higher than in 1975—but our imports were 35.7 percent higher.

One of the most troublesome factors underlying our deficit is the dropoff in productivity and innovation in U.S. industry compared with that of our competitors, whereas we used to be a world leader in this respect.

Obviously, this is an unacceptable situation, and one growing more serious with time. The question is, What can we and will we do about it?

As far as our private sector is concerned, I have faith that our free enterprise system and the basic economic strength of our country will rebound again as it has many times before, and that once again American competitiveness will place U.S. products in a favorable position in the international marketplace.

However our businessmen and farmers will need help of the right sort from the Government—both in active programs to promote U.S. exports, and in efforts to remove impediments to our sales abroad.

One cause of the poor U.S. export performance is Government policies that serve as disincentives to exporting, either through discouraging exports or actually preventing them. These policies include: strategic export controls, nuclear nonproliferation policy, arms sales ceiling, opposition to Arab boycotts, human rights policies, Jackson-Vanik, trade embargoes, Foreign Corrupt Practices Act, and others. Each of these policies, most of which I have supported in principle, are, taken individually, sound policies which seek to further important U.S. goals. We are all opposed to nuclear proliferation, abuse of human rights, the Arab boycott of Israel, bribery, arms races, etc. Unfortunately, the cumulative effect of these policies is a negative impact on the U.S. export position, the dollar, and the U.S. economy. Although no accurate figures are available, it is conservatively estimated that these policies may result in the loss of some $2 to $4 billion of exports annually, and the figure could be considerably higher.

Obviously we are not going to loosen up on our strategic export controls, nor are we going to rush to reestablish trading relations with a regime such as the one in Cambodia. However, we do need to review all of these policies to determine if they effectively meet their objectives. If they are meeting their purpose of furthering a specific policy, then the economic cost may be worth the achievement of that goal. However, if the policy is not being furthered, then we should consider if the cost is justified. To a large extent the answer to this question will depend on whether other nations are following our lead and adopting similar policies. I am afraid that in many cases they are not.

I am pleased to note that in his export policy statement of September 26, 1978, the President has taken a first step toward reducing governmental barriers to exports. The statement includes a directive for all regulatory agencies and government departments to consider the impact of regulations and U.S. foreign policy on exports and to provide clarification of the Foreign Corrupt Practices Act, the antitrust laws, and the National Environment Protection Act requirement for environmental impact statements for certain exports. In regard to the impact of oreign policy on exports, the departments are to consider alternate sources of goods available to countries to which the United States restricts exports; such availabilities, for the most part, depend upon the extent to which other exporters follow restrictive policies similar to those of the United States.

The President's policy also includes improvement in Export-Import Bank lending and terms, greater Small Business Administration assistance to encourage small firms to export, additional funding for Government export development programs, increased assistance to promote agricultural exports, and the negotiation of an expansion of the Organization for Economic Cooperation and Development agreement restricting the use of export credits.

I commend the President for taking the initiative in developing a more vigorous export policy. I hope his policy statement is only the beginning and that the administration will expand it, possibly reviewing some of the other policies I have referred to above that discourage exports. I also hope that the President, through his chief representative in this area, Secretary of Commerce Juanita Kreps, will take steps to impress on the various U.S. agencies the importance of this policy and the need for the thousands of individuals in the bureaucracy who implement the various policies to better their efforts to assist exporters and to minimize any disincentives to exporting. Only with the right kind of Government actions—both in positive assistance and in removing unjustified impediments—can our private enterprise system succeed in overcoming the trade deficit which is such a serious problem for our Nation today.

Congressional interest in and support for vigorous and positive efforts in behalf of American exports certainly will not be lacking. Among other actions, it should be noted that concerned Members of the House have formed an export task force which will be examining,

evaluating and seeking to counter trade barriers to U.S. exports. Review will cover implementation of the President's export policy and ways in which it can be expanded. Our colleague, BILL ALEXANDER of Arkansas, is to be commended for his initiative in setting up this group.

American concern about the trade deficit is long overdue, but never too late. Again, I applaud the President's export policy statement and hope it is not just pious rhetoric but will be followed by action and desired results—an increase in U.S. exports and a reversal of the balance of payments deficit.●

RULES COMMITTEE IMPACT ON ENERGY POLICY

HON. JOHN YOUNG

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. YOUNG of Texas. Mr. Speaker, in my career in the Congress, no aspect has been more challenging than the opportunity to serve on the House Committee on Rules. The role of this committee is little understood and not highly visible to the public. Nonetheless it plays a significant part in the substantive development of legislation, even though it is known as the "procedural" committee of the House. By determining the scope of change the House may bring about through the amendment process, the Rules Committee shapes the outcome of all major legislative policy.

I have been proud to work hard in my committee assignment, as we consider fair and equitable rules of procedure for legislation. I have been particularly interested in assuring that the regional interests of my constituency—which includes great dependence upon oil and gas production as a source of employment—have been granted a fair opportunity to be heard by the House.

The importance of the Rules Committee in this process cannot be overstated. Energy production is a most complicated industry, and few people beyond the producing States understand the nature of the exploration-development cycle and the impact of a proper program of incentives on future domestic oil and gas production.

As I leave the Congress, I would like to express once again my concern about the need to improve communications between the energy industry and Government. I commend the new awareness in energy circles of the serious need to establish a strong and forceful education program about industry problems. But communication is a two-way street, and energy industry officials need to become knowledgeable about the legislative process.

A fine example of the necessary understanding and perspective on the legislative process is revealed by an industry expert's letter appearing in the December 19, 1977, issue of "The Oil and Gas Journal." John F. Bricker, president of the Louisiana-Arkansas Division of the Mid-Continent gave a particularly incisive analysis of Rules Committee action delaying the Outer Continental Shelf bill. This maneuver was engineered by my Louisiana friend and colleague, Congressman GILLIS LONG. I was pleased to collaborate with GILLIS in this successful legislative strategy. Our holding action resulted in greatly improving legislation that otherwise would have greatly impaired the future health and development of a potentially thriving and prosperous offshore economy. Mr. Bricker's letter, which follows, is instructive in many respects, but particularly in his keen awareness of the Rules Committee impact on this legislation.

PROCEDURE POWER CITED

DEAR SIR: Much of what is happening in Washington today concerns the oil patch. Our attention in recent months has been focused on the dramatic action of the legislative committees of the Congress, but the future of our industry also is affected by procedure—a special province of the House rules committee which is a unique character in the legislative process.

People who study such matters have been noting for some time that a relative newcomer to the rules committee and to the hill—Rep. Gillis Long (D-La.)—has been able to influence the course of some national legislation considerably beyond the boundaries normally expected of a third-term representative from a sparsely populated district of the Deep South.

The subtleties of influence, however, are sometimes obscured by the complexities of institutions and by the realities and protocols of power. How does the rules committee work its will, for example, and why has Gillis Long become a key committee factor?

An object answer to both questions lies in action before the rules committee in late October to delay—for this year, at least—a resolution calling for extensive and potentially devastating amendments to the Outer Continental Shelflands Act.

By a 10–5 vote, the rules committee on Oct. 25 elected to deny the measure a rule, thus preventing the matter from being forwarded immediately to the House floor for debate.

Mr. Long, who represents a state which pioneered offshore oil and gas exploration and development, was fortunately among the few members of the House who were both aware of the catastrophic impact of such legislation and in a position to do something about it.

For several weeks prior to the actual vote, Gillis Long had adroitly maneuvered to keep the matter off the rules committee calendar. Finally, however, at the insistence of the administration and of the House leadership, the matter could no longer be delayed.

To his credit, Mr. Long was not caught short. Prior to the vote, and with knowledge of intense White House pressure, Mr. Long secured firm commitments of personal support from three of his Democratic colleagues, and their combined four votes provided the balance to swing the majority of members to the side of prudent delay. The actual vote was expected to be much closer, but one member was absent, and the chairman voted with the majority as a parliamentary gambit to preserve procedural rights.

The rules committee action, though significant strategically in the long history to defeat OCS overregulation, was an even more important tactical victory because the delays inherent in postponement will allow the offshore and ocean-related industries to gather their forces for another few months. Delay at this point, in short, was crucial because the OCS amendments were certain to pass in some form once the matter reached the floor. A companion measure, S. 9, had passed the Senate with overwhelming support on July 15, and current House sentiment leaves little room to doubt the outcome of immediate floor debate.

Without the breathing spell provided by the rules committee and by Gillis Long's careful construction of opposition, coastal states and the energy industry would now be faced with a fait accompli: legislation on the books that would cripple exploration, reduce incentives, increase dependence on imports, and pave the way for creation of a government-owned oil industry.

It is not too late to stop the legislation, but time is growing short because the last procedural delays have been fully exhausted. It is time for people involved in the offshore industries to tell Congress how they feel and to explain their side of the OCS story.

And, incidentally, it is never too late for those of us who care about oil and gas to let our friends in Congress—friends like Gillis Long—know how much we appreciate what they have done in our behalf and for our country.

JOHN F. BRICKER,
President.●

HAZEL POMERVILLE: WOMAN OF ACHIEVEMENT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ANDERSON of California. Mr. Speaker, the spirit of giving through involvement in volunteer organizations thrives in the San Pedro community of my home district. I am proud to bring to the attention of my colleagues today, the works of one San Pedro resident who has been instrumental in keeping this spirit alive—Hazel Pomerville. Later this month, during National Business Women's Week, the San Pedro Business and Professional Women's Club will honor her as their woman of achievement. It pleases me greatly to have this opportunity to share with you a small part of this woman's admirable record of service.

Mrs. Pomerville was born in the famous town which sits on the State line between Texas and Arkansas, Texarkana. After receiving her formal education, she began a career as a teacher, in schools on both sides of the line dividing Texas and Arkansas. In 1926 she moved to California where she met and married Leo Pomerville, a local customs officer. Mrs. Pomerville continued her studies at the University of California at Los Angeles before starting her 34 years of service with the Southern California Gas Co.

It is most appropriate that the Business and Professional Women's Club of San Pedro will honor Mrs. Pomerville, since 43 years ago she helped found the club during a time when the participation of women in business and the professions was neither greatly encouraged nor prevalent. She helped expand and strengthen this organization during her term as president, and is still honored as a charter member.

There are numerous organizations in the south bay area of California which offer opportunities for involvement. A great number of these organizations have had the good fortune to have Mrs. Pomerville as a member. She belongs to the San Pedro First Christian Church,

the Order of the Eastern Star, the Friday Morning Club, and the Women's Division of the San Pedro Chamber of Commerce and Community Development. She has also found time to serve as a volunteer in the excellent Meals on Wheels program, which offers warm meals to the immobile elderly.

Mrs. Pomerville's formal memberships give some indication of this woman's value to her fellow citizens, but in addition to these, she is known by the residents of San Pedro to be a reliable and diligent helper whenever a community project came up short-handed. As her many friends will tell you, "She always seemed to have a finger in every pie."

The residents of San Pedro owe Mrs. Pomerville a debt of gratitude for her constant work for the betterment of our community. Her lifelong dedication and generosity serve as a worthy example for all to follow. My wife, Lee, joins me in extending to Mrs. Pomerville the warmest best wishes for the future. We know that San Pedro can count on many more years of her valuable and inspiring presence.●

THE IMPORTANCE OF MINING

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. RHODES. Mr. Speaker, the American Mining Congress recently held an international mining show in Las Vegas, which was attended by 30,000 representatives of the mining industry. It was an impressive display of the latest in technology.

In these times, when apparently many Americans are unaware of the vital role mining plays in maintaining an expanding economy, a column by Las Vegas Sun publisher Hank Greenspun about taking metals from the earth is particularly apt. Hank Greenspun is one of the best known editors and publishers in the West. He is an old friend of many years standing. I thought this column, "Where I Stand," was particularly good, and should be shared by my colleagues in the Congress.

I urge them to take the time to read this reminder that resources are beneficial only when used, and that the extractive industries are still the bedrock of our industrialized economy.

WHERE I STAND

Text of the column is as follows:

(By Hank Greenspun)

Civilization demands that a moral equivalent be found to the environmentalists who insist the good earth must remain forever undisturbed.

The vast treasures of the earth have no value until and unless they are brought above the surface to benefit mankind.

The billions of tons of coal deposits cannot warm one child in the home until it is mined and delivered to the stove to fuel the fires of warmth and good feeling.

The sparkling beauty of the world's precious diamonds would have no radiance if left in the carbon state below the surface of the earth.

The resources of the earth are there to help humankind progress, and it would be a cold world indeed if it never saw the light of day.

So it is with sincere and solemn recognition of the good these people do that we welcome the American Mining Congress to Las Vegas for their annual convention and showing of the marvelous tools which are employed in bringing forth the earth's treasures.

And what more fitting place than Las Vegas for a conclave of mining men?

Silver, gold and other precious metals have formed the basis for one of Nevada's foremost industries from the time the "'49ers" headed for the California gold rush and found the Nevada hills also yielded veins of rich ore. They stopped at Tonopah, Goldfield, Manhattan, Searchlight, Bullfrog and Rhyolite and dug the precious ores from the ground.

Some of the most fabulous strikes in the history of mining were made in Nevada. And it has long been held that San Francisco was built on the riches taken from the earth of Virginia City, Gold Hill, Silver City and environs.

The state was born during the Civil War because the Union needed the silver and gold from the mines of Nevada to preserve it. Our hills are dotted with old tunnels, claim monuments, rusted equipment and prospectors' cabins.

Today there are mines still producing, only it is a far cry from those early times when the high-grade ore was practically on top of the ground and easy to procure.

It takes much more sophisticated equipment to locate the valuable minerals and extract them from Mother Earth's bosom.

It requires the kind of advanced technology and materials that are on display at the American Mining Congress at the Convention Center.

Comparing the old mine on Potosi Mountain to a modern operation like Blue Diamond is a good analogy when we think of the Convention Center as it was in 1960, when the first American Mining Congress gathered here.

Today's convention facilities are almost unrecognizable alongside the old. About all that remains to remind us of the small meeting places 20 years ago is the giant dome.

As I look back, I recall writing about the Mining Congress during their first Las Vegas visit exactly 18 years ago. I urged parents to take their children out to see the modern equipment on display in the outside areas. I doubt if it applies today because everything is dwarfed in comparison.

When I was a lad back in New Haven, living next to a large contracting firm, men with shovels did the work and it would take thousands of men with thousands of shovels thousands of hours to do the amount of work one of these machines can do in a day with the push of a button.

We plan to bring to our readers as complete coverage of the prestigious convention as writing skills and photography make possible.

Eighteen years ago the Mining Congress gathering was preceded by a week with a demonstration of weapons and fire power at Nellis Air Force Base.

It is faintly ironical that recently we saw what could happen if somebody pushed a button and started an all-out war. We watched bombs laid with deadly accuracy on targets as planes zipped through the air with incredible speeds. Thousands of persons were awed by the thought of what could happen, yet comforted in some measure that our government was making every effort to protect us from potential attackers.

The Mining Congress is a more pleasant and comforting matter. Here we look only to the future and progress—to new methods of production; and with high hopes that something on display at the Convention Center might be an aid to revitalizing the mining industry of Nevada, and to bring forth the earth's precious resources to benefit all humankind and again make us proud of our Nevada mining heritage.●

EXPLANATION

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. BINGHAM. Mr. Speaker, during the past several months, I was forced to miss several rollcall votes due to illness and other matters. I was recorded paired "for" or "against" on six votes. As to the remainder, I wish to record here what my position would have been had I been present and voting.

Rollcall No. 63, a motion to pass H.R. 9370, for the development of aquaculexecutive agencies, "aye."

Rollcall No. 216, a motion to pass H.R. 3161, an amendment to title 5 of the United States Code to improve basic workweek for firefighting personnel of executive agencies, "aye."

Rollcalls No. 258, 337, 399, 402, 613, and 615, motions for House to resolve into Committee of the Whole, "aye."

Rollcall No. 259, a motion to pass H.R. 11302, to authorize appropirations for environmental research developments and demonstrations for fiscal year 1979, "aye."

Rollcall No. 260, a motion to pass House Joint Resolution 859, making supplemental appropriations for U.S. Railway Association for fiscal year ending September 30, 1978, "aye."

Rollcall No. 311, motion to suspend the rules and pass H.R. 11209, to provide for the establishment, ownership, operation and governmental oversight and regulation of international maritime telecommunications services, "aye."

Rollcall No. 401, an amendment to H.R. 12157, the Export-Import Bank Act of 1945, seeking to permit the Bank to guarantee, insure, or extend credit to South Africa as long as it also extends credit to or is authorized to extend credit to Communist countries, "nay."

Rollcall No. 459, a motion to pass H.R. 12935, making appropriations for the legislative branch for fiscal year ending September 1979, "aye."

Rollcall No. 519, a motion to suspend the rules and pass House Joint Resolution 613, amended to authorize and request the President to issue annually a proclamation designating the first Sunday of September, after Labor Day of each year as National Grandparents Day, "aye."

Rollcall No. 520, a motion to suspend the rules and pass House Joint Resolution 1007, amended to authorize the President to proclaim a week during the first 10 days of May of 1979 as Asian Pacific American Heritage Week, "aye."

Rollcall No. 521, a motion to suspend the rules and pass House Joint Resolution 773, to authorize and request the President of the United States to issue a

proclamation designating the 7 calendar days beginning September 17, 1978, as "National Port Week," "aye."

Rollcall No. 522, a motion to suspend the rules and pass H.R. 13087, to authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of Treasury may require, "aye."

Rollcall No. 523, a motion to suspend the rules and pass H.R. 12106, amended to amend the Independent Safety Board Act of 1974 to authorize additional appropriations, "aye."

Rollcall No. 617, an amendment to H.R. 12432, that prohibits use of funds by the Commission on Civil Rights to influence the passage or defeat of legislation before Congress or State legislatures, except when the committee is requested to give an opinion, "aye."

Rollcall No. 662, an amendment to H.R. 13635, the defense appropriation bill, seeking to reduce appropriations not required by law by 2 percent, "aye."

Rollcall No. 750, an amendment seeking to permit the FBI to place 140 positions in GS 16–18 without regard to provisions placing the limitations on executive level positions, "nay."●

A TRIBUTE TO WHITFORD B. "WHIT" CARTER

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ROUSSELOT. Mr. Speaker, during these final hours of the 95th Congress, my thoughts reflect not only on the proceedings of this august House but also on the many people who through the quality of their character and the impartation of their learning, wisdom, and devine inspiration have exerted an affirmative influence over the minds and acts of others. Our Nation is richly blest by those whose devotion to God and allegiance to the United States of America has been made manifest in their willingness to work with dedication and fervor for the well being of our society. One such person was our former colleague in the U.S. House of Representatives. The Honorable William M. Ketchum of Bakersfield, who served the people of California first in the State legislature and then in the Federal Government representing the 18th Congressional District a portion of which, Antelope Valley, had been in my own congressional district.

Bill Ketchum passed away in June and, as the Members of this House know, the 18th Congressional District has not had the representation of a Congressman since that time—the seat having to remain open until the coming November elections. In September a constituent of Bill's passed away, Whitford B. "Whit" Carter. Whit, a man of excellent character and civic virtue, was a resident of Lancaster, Calif., for over 50 years. Whit and Bill knew each other well and I like to think that they are continuing their friendship throughout eternity. I am saddened by the knowledge that we will no longer be able to share the companionship and leadership of these two men who contributed so much to the betterment of their communities, the State of California and the entire country. Along with their many friends, I will feel a deep sense of loss but will take comfort in knowing that the good they imparted will be of lasting value to the citizens whom they both served so faithfully.

When the House of Representatives reconvenes for the 96th Congress, it will be difficult to conceive as real the fact that neither BILL nor WHIT will be around. I have been elected to fill the vacancy created by BILL's passing on the House Committee on Ways and Means and I shall be acutely conscious and frequently reminded of his position on tax legislation and mindful of the strong stand he took to preserve individual liberty and economic freedom for all Americans. I will be reminded of WHIT CARTER's many trips to Washington and his persistent efforts to assure that there be sufficient funds appropriated to provide adequate protection for California's magnificient forest lands. In the performance of my duties as a Member of Congress, I shall think about Lola Ketchum and Dorothy Carter and the loving support they gave these ambitious, determined men and shall hope that they will find some contentment in seeing the further unfoldment of the individual and shared ideals of their husbands.

Mr. Speaker, I believe that had BILL KETCHUM had the opportunity he would have liked to have shared with his colleagues some of the story of WHIT CARTER, rugged individualist, sports enthusiast, civic leader, entrepreneur, successful businessman, father, grandfather and beloved pioneer in Antelope Valley, Calif. The following is an article by Bill Gillis which appeared in the Antelope Valley Press entitled, "End of an Era," along with an editorial in the same paper which describes the numerous activities of Antelope Valley's prominent citizen.

WHIT CARTER, AV'S PRIME CIVIC LEADER

Whit Carter, whose funeral will be held tomorrow, will go down in the history of Antelope Valley as this area's prime civil leader.

Between the mid-1920s when he arrived in Lancaster and his death at the age of 75 last Thursday, his contributions were enormous, not only on the local level but in Southern California and throughout the state.

He served on the State Board of Forestry for 16 years, most of the time as chairman. He was the chairman of the Watershed Fire Council of Southern California, the Fire Prevention and Suppression Subcommittee of the Los Angeles Chamber of Commerce, executive vice-chairman of the Conservation Association of Southern California, a member of the executive committee of the Water Coordinating Conference, and a member of the Los Angeles County Watershed Commission.

His interests were diverse. He was a lifetime lover of sports, chairman of the Amateur Athletic Union, and, indeed, continued to do play-by-play radio broadcasts long after most men feel they have reached retirement age.

He was personally involved with forestry, conservation, water, farming, fire-fighting, and a host of civic betterment activities.

It was his pride that all the years he was the Fair Parade starter, the parade always started right on time. In 1977, he was honored in that parade as Grand Marshal.

He poured time, effort, and money into the community throughout his lifetime. He took great pride in helping many generations of young people as they advanced through athletic and academic endeavors. The arena on his ranch has been the location of scores of youth equestrian activities.

He was a charter member of the Benevolent and Protective Order of Elks Lodge in Lancaster and throughout his more than half century in the community he was benevolent and protective.

Lancaster and Antelope Valley have lost their greatest champion, but his accomplishments still stand and today's and future generations will continue to enjoy a better quality of life because of the contribution by Whit Carter.

WHIT CARTER SERVED IN MANY WAYS

(By Bill Gillis)

End of an Era:

There are some of the opinion Whitford B. (Whit) Carter founded Lancaster. That wasn't quite the case. It just seemed that way.

Hospitalized since Aug. 30, Whit succumbed in the Antelope Valley Medical Center Thursday afternoon.

Whit permanently settled in Lancaster in 1924 and his presence was to be impacted through the years.

If he didn't found Lancaster, at least he guided the community through its early years of infancy, including incorporation last November. Business was transacted in his basement office on Lancaster Boulevard.

Never a limelight-seeker, Whit disdained publicity to the extent he was never president of the Lancaster Chamber of Commerce, the Antelope Valley Board of Trade or other prestigious civic groups. He was content to maintain his behind-the-scenes role.

Almost forgotten is that Whit was vitally instrumental in the founding of the 50th Agricultural District Assn., the Antelope Valley Fair, though he never served as a director.

It was largely through his efforts legislation was enacted to create the district, thus qualifying it for state funds.

That was on Sept. 13, 1941, and his death came 37 years later—almost to the day.

From its inception, he was the "starter" for the Antelope Valley Fair Parade, last year rightfully recognized for his efforts by being named the grand marshal.

His accomplishments are numerous: founder of the Valley's first radio station KAVL, founder and first chairman of the Antelope Valley Red Cross and charter member of the Lancaster Elks Lodge, just to list several.

On a state-wide basis, for 16 years he served as a member of the California Board of Forestry, 10 years as chairman, and was a frequent visitor to Sacramento where he expounded on the virtues of Antelope Valley.

He was more renowned in the hallowed chambers of the State Capitol than some of the elected legislators.

At home, though, he continued to maintan his cloak of anonymity to the extent relative newcomers to the Valley probably weren't even aware of his existence.

Whit's passing leaves an irreplaceable void.

Resident of the Valley, and particularly Lancaster, can be grateful that more than a half century ago—in 1924—Whitford B. Carter migrated West from his native Oshkosh, Wis., and settled in the Mojave Desert.●

PRIVATE RELIEF BILL FOR ERNEST BRACE—AN AMERICAN POW HERO

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. BAUCUS. The trauma of the Vietnam war is fast receding from public memory. However, many unhealed scars from that conflict remain. I am taking this opportunity to introduce this evening private bills that deal with the suffering of one forgotten Vietnam casualty, Mr. Ernest C. Brace. Mr. Brace is a former Marine Corps officer whom the North Vietnamese captured in 1965 while working as a civilian pilot for a contractor under the U.S. AID program. Mr. Brace spent the next 3 years chained to a small bamboo cage, frequently in solitary confinement, in various jungle camps. Three brief escape attempts redoubled the efforts of his captors to break him. They placed Mr. Brace in a hole and filled it with dirt up to his neck. He endured this torture for extended periods, and consequently, could not walk for 2 years.

The North Vietnamese transferred Mr. Brace to Hanoi where he clandestinely contacted other prisoners of war. Senior American ranking officers designated him as an officer in charge of communications, and his work in training other prisoners in methods of resistance was invaluable. He received the same treatment as the military prisoners, and his courage and guidance earned him the respect of his imprisoned colleagues. After almost 8 years as a POW, in March of 1973, the North Vietnamese released him.

Mr. Brace had previously served nearly 13 years in the Marine Corps, when he was discharged in 1961. Although there may be serious questions concerning his original discharge from the Marines, I believe those circumstances should have no bearing on my request. Accordingly, I am asking Congress to consider and review two alternative private relief measures to provide compensation for the time Mr. Brace served as a POW. Briefly, one bill requires the U.S. Government to pay in lump sum the difference between the amount of money he actually received from his employer for the period of his captivity and the amount that he would have otherwise earned during that same period. The second bill allows the time that he served as a prisoner to be considered as active military service with full entitlement to military benefits.

The War Claims Act of 1948 serves as the precedent for the first bill. After the Japanese invaded Wake Island, they interned several civilian contract employees, and, consequently, Congress bestowed certain benefits, similar to the present proposal, upon these POW's. Mr. Brace deserves consideration of this option by the Congress.

The second bill confronts the consistent refusal by the Veterans Affairs Committee to allow any public legislation granting civilian claims for "time in service" for involuntary detention of civilians by hostile powers. For example, during the 93d Congress, Congresswoman Patsy Mink introduced H.R. 4393, a bill to allow such claims, but it died in committee. In light of this obstacle, Mr. Brace has no choice but to seek a private bill. Therefore, I ask my colleagues to reflect on his long POW status and exemplary behavior and to enable his imprisonment by the North Vietnamese to be considered as active military service.

Let me again stress that these proposals are alternative bills and not a package.

Several of Mr. Brace's colleagues not only praise his attitude and behavior during his internment, but also fully support his efforts toward reinstatement. For example, former POW Maj. Norbert A. Gotner in a May 1, 1973 letter to the Commandant of the Marine Corps wrote:

When I first met Mr. Brace, I was in very bad shape, both physically and mentally . . . It was the outstanding examples of courage, faith and patriotism disp'ayed by Mr. Brace that were responsible for "bringing me over the hump," so to speak, and resulting in my return to the United States. Mr. Brace, at the risk of his own well-being, would defy the NVA guards to their faces to help me. His ingenuity at devising methods to contact me and to share his faith in America completely baffled the guards . . . I realized that it was not only me that owed so much to Mr. Brace.

Major Gotner prefaces his letter by saying:

"I believe that Mr. Brace would make an outstanding contribution to the U.S. Marine Corps and I highly recommend him for immediate reinstatement, even if it calls for exceptions to any regulations."

Ten days later, Captain William P. Lawrence, former POW commander of Mr. Brace, wrote to Commandant Cushman that:

"Ernest Brace made an immeasurable contribution to our country while he was a prisoner. His example of courage and bravery was a great inspiration to us all. I would be proud to serve with him in any capacity and would particularly welcome him under my command.

"I feel it is only fitting that our Government reward Ernest Brace for the great service and sacrifice which he has made."

In addition, the Department of Defense awarded Mr. Brace the Defense Medal for Distinguished Public Service on June 27, 1978. This award, the highest that DOD can bestow upon a civilian, made the following declaration:

ERNEST C. BRACE

For distinguished public service while a Prisoner of War during nearly an eight-year period from 21 May 1965 to 28 March 1973. Employed as a civilian contract pilot in support of our Government's objectives in Southeast Asia, Mr. Brace escaped from his communist captors a total of three times prior to September 1966. After each escape, the rigors of his confinement were increased. In October 1966 he was taken to the citadel prison in Hanoi in such poor physical condition that he was unable to walk. There he lived in isolation as a high risk prisoner, eventually establishing clandestine communication with the American leadership in that prison. Although a civilian and not technically bound by the Military Code of Conduct, by his own aggressive example he was a continual force for the strengthening of the Americans' adherence to that Code. Despite the atmosphere of enemy harassment and brutal treatment, he continued to establish and maintain communications through many unusual and ingenious methods, which resulted in American and Allied prisoners presenting a posture of increased resistance to the enemy's wishes and at the same time improving prisoner morale. His ceaseless efforts in the extremely adverse conditions of the communist prisons of Southeast Asia demonstrated his professional competence, unwaivering devotion and loyalty to his country. Despite the harsh treatment throughout his long years of incarceration Mr. Brace's patriotism, determination and faith in his country are a tribute to the principles that made our Nation great and are worthy of the highest praise and recognition. I take great pleasure in awarding Mr. Ernest C. Brace the Department of Defense Medal for Distinguished Public Service.

HAROLD BROWN,
Secretary of Defense.

FEBRUARY 15, 1978.

Adjournment is just a few hours away; therefore, I cannot expect immediate action on these bills. However, by introducing them, I am proud to acquaint my colleagues with a man who displayed extraordinarily courageous and patriotic conduct under the severest wartime conditions. His actions should stir our pride, and at the very least, the private bills for Mr. Ernest Brace deserve a considerable and thorough review by the 96th Congress.

I wish to end by reciting a poem written in 1967 by Ernest Brace when he was imprisoned in a lonely bamboo cage in the heart of a tropical jungle in Southeast Asia.

PRISONER IN A CAGE

I'm just a prisoner in a cage
I have no name, I have no age
The guards, they don't know what I've done
All they know is I'm a captured one.
They captured me in '65
And I guess its lucky I'm still alive
For I've tried to escape three times in all
And I'd go the fourth, but I'd have to crawl.
They buried me once for seven days
And that was supposed to mend my ways
But I still have this urge to try, you see
Only now I don't have the legs to carry me.
My feet are in stocks, my neck's tied to a pole
What food I get is shoved in through a hole
At night I lie down and my hands are tied
And the rope is stretched to a post outside.
Now I've been sick and almost died
And I've had to crawl to get outside
I wasn't helped in any way at all
In fact I was beaten while held against the wall.
But I'll leave here alive, I know that now
But I don't know when and I don't know how
And I'll see my family once again
But I don't know where, and I don't know when.●

THE SECRET OF MEXICO'S BIG LEAGUE OIL TROVE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. McDONALD. Mr. Speaker, the so-called "energy crisis" continues to roll on

with a life whose length cannot be predicted. The doomsayers in the Carter administration and across the country continue to speak of the dire need for conservation, controls, and more Government regulation. However, the world is still far from being out of oil. Columnist William Safire recently let one of the cats out of the bag, namely that Mexico is sitting on a huge pool of oil. This fact has been well known by certain persons in our Government as well as by certain Mexicans, but the lid of secrecy has been on till now. Therefore, I commend his column to the attention of my colleagues. The item appeared in the Washington Star on October 6, 1978. See also my "Special Order on Energy" which appears in the CONGRESSIONAL RECORD of today. The article follows:

THE SECRET OF MEXICO'S BIG LEAGUE OIL TROVE

(By William Safire)

MEXICO CITY.—They called themselves "the guardians of the secret." They were the ultranationalistic group of engineers, geologists, labor union leaders and businessmen who threw the U.S. oil companies out of Mexico in 1938, and—for nearly four decades—kept their secret not only from the world, but from most of Mexico's politicians.

The secret was that Mexico sits on an enormous, largely unexplored sea of oil. The reason for hiding this fact was the fear that a weak Mexican government would fall prey to predatory capitalists and a domineering neighbor to the north.

After the Arab oil embargo, and after the shah of Iran quadrupled the world price of oil, the then-president of Mexico, left-leaning Luis Echeverria, continued to keep the secret: He did not want to disturb the Third World's oil leverage on the West by revealing the potential of a huge supply of oil in North America.

Mexico's new president, political philosopher Jose Lopez Portillo, tells me he was let in on the secret during his campaign for the presidency in 1976. (The "campaign" consists of one candidate rushing furiously around the country for two months, as if he needed every vote. An exhausting enterprise, it is relieved only by the knowledge that he is unopposed.)

Since Lopez Portillo had been finance minister for eight months in a regime that desperately needed foreign credit, the fact that he had been kept in the dark by "the guardians" illustrates how worried the ultranationalists were that Lopez Portillo might be the sort to make the decision for oil development.

The new Mexican president has broken the secret with a vengeance. In his state of the union report last month he reported proven reserves of 20 billion barrels, probable reserves at an additional 37 billion barrels, and possible reserves at 200 billion barrel. That's in Saudi Arabia's league, a responsible U.S. official terms the startling figure as "likely to be on the conservative side."

The Carter administration has known of the Mexican oil potential since its inception. Although CIA projections were discredited when that agency began to provide the White House with whatever energy figures it wanted to hear, Atlantic-Richfield intelligence sources were known to be on target. But the Mexican resources were seldom discussed, for one good reason and one bad reason.

The good reason was that Energy Secretary James Schlesinger wanted to dicker for a fair price for Mexican natural gas, the first energy to be available in quantity. The U.S. wanted to pay a rate similar to our Canadian purchases; Mexico wanted us to pay what we paid for energy from Indonesia, giving Mexico a windfall profit on the savings on transportation. To Mexico's detriment, the deal fell through.

The bad reason was that the Carter administration wanted to sell the notion that the nation faced an energy "crisis" and downplayed the reality of a huge reservoir of oil on this continent in order to further its legislative goals.

Now that the need for the Carter sky-is-falling propaganda is over, and now that the Mexicans have learned the U.S. will not pay exorbitant prices to import energy across the Rio Grande, we come to the central issue: Will Mexico become a major source of U.S. energy in the '80s?

Logic dictates that it must. The old fears of the "guardians of the secret" that politicians or foreigners would rape Mexican resources is meaningless today. Oil brings lofty prices, the profits stay in Mexico, and if the wells run dry in 50 years, that's no big deal—the world will then be running on solar energy, and Mexico is up to its sombrero in sunshine.

With 14 million inhabitants, Mexico City unhappily is becoming even larger than Tokyo. The overcrowding and lack of opportunity has driven some 8 million Mexican illegals across the U.S. border. Mexico needs oil money now, but quickly, to invest in itself massively, as Iran did—but without Iran's need for military buildup. Only the most foolish and stubborn pride would keep Mexico from turning to the U.S. as its major market.

Lopez Portillo—though fierce about independence from yankee domination—strikes me as neither foolish nor stubborn. One litmus test of future cooperation would be Mexican membership in OPEC. The U.S. hopes Mexico, unlike Venezuela will stay out; that would help undermine cartel power. For its part, Mexico does not want to give up its own production independence to the cartel.

Asked about membership in OPEC, the Mexican president goes into a philosophical discussion of the differences in economic history between his country and other oil-producing nations.

The bottom line, I think, is that he plans to stay out, which is good for both Mexico and the U.S.

The time is right for an economic demarche on a strictly business basis. The pressure is on both Mexico and the U.S. to make a massive deal soon—and that's no secret.●

PLO DEDICATED TO UNDERMINING CAMP DAVID PEACE INITIATIVE

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. LEHMAN. Mr. Speaker, Steve Hilmes, 31, an American bomb disposal expert working with the Israeli police, was badly wounded on September 5 when a terrorist bomb exploded as he approached it at a gas station in Jerusalem. The PLO in Beirut claimed credit for the bombing.

I was recently informed that Steve Hilmes died of his injuries suffered during that terrorist incident.

A Vietnam veteran and ex-U.S. policeman, Steve Hilmes had successfully dismantled 25 bombs for the Jerusalem bomb squad over the last year and had earned a reputation as one of the most capable and dedicated bomb disposal experts in Israel. He was one of the many Americans who have gone to Israel as private citizens to help that small and beleaguered nation.

Ever since the Camp David summit was announced, terrorist incidents in Israel, especially in Jerusalem, have increased. On the same day as the bomb which killed Steve Hilmes, another bomb went off in an unoccupied tour bus. The previous week a bomb was detonated at the Education Office in Nablus and at a waterworks plant in Jerusalem cutting off water in several quarters of the city.

Let us not forget during these times of renewed hopes for peace in the Middle East that the PLO is determined to undermine the Camp David peace momentum—both by increasing terrorism against innocent civilians and by its dirty work in Lebanon during the recently intensified fighting there. We cannot recognize the PLO terrorists as the true representatives of the Palestinian people. The "legitimate rights" of the Palestinian people will be traded in by the PLO for any chance to maim and kill yet another innocent victim.

In an interview with the Jerusalem Post, published only 4 days before the blast in which he was fatally wounded, Hilmes explained about his work—the day-to-day job of coping with an Arab terror campaign directed against Israels' civilian population.

The story of Steve Hilmes which follows is a story of outstanding courage in the face of insidious Arab terrorism:

FUMBLES ARE FATAL

(By David Richardson)

On Friday, August 25, the Jerusalem Police Operations Room received 141 reports of suspicious objects. One turned out to be a real bomb. This device, which had been attached to the chassis of a taxi parked outside the Ras al-Amud police station on the Mount of Olives, was safely dismantled by a bomb disposal expert, Steve A., a former American. The lanky Vietnam veteran and ex-U.S. policeman has been with the Jerusalem bomb squad for a year and in that time has earned a name as one of the most capable and dedicated sappers in the country.

The police in general, and particularly in Jerusalem, have had to deal with a wave of attempted bombings ever since the Camp David Summit was announced. Fridays, like the eves of festivals and national occasions, are peak days for the bomb squad. Apart from the normal pressures of the job, the men are confronted with a tremendous number of reports and this constitutes an additional burden.

"It doesn't matter that the majority of the items we examine turn out to be harmless. We have to treat each case as if it were a real bomb. You can't afford to relax," said Steve.

He examined nearly 40 suspicious objects and parcels in the course of last Friday morning's shift, starting with the real bomb on the Mount of Olives. The radio in his jeep crackled constantly with reports of suspicious objects and requests by patrolmen that the "professional" personally examine a suitcase, an abandoned car, a watermelon.

The normal procedure on receiving a report is for a patrol car to be dispatched to carry out a cursory examination and keep people out of the area if necessary. In this way the operations room can establish some kind of priority and dispatch the sapper to the place where he is needed most urgently.

"Our job is to dismantle the bomb or detonate it safely, or, if it cannot be moved, try and isolate the blast," said Steve. Gen-

erally there is very little time left by the time he arrives, since the terrorists aim to kill or incapacitate the sappers if possible.

The bomb disposal men are also expected to minimize damage, since the police have to compensate the public. In other words, while it may be quicker to smash the windscreen of a car; the sapper is expected to try and force the lock of the door.

Another of the pressures comes from the laboratory experts, who want a bomb to be kept intact if possible so that they can analyse it for clues and so that other men in the squad can study it.

Steve, who has been in this country since early 1973, volunteered for the bomb squad "because my job as a patrolman wasn't helping people in Israel or myself. What drew me to bomb disposal was not only the excitement and the challenge—and certainly not the money—but a feeling that I'm better qualified for this job than others are. It's difficult to explain, but my basic urge is to help people. I suppose you could call it a kind of Zionism."

Since he has been in Jerusalem, he has dealt with around 25 bombs ("I try not to keep count, because more veteran sappers who kept a tally began to get scared and quit earlier than necessary"), two of which went off while he was dealing with them. Luckily in each case he was using protective equipment and was not injured.

"The shock is tremendous—you just don't believe it's happening and despite all your training and experience you are surprised at the blast," he said.

In an aside about the equipment they use, most of which is classified, Steve said that the bomb squad, like the entire police force, suffers from a lack of resources. "Nevertheless, compared to other police forces, we have benefited by our experience," he added.

Like other men in his profession, Steve feels that his most important tools are good training and constant retraining, as well as a highly developed sixth sense which comes from experience. Some of the experts he works with can even smell and taste certain kinds of explosives.

"Of course I'm scared," he answered in reply to the obvious question. "If I wasn't, I'd be a nut. On my way to the bomb I try not to think about it, I think about a thousand different things, but not the bomb. While I'm busy with it I don't have time to think of anything. It's only afterwards that you begin to realize what might have happened."

He admits that, since he is not a family man, he is relieved of some of the worry that haunts many of his colleagues; but he is also helped by a mixture of fatalism and belief in God.

"If your name is on a bomb, that's it. And you have to believe in something apart from yourself, although I'm not religious in the strict sense," he said.

What disappoints him is the attitude of the public. Recently, a volunteer association announced that it would give money awards for reporting bombs.

"Reporting a suspicious object is in your own basic interest and the money could be much better spent in buying equipment for the police," he added.

He was particularly incensed at people who knowingly send in false alarms, and said that many of these come from the ultra-Orthodox Mea Shearim quarter.

"Even if we know from experience that it's a false alarm, we have to go and check and sort through the rubbish and filth while they stand around and laugh at us."

How can the public help?

"The public are our eyes and ears and without them there would be many more tragedies. I'd rather run a hundred times a day and find nothing than not run and come to pick up the pieces. My salary is not on a commission basis."

A bomb can be disguised in a thousand different ways, from a coffee tin to a watermelon, from a bundle of rags that have been treated with plastic explosive to a load of bread or a tray of eggs.

"Don't be bashful," said Steve. "Call us for anything, because the terrorists are becoming increasingly sophisticated and increasingly devious."

By "us" he means the police number 100 on any exchange in the country.

They use home-made explosives, military and commercial explosives that are stolen from stores or quarries, and shells, mines, mortars and grenades that are smuggled in or found on military ranges, or were perhaps abandoned in the various wars.

One of the most difficult things to manufacture on your own are detonators, but the countries that aid the terrorists have a sufficiently developed industrial base for this. Detonators are by nature quite small; they can be concealed and smuggled into the country without very much difficulty.

The ticking of a timepiece that gave bombs away not so long ago is also no longer a reliable guide in this age of electronic timing devices, silicone chips and semi-conductors.

If an object arouses your suspicion, Steve warns, don't touch it at any cost. It may be booby-trapped and today there are detonators that can be triggered by the slightest tremble. If you can, describe the object in your report to the police. This description can help the sapper to anticipate what he is likely to find, and this is all-important in a job that is, in essence, a race against time.

If you find the suspicious object in a field, surround it with stones; if in a built-up area, keep people away. This is crucial, since the terrorists are increasingly adopting the tactic of placing two or more bombs close together and timed to go off one after the other because they expect a crowd to gather.

Another very important thing is for drivers to clear the way. "Nothing is more frustrating than to sit in a traffic jam or to have to weave between vehicles that ignore your siren."

This frustration or irritation can also be very dangerous, since essential qualities for the work are calm and level-headedness. "You can do nothing recklessly," says Steve. That way lies disaster.

Two Seriously Injured in One of Two Bombings in Jerusalem

(By David Richardson)

Two men, including a police bomb disposal expert, were seriously injured yesterday when one of two terrorist bombs exploded in Jerusalem. The sapper, Steve Hilmes, 31, was reported in critical condition last night.

Also seriously injured was Mordechai Baron, 48, of Jerusalem. No one was hurt in the second bombing explosion.

The explosions took place despite strict security procedures and a general security alert that has been ordered following fears of a stepped-up campaign by Palestinian terror organizations because of the Camp David summit.

In Beirut, a communique issued by the Palestine Liberation Organization claimed responsibility for both explosions and said that they were part of "stepping up" the armed "struggle" against the Jewish state.

Police detained some 15 suspects rounded up in the areas of the blasts.

The first explosion, in which the two men were injured, took place at 9:25 a.m. at a gas storage depot on Derech Beit Lehem in Jerusalem's Baka quarter. An Arab worker in the depot discovered a suspicious looking object under an old car door which formed part of the depot fence. Close to the door was a semi-trailer loaded with balloons of domestic cooking gas.

The worker immediately reported the object to the depot manager, Baron, who called the police. Baron warned police that should there be a blast, it might trigger a much larger explosion because of the gas tanks and an adjacent petrol station.

A police jeep arrived within eight minutes. Hilmes accompanied Baron to the object which looked like a transistor radio wrapped in rags. As the two approached it, the bomb exploded, immediately—according to eyewitnesses—sheering off one of the sapper's legs and seriously damaging the other leg as well as an arm and an eye. Baron suffered burns and his condition at Hadassah Hospital last night was described as "serious but out of danger." The Arab worker who discovered the bomb was still being treated for shock late yesterday afternoon.

Police described the bomb as "not large, but a standard sabotage device—not homemade."

Hilmes, who is hospitalized at Shaare Zedek, was interviewed for a magazine article in last Friday's *Jerusalem Post*. The former American and Vietnam war veteran—where he was also wounded—came on aliya in early 1973 and volunteered for the bomb squad "because my basic urge is to help people and I'm perhaps better qualified for this job than others." Hilmes, who is apparently an orphan with a step-mother in Los Angeles, was also for some time an undercover narcotics agent for the Federal Bureau of Investigation.

Colleagues and commanders in the Jerusalem police described him as extremely and perhaps dangerously dedicated—"he always put the citizens of Jerusalem (where he has been working for about a year) before himself." Like most explosives experts he coped with the constant pressure he was exposed to by developing a kind of fatalism. In his interview with *The Post* he constantly recalled two colleagues killed over a year ago while dealing with a bomb and said how lucky it was, in a sense, that he had no family.

An eye-witness, Meir Eindor (former commander of the Border Police Yeshiva in Hebron), said he heard the explosion and ran to the scene to find people standing around doing nothing for the injured men. He approached Hilmes, who whispered in his confusion that "there's a bomb," trying to warn him. After trying to stop the bleeding, Eindor and other passers-by placed Hilmes on a stretcher and loaded him on a tender. Opposite the Moriah Hotel Hilmes was transferred to an ambulance which took him to Shaare Zedek.

Eindor recalled: "On the way he kept on groaning 'my legs, there's fire on my legs.'" His entire body and his face were blackened by the blast, said Eindor. At the hospital he underwent a series of operations lasting until after 6 p.m. yesterday.

At 12:37 p.m. another bomb went off in an empty bus parked near the Jaffa-Gate outside the Old City. The bus, belonging to United Tours, was one of three carrying members of the International Federation of Travel Writers currently visiting Israel. Members of the group were walking in the Via Dolorosa when the blast occurred. Most of them only learned about the blast later at a luncheon at the Jerusalem Plaza Hotel.

The bomb had been placed inside the petrol intake at the rear of the bus. It exploded about 10 minutes after the driver left the bus. The bus was damaged, but there was no damage to the personal effects of the passengers.

Security has been further stepped up in Jerusalem and other cities following the attacks. Special army and border police units trained in dealing with sabotage have been stationed in Jerusalem.

This brings the number of terrorist attacks in Israel and the administered territories over the past month to 25. This is the highest monthly total since the attacks started in Israel and follows fears that the terror or-

ganizations would increase their activities before and during Camp David.

Slogans protesting the Camp David talks and denouncing Egyptian President Sadat were daubed on walls of certain West Bank villages last night.

Police again stressed that the public's vigilance is crucial in effectively combating terror attempts. They emphasized that time is of major importance and urged people not to delay reporting suspicious objects and on no account to touch the object.●

LEGAL SERVICES CORPORATION

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. IRELAND. Mr. Speaker, many of us have had complaints from our constituents about the activities of representatives of the Legal Services Corporation.

I would like to take a moment to share with you an all too typical example of the type of problem that many of my constituents have been encountering.

Thank you, Mr. Speaker.

EWELL INDUSTRIES, INC.,
Lakeland, Fla., September 22, 1978.

Hon. ANDY IRELAND,
Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN IRELAND: We recently erected a ready mix batch plant at Sebring, Highlands County, Florida, as outlined in my letter to you on August 18, 1978. Prior to erecting the plant, we met with city officials to check out zoning regulations and to secure the proper permitting from the city and county officials. We secured all necessary city and county permits and located our plant on a parcel of land that has been zoned industrial since 1940. We also were required to go before the zoning board due to a height limitation, which we did and received approval.

Suddenly, the City of Sebring and ourselves were named in a suit stating that the plant was illegally erected. One neighbor four blocks away had engaged the services of Mr. Garry G. Geffert of the Florida Rural Legal Services, Inc., in Wauchula, Florida. Mr. Geffert had some of his staff going door-to-door in the neighborhood getting signatures on a petition for removal of the batch plant.

I am sure there are many needs for Mr. Geffert's services; however, I do not understand the waste of taxpayers' money by taking on a case such as this. This caused the City of Sebring to defend their actions—more taxpayers' money. Ewell had to engage a lawyer and the court had to listen to all this (more taxpayers' money). I was informed yesterday that the court ruled in the favor of the City of Sebring.

In the meantime, Mr. Geffert has gone to the Department of Environmental Regulations in Ft. Myers, Florida, to see what action could be taken against Ewell utilizing the DER (more taxpayers' money). Unfortunately he uncovered a permitting procedure which we were delinquent in filing.

Once again, Mr. Geffert and his staff went through the Sebring neighborhood soliciting letters of complaint to be written to the DER. The DER received approximately seven letters, all apparently typed on the same typewriter, of which only one was from an address across the street from the plant. All the others were from other parts of the neighborhood. Of the seven letters, one of course was from Mr. Geffert. I have enclosed a copy of his letter.

On September 13, 1978, we received a notice from the DER that they intended to issue us the necessary permit that we had previously overlooked as we were in compliance with that department.

To sum all this up, I do not understand the attack on Ewell by the Florida Rural Legal Services which has wasted tax payers' money on the Federal, State and City level of government. It has also caused us considerable time, money and inconvenience. I want to thank you for your time and interest in this matter.

Yours truly,

WILLIAM L. MCCUE,
President.

FLORIDA RURAL LEGAL SERVICES, INC.,
Wauchula, Fla., August 22, 1978.

FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION,
2180 West First Street, Suite, 401 Fort Myers, Fla.

Re: Ewell Engineering and Contracting Co., Inc.

GENTLEPERSONS: This office represents John Farley, Mary Mitchell, Oretha Moore, George Broxey, and Rosie Hibler. Each of these persons resides in the community in which Ewell Engineering has erected a concrete batching plant for which it now seeks retroactive approval and a construction permit. Our clients have requested that we submit the following comments in opposition to the granting of a construction or operation permit to Ewell. These comments are intended to supplement those made by any of the named individuals and submitted to DER over their signatures.

I. EWELL HAS FAILED TO COMPLY WITH FLORIDA ADMINISTRATIVE CODE RULE 17–4.03

"Any stationary installation which will reasonably be expected to be a source of pollution shall not be operated, maintained, constructed . . . without an appropriate and currently valid permit issued by the Department. . . . The Department may issue such permit only after it is assured that the installation will not cause pollution in violation of any of the provisions of Chapter 403, FS, or the rules and regulations promulgated thereunder." Fla. Admin. Code Rule 17–4.03.

The method employed by DER to obtain the assurance required by Rule 17–4.03 is the permit procedure described in Rules 17–4.05 and 17–4.07(1). This procedure requires an applicant for a permit to submit detailed information to show the installation proposed will not cause pollution. Fla. Admin. Code Rule 17–4.07(3). A permit may not be issued if adequate controls are not documented by the applicant. Fla. Admin. Code Rule 17–4.07(1).

The term "installation" is defined as "any structure, equipment, facility, or appurtenances thereto, operation or activity which may be a source of pollution." Fla. Admin. Code Rule 17–4.02(3). We submit Ewell has not applied for permits on all installations at its plant cite as required by DER regulation.

In its after-the-fact attempt to comply with the DER regulations, Ewell submitted applications for construction permits for two installations, a cement silo and a fly ash silo. However, these silos are not the only potential sources of pollution from a plant like the one Ewell has constructed and intends to operate. The Air Pollution Manual of the Environmental Protection Agency identifies several additional sources of pollution from a concrete batching plant. These sources include the cement weigh hopper, the elevator, the gathering hopper and the mixer. Apparently, Ewell's weigh hopper is vented through its silos, but provisions for pollution control in the other portions of the plant do not appear in Ewell's construction permit applications.

A particular installation for which no permit application has been submitted is the one which transfers cement from the plant to the trucks. Ewell may have this problem under control, but they have not submitted the written assurances and technical data required by DER regulations.

The public is entitled to comment on applications for construction permits for potential sources of pollution. Fla. Admin. Code Rule 17–2.09. But they cannot comment on applications which do not exist. Therefore, Ewell's application for a construction permit for its plant should be denied until such time as it makes the additional required submissions, and the public has opportunity to comment on them. In making this request, we would call the Department's attention to the fact that any hardship caused Ewell by a continued period of time in which they cannot operate their plant is solely of Ewell's own making. It was Ewell who chose to construct its plant without regard to the permit and public notice requirements of the DER regulations.

II. THE EWELL PLANT WOULD RESULT IN DUST GENERATED BY TRUCK TRAFFIC

The problem of dust generated by the heavy Ewell trucks as they pass through the residential community should not be minimized. There is no curbing in the area in which the plant is located and in which our clients reside. So, each rain washes more loose dirt from yards onto the street to be kicked up as dust by passing trucks.

Our clients, and others in the community, presently suffer from dust generated by trucks from the packing house located across the tracks from the community in which our clients reside. However, it must be remembered that the packing house is a seasonal operation. It is active only seven or eight months per year. Additionally, truck traffic from the packing house decreases toward the end of the season as the fruit becomes less plentiful. On the other hand, Ewell has stated in its applications that it is not seasonal. Therefore, the granting of the requested construction permits would result in a substantial increase in truck generated dust in the residential community for four or five months each year.

Additionally, the period during which traffic from the Ewell plant would markedly increase present levels of dust pollution is the summer. During this time children are not in school and are accustomed to playing near their houses, in their yards, and in the quiet streets of the neighborhood. The dust generated by Ewell trucks during this period would constitute an extra hazard to these children—not to mention the danger from the trucks themselves.

III. OPEN SAND PILES WOULD RESULT IN AIR POLLUTION DURING WIND STORMS

The applications submitted by Ewell show that Ewell intends to stockpile sand in open piles in its plant yard. One of these piles is to be located on the side facing Zephyr Road, which runs between Ewell's plant and the residential community.

Sand, of course, is easily blown about by wind. Violent winds are fairly common in Florida. Such a wind would result in sand from the open stockpiles in Ewell's yard being blown into the residential community, adding to dust problems.

IV. EWELL'S PLANT WOULD RESULT IN AN INCREASE IN NOISE IN THE COMMUNITY

The community in which Ewell intends to operate its plant is a quiet community, especially in the summer. Trains infrequently come down the nearby railroad tracks. The packing house is across the tracks, and is not a loud manufacturing operation. Additionally, as pointed out previously, the packing

house is in operation only seven or eight months out of the year. Trucks go to and from the packing house only when it is in operation.

The Ewell plant, however, is a year round operation. Certainly it would appreciably increase the noise level in the community during the summer. When the plant operates there is constant noise from the machinery, trucks, and the frequent, high-pitched beeping signal used by the plant. Even during the time when the packing house is open, the loud noises from the plant, combined with its closeness to the residential community would appreciably increase the noise level in the residential community.

We submit that each of the problems discussed above are sufficient reason to deny Ewell a construction permit for its concrete plant, and urge the Department to do so. At a minimum, Ewell should be required to submit additional applications and information as discussed in Section I, and Ewell should be prevented from operating its plant until a thirty day public comment period has elapsed after the provision of the additional information.

Please inform us of your decision.

Respectfully submitted,

GARRY G. GEFFERT,
Florida Rural Legal Services, Inc.●

FUNDING A CAMPAIGN PROMISE

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. BOB WILSON. Mr. Speaker, in April, Vice President MONDALE announced that the carrier *Saratoga* and the three other ships in the Navy's service life extension program would be overhauled at Philadelphia Naval Shipyard instead of at Newport News Shipbuilding in Virginia.

The Vice President said this work was being sent to Philadelphia in order to make up for the administration's failure to keep its campaign promise to keep open the Frankford Army Arsenal.

The administration chose to ignore the Navy's recommendation that the service life extension program be performed at Newport News and Navy studies that indicated that it would cost from $60 to $132 million more to perform the work on each ship at Philadelphia, and that the award of this project to Philadelphia would adversely effect employment at a number of public and private shipyards across America.

The Armed Services Committee adopted an amendment offered by our colleague, PAUL TRIBLE, which stopped the placement of the *Saratoga* in any shipyard until the Navy completes a least-cost study of the project and until the committee has 60 days to review that study. The "*Saratoga* amendment" was subsequently approved by the House and Senate and made a part of the Defense Authorization Act of 1979.

Congressman TRIBLE then requested General Accounting Office to review the Navy's decision. The GAO report indicates that it would cost $119.2 million more to overhaul the *Saratoga* in Philadelphia than in Newport News and suggests that the Navy reevaluate its decision in view of the substantial cost difference and other factors.

I do not believe that the Congress and the American people will allow the administration to waste a half a billion dollars or more on this project. On Tuesday, a Washington Star editorial addressed this important subject and I include a copy of this editorial to be printed in the RECORD for the consideration of all my colleagues:

[From the Washington Star, Oct. 10, 1978]

FUNDING A CAMPAIGN PROMISE

Should every American have to ante up 50 cents so that the Carter administration can pay off a political promise to Philadelphia?

That's what is involved in a squabble over whether to send the aircraft carrier Saratoga to the Philadelphia Navy Yard or to the Newport News Shipbuilding Company for extensive overhaul.

This is no ordinary maintenance project. It's a rebuilding of the carrier under the Navy's Service Life Extension program; it will take three years and cost approximately a half-billion dollars and will extend the carrier's usefulness for 30 years.

The background of the controversy is this: The Carter camp, through Vice President Mondale, promised before the 1976 election to keep the Frankford Arsenal in Philadelphia open, thus preserving the arsenal's 2,000 jobs. Once in office, the administration decided it couldn't keep that pledge, but President Carter told Pennsylvania politicians shortly after taking office that he hoped to offset the jobs lost in the arsenal closing by creating that many more jobs at the Philadelphia Navy Yard.

How to do it? Send the Saratoga to the Philadelphia yard for overhaul. The project was announced last April by Mr. Mondale who linked it directly to "our effort to alleviate the effects of the closing of the Frankford Arsenal."

Virginia's Republican Rep. Paul Trible, Jr., whose district includes Newport News, said, "Hold on." He claimed that the overhaul could be done more cheaply at Newport News and that Navy officials had, in fact recommended doing the overhaul at the Virginia facility until the politicians got into the act.

Mr. Trible got the House Armed Services Committee to amend the Defense Department spending authorization bill to delay awarding of the contract. Virginia's Sen. Harry Byrd Jr. did the same in the Senate.

Meanwhile at the Mr. Trible's request, the General Accounting Office made a study of the Saratoga project and concluded that the government might save $100 million or more if the overhaul is done at Newport News.

The issue has become involved in Virginia political campaigns. Both Senate candidates, Republican John Warner and Democrat Andrew Miller, are plugging for Newport News. And Mr. Trible, a freshman congressman who won a long-time Democratic seat for the Republican party, has made the Saratoga case a centerpiece of his campaign.

The administration's decision—which seems to be on hold as a result of congressional action—not only might cost every American a half dollar (some $100 million in excess costs divided by some 200 million Americans) but it could cost the Democratic party a chance to regain the First District congressional seat.

We're not concerned about Democratic chances in the First—Mr. Trible seems to be doing a good job. But squandering $100 million of taxpayers' money to pay off a campaign promise that shouldn't have been made in the first place is another matter.●

FAMILY-OWNED BUSINESSES NEED HELP

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. PANETTA. Mr. Speaker, I am today introducing a bill to help preserve family-owned farms and other family-owned businesses. As my colleagues are aware, this is of the utmost importance, as it has become increasingly difficult over the years for a family to maintain a business or farm through more than one generation.

A major part of the problem has been the inability of families to compete with the huge resources available to large-scale industries, retailers, and farms. In the agricultural sector, for example, family farmers simply cannot compete financially with large nonfarm investors who have great reserves of capital at their disposal. As a result, the rising costs of production, escalating land prices, and adverse weather conditions have forced thousands of small farmers out of agricultural production and thousands of others to give up their right to own the land they work day by day. In fact, in the last 25 years, the number of farms in America has decreased from 5.4 million to 2.9 million, with predictions that another 1 million will cease production by 1980, unless current trends are halted.

In addition, the small family business, which has always lent vitality to both urban and rural landscapes throughout the Nation, is in increasing danger of extinction. This is a tragic situation, because the loss of the individuality provided by our small, family-owned businesses would deprive us of much of the distinctive flavor of our diverse society. Also, of course, consumers would be cheated out of the choice and variety in goods and services they have traditionally enjoyed.

I would say, too, that the importance of the family in our society cannot be overemphasized. The tradition of passing on a farm or a business from one generation to the next runs deeply through our history and has been a source of continuity in families and communities for many ages.

These are not only trends and statistics, though. We are talking about individual families who want to carry on the work of their parents and grandparents. Through no fault of their own, they are being squeezed out of this birthright, and I believe we in Congress can and must help to preserve for them the opportunity to maintain their farms and businesses.

As my colleagues know, the key decision for family on whether or not to continue most often centers on how to pay the estate tax on the farm or business property. Current tax law takes this problem into account, granting alternative valuation of property and time extensions for payment to most small farms and businesses that continue as family operations. However, the estate

tax is still a major burden for these families, and it often is the catalyst in a decision to sell the property. Clearly, this problem must be alleviated.

The bill I am introducing today would exempt families who carry on their farm or business into the next generation from paying the estate tax on that property. I think this would remove a major burden from the shoulders of families in this situation, and it is a very important step I believe we must take to help preserve the family farm and family-run business.

Under my bill, the exemption would apply to the same family farms and businesses that now qualify for the alternate valuation of property. Thus, the farm or business property would have to comprise at least 50 percent of the gross estate, it would have to be passed on to a member of the decedent's family, and the heir would have to continue to run the farm or business. If within 15 years of the decedent's death the heir disposed of the property, the property would become eligible for the estate tax under a formula set out in the bill.

While the bill is directed at family farms and family small businesses, it is difficult to set a specific dollar limit on this exemption at this time. I am, however, introducing the bill in its current form as a vehicle for discussion as to what a suitable limit would be under present definitions of a family farm and business.

When we reconvene in January, I will reintroduce the bill, adding such additional provisions as may be necessary to accomplish the goal of this proposal.

This Nation simply must commit itself to preserving family involvement in the farms and businesses of America. This is a step in that direction.

The following is the text of the bill:

H.R. 14401

A bill To amend the Internal Revenue Code of 1954 to exempt certain real property used in farming or in other businesses from the estate tax

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part IV of subchapter A of chapter 11 of the Internal Revenue Code of 1954 (relating to taxable estate) is amended by adding at the end thereof the following new section:

"SEC. 2058. CERTAIN FARM, ETC., REAL PROPERTY.

"(a) GENERAL RULE.—For purposes of the tax imposed by section 2001, the value of the taxable estate of a citizen or resident of the United States shall be determined by deducting from the value of the gross estate the value of qualified real property.

"(b) DEFINITION OF QUALIFIED REAL PROPERTY.—For purposes of this section, the term 'qualified real property' has the same meaning such term has in section 2032A(b).

(b) The table of sections for part IV of subchapter A of chapter 11 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"Sec. 2058. Certain farm, etc., real property."

SEC. 2. (a) Subsection (a) of section 2032A of the Internal Revenue Code of 1954 (relating to valuation of certain farm, etc., real property) is amended to read as follows:

"(a) VALUE BASED ON USE UNDER WHICH PROPERTY QUALIFIES.—

"(1) GENERAL RULE.—For purposes of determining the amount of any additional tax imposed under subsection (c), the value of qualified real property shall be its value for the use under which it qualifies, under subsection (b), as qualified real property.

"(2) LIMITATION.—The aggregate decrease in the value of qualified real property taken into account for purposes of this section which results from the application of paragraph (1) with respect to any decedent shall not exceed $500,000."

(b) Paragraph (1) of subsection (b) of such section 2032A is amended—

(1) in subparagraph (B) by inserting "and" after "(C),";

(2) in subparagraph (C)(ii) by striking out ", and" at the end thereof and inserting in lieu thereof a period, and

(3) by striking out subparagraph (D).

(c) Subparagraph (C) of subsection (c)(2) of such section 2032A is amended by striking out "subsection (a)" and inserting in lieu thereof "section 2058".

(d) Subsection (d) of such section 2032A is hereby repealed.

SEC. 3. The amendments made by this Act shall apply to estates of decedents dying after December 31, 1978.●

GOVERNMENT SPENDING MUST BE CUT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. McDONALD. Mr. Speaker, certainly one of the soundest economic minds in America is that of Dr. Hans Sennholz, professor of economics at Grove City College in Pennsylvania. Time after time, he has presented to the public priceless nuggets of economic wisdom in articles and books; needless to say, his views do not reflect administration policy now or for that matter for the last four and a half decades.

Our "leaders" seem to be guided by political considerations. Our news media has also played to the masses while pretending to be the ultimate protectors of all virtue and wisdom.

An example of this two-faced approach by the media can be illustrated daily, but some of the best examples may be found in President Carter's home State of Georgia.

On August 24, 1978, in an editorial entitled, "Spoiler of the Dream," the Atlanta Constitution newspaper states:

Inflation is rapidly changing the American way of life.

And inflation is a disease of our own making; it comes from within.

Use all the cliches you want to describe our current inflation—run-away, wildfire, galloping, double-digit—but it is, for sure, the spoiler of the American dream for millions and millions of Americans."

Further on we read:

The terrible inflation we now have—and continue to face—is mostly our own fault. It is a plague of our own making. Government spending billions of dollars in deficit year after year;

Inflation is messing us up. And it will continue to do so—to correct it will take severe sacrifices of which Americans may no longer be capable.

These are strong words. Yet again on October 6, 1978, we again have strong words from the self-acclaimed defenders of virtue. In the Atlanta Constitution editorial entitled, "Veto Upheld; Public Wins," we read:

It is being called a victory for President Carter, but yesterday when the House of Representatives upheld the president's (sic) veto of the $10 billion public works bill, it was a victory for the entire nation.

While not all the water projects are "pork barrel" provisions, enough of the bill's money was so wasteful that the bill was made unpalatable for anyone who has an ounce of concern for the nation's economy.

My colleagues should note the severe phrase "ounce of concern for the Nation's economy."

Going on the editorial says:

The fight against inflation has to start somewhere, sometime.

At this point my colleagues might say, "three cheers" but the same Atlanta newspapers roundly endorsed the Chattahooche River recreation project which has Federal tax dollars providing recreation for an urban area—Atlanta. The same Atlanta newspapers now strongly endorse the "Great Park" project where highway trust funds are being used to provide Atlanta with yet another recreation area. Most of my colleagues will be astonished to learn that the surface transportation bill before us today uses the trust fund for a recreational area.

It would be difficult to find two greater examples of pork barrel boondoggles. Many Georgians are sadly aware that when it comes to absolute hypocrisy the Atlanta Constitution and Journal are completely shameless.

Fortunately, there are those who are consistent and sincere in their economic insight and advice. Once again the best of such advisers has to be Professor Sennholz.

On the subject of stopping inflation and restoring economic health to our Nation Dr. Sennholz's article in the October issue of Private Practice is excellent. For the benefit of my colleagues, the article entitled: "Government Spending Must Be Cut" follows:

GOVERNMENT SPENDING MUST BE CUT

(By Hans F. Sennholz, Ph. D.)

The case for lower taxes is clear and compelling. Projected federal expenditures total nearly $500 billion in fiscal 1979 and the budget deficit is expected to exceed $50 billion. Government spending has risen to the point where its burden is felt throughout the American economy. The three sources of government revenue clearly reveal the strain:

1. For many taxpayers the levies are higher than ever before, giving encouragement to tax evasion and outright rebellion.

2. The capital markets show signs of utter exhaustion from government demands, causing interest rates to rise and security prices to fall. There is moaning among stockholders and bondholders, whose savings have been devastated in recent years. But in the body politic they are outnumbered and outvoted and, therefore, constitute no threat to the politicians in power.

3. Inflation, the favorite technique of deficit financing, is accelerating again, reducing the real earnings and savings of millions of people. It is potentially more dangerous to the deficit spenders who are re-

sorting to currency and credit expansion in order to finance their favorite programs. But the spenders continue to hide behind the wall of public ignorance that permits them to put the blame for rising prices on merchants and industrialists, on physicians and dentists, on anyone and anything making the news.

THE BURDEN

The public is aware, however, that the tax burden continues to grow. Some taxpayers are saddled with levies that are greater than ever before. They are pleading for tax relief and, in many cases, are organizing for tax protest and rebellion. Many victims have reached the limit of their endurance. Others are submerging in the "subterranean economy," where economic transactions are financed by cash and earnings remain unreported. According to some estimates, more than $175 billion of annual income, or $3,000 per family, are escaping the IRS bite. And this amount is expected to grow as inflation lifts everyone's income into progressively higher income tax brackets.

MORAL STRENGTH

Surely, we feel with the countless victims of government spending that consumes more than one-third of national income. We understand their anguish and sense the enduring morality of the cause of self-defense and man's right to the fruits of his labor. But we doubt that their cause embodies the moral strength for overcoming the spending aspirations of contemporary society. It is haunted by self-interest and projects self as the central figure on the cause of tax rebellion, while government spending continues to draw its political strength from a loud concern for the poor and underprivileged.

Progressive income taxation in itself is an objective of policy in search of social and economic equality. But it is also an inevitable consequence of a social order that bestows expensive benefits on millions of beneficiaries. After all, government has no sources of income and wealth of its own. It depends entirely on its ability to extract the means from its subjects. It must find victims in order to satisfy the clamor for social benefits and programs, government functions and services.

The tax rebellion is a viable political force, but it can become a moral force only with a simultaneous renunciation of the claims to benefits. The public agitation for lower taxes found powerful expression in the overwhelming acceptance of Proposition 13 by California voters—a referendum slashing real property taxes. The California voters gave new life to many other campaigns to secure reduction in federal and state tax rates. But such campaigns skirt the real issue if they focus exclusively on tax reductions. An essential ingredient of genuine relief and a truly successful tax rebellion is a reduction in the size of government. Without it, a tax rebellion could merely result in changes in form that in the end lack substance. It merely would shift the burden of government from some taxpayers to other victims.

TAX CUTS OR SPENDING CUTS?

Some campaigns focus on the potential for increasing government revenues as a result of tax cuts. The Kemp-Roth proposal seems to suggest that no spending reduction is needed as a companion to tax cuts. Its advocates hold out the hope that their particular tax cuts will revive the economy, cause it to expand, compensate for the loss of revenue with new revenue, and simultaneously reduce the relative size of government. They are promising relief for taxpayers, more jobs to workers, higher profits to businessmen, and more revenue to social spenders.

It may well be true that cuts in certain tax rates would spur economic activity and generate increases in revenue despite the tax cuts. A reduction in the capital gains tax, corporate income taxes, and other levies on capital and business undoubtedly would stimulate economic production. But it is unlikely that the relative burden of government would be permitted to shrink.

The temporary loss in tax revenue would immediately be offset by revenue from the capital market, causing interest rates to rise and business activity to contract, or from currency expansion, that is inflation, causing prices to rise. If, nevertheless, the net effort should be expansionary, government, too, will expand. It may even grow faster than the private sector if the deficit is financed by inflation.

Would the political forces pushing for economic redistribution and more government acquiesce in a smaller share of national income? They managed to extract their present share of benefits from a stagnant economy. Is it not likely they would want an even larger share from an expanding economy?

There is no easy escape from the consequences of an ideology of economic transfer and social conflict. A tax cut as a stimulant administered by government surely does not weaken the position of government. It does not even question the transfer function, but instead adds the role of economic stimulator. A tax cut that is accompanied by a spending cut does effectively reduce the burden and size of government. Therefore, explicit limits on government spending are needed to lend substance to a proposal for tax reduction.

THE ROOT OF THE EVIL

It takes great political courage to confront the root of the evil: the appetite for government services and benefits. Most Americans still believe that government owes them certain favors, such as income security, public housing and urban renewal, free education and medical care, etc. Their call for benefits is an implicit demand that financial means be seized from others. They would not be asking for social programs if they were expecting to cover the costs in proportion to benefits.

Few Americans seek no government favors, and even fewer openly reject them on moral grounds. It is much more popular to seek and accept the benefits of redistribution while objecting to the taxation that covers their cost. Most people freely partake in the economic redistribution, but loudly oppose the necessary allocation of costs. Most professors, for instance, live comfortably on government funds from state colleges and universities, seek federal grants and scholarships, send their children to public schools and colleges, while all along bemoaning their income taxes. They consider the things government does for them as social progress, but decry their tax burdens as oppression and abuse. Similarly, most physicians applaud their own benefits as social justice, but lament their tax burdens as social injustice. They accept the principle of redistribution and endeavor to get "their share" of benefits, but bitterly oppose their allocated share of costs.

SOCIAL CONFLICT

A political society that engages in economic redistribution is torn by social conflict. The beneficiaries seek to impose even more levies and restrictions on the victims, who in turn clamor for their share of benefits and lament their obligations and charges. The bitter struggle is waged in the political arena with ever shifting forces and alliances. Victories or reverses are merely temporary, to be followed by new offensives and counteroffensives, in a perpetual war for social benefits. To restore social peace and effect a rebirth of freedom, we must cease from preying on each other through government.●

ACCOMPLISHMENTS OF THE PUBLIC LANDS SECTION OF THE SUBCOMMITTEE ON INDIAN AFFAIRS AND PUBLIC LANDS

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. RONCALIO. Mr. Speaker, here is a record of legislative actions taken pertaining to public lands. This tabulation will be of particular interest to the hardworking members of the Subcommittee on Indian Affairs and Public Lands. As most of us are aware, one-third of our Nation is public land. These lands become increasingly more important as time goes on and conflicting interests between development-oriented and conservation-oriented uses are seeking to be enlarged. Our job as representatives for the people becomes one of walking a tightrope in finding the best balance between those competing uses.

The following is a tabulation of accomplishments of the Subcommittee on Indian Affairs and Public Lands and this Congress on legislation relating to the administration of our public lands.

GENERAL LEGISLATIVE ACTIVITIES

ADMINISTRATION OF PUBLIC LANDS—ALL FOLLOWING HAVE BEEN ENACTED INTO LAW

(1) Alaska Natural Gas Transportation System (H.J. Res. 621; P.L. 95–158; H. Rept. 95–739, Parts 1 and 2; S. Rept. 95–567).

H.J. Res. 621 approved the Presidential decision on an Alaska Natural Gas Transportation System, and cleared the way for the initiation of activities to implement the selected Alcan system.

(2) Public Rangelands Improvement Act of 1978. (H.R. 10587; P.L. 95– ; H. Rept. 95–1122; S. Rept. 95–1237; Conf. Rept. 95–1737).

This bill allocates $365 million over fiscal years 1980–1999 to improve the range conditions on some 170 million acres of public lands in the Western States. It further enacts a statutory grazing fee for the public rangelands, mandates the removal of excess wild horses and burros from the public lands and facilitates the orderly management of these lands.

(3) Grazing Fee Moratorium Act (H.R. 9757; P.L. 95–321; H. Rept. 95–859; S. Rept. 95–761).

This Act imposes a moratorium on any increase in the public lands grazing fee for the 1978 grazing year in order to give the Congress time to consider a mandated fee formula.

(4) Bureau of Land Management Quadrennial Budget Authorization. (H.R. 10787; P.L. 95–352; H. Rept. 95–1121; S. Rept. 95–789).

H.R. 10787 authorizes appropriations for all programs, functions, and activities of the Bureau of Land Management for fiscal years 1979–1982.

(5) Temporary Bull Run Reserve, Oregon (H.R. 7606; P.L. 95–55; H. Rept. 95–401).

This bill temporarily lifted a court injunction involving the Bull Run Reserve, Oregon, to allow for multiple use management of the Reserve for a period of six months until a permanent legislative solution to management problems could be enacted. Such permanent legislation was

subsequently enacted as discussed in the following paragraph.

(6) Bull Run Reserve, Oregon (H.R. 7074; P.L. 95–200; H. Rept. 95–622).

Provides for the management of the Bull Run Reserve in Oregon's Mount Hood National Forest. The Reserve is to be managed primarily to protect the water supply for Portland, Oregon, and its outskirts.

(7) Conveyance of public lands in Mineral County, Nevada (H.R. 4979; P.L. 95–265; H. Rept. 95–530; S. Rept. 95–522).

This law directs the Secretary of Interior to convey approximately 2,620 acres of land to Mineral County, Nevada, to be used for resale to attract industrial and commercial business.

(8) Conveyance of lands to the University of Nevada (S. 917; P.L. 95–278; H. Rept. 95–1006; S. Rept. 95–521).

This law provides for the conveyance of 8,040 acres of Bureau of Land Management land in Grass Valley to the University of Nevada to be used for agricultural and natural resources research and demonstration. The application for conveyance would be considered under the provisions of the Recreation and Public Purposes Act.

(9) Conveyance of lands to the Madera Cemetery District, California (H.R. 2527; P.L. 95–169; H. Rept. 95–192; S. Rept. 95–518).

P.L. 95–169 authorizes the Secretary of Agriculture to convey a 20-acre tract of land located in the Sierra National Forest, California, to the Madera Cemetery District.

(10) Conveyance of land to the Town of Liberty, Washington (S. 2033; P.O. 95–310; H. Rept. 95–1291; S. Rept. 95–519).

This law provides for consideration of a townsite application for 17.4 acres in the Wenatchee National Forest, Washington, by waiving certain requirements of the National Forest Townsite Act of 1958 as amended.

(11) Removal of reversionary clause on lands in Oregon (H.R. 12772; P.L. 95–394; H. Rept 95–1455).

P.L. 95–394 authorizes the Secretary of Interior to remove the reversionary interest of the United States to 160 acres in Oregon in order to facilitate the State to exchange it for private lands which would subsequently be added to the Ocala State Park. The reverter clause would be attached to the newly acquired lands.

(12) Conveyance of homesites in Alaska. (S. 2118; P.L. 95–174; S. Rept. 95–527).

This law authorizes the Secretary of Agriculture to convey eight homesites ranging in size from ½ to 3 acres within the Chugach and Tongass National Forests, Alaska. The National Forest Management Act of 1976 prohibited the transfer of national forest lands except by Act of Congress, thereby unintentionally prohibiting the conveyance of homesites to individuals who had qualified for such conveyance prior to the 1976 Act.

(13) Extend the boundary of the Toiyabe National Forest, Nevada (S. 2774; P.L. 95– ; H. Rept. 95–1614; S. Rept; 95–1298).

This law extends the boundary of the Toiyabe National Forest to include the remaining 35 acres of the Whittell property, and removes the expenditure ceiling for acquisitions authorized by the August 5, 1970 Act.

(14) Relating to land claims along the Colorado River, California (H.R. 7101; P.L. 95– ; H. Rept. 95–1018; S. Rept. 95–).

This legislation amends a provision of law relating to land claims by the United States in Riverside, California, based upon accretion or avulsion of the Colorado River.

(15) Removal of a Federal restriction on State owned lands in Hawaii (S. 1318; P.L. 95– ; S. Rept. 95–515).

This Act removes a Federal restriction on 202 acres of State owned land on Sand Island thereby authorizing the State of Hawaii to use the proceeds from the sale, lease, or other disposition of certain real property for any public purpose.

(16) Validating certain land conveyances and sundry measures. (H.R. 7971; P.L. 95– ; H. Rept. 95–1008; S. Rept. 95–1287).

This legislation contains several provisions relating to specific problems concerning public lands in the Western States.

(17) Extending the boundary of the Cibola National Forest, New Mexico (S. 553; P.L. 95– ; H. Rept. 95–1668; S. Rept. 95–516).

This legislation enlarges the boundary of the Cibola National Forest to include 7,400 acres of land near Albuquerque, New Mexico.

(c). Additions to the National Wilderness Preservation System:

Six separate measures were enacted making substantial additions to the National Wilderness Preservation System as provided for by the Wilderness Act of 1964. They are:

(1) Absaroka-Beartooth Wilderness, Montana (S. 1671; P.L. 95–249; H. Rept. 95–927; S. Rept. 95–624).

P.L. 95–249 added a 904,500 acre Absaroka-Beartooth Wilderness to the Wilderness System.

(2) Indian Peaks Wilderness, Oregon Islands Wilderness (H.R. 12026; P.L. 95–450; H. Rept. 95–1460).

This legislation adds a 70,000 acre Indian Peaks Wilderness to the Wilderness System, and establishes a 36,235 acre Arapahoe National Recreation Area. Both units are contiguous to Rocky Mountain National Park, and portions of both will be studied for possible addition to the Park. It also adds 459 acres to the existing Oregon Islands Wilderness in Oregon.

(3) Wisconsin Wilderness Areas (H.R. 12264; P.L. 95– ; H. Rept. 95–1323).

This bill designates a 5,886 acre Blackjack Springs and 7,315 acre Whisker Lake Wilderness in Wisconsin's Nicolet National Forest.

(4) Great Bear Wilderness, Montana (H.R. 13972; P.L. 95– ; H. Rept. 95–1616).

This legislation adds 60,000 acres to the existing Bob Marshall Wilderness, and creates a 285,700 acre Great Bear Wilderness to protect, among other things, critical grizzly bear habitat.

(5) Endangered American Wilderness Act of 1977 (H.R. 3454; P.L. 95–237; H. Rept. 95–540; S. Rept. 95–490; Conf. Rept. 95–861).

This legislation designates 17 wilderness areas and one wilderness study area in 10 Western States. The areas designated are:

Wilderness Area:	*Acres*
Pusch Ridge Wilderness, Arizona	56,430
Golden Trout Wilderness, California	306,000
Santa Lucia Wilderness, California	21,250
Ventana Wilderness, California	61,000
Hunter-Fryingpan Wilderness, Colorado	74,450
Manzano Mountain Wilderness, New Mexico	37,000
Sandia Mountain Wilderness, New Mexico	30,930
Chama River Canyon Wilderness, New Mexico	50,300
Lone Peak Wilderness, Utah	29,567
Savage Run Wilderness, Wyoming	14,940
Welcome Creek Wilderness, Montana	28,440
Kalmiopsis Wilderness, Oregon	92,000
Wild Rogue Wilderness, Oregon	36,700
Wenaha-Tucannon Wilderness, Oregon & Washington	180,000
Mount Hood Wilderness, Oregon	33,000
Three Sisters Wilderness Addition (French Pete) Oregon	45,400
Gospel-Hump Wilderness, Idaho	206,000
"Spruce Creek" Study Area, Colorado	8,000

(6) Montana Wilderness Study Bill (S. 393; P.L. 95–150; H. Rept. 95–620; S. Rept. 95–163) designates 9 wilderness study areas in Montana.

Wilderness Study Area:	*Acres*
West Pioneer Wilderness Study Area	151,000
Taylor-Hilgard Wilderness Study Area	289,000
Bluejoint Wilderness Study	61,000
Sapphire Wilderness Study Area	94,000
Ten Lakes Wilderness Study Area	34,000
Middle Fork Judith Wilderness Study Area	81,000
Big Snowies Wilderness Study Area	91,000
Hyalite-Porcupine-Buffalo Horn Wilderness Study Area	151,000
Mount Henry Wilderness Study Area	21,000

PRIVATE LEGISLATION

The Committee considered and Congress enacted the following private laws:

(1) Conveyance of lands in Adams County, Mississippi (H.R. 1403; Pvt. Law 95–18; H. Rept. 95–191; S. Rept. 95–517).

Pvt. Law 95–18 authorizes and directs the Secretary of Interior to act on the application of two individuals for conveyance of approximately 1,000 acres of land. The application would be considered under the Color-of-Title Act notwithstanding the acreage limitation.

(2) Correction of a survey in Wyoming (H.R. 2501; Pvt. Law 95–21; H. Rept. 95–295; S. Rept. 95–567).

This law eliminates a conflict between the official cadastral survey and a private survey of the so-called Wold Tract consisting of 160 acres within the Medicine Bow National Forest in Wyoming.

OTHER LEGISLATION

The following bills were considered with various increments of hearings and markup, but were not enacted into law.

(1) H.R. 4461, to assure that weather modification activities and the collection of hydrometeorological information necessary to the management of water resources can be conducted in conjunction with the management and administration of wilderness areas and other Federal lands. Action consisted of a hearing.

(2) H.R. 1907, to designate certain lands as wilderness. This was an omnibus bill of which all areas considered by the Committee were enacted except the Hawaiian Islands Wilderness proposal. Action on this proposal consisted of hearings.

(3) H.R. 6621, H.R. 7970, H.R. 8210, H.R. 9770, H.R. 11338, H.R. 11663, to designate certain lands within the National Forest System in the State of Virginia as wilderness. Action consisted of a hearing.

(4) H.R. 6658, to require that all timber harvested from lands owned by the United States located west of the one hundredth meridian be processed in the United States, that only certain products from the processing of timber harvested from certain lands owned by the United States be exported from the United States. Action consisted of a field hearing.

(5) H.R. 11063, to study certain lands within the Kisatchie National Forest in Louisiana for potential designation as wilderness. Action consisted of a hearing.

(6) H.R. 11157, to provide for the Wyoming High Lakes Addition to the Absaroka-Beartooth Wilderness. Action consisted of a field hearing in Powell, Wyoming.

(7) H.R. 4108, for the relief of William Phillips. Action consisted of Subcommittee hearing and markup, after which further action on the bill was dispensed, and a letter from the Committee to the Secretary of

Interior and Secretary of Agriculture requesting a survey of the boundary and response to the Committee early next session.

(8) H.R. 3121, to convey all interests of the United States in certain real property in Sandoval County, New Mexico, to Walter Hernandez. Action consisted of House passage on June 21, 1978 (H. Ret. 95–1221).

(9) H.R. 4243, to authorize the Secretary of the Interior to convey certain lands in Placer County, California to Mrs. Edna C. Marshall. Action consisted of House passage on April 18, 1978 (H. Rept. 95–1015).

(10) H.R. 10029, to direct the Secretary of Interior to convey certain lands in Clear Creek County, Colorado, to Harold and Doris Harlan. Action consisted of House passage on August 15, 1978 (H. Rept. 95–1429).

(11) H.R. 10160, to provide for the conveyance of title and ownership of 2.58 acres within the Bridger-Teton National Forest, Wyoming, to Ben Boschetto, Jr. Action consisted of House passage on June 21, 1978 (H. Rept. 95–1107).

(12) H.R. 11168, to provide for the conveyance of certain public lands in San Bernardino County, California, to the town of Red Mountain. Action consisted of House passage on September 18, 1978 (H. Rept. 95–1497).

(13) H.R. 11451, to establish the true location of a portion of northerly boundary of the Angeles National Forest located in Los Angeles County, California, on the common line between sections 16 and 17, township 4 north, range 10 west, San Bernardino meridian, and to establish the center quarter corner of said section 16. Action consisted of House passage on September 19, 1978 (H. Rept. 1428).

(14) S. 2101, to modify the boundary of the White River National Forest in the State of Colorado. Action consisted of House passage of an amended bill on September 18, 1978 (H. Rept. 15–1492).

(15) H.R. 12349, to provide for the DuNoir Basin addition to the Washakie Wilderness in Wyoming. Action consisted of House passage on July 25, 1978, Senate passage of an amended bill (H. Rept. 95–1321; S. Rept. 95–1305).

LEGISLATIVE OVERSIGHT ACTIVITIES

In accordance with the committee's jurisdiction and responsibilities in reviewing and reporting legislation the following oversight meetings were held:

Alaska Natural Gas Transportation System. Prior to the introduction of H.J. Res. 621, the Committee held seven meetings on this subject.

Management of the Public Grazing Lands. The Committee held a meeting on this general topic in Price, Utah.

Implementation of the Federal Land Policy and Management Act of 1976. The Committee held four meetings on this subject: Price, Utah; Rock Springs, Wyoming; Elko, Nevada; and Washington, D.C.

STATISTICAL ACCOUNTING

During the 95th Congress, 96 bills pertaining to public lands were referred to the Subcommittee, of which 73 were considered by the Subcommittee, 33 were reported to the House,* and 25 were enacted into law.*

The Subcommittee on Indian Affairs and Public Lands held 69 meetings in Washington, D.C., and 17 field hearings.●

*Figures do not include duplicate bills on the same subject.

FEDERAL EXECUTIVE INSTITUTE CELEBRATES 10TH ANNIVERSARY; PLANS FOR FUTURE

HON. RICHARD C. WHITE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. WHITE. Mr. Speaker, in 1968, Congress, in response to a request from President Johnson, authorized the Civil Service Commission to establish an institute for the advanced development of the professional skills of Federal civil executives.

The Federal Executive Institute was established in Charlottesville, Va., on the property of the old Thomas Jefferson Inn, and last week hundreds of graduates of that institution and their faculty and guests, returned to FEI to celebrate the first 10 years of successful operation, and to plan for the future.

Chairman Alan K. "Scotty" Campbell, in his speech on October 1, stated that:

The need for leaders to keep themselves and their organizations attuned to the real world is no less today than a decade ago. Today's executives must have a broad range of skills and abilities . . . among these is the ability to rise above the papers and staff meetings and other daily activities, and relate to the broader concerns of Government and of society as a whole, if the goal of improved Government effectiveness is to be achieved. FEI was established to provide the kind of executive training that will help them to do that. Those who come to FEI are the leaders who link the elected and appointed policymakers with the rest of civil service.

Chairman Campbell further elaborated that one element of President Carter's civil service reform bill that will have the single greatest impact on Federal executives is the creation of the new Senior Executive Service. He emphasized that—

We had an opportunity for the first time to design a total system calculated to produce an enthusiastic, talented, capable career exexutive cadre; career executives who could not only insure the continuity of Government during changes in political leadership, but could join with the new leadership to forge an effective team to reach program goals.

Federal Executive Institute Director Tom Murphy pledged that FEI, in its second decade, will play a major role and an expanded part in fostering and developing the plan of the Senior Executive Service programs.

When the alumni assembled on October 5, their keynote spokesman was our good friend, and my fellow marine, "General Joe" Bartlett, of our House staff, who attended FEI about 3 years ago. I understand one of my colleagues (Mr. GILMAN) has already obtained permission to insert Joe's remarks elsewhere in the RECORD.

As chairman of the Subcommittee on Military Personnel of the House Committee on Armed Services, I have come to have a real appreciation for the comparable development of executive abilities provided to our ranking military officers through the various advanced training programs such as the National Defense University.

The vision of President Lyndon Johnson in establishing the Federal Executive Institute will pay handsome dividends in the management of the public business.

I congratulate all of those who celebrate this first decade of this fine institution, and wish them many happy, useful and productive decades to come.●

UGANDAN TRADE BAN

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. PEASE. Mr. Speaker: Just a few days ago, the Des Moines Register carried an article by my distinguished colleague from Washington, DON BONKER. It is a very concise and persuasive summary of the reasons why this Congress has acted properly in establishing a Ugandan trade ban. I commend Mr. BONKER for his leadership on this important human rights challenge and place his editorial to be reprinted in its entirety:

[From the Des Moines Register/Tribune, Sept. 30, 1978]

WHY UNITED STATES SHOULD IMPOSE AN EMBARGO AGAINST UGANDA

(By DON BONKER)

Since Idi Amin took power over seven and a half years ago, up to 300,000 Africans have been brutally tortured and murdered in Uganda.

This presents a challenge to America's newly asserted human rights policy. Our high-sounding moral pronouncements stand to lose credibility as the Ugandan dictator continues systematically to exterminate sections of his country's population. There are many memories of Munich in 1936 as the perpetrator of these atrocities resorts to maxims about "non-interference" in the internal affairs of sovereign countries, as a diplomatic cover for the genocide that is taking place there.

The sad fact is that after more than seven years of murderous rule, Amin still can wantonly kill people at will and boast to the world of his admiration for Hitler. It is difficut to imagine a more tragic demonstration of the ineffectiveness of the United States and international institutions in dealing with leaders whose brutality mocks fundamental principles of the world community.

In recent years, the United States terminated its aid program to Uganda and closed the American Embassy (the reason given was Amin's harassment of American diplomats).

Yet the United States still allows Uganda to maintain an embassy in Washington, D.C. and a mission in New York. Ugandan pilots and communication specialists receive training here. Americans also supply valuable spare parts and maintenance services to Uganda. In fact, Americans even pilot Ugandan aircraft. Finally, U.S. firms purchase more than $218 million in Ugandan coffee each year. Coffee accounts for more than 90 percent of Uganda's exports; the U.S. imports over a third of this crop, while America's allies import another third.

The performance of relevant international organizations has been even more disappointing. Despite repeated pleas by the International Commission of Jurists and Amnesty International, among others, the United Nations Human Rights Commission refused even to discuss human rights violations in Uganda until this year.

Many African countries, embarrassed by Amin's behavior, seem to feel that international action would shift attention from other trouble spots, such as South Africa. Despite protests by some African countries, Amin was elected chairman of the Organization of African Unity for the 1975–76 term. To make matters worse, Uganda continues to be a full member of the U.N. Human Rights Commission.

In June, the U.S. House initiated efforts to terminate America's Ugandan connection. Following this action, 16 of the roughly 35 American firms purchasing Ugandan coffee voluntarily agreed to suspend their trade with the country. This placed them somewhat ahead of U.S. policy, which could not even support a fairly mild, non-binding resolution on Uganda. That resolution was adopted in the House by a vote of 377–0.

Oddly, the president that first raised our consciousness about human rights now opposes sanctions on probably the greatest perpetrator of human rights violations since Adolph Hitler.

The administration's arguments are not convincing. Its testimony about "free trade principles" and doubts about the effectiveness of a trade embargo sidestep the real issues.

Perhaps the administration fears a congressional precedent of linking human rights to U.S. diplomatic and trade relations; but we already have imposed diplomatic and economic restrictions against Communist countries and against Rhodesia. There is also expressed concern for the 200 U.S. missionaires and others in Uganda who may be targets of Amin's retaliation against an embargo.

For whatever reason, if Carter cannot bring himself to support even mild reprisals against the Ugandan government, it throws into question our ability to deal effectively with human rights violations.

Albert Einstein once wrote: "The problems of the world are not so much attributable to those who would do evil as much as those who do nothing about them."

The United States and its international partners should heed this observation if fundamental standards of human rights are to have meaning, particularly for those faced with extermination at the hands of a ruthless dictator.

Amin's rule demonstrates that America's human rights policy needs less rhetoric and symbolic gestures, and more effective action.●

EXTENSION OF CONGRESSIONAL REVIEW OF RULES AND REGULATIONS

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MATHIS. Mr. Speaker, as one who has openly supported this viewpoint for many years, I want to bring to the attention of my colleagues and the general public this editorial from the October 3, 1978, edition of the Atlanta Journal which supports the position of the House of Representatives in the matter of so-called congressional vetoes.

CITIZENS WIN

Rep. Elliott Levitas has won a major victory in his fight to extend congressional review of rules and regulations issued by federal agencies.

The House of Representatives has rejected a conference committee report in which Senate members had succeeded in watering down his proposal to begin legislative review of regulations promulgated by the Federal Trade Commission.

That means the House is standing by the Levitas position that rejection of a regulation by one branch of Congress should be sufficient to kill it. And the fact that the House is standing by him is especially significant considering that neither the House leadership nor the administration agrees with Levitas on the proposal.

It's not a final victory for Levitas, because the Senate could be just as stubborn as the House. But it does mean his proposal is still alive and is being accepted by House members as an idea whose time has come—an idea they will fight for even against heavy pressure.

As Levitas said, the Federal Trade Commission "is really a mini-legislature, but the people who compose it have never suffered the inconvenience of running for public office." It, like other federal agencies, is a creature of Congress and acts under laws passed by Congress. But when it can act on its own interpretation of the law and amplify the law through rules without any restraint from Congress or the citizens, it is substantially beyond the control of the public.

When such agencies make decisions that govern citizens with the force of law, why shouldn't our elected lawmakers have some recourse other than repealing or amending the basic law itself? If a majority of the House now is willing to stand up and take the responsibility for scrutinizing the laws made by the unelected officials, we may be on the road to bringing the bureaucracy under some measure of citizen control.●

STRAIGHT TALK

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. CHAPPELL. Mr. Speaker, as we rush toward the final adjournment of the 95th Congress this week, many of us are often so busy trying to keep track of the legislation coming up on the floor that we might tend to forget the overall situation in this country—the effect that each and every one of the bills we are considering will have on the total economic picture in the United States. For the RECORD, I wanted to bring to the attention of my colleagues a good summation of that overview, as published in the Colorado Farm Bureau News last month, written by Keith Propst.

Mr. Propst's article makes reference to a book recently published by William Simon, former Secretary of the Treasury. Mr. Simon reveals no startling surprises when he says that Federal spending has gotten out of control, increasing by 232 percent between 1961 and 1975, or that the U.S. Government is deeply in debt. But Mr. Propst goes further than simply repeating William Simon's book; he makes some excellent observations that I want to share with all the Members who will be voting on the last several bills we consider this week.

First, that there is a clear explanation of how we have reached our currently disastrous economic state—as Mr. Propst put it so well, "We as citizens have demanded that the Government try to solve all our problems". He goes on to draw the only obvious conclusion, that "if we are to survive as a nation we as a people must come to our senses and stop demanding so much from that Government".

I submit the article in its entirely, as thought provoking and necessary reading for us all.

The article follows:

[From the Colorado Farm Bureau News, September 1978]

STRAIGHT TALK

(By Keith Propst)

For several years now, most noted economists have targeted inflation as the number one problem facing this nation, and now it seems that the citizenry also express this concern. When polled by Gallup, Harris, or others, they are now overwhelmingly listing inflation as the main problem facing themselves and the nation.

Most economists also agree that the chief cause of inflation is deficit government spending and the huge amount being spent by business trying to comply with oppressive government-sponsored regulatory agencies. Arthur Burns, former chairman of the Federal Reserve, and the present chairman William Miller both agree that inflation must be controlled if we are to survive economically as a country.

Former Secretary of Treasury William Simon in his recent book "A Time for Truth" lists some severe symptoms of a sick nation:

Washington is taking about one-fourth of the national income. On the average, more than four months out of every citizen's year of labor is being confiscated by governments.

The share of the Gross National Product eaten up by government has been inflating feverishly. In 1930 spending by federal, state, and local governments accounted for 12 percent of the GNP. By 1976 it was 36 percent. If the trend continues, it would hit 60 percent by the year 2000.

Federal spending has flown out of control. It increased 232 percent from 1961 to 1975. The Federal Government is spending over 1 billion dollars per day.

The U.S. Government is in hock up to its ears. In sixteen of the past seventeen years, we have rolled up large deficits. From 1965 to 1975 the national debt soared from $313 billion to $533 billion.

But even this is an understatement, for the federal government is obligated in the future by far more than the national debt reflect, for 11 billion is owed by such agencies as T.V.A. and the export-import bank. Government-sponsored agencies, such as Farm Credit Administration and the Federal Home Loan Board, owe $88 billion. Loans totaling 237 billion are guaranteed by the Federal Housing Administration, the Veterans Administration, the Farm Home Administration and others.

But the biggest and still growing obligation is Social Security, estimated at more than $4 trillion.

The interest on the federal debt tripled in the last decade and in 1975 was 38 billion dollars, the third largest budget item in the federal budget.

The President's Council of Economic Advisers estimated in 1975 that regulations cost the citizens $130 billion a year. No one knows how to calculate precisely either the inhibitory or inflationary effects of these agencies. It has become clear, however, that the regulatory agencies are strangling economic activity.

An estimated 130 million man hours is being spent by private business filling out bureaucratic forms at a cost of at least $25 billion. It costs the government another $15 billion to process them.

All of this has resulted in double digit inflation for everyone, lower profit for business, more unemployment by labor.

These are just a few of the scary statistics that William Simon points out in his book as he saw it when he was Secretary of the Treasury in 1975.

How has all this happened? I believe it has happened because we the people have become soft, spoiled, and greedy. We as citizens have demanded that the Government try to solve all our problems. We have over the last 30 years elected to office politicians who have gladly responded to our selfish demands. They have launched massive Federal programs with little or no conception of their eventual cost and have then hidden their cost by continual deficit spending.

It seems to me that if we are to survive as a nation we as a people must come to our senses and stop demanding so much from our government. We should in the upcoming election choose those candidates in either party who are willing to face up to the growing national crisis and who promise to do something about it. In casting these votes we must fully realize that some of our pet government programs may have to go down the drain.

It somehow reminds me of the old saying, "We have discovered the enemy and it is us." ●

DEVELOPMENT OF INTERNATIONAL AVIATION

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. KASTEN. Mr. Speaker, I would like to share with my colleagues a recent address by Knut Hammarskjold, director general of the International Air Transport Association to the International Chamber of Commerce 26th Triennial Congress in Orlando, Fla. His comments are a well-balanced presentation of the development of international aviation and the key problems and alternative solutions. Many have watched with keen interest the development of international air transportation and are deeply aware of the myriad of problems that have arisen.

The address follows:

ADDRESS BY KNUT HAMMARSKJOLD

The leaders of this country always dreamed of international cooperation in all fields of endeavor. From Benjamin Franklin to Woodrow Wilson, whose fourteen points were characteristic of a time and spirit in which our respective cooperative organizations were formed. Through the formation of the U.N. at San Francisco, world monetary cooperation at Bretton Woods—and the first multilateral air transport conference at Chicago. That vision has continued through the Marshall Plan and the OECD to the GATT Kennedy round and its successors.

And that vision is still with us. Only last week, in this nation's capital, the IMF interim committee in charge of formulating policy made a statement to the 135 world member governments. Its message was the need for coordination of the economic policies of the major nations of the world; as the West German Finance Minister noted, "no country, big or small, is exempt from the duty to respect an international code of conduct, in making adjustments to its national policy."

Internationalists—and here I believe I can safely include the business community—were delighted to see the immediate and direct response of President Carter pledging the United States to those imperatives. I quote "Let there be no doubt in your mind about how seriously I take those pledges that have been made on my word of honor and on behalf of the American people. (The United States intends) to achieve still further economic cooperation with other nations to consolidate gains and to foster economic growth in all nations." The President has given clear leadership to the international community. And a clear commitment of the United States to international consultation and multilateral interdependence in economic affairs.

International air transportation—a key element in world commerce—must be handled in the same way. In fact, since the mid-1940s' air transport development has reflected the principles of international cooperation. Following the Chicago conference, the world's most powerful aviation nation found a "modus vivendi" with its trading partners, weakened by the war; it was essential if a world network was to be built. For the U.S. it made sense, politically, economically and psychologically, to compromise on its strongly held views of open entry to markets, unrestrained capacity—and free market pricing.

Over the past 30 years such compromises have enshrined in an extensive network of government bilateral agreements. Agreements which establish the basic rules of procedure for international aviation trade.

And as with other trading procedures in GATT and UNCTAD, they recognized the need for multilateralism to keep the system together. They also recognized that multilateralism in aviation—for very practical reasons—could best be provided by the airlines under government guidelines. As commercial enterprises, airlines were familiar with market conditions, the financial imperatives and the risks. As businesses, they were free from diplomatic constraints and confrontation.

These trade procedures or rules of conduct originally initiated by the United States and the United Kingdom have been accepted in good faith by all nations—large and small.

Ray Young has just outlined a new U.S. aviation policy. The principles are difficult to quarrel with. In the interest of the consumer it is a total commitment to the market place. All of us are in favor of competition—healthy and fair competition—and low consumer prices. And I daresay, when it comes to low prices, air transport has an outstanding record compared to other goods and services. We are also in favor of profitable cost covering international commerce. And a world system that can remain flexible enough to respond to all reasonable customers requirements.

The new policy has been fully aired in open national discussion—seeking consensus before implementation. And here I would like to pay credit to U.S. Transportation Secretary Adams for his efforts to guarantee a fair hearing for the policy in advance of its adoption.

But national discussion and national decisions affect purely national interest. They cannot fully reflect the legitimate interests of other members of the world community.

There has been no multilateral discussion on the new policy. And within the international community many deep concerns are being expressed at the way the United States is seeking to change international aviation procedures. Concerns that a tried internationally accepted process of consensus and compromise is being abandoned without adequately taking into account views of other sovereign nations.

And, above all, concern at the supersonic speed with which the policy is being pursued—and the potential for a massive supersonic boom.

A boom that threatens to shatter the rules of international trading conduct, which could bring aviation nations into sharp confrontation.

A boom that threatens to spread shock waves through the infrastructure of the world aviation system—an infrastructure basic for international trade and financial interchange.

This afternoon I would like to "monitor" these booms and give you some decibel readings.

To many foreign nations it seems that the U.S. is simply forcing its domestic deregulation policy into the international market place. Oblivious to differing economic conditions and philosophies. Oblivious to the sovereignty and national interest of other states. In fact we are back to the blind market faith of pre-Chicago 1944.

This big country—the U.S.—is one large market. There are more passengers on U.S. domestic routes than on all international routes combined. It has one set of labor conditions and one currency. It has a tradition of free enterprise which is unique in the world. Against that background a domestic aviation experiment based upon these principles is entirely understandable. It is

also understandable that the U.S. should be aiming to extend its domestic experiment on to international routes. After all, it has relatively low domestic unit costs—and a dominant aircraft manufacturing industry.

But it is equally understandable that other countries have their own views on international air commerce. The plain fact is that many non-U.S. carriers are regarded as far more than just commercial concerns. They have a much wider brief encompassing national socio/economic policy and presence. They are regarded by their governments as part of the international trading system. And in the final analysis, their product will be dealt with like any other trade commodity—be it steel, textiles, footwear or shipping. And you will understand why I mention these items.

Unless these facts of life in international aviation trading are recognized—a collision course seems unavoidable.

The more so as foreign nations know, that under the admirable banner of "exchange of mutual opportunities" there is a less altruistic policy of "geographic leverage."

As Under Secretary of State for Economic Affairs, Richard Cooper, Chairman of the U.S. Government Interagency Coordinating Committee on Aviation, put it earlier this year ". . . there is one overriding economic force which will aid our attempts to achieve liberal aviation rules—geographic competition."

Chairman Kahn of the CAB with his capability for getting to the heart of issues, put it more succinctly: "Amsterdam is not far from Frankfurt"—playing the prosperity of one nation's aviation market against that of its neighbor.

What other aspect of international trade is carried out in this way? What would happen if GATT were thrown overboard together with its basic rules of conduct? I could hazard a guess. Hundreds of bilateral commodity deals might be developed—each more disruptive than the last. Until some country cried "halt", put up the shutters and started a stampede into protectionism. Fortunately trade procedures are properly coordinated to prevent "beggar thy neighbor" policies. Why is international coordination in aviation trade produces now being cast aside?

And is it an ironic coincidence that we are now witnessing an unprecedented increase in government involvement in all transportation?

There are now inter-government working groups institutionalized on fares and rates.

There are presidential level consultations on dollars and cents issues.

There are endless rounds of bilateral negotiations—the U.S. has about 20 in the pipeline at the moment—deregulation through increased bureaucracy.

And there is an almost naive expectation that if multilateral price negotiations are thrown out of the window, governments will let the market fill the vacuum.

Indeed the vacuum is already being filled by a defacto extension of sovereignty of the CAB. Insisting on its tariff rules on European routes, on its baggage rules throughout the world, on its currency rules in foreign nations, and many more. Only a few days ago one of the principal regulators publicly suggested the U.S. courts as the ultimate arbitrator on international fares in the brave, new-deregulated-world. In a world perspective internationally agreed rules of the game are replaced by the ever present sword of Damocles of U.S. antitrust regulation.

Is it surprising that foreign nations are concerned at these developments?

Let's round out the picture with some economic facts. Facts about the first six months of 1978 on the North Atlantic—the route presently at the center of attention.

Total market demand has increased 12 per cent with large gains in scheduled traffic offsetting the fall-off in charters. This is a healthy but far from unusual annual growth rate.

Surveys indicate that only two per cent of this total increase can be attributed to the new fare levels.

There has been large scale diversion of traffic between markets. For example, traffic via the U.K. and Luxembourg boomed—while Irish and Belgian services reported actual decreases.

U.S. travel to Europe grew less than eight per cent; the number of Europeans flying to America jumped over 19 per cent indicating that currency movements play a major role in market growth.

There are record load factors; offset by record break-even load factors required with the low average fares.

And although no clear over-all financial picture has yet emerged, certain North Atlantic carriers have already filed for fare increases.

In short, all this greatly publicized upheaval has produced only average growth on the North Atlantic compared to other routes. Markets have been distorted but little new traffic generated. And a lot of confusion and uncertainty has resulted, leaving the industry in a fragile equilibrium that can be easily thrown out of balance by, for example, a slight downturn in economic activity.

But the airline industry, which is characterized by innovation, has proven that it can survive almost any upheaval. And I include even the recently expressed intention of one regulator of "scrambling the system so that no one can put it together again." For I believe, in the final analysis, such concepts will remain in their place.

And I firmly believe that this great country will recognize that:

The more radical the policy—the greater the burden to explain.

The larger the nation—the greater the responsibility to consult.

The greater the stakes—the more compelling the need to "hasten slowly"—and only in multilateral concert.

As an internationalist I am convinced that most nations at least have one common aviation objective—to provide the best possible service to the greatest number of people at the lowest economic prices. Different approaches to achieve this objective cannot be resolved unilaterally, or even bilaterally.

Within a community of sovereign nations there is no substitute for multilateral dialogue and consensus.

As President Carter rightly observed at the outset of this Congress: "In an interdependent world, we can only advance when we advance together." ●

PUBLIC'S ANGER AND FRUSTRATION WITH BUREAUCRACY

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. IRELAND. Mr. Speaker, since the passage of proposition 13 in California, elected officials at all levels of government have become more conscious of the public's anger and frustration with the bureaucracy.

I want to take just a moment to share some material with you which shows in a dramatic fashion, just how incredible a situation can be and why the people are getting fed up.

The following material was brought to my attention by my good friend, the Honorable John J. "Toby" Holland, mayor of Palmetto, Fla. I think his letter speaks for itself.

PALMETTO, FLA.,
September 28, 1978

Hon. JAMES E. CARTER,
Office of the President,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I feel that we have something in common in that we are both elected public office holders and because of this I think that you might appreciate and understand the problems of a fellow public servant.

Back in April of this year, a young reporter with the Sarasota Herald Tribune was doing a story on the residency requirements for City of Palmetto employees. I was quoted (and rightly so) using a common figure of speech that "I didn't care where an employee of this city lived as long as they were good God-fearing, taxpaying citizens".

I was rather more than astounded when I received correspondence from the local ACLU labeling my statement "as flagrant an example of discrimination as can be imagined".

Since that time my file has grown with various newspaper articles stemming from the ACLU complaint. Their office evidently complained to every bureaucrat in Tallahassee and Washington that makes more than a dollar a day. I am somewhat exasperated that one of these bureaucrats from Washington threatened to cut off federal revenue sharing to this community because of my statement. In point of fact—every federal dollar the city receives still carries the statement "In God We Trust".

I know with many pressing matters before you (the Far East, problems of the SALT Agreement, inflation, and many other important considerations) that one more little problem from the City of Palmetto would not overburden my president.

I resent the tax dollars being spent to finance such a ridiculous investigation. The time it takes to write letters, send investigators, etc. has no doubt amounted to a healthy sum. I could recommend any number of more worthwhile uses for these monies.

In closing I would like to offer you some advice from one Southern Baptist to another, to be extremely careful in your remarks. I noted in one of your statements to congress that you quoted from the Bible, for which I commend you since I think that everyone should believe in something. But this type of quotation might incite the federal bureaucrats to cut off federal funds for the operation of the White House.

Sincerely,

JOHN J. HOLLAND,
Mayor.

OFFICE OF THE
SECRETARY OF THE TREASURY,
July 24, 1978.

Hon. TOBY HOLLAND,
Mayor, City of Palmetto,
Palmetto, Fla.

DEAR MAYOR HOLLAND: The Office of Revenue Sharing is in receipt of a communication

which alleges entitlement funds have been used by your government in a manner in violation of Section 122(a) of the State and Local Fiscal Assistance Act of 1972, as amended, and Section 207(a) of the Public Works Employment Act of 1976, as amended by the Intergovernmental Antirecession Assistance Act of 1977. Specifically, it is alleged that the City of Palmetto, Florida practices religious discrimination in its employment practices.

The cited statutes provide that no person shall, on the ground of race, color, national origin, or sex, be subjected to discrimination under any program or activity of a recipient government receiving entitlement funds. The statutes further prohibit discrimination on the ground of age as defined under the Age Discrimination Act of 1975, handicapped status as defined in Section 504 of the Rehabilitation Act of 1973, or religion under the Civil Rights Act of 1964, as amended, respectively.

This notice of our receipt of the above cited communication is being provided in accordance with Section 51.61(b) of our Rules and Regulations. This letter does not constitute a notice of noncompliance.

We would like to advise you that, as the primary recipient of revenue sharing funds, you have a responsibility to determine that the bank in which you deposit revenue sharing funds is an equal opportunity employer and lender. At this time, we are not requesting information to document the employment and lending policies and practices of the banks in which revenue sharing funds are deposited; however, you should request and retain on file documentary materials attesting to such, so that it is available when requested.

A staff member will contact you soon in order to discuss the allegation and to initiate the processing of this communication as provided for under Section 51.61 of our Rules and Regulations.

Sincerely,

JOHNNIE M. FRANKLIN,
Civil Rights Division,
Office of Revenue Sharing.●

WOMAN OF VALOR

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. HOLLENBECK. Mr. Speaker, I rise today to honor a very courageous woman, Mrs. Beate Klarsfeld. Golda Meir described her as a "Woman of Valor—a title that has no peer in the Jewish tradition." This brave woman has led a daring crusade to hunt down Nazi criminals and bring them to justice in courts of law in Germany and France.

Born Beate Kunzel, a Christian, in Berlin in 1939, she learned about Nazism and the horrors its leaders inflicted on the Jewish people only after her arrival in Paris in 1960 and her marriage in 1963 to Serge Klarsfeld, a Jew whose father had been a member of the French Resistance and died in the gas chambers in Auschwitz. On a West Berlin podium in November 1968, Beate delivered "the slap heard around the world" to the face of Kurt-George Kiesinger, Chancellor of West Germany. With this public slap, and at the price of her own arrest and prison sentence, Beate Klarsfeld thus focused world attention on the Nazi leader's past and his involvement in Nazi crimes.

She and her husband planned the successful capture and arrest of former SS Captain Klaus Barbie, "the Butcher of Lyon", who had fled to South America. In another daring episode, Beate tried to kidnap Kurt Lischke, former chief of the Gestapo Bureau of Jewish Affairs in France and now a senior bank clerk in Cologne. The plot failed and Beate was herself arrested and sentenced to jail despite the pleas of French President Valery Giscard d'Estaing and other political leaders. Although she was expelled from Germany, one important result was the promise of Chancellor Helmut Schmidt to urge the West German Parliament to ratify a convention allowing German courts to try criminals already convicted in France.●

THE QUOTA GAME

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. WALKER. Mr. Speaker, as my colleagues are aware, I firmly support efforts to promote equal opportunity for all; however, the use of quotas to further the progress of one group at the expense of others is a matter of grave concern to me.

In an article on September 30, 1978, Columnist John D. Lofton, Jr., pointed out the extremes to which quotas can be used. Quotas are discriminatory no matter who implements them, and I commend Mr. Lofton's comments to my colleagues' attention.

The article follows:

QUOTA GAME: COUNT THE INDIAN BASSOONISTS

(By John D. Tofton, Jr.)

WASHINGTON.—You're out for an evening of Bach. Suddenly—halfway through the second movement of the Bradenburg Concerto No. 1 in F Major—it hits you like the proverbial ton of bricks: not one oboe player is an American Indian! Not one violinist is Puerto Rican! The French horn players, the bassoonists, the harpsichord player, they're all (gulp) white, with not one black, Asian-American or Mexican-American among them!

Has this ever happened to you? Well, it hasn't happened to me either, but then admittedly I'm kind of strange. I go to listen to a symphony orchestra, not to analyze its racial and ethnic makeup. Earl Raines, executive director of the Pasadena Community Services Commission, is different, however.

In the spring issue of the U.S. Civil Rights Commission's Civil Rights Digest, in an article titled "Behind the Cello Player," Raines reports on a questionnaire he sent to 135 American symphony orchestras. The American Symphony Orchestra League says there are about 800 symphony orchestras in the United States employing about 10,000 musicians. Of the 89 symphony orchestras answering Raines, he learned that among these 6,800 musicians no orchestra employed more than 10 minority players—including blacks, browns, Indians, and Asians.

Half of the responding orchestras reported that at least one member of an ethnic minority serves on their boards. An additional 38 percent reported no minorities on their boards, although one stated that minorities had been asked, and another reported that minorities had served on the board in the past. The remaining 12 percent either failed to answer the question on minority participation on their boards, or—in one case—reported, "We don't think that way."

Well, I say "congratulations!" to this one symphony that had the courage to tell Raines, in effect, to take his questionnaire and shove it.

NO CONDITIONS TO QUALIFY

In his article, Raines blames, among other things "overt acts of racial discrimination," and complains that symphony orchestras "by no means represent America's population." He says that "a long history indicates that minorities have been bypassed in the orchestras' recruitment and employment programs." In an interview, Raines tells me that this "appalling picture" exists because there has been "rampant racism" in symphony orchestras for the past 50 to 100 years.

When I ask, if he can give me the name of one qualified individual who was either denied a position with a symphony orchestra or was fired from one because of his or her ethnic or racial identity, Raines replies:

"No orchestra in its right mind would admit this. You have to look at the whole picture. No one will admit this exists. We're caught in a vicious circle in this country where there's no system whereby conditions are open for people to become qualified."

When I press him, noting that if this racism is as rampant as he says, it should be no problem to come up with the name of one person so I can investigate his allegation, Raines says he doesn't have such a name "in his head." He suggests that I check with either the Equal Opportunity Employment Commission or the Civil Rights Commission.

Seeing that I am getting nowhere fast asking for the names of specific victims of discrimination, I ask Raines about the racial and ethnic makeup of his ideal symphony. What would be the appropriate percentage of Indian oboe players? Puerto Rican violinists? Asian-American bassoonists? Should a symphony reflect the percentage of these groups in the entire U.S. population? Or their percentage in the area in which the orchestra plays? Should each section of instruments reflect the percentages of these ethnic and racial groups? or just the whole orchestra?

Raines declines to state an ideal percentage for any of these groups, saying that to do so would be "a quota which is undesirable by almost everybody." But, he says contradicting himself, the entire symphony should reflect the percentage of these groups in the country "if they're receiving federal funds." Raines notes that if privately funded symphonies do not adhere to such a system, "we can only say, 'Isn't that a shame?' "

TALENT, NOT QUOTAS

Earl Raines' article is ridiculous. It is an example of the quota mentality run amok. It is methodologically shoddy and a journalistic disgrace in that it is an ax job on the symphony orchestra industry without giving the industry any space to respond. This latter shortcoming is the fault of Civil Rights Digest editor, Suzanne Crowell. When I expressed this criticism to her, Crowell admit-

ted that the Raines piece was "an advocacy article written from a distinct point of view." She refused to characterize it as "fair," saying only that it was "not unfair."

Raines' "innovative" suggestion that federal, county and city governments should all require affirmative action plans before any symphony can get tax dollars is absurd. Symphony orchestras should choose their musicians according to their musical talents, and not on the basis of their membership in certain government-approved racial or ethnic groups.

Footnote: Following Raines' suggestion, I ask Gene Mornell, special assistant to the staff director of the Civil Rights Commission, if he knows of any racial or ethnic discrimination cases involving symphony orchestras. Noting that the commission does not have jurisdiction over such cases, he says he "seriously doubts" that there have been any such complaints to the commission. When I ask about Raines' article, he says he is "not very impressed" with it and never is with prima facie cases of discrimination. When I call the piece lousy journalism, he says: "I'm afraid a lot of articles like this have run in the Digest."●

H.R. 12161—CONRAIL AUTHORIZATION

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MURPHY of New York. Mr. Speaker, an unfortunate ruling by the Parliamentarian foreclosed me from offering amendment No. 1 which appeared on page 35633 of the CONGRESSIONAL RECORD on October 11, 1978. Under leave to revise and extend my remarks, I am inserting my prepared statement in support of my amendment together with a copy of my letter to Chairman O'Neal of the Interstate Commerce Commission protesting that agency's neglect of its duty to guarantee equalization of rail freight rates between and within ports under the amendment which I offered and Congress adopted as section 202(f)(3) and (4) of the "4–R" Act of 1976.

The ICC, rather than enforcing the law, referred the subject of rail rate equalization between and within ports to its Rail Service Planning Office. The unfortunate preliminary report of the RSPO produced a statement by the city of New York which shows that $1.4 billion in public investments—public, State, and local—are being jeopardized by ConRail's refusal to obey the law and the ICC's inability to enforce the law. The statement by the Department of Ports and Terminals of the city of New York follows my prepared statement and letter to Chairman O'Neal:

STATEMENT BY HON. JOHN M. MURPHY, IN SUPPORT OF INTRAPORT FREIGHT RATE EQUALIZATION AMENDMENT

My amendment will give a prompt, effective remedy to enable injured parties to enforce existing law where, as in the case of ConRail in New York, a carrier has a virtual monopoly of rail freight traffic to and from a port. ConRail refuses to obey the law, and the Interstate Commerce Commission has been unable or unwilling to enforce the law.

I supported, and I still support, the creation of ConRail pursuant to the Regional Rail Reorganization Act of 1973, known as the "3R" Act, and the Railroad Revitalization and Regulatory Reform Act of 1976, known as the "4R" Act. ConRail was established to provide the freight rail service in the Northeast formerly furnished by the bankrupt railroads, and we all have a stake in its success.

Unfortunately, in the Port of New York, the only port where ConRail has a virtual monopoly of freight rail traffic, ConRail has refused to give rail service on a non-discriminatory basis to all points in the Port—a service which ConRail was created to provide.

Because New York is the only port where ConRail has a monopoly, it is the *only* port where discriminatory rail rates now prevail between terminals within the port. I do not believe that Congress should vote to authorize the additional $1.2 billion of public funds now sought by ConRail without assurance that ConRail can be required to mend its ways and obey the law.

In the 94th Congress, anticipating our present problem, I offered an amendment which was adopted by the Congress and which is now Section 202(f)(4) of the "4R" Act. My amendment provided that nothing in this Act "shall be construed * * *"

"(4) to affect the authority and responsibility of the Commission to guarantee the equalization of rates within the same port."

That amendment was expressly designed to preserve the rail freight rate parity which has prevailed within the Port of New York for over a century and a half, as I explained to the House at that time. My remarks can be found in the Congressional Record of December 17, 1975, page H 12805. Ironically, only last July, the Interstate Commerce Commission itself reiterated that "the tradition of rate uniformity began shortly after the first railroad lines into New York were constructed. The practice of rate equalization, therefore, ante-dates Federal transport regulation by half a century."

Millions of dollars have been invested in reliance upon rail freight rate parity within the Port of New York, and thousands of jobs depend upon intra-port parity.

Unhappily, it developed at the hearings held on April 17 of this year before the Subcommittee on Transportation and Commerce in connection with the $1.2 billion supplemental authorization now sought by ConRail, that the concerns which gave rise to my amendment have been borne out by events. Even worse, the Interstate Commerce Commission has not exercised its authority, nor has it fulfilled its responsibility under Section 202(f)(4) of the "4R" Act to "guarantee" the equalization of rail freight rates within our great Port.

Specifically, it appeared at the hearings on the supplemental authorization now before us, that ConRail has abused its monopoly power so as to discriminate against points on the New York side of the bi-state port which are served via water by the two surviving New York Harbor terminal railroads: New York Dock Railway and Brooklyn Eastern District Terminal. With the advent of ConRail, New York Dock Railway and BEDT published tariffs extending their rail marine service to all points within the Port, and BEDT took over the operation of ConRail's remaining rail marine facility in the Port at Greenville Piers, thereby relieving ConRail of the obligation to provide the service by water to New York points in the Port formerly rendered by its predecessors, of which there were as many as nine only a decade ago. ConRail, however, far from reciprocating, has adopted or established rates which discriminate against New York points within the Port.

ConRail has also discriminated against the Port and the New York Harbor terminal railways by limiting routes and rates to points on its own line and in one instance, on the Long Island Railroad, thereby carefully excluding points served by the New York Harbor terminal railroads.

Finally, ConRail has limited container service—which now accounts for roughly 80% of all rail export-import traffic in the Port of New York—to its own terminals thereby depriving New York points of direct rail service for container freight. In effect, ConRail has been cutting off New York's rail life-line to the United States west and south of the Hudson River.

The sure result has been to disrupt existing patterns of rail traffic to and from the New York side of the Port. This fosters an increasing resort to trucking freight through the already congested, deteriorating New York City streets, tunnels and bridges which only adds to pollution and a massive waste of energy. Moreover, there has been a massive diversion of rail traffic from the New York side of the bi-state port with accompanying flight of business and a loss of jobs.

The recent rail strike has reminded us all just how essential rail service is to our economy. New York's economy has suffered as rail service to New York points within the Port has deteriorated over the past several years.

This drastic decline is shown by the fact that the number of carloads handled by New York Railway and BEDT across New York Harbor has dropped to one half of their 1973–1974 levels, despite an extension of their carfloat service to the entire Port with the advent of ConRail. The dismal figures are as follows:

Year	New York dock	Bedt.	Total carloads
1973	11,629	17,392	29,021
1974	11,380	18,150	29,530
1975	8,377	12,526	20,903
1976	6,443	9,403	15,846
1977	6,084	8,368	14,452

ConRail's discrimination not only threatens long-standing investments and jobs, it also jeopardizes major investments made by New York City, New York State and the Federal Government. New York State has already committed $9.9 million from a State Transportation bond issue, to improve rail facilities on the Brooklyn waterfront connecting overland with ConRail, with more investment to come. New York City has already spent $58 million to establish the Northeast Marine Terminal, and it has spent $11 million, with $44 million more projected, on an additional terminal at Red Hook, all on the Brooklyn waterfront. These public investments were planned and were underway long before it became apparent that direct rail service to these terminals would no longer be regularly available and that container traffic would constitute such a large share of rail freight traffic.

ConRail has also insisted, in effect, on a surcharge to move rail freight to its own facilities at Cranford Junction, where it connects via the Staten Island Railroad Co. with the new container port at Howland Hook, Staten Island. Such a surcharge jeopardizes a $75 million investment by New

York City and a federal investment of $6.6 million, including, ironically, $2.6 million in EDA funds for rail facilities at Howland Hook. By insisting on such a surcharge, ConRail thereby discriminates against American-flag ocean carriers—United States Lines and Farrel Lines—which are committed to the Staten Island Howland Hook Terminal, in favor of their foreign-flag competitors.

ConRail has been able to act in this arbitrary and discriminatory manner only because it has a virtual monopoly of line-haul rail freight traffic to and from the Port of New York. To repeat, this discrimination exists only in the Port of New York and only because of ConRail's unique monopoly.

ConRail was established by Congress to preserve the service formerly provided by the bankrupt line-haul carriers. In the Port of New York, ConRail has been able to duck its responsibility to provide that service only by virtue of its monopoly power and the failure of the Interstate Commerce Commission to enforce the law. ConRail has thereby frustrated the goals set forth in Section 206(a) of the "3R" Act which led to its creation, namely, "(4) the preservation . . . of existing patterns of service by railroads (including short-line and terminal railroads) . . . and the utilization of those modes of transportation . . . which require the smallest amount of scarce energy resources: . . . (6) the attainment and maintenance of . . . environmental standards . . . and (8) the minimization of job losses . . ."

My amendment, like its predecessor, Section 202(f)(4) of the "4R" Act, is designed to require ConRail, a monopoly created by the Congress, to conform to those goals which Congress established in the "3R" Act, and to establish equal rates for all types of traffic to all points served by rail within the Port as mandated by the "4R" Act.

At the hearings on this bill last April, I.C.C. Chairman, A. Daniel O'Neal, announced a study of the port equalization of rail freight rates by its Rail Services Planning Office. My own views on RSPO's Preliminary Report are expressed in the attached letter of protest to Chairman O'Neal where I concluded: "I trust the final report will reflect the law and the facts. Its first effort does neither." The I.C.C.'s failure to enforce my amendment to the "4R" Act is particularly ironic in view of its recent reiteration, in *S & K Farms, Ind.* v. *Long Island R. Co.*, 357 I.C.C. 562, that intra-port parity has prevailed since the creation of rail service to the Port of New York a century and a half ago.

Where regulation proves ineffective to protect the public interest against the abuse of monopoly power by a common carrier like ConRail, the injured parties should have the right to seek redress in the courts.

My amendment would give injured parties the right to resort to the Federal courts to obtain relief and redress where ConRail fails to equalize rates and to provide full rail service within the Port of New York as required by this amendment and by existing law, particularly Section 202(f)(4) of the "4R" Act. Since ConRail has a virtual monopoly of rail freight traffic in the Port, my amendment would give injured parties the remedies provided in cases of monopolization and restraint of trade under the Clayton Act, i.e., treble damages and injunctive relief—both temporary and permanent. To give an injured party a fighting chance to litigate on relatively equal terms with such a behemoth as ConRail, my amendment provides that if the plaintiff wins, he will be entitled to recover the costs of suit and a reasonable attorney's fee as provided in cases of monopolization and restraint of trade by the Clayton Act.

My amendment provides these additional remedies to redress violations of the Interstate Commerce Act only where, as here, ConRail has a virtual monopoly, over 75% of the rail freight traffic to and from a port.

The existing law, for which my amendment would give redress, provides that it is the duty of rail carriers, under the Interstate Commerce Act, to render non-discriminatory service to all points served by rail within a port. As I have already said, intra-port parity has historically prevailed within the Port of New York since rail service began there a century and a half ago, and it has recently been reiterated by the Congress in adopting Section 202(f)(4) of the "4R" Act. I know of no other port where normal rail services give rise to discriminatory rate surcharges to separate points within the port.

The second sentence of Section (a) of my amendment also gives a remedy where a monopoly railroad breaches the duty imposed by Section 1(4) of the Interstate Commerce Act on all rail carriers establishing through routes to provide reasonable facilities for operating such routes "which shall not unduly prefer or prejudice any participating carriers." This will enable injured parties to obtain redress if ConRail continues to breach its duty to provide full rail service, container as well as break-bulk, on a non-discriminatory basis to all points served by rail in the Port of New York.

Finally, Section (d) of my amendment expressly preserves the authority and responsibility of the ICC to guarantee the equalization of rates within the same port, pursuant to Section 202(f)(4) of the "4R" Act.

The fate of our great Port and City are at stake, together with their ability to surmount their present difficulties and to thrive again as they have in the past. If my amendment is adopted, there should never again be an occasion for us to ask the Congress for help. Given a fair field and no favors, we shall prosper on our own.

WASHINGTON, D.C.,
June 22, 1978.

Hon. A. DANIEL O'NEAL,
Chairman, Interstate Commerce Commission, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to express my deep concern about the conclusions reached in the preliminary report by the Commission's Rail Services Planning Office on its port equalization study.

The preliminary report misreads the legislative history, the clear language, and the express purpose of the amendment I sponsored which is now Section 202(f)(3) and (4) of the Railroad Revitalization and Regulatory Reform Act of 1976. The Rail Services Planning Office's preliminary report states (p. 8):

"A review of the legislative history appears to indicate that Congress intended continued flexibility on the Commission's part on regulating port differential rates."

On the contrary Section 202(f)(4) explicitly imposes on the Commission "the authority and responsibility . . . to guarantee the equalization of rates within the same port." As my statement on the Floor of the House made plain, the purpose of this section of my amendment is to preserve the rail freight rate parity which has historically existed within the Port of New York (p. 41390 of the CONGRESSIONAL RECORD for December 17, 1975).

With respect to intra-port rate parity, my amendment does not give, nor was it intended to give, "continued flexibility on the Commission's part on regulating port differential rates" as the preliminary report misstates. Rather, Section 202(f)(4) imposes on the Commission the affirmative "authority and responsibility" to "guarantee" continued rail freight parity within the Port of New York.

That need is manifest in the light of the hearings before the Subcommittee on Transportation and Commerce which were held on April 17, 1978. There it appeared, as stated in my separate views in House Committee Report No. 75–1175, that ConRail has consistently and deliberately discriminated against New York points served by rail in the Port of New York, particularly those served by New York Dock Railway and Brooklyn Eastern District Terminal on the Brooklyn waterfront and by the Staten Island Railroad Company at Howland Hook. There is no telling how much traffic was diverted from the Port and City of New York as a result of ConRail's persistent discrimination.

ConRail acknowledged that it was required to equalize rates on carload traffic throughout the Port and claimed that it has done so. But, with respect to the "tremendous shift toward containerized traffic"—which, as you testified, constitutes roughly 80% of export, import rail freight to and from the Port of New York—ConRail claimed that it had no duty to maintain rate parity within the Port although discrimination is just as harmful whether the freight is in a car, a trailer or a box.

ConRail stated that it provided container service only to its ramps on the New Jersey shore of the Port, although ramps are needed only for TOFC and not for COFC traffic. Moreover, ConRail insists on a surcharge to move container traffic beyond its ramps in New Jersey to its own terminal at Cranford Junction where the Staten Island Railroad Company connects with the ramps constructed at public expense at Howland Hook Terminal on Staten Island. Furthermore, ConRail was unwilling to give through container service to the Brooklyn waterfront where ramps can be provided, if needed, without a surcharge or, in ConRail's euphemism, "on a basis that will not reduce the contribution of the traffic to ConRail.".

My amendment is expressly intended to empower and require the Commission to preserve the rail freight rate parity which has prevailed historically within the Port of New York against just such predatory discrimination by this publicly funded, monopoly carrier.

In offering my amendment on the floor of the House, (p. 41390, December 17, 1975), I drew attention to USRA's statement in its Preliminary System Plan that:

"Traditionally rates to the greater New York area have been equalized. This equalization was predicted on a premise that New York City and the Eastern New Jersey shoreline were integral parts of a single economic entity."

At that time, I also pointed out to the House that the report of the Joint Agency Committee, consisting of all the public agencies concerned with public transportation in the Port of New York, stated:

"It is essential that surcharges not be imposed which would have the adverse effect of discriminating against the New York side of the bi-state Port. Such a system would place the City of New York in a serious position vis-a-vis competition with other Port areas, and should be avoided at all costs.

"In the Port of New York, the orderly development of commerce and industry and the protection and preservation of existing manufacturing, commercial and rail facilities require the maintenance of the rate parity system.

"This equalization must be maintained. The Interstate Commerce Commission and the Courts have on numerous occasions

recognized the single entity concept and in reliance thereon, the City of New York, the Port Authority and extensive private business and commercial interests have made large investments in Port facilities that need to be protected and fostered."

The Rail Services Planning Office staff fails utterly to take into account in its preliminary report the importance of rail freight rate parity within the Port of New York. If parity is not restored, vast public and private investments will be jeopardized and countless jobs will be lost in this nation's greatest natural port.

Moreover, since the Commission must consider the environmental consequences of its acts, it is surprising that the Rail Services Planning Office staff, in its preliminary report, does not even mention the waste of energy and the pollution and congestion of the already crowded, deteriorating streets of the City of New York which would ensue with increasing use of trucks if the historic rail freight rate parity within the Port is not preserved.

With respect to inter-port parity, the Rail Services Planning Office's report again misreads the legislative history. Congressman John Young of Texas explained that my amendment, as adopted by the conference committee, was designed to preserve "the authority and responsibility of the Commission to guarantee the equalization of rates between ports and within ports," (H 13148, December 19, 1975).

This intent was corroborated on the Floor of the House by the Chairman of the Interstate and Foreign Commerce Committee, the Honorable Harley O. Staggers, who also corroborated Congressman Young's statement that my amendment preserves the authority of the Commission with respect to rate relationships between ports and "its authority and responsibility to guarantee rate equalization between ports and within the same port."

The Rail Services Planning Office's preliminary report misreads the legislative history, the intent and the plain language of my amendment. Ironically, the preliminary report recognizes, (p. 13), "the declining share of general commodities traffic" in the Port of New York, but it fails to recognize that deteriorating rail service to the Port of New York is a principal cause of the "underlying changes in the economic base of the metropolitan New York area," which, in turn, have led to New York's decreased share of traffic. It is precisely this deterioration of rail service to, and within, the Port which my amendment was designed to redress.

Since the report is preliminary, I earnestly hope and expect that the Commission will exercise its authority and responsibility under my amendment in the first instance by directing its Rail Services Planning Office to restudy the equalization of rail freight rates, both between and within ports, in the light of the language and the spirit of the law.

Before reaching any final conclusions, I hope the Rail Services Planning Office staff will review the record of the hearings held before the Subcommittee on Transportation and Commerce on April 17, 1978.

I trust that the final report will reflect the law and the facts. Its first effort does neither.

Sincerely,

JOHN M. MURPHY,
Member of Congress.

RAIL RATE EQUALIZATION TO AND FROM PORTS

SUMMARY OF THE CITY OF NEW YORK'S POSITION

The Preliminary Report of RSPO on equalization of rail rates to and from ports, while informative on a number of points, is seriously misleading, and ignores key problems faced by Northeast ports, especially the Port of New York.

The City of New York strongly favors retaining port equalization for a number of reasons, not the least of which is that the Port of New York is the lifeline to the City's economy. After eight years of decline in the economy of the City and the State the trends have just begun to reverse themselves. We have registered a net increase in jobs for the first time since 1969. Throughout this period the Port has been the City's one bright spot: tonnage in and out of the Port has been maintained and has increased, although the Port has declined on a relative basis to other ports in its total share of tonnage.

The City, along with the State of New York, the Port Authority of New York and New Jersey, and the United States Government, has invested or will invest over the next five to ten years more than $1 billion in port development, industrial parks and our markets—all of which are dependent upon quality rail service. The City cannot permit this massive investment of public funds—and the investment of additional millions of dollars by private concerns—to be endangered through a change in policy. The City must protect its investment and the City must be a full partner in the economic recovery of the entire region.

For these reasons (and others which are outlined in the following pages), the City of New York's position on equalization is the following:

1. Inter-port Equalization of Rail Rates must be maintained;

2. Intra-port Equalization of Rail Rates must be guaranteed by the ICC;

3. Equalization of Rail Rates must be extended to Container traffic from the so-called Equalized Areas—both Inter-port and Intra-port;

In addition to the general position of the City of New York outlined above, the City also makes the following recommendations to the Rail Service Planning Office of the Interstate Commerce Commission:

4. RSPO in conjunction with the relevant Federal agencies, especially the Federal Maritime Commission, should undertake a comprehensive study of import and export traffic which would address at a minimum the following questions:

(a) Quality of Date on traffic in and out of ports—how can the data be improved;

(b) What is the origin of the various commodities that move through ports that are now under the equalization policy;

(c) By what mode do the commodities arrive in the ports (or leave the ports);

(d) In what quantities do these commodities arrive in the ports under the equalization policy;

(e) To what extent have port authorities, municipalities, the States and the Federal government, and private concerns made investment decisions based upon the existing equalization policy and the assumption that equalization would be extended to container traffic;

(f) Based on the data gathered in items 4(a)–4(e), what would be the impact on a change in one aspect of the entire transportation policy with regard to imports and exports—how much investment would be lost, what would be the number of jobs gained or lost, etc.

5. The RSPO report assumes that there is competition among the railroads; for the Northeast there is none, especially for the Port of New York and New Jersey which is served by a quasi-governmental agency, the Consolidated Rail Corporation (Conrail) RSPO should take this factor into account in its final report.

INVESTMENTS IN THE PORT OF NEW YORK

The City of New York has made a sizable investment in its port facilities, particularly, in Brooklyn and in Staten Island. Table I below contains the investments already in place for marine terminals and break bulk piers. Table II contains investments that are already being planned and committed for these facilities for their completion. Table III contains the City's investments in its markets which are dependent upon quality rail service. The loss of rail traffic to the City by removal of equalization would also endanger these facilities. Table IV contains investments already in place and committed by other levels of government in port facilities and industrial parks which also require quality rail service.

TABLE I.—*Recent New York City investments in port facilities*

Facility:	Investment
Northeast Marine Terminal, Brooklyn	$ 52,000,000
Howland Hook Marine Terminal, Staten Island	85,350,000
Pier 36, East River, Manhattan	6,350,000
Pier 42, East River, Manhattan	3,500,000
Red Hook Container Port, Brooklyn	11,000,000
23rd Street Piers, Brooklyn	10,000,000
Total investments in place	168,200,000

TABLE II.—*Investment needed for completion*

Facility:	Investment
Northeast Marine Terminal, Brooklyn	$ 50,000,000
Howland Hook Marine Terminal, Staten Island	120,000,000
Pier 42, East River, Manhattan	3,000,000
Red Hook Container Port, Brooklyn	44,000,000
Total needed for completion	217,000,000

TABLE III.—*Recent New York City investment in market facilities*

Facility:	Investment
Hunts Point Market, Bronx	$124,000,000
Brooklyn Meat Market	35,000,000
Tota. investment in markets	159,000,000

TABLE IV.—*Other investments in New York facilities*

Facility and investor:	Investment
Fulton-Atlantic Ave. Piers, Brooklyn, Port Authority of New York & New Jersey	$100,000,000
Staten Island Industrial Park, Public Benefit Corporation (NYC)	25,000,000
Industrial Parks in New York City (committed), Port Authority	500,000,000
Dredging and Drift Removal, Port of New York and New Jersey, U.S. Army Corps of Engineers	200,000,000
Bay Ridge Rail Connection to the Brooklyn Waterfront, State of New York DOT	28,000,000
Total other investments planned or committed	853,000,000

TABLE V.—*Summary*

NYC Investments—Table I	$168,200,000
Investments needed for Completion	217,000,000

NYC Market Investments	159,000,000
Other Investments in Facilities	853,000,000
Total	1,397,200,000

This $1.4 billion investment—investments which have already been made or are underway—represents a substantial commitment by all levels of government to the development of the port and to facilities that are dependent upon either the port or upon quality rail service.

The removal of equalization of rail rates will be an incentive for Conrail, a monopoly already somewhat unresponsive to the needs of this port, to further reduce service in and out of the Port of New York. The investments planned and committed above have been made on the assumption that rail service would be improved into the City, not reduced. Equalization is needed for the City to protect its investment. Extension of equalization to container traffic is a vital ingredient in the viability of the three container ports under construction or being expanded in New York City: Howland Hook (Staten Island), Northeast Marine and Red Hook (Brooklyn). The planning for these facilities goes back to the 1960s, to the beginning of the traffic in containers. Equalization of container traffic would help guarantee this investment.

The failure of the ICC to extend equalization to container traffic will seriously undercut the City's investment in its three container ports.

The failure of the ICC to guarantee interport equalization for general cargo will seriously undercut the City's investment and the Port Authority's investment in break bulk piers.

The failure of the ICC to guarantee intraport equalization will seriously undercut the entire investment in maritime facilities by the City of New York and the Port Authority.

The failure of the ICC to guarantee interport and intra-port equalization will undercut the State of New York's investment in extending a rail connection to the Brooklyn waterfront—an extension that should have been done by Conrail but is being done at State taxpayers' expense.

The failure of the ICC to guarantee interport and intra-port equalization will seriously undercut the massive investments that have been committed for the City's markets and for the industrial parks, both of which are heavily dependent upon quality rail service. Reduction of service by removal of equalization threatens the viability of these facilities.

COORDINATION OF FEDERAL AGENCIES IN ECONOMIC DEVELOPMENT

It is not the position of the City of New York that the ICC should become directly involved in economic development programs. But it is the position of the City of New York that the ICC cannot ignore the existing and planned economic development programs underway, programs that are based in part on the existing transportation policies of the United States Government. Changing one aspect of this policy without coordinating the changes with the relevant Federal agencies threatens chaos for the economic recovery programs now underway in the City of New York.

The Office of the President of the United States is coordinating an economic recovery program in the South Bronx of more than $1 billion. A change in the equalization policy which would cause a reduction in rail service will seriously undermine the viability of the Hunts Point Market in the South Bronx, the largest wholesale food market in the world. As a major employer in the South Bronx its success is an essential ingredient for the success of President Carter's Program.

Furthermore, the U.S. Army Corps of Engineers (see Table IV) is committing approximately $200 million to dredge and remove hazards to navigation in the New York harbor. The removal of equalization and the non-extension of equalization to containers will minimize the effectiveness of this Program.

The U. S. Department of Commerce's Economic Development Administration has identified Overall Economic Development Plan areas in the City of New York: the South Bronx, Brooklyn, Manhattan and in Staten Island These OEDPs are able to tap Federal funds for various economic development programs, including programs for waterfront development. A change to the detriment of New York in equalization policy will undercut these efforts.

The U S. Department of Commerce also administers the Coastal Zone Management program which the City of New York participates in. The State of New York has received approximately $3 million in Federal funds for comprehensive Coastal Zone Planning. A significant portion of this planning includes the development of the City's maritime facilities and the rail connections to these facilities. A failure of the ICC to guarantee equalization to containers and to guarantee equalization for general cargo will render these Coastal Zone Plans useless and deny the City and the State access to Federal funds under the CZM program.

The Federal Reserve Bank of New York has described the Port of New York as the lifeline to the region. The economy of the entire area is dependent upon the health of its Port. The health of the Port is dependent upon investment of capital funds and upon a rail policy that allows the Port to flourish. The City, despite the tremendous fiscal problems it has faced over the past four years is making a tremendous commitment to the health of its Port. The City is taking the steps necessary to guarantee its economic future.

The Federal government should not work against its own interests. The economic recovery of New York City is in the interest of the nation. It is sound public policy. Any other policy that leads to the erosion of the City's economy is detrimental to the national interest.

DEFICIENCIES IN THE PRELIMINARY REPORT

There were a number of deficiencies in the RSPO Preliminary Report that the City of New York has comments on. These deficiencies involve inadequate discussion of certain issues that make the New York Port a special case and the inadequate data upon which the RSPO is intending to make a decision, a decision that could place the $1.4 billion investment in New York facilities in jeopardy.

1. Data. The Preliminary Report admits that there is not sufficient data upon which a responsible decision on the removal of equalization can be made. The investments of shippers, carriers and governments are made upon the assumption of pre-existing policy. While the data is insufficient to predict the effects of a change completely, common sense indicates that the major effect will be disinvestment in New York City.

Because of the inadequate data, the City of New York has recommended that a study be carried out which would determine the modal distribution of cargo into and out of the equalized ports, the origin or destination of such cargo, and the quantities involved. (See p. 2 of this report).

2. Ocean Rates. The ICC has jurisdiction over inland rail rates. The Federal Maritime Commission has jurisdiction over the ocean rates. The ocean rates are equalized by law. A change in the inland rail rates without a compensating change in the ocean rates will work to the preference of some ports and to the prejudice of the Port of New York and other Northeast ports. It would be irresponsible for the Interstate Commerce Commission of the United States to favor one or two ports over all others in the Northeast by changing only one aspect of an entire transportation policy. Such a change in policy, i.e. removal of equalization on inland rail rates, would be contrary to the intent of the Congress of the United States which prescribed equalization of the maritime rates.

3. Conrail. One of the reasons for the RSPO study is to determine if competition will improve rail services and to determine if equalization of rail rates for import and export is a barrier to competition. The City of New York and the entire Port range of New York is served by one railroad: the Consolidated Rail Corporation (Conrail) which is a creature of the United States Government. Since only one railroad serves the port area the entire region is at its mercy. Conrail has not seen fit to extend the rail connection to the Brooklyn waterfront; hence the State of New York taxpayers are paying for the improvements. Removal of equalization will not promote competition in the New York Port area. If anything, removal of equalization will further reduce rail service to New York. Conrail has tried to avoid any increase in service to New York. Since Conrail is subsidized by the U. S. Taxpayers—including taxpayers in the City of New York—it must provide the services required to make this City economically healthy. The RSPO study does not take this special case into account in a realistic fashion.

4. Intra-Port Equalization. The discussion of Intra-port equalization in the Preliminary Report is almost non-existent. The City of New York's position is quite clear:

(a) There is no argument in favor of Inter-Port Equalization that does not apply equally to Intra-Port Equalization;

(b) The intent of Congress through the so-called Murphy amendments to the 4R Act is to guarantee Intra-Port Equalization;

(c) Intra-Port Equalization must be guaranteed, especially in light of the fact that Conrail is the only rail into New York and opposes extension of equalization to the Brooklyn waterfront.

The discussion in the RSPO Preliminary Report revolves around the question of whether the ICC has the authority to guarantee Intra-port Equalization. First of all, the City of New York believes that the ICC has such authority under the amendments to the 4R Act. Second, in the case of New York, the definition of what is a port becomes strained. The investment in port facilities in the New York City portion of the entire Port of New York and New Jersey is larger than any other Port in the Northeast and at least as large, if not larger, than the investments in the New Jersey portion of the Port of New York and New Jersey. This seems to qualify New York City as a port by itself regardless of tradition. If this is the case, then Inter-port Equalization would apply to New York City.

Hence, in either interpretation, the City of New York port should be guaranteed equalization with all other Northeast ports and with the New Jersey side of the harbor, Conrail notwithstanding.

SUMMARY

The City of New York intends to press its case for both Inter-port and Intra-port

Equalization. The City will also press its case for the extension of equalization to container traffic from the equalized areas. The City will not sit back and allow an investment of $1.4 billion in taxpayer funds to be undercut by a change in ICC regulations.

The Port of New York has an advantage in services since the Port has a large volume of traffic both in and out. Removal of equalization on only a small fraction of tonnage starts the Port on a downward spiral: less tonnage means less ships and less frequent sailings. Less sailings will cause a further reduction in tonnage.

Furthermore, as tonnage declines the labor cost assessment per ton will necessarily increase, thereby forcing total costs per ton to rise. This would make New York non-competitive with other ports which have a geographic advantage.

Hence, the ICC must be cognizant of the complex inter-relations among investments in facilities, decisions on which port to use, and the role of quality rail service in economic development.

For the reasons outlined in the previous pages, the City of New York hopes that the Interstate Commerce Commission of the United States does not reverse its policy of equalization and that the ICC will extend equalization to containers.

LEGEND

1. Port Authority Piers.
2. Red Hook Containerport.
3. 23rd Street Pier.
4. Northeast Marine Terminal.
5. Brooklyn Meat Market.
6. Bay Ridge Rail connection.
7. Howland Hook Marine Terminal.
8. Industrial Park.
9. Pier 36 and Pier 42.
10. Hunts Point Food Center.

In addition, the State of New York, through its Department of Transportation, submitted a statement which shows the import of rail rate equalization between and within ports on the very survival of our greatest port.

The following is a copy of that statement:

RAIL RATE EQUALIZATION TO AND FROM PORTS

The preliminary report of the Rail Services Planning Office on rail rate equalization to and from ports raises issues that have a potentially far-reaching impact on the economic survival of the Port of New York. The State of New York is deeply concerned about the conclusions reached in this report, with regard to both inter-port and intra-port rate parity.

Millions of public and private dollars have been invested in the New York port, for the development of both maritime and industrial facilities. To give an idea of the order of magnitude of commitment made to waterfront economic development, it is estimated that the State of New York, the City of New York and the Port Authority of New York and New Jersey have spent or have programmed expenditures approaching $500 million for the improvement of existing facilities and the development of new facilities. These facilities include the Northeast Marine Terminal and Red Hook Containerports on the Brooklyn waterfront, and the Howland Hook Containerport on Staten Island.

State Rail Preservation Bond funds have been committed to the upgrading of the rail freight system serving waterfront facilities. The first phase of improvements, under a $9.9 million grant from the State and a $4.5 million grant from the Federal Railroad Administration, will include new rail facilities to provide direct container-on-flatcar access to shipping facilities on the Brooklyn Waterfront including Northeast Marine Terminal and Moore McCormack Lines, and will provide a connection between Conrail's Bay Ridge Line and New York Dock Railway's waterfront trackage and waterborne distribution services. The "Bay Ridge Connection" will provide Conrail with an alternate, overland routing to the Brooklyn waterfront in addition to the existing water connection via harbor carfloat operations at Greenville.

New York State has also embarked on a program of removal of clearance restrictions, which currently prevent direct trailer-on-flatcar access to New York City. The State anticipates that within one to two years the rail freight system in New York City will be able to accommodate intermodal and oversize equipment comprising a larger and larger segment of the nation's rail car fleet.

Clearly, New York State, in cooperation with New York City and the Port Authority of New York and New Jersey, is making a substantial commitment to the construction and rehabilitation of a rail freight system which is competitive with systems available to shippers at other ports on the East Coast and at New Jersey locations within the Port of New York.

The capital improvements in the rail freight system will directly benefit Conrail as well. The "Bay Ridge Connection" will provide an alternate, and in some cases less expensive, routing for Conrail traffic from the Northeastern United States. Opening New York City to intermodal and oversize equipment will not only permit Conrail to change its routings, thereby reducing operating expenses, but will also lead to the generation of new rail traffic for Conrail. Conrail already receives a "free ride" on the routing down the east side of the Hudson River, from Poughkeepsie to New York City, since it pays none of the costs of maintenance of track, signals or right-of-way and makes no payment for operating rights to the MTA.

At the present time, New York City shippers are faced with what is, effectively, a monopoly situation with regard to rail freight service. Prior to the period of rail reorganization, numerous competing rail carriers served the Port of New York. In contrast, Conrail now controls the line haul portion of the trip to New York City. New York City shippers have no competing carriers to whom they can turn for relief from discriminatory service.

Thousands of jobs on the waterfront and in related industries depend upon maintaining transportation costs which are competitive with costs of shipping via other ports and via the New Jersey side of the port. Without both inter-port and intra-port parity of rail freight rates, competitive transportation costs cannot be maintained.

The State of New York believes that the Rail Services Planning Office report, in questioning the concept of port equalization, has failed to adequately consider the long history and tradition of equalized rail rates to and within ports, the legislative mandate to the Interstate Commerce Commission to uphold port equalization, and the disastrous economic and negative environmental consequences which would result from denying the principles of inter and intra-port equalization of rail rates. Equally serious is the failure of the report to acknowledge the unique monopolistic situation faced by New York City freight shippers.

The following comments address the eight questions posed in the report.

1. Has the doctrine of port equalization for rail rates been beneficial or detrimental to the commerce of the United States? Who has benefited or been disadvantaged? Identify carriers, shippers, ports or regions.

This question is unrealistically worded. The "doctrine" of port equalization of rail rates has not been practiced, as far as New York shippers are concerned. Equalization of rail rates to and from the Port of New York has been very limited, covering only import/export traffic moving in conventional railcars from the Midwest, and multiple trailers moving from East St. Louis and Chicago.

Conrail has tried to overturn the practice of equalized rates on conventional traffic, by filing tariffs for some commodities which cover only points in New Jersey and exclude destinations in New York. Conrail has also cancelled participation in reduced commodity rates designed to compete with the Gulf ports, thereby diverting traffic from New York to other ports.

With the limited exceptions noted above, all other rail traffic, including TOFC and COFC from other midwestern points, has not been equalized. The adverse impact on the Port of New York on failure to equalize rail rates will be discussed further in response to later questions.

2. Mitigating the effects of natural market competition between ports and rail routes is the basic reason why ports and railroads seek equalization of long-haul rail rate (substitution of service for price competition).

(a) To what extent, if any, should the Commission promote such competitive adjustments?

(b) If the Commission does not promote competitive adjustments, should it, in its quasi-judicial role, (i) act only upon initiation of proceedings by the parties, or (ii) act on its own initiative in both examining the entire current rate structure (import/export) and ordering equalization where warranted?

The report ignores two major issues in formulating this academic question about natural market competition:

(a) There is no opportunity for rail competition in New York because of Conrail's monopoly on New York rail traffic. Natural, competitive market forces cannot operate under a monopoly.

(b) New York's natural locational advantages as a port have been nullified by equalization of international shipping rates. The R.S.P.O. report is proposing to open inland rates to "natural market competition" while ocean rates remain regulated, equalized and not subject to competitive forces.

3. Section 3(1) of the Interstate Commerce Act is the statutory basis for the Commission's authority over rail rate equalization cases. It prohibits the railroads from causing undue and unreasonable preference and advantage to any port or port district. What constitutes undue and unreasonable preference? Should there be any change in the traditional criteria?

If removal of undue and unreasonable preference between ports causes undue and unreasonable preference between shippers, what decision should the Commission reach?

The role of the Commission, and New York's unique situation in being faced with a Conrail monopoly, are discussed further in question 5, 6, and 7.

4. Motor carrier and barge rates are not subject to port equalization. Should they be? Are there disadvantages to the rail industry under this current status? Assuming that Congress provides the Commission with authority to equalize truck and barge rates, which modes rates should serve as the base?

This question is both academic and inaccurate in its assumptions. Motor carrier and barge rates *are* potentially subject to port equalization. However, these rates have not been pursued through litigation to the point of equalization. There is no port equal-

ization case history on water carrier and barge rates equivalent to that of rail, most probably because natural competition has occurred in these two other modes, while such competition has not existed in the rail area.

For New York shippers, rail and trucks serve different market areas. Trucks tend to be the predominant mode for shipments under 400 miles, while rail becomes significant as mileages increase beyond that point. The two modes are more likely to be complementary than competitive.

5. The report stresses that long-haul rail rates are only one factor among many in a shipper's selection of routing (including ports). Does the report provide a fair appraisal of the pertinent routing factors available? Do rail rates play a more significant role than indicated in the report? To what extent does the vast array of accessorial port services and rates influence routing?

This question avoids confronting the major issue, which is whether rail costs are an important factor in the selection of port routing. The answer is a resounding yes! Rail rates are one variable cost considered by the midwestern shipper in determining the choice of routing. Rail rates become an increasingly significant cost factor as the differential on the rates increases between ports (as the differential on container rates, for example, has been widening in recent years between New York, Baltimore and midwestern points) and as other costs associated with shipping via alternative ports tend towards equalization.

As pointed out in a recent Federal Reserve Bank *Quarterly Review* article (Summer, 1978), factors which in the past created other cost differentials in the Port of New York, such as labor costs, terminal operating costs and free time/demurrage regulations, are changing in the direction of equalization with other ports or are under review and likely to be changed in the immediate future. Labor costs and terminal operating costs are no longer significantly higher at New York than at other ports, and a change is being sought in Federal Maritime Commission regulations governing free time/demurrage, which unjustifiably discriminate against the Port of New York.

While there were historical reasons for limiting free time storage at the Port of New York, mainly having to do the lack of adequate dock storage space, these conditions no longer apply, and it seems very likely that Federal Maritime Commission regulations will be changed.

The final aspect of the cost differentials in the Port of New York, that of drayage charges, is really a phantom issue. Currently, Brooklyn, and Staten Island shippers must pay exorbitant drayage fees to move containers from rail heads in New Jersey to Brooklyn and Staten Island marine terminals. The lack of TOFC/COFC facilities east of the Hudson River has, in effect, necessitated this costly movement by truck.

This situation will shortly change for Staten Island and Brooklyn shippers. In the case of Staten Island, Chessie has recently established a tariff to the Howland Hook Terminal which will eliminate drayage charges entirely for containers moving via the Chessie system to Howland Hook. As soon as the New York State Department of Transportation-funded rail connection to the Brooklyn waterfront is completed later this year and the necessary rail rates to the Brooklyn waterfront are in place, drayage charges will be reduced or disappear entirely for Brooklyn shippers.

In summary, the inland rail rate may soon be the only significant variable cost confronting the Midwestern shipper, as other port costs tend towards equalization. Rail rates may become, not just an important factor, but the determining factor, in the choice of port routing.

6. What agencies in addition to the ICC should be involved in port equalization proceedings? Do the Departments of Agriculture, Commerce and State, for example, have an important stake? What interests at the state or local level should regularly participate?

Those parties affected by Interstate Commerce Commission port equalization proceedings will, and should, participate in those proceedings.

Once again, however, the question begs the key issue, which is whether the R.S.P.O. report adequately considers the need for consistency with national policies and programs and whether sufficient consideration has been given in the report to the interaction of port equalization policies with those other policies and programs.

New York State believes that any report on port equalization must consider whether a radical change to unequalized rail tariffs would support or undermine other national policies. A shift away from port equalization would directly, and adversely, affect a number of programs: the multi-million dollar harbor dredging program of the Army Corps of Engineers; the mandate to the City under the Clean Air Act to reduce trucking on local streets as part of the Air Quality Implementation Plan; the national Coastal Zone Management Program, which in New York supports maritime/economic development of the Brooklyn and Staten Island waterfronts; and the Carter Administration's commitment to the revitalization of older urban centers, including New York.

All of the above-mentioned national policies and programs would be undermined by a shift away from the principles of port equalization. In addition, State, local and bi-state policies, programs and investments would also be adversely affected. As noted previously, combined local investments approach $500 million in the Port of New York for rehabilitation of existing and construction of new maritime facilities.

7. Section 202(f)(3) and (4) may qualify the ratemaking flexibilities given the rail industry under the 4R Act by stating that:

(f) nothing in this section shall be construed—

(3) to affect the existing law or authority with respect to rate relationships between ports; or

(4) to affect the authority and responsibility of the Commission to guarantee the equalization of rates within the same port.

Some interests contend that this section should be given strict interpretation, mandating the Commission to equalize at least intra-port areas. Others reach a different conclusion. Inasmuch as the Commission has never guaranteed equalization of all rates within the same port in the past, they argue that Congress did not intend to alter the Commission's discretion and conclude that intra-port rates would be treated in the same fashion as inter-port rates. Which interpretation correctly reflects a policy which best supports the public interest?

The R.S.P.O. report questions the intent of Congressman Murphy's amendment to the 4R Act, Section 202(f)(3) and (4). Congressman Murphy has made it abundantly clear, time and again, that his intent with regard to this amendment was to *guarantee* the equalization of rail rates within the same port, just as the language of the amendment indicates. It is the responsibility of the Interstate Commerce Commission to act on this mandate. Congress felt that it was in the public interest to adopt this amendment, and it is neither appropriate nor effective for the R.S.P.O. report to question either the clear-cut meaning of the amendment or the wisdom of Congress in determining what constitutes the "public interest."

The R.S.P.O. report is, in effect, also questioning a lengthy case history built up over the years in Interstate Commerce Commission decisions which have supported intra-port equalization. *S & K Farms* v. *Long Island Railroad*, was handed down by the Interstate Commerce Commission in June of this year, just a month prior to the release of the R.S.P.O. report. In the S & K case, the Commission ruled that the railroads had violated section 1(6) "because their action destroys all efforts which have been made to as nearly as possible equalize the rates in the New York-New Jersey area." The Commission further reaffirmed the need to maintain the integrity of terminal rate groups, per its previous findings in the *Port of New York Authority* v. *Aberdeen & R. R. Co.*, 321 I.C.C. 738, 746–7 (1964).

In addition to both case history and legislative mandate, a convincing argument can be made for intra-port equalization on both environmental and economic grounds.

Each rail flatcar carrying two containers removes two trucks from congested local streets; every boxcar removes one or more trucks. Reduction of trucking is a major goal of the City's Air Quality Implementation Plan, in order to reduce air pollution. Maintaining, and expanding, the practice of intra-port equalization of rail rates would have clear environmental benefits.

Waterfront development in New York City, both maritime and industrial, has occurred on the basis of traditional intra-port equalization of rail rates. Failure to sustain the principle of intra-port equalization would disrupt long-standing patterns of economic development and concomitant capital investment, and would lead to a disinvestment in the New York side of the Port with subsequent loss of industry, shipping activity and jobs. Any imbalance in rail rates prejudicial to the New York side of the Port would result in a decline in rail traffic in New York City, and would bring the overall economic viability of the City's rail freight system into jeopardy, despite efforts by the State to rebuild the rail system and generate new traffic.

The State of New York remains unconvinced that Conrail incurs additional costs in serving the New York side of the Port. Without a thorough analysis of costs, such arguments must remain meaningless. If such a cost analysis were to be done, the usual mileage standard would prove to be fallacious. Rail costs may in fact be less to New York City for the following reasons:

(a) The greater volume (density of traffic) to New York City.

(b) Differential costs of routings employed. Some routes while longer mileage, may require less equipment or less fuel, for example. Distances between midwestern points and New York City are in fact comparable to distances between the same midwestern cities and existing New Jersey ramps. Additionally, Conrail gets a "free ride" on part of the trip to New York City, from Poughkeepsie south to New York. Conrail pays none of the costs of maintenance of track, signals or right-of-way and pays nothing for operating rights on this route.

(c) New York State Rail Preservation Bond funds are being used to make improvements in the City's rail freight system. These improvements will result in reduced operating expenses for Conrail, will permit the rerouting of traffic to maximize Conrail's division of revenue and will permit a greater variety of rail equipment to enter the City, which

will in turn generate new traffic for Conrail in as yet untapped markets.

8. The report cautions unrestrained port competition and in particular uncoordinated investments by local port management may result in excess port capacity. Nevertheless, port management continues to seek and obtain funds to improve or expand their facilities. Economic and technological trends in the maritime industry suggest a strong movement toward fewer but more highly specialized ports. What are the realities of this issue? What problems, if any, do excess capacity present?

It is not within the purview of the Rail Services Planning Office to prescribe national port development policy. It would seem more appropriate for the RSPO report to consider national port development policy in prescribing methods of achieving port equalization of inland rail rates.

Suffice it to say that New York has already invested heavily in new port and port-related rail facilities, and has programmed investments in other facilities which will shortly come on line. As noted above, failure to maintain both inter and intra-port equalization would have disastrous economic consequences and would seriously jeopardize the viability of both existing and programmed maritime facilities in the Port of New York.

RECOMMENDATIONS

The State of New York recommends that the Rail Services Planning Office go back to the drawing board on this report.

1. The report has been poorly researched. Few of the conclusions reached in the report are supported by adequate data and analysis.

2. The report is inconsistent in its findings with other national policies and programs.

3. The report ignores the environmental impact of a shift away from port equalization principles.

4. The report ignores a clear legislative mandate which requires intra-port equalization of rail rates.

5. The report ignores a lengthy Interstate Commerce Commission case history in support of port equalization.

6. The report carries on an academic discussion of free market competition while ignoring the monopoly situation faced by New York rail freight shippers.

7. The report ignores the disastrous economic consequences of a shift away from port equalization principles.

In summary, the report has raised complex issues which have a potentially far-reaching impact on the viability of many ports, including New York. But the report does not adequately address these issues. Certainly, the report has not established a basis for Interstate Commerce Commission policy-making, with regard to either inter or intra-port equalization of rail rates. In all, if all factors are taken into consideration, R.S.P.O. will clearly see the need to reaffirm the long-standing principles of inter-port and intra-port rail rate equalization.●

PERSONAL EXPLANATION

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. OTTINGER. Mr. Speaker, on Thursday, October 12, I was unable to be present for the vote on the Meat Import Act of 1978 (rollcall No. 907). Had I been present, I would have voted "nay" on final passage.●

SOME CRITICAL OBSERVATIONS FROM THE VIEWPOINT OF ORGANIZED LABOR

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MAGUIRE. Mr. Speaker, an impressive and unusual speech delivered by Frank S. McKee, treasurer of the United Steelworkers of America, deserves the attention of Members.

The speech is important because it moves beyond facile but false assertions of conflict between jobs and the environment, and between energy conservation and our economic well-being, to identify the congruence of all these goals in a human and policy context.

The speech is excerpted below:

TWENTY BILLION SLAVES—ENERGY AND JOBS IN AMERICA

(By Frank S. McKee)

Faced with an issue vital to its survival, the most industrially sophisticated nation in the world appears incapable of adopting a rational energy policy. The United States of America continues to prolong a dilemma of indecision in face of mounting evidence that its present excessive usage and reliance on foreign energy may result in definite social and economic deterioration of such magnitude that it will overshadow even our gravest depression.

Our current administration's proposals do not contain any hard and realistic strategy. Neither our government and most certainly, not any of the corporate entities whom we entrust to manage our energy is willing to renounce the old habits of the wasteful-business-as-usual policies.

A nation that devours a very substantial portion of all the Earth's available resources and uses more energy on a per-capita basis than any other, does not have either a mineral policy or an energy policy—save for a mish-mash of overlapping, ineffective, often conflicting, contradictory, and feeble regulations that do little to wean the nation from its wasteful habits. Neither do the regulations stimulate development of new and replenishable energy sources. Nor does it curb the excesses of the corporate power giants who operate, distribute and ring the cash registers on the customers in a system that permits both vertical and lateral monopolies of our energy to the nation's disadvantage.

Big business advocates of the energy status-quo, argue that this "nonpolicy" of the Government was responsible for the unrestrained and unhampered private initiative which has, over the years, provided our nation with an abundance of goods and services now totalling over two trillion dollars. They tell us it was this unbridled activity of private enterprisers—like Standard Oil and other—that lifted us up to the highest living standard in the world—while providing us an ever-existing opportunity for growth and the needed tools for defense.

They say it was accomplished by placing energy in the hands of private business with a minimum of restraint from Government—big business forgets that there was a time or two when the lust for greater profit through price fixing and some economic piracy required even a reluctant Government to slap a few wrists.

To be sure, it was a remarkable achievement for a young and free nation. But it was the abundance of its natural resources, a seemingly endless supply of domestic energy, an unlimited use of its land, air and water, and an open frontier for expansion that were the elements in building this so-called American dream. Is it now changing? Are these elements still prevalent in our land? Can we look only at our own situation or must we take into account the rest of the world?

We need necessarily to include in any balanced appraisal the fact that—in climbing to this pinnacle of affluence—we did at the same time a lot of damage. We blighted our cities, our air, water, our land has been poisoned, polluted and scarred. Over 100 billion dollars annually is the price we pay for losses to health, property, and agriculture—not to mention the sheer-senseless waste that this unrestrained and unplanned use of energy causes.

The American dream literally becomes a nightmare in all too many cases. It is time now to examine what we are doing. We must give priority to the well being of people and consideration to sound social values. We must not just measure our progress in terms of all out energy consumption as it affects the profit scale.

It is calculated that for every man, woman and child in our land today there is the BTU equivalent of at least 100 energy slaves working to build our cities—move commerce—transport people, raise and distribute food—shape an endless variety of products and to provide for our manifold comforts even to the point of oscillating our tooth brushes. What we have are at least 20 million slaves working for us. This is another way of dramatizing the extent of our dependence on energy, what it means to us—individually and as a nation—and how dependent on it we have become.

We take much of this for granted. We would be an entirely different nation without these 20 billion slaves—or even with just a third less. Yet—it is in the direction of scarcity that we are now traveling. We may lose many of our energy slaves unless we plan wisely.

Such a simple analogy overlooks reality. Not every single person shares equally in this abundance the slaves provide for us. We still have many who don't share in this affluence and who are struggling to maintain even the very basics of life. One group—our nation's elderly—fall in this category. Many have to choose between heat—a light bulb, or having something to eat. They are being denied the energy they need by a pricing system that favors the big and powerful users over the little people. Indeed—we do have a growing number of people who have yet to be touched by the magic wonders of our slave-created society.

On the whole, we are what we are in the material sense because of the wide use of energy that we enjoy in great abundance—without which our life would be dismal. No other people on earth have been so blessed.

We, are on the threshold of another era that may well be even more profound than was the initial application of energy to the production of goods.

This new era must not be dominated exclusively by the utilities and the heavy industrial users. It must not be a private club: rather—it must be a carefully planned administration that includes all elements in our pluralistic structure. And it must have more than just advisory powers. It also must be sensitive to human values. It will give priorities to people—the human slaves. Social and human values must not be ignored in planning our strategies for an energy policy.

What confronts us today is really not a

shortage of energy. But energy can be dissipated and changed into other states from which there is no practical recovery to meet our specific uses. What we are faced with is a situation where we are running out of a particular source of energy and that is the one which we selected as our major—almost exclusive kind. We settled on using the fossil derived fuels. Oil, coal and uranium. But we are especially dependent on oil pumped from the ground. We have wasted oil and used it recklessly—when there was no need to do so.

We have subsidized it with billions spent to develop and refine it. We pour it into trucks and automobiles so they can roll along on our tax supported highways—or we burn it to make heat for electrical generation—and to warm our homes and buildings.

This discovery of this gushing and seemingly ever-flowing fountain of black gold prompted the wildest of imagination as to its benefits. But had we then been able to recognize the limits of this energy source, we may have been less wasteful in its usage and made ourselves less dependent on it. We even may have started many years ago to develop a better source, one that is cleaner and is self-replenishing. We could have, perhaps, avoided the crises we are in today.

But looking ahead—planning—has not been a characteristic of our system. The so-called "bottom line", as we say today, was and is to make money immediately. The few big energy giants who were busy squeezing the small independents out of business and into their corporate webs, cared little about the possibility of any shortage or crises. To them it was now, not later, and the bonanza looked like a rich world without end.

Just about the time the 1973 blow was to occur, the corporate structure of the energy companies was a tight-fisted, almost exclusive club, controlling not only the sources of energy but its distribution and its pricing mechanism. The law of supply and demand was theirs to manipulate. Regulatory agencies were and still are, in most cases, made up of those whom they were supposed to control.

Moments before the Arab embargo of 1973 came around, the oil monopolies, who possessed the advantage of scientific data, the engineering know-how—were not out preaching conservation or advocating any major changes in our business-as-usual energy policy. Instead—they were plugging for more usage and more waste. Free gifts at the service stations, wide distribution of credit cards, multi-million dollar advertising by the energy companies were telling the people to use more and buy more of everything that uses more. This was hardly rational behavior for a nation about to be stung by a foreign bumble bee.

And our Government, with more than two dozen agencies assigned with responsibilities in the energy field, was equally guilty of not alerting the Nation in advance of the crisis or trying to wean it from its habits of waste and abuse. We were told that nobody knew how much oil there was or how long the supply would last. The president announced that this Nation would become self-reliant on energy and would become independent of foreign oil. This he said while permitting the dredging of our harbors to accommodate even bigger super tankers to bring more foreign oil to the country.

When the 1973 crisis hit, the consuming public was totally unprepared for the shock. Who was responsible? Why weren't plans made for such an eventuality? The long lines at the service stations and other frustrations made for an angry America. Everybody was being blamed and nobody could be trusted. And most certainly not the energy companies, the Government or the politicians.

As a Nation of plenty, it's understandable that we avoid reality and cling to the hope that things will forever remain the same. But they never do, and without planning for the future, we continue to condemn ourselves to horrors of our own making.

As controversies range over every aspect of the energy issue, it is dividing, splitting and polarizing important segments of our Nation into opposing and warring camps. All this at a time when we are pressed to reach a consensus on energy that will satisfy most of the valid concerns of our pluralistic system.

We simply cannot cope with the crisis using yesterday's arguments. It is one of the most complicated and vexing issues of our times. But, like others, it is not without a solution. We have met similar and equally difficult challenges in recent history. We have proven, as a nation, that we have the resilience to adjust to even the most adverse situations and to mobilize ourselves as a people behind a program we can agree is right, fair and equitable.

Some 15 years ago, a seven-pound Russian ball was jettisoned into space, orbiting the earth for all to see. This iron pea, shot from the Urals, shocked our nation out of its feeling of omnipotence. But did we roll over and die? Far from it. Sure, it was a crisis. We were made to look second rate. But,—just as we did a generation before—when we saved the world from barbaric fascism—we overcame. We vowed, through the words of President John F. Kennedy, that America would have a man on the moon. We did it, not once but twice. We restored confidence in our nation and its ability to muster the ingenuity of its people and to allocate the necessary resources to do a job we felt needed to be done. We now must show that same kind of dedication and that same kind of vision. We need to do something equally as spectacular about energy—its conservation and its usage. We need to change from our reliance on sources of energy that are exhaustable to those we can have in abundance and which can be self replenishing. We need an energy which is clean and safe.

There is no total answer today on the shelf. Nobody even has a blueprint. But—neither did we have one for the trip to the moon or one for providing the free world with the arsenal needed for a World War II victory. What we do know is a whole lot more about energy than we knew in 1973. We know what's on hand and what is required in scientific breakthroughs. We also understand something about the variety of options open to us and more and more about the economics of alternative energy sources. sources of energy that are exhaustible to know more about the hazards to safety and health as well as the other considerations that must be included in any energy policy.

My task here today is not that of a scientist—an engineer—geologist—politician—or economist—but as an officer of an international union. The United Steelworkers of America represents working men and women in industires that rely heavily on energy—steel, aluminum, copper, and other nonferrous metals, chemicals, containers and many more. Over one million of our members—their families—their communities—all depend on jobs these industries provide. Without available energy there can be no jobs and no America as we know it.

I cannot play regional politics with our members' welfare. Energy cannot be regulated under a series of regional controls in which one area, one State, or one industry can lay claim to a far greater share of energy just because it used to be that way. Equalization of energy on a national basis is the way of the immediate future—if not right now. People will not freeze in the New England States so that another region is allowed to have "business-as-usual" priority.

But it does not follow that having energy in abundance assures jobs or the full utilization of our human potential. There is, in fact, a substantial body of evidence to point to the very opposite.

Since a period sometime in the 1920's, economists recognized that we have reached a point when the labor shortage that our Nation had experienced since its founding was coming to an end. There now were more people willing and able to work than there were jobs . . . a condition, I might add, evident during the depression of the 1930's and a condition that did not change until the stress of World War II placed over 11 million potential workers into the armed services.

What was happening in America then—and continues to occur to this day—is that machine-driven low cost energy was replacing the human factor in production. Not only was man's brawn being substituted but so were his low level skills. Energy costs were cheaper than human labor costs. It was often more efficient and predictable—machines using energy rarely had ailments and never complained about working conditions. A few drops of oil would correct most squeaks and no demands were ever made on the employer other than that of a capital expenditure.

Subsequent scientific applications even further aggravated the problem so that today, the so-called "capital-intensive" industries are also energy-intensive and are becoming more and more so. They are employing less and less manpower and using more and more energy. This technique extends to the cartels and multi-national arrangements in foreign countries. It is now a world-wide phenomenon. Capital-intensive industries using vast amounts of energy are making bids on the mineral and energy resources of our earth. The sheer economics of this corporate grouping are frightening—not only to labor but to others concerned with our nation. This was—and is—an ingredient in the OPEC cartel. It is this that helps pull down the value of our currency as imports of oil continue to increase, driving higher the prices.

Our balance of payment problem—some 29 billion dollars—is due to the oil crisis. Only solar energy is saving us from an even worse predicament. We export over 10 billion dollars in agricultural commodities grown by solar energy. The big agri-business is also capital-intensive and is employing fewer and fewer people as more new energy is added to the farming process.

We in labor maintain that unless there is a genuine full employment policy in America that will assure every able bodied citizen a job—one that will make the government plan for full employment—joblessness and recessions will continue to plague America regardless of how much power we have. Likewise, energy and the technology it makes possible, is turning once skilled workers into unskilled workers as more and more of their skills are being made obsolete by energy-hungry machinery.

More than any one single factor, the energy practices we employ are the basic causes of not only our re-occurring depressions, but the higher costs of energy, as it becomes more scarce, is perpetuating the state of inflation with prices always going up instead of down even in periods of recession.

A growing number of responsible authorities from various disciplines are now saying that our economic problems are rooted in our committed reliance on dwindling energy sources which cannot be replenished.

The thesis is that higher price for energy—as the supply grows more scarce—has a marked inflationary impact on our economy. Prices and costs shoot upward even for food—which today requires more and more energy to produce and distribute. Labor, obviously, must respond with demands for more wages just to keep its head above water. And, the energy sources we depend on, with a very few exceptions, are being exhausted in an inverse ratio to our increase in their usage. The formula we are living by can only mean a continuation of this vicious cycle of inflation, depression, and unemployment. It also requires billions of dollars just to keep the environment healthy enough so that we don't all choke to death or be poisoned while becoming virtual captives of those 20 billion slaves we created to serve us. As the old philosophical test of omnipotence asks, have we, in fact, created a rock so big we can't lift it? Have we become slaves to our energy god?

As in most debates much is overstatement we tend to magnify the problem without discussing the options open to us. We are not yet out of fossil fuels—even oil. We are not without the know-how to make them environmentally acceptable. It is true that we will be spending more for energy in order to make other alternative sources economically competitive. We do have some time left to alter our thinking about energy. We must institute policy that is based on something other than the deregulation of the pricing mechanism. We don't need any more unrealistic incentives which are maintained because of blackmail pressure from private monopolies. A few legislators—even at this late date—are considering granting more such incentives. We do not . . . I repeat . . . We do not create energy by raising prices. We do not promote conservation by maintaining utility rates that are higher per unit for those least able to pay, while continuing to reward those who use more with a lower unit price. The inverse pricing system is dying fast. . . .

IT SHOULD NOT BE MOURNED

We desperately need more capital devoted solely to the search and development of inexhaustible sources of energy—such as solar, geothermal, nuclear fusion, wind, tides, solar energy transmission through satellites—to name but a few of the sources we should be researching and stimulating their usage.

We must start a meaningful conservation program. Merely raising prices isn't reducing consumption—it is, in fact, only imposing hardships on those least able to pay. The price increase means little to the rich. They can pay the $2 a gallon for their big guzzlers, but the working stiff needs his car to get to work and paying more for fuel means he lowers his standard of living. Gasoline prices are up by nearly 200 percent since 1973, but consumption continues to increase.

We need to think more about co-generation of energy in our factories. We need to make use of heat instead of dissipating this valuable energy source. We must fully insulate every house and every building and we must include the solar energy concept in our architectural designs.

We also need to make use of our wastes, do more resource recovery from our trash, generate energy from our land fills and from our sewers. I suggest expanding the many programs going ahead in America today for saving energy through recycling and energy conversion from sewage and garbage.

As we begin positive and anti-waste programs, we will start being less dependent on foreign energy sources. We must also strongly insist on a trade policy that is fair to our nation's industries. Let us not forget that the tons upon tons of various metals being dumped into this country annually are not only putting American labor out of work but for each pound, each ton, each article of merchandise there is also an energy factor in it. We are literally importing barrels upon barrels of foreign oil which are represented in the products that flood our domestic markets from abroad.

Just as other groups in our nation are often confused by the array of conflicting statistics opposing energy doctrines, we in labor are just as confused. All this makes a consensus within labor as difficult as it is within any other segment of our nation. Businessmen and industrialists are quick to lay the blame on the environmentalists and on consumer groups for the lack of any progress in our economic development, especially in nuclear energy. Labor, in fact, is thrown into the center of this controversy—given a spot between a rock and a hard place and asked to decide which is better—a job or some insignificant environmental concern. There is no needed trade-off between a clean environment and jobs, but that doesn't stop the fear campaigns waged by some industries.

What is becoming more and more evident to us in labor is that a wedge is being driven between two traditional allies—between labor and the conservationists—in which looks like another round of industrial blackmail.

Let me explain—a union launches an organizing drive, the workers are often told by their employer that once the union succeeds, the company will be forced out of business and jobs will be lost. Of course, this seldom if ever occurs. Most of the heavily organized industries are also the most profitable.

Labor is also continually being told that there is a direct relationship between safety on the job and productivity and that too much emphasis on safety regulations only adds unnecessary costs and reflects in less jobs and less capital for labor-creating investments. Safety still is being used to blackmail workers.

When environmental laws were enacted, and up to this very day, workers are told that when companies are forced to comply with such laws dealing with clean air, water, and toxic substances, and are unable to meet the huge expenditure necessary they may be forced to close or to reduce operations. Again, a blackmail threat, using jobs.

Now it is definite that energy is added to the list of such scare tactics used to blackmail working people.

In this ploy, working people are being told that environmental "kooks" are against any proliferation of nuclear energy and are, therefore, the real enemies of progress. Most energy problems are being laid on the environmentalists, who are being labeled at times as idle rich egg heads with an international loyalty, far out leftists, no-growth advocates or weirdos.

Workers are told that it is this environmental movement that stands in the way of progress when there is little or no danger in the nuclear energy production chain, starting with miners exposed to the radon daughter cases in the uranium mine to the operation of the reactor, and finally in the disposal and containment of radioactive waste. Some make it sound like low-level radiation may even be good for you; that sulphur dioxide is not as harmful as we are told it is, that lead, arsenic, asbestos, or any other of the thousands of poisons connected with industrial life—must be tolerated—that the products we come in contact with—the air we breathe—water we drink—or foods we eat—cannot be purified or made safe without endangering our economy.

Workers are being told that the environmentalist and consumer advocates are their real enemies and that they care little for the workers and are "in it for their egocentric kicks". But it was the Sierra Club and not an American industry that sided with labor in the hearing before the Supreme Court in a case involving OSHA inspectors' right to enter a workplace. Most all the responsible environmental groups regard the workplace as a part of the environment and are supportive of labor's efforts to make our industrial environment less dangerous to man. We all need to be nature's allies to work towards making our habitat on Earth more consistent with what God intended it to be.

It is generally agreed in the circles of labor that we must urge Government and industry to make full use of all of our energy potentials but, in doing so, we must carefully consider the implications that such expansions will have on the safety and health of the environment, especially humans in the workplace.

It is definite that we will be making greater use of our coal resources and will be using it not only in the conventional way but will accelerate its gasification and liquefaction for use in the generation of electricity, as well as other industrial and domestic applications. We must insist that rigid standards of safety and health be developed and adhered to so that we don't repeat our errors of the past. As we accelerate coal and other energy production, we can't overlook the miners and other workers who dig and process it. Even at the old production pace, black lung was a killer of thousands. It has not been eliminated. What other new dangers to safety and health of workers lurk in the workplaces of new energy technologies?

The Nation is considering increasing its imports of liquid natural gas, storing it in huge tanks and later expanding it for use. In this process how well will the public be protected from accidents? Even more important—since they will be right on the scene—how will the workers be protected while handling this most volatile energy?

It is not just a concern of environmentalists. It's labor's deep concern. After all, it was the working people who were victims of the cruelties associated with the development of mass production. The packinghouse workers and their families were true environmentalists when they fought to make the stockyard atmosphere livable and keep the rats from biting their children as they slept in rotten shanties provided the workers by the companies. Their cry went unnoticed by industry for years until other people—environmentalists, people with a social conscience, joined labor in its cry for a better life. There are hundreds of similar examples.

Over 150,000 workers annually are injured or maimed on the job. Thousands are absorbing hidden poisons yet unidentified. Others are having their lives shortened by exposure to known carcinogens. How many lives are snuffed by industrial diseases? How much of our atmosphere is so polluted as to cause billions of dollars in losses to property, agriculture, forests and human life itself? And so the list goes on and on.

Labor is horrified when it hears stories of all the new kinds of dangers. Mounting disclosures of accidents in the handling of atomic energy are most disturbing and have prompted our union and others to call for the government to take the nuclear energy from private hands and set up a TVA-type management for its further development so we can be assured a higher degree of safety. It is more than the snail darter that con-

cerns labor and the environmentalists. There are 200 million humans out there who are becoming an endangered specie and who are entitled to better assurance than they get from commercials of the energy corporations that all is well and that they are making America strong.

We need each other. We need to form a consortium representing every segment of our society so that we can democratically find answers to our energy crisis. There is no longer any room for misinformation and blackmail. We must share in the sacrifice and we must share in making the right decisions—decisions that will help us adopt a program we can all live with. I know we can and will do it. All America will rally to the cause. It is the responsibility of the leadership of business, labor and government to point the way while there is still time. Thank God there still is time.

Thank you.●